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HOUSE OF REPRESENTATIVES—*Wednesday, June 26, 1991*

The House met at 10 a.m.

The Reverend Kirk D. Monroe, Sr., pastor, Mount Zion United Methodist Church, Washington, DC, offered the following prayer:

Good morning God; we come to You seeking harmony and peace. We ask for Your sovereign protection over the limits and boundaries of our Nation. As You have called us to mark the paths of history we ask for Your wisdom and Your goodness to intern us toward mercy.

We pray for America, for all of her children. Please help us to let justice roll down like waters and righteousness like an everflowing stream. Please guide us and kindle us for fine heroic living; please humble us when the ordinary is transformed into some mountaintop experience for Your people.

So as the rose tells its secret in its perfume, so as the Sun tells its secret in light and heat, may we who serve America tell of its secret in our benevolence and our compassion.

Hear our prayer O God. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from Michigan [Mr. HENRY] will please come forward and lead the Members in the Pledge of Allegiance.

Mr. HENRY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill and concurrent resolution of the House of the following titles:

H.R. 749. An act to authorize the Secretary of the Interior to accept a donation of land for addition to the Ocmulgee National Monument in the State of Georgia; and

H. Con. Res. 173. Concurrent resolution authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 904. An act to direct the Secretary of the Interior to prepare a national historic landmark theme study on African-American history; and

H.R. 1143. An act to authorize a study of nationally significant places in American labor history.

The message also announced that pursuant to Senate Resolution 143, 102d Congress, first session, the Chair, on behalf of the majority leader and the Republican leader, announces the appointment of Mr. WIRTH and Mr. GORE, as cochairmen; Mr. CHAFEE and Mr. NICKLES, as vice chairmen; Mr. ADAMS, Mr. BAUCUS, Mr. DOMENICI, Mr. FOWLER, Mr. GRAHAM, Mr. MCCONNELL, and Mr. WALLOP, as members of the World Climate Convention Observer Group.

THE REVEREND KIRK MONROE

(Ms. NORTON asked and was given permission to address the House for 1 minute, and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, it is a personal pleasure to welcome Rev. Kirk Monroe, pastor of Mount Zion United Methodist Church, at 175 years old this year, the oldest black congregation in Washington. Located in Georgetown, Mount Zion United Methodist Church is among a treasure of historic churches located in the Nation's Capital.

It is only fitting that one of our most distinguished and historic churches would have as its minister a distinguished and able young man, a graduate of Howard University Divinity School, who has been cited in the Afro-American newspaper as one of the District's top 25 preachers.

Mr. Speaker, we in the District are grateful for Mount Zion's spiritual and civic influence and for the energetic and excellent contributions of Rev. Kirk Monroe.

AMERICA 2000: MEETING THE PRESIDENT'S CHALLENGE

(Mr. HENRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HENRY. Mr. Speaker, for the past 25 years the Federal Government has been a significant leader in the education of American students. Head Start, chapter 1, Education of the Handicapped Act, Pell grants, and adult education—all programs created by the Federal Government and targeted at populations with specific unmet needs.

The President has raised a new challenge to the Congress, the Governors, the private sector, and the American people. He has asked us all to start a second track of change, without turning back from the goal of equal opportunity. This new challenge is no less than the transformation of the American educational system so that all students will have an opportunity for a quality education. That is what school reform is all about—quality. Rather than looking at inputs and numbers of this, that, or the other thing, school reform is about making sure every student receives a world class education.

To accomplish this, some feathers are going to be ruffled. No doubt about it. Things are going to be done differently, in some cases by different persons trained differently. Choice, national tests, merit schools, national education standards—new and, some would say, scary stuff. But if we learned anything from the last 10 years of school reform it's that incremental, marginal changes in our schools are not enough.

The President has given us the lead. He has challenged Congress, the pri-

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

vate sector, Governors, parents, and communities in this charge to give our children the education they deserve and America the schools it needs.

Let's join him.

H.R. 5, THE GOLDEN RULE VERSUS THE RULE OF THE JUNGLE

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEPHARDT. Mr. Speaker, most Americans treat others the way they want to be treated. But during the 1980's, many companies chucked the Golden Rule for the rule of the jungle. They permanently replaced workers to loot their pensions or dissolve worker and retiree health plans.

Often, this attack against organized workers came from businesses brokered in a merger or buyout. These firms prolonged job actions as a pretense for hiring permanent replacements, and then they cracked down on wages, health benefits, and pensions to service their debts. Unwise mergers led to unfair actions by corporations, injuring and humbling workers and communities, just to make a buck.

H.R. 5, the workplace fairness law, will make it unlawful to permanently replace workers engaged in a job action. This bill would not apply to nonunion establishments. And it mirrors the laws of our major trading partners.

Mr. Speaker, the practice of hiring permanent replacements is unjust and a threat to the health care and retirement security of working American families. We should be on their side and strongly supporting H.R. 5.

H.R. 5: STILL CREATES UNBALANCED RISKS

(Mr. BARRETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT. Mr. Speaker, the proponents of H.R. 5 claim that giving unionized employees the right to not be replaced, balances the scales in the labor-management relationship, and preserves their right to strike.

However, under H.R. 5 unionized employees can't be replaced, even if the labor dispute is illegal, or if the strikers engage in violence.

Employees must assume some risk when they strike, however, H.R. 5 provides job guarantees for unionized employees. An April 8, 1991, editorial by the Omaha World Herald, stated:

> What is so wrong with a worker being forced to consider whether he will be able to return to his job if he strikes? Workers want guarantees, but life holds few guarantees. An employee who tries to bring down his employer by withholding his services, should understand that he is taking a risk. He should understand that the company might have to hire replacements to stay in business.

Mr. Speaker, if we truly want balance, then perhaps we should investigate reforming the problem resolution process. The National Labor Relations Board [NLRB] has had outlandish delays in issuing decisions—on one occasion it took 7 years.

I urge my colleagues to oppose H.R. 5, and to start work on meaningful labor law reform.

□ 1000

LEGISLATION TO GIVE U.S. PROCESSORS FIRST CRACK AT WESTERN RED CEDAR ON NATIONAL FOREST LANDS IN ALASKA

(Mrs. UNSOELD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. UNSOELD. Mr. Speaker, our Northwest timber communities are facing a problem as gut wrenching as any I've seen. Reduced harvests, partly due to protection for the northern spotted owl, are triggering an economic disaster every bit as serious as that of the Great Depression.

We need to be creative and fight for ways to help our timber mills and communities survive economic chaos—and the bill I am introducing today is one way to do that. It would ensure that our own U.S. processors get first crack at national forest western red cedar in Alaska—potentially saving hundreds of jobs for processors in Washington State and the Northwest.

Right now, processors in Alaska are deciding they do not need this cedar—so they are shipping it to Japan. That is not fair—especially when our U.S. processors do need that red cedar.

My bill makes a simple statement, but one this Government all too often forgets: America first.

FIND A SOLUTION TO STRIKER REPLACEMENT PROBLEM

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Madam Speaker, if you have been listening to the 1 minutes thus far today, you get a pretty clear impression of the challenge we face in this House. We can either have a solution, or we can have a political issue.

Contrast the two issues that have been discussed. On the one hand, we have had H.R. 5 discussed, striker replacement. Unfortunately, there is a problem, but people do not want a solution.

Yes, there are some companies, a very few companies, who have not bargained in good faith. The solution to that is to clean up and expedite the process at the National Labor Relations Board.

However, people are suggesting that we ought to totally reverse all labor-management law and labor-management relations in this country, because they would rather have an issue than a solution.

Now, contrast that on the other side with the discussions you have heard this morning regarding educational reform. In that case, this Congress has withstood the test of bipartisan cooperation to do what is in the interest of America now and in the future. We did a bipartisan effort on testing. Today, in the Labor-HHS appropriation bill, we are setting aside the money, and we will be able to, between now and October 1, enact a solution, rather than simply create an issue.

WORKPLACE FAIRNESS ACT COVERAGE

(Mr. WILLIAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILLIAMS. Madam Speaker, with regard to Workplace Fairness Act coverage, Members need to understand that from the beginning there was no intention that H.R. 5 cover workplaces in which there was no union. Because concerns were raised that the bill could be clearer about expressing this intention, the committee approved an amendment I offered making it absolutely clear that H.R. 5 does not apply in a workplace where there is no union. The language is now explicit on this point.

We adopted my amendment in committee specifically in response to concerns raised by several members, constituents, and business groups. They were concerned about the bill's coverage of employees who were not involved in a bona fide collective bargaining dispute but merely walked off the job and then claimed protection under the bill when they chose to return to work. The bill does not cover such employees. Such spontaneous, undisciplined, and unpredictable economic work stoppages in the unorganized sector are not covered by this bill.

STRIKER REPLACEMENT BILL IS BAD FOR SMALL BUSINESS

(Mr. IRELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. IRELAND. Madam Speaker, proponents of H.R. 5, the striker replacement bill, claim that it would not affect most small businesses because the vast majority of them are not unionized.

In fact, this bill would have Congress grant unions both the incentive and the power to launch a huge organizing campaign aimed at small, nonunion businesses.

"Join the union and your job will be permanently protected. Don't join and you can be permanently replaced." This is the message that proponents of H.R. 5 want the U.S. Congress to send to American workers.

If H.R. 5 becomes law, the union bosses' gain will be the country's loss—in terms of higher labor costs, more frequent strikes, and the devistating ripple effect on suppliers, customers, subcontractors, and related businesses.

My colleagues, I urge you to vote against H.R. 5. It's easy to say that you're for small business. But it's how you vote that really counts.

MR. PRESIDENT: KEEP YOUR PROMISE AND RESPECT WORKER RIGHTS

(Mr. NAGLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NAGLE. Madam Speaker, during his 1988 campaign, President Bush promised to respect collective bargaining agreements between workers and their companies. Yesterday, that promise was broken. Just as this administration broke its promise against raising taxes on working Americans, the White House announced Mr. Bush would veto H.R. 5. I urge the President to reconsider.

Major corporations are making war against white- and blue-collar workers, their families, and the communities where they live. Just as they take advantage of tax loopholes, there is a loophole in labor law that permits firms to permanently replace workers who are on strike.

Companies can refuse to bargain in good faith. And when workers take a job action, firms can seize their pensions, cut their health benefits, and hire unqualified replacements to permanently fill their jobs.

Legislation awaiting House action would change all that. It would prevent workers from being permanently replaced, balance the rights of workers and management, and restore respect to the collective bargaining process.

Mr. President, don't break another promise to America's working families. Support H.R. 5, the workplace fairness law.

HORTON BAY, MI: 51ST STATE OF THE UNITED STATES OF AMERICA

(Mr. DAVIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS. Madam Speaker, I rise today to introduce legislation designating Horton Bay, MI, as the 51st State of the United States of America.

Now, Madam Speaker, you might ask why a village of 49 people should be granted statehood. If you know these 49 people, you would not have to ask.

This year thousands of people will make the trek to Horton Bay for a Fourth of July parade based on the premise that laughter is the best medicine. Here people pride themselves on not taking themselves too seriously. Where else can you see the world's only pizza eating goat? Where else can you see 49 people trying to earn statehood with the motto, "if Texas can do it, why can't we!"

Madam Speaker, the world needs more Horton Bays. July 4 is a day of good, clean fun in this unique little village on Lake Charlevoix. The least we could do is honor them by giving them a State of their own.

TIME FOR TAX FAIRNESS: STOP DROWNING THE MIDDLE CLASS

(Mr. EDWARDS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of Texas. Madam Speaker, few principles are more important to our Nation than the concept of fairness. It is concept embodied in the very foundation of our democracy, the belief and conviction that all men and women are created equal.

Yet today we find ourselves in a time when children more and more are living in poverty. We find ourselves in a time when middle class families are not able to give their children the opportunity to reach their highest potential. We find the doors of our colleges and universities being shut to the middle class.

Madam Speaker, it is time for tax fairness. We do not ask that we soak the rich, but we demand that we stop drowning the middle class. It is time for fairness. It is time for recommitment to the ideals on which this country was founded.

GOVERNMENT SHOULD SERVE, NOT RULE

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Madam Speaker, the week before last Edward Rendell, the Democratic nominee for mayor of Philadelphia, said it is time to change some basic assumptions about the public sector. In a hearing in New York City, Mr. Rendel said:

> Government does not work because it is not designed to. There is no incentive for employees to do their best, so many do not. There is no incentive to save money, so it is squandered.

This is a liberal Democrat talking, not a conservative Republican. Yet he has put his finger on something that many people are feeling today. People are becoming angry with elitists in government who act like our rulers, instead of our servants. People are becoming sick of hearing governments who have doubled or tripled spending in a short time crying about budget shortfalls.

□ 1020

People are fed up with the civil service system that does nothing for good, dedicated employees but serves to protect lazy incompetent ones. There is a resentment in the land today toward government, particularly at the Federal level, and some Federal employees are going to have to soon stop demanding so much while giving so little in return.

WE NEED TAX FAIRNESS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Madam Speaker, tax fairness, yes, it is a big problem. It is such a big problem that everyone on both the right and left, as they have looked at it, realize that what we did during the Reagan era of the 1980's was to shift more and more and more taxes on the middle class. They are carrying the heaviest percentage burden they have ever carried in the history of America.

When President Bush campaigned in 1988, he campaigned on relieving some of this tax pressure for the middle class. But somehow he has forgotten that. It seems his entire domestic agenda is nothing but more highways and more executions. Maybe we could bind them and make a drive-in execution.

I think what we desperately need is tax fairness. If America's families could get a little more money, they would certainly be under a lot less stress. And a whole nation of dysfunctional families can soon become a dysfunctional nation.

I think we must work on tax fairness, and the Democratic Party must make that its No. 1 priority to make that Tax Code family friendly once again.

DEMOCRATS WANT TO INCREASE YOUR TAXES

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Madam Speaker, we hear attacks on Ronald Reagan and tax fairness all the time. Who controls the tax bills anyway? Who controlled the House of Representatives during the entire Reagan administration?

Some people would have Members believe that it was the Republicans, but I can tell my colleagues that tax bills originate in the House of Representatives. And the House of Representatives, during the entire Reagan administration, was controlled not by the Republicans. The House of Representatives, where all tax revenue bills originate, was controlled by the Democrats.

So if we hear anything about a lack of tax fairness, let us face it. It was not the Republicans who were at fault for lack of tax fairness. It was the Members who control the House of Representatives, the House in which all tax bills originate.

So come on, let us not cry some crocodile tears. Let us get serious. Every time the Democrats talk about tax fairness, what they are really talking about is raising taxes on the middle class. Those are the people who end up paying the taxes. They know it and we know it.

OUR TAX SYSTEM NEEDS REFORM

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Madam Speaker, yesterday we read all about the National Commission on Children's proposal for a $1,000 tax credit for each child in this country. This bipartisan commission spent 2½ years studying the problems that affect so many of our Nation's children, and they came to the conclusion that we need to reform our tax system. This news is hardly startling.

The tax system is unfair. My constituents tell me this every day. It is time to offer tax relief to working middle class American families. There are already three or four thoughtful proposals on this issue.

I propose the Middle Class Tax Relief Act which increases the personal exemption and even comes up with a workable revenue plan to pay for it.

Whether it is increased exemptions or tax credits, the message is clear. We cannot continue to neglect the needs of middle income families, the hard-working taxpayers who make up the heart and soul of our country and the children who represent our future.

The commission stressed the importance of strong families for the stability and healthy development of our children. This conclusion underscores our need to promote policies that bolster families.

It is time to enact tax reform that leaves families with more of their hard-earned dollars intact to make ends meet. We do not suffer from a lack of ideas or how to accomplish this. We suffer from a lack of vision and leadership in the White House.

Mr. Speaker, we have heard the reports and seen the evidence. The verdict is clear. It is time to stop neglecting those who are calling out for our help.

It is time to bring tax relief to middle class families in this country.

INTRODUCTION OF RESOLUTION CONCERNING UNITED STATES POSITION ON ENVIRONMENTAL PROTECTION AT 1992 U.N. CONFERENCE ON ENVIRONMENT AND DEVELOPMENT IN BRAZIL

(Mr. WALKER asked and was given permission to address the House for 1 minute)

Mr. WALKER. Madam Speaker, international economic integration is proceeding at a rapid pace. With the consequent economic development that accompanies such a process it is imperative that we also examine the unintended results of such growth. That is why I welcome the 1992 U.N. Conference on Environment and Development in Brazil.

This conference will examine the delicate balance between economic and environmental stability throughout the world.

The United States, as a leader in the environmental movement and as a leading economic power, must set an example for other nations to follow in determining the nature of the balance between growth and environmental stability. That is why Mr. HYDE, Mr. RITTER and I are today introducing a resolution which if adopted would urge the United States delegates to the Brazilian conference to weigh these factors in such a way as not to competitively disadvantage the United States while at the same time improving overall environmental quality.

I hope that the appropriate committees and the whole House will view this resolution with favor and will act on its adoption expeditiously.

H.R. 5 PROTECTS RIGHTS OF STRIKING EMPLOYEES

(Mr. FROST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FROST. Madam Speaker, shortly after the July 4 recess the House will consider, H.R. 5, the bill protecting the jobs of employees who exercise their right to strike.

Soon we will be hearing great cries of anguish from the other side of the aisle about this bill. Before the cries begin, let's be very clear about what this legislation does and what it doesn't do. It simply gives workers who go out on strike the right to have their job back when the strike is over and not be permanently replaced by workers hired during the strike.

A revolutionary concept? Hardly.

All we have to do is think back to the 1987 National Football League season. The NFL season opened without a player contract, and the first few games were played by—you guessed it—replacement players. My team the Dallas Cowboys, even won a few of these replacement games. The dispute was settled and, overnight, the replacement players were gone and the NFL regulars were back in uniform.

Now, there are people who would tell us that this very concept shouldn't be applied to other American workers.

Madam Speaker, why should assembly line workers have less rights than a linebacker for the Washington Redskins or the Dallas Cowboys. They shouldn't. It is that simple.

INFANT MORTALITY

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILIRAKIS. Madam Speaker, I believe that it's time for the Congress to help raise awareness of our Nation's infant mortality statistics. Since 1989, I have served as the cochairman of the Congressional Sunbelt Caucus Task Force on Infant Mortality with my good friend Dr. ROY ROWLAND. My involvement with this task force stems from my personal commitment to lowering our Nation's dismal infant mortality statistics.

In my home State of Florida, the Infant mortality rate is disturbingly high—during 1987, almost 11 infants died before their first birthday out of every 1,000 babies born. In fact, the Sunbelt region has the highest infant mortality rate in the Nation. I feel it is the duty of Congress to raise public awareness and encourage solutions at all levels of government—Federal, State, and local.

If we could encourage all pregnant women to seek prenatal care, not only will we have healthier babies but we will also have healthier mothers. Hopefully, these comments this morning will send a message to all Americans on the importance of this issue to them and to Members of Congress.

MEDICAL INSURANCE SHOULD ENCOURAGE PREVENTIVE HEALTH CARE

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Madam Speaker, as part of my program to introduce you to West Virginians, who are being denied access to adequate health care, I want you to meet Cecilia Wood, who lives in Ireland in Lewis County, WV. Her husband is a salesman and she used to teach school until she left teaching to take care of her children. She was covered by a private insurance policy.

In June 1990, she had precancerous cells burned off of her cervix. When the doctor contacted her insurance company about this, they dropped her coverage and refused to cover the procedure because she had cancer. Now she lives every day without insurance.

Her insurance company will not cover her for a period of 2 years during which she must have clean Pap smears every 4 months.

People should be encouraged, not discouraged, to take preventative steps in their health care. She might have been hospitalized for major surgery with major medical bills, had she not taken these steps.

Cecilia Wood asked when the Congress and the administration are finally going to enact a medical policy that says that you are encouraged, not discouraged, from doing those things that are necessary to have adequate access to health care.

The Congress and the President must act now.

□ 1030

PROTECT AMERICAN JOBS: VOTE NO ON H.R. 5

(Mr. BOEHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHNER. Madam Speaker, proponents of H.R. 5, the strike breeder bill, argue that companies use permanent replacement workers to bust unions. This claim is not only misleading, but it is entirely false.

Under the Federal Labor Relations Act, it is an unfair labor practice if employers commit any of the following activities: discriminate against union employees, refusing to bargain in good faith, and pretending to bargain in good faith. If employers commit any of these acts during a strike, workers must be reinstated to their old jobs. In addition, companies can be forced to pay fines for engaging in unfair labor practices. So if it were the intention of a company to break a union by hiring replacement workers, this would constitute an unfair labor practice and those who were replaced would be entitled to their jobs at the end of the strike.

Madam Speaker, I urge my colleagues not to be taken by the false claims made by proponents of H.R. 5. If this bill were to become law, it would promote strikes, cause disruption within our economy, and hurt our Nation's ability to compete against our trading partners. If our Nation's businesses are faced with negotiating labor contracts under this law, many will simply close up shop and head overseas. If you want to protect American jobs and the economy, you will vote no on H.R. 5.

NATIONAL RECYCLING MARKETS ACT

(Mrs. COLLINS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Madam Speaker, all across the United States, we are running out of places to put our trash. In recent years, 83 percent of our Nation's annual 160 million tons of municipal solid waste has been stuffed in landfills, half of which are expected to be closed by mid-decade.

Recycling, after waste minimization, offers a way out of this crisis and has great untapped potential. Recycling provides a cheap source of quality feedstock materials and is an efficient use of natural resources. Recycling can save money, while reducing pollution, pollution control costs, and energy consumption. Recycling can also create competitive opportunities in the international marketplace.

Unfortunately, obstacles remain. Manufacturers claim that they would use more recovered materials if only reliable supplies of high-quality materials could be found. Waste managers, meanwhile, claim that they would institute more programs to recover recyclable materials if only they could find regular buyers for them.

Although many collection programs have been started and more manufacturers are using recovered materials, recycling is still only crawling forward. I believe the keys to improving recycling are to stimulate demand for recovered materials and to bolster and stabilize recycling markets.

That is why yesterday I introduced the National Recycling Markets Act which aims to accomplish precisely those objectives. I believe that we can no longer sit back and wait for progress to just happen. We must make it happen.

I encourage my colleagues to support the bill and join me in attempting to bring America a new era in recycling.

WHAT IS NEXT, CONGRESS?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Madam Speaker, fat cats are buying savings-and-loan property from the RTC for pennies and selling them for millions, making a killing. Meanwhile, the working poor who desperately need homes cannot get a loan. Does that sound familiar?

But through all this, it is consistent, the taxpayer continues to get screwed by the lawyers, by the investors, and, in my opinion, the RTC.

I say it is time to call the RTC the Rectal Trespass Corporation of America. They earned it.

Let me say one thing: What is next, Congress? Interstate banking?

IN SUPPORT OF TARGETED INFANT MORTALITY INITIATIVES

(Mr. ERDREICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ERDREICH. Madam Speaker, I rise today in strong support of the targeted infant mortality initiatives contained in the Labor, Health and Human Services, and Education appropriation bill for fiscal year 1992.

The committee bill contains several provisions for making the battle against infant mortality a national health care priority. Today's bill calls for a coordinated approach among various agencies charged with carrying out these initiatives, something we spotlighted in a congressional hearing I held in Birmingham 3 years ago.

In addition to increasing resources to fight infant mortality, the committee has rightfully emphasized that any program must be part of a community-wide, comprehensive initiative. We know that early, regular, high-quality prenatal care reduces low birthweight babies. Our challenge now is to make sure that every mother at risk learns about these programs and has access to them.

Efforts to reduce infant mortality are vital to my State because Alabama has one of the highest infant mortality rates in the Nation. Likewise, the United States ranks 20th among developed countries in the number of infant deaths.

The committee's bill will help reverse this trend. I urge by colleagues to join me in support of the targeted infant mortality initiatives contained in this appropriation bill.

IN CELEBRATION OF THIS COUNTRY COMING TOGETHER

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Madam Speaker, as we approach July 4 and the many parades that will take place across our great country to celebrate the homecoming of our Desert Storm troops, I want to tell this body about an experience that happened to me recently in my hometown of Mishawaka, IN.

Going to a homecoming ceremony for a homecoming troop, a Dave Barrett, the family presented him with a plaque that read, "We admire your courage, devotion, and patriotism to country." They then turned around to their Uncle Bob, who had served in the Vietnam war, unveiled a package, and presented a plaque that read, "We admire your patriotism, your courage, and your devotion to country."

Madam Speaker, we need the vets of not only the Persian Gulf war but the Vietnam war to join arms and march down our streets in celebration of this country coming together not just in a victory in the Middle East but with this can-do spirit that we today in the 1990's are ready to take on the challenges that face our great Nation in education, in rebuilding our infrastructure, and in guiding this country to be the economic power with the Japanese and the Germans and ahead of them in the next century.

TRIBUTE TO HON. WILLIAM NATCHER

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Madam Speaker, later today, the distinguished gentleman from Kentucky [Mr. NATCHER], the dean of the Kentucky delegation, will assume his spot just to my right, and with his customary aplomb and courtesy and courtliness steer through to passage the Labor, Health and Human Services and Education appropriation bill.

It has been my great fortune to serve with BILL for these past 20 years, and I would like to call to the attention of the Members in the body, the few of whom may not know it, that last week on June 20, Chairman NATCHER cast his 17,000th consecutive vote.

He came into this Chamber in January 1954. It happend to be, parenthetically, my senior year at Notre Dame. BILL came in here, and he has never failed to cast a vote on every issue since then.

I would say from the clarity of his eye and from the spring in his step and from the steel in his spine he will be here to cast 17,000 more votes.

SUPPORT APPROPRIATION FOR INFANT MORTALITY INITIATIVES

(Mr. PAYNE of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAYNE of Virginia. Madam Speaker, as a member of the Sun Belt Caucus on Infant Mortality, I am very concerned with the infant mortality rate in this country.

The United States ranks near the bottom of all industrialized nations with a rate of 10 deaths per 1,000 births.

This is not only a problem in urban areas.

This is a problem in rural America as well. The Fifth District of Virginia that I represent has one of the highest infant mortality rates in the Commonwealth of Virginia.

There is a model volunteer organization in my district whose goal is to develop child and maternal health programs that address the problems of infant mortality, low birth rate babies, and teenage pregnancy in southside Virginia.

The Save Our Children Coalition is headed by Dr. Marie Hooper, a gynecologist who came to Farmville, VA, through the National Health Services Corps.

Dr. Hooper has remained in Farmville and continues to serve poor, low-income women.

I commend Dr. Hooper on the progress she has made. I believe that the save our children coalition can serve as a model for other efforts around the country.

Later today we will vote on H.R. 2707, Chairman NATCHER's fiscal year 1992 appropriations for Labor, HHS, and Education.

For important infant mortality initiatives such as Save Our Children Coalition, $114 million has been appropriated.

I urge my colleagues to support this important measure.

□ 1040

UNEMPLOYED DESERVE TAX EXEMPTION

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Madam Speaker, we send billions of dollars overseas to help other countries with their problems. The Reagan and Bush administration gave big tax breaks to the rich in 1981. The Reagan and Bush administration had terrible trade policies which produced a trade deficit. We are running $300 billion a year in deficit. We owe $3.5 trillion in total deficit, and we are paying $200 billion in interest on that deficit. The consequences are that millions of Americans are unemployed and more people overseas are becoming employed.

Now, who do Members think that we are asking to pay for this fiscal irresponsibility and this nonsense? It is the unemployed. The people who are getting unemployment compensation, are being asked to cough up enough money to make up for the deficit.

I think these people need a boost to help give them the quality of life that has been taken away from them by the administration of this country. I am asking Members to cosponsor House Resolution 2492 that will correct this thing. Give a tax exemption to the millions of unemployed Americans in this country who are getting unemployment compensation.

SUPPORT FOR PROGRAMS TO COMBAT INFANT MORTALITY

(Mr. HARRIS asked and was given permission to address the House for 1 minute.)

Mr. HARRIS. Madam Speaker, I rise to congratulate Chairman BILL NATCHER on a job well done. Today, we will be considering the appropriations bill for Labor, Health and Human Services, and Education.

Of particular interest to me is the funding contained in the bill to combat the problem of infant mortality. I believe that the funding for the maternal and child health block grants and the community and migrant health centers will certainly help rural Alabamians. I am especially pleased that Federal dollars will be targeted to areas with high infant mortality rates.

Earlier this year, I was the chief sponsor of House Joint Resolution 194, to designate May 12, 1991 as Infant Mortality Awareness Day. This commemorative legislation became Public Law 102–43 in May. This is the second year I have sponsored this educational effort. I believe that as more Americans are made aware of our infant mortality rates, they will work harder to ensure that healthy babies are born. Every death of a child represents a tragedy for both the parents as well as the loss of the child's potential for our society. I would encourage all pregnant women to seek early prenatal care to ensure the birth of healthy infants.

DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1991

Mr. DIXON. Madam Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2699) making appropriations for the Government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1992, and for other purposes.

The SPEAKER pro tempore (Mrs. UNSOELD). The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

□ 1044

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2699, with Mrs. KENNELLY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, June 25, 1991, all time for general debate had expired.

Mr. DIXON. Madam Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment and points of order at any point.

Is there objection to the request of the gentleman from California [Mr. DIXON]?

There was no objection.

The text of H.R. 2699 is as follows:

H.R. 2699

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1992, and for other purposes, namely:

TITLE I

FISCAL YEAR 1992 APPROPRIATIONS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1992, $630,500,000.

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds, as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96–122), $52,070,000.

OFFICE OF THE MAYOR

For a Federal contribution to the District of Columbia for the Office of the Mayor, $52,000.

METROPOLITAN POLICE DEPARTMENT

For a Federal contribution to the District of Columbia for the Metropolitan Police Department, $75,000, of which $25,000 shall be for an accreditation study by a recognized law enforcement accrediting organization and $50,000 shall be for community empowerment policing programs.

BOARD OF EDUCATION

For a Federal contribution to the District of Columbia, $1,100,000, of which $600,000 shall be for renovations to public school athletic and recreational grounds and facilities and $500,000 shall be for maintenance, improvements, and repairs to public school facilities under the Direct Activity Purchase System (DAPS): *Provided*, That the $500,000 provided for DAPS shall be returned to the United States Treasury on October 1, 1992, if the amount spent by the District of Columbia out of its own funds under DAPS and for maintenance, improvements, and repairs to public school facilities in fiscal year 1992 is less than the amount spent by the District out of its own funds for such purposes in fiscal year 1991.

DISTRICT OF COLUMBIA GENERAL HOSPITAL

For a Federal contribution to the District of Columbia General Hospital, $12,000,000, of which $10,000,000 shall not be available for obligation until September 30, 1992 and shall not be expended prior to October 1, 1992.

DISTRICT OF COLUMBIA INSTITUTE FOR MENTAL HEALTH

For a Federal contribution to the District of Columbia Institute for Mental Health to provide professional mental health care to low-income, underinsured, and indigent children, adults, and families in the District of Columbia, $1,000,000.

CHILDREN'S NATIONAL MEDICAL CENTER

For a Federal contribution to the Children's National Medical Center for a cost-shared National Child Protection Center, $3,000,000.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $111,973,000: *Provided*, That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: *Provided further*, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further*, That notwithstanding any other provision of law, there is hereby appropriated $8,326,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board, of which $1,000,000 shall be derived from the general fund and not to exceed $7,326,000 shall be derived from the earnings of the applicable retirement funds: *Provided further*, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further*, That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report: *Provided further*, That the Mayor shall submit to the Council of the District of Columbia by October 1, 1991, a reorganization plan for the Department of Finance and Revenue that shall follow the directives and initiatives contained in the Report of the Committee of the Whole on Bill 9–151, the Fiscal Year 1991 Supplemental Budget and Rescissions of Authority Request Act of 1991, at 8-20 (March 25, 1991).

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $106,430,000: *Provided*, That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2–135; D.C. Code, sec. 45–2111), based upon its capability of repayments as determined each year by the Council of District of Columbia from the Finance Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: *Provided further*, That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the owners of any bonds or notes issued by the Finance Agency and shall be repaid to the District of Columbia government only from available operating revenues of the Finance Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: *Provided further*, That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of 135 passenger-carrying vehicles for replacement only, including 130 for police-type use and five for fire-type use, without regard to the general purchase price limitation for the current fiscal year, $930,836,000: *Provided*, That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department of the District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further*, That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further*, That $50,000 of this appropriation shall be available at the discretion of the Chief of Police for community empowerment policing programs: *Provided further*, That not to exceed $25,000 of this appropriation shall be available solely for an accreditation study of the Metropolitan Police Department by a recognized law enforcement accrediting organization: *Provided further*, That the Metropolitan Police Department shall provide quarterly reports to the Committees on Appropriations of the House and Senate on efforts to increase efficiency and improve the professionalism in the department: *Provided further*, That notwithstanding any other provision of law, or Mayor's Order 86–45, issued March 18, 1986, the Metropolitan Police Department's delegated small purchase authority shall be $500,000: *Provided further*, That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93–412; D.C. Code, sec. 11–2601 et seq.), for the fiscal year ending September 30, 1992, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1975: *Provided further*, That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5–129; D.C. Code, sec. 16–2304), for the fiscal year ending September 30, 1992, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1985: *Provided further*, That funds appropriated for expenses under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986, effective September 30, 1989 (D.C. Law 6–204; D.C. Code, sec. 21–2060), for the fiscal year ending September 30, 1992, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1989: *Provided further*, That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further*, That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District of Columbia government officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further*, That the District of Columbia government shall also take steps to publicize the availability of the 24-hour telephone information service among the residents of the area surrounding the Lorton prison: *Provided further*, That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County, Virginia, and Prince William County, Virginia, for expenses incurred by the counties during the fiscal year ending September 30, 1992, in relation to the Lorton prison complex: *Provided further*, That such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, riots, and similar disturbances involving the prison: *Provided further*, That the staffing levels of each engine company within the Fire Department shall be maintained in accordance with the provisions of the Fire Department Rules and Regulations, if any: *Provided further*, That the reduction in the staffing levels of each two-piece engine company shall not take effect until such time as the Fire Chief certifies to the Committees on Appropriations of the House and Senate that the Department is taking all reasonable steps to reduce the expenses of the Department, including steps to reduce overtime, filling eligible vacancies, returning detailees to their intended positions, and other measures deemed appropriate by the Fire Department: *Provided further*, That when staffing levels are reduced, the pay and salary levels of fire fighter technicians shall be held harmless during the term of the collective bargaining agreement in effect on the date of enactment of this Act: *Provided further*, That none of the funds provided in this Act may be used to implement any staffing plan for the District of Columbia Fire Department that includes the elimination of any positions for Administrative Assistants to the Battalion Fire Chiefs of the Firefighting Division of the Department: *Provided further*, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further*, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for the emergency services involved.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $706,431,000, to be allocated as follows: $518,764,000 for the public schools of the District of Columbia; $1,100,000 for pay-as-you-go capital projects for public schools, of which $600,000 shall be for renovations to public school athletic and recreational grounds and facilities and $500,000 shall be for maintenance, improvements, and repairs to public school facilities under the Direct Activity Purchase System (DAPS): *Provided*, That the $500,000 provided for DAPS shall be returned to the United States Treasury on October 1, 1992, if the amount spent by the District of Columbia out of its own funds under DAPS and for maintenance, improvements, and repairs to public school facilities in fiscal year 1992 is less than the amount spent by the District out of its own funds for such purposes in fiscal year 1991; $84,200,000 for the District of Columbia Teachers' Retirement Fund; $73,495,000 for the University of the District of Columbia; $20,578,000 for the Public Library, of which $200,000 is to be transferred to the Children's Museum; $3,527,000 for the Commission on the Arts and Humanities; $4,290,000 for the District of Columbia School of Law; and $477,000 for the Education Licensure Commission: *Provided*, That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further*, That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: *Provided further*, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1992, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

HUMAN SUPPORT SERVICES

Human support services, $877,033,000: *Provided*, That $20,848,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further*, That $10,000,000 of this appropriation for the District of Columbia General Hospital shall not be available for obligation until September 30, 1992 and shall not be expended prior to October 1, 1992: *Provided further*, That the District shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private nonprofit organization (as defined in section 411(5) of Public Law 100–77, approved July 22, 1987) providing emergency shelter services in the District, if the District would not be qualified to receive reimbursement pursuant to the Stewart B. McKinney Homeless Act, approved July 22, 1987 (101 Stat. 485; Public Law 100–77; 42 U.S.C. 11301 et. seq).

PUBLIC WORKS

Public Works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $234,390,000: *Provided*, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

WASHINGTON CONVENTION CENTER FUND

For the Washington Convention Center Fund, $13,110,000.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with An Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79–648); section 1 of An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; D.C. Code, sec. 9–219); section 4 of An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86–515); section 723 of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 821; Public Law 93–198; D.C. Code, sec. 47–321, note); and section 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act Amendments, approved October 13, 1977 (91 Stat. 1156; Public Law 95–131; D.C. Code, sec. 9–219, note), including interest as required thereby, $277,577,000.

REPAYMENT OF GENERAL FUND DEFICIT

For the purpose of eliminating the $331,589,000 general fund accumulated deficit as of September 30, 1990, $41,170,000.

OPTICAL AND DENTAL BENEFITS

For optical and dental costs for nonunion employees, $3,423,000.

PERSONAL SERVICES AND NONPERSONAL SERVICES ADJUSTMENT

The Mayor shall reduce authorized appropriations and expenditures for personal services and related nonpersonal services in the amount of $1,000,000 within one or several of the various appropriation headings in this Act.

CAPITAL OUTLAY

For construction projects, $310,928,946, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, secs. 43–1512 through 43–1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83–364); An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; D.C. Code, secs. 9–219 and 47–3402); section 3(g) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved August 20, 1958 (72 Stat. 686; Public Law 85–692; D.C. Code, sec. 40–805(7)); and the National Capital Transportation Act of 1969, approved December 9, 1969 (83 Stat. 320; Public Law 91–143; D.C. Code, secs. 1–2451, 1–2452, 1–2454, 1–2456, and 1–2457); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided*, That $17,707,000 shall be available for project management and $10,273,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor: *Provided further*, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further*, That $1,100,000 for the public school system for pay-as-you-go capital projects shall be financed from general fund operating revenues: *Provided further*, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further*, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90–495; D.C. Code, sec. 7–134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1993, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1993: *Provided further*, That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $219,752,000, of which $38,006,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

For construction projects, $51,690,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, sec. 43–1512 et seq.): *Provided*, That the requirements and restrictions that are applicable to general fund capital improvement projects and set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title: *Provided further*, That $25,608,000 in water and sewer enterprise fund operating revenues shall be available for pay-as-you-go capital projects.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act for the fiscal year ending September 30, 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97–91), as amended, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3–172; D.C. Code, secs. 2–2501 et seq. and 22–1516 et seq.), $8,450,000, to be derived from non-Federal District of Columbia revenues: *Provided*, That the District of Columbia shall identify the sources of funding for this appropriation title from the District's own locally-generated revenues: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5–36; D.C. Code, sec. 43–1801 et seq.), $2,000,000.

GENERAL PROVISIONS

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided*, That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101–7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided*, That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided*, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84–460; D.C. Code, sec. 47–1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4–101; D.C. Code, sec. 3–205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90–445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 110. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1993, shall be transmitted to the Congress no later than April 15, 1992.

SEC. 111. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, the Subcommittee on General Services, Federalism, and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative: *Provided*, That none of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 112. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2–20; D.C. Code, sec. 47–421 et seq.).

SEC. 113. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 114. None of the Federal funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 115. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided*, That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowing and spending progress compared with projections.

SEC. 116. The Mayor shall not borrow any funds for capital projects unless the Mayor has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 117. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 118. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96–443), which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96–93), as modified in House Report No. 98–265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3–100; D.C. Code, sec. 47–361 et seq.).

SEC. 119. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 120. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96–425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided*, That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 121. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) of this section for any position for any period during the last quarter of calendar year 1991 shall be deemed to be the rate of pay payable for that position for September 30, 1991.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79-592; D.C. Code, sec. 5-803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, a per diem compensation at a rate established by the Mayor.

SEC. 122. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided*, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 123. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72-212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency, and the District's best interest.

SEC. 124. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 1992, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1992 revenue estimates as of the end of the first quarter of fiscal year 1992. These estimates shall be used in the budget request for the fiscal year ending September 30, 1993. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 125. Section 466(b) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 806; Public Law 93-198; D.C. Code, sec. 47-326), as amended, is amended by striking "sold before October 1, 1991" and inserting "sold before October 1, 1992".

SEC. 126. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Code, sec. 1-1183.3), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 127. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided*, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended.

SEC. 128. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided*, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended.

SEC. 129. Sec. 133(e) of the District of Columbia Appropriations Act, 1990, as amended, is amended by striking "December 31, 1991" and inserting "December 31, 1992".

SEC. 130. Such sums as may be necessary for fiscal year 1992 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 131. For the fiscal year ending September 30, 1992, the District of Columbia shall pay interest on its quarterly payments to the United States that are made more than 60 days from the date of receipt of an itemized statement from the Federal Bureau of Prisons of amounts due for housing District of Columbia convicts in Federal penitentiaries for the preceding quarter.

SEC. 132. None of the funds provided in this Act may be used by the District of Columbia to provide for the salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiative of 1979, effective March 10, 1981 (D.C. Law 3-171; D.C. Code, sec. 1-113(d)).

SEC. 133. (a) Up to 75 officers or members of the Metropolitan Police Department who were hired before February 14, 1980, and who retire on disability before the end of calendar year 1991 shall be excluded from the computation of the rate of disability retirement under subsection 145(a) of the District of Columbia Retirement Reform Act, as amended, approved September 30, 1983 (97 Stat. 727; D.C. Code, sec. 1-725(a)), for purposes of reducing the authorized Federal payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund pursuant to subsection 145(c) of the District of Columbia Retirement Reform Act.

(b) The Mayor, within 30 days after the enactment of this Act, shall engage an enrolled actuary, to be paid by the District of Columbia Retirement Board, and shall comply with the requirements of sections 142(d) and 144(d) of the District of Columbia Retirement Reform Act of 1979, approved November 17, 1979 (93 Stat. 866; Public Law 96-122; D.C. Code, secs. 1-722(d) and 1-724(d)).

(c) If any of the 75 light duty positions that may become vacant under subsection (a) of this section are filled, a civilian employee shall be hired to fill that position or it shall be filled by an officer or member of the Metropolitan Police Department for a temporary period of time.

(d) The limited duty policy of the Metropolitan Police Department shall be that in effect prior to July 8, 1990, unless ordered by the relevant court.

SEC. 134. (a) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 1992 if—

(1) the Mayor approves the acceptance and use of the gift or donation; and

(2) the entity uses the gift or donation to carry out its authorized functions or duties.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a), and shall make such records available for audit and public inspection.

(c) For purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

This title may be cited as the "District of Columbia Appropriations Act, 1992".

TITLE II

FISCAL YEAR 1991 SUPPLEMENTAL DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

(INCLUDING RESCISSION)

For an additional amount for "Governmental direction and support", $257,000: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101-518; 104 Stat. 2226 to 2227), $5,650,000 are rescinded for a net decrease of $5,393,000: *Provided further*, That of the $9,077,000 appropriated under this heading for fiscal year 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101-518; 104 Stat. 2226), to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board, none shall be derived from the general fund and not to exceed $9,077,000 shall be derived from the earnings of the applicable retirement funds: *Provided further*, That within fifteen days of the date of enactment of this Act the District of Columbia Retirement Board shall reimburse the general fund of the District by an amount not to exceed $818,000 for any expenses of the Board paid with general fund revenues in fiscal year 1991: *Provided further*, That the Mayor shall submit to the Council of the District of Columbia by October 1, 1991, a reorganization plan for the Department of Finance and Revenue that shall follow the directives and initiatives contained in the Report of the Committee of the Whole on Bill 9-151, the Fiscal Year 1991 Supplemental Budget and Rescissions of Authority Request Act of 1991, at 8-20 (March 25, 1991).

ECONOMIC DEVELOPMENT AND REGULATION

(INCLUDING RESCISSION)

For an additional amount for "Economic development and regulation", $37,000: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public law 101-518; 104 Stat. 2227), $29,525,000 are rescinded for a net decrease of $29,488,000.

PUBLIC SAFETY AND JUSTICE

(INCLUDING RESCISSION)

For an additional amount for "Public safety and justice", $10,774,000, of which an additional $3,600,000 shall be allocated to the Fire and Emergency Medical Services Department; an additional $84,000 shall be allocated to the Civilian Complaint Review Board; and notwithstanding any other law, an additional $7,090,000 shall be allocated for the

District of Columbia Police Officers and Fire Fighters' Retirement Fund: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101–518; 104 Stat. 2227 to 2229), $20,711,000 are rescinded for a net decrease of $9,937,000: *Provided further*, That notwithstanding any other provisions of law, of the funds available for fiscal year 1991, $225,000 of the amount allocated to the District of Columbia Judge's Retirement Fund are rescinded.

The following provision under this heading for the fiscal year ending September 30, 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101–518; 104 Stat. 2228), is repealed: "*Provided further*, That at least 21 ambulances shall be maintained on duty 24 hours per day, 365 days a year:".

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSION)

For an additional amount for "Public education system", $200,000 for the Public Library to be transferred to the Children's Museum.

Of the funds appropriated under this heading for the fiscal year ending September 30, 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101–518; 104 Stat. 2229), $11,123,000 for the D.C. Public Schools; $10,000,000 for pay-as-you-go capital projects for public schools; $3,418,000 for the University of the District of Columbia; $41,000 for the Education Licensure Commission; $327,000 for the Commission on Arts and Humanities; and notwithstanding any other provisions of law, $23,650,000 for the District of Columbia Teachers' Retirement Fund are rescinded for a net decrease of $48,359,000.

The following provision under this heading for the fiscal year ending September 30, 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101–518; 104 Stat. 2229), is repealed: "*Provided further*, That the amount allocated under this title for the public schools shall be increased, dollar for dollar up to $36,400,000, by the amount the annual Federal payment for fiscal year 1991 is increased above the current $430,500,000 Federal payment in fiscal year 1990:".

HUMAN SUPPORT SERVICES

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101–518; 104 Stat. 2229 to 2230), $11,227,000 are rescinded.

PUBLIC WORKS

(INCLUDING RESCISSION)

For an additional amount for "Public works", $2,965,000: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101–518; 104 Stat. 2230), $2,949,000 are rescinded for a net increase of $16,000.

WASHINGTON CONVENTION CENTER FUND

For an additional amount for "Washington Convention Center Fund", $2,756,000.

REPAYMENT OF LOANS AND INTEREST

For an additional amount for "Repayment of loans and interest", $8,577,000.

REPAYMENT OF GENERAL FUND DEFICIT

The paragraph under the heading "Repayment of General Fund Deficit", in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101–518; 104 Stat. 2231), is repealed.

SHORT-TERM BORROWINGS

For an additional amount for "Short-term borrowings", $8,142,000.

OPTICAL AND DENTAL BENEFITS

For an additional amount for "Optical and dental benefits", $311,000.

SUPPLY, ENERGY, AND EQUIPMENT ADJUSTMENT

The paragraph under the heading "Supply, energy, and equipment adjustment", in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101–518; 104 Stat. 2231), is repealed.

PERSONAL SERVICES ADJUSTMENT

The paragraph under the heading "Personal services adjustment", in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101–518, 104 Stat. 2231), is repealed.

CAPITAL OUTLAY

For an additional amount for "Capital outlay", $73,570,000, to remain available until expended: *Provided*, That of the amounts appropriated under this heading in prior fiscal years for the Mount Vernon Square Campus project of the University of the District of Columbia, $39,134,000 are rescinded for a net increase of $34,436,000: *Provided further*, That $2,644,000 shall be available for project management and $3,212,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor.

WATER AND SEWER ENTERPRISE FUND

(INCLUDING RESCISSION)

For an additional amount for "Water and Sewer Enterprise Fund", $23,633,000: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101–518; 104 Stat. 2232), $35,880,000 are rescinded for a net decrease of $12,247,000: *Provided further*, That $35,852,000 of the amounts available for fiscal year 1991 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects instead of $36,608,000 as provided under this heading in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101–518; 104 Stat. 2232): *Provided further*, That $15,477,000 in water and sewer enterprise fund operating revenues shall be available for pay-as-you-go capital projects instead of $39,609,000 as provided under this heading in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101–518; 104 Stat. 2232).

GENERAL PROVISIONS

SEC. 101. Sec. 112 of the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101–518; 104 Stat. 2234), is amended by striking "April 15, 1991" and inserting "May 17, 1991".

SEC. 102. (a) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 1991 if—

(1) the Mayor approves the acceptance and use of the gift or donation; and

(2) the entity uses the gift or donation to carry out its authorized functions or duties.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a), and shall make such records available for audit and public inspection.

(c) For purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

This title may be cited as the "District of Columbia Supplemental Appropriations and Rescissions Act, 1991".

The CHAIRMAN. Are there any points of order?

Are there any amendments?

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Page 31, insert after line 20 the following new section:

SEC. 135. (a) The Mayor shall ensure that the requirements of the Buy American Act apply to all procurements made with any funds provided under this Act.

(b)(1) If the Mayor, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the United States Trade Representative shall rescind the waiver of the Buy American Act with respect to the procurement of such types of products produced in that foreign country with funds provided under this Act.

(2) An agreement referred to in paragraph (1) is any agreement between the United States and a foreign country pursuant to which the head of an agency of the United States Government has waived the requirements of the Buy American Act with respect to certain products produced in the foreign country.

(c) The Mayor shall submit to Congress a report on the amount of procurements from foreign entities made in fiscal years 1992 and 1993 with funds provided under this Act. Such report shall separately indicate the dollar value of items procured with such funds for which the Buy American Act was waived pursuant to any agreement described in subsection (b)(2), the Trade Agreements Act of 1979, or any international agreement to which the United States is a party.

(d) No contract or subcontract made with funds provided under this Act may be awarded for the procurement of an article, material, or supply produced or manufactured in a foreign country whose government unfairly maintains in government procurement a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to section 305(g)(1)(A) of the Trade Agreements Act of 1979.

(e) If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, that person shall be ineligible to receive any contract or subcontract made with funds provided under this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

(f) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

Mr. TRAFICANT (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Madam Chairman, this is an agreement that was reached with the authorizing committee and the Committee on Appropriations on Buy American language.

Mr. DIXON. Madam Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from California.

Mr. DIXON. Madam Chairman, I am opposed to this amendment because I do not understand its total implications and how it would affect the District government. I have indicated to the gentleman from Ohio [Mr. TRAFICANT] that I would not ask for a rollcall vote. Also, his amendment is subject to a point of order, but I will not make that point of order.

Mr. GALLO. Madam Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from New Jersey.

Mr. GALLO. Madam Chairman, we have no objections on this side.

The Chairman. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROHRABACHER

Mr. ROHRABACHER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROHRABACHER: Page 2, line 7, strike "$630,500,000" and insert "$611,268,000".

Mr. ROHRABACHER. Madam Chairman, this amendment, together with the next amendment I will offer, is another in the ongoing series of appropriations amendments aimed at holding spending to a 2.4-percent increase over the current level. If we could hold spending increases to 2.4 percent for the next 4 fiscal years, growth in revenues, with no tax increases, we would be able to catch up with growth in spending, and we would achieve a balanced budget.

Let me repeat that: If we can just hold spending growth to 2.4 percent, we are going to get control of the Federal deficit that threatens everything that we have in this country today.

Madam Chairman, I am pleased to be given the honor of offering this particular 2.4 percent amendment, because it is even more justified than any of the others.

It is true, Madam Chairman, that the District of Columbia government has taken a great turn for the better in the past year with the elections of Mayor Dixon, Chairman Wilson, and our own colleague, Mrs. NORTON. No one could be happier about the new, more realistic attitude in the District building than I. But, as a member of the D.C. Committee and Republican chairman of its Fiscal Affairs and Health Subcommittee, I have to note that this Congress has already been extremely generous with the District of Columbia and will still be very generous if my amendment passes.

Last week, the House passed the authorization bill for the Federal payment, setting the Federal payment level for fiscal year 1992 at $630 million. This in itself represented a 32-percent increase over the level of fiscal year 1990.

The Appropriations Committee has decided even this is not enough. Not only did they nudge up the regular Federal payment to $630.5 million, they added four extra Federal payments, making the total Federal payment, not including the pension fund contributions, to $643.7 million, or 35 percent above the fiscal year 1990 level.

I am offering two amendments to get us to a reasonable level of spending. The first reduces the regular Federal payment from $630.5 million to $611.3 million. The second amendment takes out all the additional Federal payments that take this bill beyond the level of the authorization bill we just passed here on this floor last week.

Madam Chairman, Congress is facing a budget deficit of over $400 billion. That is over a billion dollars a day in the red that we are spending. With this massive deficit, we cannot give even the most beloved and deserving Federal agencies as much as we might like them to have. Neither can we do that for the D.C. government.

It is time to say, "Enough is enough." And locking in a 25-percent increase over 2 years, plus 2.4 percent more is going to have to be enough. I ask my colleagues to support this small step toward fiscal sanity and ask them to vote for my amendments.

Madam Chairman, if we are going to have a viable government, if we are going to have the resources we need to do what is necessary for the well-being of our citizens across the United States of America, we have to be responsible.

□ 1050

We have to come to grips with this deficit and holding the spending level at 2.4-percent increase across the line is a very responsible and a very effective way of getting control of the deficit without causing the maximum degree of pain. If we do not get control of the deficit now with these very reasonable approaches of keeping growth to 2.4 percent, in the future we are going to face, and it is in the near future, a mammoth crisis that will overwhelm this body and overwhelm the well-being of the American people.

The young people who watch this debate in the galleries are going to be strapped with a debt that is going to knock the legs out from the economy in which they will live. They will not have jobs. This body will not be able to allocate money for the projects that they think are necessary because this body will be overwhelmed with red ink.

It is unfair. It is absolutely irresponsible for us to go on with this unrestricted spending. My proposal is a modest proposal keeping the growth of spending to 2.4 percent, and this can be done in the District of Columbia as well as other spending bills.

Mr. DIXON. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, I rise in opposition to this amendment for several reasons.

First of all, let me point out that this bill is within the 602(b) allocation.

Second, the House authorizing committee on which this Member from California sits, passed out an authorization for $630 million 2 weeks ago.

Third, the Federal payment, in my opinion, has been long overdue for an increase. As the delegate from the District of Columbia pointed out yesterday, the last time the Federal payment was increased was in 1984. At that time it was set at $425 million and it has been held at $425 million since that time.

Fourth, it is important that since the District of Columbia has new leadership and they have really taken extreme measures to provide for not only a balanced budget, but curtailing their programs, they need every dollar in this bill.

The Federal payment is not a gift to the District of Columbia. It is in lieu of property taxes. We have cut them over the last 7 years and I think it is inappropriate to cut them now.

The second amendment that the gentleman from California recommends is cutting $12 million from the D.C. General Hospital. Public health is a serious issue in this community. It not only affects the citizens of this community, it can ultimately affect the tourists who come to visit.

There are 120,000 uninsured people that receive medical services here in the District of Columbia. Why the gentleman would select cutting health programs for people who are poor and uninsured, I do not understand.

Further, we all have a concern with the D.C. Board of Education and with the public school system. The gentleman's amendment would cut $1.1 million from renovations to public schools. We have all seen the rundown conditions of some of the public schools. The gentleman from New Jersey [Mr. GALLO] and I have been working on this project for the last 2 years. Why the gentleman has selected to cut $1.1 million from renovations and maintenance of public schools, I cannot imagine.

All in all, Madam Chairman, it seems very clear that the District government's new leadership is performing well. They are taking extraordinary measures to cut employment and to reduce their accumulated general fund deficit. And the projects that are funded in this bill involve health and education and are well supported by the testimony we received. And they are certainly supported by the authorizing committee.

Madam Chairman, I would ask Members to vote against this amendment.

Mr. GALLO. Madam Chairman, I move to strike the last word, and I rise in opposition to the Rohrabacher amendment.

Madam Chairman, this amendment would reduce the Federal payment from $630.5 million to $611 million.

Our bill as it currently stands is consistent with the authorization bill that only recently passed this House by unanimous voice vote.

It is also in compliance with the budget resolution and within our 602(b) allocation.

The House approved the higher Federal payment because of its faith in the new leadership of the District, its understanding about the current financial crisis in our Nation's Capital and because it is our best opportunity in years to help put an end to the problems in the District and put this city back on the right track.

Let's not waste this opportunity.

It may be an easy budget vote to vote in favor of this cut, but I urge my colleagues to reject this cut and support our efforts to restore pride in our Nation's Capital.

Mr. AUCOIN. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in strong support of this piece of legislation.

The District of Columbia has impressive new leadership in city hall, and I think this bill reflects the confidence of Members of Congress in that new leadership; so at a time when we all have very, very high hopes for a new era in this Nation's Capital city and in the District government, I find it surprising and I find it deplorable that the President is once again threatening to veto this piece of legislation, this bill that provides pass-through funding and funding for the District of Columbia.

Why is the President willing to veto money for such things as the Children's Hospital, for education, for public safety here in the Nation's Capital? Well, it is because the bill allows the District the same degree of local control over abortion funding, with local taxpayers' dollars for poor women that is currently enjoyed in every other city in every other State in the land. That is the reason.

I find that an incredible statement, an incredible fact; nevertheless, it is true.

I guess I only have one message for the President, and it is this: "Mr. President, you have already paid your debt to the antichoice extremists several times over. I urge you to sign this piece of legislation and get on with the Nation's business."

Mr. WALKER. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in favor of the amendment of the gentleman from California.

This is the balanced budget amendment, and the gentleman from California has described it very adequately and accurately; but I would remind the Members that really the question here is one of priorities, because what the gentleman from California is attempting to do is assure that as we consider spending in the House, we consider the option of ultimately balancing the Federal budget.

Now, I realize that is a difficult thing, but there are an awful lot of Members of this House, in fact I would say the vast majority, in fact I would say three-quarters of the Members of this House have gone on record at some point in their districts saying they favor a balanced budget.

Now, a lot of those Members of Congress who say that they voted against the constitutional amendment to balance the budget because they said, "Well, we ought not burden the Constitution. We ought to have the guts to stand up and do what is right and cut the spending."

Well, that seemed to me and to others to be a challenge. If in fact we are going to stand up and cut the spending, then what you have to do as spending bills come through, you have to have some standard that assures that the end product is a balanced budget.

In this particular instance, the gentleman from California has described accurately how we would achieve that. If you can hold for 4 fiscal years a spending level at 2.4 percent above the 1991 levels, in other words, 2.4 percent each year, you can get to a balanced budget by the fiscal year 1995.

A lot of the American people would like to see us get to a balanced budget by 1995. The reason why they would like to see us get there is they are disturbed by the increasing problem of massive Federal debt and the interest payments that go with it. We could very well by 1995, as we proceed down the route we are going, end up paying more interest each year than we pay for national defense, and then the burden of that ongoing for the next generation of Americans is just absolutely unbelievable.

So some of us have determined that regardless of the consequences that are involved in some of the decisions that are being made, we think that the highest priority ought to be a balanced budget and we ought to hold the line to that balanced budget.

□ 1100

Now, believe me, this does not bring about any great sacrifice. We take all of the priorities that the committees have determined and simply put a spending cap on these priorities so that the spending cap reflects a 2.4-percent increase. So no priorities are going to be eliminated.

This is simply going to be trimmed down to fit within a balanced budget. In this particular case I think the committee accurately described what would happen: The Federal payment would be trimmed back.

I realize in the District of Columbia that will not be popular. I would say to the Members of this body, think about the priority. Are you more in favor of the Federal payment to the District or are you more in favor of doing something that will ultimately help us—just help us, this does not do it all by itself—help us to get to a balanced budget?

Later on today I will be offering a similar amendment to the HHS bill. There it is a much tougher decision, I would say, for the Members. There are a lot of hard-nut programs that you have to trim back a little in order to get to a balanced budget.

But the fact is we ought to be willing to do that too if we are going to achieve a balanced budget at some point for our society.

So that is the real issue here. It is a matter of priorities. Some people are going to decide to them increasing the Federal payment to the District is more important than a balanced budget. Fine, go ahead and vote that way if that is your sense of priorities. I am sure your constituents will understand.

To me, the balanced budget is such that I think that that is what is important to do.

Yesterday we had a couple of Members come to the floor, and their attempt to cut Federal spending was to take $42,000 away from the protection of the Vice President's children. I would say that saving several million dollars in this amendment might get us closer to a balanced budget over the long term than the kinds of games that we play on the floor with a few thousand dollars here and there.

So, I would ask the Members to support the Rohrabacher amendment. The Rohrabacher amendment does do the job in this particular bill of moving us closer to a balanced budget, something that I think a majority of the American people would like to do.

Mr. SMITH of Florida. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Madam Chairman, I yield to the gentleman from California [Mr. DIXON] the chairman of the subcommittee.

Mr. DIXON. I thank the gentleman for yielding.

Madam Chairman, I think the last speaker, the gentleman from Pennsylvania, points out quite clearly the problem with the D.C. budget. In essence, what he says is you can vote for a cut in this bill for political purposes. He says the next bill, the Labor-Health and Human Services Appropriations bill, is going to be harder to cut. He is exactly right.

This bill has no constituency. So what he says to you is that it is going to be harder to cut the next bill, but you can show the folks back home that you are for cuts by cutting the Federal payment, the money that is owed the District of Columbia in lieu of property taxes.

There have been a half dozen bills on this floor, and none of them has been able to take a 2.4 percent cut. Why? Because there are important programs in those bills that affect their constituents. And, yes, it is much more difficult to make a cut in Mr. NATCHER's bill, the Labor-Health and Human Services and Education bill, and very easy on this one.

But what is fair for some should be fair for all. You cannot balance the budget of the United States by constantly cutting the Federal payment to the District of Columbia.

Mr. WALKER. Madam Chairman, will the gentleman yield?

Mr. SMITH of Florida. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding, because I just want to point out to the gentleman that there have been a number of bills on the floor where the 2.4 percent amendment has not been offered because the bill itself was below the 2.4 percent limit. So, in fact, the committee itself in several instances has determined a sense of priorities where the priorities in the bill are below the 2.4 percent.

Mr. DIXON. On those bills that a cut has not been offered, it was because they were within their 602(b) allocation. Our bill is also within our 602(b) allocation, but it is easy to offer an amendment to cut it for political reasons to show that you are for budget cuts.

Mr. WALKER. If the gentleman would yield further, all I would say to the gentleman is there are no politics involved here. We are offering this amendment to every one of the bills that come out here which is more than 2.4 percent above last year's spending. We are offering it to every bill which is more than that above 1991 spending.

So the issue is perfectly clear.

Mr. DIXON. The gentleman makes my point. On all of those bills where he has offered his amendment, the amendment has not passed.

Mr. WALKER. That is right.

Mr. DIXON. This bill is within the 602(b) allocation. What the gentleman suggested was this was an easy one to cut because there is no program here that affects any Member of Congress except the Delegate from the District of Columbia. That is clearly what he suggested when he said it would be much more difficult to cut Mr. NATCHER's bill that funds Labor, Health and Human Services and Education programs all across this country.

Mr. WALKER. Madam Chairman, will the gentleman yield?

Mr. SMITH of Florida. I yield further to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding further.

Madam Chairman, I want to point out to the gentleman I hope that was not my remark. What I said to Members was that this was a question of priorities, and I still believe it is a question of priorities and Members can make their own judgment as to whether it is an easy priority or a hard one.

Mr. SMITH of Florida. Well, I am glad the gentleman took the time, and I am glad that I yielded to him in the last few seconds, because I think that makes the chairman's point even more clear. This is a matter of priorities, and the reality is that those who keep insisting on these amendments are drawing priorities against people.

This is another one of those votes we are being asked to take against people, against American citizens who somehow become, for at least some Members on the other side, the lowest priority in this country.

This is not for projects, it is not for programs, it is not for a space station; it is not for anything but people.

And, Madam Chairman, this is to run the District of Columbia, the Federal share of what it costs to run the District of Columbia, for the loss that they sustain by virtue of having no tax revenues from the property which we have usurped to run this country, to put our Federal buildings on, et cetera.

This is what we are now talking about.

This amendment, as the chairman characterizes it, is easy because there is no constituency to fight against it. The trouble is it is not fair.

It may be easy, but there is no fairness here at all. This is not where you should draw the line on priorities.

People on the other side were willing to vote 2 weeks ago to spend a quarter of a billion dollars out of the HUD programs to put that into a space station. That is what the vision of their priority is. But that is not what most Americans really see as priorities. They want to see Americans as a priority, the people themselves as a priority.

I would urge all of the Members of this body to reject this type of prioritization, notwithstanding it is done in the name of deficit budget cutting.

Madam Chairman, I would urge people to remember what the chairman said.

Mr. BLILEY. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Madam Chairman, this is indeed a matter of principle. This is the Nation's Capital. All of us have a constituency here, all of us have visitors who come here every year, 18 million of them a year.

Fifty-five percent of the property in this District is tax exempt. I dare say there is hardly another community in America with such a high percentage. We have height limitations on the District so that they cannot increase the height of their buildings and there by increase their tax base.

There are countless numbers of demonstrations every year for which the District has to supply police and other safety personnel.

We have heads of state who come and require police escorts, special protection, all of which underscores the responsibility that we have.

Yes, we have to be mindful of the budget, and the authorizing committee was mindful. The Mayor had originally requested 30 percent of local revenues as a Federal payment and had requested it for 5 years in the authorization. Realizing the budget problems that we have, the committee cut back the authorization to 24 percent, and we also limited it to 3 years.

We are not just talking about $20 million here, we are talking about restoring dignity, restoring relations between the District Building and indeed this House of Representatives.

☐ 1110

If we vote for this amendment, we are inviting a failure of the Mayor and the Council to be able to come to grips with the massive problems they face. They do not have an easy task now, and we will surely see, in my opinion, the Mayor coming back to this body next spring for another supplemental. We do not want that.

I would remind my colleagues that Federal outlays based on constant 1982 dollars have risen 7 percent between 1977 and 1991. Yet the Federal payment measured in constant 1982 dollars has fallen by 5 percent. We cannot expect the District of Columbia to balance the Federal budget alone. All of us have a responsibility, and I would hope that the Members would reject this amendment.

Ms. NORTON. Madam Chairman. I move to strike the requisite number of words and I rise in opposition to the amendment.

Madam Chairman, I appreciate the kind remarks of the gentleman from California [Mr. ROHRABACHER], who offered this amendment. I appreciate his thoughtful study of the problems of the District of Columbia and his support for the concept of the Federal payment, but I want to associate myself with the remarks of the chairs on both sides of the aisle, with the remarks of the distinguished chair of the subcommittee of the Committee on Appropriations, the gentleman from California [Mr. DIXON], the ranking member, the gentleman from New Jersey [Mr. GALLO], and the ranking member of the authorization committee, the gentleman from Virginia [Mr. BLILEY].

Madam Chairman, I would note that I associate myself with the remarks from both sides of the aisle because this measure has come to this body with most unusual support, not only with a 10-to-2 vote out of the authorization committee, but in the Appropriations Committee and the subcommittee it had unanimous support.

I remind this body, Madam Chairman, that this bill broke precedent in another way. The Speaker of this body, Mr. FOLEY, and the minority leader, Mr. MICHEL, both sent letters to Members of this body supporting the bill containing this appropriation. Mr. MICHEL came to the well to speak for the Federal payment formula.

Madam Chairman, the District of Columbia lost close to $1 billion during more than 5 years of no increases. We have not tried to recover that amount. We recognize that we will never recover that amount. We remind this body that we did not stop delivering services to the Federal Government during this period of extreme drought in our Federal payment. What did we do instead?

Madam Chairman, what we did was to increase our own taxes by 50 percent in 5 short years. I submit that the residents of the District of Columbia, Madam Chairman, have made their contribution to balancing the budget by 1995 because we have taxed ourselves and absorbed expenses properly charged to the Federal Government during the last 5 years.

Madam Chairman, our residents are at this moment absorbing $200 million in cuts this fiscal year, and in the next fiscal year we will absorb another $200 million in cuts, for a cumulative $400 million in cuts. We come to this body not with our hands held out but with very clean hands, having dug even deeper into our own pockets. We, who are second per capita in taxes paid in the United States, say to the Members that this is the posture in which we come to this body, Madam Chairman, and our Mayor needs support, no lip service, as she now embarks on yet another and more difficult mission to downsize the District, which is what this body has asked her to do. She is attempting what very few Mayors have attempted successfully. She needs the support of this body now more than ever.

Mayor Sharon Pratt Dixon has won great support and respect in this body from her first day in office. She announced that there would be cuts by the District government before she came to this body, and that is one of the primary reasons she has won such respect in this body. Her respect is not without reason, and the way to respond or to show our respect to her is not simply by compliments but by voting this measure which she has requested. And we should understand that she requested less than she knows she needs. She has gone back to the businesses of the District already for increased taxes.

Madam Chairman, the reform that is underway is not free. It cannot be accomplished without the strong support of this body. This body will send a very negative signal to the residents of the District who thus far have supported the Mayor when she has asked them to do very, very difficult things—we will send a very negative signal if we vote to weaken the appropriation. The responsible thing is not always to cut; the responsible thing to do with this measure is to follow the Appropriation Committee's lead.

Ms. MOLINARI. Madam Chairman, I move to strike the requisite number of words, and I yield to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Madam Chairman, first of all, we have several issues we have to examine when we are talking about this amendment, and it is important for everyone to understand that no one is asking for us to cut the amount of money that is going to the District of Columbia, just as the other proposals at 2.4 percent are not asking for cuts in the level of Federal spending on the various spending bills that are coming before this body.

What we are talking about is limiting the growth in Federal spending. That means there are no cuts taking place in Federal spending, but Federal spending is being brought under control, and the increase in Federal spending is being kept to 2.4 percent. This idea that we are cutting spending in any way is just giving a false impression of what the central issue is.

The central issue is that either we are going to control deficit spending or in a very short period of time deficit spending is going to control us. We must get Federal deficit spending under control or it is going to overwhelm this body. There are people who are crying, "Whoa," and that is true. We are saying, "Watch out, something is coming." There is a wave of deficit red ink that is headed in our direction and that is going to drown our society.

That is what this debate is about. It affects not just the District of Columbia payment, the money that we are giving to the District of Columbia. We are saying that we have to control the amount of increase in Federal spending, that we must keep it within 2.4 percent on the spending bills that come before this body. If we do that, future generations, those young people who watch us on C-SPAN, who watch us in the halls here, and who watch us debate, can be assured that their futures will be brighter because we are not spending the money that should be available to them and their representatives 10 years down the line. If we do not get Federal spending under control, what will happen is that their elected representatives will never have this option because they will be spending all the money on interest payments. Is that the legacy of democracy we want to leave the young people of this country? I say that holding down spending to 2.4 percent is a very reasonable and responsible approach. We are not calling for spending cuts. Let us note that if my proposal is accepted, spending for the District of Columbia would still be 28-percent higher than it was for fiscal year 1990. So what is all this about cutting spending?

□ 1120

I am saying that we can still have spending that is still 28-percent higher than it was 2 years ago. This is a tremendous increase in spending. But we have got to get control of it. One way to do it is to set this overall limit.

One of the side benefits of this is that local government in the District of Columbia will have to set priorities. We applaud the new mayor, Sharon Pratt Dixon, for the fact that she has taken some strong leadership positions and made some tough decisions. But let us note that the District of Columbia, before she came in to make these reforms, and we want to encourage her to make more reforms, that it was the most bloated local government in the entire United States of America. That is why these reforms were absolutely justified.

Madam Chairman, we have to have that same sort of decisionmaking that Mayor Sharon Pratt Dixon is making here in the District of Columbia. We have to have that same courage at the Federal level. We have to be able to prioritize. If we just keep passing more and more spending, saying that we are not even going to set a limit on how high that spending can go, we are asking on one to make the responsible decisions of what should and what should not be increased.

Let me note that we are not talking about spending for hospitals being cut, nor all of the other things one hears that touches one's heartstrings. We are not talking about cutting spending to those. We are talking about keeping control on the growth in spending of those institutions, not actually cutting the amount of money that they will have when the whole process is over.

Madam Chairman, is it wrong to say let us try to make our hospitals and our institutions more effective by making sure that we just do not pour more money on more money, and that we will actually limit the growth, thus ensuring the quality of life of the young people who will follow us and generations of Americans to come? This is a very responsible approach, and I would ask Members to support my amendment, which is part of an overall program to try to get control of the Federal deficit.

Mr. GEKAS. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I fall in line with many of the Members who want to see a balanced budget come about. I have strenuously supported all measures up to now throughout the entire incumbency that I have enjoyed in attempting to reach that hallowed place of the balanced budget, and I will continue to do so. But for the moment, I will lapse from that ecstasy of reaching the balanced budget, for an important reason.

Madam Chairman, I believe that the entire country was looking with disgust and dismay at the leadership of the District of Columbia for the last several years, and that that seeped over into a disgust that the Congress of the United States felt about what was happening in its neighborhood in the District of Columbia. But it is new day, and the new breath of fresh air that the new Mayor has brought in has restored a sense of confidence in the citizens themselves of Washington, DC.

Madam Chairman, more importantly, for our purposes, it has given the Members of Congress and the people across the land a new vision of possibilities for self-government at the highest level here in Washington, DC.

Madam Chairman, we cannot at this moment feel great about the new Mayor and the new breath of fresh air, and then rip away from her the modest tools that we are providing with these appropriations. Even though I feel they may be budget busters under the terminology that we use, this is an emergency situation. It is just as much an emergency situation as those kinds of emergencies which would compel the gentleman from Pennsylvania and the gentleman from California, my fellow colleagues, that kind of emergency which would make even them bander away for a while from an effort to reach a balanced budget. That is how strong I feel about it.

Madam Chairman, I want to see this Mayor succeed. I want to see the neighborhoods brought back to a sense of order. I want the partnership and neighborhoodship between the Congress of the United States and the District of Columbia to flourish. This is an excellent time to do so.

I was in a taxicab this morning with a taxi driver who lives in the District of Columbia, who said he did not vote for Dixon; he voted for one of the other candidates that were on the ticket at that time. But he is so glad, even though he made a mistake, that the populace did not make a mistake, and that it is a change for the better.

Madam Chairman, we have to endorse that change for the better and support the District. This is part of our domain. This is our neighborhood. This is part of the future of our country, from the standpoint of the search for better government.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. ROHRABACHER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ROHRABACHER. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 153, noes 270, not voting 9, as follows:

[Roll No. 197]

AYES—153

Allard
Andrews (TX)
Applegate
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bennett
Bentley
Bereuter
Bilirakis
Boehner
Brooks
Broomfield
Bunning
Burton
Byron
Camp
Campbell (CA)
Campbell (CO)
Clement
Clinger
Coble
Coleman (MO)
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Edwards (TX)
English
Fawell
Fields
Gallegly
Geren
Glickman
Goss
Grandy
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Henry
Herger
Holloway
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (SD)
Johnson (TX)
Kasich
Kolbe
Kyl
Lagomarsino
LaRocco
Laughlin
Leach
Lent
Lewis (FL)
Lightfoot
Lipinski
Livingston
Luken
Machtley
Marlenee
McCandless
McCollum
McCrery
McEwen
Miller (OH)
Moorhead
Murphy
Neal (NC)
Nichols
Nussle
Orton
Packard
Pallone
Patterson
Paxon
Penny
Peterson (MN)
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Sarpalius
Saxton
Schaefer
Schulze
Sensenbrenner
Shaw
Shuster
Skelton
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Swett
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Wilson
Wylie
Zeliff
Zimmer

NOES—270

Abercrombie
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bacchus
Barnard
Bateman
Beilenson
Berman
Bevill
Bilbray
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Browder
Brown
Bruce
Bryant
Bustamante
Cardin
Carper
Carr
Chandler
Chapman
Clay
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Downey
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Emerson
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Gonzalez
Goodling
Gordon
Gradison
Gray
Green
Guarini
Hamilton
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lloyd
Long
Lowery (CA)
Lowey (NY)
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Parker
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Regula
Richardson
Ridge
Roe
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Vento
Visclosky
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—9

Ackerman
Callahan
Early
Harris
Hopkins
Martin
Michel
Rhodes
Sundquist

☐ 1146

Mr. OXLEY and Ms. WATERS changed their vote from "aye" to "no."

Mr. HYDE and Mr. GUNDERSON changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ROHRABACHER

Mr. ROHRABACHER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROHRABACHER: Beginning with page 2, line 14, strike out all through page 3, line 19.

Mr. ROHRABACHER. Madam Chairman, my second amendment should be less controversial and easier for my colleagues to accept. It merely removes the additional special Federal payments that the committee has added that go beyond the level of the authorization bill we just adopted on the floor last week.

The provisions struck by this amendment add additional special Federal payments totaling $13.2 million for agencies of the District government that can be funded perfectly well under the regular Federal payment. If there is any fiscal discipline in this House at all, surely we can draw the line here. Let us at least say that we are not going to pile money on top of more money, ignoring even our own authorization ceilings.

If the House adopts this amendment, the bill will still contain a Federal payment for fiscal year 1992 of $630.5 million, still slightly above the authorized level of $630 million. For that reason, I understand that my colleague, the ranking member of the District of Columbia Committee, will not be opposing this amendment. I ask my colleagues to vote for this amendment to simply reiterate what this House did last week.

□ 1150

Mr. DIXON. Madam Chairman, this is the last amendment I know of, and we will be moving to final passage after this amendment.

I rise in opposition to this amendment, Madam Chairman. This is really a mean amendment. It goes further than the 2.4 percent across-the-board cut, in my opinion.

The gentleman from California reaches in and he pulls $75,000 from the police department. On what basis? I do not know. He reaches in and he pulls $1.1 million from the Board of Education. On what basis? I do not know.

There is a health crisis in this city in the sense of health service delivery. The D.C. General Hospital is the only public hospital in this city and it serves the indigent and the underinsured people of the district. In a bipartisan manner, the gentleman from New Jersey [Mr. GALLO] and I thought that they needed an additional $12 million to keep that hospital operating effectively. The gentleman from California, just arbitrarily reaches in and pulls that out. He says that, in fact, they can do without this money. The committee on which he serves has had no hearings on this subject.

Mr. ROHRABACHER. If the gentleman will yield, he did attribute something to me that I did not say.

Mr. DIXON. Madam Chairman, I will be glad to yield when I complete my remarks. Let me make my statement first.

The gentleman reaches in and he pulls $12 million from the D.C. General Hospital. That hospital serves a constituency of at least 120,000 people, mostly uninsured, but certainly underinsured people.

There has been testimony that that hospital is about to burst at the seams. Certainly, our committee took hours of testimony on the state of health here, and I think this $12 million is not only richly deserved but desperately needed. I ask all Members to oppose this cutting amendment.

Mr. ROHRABACHER. Madam Chairman, will the gentleman yield?

Mr. DIXON. I am happy to yield to the gentleman from California.

Mr. ROHRABACHER. Madam Chairman, my position was not that the hospital did not need the money, but that that money could be available from the Federal payment, from the rest of the Federal payment, rather than breaking the ceilings that we had set. I am not at all suggesting that the hospital does not need the money. I am suggesting if it does need the money that there are ways to get that money from the Federal allocation that we have already set, rather than breaking our own limits.

Mr. DIXON. Madam Chairman, I can only speak for myself, but the ranking member and I have gone over the details of this budget with the rest of the committee. We are satisfied that the District needs every dollar in this budget. And this bill is within the 602(b) budget resolution allocation.

I ask for a "no" vote.

Mr. BLILEY. Madam Chairman, I move to strike the requisite number of words. Madam Chairman, I will not take the entire 5 minutes. I had not planned to speak, but I must speak.

I agree with the gentleman from California that these appropriations should have been authorized. I ask the chairman of the Committee on Appropriations and the ranking member that, in the future, that these requests, since we now have a fixed formula payment, be referred to the Authorizing Committee.

However, my colleagues, I beg all Members, do not throw the baby out the bathwater, literally. Twelve million for D.C. General Hospital, which has an emergency room which treats thousands of patients every year that have no insurance. We have closed one hospital on Capitol Hill. We cannot afford to have another one closed.

For my Republican colleagues, I beg those Members not to throw out this $12 million on a technicality.

We send money to Bangladesh. We send money to Ethiopia. We send money to a lot of place. It is right that we do so. Let Members not forget the uninsured people here at home, and take care of D.C. General Hospital.

In the future, let Members make sure that these come through the authorizing process. I urge a rejection of the amendment.

Mr. GALLO. Madam Chairman, I move to strike the requisite number of words. I, too, rise against this amendment.

Some of the areas that we are talking about were outlined by the chairman of the committee, the gentleman from California [Mr. DIXON], and are very important to the District itself. There are other areas that are also very important.

We are talking about additional foot patrol in the District of Columbia. I do not think there is a person on this floor that does not want to see that, in an effort to bring about more in the way of law and order.

There is an amendment set aside, only $25,000, to have the District police department accredited, making outside individuals coming in for an accreditation process, not only for the police, but also for the training center. This is an important part of the overall bill.

I would like to stress to my colleagues, that it is very important that we defeat this amendment.

Ms. NORTON. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I simply want to make one final plea on behalf of the residents of the District. It is very hard to reform a government when we are in the midst of a fiscal crisis. The District is trying to do that at this time. This body has been very kind over the past 6 months to the Mayor of our city and to the residents of our city. We ask you to continue to help our city reform itself.

Members of this body have had wonderful things to say about the reform that is under way in the District of Columbia, and about the actions of our new Mayor, Sharon Pratt Dixon. Our new Mayor is very appreciative. Our residents are very appreciative for the response of this body to our concerns.

I ask Members to continue to support the District of Columbia as we dig into our own pockets, deeper than we are asking Members to dig, to support ourselves.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. ROHRABACHER].

The amendment was rejected.

AMENDMENT OFFERED BY MR. INHOFE

Mr. INHOFE. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. INHOFE: Page 31, insert after line 20 the following new section:

SEC. 135. None of the funds provided in this Act may be used for the renovation of the property located at 227 7th Street Southeast (commonly known as Eastern Market), except that funds provided in this Act may be used for the regular maintenance and upkeep of the curent structure and grounds located at such property.

Mr. DIXON. Madam Chairman, will the gentleman yield?

Mr. INHOFE. I yield to the gentleman from California.

Mr. DIXON. Madam Chairman, I have no objection to this amendment and am happy to accept it.

Mr. INHOFE. Madam Chairman, just a brief explanation of the amendment. This does not call for any cuts. For those Members who are aware, this merely precludes the use of Federal funds for a massive reconstruction at the Eastern Market.

☐ 1200

The current Mayor of the District of Columbia is not planning to do anything with this for some time. I do not know of any large group that is opposed to this, but at least it gets it on the table and precludes these funds from being used.

These are funds, however, that can be used for bringing it up to code and doing things that actually become necessary.

Madam Chairman, I think the committee chairman is in support of this.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. INHOFE].

The amendment was agreed to.

Mr. PANETTA. Madam Chairman, I rise in support of H.R. 2699, the District of Columbia appropriations bill for fiscal year 1992. This is the 10th of the 13 annual appropriations bills to be considered by the House.

The bill provides $700 million in discretionary budget authority and $690 million in estimated discretionary outlays, which is identical to both the level of domestic discretionary budget authority and outlays as set by the 602(b) spending subdivision for this subcommittee.

As chairman of the Budget Committee, I will continue to inform the House of the status of all spending legislation, and will be issuing a "Dear Colleague" on how each appropriations measure compares to the 602(b) subdivisions.

I look forward to working with the Appropriations Committee on its three remaining regular bills.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, June 24, 1991.

DEAR COLLEAGUE: Attached is a fact sheet on H.R. 2699, the District of Columbia Appropriations Bill for Fiscal Year 1992, scheduled to be considered on Tuesday, June 25, subject to a rule being adopted.

This is the tenth regular Fiscal Year 1992 appropriations bill to be considered. The bill is equal to the discretionary budget authority and outlay 602(b) spending subdivision.

I hope this information will be helpful to you.

Sincerely,

LEON E. PANETTA,
Chairman.

[Fact Sheet]

H.R. 2699, DISTRICT OF COLUMBIA APPROPRIATIONS BILL, FISCAL YEAR 1992 (H. REPT. 102-120)

The House Appropriations Committee reported the District of Columbia Appropriations bill for Fiscal Year 1992 on Thursday, June 20, 1991. Floor consideration of this bill is scheduled for Tuesday, June 25, 1991, subject to a rule being adopted.

COMPARISON TO THE 602(b) SUBDIVISION

The bill, as reported, provides $700 million of discretionary budget authority and $690 million in estimated discretionary outlays, the same as the Appropriations 602(b) subdivision for this subcommittee. A comparison of the bill with the funding subdivisions follows:

COMPARISON TO DOMESTIC SPENDING ALLOCATION

[In millions of dollars]

	District of Columbia Appropriations Bill		Approp. Committee 602(b) Subdivision		Bill Over (+)/Under (−) Committee 602(b) Subdivision	
	BA	0	BA	0	BA	0
Discretionary	700	690	700	690	....	....
Mandatory[1]	....	....	....	....	....	....
Total	700	690	700	690	....	....

[1] Conforms to the budget resolution estimates for existing law.

Note: BA—New budget authority; 0—Estimated outlays.

Following are major program highlights for the District of Columbia Appropriations Bill for fiscal year 1992, as reported:

PROGRAM HIGHLIGHTS

[In millions of dollars]

	Budget authority	New outlays
Federal payment to the District of Columbia	630	630
Federal contribution to retirement funds	52	52
D.C. General Hospital	12	2

The House Appropriations Committee reported the Committee's subdivision of budget authority and outlays in House Report 102-81. These subdivisions are consistent with the allocation of spending responsibility to House committees contained in House Report 102-69, the conference report to accompany H. Con. Res. 121, Concurrent Resolution on the Budget for Fiscal Year 1992, as adopted by the Congress on May 22, 1991.

Mr. DIXON. Madam Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BEILENSON) have assumed the chair, Mrs. KENNELLY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2699) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1992, and for other purposes, had directed her to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 300, nays 123, not voting 9, as follows:

[Roll No. 198]

YEAS—300

Abercrombie
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Ballenger
Barnard
Bateman
Beilenson
Bennett
Berman
Bevill
Bilbray
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CA)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Edwards (TX)
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Inhofe
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Lancaster
Lantos
LaRocco
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella

Morrison
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Panetta
Parker
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Pursell
Rahall
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ridge
Riggs
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stark
Stenholm
Stokes
Studds
Swett
Synar
Tallon
Tanner
Tauzin
Thomas (CA)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Walsh
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (FL)

NAYS—123

Allard
Archer
Armey
Barrett
Barton
Bentley
Bereuter
Bilirakis
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CO)
Clement
Clinger
Coble
Coleman (MO)
Combest
Condit
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
English
Fawell
Fields
Gallegly
Goss
Grandy
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Henry
Herger
Holloway
Huckaby
Hunter
Hutto
Hyde
Ireland
James
Johnson (TX)
Kasich
Kyl
LaFalce
Lagomarsino
Laughlin
Leach
Lewis (FL)
Lightfoot
Livingston
Luken
Marlenee
McCandless
McCollum
McEwen
McGrath
Miller (OH)
Moorhead
Murphy
Myers
Nichols
Nussle
Packard
Pallone
Patterson
Paxon
Petri
Porter
Quillen
Ramstad
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Sarpalius
Saxton
Schaefer
Schulze
Sensenbrenner
Shaw
Shuster
Skelton
Slaughter (VA)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stallings
Stearns
Stump
Taylor (MS)
Taylor (NC)
Thomas (WY)
Upton
Vander Jagt
Volkmer
Vucanovich
Walker
Weber
Wylie
Young (AK)
Zeliff
Zimmer

NOT VOTING—9

Ackerman
Baker
Early
Hopkins
McCrery
Michel
Rhodes
Sundquist
Swift

☐ 1232

The Clerk announced the following pair:

On this vote:

Mr. Ackerman for, with Mr. Baker against.

Messrs. HYDE, LIVINGSTON, and SLAUGHTER of Virginia changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DIXON. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on H.R. 2699, a bill just passed.

The SPEAKER pro tempore (Mrs. UNSOELD). Is there objection to the request of the gentleman from California?

There was no objection.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1992

Mr. NATCHER. Madam Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2707) making appropriations for the Departments of Labor, Health and Human Services, and Education and related agencies, for the fiscal year ending September 30, 1992, and for other purposes; and pending that motion, Madam Speaker, I ask unanimous consent that general debate be limited to not to exceed 30 minutes, the time to be equally divided and controlled by the gentleman from Michigan [Mr. PURSELL] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. WALKER. Madam Speaker, reserving the right to object, do I understand that this is just for the general debate?

Mr. NATCHER. Madam Speaker, if the gentleman will yield, yes, it is for general debate only.

Mr. WALKER. Madam Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky Mr. NATCHER].

The motion was agreed to.

☐ 1235

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2707, with Mr. SHARP in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous consent agreement, the gentleman from Kentucky [Mr. NATCHER] will be recognized for 15 minutes, and the gentleman from Michigan [Mr. PURSELL] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. NATCHER].

Mr. NATCHER. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, I am pleased today to bring before the House the bill H.R. 2707, which appropriates funds for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year 1992. This bill appropriates $203,219 million for the 3 cabinet Departments and the 17 independent agencies which come under its jurisdiction. This includes $10,874 million for the Department of Labor, $162,865 million for the Department of Health and Human Services, and $31,342 million for the Department of Education. These amounts are described in detail in House Report 102-121 which was filed in the House last Thursday.

Mr. Chairman, I will highlight these amounts for the House in a minute but first I want to say that it is an honor and a privilege for me to chair the subcommittee which develops the bill we bring before you today. It deals with the issues which are so important to our country—health, education, job training, and safety, to name a few. You have heard me say many times that when you take care of the health of your people and educate your children, you continue living in the strongest country in the world. I will tell Members honestly, however, that this is the most difficult bill which I have worked on since I became chairman 12 years ago. The limitations imposed by last year's budget summit agreement have meant that there is not enough money to do the things which the committee believes are necessary. We have been able to provide many of the increases which we believe the House supports but there are also many areas where the amounts in the bill are not adequate. We know that; but the additional amounts are just not available for 1992.

I also want to say at this point that it is an honor and privilege for me to serve on the Appropriations Committee with my big chairman, JAMIE WHITTEN. As a member of the subcommittee, he has helped us down through the years on this bill, and we appreciate his support. As you know, this is the first time in many years that we will be presenting this bill to the House without Silvio Conte. We all miss Silvio; he was one of the ablest Members of the House, and no one was more concerned about the programs in this bill than he was. We are pleased to have CARL PURSELL as our new ranking member, and I want to thank him for the support he has given us throughout the hearings and the markup. I also want to thank each of the other members of the subcommittee who worked many days putting together this difficult bill.

Mr. Chairman, despite the limitations imposed on the committee by the budget summit agreement, we believe that the bill we bring before you today is a good one. We have tried to strike a careful balance among many important program needs and the concerns of the Members. We have had 13 weeks of hearings, which included testimony from 478 public witnesses and 127 Members of Congress. We have received 1,455 written requests from Members. In trying to accommodate all these concerns, we have faced difficult choices. As many of you have heard me say, we were short by about $1.7 billion compared to the amount we believe could have been fully justified. The President's budget proposed some good increases, such as the $498 million increase for biomedical research, but he financed them with program cuts that Congress has traditionally rejected—areas like health professions training, community services, libraries, low income home energy assistance, impact aid category B, State legalization assistance grants, and Medicare user fees. This year we did not have the funds to restore all the cuts and also provide all the increases we would have liked.

We had to set priorities for our scarce dollars, and our highest priorities went to the areas our committee feels are investments in the future of this country: elementary and secondary education and biomedical research. I am pleased to report that our bill provides a $2,458 million increase over 1991 for education, including a $250 million increase for Head Start. The National Institutes of Health receives a $548 million increase over 1991—enough funding to support approximately 6,000 new research grants.

This year, we heard persuasive testimony from Members of the House, particularly our women Members, about the need for increased research into conditions that affect women. Within the funding provided for NIH, we have made research into women's issues our highest priority. We have provided $25 million to start a multiyear women's health clinical trial, $30 million is added to the Cancer Institute for breast and ovarian cancer research, and more than $15 million is added in other Institutes for research in areas such as reproductive health, osteoporosis, and infertility. We also provide $50 million for the new breast and cervical cancer screening program, an increase of $21 million over last year.

I am also proud to tell Members that, for the third year in a row, the committee has provided $1 billion increase for chapter 1, for a total of over $7 billion for this vital program. With these additional funds, the program will serve about 70 percent of eligible students. The bill also includes substantial increases for vocational education, historically black colleges, math/science education, bilingual education, and the TRIO program. Of interest to the 55 Members who testified before our Subcommittee on Impact Aid, and the many others in the House who care about this program, we have restored category B payments to the 1991 level of $137 million.

Despite the constraints of our 602(b) allocation, we have been able to support increases for other programs of concern to the Members. The bill includes $1.88 billion for AIDS research, prevention, and treatment, which is $63 million above last year and $7 million above the President's request. Within this total, the Ryan White programs receive an increase of $26 million. Enough funding is provided to support the two cities that are newly eligible for assistance. Funding for childhood immunizations increases by $80 million over last year's level, to a total of $298 million. Additional funding of $20 million is provided for the Stewart McKinney homeless programs over the 1991 level, including a total of $37 million for the education for homeless children program. The bill includes $139 million for the infant mortality initiative proposed by the President, up from the $25 million allocated in 1991.

There are two areas, in particular, however, where the committee was not able to provide funding in the amounts which we would have liked. These are low-income home-energy assistance and State immigration grants. In the case of low-income energy assistance, the bill includes $1,600 million, which is $575 million more than requested by the President; $600 million of this amount, however, is in an emergency fund to be available if released by the President under the provisions of the 1990 Budget Enforcement Act. We would have liked to restore this cut completely but the outlays were just not available. In the case of immigration assistance, the President proposed to rescind the full $1,123 million currently available for 1992. The committee did not approve this, but we did delay the payment of these funds for 5 months until October 15, 1992. This gave the committee an outlay savings of $359 million which was used to fund increases throughout the bill.

In addition to highlighting the major funding issues in the bill, I also want to make Members aware that the bill includes two new general provisions, one requiring parental notification in family planning programs and the second prohibiting the Department of Health and Human Services from implementing the family planning regulations upheld in the recent Rust versus Sullivan Supreme Court decision, the so-called gag rule. I am deeply concerned that these provisions will trigger a veto from President Bush, but they represent the will of the majority of the committee.

In closing, I commend this bill to my colleagues. We have fully utilized, but not exceeded, our 602(b) outlay ceiling. We have done our best to meet the needs of the country with the resources we were allocated. We ask for your support.

H.R. 2707, the fiscal year 1992 appropriations bill for the Departments of Labor, Health and Human Services, and Education, and 17 related agencies, includes appropriations totaling $203,219 million, which is $2,563 million over the amounts requested by the President, and $18,494 million over the comparable amounts available for 1991.

Entitlement programs, whose funding levels are determined by authorizing legislation, comprise more than 71 percent of the bill's total appropriations. The bill includes $144,708 million for these entitlements, an increase of $117 million above the amount requested by the President and $16,177 million above the amounts available for these programs in fiscal year 1991.

For discretionary programs, whose spending is controlled through the annual appropriations process, the bill includes $58,510 million for fiscal year 1992, which is an increase of $2,446 million over the President's budget and $2,317 million above the amount available for fiscal year 1991. The committee has provided funding for currently unauthorized, ongoing programs at levels not in excess of fiscal year 1991 totals.

DEPARTMENT OF LABOR

The bill provides a total of $10,874 million for the Department of Labor, including $9,301 million for discretionary programs and $1,573 million for entitlements. The bill exceeds the President's request for discretionary programs at Labor by $213 million and the 1991 level by $322 million.

The bill includes $4,130 million for programs under the Job Training Partnership Act, an increase of $64 million over the 1991 level. This total includes $898 million for the Job Corps, which is $31 million over last year's level. This amount is sufficient to maintain the current centers and 41,338 training slots. The Dislocated Workers Program receives $577 million, which represents a $50 million increase over last year's rate. Community services employment for older Americans is supported at $390 million, an increase of $48 million over the request. Trust funds and general funds for State unemployment insurance and employment service operations total $3,157 million, $156 million above the 1991 level.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

The bill includes $162,865 million for activities administered by the Department of Health and Human Services. For discretionary activities, the bill includes $24,553 million, which is an increase of $556 million over the amount requested by the President and $517 million below the comparable amount available for these programs in 1991.

HEALTH RESOURCES AND SERVICES ADMINISTRATION

The bill provides $139 million for the infant mortality initiative proposed by the President, of which half is targeted to community and migrant health centers. This is an increase of $114 million over the funding provided in 1991. The bill restores the President's proposed reductions in health professions training, providing a total of $302 million for these activities. The bill also provides $74 million for minority health initiatives, compared to a 1991 funding level of $31 million. AIDS programs are funded at $283 million, of which $247 million is appropriated for the three titles of the Ryan White Act—an increase of $26 million over last year's funding.

CENTER FOR DISEASE CONTROL

The bill includes $1,391 million for the Centers for Disease Control, which is $79 million above the 1991 level. Major funding increases include: $80 million above 1991 for childhood immunizations to ensure that all children under the age to 2 can be vaccinated, and $21 million above last year for the new breast and cervical cancer screening program.

NATIONAL INSTITUTES OF HEALTH

The bill includes $8,825 million for the 20 appropriations which together fund the programs of the National Institutes of Health [NIH], including funding for AIDS research. The total for NIH is $548 million above the amount available in 1991 and $50 million above the administration request. Funds provided will be sufficient to support approximately 6,000 new research grants, consistent with the 4-year financial management plan established by Congress last year. The committee identified $146 million that could be reallocated within the President's request, principally from savings associated with recent revisions to the indirect cost circular and the blocking of the transfer of funds to the Agency for Health Care Policy and Research. These funds, along with $50 million in additional funding, were provided to the Institutes consistent with high priority needs identified during committee hearings. These areas include: funding for research into the special health problems of minorities and women, especially breast and ovarian cancer; prostate cancer; cystic fibrosis; pediatric AIDS; conditions of aging, especially Alzheimer's disease; kidney disease; and lupus. The committee provides almost $15 million to continue the Shannon grant program begun in 1991.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

The bill includes $2,918 million for these activities, of which $1,657 million is for currently unauthorized, ongoing programs. This is $11 million below the 1991 funding level and $131 million below the President's request. For currently authorized substance abuse activites, the bill provides $1 million above the administration request. Mental health research funding increases by $36 million over 1991, or 8 percent.

AGENCY FOR HEALTH CARE POLICY AND RESEARCH

The bill includes $115 million in general funds and Medicare trust funds, a decrease of $7 million below the President's request and the same as the 1991 level. The committee has included a limitation of $13 million on transfers from the other Public Health Service agencies, including NIH, CDC, ADAMHA, and HRSA, compared to the $50 million transfer requested by the President.

HEALTH CARE FINANCING ADMINISTRATION

The bill includes $59,899 million for the 1992 program level for the Medicaid program, which is $92 million above the administration request and $8,344 million higher than the 1991 level. For Medicare contractors $1,714 million is provided, including $257 million in a contingency for possible shortfalls in funding for beneficiary and provider inquiries and appeals. Also, provided is $21 million to continue the rural hospital transition demonstrations and $10 million is included for the essential access community hospital program. The bill includes $195 million for facility survey and certification activities which was not requested, in order to meet current law requirements.

SOCIAL SECURITY ADMINISTRATION

The committee recommends that $4,582 million be expended from the Social Security trust funds for administrative costs of the Social Security retirement, survivors, and disability program. This is $375 million more than the comparable 1991 operating level. Also $100 million is provided in a contingency fund to support the costs of unexpected workloads.

ADMINISTRATION FOR CHILDREN AND FAMILIES

The administration announced the creation of this new agency in April 1991. It will eventually consolidate what was formerly the Family Support Administration, the Office of Human Development Services, and the Maternal and Child Health Block Grant Program in the Health Resources and Services Administration.

The bill includes $15,162 million for the 1992 program level for family support payments to States, which is $1,167 million above the 1991 level and the same as the administration request; $1,000 million is provided for the Job Opportunities and Basic Skills Training Program; $1,600 million is provided for low income energy assistance programs, of which $1,000 million is allocated for the regular low income home energy assistance block grant program, and $600 million is provided in an emergency fund, to be made available upon submission of a request by the President designating it as an emergency; $294 million is provided for the refugee and entrant assistance program, which is $117 million below both the 1991 level and the President's request. The amount provided assumes that the cash and medical assistance program will be phased out after March 31, 1992. The committee delays the availability of $1,123 million in State legalization assistance grants until October 15, 1992. The President proposed to permanently rescind these funds. The committee restores the community services block grant to a level of $421 million. The President has proposed to terminate most of these activities. The bill provides $850 million for the child care and development block grant and child care licensing improvement grants, an increase of $105 million over the budget request and $250 million over the revised 1991 level of $600 million. The 1992 amount is partially funded through a reduction in the 1991 grants.

Within the Office of Human Development Services, the Head Start Program receives $2,202 million, an increase of $250 million over the 1991 level and $150 million over the President's request. An increase of $21 million is provided for comprehensive child development centers.

DEPARTMENT OF EDUCATION

For the Department as a whole, the bill includes $28,266 million, an increase of $5,383 million over the 1991 level and $1,685 million over the President's request. The amount for discretionary programs is $23,444 million, which is $2,458 million, or 11.7 percent, above the 1991 level, and $1,690 million over the President's request.

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

The bill includes $7,065 million for chapter 1 of the Elementary and Secondary Education Act, which is $999 million above the 1991 level and $851 million above the administration request. The amount provided includes $5,805 million for basic grants to local school districts and $645 million for concentration grants. Also included is $100 million for the Even Start Program, and $38 million for capital expenses for private school students.

IMPACT AID

The committee bill provides $765 million for impact aid, $16 million below the 1991 level and $145 million over the budget request. This amount includes $586 million for category A and $137 million for category B payments, which are the same as the 1991 levels.

SCHOOL IMPROVEMENT

The bill includes $1,578 million for the 21 activities which together comprise the school improvement account. This total is $93 million above the 1991 level and $77 million above the President's request; $607 million is provided for drug-free schools. Funding for math and science programs increases by $38 million over 1991 to a total of $240 million.

EDUCATIONAL EXCELLENCE

The bill provides $500 million for educational excellence activities and permits the Secretary to allocate up to $250 million to new education initiatives if they are authorized by December 31, 1991. The bill provides that not less than $250 million of the increase is for the Head Start Program. This is $190 million less than the President's request for a new education package which must be considered by the authorizing committees.

BILINGUAL AND IMMIGRANT EDUCATION

The bill provides $249 million for these activities, which is $51 million above the 1991 level and $48 million above the request.

SPECIAL EDUCATION/REHABILITATION SERVICES

The bill provides $2,823 million for special education, which is $206 million above the 1991 level and $93 million above the President's request. The rehabilitation services and disability research account is funded at $1,999 million, which exceeds the 1991 appropriation by $109 million.

VOCATIONAL AND ADULT EDUCATION

The bill appropriates $1,371 million for the Carl D. Perkins Vocational Education Act, an increase of $367 million over both the 1991 level and the President's request. Included within this total is $1,077 million for basic grants, an increase of $220 million over 1991; $100 million for tech prep, an increase of $37 million over 1991; and $100 million for new supplemental grants for the acqusition of vocational education equipment and related program improvements. The bill also provides $280 million for adult education, an increase of $41 million over 1991.

STUDENT FINANCIAL ASSISTANCE

The bill provides $6,853 million for student financial assistance, which is an increase of $139 million over both the 1991 level and the President's request. This amount restores $156 million to Perkins loans and $64 million to State student scholarships, both of which the President proposed to eliminate. The committee bill maintains the maximum Pell grant at $2,400. Supplemental educational opportunity grants are funded at $570 million, an increase of $50 million over 1991 and $223 million over the President.

GUARANTEED STUDENT LOANS

The bill includes $3,106 million for the guaranteed student loan liquidating account, which is the current estimate of the funding that will be required to meet program obligations associated with loans borrowed prior to fiscal year 1992. This amount is $2,276 million below the 1991 appropriation for guaranteed student loans and the same as the budget request under current law; $2,867 million is also available under permanent law for loan subsidies and related administrative expenses for new loans made in 1992.

HIGHER EDUCATION

There is $120 million provided for historically black colleges and universities, an increase of $12 million over the request and $2 million over the 1991 level. Special programs for the disadvantaged [TRIO] receive $395 million, an increase of $51 million over 1991 and the same as the President's request.

LIBRARIES

The bill restores the funding for the library programs to the 1991 level $143 million. The President had proposed to reduce funding to $35 million. The bill includes $5 million for training.

RELATED AGENCIES

The bill includes $1,213 million for 17 related agencies. This amount is $12 million below the request and $54 million above the 1991 funding level. The total includes $253 million for 1994 funding for the Corporation for Public Broadcasting. Full funding of $315 million is provided for railroad retirement dual benefits.

□ 1240

Mr. PURSELL. Mr. Chairman, I yield myself 3½ minutes.

Mr. Chairman, I thank Chairman NATCHER for yielding the customary allotment of time. I also want to take this opportunity to congratulate the chairman on his completion of this year's bill and thank him for the outstanding leadership he has provided.

Last week our chairman was honored for casting his 17,000th consecutive vote in this House. At that time, the gentleman from Kentucky rose to say he counts it a distinct privilege to serve with his fellow Members of Congress. I wish to pause for a moment to comment on what a privilege it is for me to serve on this subcommittee with Mr. NATCHER.

As our chairman, Mr. NATCHER has earned the respect of Members from both sides of the aisle. His bipartisan style of leadership and evenhanded approach are appreciated. The genuine respect of his colleagues continues to be the hallmark of Mr. NATCHER's very distinguished career.

I also wish to congratulate the members of the Labor, Health, and Human Services, Education Subcommittee staff—Mike Stephens, Mark Mioduski, Bob Knisely, and Susan Quantius.

Likewise, I wish to thank and congratulate the Republican members of the subcommittee for their work and support—Mr. PORTER, Mr. YOUNG, and Mr. WEBER.

I also must acknowledge Education Secretary Alexander, Labor Secretary Martin, and Health and Human Services Secretary Sullivan for their testimony, support, and input throughout our process.

Mr. Speaker, I rise today in support of this appropriations bill. Although this is not a perfect bill, and there are places where it can be improved, I still believe, overall, it is a good bill.

This is a bill which outlines the priorities and programs of importance to the vast majority of Americans—programs which provide needed health care to the elderly, programs which provide access to medical treatment for the sick, programs which bring hot meals to the homes of our older population, programs which support our schools and institutions as they teach our young, programs which equip our workers with new skills and knowledge, programs which, in total, serve the people of this Nation.

As one of the Members of this body who remains concerned about the budget deficit and the level of government spending, I must point out that the increase in discretionary spending, in terms of budget authority, has been held to inflation—$53.6 billion, which is up only 4.1 percent. In terms of outlays, discretionary spending is set at $58.1 billion, representing an increase of 8.4 percent.

As the ranking minority member on the subcommittee, I would like to make some personal comments regarding three important areas.

First, I continue to be concerned about the accountability of our departments, agencies and their contractors. I believe there have been some celebrated examples of the misuse of funds which happens when we fail to hold funding recipients accountable. Providing better management of Government resources must remain a top priority within all of the departments and agencies included in this appropriations bill.

Second, I would like to draw attention to the need for field visits. Since becoming ranking minority member, I personally have placed an emphasis on conducting field visits to gain a better understanding of the programs we fund.

My visits have included Job Corps Centers in New York and Detroit, AIDS Health Centers, visits to the National Institutes of Health campus in Maryland, the Centers for Disease Control in Atlanta, hospitals, the Office of Education Research and Improvement [OERI], an OERI lab in Illinois, and many schools. Through these field visits, I have gained valuable knowledge and insight into a number of areas. I have seen firsthand the types of work going on, I have observed the levels of staffing, and I have had the opportunity to discuss the impact of Federal programs with those on the front lines.

These types of visits also demonstrate the interest of Members of

Congress, as well as our resolve to truly oversee the operations we fund. I will continue to emphasize field visits as a means of providing better leadership and management at the congressional level.

And third, I wish to comment on the construction of two NIH buildings named for two individuals who have played a very major role in our nation's health care policy.

One of the buildings, now under construction, will bear the name of my predecessor on the subcommittee, Silvio Conte. I would be remiss in not making mention of the loss we all have felt by the passing of the gentleman from Massachusetts. For many years, Silvio Conte served as the ranking minority member on the Labor, Health and Human Services, Education Subcommittee. He was dedicated to providing leadership in the critical areas encompassed in this bill, and his tireless efforts still serve as an example.

The Conte Building, which will be used for child health, is scheduled for completion in the fall of 1992. This building now has added significance as a tribute to our departed friend.

The other building, now in the planning stages, will bear the name of our chairman, who I referenced at the onset. The Natcher Building will be a fitting tribute to one of the leaders in our Nation's health care community.

Mr. Chairman, Mr. NATCHER has done an excellent job already in describing many of the components of our bill. And, rather than repeating this information, I would like to draw attention to two areas I deem of the utmost importance—prevention and education.

This bill provides funding for a number of very important programs which promote prevention in health care. Throughout the course of our many hours of testimony, we again heard of the important role of prevention in health care. Nowhere does the old adage that an ounce of prevention is worth a pound of cure better apply than in health care. In these days of skyrocketing health treatment costs, we are finding that prevention can save tremendous amounts of pain, suffering, and dollars. To that end, I wish to cite a number of programs:

Immunization—we have increased the funding for immunization programs by $80 to $300 million. Through grants to the States and localities, these funds support immunization programs against measles, mumps, rubella, poliomyelitis, diptheria, pertussis, tetanus, and influenza.

Infant mortality—the subcommittee has provided $140 million for Secretary Sullivan's infant mortality initiative. Through this initiative funds are made available for the improvement of health care access for high-risk, low-income pregnant women and children.

Biomedical research—we have set matching funding at $8.8 billion, up more than $500 million from last year. This provides operational and research funding for the entire National Institutes of Health. Included in this amount, we have designated $15 million for the Shannon Grants Program which will be used to encourage the Nobel Laureates of tomorrow. In this endeavor, I must thank Mr. EARLY and Mr. PORTER for their invaluable assistance and support.

Women's health initiatives—the subcommittee has provided $100 million for research and implementation of important women's initiatives. This includes quite a variety of programs, such as $25 million for women's health trials, $30 million to continue breast and ovarian cancer research, $10 million to the Office of Research on Women's Health, and $50 million for the CDC to carry out its program of breast and cervical cancer screening.

Minority health—the subcommittee, with the encouragement of Mr. STOKES, has provided significant funding throughout the bill for minority health incentives. This includes $23 million for the Disadvantaged Minority Health Improvement Program in the Health Research Service Agency, and $10 million for research grants in the Office of Minority Health Research at NIH. During the course of our hearings, we learned of the continuing disparity between the health status of white and minority populations. Also, at my urging, this funding includes $3 million for the study of Lupus, a disease which primarily affects black women.

Bone marrow registry—at the urging of Mr. YOUNG we included $16.3 million for the national bone marrow registry. The establishment of the National Bone Marrow Donor Program has provided a national resource for the treatment of diseases of the blood and cancer. I might also mention that Mr. YOUNG continues to be our national leader in this area, having worked on the bone marrow registry for 6 years.

Rural health—thanks, in part to the help of Mr. WEBER, the subcommittee has designated $101 million for the National Health Service Corp. The NHSC Program provides health manpower resources to areas, populations, and facilities which find it difficult to recruit health care providers.

Today, there is much discussion about the financial problems being faced in the delivery of health care in this Nation. And, while this remains an area for further investigation and debate, I believe we all could agree upon the value of prevention. This bill provides the funding for research programs which, in turn, provide the types of biomedical knowledge needed for prevention. As we learn more about diseases and illnesses, we learn more about the means of preventing these diseases and illnesses.

Mr. Chairman, this bill also includes funding for our Nation's education programs. Education provides us with a challenge of a different nature than health care. Education in the 1990s will be the key to our competitiveness in a world economy and marketplace.

Toward that end, our subcommittee has included funding for several initiatives which I wish to mention:

Head Start—we have increased the funding for Head Start by $250 million, to $2.2 billion. As you know, the Head Start Program provides comprehensive support and development services to children from low-income families.

Even Start—the subcommittee has increased this funding by $40 million to $100 million. Targeted for disadvantaged children between the ages of 1 and 7, and their parents, Even Start will provide State block grants for model joint-education programs.

America 2000—if authorized, this bill would provide $250 million for the innovative America 2000 initiative. The America 2000 plan represents a dramatic shift the funding of new and innovative approaches to education.

Higher education—an increase of $139 million for Student Financial Aid, to a total of $6.8 billion.

In summary, Mr. Chairman, I believe this appropriations bill includes many of the priorities of our Nation. These programs are of critical importance to the everyday lives of millions of Americans. I support this bill and ask my colleagues to join with me in voting for it.

Mr. NATCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi [Mr. WHITTEN], the chairman of the full committee, one of the able Members of the House. Mr. Chairman, all down through the years, the gentleman from Mississippi has helped us with this bill, and we appreciate it.

□ 1250

Mr. WHITTEN. Mr. Chairman, I appreciate this opportunity to say a word about our chairman of this subcommittee, the vice chairman of the full committee, the gentleman from Kentucky [Mr. NATCHER].

As my colleagues know, he has a wonderful record of attendance, at voting, but really it is not how long one serves, it is how well one serves. I do not believe in the history of this Nation we have had anyone who could equal the gentleman from Kentucky [Mr. NATCHER], my friend, in his service to the people of his district, State, and Nation. Truly he has done and does a great job. In the process, he has earned the respect and admiration of all Members of this House.

Mr. Chairman, I am proud to be a member of this subcommittee. All members of this subcommittee do a fine job especially the gentleman from Michigan [Mr. PURSELL] the new ranking minority member taking over for our dear departed colleague Silvio Conte, who served so well for so many years.

I say to my colleagues, whatever your age may be, if you look around and remember how conditions were that you first remember and see the progress that we've made, you can realize just how sound a job we have done.

It is encouraging to see our subcommittee under the chairmanship of the gentleman from Kentucky [Mr. NATCHER] give attention to Americans and America. We have got to give our country that attention, because our country is what all of our money is based on. An educated, healthy population, with adequate housing, food, and nutrition from a strong agricultural base, provides the foundation for our national strength and future.

Mr. Chairman, this bill includes funds for all phases of education, both higher and secondary, including universities, colleges and community colleges, vocational education, disadvantaged education, adult education, and historically black colleges, including Mississippi Valley State University at Itta Bena, MS.

It is directed to meeting the health and other needs of our people, all of which is spelled out in the report accompanying this appropriations bill—H.R. 2707—which I shall not list here. This bill looks after our people and our country. We must look after the people's health and education, but in the same breath we must look after the physical health or our own country because it is our country to which we have to look to to take care of all the needs that we have.

Mr. Chairman ours is a great country. We need to take care of all of it in order to maintain a strong, healthy nation. Strength and health that can come only from protection and developing the Nation's resources—our real wealth.

Mr. Chairman, in addition to being a member of this subcommittee, I am serving my 13th year as chairman of the Appropriations Committee, and I assure you no chairman and no subcommittee, does a better job than BILL NATCHER and the members of this subcommittee.

Mr. PURSELL. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. YOUNG], a great Congressman who has been an outstanding leader on bone marrow transplants.

Mr. YOUNG of Florida. Mr. Chairman, most of our constituents know that most Members of Congress are pretty powerful and pretty influential, but I doubt that very many of our constituents know that Members of Congress on occasion have an opportunity to play a role in a miracle.

In the 2 minutes that I have today I am going to talk about just one of the many good features of this bill, and that is the miracle of one human being being able to give life to another human being through a bone marrow transplant.

It is such a dramatic weapon in the fight against leukemia, other types of blood cancers and, in fact, some 60 other types of fatal blood diseases.

I have a chart that I am going to show that says it much better than I can. Since the Members of Congress became involved in the National Marrow Donor Program, look at the chart. Look at how just in the last year the number of donors in the registry has grown, really a dramatic story, and each and every Member of this House of Representatives deserves tremendous credit for having played a role.

This second chart relates to the first chart. They look almost identical. This second chart shows the number of people who had no chance for life, but who have now had a bone marrow transplant through the registry that we created. And look at the numbers, how they have gone up so dramatically again in the last year.

This is a relatively new program. Its seed was planted right here in the U.S. House of Representatives. We could not find a sponsor. So we went to the U.S. Navy; the Navy agreed to be our original sponsor. And they are still very much involved in this program through research and recruiting; and both the research and recruiting has been tremendously successful.

Now the National Institutes of Health is also involved as the official sponsor, and is doing a tremendous job.

Finally, I am going to hold up a chart here for all Members to see. This is an 800 number, 1-800-654-1247. Members can call this number if they would like to be a volunteer donor. If anyone happens to see that number and would like to call, they are open 24 hours a day.

A major recruiting effort was conducted last year right here in the House by Members of Congress, and if my colleagues will recall, we had a recruiting day when some 50 of our colleagues came in, signed up, and took a simple blood test to be a donor.

The gentleman from New Jersey, JIM SAXTON, was one of the heroes who was tested that day. Later on this summer when we have more time in a special order, I am going to list all of the heroes who have played a major role here. Our colleague from New Jersey, however, JIM SAXTON, is just about to become a donor and there are two other Members in the House who also are just on the verge of being donors.

The simple blood test required to become a part of this program does not hurt. It enables people to join a program that saves lives, and each one of my colleagues can feel really good because they have all played a major role in getting this program to the point that it is today.

It is a miracle saving lives.

The National Marrow Donor Registry now includes 362,613 volunteers who have indicated their willingness to give the living gift of life to a matched, unrelated patient in need of a life saving marrow transplant. In the past month alone, 31,000 volunteers have joined the registry and since this time last year the size of the registry has more than doubled.

This dramatic growth in the registry has enabled the program to identify an increasing number of matched donors with the end result being a life saving marrow transplant. In just 3½ years, the national registry has provided a second chance at life for 741 patients suffering from leukemia and 60 otherwise fatal blood disorders. More than 40 unrelated marrow transplants now take place every month and in the past 12 months there has been a 100-percent increase in the number of transplants.

The secret to the success of this program is people—people who are willing to help a complete stranger in need. And the secret to encouraging people to volunteer to become potential marrow donors has been a nationwide effort to educate and recruit marrow donors. That has been accomplished with funds appropriated by this Congress over the past 5 years.

My colleague from Kentucky, BILL NATCHER, the chairman of our Appropriations Subcommittee which funds the National Institutes of Health, and CARL PURSELL, our ranking member, and all the members of our subcommittee have been true heroes in this effort by supporting my request for funds to administer the growing national registry, to defray the cost of laboratory tests for tissue typing volunteers, and for research to perfect the marrow transplantation technique.

The largest share of the Federal support for this program actually has come from the Navy, where we originally established the program in 1987. My colleague from Pennsylvania, JACK MURTHA, the chairman of our Defense Appropriations Subcommittee, our ranking member JOE MCDADE, and all the members of our subcommittee also have been unwavering heroes in their support for the program.

My limited time does not enable me to tell you about every hero that has contributed to the success of the National Marrow Donor Program, but each of my colleagues, without whose support the program could not have grown, can take great pride in their role in saving lives. Many of my colleagues have taken up the cause in their own districts and have held numerous, very successful donor recruitment campaigns that have contributed to the growth of the donor rolls. My colleague from New Jersey, JIM SAXTON, and my colleague from Virginia, FRANK WOLF, have taken a special interest in donor recruitment efforts.

While we can all take great pride in this program's record of success, we must be aware that much work remains ahead. Although we will find matched donors for as many as 500 patients in the next 12 months, we need to understand that there are as many as 12,000 other patients whose only chance at life is an unrelated marrow transplant. With funds included in this legislation, and in the Defense appropriations bill approved earlier this month, our donor recruitment efforts will move forward to build a large, ethnically diverse registry that will give every patient an opportunity to find a matched donor. The success of our program already has spread around the world as marrow continues to cross geographic, ideological, and political borders every month to save lives.

Funds included in these bills also will enable us to continue to give special attention to the need to increase the number of minority donors. Although black Americans, Hispanics, and Asian-Americans remain seriously underrepresented, we have made great progress in this regard over the past 12 months. During that time, with the funds appropriated by this Congress, the number of minority volunteers has increased sixfold.

Mr. Chairman, marrow transplantation and the National Marrow Donor Program truly are modern medical miracles. Through this program, lives are being saved every day here and throughout the world.

I know, because my oldest daughter, Pamela Ernest, has been given a second chance at life through the gift of marrow from her brother. Pam was lucky. She had an identical matched brother and sister to donate marrow. More than 70 percent of the Americans in need of a marrow transplant are not as lucky. For them, there is no matched sibling donor. Their only hope rests in the National Marrow Donor Program.

With the continued support of the Appropriations Committee and this Congress, we will continue our efforts in the weeks, months, and years ahead to increase the donor rolls so that we can find a matched donor for every patient in need of a marrow transplant. This is a promise that I have made to hundreds of patients throughout our Nation, including my good friend Grant Hartley of St. Petersburg, FL, and together we can see that this promise becomes a reality and that each of these children, teenagers, and adults are given the opportunity to take advantage of the miracle of marrow transplantation.

Mr. NATCHER. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I wanted to take this time to thank the committee for accepting my amendment which added $40 million above the President's request for childhood immunizations. The administration's budget, even though it was an increase over last year's spending level, was still, in the view of most experts, woefully short in meeting the needs in this area.

U.S. immunization rates for childhood diseases, such as polio, measles, rubella, mumps, and other diseases like hepatitis B, are woefully inadequate. They are embarrassingly low.

We rank 17th in the world in terms of our overall immunization rates for some of these diseases. In fact, if you take a look at the immunization rate for minority populations in this country, we rank 56th in the world, well below countries such as Botswana.

I think that is a national disgrace, and I think it is a public health danger, and I am very pleased that the committee made as one of its top priorities the addition of this $40 million above the President's budget for this very important item.

I am also pleased that the committee recognized the need to provide additional educational opportunities for middle-class Americans through its strengthening of the SEOG Student Aid Program.

Mr. PURSELL. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. PORTER], an outstanding leader on our committee.

Mr. PORTER. Mr. Chairman, I commend Chairman NATCHER and CARL PURSELL for the excellent work they have done on this bill. The choices are very difficult, and BILL and CARL have done yeomen's work under extremely trying circumstances to produce a bill we can all be proud of. CARL has done an outstanding job as ranking member in his first year, getting up to speed in a very short time.

We had a very tight allocation, we had new programs to fund. We would have liked to have done more for many crucial programs. But this is a good bill that everyone ought to support.

Mr. Chairman, under these difficult circumstances, the staff was under extra pressure. I want to commend Mike Stephens, Sue Quantius, Bob Knisely, and Mark Mioduski. Their professionalism is unsurpassed in Congress. In addition, I want to commend Dr. Dave Recker, who just came on CARL PURSELL's staff. His expertise on the NIH will be a great asset to our side.

It is both an honor and a pleasure for me to serve on this outstanding subcommittee, with dedicated leaders and members and highly competent staff. We may disagree on some matters from time to time, but we always are able to work through and work out our differences and produce a bill that with fair accuracy reflects the values and priorities of our Nation.

Let me tell you some of the things that are in this bill, to give an idea of the breadth and importance of these programs.

For biomedical research, we are funding crucial research on chronic fatigue syndrome, a widespread and baffling disease which affects millions of Americans. There is money to track the disease and investigate the cause.

As the chairman mentioned earlier, we have a women's health initiative in the bill. But we also have an initiative on prostate research to investigate prostate cancer, the second leading cause of cancer deaths in men, and benign prostatic hyerplasia [BPH], the leading cause of surgery in men. We have money for cancer centers, which get research from the lab to the patient and funding for the Center for Medical Rehabilitation Research to help people with physical disabilities.

The bill helps communities whose tax bases have been obliterated by Federal installations—impact aid to compensate school districts for the cost of educating military dependents.

We are funding unemployment insurance administration to make sure that the States have the personnel and equipment to process unemployment claims. Without this program, no one in this country would receive unemployment benefits.

There are programs to resettle Soviet refugees. We have fought for years for their right to immigrate. With a very small Federal investment and the help of volunteer agencies across this country, we are successfully resettling these refugees. We are teaching them English, getting them jobs, and helping them find housing. With a little help, these people become productive, contributing members of American society some of whom ultimately learn to have a greater appreciation for our values and traditions than some of us.

We have money to help bring the National Museum of Health and Medicine—one of our Nation's finest museums—back to Independence Avenue where it belongs. And we continue the excellent work of the Peace Institute under the leadership of Ambassador Sam Lewis. This organization brings scholars and policymakers together to develop conflict resolution techniques to promote American values throughout the world.

Mr. Speaker, the related agencies often are overlooked in this bill, but are equally important as the programs for the three departments. The Corporation for Public Broadcasting provides alternative TV and radio services nationwide, and in many places is the only broadcast service available. The ACTION agency provides volunteer social work nationwide—drug counseling, senior services, and literacy training.

The Railroad Retirement Board is in this bill. This is the federally administered pension system for railroad employees similar to Social Security. We have a new Chairman at the Board and a new management representative. Together with OMB they have put together a new management initiative to streamline and improve management of the Board. This is a very important program to eliminate fraud, professionalize the tax accounting, improve debt collection and claims processing, and preserve the integrity of the trust fund. The funding for this initiative is conditioned on RRB meeting specific performance and money saving objectives according to a detailed 5-year plan.

Finally, this bill prohibits enforcement of the "gag" rule, an extremely important provision in light of the Supreme Court ruling in Rust versus Sullivan. Our bill prevents the Department of Health and Human Services from denying women information regarding their constitutional rights. This provision has broad and deep support on both of sides of the aisle, in many cases regardless of position on abortion because this is even a more fundamental question, one regarding the honest relationship between citizens and their government, and I would urge the President to listen to the medical profession and from people all across the Nation and sign the bill when it comes to his desk containing the Porter amendment.

Mr. Chairman, this is a good bill. We have made the tough choices. We are within the allocation which is very tight. I commend Chairman NATCHER and CARL PURSELL, and I urge the Members' support of H.R. 2707.

Mr. NATCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. ROYBAL].

Mr. ROYBAL. Mr. Chairman, I rise in strong support of the bill before the committee.

Mr. Chairman, I rise in support of the fiscal year 1992 Labor, Health and Human Services, Education and related agencies appropriation bill. I would like to commend Mr. NATCHER, chairman of the subcommittee, and Mr. PURSELL, the ranking member, and my other distinguished colleagues for reporting a bill that provides services for a large number of the citizens of the United States. I feel that the committee has targeted several areas of need, including training for migrant and seasonal farmworkers, AIDS prevention, bilingual education, the Minority Disadvantaged Act, and programs for the elderly, and has allocated funds appropriate to these needs.

In the area of AIDS new funds were provided for the Ryan White CARE bill, including $7 million to reimburse dental schools which provide much needed services to AIDS victims. The services provided by these schools play a vital role in the detection and early intervention of AIDS and HIV related infections.

The bill also includes funds to continue programs of immunization, including hepatitis B, which is more contagious and prevalent than AIDS. The committee recognizes the need for immunizations of children in inner cities and children of recent immigrants and has targeted these two areas in its attempt to insure adequate immunization for all children entering school. An additional $1 million is included for the Centers for Disease Control to establish a demonstration project designed to address the serious problem of TB in minority populations in the inner city.

I am also pleased that this appropriations bill provides funding for a variety of aging programs such as the Community Service Employment Programs, meals, minority initiatives, as well as research and aging demographics and training. Although I would have preferred to put more funds in these programs, I feel that our commitment to the elderly of this country remains strong and unshaken.

Though I would like to have included much larger sums of money for Alzheimer's disease and related disorders research and other special aging initiatives, I am pleased that the committee, under severe budget constraints, has increased the funding for research on Alzheimer's and other diseases afflicting the elderly population. However, we still have a long way to go. It is critical that we continue our commitment to increase research, education, and service efforts on behalf of older Americans.

The Labor, Health and Human Services, and Education bill provides a significant increase for education programs, including $48 million in additional funding for bilingual education. These funds will allow the Department to augment its efforts in the areas of developmental bilingual education, family English literacy programs, and the training of bilingual personnel. I am pleased to see the committee demonstrate such a commitment to bilingual education.

As you well know, Mr. Chairman, there is a program of great concern to me which remains a problem within this bill. The deferral of funds to fiscal year 1993 for the State legalization impact assistance grants [SLIAG] will have an overwhelming effect on those States which have the largest influx of immigrants. This deferral will place a huge burden on the States to provide services for these immigrants. Under the landmark Immigration Reform and Control Act of 1986 Congress made a commitment to help the States with some of the costs associated with absorbing newly legalized aliens into their communities. The Federal Government has promised the States that it would share the financial responsibility for the costs of the Federal Government's decision to legalize millions of undocumented aliens. We should honor that commitment. Without SLIAG funds, health, welfare, and education services will be severely affected. Cuts in SLIAG funding would actually force the closure of some of the infrastructure that provides these services, affecting not just newly legalized aliens, but all citizens who use these services. Chairman NATCHER, you have played a vital and constructive role in assuring that SLIAG was funded.

While I am keenly aware of the budgetary circumstances under which this bill was funded, I must express my sincere hope that this situation can be rectified as we take our bill to conference with the Senate.

I commend Chairman NATCHER for presenting us with such a fine bill in a lean fiscal year. I support him in the tough decisions he made regarding programs so important to all the people of the United States and I urge all my colleagues to vote for this bill.

Mr. NATCHER. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Chairman, I rise in support of H.R. 2707, the fiscal year 1992 Labor-Health and Human Services-Education appropriations bill. This bill contains funding for the many programs which play an indispensable role in keeping citizens of our Nation healthy, educated, and employed. As a member of the subcommittee, I would like to commend the leadership of the gentleman from Kentucky [Mr. NATCHER], the chairman of the subcommittee.

During the subcommittee's deliberations on this bill, Chairman NATCHER often said that this would be a "good bill." True to his word, he brings to you today a bill which addresses the welfare and needs of all of our citizens. Funding levels contained in this bill reflect his leadership and unrelenting commitment to providing the American people with the labor, health, social service, and education programs they need and deserve. It is an honor to serve on this committee under his leadership.

I want to also express my appreciation to the ranking minority member of the committee, the gentleman from Michigan [Mr. PURSELL]. CARL had a difficult job of stepping into the shoes of our beloved Sil Conte. This was a difficult job, but Mr. PURSELL has done an outstanding job of working with all of us on this committee.

We drafted this bill in a climate of stifling fiscal constraints. Despite the limitations placed on us by the 1991 budget enforcement agreement, the committee found a way not only to maintain current funding levels, but to increase funding for AIDS, biomedical research, infant mortality, Head Start, immunizations, compensatory education for the disadvantaged, and many of the other programs funded under this bill.

Specifically, H.R. 2707 provides $144.7 billion for entitlement programs, a $16.2 billion increase over the amount provided last year. For discretionary programs, $58.5 billion was provided, an increase of $2.3 billion over the fiscal year 1991 levels.

I am particularly pleased to note that $319 million was provided for the infant moratlity initiative. This represents an increase of $114 million over the 1991 level. Of this amount, half is designated for healthy start, the President's proposal, and half for infant mortality grants to community health centers in targeted regions. This proposal is of special interest to my constituents in Cleveland, OH; 1988 data compiled by the Health Resources Services Administration indicates that the infant mortality rate in Cleveland is the sixth highest in the Nation. With an average rate of 16.9 deaths per 1,000 live births, the rate of infant death in Cleveland is higher than that of certain Third World countries.

The bill also provides approximately $88.6 million in funding for programs authorized by the Disadvantaged Minority Health Improvement Act. This is about a $30 million increase over last year's level. Programs funded under this act support the education, training, and recruitment of minority students and personnel in the health professions. Funds also will be used for the coordination and support of research, treatment, and prevention efforts directed toward ending the disparities between the health status of whites and minority Americans.

In addition to programs funded under the Disadvantaged Minority Health Improvement Act, other initiatives benefiting minorities include a $10 million appropriation for the National Institutes of Health, Office of Minority Health. These funds will be utilized in research areas which disproportionately affect minority Americans. This action, combined with funding of the Disadvantaged Minority Health Improvement Act programs, signals the committee's commitment to increasing resources in the areas of minority health and training.

In the area of AIDS, the bill provides approximately $1.87 billion for research, education, and other activities directed at the prevention and treatment of AIDS. Currently, there are an estimated 172,000 reported cases of AIDS in this country; and, it is estimated that 1 million persons in the United States are infected with the disease. What is equally significant is the fact that women constitute one of the fastest growing segments of the AIDS population. For this reason, language contained in this bill directs the Centers for Disease Control to give enhanced attention to the gender-specific effects of the disease.

Also contained in this bill is an appropriation of $5 million for a family support centers demonstration. Authorized by the Stewart McKinney Homeless Act last year, these centers will provide comprehensive supportive services to low-income individuals and families, with a focus on those previously homeless or at-risk of becoming homeless and residing in government-assisted housing. Under the authorization language, gateway grants also are to be provided as part of the demonstration. Gateway grants will provide onsite education, training, and related supportive services to young residents of public housing.

In addition to these health and human service initiatives, I am particularly pleased with the action the committee took in reference to education. The bill provides $31.4 billion for education programs, representing an increase of $4.3 billion over 1991 levels, and $1.7 billion over the President's request. The bill gives its highest priority in funding to the compensatory education for the disadvantaged program, providing $7.1 billion for chapter I grants, representing an increase of $1 billion over the 1991 level. For the handicapped, $2.6 billion was provided, a $170 million increase over 1991 and $56 million above the President's request. Head Start will receive $2.2 billion, an increase of $250 million over 1991 and $150 million over the President's request. Increased funding also is provided for our Nation's college students, bringing the total student aid appropriation to $6.9 billion in fiscal year 1992, $139 million more than the amount provided last year.

Furthermore, recognizing the historic and crucial role historically black colleges and universities play in educating African-Americans, and other minority students, the bill provides $100 million to support the title III undergraduate program, strengthening historically black colleges and universities. This represents a $12.2 million increase over both the President's request and the 1991 amount. The graduate program authorized under title III will receive $12 million.

Howard University, one of our Nation's preeminent historically black colleges would receive $213 million, $22 million above the budget request. The bill also endorses the continuation of the legal training for the disadvantaged [CLEO] and the special programs for the disadvantaged [TRIO] programs. The President proposed no funding for CLEO, and recommended the consolidation of the TRIO program, a program which assists low-income persons who are potentially first-generation college students. The committee accepted neither of these recommendations.

Finally, I am pleased to note that the bill provides $3.2 billion for the State unemployment fund, and puts a mechanism in place which provides for the release of additional funds to States, automatically, should the level of unemployment workload exceed that estimated in the President's budget.

Mr. Chairman, we all are aware of the budget caps which limit our ability to be totally responsive to all of our domestic needs. Despite these caps, we have produced a bill which, in unequivocal terms, reaffirms Federal support for those Labor, Health and Human Service, and Education programs which need to be at the top of our list of priorities. More importantly, passage of H.R. 2707 gives us the opportunity to let the American people know that Congress not only knows what they want, but we are responding to their needs. For these reasons, I urge my colleagues to support passage of this vital measure.

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Mr. PURSELL. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. WEBER], an outstanding Member of Congress, who has done outstanding work in rural legislation.

Mr. WEBER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of H.R. 2707, the Labor-Health and Human Services-Education appropriation measure for fiscal year 1992. This is a fiscally responsible measure providing much needed funding for programs meeting the basic needs of the American people.

I would like to take this opportunity to thank our subcommittee chairman, BILL NATCHER, and our new ranking Republican member, CARL PURSELL, for their excellent work in developing this appropriations measure. We faced an extraordinarily tough funding situation in our subcommittee this year, necessitating hard choices among worthy, competing programs and needs. With the leadership of Congressman NATCHER and PURSELL, I believe we are bringing a balanced measure to the floor today, one that serves the American people well and makes wise use of taxpayers' dollars.

This measure puts our Nation's children first. We have provided $138.6 million to fund Secretary Sullivan's healthy start initiative to attack the serious problem of infant mortality in our inner-city and rural areas. For every dollar we invest in prental care, we save $3 in health care costs for low birthweight babies. We have also included an increase of $80 million for childhood immunization programs, realizing that for every dollar we spend on immunizations, we save $10 in health care costs.

The first of the education goals announced at the education summit is that every child start school ready to learn. To help realize this goal, we have provided a $250 million increase for the Head Start Program.

One of the major concerns of rural Americans is access to health care. In Minnesota and many other rural areas, severe and growing shortages of physicians, nurses, physician assistants, and allied health professionals are seriously eroding access to primary care and forcing hospitals to close. I wish to particularly express my appreciation to our chairman and ranking member and to my colleagues on the subcommittee for agreeing to increasing funding for the National Health Service Corps scholarship and loan forgiveness programs by $10 million—an almost 20 percent increase. That is a big increase, but it will go to good use. These programs provide highly effective, immediate, and long-term relief to our rural communities most severly affected by health professions shortages and will help us achieve our goal of eliminating shortage areas by the year 2000.

In addition, the measure before us restores funding for other programs important to maintaining and improving access to care in rural areas, including the rural health care transition grant program, health professions education programs, and nursing education. I will work with my colleagues as the appropriations process continues to further strengthen funding for these programs.

Another national priority I have worked with my colleagues on the subcommittee and Congressman TOM COLEMAN to meet is math and science education. The number of our talented college graduates choosing graduate studies in math amd science and careers as researchers and educators is sharply declining, placing the quality of math and science education in our elementary, secondary, and postsecondary schools and our Nation's progress and international competitiveness at grave risk.

The measure befores us provides a $5 million increase for the Coleman fellowships, which provide assistance to graduate students in the sciences and math who are needy and who are planning careers in research and education.

I urge my colleagues to join me in voting for this appropriations measure. Like many of you, I am opposed to provisions in the measure prohibiting the Department of Health and Human Services from implementing regulations to clarify that abortion is not a method of family planning. I pledge to work as the process continues to remove these provisions.

But overall, this measure merits your support. It is a fair and balanced bill which meets pressing domestic needs and makes wise use of taxpayers' dollars.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. WEBER. I am happy to yield to the gentleman from Missouri, the distinguished author of the program

Mr. COLEMAN of Missouri. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman's leadership on the Committee on Appropriations to secure an increase again this year in the funding for this area where we will be able to produce and provide 1,800 new Ph.D.'s in math and science, American citizens who will go out and teach other American citizens in the future, and I want to thank the gentleman from Kentucky for his continued support as well.

I rise in support of H.R. 2707, the Labor, Health and Human Services appropriations bill. This bill contains a substantially increased appropriation for education in 1992. I would like to commend Chairman NATCHER, ranking member PURSELL, and the members of the committee for their hard work in bringing forth this legislation.

I would specifically like to address my support to the increased appropriation contained in the bill for part D of the Higher Education Act, Graduate Assistance in Areas of National Need.

Our graduate education programs produce the people and the knowledge this Nation needs to maintain and sharpen its competitive edge. But despite the fact that the United States has the largest and most advanced higher educational sytem in the world, our technological superiority is in jeopardy. Our R&D work force is increasingly sustained by foreign nationals, as the number of U.S. citizens pursuing scientific careers declines. Some alarming statistics bear this out:

In 1972, 80 percent of physical science doctorates awarded by U.S. universities went to U.S. citizens; by 1988, that percentage had dropped to less than 65 percent.

In engineering, the percentage of Ph.D's earned by U.S. citizens dropped from 67 percent in 1972 to 46 percent in 1988.

Foreign students, faculty, and industrial scientists bring with them a rich array of talent; but it is a source of talent which will become increasingly unreliable as the demand for their talent—and the capacity to support it—increases in their native countries. The dramatic development of science and technology in the countries with which we compete is evident:

Europe continues to overtake the United States in its investment in civilian R&D. In 1989, the combined civilian R&D expenditures for the European Community and the European Free Trade Association exceeded ours for the first time.

The United States now trails France, Germany, Japan, and the United Kingdom in the percentage of students selecting engineering as their first degree, and we are only slightly ahead of Japan in the percentage selecting the natural sciences.

It is anticipated that unless something is done, a sharply increased demand for Ph.D.'s in the United States will outstrip a comparatively level supply before the turn of the century. In the natural sciences and engineering, alone, it is estimated that if current trends continue, the Nation could face an average annual shortfall of 9,600 Ph.D's between 1995 and 2010.

As ranking member on the Subcommittee on Postsecondary Education, I was deeply involved in the development of the Graduate Assistance in Areas of National Need Program during the last reauthorization of the Higher Education Act. This program was specifically developed to help our Nation's universities address this critical problem by directing resources to doctoral programs in areas of national need such as mathematics, sciences, engineering, and foreign language and area studies.

Under the program, 3-year grants are awarded on a competitive basis to deserving graduate departments to provide them with the necessary resources to increase the number of students educated in their doctoral programs. Institutions can receive grants averaging nearly $200,000. These grants are used to provide students with stipends of up to $10,000 and funding to support the costs of their tuition, fees, and other program costs.

I am pleased that the Congress has funded the program at progressively increased levels of funding in each of the 4 years since it has been authorized: $7.7 million in fiscal year 1988; $12.8 million in fiscal year 1989; $15.8 million in fiscal year 1990; and $24.9 million in fiscal year 1991. These appropriations, totaling over $60 million, have enabled 350 new and continuing institutional grants to award approximately 4,000 student traineeships.

The appropriation proposed in this legislation would bring funding for this program to the level of $30 million in fiscal year 1992. This level of funding will enable grants to be given to approximately 150 institutional departments enabling up to 1,800 students to receive traineeships in academic year—fiscal year 1992–93.

Recently the Subcommittee on Postsecondary Education heard testimony on the topic of graduate education and on this program in particular. In the hearing Dr. Peter May, chairman of the mathematics department at the University of Chicago testified to the positive impact this program is already having on the enrollment of U.S. citizens in doctoral programs. He reported that in academic year 1988–89, only 43 percent of the Ph.D's granted in mathematics by U.S. universities went to U.S. citizens but that 56 percent of students in the Ph.D pipeline were U.S. citizens. Dr. May attributed this progress in large measure to the increased opportunities for U.S. doctoral students made possible by the National Need Program.

Mr. Chairman, I would again like to thank Chairman NATCHER and the members of the committee for their assistance in funding this important program. I urge my colleagues to support the adoption of this measure.

Mr. NATCHER. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. EARLY].

Mr. EARLY. Mr. Chairman, this particular year was the most difficult of the 17 years that I have been on this committee with this bill. In these eyes, this bill is $2 billion underfunded in moneys that can be spent productively and in the best interests of the people of the United States.

I also see this bill as being improved from what they had, and I think it was a fine year for the chairman, and the ranking member who succeeds my good friend Sil Conte did really a noble job.

Mr. Chairman and members of this committee, the money in this bill is funded to what the expert witnesses suggested the money should be funded to. The first thing the committe did was, at the request of the gentleman from Wisconsin [Mr. OBEY], increased immunizations $40 million. The gentleman from Wisconsin [Mr. OBEY] suggested an additional $40 million, so this is $80 million more than the 1991 budget for immunizations.

The committee raised the NIH $50 million from the President's mark, which, in this Member's eyes, is still considerably short. The staff redistributed $145 million in reducing bureaucracy, and improving the NIH budget. I think the gentleman from Kentucky [Mr. NATCHER] and the gentleman from Michigan [Mr. PURSELL] did a good job with this bill considering the obvious shortage of available funds.

Mr. PURSELL. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Chairman, because the time is very limited at this point, I will wait until we get into the amendment process to engage in a colloquy with the distinguished chairman and the ranking member, if I can, concerning the level of funding for the President's antidrug programs that are contained in this bill.

I have been concerned that, in a number of the appropriation bills that have been coming through, the level of funding has been below the President's request, and I am concerned about the message this sends to our communities, our schools, and other areas.

I would look forward to that colloquy when we get to the amendment process.

Mr. NATCHER. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Chairman, the gentleman from Kentucky [Mr. NATCHER] has produced again another masterpiece.

As Chairman of the Subcommittee on Elementary, Secondary and Vocational Education, I commend him.

He, under most difficult budget constraints, put the dollars in education where they will yield the most in real dividends.

I especially commend him for the increase of $250 million in Head Start. All studies indicate that the educational, social, and fiscal return on these dollars is enormous.

The increase in chapter 1 will improve the academic achievement of children who are performing below the appropriate age level.

Mr. Chairman, Mr. NATCHER's bill will do much to help achieve the goals for education set out by the President and Governor's of this Nation.

I salute Mr. NATCHER for being Mr. Education.

Mr. PURSELL. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Chairman, it would take me 100 minutes to say thank you to the chairman, the gentleman from Kentucky [Mr. NATCHER], and to the ranking member, the gentleman from Michigan [Mr. PURSELL], as well as other members of the Committee on Appropriations, for the parents and for the children of this country.

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I am happy to yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, on behalf of our Committee on Appropriations, especially our subcommittee, I say to the gentleman from Pennsylvania [Mr. GOODLING], I want to thank you. All down through the years you joined with us, you worked hard, and there is not a Member in this House who knows more about education and health than you do and works any harder to see that these programs are fully funded and fully authorized.

I just wanted to make that statement.

Mr. GOODLING. I thank you, Mr. Chairman.

I want to thank the committee on behalf of the parents and the children for the 12-percent increase in chapter 1, for $100 million in Even Start, which will give us for the first time a State formula grant program where we are helping the illiterate parents become more literate and, at the same time, teaching them what it is that they can do to help their own preschool children become preschool-ready for reading; for the migrant children, we say thank you for the 9.2-percent increase; for the President's increase in education program, we thank you; for the graduate assistance in areas of critical need, we thank you, and for all of those who benefit from Head Start, we say thank you.

Mr. Chairman, I rise in support of H.R. 2707, a bill providing appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for fiscal year 1992.

First of all, I want to once again commend and thank Chairman NATCHER, the ranking member Mr. PURSELL, and the members of the Labor-HHS-Education Subcommittee, for their continued generous support of and leadership in the vital policy and programmatic areas encompassed by this bill.

In particular, I want to express my appreciation for their continued leadership in Federal support for education, which they have certainly reaffirmed through this bill by providing the Department of Education with a 12-percent increase in discretionary funding over the current fiscal year. Since I have always viewed chapter 1 of the Elementary and Secondary Education Act of 1965 as the backbone of the Federal effort to help all disadvantaged students in school, I was particularly gratified with the bill's recommended funding level for basic grants to local educational agencies, a 12-percent increase over the Congressional Budget Office's fiscal year 1992 baseline level for these grants.

When I appeared before the Labor-HHS-Education Subcommittee in early May, I also recommended substantial increases in the funding of two other chapter 1 components, the Even Start Program and the Migrant Children State Agency Program. In the case of Even Start, I pointed out that everything we had learned about the program's results indicated that it definitely warranted an accelerated rate of expansion. Needless to say, I was delighted to find that H.R. 2707 recommended doubling Even Start's level of funding for the coming fiscal year, and that the level provided—$100 million—will for the first time permit the program to make the transition to a State formula grant activity, and will thus allow local education agencies in all States to participate in the program.

As for the Migrant Children Program, I noted that while our efforts to help these children had been very rewarding—most particularly through the accomplishment of reducing their dropout rate by 40 percent over a decade—even though the funding of the chapter 1 account as a whole had increased dramatically over these past few years, this has not been reflected in the funding of the Migrant Children Program. I am pleased that H.R. 2707 recommends a 9.2-percent increase over the current fiscal year's funding level for this program.

I want to thank the Appropriations Committee for its careful, and to the extent possible favorable, consideration of President Bush's educational excellence initiatives. I was pleased to find that the Appropriations Committee had taken the exceptional step of providing bill language which reaffirms the role of the authorizing committee. This bill also permits the initial funding of such educational improvement initiatives as may be authorized through new legislation if such is enacted prior to the end of the year.

The committee's understanding of the significance of the Graduate Assistance in Areas of National Need Program continues to be reflected in the consistency with which it has supported its growth. H.R. 2707 recommends increasing its funding level by 20 percent over the current fiscal year. This increase will permit the number of fellowships made available under this program to jump from 1,493 during this year to 1,799 during fiscal year 1992.

In my testimony early last month, I urged funding Head Start during the coming fiscal year at the $2.3 billion level which had been assumed for the program in our budget resolution. I was very pleased to see that this bill assures that Head Start's fiscal year 1992 funding will be not less than $2.202 billion, which definitely puts the program in the growth path envisioned for it in the budget resolution.

In closing, Mr. Chairman, I would like to once again extend my thanks to the entire Appropriations Committee, which has continued to demonstrate its responsiveness to some of the most pressing needs of our society.

Mr. NATCHER. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, let me thank the gentleman from Kentucky [Mr. NATCHER], the distinguished chairman of the HHHS Appropriations Subcommittee, for the outstanding job he does for the House of Representatives and the Nation.

Mr. Chairman, I rise in support of the amendment the gentleman from Florida [Mr. SHAW] will offer on this floor in a few minutes. It attempts to restore some $134 million to the appropriations for drug abuse treatment and prevention that are now below what the President has asked for. I know, and the gentleman from Florida [Mr. SHAW] knows, that this amendment is out of order.

But I rise because it is the concept which I support, and because the so-called drug czar has seen fit to politicize this issue by having a press conference yesterday on the Capitol steps. He did no ask me or other members of the committee whether we could work with the administration to restore the funds. He did not ask why the President of the United States had failed until yesterday to send a bill that would authorize the funds. He did not ask for Democratic Members to join with him and his Republican Members in order to make certain that this is a bipartisan issue.

The issue of drug abuse is too important to believe that we can do it as Democrats or Republicans. As chairman of the Select Narcotics Committee, I have never had a Democratic meeting in order to achieve a legislative goal, and I do hope that in the future the drug czar will attempt to achieve the goals of this administration in a bipartisan, apolitical manner.

As chairman of the Select Committee on Narcotics, I especially want to comment on the funding in the bill for drug abuse treatment, prevention, education, and research programs. For authorized antidrug activities, the amount recommended in the committee's bill is slightly over the President's proposal. Unfortunately, however, the total amount in the bill for antidrug programs is somewhat below the President's request.

The shortfall occurs because many of the increases requested by the President are for continuing programs or new initiatives that are not currently authorized. While I recognize that the amounts requested by the President may be subject to points of order on the floor, I believe the House should be doing all that it can to fully fund the President's requests, and I would support such efforts.

The discussion over drug funding should not be a partisan political debate between Republicans and Democrats. Yesterday, the President's Drug Policy Coordinator, Governor Martinez, came to Capitol Hill for a press conference with the minority leader, Mr. MICHEL, and several Republican House Members to announce the introduction of the administration's Treatment and Prevention Act of 1991. This bill implements the demand side of the President's drug strategy and requests authorization for a number of the funding proposals the Appropriations Committee was unable to consider in the bill before us today.

Governor Martinez singled out by name Members of the House on this side of the aisle who should take the lead in restoring funds requested by the administration. Drug abuse and drug crime do not lend themselves to Republican or Democratic solutions. Our approach to these problems must be bipartisan.

It is time to get serious about the drug problem and work together to come up with the money we need to support effective programs. We do not need to just throw money at the problem for the sake of saying we are increasing drug spending. We are already spending billions of dollars on drug programs and the amount spent has increased very rapidly in recent years. Now it is time to ask not just "How much," but "What are we getting for our investment?"

The administration wants America to believe that we are winning the war on drugs. The truth is that serious drug abuse and drug crime remain as intractable as ever, destroying individuals, families, and entire communities at great cost to our society.

If we are truly committed to fighting a war on drugs, we have to be prepared for the long haul. Partisan politics has no place in our antidrug strategy. No problem threatens the long-term security and prosperity of our Nation more than drugs.

Drug abuse and drug crime are truly national emergencies. I agree with the chairman of the Appropriations Committee, Mr. WHITTEN, who, in speaking on the Justice appropriations bill a few weeks ago, said we should handle a national emergency of this sort by taking it out from under the budget ceilings as the President has done in other areas.

Today, I call on the President to join with the Congress in declaring drug abuse and drug crime national emergencies and to work together to find the resources necessary for an effective drug strategy. The budget agreement has not stopped us from finding billions of dollars to bail out failing financial institutions, to fight a Persian Gulf war and to aid the refugees that war left in its wake. Protecting the American people from drugs is no less of an emergency and demands no less of a response.

Mr. PURSELL. Mr. Chairman, I yield 1 minute to the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Mr. Chairman, I rise to voice my distress and anger over the Appropriations Committee's decision to slash the budget for Low-Income Home Energy Assistance Program by 38 percent. The impact of this cut will devastate low-income families throughout the United States, but will weigh most heavily on families in Maine and other cold weather States.

Maine is particularly dependent on LIHEAP as a major source of its assistance for home heating. The State served over 53,000 households in 1990 with an average assistance level of $280. In fiscal year 1991 Maine received $23.5 million—33 percent less in program funds than 1985–86—and this includes over $4 million in supplemental assistance that the State received due to the excessive cost of heating fuel this past winter. The State is finding itself forced to serve more households with less resources. This situation cannot continue.

The committee's recommendation would cut Maine's funding by nearly $10 million. It is estimated that at this level of reduction, over 17,000 more households in Maine will be literally left out in the cold.

I have heard the argument that LIHEAP is no longer necessary since the program was only intended to help households cope with the oil price crisis of the 1970's. Well, we only need to look at the last 2 years to see why LIHEAP is still vital. In 1989 the average price for fuel oil was 75 cents per gallon. This past winter, the average cost of fuel oil had increased to $1.10 per gallon and reached a high point of $1.35 per gallon.

As a result, the average Mainer's fuel bill has increased from $600 per year in 1989 to $880 this year. But, the average level of LIHEAP assistance in Maine only covers an amount equal to that price increase alone. When you consider that two-thirds of Maine's LIHEAP customers were at or below the poverty level, it becomes apparent just how much of an impact the committee's proposal will have.

Certainly we face tough economic times and budgetary constaints but to make these cuts on the back of our low income families is unconscionable. LIHEAP currently only serves 25 percent of eligible households and pays an average of less than 25 percent of their total home energy bills. If the committee's funding level for fiscal year 1992 is maintained, almost 2 million more households will be unable to receive assistance.

Regrettably, the committee has attempted to hide its action behind the creation of an energy assistance emergency fund of $600 million. These funds would only be released if the President submitted a formal request designating the need as an emergency as defined in the Balanced Budget and Emergency Deficit Control Act of 1985.

Now, we are all painfully aware of this administration's position with respect to LIHEAP and its intention to eliminate the program entirely. These are not the people that we want to be making the decisions as to whether or not there is an emergency need for funding.

Access to affordable home heating oil is a necessity, particularly in areas like Maine where cold weather creates a demand for heating oil much earlier than other areas of the country.

Mr. Chairman, we manage to find room in our $1.3 trillion budget for all manner of bricks and mortar and pork, of both domestic and foreign vintage. Can we not provide funds sufficient to prevent Americans from freezing in the winter?

I urge my colleagues to seek full funding for LIHEAP by the conferees when this bill goes to conference. The Low-Income Home Energy Assistance Program is far too important to the well-being of our low-income families.

Mr. STUDDS. Mr. Chairman, I rise to express my frustration at the process we have set up that forces us to weigh the relative importance of Head Start versus job training money. Not cancer treatment versus the superconducting supercollider. Not childhood vaccine programs versus the space station. But cancer treatment versus low-income energy assistance and AIDS funding.

I recognize the constraints under which members of this subcommittee are operating. There is not enough money to fund all of these programs and cuts have to be made. But to slash by 40 percent funds to help low-income people heat their homes is criminal. From $1.6 billion to less than $1 billion.

Is this any way to remember Silvio Conte? Is this what happens when the champion of an important Federal program is no longer here to protect it? Is this the tribute that this body pays to his memory?

Silvio Conte was passionate about many subjects. But there was none that incited him more than the notion that this House, and this Congress and this Government would be willing to allow poor people to suffer—and in some cases, die—in homes that they were unable to heat.

This cut comes on top of 40-percent reductions in this program since 1981. We are not talking about cutting off Federal funds from middle-income Americans, or even Americans who are just poor. We are talking about telling people whose average incomes are only $6,000 a year—the poorest of the poor—that we cannot help them any longer.

Even at current levels of spending, less than 25 percent of eligible households are served by LIHEAP. With a 40-percent reduction, as many as 2 million families could be cut off from energy assistance this winter.

This cut will be devastating in my State and my district. Last year the Massachusetts budget included $11 million for fuel assistance. This year the budget was zero. There was less money for more applicants. And this was an unusually warm winter. What are we going to do if we have a normally cold winter?

In my district alone, there were over 1,000 new applicants for assistance. When I told the individuals who administer the program about these cuts, they were flabbergasted. They serve children and families, the disabled, and hundreds of elderly on fixed incomes. These people are already struggling to pay electric bills that are among the highest in the Nation. Without the LIHEAP Program to fill their oil tanks, they will have to choose between heating and eating.

This is not a choice they should be forced to make.

Mr. SHARP. Mr. Chairman, the Labor-HHS-Education appropriations bill is of very special importance because it sets much of the human resources agenda for the Nation. All of the needs served by this bill are in their own way worthwhile. Yet there is seldom enough money to go around.

In this way, the Labor-HHS-Education bill for fiscal year 1992 is no different than in the past. However, in one important way this bill is very different than in past years; and that is in respect to funding for LIHEAP, the Low-Income Home Energy Assistance Program which was cut by nearly 40 percent last year.

LIHEAP provides critical assistance to the poor and elderly by helping them pay for their energy bills. Although LIHEAP serves over 6 million households in all 50 States, funding for this program has steadily declined from $2.1 billion in 1985 to $1.6 billion in fiscal year 1991.

The reason for this decline has been a combination of the availability of oil overcharge money to the States and a lack of support by the administration. The oil overcharge money was a temporary excuse that we never accepted and that has now largely run out. Unfortunately, oppostion by the administration has become a permanent fixture.

In order to address the conditions that had led to a decline in funding the program, last year Congress passed a four-year authorization for LIHEAP. This authorization contained a number of revisions designed to improve the operation of this program and raised the authorization level for fiscal year 1992 to $2.23 billion.

The fiscal year 1992 budget resolution passed earlier this year recommended funding LIHEAP at the Congressional Budget Office baseline of $1.675. Although the program could have used additional money, the CBO baseline would have been sufficient to preserve services at the fiscal year 1991 level and was adopted as a concession to fiscal reality.

After passage of the budget resolution, a majority of the authorizing subcommittee that I chair wrote to the Appropriations Committee requesting that the Labor-HHS Subcommittee be given sufficient funding to accommodate the recommended level for LIHEAP. In a separate letter, 231 members of the House also wrote to express their support.

If the overall priorities laid out in the budget resolution had been followed, then the share of funding made available to the Labor-HHS-Education Appropriations Subcommittee would have been enough to give adequate funding to LIHEAP. However, the outlay level made available to the subcommittee was below that necessary to maintain all of the programs in this bill at a current services level. Regretfully, something had to give, and unfortunately LIHEAP was selected.

This appropriations bill includes funding for health, welfare, and education. As a result, Members voting on this bill have been put in an impossible situation requiring them to choose whether they would rather be wise, warm, or well. We should not have to choose between these necessities, and that is why we had gone to great lengths to avoid this no-win dilemma.

I am therefore extremely disappointed that the Appropriations Committee was not able to set priorities in a way that would have followed the budget resolution and protected this program. Therefore, I would like to make it very clear that I do not support the cut in the LIHEAP Program in this bill and will work to restore it.

Furthermore, I would like to call on the President and the Appropriations Committee to reconsider their position on funding for this program and to pledge to work with the authorizing committees and other Members to raise the funding for this program. Hopefully, this kind of cooperation will lead to a way around this unwinnable dilemma.

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Mr. NATCHER. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. GAYDOS].

Mr. GAYDOS. Mr. Chairman, as chairman of the Subcommittee on Health and Safety, I sincerely applaud the chairman on behalf of the Occupational Safety and Health Administration and the Mine Safety and Health Administration.

The 6-percent increase in funding for OSHA exceeds certain inflation levels, and therefore permits OSHA to continue expanding some of its operational activities for the first time in 20 years. The House has now crossed a $300 million mark for OSHA which is quite a way to celebrate OSHA's 20th anniversary. Of course, we would be more appreciative if the agency received more dollars, but we understand the problems involved.

I stand in very strong support of this legislation.

Mr. Chairman, I rise in strong support of H.R. 2707, the appropriations bill for the Department of Labor, Health and Human Services, and Education.

We all know what constraints the House has been operating under in this year's appropriations process. We can all recognize the difficult task faced by Appropriations Committee and subcommittee members as they grapple with funding programs that are critical to the well-being of every American family knowing full well that we can only stretch the dollars so far.

Given those constraints, I commend both BILL NATCHER, the gentleman from Kentucky, and CARL PURSELL, the gentleman from Michigan, the chairman and ranking Republican, respectively, of the Subcommittee on Labor, HHS, and Education, for the product we have before us. This bill shows their true sensitivity to the needs of many Americans—workers, students, and others.

As the chairman of the Subcommittee on Health and Safety, I applaud the efforts in this bill on behalf of the Occupational Safety and Health Administration [OSHA] and the Mine Safety and Health Administration [MSHA]. Given the funding constraints, I can understand why the National Institute for Occupational Safety and Health [NIOSH] was frozen at the 1991 funding level, but I am concerned that such a freeze could have a serious—and negative—impact on research in critical areas of occupational safety and health, most notably in agricultural and construction safety and health.

The 6-percent increase in funding for OSHA exceeds current inflation levels and, therefore, permits OSHA to continue expanding some of its operational activities. For the first time in 20 years, the House has crossed the $300 million mark for OSHA, quite a way to celebrate OSHA's 20th anniversary.

Of course, we would be more appreciative if the agency received more dollars with which to work, but the increase offers OSHA an opportunity to complete a number of major projects, especially the promulgation of a chemical process safety standard, a revised asbestos standard, and better means of addressing the constant problem of 2,500 construction fatalities and 200,000 serious construction injuries each and every year.

I am especially gratified to see the work of the subcommittee in modifying the language which restricted OSHA from enforcing regulations and standards in business with fewer than 10 employees. The bill before us now permits OSHA to provide technical assistance to those employers, to conduct inspections in response to an employee complaint, to take actions necessary to protect employees for imminent dangers and health hazards, and to follow up on accidents in which even one employee is killed or hospitalized.

This latter point is most important. Right now, if an accident occurs at a construction site, for example, and fewer than five workers are hospitalized, the employer does not even have to notify OSHA within a specified period of time.

In our legislative activities, we are preparing to revise this flaw in OSHA's administrative program. It is our contention that when a worker is injured seriously enough to be hospitalized, that accident should be treated in at least the same way a fatality is handled—virtually immediate notice to OSHA, followed by an OSHA inspection.

These reporting requirements should be consistent for all businesses, whether there are 500 employees or 5 employees.

It is my understanding that an amendment will be offered later to revise this language so as to prevent OSHA from learning about such accidents unless there are five hospitalizations.

I urge my colleagues to defeat this amendment.

The threat to workers' lives is not measured by the size of the workplace. An employer with 5 workers who does not meet safety and health standards is endangering the lives of those employees just as much as the employer with 500 or 5,000 employees who also ignores the rules. We must allow OSHA the opportunity to investigate those accidents that result in fatalities or serious injuries, especially when an injured worker is hospitalized.

The Appropriations Subcommittee is to be especially commended for its attention to funding for MSHA. By increasing MSHA's funding by 7½ percent, we are providing an opportunity for the agency to continue its efforts to reduce deaths and injuries.

Many of us can remember those days when the annual death toll in the mining industry, both coal and metal-nonmetal, topped the 300 per year mark.

Today, in part due to shrinkage of activity in mines, in part due to a shift toward more automated equipment, and in part due to the activities of MSHA, mining fatalities have been under the 100 mark for the past several years.

But that doesn't mean we can afford to relax our efforts. Mining is hazardous work. There are any number of things that can go wrong in a mine—improper ventilation, blocked passages, methane, coal dust, and so forth—that might result in roof falls, explosions, or fires. And, when you are a mile or more underground, when something goes wrong, there are few places where you can escape tragedy.

Whether we agree that MSHA is doing or has been doing the best job it can, that agency, like OSHA, needs our support so that it can continue to prevent those incidents that tragically take lives.

And that is why I am disappointed that there is no increase in funding for NIOSH. We need more research into occupational diseases and illnesses. We need more study of indoor air quality and the effects of bad air or poor ventilation on workers. We need more examination of the 10 leading causes of occupational injuries and illnesses.

By freezing the funds for NIOSH, we jeopardize those activities. Yes, there are still funds for some research, but some will have to be cut back. Some will never get started.

If the scientists who are scheduled to do the research leave the agency because their projects are trimmed or eliminated, then, even when the dollars are available, they will not be—and this critical research in occupational safety and health will never be done.

I can only hope that the other body will see fit to provide additional dollars for NIOSH so that during the conference on this bill, we can do our best to keep critical studies going.

As a member of the Postsecondary Education Subcommittee of the Committee on Education and Labor, I want to say a few words about student assistance funding in H.R. 2707.

I am pleased that the Subcommittee on Labor, HHS, and Education recognized that our authorizing committee has the responsibility for reauthorizing the Higher Education Act, but, at the same time, expressed its concern that the administration's Pell grant proposal would have eliminated more than 400,000 students.

I am disappointed that the bill provides $24 million less in Pell grant awards than provided in last year's appropriations bill, but the $100 million contingency fund to cover unanticipated program costs may mean that program dollars will not be used for those purposes.

I commend the subcommittee for appreciating the value of the Perkins loans, which are low-cost loans for needy students which are administered by individual institutions.

It was a sad day when the administration recommended no funding for this critical program, but at least we in the House realize its value and importance.

Thus, while I do have some reservations about portions of H.R. 2707, I do understand the limitations placed on Mr. NATCHER and Mr. PURSELL in trying to achieve a great bill. I commend them for bringing to us a good bill and I urge my colleagues to support its passage.

Mr. PURSELL. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, whereas I appreciate the good work of the Labor/HHS Subcommittee, I am greatly, disappointed that the subcommittee has decided to dramatically cut the funding the President has requested for drug treatment and prevention programs. These cuts will mean that 250,000 fewer Americans will be able to obtain drug treatment. That's right—250,000. That is unacceptable, and Members should know exactly what they are voting for in this bill when it comes to drug treatment.

An important part of what the subcommittee left out of this appropriation bill is the President's request for $68 million for new drug treatment spaces. Worse still is the fact that this bill would cut $33 million from current drug treatment services. That is simply unreasonable to those of us who believe that illegal narcotics remain our most important national security issue.

That is why in a few minutes I will be offering an amendment that will restore $134 million of the President's requests for our most important national drug treatment and prevention programs. Without this spending, 16,000 Federal and 64,000 State and local drug treatment slots will be lost. That means up to 250,000 Americans won't have the drug treatment they desperately need.

This is not the only area in which some in the Congress have tried to emasculate the President's program for fighting the war on drugs. Already, $383 million has been stripped from the administration's anti-drug budget request. Here are some highlights:

The sum of $41 million cut from the State Department budget, including $19 million slashed from military assistance to Andean countries fighting the drug traffickers; $202 million cut from the Justice Department, including $42 million from DEA, which among other things will result in 90 fewer DEA agents;

Along with the cuts in treatment programs in this Labor/HHS bill, this represents a major blow to our Nation's efforts in combating substance abuse, drug trafficking, and violent crime associated with the drug trade.

We all know some advances have been made in our Nation's fight against drugs. But I strongly agree with my good friend, CHARLIE RANGEL, that we cannot let down our guard. We cannot declare victory, turn tail, and head for home. That seems to be what some in this Congress are willing to do. We should not let it happen.

Mr. PURSELL. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Chairman, I rise in strong support of the Shaw amendment to restore the $134 million requested by the President for drug treatment programs.

Mr. Chairman, if this amendment is not adopted, there will be 16,000 fewer Federal drug treatment spots in 64,000 fewer State and local treatment spots. With the drug epidemic threatening the very social fiber of our Nation, such a loss of treatment opportunities is both outrageous and unacceptable.

Present estimates, according to chemical health experts, show 5.5 million Americans are chemically dependent and in need of treatment. This amendment obviously represents only a modest attempt to respond to this compelling need, given our budget constraints. Turning our backs on the essential treatment component of our antidrug abuse efforts is not only shortsighted, but simply wrong.

Mr. Chairman, I know firsthand the value of treatment for chemical dependency. Without such an opportunity, that I received 10 years ago, I wouldn't be here today, given my 12 years of alcohol abuse.

Mr. Chairman, based on my experiences of the past 10 years working with other alcoholics and addicts, I can tell you, that treatment does work and the need for more treatment opportunities for Americans who want help is overwhelming.

Mr. Chairman, I have heard virtually every politician call the drug and alcohol abuse epidemic our country's most pressing domestic problem. Today, Members of Congress have the opportunity to put their votes where their rhetoric is.

The day has arrived for Congress to take a stand on the drug problem. We cannot afford to let these critical treatment slots go unfunded. We cannot afford to cut funding for the States' treatment programs.

Mr. Chairman, I plead with my colleagues on both sides of the aisle to vote for this critical drug treatment amendment.

Mrs. COLLINS of Illinois. Mr. Chairman, I want to call to this body's attention a funding decision that highlights our Nation's misguided priorities. What I refer to is the Appropriations Committee recommended funding level for the Low-Income Home Energy Assistance Program [LIHEAP]. Last year, this vital program was funded at $1.4 billion; this year the committee has recommended a funding of $1 billion. This is above the administration's request of $925 million, but far below the current fiscal year and, more importantly, the level of need.

LIHEAP provides home heating assistance to people receiving public aid, the elderly and those who are living below the poverty line. This means that our most vulnerable citizens—children, senior citizens, and the ill and disabled—are at risk. For many, the help they get from LIHEAP means the difference between heating their homes and risking illness or death from exposure to the cold.

Just as I cannot understand how we can opt to fund a space station over housing, redundant and excessive weapons systems over school lunches and scholarships, I fail to comprehend how we can cut funding for home energy assistance. Obviously, Mr. Bush, with the help of the Appropriations Committee, does not intend for one of his "thousand points of light" to shine in the homes of those in need of assistance to pay heating and lighting utility bills.

As I lament the skewed priorities and values of this country, I wonder when we will realize the error of the decisions we make today. I only hope that when we are awakened to the realities of our actions, it is not too late to right the wrongs and solve the problems that misguided fiscal policy was wrought.

Mr. MOODY. Mr. Chairman, I rise in support of the provision in the Labor-HHS Committee bill that overturns the administration's gag rule to outlaw the discussion of all family planning options in clinics supported by title X funds. I urge my colleagues to support the committee bill as it is without any changes to this provision.

The Bush administration's gag rule is poor health policy, discriminatory against a certain group—poor women—and probably violates the first amendment.

The gag rule sets up a two-tiered system of medicine based solely on income. It also denies health care professionals the right of free speech.

I cannot support any program that gags a health care professional from giving all legal medical options to a patient. To do so would be both unethical and immoral.

The gag rule would require doctors, who are sworn to provide the best possible health care to those they treat, to violate the Hypocratic oath. That would be forced, in effect, to practice political medicine.

The even greater danger of this policy is its broader implications. We should not allow the administration to gag free speech in order to pursue a specific political agenda: Ending legal abortions.

A policy of politically controlled speech could be applied to other programs such as doctors receiving Medicare funds, lawyers receiving public defender funds, school teachers receiving Federal funds, or lawyers receiving public defender funds. I fear where this policy could eventually lead.

Congress needs to act quickly to reestablish the right to free speech for every American, regardless of whether or not they receive Federal funds.

Today with this legislation we have a chance to eliminate the gag rule policy and by doing this confirm our committment to free speech. We can also remove the shackles of political control over professional medical opinion. And finally, we can erase the proposed two-tier system whereby low income women receive different medical advice from all others when facing crucial personal decisions on pregnancy.

Mr. BILIRAKIS. Mr. Chairman, I would like to take this opportunity to thank Chairman NATCHER and Mr. PURSELL for addressing one of my concerns about health care access for medically underserved communities.

Last year, Congress reauthorized the National Health Service Corps Programs. I was personally interested in the bill for a number of reasons but particularly because of a health care crisis in my district. In early 1990, a community and migrant health center in Dade City, FL, was forced to eliminate obstetric services when a national health service corps obstetrician-gynecologist resigned from the facility. Because the doctor left before his commitment with the National Health Service Corps had been completed, the clinic was not prepared for his departure and did not have the resources to hire a replacement.

National Health Service Corps medical professionals who break their commitment to the Government are required to pay a penalty fee based on the number of years served in the corps and the amount of money owed to the Government. This particular doctor's contract was bought out by a private group of doctors who wanted him to join their practice. As a result, obstetric services were discontinued in the Dade City facility and expectant mothers were forced to deliver their infants in a nearby hospital emergency room instead of the hospital maternity ward.

Even more disheartening is the fact that the penalty money went directly to the general revenue fund—not to the community clinic where the money was desperately needed. I felt this needed to be changed and saw an opportunity to do so when the Energy and Commerce Committee was considering the reauthorization of the program.

When the committee considered this bill, I authored an amendment, which was unanimously approved, that would provide some relief to health centers that lose their corps professionals prematurely. My provision created a special fund under the National Health Service Corps targeted specifically for clinics that lose health professionals before their commitment has been completed. The purpose of the fund is to enable clinics to operate at full capacity instead of allowing the overall health delivery system to decline when a corps professional resigns unexpectedly. The fund would assist these facilities with recruitment and replacement of another health professional. The money for this fund would come from the penalty dollars paid by health professionals who defaulted on their National Health Service Corps loans.

Through this bill, the fund will receive $1.5 million in fiscal year 1992. It is my hope that this special fund will prevent other health centers from closing their doors on their patients who are in dire need of health services.

Again, I am very grateful to the Appropriations Health Subcommittee for including my request in their appropriations bill for fiscal year 1992.

Mr. ENGEL. Mr. Chairman, I rise to express my concern about the reduction in funding for the Low-Income Home Energy Assistance Program [LIHEAP] included in H.R. 2707, the Labor Health and Human Services and Education appropriations bill. This program provides important energy assistance to many low-income people in this country.

In fiscal year 1991, LIHEAP received an appropriation of $1.6 billion. H.R. 2707 would reduce funding for LIHEAP to $1 billion in fiscal year 1992 with an additional $600 million being available as a contingency, under a Presidentially granted energy assistance emergency fund. The chances of the President making this money available are considered very unlikely.

LIHEAP provides energy assistance to low-income children and families, the disabled and many fixed income senior citizens. The average family income of a LIHEAP recipient is $6,000 a year. People in this income bracket traditionally spend 65 percent of their income on rent and utilities, which leaves them with very little money for other expenses. If this reduction is allowed to take place, my home State of New York stands to lose $88 million, which would translate into 250,000 fewer people being served by this program.

LIHEAP has a strong history of helping people stay warm during the long winter months. In December 1989, when we had an unexpected cold streak, the LIHEAP program helped many families afford the cost of heating their homes.

Mr. Chairman, LIHEAP is an invaluable program. I urge my colleagues to do everything possible to see that full funding for this program is restored.

Mr. DURBIN. Mr. Chairman, I rise in support of this bill to fund our Nation's health, education, and training programs. I particularly want to call attention to the funding provided in this bill for the National Institutes of Health.

Mr. Chairman, just a few weeks ago, we had a debate here on the House floor in which Members described the multitude of medical benefits they envisoned from the building of the space station. According to one Member:

> [T]here are medical solutions that await us up there. The space station is a solution to a lot of the medical mysteries that lie wasting away in veterans' hospitals.

Another Member said:

> The laboratory will give us unique opportunities to study cardiovascular disease, hypertension, osteoporosis, anemia, diabetes, and the basic immune functions. Such re-

search can lead to new medicines to treat diseases like cancer and AIDS.

Yet another Member told this body that space station-based research may actually lead to a cure for cancer. A cure for cancer.

Mr. Chairman, it may well be that a decade or more from now, after we spend from $40 billion to $100 billion on a space station, we may see some medical research spinoffs. But this body is required to make choices and set priorities, and I believe the National Institutes of Health offer us a greater potential for medical breakthroughs. We need to give more emphasis to the potential for medical discoveries that can happen through the programs funded by this bill, rather than focusing on the vague promises and hopes of a space-based medical miracle in the future.

A broad coalition of voluntary health organizations which promote research on the prevention, treatment, and cure of variety of diseases, joined together in the following statement regarding the National Institutes of Health. They said:

> Since World War II, better than half of the 100 scientists that have been awarded the Nobel Prize in medicine and physiology had prior support from or experience at the NIH before being honored. No other research institution comes close on this measure of excellence.

They went on to say:

> This unparalleled expertise has led to a long list of major discoveries. These include: identifying the cause of and possible treatments for AIDS: defining the genetic markers for diseases such as Huntington's disease and cystic fibrosis; developing recombinant DNA technology; discovering vaccines against hepatitis B and influenza; developing the immunosuppressant cyclosporin; refining the powerful antibiotic penicillin; and determining the linkages between smoking and lung cancer.

Finally, they noted that when our Nation's research priorities are placed elsewhere, opportunities for medical breakthroughs are missed. They said:

> Significant opportunities recently missed at NIH due to funding limitations included projects to: evaluate the role of suppressor oncogenes on lung, colon, and breast cancer; develop a monoclonal antibody treatment for multiple sclerosis; investigate the use of immunosuppressants in treating Crohn's disease; and manage childhold asthma.

Mr. Chairman, only one-fourth of the NIH grant proposals that have been identified as worthy of support each year are actually funded by NIH. The other three-fourths of these proposals are left unfunded despite their potential to lead to medical discoveries that could save lives and alleviate human suffering.

I am pleased that the Appropriations Committee was able to provide $50 million more for NIH than the President requested. I believe we need to do even more. If we want to maximize our ability to tap the scientific community for medical advancements, we need to reorient our Nation's research budget to focus more on what we can do now through expanded NIH funding rather than on what we might be able to do a decade from now if the space station is built.

Mr. HORTON. Mr. Chairman, I wish to express my strong support for the Low-Income Home Energy Assistance Program [LIHEAP]. I find it tragic that H.R. 2707, the Labor-Health and Human Services-Education appropriations bill for fiscal year 1992 which passed the House today severely cut funding for this vital program.

The House Appropriations Committee slashed LIHEAP by nearly 40 percent to $1 billion. Additional moneys can only be released if the administration, which sought the funding reductions in the first place, declares an emergency. While I understand the need for fiscal constraint in this era of budget deficits, a reduction of 40 percent in LIHEAP is inequitable and irresponsible.

I represent six counties near Lake Ontario in upstate New York. As one can imagine, winters can be extremely cold in this region and LIHEAP is a critical program for many low-income people in my district. Federal assistance for high heating costs is not a wasteful Federal subsidy in my congressional district. Quite simply it saves lives.

I also serve as dean and chairman of the New York State congressional delegation. We in New York will lose more than any other State in the country in energy assistance if the present spending reductions remain in the bill. Hundreds of thousands of New Yorkers who need our help to meet energy costs will lose benefits while literally millions more will suffer nationwide. Further, it is estimated that LIHEAP funding for our State will fall by $87.5 million. Given the budgetary crisis we are experiencing in New York, our State government will certainly be unable to make up the shortfall.

I urge members of the Appropriations Committees in both bodies to raise the current level of funding for the Low-Income Home Energy Assistance Program before enactment of H.R. 2707. We must do all in our power to ensure that an adequate level of funding for LIHEAP be restored to meet the basic human needs that are addressed by the program.

Mr. WOLPE. Mr. Chairman, I wish to join with my colleagues and express support for the Low-Income Home Energy Assistance Program [LIHEAP].

I strongly support LIHEAP. It provides critical assistance to many low-income elderly, disabled, and families with children in my district.

Earlier this year, I testified before the Appropriations Subcommittee on Labor, Health and Human Services, Education, urging funding for LIHEAP at the current services level of $1.675 billion—the amount approved by Congress in the fiscal 1992 budget resolution.

Not only did LIHEAP not get funded at the current services level, the committee cut LIHEAP funding by $600 million below last year's level. The committee proposes a program of $1 billion.

This action is extreme. It represents a cut of more than 40 percent below the amount necessary merely to maintain the current level of services for the program.

I only pray that our next winter in Michigan—and throughout the Northeast and Midwest—is a mild one. If it is not, this major funding reduction will cause great hardship for many low-income people. I shudder to think of the consequences of our failure to adequately fund this essential program.

LIHEAP provides critical assistance to some of the most vulnerable members of our society. It meets a basic human need. Far too many low-income households—families with children, the disabled, and fixed-income elderly—must choose between heating their homes and other necessities. Nearly 60 percent of LIHEAP households are families with incomes under $6,000 per year.

Unfortunately, the need for LIHEAP has grown while available resources have not kept pace with that need. During the past decade, the number of federally eligible households increased almost 28 percent. At present, only a quarter of eligible households receive help. Despite this growth, LIHEAP appropriations have declined more than 20 percent between fiscal 1986 and 1991—and by an even larger amount if inflation is factored in.

The committee's action continues this downward trend. For Michigan, this funding reduction means real hardship. Michigan would lose more than $31 million resulting in almost 95,000 households being eliminated from the program. Alternatively, payments would be significantly reduced for current recipients.

On such a beautiful day as today, it is hard to think about winter. But I am fearful our failure to act today will come back to haunt us. This winter, when children and the elderly are freezing, our failure to act will be all too apparent. Maybe then we will correct our mistake here today and adequately fund LIHEAP.

I do hope the House Appropriations Subcommittee will do everything possible to secure adequate funding for LIHEAP during the conference with the Senate.

Mr. POSHARD. Mr. Chairman, I believe the activities this bill funds are some of the most important in the Federal Government. Protecting our workers, educating our young people, and caring for the sick are services which I am proud the Federal Government provides.

But, one very important and worthwhile program which has felt the pain of the budget ax is the Low-Income Energy Assistance Program [LIHEAP]. The $600 million cut in LIHEAP's regular funding will make it very difficult for many, many Americans, including a large number in my district.

The individuals and families in southern Illinois who receive LIHEAP help are the lucky ones. I have received lots of letters from people who were not able to qualify for LIHEAP, and are having a very difficult time making ends meet.

Mr. Chairman, I urge all of my colleagues involved with this legislation to increase the program's funding when the bill goes to conference with the Senate. LIHEAP is vital to millions of Americans and it is a program which this House should wholeheartedly support.

Mr. MARKEY. Mr. Chairman, the 1980's dealt Low-Income Home Energy Assistance Program [LIHEAP] recipients a devastating double blow. The first punch came in higher energy costs, as the energy bills facing low-income households nearly doubled over the decade. The average residential energy expenditures by low-income families increased to nearly $1,000 up from just $575 a decade before. This increase has come despite good-conscious efforts to conserve energy through Federal and State weatherization programs, which has succeeded in dropping energy consumption in low-income households by 13 percent over the same decade.

The second punch came as appropriations for the program dropped by over a third from the 1982 level. As a result, the average annual LIHEAP heating benefit had decreased from $173 to $124 by 1989.

Today the House goes for the knockout with a disastrous 40-percent cut in LIHEAP funding from its level just 1 year ago. This means that LIHEAP funding will drop as much in 1 year, from fiscal year 1991 to fiscal year 1992, as it did throughout the entire 1980's. Such a cut would terminate energy assistance for as many as 2 million families nationwide.

As the chairman of the New England congressional energy caucus, I have heard from colleagues from our region on both sides of the aisle who are outraged by ths draconian cut. Over 100,000 New England households will lose their energy assistance if the proposed 1992 allocation is maintained. In my own State of Massachusetts, over 40,000 families will be cut from the program as the Federal contribution drops by over $27 million.

LIHEAP recipients are the last group that should pay through drastically cut services. Even before the proposed cuts, LIHEAP is able to serve fewer than 25 percent of eligible households and on average pays less than 25 percent of those recipients' energy bills. The majority of these recipients have annual family incomes of under $6,000 and devote 65 percent of their income to rent and utilities. In my State of Massachusetts, two out of five LIHEAP recipients are elderly and face even greater financial pressures because of this.

LIHEAP helps the poorest of the poor meet one of humanity's most basic needs. It is not, as the administration has argued, an obsolete program designed for the energy crisis of the 1970's and no longer needed. LIHEAP helps the poor meet the personal energy crisis that comes in the mail from their utility companies at the end of each month. As the impact of the recession cuts deeper into the income levels of America's poor, more and more households are in vital need of LIHEAP's assistance.

Last year the House and the Massachusetts delegation lost LIHEAP's champion and most eloquent spokesman, Silvio Conte. Although his name will forever be associated with the good works of the LIHEAP Program, each year Silvio helped craft a bill that would strike the right balance between the many worthy programs to which he gave his support—from health research, to education, to child care.

Unfortunately, the bill before the House today does not succeed in striking such a balance. Mr. Chairman, I understand the tremendous budgetary pressures that have led to the choices in the Labor, HHS, and Education bill. Despite this, we are placed in an unacceptable position—choosing whether our constituents end up cold, dumb, or dead.

I urge my colleagues to reverse this perilous cut in LIHEAP in conference this year in order to protect those least able to afford the drastic consequences of such a severe cut.

Mr. HOUGHTON. Mr. Chairman, I rise in support of the Low-Income Energy Assistance Program [LIHEAP]. LIHEAP took a devastating cut in this bill—38 percent below last year's level. This cut means that 2.3 million families will not be able to receive LIHEAP benefits.

LIHEAP plays a vital role in the Northeast, assuring that 6 million families—the poor, elderly, and disabled—have adequate resources for meeting their home heating needs. Low-income families currently pay close to four times as much of their income for energy as the average family. In spite of program cutbacks, LIHEAP has remained the primary vehicle for assisting these families in meeting their home heating needs. During fiscal year 1991, the Northeast will receive close to $555 million in Federal funds for this purpose.

What does this program mean for the 34th District of New York? In the winter of 1990–1991, it provided aid to 30,032 households—one fifth of all the families in the district. In Allegany County, for example, 50 percent of the money was spent on emergency cases. If this money hadn't been there, these people would have lost their heat. Half of the recipients in Allegany County are elderly and nearly 60 percent must live on less than $6,000 per year.

Our only hope now is that the funding level can be brought up during the conference on this bill. I have spoken personally with Chairman NATCHER. He has assured me that he will do everything he can to restore funding for LIHEAP, and I am confident he will do his best.

Mr. Chairman, we provide hundreds of billions of dollars for people in need, but tell me—of all the human needs in the dead of winter—is there anything more important than providing warmth to those who cannot afford it otherwise?

Mr. GUNDERSON. Mr. Chairman, I am pleased to have this opportunity to speak in favor of the fiscal year 1992 appropriations bill for the Departments of Labor, Health and Human Services, and Education. I commend the efforts of the Chairman, Mr. NATCHER, and the ranking minority member, Mr. PURSELL, and the other members of the committee in producing a bill that addresses many of the educational needs of this Nation.

This bill represents a commitment to education, especially to the President's proposal, America 2000. America 2000 is a four-step proposal that would: Develop voluntary, national tests to help students reach new world class standards in five core subjects, create model schools for tomorrows' students, calls on corporations to work with schools and communities in upgrading necessary skills, and asks communities to adopt educational strategies.

The fiscal year 1992 bill contains $500 million for educational improvement activities that are authorized in law by December 31 of this year; $250 million is specifically allocated for America 2000. The $250 million contingency fund helps us to lay the foundation for the President's education agenda. This is a rare occasion where the House Appropriations Committee has provided funds for programs that have yet to be authorized. I assure my collegues, in particular, Chairman NATCHER and Mr. PURSELL, that the House Education and Labor Committee has every intention of authorizing all America 2000 initiatives and will work with President Bush and the Senate in seeing that this legislation is enacted prior to adjournment of the 1991 session.

Last year, the Congress passed the Carl Perkins Vocational Education Act. Having been very involved in last year's reauthorization effort, I am pleased that the appropriators have given a $400 million increase to vocational and adult education programs.

I would also like to thank the Appropriations Committee for the continuation of funding for Attention Deficit Disorder Centers. These information centers help educators, researchers, and parents respond to the educational needs of students with attention deficit disorders.

Although many education programs received significant increases, several education and health programs were not as fortunate. These include Pell grants and the alcohol, drug abuse, and mental health block grant.

The proposed fiscal year 1992 Pell grant allocation in the bill is somewhat disappointing. Once the House and Senate complete work on the reauthorization of the Higher Education Act, I am confident that the Congress will appropriate the additional dollars needed to match the reauthorized level and that Pell grants will also be made available to part-time students.

The proposed alcohol, drug abuse, and mental health block grant allocation for fiscal year 1992 is distressing. The $33.7 million reduction will be especially harmful to the States as they try to offer adequate prevention, treatment, and rehabilitation programs to all those who need such services.

As an advocate and trustee of Gallaudet University, I especially want to take this opportunity to thank Chairman NATCHER and Mr. PURSELL for the $910,000 increase in the proposed allocation for Gallaudet, a total appropriation of $73.172 million. Of the increase, $850,000 will be used for funding computers. The percentage of the student body that actively uses the computer system is 80 percent. The number has quadrupled over the past 3 years.

Gallaudet University has a very ambitious priority list for 1992. These initiatives include: Expanding research programs to promote the equalization of opportunities for all deaf individuals, increasing the use of technology as a tool for instruction, serving as a national and international source of information, and professional training for deaf and hard of hearing people. A particularly interesting project that Gallaudet will begin within the coming year focuses on communication. The provost and the vice president for administration and business are developing plans for research regarding effective sign communication in postsecondary classrooms.

Again, Mr. Chairman, I want to thank the distinguished chairman of the Labor, HHS, and Education Appropriations and the other members of the subcommittee for producing a bill that will improve many of our education programs and social services for fiscal year 1992.

Mr. LEVIN of Michigan. Mr. Chairman, I'd like to take this opportunity to join my colleagues in praising the work of the subcommittee on this appropriations bill and, in particular, to thank the gentleman from Kentucky, Chairman NATCHER of all the good work that has gone into this legislation.

The national unemployment rate rose from 6.5 percent to 6.9 percent last month. In my home State of Michigan, the news is even worse: The unemployment rate currently stands at 9.7 percent. For these people, the recession is far from over.

At times like these, working Americans who find themselves unemployed through no fault of their own rely on our unemployment insurance [UI] to see them through. But as members of the Appropriations Committee well know, the proper functioning of the UI program depends crucially on the administative funding provided under this bill.

When the recession deepened earlier this year, we faced a shortfall in administrative funding for the States. The committee provided the necessary moneys in the supplemental appropriations bill. The UI system was paralyzed in many places, unable to cope with the enormous new demands placed on it, and the extra funding helped ease the situation. The long lines at unemployment offices and delays in claims processing largely disappeared.

But providing additional money through the supplemental appropriation process is at best only a temporary solution. The real problem is the supplemental process itself, which often delivers too little relief too late. A system that takes three or four months to respond to the immediate needs of our workers is a system that doesn't work properly.

During committee consideration of the supplemental appropriation bill, I raised with Chairman NATCHER the idea of establishing a contingency reserve fund that would automatically pay out additional administrative moneys if there were unanticipated increases in unemployment. This idea was first brought to my attention by an alliance of employer and employee groups from Michigan, and I thought it was a good first step in solving the chronic shortages of UI administrative financing. In a bipartisan display of support, the entire Michigan delegation recently sent a letter endorsing this proposal and asking for its inclusion in the Labor-HHS bill this year.

I am pleased, therefore, to see that the committee has established a contingency reserve fund in this legislation, and I want to personally thank Chairman NATCHER for his cooperation in securing this important reform. He promised last March that the subcommittee would seriously consider the concept this year, and as always, he was true to his word.

I also want to note that the committee provided the full amount requested by the Bush administration for UI administration, not the significantly lower amount assumed in the budget resolution. This was a difficult but wise decision, all the more so because of the other pressing needs the Committee had to consider.

It remains to be seen whether these changes will completely protect the integrity of our UI program. Continuing budget pressures and a new, somewhat ambiguous, sequester procedure mean that adequate future funding for administering the UI program remains in doubt. I continue to think that making UI a mandatory spending program would both ensure the proper and efficient operation of our UI program and also protect other domestic programs from the large and growing needs of the States in administering programs like UI. But that idea will have to wait for another day.

On behalf of the working men and women of Michigan, I want to express my gratitude to the committee for a job well done, and I look forward to working with Chairman WHITTEN, Chairman NATCHER, and other members of the committee on this issue in the future.

Mr. ATKINS. Mr. Chairman, I rise today in support of H.R. 2707 as it was reported out of the Appropriations Committee. This legislation contains a provision, offered by Representative JOHN PORTER, that would prohibit any Federal funds from being used to enforce the administration's gag rule regulations. These regulations, promulgated by the Reagan administration, supported by the Bush administration, and declared constitutional by the Supreme Court, prohibit physicians from providing their patients with legal medical information.

The gag rule mandates that physicians provide women with half truths about the options available to them—even when their lives are in danger. In effect, the gag rule legalizes malpractice.

Any decision that a woman makes concerning abortion is painful, troublesome, and intensely personal. It is a decision that should be made by a woman, in consultation with her physician, and with her family when possible. Yet how can we expect a woman to make an intelligent, informed decision when she is not provided with all of the information necessary to make that decision? I would ask my colleagues, has there ever been a time that you asked your staff to provide you with less information about an important vote because it would help you make a better decision? I would hope not.

For 4 years, I have fought to reverse the international version of the gag rule, the Mexico City policy. In all of these years, I never imagined that I would be fighting to reverse such a misguided policy on a domestic level. It is inconceivable to me that two of the three branches of this Government would support regulations that so blatantly restrict free speech and the free flow of information—especially when that information could save a woman's life.

Mr. Chairman, 2 weeks ago the House voted to reverse the international gag rule and restore U.S. funding to nongovernmental and mutlilateral organizations that counsel women about abortion in countries where abortion is legal. I urge my colleagues to extend this same right to clinics within the United States that receive Federal funding. Let's get the government out of the doctor's office and allow women to be advised of all of the legal medical options related to a pregnancy. Support H.R. 2707 as it was reported out of committee.

Mrs. KENNELLY. Mr. Chairman, I rise in strong opposition to proposed funding cuts in LIHEAP—the Low-Income Energy Assistance Program. If our friend and colleague Mr. Conte were here on the floor today, clad in a plaid blazer, he would remind us of how critical this program is to the Northeast region of the United States. Though I am not as loud as my colleague was, nor as skilled in writing verse, my message is just as sincere and just as resolute.

Mr. Chairman, a 40-percent in this important program is just not acceptable. It is not reasonable for it hurts the very citizens that need energy assistance the most. There are many places in the budget that deserve trimming. LIHEAP is not one of them. Such a cut would eliminate 2 million families from the program or significantly reduce payments for current recipients. And it is important to remember that this cut is in addition to the already tedious strain this program has endured through the years.

During the past decade, the number of federally eligible households has increased by almost 28 percent. Further, at the present, only a quarter of the eligible households receive help. Despite this growth, LIHEAP appropriations have declined more than 20 percent since fiscal year 1986.

The committee's solution is to set up a contingency fund for release only if the President declares a national emergency. Pointing to the situation I have just described, Mr. Chairman, by my definition we are already in the midst of a national emergency. The ability to heat one's home should not be a privilege—it is hardly a frivolous expense. Home heating is a basic human need.

Mr. Chairman, I urge the conference committee to reexamine this issue with an eye toward maintaining funding levels for this critical program.

Mr. RANGEL. Mr. Chairman, a few few weeks ago several Members, including myself, recognized the 10-year anniversary of the AIDS epidemic. We called for continued vigilance against this great threat to our Nation's public health. Today, the strength of our convictions is being tested. And, I'm afraid, we are falling short of our stated goals.

I applaud the work of the Labor, Health and Human Services, and Education Appropriations Subcommittee. The distinguished chairman, Mr. NATCHER, has proven to be a true advocate for AIDS treatment and research. The bill before us includes a $63 million increase over fiscal year 1991. Within that increase is an additional $26 million for the Ryan White AIDS CARE programs. That's $26 million more than the President requested. Despite the expanding number of AIDS cases, including a one-third increase in my State of New York, President Bush thinks that emergency funding can remain level. I commend Mr. NATCHER for taking the lead on increasing resources for the Ryan White CARE Act.

Unfortunately, our cities will continue to suffer from the explosion in the number of AIDS patients. Recently, the U.S. Conference of Mayors reported dramatic increases in the number of AIDS patients. In New York City, anywhere from 125,000 to 235,000 people are affected with the HIV virus. By the year 1996, according to the U.S. Conference of Mayors, the number of AIDS cases in many cities will increase by more than 200 percent.

According to the U.S. Conference of Mayors, Federal AIDS-assistance funds are simply insufficient to meet local demand. Public resources cover a large percentage of AIDS cases. Service systems are strained. Federal funds provided under the Ryan White ACT are barely helping to ameliorate the burden placed on local governments. All the cities surveyed by the U.S. Conference of Mayors believe they will be unable to meet projected demand for HIV-related prevention, education, and health services. They are looking to the Federal Government for help.

I know members of the Labor-HHS-Education Appropriations Subcommittee, and others of us in Congress, wanted to give a larger funding increase to the Ryan White CARE programs. It is a shame that last year's budget agreement prevents us from acting more decisively on such a critical issue. In order to rein in the deficit, we are forced to choose between feeding those who are already hungry or treating those who will soon be sick. The richest nation in the world should be able to do both. Once again, we see that the big party the Republicans threw in the 1980's had a price. Too bad the people who weren't invited end up footing the bill.

Mr. DOWNEY. Mr. Chairman, I rise in strong support of the bill providing appropriations for fiscal year 1992 for the Departments of Labor, Health and Human Services, and Education. I commend the work of Chairman NATCHER and his colleagues on the subcommittee in particular for their hard work on Older Americans Act programs.

We are all aware of the constraints imposed on us by the budget summit agreement. Nonetheless, this appropriations bill funds Older Americans Act programs at the same level as last year. In a short time, we will be considering the reauthorization of the act and we will have the opportunity to debate these programs more fully. I would note at this time the report language which urges the U.S. Administration on Aging to promote minority participation in Older Americans Act programs and to improve its data collection efforts. Both of these concerns have been mentioned to me by many in the aging community and I endorse this report language.

As chairman of the Aging Committee's Subcommittee on Human Services, I am especially pleased to note that the Appropriations Committee has restored the $47,500,000 cut that President Bush requested in the title V, Senior Community Service Employment Program. In March, I held a subcommittee hearing to examine the impact of this drastic cut on the people the program served. We learned that approximately 7,800 individuals would lose their jobs. These 7,800 people are elderly women and men with low incomes who are eager to work in public service jobs. They are willing to continue to contribute to their communities. There is no rationale for a cut like this, and I made the point to the Secretary of the Department of Labor when I met with her subsequent to the hearing. The Appropriations Committee is to be commended for rejecting this foolhardy and mean-spirited proposal. I only regret that so many people had to expend so much effort in staving off a cut that should never have been made, instead of working to increase the funding for the program. I urge the administration to heed this message and stop trying to weaken a successful program.

I also strongly support the Committee's action in continuing to fund the elder abuse prevention and treatment program, and the ombudsman program. Just last month, I held a hearing on the problem of elder abuse and it is clear that the Older Americans Act can play a pivotal role in the elder abuse efforts. A week ago, I met with the associate executive director of the Family Service League of Suffolk County, the agency which provides ombudsman services in my district. I heard how strapped they are for funds to run the program. Here I must emphasize that the ombudsmen in Suffolk County are all volunteers, who do their jobs under, at times, difficult circumstances. We should not be misled by the fact that these ombudsmen are volunteers—it still takes resources to run such an important program. I wish that we could provide increased funding for both these programs at this time, but it is not possible. However, I am encouraged that a number of my colleagues and I are working to develop a new elder rights provision of the Older Americans Act which we hope will strengthen the elder abuse, ombudsman, and other advocacy programs.

Finally, I must thank Chairman NATCHER for continuing to fund a demonstration program which I strongly believe in. The 1989 Omnibus Budget Reconciliation Act contained a provision I introduced, section 10404, the Intergenerational Demonstration Project for Disabled Children. This project grew out of the innovative Family Program of the National Council on the Aging. It seeks to determine whether the use of volunteer senior aides to provide basic medical assistance and support to families with moderately or severely disabled chronically ill children contributes to reducing the cost of care for such children.

The U.S. Administration on Aging has just issued its request for proposals for the funds for fiscal year 1991 and the continuation of this program through fiscal year 1992 is welcome news indeed. It is most important that we continue to fund this demonstration program and that we provide the resources for a thorough and comprehensive evaluation of this model.

Mr. ABERCROMBIE. Mr. Chairman, today the House is scheduled to vote on H.R. 2707, the Labor, Health and Human Services and Education appropriations bill for fiscal year 1992. One billion dollars is included in this bill for the Low-Income Home Energy Assistance Program [LIHEAP]. Although $1 billion may appear to be a generous level of funding, unfortunately, it is actually a cut of almost 40 percent in 1 year. In fact, suggested funding for this program may affect as many as 2 million families across the Nation.

In Hawaii, we use some of the most expensive oil and electricity in the Western Hemisphere, yet the average incomes of our low-income citizens are comparable to the poorest of the Southern States on the mainland. LIHEAP, like food stamps, is one of the few grants available to working poor and recently unemployed families. For low-income Americans rising natural gas, electric, and home-heating-oil prices are not only a temporary irritation but a chronic drag on inadequate incomes, one whose weight has increased enormously since the energy crisis of the mid-seventies.

LIHEAP helps families with children and the elderly avoid loss of utilities and the health and housing consequences that follow, which, all too often, includes eviction. The majority of the recipients are families with incomes under $6,000. During 1990, the Honolulu Community Action Program, Inc.'s Low-Income Home Energy Assistance Program provided crisis intervention assistance to 760 households and energy credit assistance to 3,158 households. Without assistance to pay for utility bills, many of these households would be unable to pay for the higher costs and face the prospects of a utility shutoff. The elderly, disabled and low-income households on fixed incomes have the least amount of discretionary funds to cope with such changes.

I understand that Congress faces difficult budgetary decisions in this era of limitations. However, we cannot forget or ignore those who are less fortunate. Therefore, I urge the Members of this House to give special attention to the Low-Income Home Energy Assistance Program and its needs.

Mr. RAMSTAD. Mr. Chairman, I join in the plea of our distinguished chairman of the Select Committee on Narcotics Abuse and Control that we not politicize the antidrug abuse effort. Chairman RANGEL is to be commended for his bipartisan, apolitical approach to dealing with the deadly drug epidemic.

But this caveat does not dim the tragic reality of the drug problem which, unfortunately, is not adequately addressed by this legislation, H.R. 2707.

Mr. Chairman, 5.5 million Americans are chemically dependent and unable to get into treatment programs. Because the Shaw amendment was objected to on a point of order, $134 million requested by the President will not go to these drug treatment needs. That means 16,000 fewer Federal drug treatment slots and 64,000 fewer State and local treatment slots.

Mr. Chairman, it's simply wrong to let these critical treatment slots go unfunded. It's wrong to cut the States' treatment programs.

The consensus in Congress and throughout the country is that we truly need a comprehensive approach to the drug problem. Treatment is a crucial component of such an approach. As one law enforcement official said recently, "We could lock up every drug dealer and user in America, and we would still have a drug epidemic."

Cutting the President's request for drug treatment programs by $134 million is both shortsighted and tragic.

Mr. Chairman, I truly hope Members on both sides of the aisle will work in the bipartisan spirit cited by Chairman RANGEL to restore these critical treatment funds in the conference committee.

Mr. GALLO. Mr. Chairman, I rise today in support of the Labor, Health and Human Services and Education appropriations bill, H.R. 2707. I commend the work of the subcommittee especially the gentleman from Kentucky, Chairman NATCHER and the ranking member from Michigan, Mr. PURSELL.

This bill takes important steps in providing funding for many worthy programs. However, I was disappointed to see that the Low-Income Home Energy Assistance Program [LIHEAP] did not receive the full amount necessary to continue this important program.

The bill provides $1 billion for LIHEAP which is a reduction of $610 million from the fiscal year 1991 funding level. This means an estimated loss of $28 million for my home State of New Jersey. More importantly, this means that many families, approximately 103,000 in New Jersey alone, that have depended upon this program in the cold winter months will not be able to participate. Estimates show that the average recipient in my State would see their benefit decreased from $400 to $236.

I would encourage the subcommittee to work with the Senate to see if funding could be found in order to provide these needed benefits that so many families depend on.

Mr. GREEN of New York. I am pleased to rise in support of the Labor, Health and Human Services, and Education appropriations bill for fiscal year 1992. Of all the important and valuable programs funded by this bill, the one that is of special concern and interest to me is the Ryan White CARE Program, which targets desperately needed funding for the treatment of people with AIDS to those localities hardest hit by the AIDS epidemic.

As the Representative of a district within such a locality, I would have liked to see a much greater increase in fiscal year 1992 funding for Ryan White because the fiscal year 1991 appropriation fell far short of the authorization. However, understanding the severe fiscal constraints faced by the members of the subcommittee, I shall not take issue here with the level of funding provided. I should like to say, however, that I hope we continue to seek ways to build on the commitment first made back in 1982 by my esteemed colleagues, the gentleman from Kentucky [Mr. NATCHER] and the late gentleman from Massachusetts [Mr. CONTE], to provide the funding needed to address all aspects of the AIDS epidemic, including research, education, prevention, and treatment.

I should also like to thank the new ranking member of the Labor-HHS-Education Subcommittee, the gentleman from Michigan [Mr. PURSELL], for the interest he has shown in this devastating disease, especially his willingness to visit with me this week the Beth Israel Medical Center in my district, which provides outstanding service to people with AIDS. I look forward to our continued efforts to ameliorate this tragic epidemic.

Although the AIDS epidemic and funding for the Ryan White programs are my top priorities in the Labor-HHS-Education bill, there are two other programs within the bill that I wish to bring attention to. First, the office of refugee settlement and the refugee cash and medical assistance grant program are suffering reductions that will seriously hamper efforts to resettle the thousands of refugees who are waiting to come to the United States from many corners of the world. I believe we have a responsibility to help those who are drawn to our shores by the dream of a better life and would hope that we continue our efforts to find the resources to fulfill that commitment.

Second, the funding provided in this bill for LIHEAP, the program that provides energy assistance to low-income children and families, the disabled, and fixed-income elderly, represents a cut of nearly 40 percent. That cut potentially threatens 1.9 million families who require assistance for their basic energy needs, such as heating, light, hot water, and emergency cooling. I am troubled by such a drastic reduction that will affect so many of our most vulnerable citizens. I hope that this issue can be revisited at some point with better results.

On the positive side, the bill's denial of funding to enforce the gag rule on family planning clinics is an important blow on behalf of free speech and the sanctity of the physician-patient relationship.

In closing, Mr. Chairman, I wish to reiterate that I am fully aware of the constraints that guided the decisions of the gentleman from Kentucky [Mr. NATCHER], the gentleman from Michigan [Mr. PURSELL], and their colleagues on the subcommittee. Despite some disappointment I feel over the level of Ryan White funding, I shall vote for the Labor-HHS-Education bill and urge my colleagues to do so as well.

Mr. GOSS. Mr. Chairman, stop and think for a minute—today we are discussing a $204 billion spending bill, of which $145 billion is mandatory spending—money that must be spent just to perpetuate the status quo. If we do this without at least stopping to consider breaking the cycle of spending more money for health care that meets less and less of our needs, we are merely perpetuating the myth that nothing is wrong with our health care system.

When will we face reality? Our country is in a health care crisis and we cannot just roll merrily along as if nothing were wrong. When will we stop? When we spend 15 or 20 or 30 percent of our gross national product on health care instead of 11 percent? Today, almost half of our total health care spending is shouldered by the Federal Government. Our appropriations process has become so cumbersome that we are forced to gloss over major areas of concern in one enormous, kitchen-sink type bill. Every day I get dozens of letters from my constituents—they are fearful that Congress' only plan to cope with the out-of-control health care costs is to cut Medicare and Medicaid. So far, we haven't given them much reason to think otherwise. It's true, these programs have outgrown their original intent—they have become bigger than was ever anticipated and, most frightening of all, they still are not enough.

We cannot cut these programs indiscriminately, but we must find a more effective use of our health care dollar. To do this, we need a sign from our leadership that they are committed to real, meaningful health care reform. I urge my colleagues not to let the debate on this vital issue begin and end with today's votes. Let's not take the easy way out—let's consider the alternatives. Those of us working on the Republican health care task force have already begun to spell out creative proposals to address our health care challenges and we are most anxious to turn the attention of this House to these possibilities.

Aren't we concerned, as a body, about long-term care for our elderly? What about the cost of defensive medicine, a problem that can be alleviated with malpractice reform?

Can we continue to ignore the plight of the uninsured, whose numbers are growing daily? Mr. Chairman, we all know the money we appropriate is not monopoly money—it comes from the hard work of American families. Let's open our eyes and recognize that the majority of the funds in this bill are channeled into a broken system, a system in dire need of replacement.

Mr. TOWNS. Mr. Chairman, because of our reluctance to raise revenues to address pressing social needs we are faced with a crisis in funding for our low-income home energy assistance programs. I am certain that the subcommittee has great difficulty in meeting the sequestration targets; a choice between reductions in funding for breast cancer research, assistance to historically black colleges or minority health scholarships could not have been easy.

Yet, New York State faces the real possibility of losing $88 million for fiscal year 1992. In real terms, over 250,000 families will no longer be able to participate in the LIHEAP Program. LIHEAP recipients are low-income children and families, the disabled and many fixed-income elderly. These are families with an average yearly income of $6,000. Nearly 65 percent of this income traditionally goes to pay for rent and utilities, leaving little to cover other living expenses.

There is no greater argument for attacking the deficit problem through increased revenue than the choice we are presented with in this bill, to fund education and health programs or to deny energy assistance to low-income Americans. I have said repeatedly that we cannot cut ourselves out of this deficit. We only wind up robbing Peter to pay Paul and the people who suffer are those who can least afford it, poor and low-income Americans.

Mr. RANGEL. Mr. Chairman, I rise in support of H.R. 2707, the Departments of Labor, Health and Human Services and Education, and related agencies appropriations bill of 1992. I wish to recognize the efforts of the distinguished gentleman from Kentucky and his colleagues. In particular, I am quite gratified that they have recognized the continued crisis in health in the minority community.

As I read the report for this bill, I note that the Appropriations Committee recognizes the need to address the high incidence in minority communities of cancer, heart disease and, now, HIV-related diseases along with recurring threats of tuberculosis and measles, and other devastating health problems related to impoverished lifestyles. I concur with the report that alcohol consumption along with narcotics use as well as poor diet has exacerbated the poor state of health in the minority community. I share the committee's praise for the Health and Human Services Secretary's recognition that efforts be made to develop programs to encourage healthy lifestyles in the minority community.

That is why I am so pleased to see that the committee is urging the Secretary to consider funding demonstration programs to address the problems of lifestyle and minority health. Indeed, the report notes that the committee believes that inner-city hospitals can play a vital role in this effort. I concur. I do because in my district there is a minority run nonprofit hospital dedicated to the improvement of the health of the minority community. North General Hospital in the face of every adversity that an inner-city hospital can face has made extraordinary strides to reach out to the community and make a difference. North General has already begun to plan and to raise money in the private sector to establish a program to educate the minority community on healthy lifestyles and to track its efforts in doing so. If the Secretary is inclined to follow his own statements and the urgings of the committee to establish demonstration efforts to affect healthy lifestyles in minority communities, I could recommend no better institution than North General to undertake the responsibilty.

Mrs. MINK. Mr. Chairman, I rise today to express my strong disappointment in the limited funds allocated for research on ovarian cancer under the Labor, Health and Human Services appropriations bill. This bill designates $30 million for research in the areas of breast, ovarian, and prostate cancer.

The sum of $30 million is hardly adequate to support the kind of research needed for three major forms of cancers that afflict thousands of men and women in our society.

Furthermore, the grouping of these three types of research only diminishes the chances for more research dollars in the area of ovarian cancer. I see no reason why we should pit one type of research over another for research dollars.

This kind of allocation will only prove to perpetuate the medical gender gap that continues to shortchange women of the desperately needed funds for women's health research.

The critical lack of knowledge about ovarian cancer is just another example of the neglect in women's health research.

Ovarian cancer is a dangerous killer, that will strike nearly 21,000 women this year. The disturbing fact is that at least two-thirds of these women will die. Unlike breast cancer there is no early detection test to diagnose the disease in its early stages. In most cases once a woman is diagnosed the cancer is already in an advanced stage.

Mr. Chairman, for too long the women of this Nation have been silent and have been deprived of adequate attention to our health needs. I stand before you today to let this Congress know that we will be silent no longer and at every opportunity we will continue to press for equal access to the desperately needed funds to advance the health status of the women of this Nation.

Mr. SWETT. Mr. Chairman, I commend the Appropriations Committee for delivering an excellent piece of legislation at a time when our budget must be tight and there is not a lot of extra money to go around. But I want to call attention to one program that I believe both the President requested and the committee funded at far too low a level. That program is the Low-Income Home Energy Assistance Program, or LIHEAP. Unfortunately, this bill cuts funding to LIHEAP by more than one-third from last year's level. Such a substantial cut, even in these financially difficult times, will present serious difficulties for those who benefit from the program, and I strongly urge the committee to reconsider this action as it takes this bill into the conference committee.

Mr. Chairman, I come from a rural, northeastern area. My district in New Hampshire borders Vermont on one side, Maine on another, and Canada on another. As you might guess, my constituents face long, cold winters. So in New Hampshire, this program is not a luxury—it is a necessity.

Many working families rely on this program to help them make it through the winter. In the middle of winter, these families will have to choose between surviving subzero temperatures or going hungry. The money from this program goes to families who are working hard to pay the bills, but just need a little extra help to make ends meet. I don't think it is too much to ask that we get them this little extra help.

Mr. Chairman, I hope we can find some way to increase the funds allocated for this program—even by a little. I strongly urge the members of this committee to take a second look at this program and try to save some extra money for it in conference.

Mr. Chairman, I yield back what remains of my time.

Mr. DYMALLY. Mr. Chairman, I speak today on behalf of a program which I know the gentleman from Kentucky has always championed—Job Corps. I want to assure you that I am committed to working with you to assure that more youth in my congressional district, the State of California, and the Nation have access to the premier education and training program in this country, Job Corps.

I completely support the investment of funds included in the 1992 appropriations bill to enhance Job Corps. Increased drug abuse counselors, higher allowances, and improved facilities are needed, but there are also thousands of youth in Los Angeles who are unable to benefit from Job Corps because there are not enough centers or training opportunities.

Mr. Chairman, allow me to share with you some of the cases I see on any given day in the city of Compton. For instance, one of my constituents, 19-year-old Laverne, former gang member and drug dealer recently released from incarceration, is looking for a job to support his wife and young baby, but he is unable to find a job. He is a 10th grade dropout and needs a long-term, intensive education and training program, like Job Corps, to become self-sufficient. So far, such training programs do not exist.

Dorothy, an 18-year-old young mother of two is an eighth grade dropout. She had suffered a drug addiction, and completed a drug rehabilitation program. She is currently on welfare, and has been looking for a job to support her children. Dorothy has successfully stayed away from drugs for over 6 months, but without any hope of obtaining a job and improving her life, how long can we expect her drug rehabilitation to continue?

Dwayne, a 21-year-old African-American, whose mother recently died of breast cancer, graduated from Compton High School, but was unable to pursue a college education. Dwayne had only a minor drug arrest. He aspires to be a productive citizen of the community, but for the past 3 years he has been unable to find a job. Mr. Chairman, this is the story of so many youth in the city of Compton, CA, where over 51 percent of the population are under the age of 25. Law enforcement members of the Compton Police Department and other law enforcement officers who deal with these cases on a daily basis believe that allowing these troubled youth an opportunity in life will help them avoid further problems with the law.

On behalf of the 14 members of the California congressional delegation, who signed a letter endorsing the Job Corps 50–50 expansion plan because less than 1 percent of our youth are served by Job Corps, I am committed to helping you to increase Job Corps capacity. I look forward to working with you in the future to assure that Laverne and Dwayne and thousands of others at-risk-youth can join Job Corps to fulfill their dreams.

Mr. BUSTAMANTE. Mr. Chairman, I thank the chairman for the opportunity to emphasize the importance of retaining the appropriated funds for the State legalization impact assistance grant, commonly called SLIAG.

For the 23d Congressional District of Texas, the loss of SLIAG funding means that all who need education assistance and social service programs will suffer. This is not a program specifically for newly legalized residents and citizens, but a program that offers relief to existing overburdened State programs.

Most of you will remember that the purpose of SLIAG funding was to promote citizenship for newly legalized persons. We argued in 1986 that by providing amnesty and help in obtaining citizenship, the great number of undocumented residents would become citizens and vital contributions to this country. To deny them this assistance is to deny them full access to this country.

The original appropriation of SLIAG funds recognized that these State programs would suffer great stress when the amnesty provisions of IRCA went into effect. Although the anticipated impact was slow in coming, it arrived and the need remains. In spite of this well-documented need, we continue to divert funding.

It is my hope that we will correct the ommission of SLIAG funding during conference.

Furthermore, I wish to take this opportunity to thank the chairman, Mr. NATCHER, my friend Mr. ROYBAL, who sits on this committee, and Mr. FAZIO for their efforts. The importance of SLIAG funding to areas with high numbers of newly legalized persons cannot be overemphasized. Again, I urge the conference to restore SLIAG funding.

Mr. MACHTLEY. Mr. Chairman, communities across this country will be crippled if the cuts in the Low-Income Home Energy Assistance Act, so-called LIHEAP, are passed.

As reported by the committee, LIHEAP is funded at 40 percent below this year's funding level of $1.6 billion. This is $675 million less than the figure recommended in the fiscal year 92 budget resolution.

If these cuts in LIHEAP funding are enacted, it is estimated that more than 8,000 households in my State of Rhode Island will lose LIHEAP services. Across the country, almost 2 million families will suffer.

LIHEAP is a critical program that works for working people. Without this program, far too many people—families with children, the disabled, elderly on a fixed income—will be forced to choose between heating and eating. Nearly 60 percent of LIHEAP recipients are families with incomes under $6,000 per year.

Mr. Chairman, the emergency set-aside of $600 million is not an answer to underfunding this truly essential program. People should not be forced into desperation before the needed funds are released.

Mr. Chairman, reductions in LIHEAP will cause real pain for real people. I urge my colleagues to join me in working to restore in conference the funding needed to help ensure that low-income families across our country do not freeze this winter.

Mr. LEVIN of Michigan. Mr. Chairman, I would like to praise the members of the subcommittee, and particularly the gentleman from Kentucky, Chairman NATCHER, for including language in this appropriations bill that would preclude the administration from implementing the so-called gag rule. I would like to add my voice to those of my many colleagues who are supporting this provision.

The gag rule is really a subtle form of censorship. By warping the doctor-patient relationship, this rule would force health professionals to violate their ethical oaths and legal obligations.

The notion that health care professionals should be restricted in what health care information that they can provide is contrary to the basic fabric of American society. It flies in the face of freedom of speech. It flies in the face of our efforts to increase healthy lifestyles. It flies in the face of common sense and logic. If we are going to restrict physicians and nurses in federally funded clinics from discussing all pregnancy-related options with their patients, what is the next step? Would it be constitutional to prohibit discussing the ill effects of drug abuse based on the argument that it might actually encourage drug use? Or prohibit physicians from warning patients about the dangers of AIDS because arguably it might encourage intercourse? Or prevent them from discussing specific options for treatment that might involve expensive procedures, because this might increase Federal health expenditures?

This provision preventing the use of funds from this bill to implement the gag rule is the right thing to do. It is the right step. Let us take that step, and let us make sure that the administration does not attempt to push us backward.

Mr. BALLENGER. Mr. Chairman, President Bush sent his education plan, America 2000, to Congress in early June. The proposal is a bold and innovative strategy to achieve excellence in education by restructuring and revitalizing America's education system.

I am particularly pleased this plan recognizes the important role that business leaders can play in our education process. I would like to mention a program I helped start in my congressional district. It is modeled after the I Have a Dream Program.

Basically, it is a scholarship program to encourage sixth graders to complete high school and go on to a college, technical, or vocational education program. From personal accounts of teachers and counselors, I found that many students in the sixth grade, without the right incentive, were most likely to drop out and never graduate. My program teams business leaders and others with these students and helps them achieve their dreams.

As a businessman, from a highly industrialized part of the country, let me tell you that this scholarship program had another purpose. Businesses in the area were desperate for qualified employees and too many potential employees simply dropped out of school, resulting in a lack of qualified people to fill skilled positions.

The scholarship program was created to give these kids a chance to become productive members of society, and reach their educational and career goals. Not only that, it solved the worker shortage problem for industry. A little, simple business innovation can solve a lot of problems.

It is unfortunate, this appropriation bill does not provide more for this type of innovative program which can transform America's schools. I support more funds for the President's programs.

Mr. WILLIAMS. Mr. Chairman, I am concerned about the cuts that are in this bill for the Low-Income Housing Energy Assistance Program. The program has suffered some drastic cuts in the last decade, with a proposed level of funding for fiscal year 1992 which is half the appropriated level of fiscal year 1985. While this level of funding may be a solution for balancing the budget it is a real problem for Montanans.

Last year the people in Helena experienced the 12th coldest December on record. On 12 days during that month the temperature did not get above zero. At the same time, folks in Kalispell found themselves digging out from under a record snowfall accompanied by temperatures as low as 35 below zero.

During the last 10 years, the average utility bill for residential customers of the Montana Power Co. has increased by nearly 40 percent. On the other hand, the same period has seen a decline in the actual—unadjusted—incomes of LIHEAP households of more than 5 percent.

Some 21,300 Montana households depend on LIHEAP to help them get through winters that are typically long and frequently severe. If the proposed cuts in LIHEAP are implemented only 14,400 households will receive assistance.

Mrs. VUCANOVICH. Mr. Chairman, I would like to commend Chairman NATCHER and his colleagues for their recognition of a life threatening disease which affects families throughout our Nation. As you may have guessed, the disease to which I am referring is breast cancer.

I was very pleased to note that this legislation includes $50 million for breast and cervical cancer control within the budget of the Centers for Disease Control. As you know, one of every nine women will develop breast cancer this year and, unfortunately, many of those women will not survive the fight for life. With no cure in sight for this disease, the key to survival must be early detection and treatment. While we have tried to pass this message on to the families in our Nation, more attention needs to be given to this issue. I am pleased that these funds have been appropriated for this purpose.

In addition, I am very encouraged that funding has been appropriated for programs to increase attention to breast, ovarian, and prostate cancer within the National Institutes of Health. With this recognition of these very important diseases, I am hopeful that many lives can be saved.

Mr. Chairman, in closing, I would like to encourage my colleagues to become more aware of these diseases which plague our families, and ask for their continued support of such important programs, which are included in this legislation.

Mrs. SCHROEDER. Mr. Chairman, I was dismayed to see the committee's recommendation to cut funding for the maternal and child health block grant which provides critical health care services to women and children, ranging from prenatal and postpartum care to well-child visits that include immunizations, dental care, and screening for vision and hearing.

Witnesses at a recent select committee told us about numerous innovative one-stop-shopping strategies to help families navigate through the fragmented health care and social services systems. Funding for one-stop-shopping demonstration grants as authorized by OBRA 1989, but only becomes available when triggered by increased in funding to the MCH block grant. I urge my colleagues to provide full funding for the maternal and child health block grant.

I was disappointed to see level funding for lead poisoning prevention, despite Presidential request to double the budget. Lead poisoning is the No. 1 environmental hazard to children. One in six has dangerously elevated levels of lead in their blood. As the select committee has documented, lead exposure is associated with severe retardation, lower IQ, speech and language impairments, learning disabilities, and poor attention skills.

Finally I urge my colleagues to honor our commitment to helping the hundreds of thousands of Americans with HIV disease to obtain urgently needed care and services. While the Ryan White care bill received moderate increases in funding, the proposed level is still only one-third of the authorized level.

[In millions of dollars]

	My request, May 1991	H. Rept. 102–121	Committee (+/−) fiscal year 1991
Health care for homeless families	80	51.0	+12.0
National Health Service Corps:			
(1) Loan Repayment and scholarships	101	58.8	+10.0
(2) Field placement	65	42.3	(1)
Family planning	180	(2)	(3)
Abandoned infants assistance (pending reauthorization)	15	12.6	(1)
Pediatric AIDS research demos	20	19.5	(1)
Ryan White Comprehensive AIDS Resources Act:			
Title I: Emergency assistance	275	100.0	+12.2
Title II: Comprehensive care programs	275	91.8	+4.0
Title III: Early intervention programs	305	55.0	+10.1
Sexually transmitted diseases:			
(1) CDC—STD prevention efforts	122	85.0	(1)
(2) NIAID—STD branch	66	(4)	
Trauma care systems planning and development grants (Public Law 101–590)	30	(2)	
Family support/child welfare:			
Child care development block grant	825	825.0	(3)
Child welfare servcies	285	273.9	(1)
Independent Living Program	70	70.0	+10.0
Family resource and support grants	30	(2)	
Temporary Child Care for Children with Disabilities/Crisis Nurseries Act	20	11.1	(1)
Child Abuse Prevention and Treatment Act:			
State grants	100	19.5	(1)
Challenge grants	50	5.4	(1)
Discretionary grants		14.6	(1)
Adoption Opportunities	30	12.7	(1)
Family Violence Prevention and Services Act	75	10.7	(1)
Education of homeless children and youth	50	37.0	+29.7
State Dependent care development grants	20	(2)	
Youth in high-risk situations:			
Emergency protective services grants (for children whose parents are substance abusers)	40	19.5	(1)
Runaway and Homeless Youth Act	50	35.1	(1)
Transitional Living Program for Runaway Youth	25	12.0	+2.1
Drug Abuse Prevention Program for Runaway and Homeless Youth	20	14.8	(1)

[In millions of dollars]

	My request, May 1991	H. Rept. 102–121	Committee (+/−) fiscal year 1991
Youth gang drug education and prevention	20	7.1	−7.7
Office of Substance Abuse Prevention Demonstration Programs (includes grants for pregnant and postpartum women and their infants and the high-risk youth program)	381	112.0	([1])

[1] Level.

[2] No funding.

[3] See notes.

[4] Not specified.

Note.—Infant Mortality Initiative: According to the committee report, one-half of the appropriation would be awarded to the 10-community Healthy Start initiative proposed by the administration, and the other half would be awarded to infant mortality projects at community and migrant health centers in areas with high infant mortality. The committee rejected the administration's proposal to reallocate $24 million from the CHC Program and $9 million from the maternal and child health block grant to the infant mortality initiative. Family Planning: The committee does not provide funding for the family planning program at this time, but will consider funding on an expendited basis if it is authorized prior to October 1, 1991. Child Care and Development Block Grant: According to OBRA 1990, fiscal year 1991 funding for this program will not be released until Sept. 7, 1991. The committee rescinds $145 million of fiscal year 1991 appropriations and provides $825 million for fiscal year 1992.

Mr. ORTIZ. Mr. Chairman, I rise today in support of H.R. 2707, the Labor-HHS appropriations for fiscal year 1992.

However, as chairman of the congressional Hispanic caucus, I must express my disappointment that this legislation cuts all funds for fiscal year 1992 for a program of great importance to the Hispanic community and the border region, the State Legalization Impact Assistance Program, SLIAG.

This program was created as part of the 1986 Immigration law to help States cope with the costs of providing critical education, health, and social services to newly legalized immigrants.

Many community-based organizations that provide these vital services depend on receiving SLIAG funding.

This issue is especially important to the Hispanic community, as more than 80 percent of the 3 million people legalized under the 1986 law are Hispanic.

Because the SLIAG program had a lengthy start-up period, it appeared as though the program was running a surplus for the first few years.

The illusion of this surplus led appropriators to rescind over $1 billion in SLIAG funds during fiscal year 1990 and 1991, and the bill here today eliminates funding for fiscal year 1992.

However, now that programs in Texas, California, Colorado, and other States are reporting increasing demand for SLIAG services, and now that they are prepared to deliver these services, it is clear that the money must be restored to the States and providers.

The current round of cuts in SLIAG threatens English-as-a-second-language classes, civics classes, antidiscrimination programs, and other vital services.

When Congress authorized and appropriated SLIAG funds, we made what amounted to a promise to States and service providers that they would be able to provide these services.

If we withdraw Federal funding now, State Governments, already suffering from large budget deficits and an economic recession, will simply be unable to administer State and local programs for newly arrived immigrants; programs which the Federal Government has mandated.

Congress must restore at least $500 million to SLIAG in fiscal year 1992 in order to fulfill its promise and allow such programs to continue to operate.

It is my sincerest hope that this issue will be worked out in conference.

Mr. PAYNE of New Jersey. Mr. Chairman, I rise today to express my deep concern over a provision of H.R. 2707, the Labor, Health and Human Services and Education appropriations bill for fiscal year 1992. This appropriations bill proposes a tremendous cut in the Low-Income Home Energy Assistance Program. Funding for this very important program will drop from $1.61 billion to $1 billion; that's a reduction of almost 40 percent in 1 year. Unfortunately, those who are the recipients of the Low-Income Home Energy Assistance Program will be on the receiving end of this dreadful slash in appropriations. As many as 2 million families consisting of fixed income elderly persons, low income children and the disabled could be disconnected from energy assistance this winter.

This is a very crucial time for many people. The recession has hit us hard. Jobs are being lost all over the country. We, as a nation, are in a financial crisis. Although I understand that cutbacks are needed and we need to conserve our resources, I do not believe that it is necessary to disrupt a program that millions of our constituents are dependent upon. For the majority of Low-Income Home Energy Assistance Program recipients, the average family income is less than $6,000 a year. At the present level of funding, the program still serves less than 25 percent of eligible households.

In my home State of New Jersey alone, there are over an estimated 103,000 households that will be served in fiscal 1992, as opposed to the 153,000 households that were served in fiscal 1989. The proposed fiscal 1992 allocations for New Jersey stand at about $39 million. This is a difference of $28 million from fiscal 1991 allocation of $67 million. The most recent estimates show that the average recipient in the State of New Jersey would see a substantial loss in their benefits, from $400 to $236. It is for these reasons, Mr. Chairman, that I oppose this cut in funding.

This bill will seemingly force low-income residents to choose which of the basic necessities they can afford. The necessities of affordable housing, safety, education, and health cannot be separated from the energy needs of hot water, heating, and light. These are all elements that are essential to the quality of life of all people. One thing this society can not afford to do is ignore and attempt to suppress the basic needs of its low-income residents. We, in this House, cannot afford to pay the consequences that will arise if these needs are not provided for.

Mr. Chairman, I urge my colleagues on both sides of the aisle to work together to restore funding for the Low-Income Home Energy Assistance Program.

Mr. BRYANT. Mr. Chairman, I have expressed my strong opposition to the treatment of the State Legalization Impact Assistance Grant [SLIAG] Program for fiscal year 1991 by the Appropriations Committee in the Labor-HHS-Education Appropriations Act. The committee zeroed out all of the promised $1.12 billion SLIAG funding for fiscal year 1992.

The design of the SLIAG Program provided for a $1 billion permanent appropriation for each of 4 years, fiscal year 1988 to 1991. However, the fiscal year 1990 appropriations process reduced that year's $1 billion appropriation by $555 million, with a provision that these funds would be restored in fiscal year 1992. The fiscal year 1991 appropriation was reduced by $567 million—again with a provision to repay the funds in fiscal year 1992, bringing the total payback to $1.12 billion. That was our promise to fiscally strapped States like Texas, California, and New York. Now we are told that the payback of funds will be deferred to fiscal year 1993, and that such deferral does not represent a permanent reduction in funds available to States.

The continuation of the SLIAG Program is critical to the State of Texas. The program was enacted as part of the Immigration Reform and Control Act of 1986 to reimburse part of the State and local costs of education, health and public assistance services provided to undocumented immigrants granted legal status under IRCA's amnesty provisions. In doing so, Congress recognized that legalization would have a major impact on State and local costs, and that the Federal Government should share responsibility for these costs.

The SLIAG Program is essential to the State of Texas. Texas has approximately 440,000 eligible legalized immigrants, which is the second highest concentration in the United States of persons who have applied for legalized status under IRCA. Texas has been awarded a total of $284,186,223 in the SLIAG Program through fiscal year 1991, or 11.86 percent of the funds allocated in the program. A total of 40 States, Puerto Rico, and the District of Columbia have received SLIAG funding since the inception of the program.

I believe that the Federal Government should honor its prior commitments to share fiscal responsibility for the costs of the Federal Government's decision to legalize the status of over 2.5 million undocumented immigrants. In addition, OMB's cost estimates indicate that State and localized IRCA costs are rapidly growing and that States critically need the entire $1.12 billion payback now—not maybe 2 years from now. Zeroing out the $1.12 billion in fiscal year 1992 funds will result in an unfair shift in costs from the Federal to State and local governments. It is clear that many States and localities are facing severe fiscal crises and cannot absorb the loss in SLIAG funds without cuts in essential services.

Moreover, health, social service and education services whose costs are reimbursed by SLIAG funds will be adversely affected by SLIAG funding cuts. Over half of all SLIAG funds in some States have been used to reimburse the cost of State and local health services, which are heavily used by legalized immigrants because so many of them lack health insurance. SLIAG cuts would notably worsen the plight of already financially distressed public hospitals. Less SLIAG funds will also mean less resources for public health, mental health, prenatal care, English language classes, and other needed services. Cuts in SLIAG funding will adversely affect all persons in need, citizens and aliens alike.

Although I remain strongly opposed to the treatment of SLIAG in this years' appropriations act, I recognize that we do not have the votes to require changes at this time. I believe that it is the wiser course to send this bill to conference in the hopes that the commitment made in the colloquy between Chairman WILLIAM NATCHER and VIC FAZIO during the debate earlier today will be realized. If this is not done, it is my intention to vote against the Labor-HHS-Education Appropriations Act when it comes back from conference.

Mrs. MORELLA. Mr. Chairman, I speak in support of an increase in funding for the Low-Income Home Energy Assistance Program [LIHEAP] in the Labor-Health and Human Services, Education appropriations bill, H.R. 2707. Almost 2 million families throughout the country could be cut off from energy assistance next winter without this increase.

LIHEAP recipients are families with low incomes, the disabled and the elderly living on fixed incomes. The average family income for the majority of LIHEAP recipient households is less than $6,000 a year. Even at the current funding of $1.6 billion, LIHEAP serves less than 25 percent of eligible households.

In my State of Maryland, proposed allocations from fiscal 1991 to fiscal 1992 would be reduced by more than $13 million. From fiscal 1989 to 1992, the proposed number of households served would be reduced by 27,000. During this past season, the Maryland Energy Assistance Program reported an 11-percent increase in applications, while the available LIHEAP funds to assist them has decreased by 33 percent. It is reported to me that for every person helped with this program, there may be four or five eligible customers who haven't applied at all for energy assistance. In addition, the recent economic downturn has created new unemployment, leading to increased request for LIHEAP funds.

An increase in LIHEAP funding will save low-income Americans from choosing which basic necessities they can afford. Energy needs are essential to the quality of life and cannot be separated from other necessities such as education, affordable housing, and health care. The cost to society for not providing these needs can be tragic.

I urge my colleagues to consider the importance of LIHEAP and to vote in support of a funding increase.

Mrs. LOWEY of New York. Mr. Chairman, I rise in strong support of this measure, which will help our Nation make significant progress in meeting urgent human needs.

I would like to focus in on several aspects of the bill which are particularly important to our constituents.

First of all, Chairman NATCHER is helping us move beyond rhetoric and toward reality in making education a No. 1 priority in this Nation. The $2.5 billion increase for key education programs, including chapter 1 and Head Start, is vital to the future of our children and the future of our economy. These funds are urgently needed and should be strongly supported by every Member of this body.

In addition, I am pleased that the committee has provided a contingency fund for education programs, including $250 million for programs which have not yet been authorized. If there is action later this year on a comprehensive bill to improve education, I am hopeful that we will give serious consideration to the concept embodied in the Link-up for Learning Act, H.R. 812, which is aimed at helping local school districts join with social service agencies in coordinating and improving the delivery of vital social services to at-risk youth.

Second, I am particularly pleased that this appropriations measure includes a major increase for the Community Food and Nutrition Program. This vital program that fights hunger among families and children needs our support. As the Chairman understands, there is a vital link between nutrition and learning. If our children are not fed, they will not be educated. This program can make the difference for so many children across the Nation.

Further, I am very appreciative that the committee has seen fit to provide a substantial increase in vitally needed funds for community health centers. In my district and around the Nation, community health centers are providing lifesaving health care services to patrons who otherwise would not receive care. Further, the committee has recognized the important role these centers play in reducing infant mortality by earmarking $70 million in new funds for community and migrant health centers and by rejecting the President's proposal to divert funds away from these valuable centers.

Finally, this bill will reverse the Supreme Court's decision in Rust versus Sullivan and continue the practice of allowing the millions of women who rely on federally funded family planning clinics to get full information regarding their reproductive health as all other Americans.

If this provision is not enacted, we will put women and medical professionals in jeopardy. As a result of the Supreme Court decision in Rust versus Sullivan, beginning in July, a woman who goes into a family planning clinic and needs information about abortion will not be provided with the medical facts.

This is intolerable and dangerous. Those who oppose abortion have gone too far. They want to gag doctors by censoring the information health professionals can provide at federally funded clinics. It is totally unfair to even consider the prospect that poor women deserve to receive less comprehensive and inaccurate medical information simply because they must rely on federally funded health care. Make no mistake about it, if the Rust decision is not overturned, not only would a poor woman not be told that abortion is legal, she would not be able to obtain a referral to a privately funded clinic even if her life is in danger.

Such restrictions put doctors in a precarious position. They will be forced to choose between violating their Hippocratic Oath and obeying Federal censorship laws. This is totally contrary to all we stand for as a Nation. Americans understand the importance of preserving the sanctity of the doctor-patient relationship. We want doctors to tell us all of our options so that we have the information to make the best health care choices.

Over 20 medical and nursing organizations have publicly opposed the gag rule. Last week, the American Medical Association said that legislation to overturn the gag rule "would keep the long arm of the Federal Government out of the patient-physician relationship and assure the traditional privacy of that relationship." The AMA also said, and I quote, that "political medicine is harmful to the health of all Americans."

Our President has thus far refused to listen. He has promised to veto this bill if it overturns Rust versus Sullivan. We cannot let him get away with that. If we do, we will fundamentally change our health care system into one based on politics and not on medical science. This, in turn, will mean that this country will be providing substandard care to its most needy citizens.

For these reasons, I urge my colleagues to support the reversal of the gag rule and restore the integrity of our Nation's family planning programs.

Let us keep politics out of the examining room by overturning the gag rule. And let us provide for the future of our Nation by approving this bill, which contains much needed funds that will help us meet urgent human needs in communities across the Nation.

Ms. SLAUGHTER of New York. Mr. Chairman, the bill we consider today, H.R. 2707, makes appropriations for the Nation's most important health, welfare, and education programs. I am proud to have been a part of the campaign which this past fall saw the creation of the Offices of Research on Women's Health within the National Institutes of Health [NIH]. As one of the Budget Committee's newest members, I worked earnestly to include in the budget resolution for fiscal year 1992 language which explicitly conveys Congress' concern for women's health research and which recommends $20 million in direct Federal assistance for new research initiatives through both NIH and the Alcohol, Drug Abuse, and Mental Health Administration [ADAMHA]. H.R. 2707 provides necessary funding for these new research initiatives which could mean the difference between life and death for millions for American women.

Despite startling breakthroughs in medical research in recent decades, diseases which target women—breast cancer, ovarian cancer, osteoporosis, pelvic inflammatory disease, clear cell adenocarcinoma, and others—remain shrouded in mystery. More than 57,000 American women will die in this year alone from breast or ovarian cancer. Osteoporosis will cause nearly 250,000 costly and painful hip fractures before the start of 1992. And perhaps most alarming, the 10 to 12 million Americans exposed to the synthetic estrogen drug DES still lives in fear of the drug's unknown effects.

For each of these afflictions, the statistics are alarming and all too familiar. We see the destruction wrought, but we have no grasp of how or why. For instance, we can observe a genetic or hereditary trend in the development of breast and ovarian cancers, but researchers have yet to identify the gene which predisposes a woman to the development of these cancers. And, we know that 1 out of every 1,000 DES-exposed daughters will develop clear cell cancer of the vagina or cervix, but we are ignorant of how this risk is inherited from the mother or how it may be transmitted to third generation offspring. Further, it seems that every month a new and contradictory report is issued on the relationship between contraceptive used and the risk of breast or ovarian cancer.

Not only has there been a lack of research on diseases which target women, there has also been a lack of women in clinical trials on health questions which affect both of the sexes. For example, the committee report on the budget resolutions, which I helped to craft, cited the widely publicized Physicians Health Study that concluded taking an aspirin might reduce the risk of heart disease. Less publicized was the fact that the studies which led to this conclusion included 22,071 men, but not a single woman.

On the Budget Committee, I fought to make the NIH Office of Research on Women's Health a funding priority because the women of American and the women representing them in Congress have waited long enough for answers to these haunting medical questions. Inattentiveness to women's health on the part of the medical research community has already claimed the lives of too many of our mothers, daughters, sisters, and friends.

No dollar value can be assigned to these lost lives, but we can make a dollar investment in hope for the future by fully funding the Office of Research on Women's Health and other vital research initiatives at NIH. Providing an unprecedented $12.5 million for the NIH Office of Research on Women's Health, H.R. 2707 makes some important inroads in highlighting the need for women's health research but the bill falls short of meeting the full funding levels necessary if we are to launch a comprehensive assault on the diseases which afflict women.

Under H.R. 2707, breast and ovarian cancer research would, together with prostate cancer research, receive a total funding boost of $30 million. The research community tells us that this is not enough to undertake an ambitious assault on these cancers. No money has been specifically earmarked for research into the clear cell cancer associated with DES-exposure, which has been clearly identified by the Appropriations Committee as a research priority for the Office of Research on Women's Health. And no appropriation is earmarked for a similar office within ADAMHA which was only recently established within the Office for Science. Surely, Congress can do better.

I will continue to work to bolster the NIH Office of Research on Women's Health. Further, I am committed to the establishment of a fully funded, formal office on women's health at ADAMHA to investigate the extent of mental illness among women, the gender-specific effects of substance abuse, and the effectiveness of mental health and substance abuse treatment programs for women.

Today, I make a promise to America's women and to America's families that tomorrow the effort to fund women's health research will resume; and this effort will continue for as long as it takes to find the answers and develop cures so that women will no longer be plagued by crippling and deadly diseases.

Mr. RAHALL. Mr. Chairman, I rise in support of the fiscal year 1992 Labor, Health and Human Services, and Education appropriations bills.

There is a total of $204 billion in this bill, for the combined use of the Departments of HHS, Labor, and Education, reflecting an increase of $21 billion over last year's measure for these same purposes.

The bill includes $1.7 billion more for education programs, and $481 million for HHS programs than the administration requested.

Of this amount, 71 percent is for entitlement spending, with the remaining 29 percent for discretionary programs.

Job training programs are funded at $1.8 billion; summer youth employment is funded at $683 million; Job Corps at $898.5 million. While Job Training and Job Corps and summer youth employment are important to West Virginia, of particular importance as well is the JTPA Dislocated Workers Program. Dislocated workers, under this bill, will receive $577 million, providing for early identification of dislocated workers, rapid provision of services, and training.

Also of great interest is the $50 million set-aside for employment transition assistance provided for under the Clean Air Act. This funding level is expected to support 130,000 training slots.

Even though the administration sought to abolish this program, I am pleased to note that there are $226 million in this bill for Trade Act Programs, including $154 million for trade adjustment assistance unemployment benefits. This funding will permit about 24,000 individuals to receive benefits averaging $182 per week. Also, $72 million are appropriated for related trade adjustment assistance training, job searches, and job relocation allowances.

The bill provides $2.2 billion to be drawn from the Employment Security Administration Account of the Unemployment Trust Fund to pay administrative costs of State employment insurance [UI] programs.

I am pleased to note that the past difficulty we have experienced in estimating the amount of UI funds that would be needed for this purpose during a year, is overcome in part by the committee's inclusion of language in the bill establishing a reserve fund to provide additional funds if the level of average weekly insured unemployment claims is projected to exceed the level on which the President's budget is based.

The bill further contains $175 million from the Employment Security Administration Account of the Unemployment Trust Fund for veterans employment and training programs. This total includes $79 million for the Disabled Veterans Outreach Program.

This bill includes funding for urgently needed and effective programs that serve the poor and near poor, such as community health centers, child care for individuals at risk for going on AFDC if affordable child care is not available while they work; there are funds for community services under the Community Block Grant Program, and $850 million for child care State grants.

For LIHEAP there are $1.6 billion, nearly $600 million more than the President asked for. Of this total $600 million will be realized only after the President formally submits a budget request designating those funds as an emergency under the provisions of the budget enforcement provisions of last year's budget agreement.

The enormously successful, much-needed Head Start Program is funded at $2.2 billion, an increase of $250 million over fiscal year 1991.

Mr. Chairman, another group of programs funded under the Labor/HHS/Education appropriations bill are those that educate the economically and educationally disadvantaged children in our States and districts, which includes chapter 1, Head Start, and Even Start.

For all of education's needs, there are $28.3 billion in this bill for fiscal year 1992, reflecting an increase of $5.4 billion more than in fiscal year 1991, and $1.7 billion more than the President requested.

For the successful, urgently needed chapter 1 program, the bill provides $7.1 billion, a full $1 billion increase over the fiscal year 1990 appropriation, and $850 million more than the President's request.

This increased funding for both Head Start and chapter 1 compensatory education for disadvantaged children will help make a real difference in assuring equity in educational opportunity afforded to millions of children who have the least chance of succeeding in school or in life without these two programs.

The bill funds, also, such programs as the aforementioned Even Start, drug free schools and communities, math and science education, magnet schools, dropout prevention, and education for homeless children.

For special education the bill provides $2.8 billion, a level which represents about 7 percent of the national average excess cost of educating a handicapped child, serving approximately 4.5 million children with disabilities who are expected to be schooled during the 1992–93 school year.

Vocational education is funded at a total of $1.4 billion, including $1.1 billion for basic State grants, and $186 million more than the President requested.

I am more pleased than I can tell you to note that $100 million have been provided for a program of supplemental grants to States to improve vocational education facilities and equipment in economically depressed areas. During the reauthorization of the Vocational Education Act, I was a member of the Education and Labor Committee. During that process, I joined with my friend and colleague from Kentucky, CHRIS PERKINS, in introducing a combined bill that sought funds for vocational education facilities in bad need of expansion, repair, and renovation of classrooms, as well as for state-of-the-art equipment to train students for jobs not only for the 20th century which we are about to leave behind, but especially for jobs in the 21st century which is before us. For the popular tech-prep program, the bill provides $100 million for linking high school vocational education students and programs to postsecondary education institutions for up to 2 years after high school graduation. Adult education and literacy programs are funded at $280 million, $42 million more than last year. $250 million of this amount will go for State basic grants, and $20 million for workplace literacy.

Mr. Chairman, this bill provides $6.9 billion for student financial assistance, and these appropriations represents programs under current law since the Higher Education Act is being reauthorized.

The committee has expressed its concern over the President's proposal that would result in 400,000 fewer student aid awards in the next year. Pell grants, supplemental grants, work-study grants, Perkins loans, SSIG and income-contingent loans are still being funded, with the committee having rejected the administration's proposals to repeal, phase out, or drastically change many of them. The Guaranteed Student Loan Program is intact as an entitlement program, but still subject to recent year's restrictions and improvements to get the default rate down and improve access to low-income as well as middle-income students.

Mr. Chairman, overall I am pleased with the content of H.R. 2707, the annual Labor/HHS/Education appropriations bill, becasuse it contains funds for so many programs of importance—vital even—to the continued well-being of West Virginians.

While the bill covers many urgently needed health programs, including research and treatment of diseases under NIH, I want to digress just a moment and get parochial, by discussing a group from my State of West Virginia who are banded together to support those unfortunate victims of neurofibromatosis—or NF—a very rare disease.

Mr. Chairman, these individuals who have banded together to form the NF support group, were organized by Brookie Miller of Danville, WV. Their commendable, and compassionate efforts consist of promoting community understanding, coordinating support services, stimulating research, and most of all, providing hope for the victims of neurofibromatosis.

Neurofibromatosis is a genetic disorder which affects neural tissues. Tumors can form anywhere and at anytime on nerve cells, with progressive manifestations resulting in disfiguration or death. There are two types of neurofibromatoses which are neurofibromatosis-1 (NF–1 or VR–NF) and neurofibromatosis-2 (NF–2 or bilateral acoustic NF).

NF–1, which has also been called von Recklinghausen's disease or peripheral neurofibromatosis, occurs in 1 of 4,000 births. Characteristics of this disease are tumors of varying sizes under or on the skin, freckling in the groin or underarm area, possible family history of NF, multiple cafe-au-lait colored spots on the skin, lisch nodules on the iris of the eyes, and optic glioma.

NF–2, which is known as the central form, is estimated to occur in 1 of 50,000 births. Characteristics of the disease are tumors of the spinal cord, brain, and skin. Signs usually appear after puberty, tumors developing in the complex affecting the hearing nerves result in balance problems and hearing loss, and unusual cataracts of the eye forming at an early age.

NF may also be associated with bone deformation, vision impairment, cancer, learning disabilities, hearing loss, and epilepsy. It affects both race and sex equally. The possibility of an affected parent passing it on to an offspring is 50 percent. However, 50 percent of all NF cases have developed from a mutated gene where there is no family history of NF. Both forms of NF are autosomal dominant disorders. Hence, there are no cures for NF and treatment is directed at reducing the symptoms of the disease.

Due to its nature and relative rarity, this disease is one of many orphan diseases that receives little publicity. I had little knowledge of ths disease until Brookie Miller visited my Washington office. Through her work I have learned of the loneliness, confusion, and heartache that the patients with NF and their families feel. While many diseases hold these elements, the external signs of NF are misunderstood because they do not look like a burn or the loss of hair via chemotherapy. As a result of the misunderstanding associated with NF, many patients find that discrimination is rampant.

For this reason, I truely commend the works of Brookie and her support group, as well as Neurofibromatosis, Inc., for their efforts on behalf of those affected by this disease. These groups have helped many victims of this disease to cope with the problems they face daily. They are both nonprofit voluntary health organizations. Their goals include: identifying support services in the community; educating State, Federal, and local legislators of NF families' needs; and cultivating clinical, medical, educational and sociological research which encompasses the need for treatment, prevention, and the development of a cure for NF and its effects.

Today's bill contains an additional $41,612,000 in funding for the National Institute of Neurological Disorders and Stroke. It is my hope the important research on NF will continue and that we may find either a cure or an adequate treatment in the near future.

Mr. Chairman, I am in strong support of H.R. 2707, and urge my colleagues to join with me in support of its passage.

Mr. HOAGLAND. Mr. Chairman, I would like to express my support for H.R. 2707, the Labor, Health and Human Services, and Education appropriations for fiscal year 1992. The bill appropriates $765 million for the impact aid program, including $137 million for section (b) students whose parents live or work on Federal property. This represents an increase of $144.6 million over the administration's 1992 budget request. Most importantly, the bill restores funding for federally connected "B" students which the administration proposed to eliminate.

I testified and prepared a letter to the Labor, Health and Human Services, and Education Appropriations Subcommittee which 83 Members of the House signed expressing our concern about the administration's impact aid cuts. We are very grateful to the Appropriations Committee and especially Chairman NATCHER and ranking minority member, CARL PURSELL, for recognizing that these cuts would cause serious harm to our Nation's school districts and the families of those schools.

Over 40 years ago, the Congress acknowledged the Federal Government's responsibility to assist school districts that are impacted by Federal installations and educate federally connected students. Public Law 81–874, the impact aid program recognizes the Federal Government's duty to reimburse school districts for the local revenues lost from federally connected parents because of Federal ownership.

In my congressional district—the home of Offutt Air Force Base and the Headquarters of the Strategic Air Command—impact aid is a critical source of funding. This large military installation creates an influx of residents in the surrounding communities and students in the public schools. For example, the Bellevue School District has over 5,000 federally connected students, the Papillion LaVista School District has about 2,500, and Plattsmouth has 400. Of these 7,000 federally connected students, over half are classified as "B" students. Under President Bush's fiscal year 1992 proposal to eliminate "B" student funding, these school districts would be responsible for educating nearly 3,500 students without the promised Federal funds.

The impact aid program has received drastic cuts made since 1981, at a time when per pupil expenditures for education nationwide have increased an average of 7 percent each of the past 5 years. In this fiscal year, the Federal Government is paying less than 58 percent of the actual cost of Federal impaction to these districts. Schools have been scrimping and saving, cutting corners for years to continue to provide a decent education to our federally connected children. There are few corners left to cut.

All parents expect their schools to provide these students a quality education. However, military parents often do not pay property taxes or sales taxes, since they live on Federal property and shop at the PX. So while they expect the community to provide their children with a quality education, they do not provide the revenues the community needs to provide their children an education.

Ultimately, the issue is one of equity. Impact aid does not provide extra funding to these schools. It provides basic funding, for books, teachers' salaries, educational materials and equipment. Congress did not establish these programs as a special benefit; it was the fulfillment of a Federal responsibility to these communities.

I will vote "yes" today to maintain the impact aid program. This is a clear Federal obligation which means a great deal to the students in my congressional district and schools across the country.

Mr. ANTHONY. Mr. Chairman, I rise in support of H.R. 2707. I am pleased to note that the committee proposes increases in funding for community economic development [CED] grants which are authorized under the community services block grant section of funding for Health and Human Services. Funding has been increased from $20.49 million to $21.5 million for fiscal year 1992.

CED grants are made to private nonprofit community development corporations which use these funds to promote business and economic development projects in poor communities. These funds promote public-private partnerships. According to a recent HHS report, CED funds mobilized more than $62 million in private investment.

In my State of Arkansas, Arkansas Enterprise Group has used the CED funds to start an organic farming program which has provided new market opportunities for farmers in a very poor part of the State. Arkansas Enterprise Group believes that one of the solutions to the endemic poverty that exists in the Delta and other agricultural regions of Arkansas is to help farmers diversify away from their historic dependence on row crop farming to higher margin produce crops. The funds created a demonstration farm that successfully showed how crop diversification could be both possible and profitable. The program was made possible through the HHS Office of Community Services.

I heartily endorse such public-private endeavors that promote avenues for economic independence in poor rural areas.

Thank you, Mr. Chairman, for granting me this time to speak on behalf of the bill.

Mr. PURSELL. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. NATCHER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 2707

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1992, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, $74,188,000, together with not to exceed $57,129,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Job Training Partnership Act, $4,027,907,000, plus reimbursements, to be available for obligation for the period July 1, 1992, through June 30, 1993, of which $59,625,000 shall be for carrying out section 401, $75,288,000 shall be for carrying out section 402, $9,120,000 shall be for carrying out section 441, $1,848,000 shall be for the National Commission for Employment Policy, $2,500,000 shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under the Job Training Partnership Act, and $3,900,000 shall be for service delivery areas under section 101(a)(4)(A)(iii) of the Job Training Partnership Act in addition to amounts otherwise provided under sections 202 and 251(b) of the Act; and, in addition, $52,464,000 is appropriated for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers, as authorized by the Job Training Partnership Act, in addition to amounts otherwise provided herein for the Job Corps, to be available for obligation for the period July 1, 1992 through June 30, 1995; and, in addition, $50,000,000 is appropriated for Clean Air Employment Transition Assistance under Part B of Title III of the Job Training Partnership Act, to be available for obligation for the period October 1, 1991 through June 30, 1993; and, in addition, $7,400,000 is appropriated for activities authorized by title VII, subtitle C of the Stewart B. McKinney Homeless Assistance Act: *Provided*, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers: *Provided further*, That funds appropriated under this heading in Public Law 100-436 to continue acquisition, rehabilitation, and construction of six new Job Corps centers shall be available for obligation through June 30, 1993.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $304,481,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $85,879,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and payments as authorized by title II of Public Law 95-250, as amended, and of trade adjustment benefit payments and allowances under part I, and for training, for allowances for job search and relocation, and for related State administrative expenses under part II, subchapter B, chapter 2, title II of the Trade Act of 1974, as amended, $226,250,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year: *Provided*, That amounts received or recovered pursuant to section 208(e) of Public Law 95-250 shall be available for payments.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49-491-1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502-504); necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, and sections 225, 231-235 and 243-244, title II of the Trade Act of 1974, as amended; as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H), 212 (a), (5)(A), (m)(2) and (3), (n)(1), and 218 (g) (1), (2), and (3), and 258(c) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.); necessary administrative expenses to carry out the Targeted Jobs Tax Credit Program under section 51 of the Internal Revenue Code of 1986, and section 221(a) of the Immigration Act of 1990, $23,377,000 together with not to exceed $3,151,825,000 (including not to exceed $2,080,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980), which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available in the allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502-504), and the sums available in the allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, shall be available for obligation by the States through December 31, 1992, and of which $18,427,000 of the amount which may be expended from said trust fund shall be available for obligation for the period April 1, 1992, through December 31, 1992, for automation of the State activities under title III of the Social Security Act, as amended (42 U.S.C. 502-504 and 5 U.S.C. 8501-8523), and of which $21,177,000 together with not to exceed $783,940,000 of the amount which may be expended from said trust fund shall be available for obligation for the period July 1, 1992, through June 30, 1993, to fund activities under section 6 of the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose, and of which $12,500,000 of the amount which may be expended from said trust fund shall be available for obligation for the period September 30, 1992, through June 30, 1993, for automation of the State activities under section 6 of the Act of June 6, 1933, as amended, and of which $440,703,000 shall be available only to the extent necessary for additional State allocations to administer unemployment compensation laws to finance increases in the number of unemployment insurance claims filed and claims paid or changes in a State law: *Provided*, That to the extent that the Average Weekly Insured Unemployment (AWIU) for fiscal year 1992 is projected by the Department of Labor to exceed the 3.24 million level assumed in the President's fiscal year 1992 Budget Request, based on the Administration's December 1990 economic assumptions, an additional $30,000,000 shall be available for obligation for every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) from the Employment Security Administration Account of the Unemployment Trust Fund. The Appropriations Committees shall be notified immediately of any request by the Department to the Office of Management and Budget to apportion any of these funds.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1993, $236,990,000.

LABOR-MANAGEMENT SERVICES

SALARIES AND EXPENSES

For necessary expenses for Labor-Management Services, $95,840,000.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96-364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1992, for such Corporation: *Provided*, That not to exceed $47,787,000 shall be available for administrative expenses of the Corporation: *Provided further*, That expenses of such Corporation in connection with the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as nonadministrative expenses for the purposes hereof, and excluded from the above limitation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $232,626,000, together with $1,035,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title 5, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $192,000,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: *Provided*, That such sums as are necessary may be used for a demonstration project under section 8104 of title 5, United States Code, in which the Secretary may reimburse an employer, who is not the employer at the time of injury, for portions of the salary of a reemployed, disabled beneficiary: *Provided further*, That balances of reimbursements from Federal government agencies unobligated on September 30, 1991, shall remain available until expended for the payment of compensation, benefits, and expenses: *Provided further*, That in addition there shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1992.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $917,192,000, of which $861,135,000, shall be available until September 30, 1993, for payment of all benefits as authorized by section 9501(d) (1), (2), (4), and (7), of the Internal Revenue Code of 1954, as amended, and interest on advances as authorized by section 9501(c)(2) of that Act, and of which $30,145,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and $25,579,000 for transfer to Departmental Management, Salaries and Expenses, and $333,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided*, That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation, interest, or other benefits for any period subsequent to June 15 of the current year: *Provided further*, That in addition such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $302,107,000, including $66,344,000, which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, order or administrative action under the Occupational Safety and Health Act of 1970 affecting any work activity by reason of recreational hunting, shooting, or fishing: *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost work day case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of one or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $186,157,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disaster: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $258,504,000, together with not to exceed $50,399,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of 5 sedans, and including $4,078,000 for the President's Committee on Employment of People With Disabilities, $144,319,000, together with not to exceed $332,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

WORKING CAPITAL FUND

Funds received for services rendered to any entity or person for use of Departmental facilities, including associated utilities and security services, shall be credited to and merged with this fund.

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $174,759,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001–10 and 2021–26.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $46,636,000, together with not to exceed $4,357,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

GENERAL PROVISIONS

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

SEC. 102. None of the funds appropriated under this Act shall be used to grant variances, interim orders or letters of clarification to employers which will allow exposure of workers to chemicals or other workplace hazards in excess of existing Occupational Safety and Health Administration standards for the purpose of conducting experiments on workers health or safety.

SEC. 103. Notwithstanding any other provision of this Act, no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civilian Conservation Center of the Job Corps.

SEC. 104. None of the funds appropriated in this Act shall be used by the Job Corps program to pay the expenses of legal counsel or representation in any criminal case or proceeding for a Job Corps participant, unless certified to and approved by the Secretary of Labor that a public defender is not available.

This title may be cited as the "Department of Labor Appropriations Act, 1992".

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles III, VII, VIII, XIX, XXVI, and XXVII of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V of the Social Security Act, the Health Care Quality Improvement Act of 1986, as amended, Public Law 101-527, Public Law 100-579, and the Native Hawaiian Health Care Act of 1988, $2,137,533,000, of which $450,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act: *Provided*, That of the funds made available under this heading, $86,000,000 shall not become available for obligation until September 19, 1992: *Provided further*, That when the Department of Health and Human Services administers or operates an employee health program for any Federal department or agency, payment for the full estimated cost shall be made by way of reimbursement or in advance to this appropriation: *Provided further*, That user fees authorized by 31 U.S.C. 9701 may be credited to appropriations under this heading, notwithstanding 31 U.S.C. 3302.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $19,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

HEALTH EDUCATION ASSISTANCE LOANS PROGRAM

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of guaranteed loans authorized by Title VII of the Public Health Service Act, as amended, such sums as may be necessary to carry out the purpose of the program: *Provided*, That these funds are available to subsidize gross obligations for the total loan principal any part of which is to be guaranteed at not to exceed $260,000,000. In addition, for administrative expenses to carry out the guaranteed loan program, $1,500,000.

VACCINE INJURY COMPENSATION

For payments from the Vaccine Injury Compensation Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act, to remain available until expended: *Provided*, That for necessary administrative expenses, not to exceed $2,500,000 shall be available from the Trust Fund to the Secretary of Health and Human Services.

For compensation of claims resolved by the United States Claims Court related to the administration of vaccines before October 1, 1988, $80,000,000, to remain available until expended.

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles III, section 794 of title VII, XV, XVII, XIX, and section 1102 of the Public Health Service Act, sections 101, 102, 103, 201, 202, and 203 of the Federal Mine Safety and Health Act of 1977, and sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, $1,390,662,000, of which $6,338,000 shall remain available until expended for equipment and construction and renovation of facilities: *Provided*, That of the funds made available under this heading, $94,000,000 shall not become available for obligation until September 19, 1992: *Provided further*, That training of private persons shall be made subject to reimbursement or advances to this appropriation for not in excess of the full cost of such training: *Provided further*, That funds appropriated under this heading shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who had participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further*, That collections from user fees may be credited to this appropriation: *Provided further*, That amounts received by the National Center for Health Statistics from reimbursable and interagency agreements and the sale of data tapes may be credited to this appropriation and shall remain available until expended: *Provided further*, That in addition to amounts provided herein, up to $25,000,000 shall be available from amounts available under section 2711 of the Public Health Service Act, to carry out the National Center for Health Statistics surveys: *Provided further*, That employees of the Public Health Service, both civilian and Commissioned Officer, detailed to States or municipalities as assignees under authority of section 214 of the Public Health Service Act in the instance where in excess of 50 percent of salaries and benefits of the assignee is paid directly or indirectly by the State or municipality, and employees of the National Center for Health Statistics, who are assisting other Federal organizations on data collection and analysis and whose salaries are fully reimbursed by the organizations requesting the services, shall be treated as non-Federal employees for reporting purposes only.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, $1,830,509,000: *Provided*, That of the funds made available under this heading, $63,446,000 shall not become available for obligation until September 19, 1992.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out sections 301 and 1105 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $1,202,398,000: *Provided*, That of the funds made available under this heading, $54,555,000 shall not become available for obligation until September 19, 1992.

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental disease, $161,235,000: *Provided*, That of the funds made available under this heading, $7,903,000 shall not become available for obligation until September 19, 1992.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney diseases, $667,820,000: *Provided*, That of the funds made available under this heading, $28,457,000 shall not become available for obligation until September 19, 1992.

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, $583,355,000: *Provided*, That of the funds made available under this heading, $27,357,000 shall not become available for obligation until September 19, 1992.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, $972,830,000: *Provided*, That of the funds made available under this heading, $45,627,000 shall not become available for obligation until September 19, 1992.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, $820,160,000: *Provided*, That of the funds made available under this heading, $48,104,000 shall not become available for obligation until September 19, 1992.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, $524,661,000: *Provided*, That of the funds made available under this heading, $27,368,000 shall not become available for obligation until September 19, 1992.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, $272,260,000: *Provided*, That of the funds made available under this heading, $12,504,000 shall not become available for obligation until September 19, 1992.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311, and title IV of the Public Health Service Act with respect to environmental health sciences, $254,912,000: *Provided*, That of the funds made available under this heading, $8,846,000 shall not become available for obligation until September 19, 1992.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $362,528,000: *Provided*, That of the funds made available under this heading, $16,308,000 shall not become available for obligation until September 19, 1992.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis, and musculoskeletal and skin diseases, $204,977,000: *Provided*, That of the funds made available under this heading, $7,593,000 shall not become available for obligation until September 19, 1992.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, $144,495,000: *Provided*, That of the funds made available under this heading, $7,486,000 shall not become available for obligation until September 19, 1992.

NATIONAL CENTER FOR RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, $309,200,000: *Provided*, That of the funds made available under this heading, $15,000,000 shall not become available for obligation until September 19, 1992: *Provided further*, That none of these funds shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants.

NATIONAL CENTER FOR NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, $43,143,000: *Provided*, That of the funds made available under this heading, $2,646,000 shall not become available for obligation until September 19, 1992.

NATIONAL CENTER FOR HUMAN GENOME RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, $93,115,000: *Provided*, That of the funds made available under this heading, $10,000,000 shall not become available for obligation until September 19, 1992.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, $19,922,000: *Provided*, That of the funds made available under this heading, $800,000 shall not become available for obligation until September 19, 1992.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, $99,565,000: *Provided*, That of the funds made available under this heading, $3,500,000 shall not become available for obligation until September 19, 1992.

OFFICE OF THE DIRECTOR

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $149,176,000, of which $25,000,000 shall be for the support of a clinical trial on women's health and shall remain available until September 30, 1993: *Provided*, That of the funds made available under this heading, $12,500,000 shall not become available for obligation until September 19, 1992: *Provided further*, That funding shall be available for the purchase of not to exceed five passenger motor vehicles for replacement only.

BUILDINGS AND FACILITIES

For construction of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, $108,625,000 to remain available until expended.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health, drug abuse, alcohol abuse, and alcoholism, section 3521 of Public Law 100-690, section 612 of Public Law 100-77, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, $2,917,742,000, of which $5,000,000 for renovation of government owned or leased intramural research facilities shall remain available until expended.

ASSISTANT SECRETARY FOR HEALTH

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

For the expenses necessary for the Office of the Assistant Secretary for Health and for carrying out titles III, XVII, XX, and XXI of the Public Health Service Act, $71,318,000, and, in addition, amounts received by the Public Health Service from Freedom of Information Act fees, reimbursable and interagency agreements and the sale of data tapes shall be credited to this appropriation and shall remain available until expended.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year.

AGENCY FOR HEALTH CARE POLICY AND RESEARCH

HEALTH CARE POLICY AND RESEARCH

For carrying out titles III and IX of the Public Health Service Act, and part A of title XI of the Social Security Act, $95,756,000 together with not to exceed $4,880,000 to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 1142 of the Social Security Act and not to exceed $1,012,000 to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 201(g) of the Social Security Act; and, in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided*, That the amount made available pursuant to section 926(b) of the Public Health Service Act shall not exceed $13,444,000.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $46,399,149,000, to remain available until expended.

For making, after May 31, 1992, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1992 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1993, $17,100,000,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, section 278(d) of Public Law 97-248, and for administrative expenses incurred pursuant to section 201(g) of the Social Security Act, $39,421,485,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, title XIII of the Public Health Service Act, the Clinical Laboratory Improvement Amendments of 1988, section 4360 of Public Law 101-508, and section 4005(e) of Public Law 100-203, not to exceed $2,282,055,000 to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds: *Provided*, That $257,000,000 of said trust funds shall be expended only to the extent necessary to meet unanticipated costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act are to be credited to this appropriation: *Provided further*, That all funds collected in accordance with section 353 of the Public Health Service Act are to be credited to this appropriation to remain available until expended.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, and section 274A(d)(3)(E) of the Immigration and Nationality Act, $40,968,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including the payment of travel expenses on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and when travel of more than 75 miles is required, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, $617,336,000, to remain available until expended: *Provided*, That monthly benefit payments shall be paid consistent with section 215(g) of the Social Security Act.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1993, $198,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income Program, title XI of the Social Security Act, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $13,926,491,000, to remain available until expended: *Provided*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury: *Provided*, That for fiscal year 1992 and thereafter, all collections from repayments of overpayments shall be deposited in the general fund of the Treasury.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out the Supplemental Security Income Program for the first quarter of fiscal year 1993, $5,240,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than $4,582,000,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That travel expense payments under section 1631(h) of such Act for travel to hearings may be made only when travel of more than seventy-five miles is required: *Provided further*, That $100,000,000 of the foregoing amount shall be apportioned for use only to the extent necessary to process workloads not anticipated in the budget estimates, for automation projects and their impact on the workforce, and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That of the total amount provided, $80,000,000 shall not become available for obligation until September 19, 1992.

ADMINISTRATION FOR CHILDREN AND FAMILIES

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities, except as otherwise provided, under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C. ch. 9), $11,862,146,000, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act, for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9) for the first quarter of fiscal year 1993, $4,000,000,000, to remain available until expended.

PAYMENTS TO STATES FOR AFDC WORK PROGRAMS

For carrying out aid to families with dependent children work programs, as authorized by part F of title IV of the Social Security Act, $1,000,000,000.

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,000,000,000, of which $50,000,000 shall become available for making payments on September 30, 1992.

ENERGY ASSISTANCE EMERGENCY FUND

For the purpose of establishing an "Energy Assistance Emergency Fund" in the United States Treasury to be available only for grants to any one or more of the fifty States, the District of Columbia, and Indian tribes and tribal organizations receiving direct funding in fiscal year 1992 under the Low-Income Home Energy Assistance Act of 1981, $600,000,000: *Provided*, That all funds available under this heading are hereby designated by Congress to be emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That these funds shall be made available only after submission to Congress of a formal budget request by the President that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That the President shall determine the appropriate amounts necessary to meet emergency needs and the allocation of these amounts to any one or more of the fifty States, the District of Columbia, and Indian tribes and tribal organizations.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-422), $294,014,000, of which $117,600,000 shall be available for State cash and medical assistance, except that no funds shall be available for State cash and medical assistance after March 31, 1992.

INTERIM ASSISTANCE TO STATES FOR LEGALIZATION

Section 204(a)(1)(C) of the Immigration Reform and Control Act of 1986 is amended by striking "1992" and inserting in its place "1993".

Section 204(b) of the Immigration Reform and Control Act of 1986 is amended by adding the following paragraph:

"(5) For fiscal year 1993, the Secretary shall make allotments to States under paragraph (1) no later than October 15, 1992."

COMMUNITY SERVICES BLOCK GRANT

For making payments under the Community Services Block Grant Act and the Stewart B. McKinney Homeless Assistance Act, $420,724,000, of which $40,868,000 shall be for carrying out section 681(a) of the Community Services Block Grant Act, and of which $5,484,000 shall be for carrying out section 681A of said Act with respect to the community food and nutrition program.

PAYMENTS TO STATES FOR CHILD CARE ASSISTANCE

For carrying out sections 658A through 658R of the Omnibus Budget Reconciliation Act of 1981, $825,000,000, which shall not become available for obligation until September 19, 1992. For carrying out section 402(g)(6) of the Social Security Act, $25,000,000.

PROGRAM ADMINISTRATION

For necessary administrative expenses to carry out titles I, IV, X, XI, XIV, and XVI of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), the Omnibus Budget Reconciliation Act of 1981, section 204 of the Immigration Reform and Control Act of 1986, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, Public Law 100-77, and section 126 and titles IV and V of Public Law 100-485, $87,500,000, together with such sums as may be collected, which shall be credited to this account as offsetting collections, from fees authorized under section 453 of the Social Security Act: *Provided*, That of the funds appropriated in Public Law 101-166 for the Commission on Interstate Child Support, $400,000 shall remain available through September 30, 1992.

SOCIAL SERVICES BLOCK GRANT

For monthly payments to States for carrying out the Social Services Block Grant Act, $2,800,000,000.

HUMAN DEVELOPMENT SERVICES

(INCLUDING RESCISSION)

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Older Americans Act of 1965, the Developmental Disabilities Assistance and Bill of Rights Act, the State Dependent Care Development Grants Act, the Head Start Act, the Child Development Associate Scholarship Assistance Act of 1985, the Child Abuse Prevention and Treatment Act, chapters 1 and 2 of subtitle B of title III of the Anti-Drug Abuse Act of 1988, the Family Violence Prevention and Services Act, the Native American Programs Act of 1974, title II of Public Law 95-266 (adoption opportunities), the Temporary Child Care for Children with Disabilities and Crisis Nurseries Act of 1986, the Comprehensive Child Development Act, the Abandoned Infants Assistance Act of 1988, section 10404 of Public Law 101-239 (volunteer senior aides demonstration) and part B of title IV and section 1110 of the Social Security Act, $3,496,357,000, of which up to $6,225,000 shall remain available until expended for information resources management.

Of the funds provided under this heading in Public Law 101-517 for carrying out the Child Care and Development Block Grant Act of 1990, $144,925,000 are hereby rescinded.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For carrying out part E of title IV of the Social Security Act, $2,614,005,000, of which $118,476,000 shall be for payment of prior years' claims.

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans, $91,673,000, of which $24,079,000 shall be available for expenses necessary for the Office of the General Counsel, together with $31,001,000, of which $26,031,000 shall be available for expenses necessary for the Office of the General Counsel, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $63,842,000, together with not to exceed $37,833,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $18,524,000, together with not to exceed $4,000,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, $5,037,000.

GENERAL PROVISIONS

SEC. 201. None of the funds made available by this Act for the National Institutes of Health, except for those appropriated to the "Office of the Director", may be used to provide forward funding or multiyear funding of research project grants except in those cases where the Director of the National Institutes of Health has determined that such funding is specifically required because of the scientific requirements of a particular research project grant.

SEC. 202. Appropriations in this or any other Act shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed 2,400 commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376.

SEC. 203. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 204. Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 327A of the Public Health Service Act.

SEC. 205. Funds appropriated in this title shall be available for not to exceed $37,000 for official reception and representation expenses when specifically approved by the Secretary.

SEC. 206. Amounts received from employees of the Department in payment for room and board may be credited to the appropriation accounts which finance the activities of the Public Health Service.

SEC. 207. None of the funds made available by this Act shall be used to provide special retention pay (bonuses) under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve medical officer of the Public Health Service for any period during which the officer is assigned to the clinical, research, or staff associate program administered by the National Institutes of Health or the Alcohol, Drug Abuse, and Mental Health Administration.

SEC. 208. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years, so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 209. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 210. For the purpose of insuring proper management of federally supported computer systems and data bases, funds appropriated by this Act are available for the purchase of dedicated telephone service between the private residences of employees assigned to computer centers funded under this Act, and the computer centers to which such employees are assigned.

SEC. 211. None of the funds appropriated by this title shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or a participant's parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

SEC. 212. None of the funds appropriated in this title for the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of $125,000 per year.

SEC. 213. No funds appropriated under this Act shall be used by the National Institutes of Health, or any other Federal agency, or recipient of Federal funds on any project that entails the capture or procurement of chimpanzees obtained from the wild. For purposes of this section, the term "recipient of Federal funds" includes private citizens, corporations, or other research institutions located outside of the United States that are recipients of Federal funds.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1992".

TITLE III—DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For carrying out the activities authorized by chapter 1 of title I of the Elementary and Secondary Education Act of 1965, as amended, and by section 418A of the Higher Education Act, $7,075,750,000, of which $7,042,750,000 shall become available on July 1, 1992 and shall remain available through September 30, 1993: *Provided*, That $5,805,000,000 shall be available for basic grants under section 1005, $645,000,000 shall be available for concentration grants under section 1006, $100,000,000 shall be available for the Even Start program under part B, of which not to exceed 2 percent shall be available for a national evaluation and not to exceed 5 percent shall be available for State administration, $322,000,000 shall be available for migrant education activities under subpart 1 of part D, $36,000,000 shall be available for delinquent and neglected education activities under subpart 3 of part D, $64,500,000 shall be for State administration under section 1404, and $32,250,000 shall be for program improvement activities under section 1405: *Provided further*, That no State shall receive less than $340,000 from the amounts made available under this appropriation for concentration grants under section 1006: *Provided further*, That no State shall receive less than $375,000 from the amounts made available under this appropriation for State administration grants under section 1404.

IMPACT AID

For carrying out programs of financial assistance to federally affected schools as authorized by Public Laws 81–815 and 81–874, as amended, $764,756,000, of which $585,540,000 shall be for payments under section 3(a), $136,626,000 shall be for payments under section 3(b), $16,590,000 shall be for Federal property payments under section 2 and $26,000,000, to remain available until expended, shall be for construction and renovation of school facilities including $10,000,000 for awards under section 10, $10,000,000 for awards under sections 14(a) and 14(b), and $6,000,000 for awards under sections 5 and 14(c): *Provided*, That none of the funds available for section 3 shall be used for payments under section 5(b)(2): *Provided further*, That funds available for section 2 may be used for payments under section 5(b)(2) of 50 percent of a local educational agency's payment for the prior fiscal year based on its entitlement established under section 2: *Provided further*, That all payments under section 3 shall be based on the number of children who, during the prior fiscal year, were in average daily attendance at the schools of a local educational agency and for whom such agency provided free public education: *Provided further*, That notwithstanding the provisions of section 3(d)(3)(A), aggregate current expenditure and average daily attendance data for the third preceding fiscal year shall be used to compute local contribution rates: *Provided further*, That notwithstanding the provisions of sections 3(d)(2)(B), 3(d)(3)(B)(ii), and

3(h)(2), eligibility and entitlement determinations for those sections shall be computed on the basis of data from the fiscal year preceding each fiscal year described in those respective sections for fiscal year 1991.

SCHOOL IMPROVEMENT PROGRAMS

For carrying out the activities authorized by chapter 2 of title I and titles II, III, IV, V, without regard to sections 5112(a) and 5112(c)(2)(A), and VI of the Elementary and Secondary Education Act of 1965, as amended; the Stewart B. McKinney Homeless Assistance Act; the Civil Rights Act of 1964; title V of the Higher Education Act, as amended; title IV of Public Law 100–297; and the Follow Through Act, $1,577,618,000, of which $1,238,709,000 shall become available on July 1, 1992, and remain available through September 30, 1993: *Provided*, That of the amount appropriated, $27,600,000 shall be for national programs under part B of chapter 2 of title I, up to $2,000,000 shall be available for the national evaluation of the dropout prevention demonstration program under title VI, and $240,000,000 shall be for State grants for mathematics and science education under part A of title II of the Elementary and Secondary Education Act of 1965, as amended.

EDUCATIONAL EXCELLENCE

(INCLUDING TRANSFER OF FUNDS)

For carrying out educational improvement activities authorized in law, including activities under the Head Start Act, $500,000,000 which shall become available on July 1, 1992, and remain available through September 30, 1993: *Provided*, That the allocation of these funds, which may be transferred as necessary to other Department of Education accounts, shall be determined by the Secretary of Education in consultation with the Congress based on authorizing legislation enacted into law as of December 31, 1991: *Provided further*, That none of these funds shall be allocated to initiate programs proposed by the President in his budget amendments of June 7, 1991 unless these activities shall be specifically authorized during 1991: *Provided further*, That not less than $250,000,000 of these funds shall be transferred to the Head Start program administered by the Department of Health and Human Services.

BILINGUAL AND IMMIGRANT EDUCATION

For carrying out, to the extent not otherwise provided, title VII and part D of title IV of the Elementary and Secondary Education Act, $249,000,000, of which $36,000,000 shall be for training activities under part C of title VII.

SPECIAL EDUCATION

For carrying out the Individuals with Disabilities Education Act and title I, chapter 1, part D, subpart 2 of the Elementary and Secondary Education Act of 1965, $2,822,676,000, of which $1,976,095,000 for section 611, $295,920,000 for section 619, $175,000,000 for section 685 and $135,661,000 for title I, chapter 1, part D, subpart 2 shall become available for obligation on July 1, 1992, and shall remain available through September 30, 1993.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, Public Law 100–407, and the Helen Keller National Center Act, as amended, $1,998,501,000, of which $18,368,000 shall be for special demonstration programs under sections 311 (a), (b), and (c).

SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), $5,500,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles II and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $38,500,000.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the partial support of Gallaudet University under titles I and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $73,172,000, of which $976,000 shall be for the endowment program as authorized under section 407 and shall be available until expended, and $2,500,000 shall be for construction and shall be available until expended.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Applied Technology Education Act, the Adult Education Act, and the Omnibus Trade and Competitiveness Act of 1988, $1,651,500,000 of which $3,000,000, to remain available until expended, shall be for the national assessment of vocational education and of which the remainder shall become available for obligation on July 1, 1992 and shall remain available through September 30, 1993: *Provided*, That of the amounts made available under the Carl D. Perkins Vocational and Applied Technology Education Act, $29,000,000 shall be for national programs under title IV, including $12,000,000 for research, of which $6,000,000 shall be for the National Center for Research on Vocational Education and $2,000,000 shall be for technical assistance under section 404(d); $12,000,000 for demonstrations and $5,000,000 for data collection: *Provided further*, That of the amounts made available under the Adult Education Act, $1,000,000 shall be available only for demonstration programs under section 372(d), $4,000,000 shall be for national programs under section 383, and $5,000,000 shall be for literacy clearinghouse activities under section 384.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 2, and 3 of part A and parts C, D, and E of title IV of the Higher Education Act, as amended, $6,853,000,000, which shall remain available through September 30, 1993, and of which $100,000,000 shall only be available if such funds are necessary to pay a maximum grant of $2,400 during the 1992–1993 program year, which shall be the maximum Pell grant that a student may receive: *Provided*, That notwithstanding section 479A of the Higher Education Act of 1965, as amended, student financial aid administrators shall be authorized, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and the expected student or parent contribution (or both) and to use supplementary information about the financial status or personal circumstances of eligible applicants only for purposes of selecting recipients and determining the amount of awards under subpart 2 of part A, and parts B, C, and E of title IV of the Act: *Provided further*, That notwithstanding section 411F(1) of the Higher Education Act of 1965, as amended, the term "annual adjusted family income" shall, under special circumstances prescribed by the Secretary, mean the sum received in the first calendar year of the award year from the sources described in that section: *Provided further*, That notwithstanding section 411(b)(6) of the Higher Education Act of 1965, no Pell grant for award year 1992–1993 shall be awarded to any student who is attending an institution of higher education on a less than half-time basis.

GUARANTEED STUDENT LOANS

(LIQUIDATION OF CONTRACT AUTHORITY)

For payment of obligations incurred under contract authority entered into pursuant to title IV, part B, of the Higher Education Act, as amended, $3,105,711,000.

GUARANTEED STUDENT LOANS PROGRAM

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, as amended, including the cost of modifying loans, of guaranteed loans entered into pursuant to title IV, part B, of the Higher Education Act, as amended, such sums as may be necessary to carry out the purpose of the program.

For administrative expenses to carry out the program of guaranteed loans entered into pursuant to title IV, part B, of the Higher Education Act, as amended, $46,433,000, to cover the federal administration of the guaranteed student loans program pursuant to the Federal Credit Reform Act of 1990.

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, titles I, III, IV, V, VI, VII, VIII, IX, X, and XII of the Higher Education Act of 1965, as amended, the Mutual Educational and Cultural Exchange Act of 1961, the Excellence in Mathematics, Science and Engineering Education Act of 1990, and title XIII, part H, subpart 1 of the Education Amendments of 1980, $821,438,000, of which $7,500,000 for endowment activities under section 332 of part C of title III of the Higher Education Act and $19,412,000 for interest subsidies under part D of title VII of the Higher Education Act shall remain available until expended and $300,000 shall be for section 775, part G, title VII: *Provided further*, That $9,271,000 provided herein for carrying out subpart 6 of part A of title IV shall be available notwithstanding sections 419G(b) and 419I(a) of the Higher Education Act of 1965 (20 U.S.C. 1070d–37(b) and 1070d–39(a)): *Provided further*, That $1,450,000 of the amount provided herein for subpart 4 of part A of title IV of the Higher Education Act shall be for an evaluation of Special Programs for the Disadvantaged to examine the effectiveness of current programs and to identify program improvements.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $212,960,000, of which $2,928,000, to remain available until expended, shall be for a matching endowment grant to be administered in accordance with the Howard University Endowment Act (Public Law 98–480), and $23,600,000, to remain available until expended, shall be for emergency construction needs.

HIGHER EDUCATION FACILITIES LOANS

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program for the current fiscal year. For the fiscal year 1992, no new commitments for loans may be made from the fund established pursuant to title VII, section 733 of the Higher Education Act, as amended (20 U.S.C. 1132d-2).

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing and academic facilities loans program, the Secretary shall make expenditures, contracts, and commitments without regard to fiscal year limitation.

COLLEGE HOUSING LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing loans program, previously carried out under title IV of the Housing Act of 1950, the Secretary shall make expenditures and enter into contracts without regard to fiscal year limitation using loan repayments and other resources available to this account. Any unobligated balances becoming available from fixed fees paid into this account pursuant to 12 U.S.C. 1749d, relating to payment of costs for inspections and site visits, shall be available for the operating expenses of this account.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

For carrying out the activities authorized by section 405 and section 406 of the General Education Provisions Act, as amended; section 1562, section 2012, and title IV of the Elementary and Secondary Education Act of 1965, as amended; part B of title III of Public Law 100-297; title V of the Higher Education Act, as amended; and section 6041 of Public Law 100-418, $228,999,000, of which $25,300,000 shall be for research centers; $35,049,000 shall be for regional laboratories including $10,000,000 for rural initiatives; $7,175,000 shall be for the Educational Resources Information Center; $976,000 shall be for field-initiated studies; $8,000,000 shall be for a high technology demonstration grant, including equipment; $50,000,000 shall be for education statistics; $28,000,000 shall be for national assessment activities; $19,000,000 shall be for activities under the Fund for Innovation in Education, including not less than $4,500,000 for comprehensive school health programs; $5,284,000 shall be for Grants for Schools and Teachers under subpart 1, and $3,611,000 shall be for Family School Partnerships under subpart 2 of part B of title III of Public Law 100-297; $14,000,000 shall be for national diffusion activities under section 1562; $14,000,000 shall be for national programs under section 2012; $9,732,000 shall be for Javits gifted and talented students education; $4,233,000 shall be for educational partnerships; $1,769,000 shall be for territorial teacher training; and $370,000, which shall remain available until September 30, 1993, shall be for Leadership in Educational Administration.

In addition to these amounts $4,880,000 shall be available for teaching standards activities under the same terms, conditions and limitations applicable to funding made available for this purpose in fiscal year 1991.

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, II, III, IV, V, and VI of the Library Services and Construction Act (20 U.S.C. ch. 16), and titles II and VI of the Higher Education Act, $142,747,000 of which $14,218,000 shall be used to carry out the provisions of title II of the Library Services and Construction Act and shall remain available until expended, and $5,000,000 shall be for section 222 and $325,000 shall be for section 223 of the Higher Education Act.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, $301,952,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $56,000,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $26,932,000.

GENERAL PROVISIONS

SEC. 301. Funds appropriated in this Act to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet University shall be subject to financial and program audit by the Secretary of Education and the Secretary may withhold all or any portion of these appropriations if he determines that an institution has not cooperated fully in the conduct of such audits.

SEC. 302. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 303. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 304. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 305. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

This title may be cited as the "Department of Education Appropriations Act, 1992".

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES

For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $193,678,000: *Provided*, That $32,693,000 shall be available for title I, section 102, and $1,000,000 shall be available for title I, part C.

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1994, $253,309,000: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171-180, 182-183), including hire of passenger motor vehicles, and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. chapter 71), $28,118,000.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $4,357,000.

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME

For expenses necessary for the National Commission on Acquired Immune Deficiency Syndrome as authorized by subtitle D of title II of Public Law 100-607, $2,000,000.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-845), $750,000.

NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

For necessary expenses of the National Commission to Prevent Infant Mortality, established by section 203 of the National Commission to Prevent Infant Mortality Act of 1986, Public Law 99-660, $390,000, which shall remain available until expended.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title

IV of the Rehabilitation Act of 1973, as amended, $1,497,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, $162,000,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151-188), including emergency boards appointed by the President, $6,775,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For the expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $6,497,000.

PHYSICIAN PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $4,300,000, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1886(e) of the Social Security Act, $4,030,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $315,000,000 which shall include amounts becoming available in fiscal year 1992 pursuant to section 224(c)(1)(B) of Public Law 98-76: *Provided*, That the total amount provided herein shall be immediately credited to the account: *Provided further*, That the amount provided herein plus the interest earned thereon shall be available for payments through September 30, 1992.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, $400,000, to remain available through September 30, 1993, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98-76.

SPECIAL MANAGEMENT IMPROVEMENT FUND

To effect management improvements, including the reduction of backlogs, accuracy of taxation accounting, and debt collection, $3,264,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account: *Provided*, That these funds shall supplement, not supplant, existing resources devoted to such operations and improvements.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board, $74,037,000 to be derived from the railroad retirement accounts: *Provided*, That $200,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the existing limitation has been achieved: *Provided further*, That notwithstanding any other provision of law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 231-231u).

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than $17,263,000 shall be apportioned for fiscal year 1992 from moneys credited to the railroad unemployment insurance administration fund.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than $6,089,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account.

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Armed Forces Retirement Home Trust Fund, $40,581,000: *Provided*, That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

CAPITAL OUTLAY

For construction and renovation of the physical plant, to be paid from the Armed Forces Retirement Home Trust Fund, $4,220,000, to remain available until expended.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $8,393,000.

UNITED STATES NAVAL HOME

OPERATION AND MAINTENANCE

For operation and maintenance of the United States Naval Home, to be paid from funds available to the Naval Home in the Armed Forces Retirement Home Trust Fund, $10,055,000, to remain available until September 30, 1993.

CAPITAL PROGRAM

For construction and renovation of the physical plant to be paid from funds available to the Naval Home in the Armed Forces Retirement Home Trust Fund, $1,253,000, to remain available until expended.

TITLE V—GENERAL PROVISIONS

SEC. 501. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 502. No part of any appropriation contained in this Act shall be expended by an executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

SEC. 503. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376.

SEC. 504. Appropriations contained in this Act, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 505. Appropriations contained in this Act, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 506. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 507. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 508. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 509. (a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 510. The Secretaries of Labor and Education are each authorized to make available not to exceed $7,500 from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board."

SEC. 511. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

SEC. 512. Such sums as may be necessary for fiscal year 1992 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 513. Notwithstanding any other provision of this Act, funds appropriated for salaries and expenses of the Department of Labor are hereby reduced by $30,000,000; salaries and expenses of the Department of Education are hereby reduced by $10,000,000; and salaries and expenses of the Department of Health and Human Services are hereby reduced by $124,000,000, including $8,000,000 of funds appropriated in this Act for travel costs of the Public Health Service: *Provided*, That the reduction for travel costs shall be from the amounts set forth therefor in the budget estimates submitted for the appropriations.

Mr. NATCHER (during the reading). Mr. Chairman, I ask unanimous consent that title I through section 501 and through 513 on page 74, line 10, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN. Are there any points of order against any provisions of titles I, II, III, IV, and the beginning of V?

POINTS OF ORDER

Mr. GRADISON. Mr. Chairman, I make a point of order that the language beginning on page 36, line 10, through page 37, line 5 of title II, violates House rule XXI, clause 2, because it legislates on an appropriations bill.

I ask for a ruling from the Chair on the point of order.

Mr. NATCHER. Mr. Chairman, we concede the point of order.

The CHAIRMAN (Mr. SHARP). The point of order is conceded, and therefore the point of order is sustained and the language is stricken.

Mrs. SCHROEDER. Mr. Chairman, I raise a point of order on page 28, line 25. I would like to strike "XX."

Mr. NATCHER. Mr. Chairman, we concede the point of order on this request.

The CHAIRMAN (Mr. SHARP). Accordingly, the point of order is sustained because funds for title XX are not authorized by law and the language referring to title XX on line 25 of page 28 is stricken.

AMENDMENT OFFERED BY MR. PENNY

Mr. PENNY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PENNY: Page 46, after line 15, insert the following new section:

SEC. 214. The amounts otherwise provided in this title for "OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH" and "GENERAL DEPARTMENTAL MANAGEMENT" are decreased by $2,000,000 and $10,000,000, respectively, and for "HUMAN DEVELOPMENT SERVICES (INCLUDING RESCISSION)" are increased by $12,000,000.

Mr. PENNY. Mr. Chairman, this amendment goes to reductions in administrative accounts in order to make an additional $12 million available for the Head Start Program, to serve an additional 4,000 students.

I rise to offer an amendment to increase funding for the Head Start early intervention and education program $12 million by decreasing funding by an equivalent amount for general departmental management at the Department of Health and Human Services.

I had hoped to be able to increase funding for Head Start by even more than $12 million, but I was sensitive to the need to protect human service programs. Examining the committee-reported bill, I discovered that funds appropriated for departmental management were increased in many cases beyond their budget requests.

The amendment I offer here reduces $10 million of the almost $13 million increase slated for general departmental management and $2 million of the $4.15 million appropriated for the Assistant Secretary of Health and transfers that $12 million to the appropriation that funds Head Start.

Let's keep a few things in mind:

First, in both cases, the new appropriations for management function at HHS were not requested. I have tried to be sensitive of the need of the Department to effectively manage departmental operations, but why give the Department funds they didn't request?

Next, since these funds I would delete were not requested, no layoffs would take place; in fact, even with my amendment, the Department receives more funds for management next year than they received this year, $5 million more in the case of the two administrative accounts I impact.

So, the issue as far as I see it is between funding increases for the bureaucracy that were not requested and additional funds for Head Start—for American families. The additional appropriations for Head Start contained in my amendment would allow an additional 4,000 children to be served next fiscal year.

Monday of this week the National Commission on Children recommended full funding of Head Start, yet here we are today with an appropriations measure that funds only one-half of the authorized level—$4.273 million in fiscal year 1992—for Head Start. The committee has increased funding for Head Start by $250 million and I commend them, but at that rate we will not fully fund this program until next century.

I am rightly viewed as a budget cutter. I am proud of that reputation. But budget making is really about priorities and spending. The amendment I offer today is one of deciding between priorities: bureaucrats or children.

I vote for our children. Please join me in support of Head Start.

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. PENNY. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, on the amendment that now is pending before the committee, the gentleman from Minnesota [Mr. PENNY] has been kind enough to permit Members to see this amendment in advance.

The amendment, as the Chairman knows, offsets the increase by taking $2 million out of the Office of the Assistant Secretary for Health and $10 million out of general departmental management, making a total of $12 million, the amount that is added to Head Start.

Mr. Chairman, certainly under no circumstances would we ask this committee of the House to make any move that would hurt Head Start. I do not know of a Member in this House that is against the Head Start Program, and on this side we accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. PENNY].

The amendment was agreed to.

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Mr. NATCHER. Mr. Chairman, I ask unanimous consent that debate on the bill through section 513 and all amendments thereto be limited to 30 minutes.

Further, Mr. Chairman, I ask unanimous consent that debate on sections 514 and 515 of the bill and all amendments thereto be limited to 1 hour, and that the time be equally divided and controlled by the gentlewoman from

California [Mrs. BOXER] and the gentleman from Michigan [Mr. PURSELL].

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. SHAW. Reserving the right to object, Mr. Chairman, if I might inquire, as I said in the general debate, I have an amendment to offer.

My question to the committee chairman is how many amendments are there? I am not trying to prolong this; however, I want to be sure that all Members will have a chance to be heard on their amendments.

Mr. NATCHER. Mr. Chairman, if the gentleman will yield, as far as we know on this side, I would say to the gentleman from Florida, we know of only two amendments, which will require very little time.

Mr. SHAW. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. COUGHLIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to engage the distinguished chairman and the ranking minority member in a brief colloquy.

The administration is committed to winning the war against drugs. The President has requested large increases in the Federal antidrug budget every year; however, given some of our recent actions, I am concerned about our resolve in the drug war.

Many antidrug accounts in this bill, such as the Health and Human Services block grants and research grants, and the Education Department's emergency grants, have been funded at levels below the President's request. These drastic reductions will translate into first the loss of more than 16,000 Federal treatment slots and more than 64,000 State and local treatment slots; second, the inability to serve over 224,000 individuals seeking drug treatment; and third, the loss of opportunity to do some students counseling and the training of community leaders.

The Chairman, this sends the wrong message to our cities, our schools, and our drug-ridden neighborhoods. We cannot afford to walk away from this fight. Therefore, I would like to engage the chairman, if I might, in a colloquy, and offer my assistance and ask if the gentleman would be willing to work with the other body and in the conference to increase the drug-related accounts in these bills in that conference.

Mr. NATCHER. Mr. Chairman, if the gentleman from Pennsylvania, a member of the full committee and one of the able members, will yield, Mr. Chairman, I would like to make this statement to the gentleman and to the committee.

The bill, as the gentleman knows, provides $2.8 billion for substance abuse activities. This amount is somewhat below the President's request, largely because, as the gentleman knows, many of the programs in the request are not currently authorized.

The committee has followed a consistent policy of not funding unauthorized programs above the 1991 level.

The President requested increases for many of these programs as well as funding for a new, unauthorized $68 million treatment capacity expansion program, which the committee had to defer.

The authorized activities in the committee bill in the aggregate are slightly above the President's request. The President requested $1,191,842,000 for these activities, and the committee bill provides $1,192,750,000.

Once the authorization for these programs becomes law, the Committee will consider funding for new or expanded programs requested by the President, and we join with the gentleman in his statement to the committee as to the importance of these programs.

Mr. COUGHLIN. Mr. Chairman, we hope that these programs will be authorized by the time this bill gets to conference.

In addition, the alcohol, mental abuse, and drug abuse grants are currently authorized. We would hope that we could work in conference to fund both the programs that would be authorized and those programs that are already authorized.

Mr. Chairman, I appreciate the willingness of the distinguished gentleman from Kentucky to work with us on that.

Ms. OAKAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to engage in a colloquy with the distinguished chairman of the committee, the gentleman from Kentucky, with respect to breast cancer research and other areas related to breast cancer that are in the bill.

Mr. Chairman, as the gentleman from Kentucky knows, I appeared before his committee on behalf of my bill, H.R. 2210, to put $50 million more in research and clinical trials for a disease that is in epidemic proportions. Once every 11 minutes a woman finds out that she has breast cancer.

The gentleman from Kentucky has been very gracious to me and to others in hearing our pleas for this and has even attended seminars and so on and stayed the whole time.

So I would ask the gentleman from Kentucky, can the gentleman clarify for myself and for victims of breast cancer and their families across the Nation exactly what this bill does?

I have read the report. There are references to breast cancer, but I would ask the gentleman from Kentucky by how much does the bill increase funding for research specific to breast cancer and other areas?

Mr. NATCHER. Mr. Chairman, will the gentlewoman yield to me?

Ms. OAKAR. Mr. Chairman, it is my pleasure to yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, as regards breast cancer, the President's budget, as we know, proposes an increase of $12 million. This bill increases that amount substantially.

A significant share of the $30 million allotted to the Cancer Institute, perhaps as much as $18 to $20 million, is expected to go to breast cancer.

At least $5 million from the women's health study is likely to focus on breast cancer, and a share of the $10 million allocated to the Office of Research on Women's Health will be for a study of the link between breast cancer and contraceptives.

Mr. Chairman, I should also note that our bill provides $50 million for the new breast and cervical cancer screening program, which is $29 million above the 1991 level.

As the gentlewoman knows, last year when we marked up our bill, the authorization for the $50 million that the gentlewoman from Ohio knows as much about as any Member of Congress and has worked harder than anyone that I know of, we did not have it in time for our markup. In the conference we said to them on the other side, "We know it is not in the conference. It is important enough that we want it in the conference."

Finally they agreed to $30 million. That little cut that went across the board carried us down to $29 million.

It is fully authorized now.

For the money for breast and cervical cancer screening we have $50 million, the full amount.

When the gentlewoman from Ohio appeared before our committee, I wanted to tell her at that time that at her request we were going with the full amount of $50 million, which we did.

Ms. OAKAR. Mr. Chairman, let me personally and publicly thank the gentleman from Kentucky, and also the gentleman from Michigan [Mr. PURSELL] and others, but the gentleman from Kentucky in particular for his resolve on this matter.

I only hope—I am very, very grateful—I know I speak on behalf of women and their families across the country, because we know we need more research and we want to find a cure. My only hope is that the Senate will not have zero in their budget, as they did in the last Congress, and that the wishes of the gentleman from Kentucky will prevail and, if anything, gets even stronger, because the gentleman from Kentucky has always kept to his work as far as I am concerned.

Mrs. LLOYD. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. Mr. Chairman, I yield to my friend, my dear friend, the gentlewoman from Tennessee.

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Mrs. LLOYD. I thank the gentlewoman for yielding.

Mr. Chairman, as many in this body know, I underwent surgery recently for breast cancer. I say this not to invoke sympathy on myself but to invoke a greater awareness of the necessity for more research dollars going into the area of breast cancer research. Today we have so little knowledge of the causes of breast cancer, and a cure for breast cancer must be found if we are going to change this. If not, you are going to see 44,000 American women continue to have their lives claimed by breast cancer each year.

So I do commend the committee for their action in this area.

Mr. Chairman, as many in this body know, I recently underwent surgery for breast cancer. I mention this not for anyone's sympathy, but so that my recent experience can bring about changes in the way women receive health care in this Nation. I now find myself in the midst of the growing numbers of American women that will be struck by breast cancer each year. I am fortunate though, simply because I had a mammogram every year.

We are able to stop smoking to avoid lung cancer, but to date we have nothing to tell women to avoid breast cancer. A cause for breast cancer must be found in order to change this. If not, 1 in 9 American women will continue to develop breast cancer.

There has been little progress in finding the cure for this disease. That is why the National Institute of Cancer must be funded to the fullest level possible. NCI has several programs currently investigating breast cancer. These must be continued, and expanded, in order to stop this tragedy.

The CHAIRMAN pro tempore (Mr. HUTTO). The time of the gentlewoman from Ohio [Ms. OAKAR] has expired.

Ms. OAKAR. Mr. Chairman, I ask unanimous consent, because of the magnitude of this issue, that I may proceed for 3 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Ohio?

Mr. BERMAN. Mr. Chairman, reserving the right to object, under the reservation, if I might just ask: We are within a 30-minute time limit where all the different issues have to be raised by amendment?

The CHAIRMAN pro tempore. The gentleman is correct.

Mr. BERMAN. Mr. Chairman, might I ask unanimous consent that 3 minutes be extended onto that time limit?

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Ohio [Ms. OAKAR]?

There was no objection.

Mrs. BOXER. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentlewoman from California.

Mrs. BOXER. I thank the gentlewoman for yielding.

Mr. Chairman, I want to praise the gentlewoman in the well [Ms. OAKAR]. Mr. Chairman, last year the gentlewoman took to the floor and just insisted in the dead of night that we do something about breast cancer. Here we have a colleague with us today, who is looking wonderful, and she is a survivor. I will say this: When we asked the folks at home what concerns them, one of the first things they will say is, 1 in 9 women, 1 in 9 is going to get breast cancer.

Mr. Chairman, we need to do more. We need to do more. I compliment the gentlewoman from Ohio on her leadership, and I compliment the chairman of the subcommittee, the gentleman from Kentucky [Mr. NATCHER].

Mrs. SCHROEDER. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. I thank the gentlewoman for yielding.

Mr. Chairman, I want to compliment the gentlewoman from Ohio [Ms. OAKAR]. Mr. Chairman, I also welcome our colleague back from Tennessee [Mrs. LLOYD].

I think we want to thank her for her great courage in coming forward and discussing this at this time.

Mr. Chairman, I want to thank the chairman of the subcommittee also.

If anything, we only want more.

Mr. Chairman, we also say that MARY ROSE OAKAR's leadership has been phenomenal.

Ms. OAKAR. I want to say one other thing. We want a cure for breast cancer, and we will never do it unless every child is immunized against breast cancer. We can do it if we have the research dollars. I also want to say that, like Mrs. LLOYD, my own sister has had breast cancer, her next-door neighbor, Jan Nixon, has had breast cancer. Thousands of women, 175,000 of them, will find out they have breast cancer this year, and what they want, what women who are marching across the country who have breast cancer want, is they are thinking of their children and grandchildren. They are saying that if you can support $1.8 billion for AIDS research, which we all need in AIDS prevention, which we all support, plus the $65 million that is in the bill, we want to have at least $50 million for research moneys preserved.

Mr. Chairman, I urge all the women in this country to urge the Senate to adhere to the provisions that the House of Representatives have in the bill for finding a cure for this disease.

Mr. Chairman, I thank, from the bottom of my heart, the members of the committee for their action and for the other provisions relating to women's health.

AMENDMENT OFFERED BY MR. NATCHER

Mr. NATCHER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. NATCHER: On page 36, line 10 insert:

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, an additional $600,000,000: Provided, That all funds available under this paragraph are hereby designated by Congress to be emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That these funds shall be made available only after submission to Congress of a formal budget request by the President that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985.

Mr. NATCHER (during the reading). Mr. Chairman, I ask unanimous consent the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. NATCHER. Mr. Chairman, this amendment would make a technical adjustment to the energy assistance fund provided in the bill. The amendment would restore the original bill language in H.R. 2707 except that it would provide the emergency funds under the terms of the regular Low-Income Home Energy Assistance Program rather than leaving the allocation of the funding to the discretion of the President. This is being done at the request of the authorizing committee and we support the change.

Mr. Chairman, I ask for a vote on the amendment.

Mr. PURSELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we do not object on this side to the technical amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Kentucky [Mr. NATCHER].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SHAW

Mr. SHAW. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHAW: Page 28, strike line 18 and all that follows through line 20 and insert the following:

$3,051,954,000, of which $5,000,000 for renovation of government owned or leased intramural research facilities shall remain available until expended, $1,268,670,000 shall be allocated to the Alcohol, Drug Abuse, and Mental Health block grant, $68,000,000 shall be allocated to the Capacity Expansion program, $32,548,000 shall be allocated to the Treatment Grants to Crisis Areas, $86,698,000 shall be allocated to the Treatment Improvement Grants, $4446,225,000 shall be allocated to the National Institute on Drug Abuse, and $281,580,000 shall be allocated to the Office for Substance Abuse Prevention.

On page 47—

(1) in line 24, strike "$764,756,000" and insert "$628,130,000"; and

(2) strike line 26.

Mr. NATCHER (during the reading). Mr. Chairman, I reserve a point of order on the amendment offered by the gentleman from Florida [Mr. SHAW].

Mr. SHAW (during the reading). Mr. Chairman, I ask unanimous consent the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. WALKER. Mr. Chairman, reserving the right to object, and I shall not object, I wonder if the gentleman from Florida [Mr. SHAW] could explain to us the purpose of this amendment if we are not going to have the amendment read.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Florida.

Mr. SHAW. I thank the gentleman for yielding.

Mr. Chairman, this particular amendment would restore the $33.67 million cut from the alcohol, drug abuse, and mental health services block grant; the $33.67 million reduction in this block grant is cut from both the 1991 appropriations level and the administration request.

This amendment would restore that request for drug, alcohol, and mental health treatment. It would also fund a treatment capacity expansion program costing $68 million.

The administration has requested funding for expanding the drug abuse treatment and creating new treatment slots, but the Committee on Appropriations has not included this request in the current bill.

It would also provide $4.59 million for the Office of Treatment Improvement, which the administration treatment grant and alcohol, drug abuse, and mental health block grants fund.

It would add $13.1 million in prevention programs at the Office of Substance Abuse Treatment of the Department of Health and Human Services.

It would restore the President's request for funding for the National Institute of Drug Abuse, adding $14.8 million to the committee recommendation.

The total spending on this amendment is $134.24 million. This is paid for in the bill by amending an additional section which would strike that amount or $136.24 million from impact aid. This is the aid that is paid to cities where military bases are located. But it is important to realize that this cut is taken from military personnel who live off of base. This means that the residences in which they are living are in fact paying taxes just like the rest of the community. So it is taking it really from a pork barrel fund which is located in these particular areas.

Mr. WALKER. Further reserving the right to object, do I understand correctly then that the committee has cut the amount the administration requested in drug treatment programs, and the gentleman is attempting to restore the money that was originally proposed by the administration in these drug treatment programs?

Mr. SHAW. The gentleman is correct. All but $33.67 million is new money. But the cut that I am most concerned about is this $33.67 million which is cut from last year's funding.

This is the problem that I see.

This is the first time that I can remember this is a step backward in funding drug programs. I think the majority has been, over the years, somewhat critical of the Republican administrations for not supporting more treatment.

Now we have a President who is committed to asking for this money so that we can get to the treatment, so we can get these people back in the mainstream of life and cut down on all the tremendous problems we have with prisons, with law enforcement, and everything else.

So I would hope that the committee would choose to accept this amendment under the point of order and that we can go ahead with a most important program.

We are gaining slightly on the problem of drug abuse. This is no time to fall back. It is time that we really accelerate these programs and really go out there and fight a war that I believe is winnable with the commitment and cooperation of Congress and the President.

Mr. WALKER. Mr. Chairman, I thank the gentleman for his explanation and I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

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POINT OF ORDER

Mr. NATCHER. Mr. Chairman, I have a point of order.

The CHAIRMAN pro tempore (Mr. HUTTO). The gentleman will state his point of order.

Mr. NATCHER. Mr. Chairman, I make a point of order against the amendment offered by the gentleman from Florida [Mr. SHAW] because it provides an appropriation for an unauthorized program and, therefore, violates clause 2 of rule XXI.

Mr. SHAW. Mr. Chairman, whereas I am disappointed with the gentleman from Kentucky [Mr. NATCHER] raising the point of order, I must concede in all honesty that what he says is correct, and, therefore, I concede the point of order.

The CHAIRMAN pro tempore (Mr. HUTTO). The point of order is conceded and sustained.

Mr. GILMAN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Florida [Mr. SHAW]. I would like to commend Mr. SHAW for bringing before the House the crucial issue of funding for drug treatment centers.

Mr. Chairman, I am alarmed about the reduction in antidrug appropriation in the Labor, HHS, and Education appropriations bill. Not only has the Appropriations Committee turned down the President's request for $134 million for drug treatment programs, but the committee has actually recommended spending $33 million less in fiscal year 1992 than was spent in fiscal year 1991. This is an ill-founded reduction of an extremely important program.

This Congress is committed to fighting a war on drugs. It is a deadly serious war, with the lifeline of our very Nation at stake. As with any war, there are casualties. I firmly believe that every addict seeking treatment should be able to find it. How can we hope to win the war on drugs if we cannot help those seeking to overcome their addictions?

In my own home State of New York, the New York State antidrug abuse counsel has noted that 75,000 treatment slots are needed. Today there are only slightly more than 50,000 treatment slots available. We are 25,000 slots short in New York State alone. H.R. 2707, in its unamended form, will result in 80,000 fewer treatment slots being made available nationwide. At a time when the incidence of drug abuse is escalating, the number of treatment slots available must be increased. Any reduction of the number of slots will only exacerbate this problem.

Adam Smith taught us many years ago that in order to understand any market, one must look at both supply and demand. In our war against drugs, treatment centers play the crucial role of helping to reduce demand. The Shaw amendment is both a necessary and just measure that will help to correct the gross error made by H.R. 2707. Accordingly, Mr. Chairman, I strongly urge all of our colleagues to join in support of this amendment in order to beef up our antidrug efforts.

Mr. FAZIO. Mr. Chairman, I move to strike the last word, and I would like to engage in a colloquy with the chairman of the committee, if I could.

Mr. Chairman, I am concerned about the ongoing deferral of funds for State legalization impact assistants grants [SLIAG]—the program that provides essential services in support of integrating newly legalized persons into their communities.

As the GAO study which you and Chairman HARKIN requested cites, according to HHS and State estimates, about $450 million of the amount appropriated for SLIAG for 1992 may be needed during that fiscal year to cover projected drawdowns through the end of fiscal year 1992. It also says that at least three States—California, New York, and Colorado—may not have been allocated sufficient funds to meet their estimated requirements through 1992.

It is my understanding that, given the current bill language, no further legislative action will be required to insure both that the fiscal year 1992 appropriation is released in 1993 and that, due to this fiscal year 1992 deferral, all of the funds for SLIAG for both fiscal years will indeed be distributed to States by October 15, 1992. Does this reflect the Chairman's understanding of what the bill and report have provided?

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, the gentleman from California [Mr. FAZIO] is correct. It is my intention and expectation—and that of the subcommittee—to fulfill fiscal year 1992 and 1993 commitments to SLIAG in 1993, as well as to ensure advance release of these funds in October 1992. The committee has provided both legislative and report language requiring no further legislative action in order to guarantee this commitment.

Mr. Chairman, further I would like to say to the gentleman from California [Mr. FAZIO] and the gentleman from California [Mr. BERMAN] who is in the well, to a member of our subcommittee, the gentleman from California [Mr. ROYBAL] and all of those that have talked to us about this matter, "We appreciate your assistance."

Not only that, this is a commitment that was made in 1986 under the basic law which provided for $1 billion for the fiscal years of 1988, 1989, 1990, 1991, and I say to the gentleman from California [Mr. FAZIO] that it is a commitment made in the bill, and the commitment must be carried out.

Mr. FAZIO. Mr. Chairman, I thank the gentleman from Kentucky [Mr. NATCHER], the chairman for the subcommittee, for his support and cooperation.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I thank the gentleman from California [Mr. FAZIO] for yielding. I especially thank the chairman for his commitment.

Mr. Chairman, I would just say that many of us from California were particularly concerned upon first learning of the decision to defer this appropriation. We understand that the administration requested a revision. We understood the low allocation. Our only hope is that the assurances that have been given can also be considered for purposes of adding language providing greater flexibility for the Department of Health and Human Services to take the unexpended funds, which are estimated to be about $580 million, and to allow those funds to be allocated in a fashion that would allow the programs in those States that will need the moneys to be spent in those States rather than held over. I think that kind of language in the conference committee, plus the chairman's commitment, can assure all Californians that the commitments made in 1986 will be met.

Mr. PURSELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. RIDGE. Mr. Chairman, will the gentleman yield?

Mr. PURSELL. I yield to the gentleman from Pennsylvania for the purpose of a colloquy.

Mr. RIDGE. Mr. Chairman, I would like to engage the gentleman from Kentucky [Mr. NATCHER] in a colloquy on the Low Income Home Energy Assistance Program or LIHEAP. I share the concerns of many of my colleagues that the level of funding approved by the full committee for this critical program will not be sufficient to meet the needs of some of society's most needy individuals, the working poor, elderly, handicapped and low-income individuals. A $1 billion funding level would result in a cut of approximately 40 percent from the current services level. As many as 2 million families could be denied energy assistance.

I have tried unsuccessfully for the past several days to draft an amendment that would restore LIHEAP to a funding level of $1.6 billion. As you know, Mr. Chairman, such a level would not be a current services budget, but it would closely resemble last year's funding level.

While I am disappointed that the House cannot act today to provide critical funds for this important program, I trust that you will have the ability to work in conference toward a greater level of funding for LIHEAP.

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. PURSELL. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, as the gentleman from Pennsylvania [Mr. RIDGE] knows, we faced many difficult funding decisions this year. Although we were not able to fund LIHEAP at the level that you and many other Members supported for 1992, I do want to express my willingness to work in conference with the Senate to gain greater funding for LIHEAP. You are certainly correct that this is a vital program that serves many needy individuals. Because of LIHEAP's importance to many households across the Nation, it is my intention to work in conference to try to restore LIHEAP funding to a level closer to the 1991 level.

In addition, Mr. Chairman, I would like to say to my friend, the gentleman from Pennsylvania [Mr. RIDGE] that personally I know a little bit about this legislation. At the time we had this up a number of years ago when the program was first authorized, we had problems with someone to introduce the bill. It was a House joint resolution. My name is on that resolution, and I take great pride and honor to say to my colleagues today that I am just as proud of it today as the day I put my name on it.

Mr. RIDGE. Mr. Chairman, I thank the gentleman from Kentucky [Mr. NATCHER] very much for that commitment. My colleagues told me that, when this program was designed and first came to light here on the floor, the gentleman from Kentucky was around at its birth, and that kind of continuing commitment on this program is very reassuring to me, and I am sure that there is some room in conference to increase the level of funding. Those responsible for the program, people such as the gentleman from Kentucky [Mr. NATCHER] will certainly be there trying to put their fingerprints on it and increase the funding level to more appropriate levels, and I thank the gentleman for that commitment.

Mr. PURSELL. Mr. Chairman, I am pleased that the committee took note of the efforts by OMB to revise its procedures for indirect cost recoveries for research conducted at universities. Clearly, significant improvements in those procedures must be made to assure Congress and the taxpayers that vital research funds are used effectively.

I understand that, under the OMB plan, certain expenses will be disallowed and certain administrative costs will be capped at 26 percent. If OMB decides to implement the 26 percent cap, is the committee recommending that these changes should be phased in over a period of time, preferably after existing agreements with cognizant agencies have expired?

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. PURSELL. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, this is a matter, as the gentleman knows, for the Office of Management and Budget to decide, but, if they do decide on a phase-in period, this committee would not object to this approach.

Mr. PURSELL. Mr. Chairman, I thank the gentleman from Kentucky [Mr. NATCHER].

☐ 1350

Mr. DINGELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to commend the distinguished chairman of the subcommittee, who is one of the most respected and admired and liked Members of this body, for the amendment which he offered recently with regard to reinserting the LIHEAP funds which are so important to the people of this country. The Nation owes him thanks for that.

The situation is quite serious. As we know, if the fall and the winter come on very harshly, at the levels of the funding in the committee bill, without the amendment just adopted by the House as offered by the distinguished gentleman from Kentucky [Mr. NATCHER], there would be literally millions of Americans cold and hungry as well. The LIHEAP funds, with the $600 million in the amendment, are extremely important. Without the full funding of that particular program, many poor in this country would confront the choice between heating their homes or eating, or they might perhaps be able to do neither. The suffering which would result from that situation would, I believe, be intolerable.

The gentleman has very wisely improved the committee bill by his amendment because he has required that the allocation be according to existing law. I commend him for that. That is very useful.

Under the amendment the President will make the determination whether or not there is an emergency in the country. I believe that is not what the gentleman really would have desired, but rather that the matter be hinged upon an emergency. I believe that he would rather have preferred to see that this is done simply as a matter of law, but I understand the parliamentary and budgetary situation that confronted my friend. I fully understand that.

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I am happy to yield to my friend, the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, I thank the gentleman for yielding, and I want to thank the gentleman, who is chairman of the Committee on Energy and Commerce, for his assistance not only at this time with our bill but all down through the years since the gentleman has been a Member of Congress.

Mr. Chairman, the gentleman well knows that when we take care of the health of our people and educate our children, we live in the strongest country in the world. I had the pleasure, Mr. Chairman, of serving with the gentleman's father in the House. When I got here, the gentleman's father was a Member of Congress, and like the gentleman in the well, he was an outstanding Member.

Mr. DINGELL. Mr. Chairman, I thank the gentleman from Kentucky.

Mr. Chairman, I would like to observe that this is a most important program. Without this amendment and the required Presidential submission, almost 100,000 families would have to have been dropped in just the State of Michigan. In the Midwest as a whole, almost 500,000 families would have been dropped, and in the Nation as a whole almost 2 million households would have been dropped. That would have resulted in a level of hardship that would have been intolerable, I believe, by any standard or measure. So the gentleman is particularly to be commended for what he has done here today.

The chairman of the subcommittee, the gentleman from Indiana [Mr. SHARP], and I have worked with the distinguished chairman of the subcommittee on various alternatives, and I want him to know that we have appreciated that opportunity and have found the results to be very helpful. The House is going to have to work hard to try to preserve and improve the funding for this program when we go to conference, and I know we can count on the distinguished gentleman from Kentucky and also the distinguished gentleman from Michigan [Mr. PURSELL], who has also been active in this matter and whose concerns are well known.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Chairman, I thank the gentleman for yielding, and I want to extend my sincere thanks to the distinguished chairman of the Appropriations Subcommittee on Labor, HHS, and Education, my good friend, BILL NATCHER. The gentleman from Kentucky has once again demonstrated his deep and genuine commitment to those who have served in the Armed Forces of the United States.

Contained in H.R. 2707 is over $80 million for veterans' employment services which was not included in the administration's budget request. But for the actions of the distinguished chairman, the Disabled Veterans Outreach Program, a highly successful employment program for veterans, would have virtually closed down. This program, which we extended earlier this year, was established by Congress to provide intensive employment services to disabled veterans, and other veterans, in need of job search and placement assistance.

But for the actions of our colleague from Kentucky, the National Veterans Training Institute, which provides training to Federal and State employees and others involved in the delivery of employment services to veterans, would have closed down.

Mr. Chairman, these programs help disabled veterans find jobs. They help veterans of the Persian Gulf war find jobs. They help the fine men and women separating from the military because of downsizing find jobs. They help veterans of Vietnam find jobs.

I know the distinguished chairman had to dig deep to find the funding for these important veterans' employment programs, and I want to express my deep appreciation for his efforts and those of the esteemed ranking minority member of the subcommittee, CARL PURSELL.

WILLIAM NATCHER is a good and valued friend to veterans, and he has more than earned their gratitude and respect. On behalf of all the veterans organizations and military associations who represent millions of veterans from all wars, I thank the subcommittee for its great work.

Ms. LONG. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I am glad to yield to the gentlewoman from Indiana.

Ms. LONG. Mr. Chairman, I rise in support of this bill. The subcommittee chairman, Mr. NATCHER, the committee chairman, Mr. WHITTEN, and the members of the committee did a herculian task as they faced a series of difficult choices.

In particular, I want to highlight the job the committee did with respect to funding the administration of the unemployment program.

While administration costs may not seem, at first, to be a compelling need, this winter there were families in Indiana in line at unemployment offices at 5 o'clock in the morning and individuals waited weeks to receive their benefits, all due to the lack of administrative funds.

These workers had paid their unemployment taxes to qualify for coverage and yet they faced unconscionable delays in receiving their unemployment insurance benefits. It is bad enough when the Government doesn't deliver benefits to individuals in real need. It's worse when the Government takes money from workers with the promise to return it in times of need and the does not come through.

The committee's bill would fully fund all anticipated administrative costs and establish a contingency fund to cover any unanticipated costs should unemployment rise above projections. The contingency fund is important because in both of the last 2 years unanticipated costs arose and unemployed workers endured delays and lines while waiting on supplemental action by the Federal Government.

However, I am concerned that, as has happened in previous years, unemployment funding will be derailed by the time the appropriations process is finished. What is particularly disturbing about this outcome is that the money appropriated for unemployment programs comes from taxes which are dedicated to the program. When Congress underfunds the unemployment program the money simply builds up, unspent in the unemployment trust fund.

I believe we need to reform the way we budget the unemployment trust fund and get it off budget. In the meantime the unemployment provisions bill are good measures and I urge support of the bill.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 74, after line 10,

Insert the following new section, and redesignate subsequent sections accordingly.

SEC. 513. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act is hereby reduced by 5.9 percent.

The Chairman pro tempore. (Mr. HUTTO). The Chair wishes to advise the Members that under the agreement there are 2 minutes left, 1 minute for the gentleman from Pennsylvania [Mr. WALKER] and 1 minute for a Member opposed to the amendment.

Mr. WALKER. I thank the Chair.

Mr. Chairman, in my 1 minute I just want to explain that this is the balanced budget amendment. This is the amount that would have to be reduced from the overall spending in this bill in order to bring us into compliance with the concept that we will increase spending over 1991 levels by 2.4 percent.

Under this particular amendment we would in fact allow every account within this bill to be not only 100 percent of what it was the year previous but it would allow it to be 102.4 percent over the previous year. So in my amendment there are no cuts in spending based upon 1991 spending; there are only increases.

However, there is a reduction in the amounts which the committee is including, and those reductions are in order to ensure that we do in fact stay committed to the balanced budget concept. The committee has done a good job of staying within its 602(b) limitations, but 602(b) limitations, I remind the House, do not get us to a balanced budget agreement. Last year's budget agreement does not assure that we are going to have a balanced budget. Only by voting for amendments of this kind can we be assured that we will achieve a balanced budget by the fiscal year 1995.

Mr. Chairman, this is a 5.9-percent cut. I realize that is a tough thing to do on this bill, but if we are committed to a balanced budget, it ought to be done.

Mr. NATCHER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Kentucky [Mr. NATCHER] is recognized for 1 minute.

Mr. NATCHER. Mr. Chairman, if the amendment offered by my friend, the gentleman from Pennsylvania [Mr. WALKER], is accepted, here is what the amendment would do: It would cut this bill $3 billion $500 million. As I said at the very beginning, we worked for 14 weeks, we held hearings, and we had hundreds of witnesses who appeared before our subcommittee. We kept this bill under our 602(b) funding allocation for budget authority and outlays.

This is a cut of $3 billion $500 million. Just in the Department of Labor alone, there would be a $500 million reduction. We come down to the Department of Health and Human Services, $1,450,000,000; breast cancer research and screening, childhood immunization, the National Institutes of Health, and AIDS [acquired immune deficiency syndrome], they are all cut. This cuts them all, Mr. Chairman. We would see cuts in the homeless programs and the nutrition program for the elderly. The older people in this country throughout the States and communities who need something to eat, they would be affected by this proposed amendment.

There is a lot of pride in these people, Mr. Chairman. They walk in, they are hungry, they need something to eat. If this amendment is adopted, it cuts that program.

The Department of Education would be cut by $1,385,000,000, including the chapter 1 program, student assistance for higher education and education for the handicapped.

Mr. Chairman, I ask that the amendment be defeated.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORD VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 55, noes 366, not voting 11, as follows:

[Roll No. 199]

AYES—55

Allard
Archer
Armey
Baker
Ballenger
Barton
Bennett
Boehner
Bunning
Burton
Campbell (CA)
Coble
Combest
Cox (CA)
Crane
Dannemeyer
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Fawell
Fields
Gillmor
Hancock
Hansen
Hefley
Herger
Hobson
Holloway
Hunter
Inhofe
Johnson (TX)
Kasich
Kyl
Marlenee
McCandless
McEwen
Miller (OH)
Moorhead
Nichols
Oxley
Packard
Petri
Riggs
Roberts
Rohrabacher
Santorum
Sensenbrenner
Shuster
Slaughter (VA)
Stump
Thomas (WY)
Walker
Zeliff

NOES—366

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Barrett
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Camp
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Rinaldo
Ritter
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weber
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zimmer

NOT VOTING—11

Dymally
Gingrich
Hopkins
Houghton
Kolter
Lehman (FL)
Moran
Rhodes
Ridge
Sundquist
Weldon

□ 1419

Mr. THOMAS of Georgia changed his vote from "aye" to "no."

Mr. KYL changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MORAN. Mr. Chairman, during rollcall vote No. 199 on H.R. 2707 I was unavoidably detained. Had I been present I would have voted "no."

□ 1420

Mr. SOLOMON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am taking this time for the purpose of engaging in a colloquy with the gentleman from Kentucky, chairman of the Labor-HHS Appropriations Subcommittee and the gentleman from California, chairman of the Ways and Means Subcommittee on Health.

The issue, Mr. Chairman, is a proposal by the Health Care Financing Administration to conduct a demonstration project designed to provide cataract surgery to Medicare beneficiaries for a single netotiated global fee.

HCFA's intent is to conduct this demonstration project pursuant to certain waiver authority which the agency purports to be contained in 42 U.S.C. section 1395b-1. Are my colleagues aware of this demonstrated project and the section of the code just cited?

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from California.

Mr. STARK. Mr. Chairman, I am aware.

Mr. NATCHER. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Chairman, I would like to advise the gentleman that I, too, am aware of this.

Mr. SOLOMON. Mr. Chairman, is it not correct that 42 U.S.C. section 1395b-1 provides HCFA with limited authority to waive compliance with the requirements of the Mecicare provisions of the Social Security Act and thus limits the agency's ability to conduct demonstration projects?

Mr. STARK. If the gentleman will yield further, I would inform him that his interpretation is correct.

Mr. SOLOMON. Mr. Chairman, is it not also correct that, according to current law, the Department has the authority to waive certain requirements relating to reasonable cost or reasonable charge reimbursements, but does not have the authority to waive other types of reimbursement rules or to waive the part B deductible and coinsurance requirements?

Mr. STARK. If the gentleman will yield further, I would inform him that that is also correct.

Mr. SOLOMON. Let me just say then, according to the 1989 amendments to the Medicare Act, which will take effect in January 1992, payment for physician service, will not be based upon reasonable charges, but will instead be based on a resource-based relative value scale, or fee schedule.

Under this soon-to-be implemented reimbursement methodology, does HCFA, pursuant to section 1395b-1, have the authority to waive either fee schedule or the deductible and coinsurance requirements as envisioned in the cataract demonstration project?

Mr. STARK. If the gentleman will yield further, I would inform him that it is my understanding of the statute that the Department does not have the necessary authority.

I, together, with my colleague, the distinguished ranking minority member of the Subcommittee on Health of the Committee on Ways and Means, wrote a letter, dated April 11, to the administrator of the Health Care Financing Administration in this regard.

This letter expresses our concern that the Department does not have the necessary statutory authority to carry out this demonstration.

Mr. SOLOMON. Notwithstanding this clear statutory interpretation and your communications to the agency, I understand from Dr. Wilensky's repeated statements, that HCFA will persist in its pursuit of this demonstration project.

I believe that HCFA should immediately cease and desist from further design and implementation of this project.

Do the gentlemen agree?

Mr. STARK. If the gentleman will yield further, I would tell him that I emphatically agree, that given the clear statutory limitation on HCFA's authority, HCFA should immediately halt further development of this project.

I thank the gentleman for bringing this to our attention, and I thank the gentleman for yielding.

Mr. NATCHER. Mr. Chairman, if the gentleman will yield further, I thank the gentleman for yielding.

Mr. Chairman, we would urge HCFA to carefully consider and respond to the concerns that have been raised by the gentleman from New York before it proceeds further with the design and implementation of such a demonstration.

Mr. SOLOMON. Mr. Chairman, I certainly thank both the chairmen from the bottom of my heart. I know the senior citizens in my small rural communities deeply appreciate it.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I am happy to yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, I rise in favor of the committee bill as written.

Mr. Chairman, I rise today in support of the Labor-HHS-Education and Related Agencies Appropriations Act of 1992. I am not entirely pleased with this bill, but I believe it is the best possible bill under the circumstances.

The bill includes $2.5 billion, above fiscal year 1991 levels, for education programs, including Head Start. This is consistent with the education assumptions in the House budget resolution as amended by the homefront budget amendment which I offered.

I want to express my appreciation to Chairman NATCHER and the subcommittee for continuing to make critical investments in preschool programs and elementary and secondary education. This bill increases Education Department discretionary programs by almost 11 percent. It adds $1 billion for chapter 1, an increase of 16 percent; a $370 million increase for vocational education, an increase of 37 percent; and a $200 million increase for handicapped education, an increase that exceeds the rate of inflation. The bill includes an additional $50 million for the Even Start Program and a $38 million or 19 percent increase for math-science education.

All told, I support Chairman NATCHER's efforts to uphold the will of the House in endorsing the priorities which my amendment embodied.

Nevertheless, the Labor-HHS-Education bill, so ably constructed by Chairman NATCHER, is drastically underfunded compared to the conference agreement on the budget resolution for fiscal year 1992 which Members adopted by a vote of 239 to 181. It is even substantially underfunded compared to the House passed budget resolution which was adopted by a vote of 261 to 163.

The House passed budget resolution assumed $1.2 billion more in budget authority and $1.7 billion more in outlays for this bill than was ultimately allocated to it. The shortfall as compared to the conference report was even more dramatic. The Labor-HHS-Education bill is $3 billion in budget authority and $2 billion in outlays below the levels assumed by the conferees.

Thus, while Members thought they were voting for one set of priorities in the budget, those priorities have been turned upside down because the Appropriations Committee has substituted other priorities—which have never been voted on—for those expressed by the House on two separate occasions. This raises fundamental questions. If the Appropriations Committee is not guided by the budget, why do we need to suffer through the budget process? If the Budget Committee cannot impose its will, what purpose does it serve? Is it time to abolish the budget process? What remedy is available to Members if budget priorities are ignored?

The result of these arbitrary decisions is to squeeze discretionary funding in the Labor-HHS-Education bill so that we are forced to make painful tradeoffs. By way of example, the subcommittee was forced to cut funds for low income energy assistance in order to increase funds for Head Start and to make a downpayment on the President's education initiative. We should all hope for a cool summer, and warm winter, so that we can be spared the nightmare of seniors freezing to death or dying from heat prostration.

While unemployment hovers just below 7 percent and economists debate whether we have begun a meager recovery or are still in recession, we can only find $50 million more to train and retrain American workers who have been dislocated. While drug related gang violence tears at the heart of American cities, large and small, gang prevention programs have been cut by between one-third and one-half and drug abuse education funds have been frozen.

As we continue preparations for reauthorization of the Higher Education Act, I must express some concern over levels contained in this appropriations bill for student financial assistance. Subcommittee constraints threaten our historical commitment to guaranteeing low- and middle-income students access to quality education. I pledge to work with my good friend, Chairman NATCHER, as the process continues.

We are told that we have no choice. That we must be guided by the Budget Enforcement Act adopted last year. This monstrosity imposed a cap on domestic discretionary spending, precluded transfers from defense spending or foreign aid to domestic spending, and even precluded pay-as-you-go for discretionary spending increases while permitting it for entitlements.

It is absurd to argue that we can't do these things because we have no money. I would argue that our problem is lack of will, not lack of wallet. When the President decided to wage war with Iraq, we found the wallet. When he decided to bail out the savings and loans, we found the wallet. In both cases, the wallet was off-budget.

The issue is will. This administration and its allies in the Congress must recognize that this country's leadership position is precarious, that our standard of living and quality of life is slowly deteriorating, and that we must invest to prosper. To the extent that we indulge in elaborate but arbitrary constructs to try to substitute for backbone and will power we are doing ourselves and the Nation a disservice.

Mr. Chairman, I support this bill as the best possible product under the existing budgetary constraints, but I strongly urge my colleagues to carefully analyze what this Budget Enforcement Act is doing. The sooner we repeal this horror, the better.

Mr. PANETTA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will briefly summarize this bill with relationship to the guidelines in the budget resolution.

I rise in support of H.R. 2707, Departments of Labor, Health and Human Services, and Education, and Related Agencies appropriations bill for fiscal year 1992. This is the 11th of the 13 annual appropriations bills to be considered by the House.

The bill provides $58.510 billion in discretionary budget authority and $57.808 billion in discretionary outlays, which are $774 million below the 602(b) subdivisions for discretionary budget authority and $1 million less than the outlays, respectively, this subcommittee's subdivision.

As chairman of the Budget Committee, I plan to inform the House of the status of all spending legislation, and will be issuing a "Dear Colleague" on how each bill compares to the budget resolution.

I look forward to working with the Appropriations Committee on its other bills.

[Factsheet]

H.R. 2707, DEPARTMENT OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATION BILL, FISCAL YEAR 1992 (H. REPT. 102-121)

The House Appropriations Committee reported the Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations bill for Fiscal Year 1992 on Thursday, June 20, 1991. Floor consideration of the bill is scheduled for Wednesday, June 26, 1991.

COMPARISON TO THE 602(b) SUBDIVISION

The bill, as reported, provides $58,510 million in total discretionary budget authority, $774 million below the Appropriations subdivisions for this subcommittee. The estimated discretionary outlays in the bill are $1 million below the subdivision totals. Amounts are provided in the domestic and the international categories.

The bill, as reported, provides $58,502 million of domestic discretionary budget authority, $773 million less than the Appropriations 602(b) subdivision for this subcommittee. The estimated domestic discretionary outlays in the bill are identical to the subdivision total. A comparison of the bill with the funding subdivisions follows:

COMPARISON TO DOMESTIC SPENDING ALLOCATION

[In millions of dollars]

	Labor, Health and Human Services, and Education, and Related Agencies appropriations bill		Appropriations Committee 602(b) subdivision		Bill over (+)/under(−) committee 602(b) subdivision	
	BA	O	BA	O	BA	O
Discretionary	58,502	57,800	59,275	57,800	−773	
Mandatory[1]	144,708	143,234	144,708	143,234		
Total	203,210	201,034	203,983	201,034	−773	

[1] Conforms to the Budget Resolution estimates for existing law.

Note: BA—New budget authority; O—Estimated new outlays.

COMPARISON TO INTERNATIONAL DISCRETIONARY SPENDING ALLOCATION

The bill, as reported, provides $8 million of international discretionary budget authority for the United States Institute of Peace, $1 million below the Appropriations subdivision for this subcommittee. The estimated discretionary outlays in the bill are $1 million below the subdivision total.

[In millions of dollars]

	Labor, Health and Human Services, and Education, and Related Agencies appropriations bill		Appropriations Committee 602(b) subdivision		Bill over (+)/under(−) committee 602(b) subdivision	
	BA	O	BA	O	BA	O
Discretionary	8	8	9	9	−1	−1

Note: BA—New budget authority; O—Estimated new outlays.

The House Appropriations Committee reported the Committee's subdivision of budget authority and outlays in House Report 102-81. These subdivisions are consistent with the allocation of spending responsibility to House committees in House Report 102-69, the conference report to accompany H. Con. Res. 121, Concurrent Resolution on the Budget for Fiscal Year 1992, as adopted by the Congress on May 22, 1991.

Following are major discretionary program highlights for the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Bill for Fiscal Year 1992, as reported:

PROGRAM HIGHLIGHTS

[In millions of dollars]

	Budget authority	New outlays
Older Americans Community Service Employment	390	70
Job Training Partnership Act [JTPA]	4,138	201
Bureau of Labor Statistics	259	222
State Unemployment Insurance and Employment Service Operations[1]	3,152	2,512
Department of Health and Human Services		
Low-Income Home Energy Assistance[2]	1,000	855
Community Services Block Grant	421	286
Human Development Services	3,496	1,984
(Head Start)[3]	(2,202)	NA
Child Care Grants[4]	850	−78
Refugee and Entrant Assistance	294	206
Department of Education		
Alcohol, Drug Abuse and Mental Health Administration	2,918	1,153
National Institutes of Health	8,825	3,706
Centers for Disease Control	1,391	759
Refugee and Entrant Assistance	294	206
Education Excellence[3]	500	60
Compensatory Education	7,076	849
School Improvement Programs (Chapter 2)	1,578	189
Special Education	2,823	347
Bilingual Education	249	30
Impact Aid	765	608
Vocational and Adult Education	1,652	198
Student Financial Assistance	6,853	1,248
Libraries	143	53

[1] The Appropriations Bill also provides an indefinite contingent appropriation for unemployment insurance administration which would provide $30 million for each 100,000 increase in average weekly insured unemployment claims above the President's estimate of 3.24 million.

[2] The Appropriations Bill also includes a contingent emergency appropriation of $600 million for the Low Income Home Energy Assistance program available only upon Presidential request and Presidential classification as emergency funding.

[3] The Appropriations Bill provides a contingent appropriation of $500 million in response to the President's proposal for new Education Excellence programs. If authorizing legislation is enacted by December 31, 1991, up to one-half of this amount, $250 million, would be available for the newly authorized activities and $250 million for Head Start. In the event that new legislation is delayed or not accepted by the Congress, the appropriation permits the full $500 million to be spent on currently authorized programs (with a minimum of $250 million for Head Start) that directly support educational reform efforts in local school districts.

[4] The Appropriations Bill includes a rescission of $145 million in budget authority in 1991 for child care grants. With the rescission, the 1992 level is $250 million above the revised 1991 level compared to $175 million for the Budget Resolution.

Mr. KLUG. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the bill. I particularly am pleased to see levels raised for Head Start and other important education projects. At the same time I have to tell the committee that I am unhappy with the proposal to cut $600 million from LIHEAP, which will directly affect 52,000 households in my home State of Wisconsin.

☐ 1530

For many of our elderly, this is the only project they can be involved in.

Mr. Chairman I'd like to begin by commending Chairman NATCHER and Mr. PURSELL for their efforts in bringing this legislation to the floor. There is a great deal in this bill which we can all applaud. In particular, this legislation presents a strong statement of our determination to make education a national priority.

Critical preschool, elementary, and secondary education programs, in particular, are funded at levels which will allow us to reach out more effectively to insure that kids get off on the right foot and stay on track. Enactment of this legislation will allow us to significantly expand Project Head Start—a goal which many of us share—and it will allow us, through expanded chapter 1 programs, to reach many more educationally and economically disadvantaged students. These are young Americans that need our help and for them this bill provides it.

At the same time, this legislation exemplifies the very difficult budgetary situation in which we find ourselves. The committee has obviously had to make some very tough choices and, to their credit they have met this challenge. Though I commend them for their determination and courage in making education a priority in this bill, I am concerned that the sacrifice this has required has not been fairly apportioned. In particular, Mr. Chairman, I believe that the reduction in funding which the bill proposes for the Low Income Home Energy Assistance Program [LIHEAP] is excessive and unfair.

Cutting $600 million from LIHEAP will have a direct effect in over 52,000 households in my home State of Wisconsin. Almost 2 million households nationwide will be affected and, as a result, millions of our Nation's working poor and elderly Americans may go without heat and hot water next winter. For most of them, this is the only Federal program that they participate in.

Mr. Chairman, I question the fairness of asking these individuals to bear so much of the cost which the education priorities in this bill make necessary. I hope that as the appropriators move forward into conference and toward final consideration of this bill, that they will consider ways to restore LIHEAP funding and more equitably balance the sacrifices which the priorities in this bill and budgetary reality requires.

Mr. WEISS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the subcommittee's bill, and especially in regard to the language blocking implementation of the dangerous gag rule. I also commend the distinguished chairman for his role in that as well as in the funding for AIDS.

Mr. Chairman, every year I rise in support of this bill that emerges from the subcommittee chaired by Mr. NATCHER. Every year I commend the chairman of that subcommittee for his valiant efforts on behalf of many of the programs that we hold most vital to the welfare of our citizens. And again this year, I rise in support of not only the legislation but also of Mr. NATCHER, who over the years has brought generous appropriations for AIDS research, prevention, and education to the floor. In past years his work, along with that of his colleagues on the subcommittee, has allowed the Federal Government to wage more of a fight against this terrible epidemic than would have occurred if the President's budget requests had been followed.

This year has been difficult. Because of the very tight domestic budget dictated by last year's ill-conceived budget summit agreement and the Gramm-Rudman law, the subcommittee has had to limit its largess. In the process, AIDS programs have suffered. The Ryan White CARE Act, viewed by many including myself as the solution to some of the funding programs faced by localities nationwide, has not received the level of funding I feel is warranted. AIDS research and prevention are also underfunded. The support needed to fight AIDS has not continued to grow at a rate that can keep up with the epidemic, which is far from vanquished.

At a recent hearing held by my subcommittee, I heard testimony about the direction in which the epidemic is heading. Now more and more women, children, intravenous drug users, and poor people are becoming sick. Cities are inundated with poverty-striken persons, often homeless, who have a myriad of other problems, to which AIDS is the final blow. Our hospitals and clinics are overwhelmed and health care providers burned out after having to care for so many who are so sorely in need of help. I am disappointed that more could not be done for AIDS this year.

This legislation does include some very important language blocking the implementation of the dangerous Rust versus Sullivan Supreme Court decision. Unless counteracted, that decision will block the free flow of information in federally funded title X family planning clinics, rejecting the sanctity of the doctor/patient relationship and reneging on our Nation's commitment to free speech.

The Rust versus Sullivan ruling prohibits title X health care providers from apprising their patients of all the available legal options for an unintended pregnancy. Until Rust versus Sullivan, title X clinics reasonably provided neutral, nondirective counseling and referrals to pregnant women who requested information on their medical options. If Rust versus Sullivan remains unchecked, that comprehensive information that is available to women who attend private health facilities would no longer be available to the low-income women who depend on title X clinics for their reproductive information.

Allowing the Rust versus Sullivan decision to stand will not only hurt low-income women, it will hurt each and every American as it desecrates the doctor/patient relationship. Patients in crisis situations do not want to look at their doctor and wonder whether or not that doctor is giving them all the facts about their medical situation. Patients want to trust their health care providers to assist them in their time of need.

If activated, the title X regulation would cripple the trust relationship that has traditionally been a fundamental element of medical practice. It would also force doctors to compromise their medical ethics, requiring that they withhold information from patients. This regulation tampers with the rights of both parties involved and destroys the delicate relationship that is an integral part of good health care.

The damage of allowing Rust versus Sullivan to stand does not stop at the clinic door. It encroaches on our constitutional right to freedom of speech in the realm of federally funded programming. Without the language now present in the Labor-HHS-Education appropriations bill, title X health care providers will be denied the right to freedom of speech in their workplace.

Instead of providing patients with accurate information about their health care options, they will advise their patients according to the dictates of a federally authored script. Limiting the advice permissibly administered in federally funded clinics, the title X regulations set a precedent that could draw the shadow of Federal control over any Government-subsidized program.

Given the Bush administration's traditional antipathy for long-armed Government, the Rust decision becomes ironic. It establishes one of the most invasive policies our Government has ever created, censoring reproductive information and threatening the sanctity of the doctor-patient relationship.

Matters of health care must be pursued according to medical, not political, guidelines. I urge my colleagues to protect the free flow of medical information and restore integrity to federally funded programs. Vote in favor of the fiscal year 1992 Labor-HHS-Education appropriations bill.

The CHAIRMAN. Are there other amendments in the bill prior to section 514?

If not, the Clerk will read.

The Clerk read as follows:

SEC. 514. No funds shall be available under this Act to enforce or otherwise implement the regulations of the Secretary of Health and Human Services published at 42 C.F.R. 59.8 or to promulgate any other regulation having the same substance.

The CHAIRMAN. Pursuant to the order of the Committee of earlier today, the gentlewomen from California [Mrs. BOXER] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. PURSELL] will be recognized for 30 minutes.

The Chair recognizes the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, I yield 2½ minutes to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Chairman, I strongly support the language in this title of the bill which overturns the Supreme Court, or defunds the Supreme Court's gag rule on the advice that health care professionals can give to women regarding their medical options, including the choice of abortion.

This language in this bill protects something that is taken for granted by all people who are lucky enough to be able to afford private medical care. That is the sanctity of the doctor/patient relationship.

Can Members imagine the Government muzzling health care professionals, restricting the kind of information poor women can receive when it comes to the health of their bodies? Even if that woman's health is endangered if she continues her pregnancy? Even if she were the victim of rape or incest? Even if she begged the doctor or the nurse to give her full advice on the full range of medical options available to her. That is what the gag rule does, that the Supreme Court sustained.

This bill blocks those regulations by defunding them. Congress never passed those regulations. This bill blocks the dollars to implement those regulations. Those regulations, my friends, amount to institutionalized medical malpractice. They amount to censorship that creates a precedent that I think should chill every American, whether they believe in abortion or not. A precedent that can extend to almost anything.

Think about it. If this, what is next? Are we going to find ourselves in the future preventing doctors from telling Medicare and Medicaid patients that they cannot tell them about costly medical treatments because of budgetary problems? Is that what is next? The precedent certainly is here in the gag rule.

That is why it deserves to be unfunded. This bill does unfund the gag rule. Shall we silence physicians in the future from sharing information about blood transfusions, because some groups find that objectionable? That could be a precedent as well.

What this sounds like to me, the gag rule and the Supreme Court decision that we unfund in this bill, it sounds more like Romania or Albania than it does a United States Government program designed to serve the health of the people of the United States of America.

Friends, I strongly support this section of the bill. I applaud all Members who worked in the construction of this.

Mr. PURSELL. Mr. Chairman, I yield 6 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, in the limited time we have, and I welcome this opportunity to debate this issue because it is burdensome, but vitally important. It is so gut wrenching, but it is so very important.

However, I beg to inform Members this is not about free speech. It is about abortion. We have before Members, in the bill, a section that was introduced by my good friend from Illinois [Mr. PORTER] with the support of many others, that ought to be called the Abortion Facilitation Act, because what it does is impose on a program that was designed and has operated for many years as a program to either get a person to get pregnant, or help a person keep from getting pregnant and to treat venereal disease, STD, sexually transmitted diseases, but not when a person is pregnant. That is another type of service to be supplied elsewhere. This is a program to treat women before they are pregnant.

Now, why did we have this program? Because we have been concerned about infant mortality. The infant mortality rates in the United States of America are appalling. So Congress put together a program that would advise women how to have a baby, how to have a healthy baby, how to nurture their child, or if they wanted to space their children, they would get contraceptive advice. Abortion is not such, although it does help the infant mortality statistics because it kills an unborn child. The program was designed to alleviate that toll, that sad, tragic toll, not to add to it.

So this amendment seeks to make doctors, who should be helping prospective parents plan their families, also recommend that they can exterminate their child, which is really an ethical problem, not a medical problem, and compelling the taxpayers to pay for it. That is what this is about.

Family planning is meant to promote or to prevent conception, pregnancy, not abortion. It is not a gag rule. Read the Yellow Pages. Look under Abortion. Read the newspapers. The ads leap up at readers. They overwhelm readers.

If a woman, comes into one of these clinics and is pregnant and wants advice on how to exterminate her child, the doctor does not push her out the door. He says, "We do not provide that. It is not a part of family planning. Go to the Planned Non-Parenthood Society. They will help you." But if a person wants to go elsewhere, here is a list, and they provide the woman with a list of clinics which may well provide abortion services. Nobody is gagged.

If the Federal Government pays for a course in astronomy, that does not mean they have to subsidize teaching astrology. Smoking is legal. We do not choose to pay to teach people how to smoke. We would pay to teach people how to quit smoking. That is the difference.

A doctor can give any medical advice he wants on his own time and in his own office or out on the street, but when it is one of the programs that are family planning, it should stick to family planning.

Cutting through all the verbiage, if a person thinks abortions are a good idea, or if morally they are neutral, then fine. If a person thinks an unborn child is expendable, they can throw them away, fine. I do not think so. I think once conception has occurred, I think that we have something there that is the beginning of a human life, not a potential human life. It is human life with a potential. It is small. It is even microscopic, but by God, it is alive, and it is human, and it ought to be treated with dignity, and not torn out and thrown in a pail.

I think abortion is a pestilence, and I do not, I do not—not you, me—I do not want my tax dollars going to facilitate women exterminating—not terminating, every pregnancy terminates—exterminating their unborn child.

Do Members know what it is like? A farm extension agent is supposed to help farmers rotate their crops, teach how to grow soybeans. What if a farmer, coming to a farm extension agent and says, "Look, I know how to rotate. I know how to grow soybeans. I need labor."

□ 1440

"I need help on my farm. Where is the next slave auction? Where can I go get some slaves to work on my farm?"

That makes about as much sense as going to a clinic for family planning and saying, "Where can I kill my unborn child?"

Now, look, John Donne wrote a famous poem in 1603. It is a magnificent electrifying poem, and among its wonderful words, it starts out, "No man is an island sufficient unto himself * * *" and then it says, "Every man's death diminishes me, because I am involved in mankind."

People who think abortion is an acceptable answer to any problem have reversed John Donne. They say, "Every man's birth diminishes me, because there isn't enough to go around."

Abortion is not about choice. That is a process. The executioner has a choice. Shall I use the gas chamber, shall I hang this convict or shall we use an electric chair? Some choice.

Abortion involves the ultimate issue, life or death. If you ran into a burning building and you saved a little child, you would be on the news tonight. You would be getting plaques and honors. If you dove into a cold river and saved somebody, you would be honored for lifesaving; but you will vote to murder, to kill, to exterminate in the most undignified way, millions of children.

There are 1½ million abortions a year. Does it bother you? Do you want to contribute to that toll?

The CHAIRMAN pro tempore (Mr. GEJDENSON). The time of the gentleman from Illinois has expired.

Mr. PURSELL. Mr. Chairman, I yield 1 additional minute to the gentleman from Illinois.

Mr. HYDE. Is there anyone more homeless than an unborn child in the mother's womb and she does not want to give birth to that child? She should be the natural protector of that child, but tragically she has become its deadly adversary. Is there anyone more homeless than that?

Handicapped people, we give them premium parking places because they need that help. God help you if through amniocentesis your parents find out you are going to be born handicapped. You are going to add to the sad toll of 1½ million abortions every year in the name of compassion.

I do not accuse you of hardness of heart, just lack of imagination. You demonstrate a compassion fatigue that prevents you from going beyond the pregnant woman to her unborn, preborn child. That is not a mouse. That is not a breadbasket. That is not a randomly multiplying tumor of cells. That is a tiny human being entitled to life, liberty, and the pursuit of happiness.

I just say if you like abortions, then fine, you continue to vote that way and answer to your conscience. Mine is clear.

Mrs. BOXER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER], a distinguished attorney.

Mrs. SCHROEDER. Mr. Chairman, I thank the gentlewoman from California for her leadership on this.

Let me say to the gentleman from Illinois who followed me into this aisle, a woman is not a parking place. This issue is not about abortion. This issue is about also dealing with women as human beings.

The AMA says you are wrong. The American nurses say you are wrong and all sorts of Americans are saying you are wrong, and that is why the other side has collapsed on this issue, and the gentleman knows it, because you might want to resurrect it as an abortion issue. That is not what we are talking about.

We are talking about the fact that women as mature adults have the right in this Government to hear the entire range of health options, and there probably will not be a doctor able to practice in a clinic if they are not able to give that entire range of health options, because they could be sued for malpractice or any other such thing.

Guess what. Women have brains, but they also have uteruses. They can think. They can sort through those different options, and we are wanting equal treatment to know the options and the medical profession also wants that.

Let me also say that pregancy is not a 9-month cruise. For some women it can be a health endangering situation. Therefore, the doctor might have the ability to converse with the woman about what you are talking about.

Oh, it would be so simple if it were one life, but we are talking about two lives, and these are not easy choices and they do not belong to the Government of the United States.

When I grew up, people who could not handle where babies came from said they came from the stork. If we do not stop the Supreme Court, the next generation is going to say babies come from the Supreme Court.

This is an absolute outrage. For 200 years we have been able to deal with women as human beings. I just want to say that we do not want the medical profession gagged when they talk to over half of America's population.

America got a wake up call and they have been calling this body and saying, "Wait a minute. We don't want our tax money going that way. That is ridiculous."

That is why we are not having a vote today. This is a great victory, I think, and I really resent trying to put it into the rhetoric that we have had of the past. This is not that kind of rhetoric. This is about free speech, options, health care, and many lives that the medical profession is trying to treat and treat with the dignity that they are due under the Constitution of the United States.

Mr. PURSELL. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I want to take issue with one of the things that the gentlewoman from Colorado has just said. As someone who practiced law in the barrio for a number of years before coming to this body, it became my experience that a lot of people, including a lot of women who would be utilizing family planning, who would be asking for counseling, perceive an advocacy in what you tell them. Many of them come from a situation which is a desperate situation. I do not see any way in which you can supposedly inform women without being perceived to be advocating.

I do not see any way in which you can have discussion about abortion without in fact persuading, not just informing, but persuading some of those women who want to have an abortion. That is not something that the gentlewoman can change with the fine print. Those are the facts of life.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I am happy to yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I think the gentleman is missing my point. For some women, this is a life-threatening situation. It is very dangerous not to be able to lay out all those options, that is not an advocacy position. We are talking about free speech.

Mrs. BOXER. Mr. Chairman, I yield 2 minute to the gentleman from Iowa [Mr. NAGLE].

Mr. NAGLE. Mr. Chairman, I liked the speech of the gentleman from Illinois. It was passionate. It was self-righteous. It was obviously based on deep moral conviction, which I respect. Where is the motion to strike the language? Where is the political courage of the great conviction? Why dump it back on the President's desk?

For a time today I carried in my pocket, and I still have it, a motion to strike this, to bring this to a vote, but I find my colleagues on that side do not really want to vote about this. They do not want to face it because they know the American public does not agree with them.

This is not about pro-life and pro-choice in its isolation, with all respect to those people who have preceded me. It is also about the Constitution of the United States. It is about the fundamental right of free speech, of the right for a person to say what he wants or she to say what she wants, without the Government's hand on their throats.

We have never in this country told people what they can and cannot say. True, we have regulated how they may say it, but we have never told people in this country that you cannot express yourself. That is what this gag rule does. It says to a 17-year-old girl who is pregnant and whose life is threatened that the constitutional right of free speech does not extend to you. It stops. That is fundamentally wrong.

I have the assurances of Members of this body that sometime this summer we will bring this issue to a vote. We will have a chance to see whether anger and high conviction are matched with political judgment or not.

□ 1450

And when that day comes, those who hold that the Constitution does not apply to pregnant women will have a chance to hold themselves accountable to the voters of this country.

Mr. PURSELL. Mr. Chairman, I yield 6 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. I thank the gentleman for yielding.

Mr. Chairman, by now members are aware that the Labor/HHS bill to be considered today includes proabortion language that nullifies a key provision of President Bush's title X regulations recently upheld by the U.S. Supreme Court.

Members probably know as well that because the President stated that he will veto the bill, he stated emphatically that he will veto the bill or any other bill, for the matter, that weakens or nullifies pro-life policy, we do not intend to offer a motion to strike pro-abortion language here today. Rather we will wait until the bill comes back vetoed, as surely it will be, to make our stand in defense of these humane, pro-life, pro-family planning regulations.

We will have our vote on this for all to see.

Mr. Chairman, first promulgated in 1988 but enjoined by a myriad of lawsuits until the high court rendered its opinion on May 23, the administration's title X regulations effectively separate abortion, the destruction of innocent human life from preventive family planning.

Let me remind Members that back in 1970 the conference report in 1970 accompanying the enactment of the title X program make it clear that abortion was outside the scope of the Nation's family planning program. The report said, and I quote, "It is and has been the intent of both houses that funds authorized under this legislation be used only to support preventive family planning services."

The regulations promulgated by the administration in 1988 faithfully strive to implement that original intent and, as such, limit funding to programs which, first, do not include abortion as a method of family planning; second, maintain physical and financial separation from prohibited abortion activities; third, do not engage in any activities that encourage, promote, or advocate abortion as a method of family planning; and, fourth, do not provide counseling and referral for abortion.

Mr. Chairman, counseling and referring for abortion in my view grossly undermines respect for the life of the unborn child. If we were talking about counseling for cancer or a disease, that would be one thing. But, Mr. Chairman, pregnancy is not a disease. An unborn child cannot be likened to a diseased pancreas. This fight is about advocacy and the taxpayers ought not to be forced to subsidize advocacy that destroys children.

I respectfully submit to you and my colleagues that it is utterly inhumane to regard the unborn child in this way as a cancerous tumor or as a wart or as a diseased organ.

If you accept the fact that the unborn are human and if you accept that fact that they are alive, because every abortion stops a beating heart, and unborn kids are worthy of respect and nurturing, not extermination, counseling and referring for abortion ought to be seen as jeopardizing the lives of these children.

If you regard the unborn child as a nonentity, no more entitled to fundamental respect than that tumor, your vote is to overturn those regulations when the override comes around. If dismembering an unborn child or poisoning an unborn child with saltwater and the other methods employed by the abortionists is something you think we ought to be all about and referring for it and counseling for it, then your vote is to overturn these regulations.

The unborn child means nothing to you.

Mr. Chairman, the consequence of abortion referral is very simply that unborn babies die. The consequence of abortion counseling likewise is that unborn babies die.

Mr. Chairman, referrals for prenatal care, on the other hand, provided for in the regulations, recognize that every pregnancy includes two patients, mother and baby. And that both patients are absolutely worthy of respect and the best maternal and prenatal care possible.

Finally, Mr. Chairman, let me make this very clear: The public is with us on this one. The recent Wirthlin poll which was released on Monday indicates that when people are asked, "Do you favor or oppose offering abortion as a method of birth control in taxpayer-funded family planning programs," a huge majority of Americans, 77 percent, say "no."

The good news, and this is really great news for the right-to-life movement, I would suggest is a disaster for Planned Parenthood and abortion rights advocates.

This closely tracks with previous polls conducted by the Gallup organization and the Boston Globe and the Wirthlin group, which also found that some 83 percent of Americans oppose using abortion as a method of birth control.

And when Americans, Mr. Chairman, are more fully informed about the Supreme Court's Rust decision and are told, "Any Government funds not used for family programs that provide abortions will be given to other family planning programs that provide contraception and other preventative methods of family planning," 69 percent of the American public favor the Rust decision.

This indeed is superb and encouraging news for the pro-life movement. This data conclusively counters the conventional wisdom that the Rust decision and the President's title X policy is unpopular. It is becoming increasingly clear, Mr. Chairman, that the more Americans know about abortion itself, and the title X regulations, and the word is slowly and incrementally getting out, the more support we get.

This is obviously bad news for Planned Parenthood and some of my friends on the other side of the issue. But perhaps Planned Parenthood especially. They have become, in many towns across the United States, the local neighborhood abortionists.

I believe very strongly that in a paradoxical way the more Planned Parenthood rails against these new regulations the more it exposes its own complicity in abortion. They have destroyed since 1980 in excess of 1 million unborn children in their own clinics. They have referred far in excess of 1 milion unborn children to other abortion mills.

Mr. Chairman, this policy of the President is a good one, and we will sustain the veto when we get to that point.

Mrs. BOXER. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. WYDEN], who is a coauthor along with the gentleman from Illinois [Mr. PORTER], of the bill that would in fact overturn the gag rule.

Mr. WYDEN. I thank the gentlewoman very much and commend her for yielding me this time and for her leadership. And particularly, my colleague from Illinois, JOHN PORTER, who has done such a tremendous job now for two Congresses on this issue.

My colleagues, I say this issue is really very simple. That is, are we going to let doctors in this country tell their patients the truth? Because what the gag rule does is it turns mainstream health care on its head. It says that doctors cannot be straight with their patients. It violates the concept of informed consent where doctors would tell patients all their options, all their alternatives, so that patients can make the choice that is best for them and, in particular, it would widen the gap between the health care have's and have-not's.

If you are well-to-do in this country, you can go and see your physician, no problems; you are told your choices.

But now if the gag rule is upheld, if you are low income, we are going to strip you of your rights to health care information.

And in particular, a number of our colleagues have said that we are going to have a debate another day, that the President is going to veto this legislation and we will be back.

Well, I would say that the President of the United States has changed his mind before on the family planning issue, and I just hope that in the months and days ahead, as this debate goes forward, the President of the United States will once again think thoughtfully about what the implications of the gag rule really are because I want our colleagues to understand that once we set the precedent, that if the Government pays for something it can control the speech, after it does that at family planning clinics it can move on to any other program.

As a number of our colleagues have said from both of the bodies, we will have a chance to debate this in the days ahead.

I am very hopeful that the President of the United States, as he has done in the past, will look at these issues on their merits, listen to what the medical profession and others are saying, and then work out a legislative solution so that we can get rid of the repugnant gag rule.

Mr. PURSELL. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. I thank the gentleman for yielding.

Mr. Chairman, why is it we can never have a good, tough, clean-shot debate on abortion and what goes on in these so-called family planning clinics? With rare exception it proves the rule, why is it the old pro-abortion gang that rolls out here and uses oh, the scary bugaboo of "world population" or they use women's rights or they use any type of stream of euphemistic phrases they can to cloud the issue, that what we are talking about is human life, to at least mouthing it so most of those in this House will concede that is a human soul, human being with an immortal soul that we are snuffing out of existence?

□ 1500

Bernard Nathanson, Dr. Bernard Nathanson, who is trying to redeem the 6,000 abortions that he performed earlier in his life, said that he made sure in every clinic he worked with that the receptionist was at least 23 years of age and had had an abortion so that she could intimidate the younger women and the young girls. No one has ever gainsaid or said he was lying. He also told that in the early NARAL meetings how they set up the Holy Roman Catholic Church as their bugaboo, their scapegoat, their way to breed anti-Catholicism in this country and advance their pro-abortion cause, and I have to sit here and listen to Catholic after Catholic get up on this floor and tell me that they know more than Mother Teresa who turned around Gov. Jerry Brown of California and helped to turn around former Democrat Gov. Hugh Carey of New York.

I rise against this whole bill because to pass the HHS appropriations bill with the Rust versus Sullivan repeal language means that:

Minors will be referred without parental notice. This is an irrefutable fact.

Women will be referred for abortion without knowing what hazards may await them or at what state of fetal development their baby is.

Women may be referred to clinics or physicians who do not carry liability insurance. That's cute, isn't it?

Women will be referred by 23-year-old counselers with no medical training, and who by requirement have had abortions themselves.

Women may be referred to clinics or hospitals at which nonphysicians perform abortions.

State governments which receive title X funding may directly or indirectly require an individual or institution to perform, assist, recommend, refer, or counsel for any abortion or to train or to provide for personnel to be trained as a condition of receiving title X grants or contracts even where it is against the religious beliefs of the institution; that is, the St. Agnes versus Reddick case in Baltimore.

Referrals may be made at any point in pregnancy, including cases where the child could live independently of the mother.

Referrals may be made where the aborted baby is to be used for subsequent live, fetal experimentation.

And finally, doctors who oppose abortion for medical, religious, or ethnical reasons, will either have to violate their conscience and refer for preborn baby killing or lose their job.

This is not "free speech." This is a free fire zone for killing pre-born children in their mother's womb.

Mrs. BOXER. Mr. Chairman, I yield 1 minute to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, this bill will reverse the Supreme Court's decision in Rust versus Sullivan and continue the practice of allowing the millions of women who rely on federally funded family planning clinics to get full information regarding their reproductive health as all other Americans.

If this provision is not enacted, we will put women and medical professionals in jeopardy. As a result of the Supreme Court decision in Rust versus Sullivan, beginning in July, a woman who goes into a family planning clinic and needs information about abortion will not be provided with the medical facts.

This is intolerable and dangerous. Those who oppose abortion have gone too far. They want to gag doctors by censoring the information health professionals can provide at federally funded clinics. It is totally unfair to even consider the prospect that poor women deserve to receive less comprehensive and inaccurate medical information simply because they must rely on federally funded health care. Make no mistake about it, if the Rust decision is not overturned, not only would a poor woman not be told that abortion is legal, she would not be able to obtain a referral to a privately funded clinic even if her life is in danger.

Such restrictions put doctors in a precarious position. They will be forced to choose between violating their Hippocratic oath and obeying Federal censorship laws. This is totally contrary to all we stand for as a nation. Americans understand the importance of preserving the sanctity of the doctor-patient relationship. We want doctors to tell us all of our options so that we have the information to make the best health care choices.

Over 20 medical and nursing organizations have publicly opposed the gag rule. Last week, the American Medical Association said that legislation to overturn the gag rule "would keep the long arm of the Federal Government out of the patient-physician relationship and assure the traditional privacy of that relationship." The AMA also said, and I quote, that "political medicine is harmful to the health of all Americans."

Our President has thus far refused to listen. He has promised to veto this bill if it overturns Rust versus Sullivan. We cannot let him get away with that. If we do, we will fundamentally change our health care system into one based on politics and not on medical science. This, in turn, will mean that this country will be providing substandard care to its most needy citizens.

For these reasons, I urge my colleagues to support the reversal of the gag rule and restore the integrity of our Nation's family-planning programs.

Let us keep politics out of the examining room. Overturn the gag rule.

Mr. PURSELL. Mr. Chairman, I yield 4 minutes to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Chairman, much has been made of the amendment in this bill adopted in the full committee dealing with the so-called gag rule—the rule which prohibits even discussing abortion with anyone seeking advice on options at a clinic which receives any Federal funds. The Supreme Court decision upheld that rule in the absence of a law prohibiting it. The provision in this bill has been described by some as an amendment to overturn that Supreme Court decision. It does no such thing.

While some 21 professional and service organizations issued statements saying they want the rule overturned, the national offices of many of these organizations supported an amendment which merely delayed the implementation of the rule for 1 year and even that is delayed until next October. It keeps this issue alive and is an issue which will divert attention from consideration of many important programs totaling $203 billion in discretionary funding in this bill for health, education, welfare, training, the elderly, the disabled, and other peoples programs.

I am disappointed to find the Washington offices of national organizations promoting a nonsolution which keeps this issue alive like several others. This approach takes the pressure off of moving a bill. To repeal the rule takes the same number of votes and there is no reason to think there would not be the same number of votes to repeal the rule and solve the issue as it takes to annually support a delay in implementing the rule with all the uncertainties and undesirable effects that approach has.

There are times when there is no way to solve an issue through the regular process and either a temporary stay while a solution in a separate bill is considered must be attached to an appropriation bill, but this is not one of those cases. The Senate has held hearings on such a bill and so have House committees. There are at least three or four ways such a bill could have been brought to the floor in the last 3 years since the issue arose or in the last 3 weeks since the Supreme Court ruled. But instead, those opposing the gag rule chose to first depend on the Court saying the rule is unconstitutional in the absence of a law instead of giving the Court a law to interpret—and that was a loser—and next to go for a temporary delay delayed until next October instead of legislating a solution now.

I do not see how anyone is served well by this approach unless it is some Washington lobbyists who want to keep the issue alive to justify their continued existence.

Today, we only have the choice of voting for or against a delay in implementing the rule and that will relieve some of the pressure to move a bill, but I urge the appropriate committees to move a bill which will settle the matter permanently.

Mrs. BOXER. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS of Texas. Mr. Chairman, I rise in support of the Porter language regarding title X family planning clinics within the Labor, Health and Human Services, and Education and related agencies appropriations for fiscal year 1992.

Imagine the horror of being raped and becoming pregnant as a result. Imagine turning to your doctor for counseling and being told that she cannot discuss the option of your having an abortion because the Supreme Court agrees with the administration that abortion is not an appropriate method of family planning. Unfortunately, many women today do not have to imagine this scenario; for them, it is all too real.

The Supreme Court last month, in Rust versus Sullivan, upheld the constitutionality of Department of Health and Human Services' regulations—the so-called gag rule—prohibiting federally funded family planning clinics from providing any patient information about abortion. Implemented by the Reagan administration in 1988, these regulations prevent doctors, nurses, and counselors from mentioning abortion, even if specifically asked.

This Supreme Court decision, however, is not even primarily about abortion. It is about free speech, medical integrity, and the sanctity of the doctor-patient relationship. It is about the trust that people—especially the poor—place in the Government to assist them in their most serious times of need. When women seek counseling on health matters, they should not have to question the honesty of their physician nor fear the motives behind their doctor's words.

Look at this decision from another perspective. Many of us, including the Bush administration, think that the legal appeals process is too lengthy and cumbersome. But could you imagine a federally appointed lawyer not telling a client of all the legal options? Do we ever want a public defender saying, "This office does not consider it appropriate to appeal wrongful convictions." This is what the Government, in effect, is doing through the gag rule. Because the Federal Government provides funding to the clinics, the administration thinks it can control the speech and agenda of the doctors. It is a dangerous and ominous precedent we set when we let the Government ignore the first amendment simply because it helps pay the bill.

The Rust decision is a tremendous blow to the rights of the 3.7 million women served at federally funded clinics across the country. In Texas alone, approximately 180 clinic sites provide such services. Essentially, the high court has ruled that low-income women do not have a right to complete information about their medical condition and legal options—the same rights and options guaranteed to women who visit their private physicians. Poor women have seen their rights become subservient to political posturing.

An estimated 600,000 women treated at federally funded health clinics have a history of health problems, such as diabetes or hypertension, that might make pregnancy dangerous for them. More and more patients are testing positive for sexually transmitted diseases, including AIDS. To not inform these women of the dangers associated with pregnancy is not only bad medicine but an invitation for medical malpractice.

To law school students and legal scholars throughout the country, Supreme Court decisions make for interesting intellectual and hypothetical debates. But to thousands and even millions of Americans, the decisions have a real and profound impact. The Rust decision is one of those rulings with practical effects on a large number of citizens. Pregnant women seeking counsel at Federal clinics will be denied assistance or will be given incomplete information and advice if the Rust decision becomes policy and if the gag rule continues in force. It is not surprising that many clinics intend to refuse Federal funding for their programs rather than compromise the ethical obligations of their doctors and counselors and the health needs of their patients.

With President Bush apparently unwilling to compromise, the burden falls on Congress to act. Congress must now pass this legislation, with the Porter language unamended and send a loud, clear signal to the Nation whether we want to side with the millions of American women who seek and deserve complete medical counsel and the 80 percent of Americans who oppose the Rust ruling in recent public opinion polls; or whether we want to side with narrow-minded officials whose zealotry against choice has led them to support the curtailment of first amendment guarantees and an encroachment into the sacred doctor-patient relationship. The choice is a clear one.

Mrs. BOXER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER of New York. Mr. Chairman, because there is nothing more American than the right to free speech and, if this gag rule stands, next it will be on teachers and on ministers, I rise in strong support of this amendment.

This week the National Commission on Children released a report depicting the plight of our Nation's children and making an urgent plea of help to all Americans. The report makes clear that we must invest in the lives of these young Americans now or else forfeit their futures as well as that of our Nation as a whole.

We have also heard in recent weeks about providing a choice for our children in education. But while we talk of increasing opportunities for American families we cannot deny the fact that one in five American children are living in poverty and have very few options. Many of these children do not even have a place to call home but instead must seek refuge in a shelter, at a relative's or in the back seat of an abandoned car. These children are so overlooked that we no longer even see them. They have become invisible.

I would like to share the accomplishments of some extraordinary children around the country that have come to my attention over the past few months.

There's Apollo, a sixth grader in Baltimore, who recently was tested as gifted and talented and is now excelling in the advanced academic program of his junior high school.

There's Tommie Jackson, a 9-year-old in Jacksonville, FL, who is so bright and getting such good grades his teachers want him to skip a grade.

There's Ronald, an award-winning high school artist in Minneapolis.

And there's Tio, a promising high school musician in Massachusetts.

All these kids have two things in common. They have talent. And they all have been homeless.

Over the past 2 years, I have heard so many stories of homeless children and their parents battling the odds as they try to stay off the streets and to keep their children in school.

Every year as many as 2 million children experience the horrors of homelessness. Homeless children face tremendous obstacles in their pursuit of an education and even the most conservative estimates from the Department of Education indicate that at least 67,000 homeless children do not attend school regularly. Unless we invest in these children now, we face spending billions in the decades ahead coping with a new generation of homeless adults unable to provide for themselves.

Last year in reauthorizing the Stewart B. McKinney Homeless Assistance Act Congress approved a measure I introduced that addresses the educational needs of homeless youngsters. Today the House of Representatives stands ready to approve a spending bill that contains this little-known but very successful program at a funding level that will enable our country to reap large economic dividends.

Currently the Education of Homeless Children and Youth Program is enabling thousands of homeless children across the country the opportunity to attend school and succeed once they get there. Under this program local educational agencies are now applying for grants to help provide transportation for homeless children, to set up before- and after-school care and tutoring programs, to recognize the gifted and talented among them, and to provide them with school supplies and a hot meal.

We are already seeing the results of these efforts throughout the country.

In Costa Mesa, CA school officials are setting up mobile units in areas where homeless families congregate so that children can be evaluated, tutored, and offered a quiet place to do their homework.

In Bismarck, ND, school officials are arranging cabfares at reduced rates so that kids in shelters can continue to attend schools in their former neighborhoods.

In Baltimore, MD, a special program is successfully recruiting older students as volunteer tutors to help younger homeless kids with their schoolwork.

In my own congressional district of Rochester, NY, a special placement officer matches children with schools where they are most likely to succeed.

In all of these States educators have recognized the vital role school can play in the lives of homeless youth. For many of these children school has become the only source of stability and continuity in their tumultuous lives.

Mr. Chairman, on behalf of the homeless children living in the small towns and big cities of our country, I urge my colleagues to support passage of this important legislation.

Mr. PURSELL. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Chairman, at the outset I want to make it clear that I strongly support family planning and birth control and contraception.

On the issue of parental notification, however, if a child in Fairfax County, VA, cut his or her head at school, a parent is called before that child's head is stitched. If a child has a headache at school, a parent is called before the child can take an aspirin.

On the issue of abortion, I believe one parent should be notified.

Therefore, I believe it is appropriate that parental notification be included in this legislation.

□ 1510

Mrs. BOXER. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Ms. MOLINARI].

Ms. MOLINARI. Mr. Chairman, I thank the gentlewoman from California [Mrs. BOXER] for yielding time to me.

Let us not be fooled. This is not an abortion vote. Not 1 cent, despite the hysterics that we have heard, goes toward abortion. Not 1 cent goes toward advocating abortion, and I stand here absolutely overwhelmed by the implication that has been made that if you mention to a woman her legal right to an abortion, she is blindly going to follow that to fruition.

This is a vote to protect a woman's right to know. This is a vote to keep 4,500 family planning clinics open and a way to give over 4 million women an ability to avert an unwanted pregnancy. This a vote to uphold and acknowledge the Constitution of the United States.

Oh, this will require an awful large amount of courage and honesty by those Members of this House who are antichoice. This vote requires them to acknowledge what the gag rule is all about, who it really hurts, and the untenable position it puts doctors and patients in.

Let us be clear about one thing when we vote on this: Whether this gag rule is enforced, abortions will still take place in this country, but family planning clinics would close. The South Bronx Clinic has already stated that rather than be bound by Congress, they will close their doors and women will have nowhere to go in the South Bronx to get family planning information. Women all over America will be more vulnerable to the heavy hand of Congress.

Mr. Chairman, the Nation is watching. Women, alone, frightened, and challenged, are watching. Future generations hopefully will see a country that respects our laws and our women.

The CHAIRMAN pro tempore. (Mr. WHEAT). The Chair would advise that the gentleman from Michigan [Mr. PURSELL] has 9 minutes remaining and the gentlewoman from California [Mrs. BOXER] has 18½ minutes remaining.

Mr. PURSELL. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, let us face what is going on here. This whole procedure is the means of avoiding a vote on the floor of this House on parental notification. That is what is going on.

I am the vice chairman of the House Environment Subcommittee, the policy committee which has responsibility for reauthorizing title X. Twice in the last month we have had markups scheduled, and the chairman of that subcommittee knows full well that we have a bipartisan vote to put parental notification into this law. What do they do when they do not want to have a rollcall vote on parental notification on the floor of the House? They go around the back door and they get an amendment to an appropriation bill that precludes a vote on this issue. That is what is going on, and I resent that very much.

This House should have the opportunity and the responsibility to put its votes where about 90 percent of the American public is, that if family planning is going to give counsel to minors, they have the responsibility of notifying the parent before they give that kind of advice. Of the 1½ million abortions every year and this year in this country, a third of them or 500,000 is on teenage mothers. That is a tragedy for this country, and I happen to believe that parents have the responsibility of raising their children, not the Federal Government. They should be the ones to decide whether or not this abortion is to take place.

Mrs. BOXER. Mr. Chairman, reminding my colleagues that this subject is about the gag rule, I yield such time as he may consume to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman. I would recall for the Members that this is a situation in which free men and women must again resist the subtle tyranny of ideology over knowledge.

Last month, the Surpreme Court vacated the lower court orders that had temporarily restrained the abortion gag rule—the policy, adopted by the Reagan administration, that prohibits federally funded medical clinics from making available to their patients any information on abortion. The decision in Rust versus Sullivan provides further evidence of the long-term damage to our freedoms likely to flow from the Reagan-Bush appointments to the Supreme Court.

In its 5 to 4 decision in Rust, the Supreme Court decided that the Government does not violate the Constitution by imposing these restrictions on the professional advice given by medical practitioners. There are sound arguments that, legally, the majority opinion is the wrong one, and that the four dissenting Justices had the better-reasoned position. But, the majority has ruled, and, under our system, that means the Government can constitutionally adopt such a policy. Whether the Government should adopt such a policy, however, is an entirely different matter.

Under our form of government, it is this institution—Congress—that writes the laws, and we can change the gag rule adopted by the executive branch.

I believe we should do so, and do so without delay. Because the gag rule is an assault on the medical profession and a threat to women.

For today, we can do the next best thing the prohibit the use of any money to enforce the gag rule. That will effectively constrain application of the rule during the next fiscal year. This funding restriction will pass the House and, I hope, the Senate. But President Bush seems determined to ignore good medicine and the good judgment of the vast majority of Americans and promises to veto this bill on this account. That would be a literal shame, and I wish he'd reconsider.

The gag rule was clearly intended to be an indirect check on a woman's constitutional right to an abortion. And I will oppose all efforts, direct or indirect, to limit or interfere with that right. But, despite the motivation of its authors, this policy does not raise a question about abortion so much as it does about the availability of comprehensive and accurate medical advice—and about the Government's role in helping make that advice available, or in denying it.

I understand that the authors of the gag rule do not believe that abortions are right—and so they decided that when the Government provides funds for health care, those funds should not be used to provide information or advice on abortions.

But let's remember that there are people who sincerely believe that taking medicine is not right, that it's an affront to God, and that prayer should be the only response to illness. None of us would stand still if these beliefs were translated into a medicine gag rule preventing Government-funded health clinics from using prescriptions. We would all recognize this as unconscionable Government interference with health care and with the professional responsibilities of nurses and physicians.

Yet such a farfetched policy is not so very different from the abortion gag rule. The gag rule keeps doctors from saying anything to their patients about one of their medical choices—about abortion, a choice that not only is for now constitutionally protected, but also could even be necessary to save the woman's life. Gagging the doctors places them in an untenable situation: Uphold the law and lie, possibly endangering your patient, perhaps committing malpractice; or reject the law, serve the patient's best interest, and face possible criminal charges.

When people go to see a doctor, they do so because they have a medical problem. They want, need, and deserve the best possible medical treatment, information, and advice. Some government official's opinion about politically correct medical choices is not only irrelevant, it's dangerous. The government has no place in the middle of the doctor-patient relationship. The government belongs in courthouses and statehouses—not in examining rooms.

And, as is tragically so often the case with a policy intended to oppose abortion, the major victims of the gag rule are among the most vulnerable of people—low-income women, who have no health care alternative to a government-funded clinic. If the gag rule keeps their doctors from giving them comprehensive and accurate medical advice, the patients are left in the dark. Some may end up seeking abortions in a back alley. And some of them may die from the poor medical care they receive in those back alleys.

The gag rule makes no sense. Congress can change it, and Congress should change it. We must not stand by as doctors are prevented from talking to their pateints, and as patients are prevented from learning, about legitimate medical choices.

We face the subtle tyranny of an ideology, based on a particular set of religious beliefs, a tyranny being exerted over science, medicine, and freedom of speech. I respect the right of adherents to those beliefs to hold them, but not to impose them on others. That is a tyranny we cannot—and will not—permit to stand.

Let us vote to overturn the gag rule.

Mrs. BOXER. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, the previous speaker tried to intimate that this is a vote on parental notification. It clearly is not. If there is avoidance here, it is directly relating to the issue of advice, not of counsel. It is not of counsel, not even of advice, but of information. If there is anything that is the hallmark of this country, it is that people have a right to know what the law is and what their options are. That is what this amendment is about, nothing more, nothing less.

The gentlewoman from New York was absolutely correct, this is not about abortion or choice. It is about information and the ability of a patient, the ability of a client to have full access to the information that morally ought to be theirs.

Mr. Chairman, Justices Blackmun and Marshall said the Sullivan versus Rust decision:

> * * * upholds view-point based suppression of speech solely because it is imposed on those dependent on the Government for economic support.
>
> By interpreting the statute to authorize the regulation of abortion-related speech between physician and patient * * * the Secretary and now the Court, have rejected a constitutionally sound construction in favor of one that is by no means clearly constitutional

Under the Court's reasoning,

> The first amendment could be read to tolerate any governmental restriction upon an employee's speech so long as that restriction is limited to the funded workplace.
>
> The Government's articulated interest in distorting the doctor-patient dialogue—ensuring that Federal funds are not spent for a purpose outside the scope of the program—falls far short of that necessary to justify suppression of truthful information and professional medical opinion regarding constitutionally protected conduct.

The gag rule conflicts with the professional ethics and guidelines of major medical organizations, including the AMA, the American College of Obstetricians and Gynecologists, and the American Academy of Pediatricians which insist on a patient's right to full information.

Health care professionals will be at risk for medical malpractice.

The health of low-income women and adolescents would be compromised because the number of unwanted pregnancies and abortions would increase as a result of the decrease in the number of skilled family planning providers.

A two-tiered health-care system would result with low-income women receiving more limited care and information from federally funded providers compared to affluent women who can afford private health-care providers.

Except in cases of emergency, health-care providers would be prohibited from providing counseling even when abortion is necessary for a woman's health. Providers would be prohibitied from answering a direct question regarding abortion, other than to say, "The project does not consider abortion an appropriate method of family planning."

Providers are compelled to choose between offering only Government approved information to pregnant women or forgoing Federal funds.

Providers are prohibited from providing a client with a page from the yellow pages listing clincis where abortion information and services may be obtained.

Providers are prohibited from providing accurate, objective information about abortion in education programs.

Mrs. BOXER. Mr. Chairman, I yield 1½ minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, I am envious of my colleagues who see the issue of abortion in black and white terms. There are those of us who struggle on this floor with each issue that comes up relating to abortion, trying to find what is reasonable and just.

Prior to my election to Congress, I practiced law. One of my specialties was medical malpractice. I would like to say to this body that the fundamental principle of medical practice in America is informed consent. Unless a patient is informed of all of his legal and medical options and then consents to a medical procedure, a doctor is not permitted under law to perform any medical procedure on that patient. The gag rule and the Rust decision in the Supreme Court preempt the ethical and legal obligations of a medical doctor. That rule denies a doctor the right to fully advise a patient of her legal, medical options. That is why it is opposed by the American Medical Association and the American College of Obstetricians and Gynecologists.

I would hope that a women advised of her right to an abortion would still choose to carry her baby to term. But basically she is entitled to the right to know. The gag rule strikes at the heart of the doctor-patient relationship. It is the ultimate intrusion of Government into one of the most sacred relationships under common law. If the Government can silence a doctor from meeting his ethical obligation, if the Government can deny a patient access to information necessary to make an informed consent, then the Government has gone too far.

Mr. Chairman, President Bush is wrong with this gag rule, and the Supreme Court is wrong in sustaining it. The sacred, confidential relationship between a doctor and a patient should be beyond the reach of politics.

Mr. PURSELL. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. BOXER. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut [Mrs. JOHNSON].

The CHAIRMAN pro tempore. The gentlewoman from Connecticut [Mrs. JOHNSON] is recognized for 2½ minutes.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise to support the bill's language which forbids the use of funds to enforce the gag rule in title X family planning clinics.

It was the intent of Congress in authorizing our Nation's family planning program—title X of the Public Health Service Act—in 1970, that all women, regardless of their economic circumstances, have access to complete information regarding the options available for managing their health, an illness, or pregnancy. Such information is readily available to women who can privately pay for their health care—it should be equally available to women whose care is subsidized by Government funding. Without question, all patients have a fundamental right to know.

Basic to this health care has always been the ability of health-care provider to equip the patient with the knowledge to make her own reproductive choices. I strongly support the title X family planning program as an important means of helping low-income women prevent unintended pregnancy. Over $1.2 million allocated annually to Connecticut clinics serves nearly 50,000 patients, providing valuable preventive health care services, diagnosis and treatment of disease, and contraceptive methods.

Mr. Chairman, democracy rests on two assumptions: First, that men and women are good, and, second, that given knowledge, they will do the right thing—they will act responsibly.

During the McCarthy era in America, we had great debates about whether, given knowledge, people would act in a morally responsible fashion. After serious and at times stormy national debate, we decided, that knowledge was not to be feared. We decided democracy must provide knowledge freely and trust people to draw the right conclusions. So we gave our students the right to read the Communist Manifesto, to understand communism, because we knew if we taught them about communism and freedom, they would choose freedom.

There is only one group that we do not trust with knowledge, and that is children. As a matter of public policy and parental action, we do censor information for children because we know there is a limit to their ability to handle knowledge responsibly.

Mr. Chairman, this debate that we are having is not about abortion. It is about whether women will have access to knowledge, whether women have a right to know or are to be subject to censorship by Government as children are by parents. And, indirectly, it is about whether women can be trusted, given knowledge, to act in a morally responsible fashion. Make no mistake about it, this is not an abortion issue but a profoundly important matter of the moral equality of women.

□ 1520

Today, we must face squarely whether America, the leader of the free world, believes that women should have free access to knowledge and whether women can exercise and manage knowledge with the same level of moral responsibility as men.

The gag rule proposal is unprecedented. At no time have we ever considered as a matter of public policy censuring information for any group of citizens, much less a group defined by sex. I urge Members to recognize this issue for the profoundly important matter it is and oppose the gag rule.

Mrs. BOXER. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. PORTER], the coauthor of the antigag rule.

Mr. PORTER. Mr. Chairman, the Porter amendment is obviously concerned with abortion, but it is much more fundamental than that. It is concerning the honest relationship between citizens and their government.

The issue is whether a poor woman coming to a title X-funded family planning clinic, typically her only and primary source of health care, whether the Government can withhold from her, when she declares that she has an unintended pregnancy and specifically asks for help, the information that she needs to exercise her constitutional right—whether the Government can in effect lie to her.

Mr. Chairman, most of our citizens say wait a minute. Of course the Government must tell people the truth. Not the partial truth, but the whole truth. This is America. This is not the way we do things in America.

Physicians and nurses have condemned the gag rule as a politization of medicine, an unconscionable intrusion between doctor and patient, a rule, that if implemented, would require them to violate medical ethics and subject them to malpractice suits.

Mr. Chairman, the House is, by passing this amendment, sending an unmistakable message to President Bush: No matter how you feel about abortions, the gag rule is beyond the pale. It is unacceptable, because it destroys the vital relationship of faith that must exist in a free society between the governed and their government.

Mr. Chairman, the opponents are afraid to ask for a vote on this matter because they know that this is so. I believe that when the President hears from Republicans, like this one, and there are many, many of us all across this country, hears from members of the medical profession, hears from people everywhere that this is unacceptable, that he will in fact listen, and that he will ultimately sign this bill into law and prevent the gag rule from being implemented.

Mrs. BOXER. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Chairman, I rise in support of the Porter language contained in the bill and in opposition to the gag rule.

Mrs. BOXER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Chairman, I think all of those who have spoken know that there is no Federal Government money that is spent for abortions. If a referral is made for an abortion, it is done in a separate facility.

Mr. Chairman, this is not an abortion issue. I commend the committee and the gentleman from Illinois [Mr. PORTER] for blocking funding to implement the gag rule from Title X family planning. This issue is worded very carefully in the law right now. It says that no money can flow to organizations that promote abortion as a means of family planning.

Well, no organization does that, and no one here supports that.

This wording has been interpreted by the Reagan and Bush administrations as meaning that no money can flow to any organization if they counsel a woman about their full range of options concerning a pregnancy. In fact, they are forbidden from telling a woman all of her options concerning her pregnancy, no matter how sick she is, no matter if she is carrying a seriously malformed fetus, no matter what her desperate condition might be.

Mr. Chairman, this is an issue concerning medical-governmental ethics. How can we sit here in Washington and mandate what a doctor tells a patient? This is an issue concerning the first amendment. We are limiting the freedom of speech. This is an issue concerning discrimination. A woman with money can get appropriate medical advice denied to a poor woman.

Mr. Chairman, I again commend the committee. This onerous gag rule has been with us for too long. I commend the committee for removing it from the bill.

Mr. Chairman, I have a list of not 20 organizations which were mentioned, but 50 organizations, which support removal of the gag rule from title X family planning, which I submit for the RECORD.

SUPPORT FAMILY PLANNING AND ELIMINATE THE "GAG" RULE

Ambulatory Pediatric Association.
American Academy of Family Practitioners.
American Academy of Nurse Practitioners.
American Academy of Pediatrics.
American College of Nurse Midwives.
The American College of Obstetricians and Gynecologists.
American College of Physicians.
American Fertility Society.
American Hospital Association.
American Medical Association.
American Medical Women's Association.
American Nurses Association.
American Public Health Association.
American Psychiatric Association.
Association of American Medical Colleges.
Association of Professors of Gynecology and Obstetrics.
Association of Reproductive Health Professionals.
The Organization of Obstetric, Gynecologic & Neonatal Nurses.
National Association of Community Health Centers.
National Association of Neonatal Nurses.
National Conference of Gerontological Nurse Practitioners.
National Organizations of Nurse Practitioner Faculties.
Society of Adolescent Medicine.
American Association of University Women.
American Baptist Churches.
American Jewish Committee.
American Jewish Congress.
Anti-Defamation League.
Business and Professional Women/USA.
Catholics for a Free Choice.
League of Women Voters.
Mexican-American Legal Defense and Education Fund.
Mexican-American Women's National Association.
National Association of State Boards of Education.

National Audubon Society/Population Program.
National Churches of Christ.
National Council of Jewish Women.
National Education Association.
National Organization of Women.
National Urban League.
Planned Parenthood Federation of America.
National Women's Political Caucus.
Population Institute.
Population-Environment Balance.
Union of American Hebrew Congregations.
United Methodist Church.
Women's Legal Defense Fund.
Zero Population Growth.

The CHAIRMAN pro tempore (Mr. WHEAT). The Chair would advise Members that the gentleman from Michigan [Mr. PURSELL] has 6½ minutes remaining, and the gentlewoman from California [Mrs. BOXER] has 11 minutes remaining.

Mrs. BOXER. Mr. Chairman, I yield 1 minute to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, our precious Bill of Rights is at risk, and women's lives are at risk, unless this Congress acts. President Bush, supported by the Supreme Court, would censor advice and even information that doctors can give their patients in federally funded family planning clinics. Women would not be told that abortion is a medical option, even if they ask.

A woman who can afford a private doctor can get complete health care information. Should President Bush and the Supreme Court prevent poor women from getting the same information? Should President Bush and the Supreme Court force censorship into the health care system?

Mr. Chairman, today I ask Members to join me in telling President Bush and the Supreme Court that it is not OK to censor doctors.

Mrs. BOXER. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I rise in strong support of this bill, and particularly in support of the section which overturns the erroneous Supreme Court decision.

Mrs. BOXER. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Illinois [Mr. PORTER].

Mr. Chairman, I rise in support of the Porter amendment and in support of the basic premise that government should not seek to undermine what is a clear right granted under Roe versus Wade and under the Constitution: A woman's right to information about all legitimate reproductive options.

Last month, the Supreme Court determined that the first amendment does not apply to physicians providing family planning services—that it can restrict the information doctors provide when counseling patients at crucial times in their personal, private lives.

As a result of this, we will find more tragic, backalley abortions and incredibly complicated situations developing in the lives of people who simply need firm, informative, nondirective counseling by people trained to advise them about their reproductive rights and options.

Medical censorship by the Federal Government leverages Federal funding against family planning clinics in order to deny them the freedom to counsel honestly and objectively. It prevents total disclosure of information that a patient has a right to know and robs women dependent on Federal funding of their right to know and to choose.

Medical censorship by the Federal Government nibbles away at the reproductive health rights of people who are reliant to some degree on the Federal budget. These gag rule regulations also conflict with laws in nearly 40 States that recognize a legal right of recovery for lack of informed consent. Failure to discuss all options upon request may make providers liable for medical malpractice.

We here in Congress have an obligation both to reaffirm the majority's views on free speech and on abortion, and to guarantee our rights as Americans to speak and be counseled freely. I am confident that we will do that today by passing the Porter amendment.

Mrs. BOXER. Mr. Chairman, I yield 1½ minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Chairman, the program before us has become a lightning rod for the debate on the question of whether a woman has a right to an abortion. But the simple truth is—the Supreme Court has decided that a woman does have that right—and the title X program has not, and will not under this bill, pay for abortion services. The family planning program has proven its value and rightfully deserves reauthorization.

The focus of our debate today is the discriminatory policies the administration has selected to restrict a woman's access to her constitutional right to an abortion and the denial of physicians' and counselors' rights to free speech. The administration's regulatory gag rule requires that physicians treat patients differently depending on their financial status.

Women with money can receive full and truthful counseling about their options, including abortion; those who are forced to rely on the government for their health care and family planning services are denied comprehensive pregnancy counseling.

Over 20 national medical and nursing associations oppose the gag rule including such eminently conservative groups as the American Medical Association, the American Nurses Association, and the American Academy of Pediatrics.

These groups are opposed to the gag rule because it represents unprecedented and unacceptable government interference with sound medical practice. The regulations require health professionals to violate their code of ethics and to expose themselves to malpractice lawsuits. There is no precedent whatsoever for such a radical departure from medical practice or medical ethics over the decades which not only encourages but requires a doctor to withhold information.

The government is limiting what doctors can say confidentially to patients, an abridgement of both patients' and doctors' rights. It is a perversion of medical practice.

The implications are frightening. The government can now tell doctors, We don't like this treatment—so you can't discuss it with your patients. And if you do discuss it you forgo your rights to any Federal benefits.

Under this logic, tobacco companies could now put pressure on Federal authorities to prohibit doctors from informing patients of the links between tobacco smoking and lung cancer because, as the companies have continually maintained, no absolute cause and effect relationship has been established.

If you forget for one moment that the issue before us is abortion, it is inconceivable that Americans would tolerate a similar policy affecting a doctor's absolute right to advise patients freely, or their ability to consult the full range of health care options available to them.

If passed, H.R. 2707 has the power to restore fairness to family planning services and give women the information necessary to make their own health care decisions.

□ 1530

Mrs. BOXER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I thank the gentlewoman for yielding time to me.

What is happening in our country today? How could we have come to the point where the Congress of the United States or the Supreme Court of the United States believe that they can dictate what doctors can say to their patients or prescribe the treatments that doctors can discuss with their patients.

The gag rule is both repugnant and outrageous, and the Reagan and Bush Supreme Court's decision to uphold it is unbelievable.

Do the opponents of abortion really believe that if they control the speech of doctors they can stop women from receiving abortions? Do they really believe that if they can control the speech of doctors they can control women's minds and actions?

Mr. Chairman, this is a bizarre Orwellian practice that we are engaging in here.

The real issue is not abortion. The real issue is whether or not Congress will allow doctors to fulfill their Hippocratic oaths and practice medicine.

The real issue is whether or not Congress will stand up for women's health and women's rights.

I am proud to join with my colleagues today in voting for a bill which withholds funding for enforcing the gag rule until this body can pass appropriate legislation which repeals this offensive restriction on free speech.

Mrs. BOXER. Mr. Chairman, I yield 1 minute to my friend, the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Members of the committee, the gag rule is insulting and degrading to women in this country. It speaks volumes about how we look at women and treat women in this country.

There has been no evidence since the enactment of title X 20 years ago of violating the interpretation of title X, which has been supported by this Congress time and again. And that is to provide information, full medical information to women depending on their circumstances.

There has been no evidence to suggest that it has gone above and beyond that, and it is important to understand that. We must put a stop to this ideological spree that threatens family planning throughout this country and will decimate family planning for low-income women.

The opponents of family planning have an obligation and responsibility to tell Members what alternative they are going to provide to the low-income women, because they are going to be denied those services. We saw this international gag rule imposed on family planning clinics throughout this world and now we are seeking to impose that absurdity on domestic family planning clinics. The President has said this is a personal decision. This is not a decision then that should be made by a decidedly impersonal government.

Mr. Chairman, as we discuss the question of title X and the gag rule regulations, I would like to remind my colleagues of a couple of salient facts.

First is that title X as enacted in 1970, stated that funds could not be provided for abortion as a method of family planning. It doesn't say anything about banning counseling or referral—only actual abortions.

Well, in fact, no funds have been used for that purpose. And if the gag rule regulations are overturned, as this bill provides, no money will be used for nontheraputic abortions. So it is inaccurate for anyone to suggest that these regulations in any way prevent Federal funds from going for abortions—that's not at issue.

Now, we have heard some people suggesting of late that these regulations don't actually ban the use of the word abortion. I suppose, in an exceedingly limited sense, that is true. A counselor, if asked, can say, "I can't provide abortion counseling or referral, but I can tell you the services we do provide."

That is hardly of any assistance to a woman seeking full information on the situation she faces. The regulations are as explicit as they could be in banning discussion, and it is disingenuous to sugarcoat it in any other fashion.

Mr. Chairman, we have seen what a gag rule in family planning can do, since one has been in effect internationally under the Mexico City policy—the international gag rule. Rather than reduce the number of abortions, evidence suggests that, under Mexico City, they have likely increased.

Thirty to forty percent of the 500,000 annual maternal deaths worldwide are due to self-induced or unsafe abortion. Complication from pregnancy, childbirth, and unsafe abortions are the leading killers of women of reproductive age throughout the developing nations—the nations affected by the international gag rule.

All of these things have occurred in the wake of a policy designed to curb abortion—a demonstrably failed policy that supporters of the title X gag rule now want to foist on American women.

My colleagues, on June 4, President Bush made a good point in a letter to the congressional leadership. He wrote, "Abortion is a difficult, deeply emotional and very personal decision for all Americans."

Yet with this gag rule, this difficult and deeply emotional decision would no longer be a very personal one for low-income American women: This very personal decision is made for them by a decidedly impersonal Federal Government.

That runs afoul of a prime tenet of health counseling and medicine, as one law professor pointed out: That the patient, not the counselor, must be free to make the final decision about his or her physical well-being.

Somehow, Mr. Chairman, it always comes down to treating women differently than men, whether we're talking about inattention to health needs, inequity in the workplace, or other problems. Women are expected to live with and accept restrictions from which men are exempt.

This gag rule is a restriction without parallel for men. The Federal Government is not limiting what a doctor can say to a low-income male patient. But it is doing so for women.

Frankly, my fear is what will next be restricted for women. Perhaps they will ban clinics receiving Federal funds from telling women that they are pregnant, since pregnancy is a necessary precondition for abortion.

This is an absurd example, to be sure—but it is no more absurd, insulting, and degrading than the proposed gag rule regulations. American women and men are watching this issue very carefully, to see how willing the Federal Government is to intrude in the examining room. They don't like it one bit, Mr. Chairman, and neither do I, so I urge my colleagues to support the gag rule repeal contained in this bill.

Mr. PURSELL. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota [Mr. WEBER].

Mr. WEBER. Mr. Chairman, it is precisely because the international programs mentioned by the gentlewoman in the well have worked so effectively since we got them out of the abortion business that we should have no real fear about the imposition of the title X regulations. Those programs are operating today in South America, the Philippines, and in other parts of the world more effectively than when they were in the abortion business precisely because they are not running counter to the culture which is profamily planning but deeply antiabortion.

Mr. Chairman, in an otherwise excellent bill, the Porter amendment stands out as a glaring flaw. I want to emphasize, I intend to vote for this bill. I urge all Members to vote for this bill. It is an excellent bill that includes many important programs.

But I hope that this unfortunate flaw is corrected in the conference committee. And if it is necessary, I will support a Presidental veto to correct this flaw.

The gentleman from Kentucky [Mr. NATCHER] calls this bill the people's bill. That is one of the reasons that Members who serve on the subcommittee are so proud to be a part of it. It is also a family and children's bill. We save lives with NIH funding. We protect small children with infant immunizations. We help get youngsters off on a right start in school with Head Start and healthy start funds.

Title X is supposed to fit comfortably into that web of programs. It is supposed to strengthen families by helping them to plan their childbirths.

But we found out in the 1980's that there was a problem. Title X was not being used to plan families but to destroy unborn children. That is offensive to me. It is offensive to many.

It is unfortunate but that is the evidence. This regulation did not fall out of a tree. It was not plucked out of the air. It grew out of the realization and the evidence that planned parenthood clinics specifically and other title X funded clinics were disproportionately referring pregnant women that walked in their doors for abortions. Over 85 percent of pregnant women that walk into planned parenthood clinics end up aborting.

That is offensive to many. It helps destroy the consensus that should exist in support of a real family-planning program that fits into a bill that should strengthen and nurture families, not tear them apart.

Regulations were promulgated to build a wall, yes, a wall, not to keep out family planning but to protect family planning programs, build a wall between family planning and abortion.

Let us talk about what it does not do. It does not prevent any woman who needs an abortion because her life is endangered from receiving one. That is specifically excepted in the language of the regulations.

Second of all, it does not prohibit a provider from using the word "abortion." We have heard that doctors are going to be slapped into jail because they use the word "abortion." It simply states that title X programs are not engaged in the abortion referral, counseling or providing business and physicians or other health care providers, if asked about abortion, simply say, "This program does not engage in those services." And they provide the patient with a list of other clinics to which they can go to get a range of other forms of advice which may well include information about the availability of abortion

That is what the title X regulations actually will do. The Porter amendment tears down that wall.

What does that mean? Does it mean that we make abortion illegal? No. Prochoice side has correctly stated, we are not talking about the legality of abortion. We should be talking about an easier issue, from my standpoint, not whether or not we are going to permit abortion, which I understand is divisive, but about whether or not the Federal Government is going to advocate and subsidize and promote and encourage abortion. That ought to be an easier issue for this body.

I have talked to many on the prochoice side of the issue that say they believe in the right to choice, but they are disturbed about abortion, concerned about abortion. They certainly do not want to encourage it. They certainly do not want to subsidize it.

What title X will be doing, if the Porter amendment prevails, is putting the Government not in the business of allowing abortions but promoting it and encouraging it through its family planning programs.

My God, we already have the most liberal abortion laws on the planet, outside of China where it is virtually a requirement. Must we go further and require taxpayers, regardless of their consciences, to advocate abortion.

In many ways this is worse than a violation of the Hyde amendment, which says we willl not pay for an abortion specifically, because this may well induce a woman who would otherwise not have an abortion to have one. That is why this issue is important and, as I said, that is why this issue ought to be a relatively easier issue.

Furthermore, if, as I am told, a Member rises and raises a point of order against the parental notification amendment later in the bill, parents will have no voice in this fundamental decision after the Federal Government has paid health care personnel to encourage their daughter to have an abortion. That is an abomination.

So this bill that should exist to nurture families, to strengthen families, to help children, will drive a wedge between parents and their children and will put American taxpayers in the position of subsidizing abortion.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. WEBER. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I just wish to join with the gentleman in his remarks and agree with him and rise in opposition to the Porter amendment.

Mr. WEBER. Mr. Chairman, vote for the bill, but get ready to support the veto.

The CHAIRMAN pro tempore (Mr. WHEAT). The Chair advises the gentleman from Michigan [Mr. PURSELL] that he has 1½ minutes remaining, and the gentlewoman from California [Mrs. BOXER] that she has 6½ minutes remaining.

The Chair further advises the gentleman from Michigan that by virtue of the fact that he is a member of the committee and there is no amendment pending, he has the right to close debate.

□ 1540

Mrs. BOXER. Mr. Chairman, I yield 1 minute to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I rise in support of the Porter language included in H.R. 2707 which denies the use of funding in the bill to implement the gag rule.

It is vital that Congress take every action possible to overturn the Supreme Court decision in Rust versus Sullivan. This decision has devastating ramifications for poor women in this country; it will create a class system for women's health by denying poor women full information about their legal reproductive options, while women who can afford private physician care will have complete information and access to these health services. Thus, this decision will further exacerbate the already insufficient health care available to poor women. They represent the most at-risk population, and yet the gag rule will further erode their ability to obtain health services, even when they are the victims of rape, incest, or life-threatening illnesses.

It will also set a dangerous precedent by denying first amendment rights to health professionals and breaking their obligation to their patients to provide complete information. In fact, this decision is expected to result in the departure of many family planning providers from the title X program; thereby further eroding the health of poor women and increasing the number of unintended pregnancies and abortions. Family planning providers will have to choose between providing complete information to their clients and losing Federal funding, or providing only government approved information in order to receive Federal support. This is not a choice that should have to be made in a free society: a society that prides itself on the right to free speech.

This issue is one that should have the support of every Member of this House, regardless of their view on abortion. It establishes a dangerous system of censorship that could be repeated for any number of Federal programs and it discriminates against poor women. In a health system that already provides inadequate care to low-income people, this decision only widens the gap between the haves and the have nots.

I urge my colleagues to support the committee bill and the Porter language. Congress must clearly establish its intent on the gag rule and express its support for equal access to complete information in federally funded family planning programs.

Mrs. BOXER. Mr. Chairman, I yield 1 minute to my colleague, the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I thank the gentlewoman for yielding me this time. I thank the Chair of the committee for bringing this very important bill to the floor.

Mr. Chairman, at the time that this bill was voted on in the committee on which I have the privilege of serving, I spoke to my colleagues about this particular Porter amendment. At that time I told them that gathered in that Appropriations Committee room were people with great experience and great knowledge on many subjects, but although a new member on the committee, I thought I knew about something a little more than they did, and that was how it felt to be a woman hearing the news that this administration did not want women to have all the information available to them about their own family planning and their right of freedom of choice.

The gag rule lacks respect for women. How do you know how women will decide when they go into a clinic? With the best information, they will choose the best solution for them.

The gag rule does not respect women. Those who support notification should support this Porter amendment, because this amendment enables a mother and child to receive the information that they need when they go in together.

Those who oppose Porter would not allow a mother even to be able to receive the counseling to give to her own daughter.

I urge support for this bill.

Mrs. BOXER. Mr. Chairman, I yield 1 minute to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, since fiscal year 1989, poor women in the District of Columbia have suffered in a way that no other women in the United States have suffered on issues of reproductive choice. We have been unable to use our own tax-raised funds to finance abortion in derogation of every principle of democracy and home rule.

We have a crack epidemic in this Capital City, but abortion righters have effectively forced crack addicts to bear seriously damaged children, and then abandon them as boarder babies in our hospitals, creating a crisis on top of a crisis.

Now comes the gag rule. Our clinics will be unable even to advise poor women of where to go for funds or advice in lieu of seeking help in the District. This is not a rule. This is a cruel edict unworthy of any American court or of the Congress.

Please vote against a two-tiered system of reproductive rights, and please remember those women most cruelly affected, those who live within blocks of the Capitol and are most in need.

Mrs. BOXER. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, I thought we were going to get the Government off the American people's back. But what rude beast is this slouching toward us under the guise of compassion for life and support of family?

The other side would at one point gag the health professionals; doctors and nurses cannot mutter the "A" word even if the young woman's life is at risk. Is that compassion for the sanctity of life?

Then with one amazing leap of legerdemain, they want to compel young woman to get permission from their parents, no matter how dysfunctional a family, even if such disclosure might put the young woman at risk of physical abuse or worse. Is this compassion for the sanctity of life?

Gag the professionals, force the kids to talk. They do not want the Federal Government to interfere. What a joke.

At first blush, parental notification sounds innocuous. Young adults should be able to communicate their most intimate problems with both their parents, but sometimes that just cannot or should not happen. Last November, after a hard-fought campaign, the people of Oregon rejected a parental-notification referendum.

I urge my colleagues to have the same insight and courage.

Mrs. BOXER. Mr. Chairman, I yield myself 2½ minutes, the remainder of my time.

Mr. Chairman, my colleagues, by now we know that this bill as it stands prohibits the enforcement of the gag rule, and that is good, and that is a victory for freedom.

By passing this bill, Congress will say that this administration, and no other, and this Supreme Court, and no other, cannot gag our American citizens, cannot force them to lie to other American citizens.

Imagine, a doctor cannot tell a woman in America in 1991 that abortion is a legal option. This gag rule is more than an insult to the American people. It is more than a bad policy for the American people. It is an attack on the fundamental freedoms of America.

How does this administration and this Supreme Court reach to gag these doctors and these nurses? They do it, because these doctors and nurses receive Federal funds for their clinics. Imagine, Federal funds being collected from the American people to be used against the American people. Imagine using Federal funds as a hammer to pound on the truth.

You take the King's shilling, you speak the King's language. I thought we had a revolution about that.

I say it is time to trust the American people with the truth. I say it is time to get Big Brother Federal Government out of our private and personal lives. Think of it, it is a doctor gagged today, a teacher gagged tomorrow, and they get Federal funds, it is a writer gagged, it is an artist gagged, it is a reporter gagged. Where does it stop? I say it stops here in this House of the people. I say it stops today in this House of the people.

If President Bush vetoes freedom, we will work day and night to restore it. Support this bill and support freedom.

I thank you, my colleagues, for this fine debate.

Mr. PURSELL. Mr. Chairman, I yield 1½ minutes, the remainder of my time, to the gentleman from Illinois [Mr. HYDE].

□ 1550

Mr. MACHTLEY. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Rhode Island.

Mr. MACHTLEY. Mr. Chairman, I rise in strong support for the Porter language, so that all women, regardless of their ability to pay, can be fully informed of their rights.

Mr. Chairman, I rise in support of H.R. 2707 and in particular commend my colleague from Illinois, Mr. PORTER for including language in this bill to block the implementation of the so-called gag rule. The debate surrounding the gag rule is not only about abortion, but is about the importance of the doctor-patient relationship and freedom of speech.

There are some 5 million women who are served annually by title X funded family planning clinics for a variety of reasons from cancer screenings to prenatal care for maternal advice. Some of these women also come to title X facilities with unintended, crisis, or unhealthy pregnancies in search of medical advice. However, despite the fact that medical advice is openly given in health clinics across the United States, that medical advice only goes so far. Because of the gag rule, these women cannot receive all the information they should know about how to treat their pregnancy.

The sanctity of the doctor-patient relationship is critical to promoting the good health. For thousands of years, the faith and trust in doctor-patient relationship has been the paradigm of medical practice. If that doctor-patient relationship is curbed or muzzled by the government, then the trust behind that relationship is destroyed and informed consent will no longer exist.

Mr. Chairman, I urge my colleagues to support the Porter language, support the overturn of the gag rule and allow doctors to tell their patients the truth.

Mr. HYDE. Mr. Chairman, I have been intereted in the libertarian impulse I have seen from surprising circles. "Get the government off your back; get the government out of medical offices." That libertarian impulse does not extend, though, to, "Get the government out of your pocket," when it comes to making you pay for abortions, then the libertarian impluse disappears.

There is no gag rule. Must we govern ourselves by bumper stickers and slogans? Nobody is gagged if a women comes in and is pregnant, to a clinic that does not deal with pregnant women, it deals with women who do not want to get pregnant. It deals with women who are infertile and want to get pregnant. It does not deal with pregnant women. A person might go see a chiropodist or a brain surgeon, but this clinic does not have a program to deal with pregnant women.

The doctor does not say, "Out, we will not talk to you. I am gagged. I have no freedom of speech." The doctor reaches on his table and hands the woman a list of clinics that will advise her on her rights and her options. They advise both ways. It is a balanced list. She is given a place where she can learn of her options. That is what the program does.

Now, really, what is at stake, is an unbridgeable gap. There is an unbridgeable gap between those who value the preborn as less significant than the rights of autonomy or sovereignty that the pregnant woman wishes to assert. That is paramount, and the rights of the unborn are not only secondary, they do not count. Those Members on the other side say that tiny little atom of humanity surrounded by a women called "mother" is a member of the human family, and we ought to be including more people in the circle of those that society will exercise responsibility for, including the handicapped, the aged, and the unwanted and unborn. Society that is caring and humane takes care of its people at the margin.

We do not do enough. I understand that, and I concede that. We have to do more. However, killing is not a humane solution to anything.

Mr. MATSUI. Mr. Chairman, I am pleased that our colleagues who oppose a woman's right to choice have decided not to offer an amendment to strike the Porter amendment from this appropriations bill. This decision on their part clearly shows how this issue transcends the traditional abortion debate. This issue is not so much about abortion, but about privacy, free speech, and health care.

The choice to seek an abortion is a medical decision. Any rule that prohibits the simple mention by a physician of a valid option of care to the patient is wrong.

It is particularly disturbing that it has become the policy of this administration to impose upon the privacy of a doctor-patient relationship. When a woman with an unintended pregnancy asks about medical assistance, she should be informed of all the options before her—prenatal care and delivery, adoption, and abortion. It is contrary to the values of our society to deny individuals information necessary in order to make a well thought out decision.

It is totally unacceptable that under the administration's rule even if a woman directly requests information about where to obtain an abortion, the provider is prohibited from sharing that information. Just as we would allow and expect a physician to counsel a cancer patient on all of the latest treatments and medicines, so too should physicians be able to counsel pregnant women on all available, legal, and appropriate medical procedures. We cannot expect women to make an informed decision about their future health and well-being if they are not given the necessary facts about their options. If the gag rule is upheld, we as Members of Congress are counseling physicians across the country to commit malpractice.

Withholding information from the general public is a dangerous precedent to set. That is exactly what this rule accomplishes. We must ask ourselves, on what grounds can the government limit the information given to our citizens? The people this policy would affect most acutely are those who use federally funded family planning clinics—primarily low-income women. With the upholding of the gag rule, the administration effectively discriminates against those who are less furtunate.

Those who wish to strike this language from the appropriations bill, would like to turn this debate into one on abortion. But if those individuals were to examine the gag rule carefully they would find it has little to do with abortion. Rather it concerns the rights of women to receive adequate information necessary to their health care; regardless of their economic backround.

Congress should not condone any limitation on the knowledge of a patient in need of medical care. All women in this country should have the same right to information, regardless of where they seek their medical care.

Mr. LEVIN of Michigan. Mr. Chairman, I would like to thank the subcommittee and its chairman, the gentleman from Kentucky [Mr. NATCHER], for acknowledging the importance of evaluating ways to manage the care of frail elderly Medicare beneficiaries. Appropriating funds to continue demonstration projects authorized under section 4027(f) of the Omnibus Budget Reconciliation Act of 1990 will assure that Congress receives better information on how to effectively manage care provided to this special population. In the long run, this has the potential of reducing health care costs and improving quality of care by ensuring that the proper mix of diagnostic and therapeutic services are utilized, throughout the patient's episode of illness.

Mr. BLILEY. Mr. Chairman, the debate we are continuing today really began 15 years ago. But throughout all of the general counsel opinions, program guidelines, and litigation, Congress has never before voted to require federally funded family planning clinics to assist women to obtain abortions.

The issue before us is not about free speech. It is about subsidized speech. Let us not fool ourselves into believing that this debate is about the "A" word. It is about the "B" word—baby. What does Congress expect a family planning counselor to say when a 15-year-old asks, "is it a baby?" It seems to me that however this is answered, the illusion of nondirective counseling is dispelled. Shall we require title X projects to deny it is a baby? Shall we require them to say that if allowed to continue to grow, that the baby will look like its mother and father and that the color of its eyes, hair, height, and so forth, have already been determined?

Those who believe that the Federal Goverment should not be involved in such a discussion with the use of tax dollars should oppose the Porter language.

Those who believe that the decision to continue or terminate a pregnancy is a private decision between a woman and her physician must oppose the Porter language. The title X counselor does not and cannot provide maternal health care services regardless of whether the pregnancy is continued or aborted. The counselor is an outside third party to that decision with no authority or responsibility in supporting that decision.

Those who believe that the Federal Government should not interfere in that decision should oppose the Porter language. Why? Because you cannot logically say that government should not be involved on the one hand and insist that government sponsor, subsidize, and exert at least some measure of control over that decision on the other. In 1982, the General Accounting Office found that in essence, there was no standard for nondirective counseling. Who can say whether this counseling is being done correctly or not? Is there an obligation, for example, to present adoption in a more favorable light to a teenager who is being coerced into abortion by her boyfriend or parents?

Those who believe that the woman should be protected from exploitation should oppose the Porter language. If we are really concerned about what is being said or not said in those 4,000 title X clinics, we would be having a different debate. The Federal Government requires that a woman who is referred for sterilization be at least 21 years old. We require a written consent form which must be signed by the woman and the physician. We require that the physician certify that the woman is not under the influence of alcohol or drugs. We require a thirty-day waiting period.

None of these protections are provided for under title X. Is sterilization a more serious decision than abortion? If we are concerned that a woman should not be coerced into sacrificing her fertility, should we not be just as concerned that she not sacrifice her unborn child? I suggest that many Members do not want to know what is and what is not being said, they only want the issue to go away.

Finally, let me also make it clear to my colleagues who may erroneously believe that the proponents of this amendment would merely maintain the status quo in regards to counseling and referral. If we allow the regulations to be stopped today, the next step will be a significant expansion of Federal involvement in the abortion decision. Under the Porter-Wyden bill, which is waiting in the wings, there is not even the presumption of a physician-patient relationship. That legislation would make title X clinics into abortion information clearinghouses. It would require title X projects to treat abortion like any other referral service. This means that the projects would be required to actively assist the woman in obtaining an abortion. The projects would be required to share patient records with the abortion provider. These are significant changes which go beyond the previous title X guidelines.

I urge my colleagues to look past the full-page adds and the skillful political campaign being waged. The issue is, do you want to use tax dollars to tell 15-year-old girls that abortion is an acceptable method of family planning? Do you want to fund that biased viewpoint on abortion? We are not making that decision today, but we will be soon. Let us fully prepare ourselves. Let us begin by clearing away the smokescreen of free speech.

Mr. CAMPBELL of Colorado, Mr. Chairman, I rise in support of H.R. 2707, the Labor-HHS-Education appropriations bill for fiscal year 1992, which contains provisions which repeal the gag rule imposed by the Supreme Court in the recent Rust versus Sullivan decision.

I was shocked and dismayed by the Court's decision which flies in the face of our constitutional guarantee of free speech. At issue also is a physician's ability to counsel patients to the best of his or her ability, and whether the Government can force health care professionals to violate their legal and ethical obligations. I agree with the health care professionals who feel that this policy is nothing more than medical censorship. Last time I checked, abortion is still a legal process and to say something which is legal cannot even be referred to in the course of a conversation is totally absurd. The Court's reasoning is not only unfathomable, it's dangerous.

This decision also raises a question of equity among women. If a woman can afford private health care, she can receive counseling about prenatal care, adoption and abortion; however if she is poor, the Government has the right to dictate to a doctor what a doctor can and cannot tell a patient. I find it startling that a victim of rape or incest who just happens to be poor cannot get the guidance she needs to terminate an unwanted pregnancy—even though abortion is a legal option in America.

Family planning clinics are about the prevention of unintended pregnancies, and by providing contraceptive services which prevent unintended pregnancy, the program strives to lower the demand for abortion. Since the 1970's, title X programs have operated under carefully drafted guidelines which require nondirective, balanced couseling including all available options—prenatial care, infant care, foster care, adoption and abortion. Family planning clinics who receive Federal funds to not perform abortions with Federal moneys, but have given balanced, nondirective counseling about all options available to a pregnant woman. Congress has authorized family planning clinics within this framework that respects a woman's right to truthful answers from her physician and her right to make an informed decision without Government intervention.

I am pleased that the Appropriations Committee has seen fit to reauthorize title X clinics without these restrictive regulations and I urge my colleagues to join me today in support of this appropriation bill.

Mr. GEPHARDT. Mr. Chairman, the Supreme Court and the Bush administration have embarked on an ill-advised campaign to increase abortions and to insert Government between patients and their doctors. This policy defies common sense.

The Supreme Court has misinterpreted Federal law and given the administration a license to gag doctors. That means, if a patient goes into a family planning clinic, the doctor is regulated by Government and prevented by Government from explaining all the options available to women who may be pregnant or considering starting a family.

This policy will increase abortions. If women believe, when they go to a federally funded clinic, that they're going to get less than honest advice, they're not going to go there even for family planning information. This will increase the number of unwanted pregnancies.

Family planning advice, as best I can figure it, is one of the best ways to cut down the number of abortions in the country. The current situation will not only diminish the quality of that advice, but it will also lead to the shutting down of clinics that can offer family planning alternatives to abortion to women who need such assistance.

Moreover, the American people do not think the Government should be telling doctors what they can say to people. Doctors have an oath that requires all physicians to help their patients get the best and most appropriate care, and an obligation to inform them fully of all options. These obligations go to the heart of the doctor-patient relationship. But what the Supreme Court and the Bush administration are saying is: Government, not the doctor, will decide what information is given a patient, or what an adviser in a clinic can tell them. And such a policy unwisely and unfairly inserts Government into the most intimate dialogue that can occur between a patient and a doctor, the conversation that occurs about planning a family.

Now, we don't pay for abortions and frankly I don't think the Federal Government should, and we don't use our clinics to perform abortions, and I support that policy was well. But this rule, which gags the doctor and stifles the patients is wrong, and the Congress is right to prevent its implementation, until we have the opportunity to overturn it.

Mr. WOLPE. Mr. Chairman, I rise in strong support of the fiscal year 1992 Labor, HHS, and Education appropriation bill. I am particularly appreciative of the committee's decision to accept the Porter amendment on the abortion counseling gag rule. On May 23, the Supreme Court in the Rust versus Sullivan decision, upheld a regulation that prohibits federally funded clinics from counseling women on abortion. Current Federal regulations would deny women seeking information regarding how to respond to an unintended pregnancy from receiving accurate information about all of her options, including abortion. This means that even if a woman has been raped, or is a victim of incest, or finds her health seriously threatened by her pregnancy, her doctor would not be able to tell her the truth about her options.

The gag rule not only denies women information they are entitled to receive, but makes it impossible for doctors to practice medicine, and deepens the wedge between the health care haves and have-nots. Well-do-do women who go to private physicians would be able to learn about all their family planning choices, while poor women would be denied that same information.

Clearly this is an issue that goes well beyond the right to choose an abortion. Serious constitutional questions of free speech are at stake here—and that is why even some strong congressional opponents of abortion have joined with pro-choice advocates in an effort to block implementation of the gag rule. These opponents of abortion realize that if the gag rule is implemented, the number of abortions could increase significantly. When the clinics that can't ethically comply with the gag rule regulations lose their Federal funds, women's health care services will be cut. As a result, poor women won't get access to contraception, which prevents pregnancies. After all, the easiest way to limit the number of abortions is to prevent the need for them in the first place. Twenty-one national medical and nursing organizations—including the American Medical Association, the American College of Obstetricians and Gynecologists and the American Nurses Association—have declared the gag rule on title X family planning clinics to be in direct conflict with their codes of ethics. Who can serve as better advisors on this issue than the men and women who spend their days working to save lives? A recent public opinion poll shows that over 70 percent of the American public favor overturning the gag rule.

I urge passage of the Labor, HHS and Education appropriations bill, as amended. And it would be my hope that the President would reconsider his announced intention to veto this bill, and respect the feelings and views of the overwhelming majority of the American public.

Mr. HORTON. Mr. Chairman, the House of Representatives today passed H.R. 2707, the Labor-Health and Human Services-Education appropriations bill for fiscal year 1992. One of the most controversial provisions in the bill barred the implementation of the administration regulations prohibiting family planning clinics receiving Federal title X funds from providing information on abortion.

Although a recorded vote was not called for on the issue today, I wish to express my support for the lifting of this so-called gag rule on federally funded family planning clinics. We can no longer have one set of rules for the poor in this country and another set of rules for the rest of America.

If the gag rule remains in place, the gap between those who can afford private health care and those who must attend public clinics will widen. If physicians in federally funded facilities are prohibited from providing all relevant medical information, they are not fully performing their duties and the health of millions of American women may be at risk.

The American Medical Association and other medical groups oppose the administrations restrictions on abortion counselling with good cause. Medical ethics require physicians to provide patients with all available options. The present title X restrictions not only force physicians to breach their ethical oaths but opens them up to potential malpractice suits.

Finally, I support lifting the gag rule on first amendment grounds. Merely providing financial assistance to an organizaiton does not give the Federal Government the right to infringe on the freedom of speech of American citizens. We must allow our physicians to advise their patients to the best of their ability and not interfere with the vital doctor-patient relationship.

Mr. MORAN. Mr. Chairman, the Supreme Court handed down a decision on May 23 entitled Rust versus Sullivan that must be oveturned by this body.

It must be overturned because it compromises the integrity of the medical profession and requires a separate system for medical care for America's women based on their economic class. Doctors are no longer allowed to give their full, honest and professional advice to all their patients.

Women who are unable to afford private care will no longer receive the same medical advice that women of the same age in the same physical condition will receive from their doctor solely because of the difference in their incomes.

Mr. Chairman, these distinctions are unfair and un-American. They represent a very real threat to the integrity of all of our institutions.

Mr. Chairman, I urge inclusion of the Porter amendment.

Mr. COX of Illinois. Mr. Chairman, I rise today in support of section 514 of H.R. 2707. This provision prevents the Secretary of Health and Human Services from using federally appropriated funds to institute the gag rule.

Through its recent rulings, the Supreme Court in Rust versus Sullivan has upheld the administration's interpretation of a statute enacted by this Congress creating many constitutional questions. The administration initiated Federal regulations which prohibit the giving of certain information to patients at federally funded title X medical clinics. The gag rule initiated by the Department of Health and Human Services in 1988 does not allow medical professionals the freedom of informing their patients of all medical options available to them.

Currently the gag rule would require doctors to read a script approved by the Government which basically states the clinic does not consider abortion as a family planning alternative. Even if a woman requests information on abortion, or is a victim of rape or incest, the answer is still the same: the clinic cannot advise or even refer a patient on the option of abortion.

Women go to the clinics seeking counsel to enable them to make an informed decision on family planning. They expect to be advised of all possible options available to them without bias. However, bias is just what the gag rule enforces.

What is perhaps most unfortunate of all about the gag rule is the impact it has on those who have no other options for family planning advice. The wealthy will no doubt be able to afford private health care, which provides them with honest and accurate advice on all family planning options. However, the poor and lower middle class can not afford this alternative. They will be forced to brave the consequences of a double standard which prohibits access to information because they can not afford the cost for honest advice.

The gag rule would effectively destroy the doctor patient relationship. How could a patient ever trust the thoroughness of the medical advice they are receiving at a federally funded clinic, when they know the Federal Government has the power to administratively decide what information should be provided to them regarding certain medical procedures? How could the doctors maintain their code of ethics when they know they are not telling their patients the whole truth?

Many federally funded clinics have stated their decision to refuse Government funding if they would be required to institute the gag rule. These clinics have been forced to choose between Federal funding or allowing their doctors to maintain the constitutional right to free speech, and providing their patients with all options. Understandably with the support of such organizations as Planned Parenthood and the American Medical Association, they have chosen the latter.

It is very frightening to realize the administration is supportive of Government censorship. Will we be subject to a growing Government intrusion in our private lives which will force doctors to practice medicine at the mercy of the Federal Government's Orwellian control? Can we allow this intrusion on medical professionals constitutional rights? One can only wonder who will be the next group subjected to Government control. As elected Members of this Chamber I believe it is our duty and responsibility to insure our constituents, who overwhelmingly oppose such control, that we will not allow this intrusion to occur.

I urge my colleagues to show their support for this provision by voting for its passage. Let's remove the gag rule and restore full and accurate medical advice and allow free speech to remain the right of all.

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore (Mr. WHEAT). The gentleman will state his parliamentary inquiry.

Mr. DANNEMEYER. Mr. Chairman, if a point of order is raised against the Weber language on parental notification in this bill, and if the Chairman would sustain the point of order, would I be in order at that time to ask for a rollcall vote on that sustaining of that point of order, making parental notification not in order of this bill?

The CHAIRMAN. Any such ruling of the Chair is subject to an appeal, as the gentleman is aware.

Mr. DANNEMEYER. The only way to get the rollcall vote is to appeal the ruling of the Chair?

The CHAIRMAN pro tempore. That might depend on the effect of the Chair's ruling.

Mr. DANNEMEYER. A further parliamentary inquiry: Is the appeal of a ruling of a Chair interpreted by some in this body as a procedural matter, as distinguished from a substantive matter?

The CHAIRMAN pro tempore. An appeal of the Chair's ruling goes only to the propriety of the Chair's ruling under the rules.

Mr. DANNEMEYER. Mr. Chairman, I interpret the Chair's remarks to mean it is procedural in nature rather than substantive.

The CHAIRMAN pro tempore. It should not be interpreted as a vote on the merits of the issue at hand.

PREFERENTIAL MOTION OFFERED BY MR. DELLUMS

Mr. DELLUMS. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. DELLUMS moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

The CHAIRMAN pro tempore. The gentleman from California [Mr. DELLUMS] is recognized for 5 minutes.

Mr. DELLUMS. Mr. Chairman, I should not insist upon my privileged motion, but I did not have the opportunity to speak to the significant issue and chose this extraordinary vehicle to gain time to speak to my colleagues.

What we are talking about here is the gag rule, Mr. Chairman. We deal with rules in this body every single day.

In the legislative branch of the Congress there is a closed rule, which means we vote a rule up or down the way it is presented. There is a modified rule, that says there are only certain areas that we can debate. Then, Mr. Chairman, there is an open rule. An open rule means that any issue can be discussed, any issue can be debated.

A number of my colleagues on the other side of this issue have marched in the well, day after day, time after time, challenging gag rules. Why? Because they believe that we ought to have open rules, that we should fear no ideas. We should field no information, and that the Congress of the United States, in its wisdom or the lack thereof, should have the opportunity to work their will.

We are saying that that is what we ought to have. Well, what this debate is about is an open rule in the medical profession. To say that people should not be afraid of ideas, that all options should be available.

I would suggest to my colleagues, how can Members march in the well and challenge the assertion of the gentlewoman from California, or the gentleman from Illinois regarding the gag rule, and then day after day after day challenge rules that are not open rules? Because when we speak in favor of open rules, we say that all options shall be available to Members. That is the American way. That is the democratic way. Why, suddenly, should we become totalitarian, antidemocratic, violate the Constitution of the United States, and move against free speech, when it comes to a medical open rule?

If we believe that all options ought to be available to Members of Congress, what gives Members the arrogant notion that the elitist right that we have can have options beyond the American people, we truly represent them; and if we can speak eloquently to open rules and total options available to Members as representatives of the American people, can we march into the well and argue less for those persons for whom we represent? And because they happen to be women, does that give them any less right to have the options available to them?

Finally, as we frame this issue, it ought to be an issue based on the notion of free speech, because that is what this issue is all about. It is not about abortion. It is about trusting the right of American women. I have said oftentimes that many Members do not agree on the substantive issues. However, when we all ought to come together is our commitment to the integrity of the process. What is the process here? It is the Constitution of the United States. It is the first amendment to the Constitution of the United States that sets out the right of free speech. That is what we ought to be about.

If Members can argue on this floor against gag rules that govern legislation, they ought to be willing to stand in this well and challenge gag rules that deny women the opportunity for the total access of information. To do anything less is undignified. To do anything less is un-American. To do anything less is unpatriotic.

I ask unanimous consent to withdraw my motion.

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Chairman, reserving the right to object, I have a parliamentary inquiry.

The Chairman pro tempore. The gentleman will state it.

Mr. DANNEMEYER. On the gentleman's motion to strike the enacting clause, who is entitled to control the 5 minutes in opposition?

The CHAIRMAN pro tempore. One Member only is entitled to control the 5 minutes.

Mr. DANNEMEYER. Mr. Chairman, I make that request.

The CHAIRMAN pro tempore. A member of the committee takes precedence.

Mr. PURSELL. Mr. Chairman, I will control that time.

The CHAIRMAN pro tempore. The gentleman from Michigan [Mr. PURSELL] is recognized for 5 minutes.

Mr. PURSELL. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HYDE].

The CHAIRMAN pro tempore. The Chair will advise the gentleman from Michigan [Mr. PURSELL] that he must remain on his feet during this debate. He controls all the time.

Mr. HYDE. Mr. Chairman, in the last speaker, some who I really enjoy hearing because he always has something to say and he says it so interestingly; he talked about elitists, and he looked over here.

□ 1600

I wonder if the gentleman meant the gentleman from Kentucky [Mr. NATCHER] who always votes with us on this issue.

I wonder if he meant the gentleman from Illinois [Mr. ROSTENKOWSKI] who always votes with us on this issue.

I wonder if he meant the gentleman from Michigan [Mr. KILDEE] who always votes with us on this issue.

I think characterizing those of us who want to protect the innocently inconvenient unborn, who is so defenseless in this situation, who cannot rise up in the streets, who cannot vote, who cannot escape, as the elitist right is quite interesting.

I would rather think some of those who want to get rid of people are the elitists who think there are too many unwanted people. There are too many handicapped. There are too many poor. There are too many unwanted children, so the solution? Exterminate them. Get rid of the people. It is certainly a direct way to do it.

I hope that this has been an illuminating discussion. It certainly has been passionate.

I certainly am not angry at anyone. I think this issue transcends ourselves, but I hope we can get some people thinking about it. It is literally an issue of life and death.

Mr. PURSELL. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DANNEMEYER.

Mr. DANNEMEYER. Mr. Chairman, I want to say in response to my colleague, the gentleman from California [Mr. DELLUMS], the gentleman was looking at me when he was talking.

You know, you talk about the right of free speech here. How about the right of free speech of that unborn child in the womb? Does not that child have a right to free speech just as much as the mother has the right to free speech?

The data is clearly that over 90 percent of the abortions performed in America today are for purposes of birth control. That is the data.

The irony is that the vast majority, in fact only 9 percent of the American public support abortion as a means of birth control.

What we are talking about in this whole debate, and I will come back to it again, this subterfuge of attaching this prohibition on language to an appropriations bill was designed specifically to avoid the reality that in the Policy Committee, they held an Environment Committee where I serve, we have the votes on a bipartisan basis to require that parental notification be a condition precedent of any young girl being referred to an abortion before that abortion takes place.

Mr. PURSELL. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, may I stop the gentleman from California [Mr. DELLUMS] right there, my powerful oratorical friend.

There is an elitist right, just like there is an elitist left. We call your elitist left limousine liberals.

I will show you a list of true multimillionaire and billionarie elitist rightists, and guess what, I say to the gentleman from California [Mr. DELLUMS], they are all proabortion.

And do you know what they say to me over and over when they refuse to support me? "How are we going to pay for them if we allow them to be born?"

When I talked to the gentleman from California [Mr. DELLUMS] on this issue 12 years ago, I told the gentleman them in Florida, them were Cuban Americans, them in southern California were Hispanic Americans, them in New York were Puerto Rico Americans, and when the gentleman and I were marching for civil rights, them were African-Americans all over this country.

Elitists rightists in my party are going to be battling over this as a platform issue in Houston in August of next year. You bet we have an elitist right, and the gentleman from Oregon [Mr. AUCOIN] is not part of it, he is on your side, nor is the gentleman from Wisconsin [Mr. ASPIN], a great Desert Storm hero and popular.

Mr. PURSELL. Mr. Chairman, that was our top gun.

Mr. Chairman, I yield 30 seconds to the gentleman from Minnesota [Mr. WEBER].

Mr. WEBER. Mr. Chairman, I will not take long. I want to address a comment to my friend, the gentleman from California [Mr. DELLUMS], if I can divert him from his friend, the gentleman from California [Mr. DORNAN].

I would say to the gentleman from California [Mr. DELLUMS] that the gentleman and I have had a good relationship over the years. We do not agree on this issue, but I was disappointed in one thing the gentleman said. In his last comment, the gentleman used the word unpatriotic to describe people who oppose him on this issue. The gentleman does not mean that, the gentleman does not mean the use of that word, does he?

Mr. DELLUMS. Mr. Chairman, if the gentleman will yield, let us strike that.

What I was trying to say is those Members who stand on the floor and articulate their support of open rules, meaning total options, find themselves in a contradictory position when they argue gag rules with women in medical situations. That was my major argument. It is un-American, because it violates the Constitution of the United States.

Mr. PURSELL. Mr. Chairman, I yield 30 seconds to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Henceforth, Mr. Chairman, I guess we can assume from the comments of the gentleman from California [Mr. DELLUMS] that from here on he will be voting against every rule that comes out of the Rules Committee, controlled by this party.

The gentleman from California [Mr. DELLUMS] made one quick point. He said this is not about abortions. Previous speakers said the same thing. That is absolutely untrue.

We are talking about an issue where abortion is facilitated by referrals, facilitated by counseling, and even Planned Parenthood some years back in talking about family planning and abortions said in their Planned Parenthood brochure in August 1963, "What is birth control?" the question goes. "Is it in abortion?"

"Definitely not. An abortion kills the life of a baby after it has begun."

That is from Planned Parenthood. They have now changed their minds on that.

The CHAIRMAN pro tempore (Mr. WHEAT). The Chair would ask if the gentleman from California [Mr. DELLUMS] wishes to withdraw his preferential motion?

Mr. DELLUMS. Mr. Chairman, I ask unanimous consent to withdraw my preferential motion.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN pro tempore. The preferential motion is withdrawn.

There being no amendments to section 514, the Clerk will read section 515.

The Clerk read as follows:

SEC. 515. Notwithstanding any other section of this Act, parents shall be notified to the extent and in the manner required by the law of the State in which the health care facility is located. The Secretary may not make a grant under section 1001 of the Public Health Service Act (42 U.S.C. 300) unless the entity applying for the grant agrees that the entity will not perform an abortion on an unemancipated minor under the age of 18, and will not permit the facilities of the entity to be used to perform any abortion on such a minor, without regard to whether the abortion is to be performed with any financial assistance provided by the Secretary, unless there has been compliance with one of the following:

(1) A written notification is provided to a parent or legal guardian of the minor stating that an abortion has been requested for the minor, and 48 hours elapses after the notification is provide to the parent: *Provided*, That notification may be delivered personally by a physician or the physician's agent, in which case 48 hours elapses from the time of making personal delivery, or notification may be provided through certified mail, return receipt requested, restricted delivery addressed to a parent or guardian at that individual's dewelling hours or usual place of abode (as defined by rule 4 of the Federal rules of civil procedures for the United States district courts), in which case 48 hours elapses from 12 o'clock noon on the second day of regular mail delivery that follows the day on which the notification is posted.

(2) The physician with principal responsibility for making the decision to perform

the abortion certifies in the minor's medical record that she is suffering from a physical disorder or disease making the abortion necessary to prevent here death and there is insufficient time to provide the required notice.

(3) The minor declares that the pregnancy resulted from incest with a parent or guardian of the minor or that she has been subjected to or is at risk of sexual abuse, child abuse, or child neglect by a parent or guardian, as defined by State law: *Provided*, That in any such case the physician notifies the authorities specified by State law to receive reports of child abuse or neglect of the known or suspected abuse or neglect before the abortion is performed.

(4) The entity complies with a State or local law then in effect that requires that one or both parents or a guardian either be notified or give consent before an abortion is performed on an unemancipated minor under the age of 18, whether or not the State law provides that parental notification or consent may be waived through judicial proceedings.

Mr. PURSELL (during the reading). Mr. Chairman, I ask unanimous consent that the section be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

POINT OF ORDER

Mr. DEFAZIO. Mr. Chairman, I have a point of order.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. DEFAZIO. Mr. Chairman, I wish to raise a point of order against this section.

I raise a point of order against section 515, beginning at page 74, line 16, through page 76, line 19 of the bill.

This section proposes to change existing law, and thus constitutes legislation on an appropriations bill, in violation of clause 2(b) of rule XXI.

The CHAIRMAN pro tempore. Does the gentleman from Kentucky desire to be heard on the point of order?

Mr. NATCHER. Mr. Chairman, I ask for a ruling of the Chair on the point of order.

The CHAIRMAN pro tempore. Does any other Member desire to be heard on the point of order?

Mr. HYDE. Mr. Chairman, I want to understand what we are doing here now.

The gentleman from Oregon [Mr. DEFAZIO] has raised a point of order. The issue now is a point of order against a part of the bill that provides for parental notice for an abortion of an unemancipated minor; the gentleman seeks to strike that on a point of order, is that right?

Mr. AUCOIN. Regular order, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman from Oregon seeks to strike section 515 of the bill on a point of order.

Mr. DEFAZIO. That is correct, Mr. Chairman.

Mr. HYDE. Mr. Chairman, I thank the gentleman.

The CHAIRMAN pro tempore. Does any other Member desire to be heard on the point of order?

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. DANNEMEYER. Mr. Chairman, how much time does a Member in opposition to the point of order have on the point of order?

The CHAIRMAN pro tempore. The time is at the discretion of the Chair on a point of order.

Does the gentleman from California wish to be heard on the point of order?

Mr. DANNEMEYER. Yes, I do wish to be heard on the point of order, Mr. Chairman.

I would like to ask if the gentleman from California [Mr. WAXMAN], the chairman of the Subcommittee on Health and the Environment of the Committee on Energy and Commerce is on the floor?

Mr. DEFAZIO. Regular order, Mr. Chairman; that is not relevant.

Mr. DANNEMEYER. Mr. Chairman, I wanted to ask when he planned to bring title X to the floor so that we can debate the merits of the issue on parental notification.

The CHAIRMAN pro tempore. The gentleman is not speaking to the point of order.

Does the gentleman wish to speak to the point of order?

Mr. DANNEMEYER. Well, Mr. Chairman, it is unfortunate to see a gag rule implemented on the Members of the House.

The CHAIRMAN pro tempore. Are there any other Members who wish to speak to the point of order?

If not, for the reasons stated by the gentleman from Oregon, the point of order against section 515 is sustained. That section is stricken.

The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1992".

PREFERENTIAL MOTION OFFERED BY MR. SMITH OF NEW JERSEY

Mr. SMITH of New Jersey. Mr. Chairman, I offer a preferential motion.

The CHAIRMAN pro tempore. The Clerk will report the preferential motion.

□ 1610

The Clerk read as follows:

Mr. SMITH of New Jersey moves that the Committee do now rise and report the bill to the House with the recommendation that the enacting clause be stricken.

The CHAIRMAN pro tempore (Mr. WHEAT). The gentleman from New Jersey [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of New Jersey. I thank my friend.

Mr. Chairman, I think it is outrageous that our friends who claim to prochoice, the proabortionists who are in this Chamber, Mr. DEFAZIO by name in this case, has just used a point of order to strike the parental notification language which was affixed in committee, attached to the bill in committee by my good friend, Mr. WEBER from Minnesota.

Mr. Chairman, this is the most modest minimal policy I think any of us can ask for with regard to the entire issue of abortion. We are talking about minors. Mr. DANNEMEYER indicated earlier about one-third of the number of abortions procured in this country, of the 1.5 million, are on teenagers. And in many cases, if not most, the parents are left out of the equation.

We have instances, and we have had testimony before Mr. WAXMAN's committee and before other committees, by people, by young girls, 14 and 15, who are marched into title X clinics, the baby was aborted, and then the aftermath, the deleterious effects of that child was visited upon that young teenager and the parents found out afterwards.

Is it not ironic that in order for a minor to get her ears pierced, receive an aspirin because of a headache or fever, she needs parental permission? And in that irreversible decision of an abortion where an unborn child is decimated by an abortionist through chemical poisoning or by literal dismemberment, the parents do not even have to know.

Parental notification offered by my good friend was a very modest proposal, and I think our friends on the other side of the issue tipped their hands and they exposed their true feeling about both women and babies.

Mr. WEBER. Mr. Chairman, would the gentleman yield on that point?

Mr. SMITH of New Jersey. I yield to the gentleman from Minnesota.

Mr. WEBER. I thank the gentleman for yielding.

Mr. Chairman, I just want to point out the gentleman was certainly well within his right in raising the point of order. But it is important that the country understand exactly what has been struck from the bill. The gentleman from New Jersey has pointed out this is about the most modest parental rights language you could put in. One parent would have to be notified, not two. They merely have to be notified. We do not demand their consent. So even if that one parent objected, the woman could go ahead and have the abortion. It is not parental consent.

There are exceptions for the life of the mother, for rape, or for incest or for those situations where the woman would allege to the physician that she may be subject to abuse if she were to tell either of her parents about it. You could not have a smaller step in the direction of establishing a minimal parental right than the language of the gentleman from Oregon just struck from the bill.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. I thank the gentleman for yielding.

Mr. Chairman, we have been talking about information and what a terrible gag rule it is for the doctor not to give some pregnant women abortion counseling or advice rather than send her where she can get it. What about the lack of information to a mother and a father whose daughter finds herself in an abortion mill being urged to get rid of this embarrassment, this unwanted child? What about your daughter, your unemancipated daughter going under a surgeon's knife or an aspiration machine or whatever method they use to exterminate that unborn child in her womb, and not even letting the parents know about it? That is eroding the family.

Now, the majority party has just come out with a commissioned report that wants to give $1,000 tax deduction to families for each child. They understand the magic in the words the family. What is more corrosive of the family than having a child go get a major and life threatening, certainly terminal to the unborn, life-threatening surgery without even a requirement of notifying her father and mother? As though the father and mother are irrelevant to the health and the welfare of their daughter.

That is what the gentleman seeks to do and has done, and that is what we all sit silently by meditating.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. I thank the gentleman for yielding.

Mr. Chairman, I want to explain to the Members of the body here in case any wonder why I did not move to appeal the ruling of the Chair on the issue of affirming the point of order striking out the parental notification language. We all know what goes on around here. That would have been immediately followed by a motion to table so the claim could be made by the members of the majority party who control this place that we are not voting on the merits of parental notification, we are only voting on the merits of sustaining the position of the leadership that you do not want to vote on the issue of parental notification, and how you can avoid that is this procedural tactic that you have used here today to gag our ability to give to the people of this country an indication of how the 435 Members of this body stand on the issue of parental notification. That is what is going on, and this Member, strong letter to follow, does not like that.

The CHAIRMAN pro tempore. The time of the gentleman from New Jersey [Mr. SMITH] has expired.

For what purpose does the gentleman from Wisconsin [Mr. OBEY] rise?

Mr. OBEY. Mr. Chairman, I rise to oppose the gentleman's motion.

The CHAIRMAN pro tempore. The gentleman is recognized for 5 minutes in opposition to the motion offered by the gentleman from New Jersey [Mr. SMITH].

Mr. OBEY. Mr. Chairman, no single issue is as important to the integrity of this body as is our willingness to always deal honestly and fairly and forthrightly with each other.

And I rise to oppose this motion and simply to correct some of the previous statements that I have just heard which, in my view, spectacularly mislead the public in terms of what is happening here.

I happen to be one Democrat who in committee voted for the parental notification language. I think that that language was a reasonable effort to try to reach a compromise on this issue. I also happen to recognize that Mr. DEFAZIO, under the rules of the House, has a perfect right to try to strike that language because, as anyone understands who has served here more than 2 days, it is legislating on an appropriation bill.

The Chair was correct parliamentarily in its position even though I do not happen to agree with the practical result.

The point I would simply like to make is this: I do not think this institution has to apologize for the debate we have had here today on this issue, because at least the institution has tried to grapple with this question. We should have done it a long time ago more successfully than we have. But at least today we have been grappling with this issue. Whether you agree with Mr. WEBER or not, there has been an honest effort in this place to try to do that.

I would simply make two points: No. 1, I would plead with both sides, both the prolifers and the prochoicers, to recognize that eventually what the public wants from both of us is not just to win in a narrow sense; what the public wants from all of us is an effort to try to reach a reasonable point of accommodation on a most sensitive and most controversial issue which affects the basic right to life and the basic right to privacy, both of which are legitimate rights to be defended.

And it seems to me, therefore, that sooner or later there needs to be some kind of language, if not the Weber language then some other language, which may more perfectly preserve the rights of families in situations to which that language was addressed.

But I want to say if there is one failure of leadership on this issue today, it does not lie with anyone here; it lies with the President, because on this bill and on the foreign aid bill which came up last week it is the President who is trying to rule by holding his breath and turning blue and saying "it shall be this way or no way."

And I frankly think the country has a right to better leadership than that.

I think the country has a right to expect the President to engage on this issue. I think the country has a right to expect that the President will sit down with the Congress and try to compromise on this issue so that we can find a reasonable proposition which meets the sensitivities of both sides and maintains the institutional dignity of this House.

So I congratulate the committee for trying to do that. I want to congratulate the people who have legitimately brought their arguments to bear on this issue. I do not want to congratulate those who have chosen to try to obfuscate the procedural situation today.

Most of all, I think the President has an obligation to try to rise above playing the narrow game of narrow, single-interest politics and work out a national accommodation on this issue. That is his responsibility—more than any other public servants—in the country.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. I thank the gentleman for yielding.

Mr. Chairman, I certainly want to associate myself with the statements the gentleman has made about the responsibilities of the executive and judicial branches, which have in effect placed the Congress in a situation of dealing with this very, very sensitive issue on an appropriation bill.

I think it has to be pointed out, though, that contrary to some of the comments that have been made to kind of obfuscate what this debate is all about, this Congress, this House of Representatives will deal with the reauthorization of title X. Congressman WAXMAN and Congressman DINGELL are preparing to bring that bill to the floor this summer. I know Mr. PORTER and Mr. WYDEN are prepared to debate this issue in the context of that bill.

Again, on the floor we will be dealing with these very, very difficult issues, including the question of parental notification and/or consent, which I think in the long run is the proper forum, the proper approach to dealing with an issue that needs to be understood by all the Members and are not to be carried as a rider on this bill.

Ms. DELAURO. Mr. Chairman, I am saddended that the Supreme Court has upheld such fundamentally unfair and flawed regulations that prohibit federally-funded clinics from providing their patients with information about abortion.

But it is now incumbent upon Congress to prevent such an intrusive and illconceived policy from being implemented.

The "gag" rule is the most offensive kind of paternalism that the Government can practice:

It says to women that they are not qualified to make the most deeply personal decisions about their well being and their reproductive lives.

It says to doctors that they are not qualified to exercise their professional judgement.

It says to those involved in this most intimate decision that only the Government is qualified to decide a woman's fate.

These regulations create second class citizens of those women who rely on health clinics rather than private physicians for their health care.

Contrary to the twisted logic of the majority opinion in Rust versus Sullivan, the gag rule is a direct and serious intrusion in the doctor patient relationship. It tells doctors what medical information they can and cannot impart to their patients, regardless of the individual circumstances.

This body should rather heed the admonition of Justice Blackmum in his dissent that the force of the first amendment is seriously eroded if it is "read to countenance the deliberate manipulation by the Government of the dialogue between a woman and her physician."

I urge my colleagues to protect the sanctity of the first amendment, to respect the confidentiality of the physician patient relationship, and to uphold a woman's reproductive freedom.

Mr. FALEOMAVAEGA. Mr. Chairman, I rise today to speak in opposition to a provision of H.R. 2707, the appropriations bill for the Departments of Labor, Health and Human Services, and Education, and related agencies for fiscal year 1992. This provision, contained in the appropriations to the Department of Health and Human Services under title II, will slash the Low-Income Home Energy Assistance Program [LIHEAP] from $1.61 billion to $1 billion, a cut of almost 40 percent in only 1 year. This comes on top of a 40-percent cut in real terms—after inflation—since fiscal year 1981. As many as 2 million families—or about 6.9 million people—will lose benefits.

Even at current funding of $1.6 billion, the Low-Income Home Assistance Program serves less than 25 percent of eligible households and on an average pays less than 25 percent of those recipients' total home energy bills. The majority of recipients are families with incomes under $6,000 a year. According to a study by the center on budget and policy priorities, such households typically pay 65 percent of their entire income for rent and utilities.

Mr. Chairman, I want my distinguished colleagues to understand that this bill should not be misinterpreted as maintaining current funding levels. In fact, the bill would remove $600 million from the program, setting it aside in a contingency fund available only upon submission by the President of a formal request designating it as an emergency; as a result, it is anticipated that these funds will not be available to the needy.

The Department of Health and Human Services argues that at a time of continued record deficits at the Federal level, and because energy assistance needs vary greatly from State to State, it is being proposed that States use other resources to cover a greater share of the low-income home energy assistance need. This is a curious argument in that States are now facing record deficits brought on in part because of previous Federal spending cuts, changes in Federal taxes which have affected State revenue, and the recession.

The administration also argues that this program is obsolete because it was a response to the oil price crisis of the 1970's. This is a fallacy. Although the original program was instituted to hold the poor harmless for the impact of oil decontrol, LIHEAP was cited as the safety net for the poor when natural gas price decontrol was authorized in 1983. In fact, less than 20 percent of the poor use fuels derived from oil; most use natural gas.

Mr. Chairman, the cuts in funding for LIHEAP are unacceptable. The impact on the States and territories will be devastating. In my district where about 60 percent of the population would qualify for LIHEAP benefits because the family income in American Samoa is so low, at the current funding level of only $31,000, we are only able to serve under 200 low-income families. If this provision passes today, about 40 percent of that amount will be cut. The administration suggest that other funds are available to these low-income households, so they do not need LIHEAP. In fact, Mr. Speaker, American Samoa does not have other public assistance programs such as food stamp, AFDC, and the SSI Program, so these funds are desparately needed.

I urge my colleagues fully fund this program as well as the drug education and prevention funds which have also been reduced in this legislation. When you vote today, please vote against these reductions.

Mr. ROE. Mr. Chairman, I would like to take this opportunity to associate myself with the words of my distinguished colleague Congressman THOMAS RIDGE and his efforts to help restore full funding to the Low Income Home Energy Assistance Program [LIHEAP]; and at the same time I would like to thank the distinguished chairman of the Appropriations Subcommittee Congressman NATCHER for his efforts and his willingness to discuss this program in conference.

LIHEAP is a vital program that deserves the continued support of the Federal Government. LIHEAP provides a necessity of life to the poor and disadvantaged, and equitably distributes the cost to all Americans as a basic social responsibility.

This appropriation bill provides $1 billion for LIHEAP. This is a reduction of $610 million from the fiscal year 1991 funding level. It is estimated that in my State of New Jersey alone that we will lose about $28 million if the funding for LIHEAP is reduced to the $1 billion funding level. Current estimates show that the average recipient in New Jersey would see their average benefits slashed from $400 to $236.

As many as 2 million families will be cut off from energy assistance this winter. This bill forces low income Americans to choose which basic necessities they can afford. Energy needs—heating, light, hot water, and emergency cooling—are essential to the quality of life. They cannot be separated from the necessities of education, affordable housing, or health. The costs to society of not providing for these needs can be tragic.

The cuts in funding for LIHEAP are disappointing. Yet I am hopeful that with the strong leadership of Chairman NATCHER and the members of the subcommittee we can collectively work together in conference to restore the funding of this vital program.

I urge my colleagues to look at these cuts and how they will affect your constituents; and I ask the Members in the other body to truly consider the effects that this cut will have on our Nation's disadvantaged when they consider this appropriation bill in the Senate.

Mr. SCHEUER. Mr. Chairman, I rise today to express my dismay over H.R. 2707's proposed cut of LIHEAP, the Low Income Home Energy Assistance Program. This program serves low-income children and families, the disabled, and many fixed income elderly. The average family income for a LIHEAP recipient household is less than $6,000 a year. For these families, LIHEAP does not supply frivolities; rather, it allows their basic energy needs—for heating, light, hot water, emergency cooling—to be met.

In my home State of New York alone, an estimated quarter of a million households will no longer be eligible for the LIHEAP Program. Nationwide, the number of ineligible swells to 1.9 million. Families that do qualify will be forced to choose among energy needs: Will they pay the rent or have light; heat the house or have hot water?

The argument has been made that fully funding LIHEAP would use money which could otherwise be allocated for education programs served under the HHS budget. We must consider that even the best education programs will not aid poor children if they must return to a house in which it is too cold to study due to the decrease in LIHEAP funding.

I realize that times are tough and we must control Federal spending. However as the ranks of the "new poor" continue to grow, this Congress cannot afford to overlook the needs of the less fortunate and slash this crucial program.

☐ 1620

The CHAIRMAN pro tempore (Mr. WHEAT). All time has expired.

Does the gentleman from New Jersey [Mr. SMITH] insist upon his preferential motion?

Mr. SMITH of New Jersey. No, Mr. Chairman, I withdraw my motion.

The CHAIRMAN pro tempore. Without objection, the preferential motion is withdrawn.

There was no objection.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Kentucky [Mr. NATCHER].

Mr. NATCHER. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to, and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker, having assumed the chair, Mr. WHEAT, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2707) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to, and that the bill, as amended, do pass.

□ 1624

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mrs. BOXER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 353, nays 74, not voting 5, as follows:

[Roll No. 200]

YEAS—353

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Baker
Barnard
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Grandy
Gray
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McDermott
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (TX)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Taylor (MS)
Taylor (NC)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zimmer

NAYS—74

Allard
Archer
Armey
Ballenger
Barrett
Barton
Bennett
Boehner
Bunning
Burton
Combest
Cox (CA)
Crane
Dannemeyer
DeLay
Doolittle
Dornan (CA)
Dreier
Edwards (OK)
Fawell
Fields
Gallegly
Gradison
Hall (TX)
Hancock
Hansen
Hefley
Henry
Herger
Holloway
Hunter
Hutto
Hyde
Inhofe
Ireland
Johnson (TX)
Kyl
Lagomarsino
Lightfoot
Lipinski
Livingston
Marlenee
McCandless
McCollum
McEwen
McGrath
McMillan (NC)
Michel
Miller (OH)
Moorhead
Nichols
Nussle
Packard
Pallone
Paxon
Petri
Quillen
Roberts
Roe
Rohrabacher
Roth
Santorum
Sarpalius
Sensenbrenner
Shuster
Smith (NJ)
Smith (OR)
Spence
Stump
Tauzin
Thomas (CA)
Thomas (WY)
Walker
Zeliff

NOT VOTING—5

Hopkins
Mrazek
Rhodes
Solomon
Sundquist

□ 1646

Messrs. IRELAND, GALLEGLY, SPENCE, and JOHNSON of Texas changed their vote from "yea" to "nay."

Messrs. COBLE, VOLKMER, KASICH, and EMERSON changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DETAILED TABLE SETTING FORTH AMOUNTS PROVIDED IN H.R. 2707, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1992

Mr. NATCHER. Madam Speaker, I ask unanimous consent to insert in the RECORD at this point a detailed table showing the amounts provided for in H.R. 2707, the bill just passed, with appropriate comparisons.

The SPEAKER pro tempore. (Mrs. UNSOELD). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The table referred to is as follows:

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
SUMMARY					
Title I - Department of Labor:					
Federal Funds	7,541,537,000	7,336,447,000	7,435,073,000	-106,464,000	+98,626,000
Trust Funds	(3,345,157,000)	(3,398,136,000)	(3,512,648,000)	(+167,491,000)	(+114,512,000)
Title II - Department of Health and Human Services:					
Federal Funds (all years)	151,535,902,000	165,657,345,000	167,266,742,000	+15,730,840,000	+1,609,397,000
Current year	(130,398,968,000)	(139,119,345,000)	(139,605,750,000)	(+9,206,782,000)	(+486,405,000)
1993 advance	(21,136,934,000)	(26,538,000,000)	(27,660,992,000)	(+6,524,058,000)	(+1,122,992,000)
Trust Funds	(6,554,729,000)	(6,543,148,000)	(6,937,781,000)	(+383,052,000)	(+394,633,000)
Title III - Department of Education:					
Federal Funds	22,883,520,000	26,580,972,000	28,266,159,000	+5,382,639,000	+1,685,187,000
Total including Guaranteed Student Loans	(27,093,338,000)	(29,656,683,000)	(31,341,870,000)	(+4,248,532,000)	(+1,685,187,000)
Title IV - Related Agencies:					
Federal Funds (all years)	1,079,950,000	1,036,650,000	1,030,273,000	-49,677,000	-6,377,000
Current year	(761,314,000)	(776,650,000)	(776,964,000)	(+15,650,000)	(+314,000)
1994 advance	(318,636,000)	(260,000,000)	(253,309,000)	(-65,327,000)	(-6,691,000)
Trust Funds	(98,731,000)	(121,615,000)	(108,983,000)	(+10,252,000)	(-12,632,000)
Total, all titles:					
Federal Funds (all years)	183,040,909,000	200,611,414,000	203,998,247,000	+20,957,338,000	+3,386,833,000
Current year	(161,585,339,000)	(173,813,414,000)	(176,083,946,000)	(+14,498,607,000)	(+2,270,532,000)
1993 advance	(21,136,934,000)	(26,538,000,000)	(27,660,992,000)	(+6,524,058,000)	(+1,122,992,000)
1994 advance	(318,636,000)	(260,000,000)	(253,309,000)	(-65,327,000)	(-6,691,000)
Trust Funds	(9,998,617,000)	(10,062,899,000)	(10,559,412,000)	(+560,795,000)	(+496,513,000)
TITLE I - DEPARTMENT OF LABOR					
EMPLOYMENT AND TRAINING ADMINISTRATION					
PROGRAM ADMINISTRATION 1/					
Job training programs	19,884,000	21,528,000	21,528,000	+1,644,000	....
Trust funds	(2,118,000)	(2,179,000)	(2,179,000)	(+61,000)	....
Employment security	316,000	442,000	442,000	+126,000	....
Trust funds	(12,611,000)	(13,472,000)	(13,472,000)	(+861,000)	....
Financial and administrative management	13,343,000	14,502,000	14,502,000	+1,159,000	....
Trust funds	(10,075,000)	(10,686,000)	(10,686,000)	(+611,000)	....
Executive direction and administration	4,376,000	5,031,000	5,031,000	+655,000	....
Trust funds	(3,870,000)	(4,047,000)	(4,047,000)	(+177,000)	....
Regional operations	15,215,000	16,132,000	16,132,000	+917,000	....
Trust funds	(24,319,000)	(26,745,000)	(26,745,000)	(+2,426,000)	....
Apprenticeship services	16,051,000	16,553,000	16,553,000	+502,000	....
Total, Program Administration	122,178,000	131,317,000	131,317,000	+9,139,000	....
Federal funds	69,185,000	74,188,000	74,188,000	+5,003,000	....
Trust funds	(52,993,000)	(57,129,000)	(57,129,000)	(+4,136,000)	....
TRAINING AND EMPLOYMENT SERVICES					
Grants to States:					
Block grant	1,778,484,000	1,778,484,000	1,773,484,000	-5,000,000	-5,000,000
Summer youth employment and training program	682,912,000	682,912,000	682,912,000	....	....
Dislocated worker assistance	526,986,000	526,986,000	576,986,000	+50,000,000	+50,000,000
Federally administered programs:					
Native Americans	59,625,000	58,690,000	59,625,000	....	+935,000
Migrants and seasonal farmworkers	70,288,000	56,911,000	75,288,000	+5,000,000	+18,377,000
Job Corps:					
Operations	800,238,000	837,033,000	846,033,000	+45,795,000	+9,000,000
Construction and renovation 2/	67,259,000	50,464,000	52,464,000	-14,795,000	+2,000,000
Subtotal, Job Corps	867,497,000	887,497,000	898,497,000	+31,000,000	+11,000,000
Veterans' employment	9,120,000	8,792,000	9,120,000	....	+328,000
National activities:					
Pilots and demonstrations	36,216,000	27,753,000	27,753,000	-8,463,000	....
Research, demonstration and evaluation	12,927,000	10,000,000	10,000,000	-2,927,000	....
Other	22,673,000	13,706,000	16,706,000	-5,967,000	+3,000,000
Subtotal, National activities	71,816,000	51,459,000	54,459,000	-17,357,000	+3,000,000
Subtotal, Federal activities	1,078,346,000	1,063,349,000	1,096,989,000	+18,643,000	+33,640,000
Total, Job Training Partnership Act	4,066,728,000	4,051,731,000	4,130,371,000	+63,643,000	+78,640,000
Job training for the homeless	11,223,000	....	7,400,000	-3,823,000	+7,400,000
Total, Training and Employment Services	4,077,951,000	4,051,731,000	4,137,771,000	+59,820,000	+86,040,000

1/ Reflects reprogramming approved 5/91.

2/ 1992 request includes $20,000,000 reappropriation request.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS					
National contracts	304,481,000	267,395,000	304,481,000		+37,086,000
State grants	85,879,000	75,419,000	85,879,000		+10,460,000
Total	390,360,000	342,814,000	390,360,000		+47,546,000
FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES 1/					
Trade adjustment	269,000,000	226,000,000	226,000,000	-43,000,000	
Other activities	500,000	250,000	250,000	-250,000	
Total	269,500,000	226,250,000	226,250,000	-43,250,000	
STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS					
Unemployment Compensation (Trust Funds):					
State Operations 2/	(1,458,435,000)	(1,510,973,000)	(1,510,973,000)	(+52,538,000)	
State integrity activities	(278,249,000)	(304,723,000)	(304,723,000)	(+26,474,000)	
National Activities	(6,213,000)	(6,486,000)	(6,486,000)	(+273,000)	
Contingency	(391,544,000)	(440,703,000)	(440,703,000)	(+49,159,000)	
Subtotal, Unemployment Compensation (trust funds)	(2,134,441,000)	(2,262,885,000)	(2,262,885,000)	(+128,444,000)	
Employment Service:					
Allotments to States:					
Federal funds	21,177,000	22,500,000	21,177,000		-1,323,000
Trust funds	(783,940,000)	(727,500,000)	(783,940,000)		(+56,440,000)
Subtotal	805,117,000	750,000,000	805,117,000		+55,117,000
National Activities:					
Federal funds	3,806,000	2,200,000	2,200,000	-1,606,000	
Trust funds 3/	(56,114,000)	(72,500,000)	(85,000,000)	(+28,886,000)	(+12,500,000)
Targeted jobs tax credit 4/	(19,518,000)	(20,000,000)	(20,000,000)	(+482,000)	
Subtotal, Employment Service	884,555,000	844,700,000	912,317,000	+27,762,000	+67,617,000
Federal funds	24,983,000	24,700,000	23,377,000	-1,606,000	-1,323,000
Trust funds	(859,572,000)	(820,000,000)	(888,940,000)	(+29,368,000)	(+68,940,000)
Total, State Unemployment 5/	3,018,996,000	3,107,585,000	3,175,202,000	+156,206,000	+67,617,000
Federal Funds	24,983,000	24,700,000	23,377,000	-1,606,000	-1,323,000
Trust Funds	(2,994,013,000)	(3,082,885,000)	(3,151,825,000)	(+157,812,000)	(+68,940,000)
ADVANCES TO UNEMPLOYMENT TRUST FUND AND OTHER FUNDS	328,000,000	236,990,000	236,990,000	-91,010,000	
Total, Employment and Training Administration	8,206,985,000	8,096,687,000	8,297,890,000	+90,905,000	+201,203,000
Federal funds	5,159,979,000	4,956,673,000	5,088,936,000	-71,043,000	+132,263,000
Trust funds	(3,047,006,000)	(3,140,014,000)	(3,208,954,000)	(+161,948,000)	(+68,940,000)
LABOR - MANAGEMENT SERVICES					
SALARIES AND EXPENSES					
Labor-management relations service	5,733,000	5,526,000	5,526,000	-207,000	
Labor-management standards enforcement	25,238,000	26,530,000	26,530,000	+1,292,000	
Pension and welfare benefit programs	56,405,000	63,784,000	63,784,000	+7,379,000	
Total, LMSA	87,376,000	95,840,000	95,840,000	+8,464,000	
PENSION BENEFIT GUARANTY CORPORATION					
Program Administration subject to limitation (Trust Funds)	(41,641,000)	(47,787,000)	(47,787,000)	(+6,146,000)	
Services related to terminations not subject to limitations (Trust Funds)	(27,773,000)	(25,025,000)	(25,025,000)	(-2,748,000)	
Total, PBGC (trust funds)	(69,414,000)	(72,812,000)	(72,812,000)	(+3,398,000)	
EMPLOYMENT STANDARDS ADMINISTRATION					
SALARIES AND EXPENSES 1/					
Enforcement of wage and hour standards	91,295,000	97,336,000	97,336,000	+6,041,000	
Federal contractor EEO standards enforcement	52,585,000	55,909,000	55,909,000	+3,324,000	
Federal programs for workers' compensation	60,427,000	67,985,000	67,985,000	+7,558,000	
Trust funds	(992,000)	(1,035,000)	(1,035,000)	(+43,000)	
Executive direction and support services	10,846,000	11,396,000	11,396,000	+550,000	
Total, salaries and expenses	216,145,000	233,661,000	233,661,000	+17,516,000	
Federal funds	215,153,000	232,626,000	232,626,000	+17,473,000	
Trust funds	(992,000)	(1,035,000)	(1,035,000)	(+43,000)	

1/ Does not include $164,000,000 in savings proposed for later transmittal.

2/ FY 1991 total includes $18,427,000 for automation activities, available for obligation April 1, 1991.

3/ FY 1991 total for computer operations not available for obligation until Oct. 1, 1991. Recommendation includes $12,500,000 for computer operations, not available for obligation until 9/30/92.

4/ Reflects FY 1992 budget amendment transmitted Feb. 22, 1991.

5/ Includes Federal, Trust and advance Trust funds.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
SPECIAL BENEFITS					
Federal employees compensation benefits	318,000,000	188,000,000	188,000,000	-130,000,000	
Longshore and harbor workers' benefits	4,000,000	4,000,000	4,000,000		
Total, Special Benefits	322,000,000	192,000,000	192,000,000	-130,000,000	
BLACK LUNG DISABILITY TRUST FUND					
Benefit payments and interest on advances	866,019,000	861,135,000	861,135,000	-4,884,000	
Employment Standards Administration, salaries and expenses	28,900,000	30,145,000	30,145,000	+1,245,000	
Departmental Management, salaries and expenses	23,171,000	25,579,000	25,579,000	+2,408,000	
Departmental Management, Inspector general	371,000	333,000	333,000	-38,000	
Subtotal, Black Lung Disability Trust Fund, appropriation	918,461,000	917,192,000	917,192,000	-1,269,000	
Treasury administrative costs (indefinite)	756,000	756,000	756,000		
Total, Black Lung Disability Trust Fund	919,217,000	917,948,000	917,948,000	-1,269,000	
Total, Employment Standards Administration	1,457,362,000	1,343,609,000	1,343,609,000	-113,753,000	
Federal funds	1,456,370,000	1,342,574,000	1,342,574,000	-113,796,000	
Trust funds	(992,000)	(1,035,000)	(1,035,000)	(+43,000)	
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION					
SALARIES AND EXPENSES 1/					
Safety and health standards	7,620,000	8,078,000	8,078,000	+458,000	
Enforcement:					
Federal Enforcement	123,935,000	133,508,000	133,508,000	+9,573,000	
State programs	63,731,000	66,344,000	66,344,000	+2,613,000	
Technical Support	16,684,000	17,708,000	17,708,000	+1,024,000	
Compliance Assistance	37,370,000	38,942,000	38,942,000	+1,572,000	
Safety and health statistics	29,116,000	30,390,000	30,390,000	+1,274,000	
Executive direction and administration	6,737,000	7,137,000	7,137,000	+400,000	
Total, OSHA	285,193,000	302,107,000	302,107,000	+16,914,000	
MINE SAFETY AND HEALTH ADMINISTRATION 2/					
SALARIES AND EXPENSES					
Enforcement:					
Coal	87,338,000	94,750,000	94,750,000	+7,412,000	
Metal/nonmetal	35,223,000	37,718,000	37,718,000	+2,495,000	
Standards development	1,363,000	1,516,000	1,516,000	+153,000	
Assessments	2,313,000	2,455,000	2,455,000	+142,000	
Educational policy and development	14,953,000	14,152,000	14,152,000	-801,000	
Technical support	20,563,000	21,322,000	21,322,000	+759,000	
Program administration	11,808,000	14,244,000	14,244,000	+2,436,000	
Total, Mine Safety and Health Administration	173,561,000	186,157,000	186,157,000	+12,596,000	
BUREAU OF LABOR STATISTICS					
SALARIES AND EXPENSES					
Employment and Unemployment Statistics	67,159,000	85,709,000	85,709,000	+18,550,000	
Labor Market Information (Trust Funds)	(51,488,000)	(50,399,000)	(50,399,000)	(-1,089,000)	
Prices and cost of living	74,336,000	85,000,000	85,000,000	+10,664,000	
Wages and industrial relations	25,738,000	45,216,000	45,216,000	+19,478,000	
Productivity and technology	5,699,000	6,316,000	6,316,000	+617,000	
Economic growth and employment projections	3,479,000	3,844,000	3,844,000	+365,000	
Executive direction and staff services	27,258,000	32,419,000	32,419,000	+5,161,000	
Total, Bureau of Labor Statistics	255,157,000	308,903,000	308,903,000	+53,746,000	
Federal Funds	203,669,000	258,504,000	258,504,000	+54,835,000	
Trust Funds	(51,488,000)	(50,399,000)	(50,399,000)	(-1,089,000)	
DEPARTMENTAL MANAGEMENT					
SALARIES AND EXPENSES					
Executive direction	21,419,000	27,911,000	24,911,000	+3,492,000	-3,000,000
Legal services	52,722,000	58,588,000	58,588,000	+5,866,000	
Trust funds 3/	(278,000)	(332,000)	(332,000)	(+54,000)	
International labor affairs	6,572,000	7,284,000	7,284,000	+712,000	
Administration and management	20,209,000	21,812,000	21,175,000	+966,000	-637,000
Adjudication	14,603,000	16,187,000	16,187,000	+1,584,000	
Promoting employment of the disabled	4,077,000	4,078,000	4,078,000	+1,000	
Women's Bureau	7,413,000	7,562,000	7,562,000	+149,000	
Civil Rights Activities	4,338,000	4,534,000	4,534,000	+196,000	
Total, Salaries and expenses	131,631,000	148,288,000	144,651,000	+13,020,000	-3,637,000
Federal funds	131,353,000	147,956,000	144,319,000	+12,966,000	-3,637,000
Trust funds	(278,000)	(332,000)	(332,000)	(+54,000)	

1/ Reflects reprogramming approved 5/91.

2/ Reflects reprogramming approved 5/91.

3/ FY 1992 amount incorrectly reflected in Appendix bill language.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
VETERANS EMPLOYMENT AND TRAINING					
State Administration:					
Disabled Veterans Outreach Program	(77,170,000)	(34,910,000)	(79,170,000)	(+2,000,000)	(+44,260,000)
Local Veterans Employment Program	(71,095,000)	(74,223,000)	(73,095,000)	(+2,000,000)	(-1,128,000)
Subtotal, State Administration	(148,265,000)	(109,133,000)	(152,265,000)	(+4,000,000)	(+43,132,000)
Federal Administration	(21,180,000)	(20,054,000)	(20,054,000)	(-1,126,000)	
National Veterans Training Institute	(2,440,000)		(2,440,000)		(+2,440,000)
Total, Trust Funds	(171,885,000)	(129,187,000)	(174,759,000)	(+2,874,000)	(+45,572,000)
OFFICE OF THE INSPECTOR GENERAL 1/					
Audit:					
Federal funds	20,693,000	20,673,000	20,673,000	-20,000	
Trust funds	(3,784,000)	(4,023,000)	(4,023,000)	(+239,000)	
Investigation:					
Federal funds	7,729,000	8,245,000	8,245,000	+516,000	
Trust funds	(310,000)	(334,000)	(334,000)	(+24,000)	
Office of Labor Racketeering	10,495,000	11,322,000	11,322,000	+827,000	
Executive Direction and Management	5,119,000	6,396,000	6,396,000	+1,277,000	
Total, Office of the Inspector General	48,130,000	50,993,000	50,993,000	+2,863,000	
Federal funds	44,036,000	46,636,000	46,636,000	+2,600,000	
Trust funds	(4,094,000)	(4,357,000)	(4,357,000)	(+263,000)	
Total, Departmental Management	351,646,000	328,468,000	370,403,000	+18,757,000	+41,935,000
Federal funds	175,389,000	194,592,000	190,955,000	+15,566,000	-3,637,000
Trust funds	(176,257,000)	(133,876,000)	(179,448,000)	(+3,191,000)	(+45,572,000)
Undistributed salaries and expenses reduction			-30,000,000	-30,000,000	-30,000,000
Total, Labor Department 2/	10,886,694,000	10,734,583,000	10,947,721,000	+61,027,000	+213,138,000
Federal funds	7,541,537,000	7,336,447,000	7,435,073,000	-106,464,000	+98,626,000
Trust funds	(3,345,157,000)	(3,398,136,000)	(3,512,648,000)	(+167,491,000)	(+114,512,000)
TITLE II - DEPARTMENT OF HEALTH AND HUMAN SERVICES					
HEALTH RESOURCES AND SERVICES ADMINISTRATION					
HEALTH RESOURCES AND SERVICES 3/					
Health Care Delivery and Assistance:					
Community health centers	478,191,000	478,191,000	478,191,000		
Rural outreach grants	19,518,000			-19,518,000	
HUD health service grants	3,416,000	3,000,000	7,500,000	+4,084,000	+4,500,000
Targeted infant mortality initiative:					
Healthy start	25,000,000	138,659,000	69,330,000	+44,330,000	-69,329,000
Community health centers			69,329,000	+69,329,000	+69,329,000
Subtotal	25,000,000	138,659,000	138,659,000	+113,659,000	
Total, Community Health Services	526,125,000	619,850,000	624,350,000	+98,225,000	+4,500,000
Migrant health	51,723,000	51,723,000	51,723,000		
Black lung clinics	3,708,000	3,708,000	3,708,000		
Health care for the homeless	39,036,000	63,041,000	51,000,000	+11,964,000	-12,041,000
Family planning	144,311,000	150,000,000		-144,311,000	-150,000,000
National Health Service Corps:					
Field placements	42,256,000	42,256,000	42,256,000		
Loans and scholarships	48,795,000	53,795,000	58,795,000	+10,000,000	+5,000,000
Subtotal, National Health Service Corps	91,051,000	96,051,000	101,051,000	+10,000,000	+5,000,000
Hansen's Disease services (Carville)	19,792,000	19,489,000	19,489,000	-303,000	
Payment to Hawaii, treatment of Hansen's Disease	3,383,000	3,000,000	3,000,000	-383,000	
Home health demonstration grants	2,928,000			-2,928,000	
Total, Health Care Delivery and Assistance	882,057,000	1,006,862,000	854,321,000	-27,736,000	-152,541,000
Health Professions:					
Exceptional need scholarships	9,759,000	10,400,000	9,759,000		-641,000
Minority centers of excellence	14,151,000	14,920,000	27,920,000	+13,769,000	+13,000,000
Public health special projects	3,757,000		3,757,000		+3,757,000
Health administration grants	1,554,000		1,554,000		+1,554,000
Public health traineeships	3,416,000		3,416,000		+3,416,000
Health administration traineeships	484,000		484,000		+484,000
Preventive medicine residencies	1,654,000		1,654,000		+1,654,000
Family medicine residencies	36,108,000		36,108,000		+36,108,000
General dentistry residencies	3,834,000		3,834,000		+3,834,000
General internal medicine and pediatrics	17,256,000		17,256,000		+17,256,000
Family medicine departments	6,831,000		6,831,000		+6,831,000
Physician assistants	5,021,000		5,021,000		+5,021,000
Area health education centers	19,237,000		19,237,000		+19,237,000

1/ Reflects reprogramming approved 5/91.

2/ Includes Federal and Trust funds.

3/ Budget and recommendation include delayed obligation of $86,000,000 until Sept. 19, 1992.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
Health education and training centers	3,904,000		3,904,000		+3,904,000
Health professions data analysis	1,762,000		1,762,000		+1,762,000
Disadvantaged assistance	30,817,000	32,841,000	30,817,000		-2,024,000
Disadvantaged minority health improvement	10,734,000	10,734,000	23,234,000	+12,500,000	+12,500,000
Minority HPSL initiative	2,928,000	15,000,000	15,000,000	+12,072,000	
Allied health grants and contracts	1,659,000		1,659,000		+1,659,000
Interdisciplinary traineeships	4,392,000		4,392,000		+4,392,000
Health professions special education initiatives	2,398,000		2,398,000		+2,398,000
Geriatric centers and training	13,708,000		13,708,000		+13,708,000
Pacific Basin activities (including Medical officer training)	2,440,000		2,440,000		+2,440,000
Native Hawaiian health care	3,416,000		3,416,000		+3,416,000
National practitioner data bank	1,926,000	5,000,000	7,000,000	+5,074,000	+2,000,000
User fees		-5,000,000	-5,000,000	-5,000,000	
Nurse training:					
Advanced nurse education	12,463,000		12,463,000		+12,463,000
Nurse practitioners / nurse midwives	14,639,000		14,639,000		+14,639,000
Special projects	10,532,000		10,532,000		+10,532,000
Traineeships	13,664,000		13,664,000		+13,664,000
Nurse anesthetists	1,430,000		1,430,000		+1,430,000
Undergraduate scholarships	2,380,000		2,380,000		+2,380,000
Loan repayment for shortage area service	1,455,000		1,455,000		+1,455,000
Nurse disadvantaged assistance	3,416,000	4,160,000	3,416,000		-744,000
Subtotal, Nurse training	59,979,000	4,160,000	59,979,000		+55,819,000
Total, Health professions	263,125,000	88,055,000	301,540,000	+38,415,000	+213,485,000
MCH and Resources Development:					
Maternal and child health block grant	587,310,000	553,627,000	580,000,000	-7,310,000	+26,373,000
Pediatric emergency care	4,880,000		4,880,000		+4,880,000
Organ transplantation	3,723,000	3,387,000	5,137,000	+1,414,000	+1,750,000
Health teaching facilities interest subsidies	476,000	450,000	450,000	-26,000	
Perinatal facilities	976,000			-976,000	
Total, Resources Development	597,365,000	557,464,000	590,467,000	-6,898,000	+33,003,000
Buildings and facilities	1,844,000			-1,844,000	
Rural health research	4,674,000	4,139,000	4,139,000	-535,000	
Acquired Immune Deficiency Syndrome (AIDS):					
Training of health personnel	17,029,000	17,029,000	17,029,000		
Facilities renovation grants	4,029,000	4,029,000		-4,029,000	-4,029,000
Pediatric health care demonstrations	19,518,000	19,518,000	19,518,000		
Ryan White AIDS Programs:					
Emergency assistance	87,831,000	87,831,000	100,000,000	+12,169,000	+12,169,000
Comprehensive care programs	87,831,000	87,831,000	91,819,000	+3,988,000	+3,988,000
Early intervention program	44,891,000	44,891,000	55,000,000	+10,109,000	+10,109,000
Subtotal, Ryan White AIDS programs	220,553,000	220,553,000	246,819,000	+26,266,000	+26,266,000
Subtotal, AIDS	261,129,000	261,129,000	283,366,000	+22,237,000	+22,237,000
Program management including AIDS	98,548,000	100,851,000	103,700,000	+5,152,000	+2,849,000
Total, Health resources and services	2,108,742,000	2,018,500,000	2,137,533,000	+28,791,000	+119,033,000
MEDICAL FACILITIES GUARANTEE AND LOAN FUND: Interest subsidy program	20,000,000	19,000,000	19,000,000	-1,000,000	
HEALTH EDUCATION ASSISTANCE LOANS PROGRAM (HEAL):					
New loan subsidies		21,813,000	30,000,000	+30,000,000	+8,187,000
Liquidating account		35,502,000	48,000,000	+48,000,000	+12,498,000
HEAL loan limitation (non-add)	(260,000,000)	(185,000,000)	(260,000,000)		(+75,000,000)
Subtotal		57,315,000	78,000,000	+78,000,000	+20,685,000
Program management	1,400,000	1,500,000	1,500,000	+100,000	
Total, HEAL	1,400,000	58,815,000	79,500,000	+78,100,000	+20,685,000
VACCINE INJURY COMPENSATION:					
Pre - FY89 claims (appropriation)	79,920,000		80,000,000	+80,000	+80,000,000
Post - FY88 claims (trust fund)	154,080,000	84,920,000	84,920,000	-69,160,000	
HRSA administration (trust fund)	2,500,000	2,000,000	2,500,000		+500,000
Subtotal, Vaccine injury compensation	236,500,000	86,920,000	167,420,000	-69,080,000	+80,500,000
Total, Health Resources and Services Administration	2,386,642,000	2,183,235,000	2,403,453,000	+36,811,000	+220,218,000
CENTERS FOR DISEASE CONTROL DISEASE CONTROL 1/					
Preventive Health Services Block Grant	92,702,000	107,472,000	92,702,000		-14,770,000
Prevention centers	4,367,000	3,949,000	4,367,000		+418,000
Lead poisoning prevention	7,790,000	14,949,000	7,790,000		-7,159,000
Sexually transmitted diseases:					
Grants	73,638,000	77,638,000	73,638,000		-4,000,000
Direct operations	11,330,000	11,910,000	11,330,000		-580,000
Subtotal, Sexually transmitted diseases	84,968,000	89,548,000	84,968,000		-4,580,000

1/ Budget and recommendation include delayed obligation of $94,000,000 until Sept. 19, 1992.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
Immunization:					
Grants	182,004,000	208,865,000	248,865,000	+66,861,000	+40,000,000
Direct operations	30,129,000	46,510,000	46,510,000	+16,381,000	
Vaccine stockpile	2,928,000			-2,928,000	
Adverse events reporting	2,470,000	2,470,000	2,470,000		
Subtotal, Immunization programs	217,531,000	257,845,000	297,845,000	+80,314,000	+40,000,000
Infectious disease excluding AIDS/TB	43,689,000	45,179,000	45,179,000	+1,490,000	
Tuberculosis grants	9,109,000	12,334,000	13,334,000	+4,225,000	+1,000,000
Chronic and environmental disease prevention	51,408,000	56,664,000	56,664,000	+5,256,000	
Breast and cervical cancer screening	29,259,000	50,000,000	50,000,000	+20,741,000	
Injury control	24,036,000	26,066,000	26,066,000	+2,030,000	
Occupational Safety and Health (NIOSH):					
Research	86,508,000	86,508,000	86,508,000		
Training	10,472,000	10,472,000	10,472,000		
Subtotal, NIOSH	96,980,000	96,980,000	96,980,000		
National Center for Health Statistics:					
Program operations	48,301,000	48,301,000	48,301,000		
Program support	3,105,000	3,105,000	3,105,000		
1% evaluation funds (non-add)	(19,000,000)	(33,800,000)	(25,000,000)	(+6,000,000)	(-8,800,000)
Subtotal, health statistics	51,406,000	51,406,000	51,406,000		
Epidemic services	68,714,000	78,228,000	73,714,000	+5,000,000	-4,514,000
Buildings and facilities	31,951,000	8,338,000	6,338,000	-25,613,000	-2,000,000
Program management	3,016,000	3,309,000	3,309,000	+293,000	
Acquired Immune Deficiency Syndrome (AIDS)	494,660,000	494,660,000	480,000,000	-14,660,000	-14,660,000
Total, Disease Control	1,311,586,000	1,396,927,000	1,390,662,000	+79,076,000	-6,265,000
NATIONAL INSTITUTES OF HEALTH (INCLUDES AIDS) 1/					
National Cancer Institute	1,676,507,000	1,772,560,000	1,793,257,000	+116,750,000	+20,697,000
Research training	37,252,000	37,670,000	37,252,000		-418,000
Subtotal	1,713,759,000	1,810,230,000	1,830,509,000	+116,750,000	+20,279,000
National Heart, Lung, and Blood Institute	1,080,251,000	1,162,725,000	1,155,707,000	+75,456,000	-7,018,000
Research training	46,691,000	47,199,000	46,691,000		-508,000
Subtotal	1,126,942,000	1,209,924,000	1,202,398,000	+75,456,000	-7,526,000
National Institute of Dental Research	142,867,000	154,771,000	155,184,000	+12,317,000	+413,000
Research training	6,051,000	6,168,000	6,051,000		-117,000
Subtotal	148,918,000	160,939,000	161,235,000	+12,317,000	+296,000
National Institute of Diabetes, Digestive, and Kidney Diseases	590,853,000	633,863,000	643,401,000	+52,548,000	+9,538,000
Research training	24,419,000	24,694,000	24,419,000		-275,000
Subtotal	615,272,000	658,557,000	667,820,000	+52,548,000	+9,263,000
National Institute of Neurological Disorders and Stroke	528,398,000	569,838,000	570,010,000	+41,612,000	+172,000
Research training	13,345,000	13,517,000	13,345,000		-172,000
Subtotal	541,743,000	583,355,000	583,355,000	+41,612,000	
National Institute of Allergy and Infectious Diseases	887,089,000	955,581,000	952,643,000	+65,554,000	-2,938,000
Research training	20,187,000	21,130,000	20,187,000		-943,000
Subtotal	907,276,000	976,711,000	972,830,000	+65,554,000	-3,881,000
National Institute of General Medical Sciences	667,930,000	738,292,000	728,080,000	+60,150,000	-10,212,000
Research training	92,080,000	94,888,000	92,080,000		-2,808,000
Subtotal	760,010,000	833,180,000	820,160,000	+60,150,000	-13,020,000
National Institute of Child Health and Human Development	462,584,000	503,137,000	508,289,000	+45,705,000	+5,152,000
Research training	16,372,000	17,447,000	16,372,000		-1,075,000
Subtotal	478,956,000	520,584,000	524,661,000	+45,705,000	+4,077,000
National Eye Institute	245,947,000	264,767,000	264,966,000	+19,019,000	+199,000
Research training	7,294,000	7,493,000	7,294,000		-199,000
Subtotal	253,241,000	272,260,000	272,260,000	+19,019,000	
National Institute of Environmental Health Sciences	230,122,000	243,472,000	244,006,000	+13,884,000	+534,000
Research training	10,906,000	11,012,000	10,906,000		-106,000
Subtotal	241,028,000	254,484,000	254,912,000	+13,884,000	+428,000
National Institute on Aging	313,969,000	338,664,000	352,745,000	+38,776,000	+14,081,000
Research training	9,783,000	9,894,000	9,783,000		-111,000
Subtotal	323,752,000	348,558,000	362,528,000	+38,776,000	+13,970,000
National Institute of Arthritis and Musculoskeletal and Skin Diseases	186,393,000	197,859,000	198,123,000	+11,730,000	+264,000
Research training	6,854,000	6,938,000	6,854,000		-84,000
Subtotal	193,247,000	204,797,000	204,977,000	+11,730,000	+180,000

1/ Budget and recommendation include delayed obligation of $400,000,000 until Sept. 19, 1992.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
National Institute on Deafness and Other Communication Disorders	130,950,000	142,287,000	140,510,000	+9,560,000	-1,777,000
Research training	3,985,000	4,034,000	3,985,000		-49,000
Subtotal	134,935,000	146,321,000	144,495,000	+9,560,000	-1,826,000
National Center for Research Resources	332,589,000	318,230,000	306,534,000	-26,055,000	-11,696,000
Research training	2,666,000	2,745,000	2,666,000		-79,000
Subtotal	335,255,000	320,975,000	309,200,000	-26,055,000	-11,775,000
National Center for Nursing Research	35,330,000	39,247,000	38,751,000	+3,421,000	-496,000
Research training	4,392,000	4,500,000	4,392,000		-108,000
Subtotal	39,722,000	43,747,000	43,143,000	+3,421,000	-604,000
National Center for Human Genome Research	83,309,000	105,178,000	89,006,000	+5,697,000	-16,172,000
Research training	4,109,000	5,309,000	4,109,000		-1,200,000
Subtotal	87,418,000	110,487,000	93,115,000	+5,697,000	-17,372,000
John E. Fogarty International Center	17,519,000	19,922,000	19,922,000	+2,403,000	
National Library of Medicine:					
Regular program	66,251,000	73,308,000	74,408,000	+8,157,000	+1,100,000
Medical library assistance	14,691,000	16,309,000	14,691,000		-1,618,000
Biotechnology information	10,466,000	10,937,000	10,466,000		-471,000
Subtotal	91,408,000	100,554,000	99,565,000	+8,157,000	-989,000
Office of the Director	97,651,000	95,176,000	149,176,000	+51,525,000	+54,000,000
Buildings and facilities	168,687,000	104,125,000	108,625,000	-60,062,000	+4,500,000
Total, N.I.H. funding including AIDS	8,276,739,000	8,774,886,000	8,824,886,000	+548,147,000	+50,000,000
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION					
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH (INCLUDES AIDS)					
National Institute of Mental Health:					
Research	455,500,000	491,754,000	491,754,000	+36,254,000	
Instrumentation grants	1,323,000	1,338,000	1,323,000		-15,000
Research training	26,942,000	27,701,000	26,942,000		-759,000
Clinical training	13,670,000		8,000,000	-5,670,000	+8,000,000
Community support demonstrations	24,885,000	25,880,000	24,885,000		-995,000
Prevention demonstrations	4,880,000	5,075,000	4,880,000		-195,000
Grants to States for the homeless (PATH)	26,153,000	43,116,000	26,153,000		-16,963,000
Homeless services demonstrations	5,861,000		5,861,000		+5,861,000
Homeless research demonstrations		20,000,000			-20,000,000
Protection and advocacy	15,614,000		15,614,000		+15,614,000
Direct operations	40,982,000	43,982,000	43,982,000	+3,000,000	
Subtotal, mental health	615,810,000	658,846,000	649,394,000	+33,584,000	-9,452,000
National Institute on Drug Abuse:					
Research	257,896,000	284,624,000	270,000,000	+12,104,000	-14,624,000
Instrumentation grants	504,000	524,000	504,000		-20,000
Research training	6,783,000	7,020,000	6,783,000		-237,000
Treatment demonstrations	45,465,000	46,955,000	46,955,000	+1,490,000	
AIDS demonstrations	73,193,000	71,550,000	71,550,000	-1,643,000	
Direct operations	32,186,000	35,552,000	35,552,000	+3,366,000	
Subtotal, drug abuse	416,027,000	446,225,000	431,344,000	+15,317,000	-14,881,000
National Institute on Alcoholism and Alcohol Abuse:					
Research	138,849,000	149,932,000	149,932,000	+11,083,000	
Instrumentation grants	575,000	581,000	575,000		-6,000
Research training	3,542,000	3,666,000	3,542,000		-124,000
Substance abuse homeless demonstrations	15,983,000		15,983,000		+15,983,000
Direct operations	11,789,000	12,596,000	12,596,000	+807,000	
Subtotal, alcoholism	170,738,000	166,775,000	182,628,000	+11,890,000	+15,853,000
Office for Treatment Improvement:					
Alcohol, Drug Abuse and Mental Health block grant	1,268,670,000	1,268,670,000	1,235,000,000	-33,670,000	-33,670,000
Treatment grants to crisis areas	31,296,000	32,548,000	31,296,000		-1,252,000
Treatment improvement grants	83,363,000	86,698,000	83,363,000		-3,335,000
Capacity expansion program		68,000,000			-68,000,000
Transfer from forfeiture fund		(31,000,000)			(-31,000,000)
Treatment waiting list grants reappropriation	38,545,000			-38,545,000	
Direct operations	5,209,000	7,718,000	7,718,000	+2,509,000	
Subtotal, Treatment improvement	1,427,083,000	1,463,634,000	1,357,377,000	-69,706,000	-106,257,000
Office for Substance Abuse Prevention:					
Prevention programs	112,003,000	125,505,000	112,003,000		-13,502,000
Community youth activity program	20,162,000		15,162,000	-5,000,000	+15,162,000
Community prevention grants	99,118,000	113,852,000	99,118,000		-14,734,000
Training	25,986,000	25,986,000	25,986,000		
Direct operations	14,200,000	16,237,000	16,237,000	+2,037,000	
Subtotal, Substance Abuse Prevention	271,469,000	281,580,000	268,506,000	-2,963,000	-13,074,000

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	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
Treatment outcome evaluations	8,134,000	8,598,000	8,598,000	+464,000	...
Buildings and facilities	7,775,000	7,775,000	5,000,000	-2,775,000	-2,775,000
Office of the Administrator	11,368,000	14,895,000	14,895,000	+3,527,000	...
Total, Alcohol, Drug Abuse and Mental Health	2,928,404,000	3,048,328,000	2,917,742,000	-10,662,000	-130,586,000
ST. ELIZABETHS HOSPITAL	11,711,000	...	...	-11,711,000	...
Total, Alcohol, Drug Abuse and Mental Health Administration	2,940,115,000	3,048,328,000	2,917,742,000	-22,373,000	-130,586,000
ASSISTANT SECRETARY FOR HEALTH					
OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH 1/					
Population affairs: Adolescent family life	7,789,000	12,000,000	...	-7,789,000	-12,000,000
Health Initiatives :					
Office of Disease Prevention and Health Promotion	4,577,000	4,577,000	4,027,000	-550,000	-550,000
Physical fitness and sports	1,443,000	1,443,000	1,443,000	...	...
Minority health	14,470,000	15,016,000	15,016,000	+546,000	...
National vaccine program	9,631,000	2,300,000	12,500,000	+2,869,000	+10,200,000
Health Service Management	21,020,000	21,220,000	21,770,000	+750,000	+550,000
Acquired Immune Deficiency Syndrome (AIDS)	8,238,000	8,773,000	8,773,000	+535,000	...
Undistributed	...	...	5,789,000	+5,789,000	+5,789,000
Total, OASH	67,168,000	65,329,000	69,318,000	+2,150,000	+3,989,000
RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS 2/					
Retirement payments	95,717,000	104,303,000	104,303,000	+8,586,000	...
Survivors benefits	5,926,000	6,650,000	6,650,000	+724,000	...
Dependent's medical care	19,230,000	20,499,000	20,499,000	+1,269,000	...
Military Services Credits	3,399,000	3,222,000	3,222,000	-177,000	...
Total, Retirement pay and medical benefits	124,272,000	134,674,000	134,674,000	+10,402,000	...
AGENCY FOR HEALTH CARE POLICY AND RESEARCH					
Health services research:					
Research	25,424,000	5,329,000	25,424,000	...	+20,095,000
Trust funds	(1,012,000)	(1,050,000)	(1,012,000)	...	(-38,000)
AIDS	10,252,000	10,800,000	10,252,000	...	-548,000
Program support	2,274,000	2,330,000	2,274,000	...	-56,000
Subtotal including trust funds	38,962,000	19,509,000	38,962,000	...	+19,453,000
1% evaluation funding (non-add)	(13,444,000)	(39,544,000)	(13,444,000)	...	(-26,100,000)
Medical treatment effectiveness:					
Federal funds	57,806,000	15,824,000	57,806,000	...	+41,982,000
Trust funds	(4,880,000)	(36,723,000)	(4,880,000)	...	(-31,843,000)
Subtotal, Medical treatment effectiveness	62,686,000	52,547,000	62,686,000	...	+10,139,000
1% evaluation funding (non-add)	...	(10,400,000)	...	...	(-10,400,000)
Total, Health Care Policy and Research:					
Federal Funds	95,756,000	34,283,000	95,756,000	...	+61,473,000
Trust funds	(5,892,000)	(37,773,000)	(5,892,000)	...	(-31,881,000)
Total, 1% evaluation funding (non-add)	(13,444,000)	(49,944,000)	(13,444,000)	...	(-36,500,000)
Total, Health Care Policy and Research (non-add)	(115,092,000)	(122,000,000)	(115,092,000)	...	(-6,908,000)
PHS travel reduction	...	...	-8,000,000	-8,000,000	-8,000,000
Total, Public Health Service:					
Federal Funds	15,182,278,000	15,637,662,000	15,828,491,000	+646,213,000	+190,829,000
Trust funds	(5,892,000)	(37,773,000)	(5,892,000)	...	(-31,881,000)
HEALTH CARE FINANCING ADMINISTRATION					
GRANTS TO STATES FOR MEDICAID 3/					
Medicaid current law benefits	48,794,085,000	56,712,895,000	56,712,895,000	+7,918,810,000	...
State and local administration	2,760,865,000	3,186,254,000	3,186,254,000	+425,389,000	...
Proposed legislation	...	-91,500,000	...	...	+91,500,000
Subtotal, Medicaid program level, FY 1992	51,554,950,000	59,807,649,000	59,899,149,000	+8,344,199,000	+91,500,000
Less funds advanced in prior year	-10,400,000,000	-13,500,000,000	-13,500,000,000	-3,100,000,000	...
Total, current request, FY 1992	41,154,950,000	46,307,649,000	46,399,149,000	+5,244,199,000	+91,500,000
New advance, 1st quarter, FY 1993	13,500,000,000	17,100,000,000	17,100,000,000	+3,600,000,000	...

1/ Budget proposes delayed obligation of $4,000,000 until Sept. 19, 1992.

2/ Does not include $110,953,000 in savings proposed for later transmittal.

3/ Does not include $25,000,000 in legislative additions proposed for later transmittal.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
PAYMENTS TO HEALTH CARE TRUST FUNDS 1/					
Supplemental medical insurance	34,730,000,000	38,684,000,000	38,684,000,000	+3,954,000,000	
Hospital insurance for uninsured	559,000,000	584,000,000	584,000,000	+25,000,000	
Federal uninsured payment	46,000,000	37,000,000	37,000,000	-9,000,000	
Program management		116,485,000	116,485,000	+116,485,000	
Proposed legislation		-20,402,000			+20,402,000
Total, Payment to Trust Funds	35,335,000,000	39,401,083,000	39,421,485,000	+4,086,485,000	+20,402,000
PROGRAM MANAGEMENT					
Research, demonstration, and evaluation:					
Regular program, trust funds	(35,621,000)	(36,000,000)	(45,621,000)	(+10,000,000)	(+9,621,000)
Rural hospital transition demonstrations, trust funds	(24,398,000)		(21,000,000)	(-3,398,000)	(+21,000,000)
Essential access community hospitals, trust funds	(9,759,000)		(9,759,000)		(+9,759,000)
Subtotal, research, demonstration, and evaluation	(69,778,000)	(36,000,000)	(76,380,000)	(+6,602,000)	(+40,380,000)
Medicare Contractors (Trust Funds):					
Operating funds, current	(1,493,959,000)	(1,457,000,000)	(1,457,000,000)	(-36,959,000)	
Contingency reserve fund	(58,210,000)	(100,000,000)	(257,000,000)	(+198,790,000)	(+157,000,000)
Subtotal, Contractors	(1,552,169,000)	(1,557,000,000)	(1,714,000,000)	(+161,831,000)	(+157,000,000)
State Certification:					
Medicare certification, trust funds	(159,497,000)	(160,000,000)	(160,000,000)	(+503,000)	
Proposed legislation, user fees, trust funds		(-160,000,000)			(+160,000,000)
Subtotal, State certification	(159,497,000)		(160,000,000)	(+503,000)	(+160,000,000)
Federal Administration:					
Trust funds	(301,409,000)	(333,006,000)	(331,752,000)	(+30,343,000)	(-1,254,000)
Less current law user fees	(-248,000)	(-77,000)	(-77,000)	(+171,000)	
Proposed legislation, user fees, trust funds		(-34,902,000)			(+34,902,000)
Subtotal, Federal Administration	(301,161,000)	(298,027,000)	(331,675,000)	(+30,514,000)	(+33,648,000)
Total, Program management	(2,082,605,000)	(1,891,027,000)	(2,282,055,000)	(+199,450,000)	(+391,028,000)
Total, Health Care Financing Administration:					
Federal funds	89,989,950,000	102,808,732,000	102,920,634,000	+12,930,684,000	+111,902,000
Current year, FY 1992	(76,489,950,000)	(85,708,732,000)	(85,820,634,000)	(+9,330,684,000)	(+111,902,000)
New advance, 1st quarter, FY 1993	(13,500,000,000)	(17,100,000,000)	(17,100,000,000)	(+3,600,000,000)	
Trust funds	(2,082,605,000)	(1,891,027,000)	(2,282,055,000)	(+199,450,000)	(+391,028,000)
SOCIAL SECURITY ADMINISTRATION					
PAYMENTS TO SOCIAL SECURITY TRUST FUNDS	46,958,000	40,968,000	40,968,000	-5,990,000	
SPECIAL BENEFITS FOR DISABLED COAL MINERS					
Benefit payments	837,511,000	813,000,000	813,000,000	-24,511,000	
Administration	7,081,000	7,336,000	7,336,000	+255,000	
Subtotal, Black Lung, FY 1992 program level	844,592,000	820,336,000	820,336,000	-24,256,000	
Less funds advanced in prior year	-215,000,000	-203,000,000	-203,000,000	+12,000,000	
Total, Black Lung, current request, FY 1992	629,592,000	617,336,000	617,336,000	-12,256,000	
New advance, 1st quarter, FY 1993	203,000,000	198,000,000	198,000,000	-5,000,000	
SUPPLEMENTAL SECURITY INCOME 2/					
Federal benefit payments	16,184,751,000	16,105,000,000	16,105,000,000	-79,751,000	
Beneficiary services	32,517,000	39,100,000	39,100,000	+6,583,000	
Research demonstration	8,275,000	11,000,000	11,000,000	+2,725,000	
Administration	1,183,378,000	1,321,391,000	1,321,391,000	+138,013,000	
Zebley administration	232,000,000			-232,000,000	
Subtotal, SSI FY 1992 program level	17,640,921,000	17,476,491,000	17,476,491,000	-164,430,000	
Less funds advanced in prior year	-3,157,000,000	-3,550,000,000	-3,550,000,000	-393,000,000	
Total, SSI, current request, FY 1992	14,483,921,000	13,926,491,000	13,926,491,000	-557,430,000	
New advance, 1st quarter, FY 1993	3,550,000,000	5,240,000,000	5,240,000,000	+1,690,000,000	
LIMITATION ON ADMINISTRATIVE EXPENSES (Trust Funds) 3/	(3,557,159,000)	(3,884,000,000)	(3,934,000,000)	(+376,841,000)	(+50,000,000)
Zebley administration	(232,000,000)			(-232,000,000)	
Portion treated as budget authority	(600,150,000)	(648,000,000)	(648,000,000)	(+47,850,000)	
(Contingency reserve, non-add)	(46,385,000)	(50,000,000)	(100,000,000)	(+53,615,000)	(+50,000,000)
Subtotal, LAE	(4,389,309,000)	(4,532,000,000)	(4,582,000,000)	(+192,691,000)	(+50,000,000)
Total, Social Security Administration:					
Federal funds	18,913,471,000	20,022,795,000	20,022,795,000	+1,109,324,000	
Current year FY 1992	(15,160,471,000)	(14,584,795,000)	(14,584,795,000)	(-575,676,000)	
New advances, 1st quarter FY 1993	(3,753,000,000)	(5,438,000,000)	(5,438,000,000)	(+1,685,000,000)	
Trust funds	(4,389,309,000)	(4,532,000,000)	(4,582,000,000)	(+192,691,000)	(+50,000,000)

1/ Does not include $960,000,000 in legislative savings proposed for later transmittal.

2/ Does not include $96,000,000 in legislative savings proposed for later transmittal.

3/ Budget and recommendation include delayed obligation of $80,000,000 until Sept. 19, 1992.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
ADMINISTRATION FOR CHILDREN AND FAMILIES					
FAMILY SUPPORT PAYMENTS TO STATES 1/					
Aid to Families with Dependent Children (AFDC)	11,296,000,000	12,135,000,000	12,135,000,000	+839,000,000	
Payments to territories	16,346,000	16,346,000	16,346,000		
Emergency assistance	191,600,000	176,900,000	176,900,000	-14,700,000	
Repatriation	5,000,000	1,000,000	1,000,000	-4,000,000	
State and local welfare administration	1,448,200,000	1,512,800,000	1,512,800,000	+64,600,000	
Work activities / child care	317,000,000	433,000,000	433,000,000	+116,000,000	
At risk child care	150,000,000	300,000,000	300,000,000	+150,000,000	
Proposed regulatory savings		-38,900,000	-38,900,000	-38,900,000	
Subtotal, Welfare payments	13,424,146,000	14,536,146,000	14,536,146,000	+1,112,000,000	
Child Support Enforcement:					
State and local administration	1,181,000,000	1,309,000,000	1,309,000,000	+128,000,000	
Federal incentive payments	296,000,000	332,000,000	332,000,000	+36,000,000	
Less federal share collections	-906,000,000	-1,015,000,000	-1,015,000,000	-109,000,000	
Subtotal, Child support	571,000,000	626,000,000	626,000,000	+55,000,000	
Total, Payments, FY 1992 program level	13,995,146,000	15,162,146,000	15,162,146,000	+1,167,000,000	
Less funds advanced in previous years	-3,000,000,000	-3,300,000,000	-3,300,000,000	-300,000,000	
Total, Payments, current request, FY 1992	10,995,146,000	11,862,146,000	11,862,146,000	+867,000,000	
New advance, 1st quarter, FY 1993	3,300,000,000	4,000,000,000	4,000,000,000	+700,000,000	
PAYMENTS TO STATES FOR AFDC WORK PROGRAMS	1,000,000,000	1,000,000,000	1,000,000,000		
ENERGY ASSISTANCE PROGRAMS					
LOW INCOME HOME ENERGY ASSISTANCE:					
Regular program 2/	1,415,055,000	925,000,000	1,000,000,000	-415,055,000	+75,000,000
Emergency allocation 3/			(600,000,000)	(+600,000,000)	(+600,000,000)
ENERGY EMERGENCY CONTINGENCY FUND	195,180,000	100,000,000		-195,180,000	-100,000,000
Total, Energy assistance programs	1,610,235,000	1,025,000,000	1,000,000,000	-610,235,000	-25,000,000
Total including contingency	(1,610,235,000)	(1,025,000,000)	(1,600,000,000)	(-10,235,000)	(+575,000,000)
REFUGEE AND ENTRANT ASSISTANCE					
Cash and medical assistance 4/	234,216,000		117,600,000	-116,616,000	+117,600,000
Social services	82,952,000		82,952,000		+82,952,000
Voluntary agency program	39,036,000		39,036,000		+39,036,000
Preventive health	5,631,000		5,631,000		+5,631,000
Targeted assistance	48,795,000		48,795,000		+48,795,000
Undistributed		410,630,000			-410,630,000
Total, Refugee Resettlement	410,630,000	410,630,000	294,014,000	-116,616,000	-116,616,000
STATE LEGALIZATION IMPACT ASSISTANCE GRANTS					
Current year	-566,854,000	-1,122,992,000	-1,122,992,000	-556,138,000	
Advance funding	583,934,000		1,122,992,000	+539,058,000	+1,122,992,000
Total	17,080,000	-1,122,992,000		-17,080,000	+1,122,992,000
COMMUNITY SERVICES BLOCK GRANT					
Grants to States for Community Services	349,372,000		349,372,000		+349,372,000
Homeless services grants	33,181,000		25,000,000	-8,181,000	+25,000,000
Discretionary funds:					
Community economic development	20,494,000		21,500,000	+1,006,000	+21,500,000
Rural housing	4,099,000		4,099,000		+4,099,000
Farmworker assistance	3,025,000		3,025,000		+3,025,000
National youth sports	10,832,000	10,832,000	12,000,000	+1,168,000	+1,168,000
Technical assistance	244,000		244,000		+244,000
Subtotal, discretionary funds	38,694,000	10,832,000	40,868,000	+2,174,000	+30,036,000
Community Partnerships	4,050,000			-4,050,000	
Community Food and Nutrition	2,440,000		5,484,000	+3,044,000	+5,484,000
Total, Community services	427,737,000	10,832,000	420,724,000	-7,013,000	+409,892,000
GRANTS TO STATES FOR CHILD CARE 5/					
Block grants to States	731,925,000	731,925,000	825,000,000	+93,075,000	+93,075,000
Rescission	-144,925,000			+144,925,000	
Subtotal, block grants	587,000,000	731,925,000	825,000,000	+238,000,000	+93,075,000
Licensing grants to States	13,000,000	13,000,000	25,000,000	+12,000,000	+12,000,000
Total, Child care grants	600,000,000	744,925,000	850,000,000	+250,000,000	+105,075,000

1/ Does not include $120,000,000 in legislative savings proposed for later transmittal.

2/ FY 1991 total includes $74,610,000 for obligation Sept. 30, 1991. FY 1992 request and recommendation include delayed obligation of $50,000,000 until Sept. 30, 1992.

3/ Available only upon submission of a formal budget request designating the need for funds as an emergency as defined by the BEA.

4/ Includes State administrative costs.

5/ FY 1991 total makes available Sept. 7, 1991. FY 1992 request and recommendation include delayed obligation of these funds until Sept. 19, 1992. Recommendation assumes rescission of $144,925,000 of FY 1991 funds.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
PROGRAM ADMINISTRATION					
Federal Administration	76,093,000	81,000,000	81,000,000	+4,907,000	
Research and evaluation	10,735,000	6,500,000	6,500,000	-4,235,000	
Total, program administration	86,828,000	87,500,000	87,500,000	+672,000	
SOCIAL SERVICES BLOCK GRANT (TITLE XX)	2,800,000,000	2,800,000,000	2,800,000,000		
HUMAN DEVELOPMENT SERVICES					
Programs for Children, Youth, and Families:					
Head start:					
Regular grants	1,951,800,000	2,051,800,000	1,963,800,000	+12,000,000	-88,000,000
Transfer from "Educational Excellence"			(250,000,000)	(+250,000,000)	(+250,000,000)
Subtotal	(1,951,800,000)	(2,051,800,000)	(2,213,800,000)	(+262,000,000)	(+162,000,000)
Child development associate scholarships	1,397,000	1,397,000	1,397,000		
Family crisis program:					
Child abuse state grants	19,518,000	19,518,000	19,518,000		
Child abuse challenge grants	5,367,000	5,367,000	5,367,000		
Runaway and homeless youth	35,132,000	35,132,000	35,132,000		
Family violence	10,735,000	10,735,000	10,735,000		
Abandoned infants assistance	12,557,000	12,557,000	12,557,000		
Emergency protection grants - substance abuse	19,518,000	19,518,000	19,518,000		
Subtotal, family crisis	102,827,000	102,827,000	102,827,000		
Dependent care planning and development	13,175,000	13,175,000	13,175,000		
Child welfare services 1/	273,911,000	273,911,000	273,911,000		
Less amounts derived by transfer	-27,352,000			+27,352,000	
Subtotal, child welfare services	246,559,000	273,911,000	273,911,000	+27,352,000	
Subtotal, Programs for Children, Youth, and Families	2,315,758,000	2,443,110,000	2,355,110,000	+39,352,000	-88,000,000
Programs for the Aging:					
Grants to States:					
Supportive services and centers	290,818,000	290,818,000	290,818,000		
Ombudsman activities	5,367,000	5,367,000	5,367,000		
Nutrition:					
Congregate meals	361,083,000	361,083,000	361,083,000		
Home-delivered meals	87,831,000	87,831,000	87,831,000		
Federal Council on Aging 2/	181,000	181,000	181,000		
Grants to Indians	14,639,000	14,639,000	14,639,000		
Frail elderly in-home services	6,831,000	6,831,000	6,831,000		
Subtotal, Aging programs	766,750,000	766,750,000	766,750,000		
Developmental disabilities program:					
State grants	64,409,000	64,409,000	64,409,000		
Protection and advocacy	20,982,000	20,982,000	20,982,000		
Subtotal, Developmental disabilities	85,391,000	85,391,000	85,391,000		
Native American Programs	33,376,000	33,376,000	33,376,000		
Human services research, training and demonstration:					
Comprehensive child development centers	24,398,000	24,398,000	45,000,000	+20,602,000	+20,602,000
Child abuse discretionary activities	14,639,000	14,638,000	14,639,000		+1,000
Runaway youth - transitional living	9,939,000	9,939,000	12,000,000	+2,061,000	+2,061,000
Runaway youth activities - drugs	14,786,000	14,786,000	14,786,000		
Youth gang substance abuse	14,786,000	14,786,000	7,100,000	-7,686,000	-7,686,000
Temporary childcare/crisis nurseries	11,055,000	11,055,000	11,055,000		
Child welfare training	3,559,000	3,559,000	3,559,000		
Child welfare research	6,652,000	7,807,000	6,652,000		-1,155,000
Adoption opportunities	12,687,000	12,687,000	12,687,000		
Aging research, training and special projects	26,917,000	25,941,000	25,941,000	-976,000	
Social services research	2,879,000	3,879,000	7,879,000	+5,000,000	+4,000,000
Developmental disabilities special projects	3,025,000	3,025,000	3,025,000		
Developmental disabilities university affiliated programs	13,907,000	13,907,000	15,407,000	+1,500,000	+1,500,000
Total, Human services research, training and demonstration	159,229,000	160,407,000	179,730,000	+20,501,000	+19,323,000
Program direction	73,906,000	88,000,000	88,000,000	+14,094,000	
Total, Human Development Services	3,434,410,000	3,577,034,000	3,508,357,000	+73,947,000	-68,677,000

1/ Does not include $90,000,000 in legislative additions proposed for later transmittal.

2/ President's budget proposes to fund under Program direction.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE 1/					
Foster care	1,813,186,000	2,223,668,000	2,223,668,000	+410,482,000	
Adoption assistance	189,832,000	201,861,000	201,861,000	+12,029,000	
Independent living	60,000,000	70,000,000	70,000,000	+10,000,000	
Prior year claims	520,911,000	118,476,000	118,476,000	-402,435,000	
Transfer to child welfare service	27,352,000			-27,352,000	
Total, Payments to States	2,611,281,000	2,614,005,000	2,614,005,000	+2,724,000	
Total, Administration for Children and Families	27,293,347,000	27,009,080,000	28,436,746,000	+1,143,399,000	+1,427,666,000
Current year	(23,554,338,000)	(23,009,080,000)	(23,313,754,000)	(-240,584,000)	(+304,674,000)
FY 1993	(3,883,934,000)	(4,000,000,000)	(5,122,992,000)	(+1,239,058,000)	(+1,122,992,000)
OFFICE OF THE SECRETARY 2/					
GENERAL DEPARTMENTAL MANAGEMENT:					
Federal funds	78,944,000	91,673,000	86,673,000	+7,729,000	-5,000,000
Trust funds	(22,451,000)	(22,786,000)	(19,111,000)	(-3,340,000)	(-3,675,000)
Portion treated as budget authority	(7,899,000)	(8,215,000)	(6,890,000)	(-1,009,000)	(-1,325,000)
Total, Departmental management	109,294,000	122,674,000	112,674,000	+3,380,000	-10,000,000
OFFICE OF THE INSPECTOR GENERAL:					
Federal funds	51,918,000	63,842,000	63,842,000	+11,924,000	
Trust funds	(19,202,000)	(20,476,000)	(16,363,000)	(-2,839,000)	(-4,113,000)
Portion treated as budget authority	(23,467,000)	(26,871,000)	(21,470,000)	(-1,997,000)	(-5,401,000)
Total, Inspector General	94,587,000	111,189,000	101,675,000	+7,088,000	-9,514,000
OFFICE FOR CIVIL RIGHTS:					
Federal funds	17,066,000	18,524,000	18,524,000	+1,458,000	
Trust funds	(97,000)	(99,000)	(99,000)	(+2,000)	
Portion treated as budget authority	(3,807,000)	(3,901,000)	(3,901,000)	(+94,000)	
Total, Civil Rights	20,970,000	22,524,000	22,524,000	+1,554,000	
POLICY RESEARCH	8,928,000	5,037,000	5,037,000	-3,891,000	
Total, Office of the Secretary:					
Federal funds	156,856,000	179,076,000	174,076,000	+17,220,000	-5,000,000
Trust funds	(76,923,000)	(82,348,000)	(67,834,000)	(-9,089,000)	(-14,514,000)
Total, Office of the Secretary	(233,779,000)	(261,424,000)	(241,910,000)	(+8,131,000)	(-19,514,000)
UNDISTRIBUTED SALARIES AND EXPENSES REDUCTION			-116,000,000	-116,000,000	-116,000,000
Total, Department of Health and Human Services:					
Federal Funds	151,535,902,000	165,657,345,000	167,266,742,000	+15,730,840,000	+1,609,397,000
Current year FY 1992	(130,398,968,000)	(139,119,345,000)	(139,605,750,000)	(+9,206,782,000)	(+486,405,000)
FY 1993	(21,136,934,000)	(26,538,000,000)	(27,660,992,000)	(+6,524,058,000)	(+1,122,992,000)
Trust funds	(6,554,729,000)	(6,543,148,000)	(6,937,781,000)	(+383,052,000)	(+394,633,000)
TITLE III - DEPARTMENT OF EDUCATION					
COMPENSATORY EDUCATION FOR THE DISADVANTAGED 3/					
Grants for the Disadvantaged (Chapter 1):					
Grants to local educational agencies: 4/					
Basic grants	5,001,975,000	5,001,975,000	5,805,000,000	+803,025,000	+803,025,000
Concentration grants	555,775,000	674,775,000	645,000,000	+89,225,000	-29,775,000
Subtotal, grants to LEA's	5,557,750,000	5,676,750,000	6,450,000,000	+892,250,000	+773,250,000
Capital expenses for private school children	36,108,000	36,108,000	38,000,000	+1,892,000	+1,892,000
Even start	49,771,000	60,000,000	100,000,000	+50,229,000	+40,000,000
State agency programs:					
Migrant	294,596,000	294,596,000	322,000,000	+27,404,000	+27,404,000
Neglected and delinquent	36,108,000	36,108,000	36,000,000	-108,000	-108,000
State administration	59,140,000	59,140,000	64,500,000	+5,360,000	+5,360,000
State program improvement grants	14,785,000	30,000,000	32,250,000	+17,465,000	+2,250,000
Evaluation and technical assistance 5/	13,175,000	17,000,000	17,000,000	+3,825,000	
Rural technical assistance centers 5/	4,463,000	4,463,000	5,000,000	+537,000	+537,000
Total, Chapter 1	6,065,896,000	6,214,165,000	7,064,750,000	+998,854,000	+850,585,000

1/ Does not include $246,631,000 in legislative savings proposed for later transmittal.

2/ Does not include $5,000,000 for a clearinghouse proposed in legislation for later transmittal.

3/ $200 million originally requested within this account for Choice Schools considered under the Educational Excellence account.

4/ Handicapped activities transferred to Special Education account.

5/ Current funded.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
Migrant education:					
High school equivalency program 1/	7,807,000	8,135,000	8,500,000	+693,000	+365,000
College assistance migrant program 1/	1,952,000	2,034,000	2,500,000	+548,000	+466,000
Subtotal, migrant education	9,759,000	10,169,000	11,000,000	+1,241,000	+831,000
Total, Compensatory Education programs	6,075,655,000	6,224,334,000	7,075,750,000	+1,000,095,000	+851,416,000
IMPACT AID					
Maintenance and operations:					
Payments for "a" children	585,540,000	588,540,000	585,540,000		-3,000,000
Payments for "b" children	136,626,000		136,626,000		+136,626,000
Payments for Federal property (Section 2)	16,590,000	16,590,000	16,590,000		
Payments related to decreased activity (Section 3e)	1,952,000			-1,952,000	
Subtotal	740,708,000	605,130,000	738,756,000	-1,952,000	+133,626,000
Disaster assistance (Section 7)	13,663,000			-13,663,000	
Construction	26,349,000	15,000,000	26,000,000	-349,000	+11,000,000
Total, Impact aid	780,720,000	620,130,000	764,756,000	-15,964,000	+144,626,000
SCHOOL IMPROVEMENT PROGRAMS 2/					
Educational Improvement (Chapter 2):					
State and Local Programs:					
State block grants 3/	448,914,000	448,914,000	450,000,000	+1,086,000	+1,086,000
Evaluation	976,000			-976,000	
Subtotal	449,890,000	448,914,000	450,000,000	+110,000	+1,086,000
National programs:					
Inexpensive book distribution (RIF)	9,271,000	9,271,000	10,000,000	+729,000	+729,000
Arts in education:					
Regular program	4,392,000	4,392,000	3,700,000	-692,000	-692,000
Initial forward funding 3/			4,900,000	+4,900,000	+4,900,000
Law - related education	5,855,000		9,000,000	+3,145,000	+9,000,000
Subtotal, National programs	19,518,000	13,663,000	27,600,000	+8,082,000	+13,937,000
Total, Chapter 2	469,408,000	462,577,000	477,600,000	+8,192,000	+15,023,000
Drug-free schools and communities:					
State grants 3/	497,709,000	497,709,000	497,709,000		
School personnel training	23,395,000	23,395,000	23,395,000		
National programs:					
Regular programs	60,914,000	60,914,000	60,914,000		
Emergency grants	24,331,000	49,500,000	25,000,000	+669,000	-24,500,000
Subtotal, drug-free schools	606,349,000	631,518,000	607,018,000	+669,000	-24,500,000
Strengthening teaching and administration:					
Eisenhower mathematics & science education State grants 3/	202,011,000	239,011,000	240,000,000	+37,989,000	+989,000
Christa McAuliffe fellowships	1,954,000	2,036,000	2,000,000	+46,000	-36,000
Other school improvement programs:					
Magnet schools, desegregation program	109,977,000	109,977,000	110,000,000	+23,000	+23,000
Education for homeless children and youth 3/ 4/	7,313,000		37,000,000	+29,687,000	+37,000,000
Women's educational equity	1,995,000	500,000	2,000,000	+5,000	+1,500,000
Training and advisory services (Civil Rights IV-A)	21,329,000	21,329,000	22,000,000	+671,000	+671,000
Dropout prevention demonstrations	34,064,000	29,214,000	50,000,000	+15,936,000	+20,786,000
General assistance to the Virgin Islands	4,366,000	4,366,000	4,500,000	+134,000	+134,000
Ellender fellowships/Close up 3/	4,101,000		4,100,000	-1,000	+4,100,000
Follow through	7,265,000		10,000,000	+2,735,000	+10,000,000
Native Hawaiian Education	6,366,000		6,400,000	+34,000	+6,400,000
Foreign Language Assistance 3/	4,880,000		5,000,000	+120,000	+5,000,000
Subtotal, other school improvement programs	201,656,000	165,386,000	251,000,000	+49,344,000	+85,614,000
National writing project	1,952,000			-1,952,000	
School year extension study commission	976,000			-976,000	
Total, School improvement programs	1,484,306,000	1,500,528,000	1,577,618,000	+93,312,000	+77,090,000
Subtotal, forward funded	(1,164,928,000)	(1,185,634,000)	(1,238,709,000)	(+73,781,000)	(+53,075,000)

1/ Current funded.

2/ Many activities previously funded in this account transferred to Education Research and Improvement.

3/ Forward funded.

4/ 1992 homeless funds requested under new HUD block grant.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
EDUCATIONAL EXCELLENCE / AMERICA 2000					
Educational Excellence:					
New generation of American schools	....	180,000,000	....	....	-180,000,000
Merit schools	....	100,000,000	....	....	-100,000,000
Governors' academies for teachers	....	70,000,000	....	....	-70,000,000
Governors' academies for school leaders	....	22,500,000	....	....	-22,500,000
Assistance for parental choice programs	....	200,000,000	....	....	-200,000,000
Choice demonstrations of national significance	....	30,000,000	....	....	-30,000,000
Alternative teacher and principal certification	....	25,000,000	....	....	-25,000,000
Commission on time, study, learning, and teaching	....	1,000,000	....	....	-1,000,000
Subtotal, Educational excellence	....	628,500,000	....	....	-628,500,000
Vocational and Adult Education:					
Regional literacy resource centers	....	5,000,000	....	....	-5,000,000
Literacy initiatives	....	5,000,000	....	....	-5,000,000
Higher Education: Endowment grants for HBCUs	....	10,000,000	....	....	-10,000,000
Assessment, Statistics, Research and Improvement:					
World class standards/achievement tests	....	12,400,000	....	....	-12,400,000
Goals panel: National report card	....	2,000,000	....	....	-2,000,000
America on line	....	5,000,000	....	....	-5,000,000
Assessing workplace literacy skills	....	2,000,000	....	....	-2,000,000
Statistics: Expansion of the adult literacy survey	....	1,100,000	....	....	-1,100,000
Assessment: Preparing interim tests	....	5,000,000	....	....	-5,000,000
Fund for the Improvement & Reform of Schools and Teaching	....	10,700,000	....	....	-10,700,000
Subtotal, ASRI	....	38,200,000	....	....	-38,200,000
Departmental Management: Program administration	....	3,300,000	....	....	-3,300,000
Head start 1/	....	....	250,000,000	+250,000,000	+250,000,000
Consolidated funds	....	....	250,000,000	+250,000,000	+250,000,000
Total, Educational excellence	....	690,000,000	500,000,000	+500,000,000	-190,000,000
BILINGUAL AND IMMIGRANT EDUCATION					
Bilingual education:					
Bilingual programs	121,039,000	123,814,000	171,000,000	+49,961,000	+47,186,000
Support services	11,632,000	11,632,000	12,000,000	+368,000	+368,000
Training grants	36,066,000	36,066,000	36,000,000	-66,000	-66,000
Immigrant education	29,277,000	29,277,000	30,000,000	+723,000	+723,000
Total	198,014,000	200,789,000	249,000,000	+50,986,000	+48,211,000
SPECIAL EDUCATION					
State grants:					
EHA grants to States part "b"	1,854,210,000	1,976,095,000	1,976,095,000	+121,885,000	....
Chapter 1 handicapped grants	148,861,000	125,661,000	135,661,000	-13,200,000	+10,000,000
Preschool grants	292,770,000	295,920,000	295,920,000	+3,150,000	....
Grants for infants and families	117,108,000	128,819,000	175,000,000	+57,892,000	+46,181,000
Subtotal, State grants	2,412,949,000	2,526,495,000	2,582,676,000	+169,727,000	+56,181,000
Special purpose funds:					
Deaf-blindness	12,849,000	12,849,000	13,000,000	+151,000	+151,000
Severe disabilities	7,869,000	7,869,000	8,000,000	+131,000	+131,000
Serious emotional disturbance	1,952,000	1,952,000	4,000,000	+2,048,000	+2,048,000
Early childhood education	24,202,000	24,202,000	25,000,000	+798,000	+798,000
Secondary and transitional services	14,639,000	14,639,000	17,000,000	+2,361,000	+2,361,000
Postsecondary education	8,559,000	8,559,000	9,000,000	+441,000	+441,000
Innovation and development	20,174,000	20,174,000	24,000,000	+3,826,000	+3,826,000
Media and captioning services	16,424,000	16,424,000	17,000,000	+576,000	+576,000
Technology applications	5,593,000	5,593,000	10,000,000	+4,407,000	+4,407,000
Special studies	3,904,000	3,904,000	4,000,000	+96,000	+96,000
Personnel development	69,289,000	69,289,000	89,800,000	+20,511,000	+20,511,000
Parent training	9,759,000	9,759,000	10,200,000	+441,000	+441,000
Clearing houses	1,525,000	1,525,000	2,000,000	+475,000	+475,000
Regional resource centers	6,620,000	6,620,000	7,000,000	+380,000	+380,000
Subtotal, Special purpose funds	203,358,000	203,358,000	240,000,000	+36,642,000	+36,642,000
Total, Special education	2,616,307,000	2,729,853,000	2,822,676,000	+206,369,000	+92,823,000
REHABILITATION SERVICES AND DISABILITY RESEARCH					
Vocational rehabilitation State grants:					
Grants to States	1,632,625,000	....	1,735,480,000	+102,855,000	+1,735,480,000
Supported employment State grants	29,150,000	....	29,150,000	....	+29,150,000
Client assistance	8,310,000	....	8,310,000	....	+8,310,000
Subtotal, State grants	1,670,085,000	....	1,772,940,000	+102,855,000	+1,772,940,000
Special purpose funds:					
Special demonstration programs	18,368,000	....	18,368,000	....	+18,368,000
Supported employment projects	10,023,000	....	10,023,000	....	+10,023,000
Recreational programs	2,617,000	....	2,617,000	....	+2,617,000
Migratory workers	1,060,000	....	1,060,000	....	+1,060,000
Projects with industry	19,445,000	....	19,445,000	....	+19,445,000
Helen Keller National Center	5,367,000	....	5,367,000	....	+5,367,000

1/ To be made available on July 1, 1992.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
Independent living:					
Comprehensive services	13,619,000		13,619,000		+13,619,000
Centers	27,579,000		27,579,000		+27,579,000
Services for older blind	5,914,000		5,914,000		+5,914,000
Protection and advocacy for severely disabled	976,000		976,000		+976,000
Subtotal, Independent living	48,088,000		48,088,000		+48,088,000
Training	33,353,000		33,353,000		+33,353,000
National Institute on Disability and Rehabilitation Research	58,924,000		58,924,000		+58,924,000
Technology assistance	20,982,000	27,340,000	27,340,000	+6,358,000	
Evaluation	976,000		976,000		+976,000
Subtotal, Special purpose funds	219,203,000	27,340,000	225,561,000	+6,358,000	+198,221,000
Consolidated request, new legislation 1/		1,976,040,000			-1,976,040,000
Total, Rehabilitation services	1,889,288,000	2,003,380,000	1,998,501,000	+109,213,000	-4,879,000
SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES					
AMERICAN PRINTING HOUSE FOR THE BLIND	6,136,000	6,136,000	5,500,000	-636,000	-636,000
NATIONAL TECHNICAL INSTITUTE FOR THE DEAF:					
Operations	36,884,000	36,884,000	38,500,000	+1,616,000	+1,616,000
Endowment grant	328,000	342,000		-328,000	-342,000
Subtotal, N T I D	37,212,000	37,226,000	38,500,000	+1,288,000	+1,274,000
GALLAUDET UNIVERSITY:					
University programs	47,623,000	47,623,000	47,623,000		
Computer acquisition			850,000	+850,000	+850,000
Precollege programs 2/	21,223,000	21,223,000	21,223,000		
Endowment grant	976,000	1,000,000	976,000		-24,000
Construction	2,440,000	1,000,000	2,500,000	+60,000	+1,500,000
Subtotal, Gallaudet University	72,262,000	70,846,000	73,172,000	+910,000	+2,326,000
Total, Special Institutions for Disabled	115,610,000	114,208,000	117,172,000	+1,562,000	+2,964,000
VOCATIONAL AND ADULT EDUCATION					
Vocational education:					
Basic grants	856,503,000	890,656,000	1,077,000,000	+220,497,000	+186,344,000
Supplemental grants, equipment			100,000,000	+100,000,000	+100,000,000
Community - based organizations	11,711,000	11,711,000	12,000,000	+289,000	+289,000
Consumer and homemaking education	33,352,000		38,000,000	+4,648,000	+38,000,000
State councils	8,783,000	8,783,000	9,000,000	+217,000	+217,000
Tech Prep	63,434,000	63,434,000	100,000,000	+36,566,000	+36,566,000
Tribally controlled post-secondary vocational institutions	2,440,000	2,440,000	2,500,000	+60,000	+60,000
National programs:					
Research	6,831,000	10,000,000	10,000,000	+3,169,000	
Technical assistance, sec. 404 (d)			2,000,000	+2,000,000	+2,000,000
Demonstrations	12,970,000	9,000,000	12,000,000	-970,000	+3,000,000
Data systems including NOICC/SOICC	4,880,000	4,880,000	5,000,000	+120,000	+120,000
Subtotal, national programs	24,681,000	23,880,000	29,000,000	+4,319,000	+5,120,000
Bilingual vocational training	2,888,000	2,888,000	3,000,000	+112,000	+112,000
Subtotal, Applied technology education	1,003,792,000	1,003,792,000	1,370,500,000	+366,708,000	+366,708,000
Adult education:					
State Programs	201,035,000	221,500,000	250,000,000	+48,965,000	+28,500,000
National programs	7,807,000	9,000,000	9,000,000	+1,193,000	
Literacy training for homeless adults	9,759,000			-9,759,000	
Workplace literacy partnerships	19,251,000	19,251,000	20,000,000	+749,000	+749,000
English literacy grants	976,000	976,000	1,000,000	+24,000	+24,000
Subtotal, adult education	238,828,000	250,727,000	280,000,000	+41,172,000	+29,273,000
Technology education demonstrations	964,000		1,000,000	+36,000	+1,000,000
Commercial truck driver training	1,952,000			-1,952,000	
Total, Vocational and adult education	1,245,536,000	1,254,519,000	1,651,500,000	+405,964,000	+396,981,000
STUDENT FINANCIAL ASSISTANCE					
Pell Grants: Academic year 1992 - 1993 3/	5,374,282,000	5,775,121,000	5,350,000,000	-24,282,000	-425,121,000
Contingency			100,000,000	+100,000,000	+100,000,000
Presidential Scholarships, new legislation		170,000,000			-170,000,000
Supplemental educational opportunity grants	520,155,000	346,945,000	570,000,000	+49,845,000	+223,055,000
Work-study	594,689,000	396,615,000	595,000,000	+311,000	+198,385,000
Income contingent loans	4,880,000	10,000,000	5,000,000	+120,000	-5,000,000

1/ President's budget proposes for later transmittal.

2/ Kendall Elementary and Model Secondary Schools.

3/ 1991 includes prior year shortfall and contingency.

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	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
Perkins loans:					
Federal capital contributions	156,144,000		156,000,000	-144,000	+156,000,000
Loan cancellations		15,000,000	13,000,000	+13,000,000	-2,000,000
Subtotal, Perkins loans	156,144,000	15,000,000	169,000,000	+12,856,000	+154,000,000
State student incentive grants	63,531,000		64,000,000	+469,000	+64,000,000
Total, Student Financial Assistance 1/	6,713,681,000	6,713,681,000	6,853,000,000	+139,319,000	+139,319,000
GUARANTEED STUDENT LOANS (LIQUIDATING) 2/					
Contract authority to liquidate pre-1992 loan subsidies	(4,209,818,000)	(3,075,711,000)	(3,075,711,000)	(-1,134,107,000)	
Appropriation, including shortfalls (non-add)	(5,381,422,000)	(3,105,711,000)	(3,105,711,000)	(-2,275,711,000)	
GUARANTEED STUDENT LOANS PROGRAM					
Guaranteed Student Loans:					
New loan subsidies (contract authority)		2,655,636,000	2,655,636,000	+2,655,636,000	
Mandatory admin expenses (contract authority)		164,611,000	164,611,000	+164,611,000	
Total 3/		2,820,247,000	2,820,247,000	+2,820,247,000	
GSL LOAN ADMINISTRATION	34,671,000	46,433,000	46,433,000	+11,762,000	
HIGHER EDUCATION					
Aid for institutional development:					
Strengthening institutions	87,831,000	87,831,000	90,000,000	+2,169,000	+2,169,000
Strengthening historically black colleges and univ	87,831,000	87,831,000	100,000,000	+12,169,000	+12,169,000
Strengthening historically black grad institutions	11,711,000	11,711,000	12,000,000	+289,000	+289,000
Endowment grants	17,462,000	7,462,000	7,500,000	-9,962,000	+38,000
Subtotal, Institutional development	204,835,000	194,835,000	209,500,000	+4,665,000	+14,665,000
Program development:					
Fund for the Improvement of Postsecondary Education	14,639,000	14,639,000	15,000,000	+361,000	+361,000
Minority science improvement	5,855,000	6,101,000	6,000,000	+145,000	-101,000
Innovative projects for community services	1,464,000	6,830,000	1,463,000	-1,000	-5,367,000
Student Literacy Corps	5,367,000		5,367,000		+5,367,000
International education and foreign language studies:					
Domestic programs	28,670,000	28,670,000	34,000,000	+5,330,000	+5,330,000
Overseas programs	5,855,000	5,855,000	6,000,000	+145,000	+145,000
Foreign language and area studies fellowships VI	11,342,000	11,342,000	13,000,000	+1,658,000	+1,658,000
Subtotal, International education	45,867,000	45,867,000	53,000,000	+7,133,000	+7,133,000
Cooperative education	13,175,000	13,175,000	14,000,000	+825,000	+825,000
Law school clinical experience	5,855,000		8,000,000	+2,145,000	+8,000,000
Subtotal, Program development	92,222,000	86,612,000	102,830,000	+10,608,000	+16,218,000
Construction:					
Interest subsidy grants, prior year construction	20,396,000	19,412,000	19,412,000	-984,000	
Academic facilities	4,197,000			-4,197,000	
Subtotal, Construction	24,593,000	19,412,000	19,412,000	-5,181,000	
Special grants:					
Assistance to Guam	488,000		500,000	+12,000	+500,000
Margaret Chase Smith Library	976,000			-976,000	
John McCormack Institute	2,928,000			-2,928,000	
Robert A. Taft Institute	683,000	550,000	550,000	-133,000	
Magnuson Endowment	2,928,000			-2,928,000	
Model Law Center, Seton Hall University	5,367,000			-5,367,000	
Bethune-Cookman			300,000	+300,000	+300,000
Subtotal, Undergraduate outreach	13,370,000	550,000	1,350,000	-12,020,000	+800,000
Special programs for the disadvantaged (TRIO plus):					
Student support services	120,700,000	129,799,000	126,099,000	+5,399,000	-3,700,000
Undergraduate outreach 4/	203,382,000	253,000,000	249,000,000	+45,618,000	-4,000,000
Subtotal, Undergraduate outreach	324,082,000	382,799,000	375,099,000	+51,017,000	-7,700,000
Graduate outreach:					
Ronald E. McNair post-baccalaureate program	5,000,000		5,000,000		+5,000,000
Minority participation in graduate education	5,953,000		5,826,000	-127,000	+5,826,000
McNair graduate outreach (proposed legislation)		10,826,000			-10,826,000
Subtotal, Graduate outreach	10,953,000	10,826,000	10,826,000	-127,000	
School, college and university partnerships	3,904,000		4,000,000	+96,000	+4,000,000
Staff training	3,700,000		3,700,000		+3,700,000
Evaluation	976,000	1,450,000	1,450,000	+474,000	
Subtotal, Special programs for disadvantaged	343,615,000	395,075,000	395,075,000	+51,460,000	

1/ President's budget proposes for later transmittal.

2/ Excludes legislative savings of $49,759,000 proposed for later transmittal.

3/ President's budget proposes for later transmittal.

4/ President's budget proposes consolidated grants not approved by Committee.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
Undergraduate scholarships:					
Byrd honors scholarships	9,271,000	9,271,000	9,271,000		
National science scholars	976,000	10,000,000	4,500,000	+3,524,000	-5,500,000
Douglas teacher scholarships	14,639,000	14,639,000	15,000,000	+361,000	+361,000
Subtotal, Undergraduate scholarships	24,886,000	33,910,000	28,771,000	+3,885,000	-5,139,000
Graduate fellowships:					
Harris graduate fellowships	17,566,000		17,600,000	+34,000	+17,600,000
Harris public service fellowships	3,198,000		3,200,000	+2,000	+3,200,000
Javits fellowships	7,807,000		8,000,000	+193,000	+8,000,000
Graduate assistance in areas of national need	24,885,000		30,000,000	+5,115,000	+30,000,000
Library career training 1/	651,000			-651,000	
National graduate fellowships (proposed legislation)		54,107,000			-54,107,000
Subtotal, Graduate fellowships	54,107,000	54,107,000	58,800,000	+4,693,000	+4,693,000
Veterans' education outreach	2,733,000		2,700,000	-33,000	+2,700,000
Legal training for the disadvantaged (CLEO)	2,928,000		3,000,000	+72,000	+3,000,000
Total, Higher education 2/	763,289,000	784,501,000	821,438,000	+58,149,000	+36,937,000
HOWARD UNIVERSITY					
Academic program	153,515,000	153,515,000	153,515,000		
Endowment grant	2,928,000	4,500,000	2,928,000		-1,572,000
Research	4,616,000	4,616,000	4,616,000		
Howard University Hospital	28,301,000	28,301,000	28,301,000		
Emergency construction	5,855,000		23,600,000	+17,745,000	+23,600,000
Total, Howard University	195,215,000	190,932,000	212,960,000	+17,745,000	+22,028,000
COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS (LIQUIDATING):					
Borrowing authority	29,277,000			-29,277,000	
Interest subsidy payments	8,449,000	3,598,000	3,598,000	-4,851,000	
Total, College Housing Liquidating	37,726,000	3,598,000	3,598,000	-34,128,000	
EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT					
Research	64,714,000	74,296,000	71,000,000	+6,286,000	-3,296,000
High technology demonstration program			8,000,000	+8,000,000	+8,000,000
Statistics	44,313,000	51,974,000	50,000,000	+5,687,000	-1,974,000
Assessment (NAEP)	19,211,000	28,086,000	28,000,000	+8,789,000	-86,000
Fund for Innovation in Education	27,737,000	27,737,000	19,000,000	-8,737,000	-8,737,000
Fund for the Improvement and Reform of Schools and Teaching:					
Grants for schools and teachers	5,284,000	1,880,000	5,284,000		+3,404,000
Family-school partnerships	3,611,000	927,000	3,611,000		+2,684,000
Eisenhower mathematics and science education national program	11,711,000	14,711,000	14,000,000	+2,289,000	-711,000
National Diffusion Network	14,151,000	14,151,000	14,000,000	-151,000	-151,000
Blue ribbon schools	885,000	885,000		-885,000	-885,000
Javits gifted and talented students education	9,732,000	9,732,000	9,732,000		
Star schools	14,417,000	10,000,000		-14,417,000	-10,000,000
Educational partnerships	4,233,000	4,233,000	4,233,000		
Territorial teacher training	1,769,000	1,769,000	1,769,000		
Leadership in educational administration (LEAD)	3,831,000	370,000	370,000	-3,461,000	
Midcareer teacher training	987,000			-987,000	
National board for professional teacher standards	4,880,000		4,880,000		+4,880,000
National council on educational goals	1,952,000			-1,952,000	
Innovations in teacher education, new legislation 3/		20,000,000			-20,000,000
Total, E R S I	233,418,000	260,751,000	233,879,000	+461,000	-26,872,000
LIBRARIES					
Public libraries:					
Services	83,898,000	35,000,000	83,898,000		+48,898,000
Construction	19,218,000		14,218,000	-5,000,000	+14,218,000
Interlibrary cooperation	19,908,000		19,908,000		+19,908,000
Training 4/			5,000,000	+5,000,000	+5,000,000
Research and demonstrations	325,000		325,000		+325,000
Research libraries	5,855,000		5,855,000		+5,855,000
Library literacy programs	8,163,000		8,163,000		+8,163,000
College library technology	3,904,000		3,904,000		+3,904,000
Foreign language materials (Title V-LSCA, VI-HEA)	976,000		1,476,000	+500,000	+1,476,000
Total, Libraries	142,247,000	35,000,000	142,747,000	+500,000	+107,747,000

1/ See "Libraries" account.

2/ President's budget proposes $778,096,000 for later transmittal.

3/ President's budget proposes for later transmittal.

4/ Training funds requested under Higher Education.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
DEPARTMENTAL MANAGEMENT					
PROGRAM ADMINISTRATION	284,595,000	303,567,000	301,952,000	+17,357,000	-1,615,000
OFFICE FOR CIVIL RIGHTS, SALARIES AND EXPENSES	48,405,000	56,000,000	56,000,000	+7,595,000	
OFFICE OF THE INSPECTOR GENERAL, SALARIES AND EXPENSES	24,837,000	28,521,000	26,932,000	+2,095,000	-1,589,000
UNDISTRIBUTED SALARIES AND EXPENSES REDUCTION			-10,000,000	-10,000,000	-10,000,000
Total, Departmental management	357,837,000	388,088,000	374,884,000	+17,047,000	-13,204,000
Total, Department of Education	22,883,520,000	26,580,972,000	28,266,159,000	+5,382,639,000	+1,685,187,000
Total including Guaranteed Student Loans	(27,093,338,000)	(29,656,683,000)	(31,341,870,000)	(+4,248,532,000)	(+1,685,187,000)
TITLE IV - RELATED AGENCIES					
Action (Domestic Programs):					
Volunteers in Service to America:					
VISTA operations	30,287,000	35,803,000	32,693,000	+2,406,000	-3,110,000
VISTA Literacy Corps	4,621,000	4,930,000	4,621,000		-309,000
Student Community Service	976,000	976,000	976,000		
Subtotal	35,884,000	41,709,000	38,290,000	+2,406,000	-3,419,000
Special Volunteer Programs: Drug programs	2,191,000	1,451,000	1,000,000	-1,191,000	-451,000
Older Americans Volunteer Programs:					
Foster Grandparents Program	62,946,000	62,946,000	62,946,000		
Senior Companion Program	27,569,000	27,569,000	27,569,000		
Retired Senior Volunteer Program	33,425,000	33,425,000	33,425,000		
Subtotal, Older Volunteers	123,940,000	123,940,000	123,940,000		
Inspector General	976,000	1,017,000	920,000	-56,000	-97,000
Program Support	28,301,000	30,435,000	29,528,000	+1,227,000	-907,000
Total, Action	191,292,000	198,552,000	193,678,000	+2,386,000	-4,874,000
Corporation for Public Broadcasting: 1/					
FY 1994 (current request)	253,309,000	260,000,000	253,309,000		-6,691,000
FY 1993 satellite replacement	65,327,000			-65,327,000	
Subtotal, Corporation for Public Broadcasting	318,636,000	260,000,000	253,309,000	-65,327,000	-6,691,000
Federal Mediation and Conciliation Service	27,037,000	28,145,000	28,118,000	+1,081,000	-27,000
Federal Mine Safety and Health Review Commission	4,189,000	4,719,000	4,357,000	+168,000	-362,000
National Commission on Acquired Immune Deficiency Syndrome	2,928,000	3,000,000	2,000,000	-928,000	-1,000,000
National Commission on Children	1,073,000			-1,073,000	
National Commission on Libraries and Information Science	732,000	911,000	750,000	+18,000	-161,000
National Commission to Prevent Infant Mortality	390,000		390,000		+390,000
National Council on Disability	1,439,000	1,642,000	1,497,000	+58,000	-145,000
National Labor Relations Board	147,461,000	162,000,000	162,000,000	+14,539,000	
National Mediation Board	6,514,000	7,008,000	6,775,000	+261,000	-233,000
Occupational Safety and Health Review Commission	6,247,000	6,711,000	6,497,000	+250,000	-214,000
Physician Payment Review Commission (trust funds)	(3,778,000)	(4,495,000)	(4,300,000)	(+522,000)	(-195,000)
Prospective Payment Assessment Commission (trust funds)	(3,875,000)	(4,210,000)	(4,030,000)	(+155,000)	(-180,000)
Railroad Retirement Board:					
Dual benefits payments account 2/	326,927,000	315,000,000	315,000,000	-11,927,000	
Interest payment			9,000,000	+9,000,000	+9,000,000
Less income tax receipts on dual benefits	-16,000,000	-18,000,000	-18,000,000	-2,000,000	
Subtotal, dual benefits	310,927,000	297,000,000	306,000,000	-4,927,000	+9,000,000
Federal payment to the Railroad Retirement Account	400,000	400,000	400,000		
Limitation on administration:					
(Retirement)	(69,936,000)	(74,037,000)	(74,037,000)	(+4,101,000)	
(Unemployment)	(15,287,000)	(17,263,000)	(17,263,000)	(+1,976,000)	
Subtotal, administration	(85,223,000)	(91,300,000)	(91,300,000)	(+6,077,000)	
(Special Management Improvement Fund) 3/		(13,910,000)	(3,264,000)	(+3,264,000)	(-10,646,000)
Total, limitation on administration	(85,223,000)	(105,210,000)	(94,564,000)	(+9,341,000)	(-10,646,000)
(Review activity)	(5,855,000)	(7,700,000)	(6,089,000)	(+234,000)	(-1,611,000)
Soldiers' and Airmen's Home (trust fund limitation):					
Operation and maintenance	40,581,000	42,123,000	40,581,000		-1,542,000
Capital outlay	11,223,000	4,220,000	4,220,000	-7,003,000	
United States Institute of Peace	8,393,000	8,911,000	8,393,000		-518,000
United States Naval Home (trust fund limitation):					
Operation and maintenance		10,055,000	10,055,000	+10,055,000	
Capital program		1,253,000	1,253,000	+1,253,000	
White House Conference on Library and Information Services	488,000			-488,000	
Total, Title IV, Related Agencies:					
Federal Funds (all years)	1,079,950,000	1,036,650,000	1,030,273,000	-49,677,000	-6,377,000
Current year, FY 1992	(761,314,000)	(776,650,000)	(776,964,000)	(+15,650,000)	(+314,000)
FY 1994	(318,636,000)	(260,000,000)	(253,309,000)	(-65,327,000)	(-6,691,000)
Trust funds	(98,731,000)	(121,615,000)	(108,983,000)	(+10,252,000)	(-12,632,000)

1/ FY 1991 appropriation advance in FY 1989 is $298,870,000. FY 1992 appropriation advance in FY 1990 is $327,280,000. FY 1993 appropriation advance in FY 1991 is $318,636,000.

2/ Does not include $78,750,000 in legislative savings proposed for later transmittal.

3/ Request available for FY 1992 - FY 1996. Recommendation available for FY 1992 only.

H.R. 2707 - Fiscal Year 1992 Appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies

	FY 1991 Comparable	FY 1992 Request	FY 1992 Bill	Bill vs FY 1991 Comparable	Bill vs FY 1992 Request
SUMMARY					
Title I - Department of Labor:					
Federal Funds	7,541,537,000	7,336,447,000	7,435,073,000	-106,464,000	+98,626,000
Trust Funds	(3,345,157,000)	(3,398,136,000)	(3,512,648,000)	(+167,491,000)	(+114,512,000)
Title II - Department of Health and Human Services:					
Federal Funds (all years)	151,535,902,000	165,657,345,000	167,266,742,000	+15,730,840,000	+1,609,397,000
Current year	(130,398,968,000)	(139,119,345,000)	(139,605,750,000)	(+9,206,782,000)	(+486,405,000)
1993 advance	(21,136,934,000)	(26,538,000,000)	(27,660,992,000)	(+6,524,058,000)	(+1,122,992,000)
Trust Funds	(6,554,729,000)	(6,543,148,000)	(6,937,781,000)	(+383,052,000)	(+394,633,000)
Title III - Department of Education:					
Federal Funds	22,883,520,000	26,580,972,000	28,266,159,000	+5,382,639,000	+1,685,187,000
Total including Guaranteed Student Loans	(27,093,338,000)	(29,656,683,000)	(31,341,870,000)	(+4,248,532,000)	(+1,685,187,000)
Title IV - Related Agencies:					
Federal Funds (all years)	1,079,950,000	1,036,650,000	1,030,273,000	-49,677,000	-6,377,000
Current year	(761,314,000)	(776,650,000)	(776,964,000)	(+15,650,000)	(+314,000)
1994 advance	(318,636,000)	(260,000,000)	(253,309,000)	(-65,327,000)	(-6,691,000)
Trust Funds	(98,731,000)	(121,615,000)	(108,983,000)	(+10,252,000)	(-12,632,000)
Total, all titles:					
Federal Funds (all years)	183,040,909,000	200,611,414,000	203,998,247,000	+20,957,338,000	+3,386,833,000
Current year	(161,585,339,000)	(173,813,414,000)	(176,083,946,000)	(+14,498,607,000)	(+2,270,532,000)
1993 advance	(21,136,934,000)	(26,538,000,000)	(27,660,992,000)	(+6,524,058,000)	(+1,122,992,000)
1994 advance	(318,636,000)	(260,000,000)	(253,309,000)	(-65,327,000)	(-6,691,000)
Trust Funds	(9,998,617,000)	(10,062,899,000)	(10,559,412,000)	(+560,795,000)	(+496,513,000)

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO HAVE UNTIL 6 P.M., WEDNESDAY, JULY 3, 1991, TO FILE SUNDRY REPORTS

Mr. CONYERS. Madam Speaker, I ask unanimous consent that the Committee on Government Operations have until 6 p.m. on Wednesday, July 3, 1991, to file sundry reports.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO HAVE UNTIL 6 P.M., FRIDAY, JUNE 28, 1991, TO FILE REPORT ON H.R. 2507, THE NATIONAL INSTITUTES OF HEALTH REVITALIZATION AMENDMENTS OF 1991

Mr. WAXMAN. Madam Speaker, I ask unanimous consent that the Committee on Energy and Commerce have until 6 p.m., Friday, June 28, 1991, to file the report on H.R. 2507, the National Institutes of Health Revitalization Amendments of 1991, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING USE OF THE ROTUNDA OF THE CAPITOL IN CEREMONY TO HONOR MEMBERS OF ARMED SERVICES AND CIVILIANS STILL IMPRISONED, MISSING, AND UNACCOUNTED FOR AS RESULT OF VIETNAM CONFLICT

Mr. CLAY. Madam Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the concurrent resolution (H. Con. Res. 158) authorizing the use of the rotunda of the Capitol by the National League of POW/MIA Families for a ceremony to honor the members of the armed services and civilians still imprisoned, missing, and unaccounted for as a result of the Vietnam conflict.

The Clerk read the title of the concurrent resolution.

□ 1650

The SPEAKER pro tempore (Mrs. UNSOELD). Is there objection to the request of the gentleman from Missouri?

Mr. BARRETT. Madam Speaker, reserving the right to object, I yield to the gentleman from Missouri [Mr. CLAY] for the purpose of explaining his request.

Mr. CLAY. Madam Speaker, I thank the gentleman for yielding.

House Concurrent Resolution 158 provides for the use of the Capitol rotunda by the National League of POW/MIA Families on July 13, 1991 at 11 a.m. for a ceremony to honor the members of the armed services and civilians still imprisoned, missing and unaccounted for as a result of the Vietnam conflict.

Today, over 2300 American servicemen remain unaccounted for in Southeast Asia. This ceremony will underscore our ongoing efforts to achieve the fullest possible accounting of these missing American servicemen and civilians as soon as possible.

Mr. BARRETT. Madam Speaker, I thank the gentleman for his explanation.

I rise in support of House Concurrent Resolution 158, authorizing the use of the rotunda of the Capitol by the National League of POW/MIA Families for a ceremony to honor the members of the Armed Forces and civilians who are still in prison, missing and unaccounted for as a result of the Vietnam conflict.

As the gentleman from Missouri has just stated, there are 2,273 American men and women, both military and civilian, who are still missing as a result of the Vietnam conflict. Those POW/MIA's are tragic heroes, lost patriots, sustained for years by an unyielding love for their country.

We have an obligation to remember these brave individuals and to recognize their dedication and to honor their fate.

The National League of POW/MIA Families is dedicated to achieving the fullest possible accounting for those still missing as well as the repatriation of all recoverable remains of those who sacrificed their lives serving our Nation in Southeast Asia.

This must be our solemn commitment. As Secretary of Defense Cheney has so eloquently stated, and I quote:

> A nation that will not care for those fallen in battle, a nation that will not seek freedom for those held captive, a nation that forgets its missing in action, such a nation has lost its soul. That will not be the final legacy of Vietnam.

This ceremony will ensure that though these brave men and women are lost, that they might be found in the memory of a proud and grateful Nation.

Madam Speaker, I urge my colleagues to unanimously support this resolution.

Madam Speaker, further reserving right to object, I yield to the gentleman from Illinois [Mr. MICHEL], the Republican leader.

Mr. MICHEL. Madam Speaker, I appreciate the gentleman yielding to me. I am happy to join with our distinguished colleagues, the gentleman from New York [Mr. SOLARZ] and the gentleman from California [Mr. LAGOMARSINO], as a cosponsor of this particular resolution.

As a former combat infantryman in the Second World War, I know from personal experience what it is to have buddies listed as missing in action when there was uncertainty as to their fate or their whereabouts after a skirmish, a firefight or a full-fledged battle.

But I also realize that the anguish felt by the families of POW/MIA's is infinitely greater than that felt by even the closest comrade-in-arms of a POW/MIA and that is why I consider it an honor to be a sponsor of the resolution.

The National League of POW/MIA Families is the largest, most effective and most dedicated group of its kind in the United States today. The league has worked with a number of administrations and with bipartisan congressional task forces to keep this issue alive. Through bipartisan support of both bodies in the 100th Congress, the league's POW/MIA flag stands permanently displayed over in the great rotunda of this Capitol Building. It is there as a symbol of our Nation's commitment to resolving the fate of America's POW/MIA's.

Therefore, it is only fitting that league members should get the chance to use the great rotunda to honor those in prison, missing, and unaccounted for from the Vietnam war.

In my long experience in Congress, few issues have generated such fierce emotions as this one. There are those who are critical of the Government's efforts in this area. I believe the critics of the Government's POW/MIA effort over the years have a right to be heard, to present their case to the Congress. That is why the House task force has played such a major role in improving the POW/MIA effort.

I just want to thank the gentleman from New York [Mr. SOLARZ] and the gentleman from California [Mr. LAGOMARSINO] for their patience, their dedication and the belief in the cause of the POW/MIA families.

As in many issues that generate such emotions, there are going to be heated, sometimes fierce disagreements as to the efficiency of public policy. Some critics of POW/MIA policy believe in a conspiratorial view of history in which five American Presidents, innumerable Defense Department officials and administrations of both parties, the House POW/MIA Task Force and the League of POW/MIA families are all engaged in some monstrous plot to thwart efforts to find out the truth about the POW/MIA's.

Conspiracy theorists do not allow for errors in judgment or in differing but honest interpretations of data or errors made solely because of the complexity of the POW/MIA issue. Every fault in the system, according to theorists, can be traced to a sinister, decades-long effort to deliberately keep POW/MIA's in captivity. I mention this only to emphasize that it is the conspiracy cult that gains the headlines of the POW/MIA issue. The conspiracy cult makes sensational charges amounting to accusations of treasonous conduct on the part of the Government employees or league members and then offers no evidence to support let alone prove the outrageous slanders. They were invited to come before the Intelligence Committee to lay it on the line and under oath and none have responded to the request. The quiet efficient work of the league, the House task force and the Defense Department does not get the same kind of media interest.

I hope the work of the task force and the league will get the kind of respect and attention it deserves.

A look at the complete evidence, not partially selected data, will show that our Government's efforts to help resolve the uncertainty of POW/MIA families has improved in recent years. It is not perfect. It has faults. It has got to be improved. But the important thing is that the Government is trying to do what is right for POW/MIA families.

In conclusion, let me just say to all the families of POW/MIA's, I pledge our willingness to do all we can to keep up the fight to account for their loved ones who will be honored in the great rotunda on July 13, 1991.

I thank the gentleman for yielding to me.

Mr. BARRETT. Madam Speaker, I do not object to the measure.

Mr. LAGOMARSINO. Mr. Speaker, as an original cosponsor of House Concurrent Resolution 158, I rise in strong support of this measure, which authorizes the use of the Capitol by the National League of Families for a ceremony to honor members of the armed services and civilians still imprisoned, missing and unaccounted for as a result of the Vietman conflict. The league, which is the only national organization comprised solely of the family members of American POW/MIA's in Southeast Asia, will hold this ceremony in conjunction with the annual convention being held by the league here in Washington on July 11–14.

I also want to take this opportunity to commend the Republican leader in the House, Representative BOB MICHEL of Illinois, for sponsoring this measure. As chairman of the bipartisan House POW/MIA Task Force, I very much appreciate and welcome the continued strong support Congressman MICHEL has given to the league and his unwavering dedication to the POW/MIA issue.

Congress does care deeply about the POW/MIA issue and the families of those still missing in action. Just a couple of years ago, I was honored to join Congressman MICHEL and others in sponsoring legislation to place the POW/MIA flag in the rotunda. It will remain there as a reminder to the American people until we achieve the fullest possible accounting of those still missing in Indochina. While today's resolution authorizing the use of the Capitol is a small gesture, it does underscore our commitment to those still missing and their families and our sincere interest in helping them any way we can.

I will have the opportunity to speak to the visiting POW/MIA families directly on Friday, July 12. I know that many of my colleagues will be visited by family members who are their constituents. While I will speak with them further about recent efforts our Government has undertaken to achieve the fullest possible accounting and ensure the POW/MIA issue remains the top national priority Presidents Reagan and Bush have assigned it, I want to give them an early welcome and reconfirm my strong support for these families and their missing loved ones.

I strongly urge my colleagues to join me in supporting House Concurrent Resolution 158.

Mr. BARRETT. Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 158

Resolved by the House of Representatives (the Senate concurring), That the rotunda of the Capitol may be used by the National League of POW/MIA Families on July 13, 1991, from 11:00 o'clock ante meridiem until 12:00 o'clock noon, for a ceremony to honor the members of the Armed Services and civilians still imprisoned, missing and unaccounted for as a result of the Vietnam conflict. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

The concurent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING USE OF ROTUNDA FOR UNVEILING OF PORTRAIT BUST OF PRESIDENT GEORGE BUSH

Mr. CLAY. Madam Speaker, I ask unanimous consent for the immediate consideration of the Senate concurrent resolution (S. Con. Res. 49) authorizing the use of the rotunda of the Capitol for the unveiling of the portrait bust of President George Bush on June 27, 1991.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. BARRETT. Madam Speaker, reserving the right to object, I yield to the gentleman from Missouri [Mr. CLAY] for the purpose of explaining his request.

Mr. CLAY. Madam Speaker, I thank the gentleman for yielding.

Senate Concurrent Resolution 49 authorizes the use of the rotunda by the Senate Rules Committee for unveiling of the portrait bust of President George Bush tomorrow, June 27, at 1:30 p.m.

□ 1700

The Senate has asked the House to process the resolution, and as a matter of comity, the House shall approve this resolution.

Mr. BARRETT. Madam Speaker, I thank the gentleman for his explanation.

Madam Speaker, George Herbert Walker Bush, now our 41st President, was the 43d man to serve as Vice President, and only the 14th of our Vice Presidents to later become President of the United States. We all look forward to the unveiling of the portrait bust of President Bush, and its placement in the Senate corridors, where it will join the marble busts of the other men who served the country as Vice President and fulfilled their constitutional duty as presiding officer of the Senate.

Madam Speaker, I will not object to the request by the gentleman from Missouri and withdraw my reservation.

The SPEAKER pro tempore (Mrs. UNSOELD). Is there objection to the request of the gentleman from Missouri.

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 49

Resolved by the Senate (the House of Representatives concurring), That the Senate Committee on Rules and Administration is authorized to use the rotunda of the Capitol for the unveiling of the portrait bust of President George Bush at 2:30 p.m. on June 27, 1991. The Architect of the Capitol and the Capitol Police Board shall take such action as may be necessary with respect to physical preparations and security for the ceremony.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WHITTEN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2698, the bill about to be considered today, and that I be permitted to include extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1992

Mr. WHITTEN. Madam Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2698) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1992, and for other purposes; and pending that motion, Madam Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from New Mexico [Mr. SKEEN] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Chair designates the gentleman from New Jersey [Mr. HUGHES] as Chairman of the Committee of the Whole, and requests the gentleman from Kansas [Mr. GLICKMAN] to assume the chair temporarily.

□ 1702

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for consideration of the bill, H.R. 2698, with Mr. GLICKMAN (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes, and the gentleman from New Mexico [Mr. SKEEN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this bill totals $52.6 billion, $1.5 billion below last year, and $9.9 million below the budget request.

The bill is within the committee's 602(b) allocation for both budget authority and outlays.

Of the total, $31.5 billion, or 60 percent, is for the feeding or consumer programs. Agriculture programs are $12.7 billion; conservation programs are $2.7 billion; Farmers Home and rural development programs are $3 billion; foreign assistance programs, mainly Public Law 480, are $1.7 billion, and related agencies and Food and Drug Administration is $900 million.

Mandatory spending totals $42.2 billion with only $12.4 billion of the bill in discretionary spending.

Mr. Chairman, we tried to address the concerns of the Members and their sections of the country to the fullest extent possible in view of the ceilings. This year we received 1,116 written requests from Members. Thirty-two Members testified before our committee. We had a total of 382 witnesses. Our hearing record totals 6,101 pages.

May I call attention that, again, this is the 12th appropriations bill, I think in 1988 we were able to get through the appropriation bills on time, but I call attention, again, that it has not been the fault of the committee. We cooperate fully, and at each instance we have been asked by the leadership to delay consideration on the House side.

We had 2 years where we were held up because of our colleagues on the other side of the Capitol.

Mr. Chairman, I am on the Defense Appropriations Subcommittee and all the other subcommittees. I have been on Defense Appropriations since I started with the Navy panel in 1943.

AGRICULTURE—OUR LARGEST INDUSTRY

Mr. Chairman, American Agriculture is the envy of the world and often is described as the "Eighth Wonder of the World." It is our largest industry—larger than the auto, steel, and housing industries combined. It is our largest employer, our largest market for the products of industry and labor, and our biggest dollar earner in world trade.

Agriculture is the foundation of our Nation's entire economy. Our wealth comes primarily from the use of raw materials and natural resources which come from the Earth. It has been reliably estimated that each dollar of wealth taken from the Earth multiplies seven times as it travels through the economy.

A study of history shows that the Great Depression of the 1930's was preceded by the drastic drop in farm income, which then spread throughout the country. We did not pull out of that depression until purchasing power was restored to agriculture—our largest industry and our largest producer of new wealth.

WHAT IS OUR SITUATION?

Mr. Chairman, we are in a prolonged recession here at home, at a time when our Nation owes a greater debt than any nation in the history of the world—over $3.6 trillion—but not because of discretionary appropriation bills. For our Committee on Appropriations, since 1945, has held the total of appropriations bills $180.8 billion below the recommendations of our Presidents. It is entitlements and binding contracts, which bypass our committee's discretion, which have done us in.

Almost all of the Nation's debt occurred because of the policies and actions of our Government.

First, enactment of the 1981 Tax Act has cost us over $2.4 trillion in Federal revenue. Second, we have sustained an increase of over $1 trillion in our trade deficit during the last 10 years—first, because we have given away a large share of our domestic markets and, thereby, destroyed many of our farmers and businesses; and second, because we have failed to retain our normal share of foreign markets.

We are now faced with having to borrow money from foreign sources to finance our debt. Interest on that debt in fiscal year 1991 is $197.0 billion; for fiscal year 1992 it is projected to be $206.3 billion. This interest comes off the top of our economy. Our trade deficit has gone from $19.3 billion in 1980 to $152.1 billion in 187, $119.8 billion in 1988, $108.6 billion in 1989, and $101 billion in 1990. A decade in the red.

In 1986, for the first time since 1914, the United States became a debtor nation and now owes the largest debt of any nation ever throughout history.

Foreigners are buying up our country at an alarming rate. Foreign investment in our country has gone from $8.1 billion in 1983 to $64.6 billion in 1989. The Japanese already own most of the major buildings in Los Angeles and in many other major cities, including Honolulu. We're afraid to ask foreigners how much they own because we have to rely on them to finance our debt.

We are about to get in the situation where we are faced with doing only what our creditors will finance, if we are not already there.

AGRICULTURE MUST AGAIN BECOME A PARTNER

Mr. Chairman, American agriculture is not merely one of the cornerstones of our economy—agriculture, industry and labor—it is basic, the foundation on which the other two depend. Agriculture no longer gets a balanced income, since in 1981 agricultural policy was redirected from one of moving our surplus production in world markets at competitive prices to one of requiring the farmer to get his income through a check from the U.S. Treasury, while requiring him to reduce production and sell below cost. Since that time, the Department of Agriculture has not been using the Commodity Credit Corporation and other farm programs, as authorized by law, to stimulate production, regain our normal share of world markets and enable the producer to receive a fair price from the purchaser of his products. For years we have pointed out that if we let agriculture go down, the overall economy will follow.

For 48 years farm prices were supported at a level of agricultural income sufficient to offset costs and surpluses were sold in world trade at competitive prices. Unfortunately, these sound policies were abandoned during the past decade and the farmers are now being paid not to produce, when the world needs our production and we need the income.

Agriculture, with fewer and fewer directly engaged on the farm, now depends on high priced farm equipment, fertilizer and other high priced essentials. Too often solutions are designed to help other industries; the farm banking industry; the commodity processing industry; or the retailer—ignoring the fact that the producer, who must stay in business if those industries are to survive, doesn't get equal treatment. We need to return to the system that worked for 48 years.

Since 1981 our committee has repeatedly pointed out that if farmers went under financially, the rest of the Nation would follow. They did and it has, although borrowing on credit has tended to hide the true situation until recently.

During the decade of the 1980's, due to the Government's domestic and trade policies, over 300,000 farmers went bankrupt or were forced out of business—adding to our urban problems as well as rural problems. Small towns dried up, except where they were located next to military bases or had businesses that had military contracts. What followed is the national debt of over $3.6 trillion.

WHAT CAUSED OUR FARM PROBLEMS?

Mr. Chairman, for the last decade the farmer and agriculture have been unable to maintain the balance with industry and labor. Often, well meaning actions are taken by our Government that have devastating effects on those engaged in Agriculture.

In 1980 the President placed an embargo on sales to Russia because of her invasion of Afghanistan. The embargo didn't hurt Russia. The action just transferred a part of our farmers' domestic market to our competitors, to a degree, destroying our farmers financially.

In 1983 the President announced the PIK Program to reduce our production, which cost over $12 billion. Our domestic production was reduced 11 percent, our exports were reduced 11 percent, and our competitors overseas increased their production and sales by a like percentage.

Since 1981 our agricultural exports have declined from $43.8 billion to a low of $26.2 billion in 1986 and back to an estimated $38.5 billion for fiscal year 1991. Yet, adjusted for inflation, they would only be $26.3 billion or only 60 percent of the 1981 level. Under the Department's program, the profit has gone to the exporter but the cost is charged to the farmer.

Since 1981 agricultural imports have risen from $10.8 billion to a projected $22.0 billion in 1991, a 100 percent increase; in many cases, these are products our own farmers could be selling.

FAULTY GOVERNMENT RESPONSE

Mr. Chairman, for the last decade our Government has refused to use the Commodity Credit Corporation as originally intended. CCC was set up by Congress so we could compete in world trade with countries which could form government/corporation partnerships for trade. Our competitors often deal on a government-to-government basis. Under our system, we had no means to compete on equal footing so CCC was chartered by Congress. For the last decade our Government has refused to use CCC for its original purpose and, instead, gave the profits on our exports to corporations rather than to the farm producer. Today, CCC is used to fund numerous nonprice support programs, often to avoid budget ceilings.

Instead of using CCC, we have paid large international corporations, many foreign-owned, $3.5 billion in incentives during the last 6 years alone to move our commodities in world trade, and the Department is requesting $1.2 billion more for next year, which is attributed to the farmer through farm programs.

Instead of using CCC, we have paid U.S. corporations $930 million in the last 6 years to promote their products, and the Department is requesting $200 million more for next year, which is also attributed to the farmer through farm programs.

Under the budget ceilings, these costs are all charged to the farmer through the farm program, yet farmers are not the beneficiaries. When our Government refuses to use CCC and section 32 of the Triple A Act for their original purposes, we all suffer. Section 32, where 30 percent of customs receipts are set aside to buy surplus perishable commodities and put them to good use, was intended to be a companion program to CCC, but the funds have been diverted to consumer programs.

To many in Government, the farmer and agriculture are still viewed as supplier of cheap raw materials.

Government planners seem to believe that if they want more, then the solution is to pay a higher price.

If they want less, then they pay a lower price—unware that, with fixed costs, the farmer goes broke unless he produces more units to offset the lower price.

WHAT CAN WE DO TO CORRECT IT?

Mr. Chairman, existing law enables the Government to reinstate the farm programs which operated successfully for 48 years—a program where a fair price was received from the purchaser, both at home and abroad, where we kept our price competitive. During those 48 years, farmers were, to a degree, kept in balance with industry and labor, who are able to pass their increased costs on to the purchasers of their products.

DROP IN TRUE DOLLAR VALUE

Since 1981 commodity prices have fallen, but when viewed in 1981 dollars, the drop has been extreme: Corn was $2.47 and is now $1.52 per bushel; wheat was $3.69 and is now $2.18 per bushel; rice was $9.05 and is now $5.28 per hundredweight; Soybeans were $6.07 and are now $3.89 per bushel; and other commodities have followed the same path.

Remember, restoring the price the farmer receives would have only a small impact on prices. A 60-cent loaf of bread contains only 5 cents worth of wheat. A $16 cotton shirt has 43 cents worth of cotton. If we were to increase the price received by the farmer by 10 percent, it would only add a penny or two to the cost of these items if only that were passed on. Under our system, however, the retailer would charge what the traffic would bear.

OUR GOVERNMENT MUST ACT

Mr. Chairman, there are a number of actions which should be taken to restore the farm economy to a strong and healthy condition.

We should use the authority of the Commodity Credit Corporation Charter Act to develop and maintain foreign markets and enable the American farmer to be competitive in such markets. We should return to a policy of offering Government-held commodities on a competitive bid basis to American exporters for export, controlling how much and when so we don't flood the market, for we live in a competitive world. The large holdings, until recently, of agricultural commodities in CCC inventories, which we had until recently, were the result of failure to sell abroad competitively—not the farm price support program.

By controlling the quantity offered and the spacing of such offerings, we can avoid dumping and use the private enterprise system to benefit the farm producer and thereby restore our Government's finances. Further, we can enable the American farmer to be competitive in world markets. Failure to do so in the past has held an umbrella over world markets and has helped to increase foreign production at the expense of American agriculture. Actually, our foreign competitors take such action now as may be required to sell and then tax their people to offset their costs. Then, by one means or another, they keep our commodities out. On trade agreements, we get out-traded.

Our Government should maintain target prices on basic commodities at a level which will enable the farm producer to cover his costs of production, plus a profit to enable him and his family to remain on the farm. Such target prices must be at a level high enough to compensate for high U.S. labor and material costs established by other basic laws. Farmers either make costs plus enough profit to make a living like everyone else, as they did for many years prior to 1981, or they deplete the land, go broke and move to town.

We should return to those farm programs which, for many years, enabled the farmer to secure his income from the users of his products rather than from the U.S. Treasury.

Also, we should follow policies which encourage full production, since volume is as important to the farmer's income as price, and it is important to world needs. Even if a farmer is guaranteed parity prices or higher, reductions in production reduce his gross income to a level insufficient to cover his costs of production and living expenses. That has been demonstrated by the 300,000 farmers who went bankrupt during the past 10 years and had to leave farming.

RESTORATION OF PRODUCTION PROGRAMS ESSENTIAL

Mr. Chairman, to place added emphasis on the importance of agriculture, the title of the bill has been changed to Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Subcommittee. It must be realized that the best rural development program in the world is a sound farm program—a farm program that allows the farmer to pay for his land, educate his family, and purchase the products of industry and labor.

In this context the committee has strengthened the programs of the Farmers Home Administration, including the restoration of operating loans, and has not provided funds for splitting the agency into two separate agencies.

AUTHORIZATION VERSUS BUDGET CEILINGS

The 1990 authorization bill for the Department of Agriculture, which was signed into law on November 28, 1990, authorized numerous additional costly requirements for the Department which, because of lack of regulations written, hearings as to the effects of the proposed changes—as well as ceilings imposed by the Budget Act, are not implemented at this time.

Likewise, the committee is equally concerned over the Food and Drug Administration where, in 1990 alone, 12 major new responsibilities have been assigned through various authorizing laws.

Members of the committee support many of the new programs authorized for FDA and the Department, yet budget ceilings have required the committee to postpone their funding.

SCOPE OF BILL

Mr. Chairman, the bill includes funds for all agencies of the U.S. Department of Agriculture, except the Forest Service, which is funded in another bill. It also includes funds for certain related agencies such as the Food and Drug Administration and the Commodity Futures Trading Commission. In addition, it establishes limitations on funds for the Farm Credit Administration and the Farm Credit System Assistance Board.

Title I of the bill provides funds for the Department's agricultural programs, including production and processing, research, extension, animal and plant health, food safety and marketing services. It also funds farm income stabilization—price supports—crop insurance and farm export programs.

Title II of the bill funds the conservation programs of the Agricultural Stabilization and Conservation Service and the Soil Conservation Service—programs of the Department designed to protect and preserve the soil and water resources of the Nation for future generations.

Title III includes funds for the rural development assistance programs of the Department, including the loan programs of the Farmers Home Administration and the Rural Electrification Administration. The committee has included funds to restore these programs which are so essential to farmers and rural residents.

Title IV provides funds for the Department's domestic food programs, including women, infants, and children [WIC], child nutrition, special milk, food stamps, food donations, food assistance aid to the elderly, and human nutrition information. As previously mentioned, 60 percent of the funds in this bill are for these consumer programs.

Title V provides funding for the Department's foreign assistance and related programs, including the Foreign Agricultural Service, Public Law 480, the Office of International Cooperation and Development, and export programs of the Commodity Credit Corporation.

Title VI provides appropriations and establishes limitations for the Food and Drug Administration and other various related agencies.

Agriculture is the base on which we build, because that is where wealth comes from, and industry and labor are dependent upon the well-being of American agriculture.

I have had occasion to study, since I have been here, the Great Depression that we had. It started with a break in farm income, and it lasted until we restored the income of farming, the purchasing power of agriculture. Today we seem to have forgotten.

I am for the consumer programs that we have been so fortunate as to have, but let me remind the Members that you have got to produce first before you can consume. We do not seem to realize that.

Let me tell you that as much as we afford the things that we enjoy, and we hope we can keep in, 60 percent of this bill is for consumer programs, and there is more and more, and we well have some arguments today about looking after rural areas.

HELP FOR THE INNER CITIES

Mr. Chairman, I have had some of my friends from Chicago and other places point out to me that we have places that are not rural that need help, our inner cities. In nearly every big city of this country they have areas that need help from Washington. I mention this is the report about certain sections of the country, and sooner or later we are going to have to deal with that problem.

JOBS BILL

Mr. Chairman, for 48 years we had a prosperous United States. We had prosperity all over the country. Then in about 1981 we started letting agriculture have what was left, and I have tried to point out that if you keep it up you are going to have a depression. Right now we are in the middle of a recession. I am not trying to be all that blue, but about 3 months ago I recognized the trend of the times.

□ 1710

I introduced the jobs bill. Not only that, but we have the savings and loan situation. All of its traces back to rural areas failing to come through because of the decline in agriculture since 1981.

In connection with that, if we look at the overall situation, our economy will not come back until we do recognize that we have to have a sound agricultural base.

RECONSTRUCTION FINANCE CORPORATION

I recently talked to the chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Texas [Mr. GONZALEZ]. In my experience practicing law before I came to this Chamber, I had refunded a number of organizations through the Reconstruction Finance Corporation, a corporation set up by President Hoover during his tenure, but which was really used by Roosevelt. The difference between the Reconstruction Finance Corporation and what we are doing now is that with the RFC we could run the operation until we got the money worked out of it. Today we run a real risk in giving away great assets, to get rid of them instead of holding onto them.

RURAL DEVELOPMENT ADMINISTRATION

Mr. Chairman, later today an amendment will be offered to the bill to strike a provision related to the Rural Development Administration. As we point out in our report, there are no funds in the bill for this proposed new Agency.

At this point in the RECORD, Mr. Chairman, I would like to insert a statement from the Office of Management and Budget which also points out that there is no money in the bill for the proposed Agency.

(The statement follows:)

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, June 26, 1991.

STATEMENT OF ADMINISTRATION POLICY

[This statement has been coordinated by OMB with the concerned agencies.]

H.R. 2698—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, FY 1992

This Statement of Administration Policy expresses the Administration's views on the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill, FY 1992, as reported by the Committee.

Budget and farm bill agreements

It is the Administration's view that the Committee bill would undermine several important provisions of the Omnibus Budget and Reconciliation Act (OBRA) and the farm bill. These laws, enacted last year, reflect agreement between the Congress and the Administration on agricultural policy and funding priorities.

The Committee bill would significantly alter sections 1201 and 1202 of OBRA. These sections prescribe loan levels for each of the next five years for both the Rural Electrification Administration (REA) insured electric and telephone loans and the Farmers Home Administration (FmHA) farm ownership and operating loans. The OBRA savings from agriculture were carefully developed by the Congress and the Administration to ensure a fair and balanced distribution of reductions across agricultural programs and interests.

The Committee's recommendations would significantly undercut this balanced approach by not only exempting a major part of the agricultural community from responsibility for shouldering reductions, but by actually increasing the availability of loans over FY 1991 levels. Most importantly, this exemption would go to the most wealthy of Federal aid recipients: REA telephone borrowers, at the end of FY 1989, telephone borrowers had $1.6 billion in cash on hand, with many holding cash in excess of twice the value of their physical assets. In FY 1990, only $58 million in loan requests out of $145 million in telephone loans actually granted qualified outright for highly subsidized five-percent telephone loans. Virtually all other applicants could well afford REA loans of 8.5 percent, or commercial loans.

The Committee bill would greatly increase the subsidized farm operating direct loan program by adding $500 million more in direct loans than was authorized in OBRA, while not reducing the provision of subsidized guaranteed loans that OBRA increased to offset direct loan reductions. Subsidized guaranteed loans provide borrower financing that is just as affordable as direct loans and, in addition, help Federal borrowers establish needed relations with commercial banks.

Rural Development Administration

No funding is provided for the Rural Development Administration (RDA), which was authorized by the 1990 farm bill and requested at a program level of $73 million in the FY 1992 Budget. A general provision of the Committee bill (section 739) would prohibit the RDA's establishment, which would provide the first step toward better coordination of the many rural development programs throughout USDA. In the absence of the RDA, the confusion voiced by rural Americans about the purpose and availability of Federal assistance for rural development would continue. The Administration urges the House to permit the establishment of the RDA.

Quarantine Inspection Program

The Committee bill also undermines an OBRA and farm bill agreement (sections 1203 and 2509, respectively) for the collection of user fees to cover the cost of the Agriculture Quarantine Inspection program of the Department of Agriculture. Under the budget agreement, the Department was to recover the costs (estimated at $82 million in FY 1992) of inspection of passengers and freight arriving at the mainland U.S. border from other countries as well as from off-shore domestic sites. The Committee bill would prohibit the use of appropriated funds to develop or operate the domestic fee program, at a cost of $13 million in forgone revenue. OBRA and the farm bill intended to shift the burden of the inspection costs from the taxpayer to those carrying or shipping potentially dangerous animal and plant diseases and pests into the mainland.

The Administration urges the House to amend the Committee bill to conform with the national agricultural priorities already established by the farm bill and OBRA.

Food and Drug Administration

Instead of adopting the Administration's proposal for Food and Drug Administration (FDA) user fees to recoup industry benefits from FDA approvals, the Committee has made one-quarter of the FDA's resources dependent upon a subsequent budget request from the Executive Branch. The Administration believes that the FDA requires the full $770 million requested in the FY 1992 Budget to protect the health and safety of the American people. The Administration would not submit an amended budget request and urges the House to make the full appropriations available upon enactment and to adopt the Administration's proposal for user fees. If the Congress provides the funding level in the Committee bill the direct and unavoidable result will be an increased health and safety risk to millions of Americans.

Basic research in agricultural science

The Administration urges the House to restore adequate funding for basic research in agricultural science. The Committee bill would provide only $99 million of the $125 million that the President requested for competitive grants. Authorized by the farm bill, the National Initiative for Research on Agriculture, Food, and Environment would enable the U.S. to maintain and build its competitive edge in agriculture by supporting the development of new food production, processing, and marketing technologies. It is the Administration's view that—with the prospect of free global farm trade ahead—this is not the time to undercut the research that will form the foundation of farming's prosperity.

Rural housing programs

The Committee has constrained the options available for financing low-income housing by not funding the Farmers Home Administration's (FmHA's) subsidized guaranteed home purchase loans and voucher program for rural rental assistance. For FY 1992, the President has requested a $317 million increase over the FY 1991 level for subsidized guarantees. Although the Committee has funded both unsubsidized direct and guaranteed loans, it has eliminated subsidized guarantees entirely. With the rural housing market in need of credit, the subsidized guaranteed loans available in FY 1991 have filled a gap for low-income home borrowers who need modest Federal assistance to qualify for commercial loans. The Administration believes that the $190 million requested for housing vouchers should be restored. Vouchers are a proven, cost-effective alternative to providing housing assistance to rural Americans, especially those who cannot afford FmHA home purchase loans at one percent. The successful rural voucher demonstration program in FY 1988 underscored the demand for and effectiveness of vouchers in rural areas.

Initial scoring of bill

On the basis of OMB's initial scoring, the Administration finds that the Committee bill exceeds the House 602(b) domestic discretionary budget authority allocation by $40 million and the domestic discretionary outlay allocation by $51 million. The bill is within the House 602(b) allocation for international discretionary budget authority and outlays. In aggregate, the House 602(b) allocations are consistent with the statutory spending limits enacted in the Budget Enforcement Act.

Additional administration concerns with bill

Additional Administration concerns with the Committee-reported bill are discussed in the attachment.

[Additional concerns]

H.R. 2698—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, FISCAL YEAR 1992

MAJOR PROVISIONS OPPOSED BY THE ADMINISTRATION

A. Funding levels

Department of Agriculture

Conservation Programs.—Environmental goals of the President, echoed in the farm bill, would be seriously compromised by the Committee's action. First, the Committee bill fails to provide funds for the wetland reserve component of the Environmental Conservation Acreage Reserve Program (ECARP). The President has requested $124 million to purchase easements on 150,000 acres of farmland, working toward a wetland reserve enrollment goal of 600,000 acres as part of the farm bill minimum enrollment goal for ECARP of 40 million acres. Wetland acres would be selected in a nationwide competition to ensure that environmental and wildlife benefits would be maximized.

In addition, by reducing the President's request by $25 million, the Committee bill would markedly hamper the Soil Conservation Service's work with farmers to implement recently-completed conservation compliance plans.

These programs would provide a significant environmental benefit by improving the land and water resource base through farm management actions and wetland restoration and protection. At the same time that the Committee has reduced funding for the farm bill-mandated programs, it has provided an increase of $56.8 million, or 33 percent, above the budget request for discretionary watershed and river basin programs that fail to provide broad environmental benefits. The Administration urges the House to fund fully the important environmental initiatives addressed in the President's request.

Federal Crop Insurance Corporation (FCIC).—The Committee-reported bill would provide $87 million less than requested for the Federal Crop Insurance Corporation Fund. The Administration believes that only a $50 million reduction can be justified. The difference arises out of variance in assumptions concerning the level of reimbursement to the Fund necessary to provide for its prior-year spending for administrative expenses. These operating costs are paid out of FCIC's Administrative and Operating Expenses appropriation unless funds there are insufficient to cover the total need. Then, FCIC may use the Fund's resources to meet selected expenses. The Administration believes that $37 million of reimbursement for FYs 1980–90 expenses is still required in the FY 1992 appropriation but agrees that the $50 million in reimbursement originally requested for FY 1991 is not needed. The Administration urges the House to fund the necessary $37 million.

Food and Nutrition Service (FNS): Commodity Supplemental Food Program.—The Committee has provided nearly $6 million more than requested for elderly caseload despite information from FNS suggesting that carryover balances from FY 1991 would be sufficient to support the elderly. The Administration urges the House to reduce the excess funding for elderly caseload.

FNS: Food Stamp Program.—The Administration is pleased that the Committee has included a reasonable contingency fund for the Food Stamp Program but is concerned that the appropriations language does not include the phrase, "such sums as may be necessary," as requested in the FY 1992 Budget. Funding needs for the program have become increasingly uncertain, as the once certain relationship between unemployment and food stamp participation has broken down. "Such sums" language would ensure the continued availability of food stamp benefits to millions of participants. The Administration urges the House to include "such sums" language.

FNS: Child Nutrition Program.—The Administration objects to the Committee bill's doubling of the request for nutrition education and training (NET). The increase in NET funding is unwarranted and would improve neither nutritional intake nor program accountability. The Administration urges the House to reduce funding for this program to the requested level.

Office of the Inspector General.—The Administration supports full implementation of the CFOs Act of 1990. The Committee has not provided $4.5 million that was requested for audits of financial statements. The Administration urges restoration of this funding to carry out implementation of the CFOs Act at the level required by law.

Departmental Administration.—A major objective of the Administration is to improve the efficiency and effectiveness of managing agencies' programs and operations. The Committee's reduction of $1.5 million to the request for Departmental Administration represents an 80-percent reduction in the funding requested for new programs to support improved management. The committee-approved level would hamper management of the Department's planning, coordination, review, and assessment efforts in financial management, personnel, information resources, and general operation of the Department. The Committee's recommended level would not allow appropriate implementation of important initiatives related to the preparation of financial statements and necessary integration of administrative and financial management systems. The Administration urges the House to provide full funding for this area.

B. Language provisions

Micro-management: Implementation of Regulations.—Section 714 of the Committee bill would prohibit the use of funds to implement, administer, or enforce regulations disapproved by resolution. This represents unwarranted micromanagement and is an intrusion into Executive Branch functions. The Administration urges the House to remove this section.

Micro-management: Farmers Home Administration (FmHA) Loan Programs.—The Committee bill includes general provisions that represent micro-management of FmHA's loan programs, including a prohibition on the use of private debt collection agencies to collect delinquent payments from FmHA borrowers (section 729). The use of debt collection agencies for seriously delinquent debt is a proven private sector debt collection tool. Federal agencies received authority to use this tool in the Debt Collection Act of 1982. Several Federal agencies have successfully used these collection services for housing, student, and business loans. In the Administration's view, there is no reason to exempt the rural sector of the country from a technique that is intended simply to supplement the efforts of agency personnel to collect problem debts. The Administration urges the House to delete this provision.

FTE Floors.—The Administration objects to the continuation of arbitrary personnel floors for the Food and Drug Administration, the Farmers Home Administration, the Agricultural Stabilization and Conservation Service, the Rural Electrification Administration, and the Soil Conservation Service. Personnel floors are an unwarranted intrusion into Executive Branch management prerogatives and can only result in the inefficient allocation of scarce Federal resources. For example, the FDA personnel floor would slow the drug-approval process and reduce the flexibility needed to respond to emergencies by tying up funds in maintaining unneeded personnel. Further, FDA would not have the flexibility to contract for non-Federal expertise or invest in developing the agency's capability to meet future challenges. The Administration urges the House to delete section 724.

New Projects.—The Administration objects to the section 721 requirement that not less than 20 new construction projects be initiated under the Watershed Protection and Flood Prevention Act (P.L. 566), and not less than five new projects be initiated under the Flood Control Act (P.L. 534). Such requirements applied within a fixed appropriation would necessitate that funding be applied to the more expensive construction projects and would reduce funding for environmentally sensitive land treatment activities. The Administration urges the House to delete section 720.

Mr. Chairman, I would also like to include in the RECORD two letters we received regarding the committee position. The first is from my good friend, the gentleman from Texas [Mr. GONZALEZ], the chairman of the Banking, Finance and Urban Affairs Committee. The second letter is from a number of rural housing organizations who also support the committee's position.

The letters follow:

SUBCOMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT OF THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,
Washington, DC, June 26, 1991.

Hon. JAMIE L. WHITTEN,
Chairman, House Committee on Appropriations, Washington, DC.

DEAR JAMIE: I'm writing to offer my strong support for the Agriculture, Rural Development and Related Agencies Appropriations bill for the fiscal year 1992 as reported by your Committee, particularly with regard to the funding of the Rural Development Administration. As I have expressed to Secretary Madigan, I am quite concerned about the effect of the creation of the RDA on the administration of the rural housing programs of the Farmers Home Administration. I can see little that can be gained by disrupting a good housing delivery system and decimating a strong and stable housing program to expend funds on a largely duplicative agency within the Department of Agriculture. The FmHA housing programs have long been hailed as the most successful housing programs serving rural areas in large part because of the loan origination and servicing by the dedicated employees of the FmHA in the existing FmHA district offices.

I do not believe that the RDA will improve the administration of rural development programs or improve services to the residents of rural America. There is a clear and inseparable relationship between community facilities and the development of housing in rural areas and I believe that funding the RDA will severely disturb that essential relationship.

As you know, we are now marking up the bank reform legislation or I would be present on the floor to express my strong support for the Committee's position. I would deeply appreciate it if you would offer this letter of support for the record.

Sincerely,
HENRY B. GONZALEZ,
Chairman.

JUNE 26, 1991.

DEAR REPRESENTATIVE WHITTEN: We are writing to you as a coalition of organizations representing rural housing and community development interests, including homebuilders, developers and consumers. We are in full support of the general provision in the Agriculture Appropriation Bill which prohibits the establishment of a Rural Development Administration (RDA) within the U.S. Department of Agriculture.

The RDA will not improve administration of rural development programs. At present, one federal agency, Farmers Home Administration (FmHA), is responsible for rural housing and community development programs. If the RDA is approved, local borrowers will be forced to deal with two federal agencies, rather than one.

Creation of the RDA will not result in more coordination where it counts: in rural America. In most rural areas, central facilities are necessary to improve housing. FmHA housing and community facilities programs work to improve rural areas. If the RDA is approved, community facilities programs will be separated from housing.

The RDA will not improve service to rural areas. Cost considerations make it virtually impossible to duplicate the existing system of FmHA offices which administer housing and community development programs in rural areas.

The RDA will divert resources from FmHA, thereby weakening the principal federal rural development agency. Resources will be taken from FmHA to establish a new, unnecessary, more centralized bureaucracy which may well be less responsive to rural needs. The creation of the RDA will not result in better service to rural areas, just more rigmarole and red tape.

FmHA has changed the face of rural America. In its history, FmHA has made more than 60,000 loans and grants totalling more than $22 billion to provide needed community facilities and economic opportunity in rural areas. Rural housing conditions have improved as FmHA has made over 2 million rural housing loans totaling more than $57 billion. We see little reason to change a program that has worked.

We urge you to defeat any attempt to strike the general provision related to the Rural Development Administration.

Council for Rural Housing and Development, National Association of Home Builders, National Rural Housing Coalition, North Carolina Council for Rural Rental Housing, Rural Builders Council of California.

Mr. Chairman, our committee has always strongly supported rural development. We do not support efforts to split the Farmers Home Administration and set up a separate agency.

Our committee has provided funding for rural development in the Farmers Home Administration—the agency that has successfully carried out these programs for many years. A summary of activities and funds take up a full page in our report which I will include in the RECORD.

Our bill restores and increases funding for rural housing, water, and sewer grants and loans and the other essential rural development programs—programs Congress has worked hard to maintain.

Rural America can ill-afford to lose personnel and support for the programs so essential to a healthy rural economy.

Mr. Chairman, the table which I will include shows the very extensive rural developments programs we have provided under the Farmers Home Administration.

(The table follows:)

FARMERS HOME ADMINISTRATION LOAN AND GRANT LEVELS

[Dollars in thousands]

	1991 level	1992 level	1992 provisions
Rural housing insurance fund:			
Low-income housing loans (sec. 502)	$1,226,451	$559,000	$1,226,451
Unsubsidized direct loans	50,000	0	50,000
Unsubsidized guaranteed loans	70,000	347,000	350,000
Subsidized guaranteed loans	30,000	347,000	0
Rural housing development loans (sec. 524)	600	0	600
Rural rental housing loans (sec. 515)	573,900	341,000	573,900
Very low income repair loans (sec. 504)	11,330	11,100	11,330
Domestic farm labor plans	16,300	16,250	16,300
Credit sales of acquired property	0	284,000	284,000
Subtotal Rural housing insurance fund	1,978,581	1,905,350	2,512,581
Self-help housing land development fund	500	0	500
Agricultural credit insurance fund:			
Farm ownership loans:[1]			
Direct	33,000	37,000	46,500
Fiscal Year 1990 Act	13,500	0	0
Unsubsidized guaranteed loans	509,000	150,000	509,000
Subsidized guaranteed loans	0	50,000	0
Soil and water loans:			
Direct	5,500	0	5,500
Guaranteed	1,500	0	1,500
Indian land acquisition	1,000	2,000	1,000
Farm operating loans:[1]			
Direct	900,000	410,000	900,000
Unsubsidized guaranteed loans	2,600,000	2,000,000	2,600,000
Subsidized guaranteed loans	0	564,000	0
Emergency loans	600,000	25,000	600,000
Watershed and flood prevention loans	4,000	0	4,000
Resource conservation and development loans	600	0	600
Credit sales of acquired property	0	250,000	250,000
Subtotal, Agricultural credit insurance fund	4,668,100	3,488,000	4,918,100
Rural development insurance fund:			
Water and waste disposal loans	500,000	425,000	600,000
Guaranteed	35,000	0	35,000
Community facility loans	100,000	45,700	100,000
Guaranteed	25,000	50,000	25,000
Rural industrialization loans (guaranteed)	100,000	95,000	100,000
Subtotal, Rural development insurance fund	760,000	615,700	860,000
Rural development loan fund	32,500	35,000	32,500
Rural development loan fund	32,500	35,000	32,500
Home repair grants	12,500	5,000	12,500
Rural housing for domestic farm labor	11,000	5,000	11,000
Mutual and self-help housing grants	8,750	0	8,750
Supervisory and technical assistance grants	....	....	2,500
Compensation for construction defects	500	0	500
Rural housing preservation grants	23,000	10,000	23,000
Rural rental assistance (voucher program)	0	189,928	0
State mediation grants	3,750	2,000	3,750
Water and waste disposal grants	300,000	225,000	350,000
Rural community fire protection grants	3,500	0	3,500
Rural development grants	20,750	20,000	20,750
Solid waste management grants	1,500	0	1,500
Emergency community water assistance grants	10,000	0	0
Subtotal, grants and payments	703,350	726,728	745,850
Total, loans, grants, and payments	8,631,031	6,770,778	9,069,531

[1] Does not reflect Public Law 101–508, the Omnibus Budget Reconciliation Act of 1990, levels.

Mr. Chairman, I could go on and on about this bill. I am proud of my record here, if I may say so. Our approach has been to help every section of this country, as asked of us by our colleagues, from those areas. If there was a single dissenting vote in the 59 members on the committee, it was silent when we brought this bill out. So we bring Members a good bill, a sound bill. As I say again, we are going to have to produce if we will have anything to consume. If we do not believe we need to restore the old farm bill, which makes sense, if we are not willing to do that, we will have more and more of the same. We will have more and more bankruptcies and people moving to the cities.

I am glad I introduced the jobs bill, because it becomes more and more evident that it will be necessary.

I would also like to thank the gentleman from New Mexico, Mr. SKEEN, the ranking member on our subcommittee, for all his help and cooperation as we developed this bill over the last 5 months.

I would like to thank our vice chairman, the gentleman from Michigan, BOB TRAXLER, who also worked long and hard on the bill. Our other members of the subcommittee are MATTHEW F. MCHUGH, WILLIAM H. NATCHER, RICHARD J. DURBIN, MARCY KAPTUR, DAVID E. PRICE, NEAL SMITH, DAVID R. OBEY, JOHN T. MYERS, VIN WEBER, and BARBARA F. VUCANOVICH.

They have all worked long and hard on the bill.

The gentleman from Pennsylvania, our new full committee ranking minority member, JOE MCDADE, has been a pleasure to work with and has cooperated with us throughout the process.

Finally, Mr. Chairman, I would like to thank our staff who have assisted us so ably all year in the effort to bring this bill to the floor.

Mr. Chairman, I repeat again that on our full committee, 59 members, if there was any opponent to this bill that we reported out, there was silence from the 59 members. I am proud to have that support. I hope I will have other Members' support here on the bill.

Mr. Chairman, I reserve the balance of my time.

Mr. SKEEN. Mr. Chairman, I yield myself such time as I may consume and I rise in support of the bill.

Mr. Chairman, at the outset of today's deliberations, I want to compliment the chairman of our committee and subcommittee—the distinguished gentleman from Mississippi [Mr. WHITTEN]—and the other members of the subcommittee, and the staff for their hard work and untiring efforts to produce this bill.

This bill comes in at $52.6 billion in budget authority, which is $9.9 million below the President's budget request. However, because of the large mandated entitlement programs in the bill, such as the Food Stamp Program, only $12.4 billion of our total budget authority is in discretionary spending.

Given all of the House Appropriations Subcommittees' tight budget allocations this year, this bill, in many ways, represents our best efforts.

While I am sure the administration will express some reservations with this bill—and I am confident our differences will be worked out along the way—Members of this distinguished body do not need to hold or heed any reservations in supporting this bill.

In drafting this legislation, I thank the chairman and his staff for their efforts to accommodate as many Member requests as possible. In most cases, the committee was able to effectively address Member requests.

This bill provides important Federal support for our farmers, consumers, and agricultural researchers.

Briefly, I would like to stress some major highlights in this bill.

On the farmer's side, this bill provides funding for several rural economic development programs and continues to assist farmers in the development and enhancement of export markets.

On the research side, this bill includes $99 million for the President's National Research Initiative Competitive Grant Program, a proposed increase of $26 million over last year's funding level. Major research programs in the areas of water quality, air quality, the environment, and nonpoint source pollution are also funded in the bill.

On the consumer side, this bill provides $2.6 billion for the Women, Infants, and Children [WIC] Program, an increase of $250 million above last year's level.

I appreciate working with the chairman and Members of the House in developing this bill, and I look forward to working with our fellow colleagues and the administration in the weeks ahead in achieving a final version of this bill which all sides can proudly support.

Mr. WHITTEN. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. MCHUGH].

Mr. MCHUGH. Mr. Chairman, I rise in support of this appropriations bill and urge my colleagues to support it. I appreciate and value the leadership of our chairman, Mr. WHITTEN, whose contributions to American agriculture span 50 years in Congress. I also appreciate the cooperation of our ranking Republican on the subcommittee [Mr. SKEEN]. It is a privilege to serve on this subcommittee where there is genuine bipartisan support for the important programs funded by this bill.

Each year this bill appropriates what is necessary to fund the operations of the Department of Agriculture. These programs are important to both farmers and consumers. Sustaining the producers, an increasingly shrinking portion of our population, is a critical goal of the bill.

However, more than half the resources in this legislation are devoted to feeding, nutrition, public health and safety, and other programs that are of direct benefit to consumers—programs that serve some of the most vulnerable people in our society: the children, the elderly, and the poor.

This bill funds the Food and Drug Administration, rural housing programs, water and sewer systems in rural communities, and vital research to assure our ability to meet our needs for fiber and safe, wholesome food.

Mr. Chairman, there are a wide array of essential programs in this bill, but I would like to take special note of the WIC Program, the Special Supplemental Food Program for Women, Infants and Children. As my colleagues know, this nutrition program is targeted at pregnant women with limited incomes and their children under age 6 who are at nutritional risk. Numerous independent studies have confirmed through the years that the supplemental food packages which are provided at modest cost are extraordinarily effective in reducing infant mortality rates, preventing mental retardation, and enhancing the health of vulnerable children. These studies have also demonstrated that for every dollar invested in WIC there is a savings to taxpayers of $3 in medical costs that would have otherwise been incurred in programs like Medicaid.

For this reason, the WIC Program has enjoyed unusually strong bipartisan support. Even during the last decade, when many domestic programs were being cut or eliminated, our committee not only protected WIC, but extended its reach to serve more women and children. In 1980, we served 2.2 million people. In this bill, we are recommending $2.6 billion which would serve approximately 5.1 million people.

Our recommendation calls for an increase of $250 million over fiscal year 1991. This will not only maintain current services, but provide an additional $150 million for expansion.

If the committee were not subject to significant budget constraints, I am confident that we would be recommending even larger appropriations for WIC. It is one of the most cost-effective programs we fund, and even with the increases of the last 10 years, over $1.2 billion, we are still reaching only 55 percent of the eligible population. I hope we can do better in the future.

Mr. Chairman, this is a bill that promotes the interests of American producers and consumers alike, while at the same time keeping faith with the reality of the budget limitations under which we must operate. I urge my colleagues to support it.

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Mr. SKEEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. MCDADE].

Mr. MCDADE. Mr. Chairman, I thank my friend, the gentleman from New Mexico, for yielding this time to me.

Mr. Chairman, we are now taking up the penultimate appropriations bill, rural development and agriculture appropriations, the 12th of 13 bills to be considered on the House floor. We will get to the final bill, transportation appropriations, which has been unavoidably delayed, after the July 4 recess.

I think that we have done an excellent job in moving the bills through committee and the floor thus far. Except for the transportation bill, we are matching our 1988 pace, when we passed all 13 appropriations bills through the House by the July 4 recess, and went on to have all the conference reports approved before the start of the 1989 fiscal year. You have to go back to 1977 to find another time when the committee moved so quickly. Now it is up to the Senate to continue the good work.

The rural development and agriculture appropriations bill is heavily weighted toward mandatory programs. Only $12.4 billion of the $52.6 billion total—less than one quarter of the bill—is discretionary spending. The rest primarily is made up of $22.2 billion for food stamps and $6.1 billion for child nutrition, $8.45 billion for Commodity Credit Corporation reimbursements for losses, $1.6 billion for the conservation reserve, and $222 million for the crop insurance fund.

In both mandatory and discretionary programs the bill falls within the 602(b) limits for budget authority, and just slips in at the 602(b) limits for outlays. Overall, the bill is $1.5 billion below the fiscal year 1991 level. The members of the Agriculture Subcommittee really stretched, pulled, twisted, and shoved to make everything fit within the limits, and as usual they did a commendable job accommodating the hundreds of requests from Members.

I want to make special note of the work that my good friend from New Mexico, the ranking Republican of the subcommittee, JOE SKEEN, did on this bill. In his first year as ranking Republican he has done an outstanding job working with Chairman WHITTEN, and keeping a keen eye out for the interests of the President and the minority, and I thank you for it, JOE.

And of course I want to thank the gentleman from Mississippi, Chairman JAMIE WHITTEN, for listening to all members and producing a bill that we can all support.

The bill does a number of very good things.

Once again we have allocated a hefty increase for the WIC Program, raising it by $250 million to a total of $2.6 billion. We have also increased funding for the Commodity Supplemental Food Program by $9.4 million over the 1991 appropriation in order to prevent any reduction in the caseload of elderly food recipients.

I am especially appreciative of the support from Chairman WHITTEN and members of the subcommittee for the provision of $350 million in the Farmers Home Administration section 502 housing guarantees. This proposal had the strong backing of the administration and was included in the budget request.

I introduced legislation in 1989 to extend the Farmers Home 502 Program to authorize loan guarantees for first-time low- and moderate-income rural Americans to buy or construct a modest single family residence. The bill was a response to the concerns I had been hearing in my own congressional district that rural Americans who were trying to become first-time homeowners were not adequately served by the existing housing programs.

The Housing Subcommittee held hearings on May 16, 1989. Testimony was heard from several of my constituents who told of their difficulty in securing housing loans. The committee, under the able leadership of Chairman GONZALEZ, and my friend from Ohio CHALMERS WYLIE, added my proposal to the comprehensive housing reauthorization legislation enacted last year.

I was pleased that the fiscal year 1991 agriculture appropriations bill provided $100 million in loan guarantees to demonstrate the program in 20 States. The program has been generating a great deal of positive interest by potential homebuyers, lending institutions, realtors and homebuilders. Fannie Mae will be announcing tomorrow that they will be providing the secondary market component for the program.

All of the elements to make this program a success are now in place. The $350 million provided in the bill before us today will allow the program to expand nationwide. I envision that this program will be as successful in rural America as the FHA and VA Loan Guarantee Program have been in urban and suburban areas.

The bill also takes care of the Soil Conservation Service by providing a much needed $78.7 million increase, and it continues to expand the financial resources for the Food and Drug Administration to meet its ever increasing responsibilities.

There were some difficult decisions to be made, and I know that some Members are disappointed because of what we did not do. The bill does not contain funding for a few of the new programs authorized by last year's farm bill.

Most notably, we have not funded the Rural Development Administration. While we have restored proposed cuts and even increased funding for a number of rural development programs within the Farmers Home Administration, there certainly has been some concern voiced in the subcommittee about setting up a new bureaucracy to run the same programs which Farmers Home has successfully administered for years. I understand we will have more discussion on this later from the gentleman from Oklahoma and the gentleman from Missouri.

Mr. Chairman, I think that this bill does a good job of setting our priorities for the agriculture and food assistance programs in a fiscally responsible manner. It is a bill that deserves support, and I urge Members to vote for it.

Mr. WHITTEN. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. PRICE], a member of the subcommittee.

Mr. PRICE. Mr. Chairman, I rise today in support of the Rural Development, Agriculture and related agencies appropriations bill.

This is my first year of service on the Appropriations Committee, and I have been fortunate to have the Agriculture Subcommittee as one of my two subcommittee assignments. I am fortunate not only because of the voice this has given me on matters of critical interest to North Carolina, but also because of the chance to work with the chairman of both the full committee and the subcommittee, JAMIE WHITTEN.

The chairman's unmatched familiarity of the agencies under his purview and his mastery of the subject matter before our subcommittee has been demonstrated over and over. I can count only one or two sessions where he was unable to preside personally, and the reason was always because of other committee business. So he has set a pace that a new Member like myself is at pains to keep up with. I am grateful to him for the many courtesies he extended to me during our hearings, and I salute him in bringing to the floor, for what I understand to be the 42d time, an important, evenhanded and well-written appropriations bill.

I must also pay my respects to the professional staff at the subcommittee, who have shepherded my staff and me through the hearings this year. Bob Foster, Tim Saunders, Carol Novack, and Toni Sãvia do an outstanding job, and this bill mirrors their dedication and hard work.

Others have already pointed out the important jurisdiction of this subcommittee—ranging from important nutrition programs, such as food stamps, WIC, school lunch, to the consumer protection programs administered by the Food Safety and Inspection Service and the Food and Drug Administration, to the Agricultural Research Service, Agricultural Extension Service and other agencies who are taking agriculture's lessons to our constituents, to the housing and development programs of Farmers Home Administration.

Yet Chairman WHITTEN has rarely let us forget that farmers and agriculture are at the heart of these other programs that sometimes catch our attention more readily—that agriculture is our biggest dollar producer, comprises the biggest segment of our exports, remains our biggest employer and by every definition, is the mainstay of the rest of our economy. In retaining, over the years, his chairmanship of this subcommittee despite being a member of each of the 13 subcommittees, the chairman gives his personal emphasis to the importance of agriculture—an importance he reinforces to committee members, witnesses and agency officials every day. You cannot attend very many meetings of our subcommittee without hearing this lesson long and loud, and it is one that we proclaim loud and long today.

I want to focus on several aspects of this bill today—the nutrition programs, the consumer protection programs overseen by the FDA, and one subject I know something about from my service on the Banking Committee—the rural housing programs. Let me start with rural housing.

Our committee has a long history of support for the rural housing, farm ownership, soil and water conservation, and rural business development programs overseen by the Farmers Home Administration. This support cannot be taken for granted; the President submitted a budget requesting cuts of more than $1 billion in direct loans and subsidized loan guarantees for low income home ownership. But the committee has worked effectively to protect these vital programs.

The administration also proposed to divert housing resources, currently targeted to low income rural citizens—particularly assistance for home ownership—to those with higher incomes. This misguided attempt to channel valuable resources into subsidized guaranteed loans to which most low-income communities would be unable to gain access, was recognized and these resources were redirected. Last year some 70,000 households received assistance through home ownership or rural rental housing programs, and we continue that level of assistance in this bill. It is obvious from these administration attempts to change the traditional mission of FmHA that maintaining the integrity of these programs has never required more vigilance on the part of our committee or the House.

The Food and Nutrition Service oversees a number of important programs: Food stamps, WIC, milk, school lunch, emergency food assistance and others. The committee has always been as generous as possible within its allocation and its other important mandates in funding these programs at the highest levels possible. This year is no exception.

For child nutrition programs, the committee adds $490 million to the fiscal year 1992 level—$2.5 million more than the President requested.

For WIC, one of the most cost effective programs administered by the Federal Government by virtually any standard, and an important program in fighting the high levels of infant mortality that affect many areas of the country, especially the Southeastern States: the committee increases the amount for WIC by $250 million over fiscal year 1991—$26.6 million over the President's budget request.

For food stamps, the committee provides an increase of $1.6 billion over the fiscal year 1991 level.

For the Emergency Food Assistance Program, the committee provides $23 million more than the President's budget request.

These programs were never more important than today, and they require our steadfast protection. It is our hope that these funds, especially for WIC, will leverage State efforts to expand participation and coverage. We must continue to make steady progress in attempting to cover 100 percent of our constituents who are entitled to coverage.

Finally, I turn to the Food and Drug Administration.

FDA may be the most visible, important and controversial agency in the Federal Government. That's no surprise. Their objective is simple: Consumer protection; and their jurisdiction covers what is estimated to be over 50 percent of the products in the American marketplace.

Just in the last few weeks, news stories have abounded about the actions of FDA and its new aggressive commissioner, Dr. Kessler. A simple reading of their mission will indicate FDA's heavy responsibilities: FDA sets food and product standards; evaluates the safety and efficacy of new drugs and medical devices; conducts research studies to detect health hazards; maintains surveillance over foods, drugs, medical devices and electronic products to ensure that they are safe, effective and honestly labeled; and takes the legal actions necessary to accomplish its mission.

We also know the controversies and criticisms that FDA has endured in the time it takes for approval of promising new drugs, and the level of effort needed to bring honesty and uniformity to food labels, and otherwise ensure that manufacturers stand by their product claims.

The committee has responded this year by using all its resourcefulness to give FDA the tools it needs to accomplish its mission. The committee provides $69.4 million more than fiscal year 1991—fully $188.8 million more than the President's budget request. This is the type of commitment FDA requires from us now and in the future to accomplish the long list of mandates that we have given it.

What we expect in return is action and improvement. Action on generic drug evaluation and enforcement—and improvement in the turnaround time for the approval of promising drugs, such as those for the treatment of AIDS and Alzheimer's disease.

Action in implementing the Nutrition and Labeling Education Act—and improvement in coordinating this responsibility with other Federal agencies who also have jurisdictions related to food labeling.

Action in educating American consumers about unsafe products—and improvement in enforcement of the laws Congress has passed through the years to protect American consumers.

I'm also pleased that the committee has recommended funding for some promising projects that are important to North Carolina and where North Carolina has been a leader. The North Carolina Biotechnology Center in Research Triangle Park has served as a national model for nurturing innovations in biotechnology and bringing them successfully to the marketplace. USDA reported that "the range and maturity of its programs and activities make the Center unique nationwide, and offer practical strategies to answer the needs and questions of biotechnology development." So I am pleased that $1.45 million is included in this bill to finish construction for a permanent Biotechnology Center.

In addition, the Bowman Gray School of Medicine associated with Wake Forest University in Winston-Salem, NC, has received a recommendation of $3.65 million from the committee for their proposed Center for the Study of Nutrition and Chronic Disease. It is hoped that these Federal dollars will leverage the school's other fundraising efforts to bring this program and facility to fruition, where it can study the relationships between nutrition and chronic disease, and seek and promote solutions in agriculture and agricultural products.

And the committee recommends sustained levels of funding for the important agricultural research conducted at one of the Nation's leading research institutions—North Carolina State University—for peanuts, soybeans, sweet potatoes, food fermentation, forestry, global warming, and other initiatives related to improvements in agriculture.

In short, I urge my colleagues to support this bill enthusiastically and to give Chairman WHITTEN the mandate he needs to take the bill to conference and protect the positions, projects and priorities of the House.

Mr. SKEEN. Mr. Chairman, I yield 6 minutes to the gentleman from Texas [Mr. DE LA GARZA], the distinguished chairman of the Agriculture Committee.

Mr. DE LA GARZA. Mr. Chairman, I thank my distinguished colleague for yielding me this time.

Mr. Chairman, this is a statement I wish I did not have to make. This is a place I would rather not be at this time. I say it with some degree of sadness in my heart, because I am going to be speaking about procedure and usurpation of prerogatives of committees.

But first, for all my colleagues, I concur with what has been said about what this bill does in a positive way. For example, there is much criticism about how much we spend for farm programs which has led to countless editorials. But let's look at the budget. Here it is graphically.

The red is the total budget. The tiny little line at the bottom, 0.63 percent of the total budget, is what we spent for agricultural programs. So let no one point the finger. We are the best fed people in the world, in the history of the world, for the least amount of disposable income per family. And this is what the Federal Government spends. So I want to start with that premise—to look at the positive side and commend all my colleagues who have worked on this endeavor.

Then let me say, as mentioned by the gentleman from New York [Mr. McHUGH], all the positive programs, the WIC and all the nutrition programs.

So that our colleagues can see, on the right, this is almost one-half, on the left, I guess as you see it, that is what we do for women and children. These are the domestic nutrition programs. There is still hunger in America, but not because we have not tried. We still have to do more.

So only this part here is commodity programs. I wanted to start from that premise—what we have done positively, what we have done together, the Agriculture Committee and my distinguished colleagues from the Appropriations Committee.

Now let me get to the point that I wish I did not have to make, but as chairman of the committee I have an obligation and I have a responsibility, and it must be said. There are many areas where all the Appropriations Committee, sometimes the subcommittees, legislate. In some, it is done probably positively, some with good intentions in their hearts, but sometimes it penalizes the authorizing committee.

And then we use the report language. For example, in this report, and this is legal, you cannot object to it, but there is an instruction basically having to do with the Farm Credit System. A Farm Credit System that works to provide funds for rural America and for farmers. The report says that the Committee on Appropriations "expects the Federal Intermediate Credit Bank of Jackson to submit a plan under which it will merge to form a farm credit bank for the fifth [farm credit] district."

This bypasses the regulator. This is a usurpation of power, my dear friends. Out there they may misinterpret this report as law, so it is my responsibility and my obligation as chairman of the authorizing committee to emphasize that this report language has no force of law and does not reflect the intent of Congress with regard to the statutory authorities of the Farm Credit Administration.

As chairman of the Agriculture Committee, I would urge the Farm Credit Administration to ignore this language and to implement the law as it has been approved by the Congress and signed by the President. That is one of the areas that we have concern about.

I say that if they are going to take the report as law, then what I say has the same impact in law.

Mr. Chairman, I rise, as I have in the past when the agricultural appropriations bill has been considered by this House, to reaffirm the fact that report language accompanying this bill is merely advisory in nature, does not have the force of law, and should not be interpreted to broaden, narrow, or otherwise affect the application of authorization statutes.

This year the report to accompany H.R. 2698 includes language indicating that the Committee on Appropriations expects the Farm Credit Administration, the arms-length, independent regulator for the Federal Farm Credit System, to submit to the Congress a plan for the consolidation of the 11 Federal farm credit banks. Unfortunately, the report language also states that one Farm Credit System institution, the Federal Intermediate Credit Bank of Jackson, should be given preferential treatment in this process by the Farm Credit Administration.

According to the report language, the Committee on Appropriations—

> Expects the Federal Intermediate Credit Bank of Jackson to submit a plan under which it will merge to form a Farm Credit Bank for the Fifth Farm Credit District, subject to stockholder votes. The Farm Credit Administration will then include this bank in its consolidation plan.

Mr. Chairman, this report language, if heeded by the regulator, would create a dangerous precedent in the regulation of financial institutions. It implies that the Federal Intermediate Credit Bank of Jackson should be able to dictate to its Federal regulator how and under what conditions it will merge to create a new farm credit bank. The language also suggests that a new farm credit bank be chartered, thus increasing the overhead costs that must be borne by Farm Credit System borrowers.

If this precedent were to be extended to other arms-length financial regulators it would allow individual banks, savings and loans, and other government-insured financial institutions to dictate to their regulators whether they should be allowed to merge with other institutions, or whether the parochial interests of individual committees of the Congress should be allowed to override the statutory requirement that these financial institutions be regulated in accordance with modern standards of safety and soundness.

In 1985, 1986, and 1987, the Congress approved legislation to provide for the consolidation of Farm Credit System institutions and to establish an independent, comprehensive, arms-length regulator for the Farm Credit System. The Department of the Treasury and the General Accounting Office agree with me that, on the whole, this modern regulatory system has worked well.

The report language I described earlier, if heeded by the regulator, would place the interests of one Farm Credit System institution above the interests of the rest of the System and the taxpayer. This is contrary to the concept of arms-length financial regulation. This is bad public policy. It is bad regulatory policy. And the precedent it sets, if allowed to stand, does not bode well for the regulation of the Nation's financial institutions.

It is especially frustrating for me as the chairman of the authorizing committee of jurisdiction to see this happen. I regret that I must emphasize that this report language has no force of law and does not reflect the intent of Congress with regard to the statutory authorities of the Farm Credit Administration. I would urge the Farm Credit Administration to ignore this language and to implement the law as it has been approved by the Congress and signed by the President.

With regard to the broader issue of the regulation of the Farm Credit System, section 13501 of the Omnibus Budget Reconciliation Act of 1990 requires the authorizing committees with jurisdiction over Government-sponsored enterprises to report legislation to ensure the financial soundness of Government-sponsored enterprises and to minimize the possibility that such enterprises might require future assistance from the Government. The Department of the Treasury, the General Accounting Office, the Congressional Budget Office, and the Farm Credit Administration have all submitted recommendations to the Committee on Agriculture in this regard. The Committee on Agriculture has held hearings on the matter. Other authorizing committees in the Hosue have done likewise.

The report language accompanying this bill attempts to circumvent this congressionally approved process and give one financial institution a preference in determining its fate in the recommendations made to Congress by its regulator. This attempt to place parochial concerns above sound financial regulation runs contrary to the mandate that the Farm Credit Administration regulate system institutions in accordance with law.

If the report language described above had been included in the bill we are considering today, it would have been subject to a point of order for legislating on an appropriations bill. Report language seeking to achieve these ends does not have the force of law, nor does it affect current authorities. If it did, it would be subject to the same point of order.

Mr. Chairman, I am concerned, very concerned, that ad hoc mandates such as this, not properly studied by the committees of jurisdiction, could achieve an opposite result than the one sought. In the instant case, an attempt to assist one financial institution could endanger the safety and soundness of the entire Farm Credit System. If similar dictates were applied to other Federal financial regulators, similar threats to the Nation's financial system could result. That is my concern.

I have no quarrel with the distinguished chairman of the committee on Appropriations, whom I respect and admire. I know that in his heart he is always trying to do what is best.

I would hope that as we continue to work in the future, the distinguished chairman of the Committee on Appropriations and members of the Committee on Appropriations know and understand that we are readily available, that we are interested in cooperating with them, that we are willing to work with them in good faith on matters of mutual concern, and that there is no problem that, together, we cannot resolve for the benefit of those whom we attempt to serve.

Then over in the conservation area, the Agriculture Committee passed, approved by the House, approved by the Senate, signed by the President, a wetlands program that we hope will be able to help rural America in conservation and all the areas that we are concerned with in the environment.

The legislation says that the law shall be ignored, that there should be a study made to better define the cost benefits. It is not appropriating funds. We know and we submit to the fact that the Appropriations Committee has the sole authority to appropriate or not to appropriate. This is not our problem.

The problem is that even though this is a mandated program, the Appropriations Committee may choose not to appropriate funds. But this is basically instructing an agency not to do something which was required in the basic law. That is not right.

Then we have the Rural Development Administration that was passed by the committee, approved by the House, approved by the Senate, signed by the President, the law of the land. This bill says that no funds shall be used to implement, period, because we do not like it.

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Well, it has been approved by the House, it has been approved by the Senate, been signed by the President. If no funds had been authorized, fine. We subject ourselves to the jurisdiction of the distinguished Committee on Appropriations. That is not our problem. But it is when you say now, "Thou shalt not implement," no funds under this bill shall be used.

Mr. Chairman, I am talking about some very sensitive matters. But these are matters, my colleagues, that have to be addressed. Maybe the system is wrong, maybe there has been lack of communication, but not from our part. We tried to work with the distinguished chairman. On this issue, we discussed a possible compromise. But he added insult to injury. You will see later that he offered a compromise that is legislation on an appropriation bill, which is what we were objecting to.

So, my friends, we will have amendments later to the Rural Development Administration and to the wetlands issue. I say again, I say this with pain in my heart, that I have do do this, that I have to represent the interests of you, the Members, who rely on the authorizing committees to do what you think and what we collectively think is best for our Nation and for rural America.

The problems of the big cities, they begin in rural America.

What the distinguished chairman said about what is happening in rural America, that is true. I agree. But to thwart the law authorizing beyond not appropriating, I think is not right. I plead with my Members to support us on the amendments, to do things right and then all of us will be traveling in the same vehicle.

Mr. Chairman, I appreciate my distinguished colleagues for yielding me the time, both the gentleman from New Mexico and the distinguished chairman.

Mr. Chairman, in the Food, Agriculture and Conservation Act of 1990—the 1990 farm bill—Congress authorized funding for a targeted program to help communities facing health risks due to inadequate water or waste services.

I was pleased to play a key role in developing this program, and I was particularly proud that language was included at my urging to direct the Secretary of Agriculture to give preference to improving water and waste services for residents of colonias.

As some of my colleagues know, colonias are unincorporated subdivisions found in States along the United States-Mexico border. Living conditions in many of these colonias are quite distressing and it was our hope that Federal funding to improve basic services in these areas would be given a higher priority.

In the agriculture appropriations bill, I am pleased to see increased funding is provided to the overall Rural Water and Waste Program. I am also pleased that report language expresses the Appropriations Committee intent that Farmers Home Administration provide priority assistance to colonias.

However, I am concerned that language in the appropriations bill may be construed by the Department of Agriculture as a prohibition on grants and loans for hookups for eligible residents of areas that face severe health risks. Section 306–C of the Consolidated Farm and Rural Development Act specifically provides authority for USDA to make grants and loans to eligible applicants for hookups, and I trust the Department will provide this much-needed assistance.

I will continue to work with the Department of Agriculture on this issue and do everything I can to direct funding to the very real needs of the thousands of low-income people who live in the colonias along the border.

Mr. WHITTEN. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I take this time so that I may address the chairman of the Committee on Agriculture.

May I say what we do about the farm credit system, they have done nothing to restore the intermediate credit bank for my section of Mississippi. They are in operation, but they have had no vote as to their own fate. The big thing is when they took the Farm Credit System out from under the supervision of the Congress, we had to bail them out with a $4 billion line of credit. I think our Committee on Appropriations has a whole lot of interest in following anything that costs us $4 billion. They have not spent it all as of yet, but we had to bail them out for $4 billion.

At the time when they took it out from under reporting to the Congress, I raised the point, and sure enough it proved true.

Then when we get to the other matter, I will discuss that later. May I say that I am sorry, but the legislative committee does not have the jurisdiction to appropriate. But let me point out here again that the money appropriated has to be used for the purpose for which it was appropriated. And the best evidence, as a lawyer, of what they intended to do is the report of the committee.

So, the bill plus the report is binding.

Now, we have a little difference with what our friends on the legislative committee have said, and goodness knows we believe in the legislative committees, but they are separate from appropriations.

So I want to work with my friend, and I appreicate his statement and friendship. But I do think I should say this at this time. We are asking the intermediate credit bank to bring up a plan that would give the same service to my State as they have in some other States.

On the other thing, we will deal with that when we get to it.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Texas.

Mr. DE LA GARZA. I thank the gentleman for yielding.

Mr. Chairman, this was not like the S&L issue. We did not appropriate a bailout. The money was raised by bonds in the private sector; it came from the banks. The banks will pay it back.

The only appropriated funds are some administrative funds, and also Mississippi is being served, and the matter is in court.

Mr. WHITTEN. Mississippi is not being served.

Mr. Chairman, may I say again I do not say this is the savings and loan; I just say when you read how many folks committed suicide and that 300,000 farmers went broke, it is worse than the savings and loan if you look at the history of farming.

Mr. DE LA GARZA. I do not have any disagreement to that, but it was not a bailout from taxpayers' money. It was not a bailout from taxpayers' money.

Mr. WHITTEN. When you needed it, we provided the money, so we have an interest in it.

Mr. DE LA GARZA. It was not a bailout from taxpayers' money.

Mr. SKEEN. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. WEBER].

Mr. WEBER. I thank the gentleman for yielding.

Mr. Chairman, I congratulate the gentleman from New Mexico in his first full bill as ranking member of our subcommittee. He has done an outstanding job.

Mr. Chairman, I commend the chairman for the usual leadership that he provides us.

Mr. Chairman, I rise in support of the bill. The bill recommended by the committee totals $53.6 billion in budget authority, which is $9.9 billion below the budget request. Notwithstanding the fact that we have done our job in terms of the budget and reported the bill that meets all the targets that we were supposed to meet, it in fact exceeds them. There are very positive things in this bill, and I just want to mention them because the committee has been responsive to me and other Members of this body in trying to meet some of our requests.

We increased Agricultural Research Service funding by $36 million to $624 million. It is my view that if you look at the Federal Government's investment in research activity, whether it be NIH or NASA or anything else, over the last 10 to 20 years or maybe longer, you would be very hard pressed to find any place where the investment of the Federal Government in research has more directly proven out than our investment in agricultural research.

I am proud of the work that our committee has done in that regard. We increased the Extension Service budget by over $18 million to $417 million. This increase assists the Extension Service in providing these necessary services.

In my areas, as in most other rural areas, the Extension Service has gone through a tremendous transformation in recent years, particularly the years which we think of now and refer to as the farm crisis years. The Extension Service was an extensive social service network that reached out to troubled farm families and tried to deal with the problems of suicide, alcoholism, and emotional breakdown.

They now are involved in areas such as economic development and health care problems that afflict rural areas just as much as the rest of the country. I think that increase is very merited.

Through the Animal/Plant Health Inspection Service, I point out we have increased pseudorabies research by $1 million to over $7 million. This is a 10-year program, Mr. Chairman, which is very important, really of critical importance to the swine industry throughout this country. I am pleased that the committee appropriated this amount. It is minimal. We really are part of a program to eradicate pseudorabies at a savings of millions and potentially billions of dollars for the American swine industry. This is not a program where it pays in the long term to be short today.

I appreciate what the committee has done. We restored REA funding to a level $2.5 billion. Again, I appreciate that in my part of the country where a majority of my subscribers for electricity subscribe through the REA.

We maintain level funding for the Farmers Home Administration business and industry guaranteed loan program, which we have been able to utilize in my district as a very effective rural development tool.

Finally, there is language in the report which I am appreciative of to the chairman for including, which urges the Secretary to expedite disaster assistance declarations for a number of counties throughout the upper Midwest and elsewhere that are experiencing natural disasters, whether it be due to rainfall in my part of the country or the Mississippi Delta or perhaps due to drought or other problems on the west coast.

I believe before this Congress is over we my well be considering some disaster assistance bill to deal with some of those very serious problems. About a third of my district has suffered severe losses due to excessive rainfall. I appreciate the committee's concern about this problem as I appreciate the concern of the Committee on Agriculture, which has already begun to hold hearings on the program.

Mr. Chairman, I urge support of the bill.

Mr. WHITTEN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. PANETTA], chairman of the Committee on the Budget.

Mr. PANETTA. Mr. Chairman, I rise, as I have, to inform the House regarding how this bill fits with regard to the budget resolution and the budget agreement. This is the 12th of 13 annual appropriation bills to be considered by the House and falls within the limitations established by the agreement.

I want to commend the chairman of the committee because this represents the second time in 14 years that the House has passed this many appropriation bills before the July 4 recess.

□ 1740

Mr. Chairman, I think in large measure it was due to the ability to get a budget resolution adopted early and then move all the appropriations bills within the limits established by the agreement.

This bill provides $12.384 billion in total discretionary budget authority and $11.270 billion in total discretionary outlays, which are $116 million below the 602(b) subdivisions for budget authority and equal to the 602(b) subdivisions for outlays, respectively, for this subcommittee.

I want to commend Chairman WHITTEN and the ranking member of the subcommittee, Mr. SKEEN, for the work they have done in adhering to the limits set forth in the budget agreement and the 1992 budget resolution.

Mr. Chairman, I also rise for the purpose of discussing the funding level for the special supplemental food program for women, infants and children [WIC]. The WIC Program represents the best that government has to offer, it is effective and it significantly improves life outcomes for infants, children and mothers who need assistance.

Simply put WIC works. That's what five chief executive officers of major U.S. companies told us when they testified before the budget committee. They urged us to fully fund WIC by 1996. Their statement pointed out that this goal is within the power of the Congress and the executive branch and that it would represent an excellent investment in our Nation's children, its economy and its overall future.

The WIC success has been established in study after study. The national WIC evaluation released by the U.S. Department of Agriculture in 1986 found that WIC participation reduces late fetal deaths by 20 to 33 percent. A new study issued by the USDA in October 1990 found that WIC participation increases birthweight significantly, especially among premature infants.

The USDA study found that the WIC prenatal component has a positive cost-benefit ratio reflected in estimated Medicaid savings of $1.77 to $3.13 for each dollar invested in just the first 60 days of life. So WIC saves lives and saves money.

The House of Representatives approved a budget resolution for fiscal year 1992 which assumed a $350 million increase for the WIC Program as a first incremental step to raise WIC participation from its current approximately 55-percent participation rate to full funding by fiscal year 1996. The recommendation for full funding is also meant to show that when we know how to really make a difference, we should not restrict it to half measures.

The House appropriations bill for the Department of Agriculture, Rural Development, Food and Drug Administration and Related Agencies includes a $250 million increase for the WIC Program. While this is not quite at the level recommended by the CEO's and assumed in the budget resolution, it still represents a great stride forward. We support the effort made by the Appropriations Committee and urge that in the future conference that the funding should at a minimum be the level proposed in this bill.

As chairman of the budget committee, I will continue to inform the House of the impact of all spending legislation. I have provided a "Dear Colleague" letter describing how each appropriation measure considered so far compared to the 602(b) subdivisions for that subcommittee. I will provide similar information about the conference agreements on the appropriations bills.

I look forward to working with the appropriations committee on its remaining bill and on the conference agreements with the Senate.

[Fact Sheet]

H.R. 2698, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, FISCAL YEAR 1992 (H. REPT. 102–119)

The House Appropriations Committee reported the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill for 1992 on Thursday, June 20, 1991. This bill is scheduled for floor action on Thursday, June 27, 1991.

COMPARISON TO THE 602 (b) SUBDIVISION

The bill, as reported, provides $12,384 million in total discretionary budget authority, $116 million below the Appropriations subdivisions for this subcommittee. The estimated discretionary outlays in the bill equal subdivision totals. Amounts are provided in the domestic and the international categories.

The bill provides $10,983 million of domestic discretionary budget authority, $62 million less than the Appropriations subdivision for this subcommittee. The bill provides $10,040 million of domestic discretionary outlays, which is equal to the discretionary outlay subdivision for this subcommittee. A comparison of the bill to the spending allocations for this subcommittee follows:

COMPARISON TO DOMESTIC DISCRETIONARY SPENDING ALLOCATION

[In millions of dollars]

	Agriculture, rural development appropriations bill		Appropriations Committee 602(b) subdivision		Bill over(+)/ under (−) committee 602(b) subdivision	
	BA	O	BA	O	BA	O
Discretionary	10,983	10,040	11,045	10,040	−62	. . .
Mandatory[1]	37,888	29,486	37,888	29,486	. . .	. . .
Total[1] .	48,871	39,526	48,933	39,526	−62	. . .

[1] Conforms to budget resolution estimates of existing law.

Note: BA—New budget authority; O—Estimated outlays.

COMPARISON TO INTERNATIONAL DISCRETIONARY SPENDING ALLOCATION

The bill, as reported, provides $1,401 million of international discretionary budget authority for P.L. 480 Food for Peace programs, $54 million below the Appropriations subdivision for this subcommittee. The bill provides outlays equal to the subdivision total for international discretionary outlays.

	Agriculture, rural development appropriations bill		Appropriations Committee 602(b) subdivision		Bill over (+)/ under (−) committee 602(b) subdivision	
	BA	O	BA	O	BA	O
Discretionary	1,401	1,230	1,455	1,230	−54	. . .

Note: BA—New budget authority; O—Estimated outlays.

The Appropriations Committee reported the Committee's subdivision of budget authority and outlays pursuant to Section 602(b) of the 1974 Budget Act as amended on May 29, 1991 in House Report 102–81. These subdivisions are consistent with the allocation of spending responsibility to House committees contained in House Report 102–69, the conference report to accompany H. Con. Res. 121, the Concurrent Resolution on the Budget for Fiscal Year 1992, as adopted by the Congress on May 22, 1991.

The following are the major program highlights for the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill for Fiscal Year 1992, as reported:

PROGRAM HIGHLIGHTS

[In millions of dollars]

	Budget authority	New outlays
Agriculture programs:		
Commodity Credit Corporation (mandatory)	8,450	....
Agricultural Research Service	713	523
Extension Service	417	354
Animal and Plant Health Inspection Service	448	370
Cooperative State Research Service	475	214
Federal Crop Insurance Corporation (mandatory in part)	544	312
Food Safety and Inspection Service	474	431
Agricultural Stabilization and Conservation Service	719	719
Conservation and Rural Development programs:		
Rural Electrification Administration	79	32
New direct loans	(1,794)	
New loan guarantees	(234)	
Farm operation and ownership loans [ACIF]	482	413
New direct loans	(1,558)	
New loan guarantees	(3,110)	
Rural Housing (RHIF)	1,382	788
New direct loans	(1,879)	
New loan guarantees	(350)	
Rural Development Insurance Fund	174	56
New direct loans	(700)	
New loan guarantees	(160)	
Soil Conservation Service Conservation Operations	564	520
Watershed and Flood Prevention Operations	205	113
Conservation Reserve (mandatory)	1,643	1,643
Nutrition Programs:		
Food Stamp Program (mandatory)	21,150	19,168
Child Nutrition Programs (mandatory)	6,067	4,960
Supplemental Feeding Programs [WIC]	2,600	2,444
Nutrition Assistance for Puerto Rico (mandatory)	1,013	1,007
Food donations for selected groups	265	216
Temporary Emergency Food Assistance Program .	170	150
Other Programs:		
P.L. 480, Food for Peace	1,401	1,065
New direct loans	(514)	
Food and Drug Administration	762	625
Payments to the FCS Financial Assistance Corporation	113	110
Commodity Futures Trading Commission	47	41

Mr. SKEEN. Mr. Chairman, I yield 3 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, this is my first year on the Appropriations Committee and it is an honor to have been assigned a seat on the Agriculture Subcommittee. It is a privilege to serve with the very distinguished chairman of the subcommittee and full committee, the gentleman from Mississippi [Mr. WHITTEN] and the ranking member, the gentleman from New Mexico [Mr. SKEEN]. I appreciate the courtesy and respect which they have shown me during our subcommittee hearings.

Their help and support has been invaluable.

Mr. Chairman, this bill is a good bill and a fair one. I am pleased with the funding levels for both the Agricultural Research Service and the Cooperative State Research Service. Both provide funding for important research projects such as water quality, climate change, low-water tolerance landscaping and research in biochemistry and biology. The bill also provides $263 million for payments under the Smith-Lever Act which governs cooperative agricultural extension work and $26 million for payments to land-grant colleges. Also provided in the bill is $475,000 for rangeland research.

I am also pleased with the provisions relating to the Rural Electrification Administration.

To those of us who represent rural areas, REA is a very important program. It assists rural organizations in obtaining the financing required to provide electric and telephone service in rural areas. These essential services help improve the quality of life of those who live and work in rural areas.

Finally, Mr. Chairman, the committee has made the WIC Program one of its priorities. This special supplemental food program for women, infants, and children provides critical nutrition and health benefits to low-income pregnant women and young children. These benefits reduce infant mortality, avert premature births and help our needy children reach their full potential.

Mr. Chairman, a lot of hard work, on both sides, has gone into this bill and I urge my colleagues to support the bill.

Mr. WHITTEN. Mr. Chairman, I yield 2 minutes to the gentlewoman from Indiana [Ms. LONG].

Ms. LONG. Mr. Chairman, I thank the gentleman from Mississippi [Mr. WHITTEN] for bringing H.R. 2698 to the floor. I want to very quickly make a point about the large reductions in farm price supports that have taken place over the last several years, and I respectfully ask that, in particular, Members of this House who are not from rural areas of our country listen to what I believe is a very important point.

Reducing the budget is becoming a way of life for the Congress, but farm price support programs cost very little and they have taken a disproportionate reduction in funding over the last several years. In fact, in 1986 total farm price supports accounted for $26 billion of our Federal budget. In 1990, total farm price supports were just over $6 billion—that is a 77 percent cut in farm price supports in only 5 years.

Farm programs have taken a large hit during these years of budget reductions, but these programs have continued to be successful in helping American agriculture provide consumers—not just rural Americans, but all Americans—a safe and abundant supply of food and fiber at an affordable price.

We are the best fed at the lowest cost Nation in the world. All of us should be proud of our Nation's agriculture programs and our Nation's agriculture industry in this regard.

Mr. SKEEN. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, today I rise in strong support of the Agriculture, Rural Development and Related Agencies appropriations bill for fiscal year 1992. I would also like to thank the chairman of the subcommittee, Mr. WHITTEN, and the ranking member, Mr. SKEEN, for their hard work and diligence in preparing such a balanced package within a highly constrained budget.

This legislation represents what has been a long and deliberative process which meets many of today's agricultural needs, but yet reflects much needed fiscal responsibility. This legislation represents many difficult budget decisions that continue to prove that agriculture is willing to pull its fair share of the budget reduction load.

Additionally, I am also pleased to note a particular item within this appropriations measure that continues to benefit agricultural procedures across the Nation. For several years now, research on the soybean cyst nematode problem has been conducted in my district at the Delta Area Agricultural Research Center in Portageville, MO. This facility is ideally suited to conducting this research, given its extensive work in the past on the problem and the fact that many farmers in the country continue to face a serious cyst nematode problem.

By including this research as a part of the appropriations package, I believe we will be saving a number of farmers from financial ruin in the long run. As many as 25 million acres of farmland in the United States are contaminated with the cyst nematode, including all major soybean-producing counties in Missouri and several adjoining States. It has been estimated that in 1989 the soybean nematode cost our Nation's farmers over $600 million in reduced yields. But because of the work being conducted on this problem, the Federal Government will easily save many times the $333,000 we will spend on soybean cyst nematode research next year.

Additionally, this measure restores funding for the Rural Electrification Administration to meet the increasing needs of our Nation's rural electric systems. In the past 10 years, insured REA loan funds have declined substantially despite continued inflation. Now, through restored funding levels, rural electric insured loans can better meet growing rural development demands.

Likewise, there are many other fine projects and research efforts contained in this bill along with needed funding for the supplemental food program for women, infants, and children and continued funding for other vital domestic food and nutrition programs. I urge my colleagues to show their support for these valuable endeavors by giving favorable approval to this appropriations measure.

Mr. WHITTEN. Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from Mississippi [Mr. ESPY].

Mr. ESPY. Mr. Chairman, I thank the gentleman from Mississippi [Mr. WHITTEN], the dean of our delegation, for yielding this time to me, and I thank him for a remarkable job on the Appropriations Subcommittee on Rural Development, Agriculture and Related Agencies.

Mr. Chairman, a lot of positive comments have already been made regarding this bill, the fact that it falls under the budget limits, the fact that it helps out the WIC Program, the REA, and the gentleman from Minnesota [Mr. WEBER] talked about pseudorabies, which is also important to Mississippi. I just want to take a small bit of time to talk about a couple of other positive things that are beneficial to the environmentally sensitive Members of this body.

□ 1750

No. 1, I have consistently encouraged my colleagues to join me in the use of soybean ink for printing. Increasing the use of soybean ink benefits both our farmers and our environment. I commend the committee for providing $500,000 for research on soybean-based ink. The committee in its report cites the environmental benefits from using a readily degradable ink and the low-rub characteristics of soybean ink as reasons for this essential research.

Also included in the bill is an increase in the appropriation to 1890 land-grant colleges, specifically Tuskegee University in Alabama. The appropriation is almost $3 million above last year's appropriation. So I am pleased that the committee recognizes the unique mission carried out by these institutions and the quality of the programs and research that they are engaged in.

Lastly, I would also like to thank the chairman of the committee for his continued support of the Yazoo Basin Flood Control project. The gentleman is well aware of and well knows the need for this project to be completed, and I am grateful for the appropriation of the Soil Conservation Service's portion of the Yazoo Basin project, inasmuch as early this month we had about 2 million acres of land in the Mississippi Delta under water.

So, Mr. Chairman, once again I rise in strong support of this bill and urge my colleagues to do the same.

The CHAIRMAN. The Chair advises that the gentleman from New Mexico [Mr. SKEEN] has 10 minutes remaining and the gentleman from Mississippi [Mr. WHITTEN] has 4 minutes remaining.

Mr. SKEEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Chairman, I rise in strong support of the bill as it deals with child nutrition, with school lunches, WIC, and so forth.

Mr. Chairman, I rise in support of H.R. 2698, a bill providing appropriations for Agriculture, Rural Development, Food and Drug Administration, and related agencies for fiscal year 1992.

First of all, I want to once again commend and thank Chairman WHITTEN and the subcommittee's ranking minority member, Mr. SKEEN, for their continued strong support of Federal nutrition programs for our Nation's children and elderly.

I was very pleased with the bill's recommended funding level for the child nutrition account, which would provide an 8.8 percent increase over the account's current fiscal year operating level.

I was also gratified to find that the Appropriations Committee was responsive to the concerns I had shared with it regarding the Food and Nutrition Service's proposed coordinated review effort rule. As I indicated when I appeared before the Subcommittee on Rural Development and Agriculture 6 weeks ago, I believe that the audit and review system the proposed rule would establish, initially apply to school-based child nutrition programs, and subsequently extend to other program areas such as the Child and Adult Care Program, not only fails to be costeffective but is outside the intent of both section 110 and title II of Public Law 101–147, the child nutrition and WIC amendments of 1989.

Consequently, I appreciated finding that the bill's committee report directs USDA to subject the proposed audit and review system to a comprehensive examination and assessment. In particular, I was pleased that USDA was instructed to consider recommendations State food service authorities may make to further improve the audit and review system. I look forward to reviewing the findings which USDA will extract from this task, which I understand are to be shared with the appropriate committees of the Congress by no later than the end of March 1992.

The committee should also be congratulated on its steadfast support of the WIC Program and its recommended fiscal year 1992 funding level, which calls for a 11-percent increase over the current fiscal year's funding level.

In closing, Mr. Chairman, I would like to extend my thanks to the entire Appropriations Committee, which has continued to demonstrate its strong commitment to the nutrition programs that are so important to our Nation's children.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I think that much of this legislation is very important and needed by the Agriculture Committee and by this country, but like all legislation around here, there appears to be a lot of pork. I am well aware that one man's worthwhile project is another man's pork, so I approach this with a great deal of trepidation.

I was contemplating proposing some amendments to try to cut out some of this pork, but you cannot get at them because this is in report language in large part, so if you cut out something, you have got to cut out a specific amount of money, which may or may not get at the problem. But since I am not going to specifically be able to get at some of this pork, I would like to just mention for the edification of my colleagues some of the things that are in this legislation in report language.

There is $94,000 for asparagus yield decline; $200,000 for locoweed research; $240,000 for a mechanical tomato harvester; $300,000 for a new center for research on plant genetics at the University of Toledo; $230,000 for tourism in New Mexico; some amount between $250,000 and $1 million for various projects for the Toledo Farmers Market, whatever that is; and then we have specific funds that are in report language for rice, a research center in Arkansas, $223,000.

Then there is the Northern Regional Research Center in Illinois, $365 million; a National Park Research Facility in Iowa, $1 million; a Regional Poultry Research Center in Michigan, $500,000; a National Center for Natural Products in Mississippi, $5.175 million; a National Center for Warm Water Aquaculture in Mississippi, $1.2 million; and a demonstration greenhouse project in Ohio, whatever that is, for $375,000.

Mr. Chairman, we are facing a $350 to $400 billion deficit this year. I submit to my colleagues on the Subcommittee on Agriculture of the Appropriations Committee that they have done a fine job, and I would just like to say in closing that although they do a great deal of positive things on the committee, I still believe there is a great deal of pork in this legislation, and I hope in the future they will do their dead level best to eliminate it because of this huge deficit facing the country.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the chairman of the committee.

Mr. WHITTEN. Mr. Chairman, this is a big country, and all we have behind our debt of $3.6 trillion is our country. I make no apologies for having these bills here. I have said kiddingly several times that it looks like we are going to have to give our local business, a foreign address to get money for them. I make no apology for looking after our own country.

Mr. SKEEN. Mr. Chairman, I reserve the balance of my time.

Mr. WHITTEN. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I appreciate the work of the chairman of this committee.

Mr. Chairman, on balance this is a very fine bill, but I am concerned in looking through this proposal, because I see two soybean items. My colleague, the gentleman from Mississippi [Mr. ESPY], mentioned them. Soybean-based ink was one of them, and the other one was soybean research. This is $525,000 for soybean composition research and research on improved southern soybean production.

Last year in the farm bill the Congress passed a soybean promotion research program that will fund up to $60 million out of checkoffs from soybean producers. The goal was that virtually all soybean research in the country would be done out of that voluntary checkoff. I see these two programs now in this bill, and it concerns me that we may have the left hand not knowing what the right hand is doing. We see research programs here and research programs in the checkoff program, and what it means to me is that maybe all the research programs here do not have a method to their madness, or maybe they do. But all of them do not have an organizational effort to make sure that the research projects fit or that there is a mesh to them.

As chairman of the Soybean Subcommittee, I want to see as many soybeans sold in this country as possible. I just want to make sure that the research is being done sensibly. In the farm bill that we passed, we provided a great deal of greater emphasis on competitive grants and awards based on peer review. That was the heart of our research title in that farm bill, and in looking at these two projects and a few others, it appears there may be some projects in this bill that do not have peer review of any established process to them.

Mr. Chairman, I just hope that the committee that deals with this during the next couple of years looks at the broader picture and makes sure we are not overfunding some research projects as well.

Mr. SKEEN. Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

Mr. WHITTEN. Mr. Chairman, I yield 1 minute to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I rise in support of H.R. 2698, the Agriculture Appropriations bill for fiscal 1992. I would particularly like to bring to the attention of my colleagues the fact that the committee, under the able leadership of Chairman WHITTEN, included in this bill an important appropriation of $175,000 which will be of tremendous help in fighting the spread of Lyme disease. This funding, for deer tick population ecology work being conducted at New York Medical College in Valhalla, NY, offers important hope that we will be able to reverse the dramatic increase in Lyme disease.

While over the years the Congress has supported the important work of the Centers for Disease Control and the National Institutes of Health on Lyme disease, today we take an innovative step to help prevent Lyme disease by attacking the ticks which carry this painful, often devastating disease. By working through the Agriculture Department to slow the dramatic growth in populations of Lyme disease-carrying deer ticks, this research will take advantage of the extensive expertise of the Department and of the research at New York Medical College. It literally has the potential, in a very cost-effective way, to stop Lyme disease in its tracks.

I want to personally thank Mr. WHITTEN, both in his capacities as chairman of the full Appropriations Committee and the Agriculture Subcommittee, Mr. SKEEN, ranking member on the subcommittee, and my other good friends on the Agriculture Appropriations Subcommittee for their cooperation and foresight in including these funds in the bill. My good friend and colleague from New York, Mr. MCHUGH, had a particular understanding of the impact of Lyme disease because of the extent of the problem in our own State; he was immensely helpful.

Mr. WHITTEN. Mr. Chairman, I yield 1 minute to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Chairman, I rise in strong support of the bill, and wish to congratulate you, the ranking minority member, Mr. SKEEN, the other members of the subcommittee, and your outstanding staff for their performance in writing this complex and important bill.

Many Members of Congress, particularly those of us from rural areas, depend on this legislation to fund important programs and development efforts in our districts. Chairman WHITTEN, to whom I have looked for guidance and support since I came to Congress 22 years ago, must indulge many of our requests for funding every year in this bill.

He is a patient man—and a fair man—who makes every effort to honor all reasonable requests.

If ever there was a Member's Member, it is the gentleman from Mississippi, and we should take great pride in his leadership and distinguished service to Congress and the Nation for almost half a century.

Since I came to the House of Representatives in 1969, my goals have focused on efforts to harness the vast potential and resources of rural America. This legislation is among the preeminent vehicles for that purpose.

Through this bill, rural areas are provided assistance in building infrastructure and stimulating business development. Innovative technologies to promote new markets for farm products receive encouragement and support through the funding we will approve, are about to approve.

Today, we will enable American farmers to put food on dinner tables throughout the world. We will make sure that American children have nourishing lunches at school and that poor women and their babies have adequate food to eat and milk to drink. But we will do much more.

This is our plan for nurturing and husbanding the resources of our vast, rich country—for conserving, protecting and dedicating them to human needs and national purpose—and for ensuring that they endure for those who come after us.

Much of my congressional district is covered by the dark, rich soil of the Mississippi River Delta which bursts forth each year with a great bounty of food and produce to feed and clothe us and provide goods to trade with other countries.

The prolific abundance of the delta land belies the crushing poverty which characterizes the daily life of many of its residents. The final report of the Federally chartered Mississippi River Delta Development Commission issued a call to action—an agenda for mobilizing the human and material resources of the delta to lift it out of the endless cycles of poverty and misery. This bill begins to address some of the questions raised by the Commission report.

The committee has provided a $500,000 rural development grant to the city of Cotton Plant, AR, to support the emergence in the delta of aquaculture—the fastest growing sector of American agriculture. There has been some criticism of Federal support of this emerging industry here in the House in recent days. Those who have this view may benefit from the following facts about aquaculture.

First, a study by Mississippi State University concluded that 220 jobs—or Federal taxpayers—are created for every 10 million pounds of catfish produced in aquaculture.

Second, warmwater aquaculture generated more than 790 million pounds in production in 1988 at a farm gate value of $600 million.

Third, current projections indicate that production will rise to 2.2 billion pounds by the year 2000 creating 16,500 new jobs and taxpayers.

Fourth, projected increases in production will require expanded processing capacity in the delta region to support the industry.

Mr. Chairman, in a colloquy with me last year during consideration of the Agriculture, Rural Development and related agencies appropriations bill for fiscal year 1991, you agreed that careful consideration should be afforded proposals to provide aquaculture farmers with processing facilities.

This funding is yet another indication of the committee's recognition of the growing importance of aquaculture in American agriculture—and I am grateful for your support.

It has been suggested in this body that projects such as this one are pork barrel. I am here to tell you that fish is not pork—and that this funding is good public policy.

I have no doubt that it is right for the Federal Government to provide assistance to aquaculture farmers which will: Create more jobs for Americans; increase tax revenues to the Federal Treasury; and, reduce our imports of foreign fisheries products and thereby improve our balance of trade.

It is vital that this industry, which is centered in the delta have the Federal support which is crucial to its survival. This funding is an important and needed step in that process.

The Delta Commission also emphasized in its report the need to establish centers for alternative crop production and marketing to diversify and invigorate the delta economy. This bill provides a $350,000 grant to demonstrate this concept.

The funds will be used to establish a regional farmers' market in eastern Arkansas to assist in the marketing of fresh produce which offers a higher return than traditional row crops. This project will provide small farmers with technical and managerial assistance and market access which is important to their survival.

Mr. Chairman, I am pleased that the committee has continued funding for a number of other important programs.

The Riceland Mosquito Management Program funded through the Cooperative State Research Service has made excellent progress in identifying no methods to control one of the most persistent and difficult pests in our environment. Some people who live in Arkansas rice country believe that the recent conflict in the Persian Gulf would have been even shorter than it was if we could have managed to turn the wrath of Delta mosquitoes against the enemy.

This project enables scientists in Arkansas and several other States to continue their research to develop environmentally acceptable methods of mosquito control.

The committee has, once again, recognized the continued need to identify solutions to one of the most persistent and intractable problems facing the Amercian farmer—declining water tables.

The 26-county east Arkansas water conservation project, which will receive continued funding of $452,000, has confronted the challenge of the accelerated depletion of underground aquifers in the delta region of eastern Arkansas. This is a pervasive problem in other areas of the Nation such as the Great Plains region of the Midwest.

The information acquired in this study will be important to developing use and conservation methods which will assure further generations of adequate water.

This legislation supports many important research projects. Of special importance to my congressional district, which produces more rice than any State, is additional funding for the continued planning and design of a rice germplasm center to be located in Stuttgart, AR. This facility will perform important research on one of the Nation's premier export crops.

The broad sweep of this bill demonstrates the committee's continued attention to many other activities in need of support. Floodplain management, pest control, food inspection services, and special research activities are among the many other worthy and valuable pursuits to which the committee has devoted its energy and support.

Mr. Chairman, the committee and you have served this House and the Nation well by bringing such a well crafted and comprehensive bill to the floor. I have no doubt that we will pass this legislation by an overwhelming vote today.

I urge passage of the bill.

The CHAIRMAN. All time of the gentleman from Mississippi [Mr. WHITTEN] has expired.

Mr. SKEEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. Mr. Chairman, I rise in support of H.R. 2698, the bill providing appropriations for Agriculture, rural development, and related agencies for fiscal 1992. This bill is a very tight one, with total spending under the amount sought by the President, while readjusting specific spending recommendations to reflect the many concerns we heard during our hearings.

I want to again compliment our distinguished chairman, Mr. WHITTEN of Mississippi, for skillfully leading us through another budgetary cycle in a fashion that is mindful of the need of American agriculture within severe spending limitations. I also want to compliment our new ranking minority member, Mr. SKEEN of New Mexico, for his positive and substantial contributions to this bill.

Mr. Chairman, people all too often think that food will magically appear on their table and that farmers will always survive. That is a tremendously unfortunate and unfair view. We have the best and most plentiful food supply in the world because of our farmers, and if we fail to pay attention to their needs, every single consumer will ultimately pay the price.

The bill before us does not create any new programs. Rather it funds the many activities of the Department of Agriculture. I am very pleased with some of the increases and regret that in many cases more could not be done. We were able to address some critical needs because many of our colleagues and our citizens took the time to let us know of their needs.

I want to take some time today to mention a number of specific items covered within this bill which I believe merit special mention. These matters range from agricultural research to providing food assistance to needy individuals regardless of age.

We have many Federal agencies that conduct reseach, and it is vital, particularly in times of tight budgets, that those research projects be as coordinated as possible with other efforts. Agricultural research projects need to be and are coordinated across USDA's agencies, and are increasingly coordinated with those of other agencies.

Two projects in particular within the Agriculture Research Service are for coordination with efforts outside of USDA. In providing funding for water quality and quantity research—nearly $45 million for fiscal 1992—we expect that ARS will work in cooperation with the new Environmental Protection Agency's Great Lakes Research vessel—the *Lake Guardian.* We need to preserve our largest source of fresh water, and the water quality work being done by USDA will play a major contribution toward this effort when work is done on nonpoint source pollution control and water use matters. It is expected that the Department should be in a position to approve the placement of an ARS soil scientist within Michigan to work in cooperation with this project.

As part of the Department's participation in the global climate change initiative, we have provided funds for USDA to join with the Consortium for Earth Science Information Network to assess the Department's integration of data with that of other agencies working with CIESIN, most importantly NASA. Nine hundred thousand dollars is provided for this effort.

We deal with the problems faced by a number of specific commodities. For example, we direct the Department to maintain 2 scientist years devoted to dry bean research work in Michigan, including the redirection of those funds that may be necessary to provide for this effort.

There is also a very critical need for rehabilitating the Regional Poultry Laboratory in East Lansing, MI. This has been a project sought by ARS for some time. I am happy that we could add $500,000 to the bill to help begin the planning for the rehabilitation work that is so important to effective and modern poultry research.

We continue a number of specific research efforts already underway, including food toxicology research, dwarf bunt research, and wheat quality research. All of these programs are important to the various producers and have been funded only after a careful review of many competing demands.

Within the Cooperative State Research Service we have provided a modest 4-percent increase in formula research funds which help to form the base of research at our land grant universities. We supplement these funds with special research grants which address targeted research needs, I know that many like to criticize these research projects, and they do a disservice with their misunderstanding. Each of these research grants have been brought to us by producers or their representatives. The research needs are critical for a targeted group who are highly dependent on specialty crops for their income. These producers are taxpayers deserving of their nation's attention. Their needs are important.

Some suggest that these projects are not worthy because they were not selected by a competitive review process. That just is not true. I can tell you that every single university that writes the research proposal before actually receiving these funds goes through its own process of review to make sure that the research is the best possible work. Perhaps the real issue is that those who oppose these projects oppose them because they did not get to make the decisions. That is one of the consequences and benefits of a democratic society—no one has to agree with every decision, nor is unanimity required before action is taken.

There are a number of special research grants in Michigan that are in this bill. I am proud of each and every one of them. Each program has been thoughtfully reviewed by skilled researchers before coming to us. They have stated their goals and their needs, and we have attempted to meet those needs—and rarely do we provide any requestor with the full amount that they seek. We are terminating two projects that were underway because the work has reached a conclusion. The programs were important and handled in a responsible fashion, and their discontinuance is being handled in the same way.

I am happy to report that certain projects are receiving increases. We are increasing funding for the subirrigation research project to $600,000 from $263,000 within CSRS, while providing $900,000, up from $375,000, within the Soil Conservation Service. This project is a national model for subirrigation work designed to more efficiently use water resources while safeguarding water quality by reducing farm land runoff and discharges into ground water supplies.

We are increasing funding for animal waste disposal research from $37,000 to $150,000. This project has been described to me by the researchers at Michigan State University as one of the most critical needs of animal agriculture, and one which certainly has major environmental impacts regarding the handing and disposal of animal waste.

We continue a number of specific special grants at last year's levels, including bean and beet research, apple quality, stone fruit decline, wood utilization, and celery fusarium. Each of these projects was proposed by the farmers who benefit from them and designed by very competent research scientists.

We provide a significant increase in the competitive grant program—from $73 to $99 million—providing the final element in a well-rounded research program. These grants are awarded by peer review and fully funded when awarded. I remain concerned, however, that the rate of growth in this program is at a point where it will soon overshadow the foundation of our cooperative research programs—the formula funds which are provided to research institutions to use in meeting critical State and regional needs. The balance in our research programs is becoming increasingly delicate, and I urge all concerned parties to pay close attention to this balance in the years to come if they truly want to maintain a viable research program.

We are providing $15.7 million to complete funding for the construction of a National Food Toxicology Center at Michigan State University. That institution has more than met a 50 percent match within this project. This facility has the promise of becoming the premiere national institution for food toxicology research, and a true jewel in our food safety research efforts.

While we attempt to take steps to secure our food supply for the future, another important element of this bill is to provide meaningful food assistance to those who need it today. This portion of the bill, funding food stamps, the various school feeding programs, the Commodity Supplemental Food Program, the WIC Program, and others, comprises the majority of funding in this bill. Nearly 40 percent of the bill's total funding goes to the Food Stamp Program alone.

I want to point to certain elements of this title of the bill that deserve special mention. First, we provide an increase of $5,915,000 over the President's budget request for the Commodity Supplemental Food Program. This increase is provided for two reasons. First, it is to at least maintain the current caseload levels for both the mothers, infants, and children, and elderly components of the program. The President's budget request predicted that the funding he sought would reduce elderly participation by 24,000. Hearings revealed that the only way to achieve this reduction was to either remove people from the program's roles, or to deny services to those on waiting lists when others ended their participation in the program. Either course was felt to be totally unacceptable by our subcommittee.

The second reason for the increase is to leave open the hope of program expansion. There are major caseload increase requests from current operators, and there are others around the Nation who hope to start CSFP programs. To the extent that the increase is not needed to maintain caseloads, then it is available for program expansion. It is available to expand the program for mothers, infants, children, and the elderly. It can expand programs jointly, or it can expand participation in either component of the program by program site. However, to the extent that there are expansion dollars available, we expect to see increases in both program groups, especially in light of provisions in the farm bill which call for the allowance of elderly-only locations.

I also urge the Department to pay close attention to report directives regarding consideration of budgetary consequences of changing methods of assigning caseload to States. It can be difficult to assign merely a block to a State and allow it to split out various components of eligible participants for the program. The elderly program costs less than the mother, infants, and children program. It is not a person per person trade-off, so it is necessary to be very careful before going too far in this direction.

I am still hopeful, though, that the Department will begin to pay closer attention to the needs of program operators on a site by site basis, rather than on a statewide basis. Program operators in one area should not be affected by the operations of a program in another part of their State, and failure to recognize unit differences creates unnecessary problems.

Mr. Chairman, within the report for the Women, Infants, and Children Program, we call upon the Department to do an evaluation of allowing cereals containing raisins to be part of the WIC approved food package, so long as the cereal meets the existing 6 grams of sugar per ounce standard notwithstanding the sugar occurring naturally in fruit. The current regulations exclude raisin-containing cereals just because the natural sugar in raisins pushes the cereal over the prescribed limit. We do not attempt to change the current sugar standard, which is a separate issue. Rather, we suggest that the Department simply allow people to obtain what the Department recommends that they eat by getting it one package instead of two.

This standard is one which fails to meet common sense. When one reviews the literature given to WIC participants, raisins are often suggested as a healthy snack food. Some materials suggest the addition of fruits, including raisins, to cereals as a way to diversify a breakfast. Mr. Chairman, how in the world can USDA call raisins a healthy food and recommend its consumption, but then prohibit them from a food product?

I am told that nutritionists have objected to raisins for children under age 3 because the raisins can cause choking in a small child. No one is suggesting that we give raisin cereals to infants, nor is anyone advocating anything that would hurt small children. But there are others eligible for the program—including pregnant women—who would benefit from this food. We do not exclude infant formula because it can have harmful effects on others in the program for whom it is not intended. I have had some nutritionists tell me that many pregnant women in the WIC Program are teenagers who try to hide the fact that they are pregnant by undereating. That is most injurious to the baby. These nutritionists believe that adding raisins to cereal will make it more likely that the young mother will eat some gain product. It will ensure some source of iron with the raisins. It will also create a greater likelihood that milk will be consumed because more people are willing to take milk as part of a cereal breakfast than drinking it alone. Anything that can be done to increase cereal consumption by pregnant women should be considered in this positive vein.

Others have objected to raisins because they believe they contribute to dental cavities in small children. That old argument about sugar and dental decay, and sticky foods being the worst has never successfully answered the simplest and most practical response: Encourage young people to brush their teeth. Good dental hygiene is essential and cures may ills, whether they be from one kind of a food or another.

I am also perplexed with the double standard used by USDA in its various feeding programs. USDA has provided raisins in the past in the Commodity Supplemental Food Program—a program which serves a similar target audience. And more significantly, USDA has no standard for cereals consumed in the school breakfast program. I am told that raisin-containing cereals are among the most popular in the school breakfast program. Obviously the value of raisins in cereals have been discovered by many.

It is true that our report calls for an evaluation of the inclusion of raisin containing cereals. I know that many are pointing to the overall reevaluation of the WIC food package, and expect that this issue can be addressed at that time. I believe it is only proper to expect that this issue be fully and fairly reviewed, that innuendo be responded to with fact, and that those concerned with the program look at a person's entire diet, and not try to impose some scientifically unjustifiable limit on one specific food product.

Mr. Chairman, this is a good bill. It is a sensible bill, I encourage all of our colleagues to vote "yes" on its passage.

Mrs. MINK. Mr. Chairman, today I rise in support of the Agriculture appropriations bill. I commend the committee for the inclusion of a provision to prohibit the Department of Agriculture from imposing a $2 agriculture inspection user fee on all persons who travel between Hawaii and the continental United States.

This fee is nothing more than an unfair tax imposed on the people of Hawaii. The tax has no statutory basis and, in fact, goes against congressional intent.

The Department of Agriculture proposed the fee in its regulations of a provision in the Food, Agriculture, Conservation and Trade Act of 1990 as amended by the Omnibus Budget Reconciliation Act of 1990. However, this provision which authorizes the Department of Agriculture to collect user fees on international travel, does not include travel from Hawaii. The Congress has clearly stated that it is intended that the fee only apply to international travel.

The Congress further clarified this fact in the conference report of the Dire Supplemental Appropriation Act of 1991, yet the Department chose to once again ignore congressional intent.

Mr. Chairman, we cannot allow the Department to continue to violate the actions of this Congress. And I commend Mr. WHITTEN and the committee for the inclusion of this provision in legislative language. It is important to the people of my State, but even more, it is important to the integrity of this Congress.

Mr. FAZIO. Mr. Chairman, I rise in strong support of H.R. 2699, the bill providing appropriations in fiscal year 1992 for the Department of Agriculture and related agencies. This is a good and fair bill, and I urge my colleagues to support it.

Mr. Chairman, I would like to thank the chairman of the subcommittee, Mr. WHITTEN, and the ranking minority member, Mr. SKEEN, as well as their able and very fine staffs, for putting together such a balanced package. In particular, I would like to thank them for their continuing sensitivity to the somewhat unique problems of agriculture in California.

Specifically, the bill includes $2.321 million to complete construction of the National Grape Importation Facility to be located in Davis, CA.

The immediate construction of this facility is crucial to the continued international competitiveness of the U.S. wine industry because of the critical shortage of grape quarantine facilities. The lack of quarantine facilities puts the U.S. industry at a severe disadvantage to foreign producers which have access to the latest variety releases.

The facility will provide grape quarantine services for commercial grape growers and researchers throughout the United States and will develop and implement faster methods for grape disease detection.

Imported grape stocks, on which the United States depends heavily for new wine grape varieties, must be quarantined and inspected for disease prior to being released for general use. The facility will help accelerate the inspection process and the introduction of new varieties of wine grapes.

Quicker inspection services will help the U.S. wine industry become more diverse and internationally competitive with major wine producing countries in Europe.

The bill also provides $441,000 for design and planning work on a new Alternative Pest Management Research Facility. Increasingly, California and American growers are being called upon to reduce their use of chemicals in agricultural production. But the loss of major pesticide in the absence of alternative pest control technologies and management systems could have severe economic impacts on U.S. agriculture and result in higher food prices, increased imports, and reduced exports of our agricultural products. Thus, it is imperative that we expend and accelerate research to control exotic pests, like the Medfly, the Mexican fruit fly and the Africanized honey bee, and develop viable alternative pest control technologies and management systems.

I would also like to commend the committee for its continued support of the Special Supplemental Food Program for Women, Infants, and Children, or WIC. Over the last decade, the committee has consistently found more resources than requested by the administration for this critical program.

WIC is our first line of defense against infant mortality, low birth weight, malnutrition and other health problems associated with inadequate nutrition among American children. Studies have shown that for every dollar spent on WIC, $3 to $4 are saved in future health care costs.

In providing a funding increase, the committee has demonstrated its commitment to adequately funding WIC so that the largest number of nutritionally at-risk women, infants and children may continue to participate in this cost-effective and important program.

Finally, I would like to thank the chairman of the subcommittee and the ranking minority member for their support for efforts to encourage the Department of Agriculture to review the food packaging requirements for the WIC Food Program. In particular, the committee has expressed concern that current WIC guidelines prohibit all cereals that contain more than 6 grams of sucrose and other sugars, including those that occur naturally, per ounce of dry cereal from eligibility under the WIC Program.

These guidelines prohibit cereals that contain raisins from being eligible for purchase under the WIC Program even though raisins alone have been recommended by the Department to be included as part of a healthy diet and even though many of these cereals—without the naturally occurring sucrose from the fruit—would meet the 6-gram standard. The committee is aware of the evaluation of the food packaging guidelines that is currently underway by the Department, and has appropriately indicated its expectation that this sucrose requirement will be reviewed.

Mr. Chairman, again, this is a good and balanced bill, and I urge my colleagues to vote for the measure.

Mr. RAHALL. Mr. Chairman, I rise today in support of H.R. 2698, fiscal year 1992 appropriations for Rural Development, Agriculture, and Related Agencies. Within the bill's total of $52.6 billion there is necessary funding for many programs which are extremely important to my State of West Virginia.

Housing is certainly a prominent concern in rural districts like my own. The Appropriations Committee's recommendation to continue funding for most rural housing loan and grant programs at the current fiscal year levels is a clear response to the continued housing problems in rural America. This recommendation stands in sharp contrast to the Bush administration's budget request, which was 32 percent less than the committee's proposal. H.R. 2698 appropriates $2.5 billion for the rural housing insurance fund. This is over $600 million more than the administration requested. Of this, $1.22 billion is an allocation for low-income housing loans.

The committee has also recognized the importance of rural development programs to this country. This measure appropriates $635 million for direct and guaranteed loans to help fund the construction of water and sewer systems in rural areas during fiscal year 1992. This is 49 percent more than the administration's request. The bill also appropriates $350 million for rural water and sewer system grants, 56 percent more than the President asked for. Water and waste disposal system improvements are essential elements for increasing the quality of life in rural America. These provisions are of particular interest to my district and I strongly support them.

Other funding of note to West Virginia is the $417 million for extension services. This appropriation will fund programs that are of vital interest to our land-grant colleges and universities.

The Soil Conservation Service watershed and flood prevention operations are also at a level higher than the President requested. Within this appropriation the committee has provided $30 million for the emergency watershed protection program. This program is of significant importance to my district because of a landslide problem along Fourpole Creek, near Huntington, WV. I thank the committee for their interest in this problem and hope with their help it can be assuaged.

Another agency of considerable significance to rural America is the Rural Electrification Administration. ERA assists rural electric and telephone organizations in securing requisite funding for the delivery of electric and telephone service to nonurban areas. The fiscal year 1992 agriculture appropriation sets aside $2.5 billion for REA loan authority. This is $1.1 billion more than the administration requested.

In addition to housing and development programs, food programs are extremely important to my district. This bill provides for a total of $22.2 billion for the Food Stamp Program; this is $1.6 billion more than last year's appropriation.

Also, a program which I feel strongly about, the Special Supplemental Food Program for Women, Infants, and Children [WIC] is provided $2.6 billion in fiscal year 1992, $27 million more than was requested by the administration. The committee recognizes the importance of targeting participation in this program to those who are at greatest nutritional risk and urges the Department of Agriculture to work with the States to this end. The Emergency Food Assistance Program [TEFAP] is funded at the same amounts as the current fiscal year to purchase commodities and to help the States store and distribute this food.

Mr. Chairman, while I sincerely wish we had more money to offer these vital programs I have highlighted, I urge the passage of H.R. 2698, and send a message to the White House that we will not forget the continued struggles of the backbone of our Nation, rural America.

Mr. MOODY. Mr. Chairman, I rise in support of H.R. 2698.

The agriculture appropriations for fiscal year 1992 will, at least for 1 year, correct a disturbing trend that has been occurring for over 10 years.

This bill includes restoration of the 25-percent cut in the Rural Electrification Association's insured loan levels which resulted from last year's Budget Reconciliation Act [OBRA].

This bill restores direct loan funding to the level that existed before OBRA 1990. However, it must be understood that this only incrementally offsets the numerous decreases in funding that have occurred over the past decade. The restored level of funding will still be below the level that existed 10 years ago.

The rural economies of my State, Wisconsin, and all States, rely heavily on the low-cost, REA-insured loans to provide low-cost electric power. The depletion of this loan fund has put an extreme strain on many electric cooperatives.

The electric cooperatives must incur higher costs in serving rural areas, and as a result, must typically charge higher rates than urban-oriented utilities. Therefore, the cooperatives need-low cost, REA-insured loans in order to provide low-cost electric power.

Most people do not realize the importance of the partnership that exists between rural and urban economies. Currently in Wisconsin, the economy of the entire State is being threatened because our dairy farmers are not receiving a fair price for milk. It is in the best interests of everyone for our Government to enact policies that ensure the stability of rural economies.

The country's agriculture industry, and other rural industries, cannot survive without fair costs for electrical power. Increasing REA's loan authority to levels seen in previous years is a desirable step toward providing rural areas with low-cost electric power.

Mr. HALL of Ohio. Mr. Chairman, I commend my colleague, the distinguished gentleman from Mississippi for his leadership in crafting of the bill before us today. At a time when we are forced to restrain spending, at a time when a declining pot of Federal funds is pitting social programs one against the other, he has managed to bring to us a bill that recognizes the critical need for investing in programs that provide basic nourishment for impoverished infants and children. I applaud Chairman WHITTEN's diligent efforts and particularly bring to your attention the bill's provision for expanding the WIC Program. Over the past month, 84 Members have joined me in sponsoring the Freedom From Want Act, which calls for a 5-year funding plan for achieving full participation in WIC. The bill before us today includes a $250 million increase in program spending next year—this is an important first step.

Given the current budgetary challenge, it is imperative that we build partnerships between the Federal Government and the private sector that bring more food to the tables of hungry people. Gleaning, the collection of unharvested food from farmers' fields, gives us this opportunity. I authored the gleaning clearinghouse provision in last year's farm bill and I am pleased to note that the report accompanying H.R. 2698 contains language expressing the committee's intent that the Department of Agriculture provide technical assistance to State and local agencies involved in gleaning projects. I appreciate the committee's support of this effort.

□ 1800

Mr. SKEEN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The Clerk will read.

The Clerk read as follows:

H.R. 2698

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1992, and for other purposes; namely:

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, and not to exceed $50,000 for employment under 5 U.S.C. 3109, $2,282,000: *Provided,* That not to exceed $8,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary: *Provided,* That the Secretary may transfer salaries and expenses funds sufficient to finance a total of not to exceed 50 staff years between agencies of the Department of Agriculture to meet workload requirements.

Mr. DORGAN of North Dakota. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will not take the entire 5 minutes, but I did want to take the well as we discuss agriculture appropriations, and, understanding that this is not the place for us to determine agricultural policy, I did want to say that we do need some changes in agricultural policy, and we do need to complete the task of putting our Farm Program in order, even as we fund the programs today.

Mr. Chairman, I support the efforts of the gentleman from Mississippi [Mr. WHITTEN], the chairman of the Committee on Appropriations, as well as the chairman of this subcommittee. I think the gentleman has done a marvelous job, and over the years has been one of the stalwarts in trying to fight for family farmers and put together a program that works.

I do not want the opportunity to pass, however, as we talk about how much money goes into this program, to say that another element of it is how do we distribute the money, and to question what kind of policies can we develop that provide decent price supports for family-sized farmers.

I do not want people in this country to think that statements from the former Agriculture Secretary and others—statements that say everything is just fine in the Farm Belt, that things are better out in farm country, that prices are all right, that farmers are doing fine—I do not want that to remain unchallenged, because things are not fine. We have got deep trouble, as least in my part of the country.

Mr. Chairman, we have, as I warned some years ago, now been left with a process in which we have low market price and lower support prices, and the farmers find increasing costs for their farm operations and less income with which to pay those costs.

Mr. Chairman, we must find some way of responding to that, or we will not have many family farmers left. It seems to me we must address it with a change in farm policy.

Mr. Chairman, I want to make another point, because I spoke to the chairman about this in the last couple of days. This deals with the question of barley deficiency payments of 1988 and 1989 and the repayments that farmers had to make as a result of the advanced deficiency payments.

Our barley producers were required to pay back some advanced deficiency payments. They were required to pay them back because the U.S. Department of Agriculture computed the payback and the deficiency payments, weighting the deficiency payments for barley with respect to feed grain and malting barley.

Mr. Chairman, malting barley commanded a much higher price, but the fact is 70 percent of the barley goes for feed grain. The use of high-priced malting barley in USDA's calculation denied farmers the support payment they were supposed to get. So our barley producers were forced to pay back a barley deficiency payment they should not have had to pay back.

We in the Congress last year forced the Department to recompute the deficiency payments, and they did. We granted them, but did not require them, to make it whole with the farmers. So they recomputed the deficiency payments and discovered that farmers in fact had to pay $62 million too much back to the Federal Government.

Mr. Chairman, another way of putting it is that $62 million the Federal Government now has that should be in the pockets of farmers, because they were overcharged, in effect, on this deficiency payback, because the formula was wrong and unfair for barley growers. But the U.S. Department of Agriculture says we are not going to send the money back to the barley producers.

Mr. Chairman, I will guarantee you this: If someone owes the Federal Government money, you can be darn sure somebody is going to try to collect it, and quick. But if the Federal Government collects too much and the Federal Government owes the producer money, you would expect an obligation for the Federal Government under that recomputation of that advanced deficiency payment for barley, that that $62 million would be paid back.

Mr. Chairman. I would ask the gentleman from Mississippi [Mr. WHITTEN] if we could look into that. I had intended to offer an amendment on this bill, but it would be scored in a manner that would not allow me to do that.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Chairman, may I say I do not know what we can do. The gentleman from North Dakota [Mr. DORGAN] has talked to me about the situation, and I agreed we would look into it to see exactly what the situation is. I do not know what we can or cannot do, but we will try to find out what the facts are in an effort to determine what is possible.

Mr. DORGAN of North Dakota. Mr. Chairman, reclaiming my time, I appreciate that. The gentleman from Idaho [Mr. STALLINGS] and I, as well as others, have worked on it very hard for a long time. It is unfair to leave it this way, for the Federal Government to have $62 million that belongs to the barley producers.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I would point out we tried to mandate the repayments, and the administration insisted that it remain as a discretionary item. Of course, we have ourselves in that mess because of that right now. The gentleman is right. These people should get their money back.

Mr. DORGAN of North Dakota. Mr. Chairman, reclaiming my time, I am saying in North Dakota, at least, we have a lot of barley producers that believe that money is owed to them. The calculation that we mandated determines the money is owed to them, but the money is here in Washington, somewhere in the Department of Agriculture, and is not going to go back under the current circumstances. I am saying that is unfair, it is wrong, and we have a requirement to set it right.

Mr. Chairman, finally let me say, once again, one of these days, very soon, I hope, we can come back here on the floor and talk about fundamental agriculture policy, because I am telling you it does not work. Two and one-half dollar wheat does not pay the bill. Our farmers in North Dakota are not making it. This agricultural policy leaves them with the worst of all possible worlds: Lower support prices and lower market prices.

Mr. Chairman, if we want a future without family farmers, let us just keep heading where we are heading. But some of us are not content with that around here, and we will be back. When we come back, we are going to be back to try to get a better farm bill, one that helps family farmers in this country's future.

The CHAIRMAN. The Clerk will read.

OFFICE OF THE DEPUTY SECRETARY

For necessary expenses of the Office of the Deputy Secretary of Agriculture, including not to exceed $25,000 for employment under 5 U.S.C. 3109, $543,000: *Provided*, That not to exceed $3,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Deputy Secretary.

OFFICE OF BUDGET AND PROGRAM ANALYSIS

For necessary expenses of the Office of Budget and Program Analysis, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $5,000 is for employment under 5 U.S.C. 3109, $6,149,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded in this Act, $596,000.

RENTAL PAYMENTS (USDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Department of Agriculture which are included in this Act, $50,808,000, of which $5,000,000 shall be retained by the Department of Agriculture for non-recurring repairs as determined by the Department of Agriculture: *Provided*, That in the event an agency within the Department of Agriculture should require modification of space needs, the Secretary of Agriculture may transfer a share of that agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation, but such transfers shall not exceed 10 per centum of the funds made available for space rental and related costs to or from this account.

BUILDING OPERATIONS AND MAINTENANCE

For the operation, maintenance, and repair of Agriculture buildings pursuant to the delegation of authority from the Administrator of General Services authorized by 40 U.S.C. 486, $25,700,000.

ADVISORY COMMITTEES (USDA)

For necessary expenses for activities of advisory committees of the Department of Agriculture which are included in this Act, $1,918,000: *Provided*, That no other funds appropriated to the Department of Agriculture in this Act shall be available to the Department of Agriculture for support of activities of advisory committees.

HAZARDOUS WASTE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, to comply with the requirement of section 107g of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607g, and section 6001 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6961, $27,943,000, to remain available until expended: *Provided*, That appropriations and funds available herein to the Department of Agriculture for hazardous waste management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Personnel, Finance and Management, Operations, Information Resources Management, Advocacy and Enterprise, and Administrative Law Judges and Judicial Officers, $25,014,000; and in addition, for payment of the USDA share of the National Communications System, $50,000; making a total of $25,064,000 for Departmental Administration to provide for necessary expenses for management support services to offices of the Department of Agriculture and for general administration and emergency preparedness of the Department of Agriculture, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department of Agriculture, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109: *Provided*, That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551–558.

OFFICE OF THE ASSISTANT SECRETARY FOR CONGRESSIONAL RELATIONS

For necessary expenses of the Office of the Assistant Secretary for Congressional Relations to carry out the programs funded in this Act, $1,307,000.

OFFICE OF PUBLIC AFFAIRS

For necessary expenses to carry on services relating to the coordination of programs involving public affairs, and for the dissemination of agricultural information and the coordination of information, work and programs authorized by Congress in the Department, $8,925,000, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed $2,000,000 may be used for farmers' bulletins and not fewer than two hundred thirty-two thousand two hundred and fifty copies for the use of the Senate and House of Representatives of part 2 of the annual report of the Secretary (known as the Yearbook of Agriculture) as authorized by 44 U.S.C. 1301: *Provided*, That in the preparation of motion pictures or exhibits by the Department, this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

INTERGOVERNMENTAL AFFAIRS

For necessary expenses for programs involving intergovernmental affairs and liaison within the executive branch, $468,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and the Inspector General Act of 1978, as amended, $62,786,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(8) of the Inspector General Act of 1978, as amended, and including a sum not to exceed $50,000 for employment under 5 U.S.C. 3109; and including a sum not to exceed $95,000 for certain confidential operational expenses including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95–452 and section 1337 of Public Law 97–98.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $24,554,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ECONOMICS

For necessary expenses of the Office of the Assistant Secretary for Economics to carry out the programs funded in this Act, $580,000.

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and service relating to agricultural production, marketing, and distribution, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) and other laws, including economics of marketing; analyses relating to farm prices, income and population, and demand for farm products, use of resources in agriculture, adjustments, costs and returns in farming, and farm finance; research relating to the economic and marketing aspects of farmer cooperatives; and for analysis of supply and demand for farm products in foreign countries and their effect on prospects for United States exports, progress in economic development and its relation to sales of farm products, assembly and analysis of agricultural trade statistics and analysis of international financial and monetary programs and policies as they affect the competitive position of United States farm products, $59,125,000; of which $500,000 shall be available for investigation, determination and finding as to the effect upon the production of food and upon the agricultural economy of any proposed action affecting such subject matter pending before the Administrator of the Environmental Protection Agency for presentation, in the public interest, before said Administrator, other agencies or before the courts: *Provided*, That this appropriation shall be available to continue to gather statistics and conduct a special study on the price spread between the farmer and the consumer: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225): *Provided further*, That this appropriation shall be available for analysis of statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

NATIONAL AGRICULTURAL STATISTICS SERVICE

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, and marketing surveys, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) and other laws, $83,401,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109.

WORLD AGRICULTURAL OUTLOOK BOARD

For necessary expenses of the World Agricultural Outlook Board to coordinate and review all commodity and aggregate agricultural and food data used to develop outlook and situation material within the Department of Agriculture, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), $2,367,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

OFFICE OF THE ASSISTANT SECRETARY FOR SCIENCE AND EDUCATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Science and Education to administer the laws enacted by the Congress for the Agricultural Research Service, Cooperative State Research Service, Extension Service, and National Agricultural Library, $560,000.

AGRICULTURAL RESEARCH SERVICE

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for), home economics or nutrition and consumer use, and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, $658,424,000: *Provided*, That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That funds appropriated herein can be used to provide financial assistance to the organizers of national and international conferences, if such conferences are in support of agency programs: *Provided further*, That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further*, That appropriations hereunder shall be available to conduct marketing research: *Provided further*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided the cost of constructing any one building shall not exceed $250,000, except for headhouses or greenhouses which shall each be limited to $1,000,000, and except for ten buildings to be constructed or improved at a cost not to exceed $500,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building or $250,000, whichever is greater: *Provided further*, That the limitations on alterations contained in this Act shall not apply to modernization or replacement of existing facilities at Beltsville, Maryland: *Provided further*, That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further*, That the foregoing limitations shall not apply to the purchase of land or the construction of facilities as may be necessary for the relocation of the United States Horticultural Crops Research

Laboratory at Fresno to Parlier, California, and the relocation of the laboratories at Behoust, France and Rome, Italy to Montpelier, France, including the sale or exchange at fair market value of existing land and facilities at Fresno, California and Behoust, France; and the use of proceeds from the sale, which shall be deposited in a trust fund in the United States Treasury and which shall remain available until expended, for acquisition of real property and equipment, for construction of replacement facilities, and for relocation costs; and the Agricultural Research Service may lease such existing land and facilities from the purchasers until completion of the replacement facilities: *Provided further*, That not to exceed $190,000 of this appropriation may be transferred to and merged with the appropriation for the Office of the Assistant Secretary for Science and Education for the scientific review of international issues involving agricultural chemicals and food additives: *Provided further*, That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing or operating any research facility or research project of the Agricultural Research Service, as authorized by law.

Special fund: To provide for additional labor, subprofessional, and junior scientific help to be employed under contracts and cooperative agreements to strengthen the work at Federal research installations in the field, $2,500,000.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the agricultural research programs of the Department of Agriculture, where not otherwise provided, $49,473,000: *Provided*, That facilities to house Bonsai collections at the National Arboretum may be constructed with funds accepted under the provisions of Public Law 94–129 (20 U.S.C. 195) and the limitation on construction contained in the Act of August 24, 1912 (40 U.S.C. 68) shall not apply to the construction of such facilities.

COOPERATIVE STATE RESEARCH SERVICE

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including $168,785,000 to carry into effect the provisions of the Hatch Act approved March 2, 1887, as amended, including administration by the United States Department of Agriculture, penalty mail costs of agricultural experiment stations under section 6 of the Hatch Act of 1887, as amended, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $18,533,000 for grants for cooperative forestry research under the Act approved October 10, 1962 (16 U.S.C. 582a–582–a7), as amended, including administrative expenses, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n); $27,400,000 for payments to the 1890 land-grant colleges, including Tuskegee University, for research under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222), as amended, including administration by the United States Department of Agriculture, and penalty mail costs of the 1890 land-grant colleges, including Tuskegee University; $58,299,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i); $99,000,000 for competitive research grants, including administrative expenses; $5,551,000 for the support of animal health and disease programs authorized by section 1433 of Public Law 95–113, including administrative expenses; $1,168,000 for supplemental and alternative crops and products as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d); $300,000 for grants for research pursuant to the Critical Agricultural Materials Act of 1984 (7 U.S.C. 178) and section 1472 of the Food and Agriculture Act of 1977, as amended (7 U.S.C. 3318), to remain available until expended; $475,000 for rangeland research grants as authorized by subtitle M of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended; not to exceed $5,000,000 for higher education grants under section 1417 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3152), including administrative expenses; $4,000,000 for grants as authorized by section 1475 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 and other Acts; $6,725,000 for sustainable agriculture research and education, as authorized by section 1621 of Public Law 101–624 (7 U.S.C. 5811), including administrative expenses; and $17,650,000 for necessary expenses of Cooperative State Research Service activities, including coordination and program leadership for higher education work of the Department, administration of payments to State agricultural experiment stations, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which $8,580,000 shall be for a program of capacity building grants to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321–326 and 328), including Tuskegee University, of which not to exceed $100,000 shall be for employment under 5 U.S.C. 3109; in all, $412,886,000.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities and for grants to States and other eligible recipients for such purposes, as necessary to carry out the agricultural research, extension and teaching programs of the Department of Agriculture, where not otherwise provided, $62,529,000.

EXTENSION SERVICE

Payments to States, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas and American Samoa: For payments for cooperative agricultural extension work under the Smith-Lever Act, as amended, to be distributed under sections 3(b) and 3(c) of said Act, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $262,712,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $60,525,000; payments for the urban gardening program under section 3(d) of the Act, $3,557,000; payments for the pest management program under section 3(d) of the Act, $8,950,000; payments for the farm safety program under section 3(d) of the Act, $1,970,000; payments for the pesticide impact assessment program under section 3(d) of the Act, $3,580,000; grants to upgrade 1890 land-grant college extension facilities as authorized by section 1416 of Public Law 99–198, $9,508,000, to remain available until expended; payments for the rural development centers under section 3(d) of the Act, $950,000; payments for extension work under section 209(c) of Public Law 93–471, $1,031,000; payments for a ground water quality program under section 3(d) of the Act, $12,375,000; for special grants for financially stressed farmers and dislocated farmers as authorized by Public Law 100–219, $2,550,000; payments for youth-at-risk programs under section 3(d) of the Act, $10,000,000; payments for a food safety program under section 3(d) of the Act, $1,750,000; payments for carrying out the provisions of the Renewable Resources Extension Act of 1978 under section 3(d) of the Act, $2,765,000; and payments for extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321–326, 328) and Tuskegee University, $25,755,000; in all, $407,978,000, of which not less than $79,400,000 is for Home Economics: *Provided*, That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, Puerto Rico, Guam, or the Virgin Islands, Micronesia, Northern Marianas, and American Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

Federal administration and coordination: For administration of the Smith-Lever Act, as amended, and the Act of September 29, 1977 (7 U.S.C. 341–349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, $9,079,000, of which not less than $2,300,000 is for Home Economics.

NATIONAL AGRICULTURAL LIBRARY

For necessary expenses of the National Agricultural Library, $17,253,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $35,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That not to exceed $900,000 shall be available pursuant to 7 U.S.C. 2250 for the alteration and repair of buildings and improvements.

OFFICE OF THE ASSISTANT SECRETARY FOR MARKETING AND INSPECTION SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Marketing and Inspection Services to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service, Food Safety and Inspection Service, Federal Grain Inspection Service, Agricultural Cooperative Service, Agricultural Marketing Service and Packers and Stockyards Administration, $550,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b–c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426–426b); and to protect the environment, as authorized by law, $426,903,000, of which $85,922,000 shall be derived from user fees deposited in the Agricultural Quarantine Inspection User Fee Account, and of which $5,000,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions: *Provided*, That $500,000 of the funds for control of the fire ant shall be placed in reserve for matching purposes with States which may come into the program: *Provided further*, That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 per centum: *Provided further*, That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed four, of which two shall be for replacement only: *Provided further*, That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, as amended, and section 102 of the Act of September 21, 1944, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts: *Provided further*, That none of these funds shall be used to develop, establish, or operate any user fee program for agricultural quarantine and inspection to prevent the movement of exotic pests and diseases from Hawaii and Puerto Rico as authorized by 31 U.S.C. 9701.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $21,396,000.

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, and the Poultry Products Inspection Act, as amended, $473,512,000: *Provided*, That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

FEDERAL GRAIN INSPECTION SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, as amended, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, as amended, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $11,397,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further*, That none of the funds provided by this Act may be used to pay the salaries of any person or persons who require, or who authorize payments from fee-supported funds to any person or persons who require nonexport, nonterminal interior elevators to maintain records not involving official inspection or official weighing in the United States under Public Law 94-582 other than those necessary to fulfill the purposes of such Act.

INSPECTION AND WEIGHING SERVICES

LIMITATION ON INSPECTION AND WEIGHING SERVICES EXPENSES

Not to exceed $39,383,000 (from fees collected) shall be obligated during the current fiscal year for Inspection and Weighing Services: *Provided*, That if grain export activities require additional supervision and oversight, or other uncontrollable factors occur, this limitation may be exceeded by up to 10 per centum with notification to the Appropriations Committees.

AGRICULTURAL COOPERATIVE SERVICE

For necessary expenses to carry out the Cooperative Marketing Act of July 2, 1926 (7 U.S.C. 451-457), and for activities relating to the marketing aspects of cooperatives, including economic research and analysis and the application of economic research findings, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and for activities with institutions or organizations throughout the world concerning the development and operation of agricultural cooperatives (7 U.S.C. 3291), $5,640,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $15,000 shall be available for employment under 5 U.S.C. 3109.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry on services related to consumer protection, agricultural marketing and distribution, transportation, and regulatory programs as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $90,000 for employment under 5 U.S.C. 3109, $56,636,000; of which not less than $2,313,000 shall be available for the Wholesale Market Development Program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $50,735,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses: *Provided*, That if crop size is understated and/or other uncontrollable events occur, the Agency may exceed this limitation by up to 10 per centum with notification to the Appropriations Committees.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $10,360,000 for formulation and administration of Marketing Agreements and Orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $1,250,000.

MISCELLANEOUS TRUST FUNDS

For expenses necessary to recapitalize Dairy Graders, $1,250,000, and to capitalize the Laboratory Accreditation Program, $400,000, making a total of $1,650,000, under the Agricultural Marketing Act of 1946 (7 U.S.C. 1623).

PACKERS AND STOCKYARDS ADMINISTRATION

For necessary expenses for administration of the Packers and Stockyards Act, as authorized by law, and for certifying procedures used to protect purchasers of farm products, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $5,000 for employment under 5 U.S.C. 3109, $12,009,000.

FARM INCOME STABILIZATION

OFFICE OF THE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

For necessary salaries and expenses of the Office of the Under Secretary for International Affairs and Commodity Programs to administer the laws enacted by Congress for the Agricultural Stabilization and Conservation Service, Office of International Cooperation and Development, Foreign Agricultural Service, and the Commodity Credit Corporation, $551,000.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary administrative expenses of the Agricultural Stabilization and Conservation Service, including expenses to formulate and carry out programs authorized by title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301-1393); the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.); sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), 590p(f), and 590q); sections 1001 to 1004, 1006 to 1008, and 1010 of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501 to 1504, 1506 to 1508, and 1510); the Water Bank Act, as amended (16 U.S.C. 1301-1311); the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101); sections 202(c) and 205 of title II of the Colorado River Basin Salinity Control Act of 1974, as amended (43 U.S.C. 1592(c), 1595); sections 401, 402, and 404 to 406 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 to 2205); the United States Warehouse Act, as amended (7 U.S.C. 241-273); and laws pertaining to the Commodity Credit Corporation, $720,705,000; of which $719,289,000 is hereby appropriated, and $573,000 is transferred from the Public Law 480 Program Account in this

Act and $589,000 is transferred from the Commodity Credit Corporation Program Account in this Act: *Provided*, That other funds made available to the Agricultural Stabilization and Conservation Service for authorized activities may be advanced to and merged with this account: *Provided further*, That these funds shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That no part of the funds made available under this Act shall be used (1) to influence the vote in any referendum; (2) to influence agricultural legislation, except as permitted in 18 U.S.C. 1913; or (3) for salaries or other expenses of members of county and community committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for engaging in any activities other than advisory and supervisory duties and delegated program functions prescribed in administrative regulations: *Provided further*, That none of the funds appropriated or otherwise made available by this Act shall be used to establish or implement a wetlands reserve program as authorized by 16 U.S.C. 3837 et seq.

□ 1810

AMENDMENT OFFERED BY MR. NAGLE

Mr. NAGLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. NAGLE: Page 28, beginning in line 23, strike ": *Provided*" and all that follows through line 2 on page 29.

Mr. WHITTEN. Mr. Chairman, I reserve a point of order against the amendment.

Mr. NAGLE. Mr. Chaiman, I ask unanimous consent that the amendment, which is to title I, and the amendment, which is to title II, which is directly related to it, be considered en bloc so that we can get this out of the way at the same time.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

Mr. WHITTEN. Mr. Chairman, I reserved a point of order. I now object.

The CHAIRMAN. Objection is heard.

Mr. NAGLE. Mr. Chairman, I would ask Chairman WHITTEN to reconsider that objection, since I do not, when we are done, intend to offer the amendment. I intend to withdraw the amendment.

Mr. WHITTEN. Mr. Chairman, if the gentleman will yield, if I may say so, I hate to make this objection here but, we are going to have to start using our land to produce so we can pay our debts and keep our farmers in business.

Mr. NAGLE. Mr. Chairman, reclaiming my time, I am sorry, but the gentleman is making this more difficult than it needs to be.

Mr. Chairman, I appreciate this opportunity to share some very deep concerns I have regarding the way in which the U.S. Department of Agriculture [USDA] has implemented the conservation provisions of the 1990 farm bill and the result that appears in the Agricultural appropriations bill.

When the 1990 farm bill passed last year, everyone clamored to take credit for this "most progressive environmental farm bill ever." For the first time, provisions to protect wetlands and water quality were added to the conservation program that have been a part of farm bills since the 1930's.

Mr. Chairman, Agriculture Committee intent with regard to conservation elements of the farm program has been completely ignored and, in the end, those who participate in the farm program will suffer.

There is a greater danger which lies at the very heart of what Congress intended to accomplish through the 1990 farm bill.

In the 1990 farm bill, farmers and conservationists very carefully constructed a new approach, based on incentives for farmers to take part in conservation practices, to preserve wetlands, and to integrate their farm program to avoid water pollution.

Mr. Chairman, the greatest danger—and the greatest failure of where the administration and this bill are taking the 1990 farm bill—is the message they are sending to those concerned about the environment.

The greatest danger lies in the message this administration and this bill is sending to those who made the historic decision last year to pursue an incentive approach to conservation and environmental protection.

Having watched good incentive based conservation programs being sandbagged, conservationists and farmers will decide that incentive programs will not be vigorously pursued. As a result, what we may face in the future will be—not voluntary, incentive based conservation programs, but—mandatory controls pushed at us by people who are legitimately concerned about protecting the environment by limiting soil erosion, water pollution, and the other degradations which happen when conservation programs are not funded.

I don't think any of us want to go down that road, Mr. Chairman, but that's where this administration and this bill are taking us with what they are doing to these programs.

My amendment will transfer appropriations from within the conservation title to the Wetlands Reserve Program and the Water Quality Reserve Program. It is my intention to fight for these programs so that the future of the great compromise and more importantly, the future of the farm program can be maintained.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. NAGLE. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. I appreciate the gentleman yielding. Let me simply say that I think that the thrust of the gentleman's amendment is along the lines of the agreement that was reached last year between environmental groups and agricultural groups. I think that there certainly was a balance in that. It was recognized that as far as the conservation reserve program is concerned, that we needed to shift the focus and begin to take into consideration issues of water quality. I think without question that that is a very important feature.

It also needs to be understood, of course, that we want to have the maximum impact, whether it be erosion of the land or whether it be water quality. And I think that the gentleman's approach is one that certainly reflects that.

I, too, join with the gentleman in his disappointment that the appropriations bill did not seem to take that into consideration. I think it is one in which we do definitely want to promote cooperation through voluntary means, through our family farmers and making certain that the environmental concern is met.

POINT OF ORDER

Mr. WHITTEN. Mr. Chairman, I insist on the point of order.

May I say that we operated under very strict limitations this year. We had everybody counting what we could do and this would have the effect of striking out a savings on which we had to count to stay within the budget ceilings. Our provision has the effect of saving $231.8 million in a mandatory program. It has been scored by CBO and by the Budget Committee as a proper savings to the discretionary totals of this bill.

Under Scorekeeping Rule No. 3 of the 1990 Reconciliation Act. If the provision is struck, it will have the effect of breaking the committee's 602(b) allocation and is, therefore, in violation of section 302(f).

We would be in violation of all of our allocation. The effect would be that this would set in motion another sequestration for everything to be cut.

Members will recall last week we had a cut of thirteen ten-thousandths of a percent, it cost thousands of dollars to implement. We faced it because the Office of Management and Budget said we were over some slight amount. CBO and the General Accounting Office differed with them, but nevertheless we had that. So I insist that if this provision should be changed, it would leave us in violation not only in this bill but the effect would be across the board.

The CHAIRMAN. The gentleman from Mississippi insists on his point of order.

Does the gentleman from Iowa [Mr. NAGLE] wish to argue in opposition to the point of order?

Mr. NAGLE. Mr. Chairman, I do.

The CHAIRMAN. Does the gentleman wish to withdraw the amendment?

Mr. NAGLE. Mr. Chairman, the gentleman does not wish to withdraw the amendment with the point of order pending. The gentleman wishes to argue the point of order.

The CHAIRMAN. The gentleman is recognized.

Mr. NAGLE. Mr. Chairman, this is very simple. What I did quite simply was take money that is already being spent and simply transfer it. That is all this does. It does not provide for new money. It does not take money over the cap. It takes existing money inside the bill, simply transfers it to two different programs that the committee in its wisdom and judgment chose not to fund. So it is not over the limit.

It is not an expenditure that is not already authorized. We are simply shifting money within the account.

Therefore, for that reason, the point of order of the distinguished gentleman from Mississippi is not well taken.

□ 1820

The CHAIRMAN. The Chair might remind the gentleman from Iowa that his unanimous-consent request that the amendments be considered en bloc was objected to by the gentleman from Mississippi, the distinguished chairman of the Committee on Appropriations, so the argument is only addressed to that language at the bottom of page 28 and at the top line of 29 which, in essence, strikes the limitation contained in the bill at page 28, line 23.

Mr. NAGLE. That is correct. It spends no money.

The CHAIRMAN. There is no balancing or offset as such within the bill, because the gentleman did not secure, when he sought unanimous consent, to consolidate the two amendments en bloc.

Mr. NAGLE. The gentleman sought it, but the gentleman was denied it.

The CHAIRMAN. The gentleman was denied that by an objection by the distinguished gentleman from Mississippi who had that right.

Mr. NAGLE. I am asking the Chair, and I think I have made my case, and I respectfully ask the Chair to make a ruling.

The CHAIRMAN. The Chair is prepared to rule unless the gentleman from Pennsylvania seeks recognition, and he can in his own right in opposition.

Mr. RIDGE. I do not seek recognition.

The CHAIRMAN. The Chair is prepared to rule then that the point of order of the gentleman from Mississippi is well taken, and the Chair sustains the point of order, because striking that language under the circumstances would be scored to violate the Budget Act.

The Clerk will read.

The Clerk read as follows:

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968, as amended (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, $5,000: *Provided*, That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government: *Provided further*, That this amount shall be transferred to the Commodity Credit Corporation: *Provided further*, That the Secretary is authorized to utilize the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of making dairy indemnity disbursements.

CORPORATIONS

The following corporations and agencies are hereby authorized to make expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided:

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

For administrative and operating expenses, as authorized by the Federal Crop Insurance Act, as amended (7 U.S.C. 1516), $322,870,000: *Provided*, That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 508(b) of the Federal Crop Insurance Act, as amended, $221,500,000.

COMMODITY CREDIT CORPORATION FUND

REIMBURSEMENT FOR NET REALIZED LOSSES

For fiscal year 1992, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed (estimated to be $9,000,000,000 in the President's fiscal year 1992 Budget Request (H. Doc. 102-3)), but not to exceed $8,450,000,000, pursuant to section 2 of the Act of August 17, 1961, as amended (15 U.S.C. 713a-11).

Such funds are appropriated to reimburse the Corporation to restore losses incurred during prior fiscal years. Such losses for fiscal years 1990 and 1991 include $900,000,000 in connection with carrying out the Export Enhancement Program (EEP), $200,000,000 in connection with carrying out the Market Promotion Program (MPP), formerly the Targeted Export Assistance Program (TEA), $300,000,000 in connection with carrying out the Federal Crop Insurance Program, $445,773,000 in connection with domestic donations, $281,605,000 in connection with export donations, and $6,322,622,000 in connection with carrying out the commodity programs.

OPERATIONS AND MAINTENANCE FOR HAZARDOUS WASTE MANAGEMENT

For fiscal year 1992, CCC shall not expend more than $5,000,000 for expenses to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607(g), and section 6001 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6961: *Provided*, That expenses shall be for operations and maintenance costs only and that other hazardous waste management costs shall be paid for by the USDA Hazardous Waste Management appropriation.

GENERAL SALES MANAGER

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of the General Sales Manager, $9,103,000, of which $5,098,000 may be transferred from Commodity Credit Corporation funds, $2,731,000 may be transferred from the Commodity Credit Corporation Program Account in this Act and $1,274,000 may be transferred from the Public Law 480 Program Account in this Act. Of these funds, up to $4,000,000 shall be available only for the purpose of selling surplus agricultural commodities from Commodity Credit Corporation inventory in world trade at competitive prices for the purpose of regaining and retaining our normal share of world markets. The General Sales Manager shall report directly to the Secretary of Agriculture. The General Sales Manager shall obtain, assimilate, and analyze all available information on developments related to private sales, as well as those funded by the Corporation, including grade and quality as sold and as delivered, including information relating to the effectiveness of greater reliance by the General Sales Manager upon loan guarantees as contrasted to direct loans for financing commercial export sales of agricultural commodities out of private stocks on credit terms, as provided in titles I and II of the Agricultural Trade Act of 1978, Public Law 95-501, and shall submit quarterly reports to the appropriate committees of Congress concerning such developments.

TITLE II—CONSERVATION PROGRAMS

OFFICE OF THE ASSISTANT SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Assistant Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Soil Conservation Service, $563,000.

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-590f) including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100; purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft,

$564,129,000, of which not less than $5,713,000 is for snow survey and water forecasting and not less than $8,064,000 is for operation and establishment of the plant materials centers: *Provided*, That of the foregoing amounts not less than $411,800,000 is for personnel compensation and benefits: *Provided further*, That except for $2,399,000 for improvements of the plant materials centers, the cost of any permanent building purchased, erected, or as improved, exclusive of the cost of constructing a water supply or sanitary system and connecting the same to any such building and with the exception of buildings acquired in conjunction with land being purchased for other purposes, shall not exceed $10,000, except for one building to be constructed at a cost not to exceed $100,000 and eight buildings to be constructed or improved at a cost not to exceed $50,000 per building and except that alterations or improvements to other existing permanent buildings costing $5,000 or more may be made in any fiscal year in an amount not to exceed $2,000 per building: *Provided further*, That when buildings or other structures are erected on non-Federal land that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further*, That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C. 590a–590f) in demonstration projects: *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service (16 U.S.C. 590e–2).

RIVER BASIN SURVEYS AND INVESTIGATIONS

For necessary expenses to conduct research, investigation, and surveys of watersheds of rivers and other waterways, in accordance with section 6 of the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1006–1009), $13,251,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $60,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED PLANNING

For necessary expenses for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001–1008), $9,545,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1001–1005, 1007–1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and in accordance with the provisions of laws relating to the activities of the Department, $205,238,000 (of which $30,091,000 shall be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented): *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $30,000,000 shall be available for emergency measures as provided by sections 403–405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203–2205), and not to exceed $200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That $4,000,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further*, That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93–205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010–1011; 76 Stat. 607), and the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and the provisions of the Agriculture and Food Act of 1981 (16 U.S.C. 3451–3461), $32,516,000: *Provided*, That $600,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

GREAT PLAINS CONSERVATION PROGRAM

For necessary expenses to carry into effect a program of conservation in the Great Plains area, pursuant to section 16(b) of the Soil Conservation and Domestic Allotment Act, as added by the Act of August 7, 1956, as amended (16 U.S.C. 590p(b)), $25,271,000, to remain available until expended (16 U.S.C. 590p(b)(7)).

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry into effect the program authorized in sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act approved February 29, 1936, as amended and supplemented (16 U.S.C. 590g–590o, 590p(a), 590p(f), and 590q), and sections 1001–1004, 1006–1008, and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501–1504, 1506–1508, and 1510), and including not to exceed $15,000 for the preparation and display of exhibits, including such displays at State, interstate, and international fairs within the United States, $197,935,000, to remain available until expended (16 U.S.C. 590o), for agreements, excluding administration but including technical assistance and related expenses (16 U.S.C. 590o), except that no participant in the Agricultural Conservation Program shall receive more than $3,500 per year, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community, or where a participant has a long-term agreement, in which case the total payment shall not exceed the annual payment limitation multiplied by the number of years of the agreement: *Provided*, That no portion of the funds for the current year's program may be utilized to provide financial or technical assistance for drainage on wetlands now designated as Wetlands Types 3 (III) through 20 (XX) in United States Department of the Interior, Fish and Wildlife Circular 39, Wetlands of the United States, 1956: *Provided further*, That such amounts shall be available for the purchase of seeds, fertilizers, lime, trees, or any other conservation materials, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out approved farming practices as authorized by the Soil Conservation and Domestic Allotment Act, as amended, as determined and recommended by the county committees, approved by the State committees and the Secretary, under programs provided for herein: *Provided further*, That such assistance will not be used for carrying out measures and practices that are primarily production-oriented or that have little or no conservation or pollution abatement benefits: *Provided further*, That not to exceed 5 per centum of the allocation for the current year's program for any county may, on the recommendation of such county committee and approval of the State committee, be withheld and allotted to the Soil Conservation Service for services of its technicians in formulating and carrying out the Agricultural Conservation Program in the participating counties, and shall not be utilized by the Soil Conservation Service for any purpose other than technical and other assistance in such counties, and in addition, on the recommendation of such county committee and approval of the State committee, not to exceed 1 per centum may be made available to any other Federal, State, or local public agency for the same purpose and under the same conditions: *Provided further*, That for the current year's program $2,500,000 shall be available for technical assistance in formulating and carrying out rural environmental practices: *Provided further*, That no part of any funds available to the Department, or any bureau, office, corporation, or other agency constituting a part of such Department, shall be used in the current fiscal year for the payment of salary or travel expenses of any person who has been convicted of violating the Act entitled "An Act to prevent pernicious political activities" approved August 2, 1939, as amended, or who has been found in accordance with the provisions of title 18 U.S.C. 1913 to have violated or attempted to violate such section which prohibits the use of Federal appropriations for the payment of personal services or other expenses designed to influence in any manner a Member of Congress to favor or oppose any legislation or appropriation by Congress except upon request of any Member or through the proper official channels.

AMENDMENT OFFERED BY MR. JONTZ

Mr. JONTZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JONTZ: Page 42, after line 4, insert the following:

AGRICULTURAL WATER QUALITY INCENTIVE PROGRAM

For necessary expenses to carry into effect the program authorized in chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838, et seq.), $3,000,000.

Mr. JONTZ. Mr. Chairman, I ask unanimous consent to offer my two amendments en bloc. They are amendments to the same paragraph.

Mr. WHITTEN. Mr. Chairman, I raise a point of order and object to the en bloc.

The CHAIRMAN. Objection is heard.

The Chair recognizes the gentleman from Indiana [Mr. JONTZ] for 5 minutes in support of the amendment.

Mr. JONTZ. Mr. Chairman, I have a pair of amendments which I will be offering separately, because of the objection of the chairman.

The first amendment would cut $3.5 million from the appropriation for the ACP program. The bill before us would increase funds for ACP by $7 million, so I would be cutting that appropriation in half. I would then seek to, on my second amendment, take that $3.5 million and offer that to fund the agricultural water-quality incentive program which is a very important program to address water-quality issues that are facing agriculture.

The CHAIRMAN. The gentleman from Indiana will withhold.

The amendment that the Clerk has at the desk is not the amendment the gentleman from Indiana is presently addressing.

I wonder if we can have that.

Mr. JONTZ. We will see that the Clerk gets the amendments.

The CHAIRMAN. Does the gentleman seek unanimous consent to withdraw the amendment pending at the desk?

Mr. JONTZ. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

AMENDMENT OFFERED BY MR. JONTZ

Mr. JONTZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JONTZ: Page 39, line 18, strike "$197,935,000" and insert "$194,435,000".

Mr. JONTZ. Mr. Chairman, I ask unanimous consent at this point that both of my amendments be offered en bloc.

Mr. WHITTEN. Mr. Chairman, I raise a point of order against it.

The CHAIRMAN. Objection is heard.

The Chair recognizes the gentleman from Indiana [Mr. JONTZ] for 5 minutes.

PARLIAMENTARY INQUIRY

Mr. DE LA GARZA. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DE LA GARZA. Mr. Chairman, there was no objection. A point of order was raised by the distinguished gentleman from Mississippi. He did not object to the amendments en bloc.

The CHAIRMAN. The Chair understood the gentleman objected to the unanimous-consent request and so ordered.

Mr. JONTZ. Mr. Chairman, the amendment I offered is one of a pair of amendments that seeks to take $3.5 million that is in this bill for the ACP Program and use it, instead, to fund the Water Quality Incentive Program.

Mr. Chairman, the bill that the distinguished chairman, the gentleman from Mississippi [Mr. WHITTEN], brought to us provides for an increase in the ACP Program of $7 million. I am suggesting that we take half of that money and use it, instead, to provide for the Water Quality Incentive Program which is a very important part of the 1990 farm bill, to address the environmental problems which we face on the farm in this country.

Mr. Chairman, when we wrote the 1990 farm bill, we tried, rather than to impose new regulations on farmers to meet water quality goals, to use a carrot instead of a stick, and we put in the legislation the Water Quality Incentive Program which provides for payments to farmers of up to $3,500 for various management practices which would meet improved water quality goals in areas where there is a water quality program.

I would suggest that this is a very important program, because it is targeted to those farms in those areas where ground water is at risk. If we do not fund the Water Quality Incentive Program, and there is no money in the bill before us for the Water Quality Incentive Program, I think we will run the risk of seeing new regulatory requirements imposed on producers in this country which are not necessary if we can fund incentives for producers to meet water-quality improvement goals.

There is no question that producers want to improve the job they are doing in meeting water quality improvement goals. There is no question that the Water Quality Incentive Program will help them to do it.

The program targets 3 to 5 million acres which is, I think, a very good goal. Obviously, with $3.5 million, we would just be funding the very beginnings of this program, but it is better to fund $3.5 million than nothing for the Water Quality Incentive Program, and, again, Mr. Chairman, this money would come from cutting in half the increase which Chairman WHITTEN has put in this legislation for the ACP Program.

☐ 1830

I would not argue against an increase in the ACP Program, but I would argue if we can take half of the $7 million which are proposed for an increase in the ACP Program and put them in the Water Quality Improvement Program we can do both, provide for the increase in the ACP Program and also provide for the Water Quality Incentive Program, at least to get it started.

We made this promise to the farmers of this Nation when we passed the farm bill last year, that we were going to provide incentives for them to improve the water quality on their farms, and we would see to it that those farmers, at their own initiative by participating in this voluntary program, could bring improvements in water quality so it would not be necessary for Members to come back at a future time and to enact regulatory requirements could be burdensome, and which could prevent farmers from making a fair profit.

I ask the support of the House for this amendment to strike this $3.5 million out of the ACP Program. We would still be spending $194 million on the program, a $3.5 million cut. It would still be an increase over this last year's funding, so it would be possible for Members to, at least begin, to fund a Water Quality Incentive Program.

Last year the Water Quality Incentive Program was supported by environmental groups and supported by wildlife groups. The Water Quality Incentive Program was supported by producers' groups who want to meet water quality goals on a voluntary basis, with the carrot instead of the stick.

The farm producers of this country came to Members and said, "You help us to meet these goals and we will get the job done." Mr. Chairman, we can do that, at least getting started, with the $3.5 million that will be provided by cutting the increase in the ACP Program from $7 million to $3.5 million.

Mr. DE LA GARZA. Mr. Chairman, I rise in support of this amendment. Mr. Chairman, I take this time to just remind the House and my colleagues that the 1990 Farm Act, with all its deficiencies and all of the problems, we had to come up with a consensus piece of legislation. The result was still the most progressive, environmental legislation that we have had from the Committee on Agriculture in the history of the Committee on Agriculture.

This is a modest attempt to try and bring some sense of balance to what we are doing. Many times American agriculture is blamed for contributing to poor water quality, for pollution, and all of the other matters related to the environment. We have been working and are continuing to work to address these concerns. But again, respectfully, our legislative intent is thwarted, and this is a very modest attempt to try and bring some additional assistance.

There is no need to study it. We know we have to have better quality of water. There is no need to study. We know we have to clean up the air. We know we have to protect the wetlands. We know all this.

This is a very modest, very simple attempt by the gentleman from Indiana, who has dedicated much time to this effort. It is an environmentally sound amendment. It is a fiscally frugal amendment. It is a very meager attempt to continue our progressive attitude that has finally come to agriculture and to the Committee on Agriculture.

I ask Members to support this amendment, because it is very frugal, and yet we try and continue the pace that we have set for ourselves to clean up the environment.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from California.

Mr. MILLER of California. I thank the gentleman for yielding.

I rise in support of the amendment. The issue of agriculture lands and water quality is a major issue throughout the country. It is a very important issue in the State of California.

We are having consultations now. There is a general discussion of taking lands out of production, if we cannot deal with the issue of water quality on those lands.

I think that this effort by the Jontz amendment will have a tremendous pay-off to agriculture. If we do not start addressing these problems right away, many of the alternatives are much more difficult and expensive for the farming community. I rise in support of the amendment and join in the remarks of the chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Chairman, I plead with my colleagues that this is not trying to undo the Committee on Appropriations. This is just trying, in a very frugal manner, to bring into place what we have legislated. We have studied it. We know we are running out of water. We know that the air in many areas is polluted. We know we need good quality water. We know that we need conservation.

This I ask my colleagues, to support the gentleman from Indiana, because it is a very minor, but yet very progressive step in where we hope to head in the future for rural America and for agriculture.

Mr. Chairman, the Agriculture Committees in both the House and Senate worked long and hard to construct a farm bill in 1990 that would set new direction for American agriculture as it prepares to enter the 21st century.

Existing programs were improved and new programs established as a foundation for strong, stable, and environmentally sound agricultural programs.

Unfortunately, the Appropriations Committee has seen fit in this bill to undo much of what we on the Committee on Agriculture, believe are important and much-needed initiatives to aid producers and all of American agriculture.

One of the cornerstones of the 1990 farm bill is the improvements that were made in agricultural conservation. Building on the accomplishments of the 1985 farm bill, the 1990 farm bill established new programs to complement the highly successful Conservation Reserve Program already in place.

These were the Wetlands Reserve Program—to provide long-term protection for farmed wetlands—and the Water Quality Improvement Program—to provide incentives to producers to improve farming practices to reduce any negative impacts they may have on water quality.

Mr. Chairman, these three programs—the Conservation Reserve Program, the Wetlands Reserve Program, and the Water Quality Improvement Program—are like the three legs of a stool.

These three programs are the crucial framework for the important conservation efforts that the Department of Agriculture has been charged to implement. Unfortunately, this appropriations bill literally "cut our legs out from under us."

Specifically, the fiscal 1992 Agricultural appropriations bill includes a prohibition against the use of funds to establish a Wetlands Reserve Program. Instead, the Appropriations Committee provides the Agricultural Stabilization and Conservation Service with funds to "better define the costs, benefits, and impacts" of the reserve program.

I should note that the administration, which worked closely with the House and Senate Agriculture Committees in developing the conservation measures in the farm bill, requested $124 million for this program in fiscal year 1992.

It is important for the Members to understand, that the Wetland Reserve is a voluntary easement program to provide long-term conservation easements for the protection of farmed wetlands. Until this time, farmed wetlands were being enrolled in the CRP which affords them only limited protections for the 10-year term of the contract.

In establishing the new Wetland Reserve, Congress directed the Secretary to limit the enrollment of these wetlands into the CRP. Now ironically, should H.R. 2698 remain unchanged, there will be no program in place to provide for long-term easements to protect farmed wetlands.

Of equal significance is the Water Quality Incentive Program which is designed to provide financial incentives and technical assistance to producers to aid them in correcting water quality problems associated with their farming operation. This, too, is a voluntary program designed to help agricultural producers help themselves.

H.R. 2698 provides no funding for the water quality program. As a result, farmers will be forced to address their water quality problems in another manner or seek to enroll their lands in CRP to deal with non-point source pollution problems.

This is the wrong approach for dealing with water quality problems. As stated in the conference report on the 1990 farm bill, "[I]t is more efficient and cost-effective to alter, where possible, cropping management activities to achieve conservation goals than it is to remove environmentally sensitive lands from production and compensate the farmer for the lost economic activity."

Mr. Chairman, the provisions of H.R. 2698 eliminate two important tools for the agricultural producer to be able to farm in an environmentally sound and cost-effective way.

Rather than preparing American agriculture to move into the 21st century, this bill instead prohibits progress and promotes stagnation.

Working with the conservation community and farmers, the Agriculture Committees made great strides toward addressing environmental concerns facing American agriculture. If these farm bill programs are not implemented and the farmer is not given more tools for dealing with wetland and water quality concerns through voluntary, incentive programs, I fear what the alternative may be.

I ask my colleagues to help promote more environmentally sound farming and oppose the status quo.

Mr. WHITTEN. Mr. Chairman, I move to strike the last word. We have a situation on this committee, where we are operating under all sorts of counts and all sorts of limitations, but from the presentation made here this amendment seems to make sense. But at this time, we have received no notice, no recommendation from the Department. We do not know what will be carried out.

We are trying to live within the limits, and trying to live with our friends. I have no objection in going ahead with this amendment. The authorization act was signed on November 28.

Without any information, we have to do the best we can, but I have no objection.

Mr. JONTZ. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Indiana.

Mr. JONTZ. Mr. Chairman, I thank the chairman for his accommodation. I will say that this, as one member of the Committee on Agriculture and I think that others would agree, we will do everything we can to work with the Department of Agriculture to see that the regulations are properly promulgated, to see that the work is done within USDA to make this program successful.

I suggest to the gentleman that starting with $3.5 million is a modest start.

Mr. WHITTEN. If the gentleman will continue to yield, I am relying on that, but, under present conditions, to appropriate money is difficult, however, we will go along.

Mr. NAGLE. Mr. Chairman, I move to strike the requisite number of words. I think the gentleman from Indiana is obviously doing what I tried to do, I think very successfully, but people do not realize when we speak of rural America and we think of Indiana, we think we are out there and pollution is not a problem.

However, I have towns in my district, and towns in the State of Iowa where the water supply from the community, the modern water tower, modern well, the best equipment we have out there, and people cannot drink the water because of the nitrates running off the farmland into the streams, into the rivers, and down into the aqua reservoir itself.

We have a situation in towns in our State where incredible as it may sound, citizens can turn the faucet on to wash their clothes but they have to buy their water from the grocery store, and that is if there is an abundant supply.

It is a serious problem that will only get worse. We know there are some things we can do to help correct that. That is the whole purpose of the origins of this legislation, which was to say to farmers, do not throw that tank with the chemicals into the cart. This is a sinkhole. Do not put excessive nitrogen on the crops. Watch the run off in the livestock areas. Farmers are under tremendous pressure as the chairman of the committee is aware, because we have frozen their target price support. Farming is expected to drop 15 percent this year. At the same time, we are saying we take that land out of production.

Obviously, they are not very inclined to do that, although the conservationists are concerned. We try to put incentive in there. We said that we will actually help pay those farmers to protect the water and see that it does not pollute, that the nitrates do not run into the streams and the drinking water. We will pay those farmers.

It is a very modest program. They lose money because they take the land out of production, but we gain because they get the income back, or at least a portion of it back. That is at the heart of this. When we turn and see the Committee on Appropriations come through with absolutely not one dime for this, it was disappointing. I am glad to hear the colloquy and exchange that has taken place here, because this is an important step, and moves in the correct direction.

Mr. JONTZ. Mr. Chairman, will the gentleman yield?

Mr. NAGLE. I yield to the gentleman from Indiana.

Mr. JONTZ. Mr. Chairman, I appreciate the gentleman's comments and his support for the amendment. The statement on the amendment by the chairman of the Committee on Appropriations, I think is an indication on the part of that committee that they understand the problems are very real problems that need to be dealt with.

This amendment will be a modest start toward progress in that regard.

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Mr. NAGLE. Mr. Chairman, I appreciate the gentleman's comments.

Mr. Chairman, if I can reclaim my time, I congratulate the committee for doing just that, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. JONTZ].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. JONTZ

Mr. JONTZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JONTZ: Page 42, after line 4, insert the following:

AGRICULTURAL WATER QUALITY INCENTIVE PROGRAM

For necessary expenses to carry into effect the program authorized in chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.), $3,500,000.

Mr. JONTZ (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. JONTZ. I yield to the distinguished chairman.

Mr. WHITTEN. Mr. Chairman, I understand this is a companion amendment, and we have no objection to it.

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in support of the amendment by the gentleman from Indiana [Mr. JONTZ]. I regret disagreeing with the distinguished chairman of the Appropriations Committee. However, I believe additional funding for the Wetlands Reserve Program, as proposed by the gentleman from Indiana, makes good sense.

The gentleman's amendment would include important funding for the new Wetlands Protection Program enacted as part of the 1990 farm bill. The program would allow individuals to enroll farmed and converted wetlands into long-term or permanent easements.

This would be one very positive and constructive way to increase protection of our Nation's wetlands without resorting to heavy-handed regulations. The whole approach recognizes that voluntary measures that respect private property rights offer a sensible way to protect our critical natural resources. It's one way that doesn't involve the controversial permitting program run by the environmental protection agency and the corps of engineeers.

I urge my colleagues to support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. JONTZ].

The amendment was agreed to.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do so to ask the distinguished chairman of the Appropriations Committee, as far as I know there is only one more amendment pending, if the gentleman would in order to accommodate our colleagues and the membership be kind enough to move that the bill be considered as read in order that we might expedite the process, since there is only one more amendment to my knowledge left.

Mr. WHITTEN. Mr. Chairman, if the gentleman will yield, the staff advises me that there is one other amendment, so when we get through with the one other amendment, I will be glad to do that.

Mr. DE LA GARZA. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101), including technical assistance and related expenses, $12,446,000, to remain available until expended, as authorized by that Act.

WATER BANK PROGRAM

For necessary expenses to carry into effect the provisions of the Water Bank Act (16 U.S.C. 1301–1311), $18,620,000, to remain available until expended.

EMERGENCY CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 401, 402, and 404 of title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201–2205), $10,000,000, to remain available until expended, as authorized by 16 U.S.C. 2204.

COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

For necessary expenses for carrying out a voluntary cooperative salinity control program pursuant to section 202(c) of title II of the Colorado River Basin Salinity Control Act, as amended (43 U.S.C. 1592(c)), to be used to reduce salinity in the Colorado River and to enhance the supply and quality of water available for use in the United States and the Republic of Mexico, $14,783,000, to be used for investigations and surveys, for technical assistance in developing conservation practices and in the preparation of salinity control plans, for the establishment of on-farm irrigation management systems, including related lateral improvement measures, for making cost-share payments to agricultural landowners and operators, Indian tribes, irrigation districts and associations, local governmental and nongovernmental entities, and other landowners to aid them in carrying out approved conservation practices as determined and recommended by the county ASC committees, approved by the State ASC committees and the Secretary, and for associated costs of program planning, information and education, and program monitoring and evaluation: *Provided*, That the Soil Conservation Service shall provide technical assistance and the Agricultural Stabilization and Conservation Service shall provide administrative services for the program, including but not limited to, the negotiation and administration of agreements and the disbursement of payments: *Provided further*, That such program shall be coordinated with the regular Agricultural Conservation Program and with research programs of other agencies.

CONSERVATION RESERVE PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the conservation reserve program pursuant to the Food Security Act of 1985 (16 U.S.C. 3831–3845), $1,642,760,000, to remain available until expended, to be used for Commodity Credit Corporation expenditures for cost-share assistance for the establishment of conservation practices provided for in approved conservation reserve program contracts, for annual rental payments provided in such contracts, and for technical assistance: *Provided*, That none of the funds in this Act may be used to enter into new contracts that are in excess of the prevailing local rental rates for an acre of comparable land.

TITLE III—FARMERS HOME AND RURAL DEVELOPMENT PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR SMALL COMMUNITY AND RURAL DEVELOPMENT

For necessary salaries and expenses of the Office of the Under Secretary for Small Community and Rural Development to administer programs under the laws enacted by the Congress for the Farmers Home Administration, Rural Electrification Administration, Federal Crop Insurance Corporation, and rural development activities of the Department of Agriculture, $572,000.

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

For gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of 1949, as amended, to be available from funds in the Rural Housing Insurance Fund, as follows: $1,626,451,000 for loans to section 502 borrowers, as determined by the Secretary, of which $350,000,000 shall be for unsubsidized guaranteed loans; $11,330,000 for section 504 housing repair loans; $16,300,000 for section 514 farm labor housing; $573,900,000 for section 515 rental housing; $600,000 for site loans; and $284,000,000 for credit sales of acquired property.

For an amount, for the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct and guaranteed loans, as follows: low-income housing section 502 loans, $324,896,000, of which $12,360,000 shall be for guaranteed loans; section 504 housing repair loans, $5,280,000; section 514 farm labor housing, $9,536,000; section 515 rental housing, $268,585,000; and credit sales of acquired property, $40,612,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $425,173,000.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do so again, if I might have the attention of my distinguished chairman, so that the bill be considered as read as printed in the RECORD.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the distinguished chairman.

Mr. WHITTEN. Mr. Chairman, I ask unanimous consent that the remainder of titles III, IV, and V, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The CHAIRMAN. Are there any points of order to any of these sections of the bill?

The text of the remainder of titles III, IV, and V is as follows:

RENTAL ASSISTANCE PROGRAM

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) of the Housing Act of 1949, as amended, $308,100,000: *Provided*, That of this amount not more than $11,800,000 shall be available for debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed $10,000 per project for advances to nonprofit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act: *Provided further*, That of this amount not less than $128,158,000 is available for newly constructed units financed by section 515 of the Housing Act of 1949, as amended, and not more than $5,214,000 is for newly constructed units financed under sections 514 and 516 of the Housing Act of 1949: *Provided further*, That $174,728,000 is available for expiring agreements and for servicing of existing units without agreements: *Provided further*, That agreements entered into or renewed during fiscal year 1992 shall be funded for a five-year period, although the life of any such agreement may be extended to fully utilize amounts obligated: *Provided further*, That agreements entered into or renewed during fiscal years 1988, 1989, 1990, and 1991 may also be extended beyond five years to fully utilize amounts obligated.

SELF-HELP HOUSING LAND DEVELOPMENT FUND PROGRAM ACCOUNT

For direct loans pursuant to section 523(b)(1)(B) of the Housing Act of 1949, as amended (42 U.S.C. 1490c), $500,000.

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

For gross obligations for the principal amount of direct and guaranteed loans as authorized by 7 U.S.C. 1928–1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $555,500,000, of which $509,000,000 shall be for guaranteed loans; operating loans, $3,500,000,000, of which $2,600,000,000 shall be for guaranteed loans; $7,000,000 for water development, use, and conservation loans, of which $1,500,000 shall be for guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $1,000,000; for emergency insured and guaranteed loans, $600,000,000 to meet the needs resulting from natural disasters; and for credit sales of acquired property, $250,000,000.

For an amount, for the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct and guaranteed loans, as follows: Farm ownership loans, $33,359,000, of which $15,270,000 shall be for guaranteed loans; operating loans, $220,200,000, of which $31,200,000 shall be for guaranteed loans; $2,615,000 for water development, use, and conservation loans, of which $30,000 shall be for guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $1,000,000; for emergency insured and guaranteed loans, $32,100,000 to meet the needs resulting from natural disasters; for watershed, flood and resource conservation loans, $2,162,000; and for credit sales of acquired property, $117,500,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $230,179,000.

During fiscal year 1992 none of the funds in this Act may be used to make loans in excess of the foregoing amounts, except to the extent provided in advance in an Appropriations Act.

STATE MEDIATION GRANTS

For grants pursuant to section 502(b) of the Agricultural Credit Act of 1987, as amended (7 U.S.C. 5101–5106), $3,750,000.

RURAL DEVELOPMENT INSURANCE FUND PROGRAM ACCOUNT

For gross obligations for the principal amount of direct and guaranteed loans as authorized by 7 U.S.C. 1928 and 86 Stat. 661–664, as amended, to be available from funds in the Rural Development Insurance Fund, as follows: water and sewer facility loans, $635,000,000, of which $35,000,000 shall be for guaranteed loans; community facility loans, $125,000,000, of which $25,000,000 shall be for guaranteed loans; and guaranteed industrial development loans, $100,000,000.

For an amount, for the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct and guaranteed loans, as follows: water and sewer facility loans, $96,840,000, of which $840,000 shall be for guaranteed loans; community facility loans, $14,325,000, of which $325,000 shall be for guaranteed loans; and guaranteed industrial development loans, $7,920,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $54,906,000.

RURAL DEVELOPMENT LOANS PROGRAM ACCOUNT

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct loans authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), $22,050,000: *Provided*, That these funds are available to subsidize gross obligations for the principal amount of direct loans of not to exceed $32,500,000.

In addition, for administrative expenses necessary to carry out the direct loan programs, $689,000.

RURAL WATER AND WASTE DISPOSAL GRANTS

For grants pursuant to sections 306(a)(2) and 306(a)(6) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926), $350,000,000, to remain available until expended, pursuant to section 306(d) of the above Act: *Provided*, That these funds shall not be used for any purpose not specified in section 306(a) of the Consolidated Farm and Rural Development Act.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For grants to the very low-income elderly for essential repairs to dwellings pursuant to section 504 of the Housing Act of 1949, as amended, $12,500,000, to remain available until expended.

RURAL HOUSING FOR DOMESTIC FARM LABOR

For financial assistance to eligible nonprofit organizations for housing for domestic farm labor, pursuant to section 516 of the Housing Act of 1949, as amended (42 U.S.C. 1486), $11,000,000, to remain available until expended.

MUTUAL AND SELF-HELP HOUSING

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $8,750,000.

SUPERVISORY AND TECHNICAL ASSISTANCE GRANTS

For grants pursuant to sections 509(g)(6) and 525 of the Housing Act of 1949, $2,500,000, to remain available until expended.

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978 (Public Law 95–313), $3,500,000 to fund up to 50 per centum of the cost of organizing, training, and equipping rural volunteer fire departments.

COMPENSATION FOR CONSTRUCTION DEFECTS

For compensation for construction defects as authorized by section 509(c) of the Housing Act of 1949, as amended, $500,000, to remain available until expended.

RURAL HOUSING PRESERVATION GRANTS

For grants for rural housing preservation as authorized by section 552 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98–181), $23,000,000.

RURAL DEVELOPMENT GRANTS

For grants authorized under section 310B(c) (7 U.S.C. 1932) to any qualified public or private nonprofit organization, $20,750,000: *Provided*, That $500,000 shall be available for grants to qualified nonprofit organizations to provide technical assistance and training for rural communities needing improved passenger transportation systems or facilities in order to promote economic development: *Provided further*, That, effective for fiscal year 1991 and thereafter, grants made pursuant to this appropriation shall not be subject to any dollar limitation unless such limitation is set forth in law.

SOLID WASTE MANAGEMENT GRANTS

For grants for pollution abatement and control projects authorized under section 310B(b) (7 U.S.C. 1932) of the Consolidated Farm and Rural Development Act, $1,500,000: *Provided*, That such assistance shall include regional technical assistance for improvement of solid waste management.

OFFICE OF THE ADMINISTRATOR

For necessary salaries and expenses of the Office of the Administrator of the Farmers Home Administration, $600,000: *Provided*, That no other funds in this Act shall be available for this Office.

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Farmers Home Administration, not otherwise provided for, in administering the programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921–2000), as amended; title V of the Housing Act of 1949, as amended (42 U.S.C. 1471–1490o); the Rural Rehabilitation Corporation Trust Liquidation Act, approved May 3, 1950 (40 U.S.C. 440–444), for administering the loan program authorized by title III–A of the Economic Opportunity Act of 1964 (Public Law 88–452 approved August 20, 1964), as amended, and such other programs which the Farmers Home Administration has the responsibility for administering, $748,584,000; of which $37,637,000 is hereby appropriated, $425,173,000 shall be derived by transfer from the Rural Housing Insurance Fund Program Account and merged with this account, $230,179,000 shall be derived by transfer from the Agricultural Credit Insurance Fund Program Account and merged with this account, $54,906,000 shall be derived by transfer from the Rural Development Insurance Fund Program Account and merged with this account, and $689,000 shall be derived by transfer from the Rural Development Loans Program Account and merged with this account: *Provided*, That not to exceed $500,000 of this appropriation may be used for employment under 5 U.S.C. 3109: *Provided further*, That not to exceed $3,670,000 of this appropriation shall be available for contracting with the National Rural Water Association or other equally qualified national organization for a circuit rider program to provide technical assistance for rural water systems: *Provided further*, That, in addition to any other authority that the Secretary may have to defer principal and interest and forego foreclosure, the Secretary may permit, at the request of the borrowers, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this title, or under the provisions of any other law administered by the Farmers Home Administration, and may forego foreclosure of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower. The Secretary may permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period: *Provided*, That, if the security instrument securing such loan is foreclosed, such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

RURAL ELECTRIFICATION ADMINISTRATION

To carry into effect the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901–950(b)), as follows:

RURAL ELECTRIFICATION AND TELEPHONE LOANS PROGRAM ACCOUNT

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be made as follows: rural electrification loans, not less than $622,050,000 nor more than $933,075,000; and rural telephone loans, not less than $239,250,000 nor more than $311,025,000; to remain available until expended: *Provided*, That loans made pursuant to section 306 of that Act are in addition to these amounts but during fiscal year 1992 total commitments to guarantee loans pursuant to section 306 shall be not less than $933,075,000 nor more than $2,100,615,000 of contingent liability for total loan principal: *Provided further*, That loans may be modified in an amount not to exceed $493,700,000: *Provided further*, That as a condition of approval of insured electric loans during fiscal 1992, borrowers shall obtain concurrent supplemental financing in accordance with the applicable criteria and ratios in effect as of July 15, 1982: *Provided further*, That no funds appropriated in this Act may be used to deny or reduce loans or loan advances based upon a borrower's level of general funds.

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct and guaranteed loans authorized by the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), as follows: cost of direct loans, $229,967,000, cost of loans guaranteed pursuant to section 306, $6,531,000 and cost of the other loan guarantees, $105,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $29,163,000.

During fiscal year 1992 none of the funds in this Act may be used to make loans in excess of the foregoing amounts, except to the extent provided in advance in an Appropriations Act.

RURAL TELEPHONE BANK PROGRAM ACCOUNT

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized programs for the current fiscal year. During fiscal year 1992 and within the resources and authority available, gross obligations for the principal amount of direct loans shall be not less than $177,045,000 nor more than $210,540,000.

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct loans authorized by the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), $11,331,000.

In addition, for administrative expenses necessary to carry out the loan programs, $8,632,000.

RURAL COMMUNICATION DEVELOPMENT FUND

To reimburse the Rural Communication Development Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in making Community Antenna Television loans and loan guarantees under sections 306 and 310B of the Consolidated Farm and Rural Development Act, as amended, $1,264,000.

DISTANCE LEARNING AND MEDICAL LINK PROGRAMS

For necessary expenses to carry into effect the programs authorized in sections 2331–2335 of Public Law 101–624, $5,000,000, to remain available until expended.

RURAL ECONOMIC DEVELOPMENT SUBACCOUNT

For loans authorized under section 313 of the Rural Electrification Act, for the purpose of promoting rural economic development and job creation projects, $5,000,000, to remain available until expended.

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, of direct loans, $1,700,000.

OFFICE OF THE ADMINISTRATOR

For necessary salaries and expenses of the Office of the Administrator of the Rural Electrification Administration, $256,000: *Provided*, That no other funds in this Act shall be available for this Office.

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901–950(b)), and to administer the loan and loan guarantee programs for Community Antenna Television facilities as authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921–1995), and for which commitments were made prior to fiscal year 1992, including not to exceed $7,000 for financial and credit reports, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $103,000 for employment under 5 U.S.C. 3109, $37,795,000; of which $29,163,000 shall be derived by transfer from the Rural Electrification and Telephone Loans Program Account and $8,632,000 shall be derived by transfer from the Rural Telephone Bank Program Account: *Provided*, That none of the funds in this Act may be used to authorize the transfer of funds to this account from the Rural Telephone Bank: *Provided further*, That not less than $500,000 of this appropriation shall be expended to provide community and economic development technical assistance to rural electric and telephone systems by Rural Electrification Administration employees who are located within REA and assigned to REA's Rural Development Coordinator and who may not be reassigned or relocated to the Rural Information Center or other agency or office.

TITLE IV—DOMESTIC FOOD PROGRAMS

OFFICE OF THE ASSISTANT SECRETARY FOR FOOD AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Food and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service and the Human Nutrition Information Service, $542,000.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751–1769b), and the applicable provisions other than sections 3 and 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1773–1785, and 1788–1789), $6,067,386,000, to remain available through September 30, 1993, of which $1,392,294,000 is hereby appropriated and $4,675,092,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided*, That funds appropriated for the purpose of section 7 of the Child Nutrition Act of 1966 shall be allocated among the States but the distribution of such funds to an individual State is contingent upon that State's agreement to participate in studies and surveys of programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966, when such studies and surveys have been directed by the Congress and requested by the Secretary of Agriculture: *Provided further*, That if the Secretary of Agriculture determines that a State's administration of any program under the National School Lunch Act or the Child Nutrition Act of 1966 (other than section 17), or the regulations issued pursuant to these Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under section 7 of the Child Nutrition Act of 1966 and under section 13(k)(1) of the National School Lunch Act; upon a subsequent determination by the Secretary that the programs are operated in an acceptable manner some or all of the funds withheld may be allocated: *Provided further*, That only final reimbursement claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, institutions, and service institutions within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act for meals, supplements, and milk served during any month only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary: *Provided further*, That up to $4,083,000 shall be available for independent verification of school food service claims: *Provided further*, That $1,143,000 shall be available to operate the Food Service Management Institute.

SPECIAL MILK PROGRAM

For necessary expenses to carry out the special milk program, as authorized by section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772), $23,011,000, to remain available through September 30, 1993. Only final reimbursement claims for milk submitted to State agencies within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary.

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $2,600,000,000, to remain available through September 30, 1993.

COMMODITY SUPPLEMENTAL FOOD PROGRAM

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), including not less than $8,000,000 for the projects in Detroit, New Orleans, and Des Moines, $91,284,000: *Provided*, That funds provided herein shall remain available through September 30, 1993: *Provided further*, That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program.

FOOD STAMP PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011–2029), $22,162,975,000; of which $1,500,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, is transmitted to the Congress: *Provided*, That funds provided herein shall remain available through September 30, 1992, in accordance with section 18(a) of the Food Stamp Act: *Provided further*, That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further*, That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further*, That this appropriation shall be subject to any work registration or work fare requirements as may be required by law: *Provided further*, That $345,000,000 of the funds provided herein shall be available only to the extent necessary after the Secretary has employed the regulatory and administrative methods available to him under the law to curtail fraud, waste, and abuse in the program: *Provided further*, That $1,013,000,000 of the foregoing amount shall be available for Nutrition Assistance for Puerto Rico as authorized by 7 U.S.C. 2028; of which $10,825,000 shall be transferred to the Animal and Plant Health Inspection Service for the Cattle Tick Eradication Project.

FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), section 4(b) of the Food Stamp Act (7 U.S.C. 2013), and section 311 of the Older Americans Act of 1965, as amended (42 U.S.C. 3030a), $233,437,000.

For necessary expenses to carry out section 110 of the Hunger Prevention Act of 1988, $32,000,000.

THE EMERGENCY FOOD ASSISTANCE PROGRAM

For necessary expenses to carry out the Emergency Food Assistance Act of 1983, as amended, $50,000,000: *Provided*, That, in accordance with section 202 of Public Law 98–92, these funds shall be available only if the Secretary determines the existence of excess commodities.

For purchases of commodities to carry out the Emergency Food Assistance Act of 1983, as amended, $120,000,000.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the domestic food programs funded under this Act, $101,617,000; of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification, and prosecution of fraud and other violations of law: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109.

HUMAN NUTRITION INFORMATION SERVICE

For necessary expenses to enable the Human Nutrition Information Service to perform applied research and demonstrations relating to human nutrition and consumer use and economics of food utilization, and nutrition monitoring, $11,255,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

TITLE V—FOREIGN ASSISTANCE AND RELATED PROGRAMS

FOREIGN AGRICULTURAL SERVICE

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954, as amended (7 U.S.C. 1761–1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $125,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $110,023,000: *Provided*, That this appropriation shall be available to obtain statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

AMERI FLORA '92 EXPOSITION

To enable the Secretary to meet any extra expenses of participating in the planning, organizing and carrying out of the Ameri Flora '92 Exposition, the first international horticulture and environment exposition to be held in the United States, $500,000 as authorized by section 1472 of the Food and Agriculture Act of 1977, as amended (7 U.S.C. 3318), to remain available until expended.

PUBLIC LAW 480 PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701–1715, 1721–1726, 1727–1727f, 1731–1736g), as follows: (1) $513,800,000 for Public Law 480 title I credit, including Food for Progress credit; (2) $57,000,000 is hereby appropriated for ocean freight differential costs for the shipment of agricultural commodities pursuant to title I of said Act and the Food for Progress Act of 1985, as amended; (3) $696,000,000 is hereby appropriated for commodities supplied in connection with dispositions abroad pursuant to title II of said Act; and (4) $254,959,000 is hereby appropriated for commodities supplied in connection with dispositions abroad pursuant to title III of said Act: *Provided*, That not to exceed 10 per centum of the funds made available to carry out any title of said Act may be used to carry out any other title of said Act.

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, of direct credit agreements as authorized by the Agricultural Trade Development and Assistance Act of 1954, as amended, and the Food for Progress Act of 1985, as amended, including the cost of modifying credit agreements under said Act, $389,979,000.

In addition, for administrative expenses to carry out the Public Law 480 title I credit program, and the Food for Progress Act of 1985, as amended, to the extent funds appropriated for Public Law 480 are utilized, $1,979,000.

PUBLIC LAW 480 DEBT RESTRUCTURING

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, of modifying direct loans authorized by title I and title VI of the Agricultural Trade Development and Assistance Act of 1954, as amended by section 1512 of Public Law 101–624, there is hereby appropriated not to exceed $668,000.

COMMODITY CREDIT CORPORATION

SHORT-TERM EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $5,000,000,000 in credit guarantees under its export credit guarantee program for short-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 211(b)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641).

INTERMEDIATE EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $500,000,000 in credit guarantees under its export guarantee program for intermediate-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 211(b)(2) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641).

EMERGING DEMOCRACIES EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $200,000,000 in credit guarantees under its Export Guarantee Program for credit expended to finance the export sales of United States agricultural commodities and the products thereof to emerging democracies, as authorized by section 1542 of (Public Law 101–624).

COMMODITY CREDIT CORPORATION EXPORT LOANS PROGRAM ACCOUNT

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, or guaranteed loans authorized by the Agricultural Trade Act of 1978, as amended, $155,524,000.

In addition, for administrative expenses to carry out CCC's Export Guarantee Program, GSM 102 and GSM 103, $3,320,000.

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of International Cooperation and Development to coordinate, plan, and direct activities involving international development, technical assistance and training, and international scientific and technical cooperation in the Department of Agriculture, including those authorized by the Food and Agriculture Act of 1977 (7 U.S.C. 3291), $7,392,000: *Provided*, That not to exceed $3,000 of this amount shall be available for official reception and representation expenses as authorized by 7 U.S.C. 1766: *Provided further*, That in addition, funds available to the Department of Agriculture shall be available to assist an international organization in meeting the costs, including salaries, fringe benefits and other associated costs, related to the employment by the organization of Federal personnel that may transfer to the organization under the provisions of 5 U.S.C. 3581–3584, or of other well-qualified United States citizens, for the performance of activities that contribute to increased understanding of international agricultural issues, with transfer of funds for this purpose from one appropriation to another or to a single account authorized, such funds remaining available until expended: *Provided further*, That the Office may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

SCIENTIFIC ACTIVITIES OVERSEAS (FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies owed to or owned by the United States for market development research authorized by section 104(b)(1) and for agricultural and forestry research and other functions related thereto authorized by section 104(b)(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704(b)(1), (3)), $1,062,000: *Provided*, That this appropriation shall be available, in addition to other appropriations for these purposes, for payments in the foregoing currencies: *Provided further*, That funds appropriated herein shall be used for payments in such foreign currencies as the Department determines are needed and can be used most effectively to carry out the purposes of this paragraph: *Provided further*, That not to exceed $25,000 of this appropriation shall be available for payments in foreign currencies for expenses of employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), as amended by 5 U.S.C. 3109.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE VI—RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration, including hire of passenger motor vehicles; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $725,962,000, of which $188,858,000 shall be available only to the extent an official budget request, for a specific dollar amount, is transmitted to the Congress: *Provided*, That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701: *Provided further*, That of the sums provided herein, not to exceed $2,000,000 shall remain available until expended, and shall become available only to the extent necessary to meet unanticipated costs of emergency activities not provided for in budget estimates and after maximum absorption of such costs within the remainder of the account has been achieved.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $10,350,000: *Provided*, That the Food and Drug Administration may accept donated land in Montgomery and/or Prince George's Counties, Maryland.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, again I would like to address myself to our distinguished colleague, the chairman of the Appropriations Committee.

I have an amendment that is on page 85. The next amendment is on page 86. Therefore, if it will be open to amendment at any point, we could facilitate the completion of this legislation, Mr. Chairman, in order to accommodate all our colleagues who have made plans otherwise.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the distinguished chairman.

Mr. WHITTEN. Mr. Chairman, I ask unanimous consent that the bill through section 738, page 85, line 10 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The text of the bill through section 738, page 85, line 10 is as follows:

RENTAL PAYMENTS (FDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92–313 for programs and activities of the Food and Drug Administration which are included in this Act, $25,612,000: *Provided*, That in the event the Food and Drug Administration should require modification of space needs, a share of the salaries and expenses appropriation may be transferred to this appropriation, or a share of this appropriation may be transferred to the salaries and expenses appropriation, but such transfers shall not exceed 10 per centum of the funds made available for rental payments (FDA) to or from this account.

DEPARTMENT OF THE TREASURY

PAYMENTS TO THE FARM CREDIT SYSTEM FINANCIAL ASSISTANCE CORPORATION

For necessary payments to the Farm Credit System Financial Assistance Corporation by the Secretary of the Treasury, as authorized by section 6.28(c) of the Farm Credit Act of 1971, as amended, for reimbursement of interest expenses incurred by the Financial Assistance Corporation on obligations issued through 1992, as authorized, $112,606,000: *Provided*, That not to exceed $2,175,000 of the assistance fund shall be available for administrative expenses of the Farm Credit System Assistance Board: *Provided further*, That officers and employees of the Farm Credit System Assistance Board shall be hired, promoted, compensated, and discharged in accordance with title 5, United States Code.

INDEPENDENT AGENCIES

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109; $47,300,000, including not to exceed $700 for official reception and representation expenses.

FARM CREDIT ADMINISTRATION

LIMITATION ON REVOLVING FUND FOR ADMINISTRATIVE EXPENSES

Not to exceed $40,290,000 (from assessments collected from farm credit institutions and from the Federal Agricultural Mortgage Corporation) shall be available for administrative expenses as authorized under 12 U.S.C. 2249, of which not to exceed $1,500 shall be available for official reception and representation expenses.

TITLE VII—GENERAL PROVISIONS

SEC. 701. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 702. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1992 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 442 passenger motor vehicles, of which 439 shall be for replacement only, and for the hire of such vehicles.

SEC. 703. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefore as authorized by law (5 U.S.C. 5901–5902).

SEC. 704. Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946 and July 28, 1954, and (7 U.S.C. 427, 1621–1629), and by chapter 63 of title 31, United States Code, shall be available for contracting in accordance with said Acts and chapter.

SEC. 705. No part of the funds contained in this Act may be used to make production or other payments to a person, persons, or corporations upon a final finding by court of competent jurisdiction that such party is guilty of growing, cultivating, harvesting, processing or storing marijuana, or other such prohibited drug-producing plants on any part of lands owned or controlled by such persons or corporations.

SEC. 706. Advances of money to chiefs of field parties from any appropriation in this Act for the Department of Agriculture may be made by authority of the Secretary of Agriculture.

SEC. 707. The cumulative total of transfers to the Working Capital Fund for the purpose of accumulating growth capital for data services and National Finance Center operations shall not exceed $2,000,000: *Provided*, That no funds in this Act appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.

SEC. 708. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Public Law 480; Mutual and Self-Help Housing; Watershed and Flood Prevention Operations; Resource Conservation and Development; Colorado River Basin Salinity Control Program; Animal and Plant Health Inspection Service, $5,000,000 for the contingency fund to meet emergency conditions, Integrated Systems Acquisition Project, and buildings and facilities; Agricultural Stabilization and Conservation Service, salaries and expenses funds made available to county committees; the Federal Crop Insurance Corporation Fund; Agricultural Research Service, buildings and facilities, and up to $10,000,000 of funds made available for construction at the Beltsville Agricultural Research Center; Cooperative State Research Service, buildings and facilities; Scientific Activities Overseas (Foreign Currency Program); Dairy Indemnity Program; $3,500,000 for higher education graduate fellowships grants under section 1417 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3152); $8,580,000 for a program of capacity building grants to colleges eligible to receive funds under the Act of August 30, 1890, including Tuskegee University; and buildings and facilities, Food and Drug Administration.

SEC. 709. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 710. Not to exceed $50,000 of the appropriations available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to Public Law 94–449.

SEC. 711. Notwithstanding any other provision of law, employees of the agencies of the Department of Agriculture, including employees of the Agricultural Stabilization and Conservation county committees, may be utilized to provide part-time and intermittent assistance to other agencies of the Department, without reimbursement, during periods when they are not otherwise fully utilized, and ceilings on full-time equivalent staff years established for or by the Department of Agriculture shall exclude overtime as well as staff years expended as a result of carrying out programs associated with natural disasters, such as forest fires, droughts, floods, and other acts of God.

SEC. 712. Funds provided by this Act for personnel compensation and benefits shall be available for obligation for that purpose only.

SEC. 713. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract as provided by law.

SEC. 714. None of the funds appropriated or otherwise made available by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 715. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 per centum of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 716. None of the funds in this Act shall be used to carry out any activity related to phasing out the Resource Conservation and Development Program.

SEC. 717. None of the funds in this Act shall be used to prevent or interfere with the right and obligation of the Commodity Credit Corporation to sell surplus agricultural commodities in world trade at competitive prices as authorized by law.

SEC. 718. Notwithstanding any other provision of this Act, commodities acquired by the Department in connection with Commodity Credit Corporation and section 32 price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture.

SEC. 719. None of the funds in this Act shall be available to reimburse the General Services Administration for payment of space rental and related costs in excess of the amounts specified in this Act; nor shall this or any other provision of law require a reduction in the level of rental space or services below that of fiscal year 1991 or prohibit an expansion of rental space or services with the use of funds otherwise appropriated in this Act. Further, no agency of the Department of Agriculture, from funds otherwise available, shall reimburse the General Services Administration for payment of space rental and related costs provided to such agency at a percentage rate which is greater than is available in the case of funds appropriated in this Act.

SEC. 720. In fiscal year 1992, the Secretary of Agriculture shall initiate construction on not less than twenty new projects under the Watershed Protection and Flood Prevention Act (Public Law 566) and not less than five new projects under the Flood Control Act (Public Law 534).

SEC. 721. Funds provided by this Act may be used for translation of publications of the Department of Agriculture into foreign languages when determined by the Secretary to be in the public interest.

SEC. 722. None of the funds appropriated by this Act may be used to relocate the Hawaii State Office of the Farmers Home Administration from Hilo, Hawaii, to Honolulu, Hawaii.

SEC. 723. Provisions of law prohibiting or restricting personal services contracts shall not apply to veterinarians employed by the Department to take animal blood samples, test and vaccinate animals, and perform branding and tagging activities on a fee-for-service basis.

SEC. 724. None of the funds provided in this Act may be used to reduce programs by establishing an end-of-year employment ceiling on full-time equivalent staff years below the level set herein for the following agencies: Food and Drug Administration, 8,259; Farmers Home Administration, 12,675; Agricultural Stabilization and Conservation Service, 2,550; Rural Electrification Administration, 550; and Soil Conservation Service, 14,177.

SEC. 725. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 726. Funds appropriated by this Act shall be applied only to the objects for which appropriations were made except as otherwise provided by law, as required by 31 U.S.C. 1301.

SEC. 727. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 728. None of the funds provided in this Act may be expended to release information acquired from any handler under the Agricultural Marketing Agreement Act of 1937, as amended: *Provided*, That this provision shall not prohibit the release of information to other Federal agencies for enforcement purposes: *Provided further*, That this provision shall not prohibit the release of aggregate statistical data used in formulating regulations pursuant to the Agricultural Marketing Agreement Act of 1937, as amended: *Provided further*, That this provision shall not prohibit the release of information submitted by milk handlers.

SEC. 729. Unless otherwise provided in this Act, none of the funds appropriated or otherwise made available in this Act may be used by the Farmers Home Administration to employ or otherwise contract with private debt collection agencies to collect delinquent payments from Farmers Home Administration borrowers.

SEC. 730. None of the funds in this Act, or otherwise made available by this Act, shall be used to sell loans made by the Agricultural Credit Insurance Fund. Further, Rural Development Insurance Fund loans offered for sale in fiscal year 1992 shall be first offered to the borrowers for prepayment.

SEC. 731. None of the funds in this Act, or otherwise made available by this Act, shall be used to regulate the order or sequence of advances of funds to a borrower under any combination of approved telephone loans from the Rural Electrification Administration, the Rural Telephone Bank or the Federal Financing Bank.

SEC. 732. Such sums as may be necessary for fiscal year 1992 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 733. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program.

SEC. 734. None of the funds in this Act shall be available to pay indirect costs on research grants awarded competitively by the Cooperative State Research Service that exceed 14 per centum of total direct costs under each award.

SEC. 735. None of the funds in this Act may be used to establish any new office, organization or center for which funds have not been provided in advance in Appropriations Acts, except the Department may carry out planning activities.

SEC. 736. Funds available to the Animal and Plant Health Inspection Service (APHIS) under this and subsequent appropriations shall be available for contracting with individuals for services to be performed outside of the United States, as determined by APHIS to be necessary or appropriate for carrying out programs and activities abroad. Such individuals shall not be regarded as officers or employees of the United States under any law administered by the Office of Personnel Management.

SEC. 737. Notwithstanding any other provision of law, any appropriations or funds available to the agencies of the Department of Agriculture may be used to reimburse employees for the cost of State licenses and certification fees pursuant to their Department of Agriculture position and that are necessary to comply with State laws, regulations, and requirements.

SEC. 738. Funds provided in this Act may be used for incidental expenses such as transportation, uniforms, lodging, and subsistence for volunteers serving under the authority of 7 U.S.C. 2272, when such volunteers are engaged in the work of the U.S. Department of Agriculture; and for promotional items of nominal value relating to the U.S. Department of Agriculture Volunteer Programs.

The CHAIRMAN. Are there any points of order to that portion of the bill?

AMENDMENT OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DE LA GARZA: Strike section 739 (page 85, lines 11 through 13) and renumber the succeeding sections accordingly.

Mr. DE LA GARZA. Mr. Chairman, I repeat, we have explained this amendment during general debate, and it is very simple.

There is in fact a prohibition in the bill that provides, and I will read it, it is very simple:

SEC. 739. None of the funds appropriated or otherwise made available by this Act shall be used to carry out sections 2301–2303 of Public Law 101–624.

Mr. Chairman, I concede the part which says "None of the funds appropriated." That is a prerogative of the Appropriations Committee. We have no problem with that. If the committee in its wisdom decides not to appropriate, we concede that point. That is not the problem.

The problem here is "or otherwise made available by this Act". This in effect negates the law passed by this House, passed by the Senate and signed by the President.

It says that none of the funds shall be used to implement.

What if the Secretary can find funds?

The argument is that he can only use them in areas appropriated. But what if? That, Mr. Chairman, is what the issue is all about. Either we have legislative committees that authorize, or we do not. Either we have an Appropriations Committee that appropriates, that oversees, and I respectfully have to admit that they do a good job or we do not. This is why it is so very difficult for me. This is why I say this very sincerely; it is deeply felt by me. I say it with some degree of pain in my heart, but I have the responsibility, because we acted. The Committee on Agriculture acted. The House acted. The Senate committee acted. The Senated acted. The President signed it. We are ready to go.

I am not going to discuss the issue. The issue really becomes immaterial at this point.

The fact is that this says sections 2301 through 2303 of Public Law 101–624 shall not come to pass.

You know, we discussed abortion earlier. This provision of the bill would abort this important program.

It says that the Rural Development Administration shall not be. No matter why.

□ 1850

Now, to the credit of the distinguished chairman, and I appreciate it very much, and we spoke about it, he offered some compromise language. The compromise language again would have been legislating on an appropriation bill and subject to a point of order.

So I ask my colleagues in the House to support us in this measure because it has nothing to do with the gentleman from Mississippi, has nothing to do with the members of the Committee on Agriculture or the Committee on Appropriations.

It has to do with procedure, what is right and what is wrong. It is not a budget implication. This is a very frugal amendment to try to do something policywise. Policywise.

The House Committee on Agriculture makes the policy. Right or wrong, whether you agree or disagree, we are the ones charged under the rules to make policy. Section 739 of the bill will negate that policy under the guise of a restriction on an appropriation bill.

And I ask, not for me, not against the chairman, but I ask my colleagues to support the House Agriculture Committee, its integrity, its authority and its justified right to legislate and not be negated except in an appropriate and rightful manner.

Mr. WHITTEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, involved in this is the action of the Farmers Home Administration. One of the preceding administrator's said he was appointed for the purpose of collecting money. He refused to make a production loan unless the applicant could show that he could repay it in one year plus pay everything else he already owed.

We have had others who have not used the Commodity Credit Corporation, and in this instance here may I say that language, I agree, is surplusage.

I have in my hand the statement of administration policy from the Office of Management and Budget which I placed in the RECORD earlier which points out there is no money in this bill for Rural Development Administration.

So I have no objection to the amendment, because there is no money in this bill for the purpose of this amendment.

I expect to follow this up with a letter to the Secretary of Agriculture asking him to send up language so that we can restore rural development, and I want to emphasize restoration.

As a result of the farm policies we have had, every little town and community in the country is drying up. We have given away all of our domestic markets to our foreign competitors. We refuse to use the Commodity Credit Corporation to regain and retain our normal world markets.

I am going to ask the present Secretary of Agriculture, and I anticipate his cooperation, to send us a bill where we can strengthen the rural development work of the Farmers Home Administration, the agency that was created for this purpose. Page 84 of our report, which I had also entered into the RECORD, shows what this is about. I am accepting the amendment, because our language was surplusage, but I am going to follow up with a letter to the Secretary asking him to cooperate with us in strengthening Farmers Home.

Mr. Chairman, I have no objection to the amendment.

Mr. ENGLISH. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. ENGLISH. I yield to the gentleman from Texas.

Mr. DE LA GARZA. I thank the gentleman for yielding.

Mr. Chairman, I take this time only to show my appreciation to the distinguished gentleman from Mississippi. I appreciate his wisdom, his Solomon-type wisdom. We will work with him. I will join with him in sending a letter that we implement this rural development agency because I agree with everything he said. We have had people who tried to thwart his wishes and our wishes, both of our committees.

The gentleman quoted correctly former heads of the Farmers Home Administration. So this is to assure him that we will work with him and we will work together.

Mr. WHITTEN. Mr. Chairman, will the gentleman from Oklahoma yield?

Mr. ENGLISH. I yield to the chairman of the committee.

Mr. WHITTEN. I thank the gentleman for yielding.

Mr. Chairman, I appreciate the gentleman from Texas's statements. Mr. Chairman, may I say if there is anything that needs people working together, it is agriculture, and for the purpose of developing the country, it is better that we work together.

Mr. ENGLISH. Mr. Chairman, section 735 does not apply to the establishment of the Rural Development Administration.

The Food, Agriculture, Conservation, and Trade Act of 1990 [FACTA 1990] was signed into law November 28, 1990.

Section 2302 of FACTA 1990 amends the Consolidated Farm and Rural Development Act by adding the following new section 364(a):

SEC. 364. RURAL DEVELOPMENT ADMINISTRATION.

(a) ESTABLISHMENT.—There is established in the Department of Agriculture the Rural Development Administration, which shall be headed by an Administrator appointed by the Secretary.

The Consolidated Farm and Rural Development Act is further amended by adding other new sections and amending other such existing sections of the Act as of November 28, 1990. Other provisions in title 18 (criminal code), title 42 (Public Health and Welfare), title 5 (Government Organization and Employees) and title 7 (Agriculture) of the United States Code are also amended as of November 28, 1990 by inserting the words "Rural Development Administration" relating to the establishment of the Rural Development Administration on that date.

Mr. Chairman, the very bill, H.R. 2698, we consider here today carries the words "Rural Development" in its title and the amendment in FACTA 1990 in creating a Rural Development Administration gives life to what the Appropriations Committee itself did in changing the title of its subcommittee and its agriculture appropriation bills.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. ENGLISH. I yield to the gentleman from West Virginia.

Mr. STAGGERS. I thank the gentleman for yielding.

Mr. SKEEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to at this time say that this side accepts the amendment also. I do want to thank the distinguished chairman of the full Committee on Agriculture for lending a great deal of distinction and credit to the Republican side by speaking from our side of the aisle.

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. WHITTEN. Mr. Chairman, I would like to again thank my colleague, the gentleman from New Mexico, the members of the subcommittee and the others who worked so hard on this bill. We had over 1,000 requests from Members we had to consider. We had to move things out of the bill and into the report to stay within the ceilings.

But I say to the gentleman from New Mexico, "JOE, you did a marvelous job." I want to thank the gentleman and our colleagues for the splendid help we have had all the way through.

May I say that I have pointed out for many, many years that agriculture is bigger than our three biggest industries—auto, steel, and housing combined. It is a producer of wealth. We are going to have to restore the purchasing power of agriculture or else the country will go down. I am afraid that is in sight unless we do something to restore agriculture. But I say to the gentleman from New Mexico again, "Thank you, JOE."

Mr. SKEEN. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from New Mexico.

Mr. SKEEN. I thank the chairman for yielding.

Mr. Chairman, I thank the gentleman from Mississippi for his very kind words. It has been a real pleasure working with the gentleman from Mississippi. I am a great student of the Whitten manner. I can even help interpret, in some cases.

Mr. COLEMAN of Missouri. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as cosponsor of this amendment, I am delighted that the gentleman from Mississippi, Chairman WHITTEN, has accepted it.

Mr. Chairman, I want to make three points. One, we are not asking for a new bureaucracy. The Rural Development Administration, No. 2, is not asking for any new money. It simply transfers functions from the Farmers Home Administration to this new agency to focus on rural development in this country, utilizing those resources.

With the adoption of this amendment, we will remove all limitations on implementing the Rural Development Administration, something that this House voted 360 to 45 a year ago.

Mr. Chairman, I rise in strong support of the de la Garza-Coleman-English-Smith amendment to H.R. 2698 that will remove language prohibiting implementation of the Rural Development Administration which this Congress established in the 1990 farm bill.

This amendment is critical to the future of Federal rural development policy for small-town America and it is necessary if the will of this House—reflected in last year's overwhelming 360 to 45 vote on the Rural Development Act—is to prevail.

Mr. Chairman, because I represent one of the most diverse agricultural areas in this country, I have been a strong supporter of Federal policies aimed at insuring farmers and producers a fair return on their labor while providing our Nation a steady supply of food and fiber. But it has become very clear to me that however well our traditional commodity programs may work, their benefits often do not go much beyond the farm gate. It is clear that we must take off the blinders and find new approaches to stabilizing and strengthening the Nation's rural communities.

There is no conflict between traditional agriculture programs and rural economic development policies that will promote off-farm income for farm families. That the two must go hand in hand was recently underscored when the Farmers Home Administration noted that the majority of the loans it now approves can cash flow only with off-farm income. Yes, we must continue to work for expanded markets for agricultural products. Yes, we must fight hard to make sure our producers are competing on a level playing field with the rest of the world. But we must also recognize that a key to the survival of our rural communities is economic diversification.

The Rural Development Administration which the Congress overwhelmingly supported in last year's farm bill is an essential first step toward a focused Federal policy to promote that critical economic diversity and development.

The RDA your vote can save today is the result of many public hearings, months of intensive work by Members and staff, and close consultation with the administration. I ask my colleagues to remember that:

RDA creates no new bureaucracy.

RDA will not require the expenditure of any new funds. We are merely shifting the current economic development programs from the Farmers Home Administration.

RDA will give USDA a single agency responsible for rural development strategy and coordinate rural development programs.

RDA will lead to greater expertise in rural development issues and to more effective, efficient program delivery.

There will be no negative impact on FmHA programs; indeed, we believe that by allowing it to focus on its traditional lending programs and allowing RDA to focus on rural development programs that both will be more effective and more efficient.

On March 22, 1990, this House voted 360 to 45 to create the Rural Development Administration for all the reasons I have mentioned. This House knew then—as I believe it knows now—that we must find new and creative ways to address the problems of rural America. The overwhelming will of the Congress of the United States must not be thwarted by the last-minute insertion of 25 words in H.R. 2698.

I am proud to stand with Chairman DE LA GARZA to urge the Members of this House to help us once more as we work to give new hope to America's rural communities and the millions of our fellow citizens who call them home.

Mr. Chairman, after so many years of hard work we are so close. I ask my colleagues to support this amendment which will make the Rural Development Administration a reality at last.

With the adoption of this amendment all limitations have been removed from the implementation of the Rural Development Administration.

Mr. SMITH of Oregon. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from Oregon.

Mr. SMITH of Oregon. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise with my colleagues on the Agriculture Committee and to urge a yes vote on the amendment to strike section 739 from the 1992 agriculture and rural development appropriations bill. Section 739 would prohibit the Secretary of Agriculture from establishing a Rural Development Administration within the U.S. Department of Agriculture.

Certainly, I would have preferred that it not come to this. As ranking Republican authorizing subcommittee, the Conservation, Credit and Rural Development Subcommittee, I would have preferred that the Appropriations Committee work with us.

Yesterday, I spoke on the floor against another effort to bypass an authorizing committee during debate on the Interior appropriation. The reversal of statutes duly passed by this Congress and signed into law by the President by the Appropriations Committee is becoming increasingly commonplace.

Mr. Chairman, in this instance the Appropriations Committee has done this without holding a single hearing on the issue of establishing a Rural Development Administration. We canot take these actions lightly.

I support the de la Garza-Coleman-English-Smith amendment because the matter in question is sound legislation, fully considered by the Congress and supported by USDA.

The provision in question—establishing the Rural Development Administration—was originally contained in H.R. 3581, the Rural Economic Development Act of 1989 that passed the House on March 22, 1990, by a vote of 360 to 45. The bill ultimately became a part of the 1990 farm bill and was signed by the President.

This is not frivolous legislation. It does not provide any new, direct lending or grant programs to rural communities that is not already available. But it does give direction and focus for rural development efforts that we, the authorizing committee, believe are urgently needed.

Now, the House, which has agreed to a Rural Development Administration twice in the last 12 months should be able to agree to it one more time. I urge adoption of the amendment.

Mr. COLEMAN of Missouri. Mr. Chairman, I ask for a vote on the amendment.

Mr. PERKINS. Mr. Chairman, I rise in strong opposition to the amendment offered by the distinguished gentlemen from Texas, Missouri, Oklahoma, and Oregon. In my opinion the Appropriations Committee made exactly the right decision in blocking the establishment of the Rural Development Administration.

Right now, rural development programs are administered quite well by the Farmers Home Administration. I believe that Farmers Home's water and sewer grants program, which would become the RDA's principal responsibility, currently does a very good job with the money that it has. In my State, Farmers Home's Bob Litton runs an excellent program which has greatly contributed to the economic development of the Commonwealth of Kentucky—especially in my eastern Kentucky district. Bob has done an amazing job with slim resources. Dividing the FmHA into two separate bureaucracies would increase the total overhead costs of Federal rural development programs. The end result is that even less money would be available for grants.

All of the pieces of the rural development puzzle are interdependent. Coordination among Federal rural development programs—from building affordable houses to laying affordable water and sewer lines—is essential if each scarce dollar is to have the greatest possible impact. Transferring some rural development programs out of Farmers Home would make this coordination much more difficult, if not impossible.

If the Farmers Home Administration "ain't broke"—and it isn't—then why go through all this effort to fix it? The last thing that this Congress needs to do is to take an effective agency, create a new bureaucracy, and transfer some of the first agency's programs to the second one. At best, it is a difficult exercise in standing still; at worst, we will have screwed up our rural development efforts in the name of reform.

Once again, Mr. Chairman, I would like to state my opposition to this amendment. I urge all my colleagues to vote with Chairman WHITTEN and the Appropriations Committee by voting "no" on this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. DE LA GARZA].

The amendment was agreed to.

□ 1900

Mr. RIDGE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, before we conclude discussion of this very important measure, I would like to remind my colleagues that when President Bush sent his budget to the Hill, he requested $80 million in budget authority and $124 million in budget outlays for the wetlands conservation research program. In my view, the Appropriation Committee's move to eliminate funding for wetlands protection could not have come at a more inappropriate time.

During debate on the 1990 farm bill, I introduced the Permanent Wetlands Agricultural Reserve Act—(H.R. 4247—which was designed to protect 2.5 million acres of wetlands. In seeking a workable compromise, I was satisfied we did the best we could when we voted to protect 1 million acres of valuable wetlands. Now today, without the support of the administration, farmers, or wetlands conservationists or reformers, the Appropriation Committee has proposed to arbitrarily gut this valuable program.

Mr. Chairman, wetlands conservation and regulatory reform is rapidly becoming one of the leading environmental issues of the 102d Congress. The Comprehensive Wetlands Conservation and Management Act of 1991—H.R. 1330—a bill which I helped author and now vigorously support, currently has 148 cosponsors. While supporters of our legislation know the time has come for regulatory reform, we are also fighting for new resources to protect our Nation's wetlands. This is no time to step back. We can protect wetlands and respect private property rights. America's farmers are willing to work with us to protect environmentally sensitive land. The USDA's wetlands conservation reserve is a rational, effective, and necessary conservation tool.

I would urge the Appropriations Committee to keep faith with the earlier commitment of the authorizing committee to protect 1 million acres of wetlands by restoring full funding for this wetlands reserve program in conference.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 739. None of the funds appropriated or otherwise made available by this Act shall be used to carry out sections 2301-2303 of Public Law 101-624.

SEC. 740. The Secretary shall complete the sales of Farmers Home Administration inventory farms, in accordance with the law and regulations in effect before November 28, 1990, in situations in which a County Committee, acting pursuant to section 335 of the Consolidated Farm and Rural Development Act, had made its initial selection of a buyer before November 28, 1990. Such sales shall be completed as soon as the selection decision is administratively final and all terms and conditions have been agreed to. In carrying out sales of inventory property, priority shall be given to the former owner and members of the immediate family.

SEC. 741. None of the funds appropriateed or otherwise made available for this Act shall be used to exclude from coverage under section 2244 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624) any crop of valencia oranges that, regardless of harvest year, was destroyed or damaged by freeze or related condition in 1990 and is otherwise covered by that section.

AMENDMENT OFFERED BY MR. GRANDY

Mr. GRANDY. Mr. Chairman, I offer an amendment.

The Clerk read as follow:

Amendment offered by Mr. GRANDY: Insert before the short title (page 86, after line 8) the following new section:

SEC. 742. None of the funds appropriated or otherwise made available in this Act may be used in carrying out the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) to—

(1) deny an agricultural producer (who insured a primary crop that the producer was prevented from planting due to damaging weather or related causes but who planted a generally accepted secondary crop, such as soybeans or grain sorghum, in lieu of that primary crop) crop insurance coverage to the same extent as if the producer originally insured that secondary crop instead of the primary crop; and

(2) deny crop insurance coverage for 1991 crops of soybeans planted by a land-based air seeding method using a fertilizer boom and applying appropriate amounts of seed and herbicide or planted by broadcasting.

Mr. GRANDY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. WHITTEN. Mr. Chairman. I reserve the point of order against the amendment.

The CHAIRMAN. The gentleman from Iowa [Mr. GRANDY] is recognized for 5 minutes in support of his amendment.

Mr. GRANDY. Mr. Chairman, I know the hour is late and this will be the last amendment, however I will just ask the Members' attention to this, which may sound like a parochial amendment, Mr. Chairman, but I can tell this Committee that my State of Iowa, as with many other States in this Nation, for the last 4 years has been through 2 years of drought and 1 year of the wettest weather we have ever experienced, and what that has produced is an adverse weather condition, Mr. Chairman, that has not only inconvenienced and in some cases decimated farmers, but it has caught them in an untenable position with the risk management tools that they thought they had and yet discovered, to their chagrin, they do not. Basically farmers in my area have bought crop insurance only to find that, due to weather conditions and technical provisions in the insurance contract, they are being denied coverage under those contracts for the crops they have been forced to plant.

Now I am attempting to work with the Federal Crop Insurance Commission on this to take the simple, no-cost, administrative actions outlined in this amendment that they have so far refused to do, and, Mr. Chairman, this amendment is in two sections.

The first section is as follows: I ask that, if a farmer who intended to plant corn, or cotton, or another primary crop, was prevented from doing so due to adverse weather, that he be allowed to substitute a secondary crop and receive coverage. Unfortunately, due to crop insurance rules, he is prevented from doing so because the acres are attached, or the insurance, I should say, is attached, to specific acres. The farmer has been told by the crop insurance agent that he cannot get coverage, and consequently he must go bare.

I will say at this point we have been told by CBO and USDA that this will result in no added costs, and FCIC will not have a greater number of contracts than it contracted to have at the signup deadline of April 15. The bottom line here, Mr. Chairman, is no net cost to the Treasury, and we are allowing a farmer to make a prudent substitution under the available risk management tools.

The second provision, Mr. Chairman, would allow farmers with wet fields that are trying to get in, and in this case and in the case of Iowa plant soybeans where their corn was, to use a technique of allowing them to use land-based alternative means. In this case they would probably be allowed to take a large bulk fertilizer truck with balloon tires and broadcast; that is to say, spray, their seed into the field. They are presently precluded from doing that because of a crop insurance rule that requires beans to be planted in rows.

Now I beg the indulgence of the Committee. This is a technical amendment, but very important to those farmers that are trying to save what possible crop they might be able to get. This amendment would allow those aerators, or air-based, or land-based, airseeding provisions to be covered under crop insurance. Again there would be no net cost according to USDA and CBO, and the bottom line here, Mr. Chairman, is these are reasonable administrative actions.

Now I understand that the chairman of the Committee on Appropriations will reserve a point of order because he will claim that this is legislation on an appropriations bill, and I have no doubt that this will be sustained. But I hope that the chairman and other members of his committee and members of the Committee on Agriculture will continue to work to make a crop insurance program that works for producers when they need it because right now we not only have in this country and under present ag policy a crop insurance program that does not work when farmers need it, we do not have a disaster program that responds when farmers need it, and I would only ask that these two provisions be made in order because we need to be more responsive to farmers' needs, and a more desirable and manageable risk management tool has to be made for our producers.

Just let me say in the time that remains, Mr. Chairman, that I want to stress that there is no net cost. We are merely allowing producers to transfer coverage from one crop to another. In most cases their yield will be less. It is their last card to play in the time that remains, and I want to stress that in my part of the country we are talking about a matter of days, if farmers are to get their crop in the field. If they are not allowed to make these changes either in this appropriations bill or administratively, we will probably lose more farmers than we need to. That will entail probably more disaster aid somewhere down the line.

I will only ask this Committee to seriously consider this amendment as a way to take preemptive action and perhaps save taxpayers' money.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Does the gentleman from Mississippi [Mr. WHITTEN] wish to be heard on his point of order?

Mr. WHITTEN. I reserved my point of order, and I understood there was an agreement.

Mr. GRANDY. Mr. Chairman, I cannot hear the gentleman from Mississippi [Mr. WHITTEN]. Did he say something about an agreement?

Mr. WHITTEN. Does the gentleman from Iowa [Mr. GRANDY] withdraw the amendment? I understood that was what was in order.

Mr. GRANDY. I am willing to withdraw the amendment, Mr. Chairman, with the understanding that this is a problem that needs the attention of the committee of the gentleman from Mississippi [Mr. WHITTEN] and the Committee on Agriculture.

Mr. WHITTEN. I hope the gentleman from Iowa [Mr. GRANDY] will withdraw the amendment. Mr. Chairman, I believe it is subject to a point of order, and I think the Chair would so rule, but, if the gentleman will withdraw it, I would like to make this statement.

What the gentleman from Iowa [Mr. GRANDY] presents is a true picture of much of our country. We have called, as a committee, on the President to send up recommendations on 28 disasters that he has declared. The delta section of my State, is under water and faces a similar situation as you describe. We have many situations like that around the United States. But your amendment is legislation, as it stands now. I have asked the White House to send us a recommendation on disasters so that we can deal with the supplemental so we can make this in order.

I would appreciate the gentleman withdrawing his amendment.

Mr. GRANDY. Mr. Chairman, I appreciate the concern of the gentleman from Mississipi [Mr. WHITTEN] and his attention to this. Iowa is not normally considered a delta State, Mr. Chairman, but under the rainfall we have had we probably qualify.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN. The amendment offered by the gentleman from Iowa [Mr. GRANDY] is withdrawn.

Are there further amendments to the bill?

If not, the Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1992".

□ 1910

Mr. WOLPE. Mr. Chairman, I rise in support of H.R. 2698, providing for agriculture, rural development, FDA, and related appropriations for fiscal year 1992. I am particularly pleased that this legislation contains $2.6 billion for the Supplemental Food Program for Women, Infants, and Children [WIC]. It is well known that the WIC Program is one of the most successful programs we have ever experienced. As the committee report states "benefits to participants of WIC are well documented, including fewer premature births, fewer late fetal deaths, better dietary benefits for the most nutritionally at risk, more regular medical care, better cognitive performance in children, and savings in Medicaid costs for newborns and their mothers." The value and benefits of this program cannot be denied. Recognizing this, Congress has increased its funding and expanded the program's authority each year. This year alone the WIC Program received $250 million more than we appropriated for fiscal year 1991.

Mr. Chairman, I will be the first to admit that I am not a nutritionist and I try not to get involved in issues about which I have limited knowledge. But, I would like to draw the attention of my colleagues to one element of the USDA rules governing the operations of the WIC Program that, at least on the surface, appear to produce a rather incongruous result. I refer to that regulation that makes certain nutritious cereals containing fruit ineligible to be included in the WIC Program, even though the same cereals would qualify without the fruit and the fruit would qualify without the cereal.

I call your attention to the committee report accompanying the agriculture appropriations bill. On page 114, the report states:

The Committee is aware of the WIC food package requirement which prohibits cereal from being included as an eligible purchase if it contains more than six grams of sucrose and other sugars, including those that occur naturally, per ounce of dry cereal. Cereals which contain raisins are excluded from the WIC food package because of this requirement, even though raisins alone have been recommended by the department to be included as a healthy dietary choice. The Committee is also aware that the entire WIC food package is currently under review. As part of this review, the Committee expects the Department to include an evaluation of cereals excluded from the food package because of naturally occurring sugar in fruit.

Mr. Chairman, I am pleased that the USDA is undertaking a comprehensive review of the WIC food package. Several nutrition studies that have been brought to my attention emphasize the importance of fruit as one of the most essential elements in a balanced nutritious diet. For example, the Dietary Guidelines Advisory Committee, established jointly by the U.S. Departments of Agriculture and Health and Human Services recommends that "adults eat daily at least * * * two servings of fruits" and that children should be encouraged to develop a similar practice. The Surgeon General's report on nutrition and health also recommends that among other foods, such as vegetables, whole grain products and cereals, people should "emphasize intake of fruits." Still another Federal Government document, entitled "Dietary Guidelines for Americans," recommends choosing a diet with plenty of vegetables, fruit, and grain products and suggests that adults and children should eat "two servings of fruit daily."

More recently, the Institute of Medicine issued a comprehensive report entitled, "Improving America's Diet and Health—From Recommendation to Action." In this report, the Institute of Medicine urges Congress to take an active role in the implementation of dietary recommendations. The report goes on to suggest that USDA regulations concerning family nutrition programs should be brought into compliance with dietary recommendations. In fact, it explicitly urges that fruit be included in the WIC food packages whenever possible.

Mr. Chairman, I leave it to the experts. If, in fact, upon review it were determined that this change in food packages were appropriate, I am told that one of the side benefits would be to realize a 30-percent savings.

I thank my colleagues on the committee for raising this issue in their report. I look forward to the results of the USDA's review so that these questions may be addressed by Congress.

Mr. FALEOMAVAEGA. Mr. Chairman, I rise today in support of a provision of H.R. 2698, the appropriations bill for Agriculture, Rural Development, Food and Drug Administration, and related agencies programs for the fiscal year 1992. This provision, contained in the appropriations to the Department of Agriculture for Extension Service, provides $647,000 for agricultural development in the American Pacific. This program is designed to further the agricultural development of the U.S. territories in the Pacific basin in an efficient manner through the coordination of research and resources.

Mr. Chairman, the agricultural development in the American Pacific project is of considerable interest to the U.S. territories in the Pacific basin, which consist of American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Freely Associated States of Micronesia as well as the State of Hawaii. During its first 3 years, this project has laid the groundwork for long-term, cooperative working relationships among the land grant institutions of the Pacific. At the present time, these land grant institutions are far from reaching the ultimate goal of raising their capabilities to a level where they require no special consideration.

The agricultural development in the American Pacific project is based on the premise that the region provides vital economic and strategic advantages to the United States; therefore, stability and growth of the economies in the region necessarily involve a planned and sustainable agriculture. I believe the land grant system plays a major role in assuring that the above occurs.

Mr. Chairman, I would like to take this opportunity to express my sincere appreciation to House Appropriations Committee Chairman, JAMIE WHITTEN of Mississippi, Representative MARCY KAPTUR of Ohio, and other distinguished Members of the Subcommittee on Rural Development, Agriculture and Related Agencies, whose support of the agricultural development in the American Pacific project has made a major difference in how the land grant system in the Pacific region has been able to respond to the critical agricultural and environmental issues.

Finally, Mr. Chairman, I would like to urge my colleagues to support H.R. 2698, without reducing funding for this worthwhile program.

Mr. WHITTEN. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendment be agreed to, and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mrs.

UNSOELD) having assumed the chair, Mr. HUGHES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2698) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1992, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to, and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them in gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 368, nays 48, not voting 16, as follows:

[Roll No. 201]

YEAS—368

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Camp
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Hefner
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Ireland
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Rowland
Roybal
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schulze
Schumer
Serrano
Sharp
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weber
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—48

Archer
Armey
Beilenson
Broomfield
Bunning
Burton
Campbell (CA)
Cox (CA)
Crane
Cunningham
Dannemeyer
Dornan (CA)
Dreier
Duncan
Fawell
Gallegly
Gekas
Goss
Hancock
Hansen
Hefley
Henry
Hunter
Jacobs
Johnson (TX)
Kyl
Lagomarsino
Luken
McCollum
Moorhead
Packard
Pallone
Pease
Petri
Rohrabacher
Roth
Roukema
Russo
Santorum
Schroeder
Sensenbrenner
Shaw
Shays
Stump
Walker
Weldon
Zeliff
Zimmer

NOT VOTING—16

Aspin
Clay
Collins (MI)
Ford (TN)
Gray
Hayes (LA)
Hopkins
Jones (GA)
Lloyd
Mrazek
Rhodes
Smith (FL)
Solomon
Sundquist
Towns
Traxler

Mrs. ROUKEMA changed her vote from "yea" to "nay".

Mr. ALLARD changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Madam Speaker, I take this time in order to ascertain the schedule for the week after the recess.

I yield to the gentleman from Missouri [Mr. GEPHARDT] to explain to Members the schedule that we may have coming back from the recess.

Mr. GEPHARDT. Madam Speaker, I thank the gentleman for yielding.

Obviously, today's business is finished, expeditiously, and there will not be votes on tomorrow or the next day. Of course, we are out for the week of the Fourth of July for a district work period.

On Monday, July 8, the House will not be in session. On Tuesday, July 9, the House will meet at noon to consider suspensions. Recorded votes will be postponed until Wednesday, July 10.

Wednesday, July 10, the House will meet at noon to consider three different proposals on the most-favored-nation status for China.

On Thursday, July 11, the House will again meet at noon to take up a number of different bills out of the Committee on Science, Space, and Technology.

On Friday, July 12, the House will meet at 10 but there will not be legislative business.

Mr. WALKER. I thank the gentleman. Just to reemphasize a couple of points that the gentleman has made, because there are somewhat different times than would be normal, if I understood the gentleman correctly, the House will meet at noon on Wednesday. That would be the first day we would have votes that week?

Mr. GEPHARDT. The gentleman is correct.

Mr. WALKER. And Members could expect possible votes on suspensions some time after noon that day; is that correct?

Mr. GEPHARDT. The gentleman is correct.

Mr. WALKER. And there would be then votes on the MFN bill that day?

Mr. GEPHARDT. The gentleman is correct.

Mr. WALKER. And then on Thursday, we would also meet at noon instead of the typical hour of 10 o'clock, and we would have votes that day on the bills of the Committee on Science, Space, and Technology, two, possibly three, bills; is that correct?

Mr. GEPHARDT. The gentleman is correct.

Mr. WALKER. I thank the gentleman.

Mr. GEPHARDT. I thank the gentleman.

PROVIDING FOR AN ADJOURNMENT OF THE HOUSE FROM JUNE 27, 1991, TO JULY 9, 1991, AND FOR AN ADJOURNMENT OF THE SENATE FROM JUNE 28, JUNE 29, JUNE 30, JULY 1, OR JULY 2, 1991, TO JULY 8, 1991

Mr. GEPHARDT. Madam Speaker, I offer a concurrent resolution (H. Con. Res. 175) and I ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. (Mrs. UNSOELD). Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 175

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, June 27, 1991, it stand adjourned until noon on Tuesday, July 9, 1991, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Friday, June 28, 1991, Saturday, June 29, 1991, Sunday, June 30, 1991, Monday July 1, 1991, or Tuesday, July 2, 1991, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this resolution, it stand recessed or adjourned until noon, or until such time as may be specified by the Majority Leader or his designee in the motion to adjourn or recess, on Monday, July 8, 1991, or until noon on the second day after members are notified to reassemble pursuant to section 2 of this resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

Mr. GEPHARDT (during the reading). Madam Speaker, I ask unanimous consent that the concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING THE SPEAKER AND THE MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS AUTHORIZED BY LAW OR THE HOUSE, NOTWITHSTANDING ADJOURNMENT

Mr. GEPHARDT. Madam Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Tuesday, July 9, 1991, the Speaker and the minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, JULY 10, 1991

Mr. GEPHARDT. Madam Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, July 10, 1991.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

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NATIONAL CHILDREN'S DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 183) to designate the second Sunday in October of 1991 as National Children's Day, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. (Mrs. UNSOELD). Is there objection to the request of the gentleman from Ohio?

Mr. BURTON of Indiana. Madam Speaker, reserving the right to object, I yield to the gentleman from Massachusetts [Mr. KENNEDY], who is the chief sponsor of House Joint Resolution 183 to designate the second Sunday in October of 1991 as National Children's Day.

Mr. KENNEDY. Madam Speaker, first of all let me thank the chairman of the Census and Population Subcommittee, TOM SAWYER, and the ranking minority member of the subcommittee, TOM RIDGE, for bringing this resolution to the floor today.

October 13, 1991 will mark our third observance of National Children's Day. Children's Day is a time to honor our kids, celebrate their many triumphs, listen to their hopes and concerns, and reflect for a moment on the world they are living in and the world we are leaving them.

Each year in America, we honor our mothers and fathers with special days that let them know how important their role is in this Nation and in each individual family. Children in America do not get this kind of recognition. By establishing a Children's Day, we will set aside one day a year, in the tradition of Mother's Day and Father's Day, which we place the same degree of honor on our children. During this day all children will be held up on a pedestal because of their contributions to their family and their community and because, we as a nation, truly recognize that they are our greatest natural resource. This is a day for families to spend time together. It is a day for communities and cities and States to recognize the accomplishments of children. It is also a time for us to take a closer look at how children are living in America.

Working with our Nation's Governors, we will bring young people to Washington from around the country who have participated in a variety of programs that have helped them make a difference in their lives or in the lives of others. These exceptional young people will spend a week here in Washington this October and tell their story in testimony before the Select Committee on Children, Youth and Family, in meetings at the White House and in conversations with their elected representatives in the House and the Senate. And if it's anything like the previous years, we'll learn from these kids. In the previous years, we've heard from a young girl from West Virginia who was fundraising for the homeless, a teenage boy from Boston who was volunteering his time helping the elderly and reading to preschoolers through the JFK Library Corps, and a teen mother from Alabama who graduated from high school with honors and is serving as a role model for others.

As much as I enjoy what takes place here in Washington, the real goal of National Children's Day is to have some sort of activity in every community in the country. We will be working with the 50 Governors, national school groups and national organizations like the Child Welfare League of America, the 4-H Clubs, Girl Scouts and parent-teacher organizations in hopes that every city and town will find their own way to honor their young people. This year, we are particularly fortunate to have singer and actress, Diana Ross as the national spokesperson for 1991 National Children's Day to help us with our efforts.

The year 1991 will prove to be exciting for National Children's Day and I hope that we have the support and participation of each Member of Congress for the activities here in Washington and back in our home States. I urge my colleagues to vote for House Joint Resolution 183.

Madam Speaker, I want to again thank the distinguished gentleman from the great State of Indiana and my good friend from the State of Ohio for their help and support, and I appreciate the efforts they have made on behalf of National Children's Day.

Mr. BURTON of Indiana. Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 183

Whereas the people of the United States should celebrate children as the most valuable asset of the Nation;

Whereas children represent the future, hope, and inspiration of the United States;

Whereas the children of the United States should not be allowed to feel that their ideas and dreams will be stifled because adults in the United States do not take time to listen;

Whereas many children face crises of grave proportions, especially as they enter adolescent years;

Whereas it is important for parents to spend time listening to their children on a daily basis;

Whereas modern societal and economic demands often pull the family apart;

Whereas encouragement should be given to families to set aside a special time for all family members to remain at home;

Whereas adults in the United States should have an opportunity to reminisce on their youth to recapture some of the fresh insight, innocence, and dreams that they may have lost through the years;

Whereas the designation of a day to commemorate the children of the United States will provide an opportunity to emphasize to children the importance of developing an ability to make the choices necessary to distance themselves from impropriety;

Whereas the designation of a day to commemorate the children of the Nation will emphasize to the people of the United States the importance of the role of the child within the family;

Whereas the people of the United States should emphasize to children the importance of family life, education, and spiritual qualities; and

Whereas parents, teachers, and community and religious leaders should celebrate the children of the United States, whose questions, laughter, and tears are important to the existence of the United States; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second Sunday in October of 1991 is designated as "National Children's Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL AMERICAN INDIAN HERITAGE MONTH

Mr. SAWYER. Madam Speaker, I ask unanimous consent that the Committee on Post Office and Civil Services be discharged from further consideration of the joint resolution (H.J. Res. 182) to authorize and request the President to proclaim the month of November 1991 and thereafter as "National American Indian Heritage Month," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. BURTON of Indiana. Madam Speaker, reserving the right to object, I yield to the gentleman from American Samoa [Mr. FALEOMAVAEGA], who is the chief sponsor of House Joint Resolution 182 designating the month of November 1991 and the month of November 1992 each as National American Indian Heritage Month.

Mr. FALEOMAVAEGA. Madam Speaker, I rise today to support House Joint Resolution 182, a bill I introduced to designate the month of November as a time to honor American Indians of the past and present. National American Indian Heritage Month is a recognitions to the foundation and development of America.

The bill would not be on the floor of the House today without the support of the chairman and ranking minority Members in the committee and subcommittee with jurisdiction. Chairman WILLIAM CLAY and THOMAS SAWYER and Congressman BEN GILMAN, and TOM RIDGE deserve our sincere thank you's for their continued support in honoring American Indians each year. The leadership of the Interior Committee is placing a new emphasis on issues relating to American Indians, and Chairman GEORGE MILLER and the ranking minority member, Congressman DON YOUNG, also deserve special recognition and appreciation.

I also want to thank my staff for their work in getting this bill ready for floor consideration. Miss Erlene Lesa, a junior at Brigham Young University, who worked as a summer interim out of my Washington office, has been invaluable in her thorough preparation and work in compiling lists of cosponsors. Ms. Lesa's draft of the special order I gave last night was excellent and the best I have seen from someone of her age. From my permanent staff, Ms. Merina Sunia deserves recognition for her continued administrative support, and my legislative director, Martin Yerick, for his coordination of this legislation.

Madam Speaker, House Joint Resolution 182 will not make up for the hardships suffered by the American Indians of the past or placate the Indians of the present and it does not presume to do so. As a nation, we have come to the point from which we must look past the accusations and do something more than merely acknowledge the atrocities endured by the American Indians. I believe that it is time to pay homage to a great and noble people who have contributed so much to the foundation and perpetuation of our country.

Madam Speaker, at its inception this country relied on the kindness of the native Americans to survive. We have all heard the history lesson about the assistance that the Indians gave the first Pilgrims. Once again I would like to remind my colleagues of the generous nature of the Indians in sharing their knowledge of fishing, hunting, and agriculture with the Pilgrims.

The Pilgrims celebrated and gave thanks with the Indians at the first Thanksgiving dinner. They celebrated the harvest together. Should it be so difficult for us to honor them?

Madam Speaker, the American Indians helped in America's victorious bid for freedom from Great Britain in the Revolutionary War. They used their knowledge of the terrain to help formulate tactical maneuvers and strategies. They led troops through the woodlands and forests; they brought food and medicine to the troops at Valley Forge; they taught the art of ambush that gave the American armies an extra element of surprise. The assistance of the Indians undoubtedly kept the war from being more tragic than has been recorded.

Many of the principles that this Nation is founded upon were used by the great Indian confederacies: Separation of powers, balance of powers, and government by representation were all incorporated in the Indian governments hundreds of years ago. The right to free speech and to peaceably assemble were held dear by the Indians. The Indians of the Iroquois confederacy recognized the wisdom in establishing unity and amity between five nations. They realized that strength and security came with such a union.

Madam Speaker, it is time that we give the native Americans credit for their democratic ideas. It is time that we honor them the way we honor the great thinkers of the enlightenment. It is time to credit them for having ideas parallel to the philosophies of John Locke and John Stuart Mill. Let us give them some measure of the homage we pay to the European and Greek philosophers who are hailed as the fathers of democracy.

It is time to recognize the American Indian contribution to defending these great principles of freedom and democracy. The native Americans have answered the call to serve in defense of this Nation in countless numbers. Many of their young men have died to keep our flag flying. That flag has covered the caskets of many of our native sons who died to protect the land that once belonged to their forefathers. They died to defend the rights and freedoms that they held so dear in the hope that one day those rights and freedoms would be extended, without hesitation, to them.

Madam Speaker, I believe that now is the time to honor Indian heroes like Jack Montgomery and Ernest Childers, who were awarded the Congressional Medal of Honor in Europe. It is time to honor Ira Hayes, who helped raise the flag at Iwo Jima, and Clarence Tinker, who died in the Pacific. It is time that our children learn of these American Indian heroes. It is time that they learn of the American Indian writers like Tony Hillerman, Louis Elrich, and Vine Deloria, Jr. It is time to honor their performers like dancer Maria Tallchief and actors Burt Reynolds, Bob Barker, Wayne Newton, James Garner, Jay Silverheels, and Will Rogers. It is time to honor athletes like Jim Thorpe, Sonny Sixkiller, and Billy Mills. It is time to recognize the achievements of political leaders like Charles Curtis, Larry Echohawk, and our own friend and colleague BEN NIGHTHORSE CAMPBELL.

Madam Speaker, by recognizing and honoring these native American role models we can provide the Indian youth of today with the inspiration that they need to rise out of the poverty that surrounds them. We can provide the American Indian youth with the sense of identity that they so desperately need. We can take the first step toward making this country one where our Indian brothers and sisters can feel accepted. We can create a society that is not constantly at odds with all that the Indians hold dear. It is time for us to take that step.

Through House Joint Resolution 182, a month will be set aside in each of the next 2 years specifically for the purpose of honoring not only the American Indian heroes but the American Indian people. We will be setting aside a time to show gratitude for all that we have received from them.

Madam Speaker, we can learn much from the humility of the native Americans. We would do well to emulate their reverence for life and their reverence for the Earth. Give them the chance to live in harmony with nature as they desire. Give them the chance to hope for a better future for their children. Give them the chance to save their great and noble culture that has been threatened for so many years. Give them the chance to live, secure in the knowledge that they have the same opportunities available to them that other Americans do. We can take a step in this direction by designating a time to recognize their achievements. We can help them to hold on to their sense of pride in what they are.

The American Indian underrepresentation in institutions of higher education needs to be corrected. Their 43 percent high school graduation rate needs to change. Their 45 percent poverty rate and 35 percent unemployment rate need to be improved. We need to support and fund the tribally operated community colleges that exist now and create a university designed specifically to meet the needs of the native American youth. The American Indian plight in education is an issue that we can no longer afford to ignore.

As we approach the 500th anniversary of the arrival of Columbus in the New World, let us take this time to reflect upon our relationship with the native Americans. Let us set aside November as National American Indian Heritage Month. This year at Thanksgiving, we should do more than give thanks for all that we have. We should also give thanks to the forefathers of the American Indians for their assistance in making this country possible. We should give thanks to the native Americans for their significant part in the legacy that has become America.

Madam Speaker, we cannot let this legacy die. With our assistance the Indian Nation can once again flourish and continue to add to the richness of cultural diversity that America is so proud of.

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Madam Speaker, I would be remiss if I did not express my deepest appreciation and gratitude to the 230 Members of this great institution who cosponsored this joint resolution. Indeed, without their support, this legislation could not have been considered today for final passage.

Madam Speaker, I also would like to thank the staff of the subcommittee of the gentleman from Ohio [Mr. SAWYER], who has been so patient and diligent in seeing this bill does not run into any obstacle while under consideration by the House.

Madam Speaker, at this point I will submit for the RECORD a commentary written by a young senior at Annandale High School. The name of the senior is Erin Coward. It involves some of the research that Erin did concerning the American Indians. I thought it would be most provocative and certainly most interesting reading for my colleagues.

The article is as follows:

THE ADVANCEMENTS OF THE AMERICAN INDIANS

(By Ms. Erin Coward, Senior, Annandale High School)

Is it any wonder that the American Indian has more problems in today's society than any other minority? Unlike the blacks, the Jews, and the Hispanics, the Indians have no homeland. Their homeland has been seized and turned backward by a foreign race—a race first determined to destroy the Indian culture, belief, and the very Indian way of life. Yet through determination and insurrection, many Indian cultures have regained not only their tribal lands, but also their Indian ethos.

In an effort to cloak the Indian problem, the U.S. Government set up several reservations throughout the United States, mostly in the west. The problem was not alleviated. There are presently 285 federal and state reservations in the US covering 50 million acres.[1] Of the 1,400,000 American Indians in America, one-half live on reservations.[2] The first was established in 1758 by the people of the New Jersey Colony.

Unfortunately, these reservations did nothing to help the Indian plight. Punitive laws were imposed on the already dying Indian culture in an effort to extinguish the Indian way of life forever. Even today the major problems faced by the reservation Indians are (a) lack of a well-developed economy, (b) poor living conditions with substandard and inadequate housing, (c) nonownership of their lands and lack of freedom of self-government, and (d) schools which lack the tools and the culturally aware teachers who can help Indian children deal with the white society of today.

Through the hard work of the Indians and a newly concerned U.S. Government, reservations have been allowed to grow and to change for the better. The Indians working and living on the reservation have become a separate and industrious nation, using natural resources on which to base their economy. Most Indians on today's reservations have good farming and jewelry making skills.[3] Wood processing and native crafts encourage tourism. The money collected from these visitors may go to an individual person, such as a restaurant owner or jewelry maker, or to the budget to help keep up the Reservation.

Recently, the U.S. Government has also helped to improve the Indian's housing problems. During the 1960's the Bureau of Indian Affairs (BIA), the US Department of Housing and Urban Development (HUD), and the US Department of Health, Education, and Welfare (HEW) worked to help build low cost housing and to improve the living conditions on the reservation.[4] Mutual-help programs to help to meet the low-income needs of the Indians who desire home ownership.

The ownership of the reservation varies in different states. Some tribes have given full and complete ownership to the state they are in. Many tribes own their own reservations, but the Federal Government has a large influence over them. The government at first had the jurisdiction over crimes on the reservation due to the 1885 Major Crimes Act. This allowed the government to punish Indians for any crime committed.

EDUCATION

Education for Indian children has suffered both on and off the reservation. In racially mixed schools, the major problem is the cultural gap. Indian children hold a different set of standards and methods of reasoning from conventional Anglo ways of life. Indian parents teach their offspring to be passive, and to be true to one's own personal beliefs. Most Indian children are taught understanding through peace, thus they do not have the competitive skills necessary to succeed in the white/Indian mixed schools. Many teachers in mixed schools have had no cultural training and do not understand the Indian way of learning. It is difficult, if not impossible for them to bridge the gap between the cultures.

The most recent advancements for Indian education have been in the mid to late '70's. In 1975 the Indian Self-Determination and Education Assistance Act facilitated the control of education programs by tribal groups. In 1978, the Indian Education Act pushed a large change in the Bureau's operation of both Bureau-operated and contact schools. This act resulted in formula funding for all Bureau-funded schools, decision making for the Indian school boards, and direct funding to the schools.

The latest great change occurred directly through the struggle of the Indians and their determined teachers. On a Yakima reservation in Washington State, disaster struck what had proven to be a beneficial educational program. In 1980, the Head Start program (a pre-school program which prepares deprived children for first grade) on the reservation came close to termination. Martha Yallup, the tribes Head Start programmer, and Sister Kathleen Ross, the academic vice president of Fort Wright College, refused to let their dream die. The two determined women fought to keep the program going—they succeeded in a matter of years. The school is now a strong success.[5]

The BIA has been a major funding source of education programs for Indian children three to four years old. The Bureau provides funding for supplemental educational programs. These programs include remedial tutoring, home and school coordinators, cultural enrichment, and pre-school programs. The Bureau also grants scholarships to worthy Indian students. Tribal Controlled Community Colleges are funded by the BIA if they pass the Bureau's criteria. Reservations on the Central Plains are given financial aid under a contract with the State to public schools.[6] Many students have problems in learning a second language, and in working and succeeding in a world so different from the one they are used to. To help conquer the problem, the Bureau has funded many Head Start programs for preschoolers to ease the transition from reservation life to the public school classroom. Students needing additional assistance or guidance enroll in a Bureau funded boarding school. Funds to aid needy public schools are funded by the BIA.

Other programs addressing the education problems of the Indians have been sporadically introduced. In 1919, a "civilization fund" was passed by Congress which appropriated $10,000 annually to provide elementary education. All funds provided were channeled through religious and minor groups. The first Indian boarding school system was established in 1860 by the Federal Government. The Manpower Development and Training Act of 1962 established institutions which offered help in vocational training, guidance, and financial assistance. Congressional Acts of 1896, 1897, and 1917, stopped the funds of the Federal government.[7]

ECONOMIC DEVELOPMENT

Economic Development for the Indian race has been a long, hard struggle. Only in the past 30 years has new ground been reached in improving this poorest minority in America. The major problem is that Indians reared in a total Indian environment often face employment problems caused by the juxtaposition of alien cultures.[8] As with education, many Indians find competing in a white society a losing battle. The Indians, taught different rules at home, are forced to play by white society's rules. The unemployment rate of the Indians stretches far beyond that of other minorities. Most reservations lack a developed physical infrastructure including utilities, transportation and other public services. They also lack the regulatory, adjudicatory, and enforcement mechanisms needed to interact successfully with the white society.[9]

Fortunately, there has been much development upon the reservation. Tribes use natural resources such as timber, minerals, fishing, and energy help to spur the economic growth. Indian tribes and the nation together stand to gain from development and management of vast coal, oil, and uranium resources on the reservations. These resources can become foundations for economic development.

The BIA has repeatedly made extended efforts to alleviate Indian unemployment, through expanded programs in adult vocational education, industrial development on or near the reservations, and increased use of Indian labor. This labor includes road maintenance and instruction, repair and maintenance of buildings, and construction of buildings and utilities—all of which provided the Indians valuable construction training. Projects launched under the 1963 Accelerated Public Works Program on nearly 100 reservations provide useful work for thousands of tribal members and contribute importantly to the protection and development of timber stands and other physical resources. Together with Federal agencies, the Bureau has launched programs to step-up the pace on the economic development process on 39 Indian reservations and has waged a concentrated effort to stimulate economic and social change for the Indians. Programs for the disadvantaged, under the Economic Opportunity Act of 1964, have provided the Indians an opportunity to participate in and control their own programs.

GOVERNMENT POLICIES

Government Policies toward the Indians have improved immensely over the years. From the policies of the English colonies to the Red Power movement, the government has striven to improve the Indian problems. In 1755, the British developed an Indian policy designed to (1) protect the Indians from opportunistic traders and speculators; (2) negotiate boundary lines by treaties; (3) enlist the Indians to the side of the British in the French and Indian War; (4) exercise as much control as possible over the fur trade. These policies were primarily for the benefit of the British government, not for the protection of the Indian. The outbreak of hostilities between America and Britain caused a strenuous effort for Indian alliances by both the American and British governments. America tried to gain the much needed Indian friendship with treaties, but most tribes still supported the British. In 1775, the Continental congress named a Committee on Indian Affairs. The Indian Commissioners were given the authority to "Preserve peace and friendship with the Indians and prevent their taking part in the present commotions." During the Revolutionary War, Indian commissioners acted as diplomatic agents, trying to gain Indian allegiance.

The new American government also gave Indians mention in the Constitution. Article I, Section 8, states that the government has the power "To regulate commerce with foreign nations, and among several states, and with the Indian tribes."[10] This allowed the Indian nations to remain as separate powers, but open for treaties with the U.S. The government required treaties with Indian nations, to assist in control over public land. The 1968 Indian Bill of Rights provides that Indian tribes exercising powers of self-government shall be subject to many of the same limitations and restraints which are imposed on Federal, State and local governments by the U.S. Constitution.[11]

The Federal Government has exercised power over the Indians for almost 200 years. This power is divided into three sources. First, the Constitution grants to the President and to Congress what have been construed as broad powers of authority over Indian affairs. Second, the federal courts have applied a theory of guardianship and wardship to the federal government's jurisdiction over Indian affairs. Finally, Federal authority is inherent in the Federal government's ownership of the land which Indian tribes occupy. Treaty agreements obligate the Federal government to provide social, medical, and educational services to many Indian tribes. Federal obligation also covers (1) protection of Indian trust property, (2) protection of the Indian right to self government, and (3) provision of those social, medical, and educational services for survival and advancement of Indian tribes.[12]

AMERICAN INDIANS TODAY

The Indian people themselves have made a quantum leap from the misconception of the dumb savage portrayed in the Old Westerns. Since the 1924 American Indian Citizenship Act, Native Americans now hold federal and state offices, have the power to vote, serve in the Armed Forces, and have the right to own their own land.

Indians have the same rights as other American citizens to hold government office—many Indian men and women have held elective and appointive posts for years. Persons with Indian backgrounds were elected to Congress more than 60 years ago, and a number have served in state legislatures. Others have and presently are serving in elected or appointed positions in state judiciary systems, as well as in county and city government positions. Ben Rerfes, a Sioux Indian from South Dakota, served five terms in the House of Representatives, and Charles Curtis, a Kaw Indian, served as Vice President from 1929 to 1933.[13]

The Indian right to vote came slowly through each state. The voting right is on the same basis as the other American citizens of the respective state. Arizona gave the Indians the right to vote in 1948, after a long struggle and Constitutional battle. A 1953 Utah state law was only recently overturned, giving Indians the right to vote in national and state elections.

Indians follow the same laws and requirements for military services as all other citizens. In World War I more than 8,000 Indians served in the Army and Navy; 6,000 by voluntary enlistment. In World War II 25,000 Indian men and women served in the armed forces. They fought in Europe and Asia, winning a total of 71 Air Medals, 51 Silver Stars, 47 Bronze Stars, 34 Distinguished Flying Cross awards, and two Congressional Medals of Honor. The Navajo Marines used the native Navajo language as a battlefield radio communication code, unbreakable by the Japanese. Over 41,500 Indian people served in Vietnam.

Contrary to belief, Indians are not wards of the Federal Government, nor are special or automatic payments awarded persons of Indian descent. The federal government acts as a trustee of Indian property, not as a guardian. The Secretary of the Interior is required, by law, to protect the interest of minors and incompetents, but this does not confer a guardian-ward relationship. Indian tribes receive compensation for damage, for losses which result form treaty violations, for encroachment on Indian lands, and for other wrongs. If the Indians are "treated differently" or have "special rights", these rights are based upon treaties and agreements between the United States and the Indians. The Indians have often paid a heavy price through the commission of lands to the governments for the rights they retained. These rights are part of the Indians heritage which they are entitled to keep in the same way that other peoples are entitled to keep lands or their goods which they inherit from ancestors.

Like all cultures and races, the American Indians have fought to keep all they practice and believe in. Although many of today's young Indians have developed Anglo ways, the Indian tribes have refused to give up their way of life.

In spite of the many advancements, this is still a dying culture. The American Indian problem is far from over. They are still the poorest minority in the United States. Only 43 percent of American Indians are graduating from high school. Fourty-five percent live in poverty. The unemployment rate on most reservations is greater than 80 percent. While some reservations are prospering through the hard work of determined people, most consist of dirty little hovels with little or no sanitation.

As long as America pretends that the Indians are a race not deserving of our respect, their way of life will be in serious danger. These people need more help then a just a movie about one tribe, or colorful pamphlets. These people need the chance to build again, and help to defend their very existence. With the help of America, this noble race can again prosper.

FOOTNOTES

[1] "The American Indian," *World Book Encyclopedia*, 1989, VIII, pp. 180–187

[2] "The American Indian," *World Book Encyclopedia*, 1989, VIII, pp. 180–187

[3] "The American Indian," *World Book Encyclopedia*, 1989, VIII, pp. 180–187

[4] U.S. Department of the Interior-Bureau of Indian Affairs, *Housing Program for Indians*, November 1979

[5] Ryan, Michael, "Don't Tell Us It Can't Be Done", *Parade Magazine*, 31 March 1991, pp. 18–19

[6] The Continental Congress named a Committee on Indian Affairs. This Committee separated the Indians into different regions of the United States.

[7] U.S. Department of the Interior-Bureau of Indian Affairs, *American Indian and Alaskan Education*, June 1987

[8] U.S. Department of the Interior-Bureau of Indian Affairs, *American Indian and Alaskan Education*, June 1987

[9] U.S. Department of the Interior-Bureau of Indian Affairs, *American Indian and Alaskan Education*, June 1987

[10] The United States Constitution

[11] Public Law 90–284; 25 U.S.C. et. seq.

[12] U.S. Department of the Interior-Bureau of Indian Affairs, *United States Commission on Civil Rights*, March 1973.

[13] Ross Swimmer, *The American Indian Today*, Bureau of Indian Affairs, Department of the Interior, 1987.

Madam Speaker, I also insert at this point an article that appeared in the June 24, 1991, issue of Newsweek magazine. I commend the authors of the article and submit it at this point.

Columbus, Stay Home!

The executive director of the Christopher Columbus Quincentenary Jubilee Commission is picking his words carefully. "We don't call it a celebration," says James Kuhn. "We call it a commemoration." Of what? "Specifically the 500th anniversary of the voyages to the New World," he explains. Oh, Columbus' great discovery? No, says Kuhn, "I refer to it as an 'encounter.' I may have even said discovery in the past but now I refer to it as an encounter."

With friends like these, Christopher Columbus is in for a bad year.

It didn't start out that way. The drums were in place for traditional ruffles and flourishes: replicas of the cockleshell caravels, museum exhibits, two Hollywood movies, a tide of academic books and articles. But somehow the hoopla curdled. Kuhn's Quincentenary Commission, funded partially by Congress, is trying to regroup after the resignation of its chairman and an investigation of its finances. Groups ranging from the National Council of Churches to the American Indian Movement have denounced the festivities. Museums that thought they had booked crowd-pleasing attractions now find themselves mired in controversy. When Atlanta's SciTrek museum opened an exhibit of a scale-model Niña last month, pickets paraded outside until officials agreed to add panels on the life and times of Native Americans. In Washington, the National Endowment for the Humanities took a look at a proposed television documentary, found scripts that painted the historic voyage and its aftermath as a genocidal campaign and canceled the federal funding.

In books and speeches, Columbus himself comes in for almost nothing but abuse. He is called a rapist and plunderer, a slave trader, a mass murderer comparable to Adolf Hitler and Pol Pot. Ecologist and historian Kirkpatrick Sale set the tone in his recent book on Columbus, "The Conquest of Paradise," denouncing the admiral for every sin but littering: lovelessness, avarice, duplicity, paranoia, ferocity and cruelty. Sale even accuses Columbus of being a "wretched mariner," heedless of his ships and reckless in challenging ill winds.

The problem is that Columbus did all those things—and more. "He was one of the most complicated personalities in the annals of history," says University of Georgia geographer Louis DeVorsey, author of an upcoming guide to "Age of Discovery" research at the Library of Congress. In one bold stroke, Columbus changed the world, irrevocably linking the Old and the New. His were the quintessential voyages across uncharted waters, adventures that carried the imagination of Western man to the moon and beyond. The conquistadors followed in his wake; their journeys were the proximate cause of tragedy, most particularly the end of Aztec and Inca civilizations—millions died as their immune systems were overmatched by the diseases Europeans brought with them. The Spaniards didn't set out to wipe out the natives. Indeed their deaths were inconvenient, leading to another horror: the importing of African slaves to the Western Hemisphere.

Complicating matters further is that the attempt to assess Columbus and his proper place—shall we mourn, celebrate or both?—comes in the midst of an acrimonious debate in American intellectual life. This controversy pits those anxious to prove the evils of Eurocentric thinking and actions against those who treat all attacks on Western tradition as a threat to civilization itself. In the shorthand of the times, this is another example of the skirmishing called political correctness.

Discussion about Columbus has never been untroubled. He was a prickly character at best, enigmatic and often evasive; he spent his last years in failure and disgrace, ill and at least half mad. Within 50 years of his death, the revisionist friar Bartolome' de las Casas was writing eloquently of the atrocities committed under Columbus and his successors as governors. Indians were tortured and killed, hunted in the hills, fed to the white men's dogs. Millions died, mostly from smallpox, diphtheria and whooping cough. It was a cruel time.

But that's the point: even if Columbus set all that evil in motion, he can't be called the sole or even the chief villain. Latin American historian Dauril Alden of the University of Washington says that Columbus "was a product of his times." He was beastly to the Indians and beastly to his sailors. When he caught his men stealing gold, he ordered the amputation of their noses or ears. Moderns can look back at such behavior with revulsion; but applying a moral code that wasn't then in place doesn't help explain Columbus or put his actions in any sort of context. "Every generation," Alden says, "rethinks its historical past through a prism that reflects its own concerns. But I object to overloading Columbus with responsibility for everything that happened. He was interested in discovery, in wealth and prestige. He wasn't interested in genocide."

But context isn't everything; the Indians did die in appalling numbers. "He represents the worst of his era," says leading revisionist Jack Weatherford of Macalester College. "We should honor those who rise above their times." Some Native American groups have organized their own events. The newly formed 1992 Alliance has declared "The Year of the Indigenous People" beginning next January. More than 200 groups are planning native commemorations. In New York City, the Native American Council will hold a weeklong festival and sponsor an hour of silence on Oct. 12 to emphasize the environmental damage caused by Columbus's heirs. (Ecology was another cause unknown in Columbus's time.) These groups would also like to reverse the axiom that losers don't get to write history. Among other things, they're proposing model curricula, public service spots and consulting services that will carefully balance all public displays. "We don't want window dressing," says 1992 Alliance coordinator Suzan Harjo. "We want our views made prominent,"

As long as a variety of views can be expressed, the debate over Columbus and his legacy may pay pedagogical dividends. Remember, this is a nation where the average eighth grader can't name the century in which the Civil War took place or find Mexico on a map with either hand. Any enhanced appreciation of the multiple layers of history is a bonus. Indiana University professor Helen Nadfer, a past chair of the American Historical Association's Columbus committee, thinks that a good brawl will help her cause. "No cameras or reporters come when I give a lecture, but if somebody is protesting they do," she says. "The more statements, the more open discussion, the better."

In the end, we are left with the kind of question that might enliven a parlor game: is mankind better off because the Europeans settled the Americas or would things have been better if they had never come? It's 1992 and the Aztecs stand astride the hemisphere, handsome, proud and committed to their nasty habit of human sacrifice. In Europe, mature democracies might anguish over whether they should export their ideology to an indigenous people who obey totalitarian chiefs. Or maybe things would have worked out differently. It's been 500 years. Time enough to remember, as Princeton anthropologist Jorge Koor de Alva says, that "we're descended from both sides, the conqueror and the conquered. This should be a time of great reflection." There is pride and sorrow enough for all.

Mr. MILLER of California. Mr. Speaker, I rise today to support the designation of November as "National Indian Heritage Month." This resolution would make November 1991 and 1992 months in which America would pause to reflect on the positive contributions of the original inhabitants of the United States.

From the time of the first contact with Europeans, the wisdom and accomplishments of American Indians have changed the world for the better. In agriculture, medicine, ecology, architecture, and government, Indian innovations contributed to the betterment of civilization. Such staples of the American diet as corn and beans were initially cultivated and harvested by tribes. Medicines including quinine were used by Indians before the coming of the Europeans. Significantly, the Iroquois Confederacy served as a model for our Federal system of government.

Such American heroes as Will Rogers and Jim Thorpe were of Indian descent and our heritage is enriched by other Indian people ranging from Black Elk, a philosopher, to Charles Bender, a baseball Hall of Fame pitcher, to Louis Ballard, a composer, to Charles Curtis, Vice President of the United States. There are so many tribes and individual Indian people who have contributed so much to this country, we certainly need to take at least a month each year to pay tribute to their contributions.

Mr. Speaker, in this body, we sometimes dwell on what is wrong in Indian country. We look at high rates of unemployment, disease, and social problems. There are problems which we must solve. However, a month in which we pay tribute to American Indians allows us to concentrate on what we have learned from these people, what they have contributed, and what is worth preserving. For those of us who deal in Indian affairs, enlightening the American people on the positive contributions of native Americans is of paramount concern. In November, we will point to what is right in Indian country and acknowledge the debt America owes to its Indian people.

It is my fondest hope that in November, Americans will consider the land under their feet, think about the Indian people who lived and died where there are now cities, and take into consideration the culture and wisdom of these great tribes. I hope that Americans will realize that these people are still here, preserving a way of life which this country once sought to destroy and should now be committed to protecting.

Mr. Speaker, I support this resolution and thank the gentleman from American Samoa for his hard work on this legislation.

Mr. BURTON of Indiana. Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mrs. UNSOELD). Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 182

Whereas American Indians were the original inhabitants of the lands that now constitute the United States of America;

Whereas American Indians have made an essential and unique contribution to our Nation, not the least of which is contribution of most of the land which now comprises these United States.

Whereas American Indians have made essential contributions to the world, including prehistoric cultivation and harvesting of corn, squash, peppers, beans, and sweet potatoes, all of which have become mainstays of the American diet;

Whereas the people of the United States should be reminded of the assistance given to the early European visitors to North America by the ancestors of today's American Indians, including knowledge and training provided to the pilgrims in how to plant, fertilize, and cultivate corn, beans, squash, and tobacco; how and where to fish and hunt; how and where to tap maple syrup; and the location of the best routes west;

Whereas the people and Government of the United States should be reminded of the assistance given to this country's Founding Fathers by the ancestors of today's American Indians including the support the original inhabitants provided to George Washington and his troops during the winter of 1777-1778, which they spent in Valley Forge;

Whereas the people and Government of the United States should be reminded that certain concepts such as freedom of speech, the separation of powers in government, and the balance of power within government, all of which were found in the political systems of various American Indian nations, influenced the formulation of the Government of the United States of America;

Whereas the people and Government of the United States should be reminded of the advanced medicines used by American Indians prior to the arrival of Europeans, many of which are still in use today, including quinine for the cure of many ailments; hemlock and pine leaves as a source of Vitamin C to cure scurvy; coca leaves to reduce hunger, drowsiness, and thirst; curare, from the vine Chondodendron, as a fast-acting poison for arrow tips (now used as a muscle relaxant and for treating tetanus); and ipecac, from the root of Cephalailis ipecacuanha, to treat dysentery.

Whereas the people and Government of the United States should be reminded of the many words in the English language still in use today, including hickory, moose, racoon, caucus, tamarack, caribou, maize, canoe, chocolate, chili, pecan, coyote, hurricane, and possibly the expression O.K. (from the Choctaw "okeh");

Whereas the people and Government of the United States should be reminded of prominent American Indian performers, artisans and scholars, including Will Rogers, Jr., actor; Buffy Sainte-Marie, musician; Louis Ballard, composer; Black Elk, philosopher; and Vine Deloria, Jr., author.

Whereas the people and Government of the United States should be reminded of the benefits of conservation and reverence for the Earth and life practiced by American Indians for centuries and yet still disregarded many of us living today;

Whereas the Members of the Senate and House of Representatives believe that a resolution and proclamation of the nature requested in this resolution can encourage self-esteem, pride and self-awareness to young American Indians;

Whereas the approaching 500th anniversary of the arrival of Christopher Columbus to the Western Hemisphere provides an opportunity for the people of the United States to consider and reflect on our Nation's current relationship with today's American Indians; and

Whereas the month of November concluded the traditional harvest season of the American Indians and was generally a time of celebration and giving thanks: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That beginning in 1991 and thereafter, the month of November is designated as "National American Indian Heritage Month", and the President is authorized and requested to issue a proclamation calling upon Federal, State, and local governments, interested groups and organizations, and the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SAWYER

Mr. SAWYER. Madam Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. SAWYER:

Strike all after the resolving clause and insert the following:

That the month of November 1991, and the month of November 1992, are each designated as "National American Indian Heritage Month", and the President is authorized and requested to issue a proclamation calling upon Federal, State, and local governments, interested groups and organizations, and the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

Mr. SAWYER (during the reading). Madam Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio [Mr. SAWYER].

The amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment of the joint resolution.

The joint resolution was ordered to be engrossed.

AMENDMENT TO THE PREAMBLE OFFERED BY MR. SAWYER

Mr. SAWYER. Madam Speaker, I offer an amendment to the preamble.

The Clerk read as follows:

Amendment to the preamble offered by Mr. SAWYER:

Strike the preamble and insert the following:

Whereas American Indians were the original inhabitants of the lands that now constitute the United States;

Whereas American Indians have made an essential and unique contribution to our Nation, not the least of which is contribution of most of the land which now comprises the United States;

Whereas American Indians have made essential contributions to the world, including prehistoric cultivation and harvesting of corn, squash, peppers, beans, and sweet potatoes, all of which have become mainstays of the American diet;

Whereas assistance was given to the early European visitors to North America by the ancestors of today's American Indians, including knowledge and training provided to the pilgrims in how to plant, fertilize, and cultivate corn, beans, squash, and tobacco, how and where to fish and hunt, how and where to tap maple syrup, and the location of the best routes west;

Whereas assistance given to this country's Founding Fathers by the ancestors of today's American Indians, including the support which the original inhabitants provided to George Washington and his troops during the winter of 1777–1778 in Valley Forge, and since that time American Indians have provided scouts and military service members to the United States for every major war in which the United States has fought;

Whereas certain concepts such as freedom of speech, and the separation of powers in government, both of which were found in the political systems of various American Indian nations, influenced the formation of the United States Government;

Whereas many of the advanced medicines used by American Indians prior to the arrival of Europeans are still in use today, including quinine for the cure of many ailments, hemlock and pine leaves as a source of vitamin C to cure scurvy, coca leaves to reduce hunger, drowsiness, and thirst, curare used as a fast-acting poison for arrow tips (now used as a muscle relaxant and for treating tetanus), and ipecac to treat dysentery;

Whereas many American Indian words are still in use today in the English language, including hickory, moose, racoon, caucus, tamarack, caribous, maize, canoe, chocolate, chili, pecan, coyote, hurricane, and possibly the expression O.K. (from the Choctaw "okeh");

Whereas the names of many States were derived from American Indian words, including Alabama, Alaska, Arkansas, Arizona, Connecticut, Idaho, Illinois, Iowa, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Dakota, South Dakota, Ohio, Oklahoma, Tennessee, Texas, Utah, Wisconsin, and Wyoming;

Whereas there are many contributions by prominent American Indian performers, artisans and athletes, including Will Rogers, Jr., actor, Louis Ballard, composer, Charles A. "Chief" Bender, baseball Hall of Fame pitcher, Jim Thorpe, Olympic gold medalist in the decathlon and pentathlon and voted the greatest male athlete of the 1st half of the 20th century;

Whereas there are many American Indian scholars whose intellectual and philosophical contributions are deserving of national recognition, incuding Sealth, renowned chief and orator after whom the city of Seattle is named, Sequoyah, transcriber of the Cherokee language, Ella C. Deloria, anthropologist, linguist and novelist, Black Elk, philosopher, and D'Arcy McNichols, historian and anthropologist;

Whereas there were many Indians whose diverse contributions throughout history are also worthy of commendation, including Charles Curtis, 31st Vice President of the United States, Tecumseh, for his political, organizational abilities and his abilities as a military strategist, the Navaho code talkers of World War II, Whose use of their native tongue and secret code words were never broken by enemy forces, Chief Joseph, as a orator and spokesman for Indian people, Sacajawea, guide and interpreter of the Lewis and Clark expedition, and Ely S. Parker, Civil War officer, military secretary to General Ulysses S. Grant, and the first Indian to be Commissioner of Indian Affairs;

Whereas the benefits of conservation and reverence for the earth and life practiced by American Indians for centuries are still important precepts in their traditional culture;

Whereas Congress believes that this joint resolution will encourage self-esteem, pride, and self-awareness in young American Indians;

Whereas the approaching 500th anniversary of the arrival of Christopher Columbus to the Western Hemisphere provides an opportunity for the people of the United States to consider and reflect on our Nation's current relationship with today's American Indians; and

Whereas the month of November concluded the traditional harvest season of the American Indians and was generally a time of celebration and giving thanks: Now, therefore, be it

Mr. SAWYER (during the reading). Madam Speaker, I ask unanimous consent that the amendment to the preamble be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment to the preamble offered by the gentleman from Ohio [Mr. SAWYER].

The amendment to the preamble was agreed to.

The joint resolution was ordered to be read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Madam Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. SAWYER: Amend the title so as to read: "Joint Resolution designating the month of November 1991, and the month of November 1992, each as 'National American Indian Heritage Month'.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

NATIONAL FOREST SYSTEM MONTH

Mr. SAWYER. Madam Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 159) to designate the month of June 1991, as "National Forest System Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. BURTON of Indiana. Madam Speaker, reserving the right to object, I do not object, but would simply like to inform the House that the minority has no objection to the legislation.

Mr. SAWYER. Madam Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from Ohio.

Mr. SAWYER. Madam Speaker, I thank my friend from Indiana, and pause at this moment only to recognize that although virtually every sponsor of a commemorative resolution goes through a substantial process of collecting signatures for these resolutions, and in evidence of the support and extraordinary appeal throughout the House for this matter under consideration, I think it is appropriate at this time to make special recognition of the effort that was made by the gentleman from Idaho [Mr. STALLINGS], and the gentleman from Massachusetts [Mr. MOAKLEY], in the course of just a very few hours, to collect the more than 218 signatures necessary for this timely legislation.

I genuinely recognize and admire the level of effort that was made on this particular resolution, and further, the broader effort that is made by every sponsor of such resolutions.

Mr. BURTON of Indiana. Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the joint Senate resolution, as follows:

S.J. RES. 159

Whereas 1991 marks the one hundredth anniversary of the National Forest System with the establishment of the first forest reserve in 1891, the Yellowstone Park Timber Land Reserve;

Whereas the establishment of this first forest reserve marked a fundamental change in United States conservation policy toward the administration of public lands;

Whereas the purpose of the National Forest System is to conserve a portion of America's forests for the people of the United States, recognizing the important environmental and economic values in holding such public lands in trust and managing them for the greatest good;

Whereas the National Forest System is one of the few examples in the world where a public effort is being made to manage natural resources in an economically efficient, environmentally sound, and socially responsible manner;

Whereas the National Forest System has introduced new ideas for sound resource management, such as multiple use, sustained yield, and preservation of both wilderness areas and wild and scenic rivers; and

Whereas the one hundred and ninety-one million acres of national forests, national grasslands, and experimental forests that now make up the National Forest System stretch from Alaska to the Commonwealth of Puerto Rico and from California to Maine: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of June 1991 is designated as "National Forest System Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate activities and programs.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL LITERACY DAY

Mr. SAWYER. Madam Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 259) designating July 2, 1991, as "National Literacy Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. BURTON of Indiana. Madam Speaker, reserving the right to object, I yield to my good friend from New Jersey [Mr. PAYNE], who is the chief sponsor of the resolution, designating a "National Literacy Day."

Mr. PAYNE of New Jersey. Madam Speaker, House Joint Resolution 259 will designate Tuesday, July 2, 1991 as "National Literacy Day". I would like to thank my colleagues for supporting this legislation for the past 5 years. Passage of this resolution will demonstrate congressional support for nationwide efforts to improve the plight of 30 million Americans who lack the basic skills to function in our society.

Illiteracy takes a painfull toll, both in terms of its impact on individual lives and on our American society as a whole. The daily feelings of frustration and defeat that afflict those who cannot read signs, instructions, warning labels, or newspapers too often lead to escape through alcohol or drug abuse.

Presently, as we are struggling to remain competitive in world markets, we cannot afford the loss of productivity that the total cost of errors, accidents and missed opportunities in business has reached—a staggering $225 billion annually.

Mr. Speaker, we are fortunate to have in our communities many dedicated volunteers and professionals who are working to remedy the problem of illiteracy. This is a chance to give them the recognition and encouragement they deserve.

As we approach the Fourth of July, Independence Day, let us also offer the hope of independence to the millions of our fellow citizens who are trapped in the prison of illiteracy. I urge my colleagues to join me in voting for House Joint Resolution 259, to designate July 2, 1991, as National Literacy Day

□ 2000

We have accidents, missed opportunities in business, and it is estimated that a staggering cost of $225 billion annually is lost through this process.

Madam Speaker, we are fortunate to have in our communities many dedicated volunteers and professionals who are working diligently to remedy the problems of illiteracy. This is a chance to give them recognition and the encouragement that they all deserve.

As we approach the Fourth of July Independence Day, let us also offer the hope of independence to the millions of our fellow citizens who are trapped in the prisons of illiteracy.

Madam Speaker, I urge my colleagues to join me in voting for House Joint Resolution 259, to designate July 2, 1991, as National Literacy Day.

Mr. BURTON of Indiana. Madam Speaker, continuing my reservation and before I yield, I would like to yield to my colleague, the chairman of the subcommittee, the gentleman from Ohio [Mr. SAWYER], but before I do that, I notice that I am not among those on the bill that we are discussing as a cosponsor.

ADDITION OF NAME OF MEMBER AS SPONSOR OF HOUSE JOINT RESOLUTION 259

Mr. BURTON of Indiana. Madam Speaker, I ask unanimous consent to have my name added as a cosponsor of the legislation, House Joint Resolution 259, National Literacy Day.

The SPEAKER pro tempore (Mrs. UNSOELD). Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BURTON of Indiana. Madam Speaker, continuing my reservation of objection, I yield to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Madam Speaker, I thank my friend, the gentleman from Indiana, for this opportunity to rise in specific support of House Joint Resolution 259, designating July 2 as National Literacy Day.

We are no longer living in a time where a strong back and a good attitude are enough to live a secure and meaningful life and provide for one's family. Most jobs today, and many other parts of our daily lives, require us to learn and learn to use a great deal of information.

For between 30 and 75 million adults in this country, adapting to changes in the work force is simply not possible because, for a variety of reasons, they have never really mastered the basic skills. That is what functional illiteracy is: the inability to function productively using one's knowledge, and many people successfully hide this condition for their entire lives.

I believe that efforts like the resolution sponsored by my friend from New Jersey make it easier for adults who need help to make the decision to do it. Marking July 2d as National Literacy Day sends a signal that our Nation is committed to raising the literacy skills of all Americans.

I also want to let my colleagues know that the author of this resolution has been instrumental in helping to advance my legislative proposal the National Literacy Act which passed the House in March, and will be approved by the Senate, I understand today or tomorrow.

National Literacy Day will help build awareness of what we need to do. We believe that the National Literacy Act will provide the tools we need to solve the problem by elevating the leadership role of the Federal Government, creating networks within States that will develop model literacy programs, and opening opportunities for groups at the local level to fight illiteracy in their communities. Schools, businesses, volunteers and civic leaders should combine resources, ideas, know-how, and good, old-fashioned elbow grease.

As our colleague may know, one of the 6 education goals is that every American will be literate by the year 2000, 9 years. If we are even going to approach achieving this goal, we have a lot of work to do. I appreciate the leadership on this issue provided by my colleague from New Jersey and I urge our colleagues to support House Joint Resolution 259.

Mr. BURTON of Indiana. Madam Speaker, I would just like to say before I withdraw my reservation of objection, that the world is getting smaller and smaller. If we are to continue to be a big factor in world economics and other areas, we are going to have to be a more literate nation, so I want to congratulate my colleague, the gentleman from New Jersey [Mr. PAYNE] for his efforts in bringing this to the attention not only of this body, but to the country.

Mr. FALEOMAVAEGA. Madam Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to my colleague, the gentleman from the American Samoa.

Mr. FALEOMAVAEGA. Madam Speaker, I also would like to extend my appreciation and commendation to the gentleman from New Jersey for sponsoring this piece of legislation.

I think the question of literacy in America is certainly one of the most salient points and issues that not only is confronting Congress, but certainly all the leaders of our country.

I want to recognize the efforts of the gentleman from New Jersey for seeing that we pay more attention to this very important issue confronting the youth of America.

I just want to thank the gentleman from Indiana for giving me this time to say these words, and I thank the gentleman from New Jersey.

Mr. GILMAN. Mr. Speaker I would like to commend the distinguished gentleman from New Jersey, [Mr. PAYNE] for introducing this legislation and I would like to thank the distinguished chairman, Mr. SAWYER, the gentleman from Ohio, for his efforts in bringing this legislation to the floor.

As we all know, literacy is a vital attribute which millions of Americans are lacking. Conversely, one of our chief economic competitors, Japan, has a literacy rate of nearly 100 percent among its citizens over 17 years of age. Obviously our deprived work force is not up to par with our competitors. Billions of American dollars are lost annually due to the inability of some of our work force to read directions and solve problems which require reading and math skills. Millions of jobs cannot be attained due to a lack of these vital skills and the inability to complete application forms, one of the more significant reasons for our alarming number of unemployed citizens. It is our moral duty and obligation to emphasize and support the need for education and literacy in this country.

Too many people have lost hope for those adults who are illiterate. I have not lost hope and neither have those adults who are seeking an education. It should be the mission of this Congress to help supply those necessary tools which will enable them to find jobs.

The other half of this mission should be a preventive measure. Let us prevent the problem of illiteracy by providing and encouraging our bright, young children to start reading at an early age. Let us prevent more stories like that of Dexter Manley, the former Washington Redskin and current Phoenix Cardinal, who passed through a major university incapable of reading. But, as Mr. Manley proved, it is possible to educate the adults of this great Nation. It should be the goal of Congress to eliminate illiteracy from our vocabulary so that we never have to confront this problem again. Let us regain the edge we once possessed at all levels of our education system.

Accordingly, I strongly urge my colleagues to support this legislation designating July 2, 1991 as "National Literacy Day." We need to create awareness of the extensiveness of the illiteracy problems and we need to emphasize the vital impact literacy can have on our lives.

Mr. BURTON of Indiana. Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 259

Whereas literacy is a necessary tool for survival in our society;

Whereas forty-two million Americans today read at a level which is less than necessary for full survival needs;

Whereas there are thirty million adults in the United States who cannot read, whose resources are left untapped, and who are unable to offer their full contribution to society;

Whereas illiteracy is growing rapidly, as two million three hundred thousand persons, including one million two hundred thousand legal and illegal immigrants, one million high school dropouts, and one hundred thousand refugees, are added to the pool of illiterates annually;

Whereas the annual cost of illiteracy to the United States in terms of welfare expenditures, crime, prison expenses, lost revenues, and industrial and military accidents has been estimated at $225,000,000,000;

Whereas the competitiveness of the United States is eroded by the presence in the workplace of millions of Americans who are functionally or technologically illiterate;

Whereas there is a direct correlation between the number of illiterate adults unable to perform at the standard necessary for available employment and the money allocated to child welfare and unemployment compensation;

Whereas the percentage of illiterates in proportion to population size is higher for blacks and Hispanics, resulting in increased economic and social discrimination against these minorities;

Whereas the prison population represents the single highest concentration of adult illiteracy;

Whereas one million children in the United States between the ages of twelve and seventeen cannot read above a third grade level, 13 per centum of all seventeen-year-olds are functionally illiterate, and 15 per centum of graduates of urban high schools read at less than a sixth grade level;

Whereas 85 per centum of the juveniles who appear in criminal court are functionally illiterate;

Whereas the 47 per centum illiteracy rate among black youths is expected to increase;

Whereas one-half of all heads of households cannot read past the eighth grade level and one-third of all mothers on welfare are functionally illiterate;

Whereas the cycle of illiteracy continues because the children of illiterate parents are often illiterate themselves because of the lack of support they receive from their home environment;

Whereas Federal, State, municipal, and private literacy programs have only been able to reach 5 per centum of the total illiterate population;

Whereas it is vital to call attention to the problem of illiteracy, to understand the severity of the problem and its detrimental effects on our society, and to reach those who are illiterate and unaware of the free services and help available to them; and

Whereas it is also necessary to recognize and thank the thousands of volunteers who are working to promote literacy and provide support to the millions of illiterates in need of assistance: Now, therefore, be it;

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 2, 1991, is designated as "National Literacy Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the several joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

VACATING SPECIAL ORDER, AND GRANTING SPECIAL ORDER

Mr. MARTINEZ. Madam Speaker, I ask unanimous consent to vacate my special order for 60 minutes that I have requested for today, and instead request 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

THE CIA DID NOT ASSASSINATE RAJIV GANDHI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Madam Speaker, I would like to call to the attention of the House a very dismaying matter reported in the June 14, 1991, edition of the Washington Post. In a news analysis article, correspondent Steve Coll reported that, many in India's governing elite continue to believe—and to write in leading newspapers—that CIA agents probably organized the plot to kill Rajiv Gandhi. The article cites a bizarre Indian rationale for this fantastic theory. It refers to the views of well-educated Indians that "the CIA killed Gandhi because he was a strong leader who would have transformed India into a great world power that would have challenged the United States on the international stage." In fact, the Post report describes a lengthy article by Sudheendra Kulkarni in the Indian weekly Sunday Observer, which claims that it is "the desire of the industrialized world, particularly the United States, to ensure that India, Pakistan, and Bangladesh remain impoverished, weak, and unstable."

One hardly knows where to begin in addressing such a patently ridiculous and irresponsible assertion; however, even such ridiculous charges might be believed or be given some credibility in the absence of a denial. Therefore, the subject needs to be addressed and I will do so as a Member of the House Select Committee on Intelligence.

Resisting the obvious temptation to recommend a massive course of group psychotherapy for some of the Indian ruling elite, let me inject one or two important facts or elements for sanity into this febrile, paranoid delusion. First of all, assassination is specifically prohibited by a Presidential directive, Executive Order 12333, the primary Executive order governing U.S. intelligence activities. That absolute prohibition states:

> No person employed by or acting on behalf of the United States shall engage in, or conspire to engage in, assassination.

This is not a new policy. In remarks delivered at Albany Law School on April 4, 1990, the then CIA General Counsel noted that in 1972, DCI Richard

Helms issued a policy memorandum for the Central Intelligence Agency prohibiting assassinations. Subsequently, President Ford issued Executive Order 11905, which prohibited any employee of the U.S. Government from engaging or conspiring to engage in political assassination. President Carter issued a superceding order, Executive Order 12036, which first contained the specific language currently in Executive Order 12333, issued by President Reagan and continued in force by President Bush.

Not only is this assassination ban firmly established, but covert actions, the category of intelligence activities in which any questions about assassination conceivably could arise, are carefully reviewed by compliance with law and regulation, including the assassination ban. They are reviewed within the CIA and at the sub-Cabinet and Cabinet level in the NSC review process. The President himself is usually present during the Cabinet-level NSC review. Ultimately, the President must approve every covert action because he must sign a written finding certifying that each covert action is important to the national security of the United States. So, he is required to know if any covert action raises any questions or concerns related to the assassination ban. As a result of this ban on assassinations, the executive branch of the U.S. Government does not directly or indirectly assassinate people.

Finally, the House and Senate Intelligence Committees scrupulously review each covert action authorized by the President. As a member of the House Intelligence Committee, I can assure the House that we are particularly careful to assure ourselves that these covert programs and activities do not involve assassination by direct or by any indirect means. That is why I was especially struck by the preposterous assertion in this news report that the CIA was somehow behind the tragic death of Rajiv Gandhi.

Second, the rationale cited to explain why we should want to see Mr. Gandhi dead is totally inconsistent with the facts and with rational thought. Far from wanting to destabilize India and see it perpetually locked in poverty, United States policies and programs are directed toward helping India achieve just the opposite. Both the executive branch and Congress have long supported a policy of trying to promote stability in the Indian subcontinent. In particular, we hope to see normal and stable relations between India and Pakistan to avoid another outbreak of armed conflict between the two—and to improve Indian-American relations as well. Many are concerned that such a conflict might possible witness the first exchange of nuclear weapons on the Indian subcontinent. Moreover, rather than wishing to see India poor and starving, we have long provided foreign aid to India; we want India and its people to prosper. Since the partition of India and Pakistan, the United States has provided India with nearly $12 billion in foreign assistance. Almost 99 percent of that has been food aid and economic development assistance.

Perhaps, regrettably, India's ruling elite will continue to ignore these facts. Perhaps, as the Washington Post reporter suggested, these absurd allegations of CIA involvement in the assassination of Mr. Gandhi are actually meant to distract the attention of the Indian people from holding their leadership elite accountable as he puts it, for "the mess India is in." In any event, I bring this matter up today because I want the people of India to know the facts behind this cynical fable and to have those assurances from a member of the House Select Committee on Intelligence.

I hope the Indian people learn these facts and this assurance, for they are the whole truth and nothing but the truth. The United States of America had no direct or indirect role in the assassination of Rajiv Gandhi. Our Government and the American people deplore this terrible act and share the grief of the people of India over this tragic and senseless act.

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The SPEAKER pro tempore, [Mrs. UNSOELD]. Under a previous order of the House the gentleman from California [Mr. MARTINEZ] is recognized for 5 minutes.

Mr. MARTINEZ. Madam Speaker, today the House passed the HHS appropriation, and I reluctantly voted for it. I did so reluctantly because I believe the programs that are so desperately needed by our most vulnerable citizens were so woefully underfunded.

Madam Speaker, over the past 10 years that I have been here I have heard about the need to provide a safety net for those Americans who, through no fault of their own, have become victims of recession or those who have fallen into poverty because of underemployment or unemployment. And a number of us have pledged support to those victims and support the programs like LIHEAP, which assists low-income Americans and our elderly, who live on minimal fixed incomes, to meet their home energy needs.

Madam Speaker, the Older Americans Act, which provides nutritional and other vital services to our hungry and isolated elderly, is another program that is worthy of our support and is dramatically underfunded.

Affordable child care programs that allow low-income parents the opportunity to become self-sufficient are in desperate need of support. Drug education and prevention programs are a vital part of gang eradication and should be a high priority for funds. The Stewart McKinney Homeless Assistance Act, refugee aid, and a number of other vital services that provide support for those persons traditionally the first victims of recession—the poor—are all programs that are reaching a small percentage of the eligible populations and need additional funds.

Unfortunately, when it came time to provide sufficient dollars to fund these vital programs, we have had to rob Peter to pay Paul, having to decide which program is more vital than the other, funding one program on the back of another.

Just 4 months ago we were—and still are—celebrating our great victory over Saddam Hussein. But what about the war here in the United States? The war against poverty, drugs, teenage pregnancy, illiteracy, and unemployment. We fought Saddam Hussein because he was an oppressor. An oppressor of not only the people of Kuwait but of his own people.

Let me tell you, there is nothing more oppressive than poverty. Than despair. Than waking up each day knowing that your survival that day and the next depends on someone else's compassion and charity.

I think that those of us who just stand idly by and give lip service support for these programs, but do not stand firm on the need to provide the funds necessary to adequately serve our fellow Americans, are not being completely sincere when they speak of protection of our most vulnerable citizens.

Madam Speaker, I understand that the decisions on how to spread our limited resources have been difficult. My objection is not with the decisions made by my worthy colleagues, given the limitations that bound them. My objection is with the fact that in a world of priorities, our overall domestic budget that protects the most vulnerable in our great Nation—the youngest, the oldest, and the poorest—is not the highest priority.

I call upon my colleagues in conference to provide adequate funding for those programs that will provide self-sufficiency for the poor of our Nation and adequate funding that will break the bonds of poverty forever. And I call for all of us to make a sincere commitment to our citizens—our families and our future—especially those who need it the most—those born into poverty.

REMEMBER THE BATTLE OF KOSOVO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Madam Speaker, June 28 marks the 602d anniversary of the Battle of Kosovo, an armed struggle in which thousands of Serbian patriots laid down their lives rather than surrender to the Ottoman Empire.

Although these brave, Serbian fighters were overwhelmed by a larger Turkish force, they showed an unmatched determination to defend their homeland and their right to self-determination.

The battle we are commemorating today was waged on the Plain of Kosovo, in an area known as the "Field of Blackbirds." The fighting began on July 15, 1389, under the Julian calendar, when Turkish troops launched a surprise attack.

Prince Lazar, the czar of Serbia, led an army of 25,000 troops into this battle in which the Serbs endured repeated blows from Turkish forces led by Murad I. The Turks prevailed despite Lazar's skillful leadership and the determined resistance of the Serbians. The battle claimed the life of Murad, who was assassinated on the eve of the attack by the Serbian patriot, Milosh Obilich. After the battle, Lazar was executed by the Turks.

Lazar's martyrdom to the Ottoman conquerors gave rise to a national legend. According to this tradition, Lazar was visited by the prophet Ezekial, who offered Lazar a choice between heaven or earth. Lazar sacrificed his country so that the Serbians would be rewarded in heaven. The legend of Lazar's Christian sacrifice stands as a symbol of how Serbian nationalism endured nearly five centuries of harsh, Turkish rule. The Ottoman Empire had actually begun its conquest of Serbia several years before the Battle of Kosovo, when Turkish troops attacked near the Maritsa River in 1371.

Throughout the occupation, the Serbians drew strength from the Serbian Orthodox Church, which helped them to maintain a sense of national identity amid foreign oppression. Efforts to support Serbian nationalism included yearly pilgrimages to Lazar's tomb in the main Orthodox Cathedral at Belgrade. These visits renewed the Serbians' longing for freedom by giving them an opportunity to remember the Battle of Kosovo.

In the early 1800's, a new generation of Serbian patriots rose up to remove the yoke of Turkish rule. The Serbian people finally avenged the killing fields of Kosovo and their ravaged homeland by breaking away from the Ottoman Empire in 1833.

Madam Speaker, I would like to join with the Serbian people in remembering the anniversary of the Battle of Kosovo and their stuggle for freedom. I also would like to offer a special greeting to Americans of Serbian descent from the 11th Congressional District of Illinois, which I am proud to represent.

Finally, in light of Tuesday's declaration of independence by Croatia and Slovenia, I urge the people of Serbia to negotiate a peaceful settlement of their differences with these neighboring, Yugoslav republics. I pray that the Serbs will apply the same dedication to this task as they did when they fought for human rights and self-determination after the Battle of Kosovo.

MAJ. GEN. ARTHUR H. HUTTON, USAFR

Mr. MONTGOMERY. Mr. Speaker, over the last 7 years, there has been only one Air Force Reserve Mobilization Assistant to the Director of Legislative Liaison for the U.S. Air Force. During that time, Maj. Gen. Arthur H. Hutton has provided superb advice and expertise on all Reserve issues. On June 30, he culminates a distinguished 37-year career as an active duty and Reserve officer of the U.S. Air Force.

I would like to take this opportunity, upon Art Hutton's retirement, to thank him for effective, dedicated, and distinguished service to his country, the Air Force, and the Air Force Reserve. General Hutton's career has spanned a diverse range of responsibilities. While on active duty, he served in the missile field at Cape Canaveral and in Germany in the 1950's. He went on to Reserve assignments in air defense, with the Judge Advocate General, with Systems Command, and finally in legislative liaison.

Art Hutton built a very successful career in civil aviation, including senior positions at Pan Am and the presidency of World Airways. He brought that management skill and aviation expertise to his Reserve assignments, enriching the organizations to which he has been assigned. His distinguished career acts as an ideal example of the benefits we derive from having outstanding, accomplished civilian leaders as strong members of our Reserve forces.

Mr. Speaker, we are entering times of great change in the Department of Defense. As a result of projected force reductions, our relative reliance on Reserve components will be greater in the future. We can be reassured about these changes when we see the kind of men and women we have in the Reserves. Certainly Art Hutton personifies the quality, dedication, and mission effectiveness we have come to expect from the Air Force Reserve.

We thank Gen. Art Hutton for his service and wish him the very best in his retirement.

□ 2020

STAND UP AMERICA

(Mr. MILLER of Ohio asked and was given permission to address the House for one minute.)

Mr. MILLER of Ohio. Mr. Speaker, Old Glory celebrated her 214th birthday earlier this month and this past year has exemplified once again just how important she is to this country and to the cause of freedom around the world.

Last Friday marked the second anniversary of the controversial Supreme Court decision protecting those who would descretate our flag and reminding us that, as grave an undertaking as it is, a constitutional amendment appears to be the only way to ensure Old Glory's protection.

For this reason I am reintroducing today my bill which proposes an amendment to the Constitution of the United States to prohibit the act of desecration of the flag of the United States and to set criminal penalties for that act. I ask Congress to have faith in the American people and to pass this bill expeditiously and send it to the States for their approval.

Our flag is a stirring, vibrant reminder of all that our nation stands for and it is certainly deserving of our protection. I trust that you, like I, envision a mental picture of Old Glory when you hear Lee Greenwood's popular lyrics:

> I'm proud to be an American
> where at least I know I'm free
> And I'd like to thank the ones who died
> who gave that right to me.
> And I'd gladly stand up, next to you
> and defend her, still, today.
> There ain't no doubt, I love this land.
> God Bless the USA

Let us not let that mental picture be marred by those that would choose to denigrate this most important symbol.

NCAA ACADEMIC REQUIREMENTS REFORMS NEEDED

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois [Mrs. COLLINS] is recognized for 60 minutes.

Mrs. COLLINS of Illinois. Madam Speaker, the NCAA President's Committee is concluding a 2-day meeting at which it will decide on academic reforms for student athletes. Among the proposals are on increase in initial eligibility requirements, a requirement that junior college transferees first complete 12 hours of credits at the new school before becoming eligible, and continuing eligibility requirements to ensure that the student athlete is on a track to graduate.

Last week, Madam Speaker, the Subcommittee on Commerce, Consumer Protection, and Competitiveness, which I chair, began the first in a series of hearings into intercollegiate athletics. The subcommittee received testimony from the Knight Commission, a college president, coaches, and other experts in the field.

Nearly every observer of collegiate sports has found a system that is rapidly gettint out of control. What began as a high-spirited complement to college academic has now become an increasingly dominating force at universities. College sports have become big business.

The victims of this transformation, Madam Speaker, are inevitably the student athletes. Athletic seasons are stretched, corners are cut, and academics take a back seat to the drive for a championship. Student athletes are under increasing pressures, recruitment and academic standards are compromised, and the result is low graduation rates, failed promises, the diminution of self-esteem and crushed hopes.

The Knight Commission, in its recent review of college sports, concluded * * * that abuses, and I am quoting now—

> * * * are grounded in institutional indifference, presidential neglect and the growing commercialization of sport combined with the urge to win at all costs.

The saddest victims of course come from the poorest neighborhoods in our country. Lured by dreams of being the next Michael Jordon, many leave their university after 4 or 5 years unemployable and, in many instances, without a decent education.

Madam Speaker, that has become the focus of our subcommittee's investigation: Do college athletics provide an avenue for our young people, particularly our poor children, to get a decent education at a good university, or do college athletics at this time merely exploit the athlete?

I asked one of the witnesses at our recent hearing how coaches and athletic departments view the students when they come to them. His response was that they are looked upon as meat, not as students who are to be educated, not as young people who have been placed in their care by their parents, and not even as human beings. Instead they are regarded, in the words of our witness who was in academia, as meat. What a sad, disgraceful commentary on the lack of esteem, the lack of understanding, the lack of concern, and the lack of fairness with which our young people are being regarded when they are in the sports athletic programs in these various universities.

Now the reason for this sorry state of affairs to obvious to all of us: the almighty dollar, money. There have always been alumni booster groups who put pressures on schools to win, but in the 1980's and 1990's commercial revenues from college sports place enormous new pressures upon schools to win. Presidents of schools that win get millions of dollars in endowments, and the coaches really make it big. They reap enormous benefits and pocket all kinds of dollars in endorsements. The only group that gets shortchanged at all is the student group of athletes. It is this kind of pressure on presidents and coaches that results in recruiting violations and abuses, the abandonment of academic integrity and the railroading of poor inner-city youth through the institution leaving them with few, if any, marketable skills and often with very little, if any, education.

During the 1980's, over half of all Division A schools were the subject of various NCAA sanctions, and I would ask, "Who do you think the sanctions really hurt?" Got that right; most of the time when sanctions are applied the victims are once again the innocent student.

For example, some time ago sanctions were made against UNLV's basketball team. That means that next year that school will be penalized. Those students who are going to be the athletes and playing for that school were infants when 15 years ago those infractions occurred. This after-the-fact penalizing of students, not the cheaters, occurs in schools, after school, after school.

I ask my colleagues: Is that fair? Is it fair to make a young person who is in the athletic department suffer for something that happened 15 years ago when he was 2 or 3 years old? Certainly the answer has to be no.

It is indeed ironic that the large sports contracts of recent years have not really benefited collegiate sport programs or even academic programs. Rather it appears that they have led to a host of new problems in college athletic programs, period.

Madam Speaker, at our hearing I urged university presidents to heed the advice of the Knight Commission and retake control of their schools. Our subcommittee stands ready to help that happen, and I am pleased that the NCAA presidents committee appears to be responding to the concerns that we expressed at our hearing last week, and I hope that our continuing hearings will keep up the pressure for academic reforms. Future hearings, including one next month, will review such issues as graduation rates, eligibility and academic requirements, the distribution and use of sports revenues, impacts on minority students and historically black institutions, and the treatment of women in sports. Our intention is to assist, not interfere with, efforts by university presidents to regain control of intercollegiate athletics, to eliminate cheating, and to restore universities to their function as educators, not as stables for meat.

□ 2030

KIMBERLY BERGALIS PATIENTS AND HEALTH PROVIDERS PROTECTION ACT OF 1991

The SPEAKER pro tempore (Mrs. UNSOELD). Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Madam Speaker, for the benefit of those at the desk, I am not going to take the whole 60 minutes, so we will not be here too long. I felt compelled, since this is the last day before the break, to take just a few minutes about a very, very important issue, and a very, very important young American lady who is dying this evening named Kimberly Bergalis.

A lot of people in this country do not know who Kimberly Bergalis is, but she is the young lady who is a beautiful, vibrant young American, very pretty. I have seen pictures of her in her earlier days.

She went to her dentist, a Dr. Acer, who had known for 3 months that he was dying of AIDS. He had full-blown AIDS. He had lesions on his arms that were dripping, and yet this man continued to perform oral surgery in his practice without his patients knowing about it.

Kimberly Bergalis went to this dentist. He extracted I believe two teeth, and later on she found out, along with four or five other patients of Dr. Acer when he died, that she had been exposed to the AIDS virus. After having been tested, she found out she in fact did have the AIDS virus.

Today, the gentleman from California [Mr. DANNEMEYER] sponsored a piece of legislation, of which I am cosponsor, along with the gentleman from California [Mr. DORNAN] and a number of other Members, and it is called the Kimberly Bergalis Patient and Health Providers Protection Act of 1991.

That legislation would mandate that health-care professionals, doctors, dentists, and other health-care professionals who are in the business of providing for the health and protection of the people of this country, be tested, mandated to be tested on a regular basis, and, if they test positive for the AIDS virus or for hepatitis-B, they would be mandated by this law to tell their patients if they are infected so the patient can make a decision on whether or not they want that professional to work on them.

If the patient then decides, after having been warned that the health care professional has the AIDS virus, they would have to give written consent to that doctor, dentist, or health care professional, before they could be worked on by that individual.

Conversely, it also gives doctors, dentists, and other health care professionals, the right to ask a patient to be tested before they perform invasive procedures on that patient.

Madam Speaker, I think this is a commonsense approach to health care. About 5 years ago I stood in this well and started talking about the problem of AIDS being the biggest pandemic to face mankind since the 13th and 14th centuries, when the bubonic plague wiped out half of Europe.

I said at that time that we, as a body, this Congress of the United States, needed to have a comprehensive program to deal with this pandemic. We needed to have education, to be sure. But in addition, we needed to have a testing program for everybody in this country from the age of about 10 to 65. Hopefully, that would cover the spectrum of those who would be at risk.

In addition to testing, we needed to have contact tracing, to find out if people who have active AIDS and who are informed of it continue to spread the disease, thus killing innocent human beings when they know that they had the AIDS virus.

We needed to have psychological help for those who found out that they had the AIDS virus, so they could learn how to deal with it. Finally, we needed to have severe penalties, including extricating people from society who had the AIDS virus and went around spreading it, knowing they were doing it, because those people are more of a threat than a man walking into a bank with a gun, because they are in effect killing human beings, and it is a much more horrible death than if you shoot somebody.

So I think this bill that we are sponsoring and cosponsoring today, the bill of the gentleman from California [Mr. DANNEMEYER], is extremely important.

Madam Speaker, over 90 percent of Americans in a poll that was recently conducted agree. There was a poll conducted just this past week asking Americans whether or not they thought their health care provider, dentist, doctor, or health care worker, should let them know if they are infected with the AIDS virus or hepatitis-B before they work on them. Ninety-five percent said that surgeons should let them know; 94 percent said that dentists should let them know; and 90 percent said that all health care workers should let them know before they work on them.

So overwhelmingly the American people want to know if somebody working on them, doing invasive procedures, have the AIDS virus, so they can protect themselves and/or their families.

Madam Speaker, I want to read into the RECORD an article that was written by David Zeman of the Miami Herald about Kimberly Bergalis. This article ought to be read by every single American, because it is so important that they understand what we are up against.

Madam Speaker, I quote:

> Here are two things you have never seen in AIDS victim Kimberly Bergalis.
>
> Her anger: "Do I blame myself? I sure don't. . . . I blame (dentist David) Acer and every single one of you b------. Anyone that knew Dr. Acer was infected and had full-blown AIDS and stood by not doing a damn thing about it. You are all just as guilty as he was."
>
> Her pain: "I have lived to see my hair fall out, my body lose over 40 pounds, blisters on my sides. I've lived to go through nausea and vomiting, continual night sweats, chronic fevers of 103–104 that don't go away anymore. I have cramping and diarrhea. . . . . I have lived through the torturous acne that infested my face and neck—brought on by AZT."
>
> Bergalis, 23, is no longer the delicate but beautiful young woman who appeared on national talk shows or stood bravely on windswept beaches. That was months ago, when she was the strong, mature-beyond-her-years college grad who contracted AIDS from her dentist during a 1987 office visit.
>
> Now she spends her days in agony, drifting in and out of consciousness. Her wasted body resembles a jumble of broken match sticks. She weighs maybe 70 pounds. She hasn't eaten solid foods in two months. She must be carried to the toilet. A rust-colored paste cakes her tongue like broken concrete on a sidewalk.
>
> "She'd like to die," says her father, George Bergalis. "That's foremost in her mind. She just continually questions why God hasn't taken her yet. Death, as far as she's concerned, will be a relief.
>
> "We don't pray for miracles anymore. We pray for her to pass on as quickly and as painlessly as possible."
>
> But before she dies, she desperately wants you to see her. To see AIDS.
>
> "People never saw the down side of her condition," says her father. "This is the real AIDS, the way people really get. It's not a pretty picture."
>
> Kimberly can barely talk now. She makes sounds, but her mouth cannot form shapes. Her words above are from a letter she wrote April 6 to Nikki Economou, an investigator with the Florida Department of Health and Rehabilitative Services. It is an extraordinary, and bitter, account of her body's destruction. Is she glad she wrote it?
>
> "Yes," she said Wednesday, her blue eyes sharp against her sunken face. "Very happy."
>
> "It's the first time she came out and expressed anger," said her father, "She was keeping that inside."
>
> In September 1987, Stuart dentist David Acer was diagnosed as having full-blown AIDS. Three months later, Bergalis, a University of Florida student, entered his office to have some molars extracted.
>
> It would take two years before Bergalis, then 21, also was diagnosed with AIDS. Last August, she learned from the National Centers for Disease Control that Acer (who would die one month later) was the source. It was the first time a patient ever had contracted AIDS from a doctor.
>
> Bergalis sat down with her family and attorney Bob Montgomery and charted their options. Together, they decided she would go public; she would devote the time she had left to lobby for mandatory AIDS testing for health care workers and full disclosure of AIDS status between doctors and patients.
>
> "She's going to be in every history book written from now on," said Barbara Webb, a 65-year-old retired schoolteacher and one of the four other Acer patients who tested positive for the virus.
>
> "She is the prime inspiration for the movement toward mandatory testing."

□ 2040

Think about how those other four people must feel, knowing that they have AIDS and are destined to die because of this doctor.

> It is a movement that has drawn significant opposition from the medical establishment. In January both the American Medical Assocation and the American Dental association added new guidelines asking physicians infected with AIDS virus to either stop performing invasive medical procedures or disclose their HIV status to patients.
>
> However, neither the State nor the national organization has recommended mandatory testing or disclosure for doctors with AIDS.
>
> "AIDS is a confidential disease." said Dr. James Howell, District Director of the AIDS program for the Department of Health and Rehabilitative Services.
>
> He said that "State regulatory boards are in the process of setting new standards for reporting infectious diseases." He declined to discuss the Bergalis letter. "It is a hell of a way to die," he said.

But they still have not come out four-square in favor of mandatory testing for health care professionals or also letting patients know about it and we, every one of us who goes to a doctor or a dentist or health care professional, have the right to know because our lives are at risk.

> Kimberly Bergalis agrees. "Do you know what it is like to look at yourself in a full-length mirror before you shower and see only a skeleton," she wrote in a letter. "Do you know what I did? I slid to the floor and I cried. Now I shower with a blanket over the mirror."
>
> Meanwhile her family, her parents and her sisters, 19-year-old Allison and Sondra, 11, are determined to carry on as normally as possible. "We are not about to maintain a death vigil," said George Bergalis. "We are not going to gather around her bed and wait for her to die."

This is a very brave family, and she is a very brave young lady.

There was a P.S. to that letter that she wrote, and I think everybody in this country ought to know what that P.S. says. She said, "If laws are not formed to provide protection, then my suffering and death was in vain."

She knows what it is like. She knows what it means to go in to a person in whom you have confidence and get a death-dealing blow.

Dr. Acer knew that he had AIDS, not just the AIDS virus but he had active AIDS. He had lesions on his body and knew he was terminally ill, yet he continued to perform invasive procedures on patients, and he has killed five of them and there may be others that test positive down the road, we don't know.

So I commend my colleague, the gentleman from California [Mr. DANNEMEYER], for his legislation. I am going to work very hard to help get that passed, and I will continue to come to this well in the next few months informing my colleagues and anyone else who cares to listen about the erroneous information that is being given out through this country and by the media about there not being much of a danger to them from the AIDS virus from various modes of possible transmission.

I would like to also say that we must, as a Congress and as a Nation, come to grips with this. We need a program that is comprehensive to find out how AIDS is being spread, where it is spreading and how rapidly it is spreading.

The only way that is going to occur is for Congress to pass legislation mandating testing on a routine basis for everybody, contact tracing if people who have the disease and know it continue to spread it, education, psychological training for those who have it. And we need to protect their benefits.

We do not want to see discrimination. We need to protect their health care benefits and if possible their jobs, make sure their civil rights are not violated. We need to treat this as a health care issue, not as a civil rights issue, because the health of the Nation is at risk.

For those who continue to spread AIDS after they know they have it, like Dr. Acer, there needs to be penalties for that. They need to be extracted from society or they need to suffer severe penalties for their actions. There needs to be consequences for actions like Dr. Acer has perpetrated upon those five individuals and particularly Kimberly Bergalis.

I would just like to end up before I yield to my colleague from California, Mr. DORNAN, by saying to Kimberly Bergalis, God bless you, young lady. Everybody in this country is thinking about you and many of us in Congress are going to work day and night to try to get the Kimberly Bergalis Patient and Health Providers Protection Act of 1991 passed so your dying will not be in vain.

I yield to my colleague, the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Well, DANNY boy, my distinguished colleague from the great State of Indiana, you are to be honored again for taking out this special order and showing your steadfastness over the years. It is actually almost 6 years now since you and I and Mr. DANNEMEYER and maybe one or two others started to speak out regularly about what the proper health procedures were to approach this always fatal venereal disease that we predicted years ago by believing the statisticians at the Centers for Disease Control and the Institutes for National Health.

I took my wife Sally to the World Health Organization in Geneva to talk to a Dr. Jonathan Mann and Dr. James Chin, and all the statistics that they gave us, although we had a different approach as to what to do about it, they have all come through. There is going to be 15 million people die. That is 5 million more than World War I in the next 10 or 12 years.

In the United States we are going to see a million people die of this in the next 10 years.

One of the things that I have said in that well, and only you and a handful of others have even listened, let alone done anything about it, is that if a person is told by a doctor they have manifested AIDS, that the HIV virus has now kicked in, one-third of everybody told that is dead within 6 months. And it looks like Kimberly fell into that tough category.

I was planning during this July break of seeing if her dad would let me come down and see her. I was planning on calling or talking to her on the phone. It seems like only a few months ago she was on the cover of People Magazine looking very vigorous and healthy. We have seen her on talk shows. I thought she might be around for years, helping us lobby to get this bill through.

Somehow or other, until someone has manifested AIDS, and I thought she was just in the HIV carrier category, you always tend to think, because it is human nature to be an optimist, you tend to think, this person will be one of the long-time survivors. They will not be in the 60 percent that are dead within 18 months, more than 60 percent, or that one-third dead in 6 months. They will be one of the tough ones that will be around for 5, 6, 7 years, helping us.

All of a sudden, I open up the Washington Post, our local newspaper here, a few days ago and saw this picture of her down to 65 pounds, this striking picture on the cover of the brandnew Newsweek of a doctor who looks like a concentration camp, death camp inmate, Dr. Richard Duff, who for 3 years did not tell his patients that he was not only an HIV-infected person but that he was an AIDS carrier, and that he had open, this medical word in here, weeping lesions, running sores on his arms and that his partner that he swears he never had any sexual relations with, and you have to take the man at his word, because he is dying, that he divorced his wife. And he said, "I ran around for 3 years." Then remarried his wife. What a sad story.

But his friend, it says in here, by an incredible coincidence, this Dr. Benson, is also dying of AIDS. The Benson case comes up in Minnesota, and the medical authorities there fooled around with the paperwork on this for over a year.

Now they have determined 339 of his patients were in danger of AIDS because he also had weeping, open lesions. And he was treating three or four dozen mothers, their children, touching the children's private parts, doing eye, ear, and nose examinations with weeping wounds.

Anybody who has seen this on the news racks may be enticed into buying this as the brandnew Newsweek of July 1, but when they open to the cover story "Doctors and AIDS" the first picture they will see is beautiful Kimberly Bergalis as though she is in a casket at home. Her dad, George, bathes her, carries her to bed. It tells the story of how when he says, "Good night, Hon," he says, "I will see you in the morning."

She says, "Hopefully not." She is a very religious young woman, 23 years of age. You could tell that in the talk shows.

In this jaded, sexually obsessed society, when she said, "I am a virgin, I was saving himself for my husband, I wanted to have a good marriage and children," in this cynical, sleaze-ball world of popular culture, people scoffed and jeered at her and said, "Check her out. She is probably promiscuous."

But when one, two, three, four other people making five of them and maybe more to come, if this one dentist were infected, suddenly the world had to say, "Maybe this beautiful young woman is telling the truth.

So she begins to lobby and the gentleman read that beautiful P.S. in her letter. There is a tough line in the letter that I will ask the indulgence of adults and smart children who watch the proceeding of this House, that when she says, "I blame every one of you bastards," she is not questioning anyone's parentage.

□ 2050

She is using that word "bastard" for illegitimate child in the sense that most of us use it, a rough way of meaning, "You are a rotten person, you have hurt me, you have done me dirty," and what I said at the press conference today is I do not want to be one of those people in her life, with her gone.

To tell you the truth, you and I and a handful of other people do not fit in that category anyway, because we have had somehow or other, and it sounds so self-serving to say the words "political courage," so I will fumble and figure out some way to say it in different words. We have earned our pay here to get into that well and talk about the worst public-health crisis in the 215-year history of the United States.

Out there, have you ever been to a press conference in any room in this beautiful office building, the world's greatest office building, the U.S. Capitol, or in the Rayburn Building, the Longworth Building, the Cannon Building, any one of the three Senate office buildings, have you ever been at a press conference with 15 cameras, loads of press, 3 tiers of them, and only 4 Members? It is usually the other way around, 3 or 4 cameras and 15 or 20 Members on some issue.

What makes this issue different is that very often here we screw up people's lives. We cost them more taxes. We hurt them when we are, all of us, trying to help them. Occasionally we make someone's life better and help people. A lot of times we waste time and spin our wheels.

Rarely does a piece of legislation come along where you can go home and tell your husband or your wife, "Today in the Congress of the United States I have done something that will save lives." I hope it is matched on the Senate side. I hope it survives conference. I know the President will sign it into law, and we have saved lives.

This is such legislation.

Mr. BURTON of Indiana. I would like to interject one thing if I might. What a lot of people, what a lot of our colleagues, do not know is that there are probably 4,000 or 5,000 health care workers in this country today who are infected with the AIDS virus and who are potential spreaders of this disease to their patients today. In addition to that, we passed legislation last year which stood this whole idea on its head when we passed the Americans With Disabilities Act. There is a provision in there which says that if a person who is infected with the AIDS virus is a health care worker and they are working in a hospital and they have active AIDS and they are working on a patient, if the hospital moves them against their will to some other job so they will not infect that patient or if a doctor asks them to do some other job in the hospital so they will not infect that patient, the doctor and the hospital are liable and can be sued, and they can collect. Can you imagine that?

So we have protected the right of a person who is infected with AIDS to stay there endangering these people without letting them know. We need to change that, and that is what this law does.

Mr. DORNAN of California. It is because of what we said at the press conference. It is a simple, little sentence, and it has the ring of truth to it. That is what makes it so appealing. All the words are the same except two, "health" and "relations."

This is a public health problem, not a public relations problem, not a political problem, not driven by some task force that has got a hidden agenda on sexual behavior that they are trying to protect or advance or push. This is a public health problem.

Let me get in the RECORD, just before we quit, some of the statistics from the Gallup Poll that go with this article. Question 1: Which of the following kinds of health care workers should be required to tell patients if they are infected with the AIDS virus? By the way, the CDC says it is 6,800 people, almost 7,000, and given the error on the low, conservative side, it is over 7,000 people.

Here is what Americans say.

Mr. BURTON of Indiana. You say 7,000 instead of the 4,000 I said?

Mr. DORNAN of California. Seven thousand health workers of all kinds. They break it down into basically four categories: surgeons, all physicians, dentists, healthcare workers. This is a 5-percentage-point error nationwide, Gallup Poll. Corporations pay huge dollars to take Gallup Polls, and they are market based on accepting it as factually correct.

This is what America thinks, and I say this to all my doctor friends, and the AMA, by the way, has come out, and the American Dental Association, and they work this Hill pretty good, pretty good people. Their Washington, DC, people are great. They have said voluntarily all doctors should tell their patients if they are HIV carriers, if they are infected, or if they have AIDS, tell your patients, and they recommend that they get a signed release.

I am afraid that that is what they should have done 6 years ago. It is too late.

Mr. BURTON of Indiana. It should not be voluntary, either. It should not be voluntary.

Mr. DORNAN of California. It has got to be Federal law, and they are dragging their feet.

By the way, look, our ethics committee here in this House has not dazzled the Nation with their skill of judging one another.

I am a big fan of the police across this country, as the gentleman is, but to see my heroes, and I thought it was the best police department in the country, the LAPD, sit around at an atrocity scene, at a beating, reminding me of Gestapo or people beating our pilots in Hanoi, and nobody says a peep when there are more than two dozen officers there. Yes, it is hard for even good organizations to police themselves.

But I am telling the medical people of this country, and you are not hostile as some people around here, trying to whip up a fever for socialized medicine, I am telling them, "Physicians, heal thyselves, because you are going to make it harder if you keep resisting."

Here is what our fellow Americans think, I say to the gentleman from Indiana [Mr. BURTON], who are not doctors: 95 percent, in the Gallup Poll, say surgeons must, not voluntarily, must by law be forced to identify that they have HIV, that they are a carrier, or that they have AIDS: 94 percent of all physicians, 1 point more for surgeons, 94 percent of all dentists; and 90 percent of all health-care workers. That is all within the 5-percent margin of error. So it is over or pushing 95 in all categories.

Then here is one other: If you knew a physician, dentist, or other health care worker treating you was infected with AIDS, what would you do? Sixty-five percent said that they would discontinue treatment immediately with that person. Now, that is their right. That is their right. Thirteen percent say they will continue, but they will exclude surgery or anything invasive. They say, "You can continue to be my doctor, but go get somebody else if there is going to be any blood or you are going to start poking around me." Fifteen percent, only, say that they would continue with stringent protective measures.

The gentleman just pointed out to me, reading this article, that this one woman said, "By the way, have you been AIDS tested?" And the doctor was so insulted he said, "Well, yes, I have." But, now, what did it say, he dresses himself like a football linebacker, or a scuba diver, or something.

Then this one says that if the following kinds of health care workers test positive for the AIDS virus, should they be forbidden to practice, forbidden to practice, taken out, not just tell the patient, and let it go option person to person, patient to patient? It says—and this is what Americans want—63 percent of all surgeons should be forbidden to practice; all physicians, 50 percent; more than half of the Americans say any physician should be stopped from practicing; dentists, 60 percent of Americans say a dentist must stop practicing. As for all other health care workers, 49 percent.

I am not that harsh, and I will bet the gentleman is not. Because, you know what I would let them do? Research or work with AIDS patients, of which we are going to have a million soon.

Mr. BURTON of Indiana. Let me interject one thing that I think is very important.

I hope our colleagues will think about this. Doctors and dentists and health-care workers have a right to know if the patient they are working on has the AIDS virus as well.

Mr. DORNAN of California. That is next.

Mr. BURTON of Indiana. If they know, they will protect themselves or not perform an invasive procedure. They will make sure they are not going to be exposed to the AIDS virus, so it is going to protect them as well, and if we allow routine testing across the board for patients and doctors, eventually we will know who has this virus, and doctors will be able to protect themselves so this will not spread through the medical community, through the health-care industry, thus endangering not only them but their patients as well.

Mr. DORNAN of California. Exactly.

Saturday, I went out to Space Command to the big national test facility for SDI, and I looked at my first Cray 2 computer, so much smaller than the Cray 1.

It actually has a fluid in it that Seymour Cray, this genius inventor, had in a dream one night: What cools the brain, he said, all of this energy. So it is a clear fluid that is exactly based on blood plasma.

Here are all of these hand-wired systems in this intricate Cray computer.

Now, if this Congress could not fund, and they cost $17 million each, fund a Cray computer and put it at some American Medical Association facility, and a doctor with AIDS comes forward and says, or HIV positive, and says, "All right, help me continue working as a doctor. I want to heal. More than ever, I want to heal. My years are limited." You crank it into that, and then crank in the jobs available, my God, any doctor in this country who really is filling his shoes can go to Africa and be Dr. Schweitzer, for Pete's sake, a man with a Nobel Prize, and praise for all of the centuries to come, because Africa has 15 million people with AIDS, and it is destroying their countries, and there it is spread by heterosexual promiscuity and some—but not like the Western World—some needle abuse.

I am glad the gentleman brought this up. Because American are tough on their doctors, their nurses, their health care workers, their paramedics, their surgeons, and dentists and not tough on themselves. Get this, should patients be required to tell physicians, dentists, and other health care workers if they, the patient, are infected with the AIDS virus?

□ 2100

Ninety-seven percent of our fellow Americans say yes, we must tell the doctor, because more doctors are in danger of patients than patients of doctors. Only 2 percent of weirdos say, "No," that you can go lie to your doctor, and while he is trying to save your life or heal the patient, they can kill him. So there are 2 percent jerks in every survey. I like to assume that they did not hear the question right.

So, Americans are being fair on this. They are getting doctors 5 to 10 percent more slack than they are giving themselves as patients to say we should give the doctor.

What it comes down to is what I heard the gentleman in the well and myself going on in late 1965 when we started getting with the program, when we believed the medical industry's own statistics on how bad this was going to get, and that is contact tracing and testing.

While we were doing that, Cap Weinberger, our former great Secretary of Defense, left a great legacy to Dick Cheney. As he put it to me, "We stick everybody in the military." Then it was about 2.1 million people. Stuck every man, woman, every old sergeant, every admiral, every general, everyone was stuck with a needle. Blood was drawn, and they were tested. We ended up with the cleanest universe of any profession in our country in the military because Cap said, "Let others argue. I will take action."

Mr. BURTON of Indiana. Madam speaker, as we draw this to a close, let me just say that the military does test everyone. It costs about $5 for the series of tests, including the ALIZA test, if they need a second one, and the Western Blot test. They are about $99\frac{9}{10}$ percent accurate, so the margin of error is infinitesimal. The fact is, we could test everybody in the country between the age of 10 and 65 every year for under a billion dollars, and the cost of treating one AIDS patient, from the time they get AIDS to the time they die, is about $100 to $150,000. So it is much more cost-effective than most people think. It will save America money in the long run, way more than it will cost, if we start a testing program. It will save a lot of lives.

Mr. DORNAN of California. Let me ask a question. The article ends on a sour note on those who met at the Seventh International AIDS Conference in Florence, Italy. It adjourned after 8 days last Sunday. They said probably it will forego a convention next year, kill it completely, and certainly not come to the United States because the United States has a policy of not accepting immigrants who are infected with this always fatal venereal disease.

Has the gentleman had any of his constituents—I have only had a few of mine aware of it—has the gentleman had any constituent talk to him about this, because the average American's reaction is stunning to me. They say, "What?" We have a disease, always fatal, raging out of control, with 1 million infected people. That is a conservative low figure. We want to let more people in with the danger of spreading that further and faster? Are we crazy? When I ask them what about exceptions, like infected doctors who might want to come to this conference in Boston. They say, "Of course." How about visiting a friend who is very ill or dying? "Well, of course." How about getting treatment themselves? "Well, sure, anybody could be allowed in."

So again, there is the generous average American who has fought wars all over the world and liberated dozens of countries. There are always exceptions, but to let people come into this country, and the irony is, because of this politically driven AIDS crisis we are suddenly going to release the standards on gonorrhea, syphilis, leprosy, and a lot of other diseases, all to give cover to the humano imnuno deficiency virus, to give cover, and we will be left with tuberculosis.

How many people do we see like Kimberly Bergalis, an innocent victim, shriveled on a bed, crying to God, begging for God to take her, to take her in His arms. How many people do we see like this with tuberculosis in this country?

I did not get a chance at the press conference to say this today, but I will close on it. Every single week now, for the rest of our lives probably, more people will die of AIDS, and most of them young, in their vigorous productive years, than died in the Vietnam war. Every single week for 10 years, but the 2 weeks of the Tet offensive. Take out the first 2 weeks of February 1968, and we are losing more people to AIDS every week, with far more expense, than young GI's who were killed on the battlefield, giving the full measure of devotion. These people die slowly. Most of them, like Kimberly Bergalis, at great cost; $40 thousand minimum. Some States up to $100,000 a year maintenance, a tragedy ripping apart our young people. I do not see 250,000 people out there with Tom Hayden, David Dellinger, Jerry Rubin, ana Abby Hoffman making fools of themselves. I do not see this. Everybody is saying, "Go away," and that syndrome has affected the Senate and the House of Representatives in this Capitol. People do not want to get at these two lecterns from both parties, and face up to the health crisis.

There is only one conclusion this Member can come to. It involves a three-letter word: s-e-x. Because it involves sex, because it involves a powerful, arrogant, homosexual, politically finely honed operation in this country of activists, people are afraid to discuss this health crisis. The result is a totally innocent, beautiful victim, like a little saint, Kimberly Bergalis, shriveled in her bed, pleading her life not be wasted, that we pass in Congress a bill to wake up the medical profession. They ought to be on the Hill, as a few courageous ones lobby to get to Members to do this before they have totally wrecked their profession in the sense of public relations and broken their faith with the American people.

I was reading the article. At the beginning the gentleman from Indiana [Mr. BURTON] said he would read the Hippocratic oath. I suggest that the gentleman do what he said at the opening, and read those words from the Hippocratic oath.

Mr. BURTON of Indiana. Before I read that, I would like to say that I am confident, and I thank the gentleman from California for his contribution, I am confident that the people of this country will demand a comprehensive program, including routine testing, before too long.

The problem is, every day that we wait, we condemn more people to get AIDS, and dying a very horrible death like Kimberly Bergalis.

I would like to read one section from the Hippocratic oath which every doctor takes:

> I will apply dietetic measures for the benefit of the sick according to my ability and judgment; I will keep them from harm and injustice.

"I will keep them from harm and injustice." They all swear to that. I cannot believe that Dr. Acer did not know that he was violating that oath when he exposed Kimberly Bergalis and the other four people to the AIDS virus, along with his other patients.

Let me end by saying one more time to the family of Kimberly Bergalis and Kimberly Bergalis herself that I and my collegues who are very strongly in favor of this legislation, will work tirelessly over the next few months and years to get the Kimberly Bergalis Patient and Health Providers' Protection Act of 1991 passed. God bless Kimberly Bergalis and her family.

Mr. DORNAN of California. Let me add, the rules of the House say that we have to direct everything through the Speaker, so I do this through the Speaker.

Mr. Speaker, if Kimberly's father, George, were so inclined, Mr. Speaker, I would hope he would call the Capitol, and if any of his friends are watching the proceedings on C-SPAN following the House in the CONGRESSIONAL RECORD. If the other four patients, some of them who still have the strength that Kimberly had a few months ago when she was walking the beach 2 months ago and speak out, if they would call here, I would invite them to come to the Congress of the United States, Mr. Speaker, walk the Halls with Members, and personally go in and lobby Members of both of these distinguished legislative bodies, and get this legislation passed, and help get this monkey off the back of medical profession, like the LAPD has to be helped through its own travail because of the code of silence that all professionals develop among themselves.

Mr. BURTON of California. Madam Speaker, I thank the gentleman for his contribution.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. SUNDQUIST (at the request of Mr. MICHEL), for today, on account of official business.

Mr. ACKERMAN (at the request of Mr. GEPHARDT), for today until 2 p.m., on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BEREUTER) to revise and extend their remarks and include extraneous material:)

Mr. LEWIS of California, for 60 minutes each day, on July 9, 10, 11, 15, 16, 17, and 18.

Mr. BILIRAKIS, for 60 minutes, on July 23.

Mr. BEREUTER, for 5 minutes, today.

Mr. MCEWEN, for 5 minutes, today.

Mr. DORNAN of California, for 60 minutes each day, on July 9, 10, 11, 15, 16, 17, and 18.

Mr. DREIER of California, for 60 minutes each day, on July 9, 10, 11, 15, 16, 17, and 18.

(The following Members (at the request of Mr. FALEOMAVAEGA) to revise and extend their remarks and include extraneous material:)

Mr. DURBIN, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. BOUCHER, for 30 minutes, today.

Mr. OBERSTAR, for 60 minutes, on July 10.

Mr. WISE, for 60 minutes, on June 27.

Mr. FALEOMAVAEGA, for 60 minutes, on June 27.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. PETRI and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2863.50.

(The following Members (at the request of Mr. BEREUTER) and to include extraneous matter:)

Mr. GRADISON.
Mr. DANNEMEYER, in two instances.
Mr. GEKAS.
Mr. WELDON.
Mr. BALLENGER.
Mr. BEREUTER.
Mr. PORTER.
Mr. SOLOMON.
Mr. CRANE.
Mr. CAMPBELL of California.
Mr. SHAW, in two instances.
Mr. GUNDERSON.
Mr. BLILEY.
Mr. EMERSON.
Ms. ROS-LEHTINEN, in two instances.
Mr. FIELDS.
Mr. SCHULZE.
Mr. GILMAN, in four instances.
Mr. HORTON.
Mr. LOWERY of California, in two instances.
Mr. SANTORUM.
Mr. PETRI.
Mr. CAMP.
Mr. LEWIS of Florida.

(The following Members (at the request of Mr. FALEOMAVAEGA) and to include extraneous matter:)

Mr. RAY.
Mr. ROWLAND.
Mr. TORRES.
Mr. HAMILTON.
Mr. RAHALL in two instances.
Mr. HERTEL in two instances.
Mr. WOLPE.
Mr. MONTGOMERY.
Mr. ATKINS.
Mr. MORAN.
Mr. MURTHA.
Mr. JACOBS.
Mr. LANTOS.
Mr. BRUCE.
Mr. HOYER.
Mr. CARR.
Mr. HALL of Ohio.
Mr. REED.
Mr. HUBBARD.
Mr. DINGELL.
Mr. KILDEE.
Mr. DYMALLY.
Mr. NOWAK.
Mrs. LOWEY of New York in two instances.
Mr. CARDIN.
Mr. KOPETSKI.
Mr. FAZIO in two instances.
Mrs. COLLINS of Illinois.
Mr. MORAN.
Mr. FALEOMAVAEGA.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 749. An act to authorize the Secretary of the Interior to accept a donation of land for addition to the Ocmulgee National Monument in the State of Georgia.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 909. An act to amend chapter 9 of title 17, United States Code, regarding protection extended to semiconductor chip products of foreign entities.

ADJOURNMENT

Mr. BURTON of Indiana. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 10 minutes p.m.) under its previous order, the House adjourned until tomorrow, Thursday, June 27, 1991, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1634. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to modify the physical examination requirement for members of the Ready Reserve of the Armed Forces; to the Committee on Armed Services.

1635. A letter from the Administrator, Environmental Protection Agency, transmitting a report on railroad emissions; to the Committee on Energy and Commerce.

1636. A letter from the Secretary of Labor, transmitting the semiannual report of the Pension Benefit Guaranty Corporation's inspector general, pursuant to Public Law 95-452, section 8E(h)(2) (102 Stat. 2525); to the Committee on Government Operations.

1637. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a draft of proposed legislation to promote international cooperation and to reduce dolphin mortalities in the purse seine fishery in the eastern tropical Pacific Ocean by amending the mandatory trade embargo provisions of the Marine Mammal Protection Act; to the Committee on Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 1776. A bill to authorize for fiscal year 1992 the United States Coast Guard Budget; with an amendment (Rept. 102-132). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROWN: Committee on Science, Space, and Technology. H.R. 1989. A bill to authorize appropriations for the National Institute of Standards and Technology and the Technology Administration of the Department of Commerce, and for other purposes; with an amendment (Rept. 102-134). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 2130. A bill to authorize appropriations for the National Oceanic and Atmospheric Administration for fiscal year 1992; with an amendment; referred to the Committee on Interior and Insular Affairs and to the Committee on Ways and Means for a period ending not later than July 12, 1991, for consideration of such provisions of the amendment as fall within the jurisdiction of those committees pursuant to clause 1(n) and 1(v) of rule X, respectively. (Rept. 102-133, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. KOPETSKI (for himself and Mr. RIGGS):

H.R. 2770. A bill to limit contributions by nonparty multicandidate political committees in House of Representatives elections, to provide an income tax credit for contributions to nonincumbent candidates to such elections, and for other purposes; jointly, to the Committees on House Administration, Ways and Means, and Post Office and Civil Service.

By Mr. STAGGERS:

H.R. 2771. A bill to amend title 38, United States Code, to remove limitations on payment of attorney fees in cases in which the United States is seeking to collect an indebtedness to the United States arising out of a housing loan guaranteed or insured by the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. ROSE:

H.R. 2772. A bill to establish in the Government Printing Office a single point of online public access to a wide range of Federal databases containing public information stored electronically; to the Committee on House Administration.

By Mr. PETRI (for himself, Mr. GOODLING, Mr. GUNDERSON, Mr. ARMEY, Mr. FAWELL, Mr. BALLENGER, Ms. MOLINARI, Mr. BARRETT, Mr. BOEHNER, Mr. KLUG, Mr. GRANDY, and Mr. SENSENBRENNER):

H.R. 2773. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to set standards under such title for multiple employer welfare arrangements providing health plan benefits; to the Committee on Education and Labor.

By Mr. CONYERS:

H.R. 2774. A bill to provide that one-half of the Department of Justice Assets Forfeiture Fund be available to be used for community-based crime control programs for drug education, prevention, and demand reduction, and for other purposes; to the Committee on the Judiciary.

By Mr. ROSTENKOWSKI:

H.R. 2775. A bill to amend certain provisions of the Internal Revenue Code of 1986 to simplify the application of such provisions; to the Committee on Ways and Means.

By Mr. PALLONE:

H.R. 2776. A bill to designate "The Most Beautiful Lady in the World", by Helmut Christopher Calabrese and Paul L. Calabrese, as the official anthem of the Statue of Liberty; to the Committee on Post Office and Civil Service.

By Mr. ROSTENKOWSKI (for himself and Mr. ARCHER):

H.R. 2777. A bill to simplify certain provisions of the Internal Revenue Code of 1986; to the Committee on Ways and Means.

By Mr. ACKERMAN:

H.R. 2778. A bill to amend certain Federal laws to provide the same rights and privileges to deaf or hard-of-hearing individuals who depend on hearing dogs as are provided to blind individuals who depend on guide dogs, and for other purposes; jointly, to the Committees on Agriculture, Public Works and Transportation, and Veterans' Affairs.

By Mr. ATKINS (for himself, Mr. ANDREWS of Texas, Mrs. BOXER, Mr. DURBIN, Mr. EVANS, Mr. FRANK of Massachusetts, Mr. HANSEN, Mr. MARKEY, Mr. MCDERMOTT, Mr. MRAZEK, Mr. NEAL of Massachusetts, Mr. SANGMEISTER, Mr. STARK, Mr. SYNAR, Mr. VISCLOSKY, Mr. WAXMAN, Mr. WEISS, and Mr. WHEAT):

H.R. 2779. A bill to make exports of cigarettes and the advertising of cigarettes abroad subject to the same restrictions on labeling and advertising of cigarettes as apply to the sale or distribution and advertising of cigarettes in the United States; jointly, to the Committees on Foreign Affairs and Energy and Commerce.

By Mr. ROYBAL (for himself, Mr. MARTINEZ, Ms. OAKAR, Mr. WYDEN, Mr. DOWNEY, and Mr. KILDEE):

H.R. 2780. A bill to amend the Older Americans Act of 1965 to increase the authority of the Commissioner on Aging; to establish the Office of Long-Term Care Ombudsman Programs and provide for the appointment of an Associate Commissioner for Ombudsman Services; to enhance State long-term care ombudsman programs; to provide financial assistance for programs relating to elder abuse, exploitation, or neglect; and for other purposes; jointly, to the Committees on Education and Labor and Ways and Means.

By Mr. ATKINS (for himself, Mr. ANDREWS of Texas, Mrs. BOXER, Mr. DURBIN, Mr. EVANS, Mr. FRANK of Massachusetts, Mr. HANSEN, Mr. MARKEY, Mr. MCDERMOTT, Mr. MRAZEK, Mr. NEAL of Massachusetts, Mr. SANGMEISTER, Mr. STARK, Mr. SYNAR, Mr. VISCLOSKY, Mr. WAXMAN, Mr. WEISS, and Mr. WHEAT):

H.R. 2781. A bill restricting the activities of the United States regarding foreign laws regulating the marketing of tobacco products, and for other purposes; jointly, to the Committees on Ways and Means and Foreign Affairs.

By Mr. BERMAN:

H.R. 2782. A bill to amend the Employee Retirement Income Security Act of 1974 to provide that such act does not preempt certain State laws; to the Committee on Education and Labor.

By Mr. BILIRAKIS:

H.R. 2783. A bill to direct the Secretary of Health and Human Services to conduct a study on the feasibility and desirability of resolving medical malpractice claims in the same manner provided for resolving workmen's compensation claims; to the Committee on the Judiciary.

By Mrs. BOXER:

H.R. 2784. A bill to assist counties adversely affected by a base closure, change in the place of performance of a defense contract, the cancellation or failure to proceed with a defense contract, or reductions in defense spending; to the Committee on Education and Labor.

By Mr. CAMPBELL of California:

H.R. 2785. A bill regarding the compliance of the People's Republic of China with certain internationally recognized standards of conduct, and for other purposes; jointly, to the Committees on Foreign Affairs and Ways and Means.

By Mr. CAMPBELL of California (for himself, Mr. SHAYS, and Mr. MACHTLEY):

H.R. 2786. A bill to protect the physician-patient relationship relating to Federal restrictions on abortion counseling; to the Committee on Energy and Commerce.

By Mr. CAMPBELL of Colorado:

H.R. 2787. A bill to amend the Department of Energy Organization Act to require the Secretary of Energy to establish an area office in Grand Junction, CO, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DANNEMEYER (for himself, Mr. BLILEY, Mr. HOLLOWAY, Mr. BARTON of Texas, Mr. DORNAN of California, Mr. INHOFE, Mr. LAGOMARSINO, and Mr. BURTON of Indiana):

H.R. 2788. A bill to amend title XXVI of the Public Health Service Act to provide for the establishment of protections against certain communicable diseases for both health care providers and the patients of such providers, and to provide for certain forms of assistance for such providers and patients; to the Committee on Energy and Commerce.

By Mr. KILDEE:

H.R. 2789. A bill to amend the Star Schools Program Assistance Act to establish a program of grants for purposes of providing dissemination services; to the Committee on Education and Labor.

By Mr. KOLBE:

H.R. 2790. A bill to withdraw certain lands located in the Coronado National Forest from the mining and mineral leasing laws of the United States, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. KOPETSKI for himself, Mr. AUCOIN, Mr. WYDEN, and Mr. DEFAZIO):

H.R. 2791. A bill to authorize emergency crop loss assistance for producers of 1991 crops of cranberries who suffer crop losses due to damaging weather or related conditions in 1990 or 1991; to the Committee on Agriculture.

By Mr. LANTOS (for himself and Mr. PORTER):

H.R. 2792. A bill to extend to the People's Republic of China renewal of nondiscriminatory (most-favored-nation) treatment until 1992 provided certain conditions are met; jointly, to the Committees on Foreign Affairs and Ways and Means.

By Mr. MARTINEZ (for himself, Mr. KENNEDY, and Mr. KILDEE):

H.R. 2793. A bill to amend part 4 of subchapter A of the Community Economic Development Act of 1981 (42 U.S.C. 9814 et. seq.) and to provide assistance to community development cooperations and to increase their community development activities, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. MINK:

H.R. 2794. A bill to establish the Spark M. Matsunaga Renewable Energy and Ocean Technology Center to conduct research on renewable energy and ocean resources, and for other purposes; jointly, to the Committees on Science, Space, and Technology and Merchant Marine and Fisheries.

By Mr. SCHIFF:

H.R. 2795. A bill to amend title 18, United States Code, to reduce the number of prior convictions for a violent felony or a serious drug offense that are required for the imposition of enhanced penalties on persons who unlawfully ship, transport, or receive firearms or ammunition; to the Committee on the Judiciary.

H.R. 2796. A bill to provide that proceeds of U.S. savings bonds shall not be paid to any individual who kills the individual otherwise entitled to such payment where State law would prohibit such payment; to the Committee on Ways and Means.

By Mr. SOLARZ (for himself, Mr. AuCoin, Mr. Ackerman, Mr. Berman, Mr. Bryant, Mr. Cardin, Mr. Cox of Illinois, Mr. Dreier of California, Mr. DeFazio, Mr. Edwards of California, Mr. Feighan, Mr. Foglietta, Mr. Frost, Mr. Geren of Texas, Mr. Hochbrueckner, Mr. Hughes, Mr. James, Mr. Jefferson, Mr. Kopetski, Mr. Lagomarsino, Mr. Lehman of Florida, Mr. Lent, Mr. Markey, Mr. Matsui, Mr. McMillen of Maryland, Mr. Moody, Mr. Mrazek, Mr. Neal of North Carolina, Mr. Owens of New York, Mr. Owens of Utah, Mr. Price, Mr. Scheuer, Mr. Schiff, Mr. Shays, Mr. Smith of Texas, Mr. Stallings, Mr. Studds, Mr. Traficant, Mr. Torricelli, Mr. Towns, Mr. Yates, and Mr. Wolpe):

H.R. 2797. A bill to protect the free exercise of religion; to the Committee on the Judiciary.

By Mr. STALLINGS (for himself, Mr. Anthony, Mr. Campbell of Colorado, Mr. Emerson, Mr. Hansen, Mr. Herger, Mr. Jefferson, Mr. Jontz, Mr. Laughlin, Mr. Mfume, Mr. Myers of Indiana, Mr. Neal of North Carolina, Mr. Oberstar, Mr. Penny, Mr. Stenholm, and Mr. Towns):

H.R. 2798. A bill to provide for the coordination and implementation of national aquaculture policy for the private sector by the Department of Agriculture, and for other purposes; jointly, to the Committees on Agriculture and Merchant Marine and Fisheries.

By Mr. SWIFT (for himself, Mr. Dicks, Mr. Chandler, and Mrs. Unsoeld):

H.R. 2799. A bill to require the revision of the land and resource management plans for the Olympic, Mt. Baker-Snoqualmie and Gifford Pinchot National Forests to implement an alternative management strategy known as high quality forestry; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

By Mr. STARK:

H.R. 2800. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on an employer's cost of providing medical benefits to his employees and to amend the Social Security Act to provide support for hospitals in meeting indigent care costs; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. TORRES (for himself, Mr. Carper, Mr. Wylie, Mr. Cox of California, Mr. Neal of Massachusetts, Mr. Smith of Florida, Mr. Skelton, Mr. Fascell, Mr. LaRocco, Mr. Lantos, and Mr. Annunzio):

H.R. 2801. A bill to authorize the minting of legal tender coins to commemorate the 1994 World Cup and to provide a financial legacy to youth and amateur soccer in the United States; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. UNSOELD (for herself, Mr. Swift, Mr. McDermott, Mr. DeFazio, and Mr. Kopetski):

H.R. 2802. A bill to expand the existing restriction on exports of unprocessed timber originating from Federal lands in the 48 contiguous States to include unprocessed timber originating from Federal lands in the State of Alaska; jointly, to the Committees on Agriculture, Interior and Insular Affairs, and Foreign Affairs.

By Mr. WAXMAN:

H.R. 2803. A bill to amend part B of title XIX of the Public Health Service Act to establish a program of formula grants to the State for improving the delivery of mental health services, to establish a program for providing comprehensive mental health services for children with serious emotional disturbances, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MARTINEZ:

H.R. 2804. A bill to amend the Urban Mass Transportation Act of 1964 to provide for grants and loans to private nonprofit corporations and associations to be used to pay operating expenses related to new and existing mass transportation services for elderly and handicapped persons; to the Committee on Public Works and Transportation.

By Mr. GILLMOR:

H.J. Res. 286. Joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government and for greater accountability in the enactment of tax legislation and to allow an item veto of appropriations; to the Committee on the Judiciary.

By LOWERY of California (for himself, Mr. Moran, Mr. Gingrich, Mr. Fawell, Mr. Whitten, Mr. Weber, and Mr. Bilirakis):

H.J. Res 287. Joint resolution to designate the week of July 27 through August 2, 1991, as "National Invent America Week"; to the Committee on Post Office and Civil Service.

By Mr. McNULTY:

H.J. Res. 288. Joint resolution designating October 1991 as "National School Attendance Month"; to the Committee on Post Office and Civil Service.

By Mr. MILLER of Ohio:

H.J. Res. 289. Joint resolution proposing an amendment in the Constitution of the United States authorizing the Congress and the States to prohibit the act of desecration of the flag of the United States and to set criminal penalties for that act; to the Committee on the Judiciary.

By Mr. GEPHARDT:

H. Con. Res. 175. Concurrent resolution providing for an adjournment of the House from June 27, 1991 to July 9, 1991 and an adjournment of the Senate from June 28, 1991, June 29, 1991, June 30, 1991, July 1, 1991 or Tuesday, July 2, 1991 to July 8, 1991; considered and agreed to.

By Mr. WALKER (for himself, Mr. Hyde, and Mr. Ritter):

H. Res. 185. Resolution concerning the United States position on environmental protection at the 1992 United Nations Conference on Environment and Development in Brazil; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

204. By the SPEAKER: Memorial of the Legislature of the State of Maine, relative to the desecration of the American flag; to the Committee on the Judiciary.

205. Also, memorial of the Legislature of the State of Maine, relative to protecting the Bill of Rights; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII:

Mr. GRADISON introduced a bill (H.R. 2805) to extend the terms of the olestra patents, and for other purposes; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 5: Mr. Olver.

H.R. 23: Mr. Archer, Mr. Vander Jagt, Mr. Grandy, Mr. Bunning, Mr. Riggs, Mr. Livingston, Mr. Lipinski, and Mr. Upton.

H.R. 46: Mr. Lipinski.

H.R. 47: Mr. Frank of Massachusetts and Ms. Kaptur.

H.R. 63: Mr. Dingell.

H.R. 74: Mr. Lewis of California, Mr. Myers of Indiana, and Mr. Coble.

H.R. 127: Mr. Saxton, Mr. Hubbard, Mr. English, Mr. Wilson, and Mr. Dixon.

H.R. 134: Mr. Perkins, Mr. Boucher, and Mr. Martinez.

H.R. 200: Mr. Machtley, Mr. Jacobs, Mr. Doolittle, Mr. Chapman, Mr. Murtha, and Mr. McGrath.

H.R. 318: Mr. McMillen of Maryland, Mr. Geren of Texas, and Mr. Lewis of Florida.

H.R. 338: Mr. Upton.

H.R. 413: Mr. Lightfoot, Mr. Jenkins, Mr. Carper, Mr. Peterson of Florida, Mr. Zimmer, Ms. Ros-Lehtinen, and Mr. Jontz.

H.R. 431: Mr. Duncan, Mr. Shaw, Mr. Hubbard, Mr. Fields, Mr. Lehman of California, and Mr. Condit.

H.R. 467: Mrs. Mink, Mr. Hayes of Louisiana, Mr. Ford of Tennessee, and Mr. Hubbard.

H.R. 492: Mr. McNulty.

H.R. 565: Mrs. Collins of Michigan, Mr. Geren of Texas, Mr. Alexander, Mr. Penny, Mr. Atkins, Mr. Scheuer, Mr. Neal of Massachusetts, Mr. Clement, Mr. Riggs, Mr. Gunderson, Mr. Duncan, Mr. Condit, and Mr. Erdreich.

H.R. 462: Mr. Stearns, Mr. Bacchus, and Mr. Saxton.

H.R. 709: Mr. Bruce, Mr. Wilson, Mr. Coleman of Texas, and Mr. Hayes of Illinois.

H.R. 736: Mr. Green of New York.

H.R. 775: Mr. Chapman, Mr. Clay, Mrs. Collins of Illinois, Mr. Dellums, Mr. de Lugo, Mr. Dixon, Mr. Espy, Mr. Ford of Tennessee, Mr. Frost, Mr. Fuster, Mr. Gonzalez, Mr. Green of New York, Mr. Hayes of Illinois, Mr. Horton, Mr. Jefferson, Mrs. Johnson of Connecticut, Ms. Kaptur, Mr. Kennedy, Mr. LaFalce, Mr. Markey, Mr. Martinez, Mr. Moran, Mr. Owens of New York, Mr. Payne of New Jersey, Mr. Rangel, Mr. Roe, Mr. Towns, Mr. Valentine, Mr. Washington, and Mr. Wheat.

H.R. 797: Mr. Richardson.

H.R. 859: Mr. Gunderson.

H.R. 941: Mrs. Morella.

H.R. 967: Mr. Geren of Texas.

H.R. 978: Mr. Annunzio.

H.R. 993: Mr. McMillen of Maryland, Mrs. Collins of Michigan, Mr. Bevill, Mr. Lewis of Georgia, and Mr. Machtley.

H.R. 994: Mr. Lewis of Georgia and Mr. McNulty.

H.R. 1004: Mr. GUNDERSON.

H.R. 1048: Mr. DICKINSON.

H.R. 1063: Mr. TORRES, Mr. PEASE, and Mr. DIXON.

H.R. 1069: Mr. CRAMER, Mr. DANNEMEYER, Mr. JEFFERSON, Mr. GUARINI, Mr. BRYANT, and Mr. RANGEL.

H.R. 1076: Mr. SENSENBRENNER, Mr. FISH, and Mr. RAHALL.

H.R. 1079: Mr. SANGMEISTER.

H.R. 1108: Mr. SUNDQUIST.

H.R. 1126: Mr. MILLER of California.

H.R. 1130: Mr. JOHNSON of South Dakota and Mr. BUSTAMANTE.

H.R. 1189: Mr. GILMAN, Mr. VENTO, Mr. TOWNS, and Mr. LAGOMARSINO.

H.R. 1192: Mrs. COLLINS of Michigan, Ms. DELAURO, Mr. DELLUMS, Mr. DWYER of New Jersey, Mr. EVANS, Mr. FOGLIETTA, Mr. GONZALEZ, Mr. SANDERS, Mr. SCHEUER, Mr. SHAYS, Mr. STARK, and Mr. TORRES.

H.R. 1237: Mrs. BYRON, Mr. GINGRICH, Mr. KASICH, Mr. ROHRABACHER, Mr. TAYLOR of Mississippi, Mr. VALENTINE, Mr. VANDER JAGT, and Mr. WISE.

H.R. 1257: Ms. DELAURO, Mr. JONES of Georgia, Mr. FISH, and Mr. ENGEL.

H.R. 1270: Mr. PORTER and Mr. TAUZIN.

H.R. 1293: Mr. DONNELLY, Mr. BUSTAMANTE, Mr. WHEAT, and Mr. RANGEL.

H.R. 1300: Mr. RAVENEL and Mr. WEISS.

H.R. 1322: Mr. ECKART, Mr. VENTO, Mr. MURPHY, Mr. DE LUGO, Mrs. VUCANOVICH, Mr. FALEOMAVAEGA, Mr. JONTZ, Mr. KOSTMAYER, Mr. YOUNG of Alaska, Mr. DEFAZIO, and Mr. HOAGLAND.

H.R. 1330: Mr. DURBIN, Mr. TANNER, Mr. ORTIZ, Mrs. BENTLEY, Mr. ARMEY, Mrs. MEYERS of Kansas, Mr. HUBBARD, Mr. TRAFICANT, and Mr. IRELAND.

H.R. 1405: Mr. CLINGER, Mr. BUSTAMANTE, Mr. SCHEUER, and Mr. BONIOR.

H.R. 1406: Mr. CRAMER, Mr. EDWARDS of Texas, Mr. DE LA GARZA, Mr. STENHOLM, Mr. ROSE, Mr. JOHNSON of Texas, Mr. LEWIS of Florida, and Mr. SOLARZ.

H.R. 1407: Mr. MCMILLAN of North Carolina and Mr. COX of California.

H.R. 1411: Mr. BAKER, Mr. DANNEMEYER, Mr. HANSEN, Mr. TORRES, Mr. LUKEN, Mr. VANDER JAGT, and Mr. RAVENEL.

H.R. 1439: Mr. DUNCAN.

H.R. 1468: Mr. DANNEMEYER, Mrs. VUCANOVICH, and Mr. HANSEN.

H.R. 1472: Mr. WYDEN, Mr. GINGRICH, Mr. DUNCAN, and Mr. SMITH of New Jersey.

H.R. 1473: Mr. MINETA and Mr. BAKER.

H.R. 1482: Mr. WISE, Ms. LONG, Mr. VOLKMER, Mr. DOOLEY, Mr. FUSTER, Mr. WASHINGTON, Mr. WALSH, Mr. BACCHUS, Mr. SCHEUER, Mr. BLILEY, Mr. FISH, Mr. FEIGHAN, Mr. POSHARD, Mr. MILLER of Washington, and Mr. PETERSON of Florida.

H.R. 1495: Mr. WEBER, Mr. AUCOIN, and Mr. SANDERS.

H.R. 1523: Mr. CUNNINGHAM and Mr. HENRY.

H.R. 1572: Mr. HUBBARD, Mr. BALLENGER, Mr. LAUGHLIN, Mr. NICHOLS, Mr. LEWIS of Florida, and Mr. SAXTON.

H.R. 1579: Mr. JONTZ and Mr. FAZIO.

H.R. 1598: Mr. MACHTLEY, Mr. MCNULTY, and Mr. OBEY.

H.R. 1618: Mr. LANCASTER, Mr. LEHMAN of Florida, Mr. JONES of North Carolina, Mr. DERRICK, Mr. LEVINE of California, Mr. BILBRAY, Mr. SOLOMON, Mr. WISE, Mr. HUBBARD, Mr. VALENTINE, Mr. HEFNER, Mr. BRUCE, Mr. NEAL of Massachusetts, Mr. LIGHTFOOT, Mr. BATEMAN, Mr. CARPER, Mr. SLATTERY, Mr. MACHTLEY, and Mr. ROSE.

H.R. 1628: Mr. PAYNE of New Jersey, Mr. MARTIN, Mr. OWENS of New York, Mr. JONES of Georgia, Mr. FROST, Mr. FORD of Michigan, Mr. KOLTER, Mr. SMITH of New Jersey, Mr. MCMILLEN of Maryland, Mr. MARLENEE, and Mr. MURPHY.

H.R. 1655: Mr. LEHMAN of California, Mr. CONDIT, Mr. PACKARD, Mr. ZELIFF, and Mr. YOUNG of Alaska.

H.R. 1662: Mr. LIPINSKI.

H.R. 1733: Mr. SIKORSKI.

H.R. 1754: Mr. RAHALL.

H.R. 1755: Mr. RIGGS, Mr. ALLARD, Mr. BARRETT, Mr. EDWARDS of Oklahoma, and Mr. TAYLOR of North Carolina.

H.R. 1790: Mr. CARR and Mr. GEJDENSON.

H.R. 1841: Mr. BAKER.

H.R. 1842: Mr. BAKER.

H.R. 1860: Mr. SPENCE.

H.R. 1864: Mr. JEFFERSON, Mr. MCEWEN, Mr. LENT, and Mr. YOUNG of Alaska.

H.R. 1870: Mr. SAVAGE.

H.R. 2027: Mr. FAZIO.

H.R. 2074: Mr. KOLBE.

H.R. 2089: Mr. TOWNS and Mr. OWENS of Utah.

H.R. 2125: Mr. BONIOR, Mr. LAGOMARSINO, Mr. LIPINSKI, Mr. OWENS of Utah, Mr. ROE, and Mr. SMITH of Texas.

H.R. 2202: Mr. ARMEY.

H.R. 2212: Mr. KASICH.

H.R. 2215: Mr. BONIOR, Mr. CUNNINGHAM, and Mr. PALLONE.

H.R. 2232: Mr. ROSE, Mr. WISE, Mr. VOLKMER, Mr. AUCOIN, Mr. BREWSTER, Mr. WEBER, and Mr. ESPY.

H.R. 2236: Mr. GILCHREST, Mr. ROSE, Mr. BREWSTER, Mr. WEBER, and Mr. ESPY.

H.R. 2238: Mr. GILCHREST, Mr. LEACH, Mr. ROSE, Mr. GILLMOR, Mr. VOLKMER, Mr. BREWSTER, Mr. WEBER, and Mr. ESPY.

H.R. 2245: Mr. MCCLOSKEY, Mr. JONTZ, Mr. PENNY, Mr. HORTON, Mr. LIPINSKI, Mr. GUARINI, Mr. LEVINE of California, Mr. DWYER of New Jersey, Mr. FRANK of Massachusetts, Mrs. LLOYD, Mr. RANGEL, and Mr. DORNAN of California.

H.R. 2248: Mr. DONNELLY.

H.R. 2267: Mr. WILSON, Mr. LEVINE of California, Mr. EVANS, Mr. CARDIN, Mr. MARKEY, and Ms. NORTON.

H.R. 2268: Mr. MCCLOSKEY and Mr. EVANS.

H.R. 2290: Mr. BACCHUS, Mr. FASCELL, Mr. HUTTO, Mr. GIBBONS, Mr. LEHMAN of Florida, Mr. MCCOLLUM, Mr. PETERSON of Florida, Ms. ROS-LEHTINEN, and Mr. STEARNS.

H.R. 2299: Mr. HORTON and Mr. ROYBAL.

H.R. 2323: Mr. DURBIN.

H.R. 2324: Ms. ROS-LEHTINEN.

H.R. 2327: Mr. RAHALL, Mr. WOLF, Mr. UPTON, Mr. JACOBS, Mrs. LOWEY of New York, Mr. SANGMEISTER, Mr. CAMPBELL of Colorado, Mr. NEAL of Massachusetts, Mr. WYDEN, Mr. MCCLOSKEY, Mr. LAGOMARSINO, Mr. HYDE, and Mr. STENHOLM.

H.R. 2361: Mr. DAVIS and Mr. WASHINGTON.

H.R. 2383: Mr. HORTON and Mr. COSTELLO.

H.R. 2389: Mr. FOGLIETTA, Mr. BEREUTER, Ms. PELOSI, and Mr. TOWNS.

H.R. 2401: Mr. PETERSON of Florida, Mr. ECKART, Mr. TOWNS, Mr. BEREUTER, and Ms. KAPTUR.

H.R. 2452: Mr. GORDON, Mr. OBERSTAR, Mr. TORRES, and Mr. EVANS.

H.R. 2453: Mr. STEARNS.

H.R. 2455: Mr. LANCASTER and Mr. TAYLOR of Mississippi.

H.R. 2464: Mr. ROYBAL, Mr. DICKINSON, Mr. HUCKABY, Mr. MOORHEAD, Mr. ROWLAND, Mr. FROST, Mr. ARCHER, Mr. GINGRICH, Mr. BARTON of Texas, Mr. ERDREICH, and Mr. VOLKMER.

H.R. 2518: Ms. NORTON and Mr. ACKERMAN.

H.R. 2542: Ms. NORTON and Mr. MARTINEZ.

H.R. 2553: Mr. MAZZOLI and Mr. JONTZ.

H.R. 2561: Mr. POSHARD, Mr. FAZIO, Mr. BUSTAMANTE, Mrs. UNSOELD, Mr. WOLPE, Mr. COLEMAN of Texas, Mr. FRANK of Massachusetts, Mr. TORRES, Mr. RAHALL, Mr. REED, Mrs. LOWEY of New York, Mr. CARR, Mr. DE LUGO, Mr. RANGEL, Mr. PAYNE of Virginia, Mr. DURBIN, Mr. BOUCHER, Mr. NEAL of Massachusetts, Mr. ROEMER, Mr. MRAZEK, Mr. SABO, Mr. BRYANT, Mr. WILSON, Mr. MARTINEZ, Mr. ANDREWS of Maine, Mr. DWYER of New Jersey, Mr. BRUCE, Mr. BACCHUS, Mr. ESPY, Mr. MURTHA, Ms. NORTON, and Mr. PERKINS.

H.R. 2566: Mr. MCEWEN, Mr. OXLEY, and Mr. SPRATT.

H.R. 2568: Mr. MCCANDLESS.

H.R. 2579: Mr. LAGOMARSINO.

H.R. 2595: Mr. DANNEMEYER.

H.R. 2624: Mr. CARDIN and Ms. KAPTUR.

H.R. 2628: Mr. TRAFICANT.

H.R. 2632: Mr. JONTZ.

H.R. 2634: Mr. BATEMAN, Mr. CONYERS, Mr. FORD of Michigan, Mr. MCNULTY, Mr. MCMILLEN of Maryland, Mr. HARRIS, Mr. REED, Mr. NOWAK, Mr. JEFFERSON, and Ms. NORTON.

H.R. 2641: Mr. ANTHONY.

H.R. 2693: Mr. CLINGER, Mr. MCEWEN, Mr. HEFLEY, Mr. DORNAN of California, and Mr. SCHIFF.

H.J. Res. 9: Mr. FRANK of Massachusetts and Mr. LIPINSKI.

H.J. Res. 67: Mr. PALLONE, Mr. HORTON, Mr. TORRES, Mr. DAVIS, Mr. CARDIN, Mr. VALENTINE, Mr. BONIOR, Mr. MCGRATH, and Mr. CARPER.

H.J. Res. 70: Mr. PACKARD.

H.J. Res. 140: Mr. PORTER, Mr. SPENCE, Mr. CARPER, Mr. KILDEE, Mrs. COLLINS of Michigan, Mr. MURTHA, Mr. VOLKMER, Mr. SHAYS, Mr. DAVIS, Mr. COOPER, Mr. FOGLIETTA, Mr. WEBER, Mr. JONES of Georgia, Mr. SABO, Mr. BAKER, Mr. WELDON, and Mr. JEFFERSON.

H.J. Res. 142: Mrs. MINK, Mr. NEAL of Massachusetts, Mr. JOHNSON of South Dakota, Ms. LONG, Mr. MCCOLLUM, Mr. MCDADE, Mr. MURTHA, Ms. NORTON, Mr. OWENS of New York, Mr. MATSUI, Mr. BILBRAY, Mr. BILIRAKIS, Mr. CARDIN, Mr. RAVENEL, Mr. TRAFICANT, Mr. TAUZIN, Mr. POSHARD, Mr. TAYLOR of Mississippi, Mr. TALLON, Mr. WOLPE, Mr. HUTTO, Mr. GRANDY, Mr. DREIER of California, Ms. DELAURO, Mr. WYDEN, Mr. HALL of Ohio, and Mr. SERRANO.

H.J. Res. 181: Mr. APPLEGATE, Mr. BENNETT, Mr. BOUCHER, Mr. BURTON of Indiana, Mrs. COLLINS of Michigan, Mr. DICKS, Mr. DONNELLY, Mr. FAZIO, Mr. GAYDOS, Mr. GILCHREST, Mr. GORDON, Mr. GRAY, Mr. HATCHER, Mr. HAYES of Illinois, Mr. HUBBARD, Mr. HUGHES, Mr. LANCASTER, Mr. LANTOS, Mr. JACOBS, Mr. MATSUI, Mr. MCCLOSKEY, Mr. MCEWEN, Mr. MILLER of Ohio, Mr. NEAL of North Carolina, Mr. PAYNE of New Jersey, and Mr. PRICE.

H.J. Res. 191: Mr. FEIGHAN, Mr. ROE, Mr. DE LUGO, Mr. HOCHBRUECKNER, Mr. HOYER, Mr. GREEN of New York, Mr. REED, Mr. BUSTAMANTE, Mr. JONES of North Carolina, Mr. LIVINGSTON, Mrs. LLOYD, Mr. KANJORSKI, Mr. MOLLOHAN, Mr. MONTGOMERY, Mr. NEAL of Massachusetts, Mr. NATCHER, Mr. LEWIS of Florida, Ms. LONG, Mrs. MINK, Mr. OWENS of New York, Mr. OWENS of Utah, Mr. PAXON, Mr. PURSELL, Mr. RAVENEL, Mr. PERKINS, Mr. MCMILLEN of Maryland, Mr. MCDADE, Mr. SAVAGE, and Mr. MCCLOSKEY.

H.J. Res. 226: Mr. ZELIFF, Mr. GEKAS, Mr. APPLEGATE, Mr. MANTON, Mr. MCDADE, Mr. LANCASTER, Mr. JENKINS, Mr. DAVIS, Mr. BATEMAN, Mr. BEVILL, Mr. MCCOLLUM, Mr. RAVENEL, Mr. RIGGS, Mr. SLAUGHTER of Virginia, Mr. LOWERY of California, Mr. OWENS of Utah, Mr. SKEEN, Mr. THOMAS of Wyoming, Mrs. VUCANOVICH, Mr. WILSON, Mr. YOUNG of Alaska, Mr. FRANK of Massachusetts, Mr. JONES of North Carolina, Mr. QUIL-

LEN, Mr. ESPY, Mr. SAWYER, Mr. POSHARD, Mr. SPENCE, Mr. FAWELL, Mr. HALL of Ohio, Mr. TALLON, Mr. GEJDENSON, Mr. MILLER of California, Mr. EVANS, Mr. KILDEE, Mr. RANGEL, Mr. WISE, Mr. SARPALIUS, Mr. KENNEDY, Mr. RAHALL, Mr. McNULTY, Mr. HERTEL, Mr. BEILENSON, Mr. GUARINI, Mr. PAYNE of Virginia, Mr. DURBIN, Mr. SISISKY, Mrs. BOXER, Mr. MAVROULES, Mr. MARKEY, Mr. ASPIN, Mr. SMITH of Florida, Mr. HARRIS, Mr. WALSH, Mr. SERRANO, Mrs. LOWEY of New York, Mr. YATES, Mr. SHARP, Mr. FAZIO, Mr. DICKS, Mr. DE LUGO, Ms. WATERS, Mr. CARDIN, Mr. PICKETT, Mr. BRYANT, Mr. CONDIT, Mr. JONES of Georgia, Mr. ROBERTS, Mr. McMILLEN of Maryland, Mr. LANTOS, Mr. CLEMENT, Mr. STOKES, Mr. KOPETSKI, Mrs. PATTERSON, Mr. JOHNSON of South Dakota, Mr. BOEHLERT, Mr. HUCKABY, Mr. HUGHES, Mr. BRUCE, Mr. HUBBARD, Mr. ERDREICH, Mr. GEREN of Texas, Mr. EMERSON, Mr. ROEMER, Ms. OAKAR, Mr. LIPINSKI, Mr. SANGMEISTER, Mr. MINETA, Mr. MONTGOMERY, Mr. TRAFICANT, Mr. HAYES of Illinois, Mr. JEFFERSON, Mr. FORD of Michigan, Mr. HEFNER, Mr. FOGLIETTA, Mr. RAY, Mr. BENNETT, Mr. BALLENGER, Mr. GORDON, Mr. ROSE, Mr. PRICE, Mr. TANNER, Mr. STAGGERS, Mr. DE LA GARZA, Mr. ANTHONY, Mr. VALENTINE, Mr. DOOLEY, Mr. JONTZ, Mr. COLEMAN of Texas, Mr. NAGLE, Mr. MOLLOHAN, Mr. LIGHTFOOT, Mr. LEHMAN of California, Mr. BROWDER, Mr. LEVIN of Michigan, Mr McCLOSKEY, Mr. PERKINS, Mr. LEWIS of California, Mr. DINGELL, Mrs. UNSOELD, Mr. AuCOIN, Mr. BONIOR, Mrs. BENTLEY, Mr. SKELTON, Mr. CRAMER, Mr. WOLF, Mr. MORAN, Mr. HOUGHTON, Mr. HUTTO, Mr. EDWARDS of Texas, Mr. BREWSTER, Mr. STENHOLM, Ms. LONG, Mr. BUSTAMANTE, Mr. McHUGH, Mr. BOUCHER, Mr. FEIGHAN, Ms. KAPTUR, Mr. SWETT, Mr. PETERSON of Florida, Mr. ACKERMAN, Mr. ABERCROMBIE, Mr. LAUGHLIN, Mr. HANSEN, Mr. GRANDY, Mr. VISCLOSKY, Mr. HATCHER, Mr. PICKLE, Mr. MOODY, Mr. CHANDLER, Mr. HUNTER, Mr. TAUZIN, Mr. BROOMFIELD, Mr. MILLER of Ohio, Mr. REGULA, Mr. GREEN of New York, Mr. RITTER, Mr. KASICH, Mr. UPTON, Mr. BROWN, Mr. ORTON and Mr. SMITH of Oregon.

H.J. Res. 237: Mr. DELLUMS, Mr. WHEAT, Mr. BALLENGER, Mr. FEIGHAN, Mr. McNULTY, Mr. KENNEDY, Mr. CLEMENT, Mr. SMITH of Florida, Mr. SERRANO, Mr. OWENS of New York, Mr. HORTON, Mr. QUILLEN, Mr. DeFAZIO, Mr. LANCASTER, Mr. BONIOR, Mr. JEFFERSON, Mr. ACKERMAN, Mr. ENGEL, Mr. RANGEL, Mr. BUSTAMANTE, Mr. FROST, Mr. HUGHES, Mr. VALENTINE, Mr. HAYES of Illinois, Ms. NORTON, Mr. LEWIS of Georgia, Mr. LIPINSKI, Mr. DE LUGO, Mr. SAVAGE, Mr. SPRATT, Mr. WAXMAN, Mr. BLAZ, Mr. PAYNE of New Jersey, Mr. MARTINEZ. Mr. EVANS, Mr. WALSH, Mr. FISH, Mr. FORD of Michigan, Mr. FAZIO, and Mr. ESPY.

H.J. Res. 238: Mr. FORD of Michigan.

H.J. Res. 252: Mr. BURTON of Indiana, Mr. DICKINSON, Mr. SPENCE, Mr. BLILEY, Mr. COBLE, Mr. GALLO, Mr. WELDON, Mr. LAFALCE, Mr. PAYNE of New Jersey, Mr. TRAFICANT, Mr. GUARINI, Mr. TALLON, Mr. JACOBS, Mr. MARTINEZ, Mr. NEAL of North Carolina, Mr. HATCHER, Mr. MOODY, Mr. RAHALL, Mr. MFUME, Mr. DYMALLY, Mr. FASCELL, Mr. DeFAZIO, Mr. TOWNS, Mr. PALLONE, Mr. BEVILL, and Mr. BROWDER.

H.J. Res. 259: Mr. BURTON of Indiana.

H. Con. Res. 65: Mr. BARNARD and Mr. SOLARZ.

H. Con. Res. 101: Mr. ESPY and Mr. JEFFERSON.

H. Con. Res. 130: Mr. VISCLOSKY.

H. Con. Res. 171: Mr. JEFFERSON, Mr. FASCELL, Mr. BEILENSON, and Mr. MRAZEK.

H. Res. 130: Mr. JONTZ, Mr. WHEAT, Mr. MARTINEZ, and Mr. SHAYS.

H. Res. 141: Mr. MACHTLEY.

SENATE—*Wednesday, June 26, 1991*

(Legislative day of Tuesday, June 11, 1991)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the Honorable HERBERT KOHL, a Senator from the State of Wisconsin.

The PRESIDING OFFICER. Today's prayer will be offered by our guest chaplain, Father Dennis Dease, Basilica of St. Mary, Minneapolis, MN.

PRAYER

The Reverend Dennis Dease, Basilica of St. Mary, Cocathedral of the Archdiocese of St. Paul and Minneapolis, Minneapolis, MN, offered the following prayer:

Let us pray:

Good and gracious God, we thank You for the many ways in which You grace our lives. We are Your family, we and everyone else in this world that You have made.

You send prophets to remind us that the poor and hungry are also Your children. Your love knows no bounds of race, class, nation, or even religion. Give us the wisdom to take down the walls we so easily put up.

Show us the way to cherish and preserve the ties of friendship that bind us to so many other nations. We know that together we can do so much more than we can do separately.

Help us not to forget how truly fleeting our opportunities are.

This we ask You who live and reign forever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 26, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERBERT KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADERSHIP TIME

The ACTING PRESIDENT pro tempore. Under the previous order the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m. with Senators permitted to speak therein. The time prior to 9:30 a.m. is under the control of the majority leader or his designee.

The Chair recognizes the Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that I might proceed for 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FATHER DENNIS DEASE

Mr. DURENBERGER. Mr. President, it is a too rare opportunity for each of us to welcome our pastors to the U.S. Senate, and I rise this morning to thank my pastor, the Reverend Dennis Dease, the director of the Basilica of St. Mary in downtown Minneapolis for his prayer.

For my colleagues, who have also had this opportunity, let me say that each of us looks forward to this kind of an opportunity to demonstrate to not only our colleagues, but to the many people that rely on the U.S. Senate for the wisdom that Dennis spoke of, that we premise a lot of that on our personal faith.

Dennis Dease was born to a Catholic family in Corcoran, MN, which is now a suburb of Minneapolis—what used to be what you could call the "boonies." You have to understand my pride in welcoming him to the U.S. Senate by understanding something about Catholic education, higher education, particularly in Minnesota.

There are several institutions of higher education in the State, but the premier institution is the one on whose campus I was born, raised and educated, at St. John's University. Our major rival in intellectual endeavor as well as on the athletic field was the college of St. Thomas which only recently, and I think perhaps in preparation for the rearrival on its campus of Dennis Dease as its 14th president, changed its name from a college to a university.

So, I thought it would be an appropriate occasion for me, to salute the arrival at the top of Catholic higher education in the State of Minnesota, to ask its new president to come and pray with the Members of the U.S. Senate.

Dennis is only 47 years of age. He has his baccalaureate and masters degrees from St. Thomas and his doctorate in systematic theology from Catholic University. So he is not a newcomer to Washington, DC. In fact, we went out last night and he asked me where all the old Irish bars were that he remembers from the days of Catholic University.

He has taught at the seminary; he has taught at St. Thomas College. But perhaps those of us who know him best know him for his pastorate at the Basilica of St. Mary in downtown Minneapolis. Besides doing the obvious, for which a lot of people rate great pastors, increasing the membership from 900 to over 2,000, he has taken his personal commitment to community and social responsibility into the downtown Minneapolis community. And he is best known for the way in which his parish reaches out, through its members as well as through the priests and the lay people in the parish, to that downtown community that is so often neglected.

In addition to that, he as well has launched a major fundraising drive to replace the roof on the basilica which, believe it or not, with prices such as they are these days, just replacing the roof on this rare historic gem which happens to be the first basilica in America, will cost over $10 million to accomplish. But, when he applied for and he was accepted by the regents of St. Thomas, he listed three goals and objectives; the first one, to imbue today's higher education at the University of St. Thomas with a moral and ethical vision and a desire to better society. Then after that he talked about the usual things that incoming presidents talk about in terms of continuing improvement of the faculty and having his university make a major contribution through its educational activities to the productivity of the region in which it lies.

But I am proud to say that those of us who know Dennis Dease know him best for the relationships that we have with him, and that is literally people in the thousands in our community of Minneapolis and St. Paul.

A couple of his family are with him here today, sisters Patty and Judy, and a special friend of his, Ramon Borrego-Echevarria, who came over in the Mariel boat lift from Cuba about 10 years ago.

Dennis and Ramon got to go back to Cuba in January and spend a week together right after Ramon's father died. His mother was most anxious for her

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• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

family, and Ramon, with Dennis accompanying him, spent a week in Havana and they will continue to spend probably much of the rest of their lives together.

It is for that, Mr. President, that small example of that very large spirit in this man that I welcome Dennis Dease to the U.S. Senate this morning.

Mr. President, I am pleased to yield the floor at this point.

The ACTING PRESIDENT pro tempore. Who yields time?

The Chair recognizes the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I join as well in welcoming Father Dennis Dease. We are looking forward to being out in Father Dease's community in the not too distant future for the Special Olympics Program, which is going to take place later in July out there. I know that community will be hosting all of those various special individuals who will be coming from all over the country and all over the world. We want to join in expressing our appreciation for Father Dease's blessing here this morning.

We are very grateful to our good friend, Senator DURENBERGER, for inviting Father Dease and we wish him and his family a very warm and wonderful stay here in the Nation's Capital.

Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. We are in a period of morning business.

Mr. KENNEDY. Mr. President, as I understand, there is a time now designated until 9:30 for morning business; is that correct?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. KENNEDY. Mr. President, I yield such time as I might use.

HEAD START

Mr. KENNEDY. Mr. President, later this morning the Committee on Labor and Human Resources will consider a step that is long overdue—a bill to make Head Start an entitlement, and thereby gurarantee that every eligible child has access to these essential services.

Head Start has a 25-year record of proven success. Millions of children have benefited from it, and millions more will benefit too, once this legislation becomes law. The only serious problem with Head Start is that after all these years, only one out of three children have access to it. It is as though we created Social Security and Medicare, and then said that only one out of three elderly Americans can have it. We do not do that to our senior citizens, and we should not deny Head Start to any eligible children.

Last year, with strong, bipartisan support, Congress enacted a landmark reauthorization that put Head Start on a path to universal access for all eligible children by 1994. In doing so, Congress and the President made a promise to children and families that we would begin to reverse years of neglect by supporting early childhood education and family self-sufficiency. That legislation took an encouraging step forward by defining Head Start as an investment in the Nation's future.

No one disputes its effectiveness. For more than two decades, Head Start has been spectacularly successful in providing the kind of community-based comprehensive early childhood development services that are now being replicated as one-stop shopping programs nationwide.

Study after study has demonstrated that early childhood education enhances child development and decreases long-term social costs. But, despite the fact that the need is well known and the tools are within reach, we currently provide this service to only one out of three eligible children.

The legislation before us will put our resources where our rhetoric is. If we are serious about children and our national education goals, it is time to start paying for Head Start, instead of just paying lipservice to it.

President Bush and the Governors have declared "school readiness" to be the Nation's No. 1 education goal. To keep faith with this pledge to tomorrow's schoolchildren, we must make Head Start an entitlement for every eligible child today.

Unlike many other goals we establish for society, we have a program in place that puts the realization of this goal within our grasp. If we are serious, we can take concrete action now by making Head Start services available to all those in need.

Leading representatives of the business community have also urged Congress to act. Their message was clear—our economic future depends on investing wisely in today's children.

These corporate executives know that Head Start is cost effective and makes good business sense. For every dollar invested in Head Start, the Federal Government saves nearly $5 in future costs for welfare, unemployment compensation, and other social costs. Just as any good business looks to the bottom line, so must the Federal Government.

Making Head Start an entitlement will keep our promise to America's children, by guaranteeing that funds for Head Start for all eligible children will be available and phased in over the next 6 years.

The Bush administration has made progress on increased funding, but we are still too far from our goal of full funding. With the Bush administration increases in the past 2 years, the program has gone from serving 24 percent of eligible children to serving 33 percent. Unfortunately, the increase requested by the administration for fiscal year 1992 is only $100 million.

At that rate, it would take 180 years to cover all eligible children, according to the estimates by the Children's Defense Fund.

Under S. 911, the Labor Committee bill, we will increase funding by $1 billion a year and reach universal coverage by 1997.

If children could vote for their interests, they would have had Head Start long ago. It is up to us to cast our votes for them. For 5 million American children under 6 who live in poverty, this is their chance. Head Start is a guaranteed investment in America's future, and it deserves to be an entitlement for America's children.

The question facing us now is not whether we will pay, but when and how much. Will we invest wisely now in a program that works, or spend foolishly tomorrow, in a futile struggle to repair the damage caused by our own neglect today? I urge the Senate to join the Labor Committee in making Head Start the entitlement it ought to be.

Mr. President, we often hear around here, "Well, we can't afford it. Where are we going to get the resources for it?"

Well, we were able to find the resources when we were involved in the recent challenges in the Persian Gulf. We have been able to find resources when we had the collapse of the S&L industry.

We have recommended this, Mr. President, within the budget proposal that was accepted by this U.S. Senate. In a provision in the budget, there is what was called a reserve fund. This body, this institution, the House and Senate effectively have gone on record to realize that this ought to be one of the priorities in this Congress: the full funding of Head Start. We know that this is a program that works. We know what the results have been.

I see a number of our colleagues who want to speak to this issue, I will take advantage later on in the course of this hour to include in the RECORD the extraordinary achievements of Head Start and what it has meant, the difference it has made in the quality of life not only for these young people but for their families, and what a difference it has made generally in so many different communities across this country.

I see our colleagues on the floor now. I yield time to the Senator from South Dakota. How much time does the Senator wish?

Mr. DASCHLE. Five minutes.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from South Dakota.

HEAD START: A VITAL COMMITMENT TO AMERICA'S CHILDREN

Mr. DASCHLE. Mr. President, let me commend the distinguished Senator from Massachusetts for his statement, and for the incredible leadership he has shown virtually from the day this program began. It is no secret on this floor and virtually around the country that were it not for his leadership, were it not for his tenacity, were it not for his incredible effort to ensure its viability over the years the program that we boast about today perhaps would not even have existed.

Mr. President, more than a quarter-century ago, President Lyndon Johnson launched the Head Start Program as a vital part of his "Great Society's War on Poverty." Head Start, he proclaimed, would "make certain that poverty's children would not be forever poverty's captives."

Today, as cochairman of the Senate Democratic Policy Committee, which President Johnson himself once chaired, I am proud to see the Senate taking steps to build upon the success of Head Start. No program has yielded greater improvements in the lives of young Americans, as the distinguished Senator from Massachusetts has indicated, with clearer long-term savings to society, and with wider bipartisan support.

Shortly, the Senate will have the opportunity to realize the promise of Head Start. The School Readiness/Head Start Entitlement Act of 1991, S. 911, proposed by Senator EDWARD KENNEDY, will be taken up today by the Senate Labor and Human Resources Committee. This legislation puts Head Start on the path of full participation by all income-eligible 3-, 4-, and 5-year-olds.

Head Start is, without question, one of the most effective and successful poverty-fighters in American society. The program has made a difference in the lives of more than 11 million poor American children—giving them the learning and behavioral skills to succeed in school and in society at large, and providing early medical intervention that may avert needless and costly health problems in later years.

Head Start demonstrates—to the satisfaction of conservatives and liberals alike—that carefully designed and administered antipoverty policy is a public investment, not a public expense. Every $1 spent on this cost-effective program provides $4.75 in return.

The only problem with Head Start is that, despite its broad support, it does not reach all of the children who need it. This remarkably successful program reaches only one of every three eligible children and families—a failure that will be remedied by the measure the Labor and Human Resources Committee will consider today.

I hope and expect this much-needed legislation will receive the same level of bipartisan support that Head Start enjoyed last year when we passed Senator DODD's authorization bill—an important step toward putting the Senate on record in support of full funding for Head Start.

Today, we take another important step by making Head Start an entitlement program. By doing this, we will end the uncertainty of funding that has characterized this program during the Reagan and Bush administrations. Indeed, if we need any evidence for the need for this legislation, we can look at the Bush administration's record, which clearly shows that we cannot count on the President to provide the money.

As a Presidential candidate and as President, Mr. Bush repeatedly promised to fully support the program. For the first 2 years, to his credit, his administration did provide substantial increases in the program. However, his 1992 budget proposal falls far short of his stated national education goals. He has proposed a mere $100 million increase over the amount appropriated last year. At this rate of increase, it would take more than 180 years for the program to serve all eligible American children.

It is this type of uncertainty and sporadic funding that must end, and S. 911 does just that. By increasing the program by $1 billion per year, the legislation assures that 100 percent of eligible children will receive Head Start service by the year 1997—the deadline we must meet if our country is to reach the national educational goal of ensuring that all children entering first grade by the year 2000 are ready to learn.

The School Readiness/Head Start Entitlement Act of 1991 will allow us to fulfill for a generation of impoverished Americans the promise made by this Government more than 25 years ago. It should be adopted without delay.

I yield the floor.

Mr. KENNEDY. Mr. President, I yield 5 minutes to the Senator from Minnesota.

HEAD START

Mr. WELLSTONE. Mr. President, first of all, let me thank the Senator from Massachusetts for his leadership over the years and his commitment to education of children.

I would also like to thank the Senator from South Dakota for all of his work on the policy committee.

And I see the Senator from Connecticut is here. He has led the way through his chairmanship of the Subcommittee on Children, Family, Drugs, and Alcoholism, and I thank him as well.

This is what public policy is all about. This is why I came to Washington, DC, to serve in the U.S. Senate. S. 911 is about public policy which will directly lead to the improvement in the lives of children in the United States of America. So often we hear on the floor of the U.S. Senate about the complexity of problems. We talk so much about the complexity of problems that that has become the simplification—there is nothing that we can do.

The Head Start Program for 25 years has been an unambiguous success, but the President's budget proposal calls for only one-third of the funding for this program; only one-third of the children who are eligible being able to improve their lives.

We talk so much about how we do not know what will work. Let us talk a little bit about what we do know today. What we do know is that ages 3, 4, and 5 are critical ages. It is when children are beginning to see the magic of the world before their eyes and have an opportunity to become excited and learn. But they must have a nurturing, supportive environment. That is what we know.

What we know is that if we do not give children this nurturing, supportive environment, if we do not make a commitment to the education of children when they are ages 3, 4, and 5, then by the time they are 8, 9, and 10, quite often it is too late. That is what we know.

What else do we know? We know that the Head Start Program tells us a lot about who we are as a people. Head Start is just what it says it is. Head Start represents a commitment on the part of the American people to give children—children who are on the bottom, children who sometimes face the most difficult circumstances—a head start. That is what this program is all about. And the American people support full funding for such a program.

What do we know? We know that if we do not invest in our children when they are young, we will pay the price later. Senator KENNEDY talked about the investment potential of this program. If you do not support children when they are young, then the interest you pay later is high rates of illiteracy, high rates of dropout, high rates of drug abuse, high rates of crime. When are we going to learn that lesson? When are we going to learn that lesson?

What do we know? We know what the executives of the large corporations of the United States of America know. I am proud of the Committee on Economic Development report. I am proud of Jim Renier from Minnesota, from Honeywell, who chaired that committee. What did they say? They said we are not going to be strong as a nation and we are not going to be able to compete economically unless we have a literate, highly trained work force. That is what Head Start is all about. We know that.

What do we know? We are always talking about what we do not know. We are always harping on the complexity of everything. We are always coming up with excuses for inaction.

What do we know? We know that there will not be any real national security for this country until we invest in the health and skill and intellect and character of young people. That is what this Head Start Program is all about. We make it an entitlement program.

Today we mark it up in Senate Committee on Labor and Human Resources. S. 911 says we are no longer going to be dishonest about this. S. 911 says we are no longer going to engage in symbolic politics, which I think is a cynical politics.

Every politician of every stripe imaginable loves children. It has become the equivalent of kissing babies. Everybody stands up on the floor of the Senate and says they are for the children. But when it comes to reaching into our pockets and coming up with the resources we fall short.

Now, with S. 911, we make Head Start an entitlement program, and we make a commitment to match our rhetoric with our resources. That is why this is such an important piece of legislation. That is why I feel so strongly about it.

Today in the Labor and Human Resources Committee we honor our commitment to children in this country. Today, in the Senate Labor and Human Resources Committee, we make a commitment to the most vulnerable children in this country. And now as we classify Head Start as an entitlement program and make a commitment to fully fund it over the next 5 years, we will be taking an enormous step forward.

SCHOOL READINESS ACT OF 1991

Mr. DODD. Mr. President, last year, in the 25th anniversary year of Head Start, we in Congress created a historic blueprint for the future of the program that, in its own way, was as visionary as the original concept of a program to prepare disadvantaged children for school. The legislation we enacted last year authorized the funding necessary for every eligible child to participate in Head Start by 1994. Moreover, for the first time, the legislation set aside funds to ensure that the quality of the program would not be compromised.

It was a great honor, and one of the highlights of my years in the U.S. Senate to sponsor that legislation. Of course I worked closely with the distinguished chairman of the Labor Committee, Senator KENNEDY, who has provided such great leadership on education and poverty programs. Not a voice was raised in opposition to that legislation, which passed the Senate by unanimous consent. When President Bush signed the Head Start Reauthorization Act of 1990 into law, it became a momentous promise to the disadvantaged children in this country—a promise on which we were all in agreement.

Today, in the Labor Committee, we will make a major step toward fulfilling that promise. Today, we will consider legislation to make Head Start an entitlement; to ensure that the money we all agreed the program and the children it serves deserve is actually there for them.

There is no disagreement that Head Start works, Mr. President. It enjoys more bipartisan support than almost any other domestic program. But tragically, two-thirds of the children who are eligible for Head Start, and could benefit from its comprehensive approach, miss out on it because the money just has not been there. Now is the time to open Head Start's doors to all our children who need it.

The benefits to us as a society will be enormous. Studies have found that Head Start students are less likely to be placed in costly special education classes or to be held back in grade. Head Start cannot inoculate children against poverty. But research has shown consistently that high-quality early childhood services have a positive impact on young low-income children that ripples throughout their lives. They are better prepared when they enter school. A good start certainly helps them do better while in school. Doing better in school tends to lead to a more successful adolescence and adult life, with lower rates of delinquency, teenage pregnancy, and welfare usage, and higher rates of school completion and employment.

Head Start benefits not only the children, but their families as well. A few weeks ago, I was privileged to take part in a Head Start graduation ceremony at a center in Hartford. The center was overflowing with bright, eager children and their proud parents. The message was clear: Head Start is a program that says to children and families, you are worth caring about. It helps parents learn how to take part in their child's development and take charge of their own lives.

But, in considering the School Readiness Act of 1991, we are not being carried away by the warm feelings generated by visits to Head Start classrooms. Rather, we are making a hardnosed business investment. Many of the children who are shut out of Head Start today will make up the work force needed to keep our Nation strong 20 years from now. How competitive that work force will be then depends on the kind of start in life we give these children now. And any business leader will tell you that we can not afford to waste the potential of a single child.

That is why business groups such as the Committee for Economic Development, the National Alliance of Business, and the Business Coalition for Education Reform all have called for giving Head Start the full funding needed to allow every eligible child to participate. On Monday, these groups were joined in this appeal by the National Commission on Children, led by the distinguished Senator from West Virginia [Mr. ROCKEFELLER]. The Commission noted the appalling status of children in this country, where one child in five lives in poverty. For children under the age of 6, that number is closer to one child in four.

Mr. President, there is no escaping the fact that giving every eligible child the chance to participate in Head Start is going to cost money. But we have not been generous to the children of this country in the last few years. Over the past decade, children's programs grew at only one-fourth the rate of the budget as a whole. The portion of the budget devoted to children's programs declined from 4.1 percent to 3.5 percent during that period.

Yes, guaranteeing a place in Head Start for all eligible children will cost money, money that will be hard to find. But we knew that last year when we unanimously agreed to the full-funding blueprint. By not funding programs such as Head Start, Mr. President, we are runing up and even bigger bill; a bill that will come due down the road in the form of higher special education, welfare, and criminal justice costs. So, I urge my colleagues, when the School Readiness Act comes to the floor, do not choose to just pay the bills. Choose to make an investment. Choose to keep our promise to a lot of eager youngsters. As President Bush has said, "Give any American kid an equal place at the starting line, and just watch what that kid can do. Head Start helps kids get that equal place." Mr. President, we have before us a chance to make sure that all American children make it to the starting line. We only have to find the means to make it happen, and I am confident that this time we will not fall short.

Mr. President, very briefly, in summary, we have heard a great deal of eloquence here this morning on the importance of Head Start.

Suffice it to say, last year when the full funding, or reauthorization of the Head Start Program came up on the floor of the U.S. Senate, there was not a single voice in opposition raised by any Member of this body from either side of the aisle to the reauthorization of the program, including some of the structural changes in that program. But, maybe more important, Mr. President, was the commitment in that legislation to full funding of Head Start by 1995.

I fully expected, as I think others did when I brought that measure to the floor, that there would be some who would object to that, who would argue of course not on the basis that Head Start was not a worthy program but just that, like many other worthy programs, we could not afford to fully fund that program any more than we could others. It was revealing, I guess, more than any other single thing I can think of, that no single Member of this body raised an objection about the full funding of Head Start by 1995.

So this morning, as has been noted earlier, the distinguished chairman of the Labor Committee, the Senator from Massachusetts, will be proposing to authorize legislation which will make the Head Start Program an entitlement program which, in a sense, is fulfilling the commitment that was made last year in terms of full funding for this remarkable domestic program which meant a great deal to so many people.

We are gilding the lily here a bit, Mr. President, because we all know about it now. Head Start is a quarter of a century old. It is one of the few programs of the Great Society, the New Frontier, that survived—Head Start, the Peace Corps, a couple of others. All the rest, basically, have disappeared over the last two and one-half decades.

But Head Start has survived because it works so well and because no one really could come up with a good, solid argument against it despite the fact they tried for many years.

Every year the program lasted longer, 1 year longer, in some cases just barely lasting. We continued to build up the body of evidence that proved that, of all the domestic programs geared to try to prepare this Nation for its future, this one probably had the highest success rate of any.

Today, of course, there are millions of young adults who, in some cases, are the teachers and the parents of young people who are also getting involved in the Head Start Program who are making the difference in our society.

So I hope that our colleagues, when the legislation comes from the Labor Committee, will take a good, hard look at the proposal, and if they have the same sentiments they expressed last year when we proposed full funding for Head Start, then I am confident we will end up with the same kind of support in the U.S. Senate that we did a year ago for this remarkable effort.

Of course, we all know it benefits the children; we know it benefits the families.

I lastly point out, Mr. President, the one constituency that may have been somewhat reluctant about supporting a Head Start Program in the past, I think today has become one of its strongest advocates, and I speak of the business community. In the past, they may not have seen the relationship between an investment and a young child and their particular needs. Today, we will hear businessmen from all across this country, from large, medium, small businesses, tell us that there is a real danger that the population that they must employ by the end of this decade and the early part of the 21st century must be the best trained, the healthiest, the best educated that this Nation ever produced in its more than 200-year history.

The challenges will be that great. There will be less than one-half of 1 percent of all the jobs available in this country available to people with less than a high school education by the end of this decade. So Head Start becomes absolutely pivotal and critical to meeting our competitive economic needs as we face the challenges in the next century.

So while we have a tendency, and rightfully so, to focus our attention on the children and the families and the money we save by having young people become involved at an early age in a positive program that avoids welfare, avoids the criminal justice system, helps avoid teenage pregnancy, keeps people in school, all the things which sell the program, in my view, if nothing else, I think it is also important to point out what a pivotal point Head Start plays in the long-term economic strength of this Nation.

Mr. President, I am pleased to be able to join with others who have addressed this issue this morning in sponsoring this legislation. I hope that our colleagues, as I said a moment ago, will take a good look at the legislation and if they found, as the rest of us have, what a worthwhile effort this is then they will also support the effort to create an entitlement program for Head Start.

I yield the floor.

The ACTING PRESIDENT pro tempore. Senator JEFFORDS is recognized.

MAKING HEAD START AN ENTITLEMENT PROGRAM

Mr. JEFFORDS. Mr. President, I will speak briefly. I have been a strong supporter of Head Start since its exception and continue to be so. I think one of the most startling things that brought to mind the importance of enlarging and making Head Start an entitlement program was my first few days in this body in the Senate. A group of CEO's from some of the major corporations of the country came to visit me. I fully expected that when they started talking they would be talking about the need to do things with respect to corporate taxes or all sorts of things and/or do not mandate on us things like family leave or whatever else might be on their minds.

But I was surprised and pleased that their discussion was about the need to reform our education system with an emphasis on the utilization of Head Start and that we ought to increase dramatically the amount of money that is available for this very important program.

They made that decision to change what you would ordinarily expect to hear from CEO's because they recognized that the demographics of our society have changed so and the dynamics of our economy were such at that time, and hopefully will be also in the not-too-distant future, that we were running out of a supply of people who we would call those who have had the advantages of our society; that the number of women entering the marketplace, for instance, was declining because we have come close to reaching the maximum of those who are available to come into our society.

Thus, we will be needing to rely more heavily upon those who are now considered as the economically disadvantaged and those who have been shunted aside by our society, ignored by our society, or not given the opportunities they need must be given those opportunities. We must recognize that we must start at an early age and start reforming our educational system by first, as they pointed out, giving an opportunity for all our young people, although they did not talk in terms of entitlement, I should probably say, to correctly phrase what they said, giving more opportunity to young people of the economically disadvantaged to participate in the Head Start program. I listened intently to that.

It also means, as we have gone on and listened to the studies, this in a sense would only be a step in enhancing our educational programs and that we must look at changing and working to restructure our whole education program.

I praise the President for his desire of creating new schools in the next century to look to ways to take a new look and get out of the sort of box we are in just expecting that our system is working but just needs some modifications, but rather saying let us take a new look at education in this country and find out if there are better ways to create educational opportunities in our school system.

In addition to that, I will be proposing, and am hopeful that it will be enacted, to take a look also at primarily the economic disadvantaged in a program we call early intervention. I will be offering an amendment to the reauthorization of the Higher Education Act which would go down not just to the high school years but below the high school years to try and help our young people who are in the economic disadvantaged category to recognize that they do have opportunities and great opportunities in this Nation if they are willing and if we help.

It is the "we help" that we will be emphasizing in our program. Nothing too dramatic, for I think in the end it must be the school systems that need to reform to give that kind of early intervention.

What the young people need is mentoring. They need people who can excite them. And also we need a program which would put a carrot out there which would say "If you do come through that school system, if you do get your high school diploma, there is financial aid available to you that you can go on to postsecondary education." I emphasize postsecondary because we talk not only about college—in fact, in some respects there has been too much emphasis on college and too little on the other kinds of postsecondary education that is available.

So, Mr. President, I rise in support of broadening the opportunity of those who started in Head Start and I am hopeful we can continue to broaden the opportunities for all of our young people all the way up through and until they do get that, I think in most cases, the necessary postsecondary education.

Mr. President, I do not know the format here, but I ask unanimous consent to continue for 5 minutes as in morning business for the purpose of a discussion on another topic.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ENERGY INDEPENDENCE

Mr. JEFFORDS. Mr. President, there is a story about as old as my State of Vermont about some out-of-stater who stops by a farmhouse to ask directions of an ancient Vermonter seated on his front porch. The answer to the inquiry about how to get to Barre, or Peacham, or Goose Green, or some such place is, "You can't get there from here."

I must tell my colleagues today that those familiar words well sum up my feelings about our Government's attitude toward energy independence. I have heard key people in the administration tell me that energy independence really is not possible, a nice idea, but not possible.

Believe me, with that kind of an attitude, you cannot get there from here. Or by the time you get there, taking 10 back roads, three wrong turns and a couple of dead ends, you have probably forgotten the reason you started in the first place, or when you get there, nobody's home. Or, the last oil well is as dry as that old Vermonter's sense of humor.

Energy independence is possible. It makes sense. It is cost effective. It is environmentally responsible. What we need is for Congress to adopt what I have called a new Declaration of Independence. We must declare our intention to become energy independent, and we must do it now for there is no time to lose.

Our energy future need not be dark as the Kuwaiti sky. It can be bright as a summer sunrise over the Green Mountains of Vermont.

My plan for getting there is called RAFA, the Replacement and Alternative Fuels Act of 1991. It outlines a course for achieving energy independence.

It says that by 1998, 10 percent of all motor vehicle fuel must be made from something other than oil. Not surprisingly, as I have outlined the need for a new Declaration of Independence, energy independence, I have encountered a few stories, just like our forefathers. The oil interests say that 10-percent goal is impossible.

But by 2000, under the Clean Air Act, they are already planning to replace 7 percent of their production. If they can do 7 percent, certainly we can do another 3 percent.

The oil interests will tell you my plan costs too much. It is not expensive, and that is one of the prime reasons they are worried.

When I started working on this bill, I went to the Department of Energy and asked what it might cost. The answer I got was pennies a gallon. That is right, we are just pennies a gallon from energy independence, and the American people want energy independence and are willing to pay for it.

Right now we are paying $40 billion each year in defense costs to keep the oil flowing. Add in the cost of Desert Storm and you are talking hundred-dollar-a-barrel oil and more.

It has been said my bill could cost as much as $45 a barrel to implement, or $100 billion over 10 years. That certainly is a worst-case basis. But even if it did, the cost at the pump would be only between 5 and 10 cents per gallon.

Also consider what major positive effect the alternate and replacement fuel bill such as I propose could have on American employment. Then I hear talk that my bill is anti-free market. Quite the opposite. And certainly nothing is less free market than the OPEC cartel which charges customers 10 times the cost of production for its product.

My approach can work. It does not need subsidies, and it does not raise taxes one thin dime. It creates a free market in which domestic energy producers can be free to develop domestic energy alternatives without being undercut by OPEC.

Is this careless, radical? Canada, Brazil, and South Africa are already successfully using substitute fuels. And it is a little-known fact that we are already producing nearly a billion gallons each of ethanol and methanol in America.

Certainly, the costs of doing nothing far outweigh the costs of remaining on our present course. An energy policy keyed to dependence on foreign oil is a policy that is looking for trouble. Desert Storm will not be the last war we will be fighting with at least one root cause that is oil based.

Consider this. A spokesperson for a major oil company had this to say not long ago:

> The costs of preparing for a disruption in supply * * * will be far less than the costs we'll bear if a supply disruption occurs and we face it with inadequate or poorly planned programs.

That, in best bureaucratic jargon, is an endorsement of my program, I think.

We could vastly improve our position in the world market if we were energy self-sufficient, with a huge advantage over such major economic competitors as Japan and Germany.

So where are we now? We are on a road that is leading off into the hills, a road that likely dead ends in a very unpleasant place. There is grass growing in the middle of the road, a sure sign that the thing is about to peter out.

We are on the road to energy ruin, not independence. It is time to stop and ask directions.

Well, there is a Vermonter here on the porch who is not as young as he once was who is ready to help.

"You are on the wrong road and you'd darn well best turn around before it gets dark," he will tell you.

There is trouble ahead for America if we do not get on the road to energy independence. Let us not kid ourselves. We all know it.

To you, today, I say, you can get there from here.

But do it now, before it is too late. Turn around and take the road to energy independence.

Mr. President, I yield the floor. I raise a point of order that a quorum is not present.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

The Senator from Nevada is recognized.

Mr. REID. I thank the Chair.

(The remarks of Mr. REID pertaining to the introduction of S. 1377 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. Mr. President, are we still in morning business?

The PRESIDING OFFICER. The Senator is correct.

CAMBODIA

Mr. KERREY. Mr. President, I know that the distinguished Presiding Officer watched, as did I, with a considerable amount of interest recent events in Southeast Asia, including the Seventh Party Conference in Vietnam. I watched, from my standpoint, with great disappointment the unwillingness of the Politburo and the Communist Party to relinquish control and allow multiparty democracy in Vietnam, but watched with considerable amount of enthusiasm and excitement in the last week, in particular, the events and movement that appear to be taking place inside of Cambodia.

In this morning's Washington Post, Mr. President, there is a story that is a follow on of some reporting that we have been receiving on changes in attitude not only on the part of our allies, the non-Communist resistance, but also on the part of the Hun Sen government. In particular, Mr. President, former President Norodom Sihanouk announced yesterday he intends to go back to Phnom Penh and convene the Supreme National Council, the body that is a key part of the permanent plan for peace in Cambodia; that he plans to go to Phnom Penh this summer and convene that body there. He goes on to say that he believes now that Phnom Penh is the seat of power for the Supreme National Council as well; that he plans to perhaps even occupy the palace; that he sees that future action is inside of Cambodia.

In addition, Mr. President, the statements of Mr. Hun Sen go on to say that he is now willing to allow U.N. supervision for this transitional process, which I think is also very good news. It indicates a softening on the part of the Cambodian Government and a willingness to allow international supervision of this transition. It does not mean, obviously, that we have reached agreement on all aspects. It does not mean, by the way, that we are not still with a considerable amount of reservation and fear about the possibility of the Khmer Rouge returning to power in Cambodia.

I felt, I must confess, some anxious moments reading that Khieu Samphan and Son Sen would be coming back, or the possibility they might be coming back, as well, to Phnom Penh and that we do not have sufficient guarantees that the Khmer Rouge may come back to power. But I must say Mr. President, that those anxieties do not cause me to say that we should get a guarantee prior to moving forward. Indeed, Mr. President, what I believe the United States of America should do right now is to declare that the war itself is over.

There now is a cease-fire in place. We are still a few steps away from getting an agreement on a comprehensive peace settlement, but I believe that our strategy should change from one of supporting an insurgency on the Thai-Cambodian border of non-Communist allies to one of saying we will support democratic forces inside of Cambodia. I believe the possibility is there now to do that. In addition, we shall declare that the war is over and that a new war has begun, a war for the establishment of democratic institutions inside of Cambodia.

In addition, I believe the United States would be very wise to say that we are going to lead the world again, that we are going to come back to Southeast Asia. It is exceedingly difficult. I know there is a great deal of emotional concern about coming back into Southeast Asia, but I believe that very emotional concern can be used as a real force for good.

There are many, I assume, like the distinguished occupant of the chair and I, who have strong feelings about this area of the world. I believe we can turn those strong feelings into a force for good by, first of all, Mr. President, dropping the economic sanctions; and second, Mr. President, by saying that our objective now is to build democratic institutions. And that will be exceedingly difficult and will require, I believe, prior to any question of whether or not we are going to recognize the Government of Cambodia, will require some kind of American presence inside of Phnom Penh.

I believe it is important for the U.S. Government to organize some kind of movement directly in Phnom Penh as quickly as possible to be there at the moment that Sihanouk comes, to make a declaration that the action now has shifted from the border to inside of Cambodia itself.

I do not underestimate the difficulty of establishing democratic institutions in Cambodia. It is apt to take a generation to get that done. But it will require, I believe, the United States as a friend, and the people of Cambodia recognize that we are friends. The United States has friends inside of Cambodia assisting in making the difficult decisions that the people of Cambodia themselves are going to have to make over the next few years.

Finally, Mr. President, we appropriated $20 million last year to be used for humanitarian assistance inside of Cambodia itself, $7 million of which has already been used for the non-Communist resistance effort on the Thai-Cambodian border. I believe that as quickly as possible the United States should make a decision as to how we are going to apply that humanitarian aid to nongovernmental organizations inside of Cambodia itself.

In a recent fact-finding mission, USAID said when it goes to Cambodia, they are not able, because of our restrictions, to go inside. Instead, they stay out and had somebody else go inside and make an evaluation. This kind of long distance look creates a considerable difficulty in trying to figure out where to apply the assistance. If we are there, Mr. President, with $13 million still remaining, it seems to me that we have the resources to make a real impact immediately and can stimulate what appears to be recent movement toward reconciliation inside of Cambodia itself. I do not understand the difficulty, as I have said now three or four times, of moving forward to send the aid and end the embargo.

I believe the course of events inside of Cambodia are difficult for us to predict. But I believe, and believe very strongly, that we should lead in Southeast Asia again and we should not be intimidated by our own past to be reluctant to get involved again.

There is a historic moment presenting itself inside of Cambodia, Mr. President. I, indeed, hope the President of the United States sees that and takes immediate action to move the United States back into a position of leadership in this very important area.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceed to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

The Senator from Missouri is recognized.

Mr. BOND. I thank the Chair.

(The remarks of Mr. BOND pertaining to the introduction of S. 1380 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BOND. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, are we in morning business?

The PRESIDING OFFICER. The Senator is correct.

The Senator from Illinois is recognized.

Mr. DIXON. I thank the Chair.

(The remarks of Mr. DIXON pertaining to the introduction of S. 1378 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DIXON. I thank the Chair. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nebraska is recognized.

(The remarks of Mr. EXON pertaining to the introduction of S. 1379 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

DYING BREED

Mr. HEFLIN. Mr. President, I rise to pay tribute to Mr. Herman W. Moore III who has been honored with a front page article in the June 3, 1991, Wall Street Journal for his outstanding achievements in manufacturing management. Many people consider Mr. Moore to be a dying breed in the work force but it is this type of manager who will keep America competitive as we approach the 21st century. While many of his business school classmates have been lured to the fields of marketing and finance by the higher salaries and luxurious offices, Moore finds great satisfaction in his position as the manufacturing manager for Reynolds Metal Co.'s Muscle Shoals, AL, plant. The article quotes Mr. Moore saying, "I put up with the headaches, because when I get home I can say, 'We made something today.' You can't have a service economy without a manufacturing base—you've got to make something to generate that dollar."

Herman Moore grew up in Atlanta and a small Virginia town as the son of a jet mechanic. He received his bachelors degree in industrial engineering from the University of Dayton before beginning work with Reynolds Metals Co. as an engineer. He exhibited his dedicated work ethic by earning his M.B.A. at night from the University of Richmond Business School in 1982 while continuing to work full workweeks. Since then, Mr. Moore has been able to reap the benefits of his hard work and dedication. He achieved gratifying results by transforming an uncompetitive plant operating at 40-percent capacity to a smoothly operating plant at 100-percent capacity in 2 short years. By bringing in new teams of industrial engineers, Mr. Moore was able to cut costs, improve quality and safety, and increase efficiency by 35 percent. His changes enabled the plant to set company records for profits, shipments, recovery, energy conservation and productivity. Mr. Moore's efforts were recognized when his plant was awarded the Chairman's Award—Reynolds' top award.

In 1990, Mr. Moore was promoted to plant superintendent of Reynolds' largest plant. This position involves managing revenue of over $1 billion, and some 2,100 employees. Today, the plant is running 3 months ahead of schedule.

Herman Moore is a lost soul in our economy. According to Lester C. Thurrow, an MIT economics professor, and author of the nenowned book "The Zero Sum Society," a major deficiency in our economy is in manufacturing development. Our economy has been graced with the inventions of the television, radio, and computers, but has failed to manufacture them efficiently while also improving quality. Herman Moore proves that it can be done.

I would like to represent the entire work force by paying tribute to Herman Moore, a man who joyfully excepts a 12-hour work day beginning at 6:45 a.m. Mr. Moore chose to turn down the lure of a possible $125 million portfolio in favor of $125 million to build a plant and see the results of his work. I admire Herman Moore's attitude about his job and about the challenges he faces. We need more people who think like he does when he says, "I can't save American manufacturing, but at least I am doing my part to make it possible."

Mr. President, I appreciate the opportunity to shed light on the accomplishments of Herman Moore. I hope that my colleagues will take the time to read the article from the Wall Street Journal. Once again, I congratulate Herman Moore for his accomplishments and look forward to his continued success.

Mr. President, I ask unanimous consent that a copy of a June 3, 1991, Wall Street Journal article be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, June 3, 1991]

DYING BREED: NO GLAMOUR, NO GLORY, BEING A MANUFACTURER TODAY CAN TAKE GUTS

(By Dana Milbank)

MUSCLE SHOALS, AL.—It's 6:36 Monday morning, and Herman Moore is already late.

Whizzing at 70 m.p.h. through the empty streets of this northwest Alabama town, he scarcely slows down even after he enters Reynolds Metals Co.'s aluminum rolling plant here, where he is the manufacturing manager.

The night superintendent is waiting with his report. A hinge broke on the coating plant's truck door and a valve problem threatens to shut down the hot line. The baler is down and scrap is piling up outside. One furnace has stalled, and the bolts are disintegrating on another. On top of that, the production staff is bickering with maintenance and accounting, the union has filed a grievance against a foreman, and a customer is coming for a tour.

To his business-school classmates now in marketing or finance, Mr. Moore's job might seem like punishment. But not to Mr. Moore. "I put up with the headaches, because when I get home I can say, 'We made something today,'" says Mr. Moore, a warm, ebullient man of 38. "You can't have a service economy without a manufacturing base—you've got to make something to generate that dollar."

But this is a rare sentiment these days. Lured by higher salaries and comfortable offices, the best and brightest usually overlook manufacturing jobs.

"The rewards and financial incentives do not exist for someone to stay within the manufacturing sector," says Robert J. O'Meara, a consultant with A.T. Kearney Inc. who recently finished a study on the subject with the National Association of Manufacturers, "Without these incentives, we run the risk of being manufacturing dinosaurs in the 21st century."

The study found that only 59% of American engineering graduates go into manufacturing, compared with over 70% in Japan. Perhaps with good reason. According to a survey by management consultants Towers Perrin, a U.S. manufacturing manager like Mr. Moore makes an average of $91,713 a year, while a top marketing executive in a similar-size operation earns an average of $229,678 and a controller $159,368. In Japan, the Kearney study found, the salaries among such executives are roughly equivalent.

And because most manufacturers won't recruit managers with non-technical backgrounds, only some 15% of all college graduates take manufacturing jobs, according to a Northwestern University survey. "Manufacturers are losing out on some excellent sources of talent," says Victor R. Lindquist, the school's dean of placement.

Even once inside manufacturing companies, those who choose to work in production often find their paths blocked. Only five of Reynolds Metals' 25 executive officers came from the plants, and all four of the chief executives in the company's history (three of them Reynolds family members) came from sales backgrounds.

But Mr. Moore keeps trying. The son of a jet mechanic who grew up in Atlanta and a small Virginia town, Herman W. Moore III majored in industrial engineering at the University of Dayton. He worked in the plants as an engineer in Reynold's management training program before taking a staff job at the Richmond, Va., headquarters. While there, he took night classes at the University of Richmond's business school, earning his M.B.A. in 1982.

It wasn't any love of manufacturing that sent Mr. Moore back to the plants—he just figured it was the best way to climb the corporate ladder. So in 1985, when a superintendent position opened up at a reclamation plant in Muscle Shoals, Mr. Moore applied, over the objections of his wife, pregnant with their second child. "I told her we'd be in Alabama two, three maybe four years," recalls Mr. Moore, sturdily built with prematurely gray hair. In the early days after moving to Muscle Shoals, hours from the nearest cities of Birmingham or Nashville, Mr. Moore often came home to find his wife crying on the couch with their newborn son, (though she now likes the area).

But for Mr. Moore, from the first, the plant held an appeal he never expected to find. "I was full of admiration for the hourly workers and foremen who were making things happen," he says. After years in stuffy conference rooms, Mr. Moore liked the unpretentious dress and the quick, no-nonsense meetings.

The admiration was mutual. The plant's scrap rate and its overall costs improved under Mr. Moore, and after a year, he won a promotion to become manager of Southern Reclamation Co., Reynolds's newly opened plant for recycling cans.

GETTING RESULTS

There, Mr. Moore had a tougher task. The plant was operating at only 40% of capacity. Its costs weren't competitive with rivals, and it wasn't getting much business. Mr. Moore lured top industrial engineers away from other plants with better pay and promotions. He developed teams to cut costs and improve quality and safety, and petitioned headquarters for a new $2.5 million de-lacquering machine.

The results came quickly. After two years the 60-worker plant was at 100% of capacity. It had increased its efficiency by 35%.

After setting records for profit, shipments, recovery, energy conservation and productivity, the plant in 1989 won the Chairman's Award for Quality, Reynolds's top recognition.

By 1990, a triumphant Mr. Moore was ready to turn back to headquarters. But headquarters wasn't ready for him. The only jobs he could get were the same staff jobs he had before. "I saw no movement in my division," he says. Instead, Reynolds made him the plant superintendent, second in command, at the nearby Alloys Plant.

Reynolds's largest plant, with revenue of over $1 billion and some 2,100 employees, Alloys makes aluminum sheet for cans, siding and appliances. It converts scrap and molten aluminum into 15-ton, 26-inch-thick bars of aluminum ingot, and then rolls them through a series of presses that turn them into coils of sheet that can be less than 1/100 inch thick.

Built in 1941 as part of the war effort, the Alloys plant is a living monument in a graveyard of manufacturing failures. On either side of it are gray, hulking sister plants that Reynolds closed in the 1980s. Weeds sprout through the vacant parking lot of the smelter that once employed 1,600 and the bar, rod and wire plant that kept 200 workers busy. Both succumbed to high labor and energy costs; much of that production has been moved in Canada or eliminated.

But the Alloys plant was spared: Reynolds chose to pump it up with $430 million in the last three years for capital improvements, $125 million of which is going to a new "cast house" that Mr. Moore is overseeing.

The new cast house, which uses tilting furnaces and electromagnetic methods to stir and set the molten aluminum, raised capacity 30% while cutting costs 39%; it uses far fewer furnaces than the old house, and half as many workers. Since 1990, the plant has cut 105 jobs, and is planning to cut another 120 this year. Under Mr. Moore, the plant has also automated its process controls—reducing the rate of defects by as much as two-thirds.

Mr. Moore says he is equally concerned with non-technical improvements. "Before, a manufacturing manager was responsible for getting a pound out the door," he says. "Now you have to get the pound out the door in a safe, quality, cost-effective and environmental manner." He must also woo customers, hold his own at headquarters, and deal with 15 separate unions (even though Alabama is a right-to-work state, the Alloys plant has been a union shop since it opened in 1941). "We're in it together," says Mr. Moore.

TEA AND SYMPATHY

"Herman's a new breed," says Wilt Wagner, a Reynolds vice president and Mr. Moore's boss. "When he disagrees with me, I'm going to hear about it."

Before his first day on the job, Mr. Moore assembled his superintendents for a meeting to ask them about their families and their hobbies and then took them golfing. On the job, he routinely visits the "graveyard" and weekend shifts, and knows workers in every department by name, "Other guys get high on the totem poll and don't come down here," says Ford McNatt, a 46 year veteran of the cast house, "but Herman's all right. He gets out and rubs bellies with us."

When top executives from Richmond come to town, Mr. Moore has the hourly workers make the presentations. He also instituted regular tours of the plant for workers conducted by their peers so they could see how their efforts bear on the final product. "Nobody ever showed me that before," said Frank Glover, 58, after completing his first tour in 39 years.

Arriving by 6:45 on a typical morning. Mr. Moore offers a perfunctory wave to his colleagues in suits in the front office then hops onto his golf cart and heads to his office, which looks like a cheaply refurbished basement. He takes the night supervisor's report, directs his assistant to put together a slide presentation, scans 40 of the latest production numbers on his computer, dons his safety clothes and dashes to the morning meeting at the cast house.

Mr. Moore listens to his day supervisors: Four of yesterday's ingots came out cracked, but despite the start-up glitches, the cast house is three months ahead of schedule. So after a half-hour strategy meeting juggling production schedules and coordinating his superintendents, he wheels by the controller's office to check last month's performance against his targets. He is responsible for 16 objectives, from scrap variance and overtime reduction to employee training and lost workday cases. He's ahead in shipments, but 1% behind in inventory reduction, 2% behind on delivery performances, and 1% behind on returned goods.

No time for lunch, Mr. Moore takes a "Sno-ball" from the vending machine and turns his cart toward the weekly quality meeting. Two customers have reported record production, but another complains that defective metal shut down its lines. Next, he's swinging through his office to check the pile of phone messages, but without answering them he's off to the afternoon staff meeting (other days it's the weekly production or safety meeting).

Inside, a blend of frenzied jargon: "Change the two-Js . . . testing is holding up the MD301 . . . No. 5 is down . . . I can't run it at 45% . . . we've got to hit that 80 million . . . we're running out of time here!" But Mr. Moore (Herman to all in the plant) doesn't seem fazed. "We'll keep smiling and get through 'em," he says in his soft Virginia drawl to end the meeting. "You've got to be able to sit back and laugh," says Mr. Moore, who takes inspiration from a Jimmy Buffett lyric, "If we weren't all crazy we would go insane."

Next, he swings through the new cast house, making sure to chat with the department's union steward in anticipation of next week's annual union-management conference. Soon, he's off to hear a presentation from a team of hourly workers that wants the plant to use a new wooden guide on the slitting machines. Some 28 teams came up with 264 such ideas last year.

It's late, but Mr. Moore wants to check in with the coating workers (still cooling down from a recent labor dispute), and to stop in the front office to see how the engineers are coming with his presentation for the customer visit and the Reynolds divisional meeting. Twelve hours after he arrived, he is heading home with his beeper and a briefcase full of reports to read after dinner. "I think he borders on hyper," says his wife, Gail.

After hours, it's not always calm. Last month he was called in at 1 a.m. after some workers were burned when a machine jammed. He was called back from out of town last year when the hydraulic valves failed and shut down the entire rolling line. He has weathered a snowstorm that burst the pipes and a heat wave that saw the power company threaten to cut off the plant's power.

With such a pace, Mr. Moore says he hasn't had time to think about how far he is past the four-year limit he put on staying in operations. And he realizes it may be a lot longer still before headquarters calls. "Eventually, it would get to where it bothers you," he says. But for now, he's satisfied.

"I could be in finance and have a $125 million portfolio to hold, but here I have $125 million to build a plant and see ingot coming out of it," he says. "I can't save American manufacturing, but at least I'm doing my part to make it possible."

COMMENDING DR. BASIL PAPACHRISTIDIS

Mr. HEFLIN. Mr. President, it gives me great pleasure to submit an article entitled "The Safe Transportation of Oil," written by a man who sheds a candid, knowledgeable and honest perspective on an industry that wants to act responsively for the good of mankind and its global environment. Dr. Basil Papachristidis, chairman of Papachristidis Ltd., can speak with authority on a subject that has placed the shipping industry in an often defensive and apologetic position over the last several decades. He most recently assumed the role as chairman of the Hellenic Marine Environmental Protection Association [HELMEPA], founded in the early 1980's by a group of environmentally committed Greek and Greek-American shipowners to increase environmental awareness of all sectors of society with respect to pollution of the sea and waters. A replica of a dying bird, soaked in oil, has been standing at the entrance of the HELMEPA permanent exhibition in Piraeus, Greece, since its first opening on June 4, 1982—the date of the association's inauguration. Although the bird is a reminder of the notorious oil spills of the 1970's, it also, and more importantly, is a testament of the industry's unified commitment to protect other living creatures from seafaring accidents. Mr. George P. Livanos, founding chairman of this organization and a good friend of many of my Senate colleagues, has done so much to enhance the public's awareness to protect the sea. Earlier this year, Mr. Livanos participated in a U.S. Coast Guard-sponsored seminar in Washington, DC, reinforcing HELMEPA's commitment to providing the framework for international cooperation for combating oil pollution incidents. Most recently HELMEPA kicked off its largest joint program with the Commission of the European Communities to encourage voluntary protection of seas and beaches from land-based pollution.

Dr. Papachristidis also serves on the General Committee Lloyd's Register and is a current member and past chairman of the International Association of Independent Tanker Owners.

Besides Dr. Papachristidis' professional credentials, he holds a long list of academic degrees from both McGill University in Montreal, Canada, and Columbia University in New York. Dr. Papachristidis received his Ph.D. from Columbia where he authored "A Model of the Oil Company Shipowner-Charterer."

I take this opportunity to outline Dr. Papachristidis' outstanding credentials and more importantly, his commitment to the environment because he represents those individuals in an industry who can think in global and at the same time, individual terms. As a responsible businessman and community leader, he understands the delicate balance one must assume in carrying out these equally significant societal roles.

I ask that the article be printed in the RECORD.

Thank you, Mr. President.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE SAFE TRANSPORTATION OF OIL

(By Basil Ph. Papachristidis)

All level-headed people, whether in government, regulatory agencies, the oil industry or shipping companies, know what needs to be done to reduce the risk of marine accidents. What's more, all responsible people involved in carrying oil by sea are prepared to take positive initiatives in the matter. Tragically, many of the initiatives needed will not take place in the foreseeable future.

Ironically, it is the American Congress—with its self-righteous arbiters of all that is just and virtuous—that is singlehandedly, posing the greatest obstacle to the safe transport of oil. By promulgating their Pollution Act of 1990, American legislators have, in one fell swoop, stymied progress in the quality of ships and operators and in the development of effective rules and regulatory mechanisms.

INEFFECTIVE SOLUTION

The politically expedient double-hull requirement in OPA '90 is arguably the biggest hoax of all time in shipping. Though it will look good on the average congressman's record, it has the following grave flaws:

1. It is not an effective solution. A double hull would prevent the escape of oil in only a very few types of incidents and in others, the discharge could be considerably greater. Furthermore, the incidence of explosions could be significantly larger in double hull vessels. A much more reliable solution (and one far less costly to the consuming public) would be to use the hydrostatic flow effect to cause an ingress of water rather than an exit of oil if the skin of a ship is punctured. All this requires is to load more ballast and less cargo in a vessel. Another solution would be to impose more severe draft limitations in ports and estuaries, thereby reducing the risk of groundings. Neither of these solutions have the sex appeal required to attract votes so they were never seriously considered.

2. It is not an immediate solution. Because of the time it will take to bring double-bottom vessels into service, Congress has had to concede a long lead period. It will take about 10 years for a significant percentage of tonnage trading into the US to be fitted with double bottoms, and the American public will benefit from no additional protection at all (not even the simple measures mentioned above) in the interim.

3. It delays the replacement of the world's tanker fleet. By stipulating that all newbuildings would henceforth have to be fitted with double hulls while, say, a 15 year-old vessel could trade without restriction to the US until 1999, Congress has again characteristically shot itself in the foot. It was difficult enough to justify ordering a single-skin newbuilding tanker before OPA '90; to justify ordering a double-skin vessel is well-nigh impossible given the outlook for the tanker market. And to do so knowing that old ships have been told they can trade another, say 10 years (more than many ever intended) would be downright foolhardy. Critics of the 'hydrostatic flow' solution would argue that it could increase freight rates because of the resulting reduction in carrying capacity of the fleet. Even if this were true, it would create a commercial climate much more conducive to ship replacement. In short, the double hull requirement has discouraged rather than encouraged fleet replacement (and, therefore, improvement).

The folly of the double-hull provision is superceded only by the outrageous scandal underlying Congress' decision to threaten owners with unlimited liability in the event of a oil spill. It is doubtful that the American public is aware of the cost it is about to pay for allowing the fervour of certain sanctimonious senators to be indulged. Nevertheless, it is a fact that American consumers will be held to ransom by insurance underwriters covering pollution risks run by small single-ship operators while responsible owners with large fleets, are withdrawing from trades to the US. If the world needs responsible operators with high safety standards and experienced personnel, America's initiative here can only be seen as contemptible.

The US refusal to ratify the 1984 IMO Protocols (which ironically, were adopted at the insistence of the US) has other interesting repercussions. First, it deprives the world of a stable statutory regime for sharing oil pollution liability and for delivering prompt damaged relief. More importantly, it undermines the authority of the IMO in its rule making role for international shipping. If the world's (including America's!)—ocean transport needs are to be satisfied more safely and efficiently there needs to be a single set of rules that everyone understands and abides by in a uniform manner. This can only be achieved through multilateral arrangements as can be secured through the IMO. Unilateral measures—especially of the variety that has no foundation in logic—can only mitigate against safety and efficiency in ocean transport in a world which the US—want it or not—belongs to.

It is bad enough that Congress should deprive the US of the better ships and the better operators (with their better crews) and of the sensible rules and efficient regulatory system that safety at sea needs. But that it should be able to deprive the world of these things is simply unacceptable.

TRIBUTE TO PAUL MILLER JOHNSON

Mr. HEFLIN. Mr. President, I rise to pay tribute to Paul Miller Johnson, who after years of leadership and guidance to the Industrial Development Board of Lawrence County has announced his formal resignation. Mr. Johnson will be missed greatly for his contributions on the development board of Lawrence County and for his long and hard work for the George C. Wallace Airpark.

Paul Miller is a native of Lawrence County and has served an instrumental role as chairman of the Industrial Development Board—George C. Wallace Airpark Authority from its creation on February 4, 1985. Mr. Johnson's efforts were crucial in contracting Branshaw Mechanical, Cortco, and Consolidated Pipe and Supply Co., Inc. Mr. Johnson's successful attempts to dedicate land for the public airport paved the way for the development of the airpark and the creation many new jobs for Lawrence County.

Mr. Johnson secured the marketing services of well-respected marketing firms and grants for several projects. It is his unselfish leadership and guidance that lead me to pay tribute to Mr. Paul Johnson and his service to the Lawrence Industrial Development Board. In honor of his work, the industrial board is dedicating the administrative building as the Paul M. Johnson Administrative Building.

Mr. President, I again congratulate Paul Johnson on all of his accomplishments and look forward to his continued success.

AMERICA 2000 EXCELLENCE IN EDUCATION ACT

Mr. COHEN. Mr. President, the need for meaningful, progressive education reform is clear. The grim statistics detailing our children's educational shortcomings are widely accepted as indisputable reality. I do not intend to belabor the negative points about our Nation's educational system, of which we are all too aware. Rather, I would like to offer my support and cosponsorship of the President's America 2000 education strategy, which will set our Nation in motion to address some of our most pressing educational needs and to reach our education goals.

The fact that President Bush and Secretary Alexander are describing this plan as a long-term strategy, rather than a specific program or Federal mandate, is encouraging. The President is promoting the role of the Federal Government as a pulpit "to build a climate for reform," while leaving the real responsibility for actual changes to States, local districts, school communities, and parents. The four themes in the bill touch a vast spectrum of players: today's students; tomorrow's students; adult and lifetime students; and communities "where learning can happen."

Many of the provisions of this bill were included in the President's Educational Excellence Act of 1989, which I cosponsored, and which passed the Senate overwhelmingly last year. I understand that opposition remains on some of these issues. But I believe that on balance, rewards for merit schools, teacher training initiatives, alternative certification for teachers, and educational flexibility in exchange for increased accountability are ideas which have already received the support of the full Senate, and which should be enacted without further delay. The literacy and job skills provisions will help in the fight against adult illiteracy. I hope that the provisions of the National Literacy Act, which go even further toward this goal, will also be enacted this year.

Some of the President's proposals will mirror initiatives which are already working in the State of Maine. The 535 "break the mold" schools established by the bill could take direction from the many alternative schools that have been so successful in my State. The bill's call to businesses to support education has already begun to be answered in Maine, as small businesses and international corporations alike have recognized their stake in the development of the work force of the future.

At this point, however, I must say that I do have reservations about some of the school choice provisions in the bill. I have long opposed voucher systems in education, as I feel that the Federal Government should not subsidize private or parochial schools. The availability of tuition-free, universal education is one of the cornerstones of our Nation. Our public educational system at the elementary and secondary levels has provided equality and access. I have concerns that proposals to provide vouchers or certificates to finance education would reduce the public and private support for our public educational system at the elementary and secondary levels, and raise important constitutional questions. Furthermore, school choice would not be the preferred educational reform effort in rural States like Maine, where long distances between schools may hinder participation.

I understand that the distinguished chairman of the Labor and Human Resources Committee, Senator KENNEDY, also has reservations about the bill's school choice provisions, and I am encouraged by his plan to move more quickly on the noncontroversial aspects of the bill, while postponing debate on the more contentious issues of choice and national testing. Hopefully, this strategy will ensure that the education debate will not get bogged down in controversy, as happened last year, and we will be able to pass meaningful education reform legislation this year.

Finally, I want to stress my support for the bill's America 2000 Community campaign—a call to the private sector, Governors, State legislatures, educators, and parents to play key roles in improving their children's performance in school—as a key element of this long-term strategy. While the Federal Government can, and should, set broad directions and goals for the Nation, the ultimate success of any education reform will depend on those most directly involved to carry it out.

I am confident that America is ready and able to achieve its education goals. It is our goal that by the year 2000: All children will start school ready to learn; the high school graduation rate will increase to 90 percent; American students will demonstrate competency in challenging subject matter in grades 4, 8, and 12; American students will be first in the world in math and science achievement; every adult will be literate and will possess the skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship; and every school in America will be free of drugs and violence and will offer an environment conducive to learning.

This will not be easy, nor will it happen without true commitment from all parties involved. This bill is one meaningful step in the right direction.

NEW APPROACHES TO ARMS EXPORT POLICY

Mr. HATCH. Mr. President, I wish to bring to the attention of the Senate an important statement made by one of America's most distinguished business leaders, Mr. Robert H. Malott, who has steered FMC through nearly a quarter of a century of remarkable success.

Bob Malott's comments, made at the Center for the Study of the Presidency on June 26, 1991, express grave reservations over the way that we manage conventional arms sales. His thoughts echo many of my own comments made on this floor and in committee meetings. Bob's message in twofold: The current cascade of sentiment toward unilateral restrictions on U.S. arms sales benefit only our competitors, and such restrictions work to the disadvantage of our multilateral arms export control negotiations.

But, I want to add still another dimension. I do not doubt that many of the arms trade bills emanating from this body are well-meaning; my objection is that they are not well conceived. They generally lack provisions calling for restrictions on other countries' arms trade. And, of great importance to me, they fail to see that the singular condemnation of the U.S. arms trade offers our opponents much propaganda grist, allowing them to criticize us for providing arms to others, while ignoring the generally mixed basket of merchants found in every arms marketplace.

No one is promoting unfettered arms proliferation, especially in the Middle East. But that is precisely what happens when a country, like the United States, is denied access. Instead of placing arms there according to a sensible executive-legislative arrangement that promotes our regional foreign policy objectives, our goals are made impossible by the precipitous influx of countries whose sales have no foreign policy rationale like our own.

I invite my colleagues' close attention to Bob Malott's statement. We can learn much from it.

Mr. President, I ask unanimous consent that Mr. Malott's statement appear in the RECORD immediately following my remarks and I thank you and my colleagues.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

[Center for the Study of the Presidency/Fortune Symposium on the Presidency, Washington, DC, June 26, 1991]

R. H. MALOTT: "NEW APPROACHES TO ARMS EXPORT POLICY"

Several months ago, the organizers of this symposium asked me to discuss one of the major defense and foreign policy issues facing the president: Namely, the vexing issue of arms export policy.

Certainly the Persian Gulf war highlighted the dangers posed by unrestrained arms trade. Saddam Hussein—a tyrant with a well-established propensity for making war on his neighbors and his own people—was permitted to accumulate the world's fourth largest army. His arsenal included not only a vast array of Soviet weaponry, but French, Chinese tanks and bombers, Chilean helicopters, Egyptian guns and Brazilian antitank missiles as well.

But the gulf war also drove home a basic strategic truth: Namely, that an imbalance of military power is an even greater invitation to aggression than the proliferation of that power per se.

The gulf war also highlighted the irrationality of the role of Congress, which has emotionally and in my view quite destructively exercised its increasing power in the arms sales arena. In recent years both of the countries most threatened by Iraq—Kuwait and Saudi Arabia—have been the subjects of rancorous congressional debates over arms sales, and a major request for F15 aircraft for Saudi Arabia was in fact denied. Even as were deploying U.S. troops in the region, Congress forced the administration to postpone consideration of several Saudi requests to purchase the weapon systems this country was in the process of providing at great cost and at the risk of American lives.

In this confusing—and frankly illogical—environment, President Bush has seized the opportunity to recast U.S. and, hopefully, international, arms export policy. In a speech last month he outlined several new initiatives, including proposed negotiations among the world's five biggest arms suppliers to establish "guidelines on conventional arms exports [to the Middle East], barriers to exports that contribute to weapons of mass destruction, a freeze now and later a ban on surface to surface missiles in the region, and a ban on production of nuclear weapons material."

The President has outlined an ambitious program. Unfortunately, a partisan Congress has seized on arms export policy as a vehicle for attemping to wrest the foreign policy initiative from the President. As a result, the current congressional debate threatens to be more political than rational in its tone, and more domestic than international in its audience.

The leading Democratic proposal is a call for a unilateral U.S. moratorium on arms sales to the Middle East. This is not a new idea. President Carter attempted to impose a unilateral reduction in U.S. arms sales, hoping that by our example we would encourage our allies to adopt similar restraint, while at the same time giving new impetus to negotiations designed to reduce worldwide arms transfers.

The Carter administration was only partially successful: Although some major sales were vetoed, new U.S. arms transfer commitments to the Third World remained essentially constant in nominal dollars during the Carter years. The Carter administration was, moreover, totally unsuccessful in influencing the policies of other countries. From 1977 to 1980 the value of arms transfer commitments made by the Soviet Union, Great Britain, West Germany and Italy doubled; the value of French arms transfer commitments tripled; and a new, Third World arms export industry emerged.

Meanwhile, repeated attempts to negotiate arms export controls met with predictable failure. Our european allies—who were busily expanding their own defense export industries—refused to participate until the Soviet Union had agreed to similar restraint. And the Soviets had little incentive to curb exports that promoted their foreign policy interests and, in some cases, earned for them badly needed hard currency as well.

While glasnost may—at least for now—have tempered the Soviets' foreign policy adventurism, it has hardly eased their need for hard currency. In fact, the Soviet arms industry is continuing to produce weapons for export and indeed is gearing up to serve new customers—at least if the exhibitions of their fighters at air shows in Beijing, Manila, and Paris are any indication. One Soviet defense expert was quoted in Newsweek as saying: "There will be no ideological limitations on our side—we can act like an elephant in a China shop."

Is there any reason, then, to assume that unilateral arms export restraint will be more successful this time than it has been in the past? I think the answer is no. On the other hand, I think there are several reasons why the Bush administration may now have a unique opportunity to lead an international effort to control arms proliferation, and establish a cooperative multilateral arms export policy.

Above all, the successful prosecution of the Gulf war has put President Bush in an unusually strong position vis a vis our allies, our erstwhile adversaries—and Congress. The universally recognized strong performance of U.S. weapons and equipment also puts us in a much stronger bargaining position with arms customers: It's our weapons that most countries now want to buy.

How can the President build on this domestic and international strength and seize this—perhaps fleeting—moment of opportunity?

I would like to suggest three principles that should and indeed must guide any new arms export policy.

The first principle is that proposed controls must be selectively focused on the most dangerous weapons: ie., weapons of mass destruction, including nuclear, chemical and biological weapons, and their means of delivery; and new technologies that would give their possessor a major military advantage. The most significant weapons in this category are probably high precision conventional missiles, and more specifically their targeting and delivery mechanisms.

The United States has had significant—Albeit limited—success in promoting control of certain, especially deadly, classes of weapons. For example, the proliferation of nuclear weapons has not been anywhere nearly as wide or as rapid as was predicted twenty years ago, thanks to enforcement mechanisms established under the nuclear non-proliferation treaty. Chemical and biological weapons and high precision conventional missiles have also been the subject to separate, highly focused arms export control initiatives.

The President, for example, has recently proposed much more aggressive controls on the export of chemicals that could be used as inputs in chemical weapons.

FMC is a major chemical company. Chemical producers are not happy about the new controls, which involve a number of chemicals also used for completely innocent civilian purposes. But the chemical manufacturers association—and my own company—have nevertheless strongly supported these controls because we agree with President Bush that halting the spread of chemical weapons is a top national and international priority

The second principle that should guide arms export policy is that proposed controls must realistically differentiate among regions. In some regions, especially Latin America and Africa, we can strive to prevent the introduction of more sophisticated weaponry. In the middle east, where advanced weapons are already widely deployed, we should focus on controlling the most deadly weapons while ensuring that a sufficient balance of power is maintained to deter agression and promote negotiations and conflict resolution.

The third and most fundamental principle that should guide arms export policy is that proposed controls must be established and enforced on a multilateral basis. Unilateral U.S. controls—or even worse, a unilateral U.S. arms export moratorium—will simply ensure that what the U.S. won't sell through a carefully controlled and monitored export program, other countries will sell with no strings attached.

It will be extremely difficult to negotiate genuinely verifiable and enforceable multilateral export controls—difficult but not—probably for the first time in recent history—necessarily impossible.

I have already mentioned that the United States now has much greater leverage over potential arms customers. We also have much greater leverage over other major arms producers.

France and Britain are long-time allies, and both countries have indicated some willingness to support genuinely multilateral controls. The Soviet Union needs western credits even more than it needs the revenue from arms exports, and this should serve as an inducement for Soviet participation in multilateral negotiations. Finally the People's Republic of China is attempting to reestablish normal relations with the rest of the world in the wake of the Tiannamen Square crackdown: Here again, participation in a multilateral arms export control regime could be one condition of the PRC's rehabilitation.

These four countries together with the United States account for 85 percent of all international arms sales. A genuine, verifiable, and enforceable agreement among them could significantly—although probably neither entirely nor indefinitely—impede the proliferation of the most deadly and destabilizing weapons. It could promote regional stability. And—provided the penalties for failing to comply were sufficiently robust—such an agreement could compel other nations to join this multilateral arms export regime.

Of course there will be drawbacks to any multilateral agreement. The United States will lose some flexibility in determining how best to assist our friends and allies and maintain regional stability. And American arms producers, quite frankly, will lose some sales.

But let us also be realistic about the scope—and limitations—of any multilateral agreement. The world will still be a dangerous place. Ambitious leaders will still seek to upset the balance of power in their favor. Even a highly successful multilateral arms export control agreement will not eliminate the need to preserve a deterrent balance of power, especially in volatile regions such as the middle east. And therefore it will not eliminate the need for strategic, selective arms sales.

Let me acknowledge that I am *not* a neutral commentator on this subject. My company, FMC Corporation, is a major defense producer, and — percent of our 1991 defense sales will be made to foreign buyers. On the ohter hand, I've observed—and participated in—the highly political debate over arms export sales for almost twenty years. I have also established strong ties to our foreign customers, including Saudi Arabia, Israel, Turkey and Pakistan, and I've seen firsthand how the lack of a comprehensive and objective U.S. arms export policy can undercut our broader foreign policy objectives.

The President has been criticized for trying to reconcile the irreconcilable—arms sales to our friends and allies on the one hand, and multilateral arms export controls on the other. I would counter that multilateral controls can succeed *only* in an environment where outlaw nations such as Iraq are not allowed to upset the balance of power.

If nations such as Saudi Arabia, Turkey, the United Arab Emirates, Pakistan and Israel are persuaded that their legitimate defensive needs will be met, they are much less likely to circumvent multilateral controls. This, in turn, will reduce the economic incentive for countries such as North Korea to flout multilateral controls.

In the end, the United States will not be able to persuade other nations to control sales of every class of weapons to every country—and we shouldn't dissipate our bargaining power by trying to impose such a broad export control regime. Proposed multilateral controls must be highly targeted. They must reflect regional realities, and promote regional stability. And above all, they must be genuinely multilateral in their scope and enforcement.

To make the same point a slightly different way, the United States will have a much higher chance of persuading other countries to control arms exports if the proposed controls are motivated by strategic—as opposed to domestic political—concerns. And we will have absolutely no chance of persuading other arms producers to restrict their own exports if we unilaterally leave the field.

In the end, I suspect that President Bush's most formidable challenge may not be persuading other nations to accept multilateral arms export controls. His most formidable challenge will be persuading *Congress* that a focused and predictable arms export policy is vital to U.S. security, to regional and international stability, and to the success of genuine multinational arms export controls.

WE NEED PATRIOTISM

Mr. COCHRAN. Mr. President, an editorial from the Detroit News has impressed me as a response to the dangerous missile proliferation that is occurring around the world.

How much better and saner it would be to discourage the Saddam Husseins of the world from going to war, with an inventory of protective systems, than to remain vulnerable to the long range missiles that are and will be in the future in the hands of several developing countries.

I ask unanimous consent that the editorial "We Need 'Patriotism'" be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Detroit News, June 18, 1991]

WE NEED "PATRIOTISM"

Opponents of the Strategic Defense Initiative (SDI) have been working assiduously to discredit the performance of the Patriot missile system in the gulf war. Instead of that, national security would be better served if the time was spent studying the lessons, including the tragic ones, that this spectacular weapon taught.

The most outrageous condemnation of Patriot was delivered by scientists who told the House Armed Services Committee that firing Patriots at incoming SCUD missiles probably did more damage in Israel during the gulf war than would have occurred had they not been used.

It should be remembered that the 25-year-old Patriot system was designed for close-in protection of small targets, such as airports. Its defensive "footprint" is on the order of 42 miles. In Israel, the "kills" scored by Patriots took place within its operating envelope, and when it destroyed a SCUD, the scrap iron fell like rain.

Given the choice, would you rather have your Tel Aviv apartment hit by a shard of metal from a SCUD or by an exploding warhead? The tragic answer to that question was written at the American Al Khobar barracks near Dhahran in Saudi Arabia on Feb. 25. The two SCUD batteries protecting that point were not functioning because of a computer glitch. A warhead hit and exploded in the barracks, killing 28 American military personnel, the largest single American toll in the gulf war.

The Patriot's battle-tested technological weaknesses were corrected, with improved results. Although the score card for Patriot is classified, we do know that 100 SCUD missiles were launched by Iraq, 50 of them were within areas protected by Patriot, that the SCUD kill rate was about 50 percent in Israel and 90 percent in Saudi Arabia. The performance differed because weapons fired at Saudi targets were aimed at specified (focused) points, whereas those launched at Israel were intended to hit a broad populated area between Haifa and Tel Aviv.

Patriot was the first missile used in war to destroy another missile. The success rate of this old system is high enough to justify the development of better defensive missile systems that can engage at greater distances, so that the litter will fall where it does the least damage. We need to do this because intelligence sources have warned us that the missile threat is growing.

Last year, CIA Director William Webster told a congressional hearing that by the year 2000, at least six Third World countries will have missiles with ranges as great as 3,400 miles. At least 15 nations will have ballistic missiles capable of firing conventional, chemical, biological and, in some cases, nuclear warheads over lesser distances. There is the further possibility that the turbulent Soviet Union may break up into ethnic pieces, creating several new nuclear powers that would be beyond any arms control agreements that exist.

That being so, the United States and the Soviet Union both have reasons for scrapping the 1972 Anti-Ballistic Missile (ABM) treaty, to clear away any ambiguities about whether either nation has the right to build and employ defenses against ballistic missiles in the hands of rogue tyrants. Certainly this country urgently needs to protect its shores with weapons that offer far more coverage and power than a kindergarten system like Patriot.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,293d day that Terry Anderson has been held captive in Lebanon.

MESSAGE OF THE U.N. SECRETARY GENERAL ON DRUG TRAFFICKING

Mr. BIDEN. Mr. President, today marks the U.N. International Day against Drug Abuse and Illicit Trafficking. In connection with this observance, the Secretary General of the United Nations, Javier Perez de Cuellar, has issued a statement urging the world community to redouble its efforts to fight the drug trade. I ask unanimous consent to insert the text of his statement into the RECORD, and commend it to the attention of my colleagues.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

SECRETARY GENERAL'S MESSAGE ON INTERNATIONAL DAY AGAINST DRUG ABUSE AND ILLICIT TRAFFICKING, JUNE 21, 1991

Following is the text of the message by Secretary-General Javier Perez de Cuellar, issued in connection with the International Day against Drug Abuse and Illicit Trafficking, 26 June:

This year's observance of the International Day against Drug Abuse and Illicit Trafficking occurs at a time of growing concern on the part of the international community about the relentless increase in production, trafficking and abuse of illicit drugs, which undermines the very fabric of society in many countries around the world. The Day underscores the recognition by Governments everywhere that the phenomenon of drug abuse respects no national boundary, and that unflagging efforts are required at the international level to combat the devastation which this scourge inflicts on individuals and communities in both developing and developed countries.

Over the past year, the international community has renewed its commitment to join forces and to respond energetically, with coordinated and coherent action, to this global threat. The United Nations General Assembly declared last autumn that the last decade of the twentieth century would be known as the United Nations Decade against Drug Abuse (1991–2000). It also called for the creation of a United Nations International Drug Control Programme which would integrate fully the structures and functions of three existing drug abuse control units located in Vienna. This new Programme, which came into existence in March of this year, will enable the United Nations to provide effective leadership and to play a major role in the international drug control effort.

I should like to take this opportunity to draw attention to the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, which entered into force in November 1990. Treaty compliance is a cornerstone of international cooperation against drug abuse and illicit trafficking. I would urge the international community to redouble its efforts and to take the necessary measures to ensure that all States ratify or accede to the Convention as soon as possible.

Since last year's observance, there have been a few encouraging signs in scattered parts of the world—some stagnation in demand detected in certain countries, some reduction in traffic in others. But the menace to society as a whole has not diminished overall, and the United Nations will endeavour to follow a balanced approach in addressing this situation. It will respond to the imperative of demand reduction, while stressing at the same time the need to halt illicit trafficking, and to curb illegal production of narcotic drugs through measures designed to promote development.

JAMES QUELLO DESERVES RENOMINATION

Mr. PRESSLER. Mr. President, yesterday the Senate confirmed the nomination of Mr. James H. Quello for the post of Federal Communications Commission [FCC] member.

As a member of the Senate Communications Subcommittee, I have worked with Commissioner Quello on a number of key telecommunications issues. This has been a pleasant experience for me, and I want my distinguished colleagues to know that Commissioner Quello has done an excellent job at the FCC. In particular, I have been impressed with his visionary approach to our Nation's telecommunications infrastructure improvements efforts. As policymakers, our fundamental challenge is to ensure that our Nation's communications infrastructure will be able to handle the information demands and needs of the future. Mr. Quello certainly recognizes and appreciates these priorities.

We are very fortunate to have an individual of Mr. Quello's caliber serving in the Federal Government. I am pleased that the Senate has confirmed Commissioner James H. Quello to another 5-year term on the FCC.

In addition, our colleagues may be interested to read a speech Mr. Quello gave at the height of the recent gulf war. Commissioner Quello, who served as a battalion commander with the 180th Infantry Battalion of the famous Thunderbird 45th Division in Europe in World War II, has some important insights into the role of the media during the gulf war. I ask unanimous consent that Mr. Quello's speech appear in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY COMMISSIONER JAMES H. QUELLO BEFORE THE OKLAHOMA ASSOCIATION OF BROADCASTERS, TULSA, OK, FEBRUARY 8, 1991

"You Can't Be the Land of the Free Without the Home of the Brave."—President George Bush

I'm always glad to visit Oklahoma and Oklahoma broadcasters, particularly at this agonizing time with our nation at war. Oklahoma is the proud home of the famous "Thunderbird" 45th infantry division. Your division was officially designated by U.S. Military Historian, General S.L.A. Marshall, as the best infantry division in Europe during World War II. As some of you older veterans may recall, it was the only infantry division that produced two distinguished Corp. Commanders—Lt. General Troy Middleton and his former artillery division commander, Lt. General James McClean.

As I have reminded everyone I have ever known from Oklahoma, I served in the 180th infantry regiment of the 45th Division as an infantry battalion exec and battalion commander during 1944 and 1945. I believe World War II was the last military engagement where a patriotic American public wholeheartedly supported our troops and war efforts. I believe this type of public support is absolutely essential for the effective conduct and successful conclusion of any war—but more about that aspect later. (In the meantime, please notice my lapel pin with the Thunderbird insignia between the American and Oklahoma flags.) Incidentally, Oklahoman Dawson "Tack" Nail, venerable executive editor of Communications Daily and TV Digest, won a bronze star in Korea as an artillery forward observer with the 179th infantry regiment of the 45th.

It's also a special pleasure to appear before a state broadcasting association. As many of you know, I don't have to search for any mutuality of interest. I was a Michigan broadcaster for 27 years and a former president of the Michigan Association of Broadcasters. As president, I proposed the annual (now highly successful) Congressional dinner 34 years ago. Thirty four years ago! Should I even admit it! I feel much too young to be that old—and I find myself comforted when a good old friend says "Remember, the sweetest music is played on the oldest violins." Another benefit of senior citizenship is a kinder, noncompetitive treatment you receive from your associates and others. There is even increased recognition for your contributions. I appreciate what I humorously refer to as my "preposthumous" awards.

In my numerous appearances before educational, communications and public groups, I usually update and personally evaluate major FCC regulatory issues. However, I'm asking your special indulgence today. Our war in the mideast transcends regulatory issues in importance and future impact. All else pales in comparison.

I'm asking that you indulge this veteran Thunderbird hawk in a departure from your normal convention expectations.

At a recent National Religious Broadcasters breakfast, President Bush, himself a distinguished air combat veteran, left an indelible impact on my mind with a memorable statement "You can't have the land of the free without the home of the brave." I thought it should have been headlined and repeated over and over again. I missed seeing or hearing it in the press.

I don't believe we can effectively implement "the home of the brave" without overwhelming support on the home front. That means understanding the inescapable casualties, confusion, and mistakes of ground and air combat. To achieve such support, I believe it also entails sensible wartime restraints as to reporting on troop locations, military equipment and even the number and cause of casualties. I want to see the positive attitude and support I knew in Africa, Sicily, Italy, France and Germany with the Ninth Infantry and 45th Infantry Divisions. We need the positive spirit and press support of World War II, not the kind of adversarial reporting of Vietnam that over-zealously discredited the government and military of our own country, and undermined our efforts. It caused an inglorious, unnecessary defeat of American forces for the first time in the proud history of our nation. I believe the negative reporting on "a Vietnam deception," the Tet offensive, and on General Westmoreland represented shoddy, inaccurate, sensationalized journalism. The reports distorted and discredited our efforts and disserved the nation. This subject was fully treated in my "Press Under Fire" speech in March 1985.

Undoubtedly, my attitude on public support and press restraint have been shaped by my wartime experience. I believe combat veterans can understand the confusion, local disasters and casualties which are an integral part of combat. I think veterans understand the necessity of censoring locations, troop movements, casualties and losses—any information that may lend encouragement to the enemy.

Even with the positive, supportive press and protective censorship of World War II, reporters around the headquarters of combat units often represented an inconvenient intrusion. I admit that I enjoyed talking briefly to the famous Ernie Pyle and an AP reporter in Africa and Sicily. But even genial Ernie, who was the leading proponent of the now coveted combat badge and $10.00 monthly extra in World War II for soldiers in combat, asked in Africa "What's holding you up from taking Bizerte?" I impudently replied "We will be glad to follow you in." No sooner had I spoken when we saw a jeep frantically racing and zigzagging toward our wooded area with two German 88s zeroing in. Fortunately, the jeep reached a covered wooded area. Normally Ernie's syndicated writings empathized with the frantic, dangerous, life of the frontline dogfaces. He was universally revered. I was delighted when the VFW presented me an Ernie Pyle plaque after the war for distinguished service to veterans.

I have many vivid memories of World War II—some pleasant, some inspiring and some tragic. Among the more inspiring was General Patton's very first profane fight talk to the entire Ninth Division before embarking for overseas. (Recite if time and interest permit.) As an aside, the phrase "We are going to kill their men and debase their women" was omitted from future fight talks. We didn't know whether George was officially censored or just caught hell from his wife. Probably both.

Among other vivid memories was the German bombing and strafing during the initial months of the African campaign. We defined our air superiority as "for every plane the Germans have in the air, we have two on the ground." As one who temporarily experienced the effect of air bombing and strafing, there is no way the large Iraqi army can prevail against overwhelming allied air superiority. Every Iraqi truck, tank and troop movement will be subject to devastating allied air attack day or night. Another memory: our confused opposed crossing of the Rhine at Worms, Germany—Three days earlier we could have crossed unopposed. Reporters could have had a field day with that situation—not realizing that we had to wait for other troops to secure our flanks before crossing.

The most tragic memory was seeing the inhumanities of Dachau immediately after its capture, the emaciated stacks of bodies, ashes, bones in the furnaces and a carload backlog of corpses. I will carry with me for life a horrible mental photograph of that scene. It gives me a greater appreciation for the desperate stake Israel has in guaranteeing its own security against hostile surroundings and particularly against Saddam Hussein, the Hitler of the 90s. A little Hitler perhaps, but with the same grandiose designs and brutal demeanor.

I also remember the house-to-house fighting in Nuremburg and particularly the leaflets the discerning Mayor, Karl Holtz, had distributed throughout the city. The leaflets read "We Must Fight to the Last Man against Russian savagery, British arrogance and American irresponsibility." He had us figured.

My most vivid memory was the last big battle of World War II involving the 45th Division. I was the Battalion Commander of the First Battalion, 180th infantry that drew the unfortunate and surprise assignment of taking the German SS College in the Northern outskirts of Munich. I have attached a clipping from the 45th Division paper of May 13, 1945 that substantiates the story. I'm grateful to Nancy Carey, then Commissioner Washburn's legal assistant, who found the story after a month of research. As veteran war stories tend to get more heroic with each passing year, I'm glad to have this prima facie evidence of my battalion involvement in this historic struggle. In summary, we took the SS College late at night after a hectic battle. Every company commander was wounded, four officers in one company hit, 80 Germans killed, many more wounded.

After 32 months overseas experience in WW II with friendly, though at times intrusive, war correspondents and enjoying complete support from a patriotic home front, it was difficult for me to understand the adversarial press in Vietnam. I could not accept what I perceived as a frantic zeal to discredit the military and the government of our own country, destroy morale and undermine national will.

I am concerned again with what I initially sensed as an adversarial press attitude in the Middle East. I noticed negative, sometimes ludicrous probing questions at official briefings. Fortunately, there is good news: the American public has maintained its perspective during this crisis. As evidence of this, a recent "Good Morning America" poll on press coverage of the war received over 62,000 calls from across the nation. Of those responding, 82% said that the press is not doing a responsible and fair job of reporting the way. Only 17% felt that the press is being responsible and fair.

As a former broadcaster and newscaster, I have consistently supported full first amendment rights. I usually prefer to be on the journalists' side. I condone press restrictions reluctantly, but find it necessary in wartime and particularly in combat conditions. But the Supreme Court historically has held that in "exceptional cases," the government can restrict the dissemination of such information as "the sailing dates of transports or the number and location of troops." The Pentagon's press guidelines fall squarely in this category.

I want to emphasize that I am not ignoring the right of dissent in a free society. President Bush acknowledged as much in his State of the Union address. And there has been no shortage of dissent. But America's brave young men and women are currently committed to a struggle for a just cause in which their lives are on the line—a commitment that began only after our nation went through the democratic process of congressional debate. In my view, once we have troops in the field, we must give them wholehearted home front support.

I'm delighted that current public opinion polls strongly support the President, our national commander-in-chief, and also the military briefings of the press. According to a recent Times-Mirror poll, for example, 8 out of 10 Americans support the Pentagon's restrictions on journalists covering the Persian Gulf war. The majority of our responsible citizens and thousands of old veterans (like me) are opposed to another Vietnam-type press. A more discerning and sophisticated TV public seems more capable than ever of reaching independent judgements on issues of vital national interest. The public will no longer believe an adversarial press emphasizing the negative, trivializing our military efforts, questioning our reason for military involvement and headlining and repeating every casualty, accident or human error to prove their point and thus inadvertently giving comfort to the enemy.

Casualties, confusion and errors are inherent to all parties in combat. Even without combat, any area containing over 400,000 troops will have the usual accidents and noncombat conflicts.

As for me, I can't understand adversarial attitudes when America is committed to a just cause that is strongly supported by an unprecedented coalition of other countries.

President Bush rejected Saddam Hussein's attempt to characterize the conflict as a religious war. He told the National Religious Broadcasters "This war has nothing to do with religion per se. It has, on the other hand, everything to do with what religion embodies—good versus evil, right versus wrong, human dignity and freedom versus tyranny and oppression."

We must not give comfort or aid to a ruthless enemy dictator whose principal objective is to divide American public opinion and undermine America's will. In fact, it seems his only hope of winning at this time is headlining our casualties, repeating body counts, showing anti-war demonstrations, and emphasizing our errors. These are all morale boosters for Saddam Hussein who has complete control over his press.

I hope Hussein saw the Giant's all pro linebacker, Lawrence Taylor, tell the nation on TV "This is no time for protest demonstrations. It's time to support our troops in the Middle East and support our country." I also hope Hussein saw the American patriotic fervor at half-time during the Super bowl game and the many pro-American demonstrations. A solid, united America is exactly what is needed to convince Hussein of the hopelessness of his position.

In this time of national need, I hope Oklahoma broadcasters can emulate the patriotic fighting tradition of your distinguished Thunderbird division. Anyone who has had the privilege of serving in the 45th fully appreciates that Oklahoma is the home of the brave.

All Americans, in our own way, must support our troops and our country in a war against a deceitful, tyrannical dictator with ambitions (now shattered) for world domination who possesses the brutal, genocidal, anti-humanitarian instincts of Adolf Hitler.

In the process, let us keep the highest priority on winning the war and secondly, on disseminating detailed press information. We can learn from the security systems in force in Great Britain, Saudi Arabia, Turkey, Egypt, Kuwait and Israel, the countries most experienced in Middle East intrigue and intelligence capabilities. This will include practical wartime press limitations. We should especially notice the effective security and censorship system of Israel, a country with a desperate stake in survival and a courageous people vastly outnumbered by surrounding enemies and potential enemies.

I'll be glad to discuss Washington communications developments in DAB, HDTV, regulatory enforcement cable effective competition, fin/syn (limited), telco-cable, MFJ, etc. with you at an informal post-reception or dinner gathering.

Please forgive this unabashedly patriotic Thunderbird veteran for allotting the highest priority to our present wartime commitment and for lauding citizen support of our efforts. Our cause is just. With superior fighting men and technology, dedicated, appreciative allies, strong support from a patriotic home front, we will win the war and hasten the longed-for peace. We will prove to the world and to ourselves that America, the land of the free, is truly the home of the brave!

[From the 45th Division News, May 13, 1945]

LAST BIG FIGHT PITTED 180TH INF. AGAINST SS MEN

When most of the rest of Munich had been occupied and other troops were beginning to take it easy, 1st Bn., 180th Inf., was starting the toughest fighting it has seen since the Siegfried Line.

G–2 reports told them there were two battalions of SS men holed up in the old SS college and the only way to approach it was over 1,000 yards of open ground. To make the first battalion bitter was their recollection they had passed through the 3rd Bn. the day before, and the 3rd had rounded up a thousand prisoners with practically no trouble.

The SSers were prepared to fight for their old alma mater. They had dug nice dugouts in the open field, where they could sweat out the shelling, then come out into trenches to fire on the advancing Americans. Their defense consisted of rifle, burp gun, machine gun and 88 fire at close range.

To assist A and B Companies in the assault, the 20th Armored Division contributed about a dozen tanks—and the men in them were in their third day of combat.

The morning's attack got under way with fire from our artillery, our 60 and 81 mm mortars and chemical mortars from 2nd Chemical Bn. The fire was not precisely adjusted, and the attack got nowhere. Observation hadn't been good.

First Bn. tried it again that afternoon.

"We showed them a powerhouse", reports Maj. James H. Quello, Detroit, Companys A and B were behind and between the tanks. Two hundred yards behind came the armored infantry and half tracks. Co. C tailed the armored infantry.

"Then we got the best artillery support I've ever seen", continued the major, "They were dropping smoke and HE just 100 yards in front of the tanks. The mortars, as usual, were right on the money."

Tanks and infantry went forward, firing to beat hell. The SS men lay in their holes until the tanks had passed, then got up to fire at the backs of the infantrymen.

Co. B went into the barracks and started mopping up, and Co. A outflanked its opposition, going through to B's right, where it belonged.

Some of the stalwart SS men had taken off when they saw what was coming, but many stayed. Seventy-five were taken prisoners and 80 killed.

One of the prisoners had been run over by a tank, covered with dirt, and just his mouth and nose were showing. He walked away with his captors, which might indicate how tough the 1st's opposition were.

The fight was filled with incident. Pfc's Homer Bearden and William Trimmler, Co. D heavy .30 MG men with Co. A, set up their gun to find they were directly across from a German 88 set far away. A dual ensued between 88 and MG. The 30 obviously couldn't hurt the gun, but Bearden and Trimmler kept the lead running for an hour, all through the fighting, and kept the 88's crew flat on their bellies, their gun out of the fight.

First Lt. William F. Jennings, New York City, took over one of the companies after four of its officers had been shot, reorganized it on the spot, and led it in the attack.

Capt. Edward L. Kerker, Shawnee, Okla., jumped into a hole to get out of sniper fire, found five SS men there, and took them prisoner.

The CO of Co. B led his men after he had been hit in the hip, and didn't quit until he was shot a second time.

Apparently, this was the last tough battle the 45th was to fight in the European war.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

VIOLENT CRIME CONTROL ACT

The PRESIDING OFFICER. The Senate will now resume consideration of S. 1241, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1241) to control and reduce violent crime.

The Senate resumed consideration of the bill.

Pending:

Symms amendment No. 377, to impose capital punishment for drug-related homicides in the District of Columbia.

Helms amendment No. 378 (to amendment No. 377), to amend title VII of the Civil Rights Act of 1964 to prohibit employers from using preferential hiring practices on the basis of race.

Mitchell (for Graham) amendment No. 379, to provide for reform in habeas corpus procedures.

Hatch/Thurmond amendment No. 380 (to amendment No. 379), in the nature of a substitute.

AMENDMENT NO. 380 TO AMENDMENT NO. 379

The PRESIDING OFFICER. Under the previous order there will be 1 hour of debate on the pending Graham amendment (No. 379), and the Hatch second-degree amendment (No. 380). The time is equally divided and controlled by Senator BIDEN and Senator HATCH.

Mr. HATCH. Mr. President, I would like to illustrate how the proposed habeas corpus reforms might work in an individual case. One from my home State of Utah.

The individual who has spent the longest time on death row appears to be a Utah prisoner, William Andrews. He committed his crime 17 years ago and was sentenced to death in the same year. But despite 27 separate appeals of his death sentence, he still has not been executed; 27 separate appeals at a tremendous cost to society and a tremendous cost to the families of the victims that were murdered.

On April 2, 1974, two men—Pierre Selby and William Andrews—entered a hi-fi shop in Ogden, UT, and approached the clerk behind the counter as if they were just customers. When they fled hours later, they left five people dead.

But it is too clean and antiseptic to describe their crime in these cold statistical terms. Before committing the murders, Andrews and Selby first tortured their bound and helpless victims. Three unsuspecting teenagers, who just happened to be shopping in the popular store, were forced to drink cups of poisonous liquid drain cleaner. The father of one of these young people was even forced to pour the deadly Drano down his own son's throat. He courageously refused, at gun point. Incensed that the father would not assist in the torture, Selby wrapped an electrical cord around his throat and attempted to strangle him to death. Then, while the father struggled for breath, Selby repeatedly kicked a sharp ball point pen deep into his ear.

When Andrews and Shelby had finished with these grisly amusements, Selby methodically shot each of his bound victims—one by one—in the head. Michelle Ainsley, however, was not even granted a swift end to her tortures. Before she was fatally shot, Selby dragged her into a backroom and raped her.

For obvious reasons, it is difficult to continue this description. I leave it to the imaginations of each of my colleagues how these innocent victims must have writhed in agony as Drano was poured down their throat. I leave it to the imaginations of my colleagues how they must have pled for mercy as they heard the fatal gunshots coming closer and closer to their own head. I leave it to the imaginations of my colleagues what young Michelle felt as she was dragged toward the back room.

We simply cannot begin to imagine the agony of mothers and fathers, wives and husbands, brothers and sisters whose lives were permanently marred by Selby and Andrews. We cannot begin to imagine the permanent damage done to countless lives. I personally know many wonderful people in Ogden, UT, whose lives have still not completely healed more than 17 years later.

The tragedy in this case is the heinous murders of innocent victims—five shoppers who were tortured to death. Before we get lost in the abstractions of habeas corpus law, before we wear out our hands wringing them over the supposed constitutional rights of vicious murderers, we need to understand the real consequences of this case—the deaths, the shattered lives of those left behind, the families who must go on without a father, or without a member of the family.

When Selby and Andrews came to trial, they were given a long and careful trial before a fair jury. It was the judgment of the court that both defendants should be sentenced to death. In 1987, 13 years after his crime, Pierre Selby was executed. William Andrews, on the other hand, continues to appeal his sentence, and has so far succeeded in delaying his execution for 17 years.

How is this possible? How has it happened? I think that the Andrews case is one that should be studied, that must be studied, by anyone who wants to know truly what is the crisis in death row habeas corpus in America. The system has broken down for one simple reason: Because the Federal habeas corpus statute is flexible enough and broad enough to allow anyone to manipulate it to their own ends.

And why is our criminal justice system hampered with such a statute? Because Congress has repeatedly lacked the courage to face up to its responsibilities in this area, despite the introduction of literally dozens of bills on this subject—several in each Congress.

Before I go into the specifics of the Andrews case, two important points deserve to be mentioned. One is that the Andrews case is in many ways a typical case—its procedural history is in no sense unusual. Andrews has simply taken advantage of every opportunity for appeal open to him. But he has lost every one of them—all four trips to date to the U.S. Supreme Court have been unsuccessful as have been every one of his numerous appeals to the Utah Supreme Court and to the lower Federal courts.

It is quite common in this area of the law to encounter cases where the long delay between sentence and punishment can be explained in part by various remands for new sentences or by remands to accommodate relevant changes in the law. None of this pertains to the Andrews case. This is a clean record of appeal. It shows what can happen—how long a death row inmate can delay his sentence even if he has not one single meritorious issue on appeal.

A second observation is in order.

Although Andrews may be the senior resident of death row, and although 17 years may seem to be an unbelievable number of years to intervene between commission of the crime and ultimate punishment, his case is not unusual, and it is only through a historical quirk that we are not now dealing with far worse cases. That is, there is an outside limit—of approximately 17 years—that anyone could have been on death row in 1991, because it was only in 1976 that the Supreme Court first approved any of the death penalty statutes now in effect.

Had the Court not emptied every State's death row in 1972, it is easily imaginable that Charles Manson would now be in the 23d year of attempting to delay his death sentence, and Richard Speck in the 24th year of delaying his. I guarantee this Senate that if it does not act, and act now, to end this senseless and absurdly repetitious Federal review of State death sentences then future Senators will be asking on this floor why the hillside stranglers and other notorious criminals of our own time have not been executed though their crimes may be decades old.

I want to show this particular chart on the Andrews case. I would just like to illustrate a few highlights of this 17-year case by means of this chart. This simple chart lists each stage of review that has been afforded to William Andrews by the State of Utah and by the Federal Government. This one case has been reviewed on 27 separate occasions. The unshaded entries are the 11 separate reviews of sentence that the Utah Supreme Court, the Utah district court, and the Utah board of pardons have undertaken in this case. That fact alone, in this typical death penalty case, should dispel the notion sometimes heard that the State courts are somehow unavailable to death row inmates to relitigate further claims.

The gold-shaded entries indicate, on the other hand, each of William Andrews' 16 separate reviews of judgment in the Federal courts. That's 16 Federal appeals. Even though Andrews has been successful in obtaining State review on 11 different occasions, the Federal courts have still undertaken to provide additional, usually duplicative review on an additional 16 occasions.

I hope that this simple listing will preclude anyone from stating, as often happens, that Federal habeas corpus is about giving prisoners a second bite of the apple. That frankly never occurs. Federal habeas, particularly in capital litigation, is about giving prisoners a 10th bite of the apple, even a 20th bite of the apple. If only the problem were as simple as a second bite of the apple.

As I stated previously, the crime here was committed in 1974, the trial was held in that year, and the appeals have been underway ever since. Legally speaking, the criminal case of the State of Utah versus William Andrews terminated on February 27, 1978, when the Supreme Court of the United States denied his petition for writ of certiorari, thus, refusing to review the conviction and sentence against Andrews. At that point, the criminal case ended; there has been no subsequent criminal prosecution of William Andrews by any government.

Why is it, then, that this 1975 conviction and sentence has still not been carried out? Because of subsequent civil suits brought by the prisoner against his jailer seeking to have his sentence reviewed.

The prisoner is entitled to do this under Utah law, and Andrews availed himself of this opportunity for further review by filing a petition for State habeas corpus review in 1978. The petition was denied.

Then Andrews turned to Federal court where he has been, with few intervals, ever since. It has been 11 years—11 years—Mr. President, since the courts of the United States first began to review the death sentence of William Andrews, and yet, a Federal stay of execution still prevents the State of Utah from proceeding to carry out the sentence of the jury in this case.

Please note an important thing revealed by this chart. Not one of William Andrews' 20 appeals of his sentence has resulted in his sentence being modified in any way, in the granting of any of his compliants, or in the reversal of any previous court's ruling. Each complaint, each review, has turned out to be unsubstantial, or frivolous, if you want to use another word. Each has accomplished only one thing: the delay of justice, and excessive cost to the taxpayers of America.

Need I repeat, at this point, the well-known epigram that "Justice delayed is justice denied?" Our colleague from Alabama, Senator HEFLIN, has spoken eloquently on this subject:

> There is no doubt that the problems of finality and integrity in State court judgments * * * have an acute effect on the enforcement of our criminal law. This is not a recent phenomenon. The Bible well describes the tendencies of human nature when it states in Ecclesiastes 8:11: "Because sentence against an evil work is not executed speedily, the heart of the sons of men is fully set to do evil."

At hearings on S. 653, Subcommittee on Courts, Senate Judiciary Committee 2, November 13, 1981, is where he gave that statement. As the Bible so often teaches us in the area of crime and punishment, the fundamental issues of justice do not change.

I wish, Mr. President, that the problems illustrated by a review of the Andrews case where isolated or rare. They are not. I could also discuss the Florida case of John Spinkellink, who—after escaping from prison—murdered his traveling companion by shooting him in the back as the victim lay sleeping. Although Mr. Spinkellink was the white murderer of a white victim, he still appealed time after time attempting to show that courts discriminate against the murderers of white victims as opposed to murderers of black victims. Before Spinkellink was ultimately executed, he had succeeded in having his death sentence reviewed on 24 separate occasions. (National Law Journal, Dec. 22, 1980, p. 22.)

I could also discuss Frieda Mueller, Esther Sepmeyer, and Charles Biebel, each of them aged, infirm middle-American farm residents of rural, central Illinois. Each of them had his or her life ended, in separate incidents, by Girvies Davis and Ricky Holman, two murderers who specialized in robbing isolated farms and did not want to leave any witnesses behind. Before his murder, Charles Biebel was an 89-year-old gentleman, confined to a wheelchair, in his Belleville, IL mobile home. He was no threat to anyone. Though Girvies Davis confessed to his crimes, was twice sentenced to death, and requested execution over 10 years ago, Federal courts have repeatedly delayed the carrying out of his sentence.

The tragedy in each of these cases is, in fact, the heinous murders of innocent victims: five individuals who were tortured before death in Utah, a sleeping traveler in Florida, and retired farmers in central Illinois seeking to live out their lives in peace. Before we can understand the constitutional dimensions of this question, we need to understand that the real consequences of these cases: the deaths and shattered lives of those left behind.

At least in the cases discussed above, we know who the victims were. Their families at least know of the fate of their loved ones. That can't be said of at least a dozen of the victims of John Wayne Gacy, the infamous killer clown of northern Illinois. At his trial for murdering 33 young men, it was not even possible to identify many of the victims; they were simply referred to as victim A, victim B, et cetera. Although Gacy received 11 death sentences, it was only in 1989—14 years after his first crime and 9 years after his trial—that he finished his State appeals. He is only now beginning his Federal habeas remedies. If William Andrews in Utah can stretch out his Federal remedies for over a decade, one can be certain that a case as complicated as John Gacy's will not be terminated more quickly.

As Chief Judge Paul Roney of the Eleventh Circuit Court of Appeals reminded the Judiciary Committee in 1989, it took a Florida trial court only a single week to try and convict Ted Bundy of the crime for which he was ultimately executed. Yet, it took a decade of Federal court litigation for the State of Florida to obtain Federal permission to carry out its law.

Mr. President, since 1976, over 3,000 persons have been sentenced to death row, yet only slightly more than 100 of these sentences have been carried out. I am continuously asked by Utah citizens, in letters too numerous to count, what is going on here? What is wrong with our criminal justice system? Well, I think this chart and the other evidence with which each of us is familiar clearly tell us what's wrong; it's the Federal habeas corpus system. We all know what's wrong; we all know how to fix it. I hope, Mr. President, that enough of my colleagues will finally resolve this Congress to do what must be done, so that I may finally provide a favorable answer to my constituents, an answer which will finally tell them that Congress has acted to end this absurdity.

In conclusion, I would like to ask my colleagues again to come with me to Ogden, UT, and explain to the mother of Michelle Ainsley what interest the Federal Government has in allowing William Andrews to continue to appeal his death sentence, perhaps into his third decade of appeals. Would any of us seriously contend that the protections of the Constitution cannot be guaranteed by a procedure lasting less than 17 years? Would someone like to try and explain that to the murdered girl's parents?

Would someone like to show Michelle's parents where in the Constitution is the guarantee of endless appeals for the animal who dragged their daughter into the back room and killed her? Who wants to try and explain why 17 years of constant appeals is not enough to satisfy our legal system that Andrews' sentence should be carried out?

I submit that there is no one in this chamber, and no one in this country, who can adequately explain the travesty of the Andrews case.

Before voting, I hope every Senator will be prepared to explain to Michelle's mother and the countless other mothers who will wonder why the Senate of the United States has voted to expand, not limit, the endless appeals that have made a mockery of our criminal justice system.

I can go on and on. I have used enough time of our half hour. Let me just say this: Only the Hatch amendment will actually reduce, not increase, the number of frivolous and repetitious habeas corpus petitions in Federal Court. Only this amendment guarantees that fewer dangerous criminals are prematurely or mistakenly released from prison and returned to the streets. That is why virtually every State attorney general supports it, Democrat and Republican alike.

Federal habeas is not a second bite of the apple. It is a fifth, sixth, 10th, even a 25th bite of the apple for every prisoner. Only this amendment provides a true statutory limit on the number of times the prisoner may plead to Federal court with such petitions. It provides a 1-year limit for habeas, generally, and a 6-month time limit for appeals. It requires courts to dispose of death penalty habeas cases within 6 months. Only this amendment preserves finality of the criminal case. With other proposals, criminal convictions that have already become final in issues set up for years and decades will be constantly reopened.

This is the only way to solve this problem. The other proposals will not do it.

I yield the floor.

Mr. BIDEN. Mr. President, I continue to marvel at my good friend from Utah. As I have said before, he is one of the brightest and one of the best debaters in the Senate, who has absolutely, absolutely, without any question, refined to an art form the non sequitur.

He has done it so well that sometimes I seem to begin to believe what he says.

Let me give you an example. Let me start off, first of all, on that chart that you saw there if the Biden bill passed on habeas corpus, Andrews would be dead, he would have been dead 17 years ago. If the bill of the Senator from Florida passes, Andrews would have been dead 17½ years ago.

You know what it is like, this debate, in listening to my friend from Utah for whom I have great respect and affection, is a little bit like—let me make an analogy. Let us assume the debate we were having here today was not about the death penalty but about how to employ the death penalty, when someone was convicted of a capital offense and ordered to be put to death.

Let us assume the debate were about whether we do it with lethal injection, hanging, or the electric chair. Let us assume that was the debate.

Let us assume, by way of analogy, that the Senator from Utah believed it should be done by the electric chair, and let us assume that the Senator from Delaware thought it should be done by lethal injection.

Let me tell you how that debate would proceed on this floor between the Senator from Delaware and the Senator from Utah. The Senator from Utah would come to the floor and he would look up to the gallery and he would say, now let me tell you all these grisly murders and he would lay out for you nothing having to do with the issue, all these grisly murders, about how 2-year-old children were shot point blank, how women were raped and dismembered, about how people were lying in their bed and shot in the back of the head, all of which happened, and by this time, the Press Gallery and everyone else up there would go, "Oh, my God, he is for doing something about getting rid of these horrible people," putting the person in the position of standing up to debate him appear at first blush to be defending that conduct.

Then he would say, and furthermore, before I sit down, I want you to know only by electrocuting these people will justice be done. That is the only way.

Then he will sum up, I promise you, he will sum up by once again trotting out cases that have nothing to do, zero to do, with whether or not someone should be put to death by lethal injection, by hanging, or by the electric chair. For the issue before the Senate in that circumstance would not be the death penalty, it would be how.

We all agree there should be a death penalty. The issue is how should it be imposed?

Let us look at the case here. What is the issue? The issue is not whether or not Andrews from Utah, or Gacy or that idiot Manson should be dead now. If you support the death penalty as I do, as the bill does, the issue is how and under what circumstances?

Let us look at what the debate is really about, what it comes down to. The Senator from Utah, speaking on behalf of myself and the President says, hey, look, this habeas corpus thing. It is not such a hot idea. The concept is 800 years old. It has been applied the way it is applied now for a long time but we do not like it. So let us tear up that, the way we proceed now, and then show you a chart—by the way, if I had the chart here, I would show you the chart and point out to you. It makes my case, by the way. I will get back to that in a moment.

OK, that is what he says, tie it up, finish it, speed. Justice denied is justice delayed. I wish they felt that way about everything else about the application of justice.

Now my friend from Florida comes along and says, hey, look. I do not want to tear this thing up. I just want it to be exhausted within a year. You have 1 year, not 17 years, like that chart says. And my friend from Florida says 6 months, to be more precise. He says 6 months, you have 6 months to file this and finish it. And if in 6 months the court has not found a reason to buy your case that your rights have been violated or you are innocent, then you get the lethal injection, hanging, or the chair.

The Senator from Delaware says 6 months is not practical, it should be 1 year, but at the end of 1 year—over. The debate here is one shot, 6 months, or 1 year.

But listen to my distinguished friend from Utah—and it is compelling. I get caught up in these cases, too. I sit there and I listen about this guy Andrews and my instincts are truly the first time he did it in the committee, I suspect I would have the same reaction as everyone—I was ready to push the button; I was ready to volunteer. I mean it is grisly. I think of a Charles Manson and all the worst aspects of human nature come out in me, what I wish to see happen to Charles Manson. I am not proud of those instincts but they are there.

But I say to Senators, keep your eye on the ball. This has nothing to do with anything the Senator from Utah has spoken about, as eloquent as he is. It has nothing to do with what he talked about. And it is a boldfaced, unintentional misrepresentation to say only the President's amendment, that amendment would end this ridiculous circumstance. Not true. Simply not true.

The last point I will make about the chart that is put up there and all the cases he has cited is it makes my case. No. 1, none of those appeals were granted, none of them. The Federal court and the State court said repeatedly no, there is no merit to this petition. That being the case, by definition, if Senator BIDEN's bill were law, they would be dead, dead. If the Senator from Florida's proposal were law, Andrews would be dead.

So what are we talking about? Keep your eye on the ball here. Do you want to have the Federal writ of habeas corpus, a concept which is 800 years old in our jurisprudence, to continue, or do you want, in an emotional disgorging of passion, to take that writ and throw it out in the name of correcting that aberration which every one of the proposals corrects?

At the outset I think it is real important we understand what the debate is not about. First, we are not talking about abusive or repetitive habeas corpus petitions. The Graham bill and the Biden bill would limit a prisoner to one single petition. One time that petitioner gets to slide that note through the bar and say, look me over, one time. In the case of the Senator from Florida, he has to do it within 6 months. In my case within 1 year.

Second, we are not talking about delaying the execution of prisoners on death row. Prisoners have 6 months to file a petition under Graham, the same time period that Senator THURMOND proposes, with strict limits on judges which will further speed the decision and the same time limits included in Senator THURMOND'S bill as in the Graham bill.

Third, we are not talking about letting inmates currently on death row file habeas corpus petitions every time a new Supreme Court decides a new constitutional issue. Prisoners may file one petition within that short period of time. If that petition has been filed then that is it, period.

And the heinous criminals that Senator HATCH has referred to, like the Andrews case, get no help from the Graham bill, none, none.

So what are we debating today? We are debating fairness and we are debating justice and we are debating what we believe, as Americans, is the essence and core of our English jurisprudential system. What Senator GRAHAM proposes will rid us of abuse while adding fairness to the habeas corpus process. But what Senators THURMOND and HATCH propose will rid us of abuse but at the same time at the very high price of endangering our constitutional rights.

(Mr. LIEBERMAN assumed the chair.)

Mr. BIDEN. For example, Senator GRAHAM'S bill requires that the State provide death row inmates with competent counsel. It is shocking, but it is true, that one-fourth of all Kentucky death row inmates, one-tenth of all of Alabama's, 13 percent of all of Louisiana's death row inmates were represented at the time they got the death penalty by a lawyer who was either disbarred, disciplined, or put in jail. Justice denied is justice delayed. Justice unable to be articulated is justice abused.

Without competent counsel, these prisoners do not get a fair shake. And guess what? For every case he can give you, one that is grisly, I will give you one, and I gave you one before, where the person is convicted and found to be innocent, starting with the Leon Frank case, which generated the notion of habeas corpus as we now know it. A Jew in Atlanta in 1913 was accused of killing a Christian. There was literally a lynch mob. Leon Frank said, "Federal court, you people who are not elected, you are there for life and have some insulation; look at my case." Federal court said, "No. Let the State take care of it."

The State took care of it all right. They executed him. They literally dragged him from his cell and hung him until he was dead. And guess what? After the rage and antisemitism had died down, a witness came forward who completely cleared Leon Frank—after he was dead.

But one aberration does not make a rule. The only point I wish to make is for every aberration of delay of justice without Federal habeas corpus there is such a speedy imposition of justice in emotional circumstances denying the Federal court the right to look at the Federal Constitution as applied by State court judges elected to office that the Federal courts decided, hey, in the Congress, we have to put in some protection.

All the Senator from Florida wants to do is to say give this guy or woman one chance, one chance. And they have to do it in a certain time limit of 6 months.

My friends, well intended, are saying, hey, look, if the State has executed their proceedings full and fair—and that is clip, clip, clip, they went right down the line procedurally—whether or not they actually applied the Federal Constitution properly is irrelevant.

What have we come to here? What is this Chamber looking for? Do we want blood to drip from the walls here? Is that what will satisfy us? Maybe we should have the death penalty for jaywalkers.

They provide for no competent counsel.

Look, the Supreme Court, the Powell Commission, they said, "Hey, look, we are going to speed this process up so those cases cannot drag on for 17 years." That is what the Senator from Delaware says, the Senator from Florida says. They said, "I will tell you what, State, in order for us to say the Federal courts are only going to take one look at you, we have got to make a deal here. You can speed up justice. The way you can do it is you can promise us at the front end you are going to have competent counsel."

I say to my friend, the Presiding Officer, a former Attorney General: Guess what? In seven of the States that have the highest death penalty, in six of those seven there is no public defender system. Does that not ring true?

I support the death penalty. This is a ridiculous argument.

The issue here is how do we give, within a 6-month period, 6 months, a man or woman the last chance to make their case before a Federal judge to say, "Hey, look at me." Probably 90 percent of them will be guilty and the court will turn it down. But maybe 1 in 10, maybe only 1 out of 100 will be innocent. And what does society pay? Having the Federal court able to look at that within a 6-month period. My goodness.

The Thurmond bill and the Hatch bill preclude a prisoner from evoking any Supreme Court decision that is handed down, even one decided a single day after the prisoner is convicted.

Let us take this back. If this were the law in this country, what they are proposing, 40 years ago, 25 years ago, 15 years ago, and the Court came along and said, "Hey, guess what? If you have a black man on trial you cannot allow in the State the prosecutor to say 'I will not let any black people sit on the jury.'"

Do any of you think that is fair? Well, that is what used to be done. That is what used to be done.

And what happened? The Supreme Court came along, late in the day, and said, "Hey, that is not fair. You have to let black people otherwise qualified to sit on the jury just like white people."

Now, what would have happened if you have a black man or a black woman convicted of a celebrated crime that everybody is up in arms about, everybody is looking for someone to be convicted for, because the cops were on the line, the prosecutor is on the line, the Governor is on the line, and they get convicted because they do not allow a black man to sit on a jury? And then the day after they are convicted, the Supreme Court finally says, "Hey, that is not fair," And they say, "Guess what? Your constitutional rights have been violated. Go back there and be tried again, but this time allow black people as well as white people to sit on the jury."

Under this law that they are proposing, and the President, that would be too bad. If that decision came down one day after that person was wrongly convicted, they would say, "Tough. Procedures, you know." In a very republican way: "We are going to move things along very quickly. Let us have this thing go on. Order is what we want, so we will have order. Put him to death." The guy says, "Hey, wait a minute, the Supreme Court just said I did not get a fair trial." They would say, under this law, "Well, that is a retroactive application of a Supreme Court decision. This is a circumstance that will result in delay. And justice denied is justice delayed. And this will deny justice by slowing it up for a 6-month period because it allows a Federal court to go back and determine whether or not this Constitution was properly applied to that black man. Therefore, in the interest of justice we are going to put this man to death that the Supreme Court just said did not get a fair trial." That is what their law would do.

And what does the Senator from Florida try to do? He is not saying that man should get off. He is not saying that man should not have his case adjudicated within 6 months. He says, within 6 months make a decision. "You get one shot, man, to go before a Federal court and if a new Supreme Court decision comes down of consequence that applies to you, you get one shot to say to that Supreme Court, 'Look, it is me, too; me, too. Give me a fair trial along the lines the Supreme Court now says constitutes a fair trial.'"

Do you all think that is fair? Do you think that is reasonable?

If you listen to the argument my friends make, they would balance that off and say: "Well, it is better than 17 years' delay. We are not talking about 17 years' delay. We are talking about 6 months; one shot."

There is so much more to say. This is such an important vote. There is so much more to say.

Again, I think it is important to understand what we are not debating today.

First, we are not talking about abusive or repetitive habeas corpus petitions. The Graham bill would limit a prisoner to a single habeas petition—a single petition in 6 months time.

Second, we are not talking about delaying the execution of prisoners on death row.

Prisoners have 6 months to file a petition—the same time period that Senator THURMOND proposes. And strict time limits on judges will further speed the decision—the same time limits included in Senator THURMOND's bill.

Third, we are not talking about letting inmates currently on death row file a habeas petition every time the Supreme Court decides a new case—prisoners may file on petition within a short period of time. If that petition has been filed—then that is it. The heinous criminals that Senator HATCH has referred to—like the Andrews case—get no help from the Graham bill.

So what are we debating today? We are debating fairness and justice. What Senator GRAHAM proposes will rid us of abuse, while adding fairness to the habeas corpus process; what Senators THURMOND and HATCH propose will rid us of abuse but at the very high price of endangering our constitutional rights.

For example, Senator GRAHAM's bill requires that States provide death row inmates with competent counsel. It is shocking, but true, that one-fourth of Kentucky's death row inmates, one-tenth of Alabama's and 13 percent of Louisiana's were represented by lawyers who have since been disbarred, suspended, or imprisoned.

Without competent counsel, these prisoners do not get a fair shake in the first place and end up filing endless postconviction appeals because the quality of representation was so poor. Wouldn't you file an extra appeal if your trial lawyer was later disbarred, suspended, or imprisoned?

More important, the Graham bill eliminates, and the Thurmond/Hatch bill leaves in place, an arbitrary feature of the current habeas corpus system.

Under the Thurmond-Hatch bill, if two prisoners commit the same crime, on the same day, and they both go to trial on the same day—one might end up on death row when the other would not.

Why? Because the Thurmond/Hatch bill precludes a prisoner from invoking any Supreme Court decision that is handed down—even one decided a single day after the prisoner's conviction becomes final. All it may take is for one jury to take a few days longer than another for one coconspirator to be executed, while his accomplice is spared.

Finally, and most important, the Thurmond-Hatch proposal invites injustice by barring habeas corpus in any case that has been fully and fairly litigated in State court.

Make no mistake: Last year's Thurmond/Hatch bill is not this year's Thurmond/Hatch bill. Just as the administration's exclusionary rule reform proposal was expanded this year, so too was its habeas reform proposal.

This year's habeas reform proposal poses a dramatic threat to our constitutional rights. It means not one bite at the apple, but no Federal habeas review; no bite at the apple.

Had the full and fair rule been in effect: The courthouse door would have been shut to Joseph Brown, even though the prosecution deliberately withheld evidence showing that he did not commit the crime; even though he was hours from execution. A Federal habeas petition saved his life.

And the courthouse door would have been shut to Rubin Carter, who was convicted even though the prosecution concealed reports showing that the key witness placing defendant at the scene of the crime had failed lie detector tests.

Without filing a habeas petition, Carter never would have been released, and the prosecutor never would have dropped the charges.

The full and fair rule undermines the very reasons the Congress has consistently protected the writ.

As Justice O'Connor wrote last year:

> The threat of habeas corpus serves as a necessary additional incentive for trial and appellate courts throughout the land to conduct their proceedings in a manner consistent with established constitutional standards.

Under a full and fair rule, there is no incentive for elected State court judges to comply with "established constitutional standards." Instead, State judges will have the final say on what the Constitution means.

We have already seen what will happen if we stake our constitutional rights to the political fortunes of State court judges under a full and fair rule. The results were tragic.

For a brief period at the turn of the century, the Supreme Court adopted the rule the administration now proposes—that full review by a State court precluded a Federal habeas corpus petition.

Leo Frank, an innocent man tried by an anti-Semitic mob, died because the Supreme Court refused his habeas petition. Frank was charged with the rape-murder of a Christian woman in Atlanta in 1913.

The trial was so violent, the judge ordered Frank and his lawyer out of the courtroom for their own safety. Years later, an eyewitness intimidated by the mob came forward to clear Mr. Frank's name, to establish his innocence beyond doubt.

But before the witness could come forward, and after the Supreme Court had ruled, Mr. Frank had been executed—lynched by a mob who wrested him from death row.

Before we vote for a bill that—had it been in effect, would send future Leo Franks to their death, let us remember the legacy of our forefathers.

As Chief Justice Marshall wrote:

> The Constitution imposes on Congress the obligation of providing efficient means by which this great constitutional privilege—[the writ of habeas corpus]—should receive life and activity.

Today, let us take that obligation seriously and let us ask ourselves whether we want to shed blood so badly that we will deprive the citizens of this Republic their constitutional rights, so badly that we would bar the Federal courthouse door to those with valid constitutional claims.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from Delaware has 8 minutes and 32 seconds.

Mr. BIDEN. Mr. President, I see a man who knows a great deal more than I, and I apologize because I took a great deal more time than I meant to. I yield the rest of my time to the Senator from Florida.

But please understand, this is not who is tough on crime. Every one of these people who are filing habeas corpus petitions are off the street already. The issue is how to fairly and swiftly administer justice.

The Senator from Florida does it. What they do is they eliminate the prospect of a Federal court being able to determine whether or not it is fair.

The PRESIDING OFFICER. The Senator from Florida [Mr. GRAHAM].

Mr. GRAHAM. Mr. President, as our colleague just said, the issue is not whether, as a matter of policy, you are for or against the death penalty. I believe everyone who has spoken this morning on this subject is personally in favor of the death penalty as an appropriate punishment, sanction, or deterrence, in our society. In my judgment, the greater threat to the death penalty is if the public loses confidence in its essential justice. That confidence can be lost in two directions.

One, it can be lost if we continue in the current pattern of the way in which Federal habeas corpus is administered, which results in charts such as the one the Senator from Utah has presented us: These egregious delays, the gamesmanship, the misuse and abuse of the system in order to avoid a pursuit of truth and a conclusion of justice.

It is to that abuse that the amendment which I have offered is directed.

But that is not the only basis upon which the public could lose confidence in the death penalty and demand its repeal. If we were to have a series of cases in which the public were to be shocked in its conscience at the application of the death penalty; if they were to feel as if the death penalty was being applied in an unjust, inappropriate, biased manner; if the cases like the Frank case of 75 years ago were to recur: then I think we would have an outcry for repeal of the death penalty based on our sense of fairness.

It is to that issue that I believe the difference between the amendment offered by the Senators from South Carolina and Utah, and that which myself and our cosponsors proposed, goes. There are many similarities in our amendments.

We both say you must bring your case within 6 months of the exhaustion of State remedies. We both say the Federal courts must give an expedited consideration of these cases within 6 months after filings. We both have tight restraints on successive petitions so as to encourage all issues to be brought and considered in one full and fair Federal habeas corpus. Those are some of the similarities.

These are three principal differences between the second-degree amendment as offered by Senator THURMOND and the first-degree amendment. And those are, briefly: One, the Thurmond amendment has a provision called the full and fair consideration. Essentially it says that if the Federal court finds that the State court, in its disposition of the case, dealt in a full and fair manner, the Federal court is precluded from any further consideration. The Federal court cannot apply its accumulated knowledge and wisdom of Federal constitutional and legal standards if it makes that threshold determination that there was a full and fair determination at the State court.

In my opinion we have effectively repealed Federal habeas corpus once we have adopted that standard. We have denied what is an essential element of our Federal-State dual judicial system with the recognition of the primacy of Federal courts in their interpretation of Federal constitutional law and rights.

Second, the amendment offered by the Senator from South Carolina relative to successive petitions says that even if you can meet the very tight screening, the high thresholds necessary to be able to bring a successive petition—you can show that the Supreme Court of the United States has adopted a new constitutional standard, and provided it would be applied retroactively, or you can show that there is new evidence that could not have reasonably been discovered prior to the bringing of a successive petition—those are the types of thresholds that would have to be met—even if you could do all of those things, under the amendment of the Senator from South Carolina you could not attack the appropriateness of the sentence. You would only be able to go to the issue of guilt or innocence.

The fact is in most of these cases, the issue raised on habeas corpus is not whether the person is guilty, but whether the death sentence was the appropriate sentence to be applied. Some of the basic cases in the area of Federal habeas corpus go to questions such as were appropriate standards of mitigation and aggravation placed before the trial judge and jury? Those are the fundamental issues that are raised in Federal habeas corpus. Those are exactly the issues which would be precluded, denied, not allowed to be brought in a successive petition even after having met those high thresholds under the Thurmond amendment.

And third is the issue of competence of counsel. Since the Gideon case, a case that came out of my State of Florida, there has been no more fundamental concept of justice than that a person who is charged with a serious offense, who is typically poor, uneducated, ill prepared to defend himself or herself, should have counsel to represent them.

Under the Thurmond bill, the appointment of counsel in these very technical, collateral appeals is at the discretion of the court, assumedly the trial court. And there are no standards, if the trial court elects to use that discretion, as to who shall have to be appointed.

Our bill will require that in capital cases, there be counsel at all stages: at the trial, at the appeal, and at the collateral consideration; and that there would be standards established within that State. In the Presiding Officer's State, it would be either the State legislature or the highest tribunal in the State of Connecticut that would be responsible for establishing the standards that would be used in the selection of those individuals who would serve as counsel at all of those levels.

There is nothing that will more fundamentally assist in the pursuit of truth and justice, and in the expedition of these cases, than having competent counsel at all stages. There is probably no single basis raised more frequently in collateral appeals than that of incompetent counsel.

So we will be making a great contribution toward all the goals we seek if we assure that there are competent counsel at each stage of a case which could result in the execution of a human being.

We, all of us speaking on both sides of this issue, support the death penalty. We believe it is an important tool, an important means of carrying out society's ability to punish and to deter in the most serious of crimes. But we believe it must be done with essential fairness and justice, and with due process.

I believe the amendment which I have offered will accomplish those dual objectives. I believe the amendment of the Senator from South Carolina fails.

The PRESIDING OFFICER. All time allocated to the Senator from Delaware has expired. The Senator from Utah has 15 minutes remaining.

Mr. HATCH. Mr. President, I yield 3 minutes to the distinguished Senator from California.

Mr. SEYMOUR. Mr. President, I rise in support of the amendment introduced by the senior Senator from South Carolina. I have listened very closely to the debate, and some of the words I am hearing are "justice" and "fairness" and "equity." And I am hearing words on the part of those who propose this amendment, words to describe their position as if theirs is very close to what Senator THURMOND has offered.

I have a differing view. I am not an attorney, but I rely on the words of Abraham Lincoln when he said more rogues than honest men find shelter under habeas corpus. And that is what this argument is all about. It is not an argument of justice for brutal murderers; it is an argument of justice for the victims.

I heard the distinguished Senator speaking on behalf of the criminals who have been convicted. Who is going to speak on behalf, Mr. President, of the victims and the families, in over 250 cases in my State of California? When are they going to have justice?

I think there are some very large differences between these two proposals, and that is why I support Senator THURMOND's and Senator HATCH's proposal, because it will tighten it up, and the bottom line of all of it is that it will provide justice for victims and their families and, in fact, create a real death penalty, one that has meaning and teeth in the law.

Yesterday, this body took an important and historic step in fighting violent crime by expanding the Federal death penalty. If enacted, we will send a strong message to thugs ranging from racist skinheads to drug kingpins that we intend to strike back against their heinous crimes to the fullest extent of the law.

I am a new Member of this august body, but the leadership demonstrated by the distinguished Senator from South Carolina and the distinguished chairman of the Judiciary Committee is not new to this body, and I commend the two managers of this bill for their tireless efforts to achieve a bipartisan solution on the Federal death penalty.

We have demonstrated tremendous support for expanding the Federal death penalty to various violent crimes. We have also stated that our States should have the ability to fully and effectively dispense justice against violent criminals, but our words, our actions will amount to nothing unless our actions will amount to nothing unless we demonstrate an equal resolve to reform the Federal habeas corpus system. And the votes we will make today will determine whether we intend the death penalty to be merely a tool of campaign rhetoric or a serious instrument of tough and effective justice—an instrument that restores public faith, integrity, and meaning to the phrase "criminal justice."

Abraham Lincoln once said: "More rogues than honest men find shelter under habeas corpus." Well, this statement is certainly applicable today, but the rogues involved here are the worst kind: Violent criminals on death row. And the statistics show why these murderers are the only Americans with any reason to have faith in our current habeas system.

According to the Department of Justice, the average time between the imposition of a capital criminal's death sentence and execution is 6½ years. And since the constitutionality of the death penalty was restored by the Supreme Court 15 years ago, just 3 percent of those on death row have received the sentence as prescribed by law.

Three percent, Mr. President.

After 15 years, 97 percent of those sentenced to death wait patiently to meet their fate as justice prescribed. But, I'm sad to say an even more glaring statistic comes from my own State of California, where more than 250 of the most ruthless murderers ever assembled await the death sentence, but not one single individual has been executed. Clearly, habeas corpus is offering more than just shelter to a capital criminal. It's providing a permanent, safe, and secure shelter.

One of these beneficiaries is Robert Alton Harris. Either him or his crafty attorney deserves a Ph.D. for their abuse of the habeas system and avoidance of the death penalty.

In 1979, Harris was sentenced to death by a California Superior Court for shooting two young boys in cold blood. Today, 12 years later, Mr. Harris is little closer to the gas chamber than the day he was sentenced. Thousands of taxpayer dollars and countless days have been expended in hearing frivolous and repetitious petitions. That is the essence of the problem: A shrewd attorney identifying several potential bases of appeal, but only bringing each appeal one at a time, taking one trip after another to Federal court, with each trip through the system taking years to resolve.

All this time, all this effort, for a man who has admitted his crime not once, but six times. A vicious murderer willingly admits to brutally cutting short two young lives—lives filled with expectation and promise and our system can't hold him accountable. Where is the justice, Mr. President, in a system which accommodates such a bloody and violent criminal?

Where is the justice in a system that extends the pain, the agony, the nightmare for the living victims.

Where is the justice, Mr. President?

Now, I am not a lawyer, Mr. President. I do not profess to have the technical legal background exemplified with eloquence and skill by my distinguished colleagues from Utah and Pennsylvania or by the distinguished chairman of the Judiciary Committee. But it doesn't take a lawyer to recognize that the habeas system needs reform now.

Indeed, after reading and hearing of countless, decade-long abuses of this time consuming process, I have come to believe that habeas corpus is Latin for "endless delay."

Well, it's time we changed this definition of habeas corpus to mean "effective justice." It's time we restored public faith, integrity, and finality in a justice system that has been nothing but a never-ending story.

In short, the most common cause of death for a capital offender like Robert Alton Harris should not be old age.

Mr. President, the distinguished Senator from Utah and the senior Senator from South Carolina have offered a workable proposal for habeas corpus reform in capital cases. It will bring an end to needless habeas petitions, and bring much needed relief to our Federal courts, and restore much needed integrity to State criminal proceedings.

This proposal allows death row inmates, with few exceptions, one round of Federal appeals—one trip through the Federal system. That's it. No longer will these murderers be able to dull the sword of justice with an unending flurry of repetitive legal memoranda.

This proposal represents the best of previous reform initiatives, including reforms introduced by Senator THURMOND and passed by the Senate in 1984 and 1990, as well as the recommendations of the reform commission chaired by former Supreme Court Justice Lewis Powell.

But don't just take my word for it, or the views of my friends from Utah and South Carolina. Listen, as well, to those whose very livelihoods are dedicated to protecting the freedoms and safety of law-abiding citizens. Listen to the National Association of Attorneys General; listen to the State district attorney associations across the country, including my own State of California; listen to law enforcement organizations, such as the Fraternal Order of Police. They all support the Hatch-Thurmond amendment.

But most importantly, listen to the living victims who simply want to put an end to the nightmare of violent crime.

Mr. President, I am honored to have had the opportunity, in my first year as a U.S. Senator, to participate in some very historic votes. In my first vote, I stood by our President in his efforts to restore the sovereignty of a peaceful Nation.

And now, I take part in another vote of historic proportions, but it will only truly be historic if we send a tough and effective crime bill to the President's desk for his signature. Nothing would make me more proud than to say that in 1 year, I helped strike a blow against ruthless murderers who have waged violence in neighborhoods from Kuwait city to Kansas City, from Riyadh, Saudi Arabia to Redding, CA.

The Hatch-Thurmond amendment most effectively breathes life back into State and Federal enforcement of the death penalty. It sends a message to Americans that we intend to be victors, not victims, of crime. And it sends a message to Americans that we intend to be victors, not victims, of crime. And it sends a message to the Robert Alton Harris' of the world—their days of abusing the system are at an end. The time has come for them to answer for their crimes.

I yield back the remainder of my time.

Mr. HATCH. Mr. President, I yield 5 minutes to the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank my distinguished colleague from Utah.

Mr. President, I intend to support the amendment offered by Senator THURMOND and Senator HATCH to the bill. If it is not adopted, I have a substitute measure to be proposed later today. If the President's bill is adopted, there are certain amendments which I will offer after the adoption.

The thrust of the concern which I have, Mr. President, is that all pending bills do not move with sufficiently expeditious treatment after giving the defendant an opportunity to a fair trial with competent counsel. When the distinguished Senator from Delaware [Mr. BIDEN] talks about only one time and within 6 months, his legislation does not have a tight timetable for consideration by the U.S. district court or by the circuit court or by the Supreme Court. None of the bills, except the one that this Senator has introduced, deals with a delay on repetitious proceedings in State habeas corpus. This is illustrated by Senator HATCH's chart which shows on its face multiple appeals to the supreme court of Utah.

The legislation which I introduced last year in collaboration with Senator THURMOND and with the backing of Senator HATCH, Senator SIMPSON, and others provided that there would be Federal court habeas corpus jurisdiction after the first appeal to the State supreme court. The State should fashion procedures to encompass all the pending issues, including, if they choose, as California has done in its unitary procedure, the issue of competency of counsel. In any event, after the State supreme court has ruled on one occasion, then it goes to Federal court without bouncing around in the State for 5, 6, 7 years.

Once it gets to the Federal court, Mr. President, the legislation which I propose would give a Federal court jurisdiction to take up the issues and decide them. This rubric about a full and fair consideration is so complicated and involves so many remands that it accounts for this long chain on Andrews and it accounts for innumerable delays on other death penalty cases.

There is, realistically viewed, no way to structure a Federal court system where Federal courts are not ultimately going to deal with the merits of the case, nor do I think there should be. But the long litany of Supreme Court cases—and I will discuss later today illustrative cases like Castille versus Peoples—shows that a case just bounces back and forth. If the Federal court on one occasion considers the issues, the factual and legal issues, and comes to a conclusion under tight time limits, then I think it is possible to have a complete adjudication, after a jury imposes the death penalty, within 2 years, competent counsel for the defendant, and an appropriate disposition so that we will reinstate once and for all the death penalty in a fair and timely manner.

I thank the Chair and yield the floor.

Mr. GRASSLEY. Mr. President, I want to take just a few minutes here at this time to speak to the point of the habeas corpus provisions of S. 1241 and particularly to my support for the President's language and how I felt and do feel about the shortcomings of the language that is in the bill.

I have no amendment to offer on this subject. I know that we have probably two or more modifications of the habeas corpus provisions that were already submitted. So I want to take this opportunity to tell of my reasons for the position I have taken on this in committee, and also on the floor, in my support of the Thurmond amendment.

Everyone knows that since 1867, the Federal Government has by statute allowed certain prisoners confined in State facilities to challenge their convictions or sentences by means of a civil application filed in district court.

Although the remedy is popularly known as habeas corpus relief, it is not the same as the writ of habeas corpus mentioned in clause 2, section 9, of article I of the Constitution.

The habeas corpus remedy provided by the Constitution affords persons detained before conviction with the right to know the charges on which they are being held.

The Federal statutory habeas corpus remedy was originally limited to jurisdictional challenges and was gradually expanded to allow challenges based on constitutional claims.

Congress can change these procedures that were established in 1867, and I think they can be changed, without doing violence to any right already guaranteed to individuals under the Constitution.

The present Federal habeas corpus statute has fostered a system that no longer seems to be interested in the factual guilt or innocence of a defendant.

The present system allows a State prisoner to relitigate virtually every aspect of his or her confinement, from pretrial through post-conviction proceedings, an unlimited number of times throughout their term of confinement.

The elevation of procedure over substance deprives the criminal justice system of a crucial element of deterrence, which is swiftness and certainty of punishment.

Particularly in capital cases, the present habeas corpus system undermines the effectiveness of the death penalty as both a deterrent and as a legitimate expression of society's moral outrage concerning the most abominable of intentional killings.

Consequently, the death penalty laws of 36 States are not being enforced.

Because of my strong belief in federalism and my preference that the States make their own decisions in most areas, I have supported habeas corpus reform since the beginning of my service in the Congress.

Pointless and duplicative relitigation of claims that have already been fairly considered and decided by State courts at both the trial and appellate levels must be put to an end.

A reasonable and rational habeas appeals system will not allow claims to be raised in successive Federal habeas corpus petitions that have nothing to do with the question of defendant's factual innocence or guilt.

We need to keep in mind four basic goals as we go about trying to reform the Federal habeas corpus system:

First, a State defendant's capital case should be afforded a full and fair series of appeals—both directly and collaterally—based upon the prisoner's guilt or innocence and the procedures followed during the State's criminal trial proceedings.

Second, when the capital defendant has exhausted his State remedies, he should be afforded another series of equally full and fair appeals in the Federal courts.

Third, once a State capital defendants conviction and sentence are found to be appropriate, judicial proceedings should be concluded.

Fourth, Federal habeas corpus relief should remain an extraordinary remedy which should upset a State conviction only where necessary to redress a fundamental injustice.

We must strive to create habeas corpus reform which will establish more finality and restraint upon the operation of the Federal habeas corpus system rather than preserve the status quo under the guise of reform.

I believe that that is the situation with the underlying legislation, which I think has been dramatically improved at this point. I hope that subsequent modifications or attempts to modify do not detract from what has been done at this point.

I would like to explain in some detail why I support this amendment and not S. 1241.

First, S. 1241 allows a capital defendant 365 days to file a Federal habeas corpus claim, with a possible extension of up to 90 days for good cause.

S. 1241, however, prevents this time limitation from being counted against the capital defendant while any appeal is taken from State postconviction rulings.

Under current law, a capital defendant can already appeal his trial, conviction, and the disposition of any claims he may make—while his case is undergoing Federal habeas corpus review.

Since the Supreme Court rarely grants review of state postconviction rulings, it seems as if preventing the 365 days from being counted against a capital defendant while an appeal is taken from State postconviction rulings has been added for the sake of delay only.

If S. 1241 were enacted into law, its 1-year period with periods of suspension would do nothing more than codify the existing average period of delay that it takes a capital defendant's case to move from State postconviction proceedings to Federal habeas corpus proceedings.

This is hardly reform in any meaningful sense.

Second, S. 1241 allows a defendant to raise Federal claims that—due to the defendants or his attorneys ignorance or negligence—he did not raise during State court proceedings.

Because capital litigants will have an incentive to ignore a State's procedural rules for the prompt and orderly presentation of claims in State courts, I believe that very few States will decide to adopt the habeas corpus regime in this bill.

If they do not, then of course, the present unworkable system of death penalty appeals will remain in effect.

Under S. 1241, a Federal district court would be required to consider a claim which—according to a State's procedural rules—had not been properly raised in State court due to "the ignorance or neglect of the capital defendant or counsel or if the failure to consider such a claim would result in a miscarriage of justice."

The Supreme Court of the United States, in Wainwright versus Sykes in 1977, held that a Federal court should not entertain a claim in Federal habeas corpus proceedings that would not be entertained by a State court due to the failure to raise the claim in accordance with State procedural rules.

The Court determined that if a defendant could show a persuasive reason for his failure to raise the claim in a timely manner and that an alleged constitutional error was so fundamental as to infect the entire proceeding, then, and only then, would the Federal district court have to entertain the claim.

The Supreme Court ruled that to decide otherwise would possibly breed contempt for State court proceedings. This could result in sand-bagging on the part of defense lawyers, who might take their chances on a verdict of guilty in the State trial court, with the intent of raising their constitutional claims in Federal habeas corpus proceedings.

I believe very strongly that this bill's abandonment of well-settled law regarding the deference that State procedural rules should be given is very troublesome.

No litigants have a greater incentive to withhold claims for use in later proceedings than capital defendants, for whom delay results in effective abridgement of their sentences.

If claims can be heard in Federal habeas corpus proceedings because of the ignorance or neglect of the capital defendant—even though he was represented by counsel during trial, appeal and State postconviction proceedings—the provision in this title is an invitation to abuse.

While present law allows capital defendants to raise the claim—in a Federal habeas corpus proceeding—that his counsel's ineffectiveness was the cause of the procedural default, the habeas corpus provision in S. 1241 simply introduces more uncertainty in the death penalty appeals system and provides further incentive for delay.

Third, related to this issue, S. 1241 overturns two 1989 Supreme Court decisions, *Teague* v. *Lane*, 109 S.Ct. 1060 and *Penry* v. *Lynaugh*, 109 S.Ct. 2934, that held new Federal court decisions will not be applied to State capital cases that have received direct review and that are now undergoing collateral attack.

In other words, under the current system, the law applied in reviewing a case in a Federal habeas corpus proceeding is the law that was in effect at the time the judgment became final.

Unlike the 1989 Supreme Court decisions that provide a workable standard on which both State courts and capital defendants can rely, S. 1241 creates an ad hoc approach that will impede the goals of fairness and finality in capital cases.

S. 1241 treats similarly situated capital defendants differently by allowing them—depending on the timing of a particular Federal court decision—to point to the most trivial changes in Federal court precedent as grounds for successive habeas corpus petitions.

As I understand S. 1241, it will allow new law to be used in reviewing a State's final judgment if this new law announced by the Supreme Court of the United States represents a sharp break with precedent.

Sharp break is not defined in S. 1241 and we are left to flounder with the intended meaning of this perplexing intangible in countless litigation for every defendant sentenced to capital punishment.

By enacting S. 1241, we would frustrate State courts who have faithfully applied existing constitutional law, only to have a Federal court discover—during habeas corpus proceedings—something new in the Constitution that forces the State to go back and apply it retroactively.

S. 1241 establishes the dangerous assumption that only by depriving the States of procedural bars and defenses—such as the contemporaneous objection rule; procedural default; and the exhaustion of remedies doctrine—and expanding the scope of Federal habeas corpus review and the role of Federal courts, can there be any assurances of adequate constitutional review of capital cases.

This makes no sense and its enactment would make bad policy.

Fourth, and perhaps one of the most troublesome provisions of S. 1421 allows a capital defendant to allege—after all of his claims have been exhausted—that his capital sentence cannot be carried out in order to prevent a "miscarriage of justice."

This term is also undefined in S. 1421.

This term in particular is so open-ended, that it undoubtedly will be abused in successive habeas petitions, considering that there is no limit to the number of times a defendant can seek its refuge.

Worse, the term itself will ultimately become the subject of repetitive lawsuits and challenges by capital defendants.

This free-floating standard is ripe for abuse. It practically guarantees that capital defendants will be treated unequally, as different courts attempted to flesh-out a meaning for the term "miscarriage of justice."

Finally, S. 1421 sets specific and rigid standards for the kind of experience required of counsel in capital cases.

Generally, a capital defendant would be represented during all criminal trial, direct appeal, and collateral appeal proceedings by counsel having been a member of the bar at least 5 years. In addition counsel would have 3 years of felony litigation experience in particular courts in which the case is being adjudicated.

These competence standards are based on similar provisions included in the death penalty for drug-related killings title of the 1988 Anti-Substance Abuse Act.

However, we all know how that legislation was put together. I am not persuaded that its provisions are guideposts that this body should follow in this—or any other future—debate on Federal criminal procedure reforms.

For one thing, the collateral review section of the United States Code, section 2254 of title 28, Judiciary and Judicial Procedures, generally provides remedies for those in the custody of State courts.

In fact, section 2254 has one volume of the code devoted exclusively to cases specifically related to its interpretation.

If we assume that competent counsel is essential and indispensable to a just criminal trial and appeal, where is the problem in the present system?

Someone must be bringing these cases for capital defendants presently cited within the volume on section 2254.

Mr. President, we need to focus on what actually happened during a particular criminal proceeding, rather than on counsel's background or compensation.

I believe that we should be more concerned with the impact of the habeas system on American citizens and on the victims of the crime—actual or potential—rather than being concerned with its impact on American lawyers.

It seems to me, that if we are really interested in serving the public by insuring that capital cases will not be delayed because of—among other reasons—a lack of qualified counsel, S. 1241 should not be enacted as written.

Consequently, rejecting a State court's determination in a capital case is completely unreasonable.

Because some choose to give little or no deference to State criminal trials, appellate, and postconviction proceedings or just because of a counsel's inexperience or undercompensation.

What we need and what we are here for, is to reform the Federal habeas corpus system. Perpetuating the present system of duplicative relitigation of claims that have already been fairly considered under the guise of reform is unacceptable.

It is for these reasons that I support this amendment to S. 1241.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. I yield 5 minutes to the distinguished Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina, Mr. THURMOND.

Mr. THURMOND. Mr. President, today, I rise to reiterate my strong support for the President's habeas corpus proposal contained in the pending amendment offered by myself and Senator HATCH. Without question, this vote is the most important vote we will take on this crime bill. It will determine whether the Congress will do what the American people are demanding—that we put an end to endless appeals in death penalty cases.

As I stated during debate on this amendment last night, the President's habeas amendment embodies what is, without a doubt, the toughest and most effective habeas corpus reform proposal before the Senate. It will minimize Federal judicial interference with State criminal convictions and deal with common abuses typical of habeas prisoner petitions, particularly in death penalty cases.

The pending amendment curbs the abuse of Federal habeas corpus proceedings by establishing a more appropriate role for the Federal courts in habeas cases by according deference to the results of State collateral adjudications which are full and fair when resolving issues of Federal law. Further, each death row petitioner would be entitled to only one Federal habeas petition with a subsequent petition only allowed when the new claim addresses the underlying guilt or innocence of the defendant. Strict time limits would be placed on the time for consideration of habeas petitions by Federal district courts and Courts of Appeals. Finally, the measure also requires that these cases be made a priority over other cases by all Federal Courts.

Unfortunately, the Graham habeas proposal, which the President's proposal amends, is troublesome and just as unacceptable as the Biden bill. It would overturn major Supreme Court decisions which have had the effect of limiting habeas abuse. Simply stated, the Graham amendment expands the rights of death row inmates.

For example, the Graham proposal reverses the landmark case of Teaque versus Lane which recently clarified the complicated area of law surrounding the retroactivity of law in habeas cases. It reverses this decision by allowing a prisoner to take advantage of interim changes in the law—no matter how insignificant. This provision ignores the fact that every prisoner will file a petition which will claim that he or she would benefit from the new law. This change alone, according to the Attorney General, would fully restore the chronic problems of unpredictability and lack of reasonable finality of judgments that existed prior to the Teaque decision.

Mr. President, I have just received a letter from the Attorney General which states that the President will veto this bill if any provision which seeks to overturn Teaque is in any habeas corpus reform legislation. The Graham proposal contains such a provision. It makes no sense for Congress to pass a habeas corpus reform proposal which expands death row inmates' rights and which will result in a veto by President Bush.

In summary, if the Graham habeas corpus proposal were to become law, the only people who would be celebrating in this Nation would be death row inmates. It is a death row inmate's wish list. The adoption of the President's proposal, however, will significantly enhance the fairness to the States, the victims of crime, and the prisoner while still providing for counsel in habeas cases.

As I stated earlier, I received a letter from a majority of the State attorneys general which opposed the provisions contained in the Graham bill and supports the President's proposal. In this letter, the Attorneys General wrote:

> The only issue before the Congress is whether Congress will change the present [habeas] system in a way which will assist or further hurt the States' ability to enforce their valid State [death sentences].

They urged Congress to pass meaningful reform.

Only yesterday, the attorneys general met, and they endorsed the proposal that Senator HATCH and I offered today. They are opposed to the Graham amendment. They are opposed to the Biden amendment. They say it will not get results. Only yesterday they met and acted on this matter.

Mr. President, the question now before the Senate is—Does Congress want to pass real, meaningful habeas reform? If so, support the President's proposal. If not—if you wish to expand the rights of death row inmates—vote against the President's proposal. The Attorney General, a majority organizations, and victims' organizations all support the President's bill and they oppose the Graham proposal. A vote in favor of this amendment is a vote for real reform. A vote against this amendment is a vote for death row inmates and a votes to veto this crime bill.

Mr. President, I ask unanimous consent that a copy of the letter from the Attorney General be printed following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. Mr. President, I want to say in closing, again the Attorney General of the United States, who represents this Government, favors this bill. He is against the proposal by Senator BIDEN and Senator GRAHAM. I want to say the attorneys general of the States of the Nation are for our bill and against those proposals. The prosecutors, that is the district attorneys of the Nation, have endorsed this proposal. They are against the Graham and the Biden proposal.

I want to say further the Fraternal Order of Police, the National Troopers Coalition, the National Sheriffs Association endorse this bill. They are opposed to the Graham and the Biden proposals. And the victims groups, those who have suffered from crime and criminals, and their families endorse this bill. They are opposed to those proposals that I mentioned by Senator GRAHAM and Senator BIDEN.

EXHIBIT 1

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, June 26, 1991.

Hon. STROM THURMOND,
Ranking Minority Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: I am writing to express the categorical opposition of the Department of Justice to the habeas corpus provisions of S. 1241 (Title XI). As we have explained in our earlier statements on this proposal (formely Title X of S. 618), it is a regressive measure that would systematically overturn the existing rules that limit delay and litigation abuse in habeas corpus proceedings, including the decisions of the Supreme Court in McCleskey versus Zant (1991); Teague versus Lane (1989); and Murray versus Carrier (1986).

We have equally fundamental concerns regarding a new amendment that combines an earlier bill introduced by Senator Graham (S. 620) with features of Senator Biden's proposal in S. 1241. Members of Congress should clearly understand that this is not a viable "alternative" or "compromise" measure, but simply another proposal that would aggravate existing problems of delay and abuse. If either current Title XI of S. 1241 or the new Graham-Biden provision were included in a crime bill presented to the President, the Department of Justice would recommend a veto.

Unlike the habeas corpus provisions of the President's violent crime bill, the Graham-Biden provision does not provide for deference to full and fair state court adjudications of a prisoners claims, and included no measures to curb the abuse of habeas corpus in non-capital cases.

The Graham-Biden provision does include the most alarming and harmful feature of the current provision in S. 1241: it would overturn the "retroactivity" rules adopted by the Supreme Court in Teague versus Lane, and freely allow criminal judgments to be attacked and overturned on the basis of later judicial decisions. This would vastly enlarge the opportunities for prisoners to obstruct the execution of death sentences by raising supposedly new claims and re-cycling essentially old claims in repetitive habeas corpus filings on the basis of alleged "changes in the law." It would also seriously jeopardize the integrity of criminal convictions in the noncapital cases.

The "optional" litigation procedures for capital cases in the Graham-Biden provision are fundamentally flawed. It rejects the central recommendation of the distinguished committee headed by Justice Powell to limit second and successive habeas petitions in capital cases to claims going to the prisoner's factual guilt or innocence. This means that unquestionable guilty murders could continue to raise alleged technical defects in their capital sentences in a second, third, fourth, or even later federal habeas corpus petition.

Permitting claims unrelated to guilt or innocence in repetitive habeas filings also means that the proposed procedures would offer no sufficiently significant improvement over the existing rules to make election of the proposed procedures worthwhile for the states. While it is reasonable to expect that states will broaden the right of capital defendants to appointment of counsel to obtain the strong safeguards of finality proposed in the President's bill, it is wholly unrealistic to suppose that they will do so to obtain the application of the Graham-Biden procedures.

Hence, the capital litigation procedures in the Graham-Biden provision would be a dead letter on enactment, and would do nothing to improve the representation of capital defendants or curb the rampant litigation abuse that has thwarted the use of state death penalty laws.

The Graham-Biden capital litigation procedures suffer from many other serious flaws. For example, unlike the corresponding provisions of the President's bill, they do not limit the raising of new claims in federal habeas corpus proceedings to cases where cause is shown for the failure to raise a claim in state proceedings. Unlike the President's bill, they do not authorize the federal habeas corpus court to avoid the delay involved in sending a case back to state court by completing the record for review. Unlike the President's bill, they are not applicable to states with "unitary review" systems, and hence could not be used in states like California that do have "unitary review" systems in capital cases.

In sum, the Graham-Biden amendment, like current Title XI of S. 1241, would aggravate problems of delay and abuse and jeopardize criminal judgment in both capital and noncapital cases by overruling the Supreme Court's decision in Teague versus Lane and adopting new retroactivity standards of unprecedented breadth. The capital litigation procedures of the Graham-Biden amendment are illusory, since they would not be used by the states.

We strongly urge Congress to reject these unsound measures and enact the real habeas corpus reform proposed by the President.

Sincerely,

DICK THORNBURGH.

The PRESIDING OFFICER. The time allocated to the Senator from South Carolina has expired.

The Senator from Utah has 4 minutes 20 seconds remaining.

Mr. HATCH. Mr. President, I would like to make a couple of points here. First of all, the pending amendment is not a partisan amendment. It is a bipartisan amendment that is supported by virtually all law enforcement people from prosecutors to Governors to attorneys general—Democrats and Republicans across the board.

The Biden amendment does not limit the number of times a State prisoner can come into Federal court. It actually increases it, because it has "miscarriage of justice" language in there. Any time you allege there is a "miscarriage of justice," you can have another habeas appeal and that just is nebulous as can be.

There is no reason why the Federal courts must hear every claim in every case at any time. It is a enough that a prisoner can bring his claim in Federal court once and State court thereafter, which is what we provide.

The Biden bill overrules at least three leading Supreme Court decisions which created reasonable limitations, including Wainwright versus Sykes, which enforces procedural defaults.

I have to say that the Biden and Graham bill retroactivity provision is unprecedented. It allows cases that are filed to be reopened whenever a new Supereme Court decision is handed down. There are at least 30 criminal decisions decided by the Supreme Court every year. That means there is a potential of 30 new habeas corpus petitions every year. If there is only 5, that is still 5 more than they had. It means that appeals can go on ad infintium every time the Supreme Court decides a relevant criminal court decision. Their amendments allow a single Federal district judge to overrule the Supreme Court's holding that a new criminal rule will be prospective only if the district judge believes it to be just.

Let me close by saying that Ted Bundy, notorious murderer, again connected with Utah, was on death row for over 10 years before his sentence was finally carried out. It took only 1 week for a Florida court to try and convict him for the murder of Kimberly Leach, yet it took over 10 years for the Federal courts to detemine that his sentence could be carried out. But this 10-year period was brief compared to the time Bundy would have served under death row under these two amendments if the retroactivity provision that they have in their amendments had been in effect in 1988.

Shortly before his execution, Bundy filed a final, unsuccessful habeas petition in Federal district court and his claim for relief was simple. A new Supreme Court case handed down the provisions week allegedly gave him new rights with respect to the cross-examination of psychiatric witnesses.

Had their amendments been passed, Bundy would have had a new rights since that time. The petition was summarily denied in 1988 because the new Supreme Court decision was not given retroactive effect and no Federal judge in 1988 had jurisdiction to second guess the Supreme Court of the United States of America, which their amendments would do.

Senator BIDEN's or Senator GRAHAM's bill would change all of this. It would give the Ted Bundys of the world a chance to argue before Federal district judges that they should be given the benefit of any new Supreme Court decision and a right to appeal on the basis of that through habeas corpus, even though the Supreme Court has already concluded otherwise.

Whether the prisoner is right or wrong as applicable to the new cases is entirely beside the point. Under the proposed new rule of nonfinality that Senators BIDEN and GRAHAM propose, the death row inmate's essential purpose in delaying sentence will be accomplished ad infinitum.

There are 27 appeals in one case. I have to say there would be others older than that if their death sentences had not been removed by the Supreme Court. I am confident that far more vicious murderers will die natural deaths of old age than face the consequences of their murders, should either of these two amendments be passed.

The PRESIDING OFFICER (Mr. BAUCUS). The time of the Senator has expired.

Mr. HATCH. I ask for the yeas and nays on the Hatch amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, was leader's time reserved this morning?

The PRESIDING OFFICER. The Senator is correct. The Senator may proceed.

Mr. DOLE. I believe that many people listening to these legal arguments and theatrics and loud noises coming from this Chamber might be a bit confused about what we are all about here today. I doubt that many people, unless they are specialized in this particular area, really understand all these theories and all the legal niceties of habeas corpus. Let me just try to in a few minutes give you a set of facts—I think American people understand facts. They may not understand what we do here. Maybe we do not understand it ourselves fully all the time—a set of facts which proves that the habeas corpus system is broken and needs to be fixed.

In 1978, while on parole from a jail sentence in California for voluntary manslaughter, Robert Alton Harris decided to steal a getaway car to use in a bank robbery.

He and his brother approached two teenage boys, aged 15 and 16, who were sitting in a car eating hamburgers, and forced them at gunpoint to drive to a rural area.

When they arrived, Harris told both boys he would not hurt them if they walked away from the car, and agreed not to identify him.

As they walked away, Harris shot one boy repeatedly in the back. After a chase, Harris found the other boy crouching and screaming in the underbrush, begging for his life. He shot this boy four times, returned to the first boy and shot him several more times.

Harris then returned to the car, ate the dead boys' hamburgers, and proceeded to rob a bank later that day.

Harris and his brother were soon captured and arrested, and both men repeatedly confessed to the crimes.

Harris had a jury trial, at which he was afforded all the requisite constitutional protections. He had a lawyer. He had a psychiatric examination. He had an opportunity to bring mitigating evidence to the attention of the jury in an effort to persuade them not to impose the death penalty. He testified at the trial, as was his right.

The jury convicted him on March 6, 1979. At the sentencing, Harris again confessed to the crimes, and he was sentenced to death. In 1981, the California Supreme Court affirmed the conviction and the sentence of death.

Ten years have now passed since the conviction and sentencing were upheld. In that 10 years, Harris has filed eight State habeas corpus petitions, and three Federal habeas corpus petitions. On various occasions, Harris' taxpayer-funded attorneys have argued that the California death penalty statute was unconstitutional, that the penalty was applied so as to discriminate against males, that Harris was denied effective counsel, that Harris had been denied proper psychiatric evaluations.

Not one of these claims has been found to have any merit.

The facts on which Harris based his latest Federal corpus petition have been known to his lawyers for years. Yet this new claim was not presented until 8 days before his scheduled execution, thereby ensuring the longest possible delay.

Mr. President, everyone is entitled to their day in court. Robert Alton Harris, who confessed to brutally murdering two teenage boys, has now so perverted the system that there is no end in sight to his days in court.

How much longer should the victim's family have to tolerate the thought that the defendant escapes his punishment by filing repetitive appeals? Ten more years? Twenty? Fifty? How much more should law-abiding taxpayers tolerate having to pay for the State to go to court on these matters, even though the question of guilty or innocence is not at issue? Should we spend $100,000? $500,000? $1 million?

Mr. President, nobody denies that the distinguished Senator from Delaware [Mr. BIDEN] and the distinguished Senator from Florida [Mr. GRAHAM] are unaware of the violations of the habeas corpus process.

They say that their proposal will cut down on the delays. In fact, the proposed Graham amendment will do exactly the opposite. By introducing retroactivity into the process, it will allow convicted felons to seek new delays 30 or 40 years after their sentence has been handed down.

The proposal that truly reforms the process, that truly will eliminate delays, is the President's proposal, as offered by the distinguished Senator from Utah. It has been endorsed by law enforcement organizations and State attorneys general—both Democrat and Republican—from across the Nation.

Let us not allow the Robert Alton Harrises of the world to continue mocking the justice system. Let us not allow the Robert Alton Harrises of the world to continue mocking us.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. FOWLER). The Chair is informed that all time has expired.

The question is on agreeing to the amendment of the Senator from Utah. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN] is necessarily absent.

The PRESIDING OFFICER (Mr. GORE). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 58, nays 40, as follows:

[Rollcall Vote No. 108 Leg.]

YEAS—58

Bentsen
Bond
Boren
Breaux
Brown
Bumpers
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
DeConcini
Dixon
Dole
Domenici
Durenberger
Ford
Fowler
Gorton
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Hollings
Jeffords
Johnston
Kassebaum
Kasten
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Packwood
Pressler
Reid
Roth
Rudman
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner

NAYS—40

Adams
Akaka
Baucus
Biden
Bingaman
Bradley
Bryan
Burdick
Conrad
Cranston
Daschle
Dodd
Exon
Glenn
Gore
Graham
Harkin
Inouye
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Metzenbaum
Mikulski
Mitchell
Moynihan
Pell
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Wellstone
Wirth
Wofford

NOT VOTING—2

Garn
Pryor

So, the amendment (No. 380) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 379, AS AMENDED

The PRESIDING OFFICER. The question is on agreeing to the amendment, as amended, of the Senator from Florida.

The amendment (No. 379), as amended, was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRASSLEY. Mr. President, I support the bill as it is now put together, just amended by an amendment adopted here on the floor, and hopefully we will be able to oppose any sort of other reforms that are going to detract from this and set us back further, because we need finality, and I think we are in a situation now where we are going to have greater finality and greater justice and the unclogging of the court system.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 381

(Purpose: To modify the exhaustion requirement for habeas corpus petitions in capital cases)

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania is recognized to offer an amendment with respect to habeas corpus. Debate on the amendment will be limited to 1 hour, with no amendments to the amendment in order.

The Chair will inquire as to whether or not the Senator from Delaware, the distinguished chairman of the committee, is opposed to the amendment?

The Senator from Pennsylvania is recognized to offer the amendment, and the time will be allocated to a Senator opposing the amendment after the amendment has been offered.

Mr. BIDEN. Parliamentary inquiry. I apologize because I was on another issue.

Who is in control of the time in opposition?

The PRESIDING OFFICER. Under the previous order, there is 1 hour on the amendment after it is introduced, and time will be equally divided. Thirty minutes in opposition to the amendment will be allocated to the Senator from Delaware, provided the Senator from Delaware is opposed to the amendment.

Mr. BIDEN. Mr. President, continuing my parliamentary inquiry, the Senator from Delaware does not know what the amendment is, but the prospect is he will be opposed.

Mr. SPECTER. Mr. President, might I suggest on this subject that Senators hear the amendment, including the distinguished chairman, the floor manager, because it may well be that there will be agreement with the amendment.

At this time, Mr. President I send the amendment to the desk, and I know that immediate consideration has already been provided for under the unanimous-consent agreement.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 381.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following section:

SEC. . AMENDMENT TO SECTION 2254 OF TITLE 28.

Section 2254(c) of title 28, United States Code, is amended by—

(1) striking "An applicant" and inserting "(1) Except as provided in paragraph (2), an applicant"; and

(2) adding at the end thereof the following:

"(2) An applicant in a capital case shall be deemed to have exhausted the remedies available in the courts of the State when he has exhausted any right to direct appeal in the State.''.

At the appropriate place, insert the following:

“§ . Habeas corpus time requirements

''(a)(1) A Federal district court shall determine any petition for a writ of habeas corpus brought under this chapter within 110 days of filing.

''(2)(A) The court of appeals shall hear and determine any appeal of the granting, denial, or partial denial of a petition for a writ of habeas corpus brought under this chapter within 90 days after the notice of appeal is filed.

''(B) The court of appeals shall decide any petition for rehearing en banc within 20 days of the filing of such petition unless a responsive pleading is required in which case the court of appeals shall decide the petition within 20 days of the filing of the responsive pleading. If the petition is granted, the time limit of paragraph (A) shall apply.

''(3) The Supreme Court shall act on any petition for a writ of certiorari in a case brought under this chapter within 90 days after the petition is filed.

''(b) The time limitations under subsection (a) shall apply to an initial petition or motion, and to any second or successive petition or motion. The same limitations shall also apply to the re-determination of a petition or motion or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, and in such a case the limitation period shall run from the date of the remand.

''(c) The time limitations under this section shall not be construed to entitle a petitioner or movant to a stay of execution, to which the petitioner or movant would otherwise not be entitled, for the purpose of litigating any petition, motion, or appeal.

''(d) The failure of a court to meet or comply with the time limitations under this section shall not be a ground for granting relief from a judgment of conviction or sentence. The State or Government may enforce the time limitations under this section by applying to the court of appeals or the Supreme Court for a writ of mandamus.

''(e) The Administrative Office of United States Courts shall report annually to Congress on the compliance by the courts with the time limits established in this section.''.

Mr. SPECTER. Mr. President, this amendment has been tailored to fit the situation which the Senate now confronts with the adoption of the amendment offered by the distinguished Senator from Utah [Mr. HATCH]. It targets a very narrow area on which I believe there will be wide agreement in the Senate. I do not want to assert that too positively, because you never know.

This amendment seeks to expedite the process in two important respects. It is tailored after an amendment which was offered last year by this Senator, in collaboration with the distinguished Senator from South Carolina [Mr. THURMOND] and with the support of Senator HATCH, Senator SIMPSON, and others.

I believe that it may well be that the provisions will not be objected to by the manager, the distinguished chairman, but I will outline them succinctly.

This amendment provides that after the first appeal to the State supreme court, the Federal court will then have jurisdiction. This is designed to stop multiple habeas corpus proceedings in the State court.

Mr. President, this is a subject that I had considerable experience with both as an assistant district attorney and as district attorney of Philadelphia. What I found in the regular course of events was that after the jury imposed the death penalty, the case would then go to the State supreme court, which would affirm, and then there would be habeas corpus proceedings in the State court, which would raise many of the same issues, sometimes all of the same issues, that had been raised on the first appeal to the State supreme court.

These cases would sit in the trial court for weeks and months and would be customarily affirmed, and then the case would go to the State supreme court, and it would be affirmed again. But this process could take several years.

There is one additional issue after the jury verdict, Mr. President, which is frequently raised and that is the issue of competency of counsel. California has a system, the so-called unitary system, where there is a proceeding after conviction and after the imposition of the death penalty, where there is a determination of competency of counsel before the State supreme court passes on the case the first time. I had considered requiring the unitary system, which had been present in an earlier draft. There had been considerable opposition by State attorneys general to that provision, so there is no such requirement in the current amendment. The States would have the latitude to adopt the unitary system, which California has, to provide for review of competency of counsel before the case gets to the State supreme court—or not. That would be up to the State supreme court, the State procedure, to make that determination. But Federal court jurisdiction for habeas corpus would attach as soon as a State supreme court affirms the death penalty. The Federal courts would then take up a consideration of the issues raised in Federal court habeas corpus.

I believe the drawing of a line on what is full and fair review is an extraordinarily difficult task, which the courts have not really been able to deal with. It has resulted in an enormous tennis game of bouncing these cases back and forth from Federal court to State court, then the appellate process, then back to the Federal court.

So that the thrust of this amendment is to let the Federal court review the case in accordance with the other provisions of the Hatch amendment so whatever the provision is as to full and fair review, so be it. But if any issues have not been comprehended by the State within that initial review, the Federal court will have jurisdiction. It is my submission, Mr. President, that the tradeoff here is very much in society's interest, to see to it that the Federal court hears the case once and for all and decides all of the issues.

There has been some concern raised by State prosecutors, and the testimony of Attorney General Lungren, from California, was illustrative when he raised a concern about the State having the first right to review, according to the professionals in his office who raised that concern. But the advantage is that the case will not be delayed and go through a lengthy process in the State court where frequently other decisions will come down from the Supreme Court of the United States which will add new rights, cause new hearings, and cause a very repetitious system. So that, in sum, I believe it is in the interests of the prosecutor and I believe it is in the interests of the system, once having assured that there is adequate counsel.

The second aspect of this amendment provides for a time limit on consideration within the Federal system. It provides that there would be an appeal taken within 90 days after the final action on the State proceeding which, really, is twice that long because after the State supreme court has affirmed the death penalty, as a practical matter it is determined that that is the status of the case and there is at least another 3 months while the Supreme Court of the United States denies certiorari. Ninety days after that denial of cert is the time limit for filing this action in the Federal district court. The amendment then provides for 20 days for the filing of papers, 90 additional days by the district court to determine the case, with the statutory requirement that this be the priority item before the district court.

In taking a look at the 1989 death sentences, some 249 in number, with the currently authorized Federal judgeships in the 36 States which have the death penalty—there are some 486—a Federal judge would have 0.51 of these death sentences to consider each year. Illustratively, in Pennsylvania, there were 15 death sentences in 1989 with 30 authorized judgeships. In California there were 29 death sentences with 54 authorized judgeships; Texas, 29 death sentences with 50 authorized Federal judgeships. So I think it would not be burdensome on any district judge to give priority attention to the case which he would have, which would be about half a case a year.

We have extensive hearings in the Judiciary Committee on testing out these time limits, and the consensus was that, if you give priority attention to these cases, they can be decided within the parameters set forth. If there is an extraordinarily difficult problem, the statute has leeway for an additional period of time on a showing of cause if the court cannot decide the case within the 110 days in the district court or within the 90 days within the court of appeals or within the 90 days in the Supreme Court of the United States.

There has been a good bit of comment on the floor by those who have argued about Federal habeas corpus that there is agreement that the death penalty ought to be maintained. My experience as a district attorney has convicted me that the death penalty is a deterrent. I know there are many who disagree with the application of the death penalty on grounds of conscientious scruples, and I respect that. But the current procedures for the imposition of the death penalty make absolutely no sense, when some 36 States have the death penalty, and some cases languish in the courts for as long as 17.5 years, with the average time being 8.5 years.

The death penalty and the whole judicial system are really the laughingstock of the criminal element in this country because, succinctly stated, the death penalty is not carried out in any rational way, with more than 2,500 people being on death row. It is true that if the time passes, these lengthy delays are, in effect, a way to defeat the imposition of the death penalty. But I suggest that does not make any sense in terms of a rational criminal justice system.

The European Court on Human Rights recently concluded that such delay raised an issue of cruel and unusual punishment. In the Soering case, that court found cruel and unusual punishment when somebody was on death row for many years, as in the U.S. system, contrasted with no finding of cruel and unusual punishment for the actual imposition of the death penalty.

My amendment is based upon the experience which I have had, handling these State habeas corpus cases; experience as an assistant district attorney and the district attorney on Federal court habeas corpus cases and also in the Federal courts of appeals.

Mr. President, I inquire as to how much time I have remaining?

The PRESIDING OFFICER. The Senator from Pennsylvania has 19 minutes remaining.

Mr. SPECTER. I thank the Chair. At this point I reserve the remainder of my time.

Mr. BIDEN. Mr. President, speaking to the managers on the Republican side, I think they are opposed to this as well. I am not sure. I do not want to take all the time in opposition.

Mr. President, I understand what the Senator from Pennsylvania is attempting to do. Last year, under the President's other habeas corpus bill, his approach had some merit, in my view, arguably. But what we just did is we just agreed to a habeas corpus amendment that effectively eliminated Federal habeas corpus because of this provision called full and fair.

Now my friend from Pennsylvania will, by definition, be redefining what full and fair is because he will effectively eliminate State habeas corpus because there is what he says, and he is right, by the way: The States, not the Federal Government, the States have a long process. You get convicted of murder, after the conviction of murder, you appeal the murder conviction to the first appellate court in your State—I do not know what it is in Tennessee, but in Delaware you go straight to the supreme court of the State of Delaware. In the State of New York, you go to the, I think it is the supreme court next and then the court of appeals. I do not know. Each State has a different court system. But you appeal through the State as to whether or not the original decision by that jury was correct.

Then after that decision is affirmed by the highest court in the State, that is the time in most States when you are allowed to file your first habeas corpus petition in the State.

What my friend from Pennsylvania is suggesting is that what in the past has occurred is that you go through the whole State process in the State habeas corpus appeal, which eats up a lot of time. Then, after the State is all finished—and it is almost always denied—you get to the Federal level and then you go through the whole Federal system as it was before. You go to the district court and you go to the court of appeals and then you go to the Supreme Court, et cetera.

We have just set time limits down—we would have set them down as well in the Biden amendment and the Graham amendment. We have a time limit of 6 months from the time you finish up in the State. OK, everything is finished in the State. There is nothing more to do in the State. Six months from that time, and only 6 months, you have to file in Federal court your habeas corpus petition.

But the amendment we just agreed to says that if you have gone through all the chairs in the State, you do not get a chance to do that because the court will say you had a full and fair hearing in the State court. So you do not even get a chance to go to Federal court. But on the chance that you can prove you did not get a full and fair hearing in the State court, you get to file that appeal, whatever that habeas corpus petition.

So we have greatly constricted the time, which I wanted to do. We greatly constricted the circumstances under which you can exercise that time, which I did not want to do. And now my friend from Pennsylvania, if I understand him, is saying we are going to greatly constrict, as a practical matter, your ability to even exercise your State habeas corpus rights because he says that the clock starts to toll.

I realize this is a pretty complicated issue for people who do not follow it, or nonlawyers, but that button gets pressed and the clock starts to run 90 days from the time the Supreme Court of the State of Delaware said you were rightly convicted in the superior court. From that time you press that button, you have a chance to file a petition in the State court. But if you use that 90 days, if you file in State court, you are going to use up all your 90 days. Very few State courts will resolve that in less than 90 days, so the clock is ticking.

After you get that one shot now in your State on habeas corpus, all your time is up. You are finished. So now you do not have any access to Federal court and you have only had that one shot in your State court. So even in the circumstances where maybe there was not full and fair proceeding, as I understand it, you are out of luck because you chose to try it in the State court.

On the other hand, if you do not want to do that, you can bypass the State court. The clock ticks, you press the button and 90 days starts to run and you can try to go directly to Federal court within that 90-day period, if I understand the Senator correctly. At that point, Federal court is going to say to you, in all probability, well, look, you got a full and fair hearing in the State court. You exhausted all your remedies. You had the right to file your habeas corpus petition. You did not. You tried us, and you had the right to appeal your case, which you did. So from our standpoint, Federal court, we look at it and it looks like you got a full and fair hearing in your State proceedings. So, sorry, we are not going to hear your Federal habeas corpus petition.

The 90 days will have run by the time Federal court says that, and now you go back and say, wait a minute, you would not hear my petition, but let me try it in my State court. Let me get one shot somewhere, anywhere on habeas corpus. Am I right or wrong?

Mr. SPECTER. Will the Senator yield? Wrong.

Mr. BIDEN. Tell me how I am wrong. I may be because I have only just seen this amendment now, as I recall.

Mr. SPECTER. The amendment provides that in Federal court there will be an opportunity for the petitioner to raise the facts, legal issues, which were not decided in the State court.

Mr. BIDEN. Can I stop the Senator, it will help me not to argue but to be enlightened.

Mr. SPECTER. Sure. I appreciate that.

Mr. BIDEN. But under the President's amendment, or the Hatch amendment which was just agreed to, you are not going to get a chance to raise those factual issues if Federal court concludes that in the State court you got a full and fair hearing. You are not even going to get a chance to raise it. You do not even get a chance to do that.

Mr. SPECTER. You would in the Federal court.

Mr. BIDEN. How?

Mr. SPECTER. Illustratively on the issue of competency of counsel, assume you have a State that does not have California's unitary approach. The State may provide for a hearing after the death penalty is imposed on competency of counsel which would then be comprehended in the first appeal to the State supreme court or it might not.

If the State does not adopt, say, the California approach, and there is a question on competency of counsel which has not been raised in the State court prior to the State supreme court affirming the death penalty, then that issue can be raised factually and legally in the Federal court.

Mr. BIDEN. If the Senator will yield on that point, Mr. President, as I understand it, the testimony before our committee by the administration and the experts who came to oppose it say, no, that is not true because the State will have made a judgment that there was competent counsel and if it was not raised, then it is waived at the State level. And if you waive it at the State level, in fact, you cannot raise it and it is affirmed as having sufficient counsel, then it has also been adjudicated and it is not appropriate at a Federal level because it is full and fair hearing at a State level.

Mr. SPECTER. That would not be the case under this amendment because if the State did not have a California unitary procedure, there would not be an opportunity to raise competency of counsel before the State supreme court affirmed the death penalty.

The State may cure that or may provide for a procedure to raise competency of counsel.

If I might illustrate it further for my distinguished colleague from Delaware, there are a variety of issues which come up in the course of a trial. There may be an issue on search and seizure. There may be an issue on confession. There may be an issue of perjury. Those issues are considered by the State courts; defendants take an appeal and that is the conclusion of it.

The only one issue which customarily or frequently is not raised in the course of the trial on those issues which are known to counsel would be the question of competency of counsel, because a lawyer is not about to say that he was incompetent during the course of the trial itself.

California provides a procedure where competency of counsel can be taken up after the jury verdict but before the time the case goes to the State supreme court, and then there could be a determination of competency of counsel.

If a State does not provide for that kind of a procedure, then the defendant, the petitioner may raise that in Federal court and may have a determination, there has not been a determination in the State court.

Mr. BIDEN. If the Senator will yield, I more clearly understand his position now and it appears he is raising the competency of counsel, but that is the only issue. In every other issue that a defendant would have an opportunity to raise relative to the constitutionality of the proceedings, the sentencing or the fairness of the proceedings generally, in every other issue, what the Senator is asking the Senator from Delaware and others to vote on is, you say, OK, here is what we are going to do. If the issue is other than competency of counsel, we have now eliminated your Federal and we are now going to eliminate your State, as a practical matter, habeas corpus. Because what we are going to say to you is if it is a matter of whether or not blacks have been unfairly, the Batson case the Senator likes to refer to a lot. I mean that rightly, or a more egregious violation where it is clear that they just factually would not let blacks sit on the jury, but the State court reviews that and says fine, it is OK; you are properly convicted, under the amendment the Senator is proposing, the defendant would be in a heck of a spot. The defendant knows he is not going to get reviewed by a Federal Court because of full and fair—he is likely not to—and he knows now he only gets one shot within 90 days to try it in the State. He has to gamble: Do I go into Federal court, roll these dice and go into Federal court and make my case that full and fair was not met because they denied any black from sitting on the jury in Pocomoke County where I was convicted, or do I not do that and go straight to State court. But the clock ticks. Bang. The button is pushed.

Mr. SPECTER. If the Senator will yield, I would make this suggestion, that where you have an issue such as a line-up or confession, and that issue was raised at trial and was denied by the trial court, and then that case goes to the Supreme Court, illustrative, of Delaware, then Delaware looks at the case and affirms, and then you come back and raise that issue on habeas corpus collaterally and argue it again in the trial court, I have seen dozens, hundreds of them, and they are summarily dismissed because the State supreme court has already considered it, and then an appeal is taken to the Supreme Court which has already passed on that issue and it is affirmed summarily. It is a rare circumstance where there was something presented in a State habeas corpus proceeding which brings something new to light other than that which had already been considered in the initial trial. I would suggest that if you have that kind of a situation, you will have relief in the Federal court.

Mr. BIDEN. How, I ask the Senator?

Mr. SPECTER. Because the consideration in the State court would not have been full and fair. If you are going to have the State supreme court change its mind on a State habeas corpus proceeding, I submit that the circumstances would have to be sufficiently egregious that it would bring review in the Federal court. What happens virtually always is that when these issues are relitigated in the State court, the result is the same.

Mr. BIDEN. Mr. President, so what the Senator is practically saying is any time the State supreme court affirms, it must be right. How about the situation where there is an allegation that fails to be raised, the defense is failed to be raised that, let us say, the prosecution withheld evidence or evidence that would go to the innocence of the——

Mr. SPECTER. If the Senator will yield, I am not saying that the State court is always right. I am just saying they are not going to change their mind on the same facts within the course of a reasonably brief period of time.

Mr. BIDEN. What I am suggesting to the Senator is if you now eliminate my Federal right and I am innocent, even though the State supreme court was wrong once, I do not want to give up the prospect that I may be able to convince them the second time, especially since what you have done to me in this bill you have voted for is eliminated my right to raise that right at the Federal level.

Mr. SPECTER. If the Senator will yield, Mr. President.

Mr. BIDEN. Yes.

Mr. SPECTER. Taking up the illustration which the Senator started with where some evidence had been withheld, if that issue had not been raised in the State court, under my provision you would have the right to raise it in a Federal court.

Mr. BIDEN. How?

Mr. SPECTER. Because the issue had not been considered in the State court. This would be the same as the issue of competency of counsel.

Mr. BIDEN. Mr. President, if I may ask, so the Senator is saying to me he is amending the President's bill to say, the President's bill now says if you did not raise it, you lose it. If you did not raise whatever it was in the State court within the time period that was called for, you lose the right to raise that in a Federal court because you have gotten a fair and full hearing and you waived your right to do it. We are big on times now. We are big on efficiency now.

Is the Senator saying to me he is going to amend that provision of the President's bill to say that if I did not raise an issue of competence, an issue that goes to my guilt or innocence, or an issue that goes to the constitutionality of my sentence, if I did not raise it in the State court and I am convicted, and I go through the whole process which is being streamlined in the State court, and I can then raise it in the Federal court and argue that, notwithstanding I received a full and fair hearing at the State court level, notwithstanding that I waived it by failure to raise it at the State court level, I can now raise it federally? Is that what the Senator is saying to me?

Mr. SPECTER. I am saying that.

Mr. BIDEN. I might be for this then.

Mr. SPECTER. I am saying that, because if you can attract the Delaware State Surpeme Court to change its mind within a short time span, from the time they affirmed the death penalty on the State habeas corpus, you would have the kind of an argument which would be raisable in Federal court habeas corpus.

I would submit this to the Senator from Delaware, that the facts of life are that however you articulate a full and fair opportunity to raise an argument—and Justice Powell himself testified to this in hearings before our Judiciary Committee—that there was a miscarriage of justice or there were facts which did not come to light, without a very technical standard for what could have been raised at an earlier time, the Federal courts hear those issues.

What you have today in the State courts on habeas corpus is the State courts affirm summarily, not that they are always right, but they are not going to change their mind without some very strong showing, and occasionally they do. But if you have that kind of a case where the State supreme court is going to change its conclusion within a relatively brief time period, that is the kind of a case I comprehend with an opportunity for being raised and decided in the Federal habeas corpus proceeding.

Mr. BIDEN. If the Senator will yield, Mr. President.

Mr. SPECTER. Yes.

Mr. BIDEN. I think the Senator has a much more generous view than our President does of what constitutes full and fair. I might note for the record Justice Powell opposed the President's bill, the one we just voted for in this body, because of the full and fair provisions. And the Federal court judges opposed this bill, by the way. But anyway, it is now passed, or at least it is in the bill. Now, the Senator suggests that if in fact a time limit within which to raise an issue passes and it is an important issue, somehow the Supreme Court will say, Federal courts will say, by the way, that goes to full and fair, and therefore lets you raise it now.

The Supreme Court just ruled that notwithstanding the fact that there was an incompetent counsel, notwithstanding the fact that the counsel failed to file the habeas corpus petition that the defendant wanted filed and did it 3 days late, this Court, the Supreme Court, said sorry, Charlie, you are out—notwithstanding the fact that your counsel made a mistake and let the statute run—of luck, regardless of what your claim is, period. You are out of luck. You cannot raise it now.

We have amended a full and fair provision in here which means that you cannot fathom the Supreme Court making a judgment as saying that the State doing the same thing that the Federal court does where we just ruled somehow does not constitute full and fair.

I say to my friend from Pennsylvania for whom I have great respect, and I mean that sincerely, and who is a first-rate lawyer, I think that maybe the Senator wishfuly thinks, with all due respect, that full and fair means fair, like he and I mean fair—different than all the experts that testified before our committee on this full and fair provision as stated. Everyone else thinks, the administration thinks, the administration says, the managers of the bill say, the witnesses said full and fair means if the State court, even if they apply the Constitution wrongly, if they did it in a fair procedure, they were procedurally proper, although they were stupid, that that is OK. That meets full and fair. All it says is a dumb person just has to be fair, give the guy a chance to make his argument, be dumb, make the wrong conclusion, and that meets full and fair.

What we just codified here is the ability for judges to be stupidly fair. That is a nice thing we just did. We just say judges are incompetent, State courts—they are not incompetent: State court judges. But if they were, they make an incompetent ruling, if they did it fairly, even though the court, Federal court, would say they misinterpreted the Constitution, that meets full and fair. That was the testimony I say to my friend from Pennsylvania. That was the testimony before our committee.

So if the Senator's view of full and fair were really what full and fair meant, were really what the legislative language says, were really what the experts testified, were really what the administration meant, then we have a different story. But full and fair means you do not have to be right; you only have to think you were right, and do it fairly.

Mr. SPECTER. If the Senator will yield.

Mr. BIDEN. I yield. Excuse me. Parliamentary inquiry. I assume the time each of us speak is being charged to each of us.

The PRESIDING OFFICER. The Chair will advise the Senator from Delaware was recognized and has the floor, and the colloquy which has been ongoing has been charged against the time of the Senator from Delaware. The Senator from Delaware has 6½ minutes remaining, and the Senator from Pennsylvania has 18 minutes and 15 seconds.

Mr. BIDEN. Mr. President, if I can point out, I have just demonstrated what I mean by stupidly full and fair. I have just demonstrated that. I was completely fair—and as the Senator will yield me time; I know he will—but that is a perfect example. I went through a procedure here that everyone up here would assume that we would be doing this by each of us having the time charged against ourselves since we are limited. But the Chair did exactly what was right.

Under the rules, the rules say whoever has the floor the time gets charged against. Now no one up there I think would think it was equitable that I be out of time, notwithstanding the fact that the Senator from Pennsylvania talked half the time. They will not think that was equitable. But it met the precise definition of a Senate rule. Procedurally we were right.

Mr. SPECTER. If the Senator will yield.

Mr. BIDEN. This is on my time. I will yield in just a moment. I know he is going to yield me time. That is not my point here. My point is to illustrate what full and fair means. This is a perfect example of it.

Any court looking at the rules of the Senate would say, notwithstanding the fact that it is not fair, any reasonable person who did not know the precise rule would assume, that the time would be split. But, nonetheless, the Senate, the court of the Senate, adhered to their procedures. They went through the procedure properly. Justice did not result, but procedurely we were precise. That is what full and fair means.

That is why the Supreme Court, the district court, the circuit court are never going to get a chance to find out whether or not, notwithstanding the procedure is right, whether the persons applying the procedure happened to be dumb, happened not to understand the Constitution, happened to wrongly apply the first, the second, the third, the fourth, the seventh, the sixth amendment. That is the travesty we just committed in this bill.

I will yield now my time—I yield the floor, not my time.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I had sought early on to assure my colleague from Delaware that I would share that time.

Mr. BIDEN. I know.

Mr. SPECTER. I will do that. I listened to his last presentation because——

Mr. BIDEN. Because that would be fair.

Mr. SPECTER. And full; this is the only time that I vitally disagree with my good friend from Delaware because my being willing to share the time in a good faith manner is an illustration of my argument as to what full and fair does.

When JOE BIDEN and ARLEN SPECTER do business together, we will work it out. That is the thrust of my amendment—to give hearing in Federal habeas corpus when there has not been a consideration of the issue in the State court.

Mr. President, as I listened to what the chairman of the Judiciary Committee has had to say about full and fair, and the Supreme Court's rulings, I have to agree with him that they are virtually impossible to understand. And there is a case which came out of Pennsylvania, Philadelphia, captioned Castille versus People, where the State superior court, an intermediate appellate court, had upheld a conviction. The State Supreme Court denied a allocatur which was discretionary. In the allocatur petition, the defendant had raised issues of constitutional magnitude.

The case went to the district court which ruled that there had not been adequate consideration in the State court, and the Supreme Court of the United States reversed the court of appeals, all on a minuscule argument as to whether the State supreme court in its discretionary review had considered the merits of the defendant's claim.

There was more time spent on building castles in the sand in that case as there is in so many, many cases. And perhaps what really needs to be done is to further refine what the U.S. Supreme Court has defined as stated to be full and fair because the adoption of the amendment by the distinguished Senator from Utah on full and fair is not going to put this issue to rest. This bill has a long way to go between now and the House of Representatives, and the conference. Even if full and fair is defined as it is in the text, it is going to be subject to more interpretations and reinterpretations with more time lost in the appellate courts and dancing around procedural rules which make the old common law pleading rules look simple.

So this may be a subject which we are going to have to address, really, in much greater detail.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CONRAD). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware.

UNANIMOUS-CONSENT AGREEMENT

Mr. BIDEN. Mr. President, I ask unimous consent that upon the disposition of the Specter amendment, the Helms amendment No. 378 and Symms amendment No. 377 be temporarily laid aside, and that Senator D'AMATO then be recognized to offer an amendment requiring the death penalty for firearm murder, on which there be 90 minutes of debate equally divided and controlled in the usual manner, with no amendments to the amendment in order; further, that when all time is used or yielded back, the Senate proceed, without intervening motion or debate, to vote on or in relation to the D'Amato amendment, and that no motion to recommit the bill be in order during the pendency or the D'Amato amendment.

I am told this is cleared by the Republican leader, as well as the majority leader.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BIDEN. Mr. President, parliamentary inquiry. I suggest the absence of a quorum, and I ask unanimous consent that the call of the quorum be charged against neither the Senator from Delaware or the Senator from Pennsylvania.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, the distinguished ranking member of the Judiciary Committee, the distinguished Senator from South Carolina, has been in touch with members of the administration and has asked for an opportunity to discuss certain parts of this bill.

The distinguished Senator from South Carolina has not yet taken a position, and I think it would be useful to have those discussions on certain issues which have been raised; and the extent of the discussion that Senator BIDEN and I have had have eliminated some of the complexities of full and fair consideration.

After having discussed the matter with the chairman and the ranking member, I ask unanimous consent that my amendment be set-aside and that the proceedings outlined under the unanimous-consent agreement requested by Senator BIDEN take place, and Senator HELMS have an opportunity to pursue his amendment, and then my amendment recur later in the day.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I ask unanimous consent that we now proceed to the consideration of the D'Amato amendment under the conditions that were stated in the previous unanimous-consent order.

The PRESIDING OFFICER. Without objection, the Senator from New York [Senator D'AMATO] will be recognized for 90 minutes for the purposes of offering an amendment.

Mr. D'AMATO. Mr. President, first, let me thank the distinguished manager of the bill, Senator BIDEN, and my good friend, Senator THURMOND.

Let me take this time to thank Senator THURMOND and his staff for having worked with us not only in the preparation of this legislation but over the years, and particularly when I think we have made a very significant contribution as it relates to the death penalty for the drug kingpin, notwithstanding that there may be a limited number, I think one prosecution of a drug kingpin at this time. Indeed, even one who deserves to be prosecuted and the death penalty sought for horrendous acts that have been brought is one more than there would have been had that legislation not passed.

AMENDMENT NO. 382

(Purpose: To provide for the death penalty for homicides involving firearms)

Mr. D'AMATO. Mr. President, at this time I send an amendment to the desk on behalf of myself, Senator THURMOND, and Senator MACK and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself, Mr. THURMOND, and Mr. MACK, proposes an amendment numbered 382.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . Chapter 51 of title 18, United States Code, as amended by this Act, is further amended—

(a) by adding at the end thereof the following section:

"SEC. . MURDER INVOLVING FIREARM.

"(a) OFFENSE.—Whoever has been found guilty of causing, through the use of a firearm, as defined in section 921 of this title, the death of another person, intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or through the intentional infliction of serious bodily injury, shall be punished by death or imprisoned for any term of years or for life. Whenever the government seeks a sentence of death under this section, the procedures set forth in title 18, chapter 228 shall apply.

"(b) JURISDICTION.—There is federal jurisdiction over an offense under this section if—

"(1) the conduct of the offender occurred in the course of an offense against the United States; or

"(2) a firearm involved in the offense has moved at any time in interstate or foreign commerce.

"(c) It is the intent of Congress that this subsection shall be used to supplement but not supplant the efforts of state and local prosecutors in prosecuting murders involving firearms that have moved in interstate or foreign commerce that could be prosecuted under state law. It is also the intent of Congress that the Attorney General shall give due deference to the interest that a state or local prosecutor has in prosecuting the defendant under State law. This subsection shall not create any rights, substantive or procedural, enforceable at law by any party in any manner, civil or criminal, nor does it place any limitations on otherwise lawful prerogatives of the Department of Justice."

And (b) by amending the section analysis to add:

" . Murder Involving Firearm.

Mr. D'AMATO. Mr. President, let me again say that I do not claim that the death penalty amendment which I am offering is going to eliminate violence in our urban centers, eliminate the crime wave, or stop the epidemic of killings that have been taking place. But I will suggest, and particularly in those States, in my State, the State of New York, where there is no death penalty, where tragically we have made this a debate forum, where tragically notwithstanding that 75 plus percent of the people believe that there should be a death penalty, where tragically the murders continue in unabated manner to escalate, where the use of guns today has outpaced, in homicides, anything we have ever seen before, where fully 70 percent of those people killed last year in the city of New York, over 2,000 homicides and growing, were killed as a result of a gun.

Let me suggest to you I am not going to question the intent of those who say the Brady bill, with all of its improvements and all of its deficiencies, may not be some form of control and may make people feel good. But it is not going to stop the carnage in New York. It is not going to stop the criminal element, the drug gangs, and, yes, even the youngsters who have guns today from using them. It provides nothing to stop them, nothing to say that if you walk into a school yard, as they are doing now, or in a social club, and open up with wanton disregard, that there is something that you have to fear.

And, indeed, they will tell you after they shoot down someone, after they have a holdup in a grocery store, "I have nothing to fear. You could not give me anything more. You could put me in prison." And what is the average length of the prison stay? Seven years for a murder in this Nation. Seven years if you take a life. So what you are really doing is encouraging people to say, "I will eliminate a potential witness. There is nothing you can give us. Prisons are overcrowded. We will be out in no time."

And what about the execution of our police officers? We have a tragedy in this Nation. If we could refer to the statistics as it relates to the number of officers over the years who have been gunned down, it is incredible. People shoot them down. This is a decade of shoot the police officer. "Well, what are you going to do to us?"

So we have a situation nationally, homicides, 206,000 in the past decade. Law enforcement officers, who would believe it, 866 law enforcement officers in the last decade. It used to be that the word was no one ever, ever would turn on a police officer. It was the unwritten rule of the street, in urban areas, suburban areas, rural areas. That is no longer the case. "We have this fire power, we may as well use it. What are you going to do? We will get 7 years in prison." Out of the 866 law enforcement officers who were killed, 791 were by way of the use of a gun—791.

So let us really get down to it, because it seems to me what we have to be saying is not that we are going to take the honest, law-abiding citizen who registers, who does whatever you want, who does not use his gun to go around committing crimes; a vast 99 percent of them, never; 99.9 percent. We may have some feel good. You want people to feel good. We are going to stop. You do not have to register 7 days. So, if a person comes in and registers 7 days, what do you do? You do not even have the facility to be able to detect whether that person has a criminal record, is mentally unstable, is a drug addict. That is fine. But you do not have that sometimes. Oh, we have it on the books. That is going to stop all the carnage. It is not. It is absolutely not. It makes people feel good. Fine.

What we need is some penalties for the people who use guns. If you kill somebody with a gun, if you planned it, a planned execution, if it is wanton disregard for other people's lives and you come into a neighborhood and you open up—death penalty. Let us be subjected to it.

Let me tell you something. In my State, and I single it out, we desperately need it.

What my bill will do, Mr. President, is give an opportunity for the death penalty to be applied by a Federal prosecutor in these kinds of cases. Use a firearm that has been transported, manufactured, come across the line of a State—and 96 percent of those come by way of interstate commerce and pursuant to the commerce clause—that is the basis by which we will have jurisdiction if that gun is used in the commission of a crime and results in the death or the killing of someone. And our U.S. attorneys will have the ability to seek the death penalty.

In the State of New York, I believe it will be a very powerful tool. Are they going to use it indiscriminately? Are they going to usurp the local district attorney? No. As a matter of fact, I suggest over the years it has been proven, where there used to be a tremendous battle between the locals and the Federal authorities, that we have cross designations that we see regularly-local district attorneys being designated by the Federal prosecutors and vice versa. I think it will be used to complement the law enforcement efforts of State officials, both those who have the death penalty and those who do not.

As it relates to conspiracy to kill, or conspiracy theories generally, the Federal law gives to the law enforcement agencies a much greater ability to bring cases and convictions they might otherwise not have. So there are advantages that this will give to local prosecutors even in those States that have the death penalty. They may choose to go to the Federal prosecutor to seek his cooperation, his help.

As it relates to my State in particular, it relates to the 55 officers in New York State who were killed with firearms over the past decade. It would have given authority in those appropriate cases where there was a wanton disregard, where it was malicious, where they were execution styles. I think of the case of Matthew Byrne, a 22-year-old police officer who was executed. The fact is, had we had this law on the books they could have gone after those who ordered the execution, those who actually carried it out, and sought the death penalty. A very powerful message is not being received in my State and in other areas. It is a very powerful addition, this tool.

Mr. President, every year 14,000 people in this Nation are killed, homicides by way of guns. In our hospitals, and particularly our urban centers, not just New York, we find in emergency rooms one of the latest specialties is the treatment and removal of bullets from pregnant women. How will we do that in a manner that will preserve the life of the child and/or the mother?

Unfortunately, it has come to a situation where some of these battles have no regard, when they are fighting over turf, for people who may be in their homes, people who may be walking down the street, who may be in the parks. So we have this alarming new thing in terms of emergency rooms picking up these kinds of expertise.

The firearm death rate? My colleagues want to know why we should have a death penalty for those who use a gun in the commission of a homicide. I suggest very few of these murders would be eliminated, as well intentioned as it is, by the Brady bill. But the death rate for teenagers in the United States of America exceeds the total from all natural causes of death, that death rate as a result of firearms.

The Department of HHS in 1988 said there were 16,000 teenagers and young adults who were killed with a gun; 16,000. How many may not have taken place where there is a view that there is a punishment that will take place if in wanton disregard you come in and start your shooting?

These killings deserve, I suggest, in many cases, the death penalty. Is it going to stop the ravaging of our streets? No. But it does bring about a sense that we are serious.

I am going to offer later, when I have the opportunity, when the business of the floor permits, another amendment to augment this. So it should not be said, well, the Senator is taking a simplistic solution. In that amendment—I am only going to explain it for several minutes—what I will be doing is seeking mandatory minimum sentences for the use of a firearm. If a firearm has come across State lines and is used in the commission of a crime, there will be very, very strong penalties attached to it.

If we want to begin to bring domestic tranquility, then we have to see the law is enforced and that we have a law that makes sense and sets a real penalty; which says if you use a gun in the commission of a crime—and it does not have to be a Federal crime—minimum 10 years, if that gun has come across a State line. And most of them have.

The Brady bill is not going to do that. It is not going to increase any penalties. We are not going to go after the people who use these guns. Ten years, that is an answer the people need. It is not a political answer. It says if you use a gun in the commission of a crime, if you hold up somebody, put them in fear: 10 years. Discharge the firearm: 20 years. And, if you use a firearm that has any kind of silencer device—now we are talking about the hired killer, the assassin: 30 years. Under the legislation that is pending at the present time, you kill someone: Death penalty.

Why do I say we need real mandatory sentencing? Because, unless we have this we have the plea bargain, and I will go into those statistics when I present the other amendment on the floor. They are shocking.

In my State we have the toughest law, the Sullivan law, as it relates to the possession of an illegally received pistol, or pistol that is not registered—we have the law. The average sentence in New York City is something like under a year—under a year. As a matter of fact if you are arrested for the first time I think now they have something like a mandatory 6 months. But with time off for good behavior and whatnot, they are literally right out on the streets.

If we begin to effectuate a policy of enforcing the law with no exceptions, then we are going to begin to bring about a curtailment of that kind of illegal activity. You want to get guns off the streets so they are not going to be used for unlawful purposes? Then you make sure there is a real penalty and you make sure it is going to be followed up. That is how you have a chance of curtailing the carnage that is taking place.

We should stop passing laws that make people feel good but do not do anything. That is going to be the supplemental part of my effort. It is not going to be just a death penalty, but if you use a gun in the commission of a crime, real punishment. That is what we need. We certainly need it in my State and I cannot think we do not need it in other States.

Senator BIDEN made clear on Thursday in his opening statements, he said about the crime bill, maybe there will be a total of a half a dozen people who would fall within the purview of it under the death penalty provisions under the bill. I believe that may be the case. And in order to stop the slaughter which is taking place I say we have to expand that jurisdiction.

The amendment I am proposing today says our present law is not sufficient. Our amendment authorizes the death penalty for homicides committed with a firearm. So that instead of a potential of maybe six defendants being tried, we will cover a potential for literally thousands who today escape prosecution, that should be prosecuted and should have the possible punishment of the death penalty.

Again, I am not going to oversell this amendment, but I think in most instances murder prosecutions would continue to be carried out by local district attorneys' offices, except in those 14 States, one of them being my State, the State of New York, that has no death penalty. For the most aggravated crimes, the creation of a Federal jurisdiction will be an important complement to State and local law enforcement efforts.

Even the most innocent of all, our children, are victimized. In New York last year, 75 children were murdered. Of these children, 39, more than half of them, were shot; 10 children were killed by stray bullets, including Veronica Corales. She was 9 years old, shot as she slept in the front seat of her father's car.

And Rayvon Jamison, 9 months old. He was shot to death in his walker when a bullet tore through the family's apartment. Here is a youngster who was in his apartment.

Under my amendment for the first time Federal jurisdiction would exist to prosecute homicides committed with a gun, if the homicide was committed in the course of some other Federal crime or if the firearm involved in the crime had moved at any time in interstate or foreign commerce.

Since the firearms used in the commission of murders have, in most instances, been manufactured in a different State and transported at some point over a State line, this has the practical effect of extending Federal jurisdiction over homicides committed with firearms, as a practical matter.

We are told by the Justice Department 95 to 96 percent of the firearms fall within this category.

The average sentence in State court for a murder today is less than 7 years. My amendment will not solve that problem completely, but it certainly will help.

No longer will the availability of the death penalty for a depraved firearms killer be dependent on the ability of overburdened district attorneys and county attorneys to investigate and prosecute a capital case.

This amendment will make the resources of our U.S. attorneys offices and Federal investigative agencies available to ensure that the ultimate punishment, where necessary, where appropriate, at least can be sought and obtained.

In States that lack the death penalty under their own laws, Federal prosecution may be the only manner by which to obtain the appropriate justice if there is wanton disregard for the victim.

Also, in many cases, there may be problems which States will have as a result of the law in not having the kind of tools that we and Federal prosecutors have made available to present a better case, to offer evidence that will be more complete. It would be my hope that the local district attorneys and Federal people working together will be able to provide for the people of our country, the law-abiding citizens that which they deserve, and that is domestic tranquillity. We are losing that domestic tranquillity.

Mr. President, under Federal law, a criminal gets no bail. His danger to the community is, therefore, greatly reduced while his trial is pending in Federal court.

We have seen that in my State. So where you have someone who uses a gun in the commission of a murder or, as I propose in legislation that I will be submitting, violent street crime, using a weapon, what that will mean is that person will be taken off the street.

Under my amendment, the death penalty can be considered if the offender causes the death of a person "intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or * * * through the intentional infliction of serious bodily injury."

The offense under my amendment would be committed if an offender, acting with that state of mind, used a firearm to kill another person.

In conclusion, I would like to cite the following homicide statistics from the Justice Department's 1991 report on violent crimes in the United States. Firearms were used to commit 62 percent of all homicides in 1989. For criminals convicted of murder or nonnegligent homicide, the average expected time to be served was only 6 years and 7 months. If we are going to talk about a deterrent, I suggest that what is taking place today is not a real deterrent in terms of the criminal who is committing these murders.

Between January 1, 1977, and December 31, 1989, there were only 120 executions carried out by 13 States.

Mr. President, our communities, our cities, our towns, are being ravaged and Government has failed in its primary responsibility. Anyone at any time innocently minding their own business, doing their own job, even in their own homes, can be the next victim. The people are entitled to protection.

I believe it is time for us to get serious. I believe it is time for us to put violent criminals where they belong, take them off of our streets, to stop the revolving door and to see to it that those killers who manifest such a depraved standard of conduct should be properly prosecuted and be subjected to the death penalty.

Mr. President, I am going to hold off asking for the yeas and nays because I do not believe we have sufficient numbers to obtain them, but I will do that.

Mr. President, since there are no other Members seeking recognition at this time, I will touch on the issue of States' rights and prerogatives of local prosecutors so that we establish a congressional intent.

First, there is no interest here in replacing State enforcement. This amendment clearly provides:

> It is the intent of Congress that this subsection shall be used to supplement but not supplant the efforts of State and local prosecutors in prosecuting crimes of violence and drug trafficking crimes that could be prosecuted under State law. It is also the intent of Congress that the Attorney General shall give due deference to the interest that a State or local prosecutor has in prosecuting the defendant under State law.

So we are not attempting to usurp State jurisdiction. We are really looking to complement, to aid it, and in those States where there is no death penalty and where the local prosecutor and Federal prosecutor may deem it appropriate to seek it to give them that option which they now do not have.

Second, gun homicides are not a purely local matter. They make a mockery of the Constitution's promise of domestic tranquillity. Not so long ago, it was said that street-level drug dealing was a local and not Federal matter. Yet, in recent years, Congress has recognized the need and has changed Federal law to bring street-level drug dealing under Federal jurisdiction. As a result, thousands of street-level drug dealers have been arrested by Federal agents. Like the drug epidemic, the national epidemic of gun-related homicides requires increased Federal attention, expanded Federal jurisdiction and increased use of Federal law enforcement resources to punish depraved killers using firearms.

Finally, the Commerce Clause article I, section 8, clause 3 provides as follows:

> The Congress shall have the power * * * to regulate commerce with foreign Nations, and among the several States, and with the Indian Tribes.

The Supreme Court in *Brooks* v. *United States*, 267 U.S. 432, 436–437:

> Congress can certainly regulate interstate commerce to the extent of forbidding and punishing the use of such commerce as an agency to promote immorality, dishonesty, or the spread of any evil or harm to the people of other States from the State of origin. In doing this, it is merely exercising the police power, for the benefit of the public, within the field of interstate commerce.

That was reaffirmed in United States versus Darby, according to the Congressional Research Service's 1987 analysis of the Constitution, at page 159:

> The Commerce Clause power has been exercised to protect the public against evils both natural and manmade." *See Perez* v. *United States*, 402 U.S. 146.

Mr. President, at this point, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. D'AMATO. Mr. President, I will respond later.

Mr. THURMOND. Will the able Senator yield to me?

Mr. D'AMATO. I certainly do yield.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise to support the amendment of the Senator from New York. This amendment provides that murders committed with firearms may be subjected to the death penalty under Federal law. Gun-related homicides have increased to such an extent that they pose a serious threat to every American.

This amendment improves the pending bill by federalizing every murder committed with a firearm. Yet, it makes it clear that it is not the intent of Congress to supplant State and local efforts. In other words, States rights are not infringed by the amendment. Rather, it encourages the State and Federal authorities to work together to prosecute, convict, and appropriately punish brutal murderers.

This amendment, I think, improves the bill. For these reasons, Mr. President, I urge my colleagues to support this amendment as it complements the State efforts. I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, again, as I indicated, I intend, when given an opportunity in connection with my colleagues, to offer legislation which I think is even more comprehensive and more important. Let me tell you why I believe it is more important. I will give the statistics in terms of not only the homicides but the crimes that are committed. I hope we will be able to do that when I offer that amendment.

The thousands of vicious crimes that are committed and the fact that guns are being used in the commission of these crimes I think is absolutely scandalous if local jurisdictions who want to complain about this do little or maybe they lack the sufficient prison space, resources, et cetera. I do not want to see an abdication of local responsibility to Federal but nor do I think that those of us who have a basic responsibility and recognize it that much of the crime that takes place is drug related. Seventy-five percent of the murders that take place in the city of New York, for example, are either directly or indirectly drug related. Those statistics are not too much different in most of our urban centers.

In our rural communities, we will begin to find increasing episodes of this kind of violent behavior. While the murder rates have soared, the street crime, the vicious crime, the holdups, the burglaries, all of that attendant have increased also, significantly to the point that people are afraid, in many cases, to leave their homes, to do business, to use their parks, to use mass transportation.

The fact of the matter is that the predator has taken over increasingly vast areas of our urban centers. It is the predator who rules and only in the past 2 days one of our local newspapers, the New York Post, has done a story on one of those predators whose name they call Benji.

Benji talks about how he and his compatriots prey on people, innocent people, when they see them walking. Benji is not, by the way, a street addict. He uses guns. He has admitted to shooting a number of people. It gives him a great sense of power when he has that gun. Benji is, unfortunately, too typical of what is taking place not only in New York but in many places.

Benji should have to understand—and those who would follow in his footsteps—that if you carry a gun and you are about to commit a crime, you are not going to be out in 6 months or a year; that you will be put away for a minimum of 10 years; if you actually discharge that gun, 20 years; if you kill somebody, that there is a likelihood you can be prosecuted for the death penalty. That is how we are going to begin to turn this around.

If we have to build more prisons, then we should build them and stop this debate about we need more in the way of education. Of course, we do. Of course, we have to do better with education. But you cannot permit the predator to take solace and comfort while the great debate about whether we need more treatment for addicts supplants the business of seeing to it that there remains a criminal law that is applied, because there is a scarcity of resources so we do not build the prisons so a murderer who should be incarcerated for life or for 20 years is out in 6 years and 7 months or 7 years and 6 months. So someone who has a pistol who breaks a law is back out on the street in 6 or 7 months, and that is what is taking place.

So I suggest that it is very nice, and we may not want to be mandating that local governments do various things, but I wonder how we can say we are meeting our responsibilites when we recognize so much of this urban violance that takes place is drug-related and yet the Federal Government abdicates its responsibility by saying that is a local matter.

I think the drug-related crimes, the robberies, where there is the use of a firearm by way of interstate properly lies within the jurisdiction of the Federal Government, particularly in those areas where there is anarchy. And in New York City we have near anarchy. I think this will give us an opportunity to test our own mettle. If it means we have to take some of these closed Air Force bases and Army bases and other centers and help local governments convert them for use in getting the predator off their streets, convert them into prison systems, we should be doing that.

By the way, I am conscious of the rights and the obligations to our society to meet the needs of the underprivileged or the homeless and others, and I see that we give first option for these bases to relocation or developing housing for the homeless.

I have to tell you something. I think our priority is wrong. It is wrong because the working, middle-class stiff who pays his taxes, tries to send his kids to school, is a good citizen, is victimized day in and day out. He is fearful not only for himself, but for his family. He is fearful for his children. He does not have domestic tranquillity. He is a prisoner. He has to watch how he goes to work. His recreational activities are curtailed. He has to worry about his kids.

I have to tell you, while I am not unconcerned about the plight of the homeless, what about the working middle-class guy, what about the working fellow who is just about making it? What about the high-income guy who is paying his fair share, who wants to be a good citizen, who makes his contribution to society, and sees his family victimized regularly? And where does he go? He leaves. Today it is impossible. Where do you go?

With some of the harm that comes from these base closures, maybe we can bring about some benefit, maybe we should and can be using one of our primary opportunities to see to it that there is sufficient space for violent criminals to be incarcerated at some of these facilities where they can be much more easily—and some of them are vast and take in thousands and thousands of acres—converted as detention centers and maybe if we use some of our vast resources and, yes, go to the source that brings most consternation to people, and that is the violent crime that takes place, that we can ease the burden some.

I will be offering later, Mr. President, an amendment dealing with mandatory sentencing of those people who use firearms in the commission of crimes.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair advises the Senator from New York, if he puts in a quorum call, the time will be charged against the Senator from New York.

Mr. D'AMATO. I thank the Chair.

I will suggest the absence of a quorum, but it is my intent, before I formally do that, Mr. President, to provide anyone with an opportunity that they might wish to address this issue and move it to a vote when we have sufficient representation to ask for the yeas and nays.

So I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time, may I ask the Senator?

Mr. D'AMATO. May I inquire of the Senator how much time he seeks?

Mr. PELL. Whatever needs to be filled.

Mr. D'AMATO. Does the Senator need 15 minutes?

Mr. PELL. Fine.

The PRESIDING OFFICER. The Senator from New York at this point controls just over 9 minutes.

Mr. D'AMATO. I will give to my distinguished friend 8 minutes.

Mr. PELL. Fine.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 8 minutes.

Mr. PELL. I thank the Senator from New York. I ask that my words be delivered as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROBERT STRAUSS: AN OUTSTANDING CHOICE FOR MOSCOW

Mr. PELL. Mr. President, I rise to commend President Bush for nominating Robert Strauss to be our next Ambassador to the Soviet Union. Mr. Strauss is no stranger to public service, having served as the Special Trade Negotiator and as special envoy to the Middle East during the Carter administration. He performed extraordinarily well in those difficult positions, and the negotiating experience he gained will serve him well in Moscow.

Mr. Strauss is a personal friend of the President, and he is well known in the Congress and in business circles. These connections uniquely equip Mr. Strauss to explain to the Soviets what is and what is not achievable in the evolving new United States-Soviet relationship. In this latter connection, Soviet leaders have made known their desire for American help in achieving market-oriented economic reforms, and President Bush has indicated that his administration is prepared to be of help in certain ways and under certain conditions. Mr. Strauss' considerable knowledge of the American economic system will be of great help in developing a new economic relationship between the United States and the Soviet Union.

When Mr. Strauss' nomination was first announced, I was quoted in the press as saying that "he lacks Russian, which I regret." As a general rule, I do believe that Ambassadors should be appointed from the ranks of the career Foreign Service and that they should speak the language of the host country. But with every rule there are exceptions, and Robert Strauss would bring so much talent and relevant experiences to the Moscow ambassadorship that he deserves to be excepted from the general rule.

In this regard, Philip Terzian wrote an excellent column that appeared in the Providence Journal on June 17, 1991. I commend it to my colleagues, and I ask unanimous consent that the full text of the article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MISSION TO MOSCOW

(By Philip Terzian)

The nomination of Robert Strauss as ambassador to the Soviet Union has rekindled the ancient debate about political diplomats: Namely, why send ambitious campaign contributors abroad when the Foreign Service furnishes consummate professionals? Political appointees are sometimes disastrous, and the senior Foreign Service is demoralized by the practice.

It's a fair argument, and often holds true. But I did happen to witness a dialogue last week that demonstrates, as usual, that the exception proves the rule. After dinner at the Council on Foreign Relations, a persistently obnoxious questioner wanted McGeorge Bundy to explain why American ambassadors shouldn't be required to speak the language of their hosts.

Mr. Bundy, smiling between clenched teeth, explained that while in principle he agrees it is a Good Thing for ambassadors to India to speak Urdu, these are brilliant linguists who make a terrible impression, and English-only diplomats who do quite well.

In any case, this is an odd controversy to surround Strauss, who is rather more than a well-heeled amateur, and is likely to perform quite brilliantly in Moscow. A smooth, expansive, fast-talking Texan, and consummate negotiator, he is destined to get on famously with the Russians. Once upon a time he was Jimmy Carter's special trade representative, and later special envoy to the Middle East: Not exactly comfortable sinecures. And at 72, having sought for two decades to counsel his fellow Democrats in winning national elections (and being persistently ignored), Bob Strauss has surely earned himself a plum.

In a sense, his appointment really does signify the end of the Cold War.

The last time the United States harbored any cooperative feelings toward the Soviet Union—just before and during the Second World War—Franklin Roosevelt dispatched two friends to Moscow. The first, a wealthy Midwesterner named Joseph Davies, was a catastrophe: An unabashed admirer of the Soviet regime, he is best remembered today for his brief marriage to Marjorie Merriweather Post, and his memoir, *Mission to Moscow*, later made into a camp movie classic starring Walter Huston as Davies and Manart Kippen as Stalin.

FDR's other friend, of course, was W. Averell Harriman, who combined a polo player's *panache* with a plutocrat's harsh acumen. Ambassador Strauss is likely to follow the Harriman model.

But in the deep freeze of the Cold War, the Soviet Union was a State Department preserve. Britain, France and Italy still went to amenable millionaires—Providence's Winthrop Aldrich went to London in the Fifties—but serious business was transacted in Moscow. The greatest of the Kremlinologists was an Eisenhower appointee, Charles Bohlen, whose commission was very nearly derailed by Senator McCarthy. The worst was the sainted George Kennan: His indiscreet chatter infuriated Stalin, who unceremoniously kicked him out of the country. (Imagine if an amateur had suffered such disgrace!)

In the intervening years, the embassy has been graced by a succession of professionals, the latest of whom, Jack Matlock, has guided American policy through Gorbachev's labyrinth.

Now, the President intends to engage the Kremlin, and Strauss's amateur status is significant in itself. If any American representative can be said to enjoy the confidence of George Bush—that is, may speak to him as a friend as well as a subordinate—it is Robert Strauss. And if anyone is better equipped to argue that *perestroika* and communism cannot coexist, it's Citizen Strauss.

Or as Mac Bundy might put it: Bob Strauss may not speak Russian, but they'll understand his language.

BRINKMANSHIP IN YUGOSLAVIA

Mr. PELL. Mr. President, yesterday the Republics of Croatia and Slovenia declared their independence from Yugoslavia. Both republics, however, have stopped short of secession, and have expressed their hope that a negotiated settlement on shaping a new Yugoslav union may be achieved. I welcome Slovenian and Croatian statements of their intention to continue a dialog with the Federal Government and the other republics. I share their hope that a peaceful settlement can be reached and, above all, that violence can be averted.

Already, in response to the independence declarations, there have been reports of ethnic clashes and violence, and apparently, both the Slovenian defense force and the Yugoslav Army are in a high state of combat readiness. I am very concerned by these reports, and I would hope that cool heads will prevail.

While Croatia and Slovenia have dominated this morning's headlines for their bold actions, too little mention has been made of Serbia's destructive contribution to the current crisis. Serbian President Slobodan Milosovic's strong-arm tactics, his blatant disregard for the constitutional system, and his cultivation of dangerous nationalism have in many ways, encouraged the Croatians and Slovenians to take steps to disassociate themselves from Serbia and the Yugoslav federation.

Last month, for example, Serbia, Yugoslavia's largest republic, blocked the election of Croatia's representative to the federal presidency. Under normal rotation procedures, Stipe Mesic, the Croatian representative on the country's eight-member collective presidency, was scheduled to assume the presidency for the next year. However, the outgoing President, Borisav Jovic, who represents Serbia, used the four votes that Serbia controls to block Mesic's installation as the new President. All indications are that Milosovic was behind his power play, which has thrown Yugoslavia into a union-threatening constitutional crisis.

Last month's action was just one example of the tactics that Milosovic has been employing to assert greater Serbian control over the federation. On the economic front too, Milosovic has tried to assert Serbian power by undermining plans for market-based reform. In addition, during last December's election, Milosovic dipped into the federal treasury to finance his campaign. Not surprisingly, in response, Croatian and Slovenian leaders have opposed granting the Federal Government additional economic powers for fear that Serbia would dominate the Federal Government and gain additional control of the economy.

Last year's elections too, provide a glimpse of the gulf between Serbia and the other republics. While reform-minded governments were elected in Croatia, Slovenia, Bosnia-Hercegovina, and Macedonia, Communist parties or their successors were victorious in Serbia and Montenegro. International observers generally agree that the elections were fair in most of the republics. The notable exception, of course, was Serbia, where the official media was blatantly biased in favor of Milosovic.

Finally, Mr. President, I would point to Serbia's repression of the ethnic Albanian majority in the Province of Kosovo, as yet another example of its unacceptable nationalist campaign. In that province, during the past year, several hundred deaths and other casualties have occurred due to ethnic unrest.

Mr. President, while I continue to hope that the six republics of Yugoslavia can work out a negotiated settlement, I am realistic enough to see that we may soon have to alter our concept of Yugoslavia. I do hope, however, that whatever the result, that negotiation—and not unilateral action or violence—will be the process.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

Mr. BIDEN. Mr. President, I claim the control of the time in opposition to the amendment of the Senator from New York. I do not, Mr. President, plan myself, at this moment, to speak in opposition to the amendment. But I believe there may be some Senators who wish to do so. So I want to preserve as much of that opportunity for them as possible.

I am going to, while we are putting in a whip call to see if anybody wishes to come and speak in opposition, suggest the absence of a quorum, knowing full well it runs against the time of the Senator from Delaware.

The PRESIDING OFFICER (Mr. SANFORD). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, what is the situation with respect to the time agreement on the D'Amato amendment?

The PRESIDING OFFICER. The Senator from New York has 3½ minutes; the Senator from Delaware has 13 minutes.

Mr. HELMS. As I understand it, we are now in a morning period; is that correct?

The PRESIDING OFFICER. Consent was granted for that.

Mr. HELMS. Beg pardon?

The PRESIDING OFFICER. Yes.

Mr. HELMS. So the time is not running on the D'Amato amendment?

The PRESIDING OFFICER. That is correct.

Mr. HELMS. The Senate is being delayed on a vote that should have occurred last night but did not, and now we are being delayed again and later on we are going to hear about how we must move along the business, otherwise we are not going to do this, or that, or the other thing. But I guess that is the way the Senate operates, certainly on this occasion.

I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DIXON). Without objection, it is so ordered.

AMENDMENT NO. 382

Mr. HELMS. I call for the regular order.

The PRESIDING OFFICER. Regular order is amendment No. 382. Who yields time on amendment No. 382?

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The distinguished senior Senator from Delaware suggests the absence of a quorum.

Mr. HELMS. Reserving the right to object, I presume, if I can get this microphone unhooked, that the time will run during the quorum call charged equally; is that correct?

The PRESIDING OFFICER. Time is charged to the Senator who suggests the absence of a quorum.

Mr. HELMS. Very well.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I know of—

The PRESIDING OFFICER. I advise my friend, the distinguished senior Senator from Vermont, that all time on the amendment has expired. Does he want unanimous consent for a few minutes?

Mr. LEAHY. Mr. President, I ask unanimous consent—I see the proponent of the amendment on the floor—that I be allowed to speak for no more than 5 minutes.

The PRESIDING OFFICER. Is there objection to the request of the senior Senator from Vermont?

Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I know how strongly the distinguished Senator from New York feels about crime, how opposed he is to it, as he was well before coming to the Senate. It is not a new position on his part. He has always been strongly opposed to crime. But I oppose this amendment for a number of reasons. I do not believe the death penalty is a moral recourse for a civilized society. It troubles me for another reason, too. Whether one is for or against the death penalty, I am concerned about prohibiting States from making their own decisions in the area of capital punishment for crimes that have been handled traditionally on the State and local level. I was a prosecutor for 8 years, and I prosecuted many murder cases. At least a couple of times, I was the intended victim of people that I ended up prosecuting. One came within, literally, minutes of killing me, my wife, and our whole family.

I do not come here with any illusions about what crime is. I feel that, for the most part, States ought to be allowed to deal with crime as they see fit. There are overriding issues, of course, like the assassination of a President or the murder of a Federal officer. But we are talking about basic crime as we know it in Illinois, Vermont, or anywhere else. For example, if somebody holds up a gas station and murders somebody, should this be investigated and prosecuted by the Federal authorities? Do we suddenly call the FBI at 2 o'clock in the morning, or does the chief of police prosecute it? As a Vermonter, with all due respect to the FBI, I think that in my State, our own police, who are extremely good, should be the ones to do that kind of prosecution. Otherwise, I think we start to feel that only the Federal Government knows how to do what, in my State, and virtually every other State, the State police, the local police, State prosecutors, and State courts know how to do very, very well.

States have a right, and they also have an obligation—as State constitutions say—to protect the health and safety of their citizens. I do not want the Federal Government to overstep that right and that responsibility. I do not want the chief of police, or local State attorneys—like my successor in office in Vermont—who is investigating a murder, to say: Before I start working on this, before we decide whether we should pick up the evidence, or anything else, we should call the FBI, because it is also their responsibility.

No, I do not want that. There are enough things that the Federal courts should be doing. The Federal criminal justice system is already overburdened. A lot of major cases cannot get heard in Federal court. Let them take care of their own backlog.

In a rural crime field hearing in Vermont we heard from the chief Federal parole officer in the State. He described the growing pressure in our criminal justice system as more and more criminals, who, when I was a prosecutor, would have been prosecuted in local courts, are now going through the Federal courts.

I understand the concern of my good friend from New York. He is one of the best friends I have in this body. I know his frustrations. I have heard him speak of crime running rampant in all parts of this country. I know how much he abhors it. But I am concerned that, in this mood, we could end up saying the Federal Government should take over our responsibility for us. I have been a prosecutor; I have been there. I have been in local law enforcement. People in local law enforcement can do this. There are areas only the Feds can do and do well and there are areas where it serves everyone for the State and Federal officials to work together. This is an area where we have traditionally, for 200 years in this country, handled most of these matters at the local level. Let us continue to do so.

I thank the Chair, and I thank my friend from New York, who, through his acquiescence, gave me time and, again, in showing his normal courtesy, allowed me to have a unanimous-consent agreement to speak and to speak against his amendment. It shows the sort of person he is.

I yield the floor.

Mrs. KASSEBAUM. Mr. President, I would like to express my support for the amendment offered by the Senator from New York. This amendment, in my view, will have a significant impact on violent crime involving the use of firearms.

I am aware that many will consider this a major intrusion on what has traditionally been the purview of State courts and that its net effect may be to further overload our Federal courts, since this has the potential to give rise to numerous new Federal criminal cases.

However, the Senator from New York has made it clear in his amendment that it is the intent of Congress not to supplant the efforts of State and local prosecutors to prosecute murders involving firearms and to give due deference to those efforts.

Mr. President, drastic circumstances call for drastic measures. Having acknowledged the legitimate concerns States may have, if we are truly serious about reducing the rising level of violent crimes, this amendment will be a step forward.

If we truly want to send a message that we are willing to impose the death penalty for serious crimes, this amendment will sound that message loud and clear.

Just as I believe this amendment will go a long way toward deterring the illegal use of firearms, so too do I believe that it is necessary to keep firearms out of the wrong hands in the first place. Though I support this amendment, I disagree with the assessment of the Senator from New York, that the Brady bill will only serve to make us feel good about stopping handgun violence, without having any real effect.

On the contrary, Mr. President, the evidence is strong that a 7-day waiting period, with a background check, does work. One need only look at States with such waiting periods to see how many illegal handgun purchases have been prevented.

I support the Brady bill and this amendment, because in my view, strong deterrence and punishment go hand in hand with sound and reasonable preventive measures.

The PRESIDING OFFICER. All time has expired on the amendment offered by the distinguished Senator from New York State. The yeas and nays have not been requested.

Mr. D'AMATO. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 65, nays 33, as follows:

[Rollcall Vote No. 109 Leg.]

YEAS—65

Adams
Baucus
Bentsen
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Coats
Cochran
Craig
D'Amato
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Exon
Ford
Fowler
Graham
Gramm
Grassley
Hatch
Helms
Hollings
Johnston
Kassebaum
Kasten
Kerrey
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Murkowski
Nickles
Nunn
Packwood
Pressler
Reid
Riegle
Robb
Rockefeller
Roth
Sanford
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wirth
Wofford

NAYS—33

Akaka
Biden
Bingaman
Burdick
Chafee
Cohen
Conrad
Cranston
Danforth
Durenberger
Glenn
Gore
Gorton
Harkin
Hatfield
Heflin
Inouye
Jeffords
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Metzenbaum
Mitchell
Moynihan
Pell
Rudman
Sarbanes
Sasser
Simon
Wellstone

NOT VOTING—2

Garn
Pryor

So the amendment (No. 382) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, regular order.

The PRESIDING OFFICER. The regular order has been called for. The regular order is the amendment by the Senator from North Carolina, offered to the amendment by the Senator from Idaho.

The senior Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded on the condition this Senator may offer an amendment that is agreed to on both sides, which will take 5 minutes, and thereafter the quorum call will be reinstated automatically.

The PRESIDING OFFICER. The Senator is not entitled to condition a request to rescind the quorum call. But the Senator has made his request for unanimous consent, and we will see what happens. The Senator has requested unanimous consent.

Mr. METZENBAUM. Reserving the right to object, and I do not intend to. It is my understanding that when the Senator from Pennsylvania has concluded his remarks and the disposition has been made by unanimous consent or by acceptance of that amendment, that the Senate will then be in a quorum call immediately thereafter.

The PRESIDING OFFICER. May I say to the Senator from Ohio, there can be no conditions or reservations on this type of a request. The Senator from Pennsylvania has asked unanimous consent that the order for the quorum call be rescinded. Is there objection?

Mr. BIDEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HELMS. I did not understand the Chair, what did the Chair say?

The PRESIDING OFFICER. The clerk will continue to call the roll.

The bill clerk continued to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. BIDEN. I object.

The PRESIDING OFFICER. There is objection.

Mr. HELMS. Let me ask the distinguished Senator from Ohio, immediately——

The PRESIDING OFFICER (Ms. MIKULSKI). A quorum call is in progress, I must advise the Senator from North Carolina. May we have order in the Senate?

Mr. HELMS. I asked unanimous consent already. Let me ask one more time. I ask unanimous consent that the order for the quorum call be rescinded.

Mr. BIDEN. Madam President, I object.

Mr. HELMS. Oh, goodness sake. Do you not want to debate this thing?

Madam President, let us try again. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HELMS. And I am recognized?

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Madam President, I will answer the anxiety of the Senator from Ohio by saying that it is my intent to call for the regular order when the Specter amendment has been dispensed with, and I shall then suggest the absence of a quorum.

Mr. BIDEN. I thank the Senator.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 384

(Purpose: To require that any State or local law enforcement agency receiving amounts from the Department of Justice Assets Forfeiture Fund conduct an annual audit of such moneys received)

Mr. SPECTER. Madam President, I thank my distinguished colleague from North Carolina and the distinguished chairman. At this time, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Prior to the clerk reporting the amendment, the Chair asks: Is there an objection to setting aside the amendment offered by the Senator from North Carolina?

Without objection, it is so ordered. The amendment is set aside.

The clerk will now report the Specter amendment.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 384.

Mr. SPECTER. Madam President, I ask unanimous consent that the reading of the amendment is dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following new section.

SEC. . AUDIT REQUIREMENT FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES RECEIVING FEDERAL ASSET FORFEITURE FUNDS.

(1) Section 524(c)(7) of title 28, United States Code, as amended by section 6072 of the Anti-Drug Abuse Act of 1988, is hereby amended by striking the existing language and inserting in lieu thereof the following:

"(7)(A) The Fund shall be subjected to annual audit by the Comptroller General.

"(B) The Attorney General shall require that any State or local law enforcement agency receiving funds conduct an annual audit detailing the uses and expenses to which the funds were dedicated and the amount used for each use or expense and report the results of the audit to the Attorney General."

(2) Section 524(c)(6)(C) of title 28, United States Code, is hereby amended by adding at the end thereof the following new sentence:

"The report should also contain all annual audit reports from State and local law enforcement agencies required to be reported to the Attorney General under subparagraph (B) of paragraph (7)."

Mr. SPECTER. Madam President, I have conferred with the managers, the distinguished chairman, and the distinguished ranking member of the Judiciary Committee, and I believe that this amendment will be accepted. It provides for accounting by State and local law enforcement agencies for funds which they receive from Federal assets forfeiture.

Madam President, this issue was called to my attention by Councilwoman Joan Specter, of Philadelphia, who noted the very substantial amount of moneys coming to the city of Philadelphia and the question as to how those funds were being spent. Councilwoman Joan Specter then took the matter up with Senator BIDEN, chairman of the Judiciary Committee, and Senator THURMOND, ranking member of the Judiciary Committee, and has pursued the matter with a resolution in city council.

I believe this is a very important amendment which will require that State and local law enforcement officials specify how these funds are being spent.

Since 1985, when these asset forfeitures came into existence, Madam President, there has been $612,570,006 collected on these items and at the present time, they are not subject to accounting by the people who have the funds, which is a glaring oversight in the law which ought to be corrected.

In the city of Philadelphia alone since 1985, there have been $ 4,786,933 in cash and property and very substantial sums of money in other cities.

I ask unanimous consent, Madam President, that these figures be printed in the CONGRESSIONAL RECORD which will abbreviate the time necessary for this amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ASSETS FORFEITURE FUND STATISTICS

(I) Moneys distributed to State and local law enforcement agencies:

Total since 1985 through FY 1990: $477.5 million in cash; $69.5 million in property.

Total through April 30, 1991: $612,570,006.

Total for FY 1991 (so far): $135,605,395.

In fiscal year 1990, over $200 million was distributed to State and local law enforcement agencies. This can be compared with the numbers for fiscal year 1986: $22.5 million in cash and property was distributed in that year.

TOP CITIES IN RECEIPT OF FUNDS

1. Eastern District of (Philadelphia): Total from 1985 through 4/30/91: $4,786,933.

2. Central California (L.A.): Total through 4/30/91: $134,790,098. To date FY 1991: $20,058,600.

3. Eastern District of New York (Brooklyn): Total through 4/30/91: $39,474,574. To date FY 1991: $9,416,032.

4. Southern District Texas (Houston): Total through 4/30/91: $29,663,553. To date FY 1991: $7,688,008.

5. Northern California (San Francisco): Total through 4/30/91: $27,317,648. To date FY 1991: $5,508,429.

6. Southern District of California (San Diego): Total through 4/30/91: $19,747,281. To date FY 1991: $6,059,650.

(II) Analysis of income received into the fund:

TOP FIVE DISTRICTS IN INCOME RECEIVED INTO THE FUND

	Since 1985	FY 1991 YTD
Southern New York (Manhattan)	$496,036,801	$205,303,224
Central California (Los Angeles)	215,487,885	23,529,480
Southern Florida (Miami)	143,516,007	22,123,165
Eastern New York (Brooklyn)	134,980,776	29,960,073
Southern Texas (Houston)	75,814,240	10,057,208
Total—All districts	2,013,885,420	469,097,102

Inventory of property seized: In 1985, the Fund had properties valued at $313.2 million. By the end of the fiscal year 1990, the inventory was in excess of 35,700 properties valued at more than $1.3 billion. This inventory included over 3,800 real properties and businesses as well as over 9,200 cash cases.

Comparison of fund over time: In 1985, the Fund stood at $27.2 million. In Fiscal Year 1990, Fund receipts approached $460 million, an increase of 28 percent over fiscal year 1989.

Mr. SPECTER. Madam President, on June 15, 1989, Councilwoman Joan Specter wrote to Senator BIDEN and Senator THURMOND, acquainting them with the problems of the lack of accounting of these funds.

I ask unanimous consent, Madam President, that a copy of Councilwoman Specter's letter, dated June 15, 1989, together with a response from Senator THURMOND, dated June 27, 1989, together with a response from Senator BIDEN, dated September 22, 1989, together with a response to Senator BIDEN's letter by Councilwoman Joan Specter dated September 27, 1989, all be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CITY COUNCIL,
CITY OF PHILADELPHIA,
June 15, 1989.

Hon. STROM THURMOND,
Ranking Republican Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: I am writing regarding the startling lack of detailed information on how state and local law enforcement agencies are utilizing their respective allocations of Federal Justice Asset Forfeiture Funds.

As you know, the Justice Asset Forfeiture Fund Program was enacted in October 1984 under the Comprehensive Crime Control Act. This important law enforcement initiative became operational in Fiscal Year 1985 and currently is in its fifth year of operation. The monies accumulating each year in the fund increase significantly, which allows the federal government to provide necessary and additional assistance to state and local law enforcement agencies in fighting the war against drugs.

According to the U.S. Marshals Service, total income to the fund since its inception runs in excess of $650 million. In addition, approximately $250 million has been disbursed to more than 1600 local law enforcement agencies.

Despite the vast sums of monies flowing through the fund, the federal government neither performs nor requires an audit of these monies. The amount of unaudited monies, and the disparity in the allocation processes, point to the dire need for an audit. Over the past two years, for example, the City of Los Angeles received more than $22 million in forfeiture funds, and has another $27 million pending. New York City's figures are not even included in its budget document as a separate line item. In Philadelphia, the Police Department fails to adequately specify its intended use of the funds as required by federal law, and does not report its use of the funds to City Council.

Therefore, I am requesting that you and Senator Biden call on the General Accounting Office to undertake a comprehensive audit of how federal forfeiture funds have been and are utilized by state and local law enforcement agencies. Secondly, I am requesting that you and Senator Biden convene hearings of the Judiciary Committee to investigate this matter.

On the local level, I introduced a resolution into the Philadelphia City Council calling upon the City Controller to conduct an audit of federal forfeiture funds received by Philadelphia. The resolution, approved unanimously by City Council, prompted Federal Judge Norma Shapiro to order the city to conduct an audit of monies received in the past two fiscal years. However, I believe that we need an annualized audit process on the national level if we are to effectively utilize our resources in the fight against drugs.

Such vast amounts of money, and inadequate information about the uses of the money, create the opportunity for corruption and inefficiency.

In order for local legislatures to make responsible budget decisions, they must know how revenues are spent by local law enforcement agencies. As a local legislator, I feel it is my responsibility to call upon the federal government to correct a process that has such serious implications for local governments.

Thank you for your attention to this important matter.

Sincerely,

JOAN SPECTER,
Councilwoman.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, June 27, 1989.

Councilwoman JOAN SPECTER,
City of Philadelphia City Council, Room 582–B, City Hall, Philadelphia, PA.

DEAR MRS. SPECTER: Thank you for your letter of recent date regarding the need for an audit of Department of Justice Asset Forefeiture Fund allocations to State and local law enforcement agencies. I have enclosed a copy of a letter I sent to Attorney General Richard Thornburgh requesting that he carefully consider this matter and provide me with the Justice Department's views on it.

Please be assured that I will promptly notify you of the Justice Department position when I receive it.

Thank you again for taking the time to write to me about this matter.

With kindest regards and best wishes,

Sincerely,

STROM THURMOND.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, September 22, 1989.

Hon. JOAN SPECTER,
Councilwoman-at-Large, Philadelphia, PA.

DEAR JOAN: Thank you for your letter regarding the Justice Asset Forfeiture Fund. I apologize for not getting back to you sooner.

Section 524(c)(6) of Title 28, United States Code, as revised by Section 6072 of the Anti-Drug Abuse Act of 1988, provides that within four months of the end of each fiscal year the Attorney General must transmit to Congress two reports on the administration of the Justice Asset Forfeiture Fund.

The first report must reflect the total value of property forefeited by the government but not deposited in the fund, and the value of all such property transfered to state and local law enforcement agencies.

The second report must reflect the beginning balance in the fund, the source of all deposits, the amount shared with state and local agencies, the net amount realized from the year's operation of the fund, the amount legally allowed to be carried over to the next year, any defendant's equity in property valued at $1,000,000 or more, and the year-end balance.

The law does not require any report on the ways in which the funds shared with state and local agencies are spent by those agencies, nor does it require a report on the expenditures from the fund by the Attorney General. As mentioned, only the "net amount realized from the year's operations" need be reported. As a consequence of section 6073 of the Anti-Drug Abuse Act of 1988, however, the fund is subject to an annual audit by the Comptroller General.

Moreover, the Justice Department has promulgated internal guidelines regarding the sharing of funds with state and local agencies. These guidelines are very detailed and require, among other things, that the agency applying for funds include "a statement of the intended use of the property, which shall be for a law enforcement purpose." The Justice Department has told my office that they regularly review the transfer of funds to state and local agencies to ensure compliance with these guidelines. A copy of the guidelines is enclosed for your review.

I very much appreciate your interest in this issue and hope that this information has been helpful. If, after reviewing the relevant guidelines and statutes, you feel that the Judiciary Committee should consider some supplementary legislative action, please feel free to let me know. The Judicary Committee will continue to monitor this issue in the course of carrying out its oversight responsibility.

Sincerely,

JOSEPH R. BIDEN, Jr.,
Chairman.

CITY COUNCIL,
CITY OF PHILADELPHIA,
September 27, 1989.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Senate Judiciary Committee, Washington, DC.

DEAR SENATOR BIDEN: Thank you for the response to my letter regarding the Justice Asset Forfeiture Fund. The information you provided was useful, and I do understand that the General Accounting Office will be conducting an annual audit of the fund that goes beyond the current review procedures.

However, I do feel that Judiciary Committee hearings on the matter will help to clarify the appropriate use of the funds on all levels of government. While the regulations do limit the use of the funds to "law enforcement purpose(s)," the practical definition of a "law enforcement purpose" remains unclear. For example, the Commissioner of the Philadelphia Police Department has stated in public testimony that law enforcement purpose covers any type of expenditure made by the Police. In the past, the Department has used the forfeiture monies to wash police vehicles, and to purchase air conditioning equipment. I doubt that such purposes are what Congress intended when it passed the forfeiture law.

Furthermore, the safeguards that are currently in place to ensure appropriate use of the funds are inadequate. The guidelines require that the local agency applying for the funds state, on form DAG–71, the specific intended use of the monies. However, all federal monies received by the Philadelphia Police Department have been approved without this provision being satisfied.

Therefore, I feel that Committee hearings are necessary if we are to ensure appropriate use of the funds and effective utilization of our resources in the war against drugs.

Once again, thank you for your consideration.

Sincerely,

JOAN SPECTER,
Councilwoman.

Mr. SPECTER. Madam President, I further ask unanimous consent that a statement which was presented to the city council of Philadelphia on the merits of this issue by Councilwoman Joan Specter appear in the CONGRESSIONAL RECORD. It sets forth the reasons for this accounting process and will again shorten the time for presentation of this amendment.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY COUNCILWOMAN JOAN SPECTER

FIGHTING THE DRUG WAR AND SQUANDERING OUR RESOURCES

Over the past several years, the legislative initiatives in the war against drugs have been impressive. Federal, state and local legislatures have committed tremendous resources to the fight. But as we spend more and more, the problem only seems to get worse. Why? Perhaps because many of our policies are "feel-good" policies. That is, policies that make us feel good about our efforts, but fail to do much good.

Take the Justice Asset Forfeiture Fund, for instance. The idea behind the fund is sound: The property and cash seized in drug arrests should be placed into a federal fund and turned into resources to combat the problem. The local police departments that participate in the arrests should receive a portion of the seized assets. The newly-appointed federal Drug Czar, William Bennett, should also be able to draw upon the fund. That is the feel-good part.

The reality, however, is that nobody knows where the money is or how it is spent. This is what we do know: Since Congress began the program in 1984, $660 million has come into the fund. Some of the money has gone to improve federal prisons; some has gone to the federal treasury; and a quarter billion has gone to the local police departments that helped seize the assets. In the past two years, Los Angeles alone has received $22 million from the fund and has another $27 million pending.

So, have local police departments spent this quarter billion to fight drugs in their cities? Or are they using the money for paper clips and overtime? Probably some of both. But the point is that these millions upon millions of dollars are unaudited. Congress, in its zeal to pass this feel-good law, apparently forgot to require an accounting of the money. The happy result for the police is that, every year, they get what can only be called drug slush funds. State legislatures, on the other hand, have largely recognized the need for accountability, and have required audits of the millions in state forfeiture monies that go to local police.

One only must look at the HUD scandal to see what can happen to billions of dollars when nobody is watching. The real irony is that while the Congress is screaming about HUD allowing fraud, that same august body has created a system—with the Forfeiture Fund—that actually invites it.

For local governments, the implications are even more serious than potential corruption. In large cities, where the drug crisis lives and breathes, resources are strained to the limit. Our residents have made clear that if cities are to remain at all liveable, drugs and crime must be better handled. So, local legislatures have made drugs and crime priority items, often at the expense of pressing social needs. Yet, local prisons are hopelessly overcrowded, courts are backlogged, and some neighborhoods have turned into war zones fueled by the drug trade. Bennett has said he will make blighted urban areas the focus of his national anti-drug strategy. Obviously, further resources are desperately needed.

In Philadelphia, which has received or has pending nearly $4 million in federal forfeiture funds over the past two years, the Police Department recently disclosed—in the broadest possible terms—what it did with the money. Of course, this disclosure was in response to a court order from Federal Judge Norma Shapiro, who demanded a specific and detailed accounting of the funds. Although the Department's report fails to conform to the court order, it does give us a good idea of the uses of the monies.

The uses included air-conditioning equipment, emergency postage, office supplies, overtime, and fringe benefit costs. In other words, the Department used the money for general purposes. That would be fine, except (1) the intent of the federal law was for the money to go back into the war against drugs, and (2) City Council made budgetary decisions based on incomplete information. Who knew that the Department would be getting more money for air-conditioning? Should the Department be entitled to that in light of other pressing needs, both within and outside of the Department? Who should be setting the priorities?

Judge Shapiro ordered the disclosure precisely because there are so many other pressing needs in the criminal justice system. For example, Philadelphia's chemical lab, where the drugs are analyzed, has a case backlog of more than 2,000. The backlog slows the entire system, causing trial continuances, delays in the plea bargain process, and prolonged incarceration of individuals before their trials. The Police Department has said that an additional $1.2 million would enable the lab to double its capacity. Compare that figure with the $4 million received or pending in federal forfeiture monies. Perhaps the funds that were used for employee fringe benefits would be of greater use in the lab.

Eventually, tens of billions of dollars will be collected by the federal fund and passed back to local police. The Supreme Court recently ruled that seized drug money may not go toward attorney fees, which means that the fund will realize even greater sums. Local police are becoming more ambitious in what they seize, including homes of drug dealers. As the fund grows, the police slush fund will grow, the potential for abuse and waste will grow, and budgetary processes open to public scrutiny will be undermined.

Of course, when everyone is feeling so good, it is difficult to change things. But when "everyone" includes the drug dealer who laughs at our inefficiency, I find it difficult to feel too good.

Mr. SPECTER. Madam President, the final unanimous-consent request is that a copy of the resolution introduced in the Philadelphia City Council by Councilwoman Joan Specter which was approved on May 31, 1991, also be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, under federal forfeiture statutes, any local law enforcement agency that participates in acts leading to a Department of Justice seizure for forfeiture may file a request for an eligible transfer of the property. This request must include a statement of the intended use for the forfeited property; and,

Whereas, unlike state statutes governing controlled substance forfeitures, federal statutes do not require an annual audit of forfeited property by the City Controller; and,

Whereas, the Philadelphia City Charter gives the City Controller the power to audit the financial affairs of officers, departments, boards, commissions and other agencies; and,

Whereas, according to Federal Drug Enforcement Administration statistics, assets from DEA drug forfeitures awarded to the Philadelphia Police Department between April, 1987 and April, 1989 totalled $1,364,416. Assets pending from this same period total $1,937,621; and,

Whereas, according to U.S. Customs Bureau statistics, assets from Customs Bureau drug forfeitures awarded to the Philadelphia Police Department between April, 1987 and April, 1989 totalled $42,315. Assets pending from this same period total $420,064; and,

Whereas, prudent fiscal and accounting procedures require that all revenue accruing to City departments be recorded and accounted for; and,

Whereas, in order to make responsible budgetary decisions, City Council needs a complete accounting of departmental expenditures; and,

Whereas, an audit of federal forfeiture funds received by the City of Philadelphia will help provide this complete account; therefore,

Resolved, by the Council of the City of Philadelphia, That we hereby call on the City Controller to audit all federal forfeiture funds awarded to the City of Philadelphia; and

Resolved, further, That a copy of this resolution be forwarded to the City Controller as evidence of the sentiments of this legislative body.

JOAN SPECTER,
Councilwoman.

Mr. SPECTER. Madam President, the essence of the reasoning is that there are very substantial sums of dollars which ought to be accounted for and specified by the State and local agencies which receive these funds, and that is a fundamental point of assurance that the moneys will be spent appropriately and for appropriate law enforcement purposes connected with the war on drugs.

I thank the Chair. I yield the floor.

Mr. BIDEN. Madam President, I am prepared to accept this amendment, but I want to make it clear that I, quite frankly, see less of a need for this than the Senator from Pennsylvania. Quite frankly, one of the battles has been, I think, the State and local law enforcement officers should get more, more of the funds forfeited than they are now getting. But I am prepared to accept the amendment.

Mr. THURMOND. Madam President, we have no objection to this amendment. It requires that only State or local law enforcement agencies receiving Federal forfeiture funds conduct an annual audit. This audit must detail how these funds are spent.

The Department of Justice has no objection to this measure. It would help ensure that forfeiture funds are properly spent. For these reasons, I am willing to accept the amendment.

Mr. SPECTER. Madam President, I thank my colleagues. I agree with what Senator BIDEN has had to say about the desirability of having more funds in the hands of State and local law enforcement officials.

I also agree with what Senator THURMOND has had to say, that once those funds are in their hands, the best practice is to have an appropriate accounting.

I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 384) was agreed to.

Mr. HELMS. Madam President, I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 378 TO AMENDMENT NO. 377

Mr. HELMS. Madam President, I call for regular order.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The regular order is the Senator's amendment.

Mr. HELMS. That is correct.

The PRESIDING OFFICER. The clerk——

Mr. KENNEDY. Will the Senator withhold that request for a question.

Mr. HELMS. Sure.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I was just wondering whether the Senator from North Carolina and the managers would at least indulge comments, general comments, on the Senator's amendment for discussion at this time. I do not want to, obviously, interfere with debate on it, but I welcome the opportunity to make a statement either now or later, if it is agreeable to the managers.

Mr. HELMS. I am always pleased to hear from the Senator. Perhaps the distinguished manager of the bill would like to propound a unanimous-consent request and we will consider it.

Mr. BIDEN. Madam President, at the invitation of my distinguished friend from North Carolina, I would propound the following unanimous-consent request: that the Helms amendment before us be open for debate purposes only, with no motions of any nature being appropriate for the next 30 minutes, and at the expiration of the 30 minutes we move to the quorum call.

Is that appropriate?

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Reserving the right to object, Madam President, and after the 30 minutes, what does the Senator have in mind?

Mr. BIDEN. That we move to a quorum call as we were going to do a moment ago.

Mr. HELMS. May I ask, and I do this respectfully, what is the delay in proceeding?

Mr. BIDEN. If I can be what is not always the way around here, characteristically or uncharacteristically blunt, what I am concerned about is the Senator from North Carolina doing what he did yesterday, which was fully within his rights to do, executing a procedural move that further ties up this crime bill in a way that I do not anticipate at the moment.

Quite frankly, the distinguished Senator always has with him at the ready Bob Dove, our former parliamentarian, and his staffers, who are very, very expert at this procedure.

No one is as expert on using the parliamentary rules to stymie action on this floor—or knows the parliamentary procedure; let me amend that—as well as the Senator from North Carolina except Senator BYRD, and possibly Senator METZENBAUM, and neither of them are here.

I know what I know, and I know what I do not know. I know when I see Bob Dove, who I refer to as Bob Hawk, and when I see the distinguished Senator from North Carolina on the floor, I have met my match parliamentarily, and what I want to do is make sure I do not have to worry about what the next shenanigans will be.

That is the reason, I say bluntly to my friend from North Carolina, in great respect.

Mr. HELMS. Madam President, still reserving the right to object, I have to take exception to what the Senator said, that I am tying up this bill. All I am asking is a vote on the important question which is on the minds of people.

The truth of the matter, is it not, I ask the Senator, is the fact that he does not want to deal with my amendment, he does not want to vote on it?

Mr. BIDEN. If the Senator wants me to respond, I will be delighted to.

Mr. HELMS. Yes.

Mr. BIDEN. Madam President, the truth of the matter is the Senator from Delaware worked—no harder than most, but extremely hard—to pass a crime bill which I have poured a lot of time and energy and personal commitment into, and which I feel is vitally important for the country.

I know full well, if this issue, which the American people are vitally interested in, and they are, is attached to this bill, it will vitally wound this bill. I also know that there are about a dozen other issues in which the American people are vitally interested.

I was thinking, as the ranking Democrat on the Foreign Relations Committee, of attaching the CFE treaty to this bill; the American people are vitally interested in that. I was considering attaching legislation to this bill relative to unemployment compensation for the tens of thousands of Americans who are out of work because of the Bush recession. I was thinking of a lot of things the American people are vitally interested in. But what the Senator from Delaware is vitally interested in is crime control.

I, quite frankly, think what the Senator is attempting to do in eliminating quotas is correct. I do not support quotas. I have not supported quotas. I do not support busing. I have not supported busing. I do not add those things, though, to this bill. If this is attached to this bill, at a minimum, the Senator from Delaware knows he will be tied up on this floor another several weeks, knowing full well that it would delay passage of a crime bill another several weeks, knowing full well there will be several thousand additional crimes committed that maybe otherwise could have been stopped.

That is why the Senator from Delaware objects to this vote being taken on this bill; because that Senator might win this vote, and this Senator's bill will go down that drain very rapidly. That is the reason.

Mr. HELMS. Further reserving the right to object, Madam President, I say respectfully again that the Senator wants it his way. I will point out to him that the Biden bill contained the so-called Racial Justice Act, an affirmative action plan for murderers.

This criminal quota act would invalidate 36 State death penalty statutes if there is any racial statistical imbalance on the State's death row. One need not show that there was intentional discrimination in the imposition of the death penalty; one needs only statistics. And that was in the Senator's bill.

Mr. BIDEN. I will be happy to respond.

Mr. HELMS. The Senator wants it his way. I want it the American people's way.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BIDEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Madam President, I have just had a brief but enlightening conversation with my friend from North Carolina, and we have agreed that it would be useful for Members who wish to speak to this issue to have an opportunity to speak to the issue.

So I propound the following unanimous-consent request: that we be able to proceed for debate purposes only with no motions appropriate within the next 1-hour period while debate is taking place; that at the expiration of that 1 hour of debate only, that we go back to a quorum call automatically.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Not at all, Madam President.

The PRESIDING OFFICER. If there is no objection, the unanimous-consent request of the Senator from Delaware is agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The distinguished Republican leader.

Mr. DOLE. Madam President——

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Madam President, I yield to the distinguished Republican leader with the understanding that I do not lose the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Madam President, I want to commend my distinguished colleague from North Carolina, Senator HELMS, for offering an amendment designed to outlaw quotas. Quotas are anti-equal opportunity, anti-individual merit, and in case you have not noticed, about as popular with the American people these days as Saddam Hussein.

Unfortunately, Madam President, the amendment offered by my colleague from North Carolina appears to be too broad in its scope. It would certainly outlaw what I would call "bad" affirmative action programs—rigid set-asides and, yes, quotas, but the amendment could arguably outlaw "good" affirmative action programs, programs in which an employer sets objective hiring standards and then affirmatively seeks out recruits—in other words, members of traditionally disadvantaged minority groups, who meet these objective standards but would not otherwise apply for the job, not from a lack of qualifications or willingness to work, but from the simple fact that the job opportunities were never available.

This approach is affirmative action in the traditional sense, and it is an approach that I fully endorse as a way to expand opportunities for all Americans.

Madam President, Martin Luther King, Jr., gave America a great gift when he shared his dream some 27 years ago, the dream that the best, the richest, America is one in which its citizens are not judged by the color of their skin but by the content of their character. Quotas make a mockery of this dream because they make a mockery of individual merit and individual character.

So I commend my colleague from North Carolina for his effort to excise quotas from the language of American social policy, but, Madam President, I continue to believe that race-based affirmative action in the very narrow traditional sense remains valid today as a means of casting the opportunity net as widely as possible.

So, I do not know what is going to happen with this amendment. I do not know if there is going to be a motion to table. Obviously, I will not vote to table an amendment of my colleague on this side of the aisle, but maybe there is some way to keep the good affirmative action and eliminate the part that would indicate there are quotas.

So I will withhold judgment. But if the amendment is not changed and there is an up-or-down vote, I will vote against the amendment.

So, Madam President, I think I know precisely what the Senator from North Carolina had in mind. That part I agree with, but I think the unintended effect is what I have just described, and there needs to be some way to correct that. Perhaps we should wait to address this issue at another time.

At this very moment there are negotiations going on on a broad civil rights bill that deals with quotas. The White House is involved. Democrats are involved. Republicans are involved. Senators, House Members, whatever, people on the outside are involved. I would not want a vote on this particular amendment to be misinterpreted.

I think we all are against, at least on this side and many on the other side—in fact—probably everybody is dead set against quotas. That has been the issue. That has been the debate. That has been the point made by President Bush.

But I see—just in the last, in fact, even since the Senator from North Carolina offered this amendment—some movement toward some agreement. I hope that we will not frustrate the efforts there but nail down a time to vote on an amendment to this particular bill.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Obviously, I did not know what the distinguished Republican leader was going to say, and I wish I could have talked with him before. The one thing I have to say is he is dead wrong, and I say that respectfully, and he knows I do. The trouble about all the rhetoric about affirmative action, and that sort of thing is that it has just skewed the understanding of what we are talking about. I hope the minority leader will listen to me for just a little bit.

If you equate affirmative action with goals, otherwise known as hiring by the numbers, you bet the Helms amendment will do away with that. But, if you equate, as the distinguished Republican leader does, affirmative action with outreach programs to train or educate the disadvantaged, then you have nothing to worry about. The amendment is clear, and what I said last night is clear.

Mr. HATCH. Would the Senator——

Mr. HELMS. Please, just a minute.

Mr. HATCH. I would like to ask on that particular point because I think I can help with this matter.

Mr. HELMS. Let me ask which side the Senator is on.

Mr. HATCH. I happen to be on the side of the Senator from North Carolina.

Mr. HELMS. OK.

Mr. HATCH. I do not think the amendment does away with affirmative action. It does not do away with the goals of affirmative action. What the amendment of the Senator from North Carolina says is you just do not permit reverse discrimination.

Mr. HELMS. Exactly.

Mr. HATCH. I would not interpret this amendment, in reading it clearly as ending affirmative action, but I would have preferred that the Senator call this amendment up on some other bill. This is not an appropriate bill to call it up on. I grant the Senator his rights. But I do not see where any wording in this amendment, which prohibits affirmative action. The amendment basically says:

> "(j) It shall be an unlawful employment practice for any employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment with respect to selection, compensation, terms, conditions, or privileges of employment or union membership to any individual or to any group on account of the race, color, religion, sex, or national origin of such individual or group, for any purpose, except as provided in subsection (e).".

Mr. METZENBAUM. Madam President, I rise on a point of order. Do the rules not provide that Members are to address the Chair and not have a colloquy between themselves?

Mr. HATCH. Madam President, I hope I can ask a question. I understand that is correct under the rules.

Mr. METZENBAUM. We cannot hear the Senator.

Mr. HATCH. I am sorry. All I am asking is, as I read the language—and I ask the Senator from North Carolina to confirm this—I do not see anything in the language that does away with true affirmative action programs.

Mr. HELMS. It is not there.

Mr. HATCH. Nothing in the amendment would do away with encouraging businesses to try to find minorities, such as women, and others, to fill positions in particular businesses.

What I do see is an amendment that says that you cannot do it through reverse discrimination, preferences, or through quotas. Is that not correct? Is that not what the Senator is trying to do?

Mr. HELMS. That is exactly what the amendment says.

Mr. HATCH. I do not see affirmative action in there. Even if it were, this amendment would not be read by me, or by anybody else that reads it fairly, to say that the distinguished Senator from North Carolina is trying to do away with affirmative action. I do not think anybody on the Senate floor wants to do away with that. Am I right?

Mr. HELMS. The Senator is correct. I am so glad I yielded to my friend from Utah. I thank the Senator.

Let us make it clear, and it is already clear in the amendment, it is clear in the legislative history made last night, and let me reiterate so there will be no mistake about it. Under the terms of this amendment, a company, for example, can recruit in the inner city, prefer people who are disadvantaged, create literacy programs, recruit in schools, have day care programs, and expand this labor pool in a poor section of the community. Under this amendment, an employer can hire for any reason, as long as that reason is not race.

Mr. President, a few days ago——

Mr. BIDEN. Will the Senator yield for a question?

Mr. HELMS. Yes.

Mr. BIDEN. Would an employer be able to say: "It is the policy of this company to affirmatively go out and find 10 percent of our work force as qualified blacks. We are looking for 10 percent of our work force to be black. We will not hire anyone who is not qualified for the job, but we are affirmatively seeking to do that"?

Mr. HELMS. You cannot do that. It sets quotas by race. He can hire competent employees, for whatever reason, just so he does not set a quota by race.

Mr. BIDEN. Let me ask another question, if I may, Madam President, Would an employer be able to go out and say: "The products that we sell primarily benefit the handicapped, so as a matter of management policy and as a matter of, quite frankly, marketing policy, I want to make sure that at least 25 percent of my work force is handicapped and, therefore, I am going to affirmatively seek handicapped persons until 25 percent of my work force is handicapped"?

Mr. HELMS. Not by numbers. But if they are qualified, whatever, no problem.

Mr. BIDEN. One last question, if I may.

Mr. HELMS. I wanted to make my statement.

Mr. BIDEN. May I ask a question about veterans?

Mr. HELMS. Sure.

Mr. BIDEN. What would happen if an employer said: "I believe that it is important, because of the high unemployment rate among veterans, that I have made a policy that 50 percent of my work force is going to be veterans"; would they be able to hire veterans or say: "If there is a qualified person who is a veteran and a qualified person who is not a veterans, in every case I have instructed my employment people to hire the qualified veteran." Would he be able to say that?

Mr. HELMS. I have checked with my lawyers in here, just to be sure, and veterans groups are not mentioned by race, sex, et cetera.

Mr. BIDEN. So one could, though, say, "Twenty-five percent of my work force is going to be veterans." Would that be OK?

Mr. HELMS. Sure.

Mr. BIDEN. One could not say that for handicapped people?

Mr. HELMS. Sure.

Mr. BIDEN. I thank the Senator.

Mr. HELMS. Madam President, a few days ago I came across a fine paper by Seymour Lipsit, and I mention the gentleman's name because I will identify him in just a minute. The paper is entitled "Equality and the American Creed: Understanding the Affirmative Action Debate," by Seymour Lipsit.

The central thesis of this paper was summed up with the following comments:

> Affirmative action policies (hiring or promoting people by the numbers or group identity) challenged the basic American tenet that rights to equal treatment should be guaranteed to individuals and that remedial preferences should not be given to groups and given the strength of individualism in the American tradition. It is not surprising that most Americans, including a considerable majority of women and a plurality of blacks, have continued to reject applying emphasis on protected rights to groups.

Then he went on to say:

> It is crucial that civil rights leaders, liberals and Democrats, rethink the politics of special preference. The American left, from Jefferson to Humphrey, stood for making equality of opportunity a reality.

Those comments, Madam President, are right on mark. It is also important to note that the passage I just read was taken from the work sponsored by the Democratic Leadership Council. I applaud the Democratic Leadership Council for its foresight. I do not understand why the Democrats in this Senate are so frightened about voting for this amendment, or even voting on it.

Let me capsule, if I may, the comments that I made last night on this floor, which were not heard by many Senators. This amendment is very simple and not subject to misinterpretation as, unfortunately, my friend from Kansas just did. It simply prevents Federal agencies and the Federal courts from misinterpreting title VII of the Civil Rights Act of 1964 to permit an employer to grant preferential treatment for employment to any group or individual on account of race.

The Helms amendment, as it has come to be known, prohibits the use of racial quotas in employment once and for all, and clearly gets the Federal Government out of the quota business, which it should never have gotten into in the first place.

Did you remember the past few months almost every Member of this Senate has gone home and proclaimed that he or she looked with disfavor on quotas? It has been said here this afternoon, and this amendment—and this is my purpose—this amendment will give Senators an opportunity to reinforce all of those statements with a clear-cut vote against quotas.

Let me make it clear. I am not here on behalf of business, large, medium or small. I am here on behalf of working people of all races, ethnic groups, and gender in North Carolina and around the country. They do not have 500 organizations trying to protect their civil rights. They are not organized into Washington pressure groups such as we see here this afternoon right outside the Senate Chamber. These working people simply want to work for a living free of discrimination. Unfortunately, Government-imposed and Government-encouraged quotas are a fact of life in this country and everybody knows it. Just about everybody around this country is steamed up about it.

According to the June 3 edition of Newsweek magazine a substantial number of Fortune 500 companies have very clear minority hiring goals which they treat as quotas. In a survey of CEO's of Fortune 500 companies, 72 percent acknowledged that they used some sort of quota hiring system. Only 14 percent of these CEO's claim that they hired solely on merit.

I note with emphasis that the Business Round Table is now negotiating with a professional civil rights establishment to come up with a compromise civil rights bill. For whom does the Business Round Table speak? Surely not for the little man, not for the working man.

As the Newsweek article itself suggested, there are these very big businessmen, who regularly engaged in reverse discrimination. They are interested in public relations, not the civil rights of the individual workers. That is not an opinion. That is a fact of life.

All this pending amendment, called the Helms amendment, says is that from here on out employers will hire on a race-neutral basis, they can reach out into the community for the disadvantaged, something that all Senators support, and they can even have businesses with 80 percent, 90 percent minority work forces as long as the motivating factor in employment is not race.

The Helms amendment clarifies section 703(j) of title VII of the Civil Rights Act of 1964 to make it consistent with the intent of the authors, Hubert Humphrey and Everett Dirksen. I read it last night. But let me read it again for the RECORD and for those who did not hear what was said last night. Here is what Hubert Humphrey and Everett Dirksen said:

> It shall be an unlawful employment practice for any employer, employment agency, labor organization, or joint labor committee that is subject to this title to grant preferential treatment, with respect to selection, compensation, terms, conditions, or privileges of employment or union membership to any individual or to any group of individuals on account of—

And get this—

> on account of the race, color, religion, sex, or national origin of such individual or group for any purpose, except as provided in subsection (e) of this section.

I do not know what the holdup is on letting the Senate speak on this amendment. If I lose, fine; if I win, great.

But let me tell you why it is necessary. It is necessary because in the 27 years since the passage of the Civil Rights Act of 1964, the Federal Government and the courts have corrupted the spirit of this act and created a tolerance for the very evil which Hubert Humphrey and Everett Dirksen fought so strongly against, the racial quota. And this amendment simply makes part (j) of section 703 of the 1964 Civil Rights Act consistent with subsections (a) and (d) of that section. It contains the identical language used in those sections to make preferential treatment on the basis of race, that is quotas, an unlawful employment practice.

This amendment will permit the Federal Government from ever agáin terrorizing the small business people of this country with threats and fines for not meeting some bureaucrat's vision of a promotionalized and racially correct society.

Last night I discussed a specific case which just underscored what I am talking about and as a matter of fact prompted me to offer this amendment today.

The Daniel Lamp Co., a very small Chicago lamp factory, recently was visited by the investigators of the Equal Opportunity Employment Commission, and on March 4 the CBS program, "60 Minutes," a program not particularly noted for its conservative bias, blew the cover off of the EEOC attempt to impose its quota mentality on one small defenseless businessman in Chicago. It was a perfect outrage what happened. And to be honest about it, I had the chairman of the EEOC over to see me about it. We met with several Senators. And after that the fines and penalties against the Chicago Lamp Co. were minimized.

Morley Safer on "60 Minutes" put it this way: The Daniel Lamp Co. "is guilty of not playing the numbers game." You see, Madam President, the EEOC found the owner of the Daniel Lamp Co. to be a practitioner of racial discrimination and it leveled a fine of $148,000 against this little company.

What was interesting about the EEOC charges was the fact that the company had 28 employees and only 2 of those employees were not black or Hispanic. And you know who those two employees were? They were the owner and his father. And by the way, the father is a survivor of Auschwitz. There were 18 Hispanics and 8 blacks on this lamp company's payroll when "60 Minutes" began its investigation.

All right. The trouble began when one disgruntled job applicant filed an EEOC racial discrimination complaint against the Daniel Lamp Co. of Chicago. The EEOC demanded the records of the company. The owner who hired only minorities, only minorities, was proud of his work force and he was happy to let the Federal Government inspect his ledger because he was stupid enough to believe that he might be commended for providing jobs for minorities. How wrong he was. This was all on "60 Minutes."

In its investigation "60 Minutes" found that the only information that EEOC was using against the Daniel Lamp Co. was the agency's computerized quota numbers. The EEOC's computer had told the agency that based upon the employment statistics of Chicago businesses with over 100 employees, and let me say a fascinating comparison since the lamp company never had more than 30 workers, the Daniel Lamp Co. had to employ exactly 8.45 blacks.

I do not know how you hire 45 percent of 1 percent of a black worker. But that is what this crazy EEOC demanded, and handed down the fine of $148,000 against one of the small businesses of this country.

When I heard all of that on "60 Minutes" I said, "Well, that sounds like a quota to me." And it even sounded like a quota to Morley Safer who on the air was obviously puzzled as to why the agency, EEOC, was disobeying the law, which as Mr. Safer put it clearly "says that the EEOC can't set quotas."

There the EEOC was setting quotas, and that is the doubletalk we hear in this country. Oh, we do not believe in quotas. And yet up comes an amendment to say we will return to the law passed in 1964 and they say, "Oh, we cannot vote on that. That is holding up this bill. That will kill the bill." Nonsense.

Despite the denials by the EEOC, Mr. Safer concluded, and let me quote him, that the EEOC "did set numbers, by telling Mike," that is the owner of the company, "that based on other larger companies' personnel Daniel Lamp should employ 8.45 blacks."

When the Daniel Lamp Co. stood up to the intimidation by the EEOC, the EEOC tightened the noose, don't you see? Not only did the company have to meet the quota, I do not know how they did it, they had to pay a huge fine, but it also had to spend $10,000 on order of the EEOC to advertise in newspapers to tell applicants that they might have been discriminated against, and will you please contact the Daniel Lamp Co. for a potential financial windfall.

(Mr. FOWLER assumed the chair.)

Mr. HELMS. Now what have we gotten into in this country?

Do you see what is going on, Mr. President? The Daniel Lamp Co. is not one of those Fortune 500 companies that can afford a whole gaggle of lawyers and can placate the various special interest groups by hiring according to quotas. The Daniel Lamp Co. is a small, struggling enterprise that can afford to pay its few employees a scant $4 an hour.

Now this company—let me emphasize—hired only minorities. But that was not good enough for the quota bureaucrats in Washington, DC. They said the company did not hire enough of the right minorities.

This amendment, if we ever get around to voting on it—and let me say parenthetically if it kills this bill, it is not the Senator from North Carolina, it is those who do not want to vote on this bill. If you notice, they are afraid of even a tabling motion. They do not want to vote on this amendment.

Mr. President, Senator KENNEDY has been waiting patiently, and I want him to have his say. I know that he will not agree with me.

I am going to yield the floor in a minute. Senator CRAIG has sent me a note that he would like me to yield for a question, and then I will yield the floor.

Mr. CRAIG. Mr. President, I thank my colleague from North Carolina for yielding.

I join with him in the amendment that he has offered. I think it is only appropriate at this time and in this place that this Senate react to what this amendment addresses. I find it almost anti-American that we would choose the numbers game, that we would play the game that has been played so ineffectively and so destructively to this society for the last good number of years.

This amendment addresses the individual. This society's strength was built on the individual. We are talking about freedom and we are talking about merit and we are talking about the right of the individual, he or she, of any race or any color to achieve at their own level. That has always been the issue and that has been the strength of our society.

More importantly, Mr. President, what we have tried to solve in this country is the polarization that has resulted from how the 1964 act has been interpreted, well beyond what my colleague from North Carolina quoted yesterday from the late Senator Humphrey and his intent, very clear, very specifically spelled out in the language recorded in this Chamber at the time that that famous act was voted on. It is very clear to all of us what is intended by this amendment. And it is a very important part of any kind of legislation that we deal with.

I compliment my colleague from North Carolina for his foresight in bringing us to this point where we can, in a very conscious way, deal with this—no subterfuge, none of the game playing that went on in the other body. It was almost carnival-like to watch what they attempted to do to craft this unique language to get to where they wanted to get without a clear and exact statement on the part of the other body.

This amendment is clear and exact; very easy to understand. It simply says there will not be any quotas. We will deal with individual freedoms and individual merit, and that is the way our society ought to judge itself.

I compliment my colleague, the Senator from North Carolina, for offering this amendment, and I yield back to him.

Mr. HELMS. Mr. President, I thank my colleague. He understands what the amendment is intended to do and what the amendment, in fact, does, and he knows where the language of the amendment came from. It came from a piece of legislation 27 years ago.

I yield the floor, Mr. President.

Mr. KENNEDY. Mr. President, there had been a consent request for a period of time of 1 hour during which no motions would be offered. How much of that time remains?

The PRESIDING OFFICER. Twenty-nine minutes remains for debate under the agreement.

Mr. KENNEDY. A number of my colleagues have inquired about the agreement. As I understand it, the request did not state that there would be final action or indeed any action at the conclusion of that hour. The consent request was made so that there would be no orders placed in the interim, and at the end of the hour, the floor manager, Senator BIDEN, would return and, as I understand it, debate would continue. At least that was my impression from talking with the leader.

But my understanding of the time limitation was that it was intended only to ensure that there would be no motions so that there could be a period of time for debate. There remain now 29 minutes. I hope that the time that remains would be allocated to those who are opposed to the Helms amendment. We did not ask for a time division. But I would ask at this time, since 31 minutes have been used by those who support the amendment, that the remaining time be allocated to those who are opposed.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. KENNEDY. Mr. President, I want first of all to commend the minority leader for what I think was a very fair and accurate description of the current situation with regard to the civil rights legislation. This has been a long, continuing process of communication, with debate here on the floor of the Senate during the last session and a good deal of give and take during recent weeks by those who have been interested in trying to address some of the decisions that the Supreme Court has made during recent years.

I am one of many Members who have been involved in the discussions, which have included as far as I know just about anyone who has been interested in these issues. They have been done in an extremely constructive and positive manner, and I join at this time in paying tribute to all of those who have been involved in these discussions. They have been enormously constructive and I think some progress has been made. It has been a difficult process and, hopefully, there will be some opportunity in the very near future at least to describe where these discussions and negotiations have brought us.

But I believe that the minority leader, in expressing his reservations about and opposition to the Helms amendment, has given a statesmanlike presentation because so many of the issues which are involved in the Helms amendment are matters which would be included in any kind of civil rights bill. When we address the civil rights bill, we will have the opportunity to get into these kinds of issues in very considerable detail rather than just as an add on to the crime package.

So I take note of this position, and I express appreciation for his position, as one who is involved with many others on both sides of the aisle on the civil rights legislation.

Mr. President, I will include in the RECORD—I am not going to take a lot of time—documents regarding the Daniel Lamp case which was identified by the Senator from North Carolina. I will include various documents from the EEOC, one of which concluded:

> We discovered evidence that the company was intentionally engaging in a pattern and practice of excluding blacks from its work force. The owner of the company attempted to justify the virtual absence of blacks by

pointing to the high number of Hispanics he had employed. However, the civil rights laws do not permit a company to exclude deliberately members of one minority by hiring members of another minority. The civil rights laws require equal opportunity for all individuals.

The fact is that this employer hired virtually all Hispanics and virtually no blacks.

I will include in the RECORD examples of what the EEOC found in various applications for employment at Daniel Lamp.

For example, at the top of the application submitted by William Lawrence Gillетly, is handwritten, clean white in reverse letters. That was the code: writing clean white and spelling it backward.

On another application, submitted by Marie Violet Corrozzo, they have written the Hebrew word "lavan," which means white.

I am not going to take a lot of the Senate's time now during the debate on the crime bill, but on virtually all of the applications Daniel Lamp was using codes to indicate who was black and who was white.

It was on the basis of those and other findings that the EEOC took action and filed a complaint alleging intentional discrimination.

I think it is important to make that fact clear.

I ask unanimous consent that all this material be printed in the RECORD at an appropriate place after my comments and discussions.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. Mr. President, the amendment offered by Mr. HELMS, is unwise, unfair, and has no place on the crime bill. A vote to table the amendment is not a vote for or against the amendment. There will be ample opportunity next month to deal with all aspects of the quota issue when we take up the civil rights bill.

The amendment would make it an unlawful employment practice "to grant preferential treatment * * * to any individual or to any group on the basis of race, color, religion, sex, or national origin." That language would do far more than ban quotas. It would reverse more than a decade of Supreme Court precedent upholding the use of affirmative action and outlaw all affirmative action efforts.

The Helms amendment violates the Nation's shared recognition that, under certain circumstances, it is appropriate to try to increase the representation of women and minorities in the workplace by engaging in affirmative action.

President Bush and Reagan have both recognized the importance of affirmative action and have taken steps which, had the Helms amendment been law, would have been illegal. Similarly, the Supreme Court has repeatedly recognized the valuable role played by affirmative action and has developed a body of law defining the circumstances under which such efforts may be undertaken.

We should not overreact to the cry of quotas by abandoning a valuable tool which has been invoked by the past two Republican Presidents and approved repeatedly by the Nation's highest court.

President Reagan personally demonstrated that one can oppose quotas and unfair advantages without also opposing appropriate affirmative action efforts. A long-time opponent of quotas, he promised in the closing days of his 1980 Presidential campaign to name a woman to fill one of the first Supreme Court vacancies.

He stated:

> I oppose tokenism, and I oppose setting false quotas. * * *
>
> I am also acutely aware, however, that, within the guidelines of excellence, appointments can carry enormous symbolic significance.
>
> This permits us to guide by example, to show how deep our commitment is and to give meaning to what we profess. * * *
>
> One way I intend to live up to that commitment is to appoint a woman to the Supreme Court. I am announcing today that one of the first Supreme Court vacancies in my administration will be filled by the most qualified woman I can possibly find, one who meets the high standards I will demand for all court appointments. It is time for a woman to sit among our highest jurists.

True to his promise, President Reagan nominated Sandra Day O'Connor to fill the first Supreme Court vacancy during his tenure. In announcing the nomination, the President explicitly referred back to his campaign promise that one of his first Supreme Court appointments would be a woman.

But if the Helms amendment had been law in 1981, President Reagan would have been committing an unlawful employment practice when he appointed Sandra Day O'Connor to the Supreme Court.

President Reagan did not stand alone in recognizing that there is an important distinction between granting unfair preferences and engaging in appropriate affirmative action. President Bush—undeniably a staunch opponent of quotas—has made clear that he supports efforts to seek out women and minorities to fill vacancies on the Federal bench. His administration has stated that it is looking for more qualified female and minority candidates for Federal judgeships, and he personally has written to Senator DOLE requesting the assistance of GOP Senators in identifying qualified female and minority candidates for the Federal bench.

President Bush has also supported affirmative action efforts outside the realm of judicial appointments. He has repeatedly affirmed his support for affirmative action in improving the representation of women and minorities throughout America's workplaces. According to Bob Woodward's book, "The Commanders," Chief of Staff John Sununu once instructed Secretary of Defense Cheney that, "the White House wanted 30 percent of the remaining 42 jobs in the Defense Department filled by women or minorities."

Like Presidents Bush and Reagan, the Supreme Court has recognized the important distinction between unlawful quotas and valid affirmative action efforts. In its first opinion directly addressing the issue of affirmative action, Steelworkers versus Weber, the Court held that title VII does not prohibit private, voluntary affirmative action efforts designed to hasten the elimination of discrimination.

In a series of subsequent opinions, the Court has illuminated the circumstances under which affirmative action is lawful. In Sheet Metal Workers versus EEOC, the Court held that title VII does not prohibit a court from ordering, in appropriate circumstances, affirmative race-conscious relief as a remedy for past discrimination. Recognizing that the availability of such relief may be the only effective means to ensure the full enjoyment of the rights protected by title VII, the Court approved the use of affirmative action efforts as long as they do not rise to the level of a strict racial quota, are temporary, and do not unnecessarily impair the interests of nonminority workers.

In Firefighters versus Cleveland, the Court held that title VII does not deprive trial courts of the authority to enter consent decrees which provide for the use of race-conscious relief and other affirmative action designed to eradicate past discrimination, even if the relief benefits persons who were not actual victims of the past discrimination.

And in Johnson versus Transportation Agency, the Court once again distinguished flexible affirmative actions plans from rigid quotas. It approved an affirmative action plan which allowed consideration of an applicant's sex in making promotions to traditionally segregated jobs and which set goals for increasing the work force representation of women and minorities.

In United States versus Paradise, the Court made clear that in appropriate circumstances even strict one-black-for-one-white promotion requirements may be permissible under the equal protection clause. Stressing the harmful nature of the defendant's actions and the fact that the one-for-one requirement was temporary, the Court held that the requirement was narrowly tailored to serve its purposes and was supported by compelling governmental interests in eradicating the defendant's pervasive, systematic, and obstinate discriminatory exclusion of blacks and in enforcing compliance with Federal court judgments.

The Court has not, however, uniformly upheld the use of race- or gender conscious programs. In Wygant versus Jackson Board of Education, Court made clear that there are constitutional limits on the extent to which public entities can use such programs as a tool to overcome discrimination, holding that affirmative action may be utilized by a governmental entity only when there is convincing evidence of prior discrimination.

These Supreme Court opinions make clear that affirmative action advances important social goals and is consistent with the Constitution and existing antidiscrimination law. In addition, they illustrate that the Supreme Court has and will continue to define the limits of appropriate affirmative action, rejecting plans that constitute inflexible quotas or attempts to maintain a permanent, fixed racial or gender balance in an employer's work force.

But if the Helms amendment becomes law, all of the Supreme Court decisions upholding affirmative action—all of them—would be overruled.

Title VII itself further ensures that Federal antidiscrimination laws will not be used as a vehicle for forcing employers to adopt quotas or other improper preferential treatment schemes. Title VII explicitly provides that it shall not be interpreted:

> To require any employer * * * to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons employed * * * in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any * * * area * * * or in the available work force in any * * * area.

In the attempt to reject quotas and other improper preferences, the Helms amendment goes too far. It would force employers to turn their backs on a tool that has been sustained and carefully defined by the Supreme Court and invoked by Presidents Reagan and Bush. The Helms amendment would seriously undermine any hope we have for eradicating the discrimination which continues to plague our society and our workplaces.

I urge my colleagues to vote to table the Helms amendment.

Mr. President, I ask unanimous consent that the privileges of the floor each day the Crime Control Act of 1991 is pending and for rollcall votes thereon, be granted to Ms. Mary Dent, a Congressional fellow from the Georgetown Women's Law and Public Policy Fellowship Program, who is a member of my staff.

The PRESIDING OFFICER (Mr. HARKIN). Without objection, it is so ordered.

EXHIBIT 1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Washington, DC.

I am writing in response to the concerns you expressed in your letter about the Daniel Lamp case. To the extent that I am able to discuss any case that is the subject of ongoing litigation, I would like to set out the facts of this case.

The Daniel Lamp case arose when a black woman, Lucille Johnson, with several years relevant experience applied for a position with the company. Although the company hired several non-black individuals who appeared to be less qualified, she was rejected. Ms. Johnson filed a charge with the EEOC, claiming she had been discriminated against on the basis of her race.

We proceeded to investigate her charge as we do with every charge of discrimination. In this case, the Commission investigated Ms. Johnson's charge both by requesting documentation on applicants and by visiting the company to determine whether there was reason to believe the discrimination charge was true.

We discovered evidence that the company was intentionally engaging in a pattern and practice of excluding blacks from its work force. The owner of the company attempted to justify the virtual absence of blacks by pointing to the high number of Hispanics he had employed. However, the civil rights laws do not permit a company to exclude deliberately members of one minority by hiring members of another minority. The civil rights laws require equal opportunity for all individuals.

Daniel Lamp hired several blacks after the Commission found reason to believe the company was illegally excluding blacks. This does not remedy the injustice encountered by those black individuals who were apparently rejected at an earlier time on the basis of their race. We are pursuing a lawsuit on their behalf.

The EEOC never targeted the Daniel Lamp Co. We, as required by law, began the investigation after a charge was filed.

Furthermore, although Daniel Lamp is a small company, the size of its work force places it well within our jurisdiction. The Commission has jurisdiction over employers who have at least 15 employees—about 15 percent of employers across the country. We certainly have no intention of forcing the company into bankruptcy. In fact, the Commission lawsuit was filed only after numerous and fruitless attempts to settle this case. Only recently did the owner provide any information to support his claim that monetary relief for those individuals who were discriminated against would force the company out of business. The Commission has now resumed settlement negotiations with the company and would welcome an amicable resolution that would avoid the unnecessary expenditure of Commission and company resources.

One point remains—the 8.45 quota that is often cited. The 8.45 figure was obviously not intended to be a hard and fast number of blacks that Daniel Lamp was expected to employ. To focus on the 8.45 figure is to ignore the larger picture involved in this case. Daniel Lamp hired 115 factory workers during the 2-year period of the investigation; only 10 were black. Given the work forces of similar employers in the surrounding neighborhood, a company of Daniel Lamp's size would be reasonably expected to employ significantly more black workers than it did. This small number of blacks in the company's work force for part of that period was seen as another indication of discrimination.

Nonetheless, the perception in the general population and among employers that the 8.45 figure represents a quota graphically illustrates a major problem in the civil rights arena today. All too often, when confronted with such numbers, employers have assumed that they represent quotas. Consequently, many employers have come to believe the law requires quotas and have surreptitiously hired by numbers to avoid legal challenges.

Finally, the EEOC brought the case against Daniel Lamp because Lucille Johnson filed a complaint with us.

Protecting Ms. Johnson's rights is what brought this case to court, not any vendetta against Daniel Lamp Co. or its owner or any desire to bankrupt the company.

I hope this information concerning the Daniel Lamp case is helpful to you.

Sincerely,

JAMES C. LAFFERTY,
Director of Communications and Legislative Affairs.

APPLICATION FOR EMPLOYMENT

[Pre-Employment Questionnaire]

[An Equal Opportunity Employer]

PERSONAL INFORMATION

Date: 4-15-87.

Name: Gilletly, Lawrence William.

Social Security Number: [redacted]

Present address: 2997 S. Archer, Chicago, IL. 60608.

Permanent address: 2997 S. Archer, Chicago IL. 60608.

Phone No. 247-9480.

Are you 18 years or older Yes.

EMPLOYMENT DESIRED

Position: Assembly work.

Date you can start: Rite now.

Salary desired: 3.50 hr.

Are you employed now? No.

Ever applied to this company before? No.

EDUCATION

Name and location of school:

Grammar School—Sayer, 1850 N. Newland, Chicago IL. No. of years attended—8. Did you graduate? Yes. Subjects studied—Basic.

High School: Stinmet 2, 3030 N. Mobil, Chicago, IL. No. of Years atended—2. Did you graduate?—GED. Subjects studied—Gen. Busus. Math.

PERSONAL INFORMATION

Name: Corrozzo, Violet Marie.

Present Address 2707 S. Union, Chicago, IL. 60616.

Are you 18 years or older? Yes.

EMPLOYMENT DESIRED

Date you can start: A.S.A.P.

Are you employed now? No.

If so may we inquire of your present employer? Yes.

Ever applied to this company before? No.

EDUCATION

Name and location of school:

Grammar school—Mort Sheridan, 27th Wallace, Chicago, IL. No. of years attended—8 yrs. Did you graduate? Yes.

High school Kelly, 42nd California, Chicago, IL. No. of years attended —4 yrs. Did you graduate? Yes.

Night school: Kelly, 42nd California, No. of years attended—½ yr.

[In the U.S. District Court for the Northern District of Illinois, Eastern Division, Civil Action No. 9100289]

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, PLAINTIFF, v. DANIEL LAMP COMPANY AND MICHAEL WELBEL, DEFENDANTS

NATURE OF ACTION

This is an action under Title VII of the Civil Right Act of 1964, as amended, 42 U.S.C. §§2000e, et seq. ("Title VII"), to correct unlawful employment practices on the basis of race (Black), and to make whole Lucille Johnson, and all other Black applicants and Black potential applicants for employment aggrieved by the unlawful employment practices.

Plaintiff, Equal Employment Opportunity Commission ("EEOC"), alleges that Defendants, Daniel Lamp Company ("Daniel Lamp") and Michael Welbel ("Welbel") have engaged in a pattern and practice of continuing discrimination against Blacks as a class, on account of their race, in recruitment and hiring.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to §§706(f) (1) and (3) of Title VII.

2. The unlawful employment practices alleged herein were and are now being committed within the jurisdiction of the United States District Court for the Northern District of Illinois, Eastern Division.

PARTIES

3. Plaintiff EEOC is an agency of the United States of America charged with the administration, interpretation and enforcement of Title VII and is expressly authorized to bring this action by §§706(f) (1) and (3) of Title VII.

4. At all relevant times, Daniel Lamp has continuously been and is now a corporation doing business in the State of Illinois, the City of Chicago, and the County of Cook, and has continously had and does now have at least fifteen employees. At all relevant times, Daniel Lamp has continuously been and is now an employer engaged in an industry affecting commerce within the meaning of §§701 (b), (g) and (h) of Title VII.

5. At all relevant times, Welbel has been the owner of Daniel Lamp and has continuously been and is now an employer engaged in an industry affecting commerce within the meaning of Sections 701 (b), (g), and (h) of Title VII.

STATEMENT OF CLAIMS

6. More than thirty (30) days prior to the institution of this lawsuit, Lucille Johnson filed a Charge of Discrimination with EEOC, alleging violations of Title VII by Daniel Lamp. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least 1987, Daniel Lamp and Welbel have engaged in unlawful employment practices at Defendants' Chicago facility, in violation of §703(a) of Title VII. Such unlawful employment practices have included the following:

a. Failing to hire Lucille Johnson because of her race, Black;

b. Engaging in a pattern and practice of continuing discrimination against Blacks, on account of their race, in recruitment and hiring; and,

c. Failing to preserve employment records for such time periods as required by EEOC's Regulations.

8. The effect of the policies and practices complained of above has been to deprive Lucille Johnson and other Black persons of equal employment opportunities and to otherwise adversely affect their status as applicants for employment on account of their race (Black).

Wherefore, EEOC respectfully requests that this Court:

A. Grant a permanent injunction enjoining Daniel Lamp, Welbel, and their officers, agents, successors, assigns, and all persons in active concert or participation with them from engaging in any employment practice which discriminates on the basis of race;

B. Order Daniel Lamp and Welbel to institute and carry out policies, practices, and programs which eradicate the effects of their past and present unlawful employment practices;

C. Order Daniel Lamp and Welbel to make whole Lucille Johnson and the class of Blacks aggrieved by Defendants' unlawful recruiting and hiring practices, by providing appropriate backpay with prejudgment interest, and other appropriate monetary relief, in amounts to be proved at trial, as well as other affirmative relief necessary to eradicate the effects of their unlawful employment practices, including, but not limited to, the hiring in their rightful places of the persons aggrieved;

D. Grant a permanent injunction requiring Daniel Lamp and Welbel to preserve employment records for such time periods as required by the EEOC's Regulations;

E. Grant such other and further relief as this Court deems necessary and proper; and,

F. Award EEOC its costs in this action.

Respectfully submitted,

Donald R. Livingston, General Counsel (Acting); Philip B. Sklover, Associate General Counsel; John Hendrickson, Acting Regional Attorney; Jean P. Kamp, Supervisory Trial Attorney; Zachary A. Tobin, Trial Attorney; Equal Employment Opportunity Commission, Chicago, Illinois.

EEOC FILES LAWSUIT AGAINST DANIEL LAMP COMPANY

WASHINGTON, D.C.—The U.S. Equal Employment Opportunity Commission today filed a lawsuit against Daniel Lamp Co. after extensive efforts to settle a race discrimination charge against the Chicago manufacturer failed.

Commission Chairman Evan J. Kemp, Jr. said, "The evidence obtained in our investigation led us to one conclusion—Daniel Lamp intentionally excluded qualified black applicants from its workforce, while hiring less qualified non-blacks."

Chairman Kemp outlined the following results of the Commission's investigation of the charge brought under Title VII of the Civil Rights Act of 1964:

"The company said it prefers to hire individuals referred to it by Hispanic organizations. It justifies its treatment of black applicants by asserting that its largely Hispanic workforce is already composed of minority individuals."

Kemp said, "Under the law, individuals are not fungible. Title VII stands for the proposition that the workplace must be open to all individuals on a nondiscriminatory basis. Therefore, an employer cannot successfully defend against a black individual's charge of discrimination by merely asserting that its workplace is composed of members of another minority group."

"The company said the backpay sought by the Commission would put it out of business. The company has provided no documentation for that assertion. "It is regrettable that the facts of this case were misrepresented to the public before the commencement of litigation—at a time when we were prohibited by law from discussing them," Kemp said. "Now that suit has been filed, we are able to set the record straight."

Kemp said, "I have read reports in the press to the effect that paying the backpay owed to victims of discrimination would have bankrupted the company and caused its employees to be unemployed. As required by law, we offered to arrange a settlement. I asked my staff to go through the Commission's files to see if there was some proof of financial hardship. To this day, we have not received even the most basic financial data in support of this financial hardship claim."

The Commission's investigation of the charge revealed that when Lucille Johnson applied for an unskilled factory worker job at Daniel Lamp Co., she was not selected, despite three years of related experience. However, less qualified non-blacks were hired for these jobs within a few days of Johnson's application. During most of the course of the investigation, Daniel Lamp had no blacks working in the company's factory.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. COHEN. Mr. President, I thank the Chair.

Mr. HELMS. Will the Senator yield to me 30 seconds?

Mr. COHEN. Without losing my right to the floor.

Mr. HELMS. What Senator KENNEDY neglected to say, Mr. President, was that this Chicago lamp company is situated in an almost totally Hispanic neighborhood. He carefully avoided saying that.

I thank the Senator.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. COHEN. Mr. President, Justice Holmes once stated that a catch word can hold analysis in fetters for 50 years. I am not sure that "quota" is a catch word, or indeed even a buzzword. It certainly is an inflammatory word. In fact, it is a label that, once attached to legislation, is the equivalent of stamping the red letter "A" on the head of the bill itself.

It is the political equivalent of Michael Dukakis turning Willie Horton loose. There should be no mistake about the political implications of labeling something a quota bill.

Why do we react so viscerally to the word quota? Well, it is a number. It is a fixed percentage. It is arbitrary. It is without logic. It is without merit. It is without fairness. And, of course, the very same thing could be said about racial prejudice or bigotry, of discrimination based upon one's sex, national origin, or skin color.

A famous author said:

> Prejudice is born of ignorance and malice. It is the spider of the mind. It weaves its web on every window and over every crevice where light can enter and then it disputes the very existence of the light that is excluded* * *. Prejudice will swear the Northern Star out of the sky of truth.

The Senator's amendment goes beyond quotas. It has been pointed out by Senator KENNEDY, and also Senator

DOLE, it extends to affirmative action. Only bad affirmative action, not good affirmative action. But I did not see that distinction being drawn in the amendment itself. It talks about preferential treatment of any kind to anyone.

Affirmative action in the past at least has been used as a means of breaking down the barriers of segregation and breaking down the barriers to the handicapped, as the Senator from Kansas pointed out. But our concern for discriminatory employment practices is said to be passé.

One of the major papers today contains an article about a headstone being placed over civil rights legislation, reading "Rest in Peace."

Some may believe that we are no longer segregated. There is no racial prejudice any longer. There are no ghettoes, real or imagined. There is no red line for loans. Everyone is now seen as equal, and we have achieved that enlightened state of being completely oblivious to color or sex. We are now color blind and our policies have to reflect our refusal or indeed our inability to differentiate among races, nationalities, and sexes."

That is not a view that I share, but it is an issue which we ought to be debating, and at length, but that debate ought to be on the civil rights bill that hopefully will be coming to this Senate floor by the end of the summer.

It is clear that the language used in civil rights legislation is very technical, and no doubt that accounts for the difference of interpretation between the minority leader and the Senator from North Carolina. It is very technical. It is complex. It has a history of Supreme Court interpretations. And it is not something we ought to be attaching to crime legislation when in fact we know that within several weeks there will be a major piece of civil rights legislation brought to the floor.

So I hope, Mr. President, that when the appropriate time comes, that we would indeed have a motion to table the Senator's amendment, and I intend to join in support of that motion. I yield the floor.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, why is this amendment before the Senate? The answer is simple, at least to me. It is part of a longstanding and ongoing strategy by some in American politics to create inflammatory but essentially irrelevant issues designed to pit one part of the electorate against another; in short, legislation designed for a campaign ad.

Why does the Senator from North Carolina not go for the gold and propose the death penalty for quotas, mandatory life sentencing for affirmative action? What other civil activities does he believe are appropriate for discussion in a crime bill? Why are we talking about this during a debate on the crime bill when the Senator from North Carolina knows, as all of us know, that this body is going to consider a civil rights bill in the near future?

Mr. President, there are those in American politics who consider civil rights a wedge issue, an issue designed to drive wedges and distance between differing groups in our country. They talk about these wedge issues with pride, and they use them skillfully. But I would like to suggest that you can go to the well once too often. You can show Willie Horton's face once too often. You can televise those white hands twisting that rejection letter once too often. And you can invoke the specter of quotas once too often.

Cynical manipulation and scare tactics of racial politics are not the solution to the challenges our country faces, and the people in this country are looking for answers and for leadership.

The amendment before us is not leadership. The Senator from North Carolina proposes to prohibit preferential treatment in employment practices on the basis of race; with an amendment to the crime bill, he seeks to change title VII of the civil rights action. Affirmative action, goodbye.

Mr. President, it is not a crime to try to improve your hiring practices, and we should not make it one. I urge the Senate to defeat this amendment simply and soundly.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I rise in the name and in the spirit of Hubert H. Humphrey.

I rise to set the record straight on Hubert Humphrey's commitment to equal justice, on Hubert Humphrey's commitment to building a true community of peoples, on Hubert Humphrey's commitment to end the blight of discrimination, segregation, and prejudice.

I rise because last night, in offering an amendment to the Civil Rights Act of 1964, the Senator from North Carolina drew the memory of Hubert Humphrey, a passionate and unyielding champion of civil rights in decades past, into what has evolved into a divisive and cynical and shameful debate on civil rights in the 1990's.

We have allowed the debate to be framed by those who default to a single word—quotas—to define and confine one of the greatest issues of our time.

Why do we hear the quota refrain—over and over and over?

For the same reason we heard a lot about Willie Horton in the Presidential campaign of 1988.

The specter of quotas is being used today in exactly the same way as the specter of Willie Horton was used during that election to falsely define an issue in a way calculated to appear to people's worst, but unfounded, fears.

That is the leadership that divides the country by race.

That is not the type of leadership for which Hubert Humphrey stood. That is not the legacy which Hubert Humphrey left. That is not how Hubert Humphrey defined the great civil rights debate of the 1960's.

I am honored—and humbled—to represent the State of Minnesota, as Hubert Humphrey once did, in the Senate of the United States.

And I cannot stand by—mute—and allow Hubert Humphrey's legacy to be degraded by allowing all that Hubert Humphrey stood for on civil rights, and all that Hubert Humphrey fought for on civil rights, to be reduced to a false issue, a divisive issue, a Willie Horton issue.

There is no better way to describe Hubert Humphrey's true commitment to civil rights—and commitment to true leadership—than to return to Hubert Humphrey's own words on the eve of passage of the Civil Rights Act of 1964.

Hubert Humphrey called the Civil Rights Act of 1964 the greatest piece of social legislation of our generation.

On the floor of the Senate, where we stand today, Hubert Humphrey stated:

> * * * [F]or the first time in recent history the Congress of the United States will say in clear and unmistakable terms: "There is no room for second-class citizenship in our country." Let no one doubt the historical significance of this ringing affirmation which we now deliver to the Nation and to the world.

And Hubert Humphrey continued:

> We are engaged in the age-old struggle within all men—a struggle to overcome irrational legacies, a struggle to escape the bondage of ignorance and poverty, a struggle to create a new and better commuity where "justice rolls down like waters and righteousness is a mighty stream."

And what we must remember today is that Hubert Humphrey recognized that the Civil Rights Act of 1964 marked not the end of our fight for equal justice but "only the beginning of our responsibilities on this measure."

This is the legacy that Humbert Humphrey left us. That is the fight we must continue.

Hubert Humphrey stated back in 1964:

> We have before us a great opportunity to strive for a true community of peoples, where neighbors regard each other with charity and compassion, and where Americans of all races live together in harmony and good will. We must go to the people of America with the message that men are needed to seek peaceful, constructive, and positive responses to the blight of discrimination, segregation, and prejudice. We must call upon every American—from the President in Washington to the schoolchild in Minnesota—to become active participants in this crusade for human dignity.

And, as Hubert Humphrey did, I call upon every American—from the President in Washington, to the schoolchild in Minnesota, to the Senator from North Carolina, to become active participants in this crusade.

For that reason, we must vote down this amendment.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized. The Chair advises the Senator there are 6 minutes and 6 seconds left before the vote.

Mr. SIMON. I will use only 2 minutes of that. I ask unanimous consent to yield 2 minutes then to the Senator from Louisiana, and 2 minutes to the Senator from Georgia.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, we hear a lot about government interference in business. Let me tell my colleagues to adopt this amendment and there will be massive government interference in business.

A grocer in North Carolina has 10 employees. Maybe they are all 10 Protestants, and he wants to have a Roman Catholic. He is violating the law if he does this, instance after instance after instance where people make practical business decisions; a preference, if you will. That would not be tolerated.

Finally, I will simply add this, Mr. President. We are on the crime bill. In the last couple of decades, we have seen brought on to the police forces of this Nation a great many African-Americans and Hispanic-Americans and women, and our police forces are better. We are better able to handle a lot of delicate situations.

That would not have been possible had this law been in existence. I hope we resoundingly defeat it.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. I yield to the Senator from Georgia.

UNANIMOUS-CONSENT AGREEMENT

Mr. FOWLER. I thank the Senator from Louisiana.

Mr. President, I ask unanimous consent that for purposes of debate only, debate be extended for 1 additional hour, at which time we will return to an automatic quorum call.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. FOWLER. I thank the Senator.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. I thank the Senator.

Mr. President, when I came to the floor, I was a little surprised because I had been under the impression that the Senate was engaged in debate and the writing of a crime bill, a bill that the President and this administration has asked the Congress to move on within 100 days, and to move very quickly, because it is of utmost importance to this Nation to have a crime bill adopted and enacted into law as soon as we can.

The President's request to the Congress is that we do it in 100 days. The chairman of the Judiciary Committee and the ranking member have done their very best to bring to a conclusion a crime bill.

Lo and behold, walking through the Senate Chamber, I notice we have tossed out as an amendment the essence of the civil rights legislation. I am not going to talk about the merits of the civil rights bill. I, along with a number of other people, are working in a bipartisan fashion with Members on this side and with distinguished Members on the other side to try and craft a civil rights bill that says very clearly that we, as Americans, are against intentional discrimination on the basis of race, creed, color, or any of the other items that we normally say should not be the basis of discrimination.

We are working on that. Diligent efforts are being made by Senator DANFORTH, for instance, with his proposed bill which he has pending right now. There are many of us who are working with him. So I would suggest, Mr. President, that this is the crime bill, and there will be ample opportunity, and I underline the words "ample opportunity," to discuss the civil rights bill. It should be discussed not in one narrow paragraph as this amendment suggests. It should be discussed with all of the options available. We should not just be discussing the question of unlawful employment practices and preferential treatment. We should be discussing damages, whether they should be limited or not, what are the remedies to enforce whatever the statute is ultimately going to say. We should be discussing quotas and whether they should be allowed or eliminated. I, and I know a number of other Members, have strong feelings. I am opposed to quotas. They do not work. I think they are morally wrong and deprive the most qualified people the opportunity to get work.

What I am saying to my colleagues is that the civil rights bill that is pending—we know it has already passed the other body, we know it is going to be coming to the Senate—is the proper forum for discussing all its ramifications, not a single-shot approach to discuss only one aspect of the civil rights legislation. Everything should be out in the open and debated. Everything should be subjected to amendment. The will of the Senate should be worked in a fashion which makes far more sense than a single-shot effort such as is now pending before the Senate.

I think the distinguished minority leader said it correctly when he said that this was not the forum and it is not something that we would be able to support regardless of how you feel on the civil rights legislation. Whatever your position happens to be now, you will have an opportunity to debate it freely and openly at the appropriate time.

Some would say this is a very important issue and the American people want to know the position of the Senate. Mr. President, I have some very important legislation dealing with wetlands. Is it appropriate for me to run to the Senate floor and offer my wetlands legislation as an amendment to the crime bill? I have strong feelings about things that need to be done in agricultural disaster assistance areas. Half my State of Louisiana is under water, Presidentially declared a disaster area, very important. Should I come out on the Senate floor to offer an amendment on agriculture disaster assistance? There is a proper forum, a proper time, a proper place. It is not because of the rules of the Senate. It is because these issues should be debated openly and fairly with everybody participating, everybody focusing on that issue. That is exactly what is going to happen with the civil rights legislation. This body will be focused on all aspects of that very complicated, very emotional issue, and Members will have a right and an opportunity to have their say on the Senate floor, offer their suggestions, and have them debated and voted up or down.

So while I suggest that this is, indeed, yes, an important issue, it should not be handled in a quick fashion without the opportunity to freely debate it. If the President wants a crime bill, he is entitled to it. He is entitled to it in an orderly procedure. This is clearly a major interruption in the crime bill, and I suggest it should be put aside until the civil rights bill is brought before the Senate and we all have ample time to express how we feel on that legislation. I think we should table it and this issue should be discussed at the appropriate time and place.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. FOWLER. I thank the Chair.

I rise briefly to associate myself with the remarks of the Republican leader, Mr. DOLE; the Senator from Maine, Mr. COHEN; and the Senator from Louisiana, Mr. BREAUX. All of us are adamantly opposed to quotas. We are all in the process of addressing a piece of legislation that will specifically and unequivocally outlaw quotas as a selection practice. Those negotiations, as the Senator from Louisiana just stated, are ongoing. They are bipartisan. They seek, through men and women of good will in this country, to affirm lawful business practices which are not based on an artificial quota system.

The amendment before the body offered by the Senator from North Carolina goes far beyond his public statements of a few moments ago. When you read the amendment and eliminate the qualifying clauses, the amendment says:

> It shall be an unlawful employment practice for any employer to grant preferential treatment to any individual or to any group for any purpose.

Despite what the Senator from North Carolina said in his remarks, if you read his amendment on its face, I submit it prohibits any employer in the United States of America to give preferential treatment to any person who is handicapped if that employer in his own mind decides that he wants to hire the handicapped.

Despite the protestations of the Senator from North Carolina on this floor that this would exclude our veterans, if you read the language of the amendment that he is trying to put into the law of the land, it would prohibit any employer in the United States of America giving any preferential treatment to a man or woman who has served our country and fought our wars.

It is the most extraordinary interference in private business practices that I have seen offered on the floor of the Senate, because it would prohibit, in the words of the amendment, any private businessman or woman giving preference to anybody for any reason that they, the private employer, want to use.

I want to add my voice quite simply to what has been said before. This is a crime bill. We do not have rules of germaneness in the Senate. I do not know why. I would like to change that. We have people who want to offer B-1 bomber amendments on Social Security legislation, those who want to offer Social Security legislation on the defense bill. But believe you me, any time that is done, it is only done for one purpose, and that is to disrupt and delay.

I have joined with the leadership on this side of the aisle accepting what the President of the United States asked us to do: Please try to put together a crime bill that will somehow stall and prohibit the rage of crime that continues to affect every American family. That is why we have been here for the last several days. We started it within the 100 days. Everything about the process has been implemented in order to get an anticrime bill that will protect American families. And to offer an amendment like this can only frustrate the President of the United States in his effort to get a bill that he can sign into law so that we can go back to fighting some crime.

I thank the President. I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair.

Mr. President, I was not in the Chamber when my good friend from Georgia purported to explain the amendment by reading part of it.

As I understand it, and he can correct me if my information is incorrect, he read the first 2 or 3 lines and said, "It shall be an unlawful employment practice for any employer, employment agency, labor organization, or joint labor-management committee"—and then he said so forth and so on, then he jumped down to the next to the last line, "for any purpose, except as provided in subsection (e)."

I know that the Senator did not intend to mislead anybody. But let me read the whole amendment, the entire amendment.

> It shall be an unlawful employment practice for any employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment with respect to selection, compensation, terms, conditions, or privileges of employment or union membership to any individual or to any group on account of the race, color, religion, sex or national origin of such individual or group—

Then we will pick up what I understand the Senator gave you—

> for any purpose except as provided in subsection (e).

I just wanted to make it clear that his omission, and I know it was not intentional, was rather significant.

Mr. FOWLER. Will the Senator yield?

Mr. HELMS. Just for a moment, please.

Mr. President, Senators can vote for or against this amendment as they choose. But I hope we can keep it on a basis of accuracy and objectivity. For example, the distinguished Senator from Massachusetts, Mr. KENNEDY, read a lot of stuff into the RECORD purporting to show that the lamp company out in Chicago had done some dastardly thing.

I have looked at the same documents. And they did nothing dastardly. As a matter of fact, they were proud of the fact that they hired only minorities. As I said earlier, the EEOC came racing in there and slapped on $148,000, plus $10,000 that they were required to spend advertising in the newspapers for people to come in and claim that they had been discriminated against. And EEOC's purpose, EEOC's motivation was to make a distinction between 8 black employees and 8.45 black employees.

I say to you, Mr. President, that was an outrageous activity. And the EEOC has since backed up because, as I said earlier, I invited the chairman of the EEOC, Evan Kemp, to come up here and visit with me and other Senators. And he acknowledged that it was an outrage. Therefore, the fine was virtually eliminated, and they did not have to spend the $10,000 advertising in the newspaper.

So I hope we can keep this debate on a pretty level plane. Facts are facts. Truth is truth. And I know some Senators do not want to vote on it. That is the reason all this is going on right now. They do not want to vote on it. They are scared of it. They are in a catch-22 situation. They have been out across the country saying I am against quotas. Then when they have a chance to back it up with a vote in the U.S. Senate, they say, oh, we do not want to vote on it. And they say, in addition, look at HELMS, he is blocking this bill, this crime bill.

I am not blocking it. I was ready to vote last night. It is the Senators who are afraid to vote on it, and I challenge them. Go ahead and table it. Do whatever you want to on it. But speak up, take a stand, whatever way you feel about it. Go ahead and vote. But do not try to pin a donkey's tail on the Senator who is simply attempting to validate the declarations of Senators who have said almost with unanimity, I am against quotas.

If they are against quotas, let us go to a vote right now. Do not hem and haw. Do not have a unanimous consent that you cannot do anything except debate. Buck up to it. Show a little courage. Vote one way or another, but vote. I yield the floor.

Mr. FOWLER addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. FOWLER. Mr. President, I hope the Senator from North Carolina will stay on the floor for just a couple moments, since he did accurately characterize the portion of his amendment that I read. But I submit to the Senator from North Carolina that I read the operable parts of the amendment.

The whole amendment, as we know, is printed in the RECORD. I say to the Senator that I am willing to accept, as always, his statement of his intentions as he has stated them in his usual eloquence on this amendment. But I say with great respect to the Senator from North Carolina that the drafters of this amendment went far beyond the stated purpose of the Senator from North Carolina because, if the Senator will allow me, when he put "for any purpose" in this amendment, whoever drafted it, "for any purpose" it goes beyond the stated intentions of the Senator from North Carolina.

And the result of this will be, since both of us came from a Baptist background, that it will prohibit the hiring of Baptists only to sell Baptist hymnals, if I am in the hymn-book business. It will prohibit the hiring of Catholics only, or some Catholics, even, if I want to sell crosses to churches. It will prohibit an employer from giving a preference to hire a wounded war veteran from our recent Desert Storm success. It will prevent the hiring or preferential treatment for the handicapped, because that is what the amendment says.

Mr. HELMS. The Senator is incorrect, and he knows he is.

Mr. FOWLER. The Senator is not incorrect.

Mr. HELMS. Yes, he is.

Mr. FOWLER. I can read the words on the page, and any first-year law student can read the words on the page and would know what it says—"for any purpose"—in the amendment; that would be the law if this was adopted. That is why the Republican leader is opposed to it. That is why Senator COHEN is opposed to it. All it takes is not listening to the speeches; all it takes is for any first-year law student, or any citizen, to read the words that are trying to be slipped by.

Sure, we will vote, after we have a thorough airing of the amendment, after everybody gets a chance to read it and not listen to the speeches. They do not have to listen to the speech of the Senator from Georgia. I would be delighted if we turned off everything. I would be delighted to not listen to the speech of the Senator from North Carolina and his characterization. All you have to do is read the amendment.

If it was in law, it would eliminate any preferential treatment of a private employer who voluntarily chose to do it. And that is all that I say to my friend from North Carolina.

I do not question his motives. I do not question his intentions. I question the words of his amendment, which would not do, in my humble opinion, what he says they would do, but would go far, far beyond his stated intention, to have an extraordinary disruption of the private rights of private employers to hire whom they wish.

Mr. HELMS. Mr. President, I appreciate the lecture, but when you read the amendment, you left out part of it. On line 9, did you read "except as provided in subsection (e)."?

The PRESIDING OFFICER. The Chair advises Senators to please address each other through the Chair and in the third person.

Mr. HELMS. I address that to the Chair. I thank the Chair.

Mr. FOWLER. The Senator from Georgia, I believe, has the whole amendment of the Senator from North Carolina.

Mr. HELMS. I will say to the Senator that I know he had it. What I asked him is did he refer to the provision in subsection (e)?

Mr. FOWLER. The entire amendment of the Senator from North Carolina is the basis for my opposition.

Mr. HELMS. Will the Senator tell me what he understands to be subsection (e)?

Mr. FOWLER. I would be glad to as soon as we get subsection (e).

If the Senator will make his statement, we will continue the debate.

Mr. HELMS. I state to the Chair that I am going through him. What I want to know is, if the Senator will now state—before the aide tells him—if he knows what is in subsection (e), that last words of the amendment, beginning on line 8, are "except as provided in subsection (e)." Does the Senator know what it means? He has been very blunt about his interpretation of the intent of the amendment.

I judge that the Senator is not answering. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, the distinguished Senator from Georgia made a comment, as I recall it, that he thinks a first-year law student would have done so and so. I do not want to be harsh with him, but any first-year law student I believe would have read subsection (e) before coming to a conclusion. I think I ought to read it in its entirety, leaving nothing out, and adding not one syllable.

It is headed: Businesses or Enterprises With Personnel Qualified on Basis of Religion, Sex, or National Origin; Educational Institutions With Personnel of Particular Religion.

This is the title.

> (e) Notwithstanding any other provision of this subchapter, (1) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify, or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program—

This is where I was moved to say that the Senator was wrong. Let me continue—

> on the basis of his religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise, and (2) it shall not be an unlawful employment practice for a school, college, university, or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.

Mr. President, if Senators will take a look at the Helms amendment they will notice that it creates an exception—and I emphasize this—to the prohibition against discrimination on the basis of religion, sex, and national origin.

The amendment protects the religious school or institution which grants preferences in hiring or admission to those of its own religion. It protects those ethnic-based enterprises which require special language skills and familiarity with particular customs.

I rest my case, Mr. President, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. FORD. I object.

The PRESIDING OFFICER. Objection is heard.

The bill clerk continued with the call of the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I understand the pending business is the Helms amendment. I would like to discuss that situation.

Mr. President, once again my colleague from North Carolina is ahead of his time. Some day, I would like to support this amendment. Today, I cannot.

Who among us does not seek a color blind society? One that treats men and women as equals? One that is without religious prejudice?

We all seek this society. But sadly, all of us know it does not describe the United States in 1991.

The United States is still shackled by bias. It is still mired by hate. Too many employers and unions and individuals are not blind to color. Given this sad but true fact, our system of justice cannot be blind to the existence of prejudice either.

Regrettably, some unions still stack the deck against women and minorities. So, too, do some employers. What should our societal and legal response be to blatant historical and/or current discrimination? Should we let bygones be bygones?

The answer is, of course not. We still need to remedy past discrimination. In some cases, that means adopting goals and timetables to erase the effects of that discrimination. The Helms amendment would make this type of redress unlawful. The Helms amendment, while superficially attractive, would undercut efforts to gain true equality in our country.

Paper rights are one thing. But until blacks and women are in the building trades, the banks, and the board rooms, we will not really have equal opportunity in this country.

Affirmative action is a necessary tool in this effort. It does not mean hiring by the numbers to satisfy the whims of some bureaucrat. But sometimes it does mean making an extra effort to find qualified people who do not live in the right neighborhood and don't belong to the right country club.

The shame of it all is that if the Senator from North Carolina is trying by his amendment to ban quotas, the very provision he is amending does just that. I will submit for the record the text of the existing language of 703(j) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2(j)).

That section states that nothing in the act shall require an employer to grant preferential treatment on the basis of race, sex, et cetera, on account of an imbalance in the numbers of persons of a particular race, sex, et cetera, employed by an employer as compared with the numbers of such persons in the community, State area, et cetera.

It clearly handles the kinds of circumstances which the Senator from North Carolina is referring to.

This language already bans the evil addressed by the Senator's amendment. But it does so without the side effect of also banning the affirmative action practices which the Supreme Court has repeatedly upheld.

In case after case, the Supreme Court has set the limits of permissible affirmative action. The names of these cases are well known: Steelworkers versus Weber, the Firefighters cases, Johnson versus Santa Clara, and others.

These decisions have served more often than not to constrain the scope of actions beneficial to women and minorities. However, they also consistently have held that under limited circumstances it is appropriate to take affirmative steps to provide equal opportunity where history has shown that negative steps to deny such opportunity had been taken previously.

So, I say to the Senator from North Carolina that his amendment assumes a fact not yet in existence. It assumes that we as a country have reached that color blind plateau where there no longer is a need for taking action to correct the wrongs of discrimination. I say to the Senator, that day will come. When it does, I or my like-minded successors will support the type of amendment he offers today. That support will be given with joy, for it will signal arrival of the color-blind society all of us crave.

But for now, this amendment is wrong for the times in which we live. For today, this amendment should be defeated.

Mr. President, I ask unanimous consent that the language of the referred to statute be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

(i) Businesses or enterprises extending preferential treatment to Indians.

Nothing contained in this subchapter shall apply to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because he is an Indian living on or near a reservation.

(j) Preferential treatment not to be granted on account of existing number or percentage imbalance

Nothing contained in this subchapter shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this subchapter to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number of percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area.

Mr. JEFFORDS. Mr. President, I yield the floor and make a point of order that a quorum is not present.

The PRESIDING OFFICER (Mr. LIEBERMAN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Missouri, Mr. DANFORTH.

Mr. DANFORTH. Mr. President, listening to the debate earlier in the day on the Helms amendment, at least at one point it was described as an amendment that was, somehow, directed at governmentally mandated quotas. I would simply point out that that issue, which is a very important issue, is in no way related to the Helms amendment.

The whole so-called quota issue is one that we have been going round and round about in various efforts to draft civil rights legislation. But this amendment before us really does not have anything to do with any orders by the Federal Government to create numerical quotas for employment. This particular amendment has, instead, to do with what otherwise would be voluntary decisions by the private sector.

For example, if a private employer made a purely private decision that the employer wanted to provide better opportunities for minorities and wanted to attempt to hire more minorities in order to accomplish that, this amendment would say no, you cannot do that.

If an employer, for example, were a university, and the university said that we would really like to have a greater number of blacks on our faculty because we have black students and we thing that this is an important role model for our students, this amendment would prohibit that kind of program. If an employer were to say that we have a national advertising campaign, and we think that it is important in our advertising campaign to appeal to all kinds of people, and therefore we are going to try to insert in our commercials blacks or women, this amendment, as I read it, would say, no, you cannot do that.

This amendment is an effort by Government to regulate the employment practices of private employers. That is done by government. We do, of course, have statutes that prohibit discrimination. But this is to say we are going to also have a statute that prohibits an employer making an effort to open up opportunities for clearly disadvantaged groups.

If an employer, as a matter of social resonsibility, believes that it is a wrong in our country that some minorities clearly have economic disadvantages and the employer wants to participate in righting that wrong, then this amendment would say: Mr. Employer, you violate the law by that private decision.

If the employer says: As a matter of principle, I think that it would be good for my business to have more blacks, and I am going to reach out and find more blacks, and I am going to try, the next 10 people who are hired, to hire blacks so that instead of 100 percent whites, I have some blacks in my office, this amendment would say: No, Mr. Employer, you cannot do that because it violates the law.

If an employer says: I think in this community and in this business, it would be good to have training opportunities for minorities so that they will have a opportunity to better themselves, and we are going to have a training program designed to do that, this would say no, you cannot do that.

I talked earlier today to one of our colleagues who is a former Governor. Many of our colleagues are former Governors. This Senator said that, when he was Governor, he had to beat on his State highway patrol because the highway patrol in his State by tradition was virtually 100 percent white male, and he had to beat on them to reach out and hire blacks and hire women. And the same with the State Conservation Department.

This amendment says, oh, no, that cannot happen.

There is a big difference between Government-mandated quotas, on one hand, and private, or perhaps local or statewide efforts to remedy clear problems in the country, on the other hand. There is a difference between Government saying you must hire by the numbers, which is wrong, and all of us oppose that, and on the other hand, a private employer saying: It is good for my business, and it is good for this country if we have a more balanced representation in our work force. That is a major difference.

Clearly people in this country are disadvantaged on the basis of race. There cannot be any doubt about that. And it seems to me that it is not unreasonable for somebody in the private sector to say, "I want to be part of the answer."

And if the Government then, by statute, says, "No, you cannot be part of the answer; we do not want you to be part of the answer; it is illegal for you to be part of the answer"; then it seems to me that we have extended the power of Government beyond what it is now, and that we have told private people: Do not make your own decisions in what you believe is a socially responsible way.

I oppose the Helms amendment. I hope it will be defeated.

The PRESIDING OFFICER. The Chair recognizes the Senate Republican leader.

Mr. DOLE. Mr. President, let me commend the distinguished Senator from Missouri. He raised the very question I raised earlier, and I am going to have a discussion now with the distinguished Senator from North Carolina. He made the points I made, which I did not do quite as well as the Senator from Missouri in making the points. But it did raise some concerns that I thought should be addressed.

Again, I apologize to the distinguished Senator from North Carolina for, in effect, coming on the floor and maybe blindsiding him. I thought, given our staffs' discussion back and forth, he was aware of my concern. But I apologize; that was not the case.

So, Mr. President, for all the reasons just stated by the Senator from Missouri and in the comments that I made earlier today, and from discussion at the staff level and with Senator HELMS, let me make a statement and maybe elicit a response from the distinguished Senator from North Carolina.

It is my understanding from the earlier remarks of my distinguished colleague from North Carolina that this amendment would not—would not—prohibit an employer from voluntarily making special efforts to seek out and recruit minorities for its applicant pool.

This is race-based affirmative action in the traditional sense.

However, when it comes to the decision to hire and promote, this decision ought to be made without regard to race, ethnicity, or gender.

For example, it is my understanding that this amendment would still allow an employer with a predominantly white work force to widen its applicant pool specifically to recruit minority and women applicants.

Accordingly, the employer could affirmatively recruit minority applicants by placing ads in newspapers which have a primarily minority readership.

The same employer could ask minority and civil rights groups for referrals of minority applicants.

And my question would be, after discussions, is this correct reading of the Senator's amendment?

Mr. HELMS. It is absolutely correct, I would say to the Senator.

Mr. DOLE. I thank the Senator from North Carolina.

I also suggest—it may not be possible under the parliamentary situation—that one way to alleviate the concerns of, I know, some on this side, as the distinguished Senator from Maine has expressed, the Senator from Missouri has expressed, the Senator from Vermont has expressed, and many others, it is my hope that even though the yeas and nays have been ordered, there might be some way—it has to be by unanimous consent—to add at the end of the pending Helms amendment the following language:

> Nothing in this amendment prohibits an employer, employment agency, labor organization or joint labor/management committee from establishing affirmative action programs designed to recruit qualified minorities and women for its applicant pool.

It seems to me if that language could be added, if that proviso could be added—most everyone has indicated their opposition to quotas—that most everyone would find this amendment acceptable. I have taken the liberty of giving a copy of the amendment earlier to the distinguished majority leader. I say to him, I have added a few words right out of the statute. I added "employment agency, labor organization, or joint labor/management committee," which comes from the statute. If it were possible to do that and if the original sponsor has no objection, that might alleviate the concerns of a number of Members.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. DOLE. I will be happy to yield.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Senator. I can understand the concern he has. He stated it in his usual eloquence a while ago. And some others have concerns which, if you go through the entire history of the 1964 act, you will see when you get down to section E and other aspects, declaration by Hubert Humphrey and others, that the amendment does have a protection. It has never been my intent, nor do I believe at this moment that it has the effect that some have seen in it, that the amendment would prohibit recruitment and other efforts to expand the applicant pool. Consequently, the amendment of the Senator may be unnecessary except to emphasize and nail down the point that he has just made. If the Senator will feel more comfortable and other Senators would feel more comfortable with that language, I have absolutely no problem with it, and I am perfectly willing to accept it with the reemphasis that, as Senator HATCH explained earlier, such language, in my judgment and in the judgment of others, is not necessary. But if it makes the Senator feel more comfortable, I not only will accept it, I will accept it gratefully.

Mr. DOLE. Mr. President, I thank the Senator from North Carolina. It is my hope we might have some agreement to accept the amendment. But I will say, based on the colloquy I just had with the Senator from North Carolina, which I think the amendment covers more explicitly—some would say the colloquy itself would not be binding—I hope that maybe at the appropriate time, at least, we could ask unanimous consent that the amendment be in order. But I will wait until the majority leader speaks, and others may want to comment. I will be happy to give a copy of the amendment to the distinguished manager of the bill, Senator BIDEN. I yield the floor.

The PRESIDING OFFICER. If the majority leader will withhold, under the previous order, the Senate was to go into a quorum call at just about this time.

Mr. MITCHELL. Mr. President, that was my purpose in rising. It is my intention to ask unanimous consent to proceed with debate only until 7:30 p.m. on this measure.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, if there is no objection, I now ask unanimous consent that the period for debate only on the pending amendment be extended until 7:30 p.m., at which time the Senate go into a quorum call.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I send an amendment to the desk and ask unanimous consent the language in it be added at the end of the pending Helms amendment. I read that language earlier, and I make that request.

The PRESIDING OFFICER. Is there objection?

Mr. MITCHELL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MITCHELL. Mr. President, I will shortly have a more detailed statement to make on the pending measure. I advised the distinguished Republican leader earlier in conversation that I would object to modifying the amendment as proposed, but I would like to make a brief comment on this question of legislative history.

I listened to the colloquy between the distinguished Senator from Kansas and the Senator from North Carolina, the author of the amendment. As someone who, in a previous occupation, was charged with the formidable task of determining legislative history, I think it is clear that the principle is that history is used to illuminate any doubts that may exist as to the intent of Congress, but, of course, legislative history cannot rewrite statutes.

I submit that the plain language of the statute is inconsistent with the interpretation suggested in any previous colloquy, and that is, in fact, one reason why the proposed change was made, precisely because of that reason. I think it rather clear that this amendment does, in fact, prohibit any voluntary action, any affirmative action of any kind that could be defined as preferential treatment. I think it is one reason why it has troubled so many Senators and why it troubles this Senator.

I will have a more complete statement to make later. I hope, frankly, that we can proceed in a manner that will make it possible not to consider this measure. This amendment has nothing to do with this bill. This has to do with an entirely separate matter that we are trying very hard to resolve under the dedicated leadership of Senator DANFORTH and others.

So, Mr. President, I merely wanted to explain my view with respect to legislative history and my reason for objecting. There have been no hearings on this. No Senator knows what this amendment means or does not mean. It has a potentially immense consequence in our society, raising possibilities all the way from veterans being adversely affected by it to handicapped and disabled persons, and every Senator's comment represents an individual subjective judgment on what it may or may not mean.

Mr. President, I will at a later time during this debate have a much more detailed statement on it, but I wanted to at this point explain my reasons for objecting to my good friend and colleague's request, and I previously indicated to him I would.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I thank the distinguished majority leader for his statement. When I came to the floor earlier and indicated my concern about this very problem, I caught, I know, the Senator from North Carolina by surprise even though I thought our staffs had been talking about the concerns I had with the amendment. We have had a discussion since that time, and we have had our colloquy.

It seems to me one way to nail it down to remove any doubt would be by an amendment. Maybe this is not the appropriate amendment. Maybe the distinguished majority leader is right, without any hearings it is difficult to tell the ramifications of the pending amendment or any proviso that might be added thereto.

But I did make my statement initially opposing the Helms amendment in good faith.

I think the Senator from North Carolina responded in good faith and tried to correct my concerns, and I have tried to further underline my concerns with an amendment. Certainly the majority leader or anybody else has a right to object. But on that basis I think I should state to the Senate I would not oppose the Helms amendment at this point, since he has agreed to accept an amendment I think would clarify the concerns not only of this Senator but a number of Senators.

I assume there will be a motion to table, and I indicated earlier I could not support a motion to table the amendment on this side of the aisle. But I wanted the RECORD to reflect I did not intend to mislead anyone, including the manager of the bill and the distinguished Senator from Georgia who was speaking earlier, Senator FOWLER.

Mr. President, I yield the floor.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa is recognized.

Mr. GRASSLEY. I thank the Chair.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 1395 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. ADAMS). The Senator from Arkansas.

Mr. BUMPERS. Mr. President, this crime bill is a very comprehensive and complicated bill we have been debating here for the last 3 days. It has a lot of political appeal because the crime rate in this country continues to soar. Our constituents still continue to demand that something be done about it. And when this bill is finished, and indeed during the course of the debate on the bill, everybody will be sending out press releases to assure the folks back home that we are dealing with the issue of crime.

I dare say, as I look at this bill, there are not any Senators in here that could tell you with any degree of certainty everything that is in the bill and very few Senators that could tell you very much of what is in it. S. 1241 is 245 pages long.

It takes me a good while to read a book that long. But just for openers, we have had a bidding war between that side of the aisle and this side of the aisle on who could conjure up more reasons to execute people. I have been told that there are something like 56 crimes in this bill for which people may be sentenced to death.

I am not here to debate the death penalty. I have voted for it a number of times here in the Senate. But this debate just shows that there has in fact been a bidding war to convince the American people that either this side or that side is more eager to put people to death than the other side.

I was in London not too long ago with my wife and we were walking down a street that had no lights on it. On both sides of the street were what we call row houses in this country. It was about four or five blocks long. At the end of this street, you could see there was a thoroughfare that was fairly well lit.

We had walked from our hotel out to dinner that evening, and were returning to the hotel, and we started down this very dark street. And the strange thing is, because we were in London, it never occurred to us that we might get mugged or robbed or murdered, and we walked along there for that distance and had a nice conversation, as I say, with no thought of crime.

I do not know of a single American city where you would do that. There was a time in this country when you would have done it. When I was a child, we never locked the front door. And in the summertime, we did not have air-conditioning, so we had to leave the front door open. And occasionally my mother would latch the the screen, but most of the time she forgot even to do that.

Now, that was a good, long while ago, Mr. President. But today, the last thing that every Member of this body, indeed, that every person in America does before they go to bed at night is to secure their household as best they can with locks and chains, and in many instances, expensive burglar alarms, and so on.

So something very drastic has been happening in this country, and in my opinion, continues. I have heard speeches all of my life, but especially during the 20 years that I have been in public service, both as Governor and as U.S. Senator, about how we are going to lock them up and throw the key away. And everybody keeps making these speeches about how we are going to lock 'em up and throw the key away, and indeed we continue to lock 'em up and throw the key away. And every time we put a criminal into prison, 10 more jump up to replace him. The States are going bankrupt building prisons.

I heard somebody the other day say it reminded them—the way we are building prisons in this country to try to keep up with the ever-escalating crime rate—it reminded them of Lucille Ball in the chocolate factory. Do you remember that wonderful show where Lucille Ball is at the end of the conveyor, and the conveyor keeps getting a little faster and a little faster? The first thing you know, Lucy and Ethel have so many chocolates, they are cramming them in their mouths, throwing them in the wastebasket, trying to get rid of them, trying to keep up.

That is what this country is doing in building prisons. And yet, with this crime bill and all the other crime bills, the number of inmates in Federal prison will double between 1990 and the year 2000.

I am not complaining about a single thing in this bill that deals with expediting the habeas corpus process, as long as it is constitutional. And certainly criminals ought to be taken off the streets and locked up, because if you do not lock them up, there are just that many more criminals on the streets to fear when you walk out in the evening.

So we have no choice, Mr. President, but to continue spending massive amounts of money on prisons, massive amounts of money on drug interdiction, massive amounts of money on new policemen, new drug enforcement officers, a thousand new FBI agents for next year. But I just want to make this little point. We have been doing that now for as long as I can remember, and the crime rate just keeps soaring.

There were three times, Mr. President, three times as many murders in New York City last year as in all of Western Europe and Japan combined, with 350 million people. We are now just barely below Colombia in the crime rate. Think about how much we talk about Colombia being the crime capital of the world. Now the United States has more people in prison per capita than any nation on Earth, including the Soviet Union, South Africa, and China.

And the crime rate just continues to soar. And as I say, we are just now barely, just now still barely behind Colombia in the crime rate.

What are there in this world, 157 countries? And here is the United States, which we love so much, where we have allowed the crime rate, for a host of reasons, many of them social, to reach the point where our Nation is the crime capital of the world.

And that brings me to this point. You look at all the statistics, Mr. President, on who is committing crimes and where they are being committed. You look at the number of violent crimes committed by people who make over $50,000 a year. Almost nonexistent; occasionally a lover's quarrel or a family spat may cause a homicide.

Drug use is declining every day, declining among people earning over $50,000 a year, declining among college graduates, and even declining slightly among high school students. The problem with drug use declining in high schools is that alcohol use is soaring. I saw a poll the other day—I believe it was the National Institutes of Health that did this—where they found that—listen to this—37 percent of the high school seniors said in this poll that they had had five or more consecutive drinks in one sitting within the preceding 2 weeks.

But drug use is down for people who are relatively affluent and can make their car payments and house payments and can keep their kids in school. Drug use is down among college graduates. Drug use is soaring in the inner cities, where there is so much ignorance and poverty.

Senator PRYOR and I requested a GAO study about the use of drugs in rural areas last year. And guess what showed? Drug use in rural areas is just as rampant on a per capita basis as it is in Washington, DC, or New York City.

But my point, Mr. President, is that we are hacking away at the branches of the tree and we are issuing those press releases, and nobody is talking about the root cause of all this crime.

Now, Mr. President, until we spend more money to educate our youngsters—I mean, we are spending umpteen millions of dollars more on interdiction and more police and more prisons than we are in educating people about drug use, and in providing treatment for the roughly 2 to 3 million people in this country who want treatment because they recognize they are addicted.

And now, as we try to wade through this 242-page bill, all of a sudden, the Senator from North Carolina has an amendment which he says is a quota amendment dealing with civil rights.

Here we are, some of us at least, as thoughtfully and sincerely as we know, trying to labor through this bill and make a difference in the crime rate in this country. And all of a sudden we are dealing with an amendment that concerns one of the most volatile issues, which has nothing to do with the crime bill, purporting to prohibit quotas in employment practices. We are going to have a civil rights bill on this floor, I suppose, sometime this summer, and we are going to debate quotas, quotas, quotas, because every person in this body has seen the public opinion polls showing that about 75 to 80 percent of the people in this country oppose quotas.

If the Senator from North Carolina's amendment did what he says it does, if it would just eliminate quotas, and he could offer that amendment and convince everybody here that that is all his amendmend did, he would get 90 to 100 votes. There would be a few people that might not vote with him. I would vote with him. I do not favor quotas. But I do not like to hear the word "quotas" used constantly just for political purposes just because it is known that the American people deplore quotas. And just because the Senator from North Carolina engages in a colloquy with the minority leader and says "This is what I intended and I did not intend this but I did intend that—" that colloquy is not binding. That is not what the amendment says.

As I say, if the amendment were so carefully crafted that everybody in this body knew that it just simply eliminated the possibility of quotas, even though it has no business on this crime bill, we would all vote for it and go onto another amendment.

I am chairman of the Small Business Committee, Mr. President. This week we held a hearing on a bill that Senator NUNN and I have introduced called the Paperwork Reduction Act. The Paperwork Reduction Act is very popular with the small business community in this country because small businesses are drowning in Federal paperwork and paperwork required by the State and local governments.

If you do not think paperwork is killing the country, look at the report released the other day that showed that, of the $600 billion a year we spend on health care in this country, 24 percent of it is on administrative expense. Do you know what that same administrative expense figure is for our Canadian neighbors to the north? It is 8.6 percent. Do you know what it is in Japan? It is 6 percent. If we had a 6-percent administrative cost on health care costs in this country, we could save almost enough money out of that $600 billion we spend on health care every year to provide health care for the 38 million people in this country who have no health care insurance of any kind.

So, if you want to do something popular and you want to get the applause of the small business community, you jump on that Nunn-Bumpers paper reduction bill because the small business community will love you for it. And, Mr. President, if you want to please the small business community, you just tell them you are opposed to quotas. And that is not just the small community that opposes quotas, that is the business community, period.

So we all know the politics of this amendment. But let me tell my colleagues what the amendment will do. The amendment would say, for example, that if you sold wheelchairs and you felt you ought to hire disabled people to sell your wheelchairs, you could not do that. If you were a white person and you had a grocery store in a black neighborhood and you wanted to hire black employees, you could not do that. If you manufactured crucifixes primarily for sale to the Catholics of this Nation, and you had 50 salesmen, one in every State, selling those crucifixes, you could not require your salespeople to be Catholic. And on and on it goes. You see, we do so much mischief around here for policial reasons.

There is a book on my desk that somebody gave me. I have just scanned it, but I fully intend to read it. It is called "Why Americans Hate Politics." I can tell my colleagues without reading the book, one of the things the author is going to say that Americans hate politics because the politicans do not deal with the things that are relevant in their lives. A lot of people are having a difficult time making their house payments. Many of them cannot buy a home because it is unaffordable. Many of them have no health care insurance.

I saw a pathetic grandmother on one of the networks last evening, or the evening befoe last, with this beautiful grandchild she was raising, saying, "I do not take her to the doctor when I know she needs to go because if I take her to the doctor, we do not eat." What kind of a country is this? And this children's study that has just come out—think of it.

As I say, I can understand the disenchantment of the American people. I suppose we ought to be pleased that more people do not watch C-SPAN than do, because today would not have been a very exhiliarating day for most people if they had been watching this debate in the Senate today. We are not dealing with crime. We are not dealing with the things that are relevant to people's lives. We are not dealing with the fact that they are scared to death to walk out of the front door. We are not dealing with the fact that one out of every five children in this country lives in poverty. What kind of a future do we think we are setting up for ourselves.

Some people think that the murder rate is just a bunch of blacks in the inner city killing each other. They live in the suburbs and they are going to build a wall around that house and it is not going to affect them. I promise you, that is a delusion.

The President says he is going to veto this bill for various reasons, I know he says he is going to veto the Brady bill, he is going to veto anything that does not have the B-1 bomber in it, he is going to veto anything that does not have SDI, he is going to veto the civil rights bill—I forget, there must be 10 or 15 of them that he says he is going to veto.

I would like to hear the President of the United States say, "I am going to veto any bill that does not begin to address the problem that one out of every five children in this country is living in poverty and therefore we are setting ourselves up for a disaster down the road." I would like to hear the President say, "I am going to veto any bill that does not provide health care for the children in this country and every poor pregnant woman in America," because every time a poor pregnant woman does not get a decent diet she is almost guaranteed a defective child. And the cost to the taxpayer will run $1 or $2 million for the child's lifetime.

Would it not be good if the President would say, "I will veto any bill that does not provide enough funds to immunize every child in America against every preventable childhood disease"? Eighty-nine children died last year from measles. In 1983, we had 1,700 cases of measles, and 1 or 2 deaths. Yet we have had vaccines to prevent measles and mumps and rubella and polio and whooping cough and all those diseases for years, and we cannot figure out how to get that vaccine to our children. So last year we had 27,600 cases of measles, and 89 of those children with measles died.

In a nation of 250 million people, 89 children is not very many unless 1 of those children happens to be yours.

So, Mr. President, why do we not say to the American people, this is an outrage. We are talking about peanuts to correct it. You take the cost of the super collider, the space station, the B-2 bomber and SDI just for next year, not for the outyears, but just the cost of those four programs for next year and spend 1 percent of it on childhood immunizations, and within 3 years you could virtually eliminate these diseases that are ravaging our children. Just 1 percent, Mr. President. Think about that.

I can go on with a whole host of those needs that are being neglected. But I can tell you, Mr. President, today has not been a good day for this Senator. I think this day has been a sort of a manifestation of frustrations. I am not speaking just for myself. I sit in the Cloakroom and hear other Senators talk about what are we doing to ourselves.

I go back to the story I told on the Senate floor before about a visit I had one time with President Truman, one of the highlights of my life. I was telling the President I did not enjoy being Governor of Arkansas. I was just a country lawyer and the pressures were so much more intense, the decisions you had to make every 5 minutes. Oftentimes you did not have sufficient information to base a sensible decision on. I told him I was pretty unhappy. I was a country lawyer, and I did not like the big-time operation.

And he said, son, let me tell you something—this is just as I left, I spent an hour with him—just as I left he said, let me tell you how you can enjoy it and you will get to where you enjoy it, but I will tell you the best way to do it.

When these tough decisions come in and you lie upstairs in the mansion looking at the ceiling and wonder what in the world you have gotten yourself into, you just remember this: First of all, tell the people the truth. They know when they are being manipulated. They know when they are being lied to and the problems in this country are, invariably, caused by politicians telling them what they want to hear instead of what they need to hear. They can handle it. How can you expect people to make rational decisions when some politician is lying to them?

Second, he said, get the best advice you can get on both sides of these issues and then you make up your mind what you think is right for your people, and you do it because that is what they elected you to do.

Everybody around here knows that is good advice. It is not profound. It would not be profound if you heard it down on the street, but coming from President Truman, it certainly had an indelible impact on me. Sometimes I walk out that door over there and I think, I wish I had not voted that way. In my heart of hearts, I know sometimes that I probably voted that way because of the threat of that 30-second spot.

Senator BYRD, the chairman of the Appropriations Committee one time asked me, "How many 30-second spots can they run?" He said, "Goodness gracious, you will meet yourself coming back if you try to worry about every 30-second spot that somebody can conjure up," like the 30-second spots they can conjure about this amendment which has had people jumping under their desk all day long.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas yields the floor.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for debate only on the pending amendment be extended until 8:30 p.m., at which time the Senate go into a quorum call, as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COHEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, the first, primary, and foremost service owed by Government to its citizens is protection, safety, and protection of lives. On the domestic front at least I think we have every cause to fear the judgment of that standard.

According to the Justice Department, 87 percent of Americans will be victims of property crime three or more times in their lifetime. That is 87 percent of all Americans will be victims of property crime three or more times in their lifetime. A shocking 83 percent will be victims of violent crime at least once in their lifetime.

So if we take 100 Senators in this body, on average 83 of us will be subject to violent crime once in our lifetime. Four in ten will be injured in a violent assault. This is not just entering the family room and taking the color TV or stealing the hubcap. This is injury in a violent assault, 4 in 10.

Maybe these are familiar figures to some, but they still have great power to shock and offend us. Former Chief Justice Warren Burger commented, "Crime and fear of crime have permeated the fabric of American life."

The direction of criminal justice reform can be debated, and that is what we are doing this week, but the need for reform cannot be debated. There is no debate necessary.

The cost of crime, the price of prisons, the sacrifice of security, these burdens seem to grow heavier every year and each year we are presented with a crime bill and the latest package to deal with the cost and the price of sacrifice. It is a crisis that moves in a spiral which seems to both descend and widen. We are left with a choice between innovation and learning to live with fear.

Congress has debated and will debate a number of proposals for change. We have reforms to increase the speed of justice and the severity of the punishment. I found myself in general agreement with the proposal put forward in the President's package on this floor.

The death penalty must be carefully and consistently applied in murder cases that demand it, not out of vengeance, not out of utility, but out of justice.

There must be tighter time deadlines for the filing of appeals, as well as a limit to their number. For justice to be clear and to be firm, it must come to a point of finality.

Legal technicalities should not exclude evidence collected in good faith by the police. Guilt or innocence, Warren Burger argues, becomes irrelevant in criminal trials as we flounder in a morass of artificial rules poorly conceived and often impossible to apply.

It is encouraging to see in Senate bill 635 a provision requiring States to drug test convicted felons on release from prison, identifying the cycle of crime and drug dependence that is the cause of so many repeat offenses.

All these reforms are important, and I believe they balance the need for a faster pace of justice with a proper concern for basic rights. But I also think that the focus of the reform is fairly narrow and, in the end, too narrow. And the hope that it offers is limited by lack of ambition. My concern is not with the substance of what we are doing but with the scope of what we are doing.

The congressional debate over crime has been presented to the Nation as a conflict between the death penalty and gun control. Neither of these issues ought to be diminished or dismissed. We are debating them this week, but neither of those issues reaches to some of our deeper concerns.

Our approach to crime and punishment, I am convinced, requires a more basic reassessment of more fundamental assumptions. The first most basic assumption of our system is a nearly universal reliance on prison for punishment. We have proven that commitment with harsher sentences and unprecedented spending. The number of prisoners in the United States has doubled in the last decade from 330,000 in 1980 to 703,000 in 1989.

States are currently spending or planning to spend $25 billion on new prison construction. This spending on corrections is growing faster than State spending on education. Let me repeat that. State spending on prisons is growing faster than State spending on education.

But as prisons are built and filled, we have seen precious little positive evidence on the rate of crime or on the reform of criminals. According to the Bureau of Justice statistics, from 1984 to 1989 the prison population grew 36 percent while reported crimes still climbed 17 percent. The FBI reports that 74 percent of people released from prison will be rearrested within 4 years. Prison, it seems, have done little to deter or rehabilitate. Warren Burger asked, "What business could continue with the rate of recall of its products that we see with respect to the 'products' of our prisons?"

Mr. President, we all know that prisons are essential for isolating violent and dangerous criminals. That is what prisons do best—bars and walls. In these cases bars and walls are a type of societal self-defense. They mark the boundaries which the predatory must not cross, and none of us here would dispute that. But we should not fool ourselves that barbed wire and wasted hours are a recipe for rehabilitation. It makes no sense to strip prisoners of their privacy and possessions, expose them to constant threats, warehouse them with hardened criminals, deprive them of meaningful work and then expect a rejuvenation of morals and manners.

Prisons protect society. Society needs prisons to protect them from dangerous, violent criminals. But they do not reform lives. We would be wise to be more selective in their use.

Prisons have in fact been called "graduate schools of crime." They leave young offenders instructed in the finer points of lawlessness. They transform the misguided into the hardened, the confused into the violent. The Rand Corp. found that recidivism was higher for prisoners than for identical offenders put on probation, particularly for property crimes.

Former Chief Justice Warren Burger has written, "We have developed systems of correction which do not correct. If anyone is tempted to regard humane prison reform as 'coddling criminals' let them visit a prison and talk with the inmates and staff. I have visited some of the best and some of the worst prisons and I have never seen any signs of coddling. But I have seen the terrible results of boredom and frustration, of empty hours and pointless existence."

It is clear there is no substitute for the punishment of prison where the violent are concerned. I want to repeat that. There is no substitute that we know of for the violent criminal and for punishment of that violent criminal. But it is equally clear that some other forms of punishment ought to be found for nonviolent offenders, particularly young nonviolent offenders, not just for their sake but for our sake.

Surely we could find some middle ground between a prison's gradual destruction of a soul and a half-hearted slap on the wrist. The general public does not want to let offenders free in our society, but we make no distinction between offenders who are a threat to that society, those who in many cases have made their first mistake, and rehabilitation outside of prison in an appropriate manner can be an appropriate response.

The second assumption of our system is that the purpose of criminal justice is to punish offenses against the State. Too often it is forgotten that there is a victim involved, whose suffering and loss should be a primary concern. Each year crime victims experience losses of more than $13 billion. That is not counting the price that they pay in fear.

But typically they are excluded from participation in the legal process and receive no restitution of any kind. Many describe their experience of crime as being victimized twice, first by a criminal and then by a justice system deaf to their concerns.

In many cases victims are not informed of plea bargains, or told of furloughs, or involved in trials except as a witness for the State. One man who was assaulted and wanted information on his case was told bluntly by the district attorney's office, "You need to understand something, This is not your case. You just happen to be the victim. This was an offense against the State, and that's how we are going to handle it." That is an attitude that forgets a very basic point. It is not primarily society that is wounded by crime. It is the victim, and that victim has real losses and real fears and is too often ignored.

The kind of reform that would address these flawed assumptions requires some innovative thinking. For the most part that is properly the responsibility of State governments, but Congress can set some guidelines.

Boot camp prisons are a promising alternative to traditional prisons for young, nonviolent offenders, providing punishment through hard work and tough discipline. Last year this Congress passed a proposal that I authored along with Senator LEVIN that is, unfortunately, yet to be funded, but boot camps do provide an alternative, particularly for young nonviolent offenders, that promises rehabilitation and return to society.

Make no mistake about it. Boot camps are not a slap on the wrist. They are not an easy way out for a crime that has been perpetrated. They are tough. They provide discipline. They provide job training. They provide education skills. They provide a way back into society. And they prevent first-time young offenders from being put into that graduate school of crime which often embitters them, hardens them, teaches them lessons that they take back into society, unfortunately, at the expense of that society.

Intensive supervision programs have had some success and cost considerably less than building a prison cell. In these programs offenders go to work and abide by tight curfew requirements enforced by daily unannounced visits. Probation officers supervise just 20 to 25 prisoners rather than 300 assigned in some cities.

Does it cost some money to do this? Yes; it does. Does it make sense for violent criminals? No; it does not. Does it make sense to those who are a threat to society? No; it does not. Does it make sense to those who have committed white collar crime, those who have not committed a crime which poses any kind of threat to society, to other human beings? I think it does. And the cost of that, as I said, is less than building a prison cell.

Restitution is an old principle that can meet some current needs. Its goal is to heal the wounds of crime, not just punish offenders. Victims deserve to be paid back for their losses. And with some offenders restitution is the responsibility that can change attitudes.

Psychologist Albert E. Eglash argues, "Restitution is something an inmate does, not something done for or to him. Being reparative, restitution can alleviate guilt and anxiety, which can otherwise precipitate further offenses."

Community service can be a fitting punishment for certain crimes. Its use could be extended. Commentator Paul Harvey was so impressed with some programs he wrote, "If nonviolent criminals, instead of being sentenced to prison, can be sentenced to compulsory community service—or to work in jobs until they make restitution to their victims—then the punishment would fit the crime. And they would pay taxes instead of having taxpayers supporting them."

Victim compensation and victim assistance programs could be expanded. It is encouraging to me that the President's crime bill gives victims the right to address courts about sentencing in violent and sex crimes and extends restitution to include child care and transportation. I am also glad to see that Senator GRASSLEY'S victim impact statement amendment was approved by this body yesterday.

Taken together, Mr. President, approaches like these could set a new agenda for reform. We require a vision of justice that restores victims, not just punishes offenders; that recognizes the important but limited role of prisons, preserving scarce space for the violent; that seeks punishment for the nonviolent without creating a new class of hardened and repeat offenders; that challenges spectacular failure with some new thinking.

Ultimately, I am convinced that the war on crime will not either be won or lost in legal changes or Government programs such as we are addressing this week. They will not be addressed with that alone. There has to be something else.

Crime is the mere image of a community's moral state. Criminal acts are not primarily failures of society or failures of deterrence. They are failures ultimately of character.

Former President Ronald Reagan made the point well. He said, "Controlling crime is ultimately a moral dilemma—one that calls for moral or, if you will, a spiritual solution. The war on crime will be won only when our attitude of mind and a change of heart takes place in America, when certain truths take hold again and plant their roots deep in our national consciousness, truths like: right and wrong matters; individuals are responsible for their actions; retribution should be swift and sure for those who prey on the innocent."

This moral dilemma is addressed, if it is addressed, first, in families that transmit values, then in churches that raise the moral standard, and communities that set norms of behavior. In the meantime, our reforms take effect only in the margins. But even in the margins, lives can be saved and victims restored.

Mr. President, I hope as we debate which are issues that are very important to the American public, we would keep in mind that what we do here this week, and what we pass this week, hopefully, will have a significant impact. But probably it will only have a marginal impact on the rate of crime, and under the statistics, each one of which is ultimately translated into human life; that while we stand here in eloquence sometimes, and in anger and in frustration, and demand the death penalty or curb on guns or severity of punishment or more money for prisons, there is a deeper problem that needs to be addressed, there are alternate solutions that need to be proffered, and there needs to be some innovative thinking about how we deal both with the offender and the offended.

I have outlined some possible reforms that I hope we will seriously undertake not only this week but in the future.

I have outlined briefly for the body that ultimately our problem is moral, it is spiritual, and it is one of character. Our crime is a reflection of the mirror of society, and until we deal with some of those underlying societal problems, we are going to continue to come down here to the floor and add new billions of dollars for programs many of which are necessary but do not address the root cause of the problem.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to speak for 8 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

INCREASED FUNDING FOR COMMUNITY HEALTH CENTERS

Mr. DOMENICI. Mr. President, I rise today to speak about health programs that I believe deserve the highest priority in the appropriations process. Many of my colleagues may be aware of my long standing concern about mental illness. I have long advocated sufficient funding for mental health research and services, and I have deeply appreciated the leadership of the chairman and ranking member of the Labor, Health, and Human Services and Education Subcommittee in advancing our understanding of serious mental illness.

It will come as no surprise that I have today once again asked the leaders of that subcommittee, the chairman and ranking member, to continue their support of that critical mental health program.

In that same letter, where I urge them to support mental health programs as we have in the past, I seek to enlist their aid on another important program that I believe deserves the strong support of the entire Congress—the Community Health Centers Program.

We hear a lot of talk these days from both sides of the aisle about the crisis in health care and the need to increase access to basic health services. We all know that millions of Americans are going without health care when they need it because they cannot afford it, and they do not have any insurance.

While I am not sure of the numbers, it is commonly accepted as an estimate, that up to 33 million people or about 14 percent of Americans have no health insurance, and maybe they have no access to health care.

Fortunately, we have in place a program that can dramatically increase access to basic primary health care at very little cost. In fact, it is the most economic health care program in the United States. And it is delivering primary care to literally millions of men, women, and children, principally, poor men, women, and children in the United States.

Community Health Centers are now in existence and in a sense one might say they are ready and willing and waiting for us to provide them with resources that they need to do this job. They could provide access to many more Americans who go without services if the President and the Congress would provide them with adequate funding.

These centers have proven themselves over 20 years now and, believe it or not, they provide primary care and preventive care to 6 million Americans each year. And the money we spend in these Community Health Centers is extremely well spent. It is cost effective beyond anything else we have in the health care system. It keeps people healthier, preventing the need for more expensive medical treatment later, and it keeps people out of hospitals and emergency rooms where many hospitals are ill-equipped. And these centers provide the basic service that keeps them from needing these emergency rooms across America. Six million—and we think that number might be low—are now being served.

I have not yet told the Senate how much it costs us because it is rather incredible in these days when we speak of $40 or $50 billion for a health care program. Quite frankly, we should dramatically increase the funding for these centers. That should be done now and over the next few years. We ought to increase them perhaps as much as fourfold as part of any health care reform system. It would furnish primary health care at the most reasonable rates of any program around.

I will be introducing a bill to do that very soon so that instead of 6 million, we may be serving 12, 18, or even 20 million Americans.

Now I will tell you that it seems incredible but, essentially, in my letter to the chairman and ranking member of the subcommittee, I simply urge that we add 10 percent, a 10-percent increase to the basic program, which was funded in 1991 at a level of $526 million. This should be in addition to new funding made available under the infant mortality initiative, which the House Appropriations Committee has proposed.

I hope the Senate Appropriations Committee will endorse what the House did. But I am very concerned that the House did not add any funding—not even for inflation—to the basic Community Health Centers Program.

Actually, Mr. President, this 10-percent increase would be enough to provide basic services to 565,000 more Americans next year. Some of the additional funding could be used to start up some new sites in high-need rural areas and in the inner cities.

I am absolutely convinced that while this program used to be objected to by many of the professionals, including those in the health care field, it is now receiving broad base support, and it needs our support.

Many of my colleagues on both sides of the aisle are talking about the problem of the uninsured and rising health care costs. Well, let me suggest that without having to reinvent anything, we have an opportunity right now to provide important basic, and cost effective, health services to many American families, who will have no care otherwise.

We have an opportunity to back all this talk about improving health care access with some action by voting to increase the funding for the community health centers in fiscal year 1992 in the subcommittee bill, which will soon be reported out and come to the floor.

I am fully aware of the difficulties in the subcommittee with the caps, but I am also convinced that it is time that we do some prioritizing, and there is no more cost effective or efficient program than this. If Congress will approve a $526 million funding for this Community Health Centers Program—and I may have misspoken a while ago—that is the total amount with 10 percent added. We are not spending that much. We are spending 10 percent less, and we are covering 6 million Americans.

Added to that, with the $69 million that is targeted in the House program, the community health activities will be on the road to furnishing services for more Americans, at a lesser price, than almost anything we can do. If we underfund them again, we will only have ourselves to blame when access to basic health care gets worse, and we cannot find a way to pay for it out of them with new, expensive programs.

DEPARTMENT OF ENERGY NUCLEAR WEAPONS RD&T AND ENVIRONMENTAL RESTORATION PROGRAMS

Mr. DOMENICI. Mr. President, I want to clarify the situation surrounding the reallocation of $200 million in defense budget authority from the Defense Appropriations Subcommittee to the Energy and Water Development Appropriations Subcommittee to support Department of Energy [DOE] defense programs.

This Senator urged the Senate Appropriations Committee to increase the defense allocation to the Energy and Water Development Subcommittee to provide $200 million more for research, development, and testing activities.

There seems to be the wrong impression that the $200 million in additional funding for DOE's core weapons research, development, and testing [RD&T] programs came at the expense of the environmental restoration and waste management programs.

That is simply and emphatically not the case. A review of the Senate bill shows that the $11.97 billion recommended for DOE atomatic energy defense activities is exactly $200 million above the President's budget request and approximately that amount above the House-passed bill.

Any changes to the environmental restoration programs came from committee decisions on programs other than the nuclear weapons RD&T activities. I send a table to the desk showing the differences between the House bill and the Senate committee recommendations for the major atomic energy defense programs and ask unanimous consent that it be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOMENICI. The Senate appropriations report accompanying the fiscal year 1992 energy and water development appropriations bill clearly displays the additional funds that have been allocated to the nuclear weapons RD&T accounts.

Page 137 of that report displays the atomic energy defense activities, weapons research and development recommendations; $170 million of the $200 million increase above the House bill and President's request went into this account. It consists of $150 million in the R&D operating expenses account, and $20 million in the R&D capital equipment account.

I would note that $18 million of the $150 million increase for R&D operations will go to accelerate the implementation of the National Competitiveness Technology Transfer Act of 1989. This program promotes the integration of the scientific and technical expertise of DOE's national laboratories with U.S. industry to enhance their capabilities and their ability to compete in an expanding global market. The Senate approves $50 million for DOE's technology transfer program.

Page 138 displays the additional funding added for the inertial confinement fusion program. The Senate added $12.3 million to the inertial confinement fusion program to match the House recommendation of $194.8 million for fiscal year 1992.

The final piece of the $200 million add-on is an additional $17.7 million for the weapons testing program. These funds are especially critical to ensuring the safety of the nuclear weapons stockpile.

The committee, of course, departed from the House bill in other programs, and I will briefly highlight them. These are the changes to the budget request that impact on the environmental restoration and waste management program, which some of my colleagues have noted is $108.5 million below the House bill.

The Senate committee recommends $130 million above the House bill for DOE's production and surveillance activities. These funds are associated with operating expenses. The Senate committee restores the House's $54.6 million reduction to the President's request and adds an additional $75.4 million to address weapons retirements, site facility and equipment maintenance, preproduction and process engineering connected with pit reuse, and to reduce maintenance backlogs at DOE's production facilities.

The Senate-reported bill is $15 million above the House bill and the President's request for DOE's materials production activities. The committee devotes these funds to preserving the U.S. processing capability in plutonium while a national strategy on the production of materials necessary to maintain the Nation's nuclear deterrent capability is formulated.

There is a significant difference between the Senate and House recommendations for the new production reactors program. The Senate committee recommends $53.7 million less than the House for this DOE activity. The House evidently feels an increase is needed to accelerate the continued acquisition, design, and construction of a new production reactor to meet national security standards.

The Senate approves $17 million more than the House for the naval reactors program. The Senate committee targets these additional funds to cover higher than expected reactor operating costs in fiscal year 1992, to advance development work that has been deferred, and to core redesign/manufacturing modifications which could be initiated in fiscal year 1992.

Finally, the Senate-reported bill is $108.5 million below the House bill for DOE's defense-related environmental restoration and waste management program.

First let me say, Mr. President, that the Senate bill recommends $3.6 billion for these DOE activities in fiscal year 1992. The committee recomendation is fully $595.6 million more than was provided for these activities in fiscal year 1991.

The $108.5 million difference is entirely associated with the committee's assumption that in this $3.6 billion DOE program, which has increased from $1.1 billion just 4 years ago, there will be some slippage in the projects that are expected to be undertaken in fiscal year 1992.

Perhaps it is misleading that the committee report characterizes the $108.5 million difference as a general reduction, but the fact is that it is common practice in this bill to assume some savings and slippage. Such savings are routinely assumed in the construction programs of the Army Corps of Engineers and the Bureau of Reclamation.

Thus, there are differences between the House-passed bill, and the Senate committee recommendations for a variety of programs. But I repeat, Mr. President, the environmental waste reductions are not associated with the additional $200 million that this Senator sought to allocate to the core nuclear weapons RD&T programs.

The overall recommendation for DOE atomic energy defense activities is $11.97 billion in the Senate version of this bill. It is exactly $200 million above the President's budget request, and $199.5 million above the House-passed bill, and that $200 million difference is the amount reallocated to this subcommittee for the core weapons RD&T programs.

EXHIBIT 1

ATOMIC ENERGY DEFENSE ACTIVITIES HOUSE–SENATE DIFFERENCES

[In millions of dollars]

Program	House	Senate	Difference
RD&T	1,777.0	1,976.7	199.7
Production and surveillance	2,460.5	2,590.5	130.0
Materials production	1,876.9	1,891.9	15.0
New production reactors	536.7	483.0	−53.7
Naval reactors	801.0	818.0	17.0
Environmental restoration and waste management	3,748.9	3,640.4	−108.5
Total: Atomic energy defense activities	11,768.5	11,968.0	199.5

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the remarks I am about to make appear in the RECORD with regard to the Helms amendment which is before us.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

Mr. DURENBERGER. Mr. President, I rise to strongly oppose the amendment that the distinguished Senator from North Carolina has proposed to add to the crime bill before us. I see no reason to delay debate on the cime bill that the President has asked us to pass in order to debate affirmative action.

During the course of this day, I have spent some time on the telephone with the President of United States asking me to vote for a particular amendment to the bill. And during the course of that conversation, he impressed on me the essential nature of the crime bill, and particularly the essential nature or the need for its passage.

I guess, like other Senators, I have spent a certain amount of time today also discussing a potential resolution to the Civil Rights Act before us, as well, and so my purpose in speaking to the Senator's amendment right now is to say there is a time to debate civil rights; there is a time to debate affirmative action.

This is not that time, given the exigencies of both the administration, Congress, and the members of the Judiciary Committee, who have spent so much time on this crime bill. There are many Members of both political parties and within the administration who have been working for many weeks to find a fair and a just resolution to what many think is an almost impossible problem, and that is getting consensus on a crime bill through this body.

They have debated the issues that underlie this amendment. Under the amendment, an employer would be guilty of an unlawful employment practice for granting any preferential treatment to applicants or employees on the basis of race, color, religion, sex, or national origin.

In my view, this amendment will be a step backward from the progress we have made toward achieving the race-blind and gender-neutral society all of us seek.

The amendment suffers from two major flaws: First, it would prohibit valid, voluntary affirmative action programs that employers undertake across America in order to provide opportunities for persons who ordinarily might be deprived of access to good jobs.

In my State of Minnesota, many of our companies conduct minority outreach programs to provide such an opportunity to historically disadvantaged persons. For instance, General Mills conducts recruiting at primarily minority and black universities, and in addition also advertises for jobs in periodicals that tend to have significant minority readership.

Yet, under this amendment, because companies do not specifically conduct these recruiting activities at primarily white male audiences, our companies would be prohibited from such minority outreach programs.

Mr. President, these affirmative action programs are good, positive, solid employment practices that should be encouraged, rather than prohibited by law. I feel that our society benefits by promoting opportunities for those who need a helping hand. We are not just talking about helping racial minorities. We are talking about employers taking affirmative outreach steps to hire more people with disabilities.

We in this Congress should not be sabotaging the efforts of those responsible corporations that wish to assist minority access to mainstream employment. On that basis alone, I must oppose this amendment.

But in addition, the amendment calls into question the remedial action that a court may order after making a specific finding of intentional discrimination. Under current law, if a court determines that an employer engaged in intentional discrimination, the court may order the employer to conduct a court-ordered affirmative program.

In such a case, a court could require the employer to change its recruiting practices to attract qualified minority applicants. The remedy might be necessary to overcome the effects of past discrimination. Yet, under the pending amendment, the court would be powerless to redress the prior wrong.

In my view, that conclusion is untenable, and it serves as a further justification for voting against this amendment, as I shall do, and I urge all of my colleagues to do the same.

HABEAS CORPUS AMENDMENT

Mr. SHELBY. Mr. President, I rise in support of the Hatch amendment for habeas corpus reform. For centuries, the writ of habeas corpus has been used to provide a safeguard against the execution of innocent people. However, the habeas corpus process has been abused, terribly. We now have a system in place that allows a State prisoner to file an unlimited number of appeals in Federal court. This amendment would limit the number of times a convicted criminal would have to appeal his case—thus, bringing a sense of finality in resolving criminal cases.

Alabama now has approximately 109 murderers on death row. Eight murderers have been executed in Alabama since the Furman decision, and the last execution was that of Wallace Norrell Thomas on July 13, 1990, for a crime that was committed on December 20, 1976. Mr. President, it took 13 years and 7 months before Wallace Norrell Thomas was finally punished for his crime. Let me just tell you about that crime.

A young college coed at Birmingham Southern College was eating supper at her boyfriend's house and discovered that there was no salad dressing. She decided to run to the convenience store to get some salad dressing. It seems that Wallace and two of his buddies were out looking for a woman to rape. The coed was the unfortunate victim. They forced her into her car and raped her. Then they took her to a desolate area and raped her again. Finally, they shot her, and one of the buddies noticed that she was not dead, and said, "The —— ain't dead." So, they shot her again. Wallace and his buddies left the coed to die, but somehow, she did not die immediately and managed to crawl a short distance and actually died from exposure.

It is hard to imagine that Wallace was allowed appeal after appeal—for over 13 years—after committing such a heinous crime.

There have been 148 post-Furman executions in this country as of today. Nineteen of the 148 executions were by consent, but 129 of the executions were involuntary and the defendants took or attempted to take full advantage of all postconviction remedies available for delay, including Federal habeas corpus review.

Three murderers were executed in this country within the last month.

On May 21, 1991, Ignacio Cuevas was executed in Texas. It took 16 years and 9 months to execute him after his crime;

On June 17, 1991, Jerry Byrd was executed in Texas. It took 17 years and 5 months to execute him after his crime; and

Today, Bobby Francis was executed in Florida. It was 15 years and 10 months after Mr. Francis committed his crime.

The average delay of the last three executions in this country—the time between when the crime was committed and the time when the sentence was carried out—was 16 years and 8 months.

In the Bundy case in Florida, the Eleventh Circuit Court of Appeals held that, "litigants, the judicial system, and society at large, are entitled to have habeas corpus cases, and especially death penalty cases, proceed promptly, effectively and fairly."

Mr. President, we are certainly not adhering to the recommendation of the court in the Bundy case when it takes over 16 years to finalize a case.

Any meaningful reform in the present system of collateral review of death sentence cases will have to come primarily in the area of Federal habeas corpus reform, where most collateral review time is spent. We should not support provisions under the guise of habeas corpus reform that vitiate the procedural default doctrine.

Under the procedural default doctrine, a claim that is or would be barred from State court adjudication because it was not raised at the proper time in State court cannot be relitigated in a Federal habeas proceeding, unless the petitioner makes a showing of adequate cause for his failure to raise the claim in State court and actual prejudice to him from the alleged error underlying the claim. An exception to the procedural default bar exists for claims that do not meet the cause and prejudice requirement if failure to consider them would lead to a fundamental miscarriage of justice.

I am encouraged that the Congress has decided to make changes in the Federal habeas corpus process. We all know that something is wrong with the habeas process because our jails and our courts are overcrowded. True habeas reform is imminently needed. This point has been echoed by States' attorneys general, State and Federal judges, and academicians. Consideration of this crime bill provides the Senate with an opportunity to meaningfully address the current problems in Federal habeas litigation of capital cases.

We must reform the habeas process by adopting the Hatch amendment to restore public confidence in our criminal justice system.

HABEAS CORPUS REFORM

Mr. KENNEDY. Mr. President, I suport the Graham and Biden alternatives, although I continue to favor additional measures in several areas to protect constitutional rights. Stronger counsel standards and compensation modeled on the work of the American Bar Association should be guaranteed to capital defendants and habeas petitioners. More protection should be provided to habeas petitioners whose claims fall victim to unfair procedural default rules which allow ignorance, neglect or incompetence of counsel to extinguish constitutional rights. More should be done to undo recent Supreme Court retroactivity decisions that virtually eliminate the ability of habeas petitioners to obtain full and fair review of many potentially meritorious claims.

These issues go to the heart of our system of justice and its ability to ensure access to equal justice for all. Nevertheless, the Graham alternative contains worthwhile provisions to secure counsel for capital defendants and habeas petitioners, and it deserves the support of the Senate.

The Supreme Court has eroded much of the protection that the writ of habeas corpus was intended to provide. The Teague case last term and the McCleskey versus Zant decision handed down several months ago have cut back drastically on habeas review. Earlier this week, the Court erected additional barriers to limit the ability of State habeas petitioners to seek fair review of their constitutional claims.

The writ of habeas corpus is one of the great historical achievements of Anglo-American jurisprudence, and it continues to play a fundamental and unique role in our modern system of justice. Habeas corpus review of death sentences is the principal means of relief available to a wrongfully convicted individual facing execution. It has spared the lives of many innocent persons who were unconstitutionally convicted and sentenced to death. The rights at issue include the right to a fair and speedy trial, a fairly-constituted jury, competent counsel, and access to evidence and witnesses, are essential attributes of fairness in our system of justice. Habeas petitions have saved many individuals from constitutional violations of their rights and ultimately spared their lives, often after repeated denials of relief in State court systems.

I oppose the death penalty, because capital punishment is wrong in principle and wrong in practice. The death penalty is fundamentally flawed, because of the likelihood that innocent people will be executed. No system of justice, however wise or resourceful its judges and juries may be, can eliminate this risk. That is a risk we accept when the punishment is imprisonment, because a jailed defendant can always be set free when innocence is proved. But that is a burden we cannot tolerate when the punishment is death.

The risk of executing innocent persons is no theoretical, hypothetical, proposition. A recent Stanford Law Review study lists 350 cases in which defendants convicted of capital or potential capital crimes in this century have later been found innocent.

If it is to be applied at all, capital punishment ought to be applied only where notions of fairness are given priority. Despite procedural safeguards, mistakes are often made in criminal prosecutions. Habeas corpus review of death sentences is virtually the only means of relief available to a wrongfully convicted individual facing execution whose constitutional rights have been violated.

In 1983, an inmate in a Florida prison was within 15 hours of his scheduled execution and had been fitted for his burial suit when the Federal Court of Appeals issued a last-minute stay. His conviction was later overturned, and the main prosecution witness subsequently recanted his testimony. The defendant was never retried.

In 1967, a habeas petitioner came within hours of execution before the granting of his petition led to the discovery that the prosecutor claimed that the petitioner's clothing was stained with the victim's blood and induced a witness to testify to that effect, despite the fact that the prosecutor knew that the stains were paint, rather than blood.

In 1982, the 11th Circuit remanded a capital case where defense lawyers repeatedly stressed to the jury that they were only representing the black defendant because they had to, and that their client was not unlike "the kind of people that we have historically put to death here in Georgia."

In 1988, the Supreme Court remanded for a new trial a case in which the defendant was sentenced to death by a jury selected after the prosecutor secretly induced the jury commission to under represent blacks and women in jury pools.

In 1985, a conviction and death sentence of a mentally retarded defendant were reversed after it was established that the prosecutor had withheld evidence that a key eyewitness against the defendant had earlier told the police that he could not identify the perpetrator of the crime.

A 1976 conviction was overturned on retrial in Arizona after it was determined by five expert witnesses that the victim had not been murdered but had died instead of pneumonia.

A 1978 Indiana conviction and death sentence were overturned when, on retrial, it was shown that his conviction rested on perjured testimony.

In 1988, a defendant was released from prison in Florida after it was determined that he had been convicted on the basis of testimony the prosecutors knew to be false.

In a 1986 case, the jury selection began at 9 a.m. and 17 hours later the death sentence was imposed. The jury had been deadlocked as to guilt, but the defense counsel agreed to replace the one holdout with an alternate juror in the interests of expediency.

Judy Haney's capital trial was suspended for 24 hours so that her attorney could sober up. The next day she was sentenced to death.

In 1984, trial counsel left the courtroom and missed critical testimony to check on his car.

In 1990, counsel in a capital case devoted only 8 hours to preparation, and their only defense was that the defendant's statement could not have been obtained reliably since "black people don't speak grammatically."

All of these violations were revealed on habeas corpus. The list goes on and on. How can any of us shut the door to relief or, worse yet, refuse adequate representation to defendants in cases such as these?

The need for counsel in capital cases is a protection that former Justice Lewis F. Powell, who chaired the Habeas Corpus Study Committee, and others have advocated for years. The Powell committee proposal, as modified last year by the Judicial Conference, would provide counsel for State habeas corpus proceedings, and this proposal is a starting point. But I believe that meaningful representation by counsel must include minimum attorney competence standards based on experience, as well as adequate compensation, monitoring and investigative resources where necessary.

The Graham proposal goes farther than the Thurmond proposal in providing important protections, and it should be supported. The Thurmond proposal seriously jeopardizes fair and adequate representation of constitutional claims. To reduce a habeas petitioner's ability to obtain review of constitutional claims in Federal court in exchange for representation by counsel, is a lopsided bargain without additional guarantees as to the adequacy of the counsel's representation and adequate procedural opportunity to be heard.

Habeas corpus review necessarily entails consideration of complex constitutional and procedural issues, and often requires experienced investigation. The stakes facing a habeas petitioner in a capital case leave no room for error. Moreover, the Thurmond alternative apparently provides that a capital defendant gets no Federal review if constitutional rights have been violated but were not properly raised in State court, and no Federal review if such claims were raised in State court but the State court denied relief.

At every stage in a capital proceeding, whether at trial or on postconviction review, counsel must be familiar with the arcane procedures that apply in death penalty cases. Meaningful representation by counsel at the trial level, in particular, in capital proceedings, would go farther to assure fairness and render the postconviction review process more manageable.

Inevitably, the death penalty is applied to minorities and to the poorest, the least popular, and the least powerful members of society. Consequently, too many defendants facing the death penalty at trial are represented by attorneys who are poorly prepared, underpaid, and overworked. The result is often inadequate legal assistance.

The infliction of death at the hands of Government brutalizes our society instead of atoning for crime. To shortchange individuals charged with capital offenses, in terms of the quality of their representation or their ability to obtain meaningful review of their constitutional claims, unfairly prejudices them. I urge the Senate to support the pending amendment, and to recognize that further reform is needed to ensure that if capital punishment is inflicted at all, at least it must be inflicted fairly.

Mr. DURENBERGER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ADAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WELLSTONE). Without objection, it is so ordered.

WASHINGTON POST EDITORIAL ON PACIFIC NORTHWEST FORESTS

Mr. ADAMS. Mr. President, I would like to ask my colleagues to give careful consideration to an editorial in the June 25, 1991, edition of the Washington Post. The editorial is entitled "Owls, Trees, and Loggers" and calls our attention to Federal District Court Judge William Dwyer's recent opinion on the management of National Forests in the Pacific Northwest.

Judge Dwyer is a highly respected jurist appointed in 1987 with strong bipartisan support of Senator GORTON and myself. He has had this litigation before him for more than 2 years and has held numerous hearings to examine the law and the facts. His opinion is a comprehensive and cogent analysis of the case and shows why the problem exists.

In March of this year, Judge Dwyer found the proposed Forest Service timber sale program for the Pacific Northwest to be in violation of the National Forest Management Act. Before enjoining the timber sale program, however, he agreed to hear evidence on the impacts such an injunction might have. The opinion quoted in the Washington Post contains the judge's key findings of fact following 8 full days of hearings.

The Post has printed extensive excerpts from this opinion and I ask my colleagues to review not only the excerpts, but the entire opinion as well.

The editorial states that Judge Dwyer's opinion is "the best summary we have seen of this dispute." I agree, and I urge my colleagues to study it carefully. It lays out clearly and succinctly the reasons why many of our timber dependent families and communities in the Pacific Northwest are currently threatened with economic ruin and why our National Forests may no longer be able to sustain them.

In the National Forest Management Act and subsequent legislation, Congress has sought to ensure that Federal forest lands would be managed to produce all forest resources on a long-term sustainable basis. Only in this way could we maintain economic stability and the health of the forest ecosystem—the goose that lays the golden eggs of timber, water quality, recreation, and fish and wildlife. These laws were established to protect a balance of those uses, as well as the employment and enjoyment that flows from them.

Throughout the last decade, however, we have heard increasingly from Federal land managers that our timber sale programs were exceeding sustainable levels, and that we would inevitably face drastic declines in timber, water quality, and other values if we did not act immediately to phase in more moderate harvest levels.

Judge Dwyer's opinion chronicles the failure of the administrative agencies to respond to these early warning signals. He states: "The problem here has not been any shortcoming in the laws, but simply a refusal of administrative agencies to comply with them."

The opinion makes clear which Government officials carry the responsibility for this failure. After reciting verbatim the testimony of the Associate Chief of the Forest Service describing the Cabinet level decisions to ignore the laws, Judge Dwyer states: "This is not the doing of the scientists, foresters, rangers, and others at the working levels of these agencies. It reflects decisions made by higher authorities in the executive branch of Government."

Our communities in the Pacific Northwest are suffering unnecessarily because of the Bush administration's refusal to comply with the Federal forest management laws. Had the administration acted in a timely manner when professional foresters first started to sound their warnings, we would be harvesting timber today, tomorrow, and long into the future—on a reduced but sustainable basis—and thereby providing employment and real economic stability in our communities.

Mr. President, we in this Congress will soon be considering legislation to resolve this issue. I urge my colleagues to review Judge Dwyer's findings to inform themselves regarding the legal and factual history of this issue.

I ask unanimous consent that a copy of the Washington Post editorial and the printed excerpts of Judge Dwyer's opinion be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 25, 1991]

THE OWL AND THE LAW

(Last month U.S. District Judge William L. Dwyer in Seattle ordered timber sales in national forests of the Northwest suspended until federal agencies produce an effective protection plan for the endangered northern spotted owl. He criticized the Forest Service and the Fish and Wildlife Service for what he called "a deliberate and systematic refusal to comply with laws protecting wildlife" in old-growth forests of the Northwest. The following are excerpts from his opinion.)

* * * The fate of the spotted owl has become a battleground largely because the species is a symbol of the remaining old growth forest. As stated in the ISC Report [The Report of the Interagency Scientific Committee to Address the Conservation of the Northern Spotted Owl, issued in April 1990]:

"Why all the fuss about the status and welfare of this particular bird? The numbers, distribution, and welfare of the spotted owls are widely believed to be inextricably tied to mature and old-growth forests. Such forests have been significantly reduced since 1850 (mostly since 1950) by clearing for agriculture, urban development, natural events such as fire and windstorms, and most significantly, by logging in recent decades. Nearly all old growth has been removed on private lands. Most of the remainder is * * * on Federal lands. As its habitat has declined, the owl has virtually disappeared from some areas and its numbers are decreasing in others."

* * * An old growth forest consists not just of ancient standing trees, but of fallen trees, snags, massive decaying vegetation, and numerous resident plant and animal species, many of which live nowhere else.

* * * A great conifer forest originally covered the western parts of Washington, Oregon, and Northern California, from the Cascade and Coast mountains to the sea. Perhaps ten percent of it remains. The spaces protected as parks or wilderness areas are not enough for the survival of the northern spotted owl.

* * * The old growth forest sustains a biological community far richer than those of managed forests or tree farms. As testified by Dr. William Ferrell, a forest ecologist: "The most significant implication from our new knowledge regarding old-growth forest ecology is that logging these forests destroys not just trees, but a complex, distinctive, and unique ecosystem."

* * * The remaining old growth stands are valued also for their effects on climate, air, and migratory fish runs, and for their beauty. A 1984 Forest Service document summed up the controversy:

"There are at least three main reasons cited for maintaining old growth: wildlife and plant habitat, ecosystem diversity, and preservation of aesthetic qualities. Those opposed to the retention of old growth are primarily concerned with economic factors and urge rapid conversion of the existing old growth to managed forests of productive, young age classes."

* * * Through most of the country's history there was little or no logging in the national forests. Intensive logging began with World War II and has accelerated. . . . NFMA [The National Forest Management Act] was adopted in 1976, after three decades of heavy logging, in the hope of serving both wilderness and industry values. Senator Humphrey of Minnesota, a sponsor of the act, stated:

The days have ended when the forest may be viewed only as trees and trees viewed only as timber. The soil and the water, grasses and the shrubs, the fish and the wildlife, and the beauty that is the forest must become integral parts of resource managers' thinking and actions."

* * * Despite increasing concern over the environment, logging sales by the Forest Service have continued on a large scale. Timber harvests in the nation's forests in Washington and Oregon ranged from 4.448 billion to 5.082 billion board feet per year in 1985 through 1989, amounting to between 30 percent and 33 percent of the total harvested in those states in those years. * * * Mill owners and loggers, and their employees, especially in small towns, have developed since World War II an expectation that federal timber will be available indefinitely, and a way of life that cannot be duplicated elsewhere.

* * * The region's timber industry has been going through fundamental changes. The most important is modernization which increases productivity and reduces the demand for labor (i.e., the jobs available). There have also been recent changes in product demand, in competition from other parts of the country and the world, and in the export of raw logs for processing in the Far East. The painful results for many workers, and their families and communities, will continue regardless of whether owl habitat in the national forests in protected.

* * * In seeking a stay of proceeding in this court in 1989 the Forest Service announced its intent to adopt temporary guidelines within thirty days. It did not do that within thirty days, or over. * * * The [Fish

and Wildlife Service], in the meantime, acted contrary to law in refusing to list the spotted owl as endangered or threatened. After it finally listed the species as "threatened" following [a judge's] order, the FWS again violated the [Endangered Species Act] by failing to designate critical habitat as required. * * *

The reasons for this pattern of behavior were made clear at the evidentiary hearing.

Dr. Eric Forsman, a research wildlife biologist with the Forest Service, testified in regard to the 1988 ROD [Record of Decision] and other Forest Service plans for the spotted owl * * *

Q. Were you satisfied at the time with the results of those previous works?

A. No. On all of those plans, I had considerable reservations for a variety of reasons. But primary because in every instance, there was considerable—I would emphasize considerable—amount of political pressure to create a plan which was an absolute minimum. That is, which had a very low probability of success and which had a minimum impact on timber harvest.

George M. Leonard, associate chief of the Forest Service testified that the agency experts began in early 1990 the work needed to have a revised plan in place by September 30 of that year, as Congress mandated. * * * But the Secretaries of Agriculture and Interior decided to drop the effort. The public was not told of this decision to ignore what the law required. * * *

* * * More is involved here than a simple failure by an agency to comply with its governing statute. The most recent violation of NFMA exemplifies a deliberate and systematic refusal by the Forest Service and the [Fish and Wildlife Service] to comply with the laws protecting wildlife. This is not the doing of the scientists, foresters, rangers, and others at the working levels of these agencies. It reflects decisions made by higher authorities in the executive branch of government.

While the [Forest Service's] proposal would involve logging an estimated one percent of the remaining habitat, the experts agree that cumulative loss of habitat is what has put the owl in danger of extinction. There is a substantial risk that logging another 66,000 acres, before a plan is adopted, would push the species past a population threshold from which it could not recover.

* * * The estimate used by all parties is that as of February 28, 1991, there were 4.778 billion board feet of uncut timber under contract in the "spotted owl" forests. That figure includes four 1990 sales, aggregating 14.1 million board feet, which are subject to a revived legal challenge as the result of a recent court of appeals decision.* * * Subtracting the 14.1 million leaves about 4.764 billion board feet under contract and free of legal challenge. When added to the amount of timber the Forest Service would sell while protecting owl habitat, that supply of timber would last about nineteen months if logging proceeded at the rate experienced during fiscal year 1990.* * *

* * * Additional timber supplies from private lands can reasonably be expected to enter the market if the price of timber stumpage increases, as it probably will do if Forest Service sales decline. In addition, some timber now exported will probably be diverted to the domestic market.

* * * To the extent that Pacific Northwest mills have had supply shortages, the problem has been exacerbated by the export of raw logs. About thirty percent of the timber harvested in Washington and eleven percent of that harvested in Oregon is exported.* * * The exported logs produce no mill jobs or added value in the United States. A ban on exports would not automatically shift every raw log to domestic buyers, but would provide a major source of additional supply. It is true * * * that transportation costs from Western Washington to Southern Oregon exceed those for logs produced in the immediate vicinity. They are nevertheless lower than the costs of transportation to Japan, China, or Korea. An expert ban would also have the effect of moderating log prices generally.

* * * While some mills may experience log shortages during the period of an injunction, that would occur to some degree regardless of whether owl habitat is protected, and there is no way of assuring that the mills most in need of logs would get them if the Forest Service proposal were adopted. National forest timber sales must be awarded on competitive bids.

* * * Over the past decade many timber jobs have been lost and mills closed in the Pacific Northwest. The main reasons have been modernization of physical plants, changes in product demand, and competition from elsewhere. Supply shortages have also played a part. Those least able to adapt and modernize, and those who have not gained alternative supplies, have been hardest hit by the changes. By and large, the companies with major capital resources and private timber supplies have done well; many of the smaller firms have had trouble.

* * * Job losses in the wood products industry will continue regardless of whether the northern spotted owl is protected. A credible estimate is that over the next twenty years more than 30,000 jobs will be lost to worker-productivity increases alone.

[From the Washington Post, June 25, 1991]

OWLS, TREES, AND LOGGERS

The Endangered Species Act lends itself to caricature; in the case of the northern spotted owl, we print on the opposite page today an explanation of why the caricature is false. The excerpts are not from the works of a biologist or economist but from an opinion by a federal judge; sadly, the courts have become the referees to which one must too often look for environmental truth these days.

The opinion is the best summary we have seen of this dispute. The owl, Judge William Dwyer observes, is not so much the subject of the controversy as it is a convenient metaphor and what the biologists call an "indicator species." What its extinction would indicate is that the entire complex forest system of which it is part is at risk. The real dispute is over that old-growth forest that is the owl's habitat. "A great conifer forest originally covered the western parts of Washington, Oregon and northern California" from the coastal mountains to the sea, Judge Dwyer wrote. As little as 10 percent of it remains, and the question is whether to log the remainder or save it. The judge's opinion has helped to toss the question back to Congress. But the history of the dispute—and the reason it was before the judge—is that neither elected branch of government has wanted to be the one to decide.

Most of the logging of the old-growth forest which Judge Dwyer described was done in the last 50 years; much of the logging on the federal share of that land has been done by smaller companies—the giant companies are more likely to grow their own trees on their own vast tracts of land. The judge observes that the smaller companies logging in the federal domain are in decline for economic rather than environmental reasons that have nothing to do with the spotted owl—but that has made the owl doubly a symbol.

Congress moved to control the logging on federal lands with the National Forest Management Act in 1976. But this call for multiple use of the forests was a straddle that regularized logging as much as it restricted it. The Endangered Species Act was less equivocal, and as the size of the old-growth forest was reduced, a multiple-use compromise became more difficult to achieve.

The Reagan and Bush administrations for the most part dealt with the issue by looking the other way; the law-and-order administration balked at enforcing the law. The judge says the record shows them to have engaged in "a remarkable series of violations of the environmental laws" and a "deliberate and systematic refusal * * * to comply with the laws protecting wildlife," not at the working levels of the relevant agencies but higher up, for political reasons.

The owl—and through it, by proxy, the irreplaceable forest—are to be preserved; the executive branch, for the sake of seeming to protect jobs that are disappearing anyway, has refused. Judge Dwyer has enjoined further logging contracts until a plan to enforce the law is put in place. Congress is now trying to find a legislative compromise; the industry is claiming that efforts to save the owl are having an unhappy impact not just on jobs but also on lumber prices, which have been rising. The idea is that the owl is responsible for the run-up. But that seems not to be so. The people in the logging towns deserve help in making a transition they faced anyway. The Dwyer opinion, while it isn't addressed to Congress, urges facing other obligations at the same time, obligations that are not inconsistent with aiding the loggers now. "The loss of old growth is permanent," he notes, while "to bypass the environmental laws, either briefly or permanently, would not fend off the changes transforming the timber industry. The argument that the mightiest economy on earth cannot afford to preserve old-growth forests for a short time, while it reaches an overdue decision on how to manage them, is not convincing today. It would be even less so a year or a century from now."

Mr. ADAMS. Mr. President, I will just simply summarize my statement by saying that the editorial also includes excerpts from the judge who heard the case, one of the best Federal judges in the Pacific Northwest, Judge William Dwyer, who was sponsored for this position with bipartisan support by both Senator GORTON and myself and, prior to Senator GORTON'S returning to the Senate, by Senator EVANS and myself, a fine Federal judge who simply was placed in the position of not having had put before him the necessary plans under the Forest Management Act so that he could appropriately deal with the problems of how the forest should be used. He did not go with a temporary restraining order as had been done before but instead provided a hearing opportunity for the parties.

I regret that the administration did not provide the Forest Service and the Fish and Wildlife Services and the Bureau of Land Management with the necessary policy guidance so that they could present to the court an appropriate plan for dealing with the ecosystem in total of the Pacific Northwest. We have had overcutting in that area, Mr. President, for a number of years. We have also had the problem that we had exports of many of our logs from the Pacific Northwest and elsewhere in the United States to markets elsewhere in the world where prices were bid far above what our local domestic people could bid.

Several of us, including Senator PACKWOOD of Oregon and myself, in this body and others in the other body provided legislation to stop exporting from public lands in order to prevent this flow of wood products and the destruction of our forests and to give a chance for the Endangered Species Act to work. I think there was a great deal of misunderstanding, not only in the Senate but in the House and throughout the country, about the Endangered Species Act and whether or not it was really used in this case. It was not. There were opportunities within that act to have prevented the court from having to make the decision that was made.

I have placed this in the RECORD so that all of my colleagues will have an opportunity to look at what the judge said and what the judge did and what was required by the judge after a hearing. This came on the heels of his giving the administration and its agencies months and months to prepare for this matter. Our foresters were prepared and our forest schools were prepared and they had plans, but they were not allowed to proceed and present them.

So I hope that all of my colleagues, with these brief few remarks that I have made tonight and with the materials that I have placed in the RECORD, will have an opportunity to have the judge's view and the Washington Post's view, and then begin to consider for themselves what should be done with the total ecosystems of the Pacific Northwest.

This is the largest biomass left in the United States and we must treat it carefully. It can provide lumbering opportunities for some of our citizens, but it also can provide a habitat for many creatures that could not exist elsewhere. We only recently have discovered that it could provide biological opportunities for medicines to be developed that we had no idea were possible.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, I understand we are in morning business until 8:30; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DIXON. Mr. President, I ask unanimous consent to proceed as though in morning business for the purpose of making a brief statement and for the further purpose of the introduction of a bill, which I think will not take, in the aggregate, more than 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE TAKEOVER OF LITHUANIAN COMMUNICATION CENTERS

Mr. DIXON. Mr. President, while we debate the crime bill in the Senate, a crime of international significance has taken place this morning. According to numerous news reports, the Soviet Union's infamous Black Beret Interior Ministry troops, seized control of Lithuania's communications centers, took over the independent television stations in Vilnius and Kaunas, and cut the telephone and telegraph lines.

These same vicious troops were responsible for the murder of 13 unarmed Lithuanians during "Bloody Sunday" last January. I have seen the video of that day. These Black Beret troops are ruthless. I assure you they have never heard of glasnost and perestroika.

The troops attacked Lithuanian border posts last weekend and took them over. They have continued to intimidate, harass, and oppress the Lithuanian people.

And the administration is on the verge of granting most-favored-nation status to the Soviet Union? It boggles my mind, Mr. President!

I have been trying to push this administration to live up to our nonrecognition policy toward the forced incorporation of the Baltics. The administration consistently replies, "We're concerned."

Well, Mr. President, I hope the administration, in no uncertain terms, is telling President Gorbachev, "get your troops out of Lithuania, Latvia, and Estonia."

We must not be lulled by Soviet statements about glasnost. We must measure their sincerity toward openness by their deeds. The actions of the black beret troops in the Baltics demonstrate that the Soviet bear is still very much alive.

I ask unanimous consent to have a UPI wire service story reprinted in the RECORD at this time as if read.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SOVIET TROOPS ATTACK IN VILNIUS

MOSCOW.—Soviet troops Wednesday took over the central telephone center in Vilnius and all outside telephone ties with the Lithuanian capital were severed, Lithuanian officials said.

The officials said they did not know whether shots were fired or whether any people were injured in the assault.

"At 4:30 p.m. armed OMON soldiers took the inter-city telephone station in Vilnius," said Natalya Boganova, a spokesman at Lithuania's permanent mission in Moscow.

"All telephone ties with Lithuania are broken," she said. "The radio also is not broadcasting."

Lithuanian Deputy Prime Minister Zigmas Vaisvila contacted the head of the Lithuanian mission, Egidius Bickauckas, and informed him of the attack, Boganova said.

Lithuanian officials said the attack was carried out by a unit of "black beret" Soviet Interior Ministry troops, the same forces that in recent months assaulted a number of border checkpoints and other facilities in Lithuania and the neighboring Baltic republics of Latvia and Estonia.

The independent Interfax news service quoted the Lithuanian mission's press attache as also saying that telephone ties with Vilnius were cut off. Several attempts to call the Lithuanian government were unsuccessful.

Soviet troops attacked Lithuania's television tower in Vilnius on Jan. 13, killing 14 people in an assault backed by tanks.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DIXON. I thank the Chair.

(The remarks of Mr. DIXON pertaining to the introduction of S. 1397 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DIXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROVIDING FOR ADJOURNMENT OR RECESS OF BOTH HOUSES

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate House Concurrent Resolution 175. The concurrent resolution has been cleared with the distinguished Republican leader.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 175) providing for an adjournment of the House from June 27, 1991 to July 9, 1991 and an adjournment of the Senate from June 28, 1991, June 29, 1991, June 30, 1991, July 1, 1991 or Tuesday, July 2, 1991, to July 8, 1991.

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, June 27, 1991, it stand adjourned until noon on Tuesday, July 9, 1991, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Friday, June 28, 1991, Saturday, June 29, 1991, Sunday, June 30, 1991, Monday, July 1, 1991, or Tuesday, July 2, 1991, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this resolution, it stand recessed or adjourned until noon, or until such time as may be specified by the Majority Leader or his designee in the motion to adjourn or recess, on Monday, July 8, 1991, or until noon on the second day after members are notified to reassemble pursuant to section 2 of this resolution, which occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceed to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 175) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for debate only on the bill be extended to 9:15 p.m., and that at 9:15 p.m., the Senate go into a quorum call as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the information of Senators, negotiations are continuing on the pending amendment and on the underlying bill. There are a number of amendments remaining. It is my intention that we will complete action on this bill this week. Therefore, Senators should be aware that rollcall votes are likely, will be probable this evening, and that the Senate will be in session this evening, barring some agreement to the contrary.

So that Senators may adjust their schedules accordingly, we still hope to proceed to make further progress on this bill this evening. Senators should be aware there will be rollcall votes this evening in all likelihood, barring some broader agreement to the contrary.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I understand that I am not really taking from anyone's time because various Members are waiting to be heard on the pending business, and that is the purpose of the quorum call. I make a parliamentary inquiry, what is the pending business?

The PRESIDING OFFICER. We are in morning business until 9:15 p.m. at which time the Senate will go into a quorum call.

Mr. LEAHY. Mr. President, this is interesting. We are in morning business at 10 minutes to 9 at night until 9:15, when we can go into a quorum call. Anybody watching this on television will see on their screens the Senate is not doing anything, it is in a quorum call.

I wonder, Mr. President, next week and during the Fourth of July, how many people are going to be back home saying, by God, we have to do something about crime, crime is running rampant in our streets, crime is right here, right here at home. People are out with knives, guns, drugs, clubs, you name it.

Mr. President, at some point, somebody might actually stand up and say, "I'm glad to hear you are against crime. It is a courageous position, Senator. You are against crime. How did you vote on the crime bill?"

"Well, we never really got to it." We have talked, and talked, in the last 3 days, notwithstanding the valiant efforts of the distinguished chairman.

I must say Chairman BIDEN has done everything conceivable to bring a substantive bill to a vote.

We have had a handful of votes on substantive issues on this bill. Senators—well-intentioned Senators—have worked for hours, and weeks, and months to bring those substantive issues to the floor, and the chairman has worked for months to bring this bill, to the floor.

On the other hand, we have voted on symbols. On the right, we have the symbol of the death penalty—many think that if we have a whole lot more crimes subject to the death penalty, we will stop crime. On the left, we have the symbol of the waiting period that says you cannot buy a pistol, without a waiting period, but you can buy a 12-gauge shotgun. The idea is that if we have a waiting period for buying pistols then we will not have crime. Fine. We have voted the death penalty, but let us vote one way or the other on the Symms amendment, vote it up or down. Let us vote on the waiting period, up or down. Let us get those two symbols out of the way because they really will not do much, if anything, to stop crime.

Then let us vote on specific criminal matters, vote on the question of appeals and moving the appellate process forward. We have voted on the questions of habeas corpus and the exclusionary rule. Let us vote on the question of how many prosecutors and judges we need.

But do not tell me, a former prosecutor, that these symbols like the unrelated amendment the Senate has had before it today will do one thing to stop crime.

As one of the few people in this body who has prosecuted armed robbers, who has prosecuted murder cases, who has prosecuted arson cases, drug cases, rape cases, and who has prosecuted child molestation cases, I did not win on symbols. If you ask any of the other prosecutors in this Chamber, they did not win criminal cases on symbols. When is this body going to stop relying on symbols as a substitute for substance? Now, we are going to tell the District of Columbia what to do. Somebody ought to ask some of the Senators who want to talk about what the District of Columbia should do, what have you done to stop crime in your State? What have you done to stop child molestation in your State? What have you done to stop rape in your State? What have you done to stop the increase in the crime rate in your State?

Let us talk about reality. If there are some who feel the only way we are going to stop crime is by extending the symbol of the death penalty in the District of Columbia and just about everywhere, even though we all know, if we want to be honest enough to admit it, that it is not going to stop crime. If that is the issue, then let us get an agreement for 5 hours, and we will vote on the Symms amendment. If you feel the Brady bill is the answer to crime, well, then, let us enter into an agreement, have a couple hours of debate on either side of it and then vote it one way or the other. If the public opinion polls say that 80 percent of the people want it, all right, then let's vote on the Brady bill.

But then once we have done away with the symbols, let us sit down and start talking about the fact that we have courts too clogged with make-work cases designed to improve their statistics on cases won, because of a Justice Department that would rather make itself look good through statistics, than stop crime. Let us debate that.

And let us ask whether it makes sense for U.S. attorneys to be required to go in and start trying gas station stickups, which they are doing in some States now.

Can you imagine that? The local sheriff or the chief of police gets somebody in a gas station stickup and all of a sudden he gets a call from the FBI or U.S. attorney, saying "we heard this man had a felony record, or used a gun; that is a major case." We get the full power and majesty of the United States of America to handle a second-rate robber who held up the gas station for $28. Somebody might say, "But, Mr. Attorney General, don't we have some white-collar crimes? Don't we have some toxic waste crimes, people who crossed a border, a State border, and dumped toxic waste in a rural area of America where these toxic wastes are seeping out and polluting the water and deforming our children and killing our people? Do we not have cases like that that the Federal Government should be prosecuting? Maybe even cases concerning organized crime's involvement in toxic waste?"

But the answer woud be, "We do not have time for that because we have our second-rate robber and his $28 stickup of the gas station that we have to try in the Federal courts."

"But, Mr. Attorney General, isn't that normally handled by the state courts and the local district attorney, maybe the sheriff?"

"Well, yes, but we have our statistics to keep up because we are tough on crime. We are tough on crime now, and we have to have good statistics. We had a 192 percent increase in convictions last year" or whatever the number might be.

Nobody ever asks the question of whether the convictions amount to a row of pigs. I would rather get that toxic waste person. I would rather get that organized crime person who may be corrupting judges and prosecutors and elected officials. I would rather get that drug kingpin. I would rather have them go after one good Federal case and leave these other cases to local law enforcement, which can better handle it.

But is that the debate here? Heavens, no. We are going to show our hairy-chested resolve against crime.

Well, maybe, Mr. President, we should pass a sense-of-the-Senate resolution to say all those Senators voting for the resolution are against crime. That may be the only thing we could get unanimous consent to bring at a time certain.

Mr. President, I rarely come down here to speak on such issues, and I would not do it tonight if the managers of the bill were seeking to bring forward or could bring forward an amendment at this time. But I have been there. I have been at crime scenes at 3 o'clock in the morning. I have had a murder victim die virtually in my arms while he tried to tell me who it was who killed him. I have been a target of people who tried to murder me and my family.

I personally arrested a man within hours of the time he was going to fire bomb my whole family. I do not stand here as somebody who talks about this as some abstract question. And I tell you right now, symbolic gestures on the floor of the Senate would not have stopped that fire bomber and telling the U.S. attorney's office to get involved in State matters would not have stopped him. It would not have stopped that man from fire bombing me and my family. What stopped him was good, solid police work at the local level.

If we want to debate something that is going to actually help fight crime, let us talk about the money that we are giving in this bill to rural America, to small cities and small towns that may have only one police officer for 40 or 50 miles, to give them the communications systems, the training, the backup, the manpower, the forensic tools, and the crime labs they need.

But do not go back and tell those people, by gosh, we are for you; we passed a quota bill and a bill for death penalty in the District of Columbia. Do not tell that to the sheriff of a rural county who has one or two deputies and has to cover several hundred square miles when somebody calls him at 3 o'clock in the morning to say there is an armed robbery and he has no backup and he has no radio and he has no way of getting there.

Mr. President, so far, with the exception of a handful votes, this debate has been a lot of baloney, notwithstanding the superb efforts of our chairman to bring a substantive bill to a vote.

I remember a case once where we had a brilliant defense attorney arguing a case against a county prosecutor—not me, I will quickly add—in a very small rural county.

Under Vermont's system the prosecutor speaks first, and the defense attorney speaks second. The prosecutor is allowed to give the summation.

So the prosecutor spoke, short and to the point; he spoke to the defendant's criminal behavior. The defense attorney stood up and gave one of the most brilliant arguments I ever heard. He quoted Aristotle. He quoted Shakespeare. He quoted Black's Law Dictionary. He quoted from the Inns of Court. He quoted the Magna Carta. He quoted the Constitution. He went on for hours. But he never spoke to the guilt or innocence of his client. And when he finished he said to the jury, "Ladies and gentlemen of the jury, this debate is like a sandwich. The prosecutor goes first and he goes last, but I am in the middle. The prosecutor is like the bread," he said, "I am the defense attorney. I am the meat in the sandwich."

That county prosecutor got up and he said, "Your Honor, he is right, he is the meat in the sandwich. But it is a baloney sandwich." And sat down. The jury was out 10 minutes. They found the man guilty.

I think the people of this country are going to be the same kind of jury. They know you can dress up a crime bill with unrelated amendments, you can give a great statement at the beginning, and at the end; and, say we have done something about crime, but the meat is in the center. And if we only talk about symbols rather than the substantive provisions in the Chairman's bill it will not do anything. It will be a cruel hoax on the people of this country.

I am willing to stay here all night and vote on serious matters. If you want to vote on gun control matters, vote on gun control matters, real ones. If you want to vote on deterrence, vote on real ones. But do not pretend that we have jurisdiction over 50 different States to handle the local crime problems of small towns or large, cities or counties. Do not pretend that somehow we can go back home and say we ended crime for you. Because if the American people do not feel any safer as they walk down the street, if they feel they have to lock, double lock, and triple lock their doors at night, they know we are not doing enough.

Why do we not stop this symbolism? Why do we not stop aiming for the 30-second spots on television? Why do not all of us, Republicans and Democrats alike, put aside the rhetoric?

We have the core of a good crime bill here. If somebody has a real amendment to improve it, bring it up, stand up for it. Do not fool around with parliamentary procedures. Debate your point. And then vote it up or vote it down, and let the American people know where we stand. Do not hide behind all kinds of parliamentary gimmickry.

Let me tell you, Mr. President, as a former prosecutor I would feel a lot better, but more importantly, as a Vermonter, I would like to think—even though I come from a State with one of the lowest crime rates in the country—that the U.S. Senate was actually talking about crime. But do not pretend that we are all for the county sheriff and do not pretend that somehow what we are doing here now really affects local law enforcement.

Let us talk about those things that are truly Federal matters, and let us, when doing it, remember that this country has been strong and great for 200 years because it has a Constitution. Let us not throw out the Constitution, whether we are debating the right of appeal, habeas corpus, search and seizure, or anything else. Let us not just throw the Constitution out the window because it is easier to explain in a 30-second TV spot that you are tough on crime than it is to explain that you carried out your sworn duty to uphold the Constitution of the United States.

That is what we ought to do first and foremost: uphold the Constitution of the United States, and then pass a crime bill that works.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BRYAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for debate only on the bill be extended until 9:45, and at 9:45 the Senate go into a quorum call as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that we now have a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FIFTIETH ANNIVERSARY OF THE RESTORATION OF UKRAINIAN INDEPENDENCE

Mr. RIEGLE. Mr. President, 50 years ago on June 30, 1941 the Organization of Ukrainian Nationalists [OUN] declared the restoration of Ukraine's independence. This year, I join with Ukrainians all over the world to celebrate the anniversary of this momentous day. Tragically, Ukrainian autonomy only lasted for a few months. But for the 35 million Ukrainians still living under Soviets oppression, the memory of this declaration of freedom lives on.

The Ukrainian independence movement achieved its historic first victory in 1918, when Ukraine declared itself a sovereign republic. After years of domination by foreign occupiers, Ukrainians finally experienced the joy of controlling their own destiny in their traditional lands. Only 3 years later, however, the Russian Bolsheviks crushed the new nation, stamping out any outward signs of freedom in Ukraine.

But the spirit of liberation could not be eradicated. It burned as a flame in the hearts of the Ukrainian people, only to be rekindled in the chaos of the Second World War. Eight days after the brutal Nazi invasion of the Soviet Union on June 22, 1941, the Ukrainians again declared their independence. This time, their dauntless devotion to freedom faced one of the most vicious regimes in history, but Ukrainian determination could not be thwarted. The OUN called a national assembly and established a Provisional Ukrainian Government. Although the Gestapo swiftly arrested the new government officials, the Ukrainian people continued to fight heroically for their liberation facing torture and concentration camps. While their courageous resistance during the 4 years of German occupation helped to end the facist threat to the world, it came at a cost of hundreds of thousands of Ukrainian lives.

The Ukrainian struggle for sovereignty continued after World War II when Soviet communist domination replaced Nazi repression. But, dreadfully, Ukrainian suffering did not end with the defeat of the Nazi regime. From Kiev to Lviv, Ukrainians continued to experience decades of harsh rule by the Soviet Union. Still, despite a past filled with tragedy, including the Terror Famine of 1929–32, violent russification, and the calamity of Chernobyl, the courageous Ukrainian people have persevered in their struggle to determine their own national future.

To the Ukrainian-American community in my State of Michigan, as they honor the 50th anniversary of the restoration of Ukrainian independence, I offer my full support for the efforts of the Ukrainian people to reestablish the sovereignty of Ukraine. As we celebrate this important date, we must not only confirm American abhorrence of the injustices survived by the Ukrainian people, but also our belief in the unalienable right of self-determination of the Ukrainian people.

REGARDING THE HEAD START ACT

Mr. ROBB. Mr. President, I rise today in defense of America's future, our children. I am proud to cosponsor the Head Start Act, which will fulfill a dream of educational equality conceived more than two decades ago.

As I look at America's domestic policy, I am struck by the unconscionable way in which we are wasting the precious resource of our people. At the same time that we spend billions of dollars to bail out our savings and loan depositors, papering over yesterday's mistakes with greenbacks, we are neglecting the next generation by failing to invest in them effectively.

Time and time again, we have seen the importance of getting an early start on cultivating the habits of education. If we don't cultivate those habits, if we don't encourage curiosity and a desire for knowledge in children in kindergarten and in first and second grade, chances are many of those children won't even stay in the system until the 12th grade.

The Head Start program exists precisely to achieve that end. It helps prepare preschoolers to learn. But somehow, we seem unable to recognize a winner when we see one.

Mr. President, it baffles me that in all of its history, Head Start has never been fully funded. In fact, Head Start has been a success for 20 years, yet current funding exists for only about 27 percent of all eligible children.

How can the Federal Government sound the alarm for educational reform if it is not even meeting its own responsibility to the system? And how can anyone here castigate the teachers and the principals and the school boards if we in Washington are not giving them the tools that they have been promised? The tools which help make kids ready to learn?

A responsible government invests in people, in developing their minds, safeguarding their bodies, offering hope and opportunity to their spirits. It is this kind of investment, not the purely financial kind, that indeed is government's highest calling.

We've heard a lot recently about the state of our infrastructure, of how the state of our industrial capital will determine whether we succeed or fail in our national effort to return to solvency and maintain our position of influence in world affairs.

But the real difference is people. All the industrial capital in the world won't do us much good if we don't have people around with the skills, training, and ability to manipulate it and respond to the rapid changes of our increasingly technological world.

Mr. President, as you know, I am not much of a spender. If we had to waive the budget act to implement this program, I'd find myself torn between two good causes; Head Start and responsible spending. That's why I'm pleased that discussions are proceeding to identify revenue sources honestly so that we'll be able to give Head Start the funding it deserves without adversely impacting the budget, or other human services programs.

In short, Mr. President, by passing the Head Start Act we won't just give children a head start of their education; we will give America a head start on the 21st century. I urge my colleagues to support this bill.

LITHUANIA

Mr. DECONCINI. Mr. President, I have just received word that Soviet military units occupied for several hours the telephone and telegraph exchange in Vilnius and Kaunas, Lithuania. Communications, including all telephone lines between Lithuania and the outside world, had been completely cut off. It appears that the military units involved were both from the special force Black Berets and the army. While the latest reports indicate that the troops have been withdrawn, this unnecessary intimidation of the Lithuanian people is unacceptable.

This was an outrageous provocation on the part of the Soviet Government which claims to be negotiating with the Baltic States in good faith. It was a violation of the sovereignty of the Republic of Lithuania, whose democratically elected leadership is seeking to restore Lithuanian independence.

How long can Soviet President Gorbachev pretend that he is unaware of such actions and other violence in the Baltic States perpetrated by Soviet army and internal affairs troops? It is time for us to face the issue of who is the decision-maker behind the harsh repression there and what the implications are.

The military action today was only the most recent in a long list of violent acts against the Baltic States since January of this year, when Soviet repression in Lithuania and Latvia resulted in the deaths of more than 20 people. The Vilnius TV and radio center has been occupied since then. Soviet authorities attempted to whitewash this violence in a report issued at the beginning of this month which claimed that the deaths were accidental. Furthermore, for weeks now Baltic border posts throughout the Baltic region have been systematically attacked and innocent people have been killed.

Mr. President, we call upon President Gorbachev to put an end immediately to this violence against the sovereign Baltic States. He continues to show one face to democratic governments in the West when he wants aid and cooperation, but he demonstrates another, uglier one to the Baltic peoples. The Kremlin's actions make a mockery of the Soviet Union's CSCE commitments as well as the so-called new spirit of cooperation with the West. The next time Gorbachev comes begging for U.S. aid, I do not think the American people will accept being used in this callous and cynical manner.

MOST-FAVORED-NATION STATUS FOR CHINA

Mr. DURENBERGER. Mr. President, tomorrow the Senate Finance Committee will be voting on resolutions relating to the President's request for an extension of most-favored-nation [MFN] trading status for the People's Republic of China. I have come to the Senate floor today to provide my reasons for supporting the President's request for an unconditioned extension of MFN.

In reaching this decision, I have concluded that it is in our nation's best economic and geopolitical interests to maintain normal trading relations with the People's Republic of China. I further believe that continuation of MFN will improve economic and political conditions for the people in China.

Mr. President, neither the President of the United States, nor this Senator believes that extending MFN can be interpreted as condoning the domestic repression in China, or the Chinese Government's irresponsible arms proliferation policies. The United States was the first country to condemn the brutal repression in Tiananmen Square. We were the first nation to guarantee the rights of Chinese students studying at universities in the United States. We were the first nation to impose sanctions against the Chinese, and we are now the last, alone among our Western allies, to keep those original sanctions in place.

But those actions are not enough for the critics of the President's policy. Do the critics of the President's policy think we would be better off if we turned the clock back on Sino-American relations to 1970 when we exercised a policy aimed at isolating China from the rest of the world? That would be the net effect of our decision to abandon normal relations with the Chinese. Although it might make us feel good in the very short run, it will surely set back relations and dialogue with Chinese for years to come and likely lead to wider crackdowns within China against foreign influence.

Let those who want to return Sino-United States relations to 1970 remember that in 1970 China did not serve as a permanent member of the U.N. Security Council. Let them remember that because of President Nixon's opening to China, the people of China have ultimately benefited and our long-term bilateral relationship with China and the Chinese people has been enhanced.

Let the critics also remember that they are putting at risk more than $5 billion in U.S. exports including wheat ($511 million), aerospace ($749 million), computers and electrical machinery ($860 million), fertilizer ($544 million), cotton ($259 million), and wood products ($281 million). And not only will our European and Japanese competitors immediately step in to take up the slack caused by the loss of American business, but we would be putting at risk more than $4 billion in United States investment in China.

Farmers and businesses in Minnesota stand to lose hundreds of millions of dollars if the United States decides to restrict MFN. For Minnesota wheat farmers, that's a $27 million market that will disappear and for Cargill's wheat and phosphate exports that's a $150 million loss. For 3M, Control Data, Eaton, Honeywell, MTS, Thermoking, Conagra, North Star Steel, Medtronic, and Crown Iron Works, restricting MFN means the whole transfer of export business to Japanese and European competitors.

And what about the American consumer, especially the low-income consumers who rely on imports from developing countries like China for affordable clothing and footwear. If MFN is restricted, tariffs on clothing and footwear manufactured in China will rise by 72 percent. In other words, raising tariffs on Chinese imports of clothing and footwear is equivalent to imposition of a $6 billion a year tax on the American consumer of low- and moderate-priced clothing and shoes.

Mr. President, it has been 12 years since the United States decided to use the American farmer as an instrument of foreign policy. Haven't we learned the lesson of the failed 1979 American grain embargo of the Soviet Union. And that lesson is simply that when America unilaterally decides to use trade as a weapon of foreign policy, the only party who is hurt is the American worker. Other countries always step in to fill the breach left by our unilateral withdrawal from a market.

There's a second lesson that we should all keep in mind. And that is the lesson we learned last August after Iraq invaded Kuwait. Economic and trade policy can be a meaningful tool of foreign policy, but only when such a policy is carried out in concert with all of the world's trading partners. UN economic sanctions against Saddam Hussein certainly had a devastating impact on the people of Iraq. But those sanctions had meaning only because the whole world acted in unison.

Will Japan follow our lead and restrict MFN for China? Will France? Will Germany? Will Brazil? Of course not. Their manufacturers and farmers will simply step in and take the business that we lose.

Mr. President, for many in this chamber, the debate over MFN has been narrowed to focus on the issue of Chinese missile sales to terrorist countries such as Iran and Syria. Under the most recent Democratic leadership bill, MFN would be immediately revoked if it is determined that the Chinese have sold certain short-range missiles and launchers to Iran, Syria, and Pakistan.

Mr. President, I am appalled that the Chinese seem indifferent to the proliferation of ballistic missiles, especially to countries in the over-militarized Middle East. Yet this has not gone unnoticed by the Administration.

Just 2 months ago, the President denied licenses for export of components critical for the launch of a Chinese domestic satellite and he has indicated that he will not seek any further satellite waivers for China until missile proliferation concerns are satisfied. The President has also publicly stated that the United States would impose additional sanctions on any Chinese company found to violate international guidelines on missile sales.

Mr. President, MFN is the functional equivalent of closing down economic relations with a trading partner. It is a last resort trade weapon. Much as I believe that the Chinese have been irresponsible in selling missiles to certain terrorist countries, I do not believe that is a sufficient basis to terminate normal trading relations with China.

In fact, Mr. President, I would suggest that it was just as irresponsible for some of our own allies to sell missile parts, guidance systems, and facilities capable of manufacturing poison gas to Iraq as it would be for the Chinese to sell Silkworms, M-9's and M-11's. No one suggested that we terminate trade relations with the countries who supplied such weapons. Nor did any one suggest that we endanger the entire United States-Japan trade relationship after it was learned that a Toshiba subsidiary sold our cold war adversary, the Soviet Union, advanced machine tool milling machines.

Mr. President, MFN is a vestige of the cold war. Very few countries are denied MFN—the Soviet Union, Afghanistan, Albania, Cuba, Laos, North Korea, Vietnam Kampuchea. The list keeps shortening every year as free markets and free societies evolve out of the rubble of Socialism. I believe it would be a step backward in international political and economic relations if the United States at this late date seeks to terminate a relationship that holds great promise for the future once the current generation of octogenarian rulers in Beijing passes the mantle to the new generation.

I would hope my colleagues will look toward stabilizing relations between our two countries, and leave this matter to the wisdom and judgment of the President.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations. Calendar Nos. 205, 206, and 207.

I further ask unanimous consent that the nominees be confirmed, en bloc, and that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, considered and confirmed en bloc, are as follows:

DEPARTMENT OF THE TREASURY

Mary Catherine Sophos, of California, to be a Deputy Under Secretary of the Treasury.

DEPARTMENT OF AGRICULTURE

Ann M. Veneman, of California, to be Deputy Secretary of Agriculture.

Ann M. Veneman, of California, to be a member of the Board of Directors of the Commodity Credit Corporation.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

COMMITTEE DISCHARGED AND SENATE CONSIDERATION OF CERTAIN MEASURES

Mr. FORD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from and the Senate proceed to the immediate consideration, en bloc, of Senate Joint Resolutions 40, 72, 73, 78, 92, 121, 125, 126, 132, 138, 151, 154, 156, 36, 142, and House Joint Resolutions 72, 138, and 149; that the joint resolutions be deemed read a third time and passed; that the motion to reconsider the passage of the joint resolutions, en bloc, be laid upon the table, and that the preambles be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate joint resolutions were deemed read a third time and passed.

The preambles were agreed to.

The joint resolutions, with their preambles, are as follows:

S.J. RES. 36

Whereas over 4 million United States citizens are affected by Alzheimer's disease, a surprisingly common degenerative disease which attacks the brain, impairs memory and thinking, alters behavior, and renders its victims incapable of self care;

Whereas it is estimated that by the middle of the 21st century, Alzheimer's disease will strike 14 million United States citizens, affecting one in every three families;

Whereas Alzheimer's disease is not a normal consequence of aging, but a disorder of the brain for which no cause has been determined and no treatment or cure has been found;

Whereas Alzheimer's disease is the quintessential long-term care problem, requiring constant full-time care for its victims, who can suffer from the disease for 3 to 20 years, at a total annual cost to the Nation of at least $90 billion;

Whereas families of Alzheimer's patients bear the overwhelming physical, emotional, and financial burden of care, and neither public programs, including medicare, nor private insurance provide protection for most of these families;

Whereas 80 percent of all Alzheimer's patients receive care in their own homes;

Whereas nearly half of all residents of nursing homes suffer from Alzheimer's disease or some other form of dementia; and

Whereas increased national awareness of Alzheimer's disease and recognition of national organizations such as the Alzheimer's Association may stimulate increased commitment to long-term care services to support Alzheimer's patients and their families and a greater investment in research to discover methods to prevent the disease, delay its onset, and eventually to find a cure for the disease: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the months of November 1991, and November 1992, are designated as "National Alzheimer's Disease Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such months with appropriate ceremonies and activities.

S.J. RES. 40

Whereas there are 107 Historically Black Colleges and Universities in the United States;

Whereas such colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;

Whereas black colleges and universities have a rich heritage and have played a prominent role in American history;

Whereas such institutions have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of the Historically Black Colleges are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing September 8, 1991, and ending on September 14, 1991, is designated as "National Historically Black Colleges Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States and interested groups to observe such week with appropriate ceremonies, activities, and programs, thereby demonstrating support for Historically Black Colleges and Universities in the United States.

S.J. RES. 72

Whereas the designation of a week as "National Rehabilitation Week" gives the people of this Nation an opportunity to celebrate the victories, courage, and determination of individuals with disabilities in this Nation and recognize dedicated health care professionals who work daily to help such individuals achieve independence;

Whereas there are significant areas where the needs of such individuals with disabilities have not been met, such as certain research and educational needs;

Whereas half of the people of this Nation will need some form of rehabilitation therapy;

Whereas rehabilitation agencies and facilities offer care and treatment for individuals with physical, mental, emotional, and social disabilities;

Whereas the goal of the rehabilitative services offered by such agencies and facilities is to help disabled individuals lead active lives at the greatest level of independence possible; and

Whereas the majority of the people of this Nation are not aware of the limitless possibilities of invaluable rehabilitative services in this Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the week of September 15, 1991, through September 21, 1991, is designated as "National Rehabilitation Week" and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such week with appropriate ceremonies and activities, including educational activities to heighten public awareness of the types of rehabilitative services available in this Nation and the manner in which such services improve the quality of life of disabled individuals; and

(2) each State governor, and each chief executive of each political subdivision of each State, is urged to issue proclamation (or other appropriate official statement) calling upon the citizens of such State or political subdivision of a State to observe such week in the manner described in paragraph (1).

S.J. RES. 73

Whereas it is estimated that a woman is battered every fifteen seconds in America;

Whereas domestic violence is the single largest cause of injury to women in the United States, affecting six million women;

Whereas urban and rural women of all racial, social, religious, ethnic, and economic groups, and of all ages, physical abilities, and lifestyles are affected by domestic violence;

Whereas 31 per centum of female homicide victims in 1988 were killed by their husbands or boyfriends;

Whereas one-third of the domestic violence incidents involve felonies, specifically, rape, robbery, and aggravated assault;

Whereas in 50 per centum of families where the wife is being abused, the children of that family are also abused;

Whereas some individuals in our law enforcement and judicial systems continue to think of spousal abuse as a "private" matter and are hesitant to intervene and treat domestic assault as a crime;

Whereas in 1987, over three hundred and seventy-five thousand women, plus their children, were provided emergency shelter in domestic violence shelters and safehomes and the number of women and children that were sheltered by domestic violence programs increased by one hundred and sixty-four thousand between 1983 and 1987;

Whereas 40 per centum of women in need of shelter may be turned away due to a lack of shelter space;

Whereas the nationwide efforts to help the victims of domestic violence need to be expanded and coordinated;

Whereas there is a need to increase the public awareness and understanding of domestic violence and the needs of battered women and their children; and

Whereas the dedication and successes of those working to end domestic violence and the strength of the survivors of domestic violence should be recognized: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1990 is designated as "National Domestic Violence Awareness Month". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe this month by becoming more aware of the tragedy of domestic violence, supporting those who are working to end domestic violence, and participating in other appropriate efforts.

S.J. Res. 78

Whereas hospice care has been demonstrated to be a humanitarian way for terminally ill patients to approach the end of their lives in comfort with appropriate, competent, and compassionate care in an environment of personal individuality and dignity;

Whereas hospice advocates care for the patient and family by attending to their physical, emotional, and spiritual needs and specifically, the pain and grief they experience;

Whereas hospice care is provided by an interdisciplinary team of physicians, nurses, social workers, pharmacists, psychological and spiritual counselors, and community volunteers trained in the hospice concept of care;

Whereas hospice is becoming a full partner in the Nation's health care system;

Whereas the enactment of a permanent medicare hospice benefit and an optional medicaid hospice benefit makes it possible for many more United States citizens to have the opportunity to elect to receive hospice care;

Whereas private insurance carriers and employers have recognized the value of hospice care by the inclusion of hospice benefits in health care coverage packages; and

Whereas there remains a great need to increase public awareness of the benefits of hospice care: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November in 1991 and 1992 is designated as "National Hospice Month". The President is authorized and requested to issue a proclamation calling upon all government agencies, the health care community, appropriate private organizations, and people of the United States to observe such months with appropriate forums, programs and activities designed to encourage national recognition of and support for hospice care as a humane response to the needs of the terminally ill and as a viable component of the health care system in the Nation.

S.J. Res. 92

Whereas the Congress responded to the brave Civil War service of more than 180,000 African-American troops by voting on July 28, 1866, to create 6 regular Army regiments composed of African-American enlisted soldiers;

Whereas the 9th and 10th Cavalry regiments were among those regiments, which consisted of veterans of the Civil War and free men of color;

Whereas the 9th Cavalry was stationed at Greenville, Louisiana, and the 10th Cavalry was stationed at Fort Leavenworth, Kansas, from where they played a key role in the history of the American West, guarding wagon trains, surveying roads, building forts, and protecting settlers;

Whereas after a battle in 1867 near Fort Hays, Kansas, Cheyenne warriors remarked that the African-American soldiers fought as fiercely as buffaloes, and the cavalry thereafter adopted the name "Buffalo Soldiers" as a badge of honor;

Whereas the Buffalo Soldiers were an important part of American history and served the United States in many States and Nations, including Arizona, California, Kansas, Louisiana, Montana, Nebraska, New York, Oklahoma, Texas, Utah, Vermont, Virginia, Cuba, Mexico, and the Philippines;

Whereas the Buffalo Soldiers' military heroics included serving with Theodore Roosevelt and the Rough Riders during the Spanish-American War, and helping to capture Billy the Kid and Pancho Villa;

Whereas some Buffalo Soldiers became famous African-American military officers, including Henry Flipper, Charles Young, and Benjamin Davis;

Whereas the Buffalo Soldiers served with pride and maintained high morale and the lowest desertion rate in the Army, despite receiving the worst equipment and food, living in inadequate housing, and being subjected to discrimination;

Whereas the Buffalo Soldiers were repeatedly cited for heroism and dedication to duty, including numerous campaign and unit citations, as well as 22 individual Congressional Medals of Honor;

Whereas the Buffalo Soldiers served in the highest tradition of the United States military, but still have not been given their proper place in American history;

Whereas General Colin Powell, Chairman of the Joint Chiefs of Staff, recognized this omission in 1982 while serving as Deputy Commander at Fort Leavenworth, and set in motion efforts to construct a monument to these forgotten heroes;

Whereas a monument to the Buffalo Soldiers will be dedicated at Fort Leavenworth, Kansas, in July 1992, on a site where Buffalo Soldiers camped during the late 19th and early 20th centuries; and

Whereas the Buffalo Soldier Monument will appropriately recognize the great sacrifices and outstanding performance of the Buffalo Soldiers and their contributions to our Nation; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 28, 1992, is designated as "Buffalo Soldiers Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

S.J. Res. 95

Whereas breast cancer will strike an estimated 175,000 women and 900 men in the United States in 1991;

Whereas 1 out of every 9 women will develop breast cancer at some point in her life;

Whereas the risk of developing breast cancer increases as a woman grows older;

Whereas breast cancer is the second leading cause of cancer death in women, killing an estimated 44,000 women and 300 men in 1990;

Whereas the 5-year survival rate for localized breast cancer has risen from 78 percent in the 1940s to over 90 percent today;

Whereas most breast cancers are detected by the woman herself;

Whereas educating both the public and health care providers about the importance of early detection will result in reducing breast cancer mortality;

Whereas appropriate use of screening mammography, in conjunction with clinical examination and breast self-examination, can result in the detection of many breast cancers early in their development and increase the survival rate to nearly 100 percent;

Whereas data from controlled trials clearly demonstrate that deaths from breast cancer are significantly reduced in women over the age of 40 by using mammography as a screening tool;

Whereas many women are reluctant to have screening mammograms for a variety of reasons, such as the cost of testing, lack of information, and/or fear;

Whereas access to screening mammography is directly related to socioeconomic status;

Whereas increased awareness about the importance of screening mammography will result in the procedure being regularly requested by the patient and recommended by the health care provider; and

Whereas it is projected that more women will use this lifesaving test as it becomes increasingly available and affordable: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1991 is designated as "National Breast Cancer Awareness Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate programs and activities.

S.J. Res. 121

Whereas D.A.R.E. (Drug Abuse Resistance Education) is the largest and most effective drug-use prevention education program in the United States, and is now taught to 20 million youths in grades K–12;

Whereas D.A.R.E. is taught in more than 150,000 classrooms, reaching more than 3,500 communities in all Department of Defense Dependent Schools worldwide;

Whereas the D.A.R.E. program has become a model drug prevention program for other countries and is now taught in Australia, New Zealand, American Samoa, Canada, Costa Rica and Mexico;

Whereas the D.A.R.E. core curriculum, developed by the Los Angeles Police Department and the Los Angeles Unified School District, helps prevent substance abuse among school-age children by providing students with accurate information about alcohol and drugs, by teaching students decision-making skills and the consequences of their behavior and by building students' self-esteem while teaching them how to resist peer pressure;

Whereas D.A.R.E. provides parents with information and guidance to further their children's development and to reinforce their decisions to lead drug-free lives;

Whereas the D.A.R.E. program is taught by veteran police officers who come straight from the streets with years of direct experience with ruined lives caused by substance abuse, giving them a credibility unmatched by teachers, celebrities, or professional athletes;

Whereas each police officer who teaches the D.A.R.E. Program completes 80 hours of specialized training in areas such as child development, classroom management, teaching techniques, and communication skills; and

Whereas D.A.R.E., according to independent research, substantially impacts students' attitudes toward substance use and contributes to improved study habits, higher grades, decreased vandalism and gang activity, and generates greater respect for police officers: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 12, 1991 is designated as "National D.A.R.E. Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

S.J. RES. 125

Whereas the first Polish immigrants to North America were among the first settlers of Jamestown, Virginia, in the seventeenth century;

Whereas Kazimierz Pulaski, Tadeusz Kosciuszko, and other Poles came to the British colonies in America to fight in the Revolutionary War and to risk their lives and fortunes for the creation of the United States;

Whereas Poles and Americans of Polish descent have distinguished themselves by contribution to the development of arts, sciences, government, military service, athletics, and education in the United States;

Whereas the Polish Constitution of May 3, 1791, was modeled directly on the Constitution of the United States, is recognized as the second written constitution in history, and is revered by Poles and Americans of Polish descent;

Whereas Poles and Americans of Polish descent take great pride and honor in the greatest son of Poland, his Holiness Pope John Paul the Second;

Whereas Poles and Americans of Polish descent and people everywhere applauded the efforts of Solidarity's leader and now President Lech Walesa in fighting for freedom, human rights, and economic reform in Poland;

Whereas the Polish American Congress is observing its forty-seventh anniversary this year and is celebrating October 1991 as "Polish-American Heritage Month": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1991 is designated "Polish-American Heritage Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such a month with appropriate ceremonies and activities.

S.J. RES. 126

Whereas the people of the United States should celebrate children as the most valuable asset of the Nation;

Whereas children represent the future, hope, and inspiration of the United States;

Whereas the children of the United States should not be allowed to feel that their ideas and dreams will be stifled because adults in the United States do not take time to listen;

Whereas many children face crisis of grave proportions, especially as they enter adolescent years;

Whereas it is important for parents to spend time listening to their children on a daily basis;

Whereas modern societal and economic demands often pull the family apart;

Whereas encouragement should be given to families to set aside a special time for all family members to remain at home;

Whereas adults in the United States should have an opportunity to reminisce on their youth to recapture some of the fresh insight, innocence, and dreams that they may have lost through the years;

Whereas the designation of a day to commemorate the children of the United States will provide an opportunity to emphasize to children the importance of developing an ability to make the choices necessary to distance themselves from impropriety;

Whereas the designation of a day to commemorate the children of the Nation will emphasize to the people of the United States the importance of the role of the child within the family;

Whereas the people of the United States should emphasize to children the importance of family life, education, and spiritual qualities; and

Whereas parents, teachers, and community and religious leaders should celebrate the children of the United States, whose questions, laughter, and tears are important to the existence of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second Sunday in October of 1991 is designated as "National Children's Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

S.J. RES. 132

Whereas exposure to radon poses a serious threat to the health of the people of this Nation;

Whereas the Environmental Protection Agency estimates that lung cancer attributable to radon exposure causes approximately 20,000 deaths a year in the United States;

Whereas the United States has set a long-term national goal of making the air inside buildings as free of radon as the ambient air;

Whereas excessively high levels of radon in homes and schools can be reduced successfully and economically with appropriate treatment;

Whereas only about 2 percent of the homes in this Nation have been tested for radon levels;

Whereas the people of this Nation should be educated about the dangers of exposure to radon; and

Whereas people should be encouraged to conduct tests for radon in their homes and schools and to make the repairs required to reduce excessive radon levels: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 13, 1991, through October 19, 1991, is designated as "National Radon Action Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

S.J. RES. 138

Whereas neighborhood crime is of continuing concern to the American people;

Whereas the fight against neighborhood crime requires people to work together in cooperation with law enforcement officials;

Whereas neighborhood crime watch organizations are effective at promoting awareness of, and participation of volunteers in, crime prevention activities at the local level;

Whereas neighborhood crime watch groups can contribute to the national war on drugs by helping to prevent their communities from becoming markets for drug dealers;

Whereas citizens across the United States will soon take part in a "National Night Out", a unique crime prevention event which will demonstrate the importance and effectiveness of community participation in crime prevention efforts by having people spend the period from 8 to 10 o'clock p.m. on August 7, 1990, with their neighbors in front of their homes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 6, 1991, is designated as "National Neighborhood Crime Watch Day", and the President authorized and requested to issue a proclamation calling on the people of the United States to observe National Neighborhood Crime Watch Day with appropriate programs, ceremonies, and activities.

S.J. RES. 142

Whereas over 250,000 children in the United States are affected by the debilitating disease known as Juvenile Arthritis;

Whereas this crippling condition attacks the joints and major organs of the human body—heart, liver, spleen, and even eyes;

Whereas this disease is often lifelong, affecting children into their adulthood, making even simple tasks seem difficult and frustrating, affecting the quality of life for our future citizens and leaders;

Whereas Juvenile Arthritis can be controlled reasonably well in most people, but it can prove fatal in some instances; and

Whereas the commitment to research and education efforts to develop a greater understanding about Juvenile Arthritis should be encouraged and continued: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning July 28, 1991, is designated as "National Juvenile Arthritis Awareness Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

S.J. Res. 151

Whereas since the arrival of the first German immigrants to America on October 6, 1683, in the area of Germantown, Pennsylvania, German-Americans have made significant contributions to the quality of life in the United States;

Whereas German-Americans are proud of the existing friendship and cooperation between the Federal Republic of Germany and the United States, of which the German-American Friendship Garden in Washington, D.C., is evidence;

Whereas German-Americans pledge their unconditional support for further expansion of the existing friendship between Germany and the United States, and will continue to contribute to the culture of the United States, support its Government and democratic principles, and will also work to help assure the freedom of all people;

Whereas President Bush lauded German unification and the spirit of friendship and cooperation between the people of the Federal Republic of Germany and the people of the United States during proclamation ceremonies for German-American Flag Day on October 3, 1990; and

Whereas the Congress unanimously passed joint resolutions designating October 6, 1987, 1988, 1989, and 1990 each as "German-American Day": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 6, 1991, and October 6, 1992, are designated as "German-American Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such days with appropriate programs, ceremonies, and activities.

S.J. Res. 154

Whereas August 1, 1991, is the sixteenth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (CSCE) (hereafter in this preamble referred to as the "Helsinki accords");

Whereas on August 1, 1975, Helsinki accords were agreed to by the Governments of Austria, Belgium, Bulgaria, Canada, Cyprus, Czechoslovakia, Denmark, Finland, France, the German Democratic Republic, the Federal Republic of Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, San Marino, Spain, Sweden, Switzerland, Turkey, the Union of Soviet Socialist Republics, the United Kingdom, the United States of America, and Yugoslavia;

Whereas the Helsinki accords express the commitment of the participating States to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion";

Whereas the participating States have committed themselves to "ensure that their laws, regulations, practices and policies conform with their obligations under international law and are brought into harmony with the provisions of the Declaration of Principles and other CSCE commitments";

Whereas the participating States have committed themselves to "respect the equal rights of peoples and their right to self-determination, acting at all times in conformity with the purposes and principles of the Charter of the United Nations and with the relevant norms of international law, including those relating to territorial integrity of States";

Whereas the participating States have recognized that respect for human rights is an essential aspect for the protection of the environment and for economic prosperity;

Whereas the participating States have committed themselves to respect fully the right of everyone to leave any country, including their own, and to return to their country;

Whereas the participating States have affirmed that the "ethnic, cultural, linguistic and religious identity of national minorities will be protected and that persons belonging to national minorities have the right to freely express, preserve and develop that identity without any discrimination and in full equality before the law";

Whereas the participating States recognize that "democratic government is based on the will of the people, expressed regularly through free and fair elections; and democracy has as its foundation respect for the person and the rule of law; and democracy is the best safeguard of freedom of expression, tolerance of all groups of society, and equality of opportunity for each person";

Whereas on November 21, 1990, the heads of state or government from the signatory States signed the Charter of Paris for a New Europe, a document which has added clarity and precision to the obligations undertaken by the States signing the Helsinki accords;

Whereas the Conference on Security and Cooperation in Europe has made major contributions to the positive developments in Eastern and Central Europe and the Union of Soviet Socialist Republics, including greater respect for the human rights and fundamental freedoms of individuals and groups;

Whereas the Conference on Security and Cooperation in Europe provides an excellent framework for the further development of genuine security and cooperation among the participating States; and

Whereas, despite significant improvements, all participating States have not yet fully implemented their obligations under the Helsinki accords: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) August 1, 1991, the sixteenth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (hereinafter referred to as the "Helsinki accords") is designated as "Helsinki Human Rights Day";

(2) the President is authorized and requested to issue a proclamation reasserting the American commitment to full implementation of the human rights and humanitarian provisions of the Helsinki accords, urging all signatory States to abide by their obligations under the Helsinki accords, and encouraging the people of the United States to join the President and Congress in observance of Helsinki Human Rights Day with appropriate programs, ceremonies, and activities;

(3) the President is further requested to continue his efforts to achieve full implementation of the human rights and humanitarian provisions of the Helsinki accords by raising the issue of noncompliance on the part of any signatory State which may be in violation;

(4) the President is further requested to convey to all signatories of the Helsinki accords that respect for human rights and fundamental freedoms is a vital element of further progress in the ongoing Helsinki process; and

(5) the President is further requested, in view of the considerable progress made to date, to develop new proposals to advance the human rights objectives of the Helsinki process, and in so doing to address the major problems that remain, including the question of self-determination of peoples.

SEC. 2. The Secretary of State is directed to transmit copies of this joint resolution to the Ambassadors to the United States of the other thirty-three Helsinki signatory States.

S.J. Res. 156

Whereas mental illness is a problem of grave concern and consequence in the United States, widely but unnecessarily feared and misunderstood;

Whereas 31,000,000 to 41,000,000 United States citizens annually suffer from clearly diagnosable mental disorders involving significant disability with respect to employment, school attendance, and independent living;

Whereas more than 10,000,000 United States citizens are disabled for long periods of time by schizophrenia, manic depressive disorder, and major depression;

Whereas 33 percent of the homeless suffer serious, chronic forms of mental illness;

Whereas alcohol, drug, and mental disorders affect almost 19 percent of adults in this country in any 6-month period;

Whereas mental illness in at least 12,000,000 of our children interferes with vital developmental and maturational processes;

Whereas mental disorder related deaths are estimated to be, at the very least, 33,000 annually, with suicide accounting for at least 29,000 of such deaths;

Whereas our growing population of the elderly is particularly vulnerable to mental illness;

Whereas estimates indicate that 10 percent of AIDS patients will develop dementia or other psychiatric problems as the first sign of such disease, and that as many as two-thirds of AIDS patients will show neuropsychiatric symptoms before they die;

Whereas mental disorders result in staggering costs to society, estimated to be in excess of 249,000,000,000 dollars in direct treatment and support and indirect costs to society, including lost productivity;

Whereas the Federal research budget committed to the Alcohol, Drug Abuse, and Mental Health Administration represents only about 1 percent of the direct clinical costs of caring for persons with alcohol, drug, and mental disorders;

Whereas mental illness is increasingly a treatable disability with excellent prospects for amelioration and recovery when properly recognized;

Whereas families of mentally ill persons and those persons themselves have begun to join self help groups seeking to combat the unfair stigma of the diseases, to support greater national investment in research, and to advocate an adequate continuum of care from hospital to community;

Whereas in recent years there have been unprecedented major research developments bringing new methods and technology to the sophisticated and objective study of the functioning of the brain and its linkages to both normal and abnormal behavior;

Whereas research in recent decades has led to a wide array of new and more effective modalities of treatment (both somatic and psychosocial) for some of the most incapacitating forms of mental illness, including schizophrenia, major affective disorders, phobias, and phobic disorders;

Whereas appropriate treatment of mental illness has been demonstrated to be cost effective in terms of restored productivity, reduced use of other health services, and lessened social dependence; and

Whereas recent and unparalleled growth in scientific knowledge about mental illness has generated the current emergence of a new threshold of opportunity for future research advances and fruitful application to specific clinical problems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period of October 6, 1991, through October 12, 1991, is designated as "Mental Illness Awareness Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

The House joint resolutions (H.J. Res. 72, H.J. Res. 138, H.J. Res. 149) were deemed read a third time and passed.

The preambles were agreed to.

H.J. RES. 72

Whereas, on December 7, 1941, the Imperial Japanese Navy and Air Force attacked units of the United States Armed Forces stationed at Pearl Harbor, Hawaii;

Whereas more than 2000 citizens of the United States were killed, and more than 1000 citizens of the United States were wounded, in the attack on Pearl Harbor;

Whereas the attack on Pearl Harbor marked the entry of the United States into World War II;

Whereas December 7, 1991, is the 50th anniversary of the attack on Pearl Harbor;

Whereas the veterans of World War II and all other people of the United States will commemorate December 7, 1991, in remembrance of the attack on Pearl Harbor; and

Whereas commemoration of the attack on Pearl Harbor will instill in all people of the United States a greater understanding and appreciation of the selfless sacrifice of the individuals who served in the United States Armed Forces during World War II: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 7, 1991, is designated as "National Pearl Harbor Remembrance Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

H.J. RES. 138

Whereas Lyme disease (borreliosis) is spread primarily by the bite of four types of ticks infected with the bacteria Borrelia burgdorferi;

Whereas Lyme disease-carrying ticks can be found across the country—in woods, mountains, beaches, even in our yards, and no effective tick control measures currently exist;

Whereas infected ticks can be carried by animals such as cats, dogs, horses, cows, goats, birds, and transferred to humans;

Whereas our pets and livestock can be infected with Lyme disease by ticks;

Whereas Lyme disease was first discovered in Europe in 1883 and scientists have recently proven its presence on Long Island as early as the 1940's;

Whereas Lyme disease was first found in Wisconsin in 1969, and derives its name from the diagnosis of a cluster of cases in the mid-1970's in Lyme, Connecticut;

Whereas forty-six States reported twenty-two thousand five hundred and thirty-eight cases of Lyme disease from 1982 through 1989;

Whereas Lyme disease knows no season—the peak west coast and southern season is November to June, the peak east coast and northern season is April to October, and victims suffer all year round;

Whereas Lyme disease, easily treated soon after the bite with oral antibiotics, can be difficult to treat (by painful intravenous injections) if not discovered in time, and for some may be incurable;

Whereas Lyme disease is difficult to diagnose because there is no reliable test that can directly detect when the infection is present;

Whereas the early symptoms of Lyme disease may include rashes, severe headaches, fever, fatigue, and swollen glands;

Whereas if left untreated Lyme disease can affect every body system causing severe damage to the heart, brain, eyes, joints, lungs, liver, spleen, blood vessels, and kidneys;

Whereas the bacteria can cross the placenta and affect fetal development;

Whereas our children are the most vulnerable and most widely affected group;

Whereas the best cure for Lyme disease is prevention;

Whereas prevention of Lyme disease depends upon public awareness;

Whereas education is essential to making the general public, health care professionals, employers, and insurers more knowledgeable about Lyme disease and its debilitating side effects: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning July 21, 1991, is designated as "Lyme Disease Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

H.J. RES. 149

Whereas American women of every race, class, and ethnic background have made historic contributions to the growth and strength of our Nation in countless recorded and unrecorded ways;

Whereas American women have played and continue to play a critical economic, cultural, and social role in every sphere of the life of the Nation by constituting a significant portion of the labor force working inside and outside of the home;

Whereas American women have played a unique role throughout the history of the Nation by providing the majority of the volunteer labor force of the Nation;

Whereas American women were particularly important in the establishment of early charitable, philanthropic, and cultural institutions in our Nation;

Whereas American women of every race, class, and ethnic background served as early leaders in the forefront of every major progressive social change movement;

Whereas American women have been leaders not only in securing their own rights of suffrage and equal opportunity, but also in the abolitionist movement, the emancipation movement, the industrial labor movement, the civil rights movement, and other movements, especially the peace movement, which create a more fair and just society for all; and

Whereas despite these contributions, the role of American women in history has been consistently overlooked and undervalued in the literature, teaching, and study of American history: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 1991 and March 1992 are designated both as "Women's History Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate programs, ceremonies, and activities.

J.E. "EDDIE" RUSSELL POST OFFICE

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 674.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 674) entitled "An Act to designate the United States Post Office located at 304 West Commercial Avenue in Monterey, Tennessee, as the 'J.E. "Eddie" Russell Post Office'." do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. REDESIGNATION.

The building in Monterey, Tennessee, which houses the primary operations of the United States Postal Service (as determined by the Postmaster General) shall be known and designated as the "J.E. (Eddie) Russell Post Office Building", and any reference in a law, map, regulation, document, paper, or other record of the United States to such building shall be deemed to be a reference to the J.E. (Eddie) Russell Post Office Building.

SEC. 2 TECHNICAL CORRECTIONS.

Title 39, United States Code, is amended—

(1) in section 3001, by redesignating the 2 subsections immediately following the first subsection (i) as subsections (j) and (k), respectively; and

(2) in section 3005(a), by striking "section 3001 (d), (f), or (g)" each place it appears and inserting "3001 (d), (h), or (i)".

Amend the title so as to read: "An Act to designate the building in Monterey, Tennessee, which houses the primary operations of the United States Postal Service as the 'J.E. (Eddie) Russell Post Office Building', and for other purposes.".

Mr. FORD. Mr. President, I move that the Senate concur in the amendments of the House.

The motion was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURE PLACED ON CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that H.R. 2525, the Veterans Affairs Codification Act, just received from the House, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL LITERACY ACT OF 1991

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 53, H.R. 751, the National Literacy Act of 1991.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 751) to enhance the literacy and basic skills of adults, to ensure that all adults in the United States acquire the basic skills necessary to function effectively and achieve the greatest possible opportunity on their work and in their lives, and to strengthen and coordinate adult literacy programs.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 385

(Purpose: To amend programs regarding the territories and the freely associated States)

Mr. FORD. Mr. President, on behalf of Senator PELL, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Senator PELL, proposes an amendment numbered 385.

Mr. FORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 63, beginning with line 12, strike all through page 66, line 23, and insert the following:

TITLE VI—BLUE RIBBON AWARDS FOR CORRECTIONAL EDUCATION PROGRAMS

On page 67, line 1, strike "602" and insert "601".

At the end of the bill insert the following:

TITLE VIII—AMENDMENTS AFFECTING THE TERRITORIES AND THE FREELY ASSOCIATED STATES

SEC. 801. ELIGIBILITY FOR EDUCATION PROGRAMS.

(a) HIGHER EDUCATION.—Section 484 of the Act (20 U.S.C. 1091) is amended by adding at the end thereof the following new subsection:

"(k) STUDENTS ATTENDING INSTITUTIONS IN THE FREELY ASSOCIATED STATES AND ELIGIBILITY FOR TRIO PROGRAMS.—Notwithstanding any other provision of law, a student who meets the requirements of paragraph (a)(5) of this section or who is a resident of the freely associated states, and who attends a public or nonprofit institution of higher education located in any of the freely associated states rather than a State, shall be eligible, if otherwise qualified, for assistance under subpart 1, 2, or 4 of part A or part C of this title.".

(b) TERRITORIAL TEACHER TRAINING ASSISTANCE PROGRAM.—Section 4502 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3142) is amended by striking "the Northern Mariana Islands, and the Trust Territory of the Pacific Islands" each place it appears and inserting in lieu thereof "the Commonwealth of the Northern Mariana Islands, Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.".

(c) TREATMENT OF TERRITORIES AND TERRITORIAL STUDENT ASSISTANCE.—Section 1204 of the Act (20 U.S.C. 1144a) is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law, an institution of higher education that is located in any of the freely associated states, rather than a State, shall be eligible, if otherwise qualified, for assistance under subpart 4 of part A of title IV of this Act.".

SEC. 802. TREATMENT OF TERRITORIES AND FREELY ASSOCIATED STATES.

(a) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Subsection (a) of section 1005 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) COMPETITIVE GRANTS.—(A) From amounts appropriated for purposes of carrying out this section, the Secretary shall reserve an amount equal to the amount described in subparagraph (B) for purposes of making competitive grants to local educational agencies in Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands. The Secretary shall make such grants according to the recommendations of the Pacific Regional Laboratory in Honolulu, Hawaii, which shall conduct a competition for such grants.

"(B) The amount described in this subparagraph is the portion of the aggregate amount reserved in the fiscal year 1989 under sections 1005(a), 1291, 1404, 1405(a)(2)(A), and 1405(a)(2)(B) for the Trust Territory of the Pacific Islands that was attributable to the Republic of the Marshall Islands and the Federated States of Micronesia.

"(C) Subject to subparagraph (D), grants awarded under this paragraph may only be used for—

"(i) activities consistent with the purposes of—

"(I) title I;

"(II) the Adult Education Act;

"(III) the Education of the Handicapped Act;

"(IV) the Library Services and Construction Act; or

"(V) the Dwight D. Eisenhower Mathematics and Science Education Act;

"(ii) teacher training;

"(iii) curriculum development;

"(iv) instructional materials; or

"(v) general school improvement and reform.

"(D) Grants awarded under this paragraph may only be used to provide direct educational services.

"(E) The Secretary shall provide 5 percent of amounts made available for grants under this paragraph to pay the administrative costs of the Pacific Regional Laboratory with respect to the program under this paragraph.".

(b) ADULT EDUCATION ACT.—The Adult Education Act is amended—

(1) in sections 312(7) and 371(b)(7)(B)(i) (20 U.S.C. 1201a(7) and 1211(b)(7)(B)(i)) by striking "the Trust Territory of the Pacific Islands" and inserting "Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)"; and

(2) in sections 313(b) and 361(a) (20 U.S.C. 1201b(b) and 1209a(a)) by striking "and the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau".

(c) STAR SCHOOLS PROGRAM.—Section 970(8) of the Star Schools Program Assistance Act (20 U.S.C. 4086(7)) is amended by striking "the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, Palau."

(d) EDUCATION OF THE HANDICAPPED.—The Education of the Handicapped Act is amended in—

(1) section 602(a)(6) (20 U.S.C. 1401(a)(6)) by striking "or the Trust Territory of the Pacific Islands" and inserting "or Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)";

(2) section 611(a)(2) (20 U.S.C. 1411(a)(2)) by striking "and the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau"; and

(3) section 611(e)(1) (20 U.S.C. 1411(e)(1)) by striking "and the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)".

(e) LIBRARY SERVICES AND CONSTRUCTION ACT.—The Library Services and Construction Act is amended in—

(1) section 3(g) (20 U.S.C. 351a(g)) by striking "or the Trust Territory of the Pacific Islands" and inserting "Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)";

(2) section 5(a)(3) (20 U.S.C. 351c(a)(3)) by striking "and the Trust Territory of the Pacific Islands" each place such term appears and inserting "Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)";

(3) section 7(a) (20 U.S.C. 351e(a)) by striking "the Trust Territory of the Pacific Islands" and inserting "Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)"; and

(4) section 7(b) (20 U.S.C. 351e(b)) by striking "and the Trust Territory of the Pacific Islands" each place such term appears and inserting "the Commonwealth of the Northern Mariana Islands and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)".

The PRESIDING OFFICER. Is there debate? The Chair hears none.

Without objection, the amendment proposed by Senator PELL is agreed to.

So the amendment (No. 385) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments to the bill?

Mr. PELL. Mr. President, it is a pleasure for me to urge that my colleagues pass this important legislation. The need for a concentrated attack on illiteracy in our Nation is paramount.

Over 26 million Americans cannot read, write, and compute. If this problem continues unabated, we simply cannot expect to continue our leadership role in the international economy.

Our colleague, the junior Senator from Illinois, Mr. SIMON, has worked tirelessly on this problem, and the legislation before us is essentially his. He is a valued member of the Education Subcommittee, which I chair, and his leadership in the fight for literacy is recognized not only in this body but throughout the country.

We came very close to enacting this legislation late last year, and I believe it incumbent upon us to act this year so that we can finally get about the business of launching the kind of intensive action necessary to rid our Nation of this terrible problem.

The amendments we would add to this legislation are not controversial.

The amendments affecting the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau have been worked out with our colleagues on the House side. In higher education, it would continue eligibility for these Pacific islands in such important programs as TRIO, territorial teacher training, and Federal student aid. In elementary and secondary education, it would place funds previously allocated to these islands in a special fund and enable the islands to compete for grants consistent with the purposes of the Federal programs from which the funds were drawn.

Mr. President, I urge my colleagues to support H.R. 751 with the amendments in question.

Mr. SIMON. Mr. President, as you know, I have been working for a number of years now to bring about a more concerted, effective Federal approach to illiteracy. Nearly 2 years ago, after studying the problem and the current Federal programs, I introduced the first comprehensive national literacy proposal. That proposal, S. 1310, was approved unanimously by the Senate in February of last year. But, as sometimes happens in Congress, that bill got caught up with some other issues, and ultimately died in the final days of the 101st Congress.

Mr. President, the bill before us today represents a House-Senate agreement, with only a few changes from last year's agreement, and it is my understanding that it is supported by the administration.

The National Literacy Act has three overarching purposes: First, to improve the coordination and effectiveness of literacy services and research at the national and State level; second, to expand existing Federal literacy programs; and third, to ensure that tax-supported literacy programs are of the highest quality possible, serving the individuals most in need. These themes run throughout the bill.

STRATEGIC PLANNING, RESEARCH, AND COORDINATION

While there are a number of existing Federal programs that help to address the problem of literacy, resources are scarce and are dispersed among a number of different agencies. Furthermore, the programs that do exist are not coordinated, and the services are delivered in a fragmented fashion. We simply have no national policy on literacy. There is no consensus on what works most effectively in literacy programs nor how to judge those programs, and what we do know is not widely available or used.

In this area of coordination, the hard work we have put into this legislation has already yielded some results. First, the President has taken our suggestion that an interagency group be established to coordinate the various Federal programs. Because the administration has assured Congress that the interagency group will continue its work, I agreed to delete the provision in my bill which would have established an interagency council by law.

There has also been some progress on the National Institute for Literacy proposed in this bill. Several months ago, the Department of Education began planning for a similar Institute, and the National Literacy Act has been amended to incorporate some of the Department's plans. Advised by a board of literacy service providers and experts, the National Institute for Literacy will serve as an important focal point for expertise and leadership in literacy. In addition to assisting with Federal coordination, it will work closely with the State literacy resource centers also created in this act. The Institute has a broad mandate, including basic research. There has been some concern that the Institute's research might duplicate work currently being done by the National Center on Adult Literacy, funded by the Department's Office of Educational Research and Improvement to provide "national leadership in research and development in adult literacy." In giving some research responsibilities to the Institute, it is our intent that the Institute work closely with, and not duplicate, the work done by the Center.

The National Literacy Act also authorizes funds for State literacy resource centers, to help States or groups of States provide training, technical assistance, and coordination for Federal, State, and local literacy programs. The bill includes incentives for States to establish the centers on a regional basis, so this proposal is essentially the same as the regional literacy resource centers proposed in President Bush's America 2000 proposal.

Mr. President, I recently was reminded that even the Department of Agriculture is involved in providing literacy services, through its Extension Service. For example, in the summer of 1989, the University of Illinois Cooperative Extension Service started a program with the Alton-Godfrey Human Development Center, the Lovejoy Learning Center, and the Alton-Godfrey 4-H Club, to help young people living in Alton public housing learn to read. The Extension Service should be included in efforts to coordinate Federal literacy programs, and, since the cooperative extension services at various universities are experienced in providing literacy services, they should be eligible for funding under the programs created by or expanded in this act.

WORK FORCE LITERACY

The National Literacy Act doubles the authorization for the existing Workplace Literacy Partnerships, and authorizes the Secretary of Education to fund programs to design and implement national strategies for assisting small- and medium-sized businesses in developing literacy programs. It also establishes within the Department of Labor a program to assist small- and medium-sized businesses and labor organizations in implementing literacy programs for individuals with low basic skills.

ADULT EDUCATION

The major Federal program that addresses illiteracy is the Adult Education Act [AEA], yet it represents less than 1 percent of the Department of Education's budget, and serves only 10 percent of those in need. In fact, across the country, all the public and private literacy programs combined provide services to less than 20 percent of those who need help.

The bill before us today expands the authorization for this program—currently at its maximum appropriation—so we can serve more people. In addition, it assures that community-based organizations will be able to compete for funds, so that the most effective providers, public or private, will be funded. To judge effectiveness, the bill requires the Secretary of Education and each State to develop methods of evaluating the quality of literacy programs, and to judge grantees and applicants on that basis.

EVEN START FAMILY LITERACY

In 1988, Congress began an effort to break the cycle of illiteracy, poverty, and unemployment with a new Even Start program targeting literacy services to parents and their children, together. This bill makes a number of improvements in the program, and changes the title to Even Start Family Literacy. Among other things, the amendments will expand the authorized level of funding—currently at its maximum—will require collaboration between local educational agencies and community-based organizations, will strengthen the focus on families most in need of literacy services, and will allow services to begin at the birth of a child instead of age 1.

H.R. 751 also includes a number of other amendments and programs, including funding for a television literacy program on PBS and matching funds for ACTION volunteer literacy efforts. For two current Federal programs, Library Literacy and Book Distribution, the bill establishes a priority for programs serving the people and communities most in need.

Mr. President, I cannot underestimate the scope of the illiteracy problem. An estimated 4 million people in this country cannot read their own names. Another 20 to 25 million can be considered illiterate by other commonly used measures. And an additional 45 million adults read with only minimal comprehension. Extremely high rates of illiteracy are reported among the welfare population, the unemployed, drug users, criminals, and high school dropouts. It is reported that one-half of all households that are classified below the poverty level by Federal guidelines cannot read an eighth-grade-level book.

A major goal of the National Literacy Act is to improve work force literacy. The literacy skills of our current and future work force must be improved if the United States is to remain competitive in domestic and international markets. At a time when many communities are experiencing regional and local labor shortages, greater efforts to provide unemployed persons with critical literacy skills are needed to fill jobs that increasingly go vacant. Our newspapers are replete with dramatic examples of the difficulties American businesses are facing today in hiring literate workers.

The New York Telephone Co. had to test 60,000 people on an entry-level exam to hire just 3,000 people. Eighty-four percent of those tested failed the exam.

IBM offered free college-level algebra courses at a New York State plant and 280 workers signed up, but an achievement test revealed that only 30 workers could read and solve math problems at even the high school level.

Chrysler Corp. had to incorporate graphics on its assembly line because so many workers could not read the words "bad hood fit" on the button they were supposed to push when they detected an ill-fitting hood.

The American Society for Training and Development estimates that American businesses now spend about $1 billion a year on basic education in addition to the billions they spend on teaching specific occupational skills. Within a decade that figure is expected to increase at least tenfold.

The workplace is placing greater demands on employees. The average American worker today must have skills at the 9th through 12th grade levels, not the 4th grade level typical after World War II. And the standards keep rising. The growth occupations have increasingly shifted to the service and retail sectors, which require high level problem-solving, communication, reading, writing, and math skills. By the year 2000, three out of four jobs will require educational training beyond ninth grade.

Changing demographics suggest that our future work force will rely increasingly on population groups that have disproportionately high rates of illiteracy. Women, immigrants, and minorities will account for over 80 percent of the work force growth from 1986 to the year 2000. Minorities, especially blacks and Hispanics, and persons with disabilities, dominate the pool of unskilled, and increasingly unused, labor. It is estimated that 44 percent of black and 56 percent of Hispanic adults are functionally illiterate. The proportion is roughly 16 percent for whites.

Fighting illiteracy is not just an issue of fairness and equity; it is an issue of economics. Our Nation's economic security is directly tied to the quality of the Nation's work force. Over the course of the next decade, some 21 million new labor market entrants, including those from minority groups, will require literacy and basic skills training to enable them to succeed in new jobs. The future growth and prosperity of our economy will be closely linked to our ability to educate and train these individuals.

Combating illiteracy allows us to combat crime. About 75 percent of adult prison inmates are functionally illiterate, and the average person in prison has a third- or fourth-grade reading level. While it costs only $4,200 a year to send a youth to school, the costs of school failure are much higher if these youth resort to crime and are incarcerated. In fact, it costs $14,000 per year to keep a prisoner in jail and these costs are exacerbated by extremely high rates of recidivism. The high levels of illiteracy among the prison population virtually guarantees poor success in the job market after release. This is a particularly serious problem considering that about 90 percent of adults presently in prison will be released within the next 5 to 10 years.

One of the aims of the National Literacy Act is to expand literacy services to persons with learning disabilities and facilitate a better understanding of this learning disorder and how to address it. As with the general definition of literacy, there is no national consensus on just what constitutes a learning disability. According to a 1987 study by the Federal Interagency Task Force on Learning Disabilities, 5 to 10 percent of the total population have learning disabilities. This means that as many as 12 to 24 million Americans have learning disabilities that hinder their ability to read. Experts estimate that those with learning disabilities are disproportionately represented among high school dropouts, the unemployed, the illiterate, and offenders.

If one thing is clear it is that the problem of illiteracy in this country is of disturbing proportions. It is equally clear that solutions to the problem have been ignored for far too long at the national level.

There is a growing consensus that the national effort to promote literacy and combat illiteracy has been too weak and that more substantial and comprehensive Federal leadership is needed. The goal of substantially reducing illiteracy by the year 2000 is now viewed as a significant, and necessary, step toward ensuring educational and economic opportunity for all Americans, and enhancing our Nation's economic competitiveness. In some respects, the Federal effort in this area has lagged behind State involvement. Some 38 States have implemented literacy initiatives and committed State resources to attack the problem.

As a nation, I believe that we must ensure that all those who need and want literacy services will receive them—without being subjected to waiting lists, inaccurate assessments, overcrowded classrooms, or inferior programs taught by poorly trained adult educators. The National Literacy Act of 1990 is intended to achieve these objectives.

Mr. President, I am pleased to note that the Literacy Act has received widespread support from most national literacy programs and from numerous State and local literacy programs across the country. A few of these organizations include: the Literacy Network, International Reading Association, Literacy Volunteers of America, United Way of America, ABC/PBS Project Literacy, the American Library Association, American Association of Community and Junior Colleges, American Vocational Association, Correctional Education Association, National Puerto Rican Forum, National Council of La Raza, Laubach Literacy Action, Association for Community Based Education, National Puerto Rican Coalition, American Jail Association, Coalition on Human Needs, Council of Chief State School Officers, Association of State Literacy Directors, National Council of State Directors of Adult Education, National Conference of State Legislatures, National Urban League, American Association for Adult and Continuing Education, State Directors of Vocational Education, OIC's of America, Alternative Schools Network, and the Council of Great City Schools.

Finally, Mr. President, I thank Patricia Fahy, who recently left my staff for an opportunity on the other side of Capitol Hill, for her years of dedication to this issue. Without her hard work and diligent efforts on the hearings and the legislation, the ideas would not have been fully developed, and the agreement we are considering today would not have been reached.

I would also like to thank my colleagues who had agreed to cosponsor the National Literacy Act this year if we had needed to introduce it separately. I list them alphabetically: Senators ADAMS, AKAKA, BIDEN, BINGAMAN, BURDICK, COHEN, DODD, FOWLER, HARKIN, HATFIELD, HOLLINGS, JEFFORDS, KASSEBAUM, KENNEDY, KOHL, LEVIN, MIKULSKI, MITCHELL, PELL, REID, ROCKEFELLER, SARBANES, SHELBY, and WIRTH.

Mrs. KASSEBAUM. Mr. President, I am pleased that the Senate is considering today H.R. 751, the National Literacy Act of 1991. This measure was approved by the House of Representatives earlier this year.

This literacy legislation enjoys broad bipartisan support in both the House and the Senate. I have appreciated having the opportunity to work with Senators SIMON, PELL, and others in helping to shape this legislation. These provisions are based on agreements between the House and Senate which were reached last year as part of our negotiations on the Educational Excellence and Equity Act. Unfortunately, we were not able to take final action on this measure during the 101st Congress.

There is no doubt but that illiteracy is a serious problem in our Nation. We live in an increasingly complex society where both the quality of work and the quality of life are dependent upon comprehension of the written word. Yet, for far too many Americans, it is a daily struggle to read and understand bus schedules, application forms, notes from school, or safety instruction.

The literacy bill not only undertakes some important new initiatives but also attempts to use and coordinate more effectively the resources now available. It establishes a National Institute for Literacy, as well as State literacy resource centers, in an effort to offer central sources of information, research, and technical assistance, and to improve coordination of effort.

In addition, it strengthens and expands the teacher training and workplace literacy provisions of the Adult Education Act. Workplace literacy programs are further emphasized through the establishment of a national work force literacy assistance collaborative within the Department of Labor. Family literacy efforts are enhanced through modification of the Even Start Program, a program which brings together parents and their children to learn.

Other initiatives in the legislation include a family literacy public broadcasting program to permit the Corporation for Public Broadcasting to develop and distribute audio and video instructional materials. The bill also authorizes literacy challenge grants to permit public agencies and private organizations to operate or expand literacy programs which use full- or part-time volunteers.

Those who are involved in efforts to combat illiteracy must pool their efforts and ideas. Our capacity to develop effective programs must be strengthened through improved and expanded teacher training. Available pools of talent must be tapped from our businesses, our communities, and our homes.

These are the goals of the National Literacy Act, and I urge my colleagues to join in supporting it.

Mr. HATFIELD. Mr. President, I rise today in support of H.R. 751, the National Literacy Act of 1991. As an original cosponsor of last year's version of this legislation, I am particularly pleased that we are considering this legislation so early in the 102d Congress. Although the 101st Congress mobilized to respond to the massive problem of illiteracy in the United States, we ran out of time before a conference agreement could be reached.

One discouraging facet of the problem of illiteracy is the lack of hard data; estimates of its incidence range from 1 in 200 adults to 1 in every 2 adults in this country. Some of this disparity may be the result of different definitions of illiteracy, a problem in itself. There is, of course, a large difference between conventional illiteracy—not being able to read or write—and functional illiteracy—not being able to understand written instructions to accomplish specific tasks or functions.

Not only do we not know the magnitude of the problem, but even the estimates may be terribly skewed. Illiteracy is, in many cases, a hidden crisis. It embarrasses both its victims and our education systems. Illiteracy is a condition that many seemingly functional adults conceal as their secret shame.

Mr. President, I would like to highlight for my colleagues the work of just one private corporation in the battle against illiteracy. Coors Brewing Co. is conducting what may be the largest, most pervasive corporate program which directly addresses illiteracy in the country today. Last year, the company launched a $40 million, 5-year campaign with the goal of teaching half a million adults to read.

The Coors "Literacy: Pass It On" campaign provides annual grants of $250,000 to organizations such as the National Volunteer Literacy Campaign and Opportunities Industrialization Centers of America. The Coors Literacy Hotline, a nationwide toll-free number for use by both nonreaders and potential volunteers, received an amazing 31,272 calls in the year ending just last March, while the Coors Foundation for Family Literacy supports important literacy programs nationwide. In addition, using its wide network of distributors, the company stages concerts, benefits and special events to raise funds for local programs.

In my home State, Coors contributed more than $40,000 to the Oregon Literacy Council in 1990. This is a significant commitment in Oregon, where at least one in every five adults is thought to be functionally illiterate. Through its literacy program, this corporation provides a model of private sector initiatives and volunteerism for community improvement in my State and throughout the country.

The components of the National Literacy Act will encourage and enhance other efforts by public and private groups to eliminate illiteracy by the year 2000 by improving research, encouraging program development, and facilitating information dissemination.

The war against illiteracy is one I will always support; it is the battle to gain personal dignity, vocational opportunity, and—most importantly—hope.

PARENTS AS TEACHERS PROGRAM

Mr. BOND. Mr. President, I compliment my distinguished colleague from Illinois on his fine work on this bill, particularly on the Even Start Family Literacy Program.

I believe that this is the best section of the bill, as it is preventive in nature rather than reactive. Literacy is an intergenerational phenomenon, and it is within young families that we have the best chance of breaking the cycle.

My home State of Missouri has developed a wonderful literacy program that builds upon this concept, and one that I envision can make good use of Even Start Family Literacy Funding. The program equips parents with the skills they need to help maximize their child's health and development.

The curriculum is designed to strengthen the foundations of later learning—language and intellectual development, curiosity, and social skills—as well as to provide health screening for pre-school children to detect potential impairments early.

To achieve these goals, Parents as Teachers provides personalized home visits by trained parent educators, meetings with other new parents, and formal screening of vision and hearing.

Parents as Teachers is a proven success. Independent evaluations have shown that children participating in Parents as Teachers were significantly more advanced in language development than other 3-year-olds, had made greater strides in problem solving and other intellectual skills, and had demonstrated competencies that are predictive of and essential to later school achievement. In addition, Parents as Teachers may well prevent child abuse by teaching parents how to discipline without being abusive.

Mr. President, it is my hope that the Parents as Teachers Program in Missouri will be a model for other programs eventually funded under the Even Start Family Literacy Program. It makes sense to arrest the life-cycle of illiteracy in its early stages.

I ask my colleague whether or not he intends that States and public agencies currently operating Parents as Teachers and similar programs would be eligible to apply for funds under the Even Start Family Literacy Program. Effective programs now exist in many States. It is my hope that many of these entities will receive funds if and when they meet the other specifications in the legislation.

Mr. SIMON. While there are many effective Even Start Programs currently in operation, we also want to utilize the experience of those who are currently operating Parents as Teachers and similar programs to expand the benefits of these programs to families at risk for illiteracy. We have spent considerable time looking at the Parents as Teachers Program through development of this legislation and believe that it does have a positive impact on family literacy. It is our intent that all entities meeting the specific eligibility requirements under the Even Start Family Literacy Program, regardless of whether or not they are currently running similar programs, be eligible to apply for and receive funds under this title.

Mr. BOND. I thank the Senator.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read a third time, the question is, Shall the bill pass?

So the bill (H.R. 751), as amended, was passed.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF APPLICATION DEADLINE FOR SALVADORANS

Mr. FORD. Mr. President, I ask unanimous consent that H.R. 2332, a bill to extend the application deadline for Salvadorans, just received from the House, be placed on calendar.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. I object on behalf of our Republican colleagues.

The PRESIDING OFFICER. Objection is heard.

Mr. FORD. Mr. President, I understand the Senate has received from the House H.R. 2332, a bill to extend the application deadline for the Salvadorans. On behalf of Senator KENNEDY, I ask that the bill be read for the first time.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (H.R. 2332) to amend the Immigration Act of 1990 to extend for 4 months the application deadline for special temporary protected status for Salvadorans.

Mr. FORD. Mr. President, I ask for its second reading.

Mr. MURKOWSKI. Mr. President, on behalf of the Republican side, I object.

The PRESIDING OFFICER. Objection is heard.

The bill will be read the second time on the next legislative day.

Mr. KENNEDY. Mr. President, late last year, after years of debate, Congress finally adopted temporary protected status for Salvadorans in the United States. This important provision, so ably championed by my colleagues Congressman JOE MOAKLEY and Senator DENNIS DECONCINI, was included within our Immigration Act of 1990.

Under the new program, Salvadorans were given 6 months to apply for this new temporary status. This 6 months expires this weekend on June 30.

Unfortunately, the first 5 months of the program were consumed by squabbles over appropriate fees for the program and regulations were not promulgated until May 22—with just 1 month left in the application period.

After years of civil war in El Salvador, and over 70,000 innocent civilians killed in the crossfire, it would be the ultimate tragedy if Congress did not permit a brief extension of the application period. We should be certain that every Salvadoran who needs the protection of this important new status must be given every opportunity to apply.

Mr. President, this is a modest step toward fairness, and an appropriate one, and I am pleased to join my colleagues to support of passage of this bill.

Mr. President, I ask unanimous consent that today's editorial in the New York Times in support of this measure be included in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 26, 1991]

SALVADORANS, VICTIMS OF A GLITCH

Imagine someone from El Salvador who's living in the U.S. and is afraid to return home because of the civil war. Under a program approved by Congress last year, he would be granted safe haven and temporary work here in exchange for combined fees of $255.

Now imagine a Kuwaiti afraid to return home after the Persian Gulf war. He, too, could win safe haven and employment—but for a mere $50. Why the unequal treatment? An incredible glitch in the law. Amends are due the Salvadorans.

An overhaul of the immigration law last year established a process to protect foreigners trapped here because of civil strife or natural disaster at home. Under one section of the law, the Attorney General can grant temporary protected status to nationals of certain countries like Lebanon, Liberia and Kuwait. For a $50 fee, they're allowed to live and work in the United States for 6 to 18 months.

Another section of the law specifically singles out Salvadorans for protection, but makes no mention of a $50 fee; it merely authorizes the Immigration and Naturalization Service to charge a "reasonable" amount to cover program costs. The I.N.S., which says it's losing money on those who pay $50, is charging Salvadorans $75 to register, $60 for a work permit and $120 to renew the permit at six-month intervals. The $255 total has inhibited Salvadorans from registering.

With the registration deadline fast approaching, Congress isn't likely to reopen the entire law to change the fees. But the House is prepared to pass a new law extending the deadline in order to coax more Salvadorans to come forward. That's a small concession to fairness; the Senate and White House should go along.

APPOINTMENT BY THE REPUBLICAN LEADER

The PRESIDING OFFICER. The Chair announces, on behalf of the Republican Leader, pursuant to Public Law 96-114, as amended by Public Laws 98-33, 99-161, and 100-674, his appointment of Rod DeArment, of Virginia, and Mary McAuliffe, of Virginia, as members of the Congressional Award Board.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 86-380, appoints the Senator from Hawaii [Mr. AKAKA] to the Advisory Commission on Intergovernmental Relations, vice the Senator from Michigan [Mr. LEVIN], resigned.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

Mr. BUMPERS. Mr. President, I will be very brief. This afternoon I spoke at length about the crime bill which, in my opinion, does not do an awful lot about crime, and about the amendment of the Senator from North Carolina which purports to be an antiquota bill but which, in my opinion, goes much further and can create a lot of unintended mischief including, but not limited to, a tremendous intrusion into business decisions in this country. And if there is anything the business community does not need anymore of, it is the kind of intrusion that the amendment the Senator from North Carolina would mandate—not allow, but literally mandate.

But the real purpose was to add one thing which I forgot this afternoon. That is, the Senator from North Carolina described in graphic detail the so-called Daniel Lamp case out in Chicago where a lamp company had nothing but minorities. I do not know that much about the case, but I heard the Senator from North Carolina say that all the employees in the Daniel Lamp Co. were either black or Hispanic. The only nonminority persons in that company were the owner of the company and his father.

Now when that case first surfaced, to my knowledge it surfaced in an article by Mike Royko, who is a syndicated columnist with the Chicago Tribune. It used to be the Chicago Daily News, I guess. When that article first came out, we began to get mail in our office about it. And I must say when you read the Royko article, it literally made your blood boil to think that the EEOC was imposing a $148,000 fine on somebody who had nothing but minority employees.

Now I forget the mix of the employment, but as I recall the Senator from North Carolina said there were either 12 blacks and 8 Hispanics or 12 Hispanics and 8 blacks or somewhere in that vicinity, and they were fined $148,000.

Mr. President, my whole point is this. When we began to be inundated with mail from people who were incensed by the Royko article, we wrote to the Chicago EEOC for an explanation. They wrote back and said these records are confidential and we cannot tell you anything about this case. And I think they are right. I think that by law they are prohibited from sharing those records with me. I do not agree with that and I will talk about that in just a second. But my point is this, they leave me with the opportunity, because I did not see the records, of simply believing everything I read in the Mike Royko article and assuming that the Senator from North Carolina correctly portrayed the situation this afternoon.

I want to make this point. This administration has charge of the EEOC offices in this country. I can tell you that if I were President of the United States, based simply on the Royko article and not knowing any more about it than that, I would summarily fire everybody who had anything to do with that decision in that office regarding the Daniel Lamp Co.

Number two, I would see that the U.S. Treasury cut a check for $148,000 plus interest and refunded their money with a public apology.

Which brings me to this point: Maybe there is more to the Daniel Lamp Co. case than Mike Royko reported or 60 Minutes reported or any of the other people who deal in that kind of sensationalism reported. There may be more to it. Maybe these people are not as innocent as they seem. But on the face of it, that is exactly what I would do.

But I would not legislate on what I believe is a sort of unique, maybe not one case, but certainly a unique case. I would not legislate on the exception rather than the rule, which is what this body almost consistently always does.

You can always find some anecdotal evidence of somebody who got wronged in the system. If I were just guessing, I would say that perhaps at least once a week in this country some poor guy is convicted of a crime of which he is innocent. We do not scrap the whole criminal justice system because of that. We do the very best we can to make certain that innocent people are not convicted, and the system by and large works extremely well. I do not know of anybody that much wants to change the trial by your peers, the jury trial to sit in judgment on you. We do not scrap the system simply because a lot of guilty people have good, high-priced lawyers and go free.

I do not know who it was who said: "Better a thousand guilty men go free than one innocent man be convicted."

So we do not scrap that system simply because there is an occasional injustice of an innocent person being convicted, and we do not do it because of the much more common case of a guilty person going free. Therefore, we should not pass legislation here based on a columnist's story and a 60 Minutes story.

So, Mr. President, I am just simply saying if this case is egregious on the face of it, as it ought to be, even the President of the United States ought to publicly apologize to the Daniel Lamp Co. and send their money back with interest.

Finally, I am not at all sure, but I am going to check into whether or not it is really desirable to allow these EEOC offices to say, "We cannot share this information with you. These are private things." I understand some justification for that.

But when a United States Senator writes to the office and says, is this story true or false and what is going on here, and they write back and say, I am sorry we cannot share that with you, that is just like when the press asks a politician and he says, no comment. That means everything they have written is true.

When the EEOC says this is confidential, private information, we cannot share it with you, then the Mike Royko story and the 60 Minutes story becomes true. And if they do not want us to legislate on the exception rather than the rule, that information ought to be shared and, Mr. President, I intend to check into the possibility of amending the law to see that that information is not so confidential in the future just to avoid us making mistakes based on information we do not have.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that an analysis of habeas corpus, and answers to questions submitted by California Attorney General Dan Lungren, be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

(DANIEL E. LUNGREN, ATTORNEY GENERAL OF CALIFORNIA)

REPORT ON DEATH PENALTY HABEAS CORPUS REFORMS

DEATH PENALTY HABEAS CORPUS REFORMS

Death penalty cases tend to focus the greatest public attention on federal habeas corpus. Although general habeas corpus reform is essential, the problems associated with capital litigation justify special legislation.* This Report and Analysis outlines particular areas of concern and discusses the proposals for dealing with them in S. 635 (Administration Bill) and S. 618 (or S. 1241) (the Biden Bills).* * * (Copies of the death penalty habeas corpus reform provisions of both bills are contained in the Appendices.)

Both bills contain an "opt in" feature which allows the states to accept the counsel requirements of the bill in exchange for expedited proceedings and strict limitations on successive petitions.[1] The usefulness of either bill, or any other similar proposal, in reducing the burden on the states and federal courts in reviewing state capital judgments thus depends upon the willingness of the states to accept the "opt in" requirements. If the provisions of the final legislation are too onerous or are substantially inconsistent with present state law, it is unlikely that California would accept them.

This report discusses the following central areas of death penalty habeas corpus reforms:

(A) Appointment of Counsel;
(B) Stays of Execution;
(C) Scope of Federal Review;
(D) Statute of Limitations;
(E) Limitation Period on Determining Petitions; and
(F) Certificates of Probable Cause to Appeal.

A. Appointment of counsel

1. Problem

Assuring that state criminal defendants have the assistance of competent counsel in reviewing a death judgment.

2. Current Law

Criminal defendants are constitutionally entitled to the effective assistance of counsel at trial and on direct appeal from their conviction. There is no federal constitutional right to counsel on state or federal collateral review and no constitutional right to the effective assistance of counsel on habeas corpus.[2]

California has adopted a unitary review procedure in capital cases. Counsel who handles the direct appeal of a death judgment is expected to prepare and file a habeas corpus petition in conjunction with the appeal.[3] Trial counsel does not handle the direct appeal or state habeas corpus proceedings. State prisoners challenging a death penalty judgment on federal habeas corpus have a statutory right to the appointment of counsel.[4] By rule of court, death row prisoners who file federal habeas corpus petitions in California are entitled to the appointment of counsel upon request. Preference is given to appointing the attorney who handled the state appeal and collateral proceedings.[5]

3. Proposals

a. S. 635 (Administration Bill)

Requires state rule of court or statute for appointment and compensating competent counsel in state post-conviction proceedings.[6]

Does not mandate particular standards or criteria which appointed counsel must satisfy.

Rule or statute must provide standards for competency of appointed counsel.

Counsel may not have represented defendant at state trial or direct appeal unless expressly requested by defendant.[7]

Authorizes state unitary procedure in which appeal and collateral review are handled in single proceeding by same attorney if rule of court or statute provides for appointment, compensation, and standards of competence for counsel.[8]

b. S. 618 (Biden Bill)

Requires state rule of court or statute for appointing and compensating competent counsel in capital cases.[9]

Applies to trials in which death penalty is sought and to appeals and collateral review of death judgments.[10]

Establishes minimum criteria based on experience and years of practice for capital counsel.[11]

Requires ex parte proceedings for appointment of investigators.[12]

Requires payment of reasonably necessary fees for counsel and investigators regardless of existing state compensation rates or limits.[13]

Counsel in collateral proceedings may not have represented defendant at trial or on appeal.[14]

No provision is made for unitary review procedures.

c. Common Provisions

Counsel must be appointed unless personally waived or defendant is not indigent.[15]

Ineffectiveness of counsel in state or federal collateral review will not justify reversal of state conviction or sentence.[16]

4. Analysis

S. 635 allows states to retain control over standards and compensation of capital counsel; S. 618 places arbitrary conditions on qualification of counsel.

California Supreme Court has promulgated effective standards on the appointment and compensation of counsel in capital appeals; their validity could be undercut by the provisions of S. 618.[17]

California's successful effort in state and federal courts to recruit civil attorneys to handle capital appeals and collateral review would be substantially undermined by S. 618.[18]

S. 618 arbitrarily focuses on years of practice but ignores local conditions and other grounds of counsel qualification.

S. 618 interferes with local and state control over appropriate compensation.

S. 618 could jeopardize capital judgments based solely on experience or compensation of counsel without considering the actual representation.

S. 618 establishes a cumbersome, mandatory procedure of trial and appellate court review whenever a death row prisoner rejects the appointment of counsel for state collateral proceedings.[19]

Neither bill indicates whether the state rule or statute on appointment of counsel is subject to review in federal court.

States could face endless and repetitive rounds of litigation on the adequacy of their standards.

S. 618 effectively eliminates California's unitary system of review in capital cases.

California could be required to recruit additional attorneys to relitigate state collateral issues already handled by appellate counsel.

There is no reason to prohibit counsel on appeal from handling state collateral review if that attorney did not try the case.

There is no justification for requiring ex parte proceedings on appointment of investigators on collateral review as provided in S. 618.

California allows confidential requests for investigative assistance at trial by statute and in state habeas corpus by supreme court standards.[20]

Discovery is limited in federal habeas corpus and should be justified on the record and subject to objection by the state.[21]

As a result of ex parte proceedings federal district court would have limited information about history of case and could authorize investigator for issues that are procedurally barred.

Both bills properly preclude reversal of a state judgment based on the effectiveness of counsel on collateral review.

5. Modifications and Recommendations

Adopt provisions of the Administration Bill in S. 635.

Support reform provisions which include the unitary review procedures, such as S. 635.

Reject S. 618 or any other proposal for explicit nationwide standards defining the qualifications of counsel.

Reject S. 618 or any other proposal which establishes explicit nationwide standards for trial counsel in state capital cases; the appointment of counsel mechanism should be limited to the state post-conviction process.

Establish mechanism for reviewing state rule or statute on appointment of collateral review counsel.

Preclude challenge to standards in habeas corpus attack on a state capital judgment.

Establish process for certifying state rule or statute through Administrative Office of the Courts or state bars.

Prohibit federal judicial review of certification or alternatively prohibit more than one such challenge.

B. Stays of Execution

1. Problem

Providing stays of execution so that death row prisoners can seek a petition for writ of habeas corpus in federal court, while limiting the use of stays when such prisoners initiate successive federal litigation.

2. Current Law

a. Initial Review

Practice on the setting of execution dates and showing necessary to justify a stay varies from state to state. In some cases the setting of a date is the only means of motivating the prisoner or his counsel to initiate challenges to the judgment. Where the prisoner is not represented by counsel, or where new counsel has recently been appointed, there may be limited time in which to prepare and file a habeas corpus petition. Substantial energy may be consumed in litigating the issuance of the stay.

By rule of court, the federal district courts in California automatically issue a stay of execution upon the filing of a first petition for writ of habeas corpus in a death penalty case, or upon the filing of a request for appointment of counsel to prepare such a petition. When available and willing to serve, the attorney who represented the prisoner on state appeal and collateral review will be appointed to handle the federal habeas corpus petition.[22]

b. Successive Petitions

When a prisoner has had one full round of federal habeas corpus review, stays of execution become a means for interminably and often needlessly preventing the state from executing its judgment. Although the United States Supreme Court has admonished federal courts to expedite their review of stay requests on successive petitions,[23] there is no uniformity in practice and lengthy delays can often occur.

If a prisoner attempts to raise a new claim in a successive petition, a recent United States Supreme Court decision requires the prisoner to show "cause" for not having raised the issue earlier and "prejudice" from refusal to consider the claim. If he cannot meet the cause and prejudice test, he may nevertheless be entitled to a hearing if he can make a colorable showing a factual innocence, thus implicating a fundamental miscarriage of justice.[24]

No specific rules govern stays to consider subsequent petitions in the district courts. By rule of court, the Ninth Circuit Court of Appeals authorizes a single circuit judge to issue a stay on a successive petition.[25] That authority was invoked in 1990 by a circuit judge to stay the execution of Robert Harris in conjunction with Harris' appeal of his third federal habeas corpus petition.[26]

3. Proposals

a. Common Provisions

Authorizes a federal district court to stay the scheduled execution of a state death row inmate upon request after the entry of an order appointing state collateral review counsel.[27]

Stay expires if prisoner fails to file petition in a timely manner, the petition is denied, or prisoner personally waives federal habeas corpus.[28]

b. S. 635 (Administration Bill)

In states with unitary review procedures the stay is authorized upon request after the entry of an order appointing counsel to handle the unitary review.[29]

After stay expires, no federal court may grant another stay unless each of the following conditions are met:

Prisoner raises a new claim;

Prisoner was justified in not raising the claim earlier (i.e., "cause" is shown); and

The claim, if true, would undermine confidence in the conviction.[30]

c. S. 618 (Biden Bill)

After a stay expires, no federal court may grant another stay unless prisoner makes any one of the following showings:

Prisoner raises a new claim;

Prisoner was justified in not raising the claim earlier (i.e., "cause" is shown); or

The claim, if true, would undermine confidence in the conviction; or

Stay is necessary to prevent miscarriage of justice.[31]

4. Analysis

Bills authorize a federal court to stay a state court execution of judgment before habeas corpus jurisdiction is established.

Neither bill specifically indicates when counsel should be appointed in federal court.

S. 618 contains no provision for states with unitary review procedures.

Miscarriage of justice exception for successive stays in S. 618 is undefined and potentially too broad because not tied to a showing of factual innocence.[32]

5. Modifications and Recommendations

Amend S. 635 to provide that counsel appointed to conduct state collateral or unitary review should also handle federal habeas corpus upon completion of state proceedings.

Amend S. 635 to specify that successive stays may be granted only if the request is accompanied by a petition for writ of habeas corpus which satisfies the requirements of the bill.

As amended adopt the Administration Bill, S. 635.

C. Scope of Federal Review

1. Problem

Defining the record upon which to base federal habeas corpus review, the circumstances under which additional evidence may be developed, and limits on federal review.

2. Current Law

a. Standard of Review

State court factual findings are entitled to a presumption of correctness unless the petitioner did not receive a full and fair hearing in the state courts. An evidentiary hearing may be ordered when there were no state proceedings or the state hearing was incomplete or inadequate and additional facts are necessary to fully review the alleged federal constitutional violations.[33] Except in its review of Fourth Amendment claims,[34] the federal court is not precluded from deciding issues that were fully and fairly litigated in the state courts.

Where claims are barred in state courts because of state procedural rules, the petitioner must show "cause" for the default and "prejudice" before a federal court may review it on habeas corpus.[35] An exception is made if the petitioner demonstrates a fundamental miscarriage of justice or makes a showing of factual innocence.[36]

b. Application of New Rules

A federal court reviewing a state criminal conviction on habeas corpus may not apply or announce new rules, as the United States Supreme Court held in *Teague v. Lane.*[37] A rule is new if it (a) was not dictated by precedent or (b) was susceptible to debate among reasonable minds.[38] The *Teague* rule was applied to bar claims raised in Robert Alton Harris' successive federal court attack upon his death judgment.[39] Absent that holding, California could be required to defend its judgment on the basis of rules neither in existence nor contemplated by law in effect at the time of Harris' trial and direct appeal.

3. Proposals

a. S. 635 (Administration Bill)

Federal court may not consider a new issue which was not raised and litigated in state court unless ("cause" is shown):

(1) state unlawfully prevented prisoner from raising issue;

(2) it is based on new retroactive right; or

(3) it is based on facts which the prisoner could not have reasonably discovered earlier.[40]

Federal court shall conduct evidentiary hearing necessary to complete the record.[41]

State court factual findings are presumed correct if based on a full and fair determination; prisoner has the burden of rebutting this presumption.[42]

Federal court may not grant relief on any claim that was fully and fairly adjudicated in state courts.[43]

b. S. 618 (Biden Bill)

Federal court shall conduct evidentiary hearing necessary to complete the record.[44]

Federal court shall consider otherwise barred claim:

(1) if failure to raise was due to ignorance or neglect of prisoner or counsel; or

(2) if failure to consider would result in miscarriage of justice.[45]

Federal court may refuse to consider claim which is barred under state law.[46]

Federal court may apply new rule based on purpose of rule, extent of reliance on prior law, and effect on administration of justice of applying new rule.[47]

A rule is new if it is a sharp break from United States Supreme Court precedent, but is not new because susceptible to debate among reasonable minds.[48]

4. Analysis

S. 618 is too lenient in excusing a state procedural bar based on ignorance or neglect of prisoner or counsel:

Based on subjective behavior of prisoner or counsel;

Encourages sandbagging of state courts;

Is inconsistent with recent United States Supreme Court decisioins;[49]

Punishes state because prisoner and attorney lack creativity.

S. 618 provides a miscarriage of justice exception for defaulted claims that is undefined and too open ended.

S. 618 overrules *Teague* v. *Lane* and other decisions prohibiting creation or use of new rules on habeas corpus and is inconsistent with concern for finality in state criminal cases.

In S. 635 the full and fair adjudication standard for state court factual and legal determinations best accommodates federalism concerns and allows federal habeas review where a federal court concludes that a constitutionally adequate process was not provided at the state level.

Hearing is full and fair for purposes of legal or factual issues only if decision is on merits, adjudication of facts and law is reasonable, adjudication is consistent with Federal procedural requirements, admissible new evidence does not undercut the state findings, and are no retroactive changes in federal law.[50]

5. Modifications and Recommendations

Amend S. 635 to clarify expressly full and fair adjudication standard for state court determinations. (see more extensive discussion in report on general habeas corpus reform porposals).

As amended adopt S. 635.

Reject any limitation on the recognition of state procedural bars.

Reject any effort to modify or overrule *Teague* v. *Lane.*

D. Statute of Limitations

1. Problem

Controlling delay in the filing of the petition for writ of habeas corpus in federal court.

2. Current Law

There are no express time limits on the filing of a federal habeas corpus petition. Prisoners will often wait until an execution date is set before seeking further review of a death penalty judgment.

3. Proposals

a. S. 635 (Administration Bill)

Petition for habeas corpus must be filed in district court within 180 days after an appointment of counsel order is entered by the state court with up to 60 days extension upon a "good cause" showing.[51]

In state with unitary review, petition must be filed with 180 days after an appointment of counsel order is entered by the state court.[52]

Time limit is tolled under the following conditions:

From date petition for certiorari following direct appeal is filed until petition is resolved.

From proper filing of petition for state collateral review until petition is resolved by state's highest court, but not including petition for certiorari from denial of state collateral remedies.

In unitary review state until transcript of trial is made available to counsel appointed to handle the appeal and collateral review.[53]

b. S. 618 (Biden Bill)

Petition must be filed in district court within 365 days after an appointment of counsel order is entered by the state court with up to 90 days extension upon a "good cause" showing.[54]

Time limit is tolled under the following conditions:

From date petition for certiorari following direct appeal is filed until petition is resolved.

From proper filing of petition for state collateral review until petition is resolved by state's highest court, including petition for certiorari from denial of state collateral remedies.

No provision is made for states with unitary review procedures.

4. Analysis

Under either proposal, the timing of the federal stay will depend upon when the state court first sets an execution date and when a stay is entered by the district court.

Where the same attorney handles state and federal collateral review, one year to file a federal habeas corpus petition is too long.

Six months may also be too long in many cases where there is no change in counsel.

Neither proposal allows tolling based on change of counsel in federal court.

S. 618 is inconsistent with California's unitary review procedure.

S. 618 provides an additional unnecessary delay while the prisoner seeks certiorari on denial of state collateral relief.[55]

Neither proposal precludes a prisoner from relying upon the counsel appointment provisions to obtain a federal court stay and then challenging the adequacy of the state's compliance with the counsel requirements; once the state appointment of counsel mechanism is determined to be adequate, it should not be the subject of relitigation in every case.

5. Modifications and Recommendations

Amend S. 635 to provide that petition must be filed within 90 days with allowance of an additional 90 days upon showing of "good cause."

Where new counsel is appointed in federal court, amend S. 635 to allow 180 days for filing of petition with allowance of additional 60 days upon showing of "good cause" and a written order by the district court explicating the finding of good cause.

Amend S. 635 to prohibit a prisoner who obtains a federal court stay based upon the appointment of state collateral or unitary review counsel from challenging the adequacy of the state's counsel appointment procedures (once the state's procedures have been judicially determined to be adequate).

As amended adopt S. 635.

E. Limitation Period on Determining Petition

1. Problem

Limiting the length of time taken by the federal courts to determine habeas corpus petitions.

2. Current Law

There are no limits on the time a court may take to decide a habeas corpus petition, nor are such cases given any priority. Thus, a petition may linger for months, if not years, in the district court; additionally, lengthy delays between briefing and argument, and between argument and decision are not uncommon in the Ninth Circuit, particularly in capital cases. Equally egregious are the delays between a panel decision and grant or denial of a rehearing petition.[56] Although there are no limits on the time for the Supreme Court to grant or deny a petition for writ of certiorari, delays at that level are minimal.

3. Proposals

a. S. 635 (Administration Bill)

Requires federal district courts and courts of appeal to give priority to death penalty habeas corpus petitions.[57]

Establishes the following time limits:

180 days from filing of petition for district court to decide case.

180 days from filing of record for court of appeals to decide appeal.

180 days from grant of rehearing en banc to issue en banc decision.[58]

Time limits apply to first and all successive petitions and to any proceedings on remand from court of appeal or supreme court.[59]

Time limits will not justify stay to which prisoner is not otherwise entitled.[60]

Failure to meet time limits will not justify relief from state judgment.[61]

State may enforce time limits by writ of mandamus to court of appeal or supreme court.[62]

b. S. 618 (Biden Bill)

Contains no time limit provisions.

4. Analysis

Contains no time limit on court of appeals decision whether to grant rehearing en banc.

Strict limits on resolving appeal support adoption of issue-specific CPC.

Enforcement by writ of mandamus should be strengthened.

5. Modifications and Recommendations

Amend S. 635 to provide that petition for rehearing or suggestion for en banc must be granted or denied within 30 days after filing of petition; after 30 days petition will be denied as a matter of law.

Amend S. 635 to require district judges and court of appeal judges to certify every 30 days that no capital case exceeds the statutory time limits.

As amended adopt S. 635.

F. Certificates of Probable Cause to Appeal

1. Problem

Limiting the number and scope of appeals from denial of petitions for habeas corpus to those which are truly meritorious.

2. Current Law

If a petition for writ of habeas corpus is denied, the prisoner must obtain a certificate of probable cause to appeal [CPC] from the district court judge. If the certificate is denied, a court of appeals judge may grant it.[63] The court of appeals may not vacate an order granting a certificate.[64] The CPC authorizes a general appeal; it may not be limited with respect to the issues requiring further review.[65]

3. Proposals

Both proposals contain the following provisions:

Eliminates the CPC requirement for appeal of a first habeas corpus petition in a death penalty case.[66]

CPC still required for a successive petition.[67]

4. Analysis

Requires court of appeals to hear all issues raised and rejected in district court.

Eliminates a procedure which, if used properly, can screen and limit the scope of habeas corpus appeals to those issues which merit review.

5. Modifications and Recommendations

Amend S. 635 in either of the following ways:

Authorize circuit judge to issue CPC limited to specific issues; or

Authorize district judge to issue CPC limited to specific issues; circuit judge may overrule denial of CPC only on showing of abuse of discretion with statement of reasons.

As amended adopt S. 635.

FOOTNOTES:

**See* Report on General Habeas Corpus Reforms for a discussion of pending reform proposals in non-capital cases.

**On June 6, 1991, Senator Biden introduced a new omnibus crime package: S. 1241. The death penalty habeas corpus reform provisions contained in S. 618 and S. 1241 are identical. Because a final copy of S. 1241 was unobtainable at the time of printing, references to S. 618 are maintained in this Report.

1. *See* S. 635, 102d Cong., 1st Sess. §211 (proposed §2256); S. 618, 102d Cong., 1st Sess. §1002 (proposed §2256).

2. *See Murray* v. *Giarrantano*, _____ U.S. _____, 109 S.Ct. 2765, 2770 (1989); *Pennsylvania* v. *Finley*, 481 U.S. 551, 555 (1987); *Wainwright* v. *Torna*, 455 U.S. 586, 587–88 (1982).

3. Supreme Court Policies Regarding Cases Arising From Judgments of Death, Policy 3, *California Rules of Court, State* 815–816 (West 1991) [hereinafter Supreme Court Policies].

4. 21 U.S.C. §848 (q)(4)(B).

5. Rules, United States District Court (Eastern District of California), Rule 191(d)(1), *California Rules of Court, Federal* 95 (West 1991); Rules, United States District Court (Northern District of California), Rule 296-4(a), *Id.* at 231; Rules, United States District Court (Central District of California), Rule 26.8.4(a)(iii), *Id.* at 346; Rules, United States District Court (Southern District of California), Rule 295-2(d)(1), *Id.* at 557.

6. S. 635, 102d Cong., 1st Sess. §211 (proposed §2256(b)).

7. *Id.* (proposed §2256(d)).

8. *Id.* (proposed §2261).

9. S. 618, 102d Cong., 1st Sess. §1002 (proposed §2256(b)).

10. *Id.* (proposed §2261(a)).

11. *Id.* (proposed §2261(b)).

12. *Id.* (proposed §2261(c)).

13. *Id.* (proposed §2261(d)).

14. *Id.* (proposed §2256(d)).

15. S. 635, 102d Cong., 1st Sess. §211 (proposed §2256(e)); S. 618, 102d Cong., 1st Sess. §1002 (proposed §2256(c)).

16. S. 635, 102d Cong., 1st Sess. §211 (proposed §2256(e)); S. 618, 102 Cong., 1st Sess. §1002 (proposed §2256(e)).

17. *See* Supreme Court Policies, *supra*; California Rules of Court, rule 76.5, *California Rules of Court, State* 55 (West 1991); Standards of Judicial Administration Recommended by the Judicial Council, §20, *Id*, at 715.

18. For more on California's procedure for recruiting counsel in capital cases, *see* Millman, *Financing The Right To Counsel in Capital Cases*, 19 Loyola L.A. L.Rev. 383 (1985); Sowards, *And Now For Something Completely Different: Handling a Death Penalty Appeal*, California Litigation 12 (Spring 1989).

19. S. 618, 102d Cong., 1st Sess. §1002 (proposed §2256(c)(2)).

20. *See* Cal. Penal Code §987.9.

21. *See e.g., McKinney* v. *Paskett*, 735 F. Supp. 861 (D. Idaho 1990).

22. Rules, United States District Court (Eastern District of California), Rule 191(d)(1), Rule 191(h) *California Rules of Court, Federal*, 95–96 (West 1991); Rules, United States District Court (Northern District of California), Rule 296-4(a), Rule 296-8 *Id.* at 231–32; Rules, United States District Court (Central District of California), Rule 26.8.4(a)(iii), Rule 26.8.7 *Id.* at 346–47; Rules, United States District Court (Southern District of California), Rule 295-2(d)(1), Rule 295-2(h) *Id.* at 557–58.

23. *Barefoot* v. *Estelle*, 463 U.S. 880 (1983); *Delo* v. *Stokes*, _____ U.S. _____, 110 S.Ct. 1880 (1990); *Demosthenes* v. *Baal*, _____ U.S. _____, 110 S.Ct. 2223 (1990).

24. *McClesky* v. *Zant*, 111 S.Ct. 1454 (1991).

25. General Orders, United States Court of Appeals for the Ninth Circuit, General Order 6.3(e).

26. *Harris* v. *Vasquez*, 910 F.2d 724 (9th Cir. 1990) Noonan, J.).

27. S. 635, 102d Cong., 1st Sess. §211 (proposed §2257(a)); S. 618, 102d Cong., 1st Sess. §1002 (proposed §2257(a)).

28. S. 635, 102d Cong., 1st Sess. §211 (proposed §2257(b)); S. 618, 102d Cong., 1st Sess. §1002 (proposed §2257(b)).

29. S. 635, 102d Cong., 1st Sess. §211 (proposed §2261(c)).

30. *Id.* (proposed §2257(c)).

31. S. 618, 102d Cong., 1st Sess. §1002 (proposed §2257(c)).

32. *Comapre McCleskey* v. *Zant*, 111 S. 1454 (1991).

33. 28 U.S.C. §2254(d).

34. *See Stone* v. *Powell*, 248 U.S. 465 (1976).

35. *Wainwright* v. *Sykes*, 433 U.S. 72 (1977).

36. *Murray* v. *Carrier*, 477 U.S. 478 (1986).

37. *Teague* v. *Lane*, 489 U.S. 288 (1989).

38. *Butler* v. *McKellar*, _____ U.S._____, 110 S.Ct. 1212, 1217–1218 (1990).

39. *Harris* v. *Vasquez*, 913 F.2d 606, 621–625 (9th Cir. 1990).

40. S. 635, 102d Cong., 1st Sess. §211 (proposed §2259(a)(1)).

41. *Id.* (proposed §2259(a)(2)).

42. *Id.* (proposed §2259(a)(1)).

43. *Id.* (proposed §2259(b).

44. S. 618, 102d Cong., 1st Sess. §1002 (proposed §2259(a)(2)).

45. *Id.* (proposed §2259(b)(2)).

46. *Id.* (proposed §2259(b)(1)).

47. S. 618, 102d Cong., 1st Sess. §1003 (proposed §2255A).

48. *Id.* (proposed §2255A(c)).

49. *See Murray* v. *Carrier*, 477 U.S. 478, 488 (1986).

50. *See* S. Rep. No. 226, 98th Cong., 1st Sess. 24–28 (1983).

51. S. 635, 102d Cong., 1st Sess. §211 (proposed §2258).

52. *Id.* (proposed §2261).

53. *Id.*

54. S. 618, 102d Cong., 1st Sess. §1002 (proposed §2258).

55. *Id.* (proposed §2258).

56. *See, e.g., Harris* v. *Pulley*, 885 F.2d 1354 (9th Cir. 1988) (case argued November 5, 1986; submitted June 29, 1988; decided July 8, 1988; rehearing and rehearing en banc denied September 28, 1989).

57. S. 635, 102d Cong., 1st Sess. §211 (proposed §2262(a)).

58. *Id.*

59. *Id.* (proposed §2262(b)).

60. *Id.* (proposed §2262(c)).

61. *Id.* (proposed §2262(d)).

62. *Id.*

63. 28 U.S.C. §2253.

64. *See* S. Rep. No. 226, 98th Cong., 1st Sess. 18–19.

65. *See, e.g., Van Pilon* v. *Reed*, 799 F.2d 1332, 1335 (9th Cir. 1986); *contra Vicaretti* v. *Henderson*, 645 F.2d 100, 101 (2d Cir. 1980).

66. S. 635, 102d Cong., 1st Sess. §211 (proposed §2260); S. 618, 102d Cong., 1st Sess. §1002 (proposed §2260).

67. *Id.*

APPENDIX I

(S. 635, Title II(B), Death Penalty Litigation Procedures)

(President Bush Proposals)

S. 635

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Violent Crime Control Act of 1991".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE II—HABEAS CORPUS

Subtitle A—General Habeas Corpus Reform

Sec. 201. Short title for subtitle A.
Sec. 202. Period of limitation.
Sec. 203. Appeal.
Sec. 204. Amendment to rules of appellate procedure.
Sec. 205. Section 2254 amendments.
Sec. 206. Section 2255 amendments.

Subtitle B—Death Penalty Litigation Procedures

Sec. 210. Short title for subtitle B.
Sec. 211. Death penalty litigation procedures.

TITLE X—EQUAL JUSTICE ACT

Sec. 1001. Short title.
Sec. 1002. Prohibition of racially discriminatory policies concerning capital punishment or other penalties.
Sec. 1003. General safeguards against racial prejudice or bias in the tribunal.
Sec. 1004. Federal capital cases.
Sec. 1005. Funding objective.
Sec. 1006. Extension of protection of civil rights statutes.

Subtitle B—Death Penalty Litigation Procedures

SEC. 210. SHORT TITLE FOR SUBTITLE B.

This subtitle may be cited as the "Death Penalty Litigation Procedures Act of 1991."

SEC. 211. DEATH PENALTY LITIGATION PROCEDURES.

Title 28, United States Code, is amended by inserting the following new chapter immediately following chapter 153:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.
"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2258. Filing of habeas corpus petition; time requirements; tolling rules.
"2259. Evidentiary hearings; scope of Federal review; district court adjudication.
"2260. Certificate of probable cause inapplicable.
"2261. Application to state unitary review procedures.
"2262. Limitation periods for determining petitions.
"2263. Rule of construction.

"§2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in State postconviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) Any mechanism for the appointment, compensation and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record: (1) appointing one or more counsel to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer; (2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or (3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal collateral postconviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254 of this chapter. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal postconviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

"§2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the appropriate State court of record of an order under section 2256(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application must recite that the State has invoked the postconviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 within the time required in section 2258, or fails to make a timely application for court of appeals review following the denial of such a petition by a district court; or

"(2) upon completion of district court and court of appeals review under section 2254 the petition for relief is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless:

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim is (A) the result of State action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal postconviction review; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"§2258. Filing of habeas corpus petition; time requirements; tolling rules

"Any petition for habeas corpus relief under section 2254 must be filed in the appropriate district court within one hundred and eighty days from the filing in the appropriate State court of record of an order under section 2256(c). The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for postconviction review pending before a State court of competent jurisdiction; if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for postconviction review until final disposition of the case by the highest court of the State, but the time requirements established by this section are not tolled during the pendency of a petition for certiorari before the Supreme Court except as provided in paragraph (1); and

"(3) during an additional period not to exceed sixty days, if (A) a motion for an extension of time is filed in the Federal district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254; and (B) a showing of good cause is made for the failure to file the habeas corpus petition within the time period established by this section.

"§2259. Evidentiary hearings; scope of Federal review; district court adjudication

"(a) Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall:

"(1) determine the sufficiency of the record for habeas corpus review based on the claims actually presented and litigated in the State courts except when the prisoner can show that the failure to raise or develop a claim in the State courts is (A) the result of State action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State postconviction review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

"(b) Upon the development of a complete evidentiary record, the district court shall rule on the claims that are properly before it, but the court shall not grant relief from a judgment of conviction or sentence on the basis of any claim that was fully and fairly adjudicated in State proceedings.

"§2260. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to the provisions of this chapter except when a second or successive petition is filed.

"§2261. Application to state unitary review procedure

"(a) For purposes of this section, a "unitary review" procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. The provisions of this chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) A unitary review procedure, to qualify under this section, must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2256(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) The provision of sections 2257, 2258, 2259, 2260, and 2262 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in those sections shall be understood as referring to unitary review under the State procedure. The references in sections 2257(a) and 2258 to 'an order under section 2256(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the one hundred and eighty day limitation period under section 2258 shall be deferred until a transcript is made available to the prisoner or his counsel.

"§2262. Limitation periods for determining petitions

"(a) The adjudication of any petition under section 2254 of title 28, United States Code, that is subject to this chapter, and the adjudication of any motion under section 2255 of title 28, United States Code, by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters. The adjudication of such a petition or motion shall be subject to the following time limitations:

"(1) The district court shall determine such a petition or motion within one hundred and eighty days of the filing of the petition or motion.

"(2) The court of appeals shall determine an appeal relating to such a petition or motion within one hundred and eighty days of the filing of the record in the court of appeals. If the court of appeals grants en banc consideration, the en banc court shall determine the appeal within one hundred and eighty days of the decision to grant such consideration.

"(b) The time limitations under subsection (a) shall apply to an initial petition or motion, and to any second or successive petition or motion. The same limitations shall also apply to the re-determination of a petition or motion or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, and in such a case the limitation period shall run from the date of the remand.

"(c) The time limitations under this section shall not be construed to entitle a petitioner or movant to a stay of execution, to which the petitioner or movant would otherwise not be entitled, for the purpose of litigating any petition, motion, or appeal.

"(d) the failure of a court to meet or comply with the time limitations under this section shall not be a ground for granting relief from a judgment of conviction or sentence. The State or Government may enforce the time limitations under this section by applying to the court of appeals or the Supreme Court for a writ of mandamus.

"§2263. Rule of construction

"The provisions of this chapter shall be construed to promote the expeditious conduct and conclusion of State and Federal court review in capital cases.".

APPENDIX II

(S. 618, Title X, Habeas Corpus Reform Act)

(Senator Biden Bill)

S. 618

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violent Crime Control Act of 1991".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE II—DEATH PENALTY

Sec. 207. Racial Justice Act of 1991.

TITLE X—HABEAS CORPUS REFORM ACT

Sec. 1001. Short title.
Sec. 1002. Special habeas corpus procedures in capital cases.
Sec. 1003. Law controlling in Federal habeas corpus proceedings.

TITLE X—HABEAS CORPUS REFORM ACT

SEC. 1001. SHORT TITLE.

This title may be cited as the "Habeas Corpus Reform Act of 1991".

SEC. 1002. SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES.

Part VI of title 28 of the United States Code is amended by inserting following chapter 153 the following new chapter:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.
"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2258. Filing of habeas corpus petition; time requirements; tolling rules.
"2259. Evidentiary hearings; scope of Federal review; district court adjudication.
"2260. Certificate of probable cause inapplicable.
"2261. Counsel in capital cases; trial and post-conviction; standards.
"2262. Law controlling in Federal habeas corpus proceedings; retroactivity.

"§2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply to cases arising under section 2254 of this title brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable fees and litigation expenses of competent counsel consistent with section 2261 of this title.

"(c)(1) Upon receipt of notice that counsel has been appointed to represent a prisoner under sentence of death after the prisoner's conviction and sentence have been upheld on direct review in a State court of last resort or in the Supreme Court of the United States if application is made to that court, the State court of last resort shall enter an order confirming the appointment and shall direct its clerk to forward the record of the case to the attorney appointed.

"(2) Upon receipt of notice that counsel has been offered to, but declined by, a prisoner described in paragraph (1), the State court of last resort shall direct an appropriate court or judge to hold a hearing, at which the prisoner and the attorney offered to the prisoner shall be present, to determine whether the prisoner is competent to decide whether to accept or reject the appointment of counsel and whether, if competent, the prisoner knowingly and intelligently waives the appointment of counsel. The court or judge shall report its determinations to the State court of last resort, which shall review the determinations for error. If the State court of last resort concludes that the prisoner is incompetent and does not waive counsel, the court shall enter an order confirming the appointment of the attorney assigned to the prisoner by the appointing authority and shall direct the clerk to forward the record to the attorney appointed. If the court concludes that the prisoner is competent and waives counsel, the court shall enter an order that counsel need not be appointed and shall direct the clerk to forward the record to the prisoner.

"(3) Nothing in this section requires the appointment of counsel to a prisoner who is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner in State collateral proceedings shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel appointed under this chapter during State or Federal collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under this chapter or section 2254 of this title. This limitation shall not preclude the appointment of different counsel at any phase of State or Federal post-conviction proceedings.

"§ 2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the State court of last resort of an order pursuant to section 2256(c) of this title, a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed pursuant to section 2254 of this title. The application must recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 of this title within the time required in section 2258 of this title;

"(2) upon completion of district court and court of appeals review under section 2254 of this title the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254 of this title.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented by the prisoner in the State or Federal courts, and the failure to raise the claim is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence;

"(2) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the jury's determination of guilt on the offense or offenses for which the death penalty was imposed; or

"(3) a stay and consideration of the requested relief are necessary to prevent a miscarriage of justice.

"§ 2258. Filing of habeas corpus petition; time requirements; tolling rules

"Any petition for habeas corpus relief under section 2254 of this title must be filed in the appropriate district court not later than 365 days after the date of filing in the State court of last resort of an order issued in compliance with section 2256(c) of this title. The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner seeks review of a capital sentence that has been affirmed on direct appeal by the court of last resort of the State or has otherwise become final for State law purposes;

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for post-conviction review pending before a State court of competent jurisdiction and if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for post-conviction review until final disposition of the case by the State court of last resort, and further until final disposition of the matter by the Supreme Court of the United States, if a timely petition for review is filed; and

"(3) during an additional period not to exceed 90 days, if counsel for the State prisoner—

"(A) moves for an extension of time in the United States district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254 of this title; and

"(B) makes a showing of good cause for counsel's inability to file the habeas corpus petition within the 365-day period established by this section.

"§ 2259. Evidentiary hearings; scope of Federal review; district court adjudication

"(a) Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall—

"(1) determine the sufficiency of the evidentiary record for habeas corpus review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

Upon the development of a complete evidentiary record under this subsection, the district court shall rule on the merits of the claims properly before it.

"(b)(1) Except as provided in paragraph (2), a district court may refuse to consider a claim under this section if—

"(A) the prisoner previously failed to raise the claim in State court at the time and in the manner prescribed by State law;

"(B) the State courts, for that reason, refused or would refuse to entertain the claim; and

"(C) such refusal would constitute an adequate and independent State law ground that would foreclose direct review of the State court judgment in the United States Supreme Court.

"(2) A district court shall consider a claim under this section if the prisoner shows that the failure to raise the claim in a State court was due to the ignorance or neglect of the prisoner or counsel or if the failure to consider such a claim would result in a miscarriage of justice.

"§ 2260. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter except when a second or successive petition is filed.

"§ 2261. Counsel in capital cases; trial and post-conviction; standards

"(a) A mechanism for the provision of counsel services to indigents sufficient to invoke the provisions of this chapter under section 2256(b) of this title shall provide for counsel to—

"(1) indigents charged with offenses for which capital punishment is sought;

"(2) indigents who have been sentenced to death and who seek appellate or collateral review in State court; and

"(3) indigents who have been sentenced to death and who seek certiorari review in the United States Supreme Court.

"(b)(1) In the case of an appointment made before trial, at least one attorney appointed under this chapter must have been admitted to practice in the court in which the prosecution is to be tried for not less than 5 years, and must have had not less than 3 years' experience in the trial of felony prosecutions in that court.

"(2) In the case of an appointment made after trial, at least one attorney appointed under this chapter must have been admitted to practice in the court of last resort of the State for not less than 5 years, and must have had not less than 3 years' experience in the handling of appeals in that State courts in felony cases.

"(3) Notwithstanding paragraphs (1) and (2) of this subsection, a court, for good cause and upon the defendant's request, may appoint another attorney whose background, knowledge, or experience would otherwise enable the attorney to properly represent the defendant, with due consideration of the seriousness of the possible penalty and the unique and complex nature of the litigation.

"(c) Upon a finding in ex parte proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or issues relating to sentence, the court shall authorize the defendant's attorney to obtain such services on behalf of the defendant and shall order the payment of fees and expenses therefor, under subsection (d). Upon finding that timely procurement of such services could not practicably await prior authorization, the court may authorize the provision of and payment of such services nunc pro tunc.

"(d) Notwithstanding the rates and maximum limits generally applicable to criminal cases and any other provision of law to the contrary, the court shall fix the compensation to be paid to an attorney appointed under this subsection and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under subsection (c), at such rates or amounts as the court determines to be reasonably necessary to carry out the requirements of this subsection.".

SEC. 1003. LAW APPLICABLE IN CHAPTER 153 PROCEEDINGS.

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"§ 2255A. Law applicable

"(a) Except as provided in subsection (b) of this section, each claim under this chapter shall be governed by the law existing on the date the court determines the claim.

"(b) In determining whether to apply a new rule, the court shall consider—

"(1) the purpose to be served by the new rule;

"(2) the extent of the reliance by law enforcement authorities on a different rule; and

"(3) the effect on the administration of justice of the application of the new rule.

"(c) For purposes of this section, the term 'new rule' means a sharp break from precedent announced by the Supreme Court of the United States that explicitly and substantially changes the law from that governing at the time the claimant's sentence became final. A rule is not new merely because, based on precedent existing before the rule's announcement, it was susceptible to debate among reasonable minds.".

(b) CHAPTER ANALYSIS.—The chapter analysis of chapter 153 of title 28, United States Code, is amended by adding at the end thereof the following:

"2255A. Law applicable.".

RESPONSE OF CALIFORNIA ATTORNEY GENERAL DANIEL E. LUNGREN TO QUESTIONS SUBMITTED BY SENATOR STROM THURMOND

Question 1. Mr. Attorney General, in your prepared statement you note that any reform undertaken by Congress will be incomplete unless it requires that federal courts defer to full and fair adjudications by State courts. How do you respond to those who claim that the "full and fair" standard of deference to state decisions will amount to a complete bar to federal habeas corpus review?

Answer. I would begin by emphasizing that federal habeas corpus should not be viewed as equivalent to an appeal from an inferior court. Rather, it is a limited collateral attack on a presumptively correct and final state court judgment.[1] Federal habeas is not designed to substitute for direct appeal in the state courts nor the original direct appeal in federal court; rather, it simply ensures that "state convictions comport with the *federal* law that was established at the time the petitioner's conviction became final."[2] A full and fair adjudication test, such as is proposed in S. 635, is consistent with this view of federal habeas corpus jurisdiction.

Significantly, the full and fair adjudication provision would not foreclose federal habeas review. Under this standard of review, a federal court could consider a post-conviction claim where constitutionally inadequate processes were employed, as well as the case in which the state court relied upon an unreasonable interpretation of applicable federal law.[3] The standard conserves judicial resources for these types of questions and, at the same time, respects reasonable state court rulings. We must also not overlook the fact that under our dual form of government, state and federal courts are equally bound to protect rights secured by the federal constitution, and federal courts ought to give full weight to the conclusion of a court of the last resort of another jurisdiction on federal constitutional issues, as is the usual federal practice on other matters.

Finally, it should be remembered the "full and fair" standard is not new. Deference by federal habeas courts to full and fair adjudications of federal constitutional questions by state courts had been the law in the United States, as set forth in *Ex Parte Hawk*, 321 U.S. 114, 118 (1944). For these reasons, it is one of the most important and needed reforms which the Congress should adopt.

Question 2. In your prepared statement, you discuss the Robert Alton Harris case. Harris has been on death row for twelve years. Please discuss the claims which Harris has raised in his most recent Federal petition and whether similar claims could be brought on successive petitions under the Biden proposal.

Answer. In his third federal habeas corpus petition, filed in March of 1990, Robert Alton Harris alleged he was entitled to relief for the following reasons:

(1) He was not provided with competent psychiatric assistance;

(2) He was denied his right to effective assistance of counsel;

(3) Newly discovered evidence of brain damage and mental disorders require a new penalty trial;

(4) The prosecution's psychiatric expert gave "false" testimony in the form of his opinion that Harris was an "antisocial personality" or "sociopathic or psychopathic personality";

(5) The state trial court erred in ruling on Harris' motion to modify the sentence of death; and

(6) The State utilized a government agent to interrogate Harris after his right to counsel attached.

An evidentiary hearing on the government agent claim was recently held in United States District Court pursuant to an order of the U.S. Court of Appeals for the Ninth Circuit. The District Court reported to the Ninth Circuit that the claim was "false in every particular" and was based on the testimony of a witness about whom the District Court stated, "I am convinced beyond a reasonable doubt—though I know that is not the burden or the issue here—and to a moral certainty, that Mr. Abshire (the alleged agent) has lied and lied repeatedly in this court, in this most serious case."

To specifically respond to your quesion, S. 618 would permit successive petitions on federal habeas corpus and allow the entering of stays of execution upon the showing of any one of the following circumstances:

(1) upon a showing of "cause"; or

(2) a factual showing which undermines the federal court's confidence in the State jury's determination of guilt; or

(3) to prevent a miscarriage of justice.[4]

My department has concluded that these provisions would permit the proliferation of successive petitions like Robert Alton Harris's third petition.

Currently, as the United States Supreme Court held in *McCleskey* v. *Zant*, 111 S.Ct. 1454, 113 L.Ed.2d 517 (1991), a successive petition filed by a state prisoner constitutes an abuse of the writ if the claim[s] could have been raised in the earlier petition with due diligence. An otherwise abusive petition would be excused only where there is a showing of "cause" (an external barrier to raising the claim) and "actual prejudice". A second excuse applies if the petitioner demonstrates "factual innocence."

Current law requires "cause" and "actual prejudice" in the conjunction, or factual innocence, thus limiting successive petitions to only those which are truly deserving of review. S. 618 presents its exceptions in the disjunctive, thus providing a much greater likelihood that petitioners would be allowed to litigate successive petitions. Further, its exceptions are far more expansive than current law.

S. 618 allows successive petitions where a petitioner's failure to raise an issue is "the result of State action in violation of the Constitution or laws of the United States."[5] In his third petition Harris claimed State action prevented him from raising his government agent claim in a prior petition. In the May 1991 evidentiary hearing, the district court, applying *McCleskey*, rejected this claim as an abuse of the writ (in addition to finding it false on the merits) holding it did not warrant a hearing on the abuse of the writ issue because the petitioner could not show "cause" and "prejudice." The Supreme Court reached the same conclusion in *McCleskey*. However, because S. 618 is drafted in the disjunctive, the petitioner would simply need to show the failure to raise the issue was the result of State action. No more need be shown.

Another exception under S. 618 which opens the door to successive petitions is in the context of the Supreme Court recognition of a new Federal right that would otherwise be barred from retroactive application.[6] Inasmuch as S. 618, proposed §2255A redefines "new rules" in an exceedingly narrow manner and consequently undermines the restrictive retroactivity analysis of *Teague* v. *Lane*, 489 U.S. 288 (1989), this excuse also opens the door to successive petitions. In Harris's third petition, he claimed he was entitled to retroactive application of a "new rule" regarding psychiatric assistance. The argument was rejected under the current state of the law.

Lastly, S. 618 contains a "catchall provision" to allow a stay and litigation of a claim to prevent "a miscarriage of justice."[7] "Miscarriage of justice" is not defined in S. 618. The phrase is extremely vague and open-ended. Harris's attorneys argued in connection with each of the claims in the third petition that the claimed violation of constitutional rights constituted prejudicial error or a miscarriage of justice. Absent a narrow definition of that phrase, one can expect that provision to be the source of unlimited federal habeas review. This is particularly possible if the Congress adopts the "miscarriage of justice" standard used in S. 618 in light of and after the narrow "miscarriage of justice" standard used in *McCleskey*, which was employed as a colorable showing of factual innocence. Consequently, adoption of the Biden formulation against the background of the *McCleskey* rule, could suggest to a federal court that Congress intended a "miscarriage of justice" standard which was far broader than that applied in *McCleskey*.

Question 3. It is clear that you are troubled with the Biden proposal. It appears the bill would reverse Supreme Court precedent by abandoning the cause and prejudice standard of *Wainwright* v. *Sykes* for review of procedural default claims. This standard would be changed despite the fact that qualified counsel would be appointed under these proposals. Such a change in law would result in there being no bar to litigating any claim on the merits in Federal court at any time. Please discuss the long term effect of this amendment and whether the States would suffer as a result of it.

Answer. The first long term net effect to states with capital punishment statutes would probably be a continuation of the status quo, since it is unlikely that California, or any other state, would opt into a system which allowed substantial federal supervision of the state provisions for appointment of counsel, while providing a less effective system of habeas corpus review than presently exists. Moreover, S. 618 does not contain general habeas corpus reform, thus denying all states the benefits of your bill, S. 635.

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[1] *Barefoot* v. *Estelle*, 463 U.S. 880, 887 (1983).

[2] *Sawyer* v. *Smith*, 110 S.Ct. 2822, 2830, 111 L.Ed.2d 193, 206 (1990) (emphasis in original).

[3] See S. Rep. No. 226, 98th Cong., 1st Sess. 25–27 (1983).

[4] S. 618, proposed §2257(c).

[5] S. 618, proposed §2257(c)(1)(A).

[6] S. 618, proposed §2257(c)(1)(B).

[7] S. 618, proposed §2257(c)(3).

For those states which might nonetheless opt into the proposal under S. 618, a second long term effect of abolishing the procedural default rule of *Wainwright* is that states will have less reason for observing their own procedureal default rules. States will be litigating "new" claims in federal court years after the state trial. This would likely result in more retrials and probably more acquittals since retrials years later often put the prosecution at an extreme disadvantage. Defense counsel will have no incentive to raise their claims in state court in a timely manner.

Implicit in your question is the importance and value of the procedural default rule in *Wainwright*. No better explanation for the rule has been written than that of Chief Justice Rehnquist's in *Wainwright*. There, Chief Justice Rehnquist explained that state objection rules serve multiple practical purposes:

(1) They ensure that records are made with respect to claims when memories are freshest, not years later in a federal habeas hearing;

(2) they bring potential error to light at the earliest opportunity, thus allowing the error to be corrected and, if the objection is successful or potentially meritorious, force any early conclusion of the proceedings in the defendants' favor;

(3) they require defendants to raise their objections in a timely manner and prevent "sandbagging" in which defendants take their chances on an acquittal while preserving a reversible error for appeal; and

(4) they focus on the state trial court as the "main event" in a criminal proceeding.

Abandoning the *Wainwright* test means that state procedural rules will have no significance and will also be judicially uneconomical.[8]

I agree that the long-range effect of S. 618 will be the same as if the statute explicitly abolished the *Wainwright* rule. Initially, S. 618 makes federal court consideration of defaulted claims "permissive" since it merely provides that a "district court may refuse to consider a defaulted claim." There is no guidance as to how courts will determine whether or not they "may" consider such claims.

Next, S. 618 replaces the "cause and prejudice" test by allowing a defendant to raise a defaulted claim if the default was due to the "ignorance or neglect of prisoner or counsel." The United States Supreme Court has rejected such an open-ended excuse for a default.[9] First, such a standard does nothing to serve the state's legitimate interest in preserving its state objection rules. Second, federal courts would have to hold evidentiary hearings to determine the reasons for a trial counsel's default. Third, despite the deceptively simple categories of "ignorance" and "neglect," they are labels of uncertain dimension. Fourth, a defendant should not be able to secure review of a defaulted claim, unless his counsel was constitutionally ineffective. However, such a claim itself should first be litigated in state courts and not used as an excuse for raising a defaulted claim in federal court. The practical effect of permitting claims on the basis set forth in S. 618 is to return to the now-defunct *Fay* v. *Noia* "deliberate bypass" standard.[10] The court concluded that "cause" must depend on showing an objective factor external to the defense that impeded defendant's compliance with the state's procedural default rules. Finally, your question, of course, also pinpoints an internal contradiction of S. 618. Since it requires competent counsel, there is no need for a looser procedural default standard. Assuming the appointment of competent counsel, there is no need for relief from default due to the ignorance or neglect of counsel.

Moreover, it is important to note that the mere failure of counsel to raise a particular objection does not mean that counsel was constitutionally ineffective. The constitutional guarantee of a fair trial and competent counsel does not mean that a counsel must recognize and raise every conceivable constitutional claim.

Finally, S. 618 also permits the raising of a defaulted claim if there is a potential for a "miscarriage of justice." This is normally defined as a "colorable showing of factual innocence." This exception to the procedural default rule already exists, as recently noted in *McCleskey* v. *Zant*. However, there is no assurance that the definition of "miscarriage of justice" will not be expanded to include a federal judge's subjective determination of a "miscarriage of justice" in a particular case.

Question 4. Both the Specter and the Biden bills include an additional new section which would overturn the Supreme Court's ruling in the case of *Teague* v. *Lane*. It would require that all Supreme Court rulings which are decided after a defendant's trial, direct appeals, and prior habeas petitions must be retroactively applied. In your opinion, does this essentially do away with the goal of habeas corpus reform—to ensure finality of litigation in capital cases?

Answer. The Supreme Court has apparently answered this question with a resounding yes. First, the Court has noted that "interests of comity and *finality* must also be considered in determining the proper scope of habeas review."[11] Within the specific context of the non-retroactivity doctrine, the Court has added, "Application of constitutional rules not in existence at the time a conviction became final *seriously undermines* the principle of *finality* which is essential to the operation of our criminal justice system. Without finality, the criminal law is deprived of much of its deterrent effect."[12] Finality is also impaired when court judgments are set aside on the basis of new rules which were not available at the time the state court applied prevailing precedent. To the extent that one settled goal of federal habeas reform is to encourage finality, both S. 618 and S. 19 detract from this objective. Furthermore, these measures are inconsistent with another goal of federal habeas reform—to reestablish the role of the states as the primary enforcers and arbiters of state laws.

The limited nature of the non-retroactivity doctrine of *Teague* should also be stressed. The Supreme Court has only held, as a general rule, that new rules should not be applied on collateral review in the first instance.[13] At the same time, the Supreme Court has held that new rules must be applied to cases pending on direct review when a new rule is adopted.[14]

The *Teague* rule itself is not a per se rule of non-retroactivity. There are two significant exceptions to that rule. First, a new rule would apply retroactively if it would decriminalize a defendant's conduct or render the defendant ineligible for a certain type of punishment. Thus, in *Penry* v. *Lynaugh*, 492 U.S. 302 (1989), the court reached the merits of Penry's claim that it was cruel and unusual punishment to execute a mentally retarded person since such a "new rule" would have placed a certain class of individuals beyond the power of the state to punish by death. Second, a new rule will apply retroactively if it is a watershed rule of criminal procedure necessary to the fundamental fairness and accuracy of the criminal proceeding. In other words, *Teague* will not bar the retroactive application of "bedrock procedural elements essential to the fairness of the proceeding." However, *Teague* will bar retroactive application of "new rules" that would exclude evidence of guilt[15] or which would inject extraneous elements in penalty determinations.[16]

Prior to *Teague*, the standard normally applied to retroactivity was the so-called *Linkletter* standard. Under this standard, the court examined the purpose of the new rule, the reliance placed upon the previous rule, and the effect on the administration of justice. This rule, of course, was very subjective. It also lead to inconsistent and unsatisfactory results.[17] Moreover, the *Linkletter* standard was inadequate to ensure the finality of state court judgments since it permitted many new rules to be applied retroactively long after state proceedings had concluded.[18]

However, as I read S. 618, it would do more than simply restore the now defunct *Linkletter* standard. First, unlike the *Linkletter* rule, the Biden bill establishes a presumptive rule that new rules will be retroactive. Second, it actually narrows the definition of a "new rule" beyond the definition developed in the Linkletter line of new cases. Under the Linkletter line of cases a "new rule" was defined as a "clear break with the past" in which the court explicitly overruled a past precedent of the court, disapproved a practice that the court had arguably sanctioned in prior cases, or overturned a longstanding practice that lower courts had uniformly approved. S. 618 obliterates this definition of a "new rule" by defining a new rule as a "sharp break" from precedent that explicitly and substantially changes the law even though "reasonable minds" (i.e., state and federal lower courts) could have disagreed on the potential existence of this new rule. Thus, even if the Supreme Court decision disapproved a practice that the court had previously sanctioned or overturned a practice that almost all courts had previously approved, it would not be creating a "new rule" and that rule would apply retroactively. S. 618 does not just overrule *Teague*, it actually is a regression from the unsatisfactory *Linkletter* test.

My department has concluded that S. 19 is equally unsatisfactory since it merely provides that a district court must apply fundamental constitutional rights. My department believes that this amorphous and subjective standard will cause extended litigation and inconsistency in the federal court system.

The *Teague* rule, especially as it has been interpreted, offers a comparatively clear, precise definition of a "new rule" and also offers easy to apply exceptions. Unlike the prior standards, it will not generate extended litigation and inconsistency.

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[8] See 433 U.S. 72, 88–91 (1977).

[9] *Murray* v. *Carrier*, 477 U.S. 478 (1986).

[10] Id. at 487–92.

[11] *Teague* v. *Lane*, 489 U.S. 288, 308 (1989) (emphasis added).

[12] *Id.* at 309 (emphasis added).

[13] Of course, this general rule of non-retroactivity has two important exceptions. *Teague*, 489 U.S. at 311; see also *Sawyer v. Smith*, 110 S.Ct. 2822, 111 L.Ed.2d 193, 211 (1990).

[14] *Griffith* v. *Kentucky*, 479 U.S. 314 (1987).

[15] *Butler* v. *McKellar*, 494 U.S. 407 (1990).

[16] *Saffle* v. *Park*, 494 U.S. 484 (1990).

[17] *Griffith*, 479 U.S. at 321–26; *Teague* v. *Lane*, 489 U.S. 288 (1989).

[18] See, e.g., *Teague* v. *Lane*, 489 U.S. at 302–05.

RESPONSE OF CALIFORNIA ATTORNEY GENERAL DANIEL E. LUNGREN TO QUESTIONS SUBMITTED BY SENATOR CHARLES E. GRASSLEY

Question 1. For those states without a death penalty, why should the President's proposal be preferred over the chairman's bill? I'm especially interested in hearing why deference to "full and fair" state court adjudications of a petitioner's claims is a key element of the president's proposal?

Answer. I believe states without a death penalty should prefer the President's bill for two primary reasons. First, the Administration's bill (S. 635, Title IIA) is the only one which contains provisions for general habeas corpus reform. These reforms are essential to redress unnecessary delay and piecemeal litigation for non-capital cases.

Second, all states should be concerned with the problems under the habeas corpus process which have largely arisen in the capital case area. The lack of finality under these cases has eroded public confidence in the overall ability of our criminal justice system to impart fair and certain justice. Further, the lack of final judicial resolution has mitigated the deterrent effect of the death penalty. To the extent that a lessened public confidence and deterrent effect spill over and impact the entire criminal justice system, all states should be concerned. The administration's bill best redresses these problems encountered under the status quo with capital cases. Furthermore, to the extent that the federal courts are concerned with lengthy and repetitious capital litigation, they are not able to devote time to resolving litigation emanating from non-capital states. In other words, capital litigation affects non-capital states as well by causing delay throughout the federal court system.

Significantly, the "full and fair adjudication" standard is included in the Administration proposal for both the general and capital habeas corpus reforms. My department has concluded that this standard of federal court review is an essential part of any meaningful reform effort for several reasons. First, it reinstates the same standard of federal review which the U.S. Supreme Court had previously employed.[1] Second, this standard affords proper deference to state court rulings in state proceedings. If federalism is to be given any meaning, reasonable state court rulings should not be set aside by a federal court merely because the federal court disagrees with the result and has the last opportunity of review. Third, federal review of state court judgments is preserved for those cases which had constitutionally inadequate processes. In this manner, precious judicial resources are conserved and the central purpose of habeas corpus review is retained.

Finally, I note also that Congress has already recognized the ability of local courts to take primary responsibility for enforcing the criminal laws. In 1970, Congress created a local court system for the District of Columbia and transferred to that system jurisdiction over local criminal and civil cases.[2] It also established a system of post-conviction, collateral review and precluded further review of a Superior Court order denying relief unless the local remedy was inadequate or ineffective. In 1977, the Supreme Court held that federal district courts could not entertain habeas corpus petitions challenging convictions in the District of Columbia courts under 28 U.S.C. §2255.[3] Although District of Columbia judges do not have life tenure, they, like the "elected judges of our state courts are fully competent to decide federal constitutional issues."[4] Unless it is shown that the local remedy was inadequate or ineffective (i.e., the prisoner was denied a full and fair hearing), it must be presumed that District of Columbia judges correctly resolved constitutional issues.[5] It is reasonable to apply a similar test to the decisions of independent state court judges.

Question 2. There are all sorts of horror stories floating around that if the President's habeas proposal were enacted into law, capital defendants will suddenly be reduced to one round of review of their cases.

But that isn't exactly the case, is it? Including state habeas corpus review and a round of federal habeas review, won't capital defendants still have the ability to seek collateral review of their cases multiple times—aside from the appeals of the capital convictions on direct review?

Answer. Your question emphasizes the intended collateral nature of federal habeas corpus review. First, federal habeas corpus review follows what should be the "main event," including the trial and review by the state's highest court and the U.S. Supreme Court, as well as state collateral review. Only then may the habeas petition be filed in federal court. At this level, review will likely encompass review by the district court, appellate court and, finally, the U.S. Supreme Court. As a general rule, all available claims should be presented by the petitioner in comprehensive state and federal judicial review.

Nonetheless, in answer to your question, there is still opportunity for a capital defendant to seek collateral review of his case multiple times beyond the first "round." Even under current law as set forth in *McCleskey* v. *Zant*, 111 S.Ct. 1454, 113 L.Ed.2d 517 (1991), a prisoner may have a second (or successive) federal habeas petition considered if he can show "cause" for not having raised the issue before and "prejudice" from refusal to consider the claim. Further, even, if he cannot make this showing, he can always make a colorable showing of factual innocence and have a successive petition considered.

Each legislative proposal adopts the Powell Committee approach recognizing that a central objective of reform is to guarantee one full, fair and adequate round of post-conviction review to a state prisoner. The question then concerns what limits should be placed on any successive petitions. I believe successive petitions should always be permitted where a sufficient showing of factual innocence is presented and the petitioner was precluded from making this presentation in an earlier petition (e.g., "cause" is shown). This is the approach under S. 635, proposed section 2257(c). In contrast, the recommendation under S. 618, proposed section 2257(c), would repeal current law under *McCleskey* v. *Zant*, by permitting a successive petition where (a) an undefined miscarriage of justice is presented; or (b) cause is shown; or (c) a factual showing of innocence is made.

Question 3. Would you agree with the characterization that the habeas corpus provision in the chairman's crime bill is more permissive than current law?

Answer. My department has concluded, after careful study, that several of the provisions in S. 618 are more permissive than current law. These provisions cast doubt on whether S. 618, if left unchanged, would redress the current problems of unnecessary delay and repetitious, piecemeal litigation permitted under the habeas corpus process. Instead, S. 618 may, in fact, encourage delay and repetitive litigation.

First, as already noted, S. 618, proposed section 2257(c), would leave an open window for successive petitions under the undefined "miscarriage of justice" standard. Second, it would permit subsequent petitions upon a more relaxed showing of any one of three events: (a) cause; or (b) a factual showing of innocence; or (c) a miscarriage of justice. In this regard, S. 618, although drafted prior to the recent *McCleskey* ruling, would overturn the now current law articulated in *McCleskey*.

Third, S. 618, proposed section 2259(b)(2), would require a district court to consider a claim for the first time in federal court where the state prisoner showed the claim was not presented in state court "due to the ignorance or neglect of the prisoner or counsel or if the failure to consider such a claim would result in a miscarriage of justice." Once again the "miscarriage of justice" standard is undefined. Further, the subjective behavior of the prisoner could mandate a new claim be considered in federal court for the first time. Supreme Court case law would also be overturned by this provision since claims which were not omitted due to constitutionally ineffective assistance of counsel but were excluded due to the mere ignorance or neglect of counsel must be considered.[6]

Fourth, S. 618, proposed section 2255A, is more permissive than current law since it would (a) change the definition of when a "new rule" could be applied on collateral review and (b) permit this narrowed "new rule" standard to be applied on collateral review upon the court's discretion. This repeals the doctrine of non-retroactivity under *Teague* v. *Lane*.[7]

Specifically, the chairman's bill, S. 618, proposed section 2255A, is more permissive than current law, as it will allow more rulings (which are pronounced after the completion of the defendant's direct review, but before the federal habeas proceeding) to apply retroactively at the time of the federal habeas proceeding. The bill not only overturns *Teague* versus *Lane's* rule of non-retroactivity for such rulings,[8] but it changes the definition of when a rule is "new" for retroactivity consideration. Before *Teague* versus *Lane*, if a recently-pronounced ruling was a "new" rule, i.e., a clear break from prior precedent, it would not have been applied retroactively, unless certain considerations compelled its retroactive application.[9] The bill does not merely return to pre-*Teague* law; it goes much further by redefining "new" rule to mean a "sharp break from precedent . . . that explicitly and substantially changes the law."[10] Therefore, a greater class of such recently-pronounced rulings will not be "new" rules under proposed section 2255A, and, thus, they must be applied retroactively. This gives the defendant the benefit of every rule, no matter how minor, that may be pronounced years after his conviction is final, and the opportunity in each case to litigate the issue anew in a federal habeas proceeding.

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[1] See *Ex Parte Hawk*, 321 U.S. 114, 118 (1944).

[2] See *Palmore* v. *United States*, 411 U.S. 389, 392–393, n.2 (1973).

[3] *Swain* v. *Pressley*, 430 U.S. 372 (1977).

[4] 430 U.S. at 383.

[5] Id.

[6] See *Murray* v. *Carrier*, 477 U.S. 478, 488 (1986).

[7] 498 U.S. 288 (1989).

[8] *Teague* versus *Lane*, 489 U.S. 288 (1989).

[9] See *Linkletter* v. *Walker*, 381 U.S. 618, 636 (1965); see also *Stovall* v. *Denno*, 388 U.S. 293, 297 (1967).

[10] S. 618, proposed §2255A, subsection (c).

Question 4. A law firm from California—that apparently has represented, on a pro bono basis, just one California death row inmate in his federal post-conviction appeals—has written to me regarding the habeas corpus reform proposal contained in the President's crime bill.

In one part of its letter, the firm—and I'm summarizing here—contends that if the federal courts are overburdened with habeas corpus petitions by criminal defendants generally and death row inmates in particular, the problem is not with abuse of the federal habeas statute, but in the administration of the death penalty at the investigative, trial, and state court appeals levels.

In light of your experience, what do you believe are the real problems with the administration of the death penalty?

Answer. The basic problem with the administration of the death penalty is that in death penalty cases the defense focus is different than in other criminal cases. In other criminal cases, the legitimate objective of the defense is that the lawfully prescribed punishment not be inflicted except after a fair trial and presentation of legally admissible evidence sufficient to prove guilt beyond a reasonable doubt. In death penalty cases, the focus of most individual defense lawyers, the organized defense bar, groups opposed to capital punishment, and some members of the judiciary is on preventing enforcement of the law irrespective of the fairness of the proceedings, the guilt of the accused, or the heinous nature of the offense.

In the vast majority of death penalty cases, there is little, if any, doubt of the defendant's guilt. Consequently, at every stage of the proceedings, there is a strong motive for delay. Because of the view that "death is different," some judges at every level entertain motions and permit delays which would not be countenanced in any other type of case. Finally, many federal judges subscribe to the fiction that they are more capable of protecting federal constitutional rights than their state brethren, thus, abetting those organized opponents of capital punishment whose obdurate vow is that the law shall not be obeyed.

The experience of my department is that the administration of the death penalty at the state level in California is not the problem. The penalty is sought in appropriate cases, there are numerous procedures in place to insure that the defendant is competently represented, and juries return death verdicts where warranted. Appeal to the state supreme court is automatic, with provision for new appointed counsel and simultaneous collateral review.

I also reject the premise that the states should somehow bear some of the responsibility (or blame) for delay in capital cases. These are state proceedings involving state laws and the enforcement of state judgments. It is both desirable and logical that state courts should engage in intense, painstaking scrutiny of these cases.

The real problem is that once necessary and proper state review is concluded, these cases are then subjected to another round of repetitious review in federal court. This review amounts to reopening the cases for new claims, new discovery, and new evidence. It renders the state proceedings largely meaningless. Frequently, these proceedings occur years after the original murder and state proceedings. Such delay usually puts the state at extreme disadvantage. The history of California's Harris case, as well as similar experiences with multiple reviews of individual convictions in Washington, Arizona, Nevada, and Montana, illustrates that much of the delay results in federal habeas corpus proceedings.

I agree with the Powell Committee Report that successive petitions in federal court are one of the chief problems in administration of the death penalty. We know now that defendants have deliberately sat on claims in order to raise them in successive petitions. The recent rendering of the United States Supreme Court decision in *McCleskey* v. *Zant* has proven this in California. In light of that decision, we have found many counsel are now asking for further time to add new claims to their petitions for fear they will not be able to raise them later in successive petitions. Of course, if defense counsel had been trying to raise all available claims in the first petition, there would be no need for that additional time now in light of *McCleskey*. The record suggests some counsel may have been sandbagging certain claims because they believed they would be able to raise them later in successive petitions under more generous pre-*McCleskey* standards.

Question 5. Please give your comments about the following proposals:

a. The provision of competent, adequately compensated counsel from trial onwards;

b. A procedural default provision under which a claim would not be barred if the petitioner could show that the issue was waived due to ignorance or neglect of prior counsel;

c. The ability of federal courts to apply the constitution as interpreted at the time they review the case; and

d. A provision allowing consideration in appropriate circumstances of successor petitions that raise issues undermining confidence in either the guilt or sentencing determination.

Answer. a. The central question of an appointment of counsel mechanism at the trial stage concerns whether this determination should be made by the state or the federal government. As a matter of federalism, I believe only the state can legitimately make this decision. After all, the trial involves a state proceeding concerning the enforcement of state laws. Respect must be afforded to the integrity of state procedures.

I am also pleased to report that California has an effective appointment of counsel mechanism for state trials. This demonstrates that states can develop adequate procedures for their judicial forums.

With regard to post-conviction review, as I noted in my testimony, states will be given the chance to decide whether to "opt in" to reform proposals containing appointment of counsel mechanisms.[11] The greater the federal intrusion into the state's ability to develop effective standards for post-conviction review, the less likely, I believe, will states voluntarily participate in any reform. For these reasons, and those set forth in my testimony, I support the approach embodied within S. 635, proposed section 2256.

b. This proposal, included under S. 618, proposed section 2259(b)(2), would encourage sandbagging of state courts. If an unfavorable result is obtained in state court, a petitioner can present a new claim in federal court (which the state court never had a chance to consider), contending merely that it was not previously asserted due to the ignorance or neglect of prior counsel. New counsel would be encouraged to go on fishing expeditions to discover new claims under such tenuous grounds. Finally, the proposal manifests absolutely no respect for the integrity of state proceedings. All the time and energy of state judicial resources devoted to reaching a particular result could be disregarded in federal court under the new claim based upon grounds which the state court was not afforded an opportunity to rule upon.

c. Federal courts are generally not entitled in a habeas corpus case to apply the law as interpreted at the time they review the case, which is often years after the state trial, but must look to the law as it existed when the state courts reviewed the judgment. In contrast, if the law changed on direct review between state trial and appeal, the state courts are obligated to apply the new law.[12] If changes occurred after the case became final on direct appeal, however, the state should not be penalized for failing to anticipate such changes, nor should a federal habeas corpus court be allowed in most cases to create or expand the law.[13] State courts should be relied upon to provide good faith interpretations of federal constitutional law. On collateral review federal courts should do no more than ensure that the state courts have done so except when the state court error falls within one of the Teague exceptions.

d. A provision, such as in S. 635, allowing a successive petition when the prisoner raises claims which, if true, undermine confidence in the conviction is adequate to protect prisoners whose factual innocence is resonably in doubt.

I would strongly disapprove of a provision for successive petitions that raise issues "undermining confidence" in the sentencing determination; I agree with provisions for successive petitions that raise issues undermining the confidence in guilt determinations. While there is superficial appeal to the notion a prisoner ought to be able to raise multiple times on federal habeas claims concerning his sentencing, there are important reasons why sentencing claims should be treated differently from claims of innocence. First, the opportunity to present sentencing issues in state and federal direct review and in a single federal habeas petition is sufficient to have these issues fully considered. If there is any doubt about the sentencing phase in a capital case, it should be raised as soon as possible. Further, the prisoner and his counsel have every incentive to raise all relevant sentencing issues as soon as possible.[14] These are issues readily in the apprehension of the prisoner and his counsel and can be explored immediately after trial. Additionally, issues relating to the reliability of sentencing are not the kind of matters to appear suddenly and unexpectedly late, years after the trial or after the conviction is final. Matters implicating the factual innocence of the prisoner, on the other hand, may well arise after trial or when the conviction becomes final. Thus, it is appropriate to permit successive petitions when the guilt determination is in doubt; the same rationale does not apply to claims concerning sentencing determinations.

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[11] See Testimony, at 12-15 (May 7, 1991).

[12] *Griffith* v. *Kentucky*, 479 U.S. 314 (1987).

[13] *Teague* v. *Lane*, 489 U.S. 288 (1989).

[14] Judicial Conference of the United States, Report and Proposal of the Ad Hoc Committee on Federal Habeas Corpus in Capital Cases, Lewis F. Powell, Jr., Chairman, at 17 (Aug. 23, 1989).

Question 6. I believe that the tradition regarding deference to state procedural rules should be maintained, even in capital cases.

No litigants have a greater incentive to withhold claims for use in later proceedings than capital defendants, for whom delay results in effective abridgement of their sentences.

If claims can be heard in federal habeas corpus proceedings because of the "ignorance or neglect" of the capital defendant—even though he was represented by counsel during trial, appeal of his case, and state post-conviction proceeings—don't we create an invitation to abuse?

Answer. Certainly, this proposal places much of the development of habeas claims within the control of the prisoner. Sandbagging of state courts would be permitted by prisoners under this provision. Instead of working with appointed counsel to develop all possible claims for review in state court, a prisoner can preserve potential "new" claims merely by showing his or her "ignorance or neglect" in failing to present this claim earlier. As already noted, our recent experience with counsel seeking new time to expand their petitions in light of *McCleskey* illustrates that abuse was already occurring in the context of successive petitions. The imposition of a "cause" and "prejudice" test for successive petitions shows what an effective test it is to prevent sandbagging and abuse.

Question 7. As you are aware, currently, the law applied in reviewing a case in federal habeas corpus proceedings is normally the law in effect at the time the judgment in the case became final—which is at the end of the state's highest court's direct review.

This reflects the common sense notion that courts must comply with existing controlling precedent.

Otherwise, state courts would be expected to exercise prophetic powers and anticipate new rules that may be generated in subsequent decisions handed down years later.

Would you explain how the provisions in the chairman's bill contrast with the operation of current law?

Answer. The two modifications to current law are noted in the fourth part of my response to question 3. Thus, there are two main effects under S. 618, proposed section 2255A. First, a stringent definition of "new rule" means that a greater class of Supreme Court rules must be applied retroactively on collateral review. Under S. 618, a new rule is defined as "a sharp break from precedent . . . that explicitly and substantially changes the law from that governing at the time the claimant's sentence became final." Second, even the small class of potential "new rules" under S. 618 may be applied retroactively upon the discretion of the court, after weighing three factors: (1) the purpose of the new rule; (b) whether a different rule has been relied upon by law enforcement; and (c) the effect of the new rule on the administration of justice. Consequently, S. 618 would repeal the Supreme Court general rule against retroactive application of new rules on collateral review.

Question 8. Even under current law, aren't sufficiently important later decisions applied retroactively—including decisions that categorically limit the power of the state to prohibit conduct or to impose a penalty?

Answer. Yes, the Supreme Court recognizes in *Teague* v. *Lane* that it should not adopt an absolute rule against applying new rules for the first time on collateral review. Two significant exceptions to the general rule were identified, including the one you note in your question. This exception was applied by the Supreme Court later that term in *Penry* v. *Lynaugh*, 492 U.S. 302 (1989). The petitioner contended that the Eighth Amendment prohibits the execution of a prisoner who was diagnosed as mentally retarded. Because an affirmative answer to that question would exclude an entire class of prisoners from facing the death penalty, the Court reached the issue, but ultimately rejected it on the merits.[15]

Question 9. In your opinion, why is it important to accord finality to state judgments that reflect reasonable interpretations of existing precedent?

Answer. State courts are co-equal partners with federal courts with identical duties to apply constitutional principles. To fail to accord finality to reasonable state court interpretations of existing precedent disregards the role and ability of the state courts in our federalism form of government. Additionally, principles of finality, central to our criminal justice process, are promoted when federal courts are not permitted to re-examine reasonable state court rulings. Justice Harlan explained the value of finality very well in *Mackey* v. *United States*, 401 U.S. 667, 690–91 (1971). Justice O'Connor has noted that these values apply to both capital and noncapital cases. See *Penry* v. *Lynaugh*, 492 U.S. 302, 313–14 (1989); see also *Teague* v. *Lane*, 489 U.S. 288, 314 n.2 (1989).

Question 10. And, finally, do you believe that if the Congress reforms the federal habeas corpus statute in a fundamental and meaningful way, will the new statute reduce the commission of crime in the United States?

Answer. This question, suggested by others, misplaces the policy focus in the reform debate. To the extent that federal habeas corpus reform may limit the number of prisoners whose convictions are reversed, or allow the states to focus resources on new charges which might otherwise be diverted to defending judgments in federal court, there may be some impact on the crime rate. Moreover, we cannot overlook the fact that the deterrent effect of criminal punishment will be restored as greater finality to state court judgments is attained. Those who suggest otherwise would have to show that punishment has no effect as a deterrent to crime.

The more significant public policy reason for reform, however, is to increase the confidence of crime victims and the general public in the ability of the criminal justice to protect them and punish the guilty in a fair and certain manner. The multi-year odyssey of California's Harris case through the Ninth Circuit has cast doubt on the ability of the criminal justice system to handle such cases. A single, timely federal habeas proceeding, as provided in S. 635, will provide adequate federal court review, while protecting the interests of law-abiding citizens. Thus, it is clear that the reforms need not be justified solely on the basis of the crime rate.

Mr. THURMOND. Mr. President, I hope we go ahead with this crime bill. The people of this country are demanding a stronger crime bill.

There is an amendment that has been offered here by the distinguished Senator from North Carolina. We should just vote on it and move on, and get on with the crime bill. If the amendment does not suit some people, just vote against it. If they are for it, they will vote for it.

But we ought to get on and pass this crime bill. There is no sense in holding up this matter. Here it is, 9:37 tonight, and we have a lot of work to do.

It is my hope we will not delay action on this matter, hour after hour. Today we have done very little except pass one good piece of legislation, to follow the President's recommendation on the crime bill. But I suggest we not delay further the vote on the Helms amendment and move on; move on. The amendment is before the Senate. He is entitled to have a vote on it. But let us get through with it so we can pass this crime bill.

I hope the Senate will not delay longer, but we take action and get something done.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, for the information and convenience of Senators who are not present on the Senate floor, who are in contact with their offices, it is my intention, as soon as Senator HELMS arrives, to ask unanimous consent that there be 20 minutes of debate, equally divided, on the Helms amendment prior to a motion to table that amendment.

Therefore, those Senators who are not present can anticipate that if the request is agreed to, a vote will occur 20 minutes thereafter. I hope very much that we will be able to propound this request shortly and proceed from there. The request will further ask that if the Helms amendment is tabled, the Senate proceed to vote on or in relation to the Symms amendment, without any intervening action or debate.

So as soon as all of the interested principals are present on the Senate floor—which I am advised will be momentarily—I will make this request. I hope and anticipate that it will be agreed to and that there will be two votes coming up in the near future. Those Senators who are at locations other than the Capitol may want to make their plans accordingly.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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[15] 492 U.S. at 329–30.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be 30 minutes for debate equally divided between Senator HELMS and Senator BIDEN prior to a motion to table the Helms amendment; and that if Senator HELMS' amendment is tabled, the Senate proceed to vote on or in relation to the Symms amendment No. 377 without any intervening action or debate.

Mr. HELMS. Reserving the right to object, and of course I shall not object because this is the moment I have been waiting for for nearly 2 days, and I thank the majority leader.

Mr. GRAMM. Reserving the right to object, Mr. Leader, as I understand the second part of the request, it was that if the Helms amendment is tabled, then there would be no intervening business between its tabling and the vote on the Symms amendment; is that right?

Mr. MITCHELL. That is right.

Mr. GRAMM. Mr. President, on the basis of that, I would have to object.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BREAUX). Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be 30 minutes for debate, equally divided between Senators HELMS and BIDEN, prior to a motion to table the Helms amendment; that if Senator HELMS' amendment is tabled, the Senate proceed to vote on or in relation to the Symms amendment No. 377, without any intervening action or debate.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Hearing none, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues and I now yield the floor.

The PRESIDING OFFICER. The Chair will announce under the unanimous-consent agreement, there is 30 minutes divided on Senator HELMS' amendment No. 378.

Who yields time on the amendment?

The Chair will announce that if no one yields time, time will be charged equally divided.

The Chair will observe the time is, in fact, running and equally divided under the order.

Mr. HELMS. Mr. President, I yield whatever time the distinguished Republican leader may require.

The PRESIDING OFFICER. The Republican leader is recognized for whatever time he may consume.

Mr. DOLE. Mr. President, I thank my colleagues.

I wonder if we might have order.

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order. The Senate will please come to order.

The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, earlier today when the distinguished Senator from North Carolina offered his amendment, I raised certain questions about the amendment, particularly with reference to voluntarily making special efforts to seek out and recruit minorities for someone's applicant pool, which is called race-based affirmative action in the traditional sense, and that is what we call the good affirmative action. It is not quotas but it is something that has been used by a lot of people.

In response to that, the distinguished Senator from North Carolina and I had a colloquy. And then to make certain there would be no misunderstanding on either side of the aisle, I then attempted to modify the pending amendment with the following language:

> Nothing in this amendment prohibits an employer, employment agency, labor organization or joint labor-management committee from establishing affirmative action programs designed to recruit qualified minorities and women for its applicant pool.

My view was, if that proviso were added, that I did not know of anyone who could not vote for the amendment. Because the distinguished Senator from North Carolina pointed out that I had erroneously interpreted the amendment, which I apparently had—his amendment; but that to make certain there was no misunderstanding, he has willing to accept the modification. The yeas and nays had been ordered. It took unanimous consent and as the majority had every right to do, as does anybody on either side, the majority leader had objected.

I had indicated earlier that unless I could more fully understand the so-called Helms amendment that I would not vote to table the amendment but I would vote against the amendment on an up-or-down vote. It was following that that we had the colloguy, following that that we offered the amendment, which I still think makes a great deal of sense and I would hope—in fact I will make one additional attempt to get unanimous consent to modify the pending amendment before the vote. I will not do it now. I will give notice to the manager.

Because, it seems to me, with that language, everybody could support the amendment. Otherwise, you are going to be asked, well, you voted to table the Helms amendment so you are for quotas. To me, it is that simple.

While I understand that this may not be directly dealing with the crime bill, I just saw one amendment on Alzheimer's disease that does not deal with the crime bill either. We are going to be accepting a number of amendments that do not directly deal with the crime bill.

So I urge my colleagues, I urge my colleagues on both sides, to take a look. We will have it down here on the table. Take a look at the modification we attempted to offer so that nobody would misunderstand the intent of the original amendment.

I hope we would not table the amendment by the distinguished Senator from North Carolina because I think if we do not table it, then we will come back and make the modification, then we can all vote for the amendment as modified. Because, with the amendment, race-based affirmative action would be protected. It is traditional. And I just give you one example.

For example, there would not be any doubt about it that this amendment as modified—but even without modification, but with the modification there is no doubt about it—it would allow an employer with a predominately white work force to widen its applicant's pool specifically to recruit minority and women applicants. Accordingly, the employer could affirmatively recruit minority applicants by placing ads in newspapers which have a primarily minority readership. The same employer could ask the minority and civil rights groups for referrals of minority applicants.

That was the correct reading of the amendment as we had indicated in our exchange, in our colloguy. But to make certain, let me point out again the Senator from Kansas attempted to modify the amendment so there would be no doubt about it. We will make that attempt one more time before a motion to table is made.

I thank my colleague.

Mr. JOHNSTON. Will the distinguished minority leader yield?

Mr. DOLE. I yield.

Mr. HELMS. On this time?

Mr. JOHNSTON. Mr. President, can the minority leader tell me why we ought to be dealing with this subject at this time when the civil rights bill is coming up soon?

Mr. DOLE. Well, I raised that question, I might say to my friend from Louisiana. It seemed to me there are negotiations going on now. I understand there may be some positive movement in all directions. I am not suggesting where it is coming from. But it is like a lot of other amendments that are offered; certainly the Senator from North Carolina has a right to offer the amendment. He has offered the amendment. And it seems to me that one way to make certain that everybody understands it clearly is to have the amendment modified; everybody vote for it. It will be 100 to zip. And then we will be on to something else.

The PRESIDING OFFICER. Who yields time?

If no one yields time, time will be charged against both parties equally.

Mr. GRAMM. Mr. President, I ask the distinguished Senator from North Carolina to yield me 2 minutes.

Mr. HELMS. Certainly.

The PRESIDING OFFICER. The Senator from Texas is recognized for 2 minutes.

Mr. GRAMM. Mr. President, I want to be sure I understand what the reference to subsection (e) means. If you read the amendment, the amendment is as clear as an amendment can be; the amendment says that it is unlawful to practice quotas. But it makes a reference to an exception in subsection (e), and I want to be sure that I understand that exception.

Is this the exception that says, for example, if you have a Baptist church and you are going out to hire a preacher that you have the right to look at only applicants who are Baptists preachers?

Mr. HELMS. Of course.

Mr. GRAMM. That is basically what subsection (e) means.

Mr. HELMS. And this is the inaccurate claim that has been made by the other side all day long, and it simply is not so. I thank the Senator for raising the question.

Mr. GRAMM. So subsection (e) basically allows, in those cases where language, knowledge, religion, or gender is an important part, or religious preference is an important part of the underlying activity as is currently recognized in law, that those protections would not be upset by this amendment.

Mr. HELMS. The Senator is absolutly correct, and that is the point I tried to make, but I was shouted down by the other side in trying to obfuscate the whole issue and cause confusion. I appreciate the Senator asking that question.

Mr. GRAMM. Mr. President, I ask unanimous consent that subsection (e) be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BUSINESSES OR ENTERPRISES WITH PERSONNEL QUALIFIED ON BASIS OF RELIGION, SEX, OR NATIONAL ORIGIN; EDUCATIONAL INSTITUTIONS WITH PERSONNEL OF PARTICULAR RELIGION

(e) Notwithstanding any other provision of this subchapter, (1) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify, or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program, on the basis of his religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise, and (2) it shall not be an unlawful employment practice for a school, college, university, or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of such school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.

Mr. GRAMM. Mr. President, I think if people read that they will see, in fact, the distinguished Senator from North Carolina is right.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, will the Senator from Delaware yield me 2 minutes?

Mr. BIDEN. I yield 2 minutes to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. JOHNSTON. Mr. President, this is a very, very serious and difficult subject. It should not be considered on the crime bill. We need to look at this very carefully. At risk here are the rights of employees, people who apply for jobs, women, blacks, others. At risk here are also the rights of employers.

Under this amendment, as I read it, if an employer complies with a Federal court order to adhere to some affirmative action program, he would be violating this law. If he complies with this law, he would be violating the Federal court order. Maybe that is not so. But why do we not take time on this when the civil rights bill comes up and consider it?

This thing comes up out of nowhere, when no one has their lawyers considering it. If this were the only time to consider this, then, OK, let us vote; let us all walk the plank. But this is not the only time. This is not the right time to consider this. It is too serious to just bring up a nongermane amendment on a crime bill which the President asked for us to pass in 100 days. I think it is not the 105th day.

Why do we not take our time on a very serious subject like this?

I am going to vote to table not because there is not merit to the whole subject matter. There is. But there is enough merit to the subject matter that we ought to give it deliberate consideration, consider the rights of everyone involved, employees as well as employers.

I wish my friend from North Carolina would consider it in that light and think about delaying this until the civil rights bill comes up.

Mr. HELMS. Is the Senator asking me a question? I will answer it on your time.

Mr. BIDEN. No, the Senator from Delaware does not yield any more time for that purpose.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. What did you say?

Mr. BIDEN. I will be delighted to hear the answer on the time of the Senator from North Carolina, but not the time of the Senator from Delaware.

Mr. HELMS. I have already answered that question over and over again. Let me say——

The PRESIDING OFFICER. The Senator from North Carolina is recognized on his time.

Mr. HELMS. Let me say again, as I have said over and over and over, this amendment does not—does not—affect court-ordered consent decrees which are covered in section 106(g) of title VII. This amendment is an amendment to section 703(j) which has nothing to do with court-ordered consent decrees.

I say again, what we have here, and I say it with great affection for Senators on the other side because we will be working together on the next issue of crime, but this is politics. They have not wanted to vote for far more than 24 hours. They have figured and figured and figured some way to bypass me, to deny me a vote. And I would not have it.

I will say to the Senate right now, if you vote down tonight, I am going to be right back on this bill and I am going to be right back on the next bill because this is a crime bill and what Federal Government and Federal courts are doing to the small business people and others and the working people of this country is a crime, and I submit that it does belong on the crime bill. That is my answer.

The PRESIDING OFFICER. The Chair will observe that the Senator from North Carolina controls 6 minutes and 12 seconds. The Senator from Delaware controls 10 minutes and 45 seconds.

Who yields time? The Senator from Delaware.

Mr. BIDEN. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. BIDEN. Mr. President, I find it absolutely fascinating that here we are, after all the Herculean efforts on the part of my Republican colleagues, as well as my Democratic colleagues, to get a crime bill after the President of the United States has been beating us up and about the head on a daily basis for the need for a crime bill, after 400 speeches on this floor about how rampant crime is, we hear from a brilliant Senator, who is a nonlawyer, who does not know the law any better than anyone else in here, making assertions about a complex subject that I am confident none of us would be willing to go to court with him representing us on that issue, not based on his intentions or his intelligence, but on his knowledge of the law.

We have had no hearings on this. There are a group of Republican Senators, Democratic Senators, and administration officials who are meeting almost around the clock trying to work out an agreement on a civil rights bill, a civil rights bill about to come to the floor. And I hear my brilliant friend from North Carolina stand up and say this is a crime issue. Well, tell that one to my mother, whose friend got mugged in the parking lot. Tell that to the person downtown, who is getting mugged as I speak. Tell that to the person who, in fact, just had their son killed in a drive-by shooting. Tell that to the person who just found their son lying in a gutter with an overdose of drugs because some drug kingpin filled him full of drugs, all of which we deal with in this bill. This is ludicrous. This is absolutely ludicrous.

If the Senator from North Carolina does not want a crime bill, just say so, say he does not want a crime bill. Anybody who votes for the Senator from North Carolina is voting against the dealth penalty, is voting against the reform of habeas corpus, is voting against changing the exclusionary rule, is voting against helping local police officers, is voting against fighting crime, and there is not a woman or man in here who does not know that.

Notwithstanding the fact it is 10 after 11 and, as John Pastore used to say, "After 7 o'clock, reason escapes this Chamber"; notwithstanding that even at 10 after 11 in this Chamber everybody, with what little reason they still possess, understands that all we are doing is delaying the ability of police in this country to fight crime, to satisfy the political interests of the distinguished Senator from North Carolina.

The PRESIDING OFFICER. Time allocated to the Senator has expired. Who yields time?

The Chair will observe that the Senator from North Carolina controls 6 minutes and 10 seconds. The Senator from Delaware controls 7 minutes and 18 seconds.

If no one yields time, the time allocated will be equally divided.

Mr. STEVENS. Mr. President, will the Senator from North Carolina yield me 2 minutes?

Mr. HELMS. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from North Carolina controls 6 minutes 10 seconds.

Mr. STEVENS. Mr. President, this was an interesting statement of the Senator from Delaware, but that is not the issue. The issue as I view it is whether or not the Senator has a right to modify an amendment. This was a legitimate request to modify this amendment. I know that the yeas and nays have been ordered. But the issue before the Senate will be before us again, because this amendment has not been modified.

And I really think that in this instance the people who vote against tabling are voting as a matter of comity. The Senator has a right to modify if he seeks to modify and have the issue before the Senate on an up or down vote or on a tabling motion on an issue, without question, of what this amendment really means.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL. I ask the distinguished Senator from Delaware to yield me just 1 minute to respond to the Senator from Alaska.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. MITCHELL. Mr. President, I will tomorrow provide to the Senator from Alaska numerous occasions on which a Republican majority leader or a Republican Senator refused to permit modification of an amendment. The Senator very well knows, my good friend, this has occurred on many occasions in this Chamber. Not once to my recollection did the Senator from Alaska protest when it was done by a Republican majority leader or make the statement he just made.

I think the record should be very clear this has occurred on a regular basis in the Senate; indeed, the current distinguished Republican leader, in an analogous situation, has objected to modification.

So I do not think any implication ought to be left that this is inappropriate, uncommon, not having occurred many times in the past decade with the majority leaders of both parties.

Mr. STEVENS. Mr. President, did I use my full 2 minutes?

The PRESIDING OFFICER. The Senator has a minute remaining.

Mr. STEVENS. I might say to my good friend, that does not make it right. And it does not answer the question of whether or not we will not be back again tomorrow on this same amendment, because the Senator from North Carolina will in fact use his right to bring the issue again before us, and it will not speed completion of this bill.

Mr. BIDEN. Mr. President, I yield myself 10 seconds.

The RECORD should show that the Senator from North Carolina insisted that the yeas and nays be given on his amendment, No. 1. No. 2, that if we are talking about justice, let us deal with crime and not, as the Senator acknowledged, pulling the wool over the eyes of the Senator from Delaware and sliding in an amendment on a different subject.

Mr. HELMS. Now, Mr. President, that is beyond the pale.

The PRESIDING OFFICER. The Senate will be in order. Who yields time?

Mr. HELMS. I yield myself 10 seconds.

That is beyond the pale. I did not pull any highjinks on the Senator. I followed the rules of the Senate. I always do. And I resent any implication to the contrary. Now, what the Senator does not like is he was sleeping at the switch last night. That is what happened. The first amendment was laid down, and I laid down a second-degree amendment. And that is well within the Senate's rules.

The PRESIDING OFFICER. The time of the Senator from North Carolina has expired. Who yields time?

Mr. BIDEN. I yield myself 5 seconds. The Senator is right. We have colloquial expressons in different parts of the country. He fooled me under the rules. I thank the Senator.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WALLOP. Mr. President, will the Senator from North Carolina yield to the Senator from Wyoming 1 minute?

Mr. HELMS. Certainly.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. WALLOP. Mr. President, I would say to the distinguished majority leader that there have been many times when, as he said, under the rules the minority did not permit the change. But there had been, as I recall, many times when the minority did. It is a question of making a judgment as to what is right.

Human freedom in America is a political issue, and it has always been and is entitled to be. Merit is a political issue in America, has always been, and is entitled to be. Nondiscrimination is a political issue in America, has always been, and is entitled to be. And the right to choose is a policital issue, it has always been, and is entitled to be.

And so the reason not to modify this amendment is solely and completely to avoid having the amendment become attractive enough so that the majority will lose on an issue on which it does not choose to lose. That is fair enough, and that is a political issue, and that is also what will be judged.

I salute the Senator from North Carolina for his amendment. I salute the minority leader for his attempt to modify it, and I figure that——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WALLOP. If the Senator is allowed to modify, it is clear that the Senator from North Carolina will prevail. I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from North Carolina controls 2 minutes 17 seconds. The Senator from Delaware controls 4 minutes 44 seconds.

Mr. HELMS. Mr. President, obviously they are letting the clock run out so they can have the last word, and that is fine. I yield to the Senator from Idaho.

Mr. SYMMS. I thank my colleague.

Mr. President, I commend the Senator from North Carolina for raising this issue.

Under most circumstances, the traditions and rules of the Senate do not require that an amendment be germane in order to be offered to a piece of legislation. The underlying Biden bill deals with a broad range of issues, ranging from State limitations on political activities by law enforcement officers to the imposition of racial quotas in sentencing in capital crimes. The Helms amendment falls squarely in the footsteps of provisions contained in this bill to require that the death penalty be imposed in accordance with racial quotas.

I commend my friend from North Carolina for having the courage to introduce this amendment and face this issue head on. The issue of preferential policies and quotas is admittedly not popular with the liberal politicians and social engineers who have turned the principle of nondiscrimination into a requirement of race consciousness.

The United States was founded on the principles of equal opportunity, individual ability, and hard work. Discrimination on the basis of a person's skin color or gender is not only un-American—it is inefficient. By giving jobs and promotions to people because of their ethnicity or sex, we are rejecting competence and ability in favor of skin color and gender. Job performance and output are subordinated to the importance of "correcting" natural racial and gender discrepancies in different fields of employment. The potential effects are more than just a drop in productivity and results. If these trends continue, our Nation will be further divided into racial blocs, thus contributing to an escalation of racial hostility and conflict, the very problems we seek to abolish.

The Helms amendment would return our country to its roots: nondiscrimination, equal opportunity, emphasis on individual ability. For this reason, I urge the adoption of this amendment.

I just remind my colleagues that under the Biden bill, the underlying bill, many people in my part of the country call it a gun control bill, not a crime bill. But be that as it may, this bill deals with a broad range of issues ranging from State limitation on political activities by law enforcement officers to the imposition of racial quotas in sentencing in capital crimes, which I think was taken out of the bill. But it was in it when it started. And the Helms amendment follows squarely in the footsteps of those provisions contained in this bill to require that death will be in accordance with racial quotas.

So I do not think it is out of order, and I want to compliment my colleague because basically the Helms amendment would simply return the country to its roots of nondiscrimination, equal opportunity, and the emphasis on individual ability. That is all it is about.

I think that is why we ought to be voting for it, and we ought to vote on it once a week between now and the end of this session of Congress.

I yield back the floor.

Mr. HELMS. How much time do I have?

The PRESIDING OFFICER. The Senator from North Carolina controls 45 seconds.

Mr. HELMS. I yield to the distinguished minority leader.

The PRESIDING OFFICER. The minority leader is recognized for 45 seconds.

Mr. DOLE. Mr. President, let me just make an inquiry of the manager. If I should reoffer the amendment I offered earlier which was objected to, would there be another objection?

Mr. BIDEN. Yes, there would be, at this moment.

Mr. DOLE. Right. It probably would not do me any good to offer it then.

I have the answer I thought I would receive. I am not trying to overdo it here, but I do think the Senator ought to take another look at this amendment. If we can vote not to table this amendment, then I think we can get together on something we can all support. But I recognize that it would be objected to.

Mr. BIDEN. But we would be happy to look at it.

The PRESIDING OFFICER. The time of the Senator from North Carolina has expired. The Senator from Delaware controls 4 minutes 44 seconds.

Mr. MITCHELL. Mr. President, I ask the Senator to yield that time to me.

Mr. BIDEN. No—Yes, I yield the remainder of time to the majority leader.

Mr. MITCHELL. Mr. President, several of our colleagues, led by Senator DANFORTH, are making a genuine, good faith, and we all pray, ultimately successful effort, to develop a civil rights bill to preserve equal opportunity for women, the disabled, religious minorities, and racial minorities.

They are doing their best to secure what both sides in this debate claim they want: Fair opportunity for every American worker to compete in the marketplace.

President Bush says he wants to see equal opportunity in the workplace. He says that we have to overturn several Supreme Court rulings to achieve that goal. I agree that we should seek equal opportunity in the workplace. I agree that we have to reverse several Supreme Court decisions to do that.

The pending amendment will do nothing to achieve that objective. It will instead exacerbate what is and has been throughout our Nation's history the most divisive and tragic social issue, the problem of unequal treatment based on race or sex. It will inject the obviously highly politicized issue of quotas into the crime bill now before the Senate. The amendment does not fulfill what President Bush says he wants to see in the civil rights bill. It does nothing whatever to reverse the Supreme Court rulings the President says should be reversed.

At the same time it is equally clear that this proposal does nothing whatever to add to the President's goal of getting a crime bill enacted. In fact, it produces just the opposite result. It delays votes and decisions still to be made on the crime legislation.

This amendment has been defended on the grounds that it will make illegal the use of quotas. But that is not what the amendment says. Nowhere in the amendment does the word quota appear. It ought to be obvious to each of us that if you want to outlaw something you outlaw that thing and not something else. The language of the amendment does not do that. It does not even use the word quotas. If you want to outlaw quotas, all you have to do is to have an amendment that outlaws quotas. This does not even make quotas an unlawful employment practice.

No one in this Senate can now say what this amendment means because no one knows. There have not been any hearings on it. Does this amendment mean that veterans preference, so important to veterans of our armed services, would become an unlawful employment practice? No one knows. Is a vote for this amendment a vote against American veterans? No one knows. I think Senators deserve a definitive answer to that question before they go ahead and approve and vote for language that could call into question the employment preferences we put into place for the millions of American veterans.

Does the amendment mean that court orders to reverse a pattern of racial hire or sex-based promotion can be obeyed but that voluntary efforts by an employer to protect women are illegal? No one knows the answer to that because there have been no hearings; there has been no discussion.

The fact of the matter is everyone here knows this amendment does not belong on this crime bill. The Senator from Missouri has been trying for weeks to negotiate an agreement on the civil rights bill, and we all expect that we are going to be taking that bill up in the very near future. We hope the result will be an agreement that will be produced under Senator Danforth's leadership.

We want to get a crime bill passed. The distinguished Senator from South Carolina has worked night and day with his whole heart and soul to pass a crime bill. I do not agree with some of the points he wants in the bill. He does not agree with my views, but he is dedicated to passing the crime bill. as is the Senator from Delaware.

Everybody knows that this amendment has nothing to do with the crime bill. I hope my colleagues will agree that we ought to table this amendment, not approve something that no Senator fully comprehends the significance of. There have not been a single moment of hearings. There has been no opportunity to examine the implications of this, which could have an enormous effect and unforeseen consequences on millions of people in our society.

I urge my colleagues to join me in tabling this amendment so that we can be in a position to proceed, hopefully in the near future, to complete action on this important crime legislation.

Mr. DOLE. May I have 5 seconds?

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senator from Kansas be permitted to take whatever time he wants.

Mr. DOLE. I never speak after the majority leader. But I want to make the point that if the amendment is not tabled, I will be prepared to offer a modification.

The PRESIDING OFFICER. All time has expired on this amendment.

Mr. MITCHELL. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine to lay on the table the amendment of the Senator from North Carolina. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 71, nays 28, as follows:

[Rollcall Vote No. 110 Leg.]

YEAS—71

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Bryan
Bumpers
Burdick
Byrd
Chafee
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Gorton
Graham
Harkin
Hatfield
Heflin
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
McCain
Metzenbaum
Mikulski
Mitchell
Moynihan
Nickles
Nunn
Packwood
Pell
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Wellstone
Wirth
Wofford

NAYS—28

Brown
Burns
Coats
Cochran
Craig
Dole
Domenici
Garn
Gramm
Grassley
Hatch
Helms
Hollings
Kasten
Lott
Lugar
Mack
McConnell
Murkowski
Pressler
Seymour
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—1

Pryor

So, the motion to lay on the table the amendment (No. 378) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 377

The PRESIDING OFFICER. Under the previous order, the yeas and nays have been ordered on the amendment of Senator SYMMS, amendment No. 377.

The question is on agreeing to the amendment of the Senator from Idaho. On this question, the yeas and nays have been ordered, and the clerk will please call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 39, as follows:

[Rollcall Vote No. 111 Leg.]

YEAS—60

Baucus
Bond
Boren
Bradley
Breaux
Brown
Bryan
Burns
Byrd
Coats
Cochran
Craig
D'Amato
Daschle
DeConcini
Dixon
Dole
Domenici
Exon
Ford
Garn
Gore
Gorton
Gramm
Grassley
Hatch
Heflin
Helms
Hollings
Johnston
Kassebaum
Kasten
Kerrey
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Pressler
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sasser
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wofford

NAYS—39

Adams
Akaka
Bentsen
Biden
Bingaman
Bumpers
Burdick
Chafee
Cohen
Conrad
Cranston
Danforth
Dodd
Durenberger
Fowler
Glenn
Graham
Harkin
Hatfield
Inouye
Jeffords
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Pell
Sanford
Sarbanes
Simon
Wellstone
Wirth

NOT VOTING—1

Pryor

So the amendment (No. 377) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE HOUSE

At 1:35 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the bill (S. 919) to amend chapter 9 of title 17, United States Code, regarding protection extended to semiconductor chip products of foreign entities; without amendment.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1775. An act to authorize expenditures for fiscal year 1992 for the operation and maintenance of the Panama Canal;

H.R. 2332. An act to amend the Immigration Act of 1990 to extend for 4 months the application deadline for special protected status for Salvadorans;

H.R. 2525. An act to amend title 38, United States Code, to codify the provisions of law relating to the establishment of the Department of Veterans Affairs, to restate and reorganize certain provisions of that title, and for other purposes; and

H.R. 2622. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 1992, and for other purposes.

At 6:43 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the concurrent resolution (S. Con. Res. 49) authorizing the use of the rotunda of the Capitol for the unveiling of the portrait bust of President George Bush on June 27, 1991; without amendment.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2686. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes.

At 8:36 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the joint resolution (S.J. Res. 159) to designate the month of June 1991, as "National Forest System Month"; without amendment.

The message also announced that the House has passed the following joint resolution; in which it requests the concurrence of the Senate:

H.J. Res. 259. Joint resolution designating July 2, 1991, as "National Literacy Day."

The message further announced that the House has agreed to the following concurrent resolution; in which it requests the concurrence of the Senate:

H. Con. Res. 175. Concurrent resolution providing for an adjournment of the House from June 27, 1991, to July 9, 1991 and an adjournment of the Senate from June 28, 1991, June 29, 1991, June 30, 1991, July 1, 1991, or Tuesday, July 2, 1991 to July 8, 1991.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 909. An act to amend chapter 9 of title 17, United States Code, regarding protection extended to semiconductor chip products of foreign entities; and

H.R. 749. An act to authorize the Secretary of the Interior to accept a donation of land for addition to the Ocmulgee National Monument in the State of Georgia.

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1775. An act to authorize expenditures for fiscal year 1992 for the operation and maintenance of the Panama Canal; to the Committee on Armed Services.

H.R. 2622. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1992, and for other purposes; to the Committee on Appropriations.

H.R. 2686. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes; to the Committee on Appropriations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2525. An act to amend title 38, United States Code, to codify the provisions of law relating to the establishment of the Department of Veterans' Affairs, to restate and reorganize certain provisions of that title, and for other purposes.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 2332. An Act to amend the Immigration Act of 1990 to extend for 4 months the application deadline for special temporary protected status for Salvadorans.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1508. A communication from the Chief of the Special Actions Branch, Congressional Inquiry Division, Department of the Army, transmitting, pursuant to law, a report on the conversion of the training and audiovisual services at Fort Rucker, Alabama, to performance by contract; to the Committee on Armed Services.

EC-1509. A communication from the Chief of the Special Actions Branch, Congressional Inquiry Division, Department of the Army, transmitting, pursuant to law, a report on the decision to retain the commissary and storage warehousing function at Fort Jackson, South Carolina, as an in-house function; to the Committee on Armed Services.

EC-1510. A communication from the Chief of the Special Actions Branch, Congressional Inquiry Division, Department of the Army, transmitting, pursuant to law, a report on the decision to retain the commissary storage and warehousing function at Fort Rucker, Alabama, as an in-house function; to the Committee on Armed Services.

EC-1511. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 37, United States Code, to authorize travel and transportation allowances for members of the uniformed services directed to perform overnight duty within the limits of their duty station at a location other than their residence or normal duty location in unusual or emergency situations; to the Committee on Armed Services.

EC-1512. A communication from the Acting Assistant Secretary of the Treasury (Legislative Affairs), transmitting, pursuant to law, an advance copy of an amendment to the Kuwait Assets Control Regulations; to the Committee on Banking, Housing, and Urban Affairs.

EC-1513. A communication from the President and Chief Executive Officer of the Corporation for Public Broadcasting, transmitting, pursuant to law, the annual report on the activities and expenditures of the Independent Television Service; to the Committee on Commerce, Science, and Transportation.

EC-1514. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the authority to recall members of the Coast Guard Ready Reserve to active duty for emergency augmentation of regular forces; to the Committee on Commerce, Science, and Transportation.

EC-1515. A communication from the Secretary of Energy, transmitting, pursuant to law, the quarterly report on the Strategic Petroleum Reserve for the period January 1 to March 31, 1991; to the Committee on Energy and Natural Resources.

EC-1516. A communication from the Acting Assistant Administrator of the Environmental Protection Agency (Office of Policy, Planning, and Evaluation), transmitting, pursuant to law, a report entitled "Policy Options for Stabilizing Global Climate"; to the Committee on Environment and Public Works.

EC-1517. A communication from the Director of the National Ocean Pollution Program Office, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, a report entitled "Review of Fiscal Year 1992 Agency Requests for Appropriations to Support Ocean Pollution Research, Development, and Monitoring Programs"; to the Committee on Environment and Public Works.

EC-1518. A communication from the Administrator of General Services, transmitting, pursuant to law, informal copies of certain lease and construction prospectuses; to the Committee on Environment and Public Works.

EC-1519. A communication from the Chairman of the Prospective Payment Commission, transmitting, pursuant to law, a report on the costs of administering blood clotting factors to individuals with hemophilia; to the Committee on Finance.

EC-1520. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend the Social Security Act and the Internal Revenue Code of 1986 to make changes related to the old-age, survivors, and disability insurance program and the supplemental security income program, and for other purposes; to the Committee on Finance.

EC-1521. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty-day period prior to June 20, 1990; to the Committee on Foreign Relations.

EC-1522. A communication from the President of the United States, transmitting, pursuant to law, a report assessing possible additional nuclear risk reduction measures; to the Committee on Foreign Relations.

EC-1523. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report entitled "Program Status of Preparations for Further Limitations on Nuclear Testing for 1990"; to the Committee on Foreign Relations.

EC-1524. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9–43 adopted by the Council on June 4, 1991; to the Committee on Governmental Affairs.

EC-1525. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9–44 adopted by the Council on June 9, 1991; to the Committee on Governmental Affairs.

EC-1526. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9–45 adopted by the Council on June 4, 1991; to the Committee on Governmental Affairs.

EC-1527. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9–46 adopted by the Council on June 4, 1991; to the Committee on Governmental Affairs.

EC-1528. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the semiannual report on audit, inspection, and investigative activities for the period October 1, 1990 to March 31, 1991; to the Committee on Governmental Affairs.

EC-1529. A communication from the Inspector General, Department of Labor, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department Labor, for the period October 1, 1990 to March 31, 1991; to the Committee on Governmental Affairs.

EC-1530. A communication from the Inspector General, General Services Administration, transmitting, pursuant to law, the semiannual report on audit, inspection, and investigative activities for the period October 1, 1990 to March 31, 1991; to the Committee on Governmental Affairs.

EC-1531. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 18, United States Code, to protect keys, keyblanks, or keyways used in security applications by the Department of Defense; to the Committee on the Judiciary.

EC-1532. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to enable communities to develop community opportunity systems in order to improve economic opportunity for their low-income residents through the restructuring of programs providing services and benefits, to meet the identified priorities of the community and the needs of the individuals and families to be served; to the Committee on Labor and Human Resources.

EC-1533. A communication from the Secretary of Education, transmitting, pursuant to law, a report with respect to the recommendations contained in the report of the National Council on Vocational Education; to the Committee on Labor and Human Resources.

EC-1534. A communication from the Secretary of the Smithsonian Institution, transmitting, pursuant to law, the annual report of the Smithsonian Institution for 1990; to the Committee on Rules and Administration.

EC-1535. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend section 3413 of title 12, United States Code, to add an exception authorizing financial institutions to disclose to the Department of Veterans Affairs the names and addresses of their customers who are receiving payments, by direct deposit or Electronic Funds Transfer into their accounts, of compensation, Dependency and Indemnity Compensation or pension benefits under title 38, United States Code; to the Committee on Veterans' Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-158. A concurrent resolution adopted by the Legislature of the State of Minnesota; to the Committee on Agriculture, Nutrition, and Forestry.

"RESOLUTION NO. 8

"Whereas, the health of Minnesota's dairy industry, which is now in crisis, is key to the economic well-being of the state of Minnesota; and

"Whereas, agriculture is the number one revenue-producing industry in Minnesota, and the dairy industry produces the largest share of this revenue; and

"Whereas, the current milk price is the lowest farmers have received since September, 1978; and

"Whereas, the present milk support price of $10.10 per hundredweight fails to meet dairy farmers' minimum costs of production; and

"Whereas, Minnesota has lost 10,000 dairy farmers since 1980, has lost 40 more in the past two weeks, and in the face of the present crisis will continue to lose dairy farmers at an alarming rate, threatening the very existence of the dairy industry in the state; and

"Whereas, the income of dairy farmers will be further reduced by an assessment of five cent per hundredweight on nearly ten billion pounds of Minnesota milk in 1991, which is just the latest in a continuing string of increases in fees and assessments paid by dairy farmers; and

"Whereas, federal milk marketing orders are discriminatory and skewed to give unfair advantage to large corporate farms of the West and South, suppressing milk prices in the Upper Midwest and inflating prices by several dollars per hundredweight in nontraditional dairy areas; and

"Whereas, the dairy farmer has taken more substantial cuts in federal support than any other sector of our economy and agriculture itself, starting with repeal of the April, 1981, six-month price support adjustment for inflation and a continuous series of cuts and reductions in the price support base and fee and assessment increases paid by dairy farmers on milk production in every decision made by the President and Congress; and

"Whereas, the Minnesota House and Senate and the Minnesota Governor are committed to preserving the family farm structure and Minnesota's small dairy farmers, now; therefore, be it

"*Resolved by the Legislature of the State of Minnesota*, That it urges the President, Congress, and the Secretary of Agriculture to immediately respond to the crisis in the Midwest dairy industry by reopening the dairy provisions of the 1990 federal farm law to insure that Minnesota and Midwest dairy farmers receive cost of production plus a reasonable profit for their products; be it further

"*Resolved*, That the United States Secretary of Agriculture should immediately take action to alleviate the Minnesota and Midwestern dairy crisis by modifying and changing the federal milk marketing order system so as to eliminate the discriminatory provisions from the orders that pay more for milk to Western and Southern producers than paid to Midwest dairy farmers and encourage increased dairy production in markets distant from the Upper Midwest, depressing prices for Minnesota producers: be it further

"*Resolved*, That Congress take immediate action to alleviate the crisis in the Midwest dairy industry by increasing milk price supports by $2.30 per hundredweight, an increase that will allow Midwest producers to break even on costs of production; be it further

"*Resolved*, That the Secretary of State of the State of Minnesota is directed to prepare certified copies of this memorial and transmit them to the President of the United States, the President and Secretary of the United States Senate, the Speaker and Chief Clerk of the United States House of Representatives, the Chair of the House of Representatives Committee on Agriculture, the Chair of the Dairy Division of the House of Representatives Committee on Agriculture, Minnesota's Senators and Representatives in Congress, and the United States Secretary of Agriculture."

POM-159. A resolution adopted by the Board of Directors of the Admiral Nimitz Foundation urging the posthumous restoration of the highest ranks held by Admiral Kimmel and General Short; to the Committee on Armed Services.

POM-160. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Armed Services.

"RESOLUTION

"Whereas, Loring Air Force Base has played an important role in the strategic defense of the United States for more than forty years and, by virtue of its geographic location, is uniquely qualified to continue that role; and

"Whereas, the State of Maine, and in particular the northern portion of the State, has long demonstrated its enthusiastic and continuing support for the United States military; and

"Whereas, the economy of northern Maine is strongly related to Loring Air Force Base and would face extreme difficulty in recovering from the effects of the closure of this base; and

"Whereas, the study that underlay the decision by the Secretary of Defense to propose the closing of Loring significantly underestimated the economic effects of the loss of such a major facility on the State and on Aroostook County; and

"Whereas, the proposal to close Loring Air Force Base is not in the best interests of the security of the United States or of the people of Maine; now, therefore, be it

"*Resolved*, That We hereby indicate our strong opposition to the proposed closure of Loring Air Force Base; and be it further

"*Resolved*, That We support the vigorous efforts of the Governor of Maine, members of our Congressional delegation and the people of Aroostook County to overturn this decision at the federal level; and be it further

"*Resolved*, That We, your Memorialists, respectfully recommend and urge the Congress of the United States to maintain an active Air Force presence at Loring Air Force Base; and be it further

"*Resolved*, That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable George H.W. Bush, President of the United States; to the Honorable Richard Cheney, Secretary of Defense; to the Honorable James Courter, Chair of the Military Base Closure and Realignment Commission; to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States; and to each Member of the Maine Congressional Delegation."

POM-161. A resolution adopted by the House of Representatives of the State of Florida; to the Committee on Armed Services:

"RESOLUTION

"Whereas, Homestead Air Force Base is located in the City of Homestead, in Dade County, Florida, and is one of South Florida's largest employers, paying $152 million to 8,700 civilians and military workers and purchasing $40.7 million in equipment and supplies in 1990, and

"Whereas, Homestead Air Force Base supports a population of 12,125, 6,000 of which live on base and 6,125 of which live off base, and

"Whereas, Homestead Air Force Base is the command center of the 31st Tactical Fighter Wing, the first mission of which is to execute directed tactical fighter missions against enemy forces, supplies, communications, and equipment, and the second mission of which is the operation of the United States Air Force Conference Center, and

"Whereas, Homestead Air Force Base is also the base for the 482nd Tactical Fighter Wing, the 301st Air Rescue Squadron, the Florida Air National Guard Interceptor Group, the 31st Medical Group—Air Transportable Hospital, the 1942nd Communications Squadron, the 726th Tactical Control Squadron, the Inter-American Air Force Academy, and 27 other units, and

"Whereas, Homestead Air Force Base employs 8,721 people, including 2,187 civilians, supports 14,475 jobs off base, had a $430 million positive impact on the local economy in 1990, and provides a commissary and other facilities which are used by 21,000 military retirees in Dade County each month, and

"Whereas, Homestead Air Force Base has been an important part of Dade County since World War II and 600 personnel from the base participated in the Persian Gulf War, and

"Whereas, closing Homestead Air Force Base would have a severely detrimental effect upon the local economy and on the military preparedness of the United States in the Caribbean area, now, therefore, be it

"*Resolved by the House of Representatives of the State of Florida*, That the House of Representatives of the State of Florida urges the United States Congress to retain Homestead Air Force Base in Homestead, Florida, as an active military base and to remove Homestead Air Force Base from the preliminary list of military bases under consideration to be closed by Congress, be it further

"*Resolved*, That copies of this resolution be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress."

POM-162. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Finance:

"H. Con. Res. 271

"Whereas, the garment manufacturing, wholesaling, and retailing industries in Hawaii were threatened last year when Congress seriously considered proposed federal Textile and Apparel legislation, that would have limited growth in the importation of textiles and apparel to one percent per year above 1989 levels and imposed a quota auctioning pilot program; and

"Whereas, informed sources indicate that a similar bill will be introduced in Congress this session; and

"Whereas, the endangerment of the garment manufacturing, wholesaling, and retailing industries in Hawaii would have a direct and negative impact on the State's economy through the loss of jobs, loss of tax revenue, increased prices for apparel, and decline in Hawaii's unique aloha-wear apparel industry; and

"Whereas, moreover, resident and visitor consumers will have to bear the brunt of the negative impact in the following manner:

"(1) Consumers will be precluded from purchasing desired imported merchandise due to the inability of the market to expand to meet consumer demand and those consumers who seek low-priced merchandise will discover that their choices will be severely limited;

"(2) With the textile and apparel import growth limited to one percent of 1989 levels, there will be virtually no allowance for changes in fashion, consumer preferences, or growth for exporting countries; and

"(3) The limited expansibility of the market and the removal of low-priced imported goods from the market will result in consumers paying higher prices in the future and the middle- and lower-income consumers will suffer most; and

"Whereas, according to 1990 State Data Book, there were 963 apparel and accessory retail stores with payrolls in Hawaii which accounted for $578.5 million in sales in 1987 and 389 apparel and accessory stores without payrolls in Hawaii which accounted for an additional $16.4 million in sales in 1987; and

"Whereas, there were 3,683 with or without payroll retail trade establishments, other than eating and drinking places, which employed a total of 111,000 workers statewide in 1989 and when this is factored with the total number of apparel and accessory retail stores, it is estimated that a total of 41,070 retail jobs in the apparel and accessory retail trade would be negatively impacted by the proposed federal legislation; and

"Whereas, when the conventional 1.6 garment industry employment multiplier is considered, the end result may lead to a negative direct, indirect, and induced impact of some 66,000 jobs on the overall textile and apparel retail employment market; and

"Whereas, as estimated by the Tax Foundation of Hawaii, the 1988 per capita state income tax burden showed an average of $923.25 per person with a corresponding per capita burden for state general excise tax of $301.75, thus providing for an aggregate annual tax burden totaling $1,225 per person; and

"Whereas, when 41,070 textile and apparel retail workers are considered as a group, at least $50.3 million in annual state tax revenues would be affected, and when the conventional 1.6 employment multiplier is applied, the affected state tax revenues would further jump to more than $80.5 million per year; and

"Whereas, the garment industry in Hawaii is important to the State's economy, being the fourth-largest employer and producer of manufactured goods in the State, with annual gross sales of $165 million on wholesale value-based shipments, of which Hawaii sales account for 65–70 percent of these revenues while export sales account for 30–35 percent balance; and

"Whereas, the manufacturing component of the garment industry in Hawaii involves over one hundred businesses, employing approximately 3,300 production and 800 nonproduction workers, and total gross revenues of $71 million; and

"Whereas, the directly associated retail distribution component of the Hawaii garment industry provides an estimated 45,000 direct employment opportunities that would be unfavorably affected; and

"Whereas, when the conventional 1.6 garment industry employment multiplier is considered, the direct, indirect and induced negative impact result may unfavorably affect 72,000 Hawaii employment opportunities; and

"Whereas, when 45,000 textile-to-garment manufacturing, wholesaling and retailing industry workers are jointly considered, at least $55.1 million annual state tax revenues would be adversely affected; and

"Whereas, when the garment industry employment multiplier is applied, the affected state tax revenues would jump further to more than $88.2 million per year; and

"Whereas, the garment industry in Hawaii revolves around a distinctive Hawaii aloha-wear look that is part of the local lifestyle and that is favored and purchased by visitors to Hawaii and residents, alike, as well as significantly contributing to the State's economy as a value-added true Hawaii export; and

"Whereas, the distinctive Hawaii look arises from patterns designed in Hawaii, shipped to Japan and other Pacific Rim countries for fabrication, returned to Hawaii, and manufactured into garments; and

"Whereas, the local garment industry's need for these textiles cannot be served by mainland suppliers, because the typical Hawaii manufacturer's order for fabric is a run of three thousand yards, which is economically feasible, while the minimum yardage order for mainland cloth manufacturers is nine thousand to fifteen thousand yards, or three to five times as large, which puts an undue economic burden on Hawaii's manufacturers by forcing inventory oversupply and cash flow constraints; and

"Whereas, the aloha-wear look so typical of Hawaii products involves the use of small fabric runs with up to five different color combinations per run and the use of thirteen and more screens to provide additional design colorations, but mainland mills accept a maximum of eight or nine screens thereby precluding the more complex Hawaii designs from being run by a mainland mill; and

"Whereas, mainland and Japanese printers use different processes and ink—the mainland printers use pigment chemistry while the Japanese use a dye-stuff ink process which permits the popular 'reverse' print typical of the Hawaii look; and

"Whereas, mainland manufacturers are reluctant to seek Hawaii business as the Hawaii-designed textiles are generally in a print and color format that mainland mills are unwilling to consider and in print runs so limited that no mainland supplier will produce them; and

"Whereas, the proposed limits on textile imports will dramatically affect the Hawaii market, first by sharply limiting an increase in amount of textiles that can be brought in, causing a reversal of Hawaii's growth in sales to resident and visitor populations and the further development of a healthy export market; and

"Whereas, even more drastically, the proposed quota auctioning pilot program might eliminate Hawaii from the imported textile market completely, as Hawaii manufacturers are comparatively small and lack the economic clout necessary to competitively bid against the large mainland manufacturers and importers who would be bidding for large segments of this quota; and

"Whereas, the newly restructured Harmonized Tariff Schedule is already effectively administered and enforced by the United States Customs Service to ensure the national textile and apparel industry's adequate protection of imported merchandise as limited under the Textile and Apparel Quota system that has been in place for many years; now, therefore, be it

"*Resolved by the House of Representatives of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, the Senate concurring*, That the President of the United States and the United States Congress are urged to oppose the proposed federal Textile and Apparel legislation and federal action wich further restricts the importation of textiles and apparel intended for Hawaii's garment manufacturing, wholesaling, and retailing industries; and be it further

"*Resolved*, That Hawaii's Congressional Delegation specifically oppose the limitation on growth in the importation of textiles and apparel to one percent per year, and vigorously oppose the imposition of a quota auctioning pilot program which would likely create a market in the buying and selling of quotas, thus seriously injuring small businesses throughout the Nation and raising prices of these necessities for American consumers; and be it further

"*Resolved*, That Hawaii's Congressional Delegation seek a special exception for imports under any federal Textile and Apparel legislation to ensure the continuation of the manufacture and sale of Aloha attire as an expression of Hawaii's unique 'Aloha Spirit'; and be it further

"*Resolved*, That certified copies of this Concurrent Resolution be transmitted to the President of the United States; the President of the United States Senate; the Speaker of the United States House of Representatives; members of Hawaii's congressional delegation; the Governor; the Director of Business, Economic Development, and Tourism; the Director of Labor and Industrial Relations; the Director of Taxation; and the President of the U.S. Chamber of Commerce."

POM-163. A resolution adopted by the City Council of Sweetwater, Florida urging Congress to amend the Fair Labor Standards Act by excluding the public sector from provisions thereof; to the Committee on Labor and Human Resources.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Velma Montoya, of California, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 1997; and

Frances Curtin McNaught, of Virginia, to be an Assistant Secretary of Labor.

(The following nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. REID:

S. 1377. A bill to amend the Public Health Service Act to expand the scope of the loan repayment programs for research with respect to AIDS to include other biomedical research, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DIXON (for himself, Mr. BYRD, Mr. BOREN, Mr. D'AMATO, Mr. FORD, Mr. HOLLINGS, Mr. HATFIELD, and Mr. SHELBY):

S. 1378. A bill to amend the Arms Export Control Act to delay the approval of arms sales, exports, and licensing agreements unless the corresponding memorandum of understanding, before entry into force, has been transmitted to the Congress; to the Committee on Foreign Relations.

By Mr. EXON (for himself and Mr. SYMMS):

S. 1379. A bill to prohibit the payment of Federal benefits to illegal aliens; to the Committee on Finance.

By Mr. BOND:

S. 1380. A bill to provide access to prenatal care, housing, nutrition, and parenting skills for needy families, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GRAHAM (for himself, Mr. AKAKA, Mr. DECONCINI, and Mr. DASCHLE):

S. 1381. A bill to amend chapter 71 of title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay concurrently with disability compensation; to the Committee on Armed Services.

By Mr. BENTSEN (for himself and Mr. GRAMM):

S. 1382. A bill to authorize the Secretary of the Interior to construct and test the Lake Meredith Salinity Control Project, New Mexico and Texas, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MCCAIN (for himself and Mr. GRAHAM):

S. 1383. A bill to amend title 10, United States Code, to provide for payment under CHAMPUS of certain health-care expenses incurred by members and former members of the uniformed services and their dependents who are entitled to retired or retainer pay and who are otherwise ineligible for such payment by reason of their entitlement to benefits under title XVIII of the Social Security Act because of a disability, and for other purposes; to the Committee on Armed Services.

By Mr. THURMOND:

S. 1384. A bill to extend the temporary suspension of duty on certain chemicals; to the Committee on Finance.

S. 1385. A bill to extend the temporary suspension of duty on tetraamino biphenyl; to the Committee on Finance.

S. 1386. A bill to suspend temporarily the duty on Phospholan; to the Committee on Finance.

S. 1387. A bill to suspend temporarily the duty on acet-p-anisidine; to the Committee on Finance.

S. 1388. A bill to suspend temporarily the duty on diazo-2,1,4-suflonic acid and its salts; to the Committee on Finance.

S. 1389. A bill to suspend temporarily the duty on 2,4-dinitro aniline; to the Committee on Finance.

S. 1390. A bill to suspend temporarily the duty on 3-amino-acetanilide-4-suflonic acid; to the Committee on Finance.

S. 1391. A bill to suspend temporarily the duty on chloranil; to the Committee on Finance.

By Mr. BRYAN (for himself and Mr. MCCAIN):

S. 1392. A bill to strengthen the authority of the Federal Trade Commission regarding fraud committed in connection with sales made with a telephone, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DASCHLE:

S. 1393. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on certain amounts received in connection with certain combinations or acquisitions of partnerships where there are not certain dissenters' rights; to the Committee on Finance.

By Mr. BENTSEN (for himself and Mr. PACKWOOD):

S. 1394. A bill to simplify certain provisions of the Internal Revenue Code of 1986; to the Committee on Finance.

By Mr. GRASSLEY:

S. 1395. A bill to assist in the development of microenterprises and microenterprise lending; to the Committee on Finance.

By Mr. RIEGLE:

S. 1396. A bill to reduce the column 1 general rate of duty on Flurbiprofen; to the Committee on Finance.

By Mr. DIXON (for himself, Mr. BYRD, Mr. BOREN, Mr. D'AMATO, Mr. FORD, and Mr. SHELBY):

S. 1397. A bill to condition funding for coproduction with South Korea of the F-16 aircraft on receipt by Congress of the relevant Memorandum of Understanding (MOU) and to extend the 30-day congressional review period until the MOU is received; to the Committee on Armed Services.

By Mr. REID (for himself, Mr. GRAHAM, and Mr. DURENBERGER):

S. 1398. A bill to amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from certain rules for determining contributions in aid of construction; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. INOUYE (for himself, Mr. LUGAR, Mr. AKAKA, and Mr. DODD):

S. Res. 146. A resolution expressing the sense of the Senate regarding the recent volcanic disaster in the Philippines; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID:

S. 1377. A bill to amend the Public Health Service Act to expand the scope of the loan repayment programs for research with respect to AIDS to include other biomedical research, and for other purposes; to the Committee on Labor and Human Resources.

EXPANSION OF LOAN REPAYMENT PROGRAMS FOR AIDS RESEARCH

Mr. REID. Mr. President, after being in Washington as a Member of Congress for almost 9 years, I made my first visit recently to the National Institutes of Health. These institutes are, without question, the foremost biomedical research facilities in the world. It is an area where the United States is clearly, without question, in the forefront of medical research.

I developed, prior to going to the National Institutes, a great respect and appreciation for the work done by these institutes. But this personal tour that I took closely showed me how impressive and even exciting these institutes are.

For example, when I visited one of the institutes called the Neurological Disorders and Stroke Institute, the director, one Dr. Murray Goldstein, acquainted me with the evolution of really a great discovery.

During the course of his being the head of that institute a number of scientists came to him and said, we need your permission to do work on an investigation we are doing. They believed that by administering large doses of corticosteroids to an individual immediately after an accident could slow down and in many instances stop paralysis.

Their first test was a failure. They came back to him later and said could we try it again. He agreed. Still a failure.

The third time they came back he said, we have spent enough money on this, I think it is time you went to something else. They in effect begged him to allow them to do another test. The work that they had done in their laboratory showed that the administration of these steroids to patients immediately after an injury would stop paralysis. He called together a group of scientists to review the proposed research and after much talk and analysis they decided once again to try this test.

It worked. After the third try it worked. They administered the substance in mass quantities and found if given to a trauma victim within an hour of injury degeneration of the spine could be halted. A miraculous finding recently done. And now, Mr. President, in all medical facilities in the country, in trauma centers all over this country, this substance is available.

The interesting thing is that this treatment which not only will save much misery and heartaches for the individual who is injured but his family and friends, and the medical costs involved, hundreds of thousands of dollars over the lifetime of the patient, the administration of this drug costs less than $100.

These are the kinds of things going on not far from the Nation's Capitol at our National Institutes of Health. I could continue, Mr. President, about the seemingly miraculous—not seemingly, they are miraculous—discoveries that are being made at the National Institutes of Health.

And it is important to point out that the institutes work on vastly different projects. But even though that is the case I did encounter a recurring theme as I visited these institutes. NIH does not pay salaries compared to those offered by the private sector, those private sector facilities do biomedical. These institutes have difficulty recruiting scientists, and once they are recruited great difficulty in keeping scientists.

When one considers the amount of debt amassed by both medical doctors and Ph.D.'s during their training, it comes as no surprise that recently graduated scientists cannot accept lower paying jobs offered by this biomedical research center. This is the case in many, many instances, in fact most.

Currently there are existing at NIH a very successful approach to attracting scientists to the facility to do research in the area where shortages of researchers exist, and this is specifically this the area of AIDS investigation and research. In that area, there is a program that allows the NIH to help repay the loans that these scientists have incurred receiving their education.

This program, the AIDS Loan Repayment Program, permits the NIH to attract researchers to work in the area of AIDS, where a desperate shortage exists, by repaying each year of service to NIH a predetermined amount of researcher educational loans.

Mr. President, I want to extend this excellent program to allow the National Institutes to Health to attract scientists in other areas where shortages of researchers exist, such as in the area of Alzheimers disease, cancer and heart disease, to name a few.

Extension of the AIDS Loan Repayment Program to other specialties takes on an ever greater significance when one considers that in 1990 approximately 80 percent of medical students borrowed money to finance their education. The average debt in 1990 for medical students was over $46,000, and 20 percent had debts well over $50,000. Not surprisingly, debt levels for minority students were even higher than other students.

As the National Institutes of Health is reauthorized in this Congress, I urge my colleagues to support the finest biomedical research facility in the world and in particular ensure that the Institutes remain capable of attracting scientific research personnel. It is harder and harder for them to do that.

I urge and recommend that my colleagues also find the time in their extremely busy schedules to visit the National Institutes of Health, an area where this country remains in the forefront, and I think we should continue to remain in the forefront. I believe that the bill I introduce today will allow us to do that.

By Mr. DIXON (for himself, Mr. BYRD, Mr. BOREN, Mr. D'AMATO, Mr. FORD, Mr. HOLLINGS, Mr. HATFIELD, and Mr. SHELBY):

S. 1378. A bill to amend the Arms Export Control Act to delay the approval of arms sales, exports, and licensing agreements, unless the corresponding memorandum of understanding, before entry into force, has been transmitted to the Congress; to the Committee on Foreign Relations.

ARMS EXPORT CONTROL ACT AMENDMENTS

Mr. DIXON. Mr. President, Senators BYRD, BOREN, D'AMATO, FORD, HATFIELD, HOLLINGS, and SHELBY today join me in sending an important bill to the desk and asking for its consideration. This legislation, which amends the Arms Export Control Act, deals with an issue my colleagues will readily recognize as a longtime concern of mine. Indeed, this is not the first time I have introduced legislation to safeguard Congress' right, as well as duty, to review the memoranda of understanding and all relevant documents that are part of agreements entered into by the President of the United States and foreign governments.

I continue to bring this issue up, Mr. President, because we have unfortunately experienced all too many times a situation where Congress has practically had to threaten the administration before we received the critical cooperation we should have gotten from the outset. This is a grave problem—it shows a sloppy attitude on the part of the administration toward national security measures and it threatens the very integrity of our democratic governing process.

This process we adhere to with such respect and admiration was instituted by the founders of this Nation, who made it forcefully clear they did not want their country run exclusively by any one branch of government. They were wise enough even then to foresee the dangers of a system lacking the necessary checks and balances. Thus, while the President is given the responsibility for conducting negotiations with foreign nations, it is Congress to whom the Constitution in article 1, section 8, gives authority to "regulate commerce with foreign nations." The Constitution could not be more clear—Congress has the right to access any and all pertinent documents because the same Congress has the responsibility to make informed decisions on foreign commerce. Surely anyone can understand it is difficult for Congress to make informed decisions when denied necessary information.

That is why, Mr. President, I am today introducing legislation designed to remind the administration of its duties under the law, indeed, under the constitution. This bill does not withdraw or impede the President's authority to negotiate sales agreements. What this bill does is merely to require the administration to give the Speaker of the House and the President pro tempore of the Senate the actual memorandum of understanding and any side letters of agreement involved in foreign contracts for the coproduction or codevelopment of major defense equipment. The bill also says that the 30 day period which Congress has for consideration of the agreement will not begin unless Congress has received these documents.

Our bill is designed to end once and for all the President charade in which we in Congress are continually asked to approve an agreement between the President and a foreign government, while nobody—nobody at all—in the Senate or the House is permitted to look at the document before we act. We want no more rubberstamps, Mr. President. I urge my colleagues to take careful note of this bill, and the serious nature of what the administration has been doing by asking us to approve something sight unseen. Without a doubt, this is something none of us would do in conducting our private business; we can hardly do any less in conducting public business. All we are asking is that Congress be given the resources it needs to responsibly carry out its share of the governing process.

Mr. President, I ask unanimous consent that a copy of the bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1378

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 36 of the Arms Export Control Act is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of this section, no Presidential certification under subsection (b), (c), or (d) shall be deemed to have been received by the Congress, for purposes of any such subsection, if the certification is made with respect to a sale, export, or agreement required by a memorandum of understanding (MOU) between the United States and a foreign government for the coproduction or codevelopment of major defense equipment, unless the President, before such MOU entered into force with respect to the United States, transmitted the text of such MOU and any related document (including exchanges of letters between the governments) to the Speaker of the House of Representatives and the President pro tempore of the Senate.".

By Mr. EXON (for himself and Mr. BOND):

S. 1379. A bill to prohibit the payment of Federal benefits to illegal aliens, to the Committee on Finance.

PROHIBITING FEDERAL BENEFITS OF ILLEGAL ALIENS

Mr. EXON. Mr. President, I rise to introduce legislation to prohibit the payment of direct Federal financial benefits to illegal aliens. This legislation will help deter illegal immigration and reduce unintended Federal spending.

In 1986, the Congress attempted to control illegal immigration into the United States. Unfortunately, illegal immigration persists. One reason is that a powerful magnet for illegal immigration still remains. That attraction to illegal immigration is the real or perceived availability of U.S. Government benefits to illegal aliens.

Today, I rise to introduce legislation to establish a government-wide policy that directs Federal financial benefits not be paid to illegal aliens unless specifically provided by the Immigration and Nationality Act.

Over the years, the Congress has crafted ad hoc qualifications in Federal benefit statutes. At times, due to congressional inaccuracy on expansive court interpretations, these statutes have been used to provide Federal financial benefits to illegal aliens.

This situation has led to the payment of unemployment, Social Security, health care and housing benefits to individuals who have no legal right to even be in the United States.

In an era of massive Federal deficits, even small instances of waste, fraud and abuse cannot be tolerated.

The Federal Government must insure that limited Federal funds go to their intended beneficiaries. The Congress made good progress in requiring verification of status for certain entitlement programs and in authorizing the systematic alien verification for entitlement programs better known as the save program.

However, these steps contained in the Immigration Reform and Control Act of 1986 can only be as effective as the interpretations of the various underlying benefit statutes.

Our Nation faces large Federal deficits and the constraints of the Gramm-Rudman law. Federal dollars paid to an illegal alien, sympathetic or otherwise, are literally dollars taken away from one of our own citizens.

This legislation gives the Congress an opportunity to set the record straight. This measure is both a means to control illegal immigration and means to control budget deficits. Without the real or perceived attraction to Federal benefits, illegal immigration will be deterred. Without the seepage of benefits away from intended beneficiaries, money will be saved.

Similar legislation was adopted by the Senate as an amendment to the immigration reform bill last year. Unfortunately, the provision was dropped in conference for reasons unknown to this Senator.

Simply put, Mr. President, this legislation states that Federal benefits should not go to those who are in the United States illegally. If my colleagues feel as I do, that taxpayer's dollars should not go to illegal aliens, I ask them to join me in support of this measure.

By Mr. BOND:

S. 1380. A bill to provide access to prenatal care, housing, nutrition, and parenting skills for needy families; to the Committee on Labor and Human Resources.

FAMILIES IN NEED ACT

Mr. BOND. Mr. President, every single day in this country more than 100 babies under the age of 1 die. That is more than 40,000 every year. Another 30,000 babies are stillborn. And an additional 11,000 babies born this year will have long-term disabilities because of low birthweight.

We have all heard these terrible statistics about infant mortality. But perhaps the most tragic element of the deaths of these children is that many, if not most, are preventable. We know that we can do better.

We know that whether or not a pregnant woman and her child have access to adequate housing, affordable health care, and sufficient nutrition help determine whether or not the child will reach its first birthday. We also know that much of infant mortality is due to preventable behaviors such as smoking, drinking, and using drugs. With additional investment and a multifaceted approach, we can help families in crisis get the support they need.

Mr. President, today I am introducing the Families in Need Act of 1991, legislation which attacks the tragedy of infant mortality on several fronts: housing, health care, nutrition, and behavior. I ask that a copy of the bill and a legislative summary be included in the RECORD, and I urge that my colleagues take a look at all of the provisions. I know that all of my colleagues are concerned about the problem of infant mortality—many have been working hard on the issue for a number of years—and through this bill I hope to make a contribution to the debate over how best to fight this problem.

Today, however, I would like to highlight a few of what I believe are the more crucial provisions.

First, access to prenatal care: Last year nearly 75,000 American women received no prenatal care—at all. In many areas of this country, lack of access to any type of health-care services is an obvious and formidable barrier for a pregnant woman seeking prenatal care. Half a million rural residents live in counties with no physician trained to provide obstetric care; and almost one-third of all rural residents live in areas desperately short of physicians of any type.

Community health centers serve as our front line of health-care services for the uninsured and indigent. I favor increased appropriations for the vital health-care services they provide. In addition, the Families in Need Act would expand access to health care in rural and underserved urban areas through satellite Health Centers and Mobile Clinics.

The bill provides incentives for physicians to practice in rural areas and care for pregnant women and infants, and expands the Comprehensive Perinatal Care Program operated through community health centers.

In addition, the bill attempts to bring the Federal health and welfare system into the 20th century by setting up computerized one-stop shopping, so that our neediest citizens do not have to make their way to a variety of different locations and fill our reams of paperwork in order to obtain benefits. Instead, one application would be filled out, and both agencies and clients would know immediately who was eligible for what type of assistance. Even more important, Federal spending could then be shifted from paperwork and bureaucracy to providing needed services.

It might surprise some of my colleagues to learn that birth defects are the leading cause of infant mortality in this country. The health consequences of the infants born with birth defects who survive cost this nation billions of dollars each year for health care and special education, not to mention the cost in human terms. Yet, the cause of most birth defects is still unknown.

This bill would place the Centers for Disease Control in charge of coordinating nationwide birth defects surveillance programs at the State level that will help us discover the clues needed for critically important research into the causes of birth defects. CDC would then coordinate and fund research efforts and develop birth defects prevention strategies and programs. I find it unbelievable that we are not already doing that, yet CDC has not had the resources to perform these activities.

It might also surprise my colleagues to learn that despite the preferences contained in the public housing law, there are families who cannot obtain housing to avoid family breakup. There are thousands of families across this country whose children have been placed in foster care, not because of any abuse or neglect, but simply because the family cannot find adequate housing. These families are supposed to have preference for housing under current law, but that's not the way it works. So, last year during reauthorization of the housing bill, we passed a new program called "Family Unification." This provides a separate pot of section 8 money for families who've been separated because of lack of housing. The problem is, we didn't fund it this year. I trust that will change as we consider appropriations this year. The Families in Need bill provides additional funds for the Family Unification Program and authorizes it permanently.

Mr. President, despite increasing societal recognition of single and even teenage parenthood, the fact is that many poor pregnant women have nowhere to go. Whether shunned by family, or runaways, these women—often teenagers—are unable to obtain public housing and must drift from shelter to shelter. This legislation would set up a Maternity Housing Assistance Program for private or public nonprofit agencies who wish to serve this special population. Those receiving assistance would have to provide additional support services or referrals to prenatal care, job and education training, parenting skills, and the like. The provisions in my bill are similar to those proposed by some of my colleagues in the adoption coalition, and I hope that we can get the ball rolling on this important type of housing assistance.

One of the most important aspects of the Families in Need legislation is increased funding for the Women, Infants, and Children [WIC] Special Supplemental Nutrition Program. There is widespread support for this program, and I believe it is one of Congress' sacred cows that is really worth keeping. Unlike so many other Federal programs, WIC is well-run, and produces both qualitative and quantitative results. Study after study shows that the program more than pays for itself through Medicaid savings in the first 30 days of an infants' life, not to mention what it saves in terms of human suffering and medical costs beyond the first 30 days.

Mr. President, the March of Dimes, the American College of Obstetricians and Gynecologists and the National Association of Community Health Centers have endorsed this bill.

Finally, Mr. President, we know that the impact the Federal Government can have on the lives of any needy individual is limited. To a great extent, the ability of one to overcome his or her negative circumstances depends on the person. Ultimately it is the individual who must make the choice—every day—to engage in constructive behavior in order to move forward. Certainly this applies to a pregnant woman, who has more than one life at stake. Yet, it is shameful for us not to provide the resources these women need to help them make the choice to strengthen their lifes. We must take steps to help these families in crisis.

Mr. President, this is an important targeted program to meet some immediate needs that have been identified by organizations in my State and by national organizations, as I have indicated, in letters of endorsement.

I ask that my colleagues take a look at these proposals. I intend to present them as amendments on appropriate legislation and urge committee hearings on them. I look forward to working with my colleagues to address some very important needs that have been addressed most recently by the National Commission on Children.

I believe in this case, we have presented some affordable programs that are vitally needed and can provide significant results.

Mr. President, I ask unanimous consent that a copy of the bill and a summary of the bill be printed in the RECORD; that letters of endorsement from the March of Dimes Birth Defects Foundation, the National Association of Community Health Centers, the American College of Obstetricians and Gynecologists also be printed in the RECORD.

I also ask unanimous consent that a table showing a summary of the spending represented by this legislation be printed in the RECORD.

The PRESIDING OFFICER. Does the distinguished Senator ask the entire bill be included, or a summary of the bill?

Mr. BOND. The bill and a summary.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1380

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Families in Need Act of 1991".

(b) TABLE OF CONTENTS.—

TITLE I—HOUSING
Sec. 101. Increase in assistance to promote family unification.
Sec. 102. Projects assisting homeless pregnant and postpartum women.
Sec. 103. Transitional housing vouchers for pregnant and postpartum women.
Sec. 104. Aid to shelters for women victims of domestic violence.
TITLE II—ACCESS TO HEALTH CARE, CHILDHOOD IMMUNIZATIONS, PROGRAM SIMPLIFICATION AND OUTREACH FOR WOMEN AND INFANTS
Sec. 201. Comprehensive perinatal care program.
Sec. 202. Childhood immunizations.
Sec. 203. Obstetric provider shortage areas.
Sec. 204. Malpractice insurance assistance.
Sec. 205. Volunteer outreach activities for improvements in prenatal care.
Sec. 206. Public Health Service Act programs to improve prenatal and perinatal health.
Sec. 207. Coordination of surveillance and leadership activities concerning birth defects.
TITLE III—NUTRITION
Sec. 301. Authorization of appropriations for special supplemental food program for women, infants, and children (WIC).

TITLE I—HOUSING

SEC. 101. INCREASE IN ASSISTANCE TO PROMOTE FAMILY UNIFICATION.

Section 8(x)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(x)(1)) is amended by striking "$35,000,000 on or after October 1, 1991" and inserting in lieu thereof "$50,000,000 on or after October 1, 1991, by $55,000,000 on or after October 1, 1992, by $60,000,000 on or after October 1, 1993, and such sums as are necessary thereafter".

SEC. 102. PROJECTS ASSISTING HOMELESS PREGNANT AND POSTPARTUM WOMEN.

(a) TECHNICAL ASSISTANCE TO PROJECTS ASSISTING HOMELESS PREGNANT AND POSTPARTUM WOMEN.—Section 423(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)) is amended—

(1) by designating the last paragraph as paragraph (7); and

(2) by adding at the end the following new paragraph:

"(8) Technical assistance for community nonprofit organizations to begin and expand projects, with preference given to those entities assisting homeless pregnant and postpartum women.".

(b) SET ASIDE TO FUND PROJECTS ASSISTING HOMELESS PREGNANT AND POSTPARTUM WOMEN.—Section 428(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11388(b)) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting ", and"; and

(3) by adding at the end the following new paragraph:

"(3) not less than $5,000,000 shall be allocated to projects assisting homeless pregnant and postpartum women.".

(c) SECRETARY'S DISCRETION TO LOWER MATCHING FUNDS REQUIREMENTS.—Section 425(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11385(a)) is amended by adding at the end the following: "Upon a determination by the Secretary that a recipient of assistance under section 423(a) has demonstrated great need, as measured by criteria relating to the extent of homelessness that are contained in a regulation to be prescribed by the Secretary, the Secretary may reduce the amount of matching funds required by this section to an amount equal to 30 percent of the total cost of the project funded.".

SEC. 103. TRANSITIONAL HOUSING ASSISTANCE FOR PREGNANT AND POSTPARTUM WOMEN.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall carry out a program to provide assistance in accordance with section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) to provide housing assistance for pregnant and postpartum women.

(b) DUTIES OF SPONSORS.—A sponsor who enters into a contract under this section shall provide, or refer pregnant and postpartum women to providers of, appropriate supportive services, including but not limited to the following:

(1) Room and board.

(2) Prenatal care.

(3) Parenting skills education.

(4) Treatment for substance abuse problems.

(5) Nutrition counseling.

(6) Vocational and educational counseling.

(7) Transportation to other facilities.

In addition, each sponsor shall maintain a drug-free environment for pregnant and postpartum women assisted under this section.

(c) TERM OF ASSISTANCE.—Contracts for assistance under this section shall provide for assistance payments for a period not longer than 1 year.

(d) SPONSORS.—Contracts under this section may be entered into with sponsors who are public or private nonprofit organizations.

(e) REGULATIONS.—The Secretary of Housing and Urban Development shall promulgate regulations to implement this section within 180 days from the date of its enactment.

(f) INCOME ELIGIBILITY GUIDELINES.—The eligibility of women for assistance under this section shall be determined in accordance with the same guidelines applicable under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(g) AMOUNT OF PAYMENT.—The amount of a monthly payment pursuant to a contract under this section may not exceed $80 per day.

(h) AUTHORIZATION.—For the purpose of carrying out this section, there are authorized to be appropriated $25,000,000 for fiscal year 1992, $30,000,000 for fiscal year 1993, $35,000,000 for fiscal year 1994, and $40,000,000 for fiscal year 1995.

SEC. 104. AID TO SHELTERS FOR WOMEN VICTIMS OF DOMESTIC VIOLENCE.

(a) PREFERENCES.—Section 303 of the Family Violence Prevention and Services Act (42 U.S.C. 10402) is amended—

(1) in subsection (a)(2)(B)(ii), to read as follows:

"(ii) in the distribution of funds by the State under this subsection, the State will give special emphasis to the support of—

"(I) community-based projects of demonstrated effectiveness carried out by nonprofit private organizations, particularly projects the primary purpose of which is to operate shelters for victims of family violence and dependents of the victims, and projects that provide counseling, alcohol and drug abuse treatment, self-help services to abusers and victims, and referral to medical care; and

"(II) projects serving pregnant women and women with dependent children."; and

(2) in subsection (b), by inserting "(B)(ii)(II)," after "clauses".

(b) AUTHORIZATION.—Section 310(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10409(a)) is amended to read as follows:

"(a) There are authorized to be appropriated to carry out this title $70,000,000 for fiscal year 1992, $75,000,000 for fiscal year 1993, $80,000,000 for fiscal year 1994, and $85,000,000 for fiscal year 1995.".

TITLE II—ACCESS TO HEALTH CARE, CHILDHOOD IMMUNIZATIONS, PROGRAM SIMPLIFICATION AND OUTREACH FOR WOMEN AND INFANTS

SEC. 201. COMPREHENSIVE PERINATAL CARE PROGRAM.

(a) MIGRANT HEALTH CENTERS.—Section 329 of the Public Health Service Act (42 U.S.C. 254b) is amended by adding at the end thereof the following new subsection:

"(j)(1) Notwithstanding any other provision of law, the Secretary shall give priority to using the amounts described in paragraph (2) in each fiscal year to expand the comprehensive perinatal care program through the provision of grants to entities that have not received a grant under such program prior to the date of enactment of this subsection, but that are otherwise eligible to receive such grants, and through the provision of supplemental grants to grantees receiving assistance under this section in amounts that are less than the amounts required for the needs of such grantees.

"(2) The amount referred to in paragraph (1) for a fiscal year shall be an amount equal to that amount of funds appropriated in such fiscal year to carry out the comprehensive perinatal care program that is in excess of the amount appropriated to carry out such program in fiscal year 1991, adjusted in such fiscal year to reflect the current services baseline as determined by the Congressional Budget Office.".

(b) COMMUNITY HEALTH CENTERS.—Section 330 of such Act (42 U.S.C. 254c) is amended by adding at the end thereof the following new subsection:

"(l)(1) Notwithstanding any other provision of law, the Secretary shall give priority to using the amounts described in paragraph (2) in each fiscal year to expand the comprehensive perinatal care program through the provision of grants to entities that have not received a grant under such program prior to the date of enactment of this subsection, but that are otherwise eligible to receive such grants, and through the provision of supplemental grants to grantees receiving assistance under this section in amounts that are less than the amounts required for the needs of such grantees.

"(2) The amount referred to in paragraph (1) for a fiscal year shall be an amount equal to that amount of funds appropriated in such fiscal year to carry out the comprehensive perinatal care program that is in excess of the amount appropriated to carry out such program in fiscal year 1991, adjusted in such fiscal year to reflect the current services baseline as determined by the Congressional Budget Office.".

(c) HOMELESS HEALTH.—Section 340 of such Act (42 U.S.C. 256) is amended by adding at the end thereof the following new subsection:

"(t) EXPANSION OF PROGRAMS.—

"(1) GRANTS.—Notwithstanding any other provision of law, the Secretary shall give priority to using the amounts described in paragraph (2) in each fiscal year to expand the comprehensive perinatal care program through the provision of grants to entities that have not received a grant under such program prior to the date of enactment of this subsection, but that are otherwise eligible to receive such grants, and through the provision of supplemental grants to grantees receiving assistance under this section in amounts that are less than the amounts required for the needs of such grantees.

"(2) AMOUNT.—The amount referred to in paragraph (1) for a fiscal year shall be an amount equal to that amount of funds appropriated in such fiscal year to carry out the comprehensive perinatal care program that is in excess of the amount appropriated to carry out such program in fiscal year 1991, adjusted in such fiscal year to reflect the current services baseline as determined by the Congressional Budget Office.".

SEC. 202. CHILDHOOD IMMUNIZATIONS.

Section 317(j)(1) of the Public Health Service Act (42 U.S.C. 247b(j)(1)) is amended by adding at the end thereof the following new subparagraph:

"(C)(i) Notwithstanding any other provision of law, the Secretary shall ensure that entities receiving assistance under section 329, 330 or 340 are permitted to participate, in accordance with clause (ii), in the bulk vaccine purchasing program administered with amounts made available under this paragraph.

"(ii) To be eligible to receive vaccines under this subparagraph, an entity of the type referred to in clause (i) shall submit a request for such vaccines with the appropriate State or local health department that is part of the Centers for Disease Control vaccine distribution system. Such request shall be specific as to the amount and type of vaccine requested.

"(iii) A State or local health department that receives a request under clause (ii), shall include such request in the request that is submitted by such State or local health department to the Centers for Disease Control for the purchase of vaccines under this paragraph.

"(iv) The Centers for Disease Control shall purchase vaccines according to requests received from State or local health departments and distribute such to State or local health departments. Upon receipt of vaccines, the State or local health departments shall notify an entity submitting a request under clause (ii) that such request has been approved and that the vaccines under such request are available for use by such entity.".

SEC. 203. OBSTETRIC PROVIDER SHORTAGE AREAS.

Section 332 of the Public Health Service Act (42 U.S.C. 254e) is amended—

(1) in subsection (a)(1)—

(A) by striking out "term 'health professional shortage area' means" and inserting in lieu thereof "terms 'health professional shortage area', obstetric provider shortage area', and 'pediatric provider shortage area' mean";

(B) by striking out "determined to be a health professional shortage area" and inserting in lieu thereof "determined to be a health professional shortage area, obstetric provider shortage area, or a pediatric provider shortage area"; and

(C) by striking out "designation as a health professional shortage area" and inserting in lieu thereof "designation as such an area";

(2) in subsection (b)—

(A) by inserting ", obstetric provider shortage areas, or pediatric provider shortage areas" before the period in the matter preceding paragraph (1); and

(B) by adding at the end thereof the following new paragraphs:

"(4) With respect to obstetric provider shortage areas, in establishing by regulation criteria for the designation of such areas, population groups, medical facilities, and other public facilities in the States as such areas the Secretary shall give priority to the consideration of—

"(A) the low birthweight incidence in the area;

"(B) the degree of access to obstetric care available to the Medicaid-eligible population in the area; and

"(C) the infant mortality rate in the area.

"(5) With respect to pediatric provider shortage areas, in establishing by regulation criteria for the designation of such areas, population groups, medical facilities, and other public facilities in the States as such areas the Secretary shall give priority to the consideration of—

"(A) the size of the pediatric population in an area; and

"(B) the degree of access to pediatric care available to the Medicaid-eligible population in the area.";

(3) in subsection (d)(1), by inserting ", obstetric provider shortage areas, or pediatric provider shortage areas" after "shortage areas;

(4) in subsection (e), by inserting after "professional shortage area" each place that such occurs ", obstetric provider shortage areas, or pediatric provider shortage areas";

(5) in subsection (f), by inserting after "professional shortage area" ", obstetric provider shortage area, or pediatric provider shortage area";

(6) in subsection (g), by inserting after "professional shortage area" ", obstetric provider shortage area, or pediatric provider shortage area"; and

(7) in subsection (h), by inserting after "professional shortage areas" ", obstetric provider shortage areas, or pediatric provider shortage areas".

SEC. 204. MALPRACTICE INSURANCE ASSISTANCE.

Subpart III of part D of the Public Health Service Act (42 U.S.C. 2541 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 338M. ASSISTANCE FOR THE PAYMENT OF MALPRACTICE INSURANCE COSTS.

"(a) Corps Members.—

"(1) Authority.—The Secretary may provide assistance to eligible National Health Service Corps members to assist such members in paying the costs associated with the acquisition of certain malpractice insurance.

"(2) Eligibility.—To be eligible to receive assistance under paragraph (1), an individual shall—

"(A) have been assigned by the National Health Service Corps to the area in which the individual is currently practicing;

"(B) have been in continuous practice in such area;

"(C)(i) be an obstetrician-gynecologist, family physician, osteopathic physician, certified nurse midwife, or nurse practitioner who is providing obstetric services; or

"(ii) be a pediatrician, family physician, nurse practitioner or osteopathic physician providing pediatric services;

"(D) certify that such individual will use such assistance to defray the costs associated with the purchase of malpractice insurance of the type described in paragraph (3);

"(E) prepare and submit to the Secretary, an application at such time, in such manner, and containing such information as the Secretary may require; and

"(F) meet any other requirement that may be established by the Secretary.

"(3) Malpractice insurance.—Assistance provided to an individual under this subsection shall be used to defray the costs associated with the purchase of a reporting endorsement to provide coverage for a claim filed in connection with services performed during the period covered by this section after the insurance covering the service provided under this section would otherwise have terminated.

"(4) Amounts of assistance.—The amount of assistance provided to an individual under this subsection shall be based on the period of service of such individual. Such member shall be eligible for assistance in an amount equal to—

"(A) 10 percent of the cost of the malpractice insurance described in paragraph (3), if such individual agrees to serve in the area for not less than a 2-year period nor more than a 3-year period;

"(B) 30 percent of the cost of the malpractice insurance described in paragraph (3), if such individual agrees to serve in the area for not less than a 3-year period nor more than a 4-year period;

"(C) 50 percent of the cost of the malpractice insurance described in paragraph (3), if such individual agrees to serve in the area for not less than a 4-year period nor more than a 5-year period;

"(D) 75 percent of the cost of the malpractice insurance described in paragraph (3), if such individual agrees to serve in the area for not less than a 5-year period nor more than a 6-year period; and

"(E) 100 percent of the cost of the malpractice insurance described in paragraph (3), if such individual agrees to serve in the area for not less than a 6-year period nor more than a 7-year period.

"(5) Reduction in assistance.—If an individual receiving assistance under this subsection discontinues the service of such individual in the assigned service area prior to the date on which such service obligation is scheduled to terminate, the assistance provided to such individual shall be reduced in accordance with paragraph (4) based on the time such individual actually served.

"(6) Authorization of appropriations.—There are authorized to be appropriated to carry out this subsection, $5,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 and 1994.

"(b) Grants for Service in Certain Areas.—

"(1) In general.—The Secretary may award grants to States for the purpose of establishing State programs to award compensation to eligible individuals to assist such individuals in paying the costs associated with the acquisition of malpractice insurance.

"(2) Eligibility.—

"(A) Grant from Secretary.—To be eligible to receive a grant under paragraph (1), a State shall prepare and submit to the Secretary, an application at such time, in such manner, and containing such information as the Secretary may require.

"(B) Assistance from State.—To be eligible to receive assistance from the State under a grant awarded under paragraph (1), an individual shall—

"(i) certify to the State that such individual provides obstetric services or that the individuals will begin providing obstetric services as a condition of receiving such assistance in a health professional shortage area, a medically underserved area, or an obstetric care shortage area;

"(ii) certify to the State that such individual accepts patients without regard to whether the women are Medicaid-eligible;

"(iii) be a physician, osteopathic physician, certified nurse midwife or nurse practitioner; and

"(iv) meet any other requirement that may be established by the State.

"(3) Amount of grant.—The amount of compensation provided to an individual under this subsection shall equal not more than 25 percent of the costs associated with the acquisition of malpractice insurance by such individual, or the difference between the cost of acquiring malpractice insurance for providers that do not provide obstetrics and the cost of acquiring such insurance for providers that do provide obstetrics, or any other amount as determined by the State and approved by the Secretary.

"(4) Authorization of appropriations.—There are authorized to be appropriated to carry out this subsection, $9,500,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 and 1994.".

SEC. 205. VOLUNTEER OUTREACH ACTIVITIES FOR IMPROVEMENTS IN PRENATAL CARE.

(a) In General.—Title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.) is amended by adding at the end thereof the following new part:

"Part D—Other Volunteer Activities

"SEC. 131. VOLUNTEER OUTREACH ACTIVITIES FOR PREGNANT WOMEN AND CHILDREN.

"(a) Expansion of Activities.—The Director, using authority provided under this title, shall use amounts appropriated under section [501(f)] in each fiscal year to expand volunteer outreach activities that are targeted at communities with high concentrations of pregnant women who receive inadequate prenatal care, such as comprehensive home visiting programs, transportation to obstetric services, or assistance with applications for public benefits.

"(b) Targeted Population.—Volunteer activities conducted under subsection (a) shall be targeted at high risk communities as identified by—

"(1) high proportions of women with delayed prenatal care or inadequate numbers of prenatal care visits;

"(2) high rates of substance abuse, including tobacco, alcohol, crack/cocaine, or other substances; or

"(3) high rates of infant mortality or low birthweight births.".

(b) Authorization of Appropriations.—Section 501 of such Act (42 U.S.C. 5081) is amended by adding at the end thereof the following new subsection:

"(f) There are authorized to be appropriated to carry out part D of title I, $1,000,000 for fiscal year 1992, $1,500,000 for each of the fiscal years 1993 and 1994, and such sums as may be necessary for each subsequent fiscal year.".

SEC. 206. PUBLIC HEALTH SERVICE ACT PROGRAMS TO IMPROVE PRENATAL AND PERINATAL HEALTH.

Title XI of the Public Health Service Act (42 U.S.C. 300b-1 et seq.) is amended—

(1) in the title heading to read as follows:

"TITLE XI—GENETIC DISEASES, BIRTH DEFECTS, SUDDEN INFANT DEATH SYNDROME, HEMOPHILIA PROGRAMS, AND PRENATAL AND PERINATAL HEALTH"; and

(2) by adding at the end thereof the following new part:

Part D—Programs to Improve the Health of Pregnant Women, Infants, and Children

"SEC. 1141. SATELLITE HEALTH CENTERS OR MOBILE CLINICS PROGRAM.

"(a) Grants.—The Secretary may award grants to eligible entities for the establishment of satellite health centers or mobile clinics programs to expand the availability of obstetric care services in urban and rural areas that are designated as health professional shortage areas, medically underserved areas, or obstetric professional shortage areas or pediatric professional shortage areas.

"(b) Eligibility.—To be eligible to receive a grant under subsection (a), an entity shall—

"(1) be an entity that is—

"(A) a Federally qualified health center under section 1905(l)(2)(B) of the Social Security Act; or

"(B) a State or local health department;

"(2) prepare and submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may require;

"(3) assurances that such entity will coordinate with existing services and providers of care;

"(4) assurances that the proposed program will provide services in a cost-effective manner, as determined by the Secretary; and

"(5) meet any other requirements determined appropriate by the Secretary.

"(c) PRIORITY.—In awarding grants under subsection (a), the Secretary shall give priority to applicant entities that demonstrate that amounts received under such grant will be used to expand the availability of services in areas with high rates of infant mortality and little or no access to obstetric services.

"(d) USE OF FUNDS.—An entity shall use amounts provided under a grant received under subsection (a) to expand the availability of obstetric and primary care services, using the most cost-effective means possible, through the establishment of—

"(1) satellite health centers that provide such obstetric and primary care services (the costs of transporting personnel from existing health centers to satellite health centers may be paid for with such grant funds); or

"(2) a mobile clinics program under which funds may be used to establish mobile clinics, or assist existing clinics in expanding the provision of services, to provide such obstetric and primary care services where needed on a mobile basis.

"(e) MAINTENANCE OF EFFORT.—No grant may be made to an entity under this section unless the Secretary determines that there such entity has provided satisfactory assurances that amounts made available under such grant for any period will be used so as to supplement and, to the extent practicable, increase the level of State, local and other non-Federal funds that would, in the absence of such Federal funds, be made available for the program for which the grant is to be made and will in no event supplant such State, local and other non-Federal funds.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $50,000,000 for fiscal year 1992, $60,000,000 for fiscal year 1993, $65,000,000 for fiscal year 1994, and such sums as may be necessary for each subsequent fiscal year.

"SEC. 1142. COMPUTERIZED INTEGRATION OF SERVICES DEMONSTRATION PROGRAM.

"(a) GRANTS.—The Secretary may award grants to States for the establishment of Statewide computerized Federal and State program eligibility programs, as described in subsection (c).

"(b) APPLICATION.—To be eligible to receive a grant under subsection (a), a State shall prepare and submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may require.

"(c) USE OF FUNDS.—A State shall use amounts provided under a grant awarded under subsection (a), to—

"(1) design and implement, on a Statewide basis, a computerized system that permits any qualified individual as determined by the State involved in an eligibility determination to have access to recipient or applicant specific eligibility and application information through on-line access concerning all Federal and State programs, and to submit applications on-line for benefits under section 17 of the Child Nutrition Act of 1966, title XIX of the Social Security Act, Federal public housing programs, or other Federal assistance programs; or

"(2) provide for the processing of electronic claims for reimbursement to health care providers under programs, such as those under title XIX of the Social Security Act, that are administered by the State.

"(d) REPORT TO THE SECRETARY.—States receiving grants under this section shall prepare and submit to the Secretary a report that shall include information on the success of the State's program, problems encountered, a description of the program, the effect the program has had on availability of services to pregnant women, infants, and children, and any other information determined appropriate by the Secretary.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $6,000,000 for fiscal year 1992.

"SEC. 1143. NATIONAL INFANT HEALTH PUBLIC INFORMATION CAMPAIGN.

"(a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this part, the Secretary shall establish a National Infant Health Public Information Campaign that shall be designed to educate the general public concerning—

"(1) infant mortality and the risk factors associated with such;

"(2) the need for prenatal care and healthy lifestyles for pregnant women; and

"(3) other messages as determined appropriate by the Secretary; and

"(b) REPORT.—Not later than June 1, 1992, the Comptroller General of the United States shall conduct a study and prepare and submit, to the appropriate committees of Congress, a report that makes recommendations concerning legislation that should be enacted to make changes in Federal law to simplify the application processes and the administration of Federal and State programs that provide services to pregnant women, infants and children, if such changes may be implemented without compromising the general integrity of such programs.

SEC. 207. COORDINATION OF SURVEILLANCE AND LEADERSHIP ACTIVITIES CONCERNING BIRTH DEFECTS.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 317A, the following new section:

"SEC. 317B. COORDINATION OF SURVEILLANCE AND LEADERSHIP ACTIVITIES CONCERNING BIRTH DEFECTS.

"(a) PURPOSE.—The Centers for Disease Control shall coordinate nationwide birth defects surveillance, prevention, epidemiology and other activities.

"(b) CLEARINGHOUSE.—The Centers for Disease Control shall serve as the national clearinghouse for the collection and storage of data and information generated from birth defects monitoring programs. Such data collection shall be integrated in a manner that enables research into the causes of birth defects to be coordinated.

"(c) GRANTS.—

"(1) IN GENERAL.—The Secretary, acting through the Centers for Disease Control, may award grants to or enter into cooperative agreements with States to enable such States to establish or enhance State birth defects monitoring programs for the purpose of collecting data on the incidence of birth defects.

"(2) APPLICATION.—To be eligible for a grants or cooperative agreements under paragraph (1), a State shall prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary may prescribe, including—

"(1) assurances satisfactory to the Secretary that the data collected through the State program will integrate with other surveillance data being collected concerning birth defects;

"(2) assurances that the State program will collect data concerning birth defects outcomes according to classification guidelines prescribed by the Centers for Disease Control;

"(3) assurances that the State will make all data collected under the State program available to the Secretary in a format suitable for use in integrating the data with data collected from other sources as specified by the Secretary; and

"(4) any other assurances as the Secretary may require.

"(d) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States to enable such States to—

"(1) develop State birth defects monitoring programs; and

"(2) develop uniform methods for birth defects surveillance.

"(e) OTHER GRANTS.—The Secretary may award grants to or enter into cooperative agreements with States, political subdivisions of States, and other public and nonprofit private entities for—

"(1) the conduct of epidemiologic research using data collected by the State birth defects monitoring programs and integrated by the Centers for Disease Control to conduct further research into the causes of birth defects;

"(2) demonstration projects for the prevention of birth defects; and

"(3) to conduct of public information and education programs for the prevention of birth defects.

"(g) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section unless the Secretary determines that the State has provided satisfactory assurances that funds made available under such a grant will be used to supplement and, to the extent practical, increase the level of State, local and other non-Federal funds that would, in the absence of such Federal funds, be made available for the program for which the grant is to be made and will in no event supplant such State, local and other non-Federal funds.

"(h) PREVENTION STRATEGIES.—The Secretary shall develop, evaluate and implement birth defects prevention strategies designed to reduce the incidence of birth defects in cases where etiology is known or suspected.

"(i) AMOUNTS IN LIEU OF CASH.—The Secretary, at the request of a grant or cooperative agreement recipient under subsection (a), may reduce the amount of such grant by—

"(1) the fair market value of any supplies (including vaccines and other preventative agents) or equipment furnished the recipient; and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the recipient and the amount of any other costs incurred in connection with the detail of such officer or employee.

When the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of the recipient and for the purpose of carrying out a program with respect to which the grant or cooperative agreement under subsection (a) is made. The amount by which any such grant or agreement is so reduced shall be available for payment by the

Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant or agreement is based, and such amount shall be deemed as part of the grant or agreements and shall be deemed to have been paid to the recipient.

"(j) ANNUAL CONFERENCE.—The Secretary shall convene an annual birth defects conference to discuss recent findings on birth defects epidemiology and surveillance activities.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $15,000,000 for fiscal year 1992, $20,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996.".

TITLE III—NUTRITION

SEC. 301. AUTHORIZATION OF APPROPRIATIONS FOR SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC).

The first sentence of section 17(g)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)(1)) is amended by striking "and such sums as may be necessary for each of the fiscal years 1991, 1992, 1993, and 1994" and inserting "such sums as may be necessary for fiscal year 1991, $2,700,000,000 for fiscal year 1992, $3,100,000,000 for fiscal year 1993, and $3,500,000,000 for fiscal year 1994".

MARCH OF DIMES
BIRTH DEFECTS FOUNDATION,
Washington, DC, June 26, 1991.

Hon. CHRISTOPHER BOND,
U.S. Senate, Washington, DC.

DEAR SENATOR BOND: The March of Dimes is very pleased to strongly endorse the health care legislation you are introducing today as an important step toward addressing many of the health concerns facing our country.

We commend you for your comprehensive, targeted approach to many problem areas, but we are particularly gratified that you place so much emphasis on programs needed to reduce our nation's disgraceful infant mortality rate. Among developed nations, the USA ranks next to last in this most basic measure of the health status of a country's population. As you well know, the short term and long term economic and social cost of birth defects and low birthweight babies is too heavy to sustain and represents a vital statistic crying for action.

Your provisions relating to expanding the Centers for Disease Control's Birth Defects Monitoring Program, so that all states can benefit from national studies identifying the causes of birth defects and how to prevent them, as well as the provisions relating to the obstetrician shortage and the expansion of Community Health Centers Perinatal Care Programs, all will make a significant difference in combating infant mortality.

Thank you again for your efforts on behalf of America's pregnant women and babies. We know as Governor of Missouri you were involved in this effort and we appreciate and value your continued leadership at the national level. We look forward to working toward passage of your legislation through our 131 State chapter offices and 2 million volunteers across the country. Please call upon us anytime we can be of assistance.

Sincerely,

KEITH HENDERSON,
Director, Government Policy and Legislative Affairs Office.

NATIONAL ASSOCIATION OF
COMMUNITY HEALTH CENTERS, INC.,
Washington, DC, June 19, 1991.

Hon. CHRISTOPHER BOND,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR BOND: We are pleased to support the Families in Need Act of 1991, a bill which includes a number of health care provisions which would further extend access to care for low-income women and children.

The bill would provide for establishment of satellite health centers and mobile clinics in areas with high infant mortality rates; would include migrant, community, and health care for the homeless programs in the CDC federal vaccine bulk purchasing program, enabling them to spend federal dollars more efficiently; and would enable more health centers to establish comprehensive perinatal care programs or to expand current programs to serve more women and infants.

Only 300 of 550 health centers have received funding to establish comprehensive perinatal care programs, and many of the programs that received grants were funded at levels inadequate to meet local needs. Nevertheless, preliminary data from these programs indicate that such funding makes a real difference in achieving positive health outcomes. Furthermore, health care for the homeless programs, some of which focus on women and children, have received no such enhanced funding. And finally, there is a need to extend health centers or satellite centers to the hundreds of medically underserved communities in both rural and urban areas which currently have no source of ongoing comprehensive primary care, especially for their low-income and uninsured populations.

Your bill also contains other valuable provisions, including provision of housing assistance for pregnant and postpartum poor or homeless women, Section 8 vouchers for families whose children are in imminent danger of being placed in foster care due to the family's inability to locate housing, and other important housing-related provisions.

We thank you for your attention to these important measures to assist low-income families with both housing and health care.

Sincerely,

TOM VAN COVERDEN,
Executive Director.

THE AMERICAN COLLEGE OF
OBSTETRICIANS AND GYNECOLOGISTS,
Washington, DC, June 25, 1991.

Hon. CHRISTOPHER BOND,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR BOND: On behalf of the American College of Obstetricians and Gynecologists, an organization representing more than 30,000 physicians specializing in the delivery of health care to women, I would like to express our support for the Families In Need Act of 1991.

Not only does this bill address access to adequate pregnancy-related care by increasing the number of obstetric providers in underserved areas, but it also addresses the socioeconomic factors associated with infant mortality by providing non-medical factors such as, housing assistance, nutritional support, and parenting skills training. Progress toward decreasing our nation's infant mortality rate remains stagnant, it is clear that we need action. We believe the Families In Need Act of 1991 makes a contribution in our effort to reduce infant mortality.

We appreciate your leadership in introducing this important legislation and look forward to working with you to assure its passage.

Sincerely,

HAROLD A. KAMINETZKY,
Director, Practice Activities.

LEGISLATIVE SUMMARY OF THE FAMILIES IN NEED ACT OF 1991

(Purpose: To provide access to prenatal care, housing, nutrition and parenting skills for needy families, and for other purposes.)

TITLE I—HOUSING SERVICES AND SUPPORT FOR FAMILIES IN NEED

Family unification program

This McKinney Act program provides Section 8 vouchers to women whose children have been placed in foster care primarily because of lack of housing, or immediate threat of homeless. A child welfare services agency would have to verify to the local public housing authority that a child was removed primarily because of a housing problem prior to a voucher being issued. The program carries a two year authorization; no funds were appropriated for FY '91. This legislation would reauthorize the program permanently. The authorization would be increased from $35-$50 million in 1992, and by $5 million each of the following two years.

Transitional housing discretionary authority

Amend the McKinney Act transitional and supportive housing program to include discretionary authority for the Secretary to reduce the state and project sponsor match requirement in areas of great need. Social services agencies who provide services under the McKinney Act often have difficulty meeting the 50% match requirement. Services provided to pregnant and postpartum women were not sufficient to meet the need in '89 and '90.

Additional technical assistance for transitional and supportive housing projects serving pregnant and postpartum women will also be provided under this section.

Maternal housing vouchers

Authorize $25 million to provide housing vouchers for pregnant and postpartum women to be used in public or private nonprofit institutions. Additional support services such as prenatal care, job counseling, long-term housing assistance, parenting skills training, etc., would be provided in addition to housing. Pregnant women meeting Section 8 housing guidelines would be eligible; the program would be carried out in accordance with the existing Section 8 housing program.

Aid to shelters for women victims of domestic violence

Amend Family Violence Prevention and Services Act by authorizing an increase of $36 million over the current level for shelter assistance in 1992, and by $5 million each year after until 1995. Preference given to projects serving pregnant women and/or women with dependent children.

TITLE II—HEALTH CARE FOR WOMEN, INFANTS AND CHILDREN IN NEED

The Leading Cause of Infant Mortality: Birth Defects

Coordinate nationwide birth defects research and prevention efforts

Places the Centers for Disease Control (CDC) in the leadership role for the coordination of nationwide birth defects surveillance and prevention activities. Provides grants to states through CDC to establish or enhance birth defects monitoring programs and provides for important and much-needed research into the causes of birth defects.

Access to Health Care

Satellite health centers and mobile clinics

Increase access to obstetric care and primary health services by creating a competitive grant program for Federally Qualified Health Centers (FQHCs),[1] and State and local health departments to develop Satellite Health Centers or Mobile Clinics. Priority for grants is given to areas with high infant mortality rates.

Expand access to childhood immunizations

Increase access to vaccinations by amending the current federal bulk purchasing program administered by the Centers for Disease Control (CDC) to include community health centers. The federal government administers a bulk purchasing program for vaccines that is administered by CDC. Vaccine is purchased at negotiated lower rates and distributed to state and local health departments. This provision would simply include CHCs in the bulk purchasing program so that federal dollars overall are spent more effectively.

Expand comprehensive perinatal care program

Expand access to health care for poor women and children in underserved areas by expanding the Comprehensive Perinatal Care Program (CPCP) operated through the community health centers. Directs the Department of Health and Human Services (HHS) to give first priority to establishing or enhancing CPCP programs with funds that are appropriated for community and migrant health centers above the FY91 current services baseline.

Obstetric provider shortage areas

Creates Obstetric Provider Shortages Areas to identify areas of the country critically short of access to obstetric health care services including access by patients who are medicaid-eligible and to provide an instrument to direct federal resources to these underserved areas.

Pediatric provider shortage areas

Similarly, creates a new designation for areas critically short of access to pediatric health care including access by patients who are medicaid-eligible.

Payment for NHSC tail insurance costs

Encourage health professionals to join the National Health Service Corps (NHSC) and remain practicing in a rural underserved area by authorizing the NHSC to pay for malpractice tail coverage for certain corps personnel—Ob/Gyns, pediatricians, family physicians, osteopathic physicians, certified nurse midwives, nurse practitioners—on a sliding scale for increased years of service in a shortage area. [2 years—10%, 3 years—30%, 4 years—50%, 5 years—75%, 6 years—100%]

Effort to increase access to obstetric services in underserved areas

Encourage providers to practice in shortage areas and provide obstetric health services by providing funds for States to directly compensate certain physicians, osteopathic physicians, nurse midwives and nurse practitioners that practice in a shortage area for the cost of adding obstetrics to their current malpractice insurance or for up to 25% of the cost of their malpractice insurance. To be eligible, these health professionals must accept patients without regard to whether the patient is medicaid-eligible.

Program Simplification and Outreach

Computerized one-stop shopping

Simplifies the eligibility and application process for federal and state-administered programs for women, infants, children and others by creating a computerized one-stop shopping application process. Program computerization would also include electronic processing of health providers' reimbursement claims for programs administered by the state.

VISTA volunteer outreach programs

Authorizes a new VISTA program to develop volunteer home visitation programs and other volunteer outreach programs for pregnant mothers, the children and their families. These programs successfully and cost-effectively promote the health of pregnant women and the children.

National infant health campaign

Increase awareness of the need for prenatal care, childhood immunizations and healthy lifestyles for pregnant women through a national public information campaign.

TITLE III—NUTRITION

Women, infants, children special supplemental food program

Amend the Child Nutrition Act by increasing the authorization for the special supplemental food (WIC) program to $2.7 billion in 1992, to 3.1 billion in 1993, to 3.5 billion in 1994, to 4.0 billion in 1995 and to 4.5 billion in 1996. If all amounts are appropriated, this will result in full funding of the WIC program by 1996.

AMERICAN FAMILIES IN NEED—OVERALL SPENDING SUMMARY (FISCAL YEAR 1992)

[In millions of dollars]

Title I—Housing Services and Support for Families in Need	
Family unification program	$15.0
Nonprofit assistance	5.0
Maternal housing vouchers	25.0
Domestic violence shelters aid	36.0
Subtotal	81.0
Title II—Health Care for Women, Infants and Children in Need	
Birth defects:	
Birth defects surveillance, research and prevention	15.0
Access:	
Satellite and mobile clinics	50.0
Expand access to childhood immunizations	40.0
Pediatric and obstetric care shortage areas	2.0
NHSC tail insurance	5.0
25 percent of malpractice costs	9.5
Program simplification and outreach:	
Computerized one-stop shopping	6.0
VISTA volunteer outreach	1.5
National infant health campaign	2.0
Subtotal	131.0
Title III—WIC Special Supplemental Food Program	
Full funding for women, infants, children special supplemental food program	256.0
Total	468.0

By Mr. BENTSEN (for himself and Mr. GRAMM):

S. 1382. A bill to authorize the Secretary of the Interior to construct and test the Lake Meridith salinity control project, New Mexico and Texas, and for other purposes; to the Committee on Energy and Natural Resources.

LAKE MEREDITH SALINITY CONTROL PROJECT

• Mr. BENTSEN. Mr. President, today I am again introducing legislation to help ensure a reliable supply of quality drinking water for the people of the Texas Panhandle. This bill will authorize the Bureau of Reclamation to work with the Canadian River Municipal Water Authority [CRMWA] to reduce the salt content of the water supplied to their 11 member cities from Lake Meredith. Those member cities have a combined population of nearly 450,000.

Lake Meredith has had salt problems since its construction, and the problem has gradually worsened over the years. Chloride concentrations have ranged from 300 milligrams per liter to over 400 milligrams per liter under drought conditions. The maximum level recommended by health and environmental agencies for drinking water is 250 milligrams/l. These excessive levels of salt reduce the utility of a water supply. Salty water tastes bad, causes excessive corrosion, and sometimes is considered unhealthy for those on low-salt diets.

The people of the panhandle area are deserving of a quality source of water, and that water can be made available if the Federal Government will assist in the planning, design, and construction of a project to remove salt from the Canadian River which flows into Lake Meredith. Studies by private consultants and by the Bureau of Reclamation have shown that 70 percent of the salt entering the lake originates in a shallow brine aquifer just downstream from Ute Dam near Logan, NM. This brine aquifer is under artesian pressure and is leaking into the river. In a 1985 report by the Bureau of Reclamation, it was recommended that the most cost-effective solution to the problem is interception of the brine at the source by well pumping and disposal by deep well injection.

This project is essential for the Texas Panhandle to maintain an adequate supply of quality drinking water in the future. And the beauty of this project is that the CRMWA and its member cities are prepared to operate and maintain the project and to pay for the cost of construction. All they ask for is the technical expertise of the Bureau of Reclamation in designing and building the project.

This bill will authorize funds to be appropriated to the Bureau of Reclamation to pay for verification, design preparation, and constuction management, which is estimated to be 33 percent of the total project cost. The rest would be paid by the CRMWA. Cost estimates of the total project have ranged as high as $9 million. This strong commitment of non-Federal dollars to solve a problem is commendable and should be recognized by passage of this bill. This bill will protect a water supply and a Federal investment. If the salt problem is not solved, underground water sources will be drained, economic opportunities will decrease, recreation and fish and wildlife will be threatened.

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[1] FQHCs are community health centers plus other centers referred to as "look alikes" because they meet the same criteria as CHC—located in an underserved area, charge on an ability-to-pay basis, take any patient who walks through the door, etc.—but do not receive a federal CHC grant.

Each year of delay puts another 30,000 tons of salt in Lake Meredith. If the salt problem is not solved and Lake Meredith continues to be flooded with salt, Lake Meredith could eventually be rendered useless.

Water is an essential element. Through activities of the Bureau of Reclamation, water supplies have been developed for many areas of our country. Today I ask that we protect an investment that the people of the Texas Panhandle and the Federal Government have made jointly. The member cities of Amarillo, Borger, Pampa, Plainview, Lubbock, Slaton, Tahoka, O'Donnell, Lamesa, Brownfield, and Levelland are eager and willing to work for quality water. This bill will provide a plan to assure a reliable drinking water supply for the Texas Panhandle.

In the last Congress the Senate passed similar legislation, recognizing the significance of this project and the seriousness of the problem. However, the legislation has not been finally enacted into law. Enough studies have been conducted and enough time has passed. The time is now to begin the process of reducing the salt content of Lake Meredith. This bill will accomplish the objective, providing a reliable water source for years to come.●

By Mr. McCAIN (for himself, Mr. GRAHAM, and Mr. MACK):

S. 1383. A bill to amend title 10, United States Code, to provide for payment under CHAMPUS of certain health care expenses incurred by members and former members of the uniformed services and their dependents who are entitled to retired or retainer pay and who are otherwise ineligible for such payment by reason of their entitlement to benefits under title XVIII of the Social Security Act because of a disability, and for other purposes; to the Committee on Armed Services.

MILITARY DISABLED RETIREE PROTECTION ACT

Mr. McCAIN. Mr. President, I rise today to introduce the Military Disabled Retiree Protection Act of 1991, legislation to correct an inequity in current law that results in disabled military retirees with life-threatening conditions losing critical medical coverage and home health care benefits under CHAMPUS. While a relatively small number of individuals and their families are affected by this problem, the effect is nonetheless devastating.

Under a 1972 law, if one has been determined to have been disabled for more than 2 years, Medicare replaces CHAMPUS and the Department of Defense as the primary health care provider. The problem arises in that Medicare and CHAMPUS benefits are not identical, particularly as they relate to home care for the disabled.

Mr. President, Medicare's home care benefit exists largely to assist in the transition from a hospital or nursing home stay to carrying on with a normal healthy life. The CHAMPUS home health care benefit, on the other hand, exists as an alternative to institutional care. Hence, if one opts to receive home care during the period of their disability prior to becoming eligible for Medicare, they are unable to continue this course of care once they are required to enroll in Medicare unless they pay for it fully out of their own pocket. This has resulted in financial ruin for these individuals who sacrificed in the service of our country and fell ill in the process of that service. Had they remained well, they would have stayed in the military, and never would have been confronted with this problem. I submit, Mr. President, that we have a responsibility to provide a remedy—and without delay.

The legislation I am introducing today, which is the companion to a bill that was introduced in the House by Congressman YOUNG, would correct the problem by making it possible for those military retirees with service connected disabilities to remain eligible for CHAMPUS benefits. CHAMPUS would then serve as the secondary payor to Medicare, providing for those needs not met by Medicare. The bill would be applied retroactively to those military retirees who have become disabled and lost eligibility for CHAMPUS pursuant to the 1972 law.

Our Nation calls on its young people to serve. Yet, it is problems like the one I have focused on today that leave this great Nation turning its back on those very people who sacrifice so much in answering that call.

This critical problem first came to my attention through the efforts of a gentle lady from Springfield, VA, named Mrs. Edith Smith. She and her husband, Vince, have been suffering under the provisions of the 1972 law for a number of years now. While the Smith's have been able to get some extraordinary assistance, most who fall into this category are not as fortunate. It is for these people that Mrs. Smith has dedicated the vast majority of her waking hours in an effort to see that the most vulnerable in our Nation's military family receive the services to which they are entitled. I, for one, am grateful for the time and energy Mrs. Smith has dedicated to educating me and my staff about this serious problem.

Mr. President, I hope that my colleagues will take the time to examine the legislation that I am introducing today, and will join me in the effort to correct this problem.

I ask unanimous consent that the full text of the bill be printed in the RECORD following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1383

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Military Disabled Retiree Protection Act of 1991".

SEC. 2. EXPANSION OF CHAMPUS COVERAGE TO INCLUDE CERTAIN MEDICARE PARTICIPANTS.

(a) ELIGIBILITY OF DISABLED PERSONS.—Section 1086 of title 10, United States Code, is amended by striking out subsection (d) and inserting in lieu thereof the following new subsection:

"(d)(1) A person who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.) or supplementary medical insurance benefits under part B of such title (42 U.S.C. 1395j et seq.) is not eligible for health benefits under this section.

"(2) The prohibition contained in paragraph (1) shall not apply in the case of a person referred to in subsection (c)(1) who—

"(A) is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act pursuant to subparagraph (A) or (C) of section 226(b)(2) of such Act (42 U.S.C. 426(b)(2)); or

"(B) would be entitled to those benefits pursuant to such subparagraph except for the age of such person being 65 years or older.".

(b) CONFORMING AMENDMENTS TO SECTION 1086.—Section 1086 of such title is further amended—

(1) in subsection (c)—

(A) by striking out "The following" and inserting in lieu thereof "Except as provided in subsection (d)(1), the following"; and

(B) by striking out the sentence following paragraph (3); and

(2) in subsection (g), by striking out "Notwithstanding subsection (d) or any other provision of this chapter," and inserting in lieu thereof "Section 1079(j) of this title shall apply to a plan contracted for under this section, except that".

(c) OTHER CONFORMING AMENDMENTS.—(1) Paragraph (1) of section 1079(j) of title 10, United States Code, is amended to read as follows:

"(1) A benefit may not be paid under a plan covered by this section in the case of any person to the extent that such person is entitled to the same benefit under—

"(A) an insurance, medical service, or health plan in which such person is enrolled, other than a plan administered under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); or

"(B) part A or B of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).".

(2) Section 613(d) of title 38, United States Code, is amended—

(A) by striking out "the second sentence of section 1086(c)" and inserting in lieu thereof "section 1086(d)(1)"; and

(B) by inserting "or supplementary medical insurance benefits under part B of such title" after "(42 U.S.C. 1395c et seq.)".

(d) APPLICATION OF AMENDMENTS AND TRANSITIONAL PROVISIONS.—(1) Subsection (d) of section 1086 of title 10, United States Code, as amended by subsection (a), shall apply with respect to health care benefits or services received by a person described in subsection (d) of such section—

(A) on or after the date of enactment of this Act; and

(B) in the case of a person described in paragraph (2) of such subsection, before that date to the extent that those benefits or services were paid for by that person and would have been covered under a plan contracted for under such section if received on that date.

(2) The Secretary of Defense shall by regulation prescribe the manner in which persons described in subsection (d)(2) of such section may submit and receive payment for claims based on benefits or services before the date of the enactment of this Act.

(3) To be considered for payment under paragraph (2), each claim that is based on benefits received before the date of the enactment of this Act shall be submitted to the Secretary of Defense not later than two years after the date on which the Secretary first prescribes regulations under such paragraph.

By Mr. THURMOND:

S. 1384. A bill to extend the temporary suspension of duty on certain chemicals; to the Committee on Finance.

S. 1385. A bill to extend the temporary suspension of duty on tetraamino biphenyl; to the Committee on Finance.

S. 1386. A bill to suspend temporarily the duty on Phospholan; to the Committee on Finance.

S. 1387. A bill to suspend temporarily the duty on acet-p-anisidine; to the Committee on Finance.

S. 1388. A bill to suspend temporarily the duty on diazo-2,1,4-sulfonic acid and its salts; to the Committee on Finance.

S. 1389. A bill to suspend temporarily the duty on 2,4-dinitro aniline; to the Committee on Finance.

S. 1390. A bill to suspend temporarily the duty on 3-amino-acetanilide-4-sulfonic acid; to the Committee on Finance.

S. 1391. A bill to suspend temporarily the duty on chloranil; to the Committee on Finance.

SUSPENSION OF DUTY ON CERTAIN CHEMICALS

Mr. THURMOND. Mr. President, I rise today to introduce eight bills which will suspend the duties imposed on certain chemicals used in manufacturing industries. Currently, these chemicals are imported for use in the United States because there is no known domestic supplier or readily available substitute. Therefore, suspending the duties on these chemicals would not adversely affect domestic industries.

The first bill will extend the duty suspension on five chemicals. They are: 1-Naphtol- 4-sulfonic acid and the mono sodium salt (Neville and Winter's Acid) which is used in the manufacturing of reactive dyes for cotton and wool products; 2,Naphthyl amine-6-sulfonic acid (Broenner's acid) which is used in making reactive dyes for coloring cotton and wool; 2-Naphthyl amine-1, 5-disulfonic acid and the mono sodium salt (D Salt) which is used in the manufacturing of reactive dyes for cotton and wool; 3,Hydroxy-2-naphthanilide, 3-Hydroxy-2-naphtho-o-toluidide, 3-Hydroxy-2-naphtho-o-anisidide, 3-Hydroxy-2-naphtho-o-phenetidide, 3-Hydroxy-2-naphtho-4-chloro-2,5-dimethoxy Anilide, and N,N'-bis [acetoacetyl-O-tolidine] (naphthol AS types) which is used in the production of paints, printing inks, and colorants for plastics; 3-Amino-methoxy benzanilide (anis base) which is used in the production of Azo pigments. These pigments are used in the production of paints, printing inks, and colorants for plastics.

Mr. President, in the 101st Congress, I introduced similar legislation to suspend the duty on these chemicals. These duty suspensions were incorporated into the Customs and Trade Act of 1990 and will expire on December 31, 1992.

The second bill I am introducing will extend the duty suspension on tetra amino biphenyl (TAB). This chemical is imported into the United States from West Germany. TAB is an essential raw material used in the production of a high performance fiber called PBI.

PBI is a unique heat and chemical resistant fiber that can be used as a suitable replacement for asbestos. PBI has a wide range of thermal protective applications such as flight suits and garments for firefighters, boiler tenders, as well as refinery workers.

Mr. President, in the 98th, 100th, and 101st Congress, I introduced similar legislation to apply duty-free treatment to TAB. These bills were ultimately incorporated into the Omnibus Tariff and Trade Act of 1984, the Omnibus Trade Act of 1988, and the Customs and Trade Act of 1990. The current duty suspension for this chemical expires December 31, 1992.

Mr. President, the next six bills I am introducing will suspend the duty on certain chemicals until December 31, 1994. This is the first time a duty suspension has been requested for these items.

The first bill will suspend the duty on 2-methyl 2.5 dioxo 1.2 oxaphospholan, commonly called phospholan. This chemical is used as a raw material in the manufacture of polyester fibers for carpeting.

The next four bills will suspend the duty on Acet-p-anisidine; Diazo-2,1,4-solfonic acid and its salts; 2,4-Dinitro Aniline; and 3-amino-acetanilide-4-sulfonic acid. These chemicals are used in the production of textile dyes and pigments.

The last bill I am introducing will suspend the duty on 2,3,4,5-tetrachloro-1,4-benzoquinone, commonly called Chloranil. This chemical is used in the manufacture of coatings for electronics applications.

Mr. President, suspending the duty on these chemicals will benefit the consumer by stabilizing the costs of manufacturing the end-use products. There are no known domestic producers of these materials. I hope the Senate will consider these measures expeditiously.

I ask unanimous consent that the text of the bills be printed in the CONGRESSIONAL RECORD immediately following my remarks.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1384

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SUSPENSION OF DUTY ON CERTAIN CHEMICALS.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by striking "12/31/92" and inserting "12/31/94" in each of the following headings:

(1) Heading 9902.30.14 (relating to Neville and Winter's acid).

(2) Heading 9902.30.41 (relating to Broenner's acid).

(3) Heading 9902.30.42 (relating to D Salt).

(4) Heading 9902.30.60 (relating to napthol AS types).

(5) Heading 9902.30.62 (relating to anis base).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 1385

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF DUTY SUSPENSION.

(a) IN GENERAL.—Heading 9902.29.27 of the Harmonized Tariff Schedule of the United States (relating to tetraamino biphenyl) is amended by striking out "12/31/92" and inserting "12/31/94".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SECTION 1. PHOSPHOLAN.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	(2-methyl 2.5 dioxo 1.2 oxaphospholan) (provided for in subheading 2919.00.50)	Free	No change	No change	On or before 12/31/94".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 1387

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACET-P-ANISIDINE.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	Acet-p-anisidine (CAS No. 51–66–1) (provided for in subheading 2924.29.09)	Free	No change	No change	On or before 12/31/94".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 1388

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DIAZO-2,1,4-SULFONIC ACID AND ITS SALTS.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	Diazo-2,1,4-sulfonic acid and its salts (CAS No. 117–70–4 or 64173–92–6) (provided for in subheading 2927.00.40 or 2927.00.50)	Free	No change	No change	On or before 12/31/94".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 1389

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. 2,4-DINITRO ANILINE.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	2,4-dinitro aniline (CAS No. 97–02–9) (provided for in subheading 2921.42.50)	Free	No change	No change	On or before 12/31/94".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. 3-AMINO-ACETANILIDE-4-SULFONIC ACID.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	3-amino-acetanilide-4-sulfonic acid (CAS No. 88–64–2) (provided for in subheading 2924.29.45)	Free	No change	No change	On or before 12/31/94".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHLORANIL.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	2,3,4,5-tetrachloro-1,4-benzoquinone (CAS No. 118–75–4) (provided for in subheading 2914.70.20)	Free	No change	No change	On or before 12/31/94".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

By Mr. BRYAN (for himself and Mr. MCCAIN):

S. 1392. A bill to strengthen the authority of the Federal Trade Commission regarding fraud committed in connection with sales made with a telephone, and for other purposes; to the Committee on Commerce, Science, and Transportation.

TELEMARKETING AND CONSUMER FRAUD AND ABUSE PREVENTION ACT

● Mr. BRYAN. Mr. President, today, together with my Commerce Committee colleague Senator MCCAIN, I am introducing the Telemarketing Consumer Fraud and Abuse Prevention Act. I believe telemarketing fraud is a serious problem that deserves immediate attention. This legislation, with one clarifying addition, is the text of S. 2494 which passed the Senate by unanimous consent late in the 101st Congress. We need to move as expeditiously as possible to complete work on this legislation in this Congress.

Telephone sales have become an important part of American business and, when properly carried out, are a convenience to consumers, allowing them to shop at home. However, telemarketing fraud is the deceptive peddling of goods and services over the telephone. Typically, a consumer is contacted and offered goods and services as discount prices or of a nature too good to be true. Payment is generally required in advance, often by credit card. When the goods or services arrive, the consumer finds that the bargain doesn't exist, or is not of the promised value. A related problem is the abuse of the telemarketing process by telephone calls that are made at unreasonable hours, by machines that cannot be disconnected by the person called, or utilizing other techniques of harassment.

As telephone sales have become an increasingly popular and convenient way for consumers to purchase goods and services, it is, perhaps, inevitable that unscrupulous individuals will utilize the system to defraud consumers. Testimony before the Consumer Subcommittee, which I chair, has indicated that telemarketing fraud is costing American consumers at least $1 billion per year. On a more personal scale, the subcommittee has received testimony from citizens of my own State of Nevada describing fraudulent practices that threatened to deprive unsuspecting citizens of their life savings.

Telemarketing fraud is indeed a national problem, although some States, including my State of Nevada, often become havens for such activity. I am pleased that the State Government in Nevada has taken what appear to be very successful steps to address this problem at the State level. However, because the fraudulent activity often is conducted across State lines, the States and the Federal Government must work together on this issue to develop an effective solution. I know that the Federal Trade Commission and the State attorneys general have begun this process by instituting a joint databank to share information about telemarketing fraud trends. The bill I am introducing today is an effort to further that cooperation and to maximize consumer protection.

The bill would require the Federal Trade Commission to promulgate specific rules governing telemarketing activity, including a definition of telemarketing fraud, which would be prohibited by the act. The only difference between this bill and S. 2494, which passed the Senate last Congress, is the inclusion of a definition of credit card laundering which would be included in the telemarketing fraud prevented by the bill. Credit card laundering is the practice of submitting credit card charges through legitimate merchants in order to hide the identity of the fraudulent telemarketer. In addition to the losses suffered by consumers due to fraud, both the legitimate merchants and the credit card companies may end up taking significant losses as a result of this practice.

Other areas in which the FTC would be required to consider rulemaking include a cooling off period in which consumers could rescind telephone purchases; a requirement that delivery of goods ordered be made within a specified time period; restrictions on the hours and types of machines that can be used to make telemarketing calls; and recordkeeping requirements.

Additionally, the bill would permit the States and the FTC to work together to enforce the Federal law, by permitting the State attorneys general to bring suit under the Federal law. The States would have to notify the FTC of such actions, and the FTC would have the absolute right to intervene in such actions. Because some States, like Nevada, have enacted State laws to address this problem, my bill would provide for the continued applicability of that State law upon application to the FTC.

The bill would also permit actions by private parties to enforce the Federal law, but only when the amount in controversy exeeds $50,000. This provision is intended to provide for maximum enforcement of the law, but to prevent frivolous and unnecessarily burdensome lawsuits.

Finally, the bill would provide for expanded venue and service of process for those enforcing the law. This will address the problem that currently exists when fraudulent telemarketers move their operations rapidly across State lines to avoid enforcement.

Mr. President, telemarketing fraud is a difficult problem, and finding a legislative solution is challenging. I believe that this bill strikes the proper balance between Federal and State enforcement, and between the needs of legitimate telemarketers and the fullest protection of consumers. I urge my colleagues to support Senator MCCAIN and I in this effort to help consumers.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1392

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Telemarketing and consumer Fraud and Abuse Prevention Act".

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "attorney general" means the chief legal officer of a State;

(2) "Commission" means the Federal Trade Commission;

(3) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States;

(4) "telemarketing" means a plan, program, or campaign which is conducted to induce purchases of goods or services by significant use of one or more telephones and which has involved interstate telephone calls; the term does not include other use of a telephone in connection with business or personal transactions, nor does the term include the solicitation of sales through the mailing of a catalog which—

(A) contains a written description or illustration of the goods or services offered for sale;

(B) includes the business address of the seller;

(C) includes multiple pages of written material or illustrations;

(D) is issued not less frequently than once a year; and

(E) is at least the third catalog satisfying the requirements of subparagraphs (A) through (D) that has been issued by the seller within the last five years,

where the seller does not place calls to customers but only receives calls initiated by customers in response to the catalog and during those calls takes orders only without further solicitation; and

(5) "credit card laundering" means—

(A) the act or practice by a person engaged in telemarketing (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of transferring to another person to be presented to a member of a credit card system or the member's agent, for payment, one or more evidences or records of transactions involving goods or services offered by telemarketing and paid for by credit card;

(B) the act or practice by a person acting on behalf of a person engaged in telemarketing (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of causing or arranging for a third person to present to a member of a credit card system or the member's agent, for payment, one or more evidences or records of transactions involving goods or services offered by telemarketing and paid for by credit card; or

(C) such other acts or practices defined in the rules of the Commission as credit card laundering.

TELEMARKETING RULES

SEC. 3.(a) RULES ON TELEMARKETING ACTIVITIES.—The Commission shall prescribe rules regarding telemarketing activities. In prescribing such rules, the Commission shall consider the inclusion of—

(1) a requirement that goods or services offered by telemarketing be shipped or provided within a specified period and that if the goods or services are not shipped or provided within such period a refund be required;

(2) authority for a person who orders a good or service through telemarketing to cancel the order within a specified period;

(3) restrictions on the hours of the day when unsolicited telephone calls can be made to consumers;

(4) a prohibition of telemarketing generated by computers on equipment that does not permit the individual called to terminate the telephone call; and

(5) recordkeeping requirements.

(b) Prohibition of Fraudulent Telemarketing Acts or Practices.—The Commission also shall prescribe rules prohibiting fraudulent telemarketing acts or practices and shall include in such rules a definition of the term "fraudulent telemarketing acts or practices". Credit card laundering shall be a fraudulent telemarketing act or practice.

(c) DEADLINE; ADMINISTRATIVE PROCEDURE.—The Commission shall prescribe the rules under subsections (a) and (b) of this section within 180 days after the date of enactment of this Act. Such rules shall be prescribed in accordance with section 553 of title 5, United States Code.

(d) TREATMENT OF RULE VIOLATIONS.—Any violation of any rule prescribed under subsection (a) or (b) of this section shall be treated as a violation of a rule under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) regarding unfair or deceptive acts or practices (subject to any remedy or penalty applicable to any violation thereof).

(e) EFFECT ON STATE LAW.—The rules promulgated under this section shall not be construed as preempting State law.

ACTIONS BY STATE ATTORNEYS GENERAL

SEC. 4. (a) AUTHORITY OF STATES.—Whenever the attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice of telemarketing which violates any rule, regulation, or order of the Commission under this Act, the State may bring a civil action on behalf of its residents to enjoin such telemarketing, to enforce compliance with any rule, regulation, or order of the Commission under this Act, to obtain damages on behalf of their residents, or to obtain such further and other relief as the court may deem appropriate.

(b) COURT JURISDICTION.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this section to enforce any liability or duty created by any rule, regulation, or order of the Commission under this Act, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of any rule, regulation, or order of the Commission under this Act, including the requirement that the defendant take such action as is necessary to remove the danger of violation of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(c) RIGHTS OF COMMISSION.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right (1) to intervene in the action, (2) upon so intervening, to be heard on all matters arising therein, and (3) to file petitions for appeal.

(d) VENUE; SERVICE OF PROCESS.—Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the telemarketing occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(e) EFFECT ON STATE POWERS OF ATTORNEYS GENERAL.—For purposes of bringing any civil action under this section, nothing in this Act shall prevent the attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(f) EFFECT ON ACTIONS UNDER STATE STATUTE.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

(g) CIVIL ACTION BY COMMISSION.—Whenever the Commission has instituted a civil action for violation of any rule prescribed under this Act, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

ACTIONS BROUGHT BY PRIVATE PERSONS

SEC. 5. (a) Definition.—As used in this section, the term "person adversely affected by telemarketing" means—

(1) any person who has incurred loss or damage in connection with telemarketing and who actually purchased goods or services through telemarketing, or paid or is obligated to pay for goods or services purchased through telemarketing;

(2) any financial institution that has incurred loss or damage in connection with telemarketing; or

(3) any member organization comprised of financial institution members, or any parent organization of such member organization, if one or more of the financial institution members is eligible to bring a civil action under this subsection.

Such term does not include a governmental entity.

(b) Private Right of Action.—(1) Any person adversely affected by any pattern or practice of telemarketing which violates any rule, regulation, or order of the Commission under this Act may, within 3 years after discovery of the violation, bring a civil action against a person who has engaged or is engaging in such pattern or practice of telemarketing if the amount in controversy exceeds the sum or value of $50,000 in actual damages for each person adversely affected by such telemarketing. Such an action may be brought to enjoin such telemarketing, to enforce compliance with any rule, regulation, or order of the Commission under this Act, to obtain damages, or to obtain such further and other relief as the court may deem appropriate.

(2) The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this section to enforce any liability or duty created by any rule, regulation, or order of the Commission under this Act, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of any rule, regulation, or order of the Commission under this Act, including the requirement that the defendant take such action as is necessary to remove the danger of violation or of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(3) The plaintiff shall serve prior written notice of the action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the person shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

(4) Whenever the Commission has instituted a civil action for violation of any rule prescribed under this Act, no person may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

(5) Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the telemarketing occurred or is occurring and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(c) Award of Costs and Fees.—The court, in issuing any final order in any action brought under subsection (b), may award costs of suit and reasonable fees for attorneys and expert witnesses to the prevailing party.

(d) Rights Under Statute or Common Law.—Nothing in this section shall restrict any right which any person may have under any statute or common law.

VENUE

SEC. 6. Subsections (a) and (b) of section 13 of the Federal Trade Commission Act (15 U.S.C. 53) are each amended by adding at the end thereof the following: "Whenever it appears to the court that the interests of justice require that any other person, partnership, or corporation should be a party in such suit, the court may cause such person, partnership, or corporation to be summoned without regard to whether they reside or transact business in the district in which the suit is brought, and to that end process may be served whenever the person, partnership, or corporation may be found.".

SUBPOENA

SEC. 7. (a) Physical Evidence Defined.—Section 20(a) of the Federal Trade Commission Act (15 U.S.C. 57b–1(a)) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting immediately after the paragraph (6) the following new paragraph:

"(7) The term 'physical evidence' means any object or device, including any medical device, food product, drug, nutritional product, cosmetic product, or audio or video recording.".

(b) Issuance of Demand.—Section 20(c)(1) of the Federal Trade Commission Act (15 U.S.C. 57b–1(c)(1)) is amended—

(1) by inserting "physical evidence or" immediately after "any" the second time it appears;

(2) by inserting "to produce such physical evidence for inspection," immediately before "to produce";

(3) by inserting "physical evidence," immediately after "concerning"; and

(4) by inserting "evidence," immediately before "material, answers,".

(c) Contents of Demand.—Section 20(c)(3) of the Federal Trade Commission Act (15 U.S.C. 57b–1(c)(3)) is amended—

(1) by inserting "physical evidence or" immediately before "documentary material";

(2) in subparagraph (A)—

(A) by inserting "physical evidence or" immediately before "documentary"; and

(B) by inserting "evidence or" immediately after "permit such";

(3) in subparagraph (B), by inserting "evidence or" immediately before "material"; and

(4) in subparagraph (C), by inserting "evidence or" immediately before "material".

(d) Production of Evidence in Response to Demand.—Section 20(c)(10) of the Federal Trade Commission Act (15 U.S.C. 57b–1(c)(10)) is amended by inserting "physical evidence or" immediately before "documentary material" each place it appears.

FALSE ADVERTISEMENTS CONCERNING SERVICES

SEC. 8. Section 12(a) of the Federal Trade Commission Act (15 U.S.C. 52(a)) is amended by inserting "services," immediately after "devices," each place it appears.

CLEARINGHOUSE

SEC. 9. The Commission shall establish a clearinghouse for inquiries made to Federal agencies concerning telemarketing. The clearinghouse will provide information (other than information which may not be disclosed under section 552(b) of title 5, United States Code, or under regulations prescribed by the Commission to implement sections 552(b) of title 5, United States Code) to anyone making inquiries respecting persons engaged in telemarketing or direct such inquiries to the appropriate Federal or State agency.

FINANCIAL DATA

SEC. 10. Section 1109(a)(3) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3409(a)(3)) is amended—

(1) by redesignating subparagraph (E) as subparagraph (F);

(2) by striking "or" at the end of subparagraph (D); and

(3) by inserting immediately after subparagraph (D) the following new subparagraph:

"(E) dissipation, removal, or destruction of assets that are subject to forfeiture, seizure, redress, or restitution under any law of the United States by reason of having been obtained in violation of law; or".

CRIMINAL CONTEMPT AUTHORITY

SEC. 11. Section 16(a)(1) of the Federal Trade Commission Act (15 U.S.C. 56(a)(1)) is amended—

(1) in subparagraph (A) by striking "civil" the first place it appears and inserting in lieu thereof "Federal court"; and

(2) by adding at the end the following: "The Commission may bring a criminal contempt action for violations of orders obtained in cases brought under section 13(b) of this Act in the same manner as civil penalty and other Federal court actions to which this subsection applies. Such cases may be initiated by the Commission on its own complaint, or pursuant to its acceptance of an appointment by a court to assist it in enforcing such orders pursuant to Rule 42(b) of the Federal Rules of Criminal Procedure.".

ADMINISTRATION AND APPLICABILITY OF ACT

SEC. 12. (a) Enforcement.—Except as otherwise provided in sections 4 and 5 of this Act, this Act shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) Applicability of FTCA.—The Commission shall prevent any person from violating a rule, regulation, or order of the Commission under this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any person who violates such a rule, regulation, or order shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act.

(c) EXEMPTION.—(1) No provision of this Act shall apply to any person exempt from the jurisdiction of the Commission under section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)), and nothing in this Act shall be construed to vest the Commission, or the attorney general of any State or any person, with jurisdiction or authority over any person not otherwise subject to the jurisdiction or authority of the Commission.

(2)(A) No provision of this Act shall apply—

(i) to a broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or investment company in connection with the offer, sale, or purchase of any security, or to an issuer in connection with the offer, sale, or purchase of any security which that issuer has issued, or to any investment adviser providing investment advice relating to any security; or

(ii) to the solicitation, acceptance, confirmation, or execution of orders for the entry into, purchase of, or sale of any contract, account, agreement, or transaction subject to the exclusive jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.) by a person registered under the Commodity Exchange Act in order to engage in such activity, including as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, leverage transaction merchant, floor broker, or floor trader, or as a person associated with any such person.

(B) For purposes of subparagraph (A)(i)—

(1) the term "broker", "dealer", "municipal securities dealer", "government securities broker", and "government securities dealer" have the meanings given them in section 3(a)(4), (5), (30), (43), and (44), respectively, of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4), (5), (30), (43), and (44));

(2) the term "investment adviser" has the meaning given it in section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(11));

(3) the term "investment company" has the meaning given it in section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(a));

(4) the term "issuer" has the meaning given it in section 2(4) of the Securities Act of 1933 (15 U.S.C. 77b(4)); and

(5) the term "security" has the meaning given it in section 2(1) of the Securities Act of 1933 (15 U.S.C. 77b(1)), section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)), and section 2(a)(36) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(36)).

LIFE CARE HOME STUDY

SEC. 13.(a) STUDY.—The Federal Trade Commission shall conduct a study of unfair or deceptive acts or practices in the life care home industry, including acts or practices engaged in by life care homes. Within 24 months after the date of enactment of this Act, the Commission shall report the findings and conclusions of the study to Congress. The Commission shall indicate in its report whether it intends to initiate a trade regulation rulemaking under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) respecting unfair or deceptive acts or practices in the life care home industry and the reasons for such determination.

(b) DEFINITIONS.—For purposes of subsection (a), the term—

(1) "life care home" includes the facility or facilities occupied, or planned to be occupied, by residents or prospective residents where a provider undertakes to provide living accommodations and services pursuant to a life care contract, regardless of whether such facilities are operated on a profit or nonprofit basis; and

(2) "life care contract" includes a contract between a resident and a provider to provide the resident, for the duration of such resident's life, living accommodations and related services in a life care home, including nursing care services, medical services, and other health-related services, which is conditioned upon the transfer of an entrance fee to the provider and which may be further conditioned upon the payment of periodic service fees.

SUNSET

SEC. 14. The provisions of sections 3, 4, and 5 shall cease to have force and effect on and after the date that is five years following the date of enactment of this Act.•

• Mr. MCCAIN. Mr. President, telemarketing is one of the fastest growing industries in the United States. This industry has made great strides in offering American consumers greater options for obtaining information, entertainment and home shopping opportunities. A great many of these telemarketing companies are legitimate, and operated by honest businessmen and women. However, the expansion of the industry has unfortunatley led to the emergence of telemarketing and consumer fraud.

Consumer fraud has been the focus of my attention for some time, particularly the issues of health and consumer fraud targeted at the elderly. On March 16, 1988, I testified before the Federal Trade Commission [FTC] on the issue of fraud and the elderly. On that occasion, I spoke of my concerns about the increase in cases of health care and consumer fraud by scam operators who prey on the vulnerability of senior citizens to give them their money, and then run, leaving behind unsatisfied, and in some cases, physically harmed seniors who relied on fraudulent products and health care schemes. Later that year, I introduced S. 2326, the Consumer Fraud Prevention Act. The following year, in 1989, I introduced S. 1441, which incorporated S. 2326. Sharing the same concerns as I have about consumer abuse, my colleague from Nevada, Senator BRYAN, introduced S. 2494, the Telemarketing Fraud and Abuse Prevention Act, in the last session of Congress. I was very pleased to have worked with him on a compromise which consolidates both of our bills, and our efforts were embodied in S. 2494, the Telemarketing and Consumer Fraud and Abuse Protection Act, which was passed in the Senate by unanimous consent last fall.

I am again pleased to be working with Senator BRYAN in reintroducing this legislation in an effort to protect consumers from telemarketing and consumer fraud.

Telemarketing and consumer fraud costs American taxpayers tens of billions of dollars per year, and, in the case of health fraud, can cost lives as well. Such fraud is often committed by individuals who escape legal action by dismantling their operation and relocating to begin the operation again. In the cases of these "boiler room" scams, both the victims and the perpetrators are difficult to locate since the operations often consist of nothing more than phone banks which do not readily provide detailed evidence of illegal activity.

Senior citizens are particularly susceptible to consumer and telemarketing fraud. Fraudulent practices are successful with the elderly for many reasons. First, senior citizens are sometimes more easily pressured by individuals seeking to defraud them. Second, seniors are major consumers of services and products for which they are targeted by con artists, such as medical devices, drugs, and nutritional products. Third, fixed incomes make get-rich-quick schemes seem attractive. Finally, illnesses or diseases suffered by seniors may make "wonder cures" very enticing.

There are several areas of fraud to which the elderly are particularly susceptible.

One area, health fraud or "quackery," is one of our Nation's leading consumer fraud and health care problems. Older Americans as a group experience deteriorating health and a greater number of terminal illnesses than the rest of the population. In searching for a way to prolong life and combat illness, the elderly are prone to believe the claims of health quackery.

Not only is such fraud dangerous to consumers' health, it is also costly: Current projections by the National Council Against Health Fraud indicate that health care fraud is costing Americans close to $25 billion per year.

Health care fraud can be life-threatening. In some cases, the so-called cure may be deadly as well. In other cases, the product may be harmless, but a victim may be led to choose the product for treatment of an illness instead of a physician-recommended course of treatment. Again, the result could be quite serious.

A few examples from my own State of Arizona illustrate the magnitude of the problem:

An advertisement was placed in the Arizona Republic and Phoenix Gazette newspapers that read:

> Alzheimers' disease—symptoms of senility. At last—now there is hope! Call [this number] for help. Free—no charges—no fees.

Another case involved a phony cancer cure called Tumorex. The ad read:

> Cancer patients undergo a 6-day therapy of daily tumorex injections administered by a licensed M.D. or R.N. This is augmented by amino acid capsules taken ½ hour before each meal. Treatment is given Monday through Saturday. Any enzyme program must be discontinued 24 hours before the first day of treatment. In most cases, 6 days of treatment are sufficient; however, 12 days or more are required for some severe cases.

Colon cleansing is important before treatment and imperative after treatment. Twenty-five hundred dollars includes the 6- or 12-day treatment, and transportation (meals and lodging not included). We suggest cashier's or traveler's checks, however, MasterCard and Visa are acceptable.

Mr. President, "Tumorex" is really the amino acid L-Arginine, which can be purchased at local health food stores at a cost of $5.50 for 100 tablets.

A second issue of particular concern to older Americans is consumer fraud via the television or telephone. While telemarketing fraud is not confined to older Americans, it is often successful among this group. Consumer items for purchase, and medical and heatlh services are commonly marketed in this manner. These sellers, and their merchandise, appear legitimate on the surface. Unfortunately, the consumer often loses by not receiving the ordered item, receiving a copy rather than an authentic item, or suffers some financial or health loss.

One example of this type of telemarketing scam in Arizona involved a nationwide, shop-at-home program. This program, which was aired over nationwide television, involved a listing of various items for sale. The money for these items was sent to the company which, in turn, cashed the checks and never delivered the merchandise. This operation generated over 1,300 complaints.

Mr. President, examples such as this one go on and on, and the list continues to grow.

A third area of great concern is life care communities, some of which cause the elderly to lose their money as a result of fraud or mismanagement. Life care communities can be a practical solution to the problem of assuring independent and supportive living for older Americans, while guaranteeing 24-hour nursing care for those who require it.

However, there have been several occasions where senior citizens have lost their investments due to fraud or mismanagement. This has occurred in the misrepresentation of financial risks, the misrepresentation of the mortgage-lender's interests in the life care community, and the misuse of the entrance fee financing.

The structure of the life care industry facilitates such abuses, and it is time that we take a close look at the industry's practices and ensure that life care communities remain safe alternatives for senior citizens.

Another area of fraud that is emerging as a great threat to both consumers and the banking community is that of credit card laundering in telemarketing. This is exemplified by the situation where a fraudulent telemarketer uses the credit care privileges of a merchant to obtain legitimate credit card drafts as records of transactions to receive payment from the unsus- pecting customer's bank.

Consumers fall prey to the attractive descriptions of an item by a telemarketer, and provide their credit card numbers to the so-called seller. The telemarketer then submits that number to a willing merchant with legitimate credit card privileges, who submits the credit card drafts to the corresponding bank. This activity often results in a customer who never receives the item or receives an item which is different from the promised item. There is an additional effect on the banking institutions, which, upon receiving the complaint from the consumer, or having to acquire the accounts of telemarketing merchants who went out of business, must settle the chargebacks against their own accounts when the merchants are unable to pay them.

This exact situation took place in my State of Arizona. On February 15, 1990, Gateway National Bank from Phoenix was declared insolvent by the Office of the Comptroller of the Currency. Just one year prior to insolvency Gateway claimed assets of $11 million. One of the main reasons attributed to its demise was the overwhelming number of chargebacks the bank had to absorb because of merchants' failure to pay. These chargebacks ate away at the bank's equity capital, depleting it so as to render the bank insolvent.

The message here is clear: With credit card fraud, the consumer and the banking community are the big losers.

In addressing these issues, this legislation would minimize the practice of telemarketing, consumer and credit card fraud in the following ways:

It offers a solution to the problems facing law enforcement officers working toward bringing scam operators to justice, by expanding the venue and service of process provisions in the Federal Trade Commission Act. Thus, authorities will be permitted to summon and serve process upon any party, regardless of where they live or conduct business. This way, law enforcement officials will be able to bring scam operators to justice even if they have packed up their operation.

Next, it enhances the enforcement authority of the Federal Trade Commission [FTC] by amending the Right to Financial Privacy Act of 1978 to permit access to financial records of consumer fraud suspects, without providing advance notice to the suspects, with court approval, if the FTC can show that the funds are likely to disappear during an investigation.

Further, it identifies credit card laundering as a fraudulent telemarketing act or practice.

This legislation offers protection to consumers against telemarketing fraud and abuse by requiring the FTC to develop telemarketing rules protecting consumers. The rules would include: First, refunds for untimely delivery of goods or services; second, order cancellations; third, time restrictions on unsolicited sales calls; fourth, a prohibition on the use of equipment that does not allow the person called to hang up and disconnect the call immediately; and fifth, requirements for proper recordkeeping for the purposes of establishing evidence of proper business practices. The bill also directs the FTC to promulgate a rule to combat fraudulent telemarketing acts and practices. This rule is intended to be flexible in order to reflect on the changing nature of these illegal practices. These provisions would protect unsuspecting consumers from both unwelcome, and unsolicited goods or services, and, more importantly, fraud.

Further, it will allow enforcement assistance by the States by permitting State attorneys general to enforce the proposed FTC telemarketing rules after first notifying the Commission. After receiving a copy of the State's complaint, the Commission may intervene as a matter of right in the proceeding. This provision assures joint enforcement efforts by both State and Federal authorities without precluding one or the other.

Next, it permits private individuals to sue for violation of the FTC telemarketing rules when the amount in controversy exceeds $50,000. As in the case of the State attorneys general, a plaintiff would be required to notify the FTC prior to bringing suit.

These last three provisions are subject to a 5-year sunset clause, at which time they will cease to be effective. This will allow Congress the opportunity to evaluate the reasonableness and effectiveness of the telemarketing fraud and enforcement rules before continuing them indefinitely.

Another important provision amends the Federal Trade Commission Act to clearly set forth that it is unlawful to disseminate any false advertisement for the purpose of inducing the purchase of services, such as health or home repair services. This provision addresses the problems and dangers of health care fraud by further amending the Federal Trade Commission Act to expand the definition of "physical evidence" for the purposes of bringing these cases to court. The definition of "physical evidence" should be expanded to include services, as well as medical devices, food products, nutritional or cosmetic products, or audio or video recordings, all things which are often pivotal evidence in consumer fraud cases generally, and health care fraud in particular.

It also permits the FTC to bring an action for criminal contempt for violation of an FTC order, if it is presently authorized to institute a proceeding for civil contempt.

In addition, the legislation further requires the FTC to establish a clearinghouse for telemarketing inquiries to be made available to the public.

Finally, it requires the FTC to conduct a study of unfair or deceptive acts or practices in the life care home industry and report to Congress on the results of that study. This would be a starting point toward ensuring that the elderly are not misled when choosing a life care community, and can feel confident when making this very important decision.

Mr. President, this legislation is an important step toward minimizing the practice of telemarketing, consumer, and credit card fraud, and helps protect senior citizens in particular, who are all too often targeted as victims of fraud, and I ask for the support of my colleagues on this important legislation.●

By Mr. DASCHLE:

S. 1393. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on certain amounts received in connection with certain combinations or acquisitions of partnerships where there are not certain dissenters' rights; to the Committee on Finance.

TAX TREATMENT OF CERTAIN PARTNERSHIPS

● Mr. DASCHLE. Mr. President, I rise to discuss a problem that every Member of Congress should be aware of because it potentially harms thousands of small investors in each State. I am also introducing legislation today on this issue that will be the focus of a hearing in the Finance Subcommittee on Energy and Agricultural Taxation on July 10.

The problem I am speaking of is the proliferation of abuses occurring in so-called limited partnership rollups. It has been estimated that, since 1980, approximately $130 billion of public limited partnership interests have been sold to U.S. investors. Of the estimated 11 million investors who have purchased these limited partnership interests, some 8 million are small investors.

Limited partnerships typically are formed when a promoter or developer solicits funds for purposes of buying oil and gas property, real estate, or some other enterprise. Often thousands of potential investors are sought. The investors, who become the limited partners, frequently are individuals close to retirement age seeking a place to invest their retirement savings.

Typically, under the terms of the partnership agreement, they can expect that in 5 to 10 years the partnership's properties will grow in value and be sold. They also can expect that the cash distributed from future property sales, combined with modest annual cash flow from operations, will result in the return of their original investment plus a profit. The investors are willing to accept some market risks, but they are secure in knowing that their agreement with the general partner, that is, the limited partnership agreement, assures them that: First, the general partner will earn no share of profits until the limited partners receive a return of their original investment plus some profit; Second, the general partner will receive reasonable annual management fees; and Third, the original agreement will not be changed.

A rollup turns the original deal upside down—frequently to the detriment of the limited partners who may be unfairly coerced into the new transaction. In a typical rollup, several independent limited partnerships are combined into a single new entity whose shares are traded publicly on a national securities exchange.

The new entity unually has completely different investment goals and prospects for return to the owners of individual interests in the entity. For example, unlike most limited partnerships, these new entities rarely provide income to investors because the terms of the rollup enable amounts received from property sales or refinancings to be reinvested, not distributed. Also, the new entity itself is designed to have a potentially infinite life, unlike a limited partnership in which investors can expect the partnership property to be sold and the profits distributed after a set number of years.

Most important, individual investors may find that their interest in the new entity does not have anywhere near the value of their original limited partnership interest. This is partly because sound limited partnerships are frequently combined with poorly performing ones. Also, the new entities do not offer what investors in securities want, that is, cash flow and/or growth potential. As a result, they are not marketable. One survey of rolledup real estate partnerships found an average 49 percent drop in market value on the very first day the rolledup interests began trading.

If limited partners are the losers in a partnership rollup, the general partners are the winners. They receive large fees for orchestrating the rollup. In the survey just mentioned, general partners were found to have paid themselves over $190 million. In addition, many general partners cash out their interests or emerge with a larger share of the rollup than they had in the original deal.

Despite the fact that the majority of partnership rollups to date have lost money for limited partners—94 percent according to one source—even critics agree that the partnership rollup transaction need not be abolished entirely. There is nothing inherently wrong with rolling up several partnerships, so long as certain reforms are enacted to ensure that the transaction is carried out in a manner that is fair to all parties involved, particularly small, less sophisticated investors. Current laws and regulations, both Federal and State, are inadequate in this regard, enabling general partners to force a rollup that the limited partners might not have approved if they had been adequately informed and given a meaningful opportunity to dissent and pull out of the deal.

There are several ways in which partnership rollups can be abusive under current law. While all limited partners must be notified of a proposed rollup and have an opportunity to vote on it, the disclosures provided to them by the general partners are hopelessly technical, containing hundreds of pages of fine print. Unbeknownst to most limited partners, the brokers they contact to discuss the rollup are only paid for a yes vote. Further, dissenters have little option, if any, to exit the deal. Dissenters are usually forced into the deal as long as the majority of the limited partners agree to it. The latter is referred to as a "cram down."

This issue has been the subject to much interest for over a year. Many of my colleagues may have read the articles that have appeared in every major business and financial publication in the country. Excellent and informative hearings have been held in the Senate and House banking committees. The Securities and Exchange Commission has issued regulations that attempt to address part of the problem—meaningful disclosure.

Admittedly, obstacles to reform may exist, such as the traditional jurisdictional lines in the securities laws between Federal and State government. But the fact remains that abusive partnership rollups continue because the core of the problem—dissenters' rights—has not been addressed.

That is why today I am introducing legislation that seeks to address the problem through the Tax Code. If we can't solve the problem directly, maybe we can do it by hitting those who gain from these deals where it hurts—at the bottom line.

The proposal I am introducing is similar to one advanced by Representative PETE STARK. The concept is simple. If a dissenter is not permitted to opt out of the investiment at a value that reflects his or her pre-rollup interest, then a 50 percent excise tax would be imposed on any amounts, such as payments, fees or other benefits, earned by the general partners, managers, investment bankers, brokers, or any others who gain by the rollup.

It is my hope that this proposal, and the upcoming Energy and Agricultural Taxation Subcommittee hearing on limited partnership rollups, will contribute to the effort to end abuses of this investment vehicle. I am particularly hopeful that my colleagues and others who are interested in the issue will consider this approach to addressing it and come forward with their comments on it.

I invite my colleagues not only to take a close look at the proposal I am introducing today, but also to participate in that hearing.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1393

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITED ROLL-UPS.

(a) IN GENERAL.—Chapter 54 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new section:

"SEC. 5882. TAX ON CERTAIN AMOUNTS RECEIVED IN CONNECTION WITH CERTAIN ACQUISITIONS OR COMBINATIONS OF SPECIFIED ENTITIES.

"(a) IMPOSITION OF TAX.—There is hereby imposed on any disqualified person who receives any disqualified rollup-related payment a tax equal to 50 percent of any gain or other income realized by such person by reason of such payment.

"(b) DISQUALIFIED ROLLUP-RELATED PAYMENT.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'disqualified rollup-related payment' means any payment, fee, or other consideration received (directly or indirectly) by a disqualified person—

"(A) on account of services rendered in connection with a prohibited rollup transaction,

"(B) in exchange for a direct or indirect interest in a specified entity which is a party to a prohibited rollup transaction, or for the relinquishment of any right arising under a contract or other agreement with any such entity, or

"(C) on account of—

"(i) services rendered to any entity resulting from a prohibited rollup transaction, or

"(ii) holding any interest in such entity (including any amount received on redemption or other disposition of such an interest).

"(2) EXCEPTION FOR CERTAIN PAYMENTS.—The term 'disqualified rollup-related payment' shall not include any amount received by any disqualified person on account of any services to the extent such amount does not exceed the amount such disqualified person would have been entitled to receive for such services from a specified entity had it not entered into the prohibited rollup transaction.

"(c) PROHIBITED ROLLUP TRANSACTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'prohibited rollup transaction' means any transaction which would convert a specified security in a specified entity to an interest which is not a specified security if—

"(A) in connection with such transaction, there is an offering of securities which is required to be registered with the Securities and Exchange Commission or any comparable agency of a State or local government or a proxy or other vote is requested in connection with the transaction, and

"(B) the dissenters' rights requirements of paragraph (2) are not met by each specified entity which is a party to the transaction and which was in existence before the transaction.

"(2) DISSENTERS' RIGHTS REQUIREMENTS.—The dissenters' rights requirements of this paragraph are met by any specified entity if—

"(A) each person who holds a specified security in such entity has a reasonable opportunity to dissent to the transaction referred to in paragraph (1), and

"(B) each person who dissents to such tranaction has the right to—

"(i) require the redemption of such persons's specified security in the entity for an amount equal to such security's proportionate share of the net value of the assets of such entity immediately before the transaction and such amount to be paid in cash, marketable securities which have been traded on a national exchange for at least 3 years, or negotiable promissory notes issued by the entity resulting from the transaction, such promissory notes being subject to terms specified in regulations to be promulgated by the Secretary; or

"(ii) receive securities which have substantially the same value, rights, powers, and privileges as the specified security.

The amount determined under subparagraph (B) with respect to the value of any specified security shall in no event be less than the amount represented (in any document filed with the Securities and Exchange Commission or any other governmental authority) as the value of the underlying assets to be exchanged, sold, or contributed (either directly or indirectly) by the specified entity which issued the specified security.

"(3) SPECIFIED ENTITY.—The term 'specified entity' means any limited partnership which has issued a specified security which was not traded on a national securities exchange before April 23, 1991, or any such entity which has been converted after April 23, 1991, into an entity interests in which are freely transferrable.

"(4) SPECIFIED SECURITY.—The term 'specified security' means a limited partnership interest in which the holders of such interest are entitled to receive a proportionate share of all net proceeds from all sales or refinancings which occur on or after a specified date (which date may be the initial date of issuance of such security) of the assets of the entity issuing such security, and none of the net proceeds of such sales or refinancings may be retained by such entity, other than that which may be retained under the original agreement among the partners. For purposes of this paragraph, the term 'net proceeds' means the gross proceeds received from a sale or refinancing, reduced by any indebtedness or reasonable costs that must be paid as a result of such sale or refinancing, further reduced by any reserve for repairs or replacement, all of which must have been consistent with the agreement of the partners at the time the specified security was issued.

"(d) DISQUALIFIED PERSON.—For purposes of this section, the term 'disqualified person' means—

"(1) any person who, immediately before or after prohibited rollup transaction, was or is a general partner, manager, or investment adviser with respect to any specified entity which is a party to such transaction,

"(2) any person performing services as a broker, dealer, underwriter, promoter, investment banker, or appraiser in connection with the prohibited rollup transaction, and

"(3) any person who is related (within the meaning of section 5881(c)(2)) to any peson described in paragraph (1) or (2).

"(e) TAX APPLIES WHETHER OR NOT AMOUNT RECOGNIZED.—The tax imposed by this section shall apply whether or not the gain or other income referred to in subsection (a) is recognized.

"(f) ADMINISTRATIVE PROVISIONS.—For purposes of the deficiency procedures of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A."

(b) TECHNICAL AMENDMENTS.—

(1) The chapter heading and table of sections for chapter 54 of such Code is amended to read as follows:

"CHAPTER 54—GREENMAIL, ETC.

"Sec. 5881. Greenmail.
"Sec. 5882. Tax on certain amounts received in connection with certain acquisitions or combinations of specified entities."

(2) The table of sections for subtitle E of such Code is amended by striking the item relating to chapter 54 and inserting the following new item:

"Chapter 54. Greenmail, etc."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to prohibited rollup transactions (as defined in section 5882 of the Internal Revenue Code of 1986 (as added by subsection (a)) occurring after April 23, 1991.●

By Mr. BENTSEN (for himself and Mr. PACKWOOD):

S. 1394. A bill to simplify certain provisions of the Internal Revenue Code of 1986; to the Committee on Finance.

TAX SIMPLIFICATION ACT

Mr. BENTSEN. Mr. President, today, Senator PACKWOOD and I are joining with Chairman ROSTENKOWSKI and Congressman ARCHER in introducing companion tax simplification bills in the Senate and the House.

The tax simplification proposals were developed by the majority and minority staffs of the Finance Committee and the Ways and Means Committee, and the staffs of the Joint Committee on Taxation, the Treasury Department and the Internal Revenue Service. The staffs were directed to draft tax simplification proposals that, first, did not represent a change in tax policy, and, second, were either revenue neutral or had only a minimal revenue impact. Working under these difficult constraints, I believe the staffs have done a commendable job.

This bill is intended to start a dialog on tax simplification proposals. It is not intended to be complete or to represent the final word on how the Tax Code can and should be simplified. By definition, the provisions of current law that this bill is intended to simplify are complex, and often this is because they address complex circumstances. While the staffs have made every effort to avoid unintended consequences of the changes proposed in the interests of simplification, it would be unrealistic to expect perfection. We now will be looking to taxpayers and tax practitioners to examine the bill and to make suggestions for changes to the bill or to suggest additional proposals that were not included or may have been overlooked. I will also be scheduling hearings before the Finance Committee later this year on this bill and tax simplification proposals more generally. I very much hope that the introduction of this bill will stimulate serious thinking and comment on how we can make our tax laws more simple.

Because of budgetary considerations, this bill necessarily represents a limited effort to simplify the tax rules. It is extremely difficult and perhaps impossible to enact major, structural, simplifications to the tax system without encountering serious revenue problems. We are severely constrained in this effort by the pay-as-you-go budget rules.

Some of the provisions in this bill nevertheless have some revenue impact, either positive or negative, that is incidental to the goal of simplification. As has long been my policy, and as the pay-as-you-go rules require, I will not move this bill or any part of the bill through the Finance Committee if it is not fully paid for.

Even within the constraints the staffs were operating under, the bill includes a number of significant provisions. For example, the bill provides for a simplified form for individual tax returns. The bill also would simplify the reporting requirements for partnerships. And, the bill would significantly simplify the look-back method for calculating income from long-term contracts. These and other areas in the Tax Code have tied taxpayers and practitioners in knots and are ripe for simplification.

Two important areas in which we were unable to include proposals at this point were payroll tax deposit reform and simplification of the earned income tax credit. There is no question that simplification is seriously needed in both areas. While we are unable to reach agreement on the details of proposals in these areas for inclusion in this bill, we will want to give these and other proposals additional study as the tax simplification bill advances in the legislative process.

This bill represents one of a series of initiatives to simplify the tax laws. In the area of pension law, I have joined Senator PRYOR in the introduction of the Employee Benefits Simplification and Expansion Act of 1991. By streamlining the cumbersome pension laws, that legislation would encourage more employers to establish pension plan coverage for their employees.

I ask unanimous consent that the full text of the bill and an explanatory statement prepared by the Joint Committee on Taxation be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1394

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Tax Simplification Act of 1991".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS—

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TITLE I—PROVISIONS RELATING TO INDIVIDUALS

SEC. 101. SIMPLIFICATION OF RULES ON ROLLOVER OF GAIN ON SALE OF PRINCIPAL RESIDENCE.

(a) Rules Relating to Multiple Sales Within Rollover Period.—

(1) Section 1034 (relating to rollover of gain on sale of principal residence) is amended by striking subsection (d).

(2) Paragraph (4) of section 1034(c) is amended to read as follows:

"(4) If the taxpayer, during the period described in subsection (a), purchases more than 1 residence which is used by him as his principal residence at some time within 2 years after the date of the sale of the old residence, only the first of such residences so used by him after the date of such sale shall constitute the new residence."

(3) Subsections (h)(1) and (k) of section 1034 are each amended by striking "(other than the 2 years referred to in subsection (c)(4))".

(b) Effective Date.—The amendment made by subsection (a) shall apply to sales of old residences (within the meaning of section 1034 of the Internal Revenue Code of 1986) after the date of the enactment of this Act.

SEC. 102. MODIFICATION OF DUE DATES FOR ESTIMATED TAX PAYMENTS.

(a) General Rule.—Paragraph (2) of section 6654(c) (relating to number of required installments; due dates) is amended by striking "June 15" and inserting "July 15".

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

SEC. 103. PAYMENT OF TAX BY CREDIT CARD.

(a) General Rule.—Section 6311 is amended to read as follows:

"SEC. 6311. PAYMENT BY CHECK, MONEY ORDER, OR OTHER MEANS.

"(a) Authority To Receive.—It shall be lawful for the Secretary to receive for internal revenue taxes (or in payment for internal revenue stamps) checks, money orders, or any other commercially acceptable means that the Secretary deems appropriate, including payment by use of credit cards, to the extent and under the conditions provided in regulations prescribed by the Secretary.

"(b) Ultimate Liability.—If a check, money order, or other method of payment so received is not duly paid, the person by whom such check, or money order, or other method of payment has been tendered shall remain liable for the payment of the tax or for the stamps, and for all legal penalties and additions, to the same extent as if such check, money order, or other method of payment had not been tendered.

"(c) Liability of Banks and Others.—If any certified, treasurer's, or cashier's check (or other guaranteed draft), or any money order, or any other means of payment that has been guaranteed by a financial institution (such as a guaranteed credit card transaction) so received is not duly paid, the United States shall, in addition to its right to exact payment from the party originally indebted therefor, has a lien for—

"(1) the amount of such check (or draft) upon all assets of the financial institution on which drawn,

"(2) the amount of such money order upon all the assets of the issuer therof, or

"(3) the guaranteed amount of any other transaction upon all the assets of the institution making such guarantee,

and such amount shall be paid out of such assets in preference to any other claims whatsoever against such financial institution, issuer, or guaranteeing institution, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such financial institution.

"(d) Payment by Other Means.—

"(1) Authority to prescribe regulations.—The Secretary shall prescribe such regulations as the Secretary deems necessary to receive payment by commercially acceptable means, including regulations that—

"(A) specify which methods of payment by commercially acceptable means will be acceptable,

"(B) specify when payment by such means will be considered received,

"(C) identify types of nontax matters related to payment by such means that are to be resolved by persons ultimately liable for payment and financial intermediaries, without the involvement of the Secretary, and

"(D) ensure that tax matters will be resolved by the Secretary, without the involvement of financial intermediaries.

"(2) Authority to enter into contracts.—Notwithstanding section 3718(f) of title 31, United States Code, the Secretary is authorized to enter into contracts to obtain services related to receiving payment by other means where cost beneficial to the government and is further authorized to pay any fees required by such contracts.

"(3) Special provisions for use of credit cards.—If use of credit cards is accepted as a method of payment of taxes pursuant to subsection (a)—

"(A) except as provided by regulations, subject to the provisions of section 6402, any refund due a person who makes a payment by use of a credit card shall be made directly to such person, notwithstanding any other provision of law or any contract made pursuant to paragraph (2),

"(B) any credit card transaction shall not be considered a 'sales transaction' under the Federal Truth-in-Lending Act (15 U.S.C. 1601 et seq.),

"(C) all nontax matter as defined by regulations prescribed under paragraph (1)(C), including billing errors as defined in section 161(b) of such Act, shall be resolved by the person tendering the credit card and the credit card issuer, without the involvement of the Secretary, and

"(D) the provisions of section 161(e) of such Act shall not apply."

(b) Clerical Amendment.—The table of sections for subchapter B of chapter 64 is amended by striking the item relating to section 6311 and inserting the following:

"Sec. 6311. Payment by check, money order, or other means.

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 104. MODIFICATIONS TO ELECTION TO INCLUDE CHILD'S INCOME ON PARENT'S RETURN.

(a) Eligibility for Election.—Clause (ii) of section 1(g)(7)(A) (relating to election to include certain unearned income of child on parent's return) is amended to read as follows:

"(i) such gross income is more than the amount described in paragraph (4)(A)(ii)(I) and less than 10 times the amount so described,".

(b) Computation of Tax.—Subparagraph (B) of section 1(g)(7) (relating to income included on parent's return) is amended—

(1) by striking "$1,000" in clause (i) and inserting "twice the amount described in paragraph (4)(A)(ii)(I)", and

(2) by amending subclause (II) of clause (ii) to read as follows:

"(II) for each such child, 15 percent of the lesser of the amount described in paragraph (4)(A)(ii)(I) or the excess of the gross income of such child over the amount so described, and".

(c) MINIMUM TAX.—Subparagraph (B) of section 59(j)(1) is amended by striking "$1,000" and inserting "twice the amount in effect for the taxable year under section 63(c)(5)(A)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 105. SIMPLIFIED FOREIGN TAX CREDIT LIMITATION FOR INDIVIDUALS.

(a) GENERAL RULE.—Section 904 (relating to limitations on foreign tax credit) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) SIMPLIFIED LIMITATION FOR CERTAIN INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual to whom this subsection applies for any taxable year, the limitation of subsection (a) shall be the lesser of—

"(A) 25 percent of such individual's gross income for the taxable year from sources without the United States, or

"(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year.

No taxes paid or accrued by the individual during such taxable year may be deemed paid or accrued in any other taxable year under subsection (c).

"(2) INDIVIDUALS TO WHOM SUBSECTION APPLIES.—This subsection shall apply to an individual for any taxable year if—

"(A) the entire amount of such individual's gross income for the taxable year from sources without the United States consists of qualified passive income,

"(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year does not exceed $200, and

"(C) such individual elects to have this subsection apply for the taxable year.

"(3) DEFINITIONS.—For purpose of this subsection—

"(A) QUALIFIED PASSIVE INCOME.—The term 'qualified passive income' means any item of gross income if—

"(i) such item of income is passive income (as defined in subsection (d)(2)(A) without regard to clause (iii) thereof), and

"(ii) such item of income is shown on a payee statement furnished to the individual.

"(B) CREDITABLE FOREIGN TAXES.—The term 'creditable foreign taxes' means any taxes for which a credit is allowable under section 901; except that such term shall not include any tax unless such tax is shown on a payee statement furnished to show individual.

"(C) PAYEE STATEMENT.—The term 'payee statement' has the meaning given to such term by section 6724(d)(2).

"(D) ESTATES AND TRUSTS NOT ELIGIBLE.—This subsection shall not apply to any estate or trust."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

SEC. 106. TREATMENT OF PERSONAL TRANSACTIONS BY INDIVIDUALS UNDER FOREIGN CURRENCY RULES.

(a) GENERAL RULE.—Subsection (e) of section 988 (relating to application to individuals) is amended to read as follows:

"(e) APPLICATION TO INDIVIDUALS.—

"(1) IN GENERAL.—The preceding provisions of this section shall not appy to any section 988 transaction entered into by an individual which is a personal transaction.

"(2) EXCLUSION FOR CERTAIN PERSONAL TRANSACTIONS.—If—

"(A) nonfunctional currency is disposed of by an individual in any transaction, and

"(B) such transaction is a personal transaction, no gain shall be recognized for purposes of this subtitle by reason of changes in exchange rates after such currency was acquired by such individual and before such disposition. The preceding sentence shall not apply if the gain which would otherwise be recognized exceeds $200.

"(3) PERSONAL TRANSACTIONS.—For purposes of this subsection, the term 'personal transaction' means any transaction entered into by an individual, except that such term shall not include any transaction to the extent that expenses properly allocable to such transaction meet the requirements of section 162 or 212 (other than that part of section 212 dealing with expenses incurred in connection with taxes)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 107. DUE DATE FOR FURNISHING INFORMATION TO PARTNERS OF LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subsection (b) of section 6031 (relating to copies to partners) is amended by adding at the end thereof the following new sentence: "In the case of a partnership which is a large partnership (as defined in section 776) or is any other partnership with 250 or more partners, such information shall be so furnished on or before the 15th day of the 3d month following the close of such taxable year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending on or after December 31, 1992.

SEC. 108. EXCLUSION OF COMBAT PAY FROM WITHHOLDING LIMITED TO AMOUNT EXCLUDABLE FROM GROSS INCOME.

(a) IN GENERAL.—Paragraph (1) of section 3401(a) (defining wages) is amended by inserting before the semicolon the following: "to the extent remuneration for such service is excludable from gross income under such section".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to remuneration paid after December 31, 1991.

SEC. 109. EXPANDED ACCESS TO SIMPLIFIED INCOME TAX RETURNS.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate shall take such actions as may be appropriate to expand access to simplified individual income tax returns and otherwise simplify the individual income tax returns.

(b) REPORT.—Not later than the date 1 year after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a report on his actions under subsection (a), together with such recommendations as he may deem advisable.

SEC. 110. TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.

(a) IN GENERAL—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.—

"(1) GENERAL RULE.—In the case of any employee of the United States Postal Service who performs services involving the collection and delivery of mail on a rural route and who receives qualified reimbursements for the expenses incurred by such employee for the use of a vehicle in performing such services—

"(A) the amount allowable as a deduction under this chapter for the use of a vehicle in performing such services shall be equal to the amount of such qualified reimbursements; and

"(B) such qualified reimbursements shall be treated as paid under a reimbursement or other expense allowance arrangement for purposes of section 62(a)(2)(A) (and section 62(c) shall not apply to such qualified reimbursements).

"(2) DEFINITION OF QUALIFIED REIMBURSEMENTS.—For purposes of this subsection, the term 'qualified reimburesements' means the amounts paid by the United States Postal Service to employees as an equipment maintenance allowance under the 1991 collective bargaining agreement between the United States Postal Service and the National Rural Letters Carrier's Association. Amounts paid as an equipment maintenance allowance by such Postal Service under later collective bargaining agreements that supersede the 1991 agreement shall be considered qualified reimbursements if such amounts do not exceed the amounts that would have been paid under the 1991 agreement, adjusted for changes in the Consumer Price Index (as defined in section 1(f)(5)) since 1991."

(b) TECHNICAL AMENDMENT.—Section 6008 of the Technical and Miscellaneous Revenue Act of 1988 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 111. EXEMPTION FROM LUXURY EXCISE TAX FOR CERTAIN EQUIPMENT INSTALLED ON PASSENGER VEHICLES FOR USE BY DISABLED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (3) of section 4004(b) of the Internal Revenue Code of 1986 (relating to separate purchase of article and parts and accessories therefor) is amended—

(1) by striking "or" at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C), and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) the part or accessory is installed on a passenger vehicle to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 11221(a) of the Omnibus Budget Reconciliation Act of 1990.

TITLE II—TREATMENT OF LARGE PARTNERSHIPS

Subtitle A—General Provisions

SEC. 201. SIMPLIFIED FLOW-THROUGH FOR LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subchapter K (relating to partners and partnerships) is amended by adding at the end thereof the following new part:

"PART IV—SPECIAL RULES FOR LARGE PARTNERSHIPS

"Sec. 771. Application of subchapter to large partnerships.
"Sec. 772. Simplified flow-through.
"Sec. 773. Computations at partnership level.
"Sec. 774. Other modifications.

"Sec. 775. Exceptions.
"Sec. 776. Large partnership defined.
"Sec. 777. Regulations.

"SEC. 771. APPLICATION OF SUBCHAPTER TO LARGE PARTNERSHIPS.

"The preceding provisions of this subchapter to the extent inconsistent with the provisions of this part shall not apply to a large partnership and its partners.

"SEC. 772. SIMPLIFIED FLOW-THROUGH.

"(a) General Rule.—In determining the income tax of a partner of a large partnership, such partner shall take into account separately such partners's distributive share of the partnership's—

"(1) taxable income or loss from passive loss limitation activities,

"(2) taxable income or loss from other activities,

"(3) net capital gain—

"(A) to the extent allocable to passive loss limitation activities, and

"(B) to the extent allocable to other activities,

"(4) net AMT adjustment separately computed for—

"(A) passive loss limitation activities, and

"(B) other activities,

"(5) general credits,

"(6) low-income housing credit determined under section 42, and

"(7) rehabilitation credit determined under section 47.

"(b) Separate Computations.—In determining the amounts required under subsection (a) to be separately taken into acount by any partner, this section and section 773 shall be applied separately with respect to such partner by taking into account such partner's distributive share of the items of income, gain, loss, deduction, or credit of the partnership.

"(c) Treatment at Partner Level.—

"(1) In general.—Except as provided in this subsection, rules similar to the rules of section 702(b) shall apply to any partner's distributive share of the amounts referred to in subsection (a).

"(2) Income or loss from passive loss limitation activities.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(1) shall be treated as an item of income or loss (as the case may be) from the conduct of a trade or business which is a single passive activity (as defined in section 469).

"(3) Income or loss from other activities.—

"(A) In general.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(2) shall be treated as an item of income or expense (as the case may be) with respect to property held for investment.

"(B) Deductions for loss not subject to section 67.—The deduction under section 212 for any loss described in subparagraph (A) shall not be treated as a miscellaneous itemized deduction for purposes of section 67.

"(4) Minimum tax treatment.—In determining the alternative minimum taxable income of any partner, such partner's distributive share of any net AMT adjustment shall be taken into account in lieu of making the separate adjustments provided in sections 56, 57, and 58 with respect to the items of the partnership. Except as provided in regulations, the net AMT adjustment shall be treated, for purposes of section 53, as an adjustment or item of tax preference not specified in section 53(d)(1)(B)(ii).

"(5) General credits.—A partner's distributive share of the amount referred to in paragraph (5) of subsection (a) shall be taken into account as a current year business credit.

"(d) Operating Rules.—For purposes of this section—

"(1) Passive loss limitation activity.—The term 'passive loss limitation activity' means—

"(A) any activity which involves the conduct of a trade or business, and

"(B) any rental activity.

For purposes of the preceding sentence, the term 'trade or business' includes any activity treated as a trade or business under paragraph (5) and (6) of section 469(c).

"(2) Net AMT adjustment.—The term 'net AMT adjustment' means the net adjustment in the items attributable to passive loss activities or other activities (as the case may be) which would result if such items were determined with the adjustments of sections 56, 57, and 58. Except as provided in regulations, such net adjustment shall be determined by using the adjustments applicable to individuals.

"(3) Treatment of net capital gain.—

"(A) In determining the amounts referred to in paragraphs (1) and (2) of subsection (a), the net capital gain shall be excluded.

"(B) The net capital gain shall be treated—

"(i) as allocable to passive loss limitation activities to the extent the net capital gain does not exceed the net capital gain determined by only taking into account gains and losses from sales and exchanges of property used in connection with such activities, and

"(ii) as allocable to other activities to the extent such gain exceeds the amount allocated under clause (i).

"(4) General credits.—The term 'general credits' means any credit other than the low-income housing credit and the rehabilitation credit.

"(e) Special Rule for Unrelated Business Tax.—In the case of a partner which is an organization subject to tax under section 511, such partner's distributive share of any items shall be taken into account separately to the extent necessary to comply with the provisions of section 512(c)(1).

"SEC. 773. COMPUTATIONS AT PARTNERSHIP LEVEL.

"(a) General Rule.—

"(1) Taxable income.—The taxable income of a large partnership shall be computed in the same manner as in the case of an individual except that—

"(A) the items described in section 772(a) shall be separately stated, and

"(B) the modifications of subsection (b) shall apply.

"(2) Elections.—All elections affecting the computation of the taxable income of a large partnership or the computation of any credit of a large partnership shall be made by the partnership.

"(3) Limitations, etc.—

"(A) In general.—Except as provided in subparagraph (B), all limitations and other provisions affecting the computation of the taxable income of a large partnership or the computation of any credit of a large partnership shall be applied at the partnership level (and not at the partner level).

"(B) Certain limitations applied at partner level.—The following provisions shall be applied at the partner level (and not at the partnership level):

"(i) Section 68 (relating to overall limitation on itemized deductions).

"(ii) Sections 49 and 465 (relating to at risk limitations).

"(iii) Section 469 (relating to limitation on passive activity losses and credits).

"(iv) Any other provision specified in regulations.

"(4) Coordination with other provisions.—Paragraphs (2) and (3) shall apply notwithstanding any other provision of this chapter other than this part.

"(b) Modifications to Determination of Taxable Income.—In determining the taxable income of a large partnership—

"(1) Certain deductions not allowed.—The following deductions shall not be allowed:

"(A) The deduction for personal exemptions provided in section 151.

"(B) The net operating loss deduction provided in section 172.

"(C) The additional itemized deductions for individuals provided in part VII of subchapter B (other than section 212 thereof).

"(2) Charitable deductions.—In determining the amount allowable under section 170, the limitation of section 170(b)(2) shall apply.

"(3) Coordination with section 67.—In lieu of applying section 67, 70 percent of the amount of the miscellaneous itemized deductions shall be disallowed.

"(4) Treatment of capital losses.—

"(A) Limited to gains.—Paragraphs (1) and (2) of section 1211(b), and paragraph (2) of section 1212(b), shall not apply.

"(B) Section 1212(c) not to apply.—Subsection (c) of section 1212 shall not apply.

"(5) Treatment of tax-exempt interest.—

"(A) In general.—Gross income shall include any interest otherwise excludable under section 103.

"(B) Exception.—If, at the close of each quarter of the taxable year of any partnership, at least 50 percent of the value of the total assets of such partnership consists of obligations described in section 103(a)—

"(i) subparagraph (A) shall not apply to such partnership for such taxable year, and

"(ii) tax-exempt interest shall be treated as an item required to be separately taken into account under section 772(a).

For purposes of the preceding sentence, the value of any asset shall be determined under rules similar to the rules of section 851(c)(4).

"(c) Determination of Amount of Foreign Tax Credit.—

"(1) In general.—

"(A) Amount of credit.—For purposes of determining the amount of the foreign tax credit of a large partnership—

"(i) such partnership shall be treated as an individual subject to tax under this chapter at a rate equal to 25 percent, and

"(ii) any excess credit of such partnership for any taxable year shall not be allowed as a carryback under section 904(c) to any preceding taxable year.

"(B) Partnership items sourced in United States.—In determining the income tax of a partner of a large partnership, all items of income, gain, loss, or deduction taken into account by such partner under section 772 shall be treated as derived from sources within the United States.

"(2) Exception.—

"(A) In general.—Paragraph (1) shall not apply to any taxable year of a partnership if—

"(i) 25 percent or more of the gross income of such partnership for such taxable year is from sources outside the United States, or

"(ii) the partnership makes an election under this paragraph.

"(B) Special rules.—In the case of any large partnership to which paragraph (1) does not apply—

"(i) the election under section 901 shall be made separately by each partner,

"(ii) no deduction or credit shall be allowed to the partnership for any creditable foreign taxes, and "(iii) in determining the income tax of any partner of the partnership—

"(I) creditable foreign taxes shall be treated as an item required to be separately taken into account under section 772(a), and

"(II) the respective sources of the items of income, gain, loss, or deduction taken into account under section 772(a) shall be determined as provided in section 702(b).

"(C) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(3) CREDITABLE FOREIGN TAXES.—For purposes of this subsection, the term 'creditable foreign taxes' means any taxes for which a credit may be allowed under section 901.

"SEC. 774. OTHER MODIFICATIONS.

"(a) TREATMENT OF CERTAIN OPTIONAL ADJUSTMENTS.—In the case of a large partnership—

"(1) computations under section 773 shall be made without regard to any adjustment under section 743(b), but

"(2) a transferee partner's distributive share of any amount referred to in section 772(a) shall be appropriately adjusted to take into account any adjustment under section 743(b) with respect to such partner.

"(b) DEFERRED SALE TREATMENT OF CONTRIBUTED PROPERTY.—

"(1) TREATMENT OF PARTNERSHIP.—In the case of any contribution of property to which this subsection applies—

"(A) the basis of such property to the partnership shall be its fair market value as of the time of such contribution, and

"(B) section 704(c) shall not apply to such property.

"(2) TREATMENT OF CONTRIBUTING PARTNER.—

"(A) IN GENERAL.—In the case of any partner who makes a contribution of property to which this subsection applies—

"(i) such partner shall recognize the precontribution gain or loss from such property as provided in this paragraph, and

"(ii) appropriate adjustments to the basis of such partner's interest in the partnership shall be made for the amounts recognized under this paragraph.

"(B) CHARACTER.—The character of any gain or loss recognized under this paragraph shall be determined by reference to the character which would have resulted if the property had been sold to the partnership at the time of the contributions; except that any gain or loss recognized under subparagraph (C)(i) shall be treated as ordinary income or loss, as the case may be.

"(C) TRANSACTIONS AT PARTNERSHIP LEVEL.—

"(i) DEPRECIATION, ETC.—If any partnership deduction for depreciation, depletion, or amortization is increased by reason of an increase in the basis of any property under paragraph (1), the contributing partner shall recognize so much of the precontribution gain with respect to such property as does not exceed the increase in such deduction. If there is a precontribution loss, a similar rule shall apply to any decrease in such a deduction.

"(ii) DISPOSITIONS.—

"(I) IN GENERAL.—Except as otherwise provided in this clause, any precontribution gain or loss with respect to any property (to the extent not previously taken into account under this paragraph) shall be recognized by the contributing partner if the partnership makes any disposition of the property.

"(II) DISTRIBUTIONS TO CONTRIBUTING PARTNER.—No gain or loss shall be recognized under subclause (I) by reason of any distribution of the contributed property to the contributing partner (and subparagraph (D)(ii) shall not apply to any such distribution). In any such case, no adjustment shall be made under section 734 on account of such distribution and the adjusted basis of such property in the hands of the contributing partner shall be its adjusted basis immediately before the contribution properly adjusted for gain or loss previously recognized under this paragraph.

"(iii) YEAR FOR WHICH AMOUNT TAKEN INTO ACCOUNT.—Any amount recognized under this subparagraph shall be taken into account for the partner's taxable year in which or with which ends the partnership taxable year of the deduction or disposition.

"(D) TRANSACTIONS AT PARTNER LEVEL.—

"(i) IN GENERAL.—If the contributing partner makes a disposition of any portion of his interest in the partnership, a corresponding portion of any precontribution gain or loss which was not previously taken into account under this paragraph shall be recognized for the partner's taxable year in which the disposition occurs. The preceding sentence shall not apply to a disposition at death.

"(ii) TREATMENT OF CERTAIN DISTRIBUTIONS.—If—

"(I) the amount of cash and the fair market value of property distributed to a partner, exceeds

"(II) the adjusted basis of such partner's interest in the partnership immediately before the distribution (determined without regard to any adjustment under subparagraph (A)(ii) resulting from such distribution).

the contributing partner shall recognize so much of any precontribution gain as does not exceed such excess.

"(iii) SPECIAL RULE.—Except as provided in clause (ii)(II), any basis adjustment under subparagraph (A)(ii) resulting from any gain or loss recognized under this subparagraph shall be treated as occurring immediately before the disposition or distribution involved.

"(E) SECTION 267 PRINCIPALS TO APPLY.—No loss shall be recognized under subparagraph (C)(ii) or (D) by reason of any disposition (directly or indirectly) to a person related (within the meaning of section 267(b)) to the contributing partner.

"(3) PRECONTRIBUTION GAIN OR LOSS.—For purposes of this subsection—

"(A) PRECONTRIBUTION GAIN.—The term 'precontribution gain' means the excess (if any) of—

"(i) the fair market value of the contributed property as of the time of the contribution, over

"(ii) the adjusted basis of such property immediately before such contribution.

"(B) PRECONTRIBUTION LOSS.—The term 'precontribution loss' means the excess (if any) of the amount referred to in clause (ii) of subparagraph (A) over the amount referred to in clause (i) of subparagraph (A).

"(4) CONTRIBUTIONS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any contribution of property (other than cash) which is made by any partner (including an excluded partner) to a partnership if—

"(A) as of the time of such contribution, such partnership is a large partnership, or

"(B) such contribution is to a partnership reasonably expected to become a large partnership.

This subsection shall not apply to any contribution made before January 1, 1992.

"(c) CREDIT RECAPTURE DETERMINED AT PARTNERSHIP LEVEL.—

"(1) IN GENERAL.—In the case of a large partnership—

"(A) any credit recapture shall be taken into account by the partnership, and

"(B the amount of such recapture shall be determined as if the credit with respect to which the recapture is made has been fully utilized to reduce tax.

"(2) METHOD OF TAKING RECAPTURE INTO ACCOUNT.—A large partnership shall take into account a credit recapture by reducing the amount of the appropriate current year credit to the extent thereof, and if such recapture exceeds the amount of such current year credit, the partnership shall be liable to pay such excess.

"(3) DISPOSITIONS NOT TO TRIGGER RECAPTURE.—No credit recapture shall be required by reason of any transfer of an interest in a large partnership.

"(4) CREDIT RECAPTURE.—For purposes of this subsection, the term 'credit recapture' means any increase in tax under section 42(j) or 50(a).

"(d) PARTNERSHIP NOT TERMINATED BY REASON OF CHANGE IN OWNERSHIP.—Subparagraph (B) of section 708(b)(1) shall not apply to a large partnership.

"(e) PARTNERSHIP ENTITLED TO CREDIT UNDER SECTION 34.—The credit provided by section 34 shall be allowed to any large partnership and shall not be taken into account by the partners of such partnership.

"(f) TREATMENT OF REMIC RESIDUALS.—For purposes of applying section 860E(e)(6) to any large partnership, all interests in such partnership shall be treated as held by disqualified organizations (and subparagraph (D) of section 860E(e)(6) shall not apply).

"SEC. 775. EXCEPTIONS.

"(a) GENERAL RULE.—This part shall not apply to—

"(1) an excluded partner's distributive share of any item of income, gain, loss, deduction, or credit, and

"(2) any item of income, gain, loss, deduction, or credit attributable to any partnership oil or gas property.

The amounts referred to in the preceding sentence shall be excluded for purposes of making determinations under section 772 and 773.

"(b) EXCLUDED PARTNER.—For purposes of this section—

"(1) IN GENERAL.—The term 'excluded partner' means, with respect to any partnership taxable year, any partner who for such taxable year or any preceding partnership taxable year meets the requirements of paragraph (2).

"(2) REQUIREMENTS.—A partner meets the requirements of this paragraph for any partnership taxable year if—

"(A) at any time during such taxable year, such partner owned more than 5 percent of the capital interests or the profits interests in such partnership, or

"(B) such partner materially participated (within the meaning of section 469(h)) in the activities of the partnership during such taxable year and holds any interest in the partnership which is not an interest as a limited partner.

"(c) SECRETARY MAY RELY ON TREATMENT ON RETURN.—If, on the partnership return of any large partnership, a person is treated as an excluded partner or as a partner who is not an excluded partner, such treatment shall be binding on such partnership and partner but not on the Secretary.

"SEC. 776. LARGE PARTNERSHIP.

"(a) GENERAL RULE.—For purposes of this part—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'large partnership' means, with respect to any partnership taxable year, any partnership if the number of persons who were partners in such partnership in such taxable year or any preceding partnership taxable year equaled or exceeded 250. To the extent provided in regulations, a partnership shall cease to be treated as a large partnership for any partnership taxable year if in such taxable year fewer than 100 persons were partners in such partnership.

"(2) ELECTION FOR PARTNERSHIPS WITH AT LEAST 100 PARTNERS.—If a partnership makes an election under this paragraph, paragraph (1) shall be applied by substituting '100' for '250'. Such an election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(b) EXCEPTION FOR CERTAIN PARTNERSHIPS.—For purposes of this part, the term 'large partnership' shall not include any partnership if—

"(1) substantially all of the activities of such partnership involve the performance of personal services by individuals owning (directly or indirectly) interests in such partnership, or

"(2) 50 percent or more (by value) of the assets of such partnership consists of oil or gas properties.

"(c) ELECTION FOR OIL AND GAS PARTNERSHIPS.—

"(1) IN GENERAL.—If a partnership makes an election under this subsection—

"(A) section 775(a)(2) and subsection (b)(2) of this section shall not apply to such partnership,

"(B) the allowance for depletion under section 611 with respect to any partnership oil or gas property shall be computed without regard to section 613,

"(C) any partner who is an integrated oil company (as defined in section 291(b)(4)) shall be treated as an excluded partner, and

"(D) if any partner meets the requirements of section 469(c)(3)(A) with respect to any working interest in an oil or gas property, such partner (if not otherwise an excluded partner) shall be treated as an excluded partner with respect to such interest.

"(2) ELECTION.—Any election under this subsection shall apply to the partnership taxable year for which made and all subsequent partnership taxable years unless revoked with the consent of the Secretary.

"(d) SECRETARY MAY RELY ON TREATMENT ON RETURN.—If, on the partnership return of any partnership, such partnership is treated as a large partnership, such treatment shall be binding on such partnership and all partners of such partnership but not on the Secretary.

"SEC. 777. REGULATIONS.

"The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this part."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter K of chapter 1 is amended by adding at the end thereof the following new item:

"Part IV. Special rules for large partnerships."

SEC. 202. SIMPLIFIED AUDIT PROCEDURES FOR LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Chapter 63 is amended by adding at the end thereof the following new subchapter:

"Subchapter D—Treatment of Large Partnerships

"Part I. Treatment of partnership items and adjustments.

"Part II. Partnership level adjustments.

"Part III. Definitions and special rules.

"PART I—TREATMENT OF PARTNERSHIP ITEMS AND ADJUSTMENTS

"Sec. 6240. Application of subchapter.

"Sec. 6241. Partner's return must be consistent with partnership return.

"Sec. 6242. Procedures for taking partnership adjustments into account.

"SEC. 6240. APPLICATION OF SUBCHAPTER.

"(a) GENERAL RULE.—This subchapter shall only apply to large partnerships and partners in such partnerships.

"(b) COORDINATION WITH OTHER PARTNERSHIP AUDIT PROCEDURES.—

"(1) IN GENERAL.—Subchapter C of this chapter shall not apply to any large partnership other than its capacity as a partner in another partnership which is not a large partnership.

"(2) TREATMENT WHERE PARTNER IN OTHER PARTNERSHIP.—If a large partnership is a partner in another partnership which is not a large partnership—

"(A) subchapter C of this chapter shall apply to items of such large partnership which are partnership items with respect to such other partnership, but

"(B) any adjustment under such subchapter C shall be taken into account in the manner provided by section 6242.

"SEC. 6241. PARTNER'S RETURN MUST BE CONSISTENT WITH PARTNERSHIP RETURN.

"(a) GENERAL RULE.—A partner of any large partnership shall, on the partner's return, treat each partnership item attributable to such partnership in a manner which is consistent with the treatment of such partnership item on the partnership return.

"(b) UNDERPAYMENT DUE TO INCONSISTENT TREATMENT ASSESSED AS MATH ERROR.—Any underpayment of tax by a partner by reason of failing to comply with the requirements of subsection (a) shall be assessed and collected in the same manner as if such underpayment were on account of a mathematical or clerical error appearing on the partner's return. Paragraph (2) of section 6213(b) shall not apply to any assessment of an underpayment referred to in the preceding sentence.

"(c) ADJUSTMENTS NOT TO AFFECT PRIOR YEAR OF PARTNERS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall apply without regard to any adjustment to the partnership item under part II.

"(2) CERTAIN CHANGES IN DISTRIBUTIVE SHARE TAKEN INTO ACCOUNT BY PARTNER.—

"(A) IN GENERAL.—To the extent that any adjustment under part II involves a change under section 704 in a partner's distributive share of the amount of any partnership item shown on the partnership return, such adjustment shall be taken into account in applying this title to such partner for the partner's taxable year for which such item was required to be taken into account.

"(B) COORDINATION WITH DEFICIENCY PROCEDURES.—

"(i) IN GENERAL.—Subchapter B shall not apply to the assessment or collection of any underpayment of tax attributable to an adjustment referred to in subparagraph (A).

"(ii) ADJUSTMENT NOT PRECLUDED.—Notwithstanding any other law or rule of law, nothing in subchapter B (or in any proceeding under subchapter B) shall preclude the assessment or collection of any underpayment of tax (or the allowance of any credit or refund of any overpayment of tax) attributable to an adjustment referred to in subparagraph (A) and such assessment or collection or allowance (or any notice thereof) shall not preclude any notice, proceeding, or determination under subchapter B.

"(C) PERIOD OF LIMITATIONS.—The period for—

"(i) assessing any underpayment of tax, or

"(ii) filing a claim for credit or refund of any overpayment of tax,

attributable to an adjustment referred to in subparagraph (A) shall not expire before the close of the period prescribed by section 6248 for making adjustments with respect to the partnership taxable year involved.

"(D) TIERED STRUCTURES.—If the partner referred to in subparagraph (A) is another partnership or an S corporation, the rules of this paragraph shall also apply to persons holding interests in such partnership or S corporation (as the case may be); except that, if such partner is a large partnership, the adjustment referred to in subparagraph (A) shall be taken into account in the manner provided by section 6242.

"(d) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in case of partner's disregard of requirements of this section, see part II of subchapter A of chapter 68.

"SEC. 6242. PROCEDURES FOR TAKING PARTNERSHIP ADJUSTMENTS INTO ACCOUNT.

"(a) ADJUSTMENTS FLOW THROUGH TO PARTNERS FOR YEAR IN WHICH ADJUSTMENT TAKES EFFECT.—

"(1) IN GENERAL.—If any partnership adjustment with respect to any partnership item takes effect (within the meaning of subsection (d)(2)) during any partnership taxable year and if an election under paragraph (2) does not apply to such adjustment, such adjustment shall be taken into account in determining the amount of such item for the partnership taxable year in which such adjustment takes effect. In applying this title to any person who is (directly or indirectly) a partner in such partnership during such partnership taxable year, such adjustment shall be treated as an item actually arising during such taxable year.

"(2) PARTNERSHIP LIABLE IN CERTAIN CASES.—If—

"(A) a partnership elects under this paragraph to not take an adjustment into account under paragraph (1),

"(B) a partnership does not make such an election but in filing its return for any partnership taxable year fails to take fully into account any partnership adjustment as required under paragraph (1), or

"(C) any partnership adjustment involves a reduction in a credit which exceeds the amount of such credit determined for the partnership taxable year in which the adjustment takes effect,

the partnership shall pay to the Secretary an amount determined by applying the rules of subsection (b)(4) to the adjustments not so taken into account and any excess referred to in subparagraph (B).

"(3) OFFSETTING ADJUSTMENTS TAKEN INTO ACCOUNT.—If a partnership adjustment requires another adjustment in a taxable year after the adjusted year and before the partnership taxable year in which such partnership adjustment takes effect, such other adjustment shall be taken into account under this subsection for the partnership taxable year in which such partnership adjustment takes effect.

"(4) COORDINATION WITH PART II.—Amounts taken into account under this subsection for any partnership taxable year shall continue to be treated as adjustments for the adjusted year for purposes of determining whether such amounts may be readjusted under part II.

"(b) Partnership Liable for Interest and Penalties.—

"(1) In general.—If a partnership adjustment takes effect during any partnership taxable year and such adjustment results in an imputed underpayment for the adjusted year, the partnership—

"(A) shall pay to the Secretary interest computed under paragraph (2), and

"(B) shall be liable for any penalty, addition to tax, or additional amount as provided in paragraph (3).

"(2) Determination of amount of interest.—The interest computed under this paragraph with respect to any partnership adjustment is the interest which would be determined under chapter 67—

"(A) on the imputed underpayment determined under paragraph (4) with respect to such adjustment,

"(B) for the period beginning on the day after the return due date for the adjusted year and ending on the return due date for the partnership taxable year in which such adjustment takes effect (or, if earlier, in the case of any adjustment to which subsection (a)(2) applies, the date on which the payment under subsection (a)(2) is made).

Proper adjustments in the amount determined under the preceding sentence shall be made for adjustments required for partnership taxable years after the adjusted year and before the year in which the partnership adjustment takes effect by reason of such partnership adjustment.

"(3) Penalties.—A partnership shall be liable for any penalty, addition to tax, or additional amount for which it would have been liable if such partnership had been an individual subject to tax under chapter 1 for the adjusted year and the imputed underpayment determined under paragraph (4) were an actual underpayment (or understatement) for such year.

"(4) Imputed underpayment.—For purposes of this subsection, the imputed underpayment determined under this paragraph with respect to any partnership adjustment is the underpayment (if any) which would result—

"(A) by netting all adjustments to items of income, gain, loss, or deduction and—

"(i) if such netting results in a net increase in income, by treating such net increase as an underpayment equal to the amount of such net increase multiplied by the highest rate of tax in effect under section 1 or 11 for the adjusted year, or

"(ii) if such netting results in a net decrease in income, by treating such net decrease as an overpayment equal to such net decrease multiplied by such highest rate, and

"(B) by taking adjustments to credits into account as increases or decreases (whichever is appropriate) in the amount of tax.

For purposes of the preceding sentence, any net decrease in a loss shall be treated as an increase in income and a similar rule shall apply to a net increase in a loss.

"(c) Administrative Provisions.—

"(1) In general.—Any payment required by subsection (a)(2) or (b)(1)(A)—

"(A) shall be assessed and collected in the same manner as if it were a tax imposed by subtitle C, and

"(B) shall be paid on or before the return due date for the partnership taxable year in which the partnership adjustment takes effect.

"(2) Interest.—For purposes of determining interest, any payment required by subsection (a)(2) or (b)(1)(A) shall be treated as a tax.

"(3) Penalties.—

"(A) In general.—In the case of any failure by any partnership to pay on the date prescribed therefor any amount required by subsection (a)(2) or (b)(1)(A), there is hereby imposed on such partnership a penalty of 10 percent of the underpayment. For purposes of the preceding sentence, the term 'underpayment' means the excess of any payment required under this section over the amount (if any) paid on or before the date prescribed therefor.

"(B) Accuracy-related and fraud penalties made applicable.—For purposes of part II of subchapter A of chapter 68, any payment required by subsection (a)(2) or (b)(1)(A) shall be treated as a tax.

"(d) Definitions and Special Rules.—For purposes of this section—

"(1) Partnership adjustment.—The term 'partnership adjustment' means any adjustment in the amount of any partnership item of a large partnership.

"(2) When adjustment takes effect.—A partnership adjustment takes effect—

"(A) in the case of an adjustment pursuant to the decision of a court in a proceeding brought under part II, when such decision becomes final,

"(B) in the case of an adjustment pursuant to any administrative adjustment request under section 6251, when such adjustment is allowed by the Secretary, or

"(C) in any other case, when such adjustment is made.

"(3) Adjusted year.—The term 'adjusted year' means the partnership taxable year to which the item being adjusted relates.

"(4) Return due date.—The term 'return due date' means, with respect to any taxable year, the date prescribed for filing the partnership return for such taxable year (determined without regard to extensions).

"(5) Adjustments involving changes in character.—Under regulations, appropriate adjustments in the application of this section shall be made for purposes of taking into account partnership adjustments which involve a change in the character of any item of income, gain, loss, or deduction.

"Part II—Partnership Level Adjustments

"Subpart A. Adjustments by Secretary.
"Subpart B. Claims for adjustments by partnership.

"Subpart A—Adjustments by Secretary

"Sec. 6245. Secretarial authority.
"Sec. 6246. Restrictions on partnership adjustments.
"Sec. 6247. Judicial review of partnership adjustment.
"Sec. 6248. Period of limitations for making adjustments.

"SEC. 6245. SECRETARIAL AUTHORITY.

"(a) General Rule.—The Secretary is authorized and directed to make adjustments at the partnership level in any partnership item to the extent necessary to have such item be treated in the manner required.

"(b) Notice of Partnership Adjustment.—

"(1) In general.—If the Secretary determines that a partnership adjustment is required, the Secretary is authorized to send notice of such adjustment to the partnership by certified mail or registered mail. Such notice shall be sufficient if mailed to the partnership at its last known address even if the partnership has terminated its existence.

"(2) Further notices restricted.—If the Secretary mails a notice of a partnership adjustment to any partnership for any partnership taxable year and the partnership files a petition under section 6247 with respect to such notice, in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact, the Secretary shall not mail another such notice to such partnership with respect to such taxable year.

"(3) Authority to rescind notice with partnership consent.—The Secretary may, with the consent of the partnership, rescind any notice of a partnership adjustment mailed to such partnership. Any notice so rescinded shall not be treated as a notice of a partnership adjustment, for purposes of this section, section 6246, and section 6247, and the taxpayer shall have no right to bring a proceeding under section 6247 with respect to such notice. Nothing in this subsection shall affect any suspension of the running of any period of limitations during any period during which the rescinded notice was outstanding.

"SEC. 6246. RESTRICTIONS ON PARTNERSHIP ADJUSTMENTS.

"(a) General Rule.—Except as otherwise provided in this chapter, no adjustment to any partnership item may be made (and no levy or proceeding in any court for the collection of any amount resulting from such adjustment may be made, begun or prosecuted) before—

"(1) the close of the 90th day after the day on which a notice of a partnership adjustment was mailed to the partnership, and

"(2) if a petition is filed under section 6247 with respect to such notice, the decision of the court has become final.

"(b) Premature Action May Be Enjoined.—Notwithstanding section 7421(a), any action which violates subsection (a) may be enjoined in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action under this subsection unless a timely petition has been filed under section 6247 and then only in respect of the adjustments that are the subject of such petition.

"(c) Exceptions to Restrictions on Adjustments.—

"(1) Adjustments arising out of math or clerical errors.—

"(A) In general.—If the partnership is notified that, on account of a mathematical or clerical error appearing on the partnership return, an adjustment to a partnership item is required, rules similar to the rules of paragraphs (1) and (2) of section 6213(b) shall apply to such adjustment.

"(B) Special rule.—If a large partnership is a partner in another large partnership, any adjustment on account of such partnership's failure to comply with the requirements of section 6241(a) with respect to its interest in such other partnership shall be treated as an adjustment referred to in subparagraph (A), except that paragraph (2) of section 6213(b) shall not apply to such adjustment.

"(2) Partnership may waive restrictions.—The partnership shall at any time (whether or not a notice of partnership adjustment has been issued) have the right, by a signed notice in writing filed with the Secretary, to waive the restrictions provided in subsection (a) on the making of any partnership adjustment.

"(d) Limit Where No Proceeding Begun.—If no proceeding under section 6247 is begun with respect to any notice of a partnership adjustment during the 90-day period described in subsection (a), the amount for which the partnership is liable under section 6242 (and any increase in any partner's liability for tax under chapter 1 by reason of any adjustment under section 6242(a)) shall not exceed the amount determined in accordance with such notice.

"SEC. 6247. JUDICIAL REVIEW OF PARTNERSHIP ADJUSTMENT.

"(a) GENERAL RULE.—Within 90 days after the date on which a notice of a partnership adjustment is mailed to the partnership with respect to any partnership taxable year, the partnership may file a petition for a readjustment of the partnership items for such taxable year with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the partnership's principal place of business is located, or

"(3) the Claims Court.

"(b) JURISDICTIONAL REQUIREMENT FOR BRINGING ACTION IN DISTRICT COURT OR CLAIMS COURT.—

"(1) IN GENERAL.—A readjustment petition under this section may be filed in a district court of the United States or the Claims Court only if the partnership filing the petition deposits with the Secretary, on or before the date the petition is filed, the amount for which the partnership would be liable under section 6242(b) if the partnership items were adjusted as provided by the notice of partnership adjustment. The court may by order provide that the jurisdictional requirements of this paragraph are satisfied where there has been a good faith attempt to satisfy such requirement and any shortfall of the amount required to be deposited is timely corrected.

"(2) INTEREST PAYABLE.—Any amount deposited under paragraph (1), while deposited, shall not be treated as a payment of tax for purposes of this title (other than chapter 67).

"(c) SCOPE OF JUDICIAL REVIEW.—A court with which a petition is filed in accordance with this section shall have jurisdiction to determine all partnership items of the partnership for the partnership taxable year to which the notice of partnership adjustment relates and the proper allocation of such items among the partners (and the applicability of any penalty, addition to tax, or additional amount for which the partnership may be liable under section 6242(b)).

"(d) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this section shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such.

"(e) EFFECT OF DECISION DISMISSING ACTION.—If an action brought under this section is dismissed other than by reason of a rescission under section 6245(b)(3), the decision of the court dismissing the action shall be considered as its decision that the notice of partnership adjustment is correct, and an appropriate order shall be entered in the records of the court.

"SEC. 6248. PERIOD OF LIMITATIONS FOR MAKING ADJUSTMENTS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, no adjustment under this subpart to any partnership item for any partnership taxable year may be made after the date which is 3 years after the later of—

"(1) the date on which the partnership return for such taxable year was filed, or

"(2) the last day for filing such return for such year (determined without regard to extensions).

"(b) EXTENSION BY AGREEMENT.—The period described in subsection (a) (including an extension period under this subsection) may be extended by an agreement entered into by the Secretary and the partnership before the expiration of such period.

"(c) SPECIAL RULE IN CASE OF FRAUD, ETC.—

"(1) FALSE RETURN.—In the case of a false or fraudulent partnership return with intent to evade tax, the adjustment may be made at any time.

"(2) SUBSTANTIAL OMISSION OF INCOME.—If any partnership omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in its return, subsection (a) shall be applied by substituting '6 years' for '3 years'.

"(3) NO RETURN.—In the case of a failure by a partnership to file a return for any taxable year, the adjustment may be made at any time.

"(4) RETURN FILED BY SECRETARY.—For purposes of this section, a return executed by the Secretary under subsection (b) of section 6020 on behalf of the partnership shall not be treated as a return of the partnership.

"(d) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If notice of a partnership adjustment with respect to any taxable year is mailed to the partnership, the running of the period specified in subsection (a) (as modified by the other provisions of this section) shall be suspended—

"(1) for the period during which an action may be brought under section 6247 (and, if a petition is filed under section 6247 with respect to such notice, until the decision of the court becomes final), and

"(2) for 1 year thereafter.

"Subpart B—Claims for Adjustments by Partnership

"Sec. 6251. Administrative adjustment requests.

"Sec. 6252. Judicial review where administrative adjustment request is not allowed in full.

"SEC. 6251. ADMINISTRATIVE ADJUSTMENT REQUESTS.

"(a) GENERAL RULE.—A partnership may file a request for an administrative adjustment of partnership items for any partnership taxable year at any time which is—

"(1) within 3 years after the later of—

"(A) the date on which the partnership return for such year is filed, or

"(B) the last day for filing the partnership return for such year (determined without regard to extensions), and

"(2) before the mailing to the partnership of a notice of a partnership adjustment with respect to such taxable year.

"(b) SECRETARIAL ACTION.—If a partnership files an administrative adjustment request under subsection (a), the Secretary may allow any part of the requested adjustments.

"(c) SPECIAL RULE IN CASE OF EXTENSION UNDER SECTION 6248.—If the period described in section 6248(a) is extended pursuant to an agreement under section 6248(b), the period prescribed by subsection (a)(1) shall not expire before the date 6 months after the expiration of the extension under section 6248(b).

"SEC. 6252. JUDICIAL REVIEW WHERE ADMINISTRATIVE ADJUSTMENT REQUEST IS NOT ALLOWED IN FULL.

"(a) IN GENERAL.—If any part of an administrative adjustment request filed under section 6251 is not allowed by the Secretary, the partnership may file a petition for an adjustment with respect to the partnership items to which such part of the request relates with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the principal place of business of the partnership is located, or

"(3) the Claims Court.

"(b) PERIOD FOR FILING PETITION.—A petition may be filed under subsection (a) with respect to partnership items for a partnership taxable year only—

"(1) after the expiration of 6 months from the date of filing of the request under section 6251, and

"(2) before the date which is 2 years after the date of such request.

The 2-year period set forth in paragraph (2) shall be extended for such period as may be agreed upon in writing by the partnership and the Secretary.

"(c) COORDINATION WITH SUBPART A.—

"(1) NOTICE OF PARTNERSHIP ADJUSTMENT BEFORE FILING OF PETITION.—No petition may be filed under this section after the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates.

"(2) NOTICE OF PARTNERSHIP ADJUSTMENT AFTER FILING BUT BEFORE HEARING OF PETITION.—If the Secretary mails to the partnership a notice of a partnerhip adjustment for the partnership taxable year to which the request under section 6251 relates after the filing of a petition under this subsection but before the hearing of such petition, such petition shall be treated as an action brought under section 6247 with respect to such notice, except that subsection (b) of section 6247 shall not apply.

"(3) NOTICE MUST BE BEFORE EXPIRATION OF STATUTE OF LIMITATIONS.—A notice of a partnership adjustment for the partnership taxable year shall be taken into account under paragraphs (1) and (2) only if such notice is mailed before the expiration of the period prescribed by section 6248 for making adjustments to partnership items for such taxable year.

"(d) SCOPE OF JUDICIAL REVIEW.—Except in the case described in paragraph (2) of subsection (c), a court with which a petition is filed in accordance with this section shall have jurisdiction to determine only those partnership items to which the part of the request under section 6251 not allowed by the Secretary relates and those items with respect to which the Secretary asserts adjustments as offsets to the adjustments requested by the partnership.

"(e) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this subsection shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such.

"PART III—DEFINITIONS AND SPECIAL RULES.

"Sec. 6255. Definitions and special rules.

"Sec. 6256. Treatment of certain partners.

"SEC. 6255. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) LARGE PARTNERSHIP.—The term 'large partnership' has the meaning given to such term by section 776 without regard to subsection (b)(2) thereof.

"(2) PARTNERSHIP ITEM.—The term 'partnership item' has the meaning given to such term by section 6231(a)(3).

"(b) PARTNERS BOUND BY ACTIONS OF PARTNERSHIP, ETC.—

"(1) DESIGNATION OF PARTNER.—Each large partnership shall designate (in the manner prescribed by the Secretary) a partner (or other person) who shall have sole authority to act on behalf of such partnership under this subchapter. In any case in which such a designation is not in effect, the Secretary may select any partner as the partner with such authority.

"(2) BINDING EFFECT.—A large partnership and all partners of such partnershp shall be bound—

"(A) by actions taken under this subchapter by the partnership, and

"(B) by any decision in a proceeding brought under this subchapter.

"(c) Partnerships Having Principal Place of Business Outside the United States.—For purposes of sections 6247 and 6252, a principal place of business located outside the United States shall be treated as located in the District of Columbia.

"(d) Treatment Where Partnership Ceases To Exist.—If a partnership ceases to exist before a partnership adjustment under this subchapter takes effect, such adjustment shall be taken into account by the former partners of such partnership under regulations prescribed by the Secretary.

"(e) Date Decision Becomes Final.—For purposes of this subchapter, the principles of section 7481(a) shall be applied in determining the date on which a decision of a district court or the Claims Court becomes final.

"(f) Partnerships in Cases Under Title 11 of the United States Code.—The running of any period of limitations provided in this subchapter on making a partnership adjustment (or provided by section 6501 or 6502 on the assessment or collection of any amount required to be paid under section 6242) shall, in a case under title 11 of the United States Code, be suspended during the period during which the Secretary is prohibited by reason of such case from making the adjustment (or assessment or collection) and—

"(1) for adjustment or assessment, 60 days thereafter, and

"(2) for collection, 6 months thereafter.

"(g) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subchapter, including regulations—

"(1) to prevent abuse through manipulation of the provisions of this subchapter, and

"(2) providing that this subchapter shall not apply to any case described in section 6231(c)(1) (or the regulations prescribed thereunder) where the application of this subchapter to such a case would interfere with the effective and efficient enforcement of this title.

In any case to which this subchapter does not apply by reason of paragraph (2), rules similar to the rules of sections 6229(f) and 6255(f) shall apply.

"SEC. 6256. TREATMENT OF CERTAIN PARTNERS.

"(a) General Rule.—If 1 or more partners of the partnership are excluded partners under section 775 for the partnership taxable year to which any adjustment under this subchapter relates—

"(1) such partners (and their share of any partnership adjustment) shall be excluded from the application of section 6242, and

"(2) notwithstanding section 6241(c)(1), any such partner's share of any partnership adjustment shall be taken into account in applying this title to such partner's taxable year for which the item was required to be taken into account (and the rules of subparagraphs (B), (C), and (D) of section 6241(c)(2) shall apply to such adjustment).

"(b) Treatment of Excluded Partners in Year in Which Adjustment Takes Effect.—If a partner is an excluded partner under section 775 for any partnership taxable year in which an adjustment under part II takes effect, such partner shall be excluded from the application of section 6242(a) to the extent such partner's interest in the partnership taxable year in which the adjustment takes effect does not exceed his interest in the partnership taxable year to which the adjustment relates."

(b) Clerical Amendment.—The table of subchapters for chapter 63 is amended by adding at the end thereof the following new item:

"Subchapter D. Treatment of large partnerships."

SEC. 203. RETURNS MAY BE REQUIRED ON MAGNETIC MEDIA.

Paragraph (2) of section 6011(e) (relating to returns on magnetic media) is amended by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply in the case of the partnership return of a large partnership (as defined in section 776) or any other partnership with 250 or more partners."

SEC. 204. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to partnership taxable years ending on or after December 31, 1992.

Subtitle B—Provisions Related To TEFRA Partnership Proceedings

SEC. 211. TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.

(a) In General.—Subchapter C of chapter 63 is amended by adding at the end thereof the following new section:

"SEC. 6234. DECLARATORY JUDGMENT RELATING TO TREATMENT OF ITEMS OTHER THAN PARTNERSHIP ITEMS WITH RESPECT TO AN OVERSHELTERED RETURN.

"(a) General Rule.—If—

"(1) a taxpayer files an oversheltered return for a taxable year,

"(2) the Secretary makes a determination with respect to the treatment of items (other than partnership items) of such taxpayer for such taxable year, and

"(3) the adjustments resulting from such determination do not give rise to a deficiency (as defined in section 6211) but would give rise to a deficiency if there were no net loss from partnership items,

the Secretary is authorized to send a notice of adjustment reflecting such determination to the taxpayer by certified or registered mail.

"(b) Oversheltered Return.—For purposes of this section, the term 'oversheltered return' means an income tax return which—

"(1) shows no taxable income for the taxable year, and

"(2) shows a net loss from partnership items.

"(c) Judicial Review in the Tax Court.—Within 90 days, or 150 days if the notice is addressed to a person outside the United States, after the day on which the notice of adjustment authorized in subsection (a) is mailed to the taxpayer, the taxpayer may file a petition with the Tax Court for redetermination of the adjustments. Upon the filing of such a petition, the Tax Court shall have jurisdiction to make a declaration with respect to all items (other than partnership items and affected items which require partner level determinations as described in section 6230(a)(2)(A)(i)) for the taxable year to which the notice of adjustment relates. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(d) Failure To File Petition.—

"(1) In general.—Except as provided in paragraph (2), if the taxpayer does not file a petition with the Tax Court within the time prescribed in subsection (c), the determination of the Secretary set forth in the notice of adjustment that was mailed to the taxpayer shall be deemed to be correct.

"(2) Exception.—Paragraph (1) shall not apply after the date that the taxpayer—

"(A) files a petition with the Tax Court within the time prescribed in subsection (c) with respect to a subsequent notice of adjustment relating to the same taxable year, or

"(B) files a claim for refund of an overpayment of tax under section 6511 for the taxable year involved.

If a claim for refund is filed by the taxpayer, then solely for purposes of determining (for the taxable year involved) the amount of any computational adjustment in connection with a partnership proceeding under this subchapter (other than under this section) or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), the items that are the subject of the notice of adjustment shall be presumed to have been correctly reported on the taxpayer's return during the pendency of the refund claim (and, if within the time prescribed by section 6532 the taxpayer commences a civil action for refund under section 7422, until the decision in the refund action becomes final).

"(e) Limitations Period.—

"(1) In general.—Any notice to a taxpayer under subsection (a) shall be mailed before the expiration of the period prescribed by section 6501 (relating to the period of limitations on assessment).

"(2) Suspension when Secretary mails notice of adjustment.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year, the period of limitations on the making of assessments shall be suspended for the period during which the Secretary is prohibited from making the assessment (and, in any event, if a proceeding in respect of the notice of adjustment is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

"(3) Restrictions on assessment.—Except as otherwise provided in section 6851, 6852, or 6861, no assessment of a deficiency with respect to any tax imposed by subtitle A attributable to any item (other than a partnership item or any item affected by a partnership item) shall be made—

"(A) until the expiration of the applicable 90-day or 150-day period set forth in subsection (c) for filing a petition with the Tax Court, or

"(B) if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final.

"(f) Further Notices of Adjustment Restricted.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year and the taxpayer files a petition with the Tax Court within the time prescribed in subsection (c), the Secretary may not mail another such notice to the taxpayer with respect to the same taxable year in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact.

"(g) Coordination With Other Proceedings Under This Subchapter.—

"(1) In general.—The treatment of any item that has been determined pursuant to subsection (c) or (d) shall be taken into account in determining the amount of any computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), for the taxable year involved. Notwithstanding any other law or rule of law pertaining to the period of limitations on the making of assessments, for purposes of the preceding sentence, any adjustment made in accordance with this section shall be taken into account regardless of whether any assessment has been made with respect to such adjustment.

(2) SPECIAL RULE IN CASE OF COMPUTATIONAL ADJUSTMENT.—In the case of a computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), the provisions of paragraph (1) shall apply only if the computational adjustment is made within the period prescribed by section 6229 for assessing any tax under subtitle A which is attributable to any partnership item or affected item for the taxable year involved.

"(3) CONVERSION TO DEFICIENCY PROCEEDING.—If—

"(A) after the notice referred to in subsection (a) is mailed to a taxpayer for a taxable year but before the expiration of the period for filing a petition with the Tax Court under subsection (c) (or, if a petition is filed with the Tax Court, before the Tax Court makes a declaration for that taxable year), the treatment of any partnership item for the taxable year is finally determined, or any such item ceases to be a partnership item pursuant to section 6231(b), and

"(B) as a result of that final determination or cessation, a deficiency can be determined with respect to the items that are the subject of the notice of adjustment.

the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition filed in respect of the notice shall be treated as an action brought under section 6213.

"(4) FINALLY DETERMINED.—For purposes of this subsection, the treatment of partnership items shall be treated as finally determined if—

"(A) the Secretary enters into a settlement agreement (within the meaning of section 6224) with the taxpayer regarding such items,

"(B) a notice of final partnership administrative adjustment has been issued and—

"(i) no petition has been filed under section 6226 and the time for doing so has expired, or

"(ii) a petition has been filed under section 6226 and the decision of the court has become final, or

"(C) the period within which any tax attributable to such items may be assessed against the taxpayer has expired.

"(h) Special Rules if Secretary Incorrectly Determines Applicable Procedure.—

"(1) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF ADJUSTMENT.—If the Secretary erroneously determines that subchapter B does not apply to a taxable year of a taxpayer and consistent with that determination timely mails a notice of adjustment to the taxpayer pursuant to subsection (a) of this section, the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition that is filed in respect of the notice shall be treated as an action brought under section 6213.

"(2) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF DEFICIENCY.—If the Secretary erroneously determines that subchapter B applies to a taxable year of a taxpayer and consistent with that determination timely mails a notice of deficiency to the taxpayer pursuant to section 6212, the notice of deficiency shall be treated as a notice of adjustment under subsection (a) and any petition that is filed in respect of the notice shall be treated as an action brought under subsection (c)."

(b) Treatment of Partnership Items in Deficiency Proceedings.—Section 6211 (defining deficiency) is amended by adding at the end thereof the following new subsection:

"(c) Coordination With Subchapter C.—In determining the amount of any deficiency for purposes of this subchapter, adjustments to partnership items shall be made only as provided in subchapter C."

(c) Clerical Amendment.—The table of sections for subchapter C of chapter 63 is amended by adding at the end thereof the following new item:

"Sec. 6234. Declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return.".

(d) Effective Date.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 212. PARTNERSHIP RETURN TO BE DETERMINATIVE OF AUDIT PROCEDURES TO BE FOLLOWED.

(a) In General.—Section 6231 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(g) Partnership Return To Be Determinative of Whether Subchapter Applies.—

"(1) DETERMINATION THAT SUBCHAPTER APPLIES.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter applies to such partnership for such year but such determination is erroneous, then the provisions of this subchapter are hereby extended to such partnership (and its items) for such taxable year and to partners of such partnership.

"(2) DETERMINATION THAT SUBCHAPTER DOES NOT APPLY.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter does not apply to such partnership for such year but such determination is erroneous, then the provisions of this subchapter shall not apply to such partnership (and its items) for such taxable year or to partners of such partnership."

(b) Effective Date.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 213. PROVISIONS RELATING TO STATUTE OF LIMITATIONS.

(a) Suspension of Statute Where Untimely Petition Filed.—Paragraph (1) of section 6229(d) (relating to suspension where Secretary makes administrative adjustment) is amended by striking all that follows "section 6226" and inserting the following: "(and, if an action is brought under section 6226 with respect to such administrative adjustment, until the decision of the court becomes final), and".

(b) Suspension of Statute During Bankruptcy Proceeding.—Section 6229 is amended by adding at the end thereof the following new subsection:

"(h) Suspension During Pendency of Bankruptcy Proceeding.—If a petition is filed naming a partner as a debtor in a bankruptcy proceeding under title 11 of the United States Code, the running of the period of limitations provided in this section with respect to such partner shall be suspended—

"(1) for the period during which the Secretary is prohibited by reason of such bankruptcy proceeding from making an assessment, and

"(2) for 60 days thereafter."

(c) Effective Date.—The amendments made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 214. EXPANSION OF SMALL PARTNERSHIP EXCEPTION.

(a) In General.—Clause (i) of section 6231(a)(1)(B) (relating to exception for small partnerships) is amended to read as follows:

"(i) IN GENERAL.—The term 'partnership' shall not include any partnership having 10 or fewer partners each of whom is an individual (other than a nonresident alien), a C corporation, or an estate of a deceased partner. For purposes of the preceding sentence, a husband and wife (and their estates) shall be treated as 1 partner."

(b) Effective Date.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 215. EXCLUSION OF PARTIAL SETTLEMENTS FROM 1 YEAR LIMITATION ON ASSESSMENT.

(a) In General.—Subsection (f) of section 6229 (relating to items becoming nonpartnership items) is amended—

(1) by striking "(f) Items Becoming Nonpartnership Items.—If" and inserting the following:

"(f) Special Rules.—

"(1) Items becoming nonpartnership items.—If",

(2) by moving the text of such subsection 2 ems to the right, and

(3) by adding at the end thereof the following new paragraph:

"(2) SPECIAL RULE FOR PARTIAL SETTLEMENT AGREEMENTS.—If a partner enters into a settlement agreement with the Secretary with respect to the treatment of some of the partnership items in dispute for a partnership taxable year but other partnership items for such year remain in dispute, the period of limitations for assessing any tax attributable to the settled items shall be determined as if such agreement had not been entered into."

(b) Effective Date.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 216. EXTENSION OF TIME FOR FILING A REQUEST FOR ADMINISTRATIVE ADJUSTMENT.

(a) In General.—Section 6227 (relating to administrative adjustment requests) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) Special Rule in Case of Extension of Period of Limitations Under Section 6229.—The period prescribed by subsection (a) for filing of a request for an administrative adjustment shall be extended—

"(1) for the period within which an assessment may be made pursuant to an agreement (or any extension thereof) under section 6229(b), and

"(2) for 6 months thereafter."

(b) Effective Date.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 217. AVAILABILITY OF INNOCENT SPOUSE RELIEF IN CONTEXT OF PARTNERSHIP PROCEEDINGS.

(a) In General.—Subsection (a) of section 6230 is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE IN CASE OF ASSERTION BY PARTNER'S SPOUSE OF INNOCENT SPOUSE RELIEF.—

"(A) If the spouse of a partner asserts that section 6013(e) applies with respect to a liability that is attributable to any adjustment to a partnership item, subchapter B of this chapter (other than section 6212) shall apply with respect to the assessment and collection of such liability. For purposes of the preceding sentence, the first of whichever of the following notices that is mailed to the spouse shall be treated as a notice of deficiency: a notice of computational adjustment, a notice and demand for payment, or the first collection notice.

"(B) If the spouse files a petition with the Tax Court pursuant to section 6213 with respect to a notice described in subparagraph (A), the Tax Court shall only have jurisdiction pursuant to this section to determine whether the requirements of section 6013(e) have been satisfied. For purposes of such determination, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive.

"(C) Rules similar to the rules contained in subparagraphs (B) and (C) of paragraph (2) shall apply for purposes of this paragraph."

(b) CLAIMS FOR REFUND.—Subsection (c) of section 6230 is amended by adding at the end thereof the following new paragraph:

"(5) RULES FOR SEEKING INNOCENT SPOUSE RELIEF.—

"(A) IN GENERAL.—The spouse of a partner may file a claim for refund on the ground that the Secretary failed to relieve the spouse under section 6013(e) from a liability that is attributable to an adjustment to a partnership item.

"(B) TIME FOR FILING CLAIM.—Any claim under subparagraph (A) shall be filed within 6 months after the day on which the Secretary mails to the spouse the notice which is treated as a notice of deficiency under subsection (a)(3)(A).

"(C) SUIT IF CLAIM NOT ALLOWED.—If the claim under subparagraph (B) is not allowed, the spouse may bring suit with respect to the claim within the period specified in paragraph (3).

"(D) PRIOR DETERMINATIONS ARE BINDING.—For purposes of any claim or suit under this paragraph, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive."

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 6230(a) is amended by striking "paragraph (2)" and inserting "paragraph (2) or (3)".

(2) Subsection (a) of section 6503 is amended by striking "section 6230(a)(2)(A)" and inserting "paragraph (2)(A) or (3) of section 6230(a)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 218. DETERMINATION OF PENALTIES AT PARTNERSHIP LEVEL.

(a) IN GENERAL.—Section 6221 (relating to tax treatment determined at partnership level) is amended by striking "item" and inserting "item (and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item)".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (f) of section 6226 is amended—

(A) by striking "relates and" and inserting "relates," and

(B) by inserting before the period ", and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item".

(2) Clause (i) of section 6230(a)(2)(A) is amended to read as follows:

"(i) affected items which require partner level determinations (other than penalties, additions to tax, and additional amounts that relate to adjustments to partnership items), or".

(3)(A) Subparagraph (A) of section 6230(a)(3), as added by section 217, is amended by inserting "(including any liability for any penalty, addition to tax, or additional amount relating to such adjustment)" after "partnership item".

(B) Subparagraph (B) of such section is amended by inserting "(and the applicability of any penalties, additions to tax, or additional amounts)" after "partnership items".

(C) Subparagraph (A) of section 6230(c)(5), as added by section 217, is amended by inserting before the period "(including any liability for any penalties, additions to tax, or additional amounts relating to such adjustment)".

(D) Subparagraph (D) of section 6230(c)(5), as added by section 217, is amended by inserting "(and the applicability of any penalties, additions to tax, or additional amounts)" after "partnership items".

(4) Paragraph (1) of section 6230(c) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end thereof the following new subparagraph:

"(C) the Secretary erroneously imposed any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item."

(5) So much of subparagraph (A) of section 6230(c)(2) as precedes "shall be filed" is amended to read as follows:

"(A) UNDER PARAGRAPH (1) (A) OR (C).—Any claim under subparagraph (A) or (C) of paragraph (1)".

(6) Paragraph (4) of section 6230(c) is amended by adding at the end thereof the following: "In addition, the determination under the final partnership administrative adjustment or under the decision of the court (whichever is appropriate) concerning the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item shall also be conclusive. Notwithstanding the preceding sentence, the partner shall be allowed to assert any partner level defenses that may apply or to challenge the amount of the computational adjustment."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after December 31, 1991.

SEC. 219. PROVISIONS RELATING TO COURT JURISDICTION.

(a) TAX COURT JURISDICTION TO ENJOIN PREMATURE ASSESSMENTS OF DEFICIENCIES ATTRIBUTABLE TO PARTNERSHIP ITEMS.—Subsection (b) of section 6225 is amended by striking "the proper court." and inserting "the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action or proceeding under this subsection unless a timely petition for a readjustment of the partnership items for the taxable year has been filed and then only in respect of the adjustments that are the subject of such petition."

(b) JURISDICTION TO CONSIDER STATUTE OF LIMITATIONS WITH RESPECT TO PARTNERS.—Paragraph (1) of section 6226(d) is amended by adding at the end thereof the following new sentence:

"Notwithstanding subparagraph (B), any person treated under subsection (c) as a party to an action shall be permitted to participate in such action solely for the purpose of asserting that the period of limitations for assessing any tax attributable to partnership items has expired with respect to such person, and the court having jurisdiction of such action sdhall have jurisdiction to consider such assertion."

(c) TAX COURT JURISDICTION TO DETERMINE OVERPAYMENT ATTRIBUTABLE TO AFFECTED ITEMS.—Paragraph (6) of section 6230(d) is amended by striking "(or an affected item)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 220. TREATMENT OF PREMATURE PETITIONS FILED BY NOTICE PARTNERS OR 5-PERCENT GROUPS.

(a) IN GENERAL.—Subsection (b) of section 6226 (relating to judicial review of final partnership administrative adjustments) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) TREATMENT OF PREMATURE PETITIONS.—If—

"(A) a petition for a readjustment of partnership items for the taxable year involved is filed by a notice partner (or a 5-percent group) during the 90-day period described in subsection (a), and

"(B) no action is brought under paragraph (1) during the 60-day period described therein with respect to such taxable year which is not dismissed,

such petition shall be treated for purposes of paragraph (1) as filed on the last day of such 60-day period."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to petitions filed after the date of the enactment of this Act.

SEC. 221. BONDS IN CASE OF APPEALS FROM TEFRA PROCEEDING.

(a) IN GENERAL.—Subsection (b) of section 7485 (relating to bonds to stay assessment of collection) is amended—

(1) by inserting "penalties," after "any interest,", and

(2) by striking "aggregate of such deficiencies" and inserting "aggregate liability of the parties to the action".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 222. SUSPENSION OF INTEREST WHERE DELAY IN COMPUTATIONAL ADJUSTMENT RESULTING FROM TEFRA SETTLEMENTS.

(a) IN GENERAL.—Subsection (c) of section 6601 (relating to interest on underpayment, nonpayment, or extension of time for payment, of tax) is amended by adding at the end thereof the following new sentence: "In the case of a settlement under section 6224(c) which results in the conversion of partnership items to nonpartnership items pursuant to section 6231(b)(1)(C), the preceding sentence shall apply to a computational adjustment resulting from such settlement in the same manner as if such adjustment were a deficiency and such settlement were a waiver referred to in the preceding sentence."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to settlements entered into after December 31, 1991.

TITLE III—FOREIGN PROVISIONS

Subtitle A—Simplification of Treatment of Passive Foreign Corporations

SEC. 301. REPEAL OF FOREIGN PERSONAL HOLDING COMPANY RULES AND FOREIGN INVESTMENT COMPANY RULES.

(a) General Rule.—The following provisions are hereby repealed:

(1) Part III of subchapter G of chapter 1 (relating to foreign personal holding companies).

(2) Section 1246 (relating to gain on foreign investment company stock).

(3) Section 1247 (relating to election by foreign investment companies to distribute income currently).

(b) Exemption of Foreign Corporations From Accumulated Earnings Tax and Personal Holding Company Rules.—

(1) Accumulated earnings tax.—Subsection (b) of section 532 (relating to exceptions) is amended—

(A) by striking paragraph (2) and inserting the following:

"(2) a foreign corporation, or",

(B) by striking ", or" at the end of paragraph (3) and inserting a period, and

(C) by striking paragraph (4).

(2) Personal holding company rules.—Subsection (c) of section 542 (relating to exceptions) is amended—

(A) by striking paragraph (5) and inserting the following:

"(5) a foreign corporation,",

(B) by striking paragraphs (7) and (10) and by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively,

(C) by inserting "and" at the end of paragraph (7) (as so redesignated), and

(D) by striking "; and" at the end of paragraph (8) (as so redesignated) and inserting a period.

(c) Treatment of Certain Service Contracts Under Subpart F.—

(1) Paragraph (1) of section 954(c) (defining foreign personal holding income) is amended by adding at the end thereof the following new subparagraph:

"(F) Personal service contracts.—

"(i) Amounts received under a contract under which the corporaton is to furnish personal services, if some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract.

"(ii) Amounts received for the sale or other disposition of such contract.

This subparagraph shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services. For purposes of the preceding sentence, the attribution rules of section 544 shall apply, determined as if any reference to section 543(a)(7) were a reference to this subparagraph."

(2) Clause (iii) of section 904(d)(2)(A) is amended by striking "and" at the end of subclause (III), by striking the period at the end of subclause (IV) and inserting ", and", and by adding at the end thereof the following new subclause:

"(V) any income described in section 954(c)(1)(F) (relating to personal service contracts)."

SEC. 302. REPLACEMENT FOR PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) General Rule.—Part VI of subchapter P of chapter 1 (relating to treatment of certain passive foreign investment companies) is amended to read as follows:

"PART VI—TREATMENT OF PASSIVE FOREIGN CORPORATIONS

"Subpart A. Current taxation rules.
"Subpart B. Interest on holdings to which subpart A does not apply.
"Subpart C. General provisions.

"SUBPART A—CURRENT TAXATION RULES

"Sec. 1291. Stock in certain passive foreign corporations marked to market.
"Sec. 1292. Inclusion of income of certain passive foreign corporations.

"SEC. 1291. STOCK IN CERTAIN PASSIVE FOREIGN CORPORATIONS MARKED TO MARKET.

"(a) General Rule.—In the case of marketable stock in a passive foreign corporation which is owned (or treated under subsection (g) as owned) by a United States person at the close of any taxable year of such person—

"(1) If the fair market value of such stock as of the close of such taxable year exceeds its adjusted basis, such United States person shall include in gross income for such taxable year an amount equal to the amount of such excess.

"(2) If the adjusted basis of such stock exceeds the fair market value of such stock as of the close of such taxable year, such United States person shall be allowed a deduction for such taxable year equal to the lesser of—

"(A) the amount of such excess, or

"(B) the unreversed inclusions with respect to such stock.

"(b) Basis Adjustments.—

"(1) In general.—The adjusted basis of stock in a passive foreign corporation—

"(A) shall be increased by the amount included in the gross income of the United States person under subsection (a)(1) with respect to such stock, and

"(B) shall be decreased by the amount allowed as a deduction to the United States person under subsection (a)(2) with respect to such stock.

"(2) Special Rule For Stock Constructively Owned.—In the case of stock in a passive foreign corporation which the United States person is treated as owning under subsection (g)—

"(A) the adjustments under paragraph (1) shall apply to such stock in the hands of the person actually holding such stock but only for purposes of determining the subsequent treatment under this chapter of the United States person with respect to such stock, and

"(B) similar adjustments shall be made to the adjusted basis of the property by reason of which the United States person is treated as owning such stock.

"(c) Character and Source Rules.—

"(1) Ordinary treatment.—

"(A) Gain.—Any amount included in gross income under subsection (a)(1), and any gain on the sale or other disposition of stock in a passive foreign corporation, shall be treated as ordinary income.

"(B) Loss.—Any—

"(i) amount allowed as a deduction under subsection (a)(2), and

"(ii) loss on the sale or other disposition of stock in a passive foreign corporation to the extent that the amount of such loss does not exceed the unreversed inclusions with respect to such stock,

shall be treated as an ordinary loss. The amount so treated shall be treated as a deduction allowable in computing adjusted gross income.

"(2) Source.—The source of any amount included in gross income under subsection (a)(1) (or allowed as a deduction under subsection (a)(2)) shall be determined in the same manner as if such amount were gain or loss (as the case may be) from the sale of stock in the passive foreign corporation.

"(d) Unreversed Inclusions.—For purposes of this section, the term 'unreversed inclusions' means, with respect to any stock in a passive foreign corporation, the excess (if any) of—

"(1) the amount included in gross income of the taxpayer under subsection (a)(1) with respect to such stock for prior taxable years, over

"(2) the amount allowed as a deduction under subsection (a)(2) with respect to such stock for prior taxable years.

"(e) Coordination With Section 1292.—This section shall not apply with respect to any stock in a passive foreign corporation—

"(1) which is U.S. controlled,

"(2) which is a qualified electing fund with respect to the United States person for the taxable year, or

"(3) in which the United States person is a 25-percent shareholder.

"(f) Treatment of Controlled Foreign Corporations Which are Shareholders in Passive Foreign Corporations.—In the case of a foreign corporation which is a controlled foreign corporation (or is treated as a controlled foreign corporation under section 1292) and which owns (or is treated under subsection (g) as owning) stock in a passive foreign corporation—

"(1) this section (other than subsection (c)(2) thereof) shall apply to such foreign corporation in the same manner as if such corporation were a United States person, and

"(2) for purposes of subpart F of part III of subchapter N—

"(A) any amount included in gross income under subsection (a)(1) shall be treated as foreign personal holding company income described in section 954(c)(1)(A), and

"(B) any amount allowed as a deduction under subsection (a)(2) shall be treated as a deduction allocable to foreign personal holding company income so described.

"(g) Stock Owned Through Certain Foreign Entities.—

"(1) In general.—For purposes of this section, stock owned, directly or indirectly, by or for a foreign partnership or foreign trust or foreign estate shall be considered as being owned proportionately by its partners or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(2) Treatment of certain dispositions.—In any case in which a United States person is treated as owning stock in a passive foreign corporation by reason of paragraph (1)—

"(A) any disposition by the United States person or by any other person which results in the United States person being treated as no longer owning such stock, and

"(B) any disposition by the person owning such stock,

shall be treated as a disposition by the United States person of the stock in the passive foreign corporation.

"(h) Coordination With Section 851.—For purposes of paragraphs (2) and (3) of section 851(b), any amount included in gross income under subsection (a) shall be treated as a dividend.

"SEC. 1292. CURRENT INCLUSION OF INCOME OF CERTAIN PASSIVE FOREIGN CORPORATIONS.

"(a) Passive Foreign Corporations Which are U.S. Controlled.—

"(1) IN GENERAL.—If a passive foreign corporation is U.S. controlled, then for purposes of subpart F of part III of subchapter N—

"(A) such corporation, if not otherwise a controlled foreign corporation, shall be treated as a controlled foreign corporation,

"(B) the term 'United States shareholder' means, with respect to such corporation, any United States person who owns (within the meaning of section 958(a)) any stock in such corporation,

"(C) the entire gross income of such corporation shall, subject to the provisions of paragraph (5) of section 954(b), be treated as foreign personal holding company income, and

"(D) sections 954(b)(4), 970, and 971 shall not apply.

Except as provided in regulations, stock in the preceding sentence shall also apply for purposes of section 904(d).

"(2) U.S. CONTROLLED.—For purposes of this subpart, a passive foreign corporation is U.S. controlled if—

"(A) such corporation is a controlled foreign corporation determined without regard to this subsection, or

"(B) at any time during the taxable year more than 50 percent of—

"(i) the total combined voting power of all classes of stock of such corporation entitled to vote, or

"(ii) the total value of the stock of such corporation,

is owned directly or indirectly by 5 or fewer United States persons.

"(3) CONSTRUCTIVE OWNERSHIP RULES FOR PURPOSES OF PARAGRAPH (2)(B).—For purposes of paragraph (2)(B), the attribution rules provided in section 544 shall apply, determined as if any reference to a personal holding company were a reference to a corporation described in paragraph (2)(B) (and any reference to the stock ownership requirement provided in section 542(a)(2) were a reference to the requirement of paragraph (2)(B)); except that—

"(A) subsection (a)(4) of such section shall be applied by substituting 'Paragraphs (1), (2), and (3)' for 'Paragraphs (2) and (3)',

"(B) stock owned by a nonresident alien individual (other than a foreign estate or foreign trust) shall not be considered by reason of attribution through family membership as owned by a citizen or resident alien individual who is not the spouse of the nonresident alien individual and who does not otherwise own stock in the foreign corporation (determined after the application of such attribution rules other than attribution through family membership), and

"(C) stock of a corporation owned by any foreign person shall not be considered by reason of attribution through partners as owned by a citizen or resident of the United States who does not otherwise own stock in the foreign corporation (determined after the application of such attribution rules and subparagraph (A), other than attribution through partners).

"(b) TAXPAYERS ELECTING CURRENT INCLUSION AND 25-PERCENT SHAREHOLDERS.—

"(1) IN GENERAL.—If a passive foreign corporation which is not U.S. controlled is a qualified electing fund with respect to any taxpayer or the taxpayer is a 25-percent shareholder in such corporation, then for purposes of subpart F of part III of subchapter N—

"(A) such passive foreign corporation shall be treated as a controlled foreign corporation with respect to such taxpayer,

"(B) such taxpayer shall be treated as a United States shareholder in such corporation, and

"(C) the modification of subparagraphs (C) and (D) of subsection (a)(1) shall apply in determining the amount included under such subpart F in the gross income of such taxpayer.

For purposes of section 904(d), any amount included in the gross income of the taxpayer under the preceding sentence shall be treated as a dividend from a foreign corporation which is not a controlled foreign corporation.

"(2) QUALIFIED ELECTING FUND.—For purposes of this subpart, the term 'qualified electing fund' means any passive foreign corporation if—

"(A) an election by the taxpayer under paragraph (3) applies to such corporation for the taxable year of the taxpayer, and

"(B) such corporation complies with such requirements as the Secretary may prescribe for purposes of carrying out the purposes of this subpart.

"(3) ELECTION.—

"(A) IN GENERAL.—A taxpayer may make an election under this paragraph with respect to any passive foreign corporation for any taxable year of the taxpayer. Such an election, once made with respect to any corporation, shall apply to all subsequent taxable years of the taxpayer with respect to such corporation unless revoked by the taxpayer with the consent of the Secretary.

"(B) WHEN MADE.—An election under this subsection may be made for any taxable year of the taxpayer at any time on or before the due date (determined with regard to extensions) for filing the return of the tax imposed by this chapter for such taxable year. To the extent provided in regulations, such an election may be made later than as required in the preceding sentence where the taxpayer fails to make a timely election because the taxpayer reasonably believes that the corporation was not a passive foreign corporation.

"(4) 25-PERCENT SHAREHOLDER.—For purposes of this subpart, the term '25-percent shareholder' means, with respect to any passive foreign corporation, any United States person who owns (within the meaning of section 958(a)), or is considered as owning by applying the rules of section 958(b), 25 percent or more (by vote or value) of the stock of such corporation,

"Subpart B—Interest on Holdings To Which Subpart A Does Not Apply

"Sec. 1293. Interest on tax deferral.
"Sec. 1294. Definitions and special rules.

"SEC. 1293. INTEREST ON TAX DEFERRAL.

"(a) TREATMENT OF DISTRIBUTIONS AND STOCK DISPOSITIONS.—

"(1) DISTRIBUTIONS.—If a United States person receives an excess distribution in respect of stock to which this section applies, then—

"(A) the amount of the excess distribution shall be allocated ratably to each day in the taxpayer's holding period for the stock,

"(B) with respect to such excess distribution, the taxpayer's gross income for the current year shall include (as ordinary income) only the amounts allocated under subparagraph (A) to—

"(i) the current year, or

"(ii) any period in the taxpayer's holding period before the first day of the first taxable year of the corporation which begins after December 31, 1986, and for which it was a passive foreign corporation, and

"(C) the tax imposed by this chapter for the current year shall be increased by the deferred tax amount (determined under subsection (c)).

"(2) DISPOSITIONS.—If the taxpayer disposes of stock to which this section applies, then the rules of paragraph (1) shall apply to any gain recognized on such disposition in the same manner as if such gain were an excess distribution.

"(3) DEFINITIONS.—For purposes of this subpart—

"(A) HOLDING PERIOD.—The taxpayer's holding period shall be determined under section 1223; except that—

"(i) for purposes of applying this section to an excess distribution, such holding period shall be treated as ending on the date of such distribution, and

"(ii) if section 1291 applied to such stock with respect to the taxpayer for any prior taxable year, such holding period shall be treated as beginning on the first day of the first taxable year beginning after the last taxable year for which section 1291 so applied.

"(B) CURRENT YEAR.—The term "current year" means the taxable year in which the excess distribution or disposition occurs.

"(b) EXCESS DISTRIBUTION.—

"(1) IN GENERAL.—For purposes of this section, the term 'excess distribution' means any distribution in respect to stock received during any taxable year to the extent such distribution does not exceed its ratable portion of the total excess distribution (if any) for such taxable year.

"(2) TOTAL EXCESS DISTRIBUTION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'total excess distribution' means the excess (if any) of—

"(i) the amount of the distribution in respect to the stock received by the taxpayer during the taxable year, over

"(ii) 125 percent of the average amount received in respect to such stock by the taxpayer during the 3 preceding taxable years (or, if shorter, the portion of the taxpayer's holding period before the taxable year).

For purposes of clause (ii), any excess distribution received during such 3-year period shall be taken into account only to the extent it was included in gross income under subsection (a)(1)(B).

"(B) NO EXCESS FOR FIRST YEAR.—The total excess distributions with respect to any stock shall be zero for the taxable year in which the taxpayer's holding period in such stock begins.

"(3) ADJUSTMENTS.—Under regulations prescribed by the Secretary—

"(A) determinations under this subsection shall be made on a share-by-share basis, except that shares with the same holding period may be aggregated,

"(B) proper adjustments shall be made for stock splits and stock dividends,

"(C) if the taxpayer does not hold the stock during the entire taxable year, distributions received during such year shall be annualized,

"(D) if the taxpayer's holding period includes periods during which the stock was held by another person, distributions received by such other person shall be taken into account as if received by the taxpayer,

"(E) if the distributions are received in a foreign currency, determinations under this subsection shall be made in such currency and the amount of any excess distribution determined in such currency shall be translated into dollars,

"(F) proper adjustment shall be made for amounts not includible in gross income by reason of section 959(a) or for which a deduction is allowable under section 245(c), and

"(G) if a charitable deduction was allowable under section 642(c) to a trust for any distribution of its income, proper adjustments shall be made for the deduction so allowable to the extent allocable to distributions or gain in respect of stock in a passive foreign corporation.

For purposes of subparagraph (F), any amount not includible in gross income by reason of section 551(d) (as in effect on the day before the date of the enactment of the Tax Simplification Act of 1991) or 1293(c) (as so in effect) shall be treated as an amount not includible in gross income by reason of section 959(a).

"(c) DEFERRED TAX AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'deferred tax amount' means, with respect to any distribution or disposition to which subsection (a) applies, an amount equal to the sum of—

"(A) the aggregate increases in taxes described in paragraph (2), plus

"(B) the aggregate amount of interest (determined in the manner provided under paragraph (3)) on such increases in tax.

Any increase in the tax imposed by this chapter for the current year under subsection (a) to the extent attributable to the amount referred to in subparagraph (B) shall be treated as interest paid under section 6601 on the due date for the current year.

"(2) AGGREGATE INCREASES IN TAXES.—For purposes of paragraph (1)(A), the aggregate increases in taxes shall be determined by multiplying each amount allocated under subsection (a)(1)(A) to any taxable year (other than the current year) by the highest rate of tax in effect for such taxable year under section 1 or 11, whichever applies.

"(3) COMPUTATION OF INTEREST.—

"(A) IN GENERAL.—The amount of interest referred to in paragraph (1)(B) on any increase determined under paragraph (2) for any taxable year shall be determined for the period—

"(i) beginning on the due date for such taxable year, and

"(ii) ending on the due date for the taxable year with or within which the distribution or disposition occurs,

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

"(B) DUE DATE.—For purposes of this subsection, the term 'due date' means the date prescribed by law (determined without regard to extensions) for filing the return of the tax imposed by this chapter for the taxable year.

"(C) SPECIAL RULE.—For purposes of determining the amount of interest referred to in paragraph (1)(B), the amount of any increase in tax determined under paragraph (2) shall be determined without regard to any reduction under section 1294(e) for a tax described in paragraph (2)(A)(ii) thereof.

"SEC. 1294. DEFINITIONS AND SPECIAL RULES.

"(a) STOCK TO WHICH SECTION 1293 APPLIES.—

"(1) IN GENERAL.—Except as otherwise provided in this paragraph, section 1293 shall apply to any stock in a passive foreign corporation unless—

"(A) such stock is marketable stock as of the time of the distribution or disposition involved, or

"(B) with respect to each of such corporation's taxable years which begin after December 31, 1986, and include any portion of the taxpayer's holding period in such stock—

"(i) such corporation was U.S. controlled (within the meaning of section 1292(a)(2)),

"(ii) such corporation was treated as a controlled foreign corporation under section 1292(b) with respect to the taxpayer, or

"(iii) such corporation was treated as a qualified electing fund under this part (as in effect on the day before the date of the enactment of the Tax Simplification Act of 1991) with respect to the taxpayer.

"(2) TREATMENT WHERE STOCK BECOMES MARKETABLE.—If any stock in a passive foreign corporation becomes marketable stock after the beginning of the taxpayer's holding period in such stock, section 1293 shall apply to—

"(A) any distributions with respect to, or disposition of, such stock in the taxable year of the taxpayer in which it becomes so marketable, and

"(B) any amount included in gross income under section 1291(a) with respect to such stock for such taxable year in the same manner as if such amount were gain on the disposition of such stock.

"(3) ELECTION TO RECOGNIZE GAIN WHERE COMPANY BECOMES SUBJECT TO CURRENT INCLUSIONS.—

"(A) IN GENERAL.—If—

"(i) a passive foreign corporation first meets the requirements of clause (i) or (ii) of paragraph (1)(B) with respect to the taxpayer for a taxable year which begins after December 31, 1991,

"(ii) the taxpayer holds stock in such company on the first day of such taxable year, and

"(iii) the taxpayer establishes to the satisfaction of the Secretary the fair market value of such stock on such first day,

the taxpayer may elect to recognize gain as if he sold such stock on such first day for such fair market value.

"(B) ADDITIONAL ELECTION FOR SHAREHOLDER OF CONTROLLED FOREIGN CORPORATIONS.—

"(i) IN GENERAL.—If—

"(I) a passive foreign corporation first meets the requirements of clause (i) of paragraph (1)(B) with respect to the taxpayer for a taxable year of such taxpayer which begins after December 31, 1991,

"(II) the taxpayer holds stock in such corporation on the first day of such taxable year, and

"(III) such company is a controlled foreign corporation without regard to this part,

the taxpayer may elect to include in gross income as a dividend received on such first day an amount equal to the portion of the post-1986 earnings and profits of such corporation attributable (under regulations prescribed by the Secretary) to the stock in such company held by the taxpayer on such first day. The amount treated as a dividend under the preceding sentence shall be treated as an excess distribution and shall be allocated under section 1293(a)(1)(A) only to days during periods taken into account in determining the post-1986 earnings and profits so attributable.

"(ii) POST-1986 EARNINGS AND PROFITS.—For purposes of clause (i), the term 'post-1986 earnings and profits' means earnings and profits which were accumulated in taxable years of the corporation beginning after December 31, 1986, and during the period or periods the stock was held by the taxpayer while the corporation was a passive foreign corporation.

"(iii) COORDINATION WITH SECTION 959(e).—For purposes of section 959(e), any amount included in gross income under this subparagraph shall be treated as included in gross income under section 1248(a).

"(C) ADJUSTMENTS.—In the case of any stock to which subparagraph (A) or (B) applies—

"(i) the adjusted basis of such stock shall be increased by the gain recognized under subparagraph (A) or the amount treated as a dividend under subparagraph (B), as the case may be, and

"(ii) the taxpayer's holding period in such stock shall be treated as beginning on the first day referred to in such subparagraph.

"(b) RULES RELATING TO STOCK ACQUIRED FROM A DECEDENT.—

"(1) BASIS.—In the case of stock of a passive foreign corporation acquired by bequest, devise, or inheritance (or by the decedent's estate), notwithstanding section 1014, the basis of such stock in the hands of the person so acquiring it shall be the adjusted basis of such stock in the hands of the decedent immediately before his death. The preceding sentence shall not apply in the case of a decedent who was a nonresident alien at all times during his holding period in such stock.

"(2) DEDUCTION FOR ESTATE TAX.—If stock in a passive foreign corporation is acquired from a decedent, the taxpayer shall, under regulations prescribed by the Secretary, be allowed (for the taxable year of the sale or exchange) a deduction from gross income equal to that portion of the decedent's estate tax deemed paid which is attributable to the excess of (A) the value at which such stock was taken into account for purposes of determining the value of the decedent's gross estate, over (B) the basis determined under paragraph (1).

"(c) INFORMATION FROM SHAREHOLDERS.—Every United States person who owns stock in any passive foreign corporation shall furnish with respect to such corporation such information as the Secretary may by regulations prescribe.

"(d) RECOGNITION OF GAIN.—Except as otherwise provided in regulations, in the case of any transfer of stock in a passive foreign company where (but for this subsection) there is not full recognition of gain, the excess (if any) of—

"(1) the fair market value of such stock, over

"(2) its adjusted basis,

shall be treated as gain from the sale or exchange of such stock and shall be recognized notwithstanding any provision of law. Proper adjustment shall be made to the basis of property for gain recognized under the preceding sentence.

"(e) COORDINATION WITH FOREIGN TAX CREDIT RULES.—

"(1) IN GENERAL.—If there are creditable foreign taxes with respect to any distribution in respect of stock in a passive foreign corporation—

"(A) the amount of such distribution shall be determined for purposes of this section with regard to section 78,

"(B) the excess distribution taxes shall be allocated ratably to each day in the taxpayer's holding period for the stock, and

"(C) to the extent—

"(i) that such excess distribution taxes are allocated to a taxable year referred to in section 1293(a)(1) (B), such taxes shall be taken into account under section 901 for the current year, and

"(ii) that such excess distribution taxes are allocated to any other taxable year, such taxes shall reduce (subject to the principles of section 904 and not below zero) the increase in tax determined under section 1293(c)(2) for such taxable year by reason of such distribution (but such taxes shall not be taken into account under section 901).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) CREDITABLE FOREIGN TAXES.—The term 'creditable foreign taxes' means, with respect to any distribution—

"(i) any foreign taxes deemed paid under section 902 with respect to such distribution, and

"(ii) any withholding tax imposed with respect to such distribution,

but only if the taxpayer chooses the benefits of section 901 and such taxes are creditable under section 901 (determined without regard to paragraph (1)(C)(ii)).

"(B) EXCESS DISTRIBUTION TAXES.—The term 'excess distribution taxes' means, with respect to any distribution, the portion of the creditable foreign taxes with respect to such distribution which is attributable (on a pro rata basis) to the portion of such distribution which is an excess distribution.

"(C) SECTION 1248 GAIN.—The rules of this subsection also shall apply in the case of any gain which but for this section would be includible in gross income as a dividend under section 1248.

"(f) ATTRIBUTION OF OWNERSHIP.—For purposes of this subpart—

"(1) ATTRIBUTION TO UNITED STATES PERSONS.—This subsection—

"(A) shall apply to the extent that the effect is to treat stock of a passive foreign corporation as owned by a United States person, and

"(B) except to the extent provided in regulations, shall not apply to treat stock owned (or treated as owned under this subsection) by a United States person as owned by any other person.

"(2) CORPORATIONS.—

"(A) IN GENERAL.—If 50 percent or more in value of the stock of a corporation (other than an S corporation) is owned, directly or indirectly, by or for any person, such person shall be considered as owning the stock owned directly or indirectly by or for such corporation in that proportion which the value of the stock which such person so owns bears to the value of all stock in the corporation.

"(B) 50-PERCENT LIMITATION NOT TO APPLY TO PASSIVE FOREIGN CORPORATION.—For purposes of determining whether a shareholder of a passive foreign corporation (or whether a United States shareholder of a controlled foreign corporation which is not a passive foreign corporation) is treated as owning stock owned directly or indirectly by or for such corporation, subparagraph (A) shall be applied without regard to the 50-percent limitation contained therein.

"(C) FAMILY AND PARTNER ATTRIBUTION FOR 50-PERCENT LIMITATION.—For purposes of determining whether the 50-percent limitation of subparagraph (A) is met, the constructive ownership rules of section 544(a)(2) shall apply in addition to the other rules of this subsection.

"(3) PARTNERSHIPS, ETC.—Stock owned, directly or indirectly, by or for a partnership, S corporation, estate, or trust shall be considered as being owned proportionately by its partners, shareholders, or beneficiaries (as the case may be).

"(4) OPTIONS.—To the extent provided in regulations, if any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

"(5) SUCCESSIVE APPLICATION.—Stock considered to be owned by a person by reason of the application of paragraph (2), (3), or (4) shall, for purposes of applying such paragraphs, be considered as actually owned by such person.

"(g) OTHER SPECIAL RULES.—For purposes of this subpart—

"(1) TIME FOR DETERMINATION.—Stock held by a taxpayer shall be treated as stock in a passive foreign corporation if, at any time during the holding period of the taxpayer with respect to such stock, such corporation (or any predecessor) was a passive foreign corporation. The preceding sentence shall not apply if the taxpayer elects to recognize gain (as of the last day of the last taxable year for which the company was a passive foreign corporation) under rules similar to the rules of subsection (a)(3)(A).

"(2) APPLICATION OF SUBPART WHERE STOCK HELD BY OTHER ENTITY.—

"(A) IN GENERAL.—In any case in which a United States person is treated as owning stock in a passive foreign corporation by reason of subsection (f)—

"(i) any transaction which results in the United States person being treated as no longer owning such stock,

"(ii) any disposition of such stock by the person owning such stock, and

"(iii) any distribution of property in respect of such stock to the person holding such stock,

shall be treated as a disposition by, or distribution to, the United States person with respect to the stock in the passive foreign corporation.

"(B) AMOUNT TREATED IN SAME MANNER AS PREVIOUSLY TAXED INCOME.—Rules similar to the rules of section 959(b) shall apply to any amount described in subparagraph (A) in respect of stock which the taxpayer is treated as owning under subsection (e).

"(C) COORDINATION WITH SECTION 951.—If, but for this subparagraph, an amount would be taken into account under section 1293 by reason of subparagraph (A) and such amount would also be included in the gross income of the taxpayer under section 951, such amount shall only be taken into account under section 1293.

"(3) DISPOSITIONS.—Except as provided in regulations, if a taxpayer uses any stock in a passive foreign corporation as security for a loan, the taxpayer shall be treated as having disposed of such stock.

"Subpart C—General Provisions

"Sec. 1296. Passive foreign corporation.
"Sec. 1297. Special rules.

"SEC. 1296. PASSIVE FOREIGN CORPORATION.

"(a) IN GENERAL.—For purposes of this part, except as otherwise provided in this subpart, the term 'passive foreign corporation' means any foreign corporation if—

"(1) 60 percent or more of the gross income of such corporation for the taxable year is passive income,

"(2) the average percentage of assets (by value) held by such corporation during the taxable year which produce passive income or which are held for the production of passive income is at least 50 percent, or

"(3) such corporation is registered under the Investment Company Act of 1940, as amended (15 U.S.C. 80a-1 to to 80b-2), either as a management company or as a unit investment trust.

A foreign corporation may elect to have the determination under paragraph (2) based on the adjusted basis of its assets in lieu of their value. Such an election, once made, may be revoked only with the consent of the Secretary.

"(b) PASSIVE INCOME.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'passive income' means any income which is of a kind which would be foreign personal holding company income as defined in section 954(c) without regard to paragraph (3) thereof.

"(2) EXCEPTIONS.—Except as provided in regulations, the term 'passive income' does not include any income—

"(A) derived in the active conduct of a banking business by an institution licensed to do business as a bank in the United States (or, to the extent provided in regulations, by any other corporation),

"(B) derived in the active conduct of an insurance business by a corporation which is predominantly engaged in an insurance business and which would be subject to tax under subchapter L if it were a domestic corporation,

"(C) which is interest, a dividend, or a rent or royalty, which is received or accrued from a related person (within the meaning of section 954(d)(3)) to the extent such amount is properly allocable (under regulations prescribed by the Secretary) to income of such related person which is not passive income, or

"(D) any foreign trade income of a FSC.

For purposes of subparagraph (C), the term 'related person' has the meaning given such term by section 954(d)(3) determined by substituting 'foreign corporation' for 'controlled foreign corporation' each place it appears in section 954(d)(3).

"(c) LOOK-THROUGH IN CASE OF 25-PERCENT OWNED CORPORATION.—If a foreign corporation owns (directly or indirectly) at least 25 percent (by value) of the stock of another corporation, for purposes of determining whether such foreign corporation is a passive foreign corporation, such foreign corporation shall be treated as if it—

"(1) held its proportionate share of the assets of such other corporation, and

"(2) received directly its proportionate share of the income of such other corporation.

"SEC. 1297. SPECIAL RULES.

"(a) UNITED STATES PERSON.—For purposes of this part, the term 'United States person' has the meaning given to such term by section 957(c); except that, for purposes of subpart B, paragraphs (1) and (2) of section 957(c) shall not apply.

"(b) CONTROLLED FOREIGN CORPORATION.—For purposes of this part, the term 'controlled foreign corporation' has the meaning given such term by section 957(a).

"(c) MARKETABLE STOCK.—For purposes of this part—

"(1) IN GENERAL.—The term 'marketable stock' means—

"(A) any stock which is regularly traded on—

"(i) a national securities exchange which is registered with the Securities and Exchange Commission or the national market system established pursuant to section 11A of the Securities and Exchange Act of 1934, or

"(ii) any exchange or other market which the Secretary determines has rules adequate to carry out the purposes of this part, and

"(B) to the extent provided in regulations, stock in any foreign corporation which is comparable to a regulated investment company and which offers for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value.

"(2) SPECIAL RULE FOR REGULATED INVESTMENT COMPANIES.—In case of any regulated investment company which is offering for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, all stock in a passive foreign corporation which it owns (or is treated under section 1291(g) as owning) shall be treated as marketable stock for purposes of this part. Except as provided in regulations, a similar rule shall apply in the case of any other regulated investment company.

"(d) OTHER SPECIAL RULES.—For purposes of this part—

"(1) CERTAIN CORPORATIONS NOT TREATED AS PASSIVE.—A corporation shall not be treated as a passive foreign corporation for the 1st taxable year such corporation has gross income (hereinafter in this paragraph referred to as the 'start-up year') if—

"(A) no predecessor of such corporation was a passive foreign corporation,

"(B) it is established to the satisfaction of the Secretary that such corporation will not be a passive foreign corporation for either of the 1st 2 taxable years following the start-up year, and

"(C) such corporation is not a passive foreign corporation for either of the 1st 2 taxable years following the start-up year.

"(2) CERTAIN CORPORATIONS CHANGING BUSINESSES.—A corporation shall not be treated as a passive foreign corporation for any taxable year if—

"(A) neither such corporation (nor any predecessor) was a passive foreign corporation for any prior taxable year,

"(B) it is established to the satisfaction of the Secretary that—

"(i) substantially all of the passive income of the corporation for the taxable year is attributable to proceeds from the disposition of 1 or more active trades or businesses, and

"(ii) such corporation will not be a passive foreign corporation for either of the 1st 2 taxable years following the taxable year, and

"(C) such corporation is not a passive foreign corporation for either of such 2 taxable years.

For purposes of section 1296(c), any passive income referred to in subparagraph (B)(i) shall be treated as income which is not passive income and any assets which produce income so described shall be treated as assets producing income other than passive income.

"(3) TREATMENT OF CERTAIN FOREIGN CORPORATIONS OWNING STOCK IN 25-PERCENT OWNED DOMESTIC CORPORATION.—

"(A) IN GENERAL.—If a foreign corporation owns at least 25 percent (by value) of the stock of a domestic corporation, for purposes of determining whether such foreign corporation is a passive foreign corporation, any qualified stock held by such domestic corporation shall be treated as an asset which does not produce passive income (and is not held for the production of passive income) and any amount included in gross income with respect to such stock shall not be treated as passive income.

"(B) QUALIFIED STOCK.—For purposes of subparagraph (A), the term 'qualified stock' means any stock in a C Corporation which is a domestic corporation and which is not a regulated investment company or real estate investment trust.

"(4) TREATMENT OF CORPORATION WHICH WAS A PFIC.—A corporation shall be treated as a passive foreign corporation for any taxable year beginning before January 1, 1992, if such corporation was a passive foreign investment company under this part as in effect for such taxable year.

"(5) SEPARATE INTERESTS TREATED AS SEPARATE CORPORATIONS.—Under regulations prescribed by the Secretary, where necessary to carry out the purposes of this part, separate classes of stock (or other interests) in a corporation shall be treated as interests in separate corporations.

"(e) TREATMENT OF CERTAIN LEASED PROPERTY.—For purposes of section 1296(a)(2)—

"(1) IN GENERAL.—Any tangible personal property with respect to which the foreign corporation is the lessee under a lease with a term of at least 12 months shall be treated as an asset actually held by such corporation.

"(2) DETERMINATION OF VALUE.—

"(A) IN GENERAL.—The value of any asset to which paragraph (1) applies shall be the lesser of—

"(i) the fair market value of such property, or

"(ii) the unamortized portion (as determined under regulations prescribed by the Secretary) of the present value of the payments under the lease for the use of such property.

"(B) PRESENT VALUE.—For purposes of subparagraph (A), the present value of payments described in subparagraph (A)(ii) shall be determined in the manner provided in regulations prescribed by the Secretary—

"(i) as of the beginning of the lease term, and

"(ii) except as provided in such regulations, by using a discount rate equal to the applicable Federal rate determined under section 1274(d)—

"(I) by substituting the lease term for the term of the debt instrument, and

"(II) without regard to paragraph (2) or (3) thereof.

"(3) EXCEPTIONS.—This subsection shall not apply in any case where—

"(A) the lessor is a related person (as defined in the last sentence of section 1296(b)(2)) with respect to the foreign corporation, or

"(B) a principal purpose of leasing the property was to avoid the provisions of this part.

"(f) ELECTION BY CERTAIN PASSIVE FOREIGN CORPORATIONS TO BE TREATED AS A DOMESTIC CORPORATION.—

"(1) IN GENERAL.—For purposes of this title, if—

"(A) a passive foreign corporation would qualify as a regulated investment company under part I of subchapter M if such passive foreign corporation were a domestic corporation,

"(B) such passive foreign corporation meets such requirements as the Secretary shall prescribe to ensure that the taxes imposed by this title on such passive foreign corporation are paid, and

"(C) such passive foreign corporation makes an election to have this paragraph apply and waives all benefits which are granted by the United States under any treaty and to which such corporation would otherwise be entitled by reason of being a resident of another country,

such corporation shall be treated as a domestic corporation.

"(2) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2), (3), (4)(A), and (5) of section 953(d) shall apply with respect to any corporation making an election under paragraph (1).

"(g) SPECIAL RULES FOR CERTAIN TAXPAYERS.—

"(1) TAX EXEMPT ORGANIZATIONS.—This part shall not apply in the case of any organization exempt from tax under section 501 unless the unrelated business taxable income of such organization is computed under section 512(a)(3). In the case of an organization the unrelated business taxable income of which is computed under section 512(a)(3), this part shall be applied with respect to amounts taken into account in computing unrelated business taxable income in the same manner as if such organization were not exempt from tax under section 501(a).

"(2) TREATMENT OF STOCK HELD BY POOLED INCOME FUND.—If stock in a passive foreign corporation is owned (or treated as owned under section 1294(e)) by a pooled income fund (as defined in section 642(c)(5)) and no portion of any gain from a disposition of such stock may be allocated to income under the terms of the governing instrument of such fund—

"(A) section 1293 shall not apply to any gain on a disposition of such stock by such fund if (without regard to section 1293) a deduction would be allowable with respect to such gain under section 642(c)(3),

"(B) subpart A shall not apply with respect to such stock, and

"(C) in determining whether section 1293 applies to any distribution in respect of such stock, such stock shall be treated as failing to qualify for the exceptions under section 1294(a)(1).

"(3) COORDINATION WITH SECTION 933.—No increase in tax shall be determined under section 1293 on any amount for which the taxpayer would have been entitled to the benefits of section 933 if such amount had been actually received in the taxable year to which it is allocated under section 1293.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations—

"(1) providing that gross income shall be determined without regard to section 1293 for such purposes as may be specified in such regulations, and

"(2) to prevent avoidance of the provisions of this part through changes in residence status.".

(b) INSTALLMENT SALES TREATMENT NOT AVAILABLE.—Paragraph (2) of section 453(k) is amended by striking "or" at the end of subparagraph (A), by inserting "or" at the end of subparagraph (B), and by adding at the end thereof the following new subparagraph:

"(C) stock in a passive foreign corporation (as defined in section 1296),"

SEC. 303. TECHNICAL AND CONFORMING AMENDMENTS.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 171(c) is amended—

(A) by striking ", or by a foreign personal holding company, as defined in section 552", and

(B) by striking ", or a foreign personal holding company".

(2) Section 312 is amended by striking subsection (j).

(3) Subsection (m) of section 312 is amended by striking ", a foreign investment company (within the meaning of section 1246(b)), or a foreign personal holding company (within the meaning of section 552)" and inserting "or a passive foreign corporation (as defined in section 1296)".

(4) Subsection (e) of section 443 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(5) Clause (ii) of section 465(c)(7)(B) is amended to read as follows:

"(ii) a passive foreign corporation with respect to which the stock ownership requirements of section 1292(a)(2)(B) are met, or".

(6) Subsection (b) of section 535 is amended by striking paragraph (9).

(7) Subsection (d) of section 535 is hereby repealed.

(8) Subsection (c) of section 542 is amended—

(A) by amending paragraph (5) to read as follows: "(5) a foreign corporation;",

(B) by striking paragraphs (7) and (10), and redesignating paragraphs (8) and (9), as paragraphs (7) and (8), respectively,

(C) by inserting "and" at the end of paragraph (7) as so redesignated, and

(D) by striking "; and" at the end of paragraph (8) as so redesignated and inserting a period.

(9) Paragraph (1) of section 543(b) is amended by inserting "and" at the end of subparagraph (A), by striking ", and" at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(10) Paragraph (1) of section 562(b) is amended by striking "or a foreign personal holding company described in section 552".

(11) Section 563 is amended—

(A) by striking subsection (c),

(B) by redesignating subsection (d) as subsection (c), and

(C) by striking "subsection (a), (b), or (c)" in subsection (c) (as so redesignated) and inserting "subsection (a) or (b)".

(12) Paragraph (2) of section 751(d) is amended by striking "subsection (a) of section 1246 (relating to gain on foreign investment company stock)" and inserting "section 1291 (relating to stock in certain passive foreign corporations marked to market)".

(13) Subsection (b) of section 851 is amended—

(A) by striking "or 1293(a)", and

(B) by striking "or 1293(c)".

(14) Subsection (d) of section 904 is amended by striking paragraphs (2)(A)(ii), (2)(E)(iii), and (3)(I).

(15)(A) Subparagraph (A) of section 904(g)(1) is amended to read as follows:

"(A) Any amount included in gross income under section 951(a) (relating to amounts included in gross income of United States shareholders)."

(B) The paragraph heading of paragraph (2) of section 904(g) is amended by striking "AND FOREIGN PERSONAL HOLDING OR PASSIVE FOREIGN INVESTMENT COMPANY".

(16) Section 951 is amended by striking subsections (c), (d), and (f), and by redesignating subsection (e) as subsection (c).

(17) Paragraph (1) of section 986(c) is amended by striking "or 1293(c)".

(18) Paragraph (3) of section 989(b) is amended by striking ", 551(a), or 1293(a)".

(19) Paragraph (5) of section 1014(b) is amended by striking "foreign personal holding company" and inserting "a passive foreign corporation (as defined in section 1296) with respect to which the stock ownership requirements of section 1292(a)(2)(B) are met".

(20) Subsection (a) of section 1016 is amended by striking paragraph (13) and by redesignating the following paragraphs accordingly.

(21) Paragraph (3) of section 1212(a) is amended—

(A) by striking subparagraph (A),

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and

(C) by amending subparagraph (D) to read as follows:

"(C) for which it is a passive foreign corporation [or a controlled foreign corporation]."

(22) Section 1223 is amended by striking paragraph (10) and by redesignating the following paragraphs accordingly.

(23) Subsection (d) of section 1248 is amended by striking paragraphs (5) and (7).

(24) Subsection (a) of section 6035 is amended by striking"foreign personal holding (as defined in section 552)" and inserting "passive foreign corporation with respect to which the stock ownership requirements of section 1292(a)(2)(B) are met".

(25) Subparagraph (D) of section 6103(e)(1) is amended by striking clause (iv) and redesignating clauses (v) and (vi) as clauses (iv) and (v), respectively.

(26) Subparagraph (B) of section 6501(e)(1) is amended to read as follows:

"(B) CONSTRUCTIVE DIVIDENDS.—If the taxpayer omits from gross income an amount properly includible therein under section 951(a), the tax may be assessed, or a proceeding in court for the collection of such tax may be done without assessing, at any time within 6 years after the return was filed."

(27) Section 4947 and section 4948(c)(4) are each amended by striking "556(b)(2)," each place it appears.

(b) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter G of chapter 1 is amended by striking the item relating to part III.

(2) The table of sections for part IV of subchapter P of chapter 1 is amended by striking the items relating to sections 1246 and 1247.

(3) The table of parts for subchapter P of chapter 1 is amended by striking the item relating to part VI and inserting the following:

"Part VI. Treatment of passive foreign corporations."

SEC. 304. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to—

(1) taxable years of United States persons beginning after December 31, 1991, and

(2) taxable years of foreign corporations ending with or within such taxable years of United States persons.

(b) DENIAL OF INSTALLMENT SALES TREATMENT.—The amendment made by section 302(b) shall apply to dispositions after December 31, 1991.

(c) BASIS RULE.—The amendments made by this subtitle shall not affect the determination of the basis of stock in a passive foreign investment company (as defined in section 1296 of the Internal Revenue Code of 1986 as in effect on the day before the date of the enactment of this Act) acquired from a decedent in a taxable year beginning before January 1, 1991.

Subtitle B—Treatment of Controlled Foreign Corporations

SEC. 311. GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.

(a) GENERAL RULE.—Section 964 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

"(f) GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.—

"(1) IN GENERAL.—If a controlled foreign corporation sells or exchanges stock in any other foreign corporation, gain recognized on such sale or exchange shall be included in the gross income of such controlled foreign corporation as a dividend to the same extent that it would have been so included under section 1248(a) if such controlled foreign corporation were a United States person. For purposes of determining the amount which would have been so includible, the determination of whether such other foreign corporation was a controlled foreign corporation shall be made without regard to the preceding sentence.

"(2) SAME COUNTRY EXCEPTION NOT APPLICABLE.—Clause (i) of section 954(c)(3)(A) shall not apply to any amount treated as a dividend by reason of paragraph (1).

"(3) CLARIFICATION OF DEEMED SALES.—For purposes of this subsection, a controlled foreign corporation shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such controlled foreign corporation is treated as having gain from the sale or exchange of such stock.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to gain recognized on transactions occurring after the date of the enactment of this Act.

SEC. 312. REPEAL OF SPECIAL RULES FOR FOREIGN TAX CREDIT APPLICABLE TO RECEIPT OF PREVIOUSLY TAXED EARNINGS.

(a) GENERAL RULE.—Section 960 (relating to special rules for foreign tax credits) is amended by striking subsections (a)(3) and (b).

(b) CONFORMING AMENDMENT.—Subsection (d) of section 959 is amended by striking "Except as provided in section 960(a)(3), any" and inserting "Any".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1991.

(2) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS OF EXISTING PREVIOUSLY TAXED INCOME.—The amendments made by this section shall not apply to any distribution or other amount excluded from gross income under section 959(a) of the Internal Revenue Code of 1986 for a taxable year beginning before January 1, 1997, if such distribution or other amount is excludable by reason of an inclusion under section 951(a) of such Code for a taxable year beginning before January 1, 1992.

SEC. 313. MISCELLANEOUS MODIFICATIONS TO SUBPART F.

(a) SECTION 1248 GAIN TAKEN INTO ACCOUNT IN DETERMINING PRO RATA SHARE.—

(1) IN GENERAL.—Paragraph (2) of section 951(a) (defining pro rata share of subpart F income) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (B), any gain included in the gross income of any person as a dividend under section 1248 shall be treated as a distribution received by such person with respect to the stock involved."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to dispositions after the date of the enactment of this Act.

(b) BASIS ADJUSTMENTS IN STOCK HELD BY LOWER TIER FOREIGN CORPORATIONS.—

(1) IN GENERAL.—Section 961 (relating to adjustments to basis of stock in controlled foreign corporations and of other property) is amended by adding at the end thereof the following new subsection:

"(c) BASIS ADJUSTMENTS IN PROPERTY HELD BY LOWER TIER FOREIGN CORPORATION.—Under regulations prescribed by the Secretary, if a United States shareholder is treated under section 958(a)(2) as owning any stock in a controlled foreign corporation which is actually owned by another controlled foreign corporation, adjustments similar to the adjustments provided by subsections (a) and (b) shall be made to the basis of such stock in the hands of such other controlled foreign corporation, but only for the purposes of determining the amount included under section 951 in the gross income of such United States shareholder (or any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder by reason of which such shareholder was treated as owning such stock, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary may prescribe by regulations)."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to adjust-

ments attributable to inclusions for taxable years of United States shareholders beginning after December 31, 1991.

(c) DETERMINATION OF PREVIOUSLY TAXED INCOME IN SECTION 304 DISTRIBUTIONS, ETC.—

(1) IN GENERAL.—Section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding at the end thereof the following new subsection:

"(f) ADJUSTMENTS FOR CERTAIN TRANSACTIONS.—If by reason of—

"(1) a transaction to which section 304 applies,

"(2) the structure of a United States shareholder's holdings in controlled foreign corporations, or

"(3) other circumstances, there would be a multiple inclusion of any item in income (or an inclusion or exclusion without an appropriate basis adjustment) by reason of this subpart, the Secretary may prescribe regulations providing such modifications in the application of this subpart as may be necessary to eliminate such multiple inclusion or provide such basis adjustment, as the case may be."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(d) CLARIFICATION OF TREATMENT OF BRANCH TAX EXEMPTIONS OR REDUCTIONS.—

(1) IN GENERAL.—Subsection (b) of section 952 is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, any exemption (or reduction) with respect to the tax imposed by section 884 shall not be taken into account."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years ending after the date of the enactment of this Act.

Subtitle C—Other Provisions

SEC. 321. EXCHANGE RATE USED IN TRANSLATING FOREIGN TAXES.

(a) GENERAL RULE.—Subsection (a) of section 986 (relating to foreign taxes) is amended by adding at the end thereof the following new paragraph:

"(3) AUTHORITY TO PERMIT USE OF AVERAGE RATES.—To the extent prescribed in regulations, the average exchange rate for the period (specified in such regulations) during which the taxes or adjustmnet is paid may be used instead of the exchange rate as of the time of such payment."

(b) DETERMINATION OF AVERAGE RATES.—Subsection (c) of section 989 is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(6) setting forth procedures for determining the average exchange rate for any period."

(c) CONFORMING AMENDMENTS.—Subsection (b) of section 989 is amended by striking "weighted" each place it appears.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 322. ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION FOR ALTERNATIVE MINIMUM TAX.

(a) GENERAL RULE.—Subsection (a) of section 59 (relating to alternative minimum tax foreign tax credit) is amended by adding at the end thereof the following new paragraph:

"(3) ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION.—

"(A) IN GENERAL.—In determining the alternative minimum tax foreign tax credit for any taxable year to which an election under this paragraph applies—

"(i) subparagraph (B) of paragraph (1) shall not apply, and

"(ii) the limitation of section 904 shall be based on the proportion which—

"(I) The taxpayer's taxable income (as determined for purposes of the regular tax) from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income), bears to

"(II) the taxpayer's entire alternative minimum taxable income for the taxable year.

"(B) ELECTION.—

"(i) IN GENERAL.—An election under this paragraph may be made only for the taxpayer's first taxable year which begins after December 31, 1991, and for which the taxpayer claims an alternative minimum tax foreign tax credit.

"(ii) ELECTION REVOCABLE ONLY WITH CONSENT.—An election under this paragraph, once made, shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

TITLE IV—OTHER INCOME TAX PROVISIONS

Subtitle A—Provisions Relating to Subchapter S Corporations

SEC. 401. DETERMINATION OF WHETHER CORPORATION HAS 1 CLASS OF STOCK.

(a) GENERAL RULE.—Paragraph (4) of section 1361(c) is amended to read as follows:

"(4) DETERMINATION OF WHETHER CORPORATION HAS 1 CLASS OF STOCK.—For purposes of subsection (b)(1)(D), a corporation shall be treated as having 1 class of stock if all outstanding shares of stock of the corporation confer identical rights to distributions and liquidation proceeds. The preceding sentence shall apply whether or not there are differences in voting rights among such shares."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982.

SEC. 402. AUTHORITY TO VALIDATE CERTAIN INVALID ELECTIONS.

(a) GENERAL RULE.—Subsection (f) of section 1362 (relating to inadvertent terminations) is amended to read as follows:

"(f) INADVERTENT INVALID ELECTIONS OR TERMINATIONS.—If—

"(1) an election under subsection (a) by any corporation—

"(A) was not effective for the taxable year for which made (determined without regard to subsection (b)(2)) by reason of a failure to meet the requirements of section 1361(b) or to obtain shareholder consents, or

"(B) was terminated under paragraph (2) or (3) of subsection (d),

"(2) the Secretary determines that the circumstances resulting in such ineffectiveness or termination were inadvertent,

"(3) no later than a reasonable period of time after discovery of the circumstances resulting in such ineffectiveness or termination, steps were taken—

"(A) so that the corporation is a small business corporation, or

"(B) to acquire the required shareholder consents, and

"(4) the corporation, and each person who was a shareholder in the corporation at any time during the period specified pursuant to this subsection, agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period,

then, notwithstanding the circumstances resulting in such ineffectiveness or termination, such corporation shall be treated as an S corporation during the period specified by the Secretary."

(b) LATE ELECTIONS.—Subsection (b) of section 1362 is amended by adding at the end thereof the following new paragraph:

"(5) AUTHORITY TO TREAT LATE ELECTIONS AS TIMELY.—If—

"(A) an election under subsection (a) is made for any taxable year (determined without regard to paragraph (3)) after the date prescribed by this subsection for making such election for such taxable year, and

"(B) the Secretary determines that there was reasonable cause for the failure to timely make such election.

the Secretary may treat such election as timely made for such taxable year (and paragraph (3) shall not apply)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections for taxable years beginning after December 31, 1982.

SEC. 403. TREATMENT OF DISTRIBUTIONS DURING LOSS YEARS.

(a) ADJUSTMENT FOR DISTRIBUTIONS TAKEN INTO ACCOUNT BEFORE LOSSES.—

(1) Subparagraph (A) of section 1366(d)(1) is amended by striking "paragraph (1)" and inserting "paragraphs (1) and (2)(A)".

(2) Subsection (d) of section 1368 is amended by adding at the end thereof the following new sentence: "In the case of any distribution made during any taxable year, the adjusted basis of the stock shall be determined with regard to the adjustments provided in paragraph (1) of section 1367(a) for the taxable year."

(b) ACCUMULATED ADJUSTMENTS ACCOUNT.—Paragraph (1) of section 1368(e) (relating to accumulated adjustments account) is amended by adding at the end thereof the following new subparagraph:

"(C) NET LOSS FOR YEAR DISREGARDED.—

"(i) IN GENERAL.—In applying this section to distributions made during any taxable year, the amount in the accumulated adjustments account as of the close of such taxable year shall be determined without regard to any net negative adjustment for such taxable year.

"(ii) NET NEGATIVE ADJUSTMENT.—For purposes of clause (i), the term 'net negative adjustment' means, with respect to any taxable year, the excess (if any) of—

"(I) the reductions in the account for the taxable year (other than for distributions), over

"(II) the increases in such account for such taxable year."

(c) CONFORMING AMENDMENTS.—Subparagraph (A) of section 1368(e)(1) is amended—

(1) by striking "as provided in subparagraph (B)" and inserting "as otherwise provided in this paragraph", and

(2) by striking "section 1367(b)(2)(A)" and inserting "section 1367(a)(2)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in taxable years beginning after December 31, 1991.

SEC. 404. OTHER MODIFICATIONS.

(a) TREATMENT OF S CORPORATIONS UNDER SUBCHAPTER C.—Subsection (a) of section 1371 (relating to application of subchapter C rules) is amended to read as follows:

"(a) APPLICATION OF SUBCHAPTER C RULES.—Except as otherwise provided in this title, and except to the extent inconsistent with this subchapter, subchapter C shall apply to an S corporation and its shareholders."

(b) S CORPORATIONS PERMITTED TO HOLD SUBSIDIARIES.—

(1) IN GENERAL.—Paragraph (2) of section 1361(b) (defining ineligible corporation) is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (A), (B), (C), and (D), respectively.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (c) of section 1361 is amended by striking paragraph (6).

(B) Subsection (b) of section 1504 (defining includible corporation) is amended by adding at the end thereof the following new paragraph: "(8) An S corporation."

(c) ELIMINATION OF PRE-1983 EARNINGS AND PROFITS.—

(1) IN GENERAL.—If—

(A) a corporation was an electing small business corporation under subchapter S of chapter 1 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1983, and

(B) such corporation is an S corporation under subchapter S of chapter 1 of such Code for its first taxable year beginning after December 31, 1991.

the amount of such corporation's accumulated earnings and profits (as of the beginning of such first taxable year) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under such subchapter S.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (3) of section 1362(d) is amended—

(i) by striking "subchapter C" in the paragraph heading and inserting "accumulated",

(ii) by striking "subchapter C" in subparagraph (A)(i)(I) and inserting "accumulated", and

(iii) by striking subparagraph (B) and redesignating the following subparagraphs accordingly.

(B)(i) Subsection (a) of section 1375 is amended by striking "subchapter C" in paragraph (1) and inserting "accumulated".

(ii) Paragraph (3) of section 1375(b) is amended to read as follows:

"(3) PASSIVE INVESTMENT INCOME, ETC.—The terms 'passive investment income' and 'gross receipts' have the same respective meanings as when used in paragraph (3) of section 1362(d)."

(iii) The section heading for section 1375 is amended by striking "SUBCHAPTER C" and inserting "ACCUMULATED".

(iv) The table of sections for part III of subchapter S of chapter 1 is amended by striking "subchapter C" in the item relating to section 1375 and inserting "accumulated".

(C) Clause (i) of section 1042(c)(4)(A) is amended by striking "section 1362(d)(3)(D)" and inserting "section 1362(d)(3)(C)".

(d) TREATMENT OF DISPOSITIONS OF ENTIRE INTEREST.—Paragraph (2) of section 1377(a) (relating to election to terminate year) is amended to read as follows:

"(2) DISPOSITIONS OF ENTIRE INTEREST.—If any shareholder terminates his interest in the S corporation during the taxable year, paragraph (1) shall be applied as if the taxable year consisted of 2 taxable years the first of which ends on the date of the termination."

(e) ADJUSTMENTS TO BASIS OF INHERITED S STOCK TO REFLECT CERTAIN ITEMS OF INCOME.—Subsection (b) of section 1367 (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end thereof the following new paragraph:

"(4) ADJUSTMENTS IN CASE OF INHERITED STOCK.—

"(A) IN GENERAL.—If any person acquires stock in an S corporation by reason of the death of a decedent or by bequest, devise, or inheritance, section 691 shall be applied with respect to any item of income of the S corporation in the same manner as if the decedent had held directly his pro rata share of such item.

"(B) ADJUSTMENTS TO BASIS.—The basis determined under section 1014 of any stock in an S corporation shall be reduced by the portion of the value of the stock which is attributable to items constituting income in respect of the decedent."

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1991.

(2) SUBSECTION (e).—The amendment made by subsection (e) shall apply in the case of decedents dying after the date of the enactment of this Act.

Subtitle B—Accounting Provisions

SEC. 411. MODIFICATIONS TO LOOK-BACK METHOD FOR LONG-TERM CONTRACTS.

(a) LOOK-BACK METHOD NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 460 (relating to percentage of completion method) is amended by adding at the end thereof the following new paragraph:

"(6) ELECTION TO HAVE LOOK-BACK METHOD NOT APPLY IN DE MINIMIS CASES.—

"(A) AMOUNTS TAKEN INTO ACCOUNT AFTER COMPLETION OF CONTRACT.—Paragraph (1)(B) shall not apply with respect to any taxable year (beginning after the taxable year in which the contract is completed) if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of such taxable year, is within

"(ii) 10 percent of the cumulative lookback taxable income (or loss) under the contract as of the close of the most recent taxable year to which paragraph (1)(B) applied (or would have applied but for subparagraph (B)).

"(B) DE MINIMIS DISCREPANCIES.—Paragraph (1)(B) shall not apply in any case to which it would otherwise apply if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of each prior contract year, is within

"(ii) 10 percent of the cumulative lookback income (or loss) under the contract as of the close of such prior contract year.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) CONTRACT YEAR.—The term 'contract year' means any taxable year for which income is taken into account under the contract.

"(ii) LOOK-BACK INCOME OR LOSS.—The lookback income (or loss) is the amount which would be the taxable income (or loss) under the contract if the allocation method set forth in paragraph (2)(A) were used in determining taxable income.

"(iii) DISCOUNTING NOT APPLICABLE.—The amounts taken into account after the completion of the contract shall be determined without regard to any discounting under the 2nd sentence of paragraph (2).

"(D) CONTRACTS TO WHICH PARAGRAPH APPLIES.—This paragraph shall only apply if the taxpayer makes an election under this subparagraph. Unless revoked with the consent of the Secretary, such an election shall apply to all long-term contracts completed during the taxable year for which such election is made or during any subsequent taxable year."

(b) MODIFICATION OF INTEREST RATE.—

(1) IN GENERAL.—Subparagraph (C) of section 460(b)(2) is amended by striking "the overpayment rate established by section 6621" and inserting "the adjusted overpayment rate (as defined in paragraph (7))".

(2) ADJUSTED OVERPAYMENT RATE.—Subsection (b) of section 460 is amended by adding at the end thereof the following new paragraph:

"(7) ADJUSTED OVERPAYMENT RATE.—

"(A) IN GENERAL.—The adjusted overpayment rate for any interest accrual period is the overpayment rate in effect under section 6621 for the calendar quarter in which such interest accrual period begins.

"(B) INTEREST ACCRUAL PERIOD.—For purposes of subparagraph (A), the term 'interest accrual period' means the period—

"(i) beginning on the day after the return due date for any taxable year of the taxpayer, and

"(ii) ending on the return due date for the following taxable year.

For purposes of the preceding sentence, the term 'return due date' means the date prescribed for filing the return of the tax imposed by this chapter (determined without regard to extensions)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts completed in taxable years ending after the date of the enactment of this Act.

SEC. 412. SIMPLIFIED METHOD FOR CAPITALIZING CERTAIN INDIRECT COSTS.

(a) GENERAL RULE.—Subsection (i) of section 263A (relating to regulations) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end thereof the following:

"(3) regulations providing that allocations of costs of any administrative, service, or support function or department may be made on the basis of the base period percentage of the current costs of such function or department.

For purposes of paragraph (3), the term 'base period percentage' means, with respect to any function or department, the percentage of the costs of such function or department during a base period specified in regulations which were allocable to property to which this section applies."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle C—Provisions Relating to Minimum Tax

SEC. 421. SIMPLIFICATION OF CORPORATE MINIMUM TAX DEPRECIATION PREFERENCE.

(a) IN GENERAL.—

(1) Clause (ii) of section 56(a)(1)(A) is amended—

(A) by striking "150 percent" in subclause (I) and inserting "150 percent (120 percent in the case of a corporation to which subsection (g) applies)", and

(B) by striking "150-PERCENT DECLINING" in the clause heading and inserting "DECLINING".

(2) Clause (i) of section 56(g)(4)(A) is amended to read as follows:

"(i) PROPERTY PLACED IN SERVICE AFTER 1989—The depreciation deduction with respect to any property placed in service in a taxable year beginning—

"(I) during 1990 shall be determined under the alternative system of section 168(g), or

"(II) after 1990 shall be determined under the rules of subparagraph (A) of subsection (a)(1)."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 168(b) is amended to read as follows:

"(2) SPECIAL RULE FOR DECLINING BALANCE METHOD IN CERTAIN CASES.—

"(A) 150 PERCENT METHOD FOR CERTAIN PROPERTY.—Paragraph (1) shall be applied by substituting '150 percent' for '200 percent' in the case of—

"(i) any 15-year or 20-year property, or

"(ii) any property used in a farming business (within the meaning of section 263A(e)(4)).

"(B) ELECTION TO USE MINIMUM TAX METHOD.—In the case of any property (other than property described in paragraph (3)) with respect to which the taxpayer elects under paragraph (5) to have the provisions of this subparagraph apply, paragraph (1) shall be applied by substituting '150 percent (120 percent in the case of a corporation to which section 56(g) applies)' for '200 percent' (and subparagraph (A) of this paragraph shall not apply)."

(2) Paragraph (5) of section 168(b) is amended by striking "paragraph (2)(C)" and inserting "paragraph (2)(B)".

(3) Paragraph (2) of section 168(c) is amended—

(A) by striking "subsection (b)(2)(C)" and inserting "subsection (b)(2)(B)", and

(B) by striking "150 PERCENT METHOD" in the paragraph heading and inserting "MINIMUM TAX METHOD".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service in taxable years beginning after December 31, 1990.

(2) COORDINATION WITH TRANSITIONAL RULES.—The amendments made by this section shall not apply to any property to which paragraph (1) of section 56(a) of the Internal Revenue Code of 1986 does not apply by reason of subparagraph (C)(i) of such paragraph (1).

SEC. 422. REPEAL OF SPECIAL TREATMENT OF OWNERSHIP CHANGES IN DETERMINING ADJUSTED CURRENT EARNINGS.

(a) GENERAL RULE.—Paragraph (4) of section 56(g) (relating to adjustments) is amended by striking subparagraph (G) and by redesignating the following subparagraph as subparagraph (G).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to ownership changes after the date of the enactment of this Act.

Subtitle D—Tax-Exempt Bond Provisions

SEC. 431. REPEAL OF $100,000 LIMITATION ON UNSPENT PROCEEDS UNDER 1-YEAR EXCEPTION FROM REBATE.

Subclause (I) of section 148(f)(4)(B)(ii) (relating to additional period for certain bonds) is amended by striking "the lesser of 5 percent of the proceeds of the issue or $100,000" and inserting "5 percent of the proceeds of the issue".

SEC. 432. EXCEPTION FROM REBATE FOR EARNINGS ON BONA FIDE DEBT SERVICE FUND UNDER CONSTRUCTION BOND RULES.

Subparagraph (C) of section 148(f)(4) is amended by adding at the end thereof the following new clause:

"(xvii) TREATMENT OF BONA FIDE DEBT SERVICE FUNDS.—If the spending requirements of clause (ii) are met with respect to the available construciton proceeds of a construction issue, then paragraph (2) shall not apply to earnings on a bona fide debt service fund for such issue."

SEC. 433. AUTOMATIC EXTENSION OF INITIAL TEMPORARY PERIOD FOR CONSTRUCTION ISSUES.

Subsection (c) of section 148 (relating to temporary period exception) is amended by adding at the end thereof the following new paragraph:

"(3) EXTENSION OF INITIAL TEMPORARY PERIOD FOR CONSTRUCTION ISSUES.—If—

"(A) at least 85 percent of the available construciton proceeds (as defined in subsection (f)(4)(C)) of a construciton issue (as defined in such subsection) are spent as of the close of the initial temporary period (determined without regard to this paragraph), and

"(B) the issuer reasonably expects (as of the close of such period) that the remaining available construction proceeds of such issue will be spent within 1 year after the close of such period.

then such initial temporary period shall be extended 1 year."

SEC. 434. AGGREGATION OF ISSUES RULES NOT TO APPLY TO TAX OR REVENUE ANTICIPATION BONDS.

Section 150 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection:

(f) TAX OR REVENUE ANTICIPATION BONDS TREATED AS SEPARATE ISSUES.—For purposes of this part, if—

(1) all of the bonds which are part of an issue are qualified 501(c)(3) bonds or bonds which are not private activity bonds, and

"(2) any portion of such issue consists of tax or revenue anticipation bonds which are reasonably expected to meet the requirements of section 148(f)(4)(B)(iii),

then such portion shall, subject to appropriate allocations specified in regulations prescribed by the Secretary, be treated as a separate issue."

SEC. 435. AUTHORITY TO TERMINATE REQUIRED INCLUSION OF TAX-EXEMPT INTEREST ON RETURN.

Subsection (d) of section 6012 (relating to tax-exempt interest required to be shown on return) is amended by adding at the end thereof the following new sentence: "The Secretary may by regulations provide that the preceding sentence shall not apply in any case in which the Secretary determines that the disclosure of such interest is not useful for tax administration."

SEC. 436. REPEAL OF EXPIRED PROVISIONS.

(a) Paragraph (2) of section 148(c) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraph (B), (C), and (D), respectively, repealed.

(b) Paragraph (4) of section 148(f) is amended by striking subparagraph (E).

SEC. 437. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle shall apply to bonds issued after the date of the enactment of this Act.

(b) INTEREST REPORTING.—The amendment made by section 435 shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle E—Other Provisions

SEC. 441. CERTAIN GRANTOR TRUSTS TREATED AS ESTATES.

(a) GENERAL RULE.—Subsection (a) of section 7701 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(47) CERTAIN GRANTOR TRUSTS TREATED AS ESTATES.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'estate' includes any trust—

"(i) all of which was treated under section 676 as owned by the decedent, and

"(ii) to which the residue of the decedent's estate will pass under his will (or, if no will is admitted to probate, which is the trust primarily responsible for paying debts, taxes, and expenses of administration).

"(B) LIMITATION.—Subparagraph (A) shall apply only with respect to taxable years which end after the date of the decedent's death and which begin before the date which is 3 years and 9 months after the date of such death.

"(C) PARAGRAPH NOT TO APPLY FOR CERTAIN PURPOSES.—This paragraph shall not apply for purposes of—

"(i) determining the taxable year of any trust,

"(ii) subtitle B (relating to estate, gift, and generation-shipping taxes),

"(iii) section 642 (relating to deduction for personal exemption), and

"(iv) such other provisions as the Secretary may by regulations prescribe.

"(D) SPECIAL RULE FOR PASSIVE LOSS RULES.—In applying section 469(i) to any trust treated as an estate under this paragraph, in addition to any reduction under section 469(i)(4)(B), there shall be a similar reduction for the amount of any exemption allowable under section 469(i)(1) (without regard to section 469(i)(3)) to the estate of the decedent (determined without regard to this paragraph)."

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 6654(1) is amended to read as follows:

"(2) EXCEPTION FOR ESTATES.—This section shall not apply to the estate of any decedent for any taxable year ending before the date 2 years after the date of the decedent's death."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of decedents dying after the date of the enactment of this Act.

SEC. 442. TIMING RULES FOR INCLUSION AND DEDUCTION OF PARTNERSHIP GUARANTEED PAYMENTS.

(a) GENERAL RULE.—

(1) Subsection (e) of section 267 is amended by striking paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(2) Subsection (a) of section 706 is amended by striking "and section 707(c)".

(3) Subsection (c) of section 707 is amended by striking "subject to section 263" and inserting "subject to sections 263 and 267".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts taken into account (without regard to such amendments) after the date of the enactment of this Act.

SEC. 443. CLOSING OF PARTNERSHIP TAXABLE YEAR WITH RESPECT TO DECEASED PARTNER.

(a) GENERAL RULE.—Subparagraph (A) of section 706(c)(2) (relating to a disposition of entire interest) is amended to read as follows:

(A) DISPOSITION OF ENTIRE INTEREST.—The taxable year of a partnership shall close with respect to a partner whose entire interest in the partnership terminates (whether by reason of death, liquidation, or otherwise)."

(b) CLERICAL AMENDMENT.—The paragraph heading for paragraph (2) of section 706(c) is amended to read as follows:

"(2) TREATMENT OF DISPOSITIONS.—".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1991.

SEC. 444. COORDINATION OF EXCESS PRINCIPAL RULES WITH ORIGINAL ISSUE DISCOUNT RULES.

(a) GENERAL RULE.—

(1) AMENDMENTS TO SECTION 354.—

(A) Clause (i) of section 354(a)(2)(A) (relating to excess principal amount) is amended to read as follows:

"(i) the issue price of any such securities received exceeds the adjusted issue price of any such securities surrendered, or".

(B) Paragraph (2) of section 354(a) is amended by adding at the end threreof the following new subparagraph:

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) ISSUE PRICE.—The issue price of any security shall be determined under sections 1273 and 1274.

"(ii) ADJUSTED ISSUE PRICE.—The adjusted issue price of any security is its issue price—

"(I) increased by the portion of any original issue discount previously includible in the gross income of any holder (without regard to subsection (a)(7) or (b)(4) of section 1272 (or the corresponding provisions of prior law)), or

"(II) reduced by any amount previously allowable as a deduction (or an offset) under section 171 determined as if such security had always been held by its original holder.

"(iii) SPECIAL RULE.—In the case of any security to which section 1273(b)(4) applies, such section shall be applied by reducing the stated redemption price of the security by the portion of such stated redemption price which is treated as interest for purposes of this chapter."

(2) AMENDMENT TO SECTION 355.—Clause (i) of section 355(a)(3)(A) (relating to excess principal amount) is amended to read as follows:

"(i) the issue price (as defined in section 354(a)(2)(C)) of the securities in the controlled corporation which are received exceeds the adjusted issue price (as so defined) of the securities which are surrendered in connection with such distribution, or".

(3) AMENDMENTS TO SECTION 356.—

(A) Subparagraph (B) of section 356(d)(2) (relating to greater principal amount in section 354 exchange) is amended—

(i) by amending clause (ii) to read as follows:

"(ii) the issue price (as defined in section 354(a)(2)(C)) of such securities received exceeds the adjusted issue price (as so defined) of such securities surrendered,",

(ii) by striking "the fair market value of such excess" and inserting "the amount of such excess", and

(iii) by striking "the entire principal amount" in the second sentence and inserting "the entire issue price (as so defined)".

(B) Subparagraph (C) of section 356(d)(2) (relating to greater principal amount in section 355 transaction) is amended to read as follows:

"(C) GREATER PRINCIPAL AMOUNT IN SECTION 355 TRANSACTION.—If, in an exchange or distribution described in section 355, the issue price (as so defined) of the securities in the controlled corporation which are received exceeds the adjusted issue price (as so defined) of the securities in the distributing corporation which are surrendered, then, with respect to such securities received, the term 'other property' means only the amount of such excess."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to exchanges and distributions after the date of the enactment of this Act.

TITLE V—ESTATE AND GIFT TAX PROVISIONS

SEC. 501. CLARIFICATION OF WAIVER OF RIGHT OF RECOVERY IN CASE OF CERTAIN MARITAL DEDUCTION PROPERTY.

(a) GENERAL RULE.—Paragraph (2) of section 2207A(a) (relating to right of recovery with respect to estate tax) is amended to read as follows:

"(2) DECEDENT MAY OTHERWISE DIRECT BY WILL.—Paragraph (1) shall not apply if the decedent otherwise directs in a provision of his will (or a revocable trust) specifically referring to this section."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the estates of the decedents dying after the date of the enactment of this Act.

SEC. 502. ADJUSTMENTS FOR GIFTS WITHIN 3 YEARS OF DECEDENT'S DEATH.

"(a) INCLUSION OF CERTAIN PROPERTY IN GROSS ESTATE.—If—

"(1) the decedent made a transfer (by trust or otherwise) of an interest in any property, or relinquished a power with respect to any property, during the 3-year period ending on the date of the decedent's death, and

"(2) the value of such property (or an interest therein) would have been included in the decedent's gross estate under section 036, 2037, 2038, or 2042 if such transfered interest or relinquished power had been retained by the decedent on the date of his death,

the value of the gross estate shall include the value of any property (or interest therein) which would have been so included. For purposes of the preceding sentence, the decedent shall not be treated as having relinquished any power merely by reason of a transfer from a trust with respect to which the decedent had retained the right to revoke.

"(b) INCLUSION OF GIFT TAX ON GIFTS MADE DURING 3 YEARS BEFORE DECEDENT'S DEATH.—The amount of the gross estate (determined without regard to this subsection) shall be increased by the amount of any tax paid under chapter 12 by the decedent or his estate on any gift made by the decedent or his spouse during the 3-year period ending on the date of decedent's death.

"(c) Other Rules Relating to Transfers Within 3 Years of Death.—

"(1) IN GENERAL.—For purposes of—

"(A) section 303(b) (relating to distributions in redemption of stock to pay death taxes),

"(B) section 2032A (relating to special valuation of certain farms etc., real property), and

"(C) subchapter C of chapter 64 (relating to lien for taxes).

the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, during the 3-year period ending on the date of the decedent's death.

"(2) COORDINATION WITH SECTION 6166.—An estate shall be treated as meeting the 35 percent of adjusted gross estate requirement of section 6166(a)(1) only if the estate meets such requirement both with and without the application of paragraph (1).

"(3) SMALL TRANSFERS.—Paragraph (1) shall not apply to any transfer (other than a transfer with respect to a life insurance policy) made during a calendar year to any donee if the decedent was not required by section 6019 (other than by reason of section 6091(a)(2)) to file any gift tax return for such year with respect to transfers to such donee.

"(d) EXCEPTION.—Subsection (a) shall not apply to any bona fide sale for an adequate and full consideration in money or money's worth."

"(b) TREATMENT OF CERTAIN RELINQUISHMENTS UNDER SECTION 2038.—Paragraph (1) of section 2038(a), and the first sentence of section 2038(a)(2), are each amended by inserting before the period at the end thereof the following: "(except that such a relinquishment shall not be treated as occurring merely by reason of a transfer from a trust with respect to which the decedent had reserved the right to revoke)".

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by striking "gifts" in the item relating to section 2035 and inserting "certain gifts".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 503. CLARIFICATION OF QUALIFIED TERMINABLE INTEREST RULES.

(a) GENERAL RULE.—

(1) ESTATE TAX.—Subparagraph (B) of section 2056(b)(7) (defining qualified terminable interest property) is amended by adding at the end thereof the following new clause:

"(v)(i) TREATMENT OF CERTAIN INCOME DISTRIBUTIONS.—An income interest shall not fail to qualify as a qualified income interest for life solely because income for the period after the last distribution date and on or before the date of the surviving spouse's death is not required to be distributed to the surviving spouse or to the estate of the surviving spouse."

(2) GIFT TAX.—Paragraph (3) of section 2523(f) is amended by striking "and (iv)" and inserting ", (iv), and (vi)".

(b) CLARIFICATION OF SUBSEQUENT INCLUSIONS.—Section 2044 is amended by adding at the end thereof the following new subsection:

"(d) CLARIFICATION OF INCLUSION OF CERTAIN INCOME.—The amount included in the gross estate under subsection (a) shall include the amount of any income from the property to which this section applies for the period after the last distribution date and on or before the date of the decedent's death if such income is not otherwise included in the decedent's gross estate."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to the estates of decedents dying, and gifts made, after the date of the enactment of this Act.

(2) APPLICATION OF SECTION 2044 TO TRANSFERS BEFORE DATE OF ENACTMENT.—In the case of the estate of any decedent dying after the date of enactment of this Act, if there was a transfer of property on or before such date——

(A) such property shall not be included in the gross estate of the decedent under section 2044 of the Internal Revenue Code of 1986 if no prior marital deduction was allowed with respect to such a transfer of such property to the decedent, but

(B) such property shall be so included if such a deduction was allowed.

SEC. 504. TRANSITIONAL RULE UNDER SECTION 2056A.

(a) GENERAL RULE.—In the case of any trust created under an instrument executed before the date of the enactment of the Revenue Reconciliation Act of 1990, such trust shall be treated as meeting the requirements of paragraph (1) of section 2056(A) of the Internal Revenue Code of 1986 if the trust instrument requires that all trustees of the trust be individual citizens of the United States or domestic corporations.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall take effect as if included in the provisions of section 11702(g) of the Revenue Reconciliation Act of 1990.

SEC. 505. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) GENERAL RULE.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

"(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor, but—

"(A) the notice of election, as filed, does not contain all required information, or

"(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

TITLE VI—EXCISE TAX SIMPLIFICATION

Subtitle A—Fuel Tax Provisions

SEC. 601. REPEAL OF CERTAIN RETAIL AND USE TAXES.

(a) IN GENERAL.—Section 4041 is amended to read as follows:

"SEC. 4041. SPECIAL MOTOR FUELS AND NONCOMMERCIAL AVIATION GASOLINE.

"(a) SPECIAL MOTOR FUELS.—

"(1) IN GENERAL.—There is hereby imposed a tax on benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid—

"(A) sold by any person to an owner, lessee, or other operator of a motor vehicle or a motorboat for use as a fuel in such motor vehicle or motorboat, or

"(B) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such liquid under subparagraph (A).

"(2) RATE OF TAX.—The rate of the tax imposed by this subsection shall be the aggregate rate of tax in effect under section 4081 at the time of such sale or use.

"(3) CERTAIN FUELS EXEMPT FROM TAX.—The tax imposed by this subsection shall not apply to gasoline (as defined in section 4082), diesel fuel (as defined in section 4092), kerosene, gas oil, or fuel oil.

"(4) REDUCED RATES OF TAX ON CERTAIN FUELS.—

"(A) QUALIFIED METHANOL AND ETHANOL FUEL.—

"(I) the Highway Trust Fund financing rate applicable under paragraph (2) shall be 5.4 cents per gallon less than the otherwise applicable rate (6 cents per gallon less in the case of a mixture none of the alcohol in which consists of ethanol), and

"(II) the Leaking Underground Storage Tank Trust Fund financing rate applicable under paragraph (2) shall be 0.05 cent per gallon.

"(ii) QUALIFIED METHANOL OR ETHANOL FUEL.—The term 'qualified methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from a substance other than petroleum or natural gas.

"(iii) TERMINATION.—Clause (i) shall not apply to any sale or use after September 30, 2000.

"(B) NATURAL GAS-DERIVED METHANOL OR ETHANOL FUEL.—

"(i) IN GENERAL.—In the case of natural gas-derived methanol or ethanol fuel—

"(I) the Highway Trust Fund financing rate applicable under paragraph (2) shall be 5.75 cents per gallon, and

"(II) the deficit reduction rate applicable under paragraph (2) shall be 1.25 cents per gallon.

"(ii) NATURAL GAS-DERIVED METHANOL OR ETHANOL FUEL.—The term 'natural gas-derived methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from natural gas.

"(C) OTHER FUELS CONTAINING ALCOHOL.—

"(i) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3)), the Highway Trust Fund financing rate applicable under paragraph (2) shall be comparable to such rate under section 4081.

"(ii) LATER SEPARATION.—If any person separates the liquid fuel from a mixture of the liquid fuel and alcohol to which clause (i) applies, such separation shall be treated as a sale of the liquid fuel. Any tax imposed on such sale shall be reduced by the amount (if any) of the tax imposed on the sale of such mixture.

"(iii) TERMINATION.—Clause (i) shall not apply to any sale or use after September 30, 2000.

"(D) LIQUEFIED PETROLEUM GAS.—The rate of tax applicable under paragraph (2) to liquefied petroleum gas shall be determined without regard to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.

"(4) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—No tax shall be imposed by paragraph (1) on liquids sold for use or used in an off-highway business use (within the meaning of section 6420(f)).

"(b) NONCOMMERCIAL AVIATION GASOLINE.—

"(1) IN GENERAL.—There is hereby imposed a tax on gasoline—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use as a fuel in such aircraft in noncommercial aviation, or

"(B) used by any person as a fuel in an aircraft in noncommercial aviation unless there was a taxable sale of such gasoline under subparagraph (A).

The tax imposed by this paragraph shall be in addition to any tax imposed by section 4081.

"(2) RATE OF TAX.—The rate of the tax imposed by paragraph (1) on any gasoline is the excess of 15 cents a gallon over the sum of the Highway Trust Fund financing rate plus the deficit reduction rate at which tax was imposed on such gasoline under section 4081.

"(3) NONCOMMERCIAL AVIATION.—For purposes of this subsection, the term 'noncommercial aviation' means any use of an aircraft other than use in a business of transporting persons or property for compensation or hire by air. Such term includes any use of an aircraft, in a business described in the preceding sentence, which is properly allocable to any transportation exempt from the taxes imposed by sections 4261 and 4271 by reason of section 4281 or 4282.

"(4) EXEMPTION FOR FUELS CONTAINING ALCOHOL.—No tax shall be imposed by this subsection on any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3)).

"(5) EXEMPTION FOR CERTAIN HELICOPTER USES.—No tax shall be imposed by this subsection on gasoline sold for use or used in a helicopter for purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met.

"(6) REGISTRATION.—Except as provided in regulations prescribed by the Secretary, if any gasoline is sold by any person for use as a fuel in an aircraft, it shall be presumed for purposes of this subsection that a tax imposed by this subsection applies to the sale of such gasoline unless the purchaser is registered in such manner (and furnished such information in respect of the use of the gasoline) as the Secretary shall by regulations provide.

"(7) GASOLINE.—For purposes of this subsection, the term 'gasoline' has the meaning given such term by section 4082.

"(8) TERMINATION.—Paragraph (1) shall not apply to any sale or use after December 31, 1995.

"(c) EXEMPTION FOR FARM USE.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use or used on a farm for farming purposes (determined in accordance with paragraphs (1), (2), and (3) of section 6420(e)).

"(2) TERMINATION.—Except with respect to so much of the tax imposed by subsection (a) as is determined by reference to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081, paragraph (1) shall not apply after September 30, 1995.

"(d) EXEMPTIONS FOR STATE AND LOCAL GOVERNMENTS, SCHOOLS, EXPORTATION, AND SUPPLIES FOR VESSELS AND AIRCRAFT.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use, or used, in an exempt use described in paragraph (4), (5), (6), or (7) of section 6420(b).

"(2) TERMINATION.—Except with respect to so much of the tax imposed by subsection (a) as is determined by reference to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081, after September 30, 1995, paragraph (1) shall not apply to exempt uses described in paragraph (4) and (5) of section 6420(b).

"(e) EXEMPTION FOR USE BY CERTAIN AIRCRAFT MUSEUMS.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use or used in an exempt use described in section 6420(b)(11)."

"(b) CERTAIN ADDITIONAL PURCHASERS OF FUEL TREATED AS PRODUCERS.—

"(1) IN GENERAL.—Subparagraph (C) of section 4092(b)(1) is amended to read as follows:

"(C) REDUCED-TAX PURCHASERS TREATED AS PRODUCERS.—Any person to whom any fuel is sold in a sale on which the amount of tax otherwise required to be paid under section 4091 is reduced under section 4093 shall be treated as the producer of such fuel. The amount of tax imposed by section 4091 on any sale of such fuel by such person shall be reduced by the amount of tax imposed under section 4091 (and not credited or refunded) on any prior sale of such fuel."

"(2) CONFORMING AMENDMENT.—Subsection (b) of section 4093 is amended by inserting "(as defined in section 4092(b) without regard to paragraph (1)(C) thereof)" after "producer".

SEC. 602. REVISION OF FUEL TAX CREDIT AND REFUND PROCEDURES.

"(1) IN GENERAL.—Paragraph (2) of section 6416(b) is amended by striking "4091 or 4121" and inserting "4121 or 4091; except that this paragraph shall apply to a person selling diesel fuel or aviation fuel for a use described in the first sentence if such person meets such requirements as the Secretary may by regulations prescribe".

"(2) LIMITATIONS AND AMOUNT OF TAX ONLY HIGHWAY TRUST FUND FINANCING RATE TO BE REFUNDABLE.—Paragraph (2) of section

6416(b) is amended by adding at the end thereof the following new sentence. "This paragraph shall not apply to the taxes imposed by sections 4081 and 4091 with respect to any use to the same extent that section 6420(a) does not apply to such use by reason of paragraph (1) or (2) of section 6420(c)."

"(b) CONSOLIDATION OF REFUND PROVISIONS; REPEAL OF CONSENT REQUIREMENT FOR REFUND OF FUEL TAXES CROPDUSTERS, ETC.,—Section 6420 (relating to gasoline used on farms) is amended to read as follows:

"SEC. 6420. CERTAIN TAXES ON FUELS USED FOR EXEMPT PURPOSES.

"(a) IN GENERAL.—Except as otherwise provided in this section, if any fuel on which tax was imposed under section 4041, 4081, or 4091 is used in an exempt use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel the amount equal to the aggregate tax imposed on such fuel under such sections.

"(b) EXEMPT USES.—For purposes of this section, the term 'exempt use' means—

"(1) in the case of diesel fuel, use other than as a fuel in a diesel-powered highway vehicle,

"(2) in the case of aviation fuel, use other than as a fuel in a aircraft,

"(3) in the case of gasoline or aviation fuel, use in an aircraft other than in noncommercial aviation (as defined in section 4041(b)),

"(4) use by any State, any political subdivision of a State, or the District of Columbia,

"(5) use by a nonprofit educational organization (as defined in section 4221(d)(5)),

"(6) export,

"(7) use as supplies for vessels or aircraft (within the meaning of section 4221(d)(3)),

"(8) use on a farm for farming purposes (within the meaning of subsection (e)),

"(9) use in an off-highway business use (within the meaning of subsection (f)),

"(10) use in qualified bus transportation (within the meaning of subsection (g)),

"(11) use by an aircraft museum (within the meaning of subsection (h)),

"(12) use in a nonpurpose use (within the meaning of subsection (i)),

"(13) use in a helicopter for purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met, and

"(14) use in producing a mixture of a fuel if at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)) and if such mixture is sold or used in the trade or business of the person producing such mixture.

"(c) LIMITATION ON AMOUNT OF PAYMENT.—

"(1) NO REFUND OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES IN CERTAIN CASES.—Subsection (a) shall not apply to so much of the taxes imposed by sections 4081 and 4091 as are attributable to a Leaking Underground Storage Tank Trust Fund financing rate in the case of—

"(A) fuel used in a train, and

"(B) fuel used in any aircraft (except as supplies for vessels or aircraft within the meaning of section 4221(d)(3)).

"(2) NO REFUND OF DEFICIT REDUCTION TAX ON DIESEL FUEL USED IN TRAINS.—Subsection (a) shall not apply to so much of the tax imposed by section 4091 as is attributable to a deficit reduction rate in the case of diesel fuel used in a diesel-powered train.

"(3) NO REFUND OF PORTION OF TAX ON DIESEL FUEL USED IN CERTAIN BUSES.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the rate of tax taken into account under subsection (a) with respect to diesel fuel used in qualified bus transportation (within the meaning of subsection (g)(1)) shall be 3.1 cents per gallon less than the aggregate rate of tax imposed on such fuel by section 4091.

"(B) EXCEPTION FOR SCHOOL BUS TRANSPORTATION.—Subparagraph (A) shall not apply to fuel used in automobile bus while engaged in transportation described in subsection (g)(1)(B).

"(C) EXCEPTION FOR CERTAIN INTRACITY TRANSPORTATION.—Subparagraph (A) shall not apply to fuel used in any automobile bus while engaged in furnishing (for compensation) intracity passenger land transportation—

"(i) which is available to the general public, and

"(ii) which is scheduled and along regular routes,

but only if such bus is a qualified local bus.

"(D) QUALIFIED LOCAL BUS.—For purposes of this paragraph, the term 'qualified bus' means any local bus—

"(i) which has a seating capacity of at least 30 adults (not including the driver), and

"(ii) which is under contract with (or is receiving more than a nominal subsidy from) any State or local government (as defined in section 4221(d)) to furnish such transportation.

"(4) ALCOHOL FUELS.—

"(A) IN GENERAL.—In the case of a fuel used as described in subsection (b)(14) and on which tax was imposed at regular tax rate, the rate of tax taken into account under subsection (a) with respect to the fuel so used shall equal the excess of the regular tax rate over the incentive tax rate.

"(B) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (d) thereof.

"(C) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (d)(1)(B) thereof.

"(D) TERMINATION.—This paragraph shall not apply with respect to any mixture sold or used after September 30, 1995.

"(5) GASOHOL USED IN NONCOMMERCIAL AVIATION.—If—

"(A) tax is imposed by section 4081 at the rate determined under subsection (c) thereof on gasohol (as defined in such subsection), and

"(B) such gasohol is used as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(b)),

the payment under subsection (a) shall be equal to 1.4 cents (2 cents in the case of gasohol none of the alcohol in which consists of ethanol) per gallon of gasohol so used.

"(d) TIME FOR FILING CLAIMS; PERIOD COVERED.—

"(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), not more than one claim may be filed under this section by any person with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during his taxable year; and no claim shall be allowed under this paragraph with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during any taxable year unless filed by the purchaser not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—If as of the close of any quarter of a person's taxable year, $750 or more is payable under this section to such person with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during such quarter or any prior quarter of such taxable year (and for which no other claim has been filed), a claim may be filed under this section with respect to fuel so used (or qualified diesel powered highway vehicles so purchased).

"(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed during the first quarter following the last quarter included in the claim.

"(3) SPECIAL RULE FOR GASOHOL CREDIT.—

"(A) IN GENERAL.—A claim may be filed for gasoline used to produce gasohol (as defined in section 4081(c)(1)) for any period—

"(i) for which $200 or more is payable by reason of subsection (b)(14), and

"(ii) which is not less than 1 week.

"(B) PAYMENT OF CLAIM.—Notwithstanding subsection (a), if the Secretary has not paid a claim filed pursuant to subparagraph (A) within 20 days of the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621.

"(e) USE ON A FARM FOR FARMING.—For purposes of subsection (b)(8)—

"(1) IN GENERAL.—Fuel shall be treated as used on a farm for farming purposes only if used—

"(A) in carrying on a trade or business,

"(B) on a farm situated in the United States, and

"(C) for farming purposes.

"(2) FARM.—The term 'farm' includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

"(3) FARMING PURPOSES.—Fuel shall be treated as used for farming purposes only if used—

"(A) by the owner, tenant, or operator of a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife, on a farm of which he is owner, tenant, or operator;

"(B) by the owner, tenant, or operator of a farm, in handling, drying, packing, grading, or storing any agricultural or horticultural commodity in its unmanufactured state; but only if such owner, tenant, or operator produced more than one-half of the commodity which he so treated during the period with respect to which claim is filed;

"(C) by the owner, tenant, or operator of a farm, in connection with—

"(i) the planting, cultivating, caring for, or cutting of trees, or

"(ii) the preparation (other than milling) of trees for market, incidental to farming operations; or

"(D) by the owner, tenant, or operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment.

"(4) Certain farming use other than by owner, etc.—In applying paragraph (3)(A) to a use on a farm for any purpose described in paragraph (3)(A) by any person other than the owner, tenant, or operator of such farm—

"(A) the owner, tenant, or operator of such farm shall be treated as the user and ultimate purchaser of the fuel, except that

"(B) if the person so using the fuel is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the fuel, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such fuel on a farm for farming purposes.

"(f) Off-Highway Business Use.—For purposes of subsection (b)(9)—

"(1) In general.—The term 'off-highway business use' means any use by a person in a trade or business of such person or in an activity of such person described in section 212 (relating to production of income) otherwise than as a fuel in a highway vehicle—

"(A) which (at the time of such use) is registered, or is required to br registered, for highway use under the laws of any State or foreign country, or

"(B) which, in the case of a highway vehicle owned by the United States, is used on the highway.

"(2) Exception for use in motorboats.—The term 'off-highway business use' does not include any use in a motorboat. The preceding sentence shall not apply to use in a vessel employed in the fisheries or in the whaling business.

"(g) Qualified Bus Transportation.—For purposes of subsection (b)(10)—

"(1) In general.—Fuel is used in qualified bus transportation if it is used in an automobile bus while engaged in—

"(A) furnishing (for compensation) passenger land transportation available to the general public, or

"(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)).

"(2) Limitation in the case of nonscheduled intercity or local buses.—Paragraph (1)(A) shall not apply in respect of fuel used in any automobile bus while engaged in furnishing transportation which is not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver).

"(h) Use by an Aircraft Museum.—For purposes of subsection (b)(11)—

"(1) In general.—Fuel is used by an aircraft museum if it is used in an aircraft or vehicle owned by such museum and used exclusively for purposes set forth in paragraph (2)(C).

"(2) Aircraft museum.—For purposes of this subsection, the term 'aircraft museum' means an organization—

"(A) described in section 501(c)(3) which is exempt from income tax under section 501(a),

"(B) operated as a museum under charter by a State or the District of Columbia, and

"(C) operated exclusively for the procurement, care, and exhibition of aircraft of the type used for combat or transport in World War II.

"(i) Use in a Nonpurpose Use.—For purposes of subsection (b)(12), fuel is used in a nonpurpose use if—

"(1) tax was imposed by section 4041 on the sale thereof and the purchaser—

"(A) uses such fuel other than for the use for which it is sold, or

"(B) resells such fuel, or

"(2) tax was imposed by section 4081 on any gasoline blend stock or product commonly used as an additive in gasoline and the purchaser establishes that the ultimate use of such blend stock or product is not to produce gasoline.

"(j) Advance Repayment of Increased Diesel Fuel Tax to Original Purchasers of Diesel-Powered Automobiles and Light Trucks.—

"(1) In general.—Except as provided in subsection (d), the Secretary shall pay (without interest) to the original purchaser of any qualified diesel-powered highway vehicle an amount equal to the diesel fuel differential amount.

"(2) Qualified diesel-powered highway vehicle.—For purposes of this subsection, the term 'qualified diesel-powered highway vehicle' means any diesel-powered highway vehicle which—

"(A) has at least 4 wheels,

"(B) has a gross vehicle weight rating of 10,000 pounds or less, and

"(C) is registered for highway use in the United States under the laws of any State.

"(3) Diesel fuel differential amount.—For purposes of this subsection, the term 'diesel fuel differential amount' means—

"(A) except as provided in subparagraph (B), $102, or

"(B) in the case of a truck or van, $198.

"(4) Original purchaser.—For purposes of this subsection—

"(A) In general.—Except as provided in subparagraph (B), the term 'original purchaser' means the first person to purchase the qualified diesel-powered vehicle for use other than resale.

"(B) Exception for certain persons not subject to fuels tax.—The term 'original purchaser' shall not include any State or local government (as defined in section 4221(d)(4)) or any nonprofit educational organization (as defined in section 4221(d)(5)).

"(C) Treatment of demonstration use by dealer.—For purposes of subparagraph (A), use as a demonstrator by a dealer shall not be taken into account.

"(5) Vehicles to which subsection applies.—This subsection shall only apply to qualified diesel-powered highway vehicles originally purchased after January 1, 1985, and before January 1, 1995.

"(6) Basis reduction.—For the purposes of subtitle A, the basis of any qualified diesel-powered highway vehicle shall be reduced by the amount payable under this subsection with respect to such vehicle.

"(k) Income Tax Credit In Lieu of Payment; Other Special Rules.—

"(1) Income tax credit in lieu of payment.—

"(A) Persons not subject to income tax.—Payment shall be made under this section only to—

"(i) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or any agency or instrumentality of one or more States or political subdivisions, or

"(ii) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

"(B) Exception.—Subparagraph (A) shall not apply to a payment of a claim filed under paragraph (2) or (3) of subsection (d).

"(C) Allowance of credit against income tax.—For allowances of credit against the income tax imposed by subtitle A for fuel used by the purchaser in an exempt use, see section 34.

"(2) Applicable laws.—

"(A) In general.—All provisions of law, including penalties, applicable in respect of the tax with respect to which a payment is claimed under this section shall, insofar as applicable and not inconsistent with this section, apply in respect of such payment to the same extent as if such payment constituted a refund of overpayments of such tax.

"(B) Examination of Books and Witnesses.—For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

"(3) Coordination with Section 6416, etc.—No amount shall be payable under this section to any person with respect to any fuel if the Secretary determines that the amount of tax for which such payment is sought was not included in the price paid by such person for such fuel. The amount which would (but for this sentence) be payable under this section with respect to any fuel shall be reduced by any other amount which the Secretary determines is payable under this section, or is refundable under any other provision of this title, to any person with respect to such fuel.

"(4) Regulations.—The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

"(1) Fuels.—For purposes of this section, the terms 'gasoline', 'diesel fuel', and 'aviation fuel' have the respective meanings given such terms by sections 4082 and 4092.

"(m) Termination.—Except as otherwise provided in this section, this section shall not apply to any liquid purchased after September 30, 1995. The preceding sentence shall not apply to taxes attributable to any Leaking Underground Storage Tank Trust Fund financing rate."

SEC. 603. AUTHORITY TO PROVIDE EXCEPTIONS FROM INFORMATION REPORTING WITH RESPECT TO DIESEL FUEL AND AVIATION FUEL.

(a) Returns by Producers and Importers.—Subparagraph (A) of section 4093(c)(4) (relating to returns by producers and importers) is amended by striking "Each producer" and inserting "Except as provided by the Secretary by regulations, each producer".

(b) Returns by Purchasers.—Subparagraph (C) of section 4093(c)(4) (relating to returns by purchasers) is amended by striking "Each person" and inserting "Except as provided by the Secretary by regulations, each person".

SEC. 604. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Sections 6421 and 6427 are hereby repealed.

(2) Section 34 is amended to read as follows:

"SEC. 34. EXCISE TAXES ON FUEL USED FOR EXEMPT PURPOSES.

"There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the excess of—

"(1) the aggregate amount payable to the taxpayer under section 6420 (determined without regard to section 6420(k)(1)) with respect to—

"(A) exempt uses (as defined in section 6420(b)) during such taxable year, and

"(B) qualified diesel-powered highway vehicles purchased during such taxable year, over

"(2) the portion of such amount for which a claim payable under section 6420(d) is timely filed."

(3) Subsection (c) of section 40 is amended by striking "subsection (b)(2), (k), or (m)" and inserting "subsection (a)(4) or (b)(4)"

(4) Paragraph (2) of section 451(e) is amended by striking "section 6420(c)(3)" and inserting "section 6420(e)(3)".

(5) Clause (i) of section 1274(c)(3)(A) is amended by striking "section 6420(c)(2)" and inserting "section 6420(e)(2)".

(6) Sections 874(a) and 1366(f)(1) are each amended by striking "gasoline and special" and inserting "taxable".

(7) Paragraph (2) of section 882(c) is amended by striking "gasoline" and inserting "taxable fuels".

(8) Subsection (b) of section 4042 is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(9) Subsection (b) of section 4082 is amended by striking "special fuels referred to in section 4041" and inserting "special motor fuels referred to in section 4041(a)".

(10) Section 4083 is amended to read as follows:

"SEC. 4083. CROSS REFERENCE.

"For provision allowing a credit or refund for gasoline used for exempt purposes, see section 6420."

(11) Subsections (c)(2) and (d)(2) of section 4091 are each amended by striking "section 6427(f)(1)" and inserting "section 6420(b)(14)".

(12) Paragraph (1) of section 4093(c) is amended by striking "by the purchaser" and all that follows and inserting "by the purchaser in an exempt use (as defined in section 6420(b) other than paragraph (14) thereof)."

(13) Subparagraph (C) of section 4093(c)(2) is amended by striking "section 6427(b)(2)(A)" and inserting "section 6420(c)(3)(A)".

(14) Clause (i) of section 4093(c)(4)(C) is amended to read as follows:

"(i) whether such use was an exempt use (as defined in section 6420(b)) and the amount of fuel so used,".

(15) Section 4093 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) USE BY PRODUCER OR IMPORTER.—If any producer or importer uses any taxable fuel, then such producer or importer shall be liable for tax under section 4091 in the same manner as if such fuel were sold by him for such use."

(16) Subsection (f) of section 4093, as redesignated by paragraph (15), is amended to read as follows:

"(e) CROSS REFERENCE.—

"For provision allowing a credit or refund for fuel used for exempt purposes, see section 6420."

(17) Section 6206 is amended to read as follows:

"SEC. 6206. SPECIAL RULES APPLICABLE TO EXCESSIVE FUEL TAX REFUND CLAIMS.

"Any portion of a payment made under section 6420 which constitutes an excessive amount (as defined in section 6675(b)), and any civil penalty provided by section 6675, may be assessed and collected as if—

"(1) it were a tax imposed by the section to which the claim relates, and

"(2) the person making the claim were liable for such tax.

The period for assessing any such portion, and for assessing any such penalty, shall be 3 years from the last day prescribed for filing the claim under section 6420."

(18) Subparagraph (A) of section 6416(a)(2) is amended by striking "(relating to tax on special fuels)" and inserting "(relating to special motor fuels and noncommercial aviation gasoline)".

(19) Paragraph (2) of section 6416(b) is amended—

(A) in the manner preceding subparagraph (A) by striking "subsection (a) or (d) of section 4041" and inserting "section 4041(a)", and

(B) in subparagraph (F) by striking "special fuels referred to in section 4041" and inserting "special motor fuels referred to in section 4041(a)".

(20) Paragraph (9) of section 6504 is amended to read as follows:

"(9) Assessments to recover excessive amounts paid under section 6420 (relating to certain taxes on fuels used for exempt purposes) and assessments of civil penalties under section 6675 for excessive claims under section 6420, see section 6206."

(21) Subsection (h) of section 6511 is amended by striking paragraphs (5) and (6), by redesignating paragraph (7) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

(5) For limitations in the case of payments under section 6420 (relating to certain taxes on fuels used for exempt purposes), see section 6420(d)."

(22) Subsection (c) of section 6612 is amended by striking "6420 (relating to payments in the case of gasoline used on the farm for farming purposes) and 6421 (relating to payments in the case of gasoline used for certain nonhighway purposes or by local transit systems)" and inserting "and 6420 (relating to certain taxes on fuels used for exempt purposes)".

(23) Subsection (a) of section 6675 is amended by striking "section 6420 (relating to gasoline used on farms), 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems), or 6427 (relating to fuels not used for taxable purposes)" and inserting "section 6420 (relating to certain taxes on fuels used for exempt purposes)".

(24) Paragraph (1) of section 6675(b) is amended by striking ", 6421, or 6427, as the case may be,".

(25) Section 7210 is amended by striking "sections 6420(e)(2), 6421(g)(2), 6427(j)(2)" and inserting "sections 6420(k)(3)(B)".

(26) Section 7603, subsections (b) and (c)(2) of section 7604, section 7605, and 7610(c) are each amended by striking "section 6420(e)(2), 6421(g)(2), 6427(j)(2)," each place it appears and inserting "section 6420(k)(2)(B)".

(27) Sections 7605 and 7609(c)(1) are each amended by striking "section 6420(e)(2), 6421(g)(2), or 6427(j)(2)" and inserting "section 6420(k)(2)(B)".

(28) Paragraph (1) of section 9502(b) is amended by striking "subsections (c) and (e) of section 4041 (taxes on aviation fuel)" and inserting "section 4041(b) (relating to taxes on noncommercial aviation gasoline)".

(29) Paragraph (2) of section 9502(d) is amended by striking "fuel used in aircraft" and all that follows and inserting "fuel used in aircraft, under section 6420 (relating to certain taxes on fuels used for exempt purposes)."

(30) Paragraph (1) of section 9502(e) is amended by striking "4041(c)(1) and".

(31) Subparagraph (A) of section 9503(b)(1) is amended to read as follows:

"(A) section 4041 (relating to special motor fuels and noncommercial aviation gasoline),".

(32) Paragraph (4) of section 9503(b) is amended to read as follows:

"(4) CERTAIN ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND.—For purposes of paragraphs (1) and (2), the taxes imposed by sections 4041, 4081, and 4091 shall be taken into account only to the extent attributable to the Highway Trust Fund financing rates under such sections."

(33)(A) Clause (i) of section 9503(c)(2)(A) is amended to read as follows:

"(i) the amounts paid before July 1, 1996, under section 6420 (relating to certain taxes on fuels used for exempt purposes) on the basis of claims filed for periods ending before October 1, 1995, and".

(B) For purposes of section 9503(c)(2)(A)(i) of the Internal Revenue Code of 1986, the reference to section 6420 shall be treated as including a reference to sections 6420, 6421, and 6427 of such Code as in effect before the enactment of this Act.

(34) Clause (ii) of section 9503(c)(2)(A) is amended by striking "gasoline, special fuels, and lubricating oil" each place it appears and inserting "taxable fuels".

(35) Subparagraph (D) of section 9503(c)(4) is amended by striking "section 4041(a)(2)" and inserting "section 4041(a)".

(36) Subparagraph (A) of section 9503(e)(5) is amended by striking "section 6427(g)" and is inserting "section 6420(j)".

(37) Paragraph (1) of section 9508(b) is amended to read as follows:

"(1) taxes received in the Treasury under section 4041 (relating to special motor fuels and noncommercial aviation gasoline) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rates applicable under such section,".

(38) Subparagraph (A) of section 9508(c)(2) is amended by striking "equivalent to—" and all that follows and inserting the following: "equivalent to—

"(i) amounts paid under section 6420 (relating to certain taxes on fuels used for exempt purposes), and

"(ii) credits allowed under section 34,

with respect to so much of the taxes imposed by sections 4041, 4081, and 4091 as are attributable to the Leaking Underground Storage Tank Trust Fund financing rates applicable under such sections."

(39) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 34 and inserting the following:

"Sec. 34. Excise taxes on fuels used for exempt purposes.

(40) The table of sections for subchapter B of chapter 31 is amended by striking the item relating to section 4041 and inserting the following:

"Sec. 4041. Special motor fuels and noncommercial aviation gasoline."

(41) The table of sections for subpart A of part III of subchapter A of chapter 32 is amended by striking the item relating to section 4083 and inserting the following:

"Sec. 4083. Cross reference."

(42) The table of sections for subchapter B of chapter 65 is amended by striking the items relating to sections 6421 and 6427 and by striking the item relating to section 7420 and inserting the following new item:

"Sec. 6420. Certain taxes on fuels used for exempt purposes."

(43) The table of sections for subchapter A of chapter 63 is amended by striking the item relating to section 6206 and inserting the following new item:

"Sec. 6206. Special rules applicable to excessive fuel tax refund claims."

SEC. 605. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on January 1, 1992.

Subtitle B—Provisions Related to Distilled Spirits, Wines, and Beer

SEC. 611. CREDIT OR REFUND FOR IMPORTED BOTTLED DISTILLED SPIRITS RETURNED TO DISTILLED SPIRITS PLANT.

"(a) IN GENERAL.—Paragraph (1) of section 5008(c) (relating to distilled spirits returned to bonded premises) is amended by striking "withdrawn from bonded premises on payment or determination of tax" and inserting "on which tax has been determined or paid".

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 612. AUTHORITY TO CANCEL OR CREDIT EXPORT BONDS WITHOUT SUBMISSION OF RECORDS.

"(a) IN GENERAL.—Subsection (c) of section 5175 (relating to export bonds) is amended by striking "on the submission of" and all that follows and inserting "if there is such proof of exportation as the Secretary may by regulations require."

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 613. REPEAL OF REQUIRED MAINTENANCE OF RECORDS ON PREMISES OF DISTILLED SPIRITS PLANT.

"(a) IN GENERAL.—Subsection (c) of section 5207 (relating to records and reports) is amended by striking "shall be kept on the premises where the operations covered by the record are carried on and".

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 614. FERMENTED MATERIALS FROM ANY BREWERY MAY BE RECEIVED AT A DISTILLED SPIRITS PLANT.

"(a) IN GENERAL.—Paragraph (2) of section 5222(b) (relating to production, receipt, removal, and use of distilling materials) is amended to read as follows:

"(2) beer conveyed without payment of tax from brewery premises, or".

"(b) CLARIFICATION OF AUTHORITY TO PERMIT REMOVAL OF BEER WITHOUT PAYMENT OF TAX FOR USE AS DISTILLING MATERIAL.—Section 5053 (relating to exemptions) is amended by redesignating subsection (f) as subsection (i) and by inserting after subsection (e) the following new subsection:

"(f) REMOVAL FOR USE AS DISTILLING MATERIAL.—Subject to such regulations as the Secretary may prescribe, beer may be removed from a brewery without payment of tax to any distilled spirits plant for use as distilling material."

"(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 615. REPEAL OF REQUIREMENT FOR WHOLESALE DEALERS IN LIQUORS TO POST SIGN.

"(a) IN GENERAL.—Section 5115 (relating to sign required on premises) is hereby repealed.

"(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) section 5681 is amended by striking ", and every wholesale dealer in liquors," and by striking "section 5115(a) or".

(2) Subsection (c) of section 5681 is amended—

(A) by striking "or wholesale liquor establishment, on which no sign required by section 5115(a)" and inserting "on which no sign required by", and

(B) by striking "or wholesale liquor establishment, or who" and inserting "or who".

(3) The table of sections for subpart D of part II or subchapter A of chapter 51 is amended by striking the item relating to section 5115.

"(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 616. REFUND OF TAX TO WINE RETURNED TO BOND NOT LIMITED TO UNMERCHANTABLE WINE.

"(a) IN GENERAL.—Subsection (a) of section 5044 (relating to refund of tax on unmerchantable wine) is amended by striking "as unmerchantable".

"(b) CONFORMING AMENDMENTS.—

(1) Section 5361 is amended by striking "unmerchantable".

(2) The section heading for section 5044 is amended by striking "UNMERCHANTABLE".

(3) The item relating to section 5044 in the table of sections for subpart C of part I of subchapter A of chapter 51 is amended by striking "unmerchantable".

"(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 617. USE OF ADDITIONAL AMELIORATING MATERIAL IN CERTAIN WINES.

"(a) IN GENERAL.—Subparagraph (D) of section 5384(b)(2) (relating to ameliorated fruit and berry wines) is amended by striking "loganberries, currants, or gooseberries," and inserting "any fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry)".

"(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 618. DOMESTICALLY-PRODUCED BEER MAY BE WITHDRAWN FREE OF TAX FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.

"(a) IN GENERAL.—Section 5053 (relating to exemptions) is amended by inserting after subsection (f) the following new subsection:

"(g) REMOVALS FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.—

"(1) IN GENERAL.—Subject to such regulations as the Secretary may prescribe—

"(A) beer may be withdrawn from the brewery without payment of tax for transfer to any customs bonded warehouse for entry pending withdrawal therefrom as provided in subparagraph (B), and

"(B) beer entered into any customs bonded warehouse under subparagraph (A) may be withdrawn for consumption in the United States by, and for the official and family use of, such foreign governments, organizations, and individuals as are entitled to withdraw imported beer from such warehouses free of tax.

Beer transferred to any customs bonded warehouse under subparagraph (A) shall be entered, stored, and accounted for in such warehouse under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported beer.

"(2) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (3) of section 5362(e) of such section shall apply for purposes of this subsection."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 619. BEER MAY BE WITHDRAWN FREE OF TAX FOR DESTRUCTION.

(a) IN GENERAL.—Section 5053 is amended by inserting after subsection (g) the following new subsection:

"(h) REMOVALS FOR DESTRUCTION.—Subject to such regulations as the Secretary may prescribe, beer may be removed from the brewery without payment of tax for destruction."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 620. AUTHORITY TO ALLOW DRAWBACK ON EXPORTED BEER WITHOUT SUBMISSION OF RECORDS.

(a) IN GENERAL.—The first sentence of section 5055 (relating to drawback of tax on beer) is amended by striking "found to have been paid" and all that follows and inserting "paid on such beer if there is such proof of exportation as the Secretary may by regulations require."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 621. TRANSFER TO BREWERY OF BEER IMPORTED IN BULK WITHOUT PAYMENT OF TAX.

(a) IN GENERAL.—Part II of subchapter G of chapter 51 is amended by adding at the end thereof the following new section:

"SEC. 5418. BEER IMPORTED IN BULK.

"Beer imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a brewery without payment of the internal revenue tax imposed on such beer. The proprietor of a brewery to which such beer is transferred shall become liable for the tax on the beer withdrawn from customs custody under this section upon release of the beer from customs custody, and the importer, or the person bringing such beer into the United States, shall thereupon be relieved of the liability for such tax."

(b) CLERICAL AMENDMENT.—The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 5418. Beer imported in bulk."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

Subtitle C—Other Excise Tax Provisions

SEC. 631. AUTHORITY TO GRANT EXEMPTIONS FROM REGISTRATION REQUIREMENTS.

(a) IN GENERAL.—The first sentence of section 4222 (relating to registration) is amended to read as follows: "Except as provided in subsection (b), section 4221 shall not apply with respect to the sale of any article to any person who is required by the Secretary to be registered under this section and who is not so registered."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales after the 180th day after the date of the enactment of this Act.

SEC. 632. REPEAL OF EXPIRED PROVISIONS.

(a) PIGGY-BACK TRAILERS.—Section 4051 is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) DEEP SEABED MINING.—

(1) Subchapter F of chapter 36 (relating to tax on removal of hard mineral resources from deep seabed) is hereby repealed.

(2) The table of subchapters for chapter 36 is amended by striking the item relating to subchapter F.

TITLE VII—ADMINISTRATIVE PROVISIONS

Subtitle A—General Provisions

SEC. 701. SIMPLIFICATION OF EMPLOYMENT TAXES ON DOMESTIC SERVICES.

(a) THRESHOLD REQUIREMENT FOR SOCIAL SECURITY TAXES.—

(1) Subparagraph (B) of section 3121(a)(7) (defining wages) is amended to read as follows:

"(B) cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such year by the employer to the employee for such service is less than $300. As used in this subparagraph, the term 'domestic service in a private home of the employer' does not include service described in subsection (g)(5);"

(2) Subparagraph (B) of section 209(a)(6) of the Social Security Act is amended to read as follows:

"(B) Cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such year by the employer to the employee for such service is less than $300. As used in this subparagraph, the term 'domestic service in a private home of the employer' does not include service described in section 210(f)(5)."

(3) The second sentence of section 3102(a) is amended—

(A) by striking "calendar quarter" each place it appears and inserting "calendar year", and

(B) by striking "$50" and inserting "$300".

(b) COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT WITH COLLECTION OF INCOME TAXES.—

(1) IN GENERAL.—Chapter 25 (relating to general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.

"(a) GENERAL RULE.—Except as otherwise provided in this section—

"(1) returns with respect to domestic service employment taxes shall be made on a calendar year basis,

"(2) any such return for any calendar year shall be filed on or before the 15th day of the fourth month following the close of the employer's taxable year which begins in such calendar year, and

"(3) no requirement to make deposits (or to pay installments under section 6157) shall apply with respect to such taxes.

"(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUBJECT TO ESTIMATED TAX PROVISIONS.—

"(1) IN GENERAL.—Solely for purposes of section 6654, domestic service employment taxes imposed with respect to any calendar year shall be treated as a tax imposed by chapter 2 for the taxable year of the employer which begins in such calendar year.

"(2) ANNUALIZATION.—Under regulations prescribed by the Secretary, appropriate adjustments shall be made in the application of section 6654(d)(2) in respect of the amount treated as tax under paragraph (1).

"(3) TRANSITIONAL RULE.—For purposes of applying section 6654 to a taxable year beginning in 1992, the amount referred to in clause (ii) of section 6654(d)(1)(B) shall be increased by 90 percent of the amount treated as tax under paragraph (1) for such taxable year.

"(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—For purposes of this section, the term 'domestic service employment taxes' means—

"(1) any taxes imposed by chapter 21 or 23 on remuneration paid for domestic service in a private home of the employer, and

"(2) any amount withheld from such remuneration pursuant to an agreement under section 3402(p).

For purposes of this subsection, the term 'domestic service in a private home of the employer' does not include service described in section 3121(g)(5).

"(d) EXCEPTION WHERE EMPLOYER LIABLE FOR OTHER EMPLOYMENT TAXES.—To the extent provided in regulations prescribed by the Secretary, this section shall not apply to any employer for any calendar year if such employer is liable for any tax under this subtitle with respect to remuneration for services other than domestic service in a private home of the employer.

"(e) AUTHORITY TO ENTER INTO AGREEMENTS TO COLLECT STATE UNEMPLOYMENT TAXES.—

"(1) IN GENERAL.—The Secretary is hereby authorized to enter into an agreement with any State to collect, as the agent of such State, such State's unemployment taxes imposed on remuneration paid for domestic service in a private home of the employer. Any taxes to be collected by the Secretary pursuant to such an agreement shall be treated as domestic service employment taxes for purposes of this section.

"(2) TRANSFERS TO STATE ACCOUNT.—Any amount collected under an agreement referred to in paragraph (1) shall be transferred by the Secretary to the account of the State in the Unemployment Trust Fund.

"(3) SUBTITLE F MADE APPLICABLE.—For purposes of subtitle F, any amount required to be collected under an agreement under paragraph (1) shall be treated as a tax imposed by chapter 23.

"(4) STATE.—For purposes of this subsection, the term 'State' has the meaning given such term by section 3306(j)(1)."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 25 is amended by adding at the end thereof the following:

"Sec. 3510. Coordination of collection of domestic service employment taxes with collection of income taxes.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid in calendar years after 1991.

SEC. 702. UNIFORM PENALTY PROVISIONS TO APPLY TO CERTAIN PENSION REPORTING REQUIREMENTS.

(a) IN GENERAL.—

(1) Paragraph (1) of section 6724(d) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by inserting after subparagraph (B) the following new subparagraph:

"(C) any statement of the amount of payments to another person required to be made to the Secretary under—

"(i) section 408(i) (relating to reports with respect to individual retirement accounts or annuities), or

"(ii) section 6047(d) (relating to reports by employers, plan administrators, etc.)."

(2) Paragraph (2) of section 6724(d) is amended by striking "or" at the end of subparagraph (R), by striking the period at the end of subparagraph (S) and inserting a comma, and by inserting after subparagraph (S) the following new subparagraphs:

"(T) section 408(i) (relating to reports with respect to individual retirement plans) to any person other than the Secretary with respect to the amount of payments made to such person, or

"(U) section 6047(d) (relating to reports by plan administrators) to any person other than the Secretary with respect to the amount of payments made to such person."

(b) MODIFICATION OF REPORTABLE DESIGNATED DISTRIBUTIONS.—

(1) SECTION 408.—Subsection (i) of section 408 (relating to individual retirement account reports) is amended by inserting "aggregating $10 or more in any calendar year" after "distributions".

(2) SECTION 6047.—Paragraph (1) of section 6047(d) (relating to reports by employers, plan administrators, etc.) is amended by adding at the end thereof the following new sentence: "No return or report may be required under the preceding sentence with respect to distributions to any person during any year unless such distributions aggregate $10 or more.".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6047(f) is amended to read as follows:

"(1) For provisions relating to penalties for failures to file returns and reports required under this section, see sections 6652(e), 6721, and 6722."

(2) Subsection (e) of section 6652 is amended by adding at the end thereof the following new sentence: "This subsection shall not apply to any return or statement which is an information return described in section 6724(d)(1)(C)(ii) or a payee statement described in section 6724(d)(2)(U)."

(3) Subsection (a) of section 6693 is amended by adding at the end thereof the following new sentence: "This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(T).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to returns, reports, and other statements the due date for which (determined without regard to extensions) is after December 31, 1991.

SEC. 703. USE OF REPRODUCTIONS OF RETURNS STORED IN DIGITAL IMAGE FORMAT.

(a) IN GENERAL.—Paragraph (2) of section 6103(p) (relating to procedure and recordkeeping) is amended by adding at the end thereof the following new subparagraph:

"(D) REPRODUCTION FROM DIGITAL IMAGES.—For purposes of this paragraph, the term 'reproduction' includes a reproduction from digital images."

(b) STUDY.—The Comptroller General of the United States shall conduct a study of available digital image technology for the purpose of determining the extent to which reproductions of documents stored using that technology accurately reflect the data on the original document and the appropriate period for retaining the original document. Not later than 1 year after the date of the enactment of this Act, a report on the results of such study shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 704. REPEAL OF REQUIREMENT TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 6112 is amended by redesignating subsection (c) as subsection (d).

(2) Subsection (c) of section 6111 (as in effect before the amendment made by subsection (a)) is hereby transferred to section 6112 and inserted after subsection (b).

(3) Paragraph (1) of section 6112(b) is amended to read as follows:

"(1) any tax shelter, and".

(4) Subsection (c) of section 6112 (as added by paragraph (2) is amended by adding at the end thereof the following new paragraph:

"(5) Year.—For purposes of this subsection, the term 'year' means—

"(A) the taxable year of the tax shelter, or

"(B) if the tax shelter has no taxable year, the calendar year."

(5) Section 6112 is amended by adding at the end thereof the following new subsection:

"(e) Regulations.—The Secretary may prescribe regulations which provide—

"(1) rules for the aggregation of similar investments offered by the same person or persons for purposes of applying subsection (c)(4),

"(2) exemptions from the treatment of an investment as a tax shelter, and

"(3) such rules as may be necessary or appropriate to carry out the purposes of this section in the case of foreign tax shelters."

(6) Section 6707 (relating to failure to furnish information regarding tax shelters) is hereby repealed.

(7) The table of sections for subchapter B of chapter 61 is amended by striking the item relating to section 6111.

(8) The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6707.

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply with respect to any tax shelter (within the meaning of section 6111 of the Internal Revenue Code of 1986, as in effect on the day before such date) required to be registered under such section 6111 before such date of enactment.

SEC. 705. REPEAL OF AUTHORITY TO DISCLOSE WHETHER PROSPECTIVE JUROR HAS BEEN AUDITED.

(a) In General.—Subsection (h) of section 6103 (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by striking paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(b) Conforming Amendment.—Paragraph (4) of section 6103(p) is amended by striking "(h)(6)" each place it appears and inserting "(h)(5)".

(c) Effective Date.—The amendments made by this section shall apply to judicial proceedings pending on, or commenced after, the date of the enactment of this Act.

SEC. 706. REPEAL OF SPECIAL AUDIT PROVISIONS FOR SUBCHAPTER S ITEMS.

(a) General Rule.—Subchapter D of chapter 63 (relating to tax treatment of subchapter S items) is hereby repealed.

(b) Consistent Treatment Required.—Section 6037 (relating to return of S corporation) is amended by adding at the end thereof the following new subsection:

"(c) Shareholder's Return Must Be Consistent With Corporate Return or Secretary Notified of Inconsistency.—

"(1) In general.—A shareholder of an S corporation shall, on such shareholder's return, treat a subchapter S item in a manner which is consistent with the treatment of such item on the corporate return.

"(2) Notification of inconsistent treatment.—

"(A) In general.—In the case of any subchapter S item, if—

"(i)(I) the corporation has filed a return but the shareholder's treatment on his return is (or may be) inconsistent with the treatment of the item on the corporate return, or

"(II) the corporation has not filed a return, and

"(ii) the shareholder files with the Secretary a statement identifying the inconsistency, paragraph (1) shall not apply to such item.

"(B) Shareholder receiving incorrect information.—A shareholder shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a subchapter S item if the shareholder—

"(i) demonstrates to the satisfaction of the Secretary that the treatment of the subchapter S item on the shareholder's return is consistent with the treatment of the item on the schedule furnished to the shareholder by the corporation, and

"(ii) elects to have this paragraph apply with respect to that item.

"(3) Effect of failure to notify.—In any case—

"(A) described in subparagraph (A)(i)(I) of paragraph (2), and

"(B) in which the shareholder does not comply with subparagraph (A)(ii) of paragraph (2), any adjustment required to make the treatment of the items by such shareholder consistent with the treatment of the items on the corporate return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

"(4) Subchapter S item.—For purposes of this subsection, the term 'subchapter S item' means any item of an S corporation to the extent that regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the corporation level than at the shareholder level.

"(5) Addition to tax for failure to comply with section.—

"For addition to tax in the case of a shareholder's negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68."

(c) Conforming Amendments.—

(1) Section 1366 is amended by striking subsection (g).

(2) Subsection (b) of section 6233 is amended to read as follows:

"(b) Similar Rules in Certain Cases.—If a partnership return is filed for any taxable year but it is determined that there is no entity for such taxable year, to the extent provided in regulations, rules similar to the rules of subsection (a) shall apply."

(3) The table of subchapters for chapter 63 is amended by striking the item relating to subchapter D.

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 707. CLARIFICATION OF STATUTE OF LIMITATIONS.

(a) In General.—Subsection (a) of section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new sentence: "For purposes of this chapter, the term 'return' means the return required to be filed by the taxpayer (and does not include a return of any person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit)."

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle B—Tax Court Procedures

SEC. 711. OVERPAYMENT DETERMINATIONS OF TAX COURT.

(a) Appeal of Order.—Paragraph (2) of section 6512(b) (relating to jurisdiction to enforce) is amended by adding at the end the following new sentence: "An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) Denial of Jurisdiction Regarding Certain Credits and Reductions.—Subsection (b) of section 6512 (relating to overpayment determined by Tax Court) is amended by adding at the end the following new paragraph:

"(4) Denial of jurisdiction regarding certain credits and reductions.—The Tax Court shall have no jurisdiction under this subsection to restrain or review any credit or reduction made by the Secretary under section 6402."

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 712. AWARDING OF ADMINISTRATIVE COSTS.

(a) Right to Appeal Tax Court Decision.—Subsection (f) of section 7430 (relating to right of appeal) is amended by adding at the end the following new paragraph:

"(3) Appeal of tax court decision.—An order of the Tax Court disposing of a petition under paragraph (2) shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) Period for Applying to IRS for Costs.—Subsection (b) of section 7430 (relating to limitations) is amended by adding at the end the following new paragraph:

"(5) Period for applying to irs for administrative costs.—An award may be made under subsection (a) for reasonable administrative costs only if the prevailing party files an application for such costs before the 91st day after the date on which the party was determined to be the prevailing party under subsection (c)(4)(B)."

(c) Period for Petitioning of Tax Court for Review of Denial of Costs.—Paragraph (2) of section 7430(f) (relating to right of appeal) is amended—

(1) by striking "appeal to" and inserting "the filing of a petition for review with", and

(2) by adding at the end the following new sentence: "If the Secretary sends by certified or registered mail a notice of such decision to the petitioner, no proceeding in the Tax Court may be initiated under this paragraph unless such petition is filed before the 91st day after the date of such mailing."

(d) Effective Date.—The amendments made by this section shall apply to civil actions or proceedings commenced after the date of the enactment of this Act.

SEC. 713. REDETERMINATION OF INTEREST PURSUANT TO MOTION.

(a) In General.—Paragraph (3) of section 7481(c) (relating to jurisdiction over interest determinations) is amended by striking "petition" and inserting "motion".

(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 714. APPLICATION OF NET WORTH REQUIREMENT FOR AWARDS OF LITIGATION COSTS.

(a) IN GENERAL.—Paragraph (4) of section 7430(c) (defining prevailing party) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULES FOR APPLYING NET WORTH REQUIREMENT.—In applying the requirements of section 2412(d)(2)(B) of title 28, United States Code, for purposes of subparagraph (A)(iii) of this paragraph—

"(i) the net worth limitation in clause (i) of such section shall apply to—

"(I) an estate but shall be determined as of the date of the decedent's death, and

"(II) a trust but shall be determnined as of the last day of the taxable year involved in the proceeding, and

"(ii) individuals filing a joint return shall be treated as 1 individual for purposes of clause (i) of such section, except in the case of a spouse relieved of liability under section 6013(e)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to proceedings commenced after the date of the enactment of this Act.

Subtitle C—Authority for Certain Cooperative Agreements

SEC. 721. COOPERATIVE AGREEMENTS WITH STATE TAX AUTHORITIES.

(a) GENERAL RULE.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7524. COOPERATIVE AGREEMENTS WITH STATE TAX AUTHORITIES.

"(a) AUTHORIZATION OF AGREEMENTS.—The Secretary is hereby authorized to enter into cooperative agreements with State tax authorities for purposes of enhancing joint tax administration. Such agreements may provide for—

"(1) joint filing of Federal and State income tax returns,

"(2) single processing of such returns,

"(3) joint collection of taxes (other than Federal income taxes), and

"(4) such other provisions as may enhance joint tax administration.

"(b) SERVICES ON REIMBURSABLE BASIS.—Any agreement under subsection (a) may require reimbursement for services provided by either party to the agreement.

"(c) AVAILABILITY OF FUNDS.—Any funds appropriated for purposes of the administration of this title shall be available for purposes of carrying out the Secretary's responsibility under an agreement entered into under subsection (a). Any reimbursement received pursuant to such an agreement shall be credited to the amount so appropriated.

"(d) STATE TAX AUTHORITY.—For purposes of this section, the term 'State tax authority' means agency, body, or commission referred to in section 6103(d)(1)."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end thereof the following new item:

"Sec. 7524. Cooperative agreements with State tax authorities."

TECHNICAL EXPLANATION OF THE BILL

TITLE I.—INDIVIDUAL TAX PROVISIONS

1. Rollover of gain on sale of principal residence (sec. 101 of the bill and sec. 1034 of the Code)

Present Law

No gain is recognized on the sale of a principal residence if a new residence at least equal in cost to the sales price of the old residence is purchased and used by the taxpayer as his or her principal residence within a specified period of time (sec. 1034). This replacement period generally begins two years before and ends two years after the date of sale of the old residence. The basis of the replacement residence is reduced by the amount of any gain not recognized on the sale of the old residence by reason of section 1034.

In general, nonrecognition treatment is available only once during any two-year period. In addition, if the taxpayer purchases more than one residence during the replacement period and such residences are each used as the taxpayer's principal residence within two years after the date of sale of the old residence, only the last residence so used is treated as the new replacement residence.

Special rules apply, however, if residences are sold in order to relocate for employment reasons. First, the number of times nonrecognition treatment is available during a two-year period is not limited. Second, if a residence is sold within two years after the sale of the old residence, the residence sold is treated as the last residence used by the taxpayer and thus as the only replacement residence.

Reasons for Simplification

The rollover provision governing the sale of a principal residence is unnecessarily complex, in part due to the different set of rules that applies depending on whether the sale is work related. The bill simplifies the rollover provision by applying only one set of rules to the sale of a principal residence regardless of whether the sale is work related.

Explanation of Provision

Under the bill, gain is rolled over from one residence to another residence in the order the residences are purchased and used, regardless of the taxpayer's reasons for the sale of the old residence. In addition, gain may be rolled over more than once within a two-year period. Thus, the rules that formerly applied only if a taxpayer sold his residence in order to relocate for employment purposes will apply in all cases.

As under present law, the basis of each succeeding residence is reduced by the amount of gain not recognized on the sale of the prior residence.

Effective Date

The provision applies to sales of old residences (within the meaning of section 1034) after the date of enactment.

2. Due dates for estimated tax payments of individuals (sec. 102 of the bill and sec. 6654 of the Code)

Present Law

In order to avoid an addition to tax, estimated tax payments of individuals generally are due on April 15th, June 15th, and September 15th of the taxable year for which the payment relates, and January 15th of the following taxable year. The amount of the estimated tax payments generally must be based on 90 percent of the tax shown on the return for the taxable year or 100 percent of the tax shown on the return for the preceding taxable year.

The due date for the tax return of an individual generally is April 15th of year following the taxable year to which the return relates. The due date may be automatically extended to August 15th.

Reason for Simplification

Delaying the due date of the second estimated tax installment would allow for a more accurate determination of the amount of the required payment if the payment is based on the tax shown on the return for the current year or if the payment is based on the tax shown on the return for the preceding year and the due date of the return for the preceding year has been extended.

Explanation of Provision

Under the bill, the due date for the second estimated tax payment of individuals is July 15th of the taxable year for which the payment relates.

Effective Date

The provision is effective for taxable years beginning after December 31, 1991.

3. Permit payment of taxes by credit card (sec. 103 of the bill and sec. 6311 of the Code)

Present Law

Payment of taxes may be made by checks or money orders, to the extent and under the conditions provided by regulations.

Reasons for Simplification

Credit cards are a commonly used and reliable form of payment. Some taxpayers may find paying taxes by credit card more convenient than paying by check or money order.

Explanation of Provision

The bill permits payment of taxes by credit card, to the extent and under the conditions provided by regulations.

Effective Date

The provision is effective on the date of enactment.

4. Election by parent to claim unearned income of certain children on parent's return (sec. 104 of the bill and secs. 1(g)(7) and 57(j)(1) of the Code)

Present Law

The net unearned income of a child under 14 years of age is taxed to the child at the top rate of the parents. Net unearned income means unearned income less the sum of $500 and the greater of: (1) $500 of the standard deduction or $500 of itemized deductions or (2) the amount of allowable deductions directly connected with the production of the unearned income. The dollar amounts are adjusted for inflation.

In certain circumstances, a parent may elect to include a child's unearned income on the parent's income tax return if the child's income is less than $5,000. A parent making this election must include the gross income of the child in excess of $1,000 in income for the taxable year. In addition, the parent must report an additional tax liability equal to the lesser of (1) $75 or (2) 15 percent of the excess of the child's income over $500. The dollar amounts for the election are not adjusted for inflation.

A person claimed as a dependant cannot claim a standard deduction exceeding the greater of $500 or such person's earned income. For alternative minimum tax purposes, the exemption of a child under 14 years of age generally cannot exceed the sum of such child's earned income plus $1,000. The $500 amount is adjusted for inflation but the $1,000 amount is not.

Reasons for Simplification

The election by a parent to include a child's unearned income on a return is intended to eliminate the need to file a separate return for a child without reducing the family's total tax liability. Indexation of the underlying dollar amounts simplifies return preparation by making the election available to more taxpayers.

The restriction upon the exemption allowed to a child for alternative minimum tax purposes is intended to treat the family the same as if the child's income had been included on the parent's return. Indexation of this exemption amount achieves this goal and simplifies transfers by removing a tax consideration influencing the ownership of property within the family.

Explanation of Provision

The bill adjusts for inflation the dollar amounts involved in the election to claim unearned income on the parent's return. It likewise indexes the $1,000 amount used in computing the child's alternative minimum tax.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

5. Simplified foreign tax credit limitation for individuals (sec. 105 of the bill and sec. 904 of the Code)

Present Law

In order to compute the foreign tax credit, a taxpayer computes foreign source taxable income, and foreign taxes paid, in each of the applicable separate foreign tax credit limitation categories. In the case of an individual, this requires the filing of IRS Form 1116, designed to elicit sufficient information to perform the necessary calculations.

In many cases individual taxpayers who are eligible to credit foreign taxes may have only a modest amount of foreign source gross income, all of which is income from investments (e.g., dividends from a foreign corporation subject to foreign withholding taxes, or dividends from a domestic mutual fund that can pass through its foreign taxes to the shareholder (see sec. 853)). Taxable income of this type ordinarily is subject to the single foreign tax credit limitation category known as passive income. However, under certain circumstances, the Code treats investment-type income (e.g., dividends and interest) as income in several other separate limitation categories (e.g., high withholding tax interest income, general limitation income) designed to accomplish certain policy objectives or forestall certain abuses. For this reason, any taxpayer with foreign source gross income is required to provide sufficient detail on Form 1116 to ensure that foreign source taxable income from investments, as well as all other foreign source taxable income, is allocated to the correct limitation category.

Reasons for Simplification

It is believed that a significant number of individuals are entitled to credit relatively small amounts of foreign tax, imposed at modest effective tax rates on foreign source investment income. For taxpayers in this class, it is believed that applicable foreign tax credit limitations typically exceed the amounts of taxes paid. Therefore, it is believed that relieving these taxpayers from application of the full panoply of foreign tax credit rules may achieve significant reduction in the complexity of the tax law without significantly altering actual tax liabilities. At the same time, however, it is believed that the benefits of simplified treatment should be limited to cover those cases where the taxpayer is receiving a payee statement showing the amount of the foreign source income and the foreign tax.

Explanation of Provision

The bill allows individuals with no more than $200 of creditable foreign taxes, and no foreign source income other than income which is in the passive basket, to elect a simplified foreign tax credit limitation equal to the lesser of 25 percent of the individual's foreign source gross income or the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year. (It is intended that an individual electing this simplified limitation calculation not be required to file Form 1116 in order to obtain the benefit of the credit.) A person who elects the simplified foreign tax credit limitation is not allowed a credit for any foreign tax not shown on a payee statement (as that term is defined in sec. 6724(d)(2)) furnished to him or her. Nor is the person entitled to treat any excess credits for a taxable year to which the election applied as a carryover to another taxable year. Because the limitation for a taxable year to which the election applies can be no more than the creditable foreign taxes actually paid for the taxable year, it is also the case under the bill that no excess credits from another year can be carried over to the taxable year to which the election applies.

For purposes of the simplified limitation, passive income generally is defined to include all types of income that would be foreign personal holding income under the subpart F rules, plus income inclusions from passive foreign corporations (as defined above by the bill), so long as the income is shown on a payee statement furnished to the individual. Thus, for purposes of the simplified limitation, passive income includes all dividends, interest (and income equivalent to interest), royalties, rents, and annuities, and net gains from dispositions of property giving rise to such income, from certain commodities transactions, and from foreign currency transactions that give rise to foreign currency gains and losses as defined in section 988. The statutory exceptions to treating these types of income as passive for foreign tax credit limitation purposes, such as the exceptions for high-taxed income and high withholding tax interest, are not applicable in determining eligibility to use the simplified limitation.

Although an estate or trust generally computes taxable income and credits in the same manner as in the case of an individual (Code sec. 641(b); Treas. Reg. sec. 1.641(b)-1), the simplified limitation does not apply to an estate or trust.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

6. Personal transactions by individuals in foreign currency (sec. 106 of the bill and sec. 988 of the Code)

Present Law

When a U.S. taxpayer with a dollar functional currency makes a payment in a foreign currency, gain or loss (referred to as "exchange gain or loss") arises from any change in the value of the foreign currency relative to the U.S. dollar between the time the currency was acquired (or the obligation to pay was incurred) and the time that the payment is made. Gain or loss results because foreign currency, unlike the U.S. dollar, is treated as property for Federal income tax purposes.

Exchange gain or loss can arise in the course of a trade or business or in connection with an investment transaction. Exchange gain or loss can also arise where foreign currency was acquired for personal use. For example, the IRS has ruled that a taxpayer who converts U.S. dollars to a foreign currency for personal use—while traveling abroad—realizes exchange gain or loss on reconversion of appreciated or depreciated foreign currency (Rev. Rul. 74-7, 1974-1 C.B. 198).

Prior to the Tax Reform Act of 1986 (the "1986 Act"), most of the rules for determining the Federal income tax consequences of foreign currency transactions were embodied in a series of court cases and revenue rulings issued by the Internal Revenue Service ("IRS"). Additional rules of limited application were provided by Treasury regulations and, in a few instances, statutory provisions. Pre-1986 law was believed to be unclear regarding the character, the timing of recognition, and the source of gain or loss due to fluctuations in the exchange rate of foreign currency. The result of prior law was uncertainty of tax treatment for many legitimate transactions, as well as opportunities for tax-motivated transactions. Therefore, in 1986 Congress determined that a comprehensive set of rules should be provided for the U.S. tax treatment of transactions involving "nonfunctional currencies;" that is, currencies other than the taxpayer's "functional currency."

However, the 1986 Act provisions designed to clarify the treatment of currency transactions, primarily found in section 988, apply to transactions entered into by an individual only to the extent that expenses attributable to such transactions would be deductible under section 162 (as a trade or business expense) or section 212 (as an expense of producing income, other than expenses incurred in connection with the determination, collection, or refund of taxes). Therefore, the principles of pre-1986 law continue to apply to personal currency transactions.[1]

Reasons for Simplification

An individual who lives or travels abroad generally cannot use U.S. dollars to make all of the purchases incident to ordinary daily life. Instead, the local currency must often be used, yet the individual will not be treated for tax purposes as having changed his or her functional currency to the local currency. If it were necessary to treat foreign currency in this instance as property giving rise to U.S. dollar income or loss every time it was, in effect, "bartered" for goods or services, the U.S. individual living in or visiting a foreign country would have a significant administrative burden that may bear little or no relation to whether U.S.-dollar measured income has increased or decreased. An analogous issue arises for a corporation that has a qualified business unit ("QBU") in a foreign country but nevertheless uses the U.S. dollar as its functional currency pursuant to section 986(b)(3). Complexity concerns aside, Congress could have required in that case that gain or loss be computed on each transaction carried out in the local currency. Instead, however, Congress directed the Treasury to adopt a method of translation of the QBU's results that merely approximates the results of determining exchange gain or loss on a transaction-by-transaction basis.[2] It is believed that individuals also should be given relief from the requirement to keep track of gains on an actual transaction-by-transaction basis in certain cases.

Explanation of Provision

In a case where an individual acquires nonfunctional currency and then disposes of it in a personal transaction, and where exchange rates have changed in the intervening period, the bill provides for nonrecognition of an individual's resulting exchange gains not exceeding $200. The bill does not change the treatment of resulting exchange losses. It is understood that under other Code provisions, such losses typically are not deductible by individuals (e.g., sec. 165(c)).

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

7. Advance due date for furnishing information to partners (sec. 107 of the bill and sec. 6031(b) of the Code)

Present Law

A partnership required to file an income tax return with the IRS must also furnish an information return to each of its partners on or before the day on which the income tax return for the year is required to be filed, including extensions. Under regulations, a partnership must file its income tax return on or before the fifteenth day of the fourth month following the end of the partnership's taxable year (on or before April 15, for calendar year partnerships). This is the same deadline by which most individual partners must file their tax return.

Reasons for Simplification

Information returns that are received on or shortly before April 15 (or later) are difficult for individuals to use in preparing their tax returns (or in computing their payments) that are due on that date.

Explanation of Provision

The bill provides that a large partnership must furnish information returns to partners by the 15th day of the 3d month following the close of the partnership's taxable year. A large partnership is any partnership with 250 or more partners, as well as any partnership subject to the simplified reporting rules for large partnerships (contained in sec. 201 of this bill, described below).

Effective Date

The provision is effective for taxable years ending on or after December 31, 1992.

8. Make income tax withholding rules parallel to rules for exclusion from income for combat pay (sec. 108 of the bill and sec. 3401(a)(1) of the Code)

Present Law

Exclusion for combat pay

Gross income does not include certain combat pay of members of the Armed Forces (sec. 112). If enlisted personnel serve in a combat zone during any part of any month, military pay for that month is excluded from gross income (special rules apply if enlisted personnel are hospitalized as a result of injuries, wounds, or disease incurred in a combat zone). In the case of commissioned officers, these exclusions from income are limited to $500 per month of military pay.

Income tax withholding

There is no income tax withholding with respect to military pay for a month in which a member of the Armed Forces of the United States is entitled to the benefits of section 112 (sec. 3401(a)(2)). With respect to enlisted personnel, this income tax withholding rule parallels the exclusion from income under section 112: there is total exemption from income tax withholding and total exclusion from income. With respect to officers, however, the withholding rule is not parallel: there is total exemption from income tax withholding, although the exclusion from income is limited to $500 per month.

Reasons for Simplification

In most instances, the wage withholding rules closely parallel the inclusion in income rules. Consequently, most individuals whose income is subject to withholding may rely on withholding to fulfill their tax obligations. The differences between the withholding rules and the exclusion rules with respect to combat pay could cause affected taxpayers (primarily officers) to be surprised at the size of their additional tax liability at the time of filing their tax returns as a result of underwithholding. Paying the additional tax liability with their tax returns could lead to greater financial hardship than would withholding that is parallel to the exclusion rules.

Explanation of Provision

The bill makes the income tax withholding exemption rules parallel to the rules providing an exclusion from income for combat pay.

Effective Date

The provision is effective as of January 1, 1992.

9. Expanded access to simplified income tax returns (sec. 109 of the bill)

Present Law

There are three principal tax forms that are utilized by individual taxpayers: Form 1040EZ, Form 1040A, and Form 1040.

Reasons for Simplification

Many individual taxpayers find the tax forms to be complex.

Explanation of Provision

The bill provides that the Secretary of the Treasury (or his delegate) shall take such actions as may be appropriate to expand access to simplified individual income tax forms and to otherwise simplify the individual income tax returns.

The bill also requires that the Secretary submit a report to the Congress on the actions undertaken pursuant to this provision, together with any recommendations he may deem advisable.

Effective Date

The report is due no later than one year after the date of enactment.

10. Simplification of tax treatment of rural letter carriers' vehicle expenses (sec. 110 of the bill and sec. 162 of the Code)

Present Law

A taxpayer who uses his or her automobile for business purposes may deduct the business portion of the actual operation and maintenance expenses of the vehicle, plus depreciation (subject to the limitations of sec. 280F). If the taxpayer is an employee and these expenses are not reimbursed, the deduction is subject to the two-percent floor. Alternatively, the taxpayer may elect to utilize a standard mileage rate in computing the deduction allowable for business use of an automobile that has not been fully depreciated. Under this election, the taxpayer's deduction equals the applicable rate multiplied by the number of miles driven for business purposes, and is taken in lieu of deductions for depreciation and actual operation and maintenance expenses.

An employee of the U.S. Postal Service may compute his or her deduction for business use of an automobile in performing services involving the collection and delivery of mail on a rural route by using, for all business use mileage, 150 percent of the standard mileage rate.

Reasons for Simplification

The filing of tax returns by rural letter carriers can be complex. Under present law, those who are reimbursed at more than the 150 percent rate must report their reimbursement as income, and deduct their expenses as miscellaneous itemized deductions (subject to the 2 percent floor). Permitting the income and expenses to wash, so that neither will have to be reported on the rural letter carrier's tax return, will simplify these tax returns.

Explanation of Provision

The bill repeals the special rate of 150 percent of the standard mileage rate. In its place, the bill provides that the rate of reimbursement provided by the Postal Service to rural letter carriers is considered to be equivalent to their expenses. The rate of reimbursement that is considered to be equivalent to their expenses is the current rate of reimbursement contained in the 1991 collective bargaining agreement, which may in the future be increased by no more than the rate of inflation.

Effective Date

The provision is effective for taxable years beginning after December 31, 1991.

11. Exemption from luxury excise tax for certain equipment installed on passenger vehicles for use by disabled individuals (sec. 111 of the bill and sec. 4004(b)(3) of the Code)

Present Law

The Code imposes a 10-percent excise tax on the portion of the retail price of a passenger vehicle that exceeds $30,000. The tax also applies to separate purchases of component parts and accessories occuring within six months of the date the vehicle is placed in service.

Reasons for Simplification

It is appropriate to reduce the compliance burdens on handicapped persons.

Explanation of Provision

The bill provides that the luxury excise tax does not apply to a part or accessory installed on a passenger vehicle to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of the disability.

Effective Date

The provision is effective for purchases after December 31, 1990.

TITLE II.—TREATMENT OF LARGE PARTNERSHIPS

A. General Provisions

1. Simplified flow-through for large partnerships (sec. 201 of the bill and new secs. 771–777 of the Code)

Present Law

Treatment of partnerships in general

A partnership generally is treated as a conduit for Federal income tax purposes. Each partner takes into account separately his distributive share of the partnership's items of income, gain, loss, deduction or credit. The character of an item is the same as if it had been directly realized or incurred by the partner. Limitations affecting the computation of taxable income generally apply at the partner level.

The taxable income of a partnership is computed in the same manner as that of an individual except that no deduction is permitted for personal exemptions, foreign taxes, charitable contributions, net operating losses, certain itemized deductions, or depletion. Elections affecting the computation of taxable income derived from a partnership are made by the partnership, except for certain elections such as those relating to discharge of indebtedness income and the foreign tax credit.

Capital gains

The net capital gain of an individual is taxed generally at the same rates applicable to ordinary income, subject to a maximum marginal rate of 28 percent. Net capital gain is the excess of net long-term capital gain over net short-term capital loss. Individuals with a net capital loss generally may deduct up to $3,000 of the loss each year against ordinary income. Net capital losses in excess of the $3,000 limit may be carried forward indefinitely.

A special rule applies to gains and losses on the sale, exchange or involuntary conversion of certain trade or business assets (sec. 1231). In general, net gains from such assets are treated as long-term capital gains but net losses are treated as ordinary losses.

A partner's share of a partnership's net short-term capital gain or loss and net long-term capital gain or loss from portfolio investments is separately reported to the partner. A partner's share of a partnership's net gain or loss under section 1231 generally is also separately reported to the partner.

Deductions

Miscellaneous itemized deductions (e.g., certain investment expenses) are deductible as an itemized deduction, but only to the extent that, in the aggregate, they exceed two percent of the individual's adjusted gross income.

In general, taxpayers are allowed a deduction for charitable contributions, subject to certain limitations. In the case of an individual, the deduction cannot exceed 50 percent of the individual's contribution base (generally, the individual's adjusted gross income) for the taxable year. In the case of a corporation, the deduction cannot exceed 10 percent of the corporation's taxable income (computed with certain modifications). Excess contributions are carried forward for five years.

A partner's distributive share of a partnership's miscellaneous itemized deductions and charitable contributions are separately reported to the partner.

Credits in general

Each partner is allowed his distributive share of credits against his taxable income. A refundable credit for gasoline used for exempt purposes is allowed. Nonrefundable credits for clinical testing expenses for certain drugs for rare diseases, for producing fuel nonconventional sources, and for the general business credit are also allowed. The general business credit includes the investment credit (which in turn includes the rehabilitation credit), the targeted jobs credit, the alcohol fuels credit, the research credit, and the low-income housing credit.

The credits for clinical testing expenses and for fuel from nonconventional sources are limited to the excess of regular tax over tentative minimum tax. Excess credits generally cannot be carried forward. The amount of general business credit allowable in a taxable year is limited to the excess of a partner's net income over the greater of (1) the tentative minimum tax for the year or (2) 25 percent of the taxpayer's net regular tax liability in excess of $25,000. The general business credit in excess of this amount is carried back three years and forward 15 years.

The benefit of the investment credit and the low-income housing credit is recaptured if, within a specified time period, the partner transfers his partnership interest or the partnership converts or transfers the property for which the credit was allowed.

Foreign tax credit

The foreign tax credit generally allows U.S. taxpayers to reduce U.S. income tax on foreign income by the amount of foreign income taxes paid with respect to that income. In lieu of electing the foreign tax credit, a taxpayer may deduct foreign taxes from adjusted gross income.

The total amount of the credit may not exceed the same proportion of the taxpayer's U.S. tax which the taxpayer's foreign source taxable income bears to the taxpayer's worldwide taxable income for the taxable year. In addition, the foreign tax credit limitation is calculated separately for various categories of income, generally referred to as "separate limitation categories." That is, the total amount of the credit for foreign taxes on income in each category may not exceed the same proportion of the taxpayer's U.S. tax which the taxpayer's foreign source taxable income in that category bears to the taxpayer's worldwide taxable income for the taxable year. A partner generally reports his share of partnership income from each category. A special rule, however, treats the distributive share of a limited partner owning less than ten percent of a partnership as *per se* in the passive category.

The amount of creditable taxes paid or accrued in any taxable year which exceeds the foreign tax credit limitation may be carried back to the two immediately preceding taxable years and carried forward to the first five succeeding taxable years and credited to the extent that the taxpayer otherwise has excess foreign tax credit limitations for the appropriate separate limitation category for those years.

Unrelated business taxable income

Tax-exempt organizations are subject to tax on income from unrelated businesses. Certain types of income (such as dividends, interest and certain rental income) are not treated as unrelated business taxable income. Thus, for a partner that is an exempt organization, whether partnership income is unrelated business taxable income depends on the character of the underlying income. Income from a publicly traded partnership, however, is treated as unrelated business taxable income regardless of the character of the underlying income.

Passive losses

The passive loss rules generally disallow deductions and credits from passive activities to the extent they exceed income from passive activities. Losses not allowed in a taxable year are suspended and treated as current deductions from passive activities in the next taxable year. These losses are allowed in full when a taxpayer disposes of the entire interest in the passive activity to an unrelated person in a taxable transaction. Passive activities include trade or business activities in which the taxpayer does not materially participate. (Limited partners generally do not materially participate in the activities of a partnership.) Passive activities also include rental activities (regardless of the taxpayer's material participation).[3] Portfolio income (such as interest and dividends), and expenses allocable to such income, are not treated as income or loss from a passive activity.

A partnership's operations may be treated as multiple activities for purposes of the passive loss rules. In such case, the partnership must separately report items of income and deductions from each of its activities.

Income from a publicly traded partnership is treated as portfolio income under the passive loss rules. In addition, loss from such a partnership is treated as separate from income and loss from any other publicly traded partnership, and also as separate from any income or loss from passive activities.

REMICs

A tax is imposed on partnerships holding a residual interest in a real estate mortgage investment conduit (REMIC). The amount of the tax is the amount of excess inclusions allocable to partnership interests owned by certain tax-exempt organizations ("disqualified organizations") multiplied by the highest corporate tax rate.

Contribution of property to a partnership

In general, a partner recognizes no gain or loss upon the contribution of property to a partnership. However, income, gain, loss and deduction with respect to property contributed to a partnership by a partner must be allocated among the partners so as to take into account the difference between the basis of the property to the partnership and its fair market value at the time of contribution. In addition, the contributing partner must recognize gain or loss equal to such differnce if the property is distributed to another partner within five years of its contribution (sec. 704(c)). Under regulations, the amount of depreciation and gain or loss that is allocated under these rules is limited to the depreciation allowable to, or gain or loss recognized by, the partnership for tax purposes with respect to the contributed property (the "ceiling rule").

Election of optional basis adjustments

In general, the transfer of a partnership interest or a distribution of partnership property does not affect the basis of partnership assets. A partnership, however, may elect to make certain adjustments in the basis of partnership property (sec. 754). Under a section 754 election, the transfer of a partnership interest generally results in an adjustment in the partnership's basis in its property for the benefit of the transferee partner only, to reflect the difference between that partner's basis for his interest and his proportionate share of the adjusted basis of partnership property (sec. 743(b)). Also under the election, a distribution of property to a partner in certain cases results in an adjustment in the basis of other partnership property (sec. 734(b)).

Terminations

A partnership terminates if either (1) all partners cease carrying on the business, financial operation or venture of the partnership, or (2) within a 12-month period 50 percent or more of the total partnership interests are sold or exchanged (sec. 708).

Reasons for Simplification

The requirement that each partner take into account separately his distributive share of a partnership's items of income, gain, loss, deduction and credit can result in the reporting of a large number of items to each partner. The Schedule K-1, on which such items are reported, contains space for more than 40 items. Reporting so many separately stated items is burdensome for individual investors with relatively small, passive interests in large partnerships. In many respects such investments are indistinguishable from those made in corporate stock or mutual funds, which do not require reporting of numerous separate items.

In addition, the number of items reported under the current regime makes it difficult for the Internal Revenue Service to match items reported on the K-1 against the partner's income tax return. Matching is also difficult because items on the K-1 are often modified or limited at the partner level before appearing on the partner's tax return.

By significantly reducing the number of items that must be separately reported to partners, the provision eases the reporting burden of partners and facilitates matching by the IRS. Moreover, it is understood that the Internal Revenue Service is considering restricting the use of substitute reporting forms by large partnerships. Reduction of the number of items makes possible a short standardized form.

In addition, the rules governing allocations with respect to property contributed to a partnership and the rules regarding partnership terminations are ill-suited to large partnerships, whose interests are commonly transferred. By adopting a deferred sale approach for property contributions and by reducing the possibility of partnership terminations, the provision improves the administration of the tax rules governing large partnerships.

Explanation of Provisions

In general

The bill modifies the tax treatment of a large partnership (generally, a partnership with at least 250 partners) and its partners. The bill provides that each partner takes into account separately the partner's distributive share of the following items, which are determined at the partnership level: (1) taxable income or loss from passive loss limitation activities; (2) taxable income or loss from other activities (e.g., portfolio income or loss); (3) net capital gain to the extent allocable to passive loss limitation activities and other activities; (4) net alternative minimum tax adjustment separately computed for passive loss limitation activities and other activities; (5) general credits; (6) low-income housing credit; (7) rehabilitation credit; (8) for certain partnerships, tax-exempt interest; and (9) for certain partnerships, foreign taxes paid and foreign source partnership items.[4]

Under the bill, the taxable income of a large partnership is computed in the same manner as that of an individual, except that the items described above are separately stated and certain modifications are made. These modifications include disallowing the deduction for personal exemptions, the net operating loss deduction and certain itemized deductions.[5] All limitations and other provisions affecting the computation of taxable income or any credit (except for the at risk, passive loss and section 68 itemized deduction limitations, and any other provision specified in regulations) are applied at the partnership (and not the partner) level. Thus, for example, any investment interest of the partnership is limited at the partnership level, and any carryover is made at that level.

All elections affecting the computation of taxable income or any credit are made by the partnership.

Capital gains

Under the bill, netting of capital gains and losses occurs at the partnership level. A partner in a large partnership takes into account separately his distributive share of the partnership's net capital gain.[6] Any excess of capital losses over capital gains, however, is not separately reported to partners; rather, such excess is carried over at the partnership level. The partnership cannot offset any portion of capital losses against ordinary income.

A partner's distributive share of the partnership's net capital gain is allocated between passive loss limitation activities and other activities. The net capital gain is allocated to passive loss limitation activities to the extent of net capital gain from sales and exchanges of property used in connection with such activities, and any excess is allocated to other activities.

Any gains and losses of the partnership under section 1231 are netted at the partnership level. Net gain is treated as long-term capital gain and is subject to the rules described above. Net loss is treated as ordinary loss and consolidated with the partnership's other taxable income.

Deductions

The bill contains two special rules for deductions. First, miscellaneous itemized deductions are not separately reported to partners. Instead, 70 percent of the amount of such deductions is disallowed at the partnership level;[7] the remaining 30 percent is allowed at the partnership level in determining taxable income, and is not subject to the two-percent floor at the partner level.

Second, charitable contributions are not separately reported to partners under the bill. Instead, the charitable contribution deduction is allowed at the partnership level in determining taxable income, subject to the limitations that apply to corporate donors.

Credits in General

Under the bill, general credits are separately reported to partners as a single item. General credits are any credits other than the low-income housing credit and the rehabilitation credit. A partner's distributive share of general credits is taken into account as a current year general business credit. Thus, for example, the credits for clinical testing expenses and the production of fuel from nonconventional sources are subject to the present law limitations on the general business credit. The refundable credit for gasoline used for exempt purposes is allowed to the partnership, and thus is not separately reported to partners.

In recognitiion of their special treatment under the passive loss rules, the low-income housing and rehabilitation credits are separately reported.[8]

The bill imposes credit recapture at the partnership level and determines the amount of recapture by assuming that the credit fully reduced taxes. Such recapture is applied first to reduce the partnership's current year credit, if any; the partnership is liable for any excess over that amount. Under the bill, the transfer of an interest in a large partnership does not trigger recapture.

Foreign tax credit

Elections, computations and limitations regarding the foreign tax credit generally are made at the partnership level without regard to a partner's other foreign source income or foreign taxes paid. For purposes of determining foreign tax credit limitations, the partnership is treated as an individual subject to tax at a 25-percent rate. Excess credits can be carried forward at the partnership level but cannot be carried back. The foreign tax credit is reported to the partner as a general credit. The partner's distributive share of all items of income, gain, loss or deduction are treated as derived from sources within the United States.

A different rule applies if either the partnership elects, or 25 percent or more of the gross income of the partnership is derived from sources outside the United States. In such case, elections, computations and limitations are made by the partner, as under present law. The partnership reports to the partner creditable foreign taxes and the source of any income, gain, loss or deduction taken into account by the partnership. As under present law, such income is generally treated as passive for separate limitation purposes.

Tax-exempt interest

Under the bill, interest on a State or local bond is treated as taxable (and thus not separately reported) unless at the end of each quarter of the taxable year at least 50 percent of the value of partnership assets consists of State or local bonds the interest on which is exempt from taxation.

Unrelated business taxable income

The bill retains present-law treatment of unrelated business taxable income. Thus, a tax-exempt partner's distributive share of partnership items is taken into account separately to the extent necessary to comply with the rules governing such income. Under the bill, all income from a publicly traded partnership continues to be treated as unrelated business taxable income.

Passive losses

Under the bill, a partner in a large partnership takes into account separately his distributive share of the partnership's taxable income or loss from passive loss limitation activities. The term "passive loss limitation activity" means any activity which involves the conduct of a trade or business (including any activity treated as a trade or business under sec. 469(c) (5) or (6)) and any rental activity. A partner's share of a large partnership's taxable income or loss from passive loss limitation activities is treated as an item of income or loss from the conduct of a trade or business which is a single passive activity, as defined in the passive loss rules. Thus, a large partnership is not required to separately report items from multiple activities.

A partner in a large partnership also takes into account separately his distributive share of the partnership's taxable income or loss from activities other than passive loss limitation activities. Such distributive share is treated as an item of income or expense with respect to property held for investment. Thus, portfolio income (e.g., interest and dividends) is reported separately and is reduced by portfolio deductions and allocable investment interest expense.

Under the bill, income from a publicly traded partnership continues to be treated as portfolio income.

Alternative minimum tax

Under the bill, alternative minimum tax adjustments and preferences are combined at the partnership level. A large partnership would report to partners a net AMT adjustment separately computed for passive loss limitation activities and other activities. In determining a partner's alternative minimum taxable income, a partner's distributive share of any net AMT adjustment is taken into account instead of making separate AMT adjustments with respect to partnership items. Except as provided in regulations, the net AMT adjustment is determined by using the adjustments applicable to individuals, and is treated as a deferral preference for purposes of the section 53 minimum tax credit.

REMICs

For purposes of the tax on partnerships holding residual interests in REMICs, all interests in a large partnership are treated as held by disqualified organizations. Thus, a large partnership holding a residual interest in a REMIC is subject to a tax equal to the excess inclusions multiplied by the highest corporate rate.

Deferred sale treatment for contributed property

In General

For all partners contributing property to a large partnership (including partners otherwise excluded from application of the large partnership rules, as described below), the bill replaces section 704(c) with a "deferred sale" approach. Under the bill, a large partnership is treated as if it had purchased the property from the contributing partner for its then fair market value, thus taking a fair market value basis in the property. The contributing partner's gain or loss on the contribution (the "precontribution gain or loss")[9] is deferred until the occurrence of specified recognition events. In general, the character of the precontribution gain or loss is the same as if the property had been sold to the partnership by the partner at the time of contribution. The contributing partner's basis in his partnership interest is adjusted for precontribution amounts recognized under the provision. These adjustments generally are made immediately before the recognition event.

The provision effectively repeals the ceiling rule for large partnerships, i.e., the amount of precontribution gain or loss recognized by the contributing partner under the provision is not limited to the overall gain or loss from the contributed property recognized by the partnership. In addition, the amount of depreciation allowable to the partnership is not limited to the contributing partner's basis in the property.

Recognition Events

Certain events occurring at either the partnership or partner level cause recognition of precontribution gain or loss. Loss is not recognized, however, by reason of a disposition to a person related (within the meaning of sec. 267(b)) to the contributing partner.

Transaction at partnership level.—The contributing partner recognizes precontribution gain or loss as the partnership claims an amortization, depreciation, or depletion deduction with respect to the property. The amount of gain (or loss) recognized equals the increase (or decrease) in the deduction attributable to changes in basis of the property occurring by reason of its contribution. Any gain or loss so recognized is treated as ordinary.

The contributing partner also recognizes precontribution gain or loss if the partnership disposes of the contributed property to a person other than the contributing partner. If such property is distributed to the contributing partner, its basis in the hands of the contributing partner equals its basis immediately before the contribution, adjusted for any gain or loss previously recognized on account of undistributed partnership property on account of a distribution to the contributing partner.[10]

Transactions at partner level.—A contributing partner recognizes precontribution gain or loss to the extent that he disposes of his partnership interest other than at death.[11] Such partner also recognizes precontribution gain or loss to the extent that the cash and fair market value of property (other than the contributed property) distributed to him exceeds the adjusted basis of his partnership interest immediately before the distribution (determined without regard to any basis adjustment under the deemed sale rules resulting from the distribution).

Election of optional basis adjustments

Under the bill, a large partnership may still elect to adjust the basis of partnership assets with respect to transferee partners. The computation of a large partnership's taxable income is made without regard to the section 743(b) adjustment. As under present law, the section 743(b) adjustment is made only with respect to the transferee partner. In addition, a large partnership is permitted to adjust the basis of partnership property under section 734(b) if property is distributed to a partner, as under present law.

Terminations

The bill provides that a large partnership does not terminate for tax purposes solely because 50 percent of its interests are sold or exchanged within a 12-month period.

Partnerships and partners subject to large partnership rules

Definition of Large Partnership

A "large partnership" is any partnership if the number of persons who were partners in such partnership in a taxable year was at least 250.[12] Any partnership treated as a large partnership for a taxable year is so treated for all succeeding years, even if the number of partners falls below 250. Regulations may provide, however, that if the number of persons who are partners in any taxable year falls below 100, the partnership is not treated as a large partnership. Partnerships with at least 100 partners can elect to be treated as if they had 250 partners. The election applies to the year for which made and all subsequent years and cannot be revoked without the Secretary's consent.

A large partnership does not include any partnership if substantially all of its activities involve the performance of personal services by individuals owning, directly or indirectly, interests in the partnership, or if 50 percent or more of the value of the partnership's assets consists of oil or gas properties.

Treatment of Excluded Partners

In general, the large partnership rules do not apply to an excluded partner's distributive share of partnership items. An excluded partner is any partner (1) owning more that a five percent partnership interest at any time during the taxable year, or (2) materially participating in the partnership's activities during the year and holding any interest which is not a limited partnership interest. Any partner treated as an excluded partner for a taxable year so treated for all succeeding years. In determining whether a partner is an excluded partner, the treatment on the large partnership's tax return binds the partnership and the partner, but not the Secretary.

Treatment of Partnerships Holding Oil or Gas Properties

As described above, the large partnership rules do not apply to a partnership if at least 50 percent of the value of its assets consists of oil or gas properties.[13] In addition, the rules do not apply to any item attributable to any partnership oil or gas property. However, oil or gas partnerships can elect to be treated as large partnerships. In addition, partnerships owning oil or gas properties but which otherwise qualify as large partnerships (i.e., because less than 50 percent of their assets consists of oil or gas properties) can elect to apply the large partnership rules to items attributable to their oil or gas properties. If either type of partnership makes an election, (1) depletion is computed without regard to percentage depletion, (2) any partner who is an integrated oil company is treated as an excluded partner, and (3) any partner who holds a working interest in an oil or gas property (either directly or through an entity which does not limit the partner's liability) is treated as an excluded partner with respect to such interest. The election applies to the year for which made and all subsequent years, and cannot be revoked without the Secretary's consent.

Regulatory authority

The Secretary of the Treasury is granted authority to prescribe such regulations as may be appropriate to carry out the purposes of the provisions.

Effective Date

The provisions generally apply to partnership taxable years ending on or after December 31, 1992. The deferred sale provision applies to any contribution of property (other than cash) made on or after January 1, 1992, to a partnership which is, or is reasonably expected to become, a large partnership.

2. Simplified audit procedures for large partnerships (sec. 202 of the bill and secs. 6240, 6241, 6242, 6245, 6246, 6247, 6249, 6251, 6252, 6255, and 6256 of the Code).

Present Law

In general

Prior to 1982, a partnership (regardless of its size) was audited only by auditing each partner individually. Because a large partnership sometimes had many partners located in different audit districts, adjustments to items of income, gains, losses, deductions, or credits of the partnership had to be made in numerous actions in several jurisdictions, sometimes with conflicting outcomes.

The Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA") established unified audit rules applicable to all but certain small (10 or fewer partners) partnerships. These rules require the determination of all "partnership items" at the partnership, rather than the partner, level. Partnership items are those items that are more appropriately determined at the partnership level than at the partner level, as provided by regulations.

Administrative proceedings

Under the TEFRA rules, a partner must report all partnership items consistently with the partnership return or must notify the IRS of any inconsistency. If a partner fails to report any partnership item consistently with the partnership return, the IRS may make a computational adjustment and immediately assess any additional tax that results.

The IRS may challenge the reporting position of a partnership by conducting a single administrative proceeding to resolve the issue with respect to all partners. But the IRS must still assess any resulting deficiency against each of the taxpayers who were partners in the year in which the understatement of tax liability arose.

Any partner of a partnership can request an administrative adjustment or a refund for his own separate tax liability. Any partner also has the right to participate in partnership-level administrative proceedings. A settlement agreement with respect to partnership items binds all parties to the settlement.

Tax Matters Partner

The TEFRA rules establish the "Tax Matters Partner" as the primary representative of a partnership in dealings with the IRS. The Tax Matters Partner is a general partner designated by the partnership or, in the absence of designation, the general partner with the largest profits interest at the close of the taxable year. If no Tax Matters Partner is designated, and it is impracticable to apply the largest profits interest rule, the IRS may select any partner as the Tax Matters Partner.

Notice requirements

The IRS generally is required to give notice of the beginning of partnership-level administrative proceedings and any resulting administrative adjustment to all partners whose names and addresses are furnished to the IRS. For partnerships with more than 100 partners, however, the IRS generally is not required to give notice to partners whose profits interest is less than one percent.

Adjudication of disputes concerning partnership items

After the IRS makes an administrative adjustment, the Tax Matters Partner (and, in limited circumstances, certain other partners) may file a petition for readjustment of partnership items in the Tax Court, the district court in which the partnership's principal place of business is located, or the Claims Court.

Statute of limitations

The IRS generally cannot adjust a partnership item for a partnership taxable year if more than 3 years have elapsed since the later of the filing of the partnership return or the last day for the filing of the partnership return.

Reasons for Simplification

Present audit procedures for large partnerships are inefficient and more complex than those for other large entities. The IRS must assess any deficiency arising from a partnership audit against a large number of partners, many of whom cannot easily be located (some may no longer be partners). In addition, audit procedures are cumbersome and can be complicated further by the intervention of partners acting individually.

Explanation of Provision

In general

The bill creates a new audit system for large partnerships. The bill defines "large partnership" the same way for audit and reporting purposes (generally partnerships with at least 250 partners) except that certain oil and gas partnerships are large partnerships for the audit rules that are not subject to the large partnership reporting requirements.[14]

As under present law, large partnerships and their partners are subjected to unified audit rules. Partnership items are determined at the partnership, rather than the partner, level. The term "partnership items" is defined as under present law.

Unlike present law, however, partnership adjustments generally will flow through to the partners for the year in which the adjustment takes effect. Thus, the current-year partners will adjust their current-year share of partnership items of income, gains, losses, deductions, or credits to reflect partnership adjustments that take effect in that year. The adjustments generally will not affect prior year returns of any partners (except in the case of changes to any partner's distributive shares).

In lieu of flowing an adjustment through to its partners, the partnership may elect to pay an imputed underpayment. The imputed underpayment generally is calculated by netting the adjustments to the income and loss items of the partnership and multiplying that amount by the highest individual or corporate tax rate. A partner may not file a claim for credit or refund of his allocable share of the payment.

Regardless of whether a partnership adjustment flows through to the partners, an adjustment must be offset if it requires another adjustment in a year after the adjusted year and before the year the offsetted adjustment takes effect. For example, if a partnership expensed a $1,000 item in year 1, and it was determined in year 4 that the item should have been capitalized and amortized ratably over 10 years, the adjustment in year 4 would be $600, apart from any interest or penalty. (The $1,000 adjustment for the improper deduction is offset by $400 of adjustments for amortization deductions.) The year 4 partners would be required ratably to include an additional $600 in income for that year.

In addition, the partnership, rather than the partners individually, generally is liable for any interest and penalties that result from a partnership adjustment. Interest is computed for the period beginning on the return due date for the adjusted year and ending on the earlier of the return due date for the partnership taxable year in which the adjustment takes effect or the date the partnership pays the imputed underpayment. Thus, in the above example, the partnership would be liable for 4 years worth of interest (on a declining principal amount).

Penalties (such as the accuracy and fraud penalties) are determined on a year-by-year basis (without offsets) based on an imputed underpayment. All accuracy penalty criteria and waiver criteria (such as reasonable cause, substantial authority, etc.) are determined as if the partnership were a taxable individual. Accuracy and fraud penalties are assessed and accrue interest in the same manner as if asserted against a taxable individual.

If a partnership ceases to exist before a partnership adjustment takes effect, the former partners are required to take the adjustment into account, as provided by regulations. Regulations are also authorized to the extent necessary to prevent abuse and to enforce efficiently the audit rules in circumstances that present special enforcement considerations (such as partnership bankruptcy).

Administrative proceedings

Under the large parnership audit rules, a partner is not permitted to report any partnership items inconsistently with the partnership return, even if the partner notifies the IRS of the inconsistency. The IRS could treat a partnership item that was reported inconsistently by a partner as a mathematical or clerical error and immediately assess any additional tax against that partner.

As under present law, the IRS could challenge the reporting position of a partnership by conducting a single administrative proceeding to resolve the issue with respect to all partners. Unlike present law, however, partners will have no right individually to participate in settlement conferences or to request a refund.

Partnership representative

The bill requires each large partnership to designate a partner or other person to act on its behalf. If a large partnership fails to designate such a person, the IRS is permitted to designate any one of the partners as the person authorized to act on the partnership's behalf. After the IRS' designation, a large partnership could still designate a replacement for the IRS-designated partner.

Notice requirements

Unlike present law, the IRS is not required to give notice to individual partners of the commencement of an administrative proceeding or of a final adjustment. Instead, the IRS is authorized to send notice of a partnership adjustment to the partnership itself by certified or registered mail. The IRS could give proper notice by mailing the notice to the last known address of the partnership, even if the partnership had terminated its existence.

Adjudication of disputes concerning partnership items

As under present law, an administrative adjustment could be challenged in the Tax Court, the district court in which the partnership's principal place of business is located, or the Claims Court. However, only the partnership, and not partners individually, can petition for a readjustment of partnership items.

Statute of limitations

Absent an agreement to extend the statute of limitations, the IRS generally could not adjust a partnership item of a large partnership more than 3 years after the later of the filing of the partnership return or the last day for the filing of the partnership return. Special rules apply to false or fraudulent returns, and substantial omission of income, or the failure to file a return. The IRS would assess and collect any deficiency of a partner that arises from any adjustment to a partnership item subject to the limitations period on assessments and collection applicable to the year the adjustment takes effect (secs. 6248, 6501 and 6502).

Effective Date

The provision applies to partnership taxable years ending on or after December 31, 1992.

3. Partnership returns on magnetic media (sec. 203 of the bill and sec. 6011 of the Code)

Present Law

Partnerships are permitted, but not required, to provide the tax return of the partnership (Form 1065), as well as copies of the schedules sent to each partner (Form K-1), to the Internal Revenue Service on magnetic media.

Reasons for Simplification

Most entities that file large numbers of documents with the Internal Revenue Service must do so on magnetic media. Conforming the reporting provisions for large partnerships to the generally applicable information reporting rules will facilitate integration of partnership information into already existing data systems.

Explanation of Provision

The bill authorizes the Internal Revenue Service to require large partnerships, and other partnerships with 250 or more partners, to provide the tax return of the partnership (Form 1065), as well as copies of the schedules sent to each partner (Form K-1), to the Internal Revenue Service on magnetic media.

Effective Date

The provision applies to partnership taxable years ending on or after December 31, 1992.

B. Partnership Proceedings Under TEFRA[15]

1. Clarify the treatment of partnership items in deficiency proceedings (sec. 211 of the bill and sec. 6234 of the Code)

Present Law

TEFRA partnership proceeding must be kept separate from deficiency proceedings involving the partners in their individual capacities. Prior to the Tax Court's opinion in *Munro* v. *Commissioner*, 92 T.C. 71 (1989), the IRS computed deficiencies by assuming that all items there were subject to the TEFRA partnership procedures were correctly reported on the taxpayer's return. However, where the losses claimed from TEFRA partnerships were so large that they offset any proposed adjustments to nonpartnership items, no deficiency could arise from a non-TEFRA proceeding and if the partnership losses were subsequently disallowed in a partnership proceeding, the non-TEFRA adjustments might be uncollectible because of the expiration of the statute of limitations with respect to nonpartnerhip items.

Faced with this situation in *Munro*, the IRS issued a notice of deficiency to the taxpayer that presumptively disallowed the taxpayer's TEFRA partnership losses for computational purposes only. Although the Tax Court ruled that a deficiency existed and that the court had jurisdiction to hear the case, the court disapproved of the methodology used by the IRS to compute the deficiency. Specifically, the court held that partnership items (whether income, loss, deduction, or credit) included on a taxpayer's return must be completely ignored in determining whether a deficiency exists that is attributable to nonpartnership items.

Reasons for Simplification

The opinion in *Munro* creates problems for both taxpayers and the IRS. For example, a taxpayer would be harmed in the case where he has invested in a TEFRA partnership and is also subject to the deficiency procedures with respect to nonpartnership item adjustments, since computing the tax liability without regard to partnership items will have the same effect as if the partnership items were disallowed. If the partnership items were losses, the effect will be a greatly increased deficiency for the nonpartnership items. If, when the partnership proceeding is completed, the taxpayer is ultimately allowed any part of the losses, the taxpayer will receive part of the increased deficiency back in the form of an overpayment. However, in the interim, the taxpayer will have been subject to assessment and collection of a deficiency inflated by items still in dispute in the partnership proceeding. In essence, a taxpayer in such a case would be deprived of a prepayment forum with respect to the partnership item adjustments. The IRS would be harmed if a taxpayer's income is primarily from a TEFRA partnership, since the IRS may be unable to adjust nonpartnership items such as medical expense deductions, home mortgage interest deductions or charitable contribution deductions because there would be no deficiency since, under *Munro*, the income must be ignored.

Explanation of Provision

The bill is intended to overrule *Munro* and allow the IRS to return to its prior practice of computing deficiencies by assuming that all TEFRA items whose treatment has not been finally determined had been correctly reported on the taxpayer's return. This will eliminate the need to do special computations that involve the removal of TEFRA items from a taxpayer's return, and will restore to taxpayers a prepayment forum with respect to the TEFRA items. In addition, the bill provides a special rule to address the factual situation presented in *Munro*.

Specifically, the bill provides a declaratory judgment procedure in the Tax Court for adjustments to an oversheltered return. An oversheltered return is a return that shows no taxable income and a net loss from TEFRA partnerships. In such a case, the IRS is authorized to issue a notice of adjustment with respect to non-TEFRA items, notwithstanding that no deficiency would result from the adjustment. However, the IRS may only issue such a notice if a deficiency would have arisen in the absence of the net loss from TEFRA partnerships.

The Tax Court would be granted jurisdiction to determine the correctness of such an adjustment. No tax would be due upon such a determination, but a decision of the Tax Court would be treated as final decision, permitting an appeal of the decision by either the taxpayer or the IRS. An adjustment determined to be correct would thus have the effect of increasing the taxable income that would be deemed to have been reported on the taxpayers's return. If the taxpayer's partnership items were then adjusted in a subsequent proceeding, the IRS would have preserved its ability to collect tax on any increased deficiency attributable to the nonpartnership items.

Alternatively, if the taxpayer chooses not to contest the notice of adjustment within the 90-day period, the bill provides that when the taxpayer's partnership items are finally determined, the taxpayer has the right to file a refund claim for tax attributable to the items adjusted by the earlier notice of adjustment for the taxable year. Although a refund claim is not generally permitted with respect to a deficiency arising from a TEFRA proceeding, such a rule is appropriate with respect to a defaulted notice of adjustment because taxpayers may not challenge such a notice when issued since it does not require the payment of additional tax.

In addition, the bill incorporates a number of provisions intended to clarify the coordination between TEFRA audit proceedings and individual deficiency proceedings. Under these provisions, any adjustment with respect to a non-partnership item that caused an increase in tax liability with respect to a partnership item would be treated as a computational adjustment and assessed after the conclusion of the TEFRA proceeding. Accordingly, deficiency procedures would not apply with respect to this increase in tax liability, and the statute of limitations applicable to TEFRA proceedings would be controlling.

Effective Date

The provision is effective for partnership taxable years ending after the date of the enactment of this Act.

2. Permit the IRS to rely on partnership returns to determine the proper audit procedures (sec. 212 of the bill and sec. 6231 of the Code)

Present Law

TEFRA established unified audit rules applicable to all partnerships, except for partnerships with 10 or fewer partners, each of whom is a natural person (other than a nonresident alien) or an estate, and for which each partner's share of each partnership items is the same as that partner's share of every other partnership item. Partners in the exempted partnerships are subject to regular deficiency procedures.

Reasons for Simplification

The IRS often finds it difficult to determine whether to follow the TEFRA partnership procedures or the regular deficiency procedures. If the IRS determines that there were fewer than 10 partners in the partnership but was unaware that one of the partners was a nonresident alien or that there was a special allocation made during the year, the IRS might inadvertently apply the wrong procedures and possibly jeopardize any assessment. Permitting the IRS to rely on a partnership's return would simplify the IRS task.

Explanation of Provision

The bill permits the IRS to apply the TEFRA audit procedures if, based on the partnership's return for the year, the IRS reasonably determines that those procedures should apply. Similarly, the bill permits the IRS to apply the normal deficiency procedures if, based on the partnership's return for the year, the IRS reasonably determines that those procedures should apply.

Effective Date

The provision is effective for partnership taxable years ending after the date of the enactment of this Act.

3. Suspend statute of limitations during bankruptcy proceedings (sec. 213 of the bill and sec. 6229 of the Code)

Present Law

The period for assessing tax with respect to partnership items generally is the longer of the periods provided by section 6229 or section 6501. For partnership items that convert to nonpartnership items, section 6229(f) provides that the period for assessing tax shall not expire before the date which is 1 year after the date that the items become nonpartnership items. Section 6503(h) provides for the suspension of the limitations period during the pendency of a bankruptcy proceeding. However, this provision only applies to the limitations periods provided in sections 6501 and 6502.

Under present law, because the suspension provision in section 6503(h) applies only to the limitations periods provided in section 6501 and 6502, some uncertainty exists as to whether section 6503(h) applies to suspend the limitations period pertaining to converted items provided in section 6229(f) when a petition naming a partner as a debtor in a bankruptcy proceeding is filed. As a result, the limitations period provided in section 6229(f) may continue to run during the pendency of the bankruptcy proceeding, notwithstanding that the IRS is prohibited from making an assessment against the debtor because of the automatic stay provisions of the Bankruptcy Code.

Reasons for Simplification

The ambiguity in present law makes it difficult for the IRS to adjust partnership items that convert to nonpartnership items by reason of a partner going into bankruptcy. In addition, any uncertainty may result in increased requests for the bankruptcy court to lift the automatic stay to permit the IRS to make an assessment with respect to the converted items.

Explanation of Provision

The bill clarifies that the statute of limitations is suspended for a partner who is named in a bankruptcy petition. The suspension period is for the entire period during which the IRS is prohibited by reason of the bankruptcy proceeding from making an assessment, and for 60 days thereafter. The provision is not intended to create any inference as to the proper interpretation of present law.

Effective Date

The provision shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

4. Expand small partnership exception from TEFRA (sec. 214 of the bill and sec. 6231 of the Code)

Present Law

TEFRA established unified audit rules applicable to all partnerships, except for partnerships with 10 or fewer partners, each of whom is a natural person (other than a nonresident alien) or an estate, and for which each partner's share of each partnership item is the same as that partner's share of every other partnership item. Partners in the exempted partnerships are subject to regular deficiency procedures.

Reasons for Simplification

The mere existence of a C corporation as a partner or of a special allocation does not warrant subjecting the partnership and its partners of an otherwise small partnership to the TEFRA procedures.

Explanation of Provision

The bill permits a small partnership to have a C corporation as a partner or to specially allocate items without jeopardizing its exception from the TEFRA rules. However, the bill retains the prohibition of present law against having a flow-through entity (other than an estate of a deceased partner) as a partner for purposes of qualifying for the small partnership exception.

Effective Date

The provision is effective for partnership taxable years ending after the date of the enactment of this Act.

5. Exclude partial settlements from 1-year assessment rule (sec. 215 of the bill and sec. 6229(f) of the Code)

Present Law

The period for assessing tax with respect to partnership items generally is the longer of the periods provided by section 6229 or section 6501. For partnership items that convert to nonpartnership items, section 6229(f) provides that the period for assessing tax shall not expire before the date which is 1 year after the date that the items become nonpartnership items. Section 6231 (b)(1)(C) provides that the partnership items of a partner for a partnership taxable year become nonpartnership items as of the date the partner enters into a settlement agreement with the IRS with respect to such items.

Reasons for Simplification

When a partial settlement agreement is entered into, the assessment period for the items covered by the agreement may be different than the assessment period for the remaining items. This fractured statute of limitations poses a significant tracking problem for the IRS and necessitates multiple computations of tax with respect to each partner's investment in the partnership for the taxable year.

Explanation of Provision

The bill provides that if a partner and the IRS enter into a settlement agreement with respect to some but not all of the partnership items in dispute for a partnership taxable year and other partnership items remain in dispute, the period for assessing any tax attributable to the settled items would be determined as if such agreement had not been entered into. Consequently, the limitations period that is applicable to the last item to be resolved for the partnership taxable year shall be controlling with respect to all disputed partnership items for the partnership taxable year. The provision is not intended to create any inference as to the proper interpretation of present law.

Effective Date

The provision is effective for partnership taxable years ending after the date of the enactment of this Act.

6. Extend time for filing a request for administrative adjustment (sec. 216 of the bill and sec. 6227 of the Code)

Present Law

The non-TEFRA statute of limitations provides that if a statute extension agreement is entered into, that agreement also extends the statute of limitations for filing refund claims (sec. 6511(c)). There is no comparable provison for extending the time for filing refund claims with respect to partnership items subject to the TEFRA partnership rules.

Reasons for Simplification

The absence of an extension for filing refund claims in TEFRA proceedings hinders taxpayers that may want to agree to extend the TEFRA statute of limitations but want to preserve their option to file a refund claim later.

Explanation of Provision

The bill provides that if a TEFRA statute extension agreement is entered into, that agreement also extends the statute of limitations for filing refund claims until 6 months after the expiration of the limitations period for assessments.

Effective Date

The provision is effective as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

7. Provide innocent spouse relief for TEFRA proceedings (sec. 217 of the bill and sec. 6230 of the Code)

Present Law

In general, an innocent spouse may be relieved of liability for tax, penalties and interest if certain conditions are met (sec. 6013(e)). However, existing law does not provide the spouse of a partner in a TEFRA partnership with a judicial forum to raise the innocent spouse defense with respect to any tax or interest that relates to an investment in a TEFRA partnership.

Reasons for Simplification

Providing a forum in which to raise the innocent spouse defense with respect to liabilities attributable to adjustments to partnership items (including penalties, additions to tax and additional amounts) would make the innocent spouse rules more uniform.

Explanation of Provision

The bill provides both a prepayment forum and a refund forum for raising the innocent spouse defense in TEFRA cases.

Effective Date

The provision is effective as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

8. Determine penalties at the partnership level (sec. 218 of the bill and sec. 6221 of the Code)

Present Law

Partnership items include only items that are required to be taken into account under the income tax subtitle. Penalties are not partnership items since they are contained in the procedure and administration subtitle. As a result, penalties may only be asserted against a partner through the application of the deficiency procedures following the completion of the partnership-level proceeding.

Reasons for Simplification

Many penalties are based upon the conduct of the taxpayer. With respect to partnerships, the relevant conduct often occurs at the partnership level. In addition, applying penalties at the partnership level through the deficiency procedures following the conclusion of the unified proceeding at the partnership level increases the administrative burden on the IRS and can significantly increase the Tax Court's inventory.

Explanation of Provision

The bill provides that the partnership level proceeding is to include a determination of the applicability of penalties at the partnership level. However, the bill allows partners to raise any partner-level defenses in a refund forum.

Effective Date

The provision is effective for partnership taxable years ending after December 31, 1991.

9. Clarify jurisdiction of the Tax Court (sec. 219 of the bill and secs. 6225 and 6226 of the Code)

Present Law

Improper assessment and collection activities by the IRS during the 150-day period for filing a petition or during the pendency of any Tax Court proceeding, "may be enjoined in the proper court." Present law may be unclear as to whether this includes the Tax Court.

For a partner other than the Tax Matters Partner to be eligible to file a petition for redetermination of partnership items in any court or to participate in an existing case, the period for assessing any tax attributable to the partnership items of that partner must not have expired. Since such a partner would only be treated as a party to the action if the statute of limitations with respect to them was still open, the law is unclear whether the partner would have standing to assert that the statute of limitations had expired with respect to them.

Reasons for Simplification

Clarifying the Tax Court's jurisdiction simplifies the resolution of tax cases.

Explanation of Provision

The bill clarifies that an action to enjoin premature assessments of deficiencies attributable to partnership items may be brought in the Tax Court. The bill also permits a party to appear before a court for the sole purpose of asserting that the period of limitations for assessing any tax attributable to partnership items has expired for that person.

Effective Date

The provision is effective for partnership taxable years ending after the date of the enactment of this Act.

10. Treatment of premature petitions filed by certain partners (sec. 220 of the bill and sec. 6226 of the Code)

Present Law

The Tax Matters Partner is given the exclusive right to file a petition for readjustment of partnership items within the 90-day period after the issuance of the notice of a final partnership administrative adjustment (FPAA). If the Tax Matters Partner does not file a petition within the 90-day period, certain other partners are permitted to file a petition within the 60-day period after the close of the 90-day period. There are ordering rules for determining which action goes forward and for dismissing other actions.

Reasons for Simplification

A petition that is filed within the 90-day period by a person who is not the Tax Matters Partner is dismissed. Thus, if the Tax Matters Partner does not file a petition within the 90-day period and no timely and valid petition is filed during the succeeding 60-day period, judicial review of the adjustments set forth in the notice of FPAA is foreclosed and the adjustments are deemed to be correct.

Explanation of Provision

The bill treats premature petitions filed by certain partners within the 90-day period will be treated as being filed on the last day of the following 60-day period under specified circumstances, thus affording the partnership with an opportunity for judicial review that is not available under present law.

Effective Date

The bill is effective with respect to petitions filed after the date of the enactment of this Act.

11. Clarify bond requirement for appeals from TEFRA proceedings (sec. 221 of the bill and sec. 7485 of the Code)

Present Law

A bond must be filed to stay the collection of deficiencies pending the appeal of the Tax Court's decision in a TEFRA proceeding. The amount of the bond must be based on the court's estimate of the aggregate deficiencies of the partners.

Reasons for Simplification

The Tax Court cannot easily determine the aggregate changes in tax liability of all of the partners in a partnership who will be affected by the Court's decision in the proceeding. Clarifying the calculation of the bond amount would simplify the Tax Court's task.

Explanation of Provision

The bill clarifies that the amount of the bond should be based on the Tax Court's estimate of the aggregate liability of the parties to the action (and not all of the partners in the partnership).

Effective Date

The provision is effective as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

12. Suspend interest where there is a delay in computational adjustment resulting from TEFRA settlements (sec. 222 of the bill and sec. 6601 of the Code)

Present Law

Interest on a deficiency generally is suspended when a taxpayer executes a settlement agreement with the IRS and waives the restrictions on assessments and collections and the IRS does not issue a notice and demand for payment of such deficiency within 30 days. Interest on a deficiency that results from an adjustment of partnership items in TEFRA proceedings, however, is not suspended.

Reasons for Simplification

Processing settlement agreements and assessing the tax due takes a substantial amount of time in TEFRA cases. A taxpayer is not afforded any relief from interest during this period.

Explanation of Provision

The bill suspends interest where there is a delay in a computational adjustment resulting from TEFRA settlements.

Effective Date

The provision is effective with respect to settlements entered into after December 31, 1991.

TITLE III.—FOREIGN PROVISIONS

1. Deferral of tax on income earned through foreign corporations and exceptions to deferral (secs. 301–304 of the bill and secs. 453, 532, 535, 542, 543, 551–558, 563, 954, 1246–1247, and 1291–1297 of the Code)

Present Law

U.S. citizens and residents and U.S. corporations (collectively, "U.S. persons") are taxed currently by the United States on their worldwide income, subject to a credit against U.S. tax on foreign income based on foreign income taxes paid with respect to such income. Income earned by a foreign corporation, the stock of which is owned in whole or in part by U.S. persons, generally is not taxed by the United States until the foreign corporation repatriates that income by payment to its U.S. stockholders. The U.S. stockholders are subject to U.S. tax on the repatriated income at that time. Foreign tax credits may reduce the U.S. tax.

Since 1937, the Code has set forth one or more regimes providing exceptions to the general rule deferring U.S. tax on income earned indirectly through a foreign corporation. These regimes currently include the controlled foreign corporation (or subpart F) rules (secs. 951–964); the foreign personal holding company rules (secs. 551–558); passive foreign investment company (PFIC) rules (secs. 1291–1297); the personal holding company rules (secs. 541–547); the accumulated earnings tax (secs. 531–537); and rules for foreign investment companies (sec. 1246) and electing foreign investment companies (sec. 1247). These regimes have multiple and overlapping application to foreign corporations owned in whole or in part by U.S. persons.

Reasons for Simplification

Some of the different anti-deferral regimes were enacted or modified at different times and reflect historically different Congressional policies. Different regimes provide different thresholds (either by type of income or asset at the foreign corporation level, or of U.S. stock ownership at the shareholder level) to their application. They provide for different mechanisms by which U.S. stockholders are denied the benefits of deferral. Some of the regimes have features directed at policy goals applicable to foreign corporation owned by U.S. corporations (e.g., the allowance of indirect foreign tax credits); others have features primarily directed at issues applicable to foreign corporations owned by U.S. individuals (e.g., the basis of property acquired from a decedent). Some regimes preserve the character of the income earned in the hands of a foreign corporation while others do not. Some provide for movement of losses between years of a single foreign corporation or between multiple corporations while others do not. While a consistent theme of these regimes is to provide current taxation for certain types of interest, dividend, rental royalty, and other similar income, the different regimes apply different criteria to these items of income to determine their current inclusion or noninclusion. Different regimes have different ordering rules for determining which dividends from foreign corporations subject to the regimes are subject to tax on repatriation and which are simply distributions of previously taxed income.

Simply because of the differences among the various anti-deferral regimes, U.S. taxpayers frequently are faced with the need to consult multiple sets of anti-deferral rules when they hold stock in a foreign corporation.

Moreover, the interactions of the rules cause additional complexity. There is significant overlap among the several regimes. This overlap requires the Code to provide specific rules of priority for income inclusions among the regimes, as well as additional coordination provisions pertaining to other operational differences among the several regimes. The overlapping or multiple application of anti-deferral regimes to a single corporation can result in significant additional complexity with little or no ultimate tax consequences.

Consolidation of the several anti-deferral regimes can achieve two major types of simplification. First, by reducing the number of separate definitions of entities among the anti-deferral regimes, taxpayers can be spared the burden of understanding and complying with a multiplicity of separate anti-deferral corporation with separate definitions and requirements.

Second, from an operational perspective, the number of anti-deferral regimes that can apply to any one shareholder in a foreign corporation can be reduced to one. As discussed above, the operational differences, including the overlapping applicability of the six present-law anti-deferral regimes, is a source of complexity. Under a consolidated corporation, is a source of complexity. Under a consolidated regime, however, deferral can be denied for many corporations (whether in full or in part) solely through the provisions of subpart F. In the case of a controlled foreign corporation, for example, being subject to the rules for full denial of deferral (such as the PFIC of foreign personal holding company provisions under present law) can result in no additional compliance burdens or administrative or operational complexity.

Another source of complexity under present law is the need for shareholders of controlled foreign corporations to make "protective" current-inclusion elections in order to avoid adverse future consequences under the interest-charge method should the controlled foreign corporation also prove to be a PFIC.[16] By replacing elective current-inclusion treatment for PFICs that are also controlled foreign corporations by mandatory current inclusion through subpart F for passive foreign corporations that are also controlled foreign corporations, a consolidated regime can eliminate both the burdens of making protective elections and the risks of failing to do so.

It is understood that the interest-charge method of the present-law PFIC rules is a significant source of complexity both separately and in its interaction with other provisions of the Code. Even without eliminating the interest-charge method, significant simplification can be achieved by minimizing the number of taxpayers that may be subject to the method and by making certain modifications that may reduce the complexity engendered by the interest-charge method.

Explanation of Provision

In general

The bill replaces the separate anti-deferral regimes of present law with a unified set of rules providing for either partial or full elimination of deferral depending on the circumstances. The bill preserves the present-law approach under which partial current taxation is a function of the type of income earned by the foreign corporation and a level of U.S. ownership in the corporation exceeding some threshold (as currently embodied in subpart F). The bill also preserves the present-law approach under which full current taxation is a function of a type of income or assets of the corporation exceeding some threshold (as currently embodied in subpart F, the PFIC rules, and the foreign personal holding company rules). The bill eliminates regimes that are redundant or marginally applicable, and ensures that no more than one set of rules will ever apply to a shareholder's interest in any one corporation in any one year.

Generally, the bill retains the subpart F rules as the foundation of its unified anti-deferral regime (with certain modifications described below and also in item 2, following, describing secs. 311–313 of the bill). It includes a modified version of the PFIC rules while eliminating the other regimes as redundant to one or the other. The bill's unified anti-deferral regime sets forth various thresholds for subjecting U.S. persons to full or partial inclusions of corporate income. In addition, where deferral is eliminated by U.S. shareholder inclusions of foreign corporate-level income, the bill applies a single set of rules (the subpart F rules) for basis adjustments, characterization of actual distributions, foreign tax credits, and similar issues. As under present law, the bill in some cases affords U.S. persons owning stock in foreign corporations a choice of technique for recognizing income from the elimination of deferral. However, in a greater number of cases than under present law, the bill provides only one method of eliminating deferral.

Replacement of current law regimes for full elimination of deferral

The bill creates a single definition of a passive foreign corporation (PFC) that will unify and replace the foreign personal holding company and PFIC definitions. The rules applicable to PFCs represent a hybrid of characteristics of the foreign personal holding company rules, the PFIC rules, and the controlled foreign corporation rules (subpart F), plus a new mark-to-market regime, as well as a variety of simplifying or technical changes to rules under the existing systems. The following discussion explains the differences between the PFIC provisions of present law and the PFC provisions that will be applicable under the bill.

A PFC is any foreign corporation if (1) 60 percent or more of its gross income is passive income, (2) 50 percent or more of its assets (on average during the year, measured by value) produce passive income or are held for the production of passive income, or (3) it is registered under the Investment Company Act of 1940 (as amended) either as a management company or as a unit investment trust.[17] As under the PFIC rules, the foreign corporation is permitted to elect to measure its assets based on their adjusted basis rather than their value.

As under present law, passive income for this purpose is defined in the bill generally as any income of a kind which would be foreign personal holding company income as defined in section 954(c), subject to the current law exceptions for banking and insurance income and the current look-through rules for certain payments from related persons (current sec. 1296(b)(2)).[18] In addition, the bill provides two clarifications to present law. First, the bill clarifies that, as indicated in the legislative history of the 1988 Act, the same-country exceptions from the definition of foreign personal holding company income in section 954(c) are disregarded.[19] Second, the bill clarifies that any foreign trade income of a foreign sales corporation does not constitute passive income for purposes of the PFIC definition (*cf.* sec. 951(e)).

The bill modifies the present law application of the asset test by treating certain leased property as assets held by the foreign corporation for purposes of the PFC asset test. This rule applies to tangible personal property with respect to which the foreign corporation is the lessee under a lease with a term of at last 12 months.

The bill also modifies the present law rules that provide an exception from the definition of a PFIC in the case of a company changing businesses. Under the bill, if a foreign corporation holds 25 percent or more of the stock of a second corporation that qualifies for the change-of-business exception (current sec. 1297(b)(3)), then in applying the look-through rules (current sec. 1296(c)), the first corporation may treat otherwise passive assets or income of the second corporation as active.[20]

The bill generally retains those provisions of current law the application of which depends upon whether a foreign corporation was a PFIC for years after 1986 (e.g., current sec. 1291(d)), but modifies these provisions to test whether the foreign corporation was a PFC for years after 1986. As a transitional definition, the bill provides that a foreign corporation that was treated as a PFIC for any taxable year beginning before the introduction of the bill is treated as having been a PFC for each such year.

The bill provides a new election that will allow certain passive foreign corporations to be treated as domestic corporations. A foreign corporation is eligible to make this election if (1) it would qualify for treatment as a regulated investment company (RIC) under the relevant provisions of the Code if it actually were a domestic corporation, (2) it meets such requirements as the Secretary may prescribe to ensure the collection of taxes imposed by the Internal Revenue Code on the passive foreign corporation, and (3) the electing passive foreign corporation waives all benefits which are granted by the United States under any treaty (including treaties other than tax treaties) and to which the corporation is otherwise entitled by reason of being a resident of another country. The rules governing such an election will be similar to those applicable to the election by a foreign insurance company to be treated as a domestic corporation under section 953(d).

The bill provides a special rule regarding the application of the PFC rules to tax-exempt organizations that own stock in passive foreign corporations. The passive foreign corporation rules, under the bill, have no application at all to any organization exempt from tax under section 501, unless the organization is subject to unrelated business income taxation on its investment income under section 512(a)(3) of the Code. In the case of a tax-exempt organization that is subject to tax on its investment income, the PFC rules apply with respect to amounts taken into account in computing unrelated business taxable income in the same manner as if the organization were fully taxable.

Tax treatment under full elimination of deferral

The benefits of deferral are eliminated with respect to the income of a PFC under three alternative methods: current inclusion, mark-to-market, or interest charge on excess distributions.

Current Inclusion Method

Mandatory current inclusion.—If a passive foreign corporation is U.S. controlled, the bill will subject every U.S. person owing (directly or indirectly) stock in the PFC to income inclusions under a modified version of the controlled foreign corporation rules. If a PFC is not U.S. controlled, every U.S. persons owning (directly or indirectly) 25 percent or more of the vote or value of the stock of the PFC will be subject to the same rules. Under the bill, the entire gross income of the passive foreign corporation (subject to applicable deductions) is treated as foreign personal holding company income, and thus is included (net of appropriate deductions) on a pro rata basis in the income of each U.S. person directly or indirectly owning stock in the PFC, under a modified application of the rules of sections 951 and 961. Actual distributions of earnings by such a PFC are treated similarly to distributions of previously taxed income under sections 959 and 961. These rules supersede all application of the present-law rules applicable to foreign personal holding companies, under which earnings are deemed distributed and then contributed to the capital of the foreign personal holding company.

In applying the subpart F inclusion rules to PFC inclusions, the bill departs from subpart F in that foreign personal holding company income is included in the income of U.S. persons without regard to otherwise applicable reductions pursuant to the high-tax exception (under sec. 954(b)(4)) or the export trade corporation rules (secs. 970 and 971). This modification to the application of the controlled foreign corporation rules preserves present law in that no high-tax exception generally is available to PFICs or foreign personal holding companies, and that the PFIC provisions apply in full force to export trade corporations.

A passive foreign corporation is treated under the bill as U.S. controlled for this purpose either if it would be treated as a controlled foreign corporation under the rules of subpart F, or if, at any time during the taxable year, more than 50 percent of the vote or value of the corporation's stock were owned directly or indirectly by five or fewer U.S. persons (including but not limited to individuals, and including all U.S. citizens regardless of their residence). Indirect stock ownership under the bill generally refers to stock ownership through foreign entities within the meaning of section 958(a)(2). In addition, for the purpose of determining whether a foreign corporation is U.S. controlled by virtue of the ownership of more than 50 percent of its stock by five or fewer U.S. persons, the constructive ownership principles of the present-law foreign personal holding company rules apply.

Elective current inclusion.—A U.S. person not subject to the above mandatory current inclusion rules—that is, a U.S. person owning less than 25 percent of the stock in a PFC that is not U.S. controlled—may elect application of those rules. As under current law, the PFC is characterized as a "qualified electing fund" with respect to such a U.S. person. In the application of the elective current-inclusion rules, the passive foreign corporation is treated as a controlled foreign corporation with respect to the taxpayer, and the taxpayer is treated as a U.S. shareholder of the corporation. For foreign tax credit purposes, amounts included in the taxpayer's gross income under this modified application of the controlled foreign corporation rules are treated as dividends received from a foreign corporation which is not a controlled foreign corporation.

The application and operation of the shareholder-level election for treatment as a qualified electing fund generally are the same as under the present-law PFIC rules. It is intended that, in the case of PFC stock owned through a foreign partnership, a partner-level election for treatment as a qualified electing fund will be permitted (except in the case of a foreign partnership that is subject to the simplified reporting rules available to certain large partnerships under title II of the bill).

Mark-to-Market Method

Less-than-25-percent shareholders of passive foreign corporations that are not U.S.-controlled, and who do not elect current inclusion ("nonelecting shareholders"), are subject under the bill to one of two methods for taxing the economic equivalent of the PFC's current income: the mark-to-market method or the interest-charge method.

Under the bill, nonelecting shareholders of a PFC with marketable stock are required to mark their PFC shares to market annually. Under the mark-to-market method, the U.S. person is required to include in gross income each taxable year an amount equal to the excess (if any) of the fair market value of the PFC stock as of the close of the taxable year over the adjusted basis of the stock. In the event the adjusted basis of the stock exceeds its fair market value, the U.S. person is allowed a deduction for the taxable year equal to the lesser of the amount of the excess or the "unreversed inclusions" with respect to the stock. The bill defines the term "unreversed inclusions" to mean, with respect to any stock in a passive foreign corporation, the excess (if any) of the total amount of mark-to-market gains with respect to the stock included by the taxpayer for prior taxable years, over the amount of mark-to-market losses with respect to such stock that were allowed as deductions for prior taxable years.

The adjusted basis of stock in a passive foreign corporation is increased by the amount of mark-to-market gain included in gross income, and is decreased by the amount of mark-to-market losses allowed as deductions with respect to such stock. In the case of stock owned indirectly by the U.S. person, such as through a foreign partnership, foreign estate or foreign trust (as discussed below), the basis adjustments for mark-to-market gains and losses apply to the basis of the PFC stock in the hands of the intermediary owner, but only for purposes of the subsequent application of the PFC rules to the tax treatment of the indirect U.S. owner. In addition, similar basis adjustments are made to the adjusted basis of the property actually held by the U.S. person by reason of which the U.S. person is treated as owning PFC stock.

All amounts of mark-to-market gain on PFC stock, as well as gain on the actual sale or distribution of PFC stock, are treated as ordinary income. Similarly, ordinary loss treatment applies to the deductible portion of any mark-to-market loss on PFC stock, as well as to any loss realized on the actual sale or other disposition of PFC stock to the extent that the amount of such loss does not exceed the unreversed inclusions with respect to that stock. These loss deductions are treated as deductions allowable in computing adjusted gross income.

The source of any amount of mark-to-market gain on PFC stock is determined in the same manner as if the amount of income were actual gain from the sale of stock in the passive foreign corporation. Similarly, the source of any amount allowed as a deduction for mark-to-market loss on PFC stock is determined in the same manner as if that amount were an actual loss incurred on the sale of stock in the passive foreign corporation.

The mark-to-market method under the bill only applies to passive foreign corporations the stock of which is "marketable." PFC stock is treated as marketable if it is regularly traded on a qualified exchange, whether inside or outside the United States. An exchange qualifies for this treatment if it is a national securities exchange which is registered with the Securities and Exchange Commission or the national market system established pursuant to section 11A of the Securities and Exchange Act of 1934, or if the Secretary is satisfied that the requirements for trading on that exchange ensure that the market price on that exchange represents a legitimate and sound fair market value for the stock. It is intended that the Secretary may adopt a definition of the term "regularly traded" that differs from definitions provided for other purposes under the Code. Further, it is intended that the Secretary not be bound by definitions applied for purposes of enforcing other laws, including Federal securities laws. Similarly, in identifying qualified foreign exchanges for these purposes, it is intended that the Secretary not be required to include exchanges that satisfy standards established under Federal securities laws and regulations. PFC stock is also treated as marketable, to the extent provided in Treasury regulations, if the PFC continuously offers for sale or has outstanding any stock (of which it is the issuer) that is redeemable at its net asset value in a manner comparable to a U.S. regulated investment company (RIC).

In addition, the bill treats as marketable any stock in a passive foreign corporation that is owned by a RIC that continuously offers for sale or has outstanding any stock (of which it is the issuer) that is redeemable at its net asset value. It is believed that the RIC's determination of PFC stock value for this non-tax purpose would ensure a sufficiently accurate determination of the fair market value of PFC stock owned by the RIC. The bill also treats as marketable any stock in a passive foreign corporation that is held by any other RIC, except to the extent provided in regulations. It is believed that even for RICs that do not make a market in their own stock, but that do regularly report their net asset values in compliance with the securities laws, inaccurate valuations may bring exposure to legal liabilities, and this exposure may ensure the reliability of the values such RICs assign to the stock they hold in PFCs. However, it is intended that Treasury regulations will disallow mark-to-market treatment for nonmarketable stock held by any RIC that is not required to perform such a net asset valuation at the close of each taxable year, that does not publish such a valuation, or that otherwise does not provide what the Secretary regards as sufficient indicia of the reliability of its valuations under the relevant circumstances.

The bill coordinates the application of the market-to-market method with the tax rules generally applicable to RICs. The bill treats mark-to-market loss on PFC stock as a dividend for purposes of both the 90-percent investment income test of section 851(b)(2) and the 30-percent short-short limitation of section 851(b)(3).

The mark-to-market method does not apply to the stock of a U.S. person in any PFC that is U.S. controlled (as discussed above), to the stock of a person choosing qualified electing fund treatment, or to stock of a U.S. person who is a 25-percent shareholder (as defined above).

In the case of a controlled foreign corporation (including a passive foreign corporation that is treated under the bill as a controlled foreign corporation) that owns or is treated as owning stock in a passive foreign corporation, the mark-to-market method generally is applied as if the controlled foreign corporation were a U.S. person. For purposes of the application of subpart F to the controlled foreign corporation, mark-to-market gains are treated as if they were foreign personal holding company income of the character of dividends, interest, royalties, rents or annuities, and allowable deductions for mark-to-market losses are treated as deductions allocable to that category of foreign personal holding company income. The source of such income or loss, however, is determined by reference to the actual (foreign) residence of the controlled foreign corporation.

For purposes of the mark-to-market method, any stock in a passive foreign corporation that is owned, directly or indirectly, by or for a foreign partnership or foreign trust or foreign estate is treated as if it were owned proportionately by its partners or beneficiaries.[21] Stock in a passive foreign corporation that is thus treated as owned by a person is treated as actually owned by that person for the purpose of applying the constructive ownership rule at another level. In the case of a U.S. person who is treated as owning stock in a passive foreign corporation by application of this constructive ownership rule, any disposition by the U.S. person or by any other person that results in the U.S. person being treated as no longer owning the stock in the passive foreign corporation, as well as any disposition by the person actually owning the stock of the passive foreign corporation, is treated under the bill as a disposition by the U.S. person of stock in the passive foreign corporation.

Interest-Charge Method

Nonelecting shareholders[22] of a PFC with stock that is not marketable are subject to the interest-charge method, based on the PFIC interest-charge method that is currently provided in Code section 1291, with certain modifications.

First, although allowable foreign tax credits may reduce a U.S. person's net U.S. tax liability on an excess distribution, the interest charge computed on that excess distribution is computed, under the bill, without regard to reductions in net U.S. tax liability on account of direct foreign tax credits.

The PFIC provisions of present law, to the extent provided in regulations, impose recognition of gain in the case of a transfer of PFIC stock in a transaction that would otherwise qualify for the nonrecognition provisions of the Code. The bill imposes that result as a general rule, except as otherwise provided in Treasury regulations. In addition, the bill requires that proper adjustment be made to the basis of property, held by the U.S. person, through which the U.S. person is treated as owning stock in the passive foreign corporation.

The PFIC provisions of present law apply rules for the attribution of ownership of PFIC stock to U.S. persons, including a rule that attributes PFIC stock owned by a corporation to any peson who owns, directly or indirectly, 50 percent or more of the value of the stock of the corporation. Under the bill, the 50-percent threshold applies not only to stock owned directly or indirectly, but also to stock treated as owned by application of the family attribution rules of the personal holding company provisions (sec. 544(c)(2)).

The PFIC provisions of present law provide special rules for the application of the interest-charge method in the case of PFIC stock held by an U.S. person through an intermediary entity. These rules describe the dispositions that are treated as dispositions of PFIC stock by the U.S. person, and include rules to eliminate the possibility of double taxation (sec. 1297(b)(5)). The bill clarifies that these rules apply to any transaction that results in the U.S. person being treated as no longer owning the PFC stock, as well as any disposition of the PFC stock by the entity actually owning the PFC stock. These rules apply regardless of whether the transaction involves a disposition of the PFC stock, and regardless of whether the parties to the transaction include the U.S. person, the entity actually owning the PFC stock, or some other entity. For example, these rules apply to the issuance of additional stock by an intermediary corporation to an unrelated party in a case where, by increasing the total outstanding stock of the intermediary corporation, the transaction causes the U.S. person to fall below the ownership threshold for indirect ownership of the PFC stock. The bill also clarifies that an income inclusion under the interest-charge method takes precedence over an income inclusion under subpart F resulting from the same disposition. The second clarification ensures that the interest charge is imposed without regard to the structure of the transaction.

Under the bill, the interest-charge method applies to any stock in a passive foreign corporation unless either the stock is marketable (and therefore the mark-to-market method applies) as of the time of the distribution or disposition involved, or the stock in the passive foreign corporation was subject to the current inclusion method (under the bill or under prior law) for each taxable year beginning after December 31, 1986 which includes any portion of the taxpayer's holding period in the PFC stock. In the event that PFC stock, not subject to the current inclusion method, becomes marketable during the taxpayer's holding period, the interest-charge method applies to any distributions and dispositions during the year in which the stock becomes marketable, as well as to the mark-to-market gain (if any) as of the close of that year. In the event that PFC stock was initially marketable, and later becomes unmarketable and subject to the interest-charge method, the taxpayer's holding period in the PFC stock for purposes of the interest-charge method is treated as beginning on the first day of the first taxable year beginning after the last taxable year for which the mark-to-market method applies to the taxpayer's stock in the PFC.

Under the bill, as under the present-law PFIC rules, stock in a foreign corporation generally is treated as PFC stock if, at any time during the taxpayer's holding period of that stock, the foreign corporation (or any predecessor) is a passive foreign corporation subject to the interest-charge method (current sec. 1297(b)(1)). (This rule is sometimes referred to as the "once-a-PFIC-always-a-PFIC" rule.) Under present law this rule generally does not affect a taxpayer holding stock in a foreign corporation if at all times during the holding period of the taxpayer with respect to the stock when the foreign corporation (or any predecessor) is a PFIC, qualified electing fund treatment applies with respect to the taxpayer. Under the bill, the similar once-a-PFC-always-a-PFC rule does not apply if during the taxpayer's entire holding period with respect to the stock when the foreign corporation (or any predecessor) is a PFC, either (a) mark-to-market treatment applies, (b) mandatory current inclusion of income applies (either because the corporation is U.S. controlled or because the taxpayer is a 25-percent shareholder), or (c) elective current inclusion of income applies. Thus, for example, a shareholder of a controlled foreign corporation is subject to current inclusion with respect to all the corporation's income in any year for which the corporation is a PFC, but is subject to current inclusion only to the extent provided under subpart F in any year for which the controlled foreign corporation is not a PFC.

The bill also provides for full basis adjustment for partnerships and S corporations that own stock in a passive foreign corporation subject to the interest-charge method. Although tax is imposed on a distribution or disposition under the interest-charge method without including the distribution or disposition in gross income, thus precluding the natural basis adjustments for amounts included in gross income, the bill grants regulatory authority for appropriate basis adjustments to partnerships and S corporations based on the amount of income subject to tax under the interest-charge method and thereby excluded from gross income.

The bill also includes a special rule to coordinate the application of the interest-charge method to nonelecting shareholders of a passive foreign corporation who are or were residents of Puerto Rico. Under the bill, no interest charge is applicable to amounts of an excess distribution that, were the amounts actually earned in the year to which they are treated as earned under the interest-charge method, would have been eligible for the exclusion under section 933 (for income derived by residents of Puerto Rico from sources within Puerto Rico).

The bill includes a broad grant of regulatory authority, as does the present-law PFIC statute. However, the bill specifies that necessary or appropriate regulations under the PFC rules may include regulations providing that gross income should be determined without regard to the operation of the interest-charge method for such purposes as may be specified in the regulations. This permits the Secretary to relieve pressure on many aspects of the Code that result from the operation of the interest-charge method other than through gross income. In addition, the bill specifies that necessary or appropriate PFC regulations may include regulations dealing with changes in residence status by shareholders in passive foreign corporations (e.g., a resident alien becoming a nonresident, or a U.S. citizen becoming a resident of Puerto Rico).

Modification or repeal of other antideferral regimes

While the bill includes in the passive foreign corporation rules most of the provisions that it preserves from the present-law PFIC, foreign personal holding company, and foreign investment company regimes, the bill modifies subpart F in one respect to reflect a present-law provision of the foreign personal holding company rules (sec. 553(a)(5)). The bill treats as foreign personal holding company income for subpart F purposes an amount received under a personal service contract if a person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract. The bill similarly treats as foreign personal holding company income for subpart F purposes any amount received from the sale or distribution or disposition of such a contract. This rule applies only if at some time during the taxable year 25 percent or more of the value of the corporation's stock is owned (directly, indirectly, or constructively) by or for the individual who may be designated to perform the services.[23] Income from such personal service contracts is not, however, treated as passive for foreign tax credit purposes.

The bill repeals the foreign personal holding company provisions, the PFIC provisions (except as modified and preserved as the passive foreign corporation provisions), and the foreign investment company provisions. The bill also excludes all foreign corporations from the application of the accumulated earnings tax and the personal holding company tax. It is understood that the purposes of all the anti-deferral regimes are adequately served by the passive foreign corporation provisions as set forth in the bill, in conjunction with the controlled foreign corporation provisions as modified by the bill.

In addition, the bill denies installment sales treatment for any installment obligation arising out of a sale of stock in a passive foreign corporation. This will prevent shareholders in passive foreign corporations from avoiding the interest charge by means of an installment sale of their PFC stock.

Effective Date

The bill generally is effective for taxable years of U.S. persons beginning after December 31, 1991, and taxable years of foreign corporations ending with or within such taxable years of U.S. persons.

The denial of installment sales treatment is effective for sales or dispositions after December 31, 1991.

The bill does not affect the determination of the basis of stock in a PFIC that was acquired from a decedent in a taxable year beginning before January 1, 1991.

2. Modifications to provisions affecting controlled foreign corporations (secs. 311, 312, and 313 of the bill and secs. 951, 952, 959, 960, 961, 964, and 1248 of the Code)

Present Law

Treatment of controlled foreign corporation earnings

In general

A U.S. shareholder generally treats dividends from a controlled foreign corporation as ordinary income from foreign sources that carries both direct and indirect foreign tax credits. Under look-through rules, the income and credits are subject to those foreign tax credit limitations which are consistent with the character of the income of the foreign corporation.

Several Code provisions result in similar tax treatment of a U.S. shareholder if it either disposes of the controlled foreign corporation stock, or the controlled foreign corporation realizes certain types of income (including income with respect to lower-tier controlled foreign corporations). First, under section 1248, gain resulting from the disposition by a U.S. person of stock in a foreign corporation that was a controlled foreign corporation with respect to which the U.S. person was a U.S. shareholder in the previous five years is treated as a dividend to the extent of allocable earnings.

Second, a controlled foreign corporation has subpart F income when it realizes gain on disposition of stock and, ordinarily, when it receives a dividend. Under sections 951 and 960, such subpart F income may result in taxation to the U.S. shareholder similar (but not identical) to that on a dividend from the controlled foreign corporation. In addition to provisions for characterizing income and credits in these situations, the Code also provides certain rules that adjust basis, or otherwise result in modifying the tax consequences of subsequent income, to account for these and other subpart F income inclusions.

Third, when in exchange for property any corporation (including a controlled foreign corporation) acquires stock in another corporation (including a controlled foreign corporation) controlled by the same persons that control the acquiring corporation, earnings of the acquiring corporation (and possibly the acquired corporation) may be treated under section 304 as having been distributed as a dividend to the seller.

Lower-tier controlled foreign corporations

For purposes of applying the separate foreign tax credit limitations, receipt of a dividend from a lower-tier controlled foreign corporation by an upper-tier controlled foreign corporation may result in a subpart F income inclusions for the U.S. shareholder that is treated as income in the same limitation category as the income of the lower-tier controlled foreign corporation. The income inclusion of the U.S. shareholder may carry deemed-paid credits for foreign taxes paid by the lower-tier controlled foreign corporation, and the basis of the U.S. shareholder in the stock of the first-tier controlled foreign corporation is increased by the amount of the inclusion. If, on the other hand, the upper-tier controlled foreign corporation sells stock of a lower-tier controlled foreign corporation, then the gain is also included in the income of the U.S. shareholder as subpart F income and the U.S. shareholder's basis in the stock of the first-tier controlled foreign corporation is increased to account for the inclusion, but the inclusion is not treated for foreign tax credit limitation purposes by reference to the nature of the income of the lower-tier controlled foreign corporation. Instead it generally is treated as passive income.

If subpart F income of a lower-tier controlled foreign corporation is included in the gross income of a U.S. shareholder, there is no provision that adjusts the basis of the upper-tier controlled foreign corporation's stock of the lower-tier controlled foreign corporation.

Subpart F inclusions in year of disposition

The subpart F income earned by a foreign corporation during its taxable year is taxed to the persons who are U.S. shareholders of the corporation on the last day, in that year, on which the corporation is a controlled foreign corporation. In the case of a U.S. shareholder who acquired stock in a controlled foreign corporation in the middle of the year, such inclusions are reduced by all or a portion of the amount of dividends paid in that year by the foreign corporation to any person besides the acquirer with respect to that stock. The reduction is determined by multiplying the subpart F income for the year by the proportion of the year during which the acquiring shareholder did not own the stock.

Distributions of previously taxed income

If in a year after the year of a subpart F income inclusion, a U.S. shareholder in the controlled foreign corporation receives a distribution from the corporation, the distribution may be deemed to come first out of the corporation's previously taxed income and, therefore, may be excluded from the U.S. shareholder's income. However, a distribution by a foreign corporation to a domestic corporation of earnings and profits previously taxed under subpart F is treated as an actual dividend, solely for purposes of determining the indirect foreign tax credit available to the domestic corporation (sec. 960(a)(3)). Thus, a portion of the foreign taxes paid or accrued by the foreign corporation and not previously deemed paid by the domestic corporation are treated as paid by the domestic corporation under the principles of section 902 even though the domestic corporation recognizes no income in the current taxable year with respect to the distribution.

In addition, the domestic corporation is permitted to increase its foreign tax credit limitation in the year of the distribution of previously taxed earnings and profits in an amount equal to the excess of the amount by which its foreign tax credit limitation for the year of the subpart F inclusion was increased as a result of that inclusion, over the amount of foreign taxes which were allowable as a credit in that year and which would not have been so allowable but for the subpart F inclusion (sec. 960(b)). The increase in the foreign tax credit limitation may not, however, exceed the amount of the foreign taxes taken into account under this provision with respect to the distribution of previously taxed earnings and profits. In order for this rule to apply, the domestic corporation either must have elected to credit foreign taxes in the year of the subpart F inclusion or must not have paid or accrued any foreign taxes in such year, and it must elect the foreign tax credit in the year of the distribution of previously taxed earnings and profits.

Treatment of United States source income earned by a controlled foreign corporation

As a general rule, subpart F income does not include income earned from sources within the United States if the income is effectively connected with the conduct of a U.S. trade or business by the controlled foreign corporation. This general rule does not apply, however, if the income is exempt from, or subject to a reduced rate of, U.S. tax pursuant to a provision of a U.S. treaty.

Reasons for Simplification

It is believed that complexities have been caused by uncertainties and gaps in the statutory schemes for taxing gains on dispositions of stock in controlled foreign corporations as dividend income or subpart F income. These uncertainties and gaps may prompt taxpayers to refrain from behavior that would otherwise be the result of rational business decisions, for fear of excessive tax—for example, double corporate-level taxation of income. In many cases, concerns about excessive taxation can be allayed, but only at the cost of avoiding the simpler and more rational economic behavior in favor of tax-motivated planning.

It is understood that, as a general matter, other aspects of the tax system may have interfered with rational economic decision making by prompting taxpayers to engage in tax-motivated planning in order to eliminate taxation in cases where income is in fact earned. Some such characteristics of the tax system have in the past been altered by Congress in order to reduce excessive interference by the tax system in labor, investment, and consumption decisions of taxpayers.[24] It is believed that in the context of this simplification bill, it generally is appropriate to reduce complexities caused by aspects of the rules governing controlled foreign corporations that provide for nonuniform tax results from dividends, on the one hand, and stock disposition proceeds to the extent earnings and profits underlie those proceeds, on the other.

It is understood that the present-law provisions which permit an indirect foreign tax credit and an increased foreign tax credit limitation to be claimed in the event of a distribution of previously taxed earnings by a controlled foreign corporation are particularly difficult to administer. This difficulty arises because taxpayers are required to compute and keep track of excess foreign tax credit limitation accounts with respect to subpart F income inclusions on a foreign corporation by foreign corporation basis, as well as on a year by year basis. Additional complexities arise as taxpayers are required, as a result of distributions, to trace earnings and profits up chains of foreign corporations. It is believed that retention of these rules may not be worth the system-wide recordkeeping and computations involved. It is believed that the combination of foreign income tax rates on the foreign income of U.S. persons and their controlled foreign corporations, and the U.S. rules for taxing such income, will result in few cases where the effort will be rewarded by substantial tax savings. Moreover, it is believed that taxpayers who might be adversely affected may be able to plan around those adverse effects at least cost than the complexity cost that is engendered by the present system.

Explanation of Provisions

In general

The bill makes a number of modifications in the treatment of income derived from the disposition of stock in a controlled foreign corporation. The bill provides deemed dividend treatment for gains on dispositions of lower-tier controlled foreign corporations. Where the lower-tier controlled foreign corporation previously earned subpart F income, the bill permits the amount of gain taxed to the U.S. shareholder to be adjusted for previous income inclusions. Where proceeds from the sale of stock to a controlled foreign corporation that previously has earned subpart F income would be treated as a dividend under the principles of section 304, the bill expressly permits exclusion of the deemed section 304 dividend from taxation to the extent of the previously taxed earnings and profits of the controlled foreign corporation from which the property was deemed to be distributed. (Appropriate basis adjustments also are permitted to be made.) Where a controlled foreign corporation (whether or not it is a lower-tier controlled foreign corporation) earns subpart F income in a year in which a U.S. shareholder sells its stock, in a transaction that does not result in the foreign corporation ceasing to be a controlled foreign corporation, the bill contains statutory language providing for a proportional reduction in the taxation of the subpart F income in that year to the acquiring U.S. shareholder.

The bill contains two additional provisions related to controlled foreign corporations. First, the bill repeals the provision that currently permits an indirect foreign tax credit and an increased foreign tax credit limitation to be claimed upon certain distributions by controlled foreign corporations of previously taxed earnings and profits. Second, the bill clarifies the effect of the treaty exemption or reduction of the branch profits tax on the determination of subpart F income.

Lower-tier controlled foreign corporations

Characterization of gain on stock disposition

The bill provides that if a controlled foreign corporation is treated as having gain from the sale or exchange of stock in a foreign corporation, the gain is treated as a dividend to the same extent that it would have been so treated under section 1248 if the controlled foreign corporation were a U.S. person. However, this rule does not affect the determination of whether the second corporation is a controlled foreign corporation.

Thus, for example, if a U.S. corporation owns 100 percent of the stock a foreign corporation, which owns 100 percent of the stock of a second foreign corporation, then under the bill, any gain of the first corporation upon a sale of stock of the second corporation is treated as a dividend for purposes of subpart F income inclusions to the U.S. shareholder, to the extent of earnings and profits of the second corporation attributable to periods in which the first foreign corporation owned the stock of the second foreign corporation while the latter was a controlled foreign corporation with respect to the U.S. shareholder. As another example, assume that the U.S. corporation has always owned 51 percent of the stock of a foreign corporation, which has always owned 51 percent of the stock of a second foreign corporation. All the other stock of the foreign corporations has always been owned by other foreign individuals unrelated to the U.S. corporation. In this case, the second foreign corporation has never been controlled foreign corporation. Therefore, none of the gain of the first corporation upon a sale of stock of the second corporation is treated as a dividend.

Gain on disposition of stock in a related corporation created or organized under the laws of, and having substantial part of assests in a trade or business in, the same foreign country as the gain recipient, even if recharacterized as a dividend under the bill, is not therefore excluded from foreign personal holding company income under the same-country exception that applies to actual dividends.

Adjustments to basis of stock

The bill also provides that when a lower-tier controlled foreign corporation earns subpart F income, and stock in that corporation is later sold by an upper-tier controlled foreign corporation, the resulting income inclusion of the U.S. shareholders are, under regulations, adjusted to account for previous inclusions, in a manner similar to the adjustments now provided to the basis of stock in a first-tier controlled foreign corporation. Thus, just as the basis of a U.S. shareholder in a first-tier controlled foreign corporation rises when subpart F income is earned and falls when previously taxed income is distributed, so as to avoid double taxation of the income on a later sale, it is intended that by regulation the subpart F income from gain on the sale of a lower-tier controlled foreign corporation generally would be reduced by income inclusions of earnings that were not subsequently distributed by the lower-tier controlled foreign corporation. It is intended that the Secretary will have sufficient flexibility in promulgating regulations under this provision to permit adjustments only in those cases where, by virtue of the historical ownership structure of the corporations involved, the Secretary is satisfied that the inclusions for which adjustments can be made can be clearly identified.

Subpart F inclusions in year of disposition

Where a U.S. shareholder acquires the stock of a controlled foreign corporation from another U.S. shareholder during the middle of a year in which the controlled foreign corporation earns subpart F income, the bill reduces the acquirer's subpart F inclusion for that year by a portion of the amount of the dividend deemed (under sec. 1248) to be received by the transferor. The portion by which the inclusion is reduced would (as is currently the case where a dividend was paid to the previous owner of the stock) not exceed the subpart F inclusion for that year times the proportion of the year for which the acquirer did not own the stock.

Avoiding double inclusions in other cases

The bill clarifies the appropriate scope of regulatory authority with respect to the treatment of cross-chain section 304 dividends out of the earnings of controlled foreign corporations that were previously included in the income of a U.S. shareholder under subpart F. The bill contemplates that in such a case, the Secretary in his discretion may by regulation treat such dividends as distributions of previously taxed income, with appropriate basis adjustments. It is also anticipated that other occasions may arise where the exercise of similar regulatory authority may be appropriate to avoid double income inclusions, or an inclusion or exclusion of income without a corresponding basis adjustment. Therefore, the bill states that, in addition to cases involving section 304, the Secretary may by regulation modify the application of subpart F in any other case where there would otherwise be a multiple inclusion of any item of income (or an inclusion or exclusion without an appropriate basis adjustment) by reason of the structure of a U.S. shareholder's holdings in controlled foreign corporations or by reason of other circumstances.

Foreign tax credit in year of receipt of previously taxed income

The bill repeals the rules that permit an indirect foreign tax credit to be claimed with respect to a distribution of previously taxed earnings and profits. Under the bill, foreign taxes paid by a foreign corporation with respect to previously taxed earnings and profits remain in that corporation's pool (or pools) of foreign taxes which are available for the indirect foreign tax credit upon subsequent distributions or deemed distributions of earnings and profits that have not been previously taxed at the U.S. shareholder level.

Treatment of United States income earned by a controlled foreign corporation

The bill provides that an exemption or reduction by treaty of the branch profits tax that would be imposed under section 884 on a controlled foreign corporation does not affect the general statutory exemption from subpart F income that is granted for U.S. source effectively connected income. For example, assume a controlled foreign corporation earns income of a type that generally would be subpart F income, and that income is earned from sources within the United States in connection with business operations therein. Further assume that repatriation of that income is exempted from the U.S. branch profits tax under a provision of an applicable U.S. income tax treaty. The bill provides that notwithstanding the treaty's effect on the branch tax, the income is not treated as subpart F income as long as it is not exempt from U.S. taxation (or subject to a reduced rate of tax) under any other treaty provision.

Effective Dates

Lower-tier controlled foreign corporations

The provision of the bill treating gains on dispositions of stock in lower-tier controlled foreign corporations as dividends under section 1248 principles applies to gains recognized on transactions occurring after date of enactment of the bill. The provision providing for regulatory adjustments in U.S. shareholder inclusions, with respect to gains of controlled foreign corporations from stock in lower-tier controlled foreign corporations that previously had subpart F income, is effective for U.S. shareholder inclusions in taxable years of U.S. shareholders beginning after December 31, 1991.

Subpart F inclusions in year of disposition

The provision of the bill permitting dispositions of stock to be taken into consideration in determining a U.S. shareholder's subpart F inclusion for a taxable year is effective with respect to dispositions occurring after the date of enactment of the bill.

Distributions of previously taxed income

The provision of the bill allowing the Secretary to make regulatory adjustments to avoid double inclusions in cases such as those to which section 304 applies takes effect on the date the bill is enacted.

Foreign tax credit on distribution of previously taxed income

The provision of the bill which repeals the ability to claim foreign tax credits on distributions of previously taxed income generally is effective for taxable years beginning after December 31, 1991. However, the provision is not effective with respect to distributions of previously taxed income which occur in taxable years beginning prior to January 1, 1997, if the distributions relate to subpart F income inclusions for taxable years of the U.S. corporate shareholders beginning before January 1, 1992.

Treatment of United States source income earned by a controlled foreign corporation

The provision of the bill concerning the effect of treaty exemptions from or reductions of the branch profits tax on the determination of subpart F income is effective for taxable years ending after the date of enactment.

3. Translation of foreign taxes into U.S. dollar amounts (sec. 321 of the bill and sec. 986(a) of the Code)

Present Law

Foreign income taxes paid in foreign currencies are required to be translated into U.S. dollar amounts using the exchange rate as of the time such taxes are paid to the foreign country or U.S. possession (sec. 986(a)(1)). This rule applies equally to foreign taxes paid directly by U.S. taxpayers, which are creditable only in the year paid or accrued (or during a carryover period), and to foreign taxes paid by foreign corporations that are deemed paid by a U.S. corporation, and hence creditable, in the year that the U.S. corporation receives a dividend or income inclusion.

Reasons for Simplification

If each foreign income tax payment is required to be translated at a separate daily exchange rate for the day of the payment, the number of currency exchange rates that are relevant to foreign tax credit calculations varies directly with the frequency of foreign income tax payments. Where U.S. corporations are deemed to pay a portion of the "pool" of foreign taxes paid by foreign corporations, the correct amount of tax in the pool is the product of each tax payment times the relevant translation rate. The longer the period between the time the income is earned and its repatriation (or other inclusion) to the U.S. corporation, the greater the period over which the amounts of tax payments and translation rates are relevant to the determination of net U.S. tax liability.

It is believed that the record-keeping, verification, and examination burdens—both on the IRS and on taxpayers—associated with the advantages of deferral and the foreign tax credit (including the indirect credit) are not insignificant. For example, if events that happened in one year affected only the return filed for that year, and each tax return was affected only by events that happened in the year for which that return was filed, then presumably tax-related records would need to be maintained only between the time the taxable year began and the year that the assessment period for that year expired. On the other hand, if income earned in years 1 through 5 is taxed in year 6, then the amount of documentation relevant to the year 6 return potentially is increased five-fold, and the period over which that information must be maintained is at least five years longer.

U.S. persons who pay foreign income taxes directly and choose the benefits of the foreign tax credit have always been required to maintain detailed foreign tax payment documentation, including exchange rate data for the dates on which they paid foreign income taxes, and U.S. corporations that operate through foreign corporations have been required to maintain documentation regarding the earnings and foreign tax payments of the foreign corporations.[25] Some have argued, however, that relief is warranted for taxpayers that would otherwise bear the combined currency translation responsibilities applicable to direct foreign taxpayers with the extended record-keeping responsibilities applicable to taxpayers that receive the benefits of deferral.

It is believed that an appropriate response to this combination of burdens is to permit regulatory modification of the "time of payment" concept, in such a way that preserves the uniformity of treatment of branches and foreign subsidiaries of U.S. taxpayers, but permits recourse to reasonably accurate average translation rates for the period in which the tax payments are made. Simplification may be provided in this way by reducing, sometimes substantially, the number of translation calculations that are required to be made. There may be situations in which the use of an average exchange rate over a specified time period, to be applied to all tax payments made in that currency during that period, would provide results not substantially different than those that would be derived under present law. This could result, for example, where the value of a foreign currency as it relates to the U.S. dollar does not fluctuate significantly over the specified period.

One of the fundamental premises behind the amendments enacted in 1986 with respect to the translation of foreign taxes was that foreign taxes paid by foreign corporations should be translated in the same manner as foreign taxes paid by foreign branches of U.S. persons. In keeping with that premise, it is believed that any provision to allow the use of average exchange rates for this purpose should be made equally applicable to foreign branches and subsidiaries.

Explanation of Provision

The bill grants the Secretary of the Treasury authority to issue regulations that would allow foreign tax payments made by a foreign corporation or by a foreign branch of a U.S. person to be translated into U.S. dollar amounts using an average U.S. dollar exchange rate for a specified period. It is anticipated that the applicable average exchange rate would be the rate as published by a qualified source of exchange rates for the period during which the tax payments were made.

Effective Date

This provision is effective with respect to taxable years beginning after the date of enactment.

4. Foreign tax credit limitation under the alternative minimum tax (sec. 322 of the bill and sec. 59(a) of the Code)

Present Law

Computing foreign tax credit limitations requires the allocation and apportionment of deductions between items of foreign source and U.S. source income. Foreign tax credit limitations must be computed both for regular tax purposes and for purposes of the alternative minimum tax (AMT). Consequently, after allocating and apportioning deductions for regular tax foreign tax credit limitation purposes, additional allocations and apportionments generally must be performed in order to compute the AMT foreign tax credit limitation.

Reasons for Simplification

The process of allocating and apportioning deductions for purposes of calculating the regular and AMT foreign tax credit limitations can be complex. Taxpayers that have allocated and apportioned deductions for regular tax foreign tax credit purposes generally must reallocate and reapportion the same deductions for AMT foreign tax credit purposes, based on assets and income that reflect AMT adjustments (including depreciation). However, the differences between regular taxable income and alternative minimum taxable income are often relevant primarily to U.S. source income. As a result of the combined effects of these differences, it is believed that foreign source alternative minimum taxable income generally will not differ significantly from foreign source regular taxable income. By permitting taxpayers to use foreign source regular taxable income in computing their AMT foreign tax credit limitation, the bill eliminates the need to reallocate and reapportion every deduction.

Explanation of Provision

The bill permits taxpayers to elect to use as their AMT foreign tax credit limitation fraction the ratio of foreign source *regular* taxable income to entire alternative minimum taxable income, rather than the ratio of foreign source *alternative minimum* taxable income to entire alternative minimum taxable income. Foreign source regular taxable income may be used, however, only to the extent it does not exceed entire alternative minimum taxable income.

The election under the bill is available only in the first taxable year beginning after December 31, 1991, for which the taxpayer claims an alternative minimum tax foreign tax credit. The election applies to all subsequent taxable years, and may be revoked only with the permission of the Secretary of the Treasury.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

TITLE IV.—OTHER INCOME TAX PROVISIONS

A. Provisions Relating to S Corporations

1. Determination of whether an S corporation has one class of stock (sec. 401 of the bill and sec. 1361 of the Code)

Present Law

Under present law, a small business corporation eligible to be an S corporation may not have more than one class of stock. Differences in voting rights are disregarded in determining whether a corporation has more than one class of stock. In addition, certain debt instruments may not be treated as a second class of stock for purposes of this rule.

The Treasury Department has issued proposed regulations[26] providing that a corporation will have more than one class of stock if all of the outstanding shares of stock do not confer identical rights to distribution and liquidation proceeds, regardless of whether any differences in rights occur pursuant to the corporate charter, articles or bylaws, by operation of State law, by administrative action, or by agreement. The proposed regulations also provide that, notwithstanding that all outstanding shares of stock confer identical rights to distribution and liquidation proceeds, a corporation has more than one class of stock if the corporation makes nonconforming distributions (i.e., distributions that differ with respect to timing or amount with respect to each share of stock), with limited exceptions for certain redemptions and certain differences in the timing of distributions.

Reasons for Simplification

The provision promotes simplification by eliminating traps for the unwary that would be inherent in rules that use nonconforming distributions regardless of the rights of the shareholders as evidence of additional classes of stock.

Explanation of Provision

The bill provides that a corporation is treated as having only one class of stock if all outstanding shares of stock of the corporation confer identical rights to distribution and liquidation proceeds. Applicable State law, determined by taking into account legally enforceable rights under the corporate charter, articles or bylaws, administrative action, and any agreements, determines whether the outstanding shares confer different rights to distribution or liquidation proceeds.

Where an S corporation in fact makes distributions which differ as to timing or amount, the bill in no way limits the Internal Revenue Service from properly characterizing the transaction for tax purposes. For example, if a distribution is properly characterized as compensation, the Service could require it to be so treated for tax purposes. Similarly, if a payment should be properly characterized as a distribution, the Service could require it to be so treated for tax purposes.

Effective Date

The provision applies to taxable years beginning after December 31, 1982.

2. Authority to validate certain invalid elections (sec. 402 of the bill and sec. 1362 of the Code)

Present Law

Under present law, if the Internal Revenue Service determines that a corporation's Subchapter S election is inadvertently terminated, the Service can waive the effect of the terminating event for any period if the corporation timely corrects the event and if the corporation and shareholders agree to be treated as if the election had been in effect for that period. Present law does not grant the Internal Revenue Service the ability to waive the effect of an inadvertent invalid Subchapter S election.

In addition, under present law, a small business corporation must elect to be an S corporation no later than the 15th day of the third month of the taxable year for which the election is effective. The Internal Revenue Service may not validate a late election.

Reasons for Simplification

The bill promotes simplification by giving the Secretary the flexibility to validate an invalid S election where the failure to properly elect S status was inadvertent or untimely.

Explanation of Provision

Under the bill, the authority of the Internal Revenue Service to waive the effect of an inadvertent termination is extended to allow the Service to waive the effect of an invalid election caused by an inadvertent failure to qualify as a small business corporation or to obtain the required shareholder consents.

The bill also allows the Internal Revenue Service to treat a late Subchapter S election as timely where the Service determines that there was reasonable cause for the failure to make the election timely.

Effective Date

The provision applies to taxable years beginning after December 31, 1982.[27]

3. Treatment of distributions by S corporations during loss year (sec. 403 of the bill and secs. 1366 and 1368 of the Code)

Present Law

Under present law, the amount of loss an S corporation shareholder may take into account for a taxable year cannot exceed the sum of shareholder's adjusted basis in his or her stock of the corporation and the adjusted basis in any indebtdness of the corporation to the shareholder. Any excess loss is carried forward.

Any distribution to a shareholder by an S corporation generally is tax-free to the shareholder to the extent of the shareholder's adjusted basis of his or her stock. The shareholder's adjusted basis is reduced by the tax-free amount of the distribution. Any distribution in excess of the shareholder's adjusted basis is treated as gain from the sale or exchange of the stock.

Under present law, income (whether or not taxable) and expenses (whether or not deductible) serve, respectively, to increase and decrease an S corporation shareholder's basis in the stock of the corporation. These rules appear to require that the adjustments to basis for items of both income and loss for any taxable year apply before the adjustment for distributions applies.[28]

These rules limiting losses and allowing tax-free distributions up to the amount of the shareholder's adjusted basis are similar in certain respects to the rules governing the treatment of losses and cash distributions by partnerships. Under the partnership rules (unlike the S corporation rules), for any taxable year, a partner's basis is first increased by items of income, then decreased by distributions, and finally is decreased by losses for that year.[29]

In addition, if the S corporation has accumulated earnings and profits,[30] any distribution in excess of the amount in an "accumulated adjustments account" will be treated as a dividend (to the extent of the accumulated earnings and profits). A dividend distribution does not reduce the adjusted basis of the shareholder's stock. The "accumulated adjustments account" generally is the amount of the accumulated undistributed post-1982 gross income less deductions.

Reasons for Simplification

The provision promotes simplification by conforming the S corporation rules regarding distributions to the partnership rules and by eliminating uncertainty regarding the treatment of distributions made during the year.

Explanation of Provision

The bill provides that the adjustments for distributions made by an S corporation during a taxable year are taken into account before applying the loss limitation for the year. Thus, distributions during a year reduce the adjusted basis for purposes of determining the allowable loss for the year, but the loss for a year does not reduce the adjusted basis for purposes of determining the tax status of the distributions made during that year.

The bill also provides that in determining the amount in the accumulated adjustment account for purposes of determining the tax treatment of distributions made during a taxable year by an S corporation having accumulated earnings and profits, net negative adjustments (i.e., the excess of losses and deductions over income) for that taxable year are disregarded.

The following examples illustrate the application of these provisions:

Example 1.—X is the sole shareholder of A, a calendar year S corporation with no accumulated earnings and profits. X's adjusted basis in the stock of A on January 1, 1992, is $1,000 and X holds no debt of A. During the taxable year, A makes a distribution to X of $600, recognizes a capital gain of $200 and sustains an operating loss of $900. Under the bill, X's adjusted basis in the A stock is increased to $1,200 ($1,000 plus $200 capital gain recognized) pursuant to section 1368(d) to determine the effect of the distribution. X's adjusted basis is then reduced by the amount of the distribution to $600 ($1,200 less $600) to determine the application of the loss limitation of section 1366(d)(1). X is allowed to take into account $600 of A's operating loss, which reduces X's adjusted basis to zero. The remaining $300 loss is carried forward pursuant to section 1366(d)(2).

Example 2.—The facts are the same in Example 1, except that on January 1, 1992, A has accumulated earnings and profits of $500 and an accumulated adjustment account of $200. Under the bill, because there is a net negative adjustment for the year, no adjustment is made to the accumulated adjustments account before determining the effect of the distribution under section 1368(c).

As to A, $200 of the $600 distribution is a distribution of A's accumulated adjustments account, reducing the accumulated adjustments account to zero. The remaining $400 of the distribution is a distribution of accumulated earnings and profits ("E&P") and reduces A's E&P to $100. A's accumulated adjustments account is then increased by $200 to reflect the recognized capital gain and reduced by $900 to reflect the operating loss, leaving a negative balance in the accumulated adjustment account on January 1, 1993, of $700 (zero plus $200 less $900).

As to X, $200 of the distribution is applied against A's adjusted basis of $1,200 ($1,000 plus $200 capital gain recognized), reducing X's adjusted basis to $1,000. The remaining $400 of the distribution is taxable as a dividend and does not reduce X's adjusted basis. Because X's adjusted basis is $1,000, the loss limitation does not apply to X, who may deduct the entire $900 operating loss. X's adjusted basis is then decreased to reflect the $900 operating loss. Accordingly, X's adjusted basis on January 1, 1993, is $100 ($1,000 plus $200 less $200 less $900).

Effective Date

These provisions apply to distributions made in taxable years beginning after December 31, 1991.

4. Treatment of S corporations as shareholders in C corporations (sec. 404(a) of the bill and sec. 1371 of the Code)

Present Law

Present law contains several provisions relating to the treatment of S corporations as corporations generally for purposes of the Internal Revenue Code.

First, under present law, the taxable income of an S corporation is computed in the same manner as in the case of an individual (sec. 1363(b)). Under this rule, the provisions of the Code governing the computation of taxable income which are applicable only to corporations, such as the dividends received deduction, do not apply to S corporations.

Second, except as otherwise provided by the Internal Revenue Code and except to the extent inconsistent with subchapter S, subchapter C (i.e., the rules relating to corporate distributions and adjustments) applies to an S corporation and its shareholders (sec. 1371(a)(1)). Under this second rule, provisions such as the corporate reorganization provisions apply to S corporations. Thus, a C corporation may merge into an S corporation tax-free.

Finally, an S corporation in its capacity as a shareholder of another corporation is treated as an individual for purposes of subchapter C (sec. 1371(a)(2)). The Internal Revenue Service has taken the position that this rule prevents the tax-free liquidation of a C corporation into an S corporation because a C corporation cannot liquidate tax-free when owned by an individual shareholder.[31] Thus, a C corporation may elect S corporation status tax-free or may merge into an S corporation tax-free, but may not liquidate into an S corporation tax-free.[32] Also, the Service's reasoning would also prevent an S corporation from making an election under section 338 where a C corporation was acquired by an S corporation.

Reasons for Simplification

The provision promotes simplification by treating similar transactions in a similar manner for tax purposes.

Explanation of Provision

The bill repeals the rule that treats an S corporation in its capacity as a shareholder of another corporation as an individual. Thus, the liquidation of a C corporation into an S corporation will be governed by the generally applicable subchapter C rules, including the provisions of sections 332 and 337 allowing the tax-free liquidation of a corporation into its parent corporation. Following a tax-free liquidation, the built-in gains of the liquidating corporation may later be subject to tax under section 1374 upon a subsequent disposition. An S corporation will also be eligible to make a section 338 election (assuming all the requirements are otherwise met), resulting in immediate recognition of all the acquired C corporation's gains and losses (and the resulting imposition of a tax).

The repeal of this rule does not change the general rule governing the computation of income of an S corporation. For example, it does not allow an S corporation, or its shareholders, to claim a dividends received deduction with respect to dividends received by the S corporation, or to treat any item of income or deduction in a manner inconsistent with the treatment accorded to individual taxpayers.

No inference is intended regarding the present-law treatment of these transactions.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

5. S corporations permitted to hold subsidiaries (sec. 404(b) of the bill and sec. 1361 of the Code)

Present Law

Under present law, an S corporation may not be a member of an affiliated group of corporations (other than by reason of ownership in certain inactive corporations). The legislative history indicates that this rule was adopted to prevent the filing of consolidated returns by a group which includes an S corporation.[33]

Reasons for Simplification

The provision promotes simplification by eliminating a barrier to using the S corporation form of entity and providing more appropriate treatment of corporations with subsidiaries, i.e., the prohibition of filing a consolidated return if S corporate status is elected rather than disqualification of the S election.

Explanation of Provision

The bill repeals the rule that an S corporation may not be a member of an affiliated group of corporations. Thus, an S corporation will be allowed to own up to 100 percent of the stock of a C corporation. However, an S corporation cannot be included in a group filing a consolidated return.

Under the bill, if an S corporation holds 100 percent of the stock of a C corporation that, in turn, holds 100 percent of the stock of another C corporation, the two C corporations may elect to file a consolidated return (if otherwise eligible), but the S corporation may not join in the election.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

6. Elimination of pre-1983 earnings and profits of S corporations (sec. 404(c) of the bill)

Present Law

Under present law, the accumulated earnings and profits of a corporation are not increased for any year in which an election to be treated as an S corporation is in effect. However, under the subchapter S rules in effect before revision in 1982, a corporation electing subchapter S for a taxable year increased its accumulated earnings and profits to the extent its undistributed earnings and profits for the year exceeded its taxable income. As a result of this rule, a shareholder may later be required to include in his income the accumulated earnings and profits when it is distributed by the corporation. The 1982 revision to subchapter S repealed this rule for earnings attributable to taxable years beginning after 1982 but did not do so for previously accumulated S corporation earnings and profits.

Reasons for Simplification

The provision promotes simplification by eliminating the need to keep records of certain generally small amounts of earnings arising before 1983.

Explanation of Provision

The bill provides that if a corporation is an S corporation for its first taxable year beginning after December 31, 1991, the accumulated earnings and profits of the corporation as of the beginning of that year are reduced by the accumulated earnings and profits (if any) accumulated in any taxable year beginning before January 1, 1983, for which the corporation was an electing small business corporation under subchapter S. Thus, such a corporation's accumulated earnings and profits will be solely attributable to taxable years for which an S election was not in effect. This rule is generally consistent with the change adopted in 1982 limiting the S shareholder's taxable income attributable to S corporation earnings to his share of the taxable income of the S corporation.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

7. Determination of shareholder's pro rata share where disposition of entire interest (sec. 404(d) of the bill and sec. 1377(a)(2) of the Code)

Present Law

Under present law, a shareholder of an S corporation takes into account separately his pro rata share of items of income, deduction, credit, etc. of the corporation. For this purpose, a shareholder's pro rata share means an allocation based on a per-share, per-day basis. However, in the case of a termination of a shareholder's interest, the corporation, with the consent of all shareholders, may elect to allocate items as if the taxable year ended on the date of termination and another taxable year began the following day.

Reasons for Simplification

The provision provides simplification by allowing a selling shareholder to be certain that his share of income will not be affected by income earned after the sale.

Explanation of Provision

Under the bill, the present-law rule, allowing a corporation to elect to close its books for purposes of determining shares of income on the termination of a shareholder's interest, will be the mandatory rule in the case of the disposition of a shareholder's entire interest in the corporation.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

8. Treatment of items of income in respect of a decedent held by an S corporation (sec. 404(e) of the bill and sec. 1367 of the Code)

Present Law

Income in respect of a decedent (IRD) generally consists of items of gross income that accrued during the decedent's lifetime but were not yet includible in the decedent's income before his death under his method of accounting. IRD is includible in the income of the person acquiring the right to receive such item. A deduction for the estate tax attributable to an item of IRD is allowed to the person who includes the item in gross income (sec. 691(c)).

The cost of basis of property acquired from a decedent is its fair market value at the date of death (or alternate valuation date if that date is elected for estate tax purposes). This basis often is referred to as a "stepped-up basis". Property that constitutes a right to receive IRD does not receive a stepped-up basis.

The basis of a partnership interest or corporate stock acquired from a decedent generally is stepped-up at death. Under Treasury regulations, the basis of a partnership interest acquired from a decedent is reduced to the extent that its vaue is attributable to items constituting IRD.[34] Although S corporation income is included in the income of the shareholders in a manner similar to the inclusion of partnership income in the income of the partners, no comparable regulation provides for a reduction in the basis of stock of an S corporation acquired from a decedent where the S corporation holds items of IRD on the date of death of a shareholder. Thus, under present law, the treatment of an item if IRD held by an S corporation is unclear.

Reasons for Simplification

The provision promotes simplification by eliminating the uncertainty of present law, and by treating items of IRD held by a taxpayer directly, through a partnership, or through an S corporation in a similar manner.

Explanation of Provision

The bill provides that a person acquiring stock in an S corporation from a decedent is to treat as IRD his pro rata share of any item of income of the corporation which would have been IRD if that item had been acquired directly from the decedent. Where an item is treated as IRD, a deduction for the estate tax attributable to the item generally will be allowed under the provisions of section 691(c). The stepped-up basis in the stock will be reduced by the extent to which the value of the stock is attributable to items consisting of IRD. This basis rule is comparable to the present-law partnership rule.

No inference is intended regarding the present-law treatment of IRD in the case of S corporations.

Effective Date

The provision applies with respect to decedents dying after date of enactment of the bill.

B. Accounting Provisions

1. Modifications to the look-back method for long-term contracts (sec. 411 of the bill and sec. 460 of the Code)

Present Law

Taxpayers engaged in the production of property under a long-term contract generally must compute income from the contract under the percentage of completion method. Under the percentage of completion method, a taxpayer must include in gross income for any taxable year an amount that is based on the product of (1) the gross contract price and (2) the percentage of the contract completed as of the end of the year. The percentage of the contract completed as of the end of the year is determined by comparing costs incurred with respect to the contract as of the end of the year with the estimated total contract costs.

Because the percentage of completion method relies upon estimated, rather than actual, contract price and costs to determine gross income for any taxable year, a "look-back method" is applied in the year a contract is completed in order to compensate the taxpayer (or the Internal Revenue Service) for the acceleration (or deferral) of taxes paid over the contract term. The first step of the look-back method is to reapply the percentage of completion method using actual contract price and costs rather than estimated contract price and costs. The second step generally requires the taxpayer to recompute its tax liability for each year of the contract using gross income as reallocated under the look-back method. If there is any difference between the recomputed tax liability and the tax liability as previously determined for a year, such difference is teated as a hypothetical underpayment or overpayment of tax to which the taxpayer applies a rate of interest equal to the overpayment rate, compounded daily.[35] The taxpayer receives (or pays) interest if the net amount of interest applicable to hypothetical overpayments exceeds (or is less than) the amount of interest applicable to hypothetical underpayments.

The look-back method must be reapplied for any item of income or cost that is properly taken into account after the completion of the contract.

The look-back method does not apply to any contract that is completed within 2 taxable years of the contract commencement date and if the gross contract price does not exceed the lesser of (1) $1 million or (2) 1 percent of the average gross receipts of the taxpayer for the preceding three taxable years. In addition, a simplified look-back method is available to certain pass-through entities and, pursuant to Treasury regulations, to certain other taxpayers. Under the simplified look-back method, the hypothetical underpayment or overpayment of tax for a contract year generally is determined by applying the highest rate of tax applicable to such taxpayer to the change in gross income as recomputed under the look-back method.

Reasons for Simplification

Present law may require multiple applications of the look-back method with respect to a single contract or may otherwise subject contracts to the look-back method even though the amounts necessitating the look-back computations are de minimis relative to the aggregate contract income. In addition, the use of multiple interest rates complicates the mechanics of the look-back method.

Explanation of Provisions

Election not to apply the look-back method for de minimis amounts

The bill provides that a taxpayer may elect not to apply the look-back method with respect to a long-term contract if for each prior contract year, the cumulative taxable income (or loss) under the contract as determined using estimated contract price and costs is within 10 percent of the cumulative taxable income (or loss) as determined using actual contract price and costs.

Thus, under the election, upon completion of a long-term contract, a taxpayer would be required to apply the first step of the look-back method (the reallocation of gross income using actual, rather than estimated, contract price and costs), but would not be required to apply the additional steps of the look-back method if the application of the first step resulted in de minimis changes to the amount of income previously taken into account for each prior contract year.

The election applies to all long-term contracts completed during the taxable year for which the election is made and to all long-term contracts completed during subsequent taxable years, unless the election is revoked with the consent of the Secretary of the Treasury.

Example 1.—A taxpayer enters into a three-year contract and upon completion of the contract, determines that annual net income under the contract using actual contract price and costs is $100,000, $150,000, and $250,000, respectively, for Years 1, 2, and 3 under the percentage of completion method. An electing taxpayer need not apply the look-back method to the contract if it had reported cumulative net taxable income under the contract using estimated contract price and costs of between $90,000 and $110,000 as of the end of Year 1; and between $225,000 and $275,000 as of the end of Year 2.

Election not to reapply the look-back method

The bill provides that a taxpayer may elect not to reapply the look-back method with respect to a contract if, as of the close of any taxable year after the year the contract is completed, the cumulative taxable income (or loss) under the contract is within 10 percent of the cumulative look-back income (or loss) as of the close of the most recent year in which the look-back method was applied (or would have applied but for the other de minimis exception described above). In applying this rule, amounts that are taken into account after completion of the contract are not discounted.

Thus, an electing taxpayer need not apply or reapply the look-back method if amounts that are taken into account after the completion of the contract are de minimis.

The election applies to all long-term contracts completed during the taxable year for which the election is made and to all long-term contracts completed during subsequent taxable years, unless the election is revoked with the consent of the Secretary of the Treasury.

Example 2.—A taxpayer enters into a three-year contract and reports taxable income of $12,250, $15,000 and $12,750, respectively, for Years 1 through 3 with respect to the contract. Upon completion of the contract, cumulative look-back income with respect to the contract is $40,000, and 10 percent of such amount is $4,000. After the completion of the contract, the taxpayer incurs additional costs of $2,500 in each of the next three succeeding years (Years 4, 5, and 6) with respect to the contract. Under the bill, an electing taxpayer does not reapply the look-back method for Year 4 because the cumulative amount of contract taxable income ($37,500) is within 10 percent of contract look-back income as of the completion of the contract ($40,000). However, the look-back method must be applied for Year 5 because the cumulative amount of contract taxable income ($35,000) is not within 10 percent of contract look-back income as of the completion of the contract ($40,000). Finally, the taxpayer does not reapply the look-back method for Year 6 because the cumulative amount of contract taxable income ($32,500) is within 10 percent of contract look-back income as of the last application of the look-back method ($35,000).

Interest rates used for purposes of the look-back method

The bill provides that for purposes of the look-back method, only one rate of interest is to apply for each accrual period. An accrual period with respect to a taxable year begins on the day after the return due date (determined without regard to extensions) for the taxable year and ends on such return due date for the following taxable year. The applicable rate of interest is the overpayment rate in effect for the calendar quarter in which the accrual period begins.

Effective Date

The provisions apply to contracts completed in taxable years ending after the date of enactment.

2. Simplified method for applying uniform cost capitalization rules (sec. 412 of the bill and sec. 263A of the Code)

Present Law

In general, the uniform cost capitalization rules require taxpayers that are engaged in the production of real or tangible personal property or in the purchase and holding of property for resale to capitalize or include in inventory the direct costs of the property and the indirect costs that are allocable to the property. In determining whether indirect costs are allocable to production or resale activities, taxpayers are allowed to use various methods so long as the method employed reasonably allocates indirect costs to production and resale activities.

Reasons for Simplification

The uniform cost capitalization rules require taxpayers to determine for each taxable year the costs of each administrative, service, or support function or department that are allocable to production or resale activities. If a taxpayer does not elect any of the simplified methods provided in Treasury regulations, this allocation may be unduly burdensome and costly.

Explanation of Provision

The bill authorizes (but does not require) the Treasury Department to issue regulations that allow taxpayers in appropriate circumstances to determine the costs of any administrative, service, or support function or department that are allocable to production or resale activities by multiplying the total amount of costs of any such function or department by a fraction, the numerator of which is the amount of costs of the function or department that was allocable to production or resale activities for a base period and the denominator of which is the total amount of costs of the function or department for the base period. It is anticipated that the regulations will provide that the base period is to begin no earlier than 4 taxable years prior to the taxable year with respect to which this simplified method applies.

Effective Date

The provision applies to taxable years beginning after the date of enactment of the bill. Thus, the regulations may permit the use of the simplified method for taxable years beginning after this date. The simplified method, however, may not be used for any taxable year that begins prior to the date that the Treasury Department publishes regulations that authorize the use of the simplified method and set forth the requirements that must be satisfied in order for the method to be used.

C. Minimum Tax Provisions

1. Depreciation under the corporate alternative minimum tax (sec. 421 of the bill and sec. 56 of the Code)

Present Law

Under present law, a corporation is subject to an alternative minimum tax (AMT) which is payable, in addition to all other tax liabilities, to the extent that it exceeds the corporation's regular income tax liability. Alternative minimum taxable income (AMTI) is the corporation's taxable income increased by the corporation's tax preferences and adjusted by determining the tax treatment of certain items in a manner which negates the deferral of income resulting from the regular tax treatment of those items.

One of the adjustments which is made to taxable income to arrive at AMTI relates to depreciation. Depreciation on personal property to which the modified ACRS system adopted in 1986 applies is calculated using the 150-percent declining balance method (switching to straight line in the year necessary to maximize the deduction) over the life described in Code section 168(g) (generally the ADR life of the property).

For taxable years beginning after 1989, AMTI is increased by an amount equal to 75 percent of the amount by which adjusted current earnings (ACE) exceed AMTI (as determined before this adjustment). In general, ACE means AMTI with additional adjustments that generally follow the rules presently applicable to corporations in computing their earnings and profits. For purposes of ACE, depreciation is computed using the straight-line method over the class life of the property. Thus, a corporation generally must make two depreciation calculations for purposes of the AMT—once using the 150 percent declining balance method and again using the straight-line method. Taxpayers may elect to use either depreciation method for regular tax purposes. If a taxpayer uses the straight-line method for regular tax purposes, it must also use the straight-line method for AMT purposes.

Reasons for Simplification

The use of two separate depreciation systems complicates the calculation of, and the recordkeeping for, the corporate alternative minimum tax.

Explanation of Provision

The bill applies a 120-percent declining balance method (switching to straight-line at a point maximizing depreciation deductions) for personal property (other than transition property to which the ACRS system in effect before the Tax Reform Act of 1986 applies) for determining the AMTI of a corporation. No further depreciation adjustment for this property would be required for ACE. Thus, corporations would be required to keep only one set of depreciation records for purposes of the AMT.

Corporate taxpayers may elect to use the 120-percent declining balance method of depreciation for regular tax purposes. As under present law, if a corporation uses the straight-line method for regular purposes, it must also use the straight-line method for AMT purposes.

Effective Date

The provision is effective for property placed in service in taxable years beginning after December 1990.

2. Treatment of built-in losses for purposes of the corporate alternative minimum tax (sec. 422 of the bill and sec. 56(g) of the Code)

Present Law

For purposes of the regular corporate tax, if at the time of an ownership change, a corporation has a net operating loss or a net unrealized built-in loss, the use of such losses in post-change periods is limited. A corporation has a net unrealized built-in loss if the aggregate adjusted bases of the assets of the corporation exceed the fair market value of the assets immediately before the change of ownership (sec. 382).

For purposes of the adjusted current earnings (ACE) component of the corporate alternative minimum tax (AMT), if a corporation with a net unrealized built-in loss undergoes an ownership change in a taxable year beginning after 1989, the adjusted basis of each asset of such corporation generally is adjusted to each asset's fair market value (sec. 56(g)(4)(G)). This rule essentially eliminates, rather than limits, the use of built-in losses for ACE purposes. The net operating loss of a corporation, on the other hand, is not eliminated for AMT purposes after a change of ownership.

Reasons for Simplification

Present law complicates the treatment of built-in losses of a corporation after a change of ownership by providing different rules for regular and alternative minimum tax and by providing rules different than those applicable to net operating losses. The present-law alternative minimum tax rules applicable to built-in losses requires a significant amount of additional recordkeeping.

Description of Provision

The bill repeals the ACE rule relating to the treatment of built-in losses after a change of ownership. Thus, for ACE purposes, the treatment of built-in losses would be similar to the treatment of net operating loss carryovers (in the same way that the treatment of built-in losses is similar to the treatment of net operating losses for regular tax purposes).

Effective Date

The provision is effective for changes of ownership occurring after December 31, 1991.

D. Tax-Exempt Bond Provisions

1. Overview

Interest on State and local government bonds generally is excluded from gross income for purposes of the regular individual and corporate income taxes if the proceeds of the bonds are used to finance direct activities of the issuing governmental units (sec. 103).

Unlike the interest on governmental bonds, described above, interest on private activity bonds generally is taxable. A private activity bond is a bond issued by a State or local governmental unit acting as a conduit to provide financing for a private party (or private parties) in a manner violating either (a) a private business use and payment test or (b) a private loan restriction. However, interest on private activity bonds generally is not taxable if (a) the financed activity is specified in the Code, (b) at least 95 percent of the net proceeds of the bond issue are used to finance the specified activity, and (c) numerous other requirements, including annual State volume limitations (for most private activity bonds) are satisfied.

Both private activity bonds and governmental bonds also must satisfy arbitrage restriction requirements for interest to be excluded from gross income. Interest on private activity bonds (other than qualified 501(c)(3) bonds) issued after August 7, 1986, is a preference item under the individual and corporate alternative minimum taxes. Additionally, interest on all State and local government bonds is included in determining a corporation's adjusted current earnings preference.

2. Issues under continuing review

It is expected that Congress will continue to review as the subject of possible legislative projects additional simplification options in two areas affecting State and local government bonds. These issues are—

a. Possible statutory rules for use by governmental units maintaining non-arbitrage motivated commingled accounting practices in determining their arbitrage rebate liability; and

b. Possible penalty alternatives to loss of tax-exemption for selected violations of the rules governing qualification for tax-exemption.

3. Provisions of the bill

a. Simplification of arbitrage rebate requirement for governmental bonds (sec. 431 of the bill and sec. 148 of Code).

Present Law

Subject to limited exceptions, arbitrage profits from investing bond proceeds in investments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. No rebate is required if the gross proceeds of an issue are spent for the governmental purpose of the borrowing within six months after issuance.

This six-month exception is deemed to be satisfied by issuers of governmental bonds (other than tax and revenue anticipation notes) and qualified 501(c)(3) bonds if (1) all proceeds other than an amount not exceeding the lesser of five percent or $100,000 are so spent within six months and (2) the remaining proceeds are spent within one year after the bonds are issued.

Reasons for Simplification

The principal Federal policy concern underlying the arbitrage rebate requirement is the earlier and larger than necessary issuance of tax-exempt bonds to take advantage of the opportunity to profit by investing funds borrowed at low-cost tax-exempt rates in higher yielding taxable investments. If at least 95 percent of the proceeds of an issue are spent within six months, and the remainder within one year, opportunities for arbitrage profit are significantly limited. In the case of larger issues, the administrative complexity of calculating rebate liability on relatively small amounts of proceeds, e.g., $100,000 of proceeds, is greater than the potential for arbitrage abuse from eliminating the rebate requirement.

Explanation of Provision

The bill deletes the $100,000 limit on proceeds that may remain unspent after six months for certain governmental and qualified 501(c)(3) bonds otherwise exempt from the rebate requirement. Thus, if at least 95 percent of the proceeds of these bonds is spent within six months after the issuance, and the remainder is spent within one year, the six-month exception is deemed to be satisfied.

Effective Date

This provision applies to bonds issued after the date of enactment.

b. Simplification of compliance with 24-month arbitrage rebate exception for construction bonds (sec. 432 of the bill and sec. 148 of the Code).

Present Law

In general, arbitrage profits from investing bond proceeds in investments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. An exception is provided for certain construction bond issues if the bonds are governmental bonds, qualified 501(c)(3) bonds, or exempt-facility private activity bonds for governmentally owned property.

The exception is satisfied only if the available construction proceeds of the issue are spent at least at specified rates during the 24-month period after the bonds are issued. The exception does not apply to bond proceeds invested after the 24-month expenditure period as part of a reasonably required reserve or replacement fund or a bona fide debt service fund or to certain other investments (e.g., sinking funds). Issuers of these construction bonds also may elect to comply with a penalty regime in lieu of rebating if they fail to satisfy the exception's spending requirements.

Reasons for Simplification

Bond proceeds invested in a bona fide debt service fund generally must be spent at least annually for current debt service. The short-term nature of investments in such funds results in only limited potential for generating arbitrage profits. If the spending requirements of the 24-month rebate exception are satisfied, the administrative complexity of calculating rebate on these proceeds outweighs the other Federal policy concerns addressed by the rebate requirement. Further, this provision will conform the rules on these funds for issuers satisfying the six-month and 24-month expenditure exceptions to the rebate requirement.

Explanation of Provision

The bill exempts earnings on bond proceeds invested in bona fide service funds from the arbitrage rebate requirement and the spending and penalty requirements of the 24-month exception if the spending requirements of that exception are satisfied.

Effective Date

This provision applies to bonds issued after the date of enactment.

c. Automatic extension of initial temporary period for certain construction bonds (sec. 433 of the bill and sec. 148 of the Code).

Present Law

Issuers of all tax-exempt bonds generally are subject to two sets of arbitrage requirements with respect to investment of their bond proceeds. First, tax-exempt bond proceeds may not be invested at a yield materially higher (generally defined as 0.125 percentage points) than the bond yield. Exceptions are provided to this restriction for investments during any of several "temporary periods" pending use of the proceeds and, throughout the term of the issue, for proceeds invested as part of a reasonably required reserve or replacement fund or a "minor" portion of the issue proceeds.

Second, generally all arbitrage profits earned on investments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. Arbitrage profits generally include all earnings (in excess of bond yield) derived from the investment of bond proceeds (and subsequent earnings on any such earnings).

Reasons for Simplification

Notwithstanding the arbitrage rebate requirement, requiring yield restriction following initial temporary periods is an important factor in curbing earlier issuance of bonds than otherwise would occur. Provided that issuers substantially comply with a prompt expenditure requirement so that the opportunities for tax motivated arbitrage are limited, however, reliance on the rebate requirement for limited additional periods will allow issuers to continue to pursue more flexible and liquid investments while construction activities are being completed. Automatically allowing an additional 12-month period, where substantially all of the proceeds have been spent, will relieve issuers from the burden of seeking a ruling from the IRS without increasing the opportunity for arbitrage motivated investments.

Explanation of Provision

The bill provides that the initial temporary period for construction bonds is automatically extended for a period of 12 months if at least 85 percent of the available construction proceeds are spent within the original initial temporary period and the issuer reasonably expects to spend the remaining proceeds within the 12-month extension period. Construction bonds eligible for this automatic extension include only those bonds currently eligible for the 24-month rebate expenditure exception, described above.

The bill allows bond proceeds to be invested without yield restrictions during this additional period. The arbitrage rebate or 1.5-percent penalty requirement will continue to apply to unspent proceeds during the extension period.

Effective Date

This provision applies to bonds issued after the date of enactment.

d. Simultaneous issuance of certain discrete issues not aggregated (sec. 434 of the bill).

Present Law

In certain cases, the Treasury Department treats multiple issues of tax-exempt bonds paid from substantially the same source of funds as a single issue in applying the Code's tax-exempt bond restrictions when the bonds are issued within a relatively short period of time (31 days) and pursuant to a common plan of marketing.

Reasons for Simplification

Requiring issuers that simultaneously issue discrete issues of tax and revenue anticipation notes ("TRANs") and other governmental bonds to separate issuance of discrete non-arbitrage motivated issues by 31 days adds administrative complexity and increases their costs of issuance.

Explanation of Provision

The bill provides that discrete issues of governmental bonds issued simultaneously will not be treated as a single issue in cases where one of the issues is a TRAN reasonably expected to satisfy the arbitrage rebate safe harbor of section 148(f)(4)(B)(iii).

Effective Date

This provision applies to bonds issued after the date of enactment.

e. Authority for Treasury Department to exempt certain taxpayers from tax-exempt interest reporting requirement (sec. 435 of the bill and sec. 6012 of the Code).

Present Law

Present law requires all individuals to report on their income tax returns the amount of interest on State and local government bond interest they receive.

Reasons for Simplification

The Internal Revenue Service should be authorized to exempt taxpayers from requirements to compile and report information on income tax returns if the Secretary determines that such information is not useful to the administration of the tax laws.

Explanation of Provision

The bill authorizes the Internal Revenue Service to provide exceptions from the requirement that taxpayers report interest on State and local government bonds on their Federal income tax returns in cases where the Secretary determines that such information is not useful to the administration of the tax laws.

Effective Date

This provision is effective for taxable years beginning after the date of enactment.

f. Repeal of deadwood provisions (sec. 436 of the bill and sec. 148 of the Code).

Present Law

Present law includes special exceptions to the arbitrage rebate and pooled financing temporary period rules for certain qualified student loan bonds. This exception applied only to bonds issued before January 1, 1989.

Explanation of Provision

The bill deletes these special exceptions as "deadwood."

Effective Date

This provision applies to bonds issued after the date of enactment.

E. Treatment of Certain Revocable Trusts as Estates (sec. 441 of the bill and sec. 7701 of the Code)

Present Law

A grantor trust is treated as owned by the grantor, who is taxed on its income and is entitled to its deductions. A grantor trust includes a revocable trust, one in which the grantor retains the power to revest the title of the trust property in himself (sec. 676).

Trusts and estates are subject to different income tax rules. An estate receives a higher exemption (sec. 642(b)) and is allowed a deduction for amounts permanently set aside for charity (sec. 642(c)), and, for two years after the decedent's death, a $25,000 offset for rental real estate activities (sec. 469(i)). A trust is required to adopt a calendar year (sec. 645(a)), and a distribution from a trust in the first 65 days of the taxable year is treated as occurring on the last day of the preceding taxable year (sec. 663(b)) (the "65-day rule").

Trusts and estates generally are required to pay estimated taxes in the same manner as individuals. A special rule exempts estates from estimated taxes for taxable years ending within two years of the decedent's death. This exemption also applies to a grantor trust that either receives the residue of the probate estate under the grantor's will, or (if there is no will) is primarily responsible for paying taxes, debts and expenses of administration.

Reasons for Simplification

Estate planners commonly use revocable trusts to avoid probate. Creating parity between such trusts and estates simplifies planning by reducing the role of tax considerations in the decision to utilize revocable trusts.

Explanation of Provision

The bill treats as an estate a revocable trust receiving the residue of the probate estate under the grantor's will. If there is no will, the revocable trust that is primarily responsible for paying taxes, debts and expenses of administration is treated as an estate. Such treatments apply only for years ending after the decedent's death and beginning within three years, nine months of the decedent's death. As a conforming amendment, the bill limits the rule treating grantor trusts as estates for purpose of estimated taxes to grantor trusts described in section 676.

The provision generally applies for all income tax purposes. It thus allows a revocable trust a deduction for an amount set aside for charity and the $25,000 offset for rental real estate activities to the extent the offset is not utilized by the estatae. It denies such trust the benefit of the 65-day rule. The provision does not apply for transfer tax purposes.

The provision does not apply for purposes of determining the amount of personal exemption, the taxable year or any other purpose specified in regulations. Thus, as under present law, revocable trusts will continue to receive a lower exemption amount and be required to adopt a calendar year. It is anticipated that the Treasury Department may exercise its regulatory authority in other situations to require consistency with prior tax treatment or to maintain parity with decedents having an estate but no revocable trust.

Effective Date

The provision applies to decedents dying after the date of enactment.

F. Other Provisions Relating to Partnerships

1. Matching rules for payments to partners (sec. 442 of the bill and secs. 267, 706 and 707 of the Code)

Present Law

If a partner engages in a transaction with a partnership other than in a capacity as a member of the partnership, the transaction is considered as occurring between the partnership and one who is not a partner. Under the timing rule applicable to such transactions (and to transactions among related persons generally), payments made to one who is not treated as a partner are deductible by the partnership in the year in which they are includible in the recipient's income. A partner generally is treated as acting in a capacity other than as a partner to the extent that his income from the transaction with the partnership does not depend upon partnership profit.

Payments to a partner for services or the use of capital that are determined without regard to partnership income ("guaranteed payments") are for specified purposes considered as made to one who is not a member of the partnership. Under the timing rule applicable to guaranteed payments, such payments generally are includible in the partner's income in the year in which they are deductible by the partnership.

Reasons for Simplification

Many payments to a partner can be described as either made to a person in a capacity other than as a partner or as guaranteed payments. The existence of two different timing rules creates uncertainty as to the proper tax treatment. By conforming the timing rule for guaranteed payments to the timing rule generally applicable to transactions among related parties, the provision reduces uncertainty and eliminates a potential issue of controversy.

Explanation of Provision

The bill defers the deduction of guaranteed payments by a partnership until the year in which they are includible in the partner's income. Thus, the bill conforms the timing rule for guaranteed payments to the timing rule for payments made to a partner acting in a capacity other than as a member of the partnership.

Effective Date

The bill applies to amounts taken into account after date of enactment.

2. Close partnership taxable year with respect to deceased partner (sec. 443 of the bill and sec. 706(c) of the Code)

Present Law

The partnership taxable year closes with respect to a partner whose entire interest is sold, exchanged, or liquidated. Such year, however, generally does not close upon the death of a partner. Thus, a decedent's entire share of items of income, gain, loss, deduction and credit for the partnership year that includes his death is taxed to his estate or successor in interest rather than being reported on the decedent's final income tax return. (See *Estate of Hesse* v. *Commissioner*, 74 T.C. 1307, 1311 (1980).)

Reasons for Simplification

The rule leaving open the partnership taxable year with respect to a deceased partner was adopted in 1954 to prevent the bunching of income that could occur with respect to a partnership reporting on a fiscal year other than the calendar year. Without this rule, as many as 23 months of income might have been reported on the partner's final return. Legislative changes occurring since 1954 have required most partnerships to adopt a calendar year, reducing the possibility of bunching. Consequently, income and deductions are better matched if the partnership taxable year closes upon a partner's death and partnership items are reported on the decedent's last return.

Present law closes the partnership taxable year with respect to a deceased partner only if the partner's entire interest is sold or exchanged pursuant to an agreement existing at the time of death. By closing the taxable year automatically upon death, the proposal reduces the need for such agreements.

Explanation of Provision

The bill provides that the taxable year of a partnership closes with respect to a partner whose entire interest in the partnership terminates, whether by death, liquidation or otherwise.

Effective Date

The provision applies to partnership taxable years beginning after December 31, 1991.

G. Corporate Provision: Clarification of Amount of Gain Recognized by a Securityholder in a Reorganization, Etc. (sec. 444 of the bill and secs. 354–356 of the Code)

Present Law

Under present law, gain is recognized by a shareholder or securityholder in a reoganization (or distribution under sec. 355) only to the extent property other than stock or securities of the corporation or of a party to the reorganization are received. For purposes of this rule, the fair market value of the excess of the principal amount of any securities received over the principal amount of any securities surrendered is treated as other property. If the principal amount of the securities received and the principal amount of the securities surrendered is the same, no amount of the securities received is treated as other property.

Also, under present law, a certain portion of the stated redemption price at maturity of a security may be treated as interest (referred to as "original issue discount" or "OID"), rather than principal. Also, in certain limited circumstances, a portion of a payment designated as principal may be treated as interest (under sec. 483).

It is unclear under present law whether the OID rules apply for purposes of determining the principal amount of a security for purposes of the nonrecognition rules described above.

Reasons for Simplification

The provision promotes simplification by conforming the rules for determining gain where securities are exchanged in a corporate reorganization with other rules in the Code allocating amounts in a debt instrument between principal and interest.

Explanation of Provision

The bill provides that for purposes of determining the amount of gain recognized to a securityholder in a reorganization (or a sec. 355 distribution), the excess of the issue price (as defined in secs. 1273 and 1274) of the securities received over the adjusted issue price of the securities surrendered would be treated as other property. If securities are received and none surrendered, the entire issue price is treated as other property. If the issue price of the securities received does not exceed the adjusted issue price of the securities surrendered, then no amount of the securities is treated as other property. These rules apply both to securityholders using the cash method and the accural method of accounting.

The adjusted issue price of a security surrendered means the issue price of the security, increased by the OID previously included in the gross income of any holder of the security (determined without to the special rule for subsequent holders), or decreased by the amount of bond premium which would have been allowed as a deduction (or offset) if the bond had always been held by the original holder. Where section 1273(b)(4) applies to a security, the stated redemption price is reduced by the amount of the redemption price which is treated as interest (for example, under sec. 483).

The provision is not intended to create any inference as to the proper treatment of these transactions under present law.

The following examples illustrate the application of this provision:

Example (1).—Assume that a publicly traded security with a stated principal amount of $1,000 and a fair market value of $800 is issued by a corporation in a reorganization to a security holder in exchange for a security with a stated principal amount of $600 and an adjusted issue price of $500. Under the bill, the amount of the excess issue price, or $300, is treated as "other property" for purposes of section 356.

Example (2).—Assume that a publicly traded security with a stated principal amount of $1,000 and a fair market value of $1,200 is issued by a corporation in a reorganization to a security holder in exchange for a security with a stated principal amount and an adjusted issue price of $1,000. Under the bill, the amount of the excess issue price, or $200 is treated as "other property" for purposes of section 356.

Effective Date

The provision applies to exchanges and distributions after the date of enactment.

TITLE V.—PROVISIONS RELATING TO ESTATE AND GIFT TAXATION

1. Waiver of right of recovery for certain marital deduction property (sec. 501 of the bill and sec. 2207A of the Code)

Present Law

For estate and gift tax purposes, a marital deduction is allowed for qualified terminable interest property (QTIP). Such property generally is included in the surviving spouse's gross estate. The surviving spouse's estate is entitled to recover the portion of the estate tax attributable to such inclusion from the person receiving the property, unless the spouse directs otherwise by will (sec. 2207A). A will requiring that all taxes be paid by the estate may, under State law, waive the right of recovery.

The gross estate includes the value of previously transferred property in which the decedent retains enjoyment or the right to income (sec. 2036). The estate is entitled to recover from the person receiving the property a portion of the estate tax attributable to the inclusion (sec. 2207B). This right may be waived only by a provision in the will (or revocable trust) specifically referring to section 2207B.

Reasons for Simplification

It is understood that persons utilizing standard testamentary language often inadvertently waive the right of recovery with respect to QTIP. Allowing the right of recovery to be waived only by specific reference simplifies the drafting of wills to better conform with the testator's likely intent.

Explanation of Provision

The bill conforms the rule governing waiver of the right to contribution for QTIP to the rule governing waiver of the right of recovery for property includable under section 2036. Accordingly, the surviving spouse's estate has a right of recovery with respect to QTIP unless the spouse otherwise directs in a provision of the will (or revocable trust) specifically referring to section 2207A.

Effective Date

The provision applies to decedents dying after the date of enactment.

2. Inclusion in gross estate of certain gifts made within three years of death (sec. 502 of the bill and secs. 2035 and 2038 of the Code)

Present Law

The first $10,000 of gifts of present interests to each donee during any one calendar year are excluded from Federal gift tax.

The value of the gross estate includes the value of any previously transferred property if the decedent retained the power to revoke the transfer (sec. 2038). It also includes the value of any property with respect to which such power is relinquished during the three years before death (sec. 2035). This rule has been interpreted to include in the gross estate certain transfers made from a revocable trust within three years of death.[36] Such inclusion subjects gifts that would otherwise qualify under the annual $10,000 exclusion to estate tax.

Reasons for Simplification

The inclusion of certain property transferred during the three years before death is intended to address situations in which such transfer would otherwise reduce the value of property subject of transfer tax. Inclusion is unnecessary if the entire value of the underlying property is subject to gift tax and the transferor has retained no powers over such property. Repeal of such inclusion eliminates a principal tax disadvantage of funded revocable trusts, which are generally used for nontax purposes.

Explanation of Provision

The bill provides that a transfer from a revocable trust within three years of death does not result in the inclusion of the transfer in the gross estate. It is intended that no interference be drawn from the provision with respect to the treatment of transfers from revocable trusts under present law.

The bill also revises section 2035 to improve its clarity.

Effective Date

The provision applies to decedents dying after the date of enactment.

3. Definition of qualified terminable interest property (sec. 503 of the bill and secs. 2044, 2056(b)(7), and 2523(f) of the Code)

Present Law

A marital deduction is allowed for qualified terminable interest property (QTIP). Property is QTIP only if the surviving spouse has a qualifying income interest for life (e.g., the spouse is entitled to all of the income from the property, payable at least annually). QTIP generally is includible in the surviving spouse's gross estate.

Under proposed regulations, an income interest may constitute a qualifying income interest for life even if income between the last distribution date and the date of the surviving spouse's death (the "accumulated income") is not required to be distributed to the surviving spouse or the surviving spouse's estate. (See Prop. Reg. secs. 20.2056(b)–7(c)(1), 25.2523(f)–1(b)). Contrary to the regulations, the United States Tax Court has held that in order to satisfy the QTIP requirements, the accumulated income must be paid to the spouse's estate or be subject to a power of appointment held by the spouse. (See *Estate of Howard* v. *Commissioner*, 91 T.C. 329, 338 (1988), *rev'd*, 910 F.2d 633 (9th Cir. 1990)).

Reasons for Simplification

The Tax Court opinion in *Estate of Howard* has created uncertainty as to when a trust qualifies for the marital deduction. This uncertainty makes planning difficult and necessitates closing agreements designed to prevent the whipsaw that would occur if a deduction is allowed for property that is not subsequently included in the spouse's estate. By codifying the Treasury Regulations, the bill eliminates uncertainty and simplifies the administration of the tax laws.

Explanation of Provision

Under the bill, an income interest does not fail to be a qualified income interest for life solely because the accumulated income is not required to be distributed to the surviving spouse. When the marital deduction is allowed, however, such income is includible in the surviving spouse's gross estate.

It is intended that no inference be drawn from the provision with respect to the definition of a qualified income interest for life under present law.

Effective Date

The provision applies to decedents dying, and gifts made, after date of enactment. The proposal does not include in the surviving spouse's gross estate property for which no marital deduction was claimed.

4. Requirements for qualified domestic trust (sec. 504 of the bill and sec. 2056A of the Code)

Present Law

A deduction generally is allowed for Federal estate tax purposes for the value of property passing to a spouse. The Technical and Miscellaneous Revenue Act of 1988 ("TAMRA") denied the marital deduction for property passing to an alien spouse outside a qualified domestic trust (QDT). An estate tax is imposed on corpus distributions from a QDT.

TAMRA defined a QDT as a trust, which, among other things, required that all trustees be U.S. citizens or domestic corporations. This requirement was modified in the Omnibus Budget Reconciliation Acts of 1989 and 1990 to provide that at least one trustee be a U.S. citizen or domestic corporation and that no corpus distribution be made unless such trustee has the right to withhold any estate tax imposed on the distribution (the "withholding requirement").

Reasons for Simplification

Wills drafted under the TAMRA rules must be revised to conform with the withholding requirement, even though both the TAMRA rule and its successor ensure that a U.S. trustee is personally liable for the estate tax on a QDT. By reducing the number of will revisions necessary to comply with the statutory changes, the provision simplifies estate planning.

Explanation of Provision

A trust created before the enactment of the Omnibus Budget Reconciliation Act of 1990 is treated as satisfying the withholding requirement if its governing instrument requires that all trustees be U.S. citizens or domestic corporations.

Effective Date

The provision applies as if included in the Omnibus Budget Reconciliation Act of 1990.

5. Election of special use valuation of farm property for estate tax purposes (sec. 505 of the bill and sec. 2032A of the Code)

Present Law

An executor may elect to value certain real property used in farming or other closely held business operations for estate tax purposes based upon its current use value rather than its full fair market value (sec. 2032A). A written agreement signed by each person with an interest in the property must be filed with the election.

Treasury Department regulations require that a notice of election and certain information be filed with the Federal estate tax return (Treas. Reg. sec. 20.2032A–8). The administrative policy of the Treasury Department is to disallow current use valuation elections unless the required information is supplied.

Under procedures prescribed by the Secretary of the Treasury, an executor who makes the election and substantially complies with the regulations but fails to provide all required information or the signatures of all persons with an interest in the property is allowed to supply the missing information within a reasonable period of time (not exceeding 90 days) after notification by the Secretary.

Reasons for Simplification

In filing the estate tax return, executors commonly neglect to include a recapture agreement signed by all persons with an interest in the property or all information required by Treasury regulations. Allowing such signatures or information to be supplied later simplifies return filing.

Explanation of Provision

The bill extends the procedures allowing subsequent submission of information to any executor who makes the election and submits the recapture agreement, without regard to his compliance with the regulations. Thus, the bill allows the current use valuation election to any such executor who supplies the required information within a reasonable period of time (not exceeding 90 days) after notification by the IRS. The bill also allows signatures to be added to the previously filed agreement during that time period.

Effective Date

The provision applies to decedents dying after the date of enactment.

TITLE VI.—EXCISE TAX PROVISIONS

A. Motor Fuel Excise Tax Provisions

1. Consolidate provisions imposing diesel and aviation fuel excise taxes (sec. 601 of the bill and secs. 4041 and 4091 of the Code)

Present Law

Code section 4091 imposes a tax on the sale of diesel and aviation fuel by a "producer." The term producer generally includes refiners, compounders, blenders, and wholesalers who are registered with the Internal Revenue Service. The term also includes persons to whom diesel or aviation fuel has been sold tax-free.

As a backup, Code section 4041 imposes a tax on certain sales or uses of diesel and aviation fuel if a taxable sale of such fuel has not occurred under section 4091.

Reasons for Simplification

Consolidating the diesel and aviation tax rules into one section of the Code will make the rules easier to find and understand.

Explanation of Provision

The bill combines the diesel and aviation fuel tax provisions currently divided between Code sections 4041 and 4091 into a revised section 4091. The use of diesel and aviation fuel in a taxable use by producers will be taxed under section 4091, and the definition of producer is clarified to include purchasers in tax-reduced sales.

The bill also simplifies the Code by eliminating two unnecessary provisions, sections 4041 (b)(1)(B) and (j) of the Code. These provisions are redundant.

Effective Date

The provision is effective for sales or uses on or after January 1, 1992.

2. Permit refund of tax to taxpayer for diesel and aviation fuel resold to certain exempt purchasers (sec. 602(a) of the bill and sec. 6416(b) of the Code)

Present Law

As a general matter, purchasers who use tax-paid fuels for an exempt use are entitled to a refund or credit. Purchasers of a tax-paid fuels generally are not permitted a refund or credit if they resell the fuels to another person who subsequently uses them in an exempt use.

However, persons who buy and then resell fuel subject to the special motor fuel or gasoline taxes and of certain other articles are permitted a refund or credit (rather than the ultimate user) if they resell the fuel or article for use in the following exempt uses: (1) export, (2) use as supplies for aircraft or vessels, (3) use by a State or local government, or (4) use by a nonprofit educational organization for its exclusive use.

Reasons for Simplification

Diesel and aviation fuel sales are not subject to the special refund or credit procedures, which forces users of such fuels for exempt purposes to bear the burden of filing for the refund or credit themselves and, therefore, makes such purchases more difficult.

Explanation of Provision

The bill allows a refund or credit to taxpayers for diesel and aviation fuel sold tax-paid to persons who resell for any of the exempt uses described above.

Effective Date

The provision is effective for sales on or after January 1, 1992.

3. Consolidate refund provisions for fuel excise taxes (sec. 602(b) of the bill and secs. 6420, 6421, and 6427 of the Code)

Present Law

As a general matter, purchasers who use fuels for an exempt use are entitled to a refund if the fuels have been purchased tax-paid. The refund provisions for the fuels excise taxes are found in several sections of the Code.

In general, a purchaser entitled to a refund may file a quarterly refund claim for any of the first three quarters of the purchaser's tax year, if the claim exceeds a threshold dollar amount (with the lowest being $750). The threshold amounts differ for different fuels and different exempt uses and whether quantities are aggregated. A purchaser cannot file a quarterly claim for refund for its fourth quarter, but must file the claim as a credit on that year's income tax return.

There is an expedited procedure for gasohol blenders claiming a refund of part of the excise tax included in the price of the gasoline used for blending into gasohol.

Finally, only an income tax credit, and not a refund, may be claimed for excise taxes on gasoline and special motor fuel used on a farm for farming purposes.

Reasons for Simplification

Consolidating the credit and refund provisions for fuel excise taxes into one section in the Code will make these provisions easier to find and understand. Standardizing the refund procedures will reduce confusion and allow taxpayers to obtain refunds more quickly.

Explanation of Provision

The bill consolidates the user credit and refund provisions for the fuels excise taxes into one section of the Code. The bill also combines the three refund procedures for fuels taxes into a uniform refund procedure. The new uniform refund procedure permits an exempt user to aggregate its refund claims for all fuels taxes and file for a refund in any calendar quarter in which the amount of the aggregate claim exceeds $750. The uniform refund procedure also permits such a user to file for a refund for its fourth quarter rather than apply for a credit.

The special expedited procedure for gasohol blenders is unchanged.

Effective Date

The provision is effective for sales on or after January 1, 1992.

4. Repeal waiver requirement for fuel tax refunds for cropdusters and other fertilizer applicators (sec. 602(b) of the bill and sec. 6420 of the Code)

Present Law

In general, farmers who use gasoline and aviation fuel on a farm are entitled to a refund of the tax that has been paid on that fuel. Cropdusters and other fertilizer applicators that use gasoline and aviation fuel on a farm are entitled to a refund of the tax paid on that fuel in lieu of the farmer, but only if the owner or operator of the farm waives its right to a refund for such fuel.

Reasons for Simplification

Eliminating the waiver will reduce the paperwork burden of a taxpayer seeking a refund.

Explanation of Provision

The bill eliminates the waiver requirement for fuels tax refunds for cropdusters and other fertilizer applicators.

Effective Date

The provision is effective for fuels purchased on or after January 1, 1992.

5. Authorize exceptions from information reporting for certain sales of diesel and aviation fuel (sec. 603 of the bill and sec. 4093(c)(4) of the Code)

Present Law

Certain producers and importers and purchasers are required to file information returns for reduced-tax sales of diesel and aviation fuel.

Reasons for Simplification

Allowing the Internal Revenue Service to exempt certain classes of taxpayers will simplify the IRS' administration of the registration requirements and eliminate unnecessary paperwork for taxpayers.

Explanation of Provision

The bill permits the IRS by regulation to provide exceptions to the mandatory information return requirement for certain sales of diesel and aviation fuel.

Effective Date

The provision applies to sales on or after January 1, 1992.

B. Provisions Relating to Distilled Spirits, Wines, and Beer (secs. 611–621 of the bill, secs. 5008(c), 5044, 5053, 5055, 5115, 5175(c), 5207(c), 5222(b), 5384(b) of the Code, and new sec. 5418 of the Code)

Present Law

Return of imported bottled distilled spirits

Present law provides that when tax-paid distilled spirits which have been withdrawn from bonded premises of a distilled spirits plant are returned for destruction or redistilling, the excise taxes are refunded (sec. 5008(c)). This provision does not apply to imported bottled distilled spirits, since they are withdrawn from customs custody and not from bonded premises.

Bond for exported distilled spirits

Bond generally must be furnished to the Department of the Treasury when distilled spirits are removed from bonded premises for exportation without payment of tax. These bonds are cancelled or credited when evidence is submitted to the Department of the Treasury that the distilled spirits have been exported (sec. 5175(c)).

Distilled spirits plant records

Distilled spirits plant proprietors are required to maintain records of their production, storage, denaturation, and other processing activities on the premises where the operations covered by the records are carried on (sec. 5207(c)).

Transfers from breweries to distilled spirits plants

Under present law, beer may be transferred without payment of tax from a brewery to a distilled spirits plant to be used in the production of distrilled spirits, but only if the brewery is contiguous to the distilled spirits plant (sec. 5222(b)).

Posting of sign by wholesale liquor dealers

Wholesale liquor dealers (i.e., dealers, other than wholesale dealers in beer alone, who sell distilled spirits, wines, or beer to other persons who re-sell such products) are required to post a sign conspicuously on the outside of their place of business indicating that they are wholesale liquor dealers (sec. 5115).

Refund of tax for wine returned to bond

Under present law, when unmerchantable wine is returned to bonded production premises, tax that has been paid is returned or credited to the proprietor of the bonded wine cellar to which the wine is delivered (sec. 5044). In contrast, when beer is returned to a brewery, tax that has been paid is returned or credited, regardless of whether the beer is unmerchantable (sec. 5056(a)).

Use of ameliorating material in certain wines

The Code contains rules governing the extent to which ameliorating material (e.g., sugar) may be added to wines made from high acid fruits and the product still be labelled as a standard, natural wine. In general, ameliorating material may not exceed 35 percent of the volume of juice and ameliorating material combined (sec. 5383(b)(1)). However, wines made exclusively from loganberries, currants, or gooseberries are permitted a volume of ameliorating material of up to 60 percent (sec. 5384(b)(2)(D)).

Domestically produced beer for use by foreign embassies, etc.

Under present law, domestically produced distilled spirits and wine may be removed from bond, without payment of tax, for transfer to any customs bonded warehouse for storage pending removal for the official or family use of representatives of foreign governments or public international organizations (secs. 5066 and 5362(e)). (A similar rule also applies to imported distilled spirits, wine, and beer.) No such provision exists under present law for domestically produced beer.

Withdrawal of beer for destruction

Present law does not specifically permit beer to be removed from a brewery for destruction without payment of tax.

Records of exportation of beer

Present law provides that a brewer is allowed a refund of tax paid on exported beer upon submission to Department of the Treasury of certain records indicating that the beer has been exported (sec. 5055).

Transfer to brewery of beer imported in bulk

Imported beer brought into the United States in bulk containers may not be transferred from customs custody to brewery premises without payment of tax. Under certain circumstances, distilled spirits imported into the United States in bulk containers may be transferred from customs custody to bonded premises of a distilled spirits plant without payment of tax (sec. 5232).

Reasons for Simplification

In addition to imposing taxes, the Internal Revenue Code regulates many aspects of the alcoholic beverage industry. These regulations date in many cases from the prohibition era or earlier. In 1980, the method of collecting excise taxes on alcoholic beverages was changed from a system under which Treasury Department inspectors regularly were present at production facilities to a bonded premises system, which more closely tracks the systems used in connection with other Federal taxes. Many of the recordkeeping requirements and other regulatory measures imposed in connection with these taxes have not been modified to conform to these collection changes. In addition, modification of statutory provisions is warranted in view of advances in technology used in the alcoholic beverage industry and environmental protection concerns.

Explanation of Provisions

Return of imported bottled distilled spirits

The procedures for refunds of tax collected on imported bottled distilled spirits returned to bonded premises are conformed to the rules for domestically produced and imported bulk distilled spirits. Thus, refunds are available for all distilled spirits on their return to a bonded distilled spirits plant.

Bond for exported distilled spirits

For purposes of cancelling or crediting bonds furnished when distilled spirits are removed from bonded premises for exportation, the Department of the Treasury is authorized to permit records of exportation to be maintained by the exporter, rather than requiring submission to it of proof of exportation in all cases.

Distilled spirits plant records

Distilled spirits plant proprietors are permitted to maintain records of their activities at locations other than the premises where the operations covered by the records are carried on (e.g., corporate headquarters), provided that the records are available for inspection by the Treasury Department during business hours.

Transfers from breweries to distilled spirits plants

The bill allows beer to be tranferred without payment of tax from a brewery to a distilled spirits plant to be used in the production of distilled spirits, regardless of whether the brewery is contiguous to the distilled spirits plant.

Posting of sign by wholesale liquor dealers

The requirement that wholesale liquor dealers post a sign outside their place of business indicating that they are wholesale liquor dealers is repealed.

Refund of tax for wine returned to bond

The bill deletes the requirement that wine returned to bonded premises be "unmerchantable" in order for tax to be refunded to the proprietor of the bonded wine cellar to which the wine is delivered.

Use of ameliorating material in certain wines

The wine labelling restrictions are modified to allow any wine made exclusively from a fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry) to contain a volume of ameliorating material not in excess of 60 percent.

Domestically produced beer for use by foreign embassies, etc.

The bill extends to domestically produced beer the present-law rule applicable to domestically produced distilled spirits and wine (and imported distilled spirits, wine, and beer) which permits these products to be withdrawn from the place of production without payment of tax for the official or family use of representatives of foreign governments or public international organizations.

Withdrawal of beer for destruction

The bill allows beer to be removed from a brewery without payment of tax for purposes of destruction, subject to Treasury Department regulations.

Records of exportation of beer

The bill repeals the requirement that proof of exportation be submitted to the Treasury Department in all cases as a condition of receiving a refund of tax. This proof will continue to be required to be maintained at the exporter's place of business.

Transfer to brewery of beer imported in bulk

The bill extends the present-law rule applicable to distilled spirits imported into the United States in bulk containers to beer imported into the United States in bulk containers, so that imported beer may, subject to Treasury regulations, be withdrawn from customs custody for transfer to a brewery without payment of tax.

Effective Date

These provisions of the bill generally are effective beginning 180 days after date of the bill's enactment. The provision deleting the requirement that wholesale liquor dealers post a sign outside their place of business is effective on the date of the bill's enactment.

C. Other Excise Tax Provisions

1. Authority for IRS to grant exemptions from registration requirements (sec. 631 of the bill and sec. 4222 of the Code)

Present Law

Under section 4222, certain sales of articles subject to Federal excise taxes may not be made without payment of tax under section 4121 unless the manufacturer, the first purchaser, and the second purchaser (if any) are all registered under regulations prescribed by the Secretary.

Reasons for Simplification

Allowing the Internal Revenue Service to exempt certain classes of taxpayers from the registration requirements will simplify the Service's administration of the registration provisions. Also, the provision will reduce unnecessary paperwork for affected taxpayers.

Explanation of Provision

The bill revises section 4222(a) so that certain sales of articles subject to Federal excise taxes may not be made without payment of tax under section 4221 to any person who is required by the Secretary to be registered but who is not so registered. This will allow the Secretary to provide exemption from registration requirements for certain classes of taxpayers.

Effective Date

The provision applies to sales after the 180th day after the date of enactment.

2. Repeal temporary reduction in tax on piggyback trailers (sec. 632(a) of the bill and sec. 4051(d) of the Code)

Present Law

Piggyback trailers and semitrailers sold within the 1-year period beginning on July 18, 1984 were permitted a temporary reduction in the retail excise tax on trailers.

Explanation of Provision

The bill repeals the temporary reduction in tax on piggyback trailers as "deadwood."

Effective Date

The provision is effective on the date of enactment.

3. Expiration of excise tax on deep seabed minerals (sec. 632(b) of the bill and secs. 4495-4498 of the Code)

Present Law

Background

The Deep Seabed Mineral Resources Act (the "Resources Act," P.L. 96-283), one title of which was the Deep Seabed Hard Mineral Removal Tax Act of 1979 (the "Tax Act"), was enacted into law on June 28, 1980. The Resources Act was intended to encourage the successful negotiation of an international deep seabed treaty by the United Nations Conference on the Law of the Sea (a U.N. international deep seabed treaty), and pending the entry into force of such a treaty, to establish a special fund to support international revenue sharing from deep seabed mineral recovery. To this end, the Act established an interim trust fund in the Treasury, the Deep Seabed Revenue Sharing Trust Fund (the Trust Fund), into which any Tax Act receipts would be deposited. There have been no tax collections under the Tax Act. The Trust Fund proceeds were intended to be used to help discharge any U.S. financial obligations under a U.N. international deep seabed treaty should the United States become a party thereto.

Subsequent to the enactment of the Resources Act, the U.N. Conference on the Law of the Sea completed negotiations for an international deep seabed treaty in 1982, and the United States announced that it would not sign the treaty.

If and when the Law of the Sea Convention (the Convention) enters into force, it would establish a regime for the regulation of mineral extraction from the deep seabed, and would impose revenue obligations on its adherents. Such obligations were to be fundable by the Deep Seabed Revenue Trust Fund, if the United States were to become obligated by the Convention.

Excise tax on certain hard minerals

The Tax Act added sections 4495 through 4498 to the Internal Revenue Code. These sections would impose an excise tax on the removal from the deep seabed of certain hard mineral resources pursuant to a deep seabed permit issued under the Resources Act. In general, a deep seabed permit issued under the Resources Act would authorize its holder to engage in commercial recovery activities with respect to hard mineral resources on or under deep seabeds. No such permits have been issued.

Deep seabeds are, in general, areas outside the continental shelf of any nation. In general, hard mineral resources are mineral nodules, lying on or just below the surface of deep seabeds, that contain one or more minerals including manganese, nickel, cobalt, or copper. Under the Tax Act, if a person removes a hard mineral resource from the deep seabed pursuant to a deep seabed permit, a tax is imposed on the permit holder equal to 3.75 percent of 20 percent (or 0.75 percent) of the fair market value of the commercially recoverable minerals removed.

The Tax Act was scheduled to terminate on the earlier of the date on which a U.N. international deep seabed treaty took effect with respect to the United States, or June 28, 1990) (10 years after the date of enactment of the Tax Act). Since the United States did not sign the treaty, the excise tax provisions expired on June 28, 1990.

Explanation of Provisions

The bill deletes the deep seabed hard minerals excise tax provisions as "deadwood."

Effective Date

The provision is effective on the date of enactment.

TITLE VII.—ADMINISTRATIVE PROVISIONS

A. Administrative Provisions

1. Simplify employment tax reporting for household employees (sec. 701 of the bill and secs. 3102, 3121, 3306 and 6654 of the Code)

Present Law

An employer who pays a household employee wages of $50 or more in a calendar quarter for household work must withhold social security taxes (including medicare taxes) from wages paid to the employee during the quarter. The employer must also pay an amount of tax that matches the tax withheld from the employee's wages. The employer must file an Employer's Quarterly Tax Return (Form 942) each quarter and a Wage and Tax Statement (Form W-2) at the end of the year.

In addition, an employer must pay federal unemployment taxes if he or she paid cash wages to household employees totalling $1,000 or more in a calendar quarter in the current or preceding year. The employer must file an Employer's Annual Federal Unemployment Tax Return (Form 940 or Form 940-EZ) at the end of the year.

Reasons for Simplification

Employer return requirements are confusing and burdensome for many individuals, who may be employers only because they employ a domestic employee on an intermittent basis. Streamlining the return requirements would reduce the filing burden.

Explanation of Provision

The bill changes the threshold for withholding and paying social security taxes from $50 a quarter to $300 a year. The bill requires an individual who employs only household employees to report any social security or federal unemployment tax obligation for wages paid to such employees on his or her income tax return for the year. The bill includes a household employer's social security and unemployment taxes in the estimated tax provisions. The bill authorizes the Secretary to enter into agreements with states to collect state unemployment taxes in the same manner.

Effective Date

The provision is effective for remuneration paid in calendar years beginning after December 31, 1991.

2. Penalties for failure to provide reports relating to pension payments (sec. 702 of the bill and secs. 6652(e) and 6724 of the Code)

Present Law

Any person who fails to file an information report with the Internal Revenue Service on or before the prescribed filing date is subject to penalties for each failure. The general penalty structure provides that the amount of the penalty is to vary with the length of time within which the taxpayer corrects the failure, and allows taxpayers to correct a de minimis number of errors and avoid penalties entirely (sec. 6721). A different, flat-amount penalty applies for each failure to provide information reports to the IRS or statements to payees relating to pension payments (sec. 6652(e)).

Reasons for Simplification

Conforming the information-reporting penalties that apply with respect to pension payments to the general information-reporting penalty structure would simplify the overall penalty structure through uniformity and provide more appropriate information-reporting penalties with respect to pension payment.

Explanation of Provision

The bill incorporates into the general penalty structure the penalties for failure to provide information reports relating to pension payments to the IRS and to recipients. Thus, information reports with respect to pension payments would be treated in a similar fashion to other information reports.

Effective Date

The provision applies to returns and statements the due date for which is after December 31, 1991.

3. Clarify that reproductions from digital images are reproductions for recordkeeping purposes (sec. 703 of the bill and sec. 6103(p) of the Code)

Present Law

Reproductions of a return, document, and certain other matters have the same legal status as the original for purposes of judicial and administrative proceedings. It is unclear whether reproductions made from digital images are also accorded the same legal status as originals.

Reasons for Simplification

Reducing the IRS' need to maintain hard-copy originals of documents would simplify the administration of the tax laws. As part of its systems modernization plan, the IRS intends to store returns, documents, and other materials in digital image format. This plan will permit the IRS to respond much more quickly to taxpayers' inquiries about the status of their accounts. It will facilitate implementation of this plan to clarify that reproductions made from such images would be accorded the same legal status as other reproductions.

Explanation of Provision

The bill provides that the term reproduction includes a reproduction from a digital image. The bill also requires the Comptroller General to conduct a study of available digital image technology for the purpose of determining the extent to which reproductions of documents stored using that technology accurately reflect the data on the original document and the appropriate period for retaining the original document.

Effective Date

The provision is effective on the date of enactment.

4. Repeal tax shelter registration requirements (sec. 704 of the bill and sec. 6111 of the Code)

Present Law

Organizers of tax shelters must register their shelters with the IRS before offering any interests for sale.

Reasons for Simplification

As a result of the passive loss provisions (and related provisions) of the Tax Reform Act of 1986, tax shelters are no longer being marketed as they were prior to that Act. Registration of tax shelters is therefore no longer necessary for the proper administration of the tax laws. Repeal of the registration requirements would reduce paperwork burdens for taxpayers and the IRS.

Explanation of Provision

The bill repeals the tax shelter registration requirements.

Effective Date

The provision is effective on the date of enactment.

5. Repeal of authority to disclose whether a prospective juror has been audited (sec. 705 of the bill and sec. 6103(h)(5) of the Code)

Present Law

In connection with a civil or criminal tax proceeding to which the United States is a party, the Secretary must disclose, upon the written request of either party to the lawsuit, whether an individual who is a prospective juror has or has not been the subject of an audit or other tax investigation by the Internal Revenue Service (sec. 6103(h)(5)).

Reasons for Simplification

This disclosure requirement, as it has been interpreted by several recent court decisions, has created significant difficulties in the civil and criminal tax litigation process. First, the litigation process can be substantially slowed. It can take the Secretary a considerable period of time to compile the information necessary for a response (some courts have required searches going back as far as 25 years). Second, providing early release of the list of potential jurors to defendants (which several recent court decisions have required to permit defendants to obtain disclosure of the information from the Secretary) can provide an opportunity for harassment and intimidation of potential jurors in organized crime, drug, and some tax protester cases. Third, significant judicial resources have been expended in interpreting this procedural requirement that might better be spent resolving substantive disputes. Fourth, differing judicial interpretations of the nature of this provision have caused confusion and, in some instances, defendants convicted of criminal tax offenses have obtained reversals of those convictions because of failures to comply fully with this provision.

Explanation of Provision

The bill repeals the requirement that the Secretary disclose, upon the written request of either party to the lawsuit, whether an individual who is a prospective juror has or has not been the subject of an audit or other tax investigation by the Internal Revenue Service.

Effective Date

The provision is effective for judicial proceedings pending on, or commenced after, the date of enactment.

6. Repeal TEFRA audit rules for S corporation (sec. 706 of the bill and secs. 6037, 6241, 6242, 6243, 6244, and 6245 of the Code)

Present Law

An S corporation generally is not subject to income tax on its taxable income. Instead, it files an information return and the shareholders report their pro rata share of the S corporation's income and deductions on the shareholder's tax return.

The Subchapter S Revision Act of 1982 generally made the TEFRA partnership audit and litigation rules applicable to S corporations. These rules require the determination of all "Subchapter S items" at the corporate, rather than the shareholder, level. These rules also require a shareholder to report all Subchapter S items consistently with the corporation's information return or to notify the IRS of any inconsistency. Temporary regulations contain an exception from these rules for "small S corporations," i.e., those with five or fewer shareholders, each of whom is a natural person or an estate.

Reasons for Simplification

An S corporation generally is limited to 35 investors. In addition, the vast majority of both existing and newly formed S corporations are expected to qualify for the small S corporation exception from the unified audit and litigation provisions. Consequently, a unified audit procedure is unnecessary for S corporations.

Explanation of Provision

The bill repeals the unified audit procedures for S corporations. The bill retains, however, the requirement that shareholders report items in a manner consistent with the corporation's return.

Effective Date

The provision is effective for taxable years beginning after the date of enactment.

7. Clarify statute of limitations for items for passthrough entities (sec. 707 of the bill and sec. 6501(a) of the Code)

Present Law

Passthrough entities (such as S corporations, partnerships, and certain trusts) generally are not subject to income tax on their taxable income. Instead, these entities file information returns and the entities' shareholders (or beneficial owners) report their pro rata share of the gross income and are liable for any taxes due.

Some believe that present law may be unclear as to whether the statute of limitations for adjustments that arise from distributions from passthrough entities should be applied at the entity or individual level (i.e., whether the 3-year statute of limitations for assessments runs from the time that the entity files its information return or from the time that a shareholder timely files his or her income tax return). (Compare *Fehlhaber* v. *Comm.*, 94 TC 863 (1990) with *Kelly v. Comm.*, 877 F.2d 7567 (9th Cir. 1989)).

Reasons for Simplification

Uncertainty regarding the correct statute of limitations hinders the resolution of factual and legal issues and creates needless litigation over collateral matters.

Explanation of Provision

The bill clarifies that the return that starts the running of the statute of limitations for a taxpayer is the return of the taxpayer and not the return of another person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit. The provision is not intended to create any inference as to the proper interpretation of present law.

Effective Date

The provision is effective for taxable years beginning after the date of enactment.

B. Tax Court Provisions

1. Clarify jurisdiction of Tax Court with respect to overpayment determinations (sec. 711 of the bill and sec. 6512(b) of the Code)

Present Law

The Tax Court may order the refund of an overpayment determined by the Court, plus interest, if the IRS fails to refund such overpayment and interest within 120 days after the Court's decision becomes final. Whether such an order is appealable is uncertain.

In addition, it is unclear whether the Tax Court has jurisdiction over the validity or merits of certain credits or offsets (e.g., providing for collection of student loans, child support, etc.) made by the IRS that reduce or eliminate the refund to which the taxpayer was otherwise entitled.

Reasons for Simplification

Clarification of the jurisdiction of the Tax Court and the appealability of orders of the Tax Court would provide for greater certainty for taxpayers and the Government in conducting cases before the Tax Court. Clarification will also reduce litigation.

Explanation of Provision

The bill clarifies that an order to refund an overpayment is appealable in the same manner as a decision of the Tax Court. The bill also clarifies that the Tax Court does not have jurisdiction over the validity or merits of the credits or offsets that reduce or eliminate the refund to which the taxpayer was otherwise entitled.

Effective Date

The provision is effective on the date of enactment.

2. Clarify procedures for administrative cost awards (sec. 712 of the bill and sec. 7430 of the Code)

Present Law

Any person who substantially prevails in any action brought by or against the United States in connection with the determination, collection or refund of any tax, interest, or penalty may be awarded reasonable administrative costs incurred before the IRS and reasonable litigation costs incurred in connection with any court proceeding.

No time limit is specified for the taxpayer to apply to the IRS for an award of administrative costs. In addition, no time limit is specified for a taxpayer to appeal to the Tax Court an IRS decision denying an award of administrative costs. Finally, the procedural rules for adjudicating a denial of administrative costs are unclear.

Reasons for Simplification

The proper procedures for applying for a cost award are uncertain in some instances. Clarifying these procedures will decrease litigation over these procedural issues.

Explanation of Provision

The bill provides that a taxpayer who seeks an award of administrative costs must apply for such costs within 90 days of the date on which the taxpayer was determined to be a prevailing party. The bill also provides that a taxpayer who seeks to appeal an IRS denial of an administrative cost award must petition the Tax Court within 90 days after the date that the IRS mails the denial notice.

The bill clarifies that dispositions by the Tax Court of petitions relating only to administrative costs are to be reviewed in the same manner as other decisions of the Tax Court.

Effective Date

The provision is effective on the date of enactment.

3. Clarify Tax Court jurisdiction over interest determinations (sec. 713 of the bill and sec. 7481(c) of the Code)

Present Law

A taxpayer may seek a redetermination of interest after certain decisions of the Tax Court have become final by filing a petition with the Tax Court.

Reasons for Simplification

It would be beneficial to taxpayers if a proceeding for a redetermination of interest supplemented the original deficiency action brought by the taxpayer to redetermine the deficiency determination of the IRS. A motion, rather than a petition, is a more appropriate pleading for relief in these cases.

Explanation of Provision

The bill provides that a taxpayer must file a "motion" (rather than a "petition") to seek a redetermination of interest in the Tax Court.

Effective Date

The provision is effective on the date of enactment.

4. Clarify net worth requirements for awards of administrative or litigation costs (sec. 714 of the bill and sec. 7430 of the Code)

Present Law

Any person who substantially prevails in any action brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty may be awarded reasonable administrative costs incurred before the IRS and reasonable litigation costs incurred in connection with any court proceeding.

A person who substantially prevails must meet certain net worth requirements to be eligible for an award of administrative or litigation costs. In general, only an individual whose net worth does not exceed $2,000,000 is eligible for an award, and only a corporation or partnership whose net worth does not exceed $7,000,000 is eligible for an award. (The net worth determination with respect to a partnership or S corporation applies to all actions that are in substance partnership actions or S corporation actions, including unified entity-level proceedings under sections 6226 or 6228, that are nominally brought in the name of a partner or a shareholder.)

Reasons for Simplification

Although the net worth requirements are explicit for individuals, corporations, and partnerships, it is not clear which net worth requirement is to apply to other potential litigants. It is also unclear how the individual net worth rules are to apply to individuals filing a joint tax return. Clarifying these rules will decrease needless litigation over procedural issues.

Explanation of Provision

The bill provides that the net worth limitations currently applicable to individuals also apply to estates and trusts. The bill also provides that individuals who file a joint tax return shall be treated as one individual for purposes of computing the net worth limitations. Consequently, the net worths of both spouses are aggregated for purposes of this computation. An exception to this rule is provided in the case of a spouse otherwise qualifying for innocent spouse relief.

Effective Date

The provision applies to proceedings commenced after the date of enactment.

C. Permit IRS to Enter Into Cooperative Agreements With State Tax Authorities (sec. 721 of the bill and new sec. 7524 of the Code)

Present Law

The IRS is generally not authorized to provide services to non-Federal agencies even if the cost is reimbursed (62 Comp. Gen. 323,335 (1983)).

Reasons for Simplification

Most taxpayers reside in States with an income tax and, therefore, must file both Federal and State income tax returns each year. Each return is separately prepared, with the State return often requiring information taken directly from the Federal return. Permitting the IRS to enter into agreements with States that are designed to promote efficiency through joint tax administration programs would reduce the burden on taxpayers because much of the same information could be used by both Governments.

For example, the burden on taxpayers could be significantly reduced through joint electronic filing of tax returns, whereby a taxpayer electronically transmits both Federal and State returns to one location. Joint Federal and State electronic filing could simplify and shorten return preparation time for taxpayers. Also, State governments could benefit from reduced processing costs, while the IRS could benefit from the potential increase in taxpayers who would elect to file electronically because they would be able to fulfill both their Federal and State obligations simultaneously.

Explanation of Provision

The bill provides that the Secretary is authorized to enter into cooperative agreements with State tax authorities to enhance joint tax administration. These agreements may include (1) joint filing of Federal and State income tax returns, (2) single processing of these returns, and (3) joint collection of taxes (other than Federal income taxes).

The bill provides that these agreements may require reimbursement for services provided by either party to the agreement. Any funds appropriated for tax administration may be used to carry out the responsibilities of the IRS under these agreements, and any reimbursement received under an agreement shall be credited to the amount appropriated.

No agreement may be entered into that does not provide for the protection of confidentiality of taxpayer information that is required by section 6103.

Effective Date

This provision is effective on the date of enactment.

FOOTNOTES

[1] See, e.g., Rev. Rul. 90-79, 1990-2 C.B. 26 (where the taxpayer purchased a house in a foreign country, financed by a foreign currency loan, and the currency appreciates before the house is sold and the loan is repaid, the taxpayer's exchange loss on repayment of the loan is not deductible under sec. 988 and does not offset taxable gain on the sale of the house).

[2] See Staff of the Joint Committee on Taxation, 100th Cong., 1st Sess., "General Explanation of the Tax Reform Act of 1986" at 1096 (1987); Treas. Reg. sec. 1.985–3.

[3] An individual who actively participates in a rental real estate activity and holds at least a 10 percent interest may deduct up to $25,000 of passive losses. The $25,000 amount phases out as the individual's income increases from $100,000 to $150,000.

The $25,000 allowance also applies to low-income housing and rehabilitation credits (on a deduction equivalent basis), regardless of whether the taxpayer claiming the credit actively participates in the rental real estate activity generating the credit. In addition, the income phaseout range for the $25,000 allowance for these credits is $200,000 to $250,000 (rather than $100,000 to $150,000). For interests acquired after December 31, 1989 in partnerships holding property placed in service after that date, the $25,000 deduction-equivalent allowance is permitted for the low-income housing credit without regard to the taxpayer's income.

[4] In determining the amounts required to be separately taken into account by a partner, those provisions of the large partnership rules governing computations of taxable income are applied separately with respect to that partner by taking into account that partner's distributive share of the partnership's items of income, gain, loss, deduction or credit. This rule permits partnerships to make otherwise valid special allocations of partnership items to partners.

[5] A large partnership is allowed a deduction under section 212 for expenses incurred for the production of income, subject to 70-percent disallowance, as described below.

[6] Any excess of net short-term capital gain over net long-term capital loss is consolidated with the partnership's other taxable income and is not separately reported.

[7] The "70 percent" figure is intended to approximate the amount of such deductions that would be denied at the partner level as a result of the two-percent floor.

[8] It is intended that the rehabilitation and low-income housing credits which are subject to the same passive loss rules (i.e., in the case of the low-income housing credit, where the partnership interest was acquired or the property was placed in service before 1990) could be reported together on the same line.

[9] Precontribution gain is the excess of the fair market value of the contributed property at the time of contribution over the adjusted basis of such property immediately before such contribution. Precontribution loss is the excess of the adjusted basis of such property over its fair market value.

[10] Amounts recognized by reason of these recognition events are taken into account in the partner's taxable year in which or with which ends the partnership taxable year of the deduction or disposition.

[11] It is intended that a deceased partner's successor in interest would not recognize any remaining precontribution gain or loss.

[12] The number of partners is determined by counting only persons directly holding partnership interests in the taxable year; persons holding indirectly (e.g., through another partnership) are not counted. It is not necessary for a partnership to have 250 or more partners at any one time in a taxable year for the partnership to constitute a large partnership.

[13] For this purpose, oil or gas properties means the mineral interests in oil or gas which are of a character with respect to which a deduction for depletion is allowable under section 611.

[14] The bill also excludes from the audit provisions partners who are excluded from the reporting rules. Such a partner who is excluded from the audit rules, however, is excluded only to the extent his or her interest in the partnership in the year in which an adjustment took effect does not exceed his or her interest in the partnership taxable year to which the adjustment related.

[15] Tax Equity and Fiscal Responsibility Act of 1982.

[16] For example, the "once a PFIC always a PFIC" rule of sec. 1297(b)(1) does not apply to shareholders that make current-inclusion elections.

[17] It is understood that a mutual insurance company could be treated under the bill and under present law as a passive foreign corporation, notwithstanding the fact that such a company does not actually issue "stock."

[18] Thus, the bill retains the exception for income derived in the active conduct of an insurance business by a corporation which is predominantly engaged in an insurance business and which would be subject to tax under subchapter L if it were a domestic corporation. It is intended that in determining whether a corporation is "predominantly engaged" for this purpose, the Secretary may require a higher standard or threshold than the definition of an insurance company under Treasury Regulations section 1.801–3(a).

[19] H.R. Rep. No. 100–795, 100th Cong., 2d Sess. 272 (1988); S. Rep. No. 100–445, 100th Cong., 2d Sess. 285 (1988).

[20] The bill retains the present law rules that provide an exception from the definition of a PFIC in the case of a start-up company (current sec. 1297(b)(2)). Under the bill, the start-up company exception is intended to be applied, where necessary to carry out the purposes of the PFC rules, by treating as one corporation all related foreign corporations that transferred assets to the start-up company.

[21] For this purpose, it is intended that proportionate ownership will take into account any special or discretionary allocations of the distributions or gains with respect to stock in the passive foreign corporation.

[22] All citizens (and residents) of the United States are included, irrespective of residence in a U.S. commonwealth or possession.

[23] This rule was included in the definition of foreign personal holding company income for purposes of subpart F prior to the amendments included in the 1986 Act.

[24] See, e.g., Staff of the Joint Committee on Taxation, 100th Cong., 1st Sess. "General Explanation of the Tax Reform Act of 1986" at 6 et seq. (1987) ("General Reasons For The Act").

[25] Also, note that in *Commissioner* v. *American Metal Co.*, 221 F.2d 134, 141 (2d. Cir.), cert. denied, 350 U.S. 879 (1955), where a foreign corporation kept its books in U.S. dollars, foreign taxes were translated as of their payment date.

[26] Proposed Treasury Regulation sec. 1.1361–1(1)(2).

[27] This is the effective date of the present-law provision regarding inadvertent terminations.

[28] See section 1366(d)(1)(A); H. Rep. 97–826, p. 17; S. Rep. 97–640, p. 18.

[29] Treas. Reg. sec. 1.704–1(d)(2); Rev. Rul. 66–94, 1966–1 C.B. 166.

[30] An S corporation may have earnings and profits from years prior to its subchapter S election or from pre-1983 subchapter S years.

[31] See PLR 8818049, (Feb. 10, 1988).

[32] A tax is imposed with respect to LIFO inventory held by a C corporation becoming an S corporation.

[33] See S. Rpt. No. 1983 (85th Cong., 2d Sess., 1958), p. 88.

[34] Treas. Reg. sec. 1.742–1.

[35] The overpayment rate equals the applicable Federal short-term rate plus two percentage points. This rate is adjusted quarterly by the IRS. Thus, in applying the look-back method for a contract year, a taxpayer may be required to use five different interest rates.

[36] See, e.g., *Jalkut Estate* v. *Commissioner*. 96 T.C. No. 27 (April 29, 1991) (transfers from revocable trust to permissible beneficiaries of the trust includible in the grantor's gross estate); LTR 9117003 (same).

Mr. PACKWOOD. Mr. President, I am pleased to join with the distinguished chairman of the Committee on Finance, Senator BENTSEN, today in introducing the Tax Simplification Act of 1991.

This legislation was prepared by the staffs of the Senate Finance Committee, the House Ways and Means Committee, and the Joint Committee on Taxation, in consultation with Department of the Treasury and Internal Revenue Service. The staffs worked hard over the last several months reviewing hundreds of submissions by business groups, tax professionals, and other interested parties. The bill represents a good faith effort of the staffs to address many paperwork problems taxpayers face in complying with the tax laws.

Let me emphasize that the bill is aimed at easing the burden of complying with the Tax Code—it is not intended to change the policy underlying the affected provisions of the tax law. In this regard, a concern has recently surfaced about the foreign tax provisions of the bill. I have been assured that the simplification proposed in this bill is not intended to cut back in any way the current law deferral of U.S. tax on overseas profits earned by American-owned companies. I mention this issue because the tax deferral feature of current law is an important means of helping American companies compete abroad. A simplification measure should not operate to undercut this important policy. I would not support doing so.

It is also my understanding that the Joint Committee on Taxation's very preliminary estimate of the bill indicates it is roughly revenue neutral.

I hope the bill will serve as a useful starting point for discussion of ways to reduce the administrative burden of complying with the tax laws. I encourage those interested in this subject to take a good look at this bill and give us their comments as quickly as possible.

By Mr. GRASSLEY:

S. 1395. A bill to assist in the development of micro-enterprises and micro-enterprise lending, and for other purposes; to the Committee on Finance.

ACT FOR MICRO-ENTERPRISE

Mr. GRASSLEY. Mr. President, I rise today to introduce the Act for Micro-Enterprise. This bill will provide the stuff that dreams are made of. It will enable welfare dependent people to start their own small businesses and become independent of public assistance.

Small business forms the backbone of enterprise in this country. Yet, starting a small business presents rigorous challenges, even for the most aggresive and financially secure individuals. These challenges are monumental obstacles to persons who must rely on public assistance to pay their monthly bills.

But with extensive training, market research, and business consultation, participants in the Micro-Enterprise Project can break the cycle of poverty and become self-sufficient, as proud business owners.

Mr. President, a micro-enterprise is a small business with five or fewer employees, including the owner.

My bill provides the mechanisms for welfare-dependent persons to start up their own Micro-Enterprises and get off welfare. First, they need some help with those obstacles which trip up the best of entrepreneurs.

A strong business plan becomes the blueprint for a small business loan from either a local financial institution or from a State-run revolving loan fund.

The other, and perhaps even more important, is the guarantee of public benefits during the start-up of the business—and continued through its first year.

My bill would exclude the loans, and assets, for starting a business, from the calculation of eligibility for benefits. Also, income derived from the business's first year of operation would not reduce the participant's public assistance.

The typical Micro-Enterprise loan is $5,000. But the current AFDC Program allows recipients to have only $1,000 in depreciable assets. Thus, a Micro-Enterprise loan would disqualify the AFDC recipient from further benefits—even before she could start earning any income from her new business.

This provision improves the chance of long-term business success, since most or all of the business receipts can be reinvested back into the business.

I cannot overstate the value of the sense of pride and independence that comes to participants who are able to make a decent living on their own.

The impact is amplified as other family members also stand a much better chance of breaking out of the cycle of poverty. Those prospects are even more likely, since most small businesses start in the family home, where children can experience first hand the essense of productive work.

This program especially makes sense in rural areas, where employment opportunities in business and industry are limited. Self-owned is often the only alternative to unemployment.

The State and Federal Governments benefit two ways. First, there is a reduction in welfare expenditures for persons whose successful business starts enable them to become financially independent.

Second, tax revenue is generated from the additional economic activity generated through the business.

Examples of successful businesses started through Micro-Enterprise assistance include craft shops, video rental stores, desktop publishing, wedding consultants, and consignment outlets.

The family development, training, and business counseling have been so successful in the Iowa project, that most recipients of the training are independent after the first year of operation. Many who don't start a business do find full-time employment or return to school. The Iowa project is especially successful—it has been able to assist mothers who have been long-term AFDC recipients—an average of 5 years.

The program does an excellent job of coordinating existing services and programs, such as from community colleges, community action agencies, and small business development centers.

It also inspires non-Government entities to invest in the program with volunteered legal help, financial analysis, tax advice, and other services.

Mr. President, I'd like to finish with a paragraph that was printed last January in the Cedar Rapids Gazette:

> Not all welfare recipients are interested in starting their own business. Not all can benefit from the SEID [Self employement investment demonstration] project. But for those who choose to profit from the specialized assistance SEID offers, the program is a godsend. It is an innovative mechanism for breaking the cycle of poverty.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1395

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Act for Micro-Enterprise".

SEC. 2. PUBLIC ASSISTANCE PROVISIONS.

(a) BUSINESS ASSETS EXCLUDED FROM RESOURCES AND INCOME.—

(1) AFDC.—Section 402(a)(8)(A) of the Social Security Act (42 U.S.C. 602(a)(8)(A)) is amended—

(A) by striking "and" at the end of clause (vii); and

(B) by inserting after clause (viii) the following:

"(ix) shall disregard any asset of (including any amount received as a loan by) a child, relative, or other individual specified in clause (ii) which is primarily used for business purposes; and".

(2) SSI.—

(A) EXCLUSION FROM INCOME.—Section 1612(b) of such Act (42 U.S.C. 1382a(b)) is amended—

(i) by striking "and" at the end of paragraph (17);

(ii) in paragraph (18), by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(19) any asset of (including any amount received as a loan by) such individual (or such spouse) which is primarily used for business purposes.".

(B) EXCLUSION FROM RESOURCES.—Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended—

(i) by striking "and" at the end of paragraph (9);

(ii) in paragraph (10), by striking the period and inserting "; and"; and

(iii) by inserting after paragraph (10) the following:

"(11) any asset of (including any amount received as a loan by) such individual (or such spouse) which is primarily used for business purposes.".

(b) PUBLIC ASSISTANCE BENEFITS EXTENDED FOR PERSONS WITH INCOME FROM OR RESOURCES IN A MICRO-ENTERPRISE.—

(2) AFDC AND MEDICAID.—Section 402(a) of the Social Security Act (42 U.S.C. 602(a)) is amended by inserting after paragraph (28) the following:

"(29) notwithstanding paragraphs (7) and (8), provide that, during the 1-year period beginning on the first day any member of a family eligible for benefits under the State plan sells any good or service as part of operating a commercial enterprise with 5 or fewer employees, 1 or more of whom own the enterprise, all income of such family member attributable to the enterprise and all resources in which such family member has a beneficial interest and used primarily in the enterprise shall be disregarded in determining the amount of aid to which the family is entitled under the State plan;".

(2) SSI AND MEDICAID.—

(A) EXCLUSION FROM INCOME.—Section 1612(b) of the Social Security Act (42 U.S.C. 1382a(b)), as amended by subsection (a)(2)(A) of this section, is amended—

(i) by striking "and" at the end of paragraph (18);

(ii) in paragraph (19), by striking the period and inserting "; and"; and

(iii) by adding at the end of the following:

"(20) during the 1-year period beginning on the first day such individual (or such spouse) sells any good or service as part of operating a commercial enterprise with 5 or fewer employees, 1 or more of whom own the enterprise, all income of such individual (or such spouse) attributable to the enterprise.".

(B) EXCLUSION FROM RESOURCES.—Section 1613(a) of the Social Security Act (42 U.S.C. 1382b(a)), as amended by subsection (a)(2)(B) of this section, is amended—

(i) by striking "and" at the end of paragraph (10);

(ii) in paragraph (11), by striking the period and inserting "; and"; and

(iii) by inserting after paragraph (11) the following:

"(12) during the 1-year period beginning on the first day such individual (or such spouse) sells any good or service as part of operating a commercial enterprise with 5 or fewer employees, 1 or more of whom own the enterprise, all resources of such individual (or such spouse) that are used primarily in the enterprise.".

SEC. 3. UNEMPLOYMENT COMPENSATION FOR INDIVIDUALS STARTING MICRO-ENTERPRISES.

(a) STATE LAW REQUIREMENTS.—Subsection (a) of section 3304 of the Internal Revenue Code of 1986 (relating to State law requirements) is amended by striking "and" at the end of paragraph (17), by redesignating paragraph (18) as paragraph (19), and by inserting after paragraph (17) the following new paragraph:

"(18) compensation shall be payable to individuals starting micro-enterprises as provided in section 3(b) of the Act for micro-enterprises; and".

(b) PAYMENT OF COMPENSATION TO INDIVIDUALS STARTING MICRO-ENTERPRISES.—

(1) IN GENERAL.—For purposes of section 3304(a)(18) of the Internal Revenue Code of 1986, a State law shall provide that—

(A) each individual who is an eligible individual with respect to any benefit year shall be entitled to receive regular or extended unemployment compensation, as the case may be, without regard to any State or Federal requirements relating to availability for work, active search for work, or refusal to accept suitable work, and

(B) such individual shall be considered to be unemployed for purposes of the State and Federal laws applicable to unemployment compensation, as long as the individual performs services in the micro-enterprise.

(2) DEFINITIONS.—For purposes of this section—

(A) ELIGIBLE INDIVIDUAL.—The term "eligible individual" means, with respect to any benefit year, an individual who—

(i) is eligible to receive regular or extended compensation under the State law during such benefit year,

(ii) is starting a micro-enterprise, and

(iii) submits an application to the State agency for compensation under this subsection.

(B) MICRO-ENTERPRISE.—The term "micro-enterprise" means any unincorporated trade or business with 5 or fewer employees, 1 or more of whom own the enterprise.

(C) OTHER TERMS.—The terms "compensation", "extended compensation", "regular compensation", "benefit year", "State", and "State law" have the respective meanings given to such terms under section 205 of the Federal-State Extended Unemployment Compensation of 1970.

SEC. 4. ELIGIBILITY OF ASSISTANCE FOR MICRO-ENTERPRISES UNDER COMMUNITY DEVELOPMENT BLOCK GRANTS AND URBAN DEVELOPMENT ACTION GRANTS.

(a) IN GENERAL.—Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(1) in paragraph (19), by striking "and" at the end;

(2) in paragraph (20), by striking the period at the end and inserting "; and"; and

(3) by adding at the end of the following:

"(21) provision of assistance—

"(A) to lending institutions and other organizations and agencies, in the form of amounts to be made available for loans to commercial enterprises with 5 or fewer employees, 1 or more of whom own the enterprise, such loans to be in amounts not less than $50 and not more than $5,000, the interest rate on which shall be comparable to the interest rate charged on secured commercial loans made in the county in which such enterprise is located; and

"(B) public and private organizations and agencies for providing counseling, technical assistance, educational programs, planning, and training to facilitate the development, establishment, and operation of commercial enterprises described in subparagraph (A).".

(b) APPLICABILITY.—The amendment made by this section shall apply to any amounts made available pursuant to sections 103 and 119 of the Housing and Community Development Act of 1974 (42 U.S.C. 5303 and 5318) for fiscal year 1991 and any succeeding fiscal year.

SEC. 5. BUSINESS LOANS TO MICRO-ENTERPRISES.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by adding after subsection (h) the following:

"(i) The Congress finds that in implementing business loan programs under section 7(a) of the Small Business Act and title V of the Small Business Investment Act of 1958, the Administrator should give due consideration to the needs of micro-enterprises and institutions which offer credit or services to micro-enterprises. For the purposes of this subsection, the term 'micro-enterprises' means commercial enterprises with 5 or fewer employees, 1 or more of whom owns the enterprise.".

SEC. 6. TREATMENT OF MICRO-ENTERPRISE LOANS OF SAVINGS ASSOCIATIONS AS QUALIFIED THRIFT INVESTMENTS.

(a) IN GENERAL.—Section 10(m)(4)(B)(i) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(B)(i)) is amended by inserting ", or to micro-enterprise loans" before the semicolon.

(b) MICRO-ENTERPRISE LOAN DEFINED.—Section 10(m)(4) of such Act (12 U.S.C. 1467a(m)(4)) is amended by adding at the end the following:

"(C) MICRO-ENTERPRISE LOAN.—The term 'micro-enterprise loan' means a loan—

"(i) to a commercial enterprise with 5 or fewer employees, 1 or more of whom own the enterprise;

"(ii) in amounts not less than $50 and not more than $5,000; and

"(iii) the interest rate on which is comparable to the interest rate charged on secured commercial loans made in the county in which such enterprise is located.".

SEC. 7. ESTABLISHMENT OF MICRO-ENTERPRISE DIVISION IN EACH FEDERAL BANKING AGENCY.

(a) IN GENERAL.—Each Federal banking agency shall establish a division to be known as the "Micro-Enterprise Technical and Operations Office" to promote micro-enterprises by offering technical assistance, training, outreach, and other support to groups and individuals engaged in, or desiring to establish, a micro-enterprise or an institution which offers credit or services to micro-enterprises.

(b) DUTIES OF MICRO-ENTERPRISE DIVISION.—The Micro-Enterprise Technical and Operations Office of each Federal banking agency shall—

(1) facilitate the creation and financing of micro-enterprises by collecting information relating to micro-enterprises and providing such information without charge to interested persons, and generally serving as a clearinghouse for information relating to micro-enterprises; and

(2) monitor and provide assistance to the micro-enterprise divisions established pursuant to section 34 of the Federal Deposit Insurance Act.

(c) MICRO-ENTERPRISE DEFINED.—As used in this section, the term "micro-enterprise" means any commercial enterprise with 5 or fewer employees, 1 or more of whom owns the enterprise.

By Mr. DIXON (for himself, Mr. BYRD, Mr. BOREN, Mr. D'AMATO, Mr. FORD, and Mr. SHELBY):

S. 1397. A bill to condition funding for coproduction with South Korea of the F-16 aircraft on receipt by Congress of the relevant memorandum of understanding [MOU] and to extend the 30-day congressional review period until the MOU is received; to the Committee on Armed Services.

CONDITIONS ON FUNDING FOR KOREAN FIGHTER PROGRAM

• Mr. DIXON. Mr. President, Senators BYRD, BOREN, D'AMATO, FORD, and SHELBY today join me in introducing legislation dealing with the Korean fighter program.

Just last year, after the Korean Government announced that it had decided to purchase 120 F/A-18's, our Government entered into a memorandum of understanding to allow the sale. But in March of this year, all of a sudden, the Korean Government changed its mind and announced that it was ending the F/A-18 program. Instead, the Koreans announced they were going to purchase F-16's.

The legislation my colleagues and I are introducing today simply extends the 30-day congressional review period. Presently, under the Arms Export Control Act, procedures for considering arms sales such as the Korean fighter program give Congress 30 days, once it has been officially notified of the proposed sale, to pass a joint resolution blocking the sale. Our bill says that Congress shall have 30 days from the date of Presidential notification, and that the time does not begin to run until Congress has seen the agreed to memorandum of understanding, as well as all side letters of agreement.

Mr. President, there have been three requests from Congress for the General Accounting Office to look into all aspects of this sale. One of the requests was from my colleagues and me, and the other two requests were from the House. This legislation does not—I repeat—does not do anything to preclude the administration from entering into a final agreement with Korea. But is does provide the Congress with adequate time to review this proposed program, and it does ensure that Congress has access to the agreement for review.

The General Accounting Office, in March of this year, produced a report on the F/A-18. In that report, the GAO raised a number of concerns over the industrial base assessments by the Navy, and most importantly, by the Commerce Department. For example, the Navy's analysis did not take into account the potential Korean competition against United States companies for the spare parts market. The Commerce Department is directed by law to conduct an independent assessment of the MOU to include the impact on the U.S. industrial base. However, Commerce could not provide the GAO any evidence of an analysis of the industrial base impacts. I would urge all Members and their staffs to review this report which, by the way, is classified.

The Constitution—article 1, section 8, clause 3—gives Congress the power to regulate foreign commerce. Arms sales are, of course, a form of foreign commerce. It is imperative that Congress have all the necessary information to carry out this responsibility, including any relevant memorandum of understanding. Congress needs to see the MOU and all related documents. We need to see the details of the offset arrangements. We need to know the details of what kind of technology is being transferred.

Just last week, Mr. President, the Office of Technology Assessment pointed out in its report on global arms trade that the United States has transferred defense technology on 12 major weapons systems to South Korea. The report further points out that "the long-term strategy of the Korean Government is to draw United States defense companies into cooperative production and R&D relationships so that Korean firms can learn from their more advanced partners."

We need to know what written plans the Department of Defense, the Department of Commerce, and the Department of State have on how they will control the licensing of technology and equipment transfers associated with the offsets arrangements for the new Korean fighter program. We need to know what recoupment the U.S. taxpayer will receive for all the moneys we have spent on the development of the F-16, including the avionics and engine upgrades. Congress and the taxpayers of this country should know what offsets are being offered up by the engine manufacturer, and what technology is being given to the Koreans in the way of offsets by the prime contractor. These are just a few of the questions that should be answered by the administration, Mr. President. The General Accounting Office needs time to study this program. I urge my colleagues to join us in cosponsoring this legislation.

The Arms Export Control Act gives the President the right to negotiate sales. However, the power over foreign military sales, like every other area of foreign commerce, belongs to the Congress. Nowhere in the Arms Export Act did the Congress say it does not want to see the agreements.

Mr. President, I ask unanimous consent to have the bill printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1397

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL DOCUMENTS REQUIRED FOR PROPOSED COPRODUCTION OF F-16 AIRCRAFT.

(a) PROHIBITION.—None of the funds appropriated or otherwise made available by any provision of law shall be available for the export, or the licensing for export, of any items or technology to South Korea in connection with the coproduction of F-16 aircraft until at least 30 days after the Congress has received the proposed memorandum of understanding between South Korea and the United States regarding that coproduction and all documentation and background material, including agreements concluded through the exchange of letters, relating thereto.

(b) EXTENSION OF THE CONGRESSIONAL REVIEW PERIOD.—No Presidential certification under subsection (b), (c), or (d) of section 36 of the Arms Export Control Act with respect to the sale or export of items or technology for the coproduction of the F-16 aircraft with South Korea shall be deemed to have been received by the Congress until the President submits to the Congress the documents described in subsection (a).●

By Mr. REID (for himself, Mr. GRAHAM, and Mr. DURENBERGER):

S. 1398. A bill to amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from certain riles for determining contributions in aid of construction; to the Committee on Finance.

TAX TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION

Mr. REID. Mr. President, I am joined today by my distinguished colleagues, Senator GRAHAM and Senator DURENBERGER, in reintroducing legislation to restore the tax-exempt status of contributions in aid of construction, known by the acronym CIAC.

When a facility such as a house, school, or government agency is being constructed, builders extend gas and water mains and electric lines into their developments. They then turn this property over to the utilities without charge, or they pay the utilities to install the lines themselves. The utilities receive this financial or property compensation from the developers for establishing service to the new homes and buildings.

Prior to 1986, these contributions were not taxable as income. But in 1986, the tax reform law changed that principle. The impact of this seemingly innocuous technical change is significant. While it may mean increased revenue for the Treasury, it is extracted at a high cost: It increases the cost of new homes by as much as $2,000.

The intent of the tax on CIAC was to place part of the new corporate tax burden under the 1986 act on utilities. This may have made sense in theory, but it has failed miserably in practice. Why? Because utilities pass the tax onto consumers in the form of higher rates.

If the tax burden is shifted to builders, they merely incorporate that extra cost into the purchase price of their homes. The buck stops, once again, at the prospective or current homeowner. A tax intended for a corporation has instead fallen on consumers.

The tax has led to some unusual maneuvering which takes its toll on the homeowner. I was first alerted to such problems by my constituents. They told me that in Reno, NV, the water utility obtains rights to deliver water from the State. These water rights are considered taxable income, even though they have no fair market value and cannot be depreciated. The additional costs borne by the utility are passed on to Reno homebuilders, schools, and homeowners.

Texas also provides an interesting example. There are about 1,200 investor-owned water utilities in Texas. They cannot afford the extra tax so they pass the cost back to developers. Some developers have chosen to circumvent the cost of this tax by running their own water companies. The result is a massive network of small utilities. This leads to uneconomical, inefficient utility service that proves costly and frustrating for the homeowner. It may also leave the homeowner with a water supply that is of poor quality as it typically is not connected to a larger system with purification facilities.

Another consequence of the CIAC tax is the unfair competitive position it puts private utilities vis-a-vis municipally owned utilities. As governmental entities, municipal utilities are not subject to Federal tax. Therefore, they can offer the same services as an investor-owned utility without the added tax burden, which can be as high as 60 percent of the project cost.

Of course, whenever an investor-owned utility is outbid by a municipality, all levels of government lose tax revenue. It also makes it more difficult for investor-owned utilities to survive as going concerns.

During the last Congress, I introduced a similar bill, S. 435, which ultimately had the support of 42 Senators. I hope to generate an equally strong level of support during the 102d Congress. My good friend from California, Congressman BOB MATSUI, has also reintroduced the CIAC repeal bill in the House. With the support of our colleagues, we can repeal this onerous tax.

ADDITIONAL COSPONSORS

S. 98

At the request of Mr. PRESSLER, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 98, a bill to amend the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989.

S. 141

At the request of Mr. DASCHLE, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 141, a bill to amend the Internal Revenue Code of 1986 to extend the solar and geothermal energy tax credits through 1996.

S. 191

At the request of Mr. THURMOND, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 191, a bill to grant a Federal charter to the National Association of Women Veterans, Inc.

S. 239

At the request of Mr. SARBANES, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 239, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 272

At the request of Mr. GORE, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 272, a bill to provide for a coordinated Federal research program to ensure continued United States leadership in high-performance computing.

S. 417

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 417, a bill to establish energy conservation and clean energy requirements for Federal buildings, and for other purposes.

S. 447

At the request of Mr. THURMOND, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 447, a bill to recognize the organization known as the Retired Enlisted Association, Inc.

S. 473

At the request of Mr. DECONCINI, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 473, a bill to amend the Lanham Trademark Act of 1946 to protect the service marks of professional and amateur sports organizations from misappropriation by State lotteries.

S. 474

At the request of Mr. DECONCINI, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 474, a bill to prohibit sports gambling under State law.

S. 501

At the request of Mr. KOHL, the names of the Senator from Minnesota [Mr. WELLSTONE] and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 501, a bill to establish a data collection, information dissemination, and student counseling and assistance network, and for other purposes.

S. 596

At the request of Mr. MITCHELL, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 596, a bill to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements.

S. 649

At the request of Mr. BREAUX, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 649, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury tax on boats.

S. 734

At the request of Mr. GRAHAM, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 734, a bill to permanently prohibit the Secretary of the Interior from preparing for or conducting any activity under the Outer Continental Shelf Lands Act on certain portions of the Outer Continental Shelf off the State of Florida, to prohibit activities other than certain required environmental or oceanographic studies under the Outer Continental Shelf Lands Act within the part of the eastern Gulf of Mexico planning area lying off the State of Florida, and for other purposes.

S. 736

At the request of Mr. GRAHAM, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 736, a bill to amend the Outer Continental Shelf Lands Act.

S. 911

At the request of Mr. KENNEDY, the names of the Senator from Virginia [Mr. ROBB], the Senator from New Mexico [Mr. BINGAMAN], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 911, a bill to amend the Public Health Service Act to expand the availability of comprehensive primary and preventive care for pregnant women, infants, and children and to provide grants for home-visiting services for at-risk families, to amend the Head Start Act to provide Head Start services to all eligible children by the year 1994, and for other purposes.

S. 971

At the request of Mr. DECONCINI, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 971, a bill to promote the development of microenterprises in developing countries.

S. 1040

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1040, a bill to provide a Government-wide comprehensive energy management plan for Federal agencies.

S. 1142

At the request of Mr. GORTON, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1142, a bill to amend the Controlled Substances Act with respect to the regulation of precursor chemicals.

S. 1157

At the request of Mr. DASCHLE, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 1157, a bill to amend the Internal Revenue Code of 1986 to allow the energy investment credit for solar energy and geothermal property against the entire regular tax and the alternative minimum tax.

S. 1190

At the request of Mr. DASCHLE, the name of the Senator from Minnesota [Mr. DURENBERGER] was added a cosponsor of S. 1190, a bill to amend the Internal Revenue Code of 1986 to increase the standard mileage rate deduction for charitable use of passenger automobiles.

S. 1216

At the request of Mr. GORTON, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1216, a bill to provide for the deferral of enforced departure and the granting of lawful temporary resident status in the United States to certain classes of nonimmigrant aliens of the People's Republic of China.

S. 1226

At the request of Mr. JEFFORDS, the names of the Senator from Wyoming [Mr. SIMPSON] and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of S. 1226, a bill to direct the Administrator of the Environmental Protection Agency to establish a small community environmental compliance planning program.

S. 1281

At the request of Mr. RIEGLE, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 1281, a bill to provide for immediate delivery of U.S. savings bonds available to the public at the point of purchase.

S. 1300

At the request of Mr. ROTH, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 1300, a bill to minimize the adverse effects on local communities caused by the closure of military installations.

S. 1367

At the request of Mr. MITCHELL, the names of the Senator from Louisiana [Mr. FORD], the Senator from North Carolina [Mr. SANFORD], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 1367, a bill to extend to the People's Republic of China renewal of nondiscriminatory most-favored-nation treatment until 1992 provided certain conditions are met.

SENATE JOINT RESOLUTION 39

At the request of Mr. THURMOND, the names of the Senator from Alaska [Mr. MURKOWSKI], the Senator from Michigan [Mr. RIEGLE], and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of Senate Joint Resolution 39, a joint resolution to designate the month of September 1991, as "National Awareness Month for Children With Cancer."

SENATE JOINT RESOLUTION 40

At the request of Mr. THURMOND, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of Senate Joint Resolution 40, a joint resolution to designate the period commencing September 8, 1991, and ending on September 14, 1991, as "National Historically Black Colleges Week."

SENATE JOINT RESOLUTION 96

At the request of Mr. RIEGLE, the name of the Senator from Alaska [Mr. STEVENS] was added as cosponsor of Senate Joint Resolution 96, a joint resolution to designate November 19, 1991, as "National Philanthropy Day."

SENATE JOINT RESOLUTION 121

At the request of Mr. DECONCINI, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of Senate Joint Resolution 121, a joint resolution designating September 12, 1991, as "National D.A.R.E. Day."

SENATE JOINT RESOLUTION 131

At the request of Mr. LUGAR, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of Senate Joint Resolution 131, a joint resolution designating October 1991 as "National Down Syndrome Awareness Month."

SENATE JOINT RESOLUTION 142

At the request of Mr. SHELBY, the names of the Senator from Wisconsin [Mr. KOHL], the Senator from Missouri [Mr. DANFORTH], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of Senate Joint Resolution 142, a joint resolution to designate the week beginning July 28, 1991, as "National Juvenile Arthritis Awareness Week."

SENATE JOINT RESOLUTION 145

At the request of Mr. CRANSTON, the names of the Senator from Alaska [Mr. MURKOWSKI] and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 145, a joint resolution designating the week beginning November 10, 1991, as "National Women Veterans Recognition Week."

SENATE JOINT RESOLUTION 161

At the request of Mr. INOUYE, the names of the Senator from Hawaii [Mr. AKAKA], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of Senate Joint Resolution 161, a joint resolution to authorize the Go For Broke National Veterans Association to establish a memorial to Japanese-American War Veterans in the District of Columbia or its environs, and for other purposes.

SENATE JOINT RESOLUTION 164

At the request of Mr. GORE, the names of the Senator from Tennessee [Mr. SASSER], the Senator from Georgia [Mr. NUNN], and the Senator from Washington [Mr. ADAMS] were added as cosponsors of Senate Joint Resolution 164, a joint resolution designating the weeks of October 27, 1991, through November 2, 1991, and October 11, 1992, through October 17, 1992, each separately as "National Job Skills Week."

SENATE JOINT RESOLUTION 165

At the request of Mr. CRANSTON, the names of the Senator from Nevada [Mr. BRYAN], the Senator from Arkansas [Mr. BUMPERS], the Senator from Iowa [Mr. HARKIN], the Senator from Vermont [Mr. JEFFORDS], the Senator from New York [Mr. MOYNIHAN], and the Senator from Nevada [Mr. REID] were added as cosponsors of Senate Joint Resolution 165, a joint resolution to prohibit the proposed sale to the United Arab Emirates of AH-64 Apache attack helicopters.

SENATE CONCURRENT RESOLUTION 1

At the request of Mr. HARKIN, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of Senate Concurrent Resolution 1, a concurrent resolution expressing the sense of the Congress regarding policy on underground nuclear explosions.

SENATE RESOLUTION 82

At the request of Mr. SMITH, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of Senate Resolution 82, a resolution to establish a Select Committee on POW/MIA Affairs.

SENATE RESOLUTION 146—RELATIVE TO THE RECENT VOLCANIC ACTIVITY IN THE PHILIPPINES

Mr. INOUYE (for himself, Mr. LUGAR, Mr. AKAKA, and Mr. DODD) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 146

Whereas the volcanic eruptions of Mount Pinatubo which began on June 9, 1991, on the northern island of Luzon have buried thousands of acres of farmland and homes under molten rock and ash;

Whereas at least 150 people have been killed and more than 200,000 forced to flee their homes to be housed in makeshift refugee centers;

Whereas it is unclear when many of the refugees will be able to return farmlands to production due to the extremely heavy ash accumulation;

Whereas nearly all unharvested crops in the affected area have been destroyed and the completion of next season's planting is in jeopardy;

Whereas Filipinos in the affected areas now face a serious shortage of food and clean drinking water;

Whereas health conditions are deteriorating due to contaminated air and water and lack of sanitation;

Whereas mud slides threaten to bring greater damage to the affected areas for months to come;

Whereas the emergency resources of the Government of the Philippines have been seriously depleted by last year's devastating earthquake and typhoon;

Whereas travel into affected areas remains impeded, including air travel, which is crucial to relief operations;

Whereas Philippine volcanologists were among the first to recognize the danger from Mount Pinatubo, urged the evacuation of the Filipino civilian population, and have monitored the volcano's activity throughout the crisis;

Whereas the Armed Forces of the Philippines have played a useful role by providing humanitarian relief, logistical support, and rehabilitation resources to the affected area;

Whereas the initial United States assistance has provided a valuable supplement to the extraordinary efforts of the Government of the Philippines to respond to this disaster, as well as to the activities of private voluntary organizations and bilateral and multilateral donors; and

Whereas the people of America and the people of the Philippines have a long and historic relationship and have consistently struggled together through times of adversity to reach common goals: Now, therefore, be it—

Resolved, That it is the sense of the Senate that the President should continue to move expeditiously to provide assistance to the Philippines from all available government resources in an effort to—

(1) alleviate the immediate dangers of starvation, dehydration, disease, and exposure of Filipinos in affected areas;

(2) evacuate Filipinos from zones of continued danger either from further volcanic activity or from mud-slides;

(3) clear ash and debris from particularly critical lines of communication;

(4) increase the safety of air links into the affected region in order to facilitate more effective relief operations; and

(5) help the Government of the Philippines with its long-term goals of reconstruction and rehabilitation in the affected areas.

Mr. INOUYE. Mr. President, I rise to submit a resolution expressing the Sense of the Senate regarding the recent volcanic disaster in the Philippines. I request that Senators AKAKA, LUGAR, and DODD be named as orignial cosponsors.

This resolution expresses the sense of the Senate that in view of the recent devastation caused in the Philippines by the eruption of Mount Pinatubo, the United States should continue to provide assistance to the Philippine people in helping them recover from this disaster.

Mr. President, the volcanic eruptions of Mount Pinatubo which began on June 9, 1991, on the northern island of Luzon have buried thousands of acres of farmland and homes under molten rock and ash. At least 150 people have been killed and more than 200,000 have been forced to flee their homes to live in makeshift refugee centers.

No one knows when many of these refugees will be able to return their farmlands to production due to the extremely heavy ash accumulation that has taken place. Almost all the unharvested crops in the affected area have been destroyed and the completion of next season's planting is in jeopardy. Health conditions are poor due to lack of sanitation and contaminated air and water.

Mr. President, last year the Senate expressed its support for the people of the Philippines after the devastating earthquake in the central Luzon region. At that time the United States relief included financial assistance to the Philippines in the form of disaster funds, and shipments of Department of Defense supplies such as food, medical supplies, relief equipment, clothing and temporary shelter. The Philippine Government is still attempting to help those affected by this disaster.

Despite the fact that the Philippine Government's resources are thus depleted, they have now begun working to bring aid and comfort to the victims of this most recent disaster.

Last week, I requested the Department of Defense to rush emergency humanitarian assistance to the stricken area. It is my understanding that the Defense Department is now seeking to locate and provide desperately needed medical supplies, food and equipment, some of which has already been delivered. I commend the Defense Department for its efforts to assist the Philippine Government in responding to yet another natural disaster in their country.

While I realize that the path to recovery will not be easy, I feel that

United States assistance will be a strong symbol of the enduring friendship between the Filipino and American peoples. Therefore, I believe that the United States should continue to respond with assistance in helping the Philippines recover from the damage caused by the eruption of Mount Pinatubo.

Mr. AKAKA. Mr. President, I am pleased to join the senior Senator from Hawaii [Mr. INOUYE], the Senator form Indiana [Mr. LUGAR], and the Senator from Connecticut [Mr. DODD] in introducing this resolution extending our support to the Government and people of the Philippines in the wake of Mount Pinatubo's violent eruption.

Mr. President, the eruption of Mount Pinatubo, which began on June 9, 1991, has killed at least 150 people and forced at least 200,000 residents to abandon their homes and seek shelter in crowded, makeshift refugee centers. Even today, the volcano continues to spew ash, adding to the blanket already covering thousands of square miles on Luzon Island. The 300,000 residents of Olongabo are suffering from shortages of food and drinking water since being isolated by the continued eruptions from Mount Pinatubo.

On Monday, I had the privilege of receiving a delegation led by His Excellency Emmanuel Pelaez, Ambassador of the Republic of the Philippines. Ambassador Pelaez assured me that the initial relief response from the United States has been swift and welcome. The State Department, Defense Department, AID, and U.S. Geological Survey are cooperating with Philippine authorities in identifying needed resources and assisting Philippine authorities to assess the scale of destruction. However, given the extent of the devastation, it is clear from my discussion with the Ambassador that the Philippine people will need additional assistance for the refugee relief effort underway, as well as for the rehabilitation and reconstruction of the affected areas.

I understand the decision of the Philippine Government to withhold making any formal assistance request until the volcanic activity subsides and a complete damage assessment has been made. Our resolution voices the Senate's support for the continued expeditious provision of all assistance available at the President's discretion, and the favorable consideration of a request for specified relief from the Philippine Government once it has been made to the Administration.

Mr. President, the Philippines is our Nation's most longstanding ally in Asia. The people of America and the people of the Philippines have a long history of friendship, and we share a commitment to democratic ideals and civil liberties. Following on the heels of last year's catastrophic earthquake and typhoon, the eruption of Mount Pinatubo poses another threat to the efforts of President Corazon Aquino and the Philippine Government to build a healthy market economy, improve the standard of living for farmers and workers, attract foreign investment, and strengthen nascent democratic political institutions.

As friends, as a fellow democracy, it is imperative that we send a clear message of our willingness to help the Philippine people in their effort to address the immediate and long-term consequences of Mount Pinatubo's eruption. I urge my colleagues to support the resolution.

AMENDMENTS SUBMITTED

VIOLENT CRIME CONTROL ACT

SPECTER AMENDMENT NO. 381

Mr. SPECTER proposed an amendment to the bill (S. 1241) to control and reduce violent crime, as follows:

At the appropriate place, insert the following section:

SEC. . AMENDMENT TO SECTION 2254 OF TITLE 28.

Section 2254(c) of title 28, United States Code, is amended by—

(1) striking "An applicant" and inserting "(1) Except as provided in paragraph (2), an applicant"; and

(2) adding at the end thereof the following:

"(2) An applicant in a capital case shall be deemed to have exhausted the remedies available in the courts of the State when he has exhausted any right to direct appeal in the State.".

At the appropriate place, insert the following:

"§ . Habeas corpus time requirements

"(a)(1) A Federal district court shall determine any petition for a writ of habeas corpus brought under this chapter within 110 days of filing.

"(2)(A) The court of appeals shall hear and determine any appeal of the granting, denial, or partial denial of a petition for a writ of habeas corpus brought under this chapter within 90 days after the notice of appeal is filed.

"(B) The court of appeals shall decide any petition for rehearing en banc within 20 days of the filing of such petition unless a responsive pleading is required in which case the court of appeals shall decide the petition within 20 days of the filing of the responsive pleading. If the petition is granted, the time limit of paragraph (A) shall apply.

"(3) The Supreme Court shall act on any petition for a writ of certiorari in a case brought under this chapter within 90 days after the petition is filed.

"(b) The time limitations under subsection (a) shall apply to an initial petition or motion, and to any second or successive petition or motion. The same limitations shall also apply to the re-determination of a petition or motion or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, and in such a case the limitation period shall run from the date of the remand.

"(c) The time limitations under this section shall not be construed to entitle a petitioner or movant to a stay of execution, to which the petitioner or movant would otherwise not be entitled, for the purpose of litigating any petition, motion, or appeal.

"(d) The failure of a court to meet or comply with the time limitations under this section shall not be a ground for granting relief from a judgment of conviction or sentence. The State or Government may enforce the time limitations under this section by applying to the court of appeals or the Supreme Court for a writ of mandamus.

"(e) The Administrative Office of United States Courts shall report annually to Congress on the compliance by the courts with the time limits established in this section.".

D'AMATO (AND OTHERS) AMENDMENT NO. 382

Mr. D'AMATO (for himself, Mr. THURMOND, and Mr. MACK) proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . Chapter 51 of title 18, United States Code, as amended by this Act, is further amended—

(a) by adding at the end thereof the following section:

"SEC. . MURDER INVOLVING FIREARM.

"(a) OFFENSE.—Whoever has been found guilty of causing, through the use of a firearm, as defined in section 921 of this title, the death of another person, intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or through the intentional infliction of serious bodily injury, shall be punished by death or imprisoned for any term of years or for life. Whenever the government seeks a sentence of death under this section, the procedures set forth in title 18, chapter 228 shall apply.

"(b) JURISDICTION.—There is federal jurisdiction over an offense under this section if—

"(1) the conduct of the offender occurred in the course of an offense against the United States; or

"(2) a firearm involved in the offense has moved at any time in interstate or foreign commerce.

"(c) It is the intent of Congress that this subsection shall be used to supplement but not supplant the efforts of state and local prosecutors in prosecuting murders involving firearms that have moved in interstate or foreign commerce that could be prosecuted under state law. It is also the intent of Congress that the Attorney General shall give due deference to the interest that a state or local prosecutor has in prosecuting the defendant under State law. This subsection shall not create any rights, substantive or procedural, enforceable at law by any party in any manner, civil or criminal, nor does it place any limitations on otherwise lawful prerogatives of the Department of Justice."

And (b) by amending the section analysis to add:

" . Murder Involving Firearm.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT

BAUCUS AMENDMENT NO. 383

(Ordered to lie on the table.)

Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill (H.R. 2686) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes, as follows:

Strike section 319 of title III, entitled "Grazing on the Public Rangelands."

Mr. BAUCUS. Mr. President, yesterday the House of Representatives approved the fiscal 1992 interior appropriations bill, H.R. 2686. By a 232-to-192 margin, the House approved a provision in this legislation that would drastically increase the fee for grazing cattle on Federal land.

The amendment I submit today would simply strip this odious provision from the bill. This is no rational or moderate increase in grazing fees. Rather, it amounts to an arbitrary economic death sentence for thousands of ranchers in Montana and throughout the West.

The current fee formula, Mr. President, is rational. It is tied to the livestock market. When the price of cattle rises, so does the cost of Federal grazing permits. Make no mistake about it, the quadruple increase proposed by the House would effectively halt grazing as a multiple use on Federal lands. No rancher with common sense would pay such an increased fee and also put up with the redtape and regulation that frequently accompanies a permit to graze on the Federal domain.

I return to my home State every chance I get. I talk to lots of Montana ranchers and not all of them believe the current system, I must tell you, is such a great deal. In fact, in some instances, complying with Federal regulations has made some allotments much more trouble than they are worth.

Under the current fee formula, grazing on public lands remains the lifeblood of many of our rural communities, particularly in eastern Montana.

A study conducted by Montana State University estimates that grazing on Federal lands generates $125.5 million for Montana in total economic activity each year. In a State with just over 800,000 folks, that is an important part of our collective livelihood.

We are a public land State. Uncle Sam holds the deed to 30 percent of the lands in Montana. Montanans do not want to see the land exploited. We believe the land is there to use but not to abuse. Balanced multiple use, including grazing, is essential to our way of life and economy, and to our environment.

Ask any reputable range scientist. He or she will tell you that balanced, well-managed grazing actually improves the condition of the range.

Let me repeat that. Range scientists will tell you that balanced, well-managed grazing actually improves the condition of the range.

Stock water improvements benefit wildlife. Where bison once roamed, cattle now replenish the range and prevent the prairie from going to seed.

I am not now saying there have not been abuses; there have been. But the remedy to these abuses lies in allowing professional land managers to do their jobs. We should not resort to the use of economic pressure to drive the rancher off the land.

I hope the Senate will go strongly on record opposing this high-handed, back-door attempt to limit grazing as a multiple use on our public lands. I ask my colleagues from the West, and those possessing the commitment to the balanced multiple use of our public land, to join me in cosponsoring the amendment.

VIOLENT CRIME CONTROL ACT

SPECTER AMENDMENT NO. 384

Mr. SPECTER proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place, add the following new section:

SEC. . AUDIT REQUIREMENT FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES RECEIVING FEDERAL ASSET FORFEITURE FUNDS.

(1) Section 524(c)(7) of Title 28, United States Code, as amended by Section 6072 of the Anti-Drug Abuse Act of 1988, is hereby amended by striking the existing language and inserting in lieu thereof the following:

"(7)(A) The Fund shall be subject to annual audit by the Comptroller General.

"(B) The Attorney General shall require that any State or local law enforcement agency receiving funds conduct an annual audit detailing the uses and expenses to which the funds were dedicated and the amount used for each use or expense and report the results of the audit to the Attorney General."

(2) Section 524(c)(6)(C) of Title 28, United States Code, is hereby amended by adding at the end thereof the following new sentence: "The report should also contain all annual audit reports from State and local law enforcement agencies required to be reported to the Attorney General under subparagraph (B) of paragraph (7)."

NATIONAL LITERACY ACT

PELL AMENDMENT NO. 385

Mr. FORD (for Mr. PELL) proposed an amendment to the bill (H.R. 751) to enhance the literacy and basic skills of adults, to ensure that all adults in the United States acquire he basic skills necessary to function effectively and achieve the greatest possible opportunity in their work and in their lives, and to strengthen and coordinate adult literacy programs, as follows:

On page 63, beginning with line 12, strike all through page 66, line 23, and insert the following:

TITLE VI—BLUE RIBBON AWARDS FOR CORRECTIONAL EDUCATION PROGRAMS

On page 67, line 1, strike "602" and insert "601".

At the end of the bill insert the following:

TITLE VIII—AMENDMENTS AFFECTING THE TERRITORIES AND THE FREELY ASSOCIATED STATES

SEC. 801. ELIGIBILITY FOR EDUCATION PROGRAMS

(a) HIGHER EDUCATION.—Section 484 of the Act (20 U.S.C.1091) is amended by adding at the end thereof the following new subsection:

"(k) STUDENTS ATTENDING INSTITUTIONS IN THE FREELY ASSOCIATED STATES AND ELIGIBILITY FOR TRIO PROGRAMS.—Notwithstanding any other provision of law, a student who meets the requirements of paragraph (a)(5) of this section or who is a resident of the freely associated states, and who attends a public or nonprofit institution of higher education located in any of the freely associated states rather than a State, shall be eligible, if otherwise qualified, for assistance under subpart 1, 2, or 4 of part A or part C of this title.".

(b) TERRITORIAL TEACHER TRAINING ASSISTANCE PROGRAM.—Section 4502 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3142) is amended by striking "the Northern Mariana Islands, and the Trust Territory of the Pacific Islands" each place it appears and inserting in lieu thereof "the Commonwealth of the Northern Mariana Islands, Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.".

(c) TREATMENT OF TERRITORIES AND TERRITORIAL STUDENT ASSISTANCE.—Section 1204 of the Act (20 U.S.C. 1144a) is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law, an institution of higher education that is located in any of the freely associated states, rather than a State, shall be eligible, if otherwise qualified, for assistance under subpart 4 of part A of title IV of this Act.".

SEC. 802. TREATMENT OF TERRITORIES AND FREELY ASSOCIATED STATES.

(a) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Subsection (a) of section 1005 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) COMPETITIVE GRANTS.—(A) From amounts appropriated for purposes of carrying out this section, the Secretary shall reserve an amount equal to the amount described in subparagraph (B) for purposes of making competitive grants to local educational agencies in Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands. The Secretary shall make such grants according to the recommendations of the Pacific Regional Laboratory in Honolulu, Hawaii, which shall conduct a competition for such grants.

"(B) The amount described in this subparagraph is the portion of the aggregate amount reserved in the fiscal year 1989 under sections 1005(a), 1291, 1404, 1405(a)(2)(A), and 1405(a)(2)(B) for the Trust Territory of the Pacific Islands that was attributable to the

Republic of the Marshall Islands and the Federated States of Micronesia.

“(C) Subject to subparagraph (D), grants awarded under this paragraph may only be used for—

“(i) activities consistent with the purposes of—

“(I) title I;

“(II) the Adult Education Act;

“(III) the Education of the Handicapped Act;

“(IV) the Library Services and Construction Act; or

“(V) the Dwight D. Eisenhower Mathematics and Science Education Act;

“(ii) teacher training;

“(iii) curriculum development;

“(iv) instructional materials; or

“(v) general school improvement and reform.

“(D) Grants awarded under this paragraph may only be used to provide direct educational services.

“(E) The Secretary shall provide 5 percent of amounts made available for grants under this paragraph to pay the administrative costs of the Pacific Regional Laboratory with respect to the program under this paragraph.”.

(b) ADULT EDUCATION ACT.—The Adult Education Act is amended—

(1) in sections 312(7) and 371(b)(7)(B)(i) (20 U.S.C. 1201a(7) and 1211(b)(7)(B)(i)) by striking “the Trust Territory of the Pacific Islands” and inserting “Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)”; and

(2) in sections 313(b) and 361(a) (20 U.S.C. 1201b(b) and 1209a(a)) by striking “and the Trust Territory of the Pacific Islands” and inserting “the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau”.

(c) STAR SCHOOLS PROGRAM.—Section 907(8) of the Star Schools Program Assistance Act (20 U.S.C. 4086(7)) is amended by striking “the Trust Territory of the Pacific Islands” and inserting “the Federated States of Micronesia, the Republic of the Marshall Islands, Palau.”

(d) EDUCATION OF THE HANDICAPPED.—The Education of the Handicapped Act is amended in—

(1) section 602(a)(6) (20 U.S.C. 1401(a)(6)) by striking “or the Trust Territory of the Pacific Islands” and inserting “or Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)”;

(2) section 611(a)(2) (20 U.S.C. 1411(a)(2)) by striking “and the Trust Territory of the Pacific Islands” and inserting “the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau”; and

(3) section 611(e)(1) (20 U.S.C. 1411(e)(1)) by striking “and the Trust Territory of the Pacific Islands” and inserting “the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)”.

(e) LIBRARY SERVICES AND CONSTRUCTION ACT.—The Library Services and Construction Act is amended in—

(1) section 3(g) (20 U.S.C. 351a(g)) by striking “or the Trust Territory of the Pacific Islands” and inserting “Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)”;

(2) section 5(a)(3) (20 U.S.C. 351c(a)(3)) by striking “and the Trust Territory of the Pacific Islands” each place such term appears and inserting “Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)”;

(3) section 7(a) (20 U.S.C. 351e(a)) by striking “the Trust Territory of the Pacific Islands” and inserting “Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)”; and

(4) section 7(b) (20 U.S.C. 351e(b)) by striking “and the Trust Territory of the Pacific Islands” each place such term appears and inserting “the Commonwealth of the Northern Mariana Islands and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)”.

GORTON AMENDMENT NO. 386

(Ordered to lie on the table.)

Mr. GORTON submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, add the following new title:

TITLE —PRECURSOR CHEMICALS

SECTION 1. SHORT TITLE.

This title may be cited as “The Chemical Control and Environmental Responsibility Act of 1991”.

SEC. 2. DEFINITION AMENDMENTS.

(a) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (33) by striking “any listed precursor chemical or listed essential chemical” and by inserting in lieu thereof “any list I chemical or any list II chemical”;

(2) in paragraph (34) by striking “listed precursor chemical” and by inserting in lieu thereof “list I chemical' and by striking “critical to the creation” and by inserting in lieu thereof “important to the manufacture”;

(3) in paragraph (35) by striking “listed essential chemical” and inserting in lieu thereof “list II chemical” and by striking “that is used as a solvent, reagent or catalyst” and by inserting in lieu thereof “, which is not a list I chemical, that is used”;

(4) in paragraph (40) by striking the phrase “listed precursor chemical or a listed essential chemical” and inserting in lieu thereof “list I chemical or a list II chemical” in both places it appears.

(b) Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended—

(1) in paragraph (a)(1)(A) by striking “precursor chemical” and inserting in lieu thereof “list I chemical”;

(2) in paragraph (a)(1)(B) by striking “an essential chemical” and inserting in lieu thereof “a list II chemical”;

(3) in paragraph (c)(2)(D) by striking “precursor chemical” and inserting in lieu thereof “chemical control”.

(c) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (34) by inserting “, its esters,” before the word “and” in subparagraphs (A), (F), and (H);

(2) in paragraph (38) by striking the period and inserting in lieu thereof “or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine.”;

(3) in paragraph (39)(A) by striking “or exportation” and inserting in lieu thereof “, exportation or any international transaction which does not involve the importation or exportation of a listed chemical into or out of the United States if a broker or trader located in the United States participates in the transaction,”;

(4) in paragraph (39)(A)(iii) by inserting “or any category of transaction for a specific listed chemical or chemicals” after “transaction”;

(5) in paragraph (39)(A)(iv) by striking the semi-colon and inserting in lieu thereof “unless the listed chemical is ephedrine as defined in paragraph (34)(C) of this section or any other listed chemical which the Attorney General may by regulation designate as not subject to this exemption after finding that such action would serve the regulatory purposes of this chapter in order to prevent diversion and the total quantity of the ephedrine or other listed chemical designated pursuant to this paragraph included in the transaction equals or exceeds the threshold established for that chemical by the Attorney General;”;

(6) in paragraph (39)(A)(v) by striking the semi-colon and inserting in lieu thereof “which the Attorney General has by regulation designated as exempt from the application of this chapter based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered;”; and

(7) by adding a new paragraph as follows:

“(42) the terms 'broker' or 'trader' mean a person who assists in arranging an international transaction in a listed chemical by negotiating contracts, serving as an agent or intermediary, or bringing a buyer, seller and/or transporter together.”.

SEC. 3. REGISTRATION REQUIREMENT.

(a) Section 301 of the Controlled Substances Act (21 U.S.C. 821) is amended by striking the period and inserting in lieu thereof “and to the registration and control of regulated persons and of regulated transactions.”.

(b) Section 302 of the Controlled Substances Act (21 U.S.C. 822) is amended—

(1) in subsection (a)(1) by inserting “or list I chemical” after “controlled substance” in each place it appears;

(2) in subsection (b) by inserting “or list I chemicals” after “controlled substances” and by inserting “or chemicals” after “such substances”;

(3) in subsection (c) by inserting “or list I chemical” after “controlled substance” each place it appears; and

(4) in subsection (e) by inserting “or list I chemicals” after “controlled substances”.

(c) Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following new subsection:

“(h) The Attorney General shall register an applicant to distribute a list I chemical unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

“(1) maintenance of effective controls against diversion of listed chemicals into other than legitimate channels;

“(2) compliance with applicable Federal, State and local law;

“(3) prior conviction record of applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

“(4) past experience in the manufacture and distribution of chemicals; and

"(5) such other factors as may be relevant to and consistent with the public health and safety.".

"(d) Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

(1) in subsection (a) by inserting "or a list I chemical" after "controlled substance" in each place it appears and by inserting "or list I chemicals" after "controlled substances";

(2) in subsection (b) by inserting "or a list I chemical" after "controlled substance";

(3) in subsection (f) by inserting "or list I chemicals" after "controlled substance" each place it appears; and

(4) in subsection (g) by inserting "or list I chemicals" after "controlled substances" each place it appears and by inserting "or list I chemical" after "controlled substance" each place it appears.

(3) Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958) is amended—

(1) in the Heading by adding the phrase "or to import or export a list I chemical";

(2) by redesignating subsection (c) as (c)(1) and by adding a new subsection (c)(2) as follows:

"The Attorney General shall register an applicant to import or export a list I chemical unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the factors enumerated in paragraphs (1) through (5) of section 823(h) shall be considered.";

(3) in paragraph (d)(3) by inserting "or list I chemical or chemicals," after "substances,";

(4) in paragraph (d)(6) by inserting "or list I chemicals" after "controlled substances" each place it appears;

(5) in subsection (e) by striking "and" and by inserting after 827 ", and 830";

(6) in subsections (f), (g) and (h) by inserting "or list I chemicals" after "controlled substances" each place it appears.

(f) Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) by striking "or" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof "; or"; and

(3) by adding the following new subsection:

"(9) who is a regulated person to distribute, import or export a list I chemical without the registration required by this title.".

SEC. 4. REPORTING OF LISTED CHEMICAL MANUFACTURING.

Section 310(b) of the Controlled Substances Act (21 U.S.C. 830(b)) is amended by designating the opening paragraph "(b)(1)", by redesignating paragraphs (1), (2), (3) and (4) as (i), (ii), (iii) and (iv) respectively, by changing the references to these paragraphs in the text which follows them to reflect these new designations and by adding the following new subsection:

"(2) Each regulated person who manufactures a listed chemical shall report annually to the Attorney General, in such form and manner and containing such specific data as the Attorney General shall prescribe by regulation, information concerning listed chemicals manufactured by him.".

SEC. 5. REPORTS BY BROKERS AND TRADERS: CRIMINAL PENALTIES.

(a) Section 1018 of the Controlled Substances Import/Export Act (21 U.S.C. 971) is amended by adding the following new subsection:

"(e) Any person located in the United States who is a broker or trader for an international transaction in a listed chemical which is a regulated transaction solely because of that person's involvement as a broker or trader shall, with respect to that transaction, be subject to all of the notification, reporting, record keeping, and other requirements placed upon exporters of listed chemicals by this subchapter and by subchapter I of this chapter.".

(b) Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended in its entirety to read as follows:

"(d) PENALTY FOR IMPORTATION OR EXPORTATION.—

"Any person who knowingly or intentionally—

"(1) imports or exports a listed chemical with intent to manufacture a controlled substance in violation of this chapter; or

"(2) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, in violation of the laws of the country to which the chemical is exported; or

"(3) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of this chapter; or

"(4) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of the laws of the country to which the chemical is exported;

shall be fined in accordance with title 18, or imprisoned not more than 10 years, or both.".

SEC. 6. EXEMPTION AUTHORITY; ADDITIONAL PENALTIES.

(a) Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended by adding the following new subsection:

"(d)(1) The Attorney General may by regulation require that the 15 day advance notice requirement of subsection (a) of this section apply to all exports of specific listed chemicals to specified nations, regardless of the status of certain customers in such country as "regular customers", if he finds that such action is necessary to support effective diversion control programs or is required by treaty or other international agreement to which the United States is a party;

"(2) The Attorney General may by regulation waive the 15 day advance notice requirement for exports of specific listed chemicals to specified countries if he determines that such advance notice is not required for effective chemical control. If such advance notice requirement is waived, exporters of such listed chemicals shall be required to either submit reports of individual exportations or to submit periodic reports of the exportation of such listed chemicals to the Attorney General at such time or times and containing such information as the Attorney General shall establish by regulation.

"(3) The Attorney General may by regulation waive the 15 day advance notice requirement for the importation of specific listed chemicals if he determines that such requirement is not necessary for effective chemical control. If such advance notice requirement is waived, importers of such listed chemicals shall be required to either submit reports of individual importations or to submit periodic reports of the importation of such listed chemicals to the Attorney General at such time or times and containing such information as the Attorney General shall establish by regulation.".

(b) Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) (as amended by Section 5 above) is amended by—

(1) inserting "or" after the semicolon at the end of paragraph (4); and

(2) adding a new paragraph (5) as follows:

"(5) imports or exports a listed chemical, with the intent to evade the reporting or record keeping requirements of section 971 of this title applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation qualifies for a waiver of the advance notice requirement granted pursuant to section 971(d)(1) or (2) of this title by misrepresenting either the actual country of final destination of the listed chemical and/or the actual listed chemical being imported or exported;".

SEC. 7. AMENDMENTS TO LIST I.

Section 102(34) of the Controlled Substances Act (21 U.S.C. 802 (34)) is amended:

(1) by striking the following chemicals:

"(O) D-lysergic acid."

"(U) N-ethylephedrine."

"(W) N-ethylpseudoephedrine.";

(2) by redesignating subparagraphs (P) through (T) as (O) through (S), subparagraph (V) as (T), and subparagraph (X) as (U), respectively;

(3) by adding the following chemicals:

"(V) benzaldehyde."

"(W) nitroethane.";

(4) by redesignating subparagraph (Y) as (X); and

(5) by striking "(M) through (X)" in the text of redesignated subparagraph (X) and inserting in lieu thereof "(M) through (U)".

SEC. 8. ELIMINATION OF REGULAR SUPPLIER STATUS AND CREATION OF REGULAR IMPORTER STATUS.

(a) Section 102(37) of the Controlled Substances Act (21 U.S.C. 802 (37)) is amended in its entirety to read as follows:

"(37) The term "regular importer" means, with respect to a specific listed chemical, a person who has an established record as an importer of that listed chemical that is reported to the Attorney General.".

(b) Section 1018 of the Controlled Substances Act (21 U.S.C. 971) is amended:

(1) in subsection (b)(1) by striking "regular supplier of the regulated person." and inserting in lieu thereof "to an importation by a regular importer.";

(2) in subsection (b)(2) by striking "a customer or supplier of a regulated person" and inserting in lieu thereof "a customer of a regulated person or to an importer" and by striking "regular supplier" and inserting in lieu thereof "the importer as a regular importer"; and

(3) in subsection (c)(1) by striking "regular supplier" and inserting in lieu thereof "regular importer".

SEC. 9. ADMINISTRATIVE INSPECTIONS AND AUTHORITY.

Section 510(a)(2) of the Controlled Substances Act (21 U.S.C. 880(a)(2)) is amended in its entirety to read as follows:

"(2) places, including factories, warehouses, or other establishments, and conveyances, where persons registered under section 823 of this title (or exempt from such registration under section 822(d) of this title or by regulation of the Attorney General), or a regulated person as defined in section 802(38) of this title, may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to such activity are maintained.".

SEC. 10. THRESHOLD AMOUNTS.

Section 102(39(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)) (as amended by Section 2 above) is amended by inserting "of a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical," before "a threshold amount, including a cumulative threshold amount for multiple transactions".

SEC. 11. MANAGEMENT OF LISTED CHEMICALS.

(a) Part C of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by adding at the end thereof the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"SEC. 311. (a) It is unlawful for a person who possesses a listed chemical with the intent that it be used in the illegal manufacture of a controlled substance to manage the listed chemical or waste from the manufacture of a controlled substance otherwise than as required by regulations issued under sections 3001 through 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921–6925).

"(b)(1) In addition to a penalty that may be imposed for the illegal manufacture, possession, or distribution of a listed chemical or toxic residue of a clandestine laboratory, a person who violates subsection (a) shall be assessed the costs described in paragraph (2) and shall be imprisoned as described in paragraph (3).

"(2) Pursuant to paragraph (1), a defendant shall be assessed the following costs to the United States, a State, or other authority or person that undertakes to correct the results of the improper management of a listed chemical:

"(A) The cost of initial cleanup and disposal of the listed chemical and contaminated property; and

"(B) The cost of restoring property that is damaged by exposure to a listed chemical for rehabilitation under Federal, State, and local standards.

"(3)(A) A violation of subsection (a) shall be punished as a Class D felony, or in the case of a willful violation, as a Class C felony.

"(B) It is the sense of the Congress that guidelines issued by the Sentencing Commission regarding sentencing under this paragraph should recommend that the term of imprisonment for the violation of subsection (a) should not be less than 5 years, nor less than 10 years in the case of a willful violation.

"(4) The Court may order that all or a portion of the earnings from work performed by a defendant in prison be withheld for payment of costs assessed under paragraph (2).

"(c) The Attorney General may direct that assets forfeited under section 511 in connection with a prosecution under this section be shared with State agencies that participated in the seizure or cleaning up of a contaminated site.".

(b) Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; or"; and

(3) by adding the following new paragraph at the end thereof:

"(11) for costs assessed under section 311(b) of the Controlled Substances Act.".

SEC. 12. TECHNICAL AMENDMENT TO THE "CRIME CONTROL ACT OF 1990".

Section 2004 of the "Crime Control Act of 1990" (Pub. L. 101-647) is amended as it amends Section 510(f) of the Controlled Substances Act (21 U.S.C. 881(f)) by striking "this title" and inserting in lieu thereof "this subchapter".

SEC. 13. ATTORNEY GENERAL ACCESS TO THE NATIONAL PRACTITIONER DATA BANK.

Chapter 117 of Title 42, United States Code, is amended by adding the following section to subchapter II:

"11138. Disclosure of information to the Attorney General Information respecting physicians or other licensed health care practitioners reported to the Secretary (or to the agency designated under section 11134(b) of this title) under this subchapter or section 1396r–2 of this title will be provided to the Attorney General. The Secretary will transmit to the Attorney General such information which the Attorney General may designate or request which will assist the Drug Enforcement Administration in the enforcement of Title 21, Sections 801 et seq., and will transmit such information related to health care providers which the Attorney General may designate or request which will assist the Federal Bureau of Investigations in the enforcement of Title 18 and Title 21, Chapter 7 and Chapter 9, Subchapter V.".

SEC. 14. REGULATIONS AND EFFECTIVE DATE.

The Attorney General shall, not later than 90 days after the enactment of this Act, issue regulations necessary to carry out this Act. Except as otherwise noted, this Act will become effective 120 days after enactment.

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will be holding a hearing on forest land conservation and related economic development within the northern forest lands study area. The hearing will be held on Monday, July 15, at 11 a.m., at the Lyndon Institute Auditorium, in Lyndonville, VT. Senator PATRICK LEAHY will preside.

For further information please contact Tom Tuchmann of the committee staff at 224–2035.

SUBCOMMITTEE ON CONSERVATION AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry, Subcommittee on Conservation and Forestry, will be holding a hearing on forest land conservation and related economic development within the northern forest lands study area. The hearing will be held on Monday, July 15, at 9 a.m., at the Bangor City Council Chamber in Bangor, ME. Senator WYCHE FOWLER will preside.

For further information please contact Ben Yarbrough of the subcommittee staff at 224–5207.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Wednesday, June 26, 1991, at 10 a.m. to conduct a hearing on the semiannual report to Congress by the Oversight Board of the Resolution Trust Corporation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 26, at 2 p.m., to hold a hearing on four ambassadorial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AFRICAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on African Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 26, at 3 p.m., to hold a hearing on the Horn of Africa Recovery and Food Security Act, S. 985.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, June 26, 1991, to hold a hearing on "Efforts to Combat Fraud and Abuse in the Insurance Industry: Part 2."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. FORD. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a markup on compensation (S. 775), veterans' reemployment rights (S. 1095), and hospice care legislation, on Wednesday, June 26, 1991, at 9:30 a.m., in SR–418.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PATENTS, TRADEMARKS, AND COPYRIGHTS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary, be authorized to meet during the session of the Senate on June 26, 1991, at 10 a.m., to hold a hearing on S. 473, a bill to amend the Lanham Trademark Act of 1946 to protect the service marks of professional amateur sports organizations from misappropriation by State lotteries and S. 474, a bill to prohibit sports gambling under State law.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on June 26, 1991, beginning at 2 p.m., in 485 Russell Senate Office Building, on S. 362, Mowa Band of Choctaw Indians Recognition Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO THE COLORADO INSTITUTE FOR FUELS AND HIGH ALTITUDE ENGINE RESEARCH

• Mr. WIRTH. Mr. President, I would like to take a moment to recognize the Colorado Institute for Fuels and High Altitude Engine Research [CIFER] located at the Colorado School of Mines in Golden, CO.

On May 1, 1991, Environmental Protection Agency [EPA] Administrator, Mr. William K. Reilly, officially designated CIFER as the Nation's new High-Altitude, Heavy-Duty Engine Research and Technology Assessment Center. The establishment of this center at CIFER is an important event in our continuing efforts to reduce air pollution problems in our cities. EPA's announcement will help CIFER continue its important research activities, including the development of technologies to reduce air pollution from heavy-duty trucks and buses.

The Colorado Institute for Fuels and High Altitude Engine Research was initiated at the Colorado School of Mines in 1989. Its mission is to advance fuel-saving and emission-reducing technologies for our cars and trucks at high altitudes. The advances achieved at CIFER will help high-altitude cities comply with Federal clean air standards and reduce the brown cloud—a visible air pollution problem that plagues high-altitude cities including Denver, Albuquerque, Phoenix, Salt Lake City, and other cities throughout the world. High-altitude cities have significant air pollution problems caused or aggravated by auto and truck engine emissions.

The research conducted at CIFER is especially important since the recent amendments to the Clean Air Act set new emissions standards for motor vehicles which are largely based on research done at sea level. Motor vehicle engines running at high altitudes, particularly heavy-duty diesel engines, generally cannot yet meet these standards. Automobile and truck engines simply run dirtier and less efficiently in the thinner and drier air at high altitudes. Because most of the world's large cities and manufacturing centers are at or near sea level, little research has been done to address these unique high-altitude problems. CIFER was created to address these problems.

In an effort to combat Denver's air pollution problems, a number of governmental entities and private groups provided the initial support for the creation of CIFER at the Colorado School of Mines. The initial contributors include Colorado's State government, the Regional Transportation District of Colorado, the Urban Mass Transportation Administration, the Colorado School of Mines, the Colorado Health Department, the U.S. Department of Transportation, the U.S. Department of Energy, the U.S. Environmental Protection Agency, the Public Service Co. of Colorado, and Cyprus Minerals.

Current activities at CIFER includes research on the performance of fuels, engine designs, and pollution control devices at high altitudes. This research includes a fuels research center which conducts research on alternative fuels, catalyst systems, combustion processes, materials, emissions and engine designs. The center has already spawned an innovative vegetable oil-based fuel, called M-diesel, developed by Colorado School of Mines chemist, Tom Reed. Initial test results show that M-diesel has significant emission-reducing potential as a cost-effective diesel fuel additive or substitute. Other research involves the development of improved particulate traps and detailed analysis of the materials which make up tailpipe emissions.

A second program at CIFER is a heavy-duty engine research and technology evaluation center. This facility will house a laboratory equipped to measure fuel consumption, performance, and emissions of large vehicles such as buses and trucks—primarily those equipped with diesel engines. This research is very important since nearly one-quarter of brown cloud pollution may be the result of particulate emissions from heavy-duty engines.

Recognizing the importance of the need to conduct research on engine emissions at high altitude, the Clean Air Act Amendments of 1990 included a provision I helped promote which directed the EPA to designate a high-altitude fuels and engine testing facility. With great pride, I wish to congratulate the Colorado Institute for Fuels and High Altitude Engine Research for being selected as the national high-altitude research center.

1991 INTERNATIONAL SPECIAL OLYMPICS GAMES

• Mr. DURENBERGER. Mr. President, summer is a great time to visit Minnesota under any circumstances. But, between July 19 and 27, I am hopeful my colleagues will plan to visit the Twin Cities of St. Paul and Minneapolis to attend the 1991 International Special Olympics games. Each State will field a team of special athletes who will be among more than 6,000 athletes with mental retardation from nearly 90 nations. I am proud to be an honorary coach for the Minnesota team. I know each State's team would appreciate the support of their Senators.

Special Olympics games are a celebration of courage and conviction in the true spirit of competition. They were organized by Eunice Kennedy Shriver and first held in Chicago in 1968. That first event was an awakening for many people. Today, the rollcall of Special Olympics athletes would include more than 1 million adults and children with mental retardation.

During the 1991 games in Minnesota, Special Olympics athletes will participate in 15 sports at 20 different venues. It will be a memorable time for athletes, families, coaches, volunteers, and spectators. I will wager there will not be a single life left untouched by the look on the face of each athlete achieves his or her personal best.

Minnesotans are opening their community to this global celebration. I hope all of my colleagues will be with us to enjoy it.•

A MARSHALL PLAN FOR HIGHER EDUCATION IN THE SOVIET UNION WOULD WORK TOWARD ENDING THE COLD WAR ONCE AND FOR ALL

• Mr. SIMON. Mr. President, one of the people I have had a chance to get acquainted with over the years is Eugene P. Trani, President of Virginia Commonwealth University.

He has suggested in an article in the Chronicle of Higher Education that we have a very sizable student exchange between the United States and the Soviet Union. In all the discussion of what should take place, this makes more sense than a great many other things I have read.

I will be asking my colleagues to consider some moves in the direction that he calls for in his article.

I urge my colleagues in the Senate and the House to read his article, and I urge the staffs in both Houses to read it also.

I ask to insert the article into the RECORD at this point.

The article follows:

[From the Chronicle of Higher Education, March 13, 1991]

A MARSHALL PLAN FOR HIGHER EDUCATION IN THE SOVIET UNION WOULD WORK TOWARD ENDING THE COLD WAR ONCE AND FOR ALL

(By Eugene P. Trani)

For the past seven months, Operation Desert Storm absorbed the hearts and minds of our government officials, journalists, and citizens, especially those with loved ones in our armed forces in the Middle East. America's concentration on the war diverted our attention from other global developments that also could have great ramifications for the United States, particularly the volatile situation in the Soviet Union.

American academic experts know that the beginnings of change in that country are recent and also potentially reversible. The tragic conflict in Lithuania and comparable events in Latvia are ominous, indeed.

During the past 14 years, I have made eight trips to the Soviet Union. On my most recent visit in December, I signed educational-exchange agreements between Virginia Commonwealth University and several Soviet universities and institutes. Judging by the increased activity among my own and other American colleges and universities in crafting such agreements, the Soviet Union is attracting more and more interest among American academics. There also is evidence that the Soviets are keenly interested in learning our ways. Since Mikhail Gorbachev's glasnost, thousands of Soviet citizens from many walks of life have traveled to the United States on short-term visits, curious about everything from banking to running the corner pharmacy.

It may, therefore, be time to consider a Marshall Plan for higher education in the Soviet Union. Proposed in 1947 by Secretary of State George C. Marshall, the original Marshall Plan was a highly successful program of economic and technical assistance to Western Europe after the disruption left by World War II. Besides a desire to help the Europeans rebuild, we were also thinking of our economic and political self-interest. The Marshall Plan established a long-term program of reconstruction so that Western Europe could once again become a viable trading partner with the United States; it also helped to forestall the spread of communism. Between 1948 and 1952, 16 countries received more than $13 billion in aid.

A Marshall Plan for higher education in the Soviet Union would be forged out of the same twin motives of helping the Soviets rebuild their society and protecting our own interests, by identifying opportunities for both countries to join academic forces. In areas such as technology transfer, agribusiness and agricultural-extension services, hospital administration, and management of small businesses. American higher education could be especially helpful to the Soviet Union in its present quest to modernize its economy. The plan also would serve American faculties seeking to bring a global perspective to their campuses. Joint projects could range from research and testing of new drugs to exhibitions of the work of faculty and student artists, from economic studies to interdisciplinary work in the humanities.

The long-term goal of such a plan would be the training of future leaders and citizens for a new Soviet democracy. We must remember that if we are to realize the vision of a new world order, we must have the cooperation of the Soviet Union—and that means keeping the cold war from heating up again. Doing so will depend on the development of a strong moderate element in the Soviet political mix as a balance to the conservatives who currently seem to have Mr. Gorbachev outflanked.

Soviet-American educational ties thus far have been dominated by a handful of U.S. universities that work primarily with institutions in Moscow and Leningrad that stress the arts and sciences. But most Soviet professionals and managers come from universities and technical institutes spread across the various republics. It is from these institutions that the Soviet Union's moderate political sector is likely to emerge, and they must not be left out of a broadly conceived Marshall Plan for higher education.

Such a plan also could assist reformers like Boris Yeltsin, president of the giant Russian Republic, by helping his supporters formulate new economic and political initiatives—just as a number of political reforms already enacted in the Soviet Union were the ideas of people such as Aleksandr Yakovlev, Mr. Gorbachev's chief foreign-policy specialist during the crafting of *perestroika*. Mr. Yakovlev studied at Columbia University in the late 1950's.

Under such a plan, our colleges and universities would propose projects for federal matching grants. For example, government seed money of approximately $150-million a year for the next 10 years, matched by university funds, could provide as many as 20,000 Soviet students, scholars, and specialists annually with $15,000 each for year-long visits to American campuses. Some of the money could also be used to allow American experts to visit institutions in the Soviet Union, but the major thrust would be to bring Soviets to our institutions. Federal grants would help our own financially hard-pressed institutions afford exchange agreements and might also help make our projects attractive to private donors.

Ideally, a Marshall Plan for higher education ought to be part of a larger package of U.S. economic aid to the Soviet Union. Several European nations have been providing some aid, but the United States has been tentative about providing similar support. Yet the United States and the Soviet Union have much in common that could be exploited to mutual advantage. Both are large geographically, with abundant natural resources and large populations characterized by ethnic and cultural diversity. We have the expertise to help the Soviets exploit their natural resources. A stronger Soviet economy could benefit the American economy by providing a bigger market for U.S. exports and creating opportunities for corporate investment abroad.

Is a broad educational-exchange plan what the Soviets really need right now? The Soviets clearly are struggling with profound economic, political, and social problems that educational-exchange agreements cannot immediately solve. Mikhail Gorbachev is preoccupied with the political uncertainty that continues to mount in the Soviet Union. But he might welcome a long-range plan to aid the faculties of Soviet technical institutes and universities in developing more expertise for economic and social reform.

Further, we should ask ourselves if the current U.S. stance toward the Soviet Union may not be making the situation there worse. The Soviets have got out of Afghanistan, given up Eastern Europe, and implemented a number of other changes in their foreign policy, as well as supporting the United Nations resolutions on Iraq, their old ally. Yet the United States not only has held back on making substantial changes in its own foreign and economic policies toward the U.S.S.R., but also grows more hard-line with each passing week.

In addition to postponing a planned summit meeting with the Soviets, the United States may put off ratification of a treaty signed by 22 nations in November that would make the most extensive cuts in non-nuclear weapons in history. There also is discussion about our backing the secessionist Baltic states with direct economic assistance—an end run around Moscow that Mr. Gorbachev would surely view as provocative. In sum, the United States has continued to up the ante on the Soviet leader—conceivably contributing to his embrace of the Soviet right.

In my view, our reluctance to forge a new relationship with the Soviet Union stems in part from baggage we are still carrying from the past. America had little contact with Russians before this century. That changed after 1900, when the United States experienced a tidal wave of immigration from abroad, of which Russian émigrés made up a sizable percentage. Mostly Jews looking for relief from persecution, the Russians brought with them a justifiable hatred of the Tsar and a desire to bury their past. Unlike many émigrés from other cultures, these Russians did not bring favorable impressions of their native land to America to counteract what limited and naive perceptions Americans had of Russians.

A new wave of Russian émigrés to the United States after the Bolshevik Revolution of 1917 did not reverse this trend. A number of these new émigrés came from Russia's intellectual elite; some were disenfranchised royalists and others disenchanted socialists. Identifying with the losers in the Bolshevik Revolution, these intellectuals exercised considerable influence over the perception of their homeland, particularly in the universities and colleges to which many of them migrated. A Sovietology evolved based on a negative orientation toward all things Russian. The Sovietologists handed down their orthodoxy to their students, thus bolstering ideological and political differences with the Soviet Union.

My point is not to deny that there were gulags, anti-Semitism, and oppression under communist regimes in the Soviet Union. It is that, on the whole, positive perceptions of Russian people, history, and cultures—as distinct from political developments in the Soviet Union—never had a chance to evolve in the American psyche.

Compare this with our very different experience of the Chinese. Dating back to periods when American missionaries, business people, and educators worked to modernize China, America has developed a positive orientation toward China that survived China's embrace of communism, and, more recently, the tragedy of Tiananmen Square. Indeed, America renewed most-favored-nation trade status with China not long after that incident.

Our college campuses also provide striking evidence of both our openness toward the Chinese and our continued lack of exposure to the Soviets. Last year, 33,390 students from the People's Republic of China studied in this country, compared with 510 from the Soviet Union. Of the 46,500 foreign scholars on our campuses, many of them here on exchange agreements to teach and conduct research, 20 per cent are from the People's Republic of China. There are probably no more than 200 scholars from the Soviet Union currently on American campuses.

Now that China has proposed to focus more attention on elementary and vocational education than on higher education, the Chinese numbers may diminish; perhaps American institutions that conducted exchanges with China may become more receptive to exchanges with the Soviet Union. If the 1980's were a decade of overwhelming interest and support of the Chinese, could not the 1990's be the decade of greater interest and assistance to the Soviet Union?

Substantial cultural and economic relations between the United States and the Soviet Union, based on enlightened self-interest, would work toward ending the cold war once and for all. A Marshall Plan for higher education in the Soviet Union could help both countries gain a better understanding of each other's culture, history, language, and people.

I am not sure we can afford to wait.●

YELLOW RIBBON/PEN PAL PROGRAM, FORT WAYNE, IN

• Mr. COATS. Mr. President, I rise today to honor the efforts of three Hoosiers who embody the spirit of American pride and patriotism. These women, Marvetta Myers, Susan Isaacs and Susan Bennett, made a commitment to support our troops in Operation Desert Storm in a most outstanding manner, and their dedication has resulted in a reaffirmation of support for those called to serve our country.

In August 1990, these women took action to establish a Yellow Ribbon/Pan Pal Program in Fort Wayne, IN. Their dedication blossomed into a citywide project that mobilized local government, businesses, media and scores of volunteers. Mayor Paul Helmke of Fort Wayne, proclaimed the week of September 24, 1990, Yellow/Ribbon Pen Pal week, and the city adopted the U.S.S. *Iowa Jima* to be recipient of their efforts.

In addition to organizing the letter writing campaign and yellow ribbon decorating project, these women coordinated a massive airlift for all troops. Over 114,000 pounds of necessities and treats left Fort Wayne on November 19, 1990, and were received by the troops in time for the holdiays.

The troops of Operation Desert Storm demonstrated once again the bravery and dignity of America's Armed Forces. Those men and women were called to make tremendous sacrifices to serve the United States of America. They deserve the love and support of all Americans, and thanks to great citizens around the country, and particularly Marvetta Myers, Susan Isaacs, and Susan Bennett, they got it.•

DOES THE UNITED NATIONS BELONG AT THE TABLE?

• Mr. SIMON. Mr. President, one of the Israeli leaders for whom I have tremendous respect and admiration is former Foreign Minister, Abba Eban.

His eloquence is combined with a sense of vision and understanding that is unusual among world leaders.

Recently, he had an op ed piece in the New York Times, which, among other things, has some background on how Israel has benefited from the United Nations.

I think the general impression among a great many people is that the United Nations has a strongly anti-Israel tilt to it, and there are actions that have been taken in resolutions that certainly tend to confirm that.

But Abba Eban points out that Israel also has been a major recipient of benefits from the United Nations, and that side is more substantial and not as well known.

I ask to insert the Abba Eban op ed piece into the RECORD at this point.

The article follows:

[From the New York Times, June 13, 1991]

ISRAEL AND THE PEACE PROCESS: DOES THE UNITED NATIONS BELONG AT THE TABLE?

(By Abba Eban)

By accepting the Middle East peace conference proposed by President Bush and Secretary of State James Baker, Israel could register a breakthrough for its central interests. The benefits would include negotiations with Arab states, dialogue with mainstream Palestinians, intimate cooperation with the U.S. in a peace process, a new status in the European Community and diplomatic relations with the Soviet Union.

The total result would be an economic upsurge that would help Israel solve the problems created by the providential arrival of immigrants from the Soviet Union and Ethiopia.

America's proposal envisions the symbolic presence of a U.N. observer at a conference at which the U.S. and Soviet Union would be chairmen. There is nothing new or significant in this idea. The U.N. Secretariat presided in the Geneva peace conference of 1973 without claiming any influence on the proceedings.

Mr. Baker has worked hard and successfully to oppose a Syrian request to give the U.N. a coercive role. It would be tragic if vital benefits were wasted because of an exaggerated fear of a U.N. presence.

Contrary to the standard view, the U.N. is not a traditional adversary of Isaarel. No nation has derived comparable advantage from it. The Security Council is the heart of the system; the only General Assembly resolutions called "decisions" define the structure of the world community through U.N. membership.

The Assembly exercised that power in Resolution 273 on May 11, 1949, when it admitted Israel to membership. That decision transcends the obscene graffiti of 1975 defaming Zionism as "racism."

The Security Council's role in Israel's history is complex and, in its overall result, creative. In June 1948, it voted the truce without which the first of Israel's wars could have ended tragically and without victory. In July, the Council denounced the Arabs' resupmtion of war and ordered a cease-fire on pain of sanctions. In November, a Council resolution inaugurated the four armistice accords that stabilized Israel's territorial structure on the basis of successes in its war of independence.

In 1951, the Security Council defined Egypt's blockade of Israeli shipping in the Suez Canal as illegal. From 1957 to 1967, U.N. forces cooperated with Israel in establishing its right of free navigation in the Straits of Tiran and immunity from attacks for Gaza.

In 1967, the Council, even the Assembly, rejected five draft resolution calling for Israeli withdrawal from the newly captured territories without peace. In November 1967, the Council adopted Resolution 242, legitimizing Israel's presence in the territories pending a peace agreement.

In 1973, the Council called on Middle East nations to negotiate under U.S.-Soviet auspices. That year, the Geneva peace conference inaugurated the disengagement agreements among Israel, Egypt and Syria, which prevented a resumption of the Yom Kippur War.

Israel recently joined in asking the Council to maintain the U.N. forces that contribute to stability in the Golan Heights. It would be bizarre to ask the U.N. to risk its forces in a zone of tension while prohibiting the presence of its official in a conference chamber.

There have been many unbalanced Council statements. But these have been rhetorical commentaries on passing events, while the Council's pragmatic, unsentimental determinations of security, national identities, international law and negotiation across four decades are among Israel's principal diplomatic and legal defenses to this day.

The U.N. should neither be idolized nor demonized. It mirrors today's international system. Its flag rightfully belongs wherever the idea of peace is realistically debated.•

TRIBUTE TO DR. HENRY BUCHWALD

• Mr. DURENBERGER. Mr. President, heart disease is the No. 1 killer of people in the United States. In Minnesota, there is a genius who is responsible for major contributions in the treatment of heart disease and related disorders. Dr. Henry Buchwald is responsible for developing methods for reducing cholesterol levels and heart problems in many patients.

Dr. Buchwald is a professor of surgery and biomedical engineering at the University of Minnesota Medical School. One of his best known projects is the program on the surgical control for the hyperlipdemias, or called POSCH. POSCH is a multiclinical evaluation of the cholesterol-lowering ability of a surgical procedure that Dr. Buchwald developed. According to the Philadelphia Inquirer, "this study 'lays to rest' any questions about whether treating cholesterol is worthwhile in patients with heart disease."

Last October, the Philadelphia Inquirer carried a story on the POSCH study and its effects on patients with cholesterol. I would like to share with you parts of that story:

> Henry Buchwald was only 29 and a surgical resident at the University of Minnesota School of Mecicine when in 1961 he came up with the radical idea of using surgery to control cholesterol. Since most cholesterol in food isn't absorbed until it reaches the lower third of the intestine, the young surgeon reasoned that bypassing this segment of intestine should keep cholesterol out of the blood.

Although there was much skepticism, this study would absolutely prove that lowering cholestrol levels reduces the risk of death from heart disease, whether it is from reducing cholesterol in diets, from control through drugs, or from an intestinal bypass procedure. The intestinal bypass procedure has been the most efective in reducing cholesterol.

With help from scientists from the University of Minnesota, the University of Arkansas, the University of Southern California, and the Lankenau Hospital and Research Center in Philadelphia, Dr. Buchwald was able to conduct the POSCH experiment.

An article in the October 4, issue of the Star and Tribune reports:

> One year after surgery, the cholesterol level of the average surgical parient was 23 percent lower than that of the average control patient. After 5 years, the average sur-

> gical patient had a cholesterol reading of 182, compared with 237 for the control patients. Doctors suggest that people keep cholesterol levels below 200. There also has been a 62 percent reduction in the need for coronary bypass surgery, a $42,000 procedure with risks of its own. Intestinal bypass patients also had 55 percent fewer balloon angioplasties, which is a $17,000 procedure. The cost of an intestinal bypass costs an average of $10,000 to $12,000.

Officially, Dr. Henry Buchwald has been working on his study for 15 years. But, in fact, he has been at it for much longer. Since 1979 he has received nearly $60 million for what has become the largest National Institutes of Health [NIH] research project ever initiated by a proposal from a university researcher. Last October researchers reported that the procedure, called a partial ileal bypass, reduced cholesterol levels and further heart disease problems in patients who had already had one attack. One may find a report on Dr. Buchwald's landmark research in the October 4, 1990, issue of the New England Journal of Medicine.

Dr. Henry Buchwald's mark on the medical field is not limited to the work I have been discussing. He also is the director of the Implantable Devices Laboratory, a collaboration of scientists from the Departments of Surgery and Mechanical Engineering at the University of Minnesota. This laboratory has produced the world's first implantable drug infusion pump as well as a recently FDA-approved byvalved catheter, a slim tube that enables doctors and nurses both to administer intravenous drugs and to obtain blood samples for many weeks without having to repeatedly stick the patient with a needle. Industry, NIH, and FDA support for Dr. Buchwald's successful and productive research in the medical devices field totals nearly $45 million.

Dr. Buchwald was named the Minnestoa Inventor of the Year in 1988 and was inducted into the Minnesota Inventors Hall of Fame. In 1990, Minnesota's Medical Alley Association gave him its Outstanding Achievement Award for Research and Development.

I thank and admire Dr. Henry Buchwald for his determination to save people's lives. With me, Minnesota is proud to call him our own. We are indebted to him for the lifesaving research he has done and for the promise of more great things to come.•

THE SITUATION IN YUGOSLAVIA

• Mr. KOHL. Mr. President, the development of democracy, Mr. President, is rarely a neat or tidy enterprise. Indeed, the evolutionary movement toward freedom can be so traumatic that Thomas Jefferson once observed that the tree of liberty must be fertilized with the blood of patriots.

That observation, however, was made over 200 years ago. It is possible—just possible—that we have made enough progress over the last two centuries to use a different form of fertilizer. That certainly is my hope as I look at the situation in Yugoslavia today.

This morning's news was full of mixed accounts about events in Yugoslavia. But there was a common thread running through the reports. As the New York Times put it,

> Leaders of both Republics [Croatia and Slovenia] insisted that despite the definitive tone of the declarations [of independence], which read like acts of secession, they were still eager to discuss creation of a new Yogoslav union with the other four Republics.

Despite the threat of violence and instability, despite the potential for miscalculation and mistakes, despite all that there is also the hope that the people and leaders of the Yugoslav republics, and what is left of its central government, will recognize the need for negotiations and the futility of violence.

In my view, the U.S. Government needs to recognize some things as well. But just last week, Secretary of State Baker was in Belgrade saying that the United States would not recognize Croatia or Slovenia. The leaders of those Republics didn't seem to expect that we would: They have seen what we have done in the Baltics and, as President Kucan of Slovenia said, "under international law, the legal entity is still, for the time being, the Socialist Federated Republic of Yugoslavia."

At the same time that our Secretary of State was expressing our support for what passes as the central government, he was also telling that government that violence was not an acceptable response to the problems it faces. That kind of warning is the least we can do. Similar statements were, from time to time, ignored by the Soviets in the Baltics. I hope they will not be ignored at any time or in any way by those who remain in Belgrade.

I must confess that I am concerned about potential violence which may be instigated by a small minority of extremists. But I have no questions about the legitimate desires of the people to find freedom and independence. I trust and expect our Government to work with all parties to achieve that goal in a peaceful and prompt fashion.•

MSGR. WILLIAM LINDER

• Mr. LAUTENBERG. Mr. President, I rise to pay tribute to Msgr. William Linder, pastor of St. Rose of Lima Church in Newark, NJ, who has been named the recipient of a 1991 MacArthur Foundation fellowship.

Monsignor Linder is that rare community leader whose commitment is seen not just in words but in deeds and action. He is founder and executive director of the New Community Corp., which builds and renovates nonprofit facilities to serve the black and Hispanic communities in Newark. Also, Monsignor Linder has helped to create child care centers, including one for children with AIDS, senior citizen centers, office space, a supermarket, a restaurant, and a gymnasium, and in the process has played a part in Newark's revival. Recently, the U.S. Conference of Mayors named Newark one of America's most livable cities, and it is the energies of commited and caring citizens like Monsignor Linder that has helped drive Newark's resurgent pride and promise.

The MacArthur Foundation fellowship—the so-called genius grants—recognizes what the people of Newark have known for many years: Msgr. William Linder's energy and creativity have touched thousands of lives and improved the quality of life for the St. Rose of Lima Church community. He is a man of compassion and vision and is, in the words of the MacArthur Foundation, the kind of person "at the heart of a society's capacity to improve the human condition." It is my honor to introduce into the record his achievements that have been recognized by the MacArthur Foundation.•

FLINT CENTRAL HIGH SCHOOL THEATER

• Mr. RIEGLE. Mr. President, today I rise in tribute to the Flint Central High School Theater Magnet Program located in my hometown of Flint, MI. As a graduate of Flint Central High School, I take special pride in honoring an outstanding group of young men and women.

Flint Central Theater Magnet, for the second time in as many years, was chosen to perform a full length mainstage show at the National Thespian Festival held each year on the campus of Ball State University in Muncie, IN. Forty-five students representing three of Flint's high schools will perform Eugene O'Neil's "Ah Wilderness!" for 3,000 of their peers.

Central High School's production received high marks in the areas of superior set design, student ability to work with challenging material, professionalism, and honesty and integrity in their theater work. This honor puts the Flint Central Theater Magnet Program in the top 10 percent of high school theater programs in the Nation.

At a time when education is under constant criticism, and when people read and hear so much about the problems our Nation's youth are experiencing, it gives me great pride to recognize and applaud a group of truly deserving young people from Flint, MI.•

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, there will be no further rollcall votes this evening.

I have discussed with the distinguished Republican leader and the managers, Senators BIDEN and THURMOND, the best way to proceed with respect to this legislation tomorrow. I would like to suggest to the distinguished Republican leader that we return to the bill at 10 o'clock in the morning, at which time the managers will proceed to receive and attempt to dispose of other amendments—there are, I understand, a large number remaining—and that we simply operate on the understanding that the distinguished Republican leader and I will meet tomorrow to discuss the subject matter just voted on, the Helms amendment and the subject matter related thereto, and that while we are in those discussions, pending our reporting back to the managers, there will be no further amendments offered with respect to that subject matter on either side, and the managers will proceed with respect to the many amendments that relate to the bill itself or to any other subject matter.

I inquire of the distinguished Republican leader and the managers as to whether or not that is an agreeable procedure to them.

Mr. DOLE. It is an agreeable procedure, if the majority leader will yield. I had discussed it with the manager on this side, the distinguished Senator from South Carolina, [Mr. THURMOND]. He would like to get back on the bill, on the basic amendments. He feels, as I think the Senator from Delware feels, many of these can be disposed of.

We still have over 70 amendments, as I understand it. And there are a number of Members already asking about the weekend. So it would seem to me we ought to try to resolve the so-called Helms amendment some other way.

So we will agree not to get into that until we mutually agree otherwise.

Mr. MITCHELL. Mr. President, I am advised that the managers are working on a unanimous-consent agreement that would permit Senator D'AMATO to be recognized at 10 tomorrow, to offer an amendment, so that we would be underway in accordance with the understanding just expressed by the Republican leader and myself.

In that event, I inquire if we are prepared to proceed to get this agreement now.

Mr. DOLE. We are ready.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Specter amendment, No. 381, be laid aside in status quo for the consideration of other amendments, to be brought back only on a call for the regular order made by the sponsor or the majority manager of the bill; that when the Senate resumes consideration of this bill at 10 a.m., tomorrow, Senator D'AMATO be recognized to offer an amendment with respect to mandatory sentencing for crimes committed with firearms; that there be 30 minutes for debate with 20 minutes under Senator D'AMATO'S control and 10 minutes under Senator BIDEN's control; that no amendments to the amendment or language proposed to be stricken be in order; that following the conclusion or yielding back of time, the Senate vote, without intervening action or debate, on or in relation to the D'Amato amendment. I further ask unanimous consent that immediately following the disposition of the D'Amato amendment, on Thursday, the Senate proceed to the following amendments, that the amendments be considered in the order listed, provided the sponsor is present and prepared to offer the amendment, and that no amendment to the amendments or to the language proposed to be stricken be in order, and that during the pendency of the agreement on the listed amendments no motions to recommit be in order.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Hearing none, it is so ordered.

Mr. MITCHELL. Mr. President, the amendments to which this referred, to which the statement referred, are as follows: an amendment by Senator SIMON on Federal prisoner drug testing; an amendment by Senator GORTON on precursor chemicals; an amendment by Senator SIMON and Senator BIDEN on cash bail; an amendment by Senator LAUTENBERG on vehicle theft; an amendment by Senator HATFIELD on missing Alzheimer's disease patients. I modify my remarks by inserting prior to the Hatfield amendment an amendment by Senator KENNEDY on counterfeit goods; then the Hatfield amendment to which I just referred; then an amendment by Senator RUDMAN on multijurisdictional drug task forces.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That during the consideration of S. 1241, a bill to control and reduce violent crime, the Specter amendment, No. 381, be laid aside in status quo for the consideration of other amendments, to be brought back only on a call for the regular order made by the sponsor or the Majority Manager of the bill.

Ordered, That at 10:00 a.m. on Thursday, June 27, 1991, when the Senate resumes consideration of S. 1241, the Senator from New York (Mr. D'Amato) be recognized to offer an amendment with respect to mandatory sentencing for crimes committed with firearms, on which there shall be 30 minutes debate, with 20 minutes under the control of the Senator from New York (Mr. D'Amato) and 10 minutes under the control of the Senator from Delaware (Mr. Biden): *Provided*, That no amendments to the amendment or language proposed to be stricken be in order.

Ordered further, That following the conclusion or yielding back of time, the Senate vote, without intervening action or debate, on or in relation to the D'Amato amendment.

Ordered further, That following the disposition of the D'Amato amendment, the Senate proceed to the following amendments and that the amendments be considered in the order listed, provided the sponsor is present and prepared to offer the amendment, and that no amendment to the amendments, or language proposed to be stricken, be in order, and that during the pendency of the agreement on the listed amendments, no motion to recommit be in order:

Simon amendment on Federal prisoner drug testing,

Gorton amendment on precursor chemicals;

Simon/Biden amendment on cash bail;

Lautenberg amendment on vehicle theft;

Kennedy amendment on counterfeit goods;

Hatfield amendment on missing Alzheimer's disease patients; and

Rudman amendment on multi-jurisdictional drug task forces.

Mr. MITCHELL. Mr. President, I thank my colleagues, I particularly thank the distinguished Republican leader for his usual courtesy, and the managers of the bill, Senators BIDEN and THURMOND.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

AMENDMENT NO. 380, AS MODIFIED

Mr. BIDEN. Mr. President, I ask unanimous consent that amendment No. 380 be modified to reflect the following changes, which I now send to the desk.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered. The amendment is so modified.

The amendment (No. 380), as modified, is as follows:

Strike all after the word "Sec." and insert the following:

TITLE —HABEAS CORPUS REFORM

SEC. 01. SHORT TITLE.

This title may be cited as the "Habeas Corpus Reform Act of 1991".

SEC. 02. PERIOD OF LIMITATION.

Section 2244 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of the following times:

"(1) the time at which State remedies are exhausted;

"(2) the time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action;

"(3) the time at which the Federal asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

SEC. . APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

"§ 2253. Appeal

"In a habeas corpus proceeding or a proceeding under section 2255 of this title before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255 of this title, unless a circuit justice or judge issues a certificate of probable cause."

SEC. . AMENDMENT TO RULES OF APPELLATE PROCEDURE.

Federal Rule of Appellate Procedure 22 is amended to read as follows:

"RULE 22

"HABEAS CORPUS AND SECTION 2255 PROCEEDINGS

"(a) APPLICATION FOR AN ORIGINAL WRIT OF HABEAS CORPUS.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(b) NECESSITY OF CERTIFICATE OF PROBABLE CAUSE FOR APPEAL.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, if shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the Government or its representative, a certificate or probable cause is not required.".

SEC. . SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is amended by redesignating subsection "(e)" and "(f)" as subsections "(f)' and "(g)", respectively, and is further amended—

(1) by amending subsection (b) to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.";

(2) by redesignating subsection "(d)" as subsection "(e)", and amending it to read as follows:

"(e) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a full and fair determination of a factual issue made in the case by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting this presumption by clear and convincing evidence.";

(3) by adding a new subsection (d) reading as follows:

"(d) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceedings."; and

(4) by adding a new subsection (h) reading as follows:

"(h) In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by the provisions of section 3006A of title 18, United States Code.".

SEC. . SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended by deleting the second paragraph and the penultimate paragraph thereof, and by adding at the end thereof the following new paragraphs:

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of the following times:

"(1) the time at which the judgment of conviction becomes final;

"(2) the time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action;

"(3) the time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.

"In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by the provisions of section 3006A of title 18, United States Code.".

Subtitle B—Death Penalty Litigation Procedures

SEC. . SHORT TITLE FOR SUBTITLE B.

This subtitle may be cited as the "Death Penalty Litigation Procedures Act of 1991".

SEC. 211. DEATH PENALTY LITIGATION PROCEDURES.

Title 28, United States Code, is amended by inserting the following new chapter immediately following chapter 153:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.

"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.

"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.

"2258. Filing of habeas corpus petition; time requirements; tolling rules.

"2259. Evidentiary hearings; scope of Federal review; district court adjudication.

"2260. Certificate of probable cause inapplicable.

"2261. Application to state unitary review procedures.

"2262. Limitation periods for determining petitions.

"2263. Rule of construction.

"§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in State postconviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) Any mechanism for the appointment, compensation and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record: (1) appointing one or more counsel to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer; (2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or (3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal collateral postconviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254 of this chapter. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal postconviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

"§2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the appropriate State court of record of an order under section 2256(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application must recite that the State has invoked the postconviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 within the time required in section 2258, or fails to make a timely application for court of appeals review following the denial of such a petition by a district court; or

"(2) upon completion of district court and court of appeals review under section 2254 the petition for relief is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undistributed; or

"(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254.

"(c) In one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless:

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim is (A) the result of State action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal postconviction review; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the courts confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"§2258. Filing of habeas corpus petition; time requirements; tolling rules

"Any petition for habeas corpus relief under section 2254 must be filed in the appropriate district court within one hundred and eighty days from the filing in the appropriate State court of record of an order under section 2256(c). The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence of direct review by the court of last resort of the State or other final State court decision on direct review;

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for postconviction review pending before a State court of competent jurisdiction; if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for postconviction review until final disposition of the case by the highest court of the State, but the time requirements established by this section are not tolled during the pendency of a petition for certiorari before the Supreme Court except as provided in paragraph (1); and

"(3) during an additional period not to exceed sixty days, if (A) a motion for an extension of time is filed in the Federal district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254; and (B) a showing of good cause is made for the failure to file the habeas corpus petition within the time period established by this section.

"§2259. Evidentiary hearings; scope of Federal review; district court adjudication

"(a) Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall:

"(1) determine the sufficiency of the record for habeas corpus review based on the claims actually presented and litigated in the State courts except when the prisoner can show that the failure to raise or develop a claim in the State courts is (A) the result of State action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State postconviction review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

"(b) Upon the development of a complete evidentiary record, the district court shall rule on the claims that are properly before it, but the court shall not grant relief from a judgment of conviction or sentence on the basis of any claim that was fully and fairly adjudicated in State proceedings.

"§2260. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to the provisions of this chapter except when a second or successive petition is filed.

"§2261. Application to state unitary review procedure

"(a) For purposes of this section, a "unitary review" procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. The provisions of this chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) A unitary review procedure, to qualify under this section, must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2256(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) The provision of sections 2257, 2258, 2259, 2260, and 2262 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in those sections shall be understood as referring to unitary review under the State procedure. The references in sections 2257(a) and 2258 to 'an order under section 2256(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the one hundred and eighty day limitation period under section 2258 shall be deferred until a transcript is made available to the prisoner or his counsel.

"§2262. Limitation periods for determining petitions

"(a) The adjudication of any petition under section 2254 of title 28, United States Code, that is subject to this chapter, and the adjudication of any motion under section 2255 of title 28, United States Code, by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters. The adjudication of such a petition or motion shall be subject to the following time limitations:

"(1) The district court shall determine such a petition or motion within one hundred and eighty days of the filing of the petition or motion.

"(2) The court of appeals shall determine an appeal relating to such a petition or motion within one hundred and eighty days of the filing of the record in the court of appeals. If the court of appeals grants en banc consideration, the en banc court shall determine the appeal within one hundred and eighty days of the decision to grant such consideration.

"(b) The time limitations under subsection (a) shall apply to an initial petition or motion, and to any second or successive petition or motion. The same limitations shall also apply to the re-determination of a petition or motion or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, and in such a case the limitation period shall run from the date of the remand.

"(c) The time limitations under this section shall not be construed to entitle a petitioner or movant to a stay of execution, to which the petitioner or movant would otherwise not be entitled, for the purpose of litigating any petition, motion, or appeal.

"(d) the failure of a court to meet or comply with the time limitations under this section shall not be a ground for granting relief from a judgment of conviction or sentence. The State or Government may enforce the time limitations under this section by applying to the court of appeals or the Supreme Court for a writ of mandamus.

"§2263. Rule of construction

"The provisions of this chapter shall be construed to promote the expeditious conduct and conclusion of State and Federal court review in capital cases.".

The PRESIDING OFFICER. The Senator from Kansas, the Republican leader.

MILDRED HOLT: 1883-1991—REMEMBERING AN AMAZING KANSAN AND HER 108 YEARS OF LIFE

Mr. DOLE. Mr. President, a remarkable Kansan passed away this weekend, a Kansan whose 108 years of life were a testimony to the rugged individualism of our State.

Mildred Holt of Ellsworth was something special, right up to her final days, still amazing people with her wit, her smarts and her charm. It was a captivating personality that millions of Americans came to know and love, thanks to her memorable appearance in 1987 on the Johnny Carson Show.

Only 105 years young at the time, Mildred wowed the nationwide Carson audience with her spunk, telling the famous talk show host that she was "too mean to die."

Mildred Holt undoubtedly enjoyed her time in the national spotlight, but her true joy in life was her family—and what a family it is: 2 surviving daughters and a son, along with 10 grandchildren and 19 great-grandchildren.

Memorial services will be held this Thursday for this good woman in her beloved hometown of Ellsworth. I know my Senate colleagues join me in sending our prayers and sympathies as so many of Mildred's friends gather at the First Presbyterian Church to pay their respects.

I am proud to say Mildred Holt was my friend, and I am even prouder to say she was a fellow Kansan.

ORDERS FOR THURSDAY

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9 a.m. on Thursday, June 27; that following the prayer, the Journal of proceedings be deemed approved to date, and the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein, with the time from 9 a.m. to 9:20 a.m. under the control of Senator BRYAN, the time from 9:20 a.m. to 9:40 a.m. under the control of Senator JOHNSTON, and the time from 9:40 a.m. to 10 a.m. under the control of the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as under the previous order until 9 a.m. on Thursday, June 27, 1991.

There being no objection the Senate, at 12:05 a.m., recessed until Thursday, June 27, 1991 at 9 a.m.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate June 26, 1991:

DEPARTMENT OF THE TREASURY

MARY CATHERINE SOPHOS, OF CALIFORNIA, TO BE A DEPUTY UNDER SECRETARY OF THE TREASURY.

DEPARTMENT OF AGRICULTURE

ANN M. VENEMAN, OF CALIFORNIA, TO BE DEPUTY SECRETARY OF AGRICULTURE.

ANN M. VENEMAN, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE ON THE SENATE.

EXTENSIONS OF REMARKS

HONORING OUR VIETNAM VETERANS

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. JONES of North Carolina. Mr. Speaker, I have just recently been contacted by students of the West Craven Middle School located within my congressional district in New Bern, NC. While I am contacted by groups all the time, I am especially proud and humbled by the remarks of the West Craven Middle School students. They show great concern and social consciousness for a group of Americans still overshadowed by past events. These Americans, our Vietnam veterans, have never been given the credit and thanks they so richly deserve.

Mr. Speaker, as celebrations continue over the success of our military forces in Operation Desert Storm, let us also remember the Vietnam veteran. I do not want to take away any credit or glory from our current soldiers or support personnel, I would simply like to take this time to rectify a past injustice. As these students so accurately point out, what better time to focus on the sacrifices made by our Vietnam veterans than during these celebrations. Let us truly make this a homecoming for all individuals who have fought to protect and preserve all that is sacred to our great Nation.

Mr. Speaker, for the benefit of this institution, I am including in my remarks a copy of the statement and suggested activities as submitted by the students of West Craven Middle School. I hope that all of my colleagues will pursue them carefully and make them available to their constituents across the country.

Thank you, Mr. Speaker, for allowing me to submit these comments.

The material follows:

WEST CRAVEN MIDDLE SCHOOL,
New Bern, NC.

DEAR REPRESENTATIVE JONES: The current wave of military support and patriotism being experienced throughout the United States is wonderful! This unsurpassed abundance of honor being bestowed upon our Gulf Crisis veterans is well deserved. The welcome home has been truly heartwarming.

In addition to our newest group of veterans, however, another group from our nation's recent history needs and deserves the special recognition which they never received when they returned home from a long and ugly war. This group, our Vietnam veterans, also served our nation with pride and great valor.

We, a group of concerned students and other citizens, feel that our Vietnam veterans should be officially honored and included in what President Bush has promised to be the "greatest Fourth of July ever." Please help us in spreading this message by taking whatever action you have available to you.

To aid supporters in promoting the "It's Never Too Late!" campaign and honoring our Vietnam heroes, we included a list of suggestions for them, their friends, and interested organizations in letters mailed throughout the country. We have attached a copy of this list for your perusal.

Indeed, "It's Never Too Late" to say, "Thank you for serving our country. We appreciate you!" Please join us in shouting it across our nation.

Sincerely,

A. G. STUDENTS.

SUGGESTED ACTIVITIES

Please note that some are appropriate for an individual while others are more appropriate for a class, school, or community organization.

Write letters to newspaper editors requesting support.

Prepare and post in your school a roster of parents and grandparents who served in Vietnam. List the students names with them.

Make banners or posters to put up in stores and other buildings within the community.

Sponsor a Mail booth or display with a sign-up for the petitions.

Post a roster in the mall for accumulating a list of local veterans.

Have a Vietnam awareness pep rally and invite Vietnam veterans.

Invite guest speakers from local Vietnam veterans groups.

Sponsor a poster contest.

Make and enter a parade float.

Plan a reunion party or reception.

Distribute bumper stickers with the theme/slogan—"It's Never Too Late!"

Distribute buttons with the theme/slogan.

Put up billboards.

Design and print front yard signs similar to the ones used in political campaigns and distribute them for display.

Contact parade organizers in your community and request that open invitations be issued to Vietnam vets to march in parades.

Encourage a day for Vietnam history lessons throughout your school.

Ask newspapers to publish a list of Vietnam veterans living within your community. Their years and location of service could be included.

Request that your local T.V. station(s) and newspaper(s) publish stories related to Vietnam veterans.

Design and sell T-shirts with the campaign slogan.

Organize a dance for veterans and their families with Vietnam era music.

TACKLING THE NATIONAL DEBT CRISIS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. PORTER. Mr. Speaker, it took the United States from its founding until 1981 to accumulate a $1 trillion debt—it took only 9 more years to increase that debt to more than $3 trillion. Interest on the national debt is currently the fastest growing component of the Federal budget and, in recent years, interest payments on the national debt have been the third largest annual budget expenditure, exceeded only by Social Security and defense. Instead of taking necessary measures to cut Government waste, ensure fiscal restraint, and restore financial integrity, we continue to mortgage our children's and grandchildren's future with this enormous debt and its related interest payments.

In a recent edition of the Chicago Tribune, the president of the League of Cities, Sidney J. Barthelemy, professes amazement that in 1989 America's cities and towns spent $100 billion less to run their operations than the national government paid on interest alone. How is it that our municipalities continually submit and adhere to balanced budgets, while our national government continues to incur increasing amounts of debt? It is clear that Federal elected officials must have the courage to address this crisis if we are to make any real, significant, and lasting progress.

Mr. Speaker, I commend Mr. Barthelemy's column to my colleagues' attention and submit it for the RECORD:

[From the Chicago Tribune, May 24, 1991]

HOW HUGE U.S. DEBT SQUEEZES US ALL

(By Sidney J. Barthelemy)

The American taxpayers ought to know where their money is going, but how many could answer this question: Would you rather pay (a) the entire cost of government for running every city and town in the United States for a year; or (b) the annual interest payment on the federal debt? (Hint: Value aside, we are talking strictly in terms of dollars, and it isn't even close.)

The Census Bureau's annual report on city government finances in 1989 just came out, and it calculated that cities and towns across the U.S. spent $140.3 billion for general government operations that year. That covered all wages, salaries, contracted services, equipment purchases and general expenditures for everything from police, fire, trash and transportation to health, libraries, parks and sewage systems.

Meanwhile, back in Washington, the Treasury Department was paying that much, plus another $100 billion, just to keep from defaulting on Uncle Sam's IOUs. In 1989 interest on the federal debt cost $240.9 billion, which comes to about $660 million per day.

In Chicago general government expenditures for the whole year amounted to $2.721 billion in 1989. Think about it: What paid for an entire year of city operations barely covered four days' worth of interest charges on the federal debt!

That mountain of debt is one of the lasting and tragic legacies of the 1980s. Remember, that's the decade when austerity and accountability were supposed to be hallmarks of federal policy, and when every domestic program that wasn't totally eliminated suffered wholesale cuts to help fight the scourge of deficits.

So just how successful was the battle? To find out, one could try asking the same ques-

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

tion for fiscal 1979. Which would you rather pay for all municipal government or interest on the federal debt?

The Census Bureau's report from 1979 showed cities and towns spent nearly $65.6 billion that year on general operations. Meanwhile, Uncle Sam's checkbook only got depleted by $60.3 billion for interest on the federal debt.

Municipal budgets slightly more than doubled over the past decade as local leaders wrestled with the yearly task of finding new local resources to deal with a growing array of governmental responsibilities. At the same time, the president and Congress were piling up deficits totaling more than $2 trillion, and in the process quadrupling the cost of paying interest on our national debt.

What came from Washington's "borrow and spend" addiction of the 1980s is difficult for most Americans to comprehend. The money certainly didn't get spent in Hometown America. There were massive cuts in federal assistance for affordable housing, job training and environmental protection. Few resources were forthcoming to deal with the growing problems of drugs, crime, homelessness and poverty.

Yet the money was certainly spent somewhere; and because so much was borrowed instead of pay-as-you-go, the American taxpayers are now forced to pay an extraordinary amount each year just on finance charges. Much more than they pay for the services provided by all our local governments.

Of course, it wasn't intended to be that way at all. Year after year came pronouncements that the federal deficits would be brought under control. Year after year the deadline slipped.

The ultimate solution was supposedly discovered in 1985, when the Gramm-Rudman-Hollings plan for strict targets and forced cuts was adopted. We are now halfway through fiscal 1991, the year the federal budget was supposed to be balanced. Instead, the latest projection by the Congressional Budget Office is that we'll end up the year with a deficit of $309 billion, by far the largest ever.

Just think. If our national government were to even come close to what every city and town must do, that is, balance revenues with expenditures, it would take every cent collected by the IRS on April 15, along with twice as much as all of our cities collect and spend in a year.

Several weeks ago, four leaders of the National League of Cities testified at a House Government Operations Committee hearing on redirecting national priorities to address some of the urgent problems in Hometown America.

One participant urged a commitment of national will and resources to launch and carry out an "Operation Urban Storm" with the same resolve demonstrated in America's commitment to free Kuwait. Our nation faces some truly formidable peacetime threats to our future strength and security, and the current situation on the home front could be described as a light drizzle and a lot of haze.

But considering how Washington simply opened the national checkbook to meet an international threat in the Persian Gulf or to cover the outrageous cost of bailing out the S&L industry, one mayor gave an assessment that probably stunned his former colleagues in Congress.

It came from Mayor Don Fraser of Minneapolis, who ended a distinguished 16-year career in Congress to return to local government in 1979. Responding to a comment by Chairman John Conyers (D-Mich.), Fraser, a staunch Democrat in the mold of Hubert Humphrey, said, "I would never have thought in the years I served here that I'd hear myself saying this, but I do believe we may need to adopt a balanced-budget amendment [to the Constitution]."

The seduction of borrowing to finance dubious tax cuts, scandalous S&L bailouts, unfettered entitlements and other programs with so little concern about paying for them has turned the United States from the world's largest creditor into its largest debtor nation in the past decade alone. The annual cost of financing that debt is destroying our capacity to make the investments we need to secure our nation's future.

The leaders of America's cities and towns have worked hard and creatively over the past decade to meet the pressing needs of today and to prepare for the challenges of tomorrow. I find it hard to say the same about our national priorities. We are literally robbing our children by indenturing them to pay for the federal budgetary excesses of the 1980s.

Most Americans speak proudly and reverently about their parents and grandparents, whose life work seemed dedicated to leaving us something greater than they received. That purpose seemed a basic principle for our government too. Recently, however, our national leaders appear to have opted for a policy simply to pass along an accumulation of problems and an enormous debt they seem disinclined or unable to grapple with.

It's a test of will, and right now in Washington, we're flunking it badly.

ASHLAND COAL SCHOLARS

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. RAHALL. Mr. Speaker, remember graduation? High school graduation, not college, where one is on the brink of adulthood. Necessary important decisions concerning the beginning of your life have to be made. Future careers have to be decided with options weighed and outweighed. The balancing of options to some may be quite uneven, sometimes seeming to be tipped more toward the negative rather than the positive. But ultimately decisions are made, schools are selected, and the search turns from what to study at college, to "how am I going to pay for it?"

For five intelligent high school students whose family members are employed by Ashland Coal Inc., the scales are favorably tipped on the positive. Ashland Coal, Inc., is to be commended highly for its responsible and affirmative program, geared to serve its employees and their children through merit-based higher education scholarships. At a time when there is available student aid based on financial need, there is little aid available for students who have worked hard to achieve scholastically, and who merit tuition assistance.

In order to be eligible for scholarships, students must be children of Ashland Coal's employees and have earned high grade-point averages. The outstanding high school studens are John Ghiz, Anthony Linville, Laura Laymen, Garland Strunk, and Ronald Runyon. These outstanding students had the honored privilege of receiving scholarships yearly for up to 4 years of $1,500. They are the 1991 Ashland Coal, Inc., scholars.

I commend you on your accomplishments, and I wish future successes in the years to come.

TRIBUTE TO MSGR. FRANCIS X. CANFIELD

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. HERTEL. Mr. Speaker, it is with great honor that I rise today to pay tribute to Msgr. Francis X. Canfield, who is retiring as pastor of St. Paul Parish in Grosse Pointe Farms, MI, on July 31, 1991. Monsignor Canfield is an exemplary individual whose spiritual and educational leadership has touched and changed the lives of many.

Monsignor Canfield's accomplishments rest on a foundation of extensive higher education. Beginning in 1941, he received a B.A. from Sacred Heart Seminary in Detroit. He continued his education in 1945 earning his M.A. in English literature at the Catholic University of America, in Washington, DC. In 1950, he completed a masters in library science at the University of Michigan, and went on to the University of Ottawa in 1951, where he received his Ph.D. in English and American literature.

Monsignor Canfield's intrinsic desire to learn was enhanced inside the classroom, and he was eventually inspired to teach. Through the years, he has awakened the interest and kindled the enthusiasm of his students. From 1946 to 1970, he taught English and history at the Sacred Heart Seminary, and spent his summers from 1955 to 1963 as a visiting lecturer of library services at the Immaculate Heart College in Los Angeles. Medical ethics is yet another of the many diverse topics in which Monsignor Canfield is learned, as he held the position of lecturer on that subject at Providence Hospital Nursing School in Detroit from 1952 to 1963.

Throughout his life, Monsignor Canfield has continued to strengthen the library, perhaps one of our country's richest resources. In 1948, he began his tenure as librarian of Sacred Heart Seminary where he stayed until 1963. He held the positions of chairman, vice-president, and president of the Harvard University and the University of Michigan units of the Catholic Library Association, an organization that promotes and encourages Catholic literature and library work through cooperation, publication, education, and information. He can also be recognized as founder and president of the American Friends of the Vatican Library. His extensive collection of writing acknowledgements includes contributor to the New Catholic Encyclopedia and the Catholic Bookman's Guide, various book reviews and articles in such works as Catholic Library World and the Catholic Education Review, and weekly column that appeared in the Michigan Catholic from 1949 to 1963.

Monsignor Canfield's spiritual leadership has touched people with comfort, compassion, and moral guidance. He was named domestic prelate by Pope Paul VI in 1963, and in 1971 he was named pastor of St. Paul's Church in Grosse Pointe Farms, MI, where he has continued to pursue his pastoral mission to benefit the community. Throughout his life, Monsignor Canfield has always demonstrated his internal, selfless pursuit of the common good. My dear colleagues, I ask that you join me in honoring Monsignor Canfield for all of his achievements.

GRAND JUNCTION PROJECT OFFICE

HON. BEN NIGHTHORSE CAMPBELL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. CAMPBELL of Colorado. Mr. Speaker, today I am introducing legislation that will strengthen the Department of Energy's [DOE] environmental cleanup program by making the DOE's highly successful Grand Junction Project Office an independent area office under the direct supervision of the DOE's Office of Environmental Restoration and Waste Management.

Over the past decade, the Grand Junction Project Office has proved to be one of the DOE's most efficient and reliable operations. The Grand Junction Project Office currently manages programs in 21 States and Korea. Over the years, this office has developed expertise and technical skills that make it one of the DOE's crown jewels. The Environmental Protection Agency [EPA] has indicated that the Grand Junction Project Office was a key component in the cleanup of the Denver Radium Superfund Site—a site that captured the National Superfund Team of the Year Award in 1990. In short, the Grand Junction Project Office has been entrusted with some of the Federal Government's most difficult and complex environmental problems—and has, by all accounts, performed excellent work for the DOE and the Nation's taxpayers.

Mr. Speaker, my legislation will allow the Federal Government to fully utilize a valuable asset. The GJPO has the technical capabilities, laboratory facilities, management expertise and most importantly, the human resources needed to address important environmental restoration, geoscience, and energy resource management needs for the Federal Government.

Unfortunately, however, the current administrative framework of the DOE has hindered efforts to fully utilize the skills and engineering resources of the Grand Junction Project Office. An outdated and cumbersome bureaucracy has kept the GJPO reporting to the DOE's Idaho Operations Office, instead of reporting directly to the Office of Environmental Restoration and Waste Management. This arrangement has resulted in the waste of time and resources in an otherwise effective and efficient operation.

My legislation will also assure that the jobs of the current employees of the GJPO are protected. The men and women who work in the Grand Junction office have proved to be its greatest resource. In the last 20 years this office has nurtured and developed a highly trained and skilled pool of people possessing important talents. When the organizational structure of the office changes, the experience of these employees will be even more important. I want to make sure we are able to fully utilize this talent in tackling the myriad of environmental pollution and contamination problems facing the DOE and the Federal Government.

Mr. Speaker, the legislation I am proposing today is a step toward cutting out bureaucracy, fully utilizing resources that American taxpayers have already paid for, and getting on with the important task of cleaning up polluted and contaminated sites owned by the Federal Government.

SACRIFICE AND SERVICE OF SGT. PHILIP ANDERSON

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. SHAW. Mr. Speaker, I rise today in recognition of Sgt. Philip Anderson, who was recently awarded the Purple Heart for his bravery in the face of injury in the Middle East. Philip resides in my home district of Fort Lauderdale, Broward County, FL, and served our Nation as a member of the 743d Maintenance Company in the Florida National Guard. Sergeant Anderson and his family recall for us the strength and greatness and willingness to serve which made our Nation great, and which recently brought Saddam Hussein to his knees.

The Purple Heart symbolizes our deep gratitude for Philip's willingness to protect our country's liberty with his life. Because of Philip, and soldiers like him, America remains steadfast—literally, the land of the free and home of the brave. No honor we bestow can precisely convey our appreciation for the sacrifice and service of Sergeant Anderson.

A CONGRESSIONAL SALUTE TO ROY L. PAUL

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding leader in Downey, CA. On Tuesday, July 2, 1991, former Downey Mayor Roy Paul will be honored for his distinguished service to the city of Downey. This occasion gives me the opportunity to express my deep appreciation for his many years of service to the citizens of southern California.

Education has always been an important part of Roy's life. He received his B.A. in psychology at the University of Southern California in 1971. Following a 4½-year stint in the U.S. Navy, Roy attended Western State University College of Law in San Diego. He obtained his law degree in 2½ years, and became a member of the California State Bar in 1977.

Another major interest in Roy's life has been politics. Having come from a family which has a long history of participation in local government, Roy seemed predestined for public service. In 1961, Roy's mother was the first mayor of Bell Gardens, CA. However, she was not the last Paul to hold that position. Roy followed in his mother's footsteps by also serving as the city's mayor. Roy also served as a member of the Bell Gardens City Council for 4½ years. Roy's commitment to local government continued when he was elected to the Downey City Council in 1986. He is currently the mayor of Downey, and also serves as the council delegate to the Los Angeles County Transportation Commission, the Contract Cities Association, and the Air Quality Management District.

In addition to his contributions to local governments, Roy has also sat as judge pro tem for courts in Downey, South Gate, and Los Angeles. He is a lieutenant commander in the U.S. Navy Reserves, and is an active hobbyist who has a single-engine pilot's license and enjoys surfing, scuba diving, swimming, offroading, and target shooting.

On this special and most deserving occasion, my wife, Lee, joins me in extending our heartfelt thanks and congratulations to a truly remarkable individual who has devoted his talents and energies to improving the community. We wish Roy all the best in the years to come.

U.S. ACHIEVEMENT ACADEMY COMMENDS WEST VIRGINIA STUDENTS

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. RAHALL. Mr. Speaker, congratulations to Jason Jordan and Jamie Kay Ferguson. Both of these Logan County, WV, students were recently honored by the U.S. Achievement Academy for excellence in academics. These two scholars are among a select few chosen each year for recognition by the USAA. Less than 10 percent of all American high school students are recognized by the academy.

Ms. Ferguson, of Logan Central Junior High School, was named a U.S. national award winner in history and government. She was nominated for the award by her history and government teacher, Jackie Tomblin. Mr. Jordan, a student at Omar Junior High School, was nominated for his award as an All-American Scholar in the field of American history by John Mullins.

To be selected by the USAA students must be recommended by teachers, coaches, counselors, or other qualified sponsors. These students should be congratulated on their mastery of very important subject areas—the future is in their hands. Jason, the son of John and Patty Jordan of Omar, WV, and Jamie Kay Ferguson, daughter of James K. and Thea Ferguson of Pecks Hill, WV, both deserve to be commended for their work.

SUPPORT OF THE UNDERWATER PIPELINE SAFETY REQUIREMENTS OF H.R. 1489, THE PIPELINE SAFETY ACT OF 1991

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. TAUZIN. Mr. Speaker, on March 19, 1991, my colleagues Congressmen SHARP, MOORHEAD, LEVINE, BEILENSON, and I introduced H.R. 1489, the Pipeline Safety Act of 1991. I wish to take this opportunity to applaud the inclusion in H.R. 1489, language expanding on our work in the 101st Congress to promote maritime safety and cooperation between the various commercial and recreational users of our Nation's waterways.

On November 16, 1990, President Bush signed Public Law 101–599. This law addresses concerns my colleagues and I shared about underwater, unburied natural gas and hazardous liquid pipelines which posed hazards to navigating vessels and the marine environment. As the chairman of the Merchant Marine and Fisheries Committee's Subcommittee on Coast Guard and Navigation, I have a great concern for the safety of commercial and recreational vessels plying our waterways.

Following an accident on the afternoon of October 3, 1989, in which 11 men perished when the fishing vessel they were working on accidently collided with an exposed, unburied natural gas pipeline off the coast of Texas, I discovered, to my surprise, that pipelines, once buried, are never required to be inspected to certify their proper burial. With the help of my colleagues on the Merchant Marine and Fisheries Committee, the Energy and Commerce Committee, as well as the valuable assistance and input of the Public Works and Transportation Committee, we ensured enactment into law, provisions requiring the expeditious inspection of Gulf of Mexico underwater pipelines and the establishment of a routine and systematic inspection program.

Keeping in mind that 1991 would be the reauthorization year for the Natural Gas Pipeline Safety and the Hazardous Liquid Pipeline Safety Acts, we sought to concentrate on emergency, preliminary measures only, with the intention of making greater and more indepth progress in the context of 1991 reauthorization bill. Although, we did not address our concerns about pipeline facilities in inland waterways—rivers, bayous, canals—in the text of Public Law 101–599, H.R. 1489 seeks to require inspection and burial of underwater pipelines in shallow, inland, navigable waterways as well as the east and west coasts.

Mr. Speaker, I urge your support of H.R. 1489 and wish to express my gratitude to my colleagues on the Energy and Commerce Committee for their cooperation and responsiveness. I look forward to continuing our reexamination of underwater pipeline safety begun last year.

RULE ON H.R. 2212, HOUSE JOINT RESOLUTION 263, AND HOUSE CONCURRENT RESOLUTION 174, REGARDING MOST-FAVORED-NATION TREATMENT OF AND RELATIONS WITH CHINA

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to the rules of the Democratic caucus, I wish to serve notice to my colleagues that I have been instructed by the Committee on Ways and Means to seek less than an open rule for the consideration by the House of Representatives of H.R. 2212, regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes; House Joint Resolution 263, disapproving the extension of nondiscriminatory treatment, most-favored-nation treatment, to the products of the People's Republic of China; and House Concurrent Resolution 174, concerning relations between the United States and the People's Republic of China.

LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mrs. SCHROEDER. Mr. Speaker, the Low-Income Home Energy Assistance Program [LEAP] is a lifesaver for poor and disadvantaged families. It is especially critical in Colorado, where winter storms bury the State under mounds of snow and temperatures plunge below freezing.

That is why it is so disappointing to see the administration slashing this program and to see the Labor-HHS appropriations bill cutting funding—though not nearly as much as the administration wants to cut it.

Most of the families that receive LEAP assistance in Colorado are families with children; 35,213 applicants reported children and two-thirds of these families are headed by single women living below the Federal poverty level.

In Colorado, we have seen a 27-percent reduction in the block grants over the last 6 years, while caseloads have increased by 21 percent.

To close the gap, Colorado has taken the initiative to raise private funds. The Colorado Energy Assistance Foundation contributed $1 million for benefits and $250,000 in software and computer equipment this year alone.

But enough is enough. We are looking at a 38-percent cut this year, which will cost Colorado nearly $8 million.

I am tired of hearing talk about children and families and no action. Families in Colorado depend on this program to stay warm; and all they are getting from the White House is the cold shoulder.

POLITICAL AND ECONOMIC SITUATION IN THE PEOPLE'S REPUBLIC OF CHINA

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. CAMPBELL of California. Mr. Speaker, I rise today to discuss the political and economic situation in the People's Republic of China. Ever since the Tiananmen Square massacre, the Communist old guard has used particularly ruthless tactics to suppress the prodemocracy movement. The ruling cadre has engaged in murder, torture, and illegal imprisonment to deliver a significant blow to the supporters of democracy. Nevertheless, the democracy movement is still a potent force in China. Once the old guard has passed away, the supporters of democracy will hopefully cast away the last remnants of communism.

While this transition is not inevitable, it is, in my view, highly likely for the following reasons. The ideology of communism is dying in China. Most Chinese citizens simply do not believe in the party any more because it has been unable to build a society that enables its citizens to attain personal and economic freedom. In response to these failures, and as part of an effort to preserve the Communist system, party leaders initiated a number of crucial social and economic reforms during the last decade. While the social reforms leave much to be desired, the economic reforms have unleashed a grassroots reform of the economy that has proven to be so strong that the hardliners have been unable to crush it.

Many people think that economic reform was killed on the night of the Tiananmen Square massacre. But in actual fact, Government reactionaries have been trying to strangle the economy since 1988. The economy has survived because the economic reforms of the last decade have changed China in ways that its leaders had never anticipated. Over the last 10 years the Government has ended the commune system and allowed free markets for farm products to develop in the countryside. Similar reforms were also implemented in the cities as collectives and privately owned businesses were allowed.

Just before Mr. Deng launched his reforms, state-owned businesses accounted for nearly 80 percent of China's industrial output. Last year the figure was 54 percent. In every category, state-owned businesses are declining relative to the private sector as private firms, collectives, and farms outperform their state-owned counterparts. The strong performance of the private sector has helped China sustain rates of economic growth in the double digits during much of the eighties. Even after the crackdown, economic growth hovered around 5 percent. The private sector has become too powerful and too important to the health of the country for the reactionaries to kill.

It is the private sector that gives me hope for the future of China. As party functionaries come to depend more and more on the successes of private farmers and businessmen to keep the country going, the state-controlled sector will further wither away and the credibility of the Communist system will likewise continue to erode. A close look at the recent history of such countries as Chile, Hungary, and Taiwan shows that economic freedom does promote political freedom. The ability of reactionary elites to maintain authoritarian control is decreasing as the private sector is flourishing and political freedom, based on capitalism, is becoming a reality in these countries.

American policy vis-a-vis China stands at a crossroad. America can return to its isolationist past by denying MFN to China; or it can seek to reinforce the success of the private sector on the mainland. We should remember that the most brutal period of recent Chinese history, the cultural revolution, occurred at a time when the Communists pursued a policy of isolationism and economic self-sufficiency, partially in response to the Western policy of isolationism. Today, the most reactionary elements in the Communist party look forward to a return to this period in Chinese history because it will give them something they want—complete control.

I hope that we will follow the path of diplomatic and economic engagement. Foreign trade and investment have supported the economic forces that have driven political change—forces that have decreased state control and increased personal freedom. By maintaining MFN, we ensure an active commercial presence in China. This helps us introduce such ideas as free enterprise, democracy, and freedom of expression and the promotion of human rights. By granting MFN, we also help keep China in the international system and we give our policymakers an opportunity to continue to have some political influence with the mainland. President Bush summed it up well when he recently said, "MFN is a means to bring the influence of the outside world to bear on China." We in the Congress would do well to support his position.

Later this summer the House will choose which path to follow. I will stand by the President and oppose any effort to revoke MFN. Efforts to condition renewal of MFN are likewise ill-advised because they could have the same effect—an elimination of trade relations with China. The effect on Hong Kong, possibly the greatest beneficiary of trade between the West and China, would also be devastating.

We are all appalled by the human rights abuses in China. We must pursue a policy that will push the Chinese Government to embrace a position that supports the development of democracy and respects human rights without crippling the private sector. As part of an effort to support this policy, I am introducing the China Sanctions and Incentives Act of 1991. This bill is straight forward—it requires the President to impose noneconomic sanctions on China as long as it continues to pursue its existing policies. When it has reformed its policies by meeting concrete goals, the President will eliminate the sanctions and reward the mainland with additional economic ties. This dual approach will enable us to use all of our resources, in a positive manner, to achieve our policy objectives. China will be rewarded for progress—but progress won't be made impossible by draconian sanctions now.

Mr. Speaker, I hope that this bill will receive fair consideration in our legislative body. It is an approach that is consistent with our democratic philosophy of empowering the people, the farmers, the small businessowners, and the workers, who will ultimately determine the fate of China.

SACRIFICE AND SERVICE OF SPECIALIST TONY COOK

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. SHAW. Mr. Speaker, I rise today in recognition of Specialist Tony Cook, who was recently awarded the Purple Heart for his bravery in the face of injury in the Middle East. Tony resides in my home district of Pompano Beach, Broward County, FL, and served our Nation as a member of the 743d Maintenance Company in the Florida National Guard. Specialist Cook and his wife recall for us the strength and greatness and willingness to serve which made our Nation great, and which recently brought Saddam Hussein to his knees.

The Purple Heart symbolizes our deep gratitude for Tony's willingness to protect our country's liberty with his life. Because of Tony and soldiers like him, America remains steadfast—literally, the land of the free and home of the brave. No honor we bestow can precisely convey our appreciation for the sacrifice and service of Specialist Cook.

A CONGRESSIONAL SALUTE TO GARY LARSON

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. ANDERSON. Mr. Speaker, today I rise to pay tribute to a man who has served his community with great distinction. I would like to take this opportunity to acknowledge the outstanding achievements of Mr. Gary Larson.

Thursday, June 27, the San Pedro, CA, Chamber of Commerce is holding its 86th annual installation banquet. The guests of honor on that evening will include outgoing president Gary Larson, and his wife Lynn. The community of San Pedro will acknowledge the tremendous leadership and direction Mr. Larson provided during his tenure.

Mr. Larson's success should come as no surprise to anyone familiar with his distinguished professional career. After graduating from Harbor College with a liberal arts degree, Gary went on to the University of Southern California where he earned his real estate brokers license. Following in the footsteps of his father and grandfather, Gary worked as a successful builder/contractor and in 1986 founded the San Pedro Bay Co., a real estate development and management firm. Gary's specialty and the focus of his company is the rehabilitation, restoration, and preservation of historic structures. Currently, the San Pedro Bay Co. manages $11.3 million in commercial, industrial, and residential real estate. Over the last 5 years, Gary's commercial and residential projects total over 250,000 square feet, with a value in excess of $22 million.

Two of his most recent projects include the restoration of the historic John T. Gaffey Building and the Arcade Building, both in downtown San Pedro. For the latter, Gary received the San Pedro Revitalization Corporation and Councilwoman Joan Milke Flores Business of the Year Award for 1988.

In addition to his position with the San Pedro Bay Co., Gary serves as the managing general partner of Larson Investments, a general partner of Asset Resource Management, and the manager of Larson Properties. His list of seats on community groups is equally impressive, including being on the board of directors for the San Pedro Peninsula Hospital Foundation, and the founding member of the San Pedro Reclamation Committee, among others. His record of service and dedication to the San Pedro community is truly inspiring.

My wife, Lee, joins me in extending this congressional salute to Mr. Gary Larson. We wish him all the best in the years to come.

NATIONAL JOB SKILLS WEEK

HON. CARL C. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. PERKINS. Mr. Speaker, today I am introducing a joint resolution to designate the weeks starting October 27, 1991 and October 11, 1992 each separately as "National Job Skills Week." In so doing I am continuing a tradition started in the House by Mr. MARTINEZ, former chairman of the Education and Labor Subcommittee on Employment Opportunities, and in the Senate by Mr. GORE.

For the past 5 years, National Job Skills Week has focused attention on the need to upgrade the skills of the American work force. As the new chairman of the Employment Opportunities Subcommittee, I am very pleased to propose to my colleagues that we carry on this tradition for another 2 years. The resolution that I am introducing today is identical to those approved in years past, which have enjoyed bipartisan support.

Mr. Speaker, every year the gap between the skills that employers demand and the skills that workers can provide grows bigger. It is imperative that all Americans work together to close this gap. This task is one of the greatest challenges that has ever faced our Nation. We must succeed in this effort in order to maintain a standard of living and an economic vitality that have been the envy of the world.

A recent report by the American Society for Training and Development and the U.S. Department of Labor entitled "America and the New Economy" sums up the changes that are occurring in the workplace and the adaptations that will be required of American workers. The report states that—

> Human responsibilities and skill requirements are increasing and becoming less job specific, job assignments are becoming more flexible and overlapping, and employees are spending more time interacting with one another and with customers.

The report further states that—

The demand for state-of-the-art products and services requires flexible, integrated work organizations that can get innovations off the drawing board and into the hands of consumers quickly.

In this new economy, which requires workers to take on a wider variety of tasks and to respond to changing consumer demands, American workers must have better technical skills as well as a sound basic skills training in reading, writing, and arithmetic. Workers also need good interpersonal skills to function effectively, both in groups and individually with customers. In short, maintaining our Nation's competitiveness will require workers to develop more technical know-how and more generalized problem-solving and people skills.

All Americans must work together to close the skills gap. Educators must work to give current and future workers a solid basic education as well as good technical and interpersonal skills. Employers must invest in worker training and provide a workplace that is conducive to cooperation and creativity. And workers must be committed to producing quality goods and services that will maintain America's strong presence in the global marketplace.

Millions of educators, employers, and workers are already responding to the demands of the new economy. I commend their efforts and urge that National Job Skills Week be used to highlight the many changes underway in America's workplace, to focus attention on private and public job training efforts, and to bring attention to present and future work force needs. Thank you, Mr. Speaker, for this opportunity to present this important resolution, which I invite my colleagues to join in cosponsoring.

FURTHER CRACKDOWN IN BALTIC STATES

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. HOYER. Mr. Speaker, word has just reached me that Soviet military units occupied for several hours the telephone and telegraph exchange in Vilnius, the capital of Lithuania, as well as communications facilities in the city of Kaunas. Normal communications between Lithuania and the outside world were interrupted by this action, in which both army and internal affairs troops were reportedly involved. While it appears that the occupying forces have now withdrawn, today's events were a provocative display of pressure on the Lithuanian people.

I wish to express my grave concern and even alarm over these developments. The democratically elected leadership in Lithuania is seeking to restore Lithuanian independence in accorance with the will of the Lithuanian people. Despite pledges by the Soviet Government to negotiate with the Baltic States in good faith, the last several weeks have seen an upsurge in violence and attacks on customs posts, involving several fatalities.

Mr. Speaker, the Soviet military action in Vilnius in January of this year resulted in the deaths of 14 people. The Soviet seizure of Lithuania's television and radio center remains in effect, as I can testify, having visited the site in February. Today's action is the latest outrage in a series of actions designed to intimidate the democratically elected leadership of Lithuania and break the spirit of its people.

I call upon the Soviet authorities to put an end immediately to this coercion against the Baltic States which have been occupied since 1940. It is time for President Gorbachev and the Soviet leadership to begin good-faith negotiations with the Baltic States.

A CONGRESSIONAL TRIBUTE TO THE ROBINSON HIGH SCHOOL BAND

HON. TERRY L. BRUCE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. BRUCE. Mr. Speaker, in less than 2 weeks the high school band of Robinson, IL, will be making its first trip to Washington, DC. They have been chosen to represent the State of Illinois in the annual National Independence Day Parade, here in our Nation's Capital.

This is a great honor, not only for the young men and women who serve in the band, but for the citizens of Robinson as well. The success of the organization is truly a community effort. The band has performed at numerous local events and has played for the Governor of Illinois on his visits to the Robinson area. The members of the community have supported the band in their substantial fund raising efforts which have allowed them to purchase new uniforms and to travel here to Washington, DC.

Also, the Robinson High School Band has begun to compete in field and parade competitions. Under the quality leadership of Director Michael Emmerich and school Principal Phil Trapani, the band has excelled and continues to improve into a top class ensemble.

The dedication and commitment the individual band members have demonstrated deserves special mention. I want to take this opportunity to personally congratulate the members of the Robinson High School Band on their numerous honors and achievements. They have worked long and hard for the honor of representing Illinois in the National Independence Day Parade.

Mr. Speaker and fellow members, please join me in welcoming the Robinson High School Band to Washington, DC, and wishing them the best of luck in their upcoming performance.

TRIBUTE TO NOAH GEVEDEN

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. HUBBARD. Mr. Speaker, I take this opportunity to pay tribute to one of Kentucky's most prominent citizens, Noah Geveden, who died March 13, 1991, at Western Baptist Hospital in Paducah, KY, at the age of 82.

Noah Geveden was born in 1908 and grew up in Carlisle County, KY. He attended Murray State Teachers College, now Murray State University, and after graduation he returned to Carlisle County where he became a teacher at the Glass School. Later, he moved to Louisville and worked for the Federal Land Bank. While in Louisville, he attended law school at night at the Jefferson School of Law, which is now the University of Louisville School of Law.

Following his graduation from law school in 1936, Noah Geveden moved to Wickliffe, KY, in 1937, where he continued to work for the Federal Land Bank. Later that year, he married Bertis Billington. The couple had been married 53 years at the time of his death.

In 1942, Noah Geveden was drafted into the military. In 1946, after returning to Wickliffe and Ballard County, he was elected Ballard County attorney. He did not seek reelection in 1950. In later years, he also served as city attorney for the cities of Wickliffe, Barlow, Kevil, and LaCenter.

From 1961 to 1963, Noah Geveden represented the first legislative district of Kentucky in the State general assembly, a position now held by his son, State Representative Charles Geveden of Wickliffe.

In discussing his father, Charles Geveden, a former Commonwealth attorney for Ballard, Carlisle, Hickman, and Fulton Counties, said, "He was a completely honest and ethical man. He set a great example for his children and others in the community to follow."

Even when he was not serving in public office, Noah Geveden remained active in this community. He was a member of the First Baptist Church of Wickliffe for 40 years. He served as church treasurer for 35 years and was active in all church activities.

Noah Geveden was well liked and will be missed by all who knew and loved him.

In addition to his lovely wife and son, Noah Geveden is survived by his daughter Jean Geveden Thompson, also of Wickliffe.

My wife Carol and I extend our sincere sympathy to the family of the late Noah Geveden.

HONORING OUR RETURNING SOLDIERS ON MAIN STREET THIS FOURTH OF JULY

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. CARR. Mr. Speaker, now that the parades in Washington and New York are behind us—great celebrations of the American spirit that they were—it is time to truly welcome home America's fighting men and women—back home to the communities from which they came, with old fashioned, flag-waving, mom and pop parades.

Those men and women who were able to march behind their commanding general down Pennsylvania Avenue to the White House or down Broadway in New York were indeed fortunate. We simply do not give parades like that anymore, and God willing we will not need to again soon.

But the real measure of America's new spirit will be taken this Fourth of July, when the veterans of the war in the gulf join their comrades from Panama and Grenada, from Vietnam and Korea, from the European and Pacific theaters in World War II.

These will be the parades that bind up the wounds not only of those who suffered in Saudi Arabia, Kuwait, and Iraq, but also of those who suffered at Da Nang and Inch'on. These will be the rallies that bring us all together as a Nation to remember all of those who have risked all, and especially those who did not return.

All the New York ticker tape and all the fancy Washington fireworks—none of it can measure up to the resounding cheers of old friends and neighbors, or the warm embrace at parade's end of family. These are the parades and the rallies that are the real reward for the selfless service of our brave soldiers.

It is with the greatest pleasure that I take these few minutes of the Congress' time to honor all the veterans of highland and heartland, and of all Michigan and America.

A TRIBUTE TO LOUIS L. MILLER

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. HERTEL. Mr. Speaker, I rise today to pay tribute to Louis L. Miller in recognition of his many years of service to the Democratic Party.

Lou Miller graduated with a bachelor of arts degree in political science in 1972 and a master of science in urban affairs in 1974 from the University of Wisconsin-Milwaukee. He also served as a teaching assistant in the Department of Urban Affairs under the direction of Dr. Michael Barndt. His educational background in urban affairs worked to strengthen his commitment to community service.

Lou has been a strong dedicated leader in his community for over 30 years. From serving as fire and police commissioner for the city of Milwaukee to extensive work with the U.S. Postal Service, Lou Miller has devoted his life to being an active participant in local, county, and State government activities. His dedication continues through his current position as president and owner of Financial Data Systems, Inc. in Detroit, MI.

His extensive political background is exemplified by the many positions he has held over the years. During the last quarter century he has used his extensive political expertise at all levels in democratic campaigns, from membership to management. In 1988 Lou Miller was honored as one of Michigan's Delegates to the National Democratic Convention. He has held many elected offices including treasurer of the Oakland County Democratic Party from 1984–86, chair of the Oakland County Democratic Party from 1986–90, and curently officer-at-large of the Michigan Democratic Party.

Mr. Speaker, I stand today to recognize Louis L. Miller for his continued commitment to the Democratic Party. I ask my colleagues to join me in honoring him for his dedication to service and community.

HOSPITAL INDIGENT CARE ASSISTANCE ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. STARK. Mr. Speaker, I am today reintroducing the Hospital Indigent Care Assistance Act. This is a bill to provide critical financial support to the Nation's safety net hospitals burdened by the costs of uncompensated care.

Thirty-four million Americans are without health insurance. When illness strikes, these individuals are often unable to receive physician care in the community. Instead they must either receive emergency or outpatient care from a hospital or delay care until they must be treated as an inpatient. In either case, the hospital ends up footing the bill.

Lack of health insurance coverage often means that proper care is delayed until the problem is serious. Research shows that uninsured persons are less likely to have children appropriately immunized, less likely to receive prenatal care, and less likely to see a physician if they have serious symptoms.

For families without adequate health insurance coverage, any encounter with the health care delivery system, no matter how minor or seemingly routine, presents serious financial consequences. The unsurprising result is that these families do not seek appropriate health care when they need it. Instead, these wait until the problem is so serious that hospitalization is required.

In 1989 U.S. hospitals provided approximately $10 billion in uncompensated care. Virtually all of that care was given by public and not-for-profit hospitals.

While public hospitals have about 21 percent of all hospital beds, they provide 55 percent of all charity care. In large metropolitan areas these hospitals account for only 6 percent of beds, but provide 22 percent of charity care.

However, this is not simply a question of support for public hospitals. Slightly less than half of the Nation's 100 largest metropolitan areas have public hospitals. Most of the Nation relies upon voluntary, not-for-profit hospitals to act as the safety net for the poor and uninsured.

The problem is that the ability of public and voluntary safety-net hospitals to cope with indigent care is stretched to the breaking point. In the past, hospitals employed amounts charged to private patients in excess of the costs associated with those patients to finance care of the indigent.

Unfortunately, the hospitals providing the bulk of indigent care have few charge-paying patients to whom the cost of caring for the indigent can be shifted. In addition, as employers and private insurers have pushed for discounts and rate reductions in order to contain their costs, the continued ability of many hospitals to finance indigent care has been seriously eroded. The financial problems of these hosptials have been further stressed by the short-sighted policies of many States in establishing Medicaid payment rates at unreasonable low levels.

Signs of this stress are increasing. In the late 1970's and early 1980's many States made great progress in developing trauma networks. In the 1990's these networks are falling apart as many hospitals end their participation in trauma networks. This is often characterized as an emergency-care problem, but it isn't; it is an indigent care problem. The reason these hospitals are taking this step is because the trauma system brings them more indigent patients than the hospital can handle financially.

Clearly, the whole system of health care financing demands reform. I believe the time has come to enact comprehensive reform—and to enact it soon. I have introduced H.R. 650, the MediPlan Act of 1991, which would provide every American with comprehensive, cost-effective health coverage.

I have introduced the MediPlan Act because I do not believe that piecemeal approaches based in the private sector will achieve our common goal of universal coverage. I also believe strongly that only a universal approach in the public sector can achieve containment of skyrocketing healthcare costs.

Until a broad plan is enacted, however, I believe it important that we explore other, short-term, approaches which may help alleviate some of the problem. One thing we can do is to stabilize the finances of our Nation's safety-net hospitals.

We must act to assure continued access to necessary medical care for those who cannot afford it. The Hospital Indigent Care Assistance Act of 1991 will focus a limited pool of funds to the hospitals which have demonstrated their commitment to care for the less fortunate in our society. I urge my colleagues to join me in supporting this important step to patch our Nation's tattered social safety net.

A summary of the bill follows:

HOSPITAL INDIGENT CARE ASSISTANCE ACT OF 1989—SUMMARY

I. HOSPITAL INDIGENT CARE TRUST FUND

The Trust Fund is funded through a one percent excise tax on the amounts paid by employers for health benefits. The tax would provide approximately $1.5 billion to the fund in 1992.

II. HOSPITALS ELIGIBLE FOR SUPPORT

A. Hospital Eligibility.

A hospital is eligible for support if:

More than 10% of inpatient days are attributable to Medicaid, or more than 10% of total charges are uncompensated care charges; and,

The hospital has patient care revenues less than patient care operating expenses.

B. Allowable Indigent Care Costs:

Indigent care costs are defined using existing Medicare allowable cost definitions and methods plus labor and delivery service charges and costs.

III. ADJUSTMENTS FOR STATE AND LOCAL SUPPORT OF INDIGENT CARE

Allowable indigent care costs are decreased for hospitals that receive state or local tax support for patient care by one half of the dollar amount of the tax support.

For hospitals in a state with a Medicaid program that provides benefits above the national average, the allowable indigent care costs are increased in proportion to the Medicaid program's contribution to reducing hospital uncompensated care.

IV. DISTRIBUTION OF FUNDS

Each eligible hospital receives up to fifty percent of allowable indigent care costs in the first year. Thereafter, the percentage is adjusted to reflect available funds in the fund. No eligible hospital will receive more payment than is necessary to assure that the hospital breaks even on patient care.

V. STUDY

The bill provides for a two-year study of the impact of indigent care on hospitals.

VI. EFFECTIVE DATE

The legislation would be effective October 1, 1992.

SANDINISTAS CONTINUE TO LIVE AMID ILL-GOTTEN WEALTH

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. BEREUTER. Mr. Speaker, throughout a decade of absolute rule, the Nicaraguan Sandinistas portrayed themselves as the party of the common man. They condemned the former landholding class as enemies of the people, and seized the assets of the wealthy. By this and other acts of misrule, the Sandinistas destroyed the once-thriving Nicaraguan economy.

In February 1990 the Sandinistas were repudiated in nationwide elections, and Violeta Chamorro assumed the Presidency. However, before leaving office the departing Sandinistas voted to give themselves title to many of the assets that they had seized. The Ortega brothers and their cronies now live in villas that they have deeded to themselves, drive seized limousines, and work out of confiscated buildings.

The democratically elected government of Nicaragua is attempting to recover these ill-gotten gains, and the Sandinistas are threatening to riot in the streets if they are not permitted to keep their spoils. Such behavior clearly demonstrates the corruption that has infested the Sandinista movement, as the difficulties faced by President Chamorro in bringing democracy to Nicaragua.

Mr. Speaker, a June 24, 1991, editorial in the Lincoln Star correctly labels the behavior of the Sandinistas as craven. The editorial notes that the behavior of the Sandinistas continues to pose a grave threat to the fragile Nicaraguan democracy. This Member commends the editorial to his colleagues.

SANDINISTA DEMANDS THREATEN NICARAGUA

Craven is a word that suits the Sandinistas' demands they be allowed to keep property confiscated and given to them when their party misruled Nicaragua.

These items—from cars and computers to luxury homes—were given Sandinista party activists under a law hastily implemented after former Sandinista leader and Nicaraguan President Daniel Ortega lost the February 1990 election but before his successor, Violeta Barrios de Chamorro took office.

The Sandinistas want to keep these ill-gotten gains so badly that they've taken over radio stations and government buildings. Ortega is threatening a return to war if the bill before the General Assembly is passed into law, blaming war, of course, on the government and not his sympathizers' disruptive actions.

Meanwhile the political council of Nicaragua's unwieldy 14-party governing coalition met to consider filing criminal charges against the former president.

Awkwardly enough, the police and armed forces are still controlled by Sandinistas and hardly subordinate to civilian authority. In a conciliatory gesture, Chamorro left Sandinistas in positions of power after her election. The wisdom of that move has long been questioned by rightist Nicaraguans, many of them former Contra rebels.

Chamorro's job has never been easy. She inherited a bankrupt economy, a country devastated by 10 years of civil war and hotwire political factions pulling her in both directions.

If one side isn't criticizing her, the other is.

Democracy is a fragile commodity in Nicaragua.

Ortega is clearly wedded to power and its benefits, and has confused his personal gain with the welfare of the Nicaraguan people. It is a common theme among Latin American leaders, and one explanation for the areas's backwardness and poverty.

If democracy now fails in Nicaragua, we'll know where to place blame. It falls to the Sandinistas.

TRIBUTE TO JOSEPH W. SUMMERS

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. JACOBS. Mr. Speaker, when a man like the Honorable Joseph W. Summers dies, we are tempted to believe the old saying that only the good die young.

The following from the Indianapolis Star and the Indianapolis News are eloquent hints at the distinguished public service and private life examples given to us by Representative Summers.

We shall not merely miss him. We shall be severely deprived because of the loss of his blazing talent and generous heart.

[From the Indianapolis News, June 11, 1991]

REPRESENTATIVE JOSEPH W. SUMMERS

The late Rep. Joseph Summers took on his fight with cancer the same way he approached the rest of life.

The Indianapolis Democrat kept on battling and maintained his sense of humor even in the midst of the trials of the cancer that took his life last week.

Friends and political foes enjoyed his company in the General Assembly, even in the midst of disagreements. He had a direct way of speaking to an issue, and people wound up appreciating his forthrightness.

"He was universally compassionate," summed up a close friend, Center Township Trustee Julia Carson. "He didn't have press conferences about what he did, he just did them"

"Joe Summers' tireless fight for the less fortunate in our society was matched only by his valiant effort against the disease that took his life," added Gov. Evan Bayh.

He will be missed both in the area he represented in the inner city of Indianapolis and in the General Assembly.

But his friends and family can take comfort in the kind of life he lived and the contributions he made both to Indianapolis and the entire state.

[From the Indianapolis Star, June 14, 1991]

"SO LONG, JOE"

(By Susan Hanafee)

Joseph W. Summers—family man, churchgoer, funeral director and politician—would have liked his memorial service.

There were tears and laughter, prayers and songs, solemnity and showmanship Thursday.

There were ministers and funeral directors, both preaching about the life and times of Summers with such zeal that it was difficult to tell them apart.

There were politicians who had spent months in angry debate over a budget and redistricting sitting shoulder-to-shoulder.

There were male and female, black and white, all with only one agenda—to remember their friend.

"Joe would not want us to mourn," said Summers' long-time pal William W. Clark, a pastor and fellow funeral director. He delivered a rousing eulogy, characterizing the two-hour service as a celebration.

"Joe is leaning over the balcony in heaven and smiling at us," he told the crowd.

More than 1,200 gathered at Light of the World Christian Church. Afterward, they formed a three-mile procession to Crown Hill Cemetery.

Friends and associates began congregating early for the 11 a.m. services to honor the 61-year-old Summers. He died June 6 after a four-year battle with lung cancer.

In the church lobby they spoke of his honesty, his loyalty, his pride in his family.

State Rep. William A. Crawford, an Indianapolis Democrat, said the large turnout was a measure of the man. "You couldn't look at Joe with anything but respect," he added.

Sixteen speakers, including Gov. Evan Bayh and Summers' daughter, Vanessa J. Barnes, addressed the crowd.

Speakers described the Summers spirit that prevailed despite the discomfort of his disease.

"Joe was held hostage by pain," Clark said. "But he never surrendered."

O'Neil Swanson, who often called Summers to comfort him during his illness, said: "He ended up encouraging me."

However, most remembered the quiet, yet persuasive strength of the man who became a Democratic precinct committeeman before he was old enough to vote.

He had served in the House since 1976, representing a central city area where many low-income families live.

"Joe fought for the more vulnerable members of our society," Bayh said.

"Joe Summers loved us and we loved him," he added. "Tonight, there will be a new star in the firmament and heaven will be a brighter place."

The governor ordered the U.S. and Indiana flags flown at halfstaff for two days on some state properties in Summers' honor.

In the eulogy, Clark characterized Summers as a man who loved to be on center stage and who was not afraid to take a chance to make a difference.

He recalled a visit to the city by former Alabama Gov. George Wallace. Summers wanted to picket the Claypool Hotel where Wallace was staying; he was told to stay away.

But Summers refused to ignore the visit of Wallace, a man he considered the epitome of "racial evilness," Clark said.

The day after he and others carried banners in protest of the visit, their picture appeared in newspapers across the country.

"Joe said 'See, they were wrong,'" Clark said.

Summers kept "100 balls in the air and 200 irons in the fire" but he never forgot he was a funeral director, Clark added.

Once, about 20 years ago, when Clark was preparing to leave town, Summers told him he didn't care where he went or what he did, "just don't develop amnesia about who your funeral director is."

Rep. Hurley C. Goodall, a Muncie Democrat and chairman of the Indiana House black caucus, also described Summers as a man of courage who walked where others feared to tread.

"So long, Joe," he concluded. "Rest in peace."

THE CHATTAHOOCHEE INDIAN HERITAGE CENTER AT FORT MITCHELL, AL

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. RAY. Mr. Speaker, of all the sad, regrettable, conscience-stirring stories in the development of our great Nation, perhaps none is more sad or more regrettable than the story of the great trail of tears that stained this land in the 1820's and 1830's.

A proud, highly civilized and gifted people were taken from their homes and forecefully settled in a west they had never seen.

They were marched westward, a direction that held special terror to the Indians, for to the Indian the West represents blackness, the place where the sun dies every day.

In 1833, just before the largest removal of the Indians began, a census was conducted. It listed every household head of the Indian nation. In all, some 8,065 Indians lived along the Chattahoochee.

Today, on the site of Fort Mitchell, AL, a point of origin for the Creek Indian "trail of tears," the Historic Chattahoochee Commission is raising funds to build an Indian heritage center, a museum without walls on 9 acres of Fort Mitchell Park. Douglas Purcell is executive director of the Historic Chattahoochee Commission, and a member of the Board of Directors of the Chattahoochee Indian Heritage Association.

I had the pleasure this spring of meeting with several board members; former Congressman Jack Brinkley, my predecessor; Beverly Greer, John Lupold, Mr. Purcell, and Fred Sessell.

They told me that thus far they have raised $85,000 toward a goal of $700,000. They suggested that they would like to get help from the U.S. Army for in-kind assistance with the grading and engineering on the site. This probably comes under the National Guard or the Corp of Engineers, or perhaps from a public spirited private construction company.

Former Congressmen Brinkley asked for limited assistance in congressional appropriations. These are details to be considered after a site plan has been developed and the directors have consulted with the Bureau of Indian Affairs.

Details will come later. The point I wish to make today is to advise the Congress about the beginning of this important, historic project. It is to be located just across the Chattahoochee River from the Third Congressional District of Georgia, which I am honored to represent.

Let me add one more point. Very few good Americans are proud of the treatment of the natives of this proud land. The treatment of the Indians is a scar on our proud history. If this Indian Heritage Center at Fort Mitchell, AL, can right just a small bit of the wrong done here it will be a worthwhile project and one that I am proud to support.

MILITARY PERSONNEL AND THE GULF WAR

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, June 26, 1991, into the CONGRESSIONAL RECORD:

MILITARY PERSONNEL AND THE GULF WAR

Military analysts would agree that United States service men and women performed their duties with great skill and professionalism in the Persian Gulf War, and were largely responsible for U.S. and allied success. My visits with returning veterans in the Ninth District have prompted me to think about several important personnel issues.

WOMEN IN COMBAT

Over 33,000 U.S. military women served in key combat-support positions throughout the Gulf. They performed in medical and administrative jobs, as well as a host of nontraditional assignments, including airlifting supplies and personnel, maintaining weapons systems, and serving as intelligence specialists. Women accounted for 6 percent of the U.S. forces in the Gulf region (they are 11 percent of total U.S. forces). Five women were killed in combat and two were taken prisoner of war.

Women are currently prohibited by law from serving in combat in the Air Force, Navy, and Marine Corps. Service policy, not Federal law, bars women from Army combat positions. Defenders of current policy say that it has worked well to-date, and should not be changed. It is also argued that: women are not as strong or aggressive as men; their presence would impair the effectiveness and cohesion of all-male combat units; women would have to be included in any future draft, and could be involuntarily reassigned to combat missions; and a civilized society would not tolerate women fighting and dying in combat.

The outstanding performance of women in the Gulf War has raised questions about combat restrictions. First, modern high-tech warfare distinguishes less between the frontlines and the rear, where women personnel were once considered safe from attack. Women died in combat even though their missions were technically noncombat. Second, today's battlefield places increasing emphasis on technical skills. There is no evidence to suggest that women would be unable to operate sophisticated weapons systems in combat as effectively as men. Third, women cannot advance to the highest ranks without combat experience.

I find merit in these arguments. Women deserve the opportunity to serve in combat missions if they meet service requirements and qualifications. The House, with my support, voted last month to repeal the statutory prohibition against women flying combat missions. I am concerned by the House's decision to leave intact the ban against women serving in nonpilot positions on combat ships. I believe that efforts can be made to accommodate women on these vessels without necessarily creating habitation problems. The House provision, if approved by the Senate and the President, would give the four services discretion in assigning permissible combat missions to women. The proposed law would not compel women to serve in the Armed Forces or in combat missions. All men and women in the services have enlisted of their own choice.

RESERVE VERSUS ACTIVE DUTY

Since the Vietnam era, the United States Armed Forces have relied increasingly on the reserves to meet their mission requirements. Reserves are cheaper to maintain than active forces, and can be called up on short notice to fulfill combat and support functions. Today, reserves comprise over 50 percent of total Army personnel. The Gulf conflict was the first full-scale test of this "total force" approach. Roughly 20 percent of the forces serving in the Gulf were reserves. Their responsibilities included flying combat and military airlift missions as well as providing vital support functions. In general the call-up of reserve units proceeded smoothly; reserves performed well throughout their deployment to the region; and they enjoyed widespread public support. There was no public call for a draft.

The role of Army combat reserve units has spurred the most examination. The Defense Department decided not to activate Army National Guard combat brigades until late last year. It was argued at the time that the maximum 180 days of call-up authority would limit the effective use of these brigades. Others speculated that the Defense Department preferred to use only active-duty divisions. Once activated, the reserve units experienced serious readiness problems; required more training than some anticipated; and were never deployed to the Gulf. The Secretary of Defense prefers a significantly smaller reserve component, and a far smaller role for combat reserve forces in future conflicts. Congress generally supports more modest reductions in the size and readiness of the reserves—in line with those proposed for active forces—and favors using reserves for rapid-deployment missions. I agree that reserves can fulfill combat missions, provided they train in smaller units with their active-duty counterparts, carry the same equipment, and are mobilized more quickly.

ALL VOLUNTEER FORCE

The Gulf War has raised anew questions about representation of minorities and the poor in the All-Volunteer Force. Some have said that these groups are disproportionately represented in the armed services—in part because of limited career opportunities outside the military—and would therefore suffer proportionately higher casualties in an armed conflict. For example, black youth comprise 14 percent of the recruitment age population of the United States, but 22 percent of newly enlisted recruits and 26 percent of Army recruits. These statistics have often been cited in support of instituting a draft, which, some argue, would ensure a more representative military.

A recent congressional report concluded that the present system does not unfairly burden the poor. There is little difference in the family income of recruits compared to the general population, except for the richest 10 percent. It also concluded that the Services do not unfairly burden minorities with the fighting. Black casualties were 15 percent of the total in the Gulf conflict; that figure might have been slightly higher had the war involved more ground combat, and slightly lower had it entailed more air and sea combat. Hispanics and Asians are underrepresented in the Services. Furthermore, the study noted that a draft would not necessarily produce a fully representative military force, as the individuals who volunteer and reenlist would likely reflect the racial make-up of today's force. Finally, the study found that a draft could compromise the quality of recruits. The current force has more high school graduates than the youth population generally and scores better on standardized armed services tests than the general population.

BOSTONIANS MOVED A MODERN MIRACLE

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. FRANK of Massachusetts. Mr. Speaker, one of the great pieces of news which the world received this year was the successful movement of Ethiopian Jews to the State of Israel. This was a great moment for the people of Israel who were able to demonstrate again to the world the essential reason why the existence of a Jewish state is so important. It was a great moment for Ethiopian Jews who were given a chance to join other Jews in a society in which they will be fully respected and face no discrimination. It was a proud moment as well for the United States, and especially for President Bush, who did so much at the critical moment to facilitate this humanitarian operation.

Among those who were entitled to take a great deal of pride in this operation are a number of Americans who worked very hard for a long time to alleviate the plight of Ethiopian Jews. No one in this country worked harder and more diligently over a sustained period on behalf of this cause than Barbara Gaffin, now associate director of the Jewish Community Relations Council of Greater Boston. Barbara Gaffin began her work on this issue more than 10 years ago. In fact, in 1981 she went to Ethiopia as part of a fact-finding mission of the Jewish Federation of Greater Los Angeles. She has not stopped since then. Freedom for Ethiopian Jews has been high on her agenda and she is entitled to great pride at the role she has played in its ultimate success.

Earlier this month Barbara Gaffin presented a history of American-Jewish efforts on behalf of Ethiopian Jews in the Boston Jewish Advocate. Her account is a modest one, and understates the critical role she played in this. I am pleased to note that she was aided to some extent in this by her husband, Douglas Cahn, who was my administrative assistant for most of the time that I have served in the House. I am very proud myself that through Doug, I was able to respond on a number of occasions to Barbara's request for assistance in her work, and I join Barbara and Doug and a lot of other people in this country in feeling especially gratified that this particular chapter in Jewish history has ended so well.

Mr. Speaker, as an example of some of the good work that is done and is too often unchronicled, I ask that Barbara Gaffin's article about this be printed here.

[From the Jewish Advocate, June 7, 1991]

BOSTONIANS MOVED A MODERN MIRACLE

(By Barbara Gaffin)

Last week, the State of Israel rescued nearly 15,000 Ethiopian Jews from Addis Ababa. Flown in the belly of overstuffed 747 cargo jets, these Jews, who trace their ancestry to the Queen of Sheba and King Solomon, arrived in Tel Aviv with nothing more than the clothes on their backs but with their ancient Jewish heritage intact. Indeed, the ingathering of these people gives renewed meaning to modern Zionism's goal of providing a Jewish homeland.

The movement to rescue Ethiopian Jews did not begin this past weekend, however. It was the culmination of years of dedicated efforts, both public and private, made by individuals and groups who, in a few cases, risked their lives to help save this nearly forgotten people.

Long before this most recent airlift began, the seeds of this campaign were planted. Activists in Boston, throughout the U.S., and Israel worked to publicize the plight of Ethiopian Jews and create the public and private will to guarantee that our government would respond.

In 1979, when I began working at Jewish Community Relations Council of Greater Boston (then known as the Jewish Community Council), only a handful of people around the country were familiar with or responding to conditions in Ethiopia. Heightening awareness was not an easy task. Few people were interested. Information was hard to come by.

In 1981, when I had the opportunity to travel to Ethiopia in a fact finding mission of the Jewish Federation Council of Greater Los Angeles, I went. Even though I was told we would never be able to meet with Jews in the villages, my colleagues and I persisted. After travelling illegally for three days by horseback and mule through Ethiopia's Simien Mountains, not only were we able to speak with Jews, but we were able to bring two Ethiopians Jewish students to Israel and with them, important information previously unknown to foreigners.

In 1982 I spent the summer living and working with new olim at an absorption center in Beersheva, an opportunity not afforded others because of the secrecy surrounding the escape route of the Ethiopians. I returned to Boston to provide Jewish community members with fresh ideas for their involvement.

Quietly when necessary, publicly when useful, our efforts move forward. The JCRC worked closely with members of Congress to explore legislative and diplomatic ways to establish relief efforts and evacuation routes. With an active well-informed committee of motivated individuals, Boston area Jews ensured that all possible steps were taken to aid our brothers and sisters in Africa. We brought in Ethiopian Jews to speak before the public. We created slide shows, we travelled to Washington, New York, and Israel to meet with whomever could help.

The response public officials and particularly the role of the U.S. government in both Operation Solomon last week, and Joshua in 1985 was no less a part of the success story. When we became aware that several Jews were imprisoned, we called on Rep. Barney Frank (D-Newton), who immediately implored the State Department to raise these cases with the Ethiopian government. Their release was ultimately secured. Newton Mayor Ted Mann called on national political figures to intervene after receiving a chilling reception from Ethiopian officials in this country. Sen. Kennedy and former Sen. Paul Tsongas, who served in the Peace Corps in Ethiopia, likewise pressed Ethiopian authorities and the Reagan Administration.

Other Massachusetts officials joined the growing ranks of public officials around the country who responded to our pleas. Congressional hearings were held, allowing the true story of the plight of Ethiopian Jews to be placed on permanent record with our government.

As Bostonians, we can be proud that we played an active and vital role in the campaign to ensure that American support was there to facilitate this modern day miracle. We should never forget the potential impact of one community's efforts as we continue to channel our energies into other issues of concern to us as American Jews.

COSPONSOR THE KIMBERLY BERGALIS BILL: PROTECT PATIENTS AND HEALTH PROVIDERS FROM COMMUNICABLE DISEASE

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. DANNEMEYER. Mr. Speaker, as you know, Kimberly Bergalis lies near death in her Florida home after contracting AIDS from her dentist. At least four other patients of the late Dr. Acer also are infected and face a similar fate. Kimberly's tragic story has prompted millions of Americans to ask: What went wrong?

Last week, in an extraordinary letter to Florida health officials, Kimberly offered an emotional and accurate response to that question:

Who do I blame? Do I blame myself? I sure don't. I never used IV drugs, never slept with anyone and never had a blood transfusion. I blame Dr. Acer and every single one of you bastards. Anyone that knew Dr. Acer was infected and had full-blown AIDS and stood by not doing a damn thing about it. You are all just as guilty as he was.

P.S. If laws are not formed to provide protection, then my suffering and death was in vain.

I'm dying guys. Goodbye.

Today I introduced the Kimberly Bergalis Patient and Health Providers' Protection Act of 1991. This legislation would require States to screen health providers who perform invasive medical and dental procedures for HIV infection and hepatitis B. Infected providers would not be permitted to perform any invasive procedure that poses a risk of transmission to patients, unless the patient expressly consents to the risk.

The legislation would also give physicians broad discretion to test for these diseases without the patient's consent prior to an invasive procedure, provided the physician has a reason to believe that the patient is at risk for a communicable disease.

I have attached a copy of the bill. I have also attached a copy of a letter I delivered yesterday from Kimberly's special medical advisor, Sanford Kuvin, M.D., the vice chairman of the National Foundation for Infectious Diseases. Dr. Kuvin visited with Kimberly and her family on June 24 and in the letter he describes Kimberly's reaction to this legislation. As Dr. Kuvin was leaving, Kimberly told him that if such a law were passed—her death will not have been in vain.

Kimberly and her family have reviewed this legislation, and support it fully. By cosponsoring it, you can help respond to her dying plea that we put appropriate precautions in place to protect the health and safety of patients and health care workers alike.

I urge my colleagues to cosponsor this important legislation.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Kimberly Bergalis Patient and Health Provider Protection Act of 1991".

TITLE I—AMENDMENTS TO PUBLIC HEALTH SERVICE ACT REGARDING CERTAIN COMMUNICABLE DISEASES AMONG HEALTH CARE PROVIDERS AND PATIENTS

SEC. 101. ESTABLISHMENT IN TITLE XXVI IN PROGRAM FOR EARLY INTERVENTION SERVICES.

Subpart I of part C of title XXVI of the Public Health Service Act (42 U.S.C. 300ff-41 et seq.), as added by section 301(a) of Public Law 101-381 (104 Stat. 597), is amended by inserting after section 2648 the following new sections:

"SEC. 2648A. PROTECTION OF PATIENTS FROM HEALTH CARE PROVIDERS WITH CERTAIN COMMUNICABLE DISEASES.

"(a) List of Relevant Diseases and Medical Procedures.—For purposes of the requirement established in subsection (b) regarding the receipt by a State of a grant under section 2641, the Secretary—

"(1) shall establish a list identifying each communicable disease that poses a risk to the public health (which list shall include HIV disease and hepatitis B, subject to subsection (d)(3));

"(2) in the case of each disease included on the list, shall specify (as a component of the list) the medical and dental procedures that a health care provider with such a disease should be prohibited from performing on the basis that performing the procedure on an individual would pose a risk of the transmission of the disease from the health care provider to the individual;

"(3) in the case of any medical or dental procedure specified for purposes of paragraph (2), shall specify (as a component of the list) the particular health professions and allied health professions whose practitioners perform the procedure;

"(4) in the case of a health care provider who performs any medical or dental procedure specified for purposes of paragraph (2), shall specify (as a component of the list) the frequency of testing for each of such diseases that the provider should undergo for purposes of protecting the public health (including the frequency of such testing that, with respect to the disease involved, is appropriate for a provider who previously has been determined through testing to have the disease); and

"(5) shall periodically review the list, and as appropriate, make revisions in the list.

"(b) Requirements Regarding Protection From Relevant Diseases.—Subject to subsection (f), for fiscal year 1992 and subsequent fiscal years, the Secretary may not make a grant under section 2641 to a State for a fiscal year unless—

"(1) in the case of any health care provider who performs any medical or dental procedure included on the list under subsection (a) (as in effect for the fiscal year)—

"(A) the State requires that each such provider undergo testing for each disease with respect to which the procedure is so included; and

"(B) the State requires each such provider to undergo the testing as frequently as necessary to be in compliance with the applicable recommendation included on the list pursuant to paragraph (4) of such subsection;

"(2) in the case of any health care provider determined through testing pursuant to paragraph (1) to have any such disease—

"(A) the State prohibits the provider from performing the medical or dental procedure involved for the duration of the disease, except in circumstances in which the provider—

"(i) informs the patient involved that the provider has the disease;

"(ii) informs the patient of the risk posed by the disease in the context of the procedure; and

"(iii) obtains the written consent of the patient for the provider to perform the procedure notwithstanding such risk;

"(B) the State requires that, with respect to the patients of the provider, the activites described in paragraph (1) of subsection (c) be carried out; and

"(C) the State requires that, with respect to the provider, the activities described in paragraph (2) of subsection (c) be carried out; and

"(3) the State provides for the enforcement of the provisions described in paragraphs (1) and (2).

"(c) Assistance for Affected Patients and Providers.—

"(1) Patients.—In the case of an infected health care provider, the activities referred to in subparagraph (B) of subsection (b)(2) are that—

"(A) if the provider has a qualified employer as defined in paragraph (3), the employer, directly or through an arrangement with another entity—

"(i) inform each of the patients of the provider that the patients may have been exposed to the disease involved; and

"(ii) offer to provide to the patients counseling regarding the disease and testing for the disease; and

"(B) if the provider is self-employed, the provider arrange for an entity to carry out the activities described in clauses (i) and (ii) of subparagraph (A) regarding patients of the provider.

"(2) Providers.—In the case of an infected health care provider, the activities referred to in subparagraph (C) of subsection (b)(2) are that the State involved, directly or through imposing requirements on qualified employers or through other mechanisms, provide for—

"(A) the availability to the provider of counseling regarding the effects on the provider of the prohibition imposed on the provider pursuant to subparagraph (A) of such subsection; and

"(B) the availability to the provider, to the extent practicable, of assistance in making such adjustments in the professional life of the provider in response to the prohibition as are necessary to provide health care in a capacity that is consistent with the protection of the public health.

"(3) Qualified employer.—For purposes of this section, the term 'qualified employer', with respect to a health care provider, means an individual, a company or other organization, a State or political subdivision of a State, or other entity, that employs the provider for the purpose of providing health care for an average of 20 hours or more per week during the 60-day period preceding the date on which the provider is determined through testing pursuant to subsection (b)(1) to have a communicable disease included on the applicable list under subsection (a). Such an entity is a qualified employer without regard to whether the provider is a partner in the entity and without regard to whether the provider otherwise owns a portion of the entity.

"(4) Rule of construction regarding assistance to providers.—In the case of an infected health care provider who incurs financial obligations in carrying out the activities described in such paragraph regarding the patients of the provider, paragraph (2)(B) may not be construed to require that a State, as a condition of receiving a grant under section 2641—

"(A) provide financial assistance to the provider for the purpose of carrying out such activities; or

"(B) require another entity to provide financial assistance to the provider for such purpose.

"(d) Issuance and Effective Date of List and Revisions.—

"(1) Initial list.—The list required in subsection (a) shall be issued through rulemaking in accordance with the procedures established under section 553 of title 5, United States Code, regarding substantive rules. The final rule for purposes of such procedures shall be published in the Federal Register not later than 90 days after the date of enactment of the Kimberly Bergalis Patient and Health Provider Protection Act of 1991. The list shall be effective for fiscal year 1992 and subsequent fiscal years, with such revisions in the list as may become effective under paragraph (2).

"(2) Revisions.—Any revisions made by the Secretary in the list required under subsection (a) shall be issued through rulemaking described in paragraph (1) and shall take effect upon October 1 of the second fiscal year beginning after the date on which the final rule for the revision is published in the Federal Register.

"(3) HIV disease and hepatitis.—HIV disease and hepatitis B shall each be considered to be a communicable disease that poses a risk to the public health for purposes of the list required under subsection (a), as in effect for each of the fiscal years 1992 through 1994. In the case of fiscal year 1995 and subsequent fiscal years, any of such diseases may be removed from the list if the Secretary determines that the disease involved no longer poses such a risk.

"(e) Definitions.—For purposes of this section:

"(1) The term 'applicable list', with respect to the list required under subsection (a), means the list in effect for the fiscal year involved.

"(2) The term 'health care provider' includes any individual who is a physician or a dentist, or who is an allied health professional as defined in section 701(13).

"(3) The term 'infected health care provider' means any health care provider determined through testing pursuant to subsection (b)(1) to have a communicable disease included on the applicable list under subsection (a).

"(4) The term 'qualified employer' has the meaning given such term in subsection (c)(3).

"(5) The term 'self-employed', with respect to a provider of health care, means a provider who does not have a qualified employer.

"(f) Time Limitations Regarding Required Laws.—

"(1) Compliance requiring no additional statutes.—

"(A) With respect to compliance with subsection (b) as a condition of receiving a grant under section 2641, the Secretary may provide such a grant if—

"(i) in the case of a grant for fiscal year 1992 to State described in subparagraph (B), the State has in effect or provides assurances satisfactory to the Secretary that by not later than October 1, 1992, the State will have in effect any requirements, authorities, prohibitions, and other provisions required in subsection (b); and

"(ii) in case of grants to such a State for fiscal year 1993 and subsequent fiscal years, the State has in effect such provisions.

"(B) A State referred to in subparagraph (A)(i) is any State under whose law regulations in accordance with subsection (b) may lawfully be issued without the enactment by the State of any statute in addition to the statutes in effect on the date of the enactment of the Kimberly Bergalis Patient and Health Provider Protection Act of 1991.

"(2) Compliance requiring additional statutes.—With respect to compliance with subsection (b) as a condition of receiving a grant under section 2641, the Secretary may provide such a grant if—

"(A) in the case of grants for fiscal years 1992 and 1993 to a State that is not a State described in paragraph (1)(B), the State has in effect or provides assurance satisfactory to the Secretary that by not later than October 1, 1993, the State will have in effect any requirements, authorities, prohibitions, and other provisions required in subsections (b); and

"(B) in the case of grants to such a State for fiscal year 1994 and subsequent fiscal years, the State has in effect such provisions.

"(3) State certifications regarding current compliance.—With respect to compliance with subsection (b) as a condition of receiving a grant under section 2641, the Secretary may not, in the case of the requirement, authority, prohibition, or other provision involved, require a State to enact any statute, or to issue any regulation, if the chief executive officer of the State certifies to the Secretary that the law of the State is in substantial compliance with subsection (b).

"SEC. 2648B. PROTECTION OF HEALTH CARE PROVIDERS FROM PATIENTS WITH CERTAIN COMMUNICABLE DISEASES.

"(a) List of Relevant Diseases and Medical Procedures.—For purposes of the requirement established in subsection (b) regarding the receipt by a State of a grant under section 2641, the Secretary—

"(1) in the case of each disease included on the list required in section 2648A(a), shall specify (as a component of the list) the medical and dental procedures whose performance by a health care provider on a patient with such a disease poses a risk of the transmission of the disease from the patient to the provider;

"(2) in the case of any medical or dental procedure specified for purposes of paragraph (1), shall specify (as a component of the list) the particular health professions and allied health professions whose practitioners perform the procedure; and

"(3) shall periodically review the list regarding the components required in paragraphs (1) and (2), and as appropriate, make revisions regarding the components.

"(b) Authorized Nonconsensual Testing of Patients Under Certain Conditions.—

"(1) In general.—Subject to subsection (f), for fiscal year 1992 and subsequent fiscal years, the Secretary may not make a grant under section 2641 to a State for a fiscal year unless the State provides that, subject to the condition described in subsection (c), a health care provider who is a practitioner of a profession specified for purposes of subsection (a)(2) may, in the discretion of the provider and without the consent of the patient involved, test the patient for any of the diseases included on the list under section 2648A(a) if—

"(A) in the case of a patient who is not a minor, the provider has obtained the consent of the patient to perform on the patient a medical or dental procedure specified for purposes of subsection (a)(1); or

"(B) in the case of a patient who is a minor, the provider has obtained the consent of a legal guardian of the patient to perform such a procedure on the patient.

"(2) Rule of construction regarding confidentiality.—With respect to compliance with paragraph (1) as a condition of receiving a grant under section 2641, such paragraph may not be construed to prohibit a State from having in effect any law regarding the confidentiality of information that—

"(A) concerns a communicable disease in a patient; and

"(B) is obtained by a health care provider through testing the patient in the circumstances described in such paragraph.

"(c) Authorized Conditions.—

"(1) In general.—In the case of a health care provider who has obtained consent to perform on a patient a medical or dental procedure specified for purposes of subsection (a)(1), the condition referred to in subsection (b)(1) regarding testing of the patient is that—

"(A) the provider have a reasonable basis for believing that the patient has a disease included on the list under section 2648A(a), as indicated by guidelines issued by the Secretary; and

"(B) the provider test the patient only for the diseases with respect to which there is such a reasonable basis.

"(2) Issuance of guidelines by secretary.—Not later than 90 days after the date of the enactment of the Kimberly Bergalis Patient and Health Provider Proteciton Act of 1991, the Secretary shall issue guidelines for purposes of paragraph (1)(A).

"(d) Issuance and Effective Date of List Components.—With respect to the list required in section 2648A(a), the components of the list that are required in subsection (a) of this section shall be subject to section 2648A(d).

"(e) Definition.—For purpose of this section, the 'minor' means an individual who has not attained the age of majority, as determined under the law of the State in which, for purposes of subsection (b)(1), the health care provider involved performs the procedure involved.

"(f) Time Limitations Regarding Required Laws.—With respect to compliance with subsection (b) as a condition of receiving a grant under section 2641, section 2648A(f) shall apply to subsection (b) to the same extent and in the same manner as such section applies to section 2648A(b).".

SEC. 102. ESTABLISHMENT IN TITLE XXVI IN PROGRAM FOR CARE GRANTS.

Part B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff-21 et seq.), as added by section 201 of Public Law 101-381 (104 Stat. 586), is amended in section 2617 by adding at the end the following new subsection:

"(e) Protections Regarding Certain Communicable Diseases Among Health Care Providers and Patients.—The Secretary may not make a grant under this part unless the State involved agrees that sections 2648A and 2648B apply to the State to the same extent and in the same manner as such sections apply to any State receiving a grant under section 2641.".

TITLE II—GENERAL PROVISIONS

SEC. 201. EFFECTIVE DATE.

The amendments made by this Act shall take effect October 1, 1991, or upon the date of the enactment of this Act, whichever occurs later.

National Foundation
for Infectious Diseases,
June 24, 1991.

Congressman William E. Dannemeyer,
Washington, DC.

Dear Congressman Dannemeyer: Today I visited with Kimberly Bergalis and her parents to discuss your legislative initiatives to protect the patient and the health care worker against the transmission of the human immunodeficiency virus [HIV] and hepatitis B virus during invasive medical and dental procedures. As you know Kimberly is very near death from the ravages of AIDS simply because she was treated by an AIDS infected dentist who did not tell her that he could transmit a lethal disease to her during a simple dental procedure. Kimberly's death is imminent and I doubt that I will ever see Kimberly alive again.

Today, Kimberly wailed a cry of joy to me that her prayers have finally been answered by the proposed legislation and she expressed the hope that every Member of the Congress will have an opportunity to vote on this legislation to insure that needless deaths from AIDS transmitted from health care workers to patients—and AIDS transmitted from patients to health care workers will never occur again. I told Kimberly that I suggested to you that the proposed legislation be named the Kimberly Bergalis Act and that you had agreed to this because of Kimberly's determination, because of her courage, because of her passion, and because of her persistence to change public health policy that had proven so inept. Kimberly then said to me that if such a law were passed—her death will not have been in vain.

Sincerely,

Sanford F. Kuvin, M.D.,
Vice Chairman, Board of Trustees.

HEALTHY NEIGHBORHOODS IN WESTCHESTER

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mrs. LOWEY of New York. Mr. Speaker, 5 years ago, Westchester County, NY, moved to correct a serious problem. ,It moved to bring an end to pockets within its cities which were environmentally unsafe and in which the residents had no access to decent medical treatment. It decided to establish the Healthy Neighborhoods Program, and our county is a better place because of it.

Healthy Neighborhoods' community health workers go into high-risk areas and conduct assessments of environmental deficiencies, of home safety, and of the medical and social needs of the families in the neighborhood. They then refer people and problems to the appropriate agency or individual. This is not the conclusion, however. The Healthy Neighborhoods workers come back to the areas where they serve, time and time again, to make sure that people are getting the help that they need and to help with any new problems that arrive. Keeping a neighborhood healthy is a full-time challenge, and Westchester has done well to put people to work trying to solve this problem on a full-time basis.

This program has prospered under the leadership of director, Olga Mackenrow and county health commissioner, Mark Rapoport. Their unstinting efforts have made the Healthy Neighborhoods experiment a success well worth replicating. As we recognize the Healthy Neighborhoods program's fifth anniversary, and congratulate everyone involved in making it work, let us rededicate ourselves to the principle on which it is founded, that every citizen, no matter where he or she lives, should have access to proper health care.

IT IS TIME TO STRENGTHEN COMMUNITY-BASED LAW ENFORCEMENT AND DRUG PREVENTION EFFORTS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. CONYERS. Mr. Speaker, today I am introducing a bill amending the asset forfeiture provisions of title 28 of the United States Code to require that the Attorney General devote a portion of his asset forfeiture fund to supporting community-based law enforcement and drug prevention programs.

There are two very different drug wars going on in the United States, only one of which we appear to be fighting. We are fighting, and winning, the drug war for the middle class with prevention and education programs and accessible treatment facilities. We are losing the battle in the inner cities. Waiting lists for treatment programs are still 3 to 4 months long, while those who can afford private care or who have insurance coverage do not have to wait at all.

In the inner cities, the drug war is almost a paramilitary operation, as the police are ordered to crack down and get tough on drugs. I fear that in our cities, all we are really doing is locking up enough drug dealers and users to create the illusion of success. But it isn't working.

It is not the fault of the police. They are doing their part in the drug war, and it is both dangerous and frustrating. But if you ask a drug cop in a candid moment, he will tell you the truth: Going after the little guy will fill the jails, but it does not even begin to make a dent in the drug trade.

My bill is a first step to begin to put some of the seized assets back into the communities, into community-based crime control programs that can make a difference in peoples' lives.

Over the past 2 years, in overseeing the Office on National Drug Control Policy, the Committee on Government Operations has held a series of hearings on the implementation of the national drug strategy at the State and local level. One overriding theme presented by witnesses in all of the committee's hearings has been the lack of adequate funding for drug treatment and prevention programs at both the State and Federal level.

In fact, only 12.5 percent of the country's estimated 6.5 million drug users are receiving treatment. The committee has also heard extensive testimony on the problems that result from the traditional law enforcement emphasis of the war on drugs, and the lack of attention to alternative law enforcement approaches such as community policing, treatment in prison, and community-based crime control efforts.

The committee's report: "The Role of Demand Reduction in the National Drug Control Strategy"—House Report 101–992—recommends a 50 to 50 split in the drug war budget overall between law enforcement and treatment/prevention. As I am sure you know, the administration's proposed budget for the National Drug Control Strategy in fiscal 1992 continues to reflect a 70 to 30 ratio of funding for law enforcement over treatment and prevention programs.

Although the Attorney General has discretion to use funds derived from forfeited assets in drug cases for any law enforcement purpose defined in section 524(c) of title 28, United States Code, the vast majority of these funds are devoted to traditional law enforcement expenditures, such as prisons, rewards for informants, equipment, weapons, and police overtime.

Approximately 20 States have adopted enabling legislation authorizing the use of asset forfeiture funds for drug treatment and prevention programs. There is no reason that the Federal program should lack a similar provision, and my bill seeks to require such leadership by the Justice Department.

In this time of scarce Federal resources, I believe that this is one way of securing needed funds for the neglected community-based components of the war on drugs. In addition, with the inevitable growth of these funds and the recently proposed addition of new offenses that can result in forfeiture, now is the time to begin reclaiming a portion of these moneys for community-based interventions.

Currently, the assets forfeiture fund contains nearly $1.4 billion. Each year approximately $500 million is spent from this fund, largely in State and local equitable sharing payments that are not monitored in any way by the Executive Office of Asset Forfeiture. My staff has also learned that significant funds are being used to hire contractors to do work that would ordinarily be done by Federal employees. These departures from the normal mode of congressional authorization and appropriation of funds are troubling. In addition, the Attorney General has discretion over the use of about $100 million from this fund each year.

The U.S. Marshals Service management of the Attorney General's asset forfeiture fund has been the subject of repeated criticism by the GAO. Nonetheless, GAO recommends consolidating the management of the Justice Department and the Customs Service's asset forfeiture funds under the Marshals Service. Particularly in light of this recommendation, I believe we should act to strengthen the management of these funds.

My bill contains an initial effort to streamline management by limiting expenditures from the fund for administrative and contracting expenses to 10 percent of the total fund, and by requiring the Attorney General to include a report on all administrative and contracting expenses in his annual report to Congress. Improving fund management and increasing the moneys available for distribution is also one way to defuse some of the inevitable law enforcement opposition to the nontraditional uses of these funds.

Over half of the assets seized by the Marshals Service are real property, including crack houses and other marginal central city properties. These properties can seldom be used by the police and, because they are frequently neglected, can generate only modest financial returns. Indeed, it appears that many are routinely razed as nuisances. Community action groups want to convert these properties to provide affordable low-income housing and other community-based services.

My bill amends the real property management and disposition provisions to require that any real property appraised at less than 40 percent of the median prices of comparable real property in any central city be offered for nominal consideration to nonprofit organizations that provide direct services furthering community-based crime control, housing, or education efforts.

Mr. Speaker, I have seen the addicted single mother, with teenage son whose crack profits put food on the table, trying desperately to find a way out. I have seen the search for a treatment program that works, a job, and the self-respect tha allows a drug user to become a productive human being.

Our current drug war, with its virtually exclusive reliance on traditional law enforcement, helps neither our cities nor those trapped there in the downward spiral of drug abuse and failure. It is my hope that by making funds available to community-based interventions, we can begin moving toward a more rational policy that does more than fill our jails.

The text of my bill follows:

H.R. 2774

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ONE-HALF OF THE DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND TO BE USED FOR COMMUNITY-BASED CRIME CONTROL PROGRAMS FOR DRUG EDUCATION, PREVENTION, AND DEMAND REDUCTION.

Section 524(c) of title 28, United States Code, is amended by adding at the end of the following new paragraph:

"(12)(A) In addition to the purposes under paragraph (1), the fund shall be available to the Attorney General for community-based crime control programs (including private, nonprofit programs) for drug education, prevention, and demand reduction, with amounts for such programs to be distributed, in accordance with criteria determined by the States, with priority given to the communities in which the assets involved are seized.

"(B) Not less than 50 percent of the total of the amounts disbursed for all purposes under this section in a fiscal year shall be for programs referred to in subparagraph (A). Not more than 10 percent of the total disbursed for such programs may be used for administrative costs.".

SEC. 2. LIMITATION ON ADMINISTRATIVE AND CONTRACTING EXPENSES PAID FROM THE DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.

Section 524(c) of title 28, United States Code, as amended by section 1, is further amended by adding at the end the following paragraph:

"(13) The total of amounts paid from the Fund with respect to a fiscal year for administrative and contracting expenses under paragraph (1)(A) may not exceed 10 percent of the total of amounts paid from the Fund for all purposes with respect to such fiscal year.".

SEC. 3. REPORT TO CONGRESS ON ADMINISTRATIVE AND CONTRACTING EXPENSES.

Section 524(c)(6) of title 28, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) a report for such fiscal year containing a description of the administrative and contracting expenses paid from the Fund under paragraph (1)(A).".

SEC. 4. NOMINAL CONSIDERATION SALES OF LOW VALUE REAL PROPERTY TO CERTAIN TAX EXEMPT ORGANIZATIONS.

Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended by adding at the end the following new paragraph:

"(4)(A) If any property referred to in paragraph (1)(B) is low value real property located in a metropolitan statistical area, the Attorney General shall offer such property for sale, for nominal consideration, to tax exempt organizations that provide direct services furthering community-based crime control, housing, or education efforts in such area.

"(B) As used in this paragraph—

"(1) the term 'low value real property' means, with respect to a metropolitan statistical area, real property that is appraised at less than 40 percent of the median value of comparable real property in the metropolitan statistical area; and

"(2) the term 'tax exempt organization' means an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from tax under section 501(a) of such Code.".

SEC. 5. REGULATION.

Not later than 120 days after the date of the enactment of this Act, the Attorney General shall prescribe regulations to carry out the amendments made by this Act.

SEC. 6. EFFECTIVE DATE.

The amendments made by sections 1, 2, and 3 shall apply with respect to fiscal years beginning after September 30, 1991.

THE EXTENSION OF MFN TRADE STATUS TO CHINA

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. CHANDLER. Mr. Speaker, I include the following:

Thank you Mr. Chairman, members of the committee, the issue raised before the members of this committee here today is not whether we desire greater Chinese respect for human rights and international norms of behavior.

Indeed, everyone of us want to see greater respect for human rights by the Chinese Government, and a continuation of positive social, political, and economic change.

Rather, what truly lies in question is what actions should the United States take to foster China's democratization. Should the United States extend MFN, and thus keep China open to the international community and support the economic forces that have been driving political and social change? Or should the United States disapprove MFN, allowing this vital link between our two nations to be held hostage to the reactions of a small group of hardliners within China?

The choice is simple, for one fact is clear. If the United States fails to extend MFN to China, the democratic movement within that country will suffer its greatest setback, a setback which will be even more difficult to overcome than Tiananmen Square.

Eliminating a fundamental pillar of our economic relationship—MFN trade status—will destroy our ability to engage the Chinese on issues of concern. In the past, MFN has served to open an isolated China to the outside world and promote reform. The people of China are looking to us for assistance for the democratic movement in China is at a crossroad. We must work with the Chinese people if it is to continue and succeed. We must not abandon them, we must not isolate them, we must extend MFN.

LUTHERAN CHURCH OF THE GOOD SHEPHERD HAS HISTORY OF FAITH AND INNOVATION

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. SOLOMON. Mr. Speaker, as you drive north on Glen Street in my hometown of Glens Falls, NY, one of the most visible landmarks is the Lutheran Church of the Good Shepherd.

The most visible feature is a large figure of Jesus Christ with a sheperd's crook in one hand and a lamb in the other hand.

While this church may not be as old as some of the churches that trace their history to colonial times, its own history is no less interesting.

This particular church has been particularly noteworthy for the spirit of innovation that allowed it not only to survive, but to thrive since its humble beginnings in the late 1940's.

I proudly place in today's RECORD an article from the Glens Falls Post-Star, which, more completely than anything I could say, tells the story of this church.

The article follows:

[From the Glens Falls (NY) Post-Star, June 23, 1991]

DRIVE-IN MINISTRY—CHURCH HAD INNOVATIVE START

(By Tom Calarco)

The Lutheran Church of the Good Shepherd had just a living room for a chapel in 1949. The Rev. Gary Germann, pastor of the young church, was faced with not holding summer services or coming up with an innovative solution.

He chose to innovate. So on June 26, Germann held the nation's first religious service at a drive-in movie theater.

"Sabbath Worship—Behind the Wheel" it was called.

Germann had held services outdoors at a church he started in Peekskill before coming to Glens Falls. And in California, some churches had drive-in services.

But Germann went one step further. The services took place at the old Lake George Drive-In, located at the present site of the Colonel Williams Motor Inn.

The pulpit was mounted in front of the movie screen, and prerecorded hymns were piped in over the car speakers. Printed programs were provided with the words to the hymns, and collections were made from car to car. A Sunday school was also conducted behind the movie screen.

Many tourists attended the services, and visitors were invited to indicate their religious affiliations and hometowns on registration cards.

Germann, who died in 1987, had said at the time of the services that people from all 50 states as well as every known religious faith attended.

"Non-Denominational is the adjective I like best in describing the services," Germann said. "We don't plug the Lutheran concepts."

Dick Willman remembers attending when he was a boy.

"It was a way of life," he said, "the era of the car. You didn't have to dress up, that's what I remember most about it."

The informality proved to be a big draw, said Marian Germann, the pastor's widow.

"Come in your car, dressed as you are," was one of the slogans used to advertise the services, she said.

People going to the beach or on a picnic could come to church without dressing up, and instead of going home to change afterwards, they could go on their way.

As many as 200 autos pulled in for a single service, Susan Adams remembered. In 1954, the services were moved to a larger drive-in theater, the Fort George, which was located at the present site of Waterslide World.

There were drawbacks, Adams said, such as not being able to offer communion, which was offered only once a month during special services at the parsonage.

But the drive-in services continued until the summer of 1964, when attendance began to fall off.

The success of the drive-in services provided much of the revenue for building the church at the corner of Bowman and Glen streets in Glens Falls.

The church had to struggle merely to survive in the beginning. Not until 1946 was the first Lutheran worship service held in Glens Falls.

On March 17 of that year, 20 people met at the Friends Meeting House on 174 Ridge St. with the Rev. Theodore Schulze, pastor of St. Paul's Lutheran Church in Saratoga Springs.

These mission services at the Friends Meeting House continued with Schulze. But collecting enough money to conduct these services was difficult, and often it was necessary for church-goers to make extra contributions out of their pockets.

In November 1947, a house at the corner of Bowman and Glen streets, across from Crandall Park, was purchased to serve a new congregation. The following month, Germann was appointed as the church's first pastor, a position he would hold for 26 years.

"We were married on Dec. 14, 1947," said Mrs. Germann. "We spent our honeymoon in an empty parsonage with a hay field in the back."

A week later, Germann held his first services in the parsonage's living room. It served as a temporary chapel, but it simply wasn't large enough, Mrs. Germann said.

On June 5, 1949, when the church was formally chartered, the ceremony had to be held at the Church of the Messiah to accommodate the numbers.

The new church was also given an official name, voted upon by its members—The Lutheran Church of the Good Shepherd.

It was a fitting choice, pastor Germann said, because it was a name Jesus had given himself.

The church itself was erected in stages. Construction on the present site behind the house on Glen Street began in the early 1950s.

In December 1952, a basement chapel was completed. This served the congregation until the church building was completed in 1959.

Except for additions on the south and west ends of the church made in 1981, its structure has changed little since.

Germann himself described the building as a combination of traditional and contemporary ecclesiastical design.

The church's stained-glass windows represent a revival of 18th century, English-Georgian style. Its colors, However, are atypical pastel beiges, yellows and greens with a tint of purple.

The landmark by which the church is best known today, the seven-foot statue of Christ, was erected in 1968.

This depiction of the Good Shepherd was created by Chestertown artist Jack Binder, who also wrote comic books and originated the character Mary Marvel. He created many of the figures for the old Storytown, as well as the gorilla at Animal Land.

The late artist's son, Ed Binder, said the statute was his father's gift to the church. Its earth tone colors match the beige and brown color scheme of the church's exterior.

Since Germann's tenure, the church has had three pastors: the reverends Peter Hoyer, John Collier and Alfred Glaser. Glaser has been pastor since August 1983.

The church has undergone a resurgence of growth in recent years. Glaser said, mainly because of its educational and outreach programs.

This includes the Sunday school both for children and adults, newcomers classes on Tuesday, and confirmation classes on Thursdays. Church members have also been active in outreach evangelism, periodically going from door-to-door, and also visiting the homes of non-members who might attend services.

The church boasts a fine music program. Besides an adult and youth choir, there is also a cherub choir made up of children from preschool age to the third grade. The choir has attracted a good number of young families in recent years, Glaser said.

The church is continually striving to keep up with the times. It was made handicapped accessible, for instance, by the installation of an elevator in the addition on the west end.

The Lutheran Church of the Good Shepherd's continued growth bodes well for the future. Glaser believes the church's success is due to its dedication to strong Christian principles.

"As human beings, we often tend to measure success and growth in terms of material blessings," Glaser has written.

"However, in our life together as a people of God, it is important we measure ourselves by the standard of God's grace. As our children and grandchildren look back on these years of our history together to this point, let it be said of that we were faithful to our God."

HELEN BURROUGHS: A SMALL BUSINESS CHAMPION

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. IRELAND. Mr. Speaker, on occasion a simple statement—"Hello, I'm from the Government and I'm here to help you"—sends small business owners running for cover at very high speeds indeed.

What a pleasure it is, then, to bring to the attention of our colleagues one of the many Government officers who personifies the very best of two words that ought to be held in the highest esteem: "Public servant."

I don't think any of us in Congress would underestimate the importance of exporting to the health of small business and to the Nation as a whole. And, Mr. Speaker, I can't think of anyone inside or outside of Government who has given more of their talent, time, expertise, and energy to promoting small business exports than Ms. Helen Burroughs, and she has done so against insurmountable odds and with remarkable success.

Truly, if it were in my power, I would clone 1,000 like her and solve our country's trade problems overnight.

As many of our colleagues know, Helen Burroughs is the U.S. Department of Commerce's Small Business Trade Policy Analyst for the International Trade Administration, a somewhat prosaic title that hides the magic she creates.

Two years ago, drawing on that unique mix of knowledge, confidence, hard work and good humor that leads to success, Helen conjured and cajoled into existence the first international trade event ever sponsored by the Commerce Department exclusively for small businesses.

Held in Frankfurt, Germany, Export 89 was a revelation to other countries—a magnificent array of products and services built and designed, not by mammouth, multinational organizations, but by small business men and women from America. Perhaps this accomplishment alone deserves our admiration and recognition, but Helen's dedication to the dreams of entrepreneurs goes beyond this victory.

Helen was the first woman to represent the Commerce Department by presenting American technolgy to foreign governments and to businesses throughout the world. Later, she served as coordinator for the United States Joint Economic Commissions for Saudi Arabia, Iran, Egypt, and Israel.

A founding member of Executive Women in Government, Helen currently directs the development of small business trade policy for the Department of Commerce and manages policy development for Secretary Mosbacher's industry Sector Advisory Committee on Small and Minority Business.

And next fall—repetition being another sincere form of flattery—Helen will work her magic again for a second American small business international trade extravaganza.

Mr. Speaker, I have reminded our colleagues on many occasions that it is easy to say you are for small business. It is how you vote that really counts. Helen Burroughs stands as a shining example of what can be done for small business when our actions carry the same weight as our words. I urge our colleagues to follow her inspiring model.

STOP U.S. SUPPORT FOR CIGARETTE EXPORTS

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. ATKINS. Mr. Speaker, in 1989, when the British Government sought to ban the sale of smokeless tobacco, the United States Department of Commerce objected on the grounds that some scientific studies had not linked chewing tobacco to oral cancer. In the same year, the United States Trade Representative accepted a cigarette industry petition alleging that Thailand's comprehensive ban on cigarette advertisements was an unfair trade practice.

With over 400,000 American smokers dying each year and another 1.5 million breaking the habit, the cigarette industry needs 2 million new smokers every year just to break even. The good news is that domestic consumption has plummeted 18 percent since 1981. The bad news is that the cigarette industry has teamed up with the U.S. Trade Representative and the Commerce and State Departments to push cigarettes abroad.

Beginning in 1986, the USTR has negotiated four unfair trade petitions on behalf of cigarette firms—an enormous and unprecedented boost for the industry. U.S. cigarette exports have nearly tripled in that period and now represent 23.4 percent of total unit sales. In 1989, 37.2 percent of our cigarette exports went to the USTR-affected countries of Taiwan, Japan, and South Korea.

Today, I am introducing two bills to temper the administration's enthusiasm for cigarette exports.

The Cigarette Export Labelling Act simply requires the Surgeon General's warning on all exported cigarettes. It is outrageous to pretend that the Surgeon General's findings apply only to American smokers.

The Cigarette Export Reform Act prohibits the U.S. Government from seeking to change a country's laws pertaining to the sale, distribution, taxation, or advertisement of cigarettes if that country imposes the same restrictions on their own brands. The bill also includes a GAO recommendation to add a representative from the Department of Health and Human Services to trade disputes adjudicated by the interagency Section 301 Committee in cases involving cigarettes and chewing tobacco.

In 1989, the World Health Organization asked a special group of consultants to make a calculation of how many people now living will die from tobacco-related diseases if current smoking patterns continue. They reported that nearly one-tenth of the world's population will die—500 million babies, children, and adults are doomed.

Perhaps our country's most enduring legacy is the dissemination of key health-care discoveries to the rest of the world. Let's not allow the cigarette industry to add a new chapter to that legacy—a chapter that makes America the leading exporter of lung disease in the world.

WALTER CAMPBELL

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. WOLPE. Mr. Speaker, on July 12, 1991, the Michigan State AFL–CIO will honor a man of singular accomplishment: Mr. Walter Campbell, retired secretary-treasurer of the Michigan State AFL–CIO.

There have been many highlights in Walter Campbell's long and productive history of advocacy on behalf of working men and women. Beginning as an employee of Borg Warner in Muskegon Heights, Walter became active in the AFL–CIO Allied Industrial Workers Local 404, and was elected to several offices, including the local presidency. In 1941, he began working for the international union and subsequently, in 1943, became an international representative for the AIW where he remained until his election as a regional director in 1967.

In the 1970's, Walter's leadership capabilities were recognized by his appointment as secretary-treasurer for the Michigan State AFL–CIO. Walter was also appointed by Governor G. Mennen Williams to serve on the Michigan Employment Security Commission, where he received consecutive reappointments from 1959 until 1987.

Walter Campbell is now officially retired from the AFL–CIO, but his commitment to public service continues unabated. His involvement with several labor and civic organizations—including the United Way of Michigan, the Michigan Welfare Reform Coalition, the Michigan Diabetes Association, and the Greater Lansing Food Bank—attests to Walter's continued dedication to the struggle for social justice that has been the distinguishing characteristic of his entire life.

Walter's leadership, his drive, his determination and commitment have been recognized many times over by his friends and colleagues. In 1977, for example, the Michigan United Labor Community Services School launched the Walter A. Campbell Community Service Award for students active in community services. More recently, the United Way established The Walter A. Campbell Award for Outstanding Voluntarism to recognize volunteers whose service and example stand as an inspiration to others.

Mr. Speaker, Walter Campbell has exemplified throughout his life the highest ideals of the labor movement, and his contributions as a member of numerous State and local civic organizations has touched the lives of working men and women throughout Michigan. I know that my colleagues will want to join with me in paying tribute to a person who personifies the very best in America's tradition of community service, and in thanking Walter Campbell for the labor and community leadership he has provided these past five decades. We are all in Walter's debt, and we wish him and his family continued success and happiness in the years ahead.

THE INFANT MORTALITY CRISIS

HON. PETE PETERSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. PETERSON of Florida. Mr. Speaker, reducing the country's chronically high rate of infant mortality is the single most important issue facing this Congress.

The national numbers are staggering and the local figures are devastating. In my district, four counties face an infant mortality rate higher than that of some Third World nations.

Mr. Speaker, we know how to lower this rate and it is up to Congress to take action.

Out of the nearly 40,000 babies born every year in this country, that do not live to see their first birthday, 25 percent can be saved by providing adequate prenatal care and nutrition services. By making these vital services readily available to pregnant woman we can reduce the incidence of low birthweight babies and thus lower our infant mortality.

Later today, Congress will take up legislation appropriating funds for labor and health and human services. A significant portion of today's bill will provide much needed funding for prenatal care.

Harry Truman once said "my clients are the next generation, my clients are the children." Today, I urge my colleagues to take this issue beyond lipservice and make a firm commitment to reducing the infant mortality crisis. It is something we can all do for our country and tomorrow's next generation.

THE KGB AND SOVIET REFORM

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. GRADISON. Mr. Speaker, at a closed session of the Soviet Parliament on June 18, 1991, the chief of the KGB, Vladimir Kryuchkov, delivered a strident address in which he accused Western intelligence services of preparing plans for the "pacification and even occupation" of the Soviet Union in an effort to control Soviet nuclear weapons. He went on to suggest that the Central Intelligence Agency is behind perestroika and that Western intelligence will leave the Soviet Union weak and susceptible to catastrophe.

Later in the same week, the Parliament decisively rebuffed an attempt by Soviet Prime Minister Valentin Pavlov to assume many of the powers reserved for President Mikhail Gorbachev. "Pavlov's Putsch," as it is referred to by the proreform media, reportedly had the support of Interior Minister Boris Pugo, Defense Minister Dmitri Yazov, and KGB Chief Kryuchkov, in addition to the support of the hard-line leadership of the Soyuz faction in the legislature.

Against this backdrop, Soviet Interior Ministry troops, the Black Berets, continued their harassment of Lithuanian customs offices. For several weeks, the Black Berets have been attacking customs posts in Lithuania and Latvia. These customs posts are symbolic of the Baltic States claims to independence from Moscow. Continued military maneuvering in the Baltics by Soviet forces and the position of the Soyuz bloc, associated with the bloody crackdown in the Baltics this past January, should be a warning to those who assume that the Soviets have reached a consensus on reform.

Kryuchkov's xenophobic and paranoid address to the Soviet Parliament is an indication of just how far some in Moscow have not come on the fundamental issues facing Soviet society. After 74 years of Leninist experimentation, the Soviet economy is a disaster and Soviet society exhibits deep functional and structural fissures, many of which may not be adequately dealt with for generations.

Rather than recognizing that only fundamental reform can eventually lead them out of that quagmire and away from catastrophe, a few in Moscow are choosing to blame the outside world. Looking for scapegoats is a tried and true tactic for the totalitarian mentality. Most Soviets, judging by the results of recent elections, appear to be wedded to the reform road. One can only hope that all the members of the senior leadership in Moscow will see that wisdom—and soon.

THE NORTHERN WESTCHESTER HOSPITAL CENTER: CARING FOR THE COMMUNITY

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mrs. LOWEY of New York. Mr. Speaker, the months ahead will no doubt see a great deal of talk about health care here in the House and throughout the country. That is a good sign, I believe, because taking care of our people, working for a healthier America, should be one of our top priorities. Nobody knows this better than the people of Northern Westchester Hospital Center in Mount Kisco, NY, community medical center that is doing an exemplary job in meeting the health care needs of those who rely upon them.

Northern Westchester was founded 75 years ago based on the simple premise that a community could provide for and maintain a place where people could receive high quality compassionate health care. From the start, it has fulfilled that promise, and it continues to honor its commitment to this day. Northern Westchester's doctors and nurses are highly trained, caring individuals who use the most advanced medical technology available to ensure that their patients receive the highest quality of care.

The people of Mount Kisco and the surrounding communities have done their part as well. By consistently providing support for the hospital, they have ensured access to this outstanding facility. They have also provided a valuable asset, the benefits of which reach far beyond Westchester. Northern Westchester Hospital is engaged in several projects in conjunction with the Federal Government that will further important national needs, including helping to control the spread of Lyme disease.

As the Northern Westchester Hospital Center celebrates its 75th year, Mr. Speaker, I urge my colleagues to join me, not just in saluting this noteworthy institution, but in replicating its remarkable success and important service. Northern Westchester is a reflection of how a community can work together to look after the health of its people. I hope that our Nation can meet that challenge with similar effectiveness.

A CONGRESSIONAL SALUTE TO "STAND DOWN '91"

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to a highly successful project assisting homeless veterans in Long Beach, CA. I sincerely appreciate the outstanding efforts given and the significant results achieved this past Friday through Sunday at "Long Beach Stand Down '91," one of the city's largest ever all-volunteer programs to assist homeless veterans.

As honorary cochairman it has been a privilege to have been associated with a project devoted to such a special group of Americans. It also has been especially pleasing and gratifying to see such tremendous community support for this year long effort. I wish to congratulate the over 400 volunteers and 50 public and private sector organizations, because without their extraordinary efforts, Stand Down '91 would not have been the remarkable success that it was. Additionally, I take great satisfaction in commending a former member of my staff, Gus Hein, now with the Southern California Rapid Transit District, for his extremely capable job as the chairman of Stand Down '91.

Stand Down, taken from the military term—allowing a combat unit to be removed from the field of battle to an area of safety and security— is a comprehensive program designed to provide homeless veterans with the services they need to reenter mainstream society. It is based on a similar program held in San Diego annually since 1988 that has proven to be an innovative and effective way of assisting homeless veterans break the self-perpetuating cycle of homelessness.

Stand Down '91, held at Veterans Memorial Stadium in Long Beach, served 263 homeless veterans ranging in age from their mid-20's to mid-70's. The project provided 261 multiple-service medical appointments, ranging from eye and dental services to testing for tuberculosis, which assisted 150 vets with medical needs, incuding 6 emergency cases that were promptly referred for local hospital care. Additionally, 100 followup medical appointments were scheduled. Stand Down '91 also adjudicated 73 legal cases, located short-term jobs for 19 vets, and shelters for 40 more.

After every homeless veteran was checked in and evaluated for immediate special needs, he or she was given a photo identification card and the opportunity to obtain numerous other services throughout the 3-day event, such as a shower, haircut, and counseling for substance abuse, AIDS, stress, foot problems, and exposure to agent orange. They also received donated shoes and clothing, shelter, and all the food they could eat, in addition to being treated to two, 2-hour USO shows.

Perhaps the most valuable contribution of Stand Down '91 was the manner in which all these services were made available to the veterans. One of the project's volunteers seemed to capture the spirit of the occasion when she told all the veterans that these things were not being given to them, but rather they had earned them for their previous sacrifices during military service to a very grateful Nation. Many Vietnam veterans could be heard saying that "This was the most at home and welcome they had felt in the United States since returning from Vietnam."

Many volunteers remarked at how amazed and gratified they were at the dramatic changes they saw in the way homeless veterans looked—from the downward-looking veteran that arrived Friday morning—to the entire group of veterans on Saturday night who were joining hands and looking skyward as they sang "God Bless the USA." The normally distrusting homeless veterans quickly learned that there were many people at Stand Down '91 who genuinely cared for their well-being. Volunteers, ranging from union members and private business owners to officials from Government agencies and elected offices, could be seen sitting on the grass together with veterans talking about the problems of homelessness, while others could be seen embracing veterans during many of the event's emotional moments.

I was extremely proud to see how Long Beach rallied around our homeless veterans. It was really something, to see so many services available at one site, and the tremendous commitment of everyone in helping these proud vets take a step toward getting off the streets. I really would like to see this kind of cooperative program between the public and private sectors spread not only to other parts of California but throughout our entire country as well. With the knowledge learned from more homeless veterans' assistance programs like Stand Down '91, we will become better able to expand this kind of volunteer effort to all of our homeless people.

While we have immeasurable strength as a united nation, America's inner strength has been found in the pride of its individuals—the kind of pride that can be felt by being both a productive and recognizable part of our society. Therefore, we must ever strive to help our homeless to get back on their feet so they again can feel the pride of contribution, and our country can feel the pride of being truly united.

My wife, Lee, joins me in extending our heartfelt thanks to Gus Hein and all of the volunteers whose contributions made this very worthwhile project possible. They are truly remarkable individuals who have devoted their time and efforts for the betterment of mankind. Stand Down '91 was a remarkable success because of their extraordinary efforts.

A TRIBUTE TO LT. GEN. CARL SPAATZ

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. YATRON. Mr. Speaker, I rise today with much pride to honor a man of glowing credentials and tremendous accomplishments on the anniversary of his 100th birthday. Lt. Gen. Carl A. Spaatz gave so much to our country, and I think we should all take this opportunity to reflect upon his wonderful achievements.

Lieutenant General Spaatz was born on June 28, 1891, in Boyertown, PA. He graduated from the Military Academy at West Point as America was preparing to enter World War I. Although Spaatz was fairly young at this time, he made great contributions to the war effort, including the shooting down of three German Fokker planes. For his efforts, Spaatz received the Distinguished Service Cross for heroism in action.

When the war ended, Spaatz dedicated himself to establishing the American forces in the air as the most powerful in the world. In order to achieve this goal, Spaatz helped develop several innovative methods of flight. It was at this time that the transcontinental flight was improved substantially, and the refueling endurance trip was also attempted. In one such endurance flight, Spaatz completed a refueling operation despite being drenched with scalding aviation gasoline, thus helping to keep the plane in the air for 150 hours and 40 minutes. These heroics in the famous "Question Mark" incident earned him the Distinguished Flying Cross in 1929.

Lieutenant General Spaatz continued to be extraordinarily successful in the field of aviation during the 1930's, and World War II provided him with the perfect opportunity to display all that he had learned. His first assignment in the war was to assist in the invasion of North Africa, which he did by commanding the force that became known as the "Spaatzwaffe." As the war progressed, Spaatz was appointed to several other key positions, including the leadership of the U.S. Strategic Air Forces in the European theater. His direction of the strategic bombing against the Germans throughout 1944 was vital in America's success against Hitler's forces.

As the war in Europe came to a close, Spaatz was reassigned to the Far East, where

American air power was instrumental in completing the victory over the Japanese. By this time, the greatness of his achievements was widely recognized, as he had already achieved the title of "three star" lieutenant general and was called "the best air commander I know" by General Eisenhower.

Mr. Speaker, I hope that you and my colleagues will join me in honoring Lieutenant General Spaatz. This outstanding gentleman is most deserving of all of the accolades he received during his life, and I would like to take this opportunity to recognize everything he has done for this country.

TRIBUTE TO THE 1072D NATIONAL GUARD UNIT

HON. FREDERICK S. UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. UPTON. Mr. Speaker, I rise today to pay my greatest respect and tribute to the 1072d Maintenance Company of Sturgis and Coldwater, MI. We recently welcomed these dedicated public servants home and I wish to express my pride and extend my support to members of the 1072d and their families.

Those in the 1072d Maintenance Company, like other members of the Guard, represent a broad cross-section of occupations; in their daily lives before the war they may have had little in common with each other. Yet, what bound this unit together throughout their months of service, was a profound love for their families, their community, and this Nation.

The commitment and selflessness of these fine men reminds me of an inscription on a memorial for soldiers in Arlington Cemetery that reads: "Not for fame or reward, not for place or for rank, not lured by ambition or goaded by necessity, but in simple obedience to duty as they understood it."

When members of the 1072d were called up to serve, they said farewell to their way of life, their friends, and families and faced the terrifying uncertainty of war. Though the wind was cold, they were warmed by their many neighbors who poured into the street to wish them a safe tour of duty. As I said a few weeks ago in Sturgis, the love and support of troops family members and friends, was the wind behind their sails.

Whether it was in Germany or Japan or on the front lines in the sands of Kuwait and Saudi Arabia, the guardsmen of the 1072d made a sacrifice which few Americans ever make but from which every American benefits. They were a vital and crucial link to the overall success of our military strategy in the gulf. The 1072d stands tall with every branch of the U.S. military and every veteran of the gulf war as the true heroes of Operation Desert Storm.

In celebrating the return of our troops, and our victory in the gulf, I believe it's important that we not glorify war, nor ignore the tremendous sacrifice of those who now come marching home—and those who never will.

We thank God for the selflessness of the people of the 1072d and all the other men and women that contributed to our effort in the gulf. But at the same time, we hope and pray that this will be the last time we call upon their service.

The 1072d Maintenance Company, and all veterans, share in what we hope will be a legacy of lasting peace, sovereignty and freedom for all nations. God Bless the 1072d and God Bless the United States of America.

THE RETIREMENT OF GEN. ARVID E. WEST

HON. JAMES P. MORAN, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. MORAN. Mr. Speaker, I would like to take this opportunity to congratulate Brig. Gen. Arvid E. West on his retirement and thank him for the years of meritorious service he has dedicated to the U.S. Army and to improving the Fort Belvoir facility in Fort Belvoir, VA.

General West came to Fort Belvoir on September 1, 1989, with a command to "completely turn around and clean up" the Directorate of Logistics at Fort Belvoir. General West did just that. In 2 short years, General West's enthusiasm and dedication has helped develop Fort Belvoir into a model facility which has recently been recognized with the Army Community Excellence Award for the best medium-sized post.

General West, a native of Norway, MI, graduated from the U.S. Military Academy in 1956. He then served two tours of duty in Vietnam where he was awarded the Silver and Bronze Stars, the Legion of Merit, four oak leaf clusters, and the Purple Heart. General West has always been a natural leader and role model for those fortunate enough to serve under him, and a friend for those fortunate enough to work with him in the community.

General West was a friend of mine and will be greatly missed by my constituents and by the U.S. Army. I am confident that he will apply the same level of professionalism and devotion to his new post with the Missouri Division of Public Highway Safety as he did in Fort Belvoir.

THE SEMICONDUCTOR INTERNATIONAL PROTECTION EXTENSION ACT

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. EDWARDS of California. Mr. Speaker, as a representative from Silicon Valley, I am pleased that the House is acting on an extension of the Semiconductor International Protection Act. I want to complement Chairman Hughes and the members of the Subcommittee on Intellectual Property and Judicial Administration for their hard work on H.R. 1998.

In passing the original Chip Protection Act in 1984, Congress addressed the unique intellectual property protection needs of the semiconductor industry. The act also authorized the Secretary of Commerce to extend this protection to semiconductor chip producers whose countries have negotiated bilateral chip protection agreements with the United States. This process allows the Secretary to negotiate for our chip producers the protection they need to compete in the international market.

The international negotiation provisions of the Chip Act have been the catalyst for the establishment of bilateral agreements with nineteen countries. We must make certain that progress is allowed to continue on establishing international semiconductor copyright standards. H.R. 1998 will give the Commerce Secretary the opportunity over the next 4 years to bring us closer to establishing those standards. I urge my colleagues to support the bill.

FIGHT FOR HEALTHY BIRTHS AND A LOWER INFANT MORTALITY RATE

HON. J. ROY ROWLAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. ROWLAND. Mr. Speaker, The rate of infant mortality has been too high, far too long, and we have not done enough to bring it down.

But it is also a fact that we have made some significant progress over the past few years. Congress has gradually increased funding for prenatal care. And we have approved some innovative new programs to help expectant mothers get the care they need. So far, however, we have not come up with the money to implement these programs.

More money would help. But that is not the entire answer. Even if we do not get all of the Federal funds we need, there is a great deal more we can do in this country to address the problem.

What we need more than anything else is education, public awareness, and community involvement. Many thousands of infants can be saved or spared lifetime physical and mental disabilities if we simply inform more expectant mothers about the care they need and about how to obtain it.

Mr. Chairman, the whole country should be involved in the fight for healthy births and a lower infant mortality rate. Many of our churches, businesses, educational systems, health professionals and volunteers, and many individual citizens are already involved. As cochairman of the Sunbelt Caucus Task Force on Infant Mortality and vice chairman of the National Commission to Prevent Infant Mortality, I urge everyone to join in. By working together, this is a fight we can win.

MILITARY MEDICAL CARE

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. MURTHA. Mr. Speaker, I rise today to tell you that the state of military medical care is improving. The Defense Appropriations Subcommittee has closely monitored the military's medical program for many years to ensure that beneficiaries receive the best care that our Nation can provide.

However, the future of military medical care is in question, Mr. Speaker. The Defense Department has proposed a new concept called coordinated care, a concept that is both untested and unproven. The House recently voted to only allow the Defense Department to test this new concept, along with other medical tests such as CHAMPUS reform initiative and catchment area management, to ensure that the Department is making a wise decision on how health care will be provided in the future.

Many organizations have written to the subcommittee praising the action we proposed in the recently passed fiscal year 1992 Defense appropriations bill. The National Military Family Association said in its letter of June 7:

> Your attention to the military health care delivery system is welcomed by military families. You have listened to the beneficiaries of this system and acted accordingly. The committee report and corresponding provisions encourage reform and allow innovative programs to proceed.

The Non-Commissioned Officers Association of the United States of America said in its June 14 letter to the committee:

> The Association is impressed with the House's action to suspend implementation of the Defense Department's proposed new coordinated care program. The Association salutes you and the members of your distinguished Subcommittee for taking what the Defense Department may consider a most antagonistic view of its coordinated care plan.

Mr. Speaker, I believe the House is on the right track as far as improving the quality of military medical care. Even an internal Pentagon document recently came to the same conclusion as that which the House approved in the fiscal year 1992 Defense appropriations bill, when this internal document stated that unless "efforts are coordinated on a DOD-wide basis through a more structured, deliberate effort, little progress can be expected in improving the—military medical—system." We must ensure, Mr. Speaker, that this quality health care is not diminished now that the Persian Gulf war is over and our Nation's attention is focused on other problems. We must ensure that improvements continue to be made only on programs that are tested and proven.

TRIBUTE TO SACRED HEART MEDICAL CENTER

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. WELDON. Mr. Speaker, I wish to congratulate the Sacred Heart Hospital Medical Center in Chester, PA, for being honored as a statewide finalist of the Pennsylvania Hall of Fame Champions of Older Workers.

This project seeks to identify, promote, and honor Pennsylvania employers who have made noteworthy efforts to hire older workers and to increase employment opportunities for people 55 or older. The hospital located in the city of Chester, just outside of my district, was nominated by the Senior Employment Program of the Delaware County Services for the Aged.

Sacred Heart Hospital aims to utilize the experience and wisdom of older workers. These older workers have a great deal to offer our community. Their experience, reliability and pride in their work is unmeasureable. By utilizing our older citizens, Sacred Heart reaps the benefits of a largely untapped resource of our work force. In addition to the great service they provide to others, our senior citizens receive gratification for performing this much-needed public service.

Mr. Speaker, not only does this hospital offer an outstanding opportunity for older workers, Sacred Heart has an excellent reputation for serving the "poorest of the poor." By employing these older citizens, Sacred Heart has established an economically efficient system to give medical attention to all our citizens regardless of ability to pay. Sacred Heart's enlightened employment practices should serve as a role model for all employers.

Mr. Speaker, on behalf of the Seventh District of Pennsylvania, I applaud the Sacred Heart Medical Center for their excellent service committment to our community.

ATTORNEY REPRESENTATION NEEDED FOR VETERANS WHO OWE THE GOVERNMENT MONEY

HON. HARLEY O. STAGGERS, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. STAGGERS. Mr. Speaker, I am introducing a bill that will help veterans. My bill will allow veterans, who are alleged to owe the Government—the Department of Veterans' Affairs—money, the opportunity to have an attorney represent the veteran in all stages and proceedings. This will allow a veteran, whom the Government believes owes money to the Government, to have a lawyer represent his interests. The veterans interests in this matter are substantial, his credit rating, military security clearance, and his future income.

The idea of allowing a veteran to have legal, competent representation is not new, nor did it develop after judicial review for veterans became law. In large measure, my legislation will allow veterans to have the same opportunity to have representation that they enjoyed from the 1950's until 1986. A 1986 general counsel opinion reversed the policy that allowed a veteran to have representation. Unfortunately, since that time, thousands and thousands of veterans have had their credit ratings ruined, lost their homes, have been unable to resume their lives, and have been driven to the bankruptcy courts of our country.

My legislation will allow the veteran to contact and engage the services of an attorney when first contacted by the Department or at anytime while collection efforts occur. This legislation has been the discussion of hearings before my Subcommittee on Housing and Memorial Affairs of the House Veterans Affairs Committee and has the support of the Veterans' of Foreign Wars, the Vietnam Veterans of America, the Disabled Veterans of America, and other veteran service organizations.

WELCOME, PRESIDENT ROH TAE WOO

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. ROHRABACHER. Mr. Speaker, on behalf of the people of the 42d District of California, I would like to take this opportunity to welcome to the United States the President of the Republic of Korea, His Excellency Roh Tae Woo. President Roh arrives in Washington, DC, on Monday, July 1, for an official state visit at the invitation of President Bush.

This is President Roh's fourth official visit to the United States, but this is the first state visit for a Korean President in 26 years. And it is a particularly fitting time for this visit. After 3½ years in office, President Roh is credited with initiating popular reforms to strengthen and expand democracy in South Korea. As a candidate for President in 1987, Mr. Roh issued his "June 29 Declaration" in which he called for major constitutional changes to address the Korean people's desire for greater freedom and democracy. After the first direct popular election in Korea in 16 years, Mr. Roh took office and began to implement his program for democratization.

Today, President Roh is in the final stages of carrying out this plan. Koreans now enjoy virtually unrestricted freedom of the press and speech. The National Assembly and an independent judiciary share power equally with the executive branch of Government. The rights of workers are ensured, and the standard of living among ordinary Koreans has improved markedly in recent years. And free and fair elections are now held at all levels of the political system.

On the international front, Mr. Roh has succeeded in dramatically expanding relations with countries not traditionally friendly to South Korea, including the Soviet Union and the nations of Eastern Europe. And he has done this principally with the aim of improving relations with North Korea and reducing tensions on the Korean Peninsula.

Korea is now considered one of the last outposts of the cold war. Communist North Korea remains probably the most closed society on Earth and poses a formidable military threat. Pyongyang maintains a million troops and a vast array of weapons, including advanced Scud missiles along the border with the South. It is for these reasons that the United States remains firm in our commitment to assist in keeping peace on the peninsula.

But even along the Demilitarized Zone, we are beginning to feel some warmer winds of change. North Korea just recently reversed its position on two longstanding issues of contention. First, it has said that it will see full United Nations membership this year, thus clearing the way for Seoul's own long-desired accession. And then Pyongyang announced that it will sign the nuclear safeguards accord of the

International Atomic Energy Agency. We hope to see both Koreas become full contributing members of the United Nations. And we expect North Korea to fulfill its obligation under the IAEA agreement to open its nuclear facilities to international inspection.

Along with political and security issues, economic concerns will be high on the summit agenda. Korea is the sixth largest customer of American exports and the third largest consumer of United States agricultural products. We expect Korea to continue on its path of market liberalization to ensure that our trade relationship is a fair one.

At a time when the political, security, diplomatic, and economic trends on and around the Korean Peninsula are moving in a positive direction, this summit represents an excellent chance for Presidents Bush and Roh to reaffirm the close ties between the United States and the Republic of Korea. The United States, like Korea, is a Pacific nation. And our alliance is as strong as the bonds which unite us: Friendship, sacrifice, and a commitment to the basic ideals of freedom, peace, and prosperity.

HIGH QUALITY FORESTRY

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. SWIFT. Mr. Speaker, today, I and several of my colleagues have introduced a bill which brings a new and innovative idea to the crisis facing the northwest national forests. Simply put, the idea is to increase the length of time for harvest rotations in the three national forests of western Washington State and use more natural means of regeneration of those forests.

The Members of the Northwest have been seeking a balanced approach to the disaster facing the northwest timber industry, and the communities, families, and individuals which are dependent on the national forests. In my district, the harvest level on the national forests have fallen over the last 2 years by 90 percent. As you can imagine, this is causing serious havoc to the timber dependent communities in my district.

Mr. Gus Kuehne, the president of the Northwest Independent Forest Manufacturers [NIFM] came to me several months ago with an innovative concept—high quality forestry. NIFM, composed of small mills throughout western Washington that are principally dependent upon public lands for their log supply has been actively trying to find a solution which would protect ecosystems while permitting a reasonable timber production on the national forests. I introduced the measure today as a stand alone bill, but it is intended to be an amendment to H.R. 2463, a bill recently introduced by Representative HUCKABY. It should be read with that in mind.

This bill directs the Forest Service to amend the forest plans over the next 3 years to incorporate extended harvests of 150 to 200 years and utilize shelterwood and seed trees silvicultural techniques on the Olympic, Mount Baker/Snoqualmie and Gifford Pinchot National Forests. The current rotation for harvesting on these three national forests is between 80 and 100 years.

The benefits of this change in harvest methods include the ability of the forest to sustain wildlife that is dependent upon old growth/mature forests, a higher quality wood for local mills, more protection for streams and wildlife dependent upon free-flowing streams, a more sustainable timber supply for small timber dependent communities, and greatly reduced clearcutting. Further, it is expected that if this management strategy was implemented, much of the land mass currently withdrawn from the timber base in these forests could be returned to the timber base.

The initial reaction by forest scientists who are most familiar with the biodiversity problems facing these national forests has been positive. Further, George Leonard, the U.S. Forest Service associate chief stated after an initial review of this proposal,

> We believe that there is merit in the proposal. Managing forests on long rotations means that a greater proportion of the forest will be in mature stands at all times. Thus, the habitat for species dependent upon older forest conditions will be increased. Also, the proportion of the forest which will be harvested in any decade would be decreased so other environmental concerns, such as water quality, would be mitigated.

He concluded the use of extended rotations and reduced clearcutting as proposed by NIFM is likely to be part of the eventual resolution of this issue. The entire Washington delegation have asked the Forest Service to provide a more detailed analysis of how this proposal might work.

This bill—actually a proposed amendment to legislation currently being considered—is another idea that needs to be carefully evaluated as a supplement or alternative in some forests, to approaches that are currently before us.

THE TRUMAN LIBRARY INSTITITUTE: A PROUD TRADITION OF SCHOLARSHIP

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. WHEAT. Mr. Speaker, since its founding in 1957, the Harry S. Truman Library Institute in Independence, MO, has carried on a widely renowned program of research on the career and administration of President Truman and the history and nature of the American Presidency.

At its most recent annual meeting, on May 4, 1991, the board of directors of the institute named a new president, elected a distinguished slate of new directors, and announced plans for an exciting program of studies for the new coming year.

Today I am pleased to bring to the attention of my colleagues in the U.S. House of Representatives the election of Maj. Gen. Donald S. Dawson as the new president of the Truman Library Institute.

The selection of General Dawson, a board member since 1981, is particularly appropriate in light of his service on President Truman's White House staff from 1947 to 1953 as administrative assistant to the President. General Dawson is a Washington, DC, lawyer, a veteran of World War II, and a former president of the Reserve Officers Association.

Also elected at the May 4 meeting were six new members of the board of directors, the largest number to be selected in the 34-year history of the Truman Library Institute.

The new board members include: Donald H. Chisholm, a Kansas City lawyer and counselor to the Truman family; Robert J. Donovan, a journalist and author of a two-volume history of the Truman Presidency; Thomas F. Eagleton, U.S. Senator from Missouri from 1969 to 1986; Jonathan Kemper, president of the Commerce Bank of Kansas City; Henry J. Massman IV, president and CEO of Massman Construction Co.; and Jonathan McDonnell, president and CEO of DST Systems.

Building on the success of the institute's previous conference on the North Atlantic Treaty Organization, the board announced plans for an additional scholarly meeting on NATO, tentatively scheduled to be held in St. Louis, Missouri, in 1992. The second NATO study group will be sponsored jointly with the University of Missouri-St. Louis and the European Universities Institute of Florence, Italy.

Another important event on the institute's agenda for 1992 will be a seminar on the Truman Presidency and the news media. The seminar, to be cosponsored with the Truman Library and the National Press Foundation, will be held at the National Press Club in Washington, DC.

For more than three decades, the Truman Library Institute has played an invaluable role in expanding our understanding of the historic Truman Presidency. I am proud to extend my sincere best wishes to General Dawson and the new board members as they continue to shed new light on this critical period in our Nation's past.

INTRODUCTION OF THE CANEBERRY DISASTER RELIEF ACT OF 1991

HON. MIKE KOPETSKI

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. KOPETSKI. Mr. Speaker, I rise along with my distinguished colleagues from Oregon, Mr. AUCOIN, Mr. WYDEN, and Mr. DEFAZIO to introduce the Caneberry Disaster Relief Act of 1991. I believe passage of this bill is important not only because of the desperate situation faced by caneberry growers in my State, but also because we must send a message to all growers and farmers in this Nation—to all of the families that put food on tables all over America—that the Congress of the United States will not stand by passively and allow them to be destroyed by the harsh and unpredictable twists of nature. This body cares about them, and we must show this with our deeds.

I now turn to the situation in my State. Mr. Speaker, the caneberry industry is crucial to Oregon's agriculture, and to the State's economy as a whole. In 1990, Oregon growers produced 62 million pounds of caneberries, including 24 million pounds of raspberries, 32 million pounds of blackberries, 4.5 million pounds of boysenberries and one million pounds of loganberries. These 10,900 acres of caneberries contribute well over $75 million to the Oregon economy. In addition, many jobs are created for training, harvesting and processing Oregon caneberries.

Mr. Speaker, the State of Oregon experienced a devastating freeze this past winter, with temperatures dipping to as low as 5 to 10 degrees above zero. Assessment of the damage to Oregon's caneberry acreage began in late March, when the canes began to leaf out, and this process is continuing. It is clear that its impact has been nothing short of disastrous. The Oregon Caneberry Commission estimates that the 1991 blackberry crop will be approximately 40 percent its normal yield, the boysenberry crop approximately 50 percent its normal yield, and the loganberry crop just one-tenth its normal yield. Last Thursday, Governor Barbara Roberts announced a state of emergency in the eight Oregon counties where damage was most severe.

As you know, it is not major corporate conglomerates who will suffer the most from the freeze. The farms involved in the caneberry industry are generally small family-owned operations with an average size of 25 acres. Many lack the resources to bounce back from such a disastrous harvest. Mr. Speaker, this is the moment of truth for these families. Without disaster relief, many will be driven out of a business in which their families have thrived for several generations.

Mr. Speaker, without aid, even those growers who do survive will continue to suffer next year—they will have little money to invest in their 1992 crop. In addition, the loss of growers and crops will affect food processors not only in Oregon, but throughout the entire Northwest.

In conclusion, Mr. Speaker, I would like to point out that while the December freeze has been described as a "once every 20 year" event—in fact, the last comparable freeze was in 1973—growers were able to get disaster relief for freeze damage as recently as 1989. Considering that this year's freeze was substantially more severe than that one, how can we fail to intervene in this case? Mr. Speaker, I don't think we can afford not to act here. I urge my colleagues to support this legislation.

HONOR AMERICA CELEBRATION

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. LEWIS of Florida. Mr. Speaker, in 1975 the Congress approved and President Gerald Ford signed a law designating the 21 days from Flag Day to Independence Day as a period to honor America. With that in mind, I would like to submit for the RECORD the following comments and an article from the Palm Beach Daily News to encourage Members of this body and all Americans to recognize this important 21-day period as an opportunity to draw attention to all that is good about our great Nation.

Two hundred and fifteen years ago a few brave men struck a note for freedom and liberty. That note still resounds throughout the world because Americans have always been willing to defend their freedom—at any cost.

On the heels of our decisive victory over tyranny in Kuwait, our patriotic celebrations take on even greater meaning at this time this year.

May this year's celebrations be in honor of all our military veterans, past and present. Thanks to them, freedom is more than just a word.

Yes, we have much to honor and observe during this period, most importantly the birthright of personal freedom and individual liberty shared by all Americans.

Mr. Speaker, I am happy to take this opportunity to pay homage to our forefathers for giving us such a precious gift and to extend my gratitude to the millions who have preserved and protected it.

Hail the Red, White, and Blue, and happy birthday, America.

[From the Palm Beach Daily News, May 19, 1991]

"HONOR AMERICA" EVENTS PROPOSED

(By Jack Fleischer)

An open letter to President Bush and members of Congress:

Just a reminder that in 1975, Congress passed Public Law 94-33, and on June 13 of that year, President Gerald Ford signed it into law.

The law reads: "Resolved by the Senate and House of Representatives of the United States of America, that Congress declares the 21 days from Flag Day through Independence Day as a period to Honor America and further declares that there be public gatherings and activities at which the people of the United States can celebrate and honor their country in an appropriate manner."

The suggestion to set aside this special period to honor America was made to counteract the increasing anti-American demonstrations taking place at that time. The Honor America Committee, a non-profit, non-partisan Washington-based group, headed by Bob Hope, Billy Graham and J. Willard Marriott Sr., felt that it would be helpful to remind Americans that the United States was by far the greatest of all nations despite its many faults, and while we continually strive to correct our mistakes, we must never stop honoring America.

OTHER VOICES

Since the passage of this law, this 21-day period has been observed voluntarily. Mayors and governors have issued proclamations, and there have been various types of observances, but never on an organized national basis.

On the Fourth of July of this year, our nation is planning an all-out celebration in honor of our troops who served in the Persian Gulf as well as those who served in Korea and Vietnam.

I think that it would be most appropriate this year to lead up to the Fourth by observing Public Law 94-33.

Starting on Flag Day, June 14, let us fly the American flag every day and let us wear a small flag on our clothing during the 21 days.

Let every newspaper and magazine print a small flag in each edition during this period. An inscription under the flag would read: Honor America.

When our national anthem is played, let it be introduced with the brief phrase: "And now to Honor America and our troops who served so nobly in the Persian Gulf and all wars, please rise for the playing of our national anthem".

Hopefully, television and radio stations will not cut away for commercials when the national anthem is being played before regularly scheduled sport events during the 21-day period. They are not allowed by the leagues to do this before All Star games, World Series and the Super Bowl, but it is not mandatory during the regular season.

Networks avoid picking up the national anthem whenever possible for two reasons: they claim they need the time for commercials, and they feel the audience will get tired from hearing our anthem too often.

It would not be a great sacrifice for the networks to relinquish 90 seconds to participate in this 21-day tribute, and for the benefit of the small percentage who might not care to hear our anthem too often, other patriotic songs could be substituted from time to time.

The most important thing is to remind all of us that when we rise for the playing of our national anthem or other patriotic songs, we do so to honor America.

With the support of the president and members of Congress, together with veteran and service organizations, let this 21-day celebration be one of the most meaningful in the history of our nation, and let it be the start of an annual organized observance, never forgetting that this nation, with its faults, is still the greatest in the world.

IN SUPPORT OF THE HIGH QUALITY FORESTRY ACT INTRODUCED BY REPRESENTATIVE AL SWIFT

HON. JOLENE UNSOELD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mrs. UNSOELD. Mr. Speaker, today we have reached a new plateau in the debate over how to manage the national forests of the Pacific Northwest. We have introduced real creativity into the solution mix.

Today, my colleague, Representative AL SWIFT, introduced the High Quality Forestry Act. The concept behind it is to find a way to blend the growing need for renewable wood fiber and timber community stability with acknowledging the need for protection of natural ecosystems to foster species diversity and forest health. I want to thank Mr. Gus Kuehne personally and publicly for developing and relentlessly pushing this novel concept. Excellent work, Gus.

High quality forestry requires trees on three national forests in Washington State, the Olympic, Mount Baker-Snoqualmie, and Gifford Pinchot, to be grown twice as long as they traditionally have been before they are again harvested. This allows the forest to develop once more into a mature forest that provides habitat for species such as the northern spotted owl, marbled murrelet, and a host of other older forest dependent creatures.

It's that simple. And it's a great idea.

While high quality forestry is not the whole answer to the many problems facing the Northwest and our forests, it is a step in the right direction. We need to get creative. We need to be balanced. We need to get the ball rolling toward a final resolution of this gut-wrenching issue.

Mr. Speaker, I look forward to working with my colleagues to help ensure this concept is included in the final package developed by this Congress to address the crisis facing our Northwest timber communities and forests. Thank you.

STOP PLAYING POLITICAL GAMES WITH LIHEAP

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. SANTORUM. Mr. Speaker, I wish to express my strong opposition to LIHEAP funding level cuts in H.R. 2707, the Labor, Health and Human Services, and Education appropriations bill for fiscal year 1992. This bill, as written, supposedly appropriates $1.6 billion for the total Low-Income Home Energy Assistance Program [LIHEAP], which is a reduction of over $10,235,000 from the fiscal year 1991 level. However, the actual reduction is much greater. And what makes this action truly disgraceful is that LIHEAP has been singled out and is a casualty of political maneuvering by this House's leadership.

From fiscal year 1991 to fiscal year 1992, the committee has changed the base funding level and what the administration has classified as the energy assistance emergency fund. For fiscal year 1992 this committee cut the regular base funding level by $600 million and consequently, increased the emergency contingency fund by $405 million over fiscal year 1991. What must be realized, however, is that these contingency funds may only be released by the President if he declares a home heating emergency. This would only occur if and when stringent conditions are met, thus bringing about the very real possibility that these funds would never be released. This would mean a reduction of LIHEAP funding of approximately $700 million from the 1991 level. Such a cut would be devastating to the millions of citizens serviced by LIHEAP around the Nation.

One of the States that would be hit the hardest by these cuts is my own, Pennsylvania, which receives almost 7 percent of total LIHEAP funding. This is the second highest allotment in the Nation. Yet, despite a growing demand for fuel assistance because of the State's weak economy, Pennsylvania's funding over the last 5 years has decreased from $140 million to $107 million.

Since the introduction of the LIHEAP Program in 1979 more and more households are now eligible for energy assistance despite increasingly stricter State income standards. However, LIHEAP funding levels, including the highest annual appropriations of $2.1 billion in fiscal year 1985 and $2.0 billion in fiscal year 1990, have fallen significantly short of the need for fuel assistance.

An estimated 24 million households in this country need some help paying utility bills. Presently, only a small portion of these consumer's total energy costs are covered by LIHEAP. For example, in 1985, the average heating and crisis benefit was $242. By 1990, the average benefit had fallen to $210 for a recipient household.

It is shameful that the leadership of this House would play political shell games with these funds, taking money from a worthy program like LIHEAP to support pet programs. H.R. 2720 will force low-income Americans to choose between basic necessities such as heat and food. Energy needs are essential to the quality of life, and cannot be separated from the necessities of education, affordable housing, health, and safety. The costs to society of not providing for these needs would be tragic.

Therefore I oppose H.R. 2707, the Labor, Health and Human Services, and Education appropriations bill for fiscal year 1992, and trust that funding levels will be restored in conference to a level which will meet the needs of thousands of my constituents. Cuts have to be made, but when they are they should be equitable and across the board, and essential programs like LIHEAP should not be singled out.

TAIWAN'S GATT MEMBERSHIP—FULLY DESERVED, YET ELUSIVE

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. SCHULZE. Mr. Speaker, for years, the Republic of China on Taiwan has been the success story of the developing world. Starting from ground zero in 1949 with a subsistence agricultural economy, it has step-by-step advanced into the ranks of the world's developed nations. A country with minimal natural resources, its leadership recognized early on that international trade was Taiwan's only hope for long-term prosperity. As we all know, they have become masters of the science, now ranking as the 13th largest trading nation in the world. Yet, ironically, Taiwan is not a member of the General Agreement on Tariffs and Trade [GATT], the organization which for all practical purposes sets the rules for international trade. Taiwan wants to participate in the activities of GATT, and also is willing to honor and obey its rules. In fact, for years Taiwan has voluntarily abided by GATT rules, even though it has been denied membership.

It is time for the United States to formally support Taiwan's application for membership. Its application takes into full account the sensitivities involved in our relationship with the People's Republic of China. There is no logic to denying a seat at the GATT table to Taiwan, America's sixth largest trading partner. Further, there is no logic to the Department of State's argument that the timing of Taiwan's accession to the GATT should be tied to the GATT accession of the People's Republic of China. Clearly, Taiwan was ready years ago for full-fledged membership in the GATT. On the other hand, the People's Republic of China whose repressive human rights practices and obvious disdain for fair trading rules place it in a substandard category, is not ready for nor deserving of GATT membership, and will not be for some time to come. To deny Taiwan its well-deserved seat at the GATT negotiating table solely on the grounds that mainland China has not matured to such a level as to entitle that nation to GATT membership, is totally incomprehensible.

I call the attention of my colleagues to an insightful op-ed article published in the Christian Science Monitor on March 4, 1991. The article is written by T.Y. Wang, a political science professor at Illinois State University. It examines the question of Taiwan's application to the GATT. No one can question Taiwan's qualifications to be a GATT member, yet its application has repeatedly been stalled. The world's trading nations are awaiting a sign that the Government of the United States supports Taiwan's application. I submit the article, "Taiwan's GATT Membership—Fully Deserved, Yet Elusive," for the benefit of my colleagues who may not have seen it. At the same time, I urge the administration to give its support to Taiwan's application.

[From the Christian Science Monitor, Mar. 4, 1991]

TAIWAN'S GATT MEMBERSHIP—FULLY DESERVED, YET ELUSIVE

(By T.Y. Wang)

The following are facts about Taiwan's economic achievements: Taiwan is one of the largest trading partners of the US. Taiwan is the 13th-largest trader in the world. Taiwan has the largest foreign-exchange reserves in the world ($70 billion). And Taiwan is one of the most successful "newly industrialized countries." Still, Taiwan is *not* a member of the General Agreement on Tariffs and Trade (GATT)—the world's only multilateral trade regime.

Early last year the Taiwanese government submitted an application to join GATT. The application was viewed dimly in the US for political reasons. Washington is afraid of offending the leaders of the People's Republic of China (PRC) by supporting Taiwan's application for GATT membership. Chinese officials maintain that to support Taiwan's application to join GATT is a violation of the "one China" policy. They are especially unwilling to see Taiwan receive a GATT membership before the PRC, whose application has been stalled since the brutal massacre at Tiananmen Square in June, 1989.

The Bush administration's lack of support for Taiwan should be reconsidered.

In order to sidestep the "two Chinas" issue, the Taiwan government has asked for membership in the name of the "Separate Tariff Territories of Taiwan, Penghu, Kinmen and Matsu Islands"—the names of the main islands under the Taiwan government's direct and effective control. Such an application should be seen as an honest effort to avoid "two Chinas."

Also, Taiwan's application to join GATT is legally justified. There is not doubt Taiwan has a "separate customs territory" over which the government possesses "full autonomy in the conduct of its external commercial relations." This is consistent with the legal stipulation of Article 33 of GATT's membership application.

Moreover, while Taiwan is not a GATT member, the government in Taiwan has worked hard to liberalize its economy. The national currency has appreciated by about 40 percent against the US dollar since 1987. That decreases the protection on Taiwan's export sectors. Many tariff and non-tariff barriers on foreign goods, such as liquor, agricultural products, and banking services have recently been reduced or eliminated. While more is yet to be done, these efforts should be recognized by the international community.

Finally, Taiwan's GATT membership would be beneficial to the interests of the international community. During the past four decades, Taiwan took advantage of GATT's "special treatment" principle for developing countries and protected its market. With its economic success, many developed countries, including the US, have proposed that Taiwan should no longer enjoy the benefits from the GATT system without sharing the responsibilities. Currently, this has been carried out by bilateral negotiations. If Taiwan were to be admitted to GATT, it would have to abide by GATT regulations and the liberalization of its market would speed up.

Taiwan was a founding member of GATT in 1947. The seat was abandoned by the Nationalist party (Kuomintang or KMT), which was forced to flee to Taiwan before the Chinese Communists took over the mainland. Taiwan was later granted an observer's seat in 1965, but this status was lost in 1971 when the UN General Assembly voted to recognize the PRC as the only legitimate Chinese government. Under GATT rules, Taiwan needs a two-thirds majority to rejoin GATT. Although the US cannot singlehandedly determine the outcome, its support would carry considerable weight among other the members.

SKYWARN TRIBUTE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. GILMAN. Mr. Speaker, it is with pleasure that I rise today in recognition of "Skywarn"—a very important group of volunteers who protect our lives every day.

When severe weather strikes, information on warnings, evacuation, and shelter must reach the public with great haste. "Skywarn" is a volunteer group largely responsible for these services.

After receiving a warning from the National Weather Service, Skywarn watches for the severe conditions and takes appropriate measures to protect the local population.

Mr. Speaker, I am happy to report that there are over 500 local Skywarn chapters around the United States. The importance of these groups in saving lives and property is of the utmost priority.

I would like to take this opportunity to recognize the local chapter of Skywarn from my 22d District in New York. Under the able direction of Dr. Mitchell F. Mayers, the Rockland Climatic Station in West Nyack, NY, provides invaluable protection to the citizens of my district. The only compensation received by Skywarn volunteers is the knowledge that their work saves lives each season.

It is a privilege to enter into the RECORD a list of the outstanding men and women comprising my district's Skywarn organiztion:

Dr. Mitchell F. Mayers, Art Cohen, Peter Wozniak, Mr. and Mrs. Ships, Ted Cooperman, Stacey Isaacs, Vito Vinci, Tom McKelvey, Jack Maloney, Richard Figlar, Rita Mayers, Scott Mayers, Mr. and Mrs. Arthur Paiken, Elliot Schneiderman, Michael Cecchini, Mary Carmody, Frank Schiller, Chester Mayers, Michelle Mayers, Matthew Alevy, Dr. Cary Alevy, Jonathan Mayers, Joseph Galella, Father Robert Duane, Tyler Slater, the Boyd Family, Mr. and Mrs. William Lauer, and Westley Wertheimer.

A TRIBUTE TO ARMIJO HIGH SCHOOL, FAIRFIELD, CA

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. FAZIO. Mr. Speaker, I rise today to honor the centennial celebration of Armijo High School, located in Fairfield, CA. Prior to 1968, every person who graduated from high school in the Fairfield/Suisun area had one thing in common. At the top of their diploma read the words Armijo High School. This common factor could be traced back 74 years.

The Armijo High School District was formed in early 1891, and the first classes were held later that year. Due to the small size of the student body, a rented upstairs room at the Crystal Grammar School housed all the students. The school remained there for 2 years. But as the student population outgrew the single classroom, a permanent structure was built.

In 1893, an ornate building was constructed on Union Avenue in Fairfield. This was to be the first of three Armijo High School building sites. It was also the first to house a graduation ceremony, under the instruction of J.A. Metzler. By the turn of the century, nine grammar schools were sending their graduates to Armijo.

Due to a growing student population and an outdated heating system in the first school building, the second Armijo High School was built in 1915. This magnificent building was constructed in a neoclassic architectural style. In fact, the San Francisco World's Fair Panama-Pacific Exposition of 1915 honored Armijo's new school with a merit award of architecture. In 1929, a fire gutted the interior of the building. It was immediately rebuilt and an auditorium and gymnasium were added.

In 1952 another school was built on Washington Street in Fairfield. The students continued to travel between the two campuses until the Washington Street campus was officially dedicated on April 27, 1961. With the enactment of strict earthquake codes, the Union Avenue structure could no longer house students and was later sold to the County of Solano for $1. It now serves as the Solano County Hall of Justice.

Over the years, Armijo has seen many distinguished individuals pass through its halls. These people have been leaders in business, education, arts and entertainment, and the community. Recently, Armijo has been recognized both at the State and national level for its educational excellence. Mr. Speaker, during this centennial celebration, I know my colleagues will join me in saluting the students, faculty, and employees, past and present, who have been a part of this fine educational institution, and I hope that Armijo's second century will be as rich as the first.

DEMOCRACY IN NICARAGUA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I wish to bring to the attention of my colleagues the situation facing the Honorable Azucena Ferrey, the Third Vice President of the Nicaraguan National Assembly. Ms. Ferrey states that she has endured threats to her life for participating in the democratic process in Nicaragua.

Ms. Ferrey recounts that while returning from a legislative session, which discussed repealing the land seizure laws enacted by the Sandinista regime, a stranger approached her car. This stranger spoke to her by name and said if she supports repeal of this law he will kill her. Moreover, she states that she is constantly receiving threats to her safety at public gatherings and demonstrations.

This crisis must be dealt with before the Nicaraguan exiles in my south Florida congressional district feel safe enough to return to their country. This situation demonstrates the torment and anguish these brave people have to bear in order to maintain peace and prosperity in a free Nicaragua.

The Nicaraguan exile community and the entire world are watching Nicaragua to confirm the progress of democracy in that country. Ms. Ferrey and her fellow members of the Nicaraguan Congress must feel free from threats of personal harm if democrary is to successfully take root in Nicaragua. We must all continue to support the prodemocrary, prohuman rights actions in Nicaragua in this difficult time of reformation.

THE 40TH ANNIVERSARY OF GIRL SCOUT CAMP LATONKA

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. EMERSON. Mr. Speaker, for 40 years, Girl Scout Camp Latonka located on Lake Wappapello, MO, has been the summer home away from home to thousands of young women from all over southern Missouri.

The Indian word "Latonka" means "home by the water" and this home by the water has enhanced the growth and development—socially, physically, mentally, and spiritually—of Missouri Girl Scouts for almost half a century.

Yes, through the years Camp Latonka has developed into a multifaceted camp. In the summer sessions, girls are given the opportunity to participate in a wide range of activities—from swimming, sailing, skiing, canoeing, to horseback riding, hiking, and environmental projects, and, of course, no summer camp would be complete without campfires, folk songs, and the opportunity to learn to live and work together in a democratic situation. Camp Latonka provides this fellowship as well.

Mr. Speaker, I would like to salute the many hard working volunteers who over the years have helped prepare generations of outstanding leaders in southern Missouri. They have generously given their time, their talents, their energy, and, yes, in many cases, their resources, to make Camp Latonka—and the dreams of thousands of young women—a reality.

Congratulations to the Girl Scouts of southern Missouri, the wonderful volunteers of Camp Latonka, and all the young women who for 40 years have had the fantastic opportunity to benefit from the experience of the home by the water.

THE POWER OF THE SUN

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. BROWN. Mr. Speaker, with the summer solstice occurring last week, now is a fitting time to think about the power of the Sun—the most potent form of energy available to us—and to realize its enormous potential in meeting our planet's needs for electricity, hot water, warmth and comfort.

Now is also a fitting time to speak about solar energy for another reason; 1991 marks the 100th anniversary of the solar energy industry in the United States—an industry that many people consider relatively new and something for the future, but in reality an industry that has been well-proven, well-used, and well-received by literally millions of people in this country since the 1800's.

It was a full 100 years ago that an inventor just down the road in Baltimore, MD, patented the first solar water heating system manufactured in the United States. Shortly after that time, the solar industry started to grow—first in my home State of California, where more than 1,600 families enjoyed solar-heated water by the turn of the century. As the industry continued to grow and more companies started to manufacture solar systems, companies moved into Florida, then to the Midwest, New England, and throughout the country.

As chairman of the Science, Space and Technology Committee, I'm well aware of the importance of the Sun as an energy resource which could replace fossil fuels. It is important that we reaffirm our country's commitment to the development of solar energy.

Consider the state of the technology's impact today. Solar water heating is currently the most common solar application in the marketplace. More than 1 million homes in the United States use solar water heaters—displacing more than 1,000 megawatts of electricity, an amount actually equal to that generated by a nuclear power plant. A national certification organization assures the quality and performance of these systems. A quarter of a million homes also have solar heating systems for their swimming pools to keep the water comfortable enough to enjoy the pool for many months each year.

Another solar technology, photovoltaics—the process of converting sunlight into electricity—has come down tenfold in costs in just the last decade, while the efficiency of solar cells has increased more than 400 percent. Solar cells, similar to the small cells that power your calculators, are used in the developing world to provide cost effective, reliable power for medical refrigerators, water pumping and irrigation, communications, lighting, and other needs where no other form of energy is available or affordable. In our own country, many utilities are looking toward photovoltaics to provide the remote power that is needed for signs and street lighting, and for line-voltage augmentation and peakpower needs. Today you are likely to find solar cells providing the power for highway road signs, cellular communications systems, lights for bus shelters and city parks, and many other areas where power is needed but is not otherwise readily available. In a number of mountainous and remote parts of the United States, there are more than 10,000 homes which are totally powered by solar electric systems.

I should also add that there are at least 300,000 homes in the United States which use passive solar features in their design and construction to put the Sun to work providing heat in the winter and using building techniques to provide shade and comfort in the summer.

Growing in use and developing in technology is the high temperature solar thermal power industry. The process of concentrating sunlight to create steam can be used to generate electricity. I am proud to tell you that the world's largest solar thermal power facility is located right in my home State of California, where a solar thermal plant is generating more than 350 megawatts of utility-grade electricity, producing 8-cents-per-kilowatt hour power to meet the needs of more than half a million residents. There are also dozens of high temperature solar systems providing industrial process heat and preheat applications for factories, prisons, hospitals, laundries, office buildings and other large facilities across the country.

So the technology has been proven in hundreds of thousands of applications, and we can confidently say that solar energy works. The prospects of using this technology are as bright as the sunshine outside today.

But there's still another reason why all that sunlight outside gives us reason to think about energy. At a time when air pollution, oilspills, global warming, acid rain and other environmental concerns take up our attention and our fears, we are reminded that solar energy is a clean, positive, and environmentally compatible alternative to fossil fuels. For example, if solar electric generation is used instead of fossil fuels, there are significant emissions reductions, even when it is compared to the cleanest fossil fuel options.

The availability of sunlight is virtually without limit. Hundreds of thousands of homeowners, businesses, utilities and others already know that the investment they make in solar energy systems is paid back by the significant energy savings they enjoy. This safe, clean reliable energy resource is the alternative for those who are concerned about our environment.

The first 100 years of the solar industry saw the development and growth of solar products and technology. I hope that the next 100 years will see even more widespread use and adoption of residential, commercial and industrial uses of solar power. For the sake of our planet, it's important to all of us.

TRIBUTE TO SOLANO COUNTY

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. FAZIO. Mr. Speaker, I rise today to honor the many residents of Solano County for their outstanding contribution to the successful completion of Operation Desert Storm.

When Iraq's Army invaded Kuwait on August 2, 1990, the U.N. Security Council responded by imposing sanctions and a deadline for Iraq to withdraw from Kuwait. On January 17 of this year, the United States and allied forces launched an air attack to repel Iraqi troops, culminating with a large-scale ground assault on February 23. The Iraqi Army withdrew from Kuwait 3 days later, and the allied forces declared Kuwait liberated on February 27.

The spirit of cooperation and courageous service that distinguished the international effort in the Persian Gulf war was epitomized by the men and women of Solano County. Ground troops, pilots, aircraft maintenance specialists, medical and aeromedical staffs, chaplains, and countless other military personnel from Solano County made invaluable contributions to Operation Desert Storm. They, and all of the coalition forces, risked their lives to liberate Kuwait. These forces overcame numerous Scud missile attacks, the constant threat of chemical and nuclear attacks, and harsh conditions to drive the Iraqi Army out of Kuwait.

In addition to the troops, Mr. Speaker, were thousands of Federal employees who served in vital support roles in Saudi Arabia as well as here in the United States. These individuals put in long hours and extra effort in providing the logistical support required to carry out the incredible mobilization of our Armed Forces.

Solano County's veterans of previous wars, who know firsthand of the incredible demands and sacrifices of combat, were among the first in our country to come out in support of our newest veterans. Moreover, through the various veterans organizations in Solano County, they continue to provide the leadership and support that are now required to support the troops as they return home.

Other heroes of the war included family members and concerned residents who wrote countless letters to their friends and loved ones in the Persian Gulf. Elementary school classes adopted Solano County military personnel by corresponding with the troops in the gulf. Best wishes and support were also sent through free faxes, and I was pleased to have had the opportunity to send the first fax from the Solano Mall to the Persian Gulf. Solano troops received thousands of almost instantaneous messages to ease the isolation of the Saudi Arabian desert. They also received care packages filled with items to make the troops more comfortable. Such necessities as soap and deodorant were delivered along with candy, gum, cookies, beef jerky, and other food items.

American flags and yellow ribbons were flown from homes, offices, and cars throughout Solano County. Individuals wore buttons and miniature flags and organized rallies to show their support for the troops. A number of support groups were set up to help counsel family members with loved ones in the Persian Gulf.

I am sure that my colleagues will join me today in honoring Solano County's military personnel, civil servants, their families, and the rest of the Nation, who served so unselfishly and honorably during Operation Desert Storm.

HONORING THE 135TH BIRTHDAY OF NIKOLA TESLA

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. NOWAK. Mr. Speaker, this year marks the 135th anniversary of the birthday of Dr. Nikola Tesla, one of the world's greatest scientists and inventors. This anniversary was brought to my attention by Mr. Nicholas Kosanovich, executive secretary-treasurer of the Tesla Memorial Society, Inc., in Lackawanna, NY, located in the 33rd District of New York, which I am privileged to represent. Dr. Tesla's 135th birthday will be noted in Niagara Falls, NY, with a Nikola Tesla Day on July 10, a tribute sponsored by the Niagara County Legislature, the Tesla Memorial Society, Inc., and the Institute of Electrical and Electronics Engineers of Western New York. Further, there will be a IV International Tesla Symposium in Belgrade, Yugoslavia, sponsored by the Serbian Academy of Arts and Sciences on September 6.

Nikola Tesla, who is often and justly hailed as the greatest inventor of the 20th century, was born on July 10, 1856, in Smiljan, Croatia, in what is now Yugoslavia. His remarkable aptitude in mathematics and in the sciences became evident when he was just a boy. At age 14, Nikola was fluent in four different languages and could solve the most complex math problems mentally.

At the age of 19, Tesla entered the Technical University at Graz in Austria to study electrical engineering. It was here at Graz that he first began to formulate the concept of an alternating current induction motor. Nikola Tesla left Graz to attend the University of Prague and to work for the telephone exchange in Budapest, where he invented the telephone repeater-amplifier.

Not for 5 years after his conception of the alternating current motor did he rationalize all the quirks in his invention through the addition of a rotating magnetic field. The way this concept came to him typified the intricate workings of this young scholar's mind. In 1882, while taking a stroll through a park reciting Faust, the answers to his queries with respect to transforming a direct current to an alternating current motor came to him "like a lightning flash." He drew a diagram in the sand, the only design that he would draw of his motor until he applied for his patent 7 years later. Storing the exact dimensions and figures in his mind for so many years illustrates what a true genius Nikola Tesla was. Further, so many of his patents were so thorough and exact that they have not been changed for almost a century.

Having a difficult time gaining acceptance of his theories in Paris and Strasbourg, Tesla emigrated to the United States in 1884, where he went to work for Thomas Edison. Differences in methodology and theories forced Tesla to leave Edison Machine Works. Specifically, Edison and Tesla differed over the best ways to generate power, either through direct or alternating current.

In 1887, the Tesla Electric Co., was formed through the financial assistance of his first set of backers; he was finally able to work on his own increasing his productivity and his output to record levels. One of Tesla's most revolutionary conceptions was the polyphase system which was chosen to generate power for the Niagara Falls Hydro-Electric Power Plant. After the world realized the incredible power that could be amassed through Tesla's system, all Edison's generating plants were converted to this much more powerful and efficient system. All of his work, including the invention of the Tesla coil and his work in the field of robotics, promoted his induction into the Hall of Fame of Great Inventors in 1976.

Nikola Tesla died at the age of 87 in New York City on January 7, 1943. Although he was virtually unknown by most of the world, he held more than 700 patents.

At this point in the RECORD, I would like to insert the proclamation New York's Gov. Mario Cuomo issued marking the 135th anniversary of Tesla's birth, a copy of which Mr. Kosanovich provided:

NIKOLA TESLA

Members and guests of the Tesla Memorial Society Inc. this year celebrates the 135th anniversary of the birth of the outstanding scientist and inventor Nikola Tesla.

Born in 1856 of Serbian parents in what is now known as Yugoslavia, Tesla was educated at the polytechnic school, Graz, and at the University of Prague. He was first employed in the Austrian government telegraph engineering department and later was engaged in electrical engineering in Budapest and Paris. Tesla came to the United States in 1884 and worked with Edison for a short time before he went into business for himself.

Working in his own laboratory, he was the first to conceive an effective method of utilizing alternating current and in 1888 patented the induction motor. Tesla invented the principle of the rotary magnetic field embodied in the apparatus used in the transmission of power from Niagara Falls. Some of his other inventions included new forms of dynamo, transformers, induction coils, condensers, arc and incandescent lamps and other electrical apparatus.

It is fitting that the people of New York participate in this tribute to one of our outstanding citizens, Nikola Tesla.

MARIO CUOMO,
Governor.

CONGRATULATIONS, NEWARK

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. PAYNE of New Jersey. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues the fact that my hometown, Newark, NJ, was recently honored with two prestigious awards.

Earlier this month, Newark was named 1 of 10 All America Cities by the National Civic League, which honors community efforts that reflect broad-based civic involvement and initiative in solving problems. This 42d annual competition was held in San Antonio earlier this month.

Last week, the city received more good news when Newark was selected as the winner of the U.S. Conference of Mayors' 12th annual City Livability Award.

I am extremely pleased to report the success of New Jersey's largest city in winning these awards, especially in light of the fact this year Newark celebrates its 325th birthday. Newark faces many exciting changes today, such as the construction of the Gateway Center; the Legal and Communications Center; the PSE&G Building; the Newark Center which houses Seton Hall Law School; and the new home of Blue Cross. A number of older buildings have been renovated, including St. Joseph's Plaza, the old Two Guys Building, and the Gibraltar Building,

Newark has a rich cultural heritage which is reflected in such attractions as the Newark Symphony Hall, the Newark Public Library, the New Jersey Historical Society, and the Newark Museum, which was featured in Smithsonian magazine this month. I am pleased that last year Congress approved funds for the new Performing Arts Center in Newark, which will be one of the most prominent arts centers in the United States.

I commend the work of the greater Newark Chamber of Commerce and New Community Corp. who were partners in the application process and shared in the presentation made before a panel of judges. The mayor of Newark, Sharpe James, through his vision and hard work, also contributed greatly to the city's successful competition for this prestigious award.

Mr. Speaker, the honors bestowed on the city of Newark are justly deserved. Newark is working very hard to reverse current trends that work to its disadvantage. We have many businesses, large and small, that have played an active role in improving conditions and expanding opportunities within the Newark community. Churches, community-based organizations, and dedicated volunteers have pulled together to address the needs of the community and to move our city forward.

We have many outstanding educational institutions such as the Rutgers campus at Newark, the New Jersey Institute of Technology, Essex County College, the University of Medicine and Dentistry of New Jersey and Seton Hall Law School. We also have many dedicated professionals at Newark's hospitals, including St. Michael's, St. James, Beth Israel, University, United, and Columbus Hospitals.

Mr. Speaker, Newark is truly a most liveable city and an All America City which deserves recognition. I commend all who put their hearts and souls into making Newark a great place to work and live. I know my colleagues here in the U.S. House of Representatives join me in sending our congratulations to the people of Newark and best wishes for continued success.

LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. REED. Mr. Speaker, I rise today in opposition to the proposed 38 percent cut in the Low Income Home Energy Assistance Program [LIHEAP].

LIHEAP has proven successful in helping low-income and elderly citizens afford energy and energy-saving improvements in their homes. It is one of the only grants available to the working poor and recently unemployed families.

To the 25,000 families this program serves in Rhode Island, LIHEAP is a badly needed safety net that provides them with financial assistance in paying their utility bills.

With the proposed cuts in the LIHEAP Program, 8,000 fewer clients in Rhode Island would be served if the current benefits remained the same. In order to serve the same number of households as in 1991, their benefits would have to be reduced by one-third.

Mr. Speaker, these cuts in the LIHEAP Program are unacceptable. If the proposed cuts of almost 40 percent in the program are approved, as many as 2 million families could be cut off from energy assistance this winter.

Energy needs of low-income families and children, the disabled and the elderly living on fixed income should not be separated from affordable housing, safety, and health. The cost to society of not providing the services provided through the LIHEAP Program will be tragic.

I am pleased that Mr. NATCHER, in a colloquy during the debate today, promised to address this issue again in conference. It is my hope that funding at the fiscal year 1991 level will be restored at this time.

TRIBUTE TO MR. MARK L. STANCIL

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. CARDIN. Mr. Speaker, today I rise to pay tribute to Mr. Mark L. Stancil, who is retiring as director of the Maryland Rehabilitation Center after 31 years of service.

Under Mr. Stancil's leadership, the Maryland Rehabilitation Center is becoming the most renown facility of its kind in the world.

That is certainly high praise, but Mr. Stancil's care and attention to each and every one of his clients has earned the admiration of such international visitors as the paraplegic son of Deng Xiaoping, Senior Leader of the People's Republic of China, as well as Dr. Po-Yo Chang, Director-General of Public Health in China.

These are not the only examples of Mr. Stancil's work being noticed. He was honored by the Maryland Rehabilitation Association as Administrator of the Year in 1986, was presented with the Chester Troy Award for employment of the handicapped in 1986, and has been cited on numerous other occasions for his excellence in public service throughout his career.

I am proud to stand in recognition of this fine gentleman whose giving of himself has made many contributions to public service in Maryland for more than three decades.

"MR. HUMBLE" GOING STRONG AT 83

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. FIELDS. Mr. Speaker, Dr. Haden Edward McKay III recently began his 22d year as mayor of my hometown, Humble, TX. "Mr. Humble," as he is called, is a truly remarkable man whose achievements are legion, whose devotion to his wife and to his community are legendary, and whose energy and determination to serve others is limitless.

The Houston Chronicle recently profiled this amazing man, pointing out that at age 83, Haden McKay continues to be devoted to his twin callings in life: Tending to the health and well-being of his patients, and tending to the health and well-being of his community.

Long before I first sought public office, I looked to Dr. McKay, as many Humble residents did, for sound advice and wise counsel on personal matters, regarding business decisions, and on political questions. I continue to rely on him for those things today.

With his wife of 50 years, Lillian, at his side, Haden McKay remains at the center of civic life in Humble. He remains dedicated to serving others, both as an experienced physician and as a trusted an public official. As the Houston Chronicle story pointed out, "[McKay] chose doctoring for the same reason he entered politics: to help people."

Mr. Speaker, there simply aren't too many men left in America today who command the trust and respect that Mayor Haden McKay commands in Humble and throughout Harris County. After his many years of service to his friends and neighbors, I hope that this remarkable and unique man recognizes the deep respect and the genuine affection which so many men and women in the Humble area feel for him.

I would like to take this opportunity to publicly thank him for all that he has done to help me over the years, to wish him and his lovely wife continued happiness and good health, and to include a copy of the recent Houston Chronicle story about him in the RECORD.

"MR. HUMBLE" GOING STRONG AT 83—MAYOR AND DOCTOR, HE STILL HAS PLENTY OF PATIENTS AND PATIENCE

(By Cindy Horswell)

They call him "Mr. Humble."

At 83, Dr. Haden McKay is a legend after more than half a century of doctoring and an unprecedented two decades as mayor of the northeast Harris County community of Humble.

McKay was unopposed in his reelection this year to his 11th consecutive two-year term in the city incorporated in 1933. He also spent 10 years as a councilman and continues to treat at least 10 patients daily in his general family practice.

Quitting work has never really entered his mind: "I think most people who retire rust. I plan to keep going as long as I'm physically and mentally able. I got too many people depending on me."

Mike Byers, president of the Greater Humble Chamber of Commerce, said McKay is admired as a "father figure" in the community, someone to go to for advice.

"He's slowed down a little, but it's amazing how he keeps up. He rarely misses any social events and patients are always coming and going from his office."

City Secretary Georgia Fields is enthusiastic about her boss: "He's phenomenal. He's never going to be old. His activities are enough to keep two secretaries busy."

Promenading through the corridors of Humble City Hall, McKay's rarely seen without a White Stetson atop his snow-white hair, a diamond spur-shaped tack in his tie, and fancy boots on his feet. Missing is his trademark cigar which he relinquished this year "for health reasons and to set an example."

"It got so a good cigar cost $3. That's expensive when you smoke as many as 10 a day," he added.

He still lives in the same limestone rock cottage a block off Main Street which he built not long after marrying his wife, Lillian, a registered nurse from the Rosenberg area who has worked tirelessly by his side. The couple celebrated their 50th anniversary this year.

His office continues to be housed next door in a clinic he built in the 1930s. Its timeworn furnishings and cases of antique medical instruments resemble something straight from a Normal Rockwell painting.

What does it take to stay the mayor and doctor of a small town for so many years? His blue eyes glint mischievously and his white moustache curves slightly upward as the ponders the question.

"It just takes 51 percent of the vote to be mayor." he drawls. "But to be doctor and Mayor takes both patients and patience."

Though he and his wife have no children, his hands have brought many of the town's voters into this world. He recently quit delivering babies after hitting the 4,000 mark.

He also gave up surgery.

Haden Edwards McKay III was cut from the same fabric as his father and grandfather, who both were doctors and carried the same name. His ancesters include Richard McKay from Maryland who fought in the Revolutionary War and left behind correspondence from George Washington, and Haden Edwards from Virginia who established one of the earliest Texas colonies around Nacogdoches in 1825.

Despite his family's early Texas heritage, McKay did not make his home in the Lone Star state until 11. He spent his early years in Bardstown, KY., where he was born in 1908—the same year Henry Ford introduced the "Model T."

"My father first heard of Humble from a cousin, James Haden Dameron, who looked over the area after leaving the military service. My father and he found a small hospital there and decided to buy it," he said.

McKay moved with his family to Humble in 1919, not long after oil gushers transformed the sleepy farm and ranch community into a boom town.

After graduating from high school, he earned his bachelor's degree from Mississippi State University and his medical degree from Chicago Medical School in 1936.

He returned to Humble to hang out his shingle along side his father's.

"I started during the Depression. An office visit cost no more than $2 then. We never billed anybody. Patients just paid what they could.

"I remember asking my father once if I shouldn't go down and get a job at a filling station," he recalled. "He told me 'No. Just take care of the people and they will take care of you'. He said if they didn't take care of me it wouldn't be because they didn't have any money, it would be because I wasn't worth a doggone."

He and his father made house calls.

"You knew more about people then because you saw them in their environment firsthand. You didn't wonder about their home life," he said.

McKay has served in top executive posts in county, state and national medical associations, including as a past president of the Texas Academy of Family Practice. He also received the Texas Medical Association Distinguished Service Award in 1979.

He chose doctoring for the same reason he entered politics to help people.

"It really wasn't politics back then. People would ask you to serve. You did it as a public service. There was no compensation or competition," said McKay, who labels himself a bipartisan conservative.

His ideas about how to run a city have changed little since he first won a council seat in 1940.

"Citizens used to call about barking dogs then and they still do," he said.

His philosophy is elementary: "Work for the greatest good for the greatest number, allow minority interests to be heard but the majority to rule."

His most prized accomplishments include helping switch Humble from a general law to a home-rule city in 1970 which greatly expanded its governing powers, improvements in roads and sewer systems, and construction of a modern city hall and police headquaters.

Next to doctoring, law enforcement comes closest to his heart. Humble only had a deputy sheriff and one constable on patrol when McKay first joined the council. Today, it has a force of 42 patrolmen and a two-story headquarters in the midst of a $500,000 expansion.

McKay totes around a two-way radio—which provides instant communication with Humble police. He checks in regularly and scans all that happens within the 10-square miles that constitutes this city of 14,000 people.

"I want to know everything that's going on. Also, I'm a certified deputy medical examiner who can sign death certificates and as mayor I can give a magistrate's warning when needed." McKay explained.

What makes the mayor's labors worthwhile?

"Look, you meet people. When you meet people, a lot turn out to be friends. What could be better than that?"

H.R. 2804, THE ELDERLY AND HANDICAPPED TRANSPORTATION IMPROVEMENT ACT OF 1991

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. MARTINEZ. Mr. Speaker, what good is the $1.3 billion our Nation spends annually on senior community centers, meals, employment opportunities, health screening and other vital services made available by the Older Americans Act of 1965 if senior citizens cannot find transportation necessary to travel to receive these services?

As chairman of the Committee on Education and Labor's Subcommittee on Human Resources, I have considered the transportation needs of our senior citizens as the Subcommittee reauthorizes the Older Americans Act this summer. But I have found that the underfunded and overprogrammed nature of the Older Americans Act precludes expansion of the small transportation program authorized by title III–B of the act. Currently, transportation services must compete with other vital Older American Act services—including in-home care, health promotion and a portion of nutrition services—for its funding. Without this funding, many seniors are unable to travel to places where important services like congregate meals are offered.

Non-profit organizations have come to the rescue of many senior citizens by offering them transportation services made possible through Urban Mass Transportation Act 16(B)(2) funding. But the growth of these services has stagnated during the last 5 years due to a $35 million funding cap in the Urban Mass Transportation Act [UMTA]. In addition, many nonprofit organizations have been turned down for 16(B)(2) funding because they are unable to pay for start-up and operational costs.

I am convinced that with a little help, Urban Mass Transportation Act 16(B)(2) funding could answer the prayers of a lot of senior citizens who lack the transportation they need to get to a community senior center or a congregate meal. For that reason, I have joined with Senator FRANK R. LAUTENBERG in introducing the "Elderly and Handicapped Transportation Improvement Act of 1991", legislation that would double the annual authorization for UMTA 16(B)(2) from $35 million to $70 million while making such funding available to nonprofit groups for the start-up and operational costs of their senior citizen transportation programs. Under my legislation, these start-up and operational funds would be targeted to nonprofit organizations who want to provide transportation programs in areas that are currently unserved. These funds will also be available to nonprofit groups that no longer have the money to provide transportation services. Finally, H.R. 2804 would require nonprofit organizations who use these funds to coordinate their services with the delivery of similar transportation services made possible by the Older Americans Act and the Rehabilitation Act.

Mr. Speaker, with every passing day, the growing population of senior citizens in our country places new burdens on the ability of programs like the Older Americans Act to deliver services. By the year 2030 one of every four Americans will be older than 60 years of age. We will be prepared for the exponential growth of this population if public policy foundations are laid today. H.R. 2804 is a step in the right direction because it will build a transportation infrastructure necessary to preserve the quality of life for many senior citizens throughout our country. I urge my colleagues to prepare for this challenge by cosponsoring H.R. 2804 the Elderly and Handicapped Transportation Improvement Act of 1991.

H.R. 2804

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Elderly and Handicapped Transportation Improvement Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the population of the United States that is 60 years of age and older will increase by 32 percent within the next 20 years;

(2) the population of the United States that is 85 years of age and older will increase by 88 percent in the next 20 years;

(3) senior citizens are becoming increasingly isolated from transportation services;

(4) a majority of senior citizens view the lack of transportation as a serious problem in obtaining medical care; and

(5) nonprofit social services organizations that provide services to elderly and handicapped persons are facing increasing insurance, maintenance, and operating costs.

(b) PURPOSES.—The purposes of this Act are—

(1) to increase the authorization of appropriations for the existing program providing mass transportation services for elderly and handicapped persons; and

(2) to provide grants and loans to nonprofit organizations and associations to be used to pay operating expenses related to new and existing mass transportation services for elderly and handicapped persons.

SEC. 3. OPERATING EXPENSES GRANTS FOR NEW AND EXISTING TRANSPORTATION PROGRAMS FOR THE ELDERLY AND HANDICAPPED.

(a) IN GENERAL.—Section 16(b) of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1612(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" after "(b)";

(3) by striking "and" at the end of subpargraph (A), as redesignated;

(4) in subparagraph (B), as redesignated—

(A) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)"; and

(B) by striking the period at the end and all that follows through the end of subsection (b), and inserting the following: "; and

"(C) to private nonprofit corporations and associations to be used by such corporations and associations for the specific purpose of paying operating expenses related to new and existing transportation services meeting the special needs of elderly and handicapped persons.

"(2) Recipients of grants or loans under paragraph (1) shall coordinate transportation services provided in accordance with this section with other local transportation services designed to meet the special needs of elderly and handicapped persons, including those assisted under this Act, the Older Americans Act of 1965, and the Rehabilitation Act of 1973, for the purpose of preventing duplication of such efforts.

"(3) Nothing in subparagraph (B) shall be construed to prohibit the leasing of vehicles purchased in accordance with subparagraph (B) to local public bodies or agencies for the purpose of improving transportation services designed to meet the special needs of elderly and handicapped persons.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 21(g) of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1617(g)) is amended by adding at the end the following:

"(3) From the funds made available under subsection (a)(2), there shall be set aside to carry out section 16(b)—

"(A) $70,000,000 for fiscal year 1992;

"(B) $75,000,000 for fiscal year 1993;

"(C) $80,000,000 for fiscal year 1994;

"(D) $85,000,000 for fiscal year 1995; and

"(E) $90,000,000 for fiscal year 1996.".

IN SALUTE OF SAN DIEGO'S LEAP WINNERS

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. LOWERY of California. Mr. Speaker, I rise today to commend and honor three high school graduates from the Class of 1991 from my hometown of San Diego, CA. These young men and women have demonstrated remarkable character in the face of adversity, and are the worthy recipients of the 1991 LEAP Into the Future scholarships.

Supported by private donations, this program was developed to help financially disadvantaged high school students achieve their hopes and dreams. Each of these students has a truly inspirational record of individual achievement. Despite hardship away from campus, they have managed to excel both in the classroom and in many extracurricular activities.

The 1991 LEAP scholarship recipients are: Isaac Aaron Mason of the San Diego School of Creative and Performing Acts, Eric Allan Schneider of the University of San Diego High School, and Maribeth Perna of the Academy of Our Lady of Peace.

The LEAP Into the Future Program is San Diego's way of recognizing outstanding students and encouraging the future leaders of our country. The LEAP board of directors has previously recognized nine deserving students with scholarships and hopes to open the doors of higher education for many more San Diegans in the years ahead.

Mr. Speaker, I hope you and all of our colleagues will join me in saluting these fine young Americans. We praise their accomplishments and wish them future success.

A TRIBUTE TO GOODWILL INDUSTRIES OF SOUTH FLORIDA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, Goodwill Industries of South Florida is an organization which helps individuals with disabilities fulfill their goals of independence and self-sufficiency. Through rehabilitation and training, Goodwill helps countless numbers of people attain dignity and lead normal, healthy lives.

The Goodwill's vocational programs started in 1986 with United Way funds and academic support from Dade County public schools. The programs help people develop self-esteem and good work habits, overcome disabilities, and acquire necessary job training.

Last year, this organization successfully rehabilitated 1,006 individuals by placing 507 in the competitive labor market, and assisting 499 to achieve other goals leading toward independence. In doing so, it created $5.8 million in new earning capacity for people with disabilities. In the past 6 years, Goodwill Industries of South Florida has won the Goodwill Industries of America national award five times for efficiency in the competitive placement of disabled people. It also received recognition for having one of the best facility-based employability development programs in the United States.

There are many people who are responsible for Goodwill's success in south Florida. The senior staff Dennis Pastrana, president; David A. Bush, director of finance; Jose Cortes, director of operations; Bridget Pallango, director of human services; and Bill G. Ray, director of community relations and development. The officers of the board include William L. Cox, chairman; William Lee Popham, vice chairman; Jayne Harris Abess, secretary; Everett E. Colby, treasurer; and James A. Ryder, chairman emeritus.

Goodwill Industries has ensured accessible and stable income and services to thousands of south Florida residents. I commend its staff's dedication and concern for people with disabilities and I am proud to bring them to the attention of my colleagues.

INTRODUCTION OF STAR SCHOOLS IMPROVEMENT ACT OF 1991

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. KILDEE. Mr. Speaker, I am introducing legislation today to amend the Star Schools Program Assistance Act. The Star Schools Assistance Act was created as part of the Hawkins-Stafford Elementary and Secondary School Improvement Act of 1988. The Star Schools Program links teachers and students by using satellite technology to provide courses that are not normally available through their local school system such as foreign languages, math, and science courses. The program allows a teacher in Kentucky to teach a course such as physics to students in Michigan, Mississippi, South Carolina, and New York simultaneously. This distance-learning technology permits students to interact with not only the teacher but with the other students being taught in the other States.

The legislation I am introducing today would provide an incentive to current star schools grantees to expand technical assistance regarding distance learning to local schools and State education departments. The legislation would also reserve funds to conduct a comprehensive independent evaluation of the program. I believe that both of these provisions are an important contribution to the Star Schools Assistance Program.

TRIBUTE TO BOB JONES

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize a truly outstanding individual, Mr. Bob Jones of Cadillac, MI. Bob has diligently served as the executive director of the Cadillac Chamber of Commerce. As he retires this year from this position, I wish to take a moment to honor his work on behalf of the people of Wexford County.

For the last 26 years Mr. Jones has served faithfully as the executive director of the Cadillac Area Chamber of Commerce and is credited with accomplishing many programs that brought businesses to the Cadillac area, including over 40 industrial firms, along with organization of the US–131 Development Association.

Mr. Speaker, I know that you will join me in thanking and commending this truly exceptional individual for all of his years of service to the people of Wexford County. We all wish Mr. Jones well, and hope for his continued success in all future endeavors.

NATIONAL INVENT AMERICA! WEEK

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. LOWERY of California. Mr. Speaker, it is with great pride that I rise today with six of my distinguished colleagues to introduce legislation designating the week of July 27 through August 2, 1991, as "National Invent America! Week." Invent America! is a nationwide program which encourages young inventors in kindergarten through 8th grade to develop problem-solving and advanced thinking skills by sponsoring State, regional, and national invention programs and competitions. Invent America! seeks to inspire in our youth what has always made America great: innovation, imagination, and excellence.

Stories about how America is losing its technological edge have become all too common in recent years. It is said our students now lag far behind students in Asia and Europe in math and science and that our future as the world's greatest economic power is in jeopardy. To respond to these developments, Invent America! was launched in 1987 by Vice President Bush—who remains honorary chairman—and a nonprofit foundation enjoying generous support from good corporate citizens like Polaroid, Kmart, and Pepsi.

Invent America! invites students to create, to explore their dreams, and to improve life for themselves and their country. This simple yet brilliant program touches the lives of 15 million young people each year and recognizes the importance of nurturing curiosity and spreading the joy of discovery to every classroom in the United States.

Invent America! succeeds because it allows students to learn and have fun at the same time. This year more than 300,000 students from California and millions more nationwide have entered the competition with ideas as diverse as an assist-a-chef apron, battery-powered ski lights, disposable bibs, and a device which extracts prizes from cereal boxes with uncanny speed. Last year I was delighted when a student from my district became one of the regional finalists. Her roadside accident screen is but one shining example of the tremendous potential Invent America unleashes.

National prizes in years past have gone to a biodegradable golf tee, a braille rail that tells blind people when they have reached the top of a flight of stairs, an easy-off label which makes recycling easier, a remember clock to help Alzheimer's victims with daily needs, and a park bench which can double as a bed for a homeless person.

This summer, Invent America! will again bring its 45 regional finalists to Washington to showcase their ideas and to celebrate the 1991 competition. The highlights of Invent America! Week are the annual congressional ice cream social and the national awards ceremony announcing the nine best student inventors in America. I invite all of my colleagues to come out and meet the pioneers of tomorrow later this summer.

Mr. Speaker, Invent America! shows what our children will offer our future if properly motivated and challenged. Congressional recognition of Invent America! Week draws attention to a program that works by harnessing the boundless energy of the mind.

I urge all of my colleagues to support this resolution to further encourage the young dreamers, discoverers, and doers among us. Our future rests with them.

THE CONGRESSIONAL BIOMEDICAL RESEARCH CAUCUS—"FROM BENCH TO BEDSIDE: THE BIOTECHNOLOGY REVOLUTION"

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. GEKAS. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

THE CONGRESSIONAL BIOMEDICAL RESEARCH CAUCUS—"FROM BENCH TO BEDSIDE: THE BIOTECHNOLOGY REVOLUTION"

(Remarks by Congressman George W. Gekas)

This is the fourth briefing program that the Caucus has sponsored and I think the quality has been excellent. Our program in March on cloning the cystic fibrosis gene predicted that a gene therapy cure was soon to be achieved and since that program the NIH has announced such a procedure and we are very pleased that this dreaded disease is on the run. The Caucus now has approximately 60 members and we invite any office present here today to become a member.

Today's luncheon topic, "From Bench to Bedside: The Biotechnology Revolution," has generated much excitement and interest from the Congress, as well it should. Biotechnology is among the fastest growing enterprises in the nation and it is among the fastest growing enterprises in the nation and it is uniquely American in character. It reminds us of an era when innovations and products were sought after. This new fledgling industry has all the promise of changing our lives as much as Edison did with making electricity useful. Ben Franklin knew about it but didn't know how to heat our homes with electricity. In much the same way, cell biologists are using basic information to produce useful products.

I can't resist saying that the "genie" is out of the bottle. Recombinant DNA techniques, gene-splicing, are now a basic procedure widely available and relatively inexpensive. The potential for biotechnology to alter human affairs is clearly as great as the impact of the Industrial Revolution in the last century. The capacity for changing organisms to cure diseases and benefit society holds tremendous promise. As with any new technology, the potential for great harm is also present. I am very optimistic that we are fully aware of the dangers and that should not stop us from obtaining the wonderful benefits that will improve our health through new products. There is also great potential to improve the global food supply, particularly in hostile climates subject to killing frost or extreme heat and drought, by developing organisms more hardy and resistant to these climates. Genetic engineering may also be used to improve the quality of the environment and advance the conservation of nature.

We have with us today three scientists who are leaders in the field of biotechnology and are working to make the benefits I described readily available to everyone. Dr. Daniel Nathans from the Johns Hopkins School of Medicine in Baltimore, MD was awarded the Nobel Prize in Medicine in 1978. He is really the one who let the genie out for better or worse because his work led to the recombinant DNA revolution. This work led to the founding of biotechnology enterprises such as the Genetics Institute. I am pleased that we have the Genetics Institute co-founder, Dr. Tom Maniatis, a molecular biologist from Harvard University. He will discuss the interaction of basic science at the university level with industry. At the bedside, we have Dr. David Golde, a hematologist from the University of California, Los Angeles, to discuss the role of the clinician-scientist and the use of new products in treating human diseases. It promises to be an interesting program which will start promptly. But, before I turn it over to Dr. Nathans, I would like to say that I am very pleased with the large attendance today and in particular the presence of Representatives Bill Green, Benjamin A. Gilman, Howard Wolpe and Jim McDermott.

PRESENTATION OF DR. DANIEL NATHANS

Before starting today's discussion I want to express my thanks to Congressman Gekas, and to the other members of Congress and their staffs who are responsible for Congressional Biomedical Research Caucus, for inviting me to participate. I think these meetings are a fine opportunity for us, the scientists, to explain the significance of what we do, and I hope you find our discussions helpful in assessing the value of biomedical research to the health of the American people and to the nation's industrial strength.

I am a Professor of Molecular Biology and Genetics at the Johns Hopkins University School of Medicine and Senior Investigator of the Howard Hughes Medical Institute. In 1978 I shared the Nobel Prize in Medicine with my colleague Hamilton O. Smith and Professor Werner Arber of the University of Geneva for the application of restriction enzymes to problems of molecular genetics. I'll come back to restriction enzymes because they played an important role in the biotechnology revolution. I first want to introduce today's program by making some general observations.

We are in a golden age of the life sciences. In our lifetime the progress in understanding the basic workings of living organisms at the molecular and cellular levels has been breathtaking. As one of my colleagues described it, we have hit "rock bottom" in understanding the chemistry of genes and (in principle) how they work. The same basic principles of gene structure and readout apply to all living organisms, from microbes to humans. For all of us, DNA is the chemical substance of our genes, the main difference being the complexity and nature of the information encoded in the DNA of each organism. Our DNA has a blueprint for a human organism, a yeast's DNA has the blueprint for a yeast cell. A formidable challenge is to understand the steps from DNA to human organism and how inherited or acquired changes in DNA lead to disease.

An exciting outgrowth of the golden age of the life sciences is the biotechnology revolution, a revolution that has given rise to a new industry and is changing the face of established pharmaceutical and agricultural industries. Applied molecular biology is also having a profound effect in medicine, in understanding disease, and in devising new therapies, early diagnostic procedures, and prevention. In today's program Dr. Tom Maniatis, Dr. David Golde, and I will discuss three levels of the biotechnology revolution: 1) some of the scientific roots, 2) the translation of basis research knowledge to applied research and product development and 3) the impact of the revolution on the care of patients.

In considering the roots of the biotechnology revolution we could begin far back with the discovery of the laws of heredity in plants, the discovery of proteins and DNA and their chemical structures, the finding that DNA is the hereditary material, or the Watson-Crick model of the double helical geometry of DNA that ushered in the modern era of molecular biology in 1953. In short, there are many scientific roots of modern biotechnology simply because it is the application of the fundamental concepts and tools of molecular biology. I want to concentrate on some of the more proximate scientific developments, however, and to add a personal flavor, will focus on the discovery and use of restriction enzymes, one of the fundamental tools that sparked the biotechnology revolution.

The story of restriction enzymes illustrates very well the often unanticipated fruits of scientists' urge to understand puzzling natural phenomena. In this case the puzzle was a change in the properties of viruses when they are grown on certain strains of bacteria. After such growth they cannot grow on other strains of bacteria; they are said to be "restricted" by the other strains. After a lot of deft genetic detective work, Werner Arber in Geneva concluded that the restricting strains of bacteria had "restriction enzymes" that recognized the viral DNA as foreign and cut it to pieces. This is the bacterial equivalent of an immune defense system. While Arber's work was progressing, Hamilton Smith at Hopkins discovered an enzyme in bacteria that cut foreign DNA but not the bacteria's own DNA. He realized this fit the description of a restriction enzyme and went on to purify the enzyme and show that it cut DNA at precise sites. This meant that restriction enzymes could be used to isolate genes and to map their location in an organism's genome.

I was at that time studying a virus that causes cancer in animals, and it occurred to me that Smith's enzyme could be used to dissect that viral genome so as to identify and map its genes and regulatory elements, thereby advancing our understanding of how the virus propagates and how it causes cancer. Since that time hundreds of restriction enzymes have been discovered; each of them cuts DNA precisely, but they don't all cut at the same sites. With this set of molecular scissors it is now possible to dissect any large DNA molecule down to single gene size that can be analyzed in chemical detail, changed chemically, and recombined with viral DNA for propagation and cloning in bacteria. It is this recombinant DNA technology, devised by Herbert Boyer at the University of California and Stanley Cohen at Stanford, that opened up the genome of every living organism to detailed study. It also makes possible large-scale production of gene production—the proteins—from any gene in the entire living world.

Restriction enzymes have also been crucial to discovering disease-related genes. For example, discovery of genes or genetic loci related to cystic fibrosis, neurofibromatosis and Huntington's disease all depended on correlations between DNA restriction patterns and inheritance of a defective form of the gene. Similarly, the forensic use of DNA fingerprinting relies on differences in DNA restriction patterns between individuals. Thus what began as an obscure phenomenon in bacteria turned out to yield a key component of the biotechnology revolution.

From the viewpoint of the underlying science, what made the biotechnology revolution possible? First and foremost it was the creativity of individual scientists, each following his own interests. During the decades of the 60's and 70's, molecular genetics attracted some of the best young scientists. The field was full of promise and the opportunities were there. In the U.S., where most of the advances were made, federal support was readily available for pre- and post-doctoral training; and thanks to our system of offering promising young university scientists support for independent research, fresh and energetic minds were attracted to the field. In my own case, after graduation from medical school and an internship, I spent two years at NIH doing research and later was an NIH post-doctoral fellow in biochemistry at Rockefeller University. I received my first NIH grant in 1962 as a starting assistant professor; since then my research has been continuously supported by NIH. Can a promising student today look forward to similar opportunities? For the short term, I believe he can, but for the longer term there is a widespread feeling of uncertainty in academia that research funding will keep up with the increasing cost of research, instrumentation, and facilities.

At the present time the United States is at the forefront of biomedical research and biotechnology, due in large measure to past Congressional support for research and research training. The prospect for discoveries that have a major impact on health and on the biotechnology industry has never been as great as it is now. To maintain this momentum we must contininue to invest in the men and women who will determine the country's future in biomedicine and biotechnology.

THE MULTIPLE EMPLOYER HEALTH BENEFITS PROTECTION ACT OF 1991 (H.R. 2773)

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. PETRI. Mr. Speaker, today I am introducing legislation to keep alive hundreds of self-insured multiple employer health plans which provide needed health care benefits to thousands of employees and their dependents. These plans, typically run by business associations like the auto dealers, realtors, printers, bankers, and chambers of commerce, are defined under ERISA as "multiple employer welfare arrangements," or MEWA's. At a time when increasing access to health care is of great concern, we should be taking these needed steps to prevent the shutdown of existing viable health plans covering small businesses.

My colleagues Representatives WILLIAM F. GOODLING, STEVE GUNDERSON, RICHARD K. ARMEY, HARRIS W. FAWELL, CASS BALLENGER, SUSAN MOLINARI, BILL E. BARRETT, JOHN A. BOEHNER, SCOTT L. KLUG, FRED GRANDY, and JAMES F. SENSENBRENNER have joined me in sponsoring this bill which addresses important ERISA enforcement and health care access issues.

In short, the legislation clearly defines the role of the Department of Labor to regulate the reserve funding of those health benefit MEWA's which seek a Federal "certificate of compliance."

Since the enactment in 1983 of the ERISA Preemption Amendments sponsored by former Representatives Burton and Erlenborn, the States have had the authority to regulate MEWA's. However, it has only been in the last several years that the States have accelerated their enforcement activity in this area. The basic argument favoring MEWA legislation is that for too long the States have failed to regulate these entities in a vigorous and uniform fashion. However, in accepting their responsibility, some States have chosen to throw out the baby with the bathwater, thereby threatening the very existence of long-standing multiple employer health plans like those maintained by the rural telephone cooperative and other associations.

The choice is simply stated—should States be allowed to shut down all MEWA's as unlicensed insurers or should reasonable funding standards be applied uniformly to true employer-sponsored health plan arrangements to allow them to continue to exist, but in a sound operating fashion? The thrust of the legislation introduced today is to ensure the latter.

Specifically, the bill adds a new part 7 to title I of ERISA which allows MEWA's providing health care benefits to obtain a Federal certificate of compliance from the U.S. Department of Labor. Arrangements with certificates would be subject to uniform standards under ERISA regarding reporting, disclosure, fiduciary requirements, and new funding/reserve requirements. Health benefit MEWA's choosing not to obtain a certificate of compliance from the Department would be required to register and report to the Department and to each State in which they operate. The bill also clarifies the ability of the States to regulate any MEWA which lacks a certificate of compliance from the Department of Labor.

Mr. Speaker, I insert the bill and the section-by-section explanation in the RECORD at this point:

H.R. 2773

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Multiple Employer Health Benefits Protection Act of 1991".

SEC. 2. CERTIFICATION UNDER TITLE I OF ERISA OF CERTAIN MULTIPLE EMPLOYER WELFARE ARRANGEMENTS AS EMPLOYEE WELFARE BENEFIT PLANS.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new part:

"PART 7—MULTIPLE EMPLOYER WELFARE ARRANGEMENTS PROVIDING HEALTH BENEFITS

"SEC. 701. DEFINITIONS.

"For purposes of this part—

"(1) INSURER.—The term 'insurer' has the meaning provided in section 401(b)(2)(A).

"(2) PARTICIPATING EMPLOYER.—The term 'participating employer' means, in connection with a multiple employer welfare arrangement, any employer if any of its employers, or any of the dependents of its employees, are or were covered under such arrangement during the employment of such employees.

"(3) EXCESS/STOP LOSS COVERAGE.—The term 'excess/stop loss coverage' means, in connection with a multiple employer welfare arrangement, a contract under which an insurer provides for payment with respect to claims under arrangement in excess of an amount or amounts specified in such contract.

"(4) QUALIFIED ACTUARY.—The term 'qualified actuary' means an individual who is a member of the American Academy of Actuaries or meets such reasonable standards and qualifications as the Secretary may provide by regulation.

"(5) SPONSOR.—The term 'sponsor' means, in connection with a multiple employer welfare arrangement, the association or other entity which establishes or maintains the arrangement.

"SEC. 702. CERTIFIED MULTIPLE EMPLOYER WELFARE ARRANGEMENTS TREATED AS EMPLOYEE WELFARE BENEFIT PLANS AND EXEMPT FROM CERTAIN RESTRICTIONS ON PREEMPTION.

"(a) IN GENERAL.—A multiple employer welfare arrangement which is not fully insured and with respect to which there is in effect a certificate of compliance under this part or there is pending a complete application for such a certificate and the Secretary determines that provisional protection under this part is appropriate—

"(1) shall be treated for purposes of subtitle A and the preceding parts of this subtitle as an employee welfare benefit plan, irrespective of whether such arrangement is an employee welfare benefit plan, and

"(2) shall be exempt from section 514(b)(6)(A)(ii).

"(b) COVERAGE.—Subsection (a) shall apply to a multiple employer welfare arrangement only if the benefits provided thereunder consist solely of medical care described in section 607(1) (disregarding such incidental benefits as the Secretary shall specify by regulation).

"SEC. 703. CERTIFICATION REQUIREMENTS.

"(a) APPLICATION FOR CERTIFICATION.—

"(1) IN GENERAL.—A certificate of compliance may be obtained under this section only by application filed with the Secretary in such form and manner as shall be prescribed in regulations of the Secretary. Any such application shall be signed by the operating committee and the sponsor of the arrangement.

"(2) FILING FEE.—The arrangement shall pay to the Secretary at the time of filing an application under this section a filing fee in the amount of $1,000, which shall be available, to the extent provide in appropriation Acts, to the Secretary for the sole purpose of administering the certification procedures under this part.

"(3) INFORMATION INCLUDED.—An application filed under this section shall include, in a manner and form prescribed in regulations of the Secretary, at least the following information:

"(A) The names and addresses of the sponsor and the members of the operating committee of the arrangement.

"(B) Evidence provided by the operating committee that the bonding requirements of section 412 have been met.

"(C) A copy of the documents governing the arrangement (including any bylaws and trust agreements), the summary plan description, and other evidence of the benefits and coverage provided to individuals covered under the arrangement.

"(D) A copy of any agreements between the arrangement and service providers.

"(E) A report setting forth information determined as of a date within the 120-day period ending with the date of the application, including the following:

"(i) A statement, certified by the operating committee of the arrangement and a qualified actuary—

"(I) in the case of an ongoing arrangement, that all applicable requirements of sections 706 and 707 are met, or

"(II) in the case of a newly established arrangement, that the requirements of section 707 will be met upon commencement of operations, that the requirements of paragraphs (1), (2), and (3) of section 706(a) will be met during the 1-year period commencing on the date of the commencement of operations, and that the requirements of paragraph (4) of section 706(a) will be met during the 2-year period commencing on such date.

"(ii) A complete actuarial statement certified by a qualified actuary which sets forth a description of—

"(I) the extent to which contribution rates are adequate to provide for the payment of all obligations and the maintenance of required reserves under the arrangement for the 12-month period beginning with such date within such 120-day period, taking into account the expected coverage and experience of the arrangement, and

"(II) the changes, if any, needed in the contribution rates to attain such adequacy and to meet the requirements of section 706, taking into account the expected coverage and experience of the arrangement. Such description shall include the current value of the assets and liabilities accumulated under the arrangement and a projection of the assets, liabilities, income, and expenses of the arrangement for the 12-month period referred to in subclause (I).

"(iii) A statement of the costs of coverage to be charged, including an itemization of amounts for administration, reserves, and other expenses associated with the operation of the arrangement.

"(iv) Any other information which the Secretary provides by regulation as necessary to carry out the purposes of this part.

"(b) ISSUANCE OF CERTIFICATE.—Subject to subsection (c), the Secretary shall issue a certificate of compliance under this section to an arrangement if the following requirements have been met with respect to the arrangement:

"(1) A complete application has been filed with the Secretary in accordance with this section.

"(2) The sponsor is, and has been (together with its immediate predecessor, if any) for a continuous period of not less than 3 years before the date of the application, organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose, as a trade association, an industry association, a professional association, or a chamber of commerce or other business group, for substantial purposes other than that of obtaining or providing medical care referred to in section 607(1), and the applicant demonstrates to the satisfaction of the Secretary that the sponsor is established as a permanent entity which receives the active support of its members.

"(3) The arrangement is operated, pursuant to a trust agreement, by an operating committee which has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement, and the applicant demonstrates to the satisfaction of the Secretary that the operating committee has in effect rules of operation and financial controls, based on a 5-year plan of operation, adequate to carry out the terms of the arrangement and to meet all requirements of this title applicable to the arrangement. The members of the committee are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business. No such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the arrangement, except that officers or employees of a sponsor which is a service provider (other than a contract administrator) to the arrangement may be members of the committee if they constitute not more than 25 percent of the membership of the committee and they do not provide services to the arrangement other than on behalf of the sponsor. The committee has sole authority to approve applications for participation in the arrangement and to contract with a service provider to administer the day-to-day affairs of the arrangement.

"(4) The written instrument referred to in section 402(a)(1)—

"(A) provides that the committee is the named fiduciary required under section 402(a)(1) and is the plan administrator (referred to in section 3(16)(A)),

"(B) provides that the sponsor is the plan sponsor (referred to in section 3(16)(B)),

"(C) incorporates the requirements of sections 706 and 707, and

"(D) provides that, effective upon issuance of the certificate of compliance—

"(i) all participating employers must be members or affiliated members of the sponsor, except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or affiliated member of the sponsor, participating employers may also include such employer, and

"(ii) all individuals thereafter commencing coverage under the arrangement must be—

"(I) active or retired owners, officers, directors, or employees of, or partners in, participating employers, or

"(II) the beneficiaries of individuals described in subclause (I).

"(5) The Secretary is satisfied that information provided in the application is complete and accurate and such information demonstrates to the satisfaction of the Secretary that the contribution rates described in subsection (a)(3)(E)(ii) are adequate.

"(6) Such other requirements are met as the Secretary may prescribe by regulation as necessary to carry out the purposes of this part.

Any such certificate issued to an arrangement by the Secretary shall not be deemed property of the arrangement and shall be subject to surrender under section 709.

"(c) TREATMENT OF PARTY SEEKING CERTIFICATE WHERE PARTY IS SUBJECT TO DISQUALIFICATION.—

"(1) IN GENERAL.—In the case of any application for issuance to a multiple employer welfare arrangement with respect to which this part applies of a certificate of compliance under this part, if the Secretary determines that the sponsor of the arrangement or any other person associated with the arrangement is subject to disqualification under paragraph (2), the Secretary may deny the issuance of such certificates to such arrangement.

"(2) DISQUALIFICATION.—A person is subject to disqualification under this paragraph if such person—

"(A) has intentionally made a material misstatement in the application for certification;

"(B) has obtained or attempted to obtain a certificate of compliance under this part through misrepresentation or fraud;

"(C) has misappropriated or converted to such person's own use, or improperly withheld, money held under a plan or any multiple employer welfare arrangement;

"(D) is prohibited (or would be prohibited if the arrangement were a plan) from serving in any capacity in connection with the arrangement under section 411,

"(E) has failed to appear without reasonable cause or excuse in response to a subpoena, examination, warrant, or any other order lawfully issued by the Secretary compelling such response,

"(F) has previously been subject to a determination under this part resulting in the denial, suspension, or revocation of a certificate of compliance under this part on similar grounds, or

"(G) has otherwise violated any provision of this title with respect to a matter which the Secretary determines of sufficient consequence to merit disqualification for purposes of this part.

"(d) FRANCHISE NETWORKS.—In the case of a multiple employer welfare arrangement established and maintained by a franchisor for a franchise network consisting of its franchisees, such franchisor shall be treated as the sponsor referred to in the preceding provisions of this section, such network shall be treated as an association referred to in such provisions, and each franchise shall be treated as a member (of the association and the sponsor) referred to in such provisions, if all participating employers are such franchisees and the requirements of subsection (b)(2) with respect to a sponsor are met with respect to the network.

"SEC. 704. ADDITIONAL FILING REQUIREMENTS.

"(a) NOTICE OF MATERIAL CHANGES.—Descriptions of material changes in any information required to be submitted with the application for a certificate of compliance under this part shall be filed in such form and manner as shall be prescribed in regulations of the Secretary. The Secretary may require by regulation prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certificate of compliance.

"(b) ANNUAL REPORTS.—Under regulations of the Secretary, the annual reporting requirements of sections 103 and 104 shall apply with respect to any multiple employer welfare arrangement with respect to which there is or has been in effect a certificate of compliance under this part in the same manner and to the same extent as such requirements apply to employee welfare benefit plans, irrespective of whether such arrangement is such a plan. The annual report required under section 103 for any plan year in the case of a multiple employer welfare arrangement shall also include information described in section 703(a)(3)(E) with respect to the plan year and, notwithstanding section 104(a)(1)(A), shall be filed not later than 90 days after the close of the plan year.

"(c) ENGAGEMENT OF QUALIFIED ACTUARY.—The operating committee of each multiple employer welfare arrangement with respect to which there is or has been in effect a certificate of compliance under this part shall engage, on behalf of all participants, a qualified actuary who shall be responsible for the preparation of the materials comprising information necessary to be submitted by a qualified actuary under this part. The qualified actuary shall utilize such assumptions and techniques as are necessary to enable such actuary to form an opinion as to whether the contents of the matters reported under this part—

"(1) are in the aggregate reasonably related to the experience of the arrangement and to reasonable expectations, and

"(2) represent such actuary's best estimate of anticipated experience under the arrangement.

The opinion by the qualified actuary shall be made with respect to, and shall be made a part of, the annual report.

"(d) FILING CERTIFICATES OF COMPLIANCE WITH STATES.—A certificate of compliance issued to a multiple employer welfare arrangement under this part shall not be effective unless such certificate is filed with the Insurance Commissioner (or similar official) of each State in which at least 5 percent of the plan participants and beneficiaries who are covered under the arrangement are located. For purposes of this paragraph, a participant or beneficiary shall be considered to be located in the State in which a known address of such participant or beneficiary is located or in which such participant or beneficiary is employed. The Secretary may by regulation provide in specified cases for the application of the preceding sentence with lesser percentages in lieu of such 5 percent amount.

"SEC. 705. DISCLOSURE TO PARTICIPATING EMPLOYERS.

"(a) IN GENERAL.—A multiple employer welfare arrangement with respect to which there is or has been in effect a certificate of compliance under this part shall issue to each participating employer—

"(1) a summary plan description,

"(2) information describing the contribution rates applicable to participating employers, and

"(3) a statement indicating—

"(A) whether or not there is in effect with respect to the arrangement a certificate of compliance under this part and, if there is in effect such a certificate, that the arrangement is (or is treated as) an employee welfare benefit plan under this title, and

"(B) that the arrangement is not a licensed insurer under the laws of any State.

"(b) TIME FOR DISCLOSURE.—Such information shall be issued to employers within such reasonable period of time before becoming participating employers as may be prescribed in regulations of the Secretary.

"SEC. 706. MAINTENANCE OF RESERVES.

"(a) IN GENERAL.—Each multiple employer welfare arrangement with respect to which there is or has been in effect a certificate of compliance under this part and which is not fully insured shall establish and maintain reserves, consisting of—

"(1) a reserve for unearned contributions,

"(2) a reserve for payment of claims reported and not yet paid and claims incurred but not yet reported,

"(3) a reserve, in an amount recommended by the qualified actuary, for any other obligations of the arrangement, and

"(4) a reserve, to be held in escrow for the sole purpose of meeting obligations of the arrangement upon termination of the arrangement, in an amount not less than 10 percent of expected incurred claims and expenses for the plan year.

"(b) MINIMUM AMOUNT FOR CERTAIN RESERVES.—The total of the reserves described in paragraphs (1) and (2) of subsection (a) shall not be less than an amount equal to 20 percent of expected incurred claims and expenses for the plan year.

"(c) TRANSITIONAL RULES FOR MEETING ESCROW REQUIREMENTS.—

"(1) IN GENERAL.—In the case of an arrangement which is an ongoing arrangement as of January 1, 1992, and to which a certificate of compliance is issued before 1997, the requirements of paragraph (4) of subsection (a) shall be treated as satisfied if—

"(A) as of the date of the application for certification, the requirements of such paragraph would be met if the specified percentage were substituted for '10 percent' in such paragraph (4), and

"(B) the Secretary is satisfied that the arrangement has provided, in a 5-year plan of operation commencing on the date of the issuance of the certificate of compliance, for compliance with the requirements of paragraph (4) as applied without the substitution described in subparagraph (A)) by not later than January 1, 1997.

"(2) SPECIFIED PERCENTAGE.—For purposes of paragraph (1), the 'specified percentage' is the percentage specified in connection with the year in which the certificate of compliance is issued, as provided in the following table:

"If the year in which the certificate of compliance is issued is:	The specified percentage is:
1992	5 percent.
1993	6 percent.
1994	7 percent.
1995	8 percent.
1996	9 percent.

"(d) REQUIRED MARGIN.—In determining the amounts of reserves required under this section in connection with any multiple employer welfare arrangement, the qualified actuary shall include a margin for error and other fluctuations taking into account the specific circumstances of such arrangement.

"SEC. 707. EXCESS/STOP LOSS COVERAGE REQUIREMENT.

"Each multiple employer welfare arrangement with respect to which there is or has been in effect a certificate of compliance under this part and which is not fully insured shall for each plan year establish and maintain aggregate and specific excess/stop loss coverage as follows:

"(1) The arrangement shall secure aggregate stop loss coverage providing coverage for the arrangement with an attachment point which is not greater than 125 percent of expected claims. The Secretary may by regulation define the incurred or paid basis and relevant claims periods for purposes of determining expected claims under this paragraph and provide for upward adjustments in the amounts of such percentage in specified circumstances in which the arrangement specifically provides for and maintains reserves in excess of the amounts approved under section 706.

"(2) The arrangement shall secure specific stop loss coverage with respect to covered individuals providing coverage for the arrangement with an attachment point which is not greater than 5 percent of expected claims. The Secretary may by regulation define the incurred or paid basis and relevant claims periods for purposes of determining expected claims under this paragraph and provide for adjustments in the amount of such percentage as may be necessary to carry out the purposes of this part in specified circumstances.

Any regulations prescribed by the Secretary pursuant to paragraph (1) or (2) may allow for such adjustments in the required levels of excess/stop loss coverage under this section as the qualified actuary may recommend, taking into account the specific circumstances of the arrangement. The Secretary may, in particular cases, waive any requirement of this section, or provide an alternative requirement, if the Secretary determines that such waiver or such alternative requirement is consistent with, and furthers, the purposes of this part.

"SEC. 708. CORRECTIVE ACTIONS

"(a) ACTIONS TO AVOID SUSPENSION OR REVOCATION OF CERTIFICATION.—The operating committee of each multiple employer welfare arrangement with respect to which there is or has been in effect a certificate of compliance under this part shall determine monthly whether the requirements of section 706 are met as of the end of the preceding month. In any case in which the committee determines that there is reason to believe that there is or will be a failure to meet such requirements, or the Secretary makes such a determination and so notifies the committee, the committee shall immediately notify the qualified actuary engaged by the arrangement, and such actuary shall, not later than the end of the next following month, make such recommendations to the committee for corrective action as the actuary determines necessary to ensure compliance with section 706. Not later than 10 days after receiving from the actuary recommendations for corrective actions, the committee shall notify the Secretary (in such form and manner as the Secretary may prescribe by regulation) of such recommendations of the actuary for corrective action, together with a description of the actions (if any) that the committee has taken or plans to take in response to such recommendations. The committee shall thereafter report to the Secretary, in such form and frequency as the Secretary may specify to the committee, regarding corrective action taken by the committee until the requirements of section 706 are met.

"(b) TERMINATION.—

"(1) NOTICE OF TERMINATION.—In any case in which the operating committee of a multiple employer welfare arrangement with respect to which there is or has been in effect a certificate of compliance under this part determines that there is reason to believe that the arrangement will terminate, the committee shall so inform the Secretary, shall develop a plan for winding up the affairs of the arrangement in connection with such termination in a manner which will result in timely payment of all benefits for which the arrangement is obligated, and shall submit such plan in writing to the Secretary. Actions required under this paragraph shall be taken in such form and manner as may be prescribed in regulations of the Secretary.

"(2) ACTIONS REQUIRED IN CONNECTION WITH TERMINATION.—In any case in which—

"(A) the Secretary has been notified under subsection (a) of the failure of a multiple employer welfare arrangement with respect to which there is or has been in effect a certificate of compliance under this part to meet the requirements of section 706 and has not been notified by the operating committee of the arrangement that corrective action has restored compliance with such requirements, and

"(B) the Secretary determines that the continuing failure to meet the requirements of section 706 can be reasonably expected to result in a continuing failure to pay benefits for which the arrangement is obligated,

the operating committee of the arrangement shall, at the direction of the Secretary, terminate the arrangement and, in the course of the termination, take such actions as the Secretary may require as necessary to ensure that the affairs of the arrangement will be wound up in a manner which will result in timely payment of all benefits for which the arrangement is obligated.

"SEC. 709. EXPIRATION, SUSPENSION, OR REVOCATION OF CERTIFICATION.

"(a) EXPIRATION AND RENEWAL OF CERTIFICATION.—A certificate of compliance held by a multiple employer welfare arrangement under this part shall expire 5 years after the date of its issuance. An expired certificate may be renewed by means of application for certification in accordance with section 703.

"(b) SUSPENSION OR REVOCATION OF CERTIFICATION BY SECRETARY.—The Secretary may suspend or revoke any certificate of compliance held by a multiple employer welfare arrangement under this part—

"(1) for any cause that may serve as the basis for the denial of an initial application for such a certificate under section 703, or

"(2) if the Secretary finds that—

"(A) the arrangement, or the sponsor thereof, in the transaction of business while holding such certificate, has used fraudulent, coercive, or dishonest practices, or has demonstrated incompetence, untrustworthiness, or financial irresponsibilty,

"(B) the arragnement, or the sponsor theeof, is using such methods or practices in the conduct of its operations, so as to render its further transaction of operations hazardous or injurious to participating employers, or covered individuals,

"(C) the arrangement, or the sponsor thereof, has refused to be examined in accordance with this part or to produce its accounts, records, and files for examination in accordance with this part, or

"(D) any of the officers of the arrangement, or the sponsor thereof, has refused to give information with respect to the affairs of the arrangement or the sponsor or to perform any other legal obligation relating to such an examination when required by the Secretary in accordance with this part.

Any such suspension or revocation under this subsection shall be effective only upon a final decision of the Secretary made after notice and opportunity for a hearing is provided in accordance with section 710.

"(c) SUSPENSION OR REVOCATION OF CERTIFICATION UNDER COURT PROCEEDINGS.—A certificate of compliance held by a multiple employer welfare arrangement under this part may be suspended or revoked by a court of competent jurisdiction in an action by the Secretary brought under paragraph (2), (5) or (6) of section 502(a), except that the supension or revocation under this paragraph shall be effective only upon notification of the Secretary of such suspension or revocation.

"(d) SURRENDER OF CERTIFICATE AND NOTIFICATION OF PARTICIPATING EMPLOYERS.—Any certificate which expires, is suspended, or is revoked under this section shall be surrendered to the Secretary, and all participating employers shall be notified thereof, by such persons and in such form and manner as shall be prescribed in regulations of the Secretary, not later than 20 days after such expiration or after receipt of notice of a final decision requiring such suspension or revocation.

"(e) PUBLICATION OF EXPIRATIONS, SUSPENSIONS, AND REVOCATIONS.—The Secretary shall publish all expirations of, and all final decisions to suspend or revoke, certificates of compliance under this part.

"SEC. 710. REVIEW OF ACTIONS OF THE SECRETARY.

"(a) IN GENERAL.—Any decision by the Secretary which involves the denial of an application by a multiple employer welfare arrangement for a certificate of compliance under this part or the suspension or revocation of such a certificate shall contain a statement of the specific reason or reasons supporting the Secretary's action, including reference to the specific section or sections relevant to the determination.

"(b) DENIALS OF APPLICATIONS.—In the case of the denial of an application for a certificate of compliance under this part, the Secretary shall send a copy of the decision to the applicant by certified or registered mail at the address specified in the records of the Secretary. Such decision shall constitute the final decision of the Secretary unless the arangement, or any party that would be prejudiced by the decision, files a written appeal of the denial within 30 days after the mailing of such decision. The Secretary may affirm, modify, or reverse the initial decision. The decision on appeal shall become final upon the mailing of a copy by certified or registered mail to the arrangement or party that filed the appeal.

"(c) SUSPENSIONS OR REVOCATIONS OF CERTIFICATE.—In the case of the suspension or revocation of a certificate of compliance issued under this part, the Secretary shall send a copy of the decision to the arrangement by certified or registered mail at its address, as specified in the records of the Secretary. Upon the request of the arrangement, or any party that would be prejudiced by the suspension or revocation, filed within 15 days of the mailing of the Secretary's decision, the Secretary shall schedule a hearing on such decision by written notice, sent by certified or registered mail to the arrangement or party requesting such hearing. Such notice shall set forth—

"(1) a specific date and time for the hearing, which shall be within the 10-day period commencing 20 days after the date of the mailing of the notice, and

"(2) a specific place for the hearing, which shall be in the District of Columbia or in the State and county thereof (or parish or other similar political subdivision thereof) in which is located the arrangement's principal place of business.

The decision as affirmed or modified in such hearing shall constitute the final decision of the Secretary, unless such decision is reversed in such hearing.".

(b) AMENDMENT OF PREEMPTION RULES.—

(1) CLARIFICATION OF EXEMPTION FROM PREEMPTION.—Section 514(b)(6)(A)(ii) of such Act (29 U.S.C. 1144(b)(6)(A)(ii)) is amended by striking "to the extent not inconsistent with the preceding sections of this title".

(2) CROSS-REFERENCE.—Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

"(E) For additional rules relating to the certification of certain multiple employer welfare arrangements, and exemption from subparagraph (A)(ii), see part 7.".

(c) CONFORMING AMENDMENT TO DEFINITION OF PLAN SPONSOR.—Section 3(16)(B) of such Act (29 U.S.C. 1002(16)(B)) is amended by adding at the end the following new sentence: "Such term also includes the sponsor (as defined in section 701(5)) of a multiple employer welfare arrangement with respect to which there is or has been in effect a certificate of compliance issued under part 7.".

(d) CLARIFICATION OF TREATMENT OF SINGLE EMPLOYER ARRANGEMENTS.—Section 3(40)(B) of such Act (29 U.S.C. 1002(40)(B)) is amended—

(1) in clause (i), by inserting "for any plan year of any such plan, or any fiscal year of any such other arrangement," after "single employer", and by inserting "during such year or at any time during the preceding 1-year period" after "common control";

(2) in clause (iii), by striking "common control shall not be based on an interest of less than 25 percent" and inserting "an interest of greater than 25 percent may not be required as the minimum interest necessary for common control", and by striking "and" at the end,

(3) by redesignating clause (iv) as clause (v), and

(4) by inserting after clause (iii) the following new clause:

"(iv) in determining, after the application of clause (i), whether benefits are provided to employees of two or more employers, the arrangement shall be treated as having only 1 participating employer if, at the time the determination under clause (i) is made, the number of individuals who are employees and former employees of any one participating employer and who are covered under the arrangement is greater than 95 percent of the aggregate number of all individuals who are employees or former employees of participating employers and who are covered under the arrangement.".

(e) ALTERNATIVE MEANS OF DISTRIBUTION OF SUMMARY PLAN DESCRIPTIONS.—Section 110 of such Act (29 U.S.C. 1030) is amended by adding at the end of the following new subsection:

"(c) The Secretary shall prescribe, as an alternative method for distributing summary plan descriptions in order to meet the requirements of section 104(b)(1) in the case of multiple employer welfare arrangements, a means of distribution of such descriptions by participating employers.".

(f) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 608 the following new items:

PART 7—MULTIPLE EMPLOYER WELFARE ARRANGEMENTS PROVIDING HEALTH BENEFITS

"Sec. 701. Definitions.
"Sec. 702. Certified multiple employer welfare arrangements treated as employee welfare benefit plans and exempt from certain restrictions on preemption.
"Sec. 703. Certification requirements.
"Sec. 704. Additional filing requirements.
"Sec. 705. Disclosure to participating employers.
"Sec. 706. Maintenance of reserves.
"Sec. 707. Excess/stop loss coverage requirement.
"Sec. 708. Corrective actions.
"Sec. 709. Expiration, suspension, or revocation of certification.
"Sec. 710. Review of actions of the Secretary.".

SEC. 3. FILING REQUIREMENTS FOR HEALTH BENEFIT MULTIPLE EMPLOYER WELFARE ARRANGEMENTS WHICH ARE NOT FULLY INSURED AND HAVE NOT BEEN CERTIFIED UNDER PART 7.

Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e)(1) Each multiple employer welfare arrangement shall file with the Secretary a registration statement described in paragraph (2) within 60 days before commencing operations (in the case of an arrangement commencing operations on or after January 1, 1992) and no later than February 15th of each year (in the case of an arrangement in operation since the beginning of the calendar year), unless, as of the date by which such filing otherwise must be made, such arrangement provides no benefits consisting of medical care described in section 607(1), such arrangement is fully insured, there is in effect with respect to such arrangement a certificate of compliance under part 7, or there is pending a complete application for such a certificate and the Secretary determines that provisional protection under part 7 is appropriate.

"(2) Each registration statement shall—

"(A) be filed in such form, and contain such information concerning the multiple employer welfare arrangement and any persons involved in its operation, as shall be provided in regulations which shall be prescribed by the Secretary, and

"(B) contain a certification that copies of such registration statement have been transmitted by certified mail to the Insurance Commissioner (or similar official) of each State in which the multiple employer welfare arrangement currently conducts (or is to conduct) business.

"(3) The person or persons responsible for filing the annual registration statement are—

"(A) the trustee or trustees so designated by the terms of the instrument under which the multiple employer welfare arrangement is established or maintained, or

"(B) in the case of a multiple employer welfare arrangement for which the trustee or trustees cannot be identified, or upon the failure of the trustee or trustees of an arrangement to file, the person or persons actually responsible for the acquisition, disposition, control, or management of the cash or property of the arrangement, irrespective of whether such acquisition, disposition, control, or management is exercised directly by such person or persons or through an agent designated by such person or persons.".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall take effect January 1, 1992, except that the Secretary of Labor may issue regulations before such date under such amendments. The Secretary shall issue all regulations necessary to carry out the amendments made by this Act not later than July 1, 1992.

SECTION-BY-SECTION EXPLANATION OF THE MULTIPLE EMPLOYER HEALTH BENEFITS PROTECTION ACT OF 1991

IN GENERAL

The bill adds a new Part 7 to Title I of ERISA which allows multiple employer welfare arrangements (MEWAs) providing health care benefits to obtain a federal "certificate of compliance" from the U.S. Department of Labor. Arrangements with certificates would be subject to uniform standards under ERISA regarding reporting, disclosure, fiduciary requirements, and new funding/reserve requirements. Regulations would be promulgated by the Department of Labor in connection with these standards. Health benefits MEWAs operating under the uniform ERISA standards would be required to so notify the states in which they operate. Health benefit MEWAs choosing to obtain a certificate of compliance from the Department of Labor would be required to register and report to the Department of Labor and to each state in which they operate. The bill also clarifies the ability of the states to regulate any multiple employer welfare arrangement which lacks a certificate of compliance from the Department of Labor.

ERISA PART 7—MULTIPLE EMPLOYER WELFARE ARRANGEMENTS PROVIDING HEALTH BENEFITS

Sec. 701. Definitions.

This section defines insurer, participating employer, excess/stop-loss coverage, qualified actuary, and the sponsor of an arrangement.

Sec. 702. Certified MEWAs Treated as ERISA Employer Welfare Benefit Plans and Exempt from Certain Restrictions on Preemption.

A self-insured health benefits MEWA obtaining a certificate of compliance under Part 7 would be treated as an employee welfare benefit plan which is exempt from the state regulation that is currently permitted under section 514(b)(6).

Sec. 703. Certification Requirements.

Subsection (a) sets forth the information required to be included in the application for a certificate of compliance. A filing fee is required to be paid at the time of the application. Among the items of information to be supplied are: the identity of the members of the MEWA's "operating committee", documents and evidence of the arrangement's governance, coverage, operations, and compliance with ongoing reserve/funding and stop-loss requirements; and a complete actuarial statement prepared by a qualified actuary on the arrangement's costs of coverage and current and projected actuarial status.

Subsection (b) sets forth additional requirements which must be met by both the sponsor and the arrangement before a certificate of compliance can be issued. The association, chamber of commerce, or similar business groups sponsoring the arrangement must meet certain thresholds of operation and be established as a permanent entity. The operating committee of the MEWA must also meet certain membership requirements and accept responsibility as the plan's "named fiduciary" under ERISA. The MEWA's written plan documents must incorporate reserve/funding and stop-loss requirements not less stringent than the ERISA minimum and must provide that all future plan participants be employees or dependents of participating employers who are members or associate members of the plan sponsor.

Subsection (c) authorizes the Secretary to deny the issuance of a certificate if the sponsor or any person associated with the arrangement is subject to "disqualification". Persons may be subject to disqualification for a variety of reasons including misrepresentation, fraud, and misappropriation of funds.

Sec. 704. Additional Filing Requirements.

Under subsection (a) MEWAs may be required to notify the Secretary of material changes in the information submitted with the application for a certificate of compliance.

Under subsection (b), the ERISA annual filing requirement is to include updated actuarial and financial information.

Subsection (c) requires each MEWA to engage a qualified actuary to report and provide information on behalf of all plan participants.

Subsection (d) requires each MEWA which is issued a certificate of compliance to file a notice with certain states in which it operates.

Sec. 705. Disclosure to Participating Employers.

This section requires MEWA's to provide prospective participating employers with information indicating their scope of coverage, rates of contribution, and self-insured status.

Sec. 706. Maintenance of Reserves.

This section requires each self-insured MEWA to establish and maintain minimum unearned contribution and unpaid claim reserves in an amount not less than 20% of expected incurred claims and expenses. Subject to certain phase-in rules, an additional reserve of up to 10% of expected incurred claims and expenses is to be held in escrow for the sole purpose of meeting plan termination obligations. A margin for error and additional reserves for any other obligations of the arrangement would be required in amounts recommended by the plan's qualified actuary.

Sec. 707. Excess/Stop-Loss Coverage Requirement.

This section requires each self-insured MEWA to establish and maintain (1) aggregate stop-loss coverage with an attachment point not greater than 125% of expected claims (subject to upward adjustments if excess reserves are held), and (2) specific stop-loss coverage with an attachment point not greater than 5% of expected claims (subject to adjustments based on plan circumstances). In particular cases the Secretary of Labor may provide waivers or alternative means of meeting such requirements.

Sec. 708. Corrective Actions.

Under subsection (a), in order to avoid a suspension or revocation of a certificate of compliance, the operating committee of each self-insured MEWA shall regularly determine whether the reserve/funding requirements of section 706 are met. If there is reason to believe that such requirements may not be met, then the operating committee is required to obtain recommendations for corrective action from the plan's qualified actuary and report to the Secretary as to the nature and effect of the corrective actions actually taken by the committee. The Secretary is generally authorized under ERISA to enjoin any act or practice violating any provision of Title I, or to obtain other appropriate equitable relief to redress any such violation and enforce the provisions of Title I and the terms of the arrangement.

Subsection (b) requires the operating committee of a terminating MEWA to provide notice to the Secretary and submit a plan for winding up the affairs of the arrangement which will result in the timely payment of all plan obligations. The Secretary may take action to terminate an arrangement which is in violation of the reserve requirements and which can reasonably be expected to fail to pay benefits as obligated.

Sec. 709. Expiration, Suspension, or Revocation of Certification.

Subsection (a) requires a five-year renewal of each certificate of compliance.

Under subsection (b), the Secretary may suspend or revoke a certificate of compliance after a showing of cause and after compliance with the provisions of section 710 requiring notice and an opportunity for hearing.

Under subsection (c), a certificate of compliance may also be revoked pursuant to a court proceeding brought by the Secretary.

Sec. 710. Review of Action of the Secretary.

This section provides for the appeals procedure to be followed in connection with the denial, suspension, or revocation by the Secretary of a certificate of compliance. Notice and an opportunity for a hearing is required in the case of a suspension or revocation.

Sec. 2(b) of the Act.

This amends ERISA section 514(b)(6)(A)(ii) by striking the phrase "to the extent not inconsistent with the preceding sections of this title". This further clarifies the ability of the states to regulate MEWAs which do not possess a certificate of compliance under Part 7.

Sec. 2(c) of the Act.

This conforms the definition of plan sponsor to include the sponsor of a MEWA having a certificate of compliance.

Sec. 2(d) of the Act.

This provision clarifies the definition of a MEWA maintained by a single employer by defining the minimum interest required for two or more entities to be in "common control" as a percentage which cannot be greater than 25%. In addition, employees and dependents of a former common control member, for example in a spin-off situation, could be retained in the plan for up to one plan year without violating the common control requirement. Also, a plan would be considered a single-employer plan if less than 5% of the covered employees are employed by other affiliated employers.

Sec. 2(e) of the Act.

This provision requires the Secretary to provide MEWAs with an alternative and more workable means for distributing summary plan descriptions.

Sec. 3 of the Act. Filing Requirements for Health Benefit MEWA's which are not Fully Insured and have not been Certified Under Part 7.

This provision amends section 101 of ERISA to require certain MEWAs to file an annual registration statement with the Secretary and with each state in which they operate. The MEWA's required to report are any self-insured health benefits arrangements lacking a valid certificate of compliance under Part 7 of ERISA.

Sec. 4 of the Act. Effective Date.

The amendments made by the Act take effect January 1, 1992 except that the Secretary of Labor may issue regulations before such date.

BASIC BIOMEDICAL RESEARCH AND THE DEVELOPMENT OF DRUGS FOR THE TREATMENT OF HUMAN DISEASE

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. GEKAS. Mr. Speaker, I submit the following remarks by Tom Maniatis:

BASIC BIOMEDICAL RESEARCH AND THE DEVELOPMENT OF DRUGS FOR THE TREATMENT OF HUMAN DISEASE

(Remarks by Dr. Tom Maniatis)

I would like to thank Dr. Nathans and the Congressional Biomedical Research Caucus for this opportunity to speak. Like Dr. Nathans, I would like to discuss the importance of funding basic biomedical research. I will also discuss the relationship between basic research that goes on in academic labs and the development of drugs for the treatment of human diseases.

My perspective on these issues is shaped by personal experiences in academic research and my role in founding a biotechnology company. I currently teach at Harvard University and direct an NIH-funded research program. The focus of my research in this field is to understand how a single cell, the fertilized egg, develops into an adult human being. An important concept to emerge from studies of many different organisms over the last fifty years is that this development occurs by a sequential and highly specific expression of individual genes. For example, during development, muscle cells express one set of genes, while brain cells express an entirely different set of genes. Therefore, understanding how these patterns of gene expression are controlled is really fundamental to an understanding of how we all develop. The funding of studies from a broad spectrum of organisms—from bacteria to man—has led to the fascinating discovery which Dr. Nathans mentioned in his remarks. That is, the mechanisms involved in gene expression of the simplest organisms—from bacteria, to yeast, to fruit flies—are virtually identical to those involved in human development. It has therefore been possible to use these less complex, more experimentally tractable systems to discover unifying principles in gene expression. In addition, studies of gene expression in bacteria have contributed directly to the development of the powerful tools to study human biology of the sort that Dr. Nathans mentioned. These methods also make it possible to produce large amounts of specific proteins, the products of these genes.

Thus, recombinant DNA technology, which was initially developed to study fundamental questions in gene expression, has become the foundation of the biotechnology industry. Federal funding of basic biomedical research during the past 20 years has therefore provided important inroads into the treatment of human diseases, both in terms of expanding our understanding of the basic concepts of biology and by providing powerful tools to develop new products for human health care.

To illustrate these points I would like to briefly mention how my research played a role in the development of this new technology. As a postdoctoral fellow supported by an NIH fellowship, I studied gene expression in a simple virus that infects bacteria. Investigation of the inner workings of this virus by a number of laboratories in the United States and in other countries led to an incredibly detailed understanding of how the virus replicates and how its genes are expressed. This knowledge was essential to the subsequent development of recombinant DNA methods as we know them today. When I established my own laboratory at Harvard I was interested in studying the expression of human genes but this was not possible because of the enormous complexity of the human genome. At that time basic gene isolation methods had been developed by others, as Dr. Nathans mentioned. However, this technology could not be effectively applied to the isolation of specific human genes because of the large size of the human genome. To tackle this problem, my laboratory developed a method which involved packaging each human gene into an individual bacterial virus. The collection of these recombinant viruses became known as a human genomic DNA library, since this collection contained within it all the genes present in a human cell. We then used this library to isolate specific human genes to determine how they are expressed.

However, in order to accomplish this, another key technological advance was required. Specifically, it was necessary to develop a method for reintroducing the isolated gene into the cell in which it is ordinarily expressed. This objective was accomplished in collaboration with Richard Axel's lab at Columbia University. Together we showed that a gene isolated from the genomic library could be transferred into cells in a test tube and then expressed. These two methods, gene isolation and gene transfer, have not only been widely used to study gene expression but they have also been used to produce large amounts of specific proteins in cultured cells, again a fundamental method used in biotechnology.

This ability to isolate and express virtually any human gene has obvious human health care potential. The recognition of this potential in the late 1970's and early 1980's rapidly led to the establishment of several biotechnology companies. Together with Mark Ptashne, a colleague at Harvard, I participated in founding one of these companies: Genetics Institute, in Cambridge, Massachusetts. In contrast to existing pharmaceutical companies which primarily developed drugs by synthetic organic chemistry, the new biotechnology companies envisioned the use of recombinant DNA technologies to produce protein-based drugs. Initially these companies benefited from technology transferred from university labs. However, as the companies grew they rapidly attracted outstanding scientists and these scientists not only developed and published new technology, but they also made fundamental contributions to the understanding of basic biology.

For example, the scientists at Genetics Institute have played a major role in the field of blood clotting, blood growth factors, and bone development over the past 10 years. At present I believe there is a mutually beneficial relationship between academic labs and biotechnology companies. In addition, the biotechnology companies have also developed important drugs. For example, I would like to briefly describe the development at Genetics Institute of a drug called Factor VIII. Individuals with an inherited disorder called hemophilia A are lacking a critical blood clotting factor called Factor VIII. Most of you are probably familiar with this genetic disease because of its frequent occurrence among members of royal families in Europe. Individuals with this disease can literally bleed to death from a small scratch or bruise. Hemophilia A is currently treated by injection of Factor VIII extracted from donated blood samples. Unfortunately, a large number of hemophilia A patients were infected by hepatitis or AIDS viruses present in the donated blood. Although precautions have now been taken to screen blood for the viruses, as long as blood is used as a source of Factor VIII, the possibility of contamination by these and other viruses is a serious problem. In fact, you may have read in The New York Times this morning about how the Red Cross is reorganizing its whole program to make blood contamination less likely to happen.

The two recombinant DNA methods that I mentioned, gene isolation and gene transfer, have been used to solve the contamination problem. The gene that encodes human Factor VIII was isolated from the genomic library that I described before and the Factor VIII gene was transferred into a virus-free cell that is grown in culture. Factor VIII is secreted from the cells, which are engineered for very high levels of protein production. The highly purified Factor VIII obtained in this manner is currently in the final stages of clinical trials, and approval by the Food and Drug Administration (FDA) is expected later this year. When this happens, hemophilia A patients will no longer have to be concerned about the possibility that a drug essential to their lives may carry a lethal contaminant. This is only one example of the large number of protein-based drugs that have been developed, which includes insulin, human growth hormone, interferon, a variety of blood cell factors which David Golde will discuss and, most recently, factors that stimulate bone growth and bone healing.

I've discussed only one example of how the investigation of fundamental biological problems can benefit society. None of us fascinated by the inner workings of the small bacterial virus 15 years ago could have predicted that the knowledge gained in these studies could contribute so directly to the current biological revolution. The first human gene was isolated in 1978 and less than a decade later drugs derived from these genes are being used routinely in clinical practice. The short time frame between discovery in the lab and direct application to the treatment of human diseases is clearly unprecendented in human history. None of these advances could have been made without the Federal support of basic biomedical researchers over the past 40 years. Currently there is little doubt that the United States leads the world in biomedical research and biotechnology. However, in order to sustain this leadership we must continue to support a broad spectrum of basic research. Although it is tempting to concentrate our resources on more directed research, for example, wrestling with the AIDS and cancer problems, it is important to keep in mind that the most important technical and conceptual breakthroughs in understanding these diseases often come indirectly and totally unexpectedly from basic research on other systems. The development of recombinant DNA technology provides an important case in point. Without this technology, which is based primarily on studies of gene expression in bacteria, we'd know little or nothing about the biology of the AIDS virus, and the dramatic advances of our knowledge in cancer and human genetic diseases simply would not have occurred.

It's important to note that continued funding of basic research alone is not sufficient to maintain our lead in biotechnology. We must strengthen educational programs in natural sciences at the secondary school level and provide incentives for young people to choose science as a career. The most important incentive is the assurance that research and teaching positions will be available and research funds will not dry up. Science is a difficult and demanding career that requires a great deal of commitment and sacrifice. The hours are long; the day-today work can often be tedious and frustrating. The rewards, however, are the exhilaration of discovery and gratification derived from making important contributions to society. However, the rewards cannot materialize if the research positions and funds are not available. Young people will simply not endure the hardships of an academic career if they feel that after years of hard work they will not be able to function in a productive research environment.

In a recent Gallup poll of academic investigators and NIH grant holders conducted by the Pharmaceutical Manufacturers Association, more than 80 percent of the respondents expressed the view that fewer American students are going into biomedical research. In addition, there is a widely perceived problem of the overall quality of American graduate students going down. In fact, at Harvard we can see that more and more of our students are from other countries, rather than from the United States. Ironically, this is occurring at a time in which the most exciting advances are being made in biology. But sadly, the brightest and best of our students are not choosing science as a careeer. Obviously, the long-term impact of this trend could be devastating to the biomedical research community in the United States. More than 90 percent of the academic leaders polled see a risk that the United States will lost its leadership in biomedical research over the next ten years, and the most serious threat is from Japan. The bottom line is, I think, that if we are going to maintain our leadership we have to strengthen science education at the primary and secondary level; we should not overemphasize targeted research at the cost of basic research; and we should actively recruit the brightest young people for careers in science and provide them with the right incentives: jobs and research support.

H.R. 2707

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. LEWIS of Florida. Mr. Speaker, in voting today in favor of H.R. 2707, the Labor, Health and Human Services, and Education Appropriations bill, I do so with some serious reservations.

This appropriations bill provides vital funding for Medicaid and Medicare. Funding is also provided for many other important programs, including cancer and AIDS research, health, education, drug treatment, and job training. These programs must be provided appropriate funding so that they continue to serve the needs of our Nation. I voted to support the continued operation of these programs, but I am hopeful that the excessive funding levels in this bill will be reduced in conference.

I will work with my Senate colleagues in an attempt to reduce overall increased levels of spending. If H.R. 2707 returns to the House from conference without substantial reductions, I will be obliged to oppose the bill.

I also oppose the bill's provision that prohibits the use of funds to enforce or implement HHS regulations that prohibit federally funded family planning clinics from providing information to clients about abortion.

H.R. 2707 is not the mechanism in which to attempt to overturn the Supreme Court decision in Rust versus Sullivan. Quite frankly, I find it irresponsible that the Democratic leadership would entangle these initiatives through debate on an issue which clearly merits discussion on its own standing.

I have in the past and will continue to support the title X family planning program which provides critical resources for education and counseling programs that include prenatal care, maternal care, child care, and family planning programs. The program was never intended to provide abortion as an option for an unintended pregnancy.

The Supreme Court ruling in Rust versus Sullivan simply enforces existing regulations—section 59.9—that prohibit title X projects from encouraging, promoting, or advocating abortion as a method of family planning.

As my voting record clearly indicates, I do not support spending Federal tax dollars to pay for abortion under any circumstance. Consequently, I do not support the promotion of abortion as an option for an unintended pregnancy under the federally funded title X family planning program.

In my opinion the attempt to overturn this ruling would seriously damage the intent of the family planning program to support preventive family planning services.

A SALUTE TO VICTORIA McKINNEY

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. DYMALLY. Mr. Speaker, I would like to salute Victoria McKinney, a distinguished citizen from Carson, CA, who was honored recently as one of the two 53d Assembly District's Democrats of the Year.

Only two Democrats are chosen for this distinction each year. Victoria has earned this honor by her hard work, perseverance, and loyalty. A longtime activist in South Bay politics, Victoria is a member of the 53d Assembly Democratic State Central Committee, State chairperson of the California Democratic Council African-American Caucus, a member of the Carson/Compton Martin Luther King Democratic Club, and other political affiliations.

Victoria has demonstrated a concern for issues which affect her fellow African-Americans as well as a strong dedication to community service. Despite a full schedule of political as well as domestic duties—she is the mother of two—Victoria has found time to earn a masters degree in behavioral science from California State University at Dominguez Hills. Presently, she is pursuing a doctorate degree from the University of Southern California.

In my district, we are extremely appreciative of the contributions and sacrifices made by Victoria to our community. The Carson community is much better off because of her 20-year involvement. These are among her community affiliations: Chair, NAACP Political Action Committee, Carson/Torrance Branch; Young Women for Good Government; California Women in Government; Association of Black Social Workers; Association of Black Psychologists; Black Women's Forum; Carson Concerned Citizens; Del Amo Homeowners Association; American Tennis Association, Carson Mall Advisory Committee, and Carson Players Theatrical and Cultural Group.

It is my belief that Victoria will continue her public service and in so doing will further distinguish herself and better the community in which she lives. Because my staff and I have worked with her in the past, I am doubly proud of her accomplishments. Understanding her sacrifices, I join friends and the community in saluting Victoria McKinney.

HOST DEFENSE: THE NEW MEDICAL FRONTIER

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 26, 1991

Mr. GEKAS. Mr. Speaker, I submit the following remarks by David W Golde, M.D.:

HOST DEFENSE: THE NEW MEDICAL FRONTIER

(Remarks by David W. Golde, M.D.)

I would like to begin by thanking Congressman Gekas for the opportunity to discuss with you the enormous advances that have been made in the treatment of human disease as a direct result of the application of recombinant DNA technology and the biotechnology revolution. As you have heard, recombinant DNA technology allows for the isolation of human genes encoding specific proteins and the subsequent production of these proteins in quantity using bacterial, yeast, or mammalian cell structures containing the cloned human gene. This technology has been especially useful for the isolation and production of hormones that are produced normally in the body in minute quantities. Also, genetic engineering is being used to tailor-make monoclonal antibodies, to develop vaccines such as those against hepatitis, and to produce proteins important in blood coagulation. Ultimately, genes can be inserted into human cells in gene therapy strategies to correct genetic abnormalities or to provide normal cells with valuable new properties. While the applications of modern biotechnology to human therapeutics are becoming obvious for disease states requiring replacement of endocrine hormones, clotting proteins, or enzymes. I would like to focus on an area of biotechnology that I believe will change medical treatment in a very profound manner. I am speaking now of drugs produced by recombinant technology that have the capability of enhancing host defense—that is, the ability of the individual to defend himself against a hostile microbial environment as well as against internal threats such as cancer.

I am a physician scientist who has followed a rather traditional academic career for over 20 years in the University of California System. My entire career has been supported by the NIH and without that support I would not be here today speaking on this subject. What is a physician-scientist? A physician scientist is an academician, a teacher who practices medicine usually in a specialty area and also conducts biomedical research that may be at a basic level but is directed at clinically relevant problems. The advantage of being both a practicing physician and a scientist is the insight and motivation that result from seeing patients. The physician-scientist has the opportunity to directly ascertain the important questions that need to be asked about human disease—ultimately with an emphasis on therapeutics. When I finished my internship at the University of California in San Francisco (UCSF), I came to the NIH in Bethesda, Maryland, and from my studies in the Clinical Pathology Department, I became enthusiastic about blood cells, how they are made, what they do, and what goes wrong in disease states. Seeing patients with various types of Leukemia, particularly young children with acute Leukemia, intensified my desire to investigate blood disorders.

Upon returning to UCSF I decided to focus my research on the study of how these blood cells are produced and how ultimately we can affect their control in the manner that will impact favorably on patients' care. I did not know in the early 1970's, that I would be part of a revolution that would change medicine. When I joined the University of California faculty some 20 years ago I was a trained hematologist and oncologist, with my main interest being in the area of blood-related cancers, primarily leukemia. In those days, physician-scientists such as myself had quite categorical interests with regard to studies of specific disease states in the laboratory and the clinic. One of the major contributions of the biotechnology revolution has been the joining of clinicians and scientists of widely disparate interests and capabilities in the common goal of understanding the pathophysiologic basis of disease states and in developing new and effective therapeutic approaches. Thus, Ph.D.'s who previously worked only in model systems such as the fruit fly or the slime mold now are comfortable and very effective working with human tissues and using human disease models. My lifetime interest has been the study of the production and function of the blood cells; yet when I initiated my research career few had even conceived of the possibility of controlling the production and function of the blood cells. I began studying the growth and development of bone marrow cells in culture. The culture systems allowed for the identification of certain proteins, referred to as colony-stimulating factors (CSFs) which regulate the development of blood cells from the bone marrow. Within the last 8 years these CSFs were purified and molecularly cloned as a result of the cooperative enterprise of academia and the biotechnology industry. The CSFs allow us to do what was almost inconceivable two decades ago, that is, control the production and function of the blood cells.

In Leviticus, the Bible states that "the life of the flesh is in the blood." This statement is literally true in that each type of blood cell is required for life. Erythrocytes, (red blood cells) carry oxygen to the tissues and therefore defend against lack of oxygen, (hypoxia). The white blood cells defend the body from microbial pathogens and tumors, and the platelets defends against bleeding caused by trauma. The lymphocytes are a class of white blood cells that are primarily concerned with immunity the B lymphocytes produce immunoglobulins antibodies, and the T lymphocytes are concerned with recognition of foreign antigens as well as killing tumor cells, foreign tissue cells, and certain virus-infected cells. Since we now have isolated hormones that control the production of such cells as well as the technology for producing safe vaccines and generating specific antibodies in the test tube, we are finally gaining control of the fundamental elements of host defense. What does this mean for medicine? It implies that we have a whole new sphere of therapeutic interventions that regulate normal body processes leading to an enhanced state of defense against disease.

Humans have a highly developed, complex system of defenses to protect them against invasion by microorganisms. These defenses include barriers such as the skin and the mucous membranes and dynamic elements such as the hairlike structures or cilia in the tracheobroncheal tree that push unwanted particles out of the respiratory tract. Standing alone, however, these systems are not sufficient to prevent the entry of disease-causing organisms. Rather, the host's main line of defense necessarily involves the immune system and white blood cells produced in the bone marrow.

The introduction of immunization was one of the major advances in the history of medicine. Edward Jenner (1749–1823) found that milkmaids exposed to the virus causing pox in cows became resistant to human smallpox. Thus it was discovered that the host immune system could be specifically activated to combat disease-causing viruses if the host had previously been exposed to either a killed or attenuated form of the virus. This same principle has held to establish immunity against toxins, such as the toxins produced by tetanus-causing bacteria (lockjaw), and immunity toward certain bacteria can be heightened by injection of parts of the organism's outer coat. The host produces antibodies (circulating proteins that bind specifically to components of a microorganism), and also develops a cell-mediated immunity (recognition and killing by white blood cells).

While vaccination and immunization have had a major impact on heightening defenses of the individual host to specific disease-causing organisms, no treatment had been available that would make the host a better "defender" against microbial attack in general. For example, until the introduction of antibiotics, therapy against tuberculosis was largely relegated to the sanatorium. Throughout history, tuberculosis (consumption) has been a disease of the economically disadvantaged, mainly because of unhealthful living conditions and inadequate nutrition. Thus, individuals with tuberculosis living in a relatively more exposure-prone location such as New York City might be sent to a sanatorium in Colorado, where they would rest, eat a healthful diet, sun themselves, and breathe clean mountain air. In many instances this was sufficient to allow the individuals' own host defense mechanisms to contain the tuberculosis bacillus.

As you have heard, the last decade has seen enormous progress in the field of recombinant DNA technology and we have successfully isolated genes for those hormones that control white blood cell production and function. These hormones are referred to as colony-stimulating factors (CSFs) and interleukins and they stimulate the production of white blood cells from bone marrow precursors. Now, the genes for at least 12 of the CSFs and interleukins have been cloned. Erythroprotein, GM-CSF, and G-CSF are FDA-approved drugs produced by recombinant DNA technology which allow physicians today to regulate the number of circulating white and red blood cells. The CSFs will be used to ameliorate bone marrow toxicity resulting from cancer chemotherapy, increase host defense against infections in persons with acquired immunodeficiency syndrome (AIDS), and improve the host defense capability of the elderly, diabetics, victims of burns, and patients undergoing complicated operative procedures. Our newfound ability to marshal the body's host defense cells will lead us to a new era in the treatment and prevention of human disease much as the introduction of vaccination and antibiotics did in the past.

The clinical use of erythroprotein, which can only be produced in therapeutic quantities by recombinant technology, has enhanced the quality of life of thousands of patients with kidney disease and promises to decrease the need for blood transfusion over a wide range of indications. Erythropoietin, being the normal hormone regulating red cell production, is nontoxic and leads to a stimulation of red cell production that can be as much as 10 times normal. Thus erythroprotein will be useful in patients undergoing elective surgical procedures as well as in reducing the need for transfused blood in emergency cases. It is also effective in stimulating red cell production in cancer patients and in AIDS.

The colony-stimulating factors (CSFs) have already proved their utility in situations as diverse as chemotherapy of cancer, bone marrow transplantation, and acquired immunodeficiency syndrome (AIDS). An example of the therapeutic power of some of these agents is an experience we had with a faulty member at UCLA who had hairy-cell leukemia with a marked diminution in circulating normal white blood cells. He developed an infection of the blood stream (septicemia) that did not respond to antibiotics and his blood pressure was falling as he developed septic shock, a normally fatal situation under these conditions. We were able to give him G-CSF as an experimental agent and dramatically his white blood cell count rose, his fever came down, and his blood pressure returned to normal as his body was now able to fight off the infection in conjunction with the antibiotics. There is no question in my mind that the G-CSF saved his life at that juncture and allowed us to give subsequent therapy which has controlled his leukemia. The specific therapy for his leukemia was alpha interferon, another important product of biotechnology. Human interferon produced in bacteria by genetic engineering is a natural antiviral protein and important part of the host defense mechanism that has been found to have marked therapeutic efficacy in hairy-cell leukemia. The professor has been back to work for several years and his disease is well under control. Interferon is now widely used in treating chronic myelogenous leukemia, viral hepatitis, and various solid tumors such as kidney cancer and Kaposi's sarcoma associated with AIDS.

Advances in biotechnology will not only permit enhancement of host defense but also novel means of immunosuppression to allow engraftment of organs as well as techniques for interfering with inappropriate immune responses such as those that occur in autoimmunity leading to inflammatory conditions such as rheumatoid arthritis and systemic lupus erythematosis. In short, the modern tools of biotechnology have permitted the opening therapeutic avenues not even conceived of a decade ago. These therapeutic advances will help us to contain catastrophic disease processes and hopefully to prevent them by allowing individuals a greater range of protection against harmful environmental influences.

I hope I have communicated the profound impact the technology revolution will have on medical therapeutics as well as the need to continue this line of development. Looking back, however, it is instructive to analyze the preeminence of the United States in the development of products of modern biotechnology. My belief is that the U.S. leadership stems directly from the major investment made by Government in the biomedical sciences over the last several decades. I believe this investment has and will continue to pay huge dividends not only in the amelioration of human suffering but also in the economic development of our nation. At the core of our leadership in this area lies the support our Government has given to creative and entrepreneurial biomedical research as well as the ability to transfer technology from the public to the private sector for ultimate commercial development and widespread application.

What can Congress do to support and nurture the biotechnology revolution that will increase the quality of medical care, decrease costs, maintain our competitive advantage worldwide, and help our economy?

Support the National Institutes of Health. This is the main source of funding for our biomedical scientists in training and in academia. The NIH is probably the main reason we have the best biomedical research in the world.

Support the biotechnology enterprise. Eliminate unnecessary regulatory restraints and remove obstacles to research such as restriction on the use of fetal tissue.

Enact legislation to stop the avalanche of frivolous and reckless malpractice and liability lawsuits. Eliminate contingency fees and instead provide legal assistance to guarantee appropriate representation of the economically disadvantaged.

Strengthen the FDA to enable it to deal effectively with the new products of biotechnology.

Enact legislation defining guidelines for the use of human tissues in research. If scientists are to study human disease they must use human tissue and not be subject to the burden of potential legal liability. The use of human tissue in research is critical and greatly reduces the need for animal experimentation.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, June 27, 1991, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 28

9:00 a.m.

Joint Economic

To hold hearings on the allocation of resources in the Soviet Union and China.

SD-628

9:30 a.m.

Labor and Human Resources

To hold hearings on S. 1324, to revise the Public Health Service Act to generate accurate data necessary for maintenance of food safety and public health standards, and to protect employees who report food safety violations.

SD-430

JULY 8

3:30 p.m.

Armed Services

Defense Industry and Technology Subcommittee

Business meeting, to mark up those provisions which fall within the subcommittee's jurisdiction of S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense.

SR-222

JULY 9

8:00 a.m.

Armed Services

Manpower and Personnel Subcommittee

Business meeting, to mark up those provisions which fall within the subcommittee's jurisdiction of S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense.

SR-222

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold oversight hearings on implementation of the research title of the 1990 farm bill (P.L. 101-624).
SR-332

Armed Services
Readiness, Sustainability and Support Subcommittee
Business meeting, to mark up those provisions which fall within the subcommittee's jurisdiction of S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense.
SR-232A

9:30 a.m.
Environment and Public Works
Environmental Protection Subcommittee
To resume hearings on S. 1081, to revise and authorize funds for programs of the Federal Water Pollution Control Act, and other proposed legislation authorizing funds for clean water programs, focusing on effluent guidelines, pretreatment and water quality standards.
SD-406

11:00 a.m.
Armed Services
Projection Forces and Regional Defense Subcommittee
Business meeting, to mark up those provisions which fall within the subcommittee's jurisdiction of S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense.
SR-222

2:00 p.m.
Select on Indian Affairs
Business meeting, to markup S. 668, to authorize consolidated grants to Indian tribes to regulate environmental grants to Indian tribes to regulate environmental quality on Indian reservations; to be followed by an oversight hearing on the Navajo-Hopi relocation program.
SR-485

2:15 p.m.
Armed Services
Conventional Forces and Alliance Defense Subcommittee
Business meeting, to mark up those provisions which fall within the subcommittee's jurisdiction of S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense.
SR-232A

4:15 p.m.
Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
Business meeting, to mark up those provisions which fall within the subcommittee's jurisdiction of S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense.
SR-222

JULY 10

9:00 a.m.
Armed Services
Business meeting, to mark up S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense.
SR-222

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 471, to protect consumers by regulating certain providers of 900 telephone services, and S. 1166, to provide for regulation and oversight of the development and application of the telephone technology known as pay-per-call.
SR-253

Environment and Public Works
Environmental Protection Subcommittee
To resume hearings on implementation of section 404 of the Clean Water Act (P.L. 100-4), providing for a Federal wetland protection program.
SD-406

2:00 p.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings to examine national tourism policy.
SR-253

JULY 11

9:00 a.m.
Armed Services
Business meeting, to continue to mark up S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense.
SR-222

9:30 a.m.
Select on Indian Affairs
To hold oversight hearings on employment on Indian reservations.
SR-485

JULY 15

2:00 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings to review the Department of Energy's role in math and science education.
SD-366

JULY 16

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on proposed legislation authorizing funds for rail safety programs.
SR-253

Governmental Affairs
Oversight of Government Management Subcommittee
To resume oversight hearings on the administration and enforcement of the Federal lobbying disclosure laws.
SD-342

JULY 17

9:00 a.m.
Select on Indian Affairs
To hold hearings on S. 754, to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program.
SR-485

JULY 18

2:30 p.m.
Energy and Natural Resources
To hold hearings on S. 1018, to establish and measure the Nation's progress toward greater energy security.
SD-366

JULY 19

9:30 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine efforts to combat fraud and abuse in the insurance industry.
SD-342

JULY 23

9:30 a.m.
Rules and Administration
To hear and consider a report from the Architect of the Capitol on current projects, and to consider other pending legislative and administrative business.
SR-301

2:00 p.m.
Energy and Natural Resources
To hold hearings on Senate Joint Resolutions 22 through 34, to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act of 1920.
SD-366

JULY 24

9:30 a.m.
Joint Printing
To resume hearings to examine the technological future of the Government Printing Office.
B-318 Rayburn Building

JULY 25

9:30 a.m.
Rules and Administration
To hold hearings on S. 165, to direct the Secretary of the Senate or the Clerk of the House of Representatives, when any appropriations bill or joint resolution passes both Houses in the same form, to cause the enrolling clerk of the appropriate House to enroll each item of the bill or resolution as a separate bill or resolution.
SR-301

10:30 a.m.
Rules and Administration
To hold hearings on S. Res. 82, to establish the Senate Select Committee on POW/MIA Affairs.
SR-301

JULY 30

9:30 a.m.
Energy and Natural Resources
To hold oversight hearings on the resettlement of the Rongelap, Marshall Islands.
SD-366

HOUSE OF REPRESENTATIVES—*Thursday, June 27, 1991*

The House met at 11 a.m. and was called to order by the Speaker pro tempore [Mr. GRAY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

JUNE 27, 1991.

I hereby designate the Honorable WILLIAM H. GRAY III to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker, House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are indebted to people who help point the way to justice and who walk the road of integrity. We know, O God, of the powerful influence of those to whom we look for guidance and strength and wisdom, and whose direction for our lives is so critical. Bless all those people whose lives so shine with the beauty of Your light and whose words and deeds proclaim the message of peace that they will remain in Your grace and heavenly care all their days. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The gentlewoman from Indiana [Ms. LONG] will please come forward and lead the Members in the Pledge of Allegiance to the flag.

Ms. LONG led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment joint resolutions and a concurrent resolution of the House of the following titles:

H.J. Res. 72. Joint resolution to designate December 7, 1991, as "National Pearl Harbor Remembrance Day";

H.J. Res. 138. Joint resolution designating the week beginning July 21, 1991, as "Lyme Disease Awareness Week";

H.J. Res. 149. Joint resolution designating March 1991 and March 1992 both as "Women's History Month," and

H. Con. Res. 175. Concurrent resolution providing for an adjournment of the House from June 27, 1991 to July 9, 1991 and an adjournment of the Senate from June 28, 1991, June 29, 1991, June 30, 1991, July 1, 1991 or Tuesday, July 2, 1991 to July 8, 1991.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 751. An act to enhance the literacy and basic skills of adults, to ensure that all adults in the United States acquire the basic skills necessary to function effectively and achieve the greatest possible opportunity in their work and in their lives, and to strengthen and coordinate adult literacy programs.

The message also announced that the Senate had passed joint resolutions of the following titles, in which the concurrence of the House is requested:

S.J. Res. 36. Joint resolution to designate the month of November 1991 and November 1992 as "National Alzheimer's Disease Month";

S.J. Res. 40. Joint resolution to designate the period commencing September 8, 1991, and ending on September 14, 1991, as "National Historically Black Colleges Week";

S.J. Res. 72. Joint resolution to designate the week of September 15, 1991, through September 21, 1991, as "National Rehabilitation Week";

S.J. Res. 73. Joint resolution designating October 1991 as "National Domestic Violence Awareness Month";

S.J. Res. 78. Joint resolution to designate the month of November 1991 and 1992 as "National Hospice Month";

S.J. Res. 92. Joint resolution to designate July 28, 1991, as "Buffalo Soldiers Day";

S.J. Res. 95. Joint resolution designating October 1991 as "National Breast Cancer Awareness Month";

S.J. Res. 121. Joint resolution designating September 12, 1991, as "National D.A.R.E. Day";

S.J. Res. 125. Joint resolution to designate October 1991 as "Polish-American Heritage Month";

S.J. Res. 126. Joint resolution to designate the second Sunday in October of 1991 as "National Children's Day";

S.J. Res. 132. Joint resolution to designate the week of October 13, 1991, through October 19, 1991, as "National Radon Action Week";

S.J. Res. 138. Joint resolution designating August 6, 1991, as "National Neighborhood Crime Watch Day";

S.J. Res. 142. Joint resolution to designate the week beginning July 28, 1991, as "National Juvenile Arthritis Awareness Week";

S.J. Res. 151. Joint resolution to designate October 6, 1991, and October 6, 1992, as "German-American Day";

S.J. Res. 154. Joint resolution to designate August 1, 1991, as "Helsinki Human Rights Day"; and

S.J. Res. 156. Joint resolution to designate the week of October 6, 1991, through October 12, 1991, as "Mental Illness Awareness Week."

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 674) "An Act to designate the U.S. post office located at 304 West Commercial Avenue in Monterey, TN, as the 'J. E. Eddie Russell Post Office.'"

The message also announced that, pursuant to Public Law 96-114, as amended by Public Laws 98-33, 99-161, and 100-674, the Chair announces, on behalf of the Republican leader, his appointment of Rod DeArment, of Virginia, and Mary McAuliffe, of Virginia, as members of the Congressional Award Board.

The message also announced that, pursuant to Public Law 86-380, the Chair, on behalf of the Vice President, appoints Mr. AKAKA, to the Advisory Commission on Intergovernmental Relations, vice, Mr. LEVIN, resigned.

DESIGNATION OF HON. STENY H. HOYER TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH JULY 9, 1991

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 27, 1991.

I hereby designate the Honorable STENY H. HOYER to act as Speaker pro tempore to sign enrolled bills and joint resolutions through July 9, 1991.

THOMAS S. FOLEY,
Speaker, House of Representatives.

The SPEAKER pro tempore. Without objection, the designation is agreed to.

There was no objection.

APPOINTMENT OF MEMBERS TO THE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

The SPEAKER pro tempore. On behalf of the Speaker, pursuant to the provisions of section 3(a) of Public Law 86-380, the Chair announces the Speaker's apppointment of the following Members of the House to the Advisory Commission on Intergovernmental Relations: Mr. WEISS of New York and Mr. THOMAS of Wyoming.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

APPOINTMENT TO A TASK FORCE TO MAKE FINDINGS AND RECOMMENDATIONS FOR ENVIRONMENTAL RESTORATION AT MILITARY BASES SCHEDULED FOR CLOSURE

The SPEAKER pro tempore. On behalf of the Speaker, pursuant to the provisions of section 2923(e)(2) of Public Law 101-510, the Chair announces the Speaker's appointment of Mr. Don Gray of Fort Washington, MD, to the task force to make findings and recommendations for environmental restoration at military bases scheduled for closure.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES

Mr. HOYER. Mr. Speaker, by direction of the Democratic caucus, I offer a privileged resolution (H. Res. 186) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 186

Resolved, That the following named Members be, and they are hereby, elected to the following standing committees of the House of Representatives:

Committee on Education and Labor: John W. Olver, Massachusetts to rank following Mr. Roemer, Indiana.

Committee on Science, Space, and Technology: Eliot L. Engel, New York; John W. Olver, Massachusetts.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROPOSED TAX CREDIT FOR CHILDREN RAISES WEIGHTY ISSUES

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, does the country know that 1 out of 5 children grow up in poverty? Does the country know that 1 out of 4 children grow up with only one parent? Does the country know that 25 percent of our high school students drop out or that 1 out of 2 Hispanics do not make it out of high school?

Mr. Speaker, recently the National Commission on Children delivered a very useful report, the centerpiece being a $1,000 tax credit for every young child. A lot of important issues were raised.

Should single parents, if the absent spouse did not pay his or her child support, get Government pay? Should there be any condition for this tax credit, or should the Government give payments on a no-strings-attached basis?

Should parents be given the choice of what public school their child attends? Should employers be forced to give workers job-protected leave for childbirth, adoptions, and family emergencies? Should more emphasis be put on helping families stay together and less on foster care?

Should children be guaranteed universal health coverage? Should employers be required to extend health insurance to both children and pregnant women who are required to contribute to Government insurance programs?

A lot of important issues are raised by this report, Mr. Speaker. Let us focus more on the future. Let us focus on domestic programs, on children.

KUWAIT SOFTENS SENTENCES

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, yesterday on the final day of martial law in Kuwait, the Crown Prince and Prime Minister Saad Abdullah Al-Sabah commuted the death sentences of 29 persons convicted of collaborating with Iraq.

I commend the Crown Prince for this bold move which, I am sure, is not popular in all circles in Kuwait. Having personally visited Kuwait and seen the horrors of Iraqi brutality, I can understand the Kuwaiti people's demand for ultimate justice to those who helped Iraq and caused so much pain and suffering. It's hard to forgive and show leniency under these circumstances.

I am encouraged by this judicial action and the ending of 4 months of martial law in Kuwait. Coupled with the announcement of elections next year, I hope this marks the beginning of a new phase of real political and legal reforms in Kuwait. While over 300 cases have been dismissed or resulted in acquittals, I hope the remaining 125 cases now transferred to the regular court system will be tried with fairness and respect for due process and the rights of the accused.

INTRODUCTION OF LEGISLATION TO PROVIDE FOR ADJUSTMENT OF COLAS FOR TOP GOVERNMENT OFFICIALS

(Ms. LONG asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LONG. Mr. Speaker, under current law, the President has the authority to reduce, cancel, or postpone COLA's for General Schedule employees during times of war or severe economic crisis, but there is no similar mechanism to reduce, cancel, or postpone COLA's for Members of Congress, Federal judges and Justices, or other top Government officials under these same dire circumstances.

This is simply an unfair situation. I am pleased that today a number of Members and I are introducing legislation to address this issue, to remedy what we believe is an inequity among those of us who work for the taxpayers of this Nation.

Our bill would simply provide that the rate of COLA's for Members, judges, and other top Government officials would never exceed that for General Schedule employees.

Mr. Speaker, the purpose of this legislation is simple—to treat the COLA's of Members of Congress, Federal judges and Justices, and other top Government officials the same as the COLA's of General Schedule Government employees. It is in the interest of fairness and equity that we introduce this measure.

□ 1110

REMOVE HUNGARY FROM LIST OF COMMUNIST NATIONS

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute.)

Mr. THOMAS of Wyoming. Mr. Speaker, the Hungarian people's decades of struggle against Soviet communism paid off in 1989, when the joint efforts of the different democratic opposition groups forced the Hungarian Communist Party to end its monopoly on power and allow a peaceful transition to democracy and the dismantling of one-party rule.

Since then, the transformation of the Hungarian political landscape has been nothing short of breathtaking. Privatization of Government-owned businesses continues apace; the Hungarian Parliament has approved plans to return much of the property stolen by the Communists to the rightful owners; most important, as of last Wednesday, all Soviet troops have left Hungarian soil.

However, an anachronism in United States law remains unfixed. According to our statutes, Hungary remains classified as a Communist nation and is thus disqualified from several important economic and political benefits available to other friendly nations. To correct this anomaly, today I will be joining Congressman CHRISTOPHER COX and over 20 other colleagues in sponsoring legislation to remove Hungary from the official list of Communist nations. I hope our colleagues will join us in lifting this burden from the shoulders of the newly sovereign Hungarian people.

LUXURY TAXES ARE A NIGHTMARE

(Mr. GOSS asked, and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, it's a nightmare. Thousands of middle class workers who have lost their jobs due to the luxury tax are wondering if someone could pinch them and wake them up from this terrible dream. In one of its least smart moves, Congress turned the lights out on the boating, auto, and jewelry industries in last year's budget agreement.

I don't know how the number crunchers on Capitol Hill do their math, but in my view, when industries go bankrupt, people lose jobs, and the Treasury loses tax dollars all at the same time. Someone did not do their homework. Many say that it's Congress that has been asleep—and has refused to respond to the alarm bells going off. There were plenty of us who argued that trying to cut the deficit by raising taxes would backfire—and it has. Estimates are boat sales are down on the order of 84 percent this year and we're on our way to losing 19,000 boating jobs. Instead of raising revenue for the Treasury, the luxury tax has depressed industries and is actually costing the Government money.

Mr. Speaker, the people of southwest Florida prefer working to welfare. It is high time for a wake-up call. Let us admit the failure and get to work on a remedy—repeal the so-called luxury taxes.

SUPPORT DEMOCRACY AND MARKET REFORM FOR ALL PEOPLES

(Mr. ECKART asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ECKART. Mr. Speaker, today, in a far away part of the globe, we are witnessing tragedy and triumph. We see, on one hand, the triumph of democracy and market reform. That has occurred, of course, in the Republics of Croatia and Slovenia.

We see, on the other hand, the tragedy of suppression, where another large ethnic majority in that country, through the use of force of its army, threatens to suppress the freely expressed hopes, wishes, and aspirations of a new day and a new dawn for democracy in that troubled country.

Slovenia, Yugoslavia, is the home of my parents and grandparents. I still have many family and friends who reside in that now troubled land.

This Nation, which preaches and, indeed, practices democracy and an open economic opportunity for all, must stand more four-square for those same principles when aspired to by other nations and other peoples who seek to emulate our success.

Mr. Speaker, I urge our State Department, I beseech our President, to speak more forcefully in support of democracy and in support of market reform, and more vigorously against the threat of violence which will suppress it.

SUPPORT FOR BICYCLISTS

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, on Earth Day which we just recently celebrated, the gentleman from Washington [Mr. McDERMOTT] and I joined several dozen bicyclists of the local arena in a trip from Capitol Hill down to the White House through the congestion of traffic that is an everyday occurrence in Washington, DC.

As a result of that experience, we are introducing today legislation that will make a small step for mankind in the total number of issues that resound around the bicycle.

No. 1, we are going to try to provide that in each Federal courthouse across the land, there will be bicycle racks provided for those who will bicycle to work. What does that do? That gives incentives to engage in physical exercise and physical fitness, which we as Americans need so much; it will reduce the number of automobiles on the highway; it will conserve energy; and, overall, it will give us a sense of progress in this congested world of ours.

Mr. Speaker, this issue might not rise to the level of national security or world affairs, but it is a small step for our American mankind in these important issues.

WATER DESALINATION ACT OF 1991

(Mr. BILBRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, providing this Nation and the world with fresh, usable water will be one of the greatest challenges we face. The Water Desalination Act of 1991 will revitalize an important Research and Development Program to convert fresh water from seawater. The program was initiated in 1953. President Kennedy was a fervent supporter of desalination research. He believed that economic desalination would serve the long-range interests of humanity and dwarf other scientific accomplishments.

The program flourished for 30 years until 1982 when the Reagan administration descontinued Federal funding. Technological advances in desalination could not have been possible without federally sponsored research and development. It is needed now more than ever. Severe drought conditions, growing populations, contaminated ground water, competing municipal, industrial, and agricultural uses all require water.

Without new research there will be increasing conflict over the existing, limited water supply. Cosponsor the Water Desalination Act of 1991 and we can prepare for the future.

COMMUNISTS IN BELGRADE SHOULD GIVE WAY TO DEMOCRACY

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, there is good news, and there is bad news, out of Eastern Europe. The good news is progress continues in Poland and Czechoslovakia and Hungary. Great strides have been made in the cause of human freedom and progress. I join with the gentleman from California [Mr. COX] and others today in asking that we recognize that Hungary be redefined as a non-Communist country. That should be a matter of joy for all of us.

But at the same time, we must note that a dark cloud of conflict and repression still hangs over the Balkans. Yes, in Yugoslavia, the last vestiges of communism, the last tower of communism on this Earth, still clings to the people and oversees the people there in Yugoslavia, and it is bringing conflict and bloodshed.

Croatia and Slovenia have declared their independence, and we must let the communists in Belgrade know that we will not tolerate force and coercion and bloodshed to be used against the people of Slovenia and Croatia to force them into a confederation.

Mr. Speaker, the Communists in Belgrade should give way to democracy, and then reach a compromise with the people of Croatia and Slovenia. The only thing that has been holding back the progress of peace in that part of the world is this Communist dictatorship in Belgrade. We are asking for democracy for all of Yugoslavia, and for all parties to recognize the democratic rights of each other, and try to reach a compromise without conflict.

THE CHATTAHOOCHEE INDIAN HERITAGE CENTER AT FORT MITCHELL, AL

(Mr. RAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAY. Mr. Speaker, of all the sad, regrettable, conscience-stirring stories in the development of our great Nation, perhaps none is more sad or more regrettable than the story of the Great Trail of Tears that stained this land in the 1820's and 1830's.

A proud, highly civilized and gifted people were taken from their homes and forcefully settled in a West they had never seen.

They were marched westward, a direction that held special terror to the Indians, for the Indian the West represents blackness—the place where the Sun dies every day.

In 1833, just before the largest removal of the Indians began, a census was conducted. It listed every household head of the Indian nation. In all, some 8,065 Indians lived along the Chattahoochee.

Today, on the site of Fort Mitchell, AL, a point of origin for the Creek Indian "Trail of Tears," the historic Chattahoochee commission is raising funds to build an Indian heritage center, a museum without walls on 9 acres of Fort Mitchell Park. Douglas Purcell is executive director of the Historic Chattahoochee Commission and a member of the board of directors of the Chattahoochee Indian Heritage Association.

I had the pleasure this spring of meeting with several board members: Former Congressman Jack Brinkley, my predecessor, chairman of the Chattahoochee Commission; Beverly Greer; John Lupold; Mr. Purcell; and Fred Sessell.

They told me that thus far they have raised $85,000 toward a goal of $700,000. They suggested that they would like to get help from the U.S. Army for in-kind assistance with the grading and engineering on the site. This probably comes under the National Guard or the Corp of Engineers. Or perhaps from a public spirited private construction company.

Former Congressman Brinkley asked for limited assistance in congressional appropriations. These are details to be considered after a site plan has been developed and the directors have consulted with the Bureau of Indian Affairs.

Details will come later. The point I wish to make today is to advise the Congress about the beginning of this important, historic project. It is to be located just across the Chattahoochee River from the Third Congressional District of Georgia, which I am honored to represent.

Let me add one more point. Very few good Americans are proud of the treatment of the natives of this proud land. The treatment of the Indians is a scar on our proud history. If this Indian Heritage Center at Fort Mitchell, AL, can right just a small bit of the wrong done here it will be a worthwhile project and one that I am proud to support.

□ 1120

H.R. 461 REQUIRES ACCOUNTABILITY FOR FEDERAL GOVERNMENT FOREIGN TRAVEL

(Mr. BARTON of Texas and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, Gov. John Sununu had done an outstanding job as a public servant, first as Governor of New Hampshire and most recently as Chief of Staff at the While House. He has an outstanding record of performance in those two positions.

Sometimes in this town and in the profession that we are in, the profession, of politics, when performance cannot be attached, one tries to attach personality. And some of Governor Sununu's detractors have seized on the issue of the travel around the country as a way to attack him.

I want to read a question from my most recent questionnaire that deals with congressional travel. It says:

> Would you vote for H.R. 461? This bill requires greater accountability for Federal Government foreign travel by requiring Federal officials, including Members of Congress, to travel by the most economical means possible. It would also publicly disclose travel of individual Members.

Mr. Speaker, in answer to this question 914 constituents of my district, 96.7 percent have said they would vote for that bill; 29, or 3.1 percent said they would vote against it, and 2 say they are undecided.

Do my colleagues know how many Members we have that have cosponsored this legislation? Less than a dozen. The gentleman from Pennsylvania, Congressman KANJORSKI, a Democrat, is the original Democratic sponsor. I am one of the few Republican sponsors.

Mr. Speaker, I believe that before we attack the speck in Governor Sununu's eye, we take a point blank look at the plank in our eye and do something to clean up our own act in this body of our travel plans.

IN COMMEMORATION OF THE RETIREMENT OF GEN. ARVID E. WEST

(Mr. MORAN asked and was given permission to address the House for 1 minute).

Mr. MORAN. Mr. Speaker, I would like to take this opportunity to congratulate Brig. Gen. Arvid E. West on his retirement and thank him for the years of meritorious service he has dedicated to the U.S. Army and to improve the Fort Belvoir facility in Fort Belvoir, VA.

General West came to Fort Belvoir on September 1, 1989, with a command to "completely turn around and clean up" the Directorate of Logistics at Fort Belvoir. General West did just that. In 2 short years, General West's enthusiam and dedication has helped developed Fort Belvoir into a model facility, which has recently been recognized with the Army Community Excellence Award for the best medium-sized post.

General West, a native of Norway, MI, graduated from the U.S. Military Academy in 1956. He then served two tours of duty in Vietnam, where he was awarded the Silver and Bronze Stars, the Legion of Merit, four Oak Leaf Clusters, and the Purple Heart. General West has always been a natural leader and role model for those fortunate enough to serve under him and a friend for those fortunate enough to work with him in the community.

General West is a friend of mine and will be greatly missed by my constituents and by the U.S. Army. I am confident that he will apply the same level of professionalism and devotion to his new post with the Missouri Division of Public Highway Safety as he did in Fort Belvoir.

RESIGNATION AS MEMBER OF COMMITTEE ON EDUCATION AND LABOR

The SPEAKER pro tempore (Mr. GRAY) laid before the House the following resignation as a member of the Committee on Education and Labor:

> HOUSE OF REPRESENTATIVES,
> *Washington, DC, June 27, 1991.*
>
> Hon. THOMAS S. FOLEY,
> *Speaker of the House, House of Representatives, Capitol Building, Washington, DC.*
>
> DEAR MR. SPEAKER: By way of this letter, I want to inform you and the Democratic Steering and Policy Committee of my resignation from the Committee on Education and Labor.
>
> I very much appreciated the opportunity to serve under Chairman Ford. Also, I would like to thank the Steering and Policy Committee for their confidence in me as a temporary appointment.
>
> If I may be of service in the future, please do not hesitate to contact me.
>
> Sincerely,
>
> PETER J. VISCLOSKY,
> *Member of Congress.*

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

A BILL TO END COMMUNIST CLASSIFICATION FOR HUNGARY

(Mr. COX of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX of California. Mr. Speaker, last Wednesday, June 19, the Red army finally left Hungarian soil, the last troop left at that checkpoint. That ended almost 45 years of Red army occupation of Hungary.

For four long decades Hungary has suffered under Soviet communism and now, on Sunday, June 30—next Sunday—the Hungarian people officially will celebrate the withdrawal of the Soviet occupying force and the return of full Hungarian sovereignty.

I think it is only fitting for the Congress and the United States of America to help the Hungarian people celebrate. Today I am introducing a bill, a bill that I worked on drafting with my good friend, Hungarian President Goncz, a bill that is sponsored by 20 of my colleagues to officially end Hungary's classification as a Communist state in our laws.

Unfortunately, Hungary still is labeled as a Communist state in American laws and is thus denied many benefits made available to nations friendly to the United States. By officially recognizing that Hungary has successfully and peacefully made the transition from a Communist state to a free enterprise democracy, we in America can help speed that transition along.

I urge all of my colleagues, Democrats and Republicans, to join me in cosponsoring this legislation and in congratulating the people of Hungary, who are free at last.

A CALL FOR SUPPORT OF ESTONIA, LATVIA, AND LITHUANIA

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I want to rise, following Mr. COX's appropriate remarks. Hungary sees the withdrawal of Soviet troops. Lithuania, Latvia, and Estonia see the presence of Soviet troops.

Those three independent nations, occupied by Joseph Stalin in 1940, remain occupied to this day. Tragically, Lithuania in January saw its citizens slain who spoke out for freedom. Just this week, the Black Berets of the Ministry of Interior under the direction of Moscow moved to occupy certain communications facilities and still occupy the television station in Vilnius.

Mr. Speaker, this Nation has stood for the freedom of Eastern Europe, of Central Europe. This Nation, the President, the Congress, and our people must stand very strongly behind the people of Estonia, Latvia, and Lithuania as they reach out for freedom and the independence that this Nation has always recognized they had.

□ 1130

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. ORTIZ] is recognized for 5 minutes.

Mr. ORTIZ. Mr. Speaker, I rise today to pay tribute to the finest baseball team in Texas, the Robstown Cotton Pickers.

My hometown of Robstown, TX, is located just outside Corpus Christi, and this year the Cotton Pickers achieved that elusive goal of gaining the conference 4–A baseball championship at Disch-Falk Field in Austin. This was the fourth time the Cotton Pickers have vied for the State championship, each time coming just close enough to taste the victory that was finally theirs on June 7, 1991.

I would like to pay homage to this team of first class athletes whose spunk, tenacity, and dedication to the game finally resulted in the cherished medals of gold around their necks, signifying their hard-fought and long-sought victory. Baseball teaches many lessons to the young person, Mr. Speaker—lessons which these young men will carry with them for the rest of their lives. Baseball teaches sportsmanship, patience, dedication, and—most of all—this uniquely American sport teaches young people that victory is only made possible through teamwork.

Of all the lessons we want our children to learn, we should want them to learn that life is not a solo act, it is indeed a team sport. Winning and losing are all part of life, but I am sure that the Cotton Pickers will agree that winning is sweeter, provided that it is done within the rules.

I know these young people, their community, and their coaches. Each player, coach, family member, and community member deserves credit for this hard-sought victory. I am so very proud of these young men and the monumental effort it took for them to achieve this high honor. They are all superb athletes and exquisite young citizens. Go Pickers.

NEGOTIATION OF FREE TRADE WITH MEXICO

The SPEAKER pro tempore. Under a previous order of the House, the gentlewomen from Illinois [Mrs. COLLINS] is recognized for 60 minutes.

Mrs. COLLINS of Illinois. Mr. Speaker, the Congress recently provided fast-track authority to the President to negotiate a free-trade agreement with Mexico. The President has promised to closely consult with Congress during the negotiations, and it is my intention as chairwoman of the Subcommittee on Commerce, Consumer Protection and Competitiveness to hold him to that promise.

Let me say now, and up front, that I am convinced that it is in our long term interests to improve our trade relationships with Mexico. That decision was largely due to a visit I and members of the competitiveness caucus made to Mexico where we met with President Salinas, other Mexican Government officials, as well as variety of American and Mexican businessmen, labor groups, environmentalists and others.

Today we do find ourselves in a globally competitive society. The European Community is attempting to join its economic forces, including the newly democratic republics of Eastern Europe. But as I shall discuss later, the European Community is approaching the matter, especially as it relates to the less developed economies of Greece and Spain, in a far different manner. There is also similar movement in the Asian rim nations of Japan, Singapore, Korea, Malaysia, and Thailand. It is therefore natural that we too should seek the competitive benefits that a North American free-trade agreement could bring.

But the issue for this continent is not quite that simple. Until recent years, trade negotiations dealt primarily with the elimination of tariff and quota barriers. Today, they deal increasingly with the technical standards which form the foundation of our national health, food safety, environmental and workplace safety policies.

Prior to the vote on May 23, our subcommittee completed a series of three hearings regarding the free-trade agreement and, inasmuch as negotiations actually began a week or so ago, I would like to share with my colleagues what we have learned. Our hearings focuses on three important areas of concern about the agreement: First, potential job losses; second, threats to our health and safety laws; and third, possible environmental damage.

Testimony received during the subcommittee's three hearings has led me to believe that an agreement with Mexico could result in major job losses here in the United States and a lower standard of living for American workers. In addition, I believe trade agreements may be used to weaken food safety regulation and enforcement here in the United States, and that an agreement with Mexico could result in severe damage to the environment.

Unfortunately, the administration has not done a good job of convincing Congress that it has a strong commitment to handling these issues. Jumping into a free-trade agreement is sure to have an impact on both economies, but that impact will not necessarily be good for us. According to a study by the International Trade Commission, and let me quote it, "real income for unskilled workers in the United States is likely to decline slightly."

Now the Commission's definition of unskilled workers includes 70 percent of the entire American work force. It would certainly be hard for me to explain to my constituents—many of whom are already on the low end of the income scale, that they should not worry if their incomes are reduced, or even worse, their jobs are lost because a Mexico free-trade agreement is "good in the long run."

The administration has seemed very unsympathetic toward those individuals who will lose their jobs.

In my own area of Chicago, a number of large firms have already made the move to Mexico leaving behind large numbers of unemployed workers who are unable to support their families as they had before. These are people who have worked every day of their lives; people who have saved their money to buy a home, and to put their children through school.

When a plant shuts down and moves to Mexico, it leaves in its wake not just unemployment, but shattered lives and lost opportunities. Homes may be lost; children may be forced to drop out of school; health care is often unavailable and the physical well-being of our people falls.

This is exactly the situation in Chicago. My city, like many others in the Northeast and Midwest is facing just such a spiral of declining services, with a smaller and smaller working population base to fund these needed services.

We are finding that unemployment sends all sorts of ripples through the city. For example, hospitals find it more and more difficult to stay open as the number of those without health insurance increases and have to turn to the emergency room for medical care.

As a result of this, and a variety of other reasons, the hospital, and ultimately its insured patients—those left in the work force—pay these costs, thus raising the costs of insurance for all. The same could be said about the costs of governmental services. In the end, diminished services makes cities such as Chicago less attractive, less competitive, and that situation forces even more companies and individuals to move out of our city to areas where the work force is increasing.

As just one example, the Rheem manufacturing plant in Chicago closed last year. The Rheem plant made hot water heaters which were among the best on the market. The company was profitable and highly productive. But Rheem sold out to a Japanese firm, and the new Japanese owners moved the plant to Mexico in pursuit of low-wage, low-fringe benefit employees.

Eight hundred employees worked in Rheem's Chicago plant and were put out of work when the plant closed. They were left with no way to support their families. Not only did the State, local, and Federal governments suffer a loss in tax payments, but these unemployed workers had to be paid unemployment insurance, and they needed job training and other public services—much of which they have yet to receive.

In the last few years, an estimated 20,000 Illinois workers have lost their jobs because of plants closing and moving to Mexico. And, these are big plants too. Let me identify just a few manufacturers and firms from the Chicago area that have moved to Mexico: Quaker Oats Co. moved its Fisher-Price Division to Matamoros and Tijuana, Mexico; Zenith has moved to Chihauhua, Reynosa, and Matamoros; American Hospital Supply moved to Juarez; North American Phillips moved to Juarez; Lamkin Leather & Rubber Co. moved to Tijuana; Gould Electric Products moved to Juarez; R.R. Donnelly and Sons moved to Reynosa; Cooper Lighting moved to Juarez; Brunswick Corp. moved to Juarez; Eureka Manufacturing moved to Juarez; and Outboard Marine Corp. moved to Juarez.

And the list goes on and on. And, why are these firms leaving? The answer is, first, cheap labor, and second, practically no environmental regulation. While wages in all of Mexico's manufacturing sector average 16 percent of manufacturing wages here in the United States, in the Maquiladora plants where most of the growth has occurred in recent years, wages are far less.

Some of the workers in the Maquila plants are only paid between 60 and 80 cents an hour, hardly enough for subsistence. Many of these workers live in shacks made of materials discarded by the plants. Many of these plants do not have water treatment facilities that keep the drinking water supply for the workers free of contaminants.

One of the witnesses at one of our hearings, Mr. William J. Cunningham with the AFL–CIO, commented:

> There is great irony here. On the one hand, the maquiladoras have skyrocketed over the last 25 years . . . they now account for one-tenth of Mexico's industrial force, and they are Mexico's second largest earner of foreign exchange. But on the other hand, they have been an utter disaster for Mexican workers. In the 1980's—the boom decade for the maquiladoras—Mexican wages in dollars terms fell from the highest in the Third World to among the lowest.

And what about our own workers back here in the United States? United States firms moving to Mexico could actually create some new jobs in the Southwest States, where some American manufacturers might move more easily supply plants across the border in Mexico. But, the workers in the Midwest and Northeast, in particular, stand to suffer major job dislocations.

And what does the administration offer these workers? The President's action plan makes some vague commitment to providing trade adjustment assistance to workers who lose their jobs as a result of moves to Mexico. But, at the same time, the administration's own budget for next year contains no money whatsoever for trade adjustment assistance or for the Job Training Partnership Act which has never been funded. According to the representatives of organized labor at our hearings, the administration has made no commitment to provide funds at any level for trade adjustment assistance or to retrain displaced workers.

Perhaps the best evidence of the administration's insensitivity to workers is its own study. According to the administration, the International Trade Commission's study demonstrates that employment in the United States will increase and that the American economy will grow under a free-trade agreement with Mexico.

But if you look closely, you will find that what this study assumes, could never occur. This study assumes, not concludes, that both the United States and Mexico will achieve full employment, and maintain that full employment indefinitely. This is ludicrous. This study assumes, not concludes, that American manufacturers will not move to Mexico, and in fact that no American investment will be made in Mexico. This is ridiculous. They have and are moving across the border. Finally, this study assumes, not concludes, that the maquiladora plants in Mexico will continue to receive 98 percent of their raw materials and components from firms located here in the United States. I'd like to get a glimpse of the crystal ball into which they must be looking.

Currently, our unemployment rate is 6.6 percent, and Mexico's is 20 percent. It is debatable as to whether our economy has ever reached full employment, and Mexico's economy certainly has never achieved that lofty goal. To the contrary, Mexico is expected to continue its labor surplus into the indefinite future.

With respect to investment in Mexico by American firms, we know the administration's studies are equally unrealistic. For several years, direct investment in Mexico by American firms has been increasing by close to 15 percent each year. Yet the studies which the administration relies upon to justify its claim that a Mexico free-trade agreement will create jobs and growth in our own economy, do not even assume American firms will continue to make the same level of direct investment in Mexico that they are making right now.

Access to cheap Mexican labor is the main thing American firms want out of free trade, and these firms can only have cheap Mexican labor, if they make the necessary direct investments to relocate in Mexico. One witness at our hearing, Dr. William Spriggs, an economist with the Economic Policy Institute, has calculated that with even a modest increase in United States direct investment in Mexico, 550,000 people here in our own country would lose their jobs.

Let me quote from Dr. Spriggs' testimony:

> These three reports [that is, the reports cited by the administration to support its claim that free trade with Mexico will produce jobs and growth for the American economy] are based on a bold piece of speculation, namely, that there will be no movement of U.S. plants or facilities to Mexico in response to a FTA. This assumption flies in the face of the USITC [U.S. International Trade Commission] report * * * again for general industrial machinery and equipment, the report warns, "[A] FTA could result in a shift of production from the United States to Mexico as small and medium firms in both nations integrate their labor-intensive, low technology production processes to reduce costs * * * U.S. firms with operations in Mexico would maintain a cost advantage over those firms producing in the United States" (USITC Report, page 4–34).
>
> Of course, clearly the experience of the maquiladora (or Mexican in-bond industry sector) shows that portions of U.S. production have already moved to Mexico * * *. The models assume that no further movement will take place * * *. Yet the attraction of Mexico for U.S. manufacturers is not Mexico's smaller consumer economy—per capita GDP [Gross Domestic Product] in 1987 in Mexico was $1,725 compared to $18,436 in the U.S. and $16,162 in Canada. The attraction of Mexico is its labor force of almost 48 million forced to work for wages that average one-seventh of ours in Mexican manufac-

> turing and one-fourteenth in the maquiladoras * * *.
>
> Of course, no one knows precisely how much investment will be shifted. Spokespeople for corporations that are lobbying for the FTA are obviously not going to tell the Congress their intentions * * *. Since 1986, the U.S. direct foreign investment [DFI] position in Mexico has gone from $4.8 billion to $7.1 billion. This is an average annual increase of 13.6 percent. At that rate, by the year 2000, U.S. DFI in Mexico would be $28.8 billion, even without a FTA.

The study of potential job losses indicates that jobs can be lost in targeted industries, making the impact far more devastating for certain regions.

According to the testimony we received from Dr. Robert Cohen of the Economic Strategy Institute, here are the possible job losses in the coming years under a free-trade agreement with Mexico, rounded off to the nearest thousand: Autos: 8,000 to 13,000 jobs; auto parts: 42,000 to 63,000 jobs; radio and TV: 19,000 to 53,000 jobs; telecommunications: 10,000 to 22,000 jobs; machinery: 4,600 to 10,000 jobs; and electrical equipment: 4,000 to 16,000 jobs.

These are very large numbers. For example, based upon 1988 employment levels in each industry, the job loss in the auto parts industry would be 10 to 16 percent, and in the radio and TV manufacturing industry the loss could be 15 to 41 percent. Of course to the extent there has been job changes since 1988, these numbers may be different.

In calculating that free-trade agreement with Mexico would cost an additional 550,000 Americans their jobs, Dr. Spriggs assumed that United States direct investment in Mexico would a little more than double. Given the huge tariff reductions that a free-trade agreement would bring, as well as the removal of additional investment restrictions, a doubling of United States investment in Mexico is a very modest estimate.

Another defect in the studies cited by the administration is that they assume U.S. firms will continue to supply nearly all of the raw materials and components used by the maquiladoras. On this point, Dr. Spriggs cites the cases of the U.S. television tube industry which currently is protected by high tariffs. These tariffs help make our industry more competitive as compared to foreign tube producers. Dr. Spriggs says:

> An example can be drawn from the television industry. Most U.S. producers of television sets use U.S.-produced tubes, but assemble a large portion of their product in Mexico to take advantage of Mexico's low labor costs.

The U.S. International Trade Commission report warns that:

> Panasonic, with [a] FTA * * * would possibly shift its production of mid-sized television sets in Chicago to Mexico, which would reduce its U.S. labor force by about 100 workers. Moreover, Panasonic claims that this shift in production would reduce the competitive advantage over Mexican and other foreign producers of U.S.-produced tubes because of additional transportation costs (USITC Report, page 4-28).

That testimony should be taken under serious consideration by our trade negotiators.

When United States Trade Representative Carla Hills testified before the Commerce Subcommittee, she made the point that Mexico is our country's third largest trading partner. And in fact, trade with Mexico has jumped 300 percent in the past 4 years to $60 billion. During this time American exports to Mexico have doubled.

But, what Ambassador Hills failed to say is that at least half of our manufactured exports that we send to Mexico come right back to us in the form of finished products, for consumption here, not in Mexico. True, Mexico is buying more United States exports; but, we are buying most of those same products right back from them as soon as they have added their low wage labor in the assembly process.

Without a doubt our manufacturers benefit from this access to cheap labor. Under a free-trade agreement, it is easy to see how other foreign producers, Japanese, German, and others, could also benefit from tariff free treatment of goods they produce or assemble in Mexico and export to the United States.

An economist with the Economic Strategy Institute, Dr. Robert Cohen, testified that, if Mexican exports continue to come primarily to the United States, we could be creating a very powerful export base which foreign firms could use to increase their competitive advantage over domestic American firms. According to Dr. Cohen, Mexico's wage rates may be low, but its labor supply is becoming more skilled and is capable of supporting a full manufacturing base, not just assembly operations which many foreign manufacturers have already established.

Now let me underscore that again: Mexico's labor supply is becoming more skilled and is capable of supporting a full manufacturing base. My question then becomes, How soon will it be before Mexico raises its own wage rates and builds its own manufacturing plants that will compete with ours.

When one looks at tariff rates, we find that while average U.S. tariff rates may be low, tariffs for particular textile products, such as men's pants, for example, are quite high. Free trade with Mexico creates a powerful incentive for other foreign producers to move some part of their manufacturing operation to Mexico. In this way foreign textile and apparel producers can have an export platform to the United States. Dr. Cohen warned:

> Some of the analysts who have looked very carefully at the Mexican industry base, particularly those in the maquiladoras, are making the point that this is very different from Greece and Spain, and it's different because Mexico is wedding a cheaper labor force with very sophisticated capital and new investment and a labor force that's very highly skilled, which you don't find in Greece and Spain.
>
> This has the potential for creating a super-niche, a more powerful export base than Taiwan, Hong Kong, or Singapore. One of the studies shows that in the auto industry alone, Mexican auto plants have 40% of their workers with university and technical school backgrounds, and in 1988, 12.3% of the employees in the maquilas were technicians, up nearly over 50% from 1975.
>
> Nissan has announced it's putting a major, world-class auto facility in Mexico. VW has put one in already and is considering putting in another. They've already announced this. Two and a half billion dollars out of $3.5 billion of new investment in the Mexico auto industry is non-U.S. from Nissan and VW.
>
> And the same thing is going to happen in textiles and apparel. What is the tariff on men's pants? Those tariffs are between 30 and 75 percent. So if you produce in Mexico under a free trade agreement, you avoid those tariffs. You link into this very sophisticated new capital. You get the benefits of investment.

In other words, Mexico has the potential not just to replace low-skilled jobs, but eventually high-skilled jobs in direct competition with American workers.

A few weeks ago, I returned from Detroit with many of my colleagues where we had long discussions with the United Auto Workers and the big three auto manufacturers. Owen Bieber, the leader of the UAW, presented his case against granting the fast track authority that Congress has now voted for, and which took us out of the loop in the actual negotiations.

Mr. Bieber provided evidence that the sole reason that American jobs are moving to Mexico is low wages. He presented evidence that the single most important reason manufacturers move to Mexico is low wages. He provided a letter to manufacturers from a private Mexican firm that promotes maquiladoras, which began with:

> There is great opportunity for your company to drastically reduce operating costs by taking advantage of Mexico's Maquiladora Program. As a U.S. manufacturer you have the advantage of the short distance from the lowest cost labor market in North America! Mexico! Furthermore, only a short flight to Laredo, McAllen or Brownsville.
>
> Please consider that the fully fringed labor cost along the border averages $1.50 per hour. Just compare to your real cost of wages. This equates to almost $20,000 in savings per employee per year.
>
> We think that this is significant enough for your consideration!

One important concern of the UAW is that Mexico may become a haven for the transshipment of automobiles. He points out there is the possibility that Japanese manuacturers may ship all of their Japanese auto parts to an assembly plant in Mexico where they could be assembled and shipped to the United

States, escaping the duties they would otherwise face.

Of course, one way to avoid this problem would be to establish strong rules of origin. In other words, tariffs and duties could be avoided only if a certain percentage of the value originated in North America. Unfortunately, our experience with the United States-Canada Free-Trade Agreement suggests that tough rules of origin may not be negotiated, particularly since fast track has been adopted.

During the negotiations on United States-Canada free trade, many in the auto industry, as well as Members of Congress argued for a rule of origin that required 60 percent of the value to be North American. The Canadian Government preferred 50 percent. Despite the strongly held views of many in Congress on this issue, including Energy and Commerce Committee chairman, JOHN DINGELL, the agreement provided just 50 percent.

A select automotive panel was also established under that agreement, which endorsed the higher 60-percent figure; and it was assumed that the Canadian Government would change its position after the panel issued its report. The Canadian Government has not changed its position, and the rules of origin continue.

The rules of origin could have a dramatic effect on increasing the widening trade deficit in the auto parts industry. In the past 5 years the trade deficit with Japan in the auto parts industry has grown from $3 to $10 billion. It is expected to grow to as much as $20 billion, according to the Department of Commerce.

The Motor and Equipment Manufacturers Association testified that the industry could be helped or harmed by a North American free-trade agreement, and that the difference was based upon the success in negotiating a number of highly complex matters. Again, with fast track in place, Congress will have only very limited input in this area.

During our visit to Detroit, Chrysler chairman Lee Iacocca gave a strong speech about our Nation's inability to conduct trade negotiations with the Japanese. They have overpowered us in many ways, because this administration has been so obsessed with the concept of free trade that they fail to recognize when other countries fail to share our attitudes.

I asked him for his views on the proposed North American free trade agreement. While he preferred not to directly address the issue, he said, and I will paraphrase him:

> You have to wonder whether an Administration that has done so poorly in our trade negotiations with Japan can be expected to do a better job with Mexico.

Let me now turn to a matter that I mentioned earlier: food safety.

Another of our witnesses, Mr. William J. Lehman, a U.S. Government meat inspector, gave us a disturbing glimpse into the administration's approach to free trade agreements. Mr. Lehman testified that the administration's free trade policies with Canada have left a food safety disaster in its wake, and that by virtually eliminating inspection of Canadian meat in the name of free trade, the administration is allowing Canada to dump contaminated and infected meat here in the United States, meat that they could not even sell in Canada.

Mr. Lehman told the subcommittee that under the administration's streamlined inspection for Canada, 93 percent of the Canadian meat coming into the United States is not inspected at all, and of the 7 percent that is inspected, 30 percent is regularly refused entry because it is contaminated or putrid. Mr. Lehman testified that daily he confronts Canadian meat that is contaminated with fecal material, oil stains, metal shavings, that is putrid or has puss-filled abscesses, and unsafe bacteria levels.

I want to quote important parts of Mr. Lehman's statement:

> In January 1989 the U.S.-Canada Free Trade Agreement, an agreement negotiated on the "fast track," went into effect. The same month, USDA issued new implementing procedures called: "Streamlined Canadian Inspection Program." These new procedures effectively gutted meat inspection.
>
> Prior to the U.S.-Canada Free Trade Agreement, USDA conducted 100% inspection of all meat imported to the U.S. from Canada. Under Streamlined Canadian Inspection, inspection is reduced from 100% to 7%. That means that only 1 out of every 15 trucks headed for U.S. markets from each Canadian packing plant are inspected. The other 14 trucks are designated "skip lots". And that is what they do: skip over the border without any review whatsoever. Even more shocking is the fact that under this new system, the Canadian packers are told which trucks will be inspected—before the trucks ever leave the loading dock. As if this did not create enough of an advantage for the Canadians, they are allowed to select the very samples to be inspected by USDA Import Inspectors. This lack of internal controls defies statistical sampling principles and threatens public health.

Public health has been threatened recently by the presence of the deadly listeria bacteria in Canadian meat. When children and young mothers are exposed to the listeria bacteria, fatality rates of 30 percent are possible. Last year, a Canadian woman is believed to have died after eating infected meat products. Many other deaths from listeria exposure are possible, but it is difficult in many cases to establish that listeria is the cause of death.

About the listeria problem, Mr. Lehman went on to say:

> Canada admittedly has a listeria problem in its meat industry. Although USDA takes laboratory samples for such things as Listeria, USDA lets the meat reach U.S. market two weeks before results are known. At the border, Import Inspectors take one pound samples which * * * are shipped by regular mail to one of three federal labs or to contract labs * * * samples are tested for Listeria—a potentially deadly bacteria—as well as antibiotics, poisons, pesticides and cancer causing hormonies. As an example, this cumbersome system allowed 3,700 lbs. of contaminated beef franks into United States commerce last June, before the results came back confirming listeria.

I should add that in response to questions at our hearing, Mr. Lehman said his Department of Agriculture supervisor once told him not to test a load of Canadian meat products for listeria, because the region had already met its quota for listeria tests that quarter. Mr. Lehman gave the following description of Canadian meat he has inspected:

> During the week of July 29 through August 4, 1990, I was instructed to inspect 363,276 lbs. of Canadian meat. I refused entry and returned to Canada 145,402 lbs., 40% contaminated due to metal shavings, fecal material, oil stains and putrid.
>
> From June 1 through December 31, 1990, I inspected samples from 3,423,879 lbs. of Canadian meat. I refused entry and sent back to Canada 1,032,044 lbs., 30% refused due to sour and putrid condition, blood clots, bruises, large bone fragments, hair, hide, even pathological defects like large green puss-filled abscesses and fecal material.
>
> If the samples are representative of the 8 million pounds that entered uninspected as skip loads, then, for example, during the June through December, 1990 period, shouldn't 30% of what entered the country uninspected have also been contaminated and unfit for human consumption.

Mr. Lehman also testified that under streamlined inspection for Canada, inspectors are no longer allowed to stamp "U.S. Refused Entry" on cartons of contaminated Canadian meat. Failure to stamp meat in this way now makes it possible for Canadian packers to reship contaminated meat through other United States ports of entry as one of the many skip lots that are never inspected. He told the subcommittee the story of a load of putrid Canadian meat that he blocked at the border and that he believes the packer reshipped two other times trying to get it into the United States.

Meat inspection is not the only example where the administration is allowing U.S. food safety regulations to be ignored through trade negotiations. Another of our witnesses, Ms. Lori Wallach of Public Citizen, challenged the administration's commitment to uphold U.S. rules that ban the usage of many pesticides on food.

The President said in his action plan for the Mexico negotiations that he would not agree to change any food safety laws under a free trade agreement. At the same time, he is negotiating at the GATT level on a new international standard for pesticides that would permit pesticides, including DDT, to be used on food.

Under a free trade agreement, Mexico would have the right to challenge, and potentially obtain exemptions from, our regulations that protect the United States food supply from deadly pesticides. Thus, the administration's commitment simply not to negotiate a reduction in U.S. pesticide standards is not enough.

Even if we do not make any change in our U.S. laws pertaining to pesticide usage, our laws could be challenged as trade barriers if we enter into agreements that permit other countries to challenge our laws for being stricter than international standards. We could be forced to prove why our higher standard is justified to a GATT panel that would reach its decision in secret. If the GATT panel rules that our standards constitute a trade barrier, we could change our law, grant foreign producers an exemption from it, or give foreign countries some other trade concession that would compensate them for what our higher pesticide regulation costs them in lost agricultural trade.

Under these new GATT standards, for example, fruits and vetegables can contain DDT, alar, aldrin, and dieldrin, all banned in the United States. Let me cite a few examples which our witness provided to describe the kind of situation that could occur: Apples—10 times more DDT, 40 times more permethrin; bananas—50 times more DDT, 1.6 times more aldicarb; grapes—20 times more DDT; broccoli—33 times more DDT, 2 times more permethrin, 3 times more aldrin, 5 times more heptachlor; lettuce—33 times more DDT, 3 times more aldrin, 5 times more heptachlor; peaches—50 times more DDT, 2.5 times more aldrin; and potatoes—10 times more DDT, 5 times more diazinon, 5 times more heptachlor.

Many consumer and environmental safeguards, in addition to food, can be challenged under trade agreements. For example, Canada last year filed suit in Federal court here in the United States against the Environmental Protection Agency's proposed ban on imports containing asbestos. Canada claims there is not sufficient scientific evidence of the health danger we say asbestos poses for the public. I feel certain my colleague would agree that this Congress, not the Canadian Government, should have the right to make that determination for the American public.

Other environmental laws that could be challenged include: Ecology policies under the Clean Air and Clean Water Acts, such as reforestation or water conservation programs; industrial clean air programs under the Clean Air Act, such as industrial emissions control programs; and protections for endangered animals, such as bans of products made from nearly extinct species under the 1973 Endangered Species Act or rules under the Marine Mammal Protection Act against tuna harvested through dolphin-killing methods.

My colleagues should not dismiss the concerns being expressed by environmentalists and others as alarmism. There is good reason for concern as a recently released report by the European Community documents. In this report entitled, "Report on United States Trade Barriers and Unfair Practices 1991", the Community states:

> This report seeks, in the interest of transparency, to identify obstacles to trade and investment and other unfair practices which exists in the U.S., as a first step towards their elimination through GATT negotiations or through a bilateral dialogue between the Community and the United States.

And what are the trade barriers identified by the Community; they include: our fuel economy standards for automobiles; our gas guzzler tax; Our marine mammal protection laws that prohibit dolphin-killing methods of fishing for tuna; our inspection of fruits and vegetables and other perishable agricultural products at the border; inspection of wine for pesticides and fungicides; and the inspection of meat at the border.

Like most of you, I have heard firms say they do not go to Mexico to escape environmental regulation in the United States. Well, let me tell you, it just is not so. At our hearings, the General Accounting Office [GAO] provided the first documentation that manufacturers do, in fact, relocate to avoid environmental regulation.

Contrary to Administration claims that American manufacturers would not flee environmental regulation in our country, the GAO report found that 78 percent of those furniture firms which relocated to Mexico from the Los Angeles area between 1988 and 1990, cited strict environmental regulation as a reason for their move. Furthermore, when I asked the senior vice president of the National Association of Manufacturers, Michael Baroody, whether he would support subjecting United States firms that move to Mexico to the same environmental standards and regulation they face in our country, he replied "no."

If you have ever visited Mexico City, you will know there is a serious pollution problem. Air there is about twice as bad as Los Angeles. Cars still use leaded gasoline. The air settles in between the mountains and doesn't leave.

The environmental consequences of increased trade between Mexico and the United States at the border cannot be denied. Rather than quote from the testimony of opponents of the free trade agreement on the issue, let me first begin with some quotes from newspapers and magazine articles on the subject.

The New York Times wrote on March 3, 1991:

> The runaway pollution and accompanying health threats can be found in virtually any city along the U.S./Mexico border, which has undergone an economic explosion in recent years with the construction of highly profitable American owned factories operating under special trade rules. The American owners pay very low wages to the nearly half a million Mexicans they employ and are not obliged to use expensive anti-pollution equipment.

The Wall Street Journal wrote on September 27, 1989:

> The very success of the maquiladoras is helping turn much of the border region into a sinkhole of absymal living conditions and environmental degradation.
>
> Little is being done about the wholesale environmental destruction, health hazards and poor living conditions that the rush to the border has spawned.
>
> Mexican officials aren't eager to press the point. We are not in a position to scare those companies away, says Leobardo Gil Torres, the Mayor of Nogales. We are in a crisis, you see. What do we do if these companies leave?

U.S. News & World Report wrote on May 6, 1991:

> Many American-owned factories in Mexico are fouling the environment, and their workers aren't prospering.
>
> Advocates of a free trade agreement argue that economic development, while inevitably creating some pollution, frequently spurs prospering nations to significantly improve their environmental enforcement and to enact more stringent workplace rules. But a U.S. News survey reveals:
>
> Indiscriminate dumping or long-term storage of industrial garbage and hazardous wastes is trashing the landscape and poisoning the water and soil.
>
> A slumgullion of chemical laced industrial waste water and raw sewage pumped into canals and rivers is causing widespread gastrointestinal illness, hepatitis, and other long-term health problems—including a suspected increase in mortality from certain cancers.
>
> Massive discharges of toxic fumes have occurred in chemical plants and other factories. In the Matamoros-Reynosa region alone, seven major accidents since 1986 have sent more than 350 people to the hospitals and forced thousands to flee their homes.
>
> Maquiladora employees—most of them women, who sometimes start work as young as 13 years old—are exposed to toxic substances and other workplace health hazards without being given safety instructions or basic protection like masks and gloves. There is also evidence of severe birth defects suffered by infants born to workers.

We also received testimony from many environmental organizations. I want to note that all of these groups are not necessarily opposed to the development of a free trade agreement. But like myself, they are concerned that a fast track approach will not adequately address the environmental concerns.

The national toxics campaign presented the results of a recent survey they conducted in the border areas. I cannot present all of their findings, but let me quote from some of their testimony:

> [The researchers] found contamination that were up to one thousand times higher than U.S. and Mexican standards. They found seriously contaminated effluent coming from plants operated by the large U.S. companies—including General Motors. Testing of the G.M. facility in Matamoros showed nearly three million parts per billion of xylene solvent was being dumped into

wastewater coming from the plant—over 6 thousand times above U.S. drinking water standards.

The xylene was pouring into an open canal that flowed through an impoverished Matamoros neighborhood. Xylene can cause lung, liver, kidney and brain damage. The same plant was discharging 430 ppm of ethyl benzene, 56 ppm of acetone, 41 ppm of methylene chloride and 5.7 ppm of benzene. The EPA's cumulative permissible limit for all toxic organic chemicals discharged from industrial plants like G.M. is 2.13 ppm, and some state standards are even lower.

Let me conclude my remarks on environmental hazards by discussing my visit to Mexico. I do believe that President Salinas is making great strides toward improving environmental regulation.

However, I would like my colleagues to keep the following facts in mind. First, a free trade agreement must stand or fall on the words in the agreement, not the commitment of a particular administration. We all remember how environmental regulation changed when Anne Gorsuch Burford took over EPA in 1981.

Second, the magnitude of the environmental problems in Mexico are immense. According to estimates by our own Government, the cleanup costs of the border environment in Mexico already amount to $9 billion. We cannot expect the Mexican Government to easily solve this problem.

One suggestion made by those in the environmental community, such as the environmental defense fund would require businesses that profit from the free trade agreement to invest a portion of their earnings in safeguarding the environment and public health. This is an excellent recommendation, but it will be up to Congress to make sure the administration negotiates an agreement with such a provision.

So, what are the pitfalls a free trade agreement with Mexico poses for the United States? Some say it is jobs; others say the environment; and still others say food safety. Does this mean that we should not be negotiating a free trade agreement with Mexico? The answer to that question is, "No," as I said at the beginning of this statement.

It is in our interest, as well as Mexico's, to improve our economic relations. But, our Nation's health, food safety, environmental and workplace safety policies are at stake in these trade negotiations, not just tariffs and quotas. If we in the Congress are to do our job right, we must ensure that a free trade agreement with Mexico avoids the pitfalls we all know are there.

Congress, therefore, must be involved in every aspect of the negotiations, and in constant consultation with our negotiators. The subcommittee will continue to hold hearings on the important issues involved in a Mexico agreement, and I, as an official trade advisor for the Congress, will try to make sure Members are informed of how the major issues are being addressed.

As we learned in our hearings, there can be good and bad agreements for our workers in the United States. A bad agreement could cost thousands of jobs, and depress the wages of thousands of other workers.

The Congress has spent many days, months, and years in writing laws to protect our environment, our food inspection, and our public health and safety. All of these laws could be changed by a free trade agreement.

If we want to avoid this danger, we must not abdicate our legislative and oversight responsibilities. Having voted on fast track authority, the job for the Congress is not over. In fact, it is just beginning. Committees of appropriate jurisdiction must continue to conduct extensive oversight to ensure essential American interests are not threatened. That is certainly my intent.

☐ 1220

ENVIRONMENTAL PROBLEMS IN THE PERSIAN GULF

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. McCLOSKEY] is recognized for 60 minutes.

Mr. McCLOSKEY. Mr. Speaker, as raging oil fires continue to smother Kuwait and damage the entire gulf region, both the Bush administration and the Kuwaiti regime continue to treat this megadisaster like a routine fire at the local garbage dump.

If we can rally the forces of freedom worldwide to expunge Saddam Hussein, why are we not rallying all possible efforts to resolve the eminently foreseeable oil well disaster that already has brought major and longstanding damage to the gulf environment and its people?

It serves no legitimate purpose to drag our feet or downplay this disaster because of any impact on public opinion as to the war. The war is over; our challenge is to restore peace and security in the broadest sense.

The State Department has taken a hands-off approach when it comes to cleaning up the gulf region. There persists a laissez faire attitude toward extinguishing the fires and cleaning up the oil slicks.

"I always call it a catastrophe, not a problem," said Dr. Ali Khuraibet of the Kuwaiti environmental action team, who was recently quoted in a New York Times article on the situation in Kuwait: "If it is just a problem we would be able to know its magnitude. But at this point we do not even know its scale and magnitude," Dr. Khuraibet continued. He also sharply criticized EPA Administrator William K. Reilly for seeming to minimize the health effects of the continuing smoke on a recent visit to Kuwait.

We need an all-out effort to complete a comprehensive inventory of the environmental damage to the area, upon which a reliable assessment of the risk to human health can be based. Although health experts downplay the danger these fires pose, could not the blackened lungs of recently slaughtered goats and sheep in the region be a harbinger of human problems to come?

The United States is standing back, letting the Emir handle the situation. As a result, the problem is not being viewed or addressed as the appalling regional environmental crisis which it truly is but rather as an expensive business problem for the Oil Company of Kuwait.

In fairness to the Emir, the Kuwaiti oil clean up, as slow as it is, is a more laudable effort than their wretched attempts at postwar justice.

While some progress has been made by courageous oil field workers, there are still approximately 500 wellheads burning. On June 11, 1991, oil well firefighting expert Red Adair appeared before the Senate Gulf Pollution Task Force. He said that despite the recent progress, those fires which have been extinguished so far are the easiest ones. The hard work lies ahead. He said the current effort to fight the fires is inadequate. At the current pace, it will take 4 or 5 years to do the job. He characterized the current level of commitment by the Kuwaitis to extinguishing the fires and cleanup of the area as a "Mickey Mouse" effort.

Mr. Adair testified he needs cranes, bulldozers, and more water. He needs assistance from the military in ridding the area of the mines left behind by the Iraqis. He also needs medical support and would like to have a team of burn specialists on standby.

And Mr. Adair needs the cooperation of the Kuwaiti Government and Kuwaiti customs officials. What purpose under heaven does it serve for the Kuwaitis to interfere with medical supplies for those risking their lives to fight the fires raging there. Yet, Mr. Adair has stated that customs officers there recently ruined several hundred thousand dollars of medical supplies he had shipped in for burn treatment. The supplies where ruined due to exposure to the air after Kuwaiti customs officials insisted that the materials be opened for inspection. With Mr. Adair and his courageous coworkers risking their lives, surely the Kuwaitis could be more cooperative.

In late April, I toured the gulf area and witnessed the horrifying spectacle of the massive fires raging in the oil fields. We are all familiar with the reports of a smoke heavy enough to block out the Sun, and of soot-blackened cattle wandering past pools of oil in a surreal landscape. We have all heard the reports about black rain as far away as Turkey and the Himalayas.

"In effect, Kuwait is being painted black," said Dr. Larry Radke, Director of the research aviation facility at the National Center for Atmospheric Research. The Kuwaiti desert is being covered with oil and soot. "The ultimate effect," he said, "will be that walking in the blackened desert will be like walking on asphalt."

The Washington Post reported yesterday that the administration does not view the situation there as a threat to the global climate. The truth is we don't know what the future will bring in this area but there is a definite threat to regional health, environment, and water tables. Even if this doesn't prove global, we still need to escalate our efforts to address very real regional problems.

It is currently reported that up to 6,000 barrels of oil are still leaking into the Persian Gulf every day. Although more than 1.5 million barrels of oil have been recovered from the gulf, the most recent estimates of the size of the spill is 6 million barrels.

The remaining 500 or so oil well fires in Kuwait are incinerating as much as 5 million barrels of oil per day—enough to meet almost one-third of the daily petroleum needs of the entire United States. Again, in the article which appeared in yesterday's Washington Post, the administration reported that the fires were only burning 3 million barrels of oil a day, rather than 5 million barrels.

The administration continues to assure us that things are not as bad as we expected. Even at a 3-million-barrel-a-day pace, the fires could consume a billion barrels of oil in 11 months. Our current goal is to fill the oil stockpile in our strategic petroleum reserve to that same 1 billion barrel level. However, this goal has eluded us because we cannot afford to buy the additional 400 million barrels we still need. Meanwhile, the Kuwaiti oil fires could consume that much needed 400 million barrels in less than 5 months.

The administration's scientific task force has said that smoke from the oil fires has not risen as high into the atmosphere as was originally predicted. This is the basis for the pronouncement that the situation is not as bad as was expected and that it is, therefore, not a global problem. The task force has also expressed the view that the smoke poses no immediate health threat to those in the area.

How can such a benign assessment of the situation be made when, as was also reported in yesterday's Washington Post story, there has not yet been any comprehensive listing of the contents of the smoke, the toxic hydrocarbon content of which remains unquantified?

According to the Post story, the most recent group of American scientists to tour the area were not at all interested in the ecological impacts of the war. Rather, they were preoccupied with how the behavior of the particles and gases in the smoke might differ from what they had predicted. These scientists were more focused on the educational aspects of the fires. This may be of great long range scientific importance, but for the time being, it tells us nothing about immediate risk.

In testimony before the House Committee on Armed Services on June 12, Gen. Norman Schwarzkopf stated that the Pentagon is very concerned about the matter. According to the general, we have more than 20 separate agencies reviewing the situation. Unfortunately he did not provide any specific estimate of the risk to our troops.

The single most important factor to influence any reaction, or lack of reaction to, the ongoing environmental disaster in the gulf is the lack of consistency in the reports coming from the region. The administration is downplaying the situation. Others in the scientific community have expressed serious concerns about the lack of actual data on which an assessment could be made.

Prior to the war, there was a wide range of predictions about the possible environmental consequences of a war. Some environmentalists predicted very serious global consequences similar to the nuclear winter scenarios which first surfaced a few years ago. Once the war began, making a full assessment of the environmental havoc being wrought by the Iraqis was deemed impossible—and understandably so—because of the dangers posed by combat.

When the Iraqis began to retreat from Kuwait they set fire to the oil fields as they went. The coalition troops and Western news media were then again able to supply firsthand reports about the extent of the oil spills in the gulf and of the Ahmadi oil fires. The lack of accurate assessments of the environmental crisis were attributed to the great confusion and chaos in Kuwait and the vast destruction of infrastructure and equipment. Assessment teams would have nowhere to stay, nothing to eat, and no means of transportation. That too was understandable.

However, even after the logistical situation began to stabilize somewhat, the reports by the media regarding the extent of the fires and the potential damage from them could be fairly characterized as schizophrenic.

For example, it was reported that the Ahmadi oil fires are the "worst environmental disaster in history." I don't think anyone has seriously disputed this. In the same story, it was said that the Kuwaitis "have the situation under control." Yet, sometimes the same news stories with this information would contain quotes from a ranking official of the Kuwait Oil Co. claiming that the fires were "beyond the capacity of Kuwait, administratively, technically, and financially." Unfortunately, the entire situation still seems beyond the capacity of Kuwait as well as are numerous other requirements of public responsibilities.

It was reported that firefighters lacked the water necessary to extinguish the fires and that extinguishing them would be a challenge of epic proportion. Yet it is also reported that the Kuwaitis had contracted three teams of Houston-based firefighters who plan to work for 30 days and then take 30 days off. Now, more than 3 months have passed since the end of conflict. The first comprehensive professional assessment of the situation done by a task force of American health and environmental experts was completed 2 months ago. And still—if one only reads between the lines—the reports from the regions are replete with confusion.

Each report on the situation is loaded with caveats about pending scenarious which could still arise. On June 10, Environmental Protection Agency Administrator, William Reilly, reported to the Senate Committee on Environment and Public Works' gulf pollution task force that, "We do not see the kind of acute effects that we had feared." However, Mr. Reilly also noted in the same story. That, "If Hell had a national park, it would be those oil fires."

While the administration was giving its latest, and most upbeat assessment of the situation earlier this week, scientists from the environmental community were talking about, and showing videos of 1,000-foot fissures of flame opening up in the desert, and of lakes—not pools, but lakes of oil—20 feet deep and hundreds of feet across.

The environmentalists speak of rivers of oil running across the desert. They hold out the specter of, not just wellhead fires, but burning lakes of oil. Such events have already, in fact, begun. Such oil lake fires would likely produce much more smoke than the well fires do. A major pending question is what will happen to air quality in the area next month, when the strong desert winds currently dispersing the smoky cloud die down and the full effects of the summer desert heat and the associated temperature inversions begin to predominate?

The lack of clear and accurate information regarding the extent of the damage from the oil fires is disturbing enough—but the seeming lack of urgency to move forward to clean up the area is beyond comprehension.

I have been critical of the administration, which, in the past, has maintained that it could not provide assistance to the Kuwaitis unless they requested it. I had suggested that we should "not await a formal request from the Emir—even—if he does get back to Kuwait City." Instead, "We should offer all the manpower and technical assistance at our disposal immediately and initiate international cooperative efforts within the region and at the United Nations to mitigate the damage.''

Meanwhile, the administration has made a less than concerted effort to help resolve the situation. Yes, EPA Administrator Reilly has toured the area. The Department of Defense has provided assistance in airlifting some necessary firefighting equipment to the area. Approximately 20 C5–A cargo flights have been made to Kuwait for that purpose. Surely, we should be acting more swiftly to assist in mitigating the vast environmental damage and likely health dangers in the area.

The continuing impact of the ecological terrorism of Saddam Hussein in the Persian Gulf is a major environmental disaster. It is a matter of justifiable concern to any person interested in the health of the planet.

I urge my colleagues in the House join with me to press the administration and the State Department to become more active in two areas. The State Department must continue to push forward with efforts to finally obtain a full and consistent overall assessment of the extent of the threat posed by the oilspills and fires.

The administration should offer to work with and push Kuwait for a massive coordinated effort to solve these serious regional problems as quickly as possible. Saddam Hussein's legacy of environmental destruction in that region of the world must be seen as much more than just an expensive business problem for the Kuwait Oil Co.

Ms. PELOSI. Mr. Speaker, the environmental consequences of the war were predicted well in advance of the first shot fired and many of the statistics have now, sadly, come to life in the largest oil disaster in history.

The battle is not over and we are losing the war to save the gulf environment. The extent and longevity of the environmental damage that has been inflicted on the gulf region will take years to determine. We must now mobilize our efforts to mend the environment with a response as swift and aggressive as our drive to succeed in war.

On April 19, 60 Members of Congress joined me in sending a letter to the President urging his swift action to develop an international plan for addressing the environmental damage to the gulf region, in accordance with provisions of the dire emergency supplemental. The 60-day deadline for response has passed and we have no plan from the President.

I did receive a response from William Reilly, Administrator for the Environmental Protection Agency [EPA]. His letter provides an overview of various U.S. and international agency efforts to respond to the gulf oil fires and spills. The letter speaks generally of assessment, but does not mention a plan of action for responding to this environmental crisis.

It is clear, even to the naked eye, that a serious environmental crisis is at hand and yet assessments continue in lieu of decisive action.

Public Law 102–27 specifically requests a plan of action from the President to create "an international framework agreement to (1) provide for environmental monitoring, assessment, remediation and restoration in the Persian Gulf region of effects of the recent war; and (2) provide for the payment by the host country, of appropriate Federal agencies utilized to establish or implement this agreement."

Our letter to the President stressed the importance of such an international agreement and requested that the President initiate steps without delay to ensure that every possible measure was taken by the United States to restore the gulf environment.

If we can mobilize the United States Army Corps of Engineers to help rebuild Kuwait's infrastructure, it follows that we should also be ready to mobilize the Environmental Protection Agency to take a leadership role in the international community to restore the Persian Gulf environment.

The question remains: What is being done specifically to respond to the provisions of Public Law 102–27 "To seek the establishment of an international framework agreement"?

An independent coalition of United States scientists recently concluded an observational study of the Persian Gulf environment. The film that documents their trip, which was shown at a congressional briefing sponsored by Congressman GEORGE MILLER and me on June 24, shows an environmental situation much worse than has been reported by Government scientists.

The film showed lakes of oil hundreds of feet across and up to 20 feet deep; hundreds of oil wells still burning, with no sign of attempts to stop them; numerous estuaries destroyed or threatened; and thick black smoke plumes as high as 16,000 feet—3 miles high. There was little evidence that the efforts currently being employed to combat the environmental damage are enough to meet the challenge of this disaster.

William Reilly, upon returning from his visit to the gulf region, commented that the health risks from the Kuwait oil fires was lower than expected. EPA's data recorded smoke plumes at between 8,000 to 12,000 feet above the Earth, indicating that the black clouds would not travel very far. How do you reconcile the conflicting data? Are we not concerned because we view this as a regional problem?

There were early reports of smoke particles detected at the National Oceanic and Atmospheric Agency's [NOAA] air quality reading station in Hawaii. Black snow has been detected in the Himalayas and black soot northeast of Tokyo.

Instead of initiating a response to this crisis, the administration has censored information. On January 25, the Department of Energy [DOE] issued a memorandum to control information about the war's environmental effects, advising employees:

> The extent of that we are authorized to say about environmental impacts of fires/oil spills in the Middle East follows: Most independent studies and experts suggest that the catastrophic predictions in some recent news reports are exaggerated. We are currently reviewing the matter, but these predictions remain speculative and do not warrant any further comment at this time.''

Despite DOE assertions, a government scientist now claims, "This is the most intense burning source, probably, in the history of the world."

A Kuwaiti scientist with the institute for scientific research was critical of his own government as well as the allies on their slow response to the health urgency of the oil fires in stating, "They are concerned. They should be scared."

How do we know that the health risks are less than feared—feared by whom? The people who see daylight turn to midnight? The people who are inhaling smoke particulates into their lungs?

There are approximately 500 oil wells on fire today. Red Adair, the famed Texas firefighter, stated recently that 4 to 5 years to cap the oil fires is an overoptimistic estimate. What will the health effects be after 4 to 5 years of oil smoke permeating the air? It takes as many as 600 firefighters to control a large well and, already, 6 have died trying.

At this point, no one really knows what is in the smoke and there is virtually no health data collection to document related illnesses. The sulfur dioxide emitted by the fires, 40,000 tons a day, is equal to the combined daily emissions of France, Germany, and Great Britain. The U.N. World Meteorological Organization estimates that the oil fires could emit double the amount of fine particles now in the world's atmosphere.

The aerial film I mentioned earlier also shows part of the 335 miles of Kuwaiti and Saudi Arabian beaches and coastal marshes clogged with oil. William Reilly stated after his recent trip: "We know that the spill is some 25 times greater than the Alaskan *Valdez* oil spill in Prince William Sound two years age."

In the Alaska oilspill cleanup effort, Exxon spent $2 billion. So far, the Saudi Arabian Government has spent $150 million for oilspill cleanup in the gulf.

I had the opportunity to question our Ambassador to the United Nations, Thomas Pickering, and Assistant Secretary of State for International Organizations, John Bolton, concerning the role of the United States to assist in the international effort to restore the gulf environment at a hearing on April 23. During our exchange, I asked:

> Does the State Department support funding for the United Nations environmental programme's special fund for gulf environment restoration?

They responded:

> We are currently working to see if ten four-wheel drive vehicles, which are now in Kuwait, could be loaned to UNEP to assist its task force's damage assessment survey. We do not plan any cash contribution.

So far, only Japan and Norway have contributed to this fund.

Dr. Noel Brown, regional director for UNEP in New York stated in a recent interview:

> The world community was extremely enthusiastic, well organized and efficient in mobilizing the forces of destruction—so efficient that it came in under budget. Many contributors are now complaining that they want a refund. Isn't it extraordinary that we

> are bickering about price? Why not put the surpluses into a fund for the gulf's environmental restoration, which is so desperately needed?

The human toll of war continues. It is predicted that 170,000 Iraqi children will die, almost double the allied estimates of Iraqi dead, as a result of damage to sanitation and medical facilities.

We are faced with a human disaster, coupled with unprecedented and calculated environmental destruction. Unfortunately, we were at war with someone who had no regard for human life or the environment. And yet, headlines across the country warned us of the consequences of ecoterrorism. More difficult to believe is the lack of advance planning required to address this crisis and, now that we are fullfaced with the crisis, we remain without a plan of action to address this serious situation.

Dr. Noel Brown also stated:

> Environmentalism must become an integral part of all future U.N. decisions, otherwise we're hypocrites. We know very well what weapons of mass destruction do. Why should a decision authorizing the use of force not entail environmental considerations. Is the U.N. in the destruction business? Are there other ways to ensure that its principles are observed? We are answerable to the earth and to our consciences.

The challenges to international peace, which have been highlighted by the tragedy in the Persian Gulf, require imaginative solutions. We must respond creatively to a world of many nations and cultures connected by instant communication and interlocking economies.

We must mobilize our efforts to mend the environment with a response as swift and aggressive as our drive to succeed in war. The environment must never again be used as a tool of war. Our efforts to achieve peace are motivated by a concern for human welfare and the preservation of our world. The same sense of humanity must guide us to protect the foundation of human life—our natural environment.

We must continue our leadership and restore the people and environment of the gulf region. We must also lead in the creation of a stronger convention for the protection of the environment in war.

If we are to avoid the destruction of war, we must perfect the art of peace. This is a challenge for all of us—together.

□ 1230

GENERAL LEAVE

Mr. MCCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore [Mr. MAZZOLI]. Is there objection to the request of the gentleman from Indiana?

There was no objection.

CARRYING A TORCH FOR THE COLD WAR

The SPEAKER pro tempore (Mr. MAZZOLI). Under a previous order of the House, the gentleman from Massachusetts [Mr. FRANK] is recognized for 60 minutes.

Mr. FRANK of Massachusetts. Mr. Speaker, I will not ask for 5 days for other Members, if they want to say anything, they can get their own time.

I have been talking, Mr. Speaker, for the last couple of days about what we do in the post cold war period. I think we, as an institution, the political parties, the American political structure is reacting insufficiently to this enormous change.

We have lived for 45 years with the cold war. We lived for 45 years in a situation in which there was a very real threat to the liberties and independence of other nations from a militant, hostile, aggressive Communist bloc.

For a variety of reasons, including our determination and the determination of our allies, that bloc has crumbled. The Soviet Union is now by itself without any allies, and it is in fact internally beset.

We are not at a point where we can disarm. We are at a point where the demands on our resources from the standpoint of national security has substantially diminished; one, because the threat embodied by the Soviet Union and the People's Republic of China and other allied nations has diminished substantially. It has not disappeared. It has diminished.

Second, our allies who began this period of the cold war in the late 1940's as impoverished, weak and defenseless, are today, England, France, Japan, South Korea, Germany, Denmark, the Netherlands, they are today prosperous, democratic, of which we should all be proud, they and us, and militarily capable of meeting any threat to them. That ought to be made very clear.

Given the breakup of the Soviet empire, very few of our allies are realistically today facing any serious threat with which they are not themselves capable of dealing. That has not just become an opportunity for America, Mr. Speaker. It has become, and I wish it had not, it has become an opportunity for the Democratic Party. And it has become an opportunity for the Democratic Party because of the refusal of George Bush and the Republican Party to factor the end of the cold war into serious policy making.

George Bush is carrying a torch for the cold war. America having won it, America, having demolished with our allies over the years, perhaps demolish is the wrong word, but eroded to the point of nothingness the threat that was presented in Europe, in Asia, the President wants to go on essentially as if it was still there.

On the other side there is an emerging consensus among Democrats. We have seen it in votes on the floor and we will see more of it, which says, we are now entitled to say to the rest of the world, together we have succeeded in making this world safer. We are wealthier, the threat is less.

We no longer need to spend 6 percent of our gross national product on the military while friends and allies spend 1 percent, 2 percent and 3 percent. We no longer need to divert a substantial part of the resources of this country, our scarce capital, our best scientists, our most skillful technologists, our best specialists at developing products, our best factories, we do not have to devote quite as much of that, two to six times what our economically equivalent allies have done, to the military.

□ 1240

We can be the strongest Nation in the world. We can defend every vital American interest with a great margin of safety, and we can extend a protective arm to those weak nations that do need help from us for one-half of what we now spend on the military.

The President objects to reducing the military. He takes credits, paradoxically, for those traditions that make it possible, and we can debate who does or does not get the credit, but President Bush wants to get the credit for winning the cold war. He just does not want America to get the actual benefit of it having been won.

The Democrat approach is evolving, but you already see strong elements of it, and you can predict within a very few months it will be clear. We will say take the victory dividend, and that is about $150 billion a year, and now we complain about the need to spend money to pay off depositors in the savings and loans, and that is obviously an anguishing thing that we have to spend that money. It is anguishing that irresponsible operators in the private sector, in the savings and loan industry, were allowed to abuse the public trust the way they were. We are working hard to prevent a repetition.

Let us have some perspective. The actual cash outlay, not the interest we have to pay. But that is true of any Government expenditure, the actual cash outlays on the savings and loans will be not much more than 1 year's savings on the military if we do it right. If we would stop protecting Denmark and France against a Polish-Czechoslovakian invasion, if we would tell the Japanese that we do not subsidize them anymore, and they can pay for their own, if we were to tell the South Koreans that they are big enough now to need only sea and air power from America and not tens of thousands of ground troops to hold off the North Koreans, and if we were rational about the nuclear deterrent, and still had a terrific nuclear deterrent, we would save every year roughly the equivalent of a savings and loan bailout.

The Democratic approach is to make those savings. I will say it is not the entire Democratic approach now, but it is the approach of the majority of us if you look at the votes, and it will, I think, soon be the approach of all of us, because we recognize that we can protect American security fully with this lower amount. It is a victory dividend. America won the cold war. America demolished the nation of Iraq when it engaged in aggression and we had to go to the aid of a smaller and weaker nation. We have a victory dividend.

We have the benefit of our years of spending on the military, more, I think, than we had to. This does not mean we spend intelligently in the miltiary in the 1980's. We overspent, but the facts are that the spending we done, and we can now cut it in half.

I think the Democratic approach will take two basic stands; one, we can use perhaps half of this savings to reduce the budget deficit, to aid America in the civilian competition.

As I said before, we have been in two competitions, a military competition against the Russians which we have won overwhelmingly, and a civilian competition against everybody else. Only the United States had the capacity to do both.

Having won decisively in the military area, the sensible thing to do is to take some of those resources and put them into the civilian area, and I am not one who believes that we need an elaborate Government plan for converting resources.

I am in favor of provisions to help to compensate workers who have toiled long and hard for this Nation's national security, who have been very good workers and who find themselves unemployed not because of any sloth, not because of any lack on the part, but because we do not need them anymore, and it is right that we should not spend that tax money if we do not need to.

It is also right that we should make sure that individuals caught in that transition are dealth with fairly.

Apparently the United States is contemplating providing money to help the Soviet Union with the transition from a heavily militarized economy to a civilian one. The only place the administration does not want to spend any money along those lines is within the United States, and that is a disparity that cannot be allowed to stay.

So that Democrats will be for, I hope, a substantial reducation without an elaborate mechanism for planning. I believe that free enteprise system will work well. I believe that Boeing, if its does not get the B-2, which it should not because that is a waste of money, will find a way to use resources to further its worldwide successful business that is expanding of selling civilian airframes.

I think the America free enteprise system will benefit, and for people who wonder about the economic effects, I think it is very clear that if the President were to announce tomorrow that having consulted with his advisers he now believes America can, on a steady, planned basis, reduce our military expenditure, planned as to how we reduce it, phasing that in, and that 3 or 4 years from now we can afford to be spending half of what we are now spending, no doubts the stock market would go wild with glee. There would be a enormous recognition by the financial community that this was terrific news. The bond market, the stock market predictions for the future of America, it would be very, very bullish, and that is part of what we, as Democrats, should want to do, reduce military spending so that we can provide for our civilian economy more resources.

Let us have the brilliance, the skill, the technological wizardry that we saw on display in Iraq, and let us put that into increasingly civilian goods. If the people who are able to make the kinds of weapons, the kinds of information-gathering devices, the kinds of protective devices, if all of that skill, intelligence, and ingenuity that went into these weapons were shared, not diminished totally, but shared with the civilian sector, then I believe the American reputation in the world for high-quality products would go up substantially.

The society that gave the world the weapons on display in Iraq is a society well able to give the world lessons in how to produce civilian goods. We have held ourselves back, because we have voluntarily spent so much defending our allies, giving our allies the advantage of being able to outspend us in the civilian area in technology and in research, because we voluntarily took up their defense.

As that ends, you will see the unlocking of America's full productive capacity in the civilian area in a way that I am confident will bear significant fruit.

With the rest of that money, with the other half of that $150 billion, we can address the problems of American society. If you live in any country in NATO except the United States and you are 68 years old and you become ill, you have to worry about your health but you do not have to worry about impoverishment. You do not have to worry that what you saved all your life in the hopes of passing it on to your children and grandchildren will be wiped out. You do not have to worry that if you live long enough, while being ill, that you will be reduced to a state of poverty, because in all of the other NATO countries, to my understanding, there are in place health-insurance systems that say you are older, you worked hard all your life, you are wearing out, and it is going to happen to all of us, and we are going to do what we can for you in terms of health, but we are going to hold you harmless financially. We will not say that the penalty for becoming the victim of a long-term illness when you are old is impoverishment. Only in America, Mr. Speaker.

Mr. Speaker, only in this country, of all the NATO countries, at the age of 68 or 70, do you, when you become ill, have to worry as much about your financial health as your physical health. How come? Is it that we, as a society, are somehow less able than Denmark or Belgium or Canada to provide that level of service for ourselves, not this group providing it for that group? For all of us as a society, having that in place, for any of us who need it; why is the United States uniquely, among these Western democracies, unable to provide that? Because we have for 45 years been spending twice as much of our national wealth on the military as those nations initially because they could not afford it, now because of habit, because of inertia, so that today American taxpayers subsidize the Danes and the Belgians and the Dutch and the Luxembourgers and the British and the French and the Italians and the Germans, and we subsidize them so that they can enjoy the kind of medical health insurance that we in America deny ourselves.

If we were simply to say that we will take the money from the victory dividend, the money that society can save by not defending Western Europe against an attack, by not having a B-2 bomber to add to the B-1 bomber, by not having two mobile missiles with no targets of any great worth, if we simply scaled down our military to where if we would suffice to be the strongest nation in the world by far and not five times the strongest nation in the world, we could do health insurance.

We can debate among ourselves how to do it. I support the legislation put forward by my friend, the gentleman from Illinois [Mr. RUSSO], who is doing excellent work here. We have got a broad coalition, and I think that is going to emerge as the preferred vehicle, a single payer. But whatever you want, it is going to take some money, and we have got $75 billion a year which we can spend and still be reducing the dificit and make that available, and if we were to take medical care as a national program, we would, in one instant, free up funds at the State level.

States all over this country are suffering in part because of the burdens of Medicaid. Big cities are suffering because of uncompensated care they provide to the sickest of the people in our society, the poorest. A national health insurance program would help. The Canadian provinces, the German States, London, Paris, Amsterdam, they are not burdened with these health costs the way our States and cities are.

□ 1250

Americans are picking up their defense tab. By the way, every one of these countries is planning on reducing their defense spending, so we will reduce marginally. They will reduce more than marginally, and the level of subsidy will continue to about what it was.

That is the defining difference between the parties. We will see it more and more. Let me make clear how it is different. We had a budget debate last year.

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to my friend from New York [Mr. WEISS] who first called to my attention the incongruity of Americans being willing to spend money to help the military conversion to civilian purposes in the Soviet Union, but not the United States.

Mr. WEISS. I want to commend the gentleman for taking this special order and for his comprehensive comments on where we are as a society and where we should be going, rather than in the direction in which this administration seems intent on taking, which is further down the barrel of economic depression.

The fact is that with no demonstrable need for the kind of weapons systems that are leftovers from the cold war, as the gentleman has pointed out, we intend on spending, in fact, the Russians were still the main threat, when in fact NATO has no Warsaw Pact opposition anymore.

Mr. FRANK of Massachusetts. If the gentleman will allow me to interject, as the gentleman knows, the major dispute now between the former members of the Warsaw Pact and NATO and the former members of the Warsaw Pact want to be in NATO because if they join, what do we need a NATO force for?

Mr. WEISS. Indeed, I especially appreciate the gentleman's comments about economic conversion. It is supremely ironic that we are willing to help the Russians convert away from a military economy, but we are not willing to do that for our own people who are in desperate economic straits at this point.

Further, we in Congress have compounded the problem by entering into an agreement with the administration which, in essence, prohibits the United States from taking savings from the military budget and spending it for domestic purposes.

Mr. FRANK of Massachusetts. The gentleman is correct, but as he knows, only one more year of that. We warned Members this is coming. If they want to continue, as the administration and the Republican side, to say "no" to health care because we have to spend $100 billion a year on NATO, they only have 1 more year of being able to hide behind the budget agreement. After that, they will have to say they would rather put it into 200 troops in Western Europe.

Mr. WEISS. What that agreement has done is to provide an inducement for unnecesary spending for the military, because they cannot use it for domestic purposes with all the talk about cutting back on the deficit. They do not want to do that, so they spend it for the vast, unnecessary, redundant, outmoded weapons systems.

It is just craziness that is going on, and I do not think the American people are going to stand for it. With all the talk about how the recession is going to end last quarter or next quarter, I do not see it happening, and the way that this administration thinks we are getting out of it is by having States and localities cut back on services and increased taxes.

If that is the way to get out of recessions, it is a reversal of change.

Mr. FRANK of Massachusetts. The gentleman makes a point I should have stressed much more strongly.

States in this country are cutting back on services while we continue to keep troops uncompensated in Japan, in the Netherlands, and other wealthy nations.

Let me say, the gentleman makes a good point about the failure to cut the military. Amendments have been debated on this floor offered by many Members. Mr. Speaker, as Members know, if people are interested, they can look in the CONGRESSIONAL RECORD during April and May and see the votes we had on the defense authorization bill, and defense appropriations bill when we moved to cut $8 billion that we did not need in troops overseas, when we moved to cut out the MX missile. I urge, Mr. Speaker, any person interested, to look at the CONGRESSIONAL RECORD if they want to find out whether their Member of Congress thinks we should continue to subsidize NATO, rather than reduce the deficit or begin to accumulate money for health care. They can read it in the RECORD.

Mr. WEISS. If the gentleman will continue to yield, again I just want to thank the gentleman for his comments and for taking this special order, and to again underscore the fact that although the patience of the American people may be long and long suffering, it is not interminable. I think that with the pain that is being felt around the country in urban as well as rural areas, I think that there is a return to the kind of thing that Franklin D. Roosevelt faced in 1933.

I think people are ready to take action for themselves, and I think we ought to get out in front of them.

Mr. FRANK of Massachusetts. I thank the gentleman for his remarks.

I generally feel that on the issues, the people in this Chamber, people in the executive branch are sophisticated and thoughtful. I do not subscribe to the view that somehow when people are in Washington, DC, they think less clearly. I am proud of my colleagues, but on this set of issues I think the average voter is thinking more clearly than a lot of people in Washington.

There is kind of a cultural lag. People have gotten so convenient with terms and arguments of the cold war that they do not want to shuck it off.

Now, the gentleman is right, that this has to change, and I think it is very clear. I am glad he mentioned the budget agreement. There are differences between the parties. They have not been sharpened in the interest of responsible government. We muffled some of that. I think that is the right decision. I commend the leadership for deciding to keep the government functioning. That is important.

Let Members understand the position of the two parties last year in the budget agreement. There were two major differences between the Democrats and the Republicans in the budget agreement. One was whether or not we should have a progressive tax increase, not whether or not there should be a tax increase. Remember, Mr. Speaker, between the parties last year we did not differ as to whether or not taxes should be raised. President Bush began the budget negotiations by acknowledging the need to raise taxes. It turned out that the President's lips on taxes had a lot in common with Milli Vanilli on video: We could not always believe everything we saw.

Then we got to a situation where both sides wanted to raise taxes. Not wanted to, but acknowledged the need to. Then the question was, how do we raise them? The Democratic proposal was a far more progressive one. It would have raised taxes on people at $100,000 and more. The Republicans were less progressive. We got a compromise because control of the government is divided, and we cannot get a solution without compromise.

The other difference between the parties had to do with spending levels. Not overall levels. There was no difference between the two parties last year on who wanted to spend how much, or on whether or not we should raise taxes. The question was given, we are going to raise taxes. Should we raise taxes on wealthier people or middle and lower income people. Democrats wanted to raise taxes on the wealthy, and Republicans the other way. On expenditures, the President wanted to cut medical care, and the Democrats wanted to cut the military. That is the essential difference.

We wrestled with that. The first plan came up and it gave, in the judgment of many Members, too much to the President. So we voted it down. Then we put through this House a Democratic plan. People who want to say that there is no difference between parties, I invite those people to analyze, Mr. Speaker, the first budget plan, which was voted down, and the second budget plan which passed this House with Democratic votes, over the objections of most of the Republicans, because our plan had a more progressive set of taxes, a better set of expenditures. We spent more on medical care than the President wanted; more on Medicare for the elderly, and less on the military.

Would we have been one iota less if we spent less on the military? Of course not. In fact, if anyone wants proof that the Democratic side was the more popular, as well as in my judgment being superior, go back and look at who complained about leaks. An obvious rule, Mr. Speaker, when politicians are doing something quietly, if politicians are trying to work out a disagreement, quietly, the ones who complain about leaks are the ones who know their position is unpopular, because the people who know that position is popular are either doing the leaking or are glad someone else is doing the leaking, because they want someone to know what is up.

The differences that came out in the 1990 budget dispute remain. When we voted on the floor of the House, we voted on burdensharing. Should we cut by $8 billion the amount of money Americans spent in areas of wealthy allies, facing very little threat, such as Western Europe, Japan, and South Korea? They face more of a threat. They would have had a disproportionately smaller share of the cut. We said, Mr. President, cut $8 billion anywhere you want. We suggest to tell the Germans, the Danes, the Belgians, the Japanese, the free ride is over. They can pay for their own military. They can do it themselves, or they can defray our costs, but we will not pick up the tab.

That was voted down. A large majority of Democrats voted for it. Virtually every Republican voted against it. Virtually every Republican said: No, no; you people in Belgium and Norway and all the wonderful people in Austria and Sweden, they are neutral, and the Swiss in particular, you have great chocolates, and you are entitled to a couple hundred thousand troops sitting over there boosting your economy.

□ 1300

We would not think of cutting you back. We said to our friends in Japan, "You have a wonderful society. We think we would like to make a contribution of $5 billion a year." We make a $5 billion a year contribution to the United Fund of Japan Government, because that is what we spend on their defense without them compensating us.

I still have not heard, and I still would like someone to tell me, who is it we are defending Japan against. I do not think it is Russia or China. Maybe the Sri Lankans harbor some resentment that we were not previously aware of, but that is what the position was.

So we have very real differences here. The Democratic position is evolving, but if you look at the budget in 1990, if you look at the defense folks this year and if you look at it next year, I hope, Mr. Speaker, in next year's budget, even though the agreement as my friend from New York still says you cannot break it, some of us are going to bring forward an amendment. And do you know what it is going to say? We do not need 200,000-plus American troops protecting Western Europe against the Communists. We do not need to subsidize Japan by $5 billion.

Let us save $10 billion out of the $100 billion, by then maybe it will only be $70 billion. Let us take $10 billion out of the $70 billion that we will be spending to defend our wealthy allies and bring it home, and let us put five of it into deficit reduction and let us put five of it into important American needs here domestically.

I can predict the administration will act as if this is some terrible thing and most of the people on the Republican side will vote with them, and that will be the issue.

People will see a Democratic Party saying that we want to be the strongest nation in the world, but we do not want to be suckered. We do not want to go to those nations in Europe which are in fact our competitors, albeit friendly competitors, and subsidize them to the cost of the American people.

Now, the question has to be asked, why does the President do this? Why does he insist on spending extra money? And this is the other difference between us. It has to do with what is the basis for America's relations with other nations.

Some of us think that it was obviously important, most of us thought it was important to America to focus on national defense for 45 years against the Soviet Union. Now we think that a realistic look at the world says this. The rest of the world is more likely to do America some damage economically, if we are not sensible, than militarily. We will keep our military forces in being, but we think we have established a degree of breathing room militarily.

On the other hand, we are beset economically. We are not poor. We are not in a disastrous situation, but Americans are not living as well as they should be living. This generation of Americans in their twenties today, they may be the first generation in a long time that on the whole does not live better than their parents. We have Americans today in their twenties and early thirties who cannot buy homes. They were brought up to think that this is the American dream. Well, they cannot get that dream.

What has happened is this. We started this cold war period with an economic superiority that was untouchable, because our society alone survived as an advanced democracy without devastation in World War II. All of our potential competitors were severely damaged by World War II, strained far more than we were.

This great continental industrial democracy came out of World War II thriving, and we had for decades a degree of economic superiority over any potential economic competitor.

The threat back then was military, not economic, and we responded quite well as a society under Harry Truman's leadership. We geared up. We used our economic strength to meet the military threat. Now 45 years later we have done enormously well militarily, but at some significant cost to ourselves economically.

And what are we doing now? We are doing what we did not do in 1945. We are ignoring the area of vulnerability and playing only to our strength.

In 1945 we used our strength economically to build up militarily to meet the military threat. Long after that was a sensible way to divide our resources, we are still doing it, and today this administration still gives a priority internationally to military strength, even when there is no need for it, when we lavish it on people who could afford it on their own and when we lavish on them to defend them against threats that are nonexistent, and this comes painfully and clearly at the expense of our own economy. It is the American economy that is being forced into these contributions that we cannot afford, and it is not just by spending militarily on our allies.

If people think, Mr. Speaker, this is an exaggeration, maybe we should have a contest. People talk about a national lottery. Maybe we should have a national essay contest.

Can anybody explain to us why the United States taxpayers should be borrowing money to subsidize the defense of Japan by $5 billion a year?

And as we all know, it is not just in defense of Japan. It is in defense of America.

What? How is America threatened by what is going to go on in Japan? At least it ought to be joint.

People say, well, we have an interest in Japan. But does Japan have an interest in us?

One thing I want to point out, Mr. Speaker, we are told these are joint interests. If they are joint interests, how come it is always America doing to others, it is never America being helped by anybody else?

Except, I should have said this earlier, in the Persian Gulf. In the Persian Gulf because of pressure from this Congress, the administration for the first time got help from other nations. There is a model, and I think it worked well. That is what we are talking about. The administration reluctantly was forced by the need to come here to get authorization for the war, to get money for the war, it got the money for mothers. They can do it if we put the pressure on; but this administration's position is that we should continue to spend that money overseas, and they also insist on subordinating America's own legitimate economic interests to national security interests in nonmilitary areas; that is, this administration, and like the Reagan administration before it, believes apparently that America is so economically invulnerable that we whenever we deal with one of our allies or even with one of our sort of enemies, we should put politics first.

Do you know what, Mr. Speaker, they almost always put economics first.

In our dealings with Japan, for years and years the Japanese have deferred to us politically, as long as we deferred to them economically. They will go along with us in approaching the political situation in Kampuchea as long as the Bush and Reagan administration did not push them too hard in other areas economically.

Now, because of congressional pressure, that has happened. Do you know, we passed Super 301, it is called, the Trade Act, which said if other countries are being unfair to us, we will punish them to an equivalent degree.

Do you know what that says? If you hit us, we will hit you back.

The Reagan and Bush administrations have acted as if that made us guilty of assault. How dare we hit people back who hit us first? How belligerent that is. How protectionist.

That is not protectionism. It is self-defense.

And both administrations objected to it. Why? Because in their view, it makes sense for America to take some economic damage if in return we got political support.

When we complain about the troops in NATO, when we complain about an imbalance whereby the People's Republic of China, one of the most oppressive irresponsible governments in the world today, a government that sells arms irresponsibly, that oppresses its own people, they have an enormous and growing balance of trade with the United States. They make a lot of money off trade with the United States, and when we object to that the administration says, just as it says with the extra money in NATO or in Japan, just as it says with other areas, that is the price of leadership. It is the highest price Americans pay today, Mr. Speaker. The price of gasoline, the price of housing, the price of food, the price of clothing, it does not compare in its negative impact on American families to what George Bush calls the price of leadership.

The price of leadership is well over $100 billion a year in tax revenues and additional tens, and maybe hundreds of billions of dollars economically that we cede to other countries.

I am not asking here for protectionism. I am not asking for American nationalism. I am asking for an end to American unilateral economic disarmament, because that is what we have had.

During the 1980's, the Reagan and Bush administrations have overarmed us militarily and unilaterally disarmed us economically, and that is the opportunity for the Democratic Party. I wish it was not there. I wish we did not have those disparities in our policy; but what we are saying is let us scale back our military arms to the point where we have more than we need in the margin of safety, but let us not keep leading with our chin all the time in international economic affairs.

Why do we have most favored nation treatment high on the President's agenda for China? He says, well, you cannot influence a society by breaking off economic relations with them.

The President says we must be engaged with them. If we want to have a constructive influence, we must be engaged with them.

□ 1310

Mr. Speaker, I do not know how the gentlemen to my left are going to handle it, but the only answer to that is, "Huh?"

Because this is an administration that was for sanctions against Nicaragua, sanctions against Cuba, and they now have sanctions against Iraq. But the way to deal with China, a brutal and repressive Communist regime, sanctions all of a sudden do not make sense, "The way to deal with them is to engage them, to be constructive."

Well, Mr. Speaker, we do not know about the teacher who was asked whether he thought the world was round or flat. He said he needed the job, and he said, "I could teach it round or I could teach it flat."

But not on the same day, at the same time, to the same people.

The administration cannot tell us on one hand that economic sanctions are the way we are going to break the back of Cuba, or Iraq, or Nicaragua, but on the other hand that it is irrelevant to the situation in China, that sanctions will be counterproductive.

Of course, they inherited that inconsistency from Ronald Reagan. He thought sanctions would work over here, but sanctions against South Africa he was opposed to.

The fact is that we have a right as a Nation to decide where we will extend most favored nation treatment. There is no economic reason to do that with China. There is no short-term foreign policy reason. They have been uncooperative in arms control events.

From the standpoint of human rights, it is a very bad joke to talk about the Chinese. We even have one of the greatest inconsistencies in the U.N. family planning program. George Bush says that we should not give any money to the U.N. family planning program to help the poorest nations in the world deal with overpopulation, which can degrade the standard of living. Why? Because China has an abortion policy which is coercive.

So, because China gets a small amount of money from the U.N. family planning program, George Bush has cut up the whole program. On the other hand, we give China, which is a small beneficiary of the program over here, a huge benefit in most favored nation treatment. If you ask the Chinese Government which would you rather have, most favored nation treatment or U.N. family planning assistance, that would be a very easy question for them to answer. The orders of magnitude are not even remotely the same.

What kind of policy purports to say we cannot give money to the U.N. family planning program, this worldwide program, because it might help China some in their coercive abortion program, but the President is prepared to veto congressional legislation if we say we are not giving China most favored nation treatment until it deals with human rights?

"Mr. President," I think it is fair to say, Mr. Speaker, "If you are serious about your objection to China's abortion policy, how can you give most favored nation treatment without making that a condition?" I assume the President's supporters are going to make that a condition. If not, then I think we are back to where, unfortunately, I think we are—which is not one of the best sentences anybody ever said. And that is that the President transcends such mundane considerations as American economic interests, jobs in this country, productivity in this country, he transcends human rights, he even transcends his own concern about coercive abortion because what counts for him is the price of leadership.

Mr. Speaker, I have a hard time discussing this without falling into caricature. I believe what they say. They say, "Well, it is America's role in the world. It is the price of leadership."

Boy, is the rest of the world happy to let us be the leader?

Apparently the theory is that if America gives in on most economic disputes, if America is not very aggressive defending its own trade interests except when the political heat gets overwhelming, can anyone think of a trade issue where this administration or the Reagan administration actively took the lead in defending Americans against unfair treatment, in which Congress was not putting the pressure on, in which they led themselves, as they do in other foreign policy areas? The administration's position is that, "Well, in order to continue to be the leader of the free world, give in economically."

We have bought that leadership. We have brought the acquiescence of other nations. There is no serious mutuality here. They will defer to us some politically as long as we pay them economically. And that is the second part of the opportunity for the Democratic Party, and again I wish it was one that did not exist.

On the one hand, the opportunity to save tax dollars in the amount, pretty soon, of $100 billion a year, put it into the deficit, put it into American productivity, and put it into medical care for our own people, which gives enormous benefits to our society, it frees up that money to the States and cities.

On the other hand, when it comes to our economic interest, we can say that America is no longer going to apologize for being as concerned about our legitimate needs as any other country.

Let me say, Mr. Speaker, this does not mean that we cut off foreign assistance. In fact, I think it is gravely embarrassing that we give so little to help with the hunger in sub-Saharan Africa. I disagree with this administration's reluctance to help more in Latin America with debt. Secretary Brady made a start, but it was too pale a start, in my judgment.

In fact, if we were to take 10 percent of what we are now spending in NATO on military aid to nations that do not need it and gave that economic aid to poor nations that do need it, everything would be better off.

We could certainly do a great deal more in that regard. But that is not this administration's way. These are people with a nostalgia for the cold war; they will not let it loose. They want to continue to act as if things were the way they used to be.

I have asked members of this administration and others, why must we keep 200,000 troops in Europe? Because, they say, of uncertainty. They did not get put there because of uncertainty, they got put there because of the Russian threat. What are we being told—that the wealthy nations of Germany, France, England, and Denmark do not like to live with uncertainty? Well, let them get over it, Mr. Speaker. This is an uncertain world. Why is it the obligation of the American taxpayer to subsidize all these people because they can not live with uncertainty? What are the American troops, the functional equivalent of a nightlight for our former allies in NATO?

We were there when they needed us. Why have they not been there when we need them? Are we obligated to stay there when they do not need us? Because that is what we were told over and over again, "we do not want to offend our allies." How come nobody ever worries about offending us?

What right have they got to be offended when we say American taxpayers do not think they should subsidize Japan any more for $5 billion? The American people do not understand why they should pay to keep troops in German when the Germans pay to keep Russian troops in Germany. The American people do not understand why we still need all that many in NATO.

So I think this is evolving, to summarize: The cold war has ended. It is increasingly clear that America can maintain its position as the strongest Nation in the world with a considerable margin of safety at about half of what we now spend. It will take us a couple of years to get there.

We have young people in the armed services who joined, who volunteered to defend their country and they are entitled to absolutely scrupulous honoring of their commitments. We owe these people 100 percent of what we promised them.

But the armed services take a lot just to stay even. Attrition begins to buy you a lot. Sensible weapons production can buy you a lot in savings. Fundamentally saying to the rest of the world, and I said in summary but let me just rephrase one point: The problem with this administration's mindset is that Iraq threatens Kuwait, invades Kuwait, and their view is it is America's obligation to go to the rescue and maybe if we are lucky other people will help.

We have to develop a new mindset, say to our wealthy and strong allies, "Look, we are prepared to work with you jointly, but forget this notion that somehow we owe you to be the first ones in and the only ones in and maybe you will do us a favor of helping us."

As long as people have that impression and they get it from this administration, we will be in trouble.

Why does the administration want to give them that impression? That is the price of leadership. That is what we pay so we can call ourselves the leader.

Well, I want to be the leader, I want to be the leader in standing up for human rights, I want to be the leader in providing a good standard of living for the country, I want to be the leader in providing the quality of goods around the world where people would say, "Oh, made in America? Terrific." They say that now about our weapons. There is no inherent reason whatsoever why they cannot say that about our consumer goods as well.

That is the difference, as I said, between the parties.

For reasons I do not fully understand, but the Reagan administration and the Bush administration and the overwhelming majority of the Republicans in both Houses believe that we should make some marginal drops in spending on the military, although not all of them want that. Some of them want to keep more. But on the whole, they want to keep spending in the 1990's and into the next century at roughly the levels we were spending before, maybe with some marginal drops. And they want to keep in foreign policy, and some will see this when the vote comes on most favored nation for China and other areas, they want to keep deferring to other nations. They do not want America to be at the bargaining tables equally. They basically are saying, "We will defer to them a little bit because we are the leader of the free world and this is our responsibility." I think on the Democratic side you are already seeing, you saw it in the budget negotiations last year, and you will see it this year, and you will see it full-blown next year, and I think you will see it in the Presidential campaign, a Democratic position that says, "No, we do not owe wealthy nations the degree of subsidy of their economies by providing them with an excuse to cut their militaries very low while we keep ours unnecessarily high." We want to spend as much as we need to defend ourselves and defend those in need. We want to free up American resources. We are talking about at least $150 billion a year in current dollars because that also includes not just the money in the military budget but money in the intelligence budget, money in the atomic weapons part of the energy budget. We are talking about a very significant amount of money.

What we are saying is at the margins, if we put that money into civilian production we can give ourselves the better quality of life, we can help our economy to function better.

We can provide ourselves medical care, we can free up resources at the State and city levels. If you take medical care off the backs of the States and allow them to put that money into education and into infrastructure, we will all be better off.

□ 1320

Mr. Speaker, those are the differences between the parties. We do not differ about how much money we should spend. That part of the budget agreement is not in dispute. This administration wants to spend tens of billions of dollars a year more than there is any conceivable need for in terms of American security because they say that is the price of leadership in the free world, and on the Democratic side we are going to want to turn some of that into deficit reduction and some of that into spending on behalf of important, undeniable societal needs in transportation, in the environment, in education, in housing, and in medical care.

Mr. Speaker, we will not solve all the problems. We will come a lot closer to giving Americans the quality of life they have earned. This is a Nation that has people in it who have worked very, very hard, and sometimes we are too self-critical. Sometimes we say: How come America in 1991 is not where it was in 1961 in terms of the worldwide economy?

There are a number of answers. An absolutely essential part of the answer is that for the past 30 years we have been subsidizing militarily our increasingly wealthy allies. We have diverted from our own needs trillions of dollars by now that we have spent on the defense of others, and while that was necessary for a while, and we cannot dispute when it stopped being necessary, it is indisputably unnecessary now.

I do not want a nationalist America. I do not want an isolationalist or protectionist America. I want to do more for genuinely poor people elsewhere in the world. I want an America that stands for human rights. I want an America that will go to the defense of nations that are beleaguered by larger neighbors. But I also want an America that thinks enough of its own citizens to say that, when we are dealing with people of equal wealth to ourselves, that we expect equal treatment, and I want an America that says, "Having succeeded in repelling a military threat against the world, we now understand the wisdom of using some of those resources for a better standard of living." It is not sensible to continue to spend so much on the military effort where we have succeeded and so little on the economic effort.

In 1945 through 1949 we evolved a very sensible policy of using our economic strength to meet the military threat. The time has come now to recognize, not that the military threat has disappeared, but that the order of priority has reversed, that America today has economic needs greater than its military needs, and the only thing that prevents us from acting on that would be our own foolishness.

THE RESCUE OF ETHIOPIAN JEWRY REQUIRES U.S. RESPONSE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. LOWEY] is recognized for 60 minutes.

Mrs. LOWEY of New York. Mr. Speaker, a request is expected from the Government of Israel in September for loan guarantees from the United States to assist them in the massive responsibility of providing housing to the thousands upon thousands of refugees whom they are helping begin new lives. The focus in recent years has been on the large number of Soviet Jews seeking the right to emigrate to Israel, and recent changes in Soviet policies, including the new emigration law which is set to be fully implemented in 1993, have dramatically increased the number of Soviet Jews able to leave the Soviet Union for Israel. However, at the end of May, I had the unique opportunity to observe firsthand the almost miraculous rescue of Ethiopian Jews from that war torn and impoverished nation.

The second International Conference of Jewish Members of Parliaments which I attended as a member of the U.S. delegation, was dramatically altered by one of the most historic and joyous events in the history of the Jewish people: the rescue of Ethiopian Jewry.

The conference began, as planned, with a Shabbat dinner in the home of a Member of the Knesset, where there was a frank exchange on the need to revitalize the peace process and to spur economic development in Israel. The wide range of views expressed on these and other issues demonstrated that Israel is a vital and functioning democracy, in sharp contrast to its neighbors.

However, the following day, our regular program was interrupted with an announcement that the longtime dream of rescuing Ethiopian Jewry was already in progress. Although we were aware of the deteriorating situation in Ethiopia and rumors of an imminent rescue were rampant, the actual announcement that Operation Solomon was underway had a profound impact on all of us.

The meeting was quickly adjourned, and we left to welcome incoming Ethiopian Jews at the nearby Diplomat Hotel. When we arrived, we found crowds of Ethiopians who had landed in Israel only hours before. The adults, dressed in simple white, carried themselves with a quiet grace and dignity despite the enormous strains of relocation in a distant land. When they were greeted, they smiled broadly and, knowing almost no Hebrew, exclaimed, "Shalom! Shalom!" Some of the children were nursing, while others clung to their stuffed animals—their only possession in the world.

In their faces I could see the same optimism and anticipation that characterizes all immigrants to Israel—the hope and promise of an individual who has been given the opportunity to start a new life with brothers and sisters in our historic and permanent homeland.

Later, at the Knesset, Uri Ulbrani briefed us on the success of Operation Solomon. The operation had been planned for months, but the final details had been worked out only in the last few hours. It involved a massive airlift of the refugees, who had gathered near the Israeli Embassy in Addis Ababa; 40 round trips were made by Israel Air Force and El Al planes, with as many as 28 planes in the air at one time. One of the planes set a world record for number of passengers: 1,080 persons seated on the floor of an enormous cargo plane. The massive operation, which rescued more than 14,400 Ethiopian Jews, was over in just 33 hours.

All of the participants in the conference were aware of the importance of this event, and a sense of awe and pride filled the air after our briefing. Having been called together to discuss Israel's role in the community of nations, we could not have received a better reminder of its fundamental purpose: to provide a haven and a homeland for all Jews.

The challenge that the Israelis assumed in taking on this rescue will be massive. The Ethiopian Jews are ill-prepared for life in a modern nation. Unlike the Soviet Jews, who are overqualified for most of the jobs that are available, Ehtiopian Jews must be trained extensively—for the simple daily tasks of life in a modern nation, and for the more complicated tasks associated with participation in the economy. Israel saved the Ethiopian Jews because that is what Israel stands for: Opening its welcoming arms to Jews from anywhere in the world.

However, at the Mevasseret Zion Absorption Center—one of 46 absorption centers around the nation—the full impact of Operation Solomon was evident. Here, immigrant children from around the world practiced Hebrew together and learned about their new homeland. Around the room were beautiful Ethiopian children, side by side with children from the Soviet Union and other nations of the world, leaving no doubt about the importance and the meaning of Israel.

The charge that Zionism is racism has always been baseless and vile. But in that room, the charge seemed nonsensical and laughably false. For right there, Zionism was at work, rescuing Jewish lives from the clutches of famine, violence, and oppression—without regard to their circumstances and, certainly, without regard to their color. The very visible nature of what occurred should provide the impetus for the U.N. General Assembly to repeal its resolution which equated Zionism with racism. Earlier this month, along with Representatives WAXMAN and GILMAN and 67 of our colleagues, I joined in a letter urging Secretary General Perez de Cuellar to help secure repeal of that resolution. It is my sincere hope that he will understand the urgency of such action and will heed our call.

In the eyes of Ethiopian Jewish children who were rescued, I saw an affirmation of life and freedom and security for all Jews, black and white, Ashkenazim and Sephardim, observant and secular. In the eyes of Ethiopian children, I saw history in the making. And in my heart, I gave thanks to God for the success of this historic rescue mission.

At the beginning of our conference, one participant from Hungary introduced himself as a "Hungarian of Jewish descent." Just before our departure, he addressed the group again, saying, "I am a Jew." He was overcome by his newfound understanding of the importance of Israel and the importance of his heritage—the same thoughts that gave the Ethiopian Jews the strength they needed to survive their passage to a new life.

Once again, the enormous importance of Israel had been reaffirmed for all. In the words of an Ethiopian Jewish prayer, "Do not separate me, O Lord, from the chosen, from the joy, from the light and the splendor. Let me see, O Lord, the light of Israel."

Having seen this monumental endeavor succeed in rescuing thousands of Ethiopian Jews from a desperate situation virtually without compare, it is my view that the best humanitarian traditions of the United States must now come to the fore. To not respond to the incredible needs of these people who were threatened with annihilation and to the needs of the thousands of Soviet Jews who are fleeing to Israel to find freedom and to escape persecution would be an abdication of our principles and of the very spirit of our Nation.

While I expect that the impending Israeli request for loan guarantees to respond to these needs will prompt controversy and prolonged debate within the administration and in the Congress, I call on my colleagues to look into their hearts and to do what is right. It would be a travesty and a black mark on our Nation if, after all that has been accomplished, we were to turn our backs on those who now have the possibility of a new beginning.

AN EXPLANATION OF THE TAX SIMPLIFICATION ACT OF 1991

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 60 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise today to give my colleagues an explanation of H.R. 2777, the Tax Simplification Act of 1991, and H.R. 2775, relating to the additional simplification of the tax law, which I introduced yesterday, along with the Honorable BILL ARCHER, ranking Republican on the Ways and Means Committee, H.R. 2777, the Tax Simplification Act of 1991. An identical bill is being introduced by Senator LLOYD BENTSEN, Chairman of the Senate Finance Committee, and Senator BOB PACKWOOD, ranking Republican on the Senate Finance Committee. I am grateful for the cooperation of Senators BENTSEN and PACKWOOD and Mr. ARCHER in the development and introduction of this important legislation. In addition, I also introduced H.R. 2775, which contains additional tax simplification proposals.

H.R. 2777 and H.R. 2775 are the culmination of a tax simplification process that began in February, 1990, when I requested that the interested public, Treasury Secretary Nicholas Brady, and the staffs of the Ways and Means Committee and the Joint Committee on Taxation develop tax simplification proposals for review by the full Committee.

In response, I received literally hundreds of suggestions. Most of them were published last year in an 1,100-page Ways and Means Committee print. The proposals ranged from the grandiose to the picayune. Some are radical, some are mundane. Some have no revenue effect, and some are budget-busters. Some appear to be true simplification, some are not.

After the proposals were received, I laid out several simplification criteria for evaluating their merit:

First, whether the proposal would reduce significantly mechanical complexity or recordkeeping requirements;

Second, whether the proposal would reduce significantly compliance and administrative costs;

Third, whether the proposal would preserve underlying policy objectives of current law and not create or reopen opportunities for abusive tax planning;

Fourth, whether the proposal is consistent with generally accepted tax principles;

Fifth, whether the proposal would cause significant shifts of tax burdens among taxpayers;

Sixth, whether the simplification that the proposal would achieve outweighs the instability resulting from making any statutory change, as opposed to permitting statutory repose; and

Seventh, whether revenue effects of the proposal would comport with current revenue and budgetary constraints.

Using these criteria, the staffs of the taxwriting committees in both Houses and the Joint Committee on Taxation, in a bipartisan manner and with the full participation of the Treasury Department and Internal Revenue Service staff, have made a good-faith effort to assess each of the simplification proposals. The bills that I am introducing today reflect their collective recommendations.

After enactment of the Tax Reform Act of 1986, I expressed my personal interest in simplifying the Federal Tax Code. I remain committed to that goal. Efforts to simplify discrete sections of the Tax Code do not create headlines. That's not the purpose. Rather, I feel that the Committee on Ways and Means and the Congress have a responsibility to pursue meaningful tax simplification, however incremental. We owe it to the millions of taxpayers who face compliance burdens, and we owe it to our voluntary system of taxation, if it is to remain viable.

The current complexity of the Tax Code has evolved over decades. It is not reasonable to expect that it can be cured overnight or in a single session of Congress. Tax simplification is an ongoing process, an ongoing commitment of all those concerned about the integrity of the Federal tax system. Nevertheless, I was encouraged by the important steps taken in the first session of the 101st Congress to simplify and make more rational the corporate alternative minimum tax, tax-exempt bond rebate rules, and civil penalty provisions. These efforts demonstrated that meaningful tax simplification can be accomplished without sacrificing policy objectives or violating current revenue constraints.

The bills that I am introducing today are not all things for all people, nor are they the simplification bills to end all simplification bills. Rather, they are the next step—an important step—in an ongoing, orderly process to simplify the tax laws. While there is much substance in these bills, much more remains to be done. In this year following a hard-earned, 5-year budget agreement, however, it is important not to reopen the fundamental decisions made in that agreement or to introduce needless instability into the tax system. As a matter of legislative practicality, it is also important to keep a tax simplification project to a manageable size.

As tax simplification proceeds step by step, however, I hope to pursue additional simplification proposals in future sessions of Congress. For example, consideration was given to including in these bills certain worthwhile simplification proposals which were ultimately excluded because of budgetary constraints. In particular, comprehensive simplification of the earned income tax credit and certain proposals to simplify the treatment of earnings from the conduct of a business through certain foreign corporations should remain priorities for future legislation.

Mr. Speaker, I want to emphasize today, as I did when I first announced this simplification initiative, that it is not intended to be an exercise in legislating tax relief for particular taxpayers or industries. Nor is it an invitation to reopen or reverse fundamental policies of recently enacted statutes. Rather, H.R. 2777 and H.R. 2775 are intended to be the next progressive steps toward simplifying important areas of our tax laws. If the Congress and the interested public are committed to true simplification, they will exercise restraint as these bills progress in the legislative process—for much is at stake here, in terms of the prospects for future simplification proposals.

On July 23 and 24, the Committee on Ways and Means will hold hearings on H.R. 2777 and H.R. 2775, as well as on H.R. 1555, the Technical Corrections Act of 1991. After receiving testimony on the provisions of these three bills, the Committee should be prepared to take legislative action in the fall.

My explanations of the Tax Simplification Act of 1991 and of H.R. 2775 follow:

TITLE I.—INDIVIDUAL TAX PROVISIONS

1. Repeal supplemental young child credit portion of earned income tax credit and increase family size adjustment for earned income tax credit (sec. 101 of the bill and sec. 32 of the Code)

Present Law

Eligible low-income workers are able to claim a refundable earned income tax credit (EITC) of up to 16.7 percent (17.3 percent for taxpayers with more than one qualifying child) of the first $7,140 of earned income for 1991. The maximum amount of credit for 1991 is $1,192 ($1,235 for taxpayers with more than 1 qualifying child), and this maximum is reduced by 11.93 percent (12.36 percent for taxpayers with more than one qualifying child) of earned income (or adjusted gross income, if greater) in excess of $11,250. The EITC is totally phased out for workers with earned income (or adjusted gross income, if greater) over $21,245. Earned income consists of wages, salaries, other employee compensation, and net self-employment income.

The credit rates for the EITC change over time under present law, as shown in the following table.

Year	One qualifying child—		Two or more qualifying children—	
	Credit rate	Phase-out rate	Credit rate	Phase-out rate
1992	17.6	12.57	18.4	13.14
1993	18.5	13.21	19.5	13.93
1994 and after	23.0	16.43	25.0	17.86

The maximum amount of earned income on which the EITC may be claimed and the income threshold for the phaseout of the EITC are indexed for inflation.

A supplemental young child credit is available for qualifying children under the age of one year. This young child credit rate is 5 percent and the phase-out rate is 3.57 percent. It is computed on the same base as the ordinary EITC. The maximum supplemental young child credit for 1991 is $357. If a taxpayer claims the supplemental young child credit, the child that qualifies the taxpayer for such credit is not a qualifying individual under the dependent care tax credit (sec. 21).

Reasons for Simplification

The existence of a supplemental credit as part of the EITC increases the number of computations required of taxpayers who may be eligible for the credit. In addition, the limitation imposed on taxpayers who may also be able to claim the dependent care tax credit essentially requires that these taxpayers compute the tax benefits from both credits and then choose the alternative that provides the larger tax benefit. The compliance burden of these additional computations may be substantial for many taxpayers.

Explanation of Provision

The bill repeals the supplemental young child credit and increases the basic EITC rate for families with 2 or more qualifying children to 21.7 percent in 1992, to 22.8 percent in 1993 and to 28.3 percent in 1994 and thereafter. The phaseout rates for the EITC for families with 2 or more qualifying children will be 15.5 percent for 1992, 16.28 percent for 1993, and 20.22 percent for 1994 and thereafter.

Effective Date

The provision is effective for tax years beginning after December 31, 1991.

2. Rollover of gain on sale of principal residence in case of divorce or separation (sec. 102 of the bill and sec. 1034 of the Code)

Present Law

No gain is recognized on the sale of a principal residence if a new residence at least equal in cost to the sales price of the old residence is purchased and used by the taxpayer as his or her principal residence within a specified period of time (sec. 1034). This replacement period generally begins two years before and ends two years after the date of sale of the old residence. The basis of the replacement residence is reduced by the amount of any gain not recognized on the sale of the old residence by reason of section 1034.

The determination whether property is used by a taxpayer as a principal residence depends upon all the facts and circumstances in each case, including the good faith of the taxpayer. No safe harbor is provided for sales of principal residences incident to divorce or marital separation.

Reasons for Simplification

In the case of a divorce or marital separation, the determination of principal residence for one or both spouses may be unduly complex for both the taxpayer and the Internal Revenue Service. The creation of a safe-harbor rule for certain sales pursuant to a divorce or marital separation will ease administration of the law while still preserving the policy that the rollover is available only for the sale of an individual's principal residence.

Explanation of Provision

The bill provides a safe harbor in the determination of principal residence in certain cases incident to divorce or marital separation. Specifically, the bill provides that a residence is treated as the taxpayer's principal residence at the time of sale if (1) the residence is sold pursuant to a divorce or marital separation, and (2) the taxpayer used such residence as his or her principal residence at any time during the two-year period ending on the date of sale.

Effective Date

The provision applies to sales of old residences (within the meaning of section 1034) after the date of enactment.

3. De minimis exception to passive loss rules (sec. 103 of the bill and sec. 469 of the Code)

Present Law

The passive loss rules limit deductions and credits from passive trade or business activities. Deductions from passive activities, to the extent they exceed income from passive activities, generally may not be deducted against other income, such as wages, portfolio income, or business income that is not from a passive activity. Deductions that are suspended under this rule are carried forward and treated as deductions from passive activities in the next year. The suspended losses from a passive activity are allowed in full when a taxpayer disposes of the entire interest in the passive activity to an unrelated person.

Passive activities are defined to include trade or business activities in which the taxpayer does not materially participate. Material participation requires a taxpayer to be involved in the operations of the activity on a regular, continuous and substantial basis.

Rental activities are also included in the definition of passive activities. A special rule permits the deduction of up to $25,000 of losses from certain rental real estate activities in which the taxpayer actively participates (even though the activities are considered passive) for taxpayers with adjusted gross incomes of $100,000 or less. This deduction is phased out for taxpayers with adjusted gross incomes between $100,000 and $150,000. A rental activity is defined as any activity where payments are principally for the use of tangible property.

Reasons for Simplification

A taxpayer who has a very small amount of passive losses that are disallowed for the year is required to carry forward the disallowed losses to the next year. In the case of certain small amounts of passive losses that cannot otherwise be deducted in the current taxable year, the bill permits the deduction and eliminates the need to keep records of the carryforward.

Explanation of Provision

The bill creates a $200 de minimis exception to the rule disallowing net passive activity losses. Under the exception, a taxpayer who is an individual and whose total net passive activity losses for the year do not exceed $200 for the taxable year generally may deduct such losses for the year. The exception also applies to estates for the first two taxable years following the decedent's death. Similarly to the present-law rules applicable to the $25,000 exception, the amount under the exception provided in the bill in $100 in the case of a married taxpayer filing a separate return, and the exception is not available in the case of a married taxpayer filing a separate return who does not live apart from his spouse at all times during the taxable year.

The $200 exception is available only for taxpayers with net passive activity losses totalling $200 or less; a taxpayer with $300 of passive losses for the year, for example, is not eligible for the $200 exception. The $200 exception is applied after determining the taxpayer's net passive activity loss for the year (which includes taking into account suspended losses from prior year), but before taking the $25,000 allowance for rental real estate. Thus, for example, if a taxpayer has $500 of losses from rental real estate, he is not eligible for the $200 exception but may be eligible for the $25,000 exception (assuming he otherwise meets the requirements of the $25,000 exception). In all other respects, the $200 exception is applied after applying all other applicable rules under the passive loss rule.

The $200 exception does not apply with respect to passive activity credits.

The $200 exception does not apply with respect to items from publicly traded partnerships, to which the passive loss rule has separate application under present law.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

TITLE II.—TAX-EXEMPT BOND PROVISIONS

1. Overview

Interest on State and local government bonds generally is excluded from gross income for purposes of the regular individual and corporate income taxes if the proceeds of the bonds are used to finance direct activities of these governmental units (Code sec. 103).

Unlike the interest on governmental bonds, described above, interest on private activity bonds generally is taxable. A private activity bond is a bond issued by a State or local governmental unit acting a conduit to provide financing for private parties in a manner violating either (a) a private business use and payment test or (b) a private loan restriction. However, interest on private activity bonds is not taxable if (a) the financed activity is specified in the Code and (b) at least 95 percent of the net proceeds of the bond issue are used to finance the specified activity.

Issuers of State and local government bonds must satisfy numerous other requirements, including arbitrage restrictions (for all such bonds) and annual State volume limitations (for most private activity bonds) for the interest on their bonds to be excluded from gross income.

2. Provisions of the bill

a. Repeal of unrelated and disproportionate use limit (sec. 201 of the bill and sec. 141(b) of the Code).

Present Law

Bonds issued by States and local governmental units are private activity bonds if (1) more than ten percent of the proceeds of the issue of which they are part satisfy a private business use and payment test or (2) more than five percent ($5 million, if less) of the proceeds are used to finance loans to persons other than States or local governments. The ten-percent private business limits are reduced to five percent in the case of certain use that is unrelated to a governmental use also being financed with the proceeds of the issue (the "unrelated and disproportionate use limit").

Reasons for Simplification

Whether a private business use is related to a governmental activity also being financed with a bond issue may be a complex facts and circumstances determination. In light of the general ten-percent limit on private business use, the private loan restriction, and the State volume limit requirement for larger governmental bond issues, the complexity associated with this determination may be eliminiated without sacrificing the Federal policy of strictly limiting use of governmental bond proceeds to finance private activities not specifically approved by the Congress.

Explanation of Provision

The bill repeals the five-percent unrelated and disproportionate use limit.

Effective Date

This provision applies to bonds issued after the date of enactment.

b. Simplification of arbitrage rebate requirement for smaller issuers of governmental bonds (sec. 202 of the bill and sec. 148 of Code).

Present Law

Subject to limited exceptions, arbitrage profits from investing bond proceeds in investments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. The rebate requirement does not apply to governmental bonds issued by issuers with general taxing powers if they issue $5 million or fewer of such bonds during the calendar year when the bonds are issued.

Reasons for Simplification

The Federal policy addressed by the arbitrage rebate requirement is the elimination of earlier and larger issuance of tax-exempt bonds to obtain a financial advantage by investing funds borrowed at lower tax-exempt rates in higher yielding taxable investments. Compliance with the rebate requirement may necessitate adherence to accounting practices different from those used generally for governmental operations.

The exception from the arbitrage rebate requirement for governmental bonds issued by smaller governmental units reflects a balancing of the policy of preventing arbitrage-motivated bond issuance with the desire to make the administrative responsibilities necessary to comply with the rebate requirement easily manageable. Increasing the current $5 million annual issuance limit defining eligible governments to $10 million is appropriate.

Explanation of Provision

The bill increases the $5 million annual issuance limit for small issuers whose governmental bonds are not subject to rebate to $10 million.

Effective Date

This provision applies to bonds issued in calendar years beginning after the date of enactment.

c. Repeal of 150-percent of debt service limit (sec. 203 of the bill and sec. 148 of the Code).

Present Law

Issuers of all tax-exempt bonds generally are subject to two sets of arbitrage restrictions on investment of their bond proceeds. The first set requires that tax-exempt bond proceeds not be invested at a yield materially higher (generally defined as 0.125 percentage points) than the bond yield. Exceptions are provided to this restriction for investments during any of several "temporary periods" pending use of the proceeds and, throughout the term of the issue, for proceeds invested as part of a reasonably required reserve or replacement fund or a "minor" portion of the issue proceeds.

Except for temporary periods and amounts held pending use to pay current debt service, present law also limits the amount of the proceeds of private activity bonds (other than qualified 501(c)(3) bonds) that may be invested at any time at materially higher yields during a bond year to 150 percent of the debt service for that bond year. This restriction affects primarily investments in reasonably required reserve or replacement funds. Present law further restricts the amount of proceeds from the sale of bonds that may be invested in reserve funds to ten percent of such proceeds.

The second set of arbitrage restrictions requires that generally all arbitrage profits earned on investments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. Arbitrage profits include all earnings (in excess of bond yield) derived from the investment of bond proceeds (and subsequent earnings on any such earnings).

Reasons for Simplification

The 150-percent of debt service limit was enacted before enactment of the arbitrage rebate requirement and the ten-percent limit on the size of reasonably required reserve or replacement funds. It was intended to eliminate arbitrage-motivated activities available from investment of such reserve funds. Provided that comprehensive yield restriction and rebate requirements and the overall present-law size limit on reserve funds are maintained, the 150-percent of debt service yield restriction limit could be viewed as duplicative.

Explanation of Provision

The bill repeals the 150-percent of debt service yield restriction.

Effective Date

This provision applies to bonds issued after the date of enactment.

d. Election to terminate most post-initial temporary period rebate liability for certain bonds (sec. 204 of the bill and sec. 148 of the Code).

Present Law

Issuers of all tax-exempt bonds generally are subject to two sets of arbitrage requirements with respect to investment of their bond proceeds. First, tax-exempt bond proceeds may not be invested at a yield materially higher (generally defined as 0.125 percentage points) than the bond yield. Exceptions are provided to this restriction for investments during any of several "temporary periods" pending use of the proceeds and, throughout the term of the issue, for proceeds invested as part of a reasonably required reserve or replacement fund or a "minor" portion of the issue proceeds.

Second, generally all arbitrage profits earned on investments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. Arbitrage profits generally include all earnings (in excess of bond yield) derived from the investment of bond proceeds (and subsequent earnings on any such earnings).

Reasons for Simplification

Arbitrage-motivated bond issuance may be expected to occur as a result of lower tax-exempt borrowing costs relative to higher yielding taxable investments if issuers are allowed to earn and retain profits on substantial amounts of bond proceeds during extended periods. Tax-exempt bond issuers have been subject to a yield restriction requirement since 1969. The arbitrage rebate requirement was first enacted in 1980 (qualified mortgage bonds) and 1984 (most industrial development bonds). The requirement was extended to all other bonds in 1986.

Familiarity with the long-standing yield restriction requirement by bond issuers may make compliance with that requirement easier than compliance with the newer rebate requirement. If periods when arbitrage profits may be earned on substantial amounts of bond proceeds and retained by issuers are eliminated or substantially curtailed through an expanded yield restriction requirement, the arbitrage rebate requirement likewise may be eliminated or substantially curtailed. Such a provision should simplify administrative compliance with the arbitrage restrictions without increasing Federal revenue loss from unnecessary issuance of tax-exempt bonds.

Statutorily limiting periods when rebate liability exists also relieves issuers of the administrative complexity associated with calculating arbitrage payments. Under present law, issuers must perform these calculations even if they restrict the yield on investments so that no arbitrage profits are earned (or rebate owed).

Explanation of Provision

The bill allows issuers of bonds (other than tax and revenue anticipation notes and advance refunding bonds) to elect to terminate prospective application of the arbitrage rebate requirement to certain bond proceeds, and to comply instead with a yield restriction requirement similar to that which applies to the bonds under present law.[1]

The election generally applies to all proceeds of an issue other than proceeds invested in a bona fide debt service fund or a reserve or replacement fund (e.g., a "4R" fund). However, issuers may elect to apply the provision to proceeds invested in reserve or replacement funds.[2]

The current refunding of bonds with respect to which an election has been made does not terminate the election with respect to the refunded bonds; rather, the current refunding bonds "step into the shoes" of the refunded bonds.[3]

The election (including the election for reserve or replacement funds) must be made no later than 90 days after the expiration of the initial temporary period applicable to the bonds. If the election is made, these issuers will be liable for rebate of arbitrage profits earned through the end of the 90-day period after expiration of that initial three- or five-year temporary period, or if earlier, substantial completion of the governmental spending purposes of the issue.

Issuers will make a final payment of their rebate liability on proceeds subject to the election 60 days after the date on which the election is effective.

After the election is effective, issuers must forego any further periods of unrestricted yield (i.e., further temporary periods) and, except as described below, restrict the yield on nonpurpose investments of bond proceeds to a yield that does not exceed the yield on the issue of which the bonds are a part. The yield restriction requirement does not apply to proceeds invested during the following newly prescribed, exclusive temporary periods:

(1) Proceeds held during the minimum notice period prescribed by the Treasury Department State and local government series ("SLGS") obligation program immediately preceding their use to purchase SLGS;

(2) Proceeds invested during a period not exceeding ten days immediately preceding their use to redeem bonds; and

(3) In the case of other proceeds, periods not exceeding five consecutive days, subject to a maximum of 15 days during any 12-month period.

Effective Date

This provision applies to bonds issued after the date of enactment.

TITLE III.—ADMINISTRATIVE PROVISIONS

1. Simplify payroll tax deposit requirements (sec. 301 of the bill and sec. 6302 of the Code)

Present Law

The Code provides that the Secretary of the Treasury ("Secretary") may establish the mode or time for collecting any tax that is not specified in the Code (sec. 6302(a)). In general, Treasury regulations have established the system under which employers deposit income taxes withheld from employees' wages and FICA taxes. The frequency with which these taxes must be deposited increases as the amount required to be deposited increases.

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[1] In the case of pooled financing bonds, the election is made separately by the issuer of the pooled financing bonds and by borrowers from the pool.

[2] This election is not available to construction bond issues with respect to which an election to pay penalties in lieu of rebate is made (sec. 148(f)(4)(C)(vii) and (viii)).

[3] In the case of a high-to-low refunding, the yield restriction requirement is adjusted to reflect the lower yield on the refunding bonds.

Employers are required to deposit these taxes as frequently as eight times per month, provided that the amount to be deposited equals or exceeds $3,000. These deposits must be made within three banking days after the end of each eighth-monthly period. Monthly or quarterly deposits are required for smaller amounts.

In addition, the Code requires employers who are on this eighth-monthly system to deposit income taxes withheld from employees' wages and FICA taxes by the close of the next banking day (instead of by the close of the third banking day) after any day on which the business cumulates an amount to be deposited equal to or greater than $100,000 (regardless of whether that day is the last day of an eighth-monthly period).

Reasons for Simplification

Many employers find the present-law deposit requirements extremely confusing and complex. A large number of employers have difficulty dealing with the eighth-monthly system, in part because the day of the week on which the last day of each eighth-monthly period falls varies from month to month. In addition, a number of employers have difficulty in determining with certainty and with sufficient lead time which of the four deposit schemes of present law they are required to utilize.

Explanation of Provision

In general

The bill replaces the entire payroll tax deposit system with a new system that is clearer and easier to understand. In general, the new system consists of three basic deposit timetables. The first, which is most generally applicable (and replaces the eighth-monthly system), requires deposits twice a week, on Tuesdays and Fridays. The second, which applies to large depositors, retains the requirement of present law that cumulations of an amount to be deposited of $100,000 or more must be deposited on the next day. The third, which applies to many small depositors, provides generally that if the amount required to be deposited was $3,500 or less per quarter for a previous two-year base period, deposits must be made only once a quarter, on or before the last day of the first month of the following quarter.

Tuesday, Friday deposit rule

The Tuesday/Friday rule operates in the following manner. Amounts attributable to wage payments made on Wednesday, Thursday, or Friday are to be deposited on or before the following Tuesday. Amounts attributable to wage payments made on Saturday, Sunday, Monday, or Tuesday are to be deposited on or before the following Friday. Utilizing Tuesday and Friday as both the final days of the portion of the week with respect to which amounts to be deposited are cumulated as well as the days on which deposits must be made will provide a simple, easily remembered rule that will simplify the administration of these deposit requirements for both employers and the IRS.

Small depositor rules

The small depositor rules operate as follows. If an employer is a small depositor, deposits of employment taxes attributable to wage payments during a calendar quarter must be made on or before the last day of the first month of the following quarter. Thus, for example, a small depositor must deposit employment taxes attributable to the January through March calendar quarter no later than April 30.

A person is a small depositor for a calendar quarter if, for each calendar quarter in the base period, the amount of employment taxes attributable to payments in each of those calendar quarters was $3,500 or less. The base period is defined to be the eight calendar quarters ending with the second preceding calendar quarter before the quarter with respect to which the deposit requirements are being determined. For example, the base period for the calendar quarter of April through June 1993 is January 1991 through December 1992. If with respect to each of the calendar quarters in that two-year period, the amount of employment taxes was $3,500 or less, then the employer is a small depositor for the April through June 1993 calendar quarter and is required to make one deposit of employment taxes for that quarter, on or before July 31, 1993. This is true regardless of the amount of employment taxes for the April through June 1993 quarter. The only exception to this is that the $100,000 rule applies to all depositors, including small depositors. This application of the $100,000 rule should have no impact on small employers; it is designed to prevent very large new companies from making deposits only once for each quarter.

New companies will initially be treated as small depositors. For purposes of performing the base period determination, a company is considered to have employment taxes of zero for any calendar quarter in which a company did not exist. Consequently, new companies will, for at least the first two calendar quarters of their existence, be required to deposit only once for each quarter (unless they fall within the $100,000 rule).

The small depositor rule is designed to provide certainty to small employers with respect to their current deposit requirements. Most employers will be able to examine their quarterly employment tax returns (Form 941) for the two years in the base period and readily determine on that basis whether they are small depositors or must deposit on the Tuesday/Friday system. The "second preceding quarter" provision is designed to provide employers with ample lead time to make this determination prior to the start of a calendar quarter.

Safe harbor

The bill provides a statutory safe harbor with respect to certain shortfalls in deposits. An employer will be treated as having deposited the required amount of employment taxes in any deposit if the shortfall does not exceed the greater of $150 or two percent of the amount of employment taxes otherwise required to be deposited. A shortfall is the excess of the amount required to be deposited (without regard to this rule) over the amount actually deposited on or before the last day on which that deposit is required. Any shortfall is to be deposited as required by Treasury regulations.

Definitions and other rules

The bill provides that deposits are required only on banking days. (This rule is also contained in present law.) If a deposit is required to be made on or before a day that is not a banking day, the deposit is considered to have been made on a timely basis if it is made on or before the close of the next banking day. It is anticipated that the substance of Treasury regulations defining the term "banking day" will not be changed. For example, if a deposit is required to be made on a Friday, which is also the July 4 holiday, that deposit would be considered to be made on a timely basis if it is made on or before the following Monday.

The bill defines "employment taxes" to mean FICA taxes (both the employer and employee portions), Railroad Retirement Tax Act taxes, and withheld income taxes (as well as similar withheld taxes under chapter 24 of the Code).

These provisions generally do not apply to employment taxes that are not required to be deposited pursuant to Treasury regulations issued pursuant to section 6302. Under present law, employers with less than $500 of employment taxes for a calendar quarter are not required to deposit those taxes. They are instead permitted to remit those taxes with the quarterly employment tax return (Form 941). It is anticipated that a similar system permitting remittance (rather than requiring deposit) of these small amounts will be continued.

Treasury regulations

The bill provides that the Secretary may prescribe regulations relating to specific issues (in addition to the general authority to issue regulations with respect to collecting tax in sec. 6302 or generally in sec. 7805). First, the regulations may specify alternate employment tax requirements for employers who fail to comply with the requirements of this provision. This would enable the IRS to continue its practice (currently authorized by regulations issued pursuant to sec. 6302(a)) of specifying more frequent deposit requirements or alternate payment mechanisms for employers who have seriously violated the established deposit requirements.

The bill also permits Treasury to issue regulations specifying the additional circumstances (beyond those provided in the bill) under which an employer may be treated as a small depositor. This in effect permits the Treasury to expand (but not contract) the definition of small depositors.

In addition, the bill permits Treasury to issue regulations modifying these provisions for end-of-quarter periods. This is designed to permit the IRS to require appropriate treatment of amounts that overlap two quarters. For example, assume that a quarter ends on Wednesday. The deposit normally required to be made on or before the following Tuesday could include amounts attributable to the previous quarter (with respect to Wednesday) as well as amounts attributable to the current quarter (with respect to Thursday and Friday). Treasury regulations can specify an alternate rule to distinguish amounts relating to the two quarters.

Finally, the bill permits Treasury to issue regulations establishing different deposit requirements for amounts withheld pursuant to the backup withholding requirements of section 3406. Under present law, these amounts are treated the same as amounts withheld from income taxes. Because amounts withheld pursuant to the backup withholding requirements are often relatively small and are not generally handled by payroll offices, it is appropriate for Treasury to provide alternate deposit rules with respect to these amounts.

This simplified payroll tax deposit system will be significantly easier to understand and to administer for both businesses and the IRS. This should reduce materially the number of businesses who are subject to the penalty for failure to make timely deposits (sec. 6656) due to inadvertent errors. It is intended that, for purposes of this penalty, reasonable cause also apply to any failure to make deposits if the employer's total employment tax liability is $3,500 or less for any quarter.

Thus, employers who are certain that they will have less than that amount to be deposited in a quarter will only need to be concerned with the quarterly deposit rule for that quarter. If, however, an employer is uncertain as to whether the amount required to be deposited will be $3,500 or less for the quarter, and the employer is not a small depositor (as defined above), the employer should make deposits under the Tuesday/Friday rule.

Effective Date

The provision is effective for amounts attributable to payments made after December 31, 1992. This will permit employers and the IRS to have adequate time to implement this new system with minimal difficulty.

2. Simplify estimated tax payment rules for small corporations (sec. 311 of the bill and sec. 6655 of the Code)

Present Law

A corporation is subject to an addition to tax for any underpayment of estimated tax. A corporation does not have an underpayment of estimated tax if it makes four timely estimated tax payments each equal to at least 22.5 percent of its tax liability for the current taxable year. In addition, a corporation that is not a "large corporation" may avoid the addition to tax if it makes four timely estimated tax payments each equal to at least 25 percent of its tax liability for the preceding taxable year, so long as the preceding year was not a short taxable year and corporation filed a return showing a tax liability for such year. A large corporation may use this second rule only with respect to its estimated tax payment for the first quarter of its current taxable year. A large corporation is one that had taxable income of $1 million or more for any of the three preceding taxable years.

Reasons for Simplification

The calculation of estimated tax payments may be difficult for a corporation (particularly a small corporation) that had no tax liability in the preceding taxable year because it must use the current taxable year rule; it is not allowed to use a safe harbor that is available to a corporation with a tax liability in the preceding taxable year.

Explanation of Provision

The bill provides that a small corporation (i.e., a corporation that is not a "large corporation" under present law) with no tax liability in the preceding taxable year may avoid the addition to tax if it makes four timely estimated tax payments each equal to at least 25 percent of its tax liability for the second preceding taxable year.[4] This rule will apply so long as (1) neither the preceding taxable year nor the second preceding taxable year was a short tax year, and (2) the corporation filed tax returns for both years. If the corporation satisfies these two requirements and did not have a tax liability for either of the two preceding taxable years, the corporation will not be required to make estimated tax payments for the current taxable year.

A large corporation may use this expended safe harbor with respect to its estimated tax payment for the first quarter of its taxable year, as under present law.

Effective Date

The provision is effective for taxable years beginning after the date of enactment of this Act.

3. Interest rate on large corporate underpayments (sec. 321 of the bill and sec. 6621(c) of the Code)

Present Law

The interest rate on a large corporate underpayment of tax in the Federal short-term rate plus five percentage points. A large corporate underpayment is any underpayment by a subchapter C corporation of any tax imposed for any taxable period, if the amount of such underpayment for such period exceeds $100,000. The large corporate underpayment rate generally applies to periods beginning 30 days after the earlier of the date of which the first letter of proposed deficiency, a statutory notice of deficiency, or a nondeficiency letter or notice of assessment or proposed assessment is sent. For this purpose, a letter or notice is disregarded if the taxpayer makes a payment equal to the amount shown on the letter or notice within that 30 day period.

Reason for Simplification

The large corporate underpayment rate generally applies if the underpayment of tax for a taxable period exceeds $100,000, even if the initial letter or notice of deficiency, proposed deficiency, assessment, or proposed assessment is for an amount less than $100,000. Thus, for example, under present law, a nondeficiency notice relating to a relatively minor mathematical error by the taxpayer may result in the application of the large corporate underpayment rate to a subsequently identified income tax deficiency.

Explanation of Provision

For purposes of determining the period to which the large corporate underpayment rates applies, any letter or notice will be disregarded if the amount of the deficiency, proposed deficiency, assessment, or proposed assessment set forth in the letter or notice is not greater than $100,000 (determined by not taking into account any interest, penalties, or additions to tax).

Effective Date

The provision is effective for purposes of determining interest for periods after December 31, 1990.

TITLE IV.—ESTATE AND GIFT TAX PROVISIONS

Include fractional share of property qualifying for the marital deduction in the gross estate (sec. 401 of the bill and secs. 2056(b) and 2523 of the Code)

Present Law

A marital deduction against the estate and gift tax generally is permitted for the value of property passing between spouses. No marital deduction is permitted, however, if, upon termination of the spouse's interest, possession or enjoyment of the property passes to another person (the "terminable interest rule"). Certain exceptions to this rule may apply if the spouse receives a power of appointment over, or an income interest in, a "specified portion" of property (sec. 2056(b)(5), (6), (7)). The spouse is subject to estate and gift tax on property over which he or she holds a power of appointment.

A Treasury regulation defines a "specified portion" to be a fractional or percentile share of a property interest (Treas. Reg. sec. 20.2056(b)-5(c)). Finding this regulation invalid, courts have held that the term "specified portion" includes a fixed dollar amount. (See *Northeastern Pennsylvania National Bank & Trust Co.* v. *United States*, 387 U.S. 213 (1967), *Estate of Alexander* v. *Commissioner*, 82 T.C. 34 (1984), aff'd, No. 8401600 (4th Cir. April 3, 1985).) Under the court holdings, appreciation in certain marital deduction property may be includible in neither spouse's estate.

Reasons for Simplification

The marital deduction postpones the imposition of the estate or gift tax until the property is transferred outside the marital unit. The exceptions to the terminable interest rule insure that the present value of property qualifying for the marital deduction is subject to transfer tax in the hands of the recipient spouse. By invalidating the Treasury regulation having this effect, the court holdings create uncertainty. Reversal of the holdings makes the law more certain by clearly implementing the policy underlying the marital deduction.

Explanation of Provision

The bill provides that, the purposes of the marital deduction, a "specific portion" only includes a portion determined on a fractional or percentage basis. Thus, a trust does not qualify under the exceptions to the terminable interest rule unless the required income interest and power of appointment are expressed as a fraction or a percentage of the property. The bill thereby reverses the court holdings and codifies the position of the Treasury Regulations.

It is intended that no inference be drawn from the provision with respect to the definition of "specified portion" under present law.

Effective Date

The provision generally applies to gifts made, and decedents dying, after date of enactment. The provision exempts a transfer under a will or revocable trust executed before the date of enactment if either (1) on that date the decedent was under a mental disability to change the disposition of his property and did not regain his competence to dispose of such property before the date of death, or (2) the decedent dies within three years after the date of enactment. The exemption does not apply if the will or trust is amended after the date of enactment in any respect that increases the amount of the transfer or alters the terms by which the interest passes.

H.R. 2777—TECHNICAL EXPLANATION OF THE BILL

TITLE I.—INDIVIDUAL TAX PROVISIONS

1. Rollover of gain on sale of principal residence (sec. 101 of the bill and sec. 1034 of the Code)

Present Law

No gain is recognized on the sale of a principal residence if a new residence at least equal in cost to the sales price of the old residence is purchased and used by the taxpayer as his or her principal residence within a specified period of time (sec. 1034). This replacement period generally begins two years before and ends two years after the date of sale of the old residence. The basis of the replacement residence is reduced by the amount of any gain not recognized on the sale of the old residence by reason of section 1034.

In general, nonrecognition treatment is available only once during any two-year period. In addition, if the taxpayer purchases more than one residence during the replacement period and such residences are each used as the taxpayer's principal residence within two years after the date of sale of the old residence, only the last residence so used is treated as the new replacement residence.

Special rules apply, however, if residences are sold in order to relocate for employment reasons. First, the number of times nonrecognition treatment is available during a two-year period is not limited. Second, if a residence is sold within two years after the sale of the old residence, the residence sold is treated as the last residence used by the taxpayer and thus as the only replacement residence.

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[4] As under present law, a small corporation may continue to use the current taxable year rule for estimated tax purposes.

Reasons for Simplification

The rollover provision governing the sale of a principal residence is unnecessarily complex, in part due to the different set of rules that applies depending on whether the sale is work related. The bill simplifies the rollover provision by applying only one set of rules to the sale of a principal residence regardless of whether the sale is work related.

Explanation of Provision

Under the bill, gain is rolled over from one residence to another residence in the order the residences are purchased and used, regardless of the taxpayer's reasons for the sale of the old residence. In addition, gain may be rolled over more than once within a two-year period. Thus, the rules that formerly applied only if a taxpayer sold his residence in order to relocate for employment purposes will apply in all cases.

As under present law, the basis of each succeeding residence is reduced by the amount of gain not recognized on the sale of the prior residence.

Effective Date

The provision applies to sales of old residences (within the meaning of section 1034) after the date of enactment.

2. Due dates for estimated tax payments of individuals (sec. 102 of the bill and sec. 6654 of the Code)

Present Law

In order to avoid an addition to tax, estimated tax payments of individuals generally are due on April 15th, June 15th, and September 15th of the taxable year for which the payment relates, and January 15th of the following taxable year. The amount of the estimated tax payments generally must be based on 90 percent of the tax shown on the return for the taxable year or 100 percent of the tax shown on the return for the preceding taxable year.

The due date for the tax return of an individual generally is April 15th of year following the taxable year to which the return relates. The due date may be automatically extended to August 15th.

Reason for Simplification

Delaying the due date of the second estimated tax installment would allow for a more accurate determination of the amount of the required payment if the payment is based on the tax shown on the return for the current year or if the payment is based on the tax shown on the return for the preceding year and the due date of the return for the preceding year has been extended.

Explanation of Provision

Under the bill, the due date for the second estimated tax payment of individuals is July 15th of the taxable year for which the payment relates.

Effective Date

The provision is effective for taxable years beginning after December 31, 1991.

3. Permit payment of taxes by credit card (sec. 103 of the bill and sec. 6311 of the Code)

Present Law

Payment of taxes may be made by checks or money orders, to the extent and under the conditions provided by regulations.

Reasons for Simplification

Credit cards are a commonly used and reliable form of payment. Some taxpayers may find paying taxes by credit card more convenient than paying by check or money order.

Explanation of Provision

The bill permits payment of taxes by credit card, to the extent and under the conditions provided by regulations.

Effective Date

The provision is effective on the date of enactment.

4. Election by parent to claim unearned income of certain children on parent's return (sec. 104 of the bill and secs. 1(g)(7) and 57(j)(1) of the Code)

Present Law

The net unearned income of a child under 14 years of age is taxed to the child at the top rate of the parents. Net unearned income means unearned income less the sum of $500 and the greater of: (1) $500 of the standard deduction or $500 of itemized deductions or (2) the amount of allowable deductions directly connected with the production of the unearned income. The dollar amounts are adjusted for inflation.

In certain circumstances, a parent may elect to include a child's unearned income on the parent's income tax return if the child's income is less than $5,000. A parent making this election must include the gross income of the child in excess of $1,000 in income for the taxable year. In addition, the parent must report an additional tax liability equal to the lesser of (1) $75 or (2) 15 percent of the excess of the child's income over $500. The dollar amounts for the election are not adjusted for inflation.

A person claimed as a dependant cannot claim a standard deduction exceeding the greater of $500 or such person's earned income. For alternative minimum tax purposes, the exemption of a child under 14 years of age generally cannot exceed the sum of such child's earned income plus $1,000. The $500 amount is adjusted for inflation but the $1,000 amount is not.

Reasons for Simplification

The election by a parent to include a child's unearned income on a return is intended to eliminate the need to file a separate return for a child without reducing the family's total tax liability. Indexation of the underlying dollar amounts simplifies return preparation by making the election available to more taxpayers.

The restriction upon the exemption allowed to a child for alternative minimum tax purposes is intended to treat the family the same as if the child's income had been included on the parent's return. Indexation of this exemption amount achieves this goal and simplifies transfers by removing a tax consideration influencing the ownership of property within the family.

Explanation of Provision

The bill adjusts for inflation the dollar amounts involved in the election to claim unearned income on the parent's return. It likewise indexes the $1,000 amount used in computing the child's alternative minimum tax.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

5. Simplified foreign tax credit limitation for individuals (sec. 105 of the bill and sec. 904 of the Code)

Present Law

In order to compute the foreign tax credit, a taxpayer computes foreign source taxable income, and foreign taxes paid, in each of the applicable separate foreign tax credit limitation categories. In the case of an individual, this requires the filing of IRS Form 1116, designed to elicit sufficient information to perform the necessary calculations.

In many cases individual taxpayers who are eligible to credit foreign taxes may have only a modest amount of foreign source gross income, all of which is income from investments (e.g., dividends from a foreign corporation subject to foreign withholding taxes, or dividends from a domestic mutual fund that can pass through its foreign taxes to the shareholder (see sec. 853)). Taxable income of this type ordinarily is subject to the single foreign tax credit limitation category known as passive income. However, under certain circumstances, the Code treats investment-type income (e.g., dividends and interest) as income in several other separate limitation categories (e.g., high withholding tax interest income, general limitation income) designed to accomplish certain policy objectives or forestall certain abuses. For this reason, any taxpayer with foreign source gross income is required to provide sufficient detail on Form 1116 to ensure that foreign source taxable income from investments, as well as all other foreign source taxable income, is allocated to the correct limitation category.

Reasons for Simplification

It is believed that a significant number of individuals are entitled to credit relatively small amounts of foreign tax, imposed at modest effective tax rates on foreign source investment income. For taxpayers in this class, it is believed that applicable foreign tax credit limitations typically exceed the amounts of taxes paid. Therefore, it is believed that relieving these taxpayers from application of the full panopoly of foreign tax credit rules may achieve significant reduction in the complexity of the tax law without significantly altering actual tax liabilities. At the same time, however, it is believed that the benefits of simplified treatment should be limited to cover those cases where the taxpayer is receiving a payee statement showing the amount of the foreign source income and the foreign tax.

Explanation of Provision

The bill allows individuals with no more than $200 of creditable foreign taxes, and no foreign source income other than income which is in the passive basket, to elect a simplified foreign tax credit limitation equal to the lesser of 25 percent of the individual's foreign source gross income or the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year. (It is intended that an individual electing this simplified limitation calculation not be required to file Form 1116 in order to obtain the benefit of the credit.) A person who elects the simplified foreign tax credit limitation is not allowed a credit for any foreign tax not shown on a payee statement (as that term is defined in sec. 6724(d)(2)) furnished to him or her. Nor is the person entitled to treat any excess credits for a taxable year to which the election applied as a carryover to another taxable year. Because the limitation for a taxable year to which the election applies can be no more than the creditable foreign taxes actually paid for the taxable year, it is also the case under the bill that no excess credits from another year can be carried over to the taxable year to which the election applies.

For purposes of the simplified limitation, passive income generally is defined to include all types of income that would be foreign personal holding income under the subpart F rules, plus income inclusions from passive foreign corporations (as defined above by the bill), so long as the income is shown on a payee statement furnished to the individual. Thus, for purposes of the simplified limitation, passive income includes all dividends, interest (and income equivalent to interest), royalties, rents, and annuities, and net gains from dispositions of property giving rise to such income, from certain commodities transactions, and from foreign currency transactions that give rise to foreign currency gains and losses as defined in section 988. The statutory exceptions to treating these types of income as passive for foreign tax credit limitation purposes, such as the exceptions for high-taxed income and high withholding tax interest, are not applicable in determining eligibility to use the simplified limitation.

Although an estate or trust generally computes taxable income and credits in the same manner as in the case of an individual (Code sec. 641(b); Treas. Reg. sec. 1.641(b)-1), the simplified limitation does not apply to an estate or trust.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

6. Personal transactions by individuals in foreign currency (sec. 106 of the bill and sec. 988 of the Code)

Present Law

When a U.S. taxpayer with a dollar functional currency makes a payment in a foreign currency, gain or loss (referred to as "exchange gain or loss") arises from any change in the value of the foreign currency relative to the U.S. dollar between the time the currency was acquired (or the obligation to pay was incurred) and the time that the payment is made. Gain or loss results because foreign currency, unlike the U.S. dollar, is treated as property for Federal income tax purposes.

Exchange gain or loss can arise in the course of a trade or business or in connection with an investment transaction. Exchange gain or loss can also arise where foreign currency was acquired for personal use. For example, the IRS has ruled that a taxpayer who converts U.S. dollars to a foreign currency for personal use—while traveling abroad—realizes exchange gain or loss on reconversion of appreciated or depreciated foreign currency (Rev. Rul. 74-7, 1974-1 C.B. 198).

Prior to the Tax Reform Act of 1986 (the "1986 Act"), most of the rules for determining the Federal income tax consequences of foreign currency transactions were embodied in a series of court cases and revenue rulings issued by the Internal Revenue Service ("IRS"). Additional rules of limited application were provided by Treasury regulations and, in a few instances, statutory provisions. Pre-1986 law was believed to be unclear regarding the character, the timing of recognition, and the source of gain or loss due to fluctuations in the exchange rate of foreign currency. The result of prior law was uncertainty of tax treatment for many legitimate transactions, as well as opportunities for tax-motivated transactions. Therefore, in 1986 Congress determined that a comprehensive set of rules should be provided for the U.S. tax treatment of transactions involving "nonfunctional currencies;" that is, currencies other than the taxpayer's "functional currency."

However, the 1986 Act provisions designed to clarify the treatment of currency transactions, primarily found in section 988, apply to transactions entered into by an individual only to the extent that expenses attributable to such transactions would be deductible under section 162 (as a trade or business expense) or section 212 (as an expense of producing income, other than expenses incurred in connection with the determination, collection, or refund of taxes). Therefore, the principles of pre-1986 law continue to apply to personal currency transactions.[1]

Reasons for Simplification

An individual who lives or travels abroad generally cannot use U.S. dollars to make all of the purchases incident to ordinary daily life. Instead, the local currency must often be used, yet the individual will not be treated for tax purposes as having changed his or her functional currency to the local currency. If it were necessary to treat foreign currency in this instance as property giving rise to U.S. dollar income or loss every time it was, in effect, "bartered" for goods or services, the U.S. individual living in or visiting a foreign country would have a significant administrative burden that may bear little or no relation to whether U.S.-dollar measured income has increased or decreased. An analogous issue arises for a corporation that has a qualified business unit ("QBU") in a foreign country but nevertheless uses the U.S. dollar as its functional currency pursuant to section 986(b)(3). Complexity concerns aside, Congress could have required in that case that gain or loss be computed on each transaction carried out in the local currency. Instead, however, Congress directed the Treasury to adopt a method of translation of the QBU's results that merely approximates the results of determining exchange gain or loss on a transaction-by-transaction basis.[2] It is believed that individuals also should be given relief from the requirement to keep track of gains on an actual transaction-by-transaction basis in certain cases.

Explanation of Provision

In a case where an individual acquires nonfunctional currency and then disposes of it in a personal transaction, and where exchange rates have changed in the intervening period, the bill provides for nonrecognition of an individual's resulting exchange gains not exceeding $200. The bill does not change the treatment of resulting exchange losses. It is understood that under other Code provisions, such losses typically are not deductible by individuals (e.g., sec. 165(c)).

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

7. Advance due date for furnishing information to partners (sec. 107 of the bill and sec. 6031(b) of the Code)

Present Law

A partnership required to file an income tax return with the IRS must also furnish an information return to each of its partners on or before the day on which the income tax return for the year is required to be filed, including extensions. Under regulations, a partnership must file its income tax return on or before the fifteenth day of the fourth month following the end of the partnership's taxable year (on or before April 15, for calendar year partnerships). This is the same deadline by which most individual partners must file their tax return.

Reasons for Simplification

Information returns that are received on or shortly before April 15 (or later) are difficult for individuals to use in preparing their tax returns (or in computing their payments) that are due on that date.

Explanation of Provision

The bill provides that a large partnership must furnish information returns to partners by the 15th day of the 3d month following the close of the partnership's taxable year. A large partnership is any partnership with 250 or more partners, as well as any partnership subject to the simplified reporting rules for large partnerships (contained in sec. 201 of this bill, described below).

Effective Date

The provision is effective for taxable years ending on or after December 31, 1992.

8. Make income tax withholding rules paralled to rules for exclusion from income for combat pay (sec. 108 of the bill and sec. 3401(a)(1) of the Code)

Present Law

Exclusion for combat pay

Gross income does not include certain combat pay of members of the Armed Forces (sec. 112). If enlisted personnel serve in a combat zone during any part of any month, military pay for that month is excluded from gross income (special rules apply if enlisted personnel are hospitalized as a result of injuries, wounds, or disease incurred in a combat zone). In the case of commissioned officers, these exclusions from income are limited to $500 per month of military pay.

Income tax withholding

There is no income tax withholding with respect to military pay for a month in which a member of the Armed Forces of the United States is entitled to the benefits of section 112 (sec. 3401(a)(2)). With respect to enlisted personnel, this income tax withholding rule parallels the exclusion from income under section 112: there is total exemption from income tax withholding and total exclusion from income. With respect to officers, however, the withholding rule is not parallel: there is total exemption from income tax withholding, although the exclusion from income is limited to $500 per month.

Reasons for Simplification

In most instances, the wage withholding rules closely parallel the inclusion in income rules. Consequently, most individuals whose income is subject to withholding may rely on withholding to fulfill their tax obligations. The differences between the withholding rules and the exclusion rules with respect to combat pay could cause affected taxpayers (primarily officers) to be surprised at the size of their additional tax liability at the time of filing their tax returns as a result of underwithholding. Paying the additional tax liability with their tax returns could lead to greater financial hardship than would withholding that is parallel to the exclusion rules.

Explanation of Provision

The bill makes the income tax withholding exemption rules parallel to the rules providing an exclusion from income for combat pay.

Effective Date

The provision is effective as of January 1, 1992.

9. Expanded access to simplified income tax returns (sec. 109 of the bill)

Present Law

There are three principal tax forms that are utilized by individual taxpayers: Form 1040EZ, Form 1040A, and Form 1040.

Reasons for Simplification

Many individual taxpayers find the tax forms to be complex.

Explanation of Provision

The bill provides that the Secretary of the Treasury (or his delegate) shall take such actions as may be appropriate to expand access to simplified individual income tax forms and to otherwise simplify the individual income tax returns.

The bill also requires that the Secretary submit a report to the Congress on the actions undertaken pursuant to this provision, together with any recommendations he may deem advisable.

Effective Date

The report is due no later than one year after the date of enactment.

10. Simplification of tax treatment of rural letter carriers' vehicle expenses (sec. 110 of the bill and sec. 162 of the Code)

Present Law

A taxpayer who uses his or her automobile for business purposes may deduct the business portion of the actual operation and maintenance expenses of the vehicle, plus depreciation (subject to the limitations of sec. 280F). If the taxpayer is an employee and these expenses are not reimbursed, the deduction is subject to the two-percent floor. Alternatively, the taxpayer may elect to utilize a standard mileage rate in computing the deduction allowable for business use of an automobile that has not been fully depreciated. Under this election, the taxpayer's deduction equals the applicable rate multiplied by the number of miles driven for business purposes, and is taken in lieu of deductions for depreciation and actual operation and maintenance expenses.

An employee of the U.S. Postal Service may compute his or her deduction for business use of an automobile in performing services involving the collection and delivery of mail on a rural route by using, for all business use mileage, 150 percent of the standard mileage rate.

Reasons for Simplification

The filing of tax returns by rural letter carriers can be complex. Under present law, those who are reimbursed at more than the 150 percent rate must report their reimbursement as income, and deduct their expenses as miscellaneous itemized deductions (subject to the 2 percent floor). Permitting the income and expenses to wash, so that neither will have to be reported on the rural letter carrier's tax return, will simplify these tax returns.

Explanation of Provision

The bill repeals the special rate of 150 percent of the standard mileage rate. In its place, the bill provides that the rate of reimbursement provided by the Postal Service to rural letter carriers is considered to be equivalent to their expenses. The rate of reimbursement that is considered to be equivalent to their expenses is the current rate of reimbursement contained in the 1991 collective bargaining agreement, which may in the future be increased by no more than the rate of inflation.

Effective Date

The provision is effective for taxable years beginning after December 31, 1991.

11. Exemption from luxury excise tax for certain equipment installed on passenger vehicles for use by disabled individuals (sec. 111 of the bill and sec. 4004(b)(3) of the Code)

Present Law

The Code imposes a 10-percent excise tax on the portion of the retail price of a passenger vehicle that exceeds $30,000. The tax also applies to separate purchases of component parts and accessories occuring within six months of the date the vehicle is placed in service.

Reasons for Simplification

It is appropriate to reduce the compliance burdens on handicapped persons.

Explanation of Provision

The bill provides that the luxury excise tax does not apply to a part or accessory installed on a passenger vehicle to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of the disability.

Effective Date

The provision is effective for purchases after December 31, 1990.

TITLE II.—TREATMENT OF LARGE PARTNERSHIPS

A. General Provisions

1. Simplified flow-through for large partnerships (sec. 201 of the bill and new secs. 771–777 of the Code)

Present Law

Treatment of partnerships in general

A partnership generally is treated as a conduit for Federal income tax purposes. Each partner takes into account separately his distributive share of the partnership's items of income, gain, loss, deduction or credit. The character of an item is the same as if it had been directly realized or incurred by the partner. Limitations affecting the computation of taxable income generally apply at the partner level.

The taxable income of a partnership is computed in the same manner as that of an individual except that no deduction is permitted for personal exemptions, foreign taxes, charitable contributions, net operating losses, certain itemized deductions, or depletion. Elections affecting the computation of taxable income derived from a partnership are made by the partnership, except for certain elections such as those relating to discharge of indebtedness income and the foreign tax credit.

Capital gains

The net capital gain of an individual is taxed generally at the same rates applicable to ordinary income, subject to a maximum marginal rate of 28 percent. Net capital gain is the excess of net long-term capital gain over net short-term capital loss. Individuals with a net capital loss generally may deduct up to $3,000 of the loss each year against ordinary income. Net capital losses in excess of the $3,000 limit may be carried forward indefinitely.

A special rule applies to gains and losses on the sale, exchange or involuntary conversion of certain trade or business assets (sec. 1231). In general, net gains from such assets are treated as long-term capital gains but net losses are treated as ordinary losses.

A partner's share of a partnership's net short-term capital gain or loss and net long-term capital gain or loss from portfolio investments is separately reported to the partner. A partner's share of a partnership's net gain or loss under section 1231 generally is also separately reported to the partner.

Deductions

Miscellaneous itemized deductions (e.g., certain investment expenses) are deductible as an itemized deduction, but only to the extent that, in the aggregate, they exceed two percent of the individual's adjusted gross income.

In general, taxpayers are allowed a deduction for charitable contributions, subject to certain limitations. In the case of an individual, the deduction cannot exceed 50 percent of the individual's contribution base (generally, the individual's adjusted gross income) for the taxable year. In the case of a corporation, the deduction cannot exceed 10 percent of the corporation's taxable income (computed with certain modifications). Excess contributions are carried forward for five years.

A partner's distributive share of a partnership's miscellaneous itemized deductions and charitable contributions are separately reported to the partner.

Credits in general

Each partner is allowed his distributive share of credits against his taxable income. A refundable credit for gasoline used for exempt purposes is allowed. Nonrefundable credits for clinical testing expenses for certain drugs for rare diseases, for producing fuel nonconventional sources, and for the general business credit are also allowed. The general business credit includes the investment credit (which in turn includes the rehabilitation credit), the targeted jobs credit, the alcohol fuels credit, the research credit, and the low-income housing credit.

The credits for clinical testing expenses and for fuel from nonconventional sources are limited to the excess of regular tax over tentative minimum tax. Excess credits generally cannot be carried forward. The amount of general business credit allowable in a taxable year is limited to the excess of a partner's net income over the greater of (1) the tentative minimum tax for the year or (2) 25 percent of the taxpayer's net regular tax liability in excess of $25,000. The general business credit in excess of this amount is carried back three years and forward 15 years.

The benefit of the investment credit and the low-income housing credit is recaptured if, within a specified time period, the partner transfers his partnership interest or the partnership converts or transfers the property for which the credit was allowed.

Foreign tax credit

The foreign tax credit generally allows U.S. taxpayers to reduce U.S. income tax on foreign income by the amount of foreign income taxes paid with respect to that income. In lieu of electing the foreign tax credit, a taxpayer may deduct foreign taxes from adjusted gross income.

The total amount of the credit may not exceed the same proportion of the taxpayer's U.S. tax which the taxpayer's foreign source taxable income bears to the taxpayer's worldwide taxable income for the taxable year. In addition, the foreign tax credit limitation is calculated separately for various categories of income, generally referred to as "separate limitation categories." That is, the total amount of the credit for foreign taxes on income in each category may not exceed the same proportion of the taxpayer's U.S. tax which the taxpayer's foreign source taxable income in that category bears to the taxpayer's worldwide taxable income for the taxable year. A partner generally reports his share of partnership income from each category. A special rule, however, treats the distributive share of a limited partner owning less than ten percent of a partnership as *per se* in the passive category.

The amount of creditable taxes paid or accured in any taxable year which exceeds the foreign tax credit limitation may be carried back to the two immediately preceding taxable years and carried forward to the first five succeeding taxable years and credited to the extent that the taxpayer otherwise has excess foreign tax credit limitations for the appropriate separate limitation category for those years.

Unrelated business taxable income

Tax-exempt organizations are subject to tax on income from unrelated businesses. Certain types of income (such as dividends, interest and certain rental income) are not treated as unrelated business taxable income. Thus, for a partner that is an exempt organization, whether partnership income is unrelated business taxable income depends on the character of the underlying income. Income from a publicly traded partnership, however, is treated as unrelated business taxable income regardless of the character of the underlying income.

Passive losses

The passive loss rules generally disallow deductions and credits from passive activities to the extent they exceed income from passive activities. Losses not allowed in a taxable year are suspended and treated as current deductions from passive activities in the next taxable year. These losses are allowed in full when a taxpayer disposes of the entire interest in the passive activity to an unrelated person in a taxable transaction. Passive activities include trade or business activities in which the taxpayer does not materially participate. (Limited partners generally do not materially participate in the activities of a partnership.) Passive activities also include rental activities (regardless of the taxpayer's material participation).[3] Portfolio income (such as interest and dividends), and expenses allocable to such income, are not treated as income or loss from a passive activity.

A partnership's operations may be treated as multiple activities for purposes of the passive loss rules. In such case, the partnership must separately report items of income and deductions from each of its activities.

Income from a publicly traded partnership is treated as portfolio income under the passive loss rules. In addition, loss from such a partnership is treated as separate from income and loss from any other publicly traded partnership, and also as separate from any income or loss from passive activities.

REMICs

A tax is imposed on partnerships holding a residual interest in a real estate mortgage investment conduit (REMIC). The amount of the tax is the amount of excess inclusions allocable to partnership interests owned by certain tax-exempt organizations ("disqualified organizations") multiplied by the highest corporate tax rate.

Contribution of property to a partnership

In general, a partner recognizes no gain or loss upon the contribution of property to a partnership. However, income, gain, loss and deduction with respect to property contributed to a partnership by a partner must be allocated among the partners so as to take into account the difference between the basis of the property to the partnership and its fair market value at the time of contribution. In addition, the contributing partner must recognize gain or loss equal to such difference if the property is distributed to another partner within five years of its contribution (sec. 704(c)). Under regulations, the amount of depreciation and gain or loss that is allocated under these rules is limited to the depreciation allowable to, or gain or loss recognized by, the partnership for tax purposes with respect to the contributed property (the "ceiling rule").

Election of optional basis adjustments

In general, the transfer of a partnership interest or a distribution of partnership property does not affect the basis of partnership assets. A partnership, however, may elect to make certain adjustments in the basis of partnership property (sec. 754). Under a section 754 election, the transfer of a partnership interest generally results in an adjustment in the partnership's basis in its property for the benefit of the transferee partner only, to reflect the difference between that partner's basis for his interest and his proportionate share of the adjusted basis of partnership property (sec. 743(b)). Also under the election, a distribution of property to a partner in certain cases results in an adjustment in the basis of other partnership property (sec. 734(b)).

Terminations

A partnership terminates if either (1) all partners cease carrying on the business, financial operation or venture of the partnership, or (2) within a 12-month period 50 percent or more of the total partnership interests are sold or exchanged (sec. 708).

Reasons for Simplification

The requirement that each partner take into account separately his distributive share of a partnership's items of income, gain, loss, deduction and credit can result in the reporting of a large number of items to each partner. The Schedule K-1, on which such items are reported, contains space for more than 40 items. Reporting so many separately stated items is burdensome for individual investors with relatively small, passive interests in large partnerships. In many respects such investments are indistinguishable from those made in corporate stock or mutual funds, which do not require reporting of numerous separate items.

In addition, the number of items reported under the current regime makes it difficult for the Internal Revenue Service to match items reported on the K-1 against the partner's income tax return. Matching is also difficult because items on the K-1 are often modified or limited at the partner level before appearing on the partner's tax return.

By significantly reducing the number of items that must be separately reported to partners, the provision eases the reporting burden of partners and facilitates matching by the IRS. Moreover, it is understood that the Internal Revenue Service is considering restricting the use of substitute reporting forms by large partnerships. Reduction of the number of items makes possible a short standardized form.

In addition, the rules governing allocations with respect to property contributed to a partnership and the rules regarding partnership terminations are ill-suited to large partnerships, whose interests are commonly transferred. By adopting a deferred sale approach for property contributions and by reducing the possibility of partnership terminations, the provision improves the administration of the tax rules governing large partnerships.

Explanation of Provisions

In general

The bill modifies the tax treatment of a large partnership (generally, a partnership with at least 250 partners) and its partners. The bill provides that each partner takes into account separately the partner's distributive share of the following items, which are determined at the partnership level: (1) taxable income or loss from passive loss limitation activities; (2) taxable income or loss from other activities (e.g., portfolio income or loss); (3) net capital gain to the extent allocable to passive loss limitation activities and other activities; (4) net alternative minimum tax adjustment separately computed for passive loss limitation activities and other activities; (5) general credits; (6) low-income housing credit; (7) rehabilitation credit; (8) for certain partnerships, tax-exempt interest; and (9) for certain partnerships, foreign taxes paid and foreign source partnership items.[4]

Under the bill, the taxable income of a large partnership is computed in the same manner as that of an individual, except that the items described above are separately stated and certain modifications are made. These modifications include disallowing the deduction for personal exemptions, the net operating loss deduction and certain itemized deductions.[5] All limitations and other provisions affecting the computation of taxable income or any credit (except for the at risk, passive loss and section 68 itemized deduction limitations, and any other provision specified in regulations) are applied at the partnership (and not the partner) level. Thus, for example, any investment interest of the partnership is limited at the partnership level, and any carryover is made at that level.

All elections affecting the computation of taxable income or any credit are made by the partnership.

Capital gains

Under the bill, netting of capital gains and losses occurs at the partnership level. A partner in a large partnership takes into account separately his distributive share of the partnership's net capital gain.[6] Any excess of capital losses over capital gains, however, is not separately reported to partners; rather, such excess is carried over at the partnership level. The partnership cannot offset any portion of capital losses against ordinary income.

A partner's distributive share of the partnership's net capital gain is allocated between passive loss limitation activities and other activities. The net capital gain is allocated to passive loss limitation activities to the extent of net capital gain from sales and exchanges of property used in connection with such activities, and any excess is allocated to other activities.

Any gains and losses of the partnership under section 1231 are netted at the partnership level. Net gain is treated as long-term capital gain and is subject to the rules described above. Net loss is treated as ordinary loss and consolidated with the partnership's other taxable income.

Deductions

The bill contains two special rules for deductions. First, miscellaneous itemized deductions are not separately reported to partners. Instead, 70 percent of the amount of such deductions is disallowed at the partnership level[7] the remaining 30 percent is allowed at the partnership level in determining taxable income, and is not subject to the two-percent floor at the partner level.

Second, charitable contributions are not separately reported to partners under the bill. Instead, the charitable contribution deduction is allowed at the partnership level in determining taxable income, subject to the limitations that apply to corporate donors.

Credits in general

Under the bill, general credits are separately reported to partners as a single item. General credits are any credits other than the low-income housing credit and the rehabilitation credit. A partner's distributive share of general credits is taken into account as a current year general business credit. Thus, for example, the credits for clinical testing expenses and the production of fuel from nonconventional sources are subject to the present law limitations on the general business credit. The refundable credit for gasoline used for exempt purposes is allowed to the partnership, and thus is not separately reported to partners.

In recognitiion of their special treatment under the passive loss rules, the low-income housing and rehabilitation credits are separately reported.[8]

The bill imposes credit recapture at the partnership level and determines the amount of recapture by assuming that the credit fully reduced taxes. Such recapture is applied first to reduce the partnership's current year credit, if any; the partnership is liable for any excess over that amount. Under the bill, the transfer of an interest in a large partnership does not trigger recapture.

Foreign tax credit

Elections, computations and limitations regarding the foreign tax credit generally are made at the partnership level without regard to a partner's other foreign source income or foreign taxes paid. For purposes of determining foreign tax credit limitations, the partnership is treated as an individual subject to tax at a 25-percent rate. Excess credits can be carried forward at the partnership level but cannot be carried back. The foreign tax credit is reported to the partner as a general credit. The partner's distributive share of all items of income, gain, loss or deduction are treated as derived from sources within the United States.

A different rule applies if either the partnership elects, or 25 percent or more of the gross income of the partnership is derived from sources outside the United States. In such case, elections, computations and limitations are made by the partner, as under present law. The partnership reports to the partner creditable foreign taxes and the source of any income, gain, loss or deduction taken into account by the partnership. As under present law, such income is generally treated as passive for separate limitation purposes.

Tax-exempt interest

Under the bill, interest on a State or local bond is treated as taxable (and thus not separately reported) unless at the end of each quarter of the taxable year at least 50 percent of the value of partnership assets consists of State or local bonds the interest on which is exempt from taxation.

Unrelated business taxable income

The bill retains present-law treatment of unrelated business taxable income. Thus, a tax-exempt partner's distributive share of partnership items is taken into account separately to the extent necessary to comply with the rules governing such income. Under the bill, all income from a publicly traded partnership continues to be treated as unrelated business taxable income.

Passive losses

Under the bill, a partner in a large partnership takes into account separately his distributive share of the partnership's taxable income or loss from passive loss limitation activities. The term "passive loss limitation activity" means any activity which involves the conduct of a trade or business (including any activity treated as a trade or business under sec. 469(c) (5) or (6)) and any rental activity. A partner's share of a large partnership's taxable income or loss from passive loss limitation activities is treated as an item of income or loss from the conduct of a trade or business which is a single passive activity, as defined in the passive loss rules. Thus, a large partnership is not required to separately report items from multiple activities.

A partner in a large partnership also takes into account separately his distributive share of the partnership's taxable income or loss from activities other than passive loss limitation activities. Such distributive share is treated as an item of income or expense with respect to property held for investment. Thus, portfolio income (e.g., interest and dividends) is reported separately and is reduced by portfolio deductions and allocable investment interest expense.

Under the bill, income from a publicly traded partnership continues to be treated as portfolio income.

Alternative minimum tax

Under the bill, alternative minimum tax adjustments and preferences are combined at the partnership level. A large partnership would report to partners a net AMT adjustment separately computed for passive loss limitation activities and other activities. In determining a partner's alternative minimum taxable income, a partner's distributive share of any net AMT adjustment is taken into account instead of making separate AMT adjustments with respect to partnership items. Except as provided in regulations, the net AMT adjustment is determined by using the adjustments applicable to individuals, and is treated as a deferral preference for purposes of the section 53 minimum tax credit.

REMICs

For purposes of the tax on partnerships holding residual interests in REMICs, all interests in a large partnership are treated as held by disqualified organizations. Thus, a large partnership holding a residual interest in a REMIC is subject to a tax equal to the excess inclusions multiplied by the highest corporate rate.

Deferred sale treatment for contributed property

In general

For all partners contributing property to a large partnership (including partners otherwise excluded from application of the large partnership rules, as described below), the bill replaces section 704(c) with a "deferred sale" approach. Under the bill, a large partnership is treated as if it had purchased the property from the contributing partner for its then fair market value, thus taking a fair market value basis in the property. The contributing partner's gain or loss on the contribution (the "precontribution gain or loss")[9] is deferred until the occurrence of specified recognition events. In general, the character of the precontribution gain or loss is the same as if the property had been sold to the partnership by the partner at the time of contribution. The contributing partner's basis in his partnership interest is adjusted for precontribution amounts recognized under the provision. These adjustments generally are made immediately before the recognition event.

The provision effectively repeals the ceiling rule for large partnerships, i.e., the amount of precontribution gain or loss recognized by the contributing partner under the provision is not limited to the overall gain or loss from the contributed property recognized by the partnership. In addition, the amount of depreciation allowable to the partnership is not limited to the contributing partner's basis in the property.

Recognition events

Certain events occurring at either the partnership or partner level cause recognition of precontribution gain or loss. Loss is not recognized, however, by reason of a disposition to a person related (within the meaning of sec. 267(b)) to the contributing partner.

Transaction at partnership level.—The contributing partner recognizes precontribution gain or loss as the partnership claims an amortization, depreciation, or depletion deduction with respect to the property. The amount of gain (or loss) recognized equals the increase (or decrease) in the deduction attributable to changes in basis of the property occurring by reason of its contribution. Any gain or loss so recognized is treated as ordinary.

The contributing partner also recognizes precontribution gain or loss if the partnership disposes of the contributed property to a person other than the contributing partner. If such property is distributed to the contributing partner, its basis in the hands of the contributing partner equals its basis immediately before the contribution, adjusted for any gain or loss previously recognized on account of undistributed partnership property on account of a distribution to the contributing partner.[10]

Transactions at partner level.—A contributing partner recognizes precontribution gain or loss to the extent that he disposes of his partnership interest other than at death.[11] Such partner also recognizes precontribution gain or loss to the extent that the cash and fair market value of property (other than the contributed property) distributed to him exceeds the adjusted basis of his partnership interest immediately before the distribution (determined without regard to any basis adjustment under the deemed sale rules resulting from the distribution).

Election of optional basis adjustments

Under the bill, a large partnership may still elect to adjust the basis of partnership assets with respect to transferee partners. The computation of a large partnership's taxable income is made without regard to the section 743(b) adjustment. As under present law, the section 743(b) adjustment is made only with respect to the transferee partner. In addition, a large partnership is permitted to adjust the basis of partnership property under section 734(b) if property is distributed to a partner, as under present law.

Terminations

The bill provides that a large partnership does not terminate for tax purposes solely because 50 percent of its interests are sold or exchanged within a 12-month period.

Partnerships and partners subject to large partnership rules

Definition of large partnership

A "large partnership" is any partnership if the number of persons who were partners in such partnership in a taxable year was at least 250.[12] Any partnership treated as a large partnership for a taxable year is so treated for all succeeding years, even if the number of partners falls below 250. Regulations may provide, however, that if the number of persons who are partners in any taxable year falls below 100, the partnership is not treated as a large partnership. Partnerships with at least 100 partners can elect to be treated as if they had 250 partners. The election applies to the year for which made and all subsequent years and cannot be revoked without the Secretary's consent.

A large partnership does not include any partnership if substantially all of its activities involve the performance of personal services by individuals owning, directly or indirectly, interests in the partnership, or if 50 percent or more of the value of the partnership's assets consists of oil or gas properties.

Treatment of excluded partners

In general, the large partnership rules do not apply to an excluded partner's distributive share of partnership items. An excluded partner is any partner (1) owning more that a five percent partnership interest at any time during the taxable year, or (2) materially participating in the partnership's activities during the year and holding any interest which is not a limited partnership interest. Any partner treated as an excluded partner for a taxable year so treated for all succeeding years. In determining whether a partner is an excluded partner, the treatment on the large partnership's tax return binds the partnership and the partner, but not the Secretary.

Treatment of partnerships holding oil or gas properties

As described above, the large partnership rules do not apply to a partnership if at least 50 percent of the value of its assets consists of oil or gas properties.[13] In addition, the rules do not apply to any item attributable to any partnership oil or gas property. However, oil or gas partnerships can elect to be treated as large partnerships. In addition, partnerships owning oil or gas properties but which otherwise qualify as large partnerships (i.e., because less than 50 percent of their assets consists of oil or gas properties) can elect to apply the large partnership rules to items attributable to their oil or gas properties. If either type of partnership makes an election, (1) depletion is computed without regard to percentage depletion, (2) any partner who is an integrated oil company is treated as an excluded partner, and (3) any partner who holds a working interest in an oil or gas property (either directly or through an entity which does not limit the partner's liability) is treated as an excluded partner with respect to such interest. The election applies to the year for which made and all subsequent years, and cannot be revoked without the Secretary's consent.

Regulatory authority

The Secretary of the Treasury is granted authority to prescribe such regulations as may be appropriate to carry out the purposes of the provisions.

Effective Date

The provisions generally apply to partnership taxable years ending on or after December 31, 1992. The deferred sale provision applies to any contribution of property (other than cash) made on or after January 1, 1992, to a partnership which is, or is reasonably expected to become, a large partnership.

2. Simplified audit procedures for large partnerships (sec. 202 of the bill and secs. 6240, 6241, 6242, 6245, 6246, 6247, 6249, 6251, 6252, 6255, and 6256 of the Code).

Present Law

In general

Prior to 1982, a partnership (regardless of its size) was audited only by auditing each partner individually. Because a large partnership sometimes had many partners located in different audit districts, adjustments to items of income, gains, losses, deductions, or credits of the partnership had to be made in numerous actions in several jurisdictions, sometimes with conflicting outcomes.

The Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA") established unified audit rules applicable to all but certain small (10 or fewer partners) partnerships. These rules require the determination of all "partnership items" at the partnership, rather than the partner, level. Partnership items are those items that are more appropriately determined at the partnership level than at the partner level, as provided by regulations.

Administrative proceedings

Under the TEFRA rules, a partner must report all partnership items consistently with the partnership return or must notify the IRS of any inconsistency. If a partner fails to report any partnership item consistently with the partnership return, the IRS may make a computational adjustment and immediately assess any additional tax that results.

The IRS may challenge the reporting position of a partnership by conducting a single administrative proceeding to resolve the issue with respect to all partners. But the IRS must still assess any resulting deficiency against each of the taxpayers who were partners in the year in which the understatement of tax liability arose.

Any partner of a partnership can request an administrative adjustment or a refund for his own separate tax liability. Any partner also has the right to participate in partnership-level administrative proceedings. A settlement agreement with respect to partnership items binds all parties to the settlement.

Tax Matters Partner

The TEFRA rules establish the "Tax Matters Partner" as the primary representative of a partnership in dealings with the IRS. The Tax Matters Partner is a general partner designated by the partnership or, in the absence of designation, the general partner with the largest profits interest at the close of the taxable year. If no Tax Matters Partner is designated, and it is impracticable to apply the largest profits interest rule, the IRS may select any partner as the Tax Matters Partner.

Notice requirements

The IRS generally is required to give notice of the beginning of partnership-level administrative proceedings and any resulting administrative adjustment to all partners whose names and addresses are furnished to the IRS. For partnerships with more than 100 partners, however, the IRS generally is not required to give notice to partners whose profits interest is less than one percent.

Adjudication of disputes concerning partnership items

After the IRS makes an administrative adjustment, the Tax Matters Partner (and, in limited circumstances, certain other partners) may file a petition for readjustment of partnership items in the Tax Court, the district court in which the partnership's principal place of business is located, or the Claims Court.

Statute of limitations

The IRS generally cannot adjust a partnership item for a partnership taxable year if more than 3 years have elapsed since the later of the filing of the partnership return or the last day for the filing of the partnership return.

Reasons for Simplification

Present audit procedures for large partnerships are inefficient and more complex than those for other large entities. The IRS must assess any deficiency arising from a partnership audit against a large number of partners, many of whom cannot easily be located (some may no longer be partners). In addition, audit procedures are cumbersome and can be complicated further by the intervention of partners acting individually.

Explanation of Provision

In general

The bill creates a new audit system for large partnerships. The bill defines "large partnership" the same way for audit and reporting purposes (generally partnerships with at least 250 partners) except that certain oil and gas partnerships are large partnerships for the audit rules that are not subject to the large partnership reporting requirements.[14]

As under present law, large partnerships and their partners are subjected to unified audit rules. Partnership items are determined at the partnership, rather than the partner, level. The term "partnership items" is defined as under present law.

Unlike present law, however, partnership adjustments generally will flow through to the partners for the year in which the adjustment takes effect. Thus, the current-year partners will adjust their current-year share of partnership items of income, gains, losses, deductions, or credits to reflect partnership adjustments that take effect in that year. The adjustments generally will not affect prior year returns of any partners (except in the case of changes to any partner's distributive shares).

In lieu of flowing an adjustment through to its partners, the partnership may elect to pay an imputed underpayment. The imputed underpayment generally is calculated by netting the adjustments to the income and loss items of the partnership and multiplying that amount by the highest individual or corporate tax rate. A partner may not file a claim for credit or refund of his allocable share of the payment.

Regardless of whether a partnership adjustment flows through to the partners, an adjustment must be offset if it requires another adjustment in a year after the adjusted year and before the year the offsetted adjustment takes effect. For example, if a partnership expensed a $1,000 item in year 1, and it was determined in year 4 that the item should have been capitalized and amortized ratably over 10 years, the adjustment in year 4 would be $600, apart from any interest or penalty. (The $1,000 adjustment for the improper deduction is offset by $400 of adjustments for amortization deductions.) The year 4 partners would be required ratably to include an additional $600 in income for that year.

In addition, the partnership, rather than the partners individually, generally is liable for any interest and penalties that result from a partnership adjustment. Interest is computed for the period beginning on the return due date for the adjusted year and ending on the earlier of the return due date for the partnership taxable year in which the adjustment takes effect or the date the partnership pays the imputed underpayment. Thus, in the above example, the partnership would be liable for 4 years worth of interest (on a declining principal amount).

Penalties (such as the accuracy and fraud penalties) are determined on a year-by-year basis (without offsets) based on an imputed underpayment. All accuracy penalty criteria and waiver criteria (such as reasonable cause, substantial authority, etc.) are determined as if the partnership were a taxable individual. Accuracy and fraud penalties are assessed and accrue interest in the same manner as if asserted against a taxable individual.

If a partnership ceases to exist before a partnership adjustment takes effect, the former partners are required to take the adjustment into account, as provided by regulations. Regulations are also authorized to the extent necessary to prevent abuse and to enforce efficiently the audit rules in circumstances that present special enforcement considerations (such as partnership bankruptcy).

Administrative proceedings

Under the large parnership audit rules, a partner is not permitted to report any partnership items inconsistently with the partnership return, even if the partner notifies the IRS of the inconsistency. The IRS could treat a partnership item that was reported inconsistently by a partner as a mathematical or clerical error and immediately assess any additional tax against that partner.

As under present law, the IRS could challenge the reporting position of a partnership by conducting a single administrative proceeding to resolve the issue with respect to all partners. Unlike present law, however, partners will have no right individually to participate in settlement conferences or to request a refund.

Partnership representative

The bill requires each large partnership to designate a partner or other person to act on its behalf. If a large partnership fails to designate such a person, the IRS is permitted to designate any one of the partners as the person authorized to act on the partnership's behalf. After the IRS' designation, a large partnership could still designate a replacement for the IRS-designated partner.

Notice requirements

Unlike present law, the IRS is not required to give notice to individual partners of the commencement of an administrative proceeding or of a final adjustment. Instead, the IRS is authorized to send notice of a partnership adjustment to the partnership itself by certified or registered mail. The IRS could give proper notice by mailing the notice to the last known address of the partnership, even if the partnership had terminated its existence.

Adjudication of disputes concerning partnership items

As under present law, an administrative adjustment could be challenged in the Tax Court, the district court in which the partnership's principal place of business is located, or the Claims Court. However, only the partnership, and not partners individually, can petition for a readjustment of partnership items.

Statute of limitations

Absent an agreement to extend the statute of limitations, the IRS generally could not adjust a partnership item of a large partnership more than 3 years after the later of the filing of the partnership return or the last day for the filing of the partnership return. Special rules apply to false or fraudulent returns, and substantial omission of income, or the failure to file a return. The IRS would assess and collect any deficiency of a partner that arises from any adjustment to a partnership item subject to the limitations period on assessments and collection applicable to the year the adjustment takes effect (secs. 6248, 6501 and 6502).

Effective Date

The provision applies to partnership taxable years ending on or after December 31, 1992.

3. Partnership returns on magnetic media (sec. 203 of the bill and sec. 6011 of the Code)

Present Law

Partnerships are permitted, but not required, to provide the tax return of the partnership (Form 1065), as well as copies of the schedules sent to each partner (Form K-1), to the Internal Revenue Service on magnetic media.

Reasons for Simplification

Most entities that file large numbers of documents with the Internal Revenue Service must do so on magnetic media. Conforming the reporting provisions for large partnerships to the generally applicable information reporting rules will facilitate integration of partnership information into already existing data systems.

Explanation of Provision

The bill authorizes the Internal Revenue Service to require large partnerships, and other partnerships with 250 or more partners, to provide the tax return of the partnership (Form 1065), as well as copies of the schedules sent to each partner (Form K-1), to the Internal Revenue Service on magnetic media.

Effective Date

The provision applies to partnership taxable years ending on or after December 31, 1992.

B. Partnership Proceedings Under TEFRA[15]

1. Clarify the treatment of partnership items in deficiency proceedings (sec. 211 of the bill and sec. 6234 of the Code)

Present Law

TEFRA partnership proceeding must be kept separate from deficiency proceedings involving the partners in their individual capacities. Prior to the Tax Court's opinion in *Munro* v. *Commissioner*, 92 T.C. 71 (1989), the IRS computed deficiencies by assuming that all items there were subject to the TEFRA partnership procedures were correctly reported on the taxpayer's return. However, where the losses claimed from TEFRA partnerships were so large that they offset any proposed adjustments to nonpartnership items, no deficiency could arise from a non-TEFRA proceeding and if the partnership losses were subsequently disallowed in a partnership proceeding, the non-TEFRA adjustments might be uncollectible because of the expiration of the statute of limitations with respect to nonpartnerhip items.

Faced with this situation in *Munro*, the IRS issued a notice of deficiency to the taxpayer that presumptively disallowed the taxpayer's TEFRA partnership losses for computational purposes only. Although the Tax Court ruled that a deficiency existed and that the court had jurisdiction to hear the case, the court disapproved of the methodology used by the IRS to compute the deficiency. Specifically, the court held that partnership items (whether income, loss, deduction, or credit) included on a taxpayer's return must be completely ignored in determining whether a deficiency exists that is attributable to nonpartnership items.

Reasons for Simplification

The opinion in *Munro* creates problems for both taxpayers and the IRS. For example, a taxpayer would be harmed in the case where he has invested in a TEFRA partnership and is also subject to the deficiency procedures with respect to nonpartnership item adjustments, since computing the tax liability without regard to partnership items will have the same effect as if the partnership items were disallowed. If the partnership items were losses, the effect will be a greatly increased deficiency for the nonpartnership items. If, when the partnership proceeding is completed, the taxpayer is ultimately allowed any part of the losses, the taxpayer will receive part of the increased deficiency back in the form of an overpayment. However, in the interim, the taxpayer will have been subject to assessment and collection of a deficiency inflated by items still in dispute in the partnership proceeding. In essence, a taxpayer in such a case would be deprived of a prepayment forum with respect to the partnership item adjustments. The IRS would be harmed if a taxpayer's income is primarily from a TEFRA partnership, since the IRS may be unable to adjust nonpartnership items such as medical expense deductions, home mortgage interest deductions or charitable contribution deductions because there would be no deficiency since, under *Munro*, the income must be ignored.

Explanation of Provision

The bill is intended to overrule *Munro* and allow the IRS to return to its prior practice of computing deficiencies by assuming that all TEFRA items whose treatment has not been finally determined had been correctly reported on the taxpayer's return. This will eliminate the need to do special computations that involve the removal of TEFRA items from a taxpayer's return, and will restore to taxpayers a prepayment forum with respect to the TEFRA items. In addition, the bill provides a special rule to address the factual situation presented in *Munro*.

Specifically, the bill provides a declaratory judgment procedure in the Tax Court for adjustments to an oversheltered return. An oversheltered return is a return that shows no taxable income and a net loss from TEFRA partnerships. In such a case, the IRS is authorized to issue a notice of adjustment with respect to non-TEFRA items, notwithstanding that no deficiency would result from the adjustment. However, the IRS may only issue such a notice if a deficiency would have arisen in the absence of the net loss from TEFRA partnerships.

The Tax Court would be granted jurisdiction to determine the correctness of such an adjustment. No tax would be due upon such a determination, but a decision of the Tax Court would be treated as final decision, permitting an appeal of the decision by either the taxpayer or the IRS. An adjustment determined to be correct would thus have the effect of increasing the taxable income that would be deemed to have been reported on the taxpayers's return. If the taxpayer's partnership items were then adjusted in a subsequent proceeding, the IRS would have preserved its ability to collect tax on any increased deficiency attributable to the nonpartnership items.

Alternatively, if the taxpayer chooses not to contest the notice of adjustment within the 90-day period, the bill provides that when the taxpayer's partnership items are finally determined, the taxpayer has the right to file a refund claim for tax attributable to the items adjusted by the earlier notice of adjustment for the taxable year. Although a refund claim is not generally permitted with respect to a deficiency arising from a TEFRA proceeding, such a rule is appropriate with respect to a defaulted notice of adjustment because taxpayers may not challenge such a notice when issued since it does not require the payment of additional tax.

In addition, the bill incorporates a number of provisions intended to clarify the coordination between TEFRA audit proceedings and individual deficiency proceedings. Under these provisions, any adjustment with respect to a non-partnership item that caused an increase in tax liability with respect to a partnership item would be treated as a computational adjustment and assessed after the conclusion of the TEFRA proceeding. Accordingly, deficiency procedures would not apply with respect to this increase in tax liability, and the statute of limitations applicable to TEFRA proceedings would be controlling.

Effective Date

The provision is effective for partnership taxable years ending after the date of the enactment of this Act.

2. Permit the IRS to rely on partnership returns to determine the proper audit procedures (sec. 212 of the bill and sec. 6231 of the Code)

Present Law

TEFRA established unified audit rules applicable to all partnerships, except for partnerships with 10 or fewer partners, each of whom is a natural person (other than a nonresident alien) or an estate, and for which each partner's share of each partnership items is the same as that partner's share of every other partnership item. Partners in the exempted partnerships are subject to regular deficiency procedures.

Reasons for Simplification

The IRS often finds it difficult to determine whether to follow the TEFRA partnership procedures or the regular deficiency procedures. If the IRS determines that there were fewer than 10 partners in the partnership but was unaware that one of the partners was a nonresident alien or that there was a special allocation made during the year, the IRS might inadvertently apply the wrong procedures and possibly jeopardize any assessment. Permitting the IRS to rely on a partnership's return would simplify the IRS task.

Explanation of Provision

The bill permits the IRS to apply the TEFRA audit procedures if, based on the partnership's return for the year, the IRS' reasonably determines that those procedures should apply. Similarly, the bill permits the IRS to apply the normal deficiency procedures if, based on the partnership's return for the year, the IRS reasonably determines that those procedures should apply.

Effective Date

The provision is effective for partnership taxable years ending after the date of the enactment of this Act.

3. Suspend statute of limitations during bankruptcy proceedings (sec. 213 of the bill and sec. 6229 of the Code)

Present Law

The period for assessing tax with respect to partnership items generally is the longer of the periods provided by section 6229 or section 6501. For partnership items that convert to nonpartnership items, section 6229(f) provides that the period for assessing tax shall not expire before the date which is 1 year after the date that the items become nonpartnership items. Section 6503(h) provides for the suspension of the limitations period during the pendency of a bankruptcy proceeding. However, this provision only applies to the limitations periods provided in sections 6501 and 6502.

Under present law, because the suspension provision in section 6503(h) applies only to the limitations periods provided in section 6501 and 6502, some uncertainty exists as to whether section 6503(h) applies to suspend the limitations period pertaining to converted items provided in section 6229(f) when a petition naming a partner as a debtor in a bankruptcy proceeding is filed. As a result, the limitations period provided in section 6229(f) may continue to run during the pendency of the bankruptcy proceeding, notwithstanding that the IRS is prohibited from making an assessment against the debtor because of the automatic stay provisions of the Bankruptcy Code.

Reasons for Simplification

The ambiguity in present law makes it difficult for the IRS to adjust partnership items that convert to nonpartnership items by reason of a partner going into bankruptcy. In addition, any uncertainty may result in increased requests for the bankruptcy court to lift the automatic stay to permit the IRS to make an assessment with respect to the converted items.

Explanation of Provision

The bill clarifies that the statute of limitations is suspended for a partner who is named in a bankruptcy petition. The suspension period is for the entire period during which the IRS is prohibited by reason of the bankruptcy proceeding from making an assessment, and for 60 days thereafter. The provision is not intended to create any inference as to the proper interpretation of present law.

Effective Date

The provision shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

4. Expand small partnership exception from TEFRA (sec. 214 of the bill and sec. 6231 of the Code)

Present Law

TEFRA established unified audit rules applicable to all partnerships, except for partnerships with 10 or fewer partners, each of whom is a natural person (other than a nonresident alien) or an estate, and for which each partner's share of each partnership item is the same as that partner's share of every other partnership item. Partners in the exempted partnerships are subject to regular deficiency procedures.

Reasons for Simplification

The mere existence of a C corporation as a partner or of a special allocation does not warrant subjecting the partnership and its partners of an otherwise small partnership to the TEFRA procedures.

Explanation of Provision

The bill permits a small partnership to have a C corporation as a partner or to specially allocate items without jeopardizing its exception from the TEFRA rules. However, the bill retains the prohibition of present law against having a flow-through entity (other than an estate of a deceased partner) as a partner for purposes of qualifying for the small partnership exception.

Effective Date

The provision is effective for partnership taxable years ending after the date of the enactment of this Act.

5. Exclude partial settlements from 1-year assessment rule (sec. 215 of the bill and sec. 6229(f) of the Code)

Present Law

The period for assessing tax with respect to partnership items generally is the longer of the periods provided by section 6229 or section 6501. For partnership items that convert to nonpartnership items, section 6229(f) provides that the period for assessing tax shall not expire before the date which is 1 year after the date that the items become nonpartnership items. Section 6231 (b)(1)(C) provides that the partnership items of a partner for a partnership taxable year become nonpartnership items as of the date the partner enters into a settlement agreement with the IRS with respect to such items.

Reasons for Simplification

When a partial settlement agreement is entered into, the assessment period for the items covered by the agreement may be different than the assessment period for the remaining items. This fractured statute of limitations poses a significant tracking problem for the IRS and necessitates multiple computations of tax with respect to each partner's investment in the partnership for the taxable year.

Explanation of Provision

The bill provides that if a partner and the IRS enter into a settlement agreement with respect to some but not all of the partnership items in dispute for a partnership taxable year and other partnership items remain in dispute, the period for assessing any tax attributable to the settled items would be determined as if such agreement had not been entered into. Consequently, the limitations period that is applicable to the last item to be resolved for the partnership taxable year shall be controlling with respect to all disputed partnership items for the partnership taxable year. The provision is not intended to create any inference as to the proper interpretation of present law.

Effective Date

The provision is effective for partnership taxable years ending after the date of the enactment of this Act.

6. Extend time for filing a request for administrative adjustment (sec. 216 of the bill and sec. 6227 of the Code)

Present Law

The non-TEFRA statute of limitations provides that if a statute extension agreement is entered into, that agreement also extends the statute of limitations for filing refund claims (sec. 6511(c)). There is no comparable provison for extending the time for filing refund claims with respect to partnership items subject to the TEFRA partnership rules.

Reasons for Simplification

The absence of an extension for filing refund claims in TEFRA proceedings hinders taxpayers that may want to agree to extend the TEFRA statute of limitations but want to preserve their option to file a refund claim later.

Explanation of Provision

The bill provides that if a TEFRA statute extension agreement is entered into, that agreement also extends the statute of limitations for filing refund claims until 6 months after the expiration of the limitations period for assessments.

Effective Date

The provision is effective as if included in the amendments made by section 402 of the

Tax Equity and Fiscal Responsibility Act of 1982.

7. Provide innocent spouse relief for TEFRA proceedings (sec. 217 of the bill and sec. 6230 of the Code)

Present Law

In general, an innocent spouse may be relieved of liability for tax, penalties and interest if certain conditions are met (sec. 6013(e)). However, existing law does not provide the spouse of a partner in a TEFRA partnership with a judicial forum to raise the innocent spouse defense with respect to any tax or interest that relates to an investment in a TEFRA partnership.

Reasons for Simplification

Providing a forum in which to raise the innocent spouse defense with respect to liabilities attributable to adjustments to partnership items (including penalties, additions to tax and additional amounts) would make the innocent spouse rules more uniform.

Explanation of Provision

The bill provides both a prepayment forum and a refund forum for raising the innocent spouse defense in TEFRA cases.

Effective Date

The provision is effective as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

8. Determine penalties at the partnership level (sec. 218 of the bill and sec. 6221 of the Code)

Present Law

Partnership items include only items that are required to be taken into account under the income tax subtitle. Penalties are not partnership items since they are contained in the procedure and administration subtitle. As a result, penalties may only be asserted against a partner through the application of the deficiency procedures following the completion of the partnership-level proceeding.

Reasons for Simplification

Many penalties are based upon the conduct of the taxpayer. With respect to partnerships, the relevant conduct often occurs at the partnership level. In addition, applying penalties at the partnership level through the deficiency procedures following the conclusion of the unified proceeding at the partnership level increases the administrative burden on the IRS and can significantly increase the Tax Court's inventory.

Explanation of Provision

The bill provides that the partnership level proceeding is to include a determination of the applicability of penalties at the partnership level. However, the bill allows partners to raise any partner-level defenses in a refund forum.

Effective Date

The provision is effective for partnership taxable years ending after December 31, 1991.

9. Clarify jurisdiction of the Tax Court (sec. 219 of the bill and secs. 6225 and 6226 of the Code)

Present Law

Improper assessment and collection activities by the IRS during the 150-day period for filing a petition or during the pendency of any Tax Court proceeding, "may be enjoined in the proper court." Present law may be unclear as to whether this includes the Tax Court.

For a partner other than the Tax Matters Partner to be eligible to file a petition for redetermination of partnership items in any court or to participate in an existing case, the period for assessing any tax attributable to the partnership items of that partner must not have expired. Since such a partner would only be treated as a party to the action if the statute of limitations with respect to them was still open, the law is unclear whether the partner would have standing to assert that the statute of limitations had expired with respect to them.

Reasons for Simplification

Clarifying the Tax Court's jurisdiction simplifies the resolution of tax cases.

Explanation of Provision

The bill clarifies that an action to enjoin premature assessments of deficiencies attributable to partnership items may be brought in the Tax Court. The bill also permits a party to appear before a court for the sole purpose of asserting that the period of limitations for assessing any tax attributable to partnership items has expired for that person.

Effective Date

The provision is effective for partnership taxable years ending after the date of the enactment of this Act.

10. Treatment of premature petitions filed by certain partners (sec. 220 of the bill and sec. 6226 of the Code)

Present Law

The Tax Matters Partner is given the exclusive right to file a petition for readjustment of partnership items within the 90-day period after the issuance of the notice of a final partnership administrative adjustment (FPAA). If the Tax Matters Partner does not file a petition within the 90-day period, certain other partners are permitted to file a petition within the 60-day period after the close of the 90-day period. There are ordering rules for determining which action goes forward and for dismissing other actions.

Reasons for Simplification

A petition that is filed within the 90-day period by a person who is not the Tax Matters Partner is dismissed. Thus, if the Tax Matters Partner does not file a petition within the 90-day period and no timely and valid petition is filed during the succeeding 60-day period, judicial review of the adjustments set forth in the notice of FPAA is foreclosed and the adjustments are deemed to be correct.

Explanation of Provision

The bill treats premature petitions filed by certain partners within the 90-day period will be treated as being filed on the last day of the following 60-day period under specified circumstances, thus affording the partnership with an opportunity for judicial review that is not available under present law.

Effective Date

The bill is effective with respect to petitions filed after the date of the enactment of this Act.

11. Clarify bond requirement for appeals from TEFRA proceedings (sec. 221 of the bill and sec. 7485 of the Code)

Present Law

A bond must be filed to stay the collection of deficiencies pending the appeal of the Tax Court's decision in a TEFRA proceeding. The amount of the bond must be based on the court's estimate of the aggregate deficiencies of the partners.

Reasons for Simplification

The Tax Court cannot easily determine the aggregate changes in tax liability of all of the partners in a partnership who will be affected by the Court's decision in the proceeding. Clarifying the calculation of the bond amount would simplify the Tax Court's task.

Explanation of Provision

The bill clarifies that the amount of the bond should be based on the Tax Court's estimate of the aggregate liability of the parties to the action (and not all of the partners in the partnership).

Effective Date

The provision is effective as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

12. Suspend interest where there is a delay in computational adjustment resulting from TEFRA settlements (sec. 222 of the bill and sec. 6601 of the Code)

Present Law

Interest on a deficiency generally is suspended when a taxpayer executes a settlement agreement with the IRS and waives the restrictions on assessments and collections and the IRS does not issue a notice and demand for payment of such deficiency within 30 days. Interest on a deficiency that results from an adjustment of partnership items in TEFRA proceedings, however, is not suspended.

Reasons for Simplification

Processing settlement agreements and assessing the tax due takes a substantial amount of time in TEFRA cases. A taxpayer is not afforded any relief from interest during this period.

Explanation of Provision

The bill suspends interest where there is a delay in a computational adjustment resulting from TEFRA settlements.

Effective Date

The provision is effective with respect to settlements entered into after December 31, 1991.

TITLE III.—FOREIGN PROVISIONS

1. Deferral of tax on income earned through foreign corporations and exceptions to deferral (secs. 301–304 of the bill and secs. 453, 532, 535, 542, 543, 551–558, 563, 954, 1246–1247, and 1291–1297 of the Code)

Present Law

U.S. citizens and residents and U.S. corporations (collectively, "U.S. persons") are taxed currently by the United States on their worldwide income, subject to a credit against U.S. tax on foreign income based on foreign income taxes paid with respect to such income. Income earned by a foreign corporation, the stock of which is owned in whole or in part by U.S. persons, generally is not taxed by the United States until the foreign corporation repatriates that income by payment to its U.S. stockholders. The U.S. stockholders are subject to U.S. tax on the repatriated income at that time. Foreign tax credits may reduce the U.S. tax.

Since 1937, the Code has set forth one or more regimes providing exceptions to the general rule deferring U.S. tax on income earned indirectly through a foreign corporation. These regimes currently include the controlled foreign corporation (or subpart F) rules (secs. 951–964); the foreign personal holding company rules (secs. 551–558); passive foreign investment company (PFIC) rules (secs. 1291–1297); the personal holding company rules (secs. 541–547); the accumulated earnings tax (secs. 531–537); and rules for foreign investment companies (sec. 1246) and electing foreign investment companies (sec. 1247). These regimes have multiple and overlapping application to foreign corporations owned in whole or in part by U.S. persons.

Reasons for Simplification

Some of the different anti-deferral regimes were enacted or modified at different times and reflect historically different Congressional policies. Different regimes provide different thresholds (either by type of income or asset at the foreign corporation level, or of U.S. stock ownership at the shareholder level) to their application. They provide for different mechanisms by which U.S. stockholders are denied the benefits of deferral. Some of the regimes have features directed at policy goals applicable to foreign corporation owned by U.S. corporations (e.g., the allowance of indirect foreign tax credits); others have features primarily directed at issues applicable to foreign corporations owned by U.S. individuals (e.g., the basis of property acquired from a decedent). Some regimes preserve the character of the income earned in the hands of a foreign corporation while others do not. Some provide for movement of losses between years of a single foreign corporation or between multiple corporations while others do not. While a consistent theme of these regimes is to provide current taxation for certain types of interest, dividend, rental royalty, and other similar income, the different regimes apply different criteria to these items of income to determine their current inclusion or noninclusion. Different regimes have different ordering rules for determining which dividends from foreign corporations subject to the regimes are subject to tax on repatriation and which are simply distributions of previously taxed income.

Simply because of the differences among the various anti-deferral regimes, U.S. taxpayers frequently are faced with the need to consult multiple sets of anti-deferral rules when they hold stock in a foreign corporation.

Moreover, the interactions of the rules cause additional complexity. There is significant overlap among the several regimes. This overlap requires the Code to provide specific rules of priority for income inclusions among the regimes, as well as additional coordination provisions pertaining to other operational differences among the several regimes. The overlapping or multiple application of anti-deferral regimes to a single corporation can result in significant additional complexity with little or no ultimate tax consequences.

Consolidation of the several anti-deferral regimes can achieve two major types of simplification. First, by reducing the number of separate definitions of entities among the anti-deferral regimes, taxpayers can be spared the burden of understanding and complying with a multiplicity of separate anti-deferral corporation with separate definitions and requirements.

Second, from an operational perspective, the number of anti-deferral regimes that can apply to any one shareholder in a foreign corporation can be reduced to one. As discussed above, the operational differences, including the overlapping applicability of the six present-law anti-deferral regimes, is a source of complexity. Under a consolidated corporation, is a source of complexity. Under a consolidated regime, however, deferral can be denied for many corporations (whether in full or in part) solely through the provisions of subpart F. In the case of a controlled foreign corporation, for example, being subject to the rules for full denial of deferral (such as the PFIC of foreign personal holding company provisions under present law) can result in no additional compliance burdens or administrative or operational complexity.

Another source of complexity under present law is the need for shareholders of controlled foreign corporations to make "protective" current-inclusion elections in order to avoid adverse future consequences under the interest-charge method should the controlled foreign corporation also prove to be a PFIC.[16] By replacing elective current-inclusion treatment for PFICs that are also controlled foreign corporations by mandatory current inclusion through subpart F for passive foreign corporations that are also controlled foreign corporations, a consolidated regime can eliminate both the burdens of making protective elections and the risks of failing to do so.

It is understood that the interest-charge method of the present-law PFIC rules is a significant source of complexity both separately and in its interaction with other provisions of the Code. Even without eliminating the interest-charge method, significant simplification can be achieved by minimizing the number of taxpayers that may be subject to the method and by making certain modifications that may reduce the complexity engendered by the interest-charge method.

Explanation of Provision

In general

The bill replaces the separate anti-deferral regimes of present law with a unified set of rules providing for either partial or full elimination of deferral depending on the circumstances. The bill preserves the present-law approach under which partial current taxation is a function of the type of income earned by the foreign corporation and a level of U.S. ownership in the corporation exceeding some threshold (as currently embodied in subpart F). The bill also preserves the present-law approach under which full current taxation is a function of a type of income or assets of the corporation exceeding some threshold (as currently embodied in subpart F, the PFIC rules, and the foreign personal holding company rules). The bill eliminates regimes that are redundant or marginally applicable, and ensures that no more than one set of rules will ever apply to a shareholder's interest in any one corporation in any one year.

Generally, the bill retains the subpart F rules as the foundation of its unified anti-deferral regime (with certain modifications described below and also in item 2., following, describing secs. 311–313 of the bill). It includes a modified version of the PFIC rules while eliminating the other regimes as redundant to one or the other. The bill's unified anti-deferral regime sets forth various thresholds for subjecting U.S. persons to full or partial inclusions of corporate income. In addition, where deferral is eliminated by U.S. shareholder inclusions of foreign corporate-level income, the bill applies a single set of rules (the subpart F rules) for basis adjustments, characterization of actual distributions, foreign tax credits, and similar issues. As under present law, the bill in some cases affords U.S. persons owning stock in foreign corporations a choice of technique for recognizing income from the elimination of deferral. However, in a greater number of cases than under present law, the bill provides only one method of eliminating deferral.

Replacement of current law regimes for full elimination of deferral

The bill creates a single definition of a passive foreign corporation (PFC) that will unify and replace the foreign personal holding company and PFIC definitions. The rules applicable to PFCs represent a hybrid of characteristics of the foreign personal holding company rules, the PFIC rules, and the controlled foreign corporation rules (subpart F), plus a new mark-to-market regime, as well as a variety of simplifying or technical changes to rules under the existing systems. The following discussion explains the differences between the PFIC provisions of present law and the PFC provisions that will be applicable under the bill.

A PFC is any foreign corporation if (1) 60 percent or more of its gross income is passive income, (2) 50 percent or more of its assets (on average during the year, measured by value) produce passive income or are held for the production of passive income, or (3) it is registered under the Investment Company Act of 1940 (as amended) either as a management company or as a unit investment trust.[17] As under the PFIC rules, the foreign corporation is permitted to elect to measure its assets based on their adjusted basis rather than their value.

As under present law, passive income for this purpose is defined in the bill generally as any income of a kind which would be foreign personal holding company income as defined in section 954(c), subject to the current law exceptions for banking and insurance income and the current look-through rules for certain payments from related persons (current sec. 1296(b)(2)).[18] In addition, the bill provides two clarifications to present law. First, the bill clarifies that, as indicated in the legislative history of the 1988 Act, the same-country exceptions from the definition of foreign personal holding company income in section 954(c) are disregarded.[19] Second, the bill clarifies that any foreign trade income of a foreign sales corporation does not constitute passive income for purposes of the PFIC definition (*cf.* sec. 951(e)).

The bill modifies the present law application of the asset test by treating certain leased property as assets held by the foreign corporation for purposes of the PFC asset test. This rule applies to tangible personal property with respect to which the foreign corporation is the lessee under a lease with a term of at last 12 months.

The bill also modifies the present law rules that provide an exception from the definition of a PFIC in the case of a company changing businesses. Under the bill, if a foreign corporation holds 25 percent or more of the stock of a second corporation that qualifies for the change-of-business exception (current sec. 1297(b)(3)), then in applying the look-through rules (current sec. 1296(c)), the first corporation may treat otherwise passive assets or income of the second corporation as active.[20]

The bill generally retains those provisions of current law the application of which depends upon whether a foreign corporation was a PFIC for years after 1986 (e.g., current sec. 1291(d)), but modifies these provisions to test whether the foreign corporation was a PFC for years after 1986. As a transitional definition, the bill provides that a foreign corporation that was treated as a PFIC for any taxable year beginning before the introduction of the bill is treated as having been a PFC for each such year.

The bill provides a new election that will allow certain passive foreign corporations to be treated as domestic corporations. A foreign corporation is eligible to make this election if (1) it would qualify for treatment as a regulated investment company (RIC) under the releveant provisions of the Code if it actually were a domestic corporation, (2) it meets such requirements as the Secretary may prescribe to ensure the collection of taxes imposed by the Internal Internal Revenue Code on the passive foreign corporation, and (3) the electing passive foreign corporation waives all benefits which are granted by the United States under any treaty (including treaties other than tax treaties) and to which the corporation is otherwise entitled by reason of being a resident of another country. The rules governing such an election will be similar to those applicable to the election by a foreign insurance company to be treated as a domestic corporation under section 953(d).

The bill provides a special rule regarding the application of the PFC rules to tax-exempt organizations that own stock in passive foreign corporations. The passive foreign corporation rules, under the bill, have no application at all to any organization exempt from tax under section 501, unless the organization is subject to unrelated business income taxation on its investment income under section 512(a)(3) of the Code. In the case of a tax-exempt organization that is subject to tax on its investment income, the PFC rules apply with respect to amounts taken into account in computing unrelated business taxable income in the same manner as if the organization were fully taxable.

Tax treatment under full elimination of deferral

The benefits of deferral are eliminated with respect to the income of a PFC under three alternative methods: current inclusion, mark-to-market, or interest charge on excess distributions.

Current inclusion method

Mandatory current inclusion.—If a passive foreign corporation is U.S. controlled, the bill will subject every U.S. person owing (directly or indirectly) stock in the PFC to income inclusions under a modified version of the controlled foreign corporation rules. If a PFC is not U.S. controlled, every U.S. persons owning (directly or indirectly) 25 percent or more of the vote or value of the stock of the PFC will be subject to the same rules. Under the bill, the entire gross income of the passive foreign corporation (subject to applicable deductions) is treated as foreign personal holding company income, and thus is included (net of appropriate deductions) on a pro rata basis in the income of each U.S. person directly or indirectly owning stock in the PFC, under a modified application of the rules of sections 951 and 961. Actual distributions of earnings by such a PFC are treated similarly to distributions of previously taxed income under sections 959 and 961. These rules supersede all application of the present-law rules applicable to foreign personal holding companies, under which earnings are deemed distributed and then contributed to the capital of the foreign personal holding company.

In applying the subpart F inclusion rules to PFC inclusions, the bill departs from subpart F in that foreign personal holding company income is included in the income of U.S. persons without regard to otherwise applicable reductions pursuant to the high-tax exception (under sec. 954(b)(4)) or the export trade corporation rules (secs. 970 and 971). This modification to the application of the controlled foreign corporation rules preserves present law in that no high-tax exception generally is available to PFICs or foreign personal holding companies, and that the PFIC provisions apply in full force to export trade corporations.

A passive foreign corporation is treated under the bill as U.S. controlled for this purpose either if it would be treated as a controlled foreign corporation under the rules of subpart F, or if, at any time during the taxable year, more than 50 percent of the vote or value of the corporation's stock were owned directly or indirectly by five or fewer U.S. persons (including but not limited to individuals, and including all U.S. citizens regardless of their residence). Indirect stock ownership under the bill generally refers to stock ownership through foreign entities within the meaning of section 958(a)(2). In addition, for the purpose of determining whether a foreign corporation is U.S. controlled by virtue of the ownership of more than 50 percent of its stock by five or fewer U.S. persons, the constructive ownership principles of the present-law foreign personal holding company rules apply.

Elective current inclusion.—A U.S. person not subject to the above mandatory current inclusion rules—that is, a U.S. person owning less than 25 percent of the stock in a PFC that is not U.S. controlled—may elect application of those rules. As under current law, the PFC is characterized as a "qualified electing fund" with respect to such a U.S. person. In the application of the elective current-inclusion rules, the passive foreign corporation is treated as a controlled foreign corporation with respect to the taxpayer, and the taxpayer is treated as a U.S. shareholder of the corporation. For foreign tax credit purposes, amounts included in the taxpayer's gross income under this modified application of the controlled foreign corporation rules are treated as dividends received from a foreign corporation which is not a controlled foreign corporation.

The application and operation of the shareholder-level election for treatment as a qualified electing fund generally are the same as under the present-law PFIC rules. It is intended that, in the case of PFC stock owned through a foreign partnership, a partner-level election for treatment as a qualified electing fund will be permitted (except in the case of a foreign partnership that is subject to the simplified reporting rules available to certain large partnerships under title II of the bill).

Mark-to-market method

Less-than-25-percent shareholders of passive foreign corporations that are not U.S.-controlled, and who do not elect current inclusion ("nonelecting shareholders"), are subject under the bill to one of two methods for taxing the economic equivalent of the PFC's current income: the mark-to-market method or the interest-charge method.

Under the bill, nonelecting shareholders of a PFC with marketable stock are required to mark their PFC shares to market annually. Under the mark-to-market method, the U.S. person is required to include in gross income each taxable year an amount equal to the excess (if any) of the fair market value of the PFC stock as of the close of the taxable year over the adjusted basis of the stock. In the event the adjusted basis of the stock exceeds its fair market value, the U.S. person is allowed a deduction for the taxable year equal to the lesser of the amount of the excess or the "unreversed inclusions" with respect to the stock. The bill defines the term "unreversed inclusions" to mean, with respect to any stock in a passive foreign corporation, the excess (if any) of the total amount of mark-to-market gains with respect to the stock included by the taxpayer for prior taxable years, over the amount of mark-to-market losses with respect to such stock that were allowed as deductions for prior taxable years.

The adjusted basis of stock in a passive foreign corporation is increased by the amount of mark-to-market gain included in gross income, and is decreased by the amount of mark-to-market losses allowed as deductions with respect to such stock. In the case of stock owned indirectly by the U.S. person, such as through a foreign partnership, foreign estate or foreign trust (as discussed below), the basis adjustments for mark-to-market gains and losses apply to the basis of the PFC stock in the hands of the intermediary owner, but only for purposes of the subsequent application of the PFC rules to the tax treatment of the indirect U.S. owner. In addition, similar basis adjustments are made to the adjusted basis of the property actually held by the U.S. person by reason of which the U.S. person is treated as owning PFC stock.

All amounts of mark-to-market gain on PFC stock, as well as gain on the actual sale or distribution of PFC stock, are treated as ordinary income. Similarly, ordinary loss treatment applies to the deductible portion of any mark-to-market loss on PFC stock, as well as to any loss realized on the actual sale or other disposition of PFC stock to the extent that the amount of such loss does not exceed the unreversed inclusions with respect to that stock. These loss deductions are treated as deductions allowable in computing adjusted gross income.

The source of any amount of mark-to-market gain on PFC stock is determined in the same manner as if the amount of income were actual gain from the sale of stock in the passive foreign corporation. Similarly, the source of any amount allowed as a deduction for mark-to-market loss on PFC stock is determined in the same manner as if that amount were an actual loss incurred on the sale of stock in the passive foreign corporation.

The mark-to-market method under the bill only applies to passive foreign corporations the stock of which is "marketable." PFC stock is treated as marketable if it is regularly traded on a qualified exchange, whether inside or outside the United States. An exchange qualifies for this treatment if it is a national securities exchange which is registered with the Securities and Exchange Commission or the national market system established pursuant to section 11A of the Securities and Exchange Act of 1934, or if the Secretary is satisfied that the requirements for trading on that exchange ensure that the market price on that exchange represents a legitimate and sound fair market value for the stock. It is intended that the Secretary may adopt a definition of the term "regularly traded" that differs from definitions provided for other purposes under the Code. Further, it is intended that the Secretary not be bound by definitions applied for purposes of enforcing other laws, including Federal securities laws. Similarly, in identifying qualified foreign exchanges for these purposes, it is intended that the Secretary not be required to include exchanges that satisfy standards established under Federal securities laws and regulations. PFC stock is also treated as marketable, to the extent provided in Treasury regulations, if the PFC continuously offers for sale or has outstanding any stock (of which it is the issuer) that is redeemable at its net asset value in a manner comparable to a U.S. regulated investment company (RIC).

In addition, the bill treats as marketable any stock in a passive foreign corporation that is owned by a RIC that continuously offers for sale or has outstanding any stock (of which it is the issuer) that is redeemable at its net asset value. It is believed that the

RIC's determination of PFC stock value for this non-tax purpose would ensure a sufficiently accurate determination of the fair market value of PFC stock owned by the RIC. The bill also treats as marketable any stock in a passive foreign corporation that is held by any other RIC, except to the extent provided in regulations. It is believed that even for RICs that do not make a market in their own stock, but that do regularly report their net asset values in compliance with the securities laws, inaccurate valuations may bring exposure to legal liabilities, and this exposure may ensure the reliability of the values such RICs assign to the stock they hold in PFCs. However, it is intended that Treasury regulations will disallow mark-to-market treatment for nonmarketable stock held by any RIC that is not required to perform such a net asset valuation at the close of each taxable year, that does not publish such a valuation, or that otherwise does not provide what the Secretary regards as sufficient indicia of the reliability of its valuations under the relevant circumstances.

The bill coordinates the application of the mark-to-market method with the tax rules generally applicable to RICs. The bill treats mark-to-market loss on PFC stock as a dividend for purposes of both the 90-percent investment income test of section 851(b)(2) and the 30-percent short-short limitation of section 851(b)(3).

The mark-to-market method does not apply to the stock of a U.S. person in any PFC that is U.S. controlled (as discussed above), to the stock of a person choosing qualified electing fund treatment, or to stock of a U.S. person who is a 25-percent shareholder (as defined above).

In the case of a controlled foreign corporation (including a passive foreign corporation that is treated under the bill as a controlled foreign corporation) that owns or is treated as owning stock in a passive foreign corporations, the mark-to-market method generally is applied as if the controlled foreign corporation were a U.S. person. For purposes of the application of subpart F to the controlled foreign corporation, mark-to-market gains are treated as if they were foreign personal holding company income of the character of dividends, interest, royalties, rents or annuities, and allowable deductions for mark-to-market losses are treated as deductions allocable to that category of foreign personal holding company income. The source of such income or loss, however, is determined by reference to the actual (foreign) residence of the controlled foreign corporation.

For purposes of the mark-to-market method, any stock in a passive foreign corporation that is owned, directly or indirectly, by or for a foreign partnership or foreign trust or foreign estate is treated as if it were owned proportionately by its partners or beneficiaries.[21] Stock in a passive foreign corporation that is thus treated as owned by a person is treated as actually owned by that person for the purpose of applying the constructive ownership rule at another level. In the case of a U.S. person who is treated as owning stock in a passive foreign corporation by application of this constructive ownership rule, any disposition by the U.S. person or by any other person that results in the U.S. person being treated as no longer owning the stock in the passive foreign corporation, as well as any disposition by the person actually owning the stock of the passive foreign corporation, is treated under the bill as a disposition by the U.S. person of stock in the passive foreign corporation.

Interest-charge method

Nonelecting shareholders[22] of a PFC with stock that is not marketable are subject to the interest-charge method, based on the PFIC interest-charge method that is currently provided in Code section 1291, with certain modifications.

First, although allowable foreign tax credits may reduce a U.S. person's net U.S. tax liability on an excess distribution, the interest charge computed on that excess distribution is computed, under the bill, without regard to reductions in net U.S. tax liability on account of direct foreign tax credits.

The PFIC provisions of present law, to the extent provided in regulations, impose recognition of gain in the case of a transfer of PFIC stock in a transaction that would otherwise qualify for the nonrecognition provisions of the Code. The bill imposes that result as a general rule, except as otherwise provided in Treasury regulations. In addition, the bill requires that proper adjustment be made to the basis of property, held by the U.S. person, through which the U.S. person is treated as owning stock in the passive foreign corporation.

The PFIC provisions of present law apply rules for the attribution of ownership of PFIC stock to U.S. persons, including a rule that attributes PFIC stock owned by a corporation to any peson who owns, directly or indirectly, 50 percent or more of the value of the stock of the corporation. Under the bill, the 50-percent threshold applies not only to stock owned directly or indirectly, but also to stock treated as owned by application of the family attribution rules of the personal holding company provisions (sec. 544(c)(2)).

The PFIC provisions of present law provide special rules for the application of the interest-charge method in the case of PFIC stock held by an U.S. person through an intermediary entity. These rules describe the dispositions that are treated as dispositions of PFIC stock by the U.S. person, and include rules to eliminate the possibility of double taxation (sec. 1297(b)(5)). The bill clarifies that these rules apply to any transaction that results in the U.S. person being treated as no longer owning the PFC stock, as well as any disposition of the PFC stock by the entity actually owning the PFC stock. These rules apply regardless of whether the transaction involves a disposition of the PFC stock, and regardless of whether the parties to the transaction include the U.S. person, the entity actually owning the PFC stock, or some other entity. For example, these rules apply to the issuance of additional stock by an intermediary corporation to an unrelated party in a case where, by increasing the total outstanding stock of the intermediary corporation, the transaction causes the U.S. person to fall below the ownership threshold for indirect ownership of the PFC stock. The bill also clarifies that an income inclusion under the interest-charge method takes precedence over an income inclusion under subpart F resulting from the same disposition. The second clarification ensures that the interest charge is imposed without regard to the structure of the transaction.

Under the bill, the interest-charge method applies to any stock in a passive foreign corporation unless either the stock is marketable (and therefore the mark-to-market method applies) as of the time of the distribution or disposition involved, or the stock in the passive foreign corporation was subject to the current inclusion method (under the bill or under prior law) for each taxable year beginning after December 31, 1986 which includes any portion of the taxpayer's holding period in the PFC stock. In the event that PFC stock, not subject to the current inclusion method, becomes marketable during the taxpayer's holding period, the interest-charge method applies to any distributions and dispositions during the year in which the stock becomes marketable, as well as to the mark-to-market gain (if any) as of the close of that year. In the event that PFC stock was initially marketable, and later becomes unmarketable and subject to the interest-charge method, the taxpayer's holding period in the PFC stock for purposes of the interest-charge method is treated as beginning on the first day of the first taxable year beginning after the last taxable year for which the mark-to-market method applies to the taxpayer's stock in the PFC.

Under the bill, as under the present-law PFIC rules, stock in a foreign corporation generally is treated as PFC stock if, at any time during the taxpayer's holding period of that stock, the foreign corporation (or any predecessor) is a passive foreign corporation subject to the interest-charge method (current sec. 1297(b)(1)). (This rule is sometimes referred to as the "once-a-PFIC-always-a-PFIC" rule.) Under present law this rule generally does not affect a taxpayer holding stock in a foreign corporation if at all times during the holding period of the taxpayer with respect to the stock when the foreign corporation (or any predecessor) is a PFIC, qualified electing fund treatment applies with respect to the taxpayer. Under the bill, the similar once-a-PFC-always-a-PFC rule does not apply if during the taxpayer's entire holding period with respect to the stock when the foreign corporation (or any predecessor) is a PFC, either (a) mark-to-market treatment applies, (b) mandatory current inclusion of income applies (either because the corporation is U.S. controlled or because the taxpayer is a 25-percent shareholder), or (c) elective current inclusion of income applies. Thus, for example, a shareholder of a controlled foreign corporation is subject to current inclusion with respect to all the corporation's income in any year for which the corporation is a PFC, but is subject to current inclusion only to the extent provided under subpart F in any year for which the controlled foreign corporation is not a PFC.

The bill also provides for full basis adjustment for partnerships and S corporations that own stock in a passive foreign corporation subject to the interest-charge method. Although tax is imposed on a distribution or disposition under the interest-charge method without including the distribution or disposition in gross income, thus precluding the natural basis adjustments for amounts included in gross income, the bill grants regulatory authority for appropriate basis adjustments to partnerships and S corporations based on the amount of income subject to tax under the interest-charge method and thereby excluded from gross income.

The bill also includes a special rule to coordinate the application of the interest-charge method to nonelecting shareholders of a passive foreign corporation who are or were residents of Puerto Rico. Under the bill, no interest charge is applicable to amounts of an excess distribution that, were the amounts actually earned in the year to which they are treated as earned under the interest-charge method, would have been eligible for the exclusion under section 933 (for income derived by residents of Puerto Rico from sources within Puerto Rico).

The bill includes a broad grant of regulatory authority, as does the present-law

PFIC statute. However, the bill specifies that necessary or appropriate regulations under the PFC rules may include regulations providing that gross income should be determined without regard to the operation of the interest-charge method for such purposes as may be specified in the regulations. This permits the Secretary to relieve pressure on many aspects of the Code that result from the operation of the interest-charge method other than through gross income. In addition, the bill specifies that necessary or appropriate PFC regulations may include regulations dealing with changes in residence status by shareholders in passive foreign corporations (e.g., a resident alien becoming a nonresident, or a U.S. citizen becoming a resident of Puerto Rico).

Modification or repeal of other antideferral regimes

While the bill includes in the passive foreign corporation rules most of the provisions that it preserves from the present-law PFIC, foreign personal holding company, and foreign investment company regimes, the bill modifies subpart F in one respect to reflect a present-law provision of the foreign personal holding company rules (sec. 553(a)(5)). The bill treats as foreign personal holding company income for subpart F purposes an amount received under a personal service contract if a person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract. The bill similarly treats as foreign personal holding company income for subpart F purposes any amount received from the sale or distribution or disposition of such a contract. This rule applies only if at some time during the taxable year 25 percent or more of the value of the corporation's stock is owned (directly, indirectly, or constructively) by or for the individual who may be designated to perform the services.[23] Income from such personal service contracts is not, however, treated as passive for foreign tax credit purposes.

The bill repeals the foreign personal holding company provisions, the PFIC provisions (except as modified and preserved as the passive foreign corporation provisions), and the foreign investment company provisions. The bill also excludes all foreign corporations from the application of the accumulated earnings tax and the personal holding company tax. It is understood that the purposes of all the anti-deferral regimes are adequately served by the passive foreign corporation provisions as set forth in the bill, in conjunction with the controlled foreign corporation provisions as modified by the bill.

In addition, the bill denies installment sales treatment for any installment obligation arising out of a sale of stock in a passive foreign corporation. This will prevent shareholders in passive foreign corporations from avoiding the interest charge by means of an installment sale of their PFC stock.

Effective Date

The bill generally is effective for taxable years of U.S. persons beginning after December 31, 1991, and taxable years of foreign corporations ending with or within such taxable years of U.S. persons.

The denial of installment sales treatment is effective for sales or dispositions after December 31, 1991.

The bill does not affect the determination of the basis of stock in a PFIC that was acquired from a decedent in a taxable year beginning before January 1, 1991.

2. Modifications to provisions affecting controlled foreign corporations (secs. 311, 312, and 313 of the bill and secs. 951, 952, 959, 960, 961, 964, and 1248 of the Code)

Present Law

Treatment of controlled foreign corporation earnings

In general

A U.S. shareholder generally treats dividends from a controlled foreign corporation as ordinary income from foreign sources that carries both direct and indirect foreign tax credits. Under look-through rules, the income and credits are subject to those foreign tax credit limitations which are consistent with the character of the income of the foreign corporation.

Several Code provisions result in similar tax treatment of a U.S. shareholder if it either disposes of the controlled foreign corporation stock, or the controlled foreign corporation realizes certain types of income (including income with respect to lower-tier controlled foreign corporations). First, under section 1248, gain resulting from the disposition by a U.S. person of stock in a foreign corporation that was a controlled foreign corporation with respect to which the U.S. person was a U.S. shareholder in the previous five years is treated as a dividend to the extent of allocable earnings.

Second, a controlled foreign corporation has subpart F income when it realizes gain on disposition of stock and, ordinarily, when it receives a dividend. Under sections 951 and 960, such subpart F income may result in taxation to the U.S. shareholder similar (but not identical) to that on a dividend from the controlled foreign corporation. In addition to provisions for characterizing income and credits in these situations, the Code also provides certain rules that adjust basis, or otherwise result in modifying the tax consequences of subsequent income, to account for these and other subpart F income inclusions.

Third, when in exchange for property any corporation (including a controlled foreign corporation) acquires stock in another corporation (including a controlled foreign corporation) controlled by the same persons that control the acquiring corporation, earnings of the acquiring corporation (and possibly the acquired corporation) may be treated under section 304 as having been distributed as a dividend to the seller.

Lower-tier controlled foreign corporations

For purposes of applying the separate foreign tax credit limitations, receipt of a dividend from a lower-tier controlled foreign corporation by an upper-tier controlled foreign corporation may result in a subpart F income inclusions for the U.S. shareholder that is treated as income in the same limitation category as the income of the lower-tier controlled foreign corporation. The income inclusion of the U.S. shareholder may carry deemed-paid credits for foreign taxes paid by the lower-tier controlled foreign corporation, and the basis of the U.S. shareholder in the stock of the first-tier controlled foreign corporation is increased by the amount of the inclusion. If, on the other hand, the upper-tier controlled foreign corporation sells stock of a lower-tier controlled foreign corporation, then the gain is also included in the income of the U.S. shareholder as subpart F income and the U.S. shareholder's basis in the stock of the first-tier controlled foreign corporation is increased to account for the inclusion, but the inclusion is not treated for foreign tax credit limitation purposes by reference to the nature of the income of the lower-tier controlled foreign corporation. Instead it generally is treated as passive income.

If subpart F income of a lower-tier controlled foreign corporation is included in the gross income of a U.S. shareholder, there is no provision that adjusts the basis of the upper-tier controlled foreign corporation's stock of the lower-tier controlled foreign corporation.

Subpart F inclusions in year of disposition

The subpart F income earned by a foreign corporation during its taxable year is taxed to the persons who are U.S. shareholders of the corporation on the last day, in that year, on which the corporation is a controlled foreign corporation. In the case of a U.S. shareholder who acquired stock in a controlled foreign corporation in the middle of the year, such inclusions are reduced by all or a portion of the amount of dividends paid in that year by the foreign corporation to any person besides the acquirer with respect to that stock. The reduction is determined by multiplying the subpart F income for the year by the proportion of the year during which the acquiring shareholder did not own the stock.

Distributions of previously taxed income

If in a year after the year of a subpart F income inclusion, a U.S. shareholder in the controlled foreign corporation receives a distribution from the corporation, the distribution may be deemed to come first out of the corporation's previously taxed income and, therefore, may be excluded from the U.S. shareholder's income. However, a distribution by a foreign corporation to a domestic corporation of earnings and profits previously taxed under subpart F is treated as an actual dividend, solely for purposes of determining the indirect foreign tax credit available to the domestic corporation (sec. 960(a)(3)). Thus, a portion of the foreign taxes paid or accrued by the foreign corporation and not previously deemed paid by the domestic corporation are treated as paid by the domestic corporation under the principles of section 902 even though the domestic corporation recognizes no income in the current taxable year with respect to the distribution.

In addition, the domestic corporation is permitted to increase its foreign tax credit limitation in the year of the distribution of previously taxed earnings and profits in an amount equal to the excess of the amount by which its foreign tax credit limitation for the year of the subpart F inclusion was increased as a result of that inclusion, over the amount of foreign taxes which were allowable as a credit in that year and which would not have been so allowable but for the subpart F inclusion (sec. 960(b)). The increase in the foreign tax credit limitation may not, however, exceed the amount of the foreign taxes taken into account under this provision with respect to the distribution of previously taxed earnings and profits. In order for this rule to apply, the domestic corporation either must have elected to credit foreign taxes in the year of the subpart F inclusion or must not have paid or accrued any foreign taxes in such year, and it must elect the foreign tax credit in the year of the distribution of previously taxed earnings and profits.

Treatment of United States source income earned by a controlled foreign corporation

As a general rule, subpart F income does not include income earned from sources within the United States if the income is effectively connected with the conduct of a U.S. trade or business by the controlled foreign corporation. This general rule does not apply, however, if the income is exempt from, or subject to a reduced rate of, U.S. tax pursuant to a provision of a U.S. treaty.

Reasons for Simplification

It is believed that complexities have been caused by uncertainties and gaps in the statutory schemes for taxing gains on dispositions of stock in controlled foreign corporations as dividend income or subpart F income. These uncertainties and gaps may prompt taxpayers to refrain from behavior that would otherwise be the result of rational business decisions, for fear of excessive tax—for example, double corporate-level taxation of income. In many cases, concerns about excessive taxation can be allayed, but only at the cost of avoiding the simpler and more rational economic behavior in favor of tax-motivated planning.

It is understood that, as a general matter, other aspects of the tax system may have interfered with rational economic decision making by prompting taxpayers to engage in tax-motivated planning in order to eliminate taxation in cases where income is in fact earned. Some such characteristics of the tax system have in the past been altered by Congress in order to reduce excessive interference by the tax system in labor, investment, and consumption decisions of taxpayers.[24] It is believed that in the context of this simplification bill, it generally is appropriate to reduce complexities caused by aspects of the rules governing controlled foreign corporations that provide for nonuniform tax results from dividends, on the one hand, and stock disposition proceeds to the extent earnings and profits underlie those proceeds, on the other.

It is understood that the present-law provisions which permit an indirect foreign tax credit and an increased foreign tax credit limitation to be claimed in the event of a distribution of previously taxed earnings by a controlled foreign corporation are particularly difficult to administer. This difficulty arises because taxpayers are required to compute and keep track of excess foreign tax credit limitation accounts with respect to subpart F income inclusions on a foreign corporation by foreign corporation basis, as well as on a year by year basis. Additional complexities arise as taxpayers are required, as a result of distributions, to trace earnings and profits up chains of foreign corporations. It is believed that retention of these rules may not be worth the system-wide recordkeeping and computations involved. It is believed that the combination of foreign income tax rates on the foreign income of U.S. persons and their controlled foreign corporations, and the U.S. rules for taxing such income, will result in few cases where the effort will be rewarded by substantial tax savings. Moreover, it is believed that taxpayers who might be adversely affected may be able to plan around those adverse effects at least cost than the complexity cost that is engendered by the present system.

Explanation of Provisions

In general

The bill makes a number of modifications in the treatment of income derived from the disposition of stock in a controlled foreign corporation. The bill provides deemed dividend treatment for gains on dispositions of lower-tier controlled foreign corporations. Where the lower-tier controlled foreign corporation previously earned subpart F income, the bill permits the amount of gain taxed to the U.S. shareholder to be adjusted for previous income inclusions. Where proceeds from the sale of stock to a controlled foreign corporation that previously has earned subpart F income would be treated as a dividend under the principles of section 304, the bill expressly permits exclusion of the deemed section 304 dividend from taxation to the extent of the previously taxed earnings and profits of the controlled foreign corporation from which the property was deemed to be distributed. (Appropriate basis adjustments also are permitted to be made.) Where a controlled foreign corporation (whether or not it is a lower-tier controlled foreign corporation) earns subpart F income in a year in which a U.S. shareholder sells its stock, in a transaction that does not result in the foreign corporation ceasing to be a controlled foreign corporation, the bill contains statutory language providing for a proportional reduction in the taxation of the subpart F income in that year to the acquiring U.S. shareholder.

The bill contains two additional provisions related to controlled foreign corporations. First, the bill repeals the provision that currently permits an indirect foreign tax credit and an increased foreign tax credit limitation to be claimed upon certain distributions by controlled foreign corporations of previously taxed earnings and profits. Second, the bill clarifies the effect of the treaty exemption or reduction of the branch profits tax on the determination of subpart F income.

Lower-tier controlled foreign corporations

Characterization of gain on stock disposition

The bill provides that if a controlled foreign corporation is treated as having gain from the sale or exchange of stock in a foreign corporation, the gain is treated as a dividend to the same extent that it would have been so treated under section 1248 if the controlled foreign corporation were a U.S. person. However, this rule does not affect the determination of whether the second corporation is a controlled foreign corporation.

Thus, for example, if a U.S. corporation owns 100 percent of the stock a foreign corporation, which owns 100 percent of the stock of a second foreign corporation, then under the bill, any gain of the first corporation upon a sale of stock of the second corporation is treated as a dividend for purposes of subpart F income inclusions to the U.S. shareholder, to the extent of earnings and profits of the second corporation attributable to periods in which the first foreign corporation owned the stock of the second foreign corporation while the latter was a controlled foreign corporation with respect to the U.S. shareholder. As another example, assume that the U.S. corporation has always owned 51 percent of the stock of a foreign corporation, which has always owned 51 percent of the stock of a second foreign corporation. All the other stock of the foreign corporations has always been owned by other foreign individuals unrelated to the U.S. corporation. In this case, the second foreign corporation has never been controlled foreign corporation. Therefore, none of the gain of the first corporation upon a sale of stock of the second corporation is treated as a dividend.

Gain on disposition of stock in a related corporation created or organized under the laws of, and having substantial part of assets in a trade or business in, the same foreign country as the gain recipient, even if recharacterized as a dividend under the bill, is not therefore excluded from foreign personal holding company income under the same-country exception that applies to actual dividends.

Adjustments to basis of stock

The bill also provides that when a lower-tier controlled foreign corporation earns subpart F income, and stock in that corporation is later sold by an upper-tier controlled foreign corporation, the resulting income inclusion of the U.S. shareholders are, under regulations, adjusted to account for previous inclusions, in a manner similar to the adjustments now provided to the basis of stock in a first-tier controlled foreign corporation. Thus, just as the basis of a U.S. shareholder in a first-tier controlled foreign corporation rises when subpart F income is earned and falls when previously taxed income is distributed, so as to avoid double taxation of the income on a later sale, it is intended that by regulation the subpart F income from gain on the sale of a lower-tier controlled foreign corporation generally would be reduced by income inclusions of earnings that were not subsequently distributed by the lower-tier controlled foreign corporation. It is intended that the Secretary will have sufficient flexibility in promulgating regulations under this provision to permit adjustments only in those cases where, by virtue of the historical ownership structure of the corporations involved, the Secretary is satisfied that the inclusions for which adjustments can be made can be clearly identified.

Subpart F inclusions in year of disposition

Where a U.S. shareholder acquires the stock of a controlled foreign corporation from another U.S. shareholder during the middle of a year in which the controlled foreign corporation earns subpart F income, the bill reduces the acquirer's subpart F inclusion for that year by a portion of the amount of the dividend deemed (under sec. 1248) to be received by the transferor. The portion by which the inclusion is reduced would (as is currently the case where a dividend was paid to the previous owner of the stock) not exceed the subpart F inclusion for that year times the proportion of the year for which the acquirer did not own the stock.

Avoiding double inclusions in other cases

The bill clarifies the appropriate scope of regulatory authority with respect to the treatment of cross-chain section 304 dividends out of the earnings of controlled foreign corporations that were previously included in the income of a U.S. shareholder under subpart F. The bill contemplates that in such a case, the Secretary in his discretion may by regulation treat such dividends as distributions of previously taxed income, with appropriate basis adjustments. It is also anticipated that other occasions may arise where the exercise of similar regulatory authority may be appropriate to avoid double income inclusions, or an inclusion or exclusion of income without a corresponding basis adjustment. Therefore, the bill states that, in addition to cases involving section 304, the Secretary may by regulation modify the application of subpart F in any other case where there would otherwise be a multiple inclusion of any item of income (or an inclusion or exclusion without an appropriate basis adjustment) by reason of the structure of a U.S. shareholder's holdings in controlled foreign corporations or by reason of other circumstances.

Foreign tax credit in year of receipt of previously taxed income

The bill repeals the rules that permit an indirect foreign tax credit to be claimed with respect to a distribution of previously taxed earnings and profits. Under the bill, foreign taxes paid by a foreign corporation with respect to previously taxed earnings and profits remain in that corporation's pool (or pools) of foreign taxes which are available for the indirect foreign tax credit upon subsequent distributions or deemed distributions of earnings and profits that have not been previously taxed at the U.S. shareholder level.

Treatment of United States income earned by a controlled foreign corporation

The bill provides that an exemption or reduction by treaty of the branch profits tax that would be imposed under section 884 on a controlled foreign corporation does not affect the general statutory exemption from subpart F income that is granted for U.S. source effectively connected income. For example, assume a controlled foreign corporation earns income of a type that generally would be subpart F income, and that income is earned from sources within the United States in connection with business operations therein. Further assume that repatriation of that income is exempted from the U.S. branch profits tax under a provision of an applicable U.S. income tax treaty. The bill provides that notwithstanding the treaty's effect on the branch tax, the income is not treated as subpart F income as long as it is not exempt from U.S. taxation (or subject to a reduced rate of tax) under any other treaty provision.

Effective Dates

Lower-tier controlled foreign corporations

The provision of the bill treating gains on dispositions of stock in lower-tier controlled foreign corporations as dividends under section 1248 principles applies to gains recognized on transactions occurring after date of enactment of the bill. The provision providing for regulatory adjustments in U.S. shareholder inclusions, with respect to gains of controlled foreign corporations from stock in lower-tier controlled foreign corporations that previously had subpart F income, is effective for U.S. shareholder inclusions in taxable years of U.S. shareholders beginning after December 31, 1991.

Subpart F inclusions in year of disposition

The provision of the bill permitting dispositions of stock to be taken into consideration in determining a U.S. shareholder's subpart F inclusion for a taxable year is effective with respect to dispositions occurring after the date of enactment of the bill.

Distributions of previously taxed income

The provision of the bill allowing the Secretary to make regulatory adjustments to avoid double inclusions in cases such as those to which section 304 applies takes effect on the date the bill is enacted.

Foreign tax credit on distribution of previously taxed income

The provision of the bill which repeals the ability to claim foreign tax credits on distributions of previously taxed income generally is effective for taxable years beginning after December 31, 1991. However, the provision is not effective with respect to distributions of previously taxed income which occur in taxable years beginning prior to January 1, 1997, if the distributions relate to subpart F income inclusions for taxable years of the U.S. corporate shareholders beginning before January 1, 1992.

Treatment of United States source income earned by a controlled foreign corporation

The provision of the bill concerning the effect of treaty exemptions from or reductions of the branch profits tax on the determination of subpart F income is effective for taxable years ending after the date of enactment.

3. Translation of foreign taxes into U.S. dollar amounts (sec. 321 of the bill and sec. 986(a) of the Code)

Present Law

Foreign income taxes paid in foreign currencies are required to be translated into U.S. dollar amounts using the excahnge rate as of the time such taxes are paid to the foreign country or U.S. possession (sec. 986(a)(1)). This rule applies equally to foreign taxes paid directly by U.S. taxpayers, which are creditable only in the year paid or accrued (or during a carryover period), and to foreign taxes paid by foreign corporations that are deemed paid by a U.S. corporation, and hence creditable, in the year that the U.S. corporation receives a dividend or income inclusion.

Reasons for Simplification

If each foreign income tax payment is required to be translated at a separate daily exchange rate for the day of the payment, the number of currency exchange rates that are relevant to foreign tax credit calculations varies directly with the frequency of foreign income tax payments. Where U.S. corporations are deemed to pay a portion of the "pool" of foreign taxes paid by foreign corporations, the correct amount of tax in the pool is the product of each tax payment times the relevant translation rate. The longer the period between the time the income is earned and its repatriation (or other inclusion) to the U.S. corporation, the greater the period over which the amounts of tax payments and translation rates are relevant to the determination of net U.S. tax liability.

It is believed that the record-keeping, verification, and examination burdens—both on the IRS and on taxpayers—associated with the advantages of deferral and the foreign tax credit (including the indirect credit) are not insignificant. For example, if events that happened in one year affected only the return filed for that year, and each tax return was affected only by events that happened in the year for which that return was filed, then presumably tax-related records would need to be maintained only between the time the taxable year began and the year that the assessment period for that year expired. On the other hand, if income earned in years 1 through 5 is taxed in year 6, then the amount of documentation relevant to the year 6 return potentially is increased five-fold, and the period over which that information must be maintained is at least five years longer.

U.S. persons who pay foreign income taxes directly and choose the benefits of the foreign tax credit have always been required to maintain detailed foreign tax payment documentation, including exchange rate data for the dates on which they paid foreign income taxes, and U.S. corporations that operate through foreign corporations have been required to maintain documentation regarding the earnings and foreign tax payments of the foreign corporations.[25] Some have argued, however, that relief is warranted for taxpayers that would otherwise bear the combined currency translation responsibilities applicable to direct foreign taxpayers with the extended record-keeping responsibilities applicable to taxpayers that receive the benefits of deferral.

It is believed that an appropriate response to this combination of burdens is to permit regulatory modification of the "time of payment" concept, in such a way that preserves the uniformity of treatment of branches and foreign subsidiaries of U.S. taxpayers, but permits recourse to reasonably accurate average translation rates for the period in which the tax payments are made. Simplification may be provided in this way by reducing, sometimes substantially, the number of translation calculations that are required to be made. There may be situations in which the use of an average exchange rate over a specified time period, to be applied to all tax payments made in that currency during that period, would provide results not substantially different than those that would be derived under present law. This could result, for example, where the value of a foreign currency as it relates to the U.S. dollar does not fluctuate significantly over the specified period.

One of the fundamental premises behind the amendments enacted in 1986 with respect to the translation of foreign taxes was that foreign taxes paid by foreign corporations should be translated in the same manner as foreign taxes paid by foreign branches of U.S. persons. In keeping with that premise, it is believed that any provision to allow the use of average exchange rates for this purpose should be made equally applicable to foreign branches and subsidiaries.

Explanation of Provision

The bill grants the Secretary of the Treasury authority to issue regulations that would allow foreign tax payments made by a foreign corporation or by a foreign branch of a U.S. person to be translated into U.S. dollar amounts using an average U.S. dollar exchange rate for a specified period. It is anticipated that the applicable average exchange rate would be the rate as published by a qualified source of exchange rates for the period during which the tax payments were made.

Effective Date

This provision is effective with respect to taxable years beginning after the date of enactment.

4. Foreign tax credit limitation under the alternative minimum tax (sec. 322 of the bill and sec. 59(a) of the Code)

Present Law

Computing foreign tax credit limitations requires the allocation and apportionment of deductions between items of foreign source and U.S. source income. Foreign tax credit limitations must be computed both for regular tax purposes and for purposes of the alternative minimum tax (AMT). Consequently, after allocating and apportioning deductions for regular tax foreign tax credit limitation purposes, additional allocations and apportionments generally must be performed in order to compute the AMT foreign tax credit limitation.

Reasons for Simplification

The process of allocating and apportioning deductions for purposes of calculating the regular and AMT foreign tax credit limitations can be complex. Taxpayers that have allocated and apportioned deductions for regular tax foreign tax credit purposes generally must reallocate and reapportion the same deductions for AMT foreign tax credit purposes, based on assets and income that reflect AMT adjustments (including depreciation). However, the differences between regular taxable income and alternative minimum taxable income are often relevant primarily to U.S. source income. As a result of the combined effects of these differences, it is believed that foreign source alternative minimum taxable income generally will not differ significantly from foreign source regular taxable income. By permitting taxpayers to use foreign source regular taxable income in computing their AMT foreign tax credit limitation, the bill eliminates the need to reallocate and reapportion every deduction.

Explanation of Provision

The bill permits taxpayers to elect to use as their AMT foreign tax credit limitation fraction the ratio of foreign source *regular* taxable income to entire alternative minimum taxable income, rather than the ratio of foreign source *alternative minimum* taxable income to entire alternative minimum taxable income. Foreign source regular taxable income may be used, however, only to the extent it does not exceed entire alternative minimum taxable income.

The election under the bill is available only in the first taxable year beginning after December 31, 1991, for which the taxpayer claims an alternative minimum tax foreign tax credit. The election applies to all subsequent taxable years, and may be revoked only with the permission of the Secretary of the Treasury.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

TITLE IV.—OTHER INCOME TAX PROVISIONS

A. Provisions Relating to S Corporations

1. Determination of whether an S corporation has one class of stock (sec. 401 of the bill and sec. 1361 of the Code)

Present Law

Under present law, a small business corporation eligible to be an S corporation may not have more than one class of stock. Differences in voting rights are disregarded in determining whether a corporation has more than one class of stock. In addition, certain debt instruments may not be treated as a second class of stock for purposes of this rule.

The Treasury Department has issued proposed regulations[26] providing that a corporation will have more than one class of stock if all of the outstanding shares of stock do not confer identical rights to distribution and liquidation proceeds, regardless of whether any differences in rights occur pursuant to the corporate charter, articles or bylaws, by operation of State law, by administrative action, or by agreement. The proposed regulations also provide that, notwithstanding that all outstanding shares of stock confer identical rights to distribution and liquidation proceeds, a corporation has more than one class of stock if the corporation makes nonconforming distributions (i.e., distributions that differ with respect to timing or amount with respect to each share of stock), with limited exceptions for certain redemptions and certain differences in the timing of distributions.

Reasons for Simplification

The provision promotes simplification by eliminating traps for the unwary that would be inherent in rules that use nonconforming distributions regardless of the rights of the shareholders as evidence of additional classes of stock.

Explanation of Provision

The bill provides that a corporation is treated as having only one class of stock if all outstanding shares of stock of the corporation confer identical rights to distribution and liquidation proceeds. Applicable State law, determined by taking into account legally enforceable rights under the corporate charter, articles or bylaws, administrative action, and any agreements, determines whether the outstanding shares confer different rights to distribution or liquidation proceeds.

Where an S corporation in fact makes distributions which differ as to timing or amount, the bill in no way limits the Internal Revenue Service from properly characterizing the transaction for tax purposes. For example, if a distribution is properly characterized as compensation, the Service could require it to be so treated for tax purposes. Similarly, if a payment should be properly characterized as a distribution, the Service could require it to be so treated for tax purposes.

Effective Date

The provision applies to taxable years beginning after December 31, 1982.

2. Authority to validate certain invalid elections (sec. 402 of the bill and sec. 1362 of the Code)

Present Law

Under present law, if the Internal Revenue Service determines that a corporation's Subchapter S election is inadvertently terminated, the Service can waive the effect of the terminating event for any period if the corporation timely corrects the event and if the corporation and shareholders agree to be treated as if the election had been in effect for that period. Present law does not grant the Internal Revenue Service the ability to waive the effect of an inadvertent invalid Subchapter S election.

In addition, under present law, a small business corporation must elect to be an S corporation no later than the 15th day of the third month of the taxable year for which the election is effective. The Internal Revenue Service may not validate a late election.

Reasons for Simplification

The bill promotes simplification by giving the Secretary the flexibility to validate an invalid S election where the failure to properly elect S status was inadvertent or untimely.

Explanation of Provision

Under the bill, the authority of the Internal Revenue Service to waive the effect of an inadvertent termination is extended to allow the Service to waive the effect of an invalid election caused by an inadvertent failure to qualify as a small business corporation or to obtain the required shareholder consents.

The bill also allows the Internal Revenue Service to treat a late Subchapter S election as timely where the Service determines that there was reasonable cause for the failure to make the election timely.

Effective Date

The provision applies to taxable years beginning after December 31, 1982.[27]

3. Treatment of distributions by S corporations during loss year (sec. 403 of the bill and secs. 1366 and 1368 of the Code)

Present Law

Under present law, the amount of loss an S corporation shareholder may take into account for a taxable year cannot exceed the sum of shareholder's adjusted basis in his or her stock of the corporation and the adjusted basis in any indebtedness of the corportion to the shareholder. Any excess loss is carried forward.

Any distribution to a shareholder by an S corporation generally is tax-free to the shareholder to the extent of the shareholder's adjusted basis of his or her stock. The shareholder's adjusted basis is reduced by the tax-free amount of the distribution. Any distribution in excess of the shareholder's adjusted basis is treated as gain from the sale or exchange of the stock.

Under present law, income (whether or not taxable) and expenses (whether or not deductible) serve, respectively, to increase and decrease an S corporation shareholder's basis in the stock of the corporation. These rules appear to require that the adjustments to basis for items of both income and loss for any taxable year apply before the adjustment for distributions applies.[28]

These rules limiting losses and allowing tax-free distributions up to the amount of the shareholder's adjusted basis are similar in certain respects to the rules governing the treatment of losses and cash distributions by partnerships. Under the partnership rules (unlike the S corporation rules), for any taxable year, a partner's basis is first increased by items of income, then decreased by distributions, and finally is decreased by losses for that year.[29]

In addition, if the S corporation has accumulated earnings and profits,[30] any distribution in excess of the amount in an "accumulated adjustments account" will be treated as a dividend (to the extent of the accumulated earnings and profits). A dividend distribution does not reduce the adjusted basis of the shareholder's stock. The "accumulated adjustments account" generally is the amount of the accumulated undistributed post-1982 gross income less deductions.

Reasons for Simplification

The provision promotes simplification by conforming the S corporation rules regarding distributions to the partnership rules and by eliminating uncertainty regarding the treatment of distributions made during the year.

Explanation of Provision

The bill provides that the adjustments for distributions made by an S corporation during a taxable year are taken into account before applying the loss limitation for the year. Thus, distributions during a year reduce the adjusted basis for purposes of determining the allowable loss for the year, but the loss for a year does not reduce the adjusted basis for purposes of determining the tax status of the distributions made during that year.

The bill also provides that in determining the amount in the accumulated adjustment account for purposes of determining the tax treatment of distributions made during a taxable year by an S corporation having accumulated earnings and profits, net negative adjustments (i.e., the excess of losses and deductions over income) for that taxable year are disregarded.

The following examples illustrate the application of these provisions:

Example 1.—X is the sole shareholder of A, a calendar year S corporation with no accumulated earnings and profits. X's adjusted basis in the stock of A on January 1, 1992, is $1,000 and X holds no debt of A. During the taxable year, A makes a distribution to X of $600, recognizes a capital gain of $200 and sustains an operating loss of $900. Under the bill, X's adjusted basis in the A stock is increased to $1,200 ($1,000 plus $200 capital gain recognized) pursuant to section 1368(d) to determine the effect of the distribution. X's adjusted basis is then reduced by the amount of the distribution to $600 ($1,200 less $600) to determine the application of the loss limitation of section 1366(d)(1). X is allowed to take into account $600 of A's operating loss, which reduces X's adjusted basis to zero. The remaining $300 loss is carried forward pursuant to section 1366(d)(2).

Example 2.—The facts are the same in Example 1, except that on January 1, 1992, A has accumulated earnings and profits of $500 and an accumulated adjustment account of $200. Under the bill, because there is a net negative adjustment for the year, no adjustment is made to the accumulated adjustments account before determining the effect of the distribution under section 1368(c).

As to A, $200 of the $600 distribution is a distribution of A's accumulated adjustments account, reducing the accumulated adjustments account to zero. The remaining $400 of the distribution is a distribution of accumulated earnings and profits ("E&P") and reduces A's E&P to $100. A's accumulated adjustments account is then increased by $200 to reflect the recognized capital gain and reduced by $900 to reflect the operating loss, leaving a negative balance in the accumulated adjustment account on January 1, 1993, of $700 (zero plus $200 less $900).

As to X, $200 of the distribution is applied against A's adjusted basis of $1,200 ($1,000 plus $200 capital gain recognized), reducing X's adjusted basis to $1,000. The remaining $400 of the distribution is taxable as a dividend and does not reduce X's adjusted basis. Because X's adjusted basis is $1,000, the loss limitation does not apply to X, who may deduct the entire $900 operating loss. X's adjusted basis is then decreased to reflect the $900 operating loss. Accordingly, X's adjusted basis on January 1, 1993, is $100 ($1,000 plus $200 less $200 less $900).

Effective Date

These provisions apply to distributions made in taxable years beginning after December 31, 1991.

4. Treatment of S corporations as shareholders in C corporations (sec. 404(a) of the bill and sec. 1371 of the Code)

Present Law

Present law contains several provisions relating to the treatment of S corporations as corporations generally for purposes of the Internal Revenue Code.

First, under present law, the taxable income of an S corporation is computed in the same manner as in the case of an individual (sec. 1363(b)). Under this rule, the provisions of the Code governing the computation of taxable income which are applicable only to corporations, such as the dividends received deduction, do not apply to S corporations.

Second, except as otherwise provided by the Internal Revenue Code and except to the extent inconsistent with subchapter S, subchapter C (i.e., the rules relating to corporate distributions and adjustments) applies to an S corporation and its shareholders (sec. 1371(a)(1)). Under this second rule, provisions such as the corporate reorganization provisions apply to S corporations. Thus, a C corporation may merge into an S corporation tax-free.

Finally, an S corporation in its capacity as a shareholder of another corporation is treated as an individual for purposes of subchapter C (sec. 1371(a)(2)). The Internal Revenue Service has taken the position that this rule prevents the tax-free liquidation of a C corporation into an S corporation because a C corporation cannot liquidate tax-free when owned by an individual shareholder.[31] Thus, a C corporation may elect S corporation status tax-free or may merge into an S corporation tax-free, but may not liquidate into an S corporation tax-free.[32] Also, the Service's reasoning would also prevent an S corporation from making an election under section 338 where a C corporation was acquired by an S corporation.

Reasons for Simplification

The provision promotes simplification by treating similar transactions in a similar manner for tax purposes.

Explanation of Provision

The bill repeals the rule that treats an S corporation in its capacity as a shareholder of another corporation as an individual. Thus, the liquidation of a C corporation into an S corporation will be governed by the generally applicable subchapter C rules, including the provisions of sections 332 and 337 allowing the tax-free liquidation of a corporation into its parent corporation. Following a tax-free liquidation, the built-in gains of the liquidating corporation may later be subject to tax under section 1374 upon a subsequent disposition. An S corporation will also be eligible to make a section 338 election (assuming all the requirements are otherwise met), resulting in immediate recognition of all the acquired C corporation's gains and losses (and the resulting imposition of a tax).

The repeal of this rule does not change the general rule governing the computation of income of an S corporation. For example, it does not allow an S corporation, or its shareholders, to claim a dividends received deduction with respect to dividends received by the S corporation, or to treat any item of income or deduction in a manner inconsistent with the treatment accorded to individual taxpayers.

No inference is intended regarding the present-law treatment of these transactions.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

5. S corporations permitted to hold subsidiaries (sec. 404(b) of the bill and sec. 1361 of the Code)

Present Law

Under present law, an S corporation may not be a member of an affiliated group of corporations (other than by reason of ownership in certain inactive corporations). The legislative history indicates that this rule was adopted to prevent the filing of consolidated returns by a group which includes an S corporation.[33]

Reasons for Simplification

The provision promotes simplification by eliminating a barrier to using the S corporation form of entity and providing more appropriate treatment of corporations with subsidiaries, i.e., the prohibition of filing a consolidated return if S corporate status is elected rather than disqualification of the S election.

Explanation of Provision

The bill repeals the rule that an S corporation may not be a member of an affiliated group of corporations. Thus, an S corporation will be allowed to own up to 100 percent of the stock of a C corporation. However, an S corporation cannot be included in a group filing a consolidated return.

Under the bill, if an S corporation holds 100 percent of the stock of a C corporation that, in turn, holds 100 percent of the stock of another C corporation, the two C corporations may elect to file a consolidated return (if otherwise eligible), but the S corporation may not join in the election.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

6. Elimination of pre-1983 earnings and profits of S corporations (sec. 404(c) of the bill)

Present Law

Under present law, the accumulated earnings and profits of a corporation are not increased for any year in which an election to be treated as an S corporation is in effect. However, under the subchapter S rules in effect before revision in 1982, a corporation electing subchapter S for a taxable year increased its accumulated earnings and profits to the extent its undistributed earnings and profits for the year exceeded its taxable income. As a result of this rule, a shareholder may later be required to include in his income the accumulated earnings and profits when it is distributed by the corporation. The 1982 revision to subchapter S repealed this rule for earnings attributable to taxable years beginning after 1982 but did not do so for previously accumulated S corporation earnings and profits.

Reasons for Simplification

The provision promotes simplification by eliminating the need to keep records of certain generally small amounts of earnings arising before 1983.

Explanation of Provision

The bill provides that if a corporation is an S corporation for its first taxable year beginning after December 31, 1991, the accumulated earnings and profits of the corporation as of the beginning of that year are reduced by the accumulated earnings and profits (if any) accumulated in any taxable year beginning before January 1, 1983, for which the corporation was an electing small business corporation under subchapter S. Thus, such a corporation's accumulated earnings and profits will be solely attributable to taxable years for which an S election was not in effect. This rule is generally consistent with the change adopted in 1982 limiting the S shareholder's taxable income attributable to S corporation earnings to his share of the taxable income of the S corporation.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

7. Determination of shareholder's pro rata share where disposition of entire interest (sec. 404(d) of the bill and sec. 1377(a)(2) of the Code)

Present Law

Under present law, a shareholder of an S corporation takes into account separately his pro rata share of items of income, deduction, credit, etc. of the corporation. For this purpose, a shareholder's pro rata share means an allocation based on a per-share, per-day basis. However, in the case of a termination of a shareholder's interest, the corporation, with the consent of all shareholders, may elect to allocate items as if the taxable year ended on the date of termination and another taxable year began the following day.

Reasons for Simplification

The provision provides simplification by allowing a selling shareholder to be certain that his share of income will not be affected by income earned after the sale.

Explanation of Provision

Under the bill, the present-law rule, allowing a corporation to elect to close its books for purposes of determining shares of income on the termination of a shareholder's interest, will be the mandatory rule in the case of the disposition of a shareholder's entire interest in the corporation.

Effective Date

The provision applies to taxable years beginning after December 31, 1991.

8. Treatment of items of income in respect of a decedent held by an S corporation (sec. 404(e) of the bill and sec. 1367 of the Code)

Present Law

Income in respect of a decedent (IRD) generally consists of items of gross income that accrued during the decedent's lifetime but were not yet includible in the decedent's income before his death under his method of accounting. IRD is includible in the income of the person acquiring the right to receive such item. A deduction for the estate tax attributable to an item of IRD is allowed to the person who includes the item in gross income (sec. 691(c)).

The cost of basis of property acquired from a decedent is its fair market value at the date of death (or alternate valuation date if that date is elected for estate tax purposes). This basis often is referred to as a "stepped-up basis". Property that constitutes a right to receive IRD does not receive a stepped-up basis.

The basis of a partnership interest or corporate stock acquired from a decedent generally is stepped-up at death. Under Treasury regulations, the basis of a partnership interest acquired from a decedent is reduced to the extent that its vaue is attributable to items constituting IRD.[34] Although S corporation income is included in the income of the shareholders in a manner similar to the inclusion of partnership income in the income of the partners, no comparable regulation provides for a reduction in the basis of stock of an S corporation acquired from a decedent where the S corporation holds items of IRD on the date of death of a shareholder. Thus, under present law, the treatment of an item if IRD held by an S corporation is unclear.

Reasons for Simplification

The provision promotes simplification by eliminating the uncertainty of present law, and by treating items of IRD held by a taxpayer directly, through a partnership, or through an S corporation in a similar manner.

Explanation of Provision

The bill provides that a person acquiring stock in an S corporation from a decedent is to treat as IRD his pro rata share of any item of income of the corporation which would have been IRD if that item had been acquired directly from the decedent. Where a item is treated as IRD, a deduction for the estate tax attributable to the item generally will be allowed under the provisions of section 691(c). The stepped-up basis in the stock will be reduced by the extent to which the value of the stock is attributable to items consisting of IRD. This basis rule is comparable to the present-law partnership rule.

No inference is intended regarding the present-law treatment of IRD in the case of S corporations.

Effective Date

The provision applies with respect to decedents dying after date of enactment of the bill.

B. Accounting Provisions

1. Modifications to the look-back method for long-term contracts (sec. 411 of the bill and sec. 460 of the Code)

Present Law

Taxpayers engaged in the production of property under a long-term contract generally must compute income from the contract under the percentage of completion method. Under the percentage of completion method, a taxpayer must include in gross income for any taxable year an amount that is based on the product of (1) the gross contract price and (2) the percentage of the contract completed as of the end of the year. The percentage of the contract completed as of the end of the year is determined by comparing costs incurred with respect to the contract as of the end of the year with the estimated total contract costs.

Because the percentage of completion method relies upon estimated, rather than actual, contract price and costs to determine gross income for any taxable year, a "look-back method" is applied in the year a contract is completed in order to compensate the taxpayer (or the Internal Revenue Service) for the acceleration (or deferral) of taxes paid over the contract term. The first step of the look-back method is to reapply the percentage of completion method using actual contract price and costs rather than estimated contract price and costs. The second step generally requires the taxpayer to recompute its tax liability for each year of the contract using gross income as reallocated under the look-back method. If there is any difference between the recomputed tax liability and the tax liability as previously determined for a year, such difference is teated as a hypothetical underpayment or overpayment of tax to which the taxpayer applies a rate of interest equal to the overpayment rate, compounded daily.[35] The taxpayer receives (or pays) interest if the net amount of interest applicable to hypothetical overpayments exceeds (or is less than) the amount of interest applicable to hypothetical underpayments.

The look-back method must be reapplied for any item of income or cost that is properly taken into account after the completion of the contract.

The look-back method does not apply to any contract that is completed within two taxable years of the contract commencement date and if the gross contract price does not exceed the lesser of (1) $1 million or (2) one percent of the average gross receipts of the taxpayer for the preceding three taxable years. In addition, a simplified look-back method is available to certain pass-through entities and, pursuant to Treasury regulations, to certain other taxpayers. Under the simplified look-back method, the hypothetical underpayment or overpayment of tax for a contract year generally is determined by applying the highest rate of tax applicable to such taxpayer to the change in gross income as recomputed under the look-back method.

Reasons for Simplification

Present law may require multiple applications of the look-back method with respect to a single contract or may otherwise subject contracts to the look-back method even though the amounts necessitating the look-back computations are de minimis relative to the aggregate contract income. In addition, the use of multiple interest rates complicates the mechanics of the look-back method.

Explanation of Provisions

Election not to apply the look-back method for de minimis amounts

The bill provides that a taxpayer may elect not to apply the look-back method with respect to a long-term contract if for each prior contract year, the cumulative taxable income (or loss) under the contract as determined using estimated contract price and costs is within 10 percent of the cumulative taxable income (or loss) as determined using actual contract price and costs.

Thus, under the election, upon completion of a long-term contract, a taxpayer would be required to apply the first step of the look-back method (the reallocation of gross income using actual, rather than estimated, contract price and costs), but would not be required to apply the additional steps of the look-back method if the application of the first step resulted in de minimis changes to the amount of income previously taken into account for each prior contract year.

The election applies to all long-term contracts completed during the taxable year for which the election is made and to all long-term contracts completed during subsequent taxable years, unless the election is revoked with the consent of the Secretary of the Treasury.

Example 1.—A taxpayer enters into a three-year contract and upon completion of the contract, determines that annual net income under the contract using actual contract price and costs is $100,000, $150,000, and $250,000, respectively, for Years 1, 2, and 3 under the percentage of completion method. An electing taxpayer need not apply the look-back method to the contract if it had reported cumulative net taxable income under the contract using estimated contract price and costs of between $90,000 and $110,000 as of the end of Year 1; and between $225,000 and $275,000 as of the end of Year 2.

Election not to reapply the look-back method

The bill provides that a taxpayer may elect not to reapply the look-back method with respect to a contract if, as of the close of any taxable year after the year the contract is completed, the cumulative taxable income (or loss) under the contract is within 10 percent of the cumulative look-back income (or loss) as of the close of the most recent year in which the look-back method was applied (or would have applied but for the other de minimis exception described above). In applying this rule, amounts that are taken into account after completion of the contract are not discounted.

Thus, an electing taxpayer need not apply or reapply the look-back method if amounts that are taken into account after the completion of the contract are de minimis.

The election applies to all long-term contracts completed during the taxable year for which the election is made and to all long-term contracts completed during subsequent taxable years, unless the election is revoked with the consent of the Secretary of the Treasury.

Example 2.—A taxpayer enters into a three-year contract and reports taxable income of $12,250, $15,000 and $12,750, respectively, for Years 1 through 3 with respect to the contract. Upon completion of the contract, cumulative look-back income with respect to the contract is $40,000, and 10 percent of such amount is $4,000. After the completion of the contract, the taxpayer incurs additional costs of $2,500 in each of the next three succeeding years (Years 4, 5, and 6) with respect to the contract. Under the bill, an electing taxpayer does not reapply the look-back method for Year 4 because the cumulative amount of contract taxable income ($37,500) is within 10 percent of contract look-back income as of the completion of the contract ($40,000). However, the look-back method must be applied for Year 5 because the cumulative amount of contract taxable income ($35,000) is not within 10 percent of contract look-back income as of the completion of the contract ($40,000). Finally, the taxpayer does not reapply the look-back method for Year 6 because the cumulative amount of contract taxable income ($32,500) is within 10 percent of contract look-back income as of the last application of the look-back method ($35,000).

Interest rates used for purposes of the look-back method

The bill provides that for purposes of the look-back method, only one rate of interest is to apply for each accrual period. An accrual period with respect to a taxable year begins on the day after the return due date (determined without regard to extensions) for the taxable year and ends on such return due date for the following taxable year. The applicable rate of interest is the overpayment rate in effect for the calendar quarter in which the accrual period begins.

Effective Date

The provisions apply to contracts completed in taxable years ending after the date of enactment.

2. Simplified method for applying uniform cost capitalization rules (sec. 412 of the bill and sec. 263A of the Code)

Present Law

In general, the uniform cost capitalization rules require taxpayers that are engaged in the production of real or tangible personal property or in the purchase and holding of property for resale to capitalize or include in inventory the direct costs of the property and the indirect costs that are allocable to the property. In determining whether indirect costs are allocable to production or resale activities, taxpayers are allowed to use various methods so long as the method employed reasonably allocates indirect costs to production and resale activities.

Reasons for Simplification

The uniform cost capitalization rules require taxpayers to determine for each taxable year the costs of each administrative, service, or support function or department that are allocable to production or resale activities. If a taxpayer does not elect any of the simplified methods provided in Treasury regulations, this allocation may be unduly burdensome and costly.

Explanation of Provision

The bill authorizes (but does not require) the Treasury Department to issue regulations that allow taxpayers in appropriate circumstances to determine the costs of any administrative, service, or support function or department that are allocable to production or resale activities by multiplying the total amount of costs of any such function or department by a fraction, the numerator of which is the amount of costs of the function or department that was allocable to production or resale activities for a base period and the denominator of which is the total amount of costs of the function or department for the base period. It is anticipated that the regulations will provide that the base period is to begin no earlier than 4 taxable years prior to the taxable year with respect to which this simplified method applies.

Effective Date

The provision applies to taxable years beginning after the date of enactment of the bill. Thus, the regulations may permit the use of the simplified method for taxable years beginning after this date. The simplified method, however, may not be used for any taxable year that begins prior to the date that the Treasury Department publishes regulations that authorize the use of the simplified method and set forth the requirements that must be satisfied in order for the method to be used.

C. Minimum Tax Provisions

1. Depreciation under the corporate alternative minimum tax (sec. 421 of the bill and sec. 56 of the Code)

Present Law

Under present law, a corporation is subject to an alternative minimum tax (AMT) which is payable, in addition to all other tax liabilities, to the extent that it exceeds the corporation's regular income tax liability. Alternative minimum taxable income (AMTI) is the corporation's taxable income increased by the corporation's tax preferences and adjusted by determining the tax treatment of certain items in a manner which negates the deferral of income resulting from the regular tax treatment of those items.

One of the adjustments which is made to taxable income to arrive at AMTI relates to depreciation. Depreciation on personal property to which the modified ACRS system adopted in 1986 applies is calculated using the 150-percent declining balance method (switching to straight line in the year necessary to maximize the deduction) over the life described in Code section 168(g) (generally the ADR life of the property).

For taxable years beginning after 1989, AMTI is increased by an amount equal to 75 percent of the amount by which adjusted current earnings (ACE) exceed AMTI (as determined before this adjustment). In general, ACE means AMTI with additional adjustments that generally follow the rules presently applicable to corporations in computing their earnings and profits. For purposes of ACE, depreciation is computed using the straight-line method over the class life of the property. Thus, a corporation generally must make two depreciation calculations for purposes of the AMT—once using the 150 percent declining balance method and again using the straight-line method. Taxpayers may elect to use either depreciation method for regular tax purposes. If a taxpayer uses the straight-line method for regular tax purposes, it must also use the straight-line method for AMT purposes.

Reasons for Simplification

The use of two separate depreciation systems complicates the calculation of, and the recordkeeping for, the corporate alternative minimum tax.

Explanation of Provision

The bill applies a 120-percent declining balance method (switching to straight-line at a point maximizing depreciation deductions) for personal property (other than transition property to which the ACRS system in effect before the Tax Reform Act of 1986 applies) for determining the AMTI of a corporation. No further depreciation adjustment for this property would be required for ACE. Thus, corporations would be required to keep only one set of depreciation records for purposes of the AMT.

Corporate taxpayers may elect to use the 120-percent declining balance method of depreciation for regular tax purposes. As under present law, if a corporation uses the straight-line method for regular purposes, it must also use the straight-line method for AMT purposes.

Effective Date

The provision is effective for property placed in service in taxable years beginning after December 1990.

2. Treatment of built-in losses for purposes of the corporate alternative minimum tax (sec. 422 of the bill and sec. 56(g) of the Code)

Present Law

For purposes of the regular corporate tax, if at the time of an ownership change, a corporation has a net operating loss or a net unrealized built-in loss, the use of such losses in post-change periods is limited. A corporation has a net unrealized built-in loss if the aggregate adjusted bases of the assets of the corporation exceed the fair market value of the assets immediately before the change of ownership (sec. 382).

For purposes of the adjusted current earnings (ACE) component of the corporate alternative minimum tax (AMT), if a corporation with a net unrealized built-in loss undergoes an ownership change in a taxable year beginning after 1989, the adjusted basis of each asset of such corporation generally is adjusted to each asset's fair market value (sec. 56(g)(4)(G)). This rule essentially eliminates, rather than limits, the use of built-in losses for ACE purposes. The net operating loss of a corporation, on the other hand, is not eliminated for AMT purposes after a change of ownership.

Reasons for Simplification

Present law complicates the treatment of built-in losses of a corporation after a change of ownership by providing different rules for regular and alternative minimum tax and by providing rules different than those applicable to net operating losses. The present-law alternative minimum tax rules applicable to built-in losses requires a significant amount of additional recordkeeping.

Description of Provision

The bill repeals the ACE rule relating to the treatment of built-in losses after a change of ownership. Thus, for ACE purposes, the treatment of built-in losses would be similar to the treatment of net operating loss carryovers (in the same way that the treatment of built-in losses is similar to the treatment of net operating losses for regular tax purposes).

Effective Date

The provision is effective for changes of ownership occurring after December 31, 1991.

D. Tax-Exempt Bond Provisions

1. Overview

Interest on State and local government bonds generally is excluded from gross income for purposes of the regular individual and corporate income taxes if the proceeds of the bonds are used to finance direct activities of the issuing governmental units (sec. 103).

Unlike the interest on governmental bonds, described above, interest on private activity bonds generally is taxable. A private activity bond is a bond issued by a State or local governmental unit acting as a conduit to provide financing for a private party (or private parties) in a manner violating either (a) a private business use and payment test or (b) a private loan restriction. However, interest on private activity bonds generally is not taxable if (a) the financed activity is specified in the Code, (b) at least 95 percent of the net proceeds of the bond issue are used to finance the specified activity, and (c) numerous other requirements, including annual State volume limitations (for most private activity bonds) are satisfied.

Both private activity bonds and governmental bonds also must satisfy arbitrage restriction requirements for interest to be excluded from gross income. Interest on private activity bonds (other than qualified 501(c)(3) bonds) issued after August 7, 1986, is a preference item under the individual and corporate alternative minimum taxes. Additionally, interest on all State and local government bonds is included in determining a corporation's adjusted current earnings preference.

2. Issues under continuing review

It is expected that Congress will continue to review as the subject of possible legislative projects additional simplification options in two areas affecting State and local government bonds. These issues are—

a. Possible statutory rules for use by governmental units maintaining non-arbitrage motivated commingled accounting practices in determining their arbitrage rebate liability; and

b. Possible penalty alternatives to loss of tax-exemption for selected violations of the rules governing qualification for tax-exemption.

3. Provisions of the bill

a. Simplification of arbitrage rebate requirement for governmental bonds (sec. 431 of the bill and sec. 148 of Code).

Present Law

Subject to limited exceptions, arbitrage profits from investing bond proceeds in investments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. No rebate is required if the gross proceeds of an issue are spent for the governmental purpose of the borrowing within six months after issuance. This six-month exception is deemed to be satisfied by issuers of governmental bonds (other than tax and revenue anticipation notes) and qualified 501(c)(3) bonds if (1) all proceeds other than an amount not exceeding the lesser of five percent or $100,000 are so spent within six months and (2) the remaining proceeds are spent within one year after the bonds are issued.

Reasons for Simplification

The principal Federal policy concern underlying the arbitrage rebate requirement is the earlier and larger than necessary issuance of tax-exempt bonds to take advantage of the opportunity to profit by investing funds borrowed at low-cost tax-exempt rates in higher yielding taxable investments. If at least 95 percent of the proceeds of an issue are spent within six months, and the remainder within one year, opportunities for arbitrage profit are significantly limited. In the case of larger issues, the administrative complexity of calculating rebate liability on relatively small amounts of proceeds, e.g., $100,000 of proceeds, is greater than the potential for arbitrage abuse from eliminating the rebate requirement.

Explanation of Provision

The bill deletes the $100,000 limit on proceeds that may remain unspent after six months for certain governmental and qualified 501(c)(3) bonds otherwise exempt from the rebate requirement. Thus, if at least 95 percent of the proceeds of these bonds is spent within six months after the issuance, and the remainder is spent within one year, the six-month exception is deemed to be satisfied.

Effective Date

This provision applies to bonds issued after the date of enactment.

b. Simplification of compliance with 24-month arbitrage rebate exception for construction bonds (sec. 432 of the bill and sec. 148 of the Code).

Present Law

In general, arbitrage profits from investing bond proceeds in investments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. An exception is provided for certain construction bond issues if the bonds are governmental bonds, qualified 501(c)(3) bonds, or exempt-facility private activity bonds for governmentally owned property.

The exception is satisfied only if the available construction proceeds of the issue are spent at least at specified rates during the 24-month period after the bonds are issued. The exception does not apply to bond proceeds invested after the 24-month expenditure period as part of a reasonably required reserve or replacement fund or a bona fide debt service fund or to certain other investments (e.g., sinking funds). Issuers of these construction bonds also may elect to comply with a penalty regime in lieu of rebating if they fail to satisfy the exception's spending requirements.

Reasons for Simplification

Bond proceeds invested in a bona fide debt service fund generally must be spent at least annually for current debt service. The short-term nature of investments in such funds results in only limited potential for generating arbitrage profits. If the spending requirements of the 24-month rebate exception are satisfied, the administrative complexity of calculating rebate on these proceeds outweighs the other Federal policy concerns addressed by the rebate requirement. Further, this provision will conform the rules on these funds for issuers satisfying the six-month and 24-month expenditure exceptions to the rebate requirement.

Explanation of Provision

The bill exempts earnings on bond proceeds invested in bona fide service funds from the arbitrage rebate requirement and the spending and penalty requirements of the 24-month exception if the spending requirements of that exception are satisfied.

Effective Date

This provision applies to bonds issued after the date of enactment.

c. Automatic extension of initial temporary period for certain construction bonds (sec. 433 of the bill and sec. 148 of the Code).

Present Law

Issuers of all tax-exempt bonds generally are subject to two sets of arbitrage requirements with respect to investment of their bond proceeds. First, tax-exempt bond proceeds may not be invested at a yield materially higher (generally defined as 0.125 percentage points) than the bond yield. Exceptions are provided to this restriction for investments during any of several "temporary periods" pending use of the proceeds and, throughout the term of the issue, for proceeds invested as part of a reasonably required reserve or replacement fund or a "minor" portion of the issue proceeds.

Second, generally all arbitrage profits earned on investments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. Arbitrage profits generally include all earnings (in excess of bond yield) derived from the investment of bond proceeds (and subsequent earnings on any such earnings).

Reasons for Simplification

Notwithstanding the arbitrage rebate requirement, requiring yield restriction following initial temporary periods is an important factor in curbing earlier issuance of bonds than otherwise would occur. Provided that issuers substantially comply with a prompt expenditure requirement so that the opportunities for tax motivated arbitrage are limited, however, reliance on the rebate requirement for limited additional periods will allow issuers to continue to pursue more flexible and liquid investments while construction activities are being completed. Automatically allowing an additional 12-month period, where substantially all of the proceeds have been spent, will relieve issuers from the burden of seeking a ruling from the IRS without increasing the opportunity for arbitrage motivated investments.

Explanation of Provision

The bill provides that the initial temporary period for construction bonds is automatically extended for a period of 12 months if at least 85 percent of the available construction proceeds are spent within the original initial temporary period and the issuer reasonably expects to spend the remaining proceeds within the 12-month extension period. Construction bonds eligible for this automatic extension include only those bonds currently eligible for the 24-month rebate expenditure exception, described above.

The bill allows bond proceeds to be invested without yield restrictions during this additional period. The arbitrage rebate or 1.5-percent penalty requirement will continue to apply to unspent proceeds during the extension period.

Effective Date

This provision applies to bonds issued after the date of enactment.

d. Simultaneous issuance of certain discrete issues not aggregated (sec. 434 of the bill).

Present Law

In certain cases, the Treasury Department treats multiple issues of tax-exempt bonds paid from substantially the same source of funds as a single issue in applying the Code's tax-exempt bond restrictions when the bonds are issued within a relatively short period of time (31 days) and pursuant to a common plan of marketing.

Reasons for Simplification

Requiring issuers that simultaneously issue discrete issues of tax and revenue anticipation notes ("TRANs") and other governmental bonds to separate issuance of discrete non-arbitrage motivated issues by 31 days adds administrative complexity and increases their costs of issuance.

Explanation of Provision

The bill provides that discrete issues of governmental bonds issued simultaneously will not be treated as a single issue in cases where one of the issues is a TRAN reasonably expected to satisfy the arbitrage rebate safe harbor of section 148(f)(4)(B)(iii).

Effective Date

This provision applies to bonds issued after the date of enactment.

e. Authority for Treasury Department to exempt certain taxpayers from tax-exempt interest reporting requirement (sec. 435 of the bill and sec. 6012 of the Code).

Present Law

Present law requires all individuals to report on their income tax returns the amount of interest on State and local government bond interest they receive.

Reasons for Simplification

The Internal Revenue Service should be authorized to exempt taxpayers from requirements to compile and report information on income tax returns if the Secretary determines that such information is not useful to the administration of the tax laws.

Explanation of Provision

The bill authorizes the Internal Revenue Service to provide exceptions from the requirement that taxpayers report interest on State and local government bonds on their Federal income tax returns in cases where the Secretary determines that such information is not useful to the administration of the tax laws.

Effective Date

This provision is effective for taxable years beginning after the date of enactment.

f. Repeal of deadwood provisions (sec. 436 of the bill and sec. 148 of the Code).

Present Law

Present law includes special exceptions to the arbitrage rebate and pooled financing temporary period rules for certain qualified student loan bonds. This exception applied only to bonds issued before January 1, 1989.

Explanation of Provision

The bill deletes these special exceptions as "deadwood."

Effective Date

This provision applies to bonds issued after the date of enactment.

E. Treatment of Certain Revocable Trusts as Estates (sec. 441 of the bill and sec. 7701 of the Code)

Present Law

A grantor trust is treated as owned by the grantor, who is taxed on its income and is entitled to its deductions. A grantor trust includes a revocable trust, one in which the grantor retains the power to revest the title of the trust property in himself (sec. 676).

Trusts and estates are subject to different income tax rules. An estate receives a higher exemption (sec. 642(b)) and is allowed a deduction for amounts permanently set aside for charity (sec. 642(c)), and, for two years after the decedents death, a $25,000 offset for rental real estate activities (sec. 469(i)). A trust is required to adopt a calendar year (sec. 645(a)), and a distribution from a trust in the first 65 days of the taxable year is treated as occurring on the last day of the preceding taxable year (sec. 663(b)) (the "65-day rule").

Trusts and estates generally are required to pay estimated taxes in the same manner as individuals. A special rule exempts estates from estimated taxes for taxable years ending within two years of the decedent's death. This exemption also applies to a grantor trust that either receives the residue of the probate estate under the grantor's will, or, (if there is no will) is primarily responsible for paying taxes, debts and expenses of administration.

Reasons for Simplification

Estate planners commonly use revocable trusts to avoid probate. Creating parity between such trusts and estates simplifies planning by reducing the role of tax considerations in the decision to utilize revocable trusts.

Explanation of Provision

The bill treats as an estate a revocable trust receiving the residue of the probate estate under the grantor's will. If there is no will, the revocable trust that is primarily responsible for paying taxes, debts and expenses of administration is treated as an estate. Such treatments apply only for years ending after the decedent's death and beginning within three years, nine months of the decedent's death. As a conforming amendment, the bill limits the rule treating grantor trusts as estates for purpose of estimated taxes to grantor trusts described in section 676.

The provision generally applies for all income tax purposes. It thus allows a revocable trust a deduction for an amount set aside for charity and the $25,000 offset for rental real estate activities to the extent the offset is not utilized by the estatae. It denies such trust the benefit of the 65-day rule. The provision does not apply for transfer tax purposes.

The provision does not apply for purposes of determining the amount of personal exemption, the taxable year or any other purpose specified in regulations. Thus, as under present law, revocable trusts will continue to receive a lower exemption amount and be required to adopt a calendar year. It is anticipated that the Treasury Department may exercise its regulatory authority in other situations to require consistency with prior tax treatment or to maintain parity with decedents having an estate but no revocable trust.

Effective Date

The provision applies to decedents dying after the date of enactment.

F. Other Provisions Relating to Partnerships

1. Matching rules for payments to partners (sec. 442 of the bill and secs. 267, 706 and 707 of the Code)

Present Law

If a partner engages in a transaction with a partnership other than in a capacity as a member of the partnership, the transaction is considered as occurring between the partnership and one who is not a partner. Under the timing rule applicable to such transactions (and to transactions among related persons generally), payments made to one who is not treated as a partner are deductible by the partnership in the year in which they are includible in the recipient's income. A partner generally is treated as acting in a capacity other than as a partner to the extent that his income from the transaction with the partnership does not depend upon partnership profit.

Payments to a partner for services or the use of capital that are determined without regard to partnership income ("guaranteed payments") are for specified purposes considered as made to one who is not a member of the partnership. Under the timing rule applicable to guaranteed payments, such payments generally are includible in the partner's income in the year in which they are deductible by the partnership.

Reasons for Simplification

Many payments to a partner can be described as either made to a person in a capacity other than as a partner or as guaranteed payments. The existence of two different timing rules creates uncertainty as to the proper tax treatment. By conforming the timing rule for guaranteed payments to the timing rule generally applicable to transactions among related parties, the provision reduces uncertainty and eliminates a potential issue of controversy.

Explanation of Provision

The bill defers the deduction of guaranteed payments by a partnership until the year in which they are includible in the partner's income. Thus, the bill conforms the timing rule for guaranteed payments to the timing rule for payments made to a partner acting in a capacity other than as a member of the partnership.

Effective Date

The bill applies to amounts taken into account after date of enactment.

2. Close partnership taxable year with respect to deceased partner (sec. 443 of the bill and sec. 706(c) of the Code)

Present Law

The partnership taxable year closes with respect to a partner whose entire interest is sold, exchanged, or liquidated. Such year, however, generally does not close upon the death of a partner. Thus, a decedent's entire share of items of income, gain, loss, deduction and credit for the partnership year that includes his death is taxed to his estate or successor in interest rather than being reported on the decedent's final income tax return. (See *Estate of Hesse* v. *Commissioner*, 74 T.C. 1307, 1311 (1980).)

Reasons for Simplification

The rule leaving open the partnership taxable year with respect to a deceased partner was adopted in 1954 to prevent the bunching of income that could occur with respect to a partnership reporting on a fiscal year other than the calendar year. Without this rule, as many as 23 months of income might have been reported on the partner's final return. Legislative changes occurring since 1954 have required most partnerships to adopt a calendar year, reducing the possibility of bunching. Consequently, income and deductions are better matched if the partnership taxable year closes upon a partner's death and partnership items are reported on the decedent's last return.

Present law closes the partnership taxable year with respect to a deceased partner only if the partner's entire interest is sold or exchanged pursuant to an agreement existing at the time of death. By closing the taxable year automatically upon death, the proposal reduces the need for such agreements.

Explanation of Provision

The bill provides that the taxable year of a partnership closes with respect to a partner whose entire interest in the partnership terminates, whether by death, liquidation or otherwise.

Effective Date

The provision applies to partnership taxable years beginning after December 31, 1991.

G. Corporate Provision: Clarification of Amount of Gain Recognized by a Securityholder in a Reorganization, Etc. (sec. 444 of the bill and secs. 354–356 of the Code)

Present Law

Under present law, gain is recognized by a shareholder or securityholder in a reorganization (or distribution under sec. 355) only to the extent property other than stock or securities of the corporation or of a party to the reorganization are received. For purposes of this rule, the fair market value of the excess of the principal amount of any securities received over the principal amount of any securities surrendered is treated as other property. If the principal amount of the securities received and the principal amount of the securities surrendered is the same, no amount of the securities received is treated as other property.

Also, under present law, a certain portion of the stated redemption price at maturity of a security may be treated as interest (referred to as "original issue discount" or "OID"), rather than principal. Also, in certain limited circumstances, a portion of a payment designated as principal may be treated as interest (under sec. 483).

It is unclear under present law whether the OID rules apply for purposes of determining the principal amount of a security for purposes of the nonrecognition rules described above.

Reasons for Simplification

The provision promotes simplification by conforming the rules for determining gain where securities are exchanged in a corporate reorganization with other rules in the

Code allocating amounts in a debt instrument between principal and interest.

Explanation of Provision

The bill provides that for purposes of determining the amount of gain recognized to a securityholder in a reorganization (or a sec. 355 distribution), the excess of the issue price (as defined in secs. 1273 and 1274) of the securities received over the adjusted issue price of the securities surrendered would be treated as other property. If securities are received and none surrendered, the entire issue price is treated as other property. If the issue price of the securities received does not exceed the adjusted issue price of the securities surrendered, then no amount of the securities is treated as other property. These rules apply both to securityholders using the cash method and the accural method of accounting.

The adjusted issue price of a security surrendered means the issue price of the security, increased by the OID previously included in the gross income of any holder of the security (determined without to the special rule for subsequent holders), or decreased by the amount of bond premium which would have been allowed as a deduction (or offset) if the bond had always been held by the original holder. Where section 1273(b)(4) applies to a security, the stated redemption price is reduced by the amount of the redemption price which is treated as interest (for example, under sec. 483).

The provision is not intended to create any inference as to the proper treatment of these transactions under present law.

The following examples illustrate the application of this provision:

Example (1).—Assume that a publicly traded security with a stated principal amount of $1,000 and a fair market value of $800 is issued by a corporation in a reorganization to a security holder in exchange for a security with a stated principal amount of $600 and an adjusted issue price of $500. Under the bill, the amount of the excess issue price, or $300, is treated as "other property" for purposes of section 356.

Example (2).—Assume that a publicly traded security with a stated principal amount of $1,000 and a fair market value of $1,200 is issued by a corporation in a reorganization to a security holder in exchange for a security with a stated principal amount and an adjusted issue price of $1,000. Under the bill, the amount of the excess issue price, or $200 is treated as "other property" for purposes of section 356.

Effective Date

The provision applies to exchanges and distributions after the date of enactment.

TITLE V.—PROVISIONS RELATING TO ESTATE AND GIFT TAXATION

1. Waiver of right of recovery for certain marital deduction property (sec. 501 of the bill and sec. 2207A of the Code)

Present Law

For estate and gift tax purposes, a marital deduction is allowed for qualified terminable interest property (QTIP). Such property generally is included in the surviving spouse's gross estate. The surviving spouse's estate is entitled to recover the portion of the estate tax attributable to such inclusion from the person receiving the property, unless the spouse directs otherwise by will (sec. 2207A). A will requiring that all taxes be paid by the estate may, under State law, waive the right of recovery.

The gross estate includes the value of previously transferred property in which the decedent retains enjoyment or the right to income (sec. 2036). The estate is entitled to recover from the person receiving the property a portion of the estate tax attributable to the inclusion (sec. 2207B). This right may be waived only by a provision in the will (or revocable trust) specifically referring to section 2207B.

Reasons for Simplification

It is understood that persons utilizing standard testamentary language often inadvertently waive the right of recovery with respect to QTIP. Allowing the right of recovery to be waived only by specific reference simplifies the drafting of wills to better conform with the testator's likely intent.

Explanation of Provision

The bill conforms the rule governing waiver of the right to contribution for QTIP to the rule governing waiver of the right of recovery for property includable under section 2036. Accordingly, the surviving spouse's estate has a right of recovery with respect to QTIP unless the spouse otherwise directs in a provision of the will (or revocable trust) specifically referring to section 2207A.

Effective Date

The provision applies to decedents dying after the date of enactment.

2. Inclusion in gross estate of certain gifts made within three years of death (sec. 502 of the bill and secs. 2035 and 2038 of the Code)

Present Law

The first $10,000 of gifts of present interests to each donee during any one calendar year are excluded from Federal gift tax.

The value of the gross estate includes the value of any previously transferred property if the decedent retained the power to revoke the transfer (sec. 2038). It also includes the value of any property with respect to which such power is relinquished during the three years before death (sec. 2035). This rule has been interpreted to include in the gross estate certain transfers made from a revocable trust within three years of death.[36] Such inclusion subjects gifts that would otherwise qualify under the annual $10,000 exclusion to estate tax.

Reasons for Simplification

The inclusion of certain property transferred during the three years before death is intended to address situations in which such transfer would otherwise reduce the value of property subject of transfer tax. Inclusion is unnecessary if the entire value of the underlying property is subject to gift tax and the transferor has retained no powers over such property. Repeal of such inclusion eliminates a principal tax disadvantage of funded revocable trusts, which are generally used for nontax purposes.

Explanation of Provision

The bill provides that a transfer from a revocable trust within three years of death does not result in the inclusion of the transfer in the gross estate. It is intended that no interference be drawn from the provision with respect to the treatment of transfers from revocable trusts under present law.

The bill also revises section 2035 to improve its clarity.

Effective Date

The provision applies to decedents dying after the date of enactment.

3. Definition of qualified terminable interest property (sec. 503 of the bill and secs. 2044, 2056(b)(7), and 2523(f) of the Code)

Present Law

A marital deduction is allowed for qualified terminable interest property (QTIP). Property is QTIP only if the surviving spouse has a qualifying income interest for life (e.g., the spouse is entitled to all of the income from the property, payable at least annually). QTIP generally is includible in the surviving spouse's gross estate.

Under proposed regulations, an income interest may constitute a qualifying income interest for life even if income between the last distribution date and the date of the surviving spouse's death (the "accumulated income") is not required to be distributed to the surviving spouse or the surviving spouse's estate. (See Prop. Reg. secs. 20.2056(b)–7(c)(1), 25.2523(f)–1(b)). Contrary to the regulations, the United States Tax Court has held that in order to satisfy the QTIP requirements, the accumulated income must be paid to the spouse's estate or be subject to a power of appointment held by the spouse. (See *Estate of Howard* v. *Commissioner*, 91 T.C. 329, 338 (1988), *rev'd*, 910 F.2d 633 (9th Cir. 1990)).

Reasons for Simplification

The Tax Court opinion in *Estate of Howard* has created uncertainty as to when a trust qualifies for the marital deduction. This uncertainty makes planning difficult and necessitates closing agreements designed to prevent the whipsaw that would occur if a deduction is allowed for property that is not subsequently included in the spouse's estate. By codifying the Treasury Regulations, the bill eliminates uncertainty and simplifies the administration of the tax laws.

Explanation of Provision

Under the bill, an income interest does not fail to be a qualified income interest for life solely because the accumulated income is not required to be distributed to the surviving spouse. When the marital deduction is allowed, however, such income is includible in the surviving spouse's gross estate.

It is intended that no inference be drawn from the provision with respect to the definition of a qualified income interest for life under present law.

Effective Date

The provision applies to decedents dying, and gifts made, after date of enactment. The proposal does not include in the surviving spouse's gross estate property for which no marital deduction was claimed.

4. Requirements for qualified domestic trust (sec. 504 of the bill and sec. 2056A of the Code)

Present Law

A deduction generally is allowed for Federal estate tax purposes for the value of property passing to a spouse. The Technical and Mscellaneous Revenue Act of 1988 ("TAMRA") denied the marital deduction for property passing to an alien spouse outside a qualified domestic trust (QDT). An estate tax is imposed on corpus distributions from a QDT.

TAMRA defined a QDT as a trust, which, among other things, required that all trustees be U.S. citizens or domestic corporations. This requirement was modified in the Omnibus Budget Reconciliation Acts of 1989 and 1990 to provide that at least one trustee be a U.S. citizen or domestic corporation and that no corpus distribution be made unless such trustee has the right to withhold any estate tax imposed on the distribution (the "withholding requirement").

Reasons for Simplification

Wills drafted under the TAMRA rules must be revised to conform with the withholding requirement, even though both the TAMRA rule and its successor ensure that a U.S. trustee is personally liable for the estate tax on a QDT. By reducing the number of will revisions necessary to comply with the statutory changes, the provision simplifies estate planning.

Explanation of Provision

A trust created before the enactment of the Omnibus Budget Reconciliation Act of 1990 is treated as satisfying the withholding requirement if its governing instrument requires that all trustees be U.S. citizens or domestic corporations.

Effective Date

The provision applies as if included in the Omnibus Budget Reconciliation Act of 1990.

5. Election of special use valuation of farm property for estate tax purposes (sec. 505 of the bill and sec. 2032A of the Code)

Present Law

An executor may elect to value certain real property used in farming or other closely held business operations for estate tax purposes based upon its current use value rather than its full fair market value (sec. 2032A). A written agreement signed by each person with an interest in the property must be filed with the election.

Treasury Department regulations require that a notice of election and certain information be filed with the Federal estate tax return (Treas. Reg. sec. 20.2032A-8). The administrative policy of the Treasury Department is to disallow current use valuation elections unless the required information is supplied.

Under procedures prescribed by the Secretary of the Treasury, an executor who makes the election and substantially complies with the regulations but fails to provide all required information or the signatures of all persons with an interest in the property is allowed to supply the missing information within a reasonable period of time (not exceeding 90 days) after notification by the Secretary.

Reasons for Simplification

In filing the estate tax return, executors commonly neglect to include a recapture agreement signed by all persons with an interest in the property or all information required by Treasury regulations. Allowing such signatures or information to be supplied later simplifies return filing.

Explanation of Provision

The bill extends the procedures allowing subsequent submission of information to any executor who makes the election and submits the recapture agreement, without regard to his compliance with the regulations. Thus, the bill allows the current use valuation election to any such executor who supplies the required information within a reasonable period of time (not exceeding 90 days) after notification by the IRS. The bill also allows signatures to be added to the previously filed agreement during that time period.

Effective Date

The provision applies to decedents dying after the date of enactment.

TITLE VI.—EXCISE TAX PROVISIONS

A. Motor Fuel Excise Tax Provisions

1. Consolidate provisions imposing diesel and aviation fuel excise taxes (sec. 601 of the bill and secs. 4041 and 4091 of the Code)

Present Law

Code section 4091 imposes a tax on the sale of diesel and aviation fuel by a "producer." The term producer generally includes refiners, compounders, blenders, and wholesalers who are registered with the Internal Revenue Service. The term also includes persons to whom diesel or aviation fuel has been sold tax-free.

As a backup, Code section 4041 imposes a tax on certain sales or uses of diesel and aviation fuel if a taxable sale of such fuel has not occurred under section 4091.

Reasons for Simplification

Consolidating the diesel and aviation tax rules into one section of the Code will make the rules easier to find and understand.

Explanation of Provision

The bill combines the diesel and aviation fuel tax provisions currently divided between Code sections 4041 and 4091 into a revised section 4091. The use of diesel and aviation fuel in a taxable use by producers will be taxed under section 4091, and the definition of producer is clarified to include purchasers in tax-reduced sales.

The bill also simplifies the Code by eliminating two unnecessary provisions, sections 4041(b)(1) (B) and (j) of the Code. These provisions are redundant.

Effective Date

The provision is effective for sales or uses on or after January 1, 1992.

2. Permit refund of tax to taxpayer for diesel and aviation fuel resold to certain exempt purchasers (sec. 602(a) of the bill and sec. 6416(b) of the Code)

Present Law

As a general matter, purchasers who use tax-paid fuels for an exempt use are entitled to a refund or credit. Purchasers of a tax-paid fuels generally are not permitted a refund or credit if they resell the fuels to another person who subsequently uses them in an exempt use.

However, persons who buy and then resell fuel subject to the special motor fuel or gasoline taxes and of certain other articles are permitted a refund or credit (rather than the ultimate user) if they resell the fuel or article for use in the following exempt uses: (1) export, (2) use as supplies for aircraft or vessels, (3) use by a State or local government, or (4) use by a nonprofit educational organization for its exclusive use.

Reasons for Simplification

Diesel and aviation fuel sales are not subject to the special refund or credit procedures, which forces users of such fuels for exempt purposes to bear the burden of filing for the refund or credit themselves and, therefore, makes such purchases more difficult.

Explanation of Provision

The bill allows a refund or credit to taxpayers for diesel and aviation fuel sold taxpaid to persons who resell for any of the exempt uses described above.

Effective Date

The provision is effective for sales on or after January 1, 1992.

3. Consolidate refund provisions for fuel excise taxes (sec. 602(b) of the bill and secs. 6420, 6421, and 6427 of the Code)

Present Law

As a general matter, purchasers who use fuels for an exempt use are entitled to a refund if the fuels have been purchased taxpaid. The refund provisions for the fuels excise taxes are found in several sections of the Code.

In general, a purchasers entitled to a refund may file a quarterly refund claim for any of the first three quarters of the purchaser's tax year, if the claim exceeds a threshold dollar amount (with the lowest being $750). The threshold amounts differ for different fuels and different exempt uses and whether quantities are aggregated. A purchaser cannot file a quarterly claim for refund for its fourth quarter, but must file the claim as a credit on that year's income tax return.

There is an expedited procedure for gasohol blenders claiming a refund of part of the excise tax included in the price of the gasoline used for blending into gasohol.

Finally, only an income tax credit, and not a refund, may be claimed for excise taxes on gasoline and special motor fuel used on a farm for farming purposes.

Reasons for Simplification

Consolidating the credit and refund provisions for fuel excise taxes into one section in the Code will make these provisions easier to find and understand. Standardizing the refund procedures will reduce confusion and allow taxpayers to obtain refunds more quickly.

Explanation of Provision

The bill consolidates the user credit and refund provisions for the fuels excise taxes into one section of the Code. The bill also combines the three refund procedures for fuels taxes into a uniform refund procedure. The new uniform refund procedure permits an exempt user to aggregate its refund claims for all fuels taxes and file for a refund in any calendar quarter in which the amount of the aggregate claim exceeds $750. The uniform refund procedure also permits such a user to file for a refund for its fourth quarter rather than apply for a credit.

The special expedited procedure for gasohol blenders is unchanged.

Effective Date

The provision is effective for sales on or after January 1, 1992.

4. Repeal waiver requirement for fuel tax refunds for cropdusters and other fertilizer applicators (sec. 602(b) of the bill and sec. 6420 of the Code)

Present Law

In general, farmers who use gasoline and aviation fuel on a farm are entitled to a refund of the tax that has been paid on that fuel. Cropdusters and other fertilizer applicators that use gasoline and aviation fuel on a farm are entitled to a refund of the tax paid on that fuel in lieu of the farmer, but only if the owner or operator of the farm waives its right to a refund for such fuel.

Reasons for Simplification

Eliminating the waiver will reduce the paperwork burden of a taxpayer seeking a refund.

Explanation of Provision

The bill eliminates the waiver requirement for fuels tax refunds for cropdusters and other fertilizer applicators.

Effective Date

The provision is effective for fuels purchased on or after January 1, 1992.

5. Authorize exceptions from information reporting for certain sales of diesel and aviation fuel (sec. 603 of the bill and sec. 4093(c)(4) of the Code)

Present Law

Certain producers and importers and purchasers are required to file information returns for reduced-tax sales of diesel and aviation fuel.

Reasons for Simplification

Allowing the Internal Revenue Service to exempt certain classes of taxpayers will simplify the IRS' administration of the registration requirements and eliminate unnecessary paperwork for taxpayers.

Explanation of Provision

The bill permits the IRS by regulation to provide exceptions to the mandatory information return requirement for certain sales of diesel and aviation fuel.

Effective Date

The provision applies to sales on or after January 1, 1992.

B. Provisions Relating to Distilled Spirits, Wines, and Beer (secs. 611–621 of the bill, secs. 5008(c), 5044, 5053, 5055, 5115, 5175(c), 5207(c), 5222(b), 5384(b) of the Code, and new sec. 5418 of the Code)

Present Law

Return of imported bottled distilled spirits

Present law provides that when tax-paid distilled spirits which have been withdrawn from bonded premises of a distilled spirits plant are returned for destruction or redistilling, the excise taxes are refunded (sec. 5008(c)). This provision does not apply to imported bottled distilled spirits, since they are withdrawn from customs custody and not from bonded premises.

Bond for exported distilled spirits

Bond generally must be furnished to the Department of the Treasury when distilled spirits are removed from bonded premises for exportation without payment of tax. These bonds are cancelled or credited when evidence is submitted to the Department of the Treasury that the distilled spirits have been exported (sec. 5175(c)).

Distilled spirits plant records

Distilled spirits plant proprietors are required to maintain records of their production, storage, denaturation, and other processing activities on the premises where the operations covered by the records are carried on (sec. 5207(c)).

Transfers from breweries to distilled spirits plants

Under present law, beer may be transferred without payment of tax from a brewery to a distilled spirits plant to be used in the production of distrilled spirits, but only if the brewery is contiguous to the distilled spirits plant (sec. 5222(b)).

Posting of sign by wholesale liquor dealers

Wholesale liquor dealers (i.e., dealers, other than wholesale dealers in beer alone, who sell distilled spirits, wines, or beer to other persons who re-sell such products) are required to post a sign conspicuously on the outside of their place of business indicating that they are wholesale liquor dealers (sec. 5115).

Refund of tax for wine returned to bond

Under present law, when unmerchantable wine is returned to bonded production premises, tax that has been paid is returned or credited to the proprietor of the bonded wine cellar to which the wine is delivered (sec. 5044). In contrast, when beer is returned to a brewery, tax that has been paid is returned or credited, regardless of whether the beer is unmerchantable (sec. 5056(a)).

Use of ameliorating material in certain wines

The Code contains rules governing the extent to which ameliorating material (e.g., sugar) may be added to wines made from high acid fruits and the product still be labelled as a standard, natural wine. In general, emeliorating material may not exceed 35 percent of the volume of juice and ameliorating material combined (sec. 5383(b)(1)). However, wines made exclusively from loganberries, currants, or gooseberries are permitted a volume of ameliorating material of up to 60 percent (sec. 5384(b)(2)(D)).

Domestically produced beer for use by foreign embassies, etc.

Under present law, domestically produced distilled spirits and wine may be removed from bond, without payment of tax, for transfer to any customs bonded warehouse for storage pending removal for the official or family use of representatives of foreign governments or public international organizations (secs. 5066 and 5362(e)). (A similar rule also applies to imported distilled spirits, wine, and beer.) No such provision exists under present law for domestically produced beer.

Withdrawal of beer for destruction

Present law does not specifically permit beer to be removed from a brewery for destruction without payment of tax.

Records of exportation of beer

Present law provides that a brewer is allowed a refund of tax paid on exported beer upon submission to Department of the Treasury of certain records indicating that the beer has been exported (sec. 5055).

Transfer to brewery of beer imported in bulk

Imported beer brought into the United States in bulk containers may not be transferred from customs custody to brewery premises without payment of tax. Under certain circumstances, distilled spirits imported into the United States in bulk containers may be transferred from customs custody to bonded premises of a distilled spirits plant without payment of tax (sec. 5232).

Reasons for Simplification

In addition to imposing taxes, the Internal Revenue Code regulates many aspects of the alcoholic beverage industry. These regulations date in many cases from the prohibition era or earlier. In 1980, the method of collecting excise taxes on alcoholic beverages was changed from a system under which Treasury Department inspectors regularly were present at production facilities to a bonded premises system, which more closely tracks the systems used in connection with other Federal taxes. Many of the recordkeeping requirements and other regulatory measures imposed in connection with these taxes have not been modified to conform to these collection changes. In addition, modification of statutory provisions is warranted in view of advances in technology used in the alcoholic beverage industry and environmental protection concerns.

Explanation of Provisions

Return of imported bottled distilled spirits

The procedures for refunds of tax collected on imported bottled distilled spirits returned to bonded premises are conformed to the rules for domestically produced and imported bulk distilled spirits. Thus, refunds are available for all distilled spirits on their return to a bonded distilled spirits plant.

Bond for exported distilled spirits

For purposes of cancelling or crediting bonds furnished when distilled spirits are removed from bonded premises for exportation, the Department of the Treasury is authorized to permit records of exportation to be maintained by the exporter, rather than requiring submission to it of proof of exportation in all cases.

Distilled spirits plant records

Distilled spirits plant proprietors are permitted to maintain records of their activities at locations other than the premises where the operations covered by the records are carried on (e.g., corporate headquarters), provided that the records are available for inspection by the Treasury Department during business hours.

Transfers from breweries to distilled spirits plants

The bill allows beer to be tranferred without payment of tax from a brewery to a distilled spirits plant to be used in the production of distilled spirits, regardless of whether the brewery is contiguous to the distilled spirits plant.

Posting of sign by wholesale liquor dealers

The requirement that wholesale liquor dealers post a sign outside their place of business indicating that they are wholesale liquor dealers is repealed.

Refund of tax for wine returned to bond

The bill deletes the requirement that wine returned to bonded premises be "unmerchantable" in order for tax to be refunded to the proprietor of the bonded wine cellar to which the wine is delivered.

Use of ameliorating material in certain wines

The wine labelling restrictions are modified to allow any wine made exclusively from a fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry) to contain a volume of ameliorating material not in excess of 60 percent.

Domestically produced beer for use by foreign embassies, etc.

The bill extends to domestically produced beer the present-law rule applicable to domestically produced distilled spirits and wine (and imported distilled spirits, wine, and beer) which permits these products to be withdrawn from the place of production without payment of tax for the official or family use of representatives of foreign governments or public international organizations.

Withdrawal of beer for destruction

The bill allows beer to be removed from a brewery without payment of tax for purposes of destruction, subject to Treasury Department regulations.

Records of exportation of beer

The bill repeals the requirement that proof of exportation be submitted to the Treasury Department in all cases as a condition of receiving a refund of tax. This proof will continue to be required to be maintained at the exporter's place of business.

Transfer to brewery of beer imported in bulk

The bill extends the present-law rule applicable to distilled spirits imported into the United States in bulk containers to beer imported into the United States in bulk containers, so that imported beer may, subject to Treasury regulations, be withdrawn from customs custody for transfer to a brewery without payment of tax.

Effective Date

These provisions of the bill generally are effective beginning 180 days after date of the bill's enactment. The provision deleting the requirement that wholesale liquor dealers post a sign outside their place of business is effective on the date of the bill's enactment.

C. Other Excise Tax Provisions

1. Authority for IRS to grant exemptions from registration requirements (sec. 631 of the bill and sec. 4222 of the Code)

Present Law

Under section 4222, certain sales of articles subject to Federal excise taxes may not be made without payment of tax under section 4121 unless the manufacturer, the first purchaser, and the second purchaser (if any) are all registered under regulations prescribed by the Secretary.

Reasons for Simplification

Allowing the Internal Revenue Service to exempt certain classes of taxpayers from the registration requirements will simplify the Service's administration of the registration provisions. Also, the provision will reduce unnecessary paperwork for affected taxpayers.

Explanation of Provision

The bill revises section 4222(a) so that certain sales of articles subject to Federal excise taxes may not be made without payment of tax under section 4221 to any person who is required by the Secretary to be registered but who is not so registered. This will allow the Secretary to provide exemption from registration requirements for certain classes of taxpayers.

Effective Date

The provision applies to sales after the 180th day after the date of enactment.

2. Repeal temporary reduction in tax on piggyback trailers (sec. 632(a) of the bill and sec. 4051(d) of the Code)

Present Law

Piggyback trailers and semitrailers sold within the 1-year period beginning on July 18, 1984 were permitted a temporary reduction in the retail excise tax on trailers.

Explanation of Provision

The bill repeals the temporary reduction in tax on piggyback trailers as "deadwood."

Effective Date

The provision is effective on the date of enactment.

3. Expiration of excise tax on deep seabed minerals (sec. 632(b) of the bill and secs. 4495–4498 of the Code)

Present Law

Background

The Deep Seabed Mineral Resources Act (the "Resources Act," P.L. 96-283), one title of which was the Deep Seabed Hard Mineral Removal Tax Act of 1979 (the "Tax Act"), was enacted into law on June 28, 1980. The Resources Act was intended to encourage the successful negotiation of an international deep seabed treaty by the United Nations Conference on the Law of the Sea (a U.N. international deep seabed treaty), and pending the entry into force of such a treaty, to establish a special fund to support international revenue sharing from deep seabed mineral recovery. To this end, the Act established an interim trust fund in the Treasury, the Deep Seabed Revenue Sharing Trust Fund (the Trust Fund), into which any Tax Act receipts would be deposited. There have been no tax collections under the Tax Act. The Trust Fund proceeds were intended to be used to help discharge any U.S. financial obligations under a U.N. international deep seabed treaty should the United States become a party thereto.

Subsequent to the enactment of the Resources Act, the U.N. Conference on the Law of the Sea completed negotiations for an international deep seabed treaty in 1982, and the United States announced that it would not sign the treaty.

If and when the Law of the Sea Convention (the Convention) enters into force, it would establish a regime for the regulation of mineral extraction from the deep seabed, and would impose revenue obligations on its adherents. Such obligations were to be fundable by the Deep Seabed Revenue Trust Fund, if the United States were to become obligated by the Convention.

Excise tax on certain hard minerals

The Tax Act added sections 4495 through 4498 to the Internal Revenue Code. These sections would impose an excise tax on the removal from the deep seabed of certain hard mineral resources pursuant to a deep seabed permit issued under the Resources Act. In general, a deep seabed permit issued under the Resources Act would authorize its holder to engage in commercial recovery activities with respect to hard mineral resources on or under deep seabeds. No such permits have been issued.

Deep seabeds are, in general, areas outside the continental shelf of any nation. In general, hard mineral resources are mineral nodules, lying on or just below the surface of deep seabeds, that contain one or more minerals including manganese, nickel, cobalt, or copper. Under the Tax Act, if a person removes a hard mineral resource from the deep seabed pursuant to a deep seabed permit, a tax is imposed on the permit holder equal to 3.75 percent of 20 percent (or 0.75 percent) of the fair market value of the commercially recoverable minerals removed.

The Tax Act was scheduled to terminate on the earlier of the date on which a U.N. international deep seabed treaty took effect with respect to the United States, or June 28, 1990) (10 years after the date of enactment of the Tax Act). Since the United States did not sign the treaty, the excise tax provisions expired on June 28, 1990.

Explanation of Provisions

The bill deletes the deep seabed hard minerals excise tax provisions as "deadwood."

Effective Date

The provision is effective on the date of enactment.

TITLE VII.—ADMINISTRATIVE PROVISIONS

A. Administrative Provisions

1. Simplify employment tax reporting for household employees (sec. 701 of the bill and secs. 3102, 3121, 3306 and 6654 of the Code)

Present Law

An employer who pays a household employee wages of $50 or more in a calendar quarter for household work must withhold social security taxes (including medicare taxes) from wages paid to the employee during the quarter. The employer must also pay an amount of tax that matches the tax withheld from the employee's wages. The employer must file an Employer's Quarterly Tax Return (Form 942) each quarter and a Wage and Tax Statement (Form W-2) at the end of the year.

In addition, an employer must pay federal unemployment taxes if he or she paid cash wages to household employees totalling $1,000 or more in a calendar quarter in the current or preceding year. The employer must file an Employer's Annual Federal Unemployment Tax Return (Form 940 or Form 940-EZ) at the end of the year.

Reasons for Simplification

Employer return requirements are confusing and burdensome for many individuals, who may be employers only because they employ a domestic employee on an intermittent basis. Streamlining the return requirements would reduce the filing burden.

Explanation of Provision

The bill changes the threshold for withholding and paying social security taxes from $50 a quarter to $300 a year. The bill requires an individual who employs only household employees to report any social security or federal unemployment tax obligation for wages paid to such employees on his or her income tax return for the year. The bill includes a household employer's social security and unemployment taxes in the estimated tax provisions. The bill authorizes the Secretary to enter into agreements with states to collect state unemployment taxes in the same manner.

Effective Date

The provision is effective for remuneration paid in calendar years beginning after December 31, 1991.

2. Penalties for failure to provide reports relating to pension payments (sec. 702 of the bill and secs. 6652(e) and 6724 of the Code)

Present Law

Any person who fails to file an information report with the Internal Revenue Service on or before the prescribed filing date is subject to penalties for each failure. The general penalty structure provides that the amount of the penalty is to vary with the length of time within which the taxpayer corrects the failure, and allows taxpayers to correct a de minimis number of errors and avoid penalties entirely (sec. 6721). A different, flat-amount penalty applies for each failure to provide information reports to the IRS or statements to payees relating to pension payments (sec. 6652(e)).

Reasons for Simplification

Conforming the information-reporting penalties that apply with respect to pension payments to the general information-reporting penalty structure would simplify the overall penalty structure through uniformity and provide more appropriate information-reporting penalties with respect to pension payment.

Explanation of Provision

The bill incorporates into the general penalty structure the penalties for failure to provide information reports relating to pension payments to the IRS and to recipients. Thus, information reports with respect to pension payments would be treated in a similar fashion to other information reports.

Effective Date

The provision applies to returns and statements the due date for which is after December 31, 1991.

3. Clarify that reproductions from digital images are reproductions for recordkeeping purposes (sec. 703 of the bill and sec. 6103(p) of the Code)

Present Law

Reproductions of a return, document, and certain other matters have the same legal status as the original for purposes of judicial and administrative proceedings. It is unclear whether reproductions made from digital images are also accorded the same legal status as originals.

Reasons for Simplification

Reducing the IRS' need to maintain hard-copy originals of documents would simplify the administration of the tax laws. As part of its systems modernization plan, the IRS intends to store returns, documents, and other materials in digital image format. This plan will permit the IRS to respond much more quickly to taxpayers' inquiries about the status of their accounts. It will facilitate implementation of this plan to clarify that reproductions made from such images would be accorded the same legal status as other reproductions.

Explanation of Provision

The bill provides that the term reproduction includes a reproduction from a digital image. The bill also requires the Comptroller General to conduct a study of available digital image technology for the purpose of determining the extent to which reproductions of documents stored using that technology accurately reflect the data on the original document and the appropriate period for retaining the original document.

Effective Date

The provision is effective on the date of enactment.

4. Repeal tax shelter registration requirements (sec. 704 of the bill and sec. 6111 of the Code)

Present Law

Organizers of tax shelters must register their shelters with the IRS before offering any interests for sale.

Reasons for Simplification

As a result of the passive loss provisions (and related provisions) of the Tax Reform Act of 1986, tax shelters are no longer being marketed as they were prior to that Act. Registration of tax shelters is therefore no longer necessary for the proper administration of the tax laws. Repeal of the registration requirements would reduce paperwork burdens for taxpayers and the IRS.

Explanation of Provision

The bill repeals the tax shelter registration requirements.

Effective Date

The provision is effective on the date of enactment.

5. Repeal of authority to disclose whether a prospective juror has been audited (sec. 705 of the bill and sec. 6103(h)(5) of the Code)

Present Law

In connection with a civil or criminal tax proceeding to which the United States is a party, the Secretary must disclose, upon the written request of either party to the lawsuit, whether an individual who is a prospective juror has or has not been the subject of an audit or other tax investigation by the Internal Revenue Service (sec. 6103(h)(5)).

Reasons for Simplification

This disclosure requirement, as it has been interpreted by several recent court decisions, has created significant difficulties in the civil and criminal tax litigation process. First, the litigation process can be substantially slowed. It can take the Secretary a considerable period of time to compile the information necessary for a response (some courts have required searches going back as far as 25 years). Second, providing early release of the list of potential jurors to defendants (which several recent court decisions have required to permit defendants to obtain disclosure of the information from the Secretary) can provide an opportunity for harassment and intimidation of potential jurors in organized crime, drug, and some tax protester cases. Third, significant judicial resources have been expended in interpreting this procedural requirement that might better be spent resolving substantive disputes. Fourth, differing judicial interpretations of the nature of this provision have caused confusion and, in some instances, defendants convicted of criminal tax offenses have obtained reversals of those convictions because of failures to comply fully with this provision.

Explanation of Provision

The bill repeals the requirement that the Secretary disclose, upon the written request of either party to the lawsuit, whether an individual who is a prospective juror has or has not been the subject of an audit or other tax investigation by the Internal Revenue Service.

Effective Date

The provision is effective for judicial proceedings pending on, or commenced after, the date of enactment.

6. Repeal TEFRA audit rules for S corporation (sec. 706 of the bill and secs. 6037, 6241, 6242, 6243, 6244, and 6245 of the Code)

Present Law

An S corporation generally is not subject to income tax on its taxable income. Instead, it files an information return and the shareholders report their pro rata share of the S corporation's income and deductions on the shareholder's tax return.

The Subchapter S Revision Act of 1982 generally made the TEFRA partnership audit and litigation rules applicable to S corporations. These rules require the determination of all "Subchapter S items" at the corporate, rather than the shareholder, level. These rules also require a shareholder to report all Subchapter S items consistently with the corporation's information return or to notify the IRS of any inconsistency. Temporary regulations contain an exception from these rules for "small S corporations," i.e., those with five or fewer shareholders, each of whom is a natural person or an estate.

Reasons for Simplification

An S corporation generally is limited to 35 investors. In addition, the vast majority of both existing and newly formed S corporations are expected to qualify for the small S corporation exception from the unified audit and litigation provisions. Consequently, a unified audit procedure is unnecessary for S corporations.

Explanation of Provision

The bill repeals the unified audit procedures for S corporations. The bill retains, however, the requirement that shareholders report items in a manner consistent with the corporation's return.

Effective Date

The provision is effective for taxable years beginning after the date of enactment.

7. Clarify statute of limitations for items for passthrough entities (sec. 707 of the bill and sec. 6501(a) of the Code)

Present Law

Passthrough entities (such as S corporations, partnerships, and certain trusts) generally are not subject to income tax on their taxable income. Instead, these entities file information returns and the entities' shareholders (or beneficial owners) report their pro rata share of the gross income and are liable for any taxes due.

Some believe that present law may be unclear as to whether the statute of limitations for adjustments that arise from distributions from passthrough entities should be applied at the entity or individual level (i.e., whether the 3-year statute of limitations for assessments runs from the time that the entity files its information return or from the time that a shareholder timely files his or her income tax return). (Compare *Fehlhaber v. Comm.*, 94 TC 863 (1990) with *Kelly v. Comm.*, 877 F.2d 7567 (9th Cir. 1989)).

Reasons for Simplification

Uncertainty regarding the correct statute of limitations hinders the resolution of factual and legal issues and creates needless litigation over collateral matters.

Explanation of Provision

The bill clarifies that the return that starts the running of the statute of limitations for a taxpayer is the return of the taxpayer and not the return of another person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit. The provision is not intended to create any inference as to the proper interpretation of present law.

Effective Date

The provision is effective for taxable years beginning after the date of enactment.

B. Tax Court Provisions

1. Clarify jurisdiction of Tax Court with respect to overpayment determinations (sec. 711 of the bill and sec. 6512(b) of the Code)

Present Law

The Tax Court may order the refund of an overpayment determined by the Court, plus interest, if the IRS fails to refund such overpayment and interest within 120 days after the Court's decision becomes final. Whether such an order is appealable is uncertain.

In addition, it is unclear whether the Tax Court has jurisdiction over the validity or merits of certain credits or offsets (e.g., providing for collection of student loans, child support, etc.) made by the IRS that reduce or eliminate the refund to which the taxpayer was otherwise entitled.

Reasons for Simplification

Clarification of the jurisdiction of the Tax Court and the appealability of orders of the Tax Court would provide for greater certainty for taxpayers and the Government in conducting cases before the Tax Court. Clarification will also reduce litigation.

Explanation of Provision

The bill clarifies that an order to refund an overpayment is appealable in the same manner as a decision of the Tax Court. The bill also clarifies that the Tax Court does not have jurisdiction over the validity or merits of the credits or offsets that reduce or eliminate the refund to which the taxpayer was otherwise entitled.

Effective Date

The provision is effective on the date of enactment.

2. Clarify procedures for administrative cost awards (sec. 712 of the bill and sec. 7430 of the Code)

Present Law

Any person who substantially prevails in any action brought by or against the United States in connection with the determination, collection or refund of any tax, interest, or penalty may be awarded reasonable administrative costs incurred before the IRS and reasonable litigation costs incurred in connection with any court proceeding.

No time limit is specified for the taxpayer to apply to the IRS for an award of administrative costs. In addition, no time limit is specified for a taxpayer to appeal to the Tax Court an IRS decision denying an award of administrative costs. Finally, the procedural rules for adjudicating a denial of administrative costs are unclear.

Reasons for Simplification

The proper procedures for applying for a cost award are uncertain in some instances. Clarifying these procedures will decrease litigation over these procedural issues.

Explanation of Provision

The bill provides that a taxpayer who seeks an award of administrative costs must apply for such costs within 90 days of the date on which the taxpayer was determined to be a prevailing party. The bill also provides that a taxpayer who seeks to appeal an IRS denial of an administrative cost award must petition the Tax Court within 90 days after the date that the IRS mails the denial notice.

The bill clarifies that dispositions by the Tax Court of petitions relating only to administrative costs are to be reviewed in the same manner as other decisions of the Tax Court.

Effective Date

The provision is effective on the date of enactment.

3. Clarify Tax Court jurisdiction over interest determinations (sec. 713 of the bill and sec. 7481(c) of the Code)

Present Law

A taxpayer may seek a redetermination of interest after certain decisions of the Tax Court have become final by filing a petition with the Tax Court.

Reasons for Simplification

It would be beneficial to taxpayers if a proceeding for a redetermination of interest supplemented the original deficiency action brought by the taxpayer to redetermine the deficiency determination of the IRS. A motion, rather than a petition, is a more appropriate pleading for relief in these cases.

Explanation of Provision

The bill provides that a taxpayer must file a "motion" (rather than a "petition") to seek a redetermination of interest in the Tax Court.

Effective Date

The provision is effective on the date of enactment.

4. Clarify net worth requirements for awards of administrative or litigation costs (sec. 714 of the bill and sec. 7430 of the Code)

Present Law

Any person who substantially prevails in any action brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty may be awarded reasonable administrative costs incurred before the IRS and reasonable litigation costs incurred in connection with any court proceeding.

A person who substantially prevails must meet certain net worth requirements to be eligible for an award of administrative or litigation costs. In general, only an individual whose net worth does not exceed $2,000,000 is eligible for an award, and only a corporation or partnership whose net worth does not exceed $7,000,000 is eligible for an award. (The net worth determination with respect to a partnership or S corporation applies to all actions that are in substance partnership actions or S corporation actions, including unified entity-level proceedings under sections 6226 or 6228, that are nominally brought in the name of a partner or a shareholder.)

Reasons for Simplification

Although the net worth requirements are explicit for individuals, corporations, and partnerships, it is not clear which net worth requirement is to apply to other potential litigants. It is also unclear how the individual net worth rules are to apply to individuals filing a joint tax return. Clarifying these rules will decrease needless litigation over procedural issues.

Explanation of Provision

The bill provides that the net worth limitations currently applicable to individuals also apply to estates and trusts. The bill also provides that individuals who file a joint tax return shall be treated as one individual for purposes of computing the net worth limitations. Consequently, the net worths of both spouses are aggregated for purposes of this computation. An exception to this rule is provided in the case of a spouse otherwise qualifying for innocent spouse relief.

Effective Date

The provision applies to proceedings commenced after the date of enactment.

C. Permit IRS to Enter Into Cooperative Agreements With State Tax Authorities (sec. 721 of the bill and new sec. 7524 of the Code)

Present Law

The IRS is generally not authorized to provide services to non-Federal agencies even if the cost is reimbursed (62 Comp. Gen. 323,335 (1983)).

Reasons for Simplification

Most taxpayers reside in States with an income tax and, therefore, must file both Federal and State income tax returns each year. Each return is separately prepared, with the State return often requiring information taken directly from the Federal return. Permitting the IRS to enter into agreements with States that are designed to promote efficiency through joint tax administration programs would reduce the burden on taxpayers because much of the same information could be used by both Governments.

For example, the burden on taxpayers could be significantly reduced through joint electronic filing of tax returns, whereby a taxpayer electronically transmits both Federal and State returns to one location. Joint Federal and State electronic filing could simplify and shorten return preparation time for taxpayers. Also, State governments could benefit from reduced processing costs, while the IRS could benefit from the potential increase in taxpayers who would elect to file electronically because they would be able to fulfill both their Federal and State obligations simultaneously.

Explanation of Provision

The bill provides that the Secretary is authorized to enter into cooperative agreements with State tax authorities to enhance joint tax administration. These agreements may include (1) joint filing of Federal and State income tax returns, (2) single processing of these returns, and (3) joint collection of taxes (other than Federal income taxes).

The bill provides that these agreements may require reimbursement for services provided by either party to the agreement. Any funds appropriated for tax administration may be used to carry out the responsibilities of the IRS under these agreements, and any reimbursement received under an agreement shall be credited to the amount appropriated.

No agreement may be entered into that does not provide for the protection of confidentiality of taxpayer information that is required by section 6103.

Effective Date

This provision is effective on the date of enactment.

FOOTNOTES

[1] See, e.g., Rev. Rul. 90–79, 1990–2 C.B. 26 (where the taxpayer purchased a house in a foreign country, financed by a foreign currency loan, and the currency appreciates before the house is sold and the loan is repaid, the taxpayer's exchange loss on repayment of the loan is not deductible under sec. 988 and does not offset taxable gain on the sale of the house).

[2] See Staff of the Joint Committee on Taxation, 100th Cong., 1st Sess., "General Explanation of the Tax Reform Act of 1986" at 1096 (1987); Treas. Reg. sec. 1.985–3.

[3] An individual who actively participates in a rental real estate activity and holds at least a 10 percent interest may deduct up to $25,000 of passive losses. The $25,000 amount phases out as the individual's income increases from $100,000 to $150,000.

The $25,000 allowance also applies to low-income housing and rehabilitation credits (on a deduction equivalent basis), regardless of whether the taxpayer claiming the credit actively participates in the rental real estate activity generating the credit. In addition, the income phaseout range for the $25,000 allowance for these credits is $200,000 to $250,000 (rather than $100,000 to $150,000). For interests acquired after December 31, 1989 in partnerships holding property placed in service after that date, the $25,000 deduction-equivalent allowance is permitted for the low-income housing credit without regard to the taxpayer's income.

[4] In determining the amounts required to be separately taken into account by a partner, those provisions of the large partnership rules governing computations of taxable income are applied separately with respect to that partner by taking into account that partner's distributive share of the partnership's items of income, gain, loss, deduction or credit. This rule permits partnerships to make otherwise valid special allocations of partnership items to partners.

[5] A large partnership is allowed a deduction under section 212 for expenses incurred for the production of income, subject to 70-percent disallowance, as described below.

[6] Any excess of net short-term capital gain over net long-term capital loss is consolidated with the partnership's other taxable income and is not separately reported.

[7] The "70 percent" figure is intended to approximate the amount of such deductions that would be denied at the partner level as a result of the two-percent floor.

[8] It is intended that the rehabilitation and low-income housing credits which are subject to the same passive loss rules (i.e., in the case of the low-income housing credit, where the partnership interest was acquired or the property was placed in service before 1990) could be reported together on the same line.

[9] Precontribution gain is the excess of the fair market value of the contributed property at the time of contribution over the adjusted basis of such property immediately before such contribution. Precontribution loss is the excess of the adjusted basis of such property over its fair market value.

[10] Amounts recognized by reason of these recognition events are taken into account in the partner's taxable year in which or with which ends the partnership taxable year of the deduction or disposition.

[11] It is intended that a deceased partner's successor in interest would not recognize any remaining precontribution gain or loss.

[12] The number of partners is determined by counting only persons directly holding partnership interests in the taxable year; persons holding indirectly (e.g., through another partnership) are not counted. It is not necessary for a partnership to have 250 or more partners at any one time in a taxable year for the partnership to constitute a large partnership.

[13] For this purpose, oil or gas properties means the mineral interests in oil or gas which are of a character with respect to which a deduction for depletion is allowable under section 611.

[14] The bill also excludes from the audit provisions partners who are excluded from the reporting rules. Such a partner who is excluded from the audit rules, however, is excluded only to the extent his or her interest in the partnership in the year in which an adjustment took effect does not exceed his or her interest in the partnership taxable year to which the adjustment related.

[15] Tax Equity and Fiscal Responsibility Act of 1982.

[16] For example, the "once a PFIC always a PFIC" rule of sec. 1297(b)(1) does not apply to shareholders that make current-inclusion elections.

[17] It is understood that a mutual insurance company could be treated under the bill and under present law as a passive foreign corporation, notwithstanding the fact that such a company does not actually issue "stock."

[18] Thus, the bill retains the exception for income derived in the active conduct of an insurance business by a corporation which is predominantly engaged in an insurance business and which would be subject to tax under subchapter L if it were a domestic corporation. It is intended that in determining whether a corporation is "predominantly engaged" for this purpose, the Secretary may require a higher

standard or threshold than the definition of an insurance company under Treasury Regulations section 1.801–3(a).

[19] H.R. Rep. No. 100–795, 100th Cong., 2d Sess. 272 (1988); S. Rep. No. 100–445, 100th Cong., 2d Sess. 285 (1988).

[20] The bill retains the present law rules that provide an exception from the definition of a PFIC in the case of a start-up company (current sec. 1297(b)(2)). Under the bill, the start-up company exception is intended to be applied, where necessary to carry out the purposes of the PFC rules, by treating as one corporation all related foreign corporations that transferred assets to the start-up company.

[21] For this purpose, it is intended that proportionate ownership will take into account any special or discretionary allocations of the distributions or gains with respect to stock in the passive foreign corporation.

[22] All citizens (and residents) of the United States are included, irrespective of residence in a U.S. commonwealth or possession.

[23] This rule was included in the definition of foreign personal holding company income for purposes of subpart F prior to the amendments included in the 1986 Act.

[24] See, e.g., Staff of the Joint Committee on Taxation, 100th Cong., 1st Sess. "General Explanation of the Tax Reform Act of 1986" at 6 et seq. (1987) ("General Reasons For The Act").

[25] Also, note that in *Commissioner* v. *American Metal Co.*, 221 F.2d 134, 141 (2d. Cir.), cert. denied, 350 U.S. 879 (1955), where a foreign corporation kept its books in U.S. dollars, foreign taxes were translated as of their payment date.

[26] Proposed Treasury Regulation sec. 1.1361–1(1)(2).

[27] This is the effective date of the present-law provision regarding inadvertent terminations.

[28] See section 1366(d)(1)(A); H. Rep. 97–826, p. 17; S. Rep. 97–640, p. 18.

[29] Treas. Reg. sec. 1.704–1(d)(2); Rev. Rul. 66–94, 1966–1 C.B. 166.

[30] An S corporation may have earnings and profits from years prior to its subchapter S election or from pre-1983 subchapter S years.

[31] See PLR 8818049, (Feb. 10, 1988).

[32] A tax is imposed with respect to LIFO inventory held by a C corporation becoming an S corporation.

[33] See S. Rpt. No. 1983 (85th Cong., 2d Sess., 1958), p. 88.

[34] Treas. Reg. sec. 1.742–1.

[35] The overpayment rate equals the applicable Federal short-term rate plus two percentage points. This rate is adjusted quarterly by the IRS. Thus, in applying the look-back method for a contract year, a taxpayer may be required to use five different interest rates.

[36] See, e.g., *Jalkut Estate* v. *Commissioner*. 96 T.C. No. 27 (April 29, 1991) (transfers from revocable trust to permissible beneficiaries of the trust includible in the grantor's gross estate); LTR 9117003 (same).

THE ELECTRICITY POLICY ACT OF 1991

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. BOUCHER] is recognized for 5 minutes.

Mr. BOUCHER. Mr. Speaker, I am pleased to join with my colleagues, Mr. TAUZIN and Mr. BLILEY, in introducing this legislation which will reform the Public Utility Holding Company Act of 1935. The primary purpose of PUHCA reform is to promote competition in the generation of electricity. By removing the present regulatory barriers which inhibit investment in the electricity generation market, thereby opening the market for wholesale generation, utilities are provided with greater choice among electricity generators. Increased competition will produce positive economic results, benefits to consumers and an improvement in the environment. The many benefits of competition can only be achieved, however, if new generators of electricity are provided access to transmission at a reasonable cost.

In 1935, when the Public Utility Holding Company Act was enacted, the generation of electricity was believed to be a natural monopoly. In the intervening 56 years, it has become clear that entrepreneurs, as well as public utilities, can construct and operate reliable electricity generation facilities. Indeed, entrepreneurs have an incentive to produce more economically and efficiently than public utilities.

By allowing independent power producers freely into the market, facilities will be sited in the most economic manner. This often means siting facilities near the locale of the feedstock production, whether at the well-head or at the mine mouth, reducing the cost and environmental effect of having to transfer fuels over great distances. The construction of facilities near coal mines, for example, will result in substantial economic benefits for the host community. According to the Virginia Center for Coal & Energy Research, each 100 megawatts of generating capacity would produce $1.3 million in wages, contribute $750,000 in property taxes, and consume 350,000 tons of coal annually.

To compete successfully in the open market of electricity generation, independent power producers will experiment with innovative technologies to make electricity generation more efficient. In the electricity market, efficiency will mean economic advantage. The more Btu's an independent power producer can generate from a single unit of fuel, the more competitive its price, thus making the independent power producer more likely to find a buyer. This incentive toward efficiency is stifled under the present PUHCA regime.

Today, if a utility develops a better way to generate power, all cost reductions belong to the customer, removing the utility's incentive to reduce costs. Under reformed PUHCA, however, both customers and business can profit from the increased efficiency which is born of technological change. Competition provides the incentive for focusing increased engineering and business talent on finding better ways to provide power more efficiently.

Increased efficiency brought about by competition not only will benefit customers economically, it will benefit all of us environmentally. By definition, greater efficiency means a reduction in the amount of fuel consumption required for energy production. This reduction necessarily limits any ill effects which fuel consumption may produce.

For PUHCA reform to be effective, however, independent power producers must have access to the relevant markets. The notions of competition and choice among power producers have no meaning if the product which they produce—electricity—cannot get to the market. The independent power producer must have access to the transmission grid if the reform program is to have its desired effect of increasing competition and choice.

Mr. TAUZIN. Mr. Speaker, today, along with two colleagues on the Energy and Commerce Committee, Mr. BLILEY and Mr. BOUCHER, I am introducing legislation designed to create increased competition in the Nation's electric power industry. The Electricity Policy Act of 1991 will accomplish this by removing barriers to market entry imposed by the Public Utility Holding Company Act of 1935 and ensuring that the Federal Energy Regulatory Commission has the authority to ensure that all potential competitors have access to transmission services.

Let me first explain the need for this legislation. From the 1930's until the 1970's, the industry structure worked fine. Economies of scale in the generation sector at a time of steady economic growth resulted in quality service often at reduced costs to customers. However, the energy crises of the 1970's changed all this. Fuel prices skyrocketed (as much as 50 percent of generation costs), and inflation and interest rates reached double digit levels. This dramatic increase in the cost of power resulted in the initiation of expensive construction programs by many utilities. At the same time, State utility commissioners refused to allow billions of dollars in those construction costs to be included in rate base. As a result, many utilities became extremely risk averse.

In 1978, Congress passed the Public Utility Regulatory Policy Act to diversify the Nation's power generation resources. This act forced utilities to procure the output of a favored class of third party sources. The act has shown that entities other than monopolies could build powerplants. Indeed, many prospective suppliers structured their projects into PURPA facilities, in order to avoid PUHCA regulation. While PURPA resulted in some instances of inflated rates, it certainly proved that the utility monopoly on the generation of electricity was not the only or the best means of power production. Indeed there are now power suppliers other than QF's capable of competing to supply electricity. Yet, they remain shackled by the Holding Company Act.

Mr. Speaker, I believe that PUHCA impedes the market entry of potentially efficient power suppliers and favors QF's. I do not think policy should favor one group of power suppliers over another. Second, I do not believe that this Nation should rely on a favored class of power supplier to compete equally to meet national requirements. The bill we are introducing would allow all power suppliers to compete equally to supply electricity in wholesale markets. I believe that this competition to supply power will facilitate technological innovation, produce environmentally benign power, and discipline electric rates. The Electricity Policy Act of 1991 accomplishes this goal by removing barriers to market entry under PUHCA. This will increase the number of entities capable of supplying power and expand the options available to utilities to meet customer needs.

Now let me address the issue of transmission. We have addressed transmission, because we do not believe that true competition can evolve without transmission access. We believe that certain provisions of the Federal Power Act are unclear about FERC authority in ordering transmission. Thus, we are providing FERC with the authority to order transmission when certain limited conditions are met. In evaluating the request for transmission, FERC is mandated to consider fully the needs of existing customers and reliability when making their decisions. Under this bill, a wheeling order cannot take place if system reliability is reduced or if existing customers are damaged. The provisions in this bill are based upon the premise that independent power producers require transmission access, if they are to sell their output and expand the options available to utilities to meet their power supply requirements. Simply put, without a transmission policy which can resolve disputes and ensure fairness, competition will not evolve to the fullest extent practicable.

Mr. Speaker, we need a more efficient power supply system. Electricity is being increasingly utilized to fuel our Nation's economy. Thus, prices need to be at the lowest possible cost. Economic growth demands this. I believe we can begin by expanding the potential nexus of power suppliers and allowing them to compete fairly. This legislation is not perfect and we know, through dialog, issues relating to State/Federal relations as well as others will have to be addressed. We hope that this legislation initiates this critical debate on the future of the electric power industry.

Mr. BLILEY. Mr. Speaker, earlier this spring, President Bush and Admiral Watkins put forth a comprehensive national energy strategy. I compliment the President and his team for their leadership on the issue. Their proposal is strong, innovative and correctly relies on both emerging technologies and market principles.

In the House, the Republicans built on the President's leadership and introduced our own national energy strategy. This proposal addresses the three main points necessary for a successful energy plan: conservation, efficiency, and development of domestic energy sources.

Now I think that all three of these principles are incorporated in a provision of particular concern to me, the reform of the Public Utility Holding Company Act. The Public Utility Holding Company Act [PUHCA] was passed in 1935 to protect ratepayers from real-live abuses by utilities. Over the years the law has served us well; however, the lawmakers of that day could not envision the development of the independent power producer.

In 1978 Congress passed the Public Utilities Regulatory Policies Act [PURPA] brought into existence a new entity called a nonutility cogenerator. In the decade since PURPA's enactment, over 20 percent of new electricity generating capacity has been supplied by nonutility generators. Just as important, this generation has been as reliable or more reliable than that of traditional utility generators.

And the trends would indicate an even larger role for these independent power producers. The Department of Energy estimates that even with strong conservation measures that this Nation will require from 50 to 100 gigawatts of increased electric capacity. This is equivalent to 500 to 1,000 new power plants. By the year 2010, 40 percent of our Nation's energy demand will be electricity.

Unfortunately, we have squeezed nearly every drop of benefit out of PURPA. We are rapidly running out of suitable steam-hosts that would allow these IPP's to qualify as facilities under PURPA.

Without the benefit of a steam-host, these IPP's are forced to comply under the untenable requirements of PUHCA. Attempts by IPP's to work within this 1935 law have created what one lawyer has termed: "The PUHCA Pretzel", a legal and financial labyrinth that robs the IPP of its efficiencies.

Now if this new industry is to grow to fruition, we must remove the PUHCA impediment. I recognize that PUHCA was created to address real abuses by real utilities and I do not advocate the scrapping of the law. I do believe that we can refine the law to retain the present protection for the rate payer while encouraging the benefits of increased competition.

And there are great benefits to allowing competition into the wholesale electric generating industry. The Department of Energy estimates that full-fledged competition will bring savings of nearly $2 billion per year.

Beyond these initial savings to the ratepayer will be the boon to industry. Lower energy costs means lower cost products and services. We will need every advantage when competing with Asia and a unified Europe.

Finally, let us not forget the benefits of the synergy of competition. I am reminded that not a single drug has ever been invented in a Communist country. Competition spawns innovation and technology transfer. I am convinced that our best hope for the commercialization for clean coal technology lies in the hands of the entrepreneurs. Our environment and economy can benefit from the creativity of the private sector.

"For market competition," writes Economist Todd Bucholz, "leads a self-interested person to wake up in the morning, look outside at the Earth and produced from its abundance, not what he wants, but what others want. Not in the quantities he prefers, but in the quantities his neighbors prefer. Not at the price that he dreams of charging, but at the price reflecting how much his neighbors value what he has done." We need to encourage these values in the electric industry, and I believe that the legislation introduced today is predicated on the assumption that market competition should replace control whenever and wherever possible for the benefit of the American consumer.

The legislation introduced today addresses PUHCA reform in a thorough and comprehensive manner. It removes the outdated barriers to competition; yet, builds on the current law to ensure maximum consumer protection. Just as noteworthy, this legislation expands on the current trend towards a more open, more efficiently utilized transmission system. This added enhancement will allow this Nation to fully enjoy the benefits of competition.

I want to commend my colleague from Louisiana, Mr. TAUZIN, and my fellow Virginian, Mr. BOUCHER, for their leadership on the issue. Their unique perspectives and individual talents have combined to make this legislation more substantial and credible. I also want to note the efforts on the part of the chairman of the Energy and Power Subcommittee, Mr. SHARP, for using his resources to push the debate towards maturation. I look forward to working with these gentlemen as we continue the process.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. COLLINS of Illinois) to revise and extend their remarks and include extraneous material:)

Mr. ORTIZ, for 5 minutes, today.

Mr. MILLER of California, for 5 minutes, today.

Mrs. LOWEY of New York, for 60 minutes, today.

Mr. ROSTENKOWSKI, for 60 minutes, today.

(The following Member (at the request of Mr. MCCLOSKEY) to revise and extend his remarks and include extraneous material:)

Mr. BOUCHER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GILLMOR) and to include extraneous matter:)

Mr. LAGOMARSINO.

Mr. COMBEST.

Mr. GILMAN.

Mr. DORNAN of California.

Mr. BEREUTER.

(The following Members (at the request of Mrs. COLLINS of Illinois) and to include extraneous matter:)

Mr. DINGELL.

Ms. LONG.

Mr. ECKART.

Mr. HARRIS.

Mr. SWETT.

Mr. HOYER.

Mr. HALL of Ohio.

Mrs. LOWEY of New York.

SENATE JOINT RESOLUTIONS REFERRED

Joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 36. Joint resolution to designate the months of November 1991, and November 1992, as "National Alzheimer's Disease Month"; to the Committee on Post Office and Civil Service.

S.J. Res. 40. Joint resolution to designate the period commencing September 8, 1991, and ending on September 14, 1991, as "National Historically Black Colleges Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 72. Joint resolution to designate the week of September 15, 1991, through September 21, 1991, as "National Rehabilitation Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 73. Joint resolution designating October 1991 as "National Domestic Violence Awareness Month" to the Committee on Post Office and Civil Service.

S.J. Res. 78. Joint resolution to designate the month of November 1991 and 1992 as "National Hospice Month"; to the Committee on Post Office and Civil Service.

S.J. Res. 92. Joint resolution to designate July 28, 1991, as "Buffalo Soldiers Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 95. Joint resolution designating October 1991 as "National Breast Cancer Awareness Month"; to the Committee on Post Office and Civil Service.

S.J. Res. 121. Joint resolution designating September 12, 1991, as "National D.A.R.E. Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 125. Joint resolution to designate October 1991, as "Polish-American Heritage Month"; to the Committee on Post Office and Civil Service.

S.J. Res. 126. Joint resolution to designate the Second Sunday in October of 1991, as "National Children's Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 132. Joint resolution to designate the week of October 13, 1991, through October 19, 1991, as "National Radon Action Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 138. Joint resolution designating August 6, 1991, as "National Neighborhood Crime Watch Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 142. Joint resolution to designate the week beginning July 28, 1991, as "National Juvenile Arthritis Awareness Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 151. Joint resolution to designate October 6, 1991, and October 6, 1992, as "German-American Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 154. Joint resolution to designate August 1, 1991, as "Helsinki Human Rights Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 156. Joint resolution to designate the week of October 6, 1991, through October 12, 1991, as "Mental Illness Awareness Week"; to the Committee on Post Office and Civil Service.

SENATE ENROLLED JOINT RESOLUTION

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 159. Joint resolution to designate the month of June 1991, as "National Forest System Month."

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval a joint resolution of the House of the following title:

H.J. Res. 749. Joint resolution to authorize the Secretary of the Interior to accept a donation of land for addition to the Ocmulgee National Monument in the State of Georgia.

ADJOURNMENT

Mr. FRANK of Massachusetts. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of House Concurrent Resolution 175 of the 102d Congress, the House stands adjourned until 12 o'clock meridian, Tuesday, July 9, 1991.

Thereupon (at 1 o'clock and 24 minutes p.m.), pursuant to House Concurrent Resolution 175, the House adjourned until Tuesday, July 9, 1991, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1638. A letter from the Secretary of Energy, transmitting the annual report entitled "Program Status of Preparations for Further Limitations on Nuclear Testing for 1990"; to the Committee on Armed Services.

1639. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting AID's report on Cambodia's Humanitarian and Development Assistance Priorities, pursuant to Public Law 101–513, section 562A(d)(2) (104 Stat. 2038); jointly to the Committees on Appropriations and Foreign Affairs.

1640. A letter from the Secretary of Transportation, transmitting the 1990 report on the valuation of the U.S. Coast Guard military retirement system, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

1641. A letter from the Director, Office of Management and Budget, transmitting the second annual report on negotiations concerning offsets in military exports, pursuant to 50 U.S.C. 2099; jointly, to the Committees on Banking, Finance and Urban Affairs and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 5. A bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes; with an amendment (Rept. 102–57, Pt. 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 2. A bill to entitle employees to family leave in certain cases involving a birth, an adoption, or a serious health condition and to temporary medical leave in certain cases involving a serious health condition, with adequate protection of the employee's employment and benefit rights, and to establish a commission to study ways of providing salary replacement for employees who take any such leave; with amendments (Rept. 162–135 Pt. 1). And ordered to be printed.

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 2. A bill to entitle employees to family leave in certain cases involving a birth, an adoption, or a serious health condition and to temporary medical leave in certain cases involving a serious health condition, with adequate protection of the employees' employment and benefit rights, and to establish a commission to study ways of providing salary replacement for employees who take any such leave; with amendments (Rept. 102–135, Pt. 2). And ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SWIFT (for himself, Mr. BROWN, Mr. DREIER of California, and Mr. BOEHLERT):

H.R. 2806. A bill to amend the Earthquake Hazards Reduction Act of 1977 to encourage implementation of research results, to protect life and property, and to facilitate the provision of insurance against the risk of catastrophic earthquakes and volcanic eruptions, and for other purposes; jointly, to the Committees on Science, Space, and Technology and Banking, Finance and Urban Affairs.

By Mr. AUCOIN (for himself, Mr. WYDEN, Mr. DEFAZIO, and Mr. KOPETSKI):

H.R. 2807. A bill to provide a balanced solution to the current timber-based crisis in Oregon, Washington and northern California by establishing an ecologically significant old growth forest reserve system, ensuring the conservation of the northern spotted owl and the protection of other species associated with old growth forests, securing a predictable supply of timber to afford stability to timber dependent communities in the region, and providing economic adjustment assistance to communities and employees dependent on the forest industry; jointly, to the Committees on Agriculture, Interior and Insular Affairs, Merchant Marine and Fisheries, Science, Space, and Technology, Education and Labor, Ways and Means, and Banking, Finance and Urban Affairs.

By Mr. BAKER:

H.R. 2808. A bill to direct the Secretary of the Interior to convey certain lands in Livingston Parish, LA; to the Committee on Interior and Insular Affairs.

By Mr. SHARP:

H.R. 2809. A bill to streamline the environmental process for natural gas pipelines; to the Committee on Energy and Commerce.

By Mr. MICHEL (for himself, Mr. COUGHLIN, Mr. RANGEL, Mr. EDWARDS of Oklahoma, Mr. HUNTER, Mr. VANDER JAGT, Mr. FISH, Mr. LENT, Mr. DAVIS, Mr. SHAW, Mr. SENSENBRENNER, Mr. RAMSTAD, Mr. GILMAN, Mr. DORNAN of California, Mr. INHOFE, Mr. GILLMOR, Mr. CLINGER, Mr. SHAYS, Mr. OXLEY, Mr. HERGER, Mr. LAGOMARSINO, Mr. DICKINSON, Mr. SKEEN, Mr. BUNNING, Mr. KYL, Mr. MCEWEN, Mr. HOBSON, Mr. RAVENEL, Mr. ZELIFF, Mr. SOLOMON, Mr. MCMILLAN of North Carolina, Mr. BOEHNER, Mr. WELDON, Mr. SANTORUM, Mr. GALLEGLY, Mr. HANSEN, Mr. HAMMERSCHMIDT, Mr. SMITH of New Jersey, Mrs. MEYERS of Kansas, Mr. BARTON of Texas, Mr. TAYLOR of North Carolina, Mrs. VUCANOVICH, Mr. BILIRAKIS, Mr. RITTER, Mr. PACKARD, Mr. YOUNG of Florida, Mr. MILLER of Ohio, Mr. WALKER, Mrs. JOHNSON of Connecticut, and Mr. RIGGS):

H.R. 2810. A bill to expand the Nation's drug treatment capacity, promote drug-free and safe schools, require statewide drug abuse prevention and treatment plans, and ensure that new Federal grant dollars provided for treatment services do not displace State dollars; jointly, to the Committees on Energy and Commerce and Education and Labor.

By Mr. COSTELLO:

H.R. 2811. A bill to amend the Internal Revenue Code of 1986 to provide for the nonrecognition of gain on long-term real property which is involuntarily converted as the result of the exercise of eminent domain, without regard to whether the replacement property is similar or of like kind; to the Committee on Ways and Means.

By Mr. GEKAS (for himself, Mr. McDermott, Mr. Fascell, Mr. Horton, Mr. Wolf, Mr. DeFazio, Mr. Wolpe, Mrs. Schroeder, and Mr. Boehlert):

H.R. 2812. A bill to direct the Administrator of General Services to issue regulations to provide for the installation of bicycle racks or lockers at Federal office buildings, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. LAGOMARSINO:

H.R. 2813. A bill to provide that law enforcement officers and other Federal employees in the Santa Barbara, CA, Primary Metropolitan Statistical Area be treated, for purposes of certain pay provisions of the Federal Employees Pay Comparability Act of 1990, in the same manner as if they were serving in the Los Angeles-Anaheim-Riverside, CA, Consolidated Metropolitan Statistical Area; to the Committee on Post Office and Civil Service.

By Mr. LEVINE of California:

H.R. 2814. A bill to combat crime; jointly, to the Committees on the Judiciary, Energy and Commerce, and Banking, Finance and Urban Affairs.

By Mr. McEWEN:

H.R. 2815. A bill to regulate interstate commerce by providing for uniform standards of liability for harm arising out of general aviation accidents; jointly, to the Committees on the Judiciary, Public Works and Transportation, and Energy and Commerce.

By Mr. MILLER of California:

H.R. 2816. A bill to remove a restriction from a portion of a parcel of land acquired by the city of Pittsburg, CA, in order for that portion to be used for a fire station; to the Committee on Interior and Insular Affairs.

By Mr. MILLER of California (for himself, Mr. Bilbray, Mr. Panetta, Mr. Matsui, Mr. Gallegly, Mr. Owens of Utah, Mr. Kopetski, Mr. Lowery of California, Mr. Dannemeyer, Mr. Lantos, Mr. Berman, Mr. Dellums, Mr. Brown, Mr. Abercrombie, Mr. Cunningham, Mr. Edwards of California, Mr. Roybal, Ms. Pelosi, Ms. Waters, Mr. Martinez, Mr. Fazio, Mr. Lehman of California, Mr. Stark, Mr. Mineta, Mr. Levine of California, Mr. Hansen, Mr. Smith of Florida, Mrs. Boxer, and Mr. Jontz):

H.R. 2817. A bill to require the Secretary of the Interior to conduct studies regarding the desalting of water and water reuse, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. OLVER (for himself, Mr. Moakley, Mr. Atkins, Mr. Donnelly, Mr. Frank of Massachusetts, Mr. Kennedy, Mr. Markey, Mr. Mavroules, Mr. Neal of Massachusetts, and Mr. Studds):

H.R. 2818. A bill to designate the Federal building located at 76 Center Street in Pittsfield, MA, as the "Silvio O. Conte Federal Building", and for other purposes; to the Committee on Public Works and Transportation.

By Mr. PERKINS (for himself and Mr. Gray):

H.R. 2819. A bill to provide financial assistance to eligible local educational agencies to improve rural education, and for other purposes; to the Committee on Education and Labor.

By Mr. REED (by request):

H.R. 2820. A bill to authorize the Indian Village housing development, located in Providence, RI, to provide preference of native Americans in carrying out activities with Federal assistance amounts; to the Committee on Banking, Finance and Urban Affairs.

By Mr. RICHARDSON:

H.R. 2821. A bill to allow Indian tribes to condition provision of tribal education funds to maximize availability of human resources in critical areas of need of tribal members; to the Committee on Education and Labor.

H.R. 2822. A bill to establish the Rio Grande Del Norte National Conservation Area in the State of New Mexico, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 2823. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for severance taxes and personal property taxes paid to an Indian tribal government; to the Committee on Ways and Means.

By Mr. ROWLAND (for himself and Mr. Penny):

H.R. 2824. A bill to provide for demonstration projects to test the feasibility of broader use of arrangements between the Department of Veterans Affairs and other Federal health-care providers for the sharing of health-care resources, and for other purposes; jointly, to the Committees on Veterans' Affairs, Armed Services, Energy and Commerce, and Ways and Means.

By Mr. TAUZIN (for himself, Mr. Bliley, and Mr. Boucher):

H.R. 2825. A bill to facilitate powerplant ownership by those able to build and operate electric powerplants at the lowest reasonable cost in order to ensure an adequate and economical supply of electricity in the United States and to encourage fuel and capital conservation in the generation of electricity, and for other purposes; to the Committee on Energy and Commerce.

By Mr. VENTO (for himself, Mr. Miller of California, Mr. Lagomarsino, Mr. Rahall, Mr. de Lugo, Mr. Kostmayer, Mr. Oberstar, Mr. Owens of Utah, Mr. Bereuter, and Mr. Leach):

H.R. 2826. A bill to require action to protect Antarctica by directing the Secretary of the Interior to prepare a plan for establishing an Antarctica World Park, to require interim protection of Antarctica, and for other purposes; jointly, to the Committee on Merchant Marine and Fisheries, Interior and Insular Affairs, Science, Space, and Technology, and Foreign Affairs.

By Mr. WYDEN:

H.R. 2827. A bill to amend the Controlled Substances Act to provide for the registration of handlers of precursors and eliminate the exemption from certain regulatory provisions of drugs in capsule form, and for other purposes; jointly, to the Committee on Energy and Commerce and the Judiciary.

By Mr. COX of California (for himself, Mr. Thomas of Wyoming, Mr. Walker, Ms. Ros-Lehtinen, Mr. Doolittle, Mr. Roth, Mr. Ireland, Mr. Stearns, Mr. Hancock, Mr. Ballenger, Mr. Gingrich, Mr. Kyl, Mr. Vander Jagt, Mr. Rohrabacher, Mr. Horton, Mr. Payne of Virginia, Mr. Lent, Mr. Duncan, Mr. Machtley, Mr. Paxon, Mr. Dwyer of New Jersey, Mr. Klug, Mr. Frost, and Mr. DeLay):

H.J. Res. 292. Joint resolution expressing the sense of Congress that the Republic of Hungary has embraced democracy and renounced socialist rule; to the Committee on Foreign Affairs.

By Mr. HOYER:

H. Res. 186. Resolution designating majority membership on certain standing committees; considered and agreed to.

By Mr. SLATTERY:

H. Res. 187. Resolution to amend the Rules of the House of Representatives to establish certain requirements on the consideration of appropriation bills and conference reports on appropriation bills; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

206. By the SPEAKER: Memorial of the Legislature of the State of Minnesota, relative to the dairy industry; to the Committee on Agriculture.

207. Also, memorial of the Legislature of the State of Nebraska, relative to mining; to the Committee on Interior and Insular Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2: Mr. Olver.

H.R. 33: Mr. Rinaldo.

H.R. 66: Mrs. Unsoeld.

H.R. 311: Mr. Holloway.

H.R. 392: Mr. Sharp.

H.R. 534: Mr. Coble, Mr. Skelton, Mr. Sarpalius, Mr. Hastert, Mr. Schulze, Mr. Perkins, Mr. Jones of Georgia, Mr. Lightfoot, Mr. Oxley, and Mr. Tanner.

H.R. 670: Mr. Lancaster, Ms. Norton, and Mr. Espy.

H.R. 783: Mr. Combest.

H.R. 951: Mr. McMillan of North Carolina, Mr. Bilirakis, Mr. Goss, Mr. Wilson, Mr. Spratt, Mr. Kyl, and Mr. Ford of Michigan.

H.R. 1007: Mr. Payne of Virginia, Mr. Rogers, Mr. Leach, Mr. Lancaster, Mrs. Patterson, Mr. Coble, Mr. Nichols, Mr. Spence, and Mr. Spratt.

H.R. 1067: Mr. de Lugo, Ms. Ros-Lehtinen, Mr. Lightfoot, Mr. Nussle, Mr. McMillen of Maryland, Mr. Owens of New York, Mr. Brooks, Mr. Kasich, Mr. McEwen, Mr. McMillan of North Carolina, Mr. LaFalce, Mr. Gonzalez, Mr. Hayes of Louisiana, Ms. Norton, Mr. Chapman, Mr. Sawyer, Mr. Miller of Ohio, Mr. Early, and Mr. Roybal.

H.R. 1156: Mr. Abercrombie and Mr. Hochbrueckner.

H.R. 1259: Mr. Porter, Mr. Fawell, Mr. Gingrich, Ms. Horn, and Mr. Andrews of New Jersey.

H.R. 1300: Mr. Scheuer.

H.R. 1335: Mr. Rahall.

H.R. 1378: Mr. Taylor of North Carolina.

H.R. 1379: Mr. McNulty.

H.R. 1389: Mr. Smith of New Jersey.

H.R. 1406: Mr. Yatron and Mr. Spence.

H.R. 1450: Mr. Ford of Tennessee, Mr. Alexander, Mr. Gibbons, Mr. Hastert, Mr. Saxton, Mr. Gallo, and Mr. McHugh.

H.R. 1466: Mr. Erdreich and Mr. Kennedy.

H.R. 1527: Mr. Reed, Mr. McGrath, Mr. Rangel, Mr. Henry, and Mr. Slaughter of Virginia.

H.R. 1566: Mr. Andrews of Texas and Mr. Shays.

H.R. 1746: Mr. Costello, Mr. Hutto, Mr. McCloskey, and Mr. Peterson of Florida.

H.R. 1782: Mr. Richardson, Mr. Green of New York, Mr. Peterson of Florida, Mr.

DYMALLY, Mr. HOYER, and Mr. MILLER of Washington.

H.R. 2046: Mr. BATEMAN, Mr. RAY, and LIPINSKI.

H.R. 2115: Ms. SLAUGHTER of New York.

H.R. 2228: Mr. BLAZ and Mr. MILLER of California.

H.R. 2244: Mrs. LOWEY of New York and Mr. MFUME.

H.R. 2305: Mr. FROST.

H.R. 2336: Mr. STENHOLM, Mr. FORD of Tennessee, Mr. CUNNINGHAM, and Mr. MILLER of Ohio.

H.R. 2380: Mr. VOLKMER.

H.R. 2493: Mr. DANNEMEYER and Mr. PORTER.

H.R. 2515: Mr. MCHUGH, Mr. NICHOLS, and Mrs. MORELLA.

H.R. 2579: Mr. SKEEN.

H.R. 2661: Mr. SCHEUER, Mr. FROST, and Mr. ENGLISH.

H.R. 2715: Mr. RANGEL.

H.J. Res. 23: Mr. EDWARDS of Oklahoma, Mr. FASCELL, Mrs. JOHNSON of Connecticut, Mrs. KENNELLY, Mr. MANTON, Mr. MOODY, Mr. SAXTON, and Mr. SCHAEFER.

H.J. Res. 27: Mr. MURTHA.

H.J. Res. 102: Mr. BURTON of Indiana, Mr. DONNELLY, Mr. DICKS, Mr. DYMALLY, Mr. EVANS, Mr. COUGHLIN, Mr. KILDEE, Mr. WEBER, Mr. LEACH, Mr. HALL of Ohio, Mr. MICHEL, Mr. MILLER of Ohio, Mr. ATKINS, Mr. INHOFE, Mr. BERMAN, and Mr. EDWARDS of Oklahoma.

H.J. Res. 229: Mr. SMITH of Texas, Mr. SABO, Mr. BLILEY, Mr. WAXMAN, and Mr. FIELDS.

H.J. Res. 233: Mr. MACHTLEY.

H.J. Res. 269: Mr. SAVAGE, Mr. NEAL of Massachusetts, Mr. ANNUNZIO, Ms. LONG, Mr. PURSELL, Mr. TRAFICANT, Mr. PALLONE, Mrs. UNSOELD, Mrs. MORELLA, Mr. MCGRATH, Mr. MCNULTY, Mr. RAHALL, Ms. NORTON, Mr. DEFAZIO, and Mr. JOHNSTON of Florida.

H.J. Res. 271: Mr. ABERCROMBIE, Ms. PELOSI, Ms. NORTON, Mr. MCDERMOTT, Mr. SMITH of Florida, Mr. GORDON, Mr. DANNEMEYER, Mr. JEFFERSON, Mr. CRAMER, Mr. TORRES, Mr. SERRANO, Mr. MCNULTY, Mr. DYMALLY, Mr. RANGEL, and Mr. LAGOMARSINO.

H. Con. Res. 126: Mr. MCDERMOTT, Mr. WAXMAN, and Mr. LEWIS of Georgia.

H. Con. Res. 154: Mr. BRYANT, Mr. GEREN of Texas, and Mr. JOHNSON of Texas.

H. Con. Res. 163: Ms. KAPTUR.

H. Con. Res. 171: Mr. SMITH of Florida, Mr. JONTZ, Mr. BATEMAN, Mr. MCNULTY, Mr. KOSTMAYER, and Mr. PALLONE.

H. Res. 167: Mr. APPLEGATE, Mr. MILLER of Ohio, Mr. FROST, and Mr. HALL of Ohio.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

96. By the SPEAKER: Petition of King County Council, King County, WA, relative to funded family planning clinics; to the Committee on Energy and Commerce.

97. Also, petition of Embassy of the Republic of Nicaragua, Washington, DC, relative to terrorist acts; to the Committee on Foreign Affairs.

SENATE—*Thursday, June 27, 1991*

(Legislative day of Tuesday, June 11, 1991)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable TERRY SANFORD, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Righteous lips are the delight of kings; and they love him that speaketh right.—Proverbs 16:13.

When the righteous are in authority, the people rejoice * * *.—Proverbs 29:2.

* * * *the righteous are as bold as a lion.*—Proverbs 28:1.

God of our fathers, perfect in righteousness and justice, on this morning after the formal presentation of Senator BYRD's second volume of "The History of the Senate," with profound gratitude we express our appreciation for this uncommon man, this bold statesman, and for the labor of his hand. At this contradictory time in world affairs, as cynicism about our political system grows in America, half the world covets the secret of America's greatness and the effective working of its government for more than 200 years. Thank you for this book which not only reveals the facts about the U.S. Senate but reflects the respect and the reverence in which the Senate is held by the author.

Grant, mighty God, that this history will enjoy extensive and intensive examination by the people and their leaders.

In the name of the Lord of history. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 27, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TERRY SANFORD, a Senator from the State of North Carolina, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. SANFORD thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for the transaction of morning business, not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein, with the time between 9 o'clock and 9:20 under the control of the Senator from Nevada [Mr. BRYAN]; the time between 9:20 and 9:40 under the control of the Senator from Louisiana [Mr. JOHNSTON]; the time between 9:40 and 10 under the control of the Senator from Maine [Mr. MITCHELL].

Mr. BRYAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. BRYAN. Mr. President, I yield myself 8 minutes.

NATIONAL ENERGY SECURITY ACT

Mr. BRYAN. Mr. President, it has been 11 months since the armies of Saddam Hussein abruptly reminded us that we are too dependent on foreign oil. In those months immediately following the August 2 invasion of Kuwait, we watched as oil spiraled to prices not seen since the 1970's. We heard commentary about how vulnerable the Persian Gulf oil fields were to military attack. We are now in a recession that many analysts believe was made deeper by the Iraqi invasion.

America was reminded night after night through the network news of the high price we paid because of our dependence on foreign oil. We were reminded by the sight of the military buildup, and then the clash of arms that followed.

The shocking element in this story is that America has been there before. Three times in two decades America has been shown that tying our economic umbilical cord to the Middle East is too dangerous.

Beginning in 1973, the OPEC nations sought to punish America for our support of the State of Israel by imposing an oil embargo. Gas lines, shortages, and recession followed.

Again, in 1979, the fall of the Shah in Iran led to a massive runup of oil prices. Recession and inflation followed.

And then the third oil shock came with Saddam Hussein's invasion last year. Price runups and a plunge in consumer confidence followed, leading to a deeper recession.

While America's involvement in the Persian Gulf conflict has many causes, there is little doubt of the importance of oil. Our dependency on imported oil played no small part in the deployment of half a million American men and women to the gulf.

Three oil shocks, recession, inflation, and war—this is the cost of our dependence. It does not take a crystal ball to look at what America will face in the future, growing more dependent on a region in the world which has not known peace in a millennium.

It would be the height of arrogance and wishful thinking to believe that we will not face additional crisis and instability in this troubled region of our world.

Congress and the President must address this dangerous dependence. We must move away from our dependence on oil and move toward the use of renewable and alternative fuels. Mr. President, we must conserve.

S. 1220 does not address what should be our fundamental energy policy goals.

We cannot drill our way out of this dependence, even if we were willing to put aside our concern for the environment. It is worth noting that the advocates for increased drilling in the Arctic National Wildlife Refuge and other sensitive coastal regions do not claim that drilling will reduce our dependence. The oil industry poses a false choice between taking environmentally risky actions or increasing our dependence.

But that is not the choice we face.

We can move toward renewable and alternative fuels. We can increase energy conservation, especially with the automobile fleet. An improvement of 40 percent in the automobile fuel economy standards will save America 25 percent of all the oil we are importing today. A saving of 2.5 million barrels of oil per day as a result of improving automobile fuel economy is as much as eight times the amount of oil we may possibly gain from drilling in the Arctic Wildlife Refuge.

S. 1220 poses several false choices. It is argued that damaging the Arctic refuge and running risks on the Outer Continental Shelf is necessary. That reducing nuclear licensing requirements is necessary and can be done safely in order to increase electrical generation. That reducing consumer oversight of utilities is necessary to increase electric power generation. These, Mr. President, in my judgment, are all false choices and are lightning rods for opposition.

The so-called Public Utility Holding Company Act [PUHCA] reform is a deceptive measure which would actually encourage utility monopolies, and reduce State oversight and consumer protection. This provision of the bill encourages construction of new conventional baseload generating facilities, while diminishing incentives for least-cost utility planning, energy efficiency, and renewable energy sources. This provision threatens the consumer as well as the financial soundness of the electric utility industry, at the same time doing virtually nothing to improve our energy security.

S. 1220 is an energy industry bill, not an energy strategy for the Nation. Senators who want to see an approach emphasizing reducing oil consumption, protecting the consumer, and not sacrificing environmentally sensitive areas must say "no."

Mr. LIEBERMAN addressed the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BRYAN. Mr. President, I yield to the distinguished Senator from Connecticut 7 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut is recognized.

NATIONAL ENERGY POLICY

Mr. LIEBERMAN. I thank the Chair and I thank my colleague from Nevada.

Mr. President, on the floor of the Senate, we join the national debate over energy policy. It is a critical debate to our Nation's future. It is not surprising that this is a debate and we approach it from different points of view, because what is involved is a pressing need to change and how to change. A controversy always occurs when change is necessary.

May I say, Mr. President, that while on this occasion I speak in disagreement of the work of the chairman of the Energy Committee, the distinguished senior Senator from Louisiana, I do so with great respect and, may I say, affection. We share a common interest. We just approach it from different directions.

Mr. President, our Nation is in need of an energy policy and strategy that will lead us into the 21st century. Our present policy relies too much on oil, particularly foreign oil. And our strategy is to buy, produce, and burn more of it. That is neither the policy nor the strategy designed to deliver our Nation a secure economy or a healthy environment. The war in the Persian Gulf should be ample reminder of the threat this reliance on oil poses to our national security.

The response of the administration to these concerns has been to propose legislation which would not only continue our reliance on oil and other polluting sources, but increase it by proposing programs for petroleum exploration and production, as if we could produce enough oil at home to lessen our dependence on oil abroad. I spoke out against that plan when it was first released earlier this year, and now I must speak out again—this time against the same plan in a different form. S. 1220, the National Energy Security Act, has been reported out of the Energy and Natural Resources Committee, and it may come to the floor soon for a vote. In my view, this act is not the national energy plan our country desperately needs.

Mr. President, the Senate is a remarkable body, but we cannot legislate geology. No matter what bills we pass, the great bulk of the Earth's oil will lie under the Middle East. No matter what incentives we provide for domestic production, the United States will still have—at most—only 3 percent of the Earth's oil reserves. The Persian Gulf region, by comparison, has as much as 70 percent of the Earth's oil reserves. As long as we, in this country, continue to use 25 percent of those reserves, we will be dependent on foreign oil—no matter how much we produce at home. We cannot wean ourselves from dependence on foreign oil unless we wean ourselves from dependence on oil itself. Any national energy policy or strategy must move us in that direction. That is why I am so concerned about the plan which may soon come before us—it does precisely the opposite.

Consider the centerpiece of S. 1220 and of the administration's energy bill—opening up the Arctic National Wildlife Refuge to oil exploration. The administration's most optimistic estimates of how much economically recoverable oil there might be in the Arctic refuge adds up to a 200 days' supply for our country—if there's any oil there at all, which is not certain. But say there is; 200 days of domestic oil would not ease our dependence on foreign oil. Two hundred days of domestic oil would not lower the price of oil or protect us from price shocks. Two hundred days of oil would, however, provide the oil industry with a tidy profit at the expense of one of the great natural areas of the world.

I am not against companies making profit, Mr. President; I just don't think the U.S. Government should be giving away one of its great remaining natural treasures in the guise of energy policy. Just when this country should be seeking ways to move away from dependence on oil the administration comes forward with a plan to dig up a national treasure in order to produce a limited supply. I hope Congress will not go along with it.

Consider for a moment what the Arctic National Wildlife Refuge is and what it represents. It is the only conservation unit in the world which protects a complete working wilderness ecosystem from the boreal forests through the mountains to the high Arctic. That is to say, Mr. President, America is privileged to possess the world's most complete and productive Arctic ecosystem. It is home to one of the last great migratory game herds in the world. The porcupine caribou, 180,000 strong, migrate across Canada and the Brooks Range to the coastal plain of the Arctic National Wildlife Refuge to calve. The U.S. Department of the Interior has called their migration, arrival, and calving an extraordinary spectacle. The caribou, however, are not solely responsible for the extraordinary nature of this refuge. Polar bear den on the coastal plain. Musk oxen, moose, wolves, arctic foxes, wolverines, and grizzly bear, snow geese, waterfowl, and a variety of shorebirds share the tundra and its rivers. These animals exist on a fragile and limited ecosystem that would be destroyed for a century or more, according to the U.S. Department of the Interior, if we were to allow full oil leasing in this area. Also threatened are the native peoples who rely on a healthy Arctic ecosystem for subsistence. Sarah James, a Gwich'in, testified on behalf of her people before the Subcommittee on Environment and Public Works:

> In my village, about 75 percent of our protein comes from caribou. It's not just what we eat * * * Caribou are * * * in our stories and songs and the whole way of the world * * * it is who we are.

I spend this much time on the value of the Arctic National Wildlife Refuge because Energy Secretary Watkins testified before the Senate Energy and Natural Resources Committee that President Bush would veto any energy legislation that did not include the destruction of the refuge. Is this "who we are," Mr. President, when we urge Brazil not to burn down its rainforests? Is this who we are when we counsel China against reliance on coal or try to guide developing countries away from dependence on chlorofluorocarbons? If the destruction of the last intact and productive ecosystem of its kind in the world in exchange for 200 days' supply of oil and more profits for a handful of oil companies is who we are, how can we hope to convince other countries to join us in an effort to reduce reliance on fossil fuels or chemicals which are proven dangerous to our health and our planet?

Mr. President, the American people exhibit common sense when it comes to energy policy. A nationwide poll conducted by the Alliance to Save Energy found that three out of four Americans believe that reducing energy demand makes more sense than increasing energy supplies—particularly when those supplies are largely comprised of oil. The centerpiece of energy policy legislation coming out of the Congress should respect and reflect those American values. Sound energy policy should begin with strong conservation measures and effective energy efficiency measures.

The largest user of oil in this country is transportation. While records show that oil consumption has declined in many major sectors of our economy—in electricity generation it is down 50 percent, and industrial use of oil has dropped 10 percent—the use of petroleum in transportation has grown 20 percent since the boycott of 1973. In 1989, transportation accounted for 63 percent of the total oil consumed in this country every day, with more than half the amount allocated to transportation consumed by automobiles.

The Energy and Natural Resources Committee has an opportunity to mandate fuel efficiency in its bill, but it declined. Senator BRYAN has a bill which would raise the fuel economy of automobiles to 40 miles per gallon by the year 2000. Any serious energy policy would have as its centerpiece a strategy such as this. The Department of Transportation estimates that if we pass the Bryan bill this year we could save more than 49 billion gallons of gasoline by the year 2000. By 2005, these fuel economy measures would save more than 10 times the most optimistic estimates of oil to be found in the Arctic National Wildlife Refuge.

Mr. President, these savings would certainly improve the independence of our economy and our ability as Americans to protect the quality of our lives and our standard of living. Eighty-four percent of the American people support increasing the fuel efficiency of automobiles.

But there is another reason we should be seeking to curb our dependence of oil—it is not just the money it will save us or the independence from foreign influence it will secure us. By making millions of automobiles burn less gas, we could dramatically reduce—by 500 million tons—the amount of carbon dioxide that goes into the atmosphere and greatly boost our efforts to slow the threat of global warming.

The very last thing we need right now, Mr. President, is an energy policy that encourages sending more carbon dioxide into the air. But by encouraging more oil exploration, development, and consumption, that is what S. 1220 does.

Carbon dioxide is, everyone agrees, a dangerous greenhouse gas. It accounts for 55 percent of the gases that contribute to global warming. The United States, with about 5 percent of the world's population, generates more than 20 percent of all manmade emissions of carbon dioxide. A recent report by the Congressional Office of Technology concludes that present carbon dioxide levels are already higher than at any time in the past 160,000 years. The National Academy of Sciences in its report, "Policy Implications of Global Warming," notes that the atmospheric concentration of carbon dioxide has increased 25 percent during the last century and is currently increasing at about 0.5 percent per year.

There is widespread agreement among scientists that, in the absence of strong actions, the levels of carbon dioxide will continue to rise dramatically. The International Panel on Climate Change, comprised of scientists from countries around the world, and the U.S. Environmental Protection Agency, have concluded that an immediate 60- to 80-percent reduction in CO_2 emissions is necessary to stabilize concentrations at current levels, in addition to significant reductions in other greenhouse gases.

Mr. President, the National Academy of Sciences states:

> Despite the great uncertainties, greenhouse warming is a potential threat sufficient to justify action now.

The OTA report concludes with this warning:

> We cannot yet predict the magnitude of climatic effects from greenhouse gas emissions with accuracy. But it is clear that the decision to limit emissions cannot await the time when the full impacts are evident. The lag time between emissions of the gases and their full impact is on the order of decades to centuries; so too is the time needed to reverse any effects. Today's emissions thus commit the planet to changes well into the 21st century.

Eighty-four percent of the American public wants automobile fuel efficiency—to save money and gasoline. The leading scientists in the world are telling us we must reduce CO_2 emissions in order to slow global warming. And yet S. 1220 does not mandate fuel economy. Worse, it encourages a costly and dangerous dependence on oil.

It is bad enough, Mr. President, that the administration has failed to come up with an energy policy and the strategies needed to take our Nation into the 21st century; let's not see Congress fail as well. Sound energy policy should begin with strong conservation measures, effective energy efficiency measures, and the means to develop renewable energy sources. And the Federal Government should take the lead in implementing these strategies.

Administration policymakers seem intent on removing the Government as much as possible from the energy marketplace, but they cannot deny this reality—the Government is, at a cost to taxpayers of $4 billion each year, the single largest consumer of energy. At the same time, in the past 10 years, Federal funds for the research and development of alternative fuels has been slashed by nearly 90 percent. There is a way we could make the Federal Government conserve fuel and help develop at least one new alternative energy source. We could mandate that the Federal Government use alternatives such as fuel cells—in a limited way at first—in our Federal facilities. This use would demonstrate their value and stimulate larger markets for their use.

I mention fuel cells, Mr. President, because this technology and our handling of it seems to me to demonstrate just one more way in which a lack of a national energy policy which is responsive to our present dependence on oil is hurting us. Fuel cells are clean, renewable batteries; they are at the leading edge of energy technology, and they were developed largely in this country. But it is other countries—Japan and Germany—which are spending millions to refine and market them. The point is this, Mr. President, we have the technology and the inventiveness; we can develop alternative energy sources such as fuel cells ourselves, or we will end up having to buy them from our competitors in the global market.

Energy policy is economic growth policy. America wastes energy. American industry is the least energy efficient in the world. Our firms are 100 percent less energy efficient than our competitors in Japan and Germany. Than means our products are correspondingly less competitive. I support a new direction in energy policy—not just because our environment demands it, but because our long-term economic growth requires it.

The lack of a comprehensive national energy policy has hurt our Nation in four important ways: Our trade deficit goes up and our domestic economy suffers whenever world oil prices increase; other nations are winning a competitive edge in the development of new energy technologies; human health and the environment suffer because of our continuing use of polluting energy sources; and by continuing our dependence on oil which exists largely in unstable areas of the world, we put our national security at risk. The administration has done nothing to solve these basic problems. Neither does S. 1220 do anything to solve these basic problems—and worse—it has as its centerpiece the demeaning of the Arctic National Wildlife Refuge. We need to make a dramatic departure from the policies of the past and embark on a path toward a more conserving, efficient, clean, prosperous, and secure America. Mr. President, we do not yet have before us the legislation which will accomplish those goals.

I thank the Chair. I yield the floor.

Mr. BRYAN. Mr. President, I yield the remainder of time under my control to the distinguished Senator from Minnesota.

The ACTING PRESIDENT pro tempore. The Senator has until 9:20. The Senator from Minnesota is recognized.

A NATIONAL ENERGY POLICY

Mr. WELLSTONE. Mr. President, first of all, let me just echo the eloquent remarks of the Senators from Nevada and Connecticut.

This Nation desperately needs an energy strategy that responds to the very serious problems we can all foresee: threats to our environment, including global warming caused by our addiction to fossil fuels; vulnerability to energy supply disruptions and the sudden price increases resulting from our heavy dependence on foreign oil; and the decline in economic prosperity and international competitiveness which will be the hallmark of the 21st century if we fail to commit our resources to achieving world leadership in energy efficiency and renewable energy supply technologies.

The time is right for a new strategy. With public attention focused on these problems, with the American people supportive of major shifts to energy conservation, energy efficiency, and renewable energy sources, we have a historic opportunity to redirect our Nation's energy policies to shaping and managing the transition to a sustainable energy future.

Unfortunately, S. 1220 is not a new energy strategy. What began as a very promising Department of Energy effort 2 years ago when Secretary Watkins sponsored public hearings all around our country has been captured and led astray by interest group politics and, I think, White House ideologues.

This bill is fundamentally flawed. It does not change the dangerous direction of our current energy course, and it would be a disastrous framework for U.S. energy policy in the 1990's and on into the 21st century.

Mr. President, instead of the new energy strategy America needs, what has emerged from the Senate Energy Committee is a Christmas tree bedecked with presents energy industries have wanted for years. This bill would allow the Department of Transportation to establish future automobile fuel economy standards, the same agency that has vigorously opposed any increase in standards, the agency that has already rolled back CAFE standards when it had the opportunity.

This bill would mandate that the Arctic National Wildlife Refuge be leased and developed for its possible oil resources. One of the last remaining pristine wilderness areas in the United States would be sacrificed to the oil companies so that they could reap enormous profits for what would amount to at best a meager addition to our Nation's total oil reserves.

This bill would accelerate the licensing of nuclear powerplants by eliminating key public participation provisions and insulating Nuclear Regulatory Commission decisions from judicial review. In its rush to resurrect the moribund nuclear power industry, the bill would trample the rights of the public, and that is wrong.

This bill would authorize billions of tax dollars for nuclear energy and synthetic fuels demonstration projects in the name of advancing nuclear reactor and clean coal technologies.

This bill would advance deregulation of the electric utility industry, reopening the door to monopolistic practices in the wholesale generation of electricity, undermine promising State efforts to promote least-cost electric utility service, and encourage, I fear, the construction of unnecessary new generating capacity.

This bill would expedite gas pipeline construction by running roughshod over the rights of farmers and other property owners, restricting rights of citizens to participate in public hearings, and eliminating environmental review.

This bill would weaken the Clean Air Act under the guise of pollution control. It would allow refurbished power plants to ignore the emission control standards and exempt from public review the air pollution problems that would be caused.

This bill would cancel over $10 billion in debt owed to the U.S. Treasury by the nuclear industry for past uranium enrichment services and subsidize industry costs for cleaning up active uranium processing sites.

These are just some of the problems of this bill which have led me to the decision to vote against it in committee and to oppose it here on the Senate floor.

Mr. President, this is not the energy strategy that the American people want. It is not farsighted, and that is why I believe the bill has to be opposed.

ENERGY EFFICIENCY INITIATIVES IN S. 1220

Mr. JOHNSTON. Mr. President, S. 1220, the National Energy Security Act of 1991 contains the most comprehensive package of energy efficiency proposals currently before Congress. The table of contents of title VI of the bill lists over 25 provisions, including provisions designed to:

Increase energy efficiency in the industrial, commercial and residential sectors of the economy;

Encourage the Federal Government to use energy more efficiently;

Provide incentives to utilities to aggressively promote efficiency;

Assist State and local governments in implementing energy efficiency programs; and

Establish a program for the collection and resuse of used oil that is improperly dumped into the Nation's soil and water.

Virtually all of the energy efficiency proposals presented for the committee's consideration have been included in S. 1220 in some form. While the full Senate may debate how specific provisions should be strengthened or modified, S. 1220 puts nearly all viable nontax energy efficiency policy options into play for consideration by the 102d Congress.

Energy efficiency is an attractive policy option because it is a proven energy resource, and because it provides substantial environmental and economic benefits to the Nation in addition to enhancing national energy security. Since 1973, U.S. energy use has increased by 8 percent, while GNP has increased by 46 percent. This is a 30-percent reduction in energy use below that projected in 1973. The Department of Energy estimates that this efficiency increase resulted in annual energy savings in 1986—relative to 1973 trends—worth $180 billion.

A 1990 Oak Ridge National Laboratory study reports that the use of existing, cost-effective energy efficiency improvements could produce similar savings in the future.

Title VI of S. 1220 authorizes numerous initiatives designed to help achieve this potential. Some highlights are—

UTILITIES

The Nation's utilities are in a unique position to promote energy efficiency because of their technical ability to evaluate energy efficiency opportunities, their unique ability to communicate with their customers regarding such opportunities, and their ability to assist in financing energy efficiency improvements. Regulation of utilities is primarily a State, rather than a Federal function. Unfortunately, in most States a utility's profits are linked to its energy sales. Therefore, there is an institutionalized disincentive for utilities to promote measures that reduce sales even though they result in more efficient use of energy.

S. 1220 would reverse this situation, and would encourage utilities to aggressively promote energy efficiency, by directing States to consider allowing utilities to earn at least as much profit from energy efficiency program investments as they earn from energy production investments. Such a shift in State policy would convert the current disincentive into a powerful incentive.

In addition, S. 1220 encourages the States to consider directing utilities to adopt integrated resource planning and imposes integrated resource planning requirements on certain Federal power marketing agencies and the Tennessee Valley Authority. Integrated resource planning is a decision-making process that considers all of the alternatives for meeting utility service needs—including energy efficiency alternatives—before final investment decisions are made. Given the cost-effectiveness of many energy efficiency projects, the adoption of integrated resource planning by utilities and Federal power marketing agencies will result in more energy efficiency initiatives by utilities. Preliminary estimates by the American Council for an Energy Efficiency Economy are that these initiatives will save the Nation 1.3 quadrillion Btu (quads) per year by the year 2010.

APPLIANCE STANDARDS

Appliance and equipment standards established under the Energy Policy and Conservation Act [EPCA], are one of the most cost-effective Federal energy efficiency programs. The annual cost of the program to the Department of Energy is less than $5 million annually. However, the savings that result from the elimination of the least efficiency models of appliances are substantial. For example, the savings from the residential appliances under existing law, such as furnaces, water heaters, and air-conditioners, will reach nearly 1 quad annually by 2000.

S. 1220 expands this residential appliance program by establishing maximum flow rates for showerheads that would result in additional energy savings estimated at nearly 0.4 quads annually by 2010. Perhaps more importantly, S. 1220 establishes or authorizes standards for commercial and industrial equipment for the first time. It is estimated that the inclusion of commercial air-conditioning and heating equipment, lamps, and utility distribution transformers in the appliance standards program will save the Nation over 0.5 quads annually by the year 2010.

BUILDING SECTOR

Buildings consume roughly 36 percent of the Nation's energy, 30 quads, with 60 percent used in residential buildings and 40 percent used in commercial buildings. S. 1220 includes an extensive package of proposals to spur energy efficiency improvements in buildings. The bill requires the Department of Energy to establish voluntary National energy efficiency standards for residential A commercial buildings. Additional provisions include the establishment of voluntary national home energy rating guidelines, the promotion of energy efficient mortgages to assist in the purchase of energy efficient housing, the encouragement of stronger energy efficiency standards for manufactured housing by the Secretary of Housing and Urban Development, and the development of labeling programs for important building components such as windows and lighting.

Building standards have an enormous potential for energy savings, but are slow to produce results because of the slow rate of turnover in the Nation's housing stock.

These are just some of the highlights of the energy efficiency initiatives of S. 1220 with some preliminary energy savings estimates. As more specific estimates of the bill's impact on energy savings and production are developed they will be presented in the RECORD. I ask unanimous consent that a side-by-side comparison of energy efficiency provisions of the three principal Senate energy bills: S. 1220, S. 741, and S. 570, be printed in the RECORD, and finally, a summary of S. 1220 is available from the committee, and the committee report (S. Rept. 102-72) and copies of the bill are available from the Senate Document Room.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SIDE-BY-SIDE COMPARISON: ENERGY EFFICIENCY AND RENEWABLE ENERGY

Provisions	S. 1220 Johnston	S. 742 Wirth	S. 570 administration
Establishes a nonexclusive list of policies to be considered in devising a strategy for stabilizing greenhouse gases. Sets guidelines for U.S. policy with respect to an international framework convention on global climate change.	Sec. 1201	Sec. 5	Not included.
Requires that DOE's biennial National Energy Plan include a "Least-Cost National Energy Strategy" designed to outline policies and assign priorities among the energy resources that the Secretary determines to be the most cost-effective.	Sec. 1202	Sec. 101	Do.
Requires the Secretary to appoint a Director of Climate Protection to serve as the Department's representative on all interagency and multilateral policy discussions regarding global climate change.	Sec. 1203	Sec. 111	Do.
Designates additional duties for the Committee on Renewable Energy Commerce and Trade (CORECT) in order to promote the U.S. manufacture and export of renewable energy technologies.	Sec. 5101	Sec. 311	Do.
Establishes a complementary interagency working group—the Committee on Energy Efficiency Commerce and Trade (COEECT)—for the promotion and export of energy efficient technologies.	Sec. 5101	Not included	Do.
Expands the comprehensive data base and technology information dissemination system under CORECT. Establish renewable energy and energy efficiency industry outreach offices in the Pacific Rim and Caribbean.	Sec. 5102	Sec. 312	Do.
Requires comprehensive technology evaluation and report on technologies, services, etc., for renewable energy exports.	Sec. 5103	Sec. 313	Do.
Establishes an advanced research and development information computer network to provide information on energy efficiency and renewable energy.	Not included	Sec. 304	Do.
Expands the joint venture program under the Renewable Energy and Energy Efficiency Technology Competitiveness Act to include biofuels energy systems, high-temperature and low-temperature geothermal energy systems, solar water heating technologies, photovoltaic and wind energy systems, biomass direct combustion or gasification technologies, fuel cell technologies, and utility-scale photovoltaic systems.	Sec. 5201	Sec. 305 and Sec. 235. Joint ventures limited to photovoltaics and fuel cells. See Sec. 235.	Do.
Directs the Secretary to conduct a program to promote and demonstrate the commercial application of fuel cell systems in Federal buildings.	Not included	Sec. 235	Do.
Directs the Secretary to conduct a joint venture for energy technology export training.	Sec. 5201(a)	Not included	Do.
Grants authority to the Secretary of Energy to "buy-down" or subsidize interest rates on private bank loans in order to leverage long-term financing for the solar, biomass, and wind industries.	Sec. 5201(c)	......do	Do.
Requires the Secretary to undertake a report evaluating opportunities to minimize waste outputs from production processes in United States industry.	Sec. 5202	......do	Do.

SIDE-BY-SIDE COMPARISON: ENERGY EFFICIENCY AND RENEWABLE ENERGY—Continued

Provisions	S. 1220 Johnston	S. 742 Wirth	S. 570 administration
Amends EPCA to encourage the development and implementation of renewable energy and energy efficiency projects at the State and local level.	Sec. 5203	Sec. 302	Do.
Establishes a facility—the Spark Matsunaga Renewable Energy and Ocean Technology Center—for cooperative research and development in Keahole Point, Hawaii.	Sec. 5204	Not included	Do.
Authorizes funds to enable the Federal labs to better provide current information on renewable energy and energy efficiency to industry, the public, and Government.	Not included	Sec. 303	Do.
Authorizes funding of 4 pilot programs for demonstration of renewable energy and energy efficiency.	......do	Sec. 303(b)	Do.
Establishes a program at the Department of Energy, in consultation with the National Academy of Sciences, for awarding cash prizes for technical achievement in the following technologies: solar thermal; photovoltaics; windpower; sustainable biomass; and geothermal.	Sec. 5205	Not included	Do.
Directs the Secretary of the Interior to study and implement water use efficiency measures at Federal reclamation projects for purposes of increasing hydropower production, making more efficient use of project power, and providing more water for fish and wildlife.	Sec. 5304	......do	Do.
Amends the Renewable Energy and Energy Efficiency Technology Competitiveness Act to remove the authorization limitation for renewable energy research and devlopment programs.	Sec. 13109	Sec. 301	Do.
Amends the Renewable Energy and Energy Efficiency Technology Competitiveness Act to remove the authorization limitation for energy efficiency research and development programs.	Sec. 13110	Sec. 201	Do.
Requires the Secretary of Energy to issue a Federal building energy code to assure that all new Federal buildings include energy efficiency measures that are technically feasible and economically justified.	Sec. 6101	Not included	Do.
Requires all buildings receiving Federal mortgages to meet or exceed the Federal Residential Building Code.	Sec. 6102	Section 221. All *new* construction must meet updated State building codes.	Do.
Requires the Secretary to support and participate in the upgrading of the voluntary industry building energy codes, and authorizes incentive funding to States and localities which adopt energy building codes at least as stringent as the voluntary industry code.	Sec. 6101	Sec. 224	Do.
Directs States and localities to certify that they have reviewed and updated their residential and commercial building codes to be at least as stringent as the voluntary industry code with respect to energy efficiency.	Not included	Sec. 221	Do.
Directs the Secretary to issue voluntary guidelines to be used by States, local organizations and others to develop energy rating systems for residential buildings. Authorizes technical assistance to encourage the adoption of rating systems.	Sec. 6102(a)	Sec. 222	Do.
Encourages the use of energy efficient mortgages to maintain housing affordability by authorizing a requirement that homebuyers be notified of the availability of energy efficient mortgages at the time of mortgage application. Provides credits for solar energy.	Sec. 6102(c). Links uniform mortgage financing plan to Federal building codes.	Sec. 222. Homes must include efficient mortgage provisions and standards.	Do.
Requires the Secretary to make recommendations to the National Commission on Manufactured Housing and HUD regarding energy efficiency improvements to manufactured housing (mobile homes).	Sec. 6103(a)	Sec. 223	Do.
Requires the Secretary to test the performance of manufactured housing.	Sec. 6103(b)	Sec. 223	Do.
Directs the Secretary to pursue a research and development program and joint venture program to improve efficiency in energy-intensive industries and industrial processes.	Sec. 6104	Sec. 212	Do.
Directs the Secretary to prepare a report evaluating the potential of current energy efficiency policies to decrease overall U.S. energy use and oil consumption per unit of GNP.	Sec. 6105	Sec. 202	Do.
Requires the Secretary, in cooperation with utilities and major industrial energy consumers, to establish voluntary guidelines for the conduct of energy audits, and for the installation of insulation, in industrial facilities.	Sec. 6106	Sec. 213	Do.
Authorizes the Secretary to establish a program to establish reporting requirements and energy consumption targets for certain energy intensive industries.	Sec. 6108(c). Requires the Secretary to submit a report on the costs and benefits of such a program.	Sec. 214. Program is mandatory.	Do.
Requires the Secretary to provide financing for the voluntary development of a nationwide program to develop energy ratings and labels for windows and window systems. Requires the FTC to develop such a program if it is not done voluntarily within two years.	Sec. 6107	Sec. 225	Do.

SIDE-BY-SIDE COMPARISON: ENERGY EFFICIENCY AND RENEWABLE ENERGY—Continued

Provisions	S. 1220 Johnston	S. 742 Wirth	S. 570 administration
Directs the Administrator of the EIA to expand the scope and frequency of data collection under the National Energy Information System in order to improve the ability of the Department of Energy to evaluate the effectiveness of energy efficiency policies and programs.	Sec. 6108	Sec. 215	Do.
Requires the Secretary to provide financial and technical assistance to support the voluntary development of a labeling program for lamps and luminaires. Requires the FTC to develop such a program if it is not developed voluntarily within 2 years.	Sec. 6109	Not included	Do.
Adds lamps, commercial air conditioning and heating equipment, motors and utility distribution transformers to the appliance energy efficiency program, and requires the Secretary to conduct a study of the potential benefits of upgrading utility distribution transformers at the time of their routine maintenance.	Sec. 6110. Does not include electric motors. Sets an industry standard for package heating and cooling systems.	Sec. 226	Not included. Precludes standards for lighting systems.
Requires the Secretary to support the development of a voluntary labeling system for commercial office equipment.	Sec. 6110	do	Not included.
Establishes energy efficiency standards for showerheads	Sec. 6111	do	Do.
Requires Federal agencies to install energy efficiency improvements with pay-back periods of 10 years or less and establishes a Federal Energy Efficiency Project Fund for DOE to encourage agencies to undertake energy efficiency improvements in Federal facilities. Encourages shared savings contracts.	Sec. 6201(a,d)	Sec. 231. Prohibits funding for agency construction in States where energy efficiency requirements have not been met.	Do.
Requires that all government leased space constructed after January 1994 meet the Federal building code under EPCA.	Sec. 6201(b)	Not included	Do.
Directs agencies to participate in utility energy efficiency incentive programs.	Sec. 6201(f)	Sec. 231	Do.
Directs GSA to identify the energy cost-effectiveness of items listed in the GSA Federal Product Schedule.	Sec. 6201(d)	do	Do.
Prohibits Federal acquisition of cars with fuel economy less than CAFE for the previous model year. Exceptions for armed forces, law enforcement, and emergency vehicles.	Sec. 6201(f). Only requires consideration of fuel economy.	Sec. 232	Do.
Authorizes the Secretary to provide bonuses of up to $5,000 to Federal facility managers for success in saving energy.	Sec. 6201(f)	Sec. 231. No limit on awards.	Do.
Requires the Secretary to submit a plan to Congress for the demonstration in Federal facilities, or by Federal agencies, of energy efficiency technologies that have received Federal assistance for research and development and which the Secretary has determined are ready for commercialization.	Sec. 6202	Sec. 234	Do.
Directs the Secretary to report on the potential of using Federal purchasing power to encourage the development and commercialization of new energy efficient products.	Sec. 6203	Sec. 236	Do.
Requires State commissions to consider decoupling regulation of utility profits from power sales in order to remove the disincentives for utilities to pursue demand side management and energy efficiency resources; requires State commissions to consider requiring utilities to engage in integrated resource planning (IRP).	Sec. 6301. Includes cost of environmental *compliance* in utility's least cost plan.	Sec. 241. Includes cost of environmental *degradation* in utility's least-cost plan.	Do.
Considers measures to increase the efficiency of energy use as "qualifying facilities" and thus eligible for programs under PURPA.	Not included	Sec. 241(c)	Do.
Establishes grant program for encouraging the consideration by State utility commissions of demand-side management measures in order to meet future demand for electricity.	Sec. 6302. Grants limited to $500,000 per State.	Not included	Do.
Requires Southwestern Power Administration and the Southeastern Power Administration to consider requiring nonregulated utility customers to implement IRP as a condition of future power contracts.	Sec. 6303	do	Do.
Directs Power Marketing Administrations and customer utilities to acquire all feasible and cost-effective power from energy efficiency.	Not included	Sec. 242. Adds triennial program review and includes environmental costs.	Do.
Requires the Tennessee Valley Authority to employ Integrated Resource Planning in exercising its functions.	Sec. 6304	Sec. 242(f)	Do.
Provides for financial assistance to Insular area governments, for the purpose of encouraging the adoption of energy efficiency and renewable energy measures.	Sec. 6501	Not included	Do.
Authorizes the Secretary to provide up to $1 million per State to capitalize a revolving fund for energy efficiency projects in State and local government buildings in those States which have demonstrated a commitment to improve building energy codes.	Sec. 6502	do	Do.
Authorizes supplemental grants to Weatherization Program grant recipients to cover the costs of arranging private sector contributions to the program, and to cover the costs of training and educational activities between program grant recipients.	Sec. 6503	do	Do.

SIDE-BY-SIDE COMPARISON: ENERGY EFFICIENCY AND RENEWABLE ENERGY—Continued

Provisions	S. 1220 Johnston	S. 742 Wirth	S. 570 administration
Authorizes State Energy Conservation Programs to use Federal funds to assist in training building designers and contractors in energy systems, energy efficiency, and renewable energy technologies.	Sec. 6504	Sec. 227	Do.
Authorizes supplemental funding under the existing State Energy Conservation Programs to increase public understanding of energy issues and to provide teacher training in energy education.	Sec. 6505	Not included	Do.
Sets guidelines for the Secretary to provide financial assistance to tribal governments to plan and implement energy efficiency and renewable energy projects.	Sec. 6506	do	Do.
Requires State Energy Conservation Plans to provide for vehicles to turn left from a one-way street onto a one-way street at a red light as a condition for receipt of Federal SECP funding.	Sec. 6507	do	Do.

Mr. JOHNSTON. Mr. President, my three distinguished friends and I agree on one set of facts I believe, that this country is in a heck of a fix. These charts which I have very graphically illustrate what our fix is.

The first red line here is U.S. petroleum consumption. Mr. President, from 1980 to 1990, we have gone up and up and the projection by the Department of Energy is for a very rapid ascent on energy consumption.

On energy production, Mr. President, it is the same kind of slant of the line, only petroleum production is going down, from a high of 10 million barrels a day in about 1985, already repidly going down. And the projections are that it is going to be even more rapidly descending. What this line tells us is that no matter what we do this country is going to be heavily dependent upon imported crude oil with or without drilling in ANWR, with or without an elephant finding of oil in Alaska. We are going to be heavily dependent.

The results of this, in terms of trade deficits are, as you would expect, frightening. Here is the trade deficit; the yellow line and the black line represents the oil import bill. The oil import bill now makes up over a third of the total trade deficit, will soon be half the trade deficit, and will grow from there.

Finally, Mr. President, what is the outlook? The outlook in term of crude oil is even worse. The outlook of things to come is shown by the rotary rigs in operation. This is what we look for when we look for what the trends will be. These are the rotary rigs, from a high of 4,000 rigs shortly after 1980 when the price was up. We have gone down now to in the neighborhood of 500 rotary rigs.

We are in a heck of a fix, Mr. President.

Mr. President, I hope I do not sound patronizing or arrogant when I point out that my three colleagues who have just spoken are all freshmen. I came here as a freshman in 1972, arrived on the Energy Committee under the late, great "Scoop" Jackson. And in the intervening 19 years I have seen just about everything tried in terms of energy, participated in much of it, and reported much of that legislation.

I was a coauthor of the first solar bill that I recall up here under the late, great Hubert Humphrey. I was here when Jimmy Carter said we are going to have 20 percent solar by the year 2000. We have a little more than the equivalent of one nuclear power plant, about 1,000 megawatts, in solar energy that has been produced, solar energy properly defined.

That does not mean we should not continue with solar. We should. And in my Appropriations Subcommittee we provide money for solar. I am for giving more money to solar, but keep it in perspective.

We tried gasohol. In my State, we subsidized gasohol at $1.60 a gallon. We had a $26 million Federal loan guarantee for one gasohol plant that was going to help our sugarcane industry as well. They could not even get it off the ground. But gasohol has a niche too.

We have tried shale oil. I remember Dr. Hammer came up here and told us shale oil was going to be the solution to this whole thing. And you might have read just the other day where Unocal shut down after losing several hundred million in their shale operation even though it was being subsidized by the Government at over $40 a barrel.

I reported the synfuels bill to the Senate floor. We passed it into law, and later the Congress saw fit not to pursue the synfuels bill. Part of that decision was good; part of it was not so good.

We have tried regulation under Nixon and Ford. We have tried deregulation under President Reagan. We have tried the free market under President Reagan. We have tried the Project Independence under President Nixon. We have tried the National Energy Act, which I reported under President Carter in five ambitious parts. We tried the Energy Security Act under President Carter, the free market under President Reagan. We have tried secondary and tertiary recovery under the Energy Policy and Conservation Act. We have tried tax benefits for stripper wells. I helped cosponsor that.

We have heard the nuclear industry in years past say nuclear energy is going to be too cheap to measure. We have tried fuel efficiency, which has worked up to a point. We have tried CAFE standards. We have done conservation. We reported more conservation bills out of our committee than any other committee, and there are literally hundreds of pages of laws respecting energy conservation. We have tried electric cars, alternate fuels, clean coal, and the list goes on and on, Mr. President. And I have participated in it.

But those charts show the inexorable trend. We are more and more dependent. We just sent 500,000 American men and women to the Middle East to risk their lives, and some did not return, because, to a large extent, of energy.

Mr. President, things need to change in this country. I have heard all this pie in the sky about this one single solution. I have heard solar energy. I have heard CAFE. I have heard it all. I have participated in almost all of it, Mr. President, over 19 years. And there is one thing that is indelibly clear—that there is no one solution.

All I heard out of my distinguished freshmen friends today is CAFE, and I agree CAFE ought to be part of that solution. But we have a bill in 15 different titles.

That is what the country needs. The Department of Energy says our bill, S. 1220 will save 6 billion barrels a day, and we do not do it all by ANWR, by the Arctic National Wildlife Refuge drilling. But, Mr. President, Arctic National Wildlife Refuge is an important part of it. There might be as much as 200 billion dollars' worth of oil there. There might be that much. There may be nothing there. We do not know. But it may be that much.

By gosh, if we have it, we ought to go see. We are told that is a pristine area. It is not. There is a village there with people living, and automobiles and laundries, food being cooked, and all of that, a village, Kaktovik. There is a radar station there. There is hunting allowed—blood sports if you will—hunting allowed out there in the Arctic National Wildlife Refuge. It is not unique.

Do you know how many acres there are in the area we want to drill? There are 1.5 million acres, a lot of acres. Do you know how many acres are in the entire coastal plain of Alaska? There are 53 million with 8 of 19 million acres in the Arctic National Wildlife Refuge itself.

Mr. President, the tundra is one of the most prolific life forms in the world.

Get a map of the Arctic and you will see that the ice cap is surrounded by tundra. In Canada, you can go into Canada 300 miles from the U.S. border or more than that—my counsel has been there 300 miles, and he says it looks just the same, same kind of Eskimo, same habits, same tundra. Fifty-three million acres in America, in Alaska, and we want to drill on 1.5 million, and we are told it is unique, it is pristine, more valuable than anything else.

Of course, it has value, Mr. President. But I submit to you, compared to the Gulf of Mexico, where we produce 2 billion pounds of commercial seafood, it produces no commercial seafood. It produces vanishingly small amounts of sports fisheries. You might have three or four people on a given day fishing there. Tens of thousands are out in the Gulf of Mexico.

But you say drill in the gulf, in the Rockefeller Wildlife Refuge, in Mobile Bay, drill anywhere down south, but please do not drill on this piece of frozen tundra called the Arctic National Wildlife Refuge. Mr. President, that will not wash, not when we had 500,000 American men and women over in the gulf because of energy.

Mr. President, we need to do it all. We need to do it all: ANWR, nuclear, CAFE, energy efficiency, alternate fuels; everything we can get our hands on, we need to do. That is what our bill, at 6 million barrels a day, does.

The ACTING PRESIDENT pro tempore. The Senator's time is up.

Mr. JOHNSTON. I yield to my distinguished friend from Wyoming the remainder of the 10 minutes.

Mr. President, I think Senator CONRAD wanted some time, as well, but I will give it to the distinguished Senator from Wyoming, and perhaps we can find a way to let people speak.

Mr. WALLOP. Mr. President, is there 10 minutes remaining?

The ACTING PRESIDENT pro tempore. About 9 minutes.

NATIONAL ENERGY SECURITY

Mr. WALLOP. Mr. President, I doubt if there is one Member of this body that has not criticized the failure of Congress to formulate a national energy policy, or lamented the economic and trade consequences of our country's critical dependence on imported oil from the politically unstable Persian Gulf. Over the years, at one time or another, each of us has characterized the formulation of a long-term, comprehensive, and consensus-based national energy strategy as one of the most important tasks facing the Congress.

The debate over national energy policy has racked this body for more than 40 years—long before many of us entered public service. Yet we are still at it.

The Interior and Insular Affairs Committee's 1951 report, Senate Document 82–8, supported, and I quote, "the formulation of policies designed to increase the availability of reliable energy resources by drawing more heavily on those which are inexhaustible, such as water, wind, and the Sun;" what are now called renewable resources, and continuing, "by improving the methods of producing exhaustible resources; and by encouraging the more efficient consumption of energy," all the objectives that are being stated here today, 40 years later. The study then went on to cite the universal objective that all of this must be done to the, and I quote, "end that the American people may have the assurance that their energy resources will not be dealt with so improvidently as to limit the ever higher and higher level of living possible with our national genius and our wealth of resources," end quote. But that did not easily come about.

The committee was to return to the need for a national energy policy, again in 1961 and 1962, and again from 1971 through 1976, when the Senate commissioned further investigations into our Nation's energy posture and the need for a national energy policy.

In 1962, the Senate's National Fuels and Energy Study Group observed when submitting its report to the then committee chairman, Senator Clinton P. Anderson, and I quote, "we found ourselves continuously dismayed to learn how little positive information exists, how much is impression and folklore, in subject area after subject area, in industry after industry. Belief in this folklore is deep and it is held with passionate, thought honest, tenacity. Too often, to our minds, have we been forced to write: 'No one knows * * *.'" But once again, we continued to muddle forward through the 1960's into the 1970's without a comprehensive energy policy. Only with the recent Persian Gulf crisis did the need for a national energy policy again receive the attention of the Congress.

Mr. President, the National Energy Security Act of 1991 responds to this need. The measure sets forth such a strategy; one that will not only further our national security interests, but will also create American jobs, help our balance of payments, and lessen our dependence on foreign energy markets and international cartels.

Over the last few months the committee has worked closely with the Department of Energy and the White House to formulate comprehensive legislation that will set our Nation on the right course toward the more efficient use of energy and greater energy self-sufficiency. The American people deserve nothing less from their elected leaders.

As a consequence of these energy efficiency and production initiatives, oil imports are expected to be reduced in the year 2000 by an estimated 2.9 million barrels a day and in the year 2010 by over 6 million barrels a day. These savings are achieved by major energy conservation and energy supply initiatives in six complementary areas; and I emphasize, complementary areas.

Our country is fortunate to have a broad spectrum of energy resource choices—energy conservation, coal, uranium, oil, natural gas, and renewables. A successful national energy strategy should provide sufficient flexibility for all of these alternatives to compete in the marketplace. It is a balanced bill that deserves enactment this year.

At this precise moment which follows a war in the Persian Gulf, we should be in a period of unusually clear thinking. Unfortunately, however, some of our colleagues are operating in a fog.

The American people, and indeed the world, are ready for such a reexamination of our joint dependence on the Persian Gulf for those energy supplies that are critical to all of our economic futures.

Mr. President, S. 1220, the National Energy Security Act of 1991, is a balanced bill that provides a long-term, comprehensive, and consensus-based energy policy for the United States. By reporting the S. 1220, the National Energy Security Act, the committee demonstrated that it is possible for representatives of this body to address complicated issues such as national energy policies in a comprehensive and balanced manner. What now remains is for the full Senate to bring up the bill and deal with the issues before us.

I ask unanimous consent that some related materials be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE DEPUTY SECRETARY OF ENERGY,
Washington, DC, June 25, 1991.

Mr. HOWARD RIS,
Executive Director, Union of Concerned Scientists, Cambridge, MA.

DEAR MR. RIS: The "legislative alert" issued by the Union of Concerned Scientists (UCS) on energy bills being considered in the Senate contains a number of misleading comparisons, glaring omissions, and incorrect data which we feel should be brought to your attention. We do this in the hope that notwithstanding UCS positions on the legislation in question, the energy debate might benefit from greater accuracy.

First, the National Security Act of 1991, reported by the Senate Energy Committee as S. 1220, contains 16 titles that address virtually every aspect of energy production, transformation, transportation, and use. Yet your summary only mentions three items covered by the legislation, and mentions none of the provisions that deal with electricity and transportation efficiency, renewable energy, natural gas, research and development of innovative technology including electric vehicles, hydrogen, fuel cells and biomass energy.

Secondly, relative merits aside, the Motor Vehicle Fuel Efficiency Act of 1991, or S. 279, is not, and was never intended by its author and sponsors as, a substitute for S. 1220 because S. 279 addresses only one energy issue. It should be noted that S. 279 was proposed as an amendment to Title III of the National Security Act and was rejected decisively by the Committee on a bipartisan basis.

Furthermore, neither the author of S. 279, nor any of its sponsors has, to our knowledge, ever claimed that its implementation would result in oil savings of 2.5 million barrels/day of oil by 2005. It is technically impossible to obtain such savings either in 2005 or in 2010.

Thirdly, the Energy Security Act does not "reassess," as your publication claims, the President's determination to defer leasing in certain environmentally sensitive areas off the Atlantic and Pacific Coasts pending further study. On ANWR, your statements are also misleading. The fact that "only" five percent of the world's oil reserves are in the U.S., compared to 50% in the Persian Gulf is, contrary to your assertion, a very good reason for developing our domestic resources if we want to reduce our reliance on imports from insecure sources.

A further argument for the careful development of a small portion of ANWR is that without it, the entire production of Alaska oil is in jeopardy. That is so because current North Slope production of 1.9 million B/D is expected to slide to less than 500,000 B/D by 2005, thereby raising the real probability that the Trans Alaska Pipeline could no longer be operated economically. Such a prospect would have the effect of shutting in all remainig Alaska production, and raising U.S. levels of import dependence to between 65% and 70% of consumption.

Fuel efficiency is not an alternative to ANWR. Rather, fuel, efficiency, alternative transportation fuels and technology, ANWR, and increased lower-48 oil production will all be necessary if we are to reduce our reliance on insecure supplies of oil.

Fourth, your assessment of the impact of PUHCA reform, as proposed in the Energy Security Act and by the National Energy Strategy, is contrary to every analysis known to us. PUHCA reform does not represent an alternative to efficiency investments, as you claim, but increased competition in the power generation sector. Increased competition is one of the best means of assuring that the best technology reaches the market at lowest cost to consumers, and that electricity is produced and distributed efficiently.

There is no evidence to suggest that PUHCA reform would disadvantage renewable energy technologies. On the contrary, PUHCA reform would encourage the use of innovative technologies.

Finally, neither the NES nor the Energy Security bill would in any way, as you state, "undermine nuclear reactor safety and public confidence in the nuclear industry." Nuclear safety has been a hallmark of policies pursued by Secretary Watkins, at home and abroad. The licensing reforms being sought are intended to render the process more transparent and rational for all concerned, not to shut the public out.

Furthermore it is incorrect to state, as does your legislative alert, that "neither the NRC nor the nuclear industry can point to a single case where operation of a nuclear reactor was inappropriately delayed by public hearings." Shoreham and Seabrook are the two most recent cases in point.

In summary, we believe that an objective reading of the Senate energy bill and of the Natinal Energy Strategy, and a rigorous examination of the data and analysis that support these comprehensive policy initiatives would lead to entirely different conclusions than those represented in your "legislative alert." We believe that your constituents deserve a more objective presentation of the issues than you have provided.

With best personal regards, I remain,

Sincerely yours,

W. HENSON MOORE.

UNION OF CONCERNED SCIENTISTS,
Washington, DC.

WHAT THE JOHNSTON-WALLOP BILL DOES

This bill has something for everyone (except the American public). For the coal industry, the bill provides incentives for 'clean coal' technologies and coal exports, and open-ended funding for a new government 'coal refining program' (shades of the late, unlamented Synthetic Fuels Corporation boondoggle!). The oil industry gets access to the Arctic National Wildlife Refuge and a 'reassessment' of those environmentally sensitive offshore areas currently protected by moratoria on oil drilling. The nuclear industry wins provisions virtually shutting the public out of the nuclear power plant licensing process and writing off nearly $10 billion in unrecovered government investments in uranium enrichment facilities.

While it includes some measures on energy efficiency and renewables, these are limited. There is no requirement for increased fuel economy standards for automobiles and light trucks (which use much of our oil), no efficiency standards for electric motors (which use half of our electricity), no major shift in federal research and development spending away from fossil fuels and nuclear power to energy efficiency and renewables (which now get only about 13% of the nearly $3 billion energy R&D budget).

Three specific provisions of S. 341 are of greatest concern:

Arctic Oil Drilling: S. 341 would allow drilling in the Arctic National Wildlife Refuge, a major arctic coastal ecosystem of global significance. Other provisions of the bill would lay the groundwork for increased drilling off the Atlantic and Pacific coasts. The bill ignores the fact that only 5% of the world's oil reserves are in the U.S., while almost 50% are in the Persian Gulf. Drilling in even the most environmentally sensitive areas will not provide a significant amount of oil to displace imports and pales in significance when compared to the amount of oil that can be saved by increasing vehicle fuel economy standards, promoting increased car and van pooling, and other conservation measures not included in the bill.

PUHCA 'Reform': S 341 would amend the Public Utility Holding Company Act in ways that will undermine recent state utility commission initiatives to advance conservation and efficiency as alternatives to new power plants. It will also reduce the ability of renewable resources to compete. The bill would allow utilities to create affiliates to build power plants and sell power back to themselves or to other utilities, largely circumventing state regulatory review. This will encourage utilities to build new coal, gas and nuclear plants rather than making more cost-effective, environmentally-sound investments in energy efficiency measures. Because the bill does nothing to address the utility monopolies' stranglehold on the electricity transmission grid, it could worsen the competitive position of independent power producers and hurt prospects for increased electricity production from renewable sources like solar and wind.

Nuclear Licensing: S. 341 would attempt to speed up the current licensing process by authorizing a one-step licensing procedure, and eliminating the right of public intervenors to raise significant new safety issues at the operating license stage. This measure is designed to encourage investment in the nuclear industry by assuring operation once a plant has been built, but it goes too far. By preventing the public from raising valid safety issues, S. 341 would undermine both nuclear reactor safety and public confidence in the nuclear industry. All this despite the fact that neither the Nuclear Regulatory Commission nor the nuclear industry can point to a single case where operation of a nuclear reactor was inappropriately delayed by public hearings.

Mr. WALLOP. Mr. President, it is as though we are walking down a path with Alice in Wonderland. Those who have criticized this bill have clearly not read it. There is not a Member of Congress that has not pontificated about the lack of a comprehensive national energy policy, and these Senators come in here with absolutely no alternative, except CAFE—Nothing comprehensive about it. CAFE by itself will not do it. Oil production by itself will not do it. Nuclear production by itself, as the Senator from Louisiana has said, will not do it. Conservation by itself will not do it.

But, Mr. President, it would help if the critics of this bill had alternatives that they were willing to offer. It would help if the critics of this bill would recognize that, since time immemorial, this Congress has been trying to come up with an energy strategy.

We believe in an America that has an economic future in the new age and not in the stone age. We believe in an America that is responsible.

There are 15 titles in here, almost equally divided between production and conservation There is balance, bipartisanship, and there is intelligence in this. And I say again, Mr. President, the critics come down here without a solitary thing to offer in its stead. They criticize. They, like all the rest of us, have continued to pontificate about the lack of a comprehensive national energy strategy. One single bullet will not do that.

Mr. President, in the interest of trying to save time for other Senators, I yield the subsequent 3 minutes to Senator NICKLES.

THE NATIONAL ENERGY SECURITY ACT OF 1991

Mr. NICKLES. Mr. President, I wish to rise and congratulate Senators WALLOP and JOHNSTON for their statements. I echo what they have said.

Mr. President, I urge the Senate to pass S. 1220, the National Energy Security Act of 1991. This measure is a comprehensive package of energy initiatives addressing a broad variety of initiatives in energy conservation, in research and development, and in increasing the efficient supply of energy. The bill also allows a small portion of the Arctic National Wildlife Refuge to be leased for oil production to help sustain Alaska's vital oil production, which is now in significant decline as the 15-year-old Prudhoe Bay field enters its final stages of productivity. While I disagree with a few of the provision in this package, it nevertheless represents a comprehensive and effective approach to reduce our Nation's dependence on foreign oil.

The energy bill contains strong medicine for curbing our appetite for foreign oil, yet it will not be unhealthy for the country and our struggling economy. Importantly, the National Energy Act avoids extreme measures such as mandating consumers have available for purchase only 40-mile-per-gallon cars. Like a miracle diet pill or magic elixir, a high CAFE standard, such as proposed in S. 279, the Motor Vehicle Fuel Efficiency Act of 1991, will be costly, ineffective, and injurious to the economic health of the country.

Adding S. 279, frequently referred to as the Bryan CAFE bill, will waste thousands of lives on U.S. highways, waste millions of consumer dollars on unnecessary additional costs for vehicles, eliminate from sale safe and affordable vehicles people need, and seriously damage the largest industry in the United States, the automobile manufacturing industry. All this tragic waste and destruction is certainly not intended by supporters of the Bryan CAFE bill, but it will be the consequence of the unrealistic and arbitrary mileage goals set forth in that bill.

We all share the common goal of reducing our country's dependence on foreign oil. Foreign oil imports are already almost half of our annual petroleum consumption, and over half of our trade deficit last year—costing the U.S. economy $54.7 billion. The preliminary estimates of the Department of Energy are that the Energy Committee's bill, by increasing conservation and production, will decrease oil imports in 2000 by at least 2.9 million barrels a day, and over 6 million barrels a day by 2010. By contrast, the DOE estimates the Bryan CAFE bill will reduce imports by 500,000 barrels a day by 2000, and 1 million barrels a day by 2010.

The Senate Energy Committee bill contains a number of provisions to increase the use of alternative fuels in cars and trucks. Several alternative fuels, particularly natural gas and liquefied petroleum gases, are cleaner burning than gasoline and are abundant domestic fuels that can directly replace imported oil without having to resort to mandating consumers buy diminutive 4-passenger cars.

Moreover, the Senate Energy bill contains a CAFE increase provision—one that requires the Federal agency with the technical expertise to undertake a public rulemaking to set new CAFE standards for 1996 and 2001 at the maximum feasible levels, using all known fuel-saving technologies that can reasonably be expected to be applied and maintaining model year 1990 performance levels, size mix, and interior volume.

The proponents of higher CAFE standards insist that if Congress waives a magic regulatory wand, the automakers will invent technology that will give us roomy cars that get 35 or 40 miles per gallon. After all, proponents argue, "We can make smart bombs, why can we not make fuel efficient cars?" Well, we can, and we do. Six different manufacturers make cars today that have a combined EPA rating of close to or better than 40 mpg. All seat two adults, have two rear seats and weigh about 2,000 pounds compared to the industry average of about 3,200 pounds. However, in 1989, less than 2.5 percent of the car-buying public purchased gasoline cars averaging 40 mpg or better, despite heavy incentives being offered by manufacturers.

The most significant problem with bills that order manufacturers to dramatically increase new car fuel efficiency is that most of the fuel-efficiency technology has already been incorporated in today's cars. During the past 15 years, domestic manufacturers have doubled the mileage of their fleets. This increase in fuel efficiency has been accomplished without a significant reduction in the average car's interior space. Manufacturers have aggressively reduced weight—about a thousand pounds off of the average car—primarily by reducing car length and going to front wheel drive. Manufacturers are building cars with more efficient engines and tires, front-wheel drive, computer-controlled fuel injection and aerodynamic styling.

However, most of the cost-effective measures have already been used to increase fuel efficiency. For example, almost 100 percent of all Chrysler and Honda cars sold today are front wheel drive. So, where is the dramatic fuel economy increase envisioned in the Bryan bill going to come from? It will come predominately from further downsizing, which will give the large cars of the next decade the size, comfort, and safety of today's smallest cars.

Any large increase in fuel economy—even to levels far below those in the Bryan CAFE bill—will either require smaller cars or cars made with exotic metals, such as magnesium, and advanced technology, both of which will be expensive. I think cars are already too expensive. The average car sold in 1990 was $16,017, of which over $2,500 is already the direct result of Federal safety and pollution regulations imposed since 1968, not counting the hundreds of dollars that the new clean air amendments are expected to add during the 1990's.

The proponents of higher Federal CAFE standards argue that we Americans must "change the way we do business" and learn to be happy with small cars with less carrying capability and less safety on the highways. I want to see higher gas mileage, but I firmly believe that Congress should not mandate the size of car Americans must buy. It is particularly important that Congress not be tempted to force Americans into small cars given the National Highway Traffic Safety Administration finding that the occupant death rate in the smallest cars is double the rate for the largest cars. Passage of a bill mandating a large increase in CAFE standards will have the effect of sentencing to death thousands of men, women, and children every year. There are, simply put, a number of competing interests that need to be considered along with the goal of decreased gasoline usage.

And lets look at the CAFE issue in context: The current recession has deeply hurt the domestic automobile industry. The domestic automakers—which have lost $4.6 billion in the past two quarters—have less money for subsidizing and advertising lower mpg cars, and less money available for R&D. The lack of resources is becoming acute in the auto industry because of the very significant demands being placed on fuel and engine system redesigns by the recently enacted Clean Air Act amendments, and by increased safety regulations being imposed by the National Highway Traffic Safety Administration.

The realities of the marketplace and the lessons we have learned should give us enough hindsight to avoid making the mistake of Congress setting arbitrary CAFE standards. The Senate Energy Committee bill's directed rulemaking approach injects a large dose of common sense into this CAFE debate by establishing practical criteria for a rulemaking by the appropriate agency, rather than having Members of Congress simply pull mileage numbers out of the air and put them in binding legislation.

The most economical way for the United States to reduce its dependency on foreign oil is by increasing its own oil production. Every barrel of domestic oil produced immediately replaces a barrel of oil that would otherwise be imported. Domestic oil production will help bridge the gap between today's transportation fueling infra-structure based almost exclusively on gasoline and diesel to tomorrow's infrastructure which includes a variety of alternative motor fuels, including natural gas and electricity.

The site in the United States with the largest potential for new oil production is in a small portion of the Alaska National Wildlife Refuge. The Energy Committee bill would allow the oil leasing on selected tracts within the Coastal Plain of the 19-million acre refuge for environmentally sound oil production.

Onshore Arctic oil production has an excellent environmental record. The mere threat of serious curtailment of future oil production from Alaska's North Slope, and decades of intense governmental and private sector scrutiny has spurred the major Arctic oil producers to unprecedented levels of environmental sensitivity. In the 25 years since Prudhoe Bay, gravel pads for drilling and producing oil has been reduced in size by 70 percent, due largely to advances in directional drilling. In addition, the number of gravel roads and the size of oil and gas separation facilities have been reduced by 50 percent. Most importantly, reliance on Prudhoe and Deadhorse facilities will enable the support services areas in ANWR to be less than 10 percent of those earlier service areas.

There have also been tremendous advances in production waste management practices on the North Slope. Now, brines produced with the oil are injected into permitted disposal wells and drilling mud reserve pits are lined and continuously monitored. One company has installed new technology that allows elimination of the reserve pits on drilling pads by simultaneously reinjecting drilling muds brought up by the drilling operations.

The original arguments against opening the Coastal Plain out of concern for welfare of the caribou in ANWR has been exposed as a red herring. Detailed scientific research over the past decade years shows that the caribou will not be adversely affected by oil development in the Coastal Plain lease tracts. Moreover, the experience with the central Arctic herd near Prudhoe Bay oil fields has been overwhelmingly positive: That herd has grown over 500 percent in the last 13 years.

We need to increase domestic oil production. We must face the fact that our Nation will be dependent on oil for decades to come. Oil is and will be for decades to come the world's cheapest and most convenient energy resource. We will be heavily dependent on petroleum for transportation for many decades whether or not Congress were to mandate only tiny new cars can be sold. We should use the billions of dollars in economic activity and taxes from producing oil in ANWR for the betterment of our society and to reduce our trade deficit. Using ANWR bonus and royalty revenues to fund energy conservation or research incentives is a far better energy policy than mandating CAFE standards that are far beyond what is feasible or safe.

The Energy Committee worked hard, and we did come up with a bipartisan and a good energy package. I heard Senator WELLSTONE say this was nothing but "gifts to the energy industry." I will tell him that is exactly wrong.

Many people in my State feel like we did not do hardly anything for the independent producer, and we did not do enough to stimulate domestic production, particularly in the lower 48 States.

Senator BRYAN mentioned that we need to do much more in mandatory CAFE standards. He did not say "mandatory," but that is what is in his bill, to make all cars average 40 miles per gallon. Frankly, there are six car manufacturers right now making cars that are available to be sold in the United States that get 40 miles per gallon, but the vast majority of people do not want to buy them. So we are going to mandate that the automobile industry sell them, and mandate, I guess, that people buy them. Frankly, they probably will not, so we are going to cost a lot of jobs.

Not only that, but I heard Senator LIEBERMAN say that we cannot legislate geology. Frankly, we cannot legislate physics either. If we are going to mandate that these cars average 40 miles per gallon, they will be about the same size as the cars we are making today that get 40 miles per gallon. They are more fuel efficient, but also much more dangerous. Senator BRYAN's CAFE bill will cost lives; it will cost jobs; and it will deny consumer choice. I think that is a serious mistake.

We need a balanced energy package. Actually, we have that in the bill before us. People are saying it does not go far enough, so they are against the whole package. And I think they are being very shortsighted indeed.

Senator JOHNSTON mentioned that we are spending about one-third of our trade imbalance on oil. Actually, it is over half. Last year we spent $54.7 billion on oil imports. We need to reduce that figure. This bill we have before us today is a giant step in that direction.

I yield the floor.

THE NEED TO OPEN ANWR

Mr. MURKOWSKI. Mr. President, we are hearing today arguments that were presented in the mid-1970's, at a time when this body was debating the merits of the trans-Alaska pipeline system [TAPS]. Since TAPS was built in the mid-1970's, it has transported about 24 percent of the total crude oil produced in the United States. The doom seekers said that the caribou would not cross the pipeline, that it will be a disaster environmentally. Prudhoe Bay, today, is better than any other oil field in the United States, and we are proud of it. We can do even a better job is we open the coastal plain of ANWR to oil and gas exploration and development.

I get frustrated when I hear my colleagues from Connecticut and Minnesota make generalities with regard to the job we are doing in Alaska. We are doing a good job. The generalization that there is only a 200-day supply of oil in the 1002 area is fraught with unrealistic interpretation. If there is only a 200-day supply of oil, it would be the third-largest oil field ever found in the United States next to Prudhoe Bay and east Texas. If there is a 600-day supply, Mr. President, that would be the largest field ever found in the United States.

The caribou issue is flawed, Mr. President. We started with about 3,000 caribou before we built Prudhoe Bay. Today, there are over 18,000 caribou in the central Arctic herd. In fact, there are more caribou than people in Alaska. We take care of the caribou in Alaska.

Many of the Senators against environmentally sound oil and gas exploration and development are spouting environmental liberalism of the worst kind. Their generalizations are wrong. Many of these people have never been to my State of Alaska.

Mr. President, the Arctic National Wildlife Refuge is made up of an area that already contains 8 million acres of wilderness in perpetuity. It will never be changed unless by Congress—9 million acres are protected by the refuge. There are over 19 million acres altogether in the ANWR area. We are only proposing to open 1½ million acres of this area.

As the Senator from Louisiana said the footprint will be 12,500 acres if we find oil. That is about the size of the Dulles International Airport. That is what my colleagues on the other side do not mention. They do not mention that we can be responsible, we can develop, for the energy security of this country.

Mr. President, Prudhoe Bay is declining at 10 percent per year. Where are we going to get the additional oil? Common sense tell us that we will have to increase imports from the Middle East.

There are many things I could say, and I wish my colleagues would avail themselves of a trip up there and see for themselves. We have done a good job. We can do a better job if we are lucky enough to find oil. If we do not find oil—the whole thing is academic—the development scenario will be removed from the area, and it will return to its natural state which is basically snow and ice for four-fifths of the year.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent to print in the RECORD an article from the Wall Street Journal in support of opening ANWR along with a further statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, May 30, 1991]

ENERGY REALISM

Over the past 10 years there can hardly have been a more overworked phrase in public life than—"What this country needs is a workable energy policy." Well, if the purpose of such a policy is to produce more energy for the U.S., then we've finally got one. It remains to be seen now whether Congress will manage to kill it.

Last week, the Senate Energy Committee approved the Bush blueprint for a National Energy Strategy by a remarkable 17-to-3 vote with only minor changes. The Bush program largely relies on market forces and American ingenuity to provide the energy a growing economy needs. It makes a few symbolic bows to industrial-policy programs such as ethanol boondoggles and the like, but the strategy like the Members of the Senate's Energy Committee, appears to have accepted history's lesson that markets have built-in incentives for efficiency and conservation.

The rest of the Senate and the House, however, will be a tougher sell. Some parts of the Bush bill, such as deregulating natural-gas pipelines and researching high-efficiency engines, aren't controversial. But in three key areas—nuclear power, auto mileage standards and oil prospecting—expect a knockdown, drag-out fight.

Streamlining the licensing of new nuclear plants. Not a single nuclear plant has been built for more than a decade; the hysteria whipped up over the Three Mile Island accident in 1979 saw to that. Today a new and much safer generation of nuclear reactors is now ready, but no nuclear plants, no matter how safe, can be built under current licensing rules. A process of endless public hearings exists simply to stop construction. The Seabrook, N.H., plant was delayed for three years, at a cost to the utility and rate-payers of over $1 billion. President Bush wants to allow a "one-stop" licensing system that combines the current sets of hearings into one, while still allowing full public comment.

No artificial increase in CAFE fuel-economy standards. In the 1970s, Congress imposed auto fleet-mileage standards, called CAFE, on U.S. car companies in response to the "energy crisis." Since then, CAFE has saved a little energy at enormous cost, surrendered much of the domestic luxury-car market to foreigners and forced Americans to drive smaller, more vulnerable safe cars. But austerity-worshipers, with Nevada Senator Richard Bryan as their vehicle, want to order up a new average mileage standard of 40 miles per gallon from the current 27.5. And they aren't much inclined to wait for a National Academy of Sciences study on what standards are cost-effective or even technologically feasible.

The Department of Transportation estimates that the smaller cars mandated by the Bryan bill would increase annual highway fatalities by between 600 and 1,140. Harvard public-health professor John Graham says the Bryan bill would more than wipe out the safety benefits gained from installing air bags.

Allowing oil exploration and drilling in a portion of Alaska's coast. A 20-by-100 mile stretch of Alaska's harsh northern coast may contain the last major oil deposit in North America. The Interior Department says there's a 46% chance of finding recoverable amounts of oil and a decent chance the find could rival the nearby Prudhoe Bay field, which provides 25% of the U.S. domestic oil supply.

Environmentalists bitterly oppose any intrusion into the Maine-sized Arctic National Wildlife Refuge, 92% of which is off-limits to any exploration. But in 1980 Congress agreed that the remainder could be developed with little or no risk to the environment. However, some Members want to lock it up.

To Senator Max Baucus of Montana it is "one of the five greatest places on earth." But ANWR's coastal plain is no Yellowstone. The area is a barren, marshy wilderness in the summer and a frozen desert the rest of the year. Only about 150 naturalists or outdoorsmen visit it in a given year. The experience of the nearby Prudhoe Bay field indicates that developing ANWR would affect only about 13,000 acres out of 1.5 million, a minute percentage of the whole. All equipment would be carefully removed and the ground reseeded after the extraction of any oil. Environmentalists won't even discuss the issue. "There can be no compromise," says Allen Smith of the Wilderness Society. "The refuge must not be violated, or it will be destroyed."

This sort of environmental absolutism upsets Brenda Itta Lee, and Inupiat Eskimo official from Alaska's North Slope, "Since it's our home, we care about the area even more than others," she says. "But oil revenue has meant a better life for us. If ANWR is locked up, my people lose a lot. A balance can be struck."

Finding a balance between legitimate environmental concerns and the real-life needs of people is at the heart of President Bush's energy program. Its opponents have forgotten that human beings must also be an integral part of the environmental equation.

Mr. MURKOWSKI. Mr. President, the Senate will soon be asked to decide whether to open the Arctic National Wildlife Refuge [ANWR] to oil and gas exploration and development.

Some may never have heard of ANWR. ANWR is a little 19 million acre piece of Alaska tucked away north of the Arctic Circle, next to United States-Canada border. The refuge is about the size of South Carolina, six times the size of Connecticut. Within ANWR there are 8 million acres already designated as wilderness an area the size of Massachusetts.

WHY IS IT IMPORTANT TO OPEN ANWR?

The 1.5 million acre area within ANWR, called Coastal Plain contains the single most promising on-land area in the United States for discovery of major oil and gas reserves. The ANWR Coastal Plain potential reserves could yield the third largest U.S. oil field ever. The mean estimates are 3.2 billion barrels and high estimates are 9 billion barrels. The Coastal Plain of ANWR could provide 10 percent of U.S. domestic production.

STATUS OF ANWR LEGISLATION

The Johnston-Wallop National Energy Security Act of 1991 was reported out of the Energy Committee on May 23, 1991, and contains ANWR leasing title.

S. 1220 is a balanced bill which contains provisions of energy conservation, development of alternative energy sources, and increased domestic oil and gas production.

The environmental activists want more conservation and less production. Conservation as a sole solution is simply not realistic.

I agree we need conservation, but we also need production. History has shown we need both conservation and production.

In the mid-1970's this Nation adopted CAFE standards saving roughly 1.4 million barrels of oil per day. We also brought the Prudhoe Bay field into production at 2 million barrels per day.

FIVE MAIN ARGUMENTS FOR OPENING ANWR

National Energy Security

The United States has become dependent on other countries to meet its energy needs.

The U.S. consumes 17 million barrels of oil per day but only produces 7.4 million barrels per day. Over 50 percent of our oil comes from foreign sources.

The Persian Gulf war showed that the Middle East is unstable, and the problem is getting worse. OPEC countries provide 25 percent of U.S. oil supply today, 53 percent of our imports are from OPEC countries. Compare this with 1985 when U.S. imports were only 31 percent and only 11 percent of U.S. oil supply was from OPEC. Worldwide, OPEC accounts for 33 percent of world oil production.

And U.S. production continues to decline. U.S. oil production is at its lowest point in 26 years. Domestic production is currently 7.4 million bbls/day and dropping at a rate of 3 to 4 percent per year.

Alaska's oil fields, which provide 25 percent of the total U.S. oil production, are also declining. Prudhoe Bay field, the largest oil field in the United States, is declining at 10 percent per year.

Where will our oil come from to replace lost production without opening new domestic oil fields like ANWR? Probably from oil reserves in the Middle East.

Conservation alone is simply not enough. We must make the tough decisions.

Every major oil field in the United States is declining.

Prudhoe Bay, which supplies 24 percent of our domestic oil supply is declining at 10 percent per year.

We must make the tough decisions that will allow this lost production to be replaced by domestic oil fields, not by oil reserves in the Middle East.

The U.S. consumption of oil is flat. The real growth is in the Third World.

Third world energy use is increasing by 10 percent per decade.

In fact third world oil use is expected to rise over 155 percent from 1985 to 2010.

Developing countries accounted for 17 percent of world commercial energy consumption in 1973. Now they account for 23 percent of energy consumption and this consumption is expected to grow to 40 percent by the year 2020.

There are 600 new cars a day in Singapore, Thailand, and Korea. These countries want an increased standard of living.

ANWR is cornerstone of President's NES and Johnston-Wallop bill.

In the Johnston-Wallop bill ANWR revenues fund over 60 percent of the bills conservation measures, everything from energy efficient homes, solar energy, and clean coal technologies, to tax breaks for electric cars.

Admiral Watkins testifed he will recommend a veto if the ANWR title is not in the Johnston-Wallop bill.

This leaves our friends in the environmental community faced with an interesting dilemma.

If they strip ANWR out of the Johnston-Wallop bill or succeed in putting ANWR into wilderness then they bear the responsibility for killing the entire energy strategy.

CONCLUSION

Mr. President, 150 to 200 people visit ANWR each year. How does that compare with the millions of Americans who would benefit from reducing our excessive dependence on imported oil? In addition ANWR could create 735,000 jobs nationwide and boost our GNP by $54 billion.

These are some of the important issues my colleagues need to understand as the Senate debates the merits of opening ANWR and the future of the entire national energy strategy.

Mr. WALLOP. My thanks and respects go to the chairman of the committee, Senator JOHNSTON, without whom none of these efforts would have taken place. I again point out this is a bipartisan comprehensive effort.

EXTENSION OF MORNING BUSINESS

Mr. WALLOP. Mr. President, I ask unanimous consent that the time for morning business extend for 5 minutes, with the time going to the Senator from North Dakota.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WALLOP. I yield the floor to the Senator from North Dakota.

ENERGY SECURITY

Mr. CONRAD. Mr. President, I thank the Chair and the Senator from Wyoming as well.

First of all, I commend the chairman and the ranking member and the other members of the Energy Committee who have brought this bill to the floor.

Mr. President, I do not know what could be more clear than that this Nation requires an energy policy. The only policy we have had for the last decade can be summed up in one word, "import."

Today, as we meet, Mr. President, we are importing 50 percent of the oil supplies required by this country. We have spent over $50 billion importing that oil and, we have just had 500,000 young Americans put their lives on the line, at least in part because of our dependence on foreign crude oil.

What could be more clear than the time is now for a national energy strategy and a national energy policy?

What will it take before people are ready to come to this floor and cast the tough votes and to say to each and every one of these interest groups now is the time to put the national interest above the special interest?

Mr. President, do we have to wait until we are 65 percent dependent on foreign crude oil? Do we have to wait until this Nation is held hostage by a series of foreign potentates before America responds? I hope not.

Every interest group has its view on this bill, Mr. President. The administration opposes stronger fuel efficiency. The automobile industry opposes stronger fuel efficiency. The environmentalists oppose opening ANWR. The administration says if you do not open ANWR, we are against the bill. The oil industry opposes alternative fuels, and on and on it goes. Interest group after interest group is opposed to some part of this bill.

The attitude is: "This dog has fleas. Let's kill it." If that is the attitude that prevails on the floor, Mr. President, we will have no energy bill.

This is not a perfect bill. Mr. President, I strongly agree with some on the floor today who say that we should have stronger fuel efficiency standards in this bill. I fought for that in the committee. I will fight for that on the floor. It ought to be included, it ought to be part of a national energy strategy and a national energy plan.

But, Mr. President, fuel efficiency alone is not an energy policy. Fuel efficiency alone is not an energy strategy. This bill does provide the framework. This bill does provide alternative fuels, renewables, conservation, production. This bill does provide the framework.

Thirteen hearings, Mr. President, thirteen markup sessions, untold hours of effort have gone into this bill. It is a good framework. It is considered legislation, and it deserves to be considered.

Mr. President, the time is now. What could be more clear than the national interest demands a national energy strategy and a national energy bill? The chairman and ranking member have brought such legislation to the floor. They deserve our support. This bill can be improved, it should be improved, and I hope it will be. But the bottom line, Mr. President, is this bill provides the framework for moving this Nation forward. I hope my colleagues will pay close attention to the details and support it.

I yield the floor.

Mr. LAUTENBERG. Mr. President, I rise today to join with a number of my colleagues to express my concern about S. 1220, the National Energy Security Act. This bill would put the Nation in overdrive for environmentally destructive energy development and leave us in neutral on increased fuel efficiency.

Today I want to discuss two of the fundamental flaws in the bill—the absence of a mandated increase in automobile fuel efficiency standards and the proposed oil and gas development of the coastal plain of the Arctic National Wildlife Refuge [ANWR].

Mr. President, we often hear talk about "the energy crisis." But the United States does not have a shortage of energy. Rather, we are too dependent on liquid fuels and too reliant on foreign oil—a reliance which makes us dependent on foreigners, and which adversely affects our balance of trade. Too much of the world's oil is under the control of the Mideast countries—37 percent of the world market, and 24 percent of U.S. imports. And U.S. oil imports are too high—around 50 percent of our oil use or roughly 8.5 billion barrels per year.

Energy use has another important dimension, its effect on our environment. Some sources of energy cause significant, adverse environmental impacts—local, regional, and global.

So, in establishing energy policy, we must reduce our reliance on unstable sources of oil and stimulate sources of energy which minimize environmental impacts. In my view, this means the heart of our policy should be energy conservation. The United States has an enormous potential to conserve energy. If the United States used energy as efficiently as Japan, we could lower our national fuel bill by $200 billion every year. Per capita energy use in the United States is more than double that of Japan, France, and Italy and close to double that of the United Kingdom and West Germany. We must tap into our energy conservation potential.

We also must develop clean alternative fuels and renewable energy sources.

Unfortunately, S. 1220 focuses on environmentally damaging energy production and gives short shrift to energy conservation.

The single most important step we can take in addressing this energy crisis is to increase automobile fuel efficiency standards. Over 60 percent of our use of oil is for transportation. So if we are going to reduce our dependence on oil, we must focus on the transportation sector and increase automobile fuel efficiency.

That is why I am a cosponsor of S. 279, the Motor Vehicle Fuel Efficiency Act. It expands on the original 1975 Corporate Average Fuel Economy [CAFE] Act which resulted in an approximate doubling in automobile fuel efficiency. Despite the auto companies' fears that the standards were unachievable, they managed to meet those standards. The increased CAFE standards in S. 279 would result in an additional savings of over 2 million barrels of oil every day by 2005. That's 2 million barrels of oil which do not have to be imported—each and every day. A renewable source of 2 million barrels of oil a day.

Increased CAFE will reduce emissions of carbon dioxide. The United States emits more CO_2 than any other nation—about 20 percent of the world's CO_2 emissions. And automobiles account for 25 percent of the U.S. contribution of CO_2 emissions. So if we are going to be serious about reducing emissions of greenhouse gases as was recommended by the National Academy of Sciences, we are going to have to increase our fuel efficiency.

Mr. President, S. 1220 does not require an increase in fuel efficiency standards. It merely gives the administration the authority to set a higher standard. That's like letting the fox guard the chicken coop. This administration has done little to hide its disdain for an increase in CAFE standards.

S. 1220 would instead open the Arctic National Wildlife Refuge to oil and gas drilling. It would have us try to produce our way out of our oil shortage. But Mr. President, we can save almost 10 times more oil each and every day by 2005 through increased CAFE standards than we can through drilling in ANWR. And even if oil is found in ANWR, it is a finite resource. It will run dry.

But even more is at stake in ANWR than energy development. After the *Exxon Valdez* spill 2 years ago, I visited both the spill and the coastal plain of ANWR.

What I saw was the best of nature and the worst of man.

I saw the best of nature in the Arctic Refuge, an area which even the Department of the Interior says, "is the only conservation system unit that protects, in an undisturbed condition, a complete spectrum of the arctic ecosystems in North America."

Beauty, wilderness, pristine. These words simply fail to capture what I saw, and what is at stake if we allow oil and gas drilling to proceed.

Unfortunately, in seeing the spill in Prince William Sound, I saw the worst of man. I saw how carelessness despoiled a rich ecosystem. Dead wildlife, oil-coated beaches.

This devastation by man stands in stark contrast to the beauty of nature I saw.

And that is what is at stake as we consider S. 1220. Do we want to preserve that unique beauty of nature? Or do we want to create an industrial complex of drill sites, waste pits, roads, pipelines, spills, and pollution?

Do we want to develop the ANWR, to keep feeding our fossil fuel appetite, or do we want to conserve fuel resources, develop alternative sources of energy and preserve our pristine lands?

Mr. President, S. 1220 fails to establish the energy policy that we need and that the American people want. I will be working with my colleagues in the days ahead to develop a policy which provides the emphasis on energy efficiency, alternative fuels and renewable energy which we need.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The remarks of Mr. MITCHELL pertaining to the introduction of S. 1399 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DOMENICI. Mr. President, parliamentary inquiry. Is there any time remaining for morning business?

The ACTING PRESIDENT pro tempore. There are 2 minutes remaining.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time for morning business be extended until 10:10 a.m. to permit the Senator from New Mexico to address the Senate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. DOMENICI. I thank the Chair.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 1400 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. KERRY. Mr. President, I want to commend Senator JOHNSTON for taking on the effort to craft a necessary and long awaited energy strategy. For the past decade the Nation's energy strategy has been no strategy at all. In stark contrast, S. 1220 addresses almost every aspect of the energy area. Senator JOHNSTON's diligence in this area, and his legislative competence, are impressive. His bill without question an impressive product. However, there are provisions in the bill that I find extremely troubling. I am not prepared today to detail my view on the whole bill, but instead would like to focus my attention on an issue of great concern to me because it undermines some of the accomplishments contained in last year's Clean Air Act.

I am very concerned with section 14201 of S. 1220 known as the WEPCO fix, because it would exempt nearly all refurbished powerplants from controls required by the Clean Air Act of 1990. This section would undermine important pollution control programs designed to curb acid rain and urban smog. If enacted into law, the amended section could result in large localized increases in sulfur dioxide and nationwide increases in nitrogen oxides and particulate emissions. As we discussed last year during the clean air debate, these pollutants harm human health, damage forests and lakes, shroud our national parks in haze, and cause urban smog. This unprecedented weakening of the Clean Air Act of 1990 would harm public health and our environment.

Last year I thought we made it abundantly clear. Sulfur emissions from coal-fired power plants combine with moisture in the atmosphere to form acid rain. Acid rain kills our rivers, lakes and streams in New England, destroys our forests and causes structural damage to our historical buildings and statues. But most important, acid rain causes thousands of premature deaths annually.

In a study known as the Harvard six-city study, it was found that exposure to acid air pollution, particularly fine particles associated with airborne sulfates, produces respiratory symptoms in children, particularly an increased incidence of bronchitis in children.

The Environment Committee concluded:

> There is no disagreement among medical researchers that precursors of acid rain are a serious health threat.

In addition to the increased health care costs, acid rain is bankrupting our environment. The Congressional Research Service reported in a study that acid rain and air pollution annually causes $1.7 billion in forest-related damage in the eastern United States. An Office of Technology Assessment study estimated that 3,000 lakes and 23,000 streams in the eastern United States are already acidified or have virtually no acid neutralizing capacity left. Fishing and tourism industries also suffer.

Mr. President, powerplants also spew nitrogen oxides (NO_x) into the air, which causes four air pollution problems. First, NO_x combines with moisture to form acid rain. Second, and more deadly, NO_x combines with hydrocarbons in the presence of sunlight to form ground level ozone, often called smog. Third, NO_x contributes to the growing threat of global warming by trapping heat in the atmosphere. Fourth, airborne NO_x emissions are responsible for one quarter of the nitrogen pollution in the Chesapeake Bay, and pollutes other bodies of water as well.

Ozone is a major lung irritant, and can cause or exacerbate respiratory ailments. Children, senior citizens, and people already suffering from lung ailments are particularly vulnerable to harm from smog. Scientific evidence indicates that over the long term, chronic exposure to ozone may produce an accelerated aging of the lung analogous to that produced by cigarette smoke exposure.

Over 80 metropolitan areas around the country currently violate Federal health standards for urban smog, exposing over 100 million Americans to unhealthful levels of air pollution. Recent studies by Harvard public health researchers determined that 2 to 4 percent of excess deaths in New York City were due to air pollution.

Particulate emissions also pose a direct threat to human health. A recent study by the Environmental Protection Agency [EPA] determined that particulates cause tens of thousands of premature deaths annually.

The Clean Air Act regulates emissions of these pollutants from new powerplants fairly strictly, but grandfathers most existing sources permitting them to avoid complying with the stricter requirements. This dual system of regulation was based on the utility industry's assertion that many older powerplants would soon be retired, so the industry argued that it made little sense to require the installation of expensive pollution controls on aging plants. The retirement of existing sources over time would mean that eventually all sources would operate under tighter new-source rules.

Once this dual system was established, however, many utilities then wanted to evade the stricter controls required for new powerplants by significantly refurbishing the old plants to extend their lives. To eliminate this loophole which allows continued high levels of pollution from refurbished plants, the act now requires these plants to meet the same, stricter standards required for new powerplants. Section 14201 of S. 1220 creates a giant, dangerous loophole in the Clean Air Act by enabling refurbished powerplants to evade new-source-emission requirements.

Section 14201 of S. 1220 would weaken the Clean Air Act of 1990 in the following ways.

First, refurbished powerplants would be exempt from new source performance standards, the stricter emission standards required for new powerplants, even if refurbished plant increases its actual power generation and consequently its sulfur emissions.

S. 1220 allows refurbished powerplants to evade new source performance standards as long as the refurbished plant does not "increase the maximum hourly emissions of any pollutant regulated under that section above the maximum hourly emissions achievable at that unit during the last 5 years of operation prior to the change."

This provision purports to protect people from increased emissions from a refurbished powerplant. However, a powerplant could add equipment that significantly increases its emission as long as it demonstrates that it theoretically could have emitted pollution at a higher rate.

For instance, an old powerplant which was only used to provide power at times of peak demand would have a relatively low level of emissions reflecting its low level of use. If a new boiler is installed, this plant could be used to provide significantly more power than before it was refurbished, thereby significantly increasing its emissions. Nonetheless, this higher level of emissions from the refurbished plant could still be lower than what the plant theoretically could have emitted before it was refurbished. This refurbished plant would be exempt from meeting new source performance standards even though it significantly increased its emissions.

Proponents of this provision could argue that the overall cap in sulfur emissions established under the Clean Air Act of 1990 will prevent nationwide increases in sulfur emissions. However, this new loophole could lead to significant regional or local increases in sulfur emissions which would harm nearby citizens and the environment.

For instance, a midwestern utility could increase its sulfur emission from its refurbished powerplant under S. 1220. These sulfur emissions could travel to the Northeast, combining to form acid rain in New England. And although the act allows this utility to buy emission credits from a low-polluting western utility, this transfer of pollution from west to east would not have occurred without S. 1220 because the refurbished midwestern plant would have had to meet the stricter controls required of new sources. In other words, although the nationwide level of sulfur emissions would remain the same under S. 1220, there could be significant increases in regional or local levels of sulfur emissions and acid rain.

Nearly all powerplants with capital investment projects would be exempt from park protection and air quality standards.

Under the Prevention of Significant Deterioration Program of the Clean Air Act, a new source of air pollution outside a national park or other area with good air quality must undergo a review to determine the impact of its new emissions on air quality in the park. The act prohibits the operation of a new source which would significantly degrade pristine air quality in a park.

S. 1220 would exempt refurbished powerplants from the review required to determine whether it would harm air quality in parks with clean air. Under S. 1220, an existing powerplant outside the Grand Canyon could replace its boiler and expand its capacity and emissions even if it would add more pollution to the air over the Grand Canyon.

Similarly, the Clean Air Act requires a new source of pollution in a city which violates Federal air quality standards to undergo review to determine its impact on local air quality. Under S. 1220, a refurbished powerplant with increased emissions would be exempt from this review, and thus from any requirement to reduce its emissions so that it does not worsen pollution in an already dirty city. In fact, there is no limit on the size of the pollution increase allowed under this loophole.

S. 1220 would exempt any capital construction project at a powerplant from new source standards and requirements if the project is "primarily for purposes of reducing emissions"—section 14201(b). There is no requirement that the reduction must actually occur at the particular site. Thus, even if the project would lead to a decrease in emissions elsewhere, through emissions trading, there would still be a significant increase in local air pollution. And any project whose costs are barely 50 percent for pollution control with the rest for life extension of the plant would qualify for the exemption from park protection and Federal health standards.

Refurbished powerplants would be exempt from new source controls on nitrogen oxides, a major component of dangerous urban smog. These plants would also be exempt from new source controls on particulates.

This exemption would perpetuate urban smog by allowing rebuilt plants to comply with much more lenient NO_x requirements for existing sources rather than meet the stricter standards for new sources. The provision would also exempt all currently operating units, no matter how extensively they will be expanded or modified in the future. And unlike sulfur dioxide, there is no nationwide cap on NO_x emissions, so S. 1220 would lead to an unlimited nationwide increase in NO_x emissions. S. 1220 would also lead to a similar nationwide increase in deadly particulate emissions.

The WEPCO fix in S. 1220 pays lipservice to environmental protection, but its safeguards are little more than unenforceable aspirations. The reality is that S. 1220 would allow powerplants to continue high levels of pollution at the expense of the public health and the environment. Last year, Congress considered and rejected proposals to allow refurbished powerplants to evade the controls required for new sources. In effect, S. 1220 attempts to repeal major portions of the Clean Air Act only a few short months after President Bush signed it into law. Many esteemed colleagues and I have sent a letter to Senator JOHNSTON to strongly urge him to remove section 14201 from S. 1220. There are indications that he is considering doing just that. Mr. President I ask unanimous consent that the letter be included as part of the RECORD.

In addition, S. 1220 includes many other provisions which could increase threats to human health and the environment while accomplishing little to achieve energy security. I intend to carefully examine these other provisions to determine the extent of their threat to increase pollution and global warming.

Finally, EPA recently issued a proposed rule governing refurbished powerplants. Rather than clearly defining the new source requirements for refurbished powerplants, the proposed rule creates exemptions and loopholes similar to those in S. 1220. This proposal would cause much of the same harm to the public health and the environment as caused by S. 1220. A coalition of Governors and other parties determined that the proposed rule, "goes too far in that it exempts plants from new source review for NOx and particulate emissions for an emissions cap does not exist. This could slow environmental progress in reducing emissions of these pollutants."

This proposed rule is another example of the Bush administration's efforts to undermine the Clean Air Act of 1990 by shoddy implementation out of the public's eye. I fully intend to work with my Senate colleagues to ensure that EPA's final new source rule adheres to both the spirit and the letter of the Clean Air Act of 1990.

COMMEMORATING UKRAINIAN INDEPENDENCE

Mr. LEVIN. Mr. President, this Sunday is the 50th anniversary of the June 30, 1941, Act of the Restoration of the Independent Ukrainian State. This Sunday there will be a commemoration at the Ukrainian Cultural Center in Warren, MI, as there will be commemorations all across this country, throughout the Ukraine, and indeed throughout the world wherever there are people who love the Ukraine, and wherever there are people who love freedom.

The Ukraine's national holidays, January 22 and June 30, are celebrations of independence and freedom. This year's commemoration occurs at a time of both great hope and concern because of the sweep of historic events unfolding in the Ukraine and throughout the Soviet Union. The course that events will take is unknown, and the eventual destination is uncharted. But one thing is clear: the determination, strength, and resilience of the Ukrainian people is undeniable.

Throughout the years of struggle, the Ukrainian people have retained their culture, language, religion, identity, and pride. This is a profound achievement, and speaks to the richness and strength of what has been preserved.

In honor of this commemoration, we should pay special tribute to those Ukrainians who continue the age-old struggle, and to those patriots who went before. The unending determination of countless generations of Ukrainians will be soon realized. The flames of freedom and independence have burned in the souls of Ukrainians for a thousand years. The embers were never extinguished, and the fire burns with renewed intensity.

NATIONAL ENERGY SECURITY ACT OF 1991

Mr. BAUCUS. Mr. President, as chairman of the Senate's Subcommittee on Environmental Protection, I want to advise my colleagues of my serious substantive and jurisdictional concerns about the National Energy Security Act of 1991, which was reported by the Energy and Natural Resources Committee earlier this month.

This bill makes substantive changes in the 1990 Clean Air Act and amends directly or indirectly the Resource Conservation and Recovery Act, the Clean Water Act, and the Oil Pollution Act of 1990. I will discuss my concerns with these provisions at another time because I believe that every Senator should understand fully the complex and controversial nature of this legislation.

To me, however, the most objectionable aspect of the National Energy Security Act is that it would reduce the Interior Secretary to begin selling oil and gas leases in the coastal plain of the Arctic National Wildlife Refuge just over 2 years from now.

More than 20,000 years ago the coastal plain of northeastern Alaska was periodically covered by a large herd of caribou. Its 2 million acres of tundra were home to musk ox, polar bears, and wolves, and millions of waterfowl dotted the landscape.

Today, that area remains largely unchanged. Its pristine rivers and lakes and the lush vegetation of its meadows continue to attract an abundant diversity of wildlife.

Life continues to thrive in this wild, arctic ecosystem, often described as America's Serengeti Plain, because it currently is protected as part of the Arctic National Wildlife Refuge. But the Energy and Natural Resources Committee voted by the narrow margin of 11 to 8 to change forever a magnificent national treasure.

I have a different vision. It is one found in legislation sponsored by myself and 22 other Senators, S. 39. It is one that would preserve America's Serengeti Plain for future generations.

I intend to seek the approval of the Environment and Public Works Committee for this legislation.

I would have taken this step over 2 years ago, but before the Environmental Protection Subcommittee could begin consideration of this bill, the *Exxon Valdez* tanker dumped 11 million gallons of oil into the pristine waters of Prince William Sound. It was a disaster that we had been promised could not happen.

Once again, many promises have been made that there is no need to choose between having a wild, naturally functioning ecosystem of abundant fish and wildlife and having extensive oil and gas development.

But if that is true, then why does the National Energy Security Act prevent "further findings or determinations of compatibility by the [U.S. Fish and Wildlife Service] under the National Wildlife Refuge Administration Act" with respect to activities in one and a half million acres of the Arctic National Wildlife Refuge?

The Refuge Administration Act, which is within the jurisdiction of the Environment and Public Works Committee, restricts use of refuge lands to those activities that are found to be compatible with the primary purposes for which a refuge was established. The National Energy Security Act dismantles this key safeguard for the Arctic Refuge.

The National Energy Security Act would further facilitate the conversion of arctic wilderness to oilfields by making the determination that the Department of the Interior's final legislative environmental impact statement [LEIS] on the coastal plain is adequate and satisfies the legal requirements of the National Environmental Policy Act [NEPA].

The communication from the Secretary of the Interior transmitting this EIS on the coastal plain was referred solely to the Committee on Environment and Public Works.

I chaired a hearing before the Environmental Protection Subcommittee on May 10, 1991, to evaluate the adequacy of the Interior Department's final LEIS on the coastal plain. That hearing and my review of related information have led me to conclude that the final LEIS is, in fact, not adequate and that it fails to satisfy the legal requirements of NEPA.

The impacts to fisheries and wildlife from oil exploration, development and production were not considered fully and properly.

The report and the recommended development were not consistent with our international treaty obligations concerning caribou, polar bears, and migratory birds.

The effects on air and water quality and the supply of fresh water resources were not assessed thoroughly.

The effects of oil and gas development in the Arctic Refuge's coastal plain were not examined critically in terms of the cumulative impacts of such development in the Arctic region.

A complete review of the Coastal Plain's wilderness and recreational potential was not conducted and assessed fairly.

Finally, adequate consideration was not given to alternatives to leasing the coastal plain's oil and gas resources, alternatives such as development of other potential sources of oil, development of other sources of energy, and improved energy conservation.

Let me be clear about one thing. I support wilderness designation for the Arctic Refuge's coastal plain.

But to my colleagues who are undecided on this issue, I stress the importance of assessing the impacts of development as fairly and definitively as possible before any decisions are made by Congress to change the present management of the coastal plain.

George Schaller, one of the world's foremost field biologists and conservationists, recently listed 5 areas on this Earth that should be saved for their own sake because they are so special. One of those areas is in northwestern Tibet. Two are in Africa. Yellowstone National Park is another, which comes as no surprise to those of us from Montana.

The fifth area in all of this magnificent world identified by Dr. Schaller is the coastal plain of the Arctic National Wildlife Refuge.

The oil spill in Prince William Sound has taught us that the promise of not having to choose between an intact arctic ecosystem and extensive development is a promise, that no matter how well-intentioned, cannot be kept. We do have to choose.

The mere exploration for oil and gas that would follow leasing would leave the Arctic Refuge permanently scarred. In exchange for the certainty of that harm, the Nation's major oil companies would have gained the right to roll the dice, or to flip a coin, on finding oil. And even if the oil companies win the coin toss, the amount of oil that could be economically extracted would most likely provide this country with little more than 6 months supply of oil.

I reject a policy that, for 6 months of oil, would sacrifice what the Interior Department called "the only conservative system unit that protects, in an undisturbed condition, a complete spectrum of the arctic ecosystems in North America." Yet, development of the wildlife-rich wilderness of the Arctic National Wildlife Refuge is the centerpiece of the National Energy Security Act and the administration's national energy strategy.

Ninety percent of the 1,100-mile northern coastline of Alaska—offshore and onshore—has already been devoted to energy exploration and possible development. Only the 110 miles of the Arctic Refuge's coastal plain remains off-limits. We do not have to develop the last and best 10 percent to have a sound energy policy for this Nation.

For 10 years the administration's policy, first under President Reagan and then President Bush, has been one that has suffered from the tunnel vision of chasing cheap oil while shunning energy conservation and efficiency. We need oil. The single-minded pursuit of oil for the past decade has made American families and businesses more vulnerable to oil price shocks.

It has reduced our ability to compete with Japan, Germany, and other nations in the world marketplace. And it has contributed to global warming, air pollution and other environmental problems.

Our problem with imported oil is its price, not its availability. Most of the world's oil reserves lie in the Persian Gulf. Instability in that region produces large shocks in the price of oil.

The United States has only 4 percent of the world's oil reserves and much of what is left is inaccessible and expensive to develop. No matter how hard we try—no matter how much of our natural heritage we destroy—the United States cannot produce its way out of our current vulnerability to oil price increases.

The road to secure this Nation's future—the road not taken by the administration—is one that lies in the opposite direction. It is one that follows increased energy efficiency and development of other energy sources. It is one that leads to enhanced security, a more competitive economy, and a cleaner environment.

Our national energy strategy should not abandon domestic oil production. This country's policy should provide economic incentives to encourage exploration and development of the tens of millions of acres already under lease in Alaska, Montana, and elsewhere. But the way to protect ourselves from huge, overnight increases in the price of oil—to prepare ourselves now for the future—is to use oil more efficiently and to become less dependent upon it. This fact is as true in our own lives as it is true for the Nation as a whole.

The less oil we need to run our businesses, drive our cars and heat our homes, the less we have to spend out of each paycheck as a result of oil price increases that we never will be able to control.

During the Reagan years, virtually every Federal energy conservation policy was dismantled. The Bush's administration's national energy strategy and the National Energy Security Act continue to shun the quickest, cheapest and most effective energy options in favor of ones that are the most costly to the Nation's economy and environment. We should weight our options and pick the best buys first.

Energy efficiency is the cheapest and most immediate means of protecting ourselves from increased oil prices. An increase in fuel economy standards to 40 miles per gallon could save as much as 22 billion barrels of oil by 2020. If homes were fully insulated and used the most efficient furnaces and water heaters, the United States could save the equivalent of 16 billion barrels of oil by that time.

Just equipping America's 1 billion light sockets with high efficiency bulbs, would save an additional 600 million barrels of oil. A sound energy policy is one that plans for the future. It is one that protects our climate and environment and promotes wise energy choices. It is not one that requires drilling in the Arctic Wildlife Refuge.

For that reason, among others, Mr. President, I am firmly opposed to the National Energy Security Act.

JULIANNE STILL THRIFT: HIGHER EDUCATION'S CHAMPION ON THE HILL

Mr. HOLLINGS. Mr. President, Julianne Thrift is well known to many of our colleagues, especially to those of us who keep a special eye on education issues and student aid appropriations. We have recently received the bittersweet news that, later this summer, she will be leaving her post as executive vice president of the National Association of Independent Colleges and Universities to become the first female president in the 219-year history of Salem College in North Carolina.

Mr. President, the country is gaining a terrific new college president, but American higher education is losing its best fighter and advocate, bar none, here on Capitol Hill. For more than a decade, now, many of us have waged on ongoing battle to prevent the gutting on Federal aid to education. Fortunately, higher education is one policy area where there really is an "iron triangle' of Senators, lobbyists, and special interests, and I can tell you that Julianne Thrift is the iron in that triangle. She has been our Joan of Arc, a woman with a mission, a fighter, and a crusader in the best sense of the word.

Thanks in large measure to Julianne and NAICU, we have seen solid increases in student aid in each of the last 3 years. In part this is thanks to the superb government relations team she has assembled, recognized in Washington as one of the best, and a good example of the maxim that first-rate people hire first-rate people.

Credit also goes to Julianne's tireless effort to mobilize hundreds of college and university presidents—high-profile community leaders representing virtually every congressional district in the country—as lobbyists for higher education in the halls of Congress. This has been an inspired effort. We respect those people; we listen to them; and their lobbying has had a tangible influence on Members' votes.

My hat is off to the search committee down at Salem College. They conducted an ambitious national search, had over 100 serious applicants, and they quickly settled on Julianne Thrift as their first choice.

Julianne's departure for Winston-Salem will leave a void here in Washington. She has been a real pillar at NAICU. Especially during the change of NAICU presidents in 1988, she was the stabilizer and the bedrock of the association. She is much beloved there, as she is in many circles in this town.

Nonetheless, she faces a superb challenge at Salem College, challenge that she will tackle with great energy and success. Julianne is deeply committed to the special mission and purpose of a woman's college. And I have no doubt that she will work wonders for Salem.

I know how proud her husband, Ashley, and daughters, Lindsay and Laura, are of her many accomplishments. Likewise, I can tell you that those who question whether a woman can be a super-achieving professional and also a tremendously dedicated wife and mother, they just haven't met Julianne Thrift. We all admire this remarkable woman. We congratulate Julianne and wish her the very best of luck.

INTERNATIONAL ARMS TRADE

Mr. ROTH. Mr. President, the United States now stands at the peak of its ability to exercise world leadership in controlling the international conventional arms trade. We have in front of us the development of a new era in East-West relations and the construction of democratic governments in Eastern and Central Europe. We have a victory behind us in the Persian Gulf. And we have the eyes of the world upon us to exercise leadership in halting the unmonitored and unrestrained trading in conventional weaponry that has been a part of the old world order for the past several decades.

We must seize this opportunity, Mr. President, before the momentum is lost and before another Iraq is allowed to develop. The recent initiative of President Bush calling for establishment of guidelines for restraints on conventional arms transfers to the Middle East is a welcome step. Yet, our efforts in mustering the international cooperation which is essential to any progress in this area must be comprehensive, and our approach many-faceted. One concept certainly deserving of more attention is that of transparency—in other words, increasing the amount of information that is publicly available about international arms transfers. Enhanced transparency is not an end, but a means to an end. It is but an initial component of an effective multilateral control regime for conventional arms transfers, yet one which can go a long way in fostering motivation for future steps.

At recent hearings of the Permanent Subcommittee on Investigations, on which I serve as ranking minority member, several witnesses testified about the increasingly unfettered selling tactics prevalent in today's global arms market. Over 60 nations—many of them in the Third World—are engaged in arms manufacture and export. And most of these are dependent on exports in order to keep their indigenous defense industries viable. Although the overall volume of global military transfers has declined in recent years, activity in the international arms market has not abated as suppliers vie for shares amidst increasing competition.

One of the points which was illustrated clearly by the witnesses at this hearing is the dearth of information which exists regarding individual transactions in the conventional arms market. Although overall arms sale volumes can be approximated and certain individual transactions tracked, there is little or no information publicly available about the vast majority of conventional arms transfers. Without such information, it is impossible to assess the adequacy of our existing regulations or sensibly to contemplate enhanced controls.

The United States is uniquely able to take the lead in encouraging greater transparency in the arms market. Our defense industry is one of the most transparent in the world, with congressional reporting requirements for all major sales built into our export control regime. This is not so in other nations, including many of our NATO allies, where arms transfers are often closely guarded secrets.

Mr. President, a prudent first step which I would urge be given serious attention is a call to all nations—in particular to our fellow members on the U.N. Security Council at the coming Paris conference, and to our NATO allies—to introduce enhanced transparency into arms sales—at least to a degree parallel to that which exists in the United States. Perhaps we, too, can go further as time progresses. Yet this represents a good starting point.

There are several ways to bring about enhanced transparency in the international arms market. The one currently receiving the most attention—including the support of British Prime Minister John Major—is the introduction of an arms registry in which certain information about arms sales and purchases would be recorded. President Bush, in his Arms Control Initiative, called for an annual report on arms transfers by the five major suppliers to the Middle East. This could form the basis of a more comprehensive registry. Although conceptions of an arms registry vary, most agree that it could be devised in such a way so as to ensure protection of legitimate proprietary concerns. One idea—an idea favored by Great Britain, Germany, and several other nations—would be a registry which, at the outset, would be limited to the main supplier nations—the Permanent Five—and would cover the major weapons categories as defined in the CFE negotiations. Such a registry, by including the vast majority of conventional arms transactions, would serve as a basis for enhanced controls in the future.

Institution of an arms registry and introduction of increased transparency have several other advantages recommending them: The cooperative and consultative spirit engendered by multilateral collaboration to develop a registry would carry over into other efforts in controlling the arms market. The international pressures fostered by participation in such a registry would exert positive regulatory influence on traders in the international market. And, the increased attention brought to arms transactions would assist efforts to muster increased political will to bring the arms trade under control.

Mr. President, we have a large task ahead of us, yet one which we cannot ignore. Increased illumination of the extent and workings of the conventional arms market and closer multilateral cooperation are crucial components of a successful strategy for ensuring the peace and tranquility of the new world order.

CONCERNS WITH THE COMPREHENSIVE ENERGY BILL

Mr. ROTH. Mr. President, I rise today to express my concerns with the comprehensive energy bill, S. 1220, that the Energy and Natural Resources Committee has recently approved.

During my years in the Congress I have expressed my belief concerning mankind's responsibility to the environment. Simply stated, it is that man is bound to serve nature through an environmental ethic.

Mankind has the responsibility to pass on a life-giving, life-sustaining, environment to future generations. Our natural heritage ranks high among our most priceless and irreplaceable possessions. To loose it would be a loss to all of mankind.

It is often exhibited that all ecosystems, from Alaska to Africa, South America to Saudi Arabia, are inextricably connected. Not only can destruction in one small area bruise the conscience of man, but it can affect the fragile ecological balance of a tiny world that appears more vulnerable with each passing day.

Perhaps this environmental transcendentalism is nowhere more apparent than in the circumpolar region where the wind, water, fish, fowl, caribou, and other animals and plants know no political boundaries.

Whether the pollution that threatens their pristine and fragile environment comes from the Soviet Union, Brazil, Eastern Europe, or the United States is of little consequence—especially when the contamination begins to affect the native peoples who depend on the ecosystem.

Likewise, the contamination of this precious international resource poses a threat to the entire Arctic region as a scientific laboratory for comparisons of the Earth's health. As someone recently put it: "If the Arctic systems fail, the health and the understanding of the health of the entire planet fails."

Given the fragile ecological balance of this area, I strongly suggest, we fulfill our responsibility as stewards of our land, its resources and the life that depends on it. This responsibility includes efforts that will protect all shared bird and animal resources, wetlands and marine mammals in the circumpolar region.

Likewise it includes commitments we made to the residents of these lands, to continue to provide them with the opportunity for subsistence uses for the resources of these lands. Each of these objectives is worthy, and each is an important step toward caring for our stewardship in this area.

However, the bill does not even adequately begin to demonstrate the willing spirit and many opportunities we can take advantage of toward protecting our environment, while developing a sound energy policy. The protection of the Coastal Plain of the Arctic Refuge is the first step—and the most important first step in this effort.

It should serve as an example of what nations can do with shared objectives, a spirit of cooperation, and little bit of effort.

Mr. President, if we cannot take this important step and protect this area and its pristine wilderness and wildlife from miles of dirty roads, pipelines, mud pits, garbage dumps, and airports, we will soon—I believe even in our own lifetime regret the consequences of our failure to act.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. ROBB). The period for morning business is closed.

VIOLENT CRIME CONTROL ACT

The PRESIDING OFFICER. The Senate will now resume consideration of S. 1241, which the clerk will report.

The bill clerk read as follows:

A bill (S. 1241) to control and reduce violent crime.

The Senate resumed consideration of the bill.

Pending:

Specter amendment No. 381, to establish post-conviction proceedings to ensure that the death penalty is expeditiously carried out.

The PRESIDING OFFICER. Under the previous order, the Senator from New York [Mr. D'AMATO] is recognized to offer an amendment on which there will be 30 minutes of debate, 20 minutes controlled by the Senator from New York and 10 minutes controlled by the Senator from Delaware [Mr. BIDEN].

The Chair recognizes the Senator from New York [Mr. D'AMATO].

AMENDMENT NO. 387

(Purpose: To provide for mandatory prison terms for use, possession, or carrying of a firearm during State crimes of violence or State drug trafficking crimes)

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself and Mr. DOLE, proposes an amendment numbered 387.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

"SEC. . MANDATORY PRISON TERMS FOR USE, POSSESSION, OR CARRYING OF A FIREARM OR DESTRUCTIVE DEVICE DURING A STATE CRIME OF VIOLENCE OR STATE DRUG TRAFFICKING CRIME.

Section 924(c) of title 18 of the United States Code is amended by adding the following:

"( )(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which he may be prosecuted in a court of any State,

"(i) knowingly possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentended to imprisonment for not less than 20 years without release; or

"(iii) knowingly possesses a firearm that is a machinegun or destructive device, or is equipped with a firearm silencer or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

"In the case of a second conviction under this subsection, a person shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release for possession or not less than 30 years without release for discharge of a firearm, and if the firearm is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. In the case of a third or subsequent conviction under this subsection, a person shall be sentenced to life imprisonment without release. Notwithstanding any other law, a court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used. No person sentenced under this subsection shall be eligible for parole, nor shall such person be released for any reason whatsoever, during a term of imprisonment imposed under this paragraph.

"(B) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if—

"(i) in the case of a crime of violence, the person touches a firearm at the scene of the crime at any time during the commission of the crime; and

"(ii) in the case of a drug trafficking crime the person has a firearm readily available at the scene of the crime during the commission of the crime.

"(C) Except in the case of a person who engaged in or participated in criminal conduct that gave rise to the occasion for the person's use of a firearm, this subsection has no application to a person who may be found to have committed a criminal act while acting in defense of person or property during the course of a crime being committed by another person (including the arrest or attempted arrest of the offender during or immediately after the commission of the crime).".

"(D) For purpose of this subsection, the term "drug trafficking crime" means any crime punishable by imprisonment for more than one year involving the manufacture, distribution, possession, cultivation, sale, or transfer of a controlled, substance, controlled substance analogue, immediate precursor, or listed chemical (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or an attempt or conspiracy to commit such a crime.

"(E) For purposes of this subsection the term "crime to violence" means an offense that is punishable by imprisonment for more than one year and—

(1) has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or

(2) that by its nature, involves as substantial risk that physical force against the person or property of another may be used in the cause of committing the offense.

"(F) In accordance with Section 927, it is the intent of Congress that this subsection shall be used to supplement but not supplant the efforts of state and local prosecutors in prosecuting crimes of violence and drug trafficking crimes that could be prosecuted under state law. It is also the intent of Congress that the Attorney General shall give due deference to the interest that a state or local prosecutor has in prosecuting the defendant under state law. This subsection shall not create any rights, substantive or procedural, enforceable at law by any party in any manner, civil or criminal, nor does it place any limitations on otherwise lawful prerogatives of the Department of Justice.".

"(G) JURISDICTION.—There is federal jurisdiction over an offense under this section if a firearm involved in the offense has moved at any time in interstate or foreign commerce."

Mr. D'AMATO. Mr. President, much has been said with respect to the necessity to do something as it relates to handguns and the control of these guns. We find today that, in certain States, the murder rates have soared. In the State of New York, the city of New York in particular, 70 percent of the homicides, which were well over 2,000 last year, were committed by guns, handguns for the most part. And so a cry is raised, as it should be, to do something about it. And the question is, how do we do something? How do we go after the criminal, recognizing the Constitution provides that a law-abiding citizen may own and possess a gun?

Mr. President, I am going to suggest that what we have to do is say to the criminal if you use a gun for criminal purposes, we view this very seriously and you will pay a price.

What my legislation does is it places mandatory sentences on those who use guns in the commission of a crime. Basically, it is rather simple. Almost all guns traverse interstate commerce. We have the ability to say—the Congress of the United States—if you use the gun in the commission of a crime that you violate a Federal law, a violent crime; 10 years the first time. If you discharge that weapon; 20 years. If you have a silencer or a muzzling device, and that takes it to the area of those who basically are killers for hire, 30 years.

I am going to touch on some basic facts as it relates to what is taking place in a State that has the toughest gun laws, probably, in America, the State of New York. The statistics are staggering. We have a revolving criminal justice system and, I might add, that approximately 75 percent of all violent crime in New York is either directly or indirectly drug related. So not only do we have an obligation to curtail the flow of these weapons by way of the interstate commerce clause and provision, but I think we have a very real moral responsibility to do something as it relates to the drug-induced crime that powers this violence. So there is a very real Federal role here.

I also suggest that our State courts, many times, are just absolutely clogged to the breaking point. They cannot handle it. So we have to plea bargain, and that plea bargaining flies in the face of the good, decent, honest citizen.

I suggest to my colleagues that what we have is a justice system that is totally broken down, and we recognize that 6 percent of the criminals commit about 70 percent of the crime. Those are the statistics that come out of our system.

Let me suggest to my colleagues that in 1988, almost 70 percent of New York City's murders, 1,896, were committed with guns. In 1989, the homicide rate went to 1,905. So did the other violent crimes, in proportion. In 1990, we had 2,250 homicides. Again, three-quarters of them were committed with guns.

In New York City, the criminal justice system completely fails to stop gun violence. Let me tell my colleagues why. This is why we have to deal with the criminal who is captured using a gun and stop what we are doing. Only 4 in 10 went to prison. So if you catch them and only 4 in 10 go to prison, what we are really saying is that we have a gun law but we do not enforce it. The rest got a variety of sentences.

So, if 4 out of 10 go to prison, half of those convicted receive no jail time at all. Fewer than 30 percent of those convicted on the basis of criminal possession of a weapon were sentenced to prison last year. A study by the New York County District Attorney's Office showed that for arrests involving at least one charge for the illegal possession of a gun, the range of sentences, those who went to prison, was only 1.1 years to 2.9 years.

We make a mockery of the system. Recividism being what it is, we continue to pay the price. Let me tell my colleagues what the price is. I have examples of people arrested numerous times with loaded pistols, who have records, and received no time whatsoever. One of those individuals is Dowie Pringle.

In 1989, he was arrested after a neighbor said that he threatened him with a loaded pistol. He had other convictions: petty larceny, two assaults, and criminal mischief. He pleaded guilty to criminal possession of a weapon. He was sentenced to 5 years probation, and 105 hours community service. I would not be surprised if since that time Dowie has committed other robberies, used guns, and so forth, did other crimes out on the street.

Patrick Blake, same thing. Had a gun, was arrested, was rearrested, back out on the street, spent no time whatsoever. Blake was caught with a loaded .38 pistol. He was again charged with gun possession. This is the second time. He was sentenced in 1989 with probation.

Case after case, it has beaten our people down. It has made our people prisoners in their own homes. I want to refer to a statement made by a great judge, Judge Francis T. Murphy. He is the chief judge of the appellate division, first department in New York. Mr. President, he made a speech which was most eloquent, and I would like to refer to various passages because it is applicable not only in New York City, but most of our urban centers. This was delivered to the Fordham Alumni Association on March 7, 1987. Though it was more than 4 years ago, I think that the facts are even more vivid today than they were then.

He talks about our Constitution and the Bill of Rights and what is taking place. He says, "* * * the Bill of Rights will be center stage" as we talk about the bicentennial of the Constitution, as it was in 1987 as we were celebrating. He said:

> What kind of people have we become?
>
> Are we the people of the United States who adopted the Constitution in order to "establish Justice . . . promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity?"
>
> After all, a Constitution is only as good as the people who live under it.
>
> Consider how we live in this city, and in cities throughout the nation.
>
> Government has no more essential duty than the protection of the lives of its people. Fail in this, and it fails in everything.
>
> Such a failure is unthinkable, yet the society in which we live was unthinkable only a generation ago. If then someone had said that in 1987 hundreds of thousands of apartment windows in New York City would be covered with metal grates, that private guards would patrol the lobbies, hallways and rooftops of apartment buildings, that streets would be deserted at night and churches locked by day, we would have thought him insane.
>
> We hear but do not listen to the ordinary man and woman. It is they who are the victims of crime, and they in their anguish have something of value to say.
>
> They tell us that their lives, burdened by personal problems involved in simply living, must be led in a society in which a brutal attack upon them by a robber surprises no one. They tell us that they are denied the small pleasures of life—a morning's visit to a church or synagogue, an evening's stroll in summer with one's husband or wife, a subway ride with their children to a park. They tell us that they cannot visit the sick and the dying in hospitals because they may be beaten or killed in a subway or on a street. They say that such a half life is no life at all. They tell us that criminals have taken the city, that crime has beaten government to its knees, that the moral passion for justice has been drained out of society and, in its place, there is an overwhelming sense of helplessness. They say that they fear that they have grown too used to crime. They wonder whether society, for all its pretensions, has become pitiless.
>
> The ordinary man and woman are right, and everyone knows it, because we are that man and woman.
>
> Has the Constitution established justice, promoted the general welfare, and secured the blessings of liberty to us and our children in such a city?
>
> What has happened to us, a people who once knew how to fight back?
>
> What makes us submit passively to universal vandalism, robbery, and assaults of every kind?
>
> What makes us so timid, so weak, that we will allow ourselves to be violated?
>
> Do we feel no shame that we live in the most criminally violent nation in the West?

Mr. President, let me suggest that Judge Murphy's words are more true today than they were in 1987. The responsibility of Government is to provide for the domestic tranquility; that we have no freedom when people live as they do, in fear, in half a life, as Justice Murphy has indicated, fearful not only for themselves but for their children.

There will be some who argue that my amendment violates States' rights. I suggest it does not. I suggest it gives to the Federal Government the ability to prosecute and the Federal Government is not going to willy-nilly undertake that but may be able to help some of our beleaguered inner core cities. We have an obligation to step forth and do that and to utilize our resources, if we have to build prisons to take violent criminals off the streets and bring about a sense that the justice system is real and that if you violate the law, there is a good chance you are going to be caught and that you will be punished appropriately. It is the only way we are going to stop the carnage that is taking place in our streets.

So those who would like to say States' rights, States' rights, what kind of right do you give to citizens that they are fearful of leaving their homes, if you say give it to State prosecutors and they cannot handle it and the courts are overwhelmed and 60 percent of those who should be in prison walk right out? The recidivism continues and sends a terrible signal. And people are right when they say we do not care. All the niceties and all the social programs we talk about, and they are important, pale in comparison when providing for domestic tranquility.

Mr. President, this amendment, I believe, if passed into law will give us the ability to deal with violent crime, to stop these measures and nonsense about waiting periods, et cetera. That is nice, and reasonable people may disagree. But you are not going to deal with the predator who is out there today, and that is what we have to do. I think we have a responsibility in this Congress to stand up and to begin to fight for the ordinary, decent, law-abiding citizen.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Chair recognizes the Senator from New Mexico [Mr. BINGAMAN].

Mr. BINGAMAN. Mr. President, I know the floor manager, the chairman of the committee, is not present at this point, and I will yield myself 5 minutes so as to reserve some time for him to address this issue as well.

Mr. President, I do not often speak on issues such as proposed since I am not on the Judiciary Committee, and we have had a great variety of amendments and are going to have a great variety more today, but I am compelled to speak on this amendment because I think it is the greatest example of preemption of State law that I have encountered since I have been in the Senate.

As I understand the amendment of the Senator from New York, what he is doing is saying that we in the Federal Government are going to come in and dictate to State judges what the sentence will be in cases that they try. We are going to dictate the sentence in State courts with State prisoners for violating State crimes, and we are doing this under our so-called commerce clause power because the firearms involved may have crossed the State line at one point or another.

Mr. President, I would suggest, first of all, that it is very questionable whether we have constitutional authority to be essentially federalizing the State criminal justice systems throughout this country.

I served as attorney general of my State for 4 years. I know we have in this body several former attorneys general. The idea that the Federal courts, or the Congress, would come in and dictate to us in the State judicial system what sentences we had to impose for violation of State law is something that really never occurred to me.

I know that we are anxious to demonstrate our concern for the criminal activity that occurs in this country, and it is a very real concern. I certainly share it. But I can tell you the idea that we would go this far and essentially step in and take cases that are clearly State court jurisdiction cases and try to impose mandatory sentences of these types in those cases just strikes me as the height of folly.

I know we only have 10 minutes in which to respond to this amendment, and I am sure that the Senator from Delaware has some points he wants to make. But I do wish we could have had a hearing on this issue. We could have brought in some attorneys general from around the country. We could have brought in the U.S. Justice Department. I would be anxious to know what the U.S. Attorney General thinks about the idea that we would mandate particular sentences for State judges to impose in State courts.

That strikes me as beyond the pale, and I am as anxious as the Senator from New York and any of my colleagues to deal with the real problems of the criminal element in our society. But I would suggest to you, Mr. President, that we should not totally discard our Federal system of Government in this effort to get tough on crime.

If there are problems, as I am sure there are, in the State of New York in the particular defendants that the Senator has referred to not getting adequate sentences, that needs to be dealt with at the State level, and we need to help State law enforcement to do that. But mandating Federal sentences for these State crimes is certainly not the way to proceed.

I know we are in a frenzy to pass tough, get-tough-on-crime legislation, but I hope people will use common sense and refrain from embracing this kind of amendment. I urge my colleagues to defeat the amendment.

I thank the Chair.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. Who yields time? The Chair recognizes the Senator from Delaware [Mr. BIDEN].

Mr. BIDEN. How much time is remaining?

The PRESIDING OFFICER. The Senator controls 5 minutes 34 seconds.

Mr. BIDEN. Mr. President, I ask unanimous consent that the time of the Senator from New York be extended by 5 minutes and the Senator from Delaware be extended by 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, we all have our jobs in the Senate. I know it is Woodrow Wilson who once used the phrase "Congress in committee is Congress at work." The way this place works is we each come here and we get assigned to various committees and we end up having the work of that committee, the subject matter of that committee consume a great deal of our time.

I am not sure I would have chosen, if I had a chance to do it all over again, but it seems that a significant portion of my adult life has been consumed by dealing with the criminal justice system in this country. As chairman of the Judiciary Committee, the bulk of my time is dealing with this issue.

Now, I have worked with my friend from New York since he has been in the Senate, and I can say without exception there is no one with whom I have worked who has evidenced a greater interest, has been more concerned, has invested more time for a noncommittee member than the Senator from New York [Mr. D'AMATO] in attempting to deal with the aberrations in our society which we mystically refer to as the criminal element and the criminal justice system.

But, Mr. President—and I hardly ever disagree with my friend from New York—I get the feeling that what is going on is a frustration level reached by my friend from New York. He has worked so hard to try to deal with the problem of criminals on the streets of not only New York City but upstate New York, central New York, the southern tier, that I think he is just frustrated.

The comments by my friend from New Mexico are right on target. I can tell my friend from New Mexico what the attorneys general would say to this. They would say no to the idea of us coming in and telling the judges in the superior court, or the Supreme Court, or the Appellate Court of New York State, or in whatever the court system, however it is named in the State of New Mexico or in Delaware, the Superior Court in the State of Delaware, by the way, under Delaware law if you convict someone and jurors under the State court system convicted someone, then the Federal judge is going to come in and tell you, the State court judge, to what you must sentence that person.

I say that as one of the coauthors of the Federal sentencing legislation in which we, the Congress, told the judges we are going to tell you how long to put people in jail, because we do not like the way you have been doing it for 20 years. Too many of you judges are too lenient, we said, and I coauthored that. It is now in law. Judges do not have discretion in the Federal court, remotely like they had before.

Now, some States have not done that. In some States the judges are still too easy. But that is a State court problem that we have never attempted as a Federal Government to change.

In the Biden bill before us, the very provision the Senator wants is included as it relates to Federal courts. We tell the judge, in a Federal court, under the jurisdiction of the Federal Government, under the control of the U.S. Congress, if such-and-such happens and they are found guilty beyond a reasonable doubt after all appeals are exhausted, then you must sentence that person to jail for *x* amount of years. But we have never tried to do that for the State court.

I understand, I truly do. I have watched the Senator from New York since he has arrived try to deal with the situation in this Chamber—and I might add, by the way, support almost everything this Senator has attempted to do. I am about to say something that I do not want to associate my friend from New York with necessarily but one of the reasons we have this problem is the failure of President Bush's criminal justice plan and the failure of President Bush's drug plan.

Let me give you a few statistics. In New York City alone—I am not telling the Senator from New York anything new. He knows this better than I do. In New York City alone, there are 500,000 to 600,000, safe to say, over one-half million hard-core drug addicts. Do you hear what I just said? In New York City alone, as I speak, there are over one-half million hard-core drug addicts walking the streets. Guess what? Hard-core drug addicts commit, depending on their particular addiction, roughly somewhere on the order of 175 felonies a year. It does not take a brilliant mathematician to figure out if it is roughly 175 felonies a year that a hard-core drug addict commits—and there are over one-half of them located in an area not much bigger than Washington, DC, geographically—you have a problem.

But this administration—notwithstanding the help of the Senator from New York—has refused to focus on hard-core drug addicts in their drug strategy. That is the major battle between the Senator from Delware in his alternative drug strategy and the President of the United States.

They want to talk about, and they love to talk about and brag about—and God bless them, we need to be able to brag about something—brag about the fact that casual drug use is down. It is. But hard-core drug use is up. Felonies are up.

Another thing: New York City has been attempting to do something about a gun law so felons, and these folks—hard-core drug addicts—do not get guns. But guess what? They drive across State lines into other States, and they buy their gun where there is no waiting period, where there is no ability for anybody to check whether or not this is a felon purchasing the gun. But guess what? I say to my friend from New Mexico, the President of the United States says I do not want anything to do with that. Let the NRA set my policy, not the police.

Every police officer in America, every organization in America said we want something done about the ability of felons to walk into a gun store, walk up to the counter, plunk down their money, and buy a gun. The Attorney General comes back with a brilliant response to that. He said that is only a 17-percent solution. Do you know what that means? That means he says only 17 percent of these people who are running around New York City shooting folks up, themselves, and shooting other people with guns, only 17 percent of them were bought legally. So let us not bother doing anything about that, only 17 percent—17 percent. Well, golly, 17 percent of somewhere over a million felonies committed a year here, you know, that adds up. As Everett Dirksen said in another context, that adds up to "real" people, real dead people.

One other point I would say to my friend from New York. The national total of drug-related murders is estimated to exceed 2,000.

Mr. President, if we do not do something about the Brady bill, if we do not do something about the DeConcini bill, if we do not do something about having a more rationale national drug strategy, and if we do not do something about what the Senator from New York has been hollering about, asking for, pleading for, I do not know for how long—and that is build more prisons—the reason why I heard the Senator give the statistic. And he is right. Only 40 percent of these folks go to jail. One of the reasons only 40 percent of these folks go to jail is because the Federal court says under the eighth amendment it is cruel and unusual punishment to put four, five, seven, two people in cells that are 8 by 10 with no windows. So they said unless you provide some means to house these folks, you cannot put them in jail.

So what does the administration say? The administration says in their crime bill, we are going to get tough. We are going to change habeas corpus. We are going to change the death penalty. They are for it. Great; we did it.

So far, I mean, it is not law yet. We did it in this Chamber. Then you say, but by the way, we want to do something about criminals.

I ask unanimous consent that I be able to continue for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. So what happens? The administration says, but, by the way, we do not want to do anything about more prison cells other than the ones you forced on us 2 years ago. The Senator from New York says, we have so many drug addicts out there we ought to have prisons to put them in. We ought to have boot camps to send them to. He has been backing me and I have been backing him, and I probably have been backing him for I do not know how long on that point now. It is in the Biden bill, which the administration does not like.

So, look. One of the reasons only 40 percent of these folks do not go to jail is not because a judge sits up there and says, aha, you are a drug addict. You just had a gun you purchased legally. You are a convicted felon. You used that gun and you shot somebody. But do you know something? Even though it is your third offense, I think it is time to be lenient with you.

It is because they look, and the attorney general of that State or any other State stands there and says, well, your honor, we are still under court order. The judge says we are going to send this guy to jail. He said, your honor, we only have 2,000 prison spaces and we have 2,747 people in there and the Federal courts already ordered us to release 716 of them, and there is no space.

Then that judge sits there in frustration, pulls his hair out, and does what he has no other option to do. That does not mean there are not judges, like in other professions, that are a bunch of dummies. There are some real dummies. There are some who do not understand the problem. That is true. They are in every profession—plumbers, doctors, lawyers, Senators, as we are demonstrating.

So it works that way in every professon. But part of the reason is something has to be done about building more prisons, cracking down on hard-core drug users, and preventing felons from being able to purchase guns, and those who even use them illegally, to stop people in this country from manufacturing guns called things like street sweepers and AK-47's.

I yield the floor. I thank my colleagues.

The PRESIDING OFFICER. The time controlled by the Senator from Delaware has expired.

Who yields time?

Mr. D'AMATO. Mr. President, I hope I will be able to make clear what we are doing here. We are really saying that we are not usurping States rights. But what we are doing is saying that the transportation of a gun that is used in the commission of a felony can be prosecuted by the Federal prosecutor. That is the same thing we do in a whole variety of activities. We have concurrent jurisdiction.

In this bill we talk about not supplanting but we absolutely go to the fact and we say that this will supplement but not supplant the efforts of the State and local prosecutors.

I might point out that in the area of interstate commerce, we have concurrent jurisdiction when it comes to racketeering, when it comes to threats that involve murder, kidnaping, gambling, arson, robbery, bribery, extortion. So this is not new.

Mr. BIDEN. Will the Senator yield for a question? Is the Senator saying that only when a person is convicted in a Federal court does this sentence apply?

Mr. D'AMATO. Yes. Only in Federal court. This does not impose a requirement that would mandate in the State court but only in the Federal court where the Federal prosecutor brings that prosecution where there would be that mandatory sentence.

So we did not attempt in any way to bring about a usurpation of the State sentencing; rather, we say where the Federal prosecutor asserts jurisdiction, as a practical matter, they are going to do that in a relatively limited number of cases. It will be in conjunction with the local district attorneys and prosecutors.

Mr. BIDEN. Will the Senator yield for another question?

Mr. D'AMATO. Yes.

Mr. BIDEN. If the Senator is willing to make it absolutely clear by legislative history—because I think the language in section 924(C), and subsection (a) is ambiguous—the line: "* * * for which he may be prosecuted in a court of any State."

If the Senator is willing to make it absolutely clear that this only applies to an individual convicted in a Federal court——

Mr. D'AMATO. Absolutely. That is the clear intent. It would not bind the State courts. This would be only where the Federal prosecutor takes jurisdiction and prosecutes the case in a Federal court.

Mr. BIDEN. So only if a Federal prosecutor takes it, only if it is done in a Federal court, and only if there is a conviction in the Federal court, does the Senator say this would apply?

Mr. D'AMATO. The sentencing standards would be applied.

Mr. BIDEN. That clarifies a great deal for the Senator from Delaware. I thank the Senator.

Mr. D'AMATO. Mr. President, I believe that, particularly in States such as mine, where the commission of violent crimes with guns constitutes such a great percentage, this would have a very salutory effect in really bringing the criminal justice system into the 20th century, instead of letting the local people saying, "we want help from the Feds. We want your law. This gives us an opportunity to do something meaningful."

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BIDEN. Mr. President, will the Senator yield for another question?

Mr. D'AMATO. Yes.

Mr. BIDEN. The Senator says this is meant to supplement State prosecution. Does this mean that if the State attorney general says they are going to prosecute the case, the Federal Government cannot come along and say, "No, you cannot prosecute it; we are going to prosecute it"?

Mr. D'AMATO. Well, it would be the same situation that we have now pending with narcotics cases where both have the ability—as a practical matter, most of these cases are brought by local law enforcement. So the U.S. attorney, as a practical matter, is not going to assert jurisdiction where a gun has been used in commission of a crime, unless that local district attorney—in most of these cases the local the district attorney or county attorney as we call them in other jurisdictions—yields jurisdiction.

Let say this: I believe, in most of these instances, you will have cross designations by the local prosecutor, who will have his prosecuting staff cross designated, so that they can try these cases. That is what has been taking place in many narcotics cases.

Mr. BINGAMAN. Can I ask the Senator, will he yield for another question?

Mr. D'AMATO. Certainly.

Mr. BINGAMAN. As I understand what the Senator is now proposing, we have a situation where any time a State crime is committed, a crime is committed that constitutes a crime under State law, if a firearm is used, the Senator from New York has provided that it becomes a Federal crime?

Mr. D'AMATO. If the Feds wish to assert jurisdiction, yes.

Mr. BINGAMAN. That is true with any crime?

Mr. D'AMATO. Yes. The use of a gun constitutes a Federal crime.

Mr. BINGAMAN. The use of a gun in the commission of a State crime makes it a Federal crime?

Mr. D'AMATO. Yes. A felony.

Mr. BINGAMAN. So that all criminal activity covered by State criminal law becomes Federal criminal activity if there is a gun involved?

Mr. D'AMATO. Yes.

Mr. BINGAMAN. And the Senator is saying that as to any of that, any of these criminal acts that occur in States and have traditionally been prosecuted in our State courts, that under this provision we not only have the authority by the Federal Government for the Federal prosecutor to come in and say, "This is also a State crime, and I am going to prosecute it as a Federal crime," but we have now, under the amendment that is pending, a set of mandatory sanctions or mandatory penalties that apply and have to apply if there is a conviction in that case?

Mr. D'AMATO. Correct. But might I add that this same application has taken place as it relates to a shared jurisdiction in cases involving kidnaping, gambling, arson, robbery, bribery, extortion. So this is not new. Obviously, in drugs.

Mr. BINGAMAN. What makes it new is, the Senator is saying, any crime with a gun?

Mr. D'AMATO. It goes to the gravamen of the gun. We say if you use the gun, the gun gives us Federal jurisdiction. And the Senator is right; with guns playing an increasing part, particularly in murders and other crimes, it will significantly give the Federal prosecutor, if he chooses to use it, more jurisdiction to cover more cases.

Mr. BINGAMAN. May I address one other question to the Senator from New York?

The PRESIDING OFFICER. Does the Senator yield for an additional question?

Mr. D'AMATO. Yes.

Mr. BINGAMAN. Mr. President, as I understand it, the language of the bill says that it is intended to supplement, rather than supplant. But, presumably, if a State prosecutor was trying a case under State law against a criminal that did commit a criminal act under State law, using a firearm, there is nothing that we have in the legislation here to prevent the Federal prosecutor from going in and essentially overlaying the Federal penalties and overlying the Federal prosecution on top of that, and essentially preempting the State from imposing its penalties and, instead, imposing the Federal penalties.

Mr. D'AMATO. My good friend is right in saying that the U.S. Attorney could preempt or take jurisdiction in the case. He could. But, as practical matter, I suggest that we have come a long way in recent years with the cooperative effort between State prosecutors and Federal prosecutors. All of the resources are strained, so that we have had a very real cooperative effort. If the Senator is saying, could there be a case where the U.S. attorney would take jurisdiction notwithstanding that the local prosecutor really was not happy, or did not with that to take place, yes, that could be the case.

Mr. BINGAMAN. May I proceed with this same line of questioning, if the Senator will continue to yield?

The PRESIDING OFFICER. Does the Senator continue to yield?

Mr. D'AMATO. Yes.

Mr. BINGAMAN. If the Senator from New York would advise me, and just think of it from the point of view of a State prosecutor: Every time you prosecute a criminal in your State for committing a crime with the use of a firearm, you would have at least the possibility that the Federal prosecutor, U.S.

attorney, would come in and supplant what you had done, would you not?

Mr. D'AMATO. Not really. We say clearly in section 927, it is the intent of Congress that this subsection shall be used to supplement. I think the Senator correctly said supplement—not to supplant. I cannot see this taking place, because it does not take place in drug cases today; it does not take place in a whole variety of cases.

That is not to say in this whole Nation, with all of the prosecutions, that there may not be some pushing and shoving. But to supplement—that is the key, when you say not to supplant in the general.

I do not believe the Attorney General is going to be anxious for his U.S. attorneys, given the limited prosecutorial staff, limited prisons—because, remember, they get prosecuted now.

One of the things I would like to see is a supplement, particularly in urban centers, for prosecution of these cases in the Federal courts where they have no room, and in Federal prisons, because our State prison systems are breaking down.

Mr. BINGAMAN. Mr. President, will the Senator from New York respond to a question as to whether the National District Attorneys Association had a chance to review this legislation and comment on it?

Mr. D'AMATO. They have not.

Mr. BINGAMAN. Have any district attorneys, to the Senator's knowledge, in his State or any State had an opportunity to comment on this?

Mr. D'AMATO. Yes. I have contacted a number of district attorney offices in my State. They have no problem with it, no difficulty. They have cooperated, as I have indicated, with cross-designations in drug cases, et cetera. They really welcome this.

I am not suggesting this might not be contentious before the State District Attorneys Association or the Federal, both on the national level, but I have consulted with a number of district attorneys who have been supportive.

Mr. BINGAMAN. I ask the same question about the National Attorneys General Association.

Mr. D'AMATO. I have not.

Mr. BINGAMAN. They have not been consulted, though?

Mr. D'AMATO. No; I have not spoken to them. They have not.

Let me say this. It is kind of like the situation of a local jurisdiction that has an incredible problem dealing with garbage. They do not want anybody else to handle it, but they cannot handle it.

We have some real problems here locally because of inadequacy of all the problems in the criminal jurisdiction, so there might be some contention on their part not to support this, I agree. But the fact is, I say to the Senator, our people need help. Our people have been beaten down and, as Justice Murphy said, it is the law-abiding citizen who is suffering.

I think we have an opportunity to make a substantial change in that. That is what this legislation is intended to do, to supplement, to help a beleaguered law enforcement system.

Mr. BINGAMAN. I thank the Senator from New York for his response.

Mr. D'AMATO. Mr. President, I yield back any time I might have.

The PRESIDING OFFICER. All time has been yielded back.

The question occurs on agreeing to the amendemnt (No. 387) proposed by the Senator from New York. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER (Mr. LIEBERMAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 88, nays 11, as follows:

[Rollcall Vote No. 112 Leg.]

YEAS—88

Adams
Akaka
Baucus
Bentsen
Biden
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Byrd
Chafee
Coats
Cochran
Conrad
Craig
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Helms
Hollings
Inouye
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Reid
Riegle
Robb
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wellstone
Wirth
Wofford

NAYS—11

Bingaman
Bond
Burns
Cohen
Cranston
Gorton
Heflin
Jeffords
Metzenbaum
Rudman
Simon

NOT VOTING—1

Pryor

So the amendment (No. 387) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SANFORD. Mr. President, once again the Congress will embark on consideration of legislation that purports to "get tough on crime" and there is not a single Senator among us who would shy away from association with that appellation.

And, while we may welcome both the President's and the Congress' return to the domestic side of the national agenda, I want to express my concern that we have allowed both the President and ourselves to define this item on that agenda in far too narrow terms.

We have been swayed by the purportedly easy solutions to very difficult problems. We all want to crack down on crime. But, how have we chosen to do so? For more than a decade, the Federal Government's response has been to fight crime by expansion, by increasing arrests, and prosecutions by the imposition of mandatory and lengthy sentences, by increasing criminal justice personnel, by building more prisons and overcrowding them, and, by increasing the flow of tax dollars to the problem. Expansion of the old approaches, Mr. President, is not enough. I want to get really tough and smart about crime.

As the Judiciary Committee report entitled "Fighting Crime in America: An Agenda for the 1990's" confirms the year 1990 set a national record for murders, a national record for assaults, a national record for rapes, and a national record for robberies. That is the product of just expanding the old ways to show "toughness on crime." Indeed, the year recorded an unprecedented 2 million victims of violent crime in America. Somehow all of our toughness has vaporized, and crime marches on.

The total number of crimes committed in 1990 rose to a new record high as did the rate of violent crime. The Judiciary report also states that "enormous increases in violent crime in the United States are setting records not just at home, but also abroad. We are the most violent and self-destructive Nation on Earth." Yet, we pursue with single-minded dedication the limited and limiting practices of old as deterrents to crime. Our citizens do not feel safer on our streets. They do not feel safer in their homes and communities. These tough approaches have not stopped crime and have not stopped the potential criminal. It is time to get smart and tough.

We have all noted the ironies of the return home of our fighting men and women from facing danger in the Middle East, only to face the greater danger of violent crime in America. We say to one another, how could that be? Why has crime torn loose so violently to endanger the very fabric of our free society. It is tragic. Certainly, no one can disagree that personal safety and security must be returned to the Nation's value system to rival that of national safety and security. We must do more than merely expand crime detection and punishment, if we are to return personal safety to America.

THE ADMINISTRATION PROPOSAL

What are the solutions to this problem that we are now being asked to consider? One thing is abundantly clear: our efforts on the Federal level are insignificant if they do not convey to the American people that the battle is one that overwhelmingly must be waged and won in the communities and in the neighborhoods of our States. Ninty-five percent of all criminal cases are prosecuted in State courts. It is the State criminal justice systems, the State prosecutors, the State police, the State judges, and the State prisons that bear the greatest burden. Washington's job is to help State and local programs. Our bold and courageous expansion of the list of Federal crimes calling for the death penalty is like throwing a pebble into Lake Pontchartrain. It is true that we have been winding up and thowing the pebble with the flourish and force of Orel Hershiser. This machismo act, however, has had no effect on reducing crime in America. I would say to the President of the United States, Mr. President, we are joining you in fooling the American people if they are convinced that the application of the death penalty to an expanded list of Federal crimes are going to make much of a dent in crime in America.

On the other hand, your crime bill, Mr. President, addresses issues that should frighten every citizen of this country. The administration proposal strikes at the heart of the principles laid down in the Bill of Rights. That is no way to fight crime, Mr. President. Let me just recite a few of a citizen's concerns with this bill:

The administration proposal falsely calls itself a reform bill for the writ of habeas corpus and then proceeds to eliminate the system of Federal collateral review.

The administration proposal would authorize the death penalty for crimes that do not involve murder and crimes that involve unintentional deaths.

The administration proposal would repeal important protections, permitting the death penalty for people with mental retardation and other serious mental disabilities, authorizing the death penalty for crimes in Indian country over the objections of the tribal government, and repealing provisions that require reasonable compensation for competent counsel and experts in capital cases.

The administration proposal would diminish the protections of the fourth amendment. It would expand the exception to the exclusionary rule to cover searches without warrants.

The administration proposal would authorize secret proceedings for the deportation of foreign nationals, departing from the accepted American practice of 200 years, adopting practices that we have uniformly condemned in other countries around the world. We can quickly and forthrightly deport terrorists without resorting to secrecy. America is an open society, Mr. President.

The administration is long on order but short on law. Its proposal is aimed at fooling the American people into thinking that we're really going to be fighting crime in America. These solutions we are asked by the Bush administration to consider are both simplistic and disturbing, and, I might say, insulting to the good sense of Americans.

We cannot wage a war on crime if we adopt an approach that leaves us "for want of a nail," for want of a complete commitment. Much more than a shoe is being lost, the safety and security of our citizens is being forfeited. The administration offers only "sound and fury," the bugle boy can't win the battle if there are no troops to march beside him.

THE BIDEN BILL

As we have learned from history, wars are not won on the battlefield without commitments made by those who also stand and wait. Without the financial commitments to backup the soldiers in the field, to supply them with the tools necessary to do the job, the battle cannot be won. What is absent from the administration bill are some promising solutions like gun control, programs for drug treatment, rehabilitation and prevention, or intermediate sanctions and other measures to deal with the breakdown of the overburdened criminal justice system across the board.

A national response to violent crime and drug trafficking problems will require a comprehensive attack using a wide variety of tools and approaches. I believe the Biden bill provides a well-reasoned starting point for that response.

The local law enforcement community must be aided in their response to violent crime. They are increasingly understaffed, ill equipped, and outgunned. We can do something to help them and the provisions of the Biden bill do just that. Indeed, many of these provisions present sharp contrast to those of the administration. For example, the administration's bill is staggering in its silence on gun control. The Brady bill must be passed. In that regard, our distinguished majority leader has done much to ensure that this will be accomplished by the Senate. His proposal, to be considered as part of our debate on the crime bills before us, combines a waiting period with a mandatory background check and authorizes $40 million to help States update criminal records. My home State of North Carolina has long had a similar provision on the books and it has been readily accepted by our citizens. Without unduly interfering with anyone's right to own firearms, North Carolina's permit system has provided a check against handgun purchases by felons, drug abusers, mental incompetents, and those seeking in quick anger to win an argument. It has not put to disadvantage any law abiding citizens, gun dealers, hunters or NRA members. The Senate Brady bill is a rational policy that will help keep guns out of the wrong hands.

In yet another step, the Biden bill specifically acts to ban assault weapons. Last year, I voted to strike that provision because I did not believe it provided a workable solution. While my hoped for improvements have not been worked out, I am now convinced that this is the best provision that we will get this year. I have had the opportunity to speak with law enforcement people in my State who have told me that this provision is needed even if it does leave unnecessary loopholes.

Another key area of contrast between the bills centers on assistance to State and local law enforcement. In the face of funding reductions, allocation shifts, consolidations, and required expenditures offered in the administration proposal, the more effective response has been offered by provisions in the Biden proposal. The existing Federal commitment is roughly doubled and is to be used to hire, train and equip additional police officers, prosecutors and to provide prisons at the State and local level. Additional funding is also provided for personnel on the Federal level in key agencies such as the DEA, the FBI, the Bureau of Alcohol, Tobacco, and Firearms, as well as for personnel in the U.S. Attorney's Office and the U.S. courts. In sum, the Biden bill boosts Federal aid to $1 billion which is what is needed.

Other measures include:

Expanding the use of joint Federal-State asset forfeiture operations to strike at the underpinnings of drug trafficking rings;

Creating a new $100 million initiative to deal with violent juvenile crimes; and

Easing the State prison crises by establishing regional prisons for Federal and State drug offenders.

Our State and local law enforcement officers need the kind of assistance these programs offer.

Finally, let me make two basic points. Putting more crimes on the death penalty list is a farce. It doesn't do any good, and it doesn't do any harm, but it does permit us to fool ourselves. As the New York Times editorial pointed out in May, let us not be so quick to judgment in capital cases that it can be said the only scandalous thing about capital punishment in America is that "it takes too long to execute people."

Second, I would point out that the protections afforded citizens under the writ of habeas corpus and the exclusionary rule are too precious and too important in our society to be cast out under some ill-conceived notion that this streamlining and reform will reduce crime.

Let us not be in "such desperate haste to succeed and in such desperate enterprises" [H.D. Thoreau, Walden] that we forget the principles that distinguish and define the rights of individuals and our society. To my colleagues I would say that to forget those principles would be the real scandal.

WHAT WE MUST ALSO ADDRESS

As I indicated earlier, it is important not to lose sight of the fact that the question of what is most likely to reduce crime will not be either satisfied or settled by approaches we adopt this week. Reliance on law enforcement solutions is not enough, and that is the clear record of the last dozen years.

Underlying the entire issue of crime in America are the broader subtexts of our society. Improving the opportunity to thrive and to succeed, improving the opportunity to be educated, improving the opportunity to be free from hunger and from want, to have a home and to be secure. These are the cornerstones for America's war on crime. This is where the battle must be waged and won. These are, of course, the toughest problems to tackle but tackle them we must if we are to honestly say that we are "tough on crime." The evidence is that the administration does not have this kind of courage, this kind of genuine toughness.

Former President Lyndon Johnson urged a national inquiry into civil disorder and said in an address to the Nation 24 years ago:

> The only genuine, long range solution to what has happened lies in an attack—mounted at every level—upon the conditions that breed despair and violence. All of us know what those conditions are: ignorance, discrimination, slums, poverty, disease, not enough jobs. We should attack these conditions—not because we are frightened by conflict, but because we are fired by conscience. We should attack them because there is simply no other way to achieve a decent and orderly society in America.

History will record that America did not follow that advice. These words cannot fail to strike us by the utter failure that characterizes our Nation's progress since that time. A generation has grown up in 24 years and we are in far more dire circumstances now. Consider if you will the simple fact that an American citizen is four times as likely to fall victim to crime in this country today than in 1960. That is what psuedo-toughness has brought us.

The same analysis and the same recommendations could be made today. Let us work to end the hopelessness, the injustice, the poverty, and the destruction that generate violence.

We reach no startling new conclusions here, no bold and previously hidden truths. The ideas are not new. The only thing that will be new are our efforts to change inaction into action. First, and foremost we must act as the Biden bill prescribes to reduce the harms caused by the system of criminal justice itself and to protect the rights of individuals. Second, we must look to the larger context I have described. We must work to reduce the likelihood of entry into the criminal justice system, let alone return to it. In this regard, we cannot dismantle the social services of this Nation and then wonder why people who are desperate and people who are hungry turn to crime. Adults and children across America need to be helped. They need food, and health care, mental health programs, job training, education loans, school lunches, Head Start Programs, Aid to Families with Dependent Children, and programs to curb dropout rates and illiteracy. It is in that vein that I will propose an amendment to the Biden bill that will take the next step. My amendment addresses the roots of crime: the social and economic factors that lead to or contribute to crime. This amendment would require the Commission on Crime and Violence, as found in the Biden bill, to include, as part of its study on models for crime prevention plans, an examination of the basic causes and elements that contribute to crime. It further requests recommendations for specific proposals for both legislative and administrative actions to reduce crime and the elements that contribute to it. I urge my colleagues to act to take this next step.

Ending the epidemic of violence and crime that is gripping our country will take efforts on many fronts. My message to my colleagues today is a simple one: If we are to prevent crime, then we must not perpetuate the roots of crime. This problem cannot be solved any other way.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois [Mr. SIMON] is to be recognized to offer an amendment.

Mr. BIDEN. Mr. President, I ask unanimous consent Senator GORTON be able to proceed at this time, ahead of Senator SIMON.

The PRESIDING OFFICER. Hearing no objection, it is so ordered. The Chair recognizes the Senator from Washington [Mr. GORTON].

AMENDMENT NO. 386

(Purpose: To amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances, to provide greater flexibility in the regulatory controls placed on the legitimate commerce in these chemicals, and for other purposes)

Mr. GORTON. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] for himself, Mr. AKAKA, Mr. BRYAN, Mr. D'AMATO, Mr. DECONCINI, Mr. BIDEN, Mr. BURNS, and Mr. PACKWOOD, proposes an amendment numbered 386.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new title:

TITLE —PRECURSOR CHEMICALS

SECTION 1. SHORT TITLE.

This title may be cited as "The Chemical Control and Environmental Responsibility Act of 1991".

SEC. 2. DEFINITION AMENDMENTS.

(a) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (33) by striking "any listed precursor chemical or listed essential chemical" and by inserting in lieu thereof "any list I chemical or any list II chemical";

(2) in paragraph (34) by striking "listed precursor chemical" and by inserting in lieu thereof "list I chemical" and by striking "critical to the creation" and by inserting in lieu thereof "important to the manufacture";

(3) in paragraph (35) by striking "listed essential chemical" and inserting in lieu thereof "list II chemical" and by striking "that is used as a solvent, reagent or catalyst" and by inserting in lieu thereof ", which is not a list I chemical, that is used";

(4) in paragraph (40) by striking the phrase "listed precursor chemical or a listed essential chemical" and inserting in lieu thereof "list I chemical or a list II chemical" in both places it appears.

(b) Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended—

(1) in paragraph (a)(1)(A) by striking "precursor chemical" and inserting in lieu thereof "list I chemical";

(2) in paragraph (a)(1)(B) by striking "an essential chemical" and inserting in lieu thereof "a list II chemical";

(3) in paragraph (c)(2)(D) by striking "precursor chemical" and inserting in lieu thereof "chemical control".

(c) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (34) by inserting ", its esters," before the word "and" in subparagraphs (A), (F), and (H);

(2) in paragraph (38) by striking the period and inserting in lieu thereof "or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine.";

(3) in paragraph (39)(A) by striking "or exportation" and inserting in lieu thereof ", exportation or any international transaction which does not involve the importation or exportation of a listed chemical into or out of the United States if a broker or trader located in the United States participates in the transaction,";

(4) in paragraph (39)(A)(iii) by inserting "or any category of transaction for a specific listed chemical or chemicals" after "transaction";

(5) in paragraph (39)(A)(iv) by striking the semi-colon and inserting in lieu thereof "unless the listed chemical is ephedrine as defined in paragraph (34)(C) of this section or any other listed chemical which the Attorney General may by regulation designate as not subject to this exemption after finding that such action would serve the regulatory purposes of this chapter in order to prevent diversion and the total quantity of the ephedrine or other listed chemical designated pursuant to this paragraph included

in the transaction equals or exceeds the threshold established for that chemical by the Attorney General;";

(6) in paragraph (39)(A)(v) by striking the semi-colon and inserting in lieu thereof "which the Attorney General has by regulation designated as exempt from the application of this chapter based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered;"; and

(7) by adding a new paragraph as follows:

"(42) the terms "broker" or "trader" mean a person who assists in arranging an international transaction in a listed chemical by negotiating contracts, serving as an agent or intermediary, or bringing a buyer, seller and/or transporter together.".

SEC. 3. REGISTRATION REQUIREMENT.

(a) Section 301 of the Controlled Substances Act (21 U.S.C. 821) is amended by striking the period and inserting in lieu thereof "and to the registration and control of regulated persons and of regulated transactions.".

(b) Section 302 of the Controlled Substances Act (21 U.S.C. 822) is amended—

(1) in subsection (a)(1) by inserting "or list I chemical" after "controlled substance" in each place it appears;

(2) in subsection (b) by inserting "or list I chemical" after "controlled substances" and by inserting "or chemicals" after "such substances";

(3) in subsection (c) by inserting "or list I chemical" after "controlled substance" each place it appears; and

(4) in subsection (e) by inserting "or list I chemicals" after "controlled substances".

(c) Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following new subsection:

"(h) The Attorney General shall register an applicant to distribute a list I chemical unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

"(1) maintenance of effective controls against diversion of listed chemicals into other than legitimate channels;

"(2) compliance with applicable Federal, State and local law;

"(3) prior conviction record of applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

"(4) past experience in the manufacture and distribution of chemicals; and

"(5) such other factors as may be relevant to and consistent with the public health and safety.".

(d) Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

(1) in subsection (a) by inserting "or list I chemical" after "controlled substance" in each place it appears and by inserting "or list I chemicals" after "controlled substances";

(2) in subsection (b) by inserting "or list I chemical" after "controlled substance";

(3) in subsection (f) by inserting "or list I chemicals" after "controlled substances" each place it appears and

(4) in subsection (5) by inserting "or list I chemicals" after "controlled substances" each place it appears and by inserting "or list I chemical" after "controlled substance" each place it appears.

(e) Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958) is amended—

(1) in the Heading by adding the phrase "or to import or export a list I chemical";

(2) by redesignating subsection (c) as (c)(1) and by adding a new subsection (c)(2) as follows:

"The Attorney General shall register an applicant to import or export a list I chemical unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the factors enumerated in paragraphs (1) through (5) of section 823(h) shall be considered.";

(3) in paragraph (d)(3) by inserting "or list I chemical or chemicals," after "substances,";

(4) in paragraph (d)(6) by inserting "or list I chemicals" after "controlled substances" each place it appears;

(5) in subsection (e) by striking "and" and by inserting after 827 ", and 830";

(6) in subsections (f), (g) and (h) by inserting "or list I chemicals" after "controlled substances" each place it appears.

(f) Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) by striking "or" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof "; or"; and

(3) by adding the following new subsection:

"(9) who is a regulated person to distribute, import or export a list I chemical without the registration required by this title.".

SEC. 4. REPORTING OF LISTED CHEMICAL MANUFACTURING.

Section 310(b) of the Controlled Substances Act (21 U.S.C. 830(b)) is amended by designating the opening paragraph "(b)(1)", by redesignating paragraphs (1), (2), (3) and (4) as (i), (ii), (iii) and (iv) respectively, by changing the references to these paragraphs in the text which follows them to reflect these new designations and by adding the following new subsection:

"(2) Each regulated person who manufactures a listed chemical shall report annually to the Attorney General, in such form and manner and containing such specific data as the Attorney General shall prescribe by regulation, information concerning listed chemicals manufactured by him.".

SEC. 5. REPORTS BY BROKERS AND TRADERS; CRIMINAL PENALTIES.

(a) Section 1018 of the Controlled Substances Import/Export Act (21 U.S.C. 971) is amended by adding the following new subsection:

"(e) Any person located in the United States who is a broker or trader for an international transaction in a listed chemical which is a regulated transaction solely because of that person's involvement as a broker or trader shall, with respect to that transaction, be subject to all of the notification, reporting, record keeping, and other requirements placed upon exporters of listed chemicals by this subchapter and by subchapter I of this chapter.".

(b) Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended in its entirety to read as follows:

"(d) Penalty for importation or exportation

"Any person who knowingly or intentionally—

"(1) imports or exports a listed chemical with intent to manufacture a controlled substance in violation of this chapter; or

"(2) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, in violation of the laws of the country to which the chemical is exported; or

"(3) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of this chapter; or

"(4) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of the laws of the country to which the chemical is exported;

"shall be fined in accordance with title 18, or imprisoned not more than 10 years, or both.".

SEC. 6. EXEMPTION AUTHORITY; ADDITIONAL PENALTIES.

(a) Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended by adding the following new subsection:

"(d)(1) The Attorney General may by regulation require that the 15 day advance notice requirement of subsection (a) of this section apply to all exports of specific listed chemicals to specified nations, regardless of the status of certain customers in such country as "regular customers", if he finds that such action is necessary to support effective diversion control programs or is required by treaty or other international agreement to which the United States is a party;

"(2) The Attorney General may by regulation waive the 15 day advance notice requirement for exports of specific listed chemicals to specified countries if he determines that such advance notice is not required for effective chemical control. If such advance notice requirement is waived, exporters of such listed chemicals shall be required to either submit reports of individual exportations or to submit periodic reports of the exportation of such listed chemicals to the Attorney General at such time or times and containing such information as the Attorney General shall establish by regulation.

"(3) The Attorney General may by regulation waive the 15 day advance notice requirement for the importation of specific listed chemicals if he determines that such requirement is not necessary for effective chemical control. If such advance notice requirement is waived, importers of such listed chemicals shall be required to either submit reorts of individual importations or to submit periodic reports of the importation of such listed chemicals to the Attorney General at such time or times and containing such information as the Attorney General shall establish by regulation.".

(b) Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(D)) (as amended by Section 5 above) is amended by—

(1) inserting "or" after the semicolon at the end of paragraph (4); and

(2) adding a new paragraph (5) as follows:

"(5) imports or exports a listed chemical, with the intent to evade the reporting or record keeping requirements of section 971 of this title applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation qualifies for a waiver of the advance notice requirement granted pursuant to section 971(d)(1) or (2) of this title by misrepresenting either the actual country of final destination of the listed chemical and/

or the actual listed chemical being imported or exported;".

SEC. 7. AMENDMENTS TO LIST I.

Section 102(34) of the Controlled Substances Act (21 U.S.C. 802 (34)) is amended:

(1) by striking the following chemicals:

"(O) D-lysergic acid."

"(U) N-ethylephedrine."

"(W) N-ethylpseudoephedrine.";

(2) by redesignating subparagraphs (P) through (T) as (O) through (S), subparagraph (V) as (T), and subparagraph (X) as (U), respectively;

(3) by adding the following chemicals:

"(V) benzaldehyde."

"(W) nitroethane.";

(4) by redesignating subparagraph (Y) as (X); and

(5) by striking "(M) through (X)" in the text of redesignated subparagraph (X) and inserting in lieu thereof "(M) through (U)".

SEC. 8. ELIMINATION OF REGULAR SUPPLIER STATUS AND CREATION OF REGULAR IMPORTER STATUS.

(a) Section 102(37) of the Controlled Substances Act (21 U.S.C. 802(37)) is amended in its entirety to read as follows:

"(37) The term "regular importer" means, with respect to a specific listed chemical, a person who has an established record as an importer of that listed chemical that is reported to the Attorney General.".

(b) Section 1018 of the Controlled Substances Act (21 U.S.C. 971) is amended:

(1) in subsection (b)(1) by striking "regular supplier of the regulated person." and inserting in lieu thereof "to an importation by a regular importer.";

(2) in subsection (b)(2) by striking "a customer or supplier of a regulated person" and inserting in lieu thereof "a customer of a regulated person or to an importer" and by striking "regular supplier" and inserting in lieu thereof "the importer as a regular importer"; and

(3) in subsection (c)(1) by striking "regular supplier" and inserting in lieu thereof "regular importer".

SEC. 9. ADMINISTRATIVE INSPECTIONS AND AUTHORITY.

Section 510(a)(2) of the Controlled Substances Act 21 U.S.C. 880(a)(2)) is amended in its entirety to read as follows:

"(2) places, including factories, warehouses, or other establishments, and conveyances, where persons registered under section 823 of this title (or exempt from such registration under section 822(d) of this title or by regulation of the Attorney General), or a regulated person as defined in section 802(38) of this title, may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to such activity are maintained.".

SEC. 10. THRESHOLD AMOUNTS.

Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)) (as amended by Section 2 above) is amended by inserting "of a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical," before "a threshold amount, including a cumulative threshold amount for multiple transactions".

SEC. 11. MANAGEMENT OF LISTED CHEMICALS.

(a) Part C of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by adding at the end thereof the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"Sec. 311. (a) It is unlawful for a person who possesses a listed chemical with the intent that it be used in the illegal manufacture of a controlled substance to manage the listed chemical or waste from the manufacture of a controlled substance otherwise than as required by regulations issued under sections 3001 through 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921–6925).

"(b)(1) In addition to a penalty that may be imposed for the illegal manufacture, possession, or distribution of a listed chemical or toxic residue of a clandestine laboratory, a person who violates subsection (a) shall be assessed the costs described in paragraph (2) and shall be imprisoned as described in paragraph (3).

"(2) Pursuant to paragraph (1), a defendant shall be assessed the following costs to the United States, a State, or other authority or person that undertakes to correct the results of the improper management of a listed chemical:

"(A) The cost of initial cleanup and disposal of the listed chemical and contaminated property; and

"(B) The cost of restoring property that is damaged by exposure to a listed chemical for rehabilitation under Federal, State, and local standards.

"(3)(A) A violation of subsection (a) shall be punished as a Class D felony, or in the case of a willful violation, as a Class C felony.

"(B) It is the sense of the Congress that guidelines issued by the Sentencing Commission regarding sentencing under this paragraph should recommend that the term of imprisonment for the violation of subsection (a) should not be less than 5 years, nor less than 10 years in the case of a willful violation.

"(4) The Court may order that all or a portion of the earnings from work performed by a defendant in prison be withheld for payment of costs assessed under paragraph (2)

"(c) The Attorney General may direct that assets forfeited under section 511 in connection with a prosecution under this section be shared with State agencies that participated in the seizure or cleaning up of a contaminated site."

(b) Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of the paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; or"; and

(3) by adding the following new paragraph at the end thereof:

"(11) for costs assessed under section 311(b) of the Controlled Substances Act.".

SEC. 12. TECHNICAL AMENDMENT TO THE "CRIME CONTROL ACT OF 1990".

Section 2004 of the "Crime Control Act of 1990" (Pub. L. 101–647) is amended as it amends Section 510(f) of the Controlled Substances Act (21 U.S.C. 881(f)) by striking "this title" and inserting in lieu thereof "this subchapter".

SEC. 13. ATTORNEY GENERAL ACCESS TO THE NATIONAL PRACTITIONER DATA BANK.

Chapter 117 of Title 42, United States Code, is amended by adding the following section to subchapter II:

"11138. Disclosure of information to the Attorney General Information respecting physicians or other licensed health care practitioners reported to the Secretary (or to the agency designated under section 11134(b) of this title) under this subchapter or section 1396r–2 of this title will be provided to the Attorney General. The Secretary will transmit to the Attorney General such information which the Attorney General may designate or request which will assist the Drug Enforcement Administration in the enforcement of Title 21, Sections 801 et seq., and will transmit such information related to health care providers which the Attorney General may designate or request which will assist the Federal Bureau of Investigation in the enforcement of Title 18 and Title 21, Chapter 7 and Chapter 9, Subchapter V.".

SEC. 14. REGULATIONS AND EFFECTIVE DATE.

The Attorney General shall, not later than 90 days after the enactment of this Act, issue regulations necessary to carry out this Act. Except as otherwise noted, this Act will become effective 120 days after enactment.

Mr. GORTON. Mr. President, the war against drugs, albeit tremendously expensive, is one that we must win, for our sake and for the sake of our children and their children. The costs of losing the war; or even daily battles, are far greater.

Facing, as we are, tight Federal budgets, Congress cannot merely throw endless amounts of money at the problem and hope that it goes away. We simply do not have an endless supply of funds.

In the war on drugs, in this Senator's view, an ounce of prevention is worth a pound of cure. This is especially true for illicit drugs processed or manufacturered right here at home using readily available chemicals that are perfectly legal to purchase. Denying criminals the chemicals they need to manufacture synthetic drugs, heroin, and cocaine is one of the most effective weapons available to governments in the international battle against illicit drugs.

In 1988, Congress took a step in the right direction by passing the Chemical Diversion and Trafficking Act. This law regulated precursor chemicals that otherwise could be diverted to clandestine drug laboratories operating abroad. In the first full year after this law became effective, the number of seizures of clandestine drug labs decreased, reversing a decade-long trend. Nevertheless, the level of seizures remains far too high and these encouraging statistics easily could turn upward once again with the advent of new techniques used to manufacture a powerful and particularly virulent form of methamphetamine nicknamed "ice." It is evident that increased vigilance is necessary.

Pursuant to the 1990 Houston economic summit, the multinational Chemical Action Task Force was established to expand and improve upon existing chemical control laws and accords, most notably, the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. In addition to the G–7 countries, the task force was attended by representatives of the European Community, major chemical producing and trading countries, major illicit drug producing countries, and international narcotics control organizations, all united to help stem the flow of illegal drugs.

Today, I offer on behalf of myself, Senator AKAKA, Senator BRYAN, Senator D'AMATO, Senator DECONCINI, Senator BIDEN, Senator BURNS, and Senator PACKWOOD an amendment that builds on, and strengthens, the principles underlying our Federal drug laws, and implements several of the recommendations of the task force. Our amendment, the Chemical Control and Environmental Responsibility Act, will provide Federal authorities with the power and flexibility to prevent the diversion of chemicals essential to the illicit drug manufacturing process without unduly restricting legitimate commerce. In fact, it will reduce the burdens currently borne by industry where fewer controls are warranted.

This bipartisan amendment will expand the regulatory jurisdiction of Federal drug laws to include the export from or import to this country of controlled chemicals, as well as of international transactions between third countries arranged by brokers of traders in the United States. Oversight and control of each of these categories of transaction is crucial to effective international drug efforts.

It will close a number of regulatory omissions and exemptions through which controlled chemicals have slipped on their way to the illicit drug industry. For instance, due to a general exemption for chemicals contained in over-the-counter drugs, the controlled chemical, ephedrine, is exempt from regulation in tablet form. Similarly, mixtures currently are exempt from regulation even though some controlled chemicals may be recovered from the mixtures, or the mixtures themselves may be used directly in the illicit production of drugs. This amendment will close these and other loopholes.

The amendment also revises key terminology used in the current chemical control laws to comport with international usage and regulations. In addition, this will serve to sharpen the focus of domestic drug control laws on the overall importance of regulated chemicals to the illicit drug industry, and with it, the types and levels of controls necessary to restrict their illegal use.

Mr. President, this amendment also will impose liability on convicted drug laboratory owners and operators to undue the environmental damages they cause. Currently, those environmental cleanup costs are borne by Federal, State, and local authorities, in other words, by the American taxpayer.

The scourge of drugs is not just an international or national problem. It is not just a State problem or even a big city problem. Rather, it is a problem that can and does exist in many of our backyards, unknown to our friends and neighbors.

Home drug laboratories can be found in any locality, rich or poor, urban or rural, bucolic or blighted. Following rudimentary instructions, amateur scientists produce a variety of street drugs in relative obscurity. Although these drug kitchens often are small, each has the potential of creating a miniature love canal, contaminating buildings and entire neighborhoods with highly toxic chemical wastes.

Many readily available chemicals are used as reagents in the drug manufacturing process. Following their use, these highly toxic reagents usually are disposed in the manner most convenient to the drug cooks. Acids, poisons, corrosive sludge, and flammable liquids are dumped carelessly on the ground, poured into drains, flushed down toilets, and released into our rivers, streams, and lakes. Other toxins evaporate. These toxic byproducts contaminate the ground, air, and water and can endanger human health for miles around.

The harmful effects of these chemicals on the environment were highlighted in testimony given earlier this year before the Senate Judiciary Committee by Paul Pearce of Camas, WA. As a field expert on clandestine drug laboratory investigations and the president of the Clandestine Laboratory Investigations Association [CLIA], Mr. Pearce understands the imperative need to reduce these drug kitchens and the assured environmental hazards they represent.

Mr. President, the war against drugs continues at all levels. Congress should take the lead and demonstrate to the world that this country is serious about combating the scourge of illicit drugs. We have the opportunity to be one step in front of the resourceful drug industry, rather than struggling merely to keep up with it.

Mr. President, seizures of domestic drug laboratories increased 400 percent during the 1980's. Even with increased staffing, our law enforcement officials always have been one step behind the problem. It would be both prudent and more effective to preclude its growth by inhibiting the supply of precursor chemicals from illicit drug production.

In addition, convicted drug laboratory owners and operators should be fully responsible for costs to restore the buildings and contaminated property to strict environmental standards. It is neither fair nor just to force the American taxpayer to bear the burden of their contemptible acts.

I urge adoption of this amendment.

Mr. President, I ask unanimous consent that there be printed in the CONGRESSIONAL RECORD the text of a section-by-section summary.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE CHEMICAL CONTROL AMENDMENTS OF 1991—SECTION-BY-SECTION SUMMARY

Section 1. Title. This Act may be referred to as the "Chemical Control and Environmental Responsibility Act of 1991".

Sec. 2. Definition Amendments. The terms "listed precursor chemical" and "listed essential chemical" are replaced throughout the Federal chemical control laws with the terms "list I chemical" and "list II chemical." This will bring terminology used in Federal chemical control laws into conformity with international usage and regulations. In addition, the focus will shift away from the categorization of chemicals as precursor or essential chemicals, and rather to the overall importance of those chemicals in the illicit manufacture of controlled substances and the types of controls necessary to restrict their illicit use.

The list of chemicals subject to regulation under "list I" of Federal chemical control laws is expanded to include esters of three "list I" chemicals—anthranilic acid, N-acetylanthranilic acid, and phenylacetic acid. These forms of the listed chemicals easily can be used in the illicit manufacture of controlled drugs.

The definition of "regulated person" is expanded to include a broker or trader involved in international transactions. In addition, the definition of "regulated transaction" has been explanded to include any international transaction which does not include the importation or exportation of a listed chemical into or out of the United States if a broker or trader located in the United States participated in the transaction. These definition amendments will permit regulation of international transactions between third countries and arranged by a United States broker or trader. Experience has shown that the control of such transactions is crucial to effective international control of trade in listed chemicals.

The authority of the Attorney General to exempt certain categories of transactions from regulation is expanded to include transactions for specific listed chemicals. Under current law, the Attorney General has the authority to exclude general categories and transactions only.

The current chemical control laws also contain a general exemption from regulation for transactions of listed chemicals that may be marketed lawfully under the Federal Food, Drug and Cosmetic Act. The "list I" chemical, ephedrine, often has escaped regulation through this exemption. This section specifically removes all forms of ephedrine from the general exemption, and grants the Attorney General the authority to remove other listed chemicals from the exemption.

Chemical mixtures also are outside general regulation by Federal chemical control laws, even though some listed chemicals may be recovered from such mixtures and some mixtures themselves may be used directly by clandestine laboratories. This section will limit the exemption to those mixtures which the Attorney General has specifically designated as exempt by regulation. This designation will be based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered. In addition, this limitation is necessary for the United States to satisfy its obligations under the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

Sec. 3. Registration Requirement. This section authorizes the Attorney General to issue rules and regulations, and charge fees, concerning the "registration and control of regulated persons and of regulated transactions." This would extend regulatory jurisdiction to include the export from or import to the United States of listed chemicals, as well as international transactions between third countries but arranged by brokers or traders located in the United States. Regulated transactions may be conducted only by parties with valid registrations.

The Attorney General has broad authority to deny, revoke or restrict registrations if in the public interest.

Sec. 4. Reporting of Listed Chemical Manufacturing. Domestic manufacturers will be required to report annually about listed chemicals that they produce. The Attorney general will have the authority to determine what information is necessary.

Sec. 5. Reports by Brokers and Traders. This section applies Federal chemical control laws to brokers and traders located in the United States who arrange international transactions between third countries. In general, such brokers and traders will be subject to all of the notifications, reporting, record keeping, and other requirements placed upon exporters of listed chemicals.

Sec. 6. Exemption Authority. This section grants the Attorney General greater flexibility both in the application and in the waiver of regulatory controls on imports and exports of listed chemicals.

The Attorney General may by regulation require that the 15-day advance notice requirement of Federal chemical control laws apply to all exports of specific listed chemicals to specified nations, regardless of the status of certain customers in those countries as "regular customers," if necessary to support effective diversion control programs or required by treaty or other international agreement to which the United States is a party. Current laws do not require the 15-day advance notice period for "regular customers."

The Attorney General also may by regulation waive the 15-day advance notice requirement for exports of specific listed chemicals to specified countries if he determines that such advance notice is not required for effective chemical control. If so, exporters of those listed chemicals will be required to either submit reports of individual export transactions or submit periodic reports of the exports as the Attorney General may require.

The Attorney General also may by regulation waive the 15-day advance notice requirement for imports of specific listed chemicals if he determines that such requirement is not necessary for effective chemical control. If so, importers of such listed chemicals will be required to either submit reports of individual import transactions or submit periodic reports of the imports as the Attorney General may require.

This section also provides for criminal penalties for any person who falsely represents an import or export shipment as qualifying for a waiver of the 15-day advance notice requirements by misrepresenting the actual country of final destination and/or the actual listed chemical being imported or exported.

Sec. 7. Amendments to List I. This section deletes three chemicals—D-lysergic acid, N-ethylephedrine, and N-ethylpseudoephedrine—from the list of "list I" chemicals. It also adds two chemicals to that list—benzaldehyde and nitroethane—and makes some conforming amendments.

Sec. 8. Elimination of Regular Supplier Status and Creation of Regular Importer Status. This section replaces the term "regular supplier" with a new term, "regular importer," which with respect to a specific listed chemical, is defined as "a person who has an established record as an importer of that listed chemical that is reported to the Attorney General." It is more logical, and simpler, to monitor and regulate a domestic importer rather than a supplier.

Sec. 9. Administrative Inspections and Authority. The Attorney General has broad authority to inspect administrative records and business operations of entities working with listed chemicals. However, certain vital records currently are outside of the general inspection authority of the Attorney General. This section corrects that oversight in current law by extending the authority to enter and inspect at the place "where records relating to such activity are maintained."

Sec. 10. Threshold Amounts. This section clarifies that unless the Attorney General establishes threshold amounts, all transactions of listed chemicals are subject to the requirements of the Federal chemical control laws. The Attorney General may change or remove threshold requirements by regulation.

Sec. 11. Management of Listed Chemicals. This section requires that persons who illegally manufacture controlled substances manage all chemicals and their wastes in a manner consistent with EPA standards. Violators will be liable for full cleanup costs, and may be imprisoned for not less than 5 years, or not less than 10 years if the violation was willful. This section also amends the Federal bankruptcy code to provide that amounts assessed pursuant to these provisions may not be discharged in bankruptcy.

Sec. 12. Technical Amendment to the "Crime Control Act of 1990." This is a technical amendment to correct an erroneous designation.

Sec. 13. Attorney General Access to the National Practitioner Data Bank. This section grants the Attorney General complete access to the National Practitioner Data Bank. Such access is necessary to help determine whether it is in the public interest to grant registrations of practitioners to handle controlled substances.

Sec. 14. Regulations and Effective Date. This section provides that implementing regulations shall be issued within 90 days of enactment, and, except as otherwise noted, the amendments will be effective 120 days after enactment.

Mr. GORTON. Mr. President, I ask unanimous consent that the Senator from Delaware [Mr. BIDEN] and the Senator from Montana [Mr. BURNS] be added as original cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Hawaii [Mr. AKAKA].

Mr. AKAKA. Mr. President, I am very pleased to be an original cosponsor of the amendment offered by my friend and colleague from Washington, Senator GORTON. This measure would add additional chemicals to the list of registered precursor chemicals; help reduce the diversion from legal commerce of chemicals used in the production of illicit drugs; provide greater flexibility to law enforcement agencies in the application of regulatory controls on the legitimate international commerce in these chemicals; and, impose penalties for environmental damage associated with illegal drug production.

Mr. President, the Gorton Amendment is consistent with my own legislative efforts to control the diversion of chemicals to the illegal drug trade, particularly as they relate to the production of crystal methamphetamine. I am pleased to note that certain provisions relating to criminal penalties for the sale, distribution, and manufacture of crystal methamphetamine have been included in the committee bill, provisions that I originally offered in my ice amendments to last year's crime legislation. Ice is a growing problem in Hawaii, which has become a port of call for shipments of the drug produced in Asia. If we are able to control the flow of chemicals used to make ice, as this amendment hopes to do, Mr. President, we stand a good chance of stopping the ice epidemic in its tracks.

I want to commend Senator GORTON for his leadership on this matter. A comprehensive, Federal approach to precursor chemicals is sorely needed to supplement local and State laws and regulations against illegal diversion of such chemicals to the drug trade. I especially want to praise him for identifying the environmental consequences of illegal drug production and trade as an important issue in the drug war. By making drug pushers and producers financially as well as criminally liable for the environmental damage they may cause, this amendment serves as a deterrent to such activity. At the very least, we may get drug pushers and manufacturers to pay for the cost of cleaning up the damage they do to our natural inheritance: The air, land, and waters of the Earth.

Mr. President, the impact of illegal drugs on the environment is an issue that we have only begun to explore. The distinguished Chairman of the Judiciary Committee, Senator BIDEN, with typical foresight, recently convened an important hearing on this subject which helped reveal many of the terrible consequences of illicit drug production on the environment. Let me give some examples of the testimony presented at the April 11, 1991, hearing.

One agent from the California Bureau of Narcotics Enforcement testified that at a rental house used as an illegal laboratory, "there was so much benzyl cyanide on the floor of the bedroom that according to the Federal chemist present at the site with me if a baby crawled across the floor he would be dead before he reached the far side of the room."

The same agent also testified that after the discovery of a large methamphetamine laboratory, investigations revealed that "all the waste was being dumped into a stream that led directly to the drinking water of a nearby community."

Another witness was startled to discover that at yet another methamphetamine lab—in this case a mobile home—the suspect had been pouring chemical waste out of the back of the home for at least a year. The trail of chemicals led downhill to a creek, which drained into other creeks, ending in a well-frequented county park swimming hole.

Mr. President, apparently it is not enough that our children are being tempted to use dangerous drugs; now, we must worry about the serious health consequences facing them from the pollution that illegal drug production causes.

In closing, Mr. President, I want to commend Senator GORTON for his initiative in continuing to raise the issue of precursor drugs. I believe this bipartisan amendment is an important step forward in the ever-expanding war against illegal drugs.

Thank you, Mr. President, I ask unanimous consent that letters in support of precursor chemical legislation from the Hawaii attorney general, the Hawaii Department of Public Safety, and the Honolulu Police Department be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

STATE OF HAWAII,
Honolulu, HI, June 19, 1991.

Re S. 1142—Regulation of Precursor Chemicals.

Hon. DANIEL K. AKAKA,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR AKAKA: Thank-you for sending us a copy of the legislation you are cosponsoring that is designed to regulate chemical precursors to controlled substances. Federal regulation of these chemicals is necessary for at least two reasons. First, a comprehensive approach to this problem is needed to ensure that illegitimate precursor chemical dealers do not evade inconsistent or nonexistent local regulations. Second, no matter how vigilant we may be in stopping these dealers once they arrive here, we are unable to attack them outside our own borders.

As you may know, Hawaii enacted precursor chemicals legislation in 1990. (See Sections 329-61 to -91, *Hawaii Revised Statutes*) Provided that our own law is not weakened by any new federal law, we wholeheartedly endorse your plan to introduce this legislation as an amendment to the Violent Crime Control Act.

Very truly yours,
WARREN PRICE III,
Attorney General.

POLICE DEPARTMENT,
CITY AND COUNTY OF HONOLULU,
Honolulu, HI, June 19, 1991.

Hon. DANIEL K. AKAKA,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR AKAKA: Thank you for providing us with a copy of S. 1142, a bill to amend the Controlled Substances Act with respect to the regulation of precursor chemicals. This legislation encompasses a range of issues that supports law enforcement's efforts to eradicate drug sources and drug related crimes.

The proposal to regulate manufacture, distribution, import and export of precursors, and provision of information to authorities of each state of transactions or anticipated transactions of these chemicals woud aid law enforcement in Hawaii. These regulations will enable law enforcement in Hawaii to recognize unusual transactions of these chemicals especially those used to manufacture illegal drugs.

The Honolulu Police Department supports legislation with respect to the regulation of precursor chemicals. Thank you for your continued assistance in representing law enforcement on a national level.

Sincerely,
MICHAEL S. NAKAMURA,
Chief of Police.
HAROLD M. KAWASAKI,
Deputy Chief of Police.

STATE OF HAWAII,
Honolulu, HI, June 20, 1991.

Hon. DANIEL K. AKAKA,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR AKAKA: Your proposed legislation that updates existing Federal Legislation regarding precursor chemical regulation throughout the United States is timely and necessary.

The initial Federal Legislation which served to close down the exportation of chemicals and solvents to cocaine processing labs abroad, does not address the problem of specific precursor chemicals used in clandestine laboratories in the United States. Individual states, such as Hawaii, have passed precursor legislation in an effort to provide this regulation, but without an umbrella of Federal Legislation, states must depend on the formation of interstate agreements to exchange information in seeking a solution to this nationwide problem. This process can be slow and cumbersome.

The Department of Public Safety supports your efforts to provide Federal assistance to the states in the notification and regulation of precursor chemical distribution. If we can be of further assistance to you in this effort, please do not hesitate to call me.

Sincerely,
GEORGE W. SUMNER,
Director.

The PRESIDING OFFICER. Is there further debate?

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, by inadvertent oversight, the copy of the amendment I sent forward did not have the names of several cosponsors. I ask unanimous consent that Senators AKAKA, BRYAN, D'AMATO, DECONCINI, and PACKWOOD be considered as original cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I can say that this amendment has been cleared by the managers on both sides of the aisle.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I was asked to say on behalf of Senator BIDEN that this is an approved amendment which has the support of this side.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 386) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SIMON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Illinois [Mr. SIMON] for the purpose of offering an amendment on Federal prisoner drug testing.

AMENDMENT NO. 388

(Purpose: To require federal prisoner drug testing)

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] proposes an amendment numbered 388.

Mr. SIMON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 224, strike section 2401, title XXIV and insert the following:

TITLE —FEDERAL PRISONER DRUG TESTING

SEC. 01. FEDERAL PRISONER DRUG TESTING.

(a) SHORT TITLE.—This title may be cited as the "Federal Prisoner Drug Testing Act of 1991".

(b) CONDITIONS OF PROBATION.—Section 3563(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking "and" after the semicolon;

(2) in paragraph (3), by striking the period and inserting "; and";

(3) by adding a new paragraph (4), as follows:

"(4) for a felony, a misdemeanor, or an infraction, that the defendant refrain from any unalwful use of controlled substance and submit to one drug test within 15 days of release on probation and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance."; and

(4) by adding at the end thereof the following: "The results of a drug test administered in accordance with paragraph (4) shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test administered in accordance with paragraph (4).".

(c) CONDITIONS ON SUPERVISED RELEASE.—Section 3583(d) of title 18, United States

Code, is amended by inserting after the first sentence the following: "The court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to a drug test within 15 days of release on supervised release and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance. The results of a drug test administered in accordance with the provisions of the preceding sentence shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test.".

(d) CONDITIONS OF PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to release and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance. The results of a drug test administered in accordance with the provisions of the preceding sentence shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The Commission shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test.".

Mr. SIMON. Mr. President, I believe this is an amendment that is acceptable on both sides. It is an amendment that tightens up our procedures, as far as Federal prisoners are concerned. I had the experience a few weeks ago of talking to a young man who got on drugs when he was in prison. The unfortunate reality is that prisons too often are places that harbor drugs rather than move us away.

So what this amendment does is it requires Federal parolees to pass a randomly administered urinalysis test for illegal drugs before they are released from prison, and to take two such tests after release from a Federal correctional facility. If for any reason there is a belief that the test was inaccurate, then there can be another test and a more refined test given, either at the request of the prison or at the request of the court.

It also requires Federal probationers on supervised releases to take a drug test within 15 days of release and to submit to two randomly administered tests thereafter.

I know of no opposition to this amendment, and I would appreciate the support of the body.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment proposed by the Senator from Illinois.

The amendment (No. 388) was agreed to.

Mr. SIMON. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois is recognized now for the purpose of offering an amendment on cash bail.

AMENDMENT NO. 389

(Purpose: To require court clerks to report the posting of bail in an amount exceeding $10,000 in certain criminal cases, and for other purposes)

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] for himself and Mr. BIDEN, proposes an amendment numbered 389.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new title:

TITLE —BAIL POSTING REPORTING

SEC. 1. SHORT TITLE.

This title may be cited as the "Illegal Drug Profits Act of 1991".

SEC. 2. REQUIRED REPORTING BY CRIMINAL COURT CLERKS.

(a) IN GENERAL.—Each clerk of a Federal or State criminal court shall report to the Internal Revenue Service, in a form and manner as prescribed by the Secretary of the Treasury, the name and taxpayer identification number of—

(1) any individual charged with any criminal offense who posts cash bail, or on whose behalf cash bail is posted, in an amount exceeding $10,000, and

(2) any individual or entity (other than a licensed bail bonding individual or entity) posting such cash bail for or on behalf of such individual.

(b) CRIMINAL OFFENSES.—For purposes of subsection (a), the term "criminal offense" means—

(1) any Federal criminal offense involving a controlled substance,

(2) racketeering (as defined in section 1951, 1952, or 1955 of title 18, United States Code),

(3) money laundering (as defined in section 1956 or 1957 of title 18, United States Code), or

(4) any violation of State criminal law involving offenses substantially similar to the offenses described in the preceding paragraphs.

(c) COPY TO PROSECUTORS.—Each clerk shall submit a copy of each report of cash bail described in subsection (a) to—

(1) the office of the United States Attorney, and

(2) the office of the local prosecuting attorney, for the jurisdiction in which the defendant resides (and the jurisdiction in which the criminal offense occurred, if different).

(d) REGULATIONS.—The Secretary of the Treasury shall promulgate such regulations as are necessary within 90 days of the enactment of this title.

(e) EFFECTIVE DATE.—This section shall become effective 60 days after the date of the promulgation of regulations under subsection (c).

Mr. SIMON. Mr. President, some weeks ago the mayor of Chicago, Richard Daley, testified before the Senate Judiciary Committee. He is a former prosecuting attorney in Cook County, IL, with a very fine record in that office. He made a suggestion that I thought made a great deal of sense, and I have crafted it into an amendment. I am pleased to have Senator BIDEN as a cosponsor of this amendment.

Mayor Daley suggested that when large amounts of cash are used for bail, the prosecuting authorities be notified and the IRS be notified, and that is precisely what this amendment does. It says if there is $10,000 or more in cash posted for bail or bond, both the Federal and State prosecuting authorities and the Internal Revenue Service should be notified because frequently, if you are talking about large amounts of cash, you are talking about drug money, you are talking about money that has been illegally secured. At least it raises serious questions.

It is a minor amendment but I think an amendment that can help in this area of law enforcement.

Again, I know of no opposition to the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 389) was agreed to.

Mr. SIMON. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 390

(Purpose: To amend title 18 of the United States Code to increase the penalties for trafficking in counterfeit goods and services)

Mr. SIMON. Mr. President, I was asked to offer an amendment for Senator KENNEDY, and I note that he is on the floor right now. It is an amendment that is completely satisfactory to both sides. Let me offer the amendment now on behalf of Senator KENNEDY.

The PRESIDING OFFICER. Under the previous order, the Senator from

New Jersey [Mr. LAUTENBERG] was to be recognized at this point for the purpose of offering an amendment on vehicle theft language, unless he was not on the floor and not prepared to proceed.

Mr. SIMON. Mr. President, I ask unanimous consent—this will take 60 seconds—if there is no objection, to go ahead with this amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. SIMON. Mr. President, I send an amendment to the desk on behalf of Senator KENNEDY and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] for Mr. KENNEDY, proposes an amendment numbered 390.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . INCREASED PENALTIES FOR TRAFFICKING IN COUNTERFEIT GOODS AND SERVICES.

(a) IN GENERAL.—Section 2320(a) of title 18, United States Code, is amended—

(1) in the first sentence by—

(A) striking "$250,000 or imprisoned not more than five years" and inserting "$2,000,000 or imprisoned not more than 10 years"; and

(B) striking "not more than $1,000,000" and inserting "not more than $5,000,000"; and

(2) in the second sentence by—

(A) striking "$1,000,000 or imprisoned not more than fifteen years" and inserting "$5,000,000 or imprisoned not more than 20 years"; and

(B) striking "not more than $15,000,000".

(b) LAUNDERING MONETARY INSTRUMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "or section 2319 (relating to copyright infringement)," and inserting "section 2319 (relating to trafficking in counterfeit goods and services).".

Mr. KENNEDY. Mr. President, the amendment that I am offering will strengthen protections for intellectual property rights by revising two existing but inadequate Federal statutes. This amendment increases financial and jail penalties for those who traffic in counterfeit goods. It also specifically criminalizes the laundering of proceeds derived from unlawful counterfeiting activities.

I offer this amendment because U.S. companies, including some of our largest producers of athletic footwear, are under siege by counterfeiters. Sophisticated counterfeiting rights manufacture products in Korea and other Pacific rim nations and sell them throughout the world, complete with the trademarked symbols of famous American companies. These illegal sales deprive our firms of tens of millions of dollars in sales each year.

But the negative impact of counterfeiting and trademark infringement extends beyond mere profit calculations. These unlawful actions also result in the loss of jobs for many hardworking citizens, and loss of tax revenues for the Treasury.

Although civil and criminal sanctions exist for trademark holding companies, those remedies are entirely inadequate. All too often, court judgments and penalties are simply factored into the counterfeiters' plans as a cost of doing business. We need penalties that will put these pirates out of business.

I expressed my concern about these matters in a September 1989 letter to U.S. Trade Representative Carla Hills. At that time, I said I hoped the unauthorized production and sale of U.S. products could be stemmed by utilizing existing statutory tools. The U.S. Trade Representative and U.S. Customs Service have been particularly helpful in efforts to eradicate counterfeiting, and I commend their work. Unfortunately, the available statutes are not adequate. When enforcement and prosecution efforts have been undertaken, they have been ineffective.

Counterfeiting rings have persisted, particularly in sporting goods. Often, prosecutors in vital port cities have been unwilling to prosecute strong cases presented to them, due to the press of other business. This amendment will enhance the incentives to attack counterfeiting. At the same time, the cost to the counterfeiters of continuing their illegal activities will rise to a level of meaningful deterrence.

This amendment increases financial penalties. Since fines are often negotiated in exchange for jail time, an increase in available fines will give the Government substantial leeway in any negotiating process. Most important, however, the current fines and prison penalties do not accurately reflect the profits made by counterfeiters. The amended levels will.

In addition, this amendment will specifically criminalize the laundering of proceeds derived from trafficking in counterfeit trademark goods. Counterfeiters attempt to hide the assets they derive from their activities through a variety of methods. They use secret bank accounts, false names, names of relatives, cash and negotiable instruments, and shell corporations to carry out their activities. Their profits are enormous, often running into the millions of dollars. Unless these illegal gains can be seized at or near the time of arrest, they can be forever removed from the jurisdiction of the courts. Without this proposed reform, prosecutors will continue to have a difficult, if not impossible, time in preserving the ill-gotten gains of trademark counterfeiters for court disposition.

In sum, there has been a dramatic loss of revenue to U.S. companies as a result of counterfeiting. The existing criminal penalties have proved ineffective and clearly need revision. This amendment provides a timely, balanced and appropriate incentive for those charged with enforcing the law, and redress for owners of intellectual property rights. I urge its adoption.

Mr. SIMON. This amendment increases the permissible maximum penalty for counterfeiting goods. That is it, very simply. I know of no opposition to the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 390) was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Chair now recognizes the Senator from New Jersey [Mr. LAUTENBERG] for the purpose of proposing an amendment on vehicle theft language.

Mr. LAUTENBERG. I thank the Chair.

AMENDMENT NO. 391

(Purpose: To prevent theft of motor vehicles by establishing a national framework for a program under which law enforcement officials are authorized to stop vehicles operated under specified conditions, such as during certain night hours, when operation of the vehicle under those conditions, according to a certification signed voluntarily by the owner, establishes a reasonable suspicion that the vehicle is being operated unlawfully)

Mr. LAUTENBERG. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 391.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following:

SEC. . MOTOR VEHICLE THEFT PREVENTION ACT.

(a) SHORT TITLE.—This section may be cited as the "Motor Vehicle Theft Prevention Act".

(b) MOTOR VEHICLE THEFT PREVENTION PROGRAM.—

(1) ESTABLISHMENT OF PROGRAM.—Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 160. Motor vehicle theft prevention program

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Attorney General shall develop, in cooperation with States and localities, a national voluntary motor vehicle theft prevention program (in this section referred to as the 'program') under which—

"(1) the owner of a motor vehicle may voluntarily sign a consent form with a participating State or locality in which the motor vehicle owner—

"(A) states that the vehicle is not normally operated under certain specified conditions; and

"(B) agrees to—

"(i) display program decals or devices on the owner's vehicle; and

"(ii) permit law enforcement officials in any State or locality to stop the motor vehicle and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner, if the vehicle is being operated under the specified conditions;

"(2) participating States and localities authorize law enforcement officials in the State or locality to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner; and

"(3) Federal law enforcement officials are authorized to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner.

"(b) UNIFORM DECAL OR DEVICE DESIGNS.—

"(1) IN GENERAL.—The motor vehicle theft prevention program developed pursuant to this section shall include a uniform design or designs for decals or other devices to be displayed by motor vehicles participating in the program.

"(2) TYPE OF DESIGN.—The uniform design shall—

"(A) be highly visible; and

"(B) explicitly state that the motor vehicle to which it is affixed may be stopped under the specified conditions without additional grounds for establishing a reasonable suspicion that the vehicle is being operated unlawfully.

"(c) VOLUNTARY CONSENT FORM.—The voluntary consent form used to enroll in the program shall—

"(1) clearly state that participation in the program is voluntary;

"(2) clearly explain that participation in the program means that, if the participating vehicle is being operated under the specified conditions, law enforcement officials may stop the vehicle and take reasonable steps to determine whether it is being operated by or with the consent of the owner, even if the law enforcement officials have no other basis for believing that the vehicle is being operated unlawfully;

"(3) include an express statement that the vehicle is not normally operated under the specified conditions and that the operation of the vehicle under those conditions would provide sufficient grounds for a prudent law environment officer to reasonably believe that the vehicle was not being operated by or with the consent of the owner; and

"(4) include any additional information that the Attorney General may reasonably require.

"(d) SPECIFIED CONDITIONS UNDER WHICH STOPS MAY BE AUTHORIZED.—

"(1) IN GENERAL.—The Attorney General shall promulgate rules establishing the conditions under which participating motor vehicles may be authorized to be stopped under this section. These conditions may include—

"(A) the operation of the vehicle during certain hours of the day; or

"(B) the operation of the vehicle under other circumstances or by such individuals that would provide a sufficient basis for establishing a reasonable suspicion that the vehicle was not being operated by the owner, or with the consent of the owner.

"(2) MORE THAN ONE SET OF CONDITIONS.—The Attorney General may establish more than one set of conditions under which participating motor vehicles may be stopped. If more than one set of conditions is established, a separate consent form and a separate design for program decals or devices shall be established for each set of conditions. The Attorney General may choose to satisfy the requirement of a separate design for program decals or devices under this paragraph by the use of a design color that is clearly distinguishable from other design colors.

"(3) NO NEW CONDITIONS WITHOUT CONSENT.—After the program has begun, the conditions under which a vehicle may be stopped if affixed with a certain decal or device design may not be expanded without the consent of the owner.

"(4) LIMITED PARTICIPATION BY STATES AND LOCALITIES.—A State or locality need not authorize the stopping of motor vehicles under all sets of conditions specified under the program in order to participate in the program.

"(e) MOTOR VEHICLES FOR HIRE.—

"(1) NOTIFICATION TO LESSEES.—Any person who is in the business of renting or leasing motor vehicles and who rents or leases a motor vehicle on which a program decal or device is affixed shall, prior to transferring possession of the vehicle, notify the person to whom the motor vehicle is rented or leased about the program.

"(2) TYPE OF NOTICE.—The notice required by this subsection shall—

"(A) be in writing;

"(B) be in a prominent format to be determined by the Attorney General; and

"(C) explain the possibility that if the motor vehicle is operated under the specified conditions, the vehicle may be stopped by law enforcement officials even if the officials have no other basis for believing that the vehicle is being operated unlawfully.

"(3) FINE FOR FAILURE TO PROVIDE NOTICE.—Failure to provide proper notice under this subsection shall be punishable by a fine not to exceed $5,000.

"(f) PARTICIPATING STATE OR LOCALITY.—A State or locality may participate in the program by filing an agreement to comply with the terms and conditions of the program with the Attorney General.

"(g) NOTIFICATION OF POLICE.—As a condition of participating in the program, a State or locality must agree to take reasonable steps to ensure that law enforcement officials throughout the State or locality are familiar with the program, and with the conditions under which motor vehicles may be stopped under the program.

"(h) REGULATIONS.—The Attorney General shall promulgate regulations to implement this section.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized such sums as are necessary to carry out this section.".

(2) AMENDMENT TO CHAPTER ANALYSIS.—The analysis for chapter 1 of title 23, United States Code, is amended by adding after the item for section 159 the following:

"160. Motor vehicle theft prevention program.".

(c) ALTERING OR REMOVING MOTOR VEHICLE IDENTIFICATION NUMBERS.—

(1) BASIC OFFENSE.—Subsection (a) of section 511 of title 18, United States Code, is amended to read as follows:

"(a) Whoever knowingly removes, obliterates, tampers with, or alters an identification number for a motor vehicle, or motor vehicle part, or a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, shall be fined not more than $10,000 or imprisoned not more than five years, or both.".

(2) EXCEPTED PERSONS.—Paragraph (2) of section 511 of title 18, United States Code, is amended by—

(A) striking "and" after the semicolon in subparagraph (B);

(B) striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) adding at the end thereof the following:

"(D) a person who removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, if that person is the owner of the motor vehicle, or is authorized to remove, obliterate, tamper with or alter the decal or device by—

"(i) the owner or his authorized agent;

"(ii) applicable State or local law; or

"(iii) regulations promulgated by the Attorney General to implement the Motor Vehicle Theft Prevention Act.".

(3) DEFINITION.—Section 511 of title 18, United States Code, is amended by adding at the end thereof the following:

"(d) For purposes of subsection (a) of this section, the term 'tampers with' includes covering a program decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act for the purpose of obstructing its visibility.".

(4) UNAUTHORIZED APPLICATION OF A DECAL OR DEVICE.—

(A) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding after section 511 the following new section:

§ 511A. Unauthorized application of theft prevention decal or device

"(a) Whoever affixes to a motor vehicle a theft prevention decal or other device, or a replica thereof, unless authorized to do so pursuant to the Motor Vehicle Theft Prevention Act, shall be punished by a fine not to exceed $1,000.

"(b) For purposes of this section, the term 'theft prevention decal or device' means a decal or other device designed in accordance with a uniform design for such devices developed pursuant to the Motor Vehicle Theft Prevention Act."

(B) CHAPTER ANALYSIS.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding immediately after the item for section 511 the following:

"511A. Unauthorized application of theft prevention decal or device.".

Mr. LAUTENBERG. Mr. President, this amendment is designed to prevent the theft of motor vehicles and to help police officers identify cars that are likely being driven by thieves. It's based on legislation I introduced on June 6, S. 1248, the Motor Vehicle Theft Prevention Act.

The amendment would establish a national framework for what might be described as a consent-to-stop program. It is based on a program operating in various jurisdictions around the country. Under the program, motorists may put decals on their vehicles, indicating that their car is not driven under certain conditions, such as between the hours of 1 a.m. and 5 a.m. Then, if a police officer sees the car being driven under those conditions, the officer will have a reasonable suspicion that the car is being operated unlawfully, and can stop the car to make appropriate inquiries.

This amendment would direct the Attorney General to establish a uniform design for decals, and uniform consent forms. Administration would be left to the States and localities. And participation would be entirely voluntary on the part of States, localities, and individual vehicle owners.

Mr. President, the problem of auto theft has exploded in recent years. According to the Uniform Crime Report, between 1985 and 1989 motor vehicle theft increased by 42 percent, to over 1.5 million offenses per year. Around the country, there is one motor vehicle theft every 20 seconds. The total value of stolen vehicles now exceeds $8 billion annually.

The motor vehicle theft problem is particularly serious in my State of New Jersey. Newark, NJ, has the worst problem in the country, and several other cities are also listed in the top 10. In addition, a large number of stolen cars are being exported from New Jersey's ports.

There are many dimensions to the vehicle theft problem, Mr. President. To a large extent, stealing cars has developed into a full-fledged industry, run by professionals. Criminal conspirators are stealing cars, sometimes after a buyer gives them an order for a particular part, and selling the parts on the black market. Chop shops are taking in stolen cars, breaking them down, and making large profits. And increasingly, organized rings of criminals are exporting cars abroad, where they may be worth three times more than in the United States.

In many parts of the country, the problem of auto theft is primarily one of juvenile crime. Children, some not even teenagers, are stealing cars at an appalling rate. They start young; sometimes they're barely tall enough to see over the steering wheel. Unfortunately, it doesn't take long for them to become experts, able to enter and steal a car in a matter of seconds.

Mr. President, beyond the costs and inconvenience to owners, and the higher insurance rates that result, auto theft is also a highway safety problem. Auto thieves, particularly juveniles, often take cars on wild joyrides and police chases. The result frequently is death, injury, and destruction of property.

In Newark last year, for example, 10 persons were killed by stolen automobiles. This represents more than a quarter of all auto fatalities in the city. These were innocent bystanders, Mr. President. One victim, Karrima Sewell, was a 10-year-old girl.

Clearly, Mr. President, there is no magic formula for eliminating auto theft. Much of the responsibility rests with local and State law enforcement agencies. But auto theft is also a crime with a clear interstate dimension. So the Federal Government also has an important role.

Over the past few months, I have been studying the auto theft problem in an effort to develop possible responses. On May 1, I held a forum in Newark, and heard testimony from several law enforcement experts on various proposals to reduce auto theft. The proposal contained in this amendment emerged as one of the most promising approaches. It focuses on prevention.

The bill is based on a concept first developed in New York City in the mid-1980's. New York's program allows law enforcement officials to stop the vehicles of participating owners if the vehicles are being operated between the hours of 1 a.m. and 5 a.m., the period during which most thefts are believed to occur. To participate, an owner must sign a consent form stating that the car is not normally driven during those hours. The owner then gets two decals to place on the rear and side windows, which tell the police that the car may be stopped during the designated hours. Participation is entirely voluntary.

It is a simple, inexpensive, and innovative concept, and by all indications it's been extraordinarily successful.

In New York City, where about 2.7 million vehicles are registered, more than 146,000 were stolen last year. Yet of the more than 71,000 vehicles participating in the consent-to-stop program, only 60 were stolen. In other words, cars without decals were about 65 times more likely to be stolen than cars with decals.

The success of the program in New York has sparked great interest among jurisdictions around the country. Over 50 municipalities have adopted the program, including Trenton, Philadelphia, Houston, St. Louis, St. Paul, and San Diego. The idea has even been adopted by Scotland Yard in London. To the best of my knowledge, the program has been well received and successful wherever it has been adopted.

As a testament to the program's effectiveness, several insurance companies have voluntarily reduced the insurance rates for vehicles that participate in the program.

My amendment is designed to build on the success of the program by establishing a national framework for its implementation. Under the amendment, the Attorney General would be directed to develop a uniform design or designs for the decals or other identification devices that are used in the program. In addition, uniform consent forms would be established. Administration is left to the States and localities. And participation would be entirely voluntary on the part of States, localities, and vehicle owners.

To participate, States and localities simply agree to use decals and consent forms in conformance with the uniform standards, and to ensure that law enforcement officials are familiar with the conditions under which vehicles may be stopped.

There are several benefits of establishing a national framework for this program. First, it will increase participation in the program, by increasing its visibility and making it more practical and economical for jurisdictions to participate. Although the idea is spreading rapidly, many local officials remain unfamiliar with the program. At the same time, many officials particularly those in small towns, are interested in the program, but do not believe it is cost effective to develop and produce a decal when only a small number may be needed. A uniform decal design would encourage mass production of the decals and consent forms, which would enable many more municipalities, particularly smaller towns, to participate.

Greater participation in the program should mean reduced thefts, which also means saved lives, reduced insurance costs, and lower costs of enforcement to the law enforcement and judicial systems.

The second primary benefit of establishing a national framework for the program is that it will help law enforcement officials apprehend thieves who drive stolen cars across State or city lines. Currently, if a car is stolen in one town and driven into another, law enforcement officials in the second town may be unfamiliar with the decals used in the first town and may not be in a position to stop the car. A uniform design will eliminate this problem.

I expect that some may wonder how a program like this can work, when professional auto thieves will be able, with some work, to scratch off the decals. Most officials believe that the program works because time is of the essence to auto thieves. Many cars are stolen in exposed areas. Thieves have explained to authorities that they cannot afford the time to get into a car, climb into the back seat, and scratch off two decals. Also, most decals are manufactured so as to be very difficult to dispose of, and many leave a mark even if they are scratched off.

The bottom line, in any case, is that the program works. The results speak for themselves. And under this bill, if State or local officials still don't believe the program will work in their jurisdiction, they are entirely free not to participate.

I would also note, Mr. President, that consent-to-stop programs are consistent with the Constitution's fourth amendment protections against unreasonable searches and seizures. Under well established constitutional law, the police may stop a vehicle if an officer has a reasonable suspicion that it is being operated unlawfully. Under this bill, a law enforcement officer will be allowed to stop a car only if the car is being operated under conditions that create such a reasonable suspicion. It is also important to again emphasize that participation in the program is entirely voluntary.

Mr. President, the problem of auto theft is of great concern to law enforcement officials, the insurance industry, and highway safety advocates. My legislation is supported by the Fraternal Order of Police, the Alliance of American Insurers, and Advocates for Highway and Auto Safety.

In sum. Mr. President, this is an innovative, inexpensive way to actually do something about our Nation's auto theft epidemic. It's entirely voluntary. And, most important, it's not just another empty gesture; this program really works!

I hope my colleagues will support the amendment.

Mr. President, this amendment has been cleared by both sides. I urge its adoption.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 391) was agreed to.

Mr. LAUTENBERG. I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Oregon [Mr. HATFIELD] is now recognized for the purpose of offering an amendment on missing Alzheimer's disease patients.

Mr. HATFIELD. I thank the Chair.

AMENDMENT NO. 392

(Purpose: To establish a Missing Alzheimer's Disease Patient Alert Program)

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon, [Mr. HATFIELD], for himself Mr. PRESSLER, AND Mr. GRASSLEY, proposes an amendment numbered 392.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, insert the following new title:

TITLE XXVIII—MISSING ALZHEIMER'S DISEASE PATIENTS

SEC. 2801. MISSING ALZHEIMER'S DISEASE PATIENT ALERT PROGRAM.

(a) GRANT.—The Attorney General shall award a grant to an eligible organization to assist the organization in paying for the costs of planning, designing, establishing, and operating a Missing Alzheimer's Disease Patient Alert Program, which shall be a locally based, proactive program to protect and locate missing patients with Alzheimer's disease and related dementias.

(b) APPLICATION.—To be eligible to receive a grant under subsection (a), an organization shall submit an applicatin to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require, including, at a minimum, an assurance that the organization will obtain and use assistance from private nonprofit organizations to support the program.

(c) ELIGIBLE ORGANIZATION.—The Attorney General shall award the grant described in subsection (a) to a national voluntary organization that has a direct link to patients, and families of patients, with Alzheimer's disease and related dementias.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for each of the fiscal years 1992, 1993, and 1994.

Mr. HATFIELD. Mr. President, in September of this last year, 1990, a 62-year-old man was diagnosed with Alzheimer's disease and wandered away from his home in Oregon, one of three cases of missing Alzheimer's patients reported in a 3-month period in my State. When he was discovered and identified a month later, it was determined that he had traveled in five States before being returned home.

In January 1991, an 89-year-old Wisconsin man wandered away from his family's home carrying no identification, and he was found 1 week later drowned in a harbor just 6 miles from his home.

One morning in March 1991, a New York police officer called the Alzheimer's Alert Program operated by the New York City chapter of the Alzheimer's Association. Responding to a call to assist an elderly person who had fallen and recognizing the signs of confusion and disorientation, the officer called the 800 number on a bracelet this Alzheimer's victim was wearing, with the inscription of his name and this number and that person was reunited with the family within 2 hours after the disappearance.

Mr. President, some 4 million Americans suffer today from Alzheimer's. This is indeed a problem that reaches extensively throughout our society, to one out of every three families.

Another interesting point is that 80 percent of these Alzheimer's victims are cared for by their families or their spouses at home. They have no way of coping with this problem. As a son of an Alzheimer's victim, I can attest to the fact that it indeed was a great difficulty, emotionally and in every other way, to my mother as she attempted to keep track of my father. He would wander away from home.

Mr. President, I have here an amendment that, in effect, sets up a national network in which we will fund, out of the Appropriations Committee of the Justice Department, $3 million for a 3-year period, $1 million a year, to assist the National Association of Alzheimer's to set up these identities and the ability to find spouses or loved ones, and to be able to have some 6,000 families across the Nation added to or registered in some kind of specific way to locate the missing Alzheimer's patient.

Mr. President, I cannot emphasize too much the importance of assisting through the local police because the local police and the emergency vehicle people are now on the forefront of this task of trying to identify a very difficult problem because even experts have difficulty in dealing with and diagnosing Alzheimer's and being able to help the missing people problem. It is patterned after the missing children's program, and I think therefore we have certainly had experience enough both in the New York chapter and elsewhere to justify this amendment.

Given the nature and relentless progression of Alzheimer's disease and related dementias, each patient is at risk of becoming disoriented and lost. Although no national statistics are currently kept on missing Alzheimer's patients, cities and towns across the country each week report incidents involving lost or missing Alzheimer patients. The New York-based Alzheimer Alert Program alone was involved in 30 incidents of missing patients in a 3-month period during the last year. In most instances, the traditional passive means of identifying the sick or missing person are of little help simply because an Alzheimer patient may not display any outward signs of the disease.

For while people can generally recognize and often do respond to a lost child, few can identify an Alzheimer patient. Local police and public safety programs, emergency personnel, and even most health professionals lack basic training in recognizing the characteristics of an Alzheimer patient as someone who can appear physically well and mentally intact one moment, then become aggressive and resistant the next.

In response to this growing problem, nearly 6,000 families across the Nation have registered their loved ones in programs specifically tailored to help locate missing Alzheimer patients. The largest of the programs, located in New York, provides a safety net of protection and peace of mind for more than 1,000 families in the Northeast region. Yet these opportunities are spotty around the country and many of our families have no existing networks in their States. For instance, one of the families from my own State of Oregon recently registered their father with the New York program. The chances of the patient ever being lost in New York are slim—but the family has been provided with an identification bracelet with an 800 number which will allow any person who locates him a means of identifying him.

The New York program, which I hope to expand nationally through the amendment I offer today, operates through a carefully integrated system that includes a comprehensive registry of at-risk individuals, an 800 number staffed around-the-clock by specially trained operators, a variety of dementia-specific identifiers, and a fax-based emergency response network that links the program with police departments, hospitals, shelters, ambulance services, and local media. With the help of the local Alzheimer's Association chapters, the program also provides supportive family counseling and training for police and other health and safety personnel.

Using the Alzheimer's Association experience to date, my amendment establishes a national program to protect and locate missing Alzheimer patients. Through a small commitment of Federal funds—$3 million over 3 years—and additional support from interested nonprofit organizations, this program will register and identify patients, using the existing network of Alzheimer's chapters, and local support groups to make families aware of the program. Families will be given identification kits, including a centrally registered ID bracelet, and will be provided with counseling on how to protect the patient and secure the home environment. A national 24-hour 800 line will be available to receive reports of missing and found memory-impaired persons. For those reported missing, the most current patient information available will be faxed within minutes to local emergency networks such as police precincts, ambulance services, shelters, and local media. If the patient is not located within a reasonable period of time, the information will be distributed to a wider circle of police and public safety jurisdictions.

As many of my colleagues are aware, I am the son of an Alzheimer victim. My father was from the third generation of blacksmiths in our family. He spent nearly 40 years of his life as a blacksmith on the Southern Pacific Railroad. He was a man of extraordinary strength because he was a blacksmith in the days of the anvil, bellows, and hammer. Even at the time of his retirement, he was still very conscious of keeping physically fit.

He would jog every morning and at the age of 80, he was still jogging. I will never forget the day when a neighbor called my mother and said, "Your husband is here and has lost his way back home." This was the first indication that something was awry in the life of my father. He insisted, however, in continuing his physical activity of jogging and, more frequently than not, my mother would have to go and pick him up at some neighbor's house where within a block of our home he had lost his way. This would cause sheer terror for my mother and while neither are alive today, I am confident that this little bracelet would have brought them both great peace and confidence.

I cannot let this opportunity pass without expressing my gratitude to the law enforcement community for the support they have shown for this program. In New York, an officer stated that he wished all Alzheimer victims had alert bracelets and noted that the program is probably the "greatest thing that could happen for these people."

It is my sincere hope, Mr. President, that the Senate will adopt my amendment and will provide the growing numbers of this Nation's Alzheimer patients and their families a tool in battling this devastating disease.

I ask unanimous consent that three news articles from the Gannett Westchester Newspapers be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Gannett Westchester Newspapers, Mar. 23, 1991]

A HELPING HAND ON ALZHEIMER'S

The inexpensive piece of silver jewelry 83-year-old Francoise Com wore around her right wrist proved to be priceless. The Yonkers woman's Alzheimer's Alert Bracelet probably saved her life.

The Alzheimer's Association in New York City, which began distributing the bracelets last November to help victims of the memory-impairing disease find their way home, says Com was the first person in the nation saved by the bracelet. She won't be the last.

That's if relatives and friends of Alzheimer's sufferers act wisely and contact the association to purchase a bracelet. For $10, the purchaser gets a bracelet, which lists an Alzheimer patient's name and the toll-free telephone number of the association's Alzheimer's registry. The registry can provide the patient's name, address, age, photograph and medical history.

Credit people like television science reporter Dr. Frank Field and hotel magnate Leona Helmsley for launching the program. As a result, when Com was spotted wandering around a southwest Yonkers neighborhood, police didn't have to go through the usual time-consuming routine of checking missing persons reports and contacting local media to locate a relative. Sometimes this process proves successful after a couple of hours. Other times it can take weeks or months.

So far, only 13 of the estimated 12,000 people in Westchester who suffer from Alzheimer's have the bracelets. Those who know someone who'd be helped by the bracelets in Westchester may call 428-1919.

[From the Gannett Westchester Newspapers, Mar. 21, 1991]

POLICE PRAISE BRACELETS AS TIME SAVERS

(By Paul Kirby and Alison Gendar)

Yonkers Police Investigator William O'Brien thinks all Alzheimer's victims should wear an alert bracelet.

It would make his job—dealing with missing people—a lot easier.

"It's like getting a tattoo," he said. "With the bracelet, it makes identification easy. It's probably the greatest thing that could happen for these people."

O'Brien guessed that he gets tied up at least five times a year with an Alzheimer's victim who has no identification and can't remember where home is.

In every case, his task is time consuming. He has to check missing-persons reports to look for matching descriptions. Then he has to broadcast to regional departments a description of the person he has found. Then, he waits.

It's a bit easier if the Alzheimer's victim lives in Yonkers or Mount Vernon, but the person could easily be from anywhere.

Carolina Edwards, a spokeswoman for the Alzheimer's Association of New York City, said it is not uncommon for victims "when they are in a wandering phase, to get on a Greyhound bus or hop a plane."

Detective Sgt. Michael Carpentieri of the Mount Vernon Police Department said the bracelets would be a tremendous help to police.

"When these people are found, sometimes they don't even know their names," he said. "It's a giant mystery. The bracelets would increase our ability to find their homes by 100 percent."

"It's an excellent idea," said Mount Vernon Deputy Police Commissioner John DeLeo.

[From the Gannett Westchester Newspapers, Mar. 21, 1991]

ID BRACELET SAVES WOMAN WITH ALZHEIMER'S DISEASE

(By Paul Kirby)

Tiny, gray-haired Francoise Com was walking the seedy streets of southwest Yonkers on Friday, but she didn't know it.

In fact, she didn't know where she was or how she got there.

Com, 83, has Alzheimer's disease.

But her story had a happy ending because of a silver bracelet she had around her wrist. The bracelet is a new product of the Alzheimer's Alert Program, and according to its parent group, the Alzheimer's Association in New York City, Com was the first person in America to be saved by it.

"It's wonderful how this worked," said Jed Levine, a spokesman for the association. "Mrs. Com was home within an hour instead of sitting, confused and alone, in a police station."

Helped by a $300,000 donation from Leona Helmsley, the Alert Program began distributing the bracelets in November to help Alzheimer's victims who sometimes wander outside in a daze. Thus far, 800 bracelets have been given out.

Thirteen of the estimated 12,000 people in Westchester who suffer from the disease have gotten the bracelets. Barbara Olivier, executive director of the Westchester Chapter of the Alzheimer's Association, said another 100 Westchester residents have asked for applications.

The bracelets contain on one side an Alzheimer's logo and on the other the name of the person wearing it and the telephone number, 1-800-733-9596. Someone who calls the number and gives the name can get information about where the person lives.

In Com's case, police received a report about noon of a woman who had fallen on Hawthorne Avenue. When Police Officers Frank Horan and Patti Greene arrived, they found she had money, but no identification in her possession.

"She was really confused. She had no idea where she was or how she got there," Greene said.

But Horan saw the silver bracelet and telephoned the 800 number when they took Com to the city's 3rd Precinct.

"She really didn't want to be there," Horan said. "But we had no idea where she was from."

Fifteen minutes later, the officers got a call from Levine. A computer check had been run, and Levine gave the officers Com's address and the names of her caretaker and a neighbor. They were also given the telephone number of her daughter.

It was then a simple matter to get Com back to her Yonkers home.

"We could quickly decipher where she was from and get her back to safety far more quickly than if she didn't have the bracelet," Greene said.

Yesterday, Com, Greene and Horan were reunited in a happy celebration with WCBS-TV science correspondent Dr. Frank Field, who was instrumental in getting the bracelet program off the ground. Field taped Com's story for airing on television and said he expected the segment would be shown today to show how families of Alzheimer's victims can help themselves.

"I get two or three calls a week from families who want to run Alzheimer's victims on television," Field said. "These people are just wandering around. Meanwhile, their families are going crazy."

Com's daughter, Jacqueline Francois, 55, of Woodstock, said her mother had wandered off four times recently. Once, she was found on a Manhattan street at 3 a.m.

Francois said the bracelet gives her a sense of security.

"It was the perfect answer for my mother," she said.

Mr. GRASSLEY. Mr. President, I rise for 2½ minutes to address the issue of the Hatfield amendment.

Mr. President, I would like to add my word of support for this amendment. The grant program which this amendment would establish would help set up a system for locating Alzheimer's disease victims who have wandered away from those who are caring for them. They are cared for by their families in the overwhelming number of cases.

I am glad to be a cosponsor of the Hatfield amendment which attempts to help with this problem.

As most of my colleagues know, Alzheimer's disease progressively robs the patient of his or her cognizant faculties and at some point, as the disease progresses, in extreme cases its victims become restless and agitated. Of course, one of the symptoms is they are given to wandering and not knowing how to get home. Those of us who have visited Alzheimer's disease day care centers or nursing homes know that these facilities take very special precautions to guard against the possibility that those in the care of these special facilities will leave through unsecured doors and wander away.

However, as I stated before, in the vast majority of cases, and it could be as high as 80 percent as I understand it, Alzheimer's disease victims are cared for in their homes or at the homes of relatives. In such cases, it is more difficult to guard against the possibility that the victim will wander off into the community. Of course, once they do wander off, it is no simple matter to find them. They do not necessarily appear any different from anyone else. If it becomes apparent that they need help, they are probably not able to communicate what their problem is or where they belong. They will almost always become lost. They may even become injured, and perhaps all this found out after a period of days or weeks have passed.

The fear and anxiety that family members who are caring for an Alzheimer's disease victim at home must bear are obviously considerable, especially so if the family member with the disease wanders off.

Mr. President, I think the program that Senator HATFIELD's amendment would establish probably the first proactive Federal program designed to help locate missing Alzheimer's disease victims.

Senator METZENBAUM and I did include, at Senator METZENBAUM's urging, an education program for safety and transportation personnel in legislation that we introduced in the 99th Congress. That legislation became title 9 of Public Law 99-660, and we hope to reauthorize it this year, including that education component.

In any case, the purpose of that education program in that legislation was to help educate public safety personnel and public transportation personnel about the victims of dementia and how to recognize them and how to help them.

The amendment that we are now considering goes further than what we did in Public Law 99-660 in it would help set up a central patient registry with which patients could register. It would also make it possible to alert local emergency networks when somebody with Alzheimer's disease has become lost.

Mr. President, I think the amendment offered by Senator HATFIELD is an imaginative way to at least start a program to deal with what is a very difficult problem. So I take this opportunity to applaud my colleagues' initiative.

I yield the floor.

Mr. HATFIELD. Mr. President, I believe, as I say, the amendment has been cleared on both sides. I urge its adoption.

Mr. BIDEN. Mr. President, it has been cleared on this side. Let me, before we vote on it, just say I think the Senator from Oregon has made a very positive contribution here.

This is a case where the use of the capability that is available for American law enforcement can be used without any interference in their ability to function and do their duties, to expand the underlying function—and that is to protect human life.

I compliment my friend from Oregon. We accept the amendment.

Mr. HATFIELD. Mr. President, I thank the chairman of the Judiciary Committee for his kind words.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Oregon.

The amendment (No. 392) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senator from Nebraska [Mr. EXON] be recognized to offer his amendment subject to the conditions of the previous agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. I thank the Chair. I thank my colleague from Delaware.

AMENDMENT NO. 393

(Purpose: To establish drug free zones at truck stops and highway rest areas)

Mr. EXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON], for himself, Mr. HOLLINGS, KASTEN, and DANFORTH, proposes an amendment numbered 393.

Mr. EXON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 186, immediately after line 24, insert the following new subtitle:

Subtitle E—Drug Free Truck Stops and Safety Rest Areas

SEC. 1641. DRUG FREE TRUCK STOPS AND SAFETY REST AREAS.

(a) SHORT TITLE.—This section may be cited as the "Drug Free Truck Stop Act".

(b) FINDINGS.—The Congress finds that—

(1) the illegal use of controlled substances by operators of commercial motor vehicles represents an enormous threat to the safety of all motorists and their passengers on the Nation's roadways; and

(2) as indicated by numerous studies, congressional hearings, and investigations, individuals often use the areas surrounding roadside truckstop and roadside rest areas as sites for the distribution of these controlled substances to the operators of commercial motor vehicles.

(c) AMENDMENT TO CONTROLLED SUBSTANCES ACT.—

(1) IN GENERAL.—In light of the findings in subsection (b), part D of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting immediately after section 408 the following new section:

"TRANSPORTATION SAFETY OFFENSES

"SEC. 409. (a) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within one thousand feet of, a truck stop or safety rest area is (except as provided in subsection (b)) subject to—

"(1) twice the maximum punishment authorized by section 401(b); and

"(2) at least twice any term of supervised release authorized by section 401(b) for a first offense.

Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.

"(b) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within one thousand feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is punishable—

"(1) by the greater of (A) a term of imprisonment of not less than three years and not more than life imprisonment or (B) three times the maximum punishment authorized by section 401(b); and

"(2) by at least three times any term supervised release authorized by section 401(b) for a first offense.

"(c) In the case of any sentence imposed under subsection (b), imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under subsection (b) shall not be eligible for parole under chapter 311 of title 18 of the United States Code until the individual has served the minimum sentence required by such subsection.

"(d) For purposes of this section—

"(1) the term 'safety rest area' means a roadside facility with parking facilities for the rest or other needs of motorists; and

"(2) the term 'truck stop' means any facility (including any parking lot appurtenant thereto) that has the capacity to provide fuel or service, or both, to any commercial motor vehicle as defined under section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986, operating in commerce as defined in section 12019(3) of such Act and that is located within 2,500 feet of the National System of Interstate and Defense Highways or the Federal-Aid Primary System.".

(2) CONFORMING AMENDMENTS.—

(A) CROSSREFERENCE.—Section 401(b) of such Act (21 U.S.C. 841(b)) is amended by inserting "409," immediately before "418," each place it appears.

(B) TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking the item relating to section 409, the following new item:

"Sec. 409. Transportation safety offenses.".

(d) SENTENCING GUIDELINES.—

(1) PROMULGATION OF GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 409 of the Controlled Substances Act, as added by subsection (c), shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(A) two levels greater than the level that would have been assigned for the underlying controlled substance offense; and

(B) in no event less than level 26.

(2) IMPLEMENTATION BY SENTENCING COMMISSION.—If the sentencing guidelines are amended after the date of enactment of this Act, the Sentencing Commission shall implement the instruction set forth in paragraph (1) so as to achieve a comparable result.

(3) LIMITATION.—The guidelines described in paragraph (1), as promulgated or amended under this subsection, shall provide that an offense that could be subject to multiple enhancements pursuant to this subsection is subject to not more than one such enhancement.

Mr. EXON. Mr. President, the amendment that I have just offered was offered on behalf of myself; on behalf of Senator HOLLINGS, the chairman of the Commerce Committee; on behalf of the Senator from Wisconsin, the chairman of the Surface Transportation Subcommittee; and also Senator DANFORTH, the ranking Republican on the Commerce Committee.

This amendment, offered by myself with the original cosponsors that I have just mentioned, has to do with drug-free truckstops. It is fully appropriate on the crime package. The amendment on the drug-free truckstops is an amendment that has already passed the Senate as part of the highway bill. This amendment was also passed last year by the Senate but was dropped in conference.

In attaching this amendment to the crime bill, it is my hope that we can get beyond the jurisdictional disputes and it will soon become law.

Mr. President, we have a serious threat to the safety of the millions of travelers on our Nation's highways. The threat is the use of illegal drugs by our Nation's truckdrivers. In 1989, in a survey of 1,300 truckdrivers conducted by the Regular Common Carriers Conference of the ATA, the average response indicated that over one-third of all truckdrivers at one time or another drive under the influence, to some extent at least, of illegal narcotics.

In another study conducted by the National Transportation Safety Board, it was found that the use of drugs or alcohol was a major factor in 26 of the 189 accidents that they studied.

It is imperative that the Congress address this situation. Nearly every American traveler on our Nation's highways and their safety should be a primary concern of all.

In order to combat the spread of drugs in the motor carrier industry, this amendment creates drug-free zones around truckstops, and doubles the penalty for those persons convicted of selling drugs within 1,000 feet of truckstops. This amendment is modeled after the language from the Omnibus Drug Initiative Act of 1988, which established similar drug-free zones around our Nation's schools.

The establishment of the drug-free truckstop will send a strong signal to our Nation's motor carrier industry that the safety of our Nation's motorists is paramount, and that unnecessary risks to that safety will not be tolerated.

Mr. President, I thank the cosponsors of this measure. We have thoroughly reviewed it in the Surface Transportation Subcommittee that I chair and the Commerce Committee as a whole.

I thank you, Mr. President.

I understand the measure has been cleared on both sides. I hope, Mr. President, that we now can proceed with the adoption of the amendment, I assume by a voice vote.

Mr. HOLLINGS. Mr. President, I rise today in support of this amendment to the crime bill which calls for the establishment of drug-free zones for truckstops and roadside rest areas. The amendment establishes a minimum penalty and increases the maximum penalty levels for persons convicted of distributing or possessing with intent to distribute illegal drugs within 1,000 feet of truckstops.

Mr. President, this amendment is an attempt to stem the tide of drug supplies to truckdrivers. Truckstops and rest areas are the easiest locations at which to distribute drugs. Such distribution is well documented and the consequences are, unfortunately, all too familiar. The problem of drug use by truckers simply reflects the larger societal problem. The difference, however, is that a truckdriver under the influence of drugs is often operating an 80,000 pound truck. This represents an enormous threat not only to the safety of the driver but also to the lives of the other motorists on the highway. We have seen the positive impacts of such drug-free zones around schools and we hope this program meets with the same success.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Nebraska.

The amendment (No. 393) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. I thank the Chair. I thank my friend and colleague from Iowa.

The PRESIDING OFFICER. Under the previous order, the Senator from New Hampshire [Mr. RUDMAN] is to be recognized for the purpose of proposing an amendment on multijurisdictional drug task forces.

AMENDMENT NO. 394

(Purpose: To exempt multijurisdictional drug task forces from the 4-year grant limitation for antidrug abuse grants)

Mr. RUDMAN. Mr. President, the amendment I am about to offer has in fact been cleared on both sides. I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. RUDMAN] proposes amendment numbered 394.

Mr. RUDMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, after line 22, add the following:

SEC. 104. GRANTS FOR MULTI-JURISDICTIONAL DRUG TASK FORCES.

Section 504(f) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754)(f)), is amended to delete the first word and insert the following:

"Except for grants awarded to state and local governments for the purpose of participating in multijurisdictional drug task forces, no".

Mr. RUDMAN. Mr. President, I have been advised by the staff of the distinguished Senator from Delaware, the chairman of the Judiciary Committee, that this amendment has been cleared on both sides. Thus, I will proceed, even though he is not on the floor and is attending a meeting.

Mr. President, I urge the Senate to act favorably on the amendment I am offering today to ensure the continued viability of State multijurisdictional drug task forces. Under current law, State antidrug abuse grants are subject to a grant limitation prohibiting the utilization of Federal money for any one project for more than 4 years. While this grant limitation may make sense in terms of seed money for projects undertaken by a State or single municipality or jurisdiction, it does not make sense for multijurisdictional projects. In the case of such multijurisdictional projects, it is not reasonable to expect that any one participant can coordinate the funding for the benefit of multiple participants.

Mr. President, these multijurisdictional drug task forces have proven to be one of the most successful tools in the war against drugs. This is particularly true in small rural States such as New Hampshire. Their structure promotes cooperation, coordination and confidence among a variety of governmental units and encourages broad involvement at all levels of law enforcement which might otherwise not be possible or practical. Without this amendment, the continued success of these task forces may be in jeopardy.

Mr. President, let me say that this amendment is not intended to favor multijurisdictional drug task forces over other worthy recipients of the State antidrug abuse grants. Rather, it recognizes the unique conditions which apply to multijurisdictional projects, and seeks to ensure their continued viability. I urge my colleagues to support this amendment.

Mr. SIMON. Mr. President, the Senate today will agree to an amendment offered by my colleague from New Hampshire that provides for a waiver of the 4-year time limit on drug grants provided by the Bureau of Justice assistance for the multijurisdictional task forces. While I will not object to this amendment, I want to make clear my strong support for the distribution of antidrug grants to the local law enforcement community in addition to the multijurisdictional task forces. The purpose of the amendment as I understand it is simply to ensure that multijurisdictional task forces which provide a valuable service to fighting the drug problem, continue beyond the initial 4 years. However, the purpose is not to diminish the importance of the local law enforcement community who are not part of these task forces. It is my intention that these local law enforcement officials will also benefit from the Federal funding and that his provision will not be read in any way to diminish their significance.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment (No. 394) was agreed to.

Mr. RUDMAN. Mr. President, I move the reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

Mr. RUDMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. EXON. Mr. President, I ask unanimous consent that upon disposition of the Specter amendment, the Senate proceed to the following amendments; that the amendments be considered in the order listed, provided the sponsor is present and prepared to offer an amendment; and the no amendment to the amendment or to the language proposed be stricken be in order; and that during the pendency of the agreement on the listed amendments, no motion to recommit be in order.

The amendments that I reference in order, as I have requested in the unanimous-consent agreement, are as follows: a Biden amendment on the National Crime Commission; Heflin amendment on restitution; Wirth amendment on campus crime; Thurmond amendment on murder of U.S. nationals; Bradley amendment on drug dealing in public housing; Seymour amendment on battered women; Seymour amendment on drug paraphernalia; Hatch amendment on software privacy.

I have just been advised that there will be two more amendments, which would be the last two to be considered in this order; that is, the Specter amendment on courthouse in Lancaster, PA, and another amendment regarding U.S. attorneys offices.

The PRESIDING OFFICER. Is there obection? Hearing none, it is so ordered.

Mr. SPECTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SHELBY). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I am prepared to proceed now with two amendments which have been agreed to by the chairman of the committee and the ranking Republican member. There are discussions which are underway on other important parts of this bill.

I am at a slight loss at proceeding without the managers on the floor. Perhaps we ought to wait just a few minutes to give Senator BIDEN and Senator THURMOND an opportunity to return before proceeding.

The PRESIDING OFFICER. Regular order is the Specter amendment No. 381, the Chair would inform the Senator from Pennsylvania.

The Senator from Pennsylvania has 13 minutes remaining and the Senator from Delaware has 4 minutes remaining.

Mr. SPECTER. Mr. President, at this time, I ask unanimous consent to set aside my amendment, which would recur under the regular order, for purposes of proceeding with these two agreed-to amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 395

(Purpose: To authorize funds for construction of a U.S. Attorneys office in Philadelphia, Pennsylvania)

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Pennsylvania, [Mr. SPECTER] proposes an amendment numbered 395.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following new section:

SEC. . AUTHORIZATION OF FUNDS FOR CONSTRUCTION OF A U.S. ATTORNEYS' OFFICE IN PHILADELPHIA, PENNSYLVANIA.

There is hereby authorized to be appropriated $35,000,000 to remain available until expended, to plan, acquire a site, design, construct, buildout, equip, and prepare for use an office building to house the U.S. Attorneys Office in Philadelphia, Pennsylvania, notwithstanding any other provision of law: *Provided*, That the site is at or in close physical proximity to the site selected for the construction of the Philadelphia Metropolitan Detention Center: *Provided further*, That the site selected for the Philadelphia U.S. Attorney Office shall be approved by the Attorney General and notification submitted to the Congress as required by law.

Mr. SPECTER. Mr. President, I have discussed this personally with Senator BIDEN and personally with Senator THURMOND. Both are in agreement, as is the Department of Justice.

The essence of this amendment is to provide an authorization for construction of facilities for the U.S. attorney in collaboration with a jail which has already been authorized and appropriated in the city of Philadelphia.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 395) was agreed to.

AMENDMENT NO. 396

(Purpose: To provide that the U.S. District Court for the Eastern District of Pennsylvania shall also sit in Lancaster, PA)

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 396.

At the appropriate place, insert the following Section:

SEC. . COURT TO BE HELD AT LANCASTER.

Section 118 of title 28, United States Code, is amended in subsection (a) by inserting "Lancaster," immediately before "Reading".

Mr. SPECTER. Mr. President, the essence of this amendment is to authorize a courtroom for Lancaster, PA. This follows a pattern of satellite courtrooms in Johnstown, PA., in Reading, Allentown, Easton—many other communities. This, too, has been taken up on both sides of the aisle. There is no objection.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (No. 396) was agreed to.

Mr. SPECTER. Mr. President, I ask unanimous consent a statement appear concerning the establishment of this Federal court station of Lancaster, which sets forth the statistical data in support of the satellite court.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

STUDY: ESTABLISHMENT OF FEDERAL COURT STATION LANCASTER, PA

THE CASE FOR A FEDERAL STATION IN LANCASTER

Lancaster is one of ten counties in the Eastern District of Pennsylvania, the other nine being (in alphabetical order) Berks, Bucks, Chester, Delaware, Lehigh, Montgomery, Northampton, Philadelphia and Schuylkill. (A map showing the alignment of the ten counties is attached as Exhibit "A."). The headquarters for the district is in Philadelphia, but there are "satellite" stations in Reading (Berks County), Allentown (Lehigh County) and Easton (Northampton County). There are two stations in Reading, one each for Judges Troutman and Huyett and one station each in Allentown and Easton, for Judges Cahn and Van Antwerpen respectively.

Lancaster is one of the five so-called "northern" or "upper" counties in the district, along with Berks, Schuylkill, Lehigh and Northampton. Cases filed from Lancaster and the other four northern counties go into a separate "wheel" for assignment from other cases filed in the district. Cases from the five Philadelphia area counties (Bucks, Philadelphia, Chester, Montgomery and Delaware) to into the district's main wheel for assignment among all of the judges on the court. Cases from the northern "wheel" are assigned only to one of the "northern" county judges, i.e., Judges Troutman, Huyett, Cahn or Van Antwerpen.

The satellite stations were created for the convenience of litigants, attorneys, witnesses and jurors, as well as the judges who preside over the stations and who live either in or near the county of the station.

For the same reasons that a station is appropriate for Berks, Lehigh and Northampton Counties, a station has now become appropriate for Lancaster.

CASES FILED

The number of civil cases filed by Lancaster County residents is now greater than the number filed by residents of either Schuylkill, Lehigh or Northampton Counties, and is only slightly less than the number filed from Berks County. Records from the United States District Court for the Eastern District of Pennsylvania show the following filings per year from Lancaster and the three "northern" counties (Berks, Lehigh and Northampton) which have satellite stations. A summary of those records is shown below:

	1987	1988	1999
Lancaster	101	151	174
Berks	175	211	198
Lehigh	148	168	156
Northampton	87	97	118

As the above shows, the number of civil cases filed by Lancaster County citizens has increased per year at a dramatically greater rate than the number filed from Berks, Lehigh or Northampton Counties. The percentage breakdown on this increase between 1987 and 1989 is as follows:

	1987	1989	Percent increase
Lancaster	101	174	73
Berks	175	198	13
Lehigh	148	156	5
Northampton	87	118	35

POPULATION

The above trend in case filings should continue, given the population trends of Lancaster and the other "northern" counties. Lancaster is now the largest of the five "northern" counties in population, as the following data from the 1988 total population estimates of the Census Bureau show:

Lancaster	414,100
Berks	328,100
Lehigh	288,700
Northampton	243,600
Schuylkill	154,100

Lancaster is also the fastest growing county in the Eastern District, and the population difference between Lancaster on the one hand and the other "northern" counties on the other can be expected to increase in the immediate future. The Census Bureau data shows the following growth in population from 1980 to 1988 for Lancaster and the other four "northern" counties:

	1980	1988	Change	1980–88 (percent)
Lancaster	362346	414100	51754	14.3
Berks	312509	329100	1659	5.3
Lehigh	272349	288700	16351	6.0
Northampton	225418	243600	18182	8.1
Schuylkill	160630	154100	−6530	−4.1

As the Census Bureau data shows, Lancaster County had the second highest population gain of all counties in Pennsylvania, behind only Bucks, in the period from 1980 to 1987.

ATTORNEYS

Lancaster County now has more attorneys than any of the other "northern" counties, and thus more attorneys from the other northern counties who either have cases in the Eastern District already or who may be expected to have such in the future. The bar associations of the five northern counties had the following memberships as of March 2, 1990:

Lancaster	508
Berks	480
Lehigh	493
Northampton	388
Schuylkill	175

CONVENIENCE

A station in Lancaster would ease considerably the inconvenience for Lancaster litigants, attorneys, and jurors that exists under the current system of case assignments.

As noted above, Lancaster cases are currently assigned to Judges Troutman or Huyett, both of whom sit in Reading, or to Judges Cahn or Van Antwerpen, who sit in Allentown and Easton respectively. Judges Troutman and Huyett have senior status and are assigned only half the normal caseload. Judges Cahn and Van Antwerpen carry full caseloads. Because of this allocation, Lancaster cases have twice the likelihood of assignment to Allentown or Easton than to Reading, as the following table shows (1.0 refers to a full caseload and .5 to half a caseload):

Reading-Troutman	.5
Reading-Huyett	.5
Allentown-Cahn	1.0
Eastern-Van Antwerpen	1.0
	3.0

While Reading is a convenient station (approximately 45 minutes by car) for Lancaster litigants, attorneys, witnesses and jurors, Allentown is 67 miles from Lancaster and takes approximately two hours to drive. Easton is 83 miles from Lancaster and takes approximately two-and-a-half hours. A proceeding in Allentown or Easton, however brief the proceeding might be, requires a commitment of all or the better part of a working day for Lancaster litigants, attorneys and witnesses.

If Lancaster County was assigned a federal station, however, and if the current method of assignment for "northern" county cases remained the same, Lancaster cases would have a 25 percent chance of assignment to Lancaster, with no travel at all required; a 25 percent change of assignment to Reading, travel to which is convenient; and only a 50 percent change of assignment to the less convenient stations in Allentown or Easton, compared with the present two-thirds (66.7%) chance of assignment to either of these stations. With a judge taking a full caseload in Lancaster, the probability of assignment for cases from Lancaster (or any of the northern counties) would be the following:

Lancaster	1.0
Reading (Troutman)	.5
Reading (Huyett)	.5
Allentown	1.0
Easton	1.0
	4.0

A federal station in Lancaster would also be as conventient as Allentown, and more convenient than Easton, for attorneys, litigants and jurors from Berks County. Lancaster is 30 miles from Reading, the county seat of Berks County, while Reading is 35 miles from Allentown and 45 miles from Easton.

Lancaster would also be more convenient for jurors from Philadelphia County than Reading, Allentown or Easton because Lancaster is accessible from Philadephia by train. Lancaster has daily train service to and from Philadelphia, which neither Reading, Allentown nor Easton has. At present, jurors from Philadelphia have no option to use the train when they are selected for a trail in one of the "northern" stations. If a station were established in Lancaster, jurors from Philadelphia would have a one-in-one four chance of having train service available if they are selected for a trail in one of the "northern" stations.

COST

Lancaster has the unanimous support of all sectors of the community for a federal station, and has facilities for a federal station immediately available. Lancaster County officials have committed to making Courtroom "A" of the present Lancaster County Courthouse available for a federal station, and to providing the adjacent space necessary for judicial chambers. The establishment of a station in Lancaster could thus be made at much less the cost than establishing a station might otherwise require.

CONCLUSION

No matter which criterion one uses, whether it is convenience to judges, litigants, attorneys or jurors, Lancaster County deserves a station as much as Berks, Lehigh or Northhampton Counties. If a station is appropriate for those counties, it is equally appropriate for Lancaster. A station in Lancaster would improve substantially both the availability and convenience of the federal courts for Lancaster citizens, with no detriment to citizens in the balance of the Eastern District or to the court as a whole.

AMENDMENT NO. 381, AS MODIFIED

Mr. SPECTER. Mr. President, I am now prepared to proceed to the amendment, where regular order calls for consideration. At this time, Mr. President, I ask unanimous consent to submit a modification to that amendment.

The PRESIDING OFFICER. Is there objection? The Senator from Ohio.

Mr. METZENBAUM. Reserving the right to object and I have no objection, I see the floor is not covered on this side. Has the Senator from Pennsylvania cleared the modification with the manager of the bill?

Mr. SPECTER. I have discussed it with Senator BIDEN and Senator THURMOND and neither one has raised any objection.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator will send his modification to the desk.

The amendment, as modified, is as follows:

In section of the bill, in proposed section 2262 of title 28, United States Code, captioned "Limitation periods for determining petitions," strike subparagraphs (1) and (2) of paragraph (a) and paragraphs (b), (c), and (d) and insert the following in lieu thereof:

"(1) A Federal district court shall determine such a petition or motion within 110 days of filing.

"(2)(A) The court of appeals shall hear and determine any appeal relating to such a petition or motion within 90 days after the notice of appeal is filed.

"(B) The court of appeals shall decide any application for rehearing en banc within 20 days of the filing of such application unless a responsive pleading is required in which case the court of appeals shall decide the application within 20 days of the filing of the responsive pleading. If en banc consideration is granted, the en banc court shall determine the appeal within 90 days of the decision to grant such consideration.

"(3) The Supreme Court shall act on any application for a writ of certiorari relating to such a petition or motion within 90 days after the application is filed.

"(b) The time limitations under subsection (a) shall apply to an initial petition or motion, and to any second or successive petition or motion. The same limitations shall also apply to the re-determination of a petition or motion or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, and in such a case the limitation period shall run from the date of the remand.

"(c) The time limitations under this section shall not be construed to entitle a petitioner or movant to a stay of execution, to which the petitioner or movant would otherwise not be entitled, for the purpose of litigating any petition, motion, or appeal.

"(d) The failure of a court to meet or comply with the time limitations under this section shall not be a ground for granting relief from a judgment of conviction or sentence. The State or Government may enforce the time limitations under this section by applying to the court of appeals or the Supreme Court for a writ of mandamus.

"(e) The Administrative Office of the United States Courts shall report annually to Congress on the compliance by the courts with the time limits established in this section.".

Mr. WIRTH. Will the Senator yield for a question?

Mr. SPECTER. I do.

Mr. WIRTH. I have an amendment which has been cleared on both sides. I was wondering if the amendment the Senator is now offering is one that is going to be lengthy and will require a vote, or is it going to be dispensed with quite rapidly?

Mr. SPECTER. The amendment is going to be not very lengthy but will require a vote and will consume some time.

I note in the voice of the Senator from Colorado an interest in perhaps setting this aside?

Mr. WIRTH. I was hoping we might do that in order to agree to an amendment cleared on both sides that could be handled quite rapidly.

Mr. SPECTER. I am happy to accommodate a colleague. Perhaps we can get Senator BIDEN here on the floor and perhaps we should proceed.

I ask unanimous consent to set aside my amendment so the Senator from Colorado can proceed briefly with an amendment which he represents has been agreed to on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Colorado.

Mr. WIRTH. I thank the distinguished senior Senator from Pennsylvania for his usual courtesy and accommodation for allowing me to offer an amendment which has been cleared on both sides.

AMENDMENT NO. 397

(Purpose: To amend the General Education Provisions Act to allow educational agencies and institutions to disclose campus police records)

Mr. WIRTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. WIRTH] proposes an amendment numbered 397.

Mr. WIRTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . DISCLOSURE OF RECORDS OF ARRESTS BY CAMPUS POLICE.

Section 438(a)(4)(b)(ii) of the General Education Provisions Act (20 U.S.C. 1232g(a)(4)(B)(ii)) is amended to read as follows:

"(ii) records of a law enforcement units of an educational agency or institution that are required by State law to be made available to the public;".

Mr. WIRTH. Mr. President, the purpose of this amendment is to clear up what is a quite anomalous situation and conflict which has occurred among laws in some 10 or 12 States, not only to my State of Colorado but in Virginia, Missouri, Arizona, Iowa, Kentucky, Louisiana, North Carolina, and Pennsylvania. In each of these States there is a requirement that any criminal activity, and any arrests that have occurred at a State level, a community level, and on university campuses, be made available to the public.

That is an open record relating to any criminal activity. That would seem to make very good sense. And those are laws that are in the States that I have just listed.

On the other hand, there is somewhat of a glitch in the Federal law related to this so-called Family Educational Rights and Privacy Act or FERPA. That law says that if a campus discloses information publicly, related to a student's records, that campus can be cut off from all Federal funds. So institutions of higher education in my State and in all of these other States, including the State of the distinguished Senator from Pennsylvania, are caught between a rock and a hard place.

Colorado State University, for example, to comply with the State law, provided the open records on students who had been arrested on that campus. The Federal Government came in and said,

> You cannot do that under FERPA. If you do that, you are going to lose; you will be cut off under the requirements of the law. You are going to be cut off from all Federal support.

This amendment would allow campus police units to release the information that States have determined plays a role in protecting the public safety and could do so without violating the Federal law.

This in no way affects students' privacy with other records, performance evaluations, test scores, letters of recommendation and things like this. This relates only to public safety issues and will potentially, I think, help us get a handle on a growing amount of campus crime.

To reiterate, this amendment will help to ensure public safety by allowing students and campus communities to know about criminal activity at their schools. Campus crime is a growing problem that not only threatens the safety of that community, but hinders the education of our students.

Many States in this country have open record laws—which means the public has access to police records and can find out who has been arrested and for what crimes. This is the kind of access that can promote community involvement and help to bring peace to college campuses.

A glitch in Federal statute, however, has posed a difficult problem for universities in States that have open record laws. For example, in compliance with my State's open book law, in the past Colorado State University routinely released the names of students who have been charged with a crime. However, the university was notified by the Department of Education that all its Federal funding would be cut unless it complied with the Federal Family Educational Rights and Privacy Act [FERPA]—which prohibits the release of this information as a part of a student's education records.

The obvious dilemma faced by universities is determining with which law they should comply—State or Federal. If they do comply with State law, they are severely punished by having all Federal funding for the institution removed. I think it is safe to say that no school wishes that upon itself.

My amendment would allow campus police units to release the information that States have determined play a role in protecting the public safety without violating Federal law. It in no way affects students' privacy with other university records and I believe enhances the safety of our students.

Mr. President, I ask unanimous consent to have printed in the RECORD editorials from the Greeley Tribune, the Denver Post, and another article from the Greeley Tribune on this particular problem.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Greeley (CO) Tribune, May 16, 1991]

U.S. EDUCATION DEPARTMENT MUST NOT HAVE ENOUGH TO DO

Last fall, a serial murderer stalked students living near the campus of the University of Florida at Gainesville. To date, the man who molested, executed and mutilated five students at the school has not been apprehended.

But if he is a student, and is arrested by the university's campus police force, U.S. Department of Education has a surprise in store for any Floridians who might be curious as to his identity: His name must be kept confidential, or the school will lose all of its federal funding.

Say what?

That's right, according to the education bureaucracy's interpretation of a federal law guaranteeing the privacy of academic records, campus police may no longer make public the names of students whom they arrest.

This ludicrous ruling was brought home recently when an education functionary (one with not enough to do) discovered that the campus police at Colorado State University routinely release the names of students they apprehend.

Next thing university officials knew, they received a threatening letter notifying them that all of CSU's federal funds would be withheld if the campus police chief didn't mend his privacy-violating ways and quit releasing the names of arrested students to the school newspaper or other media.

This week, University of Northern Colorado campus police announced it will no longer release the names of students arrested on campus, either.

This dubious law the Education Department is interpreting in such a broad manner was written, specifically, and lobbied for by a liberal academic establishment that thought it would be a good idea to prevent parents from learning how their offspring are doing in college—unless the offspring want them to know what their grades are. (Never mind whether the parents are footing the education bill).

That's bad enough.

But a federal judge recently ruled that universities have the right to classify campus police records as academic records allowing them to be kept confidential. To have both courts and bureaucrats interpret an obscure federal law in a way that in essence, usurps state and local law enforcement authority and stymies the public's very basic right to know who's been arrested for what, by whom and when is an even more serious matter.

Access to such information protects both the public and persons who are arrested from excessive and punitive action by the police.

This is gratuitous federal meddling far beyond what ought ever to be tolerated. The law defies common sense, should never have been enacted and ought to be repealed immediately.

If this is indicative of the activities and priorities of the federal Education Department, no wonder education is in the mess it's in today.

[From the Denver Post, Apr. 28, 1991]

A WEIRD NOTION OF SAFETY

If a 21-year-old man mugs someone in Fort Collins, his name is made public after his arrest. But if the same man commits the same crime on the campus of Colorado State University, then news of his arrest can't be released. That's because the U.S. Department of Education has usurped the power of the state legislature and imposed its own weird notions of public safety on CSU and all other colleges that receive federal funds.

In the past, CSU campus Police Chief Donn Hopkins routinely released the names of arrested criminal suspects, in compliance with Colorado's open records law. In fact, Hopkins personally could have been slapped with stiff penalties had he not done so.

This state statute allows the public to evaluate the effectiveness of the police and protects individuals from undue harassment. Indeed, one hallmark of a free society is that its justice system is open to public scrutiny—it prevents people from simply "disappearing," as happens in many dictatorships.

But when the U.S. Department of Education found out about CSU's sensible practice, its bureaucrats wrote CSU officials a nasty, heavy-handed letter threatening to withdraw all federal funds from the school unless arrest records were kept secret.

Hopkins now is in the position of breaking state law or ruining CSU's finances—an instance of being between the proverbial rock and a hard place.

As justification for its action, the Education Department cited a federal law that protects the privacy of student academic and personal records—but which never was intended to be an impediment to justice.

What's at stake in this dispute isn't an issue of whether a student might have cheated on a midterm, but whether the public has a right to know if an adult—which most CSU students are—is suspected of a crime.

Hopkins has asked for a legal opinion from CSU lawyers, but the public and Colorado's political leadership also should rally to his side.

Colorado Attorney General Gale Norton should assign a member of her staff to work with CSU on this issue, for the question affects all state institutions of higher learning.

Republican members of Colorado's congressional delegation, including Sen. Hank Brown and Rep. Wayne Allard, should write Education Secretary Lamar Alexander and demand that the policy be reconsidered.

If the policy isn't changed, Brown should attach an amendment to a pending proposal by Delaware Democratic Sen. Joe Biden, which would require colleges to be more honest about campus crime. A provision calling for arrest records to be made public would be in keeping with the spirit of Biden's measure.

Regardless of whether one is a conservative or a liberal, Hopkins' wish to be open and honest with the public clearly is the proper policy.

[From the Greeley (CO) Tribune, Mar. 21, 1991]

CSU IN DUTCH OVER STUDENT RECORDS—RELEASING CAMPUS ARREST INFO VIOLATES FEDERAL LAWS

FORT COLLINS.—Colorado State University officials have temporarily prohibited campus police from releasing the identities of students named in crime reports after learning the practice violated a federal law.

"We absolutely do not want to violate the U.S. department's position," said Brian Snow, CSU legal counsel. "However, our hands are tied with the potential tension between various groups wanting to achieve various goals."

The Family Educational Rights and Privacy Act of 1974 prohibits universities and colleges from releasing student records without student approval under penalty of the loss of federal funding.

At the University of Northern Colorado, arrest records are open to public scrutiny and have been for many years in compliance with the state open records laws, said UNC Police Chief Terry Urista.

"We don't have secret arrests in this country, and I hope that doesn't come to pass," he said.

Urista said CSU is between a rock and a hard place since their compliance with state law has put the institution in violation of federal law.

"If they don't release the information, they're in violation of state law, if they do, they're in violation of federal law," he asid. "It puts CSU in a position of being between the devil and the deep blue sea."

Urista said UNC, although it operates the same as CSU regarding open records, has not been singled out by the Department of Education as being in violation of the federal law.

The case is further complicated by a recent ruling in a court in Missouri that campus crime records must be open to the public, a case which law experts say will have far-reaching implications.

But last month, the Department of Education notified CSU and 14 other universities nationwide that they were in violation of the act, according to Mark Goodman, executive director of the Student Law Press Center in Washington, D.C.

CSU was found in violation because its police department gives the news media and the public access to police and security records, an Educational Department spokesman told the CSU student newspaper in an interview published Wednesday.

The spokesman said violation notices were sent to the schools after the Student Press Law Center surveyed schools to determine how much information campus law enforcement officials make available to the public and the news media.

The department spokesman said, "We are not looking to act on the letters we sent to the particular universities . . . because we expect the letter itself to be enough.

"We did not lay out a timetable for compliance to the FERPA laws when we sent the letters out. But we have been encouraged by the feedback we've had from all the schools contacted, and they have all made some indication of changing their policies to meet the laws."

On Tuesday, several CSU officials outlined a revised plan to meet the requirements of the act temporarily while they investigated the situation further, Snow said.

"We have to keep in mind students' rights to be informed and the protection offered by information gathered by the media, a person's right to privacy and the level of involvement the police department will have with the university in general," he said.

CSU Police Chief Donn Hopkins said he thinks the decision is the best solution at hand.

"We are caught between a variety of federal and state statutes, but also the needs of our community to release police records," he said. "We are going to have to be more careful about printing personal information on our reports now, but there is no risk of important incidents being withheld under this decision."

[From the Greeley (CO) Tribune, June 22, 1991]

WIRTH AIMS AT COLLEGE COP REPORTS

(By Steve Porter)

Sen. Tim Wirth, D-Colo., plans to introduce legislation next week that could help clear up confusion over the release of campus crime reports.

Wirth is expected to offer an amendment to the omnibus crime bill now being debated in Congress. The amendment is aimed at resolving a dilemma created by a recent interpretation of the Family Education Rights and Privacy Act by the U.S. Department of Education.

The policy, which developed as a result of a court case in Missouri last fall, forbids federally funded colleges and universities from releasing information related to criminal activity on campus.

Specifically, the policy prohibits campus police from releasing crime information involving a student without the student's consent.

Lisa Caputo, an aide to Wirth, would not release details of the senator's amendment Friday.

"We are negotiating a reasonable solution on this," she said. "I can tell you more about it on Monday.

Lisa Helm, a Colorado State University spokeswoman, said the university would welcome a resolution of the matter.

"Our view is we think this is an extremely positive step by Sen. Wirth because it is a difficult situation for us," she said.

CSU officials decided April 9 to follow the Department of Education policy and stop giving out campus crime information involving specific students.

Lee Combs, director of litigation for the State Board of Agriculture, said CSU will continue to wait for a change in the law or a change in the Department of Education's stand on the issue.

"At this point, the Department of Education has put the issue to us very forcefully, and we have no choice but to comply," he said.

Federally funded schools that do not comply face the loss of those funds.

Earlier this month, the Mountain States Legal Foundation in Denver requested campus police records from the CSU police department and was denied the records on the basis of the education department policy.

Combs said the denial may result in a lawsuit by the foundation if the matter is not resolved through Wirth's legislation.

"I would expect if they follow through that we will be involved in some kind of test," he said.

Meanwhile, another challenge to the education department policy may be brewing. Arizona State University officials indicated in a recent issue of The Chronicle of Higher Education that they may file suit against DOE.

Combs said he hadn't heard about the Arizona State challenge but said CSU has no plans to become involved in such a case.

"We have not been aware of it nor have we been asked to contribute to the case," he said. "But I'm certain we would watch it very closely. It's an important issue to us."

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Colorado.

The amendment (No. 397) as agreed to.

Mr. SPECTER. Mr. President, I am advised Senator BIDEN is on his way to the floor from a meeting on the Foreign Relations Committee and expects to be here momentarily. In the interim I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I ask unanimous consent that time during the quorum call not be counted against this amendment because of the absence of a necessary party to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, while we are awaiting the arrival of Senator BIDEN, I ask unanimous consent that I may speak on habeas corpus generally but without having it count against the time, since it does not relate to specific arguments that will be at issue when Senator BIDEN arrives.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. Will it be possible for the Senator from Colorado to have a 2 minute window to just announce to the body an agreement being signed in Paraguay at this very moment?

Mr. SPECTER. Since that will be less time than the discussion, the answer is yes.

Mr. WIRTH. I thank the distinguished Senator from Pennsylvania.

Mr. President, I ask unanimous consent to speak for 2 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING PARAGUAY FOR PROTECTING MBARACAYU

Mr. WIRTH. Mr. President, as I speak, President Andres Rodriguez of Paraguay is signing an agreement to establish a 150,000-acre nature reserve in eastern Paraguay. This agreement is the culmination of 2 years work by the

Government of Paraguay, the Nature Conservancy, the Agency for International Development, the International Finance Corporation of the World Bank, the Moises Bertoni Foundation of Paraguay, and Ambassador Timothy Towell on behalf of the United States to protect this unique land known as Mbaracayu.

Two years ago, Mr. President, I had the privilege of visiting this extraordinary site with Senators GORE and Heinz and a number of colleagues from the House of Representatives. What we saw was an incredibly diverse and unique area of tropical forest. Mbaracayu is home to the last significant stand of Alto Parana forest, which includes species once found in the Atlantic forest of Brazil. Unfortunately, deforestation ravaged the Brazilian example of this forest type.

For this reason, the agreement to protect Mbaracayu is significant. It represents not only the effort to protect our remaining biological diversity, each day, 100 species of plants and animals are being eliminated from the catalog of biologic diversity. In the next 20 years, experts believe that 25 percent of all species are threatened by extinction. What has been accomplished in Paraguay is an effort to protect some of that diversity.

Mbaracayu is home to at least 19 natural plant communities and a wide representation of endemic and threatened plant and animal species. The land is also part of the historic hunting grounds of the indigenous Ache, a tribe that has traditionally been sustained by the use of wildlife and plants in the forest.

In recent years, the Mbaracayu property has been threatened by encroaching development within Paraguay and almost total deforestation of Brazilian territory to the east. Until recently, the Mbaracayu was held by the International Finance Corporation of the World Bank. The IFC, holding title by default, agreed to work with the Nature Conservancy and Paraguayan officials to protect this land, rather than allowing the debt to be paid through deforestation and conversion. We shall all applaud the IFC for demonstrating this commitment to environmental protection.

Together with the Bertoni Foundation, the Nature Conservancy developed a plan to buy the land from the IFC. At this point, Ambassador Towell and the Agency for International Development stepped in to lend U.S. assistance to this effort. Finally, the United National Development Program provided assistance to help purchase the land.

This agreement is a major accomplishment for the people of Paraguay and for the preservation of forests and biological diversity around the world. It is also a significant step toward greater cooperation among national governments, nongovernmental organizations and multilateral institutions to protect the world's forests. And it is also another example of the outstanding leadership provided by Ambassador Timothy Towell. Ambassador Towell has worked very closely with all parties to develop this agreement and has graciously and considerately kept me informed every step of the way. Ambassador Towell has been a leader in developing this agreement.

Once again, Mr. President, I want to congratulate and commend all of the parties involved in developing this very worthwhile and much-needed agreement. The people of Paraguay now have an incredibly unique nature reserve. The people of the world have an example of how we can work together to protect the forests and biologic diversity of the world.

I ask unanimous consent that a letter I sent to President Rodriguez and a background paper prepared by the Nature Conservancy be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. Senate,
Washington DC, June 26, 1991.

His Excellency General Andres Rodriguez Pedotti, President, Republic of Paraguay, Asuncion, Paraguay.

DEAR MR. PRESIDENT, I am writing to congratulate you, the people of Paraguay, the International Finance Corporation, and the Nature Conservancy for developing this historic agreement to establish the Mbaracayu nature reserve in eastern Paraguay. This is a major accomplishment for the people of Paraguay and for the preservation of forests and biological diversity around the world.

As you know, I was honored to visit the Mbaracayu with a number of colleagues in January of 1989. This unique forest is one of the last remaining examples of the "Alto Parana" forest type. Your efforts will help protect the dense high forest, natural grasslands and an extraordinary array of plants and animals unique to this area. In addition, you have demonstrated your support for preserving the traditional lands used by indigenous peoples.

I also wish to congratulate and commend the United States Ambassador to Paraguay, Ambassador Timothy Towell, as well as the Agency for International Development, for their work to establish the Mbaracayu. Ambassador Towell has long supported this project and has been a leader in this effort. Finally, the Nature Conservancy, one of the leading non-governmental organizations in the United States, has demonstrated once again its success at protecting the world's tropical rainforests.

Again, let me congratulate you, Mr. President, on the success of your efforts to protect Mbaracayu.

With best wishes,
Sincerely yours,
TIMOTHY E. WIRTH.

THE NATURE CONSERVANCY,
Arlington, VA.

LATIN AMERICA PROGRAM

THE MBARACAYU TRACT

Almost 225 square miles in size, the Mbaracayu property is one of the last large tracts of dense sub-tropical forest in Latin America. The area is covered by a range of habitats—dense high rain forests, natural grasslands, rivers and caves—harboring a diverse array of biological systems and rare species. Many plants and animals, now extinct or severely endangered in other regions, have been identified at Mbaracayu.

Initial field surveys have identified 19 natural plant communities and a wide representation of endemic plants and threatened species within the reserve's 142,000 acres. These include jaguars, tapirs, pecarries, giant armadillos, and the rare bush dog. The avifauna includes the king vulture, the endemic bare-throated bellbird, and the large macaws. The presence of two "indicator species", the barefaced curassow and the black-fronted piping guan, suggest that the land has been only slightly altered.

A recent study by the Missouri Botanical Garden confirmed that Mbaracayu contains the most significant remaining example of "Alto Parana", a forest type which includes species only found in the now largely destroyed Atlantic forest of Brazil. Mbaracayu may be the last opportunity we have to protect a unique forest type along with hundreds of unique species, many of which have yet to be identified by science—let alone studied for their potential usefulness to humanity.

Mbaracayu is also the traditional hunting grounds of the Ache, and indigenous tribe of hunters and gatherers only recently (1976) brought into contact with the outside world. The Ache live in four settlements surrounding the Mbaracayu tract and depend on the wildlife, plants, and fruits of the forest for survival. The continued use of the property by the Ache is an important management consideration.

THREATS TO MBARACAYU

Poaching and occasional timber extraction are known to occur within Mbaracayu. Timber companies and agro-industry have expressed interest in buying the area for purposes of commercial exploitation. At the same time, colonization programs to the east of Mbaracayu are rapidly converting remaining forest tracts to agricultural use. Adjacent lands in Brazil are nearly 100 percent deforested.

CONSERVING MBARACAYU

The International Finance Corporation (IFC) of the World Bank group currently holds title to the land by default of the previous owner, a lumber corporation. The Moises Bertoni Foundation, a private Paraguayan conservation organization, and The Nature Conservancy have been negotiating with the IFC and the government of Paraguay to ensure protection status for the property and to provide direct management assistance.

Recognizing that a private commercial buyer would seek to recover investment through logging and converting the land for agriculture, the IFC has explored ways to transfer the property for its conservation. The IFC has agreed to sell the property to The Nature Conservancy and the Moises Bertoni Foundation for the establishment of the Mbaracayu Nature Reserve.

The Conservancy and the Foundation are currently working on a management plan for the new reserve. The plan will identify a program of economic development for neighboring communities based on the sustainable use of the area's natural resources and protection of the watershed. It will outline a public education campaign aimed at enlisting the participation of local land owners in the overall conservation program, and it will seek to develop programs to provide training and employment opportunities to the Ache people.

Mr. WIRTH. Mr. President, this is the last remnant of rain forest in Paraguay, and it is very familiar to the distinguished occupant of the chair. The Senator from Colorado, the Senator from Alabama, and others visited Paraguay 2 years ago and went out to this very important area, which is the last rain forest in Paraguay, right on the Brazilian border. At that point, we attempted to add some impetus to the saving of this land.

This has now happened, Mr. President, one of those accomplishments that comes up from time to time. We can actually see some result in what all of us do. This is a very exciting development. This is a very major and significant game preserve. This is the preservation of some species in an area where we really do not know a lot of what else is in there. Mr. President, I am very pleased that this has happened and very pleased that the distinguished occupant of the chair, the Senator from Colorado, and others were able to make a contribution to this.

I want to particularly commend the distinguished Ambassador to Paraguay, Timothy Towell, who has relentlessly pursued this particular goal. This is being signed as we are here at this very moment.

I yield the floor, and I thank the distinguished Senator from Pennsylvania.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 381, AS MODIFIED

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I shall use this time until Senator BIDEN arrives to discuss some of the underlying considerations on habeas corpus on the understanding that it will not be charged against the pending amendment.

Mr. President, the modification which has been submitted severs the portion which I had submitted yesterday calling for one proceeding in the State court with one determination by the State supreme court before a Federal court has jurisdiction without having the collateral State habeas corpus proceedings because of my interest in speeding up the process and trying to set reasonable time parameters for the conclusion of death penalty cases arising in State courts.

That provision has drawn a good bit of concern from attorneys general and from district attorneys who are anxious to preserve the State habeas corpus proceedings. It has been my decision to defer action on that part of my amendment, although I do intend to press it, but to give an opportunity for the attorneys general and district attorneys to come in and have hearings on concerns which they have.

The portion of the amendment which remains, Mr. President, involves time limits for consideration by Federal courts, provisions which have been supported by my distinguished colleague from South Carolina, Senator THURMOND, as part of an amendment which was offered and adopted last year that Senator THURMOND and I collaborated on, with assistance from Senators HATCH, SIMPSON, and others. It is my understanding that Senator BIDEN will oppose those time limits, and we will have that debate when he arrives.

On the subject of what is happening with habeas corpus in this country today, Mr. President, I submit that it is an absolute quagmire with procedure being elevated over substance so that the courts are spending a tremendous amount of time considering what is a full and fair hearing without actually getting to the merits, which ought to be considered once and once alone. These cases ought not to bounce back from Federal courts to the State courts under the rule that there has not been full and fair consideration in the State courts and then to have hearings held there, to have appeals taken to States supreme courts, and have it come back into the Federal court where the tennis game continues with the matter shuffling back and forth on procedural grounds.

The early days of common law pleading, Mr. President, which I think you will recall, being a member of the bar and a distinguished trail lawyer, were filled with procedural technicalities which obscured the substance. In civil proceedings, there has been a conclusion that there ought to be notice pleading; that the courts ought to get down to the substance and the merits of the case.

I submit that habeas corpus practice in the Federal courts needs a complete overhaul so that the Federal courts will get down to considering the merits, to have a consideration one time on the merits which are raised, and to conclude the matter on that basis without having lengthy, esoteric discussions about whether there has been full and fair consideration in the State court and then remanding it to the State court, all of which involves delay, and justice is not done.

We have a situation in this country today where there are more than 2,500 men and women on death row. As I have said before on a number of occasions, Mr. President, I support the death penalty because I believe it is an effective deterrent. I have seen many cases where professional robbers and burglars would not take weapons in the course of a robbery or burglary because of fear of the death penalty.

The delays and the absence of having the death penalty imposed, I believe, are a signal which ripples through and permeates the entire criminal justice system where criminals have a strong sense they will not be punished for what they do, that, if the worst happens and the death penalty is imposed, it will not be carried out because they know the cases last for as long as 17 years, an average of 8 years and, in the meantime, the system permits these appeals to go on endlessly.

I am convinced that State courts ought to consider all issues in a death penalty case in one proceeding, one appeal to the State supreme court. Then the matter ought to go immediately to Federal court where the Federal court considers the merits of what the defendant is arguing about, again with time limits. This could construct a fair procedure where the defendant has had adequate counsel, and it could be completed in the course of approximately 2 years. To accomplish that, we need to have one proceeding in the State courts.

Following the submission of my amendment yesterday, my phone rang off the hook from prosecutors from Pennsylvania and prosecutors, attorneys general and DA's from around the country, many of whom I know personally, having been district attorney of Philadelphia for some 8 years and having participated nationally in the DA's work.

Illustrative of this problem—and there are many cases which could be cited, Mr. President, but I want to take a moment or two on a 1989 decision by the Supreme Court of the United States on a case which arose out of the Federal court in Philadelphia captioned Castille versus Peoples. This case involved a conviction where the appeal was taken to the Pennsylvania superior court, an intermediate court, and then a petition was filed with the State supreme court to have the State supreme court review the matter. That petition alleged constitutional issues.

The State supreme court dismissed that petition without comment, which is frequently done by the courts. The defendant then went into the district court in Philadelphia, and the district judge said the petitioner defendant has not exhausted his State remedies because we do not know what the State supreme court did.

The case then went to the Federal court of appeals, which reversed the district court, and the court of appeals said the fact that the State supreme court refused to hear the case with these issues pending before it is sufficient for us to say that the petitioner has exhausted his State claims.

The case then went to the Supreme Court of the United States, and the Supreme Court of the United States reversed the third circuit and said, we are not sure that the State supreme court considered the merits of this case it was only discretionary with them as to whether they would hear it or not. Therefore, we remand this case to the circuit court of appeals. The circuit court then reconsidered the case and sent it back to the district court. The district court then finally took up the issues, which were not too complicated, held a brief hearing and decided the case.

I do not expect that too many people are watching on C-SPAN 2, Mr. President, because, if they were, when they started to hear this kind of legal technicality, they flipped it off. It is almost unintelligible. What is happening is there is one pyramid after another where the substance is being dodged and procedure is being elevated. There are countless arguments on whether there has been a full and fair hearing in the State courts, which takes much longer than a consideration of the merits of the case.

Mr. President, I note that the distinguished chairman of the Judiciary Committee is on the floor, and this would be a good time, I think, to move on to the bill.

Before doing so, I would note for Senator BIDEN that I had submitted two amendments by agreement, which I had discussed with Senator BIDEN previously and represented to the Senate that I had discussed them with Senator BIDEN and with Senator THURMOND. One related to the Lancaster satellite court and the other related to an addition to the Philadelphia jail, which has been authorized and appropriated, to provide working space for the U.S. Attorney's Office.

I just make those comments while the distinguished chairman of the Judiciary Committee is on the floor so it is apparent that those matters were taken up by me with him personally.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I am inclined to accept both of those amendments, and although I do not agree with the Senator's amendment on habeas corpus, to accept it on condition we do not have a rollcall vote and we get it all done real quickly. That will have a great impact on my willingness to debate or not debate this subject matter.

But I wonder, what is the Senator's desire?

Mr. SPECTER. If the chairman will accept my amendment, I will not press for a rollcall vote.

I am just speculating about that in my mind's eye because of the concern as to what will happen in conference.

Mr. BIDEN. Mr. President, I can assure the Senator that his amendment—he will have my word on it—will not be prejudiced any more or less by whether or not it is voted, gets an overwhelming vote or no vote, and whether or not it is voted by voice or rollcall vote. As a matter of fact, the debate the Senator from Delaware is having with himself right now is whether or not to stand in the well and try to talk everyone into voting against this amendment or whether or not just to accept the amendment.

What it does, it imposes upon Federal judges a requirement that we cannot impose. If 110 days passes and they have not ruled at one stage, what are we going to do? Are we going to go to another judge and tell the judge he did not rule in 110 days so we are going to lock him up? Are we going to get a writ of mandamus to suggest that that be done? Are we then going to debate a writ of mandamus, which may take another 110 days?

I think it is totally unnecessary. It has nothing to do, as the Senator I am sure pointed out, with the ability of a defendant to file or not file, the time limits imposed on a defendant to file or not file. It has to do with us imposing upon an independent branch of Government a requirement that they must rule within a specific number of days.

I think that is generally bad policy, but once again I suggest to my friend I think we could wrap up all three of his amendments very quickly by a voice vote and move ahead. I expect my time has probably expired.

The PRESIDING OFFICER. The Chair advises the Senator from Delaware the Senate has adopted, without objection, two of the amendments.

Mr. BIDEN. Obviously, then, my leverage is considerably less than I thought it was because of my earlier good will. So I will now appeal to the Senator's sense of comity and good will rather than the implication that I could do anything about the other two amendments anyway.

Mr. SPECTER. Appeal granted.

Mr. President, how much time remains on the amendment?

The PRESIDING OFFICER. The Senator from Pennsylvania has 11 minutes and 22 seconds. The Senator from Delaware has 2 minutes 6 seconds.

Mr. SPECTER. I am prepared to accept the suggestion made by the distinguished chairman to move the bill along. It is a long bill, and I know he has many things to attend. I want to discuss it for a moment or two, but I will accept Senator BIDEN's suggestion that we take it by a voice vote without prejudice to this Senator's position to assert in the conference, and I will expect Senator BIDEN to oppose it in conference, the fact that it was taken by voice vote to accommodate the Senate schedule and it may be regarded for purpose of the conference as having had an overwhelming vote in support by the Senate, for whatever that means in conference.

Sometimes it means—who knows what it means—but I will try to be present at the conference and I would say at that time we took it by voice vote and it was an accurate representation on my part that Senator BIDEN will treat this as having had an overwhelming vote in support.

Senator BIDEN is nodding in the affirmative.

Mr. BIDEN. I understand.

Mr. SPECTER. Mr. President, on the merits of this amendment, I think it is a very important amendment, even though, as Senator BIDEN has accurately stated, it is not possible to take punitive action or enforcement action against the judges. When the Congress says there shall be a timetable established for Federal judges on death penalty cases, I think the courts will pay attention to that statement of public policy.

At the present time we have provisions under the Speedy Trial Act which require that criminal cases be tried in a certain timeframe. We have provisions under preventive detention which require that decisions be made within a certain timeframe.

When the Congress of the United States makes a decision saying that district court judges should give priority to death penalty cases and decide them in the course of 110 days, that time limit has been established so that you have 20 days for the State to file an answer and then a decision within 90 days. We have had extensive hearings and there has been a wealth of authority that it is not too much to ask a Federal district judge to put this at the top of his list and to decide it expeditiously.

I put in the RECORD yesterday statistics which show that there would be about one half of these cases per year for each judge, and that it would not be problemsome. Illustrative of that would be in Pennsylvania in 1989 there were 15 death cases and there are currently 39 authorized judgeships. So that in the normal course of business you would expect a judge to have one of these cases every 2 years. In California, in 1989, there were 29 death sentences with 54 judges. So again a judge would be likely to have one of these cases every 2 years. In Texas, there were 29 death sentences in 1989 with 50 authorized judges. Then the requirement would be that the court of appeals would decide the case within 90 days. Again, the Supreme Court of the United States would decide on a petition for certiorari in these cases within 90 days.

What I seek to do, Mr. President, is to establish a sense of priority on these cases so that they will not languish in courts because of the prejudice that results, because of the time which passes, because new decisions come down and new petitions are filed on new grounds and the situation is interminable. I believe that by establishing these time limits in the Federal court, which is one important facet, and then coming back next year to have hearings on the habeas corpus process, which I had not discussed with my friend from Delaware——

Senator HATCH has also stated a keen interest in this subject. There are other Senators who are interested in it.

I might say at this time that I had prepared an amendment on the issue of Batson, which involves the application retroactively of the rule which prohibits exclusion of blacks, for example, from juries. We have not had a chance in the Judiciary Committee to have hearings on that matter.

This crime bill was taken up last year at the end of the 101st Congress. We are now just 6 months into the 102d Congress. I have considered offering an amendment on the Batson issue but have decided not to because there is a great deal of concern among prosecutors that if we were to look back on the cases where there was an allegation that there had been racial exclusion that it would prejudice the prosecutors since they could not prove the reasons for striking jurors.

Perhaps just a slight amplification, the rule is present today which prohibits systematic exclusion of Afro-Americans, for example, from a jury. But that rule has not been applied to cases which were decided prior to that being stated as a constitutional rule.

It is the sense of this Senator that that is a very fundamental concern and that the law currently in existence ought to be applied. But I want to give an opportunity for those who oppose it to come in and have hearings. I think that issue could legitimately be a part of overall hearings on habeas corpus. It might be possible to protect the interests of the State so that the issue could be raised only where an objection had been lodged at the time of trial which would have put the prosecutor on notice, for example, that he will have to maintain records on that point.

It is very important that there be fairness on all sides. These matters are very, very complicated. So that would be an appropriate subject for hearing. That would be encompassed during the course of hearings at a later time.

I invite a comment by the chairman of the committee, as to the possibility of those hearings, and then I would be glad to move for a voice vote.

Mr. BIDEN. Mr. President, I am anxious to have those hearings. As a matter of fact I will put the Senate on notice. I may very well introduce today the very amendment the Senator has concluded to not introduce, if he does not.

I have every intention at this moment of introducing at least two, possibly three, habeas corpus amendments and of some significance, including the full and fair provision, and potentially Batson.

So it is my belief that the habeas corpus rule as passed yesterday without amendment is a disaster. But I will be discussing that with the ranking member, and with my friend from Pennsylvania, before I do that, if I do that.

I promise you we will have hearings on habeas corpus, and we probably will not wait until next year.

Mr. SPECTER. I thank the chairman for those assurances. I think we ought to have hearings. I think we ought to go fully into the Batson issue, give prosecutors a chance to be heard. We ought to go fully to deal the jibberish that comes out of a case like Castille versus Peoples where form is elevated over substance. It is time Congress take the comprehensive look at the whole habeas corpus process so that there be one determination, one decision on the merits, and these cases not be passed aside on procedural grounds.

With that, Mr. President, I am prepared to accept the offer of the chairman of committee to accept this amendment on the terms we discussed.

The PRESIDING OFFICER. Is there objection to the amendment?

Mr. BIDEN. I thank the Senator. I yield my time.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 381), as modified, was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 398

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment numbered 398.

Mr. THURMOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Murder of United States Nationals Act of 1991".

SEC. 2. FOREIGN MURDER OF UNITED STATES NATIONALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1118. Foreign murder of United States nationals

"(a) Whoever kills or attempts to kill a national of the United States while such national is outside the United States but within the jurisdiction of another country shall be punished as provided under sections 1111, 1112, and 1113 of this title.

"(b) No prosecution may be instituted against any person under this section except upon the written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated. No prosecution shall be approved if prosecution has been previously undertaken by a foreign country for the same act or omission.

"(c) No prosecution shall be approved under this section unless the Attorney General, in consultation with the Secretary of State, determines that the act or omission took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person's return. A determination by the Attorney General under this subsection is not subject to judicial review.

"(d) In the course of the enforcement of this section and notwithstanding any other provision of law, the Attorney General may request assistance from any Federal, State, local, or foreign agency, including the Army, Navy, and Air Force.

"(e) As used in this section, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) CONFORMING AMENDMENT.—Section 1117 of title 18, United States Code, is amended by striking "or 1116" and inserting "1116, or 1118".

(c) CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Foreign Murder of United States Nationals.".

SEC. 3. EXTRADITION.

(a) SCOPE.—Section 3181 of title 18, United States Code, is amended by—

(1) inserting "(a)" before "The provisions of this chapter"; and

(2) adding at the end thereof the following new subsections:

"(b) The provisions of this chapter shall be construed to permit, in the exercise of comity, the surrender of persons who have committed crimes of violence against nationals of the United States in foreign countries without regard to the existence of any treaty of extradition with such foreign government if the Attorney General certifies, in writing, that—

"(1) evidence has been presented by the foreign government which indicates that had the offenses been committed in the United States, they would constitute crimes of violence as defined under section 16 of this title; and

"(2) the offenses charged are not of a political nature.

"(c) As used in this section, the term 'national of the United States' shall have the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22).".

(b) FUGITIVES.—Section 3184 of title 18, United States Code, is amended—

(1) in the first sentence by inserting after "United States and any foreign government," the following: "or in cases arising under section 3181(b),";

(2) in the first sentence by inserting after "treaty or convention," the following: "or provided for under section 3181(b),"; and

(3) in the third sentence by inserting after "treaty or convention," the following: "or under section 3181(b),".

Mr. THURMOND. Mr. President, today, I rise to offer an amendment which embodies legislation I introduced earlier this year, along with my colleague Senator HOLLINGS, which will address an unfortunate loophole under

Federal law which permits persons who murder Americans in certain foreign countries to go unpunished. The Murder of United States Nationals Act of 1991 ensures that those who kill American nationals while outside of the United States will face prosecution.

Under current Federal law, the U.S. Government cannot extradite a person to another country in the absence of an extradition treaty or congressional authority to do so. This limitation applies even in cases where an American has been murdered. To further complicate the matter, the Federal Government has no jurisdiction to prosecute a person residing in the United States who has murdered an American abroad except in limited circumstances, such as a terrorist murder or the murder of a Federal official. As a result, an individual can murder an American in any one of the approximately 70 countries with which we do not have an extradition treaty, return to the United States, and go unpunished. Some of the countries with which we do not have an extradition treaty include the Philippines, South Korea, Kuwait, and Saudi Arabia. If an American national is killed in any one of these countries, it is possible that the killer will go unpunished if he or she manages to return to the United States.

Mr. President, one might wonder whether this is likely to occur. Unfortunately, I have been made aware of just such a case where a suspect in the killing is walking our Nation's streets unpunished. In 1988, Carolyn Abel, an American teaching and studying in South Korea, was brutally murdered. She was attacked in her sleep, repeatedly stabbed, and finally her throat was cut. Shortly thereafter, an American confessed to helping another American in covering up the murder. Unfortunately, that person had already returned to the United States. South Korea, one of many countries with which the United States does not have an extradition treaty, requested that the suspect be extradited to face murder charges. Yet, current law prohibits such a procedure. According to State Department and Justice Department officials, there is evidence to believe that this person may be responsible for the death of Ms. Abel. Nevertheless, our Government's hands are tied and she walks the streets a free woman. Clearly, Federal criminal law and the procedures for extradition must be remedied.

The Murder of United States Nationals Act of 1991 would amend current law in two ways. First, it would add a new section to title 18 to make it a Federal offense to kill or attempt to kill a national of the United States while such person is in another country. Prosecution under this section, however, would be limited to cases in which the alleged murderer resides in the United States and to cases in which the Attorney General certifies that the country in which the crime occurred lacks the lawfully ability to secure the return of the alleged murderer.

Mr. President, the second half of this amendment amends the procedures for extradition to provide the executive branch with the necessary authority, in the absence of an extradition treaty, to surrender to foreign governments those who commit violent crimes against U.S. nationals. This authority is limited to those cases involving victims who are U.S. nationals and to cases in which the Attorney General certifies that: First, the evidence presented indicates that had the offense occurred in the United States, it would constitute a crime of violence under Federal law; and second, that the offense charged is not of a political nature. Since this amendment is procedural in nature and since extradition treaties are retroactively applicable, it is intended that this section of the bill apply retroactively.

Without question, it would be difficult to hold the Federal Government responsible for the prosecution of every crime committed against Americans abroad. However, Congress should provide the executive branch with the authority to prosecute those who commit vicious, brutal acts against Americans and who now reside in the United States. Further, the executive branch should have the authority, in limited cases, to surrender for trial those offenders who are responsible for heinous acts committed against Americans in foreign countries without regard to the existence of an extradition treaty.

In closing, there are certainly cases in which the impediment to our having extradition treaties with some countries is their inferior criminal justice systems. However, there are other countries with which extradition treaties are being discussed and still others with which we recently joined forces with in the war against Iraq. Furthermore, democracy is spreading throughout the world faster than anyone could have anticipated and certainly faster than extradition treaties can be negotiated and ratified. A complete bar to extradition ignores these world-wide changes which are unfolding before us and does not serve the ends of justice. Simply put, brutal murderers of Americans should not be free to walk the streets of our Nation because we lack the formality of an extradition treaty. In this era of unprecedented world travel and accessibilty to foreign Nations, the United States ought to have the tools it needs to ensure that those who choose to victimize Americans are appropriately punished—either here in the United States or, in appropriate cases, in the country where the crime occurred.

For these reasons, I strongly urge my colleagues to support this amendment.

Mr. President, it is agreed by both sides that this amendment is acceptable. There is no objection to it. Therefore, I ask for a vote on it.

Mr. BIDEN. Mr. President, I accept the amendment. I am ready to vote.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 398) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, we are, the Chair knows, lining up as many amendments as we can. There are a number we will try to dispose of in a timely fashion so Senators are able to have some reasonable way to plan what the rest of the day and the evening will look like.

We have one amendment that is about ready to go as one of my colleagues is waiting for the actual language to be brought over and sent to the desk.

So I momentarily suggest the absence of a quorum, with the anticipation that we will within the next few minutes ask that the quorum be rescinded.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 399

(Purpose: To amend Section 1904(b) of S. 1241 to require the inclusion of representatives of the criminal defense community on the membership of the National Commission on Crime and Violence)

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 399.

(1) On page 197, line 10, insert after "law enforcement, prosecution," the words "criminal defense.".

Mr. BIDEN. Mr. President, the purpose of this amendment is to see to it that the National Commission on Crime and Violence which we put together which is designed to get all the major players in the criminal defense system together, and actually sit down and come up with some firm recommendations as to how we should proceed to deal with crime and violence in the Nation; that there will be full representation of all parties on that Commission.

That is all this amendment does. We inadvertently left out one sector of the criminal justice system in that process. That has been added. It has been agreed to I am told, I can assure the Chair and my colleagues, by the Republican side.

I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 399) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. I thank my colleagues.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alabama.

AMENDMENT NO. 400

(Purpose: To require that payments pursuant to a restitution order be made to an entity designated by the Director of the Administrative Office of the United States Courts and to provide funding for the administrative costs of collecting such payments)

Mr. HEFLIN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. HEFLIN] proposes an amendment numbered 400.

Mr. HEFLIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 199, between lines 20 and 21, insert the following:

"(A) The first $6,200,000 deposited in the Fund in each of the fiscal years 1992 through 1995 and the first $3,000,000 in each fiscal year thereafter shall be available to the judicial branch for administrative costs to carry out the functions of the judicial branch under sections 3611 and 3612 of title 18, United States Code.

On page 199, line 21, strike "(A)" and insert "(B)".

On page 200, line 9, strike "(B)" and insert "(C)".

On page 200, strike lines 17 through 22.

On page 200, line 23, strike "(F)" and insert "(E)".

On page 201, line 2, strike "(E)" and insert "(D)".

On page 205, lines 11 and 12, strike "the clerk of the court" and insert "an entity designated by the Director of the Administrative Office of the United States Courts".

On page 205, line 12, strike "the clerk" and insert "the entity".

On page 205, line 14, strike "the clerk of the court" and insert "the entity designated by the Director of the Administrative Office of the United States Courts".

On page 206, lines 10 and 11, strike "the clerk of the court" and insert "the entity designated by the Director of the Administrative Office of the United States Courts".

Mr. HEFLIN. Mr. President, as you may know, the Federal judiciary devotes enormous personnel and expense to the collection of criminal fines and penalties. These fines are paid into a single account, the victim's crime fund, which was established to provide financial assistance to the victims of crime.

At this time, there is no centralized fine collection process in the Federal judiciary. Each clerk's office and probation office processes fines independently and communicates individually with the Department of Justice and its constituent officials, including the Bureau of Prisons. As you can imagine, Mr. President, the system is not very efficient. It has been estimated that approximately $1 billion a year goes uncollected because this system has so little organization. Congress has directed the administrative office of the courts to establish a centralized and highly automated system to receive and distribute fine payments. A pilot program, the National Fine Center, has been established as an effort to correct this problem.

The National Fine Center is designed to combine the administrative procedures of receipt, account maintenance, billings, notification, and record-keeping that are now performed with no coordination.

The National Fine Center will establish an automated network that will provide on-line communication with clerks of the court, probation officers, the Department of Justice, the U.S. attorneys and the Bureau of Prisons.

The National Fine Center will process all restitution orders for victims of Federal crimes. It will receive the payments from violators, disburse payments to victims, and notify violators, probation officers, and prosecutors of missed payments.

Presently, funding comes from the first $2.2 million collected in the crime victim's fund in excess of uncertainty in planning and operating the National Fine Center. The Judiciary must wait until the end of the fiscal year to determine whether sufficient fines have been collected to trigger the allocation of the $2.2 million. The uncertainty is heightened since the moneys received by the crime victim's fund in any given year may not reach the cap and thus no funds would be available to the Judiciary.

The purpose of this amendment is to remove that uncertainty. By authorizing money to the National Fine Center from the crime victim's fund the program will essentially pay for itself. Through automation, the center will be able to dramatically increase the amount of compensation actually paid into the fund. By tapping into the estimated $1 billion in unpaid compensation, the costs of the center will be offset in a very short period of time.

Mr. President, this amendment serves only to make restitution provision of this crime bill more effective. I understand that this amendment has cleared both sides and seeks its immediate adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BIDEN. Mr. President, I think it is a fine amendment. We are prepared to accept it, and I understand my friend on the Republican side is, as well.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 400) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mr. HEFLIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I ask unanimous consent that I be allowed to proceed as if in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELEASE OF UNITED STATES-JAPAN AUTO PARTS PRICE SURVEY

Mr. LEVIN. Mr. President, last week the small business subcommittee which I Chair learned that every 16 hours a U.S. auto parts maker goes bankrupt.

Today, the Commerce Department bolstered the case for action. It released a price comparison of auto parts in the United States and in Japan. The results should be another wake-up call to the administration, the Congress, and to America.

This study shows that the prices of identical or comparable auto parts averaged 340 percent more in Japan than in the United States. One example is a muffler for a Toyota. The same muffler costs five times more in Japan than it costs in the United States.

Now, what is going on? Two things. The first is that Japanese auto parts are being dumped at subsidized or predator prices here in the United States; and those are prices below what it costs to make them or below the home market price. Second, Japanese firms are discriminating against American parts, keeping us out of their lucrative home market. Because if we were allowed in freely, we could then send our parts in that could outcompete that same muffler in the Japanese market.

The dumping of Japanese parts in the United States and the barriers to the sale of United States parts in Japan are costing us thousands of jobs. And, if we fail to act, not only will we lose our domestic industry, but consumers in America will end up paying the same high prices that consumers in Japan are paying now.

This is not an issue of quality or consumer choice. We are talking about the same parts being priced here by Japanese companies at a fraction of what they charge for the same part in Japan.

The severity of the problem is without question. What has resulted is a $1 billion bilateral auto parts deficit with Japan in 1980, which has grown now to a $10 billion bilateral trade deficit just in auto parts with Japan. And a new study by the University of Michigan predicts that the $10 billion annual deficit that we have now is going to grow to a staggering $22 billion by 1994. This is just in auto parts.

The message is clear. We are not going to reduce our trade deficit with Japan significantly unless we reduce our auto parts deficit. And to do this, we have to tear down barriers to the sale of United States auto parts both in Japan and here at home to stop the predatory pricing, the dumping, of Japanese auto parts in the United States.

Last week, the Small Business Subcommittee on Innovation, which I Chair, heard testimony from the Auto Parts Advisory Committee, industry leaders selected by the administration to advise the administration on the subject of unfair trade practice against American auto parts. These administration-selected industry leaders told Senator KASTEN and me what the administration can and should do to reverse this trend.

More pleas and more rhetoric are not what is needed.

Japanese firms will have no incentive to change their pricing and purchasing patterns unless we state firmly and unequivocally that we will enforce our dumping and unfair trade laws and put equivalent restrictions on Japanese products if they do not stop their discrimination against American-made auto parts. We have the tools, Mr. President. What we need is the will to use those tools.

Today Senator KASTEN and I are sending a letter to the President urging him to adopt these industry recommendations. Our industry is now speaking loudly and in one voice. They are being devastated by unfair trade practices and there is just no excuse not to act. The problem is too big to ignore. If other countries discriminate against our products, that is their decision. But, if we tolerate that discrimination against American products, that is our decision.

We can control our own economic destiny like other countries. We owe that to ourselves and to our children. It is time for this administration to act, to tell other countries that we are not going to treat them better than they treat us when it comes to trade and that we are going to place equivalent restrictions on their goods to the discriminatory restrictions that they place on our goods. If we will do that and finally take action which has been overdue, now, for decades, we will find this trade imbalance finally ending and the loss and drainage of American jobs abroad finally coming to an end.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JUSTICE MARSHALL'S RETIREMENT

Mr. KENNEDY. Mr. President, Justice Marshall's retirement brings to a close a brilliant and inspiring chapter in America history, and in the history of the Supreme Court.

Because he stood up so courageously for opportunity for all Americans, he became a legend in the law and a living symbol of the best in American justice. He enriched us all, and the country will be poorer because of his retirement.

ORDER FOR RECESS

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senate stand in recess from 2:30 until 3:05 this afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KOHL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Jersey is recognized.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 401

(Purpose: To amend the Controlled Substances Act to provide enhanced penalties for drug dealing in or near housing facilities owned by a public housing authority)

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The Senator from New Jersey [Mr. BRADLEY] proposes an amendment numbered 401.

Mr. BRADLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

Section 419 of the Controlled Substances Act (21 U.S.C. 819) is amended—

(1) in subsection (a) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within"; and

(2) in subsection (b) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within".

Mr. BRADLEY. Mr. President, drug-free zones around schools and playgrounds send a clear message that we will not tolerate our children being preyed upon by drug dealers when they leave home for the classroom. When I was back in New Jersey, Mr. President, in Elizabeth, NJ, I realized that we are overlooking some kids and some families who are most at risk. Those are families of public housing.

Most of our hope and expect that we can keep our children safe and free from drugs at home. We do not need criminal penalties to declare our homes drug-free zones. But talk to parents who live in public housing projects. They do not have that confidence. They work hard against all odds to raise kids safe and sound in the middle of what sometimes are open-air drug markets, full of violence. They know the kids go outside in the morning, and when they do, they might be safe. But by the afternoon or early evening, the streets and hallways are abuzz with drug trafficking and violence.

These parents know the calendar. They breathe easier in the winter, when some of the drug dealers actually prefer to be in prison, where it is warm and cheap, and they can stay in business. Come spring and summer, they are back on the streets.

Mr. President, above all, these parents know that they cannot isolate their children from what is going on outside their windows and beyond their front doors. Kids are a No. 1 commodity for drug dealers, especially in housing projects. They are the new customers, the potential runners, the lowest rung in the drug dealer's organization.

Why? Just because they are kids. By ensuring that only juveniles actually touch the drugs, the drug dealers avoid arrest and avoid being tried as adults. Parents in housing projects, like all parents, worry about their kids using drugs. They worry about their kids getting involved with selling drugs. They worry about kids who want to wear beepers just to give the impression that they are in the drug business. We need to do something to help them make the place where they live a drug-free zone.

Mr. President, this amendment, inspired by the courageous parents of a housing project in Elizabeth, NJ, that I met this week, is very simple. It says that what we do for schools and playgrounds, we will do for these families' homes. The effect would be to double the penalty for selling drugs in the vicinity of a public housing project, as we do in and around schools and playgrounds.

The minimum sentence would be 1 year. For the second offense of selling drugs near a school, playground, or public housing, the penalty would be triple, and the minimum would be 5 years.

Mr. President, families living in public housing projects do not have much. They are trying to build a better life for themselves and their kids. Drugs destroy that possibility, just as surely as drugs destroy the possibility of learning in school.

For all those reasons that we want our schools to be drug-free zones, let us pass this amendment and give families who live in public housing projects what they have a right to expect: drug-free homes.

Mr. President, I understand that this amendment has been cleared on both sides, and I hope we can agree to the amendment.

Mr. BIDEN. Mr. President, I think it is a fine amendment, a thoughtful amendment. It is directed at a problem in an area where we do much too little, and where we can do so much more.

I compliment my friend from New Jersey, and we are delighted to accept the amendment. I am told, and I understand, that my Republican colleages are prepared to accept it, as well.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 401) was agreed to.

Mr. BRADLEY. Mr. President, I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BRADLEY. Mr. President, I want to thank the distinguished Senator from Delaware for his willingness to support and accept this amendment. As he knows, a lot of families in public housing projects now know at least we are thinking of them a little bit in this crime bill.

Mr. BIDEN. Mr. President, the Senator is correct. One of the things we have attempted to do, and I have attempted to do throughout this debate on the crime legislation for the past several years, for example, is we find little things, such as the only thing we know that works, and we can show specifically that there is a direct correlation.

As the Presiding Officer knows well, because of his keen interest in juvenile justice problems, in terms of incidence of drug abuse, where there is a Boys Club or Girls Club, there is a significantly lower incidence of drug abuse in public housing projects. And the mere fact that we would be able to place a Boys Club or Girls Club in every public housing project would be extremely cheap, and we know—we know—it works.

So I agree with the Senator, with his intention, and I believe this will go a long way to dealing with those who are the victims in the projects, not only victimized by the dealers, but victimized by the users. I compliment him for his work. I am delighted he has continued to take such a keen interest in matters relating to people in need.

Mr. BRADLEY. Mr. President, again, I thank the distinguished Senator for supporting the amendment. It sends a very clear message: If you do drugs, transact, within 100 feet from a public housing project, you are going to be gone for a year. If you do it again, 5 years.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be recinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JUSTICE THURGOOD MARSHALL

Mr. BIDEN. Mr. President, there was an announcement made just a few short minutes or an hour ago on the last day of the Supreme Court that is more significant in my view than any decision the Court handed down today. And that is that Justice Thurgood Marshall has announced that he will be retiring from the Court and will not be there on the first Monday in October when the Court reconvenes.

Mr. President, in my view the Supreme Court has lost a historic justice, a hero for all Americans and all time. And it is my sincere hope that the President will nominate a replacement who is worthy of this great man's place on the Court and in our hearts.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Wisconsin, asks unanimous consent that the quorum call be rescinded.

Without objection, it is so ordered.

RECESS UNTIL 3:05 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 3:05 p.m. today.

Thereupon, at 2:30 p.m., the Senate recessed until 3:05 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. REID].

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under a previous unanimous-consent request, the Senator from California is now recognized.

Mr. SEYMOUR. Mr. President, I yield 2 minutes to the Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

RESIGNATION OF JUSTICE THURGOOD MARSHALL

Mr. SPECTER. Mr. President, I asked my colleague for 2 minutes to make a very brief comment on the surprise resignation of Justice Thurgood Marshall. Justice Thurgood Marshall was well known for his statement that he had a life term and he intended to serve it out. His resignation from the Court brings to a conclusion a very distinguished career on the Supreme Court of the United States which began with his appointment by President Lyndon Johnson in 1967.

Thurgood Marshall has an extraordinary records as a practicing lawyer. In perhaps the most celebrated case in recent history, he was and successfully argued Brown versus Board of Education. His tenure on the Supreme Court was just as distinguished. Justice Marshall, as an African-American, provided the Court with a very special perspective and his departure will leave a significant portion of society without a voice on the Court, at least for the moment.

The Court is a great institution in America. It needs balance on all sides. For that reason, I think this is a very important appointment which the President will be called upon to make. In the meantime, I note that I will be joining millions of Americans in thanking Justice Marshall for his outstanding service on the Supreme Court.

I thank the Chair.

I thank my colleague from California and yield the floor.

The PRESIDING OFFICER. The Senator from California has the floor.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 402

(Purpose: To require a report on battered women's syndrome)

Mr. SEYMOUR. Mr. President, I have an amendment. I request its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. SEYMOUR] proposes an amendment numbered 402.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

SEC. . REPORT ON BATTERED WOMEN'S SYNDROME.

(a) REPORT.—Not less than 1 year after the date of enactment of this Act, the Attorney General and the Secretary of Health and Human Services shall transmit to the Congress a report on the medical and psychological basis of "battered women's syndrome" and on the extent to which evidence of the syndrome has been held to be admissible as evidence of guilt or as a defense in a criminal trial.

(b) COMPONENTS OF THE REPORT.—The report described in subsection (a) shall include—

(1) medical and psychological testimony on the validity of battered women's syndrome as a psychological condition.

(2) a compilation of State and Federal court cases that have admitted evidence of battered women's syndrome as evidence of guilt as a defense in criminal trials; and

(3) an assessment by State and Federal judges, prosecutors, and defense attorneys on the effects that evidence of battered women's syndrome may have in criminal trial.

Mr. SEYMOUR. Mr. President, the amendment I have introduced requires the Attorney General and the Secretary of Health and Human Services to conduct a study assessing the medical and psychological basis of battered women's syndrome and the extent to which this condition can be used as evidence or as a defense in criminal trials.

This crime bill will be a valuable tool in combating crime in our streets, but we must not turn our backs on the violence in our homes. Domestic violence is taking a terrible toll on society. Women from all walks of life fall prey to this abuse. The National Domestic Hotline stated that 4,000 to 6,000 battered women from across the Nation reach out to them for help each month.

What does this say about the condition of society when women are not even safe in the sanctity of their own homes?

In desperation, some of these women ultimately take the law into their own hands and bring a halt to the torture by going so far as to end the lives of the animals who beat them.

Frankly, Mr. President, I sympathize with these women. The depravity of the abuse to which they are subjected turns my stomach. A recent case in North Carolina involved a woman whose husband had, for over 20 years beat her, forced her to prostitute herself, and treated her as one would treat a dog. Believing that no one could help her, this woman initially attempted to take her own life, and when that failed she emptied a revolver into her husband as he slept.

Our criminal justice system is faced with the dilemma of what to do with these women. Are these women guilty of murder, or perhaps manslaughter? Was their action taken in self-defense? Is there an excuse or justification for their action?

The perplexity of these questions is evidenced by the inconsistent treatment which this defense has received. Two years ago, a woman in Los Angeles was free to go simply because of the battered woman's defense. But in the North Carolina case that I described, the State supreme court refused to accept battered women's syndrome as a defense.

This inconsistency simply can be attributed to a lack of understanding of the complexities of battered women's syndrome.

Thus, this study will not only be an informative tool for Congress, it will be a tool for judges and attorneys everywhere. First, a comprehensive analysis of the medical and psychological testimony will keep trials from disintegrating into battles between the expert medical witnesses of the prosecution and the expert medical witnesses of the defense.

Second, compilation of State and Federal cases will give courts notice of the status and development of this defense.

Third, assessment of battered women's syndrome by judges and attorneys will provide insight into the effect of this evidence or defense on our criminal justice system.

Mr. President, if there is something which can be done to help these women, it must be done. Understanding the plight of battered women is a necessary first step.

Unless there is any objection, I urge adoption of my amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? The question is on agreeing to the amendment of the Senator from California.

The amendment (No. 402) was agreed to.

Mr. SEYMOUR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from California is recognized to offer an amendment.

Mr. LEAHY. Mr. President, will the Senator yield to me for 45 seconds?

Mr. SEYMOUR. Yes.

THE RETIREMENT OF JUSTICE THURGOOD MARSHALL

Mr. LEAHY. Mr. President, I will speak further on this matter later on, but like so many, I was dismayed at the news of the retirement of Justice Thurgood Marshall.

I hope in picking his successor the President will not set an ideological litmus test, but rather seek balance in a Court that appears to be moving out of balance, and in doing so reflect the concerns and needs of tens of millions of Americans. This is not the time to pick a Supreme Court Justice based on ideology, but whether to maintain the kind of balance that the Supreme Court needs in a great democracy like ours.

I thank my good friend from California for the courtesy of yielding.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. SEYMOUR. Thank you, Mr. President.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 403

(Purpose: To amend the definition of "drug paraphernalia" in section 422 of the Controlled Substances Act)

Mr. SEYMOUR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. SEYMOUR] proposes an amendment numbered 403.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . DRUG PARAPHERNALIA.

Section 422(d) of the Controlled Substances Act (21 U.S.C. 863(d)) is amended to read as follows:

"(d) The term 'drug paraphernalia' means any equipment, product, or material of any kind that is intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, weighing, testing, analyzing, packaging, repackaging, storing, containing, planting, propagating, cultivating, growing, harvesting, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this title including—

"(1) kits designed for use or intended for use in planting, propagating, cultivating, growing, or harvesting any species of plant that is a controlled substance or from which a controlled substance can be derived;

"(2) kits intended for use or marketed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

"(3) isomerization devices designed or intended for use in increasing the potency of any species of plant that is a controlled substance;

"(4) testing equipment designed or intended for use in identifying or analyzing the strength, effectiveness, or purity of controlled substances;

"(5) scales and balances or intended for use in weighing or measuring controlled substances;

"(6) containers and other objects designed or intended for use in storing or concealing controlled substances;

"(7) hypodermic syringes, needles, and other objects designed or intended for use in parenterally injecting controlled substances into the human body; and

"(8) objects intended or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, crack cocaine, hashish, hashish oil, PCP, or amphetamines into the human body, such as—

"(A) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

"(B) water pipes;

"(C) carburetion tubes and devices;

"(D) smoking and carburetion masks;

"(E) roach clips: meaning objects used to holding burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

"(F) miniature spoons with level capacities of one-tenth cubic centimeter or less;

"(G) champer pipes;

"(H) carburetor pipes;

"(I) electric pipes;

"(J) air-driven pipes;

"(K) chillums;

"(L) bongs;

"(M) ice pipes or chillers;

"(N) wired or extra-width cigarette papers; and

"(O) cocaine freebase kits.".

Mr. SEYMOUR. Mr. President, this amendment is a very simple one. It adds a few more teeth to our Federal drug paraphernalia laws.

It was in 1986 that Congress enacted legislation targeted to strike at those who make their profit in the drug trade by selling drug paraphernalia. This Federal law was targeted primarily at those products sold to the drug user, such as bongs, ice pipes, or chillers. These objects are tools of the most heinous trade that plagues our society.

My amendment is designed to toughen existing law by expanding the definition of drug paraphernalia so that Federal law enforcement can target a different set of tools—those used by the drug manufacturer. These tools include kits intended to be used for planting, growing, or harvesting illegal drugs, scales and balances intended to be used to weigh or measure illegal drugs, and containers and other objects that can be used to store them.

Mr. President, this amendment will bring Federal drug paraphernalia law in conformity with existing law in California—one of the most tough and effective drug paraphernalia laws in the Nation. At present, there are more than 285 illegal drug labs in California alone—using the paraphernalia that my amendment targets. And if enacted, those who sell, offer, import or export these tools of destruction, these tools of death in California and other States, will feel the full force of Federal law enforcement.

The war on drug trafficking and drug use requires a comprehensive effort, involving every arm of law enforcement. It's not simply cracking down on the producers and users, it is going after others who facilitate, promote, and profit from this heinous trade. With this amendment, we take yet another important step in our effort to make this Nation free of violence, free of fear, free of drugs.

Mr. President, this amendment has the support of the Justice Department and I understand that it has been cleared by both sides.

If that is the case, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from California.

The amendment (No. 403) was agreed to.

Mr. SEYMOUR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SEYMOUR. Mr. President, I thank the distinguished managers of the bill, and I yield the floor.

Mr. President, I suggest the absence of a quorum.

Mr. COCHRAN. Mr. President, will the Senator withhold for just a minute?

Mr. President, may I inquire what is the order? Is there an order now that governs the business of the Senate?

The PRESIDING OFFICER. The order that is now before the Senate indicates that the next amendment must be offered by the Senator from Utah, Senator HATCH.

ORDER OF PROCEDURE

Mr. COCHRAN. Mr. President, I ask unanimous consent to proceed for 2 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, by the year 2000, all children in America will start school ready to learn. This is the first, and it may be the most important of the six education goals adopted by the Nation's Governors and the President in 1990 to stimulate local, State, and Federal restructuring of education.

The administration and the Congress have demonstrated strong support of Federal programs serving young children in order to help reach this goal. Billions of dollars are allocated each year for these programs, and in fiscal year 1992, we can expect them to receive priority in funding again.

The best known program is probably Head Start—which provides comprehensive early childhood education services so that poor and handicapped children will have a better chance to become healthy and ready for school.

The President's goal is to provide every eligible child the opportunity to enroll in Head Start for at least 1 year prior to school entry. To achieve this level, the President requested in fiscal year 1990 and fiscal year 1991 the two largest one-time funding increases in the history of the Head Start program. We expect a large increase again this year. If this funding increase is adopted it will mean that in the 3-year period since President Bush took office, funding for Head Start will have grown by $1 billion, an 80-percent increase.

Another well-known Federal program and secondary school program which provides disadvantaged children with extra assistance to help them keep up with their peers. It directs over $400 million to almost 500,000 disadvantaged young children.

Another program, Even Start, which the President has supported, provides preschool education for disadvantaged children and basic literacy training for their parents. The administration budgets for 1991 and 1992 would increase appropriations by almost 150 percent and transform this program into a State formula grant authority, ensuring that communities in every State have the opportunity to implement Even Start projects.

There are preschool grants for handicapped children, ages 3 through 5, which serve 400,000 disabled children and another program which supports early intervention services for handicapped children and their families.

Under the authority of the Family Support Act, the President's 1992 budget includes $1 billion, almost double the 1990 appropriation, for the job opportunties and basic skills [JOBS] training programs to help needy families with children obtain education and training so that they can avoid long-term welfare dependence.

The President's 1992 budget recommends allowing States to expand the income range of Medicaid coverage for needy pregnant women and children under 6 years of age to increase access to health care and reduce infant mortality. The Federal Government matches anywhere from 50 to 83 percent of the States' costs.

Included in the list of Federal initiatives are the School Lunch Program, Maternal and Child Health Block Grant, Child Care and Development Block Grants, Aid for Families with Dependent Children, and Supplemental Funding Program for Women, Infants, and Children [WIC] which provides nutrition assistance and education to low-income women, infants, and children up to age five.

In addition, States and local communities are enriching the future of young children through successful programs of early childhood education in innovative and exciting ways. Recently, the U.S. Department of Education released a study entitled "Working With Families, Promising Programs to Help Parents Support Young Children's Learning." This report examines 17 community-based programs that are working to help low-income families give their children a solid foundation for future growth and learning.

Mr. President, I ask unanimous consent that a summary of this report be printed in the RECORD.

There being no ojection, the material was ordered to be printed in the RECORD, as follows:

[U.S. Department of Education, Office of Planning, Budget, and Evaluation]

WORKING WITH FAMILIES—PROMISING PROGRAMS TO HELP PARENTS SUPPORT YOUNG CHILDREN'S LEARNING

EXECUTIVE SUMMARY

Overview of the Study

The U.S. Department of Education's Office of Planning, Budget and Evaluation commissioned this study to identify and describe promising strategies in family education. Their interest reflects the recognition that family education is a way of strengthening families and improving their capacity to support their children's growth and achievement. Concern with student development and achievement, especially among children in poor families, underlies the need for information on family education practices.

This report presents the results from an in-depth study of promising family education programs that are working with low-income families. The study examines seventeen family education programs selected from a pool of programs identified in a national search as promising and innovative. Each of the programs has some evidence of impact on children or families; in addition, they share other indicators of success—operating for two or more years, being implemented in multiple sites, and having established strong, positive reputations in their communities. The study focuses on a particular category of family education programs: those that work with parents with the primary goal of enhancing children's cognitive development and school-related achievement. Among these programs, we selected those that (1) target families with children between 3 and 8 years of age; (2) target or serve large numbers of low-income families; and (3) are linked with the public schools.

Description of Family Education Programs

The study collected detailed information from seventeen family education programs. Seven programs, which represent a variety of fully implemented models for families of preschool and early elementary students, were studied in-depth through on-site visits. Data collection methods included observations of program activities and interviews with program staff, local school staff, and participating parents. The remaining ten programs, which were examined through telephone interviews with program staff, were also identified as promising models but were less fully implemented or evaluated. Below the seven in-depth sites are briefly described, followed by the programs examined through telephone interviews.

Early Childhood Family Education (ECFE), Minnesota Department of Education

ECFE is a state-funded, center-based program designed for children from birth to kindergarten which operates in more than 300 school districts in Minnesota. The program is available to all families, with the goal of serving hard-to-reach families in proportion to their representation in the community. On average, parents and their children spend two hours a week at centers located in housing projects, low-income apartments, store fronts, and former elementary schools. Classes include parent-child activities supervised by early childhood educators, parent-to-parent discussions facilitated by a parent educator, and children's activities to promote cognitive and motor development.

Home Instruction Program for Preschool Youngsters (HIPPY), Miami, Florida

HIPPY is a home-based program for parents of children four and five years old that is designed to encourage economically or educationally disadvantaged parents to teach their young children school readiness skills at home. The program began in Israel in 1969 and was brought to the United States in 1984. The core HIPPY program consists of home visits every other week, during which the paraprofessional "Parent Partners" work with parents on sequenced activity units that parents complete with their children on a daily basis. Most Parent Partners are graduates of the program. Individual home visits are supplemented by group meetings held on alternate weeks at neighborhood elementary schools. There are 30 lessons for each year structured around key school readiness and cognitive skills such as visual and auditory discrimination, eye-hand coordination, and spatial perception. For each age group, the lessons include reading and discussing nine children's books that are given to families.

Project Home Base, Yakima, Washington

Project Home Base, operated by the Yakima School District as one component of the District's Early Childhood Center, is designed for disadvantaged families with preschool children who have been identified as having developmental delays. The program is an adaptation of the Follow Through Parent Education model developed by Ira Gordon. Parent educators, many of whom are former teachers, make weekly visits to families' homes, working with the parent and child for 45 to 60 minutes. These visits focus on a set of home activities designed to enhance parents' teaching and parenting skills and to develop children's cognitive skills, particularly language and perceptual-motor development. Home visits are supplemented by special events and occasional workshops.

Kenan Trust Family Literacy Project, Louisville, Kentucky

The Kenan Trust Family Literacy Project is a full-day, center-based program for parents and their preschool children. The program is funded primarily through grants from the William R. Kenan, Jr. Charitable Trust of Chapel Hill, North Carolina, and is an adaptation of the PACE (Parent and Child Education) Program developed by the Kentucky Department of Education. The Kenan model builds on four activities: preschool for children; adult basic education for parents; Parents and Children Together (PACT); and Parent Time (PT). Parents and children attend the program together three days a week for a full school day (9 a.m. to 2 p.m.). For three hours in the morning, the children attend a cognitively oriented preschool program based on the High/Scope model, while their parents receive instruction in adult basic education and literacy. For at least 45 minutes a day, the parents and children play together during PACT time, with the adult education and early childhood teachers present to facilitate interaction and learning. While the children nap, parents meet for Parent Time to discuss issues, such as parenting, child development, home activities, and personal care and growth.

Project AHEAD (Accelerating Home Education and Development), Los Angeles, California

Project AHEAD is a parent-to-parent program serving disadvantaged families of children attending schools in the Ten Schools Program of the Los Angeles Unified School District, which have only minority students enrolled and are under court order to receive supplemental services to offset the effects of racial isolation. AHEAD was developed in 1977 by the Martin Luther King Legacy Association (MLKLA) of the Southern Christian Leadership Conference in Los Angeles and currently is operated and funded jointly by the MLKLA and the Los Angeles Unified School District. Project AHEAD's parent educators, indigenous to the community and parents of successful school children, make biweekly home visits and facilitate monthly parent cluster meetings in the schools. The curriculum is based on the work of Dorothy Rich, who subsequently incorporated the ideas into a book entitled "Megaskills." Parent educators introduce home activities that guide parents in helping their children develop critical skills for success ("megaskills"), such as responsibility and self-esteem. In addition, the program works with parents on school-related topics such as reviewing report cards and preparing for parent-teacher conferences.

McAllen Parental Involvement Program, McAllen, Texas

The Parental Involvement Program, operated by the McAllen Independent School District, began with a single parent coordinator funded through Chapter I and now employs five parent involvement coordinators and five community aides funded through a combination of federal and local monies. Three parent involvement activities form the core of the McAllen program: STEP (Systematic Training for Effective Parenting), and its Spanish version PECES, are commercially available curricula to strengthen parenting skills; Evening Study Centers operate two evenings a week in three school sites to offer classes for at risk students and their parents; and group parent meetings on a variety of topics such as health, school curriculum, and child development take place throughout the year at each school in the district.

There also are several broad-based programs and activities in the district that encourage parental participation in their children's education, including a parent contract, a weekly radio talk show, and school volunteer programs. In addition, individual schools choose additional parental involvement projects, such as Project Self-Esteem, lunches for parents and grandparents, and newsletters. Community involvement in public education is facilitated by the Partners in Excellence Program in which local businesses adopt a school and provide materials and in-kind contributions for school activities.

Family Study Institute, Chicago, Illinois

The Family Study Institute (FSI) is a division of the Academic Development Institute, a nonprofit corporation based in Chicago and supported by private grants and donations. FSI has developed two parent education courses, Studying at Home and Reading at Home, designed to be adopted by individual elementary schools and offered on a voluntary basis to parents. The courses focus on helping parents establish a home environment that encourages learning and academic achievement, such as setting up a regular time and place for studying, discussing school objectives and assignments at home in family meetings, and participating in family reading activities. Each course consists of three weekly 60- to 90-minute group sessions at a school supplemented by weekly activities that parents do at home. Volunteer parents lead the sessions, guiding small groups of parents through written curriculum materials and facilitating discussions of parents' experiences with the home activities. The course materials are available in English and Spanish, and parent groups are offered in a variety of other languages with the help of parent translators.

Project FIEL (El Paso, Texas) is an intergenerational literacy program that brings limited-English-proficient parents and their kindergarten children together to learn literacy skills. Begun in 1985, the program is administered by the El Paso Community College and operates in eight local elementary schools. Program activities are based on a five-step model that includes informal discussions to encourage oral language, concrete learning experiences to extend oral language usage, story writing, reading books together, and at-home activities.

Prestame una Comadre (Springfield, Illinois), which is Spanish for "loan me a godmother," is an extension of Head Start parent involvement that is targeted on migrant Head Start families indentified as high risk and who have limited English proficiency. Begun in 1984, the program utilizes social workers or "family life trainers" who conduct home visits as often as three times per week to help parents increase self-reliance, learn about child development and educational opportunities in the home, and improve family functioning. Small group meetings are held weekly to discuss topics such as nutrition and family relationships.

PREP (Mascoutah, Illinois) is a program funded by the local school district for children who score poorly on kindergarten screening tests. Four-year-olds and their parents attend classes at a high school once a week for 90 minutes. While the children are in a preschool classroom, parents observe their behavior through a one-way mirror and discuss with a parent educator the skills or concepts involved in the children's activities. Parents also take activities home that teach their children school readiness skills, such as color and shape discrimination, listening skills, and motor coordination.

Syracuse Prekindergarten Program (Syracuse, New York) is an early childhood program for children ages three and four, with active parent participation. The program operates twenty sites in Syracuse and is funded through the New York State Prekindergarten Program was well as local school district monies. The children's program is offered four half-days per week; on the fifth day, parents participate in groups led by a social worker on topics of interest to parents (e.g., discipline, health issues) or in parent-child activities led by an early childhood teacher. Parents also are able to participate in a training program for classroom aides that requires working in the preschool classroom and attending a series of two-hour workshops.

Academia del Pueblo (Kansas City, Missouri) provides aftershool and summer classes to Hispanic children in kindergarten through fourth grade. The program was developed by the National Council of La Raza, which works with community-based organizations to improve education for Hispanic students, and operates at the Guadelupe Center, a multiservice organization in Kansas City. The program for children includes instruction in language arts, reading, and mathematics as well as enrichment activities for two and a half hours twice a week. For parents, the program offers monthly parent groups and classes in reading and family literacy three times per week.

Family Math (sites nationwide) is a program that brings together children in kindergarten through eighth grade and their parents to participate in problemsolving and hands-on math activities to reinforce and complement the school curriculum. The program was developed in 1981 at the Lawrence Hall of Science, University of California at Berkeley, to help children and their parents see mathematics as an enjoyable and active pursuit. Weekly classes lasting about an hour are held in four- to six-week cycles and are taught by teachers and parents who have received training to be Family Math instructors.

Kuban Parent Involvement Program (Phoenix, Arizona) was designed by the school administration and teaching staff to increase parent involvement in school activities and encourage home learning in an inner-city school district where the dropout rate is nearly 65 percent. Teachers run the program for parents of students in kindergarten through third grade. Parents attend quarterly training sessions that focus on the skills students learn in school, classroom objectives, and ways parents can help at home. Teachers also make home visits as needed.

Parents in Touch (Indianapolis, Indiana) is run by the Indianapolis Public Schools and consists of a range of activities to increase parent involvement and improve home-school communication, including activity calendars for children; student/teacher/parent contracts and work folders; dial-a-teacher telephone line available five nights a week to provide help with homework; parent line/communicator where parents can hear a recorded message about school activities; and a series of workshops on parent education. In addition, the district has implemented the Family Math as well as the TIPS-Math and TIPS-Science programs.

TPS-Math (sites nationwide) was developed by researchers at Johns Hopkins University to involve parents in their children's mathematics homework, to increase communication between the home and school about mathematics work, and to improve students' mastery of mathematical skills. The structured materials include information to parents from teachers about classroom activities as well as a set of activities for families to complete at home.

Activity Book and Toy Lending (ABT) Program (Maryland Department of Education) is a set of activities, books, toys, and games that parents of children in preschool through second grade can use to reinforce and extend school learning. The program began in 1980 in Frederick County and is now available to all districts in the state through funding from the Maryland Department of Education. There are two modes of participation: the Club System, where parents sign a contract to work with their children at home and children receive a prescribed kit to take home weekly or biweekly, and the Check-Out System, where parents visit a resource center to take home materials to use with their children.

Summary of Program Characteristics

Not only do these seventeen programs represent a variety of approaches to family education, but most programs also utilize multiple strategies in order to work effectively with families who have very different skills. Four programs use home visits as their core mode of service delivery; three of the four supplement home visits with group parent education and support services. Six programs use parent/child classes as the main parent education activity; four of these also hold parent education and support sessions. Five programs provide parent education primarily through group parent sessions. Each method of working with families offers both advantages and disadvantages:

Home visits confer one set of advantages in terms of establishing an intimate, helping relationship between the parent and a teacher/advisor and providing an opportunity for one-to-one demonstration by the visitor of teaching methods and ways to interact with children; home visits also require relatively few groups social skills.

Joint parent and child classes provide parents with multiple role models through interaction with other parents, and provide the opportunity for staff to observe parent and child together and suggest alternative ways of teaching and interacting in an educational setting; classes do require parents to come to a center or school with their children and become part of a group.

Group parent sessions provide the possibility for parent-to-parent support, group membership, and development of group process skills; however, group sessions may require parents to have the self-confidence to speak up in a group and relate to other adults.

Curricula and instruction also vary across the programs, and there is no evidence that one content or method is most effective or is best for all families. For most of the programs, the parent education curriculum builds on parent/child activities that are intended to encourage positive family interactions and to promote child development and achievement. A subset of programs have a set of predefined parent/child activities with accompanying written materials as the core of the curriculum. For example, HIPPY-Miami follows the curriculum developed by the national HIPPY program which includes 30 sequenced lessons based on key school readiness and cognitive skills. The curriculum for President AHEAD is based on a set of monthly "Appetizers" or home activities linked to Dorothy Rich's "Megaskills." Project Home Base has developed a collection of more than 200 home activities that parents can use to teach their children cognitive concepts and verbal skills. The Family Math program uses hands-on activities to encourage parents and children to work together on mathematics concepts.

These successful programs share a concern about being responsive to differences among families, and this is reflected in their curricula. Programs individualize and adopt curriculum and methods to family needs by providing bilingual staff and materials for non-English speaking families; addressing cultural values that relate to parent involvement in schooling; and being sensitive to crises and changes in the family's home situation that may require immediate attention.

Implementation Principles

The goal of this study was to describe and analyze the strategies that promising family education programs use to recruit disadvantaged families, sustain parent involvement, staff programs, and establish positive relationships with the schools. These topics were identified by a national advisory panel at the start of the study as key challenges to family education programs. The findings offer guidance for future program development and implementation.

Recruitment

Recruiting disadvantaged families who have had limited or negative involvement with schools is a difficult task for family education programs. Programs that have as their goal to recruit the more isolated or hard-to-reach families have a harder time recruiting than programs with universal eligibility. To motivate and encourage families to participate, these family education programs employ a number of common strategies:

Use a variety of recruitment techniques. The most common recruitment methods are current or former participants recruiting others in their neighborhood; brochures or letters sent home with school children; visits by program staff; door-to-door recruitment; and posters in community locations. Programs imaginatively distribute printed materials. For example, in the Kenan program, flyers and notices are posted at several large employers, in churches, housing projects, gas stations, social service agencies, and kindergarten registration. The Minneapolis ECFE program hangs banners from public buildings, announcing a name and telephone number to call.

Use person-to-person methods to encourage hard-to-reach families to participate. All programs report that the most effective recruitment device is personal contacts, usually from people in the community. Personal contacts are particularly important for parents who have little positive contacts with schools, who are recent immigrants with no previous contacts with American schools, or whose cultural traditions have limited parent involvement in schooling. In Project AHEAD and HIPPY/Miami, recruitment is facilitated by parent educators who live in the community. In programs that do not hire staff from the community, links are made through individuals in schools, churches, housing projects, and community organizations.

Provide information that does not require advanced literacy skills and is available in languages other than English. Brochures describing the programs are available in multiple languages. Furthermore, successful programs build on approaches that are familiar to the cultural groups being recruited, such as Spanish radio programs and neighborhood sound trucks.

Sustaining Family Participation

Once families agree to participate, sustaining their involvement is the next challenge. Family education programs have developed combinations of design components, services, and staffing that encourage continued participation by families:

Maintain flexibility in program operations in order to be responsive to families by meeting parents at a variety of locations and times and accommodating the "temporary dropout" and re-entry of program families. Project AHEAD and HIPPY/Miami both alternate individual home visits and group meetings in schools; ECFE centers include housing projects, low-income apartments, and store fronts.

Emphasize direct benefits for parents, including improved education and employment opportunities. For example, a central focus of the Kenan program is its adult literacy component that helps parents work toward the GED certificate; McAllen offers English language classes; and Project AHEAD encourages parents to attend weekend literacy classes.

Define objectives for parents in concrete and realistic terms, beginning with objectives that can be quickly and easily achieved. Immediate results are particularly important for families who are distrustful of school staff or who have had negative school experiences.

Be responsive to families' multiple needs, either directly or through referrals and personal ties with other public and private agencies. Project Home Base arranges hearing tests and eye exams for participating families. In ECFE and the McAllen program, health information is presented at parent group meetings. Staff in a number of programs refer, and even accompany, families to neighborhood health centers for medical care.

Incorporate tangible rewards for participation, ceremonies and rituals, and products with the program's logo or motto. Many programs use the program name, logo or motto on items such as stickers, balloons, pins, refrigerator magnets, ribbons, pencils, book marks, t-shirts, and coffee mugs. Project AHEAD gives each family a cardboard storage box and study carrel with the program's name and logo. HIPPY/Miami and FSI have graduation ceremonies, and the McAllen program presents certificates of participation for attending at least four STEP/PECES sessions.

Create an environment for parents to develop new friendships and social support, as well as to improve their own self-expression skills. the ECFE and Kenan programs both emphasize the importance of providing parent support groups that are facilitated by project staff.

Staffing

Staff qualifications and characteristics are identified over and over again as critical to high-quality programs. One of the most important staffing decisions is whether staff are professionals or paraprofessionals. Most of these programs employ some paraprofessional staff from the communities being served. A few of the programs use only paraprofessionals to work with families. Programs reflect the following staffing principles:

Recognize the value of hiring paraprofessional staff and community members who share the culture of the target population and are able to establish mutually respectful and trusting relationships with parents. McAllen and Prestame una Comadre employ professional staff who are native to the community; HIPPY/Miami and Project AHEAD hire paraprofessionals from the community to serve as home visitors. A number of programs employ paraprofessional aides in preschool classrooms.

Enlist school staff to help operate the program, particularly in programs for families of elementary school students. The districtwide parent involvement programs—McAllen and Parents in Touch—were developed by district staff and use district teachers to lead some of the family education activities. The Kuban and TIPS-Math programs depend on school teaching staff for program implementation.

Utilize paid staff to a greater extent than volunteers. In general, few programs depend on volunteers as primary teaching staff. Two exceptions are the FSI courses and the Maryland ABT programs. FSI depends entirely on unpaid parent volunteers to lead the parent group sessions; the ABT program utilizes the district Chapter 1 liaison and parent volunteers.

Provide training for staff and the opportunity for ongoing, frequent staff communication. All programs conduct regular inservice training, either weekly or biweekly, as well as more intensive training at the beginning of each year.

Relationships with Schools

The involvement of schools in family education programs is a major development in the field, which offers certain benefits both for the programs and the schools. Advantages of the collaboration include:

Access to school resources, such as federal funding, administrative support, and in-kind donation of space and facilities.

Connecting with families, particularly in areas where the schools have a more positive image than other social service agencies, may increase parents' acceptance of the program and also lead to greater understanding by school staff of parents' attitudes and behavior. For example, in Project FIEL, staff report that program retention is higher in sites located at schools rather than separate centers because school staff encourage participation in the family education program. In HIPPY/Miami and McAllen, the fact that the parent educators work for the school district gives them more credibility and respect among families.

Linking homes and classroom instruction through parent group meetings and, less frequently, through home visits. TIPS-Math and Family Math were created to extend classroom instruction to family learning experiences. In Project AHEAD, parent educators review student report cards with parents and prepare them for parent-teacher conferences.

Providing activities to ease the transition from early childhood programs to kindergarten. For example, HIPPY/Miami staff bring children into kindergarten classrooms in the spring prior to school entry; ECFE is beginning to do the same in some districts.

In general, collaborations with school disricts occur at the administrative level rather than the classroom level; close ties between the programs and classroom teachers are difficult to build. Other challenges that family education programs face in collaborating with schools include accommodating adults and very young children as students, sharing space and facilities, and adhering to district personnel regulations. To facilitate collaboration with the public schools, these programs:

Stress that family education is a complementary, not competing district goal. For example, FSI staff make it clear to teachers that their parent groups are intended to help parents create a structured environment for learning that can be applied to any subject area, and not to teach content-specific material.

Build support for the program from district and school administrators. In the Kenan program, school principals are involved in hiring project staff; in McAllen, parent involvement is a districtwide goal and one criterion for staff evaluations.

Acknowledge that the location of both the administrative offices and program activities make a difference in terms of district integration and support. When program staff and activities are located within the main school or district space, programs seem to be better connected with other district programs than when housed in satellite space.

Establishing Program Effects

With limited resources, programs typically collect information to document program activities and to indicate areas for program improvement. Few family education programs studied have carried out summative evaluations with rigorous, experimental designs. More extensive and rigorous evaluation research, which is badly needed in the field, will have to come from the wider research community rather than from the programs themselves.

The programs in the study, nevertheless, offer strong evidence that their approaches can be successfully implemented in sites other than where they were developed. Program experiences suggest some factors involved in successful transfer: an administrative organization or agency to provide technical assistance and staff training; adequate funding for program adoption; and well-developed curriculum materials.

Future Issues and Challenges for Family Education

Discussions with program directors identified a number of future issues and challenges for family education: developing stable funding both for program operations and for summative evaluation; designing training for paraprofessional staff; training school staff to work more closely and productively with disadvantaged and multicultural families; integrating family education programs into the existing K-12 curriculum in schools; and adapting to changing demographic trends.

While the seventeen promising programs studied are only a subset of the many family education programs currently being implemented, including other strong models, they offer examples of how family education can be provided to diverse populations in a variety of settings. Examination of their implementation has provided rich information on principles of practice that are shared by successful programs. As the interest in family education, family involvement, and family-school cooperation grows, this information can provide a foundation for developing family education initiatives.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator is informed there is a unanimous-consent request pending that the next amendment must be offered by the Senator from Utah [Mr. HATCH].

Mr. GRASSLEY. Mr. President, I ask unanimous consent for 5 minutes to speak on a subject related to the crime bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, 2 days ago the Senate adopted my amendment requiring courts in capital cases to consider a victim impact statement. I thank Senator BIDEN for his cooperation on accepting that amendment and getting it adopted under certain caveats that were legitimate and appreciated by both sides of the aisle.

In regard to that amendment, this is one occasion, Mr. President, when we in the Senate were actually ahead of the curve, because this very day the Supreme Court held that victim impact evidence is admissible in a sentencing phase of a capital case.

I am gratified by the Court's 6-to-3 decision in Payne versus Tennessee. But, more important, the victims of heinous crimes and their families can no longer be silenced. Now, there will be some element of parity in the sentencing phase of a death penalty case—mitigating evidence about the defendant and evidence from the prosecution about the victim and the impact of the crime on the family. Justice Rehnquist's opinion states the Court's view clearly:

> A State may properly concluded that for the jury to assess meaningfully the defendant's moral culpability and blameworthiness, it should have before it * * * evidence of the specific harm caused by the defendant.

The High Court acknowledged that its previous decisions in Booth versus Maryland, 1987 and South Carolina versus Gathers were wrongly decided. And my amendment adopted on Tuesday, I am pleased to say, is thoroughly consistent with the Supreme Court's decision today in Payne. A victim impact statement in a Federal capital case will contain information about the victim, the extent and scope of the injury and loss suffered by the victim and family, as well as information about any treatment for the victim and family.

A victim impact statement is designed, as the Court noted, "to show * * * each victim's uniqueness as an individual human being. * * *" And there is nothing unfair about the admission of such evidence. In her concurring opinion, Justice O'Connor eloquently offered the rationale for victim impact evidence:

> It transforms a living person with hopes, dreams, and fears into a corpse, thereby taking away all that is special and unique about the person. The Constitution does not preclude a State from deciding to give some of that back.

Our responsibility, Mr. President, is to do what Justice O'Connor says—give some of the victim's personal qualities back to society and the family. No, we cannot replace the life, but we can restore some balance to our criminal justice system. Allowing victim impact evidence is one step in that direction.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, we are waiting for Senator HATCH who is next on the list.

At this moment, I ask unanimous consent that nothing else be in order until we dispose of the Hatch amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 404

(Purpose: To amend title 18, United States Code, to impose criminal sanctions for violation of software copyright)

Mr. SEYMOUR. Mr. President, on behalf of Senator HATCH, I call up amendment No. 404.

The PRESIDING OFFICER. That is in order.

The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. SEYMOUR], for Mr. HATCH, proposes an amendment number 404.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . IMPOSING CRIMINAL SANCTIONS FOR VIOLATION OF SOFTWARE COPYRIGHT.

(a) CRIMINAL INFRINGEMENT.—Section 2319(b)(1) of title 18, United States Code, is amended—

(1) in paragraph (B) by striking "or" after the semicolon;

(2) redesignating paragraph (C) as paragraph (D);

(3) by adding after paragraph (B) the following:

"(C) involves the reproduction or distribution, during any 180-day period, of at least 50 copies infringing the copyright in one or more computer programs (including any tape, disk, or other medium embodying such programs); or";

(4) in new paragraph (D) by striking "or" after "recording,"; and

(5) in new paragraph (D) by adding ", or a computer program", before the semicolon.

(b) PENALTIES.—Section 2319(b)(2) of title 18, United States Code, is amended—

(1) in paragraph (A) by striking "or" after the semicolon;

(2) in paragraph (B) by striking "and" at the end thereof and inserting "or"; and

(3) by adding after paragraph (B) the following:

"(C) involves the reproduction or distribution, during any 180-day period, of more than 10 but less than 49 copies infringing the copyright in one or more computer programs (including any tape, disk, or other medium embodying such programs); and".

(c) DEFINITIONS.—Section 2319(c) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "and" after the semicolon;

(2) in paragraph (2) by striking the period at the end thereof and inserting "; and"; and

(3) by adding at the end thereof the following:

"(3) the term 'computer program' has the same meaning as set forth in section 101 of title 17, United States Code.".

Mr. HATCH. Mr. President, my amendment is the same as S. 893, which I introduced earlier this year, with good friend from Arizona, Senator DECONCINI as an original cosponsor. I believe that this amendment will be a strong tool for prosecutors and others who are interested in deterring the growing problem of computer software piracy.

In 1982, Congress provided strong criminal penalties for persons involved in the unauthorized production or distribution of multiple copies of phonorecords, sound recordings, and motion pictures. Likewise, this legislation would provide the same enhanced criminal sanctions for the violation of copyright in computer programs.

The willful infringement of copyright in computer software programs is a widespread practice that is threatening the U.S. software industry. The easy accessibility of computer programs distributed in magnetic media format, together with distribution of popular applications programs, has led to persistent large-scale copying of these programs. Studies indicate that for every authorized copy of software programs in circulation, there is an illegal copy also in circulation. Losses to the personal computer software industry from all illegal copying were estimated to be $1.6 billion in 1989. If we do not address the piracy of these programs, we may soon see a decline in this vibrant and important sector of our economy.

Not only is the software industry seriously damaged, but the public is also victimized by these acts of piracy. The consumer is paying full price for a product which he believes is legitimate. However, not only may there be imperfections in the actual reproduction, but the quality of the product is often lower as a result of cheap equipment. Furthermore, the consumer is ineligible for the important support and backup services typically offered by the software publisher.

As was noted during the hearings on increasing the penalties for illegal copying of records, sound recordings, and motion pictures, stiffer penalties toward piracy do act as a deterrent to these types of crimes. Enhanced penalties for large-scale violation of software copyright would be more in line with the seriousness of the crime.

Currently there is no differentiation in penalties between small and large acts of piracy. Because acts of software piracy are only misdemeanors for the first offense, prosecutors are deterred from prosecuting, and there is little deterrence for these criminal acts. The penalties in these software cases are far too lenient as compared to other theft and forgery statutes for other schemes which are also very lucrative.

Under the language of this amendment, a person involved in software piracy would be subject to a fine of up to $250,000 and imprisonment of up to 5 years if the offense involves the reproduction or distribution of at least 50 copies in 1 or more computer programs during any 180 day period. For offenses involving more than 10 but less than 50 copies, the penalties would include a fine of up to $250,000 or imprisonment of up to 2 years.

Mr. President, I believe that this legislation is seriously overdue. We must act now to protect this important industry by accepting my amendment as a key provision of the pending crime bill.

The PRESIDING OFFICER. Is there further discussion?

Mr. THURMOND. Mr. President, we have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 404) was agreed to.

Mr. SEYMOUR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SEYMOUR. Mr. President, on behalf of the managers, I ask unanimous consent that the following list of first-degree amendments, which I send to the desk, be considered in the order of their sponsor's arrival in the Chamber, and that no other amendments or motions to recommit be in order prior to the disposition of these amendments except for those which the two managers have cleared for consideration.

The PRESIDING OFFICER. Hearing no objection, that is the order.

AMENDMENT NO. 405

(Purpose: To amend chapter 1 of title 18, United States Code, to establish a penalty for inducing a minor to commit a crime)

Mr. SEYMOUR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. SEYMOUR], proposes an amendment numbered 405.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

TITLE —CRIMINAL EXPLOITATION OF MINORS CONTROL

SEC. 01. SHORT TITLE.

This title may be cited as the "Criminal Exploitation of Minors Control Act".

SEC. 02. FINDINGS.

The Congress finds that—

(1) children are our most important and yet most fragile human resource;

(2) too many young people are induced or forced into performing criminal acts by adults;

(3) the greatest effort must be taken to eliminate crime in our neighborhoods and our schools;

(4) an equal resolve must be taken to punish individuals who attempt to use America's youth as pawns in their criminal enterprises; and

(5) adequate penalties can be implemented to eradicate the exploitation of minors to commit offenses.

SEC. 03. INDUCEMENT OF MINOR TO COMMIT AN OFFENSE.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 21. Inducement of minor to commit an offense

"(a) IN GENERAL.—Except to the extent that a greater minimum sentence is provided by other law, a person 18 years of age or older who, in any voluntary manner, solicits, counsels, encourages, commands, intimidates, or procures any minor with the intent that the minor shall commit an offense against the United States shall be imprisoned not less than 3 and not more than 10 years, to be served consecutively with any other sentences that are imposed.

"(b) LIMITATION.—If the case of an offense under subsection (a) involving a minor who is 16 years of age or older at the time of the offense, subsection (a) shall apply only when the offender is at least 5 years older than the minor at the time the offense is committed.

"(c) SENTENCING.—In imposing a sentence under subsection (a), the court shall consider as a circumstance in aggravation the severity of the offense sought by the adult.

"(d) DEFINITION.—For the purposes of this section the term 'minor' means a person less than 18 years of age.".

(b) TECHNICAL AMENDMENT.—The table of chapters for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"21. Inducement of minor to commit an offense.".

Mr. SEYMOUR. Mr. President, my amendment is very simple. It sends a strong and straightforward message to dangerous criminals: Use a kid, go to prison.

That is it.

Of course, as my colleagues know, Federal law already provides for penalties if drug kingpins and traffickers enlist young Americans to engage in this heinous trade. My amendment does not change this provision one bit.

But it's almost naive to think that the drug trade is limited to simply selling drugs on a street corner, or in a school or park. Drugs are about ruthless gangs, guns, drive-by shootings, and other forms of naked violence.

And it is equally untrue to think that drug-related activity represents the only criminal activity in which adults exploit our kids. Recently, the San Francisco Examiner reported on the growing threat of Vietnamese youth gangs, with members as young as 11 years old, terrorizing northern California communities with late-night invasions to steal cash and other valuables. Law enforcement authorities told the Examiner that many of these young kids are already being recruited as foot soldiers by adults with more expansive organized crime activities, such as gambling, money laundering, and extortion.

Sadly, rather than being recruited for football or the debating team, young kids are being encouraged to join different kinds of teams—teams who believe that the best offense is a good terrorist who can beat the competition with the plunge of a knife or the squeeze of a trigger.

Those who recruit them, induce them, and coerce them must be held accountable. They must pay and pay dearly.

And pay they will if my amendment is adopted. If an adult uses any kid to commit any Federal crime, he can expect to face a maximum 10-year sentence in addition to other sentences that might be levied against him. But just as important, this new provision is not dependent on a crime actually being committed by the minor. A minor who is being forced to commit a crime and fears for his safety, his life, or the life of his family can come forward and know that the law will be on his side.

Kids are our most valuable, our most precious human resource. We have heard the old axiom that children represent the promise of tomorrow. But in too many cases, criminals see kids as a promise of future crimes committed.

Mr. President, this amendment represents our resolve to honor our promise to our kids, to our families, to our communities. And it sends an equally strong message to the criminals of this Nation: "You use a kid, you go to prison." I urge my colleagues to join with me to send that message to these thugs and keep our promise to our kids.

Mr. President, I ask that the amendment be agreed to.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 405) was agreed to.

Mr. SEYMOUR. Mr. President, I move to reconsider and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 406

(Purpose: To amend the definition of "serious drug offense" in section 924 of title 18, United States Code)

Mr. SEYMOUR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. SEYMOUR] proposes an amendment numbered 406.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 154, between lines 4 and 5, insert the following:

SEC. 1246. DEFINITION OF SERIOUS DRUG OFFENSE.

Section 924(e)(2)(A) of title 18, United States Code, as amended by section 1522(a), is amended by—

(1) striking "or" at the end of clause (ii);

(2) adding "or" at the end of clause (iii); and

(3) adding at the end thereof the following new clause:

"(iv) an offense under State law which, if it had been prosecuted as a violation of the Controlled Substances Act as that Act provided at the time of the offense, would have been punishable by a maximum term of ten years or more;".

Mr. SEYMOUR. Mr. President, the amendment that I have offered is a simple amendment. If adopted, it will take up a modest portion of this mammoth legislation, but it is an amendment that will have a major impact on violent career criminals.

We have a tough law on the books that we call the Armed Career Criminals Act. It says that if you are arrested in violation of Federal firearms laws and you have three previous convictions for a violent felony or serious drug offense, Federal or State, you can expect a minimum 15-years at least in prison. End of story. That is it.

But this story does not always have a happy ending. The current law defines a serious drug offense as one which, under either State or Federal law, carries a maximum sentence of 10 years. But there are some States, like my State of California, where a serious drug offense carries only a maximum sentence of 5 years, even though the same crime, under Federal law, carries a maximum sentence of 10 years.

For example, Mr. President, we have in California an armed career thug named Alfred Ethridge. He was picked up for a Federal firearms violation. His record revealed that he had two prior Federal felony convictions—each carried a maximum of 10 years. But he also was convicted five times in violation of State drug offenses—offenses that if tried under Federal law would each carry a maximum prison sentence of 10 years or more. But under California law, the maximum penalty for these five offenses is only 5 years.

In short, Mr. President, we have a violent career criminal with seven serious offenses on his record. But he avoids conviction under our armed career criminal statute only because of a low State sentence. He avoids at least 15 years in prison. So instead of roaming the halls of Lompoc Federal Prison, he will return to the streets to continue his criminal career and his avoidance of justice.

Now this is only one example. But, Mr. President, I have been told by the U.S. attorney's office in Los Angeles that there are hundreds of similar cases—hundreds of Alfred Ethridges who avoid the full force of Federal law.

I propose a simple revision, one which states that if a criminal violates a State drug law and if that violation would carry a maximum sentence of 10 years if prosecuted under Federal law, that qualifies as a serious drug offense under the armed career criminal statute. With this modest revision, we can bring the full force of justice down on the Alfred Ethridges, the criminals who continue to commit heinous crimes at the drop of a hat.

The purpose of the crime bill we have before us is to help State and local law enforcement—those on the front lines in our war against violent crime—to scrape the scum off our streets and stick them in prison. They feed on us and violate the freedoms of our families and our children. They are career criminals—ranging from the violent felon to the major volume drug trafficker—and they pollute our communities. Well, it is time we clean up our communities and put these criminals down—and put them down hard.

The people of our Nation are tired and frustrated. Our law enforcement officers are tired and frustrated. And frankly, Mr. President, so am I. The people want action and my amendment takes that action. It is plain and simple; if you violate a Federal firearms law and we find that you are found to have three serious violent felonies or drug convictions, Federal or State, you do at least 15 years.

In short, Mr. President, this amendment will ensure that the armed career criminal becomes the unarmed career prisoner.

I yield the floor.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from California.

The amendment (No. 406) was agreed to.

Mr. SEYMOUR. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SEYMOUR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 407

(Purpose: To mandate life imprisonment without release for drug traffickers or violent criminals convicted for a third offense)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 407.

Mr. GRAMM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . LIFE IMPRISONMENT WITHOUT RELEASE FOR CRIMINALS CONVICTED A THIRD TIME.

Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by striking "If any person commits a violation of this subparagraph or of section 418, 419, or 420 after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term" and inserting "If any person commits a violation of this subparagraph or of section 418, 419, or 420 or a crime of violence after two or more prior convictions for a felony drug offense or crime of violence or for any combination thereof have become final, such person shall be sentenced to not less than a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term 'crime of violence' means an offense that is a felony and has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense, and the term".

Mr. GRAMM. Mr. President, I call this amendment the three-time loser rule. Unfortunately in our society, the 10-time loser and the 15-time loser and the 20-time loser are walking around the streets of Washington, DC; and Houston, TX; and Dallas, TX; and Las Vegas, NV; and all over the country.

I gave a speech the other day here on the floor, as we started debate. I am not going to bore the Senate with that full speech again. But there is part of it I want to reiterate because it has to do with why I am for this amendment and why I think Members on both sides of the aisle have decided to accept the amendment.

We have crime without punishment in America. As a result, we have a lot of crime in America.

A remarkable study was done last year by Dr. Morgan Reynolds, who did a study for the National Center for Policy Analysis. What Dr. Reynolds did was collect data on crimes beginning in 1950 and running through 1990. He tried to calculate the expected punishment that would be handed out in prison time for committing various crimes. What he did is take the data on the number of crimes that were reported, the number of crimes that surveys showed were committed but not reported, the number of arrests, the number of indictments, the number of convictions, the prison sentences handed out, and the prison sentences actually served. And he found, Mr. President, that since 1950, the expected cost of serving time in jail for various serious crimes in America has declined by 67 percent. During that same period the number of serious crimes committed has risen by 700 percent.

His data for 1988, which is the last year he has full data on, is pretty startling. Basically, what it says is if you take into account arrest, indictment, conviction, sentencing, and sentences actually served, a person in America who commits murder can expect on average to serve 2.3 years in prison.

A person who commits burglary can expect to serve 17.7 days. A person who commits car theft, when you take into account the probability to arrest, indictment, conviction, and sentencing will expect to serve 4.2 days. Is it any wonder that so many people are out there waiting to steal our car?

The amendment that I have sent to the desk is very simple. It says that when you are convicted of any combination of a violent crime or a drug felony a total of three times, you get mandatory life in prison without parole.

I know, Mr. President, that there are a lot of people who say, "boy, that is tough sentencing." But I think it is important when we look at the facts and note that in a study done looking at 1983 and 1989, that study concluded that of all of the people released from prison in 1983, that 5 years later 62.5 percent of them had been rearrested for another crime.

Mr. President, when you think about the number of people who had originally committed violent crimes and drug felonies in that group that had not been rearrested, I think the odds are very high that as many as 75 percent of those people who had been let out of prison within 5 years had probably committed a felony again. Needless to say, this provision would end that with three-time losers put in prison and kept there for the remainder of their life.

Mr. President, I am not sure what procedure we are following on these amendments. It has been accepted by both sides.

I yield the floor on this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 407) was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 408

(Purpose: To protect the public safety by imposing minimum, mandatory prison sentences for drug crimes involving minors)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 408.

Mr. GRAMM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . LONGER PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR FOR USE OF MINORS IN DRUG TRAFFICKING ACTIVITIES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 21.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under eighteen years of age shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (b) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under eighteen years of age shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall

not be released during the term of such sentence."; and

(2) in subsection (c) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such shall not be released during the term of such sentence.".

Mr. GRAMM. Mr. President, this amendment is very simple. It says if you are an adult and you sell drugs to a minor and you are arrested, indicted, and convicted that you are going to serve every day of 10 years in prison without parole, no matter who your daddy is, and no matter how society has done you wrong; if you sell drugs to a child and are convicted, you are going to serve 10 years in prison. And if you get out of prison and do it again, we are going to lock you away for life.

I yield back the remainder of my time.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 408) was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAMM. Mr. President, let me just say that I did not ask for a rollcall vote because we have strong support on both sides of the aisle. I assume each of these amendments would have gotten 90 plus votes. I believe this kind of get tough attitude is needed, and I am hopeful these two provisions will be not only in the bill that passes the Senate when we are through, but will be ultimately in the bill that will be signed into law by the President.

I yield the floor.

AMENDMENT NO. 409

(Purpose: To require State agencies to register all offenders convicted of any acts involving child abuse with the National Crime Information Center of the Department of Justice)

Mr. McCONNELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL] proposes an amendment numbered 490.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

TITLE .—CHILD ABUSER REGISTRATION

SEC. 01. SHORT TITLE.

This title may be cited as the "National Child Abuser Registration Act of 1991".

SEC. 02. DEFINITIONS.

For the purposes of this title—

(1) the term "child" means a person who is a child for the purposes of the criminal child abuse law of a State;

(2) the term "child abuse" means the physical, psychological, or emotional injuring, sexual abuse or exploitation, neglectful treatment, or maltreatment of a child by any person in violation of the criminal child abuse law of a State;

(3) the term "child abuser information" means the following facts concerning a person who has violated the criminal child abuse laws of a State:

(A) name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, address of legal residence, and a brief description of the crime or crimes committed by the offender; and

(B) any other information that the Federal Bureau of Investigation or the National Crime Information Center determines may be useful in identifying child abusers;

(4) the term "criminal child abuse law of a State" means the law of a State that establishes criminal penalties for the commission of child abuse by a parent or other family member of a child or by any other person;

(5) the term "National Crime Information Center" means the division of the Federal Bureau of Investigation that serves as a computerized information source on wanted criminals, persons named in arrest warrants, runaways, missing children, and stolen property for use by Federal, State, and local law enforcement authorities;

(6) the term "State" means each of the States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific; and

(7) the term "State child abuser information repository" means a division or office of a State that acts as a central repository for child abuse information.

SEC. 03. FINDINGS.

The Congress finds that—

(1) disturbing increases have occurred in recent years in the number of children who are abused by persons who have previously committed crimes of child abuse;

(2) many children who run away from home, who fall prey to pornography and prostitution, who suffer from a dependency on alcohol and drugs, and who become juvenile offenders, have been victims of child abuse;

(3) research has shown that child abuse tends to repeat itself, and many parents who abuse their children were once victims themselves;

(4) in recognition of the increased cases of child abuse, several States have established agencies to receive and maintain data relating to cases of child abuse;

(5) currently there exists no centralized national source through which a law enforcement agency can obtain data relating to persons who have committed crimes of child abuse;

(6) partly because of the lack of available and accurate information at the national level, persons who have committed acts of child abuse in one State have been able to go to another State to commit the crime again, in many cases in a position of authority over children; and

(7) the Nation cannot afford to ignore the importance of preventing child abuse.

SEC. 04. PURPOSES.

The purposes of this title are—

(1) to establish a national system through which current, accurate information concerning persons who commit crimes of child abuse can be obtained from a centralized source;

(2) to assist in the prevention of second incidents of child abuse by providing information about persons who have been convicted of a crime of child abuse to organizations whose primary concern is that of child welfare and care; and

(3) to understand the problem of child abuse in the United States by providing statistical and informational data to the Department of Justice, the National Center on Child Abuse and Neglect, the Congress, and other interested parties.

SEC. 05. REPORTING BY THE STATES.

(a) IN GENERAL.—A State child abuse information repository may report child abuser information to the National Crime Information Center.

(b) GUIDELINES.—(1) The Attorney General shall establish guidelines for the reporting of child abuser information, including procedures for carrying out the purposes of this title.

(2) The guidelines established under paragraph (1) shall require that—

(A) a reporting State ensure that reports of all convictions under the criminal child abuse law of the State are maintained by a State child abuser information repository;

(B) a State child abuser information repository maintain close liaison with the National Center on Child Abuse and Neglect and the National Center for Missing and Exploited Children for exchange of information and technical assistance in cases of child abuse; and

(C) direct access to the information repository shall only be available to State and Federal law enforcement officials.

SEC. 06. CONDITION ON GRANTS.

Compliance with section 05 shall be a condition to the receipt by a State of any grant, cooperative agreement, or other assistance under—

(1) section 1404 of the Victims of Crime Act (42 U.S.C. 10603); and

(2) the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.).

Mr. McCONNELL. Mr. President, during the 3 minutes I rise to address the Senate, 14 young people will be physically abused in this country. Since this time yesterday, 1,200 boys and girls have been sexually abused. Child abuse: It has been called the American shame. We should be ashamed, and we should be outraged. American children are easy prey for sexual molestors. Children are such easy targets for these sexual predators, but the typical offender will molest 117 youngsters. That is 117 young victims, Mr. President.

On April 23 of this year, Richard E. Howard, of the State of Washington was arrested for molesting nearly 200 children. Howard's victims were not confined, however, to Washington State. His reign of terror included Oregon, Montana, Idaho, and California. His first conviction was in 1969.

In 1985, a Maryland school psychologist was convicted of child molestation. He served his time and then he moved to Virginia, less than 100 miles away. He was hired once again as a school psychologist—6 months later, he was arrested by Virginia officials and charged with the molestation of 15 elementary school students. As a part of the elementary school's explanation to the parents of how something like this could have happened, it was pointed out that the school had no means of conducting a criminal background check on prospective employees. Thus, they had no idea that this individual had been convicted of child molestation in Maryland less than 1 year earlier.

As I mentioned, Mr. President, according to the National Institute of Mental Health, the typical child sexual offender will molest an average of 117 youngsters in his or her lifetime and garner multiple criminal convictions from several different States. That is why I have risen today to offer an amendment that would require the registration of all convicted child abusers and child sexual offenders at the National Crime Information Center, NCIC, of the Department of Justice.

By requiring States to register the names and other pertinent information about convicted child abusers, we will be able to clamp down on repeat offenders by having information available and easily accessible to every child organization in the United States. Having child abuser information available will enable these organizations to conduct background checks on prospective employees.

Mr. President, here is how the legislation would work. Once a criminal conviction is handed down by a court of law, the information about the convicted individual is entered into the National Crime Information Center computer network by local or State law enforcement officials.

The information is then on line and available to any agency authorized by the Department of Justice. Such agencies include police departments, State health and human service divisions, and certain offices within the Department of Justice. For instance, a local child care center is about to employ a new individual and would like to confirm that the potential employee does not have a criminal history of child abuse. That child care center can go to their police department with a signed consent form from the prospective employee and request a criminal background check. It is simple, straightforward and effective.

Mr. President, we must act to prevent child abuse. I urge my colleagues to join me in safeguarding the lives of America's children by supporting this measure.

I say, Mr. President, this amendment has been accepted, it is my understanding, by both sides of the aisle.

I have no further observations to make on this amendment.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Is there further debate? The Senator from Delaware.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I ask unanimous consent that we temporarily lay aside the McConnell amendment and proceed to the Sanford amendment, and on the disposition of the Sanford amendment, which will be accepted on both sides, we immediately return to the McConnell amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANFORD. Mr. President, I had a conversation a month or so ago with the present Governor of North Carolina, and I said to him just in the way of conversation, is it not striking that the prison population in North Carolina has doubled since I was Governor? Now, that would have been about 25 years ago. He said, "oh, no; not since you were Governor. It's doubled since I became Governor."

And so we have seen a very rapid expansion of prison population, not only in North Carolina but across the Nation, in the last period of a little more than a decade.

We also have to be distressed to know that in the United States our crime rate is the greatest of any nation in the industrialized world.

AMENDMENT NO. 410

(Purpose: To amend section 1902 of S. 1241 to require the Commission on Crime and Violence to make a comprehensive study of the economic and social factors contributing to crime)

Mr. SANFORD. Mr. President, I send forward right now an amendment to the desk and ask the clerk to report it.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. SANFORD] proposes an amendment numbered 410:

Section 1902 is amended by adding at the end thereof a new paragraph:

"(5) To make a comprehensive study of the economic and social factors leading to or contributing to crime and specific proposals for legislative and administrative actions to reduce crime and the elements that contribute to it."

Mr. SANFORD. Mr. President, this amendment requires the Commission on Crime and Violence as established in the Biden bill to undertake a comprehensive study of the economic and social factors contributing to crime.

As we all know the crime rate and the number of crimes committed rose to a record high in 1990. For that matter, the prison population has also risen, doubling in the last decade. Clearly the substantial expansion of the criminal justice system has failed to solve the problem.

We all want to crack down on crime, but all that has been done—increases in arrests and prosecutions, the imposition of mandatory sentences, the increase in the number of criminal justice personnel, and the increase in the tax dollars flowing out to address the crime problem—has brought little, if any, improvement.

Mr. President, as I looked at and studied this crime bill, I approved of a great many of the provisions, and perhaps would have voted for all of them, but I was bothered by the fact that we kept getting tougher on crime without looking at some of the basic problems of why we have such a rapid increase in prison populations and in crime. It seemed to me it was time for us to look at the broader problems.

The American people do not feel safer in their homes. They do not feel safer on our streets and in our communities.

Unfortunately, criminal enforcement solutions are not enough. We must look to the larger context of society for the answers to this very tough problem. Certainly law enforcement approaches are important but so too are efforts to reduce the likelihood of entry into the criminal justice system in the first place. By asking for this kind of study, this amendment takes the next step beyond the efforts articulated in the bill now before the Senate.

I could have set up a separate commission to look at the root causes of crime, but I found in the Biden bill the Commission on Crime and Violence established to study some of the aspects of criminal law enforcement. It occurred to me that instead of setting up a different commission, we should add to its responsibilities; ask this Commission to take a look in a comprehensive way at the economic and the social factors contributing to this unprecedented crime wave that we are suffering in the United States.

My amendment directs the Commission to address the roots of crime—the social and economic factors that lead to or contribute to crime. Why is our crime rate the greatest in the industrialized world? Why do we have more people in jail than any civilized nation?

I hope we can get this in the bill when it goes to conference. I hope that this expansion of the responsibilities of the Commission already created by the bill will serve to remind us that we cannot just go on punishing crime, though punish we must.

We need now to look at the underlying causes and remind ourselves that, without doubt, there are many things we can do to reduce the crime rate. Certainly, we can take steps to assist in the rehabilitation of prisoners. We need to give more attention to that.

Upon the conclusion of the study, it is requested that specific proposals be made for legislative and administrative actions to reduce crime and the elements that contribute to it.

Ending the epidemic of violence and crime in America will take many steps. The Biden bill is an important step and I believe the study contemplated by this amendment will help us to take yet another step.

Thank you, Mr. President, and I yield the floor.

The PRESIDING OFFICER. Is there debate on the amendment? The Senator from Delaware.

Mr. BIDEN. Mr. President, we think it is a very good amendment, a very positive contribution, and we accept it. I understand that my Republican colleagues, as well, have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 410) was agreed to.

Mr. BIDEN. I move to reconsider the vote.

Mr. SANFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, with the indulgence of my friend from Kentucky, I ask unanimous consent that our friend from Illinois be able to proceed for 3 minutes as if in morning business to pay tribute to Justice Marshall.

The PRESIDING OFFICER. Without objection, it is so ordered.

JUSTICE THURGOOD MARSHALL

Mr. SIMON. Mr. President, I simply want to join those who are paying tribute to Justice Thurgood Marshall. Justice Marshall has been a tower of strength for basic civil liberties on the U.S. Supreme Court, and his loss will be felt. There are those on the Court who have responded to the wishes and the whims of the power, but Justice Thurgood Marshall has been there, responding like a Rock of Gibraltar to those least fortunate in our society.

This Nation has been served very well by Justice Thurgood Marshall. While we all understand his desire to retire at the age of 83 and to enjoy life a little more, we are grateful for the contribution that he has made.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. I thank the Chair.

(The remarks of Mr. DOLE pertaining to the introduction of Senate Joint Resolution 170 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

YUGOSLAVIA

Mr. DOLE. Mr. President, with reference to Yugoslavia, I think it is, at this point, a tinder box.

On Tuesday of this week, the Democratic Republics of Croatia and Slovenia declared their independence from Yugoslavia. The parliaments of Slovenia and Croatia issued these declarations in response to referendums on sovereignty which were held in each Republic—referendums in which over 90 percent of the citizens in the Republics of Slovenia and Croatia voted for independence.

It appears that these declarations of independence are more declaratory in nature, than an accurate reflection of the reality of the two Republics' status vis-a-vis the rest of Yugoslavia. These declarations do not constitute acts of secession. In a letter to Secretary of State Baker, the President of the Republic of Croatia stated:

> We remain united and determined to gain full liberty, not by secession, but by decentralized confederation.

Nevertheless, these declarations have led to speculation and fear about the course of events in Yugoslavia. I, too, am watching news reports closely with the hope that incidents of violence will not spread or escalate.

Some say that by announcing their independence, Croatia and Slovenia are triggering violence throughout Yugoslavia.

I think we need to ask, "who has their finger on the trigger?" And I think the answer is clear: It is not Slovenia, not Croatia, but the Yugoslav Army and the hardliners in the central government.

In response to these declarations of independence, the Federal Assembly of Yugoslavia—which I remind my colleagues is made up of unelected, Communist holdovers—called on the Yugoslav Army to take matters into its own hands. And today, the central government wants to discuss instituting a so-called state of emergency, in other words, martial law.

News reports indicate that the Yugoslav Army is on combat alert, and is moving tanks, airplanes, and troops throughout Slovenia and Croatia. The Slovenian side of the border with Austria has been blocked and closed by the Yugoslav Army, and the airport outside Ljubljana has been closed—apparently so that the army can move in reinforcements.

This move by the central government and army to respond to political differences with intimidation and force is what should really concern us—these tactics can hardly facilitate peaceful and democratic dialog.

The United States needs to maintain a firm stand against the use of force by the Yugoslav Army to resolve the situation to its liking.

I remain hopeful that a peaceful settlement of the situation can be achieved. The Governments of Croatia and Slovenia have clearly indicated that they wish negotiations and dialog to continue with the other republics and that they reject the use of force. We need to support this process of negotiation.

Moreover, we need to press the hardline Serbian Government to stop blocking the rotation of the federal presidency. Because of Serbia's obstructionist tactics, Yugoslavia has been without a president or a commander in chief of the Yugoslav Army for the past 6 weeks.

There is no doubt that the repressive and antidemocratic policies of Serbian President Slobodan Milosevic are at the heart of many of Yugoslavia's problems—problems which the Croatians and Slovenians, through their declarations of independence, want to leave behind.

Mr. President, I don't have any solutions to offer with respect to the situation in Yugoslavia. But, placing increased pressure on those like Milosevic who are putting up roadblocks to democracy and dialog—and who advocate the use of force—would, in my view, help to facilitate a peaceful settlement among the Republics of Yugoslavia.

I point out that sometime before the day ends, there will be a bipartisan resolution with reference to the problems right now in Yugoslavia, calling on negotiations, calling on the Army to not use force or violence in dealing with the various Republics.

It is my understanding that resolution has just about cleared both sides of the aisle. It is my hope we can pass it as quickly as possible because I think we need to send a message—that is not much, but it is at least an indication—to the hard line leaders in the central government of how this Senate and Congress feel about the situation.

Mr. BIDEN. Mr. President, parliamentary inquiry. Are we in morning business?

The PRESIDING OFFICER. We are.

Mr. BIDEN. I ask unanimous consent that we go out of morning business and back to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 411

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair wishes to make a clarification. In order for the matter of the Senator from Delaware to be in order, the amendment of the Senator from Kentucky needs to be once again laid aside.

Mr. BIDEN. Valid point, Mr. President.

I ask unanimous consent that the amendment of the Senator from Kentucky be further laid aside until the completion of action on the amendment I send to the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for Mr. THURMOND, proposes an amendment numbered 411.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SECTION 1. IMPOSITION OF SENTENCE.

Section 3553(a)(4) of title 18, United States Code, is amended to read as follows:

"(4) the kinds of sentence and the sentencing range established for—

"(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, and that are in effect on the date the defendant is sentenced; or

"(B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code;".

SEC. 2. TECHNICAL AMENDMENT TO MANDATORY CONDITIONS OF PROBATION.

Section 3563(a)(3) of title 18, United States Code, is amended by striking "possess illegal" and inserting "unlawfully possess".

SEC. 3. ROVOCATION OF PROBATION.

(a) Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking "impose any other sentence that was available under subchapter A at the time of the initial sentencing" and inserting "resentence the defendant under subchapter A"; and

(2) by striking the last sentence.

(b) Section 3565(b) of title 18, United States Code, is amended to read as follows:

"(b) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM.—If the defendant—

(1) possesses a controlled substance in violation of the condition set forth in section 3563(a)(3); or

(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of federal law, or otherwise violates a condition of probation prohibiting the defendant from possessing a firearm,

the court shall revoke the sentence of probation and resentence the defendant under subchapter A to a sentence that includes a term of imprisonment.".

SEC. 4. SUPERVISED RELEASE AFTER IMPRISONMENT.

Section 3583 of title 18, United States Code, is amended—

(1) in subsection (d), by striking "possess illegal" and inserting "unlawfully possess";

(2) in subsection (e)—

(A) by striking "person" wherever such term appears in such subsection and inserting "defendant"; and

(B) by striking paragraph (3) and inserting the following:

"(3) revoke a term of supervised release, and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on postrelease supervision, if the court, pursuant to the Federal Rules of Criminal Procedure applicable to revocation of probation or supervised release, finds by a preponderance of the evidence that the defendant violated a condition of supervised release, except that a defendant whose term is revoked under this paragraph may not be required to serve more than 5 years in prison if the offense that resulted in the term of supervised release is a class A felony, more than 3 years in prison if such offense is a class B felony, more than 2 years in prison if such offense is a class C or D felony, or more than one year in any other case; or"; and

(3) by striking subsection (g) and inserting the following:

"(g) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM.—If the defendant—

(1) possesses a controlled substance in violation of the condition set forth in subsection (d), or

(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of federal law, or otherwise violates a condition of supervised release prohibiting the defendant from possessing a firearm, the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized under subsection (e)(3).

"(h) SUPERVISED RELEASE FOLLOWING REVOCATION.—When a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of imprisonment authorized under subsection (e)(3), the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release.

"(i) DELAYED REVOCATION.—The power of the court to revoke a term of supervised release for violation of a condition of supervised release, and to order the defendant to serve a term of imprisonment and, subject to the limitations in subsection (h), a further term of supervised release, extends beyond the expiration of the term of supervised release for any period reasonably necessary for the adjudication of matters arising before its expiration if, prior to its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.".

Mr. BIDEN. Mr. President, these are technical changes of the Sentencing Commission, introduced last year by Senator THURMOND and myself, clarifying the recommendations of the U.S. Sentencing Commission. It has been cleared on both sides.

Mr. THURMOND. Mr. President, I rise to urge my colleagues to support this important amendment which will implement various technical and clarifying proposals related to the revocation of supervised release and probation. This important measure passed as a bill, S. 188, earlier this year and was cosponsored by Senator BIDEN and Senator KENNEDY. These proposals were suggested to me by the U.S. Sentencing Commission with the desire that they might be promptly enacted so that the supervised release component of sentences will function as Congress intended.

Regarding the history of the U.S. Sentencing Commission, in 1984, I worked with Senator BIDEN, Senator KENNEDY, and other colleagues on the Judiciary Committee and in the Senate to formulate the Sentencing Reform Act which was enacted into law as part of the Comprehensive Crime Control Act of 1984. The Sentencing Reform Act focused on two major problems in the Federal criminal justice system: First, the disparity in sentences imposed on individuals convicted of similar crimes, and second, the actual time served by those convicted of crimes which was often much less than the sentence imposed. In an effort to address these problems, the Sentencing Reform Act created the U.S. Sentencing Commission. Its purpose is to formulate guidelines to be used by judges in the sentencing process. As a result of the Commission's efforts, people now convicted of similar crimes will serve similar sentences and the sentences imposed will reflect the actual time that must be served.

Despite the success of the Sentencing Commission and its guidelines, steps must be taken to ensure that it is free to carry out its duties and responsibilities. The legislation I am introducing today will enhance the Commission's ability to carry out its mandate.

Briefly, this legislation would make the following changes to current law. First, it would clarify that Federal courts retain the flexibility to order an additional period of supervised release following the imposition of a term of imprisonment for a violation of a condition of supervised release. This measure would also grant the Sentencing Commission greater flexibility in drafting sentencing guidelines for the sanctioning of offenders who, while on supervised release, are found in possession of a controlled substance. This greater flexibility will enable the Commission to draft guidelines and policy statements that best achieve the goals of consistency and proportionality that the Sentencing Reform Act was intended to cover.

Finally, this amendment provides that decisions to revoke supervised release should be based upon sentencing guidelines and policy statements issued by the Commission specifically for that purpose. The effect of this change would be to settle a split among the Federal courts on the issue of whether the guidelines applicable to initial sentencing of defendants also apply to probation revocation decisions.

In closing, the technical changes embodied in this legislation are consistent with original congressional intent under the Sentencing Reform Act. I believe this legislation will further the goals of the Sentencing Reform Act to provide uniformity in sentencing as well as assure that sentences will be served in their entirety.

For these reasons, I strongly urge my colleagues to support this important measure.

Mr. BIDEN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 411) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mr. McCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 409

The PRESIDING OFFICER. The question now occurs on the amendment of the Senator from Kentucky.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, I urge adoption of the pending McConnell amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (No. 409) was agreed to.

Mr. McCONNELL. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCONNELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRYAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. I thank the Chair, and I also thank my colleague and good friend from our sister State to the south, the senior Senator from Arizona [Mr. DECONCINI], for allowing me to proceed first because I know he has another matter that he wants to present to the floor.

AMENDMENT NO. 412

(Purpose: To strengthen the authority of the Federal Trade Commission regarding fraud committed in connection with a telephone, and for other purposes)

Mr. BRYAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. BRYAN], for himself and Mr. MCCAIN, proposes an amendment numbered 412.

Mr. BRYAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new title:

TITLE —TELEMARKETING AND CONSUMER FRAUD AND ABUSE

SEC. 01. SHORT TITLE.

This Act may be cited as the "Telemarketing and Consumer Fraud and Abuse Prevention Act".

SEC. 02. DEFINITIONS.

As used in this title, the term—

(1) "attorney general" means the chief legal officer of a State'

(2) "Commission" means the Federal Trade Commission;

(3) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States;

(4) "telemarketing" means a plan, program, or campaign which is conducted to induce purchases of goods or services by significant use of one or more telephones and which has involved interstate telephone calls; the term does not include other use of a telephone in connection with business or personal transactions, nor does the term include the solicitation of sales through the mailing of a catalog which—

(A) contains a written description or illustration of the goods or services offered for sale;

(B) includes the business address of the seller;

(C) includes multiple pages of written material or illustrations;

(D) is issued not less frequently than once a year; and

(E) is at least the third catalog satisfying the requirements of subparagraphs (A) through (D) that has been issued by the seller within the last five years,

where the seller does not place calls to customers but only receives call initiated by customers in response to the catalog and during those calls takes orders only without further solicitation; and

(5) "credit card laundering" means—

(A) the act or practice by a person engaged in telemarketing (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of transferring to another person to be presented to a member of a credit card system or the member's agent, for payment, one or more evidences or records of transactions involving goods or services offered by telemarketing and paid for by credit card;

(B) the act or practice by a person acting on behalf of a person engaged in telemarketing (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of causing or arranging for a third person to present to a member of a credit card system or the member's agent, for payment, one or more evidences or records of transactions involving goods or services offered by telemarketing and paid for by credit card;

(C) the act or practice by a person (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of knowingly presenting to a member of a credit card system or the member's agent, for payment, one or more evidences or records received from another person of transactions involving goods or services offered by telemarketing and paid for by credit card; or

(D) such other acts or practices defined in the rules of the Commission as credit card laundering.

SEC. 03. TELEMARKETING RULES.

(a) Rules on Telemarketing Activities.—The Commission shall prescribe rules regarding telemarketing activities. In prescribing such rules, the Commission shall consider the inclusion of—

(1) a requirement that goods or services offered by telemarketing be shipped or provided within a specified period and that if the goods or services are not shipped or provided within such period a refund be required;

(2) authority for a person who orders a good or service through telemarketing to cancel the order within a specified period;

(3) restrictions on the hours of the day when unsolicited telephone calls can be made to consumers;

(4) a prohibition of telemarketing generated by computers on equipment that does not permit the individual called to terminate the telephone call; and

(5) recordkeeping requirements.

(b) Prohibition of Fraudulent Telemarketing Acts or Practices.—The Commission also shall prescribe rules prohibiting fraudulent telemarketing acts or practices and shall include in such rules a definition of the term "fraudulent telemarketing acts or practices". Credit card laundering shall be a fraudulent telemarketing act or practice.

(c) Deadline; Administrative Procedure.—The Commission shall prescribe the rules under subsections (a) and (b) of this section within 180 days after the date of enactment of this Act. Such rules shall be prescribed in accordance with section 553 of title 5, United States Code.

(d) Treatment of Rule Violations.—Any violation of any rule prescribed under subsection (a) or (b) of this section shall be treated as a violation of a rule under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) regarding unfair or deceptive acts or practices (subject to any remedy or penalty applicable to any violation thereof).

(e) Effect on State Law.—The rules promulgated under this section shall not be construed as preempting State law.

SEC. 04. ACTIONS BY STATE ATTORNEYS GENERAL.

(a) Authority of States.—Whenever the attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice of telemarketing which violates any rule, regulation, or order of the Commission under this title, the State may bring a civil action on behalf of its residents to enjoin such telemarketing, to enforce compliance with any rule, regulation, or order of the Commission under this title, to obtain damages on behalf of their residents, or to obtain such further and other relief as the court may deem appropriate.

(b) COURT JURISDICTION.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this section to enforce any liability or duty created by any rule, regulation, or order of the Commission under this title, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of any rule, regulation, or order of the Commission under this title, including the requirement that the defendant take such action as is necessary to remove the danger of violation of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(c) RIGHTS OF COMMISSION.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right (1) to intervene in the action, (2) upon so intervening, to be heard on all matters arising therein, and (3) to file petitions for appeal.

(d) VENUE; SERVICE OR PROCESS.—Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the telemarketing occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(e) EFFECT ON STATE POWERS OF ATTORNEYS GENERAL.—For purposes of bringing any civil action under this section, nothing in this title shall prevent the attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(f) EFFECT ON ACTIONS UNDER STATE STATUTE.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

(g) CIVIL ACTION BY COMMISSION.—Whenever the Commission has instituted a civil action for violation of any rule prescribed under this Act, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

SEC. 05. ACTIONS BROUGHT BY PRIVATE PERSONS.

(a) DEFINITION.—As used in this section, the term "person adversely affected by telemarketing" means—

(1) any person who has incurred loss or damage in connection with telemarketing and who actually purchased goods or services through telemarketing, or paid or is obligated to pay for goods or services purchased through telemarketing;

(2) any financial institution that has incurred loss or damage in connection with telemarketing; or

(3) any member organization comprised of financial institution members, or any parent organization of such member organization, if one or more of the financial institution members is eligible to bring a civil action under this subsection.

Such term does not include a governmental entity.

(b) PRIVATE RIGHT OF ACTION.—(1) Any person adversely affected by any pattern or practice of telemarketing which violates any rule, regulation, or order of the Commission under this title may, within 3 years after discovery of the violation, bring a civil action against a person who has engaged or is engaging in such pattern or practice of telemarketing if the amount in controversy exceeds the sum or value of $50,000 in actual damages for each person adversely affected by such telemarketing. Such an action may be brought to enjoin such telemarketing, to enforce compliance with any rule, regulation, or order of the Commission under this title, to obtain damages, or to obtain such further and other relief as the court may deem appropriate.

(2) The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this section to enforce any liability or duty created by any rule, regulation, or order of the Commission under this title, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of any rule, regulation, or order of the Commission under this title, including the requirement that the defendant take such action as is necessary to remove the danger of violation or of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(3) The plaintiff shall serve prior written notice of the action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the person shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

(4) Whenever the Commission has instituted a civil action for violation of any rule prescribed under this title, no person may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

(5) Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the telemarketing occurred or is occurring and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(c) AWARD OF COSTS AND FEES.—The court, in issuing any final order in any action brought under subsection (b), may award costs of suit and reasonable fees for attorneys and expert witnesses to the prevailing party.

(d) RIGHTS UNDER STATUTE OR COMMON LAW.—Nothing in this section shall restrict any right which any person may have under any statute or common law.

SEC. 06. VENUE.

Subsections (a) and (b) of section 13 of the Federal Trade Commission Act (15 U.S.C. 53) are each amended by adding at the end thereof the following: "Whenever it appears to the court that the interests of justice require that any other person, partnership, or corporation should be a party in such suit, the court may cause such person, partnership, or corporation to be summoned without regard to whether they reside or transact business in the district in which the suit is brought, and to that end process may be served wherever the person, partnership, or corporation may be found.".

SEC. 07. SUBPOENA.

SEC. 7. (a) PHYSICAL EVIDENCE DEFINED.—Section 20(a) of the Federal Trade Commision Act (15 U.S.C. 57b-1(a)) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting immediately after paragraph (6) the following new paragraph:

"(7) The term 'physical evidence' means any object or device, including any medical device, food product, drug, nutritional product, cosmetic product, or audio or video recording.".

(b) ISSUANCE OF DEMAND.—Section 20(c)(1) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(1)) is amended—

(1) by inserting "physical evidence or" immediately after "any" the second time it appears;

(2) by inserting "to produce such physical evidence for inspection," immediately before "to produce";

(3) by inserting "physical evidence," immediately after "concerning"; and

(4) by inserting "evidence," immediately before "material, answers,".

(c) CONTENTS OF DEMAND.—Section 20(c)(3) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(3)) is amended—

(1) by inserting "physical evidence or" immediately before "documentary material";

(2) in subparagraph (A)—

(A) by inserting "physical evidence or" immediately before "documentary"; and

(B) by inserting "evidence or" immediately after "permit such";

(3) in subparagraph (B), by inserting "evidence or" immediately before "material"; and

(4) in subparagraph (C), by inserting "evidence or" immediately before "material".

(d) PRODUCTION OF EVIDENCE IN RESPONSE TO DEMAND.—Section 20(c)(10) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(10)) is amended by inserting "physical evidence or" immediately before "documentary material" each place it appears.

SEC. 08. FALSE ADVERTISEMENTS CONCERNING SERVICES.

Section 12(a) of the Federal Trade Commission Act (15 U.S.C. 52(a)) is amended by inserting "services," immediately after "devices," each place it appears.

SEC. 09. CLEARINGHOUSE.

The Commission shall establish a clearinghouse for inquires made to Federal agencies concerning telemarketing. The clearinghouse will provide information (other than information which may not be disclosed under section 552(b) of title 5, United States Code, or under regulations prescribed by the Commission to implement sections 552(b) of title 5, United States Code) to anyone making inquires respecting persons engaged in telemarketing or direct such inquires to the appropriate Federal or State agency.

SEC. 10. FINANCIAL DATA.

Section 1109(a)(3) of the Right to Financial Privacy Act of 1979 (12 U.S.C. 3409(a)(3)) if amended—

(1) by redesignating subparagraph (E) as subparagraph (F);

(2) by striking "or" at the end of subparagraph (D); and

(3) by inserting immediately after subparagraph (D) the following new subparagraph:

"(E) dissipation, removal, or destruction of assets that are subject to forfeiture, seizure, redress, or restitution under any law of the United States by reasons of having been obtained in violation of law; or".

SEC. 11. CRIMINAL CONTEMPT AUTHORITY.

Section 16(a)(1) of the Federal Trade Commission Act (15 U.S.C. 56(a)(1)) is amended—

(1) in subparagraph (A) by striking "civil" the first place it appears and inserting in lieu thereof "Federal court"; and

(2) by adding at the end the following: "The Commission may bring a criminal contempt action for violations of orders obtained in cases brought under section 13(b) of this Act in the same manner as civil penalty and other Federal court actions to which this subsection applies. Such cases may be initiated by the Commission on its own complaint, or pursuant to its acceptance of an appointment by a court to assist it in enforcing such orders pursuant to Rule 42(b) of the Federal Rules of Criminal Procedure.".

SEC. 12. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) ENFORCEMENT.—Except as otherwise provided in sections 04 and 05 of this title, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) APPLICABILITY OF FTCA.—The Commission shall prevent any person from violating a rule, regulation, or order of the Commission under this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any person who violates such a rule, regulation, or order shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(c) EXEMPTION.—(1) No provision of this title shall apply to any person exempt from the jurisdiction of the Commission under section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)), and nothing in this title shall be construed to vest the Commission, or the attorney general of any State or any person, with jurisdiction or authority over any person not otherwise subject to the jurisdiction or authority of the Commission.

(2)(A) No provision of this Act shall apply—

(i) to a broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or investment company in connection with the offer, sale, or purchase of any security, or to an issuer in connection with the offer, sale, or purchase of any security which that issuer has issued, or to any investment adviser providing investment advice relating to any security; or

(ii) to the solicitation, acceptance, confirmation, or execution of orders for the entry into, purchase of, or sale of any contract, account, agreement, or transaction subject to the exclusive jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.) by a person registered under the Commodity Exchange Act in order to engage in such activity, including as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, leverage transaction merchant, floor broker, or floor trader, or as a person associated with any such person.

(B) For purposes of subparagraph (A)(i)—

(1) the terms "broker", "dealer", "municipal securities dealer", "government securities broker", and "government securities dealer" have the meanings given them in section 3(a)(4), (5), (30), (43), and (44), respectively, of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4), (5), (30), (43), and (44));

(2) the term "investment adviser" has the meaning given it in section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(11));

(3) the term "investment company" has the meaning given it in section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 89a-3(a));

(4) the term "issuer" has the meaning given it in section 2(4) of the Securities Act of 1933 (15 U.S.C. 77b(4)); and

(5) the term "security" has the meaning given to it in section 2(1) of the Securities Act of 1933 (15 U.S.C. 77b(1)), section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)), and section 2(a)(36) of the Investment Company Act of 1940 (15 U.S.C. 89a-2(a)(36)).

SEC. 13. LIFE CARE HOME STUDY.

(a) STUDY.—The Federal Trade Commission shall conduct a study of unfair or deceptive acts or practices in the life care home industry, including acts or practices engaged in by life care homes. Within 24 months after the date of enactment of this Act, the Commission shall report the findings and conclusions of the study to Congress. The Commission shall indicate in its report whether it intends to initiate a trade regulation rulemaking under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) respecting unfair or deceptive acts or practices in the life care home industry and the reasons for such determination.

(b) DEFINITIONS.—For purposes of subsection (a), the term—

(1) "life care home" includes the facility or facilities occupied, or planned to be occupied, by residents or prospective residents where a provider undertakes to provide living accommodations and services pursuant to a life care contract, regardless of whether such facilities are operated on a profit or nonprofit basis; and

(2) "life care contract" includes a contract between a resident and a provider to provide the resident, for the duration of such resident's life, living accommodations and related services in a life care home, including nursing care services, medical services, and other health-related services, which is conditioned upon the transfer of an entrance fee to the provider and which may be further conditioned upon the payment of periodic service fees.

SEC. 14. SUNSET.

The provisions of sections 03, 04, and 05 shall cease to have force and effect on and after the date that is five years following the date of enactment of this Act.

Mr. BRYAN. Mr. President, I ask unanimous consent, if it does not appear, that Senator MCCAIN'S name be added as an original cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. Mr. President, this amendment addresses the important issue of consumer fraud, and particularly fraud carried out through use of the telephone. The amendment is the text of S. 2494, which was reported by the Commerce Committee without objection and passed the Senate by unanimous consent in the 101st Congress, with one clarifying addition to specifically include credit card laundering in the definition of telemarketing fraud.

Time did not permit the conferencing of this legislation with the House in the last Congress. Consumers continue to suffer from the practices addressed by this legislation, and the legislation must be processed at the earliest possible opportunity. As we work to enhance enforcement of the criminal laws it is appropriate to enhance the enforcement of the civil penalties against telemarketing fraud, as my amendment does.

As we all know, telephone sales are increasingly being used, both by legitimate businesses for consumer convenience, and by bad actors who are out to defraud and harass the consumer. Over $100 billion in sales are estimated to be made by telephone each year. And, unfortunately, estimates of the annual cost of fraudulent telephone sales are in the $1 billion range.

No one knows this better than the citizens of my own State of Nevada. The Senate Consumer Subcommittee, which I chair, held its first hearing on this issue, focused on penny stock fraud, in Las Vegas more than a year ago, and heard memorable testimony from consumers about fraudulent schemes that have victimized constituents in my State. In fact, it is fair to say that during the 1980's, fraudulent telemarketing "boiler rooms" were a growth industry in Nevada. The State's consumer affairs division has records of over 15,000 written complaints and over 66,000 telephone inquiries from consumers concerned about such fraud. It is estimated that Nevada consumers lost about $8 million between 1984 and 1989 because of telemarketing schemes.

The State government, together with the Federal strike force, has done an admirable job in attempting to deal with this overwhelming problem. The "boiler room" industry has gone into sharp decline, from 400 telemarketing firms with 20,000 employees in 1988 to 60 operations with 5,000 salespeople in 1989. The State has enacted creative and effective legislation to address this problem, requiring licensing of telemarketers and establishing tough antifraud provisions in the securities area, which I was pleased to sign into law when I served as Governor.

Despite these efforts, the problem has not been eliminated either in Nevada or in the rest of the country. The amendment we consider today is a step toward maximizing the efforts at the Federal level to protect consumers from being swindled out of money they can seldom afford to lose.

Legislation in this area must be carefully crafted to avoid unduly burdening the many legitimate telemarketers, and to find the proper balance between Federal and State enforcement. I believe this legislation achieves both those goals, and will be of considerable assistance to consumers. It is the result of two Consumer Subcommittee hearings on this issue, and many months of work toward this end. As I stated, it passed the Senate by unanimous consent last year.

My Republican colleague, the distinguished junior Senator from Arizona [Mr. McCAIN] who is a cosponsor of the bill, has been of tremendous assistance in crafting this legislation. He has worked on these issues for some time, and this amendment incorporates several proposals originating with Senator McCAIN.

Briefly stated, this amendment requires the Federal Trade Commission to promulgate rules defining and preventing telemarketing fraud, as well as regulating the ways in which telemarketing is carried out. This rulemaking will consider, among other things, limitations on the hours of calling and the use of automatic dialing machines, as well as the requirement of a cooling off period in which buyers may rescind purchases which they have reconsidered. These rules will provide supplemental authority to that which the FTC has under current law. This amendment is not intended in any way to alter the FTC's current authority, but merely to provide the FTC with additional weapons in its arsenal against those who would harrass or defraud the consumer.

The amendment also will permit State law enforcement officials, and private parties who have incurred over $50,000 in damage, to sue to enforce the new telemarketing rules in Federal court. However, the amendment will not preempt any existing State laws, so the States will retain all authority they currently have to bring actions in State court against telemarketing fraud or other injuries to their citizens. This amendment merely provides an additional remedy enforceable only in Federal court. Additionally, the amendment provides the FTC with enhanced enforcement tools, such as increased subpoena power, to carry out its consumer protection functions.

To summarize, I believe this is an amendment that will provide valuable enforcement tools for both Federal and State officials and private parties, to protect consumers against the serious threat of telemarketing fraud. However, it is carefully balanced to impose no more burden than is necessary on legitimate telemarketing businesses, whose reputations should benefit from the elimination from their industry of those who commit fraud or otherwise harass consumers.

Consumers deserve to be protected from intrusive, high pressure, and fraudulent sales schemes. They deserve our help in protecting the income they have worked so hard to earn. Today I believe the Senate has the opportunity to take a significant step on behalf of the consumer. I welcome my colleagues' support in this effort.

Mr. President, I would represent to my colleagues that this has been cleared on both sides of the aisle and I urge its immediate adoption.

Mr. McCAIN. Mr. President, telemarketing is one of the fastest growing industries in the United States. This industry has made great strides in offering American consumers greater options for obtaining information, entertainment, and home shopping opportunities. A great many of these telemarketing companies are legitimate, and operated by honest businessmen and women. However, the expansion of the industry has unfortunately led to the emergence of telemarketing and consumer fraud.

Consumer fraud has been the focus of my attention for some time, particularly the issues of health and consumer fraud targeted at the elderly. On March 16, 1988, I testified before the Federal Trade Commission [FTC] on the issue of fraud and the elderly. On that occasion, I spoke of my concerns about the increase in cases of health care and consumer fraud by scam operators who prey on the vulnerability of senior citizens to give them their money, and then run, leaving behind unsatisfied, and in some cases, physically harmed seniors who relied on fraudulent products and health care schemes. Later that year, I introduced S. 2326, the Consumer Fraud Prevention Act. The following year, in 1989, I introduced S. 1441, which incorporated S. 2326. Sharing the same concerns as I have about consumer abuse, my colleague from Nevada, Senator BRYAN, introduced S. 2494, the Telemarketing Fraud and Abuse Prevention Act, in the last session of Congress. I was very pleased to have worked with him on a compromise which consolidates both of our bills, and our efforts were embodied in S. 2494, the Telemarketing and Consumer Fraud and Abuse Protection Act, which was passed in the Senate by unanimous consent last fall.

I am again pleased to be working with Senator BRYAN in reintroducing this legislation as an amendment to the crime bill in an effort to protect consumers from telemarketing and consumer fraud.

Telemarketing and consumer fraud costs American taxpayers tens of billions of dollars per year, and, in the case of health fraud, can cost lives as well. Such fraud is often committed by individuals who escape legal action by dismantling their operation and relocating to begin the operation again. In the cases of these "boiler room" scams, both the victims and the perpetrators are difficult to locate since the operations often consist of nothing more than phone banks which do not readily provide detailed evidence of illegal activity.

Senior citizens are particularly susceptible to consumer and telemarketing fraud. Fraudulent practices are successful with the elderly for many reasons. First, senior citizens are sometimes more easily pressured by individuals seeking to defraud them. Second, seniors are major consumers of services and products for which they are targeted by con artists, such as medical devices, drugs, and nutritional products. Third, fixed incomes make get-rich-quick schemes seem attractive. Finally, illnesses or diseases suffered by seniors may make wonder cures very enticing.

There are several areas of fraud to which the elderly are particularly susceptible.

One area, health fraud or quackery, is one of our Nation's leading consumer fraud and health care problems. Older Americans as a group experience deteriorating health and a greater number of terminal illnesses than the rest of the population. In searching for a way to prolong life and combat illness, the elderly are prone to believe the claims of health quackery.

Not only is such fraud dangerous to consumers' health, it is also costly: Current projections by the National Council against Health Fraud indicate that health care fraud is costing Americans close to $25 billion per year.

Health care fraud can be life threatening. In some cases, the so-called cure may be deadly as well. In other cases, the product may be harmless, but a victim may be led to choose the product for treatment of an illness instead of a physician-recommended course of treatment. Again, the result could be quite serious.

A few examples from my own State of Arizona illustrate the magnitude of the problem.

An advertisement was placed in the Arizona Republic and Phoenix Gazette newspapers that read: "Alzheimers' disease—symptoms of senility. At last—now now there is hope. Call this number for help. Free—no charges—no fees."

Another case involved a phony cancer cure called Tumorex. The ad read:

> Cancer patients undergo a six-day therapy of daily tumorex injections administered by a licensed M.D. or R.N. This is augmented by amino acid capsules taken one-half hour before each meal. Treatment is given Monday through Saturday. Any enzyme program must be discontinued 24 hours before the first day of treatment. In most cases, six days of treatment are sufficient; however, 12 days or more are required for some severe cases. Colon cleaning is important before treatment and imperative after treatment. $2,500 includes the 6- or 12-day treatment, and transportation (meals and lodging not included). We suggest cashier's or traveler's checks, however MasterCard and Visa are acceptable.

Mr. President, Tumorex is really the amino acid L-Arginine, which can be purchased at local health food stores at a cost of $5.50 for 100 tablets.

A second issue of particular concern to older Americans is consumer fraud via the television or telephone. While telemarketing fraud is not confined to older Americans, it is often successful among this group. Consumer items for purchase, and medical and health services are commonly marketed in this manner. These sellers, and their merchandise, appear legitimate on the surface. Unfortunately, the consumer often loses by not receiving the ordered item, receiving a copy rather than an authentic item, or suffers some financial or health loss.

One example of this type of telemarketing scam in Arizona involved a nationwide, shop-at-home program. This program, which was aired over nationwide television, involved a listing of various items for sale. The money for these items were sent to the company which, in turn, cashed the checks and never delivered the merchandise. This operation generated over 1,300 complaints.

Mr. President, examples such as this one go on and on, and the list continues to grow.

A third area of great concern is life care communities, some of which cause the elderly to lose their money as a result of fraud or mismanagement. Life care communities can be a practical solution to the problem of assuring independent and supportive living for older Americans, while guaranteeing 24-hour nursing care for those who require it.

However, there have been several occasions where senior citizens have lost their investments due to fraud or mismanagement. This has occurred in the misrepresentation of financial risks, the misrepresentation of the mortgage lender's interests in the life care community, and the misuse of the entrance fee financing.

The structure of the life care industry facilitates such abuses, and it is time that we take a close look at the industry's practices and ensure that life care communities remain safe alternatives for senior citizens.

Another area of fraud that is emerging as a great threat to both consumers and the banking community is that of credit card laundering in telemarketing. This is exemplified by the situation where a fraudulent telemarketer uses the credit card privileges of a merchant to obtain legitimate credit card drafts as records of transactions to receive payment from the unsuspecting customer's bank.

Consumers fall prey to the attractive descriptions of an item by a telemarketer, and provide their credit card numbers to the so-called seller. The telemarketer then submits that number to a willing merchant with legitimate credit card privileges, who submits the credit card drafts to the corresponding bank. This activity often results in a customer who never receives the item or receives an item which is different from the promised item. There is an additional effect on the banking institutions, which, upon receiving the complaint from the consumer, or having to acquire the accounts of telemarketing merchants who went out of business, must settle the chargebacks against their own accounts when the merchants are unable to pay them.

This exact situation took place in my State of Arizona. On February 15, 1990, Gateway National Bank from Phoenix was declared insolvent by the Office of the Comptroller of the Currency. Just 1 year prior to insolvency Gateway claimed assets of $11 million. One of the main reasons attributed to its demise was the overwhelming number of chargebacks the bank had to absorb because of merchants' failure to pay. These chargebacks ate away at the bank's equity capital, depleting it so as to render the bank insolvent.

The message here is clear: With credit card fraud, the consumer and the banking community are the big losers.

In addressing these issues, this legislation would minimize the practice of telemarketing, consumer and credit card fraud in the following ways:

It offers a solution to the problems facing law enforcement officers working toward bringing scam operators to justice, by expanding the venue and service of process provisions in the Federal Trade Commission Act. Thus, authorities will be permitted to summon and serve process upon any party, regardless of where they live or conduct business. This way, law enforcement officials will be able to bring scam operators to justice even if they have packed up their operation.

Next, it enhances the enforcement authority of the Federal Trade Commision [FTC] by amending the Right to Financial Privacy Act of 1978 to permit access to financial records of consumer fraud suspects, without providing advance notice to the suspects, with court approval, if the FTC can show that the funds are likely to disappear during an investigation.

Further, it identifies credit card laundering as a fraudulent telemarketing act or practice, and establishes liability for the merchants who knowingly work in concert with fraudulent telemarketers.

This legislation offers protection to consumers against telemarketing fraud and abuse by requiring the FTC to develop telemarketing rules protecting consumers. The rules would include; First, refunds for untimely delivery of goods or services; second, order cancellations; third, time restrictions on unsolicited sales calls; fourth, a prohibition on the use of equipment that does not allow the person called to hang up and disconnect the call immediately; and fifth, requirements for proper recordkeeping for the purposes of establishing evidence of proper business practices. The bill also directs the FTC to promulgate a rule to combat fraudulent telemarketing acts and practices. This rule is intended to be flexible in order to reflect on the changing nature of these illegal practices. These provisions would protect unsuspecting consumers from both unwelcome, and unsolicited goods or services, and, more importantly, fraud.

Further, it will allow enforcement assistance by the States by permitting State attorneys general to enforce the proposed FTC telemarketing rules after first notifying the Commission. After receiving a copy of the State's complaint, the Commission may intervene as a matter of right in the proceeding. This provision assures joint enforcement efforts by both State and Federal authorities without precluding one or the other.

Next, it permits private individuals to sue for violation of the FTC telemarketing rules when the amount in controversy exceeds $50,000. As in the case of the State attorneys general, a plaintiff would be required to notify the FTC prior to bringing suit.

These last three provisions are subject to a 5-year sunset clause, at which time they will cease to be effective. This will allow Congress the opportunity to evaluate the reasonableness and effectiveness of the telemarketing fraud and enforcement rules before continuing them indefinitely.

Another important provision amends the Federal Trade Commission Act to clearly set forth that it is unlawful to disseminate any false advertisement for the purpose of inducing the purchase of services, such as health care or home repair services. This provision addresses the problems and dangers of health care fraud by further amending the Federal Trade Commission Act to expand the definition of "physical evidence" for the purposes of bringing these cases to court. The definition of "physical evidence" should be expanded to include services, as well as medical devices, food products, nutritional or cosmetic products, or audio or video recordings, all things which are often pivotal evidence in consumer fraud cases generally, and health care fraud in particular.

It also permits the FTC to bring an action for criminal contempt for violation of an FTC order, if it is presently authorized to institute a proceeding for civil contempt.

In addition, the legislation further requires the FTC to establish a clearinghouse for telemarketing inquiries to be made available to the public.

Finally, it requires the FTC to conduct a study of unfair or deceptive acts or practices in the life care home industry and report to Congress on the results of that study. This would be a starting point toward ensuring that the elderly are not misled when choosing a life care community, and can feel confident when making this very important decision.

Mr. President, this legislation is an important step toward minimizing the practice of telemarketing, consumer, and credit card fraud, and helps protect senior citizens in particular, who are all too often targeted as victims of fraud, and I ask for the support of my colleagues on this important legislation.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 412) was agreed to.

Mr. BRYAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 413

(Purpose: To prohibit advertisements intended to promote or facilitate the illegal distribution or transfer of a schedule I controlled substance)

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 413.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

SEC. .

Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) by inserting a new subsection (c) as follows:

(c) It shall be unlawful for any person to knowingly print, publish, place, or otherwise cause to appear in any newspaper, magazine, handbill, or other publications, any written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. as used in this section the term "advertisement" includes, in addition to its ordinary meaning, such advertisements as those for a catalog of Schedule I controlled substances and any similar written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. The term "advertisement" does not include material which merely advocates the use of a similar material, which advocates a position or practice, and does not attempt to propose or facilitate an actual transaction in a Schedule I controlled substance.

(2) by redesignating subsections (c) and (d) as (d) and (e) respectively.

Mr. DECONCINI. Mr. President, this was an amendment adopted last year on the crime bill. It is identical to last year's amendment. It deals with the Controlled Substances Act, and inserts a new section. That section makes it "unlawful for any person to print, publish, place, or otherwise cause to appear in the newspaper, magazine, handbills, or other publication any written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance."

In essence, this will prohibit the advertising of marijuana seeds in publications where you can send away for them. Marijuana seeds are being advertised today in several U.S. publications, including one known as High Times magazine.

High Times is available in many bookstores right here in our area and in the State of Arizona. In the past, the companies offering the marijuana seeds were located in the Netherlands, but today they have moved to the United States and you can buy these seeds right here.

Let me give my colleagues just a couple of examples that you can find under the classified sections of weekly publications. One is as follows. It reads:

Free seed catalog. New service. Quality strains. Exceptional value. CM Group, P.O. Box 725163, Royal Oaks, MI.

Under a section of the catalog, if you send away for it, the ad will read:

Ordering Information.

Due to concerns from our customers about order records, cash is the only acceptable method of payment. Registered mail will be accepted, but remember, this generates a permanent record. All actual records will be destroyed immediately.

This is what we are seeing happening today with the sale, through publications and catalogs, of marijuana seeds. These marijuana seed companies are promoting an illegal drug that is used by at least 20 million Americans. Marijuana is the gateway drug to cocaine and heroin. That is hardly disputed any longer. Marijuana production in the United States has created an underground industry that is the leading cash crop in several States today.

The marijuana produced from these seeds is known as sinsemilla. This marijuana can command up to $4,500 a pound. Drug agents say that we grow the best, most expensive, and most potent marijuana in the world, here in the United States.

An example of the sophisticated criminal network that is involved in marijuana production in the United States is a case the DEA made last year against an Albuquerque drug group called "The Company." The Chicago Tribune outlined the inner works of "The Company" in an April 2, 1990 article. The DEA said: "The ring had started with 13 cuttings cloned from a superplant produced by a botanical genetics expert in Washington State who sold the starter"—that means the plants—"to the New Mexicans for $27,000."

"The Company" is a group involved in the drug trade. Besides earning $1,750 a week, each worker for "The Company" was given 2 ounces of marijuana each week, apparently to keep them from stealing from their own supplies.

We have a problem here that I think needs to be dealt with. Last year the Senate approved it. We did not get it passed in the conference with the House because we ran out of time. I ask at this time that the amendment be considered.

I advise my colleagues it has been cleared by the minority as well as the manager on the majority side of the bill.

I urge adoption of the amendment.

The PRESIDING OFFICER (Mr. LAUTENBERG). Is there further debate?

Mr. THURMOND. We have no objection.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 413) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. I thank my distinguished friend from South Carolina, the minority ranking member.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JUSTICE THURGOOD MARSHALL

Mr. DECONCINI. Mr. President, I want to just make a short comment on the notice of intention to resign by Justice Thurgood Marshall, today.

I think the country has been extremely fortunate to have this distinguished jurist serving the Nation since 1967. Thurgood Marshall came to the court with a wealth of experience, having tried over 30 cases, civil rights discrimination cases with the Supreme Court as general counsel of the NAACP. He won, I believe, 29 of those cases. He distinguished himself.

I had an opportunity to read a lot of his cases when I was a prosecuting attorney, particularly dealing with the death penalty. I did not agree with the Judge on the death penalty cases but I have grown to have the utmost respect for Justice Marshall. His opinions do not deal just with discrimination as it relates to race. They deal with discrimination so often as they relate to all individuals in our society. He has had a unique perspective in interpreting the United States form of constitutional government, where the individual is supreme, over the State in almost all areas.

And for that I must say that we owe him a great deal of credit and accolades because of his foresight, because of his determination and his unalterable guidance of what he felt for the Constitution and how it should be interpreted as it relates to individuals.

As I said, there are many opinions I disagreed with Justice Marshall on, but I must say intellectually and legally, he has to be one of the outstanding jurists of this century because of his capabilities of expressing himself and never altering from his view of the Constitution.

So I truly hope that President Bush looks at this seat with the possibility of another minority representative. What is a minority, I guess, is somewhat debatable. I believe that there are some very outstanding people who could serve in that capacity.

I am not trying to be too parochial, but Stanley Feldman of my State, a Jewish-American lawyer, and now Chief Justice of the Supreme Court of Arizona, has that same intellectual insight that I have witnessed, as he has become a Supreme Court justice and indeed as a trial lawyer before that.

He just comes to my mind. There are many, many other fine jurists. I hope that President Bush looks as carefully as he did in the nomination of Justice Souter, as someone who is not dogmatic, someone who has the capacity to grow into the job of a Justice of the Supreme Court, and express his views and has a real understanding of the Constitution, whatever that may be in your mind or my mind, Mr. President, but in the person's mind—that the Constitution is not hard and fast, based on our own narrow interpretation at times.

I look forward to serving on the Judiciary Committee to review whomever the President appoints.

Again my compliments to Justice Thurgood Marshall on his outstanding career. He will be missed, even though by some he has been criticized at times, and this Senator as well disagreed with some decisions.

It is a remarkable career that he has put forward. As I said, I think he will be recognized as one of the outstanding jurists of this century.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. Mr. President, I ask unanimous consent to proceed as if in morning business for 3 minutes.

The PRESIDING OFFICER. Without objection, the Senator is recognized for 3 minutes.

JUSTICE THURGOOD MARSHALL

Mr. WIRTH. Mr. President, we were, I believe, all very surprised today to hear of the resignation of Justice Marshall who has served the country for so long, so well, and been an advocate for so many issues that the occupant of the Chair and I and so many others in this country share the right of individuals, the opportunities for all Americans. Much of what the American dream stands for was represented by Thurgood Marshall, and what he stood for.

We are going to be faced, Mr. President, with an enormous challenge, and I am struck in trying to think through the timing of Mr. Marshall's resignation. This occurs about 3 weeks after the Court's, I think, very, very unfortunate ruling on the gag rule and the elevation of that issue so dramatically in American government, in American society, among groups of all kinds today.

The gag rule issue and the issue of choice for women has been raised to a plane significantly higher than it has been for a number of years. And now I believe the Marshall resignation and the quest of the Bush administration for a replacement is going to raise not only the gag rule issue but the choice issue even higher. It is going to make everybody in this body focus once again very clearly on women's rights, the rights of individuals to privacy, the kinds of issues that I believe we must expect from our Supreme Court.

I hope that, as the Bush administration examines potential candidates to fill the very, very large shoes of Justice Marshall, they understand that many of us, and I believe a majority of this body, will be waiting for a very clear signal from whoever that nominee is, a very clear, unambiguous statement about where that individual is not only on the gag rule issue but on choice overall.

I believe, finally, Mr. President, that we have an obligation to ask that question and to get a very, very clear answer. There is no way we are going to go through the ambiguity that we went through before. It seems to me that all of that sort of nice discussion, which I found somewhat charming at the time but extremely disappointing in result, is something that we cannot tolerate again.

I hope that my colleagues will join with me in making sure that this administration understands that any nominee that they send up here has to receive 51 votes and that this issue, making it clear on the issue of women's rights and choice, is going to be the determinant. That issue is now at the highest level of expectation, at the highest level of focus that it has been in this country ever before, and it must remain at that level and it will.

Mr. President, today the Nation learned the sad news that we will be losing one of the Supreme Court's most forceful and eloquent advocates for individual freedom and liberty. Thurgood Marshall's historic legacy has been one of protecting those who are most vulnerable in our democracy—and he has been one of the staunchest voices on the Court for civil rights, freedom of choice, and individual rights.

Like the tides, our Nation has experienced waves of bigotry and intolerance—and time and again Thurgood Marshall has stood like a rock to meet these tides. His departure from the Court will certainly diminish the ranks of those of us who strongly believe in protecting a woman's right to reproductive choice and ensuring equal opportunity for all preserving our fundamental rights to live our lives as we choose.

President Bush will have the opportunity to replace Justice Marshall. His nominee will face the considerable challenge of his legacy. The Senate, in its role of providing advice and consent on Supreme Court nominees, should not approve anyone who cannot express clear views on critical constitutional questions that the Court may address.

Marshall stated that his resignation would be effective "when my successor is qualified." We in the Senate are responsible—responsible for ensuring that the next Supreme Court Justice is qualified. We also must ensure that we know just that—how the nominees will interpret our Constitution. The implications are too great to leave this to the unknown.

I view this resignation as a call to arms for Congress—we must step in where the Court has, and will, fail us. We recently have witnessed the Court diminishing many rights that Americans have historically held dear and must hold the line on any further erosion of our liberties. Where we cannot depend on the Court to uphold those rights, the responsibility falls on the shoulders of Congress to legislate those rights—to ensure a free and just America for each and every one of us.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 414

(Purpose: To amend the Federal Deposit Insurance Act, the Federal Credit Union Act, and the Crime Control Act of 1990 to strengthen prohibitions against individuals convicted of financial institution crimes, and for other purposes)

Mr. CHAFEE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself, Mr. PELL, Mr. GARN, and Mr. RIEGLE, proposes an amendment numbered 414.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

TITLE —FINANCIAL INSTITUTION FRAUD PROSECUTIONS

SEC. . SHORT TITLE.

This title may be cited as the "Financial Institutions Fraud Prosecution Act of 1991".

SEC. . FEDERAL DEPOSIT INSURANCE ACT AMENDMENT.

Section 19(a) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)) is amended in paragraph (2)(A)(i)(I)—

(1) by striking "or 1956"; and

(2) by inserting "1517, 1956, or 1957".

SEC. . FEDERAL CREDIT UNION ACT AMENDMENTS.

Section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) PROHIBITION.—

"(1) IN GENERAL.—Except with prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

"(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

"(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) MINIMUM 10-YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.—

"(A) IN GENERAL.—If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

"(i) an offense under—

"(I) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, 1517, 1956, or 1957 of title 18, United States Code; or

"(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or

"(ii) the offense of conspiring to commit any such offense,

the Board may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

"(B) EXCEPTION BY ORDER OF SENTENCING COURT.—

"(i) IN GENERAL.—On motion of the Board, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of paragraph (1) to such person if granting the exception is in the interest of justice.

"(ii) PERIOD FOR FILING.—A motion may be filed under cause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.

"(3) PENALTY.—Whoever knowingly violates paragraph (1) or (2) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

SEC. . CRIME CONTROL ACT AMENDMENT.

Section 2546 of the Crime Control Act of 1990 (Public Law 101-647, 104 Stat. 4885) is amended by adding at the end the following:

"(c) FRAUD TASK FORCES REPORT.—In addition to the reports required under subsection (a), the Attorney General is encouraged to submit a report to the Congress containing the findings of the financial institutions fraud task forces established under section 2539 as they relate to the collapse of private deposit insurance corporations, together with recommendations for any regulatory or legislative changes necessary to prevent such collapse in the future.".

Mr. CHAFEE. Mr. President, this is an amendment that I am offering this evening on behalf of myself, Senator PELL, Senator RIEGLE, and Senator GARN. It is an amendment to the crime bill. The purpose of this amendment is to protect depositors from criminal abuses at the Nation's federally insured banks and credit unions.

This amendment has been cleared by both sides. It is my understanding it is acceptable to the managers and that a rollcall vote on it will not be necessary.

Briefly, Mr. President, the financial institutions fraud prosecution amendment would strengthen penalties against individuals convicted of certain crimes, and prevent those individuals from securing employment at a federally insured depository institution. A similar provision was enacted last year to prohibit savings and loan criminals from employment at an FDIC-insured bank for a period of 10 years.

Criminal activity has been a serious problem in the financial services community. The Justice Department estimates that at least 50 percent of the Nation's insolvent savings and loan institutions were victimized by fraud; 50 percent, half of all the savings in solvent S&L's were victimized by fraud.

In my home State of Rhode Island, 45 banks and credit unions were closed by our Governor on the first day of January of this year due to the collapse of a scandalously mismanaged private deposit insurance fund. Examinations are underway to determine the origins of Rhode Island's crisis, but it is believed that criminal activity contributed to the State's worst financial crisis since the Great Depression.

The shameful truth is that too many of the directors, managers, and employees at our financial institutions have enaged in criminal activity for their own personal enrichment.

We have all heard about corrupt financial executives leading jet-set lifestyles complete with yachts, fancy jewelry, furniture and paintings. In Rhode Island, one prominent bank official has apparently fled the country with $13 million stolen from depositor accounts. His actions contributed significantly to the State's banking emergency—but also revealed a web of deceit and criminal activity at institutions insured by the State's private deposit insurance fund.

In my view, the financial industry's competitive challenges are stiff enough without the added worry that unlawful activity will further undermine the stability of our banks and credit unions.

Let me briefly describe the major components of this amendment which is titled the "Financial Institutions Fraud Prosecution Amendment."

First, individuals convicted of certain crimes—fraud, dishonesty, breach of trust, money laundering, obstruction of a Federal examiner—will be barred from any employment at a federally insured credit union for a period of 10 years. Let us take the Rhode Island situation as an example. If a director of a closed credit union is convicted of fraud, he or she would be barred from securing employment at any federally insured credit union for a period of 10 years. Legislation approved last year would also prevent that person from working at an FDIC-insured bank.

Second, last year's crime package established that obstructing or attempting to obstruct a financial institution examination by a federal regulator is an offense punishable by up to 5 years in prison. The amendment builds upon that provision and would require that any individual convicted of such an offense would also be barred from employment at a federally insured financial institution for a period of 10 years.

The final portion of the amendment would urge the Justice Department to expand its interagency task force to gauge the impact upon the Federal Government of the collapse of a private deposit insurance fund.

You might say, after the experience that we have gone through in our State, are any of these private deposit insurance funds still out there? Well, there are. In several States, there are institutions, credit unions, some locally chartered banks, that do not have Federal deposit insurance provided, nor does the National Credit Union Administration provide insurance.

The January collapse of Rhode Island's private deposit insurance fund was the Nation's third such collapse in 5 years. In 1985, private insurers in both Ohio and Maryland became insolvent. Independent examinations into the origins of these financial institutions crises have revealed that fraud and criminal activity contributed significantly to these financial disasters.

Alarmingly, private insurers continue to operate in at least 20 States. The Federal Government needs to quantify the risks associated with private deposit insurance funds. My amendment would require the Justice Department to assess the risks to the Nation's economy, and to propose any legislative initiatives that might limit the Government's exposure in these matters.

Mr. President, this is a modest, yet important, amendment that has been endorsed by the National Credit Union Administration, the Federal Deposit Insurance Corporation, and the U.S. attorney in my State. In addition, the U.S. Justice Department has reviewed the amendment, and all its recommendations—that is the recommendations of the Department of Justice—have been included.

This amendment builds upon existing law, and would protect depositors across the Nation by ensuring that those convicted of fraud-related offenses will not have the opportunity to return to a career in the banking or credit union industries for a very long time.

I appreciate the managers' support for this proposal, and I look forward to the swift enactment not just of this amendment, but of the underlying legislation.

Mr. President, if I could get the attention of the manager of the bill, I have represented that this is agreeable to the managers, and I believe the manager will confirm that.

Mr. THURMOND. Mr. President, we accept the amendment.

Mr. CHAFEE. Mr. President, I want to thank my distinguished senior colleague for his support on this amendment.

Mr. President, I ask unanimous consent that an article from our Providence paper, the Providence Journal-Bulletin, dated June 21, in connection with the fraud and bribery that was believed to be involved in the Depositors' Insurance Program that we have in our State, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Providence Journal—Bulletin, June 21, 1991]

FRAUD, BRIBERY HINTED IN FALL OF RISDIC

(By Mike Stanton)

Providence.—Fraud, bribery and extortion may be among the factors that led to the demise of the Rhode Island Share and Deposit Indemnity Corp., the commission investigating the state banking crisis has found.

The first indication by the RISDIC Commission that it has uncovered evidence of criminal wrongdoing has emerged in court papers filed in Massachusetts in a battle to compel former RISDIC director Norman R. Baris to testify.

In a six-page brief filed in District Court, Attleboro, Mass., commission lawyers paint a broad picture of the causes of a crisis that led Governor Sundlun to close 45 banks and credit unions on Jan. 1, depriving more than 300,000 depositors of access to $1.8 billion in savings.

"Although the Select Commission's investigation is still in a very preliminary stage." the brief said. "It appears that negligence, poor lending practices, breach of fiduciary duty, insider dealing, professional malpractice, fraud, bribery and extortion all contribution to the insolvency of several RISDIC-insured financial institutions, their failure, the failure of RISDIC, and consequently, the issuance of Governor Sundlun's closure order."

The commission is asking District Court Judge Antone S. Aguiar Jr., to order Baris, an Attleboro resident, to testify. If the judge complies and Baris refuses, he could be held in contempt of court. A hearing before Agular is set for Friday at 2 p.m.

The court petition was filed after Baris, the retired president of Pawtucket Credit Union, refused to honor a subpeona to testify before the commission.

The brief identifies Baris as a key RISDIC insider who made a "large withdrawal" from an unspecified institution last December.

A grand jury is probing the alleged embezzlement of at least $13 million from the Heritage Loan & Investment Co. by fugitive president Joseph Mollicone Jr. Heritage's failure last fall was the first major domino leading to RISDIC's Dec. 31 collapse.

And a statewide grand jury is investigating the banking practices at six institutions—Heritage, Marquette Credit Union, Davisville Credit Union, Rhode Island Central Credit Union, Central Credit Union and Greater Providence Deposit & Trust.

"We have indications of (criminal wrongdoing)—through allegations or testimony or hard evidence—but that's not to say that were bringing all these cases in next week," Alan I. Baron, the commission's special counsel, said last night. "These are some of the things that could emerge. We have active investigations ongoing in several areas, and in many we've developed hard facts."

Baron stressed that the bribery he referred to in the brief is commercial bribery, not political.

"Hypothetically, if someone pays somebody at a bank to do something for them—gives them a benefit to approve a loan that wouldn't have been approved otherwise—that's commerical bribery," he said.

Regarding possible extortion cases the commission is investigating, Baron said, "It's possible that some people extended money or other favors in return for doing something."

Early withdrawals based on inside information have been the commission's first priority. The commission chairman, Rep. Jeffrey J. Teltz, D-Newport, has said potential civil and criminal actions could follow public hearings that will open July 8 on that topic.

In the meantime, the commission also has about a dozen financial investigators poring over loan files and financial records at many of the closed institutions, looking for potential wrongdoing in other areas.

The commission, named by Governor Sundlun in February to probe the causes of the banking crisis, has subpoenaed thousands of documents and taken secret depositions from more than 50 witnesses thus far. But it has said little publicly about what it has found.

"The investigative phase of the Select Commission's inquiry is necessarily confidential," the Attleboro brief said, "but the Commission is actively investigating several individuals who may bear civil liability, criminal liability, or both, arising from the collapse of RISDIC."

Teitz and Baron declined last night to elaborate on the commission's investigation, or on where Baris fits in.

But the Attleboro brief identifies Baris—the first witness to resist a subpoena—as "one of the three or four key insiders at RISDIC" who made a "large withdrawal" last December.

"Preliminary investigation reveals that Mr. Baris may have breached fiduciary duties to RISDIC or financial institutions he served by making a large withdrawal from a RISDIC-insured financial institution during December 1990," the brief said. "Mr. Baris's testimony is therefore crucial to the Selection Commission's inquiry."

Five other former RISDIC officials or directors have appeared before the commission but invoked their Fifth Amendment right against self-incrimination and refused to answer questions.

They are RISDIC chairman Joseph Bellucci, RISDIC president Peter A. Nevola, Marquette president Charles A. Paquin, Rhode Island Central president John R. Lanfredi and Eugene V. Leco, who also is president of the Rhode Island Credit Union League.

A subpoena issued for Baris on May 9 instructed him to appear before the commission May 16. That date was postponed because Baris needed more time to obtain documents to prepare for this testimony.

Shortly thereafter, commission officials say, Baris and his lawyer, James F. McAleer of Providence, informed the commission that they would not appear.

Baris, who lives at 80 Morse Ave. in South Attleboro, had no comment, his wife, Yvette, told a reporter yesterday. McAleer did not return telephone calls to his home and office.

Baris was RISDIC's first vice chairman and a member of its executive committee at the time of its collapse, and he was appointed by the RISDIC board last November to run Heritage after it failed.

Earlier yesterday, the RISDIC Commission recalled a previous witness, Pawtucket real estate broker William Slattery, to testify again.

Slattery, who first appeared June 11, was questioned in secret yesterday for about one hour. He and his lawyer, former state Senate Minority Leader Robert D. Goldberg, declined comment afterwards.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. CHAFEE. Mr. President, I note the presence on the floor of my distinguished colleague. I know he has comments on this particular legislation.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I am very glad to be a cosponsor of Senator CHAFEE's amendment to the crime bill.

Many of my colleagues know that Rhode Island is currently held in the grasp of a banking crisis.

This crisis is now entering its seventh month with no immediate help in sight for many depositors with funds frozen in closed Rhode Island banks and credit unions.

This amendment would provide no money for Rhode Island, but it would provide punishments for those who engage in credit union-related fraud. This amendment would also increase the penalties against those who obstruct efforts to conduct an examination of a bank or credit union.

The Governor of the State has created a commission to examine any wrongdoing associated with the Rhode Island banking crisis. This commisson has been actively at work gathering information on possible illegal activities that led to the collapse of many private insured Rhode Island banks and credit unions.

Those who caused the Rhode Island banking crisis through fraud or other illegal acts should be punished with every means possible. The State of Rhode Island is making a serious effort to uncover any illegal acts associated with our banking crisis. This amendment will ensure that any punishment that results from this crisis will be more severe than the penalties that are currently on the books. The amendment also creates new penalties for those who betray the public's trust and commit acts of fraud while operating a credit union.

I congratulate and thank my colleagues from Rhode Island for proposing this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 414) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I ask unanimous consent that Vicky Stack, a health fellow on the staff of Senator DOLE, have the privilege of the floor during consideration of S. 1241.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I ask unanimous consent we set aside S. 1241, as if we were in morning business, for the purpose of making two statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONVENTIONAL ARMS TRADE

Mr. ROTH. Mr. President, the United States now stands at the peak of its ability to exercise world leadership in controlling the international conventional arms trade. We have in front of us the development of a new era in East-West relations and the construction of democratic governments in Eastern and Central Europe.

We have a victory behind us in the Persian Gulf. And we have the eyes of the world upon us to exercise leadership in halting the unmonitored and unrestrained trading in conventional weaponry that has been a part of the old world order for the past several decades.

We must seize this opportunity, Mr. President, before the momentum is lost and before another Iraq is allowed to develop.

The recent initiative of President Bush calling for establishment of guidelines for restraints on conventional arms transfers to the Middle East is a welcome step. Yet, our efforts in mustering the international cooperation which is essential to any progress in this area must be comprehensive, and our approach manyfaceted.

One concept certainly deserving of more attention is that of transparency—in other words, increasing the amount of information that is publicly available about international arms transfers. Enhanced transparency is not an end, but a means to an end. It is but an initial component of an effective multilateral control regime for conventional arms transfers, yet one which can go a long way in fostering motivation for future steps.

At recent hearings of the Permanent Subcommittee on Investigations, on which I serve as ranking minority member, several witnesses testified about the increasingly unfettered selling tactics prevalent in today's global arms market.

Over 60 nations—many of them in the Third World—are engaged in arms manufacture and export. And most of these are dependent on exports in order to keep their indigenous defense industries viable. Although the overall volume of global military transfers has declined in recent years, activity in the international arms market has not abated as suppliers vie for shares amidst increasing competition.

One of the points which was illustrated clearly by the witnesses at this hearing is the dearth of information which exists regarding individual transactions in the conventional arms market. Although overall arms sale volumes can be approximated and certain individual transactions tracked, there is little or no information publicly available about the vast majority of conventional arms transfers.

Without such information, it is impossible to assess the adequacy of our existing regulations or sensibly to contemplate enhanced controls.

The United States is uniquely able to take the lead in encouraging greater transparency in the arms market. Our defense industry is one of the most transparent in the world, with congressional reporting requirements for all major sales built into our export control regime. This is not so in other nations, including many of our NATO allies, where arms transfers are often closely guarded secrets.

Mr. President, a prudent first step which I would urge be given serious attention is a call to all nations—in particular to our fellow members on the U.N. Security Council at the coming Paris conference, and to our NATO allies—to introduce enhanced transparency into arms sales—at least to a degree parallel to that which exists in the United States. Perhaps we, too, can go further as time progresses. Yet this represents a good starting point.

There are several ways to bring about enhanced transparency in the international arms market. The one currently receiving the most attention—including the support of British Prime Minister John Major—is the introduction of an arms registry in which certain information about arms sales and purchases would be recorded. President Bush, in his arms control initiative, called for an annual report on arms transfers by the five major suppliers to the Middle East.

This could form the basis of a more comprehensive registry. Although conceptions of an arms registry vary, most agree that it could be devised in such a way so as to ensure protection of legitimate proprietary concerns. One idea—an idea favored by Great Britain, Germany, and several other nations—would be a registry which, at the outset, would be limited to the main supplier nations—the Permanent Five—and would cover the major weapons categories as defined in the CFE negotiations.

Such a registry, by including the vast majority of conventional arms transactions, would serve as a basis for enhanced controls in the future.

Institution of an arms registry and introduction of increased transparency have several other advantages recommending them: The cooperative and consultative spirit engendered by multilateral collaboration to develop a registry would carry over into other efforts in controlling the arms market.

The international pressures fostered by participation in such a registry would exert positive regulatory influence on traders in the international market. And, the increased attention brought to arms transactions would assist efforts to muster increased political will to bring the arms trade under control.

Mr. President, we have a large task ahead of us, yet one which we cannot ignore.

Increased illumination of the extent and workings of the conventional arms market and closer multilateral cooperation are crucial components of a successful strategy for ensuring the peace and tranquility of the new world order.

Mr. CRANSTON. I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

UAE ARMS SALES: BUSINESS AS USUAL IN DEATH'S BAZAAR

Mr. CRANSTON. Mr. President, several days ago I announced my intention, together with that of the distinguished chairman of the Foreign Relations Committee, Mr. PELL, to oppose the proposed sale of arms to the United Arab Emirates.

Today I am happy to report that over one-quarter of the Senate, 26 Members, have now joined together to sponsor this effort. Many more will do so in the days ahead.

The issue here, it seems to me, goes beyond the administration's plans to sell 20 AH-64 Apache attack helicopters—offensive weapons—along with 620 Hellfire missiles and related equipment, and spare parts to the UAE.

The issue, the larger issue, is the very credibility of the administration's call for arms control in the Middle East.

This arms sale, to a small nation sandwiched between Saudi Arabia and Oman, comes just days after the administration called on major arms suppliers to restrain arms traffic in the region.

It also comes at a time when those of us in Congress are still waiting for the administration to let us in on its long-term strategy in the Middle East—if indeed it has a strategy.

The unclassified justification for the sale offered by the administration is a musty retread that obscures more than it illuminates:

> This sale is consistent with the stated U.S. policy of assisting friendly nations to provide for their own defense by allowing the transfer of reasonable amounts of defense articles and services.

Please compare this to the well-reasoned argument contained in an article in yesterday's Washington Times by Ze'ev Binyamin Begin, chairman of the subcommittee for national security policy in the Israeli Knesset.

He wrote:

> The root cause of instability in the Middle East—the enormous Arab edge over Israel in conventional arms—must be addressed in any arms control initiative * * *.

Begin pointed out that, from the period 1979–88, Arab countries in the Middle East received weapons valued at $168 billion, while Israel received arms worth $10 billion.

He noted that plans by the five major arms suppliers to the Middle East, including the United States, to establish guidelines for restraints on destabilizing transfers of conventional arms will be only as useful as the compliance these strictures generate.

Begin said:

> Judging realistically from past performance, expected promiscuous arms sales behavior by one or two of them would be enough to put the others in competition and detach the American vision from Middle East reality * * *.

Obviously, the $682 million sale to the UAE will not help set a forbearing precedent as we sit at the table to urge our fellow arms suppliers to forbear.

It will not help restrain the arms race. It will not help solidify a well-articulated U.S. policy in the region—there is none. Nor will it further the prospects for regional peace.

Mr. President, there is one other point I would like to make about the Emirates' notable lack of enthusiasm for international treaties concerning the laws of warfare. Before doing so, I note the chairman of the committee is on the floor and I would be delighted to yield to him—he is a cosponsor of this legislation, which means a great deal—if he wishes to comment.

Mr. PELL. I thank the Senator from California for his kindness and courtesy, and at this point I congratulate him on his leadership. I congratulate the American people that he is giving this leadership.

I hope very much that this passes. I think the statistics that he cites are truly amazing when you think of the relative amount of arms going to the Arab world as compared with Israel. The general impression is it is just the opposite.

Mr. CRANSTON. Absolutely. I thank the distinguished chairman of the committee for his leadership on this issue as on so many others.

Mr. President, the following is relevant to this. It is a list of treaties to which the United States is a party but the United Arab Emirates is not, treaties that are very important to civilization and to our efforts to develop a more peaceful world. We have signed these. The United Arab Emirates has not done so:

The Hague Convention Respecting the Laws and Customs of War on Land, 1907;

The 1925 Geneva protocol, which developed the existing principle against the use of projectiles whose sole object is the diffusion of asphyxiating or deleterious gases, found in the Hague Convention II of 1899;

The Antarctic Treaty of 1959;

The Treaty Banning Nuclear Weapons Tests in the Atmosphere, in Outer Space and Under Water, or the Partial Test Ban Treaty, of 1963;

The Outer Space Treaty of 1967;

The Seabed Arms Control Treaty of 1971;

The Convention Concerning the Protection of World Cultural Heritage—Paris 1972—and

The 1977 Environmental Modification [ENMOD] Convention.

Not being a signatory of these important international covenants does not mean the UAE has or will enter into a flagrant violation of any one of them.

Nor does the State Department's finding, contained in this year's annual human rights report, that "principal human rights concerns continued to be abuse of prisoners and restrictions on freedom of speech and press, assembly and association, the right of citizens to change their government, and women's and worker rights," make the UAE the worst regional government ever to receive U.S. security largess.

But the record there is not very good. Not one that inspires confidence. Not a record for the new world order, and certainly not a record to lay side-by-side with the sacrifice of our troops recently returned from the Persian Gulf.

It is, however, one more good reason to say no to this arms sale, and I urge my colleagues to do so.

I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. I ask unanimous consent I may proceed as if in morning business for no more than 4 or 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

(The remarks of Mr. BURNS pertaining to the introduction of S. 1403 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BURNS. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESIGNATION OF THURGOOD MARSHALL

Mr. METZENBAUM. Mr. President, today, one of the greatest and most courageous champions of civil rights, Thurgood Marshall, resigned from the Supreme Court. It is a tragic loss for this country. From his early days as an attorney for the NAACP Legal Defense

Fund, until his last days on the Supreme Court, Thurgood Marshall spent nearly a half century advancing the cause of civil rights. No lawyer labored harder to wipe away the stain of racial discrimination than Thurgood Marshall. He was there when so many others were not.

While at the NAACP Legal Defense Fund, he conceived and executed the brilliant strategy for desegregating the Nation's schools. His tireless pursuit of that strategy ultimately led him to the Supreme Court, where he argued the case of Brown versus Board of Education. A unanimous Supreme Court adopted Marshall's view, ruling that the Constitution of the United States forbids segregation in our Nation's schools.

Thurgood Marshall's unceasing efforts to outlaw segregation changed forever the social and legal landscape of this country. But his efforts to protect and expand the civil rights of all Americans did not end with his victory in Brown. He continued to champion the cause of equal justice after he became a member of the Supreme Court. No member of the Court has done more to protect the rights of minorities than Thurgood Marshall.

Mr. President, Thurgood Marshall spent his entire career making the ideals of equal justice and equal opportunity a reality for all Americans regardless of race or ethnicity. He spent his entire career working against prejudice, ignorance, and hate. He spent his entire career working for tolerance and racial harmony. He was an idealist, but he was tough as nails. He was a brilliant lawyer and an able Justice, but he was also a warm man with a great sense of humor. Ours is a more just and fair society because of his efforts. I am sorry that the Court is losing him, but I am grateful that we will always have the chance to be inspired by his accomplishments.

Mr. President, it is a tremendous loss to this Nation for Thurgood Marshall to resign. And there is no secret about it, that the Supreme Court in recent years, with the new changes, has no longer been the defender of the constitutional rights and liberty of the people of this country, and with Thurgood Marshall gone it will make the challenge and the job that much more difficult.

I think it would be a magnificent gesture on the part of the President of the United States if he would see fit to bring to the Supreme Court someone who in some ways represented the ideals, and convictions, the concerns, aspirations, and the hopes of Thurgood Marshall. I do not think we need any more of the so-called right wing conservative bloc. It is there. It is in a majority. But there ought to be someone on that Supreme Court, someone who can carry forth as did Thurgood Marshall, standing up for the hopes and aspirations of people of this country, standing up for the Bill of Rights, standing up for the Constitution of this country. Without him there, our challenge in the Congress is that much greater.

There was a time in our history when the people of this country could not count upon their Congress and they looked to the Supreme Court to protect their rights. Now I am afraid, Mr. President, that is no longer the case. I do not think the people can look to the Supreme Court. I think they must look to the Congress of the United States, and it makes our responsibilities that much more greater.

I am grateful to Thurgood Marshall for the years that he spent on the Court and for challenges and the leadership that he provided us over the years.

The PRESIDING OFFICER (Mr. DODD). The Senator from Iowa.

JUSTICE THURGOOD MARSHALL

Mr. HARKIN. Mr. President, I join my friend and colleague from Ohio, Senator METZENBAUM, in paying tribute to a truly unique and truly great American, one of the real giants in American history, Thurgood Marshall, who today announced his retirement from the U.S. Supreme Court.

This is indeed a sad day today for all who respect justice, for all who have looked to the Supreme Court as the final arbiter of fairness and justice for all in our society, for the little people, the left out, the unrepresented, and for those for whom the scales of justice more often than not do not fall evenly. These are the people that Thurgood Marshall always had in mind during his years with the NAACP, and later on the Supreme Court.

When reading Thurgood Marchall's opinions, whether they are for the majority of the Court—less frequently, I might add, in these later years—or dissenting opinions, there is the sense that here was an individual who understood people, who knew what it was like to be discriminated against, who knew what it was like to be left out, who knew what it was like to go to the bar of justice and have justice denied, as so often he was in his earlier life, and as so many African-Americans were and still are today.

His writings provide the sense that he feels deeply and passionately about the promise of America, about the promise that this country is more than just 260 million individuals each running around trying to get the most for himself or herself. Instead, he understands that the American promise is that all Americans are one family, where "the interest of one is bound up with the welfare of all," in the words of Franklin Roosevelt.

Thurgood Marshall represents the finest in what it means to be a Justice. He is, not someone who simply rubber stamps old dicta, or believes that whatever was decided before must continue. He understands that the Constitution is a living and growing document, that the truths and fundamentals of the Constitution are indeed eternal, but as times and conditions change those applications must change also to suit the ever-growing, expanding concept of freedom and justice.

So this is indeed a sad day. The Senator is indeed sorry to see Thurgood Marshall go. I do not believe that anyone will ever be able to fill his shoes, at least not in the way that he approached his life's work, certainly not in the way that he committed himself over a lifetime to eradicate discrimination and unfairness in this country.

As the distinguished Senator from Ohio said, the unanimous decision in Brown versus Board of Education finally broke down those barriers in our society. Yes, we still have discrimination today. There is no doubt about it. But Brown versus Board of Education clearly and unequivocally said that every child in America, regardless of race, is entitled to equal public education, and equal opportunity.

Especially in this time when we are debating civil rights and what the concept of civil rights means in our country, it would do us all good to carefully study the life of Thurgood Marshall. It is refreshing to know that we have such people who are willing to dedicate their lives in the cause of justice and fairness.

So, Mr. President, I commend Justice Thurgood Marshall on his career in public life, for his dedication to all that is best in our constitutional form of government, his dedication to all that is best within the human spirit. I only wish that he could live to be 200 years of age, to stay on the Court for another 50 to 75 years.

I trust and hope that the administration will do everything they can to find another individual in the same mold, with the same kind of character and with the same kind of dedication and feelings that Thurgood Marshall exhibited.

That person will not be another Thurgood Marshall. But at least I hope that the person they pick will follow in the path and try to fill the shoes of Thurgood Marshall. I hope that is the kind of nominee that the President will send down to us.

I yield the floor.

Mr. DANFORTH. Mr. President, I ask unanimous consent to proceed for 10 minutes as though in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Missouri is recognized.

Mr. DANFORTH. I thank the Chair.

(The remarks of Mr. DANFORTH pertaining to the introduction of S. 1407,

S. 1408, and S. 1409 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

The Senator from Colorado is recognized.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

Mr. WIRTH. Mr. President, for the last day or so, I have been attempting to have an amendment cleared by both sides, and I wanted to take these few minutes to discuss the substance of that amendment to bring to the attention of my colleagues that amendment and, most important, to put my colleagues on notice that this important amendment is something I think they are going to want to support.

One might call this amendment, which is related to public information, the sunshine in the S&L crime business amendment. I think it is an amendment that any Senators interested in the S&L crisis and interested in the vast amount of taxpayer money that is going into the S&L crisis are going to want to support. Let me tell you why.

We are spending, Mr. President, hundreds of millions of dollars a day, billions of dollars overall, in taking over failed S&L's. The Government is going in, buying the assets of those S&L's, and paying off the depositors, in many cases with a vast amount of taxpayer money. But does the public know what is going on within that S&L, what the examination showed, why that S&L failed, what we knew in the past and ought to know in the future? Not the case.

The public is spending billions of dollars but has no idea what those dollars are going to. This amendment would require that those examinations of a failed S&L, in the case where that failed S&L is being bailed out with taxpayer money, be made public documents. We ought to know the pattern of why these institutions have failed; it ought to be a matter of public record, and we ought to be able to learn from the failures of these S&L's.

Second, Mr. President, if there is litigation surrounding the failure of an S&L, if there are lawsuits between various customers, between the customers of the S&L, and between people who have been borrowers at the S&L and board members of the S&L, and if those lawsuits are settled, do you believe that lawsuit and that settlement done with a vast amount of taxpayer money is made public? No, it is not. That is not made public either. So we have no idea who is being paid off, why the settlement was reached the way it was, and how much taxpayer money was at stake.

This amendment also would cover the settlements of lawsuits. It seems to me that the taxpayers of this country, already overburdened with billions and billions of dollars of expenditures in the S&L crisis, ought to be the beneficiary of some knowledge as to where their money is going.

I remind you, Mr. President, that we originally heard, in August 1988, from the then man in charge—the Deputy Secretary of the Treasury in charge of the S&L crisis—that the S&L crisis was going to cost us $19 billion. After that $19 billion was sent, problems were going to be resolved; that was all the money that was needed.

Soon after the election in 1988, the administration came back to us and told us that $19 billion was not adequate, that, in fact, what we were going to need was another $30 billion or $40 billion, in fact. And then not long after that, another $50 billion was added to it. So that up until this year we had gone from a modest $19 billion, Mr. President, to $80 billion.

This last week we have heard from Mr. Seidman and yesterday from the Secretary of the Treasury, Secretary Brady, that it is going to cost now another $80 billion in cash out of hand. We have gone from $19 billion through a process of a year and a half to $80 billion. And now we have added on top of that another $80 billion; a total of $160 billion being spent to clean up the S&L mess that came out of this ridiculous deregulatory scheme foisted upon the American public in 1982. We are now at $160 billion.

When that $160 billion goes out, Mr. President, the American public ought to know where that $160 billion is going: What kind of settlements were there; what kind of arrangements were in the S&L that caused it to fail to begin with; what kind of settlements were made of the lawsuits that are surrounding these. And there are a vast number of those. We gave a great degree of resources to Mr. Thornburgh down at the Justice Department to enforce all of these.

We still have not seen a great deal of them coming out. Slowly and surely, it is happening. When the enforcements occur, when these settlements occur, it ought to be a matter of public record. We ought to be able to learn from these. There will be resistance to this amendment. Bank regulators in the past very much opposed having this kind of sunshine out there.

For example, the regulators opposed changes in FIRREA that required the bank regulators to publish final orders on enforcement action. They said there would be bank runs. They said the sky would fall in. That did not happen.

The regulators opposed the change in the Crime Control Act of 1990 that required the bank regulators to publish all their enforcement orders and agreements. They said there would be runs; they said the sky would fall in. It did not.

Most regulators do not like this kind of out in the public sunshine activity. But fortunately, there are some people in the administration who have supported this. For example, the current Chairman of the Securities and Exchange Commission, Richard Breeden, has stated:

> I would hope we would learn from the disastrous experience of the thrift crisis as we move forward in developing both accounting and disclosure standards. . . . I think public disclosure is the greatest disinfectant, one of the greatest disinfectants ever invented. We disclose every enforcement action against a broker, dealer, a firm, or against an individual if it amounts to over $100 in value. And I think that's an excellent policy. And I generally think historically it's true. The bank regulators have had—there has been an attitude and approach to problems that they should—that we shouldn't worry the public, and we should try and resolve these matters confidentially. But, I think we have probably erred too much on the side of keeping matters that investors and the public should be entitled to know about, and that have a great deterrent effect when they are disclosed, that we should make more use of the disclosure of these matters.

That is from Mr. Breeden, who not only is now Chairman of the SEC, but was the White House point man on the S&L cleanup when President Bush first took office.

Mr. Marshall Breger, the Chairman of the Administrative Conference of the United States, an independent agency that develops recommendations to improve the administration of Federal programs, including regulatory efforts, has stated on the issue of sunshine:

> The traditional approach to the oversight of financial institutions—namely heavy reliance on informal or "quite" procedures to achieve legislative and regulatory policy goals—was satisfactory because the workload was under control and there was no apparent systemic problems that needed to be solved. But when significant failures erupt among regulated entities, and the day-to-day workings of the federal agencies become front page news, traditional informal, non-adversarial, back-room approaches are no longer sufficient. Enhanced decisional regularity, procedural openness, and greater public accountability are now demanded. * * * I think it's clear that there has been a culture of non-disclosure in the banking world. * * * And I think that when you move forward * * * you should keep the requirement of the APA and the Sunshine Act up front and center. I think sunlight, to quote Justice Brandeis, is indeed the best disinfectant.

Mr. President, I think Mr. Breeden and Mr. Breger and Justice Brandeis are right. Sunlight is the best disinfectant. It is time that we shed some light on this bank examination process as it is focused on this enormous crisis in the savings and loan industry.

To summarize, Mr. President, we are spending billions and billions and billions of dollars to buy out hundreds and hundreds of S&L's. This failed process, this failed deregulation of the savings and loan industry, a failure that now is the greatest crisis and scandal in American financial history, that should be made public. And so far, Mr. President, it has not been.

The purpose of the amendment which I will be offering goes right to the question of sunshine in the S&L crisis.

Mr. President, I ask unanimous consent that a summary of the amendment and the amendment itself be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF PUBLIC DISCLOSURE AMENDMENT

In general, this amendment provides that if a bank or thrift is closed by the FDIC, or given public assistance, that the federal banking regulators will publish their prior examination reports if the deposit insurance fund is relying on taxpayer funds to meet its obligations. Furthermore, the FDIC is prohibited from entering into secret agreements to settle any claims arising from the failure of a bank or thrift if the deposit insurance system requires public funds.

The requirements of this amendment only apply when the deposit insurance system has received appropriated funds from the U.S. Treasury, or has received a loan from the Treasury, either directly or indirectly through the Federal Financing Bank or a Federal Reserve Bank.

If a bank or thrift goes out of business, but it does not need a rescue from the deposit insurance fund, the publication requirements of this amendment do not apply. Furthermore, even if a bank or thrift does require a rescue from the deposit insurance fund, the publication requirements do not apply, unless taxpayer funds are either directly or indirectly involved in the rescue.

This amendment would apply to all savings and loan that are either resolved by the Resolution Trust Corporation or whose remaining assets or liabilities are managed by the FSLIC Resolution Fund because both of those entities had used tens of billions of taxpayer money to meet their obligations.

The publication requirements of this amendment would not currently apply to banks, because the FDIC is not currently using taxpayer funds, and has not borrowed any money, directly or indirectly, from the Treasury. However, if the Administration's proposal for the FDIC to borrow $70 billion from the taxpayer becomes law, the publication requirements would be effective for as long as that potential taxpayer liability was outstanding.

If the regulators believe that publication of an examination report would seriously threaten the safety or soundness of any insured institution, they may delay the publication of an examination report for up to 6 months.

Under current law, important information related to a bank or thrift failure is unavailable to the public even when taxpayers' funds are used to cover the institution's losses. In many cases, settlements of lawsuits filed by the government against individuals and businesses involved in a financial institution's failure are sealed. In addition, the examination reports of financial institutions are also not available to the public for review. This material can provide valuable insight into why an institution failed and it became necessary to use tax dollars to cover the institution's losses.

AMENDMENT TO S. 1241

At the appropriate place in the bill, insert the following new title:

TITLE —PUBLIC INFORMATION CONCERNING FAILED DEPOSITORY INSTITUTIONS

SEC. 01. AVAILABILITY OF EXAMINATION REPORTS.

(a) PUBLIC AVAILABILITY OF INFORMATION.—The appropriate Federal banking agency shall publish and make available to the public reports of all examinations of each institution described in section 04, or of a holding company of such institution, that was performed by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, or any predecessor thereof, during the 5-year period preceding the transfer, failure, or receipt of funds described in section 04.

(b) DELAY OF PUBLICATION.—If the appropriate Federal banking agency makes a determination in writing that publication of an examination report would seriously threaten the safety or soundness of an insured depository institution, such agency may delay publication of the examination report for a reasonable period of time, not to exceed 6 months from the date of the transfer, failure, or receipt of funds described in section 04.

SEC. 02. PROHIBITION OF CONFIDENTIAL SETTLEMENTS.

Notwithstanding any other provision of law or any rule, regulation, or order issued thereunder, all agreements or settlements of claims between the Resolution Trust Corporation or the Federal Deposit Insurance Corporation and any other party, where such agreement or claim relates to an institution described in section 04, shall be published and made available to the public.

SEC. 03. APPLICABILITY.

The requirements of section 01 shall apply—

(1) to any insured depository institution that has had its assets or liabilities, or any part thereof, transferred to the FSLIC Resolution Fund or the Resolution Trust Corporation; and

(2) to any member of the Bank Insurance Fund, if during the fiscal year that the institution has either failed or received funds, as defined in section 04, the Bank Insurance Fund—

(A) has outstanding loans, or has otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve Bank; or

(B) has a negative fund balance; and

(3) to any member of the Savings Association Insurance Fund, if during the fiscal year that the institution has either failed or received funds, as defined in section 04, the Savings Association Insurance Fund—

(A) has outstanding loans, or has otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve Bank; or

(B) has a negative fund balance.

SEC. 04. DEFINITIONS.

For purposes of this title—

(1) an insured depository institution has "failed" if—

(A) the Federal Deposit Insurance Corporation or the Resolution Trust Corporation—

(i) has been appointed as conservator or receiver for such institution; or

(ii) has exercised the power to provide assistance under section 13(c) of the Federal Deposit Insurance Act or section 21A of the Federal Home Loan Bank Act; or

(B) a bridge bank has been established under section 11(i) of the Federal Deposit Insurance Act;

(2) an insured depository institution has "received funds" if the institution, its holding company, or an acquiring institution receives cash or other valuable consideration from the Resolution Trust Corporation or the Federal Deposit Insurance Corporation, whether in the form of a loan, a payment to depositors or other creditors, the assumption of liabilities, or otherwise; and

(3) the term "insured depository institution" shall have the same meaning as in section 3 of the Federal Deposit Insurance Act.

Mr. WIRTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent, as in morning business, to be permitted to introduce a bill and make a short statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska is recognized.

Mr. STEVENS. I thank the Chair.

(The remarks of Mr. STEVENS pertaining to the introduction of S. 1412 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wyoming is recognized.

Mr. SIMPSON. I thank the Chair.

(The remarks of Mr. SIMPSON pertaining to the introduction of S. 1400 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BOREN. Mr. President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma is recognized.

Mr. BOREN. I thank the Chair.

(The remarks of Mr. BOREN pertaining to the introduction of S. 1407, S. 1408, and S. 1409 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BOREN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. SYMMS. Mr. President, I ask unanimous consent that I might proceed, not to exceed 10 minutes, as though in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO GEN. A.M. GRAY, COMMANDANT, U.S. MARINE CORPS

Mr. SYMMS. Mr. President, there is a definition of leadership in a 1991 Drill & Ceremonies Manual of the Royal Canadian Air Force which reads as follows:

> Leadership depends on simple human qualities; above all a leader requires the confidence of his men and this is to be gained only by commanding their respect for his personal character and professional knowledge, his sense of justice and his common sense, his energy, keeness of forethought; his indifference to personal danger and readiness to share his men's hardships; his cheerfulness in the face of difficulties, the clearness and simplicity of his orders and his firm insistence on their execution; the pride he takes in his command.

Mr. President, those are fairly high standards. It is hard to imagine someone consistently meeting those standards. It is equally difficult to find an individual who not only is the epitome of those standards but infuses them in all who serve with and for him.

Today, Mr. President, it is my privilege to pay tribute to such a person, Gen. A.M. Gray, Commandant of the U.S. Marine Corps.

Mr. President, on June 28, which will be tomorrow, at the Marine Barracks in Washington, DC, the command of the Marine Corps will pass for the 29th time in our Nation's—and the corps'—history. It will be the last official ceremony of the 29th Commandant of the Marine Corps.

Mr. President, this occasion cannot pass this body without giving appropriate recognition to General Gray, whose career of dedicated military service equals that of his country's most renowned military leaders.

General Gray enlisted in the Marine Corps in 1950. In 41 years Private Gray rose to Commandant of all marines. He led marines at all levels, from a squad to a marine expeditionary force to a fleet marine force, prior to being appointed by the President to become Commandant of the Marine Corps. He saw combat first in Korea, initially as an enlisted infrantryman, and again as a second lieutenant forward observer for an artillery battery. In the Southeast Asia conflict he served over 3 years. His personal decorations for valor and outstanding service are numerous. There is no question, Mr. President, Al Gray is one of America's foremost warriors.

Mr. President, there is more to Al Gray than just being a warrior. That service alone is not what places him among the greatest leaders. What places him among the foremost military leaders is his love for his country, his love of his corps, his infectious leadership and, most importantly, his vision.

For 41 years at every level of organization in the Marine Corps, General Gray dedicated himself to providing this Nation a professional, highly trained, well disciplined corps capable of responding on a moment's notice to unanticipated crises throughout the world—a corps of warriors who can come from the sea in defense of our Nation and its interests.

Mr. President, we in the Congress never heard from General Gray that if the corps did not receive all they asked for they could not do the job. When he thought that they were trying to cut him too much, he said we cannot do it. But most of the time what we heard is "Whatever you feel you can give the Marine Corps, we will use it to accomplish our mission to the best of our ability." That is the attitude that is the epitome of General Gray. And he has instilled that mindset into all who have had the privilege to serve under his command.

Mr. President, today we have a Corps of Marines—as General Gray calls them, a corps of warriors—who know that they can get the job done. All one had to do was watch the events that took place in the Persian Gulf recently to see what the 1st Marine Division, the 2d Marine Division, and the important role that they played in the liberation of Kuwait City—the importance of the Marine aviation units, that they played in that event, in that crisis—to know that General Gray had a vision which could anticipate what the possibilities were going to be in the world. He recognized that this Nation would need a highly professional naval expeditionary force. He then set his marines on that course, and strove to articulate what that asset could mean to our country.

In all forums, here and elsewhere, no one in this country has been more eloquent in making the case for the Marine Corps' role as the Nation's leading force in readiness, the point of the spear in our national defense.

He reemphasized the Marine Corps back to basics in training, dedication, and professionalism. He ensured that every marine, from private to Commandant, was ready to receive our Nation's call in the time of crisis as well as in the future.

At the same time, General Gray dedicated his energy to ensuring the corps was ready to enter the 21st century. He looked forward into the future. He identified what would be needed to fight the future battles and win, and then set out to convince those in our Military Establishment what was needed in command, control, firepower, mobility, night capability, to ensure that the corps would come from the sea and win in the next century.

Finally, Mr. President, General Gray's vision foresaw that future conflicts would be met by combined forces and ensure that his Marine air-ground forces training with and were prepared to fight with all of the other U.S. forces in combined operations.

In short, General Gray prepared his marine warriors for all contingencies anywhere in the world, and Desert Storm was the test of his vision. The course of professionalism, readiness and capability was put on the line. The result is known by all.

We can thank the leadership of Gen. Alfred Gray for the corps we have today, and those others that have gone before him. The corps will miss such a leader, and this Nation will truly miss a great patriot who has magnificent vision.

Mr. President, I say thank you, General Gray, for a job well done; thank you for preparing those who follow to lead our sons and daughters in the tradition of the U.S. Marine Corps.

I also say to my colleagues, and I would also say to our President at the other end of Pennsylvania Avenue, we should continue to call on General Gray to help us make the tough decisions that we will continue to face in protecting our Nation's freedom and the freedom of our friends around the world.

Mr. President, I hope that this administration will call on this fine man for further duties in terms of preparing for the defense of peace, freedom, and liberty on this globe.

Mr. President, I yield the floor.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the following list of first-degree amendments be considered in the order of their sponsors' arrival in the Chamber, and that no other amendments or motions to recommit be in order prior to the disposition of these amendments except for those that the two managers have cleared for consideration.

The list of amendments is as follows:

The Glenn amendment on the Bureau of Prison study.

The Dixon amendment on international child abduction.

The Bryan and Metzenbaum amendment on insurance fraud.

The Durenberger amendment on child abuse registration.

The D'Amato amendment on increased penalties for illegal alien smugglers.

The Kasten amendment on rural crime.

The Kasten amendment on crimes against the elderly.

The Sanford amendment on limits on administrative spending.

The Bingaman amendment on juvenile border crime.

The Bingaman amendment on national commission to study border crime.

The PRESIDING OFFICER. Is there objection?

Mr. SYMMS. Reserving the right to object, Mr. President, I ask the distinguished floor manager: There is no time agreement then that would be placed on the bill or no other limitation after the disposition of this unanimous-consent agreement; is that correct?

Mr. BINGAMAN. That is correct.

Mr. SYMMS. I have no objection.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 415

(Purpose: To assist States, local governments, and community-based organizations in developing, operating, and coordinating effective programs to address and reduce the unique crime and drug-related problems faced by juveniles and their families living near our Nation's international borders)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself and Mr. DOMENICI, proposes an amendment numbered 415.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 172, between lines 23 and 24, insert the following:

"SPECIAL INTERNATIONAL PORTS OF ENTRY JUVENILE CRIME AND DRUG DEMAND REDUCTION GRANTS

"SEC. 233. (a) The purpose of this section is—

"(1) to provide additional Federal assistance and support to promising new programs that specifically and effectively address the unique crime and drug and alcohol related challenges faced by juveniles living at or near International Ports of Entry and in other international border communities, including rural localities;

"(2) to replicate and demonstrate these programs to serve as models that could be used, in whole or in part, in other similarly situated communities; and

"(3) to provide technical assistance and training to public and private organizations to implement similar programs.

"(b) The Administrator is authorized to make grants to, or enter into contracts with, public or private non-profit agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231, if the beneficiaries of the grantee's program are juveniles living at or near International Ports of Entry or in other international border communities, including rural localities. The Administrator shall have final authority over all funds awarded under this section.

"(c) Of the total amount appropriated for this subchapter, 5 per centum shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231 as described in section 233(a). Grants made under this section may be made for amounts up to 100 per centum of the cost of the programs.".

On pages 172, 173, and 174 redesignate sections 233, 234, 235, and 236 as sections 234, 235, 236, and 237, respectively.

Mr. BINGAMAN. Mr. President, the amendment I have sent to the desk on behalf of myself and Senator DOMENICI relates to the very real and growing problem of youth crime and drug abuse in a particular area of the United States that involves my home State of New Mexico.

The 2,000 mile border between the United States and Mexico is one of the fastest growing regions, both of this country, and of our neighboring country of Mexico. Between 1950 and 1980, the population of Mexico's six border States tripled from 3.7 million to 10.7 million. During the same 30-year period, our four United States-Mexico border States doubled in population from 19.8 million in 1950 to 41.9 million in 1980.

This enormous population growth has created many economic opportunities for residents on both sides of the border. Unfortunately, the growth has also led to an increase in a number of social and familial problems, including the serious problems of crime and illegal drug abuse. Auto theft, illegal immigration, and drug smuggling are among the more publicized crimes occurring along our borders. But more and more frequently, evidence is pointing toward a growth in other crimes. And more and more frequently, these crimes, whether robbery, arson, drug trafficking, or illicit drug use, involve young people, our Nation's school children.

This amendment is specifically targeted at these youth. First, it proposes that we add a modest and extremely beneficial grant program to the Antigang Grants Program authorized under title XV of the Youth Violence Act. The grants I envision here would help States, local government, and nonprofit organizations develop effective, innovative programs aimed at addressing the unique problems that border communities and their juvenile residents face in dealing with the temptations of crime and illegal drug and alcohol use.

Mr. President, I urge my colleagues to support the amendment.

The PRESIDING OFFICER. Is there further debate?

If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 415) was agreed to.

Mr. BINGAMAN. I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The notion to lay on the table was agreed to.

AMENDMENT NO. 416

(Purpose: To direct the Commission on Crime and Violence to include in its purpose and responsibilities, recommendations for improving coordination of international border crime control efforts and an examination of the impact increased international trade and border development has had on crime and violence in the United States, particularly with respect to youth)

Mr. BINGAMAN. Mr. President, I send another amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself and Mr. DOMENICI proposes amendment numbered 416.

Mr. BINGAMAN. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 196, line 5, after "State" strike "and" and insert a comma.

On page 196, line 5, after "Federal" insert the following: ", and international border".

On page 196, between lines 14 and 15, insert the following:

"(3) Examining the impact of changes in Federal immigration laws and policies and increased development and growth along United States international borders on crime and violence in the United States, particularly among our Nation's youth.".

On pages 196 and 197, redesignate paragraphs (3) through (6) as paragraphs (4) through (7), respectively.

Mr. BINGAMAN. Mr. President, this amendment deals with the same set of issues that the previous amendment dealt with. This amendment would direct that the Commission on Crime and Violence, which this overall bill creates, expand its purpose and its responsibilities to include the issue of border crime.

I believe this added duty could be a crucial part of the comprehensive and effective crime control plan that we are charging this Commission with developing. Certainly, the Commission's national blueprint for action in the 1990's will not be complete unless it addresses the growing national problem of crime along our international borders.

Mr. President, as you know, the Senate recently voted to extend to the

President the fast-track trade negotiating authority to negotiate an agreement with Mexico. This extension is expected to result in a free-trade agreement with Mexico within the next few years.

If such an agreement is entered into, undoubtedly, it will result in increased trade with our neighbor to the south, and it will further boost population expansion on both sides of the border.

We have taken steps to provide for the tremendous growth on the border. We are, for example, increasing ports of entry in my home State of New Mexico, I am pleased to say. While these ports of entry will allow my State to reap some of the potential benefits of trade with Mexico, they will also provide greater opportunity for criminal activity.

I am especially concerned about the increased potential for criminal activity, particularly as it involves children and teenagers in that border area.

In addition to providing for increased trade with Mexico and establishing new ports of entry, I believe we need to begin to provide for a social infrastructure on the border. We must begin to support the border States like New Mexico in their efforts to coordinate law enforcement along that border.

That is why I am proposing we add two additional duties to this Commission on Crime and Violence mandate. As part of its development of a comprehensive and effective crime plan, we should direct the Commission to, first of all, recommend improvements in the coordination of local, State, Federal, and international border crime control efforts; and second, to examine the impact of enhanced and/or new international trade agreements, immigration, and increasing numbers of international parts of entry on crime and violence in the United States.

In my opinion, these two additions are essential if the Commission's report is truly to be a blueprint for national action on crime control in the 1990's. We need to draw special attention to the problems facing youth along the international borders. These amendments will do that.

Mr. President, I believe this amendment, as with the previous amendment that was considered by the Senate, is a useful addition to the legislation we are considering.

I believe that we must draw special attention to the problems facing youth living along our international borders. In addition to providing educational opportunities and routine, basic, and preventive health care, we must also work to lessen the temptations of crime, drug trafficking, and drug use that our youth face. For this reason, I am proposing that we authorize, under title XV of the Youth Violence Act, a special category of grants specifically targeted as border communities and their young residents.

The grants I envision would allow States, local governments and nonprofit organizations to:

Establish model anticrime and antidrug and alcohol use programs for testing and replication; and

Specifically focus efforts at international ports of entry and other border towns, including those located in rural areas.

Mr. President, I believe these are both important amendments, and I urge my colleagues to support them.

The PRESIDING OFFICER. Is there further debate?

If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 416) was agreed to.

Mr. SANFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 417

(Purpose: To limit the amount of funds made available to state and local agencies and private entities under the authorities of the bill that may be used to pay administrative costs)

Mr. SANFORD. Mr. President, a couple of years ago, I noted, in following through with efforts we were making to control the drug problem, an official of my State had built himself quite an administrative substructure with the drug money that he obtained from the Federal Government.

Mr. President, I send the following amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. SANFORD] proposes an amendment numbered 417.

Mr. SANFORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . LIMITATION ON USE OF FEDERAL FUNDS FOR ADMINISTRATIVE COSTS.

(a) FIVE PERCENT LIMITATION.—(1) No more than 5 percent of any Federal funds received by a State or local government or agency or a private entity by virtue of the provision of and the amendment made by this Act described in paragraph (2) shall be used to pay administrative costs of the activity for which the funds are intended.

(2) The provision and amendment to which this subsection applies are—

(A) the provision for returning funds to the States in section 1301(e)(3); and

(B) section 1005(c) (3) and (7) of the National Narcotics Leadership Act of 1988, as amended by section 1702.

(b) TEN PERCENT LIMITATION.—(1) No more than 10 percent of any Federal funds received by a State or local government or agency or a private entity by virtue of an amendment made by this Act described in paragraph (2) shall be used to pay administrative costs of the activity for which the funds are intended.

(2) The amendments to which this subsection applies are—

(A) sections 231(c), 233, and 234 of the Juvenile Justice and Delinquency Prevention Act of 1974, as added by section 1511; and

(B) the authorization of appropriations in section 1001(a)(7) of the Omnibus Crime Control and Safe Streets Act of 1968, as added by section 1601.

Mr. SANFORD. Mr. President, my amendment places ceilings on the amounts of funds available for administrative purposes under the various provisions of the Biden bill.

Four areas are affected by this amendment, which is intended to ensure that the moneys provided to the States are used to the greatest extent possible for the programs themselves, and not to further layer and encumber the bureaucracy.

Specifically, this amendment limits to 5 percent the amount of funds available for administrative purposes for regional prisons. It limits to 5 percent the amount of funds available to the States for administrative purposes for major drug-related emergency grants.

In addition, it limits to 10 percent the amount of funds available for administrative purposes for antiaging grants, programs which include education, prevention, treatment, enforcement, reduced juvenile drug trafficking and gang prevention, and the use and sale of illegal drugs by juveniles.

Finally, the amendment limits to 10 percent the amount of funds available to the States for rural law enforcement agencies.

I believe that it is not necessary to provide large sums for administrative purposes. The States can handle that. I recognize that to limit this fund too severely invites debate away from the real point at issue. I would have preferred a 2-percent limit. This amendment says that these programs are important and that there needs to be assurances that the focus is on the program itself. Far too often we have found that what is listed in the name of administrative costs turns out to be more than a matter often ensuring some kind of job security or administrative entrenchment. Such activity neither benefits the program nor the people who need to participate in that program the most.

I want these programs to succeed and I want them to be available to as many people as possible. This amendment will, I hope, move in the direction of achieving that goal.

Mr. President, I understand that this amendment has been cleared on both sides. I thank the floor managers of the bill for their support of this proposal.

I yield the floor.

The PRESIDING OFFICER. Is there further debate? Is there objection? Without objection, the amendment is agreed to.

So the amendment (No. 417) was agreed to.

AMENDMENT NO. 418

(Purpose: To protect insurance consumers from fraudulent activities in connection with the business of insurance)

Mr. BRYAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nevada [Mr. BRYAN], for himself and Mr. METZENBAUM, proposes an amendment numbered 418.

Mr. BRYAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new title:

TITLE —INSURANCE CONSUMER PROTECTION

SEC. 01. SHORT TITLE.

This title may be cited as the "Insurance Consumer Protection Act."

SEC. 02. UNLAWFUL ACTIVITIES BY OR AFFECTING PERSONS ENGAGED IN THE BUSINESS OF INSURANCE.

"(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

§ 1033. Crimes by or affecting persons engaged in the business of insurance"

"(a) Whoever, in connection with reports or documents presented to a State insurance regulatory official or agency, or an agent or examiner duly appointed by such agency or official, by any person engaged in the business of insurance whose activities affect interstate commerce, knowingly makes any false statement or report, or willfully overvalues any land, property, or security, for the purpose of influencing in any way the actions of a State insurance regulatory official or agency, or any agent or examiner duly appointed to examine the affairs of such person, shall be fined not more than $1,000,000 or imprisoned for not more than thirty years, or both.

"(b) Whoever, acting as or being an officer, director, agent, or employee of, or connected in any capacity with, any person engaged in the business of insurance whose activities affect interstate commerce, embezzlers, abstracts, purloins, or willfully misappropriates any of the moneys, funds, premiums, credits, or other property of such person shall be fined not more than $1,000,000 or imprisoned not more than thirty years or both; but if the amount or value embezzled, abstracted, purloined, or misappropriated does not exceed $100, such penalty shall be a fine of not more than $1,000 or imprisonment of not more than one year, or both.

"(c) Whoever, acting as or being an officer, director, agent, or employee of, or connected in any capacity with any person engaged in the business of insurance whose activities affect interstate commerce, makes any false entry in any book, report, or statement of such person with intent to injure or defraud such person, or any other company, any other body politic or corporate, or any individual person, or to deceive any officer, employee, or agent of such person, or any State insurance regulatory official or agency, or any agent or examiner duly appointed to examine the affairs of such person, shall be fined not more than $1,000,000 or imprisoned not more than thirty years, or both.

"(d) Whoever, by threats or force, or by any threatening letter or communication corruptly influences, obstructs, or impedes, or endeavors to corruptly influence, obstruct, or impede, the due and proper administration of the law under which any proceeding is pending before a State insurance regulatory official or agency, or any agent or examiner duly appointed to examine the affairs of a person engaged in the business of insurance, shall be fined not more than $250,000 or imprisoned not more than ten years, or both.

"(e)(1) Except with the written consent of the authorized official of a State insurance regulatory agency, which consent specifically refers to this subsection—

"(A) any person who has been convicted of an offense under this section, upon such conviction becoming final, may not participate directly or indirectly in the business of insurance; and

"(B) a person engaged in the business of insurance may not permit such participation.

"(2) Whoever knowingly violates paragraph (1) shall be fined not more than $1,000,000 for each day of such violation or imprisoned not more than five years, or both.

"(f) Nothing in this section shall be construed as indicating an intent on the part of Congress to occupy the field in which the provisions of this section operate to the exclusion of State laws on the same subject matter, nor shall any provision of this section be construed as invalidating any provision of State law unless such provision is inconsistent with any of the provisions of this section.

"(g) The term 'business of insurance' has the meaning of that term under the McCarran-Ferguson Act (15 U.S.C. 1011 et seq.).".

(b) CONFORMING AMENDMENT.—The analysis of chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1032 the following new item:

"1033. Crimes by or affecting persons engaged in the business of insurance.".

SEC. 03. MISCELLANEOUS AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) TAMPERING WITH STATE INSURANCE REGULATORY PROCEEDINGS.—Section 1515 (a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by adding "or" at the end of subparagraph (C); and

(3) by adding at the end the following new subparagraph:

"(D) a proceeding before any State insurance regulatory official or agency, or any agent or examiner duly appointed to examine the affairs of any person engaged in the business of insurance;".

(b) LIMITATIONS.—(1) Section 3293 of title 18, United States Code, is amended by inserting "1033," immediately after "1014,".

(2) The amendment made by this subsection shall apply to an offense committed before the date of enactment of this Act, if the statute of limitations applicable to that offense under chapter 213 of title 18, United States Code, has not run as of such date.

(c) OBSTRUCTION OF CRIMINAL INVESTIGATIONS.—Section 1510 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) Whoever, acting as or being an officer, director, agent, or employee of, or connected in any capacity with, a person engaged in the business of insurance notifies, with intent to obstruct a judicial proceeding directly or indirectly, any other person about the existence or contents of a subpoena for records of that person engaged in the business of insurance, or information that has been furnished to a Federal grand jury in response to that subpoena, shall be fined not more than $250,000 or imprisoned not more than five years, or both.

"(2) As used in this subsection, the term 'subpoena for records' means a Federal grand jury subpoena for records that has been served relating to a violation of, or a conspiracy to violate, section 1033.".

(d) CRIMINAL FORFEITURE.—Section 982(a)(2) of title 18, United States Code, is amended by inserting "or section 1033, affecting a person engaged in the business of insurance," immediately after "financial institution,".

Mr. BRYAN. Mr. President, as part of our efforts to address our Nation's crime problem, this amendment will combat fraud and corruption in our Nation's insurance industry. Insurance fraud is a growing problem, and has now become one of the key areas of concern for State insurance regulators.

As chairman of the Commerce Committee's Consumer Subcommittee, I began holding hearings earlier this year to examine the financial health of our Nation's insurance industry. This examination was begun in response to the growing number of failures in the insurance industry. Over the past decade, insurance company failures have grown from an average of 4 to close to 20 per year. These failures have amounted to billions of dollars of losses, which are ultimately borne by policyholders, taxpayers, and consumers, through lost investments, bailouts, and increased rates.

In just the last 2 months, we have witnessed four of the largest failures in the history of the insurance industry. These failures include the takeovers of the Executive Life Insurance Co. of California and its subsidiary, Executive Life of New York; the First Capital Insurance Co. located in California; and the Fidelity Bankers Insurance Co. located in the State of Virginia. These three companies combined represent over $80 billion of business, and involve more than 800,000 policyholders. Evidence from hearings held in the Commerce Committee show that these 800,000 policyholders who are located in all 50 States, are now at considerable risk of losing their investments and life-long savings.

In March of last year, a study was released by the House Energy and Commerce Subcommittee on Oversight and Investigations on insolvency in the insurance industry, the study, which entailed a 3-year investigation of the industry, found that company fraud has become one of the primary contributing factors to insolvency in the industry. Such fraud includes deliberate misrepresentations to consumers and policyholders regarding the value of policies and the financial condition of companies, falsification of financial records, and submission of false financial statements to State regulators—all of which severely complicate the ability of State officials to monitor the financial condition and operations of insurance companies.

The insurance industry, like many financial industries, has experienced tremendous growth and change over the past three decades. What used to be primarily a parochial business has now developed into a major interstate and international enterprise. As a result, the fraud that exists today in the insurance industry is not confined to simple and isolated incidents that can be easily detected by local officials, but involves very complex multistate and international schemes. Since the adoption of the MCCARRAN-FERGUSON Act in 1945, the regulation of insurance companies has been reserved to the States. The States themselves, however, have recognized that the current multistate regulatory structure is an enormous obstacle to their ability to guard against complex fraudulent operations that extend across State lines, and have requested introduction of legislation such as the amendment I am offering today. A few notable examples of these fraudulent interstate schemes are the failures of the Beacon & Northwestern Security Insurance Co. of the State of North Carolina.

In 1984, the North Carolina State Insurance Department moved to take over the Beacon Insurance Co., which was in a seriously financially impaired condition. Upon the takeover of the company, it was discovered that the company was actually owned by a Bermuda company, which, in turn, was owned by a Nebraska company. The company was managed by a firm in Dallas, TX, and had only one shareholder. The company also failed to report to State regulators millions of dollars of business it wrote in London in the required time period. The company is now insolvent by over $100 million. The company's creditors are located throughout the country and the world. State regulators are faced with major legal and financial difficulties in the prosecution of any official responsible for the company's downfall.

Another example, Northwestern Security, involved a company that was domiciled in the State of North Carolina, but was controlled by two shell corporations located in the States of Florida and California. The company was managed by officials in California, who transferred over $10 million from the company almost immediately after they acquired the company.

Regulators also have been unable to account for millions of dollars that were in the hands of company officials. Like the Beacon case, regulators face major obstacles in the prosecution of any of the company officials.

Because of the difficulties faced by regulators in pursuing these fraudulent operations, they have now requested the assistance of the Federal Government. They have recognized the need for uniform criminal laws that specifically address insurance fraud, and are in strong support of the legislation we are introducing today.

Mr. President, I ask unanimous consent that a letter written by the National Association of Insurance Commissioners, a body that consists of insurance regulators in each of the 50 States be printed in the RECORD. This particular letter is addressed to me, dated June 25, 1991, signed by the president of the National Association of Insurance Commissioners, Mr. James E. Long, and by its vice president, Mr. William H. McCartney.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION
OF INSURANCE COMMISSIONERS,
Washington, DC, June 25, 1991.

Hon. RICHARD H. BRYAN,
U.S. Senate, Washington, DC.

DEAR SENATOR BRYAN: We write to you, as the officers of the National Association of Insurance Commissioners (NAIC) in support of your amendment to S. 1241 which would establish as a Federal criminal offense certain types of insurance fraud that State regulators have been found to be key contributors to some insurance insolvencies.

All of us who have been charged with the protection of insurance consumers have seen the damage that can be suffered by consumers at the hands of unscrupulous operators, con artists who ply their trade from board room, office penthouse, or agency. The business of insurance, in which money is exchanged for little more than a promise to pay later, seems to attract these criminals.

While State insurance regulators, in cooperation with State and Federal law enforcement officials, have pursued the perpetrators of insurance fraud using both State and Federal criminal statutes, we have come to realize that existing Federal and State laws addressing the recurring problem of deceptive financial reporting and outright theft in the insurance business do not provide the American consumer with adequate protection. The weakness of the existing body of law is clear; there simply is no statute which:

specifically addresses insurance fraud, and prescribes strong criminal penalties, and

can be used in the prosecution of complicated, multi-state and international schemes, and

provides investigators and prosecutors with a statute of limitations which provides enough time for the preparation of a solid case.

Your amendment to the crime bill would fill all of these gaps in existing law, and would do much to protect American consumers from unprincipled and corrupt thieves who have the power to steal billions of dollars with the stroke of a pen. We commend you for your intitiative in this worthy effort.

Sincerely,

JAMES E. LONG,
NAIC President, Commissioner of Insurance, North Carolina.
WILLIAM H. MCCARTNEY,
NAIC Vice President, Director of Insurance, Nebraska.

Mr. BRYAN. I might also add parenthetically that I visited with Mr. McCartney just this afternoon, and he orally reinforced the statements that are contained in the letter, which is now a part of the RECORD, in expressing the strong support of the National Association of Insurance Commissioners for the amendment which Senator METZENBAUM and I are offering this evening.

The legislation establishes stiff Federal criminal penalties in an attempt to deter and guard against company fraud. The bill specifically provides criminal penalties for knowingly filing false financial statements; the embezzlement or theft of company funds; the falsification of company records with the intent to defraud the company, policyholders, and creditors; and the criminal obstruction of State regulatory proceedings. Under the terms of this amendment, any person found guilty of submitting false statements, embezzlement, or falsifying company records, would be subject to a fine of up to $1 million, and up to 30 years of imprisonment.

In addition, the legislation would ban any individual who has been convicted of any of the offenses under the statute from engaging in any insurance related activities, except with the specific approval of the authorized State regulator. This provision is designed to prevent scam operators from jumping from company to company in one State to another. The legislation also provides for the forfeiture of any assets or moneys fraudulently obtained by company officials.

Mr. President, I believe this legislation provides effective new tools to deter and prosecute insurance fraud. It is strongly supported by State insurance regulators and is very much needed for the protection of consumers. I urge all of my colleagues to join with us in supporting this amendment.

Mr. President, I also ask unanimous consent that letters of support be sent on behalf of the insurance commissioner in the State of California, the superintendent of insurance in the State of New York, the insurance commissioner in the State of South Carolina, the insurance commissioner in the State of Iowa, the insurance commissioner in the State of Missouri, and the insurance commissioner in the State of Wyoming also be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

INSURANCE COMMISSIONER,
Sacramento, CA, June 25, 1991.

Hon. RICHARD BRYAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BRYAN: On behalf of millions of California insurance consumers, I am pleased to add my voice of support to your efforts to broaden and strengthen Federal criminal sanctions against insurance fraud.

Your amendments to the Federal crime bill currently before the Senate, embodying proposals from the National Association of Insurance Commissioners, would strengthen our hand at the state level by imposing penalties worthy of the crimes involved, and by acknowledging the complex interstate nature of the acts certain sophisticated "white collar" wrongdoers commit.

I hope your colleagues will come to the aid of the insurance commissioners in their own states by supporting this legislation.

Sincerely,

JOHN GARAMENDI.

STATE OF NEW YORK
INSURANCE DEPARTMENT,
New York, NY, June 25, 1991.

Hon. RICHARD BRYAN,
Chair, Subcommittee on Consumer Protection, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR SENATOR BRYAN: On behalf of Governor Cuomo and the New York Insurance Department I commend and support your efforts to amend the pending legislation on federal crimes and criminal procedure to specifically cover offenses committed in connection with the business of insurance. New York was pleased to chair the NAIC Task Force that drafted the proposal from which you have adapted your amendment.

These provisions, if enacted, would strengthen and complement our ongoing efforts to deter and detect financial crimes committed against insurers, producers and others in the business of insurance to the detriment of honest policyholders, claimants and insurance businesses. The amendments would expressly outlaw such offenses as the knowing filing of false financial statements with state insurance regulators, embezzlement of insurance company monies, falsification of insurance corporate records with intent to defraud, and obstructing state insurance regulatory proceedings. In addition to imposing lengthy jail terms and fines up to one million dollars, the amendments would generally bar insurance related activity by anyone convicted of those offenses. This legislation also lengthens the applicable statute of limitations to afford federal prosecutors sufficient time to fully investigate and prepare for prosecutions that frequently involve numerous and complex multi-state transactions.

In our view, existing federal laws on mail and wire fraud are inadequate to fully deter these kinds of crimes. Moreover, the current five-year statute of limitations is insufficient to enable prosecutors to unravel complicated schemes perpetrated across state and often international borders.

Passage of these amendments would enable our Department and other state regulators, along with the NAIC, to work effectively with the Justice Department and United States Attorneys in this critical area. Insurer solvency and consumer satisfaction are both too important to be subverted by fraud, theft and obstruction. These amendments will materially assist state insurance regulators in meeting their responsibilities to achieve both goals.

Sincerely,

SALVATORE R. CURIALE,
Superintendent of Insurance.

STATE OF SOUTH CAROLINA
DEPARTMENT OF INSURANCE,
Columbia, SC, June 25, 1991.

Hon. STROM THURMOND,
U.S. Senate, Senate Office Building, Washington, DC.

DEAR SENATOR: As the Chief Insurance Commissioner of South Carolina and as a member of the National Association of Insurance Commissioners, I would like to voice my strong support for the enactment of a federal statute making certain types of fraudulent activities conducted in connection with the business of insurance a federal crime. It is my understanding that an amendment to S. 1241, which is now being considered by the United States Senate, will be offered in the very near future by Senator Richard H. Bryan of Nevada. We hope that you will actively support the adoption of this amendment.

Senator, the NAIC adopted a resolution at its spring meeting in Charleston, West Virginia, endorsing this proposal. We believe the passage of a federal statute will better address the multi-state nature of many of the fraudulent activities committed by an officer, director, agent or employee of an insurance company engaging in interstate commerce.

We thank you for your consideration of this matter, and if I can ever be of assistance to you, please do not hesitate to write or call.

Respectfully,

JOHN G. RICHARDS,
Chief Insurance Commissioner.

INSURANCE DIVISION,
IOWA DEPARTMENT OF COMMERCE,
June 25, 1991.

Hon. Senator CHARLES GRASSLEY,
Hart Senate Building,
Washington, DC.

DEAR SENATOR GRASSLEY: I write to you in support of an amendment to S. 1241 which would establish as a federal criminal offense certain types of insurance fraud that state regulators have found to be key contributors to some insurance insolvencies (offered by Senator Bryan).

All of us who have been charged with the protection of insurance consumers have seen the damage that can be suffered by consumers at the hands of unscrupulous operators, con artists who ply their trade from board room, office penthouse, or agency. The business of insurance, in which money is exchanged for little more than a promise to pay later, seems to attract these criminals.

While state insurance regulators, in cooperation with state and federal law enforcement officials, have pursued the perpetrators of insurance fraud using both state and federal criminal statutes, we have come to realize that existing federal and state laws addressing the recurring problem of deceptive financial reporting and outright theft in the insurance business do not provide the American consumer with adequate protection. The weakness of the existing body of law is clear: there simply is no statute which:

Specifically addresses insurance fraud; and

Prescribes strong criminal penalties; and

Can be used in the prosecution of complicated, multi-state and international schemes; and

Provides investigators and prosecutors with a statute of limitations which provides enough time for the preparation of a solid case.

The Bryan amendment to the crime bill would fill all of these gaps in existing law, and would do much to protect American consumers from unprincipled and corrupt thieves who have the power to steal billions of dollars with the stroke of a pen. I would respectfully ask for your support of this amendment.

Sincerely,

DAVID J. LYONS,
Commissioner of Insurance.

STATE OF MISSOURI DEPARTMENT OF
ECONOMIC DEVELOPMENT, DIVISION
OF INSURANCE,
Jefferson City, MO, June 26, 1991.

Hon. JOHN C. DANFORTH,
U.S. Senate,
Washington, DC.

DEAR SENATOR DANFORTH: It is my understanding that Senator Richard H. Bryan of Nevada may offer an amendment today to S. 1241 establishing as a federal criminal offense certain types of insurance fraud. I urge you to support that amendment to bar the types of activities which have been found by state regulators to be key contributors to insurance insolvencies.

All state regulators charged with the protection of the insurance consumers have seen the damage that can be suffered by consumers at the hands of unscrupulous operators who are merely glorified con artists who ply their trade from board rooms rather than the streets. The business of insurance is based upon an act of faith in which money is exchanged for a promise to pay later, an activity which seems to attract these criminals.

While state insurance regulators, in cooperation with state and federal law enforcement officials, have pursued the perpetrators of insurance fraud using both state and federal criminal statutes, we have come to realize that existing federal and states laws addressing the recurring problem of deceptive financial reporting and outright theft in the insurance business do not provide the American consumer with adequate protection. The weakness of the existing body of law is clear; there simply is no statute which:

Specifically addresses insurance fraud; and

Prescribes strong criminal penalties; and

Can be used in the prosecution of complicated, multi-state and international schemes; and

Provides investigators and prosecutors with statute of limitations which provides sufficient time for the preparation of a solid case.

I believe that Senator Bryan's proposed amendment to the crime bill would fill all the gaps in the existing law, and would do much to protect American consumers from unprincipled and corrupt thieves who have the power to steal billions of dollars with nothing but their autograph.

Your support of Senator Bryan's amendment would do much to protect your fellow Missourians and all other insurance consumers for fraudulent insurance activities. I would be happy to discuss the amendment with you or your staff members.

Sincerely,

LEWIS E. MELAHN,
Director.

STATE OF WYOMING,
INSURANCE DEPARTMENT,
Cheyenne, WY, June 25, 1991.

Hon. ALAN K. SIMPSON,
U.S. Senate,
Dirksen Building,
Washington, DC.

DEAR ALAN: At a recent meeting of state insurance commissioners, I actively supported the proposal to solicit legislation that would make certain types of insurance fraud a federal offense. After what, we have been going through with the liquidations of Oxford, Commerical General and Laramie Insurance, it is painfully obvious that state statutes are simply inadequate when attempting to pursue the crooks that were involved in these kinds of inter-state operations.

Senator Richard Bryan has proposed an amendment to S. 1241 that appears to ad-

> dress the very problems that we have experienced. It purports to specifically address insurance fraud, prescribes strong criminal penalties, is appropriate to complicated, multi-state schemes, and provides a statute of limitations long enough to prepare a solid case. I believe that the proposal is essential and strongly urge that you give it your closest attention. It's adoption will be a major help to us here in Wyoming and has the support of the vast majority of insurance commissioners throughout the country.
>
> Best personal regards and stay in good health, old friend. We need you.
>
> Sincerely,
>
> KEN ERICKSON,
> *Commissioner.*

Mr. METZENBAUM. Mr. President, will the Senator yield?

Mr. BRYAN. If the Senator will suspend a moment, I would like, before he takes the floor, to acknowledge publicly, to Members of this body as well as others who might be interested, the outstanding work that Senator METZENBAUM has performed over many years of service in inquiring into the operation of insurance companies and other related activities and the very strong and active participation and support we have had in drafting the amendment which we ask consideration for this evening.

His support has been appreciated. It has been in the public interest. I think insurance policyholders, taxpayers and ratepayers all over America, Mr. President, will benefit as the result of the effort Senator METZENBAUM has put into this particular amendment.

Mr. METZENBAUM. Mr. President, I am pleased for the kind comments of my colleague from Nevada. It is very complimentary. It is a privilege to have had the opportunity to work with him in connection with matters of insurance, as well as so many other matters. He brings a wealth of knowledge to this subject and with his background as a former Governor of his State I think he understands the problem as well or better than any of us here in the Senate.

I am very pleased to join him as a cosponsor of this legislation that will impose Federal criminal sanctions for insurance fraud. For the first time Federal prosecutors will be given the needed tools to help deter insurance fraud and protect the millions of policyholders who purchase life, health, and property and casualty insurance policies.

The Insurance Consumer Protection Act, is a step in the right direction in our fight against white-collar crime. This amendment recognizes that in order to stop insurance fraud by insiders you must go after the executives, directors, officers, agents, and others who participate in fraudulent schemes, loot insurance companies, and leave consumers holding an empty bag.

Federal law enforcement officials now believe that insider insurance fraud is the No. 1 trend in white-collar crime. One has only to pick up a newspaper to read about the latest insurance scandal. Sophisticated white-collar insurance swindlers use a variety of fraudulent schemes to practice their trade, including overvaluing assets, investing in questionable deals, setting up bogus insurance companies, embezzling funds, filing false financial statements, and bribing State officials.

White-collar insurance fraud is a nationwide problem.

In Wyoming, a former insurance executive rented assets from another insurance company for a short time to give State regulators the illusion of solvency.

In Florida, the founder of an insurance company masterminded a scheme to drive a competitor out of business by saddling the competitor with hundreds of bogus life policies.

In Texas, a former insurance executive used a health benefits scam to defraud churchworkers of millions of dollars. The executive set up a health plan for church employees nationwide, then siphoned more than $1.6 million for himself—plus a salary and expense account.

In North Carolina, a former owner and chairman of an insurance company was indicted in State and Federal courts on 90 counts of bribery, and mail and bank fraud. The fraud involved the alleged theft and misapplication of more than $37 million in insurance premiums over 5 years.

And the list could go on and on.

According to John Saxton, former chairman of the Texas State Board of Insurance, virtually anyone can go out and start an insurance company. In Mr. Saxton's words:

> I could go out and start an insurance company, * * * sell you the best-looking policy in the world at half what it is being sold by another company, * * * generate all this cash flow, and I can run $10 million through my company before the State board ever knew what was going on and be in Switzerland and gone * * *.

Like the savings and loan industry, the insurance industry has suffered many insolvencies as a result of fraud. Last year a special grand jury investigated 60 belly-up Texas insurers and found fraud in half of them.

Stories of executives who paid themselves kingly salaries, while they lavished policyholders' money on outlandish business deals to benefit themselves and their friends, bear an alarming similarity to what happened in the S&L debacle.

Efforts by State regulators to monitor fraud in the insurance industry have been an abysmal failure. State regulation of insurance varies from State to State, and is often handicapped by outmoded equipment, improperly trained personnel, and meager budgets. Fewer than half of the States have antifraud units. Less than 6 percent of the taxes that States collect on premiums—this is an amazing figure—less than 6 percent of the taxes that States collect on premiums is spent on insurance regulation, and fewer than half the States conduct on-site financial examinations at least every 3 years.

According to the GAO:

> When State insurance laws and regulations are violated, or when companies become insolvent, there is very little apparent investigation and enforcement to punish offenders * * *. State regulators do not aggressively look for the causes of wrongdoing and gross mismanagement, or issue sanctions and penalties when they are found. State law enforcement also seems lax in prosecuting insurance violations * * *.

To make matters worse, available penalties are out of step with the needs of today. Persons responsible for the insolvency of an insurance company usually face only the prospect of civil litigation arising from their breach of duty. And that is not very significant. Those suits, even when brought, are hampered by problems of proof and documentation. Without adequate enforcement and suitable penalties, there is little reason for potential violators to follow the law.

With respect to State criminal penalties, the attorney general of Louisiana observes that:

> It is absolutely amazing, even astounding, that a person who robs a convenience store—in Louisiana—with a gun, stealing a few dollars, may be sentenced to 99 years in prison. Yet, one who robs with a fountain pen and computer depriving our economy of millions of dollars, will suffer less than 3 years under the criminal provisions in both our insurance and banking codes.

Moreover, the National Association of Insurance Commissioners [NAIC] acknowledges that State law enforcement agencies do not have the capability to conduct complex nationwide or foreign investigations and pull together a single prosecution. For that reason, the Nation's insurance commissioners support this amendment, as has already been pointed out by my colleague from Nevada. They cite the case of Beacon Insurance Co. as an example of why this amendment is necessary.

The Beacon Insurance Co., in rehabilitation since 1984, had its domestic office in Winston-Salem, NC, and was owned by a Bermuda company which, in turn, was owned by a Nebraska company with its only shareholder located in Texas. Beacon was managed by a firm in Dallas. Beacon opened an underwriting agency in London, which wrote millions of dollars of business which was not reported on its financial statements in the required timely manner. Beacon is now insolvent by more than $100 million and its creditors are located around the country and across the globe. Prosecution of anyone responsible for the company's downfall in a State court would require extradition on a massive scale, and could fail due to jurisdictional problems.

Current Federal law enforcement efforts are also of little help. Looting an insurance company is not itself a Federal crime, and the 5-year statute of limitations on mail and wire fraud has often run before a case can be successfully developed.

Fearing that white-collar insurance crooks are slipping through the patchwork of State laws, the Justice Department recently created a special insurance fraud prosecution unit. The Justice Department has also organized five insurance task forces in troubled areas around the country. The Insurance Consumer Protection Act will go a long way in giving Federal prosecutors the tools they need in their fight against white-collar crime in the insurance industry.

The Insurance Consumer Protection Act establishes Federal criminal penalties for:

Knowingly filing false financial statements and reports;

Embezzlement or theft of company funds;

Falsification of company records with the intent to defraud the company, policyholders and creditors; and

Criminal obstruction of State regulatory proceedings.

Penalties under the bill range from $250,000 to $1 million in fines and/or 30 years imprisonment. In addition, the legislation prohibits individuals who have been convicted of any offense under the act, or any criminal offense, from engaging in the insurance business except with the specific approval from State insurance regulators.

I enthusiastically support this bill because it will help stop white-collar fraud in the insurance industry. It's time to send a clear and unmistakable message to the swindlers, con men, and crooks who would pillage our Nation's insurance companies that their fraudulent activities will no longer be ignored or tolerated.

The Insurance Consumer Protection Act strikes a crippling blow to white-collar crime in the insurance industry. We call ill-afford to stand by and watch another financial industry destroyed.

I again congratulate Senator BRYAN for his leadership in bringing this amendment forward and urge my colleagues to join me in supporting it.

The PRESIDING OFFICER. Is there further debate? Is there objection to the amendment? The Senator from Kentucky.

Mr. FORD. Mr. President, I am not opposed to this amendment that is being proposed now by the Senator from Nevada and the Senator from Ohio. Having been Governor, as my good friend from Nevada, I understand the problems from a State level nearly as well as he does. One thing I am afraid we are getting here is the imagery of the insurance industry. I have heard no kind words said about the insurance industry at all; maybe it is all bad. But out of 20 insurance companies that are insolvent annually, as I heard the Senator from Nevada say, can anyone tell me how many insurance companies are in business today? Thousands?

Mr. METZENBAUM. About 5,000.

Mr. FORD. Five thousand; 5,000 insurance companies, at least. They are doing better than banks. A lot better than savings and loans.

So, Mr. President, I am not going to object to the amendment. I think it is fine, and I think if we had this kind of law as relates to savings and loans, maybe we would have saved something there. But with 5,000 or more insurance companies, and the possibility of 20 having problems during a year, that, it seems to me, is something that ought to be said rather than no kind words: There are no good insurance companies, they are all bad, we have to get after them, we have to stick it to them.

That is well and good but at some point along the way you ought to say there are some good ones. We have some good savings and loans. Not one went bad in Kentucky. Not one bank went bad in Kentucky, yet we can paint with the broad brush with savings and loans and banks.

So I hope with the imagery being left here by my colleagues, we would only say we want to prevent anything else from happening. I think this is getting there, before we let the horse out of the gate. But I still think there should be at least some kind words said about some good insurance companies that are out there doing a good job, fighting every day to protect the individuals. They do not make as much money as they used to. They have enough in reserve that they have been able to be strong. Some are stock companies, some are mutual companies, but all of them are doing very well.

As I say, I am not objecting to the amendment that is before us, but just trying to prevent a tendency that we get around here, that once we bring an amendment it is all downhill. We say there are no good ones out there. Every once in a while you find a bad apple on a tree but you get several bushels of apples on a tree.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I would say to my colleague from Kentucky, I agree with him. I think in dealing with this amendment I do not think anybody wants to suggest that all insurance company executives are swindlers or engaging in improper conduct. Certainly many fine insurance companies are in this country, and many men and women engaging in the insurance industry are doing a fine job. They add much to our economic strength in this country.

I think this amendment is only directed at the bad apples, just to see that the bad apples pay an appropriate penalty. But the Senator from Kentucky's point is very well taken and I am glad he made it.

The PRESIDING OFFICER. Is there further debate? If there be no further debate the question is on agreeing to the amendment.

The amendment (No. 418) was agreed to.

Mr. BRYAN. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 419

(Purpose: To require any person who is convicted of a State criminal offense against a victim who is a minor to register a current address with law enforcement officials of the State for 10 years after release from prison, parole, or supervision)

Mr. DURENBERGER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER], for himself and Mrs. KASSEBAUM, proposes an amendment numbered 419.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following:

SEC. . CRIMES AGAINST CHILDREN REGISTRATION ACT.

(a) SHORT TITLE.—This section may be cited as the "Crimes Against Children Registration Act".

(b) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—

(A) STATE GUIDELINES.—The Attorney General shall establish a State program and guidelines requiring any person who is convicted of a criminal offense against a victim who is a minor to register a current address with a designated State law enforcement agency for 10 years after release from prison, parole, or being placed on supervised release.

(B) DEFINITION.—For purposes of this section, the term "criminal offense against a victim who is a minor" includes—

(i) kidnapping of a minor, except by a noncustodial parent;

(ii) false imprisonment of a minor, except by a noncustodial parent;

(iii) criminal sexual conduct toward a minor;

(iv) solicitation of minors to engage in sexual conduct;

(v) use of minors in a sexual performance; or

(vi) solicitation of minors to practice prostitution.

(2) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, OR SUPERVISED RELEASE.—An approved State registration program established by this section shall contain the following requirements:

(A) NOTIFICATION.—If a person who is required to register under this section is released from prison, paroled, or placed on supervised release, a State prison officer shall—

(i) inform the person of the duty to register;

(ii) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing within 10 days;

(iii) obtain a fingerprint card and photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(iv) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(B) TRANSFER OF INFORMATION TO STATE AND THE NCIC.—The officer shall, within 3 days after receipt of information under subparagrpah (A), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the State law enforcement system and National Crime Information Center computer networks and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside.

(C) ANNUAL VERIFICATION.—On each anniversary of a person's initial registration date during the period in which the person is required to register under this section, the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person. The person shall mail the verification form to the officer within 10 days after receipt of the form. The verification form shall be signed by the person, and state that the person still resides at the address last reported to the the designated State law enforcement agency. If the person fails to mail the verification form to the the designated State law enforcement agency within 10 days after receipt of the form, the persons shall be in violation of this section unless the person proves that the person has not changed his or her residence address.

(D) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESS.—Any change of address by a person required to register under this section reported to the designated State law enforcement agency shall immediately be reported to the appropriate law enforcement agency having jurisdiction where the person is residing.

(3) REGISTRATION FOR 10 YEARS.—A person required to register under this section shall continue to comply with this section until 10 years have elapsed since the person was released from imprisonment, parole, or supervised release.

(4) PENALTY.—A person required to register under this section who violates any requirement of a State program established by this section shall be subject to criminal penalties in such State. It is the sense of Congress that such penalties should include at least 6 months imprisonment.

(5) PRIVATE DATA.—The information provided under this section is private data on individuals and may be used for law enforcement purposes, including confidential background checks by child care services providers.

(c) STATE COMPLIANCE.—

(1) COMPLIANCE DATE.—Each State shall have 3 years from the date of the enactment of this section in which to implement the provisions of this section.

(2) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) received by a State not complying with the provisions of this section 3 years after the date of enactment of this section shall be reduced by 25 percent and the unallocated funds shall be reallocated to the States in compliance with this section.

Mr. DURENBERGER. Mr. President, this amendment I believe has been cleared on both sides of the aisle. The amendment is based on a freestanding bill that I introduced earlier this year entitled "The Crimes Against Children Registration Act." It is S. 1170.

My amendment will require that people who are convicted of a sexual offense against a child register a current address with State law enforcement officials for 10 years after their release from prison.

We adopted an amendment today that was offered by my distinguished colleague from Kentucky, Senator MCCONNELL, which will require a one-time registration of crimes of child abuse. My amendment targets a particularly dangerous segment of child abuse criminals—those who sexually abuse or exploit children.

Mr. President, more than a year and a half ago, I became especially concerned about the vulnerability of America's children because of a tragic event that took place in my home community of St. Joseph, MN. On October 22, 1989, an 11-year-old boy named Jacob Wetterling was abducted by a masked man at gunpoint while returning home from a convenience store with his brother and a friend. Not a single word has been heard from Jacob or his abductor since that day.

There is not a community in Minnesota that was not shocked and heartbroken by what happened to Jacob. St. Joseph is a small, close-knit, safe community, and Jacob could have been anyone's child. Jacob's parents, Jerry and Patty Wetterling, remain hopeful that Jacob will be found, and we all pray for the day when Jacob will return home safely to his family.

Local, State, and Federal law enforcement officials responded quickly to Jacob's abduction. If local and State police had been aware of the presence of any convicted sex offenders in the community, it would have been of invaluable assistance during those first critical hours of investigation. This amendment would provide law enforcement officials with this tool.

The National Center for Missing and Exploited Children has expressed its support for a national system of registering child sex offenders, not only to protect children from abductions, but to protect every child that may be a victim of sexual abuse or molestation. The amendment that I am offering today grew out of the work of Patty Wetterling and her colleagues on the Minnesota Governor's task force on missing children.

Because of their efforts, a bill establishing this registration requirement just became law in our home State of Minnesota. A similar law just passed in the State of Texas. And 13 other States already have an address registration requirement: Alabama, Arkansas, Arizona, California, Florida, Illinois, Montana, Nevada, Ohio, Oklahoma, Rhode Island, Utah, and Washington.

The reasons for enacting this legislation on the national level are clear: Sexual crimes against children are widespread; the people who commit these offenses repeat their crimes again and again and again; and local law enforcement officials need access to an interstate system of information to prevent and respond to these horrible crimes against our children.

If there is any doubt about the seriousness of the problem, consider the following statistics, provided to me by the National Center for Missing and Exploited Children:

ChildHelp USA estimates that 1 in 3 girls and 1 in 6 boys will be sexually abused or victimized before age 18. More than half—54 percent—of sexually abused children are victimized before age 7, and 84 percent are younger than 12 years old. Two-thirds of reported nonfamily child abductions involved sexual assault. Of the 2.4 million reported cases of child abuse in 1989, 380,000 involved sexual abuse. These statistics seem high, but child molestation is actually one of the most underreported crimes—only 1 to 10 percent of these crimes are ever disclosed.

The widespread tragedy of sexual abuse and molestation of children is compounded by the fact that child sex offenders are serial offenders. A National Institute of Mental Health study found that the typical offender molests an average of 117 children, most of whom do not report the offense. Those who attack young boys molest an average of 281. A study of imprisoned offenders found that 74 percent had one or more prior convictions for sexual offense against a child.

The behavior of child sex offenders is repetitive to the point of compulsion. In fact, one State prison psychologist has observed that sex offenders against children have the same personality characteristics of serial killers.

Sex offenders against children are not only repeat offenders, but they are also dangerous and they are violent. The Justice Department has reported that over 85 percent of nonfamily abductions involved force and over 75 percent involved a weapon. Of the homicides that occur from stranger abductions, almost 40 percent involved rape or another sexual offense, and those are only the cases in which the circumstances were known.

Under this amendment, the type of crimes that would trigger the registration requirement include the kidnapping or false imprisonment of a minor, criminal sexual conduct toward a minor, solicitation of minors to engage in sexual conduct, the use of minors in a sexual performance, or the solicitation of minors to practice prostitution.

When a person convicted of any of these crimes is released from prison, the individual will be informed of his or her duty to register a current address with law enforcement for the following 10 years. Each time the offender moves, he or she will be required to register the new address within 10 days. This information will then be entered into the State law enforcement and National Crime Information Center computer networks, and will only be allowed to be used for law enforcement purposes.

To ensure that offenders are complying with the registration requirement, a nonforwardable verification form will be sent to the offender's last registered address each year. Failure to return the form within 10 days would constitute a violation of law unless the offender could offer a valid reason for failing to respond to the inquiry.

Mr. President, the Crimes Against Children Registration Act may require some of us to choose between two interests. One of those interests is the interest in protecting children from sexual abuse and exploitation. The other interest is the inconvenience to convicted child sex offenders who would be required to register an address with a State law enforcement agency once a year and each time they move.

Mr. President, for this Senator, there are no competing issues to debate. If a national registration requirement for convicted child sex offenders will assist law enforcement authorities in one criminal apprehension or deter one single kidnaping, I believe it is worth implementing.

I am pleased that we adopted the registration of child abuse crimes amendment offered today by Senator MCCONNELL. I hope that my colleagues will joint me in supporting my amendment to protect America's most vulnerable and precious resource—our Nation's children.

Mr. President, I understand that this amendment has been cleared on both sides of the aisle, so I urge its immediate adoption.

The PRESIDING OFFICER. Is there further debate?

Mr. THURMOND. Mr. President, we do not oppose this amendment. We think it has considerable merit. It is true that crimes generally are prosecuted in the State where they occur. But as the able Senator said, these people go from State to State. For that reason, we feel it is warranted that we pass a Federal law on this subject.

These people who take advantage of children and commit offenses against them are repeaters. They repeat, repeat, repeat. In one State, when they feel like they are about to get caught, they move to another State. So in view of that, it appears to me that it is warranted we pass a law at the Federal level on that subject.

The PRESIDING OFFICER. Is there further debate?

Is there objection to the amendment? If not, the question is on agreeing to the amendment.

The amendment (No 419) was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DURENBERGER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, Senator D'AMATO has an amendment, which, as I understand it, has been cleared on both sides. I will present that amendment for him.

AMENDMENT NO. 420

Mr. THURMOND. Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina, [Mr. THURMOND], for Mr. D'AMATO, proposes an amendment numbered 420.

Mr. THURMOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . INCREASED PENALTIES.—Pursuant to section 994 of Title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines, or amend existing guidelines, to provide that a defendant convicted of violating, or conspiring to violate section 1324(a) of title 8, United States Code, shall be assigned not less than offense level 25 under section 2L1.1 of the United States Sentencing Guidelines if any of the following factors exist:

(1) If the offense involved five or more aliens in a single scheme or otherwise; or

(2) If the offense involved other criminal activity including, but not limited to, violations of the Controlled Substances Act, prostitution, importation of aliens for immoral purposes, trafficking in firearms, money laundering, illegal gang activities, kidnaping or ransom demands, fraudulent documents, or extortion; or

(3) If the offense involves smuggling of persons under the age of 18 years for purposes of illegal adoption, or sexual or commercial exploitation; or

(4) If the offense involves the smuggling of known or suspected terrorists or persons involved in organized crime; or

(5) If the offense involves dangerous or inhumane treatment of the persons smuggled; or

(6) If death or serious bodily harm occurs to persons smuggled, increase by 3.

Otherwise, the base offense level shall be 13 except for an offense as described in 1324(a)(2)(A) of title 8 United States Code.

Mr. D'AMATO. Mr. President, The Immigration and Naturalization Service has informed us that during the last year, over 3,300 alien smugglers were apprehended, an increase of 23 percent over 1989. There is increasing violence associated with alien smuggling as organized crime become more involved. Some aliens are subjected to lives of servitude, trapped in a vicious cycle of debt and despair.

SPECIFICS OF THE AMENDMENT

Current law, 8 U.S.C. 1324(a), provides a maximum of 5 years imprisonment in the broad category of "Bringing in and harboring aliens."

If a defendant pleads guilty to a first offense, often the sentence received is either probation or 6 months in jail—the Sentencing Commission categorizes a first offense as a base 9 offense level, or 4 to 10 months. The maximum term of imprisonment is the same for the leader of an organized smuggling ring as it is for a poor truck driver hiding an alien in his truck.

This amendment directs The U.S. Sentencing Commission to promulgate guidelines, or amend existing guidelines, to raise the sentence to approximately 5 years in jail for a first offense—base 25 offense level, or 57 to 71 months—if any of the following factors exist:

First, the offense involved five or more aliens; or

Second, if the offense involved criminal activity such as violations of the Controlled Substances Act, prostitution, importation of aliens for immoral purposes, trafficking in firearms, money laundering, illegal gang activities, kidnaping or ransom demands, fraudulent documents, or extortion; or

Third, if the offense involves smuggling of persons under the age of 18 years for purposes of illegal adoption, or sexual or commercial exploitation; or

Fourth, if the offense involves the smuggling of known or suspected terrorists or persons involved in organized crime; or

Fifth, if the offense involves dangerous or inhumane treatment of the persons smuggled; or

Sixth, if death or serious bodily harm occurs to persons smuggled—in this specific instance, the amendment adds three more offense levels to get to a minimum of 78 to 97 months for a first offense, which is approximately 7 years.

ILLEGAL ALIEN DEBT AGREEMENT

INS has provided us with a copy of a translated agreement between an illegal Chinese alien and a smuggler. This document shows how the smuggler extorts great sums of money from the illegal immigrant. The agreement states that within 2 days of the alien's arrival in the United States, a guarantor in the United States shall pay $15,000 to the smuggler's organization.

The balance amount, $7,800, shall be paid by the guarantor in Hong Kong within 7 days. If the guarantor fails to pay within 7 days, a compensation of 2 percent of the total amount shall be paid to the organization each day. INS tells us that when the illegal immigrant does not pay the syndicates that smuggle them in, the alien is often kidnaped and tortured.

EXAMPLES

A Washington Post article on June 17, 1991, entitled "A Dark Road From China to Chinatown," describes the problem of smuggling illegal Chinese immigrants. The following are quotes from this article:

> * * * They [illegal Chinese aliens] typically pay from $35,000 to $50,000 to Chinese smugglers, many with connections to Chinese organized crime * * *. They will become essentially indentured servants, working in sweatshops in the garment district, in restaurants, laundries, or other businesses. They will work as long as five years—often seven days a week, day and night, for minimum wage or less—while living in squalor, to pay off the loans that brought them here.
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> Some are lured to the quicker money to be made by smuggling drugs, becoming enforcers or engaging in prostitution for the Chinese gangs that lent them money * * * "Anyone who scrapes together $50,000—about 100 years' salary for the average Chinese—is compromised on arrival in the U.S.," [Michael T. Lempres, INS Operations Director] said. The newly arrived are living "in a form of slavery," paying rent and buying food from the smugglers, he said. The pressure on these immigrants to turn to crime can be overwhelming.
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> * * * Passengers who made it to New York likely will stay underground and blend into the 300,000-member Chinese community there, which includes about 30,000 illegal workers, according to New York City estimates * * * INS officials have counted 51 countries that are connected to the smuggling rings, either as part of the transportation web or the manufacture of documents * * *. Of the $35,000 to $50,000 fee smugglers collect from emigrants, only about $10,000 goes for the trip itself * * *. The rest, as much as $40,000, is divided up by the rings * * *.

New York Daily News, "Merchants of Misery: Ring Led Illegals To Risk Ruin and Worse," September 24, 1990:

> * * * From the early 1980's on, [Immigration agents] tracked Cheng [Chiu Peing, a Fujinese woman based in New York City's Chinatown] and her husband from China through Latin America and the U.S., struggling to break a ring they charged smuggled thousands of Chinese illegals and made at least $30 million * * *. Her smuggling has produced wealth kept safely outside the U.S.
>
> The assets include a garment factory in Shenzhen, a free-trade zone near Hong Kong, and a video arcade and import-export business in western Hong Kong, the investigators said * * *. INS agents arrested illegals [coming from Toronto] later in Albany aboard a bus to New York City. They also got a warrant for Cheng, who was nabbed in Vancouver en route to Mexico * * *. District Court Judge Richard Arcara rejected Cheng's pleas for leniency and sentenced her to the maximum, six months in jail * * *.

The following article describes the gruesome death that five aliens faced as they tried to make their way to the United States. Valley Morning Star, Texas, January 28, 1991, "Alien Smuggler Gets 18 Months":

> A convicted alien-smuggler linked to the deaths of five immigrants was sentenced Monday to 18 months in prison by U.S. District Judge Filemon B. Vela. Renato Avila Botello, 29, of Houston, was a fugitive for most of 1990 after a January 23 indictment for alien smuggling in connection with a botched operation in which five people died. They had been loaded in Harlingen onto a boxcar filled with corn flour fumigated with the poisonous chemical phostoxin.
>
> Judge Vela said Monday, he would have liked to give him a longer sentence. "If it weren't for the guidelines, I would have given him five years for every alien that died," Vela said. Federal sentencing guidelines call for probation to six months, but Vela said exceeding the guidelines was necessary under the circumstances.

CONCLUSION

Mr. President, these smugglers are indeed the merchants of misery. They take desperate people, hungering for a better way of life, and force then into circumstances in many ways worse than their previous lot. This is outrageous and totally despicable. As a nation which strives to provide the huddled masses with an improved life, we should not tolerate downtrodden people being forced into a life of prostitution, drug trafficking, indentured servitude, or slavery. I thank my colleagues for accepting this important legislation.

Mr. THURMOND. Mr. President, as I say, I am informed this amendment has been cleared on both sides and there is no objection. I call for a vote.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 420) was agreed to.

Mr. THURMOND. I move to reconsider the vote.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. I thank the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PELL. I thank the Chair.

(The remarks of Mr. PELL pertaining to the introduction of S. 1415 and S. 1416 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. PELL. I yield the floor.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SARBANES). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be named as the first cosponsor of the legislation that the distinguished Senator from Connecticut [Mr. DODD], introduced this week regarding El Salvador, and which I will more closely identify for the clerk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I am pleased to join my good friend the distinguished Senator from Connecticut on this year's version of the Dodd-Leahy El Salvador amendment we put on the foreign operations appropriation last fall. I delayed a few days in joining him in introducing this new bill to withhold half of El Salvador's military because I was making a last ditch effort to persuade the administration not to begin releasing the money withheld because of the Dodd-Leahy amendment last November.

Unfortunately, as the newspapers make all too clear, I was unsuccessful in urging the administration to continue the restraint it has shown over the last 6 months. The President intends to begin committing the $42.5 million in this year's Salvador military aid. There is no reason for me to delay any longer in the hope of mutual restraint by both Congress and the executive branch on El Salvador.

My friend from Connecticut and I will now work as hard as we can to persuade a majority of our colleagues in the Senate that the United States Congress must again take a stand in favor of peace and reconciliation in El Salvador. We won convincingly last fall, and there is every reason to continue to put pressure on both sides, the Salvadoran Government and the FMLN rebels, as they negotiate for a ceasefire and a peace agreement.

We are convinced that the Dodd-Leahy military aid withhold enacted last year contributed significantly to the decisions made by both sides in this terrible war that there must be a negotiated settlement and an end to the killing. I am confident our view will prevail again, and once more the Senate will send strong signals to the Government of El Salvador and the FMLN rebels that they must continue the U.N.-sponsored peace negotiations and conclude a cease-fire promptly.

Last year, for the first time in a war that has claimed the lives of over 70,000 people, the Congress sent a strong signal to the Salvadoran military. Senator DODD's and my amendment, which passed overwhelmingly, withheld $42.5 million—one-half of the military aid. We tied the release of that aid to the FMLN's conduct in the peace negotiations and on the battlefield.

And we put other conditions on the government. The law says that all military aid is to be withheld if the government does not conduct a thorough investigation and prosecution in the Jesuits' case.

What has happened?

Only 2 months after our legislation became law the President reported that the FMLN had violated its conditions. At the same time he ignored the lies and obstruction of justice by the Salvadoran military in the Jesuits' case, which under our law would require that all military aid be withheld.

To his credit, the President held off releasing the aid at that time. Despite intense lobbying by administration officials against our amendment last year, they discovered that it gave them leverage over both sides in the negotiations. That is exactly what we told them it would do.

Senator DODD and I, in a letter signed by 35 Senators, urged the President to continue withholding aid and keep the peace negotiations alive.

I renewed that plea in separate meetings with President Bush and Secretary Baker, and later in several discussions with Assistant Secretary Aronson.

Our legislation has accomplished more in El Salvador in 6 months than anything in the past 6 years. For the first time, we showed that the American people will not support endless war in El Salvador. We showed that if the Government of El Salvador expects our support it must get serious about reining in the military and the death squads.

And, most importantly, we showed that by tying our aid to the peace process we can get results. After years of on-again, off-again negotiations in which neither side was serious and nothing was accomplished, on April 30 the two sides signed an agreement on a wide range of issues.

To use Secretary Aronson's words:

> They have achieved already at the bargaining table an enormous number of concrete agreements that are far-reaching and reshaped Salvadoran society, that reshaped their judicial system, that reshaped their electoral system, that reshaped human rights and the rule of law, and that fundamentally reduce and alter the role and structure and size of the armed forces.

What that agreement shows is that both sides take the negotiations seriously and have concluded that the war is unwinnable and that a political settlement is the only option. Since then they have been meeting to try to agree on the terms of a cease-fire.

Let there be no mistake, the negotiations have been very difficult. As Secretary Aronson said, "in any negotiation, in some ways the closer you get, the harder it comes." He said, "the two sides are very close on most issues, but there remain some tough issues * * * the progress is forward, but sometimes there are steps backwards on both sides."

We all want to see the war end, and the sooner the better. But whether it takes another month or a year to get a cease-fire, and I abhor the thought of it taking a year, one thing is clear. For the first time the negotiations are working.

It would be folly to do anything that would give the hardliners in the military or the FMLN an excuse to drag the talks out indefinitely or sabotage them altogether.

That was the decision of the House of Representatives when it refrained from including conditions on aid to El Salvador in the 1992 foreign aid bill. Recognizing that the negotiations have been progressing and are in a critical stage, the House honored the administration's request not to do anything that might send the wrong signal and disrupt the peace process.

But those Members also urged the administration, for its part, to refrain from releasing any of the withheld 1991 aid.

So did the Foreign Relations Committee, where a majority decided not to take any action on El Salvador in order to give the negotiations every possible chance.

I give a great deal of credit to Secretary Aronson for his efforts to use the withheld aid during these past 6 months as leverage to push the negotiations forward, He is working hard for a peace agreement, and I do not doubt his commitment to that goal. He has had a difficult task but has always performed with the utmost professionalism and deserve praise.

Yet despite those efforts and the Congress' willingness to delay action on an issue that has aroused such passions, it now appears that the hardliners have won out. The decision has been made to begin releasing the withheld aid within the next week to 10 days.

I also recognize the administration's attempts to show restraint as it releases the military aid. The administration indicates it will send only nonlethal equipment—uniforms, vehicles, radios and the like—at least at first. But there is about $80 million in the pipeline of undisbursed prior year military aid, all of which is available for guns, bullets, rockets and mortars. The reality is that we will continue to bankroll the government's military operations.

And a critical element of the Dodd-Leahy law will be continued to be ignored.

I challenge anyone in the administration to say there has been a thorough investigation and prosecution in the Jesuits case, as our law requires. Even the administration admits that the military has concealed evidence, destroyed evidence, lied and obstructed justice, but still they want to reward the conspirators. Under our law they should withhold all the aid. Instead they want to give it away.

The truth is that neither side has fully complied with our law. But the answer is not to jettison the law.

Mr. President, let us not forget the effects of our policy of quadrupling the size of the Salvadoran military and turning a blind eye to corruption and atrocity after atrocity.

Over 70,000 dead. Another 7,500 disappeared and presumed dead.

A million and a half refugees, most now living in squalor in the United States. Another half a million Salvadorans displaced within their own country and living hand to mouth.

We can learn from this lesson. But not if we continue to ignore the tragedy of how our aid has been misused. Not if the administration refuses to uphold the law.

The Salvadoran military needs to know that the Congress has not forgotten. We have not forgotten the Jesuits and the other atrocities. We support the peace process. We will not go back to the old days of writing a blank check to the Salvadoran military.

Mr. President, S. 1352, the new Dodd-Leahy bill would again withhold one-half the military aid and tie the release of that aid to the peace process and human rights, including progress in the Jesuits case. But this time if the President decides to release any of the aid he must first notify Congress through the regular 15-day notification process.

This will give the Congress time to review the President's decision and ensure that the law is applied evenhandedly. We will hold both the government and the FMLN accountable if they violate conditions in the law.

Mr. President, the Dodd-Leahy legislation is just as necessary today as it was 8 months ago. In El Salvador the fighting continues. The suffering continues. A year and a half later we are still waiting for justice in the Jesuits' case.

But there is far more optimism today than 8 months ago that a cease-fire is within reach. This legislation will send a strong signal to both sides that they will pay a heavy price if they walk away at the 11th hour.

I urge all Senators to join us in cosponsoring S. 1352. Let us once again stand for peace in El Salvador.

PRIVILEGES OF THE FLOOR

Mr. LEAHY. Mr. President, I ask unanimous consent that the privileges of the floor be granted to Craig Schiffries for today.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 421

(Purpose: To amend title 18 of the United States Code to clarify and expand legal prohibitions against computer abuse)

Mr. LEAHY. Mr. President, I am pleased to join with Senators BROWN and KOHL in offering the Computer Abuse Amemdments Act of 1991, S. 1322, as an amendment to the crime bill, S. 1241. I send that amendment on behalf of myself, Mr. BROWN, and Mr. KOHL to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair understands that this is one of the amendments that was considered in the unanimous-consent request to be offered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mr. BROWN, and Mr. KOHL, proposes an amendment numbered 421.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be diapensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . COMPUTER ABUSE AMENDMENTS ACT OF 1991.

(a) SHORT TITLE.—This section may be cited as the "Computer Abuse Amendments Act of 1991".

(b) PROHIBITION.—Section 1030(a)(5) of title 18, United States Code, is amended to read as follows:

"(5)(A) through means of or in a manner affecting a computer used in interstate commerce or communications, knowingly causes the transmission of a program, information, code, or command to a computer or computer system if—

"(i) the person causing the transmission intends that such transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data, or program; or

"(II) withhold or deny, or cause the withholding or denial, or the use of a computer, computer services, system or network, information, data or program; and

(ii) the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or

"(B) through means of or in a manner affecting a computer used in interstate commerce or communication, knowingly causes the transmission of a program, information, code, or command to a computer or computer system—

"(i) with reckless disregard of a substantial and unjustifiable risk that the transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data or program; or

"(II) withhold or deny or cause the withholding or denial of the use of a computer, computer services, system, network, information, data or program; and

"(ii) if the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of a value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals;".

(c) PENALTY.—Section 1030(c) of title 18, United States Code is amended—

(1) in paragraph (2)(B) by striking "and" after the semicolon;

(2) in paragraph (3)(A) by inserting "(A)" after "(a)(5)"; and

(3) in paragraph (3)(B) by striking the period at the end thereof and inserting "; and"; and

(4) by adding at the end thereof the following:

"(4) a fine under this title or imprisonment for not more than 1 year, or both, in the case of an offense under subsection (a)(5)(B).".

(c) CIVIL ACTION.—Section 1030 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who suffers damage or loss by reason of a violation of the section, other than a violation of subsection (a)(5)(B), may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief. Damages for violations of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb) are limited to economic damages. No action may be brought under this subsection unless such action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage.".

(e) REPORTING REQUIREMENTS.—Section 1030 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Attorney General shall report to the Congress annually, during the first 3 years following the date of the enactment of this subsection, concerning prosecutions under section 1030(c)(5) of title 18, United States Code.".

(f) DEFINITION.—Section 1030(e)(1) of title 18, United States Code, is amended by striking ", but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device".

(g) PROHIBITION.—Section 1030(a)(3) of title 18, United States Code, is amended by inserting "adversely" before "affects the use of the Government's operation of such computer".

Mr. LEAHY. Mr. President, it is important to update our laws to stay abreast of rapid changes in computer technology and computer abuse techniques. In the 101st Congress, the Senate responded to the threat posed by new forms of computer abuse—destructive viruses, worms, and Trojan horses—by unanimously passing S. 2476. That bill was not considered by the House of Representatives in the last Congress, so I joined with Senators BROWN and KOHL in reintroducing the bill, S. 1322.

The Computer Abuse Amendments Act of 1991 is the product of over 2 years of work by the Subcommittee on Technology and the Law. In the 101st Congress, I chaired two hearings on computer abuse. S. 1322 has been drafted and revised on the basis of careful review of issues raised in the subcommittee's hearings, and with the benefit of consultation with computer experts. The bill has been broadly supported by the computer industry and by computer users. At the subcommittee's hearing on July 31, 1990, Deputy Assistant Attorney General Mark Richard testified that this bill "provides a useful improvement over and clarification of, the scope of existing law."

Mr. President, the free flow of information is vital to our competitiveness as a nation. Innovations in computer technology create new opportunities for improving the flow of information and advancing America's economic future, but they also create new opportunities for abuse by those who seek to undermine our computer systems. The maintenance of the security and integrity of computer systems has become increasingly critical to interstate and foreign commerce, communications, education, technology, and national security.

The National Research Council [NRC] recently published a major study, "Computers at Risk: Safe Computing in the Information Age." The study finds that we risk computer breaches that could cause economic disaster and even threaten human life. According to the NRC study, "Tomorrow's terrorist may be able to do more damage with a keyboard than with a bomb." The NRC study underscores the need for immediate action to protect our computer systems.

This legislation deals with new technologies and newly discovered forms of computer abuse. An alarming number of new techniques—computer viruses, worms, and Trojan horses—can be used to enter computers secretly. Their simple names belie their insidious nature. Thousands of virus attacks have been reported and hundreds of different viruses have been identified.

Computer breaches can cause economic disaster and even threaten human life. Right now we are still trying to find out what caused the computer problem with the telephone system that blanked out service to millions of Americans yesterday. I do not mean to suggest in any way that this problem was the result of a criminal act or was a virus, Trojan horse, or worm. The preliminary news accounts are that it was just a malfunction in the programming. But I mention it, Mr. President, because if somebody wished to introduce the kind of virus that we are talking about here, which would be a crime under my amendment, they could do the same kind of damage we saw yesterday. In fact, they can do far more, and we could see many more States blanked out like this.

Hidden programs can destroy or alter data. For example, a Michigan hospital reported that its patient information had been scrambled or altered by a virus that came with a vendor's image display system. Hidden programs can also hopelessly clog computer networks, as we saw with the Internet worm of November 1988.

Other computer incidents, using the same kinds of programs, have been inadvertent. For example, in December 1989, the Vermont State computer network froze. It was impossible to sign on to the system. Rather than a virus or sabotage, it turned out to be a security device in the form of a time bomb, built into the system's hardware to deter outside access. The manufacturer of the software had failed to inform the State that a special code would be triggered after a given date, locking out access through normal channels. It was a nuisance to be sure, but certainly not criminal.

The subcommittee held a hearing on May 15, 1989, to explore the threat to computers and the information stored in them posed by new forms of computer abuse. We heard testimony from FBI Director William Sessions, who stressed the seriousness of the threat posed by computer viruses and other techniques.

The subcommittee also heard testimony from Dr. Clifford Stoll, an astrophysicist at the Harvard-Smithsonian Center for Astrophysics. He testified that many researchers throughout the United States were prevented from using their computers for 2 days as a result of a "worm" that was introduced onto the Internet computer network in November 1988. While managing the computer system at the Lawrence Berkeley Laboratory, Dr. Stoll caught a West German spy using computer networks to try to gain access to military information.

As a prosecutor for more than 8 years in Vermont, I learned that the best deterrent to crime was the threat of swift apprehension, conviction, and punishment. Whether the offense is murder, drunk driving, or computer crime, we need clear laws to bring offenders to justice. Trespassing, breaking and entering, vandalism, and stealing are against the law. They have always been against the law because they are contrary to the values and principles that society holds dear. That has not changed and will not change.

In crafting this legislation we have been mindful of the need to balance clear punishment for destructive conduct with the need to encourage legitimate experimentation and the free flow of information. As several witnesses testified in the subcommittee's hearings, the open exchange of information is crucial to scientific development and the growth of new industries. We cannot unduly inhibit that inquisitive 13-year-old who, if left to experiment today, may tomorrow, develop the telecommunications or computer technology to lead the United States into the 21st century. He or she represents our future and our best hope to remain a technologically competitive Nation.

Mr. President, this bill clarifies the intent standards, the actions prohibitied and the jurisidiction of the current Computer Fraud and Abuse Act [CFAA], 18 U.S.C. section 1030. Under the current statute, prosecution of computer abuse crimes must be predicated upon the violator's gaining "unauthorized access" to the affected "Federal interest computers." However, computer abusers have developed an arsenal of new techniques which result in the replication and transmission of destructive programs or codes that inflict damage upon remote computers to which the violator never gained "access" in the commonly understood sense of that term. The new subsection of the CFAA created by this bill places the focus on harmful intent and resultant harm, rather than on the technical concept of computer "access."

The bill makes it a felony intentionally to cause harm to a computer or the information stored in it by transmitting a computer program or code, including destructive computer viruses, without the knowledge and authorization of the person responsible for the computer attacked. This is broader than existing law, which prohibits "intentionally access(ing) a Federal interest computer without authorization," if that causes damage.

This legislation recognizes that some computer incidents are not malicious—or even intentional—and they are treated differently. The bill creates a parallel misdemeanor for knowingly transmitting a computer program with reckless disregard of a substantial and unjustifiable risk that the transmission will cause harm. The standard for recklessness is taken from the Model Penal Code. This provision will give prosecutors and juries greater flexibility to get convictions for destructive conduct.

The bill creates a new, civil remedy for those harmed by violations of the CFAA. This would boost the deterrence of the statute by allowing aggrieved individuals to obtain relief.

The bill expands the jurisdiction of the CFAA. It would cover all computers involved in interstate commerce, not just "Federal interest computers," as the current law does. This is appropriate because of the interstate nature of computer networks. American society is increasingly dependent on computer networks that span State and national boundaries. The potential for abuse of computer networks knows no boundaries. The bill addresses this threat by expanding the jurisdiction of the CFAA to the full extent of the powers of Congress under the commerce clause of the U.S. Constitution, (Art. I, Sec. 8).

Mr. President, this amendment has been cleared by both sides. I want to thank Senators BROWN and KOHL for joining me in offering this amendment. I urge my colleagues to join us in supporting this measure. In the 101st Congress, an identical bill was unanimously reported by the Judiciary Committee and unanimously passed by the Senate. Enactment of this sound and balanced legislation would help ensure that our laws keep pace with new forms of computer abuse.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont.

The amendment (No. 421) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to table to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I wish to acknowledge the work of Ann Hawkins, my chief counsel, Katie Miller, a former member of our staff, Craig Schiffries, a congressional science fellow who has been working with us, John Bliss, Senator BROWN's chief counsel, and Jon Leibowitz, Senator KOHL's chief counsel, as well as others of the staff of the Judiciary Subcommittee on Technology and the Law, on both sides of the aisle, who have worked so hard in this. I wish to acknowledge them because this is an extremely complicated piece of legislation, and without the hours and evenings and weekends of work they put in, we would not have this excellent initiative.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. AKAKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Hawaii is recognized.

Mr. AKAKA. I thank the Chair.

(The remarks of Mr. AKAKA pertaining to the introduction of S. 1414 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. AKAKA. Mr. President, I yield back my time.

The PRESIDING OFFICER. Did I understand that the Senator has suggested the absence of a quorum?

Mr. AKAKA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FREDERICK MOSTELLER

Mr. MOYNIHAN. Mr. President, earlier this month, Harvard University awarded an honorary degree to Frederick Mosteller, that indomitably cheerful scholar who has so illuminated the often mournful issues of public policy.

I ask unanimous consent that his Harvard citation be printed in the RECORD at this point, and that it be ordered that a flag be flown over the U.S. Capitol in honor of a distinguished son of West Virginia and luminous citizen of the world.

There being no objection, the citation was ordered to be printed in the RECORD, as follows:

Frederick Mosteller: Where others see chaos, he sees patterns; in a confusion of fragments, he finds connections, ordering disciplines, illuminating disciples.

Pop Quiz: What do the following have in common? (1) Assessing the costs, risks, and benefits of surgery. (2) Assigning the authorship of certain disputed Federalist papers to James Madison. (3) Determining whether the better team really does win the World Series.

The unifying factor in this improbable trio is Frederick Mosteller, Harvard's Roger I. Lee Professor of Mathematical Statistics Emeritus. And that sampler merely hints at what Harvard Public Health School Dean Harvey Fineberg has called the "astonishing array" of methodologies that Mosteller has applied to "an equally wide variety of problems in the world."

Universally regarded as the greatest living biostatistician, Mosteller has used statistics to illuminate issues in business, economics, public policy, educational assessment, and weather prediction. Through NBC-TV's Continental Classroom series of the 1960s, he instructed thousands in the basics of his discipline.

He has produced more than 200 articles for professional journals, and has helped write or edit more than 60 reports, pamphlets, and books (including several textbooks and teachers' manuals). Speakers of Chinese, French, German, Italian, Japanese, Russian, Spanish, and Turkish know him in translation. Since he began teaching at Harvard in 1946, his activities have enriched five different faculties: Arts and Sciences, Law, Medicine, Government, and Public Health.

Mosteller's range and depth have earned "the admiration of statisticians and mathematicians (plus those with no numerical facility at all) throughout the world," Fineberg observes, and the statistician's capacity for work is the stuff of legend: "One of his books was written exclusively during airplane flights."

Mosteller has been a mentor to generations of faculty and students. "He is as close to the complete teacher-scholar as anyone I know," says Fineberg.

Among Mosteller's many honors are the Samuel S. Wilks Award of the American Statistical Association (ASA; 1986), the Medallion of the Centers for Disease Control (1988), and the 1989 Statistician of the Year Award of the ASA Boston Chapter.

Mosteller was born in Clarksburg, W. Va., on Dec. 24, 1916. After earning his Bachelor (1938) and Master (1939) of Science degrees from the Carnegie Institute of Technology, he went to Princeton for his M.A. (1941) and Ph.D. (1946). He was named to the Lee Professorship in 1978. He retired in 1987 but remains as active as ever.

AN ALL-AMERICAN CITY

Mr. MOYNIHAN. Mr. President, Albany, NY, will always hold for me many fond memories. It was there I met my wife, and spent happy years working for Gov. Averell Harriman in that august State capitol building. Albany was my home. I knew then it was a special place, not just for me, but for many. With what little surprise then, but still great pride, did I learn that recently Albany was named an "All-American City" by the National Civic League.

In 1894 President Theodore Roosevelt and other concerned civic reformers established the National Civic League to promote citizen involvement in community problem solving. For some 42 years now this worthy organization has been presenting the "All-America City Award" to those of our cities which have displayed excellence in this capacity. Earlier this month Albany was among the winners of this prestigious prize. No small achievement, given that it was among but 10 cities selected nationwide. I would like simply to commend the citizens of New York's capitol and its mayor, Thomas Whalen, on the deep pride and hard work they have put into improving their fair city. The civic and governmental initiatives they have undertaken have formed a unique and highly successful partnership. In addition, Albany has attracted many arts groups, among the most notable the Berkshire Ballet. For these and other strengths, it was chosen by a distinguished panel of judges as a model city. Mr. President, with news of this award, there is great cause for optimism about our cities, both in New York and in the Nation. I know that my fellow Senators join me in saluting Albany, NY, "Cradle of the Union."

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,294th day that Terry Anderson has been held captive in Lebanon.

THE LAST DOMINO

Mr. MOYNIHAN. Mr. President, the last of the totalitarian states has begun to tumble. In a compelling op-ed article which appeared in the New York Times on Thursday of last week, Sali Berisha, the chairman of the Democratic Party of Albania, describes Albania as the last domino. I commend the article to my colleagues. The cold war is over, but totalitarian leaders cling to personal power around the world, in Albania, Cuba, North Korea, and, of course, in totalitarian China. Democrats like Mr. Berisha deserve our strongest support as they struggle to sweep away the legacy of more than 40 years of isolation and repression. I ask unanimous consent that Mr. Berisha's excellent article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 20, 1991]

THE LAST DOMINO

(By Sali Berisha)

TIRANA, ALBANIA.—Tomorrow, Secretary of State James Baker will make the first visit by an American Secretary of State to Albania. His arrival will mark one more step in my country's march toward freedom. To continue that march, to consolidate democracy and join the world economy, we need help from the west.

For Albanians, the U.S. has always been synonymous with freedom and democracy. President Woodrow Wilson kept our neighbors from partitioning our country after World War I. Mr. Baker's visit makes us hopeful.

Forty-seven years of Communist rule have made us the poorest country in Europe. We are desperate for humanitarian aid—food and medicine—as well as technological and economic assistance. Albania needs American business to invest in developing highways, textile industries and oil exploration.

Albania overthrew the most perverse and militant Communist regime in Eastern Europe. In December, students took to the streets and forced the Albanian Communist Party to relinquish its 47-year monopoly on power by holding multi-party elections. Intellectuals and professionals immediately formed the Democratic Party and other opposition groups.

Though foreigners, rarely allowed in Albania under Communist rule, weren't able to observe this historic event, they were present in March to view the elections.

The Democratic Party emerged as the main alternative to the Communists. We won 75 seats in the People's Assembly, one-third of the total. Most of our support came from the cities, where residents, after four months of activism, were no longer afraid of the Government.

The Communists won two-thirds of the vote, mostly from the countryside. Foreign observers misinterpreted the election results, reading them as a sign of Communist strength. But the rural vote was based largely on fears that are no longer realistic: the Democrats' victory showed the peasants that it was possible to act against the Communist Party and survive.

This proved true two months later when 350,000 workers went on strike, demanding higher wages and greater freedom. The food and other support the workers received from the villagers enabled them to hold out and force the Communists to relinquish power and form a new coalition.

On June 12, a transition Government with representatives from all political parties was installed. It is expected to preside until new elections are held next year. In recognition of these steps, Albania was admitted to the Conference on Security and Cooperation in Europe at the foreign ministers' meeting in Berlin this week.

For students, intellectuals, workers and peasants, socialism is dead in our country as elsewhere, and we are disposing of its remains. Building a democracy won't be easy.

Aside from our grave economic problems, we are concerned about the abuse of the human rights of the Albanians in Kosovo, Yugoslavia. A great threat to peace in the Balkans is posed by Slobodan Milosevic, the president of the Yugoslav republic of Serbia.

Still, with the advice and friendship of the United States, I am certain that Albania will soon make its own contributions to the world.

RETIREMENT OF JUSTICE THURGOOD MARSHALL

Mr. SANFORD. Mr. President, today Justice Thurgood Marshall announced his retirement from the Supreme Court.

While I personally can wish him a long and happy retirement, I do so with a great measure of sadness. My sadness is because I believe the Nation is losing an able and dedicated champion of liberty and individual rights and protections under the U.S. Constitution.

Justice Marshall has been a stalwart and dedicated servant protecting the rights and interests of the American people.

He has served the Nation on the Supreme Court since his appointment by President Johnson in 1967.

His career has distinguished itself through service to our society. After graduation from Howard University Law School, Justice Marshall began a long and historic involvement with the National Association for the Advancement of Colored People. Over several decades he fought against segregation in voting, housing, public accommodations, and education.

As many know, the culmination of his career as a civil rights attorney came in 1954 as chief counsel in a series of cases grouped under the title Brown versus Board of Education. Mr. Marshall argued that case before the Court he would eventually so ably serve and succeeded in convincing the Court to declare segregation in public schools unconstitutional.

Subsequently, he was appointed to the Second Circuit Court of Appeals by President Kennedy. He then served as the Nation's first black Solicitor General, winning approval in that capacity for the 1965 Voting Rights Act.

The appointment of Justice Marshall's successor to the Court will be without a doubt one of the most significant appointments of this decade. I hope the President chooses wisely.

I hope the President will recognize the unique presence he is now called upon to replace and that he will be motivated to try genuinely to recapture many of the qualities Justice Marshall brought to the Court. His ideals, his principles, and his leadership should not pass from the Court with his retirement. This appointment represents a special challenge to the President to send us an appointee of Thurgood Marshall's stature and character, and I hope he will accept it.

In conclusion, however, I must again say that I wish Justice Marshall the very best during his retirement and that I shall truly miss his presence on the Court.

IN PRAISE OF JUSTICE THURGOOD MARSHALL

Mr. WELLSTONE. Mr. President, I am deeply saddened to learn of the resignation of Justice Thurgood Marshall from the Supreme Court. He has been a champion of those members of our society who were least able to defend themselves. His tenure on the Court has been marked by compassion, sensitivity, and a deep and abiding belief in the principle of "equal justice under the law." He is without peer and will be sorely missed.

Justice Marshall's resignation signals the end of an era on the high court. With his departure, the Supreme Court will now be more firmly in the control of Reagan-Bush nominees, who will hold the fate of the country in their hands for years to come.

I intend to examine closely the qualifications and record of any nominee the President puts forth. And with my colleagues, I will hold him or her to the highest possible standard. I also urge the President to seriously consider nominating a person of color to the Nation's Highest Court. The Court, as our most important judicial institution, should represent all the country's people.

Finally, I want to extend my personal best wishes and thanks to Justice Marshall. For 50 years—first as the legal counsel to the NAACP and then on the Court—he has fought to protect the civil and individual rights of all Americans. He has helped to breathe life into the Constitution. And he has been a beacon for all those who look to the Court for justice and equality.

REFUGEE ISSUES IN THE 1990'S

Mr. PELL. Mr. President, the new U.N. High Commissioner for Refugees, Mrs. Sadako Ogota of Japan, delivered an address at Georgetown University June 25 entitled "Refugees in the 1990's: Changing Reality, Changing Response." It is an important statement.

We had the honor of welcoming the High Commissioner to the Foreign Relations Committee on the afternoon before her Georgetown speech. Her command of the subject matter of her responsibilities is impressive. This despite the fact that she has been in her high office for less than 4 months.

Madame Ogato is the first Japanese and the first woman to hold the position of High Commissioner. In a sense her entire life and career can be seen as preparation for this most important position. She holds a Ph.D. from the University of California at Berkeley and a masters degree from Georgetown—so her address there was a homecoming.

Over the years she has represented her Government on the U.N. Human Rights Commission and at the United Nations in New York. She has served as president of the UNICEF executive board, and is recognized as a leading scholar and spokesperson on humanitarian issues.

The High Commissioner was elected by the U.N. General Assembly in December to succeed Thorvald Stoltenberg of Norway, and she took office in February. She was immediately plunged into the urgent refugee crises in Iraq and its borders with Turkey and Iran, and in the Horn of Africa. The number of refugees worldwide continues to mount from 14 million 2 years ago to nearly 17 million today.

I want to express my personal support for the High Commissioner in the awesome responsibilities that she has taken on. Already it is clear she is carrying out these responsibilities with an effective blend of principle and pragmatism. She stands with the refugees, and she knows how to get the job done.

I ask unanimous consent that the text of the High Commissioner's address at Georgetown University June 25 be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF THE HIGH COMMISSIONER—REFUGEES IN THE 1990's: CHANGING REALITY, CHANGING RESPONSE—GEORGETOWN UNIVERSITY, JUNE 25, 1991

It is a great honour to address Georgetown University on my first visit to the United States as United Nations High Commissioner for Refugees. I am very happy to be here as it was at this very University that I began my graduate studies in political science forty years ago. It is therefore with great pleasure that I take this opportunity to share with you my thoughts after having been in office for some four months.

Within weeks of assuming office I was faced with one of the most difficult refugee situations in UNHCR's history. I speak of the exodus from Iraq. My induction, however, was not limited to the Middle East. I was also confronted with the tragedy of millions of refugees and displaced persons in the Horn of Africa as well as around Liberia; with the persisting refugee situations in southern Africa, Afghanistan and Southeast Asia; and with the increasingly difficult situation of asylum-seekers arriving in industrialised countries. Of course, there have been some positive developments too, particularly in Central America, Western Sahara and Angola. The extraordinary dynamism of the events confirm, more clearly than ever before, the radical changes in the nature of the refugee situation. In my talk this evening I would like to share with you my analysis of the situation and then propose some ideas on how to mould a new response.

How has the refugee situation changed?

Firstly, the refugee issue has become part of a much larger movement of people across frontiers and within them. The mass exodus of migrant workers, evacuees, refugees and internally displaced which the Gulf War produced represents in a microcosm the kind of movements with which we are increasingly confronted as we come to the end of the twentieth century. The process of political and economic adjustment which we are experiencing today, the widening economic gap between the North and the South, the pressures of poverty and the aspirations of a better life, coupled with technological advances in transport and information, have led to massive movement of people. If we put refugees and the internally displaced together, the estimate is over 30 million persons. There is hardly a corner in Africa which has been spared displacement. In Asia, Central America, Middle East, Europe or North America, there are refugees and displaced people.

Second is the growing complexity of the root causes of refugee flows. The Iraqi refugees clearly fell within the classical definition of refugees as persons fleeing persecution. However, in many parts of the world refugees are victims of civil war and political conflict rather than of persecution. Africa, burdened with its colonial past, provides many grim examples of ethnic tension, exacerbated by poverty, population explosion and environmental degradation, leading to repression and violence. Communal strife and civil war intensify famine and food shortages, forcing people to move in search of safety and survival, for example in Mozambique, Liberia and the Horn of Africa.

Thirdly, displacement is not only an issue across national frontiers but also within them. In Iraq, Ethiopia or Mozambique, to name but a few situations, the causes which led to external displacement have also created a large displacement of persons inside their own country. For the human being directly affected, legal definitions—or artificial borders—are meaningless. For the Ethiopian, the suffering is the same whether he crosses the border into Sudan as a refugee or remains displaced inside Eritrea in a refugee-like situation as a result of the conflict. In the present situation, however, no single organization has the mandate, nor capacity, to take care of the internally displaced. UNHCR has a direct interest in the resolution of this vacuum. Not only as a humanitarian agency responsible for human beings, but also since internal displacement may trigger external flight. Aid and protection to the internally displaced can therefore be considered both preventive and curative.

Fourthly, not only do refugees originate from developing countries, the vast majority also find asylum in developing countries. Because of the limited capacity of receiving countries to absorb refugees and with the change in the East/West relations, the political imperatives for local integration or resettlement abroad are dwindling. Increasing emphasis is being placed on the role and responsibility of the country of origin. Voluntary repatriation has become the most viable option, but is often predicated on an acceptable political settlement. Recent progress on a number of regional conflicts have promoted the possibility of returns to Western Sahara, Angola and Rwanda. At the same time, I am concerned that lack of adequate security conditions impede returns in many other parts of the world, including Cambodia, the Horn of Africa, southern Africa and Liberia, while five million Afghan refugees in Pakistan and Iran have spent a decade in exile. In the case of northern Iraq, one million refugees returned from Iran or the Turkish border within weeks of the exodus.

However, almost half of that number remain displaced inside Iraq because they are afraid to return to their home villages or are prevented from doing so, or wish to return to villages which were evacuated and destroyed in the course of the Iran/Iraq war. The evolving security situation will determine any further returns. I cannot but be concerned about future security arrangements in northern Iraq.

Finally, an aggravating feature of the changing reality has been the growing movement of refugees from their regions of origin to Europe and North America, as part—sometimes even a minority—of a larger movement of migrants escaping poverty. I would like to emphasise that refugees and migrants are distinct categories, requiring different responses. In the case of migrants there is an element of choice and planning in their movement. A refugee on the other hand is forced to flee from political conflict to save his life and freedom, and therein lies his need for protection, even if he does not fear persecution in terms of the 1951 Convention on Refugees. I believe the "temporary protected status" devised by the United States is a useful mechanism to meet the needs of this broad group of refugees. The mixed movement of refugees and migrants has created an acute problem in Western European countries and also in Southeast Asia with the Vietnamese, of how to deal with those who do not qualify for refugee status and are not in need of international protection. Afraid of large movements not only from the South but also from the East, particularly the Soviet Union, western governments have sought to reinforce immigration and border controls, putting pressure on the fragile edifice of asylum and challenging their own liberal human rights traditions. It is ironic to see this happen at a time when human rights and refugee protection institutions are being built in the very countries of Eastern and Central Europe which not so long ago were producers of refugees.

It is clear that the magnitude, scope and intensity of the refugee situation far exceeds the limits of existing institutions and conventions. States and international organisations are at a crossroads on forging a new and global humanitarian system. As discussions proliferate on the restructuring of the humanitarian arm of the United Nations, I see the need for response at two levels. The first is operationally: to develop the humanitarian capacity of the United Nations to meet the emergency needs of refugees and the displaced through a concerted international effort. The second is politically: to utilise the prevailing positive spirit of multilaterism to develop a new approach which can meet the protection and assistance needs of refugees and promote durable solutions in a comprehensive manner. Above all, I see an important catalytic role for the United Nations to keep alive the humanitarian commitment and traditions of the Western world.

In a world grappling with natural and man-made disasters, we are faced with refugee emergencies of unprecedented scale and complexity. Often the United Nations has been criticised for its slow response and lack of coordination—and rightly so. When I visited Iran and Turkey a week after the refugee exodus began in early April, I could see that our preparations designed to meet the needs of 100,000 persons fell far short of the enormous needs of the people which in 5 short days reached 700,000. Let me emphasise this is no reflection on the dedication and competence of UN staff, but rather on the lack of an adequate emergency response system within the UN. I am convinced that with all the best will in the world there is *no* way that the United Nations High Commissioner—or any other UN agency for that matter—can handle large emergencies rapidly or effectively without some fundamental changes in the system. At the moment individual UN agencies engaged in emergency operations, whether UNICEF, the World Food Programme or UNHCR, are neither financed nor staffed in a way in which we can meet large scale crisis situations. For every emergency we must issue a fresh appeal and pledges come too slowly. If you consider the long lead time it takes to obtain, for example, vehicles and to place them where they are needed, then how can food and other relief goods reach the beneficiaries in time, not to mention the staff required to administer and monitor the delivery of life-sustaining assistance.

If greater efficiency and effectiveness is to be expected of the United Nations, then the contingency planning and delivery capacity of the UN agencies must be strengthened. Right now various models are being proposed. Whatever the eventual outcome of the discussions, I would strongly urge against an additional layer of bureaucracy, but would stress the importance of reinforcing emergency preparedness by the United Nations. These efforts should involve three aspects: firstly, financial resources. We cannot respond to emergencies on credit or on a shoestring budget living hand to mouth. A UN humanitarian emergency fund has been often debated. Donors must place at the disposal of the United Nations a standby financial reserve to ensure funding within hours of a recognised emergency. Secondly, stockpiles of basic relief items should be established in locations easily accessible to air transport and a central databank should be set up on the range of goods and services which the UN system can either offer or mobilise from other sources. Thirdly, the UN must organise a standby pool of international emergency experts to respond immediately to any emergency. Such a pool could be linked to civilian disaster relief corps of member governments.

In short, what we need is a flexible, light and pragmatic emergency preparedness and response coordination mechanism, which gives the UN the money, goods and people to respond rapidly and effectively to emergencies. Hand in hand with preparedness goes the need for access and a minimum of level of security to allow UN agencies to operate in emergencies. When were forced to withdraw from Somalia—although I should add that we were the last of the UN agencies to leave Mogadishu—it doubly penalised the very persons we were meant to assist. However, ideas like "zones of peace" or "corridors of tranquility" have been used, for example, in Mozambique, where parties to the conflict agreed to allow safe passage of humanitarian assistance. Operation Lifeline in southern Sudan is another example. We are now using it, with the help of UNICEF and WFP, to get relief across to Sudanese refugees who fled from Ethiopia to Sudan in recent weeks. As security situations worsen in many parts of Africa, we must build on principles of humanitarian law and past experience of UN agencies, ICRC and NGOs to develop a legal framework and practical guidelines for "humanitarian access", so that international protection and assistance can continue to be provided in areas lacking security or under conflict.

So far I have spoken of a new operational response. Now let me turn to the political aspect of promoting a preventive and solution-oriented approach. As the analysis of the underlying causes clearly shows, the refugee problem is multi-facetted and cannot be resolved in isolation from the major political and economic challenges facing the international community. Therefore, the refugee issue must not be seen only as a matter for humanitarian agencies of the UN but also as a political problem which must be placed in the mainstream of the international agenda as a potential threat to international peace and security. The Security Council Resolution 688 on Iraq created a historical precedent by finally acknowledging the link between human rights, refugees and international peace.

This Resolution marks a watershed in the approach to the refugee problem by focusing on the responsibility of the country of origin to prevent refugee flows. Ultimately the responsibility for the safety and welfare of refugees—as of other individuals—lies with States. As the linkage between refugees and human rights is increasingly recognised, the notion of state responsibility must be given greater importance in the sense of States exercising the political will to look into root causes, and undertaking action to resolve the situation. The country of origin must accept responsibility for its own citizens, both in terms of preventing situations which can give rise to refugee flows and creating conditions which allow their safe and voluntary return. The principles of international solidarity and cooperation also demand that other States should help the country of origin to fulfil this responsibility.

However, the complexity of the refugee situation as well as the enormity of the needs is increasingly placing the burden on international organisations to replace what is rightly the responsibility of statehood. Northern Iraq is a case in point. The problems of protecting nationals in their own country and the limits of UHNCR's mandate once refugees have returned home in northern Iraq have shown clearly that a humanitarian organisation like UNHCR can support but *not* substitute governmental responsibility for a population at risk.

Northern Iraq demonstrated also the irrelevance of borders in responding to the humanitarian needs of the displaced. Today, the protection and assistance needs of the internally displaced are no less compelling than that of those who cross national frontiers. To what extent should national sovereignty shield governments who disregard or are unable to fulfil their responsibilities towards their own citizens? How can international concern be balanced with the need to encourage governments to accept greater responsibility for the plight of the displaced?

These questions are crucial because the response to internal displacement may be a means of preventing refugee flows. The problem goes beyond the capacity of any one agency. What is needed is a coordinated and concerted response from the UN system, ICRC and NGOs. We should also watch carefully initiatives such as the recent agreement between the Salvadorean Government and the FMLN rebels to allow UN observers to monitor the human rights situation in El Salvador. It may yield important lessons for the protection of the internally displaced in other parts of the world.

There is growing recognition of the need for a broad response, which takes into account the totality of the refugee problem from its root causes to its solution, and which addresses the continuum of refugee flows from exodus and relief to return and reintegration. I am convinced that it is only through such a comprehensive approach which includes *all* parties and *all* aspects of the problem that an effective strategy can be developed which recognises the close relationship between human rights, economic development, peace-building and population displacement.

This was the approach adopted by the International Conference on Central American Refugees, called CIREFCA. It grew out of a political commitment to improve regional stability. Solutions for refugees and the internally displaced were therefore incorporated into the more durable process of peace and development in the region. The positive environment in which CIREFCA was born and which it has fostered in turn has led generally to the strengthening of protection for refugees in the region. On the other hand, the durability of the solutions depends on the extent to which refugee aid can be married to development assistance, and more importantly, to the overall resolution of the complex economic and social problems facing the Central American countries.

In contrast, the Comprehensive Plan of Action or CPA in South East Asia was fashioned by the need to tackle a mixed movement of migrants and refugees within a very complex political context. The CPA is still in the process of evolving but I am sure that its ultimate success will be determined by the willingness of the international community to address the underlying root causes of the migratory movement from Vietnam.

CIREFCA and CPA can provide lessons for refugee situations elsewhere. Sweden has just published a proposal for what it calls a "Comprehensive Refugee and Immigration Policy". The basic theme is to preserve international protection for refugees and at the same time encourage greater development assistance with support for democratisation and respect for human rights in refugee-producing areas so that those who have left can be encouraged to return home and others will not need to leave.

This is obviously the ideal solution but it is also a long-term one and requires strong political commitment and, equally importantly, adequate resources. I do not think UNHCR should assume the responsibility of running development programmes but we must play a catalytic role in encouraging others to join hands. All this, however, requires money. Every emergency draws funds away from other activities. In order to feed and house refugees, we have had to cut down on education and self-reliance programmes, yet these are the very activities which prepare the refugees to cease to be refugees and become part of the community building process when they return home.

In conclusion, it is clear that the United Nations must play a much stronger role, both operationally and politically, and must be given the resources and support by governments to do so. The refugee issue lies at the heart of the quest for a stable world order. Unless existing refugee situations are addressed properly and simultaneously by governments as well as humanitarian organizations, they have the potential to blight the prospects for peace and progress which the new political climate offers. As we are confronted with emergencies in the Persian Gulf, Africa and elsewhere, it is clear that we have reached a critical stage. The challenge has never been greater, the stakes have never been higher. I believe now is the time for the international community to respond urgently and flexibly to strengthen the capacity of the UN, politically and in humanitarian terms, to cope with refugee situations. I look forward to playing my part in formulating a comprehensive strategy for a new world order on a firm humanitarian base.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President and Members of the Senate, the distinguished Republican leader, the managers, and several interested Senators have been participating throughout the day in a series of meetings in an effort to determine how best to proceed on the pending measure, and specifically with reference to the gun control provisions of the bill.

I have discussed in just the last few minutes with the distinguished Republican leader a procedure under which the following would occur, with consent: First, that Senator BIDEN be recognized to offer an amendment to strike certain provisions of the bill. Those provisions are the four gun control provisions of the bill, the semiautomatic ban, and the waiting period provision. We believe there is no objection to that on either side. That would be done in just a few moments, without objection.

Then Senator STEVENS would be recognized to offer a handgun control amendment on which there would be 1 hour for debate equally divided with no second-degree amendments in order, and a vote up or down on that amendment after 1 hour of debate.

Because there is uncertainty as to whether we would then be permitted to proceed to completion of the bill without the need for a cloture motion, I indicated to the distinguished Republican leader that it would be my intention, absent some agreement, to file a cloture motion prior to midnight tonight to permit it to ripen on Saturday. It is my hope that if we were required to do that, which I think we will not be required to do, but it may be necessary, we could have a cloture vote tomorrow. That would, of course, take consent.

In lieu of that, the distinguished Republican leader suggested that we simply seek to gain consent that would permit—should events require tomorrow, and it may not be required, and in fact I hope will not be required—that I could file a cloture motion on tomorrow, and it would be deemed to have been filed prior to midnight tonight. The only thing is we would be in a position not to have lost ground. There would be no advantage to it were we to do so this evening. So we then have an up or down vote.

We would first strike the four what I refer to as minor gun provisions in the bill. We would have an up or down vote on the Stevens amendment on handgun control, which would be a substitute for the Brady provisions in the bill. That would be it for this evening.

We would then reconvene in the morning in what I hope would be a position to proceed to the completion of action on the bill. But if that proves not to be possible, and the cloture motion is necessary to be filed, it would be filed, then deemed to have been filed prior to midnight tonight so we would set it out for a cloture vote not later than Saturday.

I invite the comments of the distinguished Republican leader on what I have just stated.

Mr. DOLE. Mr. President, let me underscore another reason. The majority leader has the choice to file cloture right now or to ask consent to file it tomorrow, and it be deemed to be filed before midnight tonight. If he files cloture now, I think it might jeopardize the disposition of the Stevens amendment.

So I hope that we will proceed as outlined by the majority leader. I would be happy to join the distinguished Senator from Delaware in a motion to strike out those four provisions, and then we would lay down the Stevens amendment—I think everybody is familiar with it—maybe 1 hour of debate equally divided. We would give the majority leader consent to do as he suggested if it is necessary tomorrow that he file cloture tomorrow, deemed to have been filed before midnight tonight. It seems to me that is an orderly way to proceed.

That still leaves us with a $64 question. If the Stevens amendment is adopted, that is one thing. If the Stevens amendment fails, then the so-called Brady amendment still is in the bill, and the question then becomes whether you move to strike that provision, whether you do nothing, whether you offer a compromise.

I think there is some division on this side, maybe none on the other side, on how that is approached. Some would say, well, one more vote on striking the Brady bill. Others of us feel we ought to try to compromise the differences and vote on the compromise. Whether or not that contained the preemption provision has not yet been determined.

So I hope that my colleagues on this side will not object to the request I assume the majority leader will make, and, if we could resolve the questions with reference to guns, it is my thought that we might be able to get an agreement on any other amendments, not try to dispose of all of those tomorrow, but agree that only these amendments will be in order, and maybe complete action as soon as we are back for the second day.

The Senator asked me a good question. What do we do if we win?

Mr. MITCHELL. We do the same thing as if the reverse happens: We go home and sleep on it, as I think we ought to do anyway. It has been a very long and difficult effort. I must say that the negotiations at all levels have been conducted in perfectly good faith, in a very serious effort to resolve honest differences of approach on an important but contentious issue. I hope we can do this so we can begin to move toward bringing this matter to a conclusion.

Mr. President, following this discussion, unless any Senator has a question, I will proceed to propound the request.

Mr. RUDMAN. Will the majority leader yield for a question?

Mr. MITCHELL. Yes, certainly.

Mr. RUDMAN. I certainly will have no objection to what the leader has just captioned, but I have this question: There are some of us who realize how important this gun issue is, but who have other issues which we think are as important, or maybe more important. I have waited the entire day, hoping to offer an amendment, which will take maybe a half an hour, on which we can have a very energetic debate with my friend from Delaware.

I would hope, if we are going to get into long negotiations again tomorrow, that while those are going on, at least we can address some other issues. I do not ask the majority leader to put that in his request. His word is good enough for me. I just hope we can do that tomorrow.

Mr. BIDEN. Mr. President, if the majority leader will yield for a moment for me to respond. I first say to my friend from New Hampshire that I will be delighted to do that and guaranteee him that we will vote on his amendment tomorrow. But it is my sincere desire that between now and 10 o'clock tomorrow morning—it is 28 minutes before 12—he will go home and sleep on his amendment, and maybe leave it under his pillow and not come back with it. But if he does, we are prepared to enter into a time agreement, debate it, and vote on it.

Mr. RUDMAN. I thank my friend. I assure my friend from Delaware that I will sleep on it; it will be a short night, so I will not sleep on it too long, but I will try.

Mr. CHAFEE. Mr. President, can I just ask this: When the majority leader is through with his unanimous-consent request, and we have this vote, then do we go home for the night?

Mr. MITCHELL. We will have this vote after 1 hour of debate, and then we will go home.

Mr. CHAFEE. That is right. Who cares about 1 hour at this time. When we are through with the hour, that will be the last vote of the evening?

Mr. MITCHELL. That is right. I anticipate that the first amendment by Senator BIDEN to strike certain provisions of the bill, to which I referred, will not require a vote, will not require any debate, and it will be done by consent in about a minute. And then Senator STEVENS will be recognized for 1 hour of debate and a vote on his amendment, and that will be it for tonight. We do not know what will happen. We will come back in the morning and decide. The distinguished Republican leader laid out what the options are about proceeding then.

Mr. CHAFEE. I think it would be well to stress that under the Senate rules, they need not use the full hour.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator BIDEN be recognized to offer an amendment to strike certain provisions of the bill; that there be 1 minute for debate, equally divided, with no amendments to the language proposed to be stricken in order; that following the disposition of the Biden amendment, Senator STEVENS be recognized to offer a handgun control amendment on which there will be 1 hour for debate, equally divided in the usual form; that no second-degree amendments or amendments to language proposed to be stricken be in order; that no motions to recommit be in order during the pendency of these amendments; and that at the conclusion or yielding back of time, the Senate, without any intervening action or debate, proceed to vote on the Stevens amendment.

I further ask unanimous consent that if the cloture motion on the bill is filed tomorrow, Friday, June 28, it be deemed to have been filed today, Thursday, June 27.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, then Senators should be aware that a vote will occur on the Stevens amendment, up or down, in approximately 1 hour or less, if all the time is not used. I thank my colleagues for their cooperation.

I yield the floor.

AMENDMENT NO. 428

Mr. BIDEN. Mr. President, I send an amendment to the desk on behalf of myself, Senator DOLE, and Senator THURMOND.

Mr. STEVENS. Mr. President, I reserve the right to object. I would like to inquire of the Senator from Delaware, will that strike title 12, subtitle C, title 12, section 1237, title 12, sections 1223 and 1245?

Mr. BIDEN. That is precisely correct. It strikes all of that and no more.

Mr. STEVENS. Thank you.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for himself, Mr. DOLE, and Mr. THURMOND, proposes an amendment numbered 428.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 140, strike from line 3 through line 20.

On page 149, strike from line 13 through line 24.

On page 153, strike all from line 1 through line 19 on page 158.

Mr. BIDEN. Under the 1-minute time limitation, Mr. President, and admonition of the Senator from Rhode Island, I yield the floor and yield back my time.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. DOLE. We yield back all our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 428) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 429

(Purpose: To amend title 18, United States Code, to establish procedures for mandatory instant background checks of the criminal histories of prospective buyers of handguns and to establish mandatory prison sentences for the commission of a crime with a firearm in addition to any other penalties)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 429.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 236, strike line 9 and all that follows through the end of the bill and insert the following:

SEC. 2701. MANDATORY INSTANT IDENTIFICATION OF FELONS ACT OF 1991.

(a) SHORT TITLE.—This title may be cited as the "Mandatory Instant Identification of Felons Act of 1991".

(b) FEDERAL FIREARMS LICENSEE REQUIRED TO CONDUCT CRIMINAL BACKGROUND CHECK BEFORE TRANSFER OF HANDGUN TO NONLICENSEE.—

(1) STATE INSTANT CRIMINAL CHECK SYSTEM.—(A) Not later than the date that is 24 months after the date of this Act, each State shall establish and maintain an operations system that, on receipt of an inquiry from a licensee pursuant to section 922(u)(1) of title 18, United States Code, immediately researches the criminal history of a prospective handgun transferee, advises the licensee whether its records demonstrate the transferee is disqualified from receiving a handgun by reason of section 922 (g) or (n) of title 18, United States Code, and, if the transferee is not so disqualified, provides the licensee a unique identification number with respect to the transfer.

(E) A State instant criminal check system shall—

(i) provide for the privacy and security of the information contained in the system;

(ii) ensure that information conveyed to the system by a licensee pursuant to section 922(u)(1) of title 18, United States Code, is not recorded or noted in any form whatsoever, is not conveyed to any person except as person who has a need to know in order to carry out the purpose of that section, and is not used for any purpose other than to carry out that section; and

(iii) provide to a prospective handgun transferee who is denied receipt of a handgun on the basis of information provided by the system a procedure for the correction of erroneous information in accordance with subparagraph (C).

(c)(i) A State instant criminal check system shall provide that if the system informs a licensee that receipt of a handgun by a prospective transferee would violate section 922 (c) or (n) of title 18, United States Code, the transferee may request the head of the system to provide such other person with the reasons therefor.

(ii) On receipt of a request under clause (i), the head of a State instant criminal check system shall immediately comply with the request.

(iii) The transferee may submit to the head of the State system information to correct, clarify, or supplement records of the system with respect to the transferee.

(iv) After receipt of information under clause (iii), the head of the State system shall immediately consider the information, investigate the matter further, correct all erroneous State records relating to the transferee, and give notice of the error to any Federal department or agency or any State that was the source of the erroneous records.

(2) PROHIBITIONS RELATING TO ESTABLISHMENT OF REGISTRATION SYSTEMS WITH RESPECT TO HANDGUNS.—No department, agency, officer, or employee of the United States may—

(A) require that any record or portion thereof generated by a search of the criminal history of a prospective transferee under a State instant criminal check system established under paragraph (1) be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(B) use information provided by a State instant criminal check system established under paragraph (1) to establish any system for the registration of handguns, handgun owners, or handgun transactions or dispositions, except with respect to persons prohibited by section 922 (g) or (n) of title 18, United States Code, from receiving a handgun.

(3) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 922 of title 18, United States Code, as amended by section 702, is amended by adding at the end the following:

"(u)(1) Effective 24 months after the date of enactment of this subsection, a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a handgun from the business inventory of the licensee to any other person who is not such a licensee, unless—

"(A) before the completion of the transfer the licensee contacts the State instant criminal check system; and

"(E) the State system notifies the licensee that—

"(i) the State system, after a review of records, including records in the Federal National Crime Information Computer, has not located any record that demonstrates that the receipt of a handgun by such other person would violate section 922 (g) or (n) of this title; or

"(ii) the State system will not be able to respond to the licensee before the end of the next business day.

"(2) Paragraph (1) shall not apply to a handgun transfer between a licensee and another person if—

"(A) such other person presents to the licensee a valid permit or license, issued by the State or political subdivision thereof in which the transfer is to occur, that authorizes such other person to purchase, possess, or carry a firearm, and the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

"(B) the Secretary has, under section 5812 of the Internal Revenue Code of 1986, approved the transfer; or

"(C) on application of the transferor, the head of the State system has certified that compliance with paragraph (1)(A) is impracticable because of the inability of the transferor to communicate with the system because of the remote location of the licensed premises.

"(3) If the State instant criminal check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a handgun by such other person would violate section 922 (g) or (n) of this title, and the licensee transfers a handgun to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

"(4)(A) If the licensee knowingly transfers a handgun to such other person and knowingly fails to comply with paragraph (1) of this subsection with respect to the transfer and, at the time such other person most recently proposed the transfer, the State instant criminal check system was operating and information was available to the system demonstrating that receipt of a handgun by such other person would violate section 922 (g) or (n) of this title, the Secretary may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under this section, and may impose on the licensee a civil fine of not more than $5,000.

"(B) Any action by the Secretary under subparagraph (A) shall be taken in accordance with the procedures provided in section 923(f).

"(5) A State employee responsible for providing information through a State instant criminal check system shall not be liable in an action of law for damages for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of a handgun is unlawful under this section.".

(4) HANDGUN DEFINED.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(29) The term 'handgun' means—

"(A) a firearm that has a short stock and is designed to be held and fired by the use of a single hand; or

"(B) any combination of parts from which a firearm described in subparagraph (A) can be readily assembled.".

(5) PENALTY.—Section 924(a) of such title is amended—

(A) in paragraph (1), by striking "(2) or (3)" and inserting "(2), (3), or (4)"; and

(B) by adding at the end the following:

"(4)(A) Whoever willfully violates subsection (u) of section 922 shall be fined not more than $1,000, imprisoned for not more than one year, or both, except as provided in subparagraph (E).

"(B) In a case of a violation under subparagraph (A) in connection with a transaction in which the transferee of a handgun is a person whose receipt of the handgun was not unlawful under this section, the offender shall be fined not more than $500, imprisoned not more than six months, or both.".

(c) IMPROVEMENT OF CRIMINAL JUSTICE RECORDS—

(1) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—(A) The Attorney General shall expedite—

(i) the incorporation of the remaining state criminal history records into the Federal criminal records systems maintained by the Federal Bureau of Investigation;

(ii) the development of hardward and software systems to link State criminal history check systems into the National Crime Information Computer; and

(iii) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

(B) There are authorized to be appropriated such sums as are necessary to carry out subparagraph (A).

(2) PROVISION OF STATE CRIMINAL RECORDS TO THE FEDERAL CRIMINAL RECORDS SYSTEM.—Not later than 60 days after the date of enactment of this Act the Attorney General shall—

(A) determine the type of computer hardware and software that will be used to operate the Federal criminal records system and the means by which State criminal records systems will communicate with the Federal system;

(B) investigate the criminal records system of each State and determine for each State the extent and degree of accuracy of criminal records that each State should, with reasonable effort, be able to provide, and will be required to provide, to the Federal system by the effective date of section 922(u) of title 18, United States Code, and thereafter; and

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(3) FEDERAL SYSTEM.—Not later than the effective date of subsection (u) of section 922, United States Code, the Attorney General shall provide to each State computer access through the National Crime Information Computer to the criminal records contained in the computer including the records of other States through a computer network for the purpose of permitting the State to conduct instant criminal background checks required by section 922(u) of title 18, United States Code.

(4) AUTHORITY TO OBTAIN OFFICIAL INFORMATION.—Notwithstanding any other provision of law, the Attorney General may secure directly from any department or agency of the United States such information on persons for whom receipt of a handgun would violate section 922 (g) or (n) of title 18, United States Code, as may be necessary to enable the National Crime Information Computer to operate in accordance with this subsection. On request of the Attorney General, the head of such department or agency shall furnish such information to the Attorney General.

(5) IMPROVEMENTS IN STATE RECORDS.—

(A) IN GENERAL.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(i) in paragraph (2) by striking the "and" after the semicolon;

(ii) in paragraph (3) by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the records required by the Mandatory Instant Identification of Felons Act of 1991 with the United States Attorney General for the purpose of implementing the Mandatory Instant Identification of Felons Act of 1991.".

(B) ADDITIONAL FUNDING.—Section 509 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759) is amended by adding at the end thereof the following:

"(e) In addition to other funds authorized in this Act, there are authorized to be appropriated for fiscal year 1992 and all fiscal years thereafter $100,000,000 for the purpose of implementing the provisions of subsection (b)(4).".

(6) WITHHOLDING FUNDS.—Effective on the effective date of subsection (u) of section 922, United States Code, the Attorney General may refuse to make grants under title I of the Omnibus Crime Control and Safe Streets Act of 1968 to a State that does not establish and operate a State criminal background check system in compliance with subsection (b)(1)(A) of this section and section 922(u) of title 18, United States Code, as added by this section.

(d) INCREASED MANDATORY MINIMUM SENTENCES WITHOUT RELEASE FOR CRIMINALS USING FIREARMS AND OTHER VIOLENT CRIMINALS.—Section 924(c)(1) of title 18, United States Code, is amended to read as follows:

"(c)(1)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) knowingly possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release; or

"(iii) knowingly possesses a firearm that is a machinegun or destructive device, or is equipped with a firearm silencer or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

In the case of a second conviction under this subsection, a person shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release for possession or not less than 30 years without release for discharge of a firearm, and if the firearm is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. In the case of a third or subsequent conviction under this subsection, a person shall be sentenced to life imprisonment without release unless the death penalty is imposed under another provision of law.

"(B) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if—

"(i) in the case of a crime of violence, the person touches a firearm at the scene of the crime at any time during the commission of the crime; and

"(ii) in the case of a drug trafficking crime, the person has a firearm readily available at the scene of the crime during the commission of the crime.

"(C) Except in the case of a person who engaged in or participated in criminal conduct that gave rise to the occasion for the person's use of a firearm, this subsection has no application to a person who may be found to have committed a criminal act while acting in defense of person or property during the course of a crime being committed by another person (including the arrest or attempted arrest of the offender during or immediately after the commission of the crime).".

Mr. STEVENS. Mr. President, I feel a little strange at this point, because the amendment that I had prepared and had been waiting to present had provisions to deal with six specific items in Senate bill 1241. The four that have just been stricken were part of the amendment. What has just been eliminated now in the amendment offered by the Senator from Delaware is: The magazine ban and registration provision, the multiple sale registration provision, the pretrial detention for gun crimes, and the misdemeanor forfeiture of rights provision. They were four of the six provisions that we had substantial objections to.

The amendment I have sent to the desk provides for a mandatory instant identification of felons to prevent the purchase of guns by those who are already prohibited under existing law from purchasing guns. It is the argument of those who back the Brady bill that the Brady bill is necessary to prevent felons from getting guns. Yet, the Brady bill does not mandate any check of the history of the prospective purchasers of guns. My amendment will. It will mandate the instant criminal history background check of prospective purchasers of handguns, while preserving the second amendment historic rights of law-abiding citizens.

Twenty-four months after enactment there will be mandatory checks from an improved State and Federal criminal history record or if a State does not comply with that the price will be the loss of justice assistance grants.

This amendment authorizes $100 million in Federal grants to assist in the establishment of this background check system. It does have protections for individuals in it concerning the use of such information and will prohibit any kind of a national registration list as a result of an instant check system. It will mandate 10 years in prison for commission of violent or drug trafficking crimes with a firearm; if a firearm discharges with intent to injure, the penalty is 20 years; if the firearm is a machinegun or silencer, 30 years; repeated offenders receive additional penalties.

I might say that provision was added by the distinguished Senator from

Texas [Mr. GRAMM] and he will discuss that section.

The amendment will direct the Attorney General to expedite the incorporation of the remaining State criminal history record into the Federal record system and expedite the revitalization of initiatives for technologically advanced fingerprint and criminal record identification. This is an amendment that will set up a system which will prevent those who should not purchase guns through our gun stores throughout the country to acquire guns contrary to existing law.

Mr. President, this crime bill has more restrictive gun control provisions than any legislation we have considered since the Gun Control Act of 1968. The gun control provisions in this bill will ban some guns outright and establish a national waiting period for handgun purchases.

These restrictions will do nothing to reduce violent crime. My amendment strikes the waiting period and in its place requires a mandatory instant criminal background check and mandatory sentences for commission of a crime with a firearm.

We should eliminate the national waiting period in this bill for one simple reason: It will not do anything to reduce crime.

Virtually no felon who wants a firearm to commit a crime buys it from a gun store. A review of States who have waiting periods or background checks for gun buyers bears this out. Generally less than 1 percent of all who obtained a weapon from a gun store had a criminal background. And there is evidence to suggest that even these purchases were for something other than criminal acts or out of ignorance about the restrictions.

Percent of denials based on felony criminal convictions in jurisdictions with waiting periods and background checks[1]

	Percent
New Jersey	.725
Columbus, Georgia	.141
Illinois	1.62
Pennsylvania	.0348
Virginia	1.2

[1] Source: Daniel B. Kopel, Independence Issue Paper No. 4-91, Independence Institute, March 25, 1991.

If waiting periods reduced crime, why is crime so high in waiting period States? Sixty-seven percent of all homicides occur in States with waiting periods, 33 percent happened in States without them; 74 percent of all violent crime occurred in States with waiting periods, while 24 percent occurred in States without them. While California's waiting period was increasing from 2 days to 15, the homicide rate was increasing 132 percent—more than double the national average.

California's experience with waiting periods is instructive. While its waiting periods did not reduce crime, the information generated by the waiting period has led to the creation of a government database of gun owners. This is precisely what the lawful gunowner fears will happen if the national waiting period in this bill is enacted.

We should eliminate the waiting period and other gun control provisions in this bill for another reason: There is no correlation between gun ownership percentages and crime rates. From 1900 to 1930 the American per capita handgun ownership was unchanged. During this period, the homicide rate increased tenfold. From 1937 to 1963, handgun ownership rose 250 percent. Homicides decreased 35.7 percent.

There is irony in this waiting period proposal. The sponsors say it is needed to curb urban crime. Yet most urban areas, and even the States that surround these high crime urban areas, already have waiting periods and background checks. Therefore, the national waiting period in this bill will be imposed generally on States that do not have major crime problems and do not supply illegal guns to high crime urban areas. This is unjustified. There's no reason to infringe on the second amendment rights of Alaskans in order to tackle the crime problems of cities such as Washington, DC, and New York City.

Nobody should be under any illusions that passing these gun control provisions will be the end of gun control legislation. This bill is just the beginning of a flood of restrictions planned by gun control advocates. That is because these provisions will not reduce crime. When that becomes apparent, it will be argued that we need even tougher provisions. Once you buy into the argument that restricting lawful ownership reduces crime, there will be no end to the demands for greater controls.

This is not just a theory. Already, one gun control proponent in the other body has announced the next step. He will soon introduce legislation for a complete national registration list of every honest American gun owner.

If you think there is a crime epidemic now, wait until arms are taken out of the hands of honest citizens. A 1986 study of felons found that 56 percent were more worried about confronting an armed victim than running into the police. Fifty-two percent said a criminal would not approach a victim that is armed.

Private gun use for personal protection against criminals is common. In fact, it is about as frequent as the arrests made by the police. In 1980 alone, guns were used for personal protection about 1 million times. My amendment would strike most of the gun control provisions in this bill.

My amendment would also establish a system for instant criminal background checks of all handgun buyers. The statistics show that only a tiny fraction of gun purchases from gun stores are made by felons. Nevertheless, I am willing to set up systems to check the backgrounds of prospective purchasers because this amounts to nothing more than enforcement of existing law.

My amendment will also improve both the accuracy and access to the Nation's criminal records systems. It authorizes $100,000,000 in grants to States to improve criminal records and set up instant check systems. The amendment also conditions the Justice assistance grants which States now receive on the establishment of background check systems.

The amendment also authorizes such sums as are necessary for the Federal Government to accelerate current efforts to upgrade its already substantial criminal history database. Accelerated criminal records improvements will be useful far beyond background checks for handgun purchasers. Record upgrades will assist our law enforcement efforts in many different areas.

More accurate records will mean better protection for police officers and the public. The records improvement efforts under the bill will be given 24 months to complete. The Director of the Federal Bureau of Investigation has said that he needs only 18 months to upgrade all existing Federal criminal records. Once this is done, the FBI files will include the records of most young active criminals. My amendment provides 24 months for States to establish background check systems.

My amendment will not permit the registration of either a gun or a gun owner. In fact, the amendment specifically prohibits keeping any records about lawful sales. This will eliminate the possibility of an assembly of gun registration lists by local, State, or Federal authorities.

The point-of-sale background check systems which my amendment sets up are feasible. The State of Virgina has a system that gun dealers access by telephone to learn if a prospective gun buyer has felony record. The average time for a background check in Virginia is under 2 minutes. Delaware and Florida have also developed systems similar to the one in Virginia.

The Justice Department prefers background checks to waiting periods. On March 21, Paul NcNulty, Acting Director of the Office of Policy Development at the Department of Justice, testified before the House Judiciary Committee:

> If the Department is going to devote its resources to an identification program, the point-of-sale approach is preferable. * * * it must be emphasized that the desirability of the point-of-sale system is that it involves instant background checks that are just as reliable as those performed during a 7-day waiting period. Both identification systems are dependent upon the same criminal history records.

As this Justice official notes, a national point-of-sale system, like a waiting period for handgun purchases, depends on accessible criminal records.

The records on over 23 million felons are automated and are available in the national criminal information computer. It is important to realize that regardless of whether Congress sets up a point-of-sale background check system or requires a waiting period before a handgun purchase, more must be done to make criminal records more accessible.

The advantages in criminal records improvement of my amendment over S. 1241 are substantial. My amendment will mean more resources and incentives for overall records improvement than the bill. My amendment offers a deadline to get our Federal records up to date. It also gives authority to the Attorney General to set deadlines for State record improvements.

Waiting periods do not stop crime. But swift and sure justice will. Consider this statistic from the Department of Justice. Unarmed felons were asked why they did not carry a gun during the commission of their crime. Fully 79 percent said stiffer penalties for carrying firearms during the offense was the reason.

My amendment increases the penalties for crimes committed with firearms. It mandates 10-year prison sentences for the commission of a violent or a drug trafficking crime with a firearm. If the firearm discharges with intent to injure during the crime, the penalty is 20 years. If the firearm is a machinegun or has a silencer, the penalty is 30 years. Repeat offenders face additional penalties. All mandatory penalties are in addition to any penalty imposed for the underlying crime.

Let me conclude by saying the vote on this amendment is going to tell whether you want to control criminal behavior or control the rights of honest, lawful Americans who own guns.

I urge my colleagues to adopt the amendment.

Thank you, Mr. President.

Mr. President, I want to point out that we do have records right now of over 23 million felons that are automated and are available in the National Criminal Information Computer. The Brady bill does not set up any mandated check; it merely provides for a waiting period.

I know that there is a philosophically significant position of difference between Members of the Senate. I cannot buy the fact that the waiting period for the thousands of legal citizens, people who have a right to buy guns, people who have a need for guns, for them to wait merely because some people believe that if a waiting period were put in effect there would be less people who would seek to acquire guns illegally and for criminal purposes.

It is important to realize that regardless of whether Congress sets up a point of sale background check system or requires a waiting period for handgun purchase, more needs to be done for criminal records to make this information more accessible. That is one of the major intentions of this amendment.

Mr. President, I would be pleased to answer any questions anyone has about this amendment. As I said, I feel like I am presenting a rather robust turkey that has just been plucked, because some of the amendment has been taken out and what we are really looking at now is a concept of trying to offset this rather well-hyped concept of a waiting period.

I take the position that a waiting period is nothing but a preliminary to another series of bills that will be offered. As a matter of fact, a proponent of this Brady bill in the House has already announced a national gun registration bill, and that is why we are here tonight. We want to try to make people realize that a vote for the Brady bill merely sets in motion the next step of the whole development of control of guns by those who have a right to have them under our Constitution.

It is, and I am glad to see the Senator from Ohio on his feet, a clear difference of opinion between the Senator from Ohio and me, and those who agree with me, that we do have a right to have guns. We have a use for handguns. And there are legal ways to obtain handguns now.

It is unfortunate that the drive is now starting, I believe, in this country to ultimately take away from us the guns we wish to use in our lifestyle. It is a very regional split in this country. It is going to lead to great division in this country in my opinion if this split continues.

I urge the Senate to support this amendment. It is a strigent requirement to check to prevent the acquisition of guns by those who have no right to them, those who have already been denied the right to them under current law.

Mr. President, how much time have I used, please?

The PRESIDING OFFICER. The Senator has used 8 minutes.

Mr. STEVENS. I wish to yield from my time 10 minutes to the Senator from Idaho [Mr. CRAIG]; 5 minutes to the Senator from Texas [Mr. GRAMM]; 2 minutes to the Senator from Idaho [Mr. SYMMS]; 3 minutes to the Senator from New Hampshire [Mr. SMITH]; and retain the remainder for myself.

Mr. BIDEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BIDEN. Mr. President, is the Senator from Delaware charged with the time in opposition?

The PRESIDING OFFICER. The Senator opposed to the amendment is in charge of the time.

Mr. BIDEN. Yes. I want to make sure.

Mr. STEVENS. They do not seek that time now. I am sure the Senator from Ohio is ready to speak. I just want to allocate the time rather than yield it. I allocate the time made available to me in the manner I just indicated. I understand it will leave 2 minutes to me.

The PRESIDING OFFICER. The Senator has that right.

The Senator from Delaware.

Mr. BIDEN. Mr. President, I yield 6 minutes to my distinguished friend from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I appreciate the time allocated to me by the managers of the bill.

I rise to say that we need some clarification as to where we are. There is not anybody in the U.S. Senate that I know of who wants to take away anybody's gun. There is no provision in this bill that is pending before us, there is no provision in the Brady bill, the Brady amendment. Nobody has any desire to take away anybody's gun.

What we are talking about is a totally different issue. We are talking about passing the Brady bill, which provides for 1-week waiting period. And we are also talking about this new proposal which is the so-called Staggers amendment. Under this amendment it calls for an instant check within 2 years as to whether or not a person has a criminal record or has a mental record.

The NRA is singing the same old song in an effort to defeat the Brady bill. The NRA somehow thinks that this amendment which was originally known as the Staggers amendment is going to solve the problem. At least it is going to make it appear to solve the problem.

Three years ago there was a McCollum amendment. And that amendment told the Attorney General to implement the instant check within 1 year. All those things are fine. Tell the Attorney General to do it in 6 weeks, tell him to do it in 1 year, tell him to do in 3 years. We are still waiting for the Attorney General, and nobody believes that it can be done in that short a period of time. And yet the idea is we will get this instant check, so-called, or think that we are going to get it, and therefore eliminate the need for the waiting period.

Now last month in the House the Staggers amendment was said to set up an instant check system of months, everybody has a new idea: 6 months, 1 year, 2 years, 3 years. The only problem is it cannot be done. The House wisely rejected that amendment and passed the Brady bill instead.

Last year I asked the Office of Technology Assessment to conduct a study on an automated system to identify felons who try to purchase firearms. I asked them to tell us truthfully how long will it take to have one of these automated systems in effect so you can press a button and find out whether the individual who is applying to get a gun has a criminal record. One Senator on the OTA board has held up that report and the report is very relevant to this issue.

Senators have a right to know what the OTA findings are. Since the final report is not available, I am going to cite from the Office of Technology Assessment draft what they indicated in that draft and the final report is not out as yet. I had hoped that it would be.

In that report, it provides that, and they tell us that an instant check will take 5 to 10 years to develop, not 2 years, not 1 year, not 6 months. They tell us that it will cost hundreds of millions of dollars. They tell us that the waiting period can work in the interim. That is what we say in the Brady bill. Let the Brady bill be put into effect, provide for the waiting period, and when that instant check day comes along we do not have any more problem about the waiting period.

Until a nationwide instant check is possible, there should be a Brady bill in effect. It is in the proposal that is before us. We ought to leave it in.

The facts are clear. We are not going to have an instant check any time soon. Whether you pass the Stevens amendment or the Staggers amendment or the McCollum amendment or anybody else's amendment, passing an amendment does not provide an instant check.

Under this amendment, it states that if there is not an instant check in 2 years, they will lose justice assistance grants. Nobody wants them to lose justice assistance grants. We want the money to be available. Why should we deprive those who are in need—the law enforcement officials, the legal departments, others who need the money—of the legal assistance grants?

It is not a question of dollars. It is a question of what makes sense for this country. Those grants total $425 million and this amendment orders the States to do the impossible or to lose their share of that $425 million. I for one do not want to see them lose that money and I do not believe that any Member of the Senate wants to see their State deprived of the legal assistance grant. That is not a realistic approach. It takes their law enforcement money away when they fail. Why do that? That is only compounding the problem. This is what I call a solution that exacerbates the problem rather than helps solve the problem.

This amendment is nothing more than a sham to make the American people think that we are doing something to keep guns from criminals. It would not do that. I urge my colleagues to stand up to the NRA and stand with the police of this country. The police of this country are opposed on this amendment. They support the Brady amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BIDEN. I yield the Senator an additional minute.

Mr. METZENBAUM. We should stand against the NRA, stand up with the police officers of this country, stand up with the forces of law and order, and vote against this sham amendment to kill the Brady bill. It will serve no useful purpose. It just serves to confuse the issue, and it will be counterproductive.

The PRESIDING OFFICER. The senior Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, talk about a sham. A waiting period has turned out to be in this country nothing more than a sham. Let me just give my colleagues a little bit of the record on how it actually has worked.

No. 1, it will divert law enforcement people and resources from being on the street fighting crime to being paper shufflers in the office. It diverts our attention from criminals to guns. It is not working in the States that we have it.

Mr. President, 80 percent of all illegally used firearms are acquired illegally right now. The bill would do nothing to curb the incidence of crime and violence on America's streets. The waiting period simply does not work.

For example, States like Connecticut, California, and Washington have an increase in violent crimes since they have had a waiting period. Indiana, California, Minnesota, New York, and Connecticut all have waiting periods. During the 20-year period they have had waiting periods, the Indiana homicide rates went up 70 percent; the California rate, 82 percent; Minnesota, 56 percent; Connecticut, 146 percent; and New York, where they have all kinds of gun control, 131 percent.

And look at some of the States that do not have a waiting period: In Alaska, homicides were down 16 percent; Nevada, 24 percent; Delaware dropped 35 percent; Vermont plummeted 39 percent. In my own State of Idaho, it dropped 40 percent.

Violent crimes statistics tell the same story, Mr. President. This is a diversion of law enforcement resources. It is a sham to pull on the American people. We should get back to the business of punishing criminals and not try to say somehow a waiting period is going to have any impact on guns.

I urge my colleagues to support the Stevens amendment.

The PRESIDING OFFICER. The Senator's time has expired.

The junior Senator from Idaho is recognized for 10 minutes.

Mr. STEVENS. Mr. President, would the Senator agree to agree to reduce that to 5 minutes?

Mr. CRAIG. Yes.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 5 minutes.

Mr. CRAIG. Mr. President, amendment No. 429 that my colleague from Alaska has put forth is in fact probably the most realistic way to arrive at keeping handguns out of the hands of felons.

There is no question that my colleague from Ohio talks eloquently about what the Brady bill or a version of the Brady bill might or might not do. But in reality, Mr. President, what it is is simply clear politics. It is truly a sham that builds a sense of insecurity in the average American who believes that Brady might ultimately keep a firearm out of the hand of a felon. Reality says it will not happen.

Let me define what a felon is. A felon is a criminal. By that definition, a criminal violates the law. So are we going to put a new law in place and say criminals will follow the law, and in that process, Mr. President, we will detect them and we will disallow them the right to acquire a gun through these "legal methods?"

To be able to provide an instantaneous, accurate background check, as this amendment would provide in the firearm statutes of this country, is by far the most realistic way to deal with this problem. We do not target the law-abiding gunowner. We target the criminal. I think it would be exciting if this body could pass a criminal law that leaves the law-abiding citizen alone and goes after that individual who, in fact, by definition violates the law. And that is what we are about to attempt to do.

We would recognize that within 24 months after enactment—and the Attorney General says with the right resources we can have this kind of record check in place 24 months after enactment—States must conduct background checks from improved State and Federal criminal history records or risk the loss of justice assistance grants.

What is wrong with tightening the string on the States? We already jerk them around too much. Now we are saying we ought to use some of these Federal dollars to assure that a proper checking mechanism moves through the States to the Federal mechanism as it ought to be allowed to do.

Tonight you have an opportunity to vote for something that will work—or do you want to play politics with your constituents back home and say, guess what we have given you? We have given you a nice, comfortable 7-day game that by this very law will not work, but in this sense of great comfort and security, that one out of six firearms that is used in the commission of a crime, Mr. President, that is acquired through this mechanism, might be detected.

Now that is the reality of the politics we are playing with tonight. Nobody would dare suggest that we are playing with second amendment rights, but we are. We are in fact saying to that average American citizen we are going to for just a moment squeeze those rights that for over 200 years we have deemed as sacred. And the reason we are going to do that is because we have failed in crafting effective criminal law in this country that recognizes and penalizes the individual who does not abide by the law. That is what is being done this evening, and it is in fact a travesty that we should even suggest that we would want to do something like this.

The best law in the country that you can implement is a law that implements itself, a law that the average American recognizes and works; they believe in it, and in so believing in it, they abide by it.

My colleague from Ohio is suggesting that that kind of thing will happen by just putting 7-day waiting periods in place and everybody will truck off down to their local gunship and they will acquire a firearm and they will wait for the process to work.

That will not happen with the criminal element of this country. When they know that for some reason they will be screened and checked, they will go into the blackmarket on the corner of the street, the trunks of the cars of that market will come up, and there will be not one criminal who chooses to violate the laws of this country and use a handgun for the purpose of that violation that will be without one.

That is the reality of what we are doing here tonight. I suggest this is a clear opportunity. To vote for Stevens is to vote for a mechanism that in the process the law enforcement community of this country will work, Mr. President, and that is the kind of law that the citizens of this country deserve.

The PRESIDING OFFICER (Mr. WIRTH). The time of the Senator from Illinois has expired. Who yields time? The Senator from Texas has 5 minutes.

Mr. GRAMM. Mr. President, let me be sure everybody knows exactly what we are are talking about here. We are talking about, in the so-called Brady bill, a 7-day waiting period where the States are not forced to even do a check. We are comparing that to a comprehensive proposal that has been presented to us by Senator STEVENS that sets up, with the assistance of $100 million of Federal money, an instant check system. So when somebody goes in to buy a firearm there will be an instantaneous check to see if, under the law, they are prohibited from having that firearm. And, also, we institute not gun control but criminal control: stiff, minimum, mandatory sentences without parole; 10 years in prison without parole for possessing a firearm during the commission of a violent crime or a drug felony. That is in addition to the penalty imposed for the underlying crime you committed. Twenty years without parole for discharging the firearm and a mandatory life imprisonment without parole if you kill somebody; also, you are subject under provisions already adopted in this bill to be put to death for killing somebody.

That is what I call deterrence.

Let me remind my colleagues that many of the studies that have tried to actually look at data as to how many criminals are actually getting guns out of stores are reaching pretty startling conclusions. For those who specialize in handgun crimes, only about 7 percent of them got their guns from stores. For criminals as a whole, of the guns that have been obtained for use in crime, only about 12 percent of those came from stores.

So, Mr. President, what we need is an effective crime control measure. And what Senator STEVENS has given us is an instantaneous check to verify whether people are prohibited from buying a gun and denying them legal purchase. We also provide stiff, minimum, mandatory sentences for those who use guns to violate the law.

What we have here is a clear choice. If you are for gun control, if you want to limit the ability of law-abiding citizens to buy guns, then you want to vote against the Stevens amendment. If you want to follow a path that many of our States have followed to gun control, you want to vote "no" on the amendment of Senator STEVENS. On the other hand, if you want to deal with criminals, the people who are dangerous when they have guns, then you want to vote for the Stevens amendment.

The Stevens amendment is a mandatory check which States are required to conduct, or risk losing Federal funds.

So, we present an effective system to determine who is and who is not eligible to buy a firearm and we have effective criminal control.

In conclusion, let me say that criminals are going to get guns. We see that every day in the District of Columbia, where we have the tightest gun control laws in the country.

The only way we are going to keep criminals from using those guns is to have stiff penalties, to have effective law enforcement, and to grab these gun thugs by the throat. And that is what the Stevens amendment does.

I urge my colleagues, if you oppose gun control, if you are for criminal control, then vote for the Stevens amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from New Hampshire is recognized for 3 minutes.

Mr. SMITH. Mr. President, I want to first of all compliment Senator STEVENS for his leadership on this issue, standing up for the Constitution of the United States. There has been much made in this debate—I believe the Senator from Ohio said it most recently—that we are standing up for the NRA. Somehow we have gotten things twisted around. We are standing up for the Constitution of the United States of America.

The second amendment says very clearly: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

I am not a lawyer, but how are you going to get it any clearer than that? How can you interpret it any different than that? Where do you get a 3-, 5-, 7- or a 15-day waiting period out of that amendment? Where do you get handguns, rifles, collector pieces banned, from that amendment?

Mr. SIMON. Will my colleague yield?

Mr. SMITH. Not at this time.

Would it not be nice to find out just what might happen? Are you afraid to learn what would happen if you put criminals in jail 10 years for the first offense with a gun, 20 years if they fire it, 30 years if they use a machinegun with a silencer? Would it not be nice to find that out? I guess we do not want to find that out. That is the truth of that matter.

Early historical comments on this subject are very clear.

Aristotle: "Basic to tryants is a mistrust of the people. They deprive them of the arms."

Madison, in Federalist 46, assured Americans they need never fear the Federal Government because of the advantage of being armed which they possess over the people in almost every other nation.

Mr. President, the langauge is very clear. The Stevens amendment does what we want it to do because we support the Constitution of the United States, not the NRA. That is not the issue.

In closing Mr. President, this bill does four things that are very important. It strikes out the magazine ban and registration, it strikes out the Mitchell-Brady waiting period, it strikes out multiple sales registration, and its strikes out pretrail detention for gun crimes.

It stands up for the gun owners and its stands up for the Constitution of the United States of America.

I yield back my time.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 1 minute.

Mr. MURKOWSKI. Mr. President, I rise today to voice my total opposition to the gun control provisions contained in S. 1241. The so-called assault weapon ban and the Brady bill will do nothing to reduce crime and will only penalize legitimate gun owners.

Title VII of S. 1241 the Antidrug, Assault Weapons Limitation Act of 1991 would ban the transfer, import, or possession of any assault weapon not lawfully possessed before the effective date of this act. Proponents of this provision would have us believe that it is aimed at controlling crime. They would have us believe that these weapons are the weapon of choice for criminals particularly drug criminals. They would have us believe that by banning the possession of these weapons we would somehow reduce crime. They are wrong.

The people affected by this gun control measure would be the law-abiding citizens of the United States—the collectors, the target shooters, the hunters. I know that these groups rate lower than pornographers on gun control proponent's list of people worth listening to, but they are upstanding, law-abiding citizens of this great Nation and they deserve our respect. They deserve measures that will truly reduce crime. They do not deserve to be scapegoats when legislators try to impress constituents with tough talk on crime.

You might ask, why will a ban on assault weapons not reduce violent crime in America? I will tell you why not, Mr. President. It is because, by definition, criminals commit crimes. They are not deterred by paltry measures that rely on people obeying the law. Criminals do not obey the law. The guns listed in this bill will simply be added to the illegal substances that these criminals already smuggle into the country. You think we have problems now, just wait until competition in the gunrunners' black market starts to escalate, and more and more sophisticated weapons are offered. Then we will truly see war in our streets.

FBI 1988 statistics show that only 4 percent of homicides were committed with rifles. It has been estimated that only 1 percent of the total homicides committed in this country are with military style semiautomatic rifles of the type banned in this bill. In truth we do not really know how prevalent the use of these types of guns is in crime. S. 1241 would call for a study to be conducted after the implementation of this act to determine its effect on crime. Quite frankly, I do not think a study is a bad idea. But you can bet that if this study shows that this ban is ineffective, which I believe it will, those supporting the ban today will not then be calling for its repeal. No; their purpose is not to reduce crime, it is to reduce gun ownership among the general populace. It is an effort to penalize those who enjoy the responsible use of firearms by those who are irrationally opposed to their use in any circumstance.

This gun control language is only the first step toward eliminating our second amendment rights. The provisions in this act allow for the list to be increased as new guns are found to be assault weapons and are added to the list. Since the act contains no definition of assault weapon it is conceivable that every firearm will ultimately be listed under this act. After all, they can all technically be used to "assault" someone or something. That would be a leap not much greater than the leap to label legitimate semiautomatic weapons as assault rifles, when in fact the term applies only to a military rifle capable of fully automatic fire. This is not a matter of semantics, Mr. President, it is a deliberate effort to mislead and frighten the public.

This attack on honest gun owners is a two-pronged attack. S. 1241 also incudes the famous Brady bill. The Brady bill as presented in this act contains two basic provisions—one to mandate a 7-day waiting period before the purchase of a handgun and one to mandate a background check before the purchase of a handgun. The merits of these two provisions deserve to be addressed separately.

As with the assault weapon ban, there is no evidence that a waiting period will help reduce crime. In fact, evidence overwhelmingly points to waiting periods having no effect on crime. Several States currently have waiting periods. New York, New Jersey, Connecticut, California—all of these States have waiting periods and yet they have experienced no corresponding decrease in crime. And why should there be? Criminals are not going to wait 7 days for a gun. There are far easier ways for them to obtain a handgun than through a legal dealer. Most guns used in crimes are obtained illegally by criminals, not through legal gun dealers.

Again, the only people affected by this legislation will be law-abiding citizens who have every right to own a handgun. These are the people that will go into the gun store and truthfully fill out their application. These are the people that will patiently wait 7 days for what should be theirs the minute they lay their money down. Criminals will not wait. Honest people will.

How about this law's effect on crimes of passion. Will a waiting period make these people cool off and thus not commit the crime they were originally intending? I do not think so. Crimes of passion are crimes of impulse—and a crime of impulse will be committed with whatever weapon is closest at hand—not after a trip to a gun store and completing a Federal form.

I am pleased to support the amendment of my colleague, the senior Senator from Alaska.

Let me discuss, for a moment, the effect of this legislation on the State of Alaska. First, I would like to point out that a high percentage of the people in Alaska live in rural areas. In these areas there may not be a grocery store, let alone a gun store. Thus these people often need to fly, or boat, or drive hundreds of miles to the nearest gun store if they want to view an assortment of merchandise and determine which handgun is the best for their needs. With the Brady bill, these people would be foced to sit around in a hotel for 7 days. That is absolutely ridiculous. And more than that, it is completely unnecessary since these guns will not be used for criminal purposes.

Why do Alaskans need handguns? One reason is for hunting. A growing number of people prefer handguns for the challenge of the close stalk and greater skill requirement. The major reason is for protection. Often it is unwieldy to carry a rifle particularly when you are flying or traveling in the bush. In a small plane weight is a consideration and a handgun can be an essential part of the bush pilot's safety kit. Handguns can often be used to scare bears or other animals away when they are threatening your person or property.

If it is necessary, I intend to introduce an amendment that would exempt rural areas of our Western United States from the Brady bill.

Another point that many of you may not think of is the miles of lonely, uninhabited roads in Alaska. It is easy to break down on these roads and not see anyone for hours. A handgun in your car on long trips just makes good sense because if you break down there may be nobody there to save you from a predator—either four-legged or, sad to say, two-legged.

The second aspect of the Brady bill that deserves attention is the mandatory check to ensure that the purchaser is not a convicted felon. This provision makes more sense. It is already against the law for a felon to own a gun and a background check would simply ensure greater compliance with that law. However, the Brady bill ties this provision with the 7-day waiting period instead of mandating an instant check. Proponents of this linkage argue that an instant check is not feasible until more criminal records are on computer. This is a bogus argument. Seven days is not enough time to do a thorough paper-based background check. It will produce results no greater than an instant check. In fact, it would probably use precisely the same data as would an instant check, and no more.

The national crime information computer system is the only readily available source of data on criminals. It can already do an instant check on 26 million known criminals, including all 12.5 million felons since 1974 and 8.8 million felons before 1974. This system also contains 26 million nonfelony records. Any check done under the Brady bill will have to use the same records as the instant computer check.

In closing, Mr. President, I would like to simply say that the gun control measures included in this act are a smokescreen. They are an attempt to mislead our citizens about the nature of crime and what Congress is doing to combat it. If these mesures are made law what Congress will have done to reduce crime in America will be nothing. If we are serious about reducing crime I suggest we leave off discussions of these ineffectual measures and concentrate on criminals, not honest gun owners.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I yield 3 minutes to my friend from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 3 minutes.

Mr. SIMON. Mr. President, I hope we will reject this amendment. To my friend from New Hampshire who just spoke about the Constitution, the Constitution, every court decision says, has limitations. No one suggests every citizen has a right to nuclear weapons, for example. The courts have recognized common sense has to apply.

Number 2, common sense; what is it? The State of Illinois has a waiting period. In 1988, 2,470 convicted felons were denied the right to buy a gun. Can anyone tell me that the State of Illinois would be better off if those people had been able to walk in and buy guns?

Last year, counting the firearms identification taken away by the courts, it was almost 3,000. I do not see either of my colleagues from Pennsylvania on the floor right now, but the State of Pennsylvania keeps track of those who apply and who actually gets guns. The Attorney General of Pennsylvania testified the other day that a couple of years ago 54,000 people applied for guns and then did not buy them.

What happens is someone from South Dakota has a fight with his wife and she or he runs down to the store to buy a gun. And they say, "Sorry, we have a cooling off period."

Let me tell my colleagues, that cooling off period has saved lives in Pennsylvania and it will save lives in this country.

We have to have some common sense. No one—I do not believe a single Member of the U.S. Senate, wants to take away guns from responsible citizens. I live in hunting territory down in deep southern Illinois. Our home is right next to the Shawnee National Forest. Most days I would really see more deer than people. But I do not think anyone really believes that having a cooling off period is depriving any responsible citizens of a right. I hope we reject this amendment and do what is the right thing.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield 3 minutes to my friend from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 3 minutes.

Mr. BINGAMAN. Mr. President, I want to clarify my understanding of the amendment and the choice before the Senate this evening because I do not think it has been properly characterized. The argument was made that we have a choice between a statute that requires a check, being the Stevens amendment, and a statute that does not. That is not my understanding of the legislation that was reported to the Senate containing the Mitchell amendment. I understand the Mitchell-Kohl-Gore provision, which is in the bill before us, does require a check. It is not simply a waiting period. I think that is a very important distinction for folks to have in mind between the original Brady bill and the legislation we, in fact, have before us today.

The idea that this amendment, the STEVENS amendment, is going to, for the first time, impose mandatory prison sentences I find somewhat hard to understand, also. We adopted an amendment this morning by Senator D'AMATO, for himself and Senator DOLE, which imposed mandatory prison terms, very much the same mandatory prison terms which are reflected in this amendment and, in fact, more stringent. I believe we had a death penalty in the amendment that we had here today. I do not see a death penalty in the Stevens amendment. I think it is an oversight, I am sure, and something we need to see corrected. We have mandatory minimum prison sentences in the legislation as it presently sits before the Senate today.

I also point out that the Stevens amendment, as I read it, really has no effective sanction against a State for failing to go ahead and institute an instant check system. There is a provision on page 11 that says, witholding of funds on the effective date of this section, the Attorney General may refuse to make grants. That is the kind of sanction we are imposing upon a State. Not that he shall refuse to make grants but that he may refuse to make grants if, in his judgment, there is something improper about making grants.

I suggest to the Senate that is not a very strong sanction or a very strong stick to force State action to do the kind of difficult job that is required in order to get this instant check system up and running.

I believe it is important that we have a statute that deals with the problem of sales to convicted felons. I believe the Mitchell-Kohl-Gore provision, which is in the bill that is pending before us at this time, is an effective effort to do that. I hope the Stevens amendment will be defeated. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield 5 minutes to my colleague from Wisconsin.

Mr. KOHL. Mr. President, the hour is late and this speech will not be long. I just want to make three points for the RECORD and for any of my colleagues who have not yet decided how to vote.

First, we cannot have a national computerized instant check system in place in the time period provided by this amendment. The Attorney General has told us it will take years to create such a system; the Office of Technology Assessment says it could take a decade; no one can say with certainty we can have such a system in place in 2 years.

Second, an instant check system by itself is insufficient. I do not dispute the value of an instant check system—it is included in the bill language which Senators MITCHELL and GORE and I helped draft. If such a system were in operation, it would help us deal with the one out of five criminals who obtain their handguns through licensed dealers today. But it would not help us deal with people who have no criminal record but who do have an immediate intent to commit a criminal act.

The waiting period not only gives us time to check criminal records, it gives individuals an opportunity to cool off. We all know that murders are often committed in the heat of the moment. We call that "a crime of passion." A waiting period prevents someone from getting a gun while consumed by passion. Even the NRA recognized the validity of the arguments. According to its 1976 publication, "On Firearms Control":

> A waiting period could help in reducing crimes of passion and in preventing people with criminal records or dangerous mental illness from acquiring weapons.

Third, let's look at what is really happening in our society. From last August to this March, nearly 300 Americans died in the Persian Gulf. During that same time, more than 1,200 Americans were murdered in New York, more than 1,000 in Los Angeles, over 300 right here in Washington, DC—our Nation's Capital. We all know we have to deal with this problem in a variety of ways: more police, tougher laws, more certain punishment. But for goodness sake, one way to deal with it is also to impose a modest waiting period on the purchase of guns. We are not taking guns away from anyone. We are just saying that you have to wait for 7 days—1 week—before you get the gun. That does not seem like a very large sacrifice to make for a little safety.

I thank the Chair.

Mr. BIDEN. Mr. President, I yield myself 2 minutes.

Mr. President, we hear about tough penalties. My friend from Alaska speaks to that, and my friend from Texas speaks to that. Let me point out that virtually every penalty in the Stevens amendment is already in the Biden bill. The Biden bill has the death penalty for gun murders, 30 years for the use of a dangerous weapon—where a gun is used in an offense—and on down the line.

In addition, we have tough penalties for people who kill cops, and why not have something that the police want, to help prevent cops from being killed?

Second, we are not talking about cooling off periods no matter how much others may speak to that. What we are talking about is giving police 7 days to find out if a person buying a gun is a criminal. It seems to me that is the least we owe the police in addition to our talking tough, acting tough, and providing for tough penalties. The police would rather have the prospect of being more likely to be alive than have a tough penalty enforced as a consequence of not having the opportunity to determine whether or not the person buying a gun is a felon who has no right to buy a gun. It is a pretty simple debate, as far as I am concerned. I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Utah is recognized for 5 minutes.

Mr. HATCH. Mr. President, let nobody make any mistake about it. If you believe in the second amendment and the right to keep and bear arms, which has been time honored in this country, this is your chance to vote for it. That is what this amendment is all about. This is the single, sole amendment that everybody knows means that you are either for or against the second amendment right to keep and bear arms. That is the amendment that is going to distinguish those who want the right to be able to buy arms and to be able to be a sports person, a firearms collector, to protect oneself, and to avoid harassment by the Federal Government, and those who do not.

There are sincere people who feel otherwise, but that is what this vote is all about.

Second, I want to compliment Jim Baker and his staff at the National Rifle Association for the work that they have done. If they had not stood in here for weeks and months on end, those four provisions that have now been knocked out of the bill, this magazine ban and gun registration amendment, would be in this bill. Multiple State registration would be in this bill. The pretrial detention for gun crimes would be in this bill. And misdemeanor forfeiture of gun ownership rights would be in this bill.

If it had not been for them, we would not have knocked those things out of the bill, and everybody knows those were onerous and burdensome provisions.

I happen to be the Senator who worked with Jim McClure and Congressman VOLKMER writing the McClure-Volkmer bill. The reason we came up with that bill was because we were tired of the way decent, law-abiding sports people were treated. We changed the definition of "engaged in business" from the prior law because people were being prosecuted for selling one firearm to a friend. Decent, law-abiding, honest people were being prosecuted. We eliminated the onerous records that they had to keep just for their ammunition. Ridiculous. We eliminated the word "inadvertent" as the standard for preapring errors in forms because people were being prosecuted because they misspelled a word. That is how ridiculous it was. That was gun control. And that is what the Brady bill is.

Frankly, here is a chance to vote for instant check with all of the other features that have been described by my colleagues and to do something about this problem. I do not want to go back to the pre-McClure-Volkmer years. We fought hard to get that changed because we were tired of decent, law-abiding sports people getting hurt in court by people in the Government, bureaucrats and others, who just wanted to embarrass them and hurt them, and they did. A lot of good people got hurt.

Let me summarize some of the reasons I oppose the Mitchell-Brady provision. First, criminals and would-be criminals are going to be able to purchase handguns with or without the Brady bill. I have to tell you they will get them illegally. They will steal them. They will do what it takes to get guns already in circulation in order to do what they want to do, in order to avoid the waiting period.

The vast majority of felonies committed with guns are committed with illegal guns. Indeed, most people who buy a handgun already own one and a waiting period is not even of theoretical value here. The high percentage of convicted felons who possessed handguns did not obtain them from licensed dealers.

Studies over the years have shown gun control measures do not reduce crime. I have to tell you this gun control measure called the Brady bill is not going to reduce crime. It is a symbol, I have to admit and it is a total sham.

We now have 20,000 firearms regulations on the books. I have to tell you, none of these laws so far enacted have significantly reduced the rate of criminal violence.

You can go on and on. Mr. President, I just have to say this particular vote is a critical vote and everybody here better understand this is the second amendment vote. I hope most of us will stand up and vote for our right to keep and bear arms and for not having these onerous provisions, and no longer having the burdens of the overbureaucratic system that we have in Government, that we had before McClure-Volkmer. We should not retrench and go back to the past when decent, law-abiding, honest people were getting harassed.

I know my time is up and so I yield the floor.

Mr. BIDEN. Mr. President, I yield 2 minutes to the distinguished Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 2 minutes.

Mrs. KASSEBAUM. Mr. President, I would like to make a couple of points. First, all sides agree that the best solution ultimately is a nationwide check. I do not think there is any disagreement in that.

Second, both sides have agreed to expend the funds necessary to bring that about, to give the States incentives to compile the criminal records necessary to make this possible.

Third, everyone also agrees that at present such a system is unfeasible. I simply fail to understand, Mr. President, why, until a nationwide instant check is feasible, we should not give the Brady bill a try. I certainly would not be one to argue that a waiting period will be the solution to all the crimes in this Nation, but I do not understand why, until an instant check is feasible, we are not willing to give it a try.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield 2 minutes to my distinguished friend from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. I do not want to talk about this issue in terms of statistics, polls, and surveys. I want to talk about this legislation, rather, in human terms, and I want to be very clear about what the Brady bill is and what it is not.

The Brady bill, as passed by the House of Representatives and modified by Senators MITCHELL, KOHL, and GORE, is about saving lives. That is the truth about this legislation. Opponents of this bill have called it a sham. That is not true. Opponents have said it will not do anything. That is not true. Opponents of the Brady bill have said it is unnecessary, intrusive, and not needed. That is simply not true.

What is true, Mr. President, is that the Brady bill, nothing more, nothing less, is legislation designed to keep handguns out of the hands of people who are, by law, not entitled to have them. What else is true is that we already have a law in this country that says certain people are not allowed to have handguns. We have had this law since 1968, since the year Bobby Kennedy and Martin Luther King, Jr., were killed.

I come from a State, Minnesota, which passed this bill in 1977. It has a 7-day waiting period. There was concern. It never was considered a panacea, Mr. President. But I will tell you something. From gun shop owners, to the law enforcement community, to people all across the State, this waiting period has worked well. It has kept guns out of the hands of people who should not have those guns.

I will tell you something. This is a piece of legislation that the people in this country are supportive of and want. It is time to pass it, and for that reason we must oppose and we should oppose this Stevens amendment.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has remaining 30 seconds.

Mr. GRAMM. I yield that time to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, is my friend from New Mexico on the floor? I want to tell the Senate that I do not think Senator BINGAMAN was correct. He said that the amendment offered by the Senator from Alaska did not make the instant checks mandatory once the national system was in place.

I read it very clearly that the Stevens amendment is mandatory, and I found on page 244 of the Mitchell-Brady bill that it is not mandatory; it is optional. It says that they are required to make a reasonable effort.

The Stevens legislation says they shall establish and maintain, and it seems to me that that means one makes it mandatory, the other makes it best effort.

The PRESIDING OFFICER. The time of the Senator from New Mexico has expired. Who yields time?

The Senator from Alaska has 3 minutes remaining, the Senator from Delaware has 8 minutes remaining. Who yields time?

The Chair notes time is deducted equally from both sides. The Senator from Alaska has 2 minutes 50 seconds remaining. The Senator from Delaware has 7 minutes 50 seconds remaining.

Who yields time?

Mr. STEVENS. Mr. President, I believe the Senator from Texas has 1 minute remaining?

The PRESIDING OFFICER. The Senator had 1 minute remaining, which he yielded to the Senator from New Mexico.

Mr. STEVENS. I yield him 1 minute.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. GRAMM. We had a memo from the distinguished Senator from Idaho that reviewed the impact in States that had instituted the waiting period. We had an earlier reference to Minnesota. Under the waiting period the number of homicides in Minnesota has gone up by 56 percent.

Mr. President, the bottom line is this. Waiting periods have not worked. In the States where they have been implemented, they have not worked. In the District of Columbia, we have the most stringent gun control laws in the country, and yet people are being killed every night.

What we have before us is a clearcut choice. If you are for gun control, you want to vote against the Stevens amendment. If you are for criminal control, you want to vote for the Stevens amendment.

I want to grab these criminals by the throat. I am not menaced by the fact the distinguished Senator from Alaska owns guns.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. GRAMM. I am menaced by the fact that people are killing people and not being put in jail.

Mr. STEVENS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. You have 1 minute, 37 seconds.

Mr. STEVENS. Mr. President, during the time I was preparing for this amendment I had discussions with the Department of Justice. One of them was with Judge Sessions, the Director of the FBI, concerning the availability of criminal history records and what could be done to develop a national system for instant check. I ask unanimous consent that his reply to me, dated May 17 of this year, appear in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, DC, May 17, 1991.

Hon. TED STEVENS,
U.S. Senate, Washington, DC.

DEAR SENATOR STEVENS: This letter is in response to your inquiry of April 23, 1991, and subsequent follow-up by your staff, concerning the availability of FBI criminal history records for screening firearms purchasers.

The FBI's current data base of 14.4 million automated criminal history records is available through the Interstate Identification Index to authorized law enforcement agencies for criminal justice purposes, including the screening of potential firearms purchasers. Since all inquiries for criminal justice purposes are processed the same way, there is no way to quantify the number of checks relative to firearm purchases that are being made today. It is the responsibility of the requesting agency to review the criminal history provided to determine the suitability of the purchaser, including contracting other law enforcement agencies for additional information on a particular arrest and/or its disposition.

As we previously discussed, the President's 1992 budget request for the FBI includes 487 positions and $12.5 million to begin a multiyear effort to eliminate the current backlogs of approximately 715,000 fingerprint cards and 2.3 million disposition reports that have accumulated within the Identification Division. These backlogs would be eliminated approximately 1½ years after the full personnel complement is brought on board and trained. In addition, these positions would enable us to begin converting to a completely automated form the 8.8 million criminal history records that are in the automated name index only. Once this is done, the FBI would have a data base including most young, active criminals. However, since the FBI's identification system is based on the voluntary submission of fingerprints by State and local agencies, there will still exist a number of records at the state and local level for which fingerprint cards have not been made available to the FBI. Those records are available and are being exchanged interstate for criminal justice purposes on a daily basis. This exchange is conducted primarily through the National Law Enforcement Telecommunications System.

The FBI's criminal records are used for numerous law enforcement and public safety reasons, such as employment screening for certain Federal agencies, child care providers, law officers, security traders, and others. Consequently, the FBI believes the inclusion of its manual records in its automated data base is critical not only to law enforcement investigations, but also to protecting the rights of applicants whose employment depends upon the accuracy of a criminal record check. Likewise, employers must be able to insure that a person not eligible for a position of trust is not mistakenly hired. The National Crime Information Center Advisory Policy Board, which is comprised of representatives of Federal, state, and local law enforcement and criminal justice agencies, has urged the FBI to proceed with the automation of the 8.8 million manual records to make the Interstate Identification Index more complete, accurate, and timely.

The automated name index of an additional 8.8 million manual criminal history records could be made available to law enforcement agencies through the Interstate Identification Index during the interim period. In order to make these criminal history records available after a remote inquiry, approximately 176 additional positions and $5.5 million would be required to perform the work on a reasonably timely basis. There are some legal considerations to making available the 8.8 million manual record name index and the associated manual records. These records are not updated to record current arrests, dispositions, or expungements until a copy of the arrest record is required for a user. Consequently, it is possible for a name to be in the index that should no longer be there. It is conceivable that a criminal justice agency may take a prejudicial action against an indexed individual before obtaining a full, up-to-date, arrest record. Such an action could expose the FBI to legal action by the wronged individual. These obstacles make the expeditious conversion of the records to an automated format the desired alternative since arrest and disposition information would be brought up to date as the record is placed on-line.

My associates are available at your convenience if you or your staff would like more details about our criminal history record processes and plans for the future.

Sincerely yours,

WILLIAM S. SESSIONS,
Director.

Mr. STEVENS. Mr. President, I again want to point out that I am sort of a flasher here going across the floor without my clothes. We had an amendment that I thought had a very strong position. The majority leader has kindly given me two-thirds of it all right, but two other restrictive provisions remain.

The waiting period is a concept, as the Senator from Utah has indicated, of the honest difference of opinion here on the Senate floor. We believe in the second amendment, and believe that we have the right to handguns, believe that the Brady amendment is just the beginning of a long trend to try and do away with those rights that we possess and honor.

I urge those who want to make a statement—that what we want to do is ensure the people who are not under current law entitled to purchase guns will be forbidden from purchasing them, and to set up a national system based on State records and national records to have an instant check before a handgun is sold.

Let me just finish. I think my friend will let me go 30 seconds more.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senator be yielded 2 minutes of our time.

Mr. STEVENS. I thank the Senator.

Every one of us have used a credit card. I tell you that the system that we envision is very similar to a credit card being checked as you go in to make a major purchase. The store owner just runs it through a direct line, dials in the direct line to the center, and it checks right through automatically.

The system we are talking about which we would finance through my amendment is just such a system. The local gun dealer will call in to the State agency, the State agency will check his card right straight through, punch in the name of the purchaser, and within minutes they will know if that person is entitled to purchase a gun.

What happens under Brady? You wait 7 days, and you use your best efforts to see whether or not the person is qualified. They are not really talking about eliminating those who are not qualified. They are talking about a cooling-off period and cooling-off periods just have not worked. Every State that has a cooling-off period has a higher level of homicides by guns than those who do not. The amendment of mine would put into effect a system that would work.

I thank the distinguished leader for allowing me to finish that statement. I thank those who have worked with me.

Above all, I want to say that as far as I am concerned many obnoxious portions of gun control in this bill have now been eliminated. There are still some others we will talk about later but at least some of the obnoxious are the ones we have eliminated.

Mr. BIDEN. I yield 1 minute to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I have been a cosponsor of this legislation for the past 6 years. It works in my State of Rhode Island. We have a 7-day waiting period. So the question might logically be, if you have it why do you want to impose it on others? The trouble is these laws are a patchwork across the Nation. Our State is very small. If one wants to go elsewhere without a waiting period, it is very easy to do it. So it seems to me important to have a national law.

Right now criminals under the existing laws in most States only need lie. Under the existing Federal law, you can just lie. You fill out a form. You are a criminal? No, I am not. You can purchase a handgun.

The way this works so successfully in my State is it allows a period to do the checks as they have done in the 7-day period. It has worked very successfully.

I hope the Brady bill will be approved. Thank you.

Mr. BINGAMAN. Will the Senator from Delaware yield?

Mr. BIDEN. I am sorry to say I have no more time. I yield 1 minute to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I would like to share the story with my colleagues about the last year I was Governor of my State, I believe it was. We have a veterans' hospital called Fort Root. There are a lot of disturbed veterans there. One afternoon a veteran walked away from Fort Root and stole an automobile, drove about 70 or 80 miles north of Little Rock, and walked into a gun shop, small community, and bought a .357 magnum, no questions asked. About 1 hour later, he was in Harrison, AR, about 50 miles north, and about 5 minutes later he drove up to a motel, and 5 minutes after that there were six people dead.

If you had even a national instant check, and no waiting period, it would have still happened because you will not have had time to get his name into the computer if it were not already in there. If we had any waiting period at all, even 24 hours, at least those 6 people might still be alive.

Thank you, Mr. President.

Mr. GRASSLEY. Mr. President, the debate about so-called gun control is a red herring when the real issue is crime control. Simply put, gun control does not translate into crime control.

When we enact a law for the protection of society, it must accomplish two things:

First, it must solve the perceived problem or show realistically that it will accomplish something to at least curb the problem;

And second, the people must have respect for the law, knowing it is in their best interest.

The fact is, Mr. President, criminals don't buy guns from legitimate sources. Criminals won't abide by it and won't be affected by any waiting period.

It is wishful thinking to assume that if guns are controlled, crime will be controlled. Restrictive gun laws do not and will never strike fear in the hearts of criminals. There is no deterrent to using a gun in a crime.

However, restrictive gun provisions do send a message to those law-abiding citizens who want to own a gun. It says the Government can't trust you. The Government has to hold you back.

This attitude does not enhance effective law enforcement. Solid law enforcement requires the support of the American citizen. Gun control creates a new category of suspects, and as such, undermines the trust law-abiding citizens have in their governments.

Those who live and work in this area know that Washington, DC, has a very high crime rate and is often referred to as the murder capital of the world. Well, the District of Columbia also has one of the toughest gun control laws in the country. But you can walk a dozen blocks from the Capitol and buy a gun. Unfortunately, gun control doesn't keep guns from the hands of criminals.

The phrase "people, not guns, kill" is much over-used. But it is a fact. We need to address ourselves to the "People," not the guns. That is, we need tough enforcement of existing laws, and we need to strengthen criminal penalties. We have to tighten procedural loopholes and stop giving convicted criminals unending rights of appeal.

These are the answers that will begin to solve our crime problem.

I have another concern, Mr. President, and it is that this 7-day waiting period represents just the beginning for gun control advocates. When the waiting period proves unsatisfactory, the next step may be to limit the right of our citizens to own guns.

I agree that keeping guns out of the hands of felons is important. But the issue is how to successfully do so without infringing on the rights of law-abiding citizens.

It is important to remember that laws are enacted to protect law-abiding citizens, not to punish them because of a criminal's choice of weapon. To do otherwise turns these citizens into innocent victims in our war against crime. That is the wrong approach.

Mr. President, there is no doubt that this is an emotional issue, but we here in Government must avoid reacting on an emotional basis. Yes, we have a serious crime problem. Let's try to solve it by toughening up our enforcement, imposing the right penalties, including the death penalty, and closing procedural loopholes which favor the criminal. Let's not penalize honest citizens by interfering with their right to defend themselves and to enjoy lawful gun ownership.

Mr. DURENBERGER. Mr. President, I have long been a supporter of the right of law-abiding American citizens to purchase and own firearms without needless and intrusive Government interference and regulation. Yet I recognize that in a society as diverse as ours, with violent crime escalating at an unprecedented level in many cities and towns throughout our country, there is a legitimate responsibility that Government has to prevent certain individuals from obtaining firearms.

The debate over the bill named after my dear friend Jim Brady is not about ends, but about the means of reaching a commonly agreed end—namely how to prevent convicted felons, mental defectives, and other social misfits from obtaining firearms.

Mr. President, over the last several months the door to my office has been open to individuals representing every point of view on the Brady bill. Just last Monday, Jim and Sarah visited me to ask for my support. I've talked with handgun control, the police chief of Maplewood MN, and other law enforcement officials throughout my State, and State and national officials of the National Rifle Association.

I have not been able to walk down a street in St. Paul or Minneapolis without a citizen walking up to me and saying: "Senator, you should support the Brady bill." Even in small towns in rural Minnesota with one- and two-person police forces, I have been surprised at the broad public support for the Brady bill.

Unfortunately, the public sentiment favoring the Brady bill reflects less on the merits of the bill than on the public's frustration over the growing violent crime we face in large cities and small towns and the consequent burden on limited law enforcement resources.

Mr. President, I have heard every side of this debate and have concluded that on only one point does everyone agree. And that agreed-upon point is that this Nation needs a computerized uniform national criminal information network that will enable local law enforcement officials to instantly provide background checks on potential purchasers of handguns. The NRA supports this objective and the authors of the House and Senate versions of the Brady bill support that objective.

I think this point has been lost in all the public rhetoric surrounding this bill. Yet the fact is that under the Brady bill, the 7-day waiting period that has been the center of public controversy will sunset when an instant point-of-sale background check is implemented under the provisions of section 6213(a) of the Anti-Drug Abuse Act of 1988.

Mr. President, some of the people I have talked with favor a 7-day waiting period in addition to an instant criminal identification check system. They tell me we need a 7-day waiting period not only for background check purposes, but in order to provide a cooling-off period to prevent so-called crimes of passion.

Sarah Brady supports the idea of a 7-day cooling-off period, but she told me this week that she does not believe that we need such a permanent law at the national level. That is an issue that ought to be resolved at the State level where different community standards and values require distinctive rules.

In any event, Mr. President, we are not here tonight debating the need for a national cooling-off period. The Brady bill rejects that concept because it automatically sunsets the 7-day waiting period after implementation of the national instant-check system.

The real issue before us is whether during the interim between now and the implementation of an instant-check system, it would be an appropriate diversion of limited law enforcement resources to require a 7-day handgun waiting period that gives local law enforcement officials the opportunity to perform a background check on prospective purchasers of handguns. In order to resolve that issue, each of us should ask certain basic questions.

The first question is why do we need a national 7-day waiting period? This is not an area that necessarily lends itself to Federal preemption. Quite the contrary. This is an issue that States and localities are best equipped to address for there is not a town, city, or State that is immune from handgun violence. Community and State officials know far better than we in Congress how to deal with handgun violence.

If a 7-day waiting period really served to deter criminals from obtaining handguns is it not reasonable to assume that every local law enforcement agency in every State would be able to convince their State legislatures to adopt State handgun waiting periods?

But the fact is that only 26 of the 50 States have adopted waiting periods. Some as short as 2 days, others as long as 15 days. In my own State of Minnesota, the waiting period is 7 days. Yet, no one has proven to me that adoption of waiting periods has reduced the incidence of violent crime or diminished criminals' access to firearms. In a society as tainted with violence as ours, surely if it could be shown that a waiting period really deterred firearms access then I believe that New Hampshire, Texas, Ohio, Vermont, and the 20 other States without waiting periods would have long ago adopted them.

Mr. President, a 7-day waiting period does not prevent criminals from obtaining handguns because the vast majority of criminals do not need and use ordinary and legitimate commercial means to obtain weapons. It is an indisputable fact that five out of six criminals obtain their handguns illegally. They buy in the black market, they break into gun stores, they steal guns from the homes of law-abiding citizens. Or they purchase guns from individuals with no prior criminal records who have legally purchased handguns through licensed gun dealers.

Does anyone really believe that, if we have a 7-day national waiting period, convicted felons are going to walk into gun stores, present legitimate photo ID's, and then return in 7 days to try and pick up a gun? Of course not. What the convicted felon will do when he finds he cannot immediately purchase the handgun, is walk out of the store, obtain a gun on the black market, and never return to the licensed dealer.

Mr. President, proponents of waiting periods have often cited the fact that in California, which has a 15-day waiting period, more than 2,000 illegal gun purchases were prevented because of the waiting period. But what does that statistic tell us? Does it mean the 2,000 felons were denied access to a handgun because of the 15-day waiting period? Of course not.

What this statistic suggests to this Senator is that 2,000 felons walked into gun stores, and for one reason or another, were prevented from buying a particular gun because of the waiting period. And I believe that they were not deterred from obtaining handguns.

They simply diverted their purchase from the licensed gun dealer to the black market.

Or they sent a friend without a criminal record into the licensed dealer to buy the gun.

But there is another aspect of the California statistics worth considering. And that is the fact that 2,000 potential handgun sales represent about 1 percent of all handgun sales in the State of California.

Simply stated, California law enforcement officials spent millions of manhours doing background checks on approximately 198,000 law-abiding citizens who had no criminal records and were legitimately entitled to own a handgun.

Mr. President, that is simply a sheer waste of limited law enforcement resources; an unnecessary diversion of resources that will stretch the manpower needs of our largest cities and our smallest rural police forces.

And it is for this reason that I am compelled to oppose a 7-day waiting period before implementation of a national instant-check system. Last year, more than 2 million guns were sold through licensed gun dealers. If the California experience is a guide, mandating a 7-day waiting period will ensure that the police are going to spend their resources doing background checks on more than 1,980,000 law-abiding citizens. That is precious police manpower that is better used in walking the beat and cruising the streets tracking down criminals.

What I can support is a proposal that would provide additional funds to help States upgrade and computerize their criminal records systems and link in to a national computerized criminal information network.

Mr. President, criminal recordkeeping in most States has not caught up with the late 20th century. No State is fully computerized yet, and at least three States have not even started using computers. It is imperative that we integrate and computerize the network of criminal histories so if a criminal is foolish enough to try to purchase a handgun through a licensed dealer, he will be stopped on the spot. At the same time, the police will not have to waste millions of hours doing fruitless background checks on the overwhelming majority of law-abiding citizens who seek to purchase a handgun.

Finally, Mr. President, I want to issue a warning to the American people about the nature of this debate. Whether we adopt an instant-check system, a 7-day waiting period, or another form of gun control, we are not going to keep guns out of the hands of felons. We are not going to stop crime in the streets nor slow down the incidence of violent crime.

As one survey among convicted felons found: The vast majority of felons currently in prison—more than 80 percent—believe that gun control laws only affect honest citizens. And that same survey found that 88 percent of convicted felons believe that if a criminal wants a handgun, he will find the means to obtain one.

That is a sad commentary on our society. But unfortunately, I believe it is true. The underlying reasons for criminal activity are multifaceted. They have to do with economics, with education, with social standing, with a slowly crumbling family infrastructure.

All of us may feel good tonight because we have adopted a measure that purportedly will reduce handgun violence. But let us not deceive the American people. The measures being discussed, instant check and 7-day waiting period, are not even a bandaid on a society that is hemorrhaging from the aorta.

Mr. DANFORTH. Mr. President, I would like to direct a question to the distinguished chairman of the Judiciary Committee, the Senator from Delaware, concerning the applicability of the Brady 7-day waiting period to purchases of handguns in Missouri. Missouri law requires individuals to obtain a permit from the local county sheriff in order to receive transfer of a handgun or other concealable firearm. Missouri law further prohibits a sheriff from issuing a permit to persons who are under 21 years of age, convicted felons, fugitives from justice, dishonorably discharged from the Armed Forces, habitually intoxicated or drugged, or adjudged mentally incompetent. The Missouri law directs applicants for a permit to state in writing that they meet the requirements of the Missouri permit law and requires the sheriff, before issuing a permit, to make only such inquiries as he deems necessary into the accuracy of the statements made in the application. Finally, the Missouri statute states that a permit, once issued by a sheriff, is invalid after 30 days. Given these provisions of Missouri law, would handgun purchases in Missouri be exempt from the Brady 7-day waiting period?

Mr. BIDEN. Mr. President, if my colleague from Missouri would yield, it is my understanding and intention that Missouri would be exempt from the Brady 7-day waiting period. S. 1241 exempts handgun transfers from the 7-day waiting period if the law of the State in which the transfer occurs provides that a handgun transferee must have a permit to possess a handgun and that the permit is to be issued only after an authorized government official of the State has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law. Because Missouri law states that the sheriff shall issue a permit to acquire a concealable firearm only if the requirements of the Missouri permit law are met, the issuance of such a permit would itself be a verification that the information available to the sheriff does not indicate that possession of a handgun by the transferee would be in violation of law. Therefore, handgun purchases in Missouri would be exempt from the 7-day waiting period.

Mr. DANFORTH. Mr. President, I thank my distinguished colleague from Delaware, and I ask unanimous consent that a memorandum from Handgun Control and a letter from the deputy attorney general of Missouri, both expressing the view that Missouri would be exempt from the Brady 7-day waiting period, be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

To: Gail Hoffman, Legislative Director.
From: Dennis Henigan, General Counsel.
Date: June 25, 1991.
Re: Is Missouri Exempt from the Brady Bill's Waiting Period?

This memorandum addresses the legal issue of whether Missouri would qualify for one of the exemptions in the Brady Bill so that Missouri residents would not have to wait seven days period to each handgun purchase.

The answer is clear: Missouri is exempt.

A. PROVISIONS OF THE BRADY BILL

Title XXVII of S. 1241 contains the Brady Handgun Violence Prevention Act (hereinafter "the Brady Bill"). Although Senators Mitchell, Kohl and Gore wrote amendments which make the language of Title XXVII slightly different from H.R. 7 which passed the House of Representatives, the provisions for exempting states from the waiting period are identical in the two bills.

Section 2701(a)(u) provides a series of ways in which a handgun can be sold or transferred by a licensed firearms dealer. The 7-day waiting period in section (u)(1)(A) only applies where none of the other conditions in (u)(1) (B), (C), (D) or (E) are satisfied.

In the case of Missouri, handgun transfers will always be exempted pursuant to section (u)(1)(C), which provides an exemption from the waiting period when:

"(C)(i) the transferee has presented to the transferor a permit which—

"(I) allows the transferee to possess a handgun; and

"(II) was issued not more than five years earlier by the State in which the transfer is to take place; and "(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;"

B. PROVISIONS OF MISSOURI LAW

Missouri Statutes, Section 571.080 requires individuals to have a permit to receive transfer of a handgun, called a "permit to acquire a concealable firearm." Pursuant to Section 571.080(2), the permit "shall only be valid for thirty days after the issuance thereof."

Section 571.090(1) forbids a sheriff from issuing a permit to persons who are underage, convicted felons, fugitives, dishonorably discharged, habitual drunks or drug users, or persons adjudged mentally incompetent. Section 571.090(2) directs applicants to swear that they meet the requirements of section (1) and Section 571.090(3) requires that "before a permit is issued, the sheriff shall make such inquiry as he deems necessary in the accuracy of the statements made in the application."

In short, every prerequisite of the Brady Bill, Section 2701(a)(u)(1)(C), is met by the Missouri statute: handgun purchasers are required to obtain a permit, such permit will always be issued within five years of the transfer (in fact, within 30 days), and state law requires the authorized official (the sheriff) to conduct a check.

C. ADDITIONAL LEGISLATIVE HISTORY

In addition to the plain meaning of the Brady Bill's language, there is legislative history which exempts Missouri from the waiting period.

During debate on the Brady Bill on the floor of the House of Representatives, two colloquies discussed this provision:

"Mr. UPTON. Mr. Chairman, on behalf of myself and the gentleman from Michigan who shares my concern on this issue, would handgun purchases in Michigan be exempt from operation of the Brady 7-day waiting period?"

"Mr. FEIGHAN. "Mr. Chairman, yes. H.R. 7 exempts handgun transfers if the law of the State provides that a handgun transferee must have a permit to purchase and the permit is issued after an authorized Government official has verified that the information available to that official does not indicate that possession by the transferee would violate the law. Because Michigan law prohibits the issuance by the police of a license to purchase a handgun to anyone prohibited by law from receiving such a gun, the issuance of such a license would itself be a verification that the transfer would not violate the law. Therefore, handgun purchases in Michigan would be exempt from the 7-day waiting period." Congressional Record, May 8, 1991, H 2836.

"Mr. VALENTINE. I have been advised, Mr. Chairman, by the Subcommittee on Crime and Criminal Justice that North Carolina, which has a comprehensive gun control measure in existence for many years, that the State would be exempt from the provisions of the Brady bill, if the Brady bill passes. I will ask the chairman of that subcommittee if he will respond to that, and yield to the gentleman from New York."

"Mr. SCHUMER. Mr. Chairman, I would say to the gentleman from North Carolina, he is entirely correct. North Carolina would be exempt from the Brady provisions under its own law." Congressional Record, May 8, 1991, H 2842.

Both Michigan and North Carolina have permit laws similar to Missouri's. If anything, the Missouri law is drafted with such language as to be more surely exempt from the Brady Bill than *either* Michigan or North Carolina.

D. CONCLUSION

If the Brady Bill is enacted, handgun transfers in the State of Missouri will not be affected.

ATTORNEY GENERAL OF MISSOURI,
Jefferson City, June 3, 1991.

Hon. JOHN C. DANFORTH,
U.S. Senator, Russell Building, Washington, DC.

DEAR SENATOR DANFORTH: This letter is in response to your question asking whether Missouri's concealable firearm permit law would be included in an exemption in the proposed "Brady Handgun Violence Prevention Act," a copy of which proposed act you provided to us by letter dated May 29, 1991. We believe that it would be.

The Brady Bill contains certain exemptions to the provision that it is unlawful for any licensed importer, manufacturer or dealer to transfer a handgun to an individual who is not licensed under Section 923. Section 2(a)(1)(C) creates an exemption if the transferee presents a permit which allows him to possess a handgun, the permit was not issued more than five years earlier by the state in which the transfer is to take place, and:

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;"

In addition, subsection (D) provides an exemption where the law of the state:

"(ii) requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verifies that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;"

Missouri's concealable firearm law, a copy of which is attached to this letter, is found in section 571.090, RSMo Supp. 1990. The law was most recently amended in 1989. Section 571.090.2, RSMo Supp. 1990, requires that application for a permit to acquire a concealable firearm shall be made to the sheriff of the county in which the applicant resides. An application must be filed in writing, signed and verified by the applicant, and must state the following information:

"* * * the name, social security number, occupation, age, height, color of eyes and hair, residence and businesss addresses of the applicant, the reason for desiring the permit, and whether the applicant complies with each of the requirements specified in subsection 1 of this section." Section 571.090.2, RSMo Supp. 1990.

Section 571.090.1 sets out the requirements to obtain a permit for a concealable firearm, and these are similar to the requirements set out in Section 2(a)(3) of the Brady Bill. Requirements under Missouri law include that the applicant is a citizen of the United States; has not pled guilty to or been convicted of a crime punishable by imprisonment for a term exceeding one year; is not a fugitive from justice or currently charged with the commission of a crime punishable by imprisonment for a term exceeding one year; has not been discharged under dishonorable conditions from the United States Armed Forces; is not publicly known to be habitually in an intoxicated or drugged condition; and is not currently adjudged mentally incompetent.

Section 571.090.3 provides for the sheriff to make inquiries before issuing a permit.

"3. Before a permit is issued, the sheriff shall make only such inquiries as he deems necessary into the accuracy of the statements made in the application. The sheriff may require that the applicant display a Missouri operator's licen[s]e or other suitable identification. The sheriff shall issue the permit within a period not to exceed seven days after submission of the properly completed application excluding Saturdays, Sundays or legal holidays. The sheriff may refuse to issue the permit if he determines that any of the requirements specified in subsection 1 of this section have not been met, or if he has reason to believe that the applicant has rendered a false statement regarding any of the provisions in subsection 1 of this section. If the application is approved, the sheriff shall issue a permit and a copy thereof to the applicant."

Because a Missouri concealable firearm permit will not be issued unless the sheriff has verified that possession of the weapon by the applicant would not violate the law, we believe that Missouri law is within the exemptions set out in the Brady Bill.

Very truly yours,

JAMES B. DEUTSCH,
Deputy Attorney General.

Mr. HARKIN. Mr. President, I am pleased to support the Brady bill provision in the crime bill drafted by Senators MITCHELL, KOHL, and GORE. The Mitchell compromise is unusual, as compromises go, because it actually strengthens the Brady bill as passed by the other body, while addressing the concerns of the Brady bill's opponents. I am a cosponsor of S. 257, the Brady Handgun Violence Prevention Act, which was introduced by Senator METZENBAUM.

I am deeply concerned about the increasing violence in the United States. Two-thirds of all homicides and suicides are attributed to firearms, according to recent statistics. Violent deaths in our major cities are increasing at an alarming rate. As shown in the recent Judiciary Committee majority report, rural States like Iowa are experiencing an even faster increase in violence than New York or Los Angeles. Action is needed now to reduce the violence on our Nation's streets, in rural as well as urban America.

Felons, fugitives, drug users or those with a mental illness are currently not permitted to own or be allowed to purchase handguns under Federal law. Yet many States have no system in place to enforce these laws and prevent these people from simply walking into a store and buying a gun in violation of Federal law. Without enforcement, these laws will have no effect on the incidence of violent crime. While my State of Iowa had an effective enforcement program under State laws, most States do not. The Mitchell compromise would help protect the people of my State from felons bringing into Iowa handguns purchased in States without enforcement programs.

For instance, when John Hinckley bought the gun he used in the attack on President Reagan in 1981, he gave a false address on the Federal form required to complete the purchase. If a background check had been carried out, the false address could have been detected, and Hinckley could have been denied the gun on that basis. As it was, Hinckley walked out of a Dallas pawnshop with a .22 caliber pistol, which he used to maim Jim Brady and Officer Thomas Delaney, and injure Secret Service Agent Tim McCarthy and President Reagan. Ronald Reagan and I disagree about many things, but the need for a background check and a waiting period is not one of them.

Major police organizations such as the Fraternal Order of Police, the National Association of Police Organizations, and the International Brotherhood of Police Officers support the Brady bill, because they know that it is a crime control measure that will support and protect police, not the criminal.

The Mitchell compromise would require States which do not have a waiting period to institute one, and provides incentives to institute a background check system, cleanup the criminal and court records, and prepare for the development of a national instant criminal background check system.

In my State and others which already have a background check, the Mitchell amendment will not expand the length of the waiting period. Those States which currently have a waiting period and background check will receive funds under the waiting period provision in the Violent Crime Control Act to help modernize criminal records and conduct the background check. I am proud to support the waiting period provisions in this bill, and urge my colleagues to do likewise.

Mr. SIMPSON. Mr. President, this is a most curious debate. From the very beginning, the proponents of this legislation, and its House companion, have tried to turn the issue of crime into an issue of gun control. That was deftly done, indeed.

We have an outright ban on so-called assault weapons. We lost that vote last year by a single vote. So now the folks who fear guns more than they do criminals went into a feeding frenzy—a waiting period here, magazine ban there, registration requirements, the whole works—as we say out west: "the 'whole shooting' match."

What would a waiting period do?

At best, 17 percent of the criminals using handguns obtained them across the counter. So we are going to make them get their guns on the street where the other 83 percent of the violent criminals get them.

Now, that is brilliant.

But if you want to get those 17 percent, we are giving you a chance. You can get them and not impose a restriction whatsoever on the vast majority of law-abiding citizens—we are talking about a workable, instant check with strict timeframes for compliance and enough money to do that. The amendment I am pleased to cosponsor does just that.

So I congratulate the majority party for having the good sense to strike the waiting period—and to strike the Brady bill from this legislation—that was indeed wise. The Brady bill was not really effective. You all knew that. It was like putting a waiting period on the sale of automobiles after a drunk driver drives through an intersection and kills someone. It is about time we placed the responsibility for crime on the criminal and not on the tools of his trade.

It is possible to control some of criminals' access to firearms at legitimate gun shops—we can impose an instant check, and that is what this amendment will do.

There are millions of convicted felons out there; and Federal records are already updated to keep track of half of those, according to Justice Statistics—FBI. We can watch those.

This amendment will help the States get up to speed with the Federal system—this amendment will put in place a realistic system that can work.

This amendment will protect the right of every law-abiding citizen to have access to firearms—if they choose. This amendment stays true to the spirit of the second amendment—the right of the citizens to keep and bear arms shall not be infringed. This amendment does not infringe that right.

Look at the provisions this amended language would change. Not only was there a waiting period, but the underlying bill would have required registration of rifles—in a very subtle way: By requiring registration of clips and magazines.

Some of my colleagues may not know this, so I hope you will listen—or that your staff members are paying attention and they tell you. But each and evey clip that must be registered in the underlying bill is a unique piece of equipment—it fits only one kind of gun. You register the gun when you register the clip.

The police, then know who you are, where you live, what kind of gun you have and how much ammunition you have—all that from a tiny bit of legislative slight-of-hand. Look it up. That was in title 12, subtitle "C".

There were many more of those little gems hidden in there.

So I urge my colleagues to vote in favor of this amendment. Think of it as a vote in favor of the second amendment, if you wish. But I strongly urge adoption of this measure.

Mr. MITCHELL. Mr. President, let there be no confusion about what we are about to vote on. The Stevens amendment is the Staggers amendment, with window dressing. It mandates an instant check system by the States within the time period that the States obviously cannot comply with. It has no provision at all to give police the chance to make a background check.

By contrast, the waiting period in the bill is there for the single and compelling reason—that until an instant check system can be put into place, records cannot be checked instantly or even overnight. The amendment provides the penalty against the States if they do not have an instant check system in place and operating 24 months from the date of enactment. Everyone here knows that it is just not feasible to create such a system in 24 months when only 21 States now share their data with the FBI, when State records now average only 60 percent completeness, when several States do not even have their records on computer.

This amendment is obviously just an effort to get around a waiting period. That is the intention. That will be the effect if it is enacted.

The bill's provision which this amendment would strike are aimed purely and simply at finding an effective way to reach a goal that everyone in this debate claims is their goal—the goal of keeping handguns out of the hands of convicted felons.

Nobody in the whole country argues with that goal, and virtually everyone has come to realize that to achieve that goal we must take some action. Yet here we are with this amendment, a proposal for an instant, instant check. This is not a practical proposal designed to help achieve a common goal. It is an effort to defeat the waiting period provision in the bill.

Just as we saw in an earlier vote on this legislation, the other side has taken a large idea from the bill, in this case the proposal for funds for the States to improve their criminal records, repackaged it with an original faulty idea, and now attempt to sell it as a serious package. No Senator should be fooled.

Most of the penalties in this proposal are already in the bill. When you have in the bill the death penalty for someone convicted of killing someone with a firearm, how much more of a deterrent is it to add in this amendment life imprisonment for someone killing someone with a firearm. Are we going to imprison for life someone who has just been executed? Yet we are told we should vote for this amendment because it includes mandatory life imprisonment for an offense for which the bill already contains the death penalty. Senators who want to strike a blow for safer streets, Senators who agree with more than 80 percent of the American people that felons should not be able to buy handguns, Senators who take the war against violent crime seriously, should not vote for this proposal.

There is only one serious anticrime vote to cast in these circumstances, and that is against this amendment and for the bill.

Mr. President, I yield the remainder of my time. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Alaska.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Texas [Mr. BENTSEN] is necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 44, nays 54, as follows:

[Rollcall Vote No. 113 Leg.]

YEAS—44

Baucus
Bond
Breaux
Brown
Bryan
Burns
Coats
Cochran
Cohen
Conrad
Craig
D'Amato
Dole
Domenici
Durenberger
Garn
Gorton
Gramm
Grassley
Hatch
Heflin
Helms
Hollings
Johnston
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Rudman
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop

NAYS—54

Adams
Akaka
Biden
Bingaman
Boren
Bradley
Bumpers
Burdick
Byrd
Chafee
Cranston
Danforth
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Inouye
Jeffords
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Riegle
Robb
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Simon
Warner
Wellstone
Wirth
Wofford

NOT VOTING—2

Bentsen
Pryor

So the amendment (No. 429) was rejected.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, there will be no further rollcall votes this morning. The managers will remain to accept some amendments on which rollcall votes will not be required. The Senate will return to consideration of this bill at 10 a.m. tomorrow. I thank my colleagues for their patience and cooperation today. I yield the floor.

Mr. STEVENS. Will the Senator yield for just a moment?

Mr. MITCHELL. Yes.

Mr. STEVENS. Mr. President, I do want to thank the leadership for their courtesy in handling this vote. I would like to inquire, though, of the leader what the plan is as far as the remainder of the bill tomorrow.

Mr. MITCHELL. I have learned in the past few weeks, if not the past couple of years, not to be confident of my predictions about what will happen on pending measures. I can only say the managers intend to be here at 10 and will try to proceed as vigorously as possible. And during the day, in fact, early in the morning, I will be meeting with the distinguished Republican leader to consult on an effort to determine the best way to proceed to enable us to complete action at the earliest possible time with the least inconvenience to the Senators.

Mr. STEVENS. Mr. President, this Senator's understanding is that we will attempt now to find a list of those amendments that still are under consideration by Members and perhaps delineate those which might be finished tomorrow and those which we might hold over if we can get an agreement to deal with those. Is that the leader's intention?

Mr. MITCHELL. We are going to attempt to get a list of amendments and see what they entail and when we could complete action on them. That is certainly one possibility.

Mr. STEVENS. I thank the Senator.

Mr. MITCHELL. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BRYAN). The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I rise today to express my thoughts on the pending crime bill. Changes in the Federal Criminal Code are desperately needed to assist Federal law enforcement's war on crime. Certain changes in the Federal Criminal Code are seriously needed and long overdue.

Next to an attack or invasion by a foreign power, no force so threatens the physical security and mental well-being of our Nation's citizens as the criminal element. Criminals today are better armed and more sadistically inclined than ever before in our Nation's history. In many of our cities, the criminal element has laid seige to our citizenry. People are afraid to leave their homes for fear of being assaulted or killed. Indeed, many cower in their own homes, having once been the victim of a violent crime, or knowing of a friend or relative who has been a victim of a violent crime. They can only hope and pray that they won't again be victimized by criminals.

Mr. President, a tougher Federal Criminal Code will help to curb the criminal threat to the Nation's citizenry. I regret we were unable to pass the President's crime bill last week. I thought the President had an excellent crime bill and I was sorry to see it voted down. I thought it was a good bill, and I voted for it. Most Americans would have liked to see that bill the law of the land. It is my hope that the Senate will not lose sight of what the American people want us to do here this week—that is, to pass a tough anticrime bill that speaks a language criminals readily can understand. We should resist efforts to encumber the legislation with provisions that would restrict the constitutional rights of law abiding citizens.

Senate consideration of the bill now before us offers us the opportunity to place on the Federal Criminal Code effective deterrent measures against crime. The bill provides for the death penalty for various Federal capital offenses, longer prison sentences, and an end to procedural technicalities that thwart justice. Criminals would be assured that their anti-social behavior would reap swift and sure punishment. The bill would help to dam the tide of crime which floods too many of our Nation's communities. Regrettably, the Senate refused to pass stronger language expanding the good-faith exceptions to the exclusionary rule. Fortunately, the Senate refused to adopt other measures that would have watered down the ability of the Federal Government to impose the death penalty on drug kingpins and substituted life imprisonment for the death penalty in Federal capital crimes.

Earlier this year, the United States achieved a swift and stunning victory over forces threatening international peace. This success was facilitated by the congressional authorization given the President to act on behalf of the American people to defeat a foreign menace. We would have our Federal law enforcement officers—who are soldiers in the Nation's war on crime—a similar mandate to defeat the criminals terrorizing our neighborhoods and diminishing the quality of life in our Nation.

(The remarks of Mr. PRESSLER pertaining to the introduction of S. 1401 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

LITHUANIA

Mr. PRESSLER. Mr. President, the protection of human rights is an international responsibility. These rights must be guarded vigorously. As the leading upholder of democratic ideals in the world, the United States shoulders a major role in human rights issues. Ironically, the concern for human rights has found expression even in the relations between two balloon associations, in America and in Lithuania. Who could have imagined, several years ago, that Lithuanian and American balloonists would reach across the miles to find common ground?

I was prompted to speak on this issue by a particularly heartrending letter I recently received. It was sent to me by the internationally renowned Soukup and Thomas Balloon Museum in Tyndall, SD. The letter was written by Violetta, a Lithuanian woman who described the terrible events which took place in the Lithuanian city of Vilnius on January 13, 1991. As chairman of the Lithuanian Balloon Association, she met Mr. Jacques Soukup and Mr. Kirk Thomas at a balloon rally in Vilnius in the fall of 1989. When I spoke with Jacques Soukup and Kirk Thomas about their experiences in Lithuania, they stressed the breathtaking beauty of that country, the warmth and generosity of the people there, and the fervent democratic aspirations of the Lithuanian people.

After the rally, the two South Dakotans invited Violetta to visit them at a balloon fiesta which was to be held in South Dakota. Her balloon was the first Soviet balloon ever to enter the United States. Thus, a connection was made between the balloonists and cross-cultural ties were established. Consequently, Violetta turned to these two men to share her grief over the events of January 13. She described the frustration and desperation she and her fellow Lithuanians felt in their struggle for independence and freedom from Soviet repression. Violetta's plea was heard in South Dakota, and I am grateful to Jacques Soukup and Kirk Thomas for sharing her letter with me.

Mr. President, we were all horrified to see the bloody pictures depicting the terrible events of January 13, 1991. Soviet soldiers mercilessly beat and killed innocent civilians. Soviet troops opened fire on innocent civilians in Vilnius, killing at least 14 and wounding over 100. Then on January 20 in Latvia, Soviet Black Beret special forces attacked the headquarters of the Latvian Interior Ministry in Riga, leaving 4 dead and at least 11 injured. Those actions "offend America's deepest values," as Dr. Henry Kissinger was quoted in the Washington Post of January 22. We cannot remain silent when Soviet forces treat so brutally human beings who are struggling for freedom and the realization of democratic values in which we believe so strongly. These actions contradict Soviet progress on human rights. I hope they do not signify a reversal of that progress. The Soviet Union must establish its legitimacy to the rest of the world in human rights.

Those who have been watching and encouraging President Gorbachev must be sure not to lose sight of what is occurring in the smaller Soviet republics, such as the Baltic States and Moldova. The use of brute force against people who peaceably seek democracy and independence is unacceptable. At the very least, we must make the Soviets aware that we do not approve of their repressive tactics and that continued use of such tactics creates serious obstacles to further improvement of United States-Soviet relations. The Soviets seek better relations with us. However, that is not possible so long as they abuse basic human rights. The Soviets stand at a threshold. They must make a decision whether to continue their current policies of aggression and repression, or to move toward genuine democratization, which means allowing freely elected governments to follow their chosen paths. A choice must be made.

Mr. President, I sincerely hope that Violetta and her fellow Lithuanians achieve the freedom they desire. All three of the Baltic States deserve governments and a way of life of their own choosing.

I ask unanimous consent that the letter from Violetta appear in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEAR KIRK: I hope you have heard about the events in Lithuania and as you have been here you can understand our determination to be free and independent perfectly well. Almost for the whole month I have not written any letters as I could not take a pen and a sheet of paper to do it. My heart was aching, my mind was empty of any words except of sorrow and sympathy for the dead. Among them there are two students from our university. Examinations have been postponed and our students kept vigil in Vilnius. The nightmare started on the 11 January when Soviet commandoes stormed the Press House and the first Lithuanian was wounded in the face with the hollow nose bullet; on entering the body it tears it to pieces. After that people went to Vilnius to keep vigil there. My mother was there on the 13 of January but thank God she was at the Houses of Parliament at that crucial moment when the Soviet commandoes stormed the TV tower and radio committee in the early morning hours. She and the rest of thousands of people heard the shooting, explosions, and knelt and prayed as nothing could be done. There were lots of children and women at the Parliament, they were asked to leave the place by the MP's but nobody moved. The tanks came, stopped, searched the crowd with powerful, blinding lights but did not attack. They did not expect such determination of the Lithuanians. What concerns me, I almost went mad during that night. I did not sleep and eat for several days. That fatal night I watched TV, I saw the announcer with wide opened and horrified eyes, heard the shooting and swearing in Russian on TV, then they turned secret TV cameras on and we saw the Soviet soldiers kicking and beating people in the corridors of the TV tower. Then everything went dark and silent. At the same time the radio transmission died and I heard the last words "we are still alive" were heard. And then the church bells began to toll and the sirens were turned on and it is difficult to describe what I felt. I went trembling, my hands and feet were icy, I was on the verge of a nervous breakdown. Everybody came to the town municipality to hear the news, there we learnt that the Parliament was functioning. Thank God there was a new TV station opened in Kaunas and it is the only one after almost the whole month. The Soviet soldiers still occupy the buildings they attacked on the 13 of January.

Gorbachev went too far. He decided to teach those "naughty" Lithuanians and now like Pontius Pilate is washing his hands openly. The impudent Russian democrats ask him what these red spots on his Novel dinner jacket mean. Those are the spots of the bloodshed, of 580 people injured/impaired hearing because of the explosive grenades, mass legs under the armed cars, mounds of bullets and shells, and 15 people killed. The last one was shot only several days ago in the head by the soldiers. Though Gorbachev says that the troops have been withdrawn from Lithuania, that is a complete lie as everything else he says. The curfew exists in Vilnius and now the martial law is being imposed though it is illegal from both the Lithuanian and Soviet constitutions' point of view. We live under a great nervous tension that is being imposed by the Soviet Army and the Communists.

What is this and why is this? Who can we rely on? Who will understand? Who will hear our cry? Iceland was the first to hear but its mouth was shut by the Kremlin. Well, who will help us in our uneven struggle with the red dragon? We have been receiving only moral sympathy and help which helps Gorbachev to do whatever he likes in Lithuania and other Baltic states. We are left all alone. But God gives us strong determination and endurance. We have got our land, our language, our history and culture. We have got a strong desire to be free and independent. We have got wisdom and prayers to God. When the tanks were approaching the Houses of Parliament, thousands of people who were there knelt and prayed though they had been asked to leave the place. None moved while the tanks with their strong lights searched the crowds. I hope we shall survive.

I am sorry my letter is very emotional but I cannot do otherwise. I want everybody to know how things are going on here.

Hope to hear from you. Now I shall sign off.

Sincerely yours,

VIOLETTA.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The senior Senator from West Virginia [Mr. BYRD].

AMENDMENT NO. 431

(Purpose: To authorize grants to assist the states in participating in the system developed under section 6213(a) of the Anti-Drug Abuse Act of 1988)

Mr. BYRD. Mr. President, I send an amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislation clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 431.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

SEC. . IMPROVEMENT OF CRIMINAL JUSTICE RECORDS.—

(1) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—(A) The Attorney General shall expedite—

(i) the incorporation of the remaining state criminal history records into the Federal criminal records system maintained by the Federal Bureau of Investigation;

(ii) the development of hardware and software systems to link State criminal history check systems into the National Crime Information Computer; and

(iii) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

Mr. BYRD. Mr. President, the transient nature of criminals, combined with their use of aliases and false identification, necessitates a national system that can positively identify criminals and match those identifications with accurate criminal history records. Right now a convicted felon could walk into a gun store, present false identification, and walk out with a gun. A gun dealer has no way of knowing whether Joe Smith is indeed Joe Smith. He has no way of knowing whether Joe Smith is an honest, decent man, or whether he is a convicted criminal.

The easiest and most accurate method currently available for positive identification is fingerprinting. Fingerprints are cheap, easy to obtain, and difficult to alter. The only problem with fingerprints is that they are taken on cards—pieces of paper—and in most areas, are not transferred onto computer files.

The Federal Bureau of Investigation is undertaking a great effort, with my support, to revitalize its fingerprint identification division so that a national computerized positive identification system can readily be developed before the end of this decade.

The amendment I have sent to the desk would clarify section 2703 of the bill to make it clear that the development of the State criminal history records systems should be done in conjunction with the revitalization of the fingerprint identification division of the Federal Bureau of Investigation [FBI]. It is my understanding that this amendment has been cleared by both managers.

Language already in the bill requires that, in order to be eligible for grants to assist in the developing or expansion of State criminal history records, the State must participate in the Interstate Identification Index [III]. This system is already a part of the FBI's identification division. Currently 22 States contribute criminal history and arrest information to the Triple-I. By participating in the Triple-I, States are assured that when the technology becomes available, their computerized criminal record systems will be compatible with the FBI's fingerprint identification system. The FBI will computerize its fingerprint files and then link them to computerized criminal record files. States then can tie into this system. But to ensure that there is no doubt about the intent of the language in the bill, my amendment will clarify that States developing or expanding their computerized criminal history files should do so in a manner that is compatible with the planned fingerprint identification system of the FBI.

Mr. President, I understand the managers have cleared this amendment and I hope it can be adopted.

Mr. BIDEN. Mr. President, that is correct. The managers have cleared it on both sides and we think it is a valuable addition. We are happy to accept the amendment.

The PRESIDING OFFICER. Is there further debate? There being no further debate, the question is on agreeing to the amendment.

So the amendment (No. 431) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay that motion on the table was agreed to.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Delaware, the manager of the bill. And I thank the Republican manager, also.

AMENDMENT NO. 432

(Purpose: To give preference in the making of grants for the establishment of computerized criminal history records to those States that do not yet have such systems in place)

Mr. BYRD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 432.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Section 2703, on page 245, line 11, strike "General" and insert: "General, with preference given to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files".

Mr. BYRD. Mr. President, undertaking the development and expansion of a national data system, with all States participating is going to require a major commitment of resources, particularly by the States. S. 1241 recognizes that need by authorizing $40 million in grants to the States to assist in the development of their computerized criminal history files. The bill provides that 50 percent of these funds will be allocated to the States based upon population. The remaining 50 percent will be distributed at the discretion of the Attorney General.

I am somewhat concerned about this method of distribution. Currently, there are three States—Maine, Mississippi, and West Virginia—that have no computerized criminal history systems in place. Nor are these States among the Nation's most populous. Should not those States which have yet to begin computerizing their criminal history files, receive priority for funding, so that they too can be ready by 1995? This amendment would simply require that the 50 percent of the funds to be distributed at the discretion of the Attorney General should be allocated with preference given to those States that have the lowest percent currency of case disposition in computerized criminal history records systems.

Except for these three States, all of the other States currently have some sort of computerized system of criminal history records in place. These systems can be expanded as the States develop automated criminal history files in conjunction with the FBI's system. The startup costs, however, for the three States that currently have no computerized system will be vastly greater than for those States that have some sort of computerized system already in place. These three States not only deserve some assistance in bearing the costs of this new Federal system, they deserve, I believe, and I hope others will agree, the highest priority for Federal funding.

I understand that this amendment has been agreed to by both managers of the bill.

Mr. BIDEN. Mr. President, that is correct. The manager on this side, as well as the Republican manager, have agreed to the amendment and also think it is valuable.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 432) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I thank the distinguished manager of the bill, Mr. BIDEN, and the ranking member for their courtesy, cooperation, and support.

MORNING BUSINESS

Mr. BIDEN. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar No. 208; Calendar No. 209; and the following nominations reported today by the Committees on Finance, Governmental Affairs, and Judiciary: Desiree Tucker-Sorini; Warren Roger King; Wendell P. Gardner, Jr.; Harvey E. Schlesinger; Ralph W. Nimmons, Jr.; Sterling Johnson, Jr.; Jane R. Roth; John H. Robinson; and Robert T. Guiney.

I further ask unanimous consent that the nominees be confirmed, en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed, en bloc, are as follows:

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Velma Montoya, of California, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 1997. (Reappointment).

DEPARTMENT OF LABOR

Frances Curtin McNaught, of Virginia, to be an Assistant Secretary of Labor.

The following nominations reported today by the Committees on Finance, Governmental Affairs, and Judiciary:

Desiree Tucker-Sorini, to be an Assistant Secretary of the Treasury;

Warren Roger King, to be an Associate Judge;

Wendell P. Gardner, Jr., to be an Associate Judge;

Harvey E. Schlesinger, to be U.S. District Judge;

Ralph W. Nimmons, Jr., to be a U.S. District Judge;

Sterling Johnson, Jr., to be U.S. District Judge;

Jane R. Roth, to be U.S. Circuit Judge;

John H. Robinson, to be U.S. Marshal; and

Robert T. Guiney, to be U.S. Marshal.

STATEMENT ON THE NOMINATION OF RALPH W. NIMMONS, JR. AND HARVEY E. SCHLESINGER

Mr. MACK. Mr. President, it is with great pleasure that I introduce to the Senate the Honorables Ralph W. Nimmons, Jr., and Harvey Schlesinger, nominees for the U.S. District Court in the Middle District of Florida.

First, I thank the Senate Judiciary Committee for moving expeditiously on these two nominations. Florida presently has 10 district court vacancies, which equates to approximately one-third of the Florida bench. Obviously, this has resulted in a tremendous burden on the judges in our three Federal districts. Acting on these nominations as expeditiously as possible will help to remedy the unique situation Florida is presently facing.

I would now like to take a few moments to express my unqualified support for both of these outstanding jurists. As many of you may be aware, I established a Judicial Advisory Commission to make recommendations to me for district court openings in my State. The Commission highly recommended to me Harvey Schlesinger and Buddy Nimmons for my consideration. Recently, I had the opportunity to sit down with both of these gentlemen and to talk with them about their desires to become Federal judges. I found Judge Nimmons and Magistrate Schlesinger to be extremely qualified and competent individuals.

Furthermore, I have received numerous letters and phone calls from individuals in my State highly praising both of these gentlemen. Phrases such as "a man of high ideals," "a judge who renders fair and just decisions," "an active participant in his community," and a "family man" are common themes which run through these letters and conversations.

Buddy Nimmons presently serves as a judge on the First District Court of Appeals in Florida, where he enjoys an excellent reputation in his community and is highly regarded by the local bar. Prior to this position, Judge Nimmons served as a circuit judge and as a State attorney, where he was chief of the special prosecution division. Judge Nimmons served as chief assistant general counsel for the city of Jacksonville and was in private practice prior to that time.

As a founding member of the Jacksonville Wolfson Children's Hospital and its former of that entity, Nimmons dedicated a great deal of his time off the bench to the community. Judge Nimmons has also been extremely active with the First Baptist Church, where he served as chairman of the board of deacons. In addition, Judge Nimmons has played an important role in the Fellowship of Christian athletes. Judge Nimmons has previously been the recipient of the Outstanding Member of the Judiciary in Jacksonville as well as the Outstanding Judge in Duval County. It is evident that Judge Nimmons is extremely well-qualified to fill this judgeship.

Harvey Schlesinger serves as a U.S. Magistrate in the U.S. District Court, Middle District of Florida. Previously, Magistrate Schlesinger served as a chief assistant to the U.S. Attorney in the Middle District. Magistrate Schlesinger served on the judge advocate general staff in the United States Army.

Aside from being a jurist, Magistrate Schlesinger is also an educator. From the time he passed the bar, Magistrate Schlesinger has taught administrative law, trial advocacy, criminal law, legal philosophy, jurisprudence, and constitutional law. In addition to serving as a professor of law, Magistrate Schlesinger has also served many years as a member of the Supreme Court's 10-member advisory committee on Federal Rules of Criminal Procedure, being nominated by Chief Justice Warren Burger and later renominated by Chief Justice William Rehnquist.

In addition to being a dedicated public servant, Magistrate Schlesinger has also been extremely active in his community. He served as director of the Pine Castle Center for the Mentally Retarded for over 15 years and held the positions of president and chairman of the board. Magistrate Schlesinger also has been involved in Rotary International of South Jacksonville and has served in an advisory role for Boy Scouts of America. Another of Magistrate Schlesinger's commitments include being active on the National Conference of Christians and Jews, serving both on its board of trustees and as a former chairman of the board of governors.

The American Bar Association recently bestowed Magistrate Schlesinger with the honor of being the Nation's most outstanding judge of courts of limited jurisdiction. Obviously, Magistrate Schlesinger is well-qualified to fill this judgeship.

I trust each of my colleagues will examine the outstanding judicial records of both Harvey Schlesinger and Buddy Nimmons. I believe that both of these jurists are eminently qualified to be district court judges. I urge my colleagues to vote favorably on their nominations.

Thank you, Mr. President.

LEGISLATIVE SESSION

The PRESIDENT pro tempore. Under the previous order, the Senate will now return to legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 1:34 p.m., a message from the House of Representatives announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 159. Joint resolution to designate the month of June 1991, as "National Forest System Month".

The enrolled joint resolution was signed by the President pro tempore (Mr. BYRD).

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, June 26, 1991, he had presented to the President of the United States the following enrolled bill and joint resolution:

S. 909. An act to amend chapter 9 of title 17, United States Code, regarding protection extended to semiconductor chip products of foreign entities; and

S.J. Res. 159. Joint resolution to designate the month of June 1991, as "National Forest System Month".

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Jane R. Roth, of Delaware, to be United State Circuit Judge for the Third Circuit;

Sterling Johnson, Jr., of New York, to be United States District Judge for the Eastern District of New York;

Harvey E. Schlesinger, of Florida, to be United States District Judge for the Middle District of Florida;

Ralph W. Nimmons, Jr., of Florida, to be United States District Judge for the Middle District of Florida;

Robert T. Guiney, of Massachusetts, to be United States Marshal for the District of Massachusetts for the term of four years; and

John H. Robinson, of Nevada, to be United States Marshal for the District of Nevada.

By Mr. GLENN, from the Committee on Governmental Affairs:

Wendell P. Gardner, Jr., of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years; and

Warren Roger King, of the District of Columbia, to be an Associate Judge of the District of Columbia Court of Appeals for the term of fifteen years.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BENTSEN, from the Committee on Finance:

Desiree Tocker-Sorini, of Colorado, to be an Assistant Secretary of the Treasury.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

The following named persons to be Members of the Peace Corps National Advisory Council for the terms indicated:

John J. McCarthy, of California, for a term expiring October 6, 1992, vice John Bigelow;

Craig R. Stapleton, of Connecticut, for a term expiring October 6, 1991, vice Creighton E. Mershon, Sr;

Myron A. Wick, III, of California, to be a Member of the Peace Corps National Advisory Council for a term expiring October 6 1992;

Tom G. Kessinger, of Pennsylvania, to be a Member of the Peace Corps National Advisory Council for a term expiring October 6, 1991;

Niara Sudarkasa, of Pennsylvania, to be a Member of the Peace Corps National Advisory Council for a term expiring October 6, 1991;

Lane Kirkland, of the District of Columbia, to be a Member of the Board for International Broadcasting for a term expiring April 28, 1993;

John E. Bennett, of Washington, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: John E. Bennett.

Post: Malabo, Republic of Equatorial Guinea.

Contributions, amount, date, and donee:

1. Self, John E. Bennett, none.

2. Spouse, Barbara W. Bennett, none.

3. Children and Spouses: Ian S. Bennett, Seth H. Bennett, none.

4. Parents, Charles H. and Margaret G. Bennett, none.

5. Grandparents, deceased, N/A.

6. Brothers and Spouses, C. Stuart Bennett, none.

7. Sisters and Spouses, Margaret E. and Guy S. Stoner, none; Lee Ann and Mel Martinez, none; and Carol J. and John Zukerman, none.

Mary Ann Casey, of Colorado, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic and Popular Republic of Algeria.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Mary Ann (NMI) Casey.

Post: U.S. Ambassador to Algeria.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, (I am single), n/a.

3. Children and Spouses: n/a.

4. Parents, Frank J. Casey, deceased, Anna V. Casey, none.

5. Grandparents, my last surviving grandparent died in 1962.

6. Brothers and Spouses, Michael J. Casey (single), none. Frank J. Casey (single), none.

7. Sisters and Spouses, no sisters.

William Harrison Courtney, of West Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, for the rank of Ambassador during his tenure of service as U.S. Commissioner for the Bilateral Consultative Commission and the Joint Consultative Commission established by the Threshold Test Ban Treaty (TTBT) and the Peaceful Nuclear Explosions Treaty (PNET).

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: William H. Courtney.

Post: Ambassador while serving as U.S. Commissioner for two Nuclear Testing Treaties.

Contributions, amount, date, and donee:

1. Self, $50.00, June 1990, Republic National Committee.

2. Spouse, none.

3. Children and Spouses, William H. Courtney, Jr., and Mary Alison Courtney, none.

4. Parents, Mary Lee Fleming, Father deceased, none.

5. Grandparents, All deceased.

6. Brothers and Spouses, No brothers.

7. Sisters and Spouses, Mary Vincent Courtney Collins, none. David Collins, none.

John Thomas McCarthy, of New York, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Tunisia.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: John T. McCarthy.

Post: Tunisia.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses, John T. McCarthy III, Elizabeth McCarthy, Julia McCarthy, none.

4. Parents, John T. McCarthy Sr. (deceased); Elizabeth McCarthy, none.

5. Grandparents, (all deceased) Timothy and Mary McCarthy; Mr. and Mrs. Kaffenburger (last one died in 1950).

6. Brothers and spouses, brother Thomas E. McCarthy (wife is named Catherine); Joan (sister) and Edward Byrnes; Margaret (sister) and William Cannon, none.

7. Sisters and spouses, see above, none.

Nicholas Platt, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Pakistan.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children Adam, none; Oliver, $100, July 1988, Ruth Messenger, Manhattan Borough Counsellor; Nicholas, Jr., $100, September 1990, Harvey Gantt.

4. Parents, Geoffrey Platt (deceased). Helen Choate Platt (deceased).

5. Grandparents, Joseph H. Choate, Jr. (deceased); Cora O. Choate (deceased); Charles A. Platt (deceased); Eleanor Hardy Platt (deceased).

6. Brothers and spouses, Geoffrey Platt, Jr., $100, September 1988, Rep. Sidney Yates, $100, November 1989, Rep. Sidney Yates, $130, December 1989, Rep. Sidney Yates, $100, June 1990, Sen. Claiborne Pell, $50, September 1990, Harvey Gantt; Hope Forsyth Platt, $35, September 1990, Harvey Gantt.

7. Sisters and spouses, Penelope Platt Littell (deceased); Walter D. Littell, none.

Gordon S. Brown, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Mauritania.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Gordon S. Brown.

Post: Ambassador to Mauritania.

Nominated: Dec. 21, 1990.

Contributions, amount, date, and donee.

1. Self, none.

2. Spouse, none.

3. Children and spouses, none.

4. Parents, Helen B. Lombardi, $25, 1990, Diane Feinstein.

5. Grandparents, none.

6. Brothers and spouses, none.

7. Sisters and spouses, Ronny B. Baxter, $50, annually, Republican Party.

Robert H. Pelletreau, Jr., of Connecticut, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Arab Republic of Egypt.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Pelletreau, Robert H., Jr.

Post: Ambassador to Egypt.

Contributions, amount, date, donee.

1. Self, none.

2. Spouse, $100, September 29, 1989, Groark for Lt. Governor.

3. Children and spouses, none.

4. Parents, Robert Pellectreau, $35, 1/5/87, Republican National Committee; $15, 2/7/87, New York Republican State Committee; $25, 5/15/87, George Bush for President; $35, 1/2/88, Republican National Committee; $30, 1/8/88, New York Republican State Committee; $35, 1/15/88, Republication National Committee; $25, 2/22/88, George Bush for President; $25, 9/27/88, 1988 Presidential Fund; $52, 1/7/89, Republican National Committee; $30, 1/20/89, New York Republican Committee; $52, 7/6/90, Republican National Committee; $25, 7/17/90, National Republican Congressional Commit-

tee; $5, 7/19/90, National Republican Senatorial Committee; $441, total. Mary Pelletreau, none.

5. Grandparents, deceased.

6. Brothers and spouses, Richard Pelletreau, none.

7. Sisters and spouses, Susan Pelletreau, none. Anne P. and Robert Woodbury, $50, 2/28/87, Mitchell for U.S. Senate; $100, 3/15/87, Democratic State Committee; $25, 12/12/87, Brennan for Congress; $125, 12/12/87, Maine Democratic Party; $25, 2/20/88, Dukakis for President; $52, 12/18/88, Maine Democratic Party; $175, 7/15/89, Maine Democratic Party; $552, total.

J. Stapleton Roy, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of China.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: J. Stapleton Roy.

Post: Ambassador to People's Republic of China.

Contributions, amount, date, donee.

1. Self, J. Stapleton Roy, none.

2. Spouse, Elissandra Roy, none.

3. Children and spouses, Andrew, none, David, none, Anthony, none.

4. Parents Andrew T. Roy $15, 12/23/87, Lautenberg Committee; $15, 12/23/87, Democratic National Committee; $15, 12/31/87, Democratic Congressional Campaign Committee; $20, 04/24/88, Democratic Senate Campaign Committee; $10, 04/26/88, Lautenberg Committee; $15, 10/16/88, Moynihan Committee; $15, 12/19/88, Democratic Congressional Campaign Committee; $15, 12/31/89, Democratic National Committee; $20, 12/31/89, Democratic Senate Campaign Committee; $15, 12/31/89, Democratic Congressional Campaign Committee. Margaret C. Roy, none.

5. Grandparents (deceased), none.

6. Brothers and spouses: David T. Roy, Barbara Roy, $90, 7/1/90–11/2/90 (by installments), Simon for Senate Committee.

7. Sisters and spouses, N/A.

Johnnie Carson, of Illinois, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Uganda.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Johnnie Carson.

Post: American Embassy Kampala, Uganda.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, Anne Diemer Carson, none.

3. Children and spouses, Elizabeth, Michael, Katherine, none.

4. Parents, Dupree and Aretha Carson, none.

5. Grandparents, (Deceased).

6. Brothers and spouses, Ronald Carson, none; Arthur Carson, divorced, none.

7. Sisters and spouses, Barbara and Earl Dorsey, none.

Lynn Marvin Hansen, of Colorado, for the rank of Ambassador during his tenure of service as U.S. Representative on the Conventional Armed Forces in Europe (CFE) Joint Consultative Group and to the Negotiations on Conventional Armed Forces in Europe (CFE).

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Lynn Marvin Hansen.

Post: Negotiations on Conventional Armed Forces in Europe (CFE), Vienna.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, Faith D. Hansen, none.

3. Children and spouses, Kurt Hansen (Rebecca), none; Heidi Jex (Frank), none; Erik Hansen (Susan), none; Kevin Hansen, none; Kirsten Allen (Brad), none; Mark Hansen, none; and Wade Hansen, none.

4. Parents, LeRoy M. Hansen (deceased), none; and Amy Hansen, none.

5. Brothers and spouses, Maurice Hansen (Hilde) none; and Wayne Hansen (Alain), none.

6. Sisters and spouses, Eula Baldwin (Larry), none.

Jane E. Becker, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Representative of the United States of America to the Vienna Office of the United Nations and Deputy Representative of the United States of America to the International Atomic Energy Agency, with the rank of Ambassador.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee *Jane E. Becker*.

Post *U.S. Mission, Vienna, Austria*.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, N/A.

3. Children and spouses N/A.

4. Parents, Donald J. and Lucille M. (Fessnech) Becker, none.

5. Grandparents, all deceased prior to January 1, 1985.

6. Brothers and spouses, Robert O. and Irene M. (Tsoris) Becker, none.

7. Sisters and spouses, N/A.

Richard W. Carlson, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Seychelles.

(Contributions are to be reported for the period begining on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Richard W. Carlson.

Post: Ambassador to the Seychelles.

Contributions, amount, date, and donee:

1–2. Self, Richard W. Carlson, and spouse, Patricia S. Carlson.

R.W. Carlson, $1,000, 10/8/87, George Bush for Pres.

P.S. Carlson, $1,000, 10/8/87, George Bush for Pres.

R.W. Carlson, $100, 10/8/88, D. Rohrabacher for Cong.

P.S. Carlson, $100, 10/8/88, D. Rohrabacher for Cong.

R.W. Carlson, $300, 4/1/88, D. Rohrabacher for Cong.

R.W. Carlson, $100, 3/10/88, Chris Cox for Cong.

R.W. Carlson, $1,000, 7/4/88, Pres. Trust/G. Bush.

P.S. Carlson, $1,000, 7/4/88, Pres. Trust/G. Bush.

R.W. Carlson, $200, 9/8/88, D. Rohrabacher for Cong.

R.W. Carlson, $1,000, 4/7/88, George Bush for Pres.

P.S. Carlson, $1,000, 4/7/88, George Bush for Pres.

R.W. Carlson, $100, 5/1/88, Chris Cox for Cong.

R.W. Carlson, $500, 4/12/89, Pete Wilson/Governor.

P.S. Carlson, $500, 4/12/89, Pete Wilson for Governor.

R.W. Carlson, $500, 4/12/89, Lowery for Cong.

P.S. Carlson, $500, 4/12/89, Lowery for Cong.

R.W. Carlson, $100, 7/27/90, Hunter for Cong.

R.W. Carlson, $250, 9/9/90, D. Rohrabacher for Cong.

R.W. Carlson, $150, 9/12/90, D. Rohrabacher for Cong.

P.S. Carlson, $150, 9/12/90, D. Rohrabacher for Cong.

R.W. Carlson, $200, 10/1/90, D. Cunningham for Cong.

R.W. Carlson, $200, 5/28/90, Lowery for Cong.

R.W. Carlson, $500, 6/21/90, P. Wilson for Gov.

P.S. Carlson, $500, 6/21/90, P. Wilson for Gov.

3. Children and spouses, Tucker Carlson/Buckley Carlson—no donations.

4. Parents, W.E. Carlson (deceased 1953); Ruth M. Carlson (deceased 1967).

5. Grandparents, deceased (all deceased before 1950).

6. Brothers and spouses, none.

7. Sisters and spouses, none.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PELL. Mr. President, for the Committee on Foreign Relations, I also report favorably nomination lists in the Foreign Service which were printed in full in the CONGRESSIONAL RECORD of June 24, 1991, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MITCHELL (for himself, Mr. SASSER, Mr. BOREN, Mr. PELL, Mr. BIDEN, Mr. SARBANES, and Mr. CRANSTON):

S. 1399. A bill to establish a program to provide Soviet graduate students with scholarships for study in the United States; to the Committee on Foreign Relations.

By Mr. DOMENICI (for himself, Mr. DOLE, Mr. SIMPSON, Mr. BROWN, Mr. BURNS, Mr. COATS, Mr. GARN, Mr. GRAMM, Mr. SYMMS, Mr. WALLOP, Mr. KASTEN, Mr. NICKLES, and Mr. CRAIG):

S. 1400. A bill to provide for a study of the General Accounting Office by a Special Inspector General, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have thirty days to report or be discharged.

By Mr. PRESSLER (for himself, Mr. SYMMS, Mr. COCHRAN, Mr. KASTEN, and Mr. GRASSLEY):

S. 1401. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for amounts paid by a health care professional as interest on student loans if the professional agrees to practice medicine for at least 2 years in a rural community; to the Committee on Finance.

By Mr. ADAMS (for himself, Mr. REID, Mr. BRYAN, Mr. METZENBAUM, Mr. CRANSTON, Mr. DASCHLE, Mr. WIRTH, Mr. SANFORD, Mr. LIEBERMAN, Mr. HATFIELD, Mr. HARKIN, and Mr. KENNEDY):

S. 1402. A bill to provide for improved nuclear waste management at defense Federal nuclear facilities, and for other purposes; to the Committee on Armed Services.

By Mr. BURNS:

S. 1403. A bill for the relief of Ron Buxbaum; to the Committee on the Judiciary.

By Mr. THURMOND (for himself and Mr. HATCH) (by request):

S. 1404. A bill to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve youth and adults, to establish the Youth Opportunities Unlimited program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KERRY (for himself, Mr. STEVENS, and Mr. HOLLINGS):

S. 1405. A bill to authorize appropriations for certain programs and functions of the National Oceanic and Atmospheric Administration, and for other purposes;to the Committee on Commerce, Science, and Transportation.

By Mr. GORTON (for himself, Mr. AKAKA, Mr. BRYAN, Mr. D'AMATO, Mr. DECONCINI, Mr. BIDEN, Mr. BURNS, and Mr. PACKWOOD):

S. 1406. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances, to provide greater flexibility in the regulatory controls placed on the legitimate commerce in these chemicals, and for other purposes; to the Committee on the Judiciary.

By Mr. DANFORTH:

S. 1407. A bill to strengthen and improve Federal civil rights laws, and for other purposes; to the Committee on Labor and Human Resources.

S. 1408. A bill to amend the Civil Rights Act of 1964 to clarify provisions regarding disparate impact actions, and for other purposes; to the Committee on Labor and Human Resources.

S. 1409. A bill to provide for damages in cases of international employment discrimination, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PRESSLER:

S. 1410. A bill relating to the rights of consumers in connection with telephone advertising; to the Committee on Commerce, Science, and Transportation.

By Mr. DODD:

S. 1411. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for families, to establish child support assurance demonstration projects, to establish a National Commission on Family Strengths, and for other purposes; to the Committee on Finance.

By Mr. STEVENS (by request):

S. 1412. A bill to amend title 39, United States Code, to curb abuses of postage subsidies, to provide more equitable rates for Government mail, and for other purposes; to the Committee on Governmental Affairs.

By Mr. KENNEDY (for himself, Mr. GRASSLEY, Mr. DECONCINI, Mr. CRANSTON and Mr. WELLSTONE):

S. 1413. A bill to encourage the termination of human rights abuses inside the People's Republic of China and Tibet; to the Committee on Foreign Relations.

By Mr. AKAKA:

S. 1414. A bill to establish a higher education loan demonstration program in 10 congressional districts in which the amount of a student's loan repayment is dependent upon such student's income, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PELL:

S. 1415. A bill to provide for additional membership on the Library of Congress Trust Fund Board, and for other purposes; to the Committee on Rules and Administration.

S. 1416. A bill to provide adequate authority in the Library of Congress for the provision of fee-based library research and information products and services; to the Committee on Rules and Administration.

By Mr. BINGAMAN (for himself, Mr. MCCAIN, Mr. GORTON, and Mr. DECONCINI):

S. 1417. A bill to amend chapter 111 of title 10, United States Code, to authorize the Department of Defense to award grants to institutions and organizations that promote training of United States scientists, engineers, and managers in Japanese language and culture; to the Committee on Armed Services.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 1418. A bill to designate the Federal building located at 78 Center Street in Pittsfield, Massachusetts, as the "Silvio O. Conte Federal Building", and for other purposes.

By Mr. PRESSLER (for himself, Mr. SYMMS, Mr. COCHRAN, Mr. KASTEN, and Mr. GRASSLEY):

S. 1419. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for amounts paid by a health care professional as interest on student loans if the professional agrees to practice medicine for at least 2 years in a rural community; to the Committee on Finance.

By Mr. DOLE (for himself, and Mr. SPECTER):

S.J. Res. 170. Joint resolution designating September 20, 1991, as "National POW/MIA Recognition Day", and authorizing the display of the National League of families POW/MIA flag on flagstaffs at certain Federal facilities; to the Committee on the Judiciary.

By Mr. KASTEN:

S.J. Res. 171. Joint resolution to designate the month of August 1991, as "Wisconsin Cheese Month"; to the Committee on the Judiciary.

By Mr. INOUYE (for himself, Mr. ADAMS, Mr. AKAKA, Mr. BINGAMAN, Mr. BOREN, Mr. BURDICK, Mr. BURNS, Mr. CHAFEE, Mr. COCHRAN, Mr. CONRAD, Mr. CRAIG, Mr. DASCHLE, Mr. DECONCINI, Mr. DODD, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. GORE, Mr. GORTON, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. LAUTENBERG, Mr. LEVIN, Mr. LUGAR, Mr. MCCAIN, Mr. METZENBAUM, Mr. MITCHELL, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. NICKLES, Mr. PACKWOOD, Mr. PELL, Mr. REID, Mr. RIEGLE, Mr. SANFORD, Mr. SASSER, Mr. SEYMOUR, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. STEVENS, and Mr. WELLSTONE):

S.J. Res. 172. Joint resolution to authorize and request the President to proclaim the month of November 1991, and the month of each November thereafter, as "National American Indian Heritage Month"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself, Mr. PELL, Mr. HELMS, Mr. PRESSLER, Mr. BYRD, Mr. NICKLES, and Mr. RIEGLE):

S. Res. 147. Resolution to express Senate opposition to the use of force to resolve political differences in Yugoslavia; considered and agreed to.

By Mr. PRESSLER (for himself and Mr. HELMS):

S. Res. 148. Resolution to express the sense of the Senate that the United States should support the right to self-determination of the people of the Republic of Moldavia and northern Bucovina; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MITCHELL (for himself, Mr. SASSER, Mr. BOREN, Mr. PELL, Mr. BIDEN, and Mr. SARBANES):

S. 1399. A bill to establish a program to provide Soviet graduate students with scholarships for study in the United States; to the Committee on Foreign Relations.

UNITED STATES LAW AND BUSINESS TRAINING PROGRAMS FOR SOVIET GRADUATE STUDENTS ACT

Mr. MITCHELL. Mr. President, last week, at the invitation of Senator DOLE and myself, the newly elected President of the Russian Republic, Boris Yeltsin, visited the Capitol. In introducing President-elect Yeltsin for remarks he delivered to a luncheon meeting of Senators, I told him that in my view whether the Soviet Union succeeds or fails in its current efforts to democratize and to move toward a free market economy rests largely in the hands of the people of the Soviet Union.

The United States can and will provide encouragement. The United States can and should provide limited assistance. But ultimately success or failure will be determined by the people of the Soviet Union themselves and their leaders.

I will today introduce legislation that provides modest, but I believe important assistance to the Soviet Union, of the type that I think most useful, and I would like to address that legislation at this time.

In the midst of heated debate about the wisdom of undertaking a so-called grand bargain to help the Soviet Union undertake its economic and political reforms, it is easy to overlook the small but meaningful steps the United States can take now to advance the cause of democratization in the Soviet Union.

The Soviet Union is opening its doors and its minds to Western political and economic thought, offering a unique opportunity to affect the shape and pace of change in the country.

Sadly, many Soviet reformers lack a meaningful understanding of democracy or free market economic practice, for Soviets have long lacked access to Western educational institutions in which they might have gained such an understanding.

For over 40 years, the United States has criticized communism and urged the Soviet Union to reform itself and to establish democratic institutions. Now, we have a chance to do this through positive, peaceful means by helping the Soviets understand and implement the concepts and practices of a free market economy and a democratic political system.

America should be sharing its great resources of democracy and economic freedom with the people of the Soviet Union. It is in our interest to provide such access to the rising class of Soviet professionals, giving them the opportunity to study Western systems and practice, particularly in the fields of law and economics.

If we help Soviet lawyers and economists understand the basic concepts and mechanisms of a free market economy and the legal basis of a democratic political system, they can use this knowledge to shape the reform process not just this year but for decades to come. This will be what ultimately makes possible a fundamental transformation of the Soviet Union.

The United States has taken some steps in this direction. From agricultural cooperation, to teaching about housing privatization, to providing a crash course on market economics, the administration has proposed or implemented several exchange and cooperation programs. Unfortunately, many of these are limited in time, scope, or depth.

The United States also supports youth exchange programs for Americans and Soviets through the Samantha Smith Program.

While these are useful programs, we must bridge the gap between these two approaches. There is clearly a need for a sustained and comprehensive program for Soviet graduate students in disciplines that are crucial to the meaningful reform.

That is the reason for the legislation I am introducing today with my distinguished colleagues Senators SASSER, BOREN, PELL, BIDEN, and SARBANES. I particularly want to commend Senator SASSER for his essential role in transforming this valuable concept into a realistic program.

The United States Law and Business Training Program or Soviet Graduate Students Act is an innovative and specific approach toward helping the Soviet people help themselves. The bill proposes to help provide Soviet graduate students with an American educational and vocational experience that will fundamentally shape their contribution to the future of the Soviet Union.

Specifically, the legislation authorizes scholarships for up to 500 Soviet graduate students in the fields of business administration, economics, law, and public administration. These students would study for at least 1 year at an American institution for higher education, and would participate in an internship or other training program in their professional field.

In short, the legislation would provide a combination of academic and hands-on knowledge in economics and law that would enable graduates to apply their experience in behalf of the reform process upon their return to the Soviet Union.

The program can grow to meet the demand and utility of bringing additional graduate students from the Soviet Union to the United States. American educational institutions, as well as Soviet students, will benefit as the program expands.

This is a necessary and worthwhile investment in human capital. Concepts of market dynamics and the legal protection of individual rights cannot be fully implemented by people who do not understand and have never experienced them.

If we want the Soviet Union to undertake a fundamental transformation that I believe all Americans do, it is in our interest to help equip their future leaders to guide their country along the path toward democracy and individual freedom.

This legislation can begin to fill the gaping hole between desire and the ability to continue economic and political reform in the Soviet Union.

It is a modest beginning in the important process of sharing the theory and practice of our economic and political system with the next generation of leaders in the Soviet Union.

Mr. President, I send the bill to the desk and I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1399

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. STATEMENT OF PURPOSE.

The purpose of this Act is to establish a scholarship program designed to bring students from the Soviet Union to the United States for study in the United States.

SEC. 2. FINDINGS AND DECLARATIONS OF POLICY.

The Congress finds and declares that—

(1) It is in the national interest for the United States Government to provide continuing financial support to individuals from the Soviet Union to study in the United States, and to gain experience and training in free market economics, Western business and legal systems, and public administration, in order to assist the process of economic and political reform in the Soviet Union, increase mutual understanding, and build lasting links between the Soviet people and the people of the United States;

(2) providing scholarships to Soviet students to study in the United States will over time effectively create strong bonds between the United States and the future leadership of the Soviet Union and its republics, while assisting the Soviet people in their political and economic reform efforts:

(3) study in United States institutions by Soviet students will enhance trade and economic relationships by providing professional and business contacts;

(4) students from the Soviet Union have in the past been unable to study in the United States for political and financial reasons;

(5) it is essential that the United States citizenry increase its knowledge and understanding of the Soviet Union, its language, cultures, and socioeconomic composition as the Soviet Union assumes a role in the world economic community; and

(6) a scholarship program for students from the Soviet Union to study in the United States would complement international efforts to assist the Soviet Union in its economic, political and social reforms.

SEC. 3. SCHOLARSHIP PROGRAM AUTHORITY.

(a) IN GENERAL.—The President, acting through the United States Information Agency, shall provide scholarships (including partial assistance) for study at United States institutions of higher eduction coupled with private and public sector internships by nationals of the Soviet Union who have completed their undergraduate education and would not otherwise have the opportunity to study in the United States due to financial limitations.

(b) FORM OF SCHOLARSHIP; FORGIVENESS OF LOAN REPAYMENT.—To encourage students to use their training in the Soviet Union, each scholarship pursuant to this section shall be in the form of a loan with all repayment to be forgiven upon the student's prompt return to the Soviet Union for a period which is at least one year longer than the period spent studying in the United States. If the student is granted asylum in the United States pursuant to section 208 of the Immigration and Nationality Act or is admitted to the United States as a refugee pursuant to section 207 of that Act, one-half of the repayment shall be forgiven.

SEC. 4. GUIDELINES.

The scholarship program under this Act shall be carried out in accordance with the following guidelines:

(1) Consistent with section 112(b) of the Mutual Education and Cultural Exchange Act of 1961 (22 U.S.C. 2460(b)), all programs created pursuant to this Act shall be nonpolitical and balanced, and shall be administered in keeping with the highest standards of academic integrity and cost-effectiveness.

(2) The United States Information Agency shall design ways to identify promising students for study in the United States.

(3) The United States Information Agency shall develop and strictly implement specific financial need criteria. Scholarships under

this Act may only be provided to students who meet the financial need criteria.

(4) The program may utilize educational institutions in the United States, if necessary, to help participants acquire necessary skills to fully participate in professional training.

(5) Each participant from the Soviet Union shall be selected on the basis of academic and leadership potential in the fields of business administration, economics, law, or public administration. Scholarship opportunities shall be limited to fields that are critical to economic and political reforms in the Soviet Union, particularly business administration, economic, law, or public administration.

(6) The program shall be flexible to include not only training and eductional opportunities offered by universities in the United States, but to also support internships, education, and training in a professional setting.

(7) The program shall be flexible with respect to the number of years of education financed, but in no case shall students be brought to the United States for less than one year.

(8) Further allowance shall be made in the scholarship for the purchase of books and related educational material relevant to the program of study.

(9) Further allowance shall be made to provide opportunities for professional, academic, and cultural enrichment for schlarship recipients.

(10) The program shall, to the maximum extent practicable, offer equal opportunities for both male and female students to study in the United States.

(11) The program shall, to the maximum extent practicable, offer equal opportunities for students from each of the Soviet republics.

(12) The United States Information Agency shall recommend to each student who receives a scholarship under this Act that the student include in their course of study programs which emphasize the ideas, principles, and documents upon which the United States was founded.

SEC. 5. FUNDING OF SCHOLARSHIPS FOR FISCAL YEAR 1992 AND FISCAL YEAR 1993.

There are authorized to be appropriated to the United States Information Agency $17,500,000 for fiscal year 1992, and $35,000,000 for fiscal year 1993, to be used to carry out this Act.

SEC. 6. COMPLIANCE WITH CONGRESSIONAL BUDGET ACT.

Any authority provided by this Act shall be effective only to the extent or in such amount as are provided in advance in appropriation Acts.

Mr. DOMENICI. Mr. President, before the distinguished majority leader leaves the floor, might I comment on the discussion that he just had with the Senate on the bill that he just sent to the desk for printing and referral.

I am not totally familiar with it, but I did hear the distinguished majority leader discuss it. I have a summary sheet. While I might have objection to some specifics, I want to say to the Senator the overall idea is, in the opinion of the Senator from New Mexico, an excellent idea.

I think we both heard Boris Yeltsin open his discussions with us by saying, "I do not want dollars and money," and then he said what he wanted. I think it sounded something like this summary. Not exactly, because he spoke differently than we in terms of institutions. I congratulate the Senator on his efforts.

Mr. MITCHELL. I thank the Senator very much. This bill had been in the planning stages prior to his visit, but the visit confirmed in my mind the relevance of this to the ongoing transformation in the Soviet Union.

I thank the Senator for his comments.

Mr. SASSER. Mr. President, I am pleased to be a principal cosponsor of the United States Law and Business Training Program for Soviet Graduate Students Act. This act will establish a scholarship program to bring students from the Soviet Union to the United States to study law and business administration.

With this measure, for this first time a substantial number of young Soviets will be able to come to the United States to enter educational programs. And they will come to the United States to study business administration, economics, law, and public administration. These are the fields which will contribute the most to promoting economic and political reforms in the Soviet Union.

And what could be more useful at this moment of history? The Soviet Union faces a time of fundamental change. The old guard of communism is being replaced by free-market forces and democratic ideas.

But, these changes will take time. And no matter what our desires are for speeding these changes along—the fact is that it will be the next generation of Soviet citizens which will see these changes through and indeed, reap the rewards of this effort.

But to make this happen, we must help plant the seeds of change. And what better way than through education?

One way to do this is to allow young Soviet citizens to come to the United States to learn how our system works. To see democracy in action; to study law and business; to make the most valuable kinds of connections—those between our two peoples.

And what better way to plant the seeds of change than to give Soviet graduate students the ability to come to the United States and get hands-on experience in the business world and to take that knowledge back to the Soviet Union.

This program will do just that. It will combine formal education at universities in the United States with real world experience provided through internships and training in professional settings.

Furthermore, it will ensure that these students will return to the Soviet Union to speed economic and political reform, by making each scholarship in the form of a loan with repayment only to be forgiven after the student returns to the Soviet Union.

And it will be fair, providing equal opportunities for students from each of the Soviet republics and making financial need a criteria for receiving a scholarship. It will not be a giveaway program for those who can afford other alternatives.

This is a well-crafted piece of legislation. I commend Senator MITCHELL for his leadership on this matter. I hope to see this act signed into law as one key mechanism for promoting economic and political reform in the Soviet Union. We must seize this moment of history.

Mr. PELL. Mr. President, I am pleased to cosponsor legislation establishing a Soviet graduate scholarship program that is being introduced today by the distinguished majority leader.

As a long-time advocate of international exchanges, I strongly support the creation of a program that would bring Soviet students to the United States to gain experience in areas such as business, law, and public administration. As we have seen with other successful exchange programs, a regimen of U.S. study and hands-on training in these fields can help create a cadre of individuals capable of introducing and implementing economic and political reform at home. Indeed, the administration has already initiated some cooperative programs with the Soviet Union, but these exchanges have not gone far enough.

During his visit to the United States, Boris Yeltsin, the newly elected president of the Russian republic, reminded us that Russia, and indeed the entire Soviet Union, desperately lacks managers skilled in the ways of a market economy. He also suggested that for reform to succeed, the individuals charged with implementing any democratization initiatives or market-oriented measures, will need technical training and a greater understanding of the workings of a free market and of a democratic political system. Mr. President, I believe that this legislation takes an important step toward meeting what President Yeltsin and others have identified as a genuine need.

The United States has a stake in the success of Soviet reform. In an age of increased international economic competition, I believe that the United States should have the foresight to realize that study in United States institutions by Soviet students can enhance trade relationships by providing professional and business contacts between Soviets and Americans. It is in our interest to offer our experience with democracy and the free market to Soviet students. In so doing, we will build links that will bear fruit as the students who are trained in the United States assume leadership positions in government and business.

Mr. BIDEN. Mr. President, I am pleased to join with my colleagues today in sponsoring the majority leader's legislation to provide United States scholarships to Soviet graduate students. I am particularly delighted to cosponsor this bill, Mr. President, because it creates a means for the United States to have an impact on the Soviet reform process relatively soon, even while we continue to consider what sort of more financially substantial assistance we might want to offer in the future.

This body, Mr. President, has already spent many hours debating whether or not the United States should provide aid to the Soviet Union, what programs aid might be used for, whether aid should be conditioned on specific reforms, and a host of other questions. We, and indeed people throughout the Nation, will spend many hours arguing over the merits of the United States giving money to the Soviet Union.

Those arguments will continue for some time, as well they should. The possibility of the United States providing aid to the Soviet Union is truly one of the most significant, not to say contentious, foreign policy problems to confront the Nation in recent years.

But today, Mr. President, without need for extended and rancorous argument, the majority leader has suggested a way for the United States to help reform in the Soviet Union in a straightforward, practical, and eminently useful manner.

There are probably few more logical methods of helping to change a nation than by helping to change what its citizens are taught. Progress in the Soviet Union can be encouraged by encouraging young Soviets, from all republics, to learn about the institutions and processes that underlie a free-market economy and a true democracy.

The inculcation of budding young professionals with the basic principles of public administration, commercial law, and a legal system that respects individual rights will, ideally, guide these professionals through their careers. This, for the moment, is the best way to provide aid, and useful aid, to urge reform in the Soviet Union.

The scholarship program created by this legislation will help hundreds of young, energetic Soviet leaders to understand the workings of democracy and capitalism, and, just as importantly, to learn something about the character of the United States itself. And make no mistake about it, Mr. President, this program seeks to send these young people home to the Soviet Union to have them lead their nation on the path of democracy and open markets. We ARE looking for converts.

Mr. President, the legislation is particularly wise in emphasizing the need for practical training. In meeting after meeting with Soviet and East European officials, I have heard pleas for fundamental technical assistance and training. Their nations suffer a stunning, virtually complete lack of familiarity with principles without which our society could not function: basic accounting, the use of computer systems, the application of commercial law, banking procedures, and on and on. The Soviets have essentially no experience with the operations that are absolutely essential to the functioning of our own economy and the training of our own professionals.

The program envisioned in this legislation will target those students already interested in the fields of economics, law, and public administration and will offer them practical internships, in addition to academic training, while they are in the United States.

In fact, I would hope and expect that many of these young people will return home not only to help lead their country down a new path, but also to teach some of their fellow citizens what they learned in the United States. There is, Mr. President, a lot of bang for the buck in this program.

The legislation further specifies that the scholarships should be awarded to graduate students—young people poised to begin their careers and to usher in a new era in the Soviet Union. Moreover, Mr. President, the legislation has as an integral part of its structure an incentive for the students to return to the Soviet Union—the promise that their educational loans will be forgiven if they promptly return to the Soviet Union and remain there for one year longer than the time spent in the United States under the auspices of the program.

Further, the bill before us makes clear that the students studying in the United States must be representative of all republics of the Soviet Union and should be reasonably balanced between male and female students. These stipulations in themselves will make clear to the students that the United States puts high value on their individual identities and aspirations as citizens of different republics, and on the need for equitable treatment and opportunity for men and women alike.

In the meantime, these young people will enrich the United States. Thousands of U.S. students and faculty will get to know these Soviet students during their stay. Our knowledge of the Soviet Union, our appreciation of its diversity, will grow considerably.

No doubt these scholarships will inspire some American students to pursue Soviet studies after getting to know their new Soviet colleagues. Like their Soviet counterparts, these Americans will contribute to this Nation's ability to function well internationally.

Mr. President, I would like to add that I would be pleased to offer an internship in my office to one of these students as part of his or her practical training in the United States once the program begins, ideally early in the next fiscal year. Working with a person with a background entirely different from our own would enrich my staff and our common efforts. Moreover, I hope such an experience would provide unique insight for a Soviet student into the Senate and the process of U.S. lawmaking.

Most importantly, Mr. President, I believe this program will create a reservoir of good will toward the United States among those people who study here. We each know foreign leaders who studied here as young people and whose fondness for our Nation, and appreciation for its values and institutions, was permanently instilled by that youthful experience. We would do well to instill some of that affection and understanding in the future leaders of the Soviet Union.

Mr. President, this proposal by the majority leader meets the most fundamental criterion I can imagine: It is a highly cost-effective means of promoting United States national security.

By Mr. DOMENICI (for himself, Mr. DOLE, Mr. SIMPSON, Mr. BROWN, Mr. BURNS, Mr. COATS, Mr. GARN, Mr. GRAMM, Mr. SYMMS, Mr. WALLOP, Mr. KASTEN, Mr. NICKLES and Mr. CRAIG):

S. 1400. A bill to provide for a study of the General Accounting Office by a special inspector general, and for other purposes; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

GENERAL ACCOUNTING OFFICE REFORM ACT

Mr. DOMENICI. Mr. President, I rise today to introduce legislation that would put in place a major review and reform of the General Accounting Office. I am joined on this legislation by both the Republican leader, Senator DOLE, the assistant Republican leader, Senator SIMPSON, and others, who share with me a genuine concern for the General Accounting Office.

Mr. President, it should be clear to every one in this Chamber that recently there has been an uneasiness, I would characterize it as an uncertainty, about the role and operation of the General Accounting Office. And that uncertainty bothers all of us who have over the years looked to the General Accounting Office as a professional organization providing the Congress with objective financial reviews and audits.

I have tried to identify in my own mind, what it is that has generated this uncertainty, this uneasiness, and I have come to the conclusion, that at least for this Senator, there are three broad reasons.

These are:

First, a sense of loss of professionalism at the GAO; second, a sense of loss of an organization's integrity; and, third, a generic concern over the efficiency of, not just the GAO, but other audit review organizations around this town.

The legislation which I am introducing today attempts to address each of these broad concerns with some specific recommendations. A cornerstone of the legislation is the creation of a special inspector general with broad authorities to audit and review the GAO, including the drawing of samples of GAO studies and subjecting them to review—one might say peer review—by outside organizations for their accuracy, authenticity, and professionalism.

Frankly, Mr. President, I do not take the floor today to introduce this legislation casually. The General Accounting Office is an excellent instrument. But these days, an operation with over 5,000 employees and costing almost 0.5 billion, with no one looking at them to make sure that they are doing their job properly just does not fit well in these United States.

Let me say at the outset, the legislation is not meant to punish or embarrass the GAO for, in truth, since their creation with the Budget and Accounting Act of 1921, GAO has done generally what we, the Congress, have authorized it to do. We, the Congress, as the creators of this organization designed specifically to serve us, must from time to time have appropriate oversight of this entity. If we do not do it in detail and in depth on a regular basis, then the time will come for the introduction of legislation like this. There is no peer review provided for anything within the GAO. I understand that even some in the GAO, and maybe even Mr. Bowsher, are of a mind that perhaps peer review of their reports and their audits is in order.

This legislation will see to it that it is done. The time has come. We cannot continue to have an organization of this size, with the kind of powers they have, turned loose on agencies and Departments of the Federal Government and people of this country with absolutely no oversight and then have their work product given a credibility beyond that which it deserves because, frequently, it is motivated by direction from someone trying to prove something. It is frequently less than objective, but nobody finds out until many, many weeks have passed, or perhaps a contrary report of some significance comes out, and then it is too late.

Having said all of that, let me tell my colleagues what we are going to try to do to solve these problems.

Loss of professionalism. I have a sense that the GAO's professionalism has suffered over the last few years. It is not easy to quantify such an amorphous thing as professionalism. But clearly there are a few clues which speak to an organization's professionalism which I am going to highlight.

One, there is a sense among Members of Congress that GAO has not been performing the functions they have been established to perform, while in fact doing things that are not their responsibility.

There is a sense among experts and those outside the Government familiar with the GAO studies that the quality of the work product varies dramatically. Some are excellent, some are moderate, and some are absolutely of poor quality. Yet all are given the same kind of credibility because they are GAO products.

Many Members of Congress feel that the level of resources required to produce these products of varying quality is excessive and has grown disproportionately when compared with other support agencies on the Hill.

Many feel the GAO expends excessive resources for outside consultants, training and retreats for staff, overhead expenses for glossy reports, and other unnecessary expenses.

Finally, there is a sense that some at the GAO are more interested in getting headlines than in supporting the Congress with the information required.

So, from its beginning as an office whose function centered on bookkeeping and accounting, GAO's powers have been expanded. Some of these powers are explicit, as when Congress specified, in title X of the Budget Act, the Comptroller General's power to bring suits against the administration for inappropriate impounding of budget authority. Others are less clear. In 1970, the Congress gave the Comptroller General the authority to evaluate the results of Government programs on his own initiative.

GAO's resources are immense. GAO is the largest support agency here on the Hill. GAO's budget represents one-quarter of the total legislative branch appropriations. Its budget is 8 times the size of the Congressional Research Service, 21 times the size of the Congressional Budget Office. Over the last 10 years the GAO budget has grown at nearly 8 percent per year, nearly twice the rate of growth for all nondefense discretionary programs over the same time period.

GAO has nearly 5,100 staff. About 100 of these staff are on detail to congressional committees, primarily House committees and primarily to majority staffs.

Interestingly, while staffs and budgets of GAO have increased dramatically over the last 12 years, the number of congressional GAO reports has changed very little. In 1978, GAO produced 6,399 congressional reports and legal decisions, in 1990 this number had declined to 4,421.

These facts simply support the perception that more is being expended by GAO, while less is being produced, and this does not say anything about the quality of the products.

Probably the most blatant example of lack of professionalism was a recent incident relayed to the Senate Armed Services Committee by General Schwarzkopf who told of GAO's visit not once but twice to the front lines of Operation Desert Storm to review the Apache helicopter. The GAO investigators apparently did not find anything wrong the first time, thought they were being misled and went back a second time—again finding nothing.

What GAO is doing in a war zone, occupying limited military resources that clearly had other more pressing requirements, boggles my mind. But nevertheless this is an example of questionable professional judgment on the part of GAO.

LOSS OF ORGANIZATIONAL INTEGRITY

Organizational integrity and professionalism are inextricably linked. But here again Mr. President, the perception and actual fact has led a number of my colleagues to conclude that internal GAO controls and the confidence Members can have that a product produced at GAO will be objective and unbiased has clearly been lost.

This problem manifests itself in a number of areas:

The November 1988 "Transition Reports" issued by GAO read like the policy platform of the defeated Governor Dukakis. The reports, not requested by any Member of Congress or the administration, were expensive, wasteful, and highly partisan.

The GAO Journal, a high-gloss quarterly publication disseminated at taxpayer expense, regularly includes non-GAO staff articles, some expressing a clear political preference on legislative agendas.

There has also been a clear pattern in recent GAO testimonies that promote a policy, rather than provide information. Examples include most recently a GAO testimony on the Canadian health care system, the Comptroller's recommendation on June 13 before the House Ways and Means Committee to effectively break the budget caps for discretionary spending by not counting certain Medicare administrative costs against the caps, flip flops in 1989 over whether the United States Postal Service should be on or off-budget. These are just a few examples of both quality control failures and policy pronouncements that most feel are not within GAO's purview.

There is a perception and many times confirmed practice, that individual requesters of GAO studies or reviews get the answer he or she is looking for. It is also an acknowledged GAO procedure that a requester of a study can demand that no outside review of the study be allowed. The most recent GAO paper on the superconducting super collider, did not even allow the affected agency—

the Department of Energy—to comment on this critical report.

Members have also observed that sometimes requested studies or audits have made it into the press prior to the requester having seen the study or audit. A large organization such as GAO needs to have well established and carefully followed internal control procedures for its product.

Finally, and the most obvious manifestation of lost GAO objectivity has been the pattern of detailing GAO staff to congressional committees. Out of the 100 GAO details to congressional committees, there is only 1 detail to a minority staff of a Senate committee. Need I say more.

EFFICIENCY IN GOVERNMENT

Finally, there is a perception that GAO along with all the other organizations established over the last decade to review and audit and analyze Government programs, may be duplicating one another and thus making it even more difficult to program managers to carry out their basic program responsibilities.

Last year, Mr. President, we passed the Chief Financial Officers Act that places additional responsibilities for audits in the executive branch. We also have 27 inspector generals with budgets totaling nearly $750 million and with over 9,340 staff. Add to all this the GAO's auditing and review process and our own committees' oversight responsibilities, and it is no wonder that program managers in this town are drowning in reviews.

There is a need for financial audits and reviews, but my perception and that of a number of people I talk to is that things are getting out of hand. The system seems to be choking on analysis, and I'm not totally convinced that the legislation—for which these reviews are conducted—is necessarily any better.

OVERVIEW OF LEGISLATION

Mr. President, these three broad concerns—GAO professionalism, GAO integrity, and efficiency in Government audits and review—from the basis of the legislation I am submitting today.

Simply stated this legislation sets up a procedure whereby a special inspector general would be appointed by the President to independently review the GAO. The issues I have raised here—the perceptions of lost professionalism, fairness, and efficiency of the GAO—would be subjected to a careful and timely review.

Within 15 months this special inspector general would make detailed legislative recommendations for reforming the GAO to address these concerns.

The special inspector general would be charged with conducting a thorough study and financial audit of the operations of the GAO. That examination would determine, among other things, if the GAO has exceeded its authority under the law, whether its product is produced in an impartial and fair manner, whether its work duplicates the work of other legislative, executive, or inspector generals' work.

Both the use and cost of consultants and contract services would be carefully reviewed by the special inspector general, as would the purpose, cost, and effectiveness of its regional and overseas offices. The special inspector general would be required to draw a sample of recent GAO reports and studies and subject them to an independent analysis for accuracy and professional standards of research by outside organizations with expertise in the area in which the GAO study concentrated.

While this review is ongoing the legislation would set in place procedures for considering and reviewing GAO study requests as well as making congressional details, so that at least until the special inspector general has made his recommendations, the perception of fairness in the treatment of both the majority and minority will be established.

Mr. President, I conclude by observing once more that the purpose of this legislation is not to be destructive, in fact it is to be constructive. It is designed to help reestablish this important and vital congressional resource as one of the preeminent organizations serving all Members of the Congress.

The Senator from New Mexico wants to make it clear, I truly am concerned, and this is not a partisan concern. I want to submit a letter that the Secretary of Energy sent, not only to me, but members of the Energy Committee, when he asked that a report on the super collider be reviewed by his Department before it was issued—and he was denied that opportunity. In the letter to each member of the committee here in the Senate, and perhaps in the House, he indicates that it was in error in many respects, yet he had no opportunity to call that to anyone's attention. That is not right.

Frankly, in this legislation we say to the GAO, if you are going to have reports like that, you are going to state it right on the front. If there are qualities about it that are unusual, you are going to state it right up front so the media of America and the people will know what kind of report it is.

Mr. President, I ask unanimous consent, the bill I have alluded to be sent to the desk, and ask it be referred. I state, in addition to Senators DOLE and SIMPSON, and other Senators, cosponsoring this reform measure are Senators COATS, BROWN, BURNS, GARN, GRAMM, SYMMS, WALLOP, KASTEN, and NICKLES.

Mr. President, I ask unanimous consent a letter to me from Secretary of Energy James D. Watkins, together with enclosures, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, DC, May 8, 1991.

Hon. PETE DOMENICI,
Ranking Minority Member, Committee on the Budget, Senate, Washington, DC.

DEAR SENATOR DOMENICI: I want to take this opportunity to comment on the report issued April 15, 1991, by the General Accounting Office (GAO) on the Superconducting Super Collider (SSC) project. This report is an example of how the GAO does not always serve the best interests of the Congress or the taxpaying public. The GAO reports should provide the Congress with a complete and unbiased picture of the issues and a full set of facts that are pertinent to the concerns of the Congress and the decisions it faces. This report misses that fundamental purpose by a wide mark. It was released by the GAO with no opportunity for the Department to comment on the information presented or the veracity of the conclusions.

Addressing the key points of the GAO report, I want to first comment about the management. The SSC has received my priority attention since arriving at the Department over 2 years ago. Deputy Secretary Henson Moore is involved with the program on almost a daily basis. We have a strong management team in place, a team that has successfully built large projects and one that possesses world-renowned technical capabilities. I personally look to Mr. Joseph Cipriano and Mr. Edward Siskin to manage this project on a daily basis and to report to me on the health and well being of the SSC. At Headquarters, Mr. Garry Gibbs, Deputy Director of the SSC office, has been the Acting Director since last July and continues to provide the strong leadership and guidance needed for activities for this program.

Second, regarding the footprint and site geology, the Texas site in Ellis County has proven to be an excellent choice, the best of seven candidate sites from around the country. The configuration of the ring and its exact location (the footprint) underwent extensive evaluation before the State of Texas was requested to begin acquiring land. A sound and comprehensive geotechnical program is in place and construction in the Eagle Ford shale is being held to a minimum. Construction in this rock formation is well within the state-of-the-art for tunneling and its cost is included in the baseline cost estimate.

Third, the superconducting magnet program is moving forward in a measured and thoughtful manner. This program is carefully structured to effect the transfer of the magnet technology from the laboratory to industry, who will in turn develop the design and tooling to manufacture and produce large quantities of these magnets. The challenge of the magnets is not in the design of the magnets but in their manufacture with a uniformity of performance and control of unit cost. Results of tests done with 1.8-meter models of the new 50-mm diameter design have been quite successful and give us confidence that we are on the right track. Production tunneling will not begin until we are sure that we have achieved the desired performance of the magnets and we have demonstrated their reliable manufacture.

Lastly, the State of Texas has been very supportive of the SSC project and they have provided leadership and resources in meeting their commitment of the land and $1 billion for the SSC. The Memorandum of Understanding signed between the Texas National Research Laboratory Commission and the Department reflects the spirit and the reality of this commitment. As our first major partner, Texas is providing $149 million for the project in FY 1991 and another $130 million is expected for FY 1992.

I've provided additional information and details on these items in the enclosure for your reference and use.

We are a critical stage in moving ahead with successfully building the SSC. We have provided a responsible and credible baseline and are committed to building the SSC on schedule and within budget. This is the critical year to ramp up the funding for construction; we need your help. Other prospective partners are closely watching the actions of Congress to determine the national will and commitment to this project.

Sincerely,

JAMES D. WATKINS,
Admiral (U.S. Navy, Retired).

SUPERCONDUCTING SUPER COLLIDER—STATUS AND PROGRESS

SSC MANAGEMENT

Dr. Roy Schwitters was named with Superconducting Super Collider (SSC) Laboratory Director the same day that the Department announced the selection of Universities Research Association (URA) as the Management and Operating contractor to build the SSC. As the Laboratory Director, Dr. Schwitters has provided the critical leadership and overall direction for the project during the early, formative stages of establishing and staffing the Laboratory organization. Although some of the key management positions at the Laboratory were initially filled on an acting basis, the key people responsible for the accelerator design and magnet development have been there from the outset.

In April 1990, the Department recruited Mr. Joseph Cipriano to become the Department of Energy (DOE) Project Director at the SSC On-Site Project Office to be responsible for the day-to-day DOE oversight and management of the URA contract and SSC Laboratory activities. To further strengthen the management of a large project the scale of the SSC, the Laboratory brought in Mr. Edward Siskin to become the General Manager for the SSC Laboratory in October 1990. At this same time, Mr. Paul Reardon was named the Project Manager at the SSC Laboratory.

This team brings together a strong combination of both technical and large project management experience. It has been in place for some time now and is making its impact felt. At this time, we can attest to the fact that the SSC project is on schedule and below the baseline budget outlined in the "Report of Superconducting Super Collider Cost and Schedule Baseline."

The General Accounting Office's (GAO) attempt to compare the management of this project with experience at the Social Security Administration seems to stretch the bounds of believability for an undertaking of the scope and complexity of the SSC. This project has received the highest level of attention and priority by both the Deputy Secretary and myself since we arrived at the Department. In the Office of Energy Research, there have been only two "Acting" Directors of the SSC office, one for 15 months and the present Deputy Director, Mr. Garry Gibbs. Mr. Gibbs has been the Deputy since August 1989, and has been the Acting Director since July 1990. He continues to provide the needed strong leadership and guidance for the headquarters' program activities.

FOOTPRINT AND SITE GEOLOGY

This description of the SSC site geology is misleading and does not capture the extent of the considerations that led to defining the final footprint. Neither does it properly describe the present SSC Laboratory plan to characterize the site. The Ellis County, Texas, site was the best choice from seven of the best geological locations in the United States. The "SSC Footprint Characterization Document" (SSC-SR-1041) describes in detail the considerations which resulted in setting the configuration and final footprint. An extensive investigation of underground conditions was conducted by the SSC Laboratory in addition to that conducted by the Texas National Research Laboratory Commission (TNRLC).

The final ring configuration represents the optimal location and was based on considerations of: machine constraints, tunnel length in each material type, service area shaft depths, experimental hall depth, experimental hall foundation requirements, and cost. Construction in the Eagle Ford shale has been held to a minimum, its effect is included in the baseline cost estimate, and techniques for underground tunneling are well within the state-of-the-art.

The decision to sink an exploratory shaft was put "on hold" while decisions on a prototype tunnel, as an alternative, were made. During the development of the baseline cost and schedule estimate, an exploratory shaft was added back into the geotechnical program. This exploratory shaft and associated instrumentation are now in the program, they are in the baseline budget and schedule, and a contract will be let this summer for their construction.

MAGNETS

The GAO report repeatedly refers to the magnet development as being "compressed", quoting as an example the issuance of the request for proposals (RFP) for the collider dipole magnets in July 1990, "* * * even before Fermi National Accelerator Laboratory began building the first model 50-mm magnet in October 1990." This portrayal of the magnet development program and this RFP is misleading and needs clarification.

It is important to note that these are cost-plus contracts for engineering development work to finalize the magnet design, they are not fixed-price contracts for production. Thus, the exact details of the design of these magnets were not specified because, in fact, the objective of these contracts is to complete their engineering development and the final design before they begin production. The fixed-price contract(s) for production will not be let until late 1994, after the design has been fixed and tests confirming their performance completed. A solid technology base is available to proceed with the final stage of the magnet development program. Tests of the 40-mm dipole magnets over the last several years have been successful, with more than a dozen each of short and long magnets. In fact, contrary to the tone of the report, the change from 40-mm to 50-mm in aperture diameter represents a relatively small modification of the design; with the 50-mm magnets being easier to design and to fabricate.

The GAO report expresses concern that "* * * each subsequent phase of development overlaps the preceding phase." This schedule is consciously structured to accomplish this very effect. Concurrent engineering, with overlap between product development and manufacturing, is now widely practiced in industry because it saves money and is effective in reducing time to produce. It is this very practice which allows Japanese auto makers to produce a new car model in record time.

The problem with magnets related to the ISABELLE project occurred well over a decade ago, before there was any experience with accelerators using superconducting magnets. By now, there is 8 years of experience with the 6-kilometer circumference Tevatron collider and industry has demonstrated the capability to successfully produce superconducting magnets for Hadron-Elektron-Ring-Anlage (HERA), also 6 kilometers in circumference. The Soviet Union is building a 3-TeV superconducting accelerator, the UNK.

Design work on the SSC magnets began almost 7 years ago. The coil type was chosen 5 years ago. There were difficulties with the first seven full-length SSC dipole magnets, but these problems were overcome 3 years ago when the "fully constrained" design was introduced. Fifteen long dipoles have been built and tested since that time, with good results—all of the magnets performed to the limit of their superconducting material. The design and production of the 50-mm dipole magnets is not terribly different from that experience gained in producing the 40-mm magnets and the 75-mm magnets for HERA. This assessment is further supported by the excellent performance achieved with the very first 50-mm, short (1.8-meter) models.

The successful completion of the magnet string test is not a prerequisite for start of tunnel construction. While earlier results are expected, the milestone for successful completion of the string test is the fourth quarter of FY 1992. Tunnel construction is on the critical path for completion of the project and the present schedule calls for beginning to construct a short tunnel sector only shortly before the magnet string test is completed. It takes more than 2 years to construct a tunnel section and to outfit it for magnet installation. Beginning tunnel construction late in FY 1992 is critical to meeting the scheduled ramp-up in high-rate dipole magnet production scheduled for late in 1994.

TEXAS MEMORANDUM OF UNDERSTANDING

The State of Texas has been fully supportive of the SSC project and, in the Department's opinion, the Memorandum of Understanding (MOU) between DOE and Texas meets the full spirit of the Texas proposal. The Texas proposal was voluntary, opened by the Department only after the Texas site in Ellis County was selected. This selection was on technical merits only, with the Texas site being the best choice out of seven candidates.

The MOU reflects the full scope and intent of the agreement and understanding with Texas on their support for the SSC. In addition to the $1 billion that Texas has committed, they are also providing the land for the SSC at no cost to the Federal government. Of the $1 billion, the Texas proposal included $125 million for SSC related research and development, fellowships and educational activities not related directly to building the SSC. The balance of the $1 billion, $875 million, is directly supporting the construction of the SSC and, by formal definition of project costs, will offset the total project cost.

Mr. SIMPSON. Mr. President, this morning Senator DOMENICI spoke and introduced a bill which would provide for a special inspector general for the General Accounting Office. I think that that legislation is all too necessary and I commend the Senator from New Mexico for taking the lead in this matter.

Let me note, I have received many fine reports from the GAO in my time here, so this is not some universal indictment of the quality of the GAO's work. Rather, what is needed is a general oversight function over an agency of the Government. That is what we are talking about. And I think Senator PETE DOMENICI is right on track.

What is needed is a check-and-balance authority over GAO, that every single other agency, indeed every other branch of this Government, operates under.

When James Madison established the constitutional framework for our Government, he had the foresight to realize that no organ of Government would be completely impartial or reliable, unless another branch of Government had some authority to question and review its work.

I point out that all this legislation does is submit GAO to the same review that every other agency and branch of Government experiences, and to the same review that the Framers of our Constitution intended for any organ of the Federal Government.

Today it is apparent that the GAO itself is in need of the same oversight and objective monitoring, which we look to the GAO to provide to us. The growth in resources which the GAO has used in recent years is well documented and undeniable. But I think that most citizens would be astounded to know that the GAO budget is eight times the size of that of the Congressional Research Service. It has grown exponentially. It is extraordinary, as to the size of the budget and the number of personnel. Moreover, the GAO is employing its budget to engage in activities which, I must say, routinely surprise me.

I did not know that the GAO was set up to make recommendations regarding the relative virtues of the American and Canadian health systems, for instance. Perhaps some feel that that is what they should be doing. However, I do not recall that the intent of creating the GAO was to provide a source of policy recommendations on issues of that sort. We have enough policymakers around Washington as it is, without GAO getting into the business.

Let me share with my colleagues a personal example of the sort of GAO activity which I believe demonstrates clearly the need for an inspector general. As you all know, I have been deeply involved in immigration and refugee issues in my time here. Any one of the things that Senator KENNEDY and I placed in the last legislation was to have a review, by GAO, to determine whether employer sanctions had been solely responsible for any discrimination.

So the GAO went to work. They released a report finding widespread discrimination resulting solely—that is the key word—from the implementation of employer sanctions. This report was issued in spite of the fact—and this is startling—in spite of the fact that GAO's chief of methodology, in their methodology section—their resident expert in methodology—filed a very detailed six-page memorandum clearly stating that the GAO investigators had not found evidence in their 3-year study to support that conclusion.

In addition, GAO hired a panel of immigration experts to review its report on discrimination caused by employer sanctions—solely caused—before the report was released. And that panel found unanimously that GAO had not linked the discrimination that it had measured—which was very small—to anything that had anything to do with employer sanctions. Nonetheless, GAO went blithely forward with its finding linking discrimination to employer sanctions.

Mr. President, I am pretty sure I know why GAO made such a finding. Various special interest groups put the heat on them. They placed extreme pressure on GAO to find that employer sanctions had created new employment discrimination. I personally witnessed the pressure throughout the years in congressional hearings and in public conferences held specifically on employer sanctions. The GAO knuckled under the pressure because it perceived such a finding of discrimination to be politically correct; the old specter of PC also haunts these hallowed Halls, as it does the halls of campuses around the United States of America.

Mr. President, I think it is up to the politicians to respond to the political pressure. That is our job. But it is the responsibility of GAO to give us a neutral, unbiased report on the topic that Congress has requested. The obvious influence, now, of special interest groups on the GAO, their internal staff and their susceptibility to the pressure of those groups, should be of great concern to those of us in Congress. We look to the GAO to provide us with facts, not interpretations, suppositions—facts. Facts, and not things which various political interest groups seek to advance. It is exactly this sort of situation which Senator DOMENICI'S bill would address and remedy.

The problem, in my mind, is not a failing of the GAO. It is its lack of accountability, its burden of staff—and we have failed to ensure oversight accountability.

No human being and no agency is above bias or prejudice, which is why oversight of even the most conscientious public servants is necessary.

We can debate all the proper functions of the GAO at length but I think that, at the very least, we need to do a better job of defining what the GAO is and what it is supposed to do. That is what the special inspector general would do. And that special inspector general office, created by this legislation, would review the procedures engaged in by the GAO, determine whether they are truly nonpartisan, whether they use an excessive amount of Federal resources, and where GAO may be exceeding its mandate.

That is an important goal to accomplish and I believe we all can join in ensuring that GAO is a neutral, impartial, efficient, and trusted agency.

Those goals are in our interest in Congress, no matter which party controls the White House or the Congress. Therefore, I urge my colleagues to support this measure, and I yield the floor.

By Mr. PRESSLER (for himself, Mr. SYMMS, Mr. COCHRAN, Mr. KASTEN, and Mr. GRASSLEY):

S. 1401. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for amounts paid by a health care professional as interest on student loans if the professional agrees to practice medicine for at least 2 years in a rural community; to the Committee on Finance.

RURAL HEALTH CARE PROVIDERS INCENTIVE ACT

Mr. PRESSLER. Mr. President, today I am introducing legislation, along with Senator SYMMS, COCHRAN, GRASSLEY, and KASTEN, that would encourage health care providers to establish medical practice in rural areas. As debate heats up on the issue of health care reform, I believe that it is important to recognize the particular needs of rural areas, where health care manpower and services are inadequate. Shortages of health care providers, together with low reimbursement rates under Medicare and Medicaid, drastically reduce the number of individuals served by the health care system.

In my State of South Dakota, there is an extreme shortage of health care providers. Officials of the office of rural health in South Dakota have informed me that they could easily place 50 general practitioners to meet health care needs in the communities of South Dakota. The National Association of Community Health Centers recently ranked South Dakota 49th in the percentage of population served per primary care physician.

On the nine Indian reservations in South Dakota, these shortages are particularly critical and health conditions are far below optimal levels. The Aberdeen Indian Health Service, located in Aberdeen, SD, serves the States of North and South Dakota and also portions of Iowa and Nebraska. This office recently informed me that as many as 26 physicians are desperately needed to maintain adequate health care services for the native American population in these four States. They have also emphasized the need for physician assistants, nurse practitioners, and registered nurses, who are qualified to fill in for physicians in providing many essential medical services. It is urgent that these shortages be addressed.

The legislation we are introducing today would supplement existing programs, such as the National Health Service Corps, by creating a modest tax incentive for health care providers to locate in underserved, rural areas, and Indian reservations that are sorely in need of health care providers.

Earlier in this Congress, I introduced similar legislation that encourages physicians to practice in communities with 5,000 or fewer individuals and a per capita income of $15,000 or less. Senator SYMMS and I have worked together to develop a more comprehensive bill that has been expanded to include registered nurses, nurse practitioners, and physician assistants. Senators COCHRAN, KASTEN, and GRASSLEY also have joined in this effort. This legislation would allow a deduction from a taxpayer's gross income of up to $5,000 for interest paid on qualified educational loans. This deduction would be available for a minimum of two years, and an optional third year, in exchange for a commitment to establish a medical practice or work in health service in a rural community.

The cost of medical education is very expensive. The American Association of Medical Colleges has estimated the average indebtedness of medical school graduates in 1990 was approximately $45,000. The three major loans now available to medical students carry interest rates ranging between 10 and 12 percent and can be repaid over a period of 10 to 25 years. We believe that the legislation we are submitting today provides a reasonable incentive for health care professionals who wish to practice in underserved rural areas and Indian reservations.

I urge our colleagues to join in cosponsoring this legislation. The basic health care needs of rural areas must be addressed. The proposal we are offering today makes a minor change in the tax code that could result in a major expansion of access to health care services. Congress should eliminate disincentives for rural health care professionals. We simply must be more effective in meeting the health care needs of rural America.

Mr. President, I request unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1401

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEDUCTION FOR STUDENT LOAN PAYMENTS BY MEDICAL PROFESSIONALS PRACTICING IN RURAL AREAS.

(a) INTEREST ON STUDENT LOANS NOT TREATED AS PERSONAL INTEREST.—Section 163(h)(2) of the Internal Revenue Code of 1986 (defining personal interest) is amended by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", and", and by adding at the end thereof the following new subparagraph:

"(F) any qualified medical education interest (within the meaning of subsection (k))."

(b) QUALIFIED MEDICAL EDUCATION INTEREST DEFINED.—Section 163 of the Internal Revenue Code of 1986 (relating to interest expenses) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) QUALIFIED MEDICAL EDUCATION INTEREST OF MEDICAL PROFESSIONALS PRACTICING IN RURAL AREAS.—

"(1) IN GENERAL.—For purposes of subsection (h)(2)(F), the term 'qualified medical education interest' means an amount which bears the same ratio to the interest paid on qualified educational loans during the taxable year by an individual performing services under a qualified rural medical practice agreement as—

"(A) the number of months during the taxable year during which such services were performed, bears to

"(B) the number of months in the taxable year.

"(2) DOLLAR LIMITATION.—The aggregate amount which may be treated as qualified medical education interest for any taxable year with respect to any individual shall not exceed $5,000.

"(3) QUALIFIED RURAL MEDICAL PRACTICE AGREEMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified rural medical practice agreement' means a written agreement between an individual and an applicable rural community under which the individual agrees—

"(i) in the case of a medical doctor, upon completion of the individual's residency (or internship if no residency is required), or

"(ii) in the case of a registered nurse, nurse practitioner, or physician's assistant, upon completion of the education to which the qualified education loan relates,

to perform full-time services as such a medical professional in the applicable rural community for a period of 24 consecutive months. An individual and an applicable rural community may elect to have the agreement apply for 36 consecutive months rather than 24 months.

"(B) SPECIAL RULE FOR COMPUTING PERIODS.—An individual shall be treated as meeting the 24 or 36 consecutive month requirement under subparagraph (A) if, during each 12-consecutive month period within either such period, the individual performs full-time services as a medical doctor, registered nurse, nurse practitioner, or physician's assistant, whichever applies, in the applicable rural community during 9 of the months in such 12-consecutive month period. For purposes of this subsection, an individual meeting the requirements of the preceding sentence shall be treated as performing services during the entire 12-month period.

"(C) APPLICABLE RURAL COMMUNITY.—The term 'applicable rural community' means—

"(i) any political subdivision of a State which—

"(I) has a population of 5,000 or less, and

"(II) has a per capita income of $15,000 or less, or

"(ii) an Indian reservation which has a per capita income of $15,000 or less.

"(4) QUALIFIED EDUCATIONAL LOAN.—The term 'qualified educational loan' means any indebtedness to pay qualified tuition and related expenses (within the meaning of section 117(b)) and reasonable living expenses—

"(A) which are paid or incurred—

"(i) as a candidate for a degree as a medical doctor at an educational institution described in section 170(b)(1)(A)(ii), or

"(ii) in connection with courses of instruction at such an institution necessary for certification as a registered nurse, nurse practitioner, or physician's assistant, and

"(B) which are paid or incurred within a reasonable time before or after such indebtedness is incurred.

"(5) RECAPTURE.—If an individual fails to carry out a qualified rural medical practice agreement during any taxable year, then—

"(A) no deduction with respect to such agreement shall be allowable by reason of subsection (h)(2)(F) for such taxable year and any subsequent taxable year, and

"(B) there shall be included in gross income for such taxable year the aggregate amount of the deductions allowable under this section (by reason of subsection (h)(2)(F)) for all preceding taxable years.

"(6) Definitions.—For purposes of this subsection, the terms 'registered nurse', 'nurse practitioner', and 'physician's assistant' have the meaning given such terms by section 1861 of the Social Security Act."

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Section 62(a) of the Internal Revenue Code of 1986 is amended by inserting after paragraph (13) the following new paragraph:

"(14) INTEREST ON STUDENT LOANS OF RURAL HEALTH PROFESSIONALS.—The deduction allowable by reason of section 163(h)(2)(F) (relating to student loan payments of medical professionals practicing in rural areas)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

Mr. SYMMS. Mr. President, I am proud to join Senator PRESSLER today in introducing legislation to encourage medical professionals to start their practices in rural areas. While we have made some progress in recent years addressing rural health care issues, we still have a long way to go.

Finding adequate health care is an especially difficult problem in rural areas of this Nation. In my own State, where the doctor-to-resident ratio is less than a third of the national average, and the lowest in the Nation, the scarcity of local health care has subjected people to regular trips of over 150 miles to get basic medical attention.

Part of the problem is that reductions in Medicare reimbursements have placed a tremendous burden on rural hospitals and health care practitioners. Medical personnel in rural areas do not have a large number of patients over whom they can spread increased costs to make up for lost Medicare funds. In fact, in many cases the majority of patients seen by rural hospitals and doctors are covered by Medicare. When Medicare reimbursements are reduced, rural health care providers can, quite simply, be driven out of business.

Another part of the problem is that medical professionals, whether doctors, physician's assistants, or nurses, often leave school with an enormous mountain of debt in the form of student loans. Rural areas often don't generate enough income for the doctor or nurse right out of school to survive financially in the face of thousands of dollars of payments of interest and principal each year.

Consequently, they are forced by financial considerations to begin their practice in an urban area. Of course, once their practice is going it's that much harder to move to a rural area even after these student loans are paid off. So even those doctors and nurses who would otherwise choose to practice in rural areas wind up staying in the cities. A cycle develops in which rural areas remain underserved.

Mr. President, the bill Senator PRESSLER and I are introducing today attempts to break this cycle. Our bill encourages medical professionals right out of school to set up their practice in rural areas by reducing some of the financial pressures. We accomplish this by allowing these individuals to deduct up to $5,000 in student loan interest costs each year for 2 years. Moreover, they get to take this deduction whether or not they itemize their other deductions because the student loan deduction is taken against their gross income, not against their adjusted gross income.

Under our bill, this deduction would be available to physicians, physician's assistants, registered nurses, and nurse practitioners if they agree to practice for 2 consecutive years in a rural area as evidenced by a qualified medical practice agreement between the individual and the applicable rural community. And the deduction is available for a third year if they continue their practice for a third year.

Our bill describes a rural area as a political subdivision of a State or an Indian reservation which has a population of 5,000 or less, and which has a per capita income of $15,000 or less.

I would also like to point out to my colleagues that this bill is entirely consistent with good tax policy. As a general rule, interest expense on student loans should be deductible. Somehow, in its attempt to discourage consumption by disallowing the interest deduction on consumer debt, the interest deduction on student loans got swept in, too. It's not hard to see that consumer debt and student loans are very different matters. Student loans are much more like business loans, the interest on which is clearly deductible. And I don't think it is hard to see, therefore, that the interest expense on medical professionals' student loans should be deductible.

This is not a major tax bill. It's a small bill. But its effects could be truly astounding because it breaks the cycle in which financial pressures drive medical professionals away from practicing in rural areas.

This bill creates a new cycle. It creates a cycle of encouraging medical professionals to begin their practice in a rural area. And once a medical professional has set up practice in a rural area, it will be relatively easy to continue to practice there.

Mr. President, access to health care is getting more difficult every year for residents of rural areas. It is time for the Congress to recognize the needs of America's rural population and reduce the inequity in health care availability between rural and urban areas. It is time to break the cycle of discouragement and start the cycle of encouraging bright young medical people to start their practices in the underserved rural communities of America.

By Mr. ADAMS (for himself, Mr. REID, Mr. BRYAN, Mr. METZENBAUM, Mr. CRANSTON, Mr. DASCHLE, Mr. WIRTH, Mr. SANFORD, Mr. LIEBERMAN, Mr. HATFIELD, Mr. HARKIN, and Mr. KENNEDY):

S. 1402. A bill to provide for improved nuclear waste management at defense Federal nuclear facilities, and for other purposes; to the Committee on Armed Services.

DEFENSE FEDERAL NUCLEAR FACILITIES WASTE MANAGEMENT ACT

• Mr. ADAMS. Mr. President, I am here today to introduce the Federal nuclear environmental response fund, a bill I have authored to improve the accountability of the Department of Energy as it tries to clean up decades worth of contamination at nuclear weapons facilities across the country. Senators REID, BRYAN, METZENBAUM, DASCHLE, CRANSTON, WIRTH, SANFORD, LIEBERMAN, HATFIELD, HARKIN, and KENNEDY join me as original cosponsors of this bill today.

For a few years now, the Department of Energy has been entering into agreements with individual States and branches of the Environmental Protection Agency to clean up and prevent further contamination at their nuclear facilities. These agreements include specific milestones for the accomplishment of environmental goals.

In Washington State we have the Tri-Party Agreement, in Colorado there are a number of agreements, including a Federal Facilities Compliance Agreement and an agreement in principle, and so on with other States.

The problem is we don't know how much these cleanup agreements will cost or if DOE is living up to the agreements at all. We don't even know which agreement deadlines DOE may be ignoring.

At Hanford alone, an analysis by Heart of America Northwest suggests that the DOE budget falls short of funding Tri-Party commitments by almost $400 million.

My bill seeks to make the Department of Energy accountable for its environmental spending. We want to know how the money is being spent and what results the taxpayer is getting.

We want DOE's 5-year planning process to be permanently connected to the costs of meeting site-specific milestones and we want its budget to be based on these cleanup agreements. The bill would also require DOE host States to report to Congress annually on the adequacy of site activities and budgets. Altogether, this bill should give the Congress a much better handle on site-specific problems and needs.

This bill will set up a separate fund for DOE's environmental restoration and waste management spending. This account would be set up in the Treasury and is meant to make it difficult for the Department of Energy or its contractors to shift environmental funds to nonenvironmental missions.

There are some other provisions in the bill that are also worthy of mention. The bill would permanently elevate the Office of Environmental Restoration and Waste Management, currently headed by Mr. Leo Duffy, to the assistant secretary level. It would require DOE, host States, and EPA to agree on comprehensive land use plans for each site; these plans are essential to reviewing DOE's environmental priorities. Finally, the bill seeks to codify the Department of Energy's practice of making grants to States to facilitate environmental monitoring of DOE nuclear installations. These sites often tax State environmental agencies with their size and complexity, and I would like to see this system codified while Secretary Watkins is at DOE.

With this bill Congress will be better able to oversee how the Department of Energy is spending its environmental dollars and what results are—or aren't—coming of these dollars. This accountability is much needed in a budget that has grown from about $900 million in 1988 to a requested $2.2 billion in 1992.

The bill will also serve to strengthen the States' input into the Department of Energy's cleanup priorities. States need to have this input—States with DOE nuclear facilities have a great stake in seeing that these installations are as pollution free as possible. This bill helps to translate the States' interests into DOE and congressional budget priorities.

Mr. President, I am happy to be introducing this bill today. I hope for its early consideration and expect that if it is enacted it will significantly improve oversight of DOE's environmental activities.•

By Mr. BURNS:

S. 1403. A bill for the relief of Ron Buxbaum; to the Committee on the Judiciary.

RELIEF OF RON BUXBAUM

Mr. BURNS. Mr. President, I rise today to offer legislative relief for the Ronnie Buxbaum family of Fairview, MT. Ron is a beet grower who farms along the Yellowstone River in the eastern part of our State. Each year Ron, as do other beet growers, hires migrant labor to assist in the beet crop.

However, when Ron was unable to hire a migrant worker who showed up unannounced at his farm, he later found that he was being sued in a court in Texas for breach of contract. Those suing Ron probably thought that he would make an easy mark. To have a suit brought in far away Texas and by a legal group known for its advocacy of migrant rights.

But Ron knew that he had done nothing wrong. And he decided to fight. Well, Ron eventually won—the case was thrown out of court—but at a considerable cost. The cost wasn't in just dollars spent, although some $35,000 were spent, but also in an emotional cost and in a cost to the Buxbaum families health.

Ron suffered a near heart attack that put him in the hospital. The grades of the two children suffered badly and counseling was required. The banks that had provided Ron with operating capital became uncertain about his ability to repay.

All of this happened to Ron simply because a federally funded advocacy group in Texas saw an opportunity to take a Montana farmer for some easy money. It shouldn't be allowed to happen. And in at least this one case it didn't happen. The Federal Government owes Ron Buxbaum the money he spent to defend himself. In truth, it owes him a whole lot more.

Mr. President, I ask that the full text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1403

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, $35,000 to Ron Buxbaum of Fairview, Montana. Such sum shall be full and complete satisfaction of all costs arising out of the legal defense and mental pain and suffering incurred as a result of legal action initiated by the Texas Rural Legal Aid group, a federally-funded advocacy group.

SEC. 2. Nothing in this Act shall be construed as an admission of liability on the part of the United States.

By Mr. THURMOND (for himself and Mr. HATCH) (by request):

S. 1404. A bill to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve youth and adults, to establish the Youth Opportunities Unlimited Program, and for other purposes; to the Committee on Labor and Human Resources.

JOB TRAINING PARTNERSHIP ACT AMENDMENTS

Mr. THURMOND. Mr. President, as the ranking minority member of the Subcommittee on Employment and Productivity of the Labor and Human Resources Committee, I am pleased to introduce by request the Job Training Partnership Act Amendments of 1991. I am pleased that the ranking minority member of the Labor and Human Resources Committee, Senator HATCH, is joining in the introduction of this administration proposal. This bill would amend the Job Training Partnership Act [JTPA] by improving the targeting of JTPA funds to those facing serious barriers to employment, strengthening program accountability, enhancing existing job training services, and promoting the coordination of a broad range of programs and resources.

In 1989, the administration submitted a similar proposal which was later modified. That modified proposal came before the Senate during the last days of the 101st Congress, but unfortunately a final bill was not agreed to by the House and Senate for final action. The bill introduced today includes some of the concepts from that legislation as well as other proposals.

Mr. President, in its 9 years of existence, the Job Training Partnership Act has helped many Americans develop the skills they need to enter the work force as productive citizens. We must continue to build upon and enhance the public-private sector partnership provided for in the act. This legislation introduced today would do just that.

I ask unanimous consent that the letter of transmittal, a statement in explanation of the bill, a section-by-section analysis, and the text of the bill appear in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1404

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Job Training Partnership Act Amendments of 1991".

SEC. 2. TABLE OF CONTENTS.

The table of contents is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—AMENDMENTS TO THE JOB TRAINING PARTNERSHIP ACT

Sec. 101. Statement of purpose.
Sec. 102. Authorization of appropriations.
Sec. 103. Definitions.
Sec. 104. Composition of private industry council.
Sec. 105. Job training plan.
Sec. 106. Performance standards.
Sec. 107. Selection of service providers.
Sec. 108. Limitation on certain costs.
Sec. 109. Governor's coordination and special services plan.
Sec. 110. State council.
Sec. 111. State education coordination and grants.
Sec. 112. Repealer.
Sec. 113. General program requirements.
Sec. 114. Benefits.
Sec. 115. Fiscal controls; sanctions.
Sec. 116. Reports, recordkeeping, and investigations.
Sec. 117. Establishment of Adult Opportunity Program.
Sec. 118. Establishment of Youth Opportunity Program.
Sec. 119. Employment and training assistance for dislocated workers.
Sec. 120. Job Corps.
Sec. 121. Establishment of Youth Opportunities Unlimited Program.
Sec. 122. Technical and conforming amendments.
Sec. 123. Effective date; transition provisions.

TITLE II—STATE HUMAN RESOURCE INVESTMENT COUNCIL

Sec. 201. Establishment of State Human Resource Investment Council.
Sec. 202. Duties of State council with respect to applicable programs.
Sec. 203. Effective date.

TITLE I—AMENDMENTS TO THE JOB TRAINING PARTNERSHIP ACT

SEC. 101. STATEMENT OF PURPOSE.

Section 2 of the Job Training Partnership Act (hereafter in this title referred to as "the Act") is amended to read as follows:

"SEC. 2. It is the purpose of this Act to establish programs to prepare youth and adults facing serious barriers to employment for participation in the labor force by providing job training and other services that will result in increased employment and earnings, increased educational and occupational skills, and decreased welfare dependency.".

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

(a) Section 3(a)(1) of the Act is amended by—

(1) striking "part B" and inserting "parts B and H", and

(2) striking "succeeding fiscal year" and inserting "of fiscal years 1992 through 1997".

(b) Section (3)(b) of the Act is amended by striking "succeeding fiscal year" and inserting "of fiscal years 1992 through 1997".

(c) Section (3)(c)(2) of the Act is amended by striking "succeeding fiscal year" and inserting "of fiscal years 1992 through 1997".

(d) Section (3)(d) of the Act is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in paragraph (1) (as redesignated in paragraph (1) of this subsection), by striking "succeeding fiscal year" and inserting "of fiscal years 1992 through 1997"; and

(3) by adding at the end thereof the following new paragraph:

"(2) There are authorized to be appropriated $25,000,000 for each of fiscal years 1992 through 1994 to carry out part H of title IV.".

(e) Section (3)(e)(2) of the Act is amended by striking "part A" and inserting "parts A and B".

SEC. 103. DEFINITIONS.

Section 4 of the Act is amended—

(1) by amending paragraph (3) to read as follows:

"(3) The term "basic skills deficient" means reading or computing skills at or below the 8th grade level on a generally accepted standard test or equivalent score on a criterion referenced test.";

(2) in paragraph (5), by—

(A) inserting "organizations serving older workers," after "Jobs for Youth,", and

(B) striking "(including the National Urban Indian Council)" after "Indians";

(3)(A) in paragraph (8)(B)(i), by striking "level determined in accordance with criteria established by the Director of the Office of Management and Budget" and inserting "income guidelines promulgated each year by the Secretary of Health and Human Services",

(B) in paragraph (8)(D), by inserting "subsections (a) and (c) of" after "under", and

(C) in paragraph (8)(F), by striking "adult handicapped individual" and inserting "individual with disabilities";

(4) in paragraph (10), by striking "handicapped individual" and inserting "individual with disabilities";

(5) in paragraph (22), by striking "Trust Territory of the Pacific Islands" and inserting "Freely Associated States and the Republic of Palau";

(6) in paragraph (24), by inserting "drug and alcohol abuse counseling and referral, individual and family counseling," after "health care,";

(7) by amending paragraph (29) to read as follows:

"(29) The term 'displaced homemaker' means an individual who has been providing unpaid services to family members in the home and who—

"(A) has been dependent either—

"(i) on public assistance and whose youngest child is within 2 years of losing eligibility under part A of title IV of the Social Security Act, or

"(ii) on the income of another family member but is no longer supported by that income, and

"(B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment."; and

(8) by adding the following new paragraphs after paragraph (29):

"(30) The term 'educational agency' means (1) a public local school authority having administrative control of middle schools or secondary schools; (2) an accredited public or private institution legally authorized to provide alternative middle or high school education; (3) any public educational institution or agency having administrative control of secondary and postsecondary vocational education programs; (4) any institution legally authorized to provide postsecondary education; or (5) any postsecondary educational institution operated by or on behalf of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934.

"(31) The term 'participant' means an individual who has been determined to be eligible to participate in and who is receiving services (except post-termination services authorized under sections 204(c)(5) and 254(d)(6)) under a program authorized and funded by this Act.

"(32) The term 'termination' means the separation of a participant who is no longer receiving services (except post-termination services authorized under sections 204(c)(5) and 254(d)(6)) under a program authorized and funded by this Act.

"(33) The term 'school dropout' means an individual who is no longer attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

"(34) The term 'JOBS' means the Job Opportunities and Basic Skills Training Program authorized under part F of title IV of the Social Security Act.".

SEC. 104. COMPOSITION OF PRIVATE INDUSTRY COUNCIL.

Section 102(a)(2) of the Act is amended by inserting "local welfare agencies," before "organized".

SEC. 105. JOB TRAINING PLAN.

(a) Section 104(a) of the Act is amended by inserting "under title II" after "appropriated".

(b) Section 104(b) of the Act is amended to read as follows:

"(b) Each job training plan for the programs conducted for adults under part A of title II and for youth under part B of the title II shall contain—

"(1) identification of the entity or entities which will administer the program and be the grant recipient of funds from the State;

"(2) if there is more than one service delivery area in a single labor market area, provisions for coordinating particular aspects of the service delivery area program with other programs and service providers in the labor market area, including—

"(A) assessment of needs and problems in the labor market that form the basis for program planning;

"(B) provisions for ensuring access by program participants in each service delivery area to skills training and employment opportunities throughout the entire labor market; and

"(C) coordinated or joint implementation of job development, placement, and other employer outreach activities;

"(3) a description of methods of complying with the coordination criteria contained in the Governor's Coordination and Special Services Plan;

"(4) a description of linkages with appropriate agencies designed to enhance the provision of services and avoid duplication, including—

"(A) agreements with appropriate educational agencies;

"(B) arrangements with other education, training and employment programs authorized by federal law; and

"(C) efforts to ensure the effective delivery of services to participants in coordination with local welfare agencies and other local agencies, community organizations, volunteer groups, business and labor organizations, and other training, education, employment, and social service programs;

"(5) goals and objectives for the programs, including performance goals established in accordance with standards prescribed under section 106;

"(6) adult and youth program budgets for two program years and any proposed expenditures for the succeeding two program years, in such detail as is determined to be necessary by the entity selected to prepare this portion of the plan pursuant to section 103(b)(1)(B) and to meet the requirements of section 108;

"(7) procedures for identifying and selecting participants, including, where appropriate, outreach efforts to recruit locally determined target groups, and for eligibility determination and verification;

"(8) a description of—

"(A) the assessment process that will identify participant skill levels and service needs;

"(B) the services to be provided, including the estimated duration of service and the estimated training cost per participant;

"(C) the competency levels to be achieved by participants as a result of program participation; and

"(D) the procedures for evaluating the progress of participants in achieving competencies;

"(9) a description of the procedures and methods of carrying out title V, relating to incentive bonus payments for the placement of individuals eligible under such title;

"(10) procedures for selecting service providers, consistent with section 107, which take into account past performance in job training or related activities, fiscal accountability, and ability to meet performance standards;

"(11) fiscal control (including procurement, monitoring and management information system requirements), accounting, audit, and debt collection procedures, consistent with section 164, to assure the proper disbursal of, and accounting for, funds received under title II; and

"(12) procedures for the preparation and submission of an annual report to the Governor, which shall include—

"(A) a description of activities conducted during the program year;

"(B) characteristics of participants; and

"(C) the extent to which applicable performance standards were met.".

SEC. 106. PERFORMANCE STANDARDS.

Section 106 of the Act is amended to read as follows:

"SEC. 106. (a) The Congress recognizes that job training is an investment in human capital and not an expense. In order to determine whether that investment has been productive, the Congress finds that—

"(1) it is essential that criteria for measuring the return on this investment be developed; and

"(2) the basic return on the investment is to be measured by increased employment and earnings, reductions in welfare dependency, and increased educational attainment and occupational skills.

"(b)(1) In order to determine whether the basic measures described in subsection (a) are achieved for programs under parts A and B of title II, the Secretary, in consultation with the Secretary of Education and the Secretary of Health and Human Services, shall prescribe performance standards.

"(2) The standards for adult programs under part A of title II shall be based on appropriate factors which may include—

"(A) placement in unsubsidized employment;

"(B) retention in unsubsidized employment;

"(C) the increase in earnings, including hourly wages,

"(D) the reduction in welfare dependency; and

"(E) the acquisition of skills, including basic skills, required to promote continued employability in the local labor market, provided that the acquisition of such skills is in addition to obtaining one or more of the outcomes described in subparagraphs (A) through (D).

"(3)(A) In addition to appropriate utilization of the factors described in paragraph (2), the standards for youth programs under part B of title II shall include—

"(i) attainment of employment competencies;

"(ii) secondary and postsecondary school completion or the equivalent thereof; and

"(iii) enrollment in other training programs or apprenticeships, or enlistment in the Armed Forces.

"(B) The Secretary may prescribe variations in the standards under subparagraph (A) to reflect the differences between in-school and out-of-school programs.

"(4) The private industry council, in consultation with educational agencies and the private sector, shall determine levels for competency standards based on such factors as entry skill levels and other hiring requirements.

"(5) The standards shall include provisions governing—

"(A) the base period prior to program participation that will be used;

"(B) a representative period after termination from the program that is a reasonable indicator of post-program employment and earnings; and

"(C) cost-effective methods for obtaining such data as are necessary to carry out this section, which, notwithstanding any other provision of law, may include access to earnings records, State employment security records, Federal Insurance Contributions Act records, State aid to families with dependent children records, statistical sampling techniques, and similar records or measures, with appropriate safeguards to protect the confidentiality of the information obtained.

"(6) The Secretary shall prescribe performance standards relating gross program expenditures to various performance measures. Such standards shall not be taken into consideration in the award of incentive grants pursuant to paragraph (7).

"(7) From funds available pursuant to sections 202(d)(1)(C) and 252(d)(1)C), each Governor shall award incentive grants to service delivery areas conducting programs under parts A and B of title II based on such service delivery areas—

"(A) exceeding the performance standards established by the Secretary pursuant to this subsection (except for the standards established pursuant to paragraph (6));

"(B) exceeding the performance standards established by the Governor for programs under title II pursuant to subsection (e); and

"(C) meeting other criteria designated by the Governor, such as—

"(i) successful serving target groups,

"(ii) establishing effective linkages with other programs to avoid duplication and enhance the delivery of services; and

"(iii) providing high quality services.

"(c) The Secretary shall prescribe performance standards for programs under title III based on placement and retention in unsubsidized employment.

"(d)(1) Each Governor shall prescribe, within parameters established by the Secretary, variations in the standards issued under subsections (b) and (c) based upon—

"(A) specific economic, geographic, and demographic factors in the State and in service delivery areas and substate areas within the State,

"(B) the characteristics of the population to be served,

"(C) the demonstrated difficulties in serving the population, and

"(D) the type of services to be provided.

"(2) The Secretary shall—

"(A) provide information and technical assistance on performance standards adjustments;

"(B) collect data that identifies hard-to-serve individuals and long-term welfare dependency; and

"(C) provide guidance on setting performance goals at the service provider level that encourages increased service to the hard-to-serve, particularly long-term welfare recipients.

"(e) The Governor may prescribe performance standards for programs under title II and title III in addition to those standards established by the Secretary under subsections (b) and (c).

"(f) The Secretary shall prescribe performance standards for programs under parts A and B of title IV and for programs under title V.

"(g) The Secretary shall prescribe a system for adjustments in performance standards for special populations to be served, including Native Americans, migrant and seasonal farmworkers, disabled and Vietnam era veterans, including veterans who served in the Indochina Theater between August 5, 1964, and May 7, 1975, and offenders, taking into account their special circumstances.

"(h)(10) The Secretary may modify the performance standards under this section not more than once every two program years. Such modification shall not be retroactive.

"(2) Notwithstanding paragraph (1), the Secretary may modify standards relating to programs under part of title IV each program year.

"(i) The National Commission for Employment Policy shall—

"(1) advise the Secretary in the development of performance standards under this section for measuring results of participation in job training and in the development of parameter for variations of such standards referred to in subsection (d),

"(2) evaluate the usefulness of such standards as measures of desired performance, and

"(3) evaluate the impact of such standards (intended or otherwise) on the choice of who is served, what services are provided, and the cost of such services in service delivery areas.

"(j)(1) The Governor shall provide technical assistance to service delivery areas and substate areas within the State which do not meet performance standards. If the failure to meet performance standards persists for a second year, the Governor shall impose a reorganization plan. Such plan may restructure the private industry council, prohibit the use of designated service providers, or make such other changes as the Governor deems necessary to improve performance. The Governor may also select an alternate entity to administer the program for the service delivery area or substate area.

"(2) The alternate administrative entity may be a newly formed private industry council or any agency jointly selected by the Governor and the Chief elected official of the largest unit of general local government in the service delivery area or substate area.

"(3) No change may be made under this subsection without an opportunity for a hearing before a hearing officer.

"(4) The decision of the Governor may be appealed to the Secretary, who shall make a final decision within 60 days of the receipt of the appeal.".

SEC. 107. SELECTION OF SERVICE PROVIDERS.

Section 107 of the Act is amended by adding at the end thereof the following new subsection:

"(e) The selection of service providers shall be made on a competitive basis to the extent practicable, and shall include—

"(1) a determination of the ability of the service provider to meet program design specifications established by the administrative entity that take into account the purpose of the Act and the goals established by the Governor in the Coordination and Special Services Plan; and

"(2) documentation of compliance with procurement standards established by the Governor pursuant to section 164, including the reasons for selection.".

SEC. 108. LIMITATION ON CERTAIN COSTS.

(a) Section 108(a) of the Act is amended to read as follows:

"(a) Except as provided in section 141(d)(3), funds expended under this Act shall be charged to the appropriate cost categories.".

(b) Section 108(b) of the Act is amended to read as follows:

"(b)(1) Funds expended under parts A and B of title II shall be charged to one of the following categories:

"(A) administration,

"(B) training-related and supportive services, or

"(C) direct training services.

"(2) The Secretary shall by regulation define the cost categories specified in paragraph (1).

"(3) Of the funds available to a service delivery area for any program year under parts A or B of Title II—

"(A) not more than 20 percent shall be expended for the costs of administration; and

"(B) not less than 50 percent shall be expended for direct training services.".

(c) Section 108 of the Act is further amended by—

(1) striking subsection (c);

(2) redesignating subsections (d) and (e) as subsections (c) and (d), respectively; and

(3) inserting the following new subsection at the end thereof:

"(e) Funds available under title III shall be expended in accordance with the limitations specified in section 315.".

SEC. 109. GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN.

(a) Section 121(b) of the Act is amended by—

(1) amending paragraph (2) to read as follows:

"(2) The plan shall describe the measures taken by the State to ensure coordination and avoid duplication between the State agencies administering the JOBS program and programs under title II in the planning and delivery of services. The plan shall describe the procedures developed by the State to ensure that the State JOBS plan is consistent with the coordination criteria specified in this plan and identify the procedures developed to provide for the review of the JOBS plan by the State human resource investment council.";

(2) redesignating paragraphs (3), (4) and (5) as paragraphs (5), (6) and (7), respectively; and

(3) inserting the following new paragraphs after paragraph (2):

"(3) The plan shall describe the projected use of resources, including oversight of program performance, administration and financial management; capacity building; priorities and criteria for State incentive grants; and performance goals for State-supported programs. The description of capacity building shall include the Governor's plans for technical assistance to service delivery areas, interstate technical assistance and training arrangements, other coordinated technical assistance arrangements pursuant to the direction of the Secretary, and, where applicable, research and demonstration projects."; and

"(4) The plan shall include, in accordance with the requirements of section 123(c), a description of the programs conducted with funds provided under section 123.".

(b) Section 121(c)(7) of the Act is amended by inserting "coordination of activities relating to part A of title II with" after the paragraph designation.

SEC. 110. STATE COUNCIL.

(a) Section 122 of the Act is amended in the section heading by striking "STATE JOB TRAINING COORDINATING COUNCIL" and inserting in lieu thereof "STATE HUMAN RESOURCE INVESTMENT COUNCIL".

(b) Section 122(a) of the Act is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Any State which desires to receive financial assistance under this Act shall establish a State human resource investment council as required by section 201(a) of the Job Training Partnership Act Amendments of 1991 and shall require such council to act as a State job training coordinating council. Funding for the duties of the council under this Act shall be provided pursuant to sections 202(d)(1)(A) and 252(d)(1)(A)."

(2) by striking paragraphs (2), (3), and (4) and redesignating paragraphs (5), (6) and (7) as paragraphs (2), (3), and (4), respectively;

(3) in paragraph (2) (as redesignated by paragraph (2) of this subsection), by striking "State council" and inserting "State human resource investment council";

(4) in paragraph (3) (as redesignated by paragraph (2) of this subsection), by striking "State council" and inserting "State human resource investment council, in carrying out its duties under this Act,"; and

(5) in paragraph (4) (as redesignated by paragraph (2) of this subsection), by striking "State council" and inserting "State human resource investment council relative to carrying out its duties under this Act".

SEC. 111. STATE EDUCATION COORDINATION AND GRANTS.

Section 123 of the Act is amended to read as follows:

"STATE EDUCATION COORDINATION AND GRANTS

"SEC. 123. (a) The sums available for this section pursuant to sections 202(b) and 252(b) shall be used by the Governor to provide financial assistance to any State education agency to carry out projects that—

"(1) provide school-to-work transition services of demonstrated effectiveness that increase the rate of graduation from high school, including services that increase the rate at which dropouts return to regular or alternative schooling and obtain a high degree or equivalent;

"(2) provide adult literacy and lifelong learning opportunities and services of demonstrated effectiveness that enhance the knowledge and skills of educationally and economically disadvantaged individuals and result in increasing the employment and earnings of such individuals; and

"(3) facilitate coordination of education and training services for eligible participants in programs described under paragraphs (1) and (2).

"(b)(1) The activities described in subsection (a) shall be conducted pursuant to agreements between the State education agency, administrative entities in service delivery areas in the State, and other entities such as other State agencies, local education agencies, and alternative service providers (such as community-based and other nonprofit or for-profit organizations).

"(2) The agreements described in paragraph (1) shall provide for the contribution by the State from funds other than those available under this Act of a total amount equal to the amount provided under this section. Such matching amount may include the direct cost of employment or training services provided by other Federal, State, or local programs or agencies.

"(c) Governors receiving assistance under this section shall include in the Governor's Coordination and Special Services Plan, pursuant to section 121, a description of the following:

"(1) the goals to be achieved and services to be provided by the school-to-work transition program receiving assistance, which shall, at a minimum, include—

"(A) the activities and services that will result in increasing the number of youth staying in or returning to school and graduating from high school or the equivalent,

"(B) the work-based curriculum that will link classroom learning to worksite experience and address the practical and theoretical aspects of work,

"(C) the opportunities that will be made available to participants to obtain careerpath employment and postsecondary education,

"(D) the integration to be achieved, where appropriate, in the delivery of services between State and local education agencies and alternative service providers, such as community-based and non-profit organizations, and

"(E) the linkages that will be established, where feasible, to avoid duplication and enhance the delivery of services, with programs under—

"(i) titles II-B and IV-B of this Act,

"(ii) the Elementary and Secondary Education Act,

"(iii) the Carl D. Perkins Vocational and Applied Technology Education Act,

"(iv) the Individuals with Disabilities Education Act,

"(v) the Adult Education Act,

"(vi) part F of title IV of the Social Security Act (JOBS); and

"(vii) the Stewart B. McKinney Homeless Assistance Act;

"(2) the goals to be achieved and services to be provided by adult literacy and lifelong learning programs receiving assistance, which shall, at a minimum, include—

"(A) the activities and services that will increase the knowledge and skills of educationally and economically disadvantaged individuals, and result in increased employment and earnings for such individuals;

"(B) the integration to be achieved between projects assisted under this section and the four-year State plan (and related needs assessment carried out for that plan) developed pursuant to section 342 of the Adult Education Act,

"(C) the variety of settings, including workplace settings in which literacy training and learning opportunities will be provided;

"(D) the linkages that will be established, where feasible, to avoid duplication and enhance the delivery of services, with programs under—

"(i) titles II-A and III of this Act,

"(ii) the Adult Education Act,

"(iii) the Carl D. Perkins Vocational and Applied Technology Education Act,

"(iv) the Stewart B. McKinney Homeless Assistance Act,

"(v) part F of the Social Security Act (JOBS),

"(vi) the Rehabilitation Act of 1973, and

"(vii) the Emergency Immigrant Education Act; and

"(3) the proportion of funds received under this section that shall be used to carry out the program described in paragraph (1) and the proportion that shall be used to carry out the program described in paragraph (2).

"(d)(1) Services funded under this section to carry out the programs described in subsection (a) may include education and training, vocational education services, and related services to participants under title II. Such services may include services for offenders, veterans, and other individuals whom the Governor determines require special assistance.

"(2)(A) Not more than 20 percent of the funds available under this section may be spent for activities at the State and local levels described in paragraph (3) of subsection (a).

"(B) At least 80 percent of the funds available under this section shall be used to carry out the Federal share of activities conducted pursuant to paragraphs (1) and (2) of subsection (a). For the purpose of this subparagraph, the Federal share shall be the amount provided for in the agreements in subsection (b).

"(3) Not less than 75 percent of the funds available to activities under paragraphs (1) and (2) of subsection (a) shall be expended for activities for economically disadvantaged individuals.

"(e) If no agreement is reached pursuant to subsection (b) on the use of funds under this section, the Governor shall notify the Secretary and shall distribute the funds to service delivery areas in accordance with section 106(b)(7).

"(f)(1) The Governor shall report to the Secretary at such intervals as shall be determined by the Secretary on the activities funded under this section. The report shall include such information as the Secretary may require to determine the extent to which the activities supported under this section result in achieving the goals specified in paragraphs (1) and (2) of subsection (c).

"(2) Each recipient under this part shall keep records that are sufficient to permit the preparation of reports. Such reports shall be submitted to the Secretary, at such intervals as shall be determined by the Secretary.".

SEC. 112. REPEALER.

(a) Section 124 of the Act is repealed.

(b) Sections 125, 126 and 127 of the Act are redesignated as sections 124, 125 and 126, respectively.

SEC. 113. GENERAL PROGRAM REQUIREMENTS.

(a) Section 141(d)(3) of the Act is amended by—

(1) inserting "(A)" after the paragraph designation; and

(2) inserting the following new subparagraph:

"(B) Tuition charges for training or education provided by an institution of higher education or postseconary institution which are not more than the charges for such training or education made available to the general public do not require a breakdown of cost components.".

(b) Section 141(g) of the Act is amended by—

(1) inserting "(1)" after the subsection designation; and

(2) inserting the following new paragraphs (2) and (3):

"(2) On-the-job training authorized under the Act shall be limited in duration to a period not in excess of that generally required for acquisition of skills needed for the position within a particular occupation, but in no event shall exceed six months. In making this determination, consideration shall be given to recognized reference materials (such as the Dictionary of Occupational Titles), the content of the participant's training, the participant's prior work experience, and the participant's service strategy.

"(3)(A) Each on-the-job training contract shall—

"(i) specify the types and duration of on-the-job training and the other services to be provided in sufficient detail to allow for a fair analysis of the reasonableness of proposed costs; and

"(ii) comply with the requirements of section 164.

"(B) Each on-the-job training contract that is not directly contracted by a service delivery area with an employer but instead is contracted through an intermediary brokering contractor shall, in addition to meeting the requirements of subparagraph (A), specify the outreach, recruitment, participant training, counseling, placement, monitoring, followup, and other services to be provided directly by the brokering contractor within its own organization, the services to be provided by the employers conducting the on-the-job training, and the services to be provided, with or without cost, by other agencies and subcontractors.

"(C) Whenever a brokering contractor enters into a contract with a subcontractor to provide basic skills training or other services, the brokering contractor shall ensure, through on-site monitoring, compliance with subcontract terms prior to making payment to the subcontractor.".

(c) Section 141(m) of the Act is amended to read as follows:

"(m)(1) Income received under this Act by a public or private non-profit entity may be retained by such entity only if used to continue to carry out the program, and may be used for such purposes notwithstanding the expiration of financial assistance for that program.

"(2) Income subject to the requirements of paragraph (1) shall include—

"(A) receipts from goods or services produced or provided as a result of activity funded under this Act;

"(B) funds provided to a service provider under this Act which are in excess of the costs associated with the services provided; and

"(C) except as provided by the Cash Management Improvement Act of 1990, interest income earned on funds received under this Act.

"(3) For purposes of this subsection, each entity shall maintain records sufficient to determine the amount of income received and the purposes for which such income is expended.".

(d) Section 141(p) of the Act is amended by deleting the "part B of the title or part A of Title II" and inserting in lieu thereof "this Act".

(e) Section 141 of the Act is further amended by adding the following subsection at the end thereof:

"(q) The Federal requirements governing the title, use and disposition of real property, equipment and supplies purchased with funds provided under this Act shall be the Federal requirements generally applicable to Federal grants to States and local governments.".

SEC. 114. BENEFITS.

Section 142(a) of the Act is amended by adding at the end thereof the following new paragraph:

"(4) References in paragraphs (2) and (3) to section 6(a)(1) of the Fair Labor Standards Act;

"(A) shall be deemed to be references to section 6(c) of that Act for individuals in Puerto Rico,

"(B) shall be deemed to be references to 6(a)(3) of that Act for individuals in American Samoa, and

"(C) shall not be applicable for individuals in other territorial jurisdictions in which section 6 of the Fair Labor Standards Act does not apply.".

SEC. 115. FISCAL CONTROLS; SANCTIONS.

(a) Section 164(a) of the Act is amended to read as follows:

"(a)(1) Each State shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds paid to the recipient under titles II and III. Such procedures shall ensure that all financial transactions are conducted and records maintained in accordance with Generally Accepted Accounting Principles applicable in each State.

"(2) The Governor shall prescribe and implement procurement standards to ensure fiscal accountability and prevent fraud and abuse in programs administered under this act. Such standards shall, at a minimum, include provisions to ensure that, for States, substate areas, and service delivery areas—

"(A) procurements shall be conducted in a manner providing full and open competition;

"(B) the use of sole source procurements shall be minimized to the extent practicable, but in every case shall be justified;

"(C) procurements shall include an analysis of the reasonableness of costs and prices;

"(D) procurements shall not provide excess program income (for nonprofit and governmental entities) or excess profit (for private for-profit entities), and that appropriate factors shall be utilized in determining whether such income or profit is excessive, such as—

"(i) the complexity of the work to be performed,

"(ii) the risk borne by the contractor, and

"(iii) market conditions in the surrounding geographical area;

"(E) procurements shall clearly specify deliverables and the basis for payment;

"(F) written procedures shall be established for procurement transactions;

"(G) no grantee, contractor, subgrantee or subcontractor shall engage in any conflict of interest, actual or apparent, in the selection, award and administration of a contract or grant under this Act; and

"(H) all grantees and subgrantees shall conduct oversight to ensure compliance with procurement standards.

"(3) The Governor shall annually conduct on-site monitoring of each service delivery area and substate area within the State to ensure compliance with the procurement standards established pursuant to paragraph (2).

"(4) If the Governor determines that a service delivery area or substate area is not in compliance with the procurement standards established pursuant to paragraph (2), the Governor shall—

"(A) require corrective action to secure prompt compliance; and

"(B) impose the sanctions provided under subsection (b) in the event of failure to take the required corrective action.

"(5) The Governor shall submit to the Secretary for approval the procurement standards established pursuant to paragraph (2), and shall biennially certify to the Secretary that—

"(A) the State's procurement standards fully satisfy the requirements contained in paragraph (2);

"(B) the State has monitored substate areas and service delivery areas to ensure compliance with the procurement standards established pursuant to paragraph (2); and

"(C) the State has taken appropriate action to secure compliance pursuant to paragraph (4).

"(6) The Secretary shall biennially review the procurement standards established pursuant to paragraph (2) and notify the appropriate Committees of the Congress whether the requirements contained in paragraph (5) have been satisfied.

"(7) If the Secretary determines that the Governor has not fulfilled the requirements of this subsection, the Secretary shall—

"(A) require corrective action to secure prompt compliance; and

"(B) impose the sanctions provided under subsection (f) in the event of failure of the Governor to take the required corrective action.".

(b) Section 164(b) of the Act is amended to read as follows:

"(b)(1) Whenever, as a result of financial and compliance audits or otherwise, the Governor determines that there is a substantial violation of a specific provision of this Act or the regulations, and corrective action has not been taken, the Governor shall—

"(A) issue a notice of intent to revoke approval of all or part of the plan affected, or

"(B) impose a reorganization plan, which may include—

"(i) restructuring the private industry council,

"(ii) prohibiting the use of designated service providers,

"(iii) selecting an alternate entity to administer the program for the service delivery area, or

"(iv) other such changes as the Governor deems necessary to secure compliance.

"(2)(A) The actions taken by the Governor pursuant to paragraph (1)(A) may be appealed to the Secretary under the same terms and conditions as the disapproval of the plan and shall not become effective until—

"(i) the time for appeal has expired, or

"(ii) the Secretary has issued a decision.

"(B) The actions taken by the Governor pursuant to paragraph (1)(B) may be appealed to the Secretary, who shall make a final decision within 60 days of the receipt of the appeal.".

SEC. 116. REPORTS, RECORDKEEPING, AND INVESTIGATIONS.

(a) Section 165(a) of the Act is amended by adding the following new paragraph:

"(3) In order to allow for the preparation of national estimates necessary to meet the requirements of subsection (C), recipients shall maintain and provide to the Secretary standardized records of a sufficient number of individual participants to provide an adequate random sample.".

(b) Section 165(c) of the Act is amended by—

(1) striking "and" at the end of subparagraph (1);

(2) striking the period and inserting "and" at the end of subparagraph (2); and

(3) inserting the following new paragraph:

"(3) monitor the performance of service providers in complying with the terms of agreements made pursuant to this Act.".

(c) Section 165 of the Act is further amended by adding the following new subsection:

"(d) The Governor shall ensure that requirements are established for retention of all records pertinent to all grants, contracts and agreements, including financial, statistical, property and participant records and supporting documentation. For funds allotted to a State for any program year, records shall be retained for two years following the date on which the annual expenditure report containing the final expenditures charged to such program year's allotment is submitted to the Secretary. Records for nonexpendable property shall be retained for a period of three years after final disposition of the property.".

SEC. 117. ESTABLISHMENT OF ADULT OPPORTUNITY PROGRAM.

Part A of title II of the Act is amended to read as follows:

"PART A—ADULT OPPORTUNITY PROGRAM

"STATEMENT OF PURPOSE

"SEC. 201. It is the purpose of this part to establish programs to prepare adults for participation in the labor force by increasing their occupational and educational skills with the result of improving their long-term employability, increasing their employment and earnings, and reducing their welfare dependency.

"ALLOTMENT

"SEC. 202. (a) Not more than one quarter of one percent of the amount appropriated pursuant to section 3(a)(1) for each fiscal year and available for this part shall be allotted among Guam, the Virgin Islands, American Samoa, the Freely Associated States, the Republic of Palau and the Commonwealth of the Northern Mariana Islands.

"(b) Of the remainder of the amount available for this part, the Secretary shall reserve five percent of such amount for use by the States to carry out section 123 of this Act. The allotment of funds available under this subsection to each State shall be based on the relative amount of funds allocated to all service delivery areas within such State under subsection (c) as compared to the amount of funds allocated to all service delivery areas in all States under subsection (c).

"(c)(1) After determining the amounts to be allocated under subsections (a) and (b), 89 percent of the remainder shall be allotted by the Secretary to the States for allocation to service delivery areas within each State. Each State shall allocate to the service delivery areas within the State such amounts as determined by the Secretary pursuant to the formula contained in paragraph (2). The remaining 11 percent shall be allotted in accordance with subsection (d).

"(2) Subject to the provisions of paragraph (3), of the amounts allotted to service delivery areas for this part for each fiscal year—

"(A) 45 percent shall be allotted on the basis of the relative number of unemployed individuals within each service delivery area as compared to the total number of unemployed individuals in all service delivery areas in all States;

"(B) 30 percent shall be allotted on the basis of the relative number of economically disadvantaged adults within each service delivery area as compared to the total number of economically disadvantaged adults in all service delivery areas in all States; and

"(C) 25 percent shall be allotted on the basis of the relative concentration of economically disadvantaged adults within each service delivery area as compared to the total concentration of economically disadvantaged adults in all service delivery areas in all States.

"(3)(A) No service delivery area shall be allotted less than 90 percent of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made.

"(B) No service delivery area shall be allotted more than 130 percent of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made.

"(C) Notwithstanding subparagraphs (A) and (B), the total allotment for all service delivery areas within any one State shall not be less than one-quarter of one percent of the total allotted to all service delivery areas in all States.

"(D) For purposes of subparagraphs (A) and (B), the allotment percentage for fiscal year 1992 shall be the percentage of funds allotted under part A of title II to the service delivery area during the preceding fiscal year.

"(4) For the purposes of this section—

"(A) the term "economically disadvantaged adult" means an individual who is age 22 or older and who has, or is a member of a family which has, received a total family income which, in relation to family size, was not in excess of the higher of (A) the poverty income guidelines promulgated each year by the Secretary of Health and Human Services, or (B) 70 percent of the lower living standard income level.

"(B) the term 'concentration' means the number which represents the number of economically disadvantaged adults in excess of 10 percent of the adult population in the service delivery area.

"(d)(1) Of the remainder available for allottment under this part—

"(A) five-elevenths shall be allotted to the States in accordance with paragraph (2) to carry out the overall administration, management, and auditing activities relating to programs under this title and for activities under sections 121 and 122;

"(B) three-elevenths shall be allotted to the States in accordance with paragraph (2) to carry out technical assistance in developing the overall capability of the job training system within the State, which—

"(i) shall include the development and training of State and local service delivery area staff, including training on methods to improve the management and fiscal integrity of programs under this title; and

"(ii) may include the development of exemplary program activities and the conduct of evaluations and other activities designed to improve the programs conducted under this Act; and

"(C) three-elevenths shall be allotted to the States in accordance with paragraph (2) to provide incentive grants authorized under section 106(b)(7).

"(2)(A) The allotments to each State described in paragraph (1) shall be based on the relative amount of funds allocated to all service delivery areas within each State under subsection (c) as compared to the amount of funds allocated to all service delivery areas in all States under subsection (c).

"(B) Notwithstanding subparagraph (A), the Secretary shall ratably adjust the amounts allocated to each State under paragraph (1)(A) to ensure that the total amount allotted to each State under paragraph (1)(A) and section 252(d)(1)(A) is not less than $450,000.

"ELIGIBILITY FOR SERVICES

"SEC. 203.(a) Except as provided in subsection (c), an individual shall be eligible to participate in the program under this part only if such individual is—

"(1) 22 years of age or older; and

"(2) economically disadvantaged.

"(b)(1) Not less than 65 percent of the participants in the program under this part in each service delivery area shall be individuals who, in addition to meeting requirements of subsection (a), are included in one or more of the following categories:

"(A) basic skills deficient;

"(B) school dropouts;

"(C) recipients of aid to families with dependent children who either meet the requirements of section 403(1)(2)(B) of the Social Security Act or have been provided an employability plan in accordance with section 482(b) of the Social Security Act;

"(D) unemployed for the previous 6 months or longer;

"(E) individuals with disabilities;

"(F) homeless; or

"(G) a category established pursuant to paragraph (2).

"(2)(A) A service delivery area conducting a program under this part may, in accordance with guidelines established by the Secretary, add one category of individuals who face serious barriers to employment to the categories of eligible individuals specified in paragraph (1) if—

"(i) the service delivery area submits a request to the Governor which identifies the additional category and justifies the inclusion of such category, and

"(ii) the Governor approves the request submitted pursuant to clause (i)

"(B) The Governor shall include a description of the requests approved pursuant to subparagraph (A) in the Governor's Coordination and Special Services Plan.

"(c) Not more than 10 percent of participants in the program under this part in each service delivery area may be individuals who are not economically disadvantaged if such individuals are age 22 or older and are either included in one of the categories listed in subsection (b) or experience other barriers to employment. Such individuals may include, but are not limited to, those who have limited English language proficiency, or are displaced homemakers, older workers, veterans, offenders, alcoholics or drug addicts.

"(d)(1)(A) Each service delivery area shall make special efforts to identify and serve eligible individuals 55 years of age or older. Not less than 5 percent of the funds available to each service delivery area under this part shall be expended to provide services to such individuals.

"(B) If the Governor determines that in any program year a service delivery area expended less than 5 percent of the funds available under this part to provide services to eligible individuals 55 years of age or older, the governor shall—

"(i) recapture, from the funds available to the service delivery area under this part during the subsequent program year, an amount equal to the difference between the amount expended for such purposes and 5 percent of the amount available to the service delivery area under this part in such program year, and

"(ii) reallocate, for purposes of providing services to eligible individuals 55 years of age or older, the amount recaptured pursuant to clause (i) to other service delivery areas within the State in such manner as the Governor deems appropriate, taking into consideration such factors as demonstrated need and the quality of services provided to such individuals by the service delivery areas.

"(2) In providing the services required by paragraph (1), the State human resource investment council and the service delivery area shall make efforts to coordinate the delivery of such services with the delivery of services pursuant to title V of the Older Americans Act of 1965.

"(3) In the selection of service providers to serve older individuals, the service delivery area shall give priority to those national, State, and local agencies and organizations that have a record of demonstrated effectiveness in providing training and employment services to such older individuals.

"PROGRAM DESIGN

"SEC. 204.(a) The program under this part shall include—

"(1) an assessment of each participant's skill levels and service needs, which may include such factors as basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional jobs), and supportive service needs, except that a new assessment of a participant is not required if the program determines it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program (such as the JOBS program);

"(2) development of service strategies which shall identify the employment goal (including, where appropriate, nontraditional employment), appropriate achievement objectives and appropriate services for participants taking into account the assessments conducted pursuant to paragraph (1), except that a new service strategy is not required if the program determines it is appropriate to use a recent service strategy developed for the participant under another education or training program (such as the JOBS program);

"(3) a review of each participant's progress in meeting the objectives of the service strategy; and

"(4) the following services, to be made available to a participant where the assessment and the service strategy indicate such services are appropriate:

"(A) basic skills training; and

"(B) occupational skills training.

"(b) Services which may be made available to participants under this title may include, but need not be limited to—

"(1) direct training services, including—

"(A) basic skills training, including remedial education, literacy training, and English-as-a-second language instruction;

"(B) institutional skills training;

"(C) on-the-job training;

"(D) work experience;

"(E) programs of advanced career training which provide a formal combination of on-the-job and institutional training and internship assignments which prepare individuals for career employment;

"(F) training programs operated by the private sector, including those operated by labor organizations or by consortia of private sector employers utilizing private sector facilities, equipment, and personnel to train workers in occupations for which demand exceeds supply;

"(G) skill upgrading and retraining;

"(H) bilingual training;

"(I) entrepreneurial training;

"(J) vocational exploration;

"(K) training programs to develop work habits to help individuals obtain and retain employment;

"(L) attainment of certificates of high school equivalency;

"(M) preapprenticeship programs;

"(N) on-site, industry-specific training programs supportive of industrial and economic development;

"(O) customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of that training;

"(P) use of advanced learning technology for education, job preparation and skills training; and

"(2) training-related and supportive services, including—

"(A) assessment of participants' skill levels and service needs;

"(B) job search assistance;

"(C) job counseling;

"(D) outreach to make individuals aware of, and encourage the use of, employment and training services, including efforts to expand awareness of training and placement opportunities for the limited English proficient and individuals with disabilities;

"(E) specialized surveys not available through other labor market information sources;

"(F) disseminating information on program activities to employers;

"(G) development of job openings;

"(H) employment generating activities;

"(I) coordinated programs with other Federal employment-related activities;

"(J) supportive services, as defined in section 4(24) of this Act, necessary to enable individuals to participate in the program, and to assist them, for a period not to exceed 12 months following completion of training, to retain employment;

"(K) needs-based payments necessary to participate in accordance with a locally developed formula or procedure; and

"(L) follow-up services with participants placed in unsubsidized employment.

"(c)(1) Basic skills training authorized under this part shall, where appropriate, have a workplace context and be integrated with occupational skills training.

"(2)(A) Except as provided in subparagraph (B), job search assistance, job search skills training, job clubs, and work experience authorized under this part shall be accompanied by other services designed to increase a participant's basic education or occupational skills.

"(B) The program under this part may provide job search assistance, job search skills training and job club activities to a participant without the additional services described in subparagraph (A) only if—

"(i) the participant's assessment and service strategy indicate that the additional services are not appropriate; and

"(ii) the activities are not available to the participant through the Employment Service or other public agencies.

"(3) In each service delivery area the ratio of participants in on-the-job training assisted under this part in the public sector to participants in such training in the private sector shall not exceed the ratio between civilian governmental employment and nongovernmental employment in such area.

"(4) Needs-based payments authorized under this part shall be limited to payments necessary to participation in the program under this part in accordance with a locally developed formula or procedure.

"(5) Counseling and supportive services authorized under this part may be provided to a participant for a period up to one year after termination from the program.

"(6) Employment generating activities authorized under this part shall be limited to activities which directly result in the creation of jobs into which participants in the service delivery area are placed.

"(7) The service strategy developed pursuant to section 204 (a)(2) shall not be considered a contract.

"(8) The service delivery area shall make opportunities available for successful alumni of programs under this part to volunteer assistance to participants in the form of mentoring, tutoring and other activities.

"LINKAGES

"SEC. 205(a) In conducting the program under this part, the service delivery area shall establish appropriate linkages with other programs authorized under Federal law. Such programs shall include, where feasible, programs assisted under—

"(1) the Adult Education Act;

"(2) the Carl D. Perkins Vocational and Applied Technology Education Act;

"(3) the Rehabilitation Act of 1973;

"(4) the Wagner-Peyser Act;

"(5) part F of title IV of Social Security Act (JOBS);

"(6) the Food Stamp Act;

"(7) the National Apprenticeship Act;

"(8) the Stewart B. McKinney Homeless Assistance Act;

"(9) the United States Housing Act;

"(10) the Head Start Act (for purposes of child care services); and

"(11) part A of title IV of this Act.

"(b) In addition to the linkages required under subsection (a), service delivery areas shall establish other appropriate linkages to enhance the provision of services under this part. Such linkages may be established with State and local educational agencies, local service agencies, public housing agencies, community organizations, business and labor organizations, volunteer groups working with disadvantaged adults, and other training, education, employment, economic development and social service programs.

"TRANSFER OF FUNDS

"SEC. 206(a) A service delivery area may transfer up to 10 percent of the funds provided under this part to the program under part B of this title if such transfer is—

"(1) based on economic or labor market conditions specified by the Secretary in regulations as sufficient to warrant a transfer;

"(2) described in the job training plan; and

"(3) approved by the Governor.

"(b) The Governor shall include a description of the transfers approved pursuant to subsection (a) in the Governor's Coordination and Special Services Plan.".

SEC. 118. ESTABLISHMENT OF YOUTH OPPORTUNITY PROGRAM.

Part B of title II of the Act is amended to read as follows:

"PART B—YOUTH OPPORTUNITY PROGRAM

"STATEMENT OF PURPOSE

"SEC. 251. The purpose of the programs assisted under this part is to—

"(1) improve the long-term employability of youth;

"(2) enhance the educational and occupational skills of youth;

"(3) encourage school completion or enrollment in alternative school programs;

"(4) increase the employment and earnings of youth;

"(5) reduce welfare dependency; and

"(6) assist youth in addressing problems which impair their ability to make successful transitions from school to work, apprenticeship, the military, or postsecondary education and training.

"ALLOTMENT

"SEC. 252. (a) Not more than one quarter of one percent of the amount appropriated pursuant to section 3(b) for each fiscal year and available for this part shall be allotted among Guam, the Virgin Islands, American Samoa, the Freely Associated States, the Republic of Palau and the Commonwealth of the Northern Mariana Islands.

"(b) Of the remainder of the amount available for this part, the Secretary shall reserve five percent of such amount for use by the States to carry out section 123 of this Act. The allotment of funds available under this subsection to each State shall be based on the relative amounts of funds allocated to all service delivery areas within such State under subsection (c) as compared to the amount of funds allocated to all service delivery areas in all States under subsection (c).

"(c)(1) After determining the amounts to be allotted under subsections (a) and (b), 89 percent of the remainder shall be allotted by the Secretary to the States for allocation to service delivery areas within each State. Each State shall allocate to the service delivery areas within the State such amounts as determined by the Secretary pursuant to the formula contained in paragraph (2). The remaining 11 percent shall be allotted in accordance with subsection (d).

"(2) Subject to the provisions of paragraph (3), of the amounts allotted by the Secretary for this part for each fiscal year—

"(A) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals within each service delivery area as compared to the total number of unemployed individuals in all service delivery areas in all States;

"(B) 33⅓ percent shall be allotted on the basis of the relative number of economically disadvantaged youth within each service delivery area as compared to the total number of economically disadvantaged youth in all service delivery areas in all States; and

"(C) 33⅓ percent shall be allotted on the basis of the relative concentration of economically disadvantaged youth within each service delivery area as compared to the total concentration of economically disadvantaged youth in all service delivery areas in all States.

"(3)(A) No service delivery area shall be allotted less than 90 percent of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made.

"(B) No service delivery area shall be allotted more than 130 percent of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made.

"(C) Notwithstanding subparagraphs (A) and (B), the total allotment for all service delivery areas within any one State shall not be less than one-quarter of one percent of the total allotted to all service delivery areas in all States.

"(D) For the purposes of subparagraphs (A) and (B), the allotment percentage for fiscal year 1992 is the percent of the funds allocated for youth programs (as determined by the Secretary) under title II to the service delivery area during the preceding fiscal year.

"(4) For the purposes of this section—

"(A) the term "economically disadvantaged youth" means an individual who is aged 16 through 21 and who has, or is a member of a family which has, received a total family income which, in relation to family size, was not in excess of the higher of (i) the poverty income guidelines promulgated each year by the Secretary of Health and Human Services, or (ii) 70 percent of the lower living standard income level;

"(B) the term "concentration" means the number which represents the number of economically disadvantaged youth in excess of 10 percent of the youth population in the service delivery area; and

"(C) the Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the armed forces from the determination of the number of economically disadvantaged youth and the size of the youth population in a service delivery area.

"(d)(1) Of the remainder available for allotment under this part—

"(A) five-elevenths shall be allotted to the States in accordance with paragraph (2) to carry out the overall administration, management, and auditing activities relating to programs under this title and for activities under sections 121 and 122;

"(B) three-elevenths shall be allotted to the States in accordance with paragraph (2) to carry out technical assistance in developing the overall capability of the job training system within the State, which—

"(i) shall include the development and training of State and local service delivery area staff, including training on methods to improve the management and fiscal integrity of programs under this Act; and

"(ii) may include the development of exemplary program activities and the conduct of evaluation and other activities designed to improve the programs conducted under this Act; and

"(C) three-elevenths shall be allotted to the States in accordance with paragraph (2) to provide incentive grants authorized under section 106(b)(7).

"(2)(A) The allotments to each State described in paragraph (1) shall be based on the relative amount of funds allocated to all service delivery areas within such State under subsection (c) as compared to the amount of funds allocated to all service delivery areas in all States under subsection (c).

"(B) Notwithstanding subparagraph (A), the Secretary shall ratably adjust the amounts allotted to each State under paragraph (1)(A) to ensure that the total amount allotted to each State under paragraph (1)(A) and section 202(d)(1)(A) is not less than $450,000.

"ELIGIBILITY FOR SERVICES

"SEC. 253. (a) An individual who is in school shall be eligible to participate in the program under this part only if such individual is—

"(1) aged 16 through 21 or, if provided in the job training plan, aged 14 through 21; and

"(2) economically disadvantaged, receives a free lunch under the National School Lunch Act, or participates in a compensatory education program under chapter 1 of the Elementary and Secondary Education Act of 1965.

"(b) Not less than 65 percent of the in-school individuals who participate in a program under this part shall be individuals who, in addition to meeting the requirements of subsection (a), are included in one or more of the following categories:

"(1) basic skills deficient;

"(2) educational attainment that is one or more grade levels below the grade level appropriate to that individual's age;

"(3) pregnant or parenting;

"(4) individuals with disabilities, including a learning disability;

"(5) homeless; or

"(6) a category established pursuant to subsection (g).

"(c) An individual who is out of school shall be eligible to participate in the program under this part only if such individual is—

"(1) aged 16 through 21; and

"(2) economically disadvantaged.

"(d) Not less than 65 percent of the out-of-school individuals who participate in a program under this part shall be individuals who, in addition to meeting the requirements of subsection (c), are included in one or more of the following categories:

"(1) basic skills deficient;

"(2) school dropout (subject to the conditions described in section 254(d)(2));

"(3) pregnant or parenting;

"(4) individuals with disabilities, including a learning disability;

"(5) homeless; or

"(6) a category established pursuant to subsection (g).

"(e) Not more than 10 percent of participants in the program under this part in each service delivery area may be individuals who do not meet the requirements of subsection (a)(2) or (c)(2) if such individuals experience one or more barriers to employment. Such barriers may include, but need not be limited to, the categories described in subsections (b) and (d), or categories such as limited English language proficiency, offenders, alcoholics, or drug addicts.

"(f)(1) Except as provided in paragraph (2), not less than 60 percent of the participants in the program under this part in each service delivery area shall be out-of-school individuals who meet the requirements of subsection (c), (d), or (e).

"(2)(A) The minimum percentage of participants in a service delivery area required to be out-of-school individuals pursuant to paragraph (1) may be reduced to a percentage that is not less than 40 percent if, in accordance with guidelines established by the Secretary—

"(i) a service delivery area conducting a program under this part submits a request to the Governor specifying an alternative percentage requirement and justifying the alternative requirement based on the characteristics of the youth population residing in the service delivery area, and

"(ii) the Governor approves the request submitted pursuant to clause (i).

"(B) The Governor shall include a description of the requests approved pursuant to subparagraph (A) in the Governor's Coordination and Special Services Plan.

"(g)(1) A service delivery area conducting a program under this part may, in accordance with guidelines established by the Secretary, add one category of youth who face serious barriers to employment to the categories of eligible individuals specified in subsection (b) and one category to the categories of eligible individuals specified in subsection (d) if—

"(A) the service delivery area submits a request to the Governor identifying the additional categories of individuals and justifying the inclusion of such categories; and

"(B) the Governor approves the request submitted pursuant to subparagraph (A).

"(2) The Governor shall include a description of the requests approved pursuant to paragraph (1) in the Governor's Coordination and Special Services Plan.

"PROGRAM DESIGN

"SEC. 254. (a) The program under this part shall be conducted on a year-round basis.

"(b) The program under this part shall include—

"(1) an assessment of each participant's skill levels and service needs, which may include such factors as basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional jobs), and supportive service needs, except that a new assessment of a participant is not required where the program determines it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program (such as the JOBS program);

"(2) development of service strategies which shall identify achievement objectives, appropriate employment goals (including, where appropriate, nontraditional employment), and appropriate services for participants taking into account the assessments conducted pursuant to paragraph (1), except that a new service strategy is not required where the program determines it is appropriate to use a recent service strategy developed for the participant under another education or training program (such as the JOBS program);

"(3) a review of each participant's progress in meeting the objectives of the service strategy; and

"(4) the following services, to be available to a participant where the assessment and service strategy indicate such services are appropriate:

"(A) basic skills training;

"(B) occupational skills training;

"(C) pre-employment and work maturity skills training;

"(D) work experience combined with skills training; and

"(E) supportive services.

"(c) Services which may be made available to youth with funds provided under this part may include, but need not be limited to—

"(1) the services described in section 204;

"(2) tutoring and study skills training;

"(3) alternative high schools jointly established or supported with educational agencies;

"(4) mentoring;

"(5) individual and group counseling;

"(6) drug and alcohol abuse counseling and referral;

"(7) services encouraging parental, spousal and other significant adult involvement in the participant's program;

"(8) limited internships in the private sector;

"(9) training or education that is combined with community and youth service opportunities in public agencies, nonprofit agencies, and other appropriate agencies, institutions, and organizations;

"(10) entry employment experience programs;

"(11) school-to-work transition services;

"(12) school-to-post secondary education transition services; and

"(13) school-to-apprenticeship transition services.

"(d)(1) In developing service strategies and designing services for the program under this part, the service delivery area and private industry council shall take into consideration exemplary program strategies and practices.

"(2) As a condition of participation in the program under this part, an individual who is under the age of 18 and a school dropout shall:

"(A) reenroll in and attend school;

"(B) enroll in and attend an alternative high school;

"(C) enroll in and attend an alternative course of study approved by the local educational agency; or

"(D) enroll in and attend a high school equivalency program.

"(3) Pre-employment and work maturity skills training authorized by this part shall be accompanied by either work experience or other additional services designed to increase a participant's basic or occupational skills. The additional services may be provided, sequentially or concurrently, under other education and training programs, including the Job Corps and the JOBS program.

"(4) Work experience, job search assistance, job search skills training, and job club activities authorized by this part shall be accompanied by additional services designed to increase a participant's basic education or occupational skills. The additional services may be provided, sequentially or concurrently, under other education and training programs, including the Job Corps and the JOBS program.

"(5) Needs-based payments authorized under this part shall be limited to payments necessary to participate in the program in accordance with a locally developed formula or procedure.

"(6) Counseling and supportive services authorized under this part may be provided to a participant for a period of up to one year after termination from the program.

"(7) The service strategy developed pursuant to section 254(b)(2) shall not be considered a contract.

"(8) The service delivery area shall make opportunities available for successful alumni of programs under this part to volunteer assistance to participants in the form of mentoring, tutoring and other activities.

"LINKAGES

"SEC. 255. (a) In conducting a program under this part, service delivery areas shall establish linkages with the appropriate educational agencies responsible for service to participants. Such linkages shall include but are not limited to—

"(1) formal agreements with local educational agencies that will identify—

"(A) the procedures for referring and serving in-school youth;

"(B) the methods of assessment of in-school youth; and

"(C) procedures for notifying the program when a youth drops out of the school system;

"(2) arrangements to ensure that the program under this part supplements existing programs provided by local educational agencies to in-school youth;

"(3) arrangements to ensure that the program under this part utilizes, to the extent possible, existing services provided by local educational agencies to out-of-school youth;

"(4) arrangements to ensure that for in-school participants there is a regular exchange of information between the program and the educational agency relating to participant progress, problems and needs, including, where appropriate, interim assessment results.

"(b) In conducting the program under this part, the service delivery area shall establish appropriate linkages with other education and training programs authorized under Federal law. Such programs shall include, where feasible, programs authorized by—

"(1) part B of title IV of this Act (the Job Corps);

"(2) parts A through D of chapter 1 of the Elementary and Secondary Education Act of 1965;

"(3) the Carl D. Perkins Vocational and Applied Technology Education Act;

"(4) the Individuals with Disabilities Education Act;

"(5) the Wagner-Peyser Act;

"(6) part F of title IV of the Social Security Act (JOBS);

"(7) the Food Stamp Act;

"(8) the National Apprenticeship Act;

"(9) the Stewart B. McKinney Homeless Assistance Act; and

"(10) part A of title IV of this Act.

"(c) In addition to the linkages required under subsections (a) and (b), service delivery areas shall establish other appropriate linkages to enhance the provision of services under this part. Such linkages may be established with State and local service agencies, public housing agencies, community organizations, business and labor organizations, volunteer groups working with at-risk youth, parents and family members, juvenile justice systems, and other training, education, employment and social service programs, including programs conducted under part A of title II.

"TRANSFER OF FUNDS

"SEC. 256. (a) A service delivery area may transfer up to 10 percent of the funds provided under the part to the program under A of this title if such transfer is—

"(1) based on economic and labor market conditions specified by the Secretary in regulations as sufficient to warrant a transfer;

"(2) described in the job training plan; and

"(3) approved by the Governor.

"(b) The Governor shall include a description of the transfers approved pursuant to subsection (a) in the Governor's Coordination and Special Services Plan.".

SEC. 119. EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS.

Section 314(f) of the Act is amended by—

(1) inserting "(1)" after the subsection designation; and

(2) inserting the following new paragraph after paragraph (1):

"(2) An eligible dislocated worker participating in training (except for on-the-job training) pursuant to this title shall be deemed to be in training with the approval of the State agency for purposes of section 3304(a)(8) of the Internal Revenue Code of 1986.".

SEC. 120. JOB CORPS.

Section 427(a)(2) of the Act is amended by—

(1) striking "10 percent" and inserting in lieu thereof "20 percent"; and

(2) adding at the end of paragraph (2) the following new sentence: "In enrolling individuals who are to be nonresidential participants, priority shall be given to those eligible individuals who are single parents with dependent children.".

SEC. 121. ESTABLISHMENT OF YOUTH OPPORTUNITIES UNLIMITED PROGRAM.

Title IV of the Act is amended by adding at the end thereof the following new part:

"PART H—YOUTH OPPORTUNITIES UNLIMITED PROGRAM

"STATEMENT OF PURPOSE

"SEC. 491. It is the purpose of the Youth Opportunities Unlimited program to—

"(1) enable communities with high concentrations of poverty to establish and meet goals for improving the opportunities available to youth within the community; and

"(2) facilitate the coordination of comprehensive services to serve youth in such communities.

"PROGRAM AUTHORIZED

"SEC. 492. (a) The Secretary is authorized to establish a national program of Youth Opportunities Unlimited grants to pay the Federal share of providing comprehensive services to youth living in high poverty areas in the Nation's cities and rural areas.

"(b)(1) the Secretary may only award grants under this part to—

"(A) the service delivery area in which the target area is located, or

"(B) grantees designated under sections 401 and 402, or a consortium of such grantees and the State, when the target area is located in an Indian reservation, Native Alaskan village, or migrant worker community.

"(2) The Secretary may award not more than 25 grants during the first fiscal year the program is authorized.

"(c) Grants awarded under this part shall be for a 1-year period and are renewable for each of the two succeeding fiscal years if the Secretary determines the grant recipient complied with conditions of the grant during the previous fiscal year.

"(d) In awarding grants under this part, the Secretary shall consider the quality of the proposed project, the goals to be achieved, the likelihood of the project's successful implementation, the extent of community support, and the concentration of poverty in the target area.

"DEFINITIONS

"SEC. 493. For the purposes of this part—

"(1) The term 'participating community' means a city when referring to urban areas, a State when referring to rural areas, and to the section 401 or 402 grantee, or consortia of the State and section 401 or 402 grantee, when referring to Native American and migrant worker areas.

"(2) The term 'high poverty area' means an urban census tract, a nonmetropolitan county, an Indian reservation, or an Alaskan native village, with a poverty rate of 30 percent or more as determined by the Bureau of the Census, or a migrant farmworker community.

"(3) Term 'target area' means a high poverty area or set of contiguous high poverty areas that will be the focus of the program in each participating community.

"APPLICATION

"SEC. 494. (a) Participating communities which have the highest concentrations of poverty, as determined by the Secretary based on the latest Census estimates, shall be eligible to apply for a Youth Opportunities Unlimited grant.

"(b) Each participating community desiring a grant under this part shall, through the individuals set forth in subsection (c), submit an application to the Secretary at such time in such manner and accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(1) include a comprehensive plan for the Youth Opportunities Unlimited initiative designed to achieve identifiable goals for youth in the target area;

"(2) set forth measurable program goals, which may include increasing—

"(A) the proportion of youths completing high school,

"(B) the proportion of youths entering into community colleges or other advanced training programs, or

"(C) the proportion of youths placed in jobs;

"(3) include supporting goals for the target area such as increasing security and safety, or reducing the number of drug-related arrests;

"(4) provide assurances that the conditions set forth in section 495 will be met;

"(5) demonstrate how the participating community will make use of the resources, expertise, and commitment of institutions of higher education, educational agencies, and vocational and technical schools and institutes;

"(6) include an estimate of the expected number of youth in the target area to be served;

"(7) include a description of the resources available in the participating community from private, local government, State and Federal sources which will be used to achieve the goals of the program; and

"(8) provide evidence of support for accomplishing the stated goals of the participating community from—

"(A) local elected officials,

"(B) the local school system,

"(C) applicable private industry council,

"(D) local community leaders,

"(E) business,

"(F) labor organizations, and

"(G) other appropriate organizations.

"(c) The application for funds for a participating community may only be submitted to the Secretary by—

"(1) the Governor of the State in which the participating community is located; or

"(2) the grantee designated under sections 401 or 402, or jointly by the grantee and the Governor of the State in which such grantee is located, in applications for Native American or migrant worker communities.

"GRANT AGREEMENT

"SEC. 495. Each grant recipient under this part shall enter into an agreement with the Secretary. Each such agreement shall—

"(1) designate a target area that will be the focus of the demonstration project and which shall have a population of not more than 25,000;

"(2) contain assurances that funds provided under this part will be used to support education, training, and supportive activities selected from a set of youth program models designated by the Secretary or from alternative models described in the application and approved by the Secretary, such as—

"(A) nonresidential learning centers;

"(B) alternative schools;

"(C) combined summer remediation, work experience and work readiness training, and school-to-work/apprenticeship/post-secondary education programs;

"(D) teen parent programs;

"(E) special programs administered by community colleges;

"(F) youth centers;

"(G) initiatives aimed at increasing rural student enrollment in post-secondary institutions;

"(H) public-private collaborations to assure private sector employment and continued learning opportunities for youth; and

"(I) initiatives that combine community and youth service opportunities with education and training activities;

"(3) provide that funds received under this section will be used for services to youth ages 14 through 21;

"(4) contain assurances that the local educational agency and any other educational agency which operates secondary schools in the target area shall provide such activities and resources as are necessary to achieve the educational goals specified in the application;

"(5) contain assurances that the participating community will provide such activities and local resources as are necessary to achieve the goals specified in the application;

"(6) provide that the participating community will carry out special efforts to establish coordination with Federal, State, or local programs that serve the target population; and

"(7) provide assurances that funds provided under this part will be used only to pay the Federal share of the cost of programs and services not otherwise available in the target area and will supplement, and not supplant, funding from other local, State, and Federal sources available to youth in the target area during the previous year.

"PAYMENTS; FEDERAL SHARE

"SEC. 496. (a) In any fiscal year, grants awarded under this part shall be for equal amounts, except that grants to grantees designated under sections 401 and 402 may vary in amount depending on the size of the target area. The Secretary shall pay to each grant recipient the Federal share of costs of the activities described in the application.

"(b) The Federal share for each fiscal year a grant recipient receives assistance under this Act shall be 50 percent.

"(c) Each grant recipient may provide not more than 25 percent of its share from Federal sources other than funds received pursuant to this part.

"REPORTING

"SEC. 497. The Secretary is authorized to establish such reporting procedures as necessary to carry out the purposes of this part.

"FEDERAL RESPONSIBILITIES

"SEC. 498. (a) The Secretary shall provide assistance in the implementation of this project in participating communities.

"(b) The Secretary shall provide for a formal, rigorous, and independent evaluation of the Youth Opportunities Unlimited program to assess the outcomes for youth participating in such program. Evaluation measures may include—

(1) enrollment, retention, and completion rates;

"(2) high school graduation rates;

"(3) reductions in juvenile delinquency;

"(4) subsequent employment;

"(5) continued pursuit of advanced education and training;

"(6) admission into four-year colleges and universities; or

"(7) admission into the armed forces.

"(c) The Secretary shall prepare a report describing the results of the independent evaluation conducted pursuant to subsection (b).

"(d) The Secretary may reserve not more than 10 percent of the amount appropriated under this part in each fiscal year to carry out the provisions of this section.".

SEC. 122. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 101(a)(1) of the Act is amended by striking "State job training coordinating council" and inserting "State human resource investment council".

(b) Section 122(b)(2) of the Act is amended by striking "section 202(a)" and inserting "sections 203(c) and 253(c)".

(c) Section 123(a) of the Act (as redesignated by section 111 of this title) is amended by striking "section 202(b)(4)" and inserting "sections 202(d)(2)(A) and 252(d)(2)(A)".

(d) Section 141(k) of the Act is amended by striking "section 205(d)(3)(B)" and inserting "part B of title II".

(e) Section 161(b)(2) of the Act is amended by striking "through 455" and inserting "and 453".

(f) Section 161(c) of the Act is repealed.

(g) Section 172 of the Act is redesignated the second place it appears as section 173.

(h) Section 181 of the Act is repealed.

(i) Section 302(b)(2) of the Act is amended by striking "part B and this part" and inserting "part A".

(j) Section 311(b)(9) of the Act is amended by striking "State job training coordinating council" and inserting "State human resource investment council".

(k) Section 312(a) of the Act is amended by striking "State job training coordinating council" and inserting "State human resource investment council".

(l) Section 313(a) of the Act is amended by striking "State job training coordinating council" and inserting "State human resource investment council".

(m) Section 314(b)(1) of the Act is amended by striking "State job training coordinating council" and inserting "State human resource investment council".

(n) section 317 of the Act is amended—

(1) by amending the section heading to read as follows: "FUNCTIONS OF THE STATE HUMAN RESOURCE INVESTMENT COUNCIL"; and

(2) by striking "State job training coordinating council" and inserting "State human resource investment council".

(o) Section 401(j) of the Act is amended by striking "3.3 percent of the amount available for part A of" and inserting "2.95 percent of the amount available for".

(p) Section 402(f) of the Act is amended by striking "3.2 percent of the amount available for part A of" and inserting "2.35 percent of the amount available for".

(q) Section 433(c)(1) of the Act is amended by striking "455" and inserting "453".

(r) Section 463(a)(3) of the Act is amended by striking "section 125" and inserting "section 123".

(s) Section 464(a)(3) of the Act is amended by striking "section 125" and inserting "section 123".

(t) Section 481(a) of the Act is amended by striking "(a)(1)" after "203".

(u) The table of contents of the Act is amended by—

(1) amending the item relating to section 122 to read as follows:

"Sec. 122. State human resource investment council.".

(2) striking the items relating to section 124 and redesignating the items relating to sections 125, 126, and 127 as sections 124, 125, and 126 respectively.

(3) striking the item relating to section 172 and inserting the following:

"Sec. 172. Presidential awards for outstanding private sector involvement in job training programs.

"Sec. 173. Construction.".

(4) striking the item relating to section 181;

(5) amending the items relating to title II to read as follows:

"TITLE II—TRAINING SERVICES FOR THE DISADVANTAGED

"PART A—ADULT OPPORTUNITY PROGRAM

"Sec. 201. Statement of Purpose.
"Sec. 202. Allotment.
"Sec. 203. Eligibility for services.
"Sec. 204. Program design.
"Sec. 205. Linkages.
"Sec. 206. Transfer of funds.

"PART B—YOUTH OPPORTUNITY PROGRAM

"Sec. 251. Statement of purpose.
"Sec. 252. Allotment.
"Sec. 253. Eligibility of services.
"Sec. 254. Program design.
"Sec. 255. Linkages.
"Sec. 256. Transfer of funds.

(6) inserting after item relating to section 481 the following:

"PART H—YOUTH OPPORTUNITIES UNLIMITED PROGRAM

"Sec. 491. Statement of purpose.
"Sec. 492. Program authorized.
"Sec. 493. Definitions.
"Sec. 494. Application.
"Sec. 495. Grant agreement.
"Sec. 496. Payments; federal share.
"Sec. 497. Reporting.
"Sec. 498. Federal responsibilities.".

SEC. 123. EFFECTIVE DATE: TRANSITION PROVISIONS.

(a) The amendments made by this title shall take effect on July 1, 1992.

(b) Performance standards shall be issued pursuant to the amendments contained in section 106 as soon as the Secretary determines sufficient data are available, but no later than July 1, 1994.

(c)(1) The Secretary shall provide guidance and technical assistance to States and service delivery areas relating to the documentation required to verify the eligibility of participants under parts A and B of title II of the Job Training Partnership Act, as amended by this title.

(2) The guidance provided pursuant to paragraph (1), while continuing to maintain the integrity of the program, shall—

(A) limit the documentation burden to the minimum necessary to adequately verify eligibility, and

(B) ensure, to the extent practicable, that the documentation burden shall not discourage the participation of eligible individuals.

(3) The guidance described in paragraph (1) shall be provided not later than February 1, 1992.

(d) The Secretary shall evaluate the impact of programs under title II of the Job Training Partnership Act as amended by this Act on participant employment, earnings and welfare dependency in multiple sites using the random assignment of individuals to groups receiving services under title II and to groups not receiving such services.

(e) The Secretary may establish such rules and procedures as may be necessary to provide for an orderly transition to and implementation of the amendments made by this title.

TITLE II—STATE HUMAN RESOURCE INVESTMENT COUNCIL

SEC 201. ESTABLISHMENT OF STATE HUMAN RESOURCE INVESTMENT COUNCIL.

(a) Each State that receives assistance under an applicable program shall establish a single State human resource investment council (hereafter in this title referred to as the "State Council") to—

(1) review the provisions of services and the use of funds and resources under applicable programs and advise the Governor on methods of coordinating such provision of services and use of funds and resources consistent with the provisions of the applicable programs; and

(2) advise the Governor on the development and implementation of State and local standards and measures relating to applicable programs and coordination of such standards and measures.

(b) Each State council established as required by subsection (a) shall consist of the following members appointed by the Governor;

(1) 30 percent shall be appointed from representatives of business and industry (including agriculture, where appropriate), including individuals who are representatives of business and industry on private industry councils within the State established under section 102 of the Job Training Partnership Act;

(2) 30 percent shall be appointed from representatives of organized labor and representatives of community-based organizations in the State;

(3) 20 percent shall consist of—

(A) the chief administrative officer from each of the State agencies primarily responsible for administration of an applicable program; and

(B) other members appointed from representatives of the State legislature and State agencies and organizations, such as the State educational agency, the State vocational education board, the State board of education (if not otherwise represented), the State public assistance agency, the State employment security agency, the State housing agency, the State rehabilitation agency, the special education unit of the State education agency, the State occupational information coordinating committee, State postsecondary institutions, the State economic development agency, the State agency on aging, the State veteran's affairs agency (or its equivalent), State career guidance and counseling organizations, the State unit which administers the State vocational rehabilitation program, and any other agencies the Governor determines to have a direct interest in the utilization of human resources within the State; and

(4) 20 percent shall be appointed from—

(A) representatives of units of general local government or consortia of such units, appointed from nominations made by the chief elected officials of such units or consortia:

(B) representatives of local educational agencies and postsecondary institutions, which appointments shall be equitably distributed between such agencies and such institutions and shall be made from nominations made by local educational agencies and postsecondary institutions, respectively;

(C) representatives of local welfare and public housing agencies; and

(D) individuals who have special knowledge and qualifications with respect to the special education and career development needs of individuals who are members of special populations, women, and minorities, including one individual who is a representative of special education.

(c) In order to carry out its functions under this Act and under any applicable program, the State council shall prepare a budget for itself and submit the budget to the Governor for approval.

(d) Each State council may obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out it functions under this Act and under any applicable program.

(e) Each State shall certify to the Secretary of Labor the establishment and membership of the State council at least 90 days before the beginning of each period of 2 program years for which a job training plan is submitted under the Job Training Partnership Act.

(f) For the purposes of this title, the term "applicable program" means any program under any of the following provisions of law:

(1) The Adult Education Act;

(2) The Carl D. Perkins Vocational and Applied Technology Education Act;

(3) The Job Training Partnership Act;

(4) The Rehabilitation Act of 1973;

(5) The Wagner-Peyser Act;

(6) Part F of title IV of the Social Security Act (JOBS); and

(7) Section 6(d)(4) of the Food Stamp Act of 1977.

SEC. 202. DUTIES OF STATE COUNCIL WITH RESPECT TO APPLICABLE PROGRAMS.

(a) DUTIES UNDER THE ADULT EDUCATION ACT.—(1) Section 332 of the Adult Education Act (20 U.S.C. 1205a) is amended—

(A) by amending the section heading to read as follows:

"Sec. 332. Duties of the state human resource investment council with respect to adult education.";

(B) by amending subsection (a) to read as follows:

"(a)(1) Any State desiring to participate in the programs authorized by this title shall establish a State human resource investment council as required by section 201(a) of the Job Training Partnership Act Amendments of 1991 and shall require such council to act as a State advisory council on adult education.

"(2) A State that complies with the requirements of paragraph (1) may use funds under this subpart for the purposes of costs of the council attributable to this section.";

(C) by striking subsection (b);

(D) by redesignating subsection (c) as subsection (b);

(E) in subsection (b) (as redesignated by subparagraph (D) of this paragraph)—

(i) by striking "and membership"; and

(ii) by striking "State advisory council" and inserting "State human resource investment council";

(F) by striking subsections (d) and (e);

(G) by redesignating subsection (f) as subsection (c); and

(H) in subsection (c) (as redesignated by subparagraph (G) of this paragraph), by striking "State advisory council" and inserting "State human resource investment council".

(2)(A) Paragraph (2) of section 331(a) of the Adult Education Act (20 U.S.C. 1205(a)) is amended by striking "the State advisory council established pursuant to section 332" and inserting "the State human resource investment council".

(B) Subsection (a) of section 342 of the Adult Education Act (20 U.S. 1206a) is amended—

(i) in paragraph (1), by striking "the State advisory council" and all that follows and inserting "the State human resource investment council"; and

(ii) in subparagraph (B) of paragraph (3),—

(I) in the first sentence, by striking "the State advisory council" and all that follows and inserting "the State human resource investment council"; and

(II) in the second and third sentences, by striking "the State advisory council" each place it appears and inserting "the State human resource investment council".

(C) Section 312 of the Adult Education Act (20 U.S.C. 1201a) is amended by adding at the end the following new paragraph:

"(16) The term 'State human resource investment council' means the State human resource investment council described in section 332(a).".

(b) DUTIES UNDER THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.—(1) Section 112 of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2322) is amended—

(A) by amending the section heading to read as follows:

"Sec. 112. Duties of the state human resource investment council with respect to vocational education."

(B) by striking "SEC. 112.";

(C) by amending subsection (a) to read as follows:

"(a) Each state which desires to participate in vocational education programs authorized by this Act for any fiscal year shall establish a State human resource investment council as required by section 201(a) of the Job Training Partnership Act Amendments of 1991 and shall require such council to act as the State council on vocational education.";

(D) in subsection (b)—

(i) by striking "and membership", and

(ii) by striking "State council" and inserting "State human resource investment council";

(E) by striking subsection (c);

(F) by redesignating subsections (d), (e) and (f), as subsections (c), (d), and (e), respectively;

(G) in subsection (c) (as redesignated by subparagraph (F) of this paragraph)—

(i) by striking "State council" and inserting "State human resource investment council,"; and

(ii) in subparagraph (B) of paragraph (9), by striking "the State job training coordinating council,";

(H) in subsection (d) (as redesignated by subparagraph (F) of this paragraph)—

(i) by striking "State council" and inserting "State human resource investment council"; and

(ii) by striking "Council" and inserting "council"; and

(I) in subsection (e) (as redesignated by subparagraph (F) of this paragraph)—

(i) in paragraph (1), by striking State councils" each place it appears and inserting "State human resource investment councils"; and

(ii) in paragraphs (1) and (2), by striking "State council" each place it appears and inserting "State human resource investment council".

(2) Section 111 of the Carl D. Perkins Vocational and Applied Technology Education Act is amended—

(A) in paragraph (1) of subsection (a)—

(i) in subparagraph (B) by striking "State council on vocational education" and inserting "State human resource investment council"; and

(ii) in subparagraph (C), by striking "State council established pursuant to section 112" and inserting "State human resource investment council";

(iii) in subparagraph (D), striking "; and" and inserting a semicolon;

(iv) in subparagraph (E)—

(I) by striking "the State job training coordinating council" and inserting "the State human resource investment council"; and

(II) by striking "their respective programs" and inserting "programs under this Act and programs under the Job Training Partnership Act"; and

(B) in the first sentence of subsection (d), by striking "State council" and inserting "State human resource investment council"; and

(3) The table of contents contained in section 1 of the Act is amended by striking the item relating to section 112 and inserting the following:

"Sec. 112. Duties of the State human resource investment council with respect to vocational education.

(c) DUTIES UNDER THE REHABILITATION ACT OF 1973.—The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) is amended by inserting after section 18 the following new section:

"STATE HUMAN RESOURCE INVESTMENT COUNCIL

"SEC. 19. The State human resource investment council established under section 201(a) of the Job Training Partnership Act Amendments of 1991 shall review the provision of services and the use of funds and resources under this Act and advise the Governor on methods of coordinating such provision of services and use of funds and resources with the provision of services and the use of funds and resources under—

"(1) the Adult Education Act;

"(2) the Carl D. Perkins Vocational and Applied Technology Education Act;

"(3) the Job Training Partnership Act;

"(4) the Wagner-Peyser Act;

"(5) Part F of title IV of the Social Security Act (JOBS); and

"(6) Section 6(d)(4) of the Food Stamp Act of 1977."

(d) DUTIES UNDER THE WAGNER-PEYSER ACT.—The Wagner-Peyser Act (29 U.S.C. 49) is amended—

(1) by redesignating section 15 as section 16; and

(2) by inserting after section 14 the following new section:

"SEC. 15. The State human resource investment council established under section 201(a) of the Job Training Partnership Act Amendments of 1991 shall review the provision of services and the use of funds and resources under this Act and advise the Governor on methods of coordinating such provision of services and use of funds and resources with the provision of services and the use of funds and resources under—

"(1) the Adult Education Act;

"(2) the Carl D. Perkins Vocational and Applied Technology Education Act;

"(3) the Job Training Partnership Act;

"(4) the Rehabilitation Act of 1973;

"(5) Part F of title IV of the Social Security Act (JOBS); and

"(6) Section 6(d)(4) of the Food Stamp Act of 1977.";

(3) in subsection (b) of section 8 by striking "State job training coordinating council" and inserting "State human resource investment council";

(4) in subsection (a) of section 11 by striking "State job training coordinating council" and inserting "State human resource investment council".

(e) DUTIES UNDER PART F OF TITLE IV OF THE SOCIAL SECURITY ACT.—Section 483 of the Social Security Act (42 U.S.C. 683) is amended by:

(1) inserting after subsection (c) the following new subsection:

"(d) In order to assist the Governor in carrying out subsection (a) of this section, the State human resource investment council established under section 201(a) of the Job Training Partnership Act Amendments of 1991 shall review the provision of services and the use of funds and resources under this part and advise the Governor on methods of coordinating such provision of services and use of funds and resources with the provision of services and the use of funds and resources under—

"(1) the Adult Education Act;

"(2) the Carl D. Perkins Vocational and Applied Technology Education Act;

"(3) the Job Training Partnership Act;

"(4) the Rehabilitation Act of 1973;

"(5) the Wagner-Peyser Act; and

"(6) Section 6(d)(4) of the Food Stamp Act of 1977.";

(2) in paragraphs (2) and (3) of subsection (a) by striking "State job training coordinating council" each place it appears and inserting "State human resource investment council".

(f) DUTIES UNDER SECTION 6(d)(4) OF THE FOOD STAMP ACT OF 1977.—Section 6(d)(4) of the Food Stamp Act of 1977 is amended by adding at the end thereof the following new subparagraph:

"(O) The State human resource investment council established under section 201(a) of the Job Training Partnership Act Amendments of 1991 shall review the provision of services and the use of funds and resources under this paragraph and advise the Governor on methods of coordinating such provision of services and use of funds and resources with the provision of services and the use of funds and resources under—

"(1) the Adult Education Act;

"(2) the Carl D. Perkins Vocational and Applied Technology Education Act;

"(3) the Job Training Partnership Act;

"(4) the Rehabilitation Act of 1973;

"(5) the Wagner-Peyser Act; and

"(6) Part F of title IV of the Social Security Act (JOBS).".

SEC. 203. EFFECTIVE DATE.

The amendments made by this title shall take effect July 1, 1992.

U.S. DEPARTMENT OF LABOR,
Washington, DC, May 22, 1991.

Hon. DAN QUAYLE,
President, U.S. Senate, Washington, DC.

DEAR MR. PRESIDENT: I enclose for the consideration of the Congress a draft bill entitled the "Job Training Partnership Act Amendments of 1991." These amendments would revise the Job Training Partnership Act (JTPA) to improve the targeting of JTPA programs to those facing serious barriers to employment, enhance the quality of services provided, promote coordination of human resource programs serving the disadvantaged, and strengthen fiscal and program accountability.

Our nation faces important new challenges. An intensely competitive international economy requires that our labor force have improved skills that are adaptable to an increasingly technical workplace.

At the same time, demographic changes are altering the composition of our labor force. The convergence of these trends requires that we reach out to ensure that all our citizens, including the disadvantaged who have often been left behind, have the skills and opportunities to contribute to our nation's economic growth and prosperity.

I believe JTPA can continue to play an important role in enhancing the skills of our labor force. JTPA has been an extremely successful program. Its record in placing participants in jobs is unparalleled. These amendments are intended to improve the program by better focusing its resources on those in substantial need and enhancing the quality of services to promote job placement, retention, and long-term employability.

In 1989 the Administration submitted a similar proposal to amend JTPA. Versions of this proposal passed the House and Senate by overwhelming margins in the closing days of the 101st Congress. The Congress, however, adjourned without completing action on this important legislation.

This proposal incorporates several basic principles. First, the proposal maintains the successful cornerstones of JTPA. The highly successful private-public partnership continues, with the Private Industry Councils responsible for the planning and oversight of programs. The system of performance standards also remains an integral part of the revised program.

Second, the proposal improves the targeting of the program on those in substantial need. Targeting is improved by revising the eligibility criteria to help ensure that JTPA serves those with particularly significant barriers to employment. Such barriers include, in addition to economic disadvantage, a lack of basic skills, welfare dependency, and dropping out of school. Targeting is also promoted by revision of the funding formulas to redirect funds to areas with greater numbers and concentrations of the disadvantaged population.

In addition, targeting is enhanced by the new Youth Opportunities Unlimited (YOU) program. This program would target areas with high concentrations of poverty and stimulate community-wide action to establish and meet goals for improving the opportunities for youth residing in those areas. YOU would provide incentives for localities to coordinate programs and would provide as set of activities that would promote long-term employability of youth. The proposal would authorize $25 million for this new program in each of fiscal years 1992 through 1994.

Third, the amendments would enhance program quality by providing more intensive and comprehensive services to participants. Each participant would have an assessment to determine their skill levels, interests, and needs. Service strategies would be developed on the basis of the assessments. These strategies would include achievement objectives for participants to clarify expectations and promote accountability. The programs would make available appropriate sets of services with an emphasis on basic and occupational skills training. This intensive approach is intended to enhance the long-term job market success of participants. Finally, performance standards for the programs would be revised to include basic skills and employment competencies standards to complement the current employment standards and promote long-term employability, job placement and retention.

Fourth, the amendments would promote the coordination of human resource policy and programs. Coordination is encouraged within the revised adult and youth programs by establishing specific requirements for linkages with other programs and entities that would avoid duplication and enhance the delivery of services. In addition, the Act would revise the State Education Coordination Grant program to focus on two areas of critical need: school-to-work transition and adult literacy and lifelong learning. The amendments also provide for establishing a human resource investment council in each State to advise the Governor on methods of coordinating certain federally-assisted human resource programs.

Finally, the amendments incorporate significant changes to strengthen program accountability. These include provisions requiring the Governors to establish and implement procurement standards to ensure fiscal accountability and prevent fraud and abuse. The provisions would also ensure that compliance with the standards is closely monitored and that where problems arise, corrective action is promptly taken or appropriate sanctions are applied. Other provisions, such as those requiring the charging of expenditures to appropriate cost categories and restricting the use of program income, also promote fiscal integrity.

In sum, these amendments provide an important opportunity to make an effective program responsive to demographic trends and the needs of the labor market of the 1990s. Enactment of these amendments would make a significant contribution to enhancing the opportunities available to our most disadvantaged and to improving the skills and productivity of our work force.

I urge the Congress to give the draft bill prompt and favorable consideration.

The Office of Management and Budget has advised that there is no objection to the transmittal of this draft bill to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

LYNN MARTIN.

STATEMENT IN EXPLANATION OF THE JOB TRAINING PARTNERSHIP ACT AMENDMENT OF 1991

The Job Training Partnership Act Amendments of 1991 would amend the Job Training Partnership Act (JTPA) to improve the targeting of programs to those facing serious barriers to employment, enhance the quality of services provided, strengthen fiscal and program accountability, and promote the coordination of programs and resources to more effectively provide job training and placement to the disadvantaged.

While JTPA has been an extremely successful employment and training program, these amendments are intended to enhance the program by better focusing its resources to those in substantial need and serving them in a manner that will promote job placement, retention, and long-term employability.

The amendments would improve targeting by revising eligibility requirements to help ensure that those with particularly significant barriers to employment are served. These barriers include a lack of basic skills, welfare dependency, homelessness, disabilities, and lack of a high school (or equivalent) diploma.

Targeting also is enhanced by revision of the funding allocation formula. Separate formulas for the youth and adult programs would be established and the formulas would direct more funds to areas with greater numbers and concentrations of the disadvantaged population.

Finally, the amendments would promote targeting by the establishment of the new Youth Opportunities Unlimited Program. This program would target areas with high concentrations of proverty and stimulate community-wide action to establish and meet goals for improving the opportunities for youth residing in those areas. The program would provide incentives for localities to coordinate service programs and would provide a set of activities that would promote long-term employability of youth.

The amendments would enhance program quality by providing more intensive and comprehensive services to participants. Each participant in the new programs would have an assessment to determine their skill levels and service needs. Service strategies would be developed on the basis of the assessments to address participant needs. These strategies would include achievement objectives for participants to clarify expectations and improve accountability. The programs would make available appropriate sets of services with an increased emphasis on basic and occupational skills training. This intensive approach is intended to enhance the long-term job market success of participants. Finally, the authority for performance standards for the programs would be revised to include basic skills and employment competency standards to complement the current employment standards and promote long-term employability, job placement, and retention.

The amendments would also promote the coordination of human resource policies and programs. Coordination is promoted within the revised adult and youth programs by the establishment of specific requirements for linkages with other programs and enhancing the employment opportunities available to our most disadvantaged and to improving the skills and productivity of our work force.

SECTION-BY-SECTION ANALYSIS

Section 1 of the bill provides that this Act is entitled the "Job Training Partnership Act Amendments of 1991."

Section 2 contains the table of contents.

Title I of the bill contains the amendments to JTPA.

Section 101 amends section 2 of JTPA to revise the statement of purpose of the Act. The revision is intended to clarify the intended objectives of the programs provided under JTPA. The revision states that the purpose of JTPA is to establish programs to prepare youth and adults facing serious barriers to employment for participation in the labor force by providing job training and other services that will result in increased employment and earnings, improved educational and occupational skills, and decreased welfare dependency.

Section 102 amends section 3(a) of JTPA to authorize appropriations for JTPA programs through FY 1997. Currently, JTPA has a permanent authorization. The limited authorization is intended to ensure that the legislation will receive periodic review by the Congress and the Administration.

Section 102 also amends section 3(a) of JTPA to authorize appropriations for the new Youth Opportunities Unlimited program that is added to title IV of JTPA by this bill. The authorization is for $25 million for each of fiscal years 1992 through 1994.

Section 103 amends section 4 of JTPA with respect to definitions. This section of the bill adds the term "basic skills deficient" to the definitions section. The term is defined as reading or computing skills at or below the 8th grade level on a generally accepted standardized test or equivalent score on a criterion referenced test. This definition is consistent with the definition of the term used in programs under the Adult Education Act and provides a benchmark of a skill level at or below which individuals are likely to experience difficulties in obtaining long-term employment. The term is defined because basic skills deficient is a criterion for eligibility in the new title II programs established by this bill.

The definition of community-based organization is amended to include organizations serving older workers.

The definition of supportive services is amended to include drug and alcohol abuse counseling and referral, and individual and family counseling. These additional services provide important support to many participants to enable them to successfully complete JTPA programs.

The definition of a displaced homemaker is revised to conform to the definition of the term in the recently-enacted Displaced Homemakers Self-Sufficiency Act (P.L. 101-554).

The term "educational agency" is added to the definitions section. The term includes, in addition to the institutions covered by the current definitions of State and local educational agencies, alternative schools and post-secondary institutions. This broader term is needed to include the expanded range of educational institutions that are expected to play an important role in some of the new title II programs.

The terms "participant" and "termination" are included in this section to clarify and establish a uniform definition of these terms for purposes of JTPA.

Finally, the term "school dropout" is added to this section since it would be a criterion for eligibility in the new programs. The definition is based on the definition of this term that is currently contained in section 203(b)(3) of JTPA.

Section 104 amends section 102(a) of JTPA by including representatives of local welfare agencies on the Private Industry Councils (PICs). PICs have a central role in providing policy guidance and exercising oversight of the activities conducted under JTPA. Since a significant proportion of JTPA participants are welfare recipients, it is important that local welfare agencies be added to the PICs. Greater involvement of local welfare agencies would promote closer coordination between JTPA and the Job Opportunities and Basic Skills Training (JOBS) program.

Section 105 amends section 104 of JTPA with respect to the elements included in each service delivery area's job training plan for title II programs. This section reorders the elements contained in current law to group related requirements together and adds some new elements. The new elements include, in section 104(b)(4), a description of the linkages established by the service delivery area with other appropriate agencies and organizations to avoid duplication and enhance the delivery of services under title II programs. Specifically, the plan is to describe such linkages as agreements with educational agencies, arrangements with other federal programs providing education, training and employment services, and efforts to coordinate services with local agencies and organizations. Another new element, contained in section 104(b)(8), includes a description of the assessment process that will identify each participant's skill levels and service needs, the PIC-established competency levels to be achieved by participants as a result of program participation, and the procedures to be used for evaluating the progress of participants in achieving competencies. The items to be described are new elements that would be added to title II programs by this bill.

Section 106 amends section 106 of JTPA to revise the requirements for performance standards. This section would add a provision to current law to provide that the Secretary consult with the Secretaries of HHS and Education in prescribing standards for title II programs.

With respect to the performance standards for the adult program, changes to current law include adding as a basic measure of performance the acquisition of basic and occupational skills. This addition reflects the increased emphasis in the new program on the development of basic skills as a measure of long-term employability. It is intended that this factor would complement the primary adult performance standards of employment and earnings. Therefore, credit for the acquisition of skills is only to be provided where a participant also obtains one of the primary outcomes.

This section adds a new paragraph to the performance standards section providing that the levels for competency standards are to be determined by the PIC, in consultation with educational agencies and private sector employers, and based on such factors as entry skill levels and other hiring requirements.

Another addition is a provision, which replaces section 202(b)(3) of current law, that each Governor is to award incentive funds to service delivery areas (SDAs) for achieving the performance standards for title II programs. Under this amendment, the award is not to take into consideration cost standards and is to include the standards established by the Secretary and the Governor and may also include other factors designated by the Governor, such as the extent to which target groups are served successfully, the quality of services, and the extent of coordination with other programs.

Section 107 would amend section 107 of JTPA by adding a new subsection to provide that the selection of service providers be made on a competitive basis to the extent practicable. The subsection also adds that, in selecting service providers, the entity administering the job training plan is to consider the ability of potential providers in meeting program design requirements and accomplishing the goals contained in the Governor's Coordination and Special Services Plan. Finally, the subsection requires documentation of compliance with procurement standards established by the Governor. These measures are intended to improve accountability in the selection process.

Section 108 amends section 108(a) of JTPA to require, with a limited exception, that all expenditures under the Act be charged to appropriate cost categories. This amendment would promote increased accountability.

Section 108(b) is amended to establish new cost categories and cost limitations for programs under title II. All funds expended under parts A and B of title II would have to be charged to one of three cost categories: administration, training-related and supportive services, or direct training services. The Secretary is directed to define each of these categories by regulation.

Not more than 20 percent of the funds available to a service delivery area for any fiscal year are to be for administrative expenses. The increase in the administrative cost limit from 15 to 20 percent is in consideration of the additional administrative expenses that will be incurred due to the need to coordinate additional services for a more at-risk clientele, and the imposition of more stringent requirements to protect the fiscal integrity of the program.

Not less than 50 percent of the funds available to a service delivery area must be spent on direct training services. This requirement is intended to ensure that the focus of the program is on direct job training that will enhance long-term employability.

Section 109 amends section 121(b) of JTPA to require that some additional elements be included in the Governor's Coordination and Special Services Plan. One new element would be a description of measures taken by the State to facilitate coordination and avoid duplication between JTPA programs and JOBS in the delivery of services. Another new element would be a description of the State's efforts to build the capacity of the job training system, including the Governor's plans for technical assistance arrangements and, where appropriate, research and demonstration projects.

Section 110 would amend section 122 of JTPA to redesignate the State job training coordinating council (SJTCC) as the State human resource investment council. This council, which is established under title II of these amendments, would have the same responsibilities with respect to JTPA as the current SJTCC. The council is intended to facilitate improved statewide coordination of certain federally-assisted human resource programs, and its broader functions are described in the explanation of title II.

Section 111 amends section 123 of JTPA to revise the State Education Coordination Grant program. Under the revised program, funds provided under this section are to be used by the Governor to provide financial assistance to State education agencies to: provide school-to-work transition programs that will increase the rate of graduation from high school, including the rate at which dropouts return to school and graduate; provide adult literacy and lifelong learning opportunities that will enhance the knowledge and skills of educationally and economically disadvantaged individuals and increase their employment and earnings; and facilitate coordination of services to participants in such programs.

As in current law, activities are to be conducted pursuant to agreements between the State education agency and SDAs, and other agencies such as State and local agencies, and alternative service providers. The agreements are to provide for matching funds on a one-to-one basis.

The revised section would provide that the Governor describe, in the GCSSP, the programs to be carried out. The Governor is to describe the goals to be achieved and services to be provided by school-to-work transition programs, including: activities and services that will result in increasing the number of youth graduating from high school; the work-based curriculum that will link classroom learning to worksite experience and address practical and theoretical aspects of work; the opportunities that will be available for participants to obtain career-path employment and postsecondary education; and integration of service delivery that will be achieved between State and local education agencies and alternative service providers (such as CBOs); and the linkages that will be established with other Federal education programs to enhance the delivery of services.

The GCSSP is also to contain a description of the goals to be achieved and services to be provided by the adult literacy and lifelong learning program, which, at a minimum, is to include: the activities and services that will increase the knowledge and skills of participants and result in increasing their employment and earnings; the integration to be achieved between these programs and the four-year State plan developed under section 342 of the Adult Education Act; the variety of settings in which services will be provided, including the workplace; and the linkages that will be established with other Federal education and training programs.

Services provided under these programs may include education and training, vocational education, and JTPA title II services. Services may also be targeted to groups whom the Governor determines require special assistance, such as offenders and veterans.

Not more than 20 percent of the funds expended may be spent on coordination of services, and not less than 80 percent is to be used to carry out the school-to-work transition and adult learning activities. As in current law, not less than 75 percent of the funds expended for participant services is to be used for economically disadvantaged individuals.

If the State education agency is unable to reach agreement with the SDAs and other agencies to carry out these programs, the Governor is to award the funds to SDAs as part of the incentive grants for exceeding performance standards as described in the new section 106(b)(7).

Finally, the revised section authorizes the Secretary to establish reporting and recordkeeping requirements.

These revisions are intended to increase the impact of the State Education Coordination Grant program by focusing on two areas of critical need: school-to-work transition and adult literacy and learning. The revisions would enhance the quality of programs conducted under this section and promote coordination at the State level through inclusion of the program in the GCSSP.

Section 112 repeals section 124 of JTPA, which provides for training programs for older individuals. The older worker program is eliminated because the needs of such workers would better be addressed through the revised adult program under title II, which includes a new requirement that 5 percent of each service delivery area's funds be spent on persons age 55 and over.

Section 113 amends section 141 of JTPA relating to general program requirements. The bill amends section 141(d)(3) to add a new subparagraph which states that a breakdown of cost does not have to be performed for tuition charges for training and education provided by postsecondary education institutions and colleges if such charges do not exceed the charges made available to the general public. This provision, and the current law provision that no breakdown is required where commercially available training packages are available for off-the-shelf prices, are the only situations under title II where expenditures would not have to be charged among the categories provided in section 108.

This section also amends section 141(g) of JTPA to provide that on-the-job training authorized under the Act be limited in duration to a period generally required to develop the particular occupational skill, but in no event is to exceed 6 months. In determining the appropriate period, consideration is to be given to recognized reference materials (such as the Dictionary of Occupational Titles), the content of the training, the participant's prior work experience, and the participant's service strategy. In addition, the section specifies the procedures which must be used when a brokering contractor is used for on-the-job training placements.

This section amends section 141(m) to clarify that net income earned by a public or private nonprofit entity from a JTPA program may only be retained if it is used to continue to carry out the program, and adds that, as under current law, such use is permitted even if financial assistance for the program has expired. This amendment also provides a definition of income and requires that each entity maintain records sufficient to determine the amount of income received and how such income is expended.

Finally, this section also makes applicable to JTPA programs the general Federal guidelines relating to the title, use and disposition of real property, equipment and supplies.

Section 114 amends section 142 of JTPA to provide that the minimum compensation payable to JTPA trainees in Puerto Rico and American Samoa shall be the minimum wage rates under the Fair Labor Standards Act generally applicable to these jurisdictions, rather than the higher "mainland rate". This would address the anomalous situation created by current law where JTPA trainees must be paid a higher wage than the minimum wage protection generally afforded to workers in these jurisdictions.

Section 115 amends section 164(a) to require the Governor to establish such fiscal control and fund accounting procedures as are necessary to assure the disbursal of, and accounting for, Federal JTPA funds. Such procedures must be consistent with the Generally Accepted Accounting Principles applicable in each State.

The section revises the procurement standards under JTPA. This amendment would require the Governor to establish certain minimum standards for JTPA programs to improve fiscal accountability. The standards prescribed by the Governor are to ensure that procurements are competitive to the extent practicable, and are in accordance with written procedures for procurement transactions. In addition, the standards are to ensure that all procurements include an analysis of the reasonableness of costs and prices, that all deliverables and the basis for payment are specified in the contract, and that there is no conflict of interest in the selection, award or administration of a contract or grant. The standards also must ensure that procurements do not provide excess program income for nonprofit or governmental entities, or excess profit for private for-profit entities. Recipients are to conduct oversight to ensure compliance with procurement standards.

The section requires that Governors annually conduct on-site monitoring of each service delivery area and substate area to ensure compliance with the procurement standards. If the Governor determines that an area is not in compliance with the procurement standards, the Governor must require corrective action or impose specified sanctions if corrective action is not taken.

The procurement standards established by the Governor must be submitted to the Secretary, and the Governor must biennially certify to the Secretary that the standards meet the Act's requirements that the State has monitored service delivery areas and substate areas to ensure compliance with the procurement standards, and that the State has taken appropriate action in instances of noncompliance with the standards. If the Governor does not fulfill the specified requirements, the Secretary must require corrective action or impose sanctions.

Finally, this section revises the current law provision that provides that the Governor may revoke approval of part or all of the job training plan where there is substantial violation of a specific provision of the Act or regulations and no corrective action has been taken. The revision would provide that, unless corrective action is taken, the Governor must either revoke approval of part or all of the plan or impose a reorganization plan, which may include restructuring the PIC, prohibiting the use of a designated service provider, selecting an alternate administrative entity, or other appropriate changes. This revision would improve the effectiveness of the sanctions available to ensure compliance with the requirements of JTPA programs.

Section 116 amends section 165(a) of JTPA to require that JTPA fund recipients maintain and provide to the Secretary standardized records of a sufficient number of individual participants to provide an adequate random sample. This requirement is necessary for the preparation of national programmatic and financial data. This section amends section 165(c) of JTPA to further enhance accountability by adding a requirement that States, administrative entities conducting the program, and recipients (other than sub-recipients) monitor the performance of service providers in complying with the terms of agreements made pursuant to JTPA. This section also requires the retention of records at each administrative level of a minimum of three years following the expiration of the grant.

Section 117 amends part A of title II of JTPA to establish the new Adult Opportunity Program.

Section 201 of JTPA is amended to state that the purpose of the adult program is to establish programs to prepare adults for participation in the labor force by increasing their occupational and educational skills with the result of improving their long-term employability, increasing their employment and earnings, and reducing their welfare dependency.

Section 202 of JTPA is amended to provide a new formula for the allotment of funds under the adult program. The current formula under title II-A does not sufficiently target resources to the eligible economically disadvantaged adult population. Under the current formula, two-thirds of the funds are allotted based on the share of unemployment in an area rather than on the extent or concentration of the economically disadvantaged population in that area. The result has been that local SDAs may not receive funds in proportion to their share of the eligible population. In addition, because unemployment rates can fluctuate, the allotments have been subject to large annual variations which have hampered the local PICs' ability to engage in long-term planning or to build strong service delivery capacity. This bill revises the formula to improve targeting of the eligible population, promote equitable funding of SDAs which have the same number of the disadvantaged, and stabilize funding to enhance local planning.

Subsection (a) of the amended section 202 of JTPA retains a small percentage of funds for certain areas, including the U.S. territories.

Section 202(b) is amended to require the Secretary to reserve 5 percent of the remaining funds for the State Education Coordination Grant program.

Section 202(c) provides that after determining the amounts allotted under subsections (a) and (b), 89 percent of the remainder is to be allotted by the Secretary to the States for allocation to SDAs. The amount of each SDA allocation would be determined by the Secretary in accordance with the following formula: 45 percent would be allotted on the basis of the relative number of unemployed individuals in each SDA as compared to the number of such individuals in *all* SDAs; 30 percent would be allotted on the basis of the relative number of economically disadvantaged adults in each SDA; and 25 percent is to be allotted on the basis of the relative concentration of economically disadvantaged adults in each SDA.

A significant feature of this formula is that it is based on relative numbers of eligible individuals among all SDAs in the country rather than among SDAs within States or among States. This approach ensures that SDAs with the same number of eligible adults received equal allotments and that funding does not vary simply because the SDAs are located in different States.

This section also includes provisions that no SDA will receive less than 90 percent or more than 130 percent of its previous fiscal year's allotment percentage. These provisions promote funding stability and enable improved planning of programs. This section also includes a provision, to protect small States, that no State will receive less than one quarter of one percent of the total allotment.

Section 202(d) is amended to provide for the allotment to the States of the remaining 11 percent of the funds available for distribution by the Secretary to carry out certain purposes. Five-elevenths of the remainder is to be allotted to the States to carry out administrative activities, the Governor's coordination plan, and for the State council (this is consistent with the 5 percent set-aside for such activities under the current II-A formula); three-elevenths is to be allotted for developing the overall job training system capabilities within the State, including training to service delivery area staff; and three-elevenths is to be allotted for incentive grants authorized under the performance standards section. Under the current title II-A formula, there is a State set-aside for performance incentive grants to SDAs and unused grant funds may be used by the Governor for technical assistance to SDAs. These amendments would provide separate set-asides for these two functions. The Secretary is to allot these funds based on the relative amount of funds available to SDAs within the State as compared to the total amount of funds available to all SDAs in all States. There is a proviso that the allotment to the States for administration is to be adjusted to ensure that no State receives less than $450,000 under this title to carry out administrative activities.

Section 203 is amended to provide the new eligibility requirements for the adult program. Section 203(a) provides as general eligibility requirements that an individual must be 22 years of age or older and economically disadvantaged. Section 203(b) provides that at least 65 percent of the participants in each SDA, in addition to meeting the general eligibility requirements, must also be included in one or more of the following categories: basic skills deficient; school dropouts; AFDC recipients in a target group under the JOBS program or who have received an employability plan under JOBS; unemployed for the previous 6 months or longer; individuals with disabilities; homeless; or a category established by the service delivery area in accordance with guidelines promulgated by the Secretary. The additional category must be approved by the Governor and described in the Governor's Coordination and Special Services Plan. The categories specified in this subsection are intended to identify individuals who are likely to need assistance to enhance their employability and who would realize long-term benefits from JTPA services.

Section 203(c) retains the current "window" that allows 10 percent of the participants to be individuals who are not economically disadvantaged if such individuals experience other barriers to employment.

Section 203(d) requires that service delivery areas make special efforts to serve eligible individuals who are 55 years of age or older and spend not less than 5 percent of their funds on such individuals. If an SDA does not spend 5 percent of its funds on eligible individuals who are 55 years or older in any program year, funds are to be recaptured by the Governor for reallotment to other SDAs to provide services to such individuals. The subsection also requires that the State human resource investment council and SDA make special efforts to coordinate the delivery of JTPA services to those age 55 and over with services under title V of the Older Americans Act (the Senior Community Service Employment Program). Finally, the subsection requires SDAs, in selecting service providers to serve older individuals, to give priority to those national, State, and local agencies and organizations that have demonstrated effectiveness in providing training and employment services to older individuals.

Section 204 is amended to establish the program design for the new adult program.

Section 204(a) provides certain features that are to be included in all adult programs under part A. First, the program is to include an assessment of each participant's skills, interests, and service needs. A new assessment is not required if the program determines it is appropriate to use a recent assessment conducted by another program. Second, the program is to develop service strategies that identify the employment goal, achievement objectives and the services to be provided to participants, taking into account the assessment. Third, the program is to review each participant's progress in meeting the objectives of the service strategy. Fourth, where the assessment of a participant and service strategy indicates it is appropriate, the program is to make available basic and occupational skills training. These elements are essential to ensure that the services provided address problems that would hamper the long-term employability of participants. It should, however, be noted that the service strategy is not intended to be a contract and these provisions do not create an entitlement for participants.

Section 204(b) provides a list of services which may be provided under the adult program. The list is divided into the categories of direct training services and training-related and supportive services to clarify how expenditures for such services would be charged under the cost limitation requirements contained in section 108 of JTPA. The 28 services listed are not intended to be exhaustive, but suggest the kinds of services that may enhance the development of skills and employability of adult participants. Most of these services are included under current law. The list includes various training activities, such as on-the-job training, programs combining workplace training and classroom instruction, and such training-related services as job search skills training and placement assistance, and counseling, and supportive services.

Section 204(c) imposes limitations on some of the services authorized under this part. Basic skills training is, where appropriate, to have a workplace context and be integrated with occupational skills training. The provision of job search, job search skills training, job clubs, and work experience are to be accompanied by other services designed to increase a participant's basic education or occupational skills. There is an exception to this limitation whereby job search assistance, job search skills training and job club activities may be provided as "stand-alone" services if the assessment and service strategy indicates that no additional services are appropriate *and* the activities are not available through the Employment Service or other public agencies. Needs-based payments, as under current law, are to be limited to payments necessary to participate in the program in accordance with a locally developed formula or procedure. Counseling and supportive services are authorized to be provided for a period of up to one year after program completion. This allows provision of these important follow-up services that are often needed to ensure a participant's effective transition to employment. However, it is expected that employers would quickly assume the responsibility for employment-related counseling. This subsection would also limit the use of funds for employment generating activities to activities that directly result in the creation of jobs for participants in the program. Finally, service delivery areas are to make volunteer opportunities available to successful JTPA alumni to provide mentoring and other such services to participants.

Section 205 is amended to provide the linkages that are to be established in conducting the adult program. Linkages with other programs and entities will enhance the range, quality, and effectiveness of services provided under the program and is therefore an essential component. This section identifies some of the most important programs and activities. Section 205(a) is amended to provide that linkages are to be established, where feasible, with other Federal programs. The listed programs include programs under the Adult Education Act, the Perkins Vocational Education and Applied Technology Act, and JOBS.

Section 205(b) is amended to provide that additional linkages are to be established that would enhance the provision of services with such entities as State and local educational agencies; community, business and labor organizations; and volunteer groups.

Section 206 would allow a service delivery area to transfer up to 10 percent of the funds available for adult programs to the youth program under part B if certain conditions are met. Those conditions are that the transfer is based on economic and labor market conditions specified by the Secretary in regulations to be sufficient to warrant a transfer, that the transfer is described in the job training plan, and that the transfer is approved by the Governor. Such transfers are also to be described in the GCSSP. It is not intended that such transfers occur except in unusual economic circumstances.

Section 118 amends part B of title II of JTPA to establish the new Youth Opportunity Program.

Section 251 of JTPA is amended to revise the purposes of the youth program. The purposes include improving the long-term employability of youth, enhancing their educational and occupational skills, encouraging school completion or enrollment in alternative school programs, increasing the employment and earnings of youth, reducing welfare dependency, and assisting youth in addressing problems which impair their ability to make successful transitions from school to employment or advanced education or training programs.

Section 252 is amended to revise the allotment formula to improve the targeting of resources to eligible economically disadvantaged youth. Since the current II-B formula is the same as the current II-A formula, it shares the problems described in the explanation of the amended section 202. Those problems include lack of sufficient weight to the number of disadvantaged youth residing in an SDA and instability in funding due to reliance on unemployment rates.

The revised funding formula for the youth program is similar to the revised adult formula. There is a set-aside for certain areas, including U.S. territories, and a five percent set-aside for the State Education Coordination Grant program. Of the remainder, 89 percent is allotted to SDAs, with 33⅓ percent allotted on the basis of the relative number of unemployed individuals in each SDA, 33⅓ percent allotted on the basis of the relative number of economically disadvantaged youth within each SDA as compared to the total number of such youth in all SDAs, and 33⅓ percent allotted on the basis of the relative concentration of economically disadvantaged youth in each SDA. This formula improves targeting on SDAs with the greatest need.

This section also includes a 90 percent "hold harmless" and, a 130 percent "stop gain" provision to ensure funding stability and improve local planning. It also includes a minimum total allotment which protects small States. For purposes of this section the Secretary is to exclude, where feasible, college students and members of the armed forces from determinations of the number of economically disadvantaged youth and the size of the youth population in each SDA.

The remaining 11 percent of the funds are to be allocated among the States in the same manner and for the same purposes as the adult formula (i.e., five-elevenths for administration, three-elevenths for capacity building, for performance incentives.)

Section 253 is amended to provide new eligibility requirements. Section 253(a) is amended to provide the requirements for in-school youth. An individual who is in school is eligible if first, such individual is aged 16 through 21 or, if provided in the job training plan, 14 through 21; and second, such individual is economically disadvantaged, is receiving a free lunch under the National School Lunch Act, or participates in a Chapter 1 compensatory education program.

Section 253(b) provides that not less than 65 percent of in-school participants must be individuals who, in addition to meeting the first two requirements, are included in one or more of the following categories: basic skills deficient, educational attainment more than one grade level below the level appropriate for the individual's age, pregnant or parenting (including fathers), individual with disabilities (including a learning disability), homeless, or a category established by the SDA that is in accordance with guidelines promulgated by the Secretary and approved by the Governor.

Under the amended section 253(c), individuals who are out of school are eligible for the youth program if they are aged 16 through 21 and economically disadvantaged. Section 253(d) provides that not less than 65 percent of out-of-school participants must, in addition to meeting the first two requirements, be either basic skills deficient, a school dropout, pregnant or parenting, disabled, homeless, or meet a category established by the SDA. Section 253(e) provides that not more than 10 percent of youth who participate in the program may be individuals who are not economically disadvantaged if they face other serious barriers to employment.

Section 253(f) provides that at least 60 percent of the participants in the youth program in each SDA must be out-of-school youth who meet the requirements of subsections (c), (d) or (e). However, this minimum percentage may be reduced to a lower minimum requirement (not less than 40 percent) if the Governor approves a request submitted by an SDA which specifies an alternative requirement and justifies the alternative based on characteristics of the youth population in the SDA. This is intended to be a limited exception appropriate to circumstances, such as an exceptionally low dropout rate, which results in a lower proportion of out-of-school youth who could benefit from the program in an SDA.

Section 254 is amended to provide the design for the youth program. Section 254(a) provides that the youth program is to be conducted on a year-round basis.

Section 254(b) is amended to provide that the program includes an assessment of each participant's skill levels and service needs, development of service strategies which identify achievement objectives, appropriate employment goals and services to be provided, and a review of each participant's progress in meeting the objectives of the service strategy.

Where the assessment and the service strategy indicate such services are appropriate, the youth program is to make available to participants the following services: basic skills training, occupational skills training, pre-employment and work maturity skills training, work experience combined with skills training, and supportive services. As indicated above with respect to the adult program, the service strategy is not to be considered a contract and these provisions do not create an entitlement for participants.

Section 254(c) is amended to provide a list of services which may be provided under the program. These services include, in addition to the services authorized for the adult program, mentoring, tutoring, study skills training, instruction for high school completion or certificate of high school equivalency, and limited internships in the private sector.

Other services listed include alternative high schools jointly established or supported with educational agencies and school-to-work, apprenticeship or postsecondary education transition services.

This list, which is not exhaustive, provides for a comprehensive set of services that is intended to address the multiple barriers to employment often experienced by at-risk youth.

Section 254(d) contains certain conditions relating to the program. First, in developing service strategies and designing services, the SDAs and PICs are to take into consideration exemplary program strategies and practices. It is intended that this condition will promote effective planning.

Second, school dropouts who are under the age of 18 must reenroll in and attend a school or alternate school program as a condition of participation.

Third, pre-employment and work maturity skills training are to be accompanied by either work experience or by additional basic or occupational skills training.

Fourth, work experience, job search assistance, job search skills training and job clubs activities are to be accompanied by basic or occupational skills training.

The third and fourth conditions requiring combinations of services are intended to ensure the kind of intensive training that will enhance the long-term employability of youth participants. Under these conditions, the additional services may be provided, sequentially or concurrently, under other programs. Such programs may include the Job Corps and JOBS. This provision is intended to promote coordination between programs and flexibility in determining how these services are to be delivered.

A fifth condition is that needs-based payments are to be determined in accordance with a local formula as under current law. Finally, this subsection authorizes the provision of counseling and supportive services for a period of up to one year after a participant has completed the program and provides that volunteer opportunities are to be made available to successful alumni of this program to provide services, such as tutoring, to participants.

It should be noted that this section does not prohibit the provision of summer work experience to participants. However, such work experience would have to be one part of a youth's service strategy and accompanied by additional education or training in a year-round program.

Section 255 is amended to provide for linkages between SDAs and other entities and programs to ensure the effective, comprehensive, and coordinated delivery of services under the youth program.

Section 255(a) required that SDAs establish linkages with educational agencies. These linkages are to include formal agreements with local educational agencies that will identify the procedures for referral and provision of services to in-school youth, the methods of assessment of in-school youth, and procedures for notifying the program when a youth drops out of the school system. Other linkages with educational agencies are to include arrangements to ensure that the program supplements existing programs provided by local educational agencies to in-school youth, arrangements to ensure that the program utilizes existing services provided by local educational agencies to out-of-school youth, and arrangements to ensure regular exchanges of information between the program and local educational agencies regarding the progress of in-school participants.

Under the design of the youth program, educational agencies will play a key role. The linkages described above are intended to ensure the coordination of those agencies and of existing programs with the program under part B.

Section 255(b) provides that SDAs shall also establish appropriate linkages with other Federal programs such as the Job Corps, vocational education programs, chapter 1 compensatory education programs, special education programs and JOBS.

Section 255(c) provides that linkages which would enhance the delivery of services under the youth program should also be established with other agencies and organizations, such as local service agencies, business and labor organizations, and volunteer groups.

Section 256 allows for a transfer of up to 10 percent of funds from the youth program to the adult program under part A if the same conditions governing transfers from the adult to the youth program are met (i.e., sufficient economic conditions and approval of the Governor).

Section 119 amends section 314(f) of JTPA to provide that participation in training, except for on-the-job training, under the Title III dislocated worker program is to be deemed to be approved training for purposes of the unemployment compensation (UC) program. This amendment would facilitate coordination between Title III and the UC program by providing Title III training is to be deemed approved by the State agency. A similar provision was part of Title III until the revision of the dislocated worker program by the Omnibus Trade and Competitiveness Act (OTCA). The Conference Report for OTCA (House Rept. 100-576, p. 1030) indicated that the approved training rule was to be included in Title III, but the provision did not appear in the final text of the Act.

Section 120 of the bill amends section 427(a)(2) of the JTPA to increase the ceiling on the proportion of non-residential slots in the Job Corps program from 10 percent to 20 percent. The increase is intended to promote increased access to the program by disadvantaged young women who have small children and are therefore unable to participate in the residential program.

Section 121 establishes the Youth Opportunities Unlimited Program as a new part H of title IV of JTPA. The purposes of the program, as described in the section 491, include enabling communities with high concentrations of poverty to establish and meet goals for improving the opportunities available to youth within the community, and facilitating the coordination of comprehensive services to such youth.

Section 492 authorizes the establishment of a national program of Youth Opportunities Unlimited grants to pay the Federal share of providing comprehensive services to youth living in high poverty areas in the Nation's cities and rural areas. The Secretary may only award grants to service delivery areas in which the target area is located, or to section 401 (Indian and Native American Program) or section 402 (Migrant and Seasonal Farmworker Program) grantees.

Grants may be awarded to not more than 25 communities during the first year of authorization. The one-year grants are renewable for each of the 2 succeeding years if the grant recipient satisfied the grant requirements during the previous year. In awarding grants, the Secretary must consider the quality of the proposed project, the goals to be achieved, the likelihood of the project's successful implementation, the extent of community support, and the concentration of poverty in the target community.

The new section 493 provides definitions of the terms for purposes of this part. "Participating community" is the city, State, or Section 401 or 402 grantee in which the program will be administered. "High poverty area" refers to an urban census tract, Indian reservation or Alaskan native village, or rural county with a poverty rate of 30 percent or more. Finally, "target area" is defined as the high poverty area or set of contiguous high poverty areas within the participating community that will be the focus of the program.

The new section 494 sets forth the requirements for applying for funds under the program. The participating communities with the highest concentrations of poverty, as determined by the Secretary based on the Census data, are eligible to apply. The Governor, or, for Native American and migrant worker communities, the section 401 or 402 grantee, may submit an application in accordance with procedures specified by the Secretary. The application is to include a comprehensive plan designed to achieve goals for youth in the target area. Examples of such goals, which are to be specified in the plan and measurable, include increasing the proportion of youth completing high school or entering community colleges and other advanced training programs, or placed in jobs. Significantly, the plan is to include supporting goals for the target area such as increasing security or reducing the number of drug-related arrests. In addition, the application is to demonstrate how the participating community will make use of educational and vocational resources, include an estimate of the number of youth to be served, include a description of resources available in the participating community which will be used to achieve the goals of the program, and provide evidence of local community support.

The new section 495 provides for the grant agreement. Under such agreement, the grant recipient is to designate a target area with a population of 25,000 or less. The grant funds are to be used to provide activities selected from a set of youth program models designated by the Secretary or alternative models described in the application and approved by the Secretary. Examples of such models include non-residential learning centers, alternative schools, and combined summer remediation, work experience and work readiness training.

Other conditions identified in this section are that funds are to be used for services to youth ages 14 through 21, that the local educational agency and the community are to provide activities and local resources necessary to achieve the supporting goals that are specified in the application; the participating community is to provide such activities and resources as are necessary to achieve the goals in the application; the participating community is to carry out special efforts to establish coordination among Federal, State or local programs serving the target population; and the funds are to be used only to pay the Federal share of the cost of programs and services not otherwise available in the target area, and are to supplement, and not supplant, other Federal, State and local funding.

Section 496 specifies that grants (except for section 401 and 402 grantees) are to be in equal amounts. The participating community must match one-for-one the grant provided under this part. Not more than 25 percent of the participating community's share may be from Federal sources other than funds received under this part.

Section 497 authorizes the Secretary to establish necessary reporting procedures.

Finally, section 498 requires the Secretary to provide assistance to the participating communities in implementing the program. The Secretary is authorized to retain up to 10 percent of the funds allotted for this part to provide such assistance and to conduct a formal, rigorous evaluation of the program.

This important new program offers a means to assist communities in developing a coordinated, comprehensive strategy to address the needs of youth.

Section 122 provides technical and conforming amendments.

Section 123(a) provides that the amendments made by this title shall take effect July 1, 1992. Section 123(b) contains a transition provision that provides that changes in performance standards pursuant to the amendments made by the Act shall be issued as soon as sufficient data are available, but no later than July 1, 1994.

In addition, section 123(c) requires that the secretary provide guidance and technical assistance to States and service delivery areas relating to the documentation required to verify the eligibility of participants under parts A and B of Title II. The purpose of this guidance is to limit the documentation burden to the minimum necessary to adequately verify eligibility, and ensure that the documentation burden does not discourage participation of eligible individuals. This guidance must be provided by February 1, 1992.

Section 123(d) provides that the Secretary evaluate the impact of Title II programs, as amended by this bill, on participant employment, earnings, and welfare dependence, in multiple sites using random assignment.

Finally, section 123(e) contains a general transition provision allowing the Secretary to establish necessary rules and procedures to provide for an orderly transition to and implementation of these JTPA amendments.

Title II provides for the establishment of a human resource investment council in each State. The council would promote Statewide coordination of certain federally-assisted human resource programs by replacing separate existing state councils with a single State advisory body.

The State human resource investment council would advise the Governor regarding programs under the Adult Education Act, the Carl D. Perkins Vocational and Applied Technology Education Act, JTPA, the Rehabilitation Act of 1973, the Wagner-Peyser Act, JOBS, and section 6(d)(4) of the Food Stamp Act of 1977 (the Food Stamp Employment and Training Program). Under current law, there is no State advisory council for programs under the Rehabilitation Act, JOBS, and the Food Stamp Act. There are separate State councils authorized for programs under each of the other Acts.

Section 201(a) provides that each State that receives assistance under the applicable federal programs would establish a single State council to review the provision of services and use of resources and advise the Governor on methods of coordinating the programs. The council would also provide advice to the Governor on the development and implementation of State and local standards and measures relating to the programs.

Section 201(b) provides that the membership of the Council is to be appointed by the Governor with 30 percent appointed from representatives of business and industry, 30 percent from representatives of organized labor and community-based organizations, 20 percent from chief administrative officers in State agencies administering the applicable programs and other representatives of State entities, and the final 20 percent from representatives of local governments, local educational, and welfare agencies, and individuals with special expertise.

Subsections (c) and (d) of this section authorize the council to prepare a budget, to be approved by the Governor, and to obtain the services of personnel to carry out its functions. Subsection (e) provides that the State certify to the Secretary of Labor the establishment and membership of the council 90 days before the submission of a job training plan under JTPA. Subsection (f) lists the applicable programs under the council's jurisdiction, which were described above.

Section 202 contains conforming amendments to each of the Acts which authorize the applicable programs. These amendments clarify the duties of the council with respect to each Act and provide for coordination of the programs by the council.

Section 203 provides that the effective date for this title is July 1, 1992.

By Mr. KERRY (for himself, Mr. STEVENS, and Mr. HOLLINGS):

S. 1405. A bill to authorize appropriations for certain programs of the National Oceanic and Atmospheric Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AUTHORIZATION ACT

Mr. KERRY. Mr. President, I rise today to introduce a bill to reauthorize the programs of the National Oceanic and Atmospheric Administration.

NOAA performs many important services for the Nation. NOAA's National Ocean Service manages the Nation's ocean and coastal resources and charts our skies and oceans. The National Weather Service forecasts our weather and provides hurricane warnings. The National Marine Fisheries Service has the very difficult task of managing and conserving the Nation's fisheries. The Office of Oceanic and Atmospheric Research helps us understand our atmospheres, oceans, and marine resources. And finally, Mr. President the National Environmental Satellite, Data, and Information Service manages the Earth-observing satellite systems that support weather forecasting and provide us with land remote-sensing capabilities.

In addition to reauthorizing these very important programs, this bill addresses several specific needs that I would like to highlight.

This bill would allow NOAA to begin modernizing its oceanographic fleet. This fleet of 23 vessels, comprising about one-third of the total U.S. oceanographic fleet, is nearing its service life. The average age of the vessels is now over 25 years and much of the equipment on board has not kept pace with modern technology for such activities as mapping the oceans or detecting global change. Furthermore, 6 of the 23 vessels have been deactivated due to aging.

The condition of the fleet seriously limits NOAA's ability to carry out its research and monitoring responsibilities. A 1990 report of an interagency science and engineering group estimated that NOAA programs need about twice as much vessel time to carry out their missions. The Administration is completing a plan for revitalizing the fleet. This bill would allow NOAA to begin this modernization effort.

Americans continue to be concerned about waste disposal, sewage pollution, toxic chemicals, and oilspills in marine waters. A recent report by the National Research Council calls for increasing the use of monitoring information for marine environmental management, conducting comprehensive monitoring of regional and national status and trends, and improving the design of monitoring programs.

The bill I am introducing today would create a national monitoring program for ocean and coastal waters to assess current conditions as well as detect changes. This comprehensive program would coordinate and enhance existing efforts of Federal, State, and local agencies, which currently spend an estimated $133 million monitoring the condition of the marine environment. NOAA has been particularly active in this effort through its National Status and Trends Monitoring Program which collects information at 180 marine sites around the Nation.

Monitoring is particularly useful for assessing the effectiveness of pollution control efforts. Massachusetts residents, for example, are about to spend in excess of $6 billion to clean up Boston Harbor. This is an unprecedented cleanup effort and it is in the Nation's interest to determine what will be achieved in terms of water quality improvements for this large expenditure.

Finally, this bill authorizes NOAA to research and develop dolphin-safe fishing technologies for harvesting tuna. The number of dolphins killed each year by the foreign tuna fleet is still unacceptably high. This is a serious concern from both an environmental and foreign policy perspective. It is clear that the best way to stop this unnecessary slaughter is to develop new fishing methods that are not dependent on encircling dolphins.

The National Oceanic and Atmospheric Administration provides many valuable services to the Nation and I am pleased to introduce this bill to reauthorize its many important programs. I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1405

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Oceanic and Atmospheric Administration Authorization Act of 1991".

DEFINITIONS

SEC. 2. For the purposes; of this Act, the term—

(1) "Act of 1890" means the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Bureau to the Department of Agriculture", approved October 1, 1890 (26 Stat. 653); and

(2) "Act of 1947" means the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.).

TITLE I—NOAA ATMOSPHERIC AND SATELLITE PROGRAMS

NATIONAL WEATHER SERVICE OPERATIONS AND RESEARCH

SEC. 101. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out the operations and research activities of the National Weather Service under law, $313,034,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to National Weather Service operations and research specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include meteorological, hydrological, and oceanographic public warnings and forecasts, as well as applied research in support of such warnings and forecasts.

PUBLIC WARNING AND FORECAST SYSTEMS

SEC. 102. (a) AUTHORIZATION.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to improve its public warning and forecast systems under law, $209,787,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to public warning and forecast systems specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include the development, acquisition, and implementation of major public warning and forecast systems.

(b) CONTINGENT LIABILITY.—In procuring information processing and telecommunications services of the National Oceanic and Atmospheric Administration for the Advanced Weather Interactive Processing System, the Secretary of Commerce may provide, in the contract or contracts for such services, for the payment for contingent liability of the Federal Government which may accrue in the event that the Government decides to terminate the contract before the expiration of the multiyear contract period. Such contract or contracts for such services shall limit the payments which the Federal Government is allowed to make under such contract or contracts to amounts provided in advance in appropriations Acts.

CLIMATE AND AIR QUALITY RESEARCH

SEC. 103. (a) IN GENERAL.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its climate and air quality research activities under law, $111,801,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to climate and air quality research specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include the interannual and seasonal climate research, long-term climate and air quality research, and the National Climate Program.

(b) CLIMATE AND GLOBAL CHANGE.—Of the sums authorized under subsection (a) of this section, $78,000,000 for fiscal year 1992 are authorized to be appropriated for the purposes of studying climate and global change. Such program shall augment and integrate existing programs of the National Oceanic and Atmospheric Administration and shall include global observations, monitoring, and data and information management relating to the study of changes in the Earth's climatic system, fundamental research on critical oceanic and atmospheric processes, and climate prediction and diagnostics.

ATMOSPHERIC RESEARCH

SEC. 104. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its atmospheric research activities under law, $47,399,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to atmospheric research specified by the Act of 1890 and by any other law involving such activities. Such activities include research for developing improved observation and prediction capabilities for atmospheric processes, as well as solar-terrestrial services and research.

SATELLITE OBSERVING SYSTEMS

SEC. 105. (a) IN GENERAL.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its satellite observing systems activities under law, $373,907,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to data and information services specified by the Act of 1890 and by any other law involving such activities. Such activities include spacecraft procurement, launch, and associated ground station system changes involving polar orbiting and geostationary environmental satellites and land remote-sensing satellites, as well as the operation of such satellites.

(b) SEARCH AND RESCUE SATELLITE SYSTEM.—Of the sum authorized under subsection (a) of this section, $2,300,000 in fiscal year 1992 are authorized for the administration by the National Oceanic and Atmospheric Administration of the ground stations for the Search and Rescue Satellite Aided Tracking system. Such administration shall be carried out in consultation with the Department of Transportation and the Department of Defense.

DATA AND INFORMATION SYSTEMS

SEC. 106. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its data and information services activities under law, $35,317,000 for fiscal year 1992. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to data and information services specified by the Act of 1890 and by any other law involving such activities. Such activities include climate data services, ocean data services, geophysical data services, and environmental assessment and information services.

TITLE II—NOAA OCEAN AND COASTAL PROGRAMS

NATIONAL OCEAN SERVICE

SEC. 201. (a) MAPPING, CHARTING, AND GEODESY.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out mapping, charting, and geodesy activities (including geodetic data collection and analysis) under the Act of 1947 and any other law involving those activities, $51,087,000 for fiscal year 1992.

(b) OBSERVATION AND ASSESSMENT.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out observation and assessment activities—

(1) under the Act of 1947 and any other law involving those activities, $58,273,000 for fiscal year 1992;

(2) under the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701 et seq.), $4,500,000 for fiscal year 1992; and

(3) under title II of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441 et seq.), $11,000,000 for fiscal year 1992.

(c) OCEAN MANAGEMENT.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out ocean management activities, $1,678,000 for fiscal year 1992.

OCEAN AND GREAT LAKES RESEARCH

SEC. 202. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out ocean and Great Lakes research activities under the Act of 1947, the Act of 1890, and any other law involving those activities, $32,171,000 for fiscal year 1992.

TITLE III—NOAA MARINE FISHERY PROGRAMS

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. The National Oceanic and Atmospheric Administration Marine Fisheries Program Act (Public Law 98-210; 97 Stat. 1409) is amended—

(1) in section 2(a) by striking "$26,500,000" and all that follows through "fiscal year 1989" and inserting in lieu thereof $52,843,000 for fiscal year 1992";

(2) in section 3(a) by striking "$35,000,000" the first time it appears and all that follows through "fiscal year 1989" and inserting in lieu thereof "$27,869,000 for fiscal year 1992"; and

(3) in section 4(a) by striking "$10,000,000" and all that follows through "fiscal year 1989" and inserting in lieu thereof "$15,585,000 for fiscal year 1992".

DEVELOPMENT OF DOLPHIN-SAFE METHODS OF TUNA FISHING

SEC. 302. Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Act (Public Law 98-210; 97 Stat. 1409) is amended by adding at the end the following new subsection:

"(c) Of the sums authorized under subsection (a) of this section, $1,000,000 for fiscal year 1992 are authorized to be appropriated for the purpose of developing dolphin-safe methods of locating and catching yellowfin tuna. Such authorization shall be in addition to moneys authorized under section 7 of the Act entitled "An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes", approved October 9, 1981 (16 U.S.C. 1384). Within six months after the date of enactment of this subsection, the Secretary, in cooperation with the Inter-American Tropical Tuna Commission and after consultation with interested persons, shall publish a program plan for public comment that shall provide for—

"(1) research to improve understanding of the behavioral association of dolphins and yellowfin tuna in the eastern tropical Pacific Ocean;

"(2) development, testing, and implementation of new methods of locating and catching yellowfin tuna without the incidental taking of dolphins; and

"(3) appropriate measures to ensure program participation and sharing of associated costs by each foreign government that conducts, or authorizes its nationals to conduct, yellowfin tuna fishing in the eastern tropical Pacific Ocean.".

FISHERIES RESEARCH

SEC. 303. Section 304(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(e)) is amended by redesignating paragraphs (1), (2), and (3), and any reference thereto, as paragraphs (2), (3), and (4), respectively, and by inserting immediately after "FISHERIES RESEARCH.—" the following: "(1) The Secretary shall initiate and maintain, in cooperation with the Councils, a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management and on the economics of the fisheries.".

FISHERY FACILITIES

SEC. 304. Section 1101(k) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271(k)), is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by adding "or" at the end of paragraph (2); and

(3) by inserting immediately after paragraph (2) the following new paragraph:

(3) for aquaculture, including operations on land or elsewhere—

"(A) any structure or appurtenance thereto designed for aquaculture;

"(B) the land necessary for any such structure or appurtenance described in subparagraph (A);

"(C) equipment which is for use in connection with any such structure or appurtenance and which is necessary for the performance of any function referred to in subparagraph (A); and

"(D) any vessel built in the United States used for, equipped to be used for, or of a type which is normally used for aquaculture;".

TITLE IV—MISCELLANEOUS PROVISIONS

PROGRAM SUPPORT

SEC. 401. (a) EXECUTIVE DIRECTION AND ADMINISTRATIVE ACTIVITIES.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out executive direction and administrative activities (including management, administrative support, provision of retired pay of National Oceanic and Atmospheric Administration commissioned officers, and policy development) under the Act entitled "An Act to clarify the status and benefits of commissioned officers of the National Oceanic and Atmospheric Administration, and for other purposes", approved December 31, 1970 (33 U.S.C. 857-1 et seq.), and any other law involving those activities, $72,105,000 for fiscal year 1992.

(b) ACQUISITION, CONSTRUCTION, MAINTENANCE, AND OPERATION OF FACILITIES.—(1) There are authorized to be appropriated to the Department of Commerce for acquisition, construction, maintenance, and operation of facilities of the National Oceanic and Atmospheric Administration under any law involving those activities, $12,753,000 for fiscal year 1992.

(2) The Secretary shall acquire space from the Administrator of General Services in the area of Newport News-Norfolk, Virginia, for use for consolidating and meeting the long-term space needs of the National Oceanic and Atmospheric Administration in a cost effective manner. In order to acquire this space, the Administrator of General Services may, with the Secretary's consent, exchange real property owned by the Department of Commerce for other real property, including improvements to that property, in that area.

(c) MARINE SERVICES.—(1) There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out marine services activities (including ship operations, maintenance, and support) under the Act of 1947 and any other law involving those activities, $63,573,000 for fiscal year 1992.

(2) There are authorized to be appropriated to the Department of Commerce to enable

the National Oceanic and Atmospheric Administration to acquire a multibeam sonar mapper, $1,500,000 for fiscal year 1992.

(3)(A) In addition to sums authorized in paragraphs (1) and (2), there are authorized to be appropriated to the Secretary of Commerce $1,500,000 for fiscal year 1992 for the reactivation and operation of the research vessel ALBATROSS IV.

(B) If on the date of enactment of this Act the research vessel ALBATROSS IV is not in active service, the Secretary of Commerce, subject to the availability of appropriations under this paragraph, shall reactivate that vessel.

(4) Unless necessary for safety reasons, the Secretary of Commerce shall not deactivate any research vessel of the National Oceanic and Atmospheric Administration, including the ALBATROSS IV (if active), until an equivalent replacement vessel is operational.

(5)(A)(i) Except as provided in clause (ii), no vessel to be constructed for the National Oceanic and Atmospheric Administration, and no major component of the hull or superstructure of such a vessel, may be constructed in a foreign shipyard.

(ii) The President may authorize exceptions to the prohibition in clause (i) if the President determines that it is in the national security interest of the United States to do so. The President shall transmit notice to the Congress of that determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date such notice is received by the Congress.

(B)(i) A vessel of the National Oceanic and Atmospheric Administration the homeport of which is in the United States may not be overhauled, repaired, or maintained in a shipyard outside the United States.

(ii) Clause (i) does not apply in the case of voyage repairs.

(6) The Secretary of Commerce shall consult with the Oceanographer of the Navy regarding appropriate measures that should be taken to ensure that vessels of the National Oceanic and Atmospheric Administration are interoperable with vessels of the Department of the Navy, including with respect to operation, maintenance, and repair of those vessels.

(d) NOAA, FLEET MODERNIZATION.—(1) In addition to amounts authorized by subsection (c), there are authorized to be appropriated to the Secretary of Commerce for fiscal year 1992 modernization of the National Oceanic and Atmospheric Administration fleet $50,000,000 for maintenance, replacement, construction, and instrument upgrades of oceanographic research vessels.

(2) Not later than October 1, 1991, the Secretary of Commerce shall submit to the Congress a detailed fleet replacement and modernization plan, including a schedule of anticipated modernizations, acquisitions of vessels, acquisitions of scientific instruments, hiring of additional personnel, and annual funding requirements for carrying out the plan.

(3)(A) Subject to subparagraphs (B), (C), and (D), and notwithstanding section 1341 of title 31, United States Code, and section 3732 of the Revised Statutes of the United States (41 U.S.C. 11), the Secretary of Commerce may acquire vessels of the National Oceanic and Atmospheric Administration fleet by purchase, lease, lease-purchase, or otherwise, under one or more multiyear contracts.

(B) The Secretary of Commerce may not enter into any contract pursuant to this subsection before the date of the submission to the Congress of a plan pursuant to paragraph (2).

(C) The Secretary of Commerce may not enter into a contract pursuant to this paragraph unless the Secretary finds with respect to that contract that—

(i) there is a reasonable expectation that throughout the contemplated contract period the Secretary will request from the Congress funding for the contract at the level required to avoid contract termination; and

(ii) the use of the contract will promote the best interests of the United States by encouraging competition and promoting economic efficiency in the operation of the National Oceanic and Atmospheric Administration fleet.

(D) The Secretary of Commerce may not enter into a contract pursuant to this paragraph unless the contract includes—

(i) a provision under which the obligation of the United States to make payments under the contract for any fiscal year is subject to the availability of appropriations provided in advance for those payments;

(ii) a provision which specifies the term of effectiveness of the contract;

(iii) appropriate provisions under which in case of any termination of the contract before the end of the term specified pursuant to clause (ii), the United States shall only be liable for the lesser of—

(I) an amount specified in the contract for such a termination; or

(II) amounts which were appropriated, before the date of the termination, for the performance of the contract or for procurement of the type of acquisition covered by the contract and which are unobligated on the date of the termination.

(e) MARITIME FINANCING.—Section 607(k) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1177(k)), is amended—

(1) in paragraph (1)(C) by striking "States or in the fisheries of the United States." and inserting in lieu thereof "States, the fisheries of the United States, or under an agreement with the Secretary of Commerce for use by the National Oceanic and Atmospheric Administration."; and

(2) in paragraph (2)(C) by striking "or noncontiguous domestic trade or in the fisheries of the United States." and inserting in lieu thereof "noncontiguous domestic trade, fisheries of the United States, or under an agreement with the Secretary of Commerce for use by the National Oceanic and Atmospheric Administration.".

(f) AIRCRAFT SERVICES.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out aircraft services activities (including aircraft operations, maintenance, and support) under the Act of 1890 and any other law involving those activities, $8,900,000 for fiscal year 1992.

REQUIREMENT OF NOTICE OF REPROGRAMMING

SEC. 402. The Secretary of Commerce shall not reprogram an amount appropriated under the authority of this Act unless, before carrying out that reprogramming, the Secretary provides notice of that reprogramming to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries and the Committee on Science, Space, and Technology of the House of Representatives.

TITLE V—COASTAL MONITORING

SHORT TITLE

SEC. 501. This title may be cited as the "Marine and Coastal Monitoring Act of 1991".

PURPOSE

SEC. 502. The purpose of this title is to establish under the Administrator a comprehensive national program for the monitoring of marine and coastal waters of the United States, which will provide the data and information on the status and trends of contamination levels and biological effects in such waters necessary for governmental entities to make well-informed management decisions concerning the utilization and protection of the resources of such waters.

DEFINITIONS

SEC. 503. As used in this title, the term—

(1) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration, Department of Commerce; and

(2) "marine and coastal" refers to the marine and coastal waters off the States along the coasts of the Atlantic Ocean, the Gulf of Mexico, the Caribbean Sea, and the Pacific Ocean, the marine and coastal waters off the coast of the State of Alaska, and the waters of the Great Lakes.

COMPREHENSIVE PROGRAM

SEC. 504. The comprehensive national mointoring program referred to in section 502 shall consist of—

(1) a nationwide monitoring network as described in section 505;

(2) intensive regional monitoring programs as described in section 506; and

(3) a national monitoring center as described in section 507.

NATIONWIDE MONITORING NETWORK

SEC. 505. (a) ESTABLISHMENT.—There is established within the National Oceanic and Atmospheric Administration of the Department of Commerce a unified nationwide monitoring network, which shall, on the date of enactment of this Act, include the activities and functions of the National Status and Trends Program of the National Oceanic and Atmospheric Administration as in existence immediately before such date of enactment. The network shall be the single Federal activity for the national-scale monitoring of the marine and coastal waters of the United States and shall evaluate the status and trends of the following aspects of such waters:

(1) toxic substances, both organic and inorganic, and their biological effects;

(2) nutrient over-enrichment and low oxygen conditions;

(3) toxic and nuisance algal blooms; and

(4) overall ecological condition or health.

(b) INTERAGENCY COMMITTEE.—The Administrator shall carry out monitoring activities under this section in accordance with the guidance and priorities established by an interagency committee which shall be chaired by the Administrator and shall include representation from the Environmental Protection Agency, the United States Fish and Wildlife Service, the United States Geological Survey, and the Army Corps of Engineers.

REGIONAL MONITORING PROGRAMS

SEC. 506. (a) DESIGNATION OF REGIONS.—The Administrator shall designate specific estuarine and coastal regions of major concern in which the waters shall be intensively monitored. Such regions shall include—

(1) each of the estuarine areas listed in section 320(a)(2)(B) of the Federal Water Pollution Control Act (33 U.S.C. 1330(a)(2)(B)) as areas requiring priority consideration; and

(2) such additional areas as the Administrator may designate from among areas

nominated for designation by the Governors of States that border those areas.

(b) MONITORING COORDINATION GROUPS.—(1) The Administrator shall establish monitoring coordination groups for each designated region to develop and direct a monitoring program tailored to the needs of the region and based on the existing monitoring conducted in the region. Each such group shall consist of representatives of the Federal, State, and other agencies with marine or coastal monitoring programs or responsibilities in the region and such academic and other experts as the Administrator may appoint. Each such group shall develop a longterm monitoring plan for the region and, within two years after the establishment of the group, shall submit the plan to the Administrator.

(2) The members of any such monitoring group shall receive neither compensation nor expenses, except that any nongovernmental experts appointed to the group may be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from the members's usual place of residence, in accordance wtih section 5703 of title 5, United States Code, when engaged in the actual performance of duties as a member of the group.

(c) REGIONAL MONITORING ACTIVITIES.—The Administrator shall ensure that the regional monitoring activities fully incorporate activities of the nationwide monitoring network established under section 505. The Administrator shall include only such additional sampling sites, times, and measurements as are required to assemble the data and information needed by regional resource managers to identify and address estuarine and coastal problems within the region.

(d) ANNUAL OPERATING PLAN.—After approval by the Administrator of its long-term monitoring plan, each regional monitoring group shall develop annually an operating plan for the monitoring activities to be conducted in its region. Each such plan shall identify—

(1) monitoring activities proposed to be conducted;

(2) the agency responsible for each such activity;

(3) the estimated cost for each such activity; and

(4) the source of funding available for each such activity.

The Administrator, upon recommendation by the regional monitoring group, may award supplemental funding for a specific monitoring activity, not to exceed 50 percent of the total cost of the activity.

(e) REGULATIONS.—The Administrator shall issue regulations necessary to implement the provisions of this section, including procedures for the approval of long-term monitoring plans and for the awarding of supplemental funding for regional monitoring activities.

NATIONAL COASTAL MONITORING CENTER

SEC. 507.(a) ESTABLISHMENT OF CENTER.—Within 90 days after the date of enactment of this Act, the Administrator shall establish within the National Oceanic and Atmospheric Administration a National Coastal Monitoring Center. The Center shall develop scientific methods and procedures for carrying out the monitoring activities under this title in an effective, efficient, and economical manner and shall issue reports and other data products to disseminate in a timely manner the results of such activities.

(b) FUNCTIONS.—The Center shall, among other things—

(1) develop a coordinated national data and information management system to assure compatibility of all data and information developed under this title and facilitate the exchange of such data and information;

(2) develop a coordinated national quality assurance and quality control program to assure accuracy and compatibility of all data and information obtained in the nationwide network and regional programs established under this title;

(3) support research studies to develop improved procedures and methods for monitoring marine environmental quality indicators and conditions;

(4) implement studies to develop recommendations for standardized sampling protocols, analytical measurement methods, and statistical data analysis procedures to be used in the nationwide network and regional programs established under this title;

(5) organize national and regional workshops and meetings, develop reports, and otherwise take actions to coordinate the Federal, State, regional, and other monitoring programs carried out in association with the nationwide network and regional programs established under this title; and

(6) develop periodically reports assessing various aspects of the status and trends of the environmental quality of marine and coastal waters of the United States, including the development every two years of a report synthesizing all the results from the activities under this title to provide an overall evaluation of the current conditions indicating environmental health of these areas and an identification of significant trends that are occurring in these conditions.

BOSTON HARBOR MONITORING

SEC. 508. As part of the program established under this title, the Administrator shall, in connection with the cleanup of the Boston Harbor, develop sophisticated and credible techniques and methodologies for collecting and analyzing baseline data on environmental phenomena in the Harbor, such as bacteria, quality and quantity of indigenous species, and swimmability. The Administrator shall work with the Massachusetts Water Resources Agency in preparing a multiyear plan for such development of techniques and methodologies.

AUTHORIZATION OF APPROPRIATIONS

SEC. 509. There are authorized to be appropriated to the Secretary of Commerce to enable the National Oceanic and Atmospheric Administration to carry out the program established by this title, $3,000,000 for fiscal year 1992, $7,000,000 for fiscal year 1993, $12,000,000 for fiscal year 1994, and $15,000,000 for fiscal year 1995.

Mr. HOLLINGS. Mr. President, today, I am pleased to join Senator KERRY and others in introducing the National Oceanic and Atmospheric Administration Authorization Act of 1991. As I have in the past, I remind my colleagues of the importance of fostering and improving the many important efforts of the National Oceanic and Atmospheric Administration [NOAA], which this authorization bill is intended to reinforce. The bill reauthorizes many important NOAA atmospheric and satellite, ocean and coastal, and fisheries programs. It also contains important provisions dealing with coastal monitoring and modernization of the NOAA oceanographic research fleet.

NOAA provides the Nation with information about our oceans and atmosphere and global change that is essential to ensure the sound use of our natural resources. In fact, protection and restoration of the marine environment have become the focus of activity at the Federal, State, and local government levels. Each year, the various governmental agencies spend billions of dollars on corrective measures to improve our coastal environmental quality. Last year, Federal, State, and local agencies, public utilities, and private corporations spent more than $133 million to monitor the condition of the marine environment. Given this investment, it is time that we establish the national comprehensive coastal monitoring program set forth in this bill.

This bill also has important provisions dealing with dolphin-safe tuna fishing. As a principal author and longtime supporter of the Marine Mammal Protection Act [MMPA], I have worked for a balanced and comprehensive Federal approach to marine mammal conservation. The killing of dolphins is a serious problem, one we attacked last year when we reauthorized the MMPA. Currently, embargoes are in place against countries which have not complied with the terms of that law. There are additional ways we can address the problem. I believe that the best longterm solution to the recurring tuna-dolphin issue is to develop fishing methods that do not involve encirclement of dolphins. To that end, $1 million is set aside in this bill to develop coordinated research and development of dolphin-safe fishing methods. Not only will this effort work to develop alternative fishing gear, but it will focus on understanding the behavioral bonds that link dolphin and yellowfin tuna in the eastern tropical Pacific Ocean together.

I look forward to moving ahead expeditiously with the reauthorization of these important NOAA programs.

By Mr. DANFORTH:

S. 1407. A bill to strengthen and improve Federal civil rights laws, and for other purposes; to the Committee on Labor and Human Resources.

S. 1408. A bill to amend the Civil Rights Act of 1964 to clarify provisions regarding disparate impact actions, and for other purposes; to the Committee on Labor and Human Resources.

S. 1409. A bill to provide for damages in cases of intentional employment discrimination, and for other purposes; to the Committee on Labor and Human Resources.

CIVIL RIGHTS LEGISLATION

Mr. DANFORTH. Mr. President, three weeks ago last Tuesday, nine Republican Senators introduced a package of three civil rights bills to provide the framework for addressing the difficult issue of various Supreme Court decisions that were decided two years ago.

The effort that was made three weeks ago last Tuesday was to provide balanced legislation in an effort to meet the needs of those who believed that the civil rights law should be changed and the concerns that were expressed by the White House and others, particularly with respect to quotas.

The purpose of the three bills was to fashion a compromise. The nine Senators who introduced those three bills believed that we went at least half way in meeting the concerns that had been expressed by the President and by those in the administration.

During the three weeks that followed the introduction of that legislation, we engaged in a series of discussions with administration officials and others to attempt to understand as best we could their concerns about the legislation that we introduced. Shortly after the bills were introduced, over a period of two days, at the staff level, there were eight hours of detailed discussions—in the words of Attorney General Thornburgh, line-by-line discussions—of the administration's concerns.

Mr. President, I am about to introduce three additional bills that are designed to go yet further in meeting the concerns that were expressed by the administration. Specifically, 22 different problems stated by administration lawyers have been addressed in the follow-on legislation that I am about to introduce.

Mr. President, I ask unanimous consent that a list of those 22 specific concerns and how they were addressed be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

CHANGES MADE AT THE REQUEST OF THE ADMINISTRATION, JUNE 27, 1991

1. S. 1207, THE CIVIL RIGHTS RESTORATION ACT OF 1991

a. The Administration expressed concern that attorney's fees granted by this bill for mixed motive cases (Price Waterhouse cases) would not be limited to the attorney's work performed on the mixed motive case. The concern was that the attorney would always plead a mixed motive claim along with numerous other claims and attempt to recover fees for work done on the other claims as well as the Price Waterhouse claim.

Response: Cosponsors inserted language that ensures that attorneys receive fees "directly attributable only to the pursuit of a claim under this section."

b. The Administration expressed concern about the bifurcation of the rule governing challenges to consent decrees or court-ordered remedies.

Response: Instead of applying different rules, cosponsors agreed to apply the same rules to all consent decrees or court-ordered remedies.

c. The Administration was concerned about retroactive application of the Martin v. Wilks section.

Response: Cosponsors made the section in question prospective.

d. The Administration wanted technical corrections in the section of the legislation concerning Lorance v. AT&T Technologies.

Response: Cosponsors made the technical corrections.

e. The Administration believed that the provision concerning affirmative action was too broad.

Response: Cosponsors narrowed the provision.

2. S. 1208, THE EQUAL EMPLOYMENT OPPORTUNITY ACT OF 1991

a. The Administration believed that the purposes section was unclear and too broad.

Response: Cosponsors clarified it.

b. The Administration strongly emphasized the need to use the term "cause" to describe the plaintiff's burden in a disparate impact case.

Response: Cosponsors adopted the term "cause."

c. The Administration was disturbed by the phrase "after discovery" in describing the plaintiff's burden in a disparate impact suit.

Response: Cosponsors removed the term "after discovery."

d. The Administration was concerned about a clause they viewed as ambiguous with regard to when a defendant may use the defense of "business necessity."

Response: Cosponsors clarified that the defense was not available in intentional discrimination suits.

e. The Administration requested the deletion of a clause concerning statistical imbalances in the racial makeup of an employer's workforce.

Response: Cosponsors deleted the clause.

f. The Administration requested the deletion of a "comparable worth" construction clause.

Response: Cosponsors deleted the clause.

g. The Administration requested deletion of the subsection concerning court-ordered race-norming.

Response: Cosponsors deleted subsection in question.

h. The Administration requested use of the phrase "manifest relationship to the employment in question" in the definition of "business necessity."

Response: Cosponsors incorporated that phrase in the bill's definition.

i. The Administration was concerned about the potential breadth of the term "selection" in the definition of "business necessity."

Response: Cosponsors deleted this term and replaced it with a narrower description of employment practices.

j. The Administration was concerned that employers would lack discretion in making its own hiring decisions.

Response: Cosponsors attempted to clarify that employers have discretion in choosing their employees.

k. The Administration believed that certain sections of the bill would be misconstrued as circular.

Response: Cosponsors deleted terms of concern.

l. The Administration preferred conceptual descriptions (rather than lists of examples) in the definition of "business necessity."

Response: Cosponsors deleted lists and used language designed to describe the concepts.

m. The Administration requested deletion of construction clauses that it viewed as superfluous and subject to misconstruction.

Response: Cosponsors deleted the construction clauses in question.

n. The Administration requested that liability not be automatically assessed against an employer who did not know about an alternative employment practice which has a less disparate impact upon a protected group than the employer's practice.

Response: Cosponsors adopted the Administration's position on alternative practices.

3. S. 1209, THE CIVIL RIGHTS AND REMEDIES ACT OF 1991

a. The Administration requested a limit on damages for "reasonable accommodation" cases under the Americans with Disabilities Act.

Response: Cosponsors developed a "good faith" exception for such cases.

b. The Administration requested a cap on future pecuniary damages.

Response: Cosponsors adopted such a cap.

c. The Administration requested a lowering of caps on compensatory and punitive damages.

Response: Cosponsors accommodated request by lowering caps, and creating three tiers of damages for varying sizes of businesses.

Mr. DANFORTH. Mr. President, the most difficult single issue by far that faced us, and continues to face us, has been the definition of business necessity, for the purpose of addressing the issue created by the Wards Cove case. We have been wrestling with the issue of business necessity for approximately a year and a half, and it has been very, very difficult to resolve.

Again, when the legislation was introduced 3 weeks ago, an effort was made to accommodate both the concerns of those who wanted to change the civil rights law and the concerns that had been expressed by the administration. But we recognized that, after introducing that legislation, it was necessary to try to reach some sort of accommodation with the administration in the definition of business necessity.

So beginning with the legislation that was introduced 3 weeks ago, a total of six different legislative suggestions on defining business necessity were put to the administration. Two of them—the one that was in the bill, S. 1208, and a follow-on suggestion—were in the form of formal offers that were made by the nine Republican Senators to the administration. The remaining four were more informal suggestions noted by me to the administration.

Two days ago, Governor Sununu got back to me with his suggested modification of one of the various proposals. That particular modified approach was in turn submitted to Senator KENNEDY and others, with the suggestion of the nine Republican Senators that it be accepted. Senator KENNEDY expressed his concerns with that language, and the judgment of this Senator was that his concerns were in fact well taken and that they should be addressed, and that the proposal should be modified.

So suggestions, in turn, were made by me as to how the Sununu proposal should be modified, and those suggestions are incorporated in the legislation that I am about to send to the desk.

Mr. President, I will send to the desk a description of the various proposals that have been made for defining business necessity. The last two proposals that are mentioned are the so-called Sununu proposal, and my modification of the Sununu proposal.

One suggestion I would make to interested Senators and to others is that they analyze the difference between the Sununu proposal and what I have suggested. I believe that most people would find that the differences are very, very close.

So. Mr. President, I ask unanimous consent that this description of the various definitions of business necessity be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEFINITIONS OF BUSINESS NECESSITY

LANGUAGE OF S. 1208

The term "required by business necessity" means—

(1) in the case of employment practices involving selection, that the practice or group of practices bears a manifest relationship to the requirements for effective job performance; and

(2) in the case of other employment decisions not involving employment selection practices as described in paragraph (1), the practice or group of practices bears a manifest relationship to a legitimate business objective of the employer.

The term "requirements for effective job performance" includes—

(1) the ability to perform competently the actual work activities lawfully required by the employer for an employment position; and

(2) any other lawful requirement, that is important to the performance of the job, including, but not limited to, factors such as punctuality, attendance, a willingness to avoid engaging in misconduct or insubordination, not having a work history demonstrating unreasonable job turnover, and not engaging in conduct or activity that improperly interferes with the performance of work by others.

Option 1: The term "required by business necessity" means—

(1) in the case of employment practices primarily measuring qualification for or ability to do the job, the challenged practice must bear a manifest relationship to the requirements for effective job performance.

(2) in the case of employment practices not described in (1) above, the challenged practice must bear a manifest relationship to a legitimate business objective of the employer.

The term "employment in question" includes—

(1) the performance of actual work activities required by the employer for a job or job family; and

(2) any requirement related to work behavior that is important to the performance of the job, but may not comprise actual work activities.

Option 2: The term "required by business necessity" means—

(1) in the case of practices that are used as conditions of employment in or transfer to jobs, the challenged practice must bear a manifest relationship to the requirements for effective job performance.

(2) in the case of employment practices not described in (1) above, the challenged practice must bear a manifest relationship to a legitimate business objective of the employer.

Option 3: The term "required by business necessity" means—

(1) in the case of practices that are used as conditions of employment in or transfer to jobs, the challenged practice must bear a demonstrable relationship to successful performance of the jobs for which it was used.

(2) in the case of employment practices not described in (1) above, the challenged practice must bear a manifest relationship to a legitimate business objective of the employer.

Option 4: The term "required by business necessity" means—

(1) in the case of employment practices that are used as conditions of employment in or transfer to jobs, the challenged practice must bear a manifest relationship to the employment in question.

(2) in the case of employment practices not described in (1) above, the challenged practice must bear a manifest relationship to a legitimate business objective of the employer.

The term "employment in question" includes—

(1) the performance of actual work activities required by the employer for a job or class or jobs; and

(2) any requirement related to work behavior that is important to the performance of the job, but may not comprise actual work activities.

Option 5: The term "required by business necessity" means—

the challenged practice must bear a manifest relationship to the employment in question.

(1) in the case of employment practices used to measure job qualifications or ability to do the job, the term "employment in question" means job performance.

(2) in the case of employment practices not described in paragraph (1), the term "employment in question" means a legitimate business objective of the employer.

The term "job performance" includes—

(1) the performance of actual work activities required by the employer for a job or class of jobs; and

(2) any requirement related to work behavior that is important to the performance of the job, but may not comprise actual work activities.

SUNUNU PROPOSAL

The term "required by business necessity" means—

(1) in the case of employment practices that are used to measure the ability to perform the job, the challenged practice must bear a manifest relationship to the employment in question.

(2) in the case of employment practices not described in (1) above, the challenged practice must bear a manifest relationship to a legitimate business objective of the employer.

The term "employment in question" includes, but is not limited to—

(1) the performance of actual work activities required by the employer for a job or class of jobs; and

(2) any requirement related to work behavior that is important to the performance of the job, but may not comprise actual work activities.

Sununu proposal with suggested Danforth changes

The term "required by business necessity" means—

(1) in the case of employment practices that are *used as job qualifications or* used to measure the ability to perform the job, the challenged practice must bear a manifest relationship to the employment in question.

(2) in the case of employment practices not described in (1) above, the challenged practice must bear a manifest relationship to a legitimate business objective of the employer.

The term "employment in question" *means* [includes, but is not limited to]—

(1) the performance of actual work activities required by the employer for a job or class of jobs; *or* [and]

(2) any requirement related to *work* behavior that is important to [the performance of] the job, but may not comprise actual work activities.

Mr. DANFORTH. Mr. President, a very strong effort has been made by nine Republican Senators to make the bill acceptable to President Bush. We believe that we have come very close to addressing the President's concerns. We know that remaining concerns are there, but we believe that we have come about 90 percent of the way.

Our hope now is that the President will be able to reach over to us for that remaining 10 percent; that we can have a bill which is both acceptable to those who want legislation and which is acceptable to the President of the United States. It will take a little bit of a reach. But I think we have closed the gap sufficiently, so that it is certainly something that can be accomplished.

I would like finally to say, Mr. President, just as a matter of personal motivation and why I am so concerned about this issue, I think that business necessity, so-called disparate impact cases, are so unusual in the courts that we could probably survive with any of the various definitions that have been proposed.

I do believe there are substantive problems in the Sununu definition. I believe the proposal that is incorporated in the legislation which I will soon send to the desk is good public policy. But I think that the real issue is not so much the exact wording of the legislation. I think the real issue before us is the extent to which race is going to be a nagging political issue in this country.

I know, Mr. President, that there are those who believe that it is somehow a winning issue; that race is a wedge issue, that it can divide people, and that it can build constituencies. But I believe that it is a bad issue for the country. And I particularly believe that it is a bad issue for the Republican Party, my party. I think the job of Government in this diverse country should be an attempt to bring people together, not to find ways to rub nerve ends raw. And I think that is exactly what we are doing by constantly harping on the issue of quotas, the issue of job preferences, and so on.

Almost nobody likes quotas. I have never heard anybody in the U.S. Senate express a liking for quotas. But I think a lot of people like the quota issue as a political issue. And the principle reason I believe that it is important to move forward and attempt to compromise this legislation is to try to put this issue behind us.

I am confident that there is a national consensus in America on the issue of fairness in employment. I am confident that the overwhelming majority of Americans believe that people should be hired, not on the basis of their race or their gender or any other such reason, but people should be hired on their ability to do the job and that employers should be able to defend themselves without resorting to quotas. I am confident that that is the overwhelming sentiment of the people of the United States.

I think that it is possible to build on that sentiment. I believe that it is possible to legislate that sentiment. I think that that is what the nine Republican Senators are doing. I am confident that that is the result of the legislation that I will now send to the desk. Mr. President, it is time to build on the national consensus and not tear it apart. We in the U.S. Senate, and those in the executive branch as well, have a choice to go either way. I think it is time to make the reasonable accommodations and compromises that are necessary to build the consensus back again.

Mr. President, I send three bills to the desk and ask unanimous consent that they be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1407

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Restoration Act of 1991".

SEC. 2. FINDING AND PURPOSE.

(a) FINDING.—Congress finds that legislation is necessary to provide additional protections against unlawful discrimination in employment.

(b) PURPOSE.—The purpose of this Act is to respond to recent decisions of the Supreme Court by expanding the scope of relevant civil rights statutes in order to provide adequate protection to victims of discrimination.

SEC. 3. PROHIBITION AGAINST ALL RACIAL DISCRIMINATION IN THE MAKING AND ENFORCEMENT OF CONTRACTS.

Section 1977 of the Revised Statutes (42 U.S.C. 1981) is amended—

(1) by inserting "(a)" before "All persons within"; and

(2) by adding at the end the following new subsections:

"(b) For purposes of this section, the term 'make and enforce contracts' includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.

"(c) The rights protected by this section are protected against impairment by nongovernmental discrimination and impairment under color of State law.".

SEC. 4. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end the following new subsection:

"(k) Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a motivating factor for any employment practice, even though other factors also motivated the practice.".

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is amended—

(1) by designating the first through third sentences as paragraph (1);

(2) by designating the fourth sentence as paragraph (2)(A); and

(3) by adding at the end the following new subparagraph:

"(B) On a claim where an individual proves a violation under section 703(k) and a repondent demonstrates that the respondent would have taken the same action in the absence of the impermissible motivating factor, the court—

"(i) may grant declaratory relief, injuctive relief (except as provided in clause (ii)), and attorney's fees and costs demonstrated to be directly attributable only to the pursuit of a claim under this section; and

"(ii) shall not award damages or issue an order requiring any admission, reinstatement, hiring, promotion, or payment, described in subparagraph (A).".

SEC. 5. FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 4 of this Act) is further amended by adding at the end the following new subsection:

"(l)(1)(A) Notwithstanding any other provision of law, and except as provided in paragraph (3), an employment practice that implements and is within the scope of a litigated or consent judgment or order that resolves a claim of employment discrimination under the Constitution or Federal civil rights laws may not be challenged under the circumstances described in subparagraph (B).

"(B) A practice described in subparagraph (A) may not be challenged in a claim under the Constitution or Federal civil rights laws—

"(i) by a person who, prior to the entry of the judgment or order described in subparagraph (A), had—

"(I) actual notice of the proposed judgment or order sufficient to apprise such person that such judgment or order might adversely affect the interests and legal rights of such person and that an opportunity was available to present objections to such judgment or order by a future date certain; and

"(II) a reasonable opportunity to present objections to such judgment or order; or

"(ii) by a person whose interests were adequately represented by another person who had previously challenged the judgment or order on the same legal grounds and with a similar factual situation, unless there has been an intervening change in law or fact.

"(2) Nothing in this subsection shall be construed to—

"(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure or apply to the rights of parties who have successfully intervened pursuant to such rule in the proceeding in which the parties intervened;

"(B) apply to the rights of parties to the action in which the litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal Government;

"(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction; or

"(D) authorize or permit the denial to any person of the due process of law required by the Constitution.

(3) Any action not precluded under this subsection that challenges an employment consent judgment or order described in paragraph (1) shall be brought in the court, and if possible before the judge, that entered such judgment or order. Nothing in this subsection shall preclude a transfer of such action pursuant to section 1404 of title 28, United States Code.".

SEC. 6. DEFINITIONS.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end the following new subsections:

"(l) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) The term 'demonstrates' means to meet the burden of production and persuasion.

"(n) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining program, including an on-the-job training program, or Federal entity subject to section 717.".

SEC. 7. EXPANSION OF RIGHT TO CHALLENGE DISCRIMINATORY SENIORITY SYSTEMS.

Section 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)) is amended—

(1) by inserting "(1)" before "A charge under this section"; and

(2) by adding at the end the following new paragraph:

"(2) For purposes of this section, an unlawful employment practice occurs when—

"(A) a seniority system is adopted, an individual becomes subject to a seniority system, or a person aggrieved is injured by the application of a seniority system or provision of the system; and

"(B) the system has been adopted for an intentionally discriminatory purpose, in violation of this title, whether or not that discriminatory purpose is apparent on the face of the seniority provision.".

SEC. 8. AUTHORIZING AWARD OF EXPERT FEES.

Section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)) is amended by inserting "(including expert fees)" after "attorney's fee".

SEC. 9. PROVIDING FOR INTEREST AND EXTENDING THE STATUTE OF LIMITATIONS IN ACTIONS AGAINST THE FEDERAL GOVERNMENT.

Section 717 of the Civil Rights Act of 1964 (42 12 U.S.C. 2000e-16) is amended—

(1) in subsection (c), by striking "thirty days" and inserting "90 days"; and

(2) in subsection (d), by inserting before the period ", and the same interest to compensate for delay in payment shall be available as in cases involving nonpublic parties.".

SEC. 10. NOTICE OF LIMITATIONS PERIOD UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.

Section 7(e)(2) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(e)(2)) is amended to read as follows:

"(2) If a charge filed with the Commission is dismissed or the proceedings of the Commission are otherwise terminated by the Commission, the Commission shall notify the individual referred to in subsection (d). The individual may bring an action against the respondent named in the charge not earlier than 60 days after the date on which the charge was timely filed and not later than 90 days after the date of the receipt of the notice.".

SEC. 11. PROTECTION OF EXTRATERRITORIAL EMPLOYMENT.

(a) DEFINITION OF EMPLOYEE.—Section 701(f) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(f)) is amended by adding at the end the following: "With respect to employment in a foreign country, such term includes an individual who is a citizen of the United States.".

(b) EXEMPTION.—Section 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-1) is amended—

(1) by inserting "(a)" after "SEC. 702.", and

(2) by adding at the end the following:

"(b) It shall not be unlawful under Section 703 or 704 for an employer (or a corporation controlled by an employer), labor organization, employment agency, or joint management committee controlling apprenticeship or other training or retraining (including on-the-job training programs) to take any action otherwise prohibited by such section, with respect to an employee in a workplace in a foreign country if compliance with such section would cause such employer (or such corporation), such organization, such agency, or such committee to violate the law of the foreign country in which such workplace is located.

"(c)(1) If an employer controls a corporation whose place of incorporation is a foreign country, any practice prohibited by Section 703 or 704 engaged in by such corporation shall be presumed to be engaged in by such employer.

"(2) Section 703 and 704 shall not apply with respect to the foreign operations of an employer that is a foreign person not controlled by an American employer.

"(3) For purposes of this subsection, the determination of whether an employer controls a corporation shall be based on—

"(A) the interrelation of operations;

"(B) the common management;

"(C) the centralized control of labor relations; and

"(D) the common ownership or financial control; of the employer of the corporation.".

(d) APPLICATION OF AMENDMENTS.—The amendments made by this section shall not apply with respect to conduct occurring before the date of the enactment of this Act.

SEC. 12. EDUCATION AND OUTREACH.

Section 705(h) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4(h)) is amended—

(1) by inserting "(1)" after "(h)"; and

(2) by adding at the end the following new paragraph:

"(2) In exercising its powers under this title, the Commission shall carry out educational and outreach activities (including dissemination of information in languages other than English) targeted to—

"(A) individuals who historically have been victims of employment discrimination and have not been equitably served by the Commission; and

"(B) individuals on whose behalf the Commission has authority to enforce any other law prohibiting employment discrimination; concerning rights and obligations under this title or such law, as the case may be.

SEC. 13. LAWFUL COURT-ORDERED REMEDIES, AFFIRMATIVE ACTION, AND CONCILIATION AGREEMENTS NOT AFFECTED.

Nothing in the amendments made by this Act shall be construed to affect court-ordered remedies, affirmative action, or conciliation agreements that are in accordance with the law.

SEC. 14. COVERAGE OF CONGRESS AND THE AGENCIES OF THE LEGISLATIVE BRANCH.

(a) COVERAGE OF THE SENATE.—

(1) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to section 1977 of the Revised Statutes (42 U.S.C. 1981), and the amendments made by this Act, subject to paragraphs (2) through (5), apply with respect to any employee in an employment position in the Senate and any employing authority of the Senate.

(2) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment pursuant to the provisions described in paragraph (1) shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(3) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the provisions described in paragraph (1).

(4) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the provisions described in paragraph (1), the Select Committee on Ethics, or such other entity as the Senate may designate, shall to the extent practicable apply the same remedies applicable to all other employees covered by the provisions described in paragraph (1). Such remedies shall apply exclusively.

(5) EXERCISE OF RULEMAKING POWER.—Notwithstanding any other provision of law, enforcement and adjudication of the rights and protections referred to in paragraph (1) shall be within the exclusive jurisdiction of the United States Senate. The provisions of paragraphs (2), (3), and (4) are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

(b) COVERAGE OF THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the purposes of this Act shall, subject to paragraph (2), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(2) EMPLOYMENT IN THE HOUSE.—

(A) APPLICATION.—The rights and protections under title VII of the Civil Rights Act of 1964 (42 U.S.C.; 2000e et seq.), the Age Discrimination in Employment Act of 1967 (42 U.S.C. 621 et seq.), section 1977 of the Revised Statutes, this Act, and the amendments made by this Act shall, subject to subparagraph (D), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(B) ADMINISTRATION.—

(i) IN GENERAL.—In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively.

(ii) RESOLUTION.—The resolution referred to in clause (i) is House Resolution 15 of the One Hundred First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(C) EXERCISE OF RULEMAKING POWER.—The provisions of subparagraph (B) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(c) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, section 1977 of the Revised Statutes, this Act, and the amendments made by this Act, shall, subject to paragraphs (2) and (5) apply with respect to any employee in an employment position in an instrumentality of the Congress and any chief official of such an instrumentality.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

(4) DEFINITION OF INSTRUMENTALITIES.—For purposes of this section, instrumentalities of the Congress include the Architect of the Capitol, the Congressional Budget Office, the General Accounting Office, the Government Printing Office, the Office of Technology Assessment, and the United States Botanic Garden.

(5) CONSTRUCTION.—Nothing in this section shall alter the enforcement procedures for individuals protected under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) or section 15 of the Age Discrimination in Employment Act of 1967 (42 U.S.C. 633a).

SEC. 15. ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, mini-trials, and arbitration, is encouraged to resolve disputes arising under the the Acts amended by this Act.

SEC. 16. EFFECTIVE DATE.

IN GENERAL.—This Act and the amendments made by this Act shall take effect upon enactment.

SEC. 17. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected.

S. 1408

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Equal Employment Opportunity Act of 1991".

SEC. 2. FINDING AND PURPOSES.

(a) FINDING.—Congress finds that the decision of the Supreme Court in Wards Cove Packing Co. v. Atonio, 109 S. Ct. 2115 (1989) has weakened the scope and effectiveness of Federal civil rights protections.

(b) PURPOSES.—The purposes of this Act are—

(1) to overrule the proof burdens and meaning of business necessity in Wards Cove Packing Co. v. Atonio and to codify the proof burdens and the meaning of business necessity used in Griggs v. Duke Power Co., 401 U.S. 424 (1971); and

(2) to confirm statutory authority and provide statutory guidelines for the adjudication of disparate impact suits under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.).

SEC. 3. BURDEN OF PROOF IN DISPARATE IMPACT CASES.

IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end the following new subsection:

"(k)(1)(A) An unlawful employment practice based on disparate impact is established under this title only if—

"(i) a complaining party demonstrates that a particular employment practice or particular employment practices (or decision-making process as described in (B)(i)) cause a disparate impact on the basis of race, color, religion, sex, or national origin; and

"(ii)(I) the respondent fails to demonstrate that the practice or practices are required by business necessity; or

"(II) the complaining party makes the demonstration described in subparagraph (C) with respect to a different employment practice and the respondent refuses to adopt such alternative employment practices.

"(B)(i) With respect to demonstrating that a particular employment practice or particular employment practices cause a disparate impact as described in subsection (A)(i), the complaining party shall demonstrate that the particular employment practice causes in whole or in significant part the disparate impact, except that if the complaining party can demonstrate to the court that the elements of a respondent's decision-making process are not capable of separation for analysis, the decision-making process may be analyzed as one employment practice.

"(ii) If the respondent demonstrates that a specific employment practice is not responsible in whole or in significant part for the disparate impact, the respondent shall not be required to demonstrate that such practice is required by business necessity.

"(C) An employment practice which causes in whole or in significant part a disparate impact that is demonstrated to be required by business necessity shall be unlawful if the complaining party demonstrates that a different available employment practice, which would have less disparate impact and make a difference in the disparate impact that is more than negligible, would serve the respondent's legitimate interests as well and the respondent refuses to adopt such alternative employment practice.

"(2) A demonstration that an employment practice is required by business necessity may not be used as a defense against a claim of intentional discrimination under this title.

"(3) Notwithstanding any other provision of this title, a rule barring the employment of an individual who currently and knowingly uses or possesses an illegal drug as defined in schedules I and II of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act or any other provision of Federal law, shall be considered an unlawful employment practice under this title only if such rule is adopted or applied with an intent to discriminate because of race, color, religion, sex, or national origin.

SEC. 4. PROHIBITION AGAINST DISCRIMINATORY USE OF TEST SCORES.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 3) is further amended by adding at the end the following new subsection:

"(l) It shall be an unlawful employment practice for a respondent, in connection with the selection or referral of applicants or candidates for employment or promotion, to adjust the scores of, use different cutoff scores for, or otherwise alter the results of, employment related tests on the basis of race, color, religion, sex or national origin.

SEC. 5. DEFINITIONS.

IN GENERAL.—Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end the following new subsections:

"(l) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) The term 'demonstrates' means meets the burdens of production and persuasion.

"(n) The term 'required by business necessity' means—

"(1) in the case of employment practices that are used as job qualifications or used to measure the ability to perform the job, the challenged practice must bear a manifest relationship to the employment in question.

"(2) in the case of employment practices not described in (1) above, the challenged practice must bear a manifest relationship to a legitimate business objective of the employer.

"(o) The term 'employment in question' means—

"(1) the performance of actual work activities required by the employer for a job or class of jobs; or

"(2) any requirement related to behavior that is important to the job, but may not comprise actual work activities.

"(p) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining program, including an on-the-job training program, or Federal entity subject to section 717.".

SEC. 6 COVERAGE OF CONGRESS AND THE AGENCIES OF THE LEGISLATIVE BRANCH.

(a) COVERAGE OF THE SENATE.—

(1) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to the amendments made by this Act shall, subject to paragraphs (2) through (5), apply with respect to any employee in an employment position in the Senate and any employing authority of the Senate.

(2) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment pursuant to the provisions described in paragraph (1) shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(3) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the provisions described in Paragraph (1).

(4) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the provisions described in paragraph (1), the Select Committee on Ethics, or such other entity as the Senate may designate, shall to the extent practicable apply the same remedies applicable to all other employees covered by the provisions described in paragraph (1). Such remedies shall apply exclusively.

(5) EXERCISE OF RULEMAKING POWER.—Notwithstanding any other provision of law, enforcement and adjudication of the rights and protections referred to in paragraph (1) shall be within the exclusive jurisdiction of the United States Senate. The provisions of paragraphs (2), (3), and (4) are enacted by the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

(b) COVERAGE OF THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the purposes of this Act shall, subject to paragraph (2), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(2) EMPLOYMENT IN THE HOUSE.—

(A) APPLICATION.—The rights and protections under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) and the amendments made by this Act shall, subject to subparagraph (B), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(B) ADMINISTRATION.—

(i) IN GENERAL.—In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively.

(ii) RESOLUTION.—The resolution referred to in clause (i) is House Resolution 15 of the One Hundred First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(C) EXERCISE OF RULEMAKING POWER.—The provisions of subparagraph (B) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(c) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under title VII of the Civil Rights Act of 1964 and the amendments made by this Act shall, subject to paragraphs (2) and (5), apply with respect to the Act shall, subject to paragraphs (2) and (5), apply with respect to any employee in an employment position in an instrumentality of the Congress and any chief official of such an instrumentality.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The chief official of each instrumentality of Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

"(4) DEFINITION OF INSTRUMENTALITIES.—For purposes of this section, instrumentalities of the Congress include the Congressional Budget Office, the General Accounting Office, and the Office of Technology Assessment.

"(5) CONSTRUCTION.—Nothing in this section shall alter the enforcement procedures for individuals protected under section 727 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16).

S. 1409

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights and Remedies Act of 1991."

SEC. 2. FINDING AND PURPOSE.

(a) FINDING.—Congress finds that additional remedies under Federal law are needed to deter unlawful harassment and intentional discrimination in the workplace.

(b) PURPOSE.—The purpose of this Act is to provide appropriate remedies for intentional discrimination and unlawful harassment in the workplace.

SEC. 3. DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION.

The Revised Statutes are amended by inserting after section 1977 the following new section:

"SEC. 1977A. DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION IN EMPLOYMENT.

"(a) RIGHT OF RECOVERY.—

"(1) CIVIL RIGHTS.—In an action brought by a complaining party under section 706 of the Civil Rights Act of 1964 (42 USC 2000e–5(e)) against a respondent who intentionally engaged in an unlawful employment practice prohibited under section 703 and 704 of the Act (42 U.S.C. 2000e–2, 2000e–3), and provided that the complaining party cannot recover under section 1977 of the Revised Statutes (42 U.S.C. 1981), the complaining party may recover the compensatory and punitive damages as allowed in subsection (b), in addition to any relief authorized by section 706(g) of the Civil Rights Act of 1964, from the respondent.

"(2) DISABILITY.—In an action brought by a complaining party under the powers, remedies, and procedures set forth in section 706 of the Civil Rights Act of 1964 (as provided in section 107(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117(a))) against a respondent who intentionally engaged in a practice that constitutes discrimination under section 102 of the Act (42 U.S.C. 12112), other than discrimination described in subsection (b) paragraph (3)(A), or other than discrimination described in subsection (b) paragraph (6) (except for practices intended to screen out individuals with disabilities), against an individual, the complaining party may recover the compensatory and punitive damages as allowed in subsection (b), in addition to any relief authorized by section 706(g) of the Civil Rights Act of 1964, from the respondent.

"(3) REASONABLE ACCOMMODATION AND GOOD FAITH EFFORT.—In cases where a violation involves the provision of a reasonable accommodation pursuant to section 102(b)(5), damages may not be awarded where the covered entity demonstrates good faith efforts, in consultation with the person with the disability who has informed the covered entity that accommodation is needed, to identify and make a reasonable accommodation that would provide such individual with an equally effective opportunity and would not cause an undue hardship on the operation of the business.

"(b) COMPENSATORY AND PUNITIVE DAMAGES.—

(1) DETERMINATION OF PUNITIVE DAMAGES.—A complaining party may recover punitive damages under this subsection if the complaining party demonstrates that the respondent engaged in a discriminatory practice or discriminatory practices with malice or with reckless indifference to the federally protected rights of an aggrieved individual.

(2) EXCLUSIONS FROM COMPENSATORY DAMAGES.—Compensatory damages awarded under this section shall not include back pay, interest on back pay, or any other type of relief authorized under section 760(g) of Civil Rights Act of 1964.

(3) LIMITATIONS.—The sum of the amount of compensatory damages awarded under this section for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses, and the amount of punitive damages awarded under this section, shall not exceed—

(A) in the case of a respondent who has 100 or fewer employees in each of 20 or more calendar weeks in the current or preceding calendar year, $50,000;

(B) in the case of a respondent who has more than 100 and fewer than 501 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $100,000; and

(C) in the case of a respondent who has more than 500 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $300,000.

(4) CONSTRUCTION.—Nothing in the amendments made by this section shall be construed to limit the scope of, or the relief available under, section 1977 of the Revised Statutes (42 U.S.C. 1981).

"(c) JURY TRIAL.—

"(1) IN GENERAL.—(A) If a complaining party seeks compensatory or punitive damages under this section, any party may demand a trial by jury.

(B) The court shall not inform the jury of the limitations described in subsection (b)(3).

"(d) DEFINITION.—As used in this section:

"(1) COMPLAINING PARTY.—The term 'complaining party' means—

"(A) in the case of a person seeking to bring an action under subsection (a)(1), a person who may bring an action or proceeding under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); or

"(B) in the case of a person seeking to bring an action under subsection (a)(2), a person who may bring an action or proceeding under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

"(2) DISCRIMINATORY PRACTICE.—The term 'discriminatory practice' means a practice described in paragraph (1) or (2) of subsection (a).".

SEC. 4. ATTORNEYS' FEES.

The last sentence of Section 722 of the Revised Statutes (42 U.S.C. 1988) is amended by inserting ", 1981A" after "1981".

SEC. 5. COVERAGE OF CONGRESS AND THE AGENCIES OF THE LEGISLATIVE BRANCH.

(a) COVERAGE OF THE SENATE.—

(1) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to the amendment made by this Act shall, subject to paragraphs (2) through (5), apply with respect to any employee in an employment position in the Senate and any employing authority of the Senate.

(2) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment pursuant to the provision described in paragraph (1) shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entitiy as the Senate may designate.

(3) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the provisions described in paragraph (1).

(4) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the provisions described in paragraph (1), the Select Committee on Ethics, or such other entity as the Senate may designate, shall to the extent practicable apply the same remedies applicable to all other employees covered by the provisions described in paragraph (1). Such remedies shall apply exclusively.

(5) EXERCISE OF RULEMAKING POWER.—Notwithstanding any other provision of the law, enforcement and adjudication of the rights and protections referred to in paragraph (1) shall be within the exclusive jurisdiction of the United States Senate. The provisions of paragraphs (2), (3), and (4) are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

(b) COVERAGE OF THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the purposes of this Act shall, subject to paragraph (2), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(2) EMPLOYMENT IN THE HOUSE.—

(A) APPLICATION.—The rights and protections under the amendment made by this Act shall, subject to subparagraph (B), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(B) ADMINISTRATION.—

(i) IN GENERAL.—In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively.

(ii) RESOLUTION.—The resolution referred to in clause (i) is House Resolution 15 of the One Hundred First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(C) EXERCISE OF RULEMAKING POWER.—The provisions of subparagraph (B) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(c) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under the amendment made by this Act, shall, subject to paragraph (2), apply with respect to any employee in an employ-

ment position in an instrumentality of the Congress and any chief official of such an instrumentality.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

(4) DEFINITION OF INSTRUMENTALITIES.—For purposes of this section, instrumentalities of the Congress include the Architect of the Capitol, the Congressional Budget Office, the General Accounting Office, the Government Printing Office, the Office of Technology Assessment, and the United States Botanic Garden.

SEC. 6. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected.

Mr. BIDEN. Mr. President, I do not want to damage his standing and reputation, but I think the Senator from Missouri has demonstrated once again, as he has a number of times on this floor, that this body is in fact made up of people of character, significant character, men and women who have come to this body to legislate, to solve problems, and not to politic. Although all of us are capable at times, and out of necessity believe it is important to push for partisan advantage in order to accomplish substantive results, I must say that the comments just made by the Senator from Missouri—and I heard them only as I sat in the cloakroom trying to work out the final stages of this crime bill—demonstrate to me what all of us know; that in JACK DANFORTH, there is a man of character. I am proud to serve in the Senate with him. I do not have any idea what the substance of his legislation is. I have no idea whether I will support it or not support it. I have not read it. But I know one thing, I am proud to serve in a body with men like JACK DANFORTH.

Mr. DURENBERGER. Mr. President, I rise to thank my colleague from Delaware for his comments and to say I certainly share those comments. I have come to the floor to congratulate my colleague, Senator JACK DANFORTH of Missouri, for his very special, commendable—I probably cannot find enough appropriate superlatives—for the effort he has put forth in mediating the civil rights dialog between the administration, civil rights groups, the business interests, and the Senate Democratic leadership. It seems to me there can be no doubt that all America hopes and prays there will be a successful resolution of what has become an incredibly divisive issue.

In the Congress, we do not approach civil rights in this session on a very clean slate. As all of us know, the civil rights bill was highly controversial last year. Some politicians, for political gain, sought to exploit racial animus—and I accent, as my colleague from Missouri did, racial animus—by raising questions about the legitimacy of the previous civil rights efforts. Tensions were high, and America focused on "quotas," on "affirmative action," and on whether our society has become sufficiently progressive that racial preferences favoring minorities are no longer necessary, and even the suggestion that perhaps they have become more harmful than helpful.

This Senator remains a steadfast supporter of civil rights, despite the efforts of those who have attempted to use the quota issue to divide America. My own record on civil rights has been beyond reproach, I would say. As a principle cosponsor of Americans With Disabilities Act last year and a strong supporter of such civil rights initiatives as the Voting Rights Act and The Civil Rights Restoration Act that overturned the Grove City decision, there can be no doubt that this Senator remains devoted to the cause of equality and equal opportunity for all Americans regardless of race, sex, national origin, or religion.

That is why I supported the civil rights bill last year. In fact, I believe so strongly in civil rights that I even voted to override my own President's veto of the bill.

This year we have been presented with an opportunity to resolve that civil rights issue. Senator DANFORTH introduced legislation just 3 weeks ago that provides meaningful relief to victims of discrimination, that overturns various harmful Supreme Court decisions such as Lorance versus AT&T, Martin versus Wilks, Patterson versus McLean Credit Union, and that promises to provide the definitive compromise bill that avoids quotas.

Along with eight other Republicans, I am a cosponsor of that legislation. After Senator DANFORTH introduced our proposal, our staffs became enmeshed in marathon discussions with all the interested parties. Specifically, we spent over 10 hours with the Justice Department and administration officials in order to deal with their concerns with the Danforth bill. These occasionally tortuous discussions helped to focus the issues and to increase our depth of understanding of the administration's position.

Further, we were in constant contact with civil rights groups as well as with various Democratic leaders because we believed that their problems deserved strong consideration, too.

Through the past 3 weeks, we all shared JACK DANFORTH'S commitment to play a mediating role in this process. I analogize his role as that of midwife, attempting to coax a yet-to-be-born child into this new world. The midwife cannot make the birth happen, but clearly that person can facilitate the birth, wait with outstretched arms, positioning the child during the birth process in anticipation of a wonderful event.

Our goal remains to position this civil rights bill in such a way that the President of the United States will sign it, to position it in such a way that the Democrats will support it. In order to achieve that goal the cosponsors of the Danforth bill made several modifications, as he has indicated earlier on the floor. In significant ways we altered our original proposal to accommodate the White House.

Clearly, when Senator DANFORTH first introduced our proposal, we were merely in a state of false childbirth. We thought the mother was having contractions, but it turned out the birth would not occur very soon, and 3 weeks passed. During that time, changes were made to the bill. To name just a few examples, there were changes in the formulation of the prima facie case for disparate impact cases, where plaintiffs challenge neutral practices that adversely affect minority groups. Originally, we said that the challenged practice must be "responsible in whole or in significant part" for the disparate impact. But the administration insisted on the term "causes" rather than "is responsible" because they were concerned that our phrase might mean that the challenge practice "merely contributed to" the disparate impact rather than serving as the proximate cause of the disparate impact.

Further, the administration has said from the beginning that they wanted to return to the legal standard employers use to defend disparate impact suits that the Supreme Court enunciated in its seminal decision, Griggs versus Duke Power. In that case, the Supreme Court stated that employers may defend practices that adversely affect minority groups by showing that the challenged practice bears a "manifest relationship to the employment in question."

Mr. President, the Danforth cosponsors agreed to that language. In the most controversial section of this entire bill, we so-called moderate Republicans have conceded that the business necessity definition that the administration has stated that it wanted for 18 months, is acceptable. Again, we experienced once more the hope that we could coax the birth of a civil rights bill.

But now we are faced with a new twist. Suddenly, the language of Griggs is no longer acceptable. Why not? How come the language which captures the intent of which the Attorney General desires suddenly does not meet with White House approval? How could we be so close and yet so far? The administration has told us that the language would be acceptable if we omit reference to qualifications in our bill. The White House believes that employers should not have to justify their employment practices that measure qualifications by showing that they bear a manifest relationship to the employment in question.

Mr. President, it is clear, even to the nonlawyer, that the term "qualifications" is exactly what the Griggs case was all about. Griggs dealt with a high school diploma requirement that an employer utilized as a qualification for employment. Omission of that term certainly would overturn rather than modify the Griggs case.

So, Mr. President, we are left once again as a midwife, attempting to coax a civil rights bill through the mother of all controversies. Once again, we have come within a hair's breadth of reaching an agreement that all parties should find acceptable. I remain concerned that this newborn will be a breach birth, where there is a particular danger that the child will be choked by its own umbilical cord. JACK DANFORTH has done all that he can. JACK DANFORTH has delivered a civil rights bill that no parties completely love, but all parties should be able to accept.

We know that after conception, as parents, we cannot choose a child's hair color, height, or sex. There are some things that parents have to accept, even if they had their heart set on having a son and then become parents of a baby girl. Shortly after birth, however, all parents realize what a blessing a newborn child is, whether male or female. Similarly, in this case, I came here today to urge all parties to realize that the civil rights bill that the so-called moderate Republicans have tried to deliver and that the Senator from Missouri has laid at the desk this afternoon is clearly a bill that will make everyone proud.

Mr. President, I urge the White House, the Democrats, the business community, and the civil rights groups, to respond favorably to the Danforth proposal.

Mr. BOREN. Mr. President, over the last several days, or many hours, it has been my privilege to have conversations and attend meetings with the distinguished Senator from Missouri [Mr. DANFORTH], with regard to an effort to work out a bipartisan consensus on the civil rights bill that will soon be pending before the Senate. These discussions have involved not only Members of the Democratic and Republican parties in the U.S. Senate, they have also involved members of the administration and members of the White House staff in a effort to come together to find a consensus approach toward civil rights legislation.

Mr. President, when an individual Senator undertakes a negotiation like this, as Senator DANFORTH has undertaken, it is an undertaking that carries with it grave political risks, on an issue as controversial and divisive, potentially, as this proposed civil rights legislation is.

It is much easier for a Senator to stay in the background, to stay out of the line of fire, to keep his or her head down and to not be noticed, to not commit himself or herself to a particular course of action or behavior until it becomes absolutely necessary to cast a vote on a particular matter of legislative policy that is before us.

Unfortunately for the public policy of this country, too many of us often follow this course of least resistance and least political risk. That is not what is good for the country. We all have a responsibility to try to do what is best for our country to try to find the right policy answers. And on an issue of this importance and this magnitude, it is particularly important that we try to speak with a single voice as Americans; that rather than having equality of opportunity be an issue which divides us along party lines, or lines defined by sex, or race, or national origin, or religion, or physical condition, we need to share, as Americans, one common feeling and one common commitment that this should be a country, and this should be a legal and political system, and this should be a community in which all of us have equal standing as Americans without regard to any other defining characteristic. And each of us, men and women, those with physical disabilities and those with no physical disabilities, those of one religion and those of another, those of one race and those of another race, and have an equal opportunity to participate as full members of that family.

There are many signs of growing division in our country. Some refer to it as Balkanization. Some have referred to it as tribalization of our country. More and more factors that drive wedges between us and divide us at a time when we face a changing world, the need to come together to improve our educational system, to deal with our underlying social problems, to improve our economic productivity in a way that will restore and keep the strength of this country as we go into the next century.

And so, Mr. President, this is a time in which we need to come together as one American family caring for each other, understanding each other, and respecting each other, not divided from each other. It is a time in which our political leadership needs to be appealing to our best instincts and not appealing to our worst instincts, appealing to those parts of our personalities and being that bring us together and not appealing to those elements of prejudice in our being that would drive us apart.

Mr. President, for us to have a divisive debate on civil rights legislation in this Chamber, to have one group pitted against another on two sides of a proposal before us, to have it perhaps injected as an issue into the next Presidential campaign is bad for America. It is not only bad politics, it is, more important, bad for America, bad for this country. It can further divide this country along racial, religious, and ethnic lines. It is a divisive debate that in this deliberative body, which is used to debate, it really should have no place right now. It is a debate that we do not need to have. It is a debate that we should not have in this country.

Instead, we should seek to find ways to accommodate each other, to come together, to work out a proposal that protects the rights of all Americans and equal opportunity for employment, to be a productive part of the society, to have our work performance and our professional performance judged on the merits and on no other characteristics, while at the same time not imposing any artificial structure, any quotas, any kind of rigid straitjacket that would, indeed, instead of providing equal opportunity bear the mark of a preference for one group over another, further dividing us, further causing resentments.

Mr. President, that is why the Senator from Missouri, Senator DANFORTH, with all the political risks, decided to step forward and to try to be an intermediary between the White House and the Congress on this important issue of civil rights legislation, and between both sides of the aisle, and different philosophical perspectives on civil rights legislation that will soon be before us.

By taking that stance, Mr. President, he took on a very thankless task. When you stick your head up and you try to fashion a compromise of that kind in a moderate and a reasonable way to bring people together instead of using the rhetoric that inflames passions and divides people apart, you take on a risk, and you almost assure yourself that you will be criticized and misjudged by those especially who are taking the polar position on each side of the issue. When you seek common ground you usually end up angering people on both sides of the issue in what has been a divisive debate.

I have been dismayed when I have heard those on both sides of this issue, even some of it perhaps coming from the White House itself and from some sources there—I am not implying to the President himself, but some who work in that building criticize—and trying to pick apart, and trying to question what the Senator from Missouri has been doing.

I think it is important that those of us who are here and are called upon to be responsible, whether we agree with the Senator from Missouri on every point or not—and I do not know yet whether I fully agree with the piece of legislation that the Senator has introduced today in regard to civil rights. I cannot say at this time whether I will vote for or against this proposal, but I know one thing, Mr. President, I have immense respect for the process which he has followed. I have immense respect for the Senator from Missouri for having the political courage and the devotion to this country to say, "I'll step forward. I'll take on the task that no one else wants of trying to find a consensus and come to a common agreement on civil rights legislation for this country. I will step forward," he said, and try to find a way to pull us together when there are those on both sides of the issue who might find it politically beneficial to find a way to drive us apart in this country.

Too often, and we have seen it in situation after situation, those who take the reasonable middle ground, those who work to bring people together, are ground up by the extremists on both sides. Those who are fighting for unity and community are often punished by those who would want to divide us.

I think all of us should reflect upon the integrity and the courage of the Senator from Missouri. And let me say I think that our colleagues on both sides of the aisle, whether they vote like the Senator from Missouri, whether they agree with the Senator from Missouri on this issue or other issues, would say both publicly and privately that he is one of the Members of the Senate in whose integrity we have total confidence, whose character we respect and admire. Time and time again I have heard my colleagues privately express, not just on this issue but on many issues, their admiration for the example of character and integrity which he sets as a public official in this country.

Mr. President, I do not know the outcome yet of what will happen in the civil rights debate. I do not know whether the Danforth proposal will pass or whether it will fail. I do not even know at this point how I will end up voting on this proposal. But I know one thing, Mr. President; his efforts deserve to be saluted by all of us. His efforts to find a common ground, his efforts to bring us together, his efforts to keep this country from undergoing a divisive debate over the issue of equal opportunity for all of our citizens deserve to be commended by all of us. They should stand as an example to all of us to have the same kind of courage, when faced with an issue in which we might have special understanding or expertise, to come forward and assume a similar role.

What is wrong with this country is not that we have too many JACK DANFORTH's, too many moderate, reasonable people who are trying to find ways to bring us together instead of to divide us. What is wrong with this country is we do not have enough people in either political party with the kind of courage that he has demonstrated, to try to bring us together on an issue of this importance, to step forward with a moderate, reasonable voice to try to find a common denominator.

Mr. President, I hope my colleagues, those on the floor and those who might be listening in their offices or those who might read my remarks later, will take the opportunity to say to Senator DANFORTH we appreciate the effort that he has made on behalf of the well-being of this country; we appreciate his efforts to stop a train in motion that might move forward to further divide this country at a time when we need unity; and to say to him that his example has not been lost on the rest of us, that hopefully it will call from the rest of us those same qualities and that same determination to make a difference in the right way, and to exercise the moral and political courage to step forward, to speak out, to make an effort and to be visible in a controversial issue of policy when it is necessary for the sake of this country.

So I express to Senator DANFORTH my personal appreciation and admiration for his efforts, and I express my hope that the kind of leadership and commitment he has shown on this issue will cause more colleagues on both sides of the aisle to follow a similar path of political courage and integrity and public service in the highest tradition of this body that he has demonstrated on this particular issue.

I thank the Chair.

By Mr. PRESSLER:

S. 1410. A bill relating to the rights of consumers in connection with telephone advertising; to the Committee on Commerce, Science, and Transportation.

TELEPHONE ADVERTISING CONSUMER RIGHTS ACT

Mr. PRESSLER. Mr. President, I am introducing the Telephone Advertising Consumer Rights Act, a bill that responds to the national outcry over the explosion of unsolicited telephone advertising. I am pleased to join this effort which was begun by Representative EDWARD J. MARKEY, the chairman of the House Telecommunications and Finance Subcommittee, who has shown real vision and leadership in this area.

The telemarketing industry has witnessed unprecedented success over the past 10 years. In fact, telemarketing sales skyrocketed to over $435 million in 1990. This is a fourfold increase since 1984. This marketing success has created an industry in which over 300,000 telemarketing solicitors call more than 18 million Americans every day. Many consumers and business owners, however, complain that these calls are not only an annoyance, but also can pose dangerous consequences.

The cost and the interference of unsolicited advertising calls has sparked the introduction of over 1,000 bills in State legislatures around the country seeking to limit this abuse. I am proud to say that my home State of South Dakota is at the forefront of this effort and has just passed one of the most comprehensive pieces of legislation dealing with telemarketing abuse. Congress needs to act now to provide uniform ground rules to protect consumers while ensuring that the telemarketing industry continues to be a vigorously active player in the U.S. economy.

The Telephone Advertising Consumer Rights Act directs the FCC to prescribe regulations to protect the privacy rights of consumers from the intrusion of unsolicited telephone marketing calls. One such proposal the FCC would consider, if this bill becomes law, is the use of a telephone electronic database that would allow consumers to have their phone numbers protected from unsolicited advertising. Another proposal the FCC would examine is the placement of all telemarketers on a single exchange, thus allowing consumers to block calls from that exchange. This bill would not end unsolicited calls, but it would allow consumers to choose how their phone is used and requires vendors to respect that consumer decision.

Due to advances in autodialer technology, machines can be programmed to deliver a prerecorded message to thousands of sequential phone numbers. This results in calls to hospitals, emergency care providers, unlisted numbers and paging and cellular equipment. There are many examples of autodial machines hitting hospital switchboards and sequentially delivering a recorded message to all phone lines. In some instances, the calling machine does not release the called party's line until the recorded message has ended. This renders the called party's phone inoperable. In an emergency situation, this can create a real hazard.

To remedy this situation, my bill requires autodialer machines to release the phone line after the called party hangs up. In addition, it requires all prerecorded messages to clearly identify the name, phone number or address of the person or business initiating the call. This bill also allows hospitals, police stations, fire stations, and owners of paging and cellular equipment to eliminate all unsolicited calls.

The growth of facsimile machines in the workplace has brought another form of unsolicited advertising—the junk fax. Unsolicited facsimile advertising ties up fax machines and uses the called party's fax paper. This costs the recipient both time and money. My bill requires that autodial fax machines clearly mark on all transmissions the date and time of transmission, the identity of the sender, and the telephone number of the sending machine.

My legislation provides uniform Federal guidelines to ensure that the telemarketing industry will continue to experience unprecedented growth. Responsible telemarketers welcome a single set of clear rules. This bill will not preempt any State law addressing this topic. Rather, it would assist States in their attempts to regulate intrastate telemarketing abuse.

I urge my colleagues to support and cosponsor this legislation. It can ensure a robust telemarketing industry while giving consumers the ability to choose how their telephones are used.

Mr. President, I ask unanimous consent to have the Telephone Advertising Consumer Rights Act printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1410

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telephone Advertising Consumer Rights Act".

SEC. 2. FINDINGS.

The Congress finds that:

(1) The use of the telephone to market goods and services to the home and other businesses is now pervasive due to the increased use of cost-effective telemarketing techniques.

(2) Over 30,000 businesses actively telemarket goods and services to business and residential customers.

(3) More than 300,000 solicitors call more than 18,000,000 Americans every day.

(4) Total United States sales generated through telemarketing amounted to $435,000,000,000 in 1990, a more than four-fold increase since 1984.

(5) Unrestricted telemarketing, however, can be an intrusive invasion of privacy and, when an emergency or medical assistance telephone line is seized, a risk to public safety.

(6) Many consumers are outraged over the proliferation of intrusive, nuisance calls to their homes from telemarketers.

(7) Over half the States now have statutes restricting various uses of the telephone for marketing, but telemarketers can evade their prohibitions through interstate operations; therefore, Federal law is needed to control residential telemarketing practices.

(8) The Constitution does not prohibit restrictions on commercial telemarketing solicitations.

(9) Individuals privacy rights, public safety interests, and commercial freedoms of speech and trade must be balanced in a way that protects the privacy of individuals and permits legitimate telemarketing practices.

SEC. 3. RESTRICTIONS ON THE USE OF TELEPHONE EQUIPMENT FOR ADVERTISING.

Title II of the Communications Act of 1934 is amended by inserting immediately after section 226 (47 U.S.C. 226) the following new section:

"SEC. 227. RESTRICTIONS ON THE USE OF TELEPHONE EQUIPMENT FOR ADVERTISING.

"(a) DEFINITIONS.—As used in this section:

"(1) The term 'automatic telephone dialing system' means equipment which has the capacity—

"(A) to store or produce telephone numbers to be called, using a random or sequential number generator;

"(B) to dial such numbers; and

"(C) to deliver, without initial live operator assistance, a prerecorded voice message to the number dialed, with or without manual assistance.

"(2) The term 'telephone facsimile machine' means equipment which has the capacity to do either or both of the following: (A) to transcribe text or images (or both) from paper into an electronic signal and to transmit that signal over a regular telephone line, or (B) to transcribe text or images (or both) from an electronic signal received over a regular telephone line onto paper.

"(3) The term 'telephone solicitation' means the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person (A) without that person's prior express invitation or permission, or (B) with whom the caller does not have an established business relationship. Such term does not include a call or message by a tax exempt nonprofit organization.

"(4) The term 'unsolicited advertisement' means any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person (A) without that person's prior express invitation or permission, or (B) with whom the caller does not have an established business relationship.

"(b) RESTRICTIONS.—It shall be unlawful for any person within the United States by means of telephone—

"(1) to make any telephone solicitation in violation of the regulations prescribed by the Commission pursuant to subsection (c);

"(2) to use, to make any telephone solicitation, any telephone facsimile machine or any automatic telephone dialing system that does not comply with the technical and procedural standards prescribed under subsection (d), or to use, to make any telephone solicitation, any telephone facsimile machine or automatic telephone dialing system in a manner that does not comply with such standards;

"(3) to use any telephone facsimile machine, computer, or other device to send an unsolicited advertisement in violation of any regulations prescribed by the Commission pursuant to subsection (e);

"(4) to use any automatic telephone dialing system to make unsolicited calls—

"(A) to any emergency telephone line or pager of any hospital, medical physician or service office, health care facility, or fire protection or law enforcement agency; or

"(B) to any telephone number assigned to paging, specialized mobile radio, or cellular telephone service; or

"(5) to use a computer or other electronic device to send an unsolicited advertisement via a telephone facsimile machine unless such person clearly marks, in a margin at the top or bottom of each transmitted page of the advertisement or on the first page of each transmission, the date and time it is sent, an identification of the business sending the advertisement, and the telephone number of the sending machine or of such business.

"(c) PROTECTION OF SUBSCRIBER PRIVACY RIGHTS.—

"(1) RULEMAKING PROCEEDING REQUIRED.—Within 120 days after the date of enactment of this section, the Commission shall initiate a rulemaking proceeding concerning the need to protect residential telephone subscribers' privacy rights to avoid receiving telephone solicitations to which they object. The proceeding shall—

"(A) compare and evaluate alternative methods and procedures (including the use of telephone network technologies) for protecting such privacy rights, in terms of their cost effectiveness and their other advantages and disadvantages;

"(B) evaluate the categories of public and private entities that would have the capacity to establish and administer such methods and procedures;

"(C) develop proposed regulations to implement the methods and procedures that the Commission determines are most effective and efficient to accomplish the purposes of this section.

"(2) REGULATIONS.—Not later than 240 days after the date of enactment of this section, the Commission shall conclude the rulemaking proceeding initiated under paragraph (1) and shall prescribe regulations to implement methods and procedures for protecting the privacy rights described in such paragraph in an efficient, effective, and economic manner and without the imposition of any additional charge to telephone subscribers.

"(3) USE OF DATABASE PERMITTED.—The regulations required by paragraph (2) may require the establishment and operation of a single national database to compile a list of telephone numbers of residential subscribers who object to receiving telephone solicitations, or to receiving certain classes or categories of telephone solicitations, and to make that compiled list available for purchase. If the Commission determines to require such a database, such regulations shall—

"(A) specify a method by which the Commission will select an entity to administer such database;

"(B) require each common carrier providing telephone exchange service, in accordance with regulations prescribed by the Commission, to inform subscribers for telephone exchange service of the opportunity to provide notification, in accordance with regulations established under this paragraph, that such subscriber objects to receiving telephone solicitations;

"(C) specify the methods by which each telephone subscriber shall be informed, by the common carrier that provides local exchange service to that subscriber, of (i) the subscriber's right to give or revoke a notification of an objection under subparagraph (A), and (ii) the methods by which such right may be exercised by the subscriber;

"(D) specify the methods by which such objections shall be collected and added to the database;

"(E) prohibit any residential subscriber from being charged for giving or revoking such notification or for being included in a database compiled under this section;

"(F) prohibit any person from making or transmitting a telephone solicitation to the telephone number of any subscriber included in such database;

"(G) specify (i) the methods by which any person desiring to make or transmit telephone solicitations will obtain access to the database, by area code or local exchange prefix, as required to avoid calling the telephone numbers of subscribers included in such database; and (ii) the costs to be recovered from such persons;

"(H) specify the methods for recovering, from persons accessing such database, the costs involved in notifying, collecting, updating, disseminating, and selling, and other activities relating to, the operations of the database that are incurred by the entities carrying out those activities;

"(I) specify the frequency with which such database will be updated and specify the method by which such updating will take effect for purposes of compliance with subsection (b);

"(J) be designed to enable and require States to use the database mechanism selected by the Commission for purposes of administering or enforcing State law;

"(K) prohibit the use of such database for any purpose other than compliance with the requirements of this section and any such State law and specify methods for protection of the privacy rights of persons whose numbers are included in such database; and

"(L) require each common carrier providing services to any person for the purpose of making telephone solicitations to notify such person of the requirements of this section and the regulations thereunder.

"(4) Considerations required for use of database method.—If the Commission determines to require the database mechanism described in paragraph (3), the Commission shall—

"(A) in developing procedures for gaining access to the database, consider the different needs of telemarketers conducting business on a national, regional, State, or local level;

"(B) develop a fee schedule or price structure for recouping the cost of such database that recognizes such differences and—

"(i) reflect the relative costs of providing a national, regional, State, or local list of phone numbers of subscribers who object to receiving telephone solicitations;

"(ii) reflect the relative costs of providing such lists on paper or electronic media; and

"(iii) not place an unreasonable financial burden on small businesses; and

"(C) consider (i) whether the needs of telemarketers operating on a local basis could be met through special markings of area white pages directories, and (ii) if such directories are needed as an adjunct to database lists prepared by area code and local exchange prefix.

"(d) TECHNICAL AND PROCEDURAL STANDARDS.—

"(1) TELEPHONE FACSIMILE MACHINES.—The Commission shall revise the regulations setting technical and procedural standards for telephone facsimile machines to require that any such machine which is manufactured after 6 months after the date of enactment of this section clearly marks, in a margin at the top or bottom of each transmitted page or on the first page of each transmission, the date and time sent, an identification of the business or other entity sending the advertisement, and the telephone number of the sending machine or of such business. The Commission shall exempt from such standards, for 12 months after such date of enactment, telephone facsimile machines that do not have the capacity for automatic dialing and transmission and that are not capable of operation through an interface with a computer.

"(2) AUTOMATIC TELEPHONE DIALING SYSTEMS.—The Commission shall prescribe technical and procedural standards for automatic telephone dialing systems that are used to transmit any prerecorded telephone solicitation. Such standards shall require that—

"(A) all prerecorded telephone messages (i) shall, at the beginning of the message, state clearly the identity of the business or other entity initiating the call, and (ii) shall, during or after the message, state clearly the telephone number or address of such business or other entity; and

"(B) such systems will, as soon as is technically practicable (given the limitations of the telephone exchange service facilities) after the called party hangs up, automatically create a disconnect signal or on-hook condition which allows the called party's line to be released.

"(e) CONSIDERATION OF FACSIMILE MACHINE RESTRICTIONS.—Within 120 days after the date of enactment of this section, the Commission shall initiate a rulemaking proceeding to prescribe rules to restrict the use of any telephone facsimile machine or computer or other electronic device to send any unsolicited advertisement to the telephone facsimile machine of any person. In establishing such restrictions, the Commission shall consider—

"(1) the extent to which unsolicited advertisements are transmitted through telephone facsimile machines;

"(2) the extent to which recipients of such advertisements incur costs for such receipt; and

"(3) the most cost effective methods of preventing advertising abuses with telephone facsimile machines.

"(f) STATE LAW NOT PREEMPTED.—Nothing in this section or in the regulations prescribed under this section shall preempt any State law that imposes more restrictive intrastate requirements or regulations on, or which prohibits, either or both of the following:

"(1) The use of telephone facsimile machines or other electronic devices to send unsolicited advertisements.

"(2) The use of automatic telephone dialing systems to transmit prerecorded telephone solicitations.

"(g) EFFECTIVE DATE OF REQUIREMENTS.—The requirements of this section shall take effect 30 days after the date that regulations are prescribed under subsection (c).".

SEC. 4. CONFORMING AMENDMENT.

Section 2(b) of the Communications Act of 1934 is amended by striking "Except as provided" and all that follows through "and subject to the provisions" and inserting "Except as provided in sections 223 through 227, inclusive, and subject to the provisions".

By Mr. DODD:

S. 1411. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for families, to establish child support assurance demonstration projects, to establish a National Commission on Family Strengths, and for other purposes; to the Committee on Finance.

MIDDLE-INCOME TAX RELIEF AND FAMILY PRESERVATION ACT

Mr. DODD. Mr. President, I rise today to introduce the Middle-Income Tax Relief and Family Preservation Act of 1991.

Throughout our history, Americans have shared a common goal—to make life better for our children than it was for us in our own time. It's a basic axiom which first bound us as a Nation of immigrants and which continues to define us as a Nation and a people. It's a common sense of purpose which makes us the people that we are—hard working, optimistic, and tolerant.

Today—for the first time in our history—America's working families can no longer count on a better life for their children. These families are not the very poor, nor are they the very rich. They are the millions of families who count themselves among that uniquely American institution: The middle class.

Caught in a squeeze between changing family demographics, stagnant income, and rising basic costs, families now question whether the American dream is beyond reach. They ask, Why can't we afford to buy a house? Where do we find affordable child care that is also safe? How can we afford to send our children to college? And finally, they ask, Why doesn't the Tax Code treat our family more fairly?

The economic pressures on working families are severe and getting worse. Incomes for middle-class families have been virtually stagnant, despite the entrance of millions of mothers into the labor force over the past decade. At the same time, rising costs have further pressed tight family budgets. In the past 20 years, median rents have risen from 21 to 29 percent of household income, and the cost of college from 25 to 31 percent of income.

As I travel around my home State of Connecticut, I see families caught in the same squeeze. They earn the Nation's highest median income, but must also endure extremely high basic consumer expenses. While housing costs increased by an average of 300 percent nationally from 1970 to 1990, Connecticut residents faced an average increase of 600 percent during that same period. The cost of child care in our State is 33 percent higher than the national average—$4,500 for preschoolers in Connecticut child care centers, as compared to $3,400 nationally.

I am equally disturbed by the extent to which Federal policies contribute to the economic squeeze for middle-income families. During the 1980's, the burden of Federal taxes shifted from the wealthy to the tired shoulders of the middle class. Between 1977 and 1990, the share of Federal taxes paid by the richest 1 percent of Americans decreased 15 percent, while they increased by almost 2 percent for middle-income taxpayers.

Working families have done their share in the workplace and through their tax payments. Now it's time they receive their fair share. It's time to correct the inequities of the past and to give families the economic tools they need to remain strong and to nurture their children. I believe very strongly that government cannot substitute for the family. But government can help families help themselves.

Today, I am introducing the Middle Income Tax Relief and Family Preservation Act of 1991. This proposal provides tax relief for middle income families by increasing the personal exemption by 50 percent for those in the 15 percent bracket and by 25 percent for those in the 28 percent bracket. To provide special help to families raising young children, the bill also converts the dependent exemption into a $800 tax credit for each child under age 5. To alleviate the high costs of college, my proposal restores the tax exclusion for income from scholarships and fellowships.

I am encouraged by the growing bipartisan consensus in support of tax relief for working families. Just this week the National Commission on Children recommended unanimously a $1,000 tax credit for each American child. This morning, the Subcommittee on Children, Family, Drugs and Alcoholism, which I chair, conducted a hearing on the economic squeeze on working families, the third in a series begun in January. There, Senator COATS, the ranking minority member of the subcommittee, spoke strongly in favor of an increase in the personal exemption, for which he has been pushing hard.

Tax reform alone cannot deal with the root cause of family dissolution which, in turn, exacerbates the external economic squeeze on working families. For example, we know that one-quarter of children today grow up in single-parent families and that these children are four times more likely to live in poverty than other children. The basic problem: Lack of adequate child support from absent parents. The proposal I am introducing today strengthens child support enforcement by the States and establishes assured child support demonstration projects for children whose absent parents cannot be found. Finally, the bill creates a National Commission on Family Strengths to look at questions associated with divorce and its impact on children, in an effort to understand how Federal and State policies can help to strengthen families.

Families are the most basic fabric of our society. Many argue that this fabric is tattered and shattered to the point of dysfunction. I disagree. American families remain resilient and loving, despite tremendous economic pressures and structural changes. This legislation responds to those pressures and changes, in order to better support and encourage families.

Mr. President, I ask uanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1411

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Middle Income Tax Relief and Family Preservation Act of 1991".

TITLE I—FAMILY TAX RELIEF

Subtitle A—Personal Exemption Amount

SEC. 101. INCREASE IN PERSONAL EXEMPTION AMOUNT.

(a) IN GENERAL.—Paragraph (1) of section 151(d) of the Internal Revenue Code of 1986 (defining exemption amount) is amended to read as follows:

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'exemption amount' means the sum of—

"(A) a regular exemption amount equal to $2,300, and

"(B) in the case of—

"(i) a 15-percent bracket taxpayer, an additional exemption amount equal to $1,150, or

"(ii) a 28-percent bracket taxpayer, an additional exemption amount equal to $575."

(b) DEFINITIONS.—Subsection (d) of section 151 of such Code is amended by adding at the end thereof the following new paragraph:

"(5) DEFINITIONS RELATING TO ADDITIONAL EXEMPTION AMOUNT.—For purposes of paragraph (1)—

"(A) 15-PERCENT BRACKET TAXPAYER.—The term '15-percent bracket taxpayer' means a taxpayer whose taxable income for the taxable year (determined without regard to the additional exemption amount) is subject to a rate of tax under section 1 not greater than 15 percent.

"(B) 28-PERCENT BRACKET TAXPAYER.—The term '28-percent bracket taxpayer' means a taxpayer whose taxable income for the taxable year (determined without regard to the additional exemption amount) is subject to a rate of tax under section 1 greater than 15 percent but not greater than 28 percent."

(c) CONFORMING AMENDMENTS.—Subparagraph (A) of section 151(d)(4) of such Code is amended—

(1) by striking "1989, the dollar amount" in the matter preceding clause (i) and inserting "1992, each dollar amount", and

(2) by striking "1988" in clause (ii) and inserting "1991".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

Subtitle B—Refundable Credit for Children

SEC. 111. REFUNDABLE CREDIT FOR CHILDREN.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. TAX CREDIT FOR CHILDREN.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to $800 multiplied by the number of qualified personal exemptions of the taxpayer for the taxable year.

"(b) QUALIFIED PERSONAL EXEMPTION.—For purposes of this section, the term 'qualified personal exemption' means any personal exemption which (but for section 151(d)(3)) would be allowed to the taxpayer under section 151 for a child of the taxpayer (as defined in section 151(c)) who has not attained age 5 at the close of the calendar year in which the taxable year of the taxpayer begins.

"(c) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1992, the dollar amount contained in subsection (a) shall be increased by an amount equal to—

"(1) such dollar amount, multiplied by

"(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins by substituting 'calendar year 1991' for 'calendar year 1989' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or if such increase is a multiple of $5, such increase shall be rounded to the next highest multiple of $10).

"(d) COORDINATION WITH MEANS-TESTED PROGRAMS.—Any refund made by reason of this section, and any payment made under section 7524, shall be treated in the same manner as refunds made by reason of section 32 and payments made under 3507 for purposes of—

"(1) sections 402, 1612, and 1613 of the Social Security Act and title XIX of such Act, and

"(2) the laws referred to in paragraphs (1) through (5) of section 32(j)."

(b) DENIAL OF DEDUCTION FOR PERSONAL EXEMPTIONS OF DEPENDENTS FOR WHICH CREDIT ALLOWED.—Section 151(d) of such Code, as amended by section 101, is further amended by adding at the end thereof the following new paragraph:

"(6) DENIAL OF DEDUCTION FOR PERSONAL EXEMPTIONS FOR WHICH CREDIT ALLOWED.—The exemption amount for any dependent with respect to which a credit under section 35 is allowed for the taxable year shall be zero."

(c) TECHNICAL AMENDMENT.—Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period "or from section 35 of such Code".

(d) CLERICAL AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the last item and inserting the following new items:

"Sec. 35. Tax credit for children.
"Sec. 36. Overpayments of tax."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 112. ADVANCE PAYMENTS OF CREDIT FOR CHILDREN.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7524. ADVANCE PAYMENTS OF CREDIT FOR CHILDREN.

"(a) GENERAL RULE.—The Secretary of the Treasury shall make advance payments of refunds to which eligible taxpayers are entitled by reason of section 35.

"(b) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means, with respect to any taxable year, any taxpayer if—

"(1) the taxpayer elects during the preceding taxable year to receive payments under this section during the taxable year,

"(2) the taxpayer furnishes, at such time and in such manner as the Secretary may prescribe, to the Secretary such information as the Secretary may require in order to—

"(A) determine whether the taxpayer will be entitled to a refund by reason of section 35 for the taxable year, and

"(B) estimate the amount of such refund, and

"(3) the Secretary determines that the taxpayer will be so entitled and the estimated amount of such refund (without regard to this section).

"(c) TIMING AND AMOUNT OF PAYMENTS.—

"(1) AGGREGATE PAYMENTS.—The aggregate payments made by the Secretary under this section to a taxpayer for the taxable year shall equal approximately 80 percent of the Secretary's estimate under subsection (b)(3).

"(2) QUARTERLY PAYMENTS.—The Secretary shall make the payments under this section on a quarterly basis in approximately equal amounts.

"(d) OTHER PROVISIONS.—

"(1) PROCEDURES TO ASSURE PAYMENTS TO INDIVIDUALS HAVING ADJUSTED GROSS INCOMES OF $12,000 OR LESS.—If a taxpayer has an adjusted gross income of $12,000 or less for any taxable year and the Secretary accepts a taxpayer's certification that he reasonably expects that his income tax return for the following taxable year will be substantially similar to his income tax return for the taxable year, the Secretary shall make all reasonable efforts to make payments under this section to such taxpayer for such following taxable year.

"(2) CHANGES IN ESTIMATED REFUND.—If, at any time, the Secretary changes his estimate under subsection (b)(3) for any taxable year, the Secretary may adjust subsequent payments under this section for such taxable year to reflect the new estimate.

"(3) COORDINATION OF PAYMENTS WITH CREDITS.—

"(A) IN GENERAL.—If any payment is made by the Secretary under this section to any taxpayer for a taxable year, then the taxpayer's tax imposed by chapter 1 for such taxable year shall be increased by the aggregate of such payments.

"(B) RECONCILIATION.—Any increase in tax under subparagraph (A) shall not be treated as a tax imposed by chapter 1 for purposes of determining the amount of any credit allowable under subpart C of part IV of subchapter A of chapter 1 other than the credit allowed by section 35."

(b) CLERICAL AMENDMENT.—The table of sections for such chapter 77 is amended by adding at the end thereof the following new item:

"Sec. 7524. Advance payments of credit for children."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

Subtitle C—Scholarships and Fellowships

SEC. 121. RESTORATION OF PRIOR LAW EXCLUSION FOR SCHOLARSHIPS AND FELLOWSHIPS.

(a) IN GENERAL.—Section 117 of the Internal Revenue Code of 1986 is amended to read as follows:

"SEC. 117. SCHOLARSHIPS AND FELLOWSHIP GRANTS.

"(a) GENERAL RULE.—In the case of an individual, gross income does not include—

"(1) any amount received—

"(A) as a scholarship at an educational organization described in section 170(b)(1)(A)(ii), or

"(B) as a fellowship grant,

including the value of contributed services and accommodations; and

"(2) any amount received to cover expenses for—

"(A) travel,

"(B) research,

"(C) clerical help, or

"(D) equipment,

which are incident to such a scholarship or to a fellowship grant, but only to the extent that the amount is so expended by the recipient.

"(b) LIMITATIONS.—

"(1) INDIVIDUALS WHO ARE CANDIDATES FOR DEGREES.—In the case of an individual who is a candidate for a degree at an educational organization described in section 170(b)(1)(A)(ii), subsection (a) shall not apply to that portion of any amount received which represents payment for teaching, research, or other services in the nature of part-time employment required as a condition to receiving the scholarship or the fellowship grant. If teaching, research, or other services are required of all candidates (whether or not recipients of scholarships or fellowship grants) for a particular degree as a condition to receiving such degree, such teaching, research, or other services shall not be regarded as part-time employment within the meaning of this paragraph.

"(2) INDIVIDUALS WHO ARE NOT CANDIDATES FOR DEGREES.—In the case of an individual who is not a candidate for a degree at an educational organization described in section 170(b)(1)(A)(ii), subsection (a) shall apply only if the condition in subparagraph (A) is satisfied and then only within the limitations provided in subparagraph (B).

"(A) CONDITIONS FOR EXCLUSION.—The grantor of the scholarship or fellowship grant is—

"(i) an organization described in section 501(c)(3) which is exempt from tax under section 501(a),

"(ii) a foreign government,

"(iii) an international organization, or a binational or multinational educational and cultural foundation or commission created or continued pursuant to the Mutual Educational and Cultural Exchange Act of 1961, or

"(iv) the United States, or an instrumentality or agency thereof, or a State, or a possession of the United States, or any political subdivision thereof, or the District of Columbia.

"(B) EXTENT OF EXCLUSION.—The amount of the scholarship or fellowship grant excluded under subsection (a)(1) in any taxable year shall be limited to an amount equal to $300 times the number of months for which the recipient received amounts under the scholarship or fellowship grant during such taxable year, except that no exclusion shall be allowed under subsection (a) after the recipient has been entitled to exclude under this section for a period of 36 months (whether or not consecutive) amounts received as a scholarship or fellowship grant while not a candidate for a degree at an educational institution described in section 170(b)(1)(A)(ii).

"(c) FEDERAL GRANTS FOR TUITION AND RELATED EXPENSES NOT INCLUDABLE MERELY BECAUSE THERE IS REQUIREMENT OF FUTURE SERVICE AS FEDERAL EMPLOYEE.—

"(1) IN GENERAL.—If—

"(A) an amount received by an individual under a Federal program would be excludable under subsections (a) and (b) as a scholarship or fellowship grant but for the fact that the individual is required to perform future service as a Federal employee, and

"(B) the individual establishes that, in accordance with the terms of the grant, such amount was used for qualified tuition and related expenses,

gross income shall not include such amount.

"(2) QUALIFIED TUITION AND RELATED EXPENSES DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified tuition and related expenses' means—

"(i) tuition and fees required for the enrollment or attendance of a student at an institution of higher education, and

"(ii) fees, books, supplies, and equipment required for courses of instruction at an institution of higher education.

"(B) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an educational institution in any State which—

"(i) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate,

"(ii) is legally authorized within such State to provide a program of education beyond high school,

"(iii) provides an educational program for which it awards a bachelor's or higher degree, provides a program which is acceptable for full credit toward such a degree, or offers a program of training to prepare students for gainful employment in a recognized health profession, and

"(iv) is a public or other nonprofit institution.

"(3) SERVICE AS FEDERAL EMPLOYEE.—For purposes of this subsection, service in a health professional shortage area shall be treated as service as a Federal employee.

"(d) QUALIFIED TUITION REDUCTIONS.—

"(1) IN GENERAL.—Gross income shall not include any qualified tuition reduction.

"(2) QUALIFIED TUITION REDUCTION.—For purposes of this subsection, the term 'qualified tuition reduction' means the amount of any reduction in tuition provided to an employee of an organization described in section 170(b)(1)(A)(ii) for the education (below the graduate level) at such organization (or another organization described in section 170(b)(1)(A)(ii)) of—

"(A) such employee, or

"(B) any person treated as an employee (or whose use is treated as an employee use) under the rules of section 132(f).

"(3) REDUCTION MUST NOT DISCRIMINATE IN FAVOR OF HIGHLY COMPENSATED, ETC.—Paragraph (1) shall apply with respect to any qualified tuition reduction provided with respect to any officer, owner, or highly compensated employee only if such reduction is available on substantially the same terms to each member of a group of employees which is defined under a reasonable classification set up by the employer which does not discriminate in favor of officers, owners, or highly compensated employees."

(b) CONFORMING AMENDMENTS.—

(1) Section 74(a) of such Code is amended by inserting "and fellowship grants" after "scholarships".

(2) The second sentence of section 1441(b) of such Code is amended to read as follows: "The items of income referred to in subsection (a) from which tax shall be deducted and withheld at the rate of 14 percent are—

"(1) that portion of any scholarship or fellowship grant which is received by a nonresident alien individual who is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act, as amended, and which is not excluded from gross income under section 117(a)(1) solely by reason of section 117(b)(2)(B); and

"(2) amounts described in subparagraphs (A), (B), (C), and (D) of section 117(a)(2) which are received by any such nonresident alien individual and which are incident to a scholarship or fellowship grant to which section 117(a)(1) applies, but only to the extent such amounts are includible in gross income."

(3) Section 7871(a)(6) of such Code is amended by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E) and by inserting after subparagraph (A) the following new subparagraph:

"(B) section 117(b)(2)(A) (relating to scholarships and fellowship grants),".

(4) The table of sections for part III of subchapter B of chapter 1 is amended by inserting "and fellowship grants" after "scholarships" in the item relating to section 117.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) WAIVER OF STATUTE OF LIMITATIONS.—If on the date of the enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of the amendment made by subsection (a) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefore is filed before the date 1 year after the date of the enactment of this Act.

Subtitle D—Revenue Provisions

SEC. 131. INCREASE IN RATE OF INDIVIDUAL INCOME TAX FOR HIGH-INCOME TAXPAYERS.

(a) IN GENERAL.—

(1) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—Subsection (a) of section 1 of the Internal Revenue Code of 1986 (relating to tax imposed on married individuals filing joint returns and surviving spouses) is amended by striking the item beginning "Over $78,400" and inserting the following new items:

"Over $78,400 but not over $160,000.	$17,733.50, plus 31% of the excess over $78,400.
"Over $160,000	$43,029.50, plus 34% of the excess over $160,000."

(2) HEADS OF HOUSEHOLDS.—Subsection (b) of section 1 of such Code (relating to tax imposed on heads of households) is amended by striking the item beginning "Over $67,200" and inserting the following new items:

"Over $67,200 but not over $120,000.	$15,429.50, plus 31% of the excess over $67,200.
"Over $120,000	$31,797.50, plus 34% of the excess over $120,000."

(3) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—Subsection (c) of section 1 of such Code (relating to tax imposed on unmarried individuals, other than surviving spouses and heads of households) is amended by striking the item beginning "Over $47,050" and inserting the following new items:

"Over $47,500 but not over $100,000.	$10,645.50, plus 31% of the excess over $47,500.
"Over $100,000	$26,920.50, plus 34% of the excess over $100,000."

(4) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—Subsection (d) of section 1 of such Code (relating to tax imposed on married individuals filing separate returns) is amended by striking the item beginning "Over $39,200" and inserting the following new items:

"Over $39,200 but not over $80,000.	$8,866.75, plus 31% of the excess over $39,200.
"Over $80,000	$21,514.75, plus 34% of the excess over $80,000."

(5) ESTATES AND TRUSTS.—Subsection (e) of section 1 of such Code (relating to tax imposed on estates and trusts) is amended by striking the item beginning "Over $9,900" and inserting the following new items:

"Over $9,900 but not over $12,600.	$2,343, plus 31% of the excess over $9,900.
"Over $12,600	$3,180, plus 34% of the excess over $12,600."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 132. SURTAX ON INDIVIDUALS WITH INCOMES OVER $300,000.

(a) GENERAL RULE.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end the following new part:

"PART VIII—SURTAX ON INDIVIDUALS WITH INCOMES OVER $300,000

"Sec. 59B. Surtax on section 1 tax.

"Sec. 59C. Surtax on minimum tax.

"Sec. 59D. Special rules.

"SEC. 59B. SURTAX ON SECTION 1 TAX.

"In the case of an individual who has taxable income for the taxable year in excess of $300,000, the amount of the tax imposed under section 1 for such taxable year shall be increased by 10 percent of the amount which bears the same ratio to the tax imposed under section 1 (determined without regard to this section) as—

"(1) the amount by which the taxable income of such individual for such taxable year exceeds $300,000, bears to

"(2) the total amount of such individual's taxable income for such taxable year.

"SEC. 59C. SURTAX ON MINIMUM TAX.

"In the case of an individual who has alternative minimum taxable income for the taxable year in excess of $300,000, the amount of the tentative minimum tax determined under section 55 for such taxable year shall be increased by 2.5 percent of the amount by which the alternative minimum taxable income of such taxpayer for the taxable year exceeds $300,000.

"SEC. 59D. SPECIAL RULES.

"(a) SURTAX TO APPLY TO ESTATES AND TRUSTS.—For purposes of this part, the term 'individual' includes any estate or trust taxable under section 1.

"(b) TREATMENT OF MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) filing a separate return for the taxable year, sections 59B and 59C shall be applied by substituting '$150,000' for '$300,000'.

"(c) COORDINATION WITH OTHER PROVISIONS.—The provisions of this part shall be applied—

"(1) after the application of section 1(h), but

"(2) before the application of any other provision of this title which refers to the amount of tax imposed by section 1 or 55, as the case may be."

(b) CLERICAL AMENDMENT.—The table of parts for such subchapter A is amended by adding at the end the following new item:

"Part VIII. Surtax on individuals with incomes over $300,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 133. INCREASE IN RATE OF CORPORATE INCOME TAX.

(a) IN GENERAL.—Subparagraph (C) of section 11(b)(1) of the Internal Revenue Code of 1986 (relating to amount of tax) is amended by striking "34 percent" and inserting "35 percent".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 11(b) of such Code (relating to ineligibility of personal service corporations for graduated rate) is amended by striking "34 percent" and inserting "35 percent".

(c) OTHER CONFORMING AMENDMENTS.—

(1) Section 852(b)(3)(D)(iii) of such Code is amended by striking "66 percent" and inserting "65 percent".

(2) Section 1201(a) of such Code is amended by striking "34 percent" each place it appears and inserting "35 percent".

(3) Paragraphs (1) and (2) of section 1445(e) of such Code are each amended by striking "34 percent" and inserting "35 percent".

(4) Section 7518(g)(6)(A) of such Code and section 607(h)(6)(A) of the Merchant Marine Act, 1936 are each amended by striking "34 percent" and inserting "35 percent".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 134. INCREASE IN RATE OF INDIVIDUAL ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Subparagraph (A) of section 55(b)(1) of the Internal Revenue Code of 1986 (relating to tentative minimum tax) is amended by striking "24 percent" and inserting "27 percent".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

TITLE II—ASSURED MINIMUM CHILD SUPPORT DEMONSTRATION PROJECTS

SEC. 201. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the number of single-parent households has increased significantly;

(2) there is a high correlation between childhood poverty and growing up in a single-parent household;

(3) family dissolution often brings the economic consequence of a lower standard of living for the custodian and children, such that children are nearly twice as likely to live in poverty after such dissolution as before;

(4) one-fourth of single mothers who are owed child support receive none, and another one-fourth receive only partial payments;

(5) single mothers above and below the poverty line are equally likely to receive none of the child support they are owed; and

(6) the failure of children to receive an adequate level of child support limits the ability of such children to thrive and to develop their potential and leads to long-term societal costs in terms of health care, welfare, and loss in labor force productivity.

(b) PURPOSE.—It is the purpose of this Act to enable participating States to establish child support assurance systems in order to improve the economic circumstances of children who do not receive a minimum level of child support from the noncustodial parents of such children and to strengthen the establishment and enforcement of child support awards. The child support assurance approach is structured on a demonstration basis in order to implement and evaluate different options with respect to the provision of intensive support services and mechanisms for administering the program on a national basis.

SEC. 202. ESTABLISHMENT OF CHILD SUPPORT ASSURANCE DEMONSTRATION PROJECTS.

(a) IN GENERAL.—In order to encourage States to provide a guaranteed minimum level of child support for every eligible child not receiving such support, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall make grants to not more than 6 States to conduct demonstration projects for purposes of establishing or improving a system of assured minimum child support payments in accordance with this section.

(b) CONTENTS OF APPLICATION.—An application submitted by the Governor of a State shall—

(1) contain a description of the proposed child support assurance project to be estab-

lished, implemented, or improved using amounts provided under this section, including the specific activities to be undertaken and the agencies that will be involved;

(2) specify whether the project will be carried out throughout the State or in limited areas of the State;

(3) estimate the number of children who will be eligible for assured minimum child support payments under the project, and the amounts to which they will be entitled, on average as individuals and in the aggregate;

(4) describe the child support guidelines and review procedures which are in use in the State and any expected modifications;

(5) contain a commitment by the State to carry out the project during a period of not less than 3 and not more than 5 consecutive years beginning with fiscal year 1992;

(6) contain assurances that the State is currently at or above the national median paternity establishment rate (as defined in section 452(g)(2) of the Social Security Act) and that the State will improve the performance of its State agency (designated by the State to carry out the requirements under part D of title IV of the Social Security Act) by at least 4 percent each year in which the State operates a child support assurance project under this section in—

(A) the number of cases in which paternity is established when required;

(B) the number of cases in which child support orders are obtained; and

(C) the number of cases with child support orders in which collections are made;

(7) contain assurances that, to the maximum extent possible under current law, the State will use Federal, State, and local job training assistance to assist individuals who have been determined to be unable to meet such individuals' child support obligations;

(8) describe the extent to which multiple agencies, including those responsible for administering the Aid to Families With Dependent Children Program under part A of title IV of the Social Security Act and child support collection, enforcement, and payment under part D of such title, will be involved in the design and operation of the child support assurance project; and

(9) contain such other information as the Secretary may require by regulation.

(c) USE OF FUNDS.—A State shall use amounts provided under a grant awarded under this section to carry out a child support assurance project designed to provide a minimum monthly child support benefit for each eligible child in the State to the extent that such minimum child support is not paid in a month by the noncustodial parent.

(d) REQUIREMENTS.—(1) A child support assurance demonstration project funded under this section shall provide that—

(A) any child (as defined in paragraph (2)) with a living noncustodial parent for whom a child support order has been sought (as defined in paragraph (3)) or obtained and any child who meets "good cause" criteria for not seeking or enforcing a support order is eligible for the assured child support benefit;

(B) the assured child support benefit shall be paid promptly to the custodial parent at least once a month and shall be—

(i) $3,000 per year minimum for the first child, and $1,000 per year minimum increments for the second and each subsequent child;

(ii) offset and reduced to the extent that the custodial parent receives child support in a month from the noncustodial parent;

(iii) indexed and adjusted for inflation; and

(iv) in the case of a family of children with multiple noncustodial parents, calculated in the same manner as if all such children were full siblings, but any child support payment from a particular noncustodial parent shall only be applied against the child support assured benefit for the child or children of that particular noncustodial parent;

(C) for purposes of determining the need of a child or relative and the level of assistance, one-half of the amount received as a child support payment shall be disregarded from income until the total amount of child support and Aid to Families With Dependent Children benefit received under part A of title IV of the Social Security Act equals the Federal poverty level for a family of comparable size;

(D) in the event that the family as a whole becomes ineligible for Aid to Families With Dependent Children under part A of the Social Security Act due to consideration of child support assurance benefits, the continuing eligibility of the caretaker for Aid to Families With Dependent Children under such title shall be calculated without consideration of the child support assured benefit; and

(E) in order to participate in the child support assurance project, the child's caretaker shall apply for services of the State's child support enforcement program under part D of title IV of the Social Security Act.

(2) For purposes of this section, the term "child" means an individual who is of such an age, disability, or educational status as to be eligible for child support as provided for by the law of the State in which such individual resides.

(3) For purposes of this section, a child support order shall be deemed to have been "sought" where an individual has applied for services from the State agency designated by the State to carry out the requirements of part D of title IV of the Social Security Act or has sought a child support order through representation by private or public counsel or pro se.

(e) CONSIDERATION AND PRIORITY OF APPLICATIONS.—(1) The Secretary shall consider all applications received from States desiring to conduct demonstration projects under this section and shall approve not more than 6 applications which appear likely to contribute significantly to the achievement of the purpose of this section. In selecting States to conduct demonstration projects under this section, the Secretary shall—

(A) consider the geographic dispersion and variation in population of the applicants;

(B) give priority to States the applications of which demonstrate—

(i) significant recent improvements in enforcement of child support awards and collection of child support payments; and

(ii) that efforts will be made to link child support systems with other service delivery systems; and

(C) ensure that, if feasible, the States selected use a variety of approaches for child support guidelines.

(2) Of the States selected to participate in the demonstration projects conducted under this section, the Secretary shall require, if feasible—

(A) that at least 2 or more of such States provide intensive integrated social services for low-income participants in the child support assurance project, for the purpose of assisting such participants in improving their employment, housing, health, and educational status; and

(B) that at least 2 or more such States plan to cooperate and to integrate interstate establishment and enforcement of child support awards.

(f) EVALUATION AND REPORTS.—(1) Each State that conducts a demonstration project under this section shall, as a part of such demonstration project, conduct an interim and a final evaluation of the effectiveness of the demonstration project and shall submit an interim and final report to the Secretary concerning the results of the evaluation and any improvements in child support enforcement.

(2) The evaluation and report submitted by a State to the Secretary shall analyze and describe (in such a manner as prescribed by the Secretary)—

(A) the impact of the child support assurance project on the economic and noneconomic well-being of children and adults in both custodial and noncustodial households;

(B) the work force participation rates of both custodial and noncustodial parents as a result of participation in the child support assurance project;

(C) the impact of the child support assurance project on Aid to Families With Dependent Children participation rates, grants, and funding levels;

(D) a comparison of enforcement effectiveness in intrastate and interstate cases;

(E) the impact on custodial and noncustodial families of access to intensive integrated services for custodial families and to job training services for noncustodial parents;

(F) the impact of child support guidelines on the effectiveness of the child support assurance project and the economic well-being of children and adults in both custodial and noncustodial families;

(G) administrative policies and laws of the Federal Government and the State or a political subdivision of the State, identified by the State as impediments to the collection of adequate child support payments from noncustodial parents;

(H) the measures that the State has taken or intends to take to eliminate or reduce impediments described in subparagraph (G) that are attributable to administrative policies and laws of the State or a political subdivision of the State; and

(I) any other relevant items as the Secretary may require.

(g) DURATION.—A demonstration project conducted under this section shall be commenced not later than fiscal year 1992 and shall be conducted for not less than 3 and not more than 5 consecutive years, except that the Secretary may terminate a project before the end of such period if the Secretary determines that the State conducting the project is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(h) COST SAVINGS RECOVERY.—The Secretary shall develop a methodology to identify any State cost savings realized in connection with the implementation of a child support assurance demonstration project conducted under this Act. Any such savings realized as a result of the implementation of a child assurance demonstration project shall be utilized for child support enforcement improvements or expansions and improvements in the Aid to Families With Dependent Children Program conducted under part A of title IV of the Social Security Act within the participating State, and Federal expenditures for such project within the State shall be reduced in proportion to any such savings.

(i) EVALUATION AND REPORT TO CONGRESS.—Three and 5 years after commencement of the first State child support assurance demonstration project, the Secretary shall conduct an evaluation of each such demonstration project and submit a report to the Committee on Finance and the Committee on Labor and Human Resources of the Senate, and the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives concerning the effectiveness of the child support assurance demonstration projects funded under this section. Such report shall analyze the reports received by the Secretary under subsection (f) from each participating State and shall compare the effects of different types of child support guidelines.

(j) RESTRICTIONS ON MATCHING AND USE OF FUNDS.—(1) A State conducting a demonstration project under this section shall be required—

(A) except as provided in paragraph (2), to provide not less than 20 percent of the total amounts expended in each calendar year of the project to pay the costs associated with the project funded under this section; and

(B) to maintain its level of expenditures for child support collection, enforcement, and payment at the same level, or at a higher level, than such expenditures were prior to such State's participation in a demonstration project provided by this section.

(2) A State participating in a demonstration project under this section may provide no less than 10 percent of the total amounts expended to pay the costs associated with the project funded under this section in years after the first year such project is conducted in a State if the State meets the improvements specified in paragraph (6) of subsection (b).

(k) COORDINATION WITH CERTAIN MEANS-TESTED PROGRAMS.—For purposes of—

(1) the United States Housing Act of 1937;

(2) title V of the Housing Act of 1949;

(3) section 101 of the Housing and Urban Development Act of 1965;

(4) sections 221(d)(3), 235, and 236 of the National Housing Act;

(5) the Food Stamp Act of 1977;

(6) title XIX of the Social Security Act; and

(7) child care assistance provided through part D of title IV of the Social Security Act, the Child Care and Development Block Grant, or title XX of the Social Security Act,

any payment made to an individual for child support up to the amount which a child support assurance benefit would provide shall not be treated as income and shall not be taken into account in determining resources for the month of its receipt and the following month.

(l) TREATMENT OF CHILD SUPPORT BENEFIT.—Any assured child support benefit received by an individual under this title shall be considered child support for purposes of the Internal Revenue Code of 1986.

(m) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the account established in subsection (n) such sums as may be necessary in each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out the purposes of this section.

(n) ESTABLISHMENT OF ACCOUNT.—(1) There is hereby created on the books of the Treasury of the United States an account consisting of such amounts as may be appropriated to such account as provided in paragraph (2).

(2)(A) There are appropriated to the account and available for expenditure amounts equivalent to the additional revenues received in the Treasury as the result of the amendments made by subtitle D of title I of this Act to the extent necessary to satisfy the authorizations of appropriations under subsection (m).

(B) The amounts appropriated by subparagraph (A) shall be transferred from time to time (not less frequently than monthly) from the general fund in the Treasury to the account.

TITLE III—NATIONAL COMMISSION ON FAMILY STRENGTHS

SEC. 301. ESTABLISHMENT OF NATIONAL COMMISSION ON FAMILY STRENGTHS.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the "National Commission on Family Strengths" (hereafter in this title referred to as the "Commission").

(b) COMPOSITION.—

(1) IN GENERAL.—The Commission shall consist of 21 members, of which—

(A) seven members shall be appointed by the President;

(B) seven members shall be appointed by the Speaker of the House of Representatives; and

(C) seven members shall be appointed by the President pro tempore of the Senate.

(2) REPRESENTATION.—The members of the commission shall be appointed under paragraph (1) from among individuals who—

(A) are representative of organizations providing services to children and families;

(B) have engaged in academic research with respect to the problems and needs of children and families;

(C) are elected or appointed public officials (at the Federal, State, or local level) involved in issues and programs relating to children and families;

(D) are parents or representatives of parents or parents' organizations;

(E) are members of the judiciary with responsibility for family law matters; and

(F) are members of a family law bar association.

(3) CONSULTATION.—The appointments shall be made under paragraph (1) after consultation with the chairpersons of the committees of the House of Representatives and the Senate, respectively, having jurisdiction over relevant Federal programs.

(4) EX OFFICIO MEMBER.—The Secretary of Health and Human Services shall serve as an ex-officio member of the Commission.

(5) TERMS.—Each member of the Commission shall serve for a term of 2 years, except that 9 of the initial members (3 of each group appointed under subparagraphs (A), (B) and (C) of paragraph (1)) of the Commission shall serve for a term of 1 year.

(6) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among its members.

(7) QUORUM.—Eleven members of the Commission shall constitute a quorum for purposes of the business of the Commission, but a lesser number may hold hearings.

(8) MEETINGS.—The Commission shall meet not less than four times each year at the call of the Chairperson.

(9) VACANCIES.—Members of the Commission shall be appointed for the life of the Commission. Any vacancy in such membership shall not affect its powers and shall be filled in the same manner as the original appointment.

(10) EXPENSES.—While away from their homes or regular places of business on the business of the Commission, members of the Commission may be allowed travel expenses, including per diem in lieu of subsistence, as is authorized under section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(c) STAFF.—

(1) EXECUTIVE DIRECTOR.—The Chairperson of the Commission shall appoint an executive director. The employment of such executive director shall be subject to confirmation by the members of the Commission.

(2) OTHER PERSONNEL.—The Commission may appoint and terminate the executive director under paragraph (1) and such other personnel as it considers appropriate to assist in the performance of its duties, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct public hearings and enter into contracts or cooperative agreements for the facilitation of expert studies and reports in order to receive diverse opinions concerning ways to strengthen and preserve families and to enhance the economic and noneconomic status of children.

(2) STUDY AND REPORT TOPICS.—The Commission shall include the following matters in the studies, reports and hearings undertaken under paragraph (1):

(A) ENHANCING FAMILY STABILITY.—Matters relating to approaches that may enhance family stability that the Commission may elect to pursue, including—

(i) the manner in which educational programs provided for young people prior to their marriage may help decrease the possibility of later divorce;

(ii) the manner in which the accessibility and effectiveness of counseling for troubled families can be improved;

(iii) whether special procedures for divorce, including waiting periods, should be utilized for families in which children are involved; and

(iv) the role of mediation or conciliation, both voluntary and mandatory, in divorce proceedings, including those in which children are involved.

(B) ECONOMIC IMPACT OF DIVORCE.—Matters relating to the economic impact of divorce on children that the Commission may elect to pursue, including—

(i) the manner in which divorce affects the standard of living of parents and children;

(ii) whether child support awards are modified appropriately over time; and

(iii) whether any detrimental economic impact of divorce on children could be mitigated through a requirement that all children's economic issues be resolved prior to other distributions of marital property.

(C) NONECONOMIC IMPACT OF DIVORCE.—Matters relating to the noneconomic impact of divorce on children that the Commission may elect to pursue, including—

(i) the manner in which conflict during divorce proceedings can be minimized, especially when custody is disputed; and

(ii) the manner in which effective assistance can be provided to children during and after the divorce of their parents, including school-based programs.

(D) ROLE OF THE JUDICIARY.—Matters relating to the role of the judiciary in helping to preserve families that the Commission may elect to pursue, including—

(i) the manner in which the judiciary can be best informed and trained regarding the impact of divorce and divorce proceedings on children; and

(ii) whether courts should be encouraged to provide certain social services to families contemplating or undergoing divorce.

(3) RECOMMENDATIONS AND REPORTS.—

(A) RECOMMENDATIONS.—The Commission shall compile and analyze the findings of the Commission with respect to the topics described in paragraph (2) and related matters and shall develop recommendations for—

(i) Federal and State policies to strengthen and preserve families; and

(ii) model State legislative reforms where appropriate.

(B) REPORTS.—Not later than March 31, 1994, the Commission shall prepare and submit to the President, the Committee on Finance and the Committee on Labor and Human Resources of the Senate, and the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives, an interim report concerning the recommendations developed under subparagraph (A). Not later than September 30, 1994, the Commission shall prepare and submit to the President and such Committees, a final report concerning such recommendations.

(e) POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission, or any duly organized committee thereof, may for the purpose of carrying out the provisions of this Act, hold such hearings, sit and act at such times and places, take such testimony, receive such evidence and administer such oaths, as the Commission or such committee determines appropriate. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or committee thereof.

(2) INFORMATION.—The Commission may secure directly from any Federal department or agency such information as may be necessary to enable the Commission to carry out this Act. Upon the request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this title, such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995.

By Mr. STEVENS (by request):

S. 1412. A bill to amend title 39, United States Code, to curb abuses of postage subsidies, to provide more equitable rates for Government mail, and for other purposes; to the Committee on Governmental Affairs.

POSTAGE RATE REFORM ACT

Mr. STEVENS. Mr. President, today I am introducing legislation to reduce the cost, to the taxpayers, of Federal subsidies for certain nonprofit and other mailers, and still protect nonprofit organizations that provide an essential service to the American public.

As we all know, this subsidy, which is appropriated to the U.S. Postal Service, is entitled by Revenue Forgone. Soon we will be dealing with the Treasury/Postal Subcommittee appropriation bill. The level of funding for this category is in severe jeopardy. Unless we prioritize just who should receive funding for subsidized mailing, almost all worthy recipients of Revenue Forgone will suffer.

The Appropriations Committee must decide if it is more important to increase funding for drug interdiction programs, and to improve the security of our borders, or if it is more important to subsidize mailings by university pamphlets urging tours of the fjords of Norway.

The bill I am introducing, by request, is the administration's bill from last year. It is based on the Postal Rate Commission's study mandated by Congress in 1985. It is a starting point for discussion. I hope my colleagues will study this bill over the recess so we can move on this issue before the Treasury/Postal appropriations bill comes before us in July We must do something this year to resolve this issue.

Mr. President, I ask unanimous consent to have the entire text of the bill and the accompanying section-by-section analysis printed in the RECORD.

These being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1412

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Postage Rate Reform Act of 1990".

SEC. 2. RESTRICTION OF POSTAGE SUBSIDIES.

(a) COMMERCIAL SERVICES; POLITICAL ADVOCACY; ADVERTISING; EDUCATIONAL ORGANIZATIONS OTHER THAN SCHOOLS.—Section 3626 of title 39, United States Code, is amended by adding the following subsections:

"(j) For purposes of this section, the rates for mail under former section 4452 (b) and (c) shall not apply to any matter which advertises—

"(1) an article or product, unless more than half of the labor of producing or assembling the article or product has been performed by members of the mailing organization or by persons for whose benefit the mailing organization was established;

"(2) travel or insurance;

"(3) any other service, unless the service is provided by members of the mailing organization or by persons for whose benefit the mailing organization was established; or

"(4) a gift or premium offer unless the gift or premium may be kept by the addressee whether or not a contribution is made.

"(k) The rates for mail under former subsections 4452 (b) and (c) of this title shall not apply to any matter which attempts to influence legislation or to influence a partisan election.

"(l) If the advertising portion of an issue of a publication exceeds 10 percent of such issue, the publication shall not be eligible for rates established under this section for mail under former subsection 4358(d).

"(m) For purposes of this section, a nonprofit organization or association shall be considered to qualify as "educational," as that term is used in former sections 4358, 4452, and 4554 of this title, only if its primary purpose is to administer a course or courses of instruction through a teacher-student relationship in school.".

(b) PUBLISHER MAILINGS AT LIBRARY RATE.—Section 3683 of title 39, United States Code, is amended by striking out "(a)" and by striking out subsection (b).

SEC. 3. POSTAGE RATES FOR GOVERNMENT MAIL.

(a) PRINCIPLE FOR SETTING GOVERNMENT RATES.—Section 3622 of title 39, United States Code, is amended by adding at the end the following new subsection:

"(d) In establishing rates or fees for each class of mail or type of service, it shall be a policy of this title that rates charged the Federal Government for any class of mail or type of service shall not exceed:

"(1) the direct and indirect postal costs attributable to it, plus

"(2) an assignment of other costs of the Postal Service in an amount which bears the same ratio to such attributable costs assigned under subsection (b)(3) of this section as other mail of the same class or type but not sent under chapter 32 of this title bears to the attributable costs of such other mail.".

(b) TRANSITIONAL POSTAGE CHARGES.—From October 1, 1991, until such time as rates of postage are changed under title 39, United States Code, as amended by subsection (a), the United States Postal Service, in determining the equivalent of postage on penalty and franked mail as required under sections 3206 and 3216 of such title, shall take into consideration such differences in attributable costs between such mail and non-Government mail as are reflected in the record of Postal Rate Commission Docket No. R87-1.

SEC. 4. EFFECTIVE DATE.

This Act is effective October 1, 1991.

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short Title.

Sec. 2. This section amends 39 U.S.C. 3626 and 3683 to tighten eligibility requirements for reduced rate mailings, and to cure defects which have enabled such rates to be used for purposes not warranting public financial support. These reforms would curtail the use of reduced rates to send advertising mail and political advocacy mail, and stop the use of favored library rates by publishers and distributors. This section would also limit qualification as a nonprofit "educational" organization to those involving courses of instruction with a teacher-student relationship.

Sec. 3. This section establishes, as a policy to be used in postal rate proceedings, the principle that rates and fees paid by the Federal Government for a class of mail or type of service should not exceed certain costs. These costs are the actual costs of delivering Government mail, plus the same percentage of other postal costs as is charged in the rates for comparable commercial mailings. The Federal Government, like other mailers, would be able to file a complaint with the Postal Rate Commission if this policy is not implemented with respect to a particular class of mail or type of mail service. Subsection (b) provides that until the next postal rate proceeding is completed, the Postal Service must estimate the appropriate charges using the attributable cost data for penalty and franked mail that appears in the record of the last postal rate case, Docket No. R87-1.

The practical effect of this change is that the rate for Federal mail would reflect actual costs attributable to delivering it, which are in most instances lower than the generally applicable rates.

Sec. 4. This section provides that the provisions of the Act take effect October 1, 1991.

Mr. KENNEDY (for himself, Mr. GRASSLEY, Mr. DECONCINI, Mr. CRANSTON, and Mr. WELLSTONE):

S. 1413. A bill to encourage the termination of human rights abuses inside the People's Republic of China and

Tibet; to the Committee on Foreign Relations.

TERMINATION OF HUMAN RIGHTS ABUSES IN CHINA

Mr. KENNEDY. Mr. President, the continuing imprisonment, torture, and execution of members of the pro-democracy movement in China make it more important than ever that we review our actions in that part of the world to ensure that Americans are working with, and not against, the forces of freedom.

Today, jailed Tiananmen Square activists and Buddhist monks are being subjected to forced labor to assemble products for export to the United States, German, and Japanese markets. Many firms in the free world have become unknowing partners in deals with prison camps.

The United States should be doing more to end these human rights abuses. The bill I am introducing today with Senators GRASSLEY, DECONCINI, CRANSTON, and WELLSTONE would enlist U.S. businesses in this effort.

This legislation requires U.S. nationals engaged in commercial activities in China to follow certain guidelines in conducting business. Legislation nearly identical to this, H.R. 1571, was introduced in the House on March 21st by Representative JOHN MILLER, of Washington, and has been incorporated into the House Foreign Aid Authorization bill.

Prisoners, including large numbers of political prisoners, are an integral part of China's labor force. Products from forced labor camps are sold in domestic and foreign markets and have become a large component of the Chinese economy. One-third of the tea produced in China, for example, comes from labor camps.

Prisoners mine, manufacture, and harvest a variety of other products, including coal, textiles, steel, machine tools, automobiles, chemicals, electronic goods, fans, shoes, ceramics, and over 20 agricultural products, including soybeans, fruits, rice, wheat, and corn.

The Chinese Government has actively—and successfully—sought United States markets for these goods. In 1980, China exported $1.1 billion in goods to the United States, compared to United States exports to China of $3.7 billion. In 1990, however, China exported $15.2 billion in goods to the United States, compared to United States exports to China of only $4.8 billion—handing China a trade surplus of $10.4 billion. This year, that gap is likely to rise to at least $15 billion, ranking China's trade advantage over the United States behind only Japan and Taiwan.

In scope, number of camps and prisoners, and degree of cruelty, these forced labor camps are deplorable. Between 4,000 and 6,000 exist in China and Tibet, and 10 to 20 million people are detained. Each camp typically has two names; one denotes its prison status, such as Cheng Tao Jail No. 1, and the other is used to reflect its role as a business enterprise, such as the Cheng Tao Machinery Factory.

Large numbers of the forced laborers are political detainees. Few have had trials. Typically, they are sent to the camps on vague counterrevolutionary charges. Prisoners work up to 15 hours a day and are not allowed to speak to one another. Torture with cattle prods for disobedience is common. Incarceration ends only when party officials deem their attitude corrected. Even then, it is common for released prisoners to be required to return to work in the prison each day for the rest of their lives.

The United States should speak out against this shameful repression, and U.S. business should do its part, too. Our increasing commercial ties with China should not be at the expense of the forced labor of Chinese and Tibetan political prisoners.

This legislation requests United States nationals participating in joint ventures in China and Tibet to follow nine important principles:

First, to refrain from using products made by forced labor;

Second, to safeguard employees from dismissal because of their political beliefs, participation in non-violent demonstrations, past records of arrest for non-violent protests, or membership in organizations committed to non-violence;

Third, to ensure that business operations do not harm the environment;

Fourth, to use businesses not controlled by the Chinese Government when looking for business partners in China;

Fifth, to prohibit any military presence on the premises of industrial cooperation projects;

Sixth, to promote freedom of association and assembly among employees;

Seventh, to press Chinese authorities for a list of those arrested since the massacre in Tiananmen Square in 1989, for an end to secret detention, and for access by international observers to places of detention;

Eighth, to avoid political indoctrination programs on company premises; and

Ninth, to promote freedom of expression for workers.

Current law prohibits the importation of products produced from forced labor, and the bill requires the Secretary of State to submit annual reports on procedures taken to enforce this law and on which goods produced in China and Tibet are the product of forced labor.

The bill also requires the Secretary of State to report to Congress on whether U.S. companies are complying with these principles. Two years after enactment of the bill, companies not adhering to the principles would lose export marketing support from the U.S. Government.

The U.S. Government should not be supporting American businesses overseas that participate in basic violations of human rights.

Congress needs to take a strong stand against the gross injustices of forced labor. Our message of support for human rights in China is strongest if private industry and the government speak with one voice. I urge my colleagues to join me in passing this legislation.

By Mr. AKAKA:

S. 1414. A bill to establish a higher education loan demonstration program in 10 congressional districts in which the amount of a student's loan repayment is dependent upon such student's income; to the Committee on Labor and Human Resources.

INCOME DEPENDENT EDUCATIONAL ASSISTANCE LOAN ACT

Mr. AKAKA. Mr. President, the reauthorization of the Higher Education Act is without doubt one of the single most important pieces of social legislation the Senate will consider in this session of the 102d Congress. Of primary concern to me is title IV of the act, which in fiscal year 1991, provided about $18 billion in student aid to help financially needy students attend postsecondary colleges, universities, and trade and technical schools.

Today, Mr. President, I am introducing the Income Dependent Educational Assistance Loan Act of 1991 [IDEAL]. The bill would establish an IDEAL student loan demonstration program in 10 congressional districts. Under an IDEAL loan, each student borrower would be obligated to pay back—typically over a 25-year period—his or her loan at a predetermined and unchanging fixed percentage of current income, thus making the loan repayment "income dependent."

What makes the proposed income dependent loan program attractive is that the loan repayment schedule takes into account a key factor in loan servicing—an individual's ability to repay. When employed, a fixed percentage of an individual borrower's pay would be automatically withheld by his or her employer and forwarded to the Federal Government as a partial loan repayment. If a borrower, however, becomes unemployed, takes a maternity leave, or becomes disabled, his or her payments would be temporarily reduced for that period of time the individual is out of the work force.

I am introducing this legislation because I am concerned that under current student financial aid programs, many middle-income families are being forced to assume massive loans to send their children to college. In the case of low-income families, I fear that a large number of very able students are simply abandoning their college aspirations altogether because grants and loans are either unavailable or insufficient to meet their education costs.

In advancing my proposal, I should note that the concept of low cost, income dependent student loans is not new. My proposal is unique, however, because IDEAL student loans would be universally available to all students without regard to family income or equity assets held.

Also, it is important to understand that the establishment of an IDEAL student loan program is intended to supplement, but not replace, existing Federal grant and workstudy programs. In fact, I believe that including an IDEAL loan program in the Higher Education Act reauthorization bill would result in the availability of additional Federal resources for grant in aid programs for the truly needy. At the same time, IDEAL loans would equally benefit the middle class who are struggling to cope with the spiraling cost of education, but are presently barred from Federal loan programs because they fail the so-called "needs-tests" which determine eligibility.

Mr. President, I have with me a summary of the provisions of the IDEAL program, and I request unanimous consent that it be printed in the RECORD at this point of my statement.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

INCOME DEPENDENT EDUCATIONAL ASSISTANCE LOAN PROGRAM SUMMARY

Eligibility:

All citizens of the United States under 56 years of age.

Awards:

Maximum award of $10,000 per year; $40,000 in lifetime.

Actual award may not exceed the cost of tuition and room and board plus a stipulated amount for miscellaneous educational related expenses.

Awards may be used at any state accredited or licensed postsecondary institution, including vocational schools and new "apprenticeship" programs.

Repayment Rates:

Repayment is income-dependent.

Repayment rate is based on amount of award, age of recipient, and the year of the award.

Repayment rates apply only to first $50,000 of earnings.

Maximum repayment period is 25 years.

No repayments beyond age 65.

Notification of Employers:

Recipients are notified of award by IDEAL Fiduciary Trust.

Recipients obligated to notify employers of IDEAL repayment rate.

Employers responsible for withholding.

Self-employed recipients must file quarterly with IRS.

Functions of IDEAL Trust:

Processing applications: Applications are made directly to the IDEAL Trust agency. It verifies eligibility, grants investment awards, and notifies recipients of their IDEAL rate and the terms of their payment obligations. Funds are not released directly to the recipient but to the institution or training program in which the recipient is enrolled. These institutions and programs provide local administration of the investment award for a modest fee.

Managing the IDEAL trust fund: The agency obtains funds from the sale of U.S. Treasury bonds.

Establishing repayment rates: The agency will determine the IDEAL rates in accord with prevalent economic conditions and projections. The rate schedules for future participant cohorts are periodically reviewed and adjusted in order to maintain the integrity of the fund.

Coordinating repayments from participants via IRS.

Mr. President, if I may, I would like to take just a few minutes to expand my remarks on why this legislation is needed. As you know, over the past several weeks, Congress has been conducting hearings on various aspects of the student financial aid issue. Two questions receiving significant attention are how to meet the needs of low-income and middle-income families and how to find an appropriate balance between grant and loan assistance.

The administration's fiscal year 1992 education budget would significantly reduce Federal student financial assistance for most middle-class families. In fact, Mr. President, over the past 10 years of Republican administrations, the typical student Federal aid package has shifted from three-quarters grants and one-quarter loans to a point where it is almost the reverse. Moreover, Federal grant programs have failed to keep up with the soaring costs of college. In 1979, the maximum Pell grant covered 46 percent of average college costs. By 1989, it covered only 21 percent. The difference was made up by loans.

These figures do not tell the whole story, however, since many students from low-income families lowered their educational sights and simply gave up the hope of obtaining a college education. As a result, according to information contained in a recent American Council on Education report, the 41 percent in access gains made by low-income students into colleges between 1966 and 1977 were lost by 1987. Since 1981, the proportion of freshmen from low-income families enrolled in universities dropped by nearly half, from 18.5 to 9.7 percent.

To put this in perspective, we must remember that over 95 percent of all Federal higher education dollars go to student aid. When Congress reauthorizes the Higher Education Act later this year, it is my belief that we should strengthen, rather than diminish, the historical commitment we have made to the young people of our country in providing such assistance. I also believe the heavy reliance on traditional fixed repayment educational loans to finance postsecondary education has put many students and their families deeply in debt. As a consequence, I fear many young people are being driven away from public service occupations such as teaching, nursing, and other social service jobs in order to repay their student loans.

A review of the higher education financing landscape indicates that when it comes to paying for the costs of attending college, the wealthy and a small but select number of low-income students have things pretty well in hand. Wealthier students, by virtue of their family's economic circumstances, generally pay these costs out of existing assets. High ability low-income students, on the other hand, without either assets or resources, have available to them an array of Government and private sector grants and scholarships. Regrettably, Mr. President, most low-income and all moderate-income families have pretty much been left to fend for themselves. As I noted earlier, more often than not, middle-income parents have found no alternative but to assume massive loans to enable their children to attend college. In the case of low-income families, these students are forced to discard their college aspirations altogether because grants and/or loans are insufficient to meet their college costs.

The administration's fiscal year 1992 education budget proposals, if enacted, would only add to the misery and apprehension of middle-income families who hope to send a son or daughter to college next fall.

For example, under the administration's budget, a student from a family whose income is $20,000, and who attends a 4-year State college, would receive 40 percent less in fiscal year 1992 under the Pell Grant Program. This would be $628 less than he receives this year. Even worse, a community college student with a family income of $20,000 would see a 73-percent reduction in his or her grant award under the Bush plan.

The administration's retargeting of Pell Grant aid would generally take funds away from families who have a limited amount of income to send a son or daughter to college. Even with the financial aid benefits provided under current law, these families are already struggling to meet college costs.

The President's education budget also calls for altering the eligibility formula for Federal financial student aid. Eligibility requirements would be tightened, and funding would be reduced, for supplemental educational opportunity grants and college work study. Estimates show that about 750,000 middle-income students no longer would be eligible for aid under the Bush proposal.

Needless to say I do not believe the White House budget adequately addresses the pressing needs of these American families who are having a difficult time sending their children to college or other postsecondary training programs. What we are finding is that without some type of Federal relief, an increasing number of middle-income families will be without the necessary resources to meet the rising costs of a college education for their children.

It is for these reasons, Mr. President, that the establishment of an income dependent student loan program such as IDEAL makes good sense. It meets a prevailing need, and from a public policy perspective, is based on sound financing utilizing proven and widely accepted actuarial principles. In addition, since the borrowing power of the Federal Government is being used to initially fund the program, the cost of borrowing will be kept to the absolute minimum. Moreover, since IDEAL is a direct loan program, the Government will be buying capital wholesale, so to speak, rather than retail, as is true under current guaranteed loan programs now in force using private capital and commercial banks for the source of funds. And we shouldn't lose sight of the fact that over the long term the IDEAL Program is ultimately self-financing as the pool of borrowers grows and payback contributions expand.

In practical terms, Mr. President, restructuring postsecondary education financing along the lines spelled out in my IDEAL bill, would respond to a number of problems inherent in the federally sponsored student financial aid programs currently available. In this regard, University of Massachusetts economist, Barry Bluestone, and his colleagues, Alan Clayton-Matthews, John Havens, and Howard Young, recently produced an economic policy institute briefing paper proposing an income dependent loan program. Although the Bluestone group's proposal uses a funding mechanism completely different from the one in my bill, they suggest that an income dependent loan program such as IDEAL would prove to be beneficial for the following reasons:

First, a universal income dependent loan program eliminates much of the morass of current Federal loan programs in favor of one, comprehensive plan available to all postsecondary students;

Second, it provides a substantially greater amount of funds under superior terms to most current programs, thus allowing students to better meet the rising cost of postsecondary education;

Third, it is available to all students in accredited postsecondary schools regardless of family income. There is no needs test. It is a middle-class program every bit as much as one aimed at the low, and moderate income student;

Fourth, since repayment is based on actual earnings, there is effective deferral or principal and interest as long as the student is pursuing full-time studies and has little wage and salary income;

Fifth, as a result of income dependency and IRS collection, defaults are virtually eliminated—something that now costs the U.S. Treasury in excess of $1.5 billion a year. Moreover, stricter licensing of trade schools with State oversight boards partially funded by a portion of the program's administrative fees would provide effective sanctions against schools that are supplying inadequate or inappropriate training to students. This would reduce the number of students whose incomes were not enhanced by their schooling;

Sixth, it applies equally to all forms of postsecondary schooling from apprenticeships and proprietary trade institutions to graduate and professional schools. It does not discriminate between the student who pursues, for instance, an undergraduate degree in political science and one who seeks retraining as a welder or office machine repairer;

Seventh, racial and gender discrimination in the labor market is not automatically ratified as is the current practice under fixed obligation loans. The income dependent feature of the program requires students to repay based on actual earnings and therefore takes full account of differences in earnings which arise for any reason;

Eighth, because the program is income dependent, students will be more likely to enroll in programs that conform to their academic strengths and career goals than in programs which simply hold out the promise of spectacularly high earnings that can be used to repay fixed short-term loans. This may mean slightly fewer students opting for law careers and MRAs and slightly more students preparing for careers in elementary and secondary school teaching, nursing, and other fields where the monetary rewards are smaller but the contribution to society is arguably no less and very likely greater;

Ninth, under this program, students can pay for their own education as the benefits from that education become manifest. More importantly, this will release most parents of at least some of the heavy burden of funding their children's education; and

Finally, an income dependent program such as IDEAL, by eliminating the need for the Stafford and Perkins loan programs, frees up $5.1 billion of Federal education spending per year. These dollars—or at least a portion of them—could be used to expand the Pell and SEOG grant programs for the most financially disadvantaged students.

There are likely to be other benefits as well, Mr. President, not the least of which is simplified and cheaper administration of education loans. The bottom line, however, is that the IDEAL loan program is needed today to provide student financial aid relief to middle-income families and educational security to low-income students as they face the spiraling costs of attending postsecondary institutions of higher education.

By Mr. PELL:

S. 1415. A bill to provide for additional membership on the Library of Congress Trust Fund Board, and for other purposes; to the Committee on Rules and Administration.

ADDITIONAL MEMBERSHIP ON THE LIBRARY OF CONGRESS TRUST FUND BOARD

Mr. PELL. Mr. President, as chairman of the Joint Committee on the Library, I am introducing a bill requested by the Librarian of Congress to expand the membership of the Library's Trust Fund Board and to authorize the Librarian to make temporary investment of receipts.

This bill is identical to S. 2758 which I introduced in the 101st Congress and which the Senate passed on September 18, 1990, but which was not acted on by the House.

The Library of Congress Trust Fund is an important mechanism for helping to fund the extensive operations of our great national Library. The Librarian, Dr. James Billington, has explained the need for the increased range and flexibility which this bill would provide in a letter which I ask unanimous consent be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE LIBRARIAN OF CONGRESS,
Washington, DC, May 24, 1991.

Hon. CLAIBORNE PELL,
Chairman, Joint Committee on the Library,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am enclosing draft legislation which would provide for additional membership on the Library of Congress Trust Fund Board, and for other purposes. The Senate passed this legislation last year, but the House failed to act on it.

This legislation would do the following: (1) increase the public membership of the Board from two to ten; (2) increase the number of board members who shall constitute a quorum from three to nine; and (3) give the Librarian of Congress authority to make immediate temporary investments of monies received until the Board has formally made a determination as to their investment.

Let me address the substance of these amendments.

Board: The Library of Congress Trust Fund Board has only two public members appointed by the President, the Secretary of the Treasury or his designee, the Chairman of the Joint Committee on the Library, and the Librarian of Congress. It is my desire to enlist the assistance of public members of the Board in soliciting gifts and bequests to the Library. Two public members are obviously not sufficient to assist a national institution in building an endowment that would be suitable to enhance the effectiveness of the Library's educational and cultural programs for the nation. This bill increases the membership to 10, 4 members of whom shall be appointed by the Speaker of the House of Representatives, and 4 members of whom shall be appointed by the President pro tempore of the Senate. Comparable boards for national institutions have at least. 10 public members. I believe the increase will help enlist financial support of the Library of Congress on a nation-wide basis.

Quorum: Raising the number needed for a quorum relates to the increased membership of the Board.

Librarian's authority for temporary investment: This amendment is requested because funds presently cannot be invested until the Library of Congress Trust Fund Board is polled and all the members vote on the investment. Under the proposed amendment, the Librarian of Congress would have authority to invest gifts of cash temporarily in order for interest to be earned from the time the principal is received by the Library. An accounting for this temporary investment, of course, would be made to Congress and to the Board on an annual basis.

Library of Congress trust funds have not kept pace with increases in appropriated funds as they should have over the past several decades. Our trust funds today provide 2.5 percent of total income compared with 6 percent in 1968. I believe this legislation will help us revitalize the Trust Fund Board and make it an active supportive agent for the Library of Congress in enlisting private sector support. I urge that we move ahead quickly with legislation to expand the Library of Congress Trust Fund Board.

Sincerely,

JAMES H. BILLINGTON,
The Librarian of Congress.

By Mr. PELL:

S. 1416. A bill to provide adequate authority in the Library of Congress for the provision of fee-based library research and information products and services; to the Committee on Rules and Administration.

LIBRARY SERVICE FEES

Mr. PELL. Mr. President, in my capacity as chairman of the Joint Committee on the Library, I am introducing today legislation requested by the Librarian of Congress to provide a full statutory base of authority for the Library to charge fees for certain services to the public.

This proposed legislation has been prompted in large part by technological advances which were totally unknown when Congress first enacted authority in 1902 for the Library to sell copies of its card catalog and other publications. The bill will provide for fee-based services such as specialized searches of computerized data bases and public access to on-line computer files in the Library reading rooms.

I note that the bill would not encroach on services presently provided without fee by the Library.

I ask unanimous consent to have printed in the RECORD at this point a letter from the Librarian of Congress, Dr. James H. Billington, which sets forth in detail the need for this legislation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE LIBRARIAN OF CONGRESS,
Washington, DC, May 24, 1991.

Hon. CLAIBORNE PELL,
Chairman, Joint Committee on the Library, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am enclosing draft legislation that will provide a modern authorization and fiscal structure for the various Library of Congress products and services that have long been supported by fee service charges. This legislation is responsive to a draft General Accounting Office report, which recommends that the Library of Congress seek legislation to authorize revolving fund accounts already in existence. In addition, we are requesting authority to add services that will enable the Library of Congress to supply business and industry and the educational and information communities some of the specialized information they need in order to maintain this nation's educational, competitive, and productive status in a world highly dependent upon information.

This legislation does not introduce any new services that will compromise or encroach on services that have traditionally been delivered without fee. The Library of Congress is determined to sustain and improve these existing free core services, including organizing, cataloging, and preserving its collections, and providing reference services and domestic interlibrary loan.

The Library has been engaged in fee services as far back as 1870, when the Copyright Office became part of the Library. In 1902, 2 U.S.C. 150 was enacted, authorizing the Library to sell catalog cards and other publications for cost plus 10 percent. The Library of Congress Gift and Trust Fund Board Act of 1925 authorized the acceptance of gifts, bequests or devices of property for the benefit of the Library, its collections and services. Under this authority, the Library has accepted gifts which established service fee revolving funds, to which income generated from sales of items produced through these funds could be returned. The most notable such gift in 1938 was used to establish the Photoduplication Service for purposes of providing for a fee copies of materials from the Library's collections for members of the public.

The Library now charges fees under three separate authorities:

(1) *2 U.S.C. 150*, approved in 1902, which authorizes the sale of "copies of the card indexes and other publications"; (2) *2 U.S.C. 160*, approved in 1925, Disbursement of gifts to the Library, which has been used since 1938 as a revolving fund authority; and (3) *31 U.S.C. 1535*, approved in 1932, The Economy Act, which is a general authorization allowing Federal government agencies to do work for each other when it is most economical to do so.

The Library of Congress is the largest knowledge resource in the world, containing nearly 100 million items in multiple formats. Modern technology has led to ways in which the Library's collections can be more fully shared by the American people. But because of limitations in the Library's statutory authority, the Library has been unable to share its collections and its expertise as widely as is desirable. On many occasions we have had to turn down requests from the private sector for specialized information services because we could not use the receipts to reimburse the appropriated funds used to support the work.

With the exception of copyright fees covered by Title 17 of the U.S. Code, all current Library products and services for which a fee is charged would be covered by the new legislation we seek. These current products and services include: catalog cards, machine readable catalog records, and technical publications; photoduplicates of the collections, including motion picture films, video tapes, sound recordings and facsimile reproductions; publications that are produced by Library gift funds; special research and bibliographic services for other Federal agencies, and support services for the Federal Library and Information Center Committee; photocopies of translations into English from the files of the National Translation Center; and a variety of other products from the sales shop including folk art, pictures, posters, greeting cards, and other Library-related items for visitors to purchase.

This legislation will allow the Library of Congress to improve its financial management of these activities and to provide for fee services and products by such means as: providing expedited document delivery services including copying services, and special express delivery services; offering specialized search and bibliographic services from the Library's unique databases for science, business, and industry; allowing public access to commercial and other fee service on-line computer files in the Library of Congress reading rooms; and providing training in specialized fields such as preservation and library service, including reference and research services. Products of the Congressional Research Service are specifically exempted without prior Congressional approval.

We have included in the draft legislation a requirement for a public notice and comment period for any proposed new fee service. This will give Library users an opportunity to comment on the merits of the service. This legislative proposal has been reviewed and revised after discussions with representatives of national library associations, the information industry, and Congressional staff from the authorizing and appropriations committees of both the House and the Senate. We have recieved very constructive comments from all parties, and they are reflected in the legislation.

The enclosed draft represents, I believe, the balanced interests of all concerned. It reaffirms the Library's long-standing commitment to provide core services without fees, enables the Library to exploit its resources more fully for those information-dependent groups whose work benefits the nation, and prepares the Library of Congress for a third century of continued information services to the Congress and the nation.

Sincerely,

JAMES H. BILLINGTON,
The Librarian of Congress.

By Mr. BINGAMAN (for himself, Mr. MCCAIN, Mr. GORTON, and Mr. DECONCINI):

S. 1417. A bill to amend chapter 111 of title 10, United States Code, to authorize the Department of Defense to award grants to institutions and organizations that promote training of United States scientists, engineers, and managers in Japanese language and culture; to the Committee on Armed Services.

UNITED STATES-JAPAN INDUSTRY AND TECHNOLOGY MANAGEMENT TRAINING ACT

Mr. BINGAMAN. Mr. President, I rise today to introduce the United States-Japan Industry and Technology Management Training Act of 1991. I am pleased that Senators MCCAIN, GORTON, and DECONCINI are joining me in introducing this bill.

Mr. President, the strength of the U.S. defense industrial base directly depends on the strength of the Nation's overall industrial base. Unfortunately, the U.S. industrial base is losing ground in the international economic competition. Various private groups, most notably the Council on Competitiveness in its recent report "Gaining New Ground," have pointed out the extent to which the United States is losing leadership in many areas of critical technology.

While the United States is losing ground, Japan is gaining ground almost across the board. Japan has demonstrated outstanding abilities in building and sustaining a strong industrial base by creatively using science and technology to support its industrial base activities. Indeed, the 1991 Department of Defense Critical Technologies Plan states that Japan is capable of making important contributions in 11 of the 21 technologies most critical to national defense, and ahead of the United States in 5 of those 11.

Mr. President, we need to be in a position to benefit from Japanese scientific and technological advances in the same way that Japan has benefited from United States advances over the years. It is clear to me that the United States stands to benefit by cooperating with Japan in the development of precompetitive technologies and transferring to the United States technologies developed in Japan, particularly in those areas identified by the Department of Defense as critical.

A major barrier to understanding Japanese management and business practices, to United States-Japan cooperation in the development of technologies important to defense, and to the transfer of technology from Japan to the United States, is the lack of United States scientists, engineers, and managers with training in the Japanese language. If we are to benefit from Japanese advances, we need to address this shortfall.

In each of the last 2 years I have visited Japan under the auspices of the Armed Services Committee and seen for myself the extent to which Japan has developed critical defense technologies that are ahead of the United States. On each trip, I was told time and again of the difficulties of accessing Japanese technology because of the lack of technically trained United States citizens who are proficient in Japanese. In an attempt to address this, I worked to include a provision in the fiscal year 1991 Defense Authorization Act which would provide funding for programs at colleges, universities, and nonprofit institutions that would train United States scientists, engineers, and managers in Japanese language and culture. The Department of Defense directed the Air Force Office of Scientific Research to manage the program, and that office is currently in the process of accepting proposals.

While I am pleased that the Department of Defense is implementing this program, I am disappointed that the Department is treating this as a one-time authorization and is not planning to continue the program. Japan is a technological superpower and should be treated as such. We need to build a sustained program of Japanese language training that will allow sustained United States access to Japanese science and technology. I am introducing this act today to lay the groundwork for such an effort.

This act requires the Secretary of Defense, acting through the Undersecretary of Defense for Acquisition, to establish a program of competitively awarded grants to United States universities, colleges, and nonprofit institutions for the purpose of promoting the study of Japanese language and culture.

In addition to criteria for selection decided upon by the Department of Defense, special consideration shall be given to universities, colleges, and nonprofit institutions that can support participation by scientists, engineers, and managers from Department of Defense and Department of Energy defense laboratories; develop plans to place United States scientists, engineers, and managers in Japanese Government and industry laboratories to promote the transfer of technology to the United States; and agree to share program costs on an equitable basis.

Mr. President, this is a concise, straightforward measure that will, if enacted, allow us to better access and transfer Japanese technology to the United States. I urge my colleagues to support it.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1417

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States–Japan Industry and Technology Management Training Act of 1991".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) Japan has built a research, development, and manufacturing base that is unparalleled in comparison to the research, development, and manufacturing bases of countries other than the United States.

(2) According to the defense critical technologies plan submitted to Congress by the Secretary of Defense in 1991, Japanese industries have significant capabilities in research, development, and application of eleven of the twenty-one critical defense technologies identified in the plan.

(3) According to the plan, the capabilities of Japanese industries with respect to five of those eleven technologies are at least equal to the capabilities of United States industries with respect to such technologies.

(4) It is vital to the national security and economic prosperity of the United States that United States institutions of higher education, Federal laboratories, and United States industries use the capabilities of Japanese industries as effectively as Japanese industries have used the capabilities of such United States entities during the last four decades.

(5) In order for United States institutions of higher education, Federal laboratories, and United States industries to be able to use such Japanese capabilities effectively, those United States institutions must be able to interact with Japanese industries.

(6) Among the most significant barriers to effective interaction of United States institutions of higher education, Federal laboratories, and United States industries with Japanese industries (including Japanese research and manufacturing institutions) are the general inability of United States scientists, engineers, and managers to communicate in the Japanese language and the limited knowledge that such personnel generally have of Japanese culture.

(b) PURPOSE.—The purpose of this Act is to encourage the training of United States scientists, engineers, and managers in Japanese culture, language, and business and management practices in order (1) to facilitate cooperation of United States research, development, and manufacturing institutions with such Japan industries (including Japanese research and manufacturing institutions), and (2) to facilitate transfers of knowledge from such Japanese institutions regarding seminal advancements in science, engineering, and industry management to such United States institutions.

SEC. 3. UNITED STATES-JAPAN MANAGEMENT TRAINING PROGRAMS.

(a) ESTABLISHMENT.—Chapter 111 of title 10, United States Code, is amended—

(1) by redesignating section 2196 as section 2197; and

(2) by inserting after section 2195 the following new section 2196:

"§ 2196. Management training program in Japanese language and culture

"(a) The Secretary of defense, acting through the Under Secretary of Defense for Acquisition, shall establish a program to award grants on a competitive basis to United States institutions of higher education and other United States not-for-profit organizations that conduct programs for scientists, engineers, and managers to learn Japanese language and culture.

"(b) The Secretary of Defense shall prescribe in regulations the criteria for awarding a grant under the program for activities of an institution or organization referred to in subsection (a), including the following:

"(1) Whether scientists, engineers, and managers of defense laboratories and Department of Energy laboratories are permitted a level of participation in such activites that is beneficial to the development and application of defense critical technologies by such laboratories.

"(2) Whether such activities include the placement of United States scientists, engineers, and managers in Japanese government and industry laboratories—

"(A) to improve the knowledge of such scientists, engineers, and managers in (i) Japanese language and culture, and (ii) the research and development and management practices of such laboratories; and

"(B) to provide opportunities for the encouragement of technology transfer from Japan to the United States.

"(3) Whether an appropriate share of the costs of such activites will be paid out of funds derived from non-Federal Government sources.

"(c) For the purposes of this section the term 'defense critical technologies' means any technology identified as critical in an annual defense critical technology plan submitted to the Congress under section 2508 of this title.".

(b) CONFORMING AMENDMENTS.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 2196 and inserting in lieu thereof the following new matter:

"2196. Management training program in Japanese language and culture.
"2197. Definition.".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Department of Defense to carry out section 2196 of title 10, United States Code (as added by section 3), $10,000,000 for each of fiscal years 1992 and 1993.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 1418. A bill to designate the Federal building located at 78 Center Street in Pittsfield, MA, as the "Silvio O. Conte Federal Building," and for other purposes; to the Committee on Environment and Public Works.

SILVIO O. CONTE FEDERAL BUILDING

Mr. KERRY. Mr. President, I rise today to honor one of the most dedicated public servants to ever represent the Commonwealth of Massachusetts and one of the greatest individuals who has served in Congress, Silvio Conte.

Sil Conte entered politics because he wanted to make a difference. Well, Sil made a big difference for the people of the First Congressional District and the United States whom he served for 32 special years. He was a compassionate defender of the common man who never lost sight of the reason he was elected. Too often, Congress gets wrapped up in the atmosphere of Washington, assuming what happens inside the beltway is of the utmost importance. But Sil Conte, with his wit and humor, always brought the issues back into perspective.

Silvio Conte spent his life helping the poor and working class, protecting the environment, and trying to give each and every American a chance for the American dream. Silvio saw what was wrong and tried to correct it, saw what was right and tried to preserve it; regardless of the politics of the situtation. His enormous legacy stands as a monument to good government and professional integrity.

Today, Senator KENNEDY and I are introducing a bill to rename the Pittsfield Federal Office Building the Silvio O. Conte Federal Building. We hope this will serve as a small token of our respect and affection for Sil and a tribute to his tireless efforts to help his fellow citizens. I ask that my colleagues join with us to thank Silvio Conte for his service and for sharing part of his special life with us.

Mr. KENNEDY. Mr. President, I rise in support of this bill to name the Federal Building in Pittsfield, MA, after Silvio Conte. The people of Pittsfield have requested this tribute, and it's not hard to see why. Sil was a most beloved and revered Representative in his district, in Massachusetts, and in the Congress. His ability to help his constituents through the appropriations process was the stuff of legend. It is said that all Sil Conte had to do was walk into the House Appropriations Committee room, raise his little finger, and western Massachusetts had a new Federal project. If he had got us any more, we'd have had to call the state Conte-chusetts.

His wit and compassion were equally legendary. Perhaps no Member of Congress wore his heart more clearly on his sleeve than Sil, and what a warm and beautiful heart it was, always reaching out to those in need. Day in and day out, year in and year out, for over three decades of brilliant public service in the House of Representatives, Sil Conte was always there when his constituents and his country needed him, advancing America's real priorities, standing firm against unfair budget cuts, and other proposals that would damage the goals we share. He had a deep and abiding sense of compassion for the elderly, the sick, the poor, and all the others who need our help the most. And he knew, perhaps better than anyone in Congress, how to get the job done with a touch of humor. You could always count on Sil to make his point with a prop or a poem that left us laughing.

It is most appropriate that this Federal building, where Sil maintained his district office since the day it opened, and which owes its very existence to Sil's efforts, should be named after him. I urge my colleagues to support this legislation which pays tribute to one of the finest public servants Massachusetts and the Nation have ever known, Silvio O. Conte.

By Mr. PRESSLER (for himself, Mr. COCHRAN, Mr. KASTEN, and Mr. GRASSLEY):

S. 1419. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for amounts paid by a health-care professional as interest on student loans if the professional agrees to practice medicine for at least 2 years in a rural community; to the Committee on Finance.

By Mr. DOLE (for himself and Mr. SPECTER):

S.J. Res. 170. A joint resolution designating September 20, 1991, as "National POW/MIA Recognition Day," and authorizing the display of the National League of Familes POW/MIA flag on flagstaffs at certain Federal facilities; to the Committee on the Judiciary.

POW/MIA RECOGNITION DAY

Mr. DOLE. Mr. President, in 1969, when I first expressed concern about resolving the fates of the missing Americans who served this Nation in times of conflict, I spoke to only 20 POW/MIA family members.

Now, 22 years years later, the issue has become a national priority. Thousands of concerned Americans have joined the National League of Families in demanding answers. The POW/MIA flag now stands in the rotunda of the Capitol as a reminder to all. And it will not come down until we have the fullest account possible of our missing Americans.

President Bush has a deep interest in this issue. The President has pledged that "We will do everything that a Government can do to recover the missing * * * If more can be done, then it will be."

Today, I am pleased to introduce legislation with Senator SPECTER, designating September 20, 1991, as "National POW/MIA Recognition Day."

We designate this day to pay tribute to our heroic men and women of our Nation's armed services who have suffered for their courageous service to America. We designate this day to remember the lonely hours of silent pain and sacrifice of American Families that have lost their loved ones, and now wish only to know their fate. We designate this day to renew our promise to these families that we will continue to demand that other nations cooperate with our goal to have the fullest accounting possible for our missing heroes.

Some may forget, some may wish to, we shall not.

By Mr. KASTEN:

S.J. Res. 171. Joint resolution to designate the month of August 1991, as "Wisconsin Cheese Month"; to the Committee on the Judiciary.

WISCONSIN CHEESE MONTH

• Mr. KASTEN. Mr. President, I rise today to introduce legislation that recognizes the month of August 1991 as Wisconsin Cheese Month.

Mr. President, Wisconsin is the dairy capital of the United States. Over 75 percent of the milk produced in Wisconsin is made into cheese. The majority of cheese processed in Wisconsin is exported. Therefore, Wisconsin is a viable source of feeding Americans and people around the world.

Cheese and other Wisconsin dairy products are vital to many low-income programs, such as Women, Infants, and Children [WIC], school lunch programs, Temporary Emergency Food Assistance Program, and other welfare programs. It is important that the hard working Wisconsin dairy farmers, producers, and processors be recognized for their contributions to this Nation.

This year will mark the 100th anniversary of the Wisconsin Cheese Makers Association. The Wisconsin cheese makers association has led the way in formulating dairy policy in Wisconsin and across this Nation.

Mr. President, August 1991 deserves the attention of this Nation as "Wisconsin Cheese Month." I hope my colleagues will join me in supporting this important resolution.●

By Mr. INOUYE (for himself, Mr. ADAMS, Mr. AKAKA, Mr. BINGAMAN, Mr. BOREN, Mr. BURDICK, Mr. BURNS, Mr. CHAFEE, Mr. COCHRAN, Mr. CONRAD, Mr. CRAIG, Mr. DASCHLE, Mr. DECONCINI, Mr. DODD, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. GORE, Mr. GORTON, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. LAUTENBERG, Mr. LEVIN, Mr. LUGAR, Mr. MCCAIN, Mr. METZENBAUM, Mr. MITCHELL, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. NICKLES, Mr. PACKWOOD, Mr. REID, Mr. RIEGLE, Mr. SANFORD, Mr. SASSER, Mr. SEYMOUR, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. STEVENS, and Mr. WELLSTONE):

S.J. Res. 172. A joint resolution to authorize and request the President to proclaim the month of November 1991, and the month of each November thereafter, as "National American Indian Heritage Month"; to the Committee on the Judiciary.

NATIONAL AMERICAN INDIAN HERITAGE MONTH

● Mr. INOUYE. Mr. President, I am pleased today to introduce, on behalf of myself and 41 colleagues, a Senate joint resolution designating the month of November 1991, and the month of November in each year thereafter, as "American Indian Month."

Earlier this session I wrote to each of you, inviting you to join me in a resolution that would designate the month of November as American Indian Month and I thank all of you who have done so.

As you know, by action of the Congress, all of next year will be the Christopher Columbus quincentenary jubilee, and many events will commemorate developments in the Americas since the arrival of Europeans in this hemisphere. It seems to me that it would be especially fitting before that 500th anniversary arrives for the Congress to designate 1 month on a permanent basis to honor the first inhabitants of this land and to celebrate their contributions to the life of this Nation.

Mr. President, my goal this year is not to obtain the simple majority of sponsors needed to adopt the resolution, but to obtain the sponsorship of all Members of the Senate. I ask even those of you who shun resolutions because they are so numerous to make an exception for what surely is an exceptional case.

I ask you to join me in this historic gesture.●

ADDITIONAL COSPONSORS

S. 83

At the request of Mr. SYMMS, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 83, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income payments made by public utilities to customers to subsidize the cost of energy and water conservation services and measures.

S. 177

At the request of Mr. INOUYE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 177, a bill to amend section 1086 of title 10, United States Code, to provide for payment under the CHAMPUS program of certain health care expenses incurred by certain members and former members of the uniformed services and their dependents to the extent that such expenses are not payable under Medicare, and for other purposes.

S. 239

At the request of Mr. SARBANES, the names of the Senator from Minnesota [Mr. WELLSTONE] and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 239, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 284

At the request of Mr. BRADLEY, the names of the Senator from Nevada [Mr. REID] and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 284, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 474

At the request of Mr. DECONCINI, the names of the Senator from Missouri [Mr. BOND] and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of S. 474, a bill to prohibit sports gambling under State law.

S. 542

At the request of Mr. GRASSLEY, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 542, a bill to amend the Internal Revenue Code of 1986 to restore the deduction for interest on educational loans.

S. 747

At the request of Mr. SYMMS, his name was added as a cosponsor of S. 747, a bill to amend the Internal Revenue Code of 1986 to clarify portions of the code relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 757

At the request of Mr. LEAHY, the names of the Senator from Arkansas [Mr. BUMPERS] and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 757, a bill to authorize the Food Stamp Act of 1977 to respond to the hunger emergency afflicting American families and children, to attack the causes of hunger among all Americans, to ensure an adequate diet for low-income people who are homeless or at risk of homelessness because of the shortage of affordable housing, to promote self-sufficiency among food stamp recipients, to assist families affected by adverse economic conditions, to simplify food assistance programs' administration, and for other purposes.

S. 781

At the request of Mr. SARBANES, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 781, a bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

S. 878

At the request of Mr. DODD, the names of the Senator from Florida [Mr. GRAHAM] and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 878, a bill to assist in implementing the Plan of Action adopted by the World Summit for Children, and for other purposes.

S. 884

At the request of Mr. PACKWOOD, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 884, a bill to require the President to impose economic sanctions against countries that fail to eliminate large-scale driftnet fishing.

S. 930

At the request of Mr. PELL, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 930, a bill to amend the Higher Education Act of 1965 to provide financial assistance for middle income students.

S. 1023

At the request of Mr. GRAHAM, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 1023, a bill to authorize additional appropriations for the construction and maintenance of the Mary McLeod Bethune Memorial Fine Arts Center.

S. 1127

At the request of Mr. BRYAN, the names of the Senator from Nevada [Mr. REID], the Senator from Mississippi [Mr. LOTT], the Senator from Arizona [Mr. MCCAIN], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 1127, a bill to direct the heads of the departments and agencies of Federal Government to make available to the public information relating to members of the Armed Forces of the United States who are officially considered to be prisoners of war, missing in action (body not returned) by reason of certain wars of the United States.

S. 1197

At the request of Mr. KENNEDY, the name of the Senator from Arkansas

[Mr. BUMPERS] was added as a cosponsor of S. 1197, a bill to amend the Public Health Service Act concerning family planning and to provide for the availability of information and counseling regarding pregnancies, and for other purposes.

S. 1305

At the request of Mr. DOMENICI, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1305, a bill to amend the Internal Revenue Code of 1986 to encourage consumer participation in energy efficiency, conservation and cost-effective demand-side management by excluding from gross income payments made by utilities to customers for purchasing qualified energy conservation appliances and for taking energy conservation measures, and for other purposes.

S. 1346

At the request of Mr. SYMMS, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 1346, a bill to amend the Internal Revenue Code of 1986 to provide for a 50 percent-of-occupancy rule with respect to the valuation of seats on corporate aircraft on a legitimate business flight when those seats would have otherwise gone unoccupied.

S. 1351

At the request of Mr. DOMENICI, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1351, a bill to encourage partnerships between Department of Energy Laboratories and educational institutions, industry, and other Federal laboratories in support of critical national objectives in energy, national security, the environment, and scientific and technological competitiveness.

S. 1352

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 1352, a bill to place restrictions on United States assistance for El Salvador.

S. 1364

At the request of Mr. SYMMS, his name was added as a cosponsor of S. 1364, a bill to amend the Internal Revenue Code of 1986 to simplify the application of the tax laws with respect to employee benefit plans, and for other purposes.

S. 1367

At the request of Mr. MITCHELL, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 1367, a bill to extend to the People's Republic of China renewal of nondiscriminatory (most-favored-nation) treatment until 1992 provided certain conditions are met.

SENATE JOINT RESOLUTION 18

At the request of Mr. SIMON, the name of the Senator from Nevada [Mr. Reid] was added as a cosponsor of Senate Joint Resolution 18, a joint resolution proposing an amendment to the constitution relating to a Federal balanced budget.

SENATE JOINT RESOLUTION 124

At the request of Mr. BRADLEY, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of Senate Joint Resolution 124, a joint resolution to designate "National Visiting Nurse Associations Week" for 1992.

SENATE JOINT RESOLUTION 145

At the request of Mr. CRANSTON, the names of the Senator from South Carolina [Mr. HOLLINGS], the Senator from New Jersey [Mr. BRADLEY], the Senator from Connecticut [Mr. DODD], the Senator from Georgia [Mr. FOWLER], the Senator from Wisconsin [Mr. KOHL], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 145, a joint resolution designating the week beginning November 10, 1991, as "National Women Veterans Recognition Week".

SENATE JOINT RESOLUTION 147

At the request of Mr. LEAHY, the names of the Senator from Arizona [Mr. DECONCINI], and the Senator from Maine [Mr. COHEN] were added as cosponsors of Senate Joint Resolution 147, a joint resolution designating October 16, 1991, and October 16, 1992, as "World Food Day".

SENATE JOINT RESOLUTION 164

At the request of Mr. GORE, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of Senate Joint Resolution 164, a joint resolution designating the weeks of October 27, 1991, through November 2, 1991, and October 11, 1992, through October 17, 1992, each separately as "National Job Skills Week".

SENATE CONCURRENT RESOLUTION 35

At the request of Mr. GLENN, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Concurrent Resolution 35, a concurrent resolution expressing the sense of the Congress that the awarding of contracts for the rebuilding of Kuwait should reflect the extent of military and economic support offered by the United States in the liberation of Kuwait.

SENATE RESOLUTION 66

At the request of Mrs. KASSEBAUM, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Resolution 66, a resolution to amend the rules of the Senate to improve legislative efficiency, and for other purposes.

SENATE RESOLUTION 126

At the request of Mr. SMITH, the names of the Senator from Kentucky [Mr. MCCONNELL], the Senator from Idaho [Mr. SYMMS], the Senator from Mississippi [Mr. LOTT], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of Senate Resolution 126, a resolution encouraging the President to exercise the line-item veto.

AMENDMENT NO. 383

At the request of Mr. BAUCUS, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from Washington [Mr. GORTON], the Senator from Utah [Mr. HATCH], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of amendment No. 383 intended to be proposed to H.R. 2686, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes.

SENATE RESOLUTION 147—TO EXPRESS SENATE OPPOSITION TO THE USE OF FORCE TO RESOLVE POLITICAL DIFFERENCES IN YUGOSLAVIA

Mr. DOLE (for himself, Mr. PELL, Mr. HELMS, Mr. PRESSLER, Mr. BYRD, Mr. NICKLES, and Mr. RIEGLE) submitted the following resolution; which was considered and agreed to.

S. RES. 147

Whereas since May 15, 1991, the government of the Republic of Serbia has blocked the constitutional rotation of the federal presidency of Yugoslavia, effectively leaving Yugoslavia without a President and commander-in-chief of the Yugoslav Army;

Whereas on June 25, 1991 the democratic republics of Croatia and Slovenia declared their independence;

Whereas in conjunction with these declarations of independence, Croatia and Slovenia have indicated their willingness to continue dialogue and negotiations with the other republics of Yugoslavia on the future of Yugoslavia;

Whereas on June 26, 1991, in response to these declarations, the Yugoslav central government, despite its lack of constitutional authority, ordered the Yugoslav Army to deploy troops and tanks along the Slovenian borders, to seize border posts, and to mobilize Yugoslav Army troops and tanks in Croatia;

Whereas the Yugoslav Army is presently carrying out those instructions;

Whereas there are reports of growing numbers of deaths of civilians, militiamen, policemen and soldiers as a result of fighting between Yugoslav Army forces and militia forces of the republics of Slovenia and Croatia;

Whereas in its June 26 statement on Yugoslavia, the U.S. Department of State asserted that, "The United States strongly opposes the use or threat of force to resolve political differences in Yugoslavia"; Now, therefore, be it

Resolved, That—

(a) The Senate condemns the use of force to resolve political differences within Yugoslavia;

(b) The Senate calls on the Yugoslav central government to cease using the Yugoslav Army to address the current crisis, and instead urges the central government to respond positively and immediately to domestic and international calls for negotiations leading to a peaceful settlement.

(c) The Senate calls on the government of the Republic of Serbia to stop blocking the rotation of the Yugoslav Presidency.

Mr. DOLE. Mr. President, I am submitting this resolution in response to the crisis in Yugoslavia, together with the chairman and ranking member of the Foreign Relations Committee, the President pro tempore, Senator PRESSLER and Senator NICKLES.

This resolution expresses Senate opposition to the use of force to resolve political differences within Yugoslavia. As I said here earlier today—I think that this is a very important message to send, especially now that the central goverment has mobilized the Yugoslav Army and ordered the use of force in response to the Croatian and Slovenian Declarations of Independence. The crisis is escalating and we need to stand firm against the use of violence and brute force.

This resolution will support the administration's efforts to promote dialog—with the objective of a political settlement involving greater sovereignty and independence for the Republics of Yugoslavia.

Tragically, today there are already more than 100 people dead—in Slovenia alone—as a result of fighting between Yugoslav Army troops and Slovenian militia. There are reports of clashes in Croatia, too, among army units and Croatian police which have resulted in casualties.

Mr. President, now is the time for the U.S. Senate to say clearly and with one voice that it rejects violence and supports democracy and peaceful dialog. I believe that this resolution does just than and I urge its adoption.

Mr. PELL. Mr. President, I am pleased to join with the distinguished minority leader Mr. DOLE to submit a resolution regarding the crisis in Yugoslavia.

Today's reports from Yugoslavia are extremely distressing. In response to the June 25 declarations of independence by Croatia and Slovenia, the central government ordered the Yugoslav Army to step up activity along the Slovenian and Croatian borders and to seize border posts. Apparently, violence has broken out between the Yogoslav Army and republic militias, resulting in the deaths of both civilians and soliders. Press reports indicate that the violence is escalating, and according to Slovenia's Defense Minister Janez Jansa, more than 100 people have been killed or injured in the fighting.

I would note that disturbing reports are also coming out of the province of Kosova. Apparently, the President of the Parliamentary Party of Kosova, Venton Surroi, has been arrested, tried without representation, and sentenced to 60 days in prison. I sincerely hope that this arrest is not a signal that the Government of Serbia is capitalizing on the current uncertainty to step up its repression of the Albanian population in Kosova.

The resolution that we are introducing today condemns the use of force to resolve differences within Yugoslavia and calls for an end to the hostilities. It also urges the central government to agree to calls for negotiations leading to a peaceful settlement of the issues affecting all of Yugoslavia. These calls for negotiations are coming from within Yugoslavia as well as from foreign capitals. Finally, the resolution urges the Republic of Serbia to allow the normal constitutional rotation of the Federal Presidency to occur.

The steps we are urging must be taken if further violence is to be avoided and if a degree of normalcy is to return to Yugoslavia. It is critical that the Senate declare its position on the present crisis firmly and unequivocally, and therefore I strongly urge that my colleagues support this measure.

SENATE RESOLUTION 148—RELATIVE TO SELF-DETERMINATION FOR THE PEOPLE OF THE REPUBLIC OF MOLDAVIA

Mr. PRESSLER (for himself and Mr. HELMS) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 148

Whereas the Romanian principality of Moldavia emerged as an independent state in the 14th century;

Whereas Moldavia was invaded in 1806 by the Russian army and annexed by the Russian Empire in 1812 as a result of the Russo-Turkish Treaty of Bucharest;

Whereas on November 15, 1917, the Soviety Government proclaimed the right of the peoples of the Russian Empire to self-determination and the establishment of separate states;

Whereas on December 2, 1917, the democratically-elected Moldavian constituent assembly, the *Sfatul Tsarii*, proclaimed Moldavia an independent republic;

Whereas on April 9, 1918, the Constituent Assembly voted to unite Moldavia with the Kingdom of Romania;

Whereas the United States, France, Italy, Great Britain, Japan and the other allied states specifically sanctioned and recognized the reunion of Moldavia with Romania in the Peace Treaty of Paris of October 28, 1920;

Whereas the Soviet Union's armed forces invaded the Kingdom of Romania on June 28, 1940 and occupied eastern Moldavia and northern Bucovina, and Hertsa in contravention of the Charter of the League of Nations; the Treaty of Paris of 1920; the General Treaty for the Renunciation of War of 1928; the Romanian-U.S.S.R. Mutual Assistance Pact of 1936; the Conventions for the Definition of Aggression of 1933; and generally recognized principles of international law;

Whereas the annexation of Moldavia, northern Bucovina, and Hertsa was prospectively agreed to in certain secret protocols to a treaty of non-aggression concluded between the Government of the Soviet Union and the German Reich on August 23, 1939;

Whereas from 1940 to 1953 hundreds of thousands of Romanians from Moldavia and Bucovina were deported by the U.S.S.R. to Central Asia and Siberia;

Whereas the United States Government has repeatedly stated its refusal to recognize forcible seizure of territory pursuant to the terms of the so-called Stalin-Hitler Pact, including the 1940 Soviet annexation of Estonia, Latvia, and Lithuania;

Whereas the Governments of the United Kingdom, the Soviet Union and the United States are parties to the Atlantic Charter of August 14, 1941, in which the signatories declared their "desire to see no territorial changes that do not accord with the freely expressed will of the peoples concerned" and affirmed their wish "to see sovereign rights and self-government restored to those who have been forcibly deprived of them" during the course of the Second World War;

Whereas on August 31, 1989, the Supreme Council of Moldavia declared Romanian to be the official language of the Republic and reestablished the Latin alphabet forbidden by the Soviet Government during the occupation of Moldavia as the alphabet of written Romanian;

Whereas in March, 1990, the Romanian people of Moldavia were able to vote in free and fair elections for deputies to the Supreme Council of Moldavia;

Whereas on April 27, 1990, the Supreme Council of Moldavia restored the flag of Romania as the official flag of the republic;

Whereas on June 23, 1990, the Supreme Council of Moldavia declared the Republic of Moldavia a sovereign state;

Whereas on December 16, 1990, more than 800,000 Romanians gathered at the Second Grand National Assembly in the Moldavian capital of Chisinau to declare the national independence of Romanians in occupied territories;

Whereas the people of Moldavia refused to participate in the Soviet referendum of March 3, 1991 despite Soviet governmental efforts to threaten and intimidate the Moldavian people into accepting a new union treaty;

Whereas the signatory states of the Helsinki Final Act have accepted the principle of the equal rights of people and their right to self-determination;

Whereas pursuant to article 8 of the Helsinki Final Act "all people always have the right, in full freedom, to determine, when and if they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social, and cultural development": Now, therefore, be it

Resolved, That it is the sense of the Senate that the United States Government should—

(1) Support the right of self-determination of the people of Soviet-occupied Moldavia and northern Bucovina and issue a statement to that effect;

(2) Support future efforts by the Government of Moldavia to negotiate peacefully, if they so wish, the reunification of Romania with Moldavia and Northern Bucovina as established in the Paris Peace Treaty of 1920, the prevailing norms of international law, and in conformity with Principle 1 of the Helsinki Final Act.

Mr. PRESSLER. Mr. President, I am pleased to sponsor a resolution today with Senator HELMS regarding a shameful anniversary. Tomorrow, the Romanian people of Bessarabia and northern Bucovina will commemorate the 51st anniversary of their loss of freedom. On June 28, 1940 Red Army tanks rolled onto Romanian land bringing forth destruction and captivity in the Soviet Union.

Mr. President, the question of Moldavia raises both human rights and legal concerns. The Romanian principality of Moldavia emerged as an independent state in the 14th century.

On January 24, 1918, the democratically-elected Moldavian constituent assembly proclaimed Moldavia's independence. On April 9, 1918, Moldavia chose freely to unite with the Kingdom of Romania.

Bucovina, part of Moldavia, was invaded by Turkey in the 18th century, and remained part of the Austro-Hungarian Empire until 1918. On June 28, 1918, the General Congress of Bucovina proclaimed union with Romania.

The reunion of Moldavia and northern Bucovina with Romania was recognized by the United States and other allied States. Unfortunately, this reunion was short-lived. Stalin set his eyes on the Romanian land and negotiated a secret pact with Nazi Germany in 1939 to lay an illegal claim to Moldavia.

According to article 1 of the Secret Supplementary Protocol, Finland, Estonia, Latvia, and Lithuania were granted to the Soviet Union. Article 3 of the Secret Supplementary Protocol reads as follows: "As regards southeastern Europe, Soviet interest in Bessarabia is emphasized. The German side declares its complete lack of interest in these areas." The map which accompanied the Nazi-Soviet Pact placed the Romanian town of Hertsa in the region to be occupied by the Soviet Union.

The annexation went almost unnoticed; Europe was convulsed in war against fascism. Communism's war against democracy went almost unnoticed. As a result Eastern Europe was lost to the Soviet empire. Only Finland was to regain a precarious freedom.

The military occupation of Moldavia was a direct violation of international agreements, including the League of Nations Pact. In 1929, when the Soviet Union participated in the Briand-Kellogg pact, the Soviet Union pledged to "maintain the existing peace." On July 3, 1933 Romania and the Soviet Union concluded an agreement concerning the definition of aggressor and of territory. In signing this agreement the Soviet Union recognized that Bessarabia belonged to Romania. In the name of territorial expansion these agreements were disregarded.

Mr. President, today the people of Moldavia are moving peacefully towards democracy. Meeting in Kishinev, the capital of Moldavia, last December, 800,000 Romanians of Bessarabia, Transnistria, and northern Bucovina stated their unequivocal opposition to association with the Soviet Union.

Mr. President, I ask unanimous consent that the Proclamation of the Great National Assembly of all Romanians, signed on December 16, 1990, be printed in the RECORD at the conclusion of my remarks.

Tomorrow in Kishinev, representatives from the West, including some from the United States, will attend a conference to discuss the Nazi-Soviet Pact and Moldavia's legal claim to self-determination. The conferees will discuss the illegality of the current Soviet occupation and current human rights abuses against the Modavian populace.

Tragic human rights abuses have been directed against the people of Moldavia since its occupation a half-century ago. These abuses have included mass deportations, Russification, and persecution of the Romanian Orthodox Church. Human rights violations today include beatings of Moldavian young men serving in the Soviet army. The democratically-elected government of Moldavia has chosen not to participate in plans for the new union treaty. As a result, threats, economic sanctions, and military maneuvers have been employed against Moldavians.

Mr. President, I am disturbed by reports of human rights abuses against these poeple. I urge human rights groups and the Department of State to monitor events in Moldavia more closely.

Mr. President, according to the Helsinki Final Act, to which the Soviet Union and the United States are signatory, "all peoples always have the right, in full freedom, to determine, when and if they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, and cultural development."

I am pleased to stand with the people of Moldavia on their move toward self-determination and freedom. I urge Senators to support the right of self-determination of the people of Soviet-occupied Moldavia and northern Bucovina and future efforts by the Government of Moldavia to negotiate peacefully, if they so wish, the reunification of all Romanian lands.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROCLAMATION OF THE SECOND SESSION OF THE GREAT NATIONAL ASSEMBLY

The Second Session of the Great National Assembly of all Romanians of Bessarabia, Transnistria and Northern Bucovina, having convened at a crucial moment in our people's history, finds the following:

After the First Session of the Great National Assembly of August 27, 1989 which marked the beginning of the national liberation process of the Romanians of Bessarabia and Bucovina, the soviet imperialistic forces escalated their hostilities and pushed to its limits the state of oppression in which our people has languished during the past fifty years of foreign occupation.

In order to salvage its dominance, that last colonial empire on the globe is ready to shatter the future of the Romanians of the occupied territories, compelling them to sign a treaty of union, in order to give a semblance of legality to the actual occupation that took place on June 29, 1940.

The Romanian lands of Bessarabia and Northern Bucovina have always been integral parts of the Moldavian State, that emerged in the 14th century on the territories of the Getae and of the Dacians, who are the ancestors of the Romanians.

In 1775 the Hapsburg Empire wrenched from the Moldavian State its northern area, Bucovina, with the tacit agreement of the Russian Emperor.

After the war between Russia and Turkey which raged from 1806 to 1812, and after prolonged diplomatic encounters, the Russian Empire managed to dismantle the Moldavian State through the Peace Treaty of Bucharest (1812), seizing the area between the rivers Prut and Nistru to which they gave the artificial name of Bessarabia.

An outcome of the collapse of the Russian and of the Austro-Hungarian Empires after World War I was the fact that Bessarabia and Bucovina were able to use their natural and legitimate right to self-determination. On December 2, 1917 the Democratic Republic of Moldavia was created. After the Ukraine declared herself an independent republic, the Parliament of the Republic of Moldavia—called the Land Council—declared on January 24, 1918 the independence of the Democratic Republic of Moldavia. On March 27 in the same year, the Land Council voted that Bessarabia be united with the motherland, Romania—thus implementing the will of the people and making use of its historical and national rights. The National Assembly of Bucovina also voted on November 28, 1918 the unconditional and permanent union of Bucovina within her ancient boundaries which extend between the rivers Ceremus, Colacin and Nistru, to the Romanian motherland.

The implementation of the national and administrative unity of the Romanian people on December 1, 1918 fulfilled its perennial dream. As a result of the act of union of 1918, the Romanians east of the river Prut and those of Bucovina preserved their national existence and became an integral part of the life of our nation.

The Romanians of Transnistria, who had been the victims of the oppression exerted by the tsarist regime as early as the end of the 18th century, were the first to suffer during the twenties and the forties the oppression, the deportations, the state-organized starvation, the intensive process of denationalization carried on by the soviet dictatorship. Tens of thousands of rural workers and of educated people, unable to endure the horrors of bolshevism any longer, escaped to the right bank of the Nistru, to their Romanian brothers.

The imperialist forces, inimical to our nation, were not ready to accept the loss of their former colonies and carried on their policy of expansion and annexation. After the Stalin-Hitler pact of August 23, 1939, after a series of ultimatums forwarded by the Soviet government to Romania on June 26 and 28, 1940, based on specious argumentation and on the support of fascist states, the U.S.S.R. occupied on June 28, 1940 the Romanian lands of Bessarabia and Northern Bucovina, under the threat of military action against the population.

Thus the Soviet Union perpetrated an act of aggression against Romania, flagrantly infringing her independence and her territorial integrity, and breaking the Briand-Kellog Pact of renouncing war it had signed on August 28, 1928 at Paris, and also breaking the agreement between the Soviet Union, Estonia, Latvia, Poland, and Romania it had signed on February 9, 1929.

According to international law, the occupation of foreign territories through acts of aggression must be void *ab initio* (from the very beginning).

Then followed the dismantling of the occupied territories through the arbitrary and dictatorial decisions of the Supreme Soviet of the U.S.S.R. of August 2, 1940, and of the Presidium of the Supreme Soviet of November 4 of the same year, according to which the South of Bessarabia, the County of Hotin, Northern Bucovina, and the greater part of Transnistria were ripped apart and engulfed into the Ukraine. However, dismembering the Soviet Socialist Republic of Moldavia in the manner in 1940 does not change the status of occupied territories that has been and continues to be that of Bessarabia and Northern Bucovina in the light of international law.

Following that 1940 act of aggression and occupation, approximately one million Romanians from Bessarabia and Bucovina fled, crossing the river Prut into Romania. In the summer of that year, the regime of the occupiers destroyed the best among our citizens who could not escape.

The Christian Orthodox Church of Bessarabia and Northern Bucovina, who had over two million members, was wrenched from its proper place against the will of its members, of its clergy, and of its Holy Synod, and subjected to a foreign church authority located over one thousand kilometers away.

The reprisals of 1944–45, the state-organized starvation of 1946–47, the mass deportations of 1949–53 killed off more hundreds of thousands of people. In the name of the "struggle against nationalism and antisoviet feelings", the reprisals never stopped between 1950 and 1990, and are still continuing in some areas of the grievously martyred and misappropriated land of Moldavia.

The massive dislocation and replacement of the population, the suppression and destruction of the national culture, and the policy of imperialistic dictatorship brought upon Moldavia the danger of another territorial fragmentation, jeopardizing our very national existence. In this manner the soviet state is guilty of one more crime in international law, namely of genocide.

For 50 years the U.S.S.R. has pursued a policy of physical and spiritual annihilation of our people, using to that end the structures set up after the act of occupation, and first and foremost through the communist party and the soviet secret police, the KGB, implanted here on our national territory. The Russian Orthodox Church, as a docile handmaid of the communist state, also pursued a policy of spiritual genocide against the Romanian population under soviet occupation.

The occupying power recruited for those structures local residents and made them betray their own people. Those structures of the occupying power are still unrestrained and active on our territory, and are working against our national liberation.

At the basis of the physical and spiritual destruction of our people lies the communist ideology, which is alien to the nature, the interests, and the aspirations of the Romanians. In 1940 the communist system ripped apart our nation; today it carries on the same policy but wears the mask of pluralism and of the agreement between the torturer and his victim; it brings about new acts of dismemberment and tries to force us again in the deadly embrace of the totalitarian soviet state. That system endeavors to keep us victims of the absurd bolshevist ideology, and continues issuing a series of presidential decrees proclaiming the inviolability of the monuments and memorials of the leader of the 1917 coup d'état.

A direct outcome of the 1940 act of aggression is the presence of our national territory of the occupying army, of the communist party of the Soviet Union, and of its secret police, the KGB, active even today to ensure the soviet imperialistic domination. The direct participation of these forces in the recent acts of dismemberment of the Moldavian land is one more proof of their true function. The soviet army has ground down and continues to grind down the bodies and souls of our young people, sending them to their death to promote foreign interests.

The unlawful and inhuman face of the U.S.S.R. is also revealed by the way that state openly flouts international law and all human values. Overcome by the process of its dissolution, that empire attempts to stifle the national liberation movements, and to impede the inevitable process of de-colonization that has begun in the occupied territories, by openly threatening the states that have declared their independence, by bringing about their dismemberment, by ignoring the right of nations to self-determination, by applying economic embargoes, and by using direct military intervention. It is along those lines that the soviet empire attempts to make us sign a treaty of union, promising in exchange to spare our land that it occupies from the further fragmentation it contemplates for us, using the time-honored principle of "divide et impera" among the various ethnic groups.

The empire's ruling régime is using this new treaty of union to try to maintain the captive nations as mere component parts of a state that is prevalently monolithic and totalitarian.

Faced with the immediate danger of the total annihilation of the very national existence of the Romanians in the occupied territories, reasserting our people's perennial desire for freedom and independence, in the spirit of the United Nations Organization's Declaration regarding the granting of independence to colonial countries and peoples, and in accordance with the universally recognized right of the nations to self-determination,

The Great National Assembly proclaims:

The national independence of the Romanians in the occupied territories and the granting to the entire Romanian nation the right to defend and guarantee that independence using all available means;

Signing any treaty of union with an empire would confer a semblance of legality to the act of occupation of June 28, 1940 and to the situation that resulted from it. There is absolutely no legal evidence that could bear witness to our desire to become part of the U.S.S.R. Having been engulfed into the U.S.S.R. against our free will, we the people of the Romanian occupied territories have no obligation to the soviet state;

The train of events that evolve in the Romanian occupied territories is a national liberation movement directed against colonialism and against imperialism;

The future of the Romanian occupied territories should be decided only by the Romanian nation in its entirety, that nation being the unique entity to which international law applies, and that nation being the bearer of the unalterable and inalienable right to decide its own fate without external intervention;

The Moldavian Republic's participation, either through a state organ, or through a juridical body delegated by a state organ, in the drawing up or the concluding of a treaty of imperialistic union, will constitute an act of betrayal of our nation's interests and aspirations to unity and independence; should such an act of betrayal be perpetrated, the representatives' subsequent participation in the supreme organ of state power of the Moldavian Republic would be tantamount to their complicity in the betrayal; any kind of pressure exerted upon state organs (or upon juridical bodies delegated by state organs) in order to oblige them to perpetrate an act of betrayal of their nation cannot justify an act of betrayal; any deviation from this principle will be described as an act of facilitating the foreign occupation and of submitting our nation to the rule of a foreign power. It is at the same time absolutely necessary to speed up the signing of bilateral treaties and agreements of cooperation in all fields with the states and nations who have proclaimed their sovereignty and their independence;

The participation of the Moldavian Republic's deputies in the Assembly of Deputies and Supreme Soviet of the U.S.S.R. has in the present circumstances no juridical validty and no moral justification;

The lack of preparedness or in the insufficient preparedness in the political, economic, and social fields, or in the field of education, may never be used as a pretext to postpone independence;

Faithful to its striving for national unity and independence, our nation once more reasserts its desire for peaceful coexistence and cooperation with the citizens of other national extraction, granting them all rights for the free development of their ethnic, cultural, and religious life, according to the norms of international law and to the country's laws;

The religious reintegration of the Romanian nation is imperative at this time;

Our nation's progress toward democracy and independence cannot be conceived without the guarantee of all universally acknowledged basic human rights;

No state and no party or political body has a right to instigate the citizens of Moldavia to perpetrate acts of treason against their nation. Hence the continued activity on Romanian territory of the structures of the occupying power such as the Communist Party of the Soviet Union and the KGB, the soviet secret police, a.s.o., is in disagreement with the best interests and the aspirations of our people. The Great National Assembly demands that those foreign structures be legally banned and their property be nationalized;

Maintaining a host of monuments and other insignia that tend to perpetrate at all costs the memory of the proponents of the bankrupt communist ideology who are guilty of physical and of cultural genocide, such as Marx, Engels, Lenin, and others like them, is incompatible with the further development of human society toward democracy and progress;

The right of nations to decide their own fate is unlimited and indivisible. Our people has claimed that right by embarking upon a national liberation movement that cannot be stopped either by unfavorable political circumstances or by the arbitrary dictates of the leaders of the U.S.S.R. The attempts of those leaders at using the army to suppress the national liberation movement is a crime against our nation and at the same time a crime against the soldiers who are the unwilling slaves of imperialistic policy. Our people will defend its independence by all means, including open resistance, in agreement with the acknowledged norms of international law that apply to the nations that are struggling for their national liberation against colonialism and imperialism;

The process of recovering national independence cannot take place while the soviet army is in our land. The Great National Assembly demands that the troops of the Ministry of Defense of the U.S.S.R. be withdrawn from Moldavian territory. Until that problem is solved, it is necessary to refrain from any acts that could hurt the dignity and the human rights of military personnel and their families. Such acts would be nothing but an instigation that could jeopardize the life of the military personnel and their families on the one hand, and our people's security on the other. At the same time, the Great National Assembly finds that the Government of Moldavia cannot commit itself to satisfying the material and social needs of the hosts of soviet military personnel, over whom it has no sort of control. The Great National assembly demands the termination of the military commissariats of the Ministry of Defence of the U.S.S.R. on the territory of the Moldavian Republic, and replacing them with the recruitment of our own young people in the National Guard and in the police force. Withdrawing the units of soviet troops from the territory of the Moldavian Republic and terminating the activity of the military commissariats of the Ministry of Defense of the U.S.S.R. would be the first and the most powerful proof that today's leaders of the U.S.S.R. observe the Declaration of Sovereignty adopted by the Supreme Soviet of the Moldavian Republic, according to which Moldavia is a non-military zone.

In accordance with the United Nations Organization's Declaration regarding the granting of independence to colonial countries and peoples, the Great National Assembly of Chişinău proclaims the need to immediately and unconditionally put an end to soviet colonialism in all its forms and activities. The Soviet State, who also signed that declaration, must grant immediately to the peoples of its own colonies their independence.

To preserve peace and stability in this part of Europe, the Great National assembly of Chişinău launches an appeal:

To the United Nations Organization's Committee of Decolonization, urging it to fulfill its mission with respect to us too and find the best means to speed up the implementation of its Declaration; also urging it to take concrete steps to that end, based on which the United Nations General Assembly could adopt a resolution regarding soviet colonialism and especially regarding the problem of the occupation by force of the Romanian territories;

To the governments and states of the world, to the United Nations Organization, and to other international bodies, urging them to recognize the status of occupied territory for Bessarabia and Northern Bucovina, with all the juridical and political consequences foreseen in international law;

To all participants in all movements of national liberation within the Soviet Union, urging them to unite themselves immediately in an Alliance for the national liberation of the captive nations of the Soviet empire.

Only a complete, deliberate and scrupulous implementation of the national independence of our people will set up an environment in which it will be possible to eradicate the consequences of the foreign occupation, and do away with the injustice that was done to us on our land for centuries. It is only in this way that it will be possible to achieve a climate favorable to the peaceful and harmonious coexistence of all citizens, regardless of nationality and religious creed, in this land.

This difficult and heroic moment arrived through the inexorable, cast-iron process of history. It requires of us that we be fully aware of the magnitude of the difficulties it brought before us, and that, guided by the light of our own conscience, we proceed to solve them for the sake of our children, of our grandchildren, and of those to come after them.—Chişinău, the Great National Assembly Square, December 16, 1990, passed by the vote of the approximately 800,000 participants in the Great National Assembly.

AMENDMENTS SUBMITTED

VIOLENT CRIME CONTROL ACT

D'AMATO (AND DOLE) AMENDMENT NO. 387

Mr. D'AMATO (for himself and Mr. DOLE) proposed an amendment to the bill (S. 1241) to reduce and control violent crime, as follows:

At the appropriate place in the bill, insert the following:

"SEC. . MANDATORY PRISON TERMS FOR USE, POSSESSION, OR CARRYING OF A FIREARM OR DESTRUCTIVE DEVICE DURING A STATE CRIME OF VIOLENCE OR STATE DRUG TRAFFICKING CRIME.

Section 924(c) of Title 18 of the United States Code is amended by adding the following:

"( )(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which he may be prosecuted in a court of any State,

"(i) knowingly possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release; or

"(iii) knowingly possesses a firearm that is a machinegun or destructive device, or is equipped with a firearm silencer or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

"In the case of a second conviction under this subsection, a person shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release for possession or not less than 30 years without release for discharge of a firearm, and if the firearm is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. In the case of a third or subsequent conviction under this subsection, a person shall be sentenced to life imprisonment without release. Notwithstanding any other law, a court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used. No person sentenced under this subsection shall be eligible for parole, nor shall such person be released for any reason whatsoever, during a term of imprisonment imposed under this paragraph.

"(B) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if—

"(i) in the case of a crime of violence, the person touches a firearm at the scene of the crime at any time during the commission of the crime; and

"(ii) in the case of a drug trafficking crime, the person has a firearm readily available at the scene of the crime during the commission of the crime.

"(C) Except in the case of a person who engaged in or participated in criminal conduct that gave rise to the occasion for the person's use of a firearm, this subsection has no application to a person who may be found to have committed a criminal act while acting in defense of person or property during the course of a crime being committed by another person (including the arrest or attempted arrest of the offender during or immediately after the commission of the crime.".

"(D) For purposes of this subsection, the term "drug trafficking crime" means any crime punishable by imprisonment for more than one year involving the manufacture, distribution, possession, cultivation, sale, or transfer of a controlled substance, controlled substance analogue, immediate precursor, or listed chemical (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or an attempt or conspiracy to commit such a crime.

"(E) For purposes of this subsection the term "crime of violence" means an offense that is punishable by imprisonment for more than one year and—

(1) has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or

(2) that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

"(F) In accordance with Section 927, it is the intent of Congress that this subsection shall be used to supplement but not supplant the efforts of state and local prosecutors in prosecuting crimes of violence and drug trafficking crimes that could be prosecuted under state law. It is also the intent of Congress that the Attorney General shall give due deference to the interest that a state or local prosecutor has in prosecuting the defendant under state law. This subsection shall not create any rights, substantive or procedural, enforceable at law by any party in any manner, civil or criminal, nor does it place any limitations on otherwise lawful prerogatives of the Department of Justice.".

"(G) JURISDICTION.—There is a federal jurisdiction over an offense under this section if a firearm involved in the offense has moved at any time in interstate or foreign commerce."

SIMON AMENDMENT NO. 388

Mr. SIMON proposed an amendment to the bill S. 1241, supra, as follows:

On page 224, strike section 2401, title XXIV and insert the following:

TITLE —FEDERAL PRISONER DRUG TESTING

SEC. 01. FEDERAL PRISONER DRUG TESTING.

(a) SHORT TITLE.—This title may be cited as the "Federal Prisoner Drug Testing Act of 1991".

(b) CONDITIONS OF PROBATION.—Section 3563(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking "and" after the semicolon;

(2) in paragraph (3), by striking the period and inserting "; and";

(3) by adding a new paragraph (4), as follows:

"(4) for a felony, a misdemeanor, or an infraction, that the defendant refrain from any unlawful use of controlled substance and submit to one drug test within 15 days of release on probation and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance."; and

(4) by adding at the end thereof the following: "The results of a drug test administered in accordance with paragraph (4) shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test administered in accordance with paragraph (4).".

(c) CONDITIONS ON SUPERVISED RELEASE.—Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "The court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to a drug test within 15 days of release on supervised release and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance. The results of a drug test administered in accordance with the provisions of the preceding sentence shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test.".

(d) CONDITIONS OF PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to release and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance. The results of a drug test administered in accordance with the provisions of the preceding sentence shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The Commission shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test.".

SIMON (AND BIDEN) AMENDMENT NO. 389

Mr. SIMON (for himself and Mr. BIDEN) proposed an amendment to the bill S. 1241, supra; as follows:

At the end of the bill add the following new title:

TITLE —BAIL POSTING REPORTING

SECTION 1. SHORT TITLE.

This title may be cited as the "Illegal Drug Profits Act of 1991".

SEC. 2. REQUIRED REPORTING BY CRIMINAL COURT CLERKS.

(a) IN GENERAL.—Each clerk of a Federal or State criminal court shall report to the Internal Revenue Service, in a form and manner as prescribed by the Secretary of the Treasury, the name and taxpayer identification number of—

(1) any individual charged with any criminal offense who posts cash bail, or on whose behalf cash bail is posted, in an amount exceeding $10,000, and

(2) any individual or entity (other than a licensed bail bonding individual or entity) posting such cash bail for or on behalf of such individual.

(b) CRIMINAL OFFENSES.—For purposes of subsection (a), the term "criminal offense" means—

(1) any Federal criminal offense involving a controlled substance,

(2) racketeering (as defined in section 1951, 1952, or 1955 of title 18, United States Code),

(3) money laundering (as defined in section 1956 or 1957 of title 18, United States Code), or

(4) any violation of State criminal law involving offenses substantially similar to the offenses described in the preceding paragraphs.

(c) COPY TO PROSECUTORS.—Each clerk shall submit a copy of each report of cash bail described in subsection (a) to—

(1) the office of the United States Attorney, and

(2) the office of the local prosecuting attorney, for the jurisdiction in which the defendant resides (and the jurisdiction in which the criminal offense occurred, if different).

(d) REGULATIONS.—The Secretary of the Treasury shall promulgate such regulations as are necessary within 90 days of the enactment of this title.

(e) EFFECTIVE DATE.—This section shall become effective 60 days after the date of the promulgation of regulations under subsection (c).

KENNEDY AMENDMENT NO. 390

Mr. SIMON (for Mr. KENNEDY) proposed an amendment to the bill S. 1241, supra; as follows:

At the appropriate place, insert the following:

SEC. . INCREASED PENALTIES FOR TRAFFICKING IN COUNTERFEIT GOODS AND SERVICES.

(a) IN GENERAL.—Section 2320(a) of title 18, United States Code, is amended—

(1) in the first sentence by—

(A) striking "$250,000 or imprisoned not more than five years" and inserting "$2,000,000 or imprisoned not more than 10 years"; and

(B) striking "not more than $1,000,000" and inserting "not more than $5,000,000; and

(2) in the second sentence by—

(A) striking "$1,000,000 or imprisoned not more than fifteen years" and inserting "$5,000,000 or imprisoned not more than 20 years"; and

(B) striking "not more than $5,000,000", and inserting "not more than $15,000,000".

(b) LAUNDERING MONETARY INSTRUMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "or section 2319 (relating to copyright infringement)," and inserting "section 2319 (relating to copyright infringement), or section 2320 (relating to trafficking in counterfeit goods and services),".

LAUTENBERG AMENDMENT NO. 391

Mr. LAUTENBERG proposed an amendment to the bill S. 1241, supra; as follows:

At the appropriate place, add the following:

SEC. . MOTOR VEHICLE THEFT PREVENTION ACT.

(a) SHORT TITLE.—This section may be cited as the "Motor Vehicle Theft Prevention Act".

(b) MOTOR VEHICLE THEFT PREVENTION PROGRAM.—

(1) ESTABLISHMENT OF PROGRAM.—Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 160. Motor vehicle theft prevention program

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Attorney General shall develop, in cooperation with States and localities, a national voluntary motor vehicle theft prevention program (in this section referred to as the 'program') under which—

"(1) the owner of a motor vehicle may voluntarily sign a consent form with a participating State or locality in which the motor vehicle owner—

"(A) states that the vehicle is not normally operated under certain specified conditions; and

"(B) agrees to—

"(i) display program decals or devices on the owner's vehicle; and

"(ii) permit law enforcement officials in any State or locality to stop the motor vehicle and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner, if the vehicle is being operated under the specified conditions;

"(2) participating States and localities authorize law enforcement officials in the State or locality to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner; and

"(3) Federal law enforcement officials are authorized to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner.

"(b) Uniform Decal or Device Designs.—

"(1) In general.—The motor vehicle theft prevention program developed pursuant to this section shall include a uniform design or designs for decals or other devices to be displayed by motor vehicles participating in the program.

"(2) Type of design.—The uniform design shall—

"(A) be highly visible; and

"(B) explicitly state that the moor vehicle to which it is affixed may be stopped under the specified conditions without additional grounds for establishing a reasonable suspicion that the vehicle is being operated unlawfully.

"(c) Voluntary Consent Form.—The voluntary consent form used to enroll in the program shall—

"(1) clearly state that participation in the program is voluntary;

"(2) clearly explain that participation in the program means that, if the participating vehicle is being operated under the specified conditions, law enforcement officials may stop the vehicle and take reasonable steps to determine whether it is being operated by or with the consent of the owner, even if the law enforcement officials have no other basis for believing that the vehicle is being operated unlawfully;

"(3) include an express statement that the vehicle is not normally operated under the specified conditions and that the operation of the vehicle under those conditions would provide sufficient grounds for a prudent law environment officer to reasonably believe that the vehicle was not being operated by or with the consent of the owner; and

"(4) include any additional information that the Attorney General may reasonably require.

"(d) Specified Conditions Under Which Stops May Be Authorized.—

"(1) In general.—The Attorney General shall promulgate rules establishing the conditions under which participating motor vehicles may be authorized to be stopped under this section. These conditions may include—

"(A) the operation of the vehicle during certain hours of the day; or

"(B) the operation of the vehicle under other circumstances or by such individuals that would provide a sufficient basis for establishing a reasonable suspecion that the vehicle was not being operated by the owner, or with the consent of the owner.

"(2) More than one set of conditions.—The Attorney General may establish more than one set of conditions under which participating motor vehicles may be stopped. If more than one set of conditions is established, a separate consent form and a separate design for program decals or devices shall be established for each set of conditions. The Attorney General may choose to satisfy the requirement of a separate design for program decals or devices under this paragraph by the use of a design color that is clearly distinguishable from other design colors.

"(3) No new conditions without consent.—After the program has begun, the conditions under which a vehicle may be stopped if affixed with a certain decal or device design may not be expanded without the consent of the owner.

"(4) Limited participation by states and localities.—A State or locality need not authorize the stopping of motor vehicles under all sets of conditions specified under the program in order to participate in the program.

"(e) Motor Vehicles for Hire.—

"(1) Notification to lessees.—Any person who is in the business of renting or leasing motor vehicles and who rents or leases a motor vehicle on which a program decal or device is affixed shall, prior to transferring possession of the vehicle, notify the person to whom the motor vehicle is rented or leased about the program.

"(2) Type of notice.—The notice required by this subsection shall—

"(A) be in writing;

"(B) be in a prominent format to be determined by the Attorney General; and

"(C) explain the possibility that if the motor vehicle is operated under the specified conditions, the vehicle may be stopped by law enforcement officials even if the officials have no other basis for believing that the vehicle is being operated unlawfully.

"(3) Fine for failure to provide notice.—Failure to provide proper notice under this subsection shall be punishable by a fine not to exceed $5,000.

"(f) Participating State or Locality.—A State or locality may participate in the program by filing an agreement to comply with the terms and conditions of the program with the Attorney General.

"(g) Notification of Police.—As a condition of participating in the program, a State or locality must agree to take reasonable steps to ensure that law enforcement officials throughout the State or locality are familiar with the program, and with the conditions under which motor vehicles may be stopped under the program.

"(h) Regulations.—The Attorney General shall promulgate regulations to implement this section.

"(i) Authorization of Appropriations.—There are authorized such sums as are necessary to carry out this section.".

(2) Amendment to chapter analysis.—The analysis for chapter 1 of title 23, United States Code, is amended by adding after the item for section 159 the following:

"160. Motor vehicle theft prevention program.".

(c) Altering or Removing Motor Vehicle Identification Numbers.—

(1) Basic offense.—Subsection (a) of section 511 of title 18, United States Code, is amended to read as follows:

"(a) Whoever knowingly removes, obliterates, tampers with, or alters an identification number for a motor vehicle, or motor vehicle part, or a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, shall be fined not more than $10,000 or imprisoned not more than five years, or both.".

(2) Excepted persons.—Paragraph (2) of section 511 of title 18, United States Code, is amended by—

(A) striking "and" after the semicolon in subparagraph (B);

(B) striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) adding at the end thereof the following:

"(D) a person who removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, if that person is the owner of the motor vehicle, or is authorized to remove, obliterate, tamper with or alter the decal or device by—

"(i) the owner or his authorized agent;

"(ii) applicable State or local law; or

"(iii) regulations promulgated by the Attorney General to implement the Motor Vehicle Theft Prevention Act.".

(3) Definition.—Section 511 of title 18, United States Code, is amended by adding at the end thereof the following:

"(d) For purposes of subsection (a) of this section, the term 'tampers with' includes covering a program decal or deviced affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act for the purpose of obstructing its visibility.".

(4) Unauthorized application of a decal or device.—

(A) In general.—Chapter 25 of title 18, United States Code, is amended by adding after section 511 the following new section:

§511A. Unauthorized application of theft prevention decal or device

"(a) Whoever affixes to a motor vehicle a theft prevention decal or other device, or a replica thereof, unless authorized to do so pursuant to the Motor Vehicle Theft Prevention Act, shall be punished by a fine not to exceed $1,000.

"(b) For purposes of this section, the term 'theft prevention decal or device' means a decal or other device designed in accordance with a uniform design for such devices developed pursuant to the Motor Vehicle Theft Prevention Act."

(B) Chapter analysis.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding immediately after the item for section 511 the following:

"511A. Unauthorized application of theft prevention decal or device.".

HATFIELD (AND OTHERS) AMENDMENT NO. 392

Mr. HATFIELD (for himself, Mr. Pressler and Mr. Grassley) proposed an amendment to the bill S. 1241, supra, as follows:

At the end of the bill, insert the following new title:

TITLE XXVIII—MISSING ALZHEIMER'S DISEASE PATIENTS

SEC. 2801. MISSING ALZHEIMER'S DISEASE PATIENT ALERT PROGRAM.

(a) Grant.—The Attorney General shall award a grant to an eligible organization to assist the organization in paying for the costs of planning, designing, establishing, and operating a Missing Alzheimer's Disease Patient Alert Program, which shall be a locally based, proactive program to protect and locate missing patients with Alzheimer's disease and related dementias.

(b) Application.—To be eligible to receive a grant under subsection (a), an organization shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require, including, at a minimum, an assurance that the organization will obtain and use assistance from private nonprofit organizations to support the program.

(c) Eligible Organization.—The Attorney General shall award the grant described in subsection (a) to a national voluntary organization that has a direct link to patients, and families of patients, with Alzheimer's disease and related dementias.

(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $1,000,000 for each of the fiscal years 1992, 1993, and 1994.

EXON (AND OTHERS) AMENDMENT NO. 393

Mr. EXON (for himself, Mr. Hollings, Mr. Kasten, and Mr. Danforth) proposed as amendment to the bill S. 1241, supra, as follows:

On page 186, immediately after line 24, insert the following new subtitle:

Subtitle E—Drug Free Truck Stops and Safety Rest Areas

SEC. 1641. DRUG FREE TRUCK STOPS AND SAFETY REST AREAS.

(a) Short Title.—This section may be cited as the "Drug Free Truck Stop Act".

(b) Findings.—The Congress finds that—

(1) the illegal use of controlled substances by operators of commercial motor vehicles represents an enormous threat to the safety of all motorists and their passengers on the Nation's roadways; and

(2) as indicated by numerous studies, congressional hearings, and investigations, individuals often use the areas surrounding roadside truckstops and roadside rest areas as sites for the distribution of these controlled substances to the operators of commercial motor vehicles.

(c) Amendment to Controlled Substances Act.—

(1) In general.—In light of the findings in subsection (b), part D of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting immediately after section 408 the following new section:

"TRANSPORTATION SAFETY OFFENSES

"Sec. 409. (a) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within one thousand feet of, a truck stop or safety rest area is (except as provided in subsection (b)) subject to—

"(1) twice the maximum punishment authorized by section 401(b); and

"(2) at least twice any term of of supervised release authorized by section 401(b) for a first offense.

Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.

"(b) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within one thousand feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is punishable—

"(1) by the greater of (A) a term of imprisonment of not less than three years and not more than life imprisonment or (B) three times the maximum punishment authorized by section 401(b); and

"(2) by at least three times any term of supervised release authorized by section 401(b) for a first offense.

"(c) In the case of any sentence imposed under subsection (b), imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under subsection (b) shall not be eligible for parole under chapter 311 of title 18 of the United States Code until the individual has served the minimum sentence required by such subsection.

"(d) For purposes of this section—

"(1) the term 'safety rest area' means a roadside facility with parking facilities for the rest or other needs of motorists; and

"(2) the term 'truck stop' means any facility (including any parking lot appurtenant thereto) that has the capacity to provide fuel or service, or both, to any commercial motor vehicle as defined under section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986, operating in commerce as defined in section 12019(3) of such Act and that is located within 2,500 feet of the National System of Interstate and Defense Highways or the Federal-Aid Primary System.".

(2) Conforming amendments.—

(A) Crossreference.—Section 401(b) of such Act (21 U.S.C. 841(b)) is amended by inserting "409," immediately before "418," each place it appears.

(B) Table of contents.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking the item relating to section 409, the following new item:

"Sec. 409. Transportation safety offenses.".

(d) Sentencing Guidelines.—

(1) Promulgation of guidelines.—Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 409 of the Controlled Substances Act, as added by subsection (c), shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(A) two levels greater than the level that would have been assigned for the underlying controlled substance offense; and

(B) in no event less than level 26.

(2) Implementation by sentencing commission.—If the sentencing guidelines are amended after the date of enactment of this Act, the Sentencing Commission shall implement the instruction set forth in paragraph (1) so as to achieve a comparable result.

(3) Limitation.—The guidelines described in paragraph (1), as promulgated or amended under this subsection, shall provide that an offense that could be subject to multiple enhancements pursuant to this subsection is subject to not more than one such enhancement.

RUDMAN AMENDMENT NO. 394

Mr RUDMAN proposed an amendment to the bill, S. 1241, supra, as follows:

On page 8, after line 22, add the following:

SEC. 104. GRANTS FOR MULTIJURISDICTIONAL DRUG TASK FORCES.

Section 504(f) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754 (f)), is amended to delete the first word and insert the following:

"Except for grants awarded to state and local governments for the purpose of participating in multijurisdictional drug task forces, no".

SPECTER AMENDMENT NOS. 395 AND 396

Mr. SPECTER proposed two amendments to the bill, S. 1241, supra, as follows:

Amendment No. 395

At the appropriate place, add the following new Section:

SEC. . AUTHORIZATION OF FUNDS FOR CONSTRUCTION OF A U.S. ATTORNEYS' OFFICE IN PHILADELPHIA, PENNSYLVANIA.

There is hereby authorized to be appropriated $35,000,000 to remain available until expended, to plan, acquire a site, design, construct, buildout, equip, and prepare for use an office building to house the U.S. Attorneys Office in Philadelphia, Pennsylvania, notwithstanding any other provision of law: *Provided*, That the site is at or in close physical proximity to the site selected for the construction of the Philadelphia Metropolitan Detention Center; *Provided further*, That the site selected for the Philadelphia U.S. Attorneys Office shall be approved by the Attorney General and notification submitted to the Congress as required by law.

Amendment No. 396

At the appropriate place, insert the following Section:

SEC. . COURT TO BE HELD AT LANCASTER.

Section 118 of title 28, United States Code, is amended in subsection (a) by inserting "Lancaster," immediately before "Reading".

WIRTH AMENDMENT NO. 397

Mr. WIRTH proposed an amendment to the bill, S. 1241, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . DISCLOSURE OF RECORDS OF ARRESTS BY CAMPUS POLICE.

Section 438(a)(4)(b)(ii) of the General Education Provisions Act (20 U.S.C. 1232g(a)(4)(B)(ii) is amended to read as follows:

"(ii) records of a law enforcement unit of an educational agency or instutition that are required by State law to be made available to the public;".

THURMOND AMENDMENT NO. 398

Mr. THURMOND proposed an amendment to the bill, S. 1241, supra, as follows:

At the appropriate place in the bill, add the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Murder of United States Nationals Act of 1991".

SEC. 2. FOREIGN MURDER OF UNITED STATES NATIONALS.

(a) In General.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1118. Foreign murder of United States nationals

"(a) Whoever kills or attempts to kill a national of the United States while such national is outside the United States but within the jurisdiction of another country shall be punished as provided under sections 1111, 1112, and 1113 of this title.

"(b) No prosecution may be instituted against any person under this section except upon the written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated. No prosecution shall be approved if prosecution has been previously undertaken by a foreign country for the same act or omission.

"(c) No prosecution shall be approved under this section unless the Attorney General, in consultation with the Secretary of State, determines that the act or omission took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person's return. A determination by the Attorney General under this subsection is not subject to judicial review.

"(d) In the course of the enforcement of this section and notwithstanding any other provision of law, the Attorney General may request assistance from any Federal, State, local, or foreign agency, including the Army, Navy, and Air Force.

"(e) As used in this section, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) CONFORMING AMENDMENT.—Section 1117 of title 18, United States Code, is amended by striking "or 1116" and inserting "1116, or 1118".

(c) CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Foreign Murder of United States Nationals.".

SEC. 3. EXTRADITION.

(a) SCOPE.—Section 3181 of title 18, United States Code, is amended by—

(1) inserting "(a)" before "The provisions of this chapter"; and

(2) adding at the end thereof the following new subsections:

"(b) The provisions of this chapter shall be construed to permit, in the exercise of comity, the surrender of persons who have committed crimes of violence against nationals of the United States in foreign countries without regard to the existence of any treaty of extradition with such foreign government if the Attorney General certifies, in writing, that—

"(1) evidence has been presented by the foreign government which indicates that had the offenses been committed in the United States, they would constitute crimes of violence as defined under section 16 of this title; and

"(2) the offenses charged are not of a political nature.

"(c) As used in this section, the term 'national of the United States' shall have the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22).".

(b) FUGITIVES.—Section 3184 of title 18, United States Code, is amended—

(1) in the first sentence by inserting after "United States and any foreign government," the following: "or in cases arising under section 3181(b),";

(2) in the first sentence by inserting after "treaty or convention," the following: "or provided for under section 3181(b),"; and

(3) in the third sentence by inserting after "treaty or convention," the following: "or under section 3181(b),".

BIDEN AMENDMENT NO. 399

Mr. BIDEN proposed an amendment to the bill S. 1241, supra, as follows:

(1) On page 197, line 10, insert after "law enforcement, prosecution," the words "criminal defense,".

HEFLIN AMENDMENT NO. 400

Mr. HEFLIN proposed an amendment to the bill S. 1241, supra, as follows:

On page 199, between lines 20 and 21, insert the following:

"(A) The first $6,200,000 deposited in the Fund in each of the fiscal years 1992 through 1995 and the first $3,000,000 in each fiscal year thereafter shall be available to the judicial branch for administrative costs to carry out the functions of the judicial branch under sections 3611 and 3612 of title 18, United States Code.

On page 199, line 21, strike "(A)" and insert "(B)".

On page 200, line 9, strike "(B)" and insert "(C)".

On page 200, strike lines 17 through 22.

On page 200, line 23, strike "(F)" and insert "(E)".

One page 201, line 2, strike "(E)" and insert "(D)".

On page 205, lines 11 and 12, strike "the clerk of the court" and insert "an entity designated by the Director of the Administrative Office of the United States Courts".

On page 205, line 12, strike "the clerk" and insert "the entity".

On page 205, line 14, strike "the clerk of the court" and insert "the entity designated by the Director of the Administrative Office of the United States Courts".

On page 206, lines 10 and 11, strike "the clerk of the court" and insert "the entity designated by the Director of the Administrative Office of the United States Courts".

BRADLEY AMENDMENT NO. 401

Mr. BRADLEY proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, insert the following:

Section 419 of the Controlled Substances Act (21 U.S.C. 819) is amended—

(1) in subsection (a) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within"; and

(2) in subsection (b) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within".

SEYMOUR AMENDMENT NOS. 402 AND 403

Mr. SEYMOUR proposed two amendments to the bill S. 1241, supra, as follows:

AMENDMENT NO. 402

At the end of the bill, add the following:

SEC. . REPORT ON BATTERED WOMEN'S SYNDROME.

(a) REPORT.—Not less than 1 year after the date of enactment of this Act, the Attorney General and the Secretary of Health and Human Services shall transmit to the Congress a report on the medical and psychological basis of "battered women's syndrome" and on the extent to which evidence of the syndrome has been held to be admissible as evidence of guilt or as a defense in a criminal trial.

(b) COMPONENTS OF THE REPORT.—The report described in subsection (a) shall include—

(1) medical and psychological testimony on the validity of battered women's syndrome as a psychological condition;

(2) a compilation of State and federal court cases that have admitted evidence of battered women's syndrome as evidence of guilt as a defense in criminal trials; and

(3) an assessment by State and Federal judges, prosecutors, and defense attorneys on the effects that evidence of battered women's syndrome may have in criminal trials.

AMENDMENT NO. 403

At the appropriate place in the bill, insert the following:

SEC. . DRUG PARAPHERNALIA.

Section 422(d) of the Controlled Substances Act (21 U.S.C. 863(d)) is amended to read as follows:

"(d) The term 'drug paraphernalia' means any equipment, product, or material of any kind that is intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, weighing, testing, analyzing, packaging, repackaging, storing, containing, planting, propagating, cultivating, growing, harvesting, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this title including—

"(1) kits designed for use or intended for use in planting, propagating, cultivating, growing, or harvesting any species of plant that is a controlled substance or from which a controlled substance can be derived:

"(2) kits intended for use or marketed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

"(3) isomerization devices designed or intended for use in increasing the potency of any species of plant that is a controlled substance;

"(4) testing equipment designed or intended for use in identifying or analyzing the strength, effectiveness, or purity of controlled substances;

"(5) scales and balances or intended for use in weighing or measuring controlled substances;

"(6) containers and other objects designed or intended for use in storing or concealing controlled substances;

"(7) hypodermic syringes, needles, and other objects designed or intended for use in parenterally injecting controlled substances into the human body; and

"(8) objects intended or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, crack cocaine, hashish, hashish oil, PCP, or amphetamines into the human body, such as—

"(A) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

"(B) water pipes;

"(C) carburetion tubes and devices;

"(D) smoking and carburetion masks;

"(E) roach clips: meaning objects used to holding burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

"(F) miniature spoons with level capacities of one-tenth cubic centimeter or less;

"(G) champer pipes;

"(H) carburetor pipes;

"(I) electric pipes;

"(J) air-driven pipes;

"(K) chillums;

"(L) bongs;

"(M) ice pipes or chillers;

"(N) wired or extra-width cigarette papers; and

"(O) cocaine freebase kits.".

HATCH (AND GORTON) AMENDMENT NO. 404

Mr. SEYMOUR (for Mr. HATCH, for himself, and Mr. GORTON) proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place, insert the following:

SEC. . IMPOSING CRIMINAL SANCTIONS FOR VIOLATION OF SOFTWARE COPYRIGHT.

(a) CRIMINAL INFRINGEMENT.—Section 2319(b)(1) of title 18, United States Code, is amended—

(1) in paragraph (B) by strking "or" after the semicolon;

(2) redesignating paragraph (C) as paragraph (D);

(3) by adding after paragraph (B) the following:

"(C) involves the reproduction or distribution, during any 180-day period, of at least 50 copies infringing the copyright in one or more computer programs (including any tape, disk, or other medium embodying such programs); or ";

(4) in new paragraph (D) by striking "or" after "recording,"; and

(5) in new paragraph (D) by adding ", or a computer program", before the semicolon.

(b) PENALTIES.—Section 2319(b)(2) of title 18, United States Code, is amended—

(1) in paragraph (A) by striking "or" after the semicolon;

(2) in paragraph (B) by strking "and" at the end thereof and inserting "or"; and

(3) by adding after paragraph (B) the following:

"(C) involves the reproduction or distribution, during any 180-day period, of more than 10 but less than 49 copies infringing the copyright in one or more computer programs (including any tape, disk, or other medium embodying such programs); and".

(C) DEFINITIONS.—Section 2319(c) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "and" after the semicolon;

(2) in paragraph (2) by strking the period at the end thereof and inserting"; and"; and

(3) by adding at the end thereof the following:

"(3) the term 'computer program' has the same meaning as set forth in section 101 of title 17, United States Code.".

SEYMOUR AMENDMENT NOS. 405 AND 406

Mr. SEYMOUR proposed two amendments to the bill S. 1241, supra, as follows:

AMENDMENT NO. 405

At the appropriate place, insert the following:

TITLE —CRIMINAL EXPLOITATION OF MINORS CONTROL

SEC. 01. SHORT TITLE.

This title may be cited as the "Criminal Exploitation of Minors Control Act".

SEC. 02. FINDINGS.

The Congress finds that—

(1) children are our most important and yet most fragile human resource;

(2) too many young people are induced or forced into performing criminal acts by adults;

(3) the greatest effort must be taken to eliminate crime in our neighborhoods and our schools;

(4) an equal resolve must be taken to punish individuals who attempt to use American's youth as pawns in their criminal enterprises; and

(5) adequate penalties can be implemented to eradicate the exploitation of minors to commit offenses.

SEC. 03. INDUCEMENT OF MINOR TO COMMIT AN OFFENSE.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§21. Inducement of minor to commit an offense

"(a) IN GENERAL.—Except to the extent that a greater minimum sentence is provided by other law, a person 18 years of age or older who, in any voluntary manner, solicits, counsels, encourages, commands, intimidates, or procures any minor with the intent that the minor shall commit an offense against the United States shall be imprisoned not less than 3 and not more than 10 years, to be served consecutively with any other sentences that are imposed.

"(b) LIMITATION.—If the case of an offense under subsection (a) involving a minor who is 16 years of age or older at the time of the offense, subsection (a) shall apply only when the offender is at least 5 years older than the minor at the time the offense is committed.

"(c) SENTENCING.—In imposing a sentence under subsection (a), the court shall consider as a circumstance in aggravation the severity of the offense sought by the adult.

"(d) DEFINITION.—For the purposes of this section the term 'minor' means a person less than 18 years of age.".

(b) TECHNICAL AMENDMENT.—The table of chapters for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"21. Inducement of minor to commit an offense.".

AMENDMENT NO. 406

On page 154, between lines 4 and 5, insert the following:

SEC. 1246. DEFINITION OF SERIOUS DRUG OFFENSE.

Section 924(e)(2)(A) of title 18, United States Code, as amended by section 1522(a), is amended by—

(1) striking "or" at the end of clause (ii);

(2) adding "or" at the end of clause (iii); and

(3) adding at the end thereof the following new clause:

"(iv) an offense under State law which, if it had been prosecuted as a violation of the Controlled Substances Act as that Act provided at the time of the offense, would have been punishable by a maximum term of ten years or more;".

GRAMM AMENDMENT NOS. 407 AND 408

Mr. GRAMM proposed two amendments to the bill S. 1241, supra, as follows:

AMENDMENT NO. 407

At the appropriate place in the bill, insert the following:

SEC. . LIFE IMPRISONMENT WITHOUT RELEASE FOR CRIMINALS CONVICTED A THIRD TIME.

Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by striking "If any person commits a violation of this subparagraph or of section 418, 419, or 420 after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term" and inserting "If any person commits a violation of this subparagraph or of section 418, 419, or 420 or a crime of violence after two or more prior convictions for a felony drug offense or crime of violence or for any combination thereof have become final, such person shall be sentenced to not less than a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term 'crime of violence' means an offense that is a felony and has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense, and the term".

AMENDMENT NO. 408

At the appropriate place, insert the following:

SEC. . LONGER PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR FOR USE OF MINORS IN DRUG TRAFFICKING ACTIVITIES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 21.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under eighteen years of age shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (b) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under eighteen years of age shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (c) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

McCONNELL AMENDMENT NO. 409

Mr. McCONNELL proposed an amendment to the bill S. 1241, supra, as follows:

At the end of the bill, add the following:

TITLE .—CHILD ABUSER REGISTRATION

SEC. 01. SHORT TITLE.

This title may be cited as the "National Child Abuser Registration Act of 1991".

SEC. 02. DEFINITIONS.

For the purposes of this title—

(1) the term "child" means a person who is a child for the purposes of the criminal child abuse law of a State;

(2) the term "child abuse" means the physical, psychological, or emotional injuring, sexual abuse or exploitation, neglectful treatment, or maltreatment of a child by any person in violation of the criminal child abuse law of a State;

(3) the term "child abuser information" means the following facts concerning a person who has violated the criminal child abuse laws of a State:

(A) name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, address of legal residence, and a brief description of the crime or crimes committed by the offender; and

(B) any other information that the Federal Bureau of Investigation or the National Crime Information Center determines may be useful in identifying child abusers;

(4) the term "criminal child abuse law of a State" means the law of a State that establishes criminal penalties for the commission of child abuse by a parent or other family member of a child or by any other person;

(5) the term "National Crime Information Center" means the division of the Federal Bureau of Investigation that serves as a computerized information source on wanted criminals, persons named in arrest warrants, runaways, missing children, and stolen property for use by Federal, State, and local law enforcement authorities;

(6) the term "State" means each of the States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific; and

(7) the term "State child abuser information repository" means a division or office of a State that acts as a central repository for child abuse information.

SEC. 03. FINDINGS.

The Congress finds that—

(1) disturbing increases have occurred in recent years in the number of children who are abused by persons who have previously committed crimes of child abuse;

(2) many children who run away from home, who fall prey to pornography and prostitution, who suffer from a dependency on alcohol and drugs, and who become juvenile offenders, have been victims of child abuse;

(3) research has shown that child abuse tends to repeat itself, and many parents who abuse their children were once victims themselves;

(4) in recognition of the increased cases of child abuse, several States have established agencies to receive and maintain data relating to cases of child abuse;

(5) currently there exists no centralized national source through which a law enforcement agency can obtain data relating to persons who have committed crimes of child abuse;

(6) partly because of the lack of available and accurate information at the national level, persons who have committed acts of child abuse in one State have been able to go to another State to commit the crime again, in many cases in a position of authority over children; and

(7) the Nation cannot afford to ignore the importance of preventing child abuse.

SEC. 04. PURPOSES.

The purposes of this title are—

(1) to establish a national system through which current, accurate information concerning persons who commit crimes of child abuse can be obtained from a centralized source;

(2) to assist in the prevention of second incidents of child abuse by providing information about persons who have been convicted of a crime of child abuse to organizations whose primary concern is that of child welfare and care; and

(3) to understand the problem of child abuse in the United States by providing statistical and informational data to the Department of Justice, the National Center on Child Abuse and Neglect, the Congress, and other interested parties.

SEC. 05. REPORTING BY THE STATES.

(a) IN GENERAL.—A State child abuse information repository may report child abuser information to the National Crime Information Center.

(b) GUIDELINES.—(1) The Attorney General shall establish guidelines for the reporting of child abuser information, including procedures for carrying out the purposes of this title.

(2) The guidelines established under paragraph (1) shall require that—

(A) a reporting State ensure that reports of all convictions under the criminal child abuse law of the State are maintained by a State child abuser information repository;

(B) a State child abuser information repository maintain close liaison with the National Center on Child Abuse and Neglect and the National Center for Missing and Exploited Children for exchange of information and technical assistance in cases of child abuse; and

(C) direct access to the information repository shall only be available to State and Federal law enforcement officials.

SEC. 06. CONDITION ON GRANTS.

Compliance with section 05 shall be a condition to the receipt by a State of any grant, cooperative agreement, or other assistance under—

(1) section 1404 of the Victims of Crime Act (42 U.S.C. 10603); and

(2) the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.).

SANFORD AMENDMENT NO. 410

Mr. SANFORD proposed an amendment to the bill S. 1241, supra, as follows:

Section 1902 is amended by adding at the end thereof a new paragraph:

"(5) To make a comprehensive study of the economic and social factors leading to or contributing to crime and specific proposals for legislative and administrative actions to reduce crime and the elements that contribute to it."

THURMOND AMENDMENT NO. 411

Mr. BIDEN (for Mr. THURMOND) proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place insert the following:

SECTION 1. IMPOSITION OF SENTENCE.

Section 3553(a)(4) of title 18, United States Code, is amended to read as follows:

"(4) the kinds of sentence and the sentencing range established for—

"(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, and that are in effect on the date the defendant is sentenced; or

"(B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code;".

SEC. 2. TECHNICAL AMENDMENT TO MANDATORY CONDITIONS OF PROBATION.

Section 3563(a)(3) of title 18, United States Code, is amended by striking "possess illegal" and inserting "unlawfully possess".

SEC. 3. REVOCATION OF PROBATION.

(a) Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking "impose any other sentence that was available under subchapter A at the time of the initial sentencing" and inserting "resentence the defendant under subchapter A"; and

(2) by striking the last sentence.

(b) Section 3565(b) of title 18, United States Code, is amended to read as follows:

"(b) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM.—If the defendant—

(1) possesses a controlled substance in violation of the condition set forth in section 3563(a)(3); or

(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of federal law, or otherwise violates a condition of probation prohibiting the defendant from possessing a firearm,

the court shall revoke the sentence of probation and resentence the defendant under subchapter A to a sentence that includes a term of imprisonment.".

SEC. 4. SUPERVISED RELEASE AFTER IMPRISONMENT.

Section 3583 of title 18, United States Code, is amended—

(1) in subsection (d), by striking "possess illegal" and inserting "unlawfully possess";

(2) in subsection (e)—

(A) by striking "person" wherever such term appears in such subsection and inserting "defendant"; and

(B) by striking paragraph (3) and inserting the following:

"(3) revoke a term of supervised release, and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on postrelease supervision, if the court, pursuant to the Federal Rules of Criminal Procedure applicable to revocation of probation or supervised release, finds by a preponderance of the evidence that the defendant violated a condition of supervised release, except that a defendant whose term is revoked under this paragraph may not be required to serve more than 5 years in prison if the offense that resulted in the term of supervised release is a class A felony, more than 3 years in prison if such offense is a class B felony, more than 2 years in prison if such offense is a class C or D felony, or more than one year in any other case; or"; and

(3) by striking subsection (g) and inserting the following:

"(g) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM.—If the defendant—

(1) possesses a controlled substance in violation of the condition set forth in subsection (d), or

(2) possesses a firearm, as such term is defined in section 921 of this title, in violation

of federal law, or otherwise violates a condition of supervised release prohibiting the defendant from possessing a firearm, the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized under subsection (e)(3).

"(h) Supervised Release Following Revocation.—When a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of imprisonment authorized under subsection (e)(3), the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release.

"(i) Delayed Revocation.—The power of the court to revoke a term of supervised release for violation of a condition of supervised release, and to order the defendant to serve a term of imprisonment and, subject to the limitations in subsection (h), a further term of supervised release, extends beyond the expiration of the term of supervised release for any period reasonably necessary for the adjudication of matters arising before its expiration if, prior to its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.".

BRYAN (AND McCAIN) AMENDMENT NO. 412

Mr. BRYAN (for himself and Mr. McCain) proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place, insert the following new title:

TITLE —TELEMARKETING AND CONSUMER FRAUD AND ABUSE

SEC. 01. SHORT TITLE.

This Act may be cited as the "Telemarketing and Consumer Fraud and Abuse Prevention Act".

SEC. 02. DEFINITIONS.

As used in this title, the term—

(1) "attorney general" means the chief legal officer of a State'

(2) "Commission" means the Federal Trade Commission;

(3) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States;

(4) "telemarketing" means a plan, program, or campaign which is conducted to induce purchases of goods or services by significant use of one or more telephones and which has involved interstate telephone calls; the term does not include other use of a telephone in connection with business or personal transactions, nor does the term include the solicitation of sales through the mailing of a catalog which—

(A) contains a written description or illustration of the goods or services offered for sale;

(B) includes the business address of the seller;

(C) includes multiple pages of written material or illustrations;

(D) is issued not less frequently than once a year; and

(E) is at least the third catalog satisfying the requirements of subparagraphs (A) through (D) that has been issued by the seller within the last five years, where the seller does not place calls to customers but only receives call initiated by customers in response to the catalog and during those calls takes orders only without further solicitation; and

(5) "credit card laundering" means—

(A) the act or practice by a person engaged in telemarketing (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of transferring to another person to be presented to a member of a credit card system or the member's agent, for payment, one or more evidences or records of transactions involving goods or services offered by telemarketing and paid for by credit card;

(B) the act or practice by a person acting on behalf of a person engaged in telemarketing (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of causing or arranging for a third person to present to a member of a credit card system or the member's agent, for payment, one or more evidences or records of transactions involving goods or services offered by telemarketing and paid for by credit card;

(C) the act or practice by a person (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of knowingly presenting to a member of a credit card system or the member's agent, for payment, one or more evidences or records received from another person of transactions involving goods or services offered by telemarketing and paid for by credit card; or

(D) such other acts or practices defined in the rules of the Commission as credit card laundering.

SEC. 03. TELEMARKETING RULES.

(a) Rules on Telemarketing Activities.—The Commission shall prescribe rules regarding telemarketing activities. In prescribing such rules, the Commission shall consider the inclusion of—

(1) a requirement that goods or services offered by telemarketing be shipped or provided within a specified period and that if the goods or services are not shipped or provided within such period a refund be required;

(2) authority for a person who orders a good or service through telemarketing to cancel the order within a specified period;

(3) restrictions on the hours of the day when unsolicited telephone calls can be made to consumers;

(4) a prohibition of telemarketing generated by computers on equipment that does not permit the individual called to terminate the telephone call; and

(5) recordkeeping requirements.

(b) Prohibition of Fraudulent Telemarketing Acts or Practices.—The Commission also shall prescribe rules prohibiting fraudulent telemarketing acts or practices and shall include in such rules a definition of the term "fraudulent telemarketing acts or practices". Credit card laundering shall be a fraudulent telemarketing act or practice.

(c) Deadline; Administrative Procedure.—The Commission shall prescribe the rules under subsections (a) and (b) of this section within 180 days after the date of enactment of this Act. Such rules shall be prescribed in accordance with section 553 of title 5, United States Code.

(d) Treatment of Rule Violations.—Any violation of any rule prescribed under subsection (a) or (b) of this section shall be treated as a violation of a rule under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) regarding unfair or deceptive acts or practices (subject to any remedy or penalty applicable to any violation thereof).

(e) Effect or State Law.—The rules promulgated under this section shall not be construed as preempting State law.

SEC. 04. ACTIONS BY STATE ATTORNEYS GENERAL.

(a) Authority of States.—Whenever the attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice of telemarketing which violates any rule, regulation, or order of the Commission under this title, the State may bring a civil action on behalf of its residents to enjoin such telemarketing, to enforce compliance with any rule, regulation, or order of the Commission under this title, to obtain damages on behalf of their residents, or to obtain such further and other relief as the court may deem appropriate.

(b) Court Jurisdiction.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this section to enforce any liability or duty created by any rule, regulation, or order of the Commission under this title, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of any rule, regulation, or order of the Commission under this title, including the requirement that the defendant take such action as is necessary to remove the danger of violation of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(c) Rights of Commission.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right (1) to intervene in the action, (2) upon so intervening, to be heard on all matters arising therein, and (3) to file petitions for appeal.

(d) Venue; Service or Process.—Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the telemarketing occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(e) Effect on State Powers of Attorneys General.—For purposes of bringing any civil action under this section, nothing in this title shall prevent the attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(f) Effect on Actions Under State Statute.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

(g) CIVIL ACTION BY COMMISSION.—Whenever the Commission has instituted a civil action for violation of any rule prescribed under this Act, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

SEC. 05. ACTIONS BROUGHT BY PRIVATE PERSONS.

(a) DEFINITION.—As used in this section, the term "person adversely affected by telemarketing" means—

(1) any person who has incurred loss or damage in connection with telemarketing and who actually purchased goods or services through telemarketing, or paid or is obligated to pay for goods or services purchased through telemarketing;

(2) any financial institution that has incurred loss or damage in connection with telemarketing; or

(3) any member organization comprised of financial institution members, or any parent organization of such member organization, if one or more of the financial institution members is eligible to bring a civil action under this subsection.

Such term does not include a governmental entity.

(b) PRIVATE RIGHT OF ACTION.—(1) Any person adversely affected by any pattern or practice of telemarketing which violates any rule, regulation, or order of the Commission under this title may, within 3 years after discovery of the violation, bring a civil action against a person who has engaged or is engaging in such pattern or practice of telemarketing if the amount in controversy exceeds the sum or value of $50,000 in actual damages for each person adversely affected by such telemarketing. Such an action may be brought to enjoin such telemarketing, to enforce compliance with any rule, regulation, or order of the Commission under this title, to obtain damages, or to obtain such further and other relief as the court may deem appropriate.

(2) The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this section to enforce any liability or duty created by any rule, regulation, or order of the Commission under this title, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of any rule, regulation, or order of the Commission under this title, including the requirement that the defendant take such action as is necessary to remove the danger of violation or of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(3) The plaintiff shall serve prior written notice of the action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the person shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

(4) Whenever the Commission has instituted a civil action for violation of any rule prescribed under this title, no person may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

(5) Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the telemarketing occurred or is occurring and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(c) AWARD OF COSTS AND FEES.—The court, in issuing any final order in any action brought under subsection (b), may award costs of suit and reasonable fees for attorneys and expert witnesses to the prevailing party.

(d) RIGHTS UNDER STATUTE OR COMMON LAW.—Nothing in this section shall restrict any right which any person may have under any statute or common law.

SEC. 06. VENUE.

Subsections (a) and (b) of section 13 of the Federal Trade Commission Act (15 U.S.C. 53) are each amended by adding at the end thereof the following: "Whenever it appears to the court that the interests of justice require that any other person, partnership, or corporation should be a party in such suit, the court may cause such person, partnership, or corporation to be summoned without regard to whether they reside or transact business in the district in which the suit is brought, and to that end process may be served wherever the person, partnership, or corporation may be found.".

SEC. 07. SUBPOENA.

SEC. 7. (a) PHYSICAL EVIDENCE DEFINED.—Section 20(a) of the Federal Trade Commision Act (15 U.S.C. 57b-1(a)) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting immediately after paragraph (6) the following new paragraph:

"(7) The term 'physical evidence' means any object or device, including any medical device, food product, drug, nutritional product, cosmetic product, or audio or video recording.".

(b) ISSUANCE OF DEMAND.—Section 20(c)(1) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(1)) is amended—

(1) by inserting "physical evidence or" immediately after "any" the second time it appears;

(2) by inserting "to produce such physical evidence for inspection," immediately before "to produce";

(3) by inserting "physical evidence," immediately after "concerning"; and

(4) by inserting "evidence," immediately before "material, answers,".

(c) CONTENTS OF DEMAND.—Section 20(c)(3) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(3)) is amended—

(1) by inserting "physical evidence or" immediately before "documentary material";

(2) in subparagraph (A)—

(A) by inserting "physical evidence or" immediately before "documentary"; and

(B) by inserting "evidence or" immediately after "permit such";

(3) in subparagraph (B), by inserting "evidence or" immediately before "material"; and

(4) in subparagraph (C), by inserting "evidence or" immediately before "material".

(d) PRODUCTION OF EVIDENCE IN RESPONSE TO DEMAND.—Section 20(c)(10) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(10)) is amended by inserting "physical evidence or" immediately before "documentary material" each place it appears.

SEC. 08. FALSE ADVERTISEMENTS CONCERNING SERVICES.

Section 12(a) of the Federal Trade Commission Act (15 U.S.C. 52(a)) is amended by inserting "services," immediately after "devices," each place it appears.

SEC. 09. CLEARINGHOUSE.

The Commission shall establish a clearinghouse for inquires made to Federal agencies concerning telemarketing. The clearinghouse will provide information (other than information which may not be disclosed under section 552(b) of title 5, United States Code, or under regulations prescribed by the Commission to implement sections 552(b) of title 5, United States Code) to anyone making inquires respecting persons engaged in telemarketing or direct such inquires to the appropriate Federal or State agency.

SEC. 10. FINANCIAL DATA.

Section 1109(a)(3) of the Right to Financial Privacy Act of 1979 (12 U.S.C. 3409(a)(3)) if amended—

(1) by redesignating subparagraph (E) as subparagraph (F);

(2) by striking "or" at the end of subparagraph (D); and

(3) by inserting immediately after subparagraph (D) the following new subparagraph:

"(E) dissipation, removal, or destruction of assets that are subject to forfeiture, seizure, redress, or restitution under any law of the United States by reasons of having been obtained in violation of law; or".

SEC. 11. CRIMINAL CONTEMPT AUTHORITY.

Section 16(a)(1) of the Federal Trade Commission Act (15 U.S.C. 56(a)(1)) is amended—

(1) in subparagraph (A) by striking "civil" the first place it appears and inserting in lieu thereof "Federal court"; and

(2) by adding at the end the following: "The Commission may bring a criminal contempt action for violations of orders obtained in cases brought under section 13(b) of this Act in the same manner as civil penalty and other Federal court actions to which this subsection applies. Such cases may be initiated by the Commission on its own complaint, or pursuant to its acceptance of an appointment by a court to assist it in enforcing such orders pursuant to Rule 42(b) of the Federal Rules of Criminal Procedure.".

SEC. 12. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) ENFORCEMENT.—Except as otherwise provided in sections 04 and 05 of this title, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) APPLICABILITY OF FTCA.—The Commission shall prevent any person from violating a rule, regulation, or order of the Commission under this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any person who violates such a rule, regulation, or order shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(c) EXEMPTION.—(1) No provision of this title shall apply to any person exempt from the jurisdiction of the Commission under section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)), and nothing in this title shall be construed to vest the Commission, or the attorney general of any State or any person, with jurisdiction or authority over any person not otherwise subject to the jurisdiction or authority of the Commission.

(2)(A) No provision of this Act shall apply—

(i) to a broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or investment company in connection with the offer, sale, or purchase of any security, or to an issuer in connection with the offer, sale, or purchase of any security which that issuer has issued, or to any investment adviser providing investment advice relating to any security; or

(ii) to the solicitation, acceptance, confirmation, or execution of orders for the entry into, purchase of, or sale of any contract, account, agreement, or transaction subject to the exclusive jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.) by a person registered under the Commodity Exchange Act in order to engage in such activity, including as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, leverage transaction merchant, floor broker, or floor trader, or as a person associated with any such person.

(B) For purposes of subparagraph (A)(i)—

(1) the terms "broker", "dealer", "municipal securities dealer", "government securities broker", and "government securities dealer" have the meanings given them in section 3(a)(4), (5), (30), (43), and (44), respectively, of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4), (5), (30), (43), and (44));

(2) the term "investment adviser" has the meaning given it in section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(11));

(3) the term "investment company" has the meaning given it in section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 89a-3(a));

(4) the term "issuer" has the meaning given it in section 2(4) of the Securities Act of 1933 (15 U.S.C. 77b(4)); and

(5) the term "security" has the meaning given to it in section 2(1) of the Securities Act of 1933 (15 U.S.C. 77b(1)), section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)), and section 2(a)(36) of the Investment Company Act of 1940 (15 U.S.C. 89a-2(a)(36)).

SEC. 13. LIFE CARE HOME STUDY.

(a) STUDY.—The Federal Trade Commission shall conduct a study of unfair or deceptive acts or practices in the life care home industry, including acts or practices engaged in by life care homes. Within 24 months after the date of enactment of this Act, the Commission shall report the findings and conclusions of the study to Congress. The Commission shall indicate in its report whether it intends to initiate a trade regulation rulemaking under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) respecting unfair or deceptive acts or practices in the life care home industry and the reasons for such determination.

(b) DEFINITIONS.—For purposes of subsection (a), the term—

(1) "life care home" includes the facility or facilities occupied, or planned to be occupied, by residents or prospective residents where a provider undertakes to provide living accommodations and services pursuant to a life care contract, regardless of whether such facilities are operated on a profit or nonprofit basis; and

(2) "life care contract" includes a contract between a resident and a provider to provide the resident, for the duration of such resident's life, living accommodations and related services in a life care home, including nursing care services, medical services, and other health-related services, which is conditioned upon the transfer of an entrance fee to the provider and which may be further conditioned upon the payment of periodic service fees.

SEC. 14. SUNSET.

The provisions of sections 03, 04, and 05 shall cease to have force and effect on and after the date that is five years following the date of enactment of this Act.

DECONCINI AMENDMENT NO. 413

Mr. DECONCINI proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place, insert:

SEC. .

Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) by inserting a new subsection (c) as follows:

(c) It shall be unlawful for any person to knowingly print, publish, place, or otherwise cause to appear in any newspaper, magazine, handbill, or other publication, any written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. As used in this section the term "advertisement" includes, in addition to its ordinary meaning, such advertisements as those for a catalog of Schedule I controlled substances and any similar written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. The term "advertisement" does not include material which merely advocates the use of a similar material, which advocates a position or practice, and does not attempt to propose or facilitate an actual transaction in a Schedule I controlled substance.

(2) by redesignating subsections (c) and (d) as (d) and (e) respectively.

CHAFEE (AND OTHERS) AMENDMENT NO. 414

Mr. CHAFEE (for himself, Mr. PELL, Mr. GARN, and Mr. RIEGLE) proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, insert the following:

TITLE —FINANCIAL INSTITUTION FRAUD PROSECUTIONS

SEC. 01. SHORT TITLE.

This title may be cited as the "Financial Institutions Fraud Prosecution Act of 1991".

SEC. 02. FEDERAL DEPOSIT INSURANCE ACT AMENDMENT.

Section 19(a) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)) is amended in paragraph (2)(A)(i)(I)—

(1) by striking "or 1956"; and

(2) by inserting "1517, 1956, or 1957".

SEC. 03. FEDERAL CREDIT UNION ACT AMENDMENTS.

Section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) PROHIBITION.—

"(1) IN GENERAL.—Except with prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

"(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

"(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) MINIMUM 10-YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.—

"(A) IN GENERAL.—If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

"(i) an offense under—

"(I) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, 1517, 1956, or 1957 of title 18, United States Code; or

"(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or

"(ii) the offense of conspiring to commit any such offense,

the Board may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

"(B) EXCEPTION BY ORDER OF SENTENCING COURT.—

"(i) IN GENERAL.—On motion of the Board, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of paragraph (1) to such person if granting the exception is in the interest of justice.

"(ii) PERIOD FOR FILING.—A motion may be filed under cause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.

"(3) PENALTY.—Whoever knowingly violates paragraph (1) or (2) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

SEC. 04. CRIME CONTROL ACT AMENDMENT.

Section 2546 of the Crime Control Act of 1990 (Public Law 101-647, 104 Stat. 4885) is amended by adding at the end the following:

"(c) FRAUD TASK FORCES REPORT.—In addition to the reports required under subsection (a), the Attorney General is encouraged to submit a report to the Congress containing the findings of the financial institutions fraud task forces established under section 2539 as they relate to the collapse of private deposit insurance corporations, together with recommendations for any regulatory or legislative changes necessary to prevent such collapse in the future.".

BINGAMAN (AND DOMENICI) AMENDMENT NOS. 415 AND 416

Mr. BINGAMAN (for himself and Mr. DOMENICI) proposed two amendments to the bill, S. 1241, supra, as follows:

AMENDMENT NO. 415

On page 172, between lines 23 and 24, insert the following:

"SPECIAL INTERNATIONAL PORTS OF ENTRY JUVENILE CRIME AND DRUG DEMAND REDUCTION GRANTS

"SEC. 233. (a) The purpose of this section is—

"(1) to provide additional Federal assistance and support to promising new programs that specifically and effectively address the unique crime and drug and alcohol related challenges faced by juveniles living at or near International Ports of Entry and in other international border communities, including rural localities;

"(2) to replicate and demonstrate these programs to serve as models that could be used, in whole or in part, in other similarly situated communities; and

"(3) to provide technical assistance and training to public or private organizations to implement similar programs.

"(b) The Administrator is authorized to make grants to, or enter into contracts with, public or private non-profit agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231, if the beneficiaries of the grantee's program are juveniles living at or near International Port of Entry or in other international border communities, including rural localities. The Administrator shall have final authority over all funds awarded under this section.

"(c) Of the total amount appropriated for this subchapter, 5 per centum shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231 as described in section 233(a). Grants made under this section may be made for amounts up to 100 per centum of the costs of the programs.".

On pages 172, 173, and 174 redesignate sections 233, 234, 235, and 236 as sections 234, 235, 236, and 237, respectively.

AMENDMENT NO. 416

On page 196, line 5, after "State" strike "and" and insert a comma.

On page 196, line 5, after "Federal" insert the following: ", and international border".

On page 196, between lines 14 and 15, insert the following:

"(3) Examining the impact of changes in Federal immigration laws and policies and increased development and growth along United States international borders on crime and violence in the United States, particularly among our Nation's youth.".

On pages 196 and 197, redesignate paragraphs (3) through (6) as paragraphs (4) through (7), respectively.

SANFORD AMENDMENT NO. 417

Mr. SANFORD proposed an amendment to the bill, S. 1241, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . LIMITATION ON USE OF FEDERAL FUNDS FOR ADMINISTRATIVE COSTS.

(a) FIVE PERCENT LIMITATION.—(1) No more than 5 percent of any Federal funds received by a State or local government or agency or a private entity by virtue of the provision of and the amendment made by this Act described in paragraph (2) shall be used to pay administrative costs of the activity for which the funds are intended.

(2) The provision and amendment to which this subsection applies are—

(A) the provision for returning funds to the States in section 1301(e)(3); and

(B) section 1005(c) (3) and (7) of the National Narcotics Leadership Act of 1988, as amended by section 1702.

(b) TEN PERCENT LIMITATION.—(1) No more than 10 percent of any Federal funds received by a State or local government or agency or a private entity by virtue of an amendment made by this Act described in paragraph (2) shall be used to pay administrative costs of the activity for which the funds are intended.

(2) The amendments to which this subsection applies are—

(A) section 231(c), 233, and 234 of the Juvenile Justice and Delinquency Prevention Act of 1974, as added by section 1511; and

(B) the authorization of appropriations in section 1001(a)(7) of the Omnibus Crime Control and Safe Streets Act of 1968, as added by section 1601.

BRYAN (AND METZENBAUM) AMENDMENT NO. 418

Mr. BRYAN (for himself and Mr. METZENBAUM) proposed an amendment to the bill, S. 1241, supra, as follows:

At the appropriate place, insert the following new title:

TITLE —INSURANCE CONSUMER PROTECTION

SEC. 01. SHORT TITLE.

This title may be cited as the "Insurance Consumer Protection Act."

SEC. 02. UNLAWFUL ACTIVITIES BY OR AFFECTING PERSONS ENGAGED IN THE BUSINESS OF INSURANCE.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

§1033. Crimes by or affecting persons engaged in the business of insurance"

"(a) Whoever, in connection with reports or documents presented to a State insurance regulatory official or agency, or an agent or examiner duly appointed by such agency or official, by any person engaged in the business of insurance whose activities affect interstate commerce, knowingly makes any false statement or report, or willfully overvalues any land, property, or security, for the purpose of influencing in any way the actions of a State insurance regulatory official or agency, or any agent or examiner duly appointed to examine the affairs of such person, shall be fined not more than $1,000,000 or imprisoned for not more than thirty years, or both.

"(b) Whoever, acting as or being an officer, director, agent, or employee of, or connected in any capacity with, any person engaged in the business of insurance whose activities affect interstate commerce, embezzles, abstracts, purloins, or willfully misappropriates any of the moneys, funds, premiums, credits, or other property of such person shall be fined not more than $1,000,000 or imprisoned not more than thirty years or both; but if the amount or value embezzled, abstracted, purloined, or misappropriated does not exceed $100, such penalty shall be a fine of not more than $1,000 or imprisonment of not more than one year, or both.

"(c) Whoever, acting as or being an officer, director, agent, or employee of, or connected in any capacity with any person engaged in the business of insurance whose activities affect interstate commerce, makes any false entry in any book, report, or statement of such person with intent to injure or defraud such person, or any other company, any other body politic or corporate, or any individual person, or to deceive any officer, employee, or agent of such person, or any State insurance regulatory official or agency, or any agent or examiner duly appointed to examine the affairs of such person, shall be fined not more than $1,000,000 or imprisoned not more than thirty years, or both.

"(d) Whoever, by threats or force, or by any threatening letter or communication corruptly influences, obstructs, or impedes, or endeavors to corruptly influence, obstruct, or impede, the due and proper administration of the law under which any proceeding is pending before a State insurance regulatory official or agency, or any agent or examiner duly appointed to examine the affairs of a person engaged in the business of insurance, shall be fined not more than $250,000 or imprisoned not more than ten years, or both.

"(e)(1) Except with the written consent of the authorized official of a State insurance regulatory agency, which consent specifically refers to this subsection—

"(A) any person who has been convicted of an offense under this section, upon such conviction becoming final, may not participate directly or indirectly in the business of insurance; and

"(B) a person engaged in the business of insurance may not permit such participation.

"(2) Whoever knowingly violates paragraph (1) shall be fined not more than $1,000,000 for each day of such violation or imprisoned not more than five years, or both.

"(f) Nothing in this section shall be construed as indicating an intent on the part of Congress to occupy the field in which the provisions of this section operate to the exclusion of State laws on the same subject matter, nor shall any provision of this section be construed as invalidating any provision of State law unless such provision is inconsistent with any of the provisions of this section.

"(g) The term 'business of insurance" has the meaning of that term under the McCarran-Ferguson Act (15 U.S.C. 1011 et seq.).".

(b) CONFORMING AMENDMENT.—The analysis of chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1032 the following new item:

"1033. Crimes by or affecting persons engaged in the business of insurance,".

SEC. 03. MISCELLANEOUS AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) TAMPERING WITH STATE INSURANCE REGULATORY PROCEEDINGS.—Section 1515 (a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by adding "or" at the end of subparagraph (C); and

(3) by adding at the end the following new subparagraph:

"(D) a proceeding before any State insurance regulatory official or agency, or any agent or examiner duly appointed to examine the affairs of any person engaged in the business of insurance;".

(b) LIMITATIONS.—(1) Section 3293 of title 18, United States Code, is amended by inserting "1033," immediately after "1014,".

(2) The amendment made by this subsection shall apply to an offense committed before the date of enactment of this Act, if the statute of limitations applicable to that offense under chapter 213 of title 18, United States Code, has not run as of such date.

(c) OBSTRUCTION OF CRIMINAL INVESTIGATIONS.—Section 1510 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) Whoever, acting as or being an officer, director, agent, or employee of, or connected in any capacity with, a person engaged in the business of insurance notifies, with intent to obstruct a judicial proceeding directly or indirectly, any other person about the existence or contents of a subpoena for records of that person engaged in the business of insurance, or information that has been furnished to a Federal grand jury in response to that subpoena, shall be fined not more than $250,000 or imprisoned not more than five years, or both.

"(2) As used in this subsection, the term 'subpoena for records' means a Federal grand jury subpoena for records that has been served relating to a violation of, or a conspiracy to violate, section 1033.".

(d) CRIMINAL FORFEITURE.—Section 982(a)(2) of title 18, United States Code, is amended by inserting "or section 1033, affecting a person engaged in the business of insurance," immediately after "financial institution,".

DURENBERGER (AND KASSEBAUM) AMENDMENT NO. 419

Mr. DURENBERGER (for himself and Mrs. KASSEBAUM) proposed an amendment to the bill S. 1241, supra; as follows:

At the appropriate place, add the following:

SEC. . CRIMES AGAINST CHILDREN REGISTRATION ACT.

(a) SHORT TITLE.—This section may be cited as the "Crimes Against Children Registration Act".

(b) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—

(A) STATE GUIDELINES.—The Attorney General shall establish a State program and guidelines requiring any person who is convicted of a criminal offense against a victim who is a minor to register a current address with a designated State law enforcement agency for 10 years after release from prison, parole, or being placed on supervised release.

(B) DEFINITION.—For purposes of this section, the term "criminal offense against a victim who is a minor" includes—

(i) kidnapping of a minor, except by a noncustodial parent;

(ii) false imprisonment of a minor, except by a noncustodial parent;

(iii) criminal sexual conduct toward a minor;

(iv) solicitation of minors to engage in sexual conduct;

(v) use of minors in a sexual performance; or

(vi) solicitation of minors to practice prostitution.

(2) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, OR SUPERVISED RELEASE.—An approved State registration program established by this section shall contain the following requirements:

(A) NOTIFICATION.—If a person who is required to register under this section is released from prison, paroled, or placed on supervised release, a State prison officer shall—

(i) inform the person of the duty to register;

(ii) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing within 10 days;

(iii) obtain a fingerprint card and photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(iv) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(B) TRANSFER OF INFORMATION TO STATE AND THE NCIC.—The officer shall, within 3 days after receipt of information under subparagraph (A), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the State law enforcement system and National Crime Information Center computer networks and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside.

(C) ANNUAL VERIFICATION.—On each anniversary of a person's initial registration date during the period in which the person is required to register under this section, the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person. The person shall mail the verification form to the office within 10 days after receipt of the form. The verification form shall be signed by the person, and state that the person still resides at the address last reported to the designated State law enforcement agency. If the person fails to mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form, the persons shall be in violation of this section unless the person proves that the person has not changed his or her residence address.

(D) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESS.—Any change of address by a person required to register under this section reported to the designated State law enforcement agency shall immediately be reported to the appropriate law enforcement agency having jurisdiction where the person is residing.

(3) REGISTRATION FOR 10 YEARS.—A person required to register under this section shall continue to comply with this section until 10 years have elapsed since the person was released from imprisonment, parole, or supervised release.

(4) PENALTY.—A person required to register under this section who violates any requirement of a State program established by this section shall be subject to criminal penalties in such State. It is the sense of Congress that such penalties should include at least 6 months imprisonment.

(5) PRIVATE DATA.—The information provided under this section is private data on individuals and may be used for law enforcement purposes, including confidential background checks by child care services providers.

(c) STATE COMPLIANCE.—

(1) COMPLIANCE DATE.—Each State shall have 3 years from the date of the enactment of this section in which to implement the provisions of this section.

(2) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) receive by a State not complying with the provisions of this section 3 years after the date of enactment of this section shall be reduced by 25 percent and the unallocated funds shall be reallocated to the States in compliance with this section.

D'AMATO AMENDMENT NO. 420

Mr. THURMOND (for Mr. D'AMATO) proposed an amendment to the bill S. 1241, supra; as follows:

At the appropriate place, insert the following:

SEC. . INCREASED PENALTIES.—Pursuant to section 994 of Title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines, or amend existing guidelines, to provide that a defendant convicted of violating, or conspiring to violate Section 1324(a) of Title 8, United States Code, shall be assigned not less than offense level 25 under Section 2L1.1 of the United States Sentencing Guidelines if any of the following factors exist:

(1) If the offense involved five or more aliens in a single scheme or otherwise; or

(2) If the offense involved other criminal activity including, but not limited to, violations of the Controlled Substances Act, prostitution, importation of aliens for immoral purposes, trafficking in firearms, money laundering, illegal gang activities, kidnapping or ransom demands, fraudulent documents, or extortion; or

(3) If the offense involves smuggling of persons under the age of 18 years for purposes of illegal adoption, or sexual or commercial exploitation; or

(4) If the offense involves the smuggling of known or suspected terrorists or persons involved in organized crime; or

(5) If the offense involves dangerous or inhumane treatment of the persons smuggled; or

(6) If death or serious bodily harm occurs to persons smuggled, increase by 3.

Otherwise, the base offense level shall be 13 except for an offense as described in 1324(a)(2)(A) of Title 8, United States Code.

LEAHY (AND OTHERS) AMENDMENT NO. 421

Mr. LEAHY (for himself, Mr. BROWN, and Mr. KOHL) proposed an amendment to the bill S. 1241, supra; as follows:

At the appropriate place, insert the following:

SEC. . COMPUTER ABUSE AMENDMENTS ACT OF 1991.

(a) SHORT TITLE.—This section may be cited as the "Computer Abuse Amendments Act of 1991".

(b) PROHIBITION.—Section 1030(a)(5) of title 18, United States Code, is amended to read as follows:

"(5)(A) through means of or in a manner affecting a computer used in interstate commerce or communications, knowingly causes the transmission of a program, information, code, or command to a computer or computer system if—

"(i) the person causing the transmission intends that such transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data, or program; or

"(II) withhold or deny, or cause the withholding or denial, or the use of a computer, computer services, system or network, information, data or program; and

(ii) the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or

"(B) through means of or in a manner affecting a computer used in interstate commerce or communication, knowingly causes the transmission of a program, information, code, or command to a computer or computer system—

"(i) with reckless disregard of a substantial and unjustifiable risk that the transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data or program; or

"(II) withhold or deny or cause the withholding or denial of the use of a computer, computer services, system, network, information, data or program; and

"(ii) if the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of a value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals;".

(c) PENALTY.—Section 1030(c) of title 18, United States Code is amended—

(1) in paragraph (2)(B) by striking "and" after the semicolon;

(2) in paragraph (3)(A) by inserting "(A)" after "(a)(5)"; and

(3) in paragraph (3)(B) by striking the period at the end thereof and inserting "; and"; and

(4) by adding at the end thereof the following:

"(4) a fine under this title or imprisonment for not more than 1 year, or both, in the case of an offense under subsection (a)(5)(B).".

(c) CIVIL ACTION.—Section 1030 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who suffers damage or loss by reason of a violation of the section, other than a violation of subsection (a)(5)(B), may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief. Damages for violations of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb) are limited to economic damages. No action may be brought under this subsection unless such action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage.".

(e) REPORTING REQUIREMENTS.—Section 1030 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Attorney General shall report to the Congress annually, during the first 3 years following the date of the enactment of this subsection, concerning prosecutions under section 1030(c)(5) of title 18, United States Code.".

(f) DEFINITION.—Section 1030(e)(1) of title 18, United States Code, is amended by striking ", but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device".

(g) PROHIBITION.—Section 1030(a)(3) of title 18, United States Code, is amended by inserting "adversely" before "affects the use of the Government's operation of such computer".

BINGAMAN (AND DOMENICI) AMENDMENT NO. 422

(Ordered to lie on the table.)

Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by them to the bill S. 1241, supra, as follows:

At the end of the bill, add the following:

TITLE —LITERACY EDUCATION FOR STATE PRISONERS

SEC. . MANDATORY LITERACY PROGRAM.

(a) INITIAL REQUIREMENT.—On or before the date that is 2 years after the date of the enactment of this Act, the chief correctional officer of each State correctional system shall certify to the Attorney General that the State has in effect a mandatory functional literacy program in at least 1 major correctional facility.

(b) SUBSEQUENT REQUIREMENT.—On or before the date that is 5 years after the date of the enactment of this Act, the chief correctional officer of each State correctional system shall certify to the Attorney General that the State and each local jail or detention center with a population of more than 100 inmates in the State has in effect a system-wide mandatory functional literacy program.

(c) PROGRAM REQUIREMENTS.—(1) Each mandatory functional literacy program required by subsections (a) and (b) shall—

(A) to the extent possible, make use of advanced technologies, such as computer-based adult literacy learning; and

(B) include—

(i) a requirement that each person incarcerated in the system, jail, or detention center who is not functionally literate, except a person described in paragraph (2), shall participate in the program until the person—

(I) achieves functional literacy;

(II) is granted parole;

(III) completes his or her sentence; or

(IV) is released pursuant to court order;

(ii) a prohibition on granting parole to any person described in clause (i) who refuses to participate in the program, unless the State parole board determines that the prohibition should be waived in a particular case;

(iii) adequate opportunities for appropriate education services and the testing of all inmates for functional literacy upon arrival in the system or at the jail or detention center; and

(iv) an inmate participation incentive program, which may include—

(I) better housing opportunities;

(II) monetary incentives for achievement; and

(III) positive reports to parole authorities for inmates who participate and progress in the literacy program.

(2) The requirement of paragraph (1)(B) shall not apply to a person who—

(A) is serving a life sentence without possibility of parole;

(B) is terminally ill;

(C) is under a sentence of death; or

(D) is exempted by the chief officer of the system, jail, or detention center by reason of the person's documented learning disability or other significant learning problem.

(d) ANNUAL REPORT.—(1) Within 90 days after the close of the first calendar year in which a literacy program required by subsection (a) is placed in operation, and annually for each of the 4 years thereafter, the chief correction officer of each State correctional system shall submit a report to the Attorney General with respect to its literacy program.

(2) A report under paragraph (1) shall disclose—

(A) the number of persons who were tested for eligibility during the preceding year;

(B) the number of persons who were eligible for the literacy program during the preceding year;

(C) the number of persons who participated in the literacy program during the preceding year;

(D) the names and types of tests that were used to determine functional literacy;

(E) the average number of hours of instruction that were provided per week and the average number per student during the preceding year;

(F) sample data on achievement of participants in the program, including the number of participants who achieved functional literacy;

(G) data on all direct and indirect costs of the program; and

(H) a plan for implementing a system-wide mandatory functional literacy program, as required by subsection (b), and, if appropriate, information on progress toward such a program.

(e) COMPLIANCE GRANTS.—(1) The Attorney General shall make grants to State correctional agencies for the purpose of assisting in carrying out the programs, developing the plans, and submitting the reports required by this section.

(2) A State corrections agency is eligible to receive a grant under this subsection if the agency agrees to provide to the Attorney General—

(A) such data as the Attorney General may request concerning the cost and feasibility of operaing the mandatory functional literacy programs required by subsections (a) and (b); and

(B) a detailed plan outlining the methods by which the requirements of subsections (a) and (b) will be met, including specific goals and timetables.

(3) There are authorized to be appropriated for purposes of carrying out this section $10,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, and $25,000,000 for fiscal year 1995.

(f) WITHHOLDING OF GRANTS.—(1) On and after the date that is 2 years after the date of enactment of this Act, the Attorney General shall withhold grants under title I of the Omnibus Crime Control and Safe Streets Act of 1968, in an amount not to exceed 50 percent of the previous year's allocation to the State, to a State that does not have in effect a functional literacy program described in subsection (a).

(2) On and after the date that is 5 years after the date of enactment of this Act, the Attorney General shall withhold grants under title I of the Omnibus Crime Control and Safe Streets Act of 1968, in an amount not to exceed 50 percent of the previous year's allocation to the State, to a State that does not have in effect a functional literacy program described in subsection (b).

(g) DEFINITION.—For the purpose of this section, the term "functional literacy" means at least an eighth grade equivalence in reading on a nationally recognized standardized test.

BIDEN AMENDMENTS NOS. 423 THROUGH 427

(Ordered to lie on the table.)

Mr. BIDEN submitted five amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT NO. 423

In the Hatch amendment No. 380, as modified and amended, in the "Section 2254 Amendments," strike the following:

"(3) by adding a new subsection (d) reading as follows:

(d) An application for a unit of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceeding."'"

AMENDMENT NO. 424

In the Hatch amendment No. 380, as modified and amended, in proposed section 2259 of title 18 of the United States Code, strike the following in subsection (b): ", but the court shall not grant relief from a judgment or sentence on the basis of any claim that was fully and fairly adjudicated in state proceedings."

AMENDMENT NO. 425

Add at the appropriate place:

Section 2254 of title 28, United States Code, as amended by this Act, is further amended by adding a new subsection (i) reading as follows:

"(i) An adjudication of a claim in State proceedings is full and fair in the sense of this section, unless the adjudication was conducted in a manner inconsistent with the procedural requirements of federal law that are applicable to state proceedings, was contrary to or involved an arbitrary or unreasonable interpretation or application of federal law, or involved an arbitrary or unreasonable determination of the facts in light of the evidence presented."

AMENDMENT NO. 426

Add at the appropriate place:

Section 2254 of title 28, United States Code, as amended by this Act, is further amended by adding a new subsection (i) reading as follows:

"(i) An adjudication of a claim in State proceedings is full and fair in the sense of this section, unless the adjudication was conducted in a manner inconsistent with the procedural requirements of federal law that are applicable to State proceedings, was contrary to or involved an arbitrary or unreasonable interpretation or application of established federal law, or involved an arbitrary or unreasonable determination of the facts in light of the evidence presented."

AMENDMENT NO. 427

Add at the appropriate place:

Section 2254 of title 28, United States Code, as amended by this Act, is further amended by adding a new subsection (i) reading as follows:

"(i) An adjudication of a claim in State proceedings is full and fair in the sense of this section, unless the adjudication was conducted in a manner inconsistent with the procedural requirements of federal law that are applicable to State proceedings, was contrary to or involved an arbitrary or unreasonable interpretation or application of clearly established federal law, or involved an arbitrary or unreasonable determination of the facts in light of the evidence presented."

BIDEN (AND OTHERS) AMENDMENT NO. 428

Mr. BIDEN (for himself, Mr. DOLE, and Mr. THURMOND) proposed an amendment to the bill S. 1241, supra, as follows:

On page 140, strike from line 3 through line 20;

On page 149, strike from line 13 through line 24;

On page 153, strike all from line 1 through line 19 on page 158.

STEVENS AMENDMENT NO. 429

Mr. STEVENS proposed an amendment to the bill S. 1241, supra, as follows:

On page 236, strike line 9 and all that follows through the end of the bill and insert the following:

SEC. 2701. MANDATORY INSTANT IDENTIFICATION OF FELONS ACT OF 1991.

(a) SHORT TITLE.—This title may be cited as the "Mandatory Instant Identification of Felons Act of 1991".

(b) FEDERAL FIREARMS LICENSEE REQUIRED TO CONDUCT CRIMINAL BACKGROUND CHECK BEFORE TRANSFER OF HANDGUN TO NONLICENSEE.—

(1) STATE INSTANT CRIMINAL CHECK SYSTEM.—(A) Not later than the date that is 24 months after the date of this Act, each State shall establish and maintain in operation's system that, on receipt of an inquiry from a licensee pursuant to section 922(u)(1) of title 18, United States Code, immediately researches the criminal history of a prospective handgun transferee, advises the licensee whether its records demonstrate the transferee is disqualified from receiving a handgun by reason of section 922 (g) or (n) of title 18, United States Code, and, if the transferee is not so disqualified, provides the licensee a unique identification number with respect to the transfer.

(E) A State instant criminal check system shall—

(i) provide for the privacy and security of the information contained in the system;

(ii) ensure that information conveyed to the system by a licensee pursuant to section 922(u)(1) of title 18, United States Code, is not recorded or noted in any form whatsoever, is not conveyed to any person except as person who has a need to know in order to carry out the purpose of that section, and is not used for any purpose other than to carry out that section; and

(iii) provide to a prospective handgun transferee who is denied receipt of a handgun on the basis of information provided by the system a procedure for the correction of erroneous information in accordance with subparagraph (C).

(c)(i) A State instant criminal check system shall provide that if the system informs a licensee that receipt of a handgun by a prospective transferee would violate section 922 (c) or (n) of title 18, United States Code, the transferee may request the head of the system to provide such other person with the reasons therefor.

(ii) On receipt of a request under clause (i), the head of a State instant criminal check system shall immediately comply with the request.

(iii) The transferee may submit to the head of the State system information to correct, clarify, or supplement records of the system with respect to the transferee.

(iv) After receipt of information under clause (iii), the head of the State system shall immediately consider the information, investigate the matter further, correct all erroneous State records relating to the transferee, and give notice of the error to any Federal department or agency or any State that was the source of the erroneous records.

(2) PROHIBITIONS RELATING TO ESTABLISHMENT OF REGISTRATION SYSTEMS WITH RESPECT TO HANDGUNS.—No department, agency, officer, or employee of the United States may—

(A) require that any record or portion thereof generated by a search of the criminal history of a prospective transferee under a State instant criminal check system established under paragraph (1) be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(B) use information provided by a State instant criminal check system established under paragraph (1) to establish any system for the registration of handguns, handgun owners, or handgun transactions or dispositions, except with respect to persons prohibited by section 922 (g) or (n) of title 18, United States Code, from receiving a handgun.

(3) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 922 of title 18, United States Code, as amended by section 702, is amended by adding at the end the following:

"(u)(1) Effective 24 months after the date of enactment of this subsection, a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a handgun from the business inventory of the licensee to any other person who is not such a licensee, unless—

"(A) before the completion of the transfer the licensee contacts the State instant criminal check system; and

"(E) the State system notifies the licensee that—

"(i) the State system, after a review of records, including records in the Federal National Crime Information Computer, has not located any record that demonstrates that the receipt of a handgun by such other person would violate section 922 (g) or (n) of this title; or

"(ii) the State system will not be able to respond to the licensee before the end of the next business day.

"(2) Paragraph (1) shall not apply to a handgun transfer between a licensee and another person if—

"(A) such other person presents to the licensee a valid permit or license, issued by the State or political subdivision thereof in which the transfer is to occur, that authorizes such other person to purchase, possess, or carry a firearm, and the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

"(B) the Secretary has, under section 5812 of the Internal Revenue Code of 1986, approved the transfer; or

"(C) on application of the transferor, the head of the State system has certified that compliance with paragraph (1)(A) is impracticable because of the inability of the transferor to communicate with the system because of the remote location of the licensed premises.

"(3) If the State instant criminal check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a handgun by such other person would violate section 922 (g) or (n) of this title, and the licensee transfers a handgun to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

"(4)(A) If the licensee knowingly transfers a handgun to such other person and knowingly fails to comply with paragraph (1) of this subsection with respect to the transfer and, at the time such other person most recently proposed the transfer, the State instant criminal check system was operating and information was available to the system demonstrating that receipt of a handgun by such other person would violate section 922 (g) or (n) of this title, the Secretary may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under this section, and may impose on the licensee a civil fine of not more than $5,000.

"(B) Any action by the Secretary under subparagraph (A) shall be taken in accordance with the procedures provided in section 923(f).

"(5) A State employee responsible for providing information through a State instant criminal check system shall not be liable in an action of law for damages for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of a handgun is unlawful under this section.".

(4) HANDGUN DEFINED.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(29) The term 'handgun' means—

"(A) a firearm that has a short stock and is designed to be held and fired by the use of a single hand; or

"(B) any combination of parts from which a firearm described in subparagraph (A) can be readily assembled.".

(5) PENALTY.—Section 924(a) of such title is amended—

(A) in paragraph (1), by striking "(2) or (3)" and inserting "(2), (3), or (4)"; and

(B) by adding at the end the following:

"(4)(A) Whoever willfully violates subsection (u) of section 922 shall be fined not more than $1,000, imprisoned for not more than one year, or both, except as provided in subparagraph (E).

"(B) In a case of a violation under subparagraph (A) in connection with a transaction in which the transferee of a handgun is a person whose receipt of the handgun was not unlawful under this section, the offender shall be fined not more than $500, imprisoned not more than six months, or both.".

(c) IMPROVEMENT OF CRIMINAL JUSTICE RECORDS—

(1) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—(A) The Attorney General shall expedite—

(i) the incorporation of the remaining state criminal history records into the Federal criminal records systems maintained by the Federal Bureau of Investigation;

(ii) the development of hardware and software systems to link State criminal history check systems into the National Crime Information Computer; and

(iii) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

(B) There are authorized to be appropriated such sums as are necessary to carry out subparagraph (A).

(2) PROVISION OF STATE CRIMINAL RECORDS TO THE FEDERAL CRIMINAL RECORDS SYSTEM.—Not later than 60 days after the date of enactment of this Act the Attorney General shall—

(A) determine the type of computer hardware and software that will be used to operate the Federal criminal records system and the means by which State criminal records systems will communicate with the Federal system;

(B) investigate the criminal records system of each State and determine for each State the extent and degree of accuracy of criminal records that each State should, with reasonable effort, be able to provide, and will be required to provide, to the Federal system by the effective date of section 922(u) of title 18, United States Code, and thereafter; and

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(3) FEDERAL SYSTEM.—Not later than the effective date of subsection (u) of section 922, United States Code, the Attorney General shall provide to each State computer access through the National Crime Information Computer to the criminal records contained in the computer including the records of other States through a computer network for the purpose of permitting the State to conduct instant criminal background checks required by section 922(u) of title 18, United States Code.

(4) AUTHORITY TO OBTAIN OFFICIAL INFORMATION.—Notwithstanding any other provision of law, the Attorney General may secure directly from any department or agency of the United States such information on persons for whom receipt of a handgun would violate section 922 (g) or (n) of title 18, United States Code, as may be necessary to enable the National Crime Information Computer to operate in accordance with this subsection. On request of the Attorney General, the head of such department or agency shall furnish such information to the Attorney General.

(5) IMPROVEMENTS IN STATE RECORDS.—

(A) In general.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(i) in paragraph (2) by striking the "and" after the semicolon;

(ii) in paragraph (3) by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the records required by the Mandatory Instant Identification of Felons Act of 1991 with the United States Attorney General for the purpose of implementing the Mandatory Instant Identification of Felons Act of 1991.".

(B) Additional funding.—Section 509 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759) is amended by adding at the end thereof the following:

"(e) In addition to other funds authorized in this Act, there are authorized to be appropriated for fiscal year 1992 and all fiscal years thereafter $100,000,000 for the purpose of implementing the provisions of subsection (b)(4).".

(6) WITHHOLDING FUNDS.—Effective on the effective date of subsection (u) of section 922, United States Code, the Attorney General may refuse to make grants under title I of the Omnibus Crime Control and Safe Streets Act of 1968 to a State that does not establish and operate a State criminal background check system in compliance with subsection (b)(1)(A) of this section and section 922(u) of title 18, United States Code, as added by this section.

(d) Increased Mandatory Minimum Sentences Without Release FOR CRIMINALS USING FIREARMS AND OTHER VIOLENT CRIMINALS.—Section 924(c)(1) of title 18, United States code, is amended to read as follows:

"(c)(1)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) knowingly possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(ii) discharges a firearm within intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release; or

"(iii) knowingly possesses a firearm that is a machinegun or destructive device, or is equipped with a firearm silencer or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

In the case of a second conviction under this subsection, a person shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release for possession or not less than 30 years without release for discharge of a firearm, and if the firearm is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. In the case of a third or subsequent conviction under this subsection, a person shall be sentenced to life imprisonment without release unless the death penalty is imposed under another provision of law.

"(B) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if—

"(i) in the case of a crime of violence, the person touches a firearm at the scene of the crime at any time during the commission of the crime; and

"(ii) in the case of a drug trafficking crime, the person has a firearm readily available at the scene of the crime during the commission of the crime.

"(C) Except in the case of a person who engaged in or participated in criminal conduct that gave rise to the occasion for the person's use of a firearm, this subsection has no application to a person who may be found to have committed a criminal act while acting in defense of person or property during the course of a crime being committed by another person (including the arrest or attempted arrest of the offender during or immediately after the commission of the crime).".

HEFLIN AMENDMENT NO. 430

(Ordered to lie on the table.)

Mr. HEFLIN submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

On page 243, line 21, after "criminal" insert "and mental".

On page 244, line 12, after "criminal" insert "and mental".

On page 244, line 24, after "criminal" insert "or mental history".

On page 245, after line 15, insert the following:

(e) DEFINITION.—For the purposes of this section, the term "mental history record" or "mental history file" means a record of adjudication as a mental defective or commitment to any mental institution.

BYRD AMENDMENT NOS. 431 AND 432

Mr. BYRD proposed two amendments to the bill S. 1241, supra; as follows:

AMENDMENT NO. 431

At the appropriate place, insert:

SECTION IMPROVEMENT OF CRIMINAL JUSTICE RECORDS.—

(1) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—(A) The Attorney General shall expedite—

(i) the incorporation of the remaining state criminal history records into the Federal criminal records system maintained by the Federal Bureau of Investigation;

(ii) the development of hardware and software systems to link State criminal history check systems into the National Crime Information Computer; and

(iii) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

AMENDMENT NO. 432

SEC. 2703.

On page 245, line 11, strike "General" and insert: "General, with preference given to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files.".

* * *

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Thursday, July 25, 1991, at 10:30 a.m., to receive testimony on Senate Resolution 82, to establish a select committee on POW/MIA affairs.

Individuals and organizations interested in submitting a statement for the hearing record are requested to contact Carole Blessington of the Rules Committee staff on 224-0278. For further information regarding this hearing, please contact Ms. Blessington.

Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Thursday, July 25, 1991, at 9:30 a.m., to receive testimony on S. 165, the Legislative Line-Item Veto Separate Enrollment Authority Act.

Individuals and organizations interested in submitting a statement for the hearing record are requested to contact Carole Blessington of the Rules Committee staff on 224-0278. For further information regarding this hearing, please contact Ms. Blessington.

Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Tuesday, July 23, at 9:30 a.m. The meeting will begin with a presentation by Mr. George White on the status of projects undertaken by the Office of the Architect of the Capitol, including the elevator program, the electrical improvements project, the recycling pilot, the Senate subway system, the Senate Chamber audio system, the Capitol terrace office project, the Capitol security plan, and the Post Office development.

Following the Architect's presentation, the committee will take up legislative and administrative business ready for consideration at the time of the meeting.

For further information regarding this hearing and markup, please contact Carole Blessington of the Rules Committee staff on 224-0278.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Committee on Energy and Natural Resources. The purpose of the hearing is to receive testimony on S. 734, to permanently prohibit the Secretary of the Interior from preparing for or conducting any activity under the Outer Continental Shelf Lands Act on certain portions of the Outer Continental Shelf off the State of Florida, to prohibit activities other than certain required environmental or oceanographic studies under the Outer Continental Shelf Lands Act within the part of the Eastern Gulf of Mexico Planning Area lying off the State of Florida, and for other purposes, and S. 736, to amend the Outer Continental Shelf Lands Act.

The hearing will take place on Wednesday, July 17, 1991 beginning at 2 p.m. in room 366 of the Senate Dirksen Office Building in Washington, DC. Witnesses will testify by invitation only.

Those wishing to submit written testimony should address it to the Committee on Energy and Natural Resources, room 364, Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact Patricia Beneke of the committee staff at (202) 224-2383.

* * *

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on June 27, 1991 at 10 a.m. to hear and consider the nominations of Desiree Tucker-Sorini, to be an Assistant Secretary of the Treasury; Janet A. Nuzum and Carol T. Crawford, to be members of the United States International Trade Commission; and to consider two bills (S.J. Res. 153 and S. 1084) regarding China's most-favored-nation status.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 27, at 10 a.m., to hold a hearing on United States relations with China and to vote on pending business items.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, June 27, 1991 at 11 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practice of the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, June 27, 1991, at 2 p.m., to hold a hearing on the Bankruptcy Code and individual debtors.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUPERFUND, OCEAN AND WATER PROTECTION

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Ocean and Water Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, June 27, beginning at 9:30 a.m., to conduct a hearing on the issue of expanding the Federal Right to Know Program, including an examination of the discussion draft of the right to know more legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS, AND ALCOHOLISM

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Children, Family, Drugs and Alcoholism of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, June 27, 1991, at 9:30 a.m. for a hearing on "Caught in the Squeeze: Economic Pressure on Working Families."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTELLIGENCE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, June 27, 1991, at 9:30 a.m. to hold a closed markup on the fiscal year 1992 intelligence authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., June 27, 1991, to receive testimony on S. 979, the Department of Energy Critical Technologies of 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO ROBERT A. BOHLMAN

• Mr. KOHL. Mr. President, Chester Bowles once said:

> Government is too big and important to be left to the politicians.

That rings particularly true with me when I consider the millions of lives we affect through the setting of our national priorities; when I consider the vast unmet needs of real people.

Fortunately for us, and for the people, we are sometimes saved from our own hands by the unelected, civil and public servants that help to make this system work.

There is a misconception outside of the beltway, I think, that people who work in Federal Government are 9-to-5 career bureaucrats disconnected from the real world. There is a public antipathy to Washington politics and the unelected, public servants often take the rap for that.

Contrary to that common perception, I have been incredibly impressed by the intelligence, commitment and energy of many of the people who work in this town.

Today, I want to recognize an individual who is one of the finest public servants I have had the opportunity to work with.

Bob Bohlman has served the State of Wisconsin's Department of Health and Social Services for 14 years. He began that service in the Washington State of Wisconsin office in 1977 under then Gov. Patrick Lucey. He served through the administrations of Governors Martin Schreiber, Lee Sherman Dreyfus, Tony Earl, and most recently, Tommy Thompson. He served the people of Wisconsin alongside Senators Bill Proxmire and Gaylord Nelson; alongside Representatives Robert Kastenmeier, Alvin Baldus, Clement Zablocki, Henry Reuss and William Steiger.

It is a testament, I think, to his commitment, expertise and unwavering advocacy for those in need, that he weathered partisan winds. And that is to his credit.

Bob has been an invaluable asset to the Wisconsin Department of Health and Social Services and to the delegation. He has been there at every turn when my staff or I needed information about the impact of this formula or that formula on Wisconsin. He has patiently educated so many of us on LIHEAP, AFDC, child support, foster care, the maternal and child health block grant—on virtually every aspect of the Social Security and Public Health Service Acts. If he didn't have the information we requested, he retrieved it and delivered it expediently. He has made significant contributions to sound public policy; and perhaps just as importantly, he has helped to prevent bad social policy. He has been the ultimate public servant; the ultimate team player.

As he moves forward in his career, all of us in the Wisconsin delegation will be a little bit less without his knowledge, seasoned judgment, and perseverance.

The tribute that I pay to him today is a very small token of my appreciation and best wishes.•

MARKET ACCESS—KEY TO A NEW GATT AGREEMENT

• Mr. SIMON. Mr. President, some weeks ago, someone sent me a copy of the remarks of Donald V. Fites, chairman and chief executive officer of Caterpillar, which is headquartered in my State.

Like all of us who get overrun with speeches and printed material, I put it aside until I was on an airplane trip to Los Angeles recently and had the opportunity to read it.

It seems to me what he suggests in terms of what we should keep in mind for the Uruguay round of the GATT agreements is right on target.

I was also interested in his observation that, in fact, we have been much more open to others than they have been to us, so that any agreements we can reach for opening market doors more freely serves to benefit the United States.

I ask to insert his remarks into the RECORD at this point.

The remarks follows:

REMARKS OF DONALD V. FITES, CHAIRMAN AND CEO, CATERPILLAR, INC., AND CHAIRMAN, NATIONAL FOREIGN TRADE COUNCIL

Mr. Chairman, Members of the Committee: I'm Don Fites, Chairman of Caterpillar Inc. Today, I'm testifying before you as Chairman of the National Foreign Trade Council (NFTC). The NFTC is the oldest and largest association formed to address international trade and investment issues. Its 500 corporate members account for more than 70 percent of U.S. exports.

Before relating NFTC's recommendations on GATT issues, let me recount a recent incident. The story points up a misconception that for some time has plagued discussions of the GATT. Earlier this year, a reporter for one of America's largest and most prestigious newspapers called us saying that he wanted to write an article about the market access portion of the GATT negotiations. Specifically, he wanted to write about the U.S. initiative called the "zero-for-zero tariff proposal." We were delighted. The zero-for-zero initiative is one of our top corporate priorities.

As it turned out, the reporter wasn't allowed to write his article because an editor didn't feel the story would be newsworthy. "After all," the reporter was told, "everyone knows that this GATT Round is about agriculture, services, and intellectual property protection."

It's unfortunate, but the editor was just echoing what many think . . . that the GATT begins and ends with agriculture, services, and intellectual property protection. And because of that perception, enthusiasm for a new GATT agreement has appeared lukewarm within America's manufacturing sector. That appearance is deceiving.

So if you'll permit me, this morning I want to leave discussion of those "other" issues to my colleagues. I want to talk about just one subject . . . market access!

As chairman of one of America's largest net exporters, I know that improved "market access" is not only key to the Uruguay Round . . . it's the critical ingredient for bolstering America's export performance during the 1990s and beyond.

To further open foreign markets, GATT negotiations must succeed in a number of areas. Of course, the most obvious market access issue involves tariffs. But, lower tariffs won't benefit many American manufacturers unless there are new GATT rules to ensure that exports aren't restricted. Some of the areas that deserve attention include:

GOVERNMENT PROCUREMENT PRACTICES

Access to a large overseas market . . . foreign government procurements . . . is today limited for U.S. heavy electrical, telecommunications, energy, and transportation firms by the exclusion of these sectors from coverage under the Government Procurement Code. What is particularly troubling about this phenomenon is that the U.S. market is wide open to foreign producers of these same products. The Government Procurement Code negotiation must be a priority if equity in market access is to be provided to U.S. exporters in these key sectors.

UNREASONABLE TECHNICAL STANDARDS

Greater discipline and broader application of the "standards" code would prevent technical standards and certification processes from being used to limit legitimate competition. Progress in this area would help ensure that governments do not use the standards-setting process as a new barrier to trade.

BALANCE OF PAYMENT RULES

Measures taken by developing countries for balance of payments reasons (Article XVIII) should be more disciplined. Restrictions on trade should be broad rather than product specific, should follow established guidelines, and should be limited to a specified period of time.

CUMBERSOME RULES OF ORIGIN

Negotiations to reduce non-tariff barriers should work toward eventual global harmonization of origin rules so that exporters can enjoy a more open and predictable trade environment and importers would be prevented from circumventing fair trade laws. A consensus should be achieved on the definition of "origin," on greater transparency, and on improvements in procedural due process.

Today, even antidumping rules are being used as barriers to U.S. exports. At least 27 nations have enacted antidumping laws . . . including Mexico, Korea, Brazil, and Argentina. Without improved GATT disciplines, antidumping actions could become the international "protectionist weapon of choice."

When I speak of antidumping reform, I want to be very precise. The issue is potentially a contentious one. NFTC's objective is that a new antidumping code provide greater transparency of procedures, better discipline over circumvention, penalties to discourage repeat dumping, and other changes to ensure antidumping calculations are fairer.

As we see it, American manufacturers . . . their customers . . . and employees are poised to be the big winners if negotiators successfully craft a new GATT agreement that addresses these issues.

In a broader context, there are those who believe the risks associated with a new GATT are so great as to outweigh potential gains. We don't agree. In our view, the present international trade landscape largely represents trade rules of a past era * * * an era in which the United States was the world's only economic powerhouse and had the trade surplus to prove it. Although that era has long since ended * * * America's exporting manufacturers are still operating within the bounds of that old system.

Today—with a few notable exceptions—American markets for manufactured goods are open. Consequently, future U.S. market access concessions will likely be modest.

In contrast—while many of our trading partners have made impressive gains in productivity—their markets have only opened slightly.

Let me put it another way, when it comes to market access and the GATT * * * *the U.S. has already paid its dues* * * * *it's now time to collect!*

That's one reason why the National Foreign Trade Council has joined with the Zero Tariff Coalition to support the U.S. "zero-for-zero tariff proposal."

This initiative is about as straightforward as any GATT issue gets. Simply put, the United States has offered to eliminate import tariffs on the products of nine industrial sectors * * * so long as other countries agree to do the same. The sectors include: construction equipment, steel, non-ferrous materials, paper, wool products, electronics, pharmaceuticals, beer, and fish. Together, these proposed "Free Trade Sectors" account for about 30 percent of U.S. manufactured trade.

Any way you look at the zero-for-zero tariff proposal—it's not only fair, *it's a good deal for America*. For example, tariffs applied to Caterpillar-type products are about 4 to 2.5 percent in the United States * * * 4 to 11 percent in Europe * * * and over 15 percent in most developing countries. If the zero-for-zero initiative is successful, those tariffs would evaporate.

And what's true for the construction equipment industry is especially true for other zero tariff industries like semiconductors, paper, wood products, metals, and beer.

Before closing, I'd like to pass on a personal observation. There are a lot of estimates floating around Washington as to how much economic growth a new GATT agreement will generate * * * millions * * * billions * * * or even as much as a trillion dollars of growth during the next decade. I don't know what the correct number is * * * but I do know that whenever markets are opened, American manufacturers historically have benefited more than their greatest expectations.

The Mexican market is a current case in point. Since coming to office, President Salinas has stood up to "protectionists" in his country by ending many import restrictions. He opened the motor grader market in 1988 * * * reduced tariffs in 1989 * * * opened the diesel engine market in 1990. Anticipating these actions, we "guessed" that Cat exports to Mexico would increase by about $20 million. We were way off the mark. Last year Cat exports to Mexico nearly doubled * * * to $131 million.

To put $131 million in human terms, Cat exports to Mexico now generate work for 900 U.S. Caterpillar employers and 1,800 employees at the company's American suppliers.

Mr. Chairman, it's understandable that up to now, it's been *new* GATT areas commanding most of the world's attention. *New* areas often do. But for many NFTC members, the real GATT "pay off" will come by way of improved market access.

For these reasons, the NFTC urges the Senate not to interfere with the automatic two-year "fast track" extension of negotiating authority that was provided for in the Omnibus Trade Bill. Enacting fast track authority was the right decision in 1988. Preserving it is the right direction today.

That concludes my remarks. At this time, I'd be pleased to answer any questions.

Thank you.•

AIDS UPDATE

• Mr. CRANSTON. Mr. President, according to the Centers for Disease Control, as of May 30, 1991, 179,136 Americans have been diagnosed with AIDS; 111,815 Americans have died from AIDS; and 67,321 Americans are currently living with AIDS.

WILL THERE BE AN AIDS CONFERENCE IN THE UNITED STATES IN 1992?

Mr. President, the Seventh Annual International Conference on AIDS has just concluded in Italy. AIDS researchers from around the world presented their findings on a host of HIV-related issues, from promising work on vaccines to the prospects for long-term survival of people with AIDS. This extraordinary yearly conference brings together the latest research on AIDS from all over the globe along with updates on how the pandemic is spreading.

Next year's conference is scheduled for Boston—but it may not take place, due to the political wrongheadedness of the Bush administration on the issue of preventing HIV-infected foreigners from visiting or immigrating to the United States.

Based upon medical evidence that AIDS is not transmitted by casual contact or through food, air, or water, the Department of Health and Human Services wisely proposed to remove HIV infection from the list of excludable diseases. But the Justice Department blocked the new policy, pending further study.

A recent editorial in the New York Times called the Bush administration position on this issue "a travesty" which makes the United States "a laughing stock in world medical circles."

The listing of HIV as an excludable disease should be based on sound medical evidence, not on politics. We should permit U.S. health authorities to decide what diseases should be grounds for exclusion. Allowing medical facts to guide our policies will help remove the misconceptions and fear that continue to shroud the truth about how AIDS is transmitted.

Mr. President, I ask that an editorial from the New York Times of June 19, 1991, be printed at this point in the RECORD.

The editorial follows:

[From the New York Times, June 19, 1991]

THIS AIDS BAN INVITES RIDICULE

The American policy to block visits or permanent immigration by foreigners infected with the AIDS virus came under justifiable criticism at the international AIDS conference in Italy this week. The policy has very little public health value. Its chief effect is to make the United States a laughingstock in world medical circles. The policy should be abandoned, quickly.

The U.S. currently bans entry to foreigners infected with several diseases, including syphilis, gonorrhea, leprosy, tuberculosis—and the virus that causes AIDS. But the Department of Health and Human Services has proposed to eliminate all but infectious tuberculosis from the list.

The wisdom behind that proposal seems plain. Neither AIDS nor any of the other diseases to be struck is spread through air, food or water to casual bystanders. Virtually the only way for an adult to get AIDS in this country is through unprotected sexual intercourse with an infected person or by sharing contaminated drug needles.

But the Justice Department, responding to an avalanche of complaints, blocked the new H.H.S. policy, leaving the old rules in place pending further debate. The two chief arguments for the ban are superficially plausible. One is that some of the infected foreigners will surely spread the virus to Americans. The other is that infected immigrants will eventually require costly care.

But the danger is slight, And if cost is the issue, then the U.S. would ban all foreigners with kidney disease, cancer or other costly ailments. It enforces no such mean-spirited policy in those cases, nor should it for AIDS.

The ban is particularly silly for short-term visitors. Trying even to identify such individuals brings widespread condemnation. The World Health Organization and European health ministers plan to boycott the international AIDS conference in Boston next year unless the U.S. changes its policy.

How to handle foreigners seeking permanent residency is a tougher issue because the longer they stay the greater the chance some might spread the virus or require care. But by one government estimate, only about 600 AIDS-infected individuals would be admitted as permanent residents each year—compared with a million Americans already infected. And finding them among the 600,000 admitted each year would require costly testing. If the goal is to fight AIDS, this is not where to spend the money. The rate of infection is far less among the foreigners than among Americans.

What a travesty that the United States, with one of the largest AIDS-infected populations in the world, has taken a stance that implies the danger comes from abroad. The Bush Administration should reverse this ban, whose chief effect is to give the U.S. an international black eye.•

A GREAT DECISION BY FUJISAWA

• Mr. SIMON. Mr. President, I want to take this opportunity to bring to the attention of my colleagues the recent decision of the Fujisawa Pharmaceutical Co. to reduce by 20 percent the price of pentamidine. Pentamidine, as many of my colleagues know, is an FDA-approved drug used to treat and prevent pneumocystis carinii pneumonia, a life threatening pneumonia that is particularly prevalent in persons with AIDS and others whose immune systems are severely compromised.

This reduction by Fujisawa means a signficant cost savings for individuals now using pentamidine. It will reduce the cost of preventative care, both to individuals and to the Government at a time when the importance of early intervention in the management of HIV-related conditions is being increasingly recognized.

As Congress and the rest of the Nation pause to mark the 10th anniversary of the identification or "discovery" of the AIDS virus, I commend Fujisawa's decision to cut the price of pentamidine and to continue research on new products to address the AIDS crisis.

Again, I commend this decision and I hope that other firms will follow this lead to lower prices on drugs in the ongoing AIDS fight.•

PAPERWORK REDUCTION

• Mr. KASTEN. Mr. President, in a recent speech to small business owners, President Bush pledged to block costly Federal rules and redtape. He said the Government must remove some of the obstacles it has created. Last year, regulations cost the economy at least $185 billion. The President even suggested a Surgeon General's warning for the Federal Register in which proposed regulations are published: "Do not attempt to lift unless your name is Arnold Schwarzenegger."

Americans spent more than 5.3 billion hours filling out government forms last year. According to estimates, this is enough to keep 2 million people doing nothing but cutting through redtape year round. The costs, both in aggravation and in lost productivity, are inexcusable.

But unless Congress does something to reduce the paperwork demands Federal agencies place on innovators and business people, Arnold himself may need a helping hand.

The Federal redtape burden hits small business owners the hardest. Because I was a small business owner before entering public life, I know what it means: It means you have to hire extra workers for the sole purpose of filling out forms—as opposed to producing worthwhile, marketable products or services.

Opponents of the Paperwork Reduction Act claim that OMB has abused its power by taking regulatory authority away from the real experts of the Federal agencies. And in an effort to curb OMB they have introduced legislation that would seriously hinder OMB's ability to police government paperwork.

This bill comes on the heels of a 1990 decision by the Supreme Court, Dole versus United Steelworkers of America, that also has weakened efforts to curb excessive paperwork.

Driven by the Court's decision as well as by the desire to strengthen the 1980 legislation, I've joined SAM NUNN and other members of the Small Business Committee in introducing the Paperwork Reduction Act of 1991.

In the early 1980's, then-Vice President Bush spearheaded the Reagan administration's successful effort to reduce the regulatory burden on the productive sector, helping spark the economic recovery. Vice President DAN QUAYLE is building on this effort through his leadership on the President's Council on Competitiveness. I certainly hope the administration will end its silence soon on our bill and offer its firm support.

Unless we place some check on the Federal bureaucrats, unchecked regulation will threaten economic growth. Restoring—and strengthening—OMB's power to restrain the bureaucracy's natural propensity to impose excessive regulatory and redtape burdens on our entrepreneurs is needed now more than ever.

Mr. President, on June 25, 1991, the Small Business Committee held a hearing regarding the paperwork burden on small businesses. We heard from many knowledgeable and informative witnesses that gave firsthand accounts of the time and effort involved in completing government imposed paperwork. Also testifying was Mr. T. Michael Bolger of the Medical College of Wisconsin. I think it is important to recognize that research institutions must also comply with excessive government paperwork and regulations. Mr. Bolger gave the committee a firsthand account of the mountain of forms that institutions have to fill out in order to comply with the government regulations.

I would like to bring Mr. Bolger's testimony to the attention of the Senate. Mr. Bolger's testimony makes a compelling case for strengthening the Paperwork Reduction Act. Paperwork regulations are not only burdensome to small businesses, but to learning and research institutions as well.

I ask that Mr. Bolger's testimony be printed in the RECORD immediately following my remarks.

The testimony follows:

TESTIMONY BY T. MICHAEL BOLGER, PRESIDENT, MEDICAL COLLEGE OF WISCONSIN

Mr. Chairman, thank you for this opportunity to discuss the burden of federal paperwork imposed upon institutions such as the Medical College of Wisconsin. First, however, I wish to thank Senator Kasten for his championship of the Paperwork Reduction Act of 1991. He is a loyal friend of small business, and is acutely aware of the regulatory burden borne by these institutions. His concern and advocacy is appreciated throughout the State of Wisconsin.

I'd like to begin by briefly describing the Medical College of Wisconsin. It is the third largest, private medical college in the United States, and is located on the Milwaukee Regional Medical Center campus, in Milwaukee, Wisconsin. The school grants doctoral degrees in the medical and basic sciences, as well as masters degrees in the basic sciences, and public health.

Research is integral to any academic institution, and we are no exception. Last year, Medical College of Wisconsin faculty conducted over $40,000,000 of clinical and basic science research. Over 75 percent of this research is funded through federal, peer-reviewed sources.

We are afiliated with five other major health care institutions on the campus, and utilize their facilities as our primary teaching sites. Our faculty provide the staffing at most of these facilities, and are the largest providers of indigent care in the area—over $15,000,000 last year alone. We also have affiliations with a number of community and rural hospitals throughout the State for selected training programs.

We are not, therefore, an institution with a single focus. MCW has multiple missions; education, patient care, research, and community service. As an organization, we must comply with the regulatory paperwork associated with each mission. These reporting requirements are not limited to just the federal government. The Local and State governments also impose reporting requirements on institutions such as MCW. In addition, we are frequently asked to submit data to various professional associations with whom we participate, such as the American Association of Medical Colleges [AAMC], the Association of Academic Health Center [AHC], and the American Medical Association [AMA].

The amount of paperwork generated is astounding. Although the need for the data is undoubtedly legitimate, it is rarely requested in the same format twice, and is usually not comparable due to the differences in definitions generated by the various entities.

A classic example is Affirmative Action. The Federal Government annually requires us to update our Affirmative Act Plan. For our institution, the actual plan is over four inches thick. It must be completely re-written each year, due to changes in program dates and information required due to recent regulatory changes.

The State of Wisconsin and Milwaukee County Governments also require annual submission of an Affirmative Action Plan. Unfortunately, the type of information requested, and the minority definitions are not consenting among the requests. Therefore, we must submit completely separate plans to each governmental unit, and each sumbission is over the four inches thick. Consuming not only vast quantities of paper, but also vast quantities of expensive staff time.

The material generated by research proposals is also significant. The Federal Government properly requires detailed information regarding research grant proposals. This assures not only the integrity of the research, but also verifies the appropriateness of the expenditures. We feel that overall the paperwork that is requested is necessary.

However, the approval process unfortunately can generate a significant amount of duplicate paperwork.

For example, a research protocol is approved for use at a specific site. The funding agencies require the original grant proposal plus six copies. When the protocol is expanded for use at other sites connected to the institution, a complete set of documentation must be submitted to certify the approval of the new site.

This means that even though the research protocol has already been approved, all of the information must be resubmitted along with a form documenting approval by the additional hospital's internal research review committee. For an institution which affiliates with numerous hospitals, such as MCW, this can create a significant amount of both duplicate paperwork and cost.

Overall, I think must agencies attempt to minimize their requests of extraneous data. However, the lack of coordination among different levels of governments and among agencies, can be burdensome.

Often, information is requested for a current isolated need, but is provided in perpetuity based upon historical precedence; and no longer based upon need.

There ought to be a mechanism to review information requests not only to determine the need and utility of the data request; but also to discern at what point in time the informational need is no longer critical.

An example of this is the Disabled Veterans & Viet Nam Veterans Report. While information on the employment of Disabled Veterans will always be relevant, I'm not sure that the information regarding the employment of Viet Nam Veterans will remain as pertinent. However, I assume that this information will continue to be collected until a national situation arises regarding the employment of veterans of a more recent conflict than View Nam.

Accordingly, there needs to be a mechanism to balance federal information needs against the burden it imposes upon the public to gather and maintain the data. I wholeheartedly support the proposed Paperwork Reduction Act of 1991; and I urge the members of this Committee to also lend their support.

Thank you very much.•

HOUSING INITIATIVE IN GREENSBORO, NC

• Mr. SANFORD. Mr. President, I would like to share some information with my colleagues about an exciting new initiative being implemented in my State by Freddie Mac and the city of Greensboro to help expand homeownership opportunities for low- to moderate-income families in the Greensboro area. I am very pleased that Freddie Mac, in partnership with the city of Greensboro, has included in its multi-billion-dollar national affordable housing program a $5 million initiative designed to help approximately 100 local Greensboro families.

As many know, Freddie Mac is a stockholder-owned corporation which was chartered by Congress in 1970 for the purpose of creating a continuous flow of funds to mortgage lenders supporting homeownership and rental housing. Since then, Freddie Mac has taken a leading role in the secondary mortgage market and now finances one out of eight American homes. The $5 million Greensboro initiative is one portion of Freddie Mac's overall commitment to provide approximately $3 billion in affordable homeownership and rental housing in 1991 and 1992.

Under the Greensboro Initiative, Freddie Mac will purchase $5 million in mortgages which will be originated by First Union Mortgage and insured by the United Guarantee Residential Insurance Co., two local financial institutions. This plan should bring greater efficiency as well as the lower costs of the secondary mortgage market to the lender, the investor, and most importantly the homebuyers.

Another critical aspect of this program involves borrower counseling which will be provided by Triad Housing Counseling Service [THCS] and funded by the city of Greensboro. THCS will provide financial counseling, homeownership training, home search assistance, and post-purchase counseling in association with North Carolina A&T State University. I believe this service will help everyone involved to better understand the benefits and requirements of the entire program.

Furthermore, through this program, modifications in the underwriting and servicing guidelines which will give familes access to financing that would not otherwise be available to them. For instance, utility companies provide credit to those individuals who would not otherwise acquire it due to their poor credit history. Another modification allows borrowers to spend 33 percent of their income on housing expenses. These stipulations make financing more feasible for Greensboro's low-income families.

I think the potential success of this program will lie in the tremendous partnership which has been formed between Freddie Mac, the city of Greensboro, North Carolina, A&T State University, local financial institutions, community based organizations and prospective borrowers.

On behalf of my colleagues, I would like to applaud this innovative program and commend all participants involved in their efforts to assist the low-income families of Greensboro to own their own homes and to offer it as a paradigm for our Nation's cities as they look for ways to provide their citizens access to decent and affordable housing.•

SCHOOLS IN DISREPAIR

• Mr. SIMON. Mr. President, recent series of articles in the Chicago Sun-Times reveals the disturbing, deteriorated physical condition of many of the schools in our Nation.

The Sun-Times reports that the 400,000 students who spend their days in Chicago's public schools are in harm's way. According to one article, on any given day, the Chicago public schools have approximately 900 fire and building code violations. Lack of maintenance is undermining the buildings that we trust to protect our most-valued resource—our children. Instead of fostering an educational environment that is safe and conducive to learning, many school buildings in Chicago and in urban centers across the Nation are dangerous and disruptive to student learning. According to a 1989 study by the Education Writers Association, a full 25 percent of all U.S. public school buildings are inadequate places for learning. They are structurally unsound and are in need of basic maintenance or major repairs.

My colleague from Massachusetts, Senator KENNEDY, has introduced a bill that, among other things, would provide some assistance to schools desperately in need of repair and renovation. S. 1135 would also encourage comprehensive school restructuring and help schools to meet the national education goals.

Mr. President, I ask unanimous consent that I be added as a cosponsor of S. 1135. I also ask that two of the articles from the Sun-Times series—"Troublesome National Trend: Putting Off Repairs" by Maribeth Vander Weele, and "City Officials See No Easy Way Out of Schools' Crisis" by Maureen O'Donnell—be printed in the RECORD. I would be glad to provide a copy of the entire series of articles to any of my colleagues who are interested.

The articles follow:

CITY OFFICIALS SEE NO EASY WAY OUT OF SCHOOLS' CRISIS

(By Maureen O'Donnell)

Chicago leaders are calling disrepair in the city's public schools "heartbreaking" but say there's no quick fix.

"What we're seeing come to roost are the decades of negligence and the priorities being put elsewhere," said Avis LaVelle, Mayor Daley's press secretary. "It's heartbreaking."

School maintenance "was put at the bottom of the list because of other concerns . . . like keeping the [schools'] doors open," LaVelle said.

"I can't apologize for money being shifted from maintenance for teachers [salaries] and other employees. If your choice is a modern facility—with no teachers there to teach—then it does you no good."

Mayor Daley, who has children in private schools, is not insensitive to the problem, she said. She recalled that Daley helped get a bond issue of more than $200 million through the city's Public Building Commission to rehabilitate schools.

But even with that money, "the system is still breaking down," said Ald. Patrick J. O'Connor (40th), who heads the City Council Education Committee.

"Maintenance is always the first place that gets raided," said O'Connor, who is chairman of the local school council at Hawthorne Academy, which two of his children attend. Upkeep there is a "constant struggle," he said.

O'Connor said repair raids should stop. Referring to a legislative maneuver last year to let the School Board divert maintenance money for employee salaries, O'Connor said, "The fact is, they then excuse the board from spending it on repairs."

Board officials will go before the City Council Education Committee in May to talk about their budget shortfall, he said.

The committee will use that information to lobby for help in Springfield.

"That's where we'll fashion an attempt to begin to resolve the problem," O'Connor said. "It's a 10-year hole. It's not going to be resolved in one legislative session."

School Board member Ashish Sen said Chicago Sun-Times reports about ruined and decrepit city schools will help its Real Estate Committee protect what money the board has left for maintenance and repair. With a School Board deficit looming, the committee needs to protect those dollars from further cannibalization, said Sen, who is chairman of the committee.

School Board President Clinton Bristow Jr. said he wants the Real Estate Committee to find other sources of money, including possibly leasing schools after classes.

Asked why people would want to rent schools that are in disrepair, Bristow said: "That's what our Real Estate Committee is going to take a look at. . . . I'm aware of the physical conditions of the schools, and it is something that's a high priority of our board."

Another possible funding source, Bristow said, is a bill being pushed by a national organization of major school districts, the Council of Great City Schools. The legislation, known as the Urban Schools of America Act, is an effort to get more federal funding for troubled urban schools.

TROUBLESOME NATIONAL TREND: PUTTING OFF REPAIRS

(By Maribeth Vander Weele)

Cash is short in public schools. Programs are essential. And cuts must be made.

But where?

School systems across the country have asked that question and found that the least painful place—in the beginning—is in building repairs.

"Initially you don't really see the impact," said Margaret A. Scholl, maintenance branch director of the Los Angeles Unified School District. "It takes a long time for it to be felt."

It begins when policymakers postpone a year of repairs. Another year goes by, and the backlog keeps growing. "Then you're so far in the hole that you don't see any way out," Scholl said.

The Los Angeles public school system now needs about $1 billion to rehab its more than 650 schools and build or buy new ones, some of which operate year-round. Only $18.8 million is available this year.

The Los Angeles system arrived at its current crisis by postponing repairs. Since 1968, the schools' maintenance staff has dropped from 2,5000 to 1,500, Scholl said. Its building problems requiring immediate attention each year exceed 250,000.

The scenario in Los Angeles is played out throughout the nation.

One-quarter of U.S. public schools are shoddy places for learning, according to a 1989 study by the Education Writers Association. They need basic maintenance or major repairs. Some are obsolete. Others have environmental hazards or are structurally unsound.

More than half of U.S. schools were built in the 1950s and 1960s, generally a time of rapid, cheap construction, the study found.

Detroit has only enough money to fill about 10 percent of its estimated $1 billion capital need, said Darrell Burks, deputy superintendent of fiscal integrity for the Detroit Board of Education.

"When you don't have the ability to fix the problem, the shape is obvious," Burks said. "It's like a car you bought 30 years and you haven't maintained it."

For 12 years, the Detroit school system did "virtually no maintenance," said Mike Ugorcak, an architect with the system there. "We're just beginning to do some maintenance now. For a period of 10 to 12 years, we did absolutely no aesthetic painting at all."

New York has about $17 billion in building needs, according to Doris Gonzalez-Light, chief executive for school facilities. It has $4.3 billion available.

"More than half of our school buildings are more than 50 years old, and almost every one is in some state of serious disrepair, with problems ranging from leaking roofs to faulty boilers to broken windows," said Bob Terte, spokesman for the New York City school system.

BUILDING NEEDS IN MAJOR CITIES

School system	Estimated capital need	Amount available	Number of schools	Number of students
New York	$17 billion	$4.3 billion	1,000	940,000
Los Angeles	1 billion	18.8 million	650	650,000
Chicago	1.1 billion	240.3 million[1]	601	409,000
Detroit	1 billion	100 million	248	180,000

[1] Chicago is expected to borrow 155.7 million more this year.

Note.—Figures include the cost of repairs and new schools.

Source: Officials from the various school systems. Most numbers are rounded.•

NAS WHIDBEY ISLAND

• Mr. GORTON. Mr. President, when NAS Whidbey Island was slated for closure, the task of challenging Secretary Cheney's decision was onerous. This task would require the Washington State delegation and the community of Whidbey Island to work together toward achieving the goal of saving NAS Whidbey.

NAS Whidbey is one of America's finest naval air stations. In addition to the unique training conditions for A-6 pilots, the military personnel who are stationed at NAS Whidbey enjoy a quality of life unmatched by most bases. More important to the people outside Washington State, is that it will cost the Navy and the taxpayers more dollars to close NAS Whidbey than it will to keep it operating.

The Washington State delegation recognizes the value of NAS Whidbey, and I am pleased to say, we have worked to enlighten the committee on NAS Whidbey's importance to our national defense.

Individual members of the Washington delegation disagree on many policy issues, but they have a strong tradition of working well on many localized issues, the most recent being NAS Whidbey Island.

The Base Closure Commission makes its final decision on NAS Whidbey on Sunday. I commend both my colleagues from Washington State, and the citizens of Oak Harbor. Together, the citizens and the delegation have worked diligently to provide the Base Closure Commission with the information to make a balanced and fair decision.

When delegation members testified before the Commission, Senator ADAMS reaffirmed that if NAS Whidbey closes, the A-6, and EA-6 community will move to NAS Lemoore. The crowded airspace at NAS Lemoore will undermine A-6 and EA-6 training. Representative AL SWIFT's district will be most affected by this decision. He thoughtfully outlined community impact. Representative NORM DICKS applied his military expertise to explain why this closure would be detrimental to America's national defense. Representative JOHN MILLER accepted a base closure in his own district for the cause of keeping NAS Whidbey open. Representative ROD CHANDLER used his experience as a pilot to highlight NAS Whidbey's unique all weather training and electronic jamming opportunities. Finally, I asserted that the Navy will end up spending more to close NAS Whidbey than it could ever possibly save. Together, the delegation effectively argued why NAS Whidbey should remain open.

The Washington State delegation has worked hard indeed, but at the core of our efforts lies the dedication of the Oak Harbor community. Never once did they hesitate to provide us with a necessary fact or number. They did an exceptional job in wading through information to formulate a direct and persuasive testimony. The community of Oak Harbor provided the impetus to make our coalition work. This united communmity effort gave the Washington State delegation unconditional support and strength in explaining NAS Whidbey's unique qualities. I commend their dedication and offer my thanks for their invaluable service.

I am hopeful and optimistic that NAS Whidbey will remain open, but, whatever the outcome, I will walk away from this experience satisfied that the Washington State delegation and the Oak Harbor community did everything in their power to save NAS Whidbey Island.•

NEW FINANCE COMMITTEE MEMBER

• Mr. DURENBERGER. Mr. President, this morning the Senate Finance met to consider resolutions relating to the President's request for an unconditional extension of most-favored-nation status to the People's Republic of China. At a later time, I will be discussing that matter on the floor of the Senate.

What is special about today's meeting of the Finance Committee is that the committee has the privilege of a new member on the Republican side. I am, of course, referring to our distinguished colleague from Utah, Senator HATCH.

As the only Member of the Senate to serve on both the Finance Committee and the Labor and Human Resources Committee, I am extremely pleased at my colleague ORRIN HATCH's decision to become a member of the Finance Committee.

In the 13 years I have served on the Finance Committee, it has played a most significant role in reforming tax, earnings, social insurance, health, and international trade policy. At the same time, my colleague from Utah has been a most substantial contributor to improving national policy in each of these areas.

He served 6 years as chairman of the Committee on Labor and Human Resources and is currently in his fifth year as ranking member of the committee. I have enjoyed serving under his leadership on the Labor Committee since 1989. We also served together in the first 2 years of his 5 years on the Senate Select Committee on Intelligence.

ORRIN HATCH has deserved recognition as a national leader in many fields—especially health care. I look forward to working with my colleague on both committees to guarantee universal access to quality health care.

I welcome my friend and Russell Building neighbor ORRIN HATCH to the Finance Committee with the sure knowledge that the active involvement that both of us bring to the interrelated income security and health issues will help speed up the process or reform.•

TRIBUTE TO CHASE N. PETERSON, PRESIDENT, UNIVERSITY OF UTAH

• Mr. GARN. Mr. President, the State of Utah and indeed the Nation have been well served over the past 8 years by the presidency of Chase N. Peterson at the University of Utah. Upon his retirement at the end of June, 1991, it is fitting to note the distinctiveness of his tenure and to applaud his legacy of progress. He accepted his mandate to lead, and he applied himself in that capacity in ways that are both exemplary and laudatory.

During his time in office, total university revenues increased from $305.5 million to $583.5 million. State tax funding climbed from $90.7 million to $131.7 million. Revenue from research grants and student aid went from $59.8 million to $110.8 million. Between 1983 and 1991, the portion of research overhead retained by the university rose from 25 percent to 100 percent.

Conversely, during President Peterson's tenure, the university had to deal with retroactive cuts in legislative appropriations, and in 1986 Peterson announced an 8.3 percent base budget cut.

In 1988, he played a statewide leadership role in fighting off tax initiatives that would have cut $15 million from the university's tax support. Last year, under his leadership, the university completed a 5-year, $150 million fundraising campaign, which accounted for a total of $212 million, including $2 million from faculty and staff—unparalleled feat at the University of Utah.

His legacy includes the establishment of numerous endowed chairs; a best-in-the-nation heart transplant program; a state-of-the-art genetics research building; completion of the regional Moran Eye Center; plans for a biopolymer research facility; construction started on a campus broadcast center; completion of a first-class tennis center with an indoor football facility underway; establishment of the Lowell Bennion Community Service Center; designation of a national poet laureate and two MacArthur award winners, the same year, from among the faculty; establishment of the region's first known annual Martin Luther King, Jr., celebration; several national championships in women's gymnastics and skiing; opening of a national model center for dance; establishment of the Garn Institute of Finance; spearheading an unbiased and scientific exploration into the merits of the cold-fusion phenomenon; expansion of the university's research park with a doubling of building value and an estimated economic impact on the State of $300 million; acquisition of a portion of historic Fort Douglas with privately funded plans for a center of scholarship; establishment of a humanities center; expansion of high school recruiting efforts; and a campuswide concentration on enhancing the undergraduate experience.

Additionally, he has performed the following service: chair, National Association of State Universities and Land Grant Colleges; chair, U.S. Office of Technology Assessment Advisory Council; chair, Tanner Lectures on Human Values; director, American Council on Education; member, NCAA President's Commission on Athletics; and member, Knight Commission on Intercollegiate Athletics.

President Peterson has distinguished himself as an educational statesman, an articulate advocate for higher education, a leader of prescience, tact, grace, forthrightness, humor, tenacity, good will, and charm. He deserves our appreciation; he has earned our applause.•

ANTI-SEMITISM IN ROMANIA

• Mr. DeCONCINI. Mr. President, as cochairman of the Commission on Security and Cooperation in Europe, I have taken a strong interest in the many developments that have transpired in East-Central Europe since 1989.

The fall of communism in that region has brought forth a future rich in hope, opportunity, and change. In the heady aftermath of 1989, the explosion of freedoms and the lessening of tensions between East and West seemed to promise a safer, more peaceful era. Much of what we see today is encouraging, as the former Eastern bloc countries embrace the principles of democracy, free market economies, and the rule of law. But clouding the horizon is a resurgence of discrimination and prejudice we all hoped had been relegated to the past.

Despite the fact that only some 18,000 Jews remain in Romania, a country of 23 million, a virulent strain of anti-Semitism has emerged since the revolution of December of 1989. Ultra-nationalist newspapers such as Romania Mare, edited by two of Ceausescu's former propagandists, regularly print anti-Semitic and inflammatory articles. Romania Mare has the largest circulation of any weekly paper in Romania. Jews are accused of having been responsible for communism, and for currently holding too many positions of power. One paper decried the "inborn arrogance and superiority" of the Jewish race. Another advised Jews to "leave this country alone." Chief Rabbi Moses Rosen, who has received numerous threats, has urged Romania's remaining Jews to emigrate to Israel.

Equally disturbing has been the recent effort to rehabilitate the memory of former dictator Marshal Ion Antonescu, executed as a war criminal in 1946. Earlier this month, President Ion Iliescu openly condemned Antonescu and recalled his complicity with Hitler. Nonetheless, it is my understanding that the National Salvation Front's own press organ, Azi, failed to report Iliescu's statement. The Government has also recently issued two statements condemning anti-Semitism and chauvinism. I wonder how widely publicized these statements have been.

The Romanian leaders are well aware of the commitments contained in the historic Paris Charter, signed by the leaders of the 34 participating CSCE states just last year. In the Paris Charter, all CSCE states explicitly expressed their determination "to combat all forms of racial and ethnic hatred, anti-Semitism, xenophobia, and discrimination against anyone as well as persecution on religious and ideological grounds." Such words are not to be taken lightly.

Acts of discrimination or violence based on hate are of serious concern in many countries, including our own. And I believe the governments have a responsibility to respond. Some suggest that the way to address these acts is through censorship—preventing freedom of speech or association. I disagree. Instead, governments can promote respect for diversity through fair and equitable treatment under the law. Governments can provide committed and compassionate leadership. Governments can act to redress wrongs when they occur. Governments can promote tolerance by the policies they make and the attitudes they project. It is not enough for a government official to be open-minded or non-discriminatory him- or herself. Leadership demands a bold and consistent demonstration of those beliefs. Leadership demands providing a model for others.

In the past, I have been disturbed by the Romanian Government's apparent unwillingness to distance itself from the nationalist press. I am therefore encouraged by President Iliescu's recent stand, and by the official statements condemning extremist and anti-Semitic articles. On July 1 and 2, the Romanian Government plans to hold a commemorative tribute for the thousands of Jews who died in the Pogrom of 1941. As I understand, President Iliescu and Prime Minister Roman will attend the 2-day ceremony, along with a high-level delegation from Israel. I commend the Romanian leadership for this gesture, and hope that it represents their firm commitment to protect the rights and the dignity of all Romanian citizens.•

ENTERPRISE FOR THE AMERICAS INITIATIVE [EAI]

• Mr. LUGAR. Mr. President, today is the first anniversary of President Bush's announcement of the Enterprise for the Americas Initiative [EAI]. Last June 27, the President unveiled what was hailed then and now as one of the most significant policy initiatives ever undertaken by an American President on behalf of the countries in the Western Hemisphere. The initiative heralds a new era of commitments with our neighbors for democracy and economic reform.

For reasons still unclear to me, the EAI received scant attention in the U.S. media. When it was reported in the press, it tended to be placed in the business section or buried somewhere in the back pages. Thankfully, it has received far greater coverage and far more interest throughout Latin America and the Caribbean where the degree of enthusiasm and support exceeds our own.

Every leader in the hemisphere with whom I have talked during the past year puts the Enterprise for the Americas Initiative at or near the top of his or her agenda. President Perez of Venezuela has called the EAI "the most important proposal ever received by countries south of the Rio Grande." Enrique Iglesius, President of the Inter-American Development Bank [IDB], stated that the EAI provided the hemispheric nations "a way * * * out of the economic swamp." And, the recent OAS conference in Santiago, Chile, gave the EAI its "unanimous and unequivocal welcome." These and other endorsements from leaders throughout the hemisphere reveal an intensity of interest and commitment long absent in our relations with Latin and Caribbean nations.

The EAI embraces three critical elements: trade liberalization, enhanced investment and capital flows, and debt relief with a strong environmental component.

The prospect of free or freer trade in the hemisphere has been received with enthusiasm. Now that we have extended the fast track authority, the first critical step to a free trade system in the hemisphere has begun with the start of talks on the North American Free-Trade Agreement with Mexico and Canada. Other countries in Latin America are seeking to begin negotiations as well. Already some dozen framework agreements have been concluded since last June. Argentina, Brazil, Paraguay, and Uruguay plan to form a common market by 1996. The Andean countries plan a common external tariff by next year and a free-trade agreement by 1996. Mexico and Central America are discussing a free-trade agreement. There is now great momentum for trade liberalization in the hemisphere and that is welcome indeed. For countries such as Chile which has already liberalized its economy significantly, it would be helpful if the International Trade Commission were to initiate a study on the impact of a FTA on the United States economy.

On the investment side, the EAI includes a $1.5 billion multilateral investment fund in the Interamerican Development Bank [IDB] to assist in reforming investment regimes. The IDB has taken the lead in assisting Latin and Caribbean countries to become more competitive in attracting capital for economic growth. The new lending program of the IDB will help countries liberalize their investment regimes and compete for capital. The first investment sector loan, amounting to $150 million, has already been extended to Chile by the IDB Board. Many other countries have expressed active interest and are negotiating investment loans as well.

It is significant that the Multilateral Investment Fund established under the rubric of the EAI has elicited funding commitments by Japan which has pledged $100 million per year for 5 years and other creditor nations in Europe have communicated an interest and intent to contribute as well. This fund is important not just because it indicates a multilateral commitment to the economies of Latin America and the Caribbean, but also because it will further the privatizing of government-owned industry, increased worker productivity and help small businesses gain access to capital.

The third leg of the EAI is debt relief. The EAI gives authority to reduce some official debt owed by Latin American countries to the United States. Several countries have moved already to reduce their commercial debt under the Brady plan. The EAI offers the opportunity to turn debt interest payments into local currency for environmental protection. By helping to reduce official debt owed the United States we can provide support for economic reform.

Last year, we included in the farm bill a provision permitting debt reductions from Public Law 480 loans among eligible and participating countries. Now, the Congress is poised to permit similar authority to reduce AID-related debt through a framework allowing for interest payments to be made in local currency and used for grassroots environmental purposes. I hope the Senate and the Congress can act expeditiously to authorize this provision and to pass the Enterprise for the Americas Initiative.

Finally, Mr. President I want to note that one of the most fundamental political transformations ever recorded has been taking place within the hemisphere. All countries, except for Cuba, have democratically elected governments and most are moving to liberalize their economies. This is wonderful news that, for reasons again unknown to me, does not draw the headlines and rave reviews it deserves.

Many of the new democracies are fragile, but there are great expectations that things are going to get better. It is the grand challenge before us in the hemisphere to do what we can to assist in helping provide a better and more productive life. I sincerely believe the Enterprise for the Americas Initiative can make a major contribution to that end. That would be good for our friends throughout Latin America and the Caribbean, and it would be good for the United States.

So, I want to once again express my congratulations to President Bush and his team for proposing the EAI. One year has passed; it is now time to move toward implementation of this historic proposal.•

IN MEMORY OF BALTIC VICTIMS OF COMMUNISM, 1941–91

• Mr. GORTON. Mr. President, earlier this month, Gundar King, a Latvian and dean of the Business School at Pacific Lutheran University in Tacoma, spoke in recognition of the 50th anniversary of the deportation of citizens living in Estonia, Latvia, and Lithuania to the Soviet Union.

The experience of Mr. King's family during the Soviet's incorporation of the Baltic nations details a few of the many crimes in this region that the Soviets have not acknowledged. As we push to strengthen independence movements in the Baltics, we should follow Mr. King's advice by pressuring the Soviets to recognize the victims of this deportation. With such a gesture, the Soviets could assure us of their intentions in resolving all conflicts with the Baltic States.

I ask to insert Mr. King's speech into the RECORD at this point.

The article follows:

REMARKS IN MEMORY OF BALTIC VICTIMS OF COMMUNISM 1941-91

(By Gundar J. King at the Latvian House in Seattle, June 14, 1991)

Today, is the 50th anniversary of the massive deportations when thousands of Estonians, Latvians, and Lithuanians were brutally rounded up and deported from their Baltic homes to the Soviet Union. These deportations are not the first or the last of Soviet atrocities in the Baltic states. They are neither the largest, nor are they the most brutal. Nor are these deportations especially identifiable with any particular ethnic group or political persuasion. It is commonly known that the victims of these deportations included leaders of the Baltic nations, skilled and unskilled workers, valuable experts of all professions, creative artists, outstanding farmers, students and professors, old people, school children, and even infants in their mothers' arms. It is less well known that these victims included large segments of Jewish and Russian minorities residing in the Baltic states. In short, these deportations are perhaps the best known and the best documented of Soviet international crimes in the Baltic area.

The legal and social aspects of those crimes are fascinating even today. Moreover, they are important. Spawned by the infamous Nazi-Soviet Pact of 1939, these actions escaped international public attention at the conclusion of World War II. Today, they are again remembered, researched, and discussed publicly, here, in the Baltic states, and in the Soviet Union itself. To the degree that these crimes are accepted and tolerated by the Soviet society, they are among the best indicators of change, or lack of change, in the Soviet system. In many ways, these are unresolved crimes. These are crimes that need resolution before normal life can return to the Baltic states of Estonia, Latvia, and Lithuania. They need to be resolved before Russia can be at peace with itself and others.

Indeed, I am told that there is one certain way to get the full and undivided attention at Communist gatherings today. I am told that you simply have to mention in the Soviet Union, the notion of international trials with Communist party chiefs and Soviet officialdom as the defendants on the bench. Mention Nuremberg to them, and you will hear a pin drop in the room. They know what we are talking about.

II

At this point, I would like to give a more personal perspective of these crimes. It may be educational to those who may still harbor vague notions of useful suffering in the name of progress and world revolution. It may be instructive to those who simply do not have a sense of the human cost of millions and millions of lives wasted, crippled and damaged beyond repair and rehabilitation, and lives simply snuffed out.

III

Let me quote you from an April 28, 1989 letter written by the First Deputy Attorney General of the Latvian Soviet Socialist Republic and Soviet Counsellor of Justice, Third Rank to the Chairman of the Latvian Committee for Cultural Relations Abroad. Forgive me for the style which is his, not mine:

"I inform you that in line with the January 19, 1989 decree of the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics 'On supplementary tasks to be done to reestablish justice with relationship to the victims of the repressions in the 1930s, 1940s, and early 1950s' the March 8, 1941 "special meeting" verdict of the Ministry of the Interior of the USSR (to deport in 1941 from the Latvian SSR Attis, son of Kriss, Kenins, born on July 28, 1874) has been revoked. The criminal case against A. Kenins has been concluded, and he has been rehabilitated."

"The criminal case of 1951 against A. Kenins was concluded on January 24, 1955 for lack of criminal evidence. In this case, too, A. Kenins has been rehabilitated."

"We'll inform you later about Ilmars, son of Attis, Kenins."

IV

Now let me tell you more about the dramatis personae involved, and the events preceding this correspondence.

On June 13, 1941, my mother sent me from Riga to my grand-father's farm in the country. It had been a tough year. My father Attis, a signer of the Latvian Independence Declaration, a poet and a lawyer, a leader of the Latvian Democratic Center Party and the Pan-Europe, and an opponent of all dictatorships, was arrested in the previous summer even before the formalities of Latvian incorporation in the Soviet Union. He had refused an appointment of the puppet government, and had organized a national slate of candidates in the 1940 elections. Much of our property was taken. My mother, Austra, spent the year translating Soviet books for Latvian use, and I was her editorial assistant and secretary. We almost made it through the school year, when word came from my father who had been exiled to Akmolinsk in the Kazakh republic.

Having survived the horrible railroad ride with the help of a fellow exile, a Jewish doctor from Pinsk, he was in good spirits. Only in passing, he estimated that this ride shortened his life by at least ten years. Toward the end of the ride he was robbed in the Tashkent (now a sister city of Seattle) open air transit prison; he was running around Akmolinsk in his blue silk pajamas. On face value, he was behaving as a vacationer in a fashionable resort. In reality, he had nothing, not even a regular place to stay.

Compared to others, especially those ripped away from their countries on June 14, 1941 he was fortunate. When others had no support systems of any kind left, he could count on his family. We could help him. With war clouds on the horizon, we scraped together what money we could. We also sent him boxes of food, clothing and medicines.

V

True to his free spirit, my father wrote to us freely, with few restraints. He wrote of the bitter life in exile, very different from the intellectually stimulating life of a 1905 revolutionary in Western Europe. We even learned about the alleged crimes he, a citizen of Latvia, had committed against the Soviet state. Among those considered serious was the organization of the National Flag Society, a support group of the Democratic Center Party. The society was, to the Soviet mind, obviously designed to lure Latvian workers away from true class loyalty they may have felt toward the Communists. Nothing was said about my father's role in the 1940 elections, his real offense.

VI

June 13, 1941 was a beautiful day. Leaving town, I rode past long lines of trucks assembled on the outskirts of the city. War transports, I thought, even though the drivers had the blue caps of the Soviet security troops. They sat silently in their trucks, not talking to anyone. I did not suspect that these drivers and trucks would be used that night to round up thousands of victims.

VII

The next week at the farm passed quickly. Stories about the deportations drifted about the countryside, leaving almost everyone concerned, puzzled, and also unaware of the massive scale and scope of these deportations. In practice, the concerns had a focus on actions individuals had to take care of families and friends, yes, even the farm animals left behind untended. The situation was aggravated by Soviet orders for horses, wagons, and workers to be sent to the Red Army for building military air bases near the Lithuanian border. New, confusing orders marked one day after another.

War came. Three miles away, an ammunition depot was blown up, knocking out two windows of the farmhouse. Retreating Soviet troops chopped down whole new apple orchards in futile attempts to camouflage their trucks. The German air force strafed them unhindered. To make the flight easier, heavy equipment was abandoned. Artillery munitions were dumped in the highway ditches. Small arms were found in roadside bushes. No defense was evident.

The routed troops were running home toward the Russian border. An added unpleasant reminder on our Latvian status came when Soviet soldiers stopped for water. They made the children drink first from the well. The Soviets knew that they were not friends or defenders. They were the enemy in our country. The last man of the routed army I saw, ran to the East. This member of the occupation army did not want to face anyone in Latvia.

VIII

A week later we learned about my brother Ilmars. A young lawyer who earned his silver medal with his thesis on the status of Canadian dominions, was thrown out of his job by the Communists. He found temporary work in the small town of Rezekne on the Russian border.

There he was caught as a suspected guerrilla by Soviet security. No, he was not shot. He was tortured to death, slowly, by a medical doctor of the security forces. Partly skinned, he was found killed with a spike driven in his skull.

His son Jamis, now living in Vancouver, never knew his father. He was born a few months later. Without finishing high school, his sister, Maija, went to work early to help support her brother and her mother, Irma. Today, Maija is a self-taught actuarial consultant to the insurance industry in Toronto. Others were not so lucky.

IX

Eventually, my father was brought to Moscow to assist the war effort against Hitler's Germany. He returned to Riga in the fall of 1944, to find three of his sons gone. A fourth son, Margers, the oldest, an American army veteran of World War I, was rescued from a Soviet screening camp, but did not survive the fall of 1945. Given the opportunity, my father worked to salvage what he could of the Latvian teacher training tradition, and raised a great granddaughter still in Riga. I am glad to tell you that Gunta is now teaching management at the University of Latvia. Raised by my father, she is a true sister to me.

X

My parents were arrested in 1951, and deported to Kazachstan. They were released from that exile after Stalin's death, and returned to Riga. Although he was a senior researcher at the Latvian Academy of Sciences, my father's public life was severely restricted and the publication of his work very limited. He died in 1960, concluding a long life devoted to his native country and to the best of democratic traditions anywhere. My mother finally came to visit us after she was turned down for an exit visa five times. When she came, she brought with her my father's last book of poetry. That book, had been turned down many times in Latvia. It was published here.

XI

Returning to the letter from the Soviet Attorney General's Office, I offer you some comments:

Although my father was arrested in 1940 by authorities of a nominally independent Latvia, he was sentenced for no crime. He was simply removed from Latvian society after a special meeting convened for this purpose by the Soviet Ministry of Interior. The letter indirectly confirms what was rumored for many years. He was not released, he was paroled during the war. He was used; he was never forgiven. He was not rehabilitated in the 1940s or in the 1950s. He was not rehabilitated in the 1960s or in the 1970s. He was not rehabilitated by the Soviet Ministry of Interior until 1989. The reason for this sudden generosity was the refusal by my brother Talivaldis, a noted Canadian composer, and me to work with any agency of the Soviet Latvian authorities or to accept any recognition in Riga for our work and accomplishments in the absence of major policy changes.

My father's alleged crime in 1951 was that of spreading Western ideas and propaganda. He was in fact reading, translating, and discussing the work of Verlaine, the French poet. After 1955, and his rehabilitation for the crime of reading French poetry, this work was published in Latvia. My mother's only crime was being my father's wife.

The death of my brother Ilmars by the hands of a Soviet torturer was never clarified. The Communist Party of the Soviet Union, the Soviet Ministry of Interior, and its Riga representative, the Attorney General of the Latvian Soviet Socialist Republic, cannot bring themselves to make any public statements about it. They do, of course, have all of the information about it. I really do not expect them to regret anything. Are they capable of it? I expect them to try to cling to what power they have left. But I also expect that memorials will be built to Ilmars and other victims of Communism in the Baltic states, and even in Russia.

It is not a Baltic ethnic issue. It is a profound, major international moral problem which goes beyond nationalistic concerns. It is not surprising that the prime mover for this change in Riga is an ethnic Russian, my classmate Igor. Igor also presides over the Latvian society of Soviet camp survivors and other victims.

XII

What can we learn from these brief episodes of the incomplete chronicles of one Latvian family? A few thoughts come to mind:

1. The crimes of the Communist Party and Soviet authorities are beyond modern comparisons. They are beyond any real remedy or correction. There are not enough people living in the Baltic states and in the Soviet Union to carry such burdens of restitution. The Russian people are victims themselves. They have our deepest sympathy. They also have our encouragement in their efforts to expand and to continue the changes they have undertaken by changing the leadership in Russia.

2. The present rulers of the Soviet Union have yet to own up to the full measure of crimes committed by the Communist Party and the Soviet government. They may not be able to gain the confidence of their own people or to win respect in the world as long as this position is maintained. To clear their own individual and collective consciences, they should begin by admitting the criminality of their heritage.

3. For the Baltic states, I wish them more Western support, from you, and me, and our neighbors. Although our Western friends have done much for us in keeping the flame of Baltic aspirations to freedom alive, they also have done much to prolong the life of an intolerable system. They too, owe the victims of Communism, including those of the Baltic states.

4. For the surviving victims we can pledge our support and determination to tell and document their story in both the Baltic states and in the West. Humanitarian aid served from the West should include help to these victims to achieve a small measure of equity.

5. For those no longer alive we pledge ourselves to work untiringly for the independence of Estonia, Latvia, and Lithuania. Independency may yet be very costly to the Baltic nations. But without independence there will be no Baltic nations, and life in the Baltic states will be even more costly in human lives and more miserable in Russia. Freedom must come!•

TRIBUTE TO MORT RYWECK

• Mr. DURENBERGER. Mr. President, today, I rise to pay my respects to an individual who has made a real difference in our community in the Twin Cities, to Minnesota, and to the Nation. Mort Ryweck who has been a vocal and effective force in combating anti-Semitism, is retiring as executive director of the Jewish Community Council Anti-Defamation League of Minnesota and the Dakotas. Unlike the forces of intolerance he has fought against, he has been a man of love and patience.

It has been said that all that is necessary for the triumph of evil is for good men and women to do nothing. Well, Mr. President, Mort Ryweck did his part, and he has challenged others to do theirs.

This man has been a tireless fighter for the truth that all of us are indeed created equal. "The work we're in is a never-ending job," he said recently.

> I'm even more aware of that now than when I began. * * * You can never really take a full vacation from it. You can't think that because you've made advancements that people have become immune to the appeals of the bigots.

Mort Ryweck has had many accomplishments and experiences throughout his career. He graduated from New York University with a degree in journalism. In 1958, he and four others in the U.S. peace movement, led by civil rights pioneer Bayard Rustin, spent 3 weeks on the Finnish-Soviet border trying to get into the Soviet Union to protest nuclear tests. He first arrived in the Midwest when he worked for the Anti-Defamation League in Milwaukee, WI.

Today, he is a member and has been involved with the Minnesota Interreligious Committee, the Joint Religious Legislative Coalition, and the Minneapolis NAACP, and is coordinator of the Minnesota Coalition to Celebrate Our Differences, a sponsor of the World of Difference prejudice-reduction, and the National Workshop on Christian-Jewish Relations. The World of Difference project alone in Minnesota has trained more than 3,600 teachers and reached hundreds of thousands through TV and newspaper features in 1 year. Other projects include the rescue of Ethiopia's Jews, the continuing exodus of Soviet Jews, and in Minnesota, a way for reporting hate crimes and increasing penalties.

In the Minnesota Jewish Life in June 1988, Mort makes the following observation about the progress on the fight against anti-Semitism:

> The growing courage of Jews to stand up for their rights coupled with their solicitation of help from Christians and the secular community, have helped bring Jews to a more integrated place in society today, but we should never minimize the potential for increased anti-Semitic actions.

Mort leaves the Anti-Defamation League of Minnesota and the Dakotas in its 78th year, but I am sure that he will never retire from being a spokesperson for the dignity of all people. As long as racism exists to be conquered, Mort will continue the fight.

Having known Mort for many years, I can safely say that the best way we can honor him for his years of service is to take up the cause of advancing human dignity and respect in our own daily lives.•

A TRIBUTE TO GERALDINE DEFANT

• Mr. LEVIN. Mr. President, today marks the formal end of an era in Marquette, MI. The city and county of Marquette have proclaimed it Geraldine DeFant Day.

Geri DeFant has been a driving force for social justice for decades. She first arrived in Marquette as a representative of the International Ladies Garment Workers Union. Her actions on behalf of the employees of the Gossard Co. in Ishpeming helped provide a better standard of living for those workers and led to improved working conditions in the plant.

Through the years, Geri helped organize a co-op nursery school, a program to help people affected by probate court actions, was active in the passage of school bond issues and a variety of other volunteer activities, all the while raising three children. She also opened an office for Senator Phil Hart to serve constituents in northern Michigan. It was the first time a Michigan Senator had an office outside a metropolitan area.

Long active in women's rights issues, Geri helped organize the Marquette Women's Center and served with distinction on the Michigan Women's Commission. Now 74 years young, she is still active with the Women's Center and the multitude of services provided by that institution.

Geri DeFant did most of these good deeds outside the limelight. She is not a shrinking violet, by any means, but she did not seek the spotlight. That all changed in 1982 when she made the decision which has impacted the lives of every resident of Marquette County. She ran for, and was elected to, the county commission.

Geri served 8 years on the board as a tireless public servant. Her efforts led to the creation of a department of economic development in the county, significant improvements to the airport and the expansion of other vital services during a time of fiscal restraint.

Too often, Mr. Presdient, we wait until a person is gone before recognizing their accomplishments. I am pleased to say that the citizens of Marquette County have not done so in this case. A new county human services building will be dedicated tomorrow and named the Geraldine DeFant Bldg. Friends from around Michigan will gather with Geri and her family and toast her accomplishments.

Mr. President, I add my salute to Geri DeFant, a person who has made a positive difference.●

NATIONAL LITERACY DAY

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 259 regarding National Literacy Day now at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 259) designating July 2, 1991, as "National Literacy Day."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. LAUTENBERG. Mr. President, I am pleased to rise in support of House Joint Resolution 259, a joint resolution to designate July 2, 1991, as "National Literacy Day". This is the companion to Senate Joint Resolution 146, which is cosponsored by 52 of my colleagues. It is vital to call attention to the problem of illiteracy, to help others understand the severity of this problem and its detrimental effects on our society, and to reach those who are unaware of the services to help them escape illiteracy.

In the book "Illiterate America" by Jonathan Kozol, the author describes the growing crisis of illiteracy in America. In this country it is often said that we live in the information age. Yet for many Americans, information is inaccessible. Over 30 million American adults cannot read. An additional 42 million read below the level needed to function successfully. The American Library Association estimates the cost of illiteracy is $225 billion, although, in truth, no value can be put on the devastation of illiteracy.

The cost includes the lifetime earnings that will not be realized by men and women who cannot get and hold jobs requiring any reading skills. The cost includes child welfare expenditures for the children of adults who lack the skills to get jobs. The cost includes prison maintenance for the inmates whose imprisonment can be linked to their illiteracy. The cost includes on-the-job accidents and damage to equipment caused by the inability of workers to read and understand instructions for the operation of machines.

And the human cost is even higher. The daily activities that we take for granted—reading the newspaper, reading a menu, reading a street or subway map, reading a note from a child's teacher—become a nightmare for illiterate people. They devise remarkable strategies of evasion and coping. The creativity that goes into hiding the inability to read is a terrible waste and a tragic commentary on the losses illiterate people suffer.

It is vital to call attention to the problem of illiteracy. Our society must begin to understand the severity of this problem and its detrimental effects. Perhaps even more essential is the need to reach the people who need help in overcoming their illiteracy and to make them aware of the services that are available.

I urge my colleagues to support this joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 259) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the joint resolution was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXPRESSING SENATE OPPOSITION TO THE USE OF FORCE IN YUGOSLAVIA

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 147, submitted earlier today by Senator DOLE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 147) to express Senate opposition to the use of force to resolve political differences in Yugoslavia.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 147) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 147

Whereas since May 15, 1991, the government of the Republic of Serbia has blocked the constitutional rotation of the federal presidency of Yugoslavia, effectively leaving Yugoslavia without a President and commander-in-chief of the Yugoslav Army;

Whereas on June 25, 1991, the democratic republics of Croatia and Slovenia declared their independence;

Whereas in conjunction with these declarations of independence, Croatia and Slovenia have indicated their willingness to continue dialogue and negotiations with the other republics of Yugoslavia on the future of Yugoslavia;

Whereas on June 26, 1991, in response to these declarations, the Yogoslav central government, despite its lack of constitutional authority, ordered the Yugoslav Army to deploy troops and tanks along the Slovenian borders, to seize border posts, and to mobilize Yugoslav Army troops and tanks in Croatia;

Whereas the Yugoslav Army is presently carrying out those instructions;

Whereas there are reports of growing numbers of deaths of civilians, militiamen, policemen and soldiers as a result of fighting between Yugoslav Army forces and militia forces of the republics of Slovenia and Croatia;

Whereas in its June 26 statement on Yugoslavia, the U.S. Department of State asserted that, "The United States strongly opposes the use or threat of force to resolve political differences in Yugoslavia"; Now, therefore, be it

Resolved, That—

(a) the Senate condemns the use of force to resolve political differences within Yugoslavia;

(b) the Senate calls on the Yugoslav central government to cease using the Yugoslav Army to address the current crisis, and instead urges the central government to respond positively and immediately to domestic and international calls for negotiations leading to a peaceful settlement;

(c) the Senate calls on the government of the Republic of Serbia to stop blocking the rotation of the Yugoslav Presidency.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the resolution was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR FRIDAY

Mr. BIDEN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m., Friday, June 28; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be rseserved for their use later in the day; and that the Senate then resume consideration of S. 1241, the crime bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M.

Mr. BIDEN. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent the Senate stand in recess as under the previous order until 10 a.m., Friday, June 28.

There being no objection, the Senate, at 1:24 a.m., recessed until Friday, June 28, 1991, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate June 27, 1991:

THE JUDICIARY

REBECCA F. DOHERTY, OF LOUISIANA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF LOUISIANA VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

MICHAEL R. HOGAN, OF OREGON, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF OREGON VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

JAMES T. TRIMBLE, JR., OF LOUISIANA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF LOUISIANA VICE EARL E. VERON, RETIRED.

SHELBY HIGHSMITH, OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA VICE THOMAS E. SCOTT, RESIGNED.

DENIS R. HURLEY, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

PAUL R. MATIA, OF OHIO, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

HAROLD R. DEMOSS, JR., OF TEXAS, TO BE U.S. CIRCUIT JUDGE FOR THE FIFTH CIRCUIT VICE JERRE S. WILLIAMS, RETIRED.

BARBARA A. CAULFIELD, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA VICE WILLIAM W. SCHWARZER, RETIRED.

NATIONAL MEDIATION BOARD

PATRICK J. CLEARY, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR THE TERM EXPIRING JULY 1, 1994. (REAPPOINTMENT)

DEPARTMENT OF LABOR

CARI M. DOMINGUEZ, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE WILLIAM C. BROOKS, RESIGNED.

NANCY RISQUE ROHRBACH, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE JENNIFER LYNN DORN, RESIGNED.

DEPARTMENT OF THE TREASURY

OLIN L. WETHINGTON, OF VIRGINIA, TO BE A DEPUTY UNDER SECRETARY OF THE TREASURY, VICE CHARLES H. DALLARA, RESIGNED.

DEPARTMENT OF STATE

ROBERT MICHAEL KIMMITT, OF VIRGINIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERAL REPUBLIC OF GERMANY.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 152, FOR REAPPOINTMENT AS CHAIRMAN OF THE JOINT CHIEFS OF STAFF AND REAPPOINTMENT TO THE GRADE OF GENERAL WHILE SERVING IN THAT POSITION:

To be Chairman of the Joint Chiefs of Staff

To be general

GEN. COLIN L. POWELL [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. H. NORMAN SCHWARZKOPF, [redacted] U.S. ARMY.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY AS FOLLOWS:

To be lieutenant general

LT. GEN. WALTER E. BOOMER [redacted] USMC.

THE FOLLOWING NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY AS FOLLOWS:

To be lieutenant general

MAJ. GEN. HENCY C. STACKPOLE III [redacted] USMC.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

NURSE CORPS

To be colonel

BETTY J. ANDREWS [redacted]
ROSEMARY BAUER [redacted]
CLAUDIA S. BEADLE [redacted]
JOANNE M. BLACK [redacted]
DOREEN E. BROCK [redacted]
ANNA A. CALDWELL [redacted]
MINNIE L. CAMPBELL [redacted]
PATRICIA A. DAMLER [redacted]
JOELLEN DEBERG [redacted]
REBECCA A. DYLLA [redacted]
WAYNE E. ELLIS [redacted]
MARILYN C. A. FLORO [redacted]
MARY E. FORKNER [redacted]
THERESE R. GRENCHIK [redacted]
JANIE M. KELLEY [redacted]
KAREN D. KIMMEL [redacted]
GLORIA K. LAMOUREUX [redacted]
JANICE L. MARCHAND [redacted]
LINDA E. MCFARLAND [redacted]
BARBARA M. MCKENNA [redacted]
SHARON C. MOYNIHAN [redacted]
CAROLYN S. PORTER [redacted]
HELEN L. RANGEL [redacted]
KATHY J. REYNOLDS [redacted]
JANE ROE [redacted]
EMILY D. SMITH [redacted]
ROSANNE K. TOSSING [redacted]
ANDREA A. VALDEZ [redacted]
LINDA A. VANVECHTEN [redacted]
MARY C. WEGNER [redacted]
ROSLYN F. WILSON [redacted]
ALICE S. WOOD [redacted]

MEDICAL SERVICE CORPS

To be colonel

ARTHUR E. AENCHBACHER, JR [redacted]
SIDNEY BRANDLER [redacted]
NICHOLAS DIDIO, II [redacted]
ROBERT P. EDWARDS [redacted]
JAMES J. GALLMAN [redacted]
LYNN M. JONES [redacted]
PHILLIP L. MARLER [redacted]
ROBERT H. OWENS [redacted]
LARRY J. SUTTERER [redacted]

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE, AND THOSE OFFICERS IDENTIFIED BY AN ASTERISK FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, PROVIDED THAT IN NO CASE SHALL THE OFFICERS BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

LINE OF THE AIR FORCE

To be lieutenant colonel

BARRY S. ABBOTT [redacted]
DWAYNE E. ABBOTT [redacted]
JAMES M. ABEL, JR [redacted]
ROBERTO ACOSTA [redacted]
ANTHONY J. ADAMCIK [redacted]
EMIL J. ADAMS, JR [redacted]
MICHAEL P. AEILLO [redacted]
THOMAS D. AKERS [redacted]
JERRY L. ALBRITTON [redacted]
JIMMY H. ALEXANDER [redacted]
JOHN ALFIER [redacted]
CHARLES T. ALLAN [redacted]
CRAIG R. ALLEN [redacted]
JIMMY R. ALLEN [redacted]
ANTHONY D. ALLEY [redacted]
ROBERT D. ALLISON [redacted]
CLESSON D. ALLMAN [redacted]
DENNIS A. ALMER [redacted]
JAY J. ALONIS [redacted]
GREGORY A. ALSTON [redacted]
ROBERT F. AMASON, JR [redacted]
CHARLES L. AMES [redacted]
DAVID N. ANDERSON [redacted]
WAYNE L. ANDREWS, JR [redacted]
HOWARD P. ANDRUS, JR [redacted]
DAVID A. ANHALT [redacted]
ROLAND C. ANTHONY, JR [redacted]
DANIEL G. APPEL [redacted]
THOMAS D. ARDERN [redacted]
ROBERT L. ARMOUR, JR [redacted]
WINFIELD S. ARNOTT [redacted]
JENNY L. ARTERY [redacted]
PATRICK J. ASH [redacted]
WILLIAM M. ASHFORD [redacted]
WALTER L. ATCHISON [redacted]
DANA T. ATKINS [redacted]
CALVIN S. ATKINSON, JR [redacted]
FRANK B. ATKINSON [redacted]
PAUL F. AUCLAIR [redacted]
JEFFREY S. AUSTIN [redacted]
ARTHUR E. BAER, JR [redacted]
DOUGLAS P. BAIRD [redacted]
HENRY D. BAIRD, JR [redacted]
DENNIS E. BALLEW [redacted]
CAROLYN M. BALVEN [redacted]
STRATFORD C. BANNISTER, IV [redacted]
HAROLD F. BARE, JR [redacted]
HARRY H. BARKSDALE, JR [redacted]
LARRY W. BARNETT [redacted]
JOHN D. BARROWCLOUGH [redacted]
JOHN A. BARTON [redacted]
STEPHEN F. BARZELLONE [redacted]
CARLA D. BASS [redacted]
WENDELL D. BAUMAN [redacted]
CHARLES M. BAUMANN [redacted]
RICHARD G. BEACH [redacted]
RONALD L. BEAN [redacted]
JAMES D. BEASON [redacted]
DAVID B. BEATTY [redacted]
FRANK E. BEATY [redacted]
WILLARD BEAVERS [redacted]
JOSEPH C. BEBEL [redacted]
THOMAS A. BECKETT [redacted]
PAUL A. BECKMAN [redacted]
DAVID R. BEECROFT [redacted]
VINCENT P. BEFI [redacted]
GUS BELL, JR [redacted]
OSCAR C. BELL, JR [redacted]
ERNEST K. BERAN [redacted]
WILFRED E. BERGER [redacted]
HERMAN J. BERNARDS [redacted]
SCOTT W. BERRY [redacted]
CURTIS L. BETEBENNER [redacted]
HOWARD S. BIALAS, JR [redacted]
DALE F. BIBLE [redacted]
MICHAEL H. BIEDERMANN [redacted]
GUY M. BILLARD [redacted]
FRANK G. BILOTTA [redacted]
STEVEN A. BITLER [redacted]
JERRY E. BJORNSTAD [redacted]
GREGORY D. BLACK [redacted]
STEPHEN M. BLACKBURN [redacted]
PETER J. BLAISE [redacted]
TONY L. BLAND [redacted]
JOHN D. BLANKEN [redacted]
PETER A. BLATCHLEY [redacted]
GARY L. BLEDSOE [redacted]
DAVID BLESSINGER [redacted]
JAMES A. BLISSIT, JR [redacted]
JAMES V. BLOCKWOOD [redacted]
THOMAS J. BLUME [redacted]
SAMUEL J. BOLEN [redacted]
THOMAS V. BOMA [redacted]
MICHAEL W. BOOEN [redacted]
ALBERT S. BORCHIK, III [redacted]
LOUIS H. BOTTA [redacted]
JEFFREY S. BOULWARE [redacted]
DENNIS R. BOWERS [redacted]
JOHN P. BOWLER [redacted]
THOMAS L. BOWLIN [redacted]
JOHN D. BOWMAN [redacted]
WARREN C. BOYES, JR [redacted]
PAUL D. BRADEN [redacted]
WILLIAM T. BRADEN [redacted]
WILLIAM W. BRADLEY, JR [redacted]
CARL W. BRADSHAW [redacted]
GLENN D. BRADY [redacted]
MARLENE A. BRAKE [redacted]
WILLIAM C. BRANAN, JR [redacted]
CLIFTON L. BRAY, JR [redacted]
ALVIN BREADY [redacted]
TED A. BREWER [redacted]
ROBERT B. BREWSTER [redacted]
MARK R. BRIGHTMAN [redacted]
PAUL T. BROAD [redacted]
JACK D. BROOKER [redacted]
DENNIS D. BROWN [redacted]
HENRY C. BROWN [redacted]
JEFFREY S. BROWN [redacted]
STEPHEN R. BROWN [redacted]
THOMAS D. BROWN, JR [redacted]
LINDA F. BROWNSAFFORE [redacted]
RAYMOND R. BRUNELLE, JR [redacted]

GARY D. BRUNNER [redacted]
JOSEPH C. BRYANT [redacted]
LARRY W. BRYANT [redacted]
PAUL G. BRYANT [redacted]
JOHN R. BUCK [redacted]
GERALD L. BUCKNER [redacted]
CHRISTOPHER J. BUDINSKY [redacted]
JANET V. BUECHLER [redacted]
RICHARD J. BUESGEN [redacted]
RAYMOND T. BULL [redacted]
DAVID E. BULLOCK [redacted]
JAMES C. BUNDY [redacted]
ROBERT E. BUNNELL [redacted]
MARY T. BUNYAN [redacted]
JAMES A. BUNYARD [redacted]
ELISABETH A. BURCHLEASURE [redacted]
BRUCE E. BURDA [redacted]
STEPHEN L. BURKE [redacted]
TED S. BURKE [redacted]
BOYCE B. BURLEY, III [redacted]
JAMES R. BURLING, JR [redacted]
HARRY A. BURNS [redacted]
KEVIN P. BURNS [redacted]
RAOUL J. BURON, JR [redacted]
JAMES B. BUSHMAN [redacted]
PAUL E. BUTALLA, JR [redacted]
RICHARD S. BUTLER [redacted]
BRANDON A. BUTTRICK [redacted]
RONALD L. BUTTS [redacted]
ROBERT J. BYARD [redacted]
MICHAEL B. BYERS [redacted]
TERRENCE L. BYERS [redacted]
JOHN D. CAMERON [redacted]
JAMES D. CAMPBELL [redacted]
JOHN A. CAMPBELL [redacted]
FRANCIS M. CAMPEGGIO, JR [redacted]
MARTIN J. CANNAN [redacted]
RICHARD W. CANNATA [redacted]
JAMES R. CANNON [redacted]
JAMES D. CANTWELL [redacted]
MICHAEL T. CANTWELL [redacted]
STEVEN R. CAPENOS [redacted]
VIRGINIA L. CARDEN [redacted]
DAVID C. CARLSON [redacted]
CHARLES G. CARPENTER [redacted]
NATHANIEL L. CARR [redacted]
STEPHEN R. CARR [redacted]
PAMELA D. CARTER [redacted]
ROBERT A. CARTER [redacted]
FREDERIC T. CASE [redacted]
WALTER M. CASKEY, JR [redacted]
JOHN R. CASS, JR [redacted]
RONALD G. CATE [redacted]
CLYDE C. CAUFIELD [redacted]
BRUCE E. CAUGHMAN [redacted]
BERNARD C. W. CHANG [redacted]
RICHARD M. CHAPIN [redacted]
DIANNE E. CHAPLIN [redacted]
RANDALL W. CHAPMAN [redacted]
MATTHEW J. CHAPPELL, II [redacted]
JOHN E. CHARLTON [redacted]
CHARLES R. CHAVEZ [redacted]
ROBERT J. CHEESEMAN [redacted]
EDD P. CHENOWETH [redacted]
CARLOS O. CHERRY [redacted]
ALLAN D. CHILDERS [redacted]
CRAIG T. CHRISTEN [redacted]
LANCE D. CHRISTIAN [redacted]
WILLIAM H. CHRISTIAN, JR [redacted]
KURT A. CICHOWSKI [redacted]
KENNETH A. CINAL [redacted]
GARY F. CLARK [redacted]
JAY L. CLARK [redacted]
LLOYD N. CLARK [redacted]
ROY A. CLELAND [redacted]
ROBERT M. CLOWERS [redacted]
PATRICK M. CLUNE [redacted]
MARK A. CLUSKEY [redacted]
ALLEN D. COATES [redacted]
DOUGLAS R. COCHRAN [redacted]
ROBERT A. COE [redacted]
WILLIAM E. COFFER [redacted]
LEE J. COLBURN [redacted]
RICHARD W. COLE [redacted]
DONALD C. COLEMAN [redacted]
RONALD COLEMAN [redacted]
RICHARD J. COLLIANDER [redacted]
JOHN D. COLLIER [redacted]
JOHN E. COLLIER [redacted]
DANIEL L. COLLINS [redacted]
DONAL J. COLLINS [redacted]
KELLY B. COLLINS [redacted]
STANLEY J. COLLINS [redacted]
WILLIAM M. COLLINS [redacted]
WILLIE F. COLLINS [redacted]
CHRIS R. COMMEFORD [redacted]
PAUL D. CONDIT [redacted]
DENNIS A. CONNAUGHTON [redacted]
WILLIAM M. CONNER [redacted]
GARY S. CONNOR [redacted]
BRUCE A. CONWAY [redacted]
JUDITH E. COOK [redacted]
HAL J. COOKE [redacted]
DAVID F. COOMBS [redacted]
JOHN M. COPELAND [redacted]
ROGER T. CORBIN [redacted]
CHARLES E. COSTA [redacted]
MICHAEL E. COSTELLO [redacted]
CHARLES A. COTTER, JR [redacted]
STEPHEN A. COULOMBE [redacted]
JAMES S. COURTOY [redacted]
JOHN O. COWAN [redacted]
SUZANNE L. COWAN, [redacted]
MARVIN D. COX, [redacted]
MURRAY D. COX [redacted]
THOMAS P. COYNE, JR [redacted]
WILLIAM M. CRABBE, III [redacted]
JOSEPH B. CRAWFORD, [redacted]
DANNY J. CREAGAN [redacted]
DELBERT G. CREASY [redacted]
LOUIS C. CROOKS, [redacted]
MAUREEN A. CROOKS, [redacted]
LEE T. CROSS [redacted]
JOHN S. CROWLEY, JR [redacted]
CHARLES G. CRUPPER, JR [redacted]
GREGORY C. CRYSTAL [redacted]
JOHN R. CULCLASURE [redacted]
JOHN C. CULPEPPER [redacted]
DONALD L. CUNNINGHAM [redacted]
PHILIP L. CUNNINGHAM [redacted]
EUGENE M. CURRAN [redacted]
PAUL W. CURTIS [redacted]
CHARLES CZARNIECKI [redacted]
KENNETH W. DAHL [redacted]
GREGORY C. DAHLGREN [redacted]
JOHN M. DAILEY [redacted]
JEFFREY T. DAILY [redacted]
MICHAEL C. DAMRON [redacted]
THOMAS L. DARNER [redacted]
THOMAS M. DASHIELL [redacted]
JOEL D. DAVID [redacted]
GERALD D. DAVIDSON [redacted]
WALTER G. DAVIDSON [redacted]
BRADLEY S. DAVIS [redacted]
JAMES S. DAVIS [redacted]
JEFFREY C. DAVIS [redacted]
MICHAEL K. DAVIS [redacted]
NANCY F. P. DAVIS [redacted]
RANDALL M. DAVIS [redacted]
WILLIAM V. DAVIS [redacted]
GREGORY D. DAWSON [redacted]
JAMES L. DAY [redacted]
RICHARD L. DAY [redacted]
MICHAEL K. DEACY [redacted]
EDWARD W. DEBUSK [redacted]
ARTHUR G. DECELLES [redacted]
JAMES H. DEGARMO [redacted]
MICHAEL E. DEHART [redacted]
JOSE A. DELGADO [redacted]
WARREN B. DELKER [redacted]
CHARLES C. DEMOISY [redacted]
WAYNE M. DENESIK [redacted]
MICHAEL J. DENNIS [redacted]
WILLIAM A. DENTON [redacted]
PAUL A. DETTMER [redacted]
HARRY J. DEVAULT [redacted]
FRANK R. DEVINCENZO [redacted]
FRANTZ DEWILLIS [redacted]
GARY W. DILK [redacted]
BENJAMIN L. DILLA [redacted]
SUSAN J. DILLARD [redacted]
DANIEL R. DINKINS, JR [redacted]
JOSEPH P. DIROSARIO [redacted]
SHARON R. DISLER [redacted]
DAVID M. A. DOCKHAM, II [redacted]
DALE E. DODD [redacted]
JONATHAN E. DOELP [redacted]
RONALD S. DOEPPNER [redacted]
ANGELA D. DOFFONEY [redacted]
TOMMY E. DOMINEY [redacted]
ROY G. DONAHUE, JR [redacted]
MARK S. DONNELLY, [redacted]
KENNETH E. DONOUGH, [redacted]
JAMES T. DONOVAN [redacted]
KEVIN F. DONOVAN, [redacted]
ROBERT D. DORSEY [redacted]
WILLIAM K. DOTY, JR [redacted]
ARTHUR G. DOUGLAS, [redacted]
DON R. DOUGLAS, [redacted]
JAMES L. DOUGLAS, JR [redacted]
HERBERT M. DOVE, JR [redacted]
ROBERT J. DOWLING [redacted]
BRIAN W. DOYLE [redacted]
WILLIAM E. DRAKE [redacted]
FRANK E. DRESSEL [redacted]
WILLY H. DROW [redacted]
RICHARD F. DUHACHEK [redacted]
GAIL R. DUKE [redacted]
LARRY O. DUNAGAN [redacted]
MICHAEL L. DUNLAP [redacted]
MARTIN D. DUTILLY [redacted]
DAVID D. DYCHE [redacted]
DANIEL R. EAGLE [redacted]
JOHN L. EASLEY [redacted]
FRED R. EASTERLIN [redacted]
ROBERT A. EATON [redacted]
BRADLEY C. EBAUGH [redacted]
RAYMOND E. EBBS [redacted]
JEFFREY W. EBERHART [redacted]
JOHN EBRON, JR [redacted]
STEVEN R. EDDY [redacted]
SAMUEL G. EDGAR, III [redacted]
JOHN R. EDINGER, [redacted]
ROGER D. EDWARDS [redacted]
JOSEPH M. EHMER [redacted]
DAVID J. EICHHORN [redacted]
DAVID W. EIDSAUNE [redacted]
JAMES K. EKEN [redacted]
RICHARD K. ELDARD [redacted]
DANIEL E. ELDRIDGE [redacted]
JACK H. ELDRIDGE [redacted]
GUS G. ELLIOTT, JR [redacted]
DONALD S. ELLIS [redacted]
DONNIE R. ELLIS [redacted]
LARRY D. ELLIS [redacted]
STEVEN E. ELSE [redacted]
ELIZABETH A. ENAS [redacted]
THOMAS D. ENTWISTLE [redacted]
STEPHEN C. ENZWEILER, [redacted]
JOHN W. ERIKSEN [redacted]
CLAUDE M. ERVING, JR [redacted]
ROBERT D. ESKRIDGE [redacted]
JERRY D. EUDY [redacted]
RICHARD A. EVANS [redacted]
RICHARD H. EVANS [redacted]
MICHAEL E. EVERSON [redacted]
JAMES W. EWING [redacted]
RICHARD L. EYESTONE [redacted]
RICHARD A. EZZELL [redacted]
DANIEL L. FALVEY [redacted]
MARK E. FANTASIA [redacted]
JOHN S. FARNHAM [redacted]
HARVEY R. FARR [redacted]
STEPHEN F. FARRY, JR, [redacted]
KENNETH V. FEASTER [redacted]
JAMES D. FELS [redacted]
MICHAEL P. FENNESSY [redacted]
HAROLD FIELDS, JR [redacted]
JAMES C. FILBERT [redacted]
MICHAEL R. FILLER [redacted]
ALVA L. FINCHER [redacted]
TIMOTHY M. FINK [redacted]
THOMAS P. FINN [redacted]
THOMAS P. FINNEGAN [redacted]
JAMES A. FISHER [redacted]
MICHAEL S. FITZ [redacted]
KEVIN P. FLATT [redacted]
DAVID L. FLEMING [redacted]
FRANK C. FLINN, II [redacted]
LEO FLORICK [redacted]
ALFRED K. FLOWERS [redacted]
WOODROW T. T. FLOWERS [redacted]
MARY F. FLYNN [redacted]
JERALD L. FOLKERTS [redacted]
MICHAEL R. FOOR [redacted]
JAMES P. FOREMAN [redacted]
PATRICIA M. FORNES, [redacted]
FRANK L. FORSYTH [redacted]
IRA W. FORTENBERRY [redacted]
PETER C. FORTESCUE, JR [redacted]
ROY M. FOSTER [redacted]
GUY C. FOWL [redacted]
NEAL I. FOX [redacted]
STEPHEN R. FRALEY [redacted]
TERRY A. FRANKS [redacted]
WALTER FRANT [redacted]
JOHN H. FRAVEL [redacted]
KENNETH M. FREEMAN [redacted]
HARRISON C. FREER, [redacted]
JEAN T. FREITAS [redacted]
GREGORY B. FRICK [redacted]
MAE E. FRIEL [redacted]
BRUCE H. FRITZSCHE [redacted]
MARK W. FRY, [redacted]
THOMAS C. FUGATE, SR [redacted]
MYRNA L. FULLER [redacted]
WAYNE L. FULLER [redacted]
STEVEN L. FUZZELL [redacted]
MYKEL D. GABLE [redacted]
KARL F. GABRYS, JR [redacted]
ROBERT N. GAMACHE [redacted]
BRUCE D. GAMBLE [redacted]
ROBERT L. GAMBRELL, JR [redacted]
ALFREDO GARCIA, JR [redacted]
PATRICK J. GARCIA [redacted]
PATRICIA D. GARLAND [redacted]
HARRY J. GARNAND, III [redacted]
BRUCE M. GARNER [redacted]
RICHARD B. GARNER [redacted]
HUGH H. GARRETT [redacted]
RAY T. GARZA [redacted]
CHRISTOPHER J. GASTON [redacted]
ADRIEN L. GAUDREAU, JR [redacted]
JOHN F. GAUGHAN, II [redacted]
ROBERT D. GEDDES [redacted]
CHARLES O. GENSLER [redacted]
GILES D. GENTRY, JR [redacted]
PETER W. GEURTZ [redacted]
KRIS D. GIANAKOS [redacted]
RICHARD M. GIBALDI [redacted]
CURTIS R. GIBBS [redacted]
JAMES H. GIBBS [redacted]
DEBORAH S. GIBSON [redacted]
FREDERICK C. GILBERT [redacted]
SILVANUS T. GILBERT, III [redacted]
TOMMIE L. GILLISPIE [redacted]
ANDREW G. GILMORE [redacted]
ROBERT W. GINN [redacted]
WILLIE J. GLADDEN [redacted]
LEE GLASER [redacted]
MICHAEL R. GLASPY [redacted]
EUGENE GLOVER [redacted]
EDWARD O. GOEHE, JR [redacted]
RAYMOND D. GOMES [redacted]
ADRIAN GOMEZ [redacted]
RAFAEL GONZALEZ [redacted]
DALE L. GOODELL [redacted]
JOHN C. GOODMAN [redacted]
CRAIG A. GORDON [redacted]
HUGH L. GORDON [redacted]
MICHAEL V. GOYDEN [redacted]
LANCE C. GRACE [redacted]
KEVIN M. GRADY [redacted]
KEMIT S. GRAFTON [redacted]
DOUGLAS U. GRAHAM [redacted]
THOMAS E. GRAVES [redacted]

DAVID S. GRAY, [redacted]
HUGH G. GRAY, [redacted]
ALLEN M. GREEN, [redacted]
ANTIONETTE L. GREEN, [redacted]
MARK L. GREENWOOD, [redacted]
SANDRA A. GREGORY, [redacted]
JAMES W. GREIG, II, [redacted]
PATRICK A. GRIECO, [redacted]
CALVIN E. GRIFFITHS, [redacted]
STEVEN G. GROATHOUSE, [redacted]
PHILLIP W. GRONSETH, [redacted]
JACK L. GRUBB, [redacted]
REYES GUERRA, [redacted]
DANNY W. GUGELMAN, [redacted]
BRUCE R. GUNN, [redacted]
RODNEY B. GUNTHER, [redacted]
THURMAN R. HAAS, [redacted]
MERVILLE G. HAERTER, [redacted]
DOUGLAS B. HALL, [redacted]
RICHARD M. HALL, [redacted]
MARC R. HALLADA, [redacted]
WAYNE F. HALLGREN, [redacted]
IRVING L. HALTER, JR., [redacted]
ORRIS N. HAMBLETON, [redacted]
JAMES R. HAMILTON, [redacted]
MICHAEL F. HAMMERLE, [redacted]
GARY W. HAMMOND, [redacted]
DAN W. HANIFEN, [redacted]
GARY L. HANKINS, [redacted]
DALE R. HANNER, [redacted]
WILLIAM E. HANSON, [redacted]
DONALD L. HARGARTEN, [redacted]
JULIUS L. HARGROVE, [redacted]
JAMES K. HARKINS, JR., [redacted]
STANLEY G. HARMON, [redacted]
MICHAEL C. HARRIS, [redacted]
STEPHEN H. HARRIS, [redacted]
WILLIAM L. HARRIS, II, [redacted]
SCOTT C. HARRISON, [redacted]
RALPH S. HARTMAN, [redacted]
CLYDE A. HARTSHORN, JR., [redacted]
GREGG E. HARTZ, [redacted]
ROBERT H. HASELOFF, [redacted]
KEITH E. HAUGO, [redacted]
LARRY H. HAULMAN, [redacted]
MICHAEL L. HAUSER, [redacted]
MICHAEL G. HAZENFIELD, [redacted]
CHARLES R. HEALD, [redacted]
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WILLIAM G. HEISEL, [redacted]
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JOHN L. HENSLEY, [redacted]
SAM W. HENSON, [redacted]
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GARY D. HERD, [redacted]
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LEE V. HOFFMAN, JR., [redacted]
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JOSEPH R. LITKO, [redacted]
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ROY LONGSTAFFE, [redacted]
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JOSEPH P. MARKSTEINER, [redacted]
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LEWIS E. MCBRIDE, III, [redacted]
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WARNER R. MCGRAW, [redacted]
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MICHAEL J. MCPHAIL, [redacted]
CRAIG R. MCPHERSON, [redacted]
ROBERT A. MCREYNOLDS, JR., [redacted]

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GEORGE E. MEGGERS [redacted]
MICHAEL S. MELE [redacted]
JOHN M. MELIN, [redacted]
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ALBERT U. MITCHUM, JR [redacted]
LESTER H. MIYAOKA [redacted]
DAVID L. MIZE [redacted]
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CURTIS V. NEAL [redacted]
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ORVAL A. NELSON, JR [redacted]
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JEFFREY W. NEUBER [redacted]
IRWIN L. NEVEU, JR [redacted]
RANDALL L. NEVILLE [redacted]
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DAVID A. NEWBRY, [redacted]
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KRIS NIEDERLITZ [redacted]
CARY A. NIEHANS [redacted]
MILTON C. NIELSEN [redacted]
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ANTONIO P. NOFUENTE [redacted]
RONALD J. NORMAN [redacted]
BASIL S. NORRIS, JR [redacted]
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JAMES T. RYBURN [redacted]
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PHILLIP M. SABREE [redacted]
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ANN E. SCHMOYER, [redacted]
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JAMES S. SCHUMAN [redacted]
DAVID J. SCOTT [redacted]
MICHAEL J. SCOTT [redacted]
JAMES D. SCOTTER [redacted]
ROBERT J. SCULLY, JR [redacted]
DENNIS R. SEARS [redacted]
RICHARD A. SEELEY [redacted]
CYNTHIA L. SEGERSTEN [redacted]
WILLIAM W. SELAH, [redacted]
GARY R. SELIN [redacted]
MARION I. SETH [redacted]
ROBERT J. SETTLE, II [redacted]
JOHN L. SEXTON [redacted]
RANDALL L. SHANAHAN [redacted]
DAVID G. SHAW, [redacted]
THOMAS P. SHAW, [redacted]
KEVIN A. SHEEHAN, [redacted]
ERNEST A. SHEPARD, III [redacted]
JOSEPH G. SHERIDAN [redacted]
WILLIAM B. SHIELDS [redacted]
WILLIAM J. SHIREY [redacted]
STEVEN D. SHIRLEY [redacted]
DALE G. SHIVELY, [redacted]
ROBERT W. SHUPING [redacted]
STANLEY P. SIEFKE [redacted]
EDWARD M. SIENKIEWICZ, JR [redacted]
MARTIN J. SIEROCKI [redacted]
MARK S. SILVER [redacted]
RONALD F. SIMPSON [redacted]
JOSEPH W. SINISCALCHI, JR [redacted]
NICHOLAS A. SIPOS [redacted]
ALBERT E. SISK [redacted]
MARK H. SKATTUM, [redacted]
WILLIAM E. SKEITH, JR [redacted]
THOMAS C. SKILLMAN, [redacted]
CHARLES G. SLATER [redacted]
AVERY P. SLEDGE, JR [redacted]
DENNIS R. SMITH [redacted]
EUGENE C. SMITH [redacted]
FORREST P. SMITH [redacted]
GARY E. SMITH [redacted]
JAMES B. SMITH [redacted]
JEFFREY P. SMITH [redacted]
KEVIN W. SMITH [redacted]
MARK T. SMITH [redacted]
SCOTT M. SMITH [redacted]
STEVEN J. SMITH [redacted]
ROBERT M. SMITHSON [redacted]
STEVEN T. E. SMOLEROFF [redacted]
CHARLES E. SNAVELY [redacted]
CHARLES C. SNEAD, [redacted]
STANLEY A. SNEEGAS [redacted]
DONALD N. SNELGROVE, [redacted]
JOHN A. SNIDER [redacted]
STEPHEN J. SNOW [redacted]
JACK M. SNYDER [redacted]
RANDALL L. SOILEAU [redacted]
MARK H. SOLHEIM, [redacted]
CHRISTOPHER C. SOTO [redacted]
JOSEPH M. SOUSARIS [redacted]
CHARLES C. SPARKMAN [redacted]
KATHLEEN M. SPATOLA [redacted]
GLENN F. SPEARS [redacted]
THOMAS E. SPEER [redacted]
JAMES W. SPENCER [redacted]
LARRY O. SPENCER [redacted]
WILLIAM L. SPIVEY [redacted]
DEAN C. SPRAGGINS [redacted]
DAVID M. SPRINKLE [redacted]
SAMUEL F. SQUILLER [redacted]
ROMAIN PATRICK M. ST [redacted]
VICTOR L. STALEY, JR [redacted]
JOHN R. STAMPLEY [redacted]
CHARLES B. STANFIELD [redacted]
REBECCA J. STARBUCK [redacted]
MARK E. STEARNS [redacted]
THURMAN STEEN, JR, [redacted]

FRANK C. STELLAR [redacted]
BILLY W. STEPHAN, JR. [redacted]
DAVID R. STEPHENS [redacted]
EUGENE J. STEPKO [redacted]
ROBERT A. STETTLER [redacted]
JAMES A. STEVENS [redacted]
JOHN G. STEVENS [redacted]
RICHARD A. STEVENS [redacted]
STANLEY S. STEVENS [redacted]
JOHN M. STEWARD [redacted]
RICHARD C. STEWART [redacted]
WILLIAM P. STEWART, JR. [redacted]
THOMAS E. STICKFORD [redacted]
MARK D. STILL [redacted]
JOSEPH T. STINE, III [redacted]
SAMUEL C. STITT, JR. [redacted]
KAREN W. STOFFER [redacted]
ELIZABETH G. STOUT [redacted]
MICHAEL L. STRAIGHT [redacted]
ROBERT F. STRASSER [redacted]
JON E. STROBERG [redacted]
LARRY D. STROM [redacted]
DONNA J. STROMECKI [redacted]
JOHN C. STULTS, JR. [redacted]
FREDERICK G. STUMPP, JR. [redacted]
MARTIN R. STYTZ [redacted]
JOHN F. SULLIVAN [redacted]
MICHAEL P. SULLIVAN [redacted]
DAVID C. SWETZ [redacted]
WILLIAM M. SWIDEREK [redacted]
STANLEY J. SZYBILLO [redacted]
WILLIAM H. SZYCH [redacted]
RICHARD A. TAKACS [redacted]
LAURIE H. TALBOT [redacted]
GILBERT J. TALKINGTON [redacted]
MICHAEL C. TANKERSLEY [redacted]
JOYCE A. TATANUS [redacted]
MARILYN M. TAYLOR [redacted]
RICHARD W. TAYLOR [redacted]
ROBERT L. TAYLOR [redacted]
BRUCE L. TEAGARDEN [redacted]
CHARLIE A. TEMPLETON [redacted]
RODNEY G. TEMPLETON [redacted]
CARL R. TEMPLIN [redacted]
KENNETH E. TERRY [redacted]
LINDA L. TEZAK [redacted]
STEPHEN G. THERIAULT [redacted]
SAM C. THERRIEN [redacted]
JEFFREY S. THOMAS [redacted]
PATRICK J. THOMAS [redacted]
BRUCE T. THOMPSON [redacted]
CLAUDE B. THOMPSON, JR. [redacted]
DARRYL W. THOMPSON [redacted]
DONALD R. THOMPSON [redacted]
FREDERICK H. THOMPSON [redacted]
DAVID V. THYFAULT [redacted]
WAYNE C. TISUE [redacted]
JAMES E. TLUSTOS [redacted]
DANIEL C. TODD [redacted]
DONALD B. TODD [redacted]
ANTHONY M. TOICH [redacted]
THOMAS P. TOOLE [redacted]
BARBARA J. TOWNSON [redacted]
ROBERT L. TRAPP [redacted]
DAVID M. TRASK [redacted]
JOHN M. TRAXLER [redacted]
ROBERT K. TRAYLOR [redacted]
PETER P. TRENT [redacted]
EDWARD F. TRIMBLE [redacted]
MICHAEL D. TROTTER [redacted]
BRUCE R. TROXEL [redacted]
ANTHONY A. TRZECIAK [redacted]
EDWARD J. TULLMAN, JR. [redacted]
ROBERT W. TURNER [redacted]
THOMAS E. TWIGG [redacted]
JOE E. TYNER [redacted]
JAMES R. UKEN [redacted]
LINDA J. ULLOM [redacted]
HUGO S. VALDIVIA [redacted]
MICHAEL E. VALENTINE, JR. [redacted]
ALAN R. VANEPPS [redacted]
MICHAEL R. VANHOUSE [redacted]
RONALD L. VANVLEET [redacted]
THOMAS F. VELTRI [redacted]
GARY D. VERBOIS [redacted]
HAROLD L. VICE [redacted]
CHARLES S. VOELKER [redacted]
STEVEN J. VREELAND [redacted]
STEVEN P. WACHOLTZ [redacted]
MILTON H. WADDELL [redacted]
PAGE A. WAGNER, III [redacted]
CHRISTOPHER J. WALECKA [redacted]
LARRY R. WALKER [redacted]
CLINTON G. WALLACE [redacted]
JOHN J. WALLACE [redacted]
MICHAEL J. WALLACE [redacted]
JAMES P. WALLER [redacted]
CARY R. WALLINGTON [redacted]
GEORGE E. WALROND [redacted]
JAMES M. WALTMAN [redacted]
WAYNE R. WASHER [redacted]
STEPHEN T. WASHINGTON [redacted]
DAVID L. WATERSTREET [redacted]
NORMAN L. WATSON [redacted]
STEVEN M. WATSON [redacted]
DAVID G. WATT [redacted]
JEFFREY J. WATTERBERG [redacted]
STEVEN L. WEAVER [redacted]
MICHAEL M. WEBB [redacted]
JOHNNY A. WEIDA [redacted]
JAMES H. WEIDNER [redacted]
STEVEN D. WEILBRENNER [redacted]
NORMAN A. WEINBERG [redacted]
WILLIAM P. WELCH [redacted]
DAVID A. WELLS, JR. [redacted]
DARLENE E. WENGERT [redacted]
GARY C. WEST [redacted]
JOHN M. WEST [redacted]
WILLIAM E. WEST [redacted]
MARTIN W. WESTERFIELD [redacted]
SCOTT W. WESTFALL [redacted]
STEVEN F. WESTFALL [redacted]
JOHN M. WESTON [redacted]
MICHAEL N. WETHERELL [redacted]
JAMES D. WHEELER [redacted]
LONNIE B. WHEELER [redacted]
WILLIAM J. WHITE, JR. [redacted]
CHARLES M. WHITEHURST [redacted]
KENNETH L. WHITLEY [redacted]
JAMES A. WHITMORE [redacted]
STEPHEN S. WHITSON [redacted]
CLARK P. WIGLEY [redacted]
EDWARD T. WILCOCK [redacted]
DANNY T. WILHELM [redacted]
BOBBY J. WILKES [redacted]
KEVIN J. WILLEY [redacted]
ALDEN A. WILLIAMS [redacted]
CHARLEY L. WILLIAMS [redacted]
CLARENCE J. WILLIAMS, JR. [redacted]
GLENN H. WILLIAMS [redacted]
GREGORY H. WILLIAMS [redacted]
PAUL WILLIAMS [redacted]
PAUL S. WILLIAMS [redacted]
TOMMIE L. WILLIAMS, JR. [redacted]
WILLIAM J. WILLIAMS [redacted]
DAVID WILLIAMSON [redacted]
DAVID M. WILLIAMSON [redacted]
ROY W. WILLIS, JR. [redacted]
DANNY S. WILMOTH [redacted]
WALTER W. WILSEY, II [redacted]
JOE D. WILSON [redacted]
RICHARD L. WILSON [redacted]
STUART E. WILSON [redacted]
WILLIAM E. WIMPEE [redacted]
DAVID M. WINTERMUTE [redacted]
RICHARD A. WIRTANEN [redacted]
NEIL WISE, III [redacted]
STEPHEN A. WOJCICKI [redacted]
DOREEN M. WOLF [redacted]
GERRY D. WOLFE [redacted]
LARRY H. WOLFE [redacted]
CRAIG WOLFENBARGER [redacted]
BRUCE S. WONG [redacted]
ROBERT E. WOOD [redacted]
ROBERT J. WOOD [redacted]
STEPHEN K. WOODS [redacted]
JOSEPH B. WOODSIDE [redacted]
STEVEN L. WOOLF [redacted]
MICHAEL G. WOOLLEY [redacted]
ROY M. WORDEN [redacted]
FRANCIS F. WORLEY, JR. [redacted]
ROBERT M. WORLEY, II [redacted]
RICHARD A. WORTHINGTON [redacted]
WILLIAM K. WRAY [redacted]
LARRY B. WRIGHT [redacted]
SAMMIE L. WRIGHT [redacted]
THOMAS B. WRIGHT [redacted]
MICHAEL M. WYKA [redacted]
MICHAEL L. YORK [redacted]
CARLTON E. YOUNG [redacted]
JERRY M. YOUNG [redacted]
LARRY N. YOUNG [redacted]
ROBERT E. YOUNG [redacted]
ROGER YOUNG [redacted]
STEPHEN F. YOUNG [redacted]
TERRENCE J. YOUNG [redacted]
JOHN W. ZAHRT [redacted]
MARK R. ZAMZOW [redacted]
ANTHONY F. ZDANUK, JR. [redacted]
ERNEST E. ZERNIAL, JR. [redacted]
ROSS A. ZIEGENHORN [redacted]
STEVEN J. ZUFFOLETTI [redacted]
NICHOLAS F. ZUNIC, III [redacted]

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE, AND THOSE OFFICERS IDENTIFIED BY AN ASTERISK FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES INDICATED PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A. GRADE HIGHER THAN INDICATED.

CHAPLAIN CORPS

To be lieutenant colonel

ROSS C. BROWN [redacted]
THOMAS O. BROWN [redacted]
DONALD T. BURNETT [redacted]
DON J. CHRISTENSON [redacted]
DAVID H. CYR [redacted]
JAMES W. DANIELS [redacted]
RICHARD B. DAVENPORT [redacted]
MICHAEL J. DIRENZO [redacted]
JAMES R. DIXON [redacted]
PHILIP J. FAIN [redacted]
CLARENCE B. GOODWIN [redacted]
RANDON N. HESGARD [redacted]
DWIGHT D. JOHNSON [redacted]
CURTIS D. LINGE [redacted]
BOB C. LYNCH [redacted]
GREGORY J. MALINSKY [redacted]
JAMES D. PATRICK [redacted]
GARY A. PIEPKORN [redacted]
JEROLD L. PRESTON [redacted]
JAMES D. SAUNDERS [redacted]
JAMES A. SCHIFFER [redacted]
JOHN J. SECRET [redacted]
JOHN C. SIMMONS [redacted]
JAMES A. SNYDER [redacted]
JOHN W. STEFERO [redacted]
LEE M. THOMPSON [redacted]
JOSEPH R. WAGNER [redacted]
JOHN G. WHITLEY [redacted]
MICHAEL C. WHITTINGTON [redacted]

JUDGE ADVOCATE

To be lieutenant colonel

HOWARD R. ALTSCHWAGER [redacted]
SAMUEL S. BAGLEY [redacted]
MARILYN D. BARTON [redacted]
MARY M. BOONE [redacted]
BRUCE T. BROWN [redacted]
WILLIAM M. BURD [redacted]
DWIGHT D. CREASY [redacted]
ROBERT G. CURIONE [redacted]
MARILYN H. DAVID [redacted]
DAVID G. EHRHART [redacted]
WILLIAM J. FABER [redacted]
DAVID A. FAHEY [redacted]
THEODORE J. FINK [redacted]
DONALD P. FLYNN, JR. [redacted]
BRADLEY P. GRANT [redacted]
EVAN L. HABERMAN [redacted]
HARRY L. HEINTZELMAN, IV [redacted]
WILLIAM J. HOLLMANN [redacted]
SHERRI W. JOHNSON [redacted]
DONALD R. LANGFORD [redacted]
CHARLES E. LATIMER [redacted]
JOHN C. MANTINI [redacted]
CHERYL L. NILSSON [redacted]
DONALD A. PLUDE [redacted]
LARRY W. PRICE [redacted]
RICHARD E. SARVER [redacted]
DAVID F. SHUTLER [redacted]
RICHARD B. SORENSON [redacted]
JOYCE I. SPISAK [redacted]
DEBORAH A. SUCHENSKI [redacted]
DONALD E. WALSH [redacted]
RODNEY A. WOLTHOFF [redacted]
DAVID S. YASTISHOCK [redacted]

NURSE CORPS

To be lieutenant colonel

MARILYN S. ABUGHUSSON [redacted]
GERALD R. ADLER [redacted]
CONSTANCE M. ALGER [redacted]
PHYLLIS E. ALLEN [redacted]
SARAH L. ALLEN [redacted]
LAUREL M. ANDERSON [redacted]
ALEXIS J. ARAMINI [redacted]
JILL V. BAKER [redacted]
KATHLEEN M. BARR [redacted]
MARY H. BEHR [redacted]
LINDA J. BISHOP [redacted]
SANDRA D. BOTTEMILLER [redacted]
DANE A. BRENNO [redacted]
ANNETTE BROWNSTEIN [redacted]
JAMES R. BROYLES [redacted]
PATRICIA A. BUCK [redacted]
ELLEN J. CARSON [redacted]
KATHY A. CASSAGNOL [redacted]
LESLIE A. CHAPMAN [redacted]
ALICE M. CHATLEY [redacted]
COLLEEN A. CHRISTENSEN [redacted]
JANICE C. COLLINGS [redacted]
KATHLEEN P. COLLINS [redacted]
GAILYN J. CONSER [redacted]
ALICE N. COX [redacted]
CHARLES A. CROSS [redacted]
GUY R. DALRYMPLE [redacted]
MARY J. DISTEL [redacted]
FRED D. DOKES, III [redacted]
CYNTHIA A. EBELACKER [redacted]
ROGER D. EMMICK [redacted]
DEBRA A. ERICKSONOWENS [redacted]
FREDERICK FESEL [redacted]
CYNTHIA M. FUEGER [redacted]
MARY E. FUSCO [redacted]
WILLIAM F. GAMETT [redacted]
NANCY O. GENTRY [redacted]
GABRIEL A. GIGLIOTTI [redacted]
THOMAS M. GORMLEY [redacted]
NANCY L. GRELLA [redacted]
COLLEEN L. GUTIERREZ [redacted]
KENNETH R. HAINES [redacted]
JACQUELINE D. HALE [redacted]
PAUL P. HALL, JR. [redacted]
LOUISE A. HARRELL [redacted]
JEAN M. HOHM [redacted]
JANE M. HOLTZ [redacted]
DEBORAH A. JANSON [redacted]
GARYE D. JENSEN [redacted]
MARJORIE P. JENSEN [redacted]
JEWETT G. JOHNSON [redacted]
HELEN L. KARABIN [redacted]
MAUREEN M. KILLBY [redacted]
KAREN A. KIZIS [redacted]
THOMAS F. KNIGHT [redacted]
STEVEN E. LEARY [redacted]

MARY E. LIEBERMANN [redacted]
BENNIE D. LITTLE [redacted]
DIANA M. LOMBARDO [redacted]
CAROLE A. LYONS [redacted]
MARY L. MAXIN [redacted]
GWENDA A. MCCLURE [redacted]
CAROL D. MCDOWELL [redacted]
LLOYD A. MILLER [redacted]
SHIRLEY A. MILLER [redacted]
MARY E. MORAN [redacted]
DANA R. MORRILL [redacted]
DOROTHEA L. MORRIS [redacted]
DEBORAH J. MOSS [redacted]
RUTH O. MOSS [redacted]
ERIC C. MURDOCK [redacted]
BRIAN M. NEMETH [redacted]
JOHN C. NICHOLS [redacted]
MARY E. NOVAK [redacted]
JANELLA G. PETERS [redacted]
PATRICIA A. PETERS [redacted]
JANET C. PLACE [redacted]
ALAN G. PYSHER [redacted]
CAROL V. RAWLINS [redacted]
WANDA L. RED [redacted]
PAMELA J. REIDY [redacted]
MARIAN S. RODGERS [redacted]
ROBIN E. ROGERS [redacted]
SHIRLEY A. ROGERS [redacted]
MICHELLE C. SABREE [redacted]
JANINE M. SAULPAUGH [redacted]
JUDITH M. SCHWARTZ [redacted]
LORETA S. SEWALL [redacted]
DONNA L. SIMPSON [redacted]
HOLLY A. SLATER [redacted]
LYNDA K. SMITH [redacted]
JEANETTE M. SPLONSKOWSKI [redacted]
ROBERT C. STOLAR [redacted]
MARGARITA D. VASQUEZ [redacted]
GRETCHEN WESTON [redacted]
MARGARET J. WILLIAMS [redacted]
GILBERT W. WOLFE [redacted]
ROBERTA A. WOLFE [redacted]
SARAH A. WRIGHT, 048-38-9822

MEDICAL SERVICE CORPS

To be lieutenant colonel

DAVID L. AYCOTH [redacted]
BRUCE N. BOSSART [redacted]
PAUL A. BUCCERI [redacted]
WILLIAM M. CARROLL [redacted]
DEBRA A. CERHA, [redacted]
DOUGLAS C. DAVIS [redacted]
DONALD C. EDGELL [redacted]
BARBARA B. ERICKSON [redacted]
MICHAEL J. FITZWATER [redacted]
JAMES F. GEIGER [redacted]
STEPHAN A. GIESECKE [redacted]
RONALD M. GILLIARD [redacted]
BRUCE P. HESELTINE [redacted]
PAUL R. LEMMINGS [redacted]
STEPHEN L. MEIGS [redacted]
MICKEY J. MELTON [redacted]
RAYMOND L. MOUSE [redacted]
CARLETON L. MURPHY [redacted]
PAUL W. NICE [redacted]
RICHARD D. PLEASANTS [redacted]
STEPHEN J. PRIBYL [redacted]
WILLIAM R. RENWICK [redacted]
FRANK L. RUBINO [redacted]
JAMES D. SHEPARD [redacted]
JONATHAN S. STAPLEY [redacted]
ROY U. TWEEDLE [redacted]
DOUGLAS J. VANCE [redacted]

PETER D. VROOM [redacted]
RONALD E. WILDMAN [redacted]
RICHARD E. WILLIS [redacted]

BIOMEDICAL CORPS

To be lieutenant colonel

DENNIS R. ARMSTRONG [redacted]
CAROL L. AYCOTH, [redacted]
GEORGE L. BERBERICH [redacted]
WILLIAM G. BLACK, JR [redacted]
DANIEL R. BROWN [redacted]
ROCKY D. CALCOTE [redacted]
DARREL R. CORNELL [redacted]
YANGCHA P. CRABB [redacted]
WILLIAM J. CURRAN, JR [redacted]
JAMES G. DALEY [redacted]
JIM A. DAVIS [redacted]
JOSEPH R. DURI [redacted]
EVA M. ECKBURG [redacted]
LANCE H. EDWARDS [redacted]
ROBERT W. FOULKS [redacted]
JAMES D. FRASER [redacted]
GARY D. GACKSTETTER [redacted]
EDWIN L. GERWELL [redacted]
WILLIAM A. GRADWELL [redacted]
FRANK E. GRAF [redacted]
GARY A. GURITZ [redacted]
WILLIAM R. HALLMARK, [redacted]
MARK A. HAMILTON [redacted]
ALBERT A. HARTZELL [redacted]
NELSON L. HENNING [redacted]
DANNY L. HOLT, [redacted]
MOHAMMAD A. HOSSAIN [redacted]
STEPHEN H. HOUGH [redacted]
HARRY P. HOWITT [redacted]
TIMOTHY C. IHRY [redacted]
DENEICE L. JACKSON [redacted]
LINDA D. JENKINS [redacted]
JOHN B. JESSEN, [redacted]
BRENDA L. JONES [redacted]
JOHN F. KENT [redacted]
THERESA S. KENT [redacted]
PAUL E. KERCH [redacted]
JO LONGLEY, [redacted]
DAVID C. LULL [redacted]
ROBERT E. MATHIS [redacted]
RUSSELL H. MATTERN [redacted]
JAMES N. MCDOUGAL [redacted]
KENNETH L. MEYER [redacted]
WILLARD W. MOLLERSTROM [redacted]
ESTHER F. MYERS [redacted]
RICHARD D. NEWSOME [redacted]
DONALD E. PULCIFER [redacted]
GARY L. PULVERMACHER [redacted]
JOHN N. QUIRK [redacted]
DENNIS L. RAY [redacted]
ROBERT W. SADOWSKI [redacted]
ROBERT J. SARVAIDEO [redacted]
BARRY L. SAVORY [redacted]
MICHAEL L. SHELLEY [redacted]
LORRAINE SHELTONGAINES [redacted]
PAUL J. SHONEBARGER [redacted]
LOWELL L. SNITCHLER [redacted]
FORREST R. SPRESTER [redacted]
TERRY L. STODDART [redacted]
REBECCA J. SUTAY [redacted]
STEVEN H. TALLANT [redacted]
JOYCE E. TETERS [redacted]
PHILIP F. THORNTON [redacted]
LEO J. WARD, JR [redacted]
KATHY L. WARE, [redacted]
RANDOLPH S. WOLF [redacted]
DAVID S. WOLPERT [redacted]

CONFIRMATIONS

Executive nominations confirmed by the Senate June 28, 1991:

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Wendell P. Gardner, Jr., of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Velma Montoya, of California, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 1997.

THE JUDICIARY

Warren Roger King, of the District of Columbia, to be an Associate Judge of the District of Columbia Court of Appeals for the term of 15 years.

DEPARTMENT OF LABOR

Frances Curtin McNaught, of Virginia, to be an Assistant Secretary of Labor.

DEPARTMENT OF THE TREASURY

Desiree Tucker-Sorini, of Colorado, to be an Assistant Secretary of the Treasury.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

DEPARTMENT OF JUSTICE

Robert T. Guiney, of Massachusetts, to be U.S. Marshal for the District of Massachusetts for the term of 4 years.

John H. Robinson, of Nevada, to be U.S. Marshal for the District of Nevada for the term of 4 years.

THE JUDICIARY

Jane R. Roth, of Delaware, to be U.S. Circuit Judge for the Third Circuit.

Sterling Johnson, Jr., of New York, to be U.S. District Judge for the Eastern District of New York.

Harvey E. Schlesinger, of Florida, to be U.S. District Judge for the Middle District of Florida.

Ralph W. Nimmons, Jr., of Florida, to be U.S. District Judge for the Middle District of Florida.

EXTENSIONS OF REMARKS

WORLD CUP UNITED STATES OF AMERICA 1994 COIN BILL

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. COX of California. Mr. Speaker, for the first time in history, the United States has been selected as host for the World Cup Soccer Championship in 1994. The World Cup is staged every 4 years and is the largest single sport spectacle in the world.

The first World Cup was held in Uruguay in 1930, and except for the war years—1942 and 1946—the event has been held quadrennially. Brazil, West Germany and Italy have each won the World Cup three times, while Uruguay and Argentina have won the coveted trophy twice each. England was victorious in 1966.

The World Cup Tournament consists of 24 national teams playing a total of 52 games over a 1-month period. The defending champion and the host country automatically qualify. The remaining 22 countries must survive grueling continental elimination tournaments in which all 166 FIFA countries are eligible to compete. For the 1990 World Cup, 112 nations played 313 games over an 18-month span to determine which nations joined host Italy and defending champion Argentina.

The format calls for 36 first round games, during which teams are divided into six groups of four and play a round-robin schedule within the group. This reduces the initial field to 16 teams, which commence the single-elimination second round.

Mr. Speaker, as a former collegiate soccer player, I am very excited about the opportunities this historic event offers all Americans. Many of our learning experiences in life are centered around activities such as soccer. We learn early the principles of sportsmanship, self-discipline, the joy of winning and accepting defeat.

The World Cup is a great opportunity to attract our young people to those experiences which teach principles and values that will assist them in becoming productive members of society. To assist the United States effort to insure the event will be a success, I have joined my colleagues as an original cosponsor in introducing the "World Cup USA 1994 Commemorative Coin Act." This bill will create gold, silver and clad coins to be sold to the public in commemoration of the World Cup. This will give interested Americans an opportunity to support the games and receive a memento in return. Furthermore, the design of the coin will be selected from an open competition in which all interested individuals may submit a suggested design.

Mr. Speaker, consistent with Olympic coin bills, the World Cup coin bill will impose a surcharge on each coin sold, which will go to the World Cup USA 1994 Organizing Committee to be used in staging the event. This is a very important source of revenue which is needed to make the event a first class success.

I have had the distinct privilege of being involved since the beginning of the U.S. effort to host the World Cup. While working for former President Ronald Reagan in the office of White House Counsel, it was my responsibility to secure commitments from the relevant government agencies so President Reagan could give the international governing body, Federation Internationale de Football Association [FIFA], some assurance that the United States was committed to assist with all that is necessary as a potential host country. I am pleased that we were successful in winning the bid and look forward to a successful event.

Mr. Speaker, as I mentioned earlier, the World Cup coin bill is a very important component of the U.S. effort to host this historic event. I would like to encourage all my colleagues to join with us as cosponsors and get behind the U.S. effort. This is a great chance for the United States to promote an effort which could have a positive influence on this Nation and expand the soccer opportunities for all Americans—particularly our youth—and allow them the opportunity to learn the principles of fair-play and self-discipline.

EARTHQUAKE HAZARD REDUCTION AMENDMENTS ACT

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. SWIFT. Mr. Speaker, last Congress I introduced legislation which was to be a first step in the legislative process by which we hope to make earthquake insurance more affordable and available for all Americans. Today, I am joining with three of my colleagues in introducing the Earthquake Hazard Reduction Amendments Act which will hopefully be the next important step in protecting homeowners and our national economy from the catastrophic consequences of major earthquakes.

The bill we are introducing today is a compromise. It blends the best features of two earthquake hazard reduction and insurance bills introduced last year: the Swift-Dreier bill—H.R. 4480—and the Brown-Boehlert bill—H.R. 4915.

The introduction of this bill should enable us to unite the supporters of both bills from last year and move the congressional debate forward. This bill is not perfect. Like all compromises, no one is completely satisfied with every provision of the bill. But we all know that the introduction of legislation is merely the beginning of the process. Specific details will be worked out during the hearing and markup process. But for now, this bill is an excellent vehicle to begin the legislative journey.

Earthquakes are a serious threat throughout our Nation. They are an exclusive San Francisco phenomenon. We tend to think only of California when we mention earthquakes. But major earthquakes can occur almost anywhere in our country. Well over half of our States—39 to be exact—are vulnerable to major or moderate earthquakes. For example, the Puget Sound region of my State is especially prone to a major quake, having already withstood damaging jolts in 1949 and 1965.

Further, earthquakes are not even restricted to the west coast. They can easily occur east of the Rocky Mountains. In fact, the largest earthquake in recorded American history occurred along the New Madrid fault in the Central United States.

What is more sobering is that earthquakes—catastrophic earthquakes—are inevitable. Most seismologists say there is near certainty that a monster quake at least 30 times more powerful than the 1989 San Francisco earthquake will strike somewhere in the United States within the next 30 to 40 years.

A devastating quake occurring anywhere in the United States would have lasting impacts for the entire Nation. Destroyed highways, bridges, gas pipelines, and transmission lines would affect regions thousands of miles from the epicenter. Insured losses could easily exceed $50 billion. There is no question that losses of this kind would have a dramatic impact on our national economy thus affecting every American.

The combination of these three factors could prove to be most harmful for individual homeowners since many do not even have earthquake insurance due to currently high premiums and deductibles. Less than 5 percent of the homeowners in Washington State and most of the country have earthquake insurance. Even in the bay area of California where earthquake awareness is quite high, only 25 percent of the homeowners have quake insurance. Uninsured homeowners could lose a lifetime's worth of equity in just a few seconds of shaking.

The compromise bill we are introducing features an emphasis on saving lives and property with a new earthquake hazard reduction program. An independent mitigation committee of outside experts assisted in developing the State-oriented loss mitigation program incorporated in the bill. The mitigation program uses a combination of incentives and phase-in requirements to ensure that earthquake-prone States and local communities adopt and enforce cost-effective measures to reduce the damage from future earthquakes.

In addition, Federal disaster assistance is often required to compensate for property damaged or destoryed in an earthquake. The prefunded insurance program established in the bill by collecting premiums from homeowners and the insurance industry will help reduce the demand for Federal disaster assistance.

Finally, I wanted to say how particularly pleased I am that GEORGE BROWN has agreed to be an original cosponsor. It would be difficult to envision a more knowledgeable and respected cosponsor of this legislation than Congressman BROWN. In the Congress, he is rightly recognized as "Mr. Earthquake" because every piece of major earthquake legislation has benefited from his active involvement. I look forward to working with Congressman BROWN and the rest of my colleagues in bringing about an earthquake loss reduction and insurance program which will save lives and reduce the property losses for all Americans.

A TRIBUTE TO THE NATIONAL ASSOCIATION OF CUBAN-AMERICAN WOMEN

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, the National Association of Cuban-American Women [NACAW] was established in 1977 to provide direct services to Cuban American and other Hispanic women. Founded by Dr. Ana Maria Perera, NACAW's philosophy is that Hispanic women in the United States can achieve their absolute potential by joining forces and taking advantage of available resources.

On May 20, 1991 the National Association of Cuban-American Women [NACAW] hosted its eighth annual dinner honoring five women whose lifetime accomplishments have contributed to the advancement of Hispanics in the United States. This year, NACAW recognized Dr. Antonia Novello, Surgeon General of the United States; Sara Barcelo Castany, editor in chief of Vanidades and Harper's Bazaar in Spanish; Rita Esquivel, Director of the Office of Bilingual Education and Minority Languages Affairs at the Department of Education; Judith Gascue Mouton, director of international finance, planning and control at Marriott Corp.; and Iris Martinez Arroyo, director of bilingual educaiton programs in the State of New Jersey. The key note speaker was Michael G. Kozak, Deputy Assistant Secretary of State for Inter-American Affairs.

NACAW strives to increase awareness among its constituents of numerous opportunities provided by local, State and Federal agencies and by private sector. NACAW's extends its membership to Hispanic women all over the United States.

I am pleased to recognize the national board of trustees of NACAW, Dr. Graciela Fernandez del Cueto Beecher, president; Siomara Sanchez, vice president; Milta Borrego, secretary; and Esther Guzman, treasurer. I would also like to recognize the metropolitan area chapter of NACAW: Josefina A. Lago, president; Julieta N. Valls, vice president; Julieta Noyes, secretary; and Sarah Dan, treasurer. I congratulate the five recipients of this prestigious award and commend the National Association of Cuban American Women, and especially its founder, Dr. Ana Maria Perera and its current national president, Dr. Graciela F. Beecher, director of the educational and job opportunities center, in NACAW's national office, Fort Wayne, IN, for their tremendous work.

DEAN LESHER—NEWSPAPER GIANT AND COMMUNITY SUPPORTER

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. MILLER of California. Mr. Speaker, for over 50 years, Dean Lesher has been publishing newspapers in California. He has developed a veritable news empire, publishing five dailies and five weeklies in my county, Contra Costa, as well as 15 other publications throughout northern California. He still publishes his first California paper, the Merced Sun-Star in Merced County, which he bought in 1941.

Mr. Lesher's success as a publisher, however, is only rivaled by his contributions to the development of one of California's fastest growing counties. He is clearly one of the most generous members of our community, supporting a wide range of causes and lending his voice to the critical issues of the day.

While it would be impossible to list all of his invaluable contributions, several in particular stand out. Mr. Lesher is a major supporter of the regional center for the arts in Walnut Creek. He helped open the Battered Women's Alternatives transitional housing shelter in Concord. He supported the expansion of Oakland's Children's Hospital, and he has contributed to the restoration of Yosemite National Park. Every year, Mr. Lesher contributes tens of thousands of dollars for scholarships to graduates of community colleges so they can continue their higher education.

On his 50th anniversary of newspaper publishing in California, I salute Dean Lesher for his success and his many valued contributions to Contra Costa County. I would like to share with my colleagues Mr. Lesher's account of his early publishing days and the events that led him to become a major supporter of our community.

[The article follows:]

LOOKING BACK ON A HALF CENTURY OF NEWSPAPER PUBLISHING

(By Dean Lesher)

I have now completed 50 years in the newspaper publishing business in California. My first publication in the state was the daily Merced Sun-Star, a paper we still own.

When I was graduated from Harvard Law School, I intended to practice law for the rest of my life. I got into the newspaper business through a peculiar set of circumstances.

A very dear friend of mine, a lawyer who was 25 years older than I, developed an ulcerated colon, spent 18 months in the hospital, lost his practice, never regained it and died of a broken heart. That made a tremendous impression on me. It led to a decision to get into some business that would support my family in the event my health failed.

The business that I had become somewhat familiar with was the newspaper business. I had provided legal representation for several papers. I also represented the only newspaper broker between Chicago and the Pacific Coast, and prepared a number of contracts for the purchase and sale of daily and weekly newspapers.

Since I was enjoying the practice of law in Kansas City, Mo., I decided to buy a daily newspaper in nearby Nebraska. The problem was that 11 months after this purchase, the preliminary census showed the area in question had lost a substantial amount of population during the last 10 years. It was quite obvious that owning a newspaper there was a mistake. So I sold it and began to look around for a better growth area in which to own a publication.

BEGINNINGS IN CALIFORNIA

I came to California and found six publications in this state available for purchase. I was thoroughly confused. I finally went to my friend John Martin, who handled all of the national advertising for Montgomery Ward. I met him in Chicago and presented my problem, giving the names and details of the publications in six areas of California.

The second area I mentioned was Merced, and he immediately said, "Stop right there. That's the place I would go. Let me tell you about Merced and our store there." After listening to his sales pitch on Merced, I gave him the other four locations. He still stayed with his conclusion that the Merced Sun-Star was the paper to buy.

I had a cashier's check and a proposed contract with the seller's name left blank. I filled both out on a portable typewriter in Chicago and mailed it to Arthur Stypes, a newspaper broker in San Francisco.

The net result was that in March 1941, we purchased the daily Merced Sun-Star. We still own the Sun-Star, and all of the daily papers in Merced and Madera counties in the San Joaquin Valley.

There were two distinct turning points in my newspaper career. The first of them arrived in 1942, shortly after Pearl Harbor. This one was created by the allocation of newsprint based upon the purchases of newsprint the publication had made during the prior three years.

The Sun-Star circulation was only 3,100, and we had increased it to more than 5,000 within a year. The net result was that our allocation of newsprint gave us only 40 percent of what we needed to satisfy our increased circulation.

The newsprint allocated to us cost us $36 a ton but was only 40 percent of the newsprint we needed. The remaining 60 percent cost us $200 a ton on the black market. It was quite obvious that before long, I would run out of money.

A CALL TO THE BANKER

I did run out of money in six months and called on my banker. I explained that I had run out of money and couldn't go on. His reply was that I had kept him advised as to what was happening, and he wanted 30 minutes to think it over.

When I returned in 30 minutes, he handed me a sealed envelope, telling me not to open it until I went home. I drove the 14 blocks to my home outside the city limits with a fear that he had turned me down or he would have shown me the letter immediately.

When I arrived home, a cashier's check for $15,000 dropped out of the envelope, together with a letter that I will never forget as long as I live. The opening sentence said, "When you asked for $10,000, I knew you could use more, so here is a check for $15,000. You are too valuable a person for the community to lose, and we have decided to keep you in business regardless of the cost."

VOW TO REPAY FAVOR

At that point, I stopped reading and broke down in tears. The banker knew that I would do this, and he did not want me to do so in his bank. I vowed then to do something nice year every year for various people in order to repay this great favor.

We give 45 scholarships a year with a minimum amount of $1,000 per scholarship to graduates of community colleges, an area where there are few scholarships available. This is done to pass along to others some of the help that I was given at this crucial period of my life.

The second turning point was in 1966, shortly after we had gone daily with the Contra Costa Times in Walnut Creek. At that time, the Times operated on what is known as voluntary pay. We delivered to every household within a certain geographical area. And those who wished to do so paid for it. They received the paper whether they paid or not.

This was the first and only time that a voluntary pay newspaper went from a weekly to a daily successfully. We were thus a threat to all regularly paid circulation newspapers by offering a way in which competition could start in each one of their areas.

With this background, I went to the Associated Press for a franchise, appearing before the directors at an annual meeting in New York City. For the first 15 or 20 minutes, they gave me a bad time, questioning me about this unpaid circulation situation.

BIBLE LESSON

I recall distinctly asking the chairman of the meeting if I could make a statement. He immediately answered in a gruff tone saying, "Yes, if you think it will help you."

I then told the group that while I was not too familiar with the Bible, I understood that the whole philosophy of the Bible and the doctrine it preached was that if a sinner came to you, confessed his sins, told you he wanted to go straight and asked for your help in going straight, it was your duty as a Christian to help him to go straight.

I said, "I have come before you. I have confessed my sin of delivering a paper without fully paid circulation. I have told you I wanted to go straight and covert to fully paid circulation. I have asked for your help by granting me an Associated Press franchise." I then proceeded to say that to this moment I have not seen any evidence of Christianity in this room.

As the chairman told me later on, there was a shocked, thunderous silence that followed that statement. Then suddenly, an elderly, white-haired member of the board said, "Son, you sound just like a trial lawyer." I answered by saying, "Yes, sir, that's what I was for nine years."

The room broke out in loud laughter, and the suspense was ended. I knew then that we had won.

GAMBLE PAID OFF

The secretary of the Associated Press took me out of the room and asked me to stay around until the next morning so I could sign a contract for the franchise. He said it was obvious the board would vote in favor of granting it.

He then said, "You took a hell of a chance in what you said a few minutes ago." I answered by saying. "Yes, I was aware of what I was doing. The only difference between the way in which it turned out and the way it could have turned out was that I was able to walk out of the room rather than being thrown out."

These two critical events in my career as a newspaper publisher—the one in the spring of 1942 and the other in 1966—represented two very distinct turning points in my career. In each instance, my career would have been very short had I not won what I was seeking.

I have never forgotten that it is my duty each year to do something particularly good for the community in which I live and for the people who live in that community in order to repay this tremendous debt of gratitude that I owe others for the help I received throughout my career.

My personal creed is: I hope that the community is a better place in which to live because I passed through here. And I supplement this by saying that I hope there are a lot of people who will truthfully say, upon my demise, that the community is a better place in which to live, to rear a family and to do business because I lived here and was in business here for so very long.

I can never repay this community for the good things it has given me and my family during my lifetime. My aim, however, is to try to repay in the only manner in which I know how. And that is by contributing to the worthy programs of the community that make it a better place in which to live, to rear a family and to do business.

VFW POST 1739

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. COSTELLO. Mr. Speaker, I rise today to recognize an important organization in the 21st District of Illinois. VFW Post 1739 in Belleville and their ladies auxiliary division have been active in southwestern Illinois and have been singled out for a commendation.

Recently this VFW Post won an award at their convention held in Rosemont, IL. They were honored for their efforts to recognize past and present prisoners of war.

Recently, the Ladies Auxiliary of the VFW Post held a special event which further showed their dedication to commemorate prisoners of war and helped them to win the award. They held a candlelight ceremony to pay tribute to POW's which was open to the public in an effort to include the community in VFW activities.

In addition to their POW activities, the Ladies Auxiliary of VFW Post 1739 gives out American flags to schools and other organizations when they are in need of a replacement. I ask my colleagues to join me today in recognizing the important efforts of VFW Post 1739.

WALLY STABBERT: A SMALL BUSINESS CHAMPION

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. IRELAND. Mr. Speaker, over the course of my career, I have enjoyed knowing and working with many fine small business owners who personify the entrepreneurial spirit in America.

Today, I am pleased to share with our colleagues a short story about one small business leader, Mr. Wally Stabbert.

Mr. Speaker, having been a small businessman myself, having been through the victories and trials; the tribulations and successes, I know that a small enterprise is a complex, changing beast.

Wally has learned that lesson well, indeed, for he has led many such endeavors to success during his long and distinguished career.

But our colleagues would be interested in another, truly commendable enterprise Wally has undertaken with his typical energy, honesty, and perserverance. Not only did Wally learn his lessons, but he had the courage and dedication to pass his well-won wisdom along to others.

Too often, we in the public sector, and others in the private sector, direct our programs, investments, and energies into getting people into business—which is all well and good.

To do this exclusively, however, neglects two other, equal parts of the small business triangle: Offering management assistance to small businesses and offering sound counsel on when to expand or sell an enterprise.

In 1978, Wally Stabbert took over as president of the Institute of Certified Business Counselors, a unique organization dedicated to ensuring that a large pool of ethical, knowledgeable, savvy counselors—certified business counselors—are there to help our Nation's 2 million small businesses.

In that capacity, Wally has given back to small businesses and to his country something that is hard to place a clear value on, but even harder to succeed without—knowledge of how small enterprises work, day-in, day-out; year-in; year-out in the real world.

Starting a small business is no easy feat, but keeping them in business requires every advantage imaginable. Wally has given countless enterprises across the country the advantage of his insight, knowledge and experience, and he has trained others so that they, too, could offer the same, honest, invaluable help to entrepreneurs across the country.

Mr. Speaker, Wally Stabbert, like all small business owners, is a man of action, not words, and his willingness to stand up for small business has paid handsome dividends to our country.

So I will remind our colleagues, again, that it's easy to say you're for small business. It's how you vote that really counts.

PRACTICAL STEPS TO A NEW WORLD ORDER

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. BEREUTER. Mr. Speaker, the following editorial from the New York Times, "Get the Right Grip on Foreign Aid" speaks of the incredible opportunities within the grasp of the world community for human development in this last decade of the century—eliminating serious malnutrition and providing universal primary education, primary health care, voluntary family planning, and safe water for everyone in the world. What a monumental achievement for the human race, and one which can be achieved in conjunction with reducing militarization in the Third World and improving the prospects for peace. Shifting the United States' own foreign aid priorities and policies is one important part of what it will take to build this attainable new world order. Let's continue to keep the costs of inaction—hunger and conflict—in mind as we choose whether to increase support for investment in the children of today and the adults of tomorrow through foreign assistance policies that give priority to human development for the poorest.

[From the New York Times, June 5, 1991]

GET THE RIGHT GRIP ON FOREIGN AID

Can there be a stable and just new world order in the wake of the cold war? Not unless social conditions and economic prospects improve markedly in the third world, where most of the planet's people live. That will take money, but not in unthinkable amounts. What is needed is a sharp shift in priorities, among donor and recipient countries alike.

Major givers like Japan, Germany and the World Bank press for sensible changes. But there's little sign of that spirit in Washington, where Congress is now considering the new foreign aid budget. It and the Bush Administration act oblivious to the momentous changes that have swept the world.

People everywhere now recognize private investment as the main engine of development. Policies that merely clear away bureaucratic obstacles to enterprise can accomplish miracles, especially if accompanied by modest investments in health, education and infrastructure.

In an impressively researched new report, the United Nations Development Program estimates that it would take only about $20 billion a year to eliminate serious malnutrition and provide universal primary education, primary health care, family planning and safe water by the year 2000.

About $50 billion could be found within third world countries themselves, mainly by reducing excessive military spending. The developed world, meanwhile, could match that contribution simply by living up to its promises.

If each donor met the internationally endorsed target of 0.7 percent of gross national product, development aid would rise by $50 billion a year. Industrial countries now contribute an average of 0.32 percent of G.N.P.; the U.S. contributes only 0.15 percent, or $7.5 billion

But even if outsiders greatly increase their assistance, it will be wasted if beneficiary countries keep spending excessively on arms. In recent years, Iraq has spent more than seven times as much on its military as on education and health combined. Pakistan spends three times as much on arms as on education and health. Syria has three times as many soldiers as teachers. By welcome contrast, Ghana spends five times as much on education and health as on its military.

Military spending is a politically sensitive issue anywhere. Former colonies see their militaries as emblems and defenders of sovereignty. And in many poor nations, the army is a pillar of politics. Yet sovereignty and stability would both be better served if arms money could be reclaimed.

Some leading donors have now proposed linking development aid to curbs on military spending. Germany would condition aid on the basis. Japan speaks of withholding aid from countries that spend too much on arms. The Development Committee, which advises the World Bank, and the U.N. Development Program also propose linkage.

Meanwhile, Washington still favors security spending for a handful of allies. There's far more interest in preserving sacred arms ratios between Israel and Egypt and between Greece and Turkey than in addressing the needs of the billion-plus poor people of the third world. A new world cannot be built by playing old politics with foreign aid.

A CONGRESSIONAL TRIBUTE TO HAROLD GARVIN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. ANDERSON. Mr. Speaker, today I rise to pay tribute to a man who has served his community with great distinction. It is my great pleasure to take this opportunity to acknowledge the outstanding achievements of my good friend, Mr. Harold "Hal" Garvin.

Born in Salt Lake City, UT, Hal later moved to southern California, where he attended Gardena High School. He enrolled in Compton College in 1942, but left to enter into the service of his country as a member of the U.S. Air Force. A decorated World War II veteran, Hal flew 50 bombing missions over the European theater. After the war, he continued his education, earning his bachelor of arts degree in political science from Occidental College in 1947.

Hal then began his distinguished teaching career that would include stints at Dana Junior High School, San Pedro High School, and Los Angeles City College. In 1962, he began what would become a 17-year stay as an instructor at the Los Angeles Harbor College. It was during this period, from 1969 to 1971 to be exact, that Hal also worked as an administrative aide for a young, second-term Congressman by the name of GLENN ANDERSON. Much has changed in the last 20 years, but our warm, personal friendship continues to endure.

In 1979, Hal was elected to the board of trustees of the Los Angeles Community College District. He has continued on the board in outstanding fashion, having been re-elected in 1983 and 1987, serving as vice-president from 1985 to 1986, and president from 1987 to 1989. In addition to these duties, Hal has been very active in civic and charitable affairs, including being a member of Common Cause, the Harbor Area Human Relations Council, and the United Nations Association, as well as a fund raiser for the YMCA and the San Pedro Community Hospital. His devotion to his family, and his tireless efforts to enrich the lives of everyone he touches make Hal Garvin a leader and role model within his community. In recognition of his efforts, Hal has been named as the recipient of the 1990–91 Amicus Collegii award, which every year acknowledges an outstanding community leader. I can think of no one more deserving of this honor.

It is with sadness that Hal's 43-year relationship with the Log Angeles Community College District comes to an end. On Friday, June 28, friends and colleagues will be attending a dinner to pay tribute to Hal's many achievements. It is with great pride that I lend my voice as well.

Mr. Speaker, my wife Lee joins me in extending this congressional salute to Hal Garvin. We wish only the best for him, his wife Frances Rhoades, and their three children.

HAPPY ANNIVERSARY, RICHARD AND BEVERLY WILLIAMS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. LAGOMARSINO. Mr. Speaker, Sunday, June 30, 1991, marks the 40th wedding anniversary of two of my constituents from Santa Barbara, Richard and Beverly Williams. Their son, who now works in the Congress and resides in northern Virginia, has written a short congratulatory message on behalf of his wife Brent and his sister Laura and her family. At his request, I insert the message in the CONGRESSIONAL RECORD:

THE 40TH ANNIVERSARY OF RICHARD AND BEVERLY WILLIAMS

Richard and Beverly Williams deserve the title, World's Greatest Parents. They provided a loving, caring, nurturing and supportive environment for my emotional, spiritual and physical development and that of my sister. I wish to take this opportunity, on behalf of my wonderful wife Brent and my sister Laura and her family, to thank them from the bottom of my heart for all their love, attention and support.

It is so easy for parents in today's environment to get caught up in their own needs, to put their personal desires ahead of those of their young children. After all, to some, children only stand in the way of grand personal accomplishments of wealth, fame and notoriety. From this perspective, children are a hindrance rather than a joy, a burden rather than a reward, a nuisance and bother rather than a blessed miracle.

My parents took the exact opposite approach. They provided the most loving, supportive and comforting environment in which their children could grow and learn, and try and fail and try again—all the while encouraging them on to greater heights.

They viewed it as their responsibility as parents to be understanding and generous, no matter what the circumstances. They knew that "providing for" didn't mean simply giving gifts, since respect and admiration and love can never be bought. To them, it meant giving of oneself, being willing to love no matter what, weathering the stormy times as well as the good. They knew that "providing for" also meant knowing when to step in with a firm hand and just enough discipline to make you think about the implications of your actions.

My parents put their children's happiness and well-being ahead of their own. They are truly the most selfless and giving people I know. Everything they did was for their chilren.

And we, and our spouses and children, are better for it.

When I think of all the people I could model my life after, the choice is easy: it's my father. He was (and is) always there for me. He supported me every step of the way. If I am half as good a father to my children as he was to my sister and me, I'll consider myself a success.

And my mother, who has nourished me in body and soul over the years. She set the highest of standards—for myself, as well as for the woman I would eventually call my wife. I feel I am the luckiest man alive to have not only the world's greatest mother, but the world's greatest wife. It's not surprising that they are so much alike and get along so well.

Forty years ago this Sunday, two kind, loving and generous people chose to set sail on a journey together—a journey that proved difficult at times, but always interesting. In a sense, I feel I was a part of that blissful day. For I have come to know well the love and respect they have for each other.

And they certainly should know the love and admiration and respect that we feel for them on this, their special day. They are heroes in my eyes. They willingly accepted the hardest job in the world—parenting—and passed with flying colors.

On behalf of all of those whose lives you have so profoundly touched, I say thank you. Thank you for your love, your warmth, your generosity, your stamina, your support, your encouragement, your wisdom and your sacrifices, and your guiding hand along the road of life. You're the greatest, M&D. We love you. Happy happy fortieth anniversary.

INTRODUCTION OF THE HIGHER EDUCATION INDIAN STUDENT LOAN PROGRAM—THE CRITICAL NEEDS FOR TRIBAL DEVELOPMENT ACT OF 1991

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. RICHARDSON. Mr. Speaker, today I am introducing legislation which would assist both Indian tribes and Indian students. We are fast approaching the 21st century and in order to remain competitive, the education of America's children must be a top priority. Unfortunately, there is a large segment of our Nation's children that are often left out—our country's native Americans. Because most Indian families live below the poverty line they experience a low level of education, poor access to health care, high unemployment, and economic hardship. If this population is to rise above these conditions, I believe it is important for their children to continue their education.

Currently, there are only 14,382 Indian students nationwide continuing their education. Sadly, this represents only a small percentage of those that could attend a postsecondary institution if they had adequate financial assistance and guidance. I recently introduced legislation to provide tribes with additional financial resources for young Indian students. The legislation I am introducing today will address the just as important issue of recruiting more native Americans into postsecondary institutions. It will also encourage tribal members who complete a postsecondary education to return to the reservation so that tribes can benefit from their education and expertise, and provide role models for other Indian children.

My legislation would work hand-in-hand with the existing Indian higher education grants program which provides financial assistance to Indian students. It would offer tribes the opportunity to identify certain professions or areas of study as "critical needs." An Indian student preparing to attend college could examine the various areas of critical needs, select a listed course of study and qualify for financial assistance so long as the student agrees to work on the reservation after graduation.

In other words, if an Indian tribe is in need of nurses, financial assistance could be offered to students to pursue a nursing degree so that they can return to their tribe with these needed skills. The Indian student with nursing skills could work at the Federal, State, or local levels in hospitals, clinics, schools, or other facilities which provide services to the tribe.

Mr. Speaker, my legislation would benefit both Indian students and Indian tribes—Indian students who might not otherwise be able to afford college would receive an education and Indian tribes who are seeking workers in critical areas will receive a needed work force. I urge my colleagues to support this important legislation.

JANE APPLEGATE: A SMALL BUSINESS CHAMPION

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. IRELAND. Mr. Speaker, I think all of our colleagues know how challenging it can be, at times, to persuade all 435 Members of Congress to focus on a single topic when we face a stampede of issues daily.

To draw the attention of the entire Nation, then, to a weekly newspaper column on small business issues, of all topics, must be a truly daunting task.

It seems to me that to succeed in such an intimidating enterprise, a reporter would have to command a staggering mix of strengths and talents: A keen and penetrating knowledge of the entrepreneurial process and the issues that affect it; a balance of savvy and sympathy that leads to stories that engage the mind; and a reportorial style that captures the imagination of the audience.

These strike me as but a few of the talents that an accomplished reporter and writer must have, and Ms. Jane Applegate possesses them all—and more—in startling abundance.

Jane Applegate, as all of you know, is an award-winning financial reporter for the Los Angeles Times who writes the nationally syndicated small business column that appears in the Washington Post business section every Monday.

Jane joined the L.A. Times business staff in 1983. In 1988, she launched her weekly column, "Succeeding in Small Business," and just 2 years later, her weekly reports on small business jumped into syndication. Today, Jane's column appears in newspapers from coast-to-coast; border-to-border.

As if her success in bringing small business reporting to readers across America were not accomplishment enough, Jane's first book will be published next year.

Mr. Speaker, about 2 months ago, I had the pleasure of sitting next to Jane at a Commerce Department meeting. I found in her conversation the same characteristics that make reading her column so rewarding each week: A sincere and infectious interest in small business; a commendable store of captivating facts and insights; and a true delight in the stories she discovers in our Nation's small business community.

I bring Ms. Applegate to the attention of our colleagues, Mr. Speaker, as an example of what can be done when someone holds a genuine interest in and passion for our Nation's small business community.

It seems to me that if this kind of enthusiasm can move a whole nation of readers to follow small business issues, then we in the House should muster a bit of that same excitement—and see what happens when all 435 of us focus on the problems and promises of our country's entrepreneurs.

And, Mr. Speaker, when that golden day arrives, I hope we will all apply a simple principle: It's easy to say you are for small business, but it is how you vote that really counts.

RED ARMY LEAVES HUNGARY

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. COX of California. Mr. Speaker, last Wednesday, June 19, the last Red army troops left Hungarian soil, ending almost 45 years of Soviet occupation and domination. For four long decades, Hungary has suffered under Soviet communism. On Sunday, June 30, the Hungarian people will officially celebrate the withdrawal of the Soviet occupying force and the return of full Hungarian sovereignty, and I think it is only fitting for the United States to help them celebrate.

To this end, today I shall introduce a House joint resolution—cosponsored by over 20 of my colleagues—which will officially do away with Hungary's classification as a Communist state. Unfortunately, Hungary is still labeled as a Communist state in several of our laws, and is thus denied important economic and political benefits to which other nations friendly to the United States are entitled. It is now time for America to recognize formally Hungary's transformation from a Communist, one-party, nonmarket state to a representative democracy well on its way to establishing a market economy.

By officially affirming that Hungary is successfully making a genuine and peaceful transition from Communist dictatorship to a Western market democracy, we will facilitate a speedy recovery from decades of Soviet occupation. I urge you to join me in sponsoring this legislation.

H.J. RES. —

Whereas Hungary—during its history of more than a thousand years—has enriched Western culture;

Whereas Hungary has displayed courage in preserving its integrity and defending its independence from foreign powers, including Nazi occupying forces;

Whereas the Soviet Union, contrary to its international obligations, occupied Hungarian territory in 1947, annihilated Hungarian sovereignty and arrested Hungary's attempts to rejoin the free world;

Whereas the Hungarian Communist Party seized power and created a one-party dictatorship by force in 1947-48—with active Soviet intervention—by falsifying election results, and by presecuting and interning leading figures of democratic parties;

Whereas the Communist Party subverted Hungarian freedom through the use of fear and terror, the introduction of unprecedented measures of oppression, the taking of private property, and the denial of human rights—thus creating a Leninist-Stalinist dictatorship;

Whereas on October 23, 1956, the people of Hungary rose against this socialist dictatorship and illegal Soviet rule;

Whereas the revolution for freedom and independence was crushed by Soviet tanks in November 1956;

Whereas the military retaliation of the Soviet army and the collaborationist Kadar government murdered thousands of people, and caused 200,000 Hungarians to become refugees;

Whereas since 1968, economic reforms in Hungary have steadily opened greater freedom for private enterprise; and

Whereas the beginning of the 1970s brought the rebirth of the Hungarian democratic opposition;

Whereas mass demonstrations on March 15 and June 16, 1989, jointly organized by different opposition groups, have clearly illustrated the solidarity of the Hungarian people against socialist rule;

Whereas the joint efforts of the different democratic opposition groups have forced the Hungarian Communist Party to end its monopoly of power and to inaugurate Round Table discussions, which led to a peaceful transition to democracy and the dismantling of one-party rule in 1989;

Whereas at the Round Table discussions, the Communist Party agreed to hold free parliamentary elections, to disband its armed militia, and to amend the Constitution to provide for a pluralist democracy;

Whereas the overwhelming opposition of democratic forces has effectively ended the Communist Party's attempts to perpetuate its hold on power, and has succeeded in eliminating socialist hegemony;

Whereas on March 25 and April 8, 1990, free and fair parliamentary elections were held in Hungary, creating an authentically representative democracy;

Whereas at the elections the opposition achieved a victory of over 90%, while the successor of the former Communist party did not even reach the margin necessary to obtain representation in the Parliament, becoming instead an insignificant and peripheral political factor;

Whereas by tearing down the Iron Curtain and by opening its boundaries to East German fugitives, Hungary has promoted the cause of freedom in other Eastern European countries;

Whereas Hungary reestablished diplomatic relations with the State of Israel and is assisting Soviet Jews emigrate to Israel;

Whereas the new Hungarian government has freed all political prisoners, and rehabilitated both the living and the dead victims of socialist injustice and repression;

Whereas the Council of Europe has already accepted the Republic of Hungary in its midst as a genuinely democratic country;

Whereas the new Hungarian government is fully committed to the ideals of the free market, is in the process of reprivatizing institutions of the free world; and

Whereas Hungary, in seeking to regain its sovereignity, has agreed with the Soviet Union on the withdrawal of Soviet troops from Hungarian territory, and has begun its withdrawal from the Warsaw pact: Now, therefore, be it

Resolved That it is the sense of the United States Congress to recognize—

(1) that the Republic of Hungary has made the genuine and peaceful transition from an oppressive, authoritarian, one-party socialist dictatorship to Western democracy;

(2) that all political parties in the new, freely-elected Hungarian parliament are fully dedicated to the principles of human rights and free markets, and the government of the Republic of Hungary fully desires to integrate the country into the free world of nations;

(3) that the Republic of Hungary has renounced the hostile and confrontational military posture of the now-defunct Warsaw Pact; and

(4) that, based upon these findings, the United States Congress declares that upon the final withdrawal of Soviet troops from Hungarian territory, scheduled for June 1991, Hungary will have regained its freedom from outside domination and Soviet influence, and shall no longer be considered a socialist, one-party, non-market state, but a representative democracy.

HONORING CAPT. DEAN E. SLOAN

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. SWIFT. Mr. Speaker, I rise to pay tribute to one of my constituents, Capt. Dean E. Sloan, who retires today from the U.S. Navy after 30 years of dedicated service. Captain Sloan is the embodiment of an American naval officer, faithfully serving his country both in times of conflict and in peace.

Captain Sloan began his naval career in 1961. Upon completing naval aviation school in Pensacola, FL, he was assigned to the VAW–13 squadron as an electronic countermeasures officer in the EA–1F aircraft and served a tour of duty in Vietnam.

In 1965, Captain Sloan left the cockpit and entered the classroom as a naval ROTC instructor at the University of Michigan. Following this tour, he served from 1968 through 1970 as the electronic warfare officer with Commander Carrier Division Four in Virginia Beach, VA. During this time he completed deployments aboard the USS *Independence* and the USS *Forrestal.* In 1970, he reported to the Fleet Anti-Air Warfare Training Center in Dam Neck, VA, as the training evaluation and analysis officer.

In 1972, Captain Sloan was assignd to the Tactical Electronic Warfare Squadron VAQ–129 at NAS Whidbey Island, WA. While at Whidbey, he served as maintenance and operations officer with VAQ–131, deployed aboard the USS *Constellation,* and as the electronic warfare training officer for the Commander Medium Attack Tactical Electronic Warfare Wing Pacific. In 1977, while still assiged at NAS Whidbey, Captain Sloan become the executive officer of the VAQ–136 squadron and later assumed the role of commanding officer of the VAQ–136 Gauntlets.

Captain Sloan continued his career in the Office of the Chief of Naval Operations as the electronic warfare projects officer. In 1982, Captain Sloan was chosen to attend the National War College and further developed his expertise in antiwarfare. Captain Sloan was then assigned to the Joint Chiefs of Staff where he served until 1986. Following this tour of duty, he reentered the classroom as the commanding officer of the naval NROTC unit at the University of Mississippi. Many of the young men and women who were members of this unit went on to serve in Operation Desert Storm. Captain Sloan is completing his career as the Assistant Chief of Staff for Recruit, Specified, Reserve and International Training at NAS Millington, TN.

Captain Sloan exemplifies the qualities we find most admirable in a member of our military forces—allegiance, high ideals, honor, compassion and a sense of duty. In addition, he is also a dedicated husband and father. In commending Captain Sloan for his years of service, I must also express my appreciation to his wife, Jeanne, who like thousands of military wives, rise to the challenge of military life with great aplomb. Theirs is truly a remarkable partnership.

I ask my colleagues in the House of Representatives to join me in congratulating Capt. Dean E. Sloan for his many years of dedicated service to his country. On this occasion it seems fitting to use the words of John F. Kennedy who said "Any man who may be asked what he did to make his life worthwhile can respond with a good deal of pride and satisfaction—I served in the United States Navy."

A TRIBUTE TO BERNICE GOLD

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, it is my pleasure to bring Ms. Bernice Gold to the attention of the House of Representatives and the American public. Ms. Gold is a teacher at Leroy D. Feinberg Elementary in South Beach, and a truly inspiring individual who encourages her class to learn and have fun at the same time. She teaches her kids to fulfill their potentials and brings us hope for the future of our youth. In a recent issue of the Miami Herald, staff writer Aaron S. Rubin describes Ms. Gold's talent. The article follows:

Bernice Gold still gets as excited as her second-grade class at Leroy D. Feinberg Elementary in South Beach. After more than 30 years of teaching at the same school, each year brings something new.

"I couldn't do the same thing every year," said Gold, who lives in Miami Beach. "Each year is different. Each group is different. I'm different every year."

But elements of Gold's teaching have remained constant, even as Miami Beach has changed around her. Colleagues and students praise the soft-spoken teacher for her ability to stimulate her class to learn and achieve while having fun.

"She goes beyond the call of duty as a classroom teacher to provide all kinds of experiences for her children," said Rosa White, assistant principal. "She really brings out the best. It just surfaces."

Principal Menia Stone agreed.

"She's just plain magic," Stone said. "You can really see the gleam in her children's

> eyes. They all want to be just what Mrs. Gold wants them to be."
>
> This year, the class proudly proclaims they have become Biospherians—after the Biosphere, a project in the western United States to reproduce a pure Earth environment. Gold's classroom is decorated with projects, completely researched and created by students, that represent different earth habitats: a rain forest, a desert, even a working miniature volcano.
>
> The class is also studying Miami Beach's Art Deco history and corresponding with children in Australia.
>
> "This is where they learn to become a citizen—an interested, involved citizen—of the community, the country, the globe," Gold said.
>
> The class has researched Antarctica and is investigating plans to change the environment on Mars.
>
> "You have to be able to read and do math to function well in your community," Gold said. "Along the way, we learn."
>
> The numerous projects in Gold's room—a self-described judge—help show students they can succeed, boosting their self-esteem. Gold's ideas stimulate further, independent research.
>
> "I have nothing to do with any of this," Gold said. "I throw out the idea, and they take it from there."
>
> Students say they appreciate Gold's approach.
>
> "She teaches us many things that we should learn in college and high school," said Alex Del Pino, 8. "People who come into the class say, 'This is not the work of second-grade kids. This is the work of high school.' It makes us feel proud of ourselves that we're learning such things."
>
> Stone, the principal, said Gold encourages the class to work together, not against each other.
>
> "It's such a perfect, loving environment," Stone said. "They're all so actively involved. She doesn't raise her voice, she doesn't chastise the kids, yet it would kill them if they thought she was displeased with them."
>
> The children respond to her style, Gold said. A gentle touch goes further than loud words or an intimidating presence.
>
> "If you're screaming, you have no way to get somebody's attention," she told her class Thursday afternoon. "But if you're quiet and your voice goes up a little bit, people notice."

Ms. Bernice Gold is a truly remarkable person who makes the lives of our children a little easier. As the mother of two little girls and a south Florida resident, I understand the value of her work.

A TRIBUTE TO DOROTHY EARP

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. COSTELLO. Mr. Speaker, I rise today to call attention to a shining example of a community servant. Dorothy Earp, of Belleville, IL, has been critical to southwestern Illinois in assisting the deployed troops of Desert Storm and their families.

Last October she started Desert Care to begin a program of sending care packages to the deployed troops. Then in February, she started Desert Homefront, a monetary fund which assists the families of troops who are still deployed. Despite her own husband, Air Force Sgt. Jonathon Earp, being sent to the gulf, she has dedicated her energy, ideas, and time to our armed services.

Because of her commitment, Dotti won the Full Time Employed Volunteer of the Year Award at Scott Air Force Base. In addition, Dotti finds time to work for the Illinois Vietnam Veterans Leadership Program helping to find employment for veterans in southwestern Illinois.

I ask my colleagues to join me today as I salute Dorothy Earp for her tremendous commitment to her community and her country.

ANTI-FORCED CHINESE LABOR ACT OF 1991

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. GILMAN. Mr. Speaker, I introduced two bills H.R. 2743, the Anti-Forced Labor Act of 1991, and H.R. 2744, legislation that gives companies and their unions the right to sue importers of forced labor goods for treble damages if they can prove injury. H.R. 2744 also requires importers to certify that PRC-origin goods are free of forced labor.

Mr. Speaker, Asia Watch recently stated in a report entitled, "Prison Labor in China," that it has hard evidence which links prison labor in China to Chinese exports to this country. The report states:

> The United States has long known that China used prison labor extensively in manufacturing and agriculture, yet there was no "smoking gun" to link prison labor to Chinese exports to this country. Now that smoking gun is available. The official Chinese documents attached demonstrate that the government of China is systematically exploiting the labor of prisoners to produce cheap products for export—and specifically targeting the United States, West Germany and Japan. The documents show conclusively that Chinese government officials * * * who have consistently denied that China exports prison-made goods, have been deliberately lying. It is time to apply the letter of U.S. law to China and prohibit the importation of prison-made products.

I am deeply concerned that by importing goods made in these camps our Nation is inadvertently playing a supportive role in their existence. Pro-democracy demonstrators who stood up and risked their lives for ideals we hold so dear, are forced to toil in unspeakable conditions with no pay in these camps. Asia Watch reports that what is happening there is basically slavery:

> Millions of those who have served out their sentences since 1945 remain in the Chinese gulag as a captive labor force as a result of the "forcible retention" policy.

The Asia Watch report goes on to state:

> Most chilling of all, other articles [Chinese government documents] * * * confirm that it is common practice in China for labor reform camp prisoners to be forcibly and indefinitely retained as workers after they have completed their sentences so that export-oriented productivity will not be diminished by their departure from the system. As one contributor to the confidential labor reform journal notes in the April 1989 issue (p.11): "Time-served prisoners retained for in-camp employment* * * cannot join labor unions, do not enjoy retirement benefits when they become old, and their wages and living standards are low.

However, let us give credit where credit is due and commend them for running efficient businesses where nothing goes wasted. As a front page article in the June 3, 1991 New York Times points out, kidney transplants are being offered at the Eastern China Military Region Main Hospital in Nanjing for the cut-rate fee of $12,800.

> Dr. M.K. Chan, a prominent Hong Kong renal specialist who is among the small number of doctors here who have referred patients to the mainland for the operations, said: "Almost all kidneys transplanted in China come from executed prisoners. That's the main source * * *.

For these and other reasons I introduced H.R. 2743 and H.R. 2744. I hope that these bills sever our ties to the concentration camps in China and I urge my colleagues to support them. Mr. Speaker I request that both H.R. 2743 and H.R. 2744 be printed in full at this point in the RECORD.

H.R. 2744

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION OF ARTICLES USING FORCED LABOR.

(a) IN GENERAL.—Notwithstanding any other provision of law, no product, growth, or manufactured article of the People's Republic of China shall enter or be imported into the United States unless—

(1) the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") determines that such product, growth, or manufactured article is not the product, growth, or manufacture of forced labor; and

(2) such determination is based on consultations described in subsection (b) and a certification submitted to the Secretary in accordance with subsection (c).

(b) RIGHT OF INSPECTION AND CONSULTATION.—The United States shall use all diplomatic efforts to persuade the People's Republic of China to permit representatives of international humanitarian and intergovernmental organizations, such as the International Labor Organization and the International Committee of the Red Cross, to periodically inspect all camps, prisons, and other facilities holding detainees and the Secretary shall consult with representatives of such organizations to assure that products of the People's Republic of China which are for export are not being produced with the use of forced labor.

(c) CERTIFICATION.—The Secretary shall prescribe the form and content of the certification (including documentation) for submission in connection with any product, growth, or manufactured article of the People's Republic of China that satisfies the Secretary that the importer has taken steps to ensure that such product was not produced, grown, or manufactured with the use of forced labor.

(d) PENALTIES.—

(1) UNLAWFUL ACTS.—It is unlawful to—

(A) bring or import into the United States any product or article if such importation is prohibited under subsection (a), or

(B) make a false certification under subsection (c).

(2) CIVIL PENALTIES.—Any person or entity who violates paragraph (1) shall be subject to a civil penalty of—

(A) not more than $10,000 for the first violation,

(B) not more than $100,000 for the second violation, and

(C) not more than $1,000,000 for more than two violations.

(3) CONSTRUCTION.—Except as provided in paragraph (2), the unlawful acts described in paragraph (1) shall be treated as violations of the customs laws for purposes of applying the enforcement provisions of the Tariff Act of 1930 (19 U.S.C. 1581 through 1641).

(e) DEFINITIONS.—For purposes of this section:

(1) FORCED LABOR.—The term "forced labor" means all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily.

(2) PRODUCT, GROWTH, OR MANUFACTURED ARTICLE.—A product, growth, or manufactured article shall be treated as being a product, growth, or manufacture of forced labor if—

(A) The article was fabricated, assembled, or processed, in whole or in part;

(B) contains any part that was fabricated, assembled, or processed in whole or in part; or

(C) was grown, harvested, mined, quarried, pumped, or extracted,

with the use of forced labor.

(3) ENTER OR BE IMPORTED.—The term "enter or be imported" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

H.R. 2743

Be it enacted in the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-Forced Labor Act of 1991".

SEC. 2. AMENDMENT TO TARIFF ACT OF 1930.

Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) is amended to read as follows:

"SEC. 307. PROHIBITION ON IMPORTATION OR TRANSPORTATION OF PROHIBITED PRODUCTS.

"(a) FINDINGS AND POLICY.—(1) The Congress finds that—

"(A) some states in the international community employ various forms of convict labor, forced labor, indentured labor, and involuntary labor;

"(B) these forms of labor are used for several purposes, including political coercion, education or punishment, economic development, labor discipline, or racial, social, national, or religious discrimination;

"(C) goods, wares, articles, and resources produced or extracted by these forms of labor are exported, directly or indirectly, to other states in the international community, including the United States;

"(D) the use of forced or compulsory labor constitutes disrespect for basic human rights and fundamental freedoms, as set forth in the Universal Declaration of Human Rights, the Charter of the United Nations, and other international covenants;

"(E) the Universal Declaration of Human Rights recognizes the 'right to work, to free choice of employment, to just and favorable conditions of work' and prohibits slavery and the slave trade 'in all their forms';

"(F) the United States, as a sovereign state in the international community, has pledged itself to protect and defend human rights within its territory and to protect and promote human rights, including the rights of individuals, to be free from forced labor and involuntary servitude, throughout the world; and

"(G) this commitment to human rights, generally, and to the termination of forced labor and involuntary servitude, specifically, is consistent with the basic principles on which the United States was founded, as embodied in such documents as the Declaration of Independence and the Bill of Rights, with the prohibition against slavery in the Thirteenth Amendment to the Constitution of the United States, and with the historical traditions of the United States as a humanitarian nation; and

"(H) the Senate demonstrated the commitment of the United States to the termination of forced labor and involuntary servitude on May 14, 1991, when the Senate gave its advice and consent to the ratification of the Convention Concerning the Abolition of Forced Labor (Convention No. 105), adopted by the International Labor Conference (40th session) at Geneva, Switzerland, on June 25, 1957.

(b) It is the policy of the United States to—

"(A) take measures, to the maximum extent practicable, to protect the rights of individuals to be free from forced labor and involuntary servitude;

"(B) enable the citizens of the United States to be free from unknowingly supporting or subsidizing the policies of states in the international community which employ forced labor and involuntary servitude; and

"(C) deny United States economic support, by consumer purchase, investment, lending, or otherwise, to states in the international community which use forced labor.

"(b) PROHIBITION ON IMPORTATION OR TRANSPORTATION OF PROHIBITED PRODUCTS.—(1)(A) Except as provided in paragraph (2), no prohibited products shall be entitled to entry at any of the ports of the United States, and the importation or the transportation in interstate commerce thereof is hereby prohibited.

"(B) The Secretary of the Treasury shall prescribe such regulations as may be necessary for the enforcement of this subsection.

"(2) The provisions of paragraph (1) shall not apply to items vital to national security.

"(3) No United States national or any person subject to the jurisdiction of the United States may invest in, or make loans to, a foreign joint venture involving the use of forced labor.

"(4) For purposes of this subsection—

"(A) the term 'forced labor' means all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily;

"(B) the term 'prohibited product' means any goods, wares, articles, merchandise, natural resources and services produced, mined, extracted, manufactured or provided wholly or in part in any foreign country by forced labor; and

"(C) the term 'United States national' means—

"(i) a natural person who is a citizen of the United States; and

"(ii) a corporation or other legal entity which is organized under the laws of the United States or of any State, the District of Columbia, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity.

"(c) PENALTIES.—(1) With respect to any violation of paragraph (1) or (3) of subsection (b), an order under this section shall require the person or entity to pay a civil penalty of—

"(A) $10,000 for one violation;

"(B) $100,000 in the case of a person or entity previously subject to one order under this section; or

"(C) $1,000,000 in the case of a person or entity previously subject to more than one order under this section.

"(2)(A) Before imposing an order described in paragraph (1) against a person or entity for a violation of paragraph (3) of subsection (b), the Secretary of the Treasury shall provide the person or entity with notice and, upon request made within a reasonable time (of not less than 30 days, as established by the Secretary of the Treasury) of the date of the notice, a hearing respecting the violation.

"(B) Any hearing so requested shall be conducted before an administrative law judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code. The hearing shall be held at the nearest practicable place to the place where the person or entity resides or of the place where the alleged violation occurred. If no hearing is so requested, the Secretary of the Treasury's imposition of the order shall constitute a final and unappealable order.

"(C) If the administrative law judge determines, upon the preponderance of the evidence received, that a person or entity named in the complaint has violated paragraph (1) or (3) of subsection (b), the administrative law judge shall state his findings of fact and issue and cause to be served on such person or entity an order described in paragraph (1).

"(3) The decision and order of an administrative law judge shall become the final agency decision and order of the Secretary of the Treasury unless, within 30 days, the Secretary of the Treasury modifies or vacates the decision and order, in which case the decision and order of the Secretary of the Treasury shall become a final order under this subsection. The Secretary of the Treasury may not delegate his authority under this paragraph.

"(4) A person or entity adversely affected by a final order respecting an assessment may, within 45 days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

"(5) If a person or entity fails to comply with a final order issued under this subsection against the person or entity, the Attorney General shall file a suit to seek compliance with the order in any appropriate circuit court of the United States. In any such suit, the validity and appropriateness of the final order shall not be subject to review.

"(d) ENFORCEMENT BY PRIVATE PERSONS.—(1) The prohibitions contained in section 403 may be enforced by civil actions in appropriate United States district courts without regard to the amount in controversy and in appropriate State or local courts of general jurisdiction. A civil action shall be commenced within 1 year after plaintiff obtains knowledge of the alleged violation of subsection (b)(1)(A) has occurred, or reasonably should have obtained knowledge, except that the court shall continue such civil base brought pursuant to this section from time to time before bringing it to trial if an administrative hearing pursuant to subsection (c)(2) has commenced and is being diligently conducted so as to reach an expeditious conclusion.

"(2)(A) Except as provided in paragraph (3)—

"(i) any person to whom any prohibited product has been offered for purchase or in reasonable likelihood will be offered for purchase, or

"(ii) any public interest group or human rights organization,

may commence a civil suit on behalf of that person, group, or organization—

"(I) to enjoin any person, including the United States and any other governmental instrumentality or agency (to the extent permitted by the 11th Amendment to the Constitution), who is alleged to be in violation of any provision of this title or regulation issued under the authority of this title;

"(II) to compel the Secretary of the Treasury to enforce, pursuant to paragraphs (1) and (3) of subsection (b), the penalties set forth in or authorized pursuant to subsection (c); or

"(III) against the Secretary of the Treasury where there is an alleged failure of the Secretary to perform any act or duty under paragraph (1) and (3) of subsection (b) which is not discretionary with the Secretary.

"(B) The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce any such provision or regulation, or to order the Secretary to perform such act or duty, as the case may be.

"(3) No action may be commenced under paragraph (2)(A)(3)—

"(A) prior to 60 days after written notice of the violation has been given to the Secretary, and to any alleged violator of this title or any regulation issued hereunder;

"(B) if the Secretary of the Treasury has commenced an action to impose a penalty pursuant to section 404 of this section; or

"(C) if the United States has commenced and is diligently prosecuting a criminal action in a court of the United States or State to address a violation of any such provision or regulations.

"(e) TREBLE DAMAGES.—Any person in competition with a person importing or transporting items, or investing or loaning funds, in violation of paragraph (1) or (3) of subsection (b), who is injured as a result of such violation, may bring an action in a court of the United States and shall recover three-fold the amount of the damages sustained by such violation.".

SEC. 3. REPEALS.

Sections 1761 and 1762 of title 18, United States Code, are repealed.

THE FAILURE OF MARITIME SUBSIDIES

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. BEREUTER. Mr. Speaker, the U.S. maritime industry has been the beneficiary of huge subsidies for a very long period—for at least 55 years. The Congressional Budget Office reported that last year, the U.S. maritime industry was the beneficiary of $1.05 billion in Federal subsidies. This $1.05 billion, in large part, went to four companies.

Approximately $150 million of this subsidy directly reduced the aid the United States provides to starving people of the world through the Public Law 480 Food Aid Program. The remainder of the $1.05 billion comes in the form of operating subsidies, Jones Act subsidies, and other preferential treatment programs that serve to increase consumer costs—by increasing the cost to ship products purchased by consumers—as well as directly increase the taxpayer burden.

In spite of this aid, the number of privately owned, U.S.-flagged vessels declined from 1,170 to 368 over the past 30 years. Certainly, the $1.05 billion in Federal subsidies has done nothing to "save" the U.S. maritime industry. A June 25, 1991, editorial from the Journal of Commerce illustrates well the failure of the Federal operating subsidy program to build a strong merchant marine.

It is certainly appropriate then that this subsidy program die a rightful death and stop the obviously ineffective use of taxpayer funds. The end of the operational subsidy program also provides an important opportunity for the Congress, if it so chooses, to develop a useful and effective program to build a strong merchant marine. A sound and workable program could also end the many types of cargo preference that provide hundreds of millions in support to four multimillion-dollar shipping companies at the expense of those least able to pay, the mid- to low-income consumers in the United States and the poor and starving that live in the poorest of the poor countries of the world.

This Member submits the following editorial for the RECORD:

NO MORE SUBSIDIES

Maritime subsidies don't work. When the Bush administration delivered that simple message to Congress last week, it marked the end of the government's decade-long effort to reshape the 55-year old aid program for U.S. carriers. It's now time for the government to take the next step and scrap the numbing rules that inhibit U.S. operators from adapting their services to meet customer needs.

Intended to foster a healthy and competitive U.S. merchant marine, operating subsidies have failed utterly to accomplish that end. The administration's new position, advanced by Maritime Administrator Warren Leback, is to let the current subsidy program expire without revising or expanding it. There is every good reason to follow that suggestion.

When Mr. Leback told the House merchant marine subcommittee that government subsidies "have not worked," he was understating the case. The government pays operating subsidies to four companies—$261 million has been requested this year—to offset the lower labor costs of foreign operators and help U.S. lines compete internationally. Yet over the last 30 years, the number of privately owned U.S.-flag vessels has declined from 1,170 to 368. U.S. seafaring jobs plummetted 47% during the 1980s. Meanwhile, operating costs, crew costs, shipbuilding costs and the cost of finance all are higher in the United States than in most other countries. A business culture built on government dependency has not succeeded.

Subsidies are paid under 20-year contracts, all of which expire within the next decade. The administration should honor those contracts for vessels already under subsidy; scrapping them any sooner would be impractical and unfair. The more immediate dilemma for subsidized carriers, however, is that the economic lives of some vessels will expire before the contracts run out.

By law, a company may receive subsidy for newly acquired vessels only if they were built in U.S. shipyards. Yet high domestic construction costs make that unrealistic. Mr. Leback has suggested that U.S. subsidized carriers be permitted to replace their older vessels with foreign-built ships and still retain subsidy. He is half right. American-owned carriers should be free to buy vessels from wherever they choose but, as part of the subsidy phase-out, those ships should not receive government support payments.

The government can help in other ways. Normally, a vessel older than 25 years automatically loses its subsidy, even if a company's subsidy contract has not expired. If subsidized carriers choose to keep vessels more than 25 years, the government should waive the age rule and allow the vessel to remain subsidized until the contract expires.

The government also should consider allowing U.S. international carriers to use foreign seamen to fill some of their crew requirements, as some European nations do.

Most important for U.S. carriers is the freedom to change routes and ports of call without regulatory delays. U.S. carriers, in exchange for subsidies, must now beg the Maritime Administration to make what should be routine service adjustments. Responding quickly to customer demands would be an enormous competitive help to U.S. carriers.

As the price for operating subsidies, the U.S. merchant marine has endured endless restrictions on where ships can be built, who may pay for them, how they are crewed and where they may operate. Subsidies are not worth that price.

ADEQUATE FIRE PROTECTION FOR CONTRA COSTA COUNTY

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. MILLER of California. Mr. Speaker, today I am introducing legislation to ensure that Contra Costa County residents receive adequate fire protection. This bill would allow the Riverview Fire Protection District serving the cities of Pittsburg and Antioch, as well as other areas in Contra Costa County, CA, to construct a fire station on approximately 1 acre of land near Camp Stoneman.

Under a deed the city signed with the Department of the Interior, the land may only be used for park purposes. This legislation would amend the deed restriction and allow the city of Pittsburg to permit the construction of a fire station on the property.

One of the fastest growing counties in California, Contra Costa has witnessed an increase in new housing and recreational facilities. Yet, fire protection facilities are lacking. This legislation would help correct the problem by allowing a fire station to be constructed close to homes and shopping centers. According to the city of Pittsburg, the 1 acre of land affected in this legislation is ideally suited for a fire station.

Mr. Speaker, I encourage my colleagues to join me in supporting this legislation.

LEGISLATION TO END FEDERAL PAY DISCRIMINATION IN CALIFORNIA

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. LAGOMARSINO. Mr. Speaker, I rise today to introduce legislation that will bring an immediate end to Federal employee pay discrimination in Santa Barbara County, CA.

For those colleagues of mine who are unfamiliar with the 19th District of California, it was split in half by the 8-percent interim geographical pay increase granted by the President this winter. As a component of the Los Angeles consolidated metropolitan statistical area [CMSA], Ventura County received an 8-percent pay increase. Santa Barbara County, although it is one of the most expensive areas in the country, was not included.

As a result of the 8-percent pay increase for the neighboring Los Angeles CMSA, Federal employees—and entire offices—are transferring from Santa Barbara to the neighboring Los Angeles CMSA. New hiring has virtually stopped. Santa Barbara County now has the severest recruitment and retention problem in the country.

My legislation would grant all Santa Barbara Federal employees the same interim pay increases enjoyed by those stationed in the Los Angeles CMSA.

Because of grossly inaccurate and incomplete Bureau of Labor Statistics [BLS] wage surveys and outdated metropolitan statistical area [MSA] boundaries, Santa Barbara County was denied an 8-percent interim pay increase. Currently, the BLS only collects wage data for clerical personnel, electronic data processors, skilled maintenance employees, and unskilled plant workers. In other words, wage grade [WG] employees. Yet this same data is used to determine the pay disparity between General Schedule [GS] employees and their private sector counterparts.

According to the BLS, the pay disparity in Santa Barbara is not severe enough to warrant an interim pay increase. The Wall Street Journal, however, recently rated Santa Barbara as the sixth most expensive city in the country to conduct business.

In addition, the Federal Government incorrectly considers Santa Barbara County to be economically and geographically distinct from the Los Angeles area. The Office of Management and Budget [OMB], using 1980 census data as their guide, determined during the early 1980's that Santa Barbara County should not be included in the Los Angeles CMSA. The dramatic growth of the past decade in California—the same growth which has brought seven new congressional seats to the State—has drastically changed Santa Barbara County. Both labor and living costs have skyrocketed because of Santa Barbara's proximity to Los Angeles.

In short, the 8-percent interim pay increase granted to the Los Angeles CMSA has greatly exacerbated the already severe pay disparity in Santa Barbara. Until this tremendous pay disparity between Santa Barbara and Los Angeles is resolved, Federal workers and the valuable services they provide will continue to pour out of the area.

I urge my colleagues to help resolve this critical problem by cosponsoring my legislation.

RIO GRANDE DEL NORTE NATIONAL CONSERVATION AREA

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. RICHARDSON. Mr. Speaker, today, I am introducing legislation to establish the Rio Grande Del Norte National Conservation area in northern New Mexico. The Rio Grande Del Norte area contains a unique blend of cultural influence by Native American people, descendents of Spanish settlers, and Anglo residents. In addition to cultural resources, the area is magnificently endowed with natural resources.

The lifeblood of this part of New Mexico is the Rio Grande river, which was among the first rivers in the Nation to get congressional protection under the Federal Wild and Scenic Rivers Act. The area includes biologically diverse plant and wildlife, geological and archaeological resources, as well as recreational and educational values.

The native American tribes in the area, especially the Taos and Picuris Pueblos and the Tewa Pueblos to the south have long used lands within the boundaries of the conservation area for habitation, hunting, fishing, livestock grazing, medicinal, and religious purposes, many of which continue to the present. Spanish citizens began colonizing the area about 400 years ago, and their descendants retain much of their language and traditions, including traditional uses of the land such as livestock grazing and fuelwood harvesting. Anglos and other people have been drawn to this area for decades by its immense cultural and natural beauty.

Late last year, the Interior Subcommittee on Oversight and Investigations held a field hearing in Taos, NM, to hear testimony on how to preserve and protect the unique resources of this area while allowing traditional uses of the land to continue. Many of my constituents, as well as State and Federal agencies, expressed strong support for establishing a national conservation area to achieve this balance.

I formed a citizens committee to develop through consensus recommendations on how best to establish a national conservation area [NCA] in northern New Mexico. The committee, appropriately call the Rio Grande National Conservation Area Committee, was comprised of a cross section of interests in northern New Mexico.

The team was led by Bobby Ortega, a councillor with the Village of Questa, NM. Michelle Chavez, the Area Manager of the Taos Resource area of the Bureau of Land Management, served as agency liason. Other members included: Estevan Arellano, a reporter with the Taos News, Jim Bones of the Rio Grande Alliance, Van Beacham of Los Rios Anglers, Richard Deertrack of Taos Pueblo, Lawrence Gallegos, mayor of the Village of Questa, Mary Humphrey of Amigos Bravos, Steve Miller of the New Mexico River Outfitters Association, Sally Ranney of American Wildlands, Bill Reed of the National Wildlife Federation, Gilbert Sanchez of Pilar, NM, Tod Stevenson, N.M. Department of Game and Fish, Roberto Vigil of Concerned Citizens del Norte, and Geoff Webb of the New Mexico State Land Office. Alan Hoffmeister of the Bureau of Land Management served as facilitator, and proceedings were recorded by John Bailey and Chuck Schultz, also from the Bureau of Land Management.

This committee worked very hard to develop recommendations on how best to protect and preserve the important cultural and natural resources of the area. While they did not reach agreement on all of the issues involved, their hard work resulted in consensus on many of them, providing a framework from which to work in establishing the legislation I am introducing today, the Rio Grande Del Norte NCA.

This legislation will designate approximately 385,000 acres as a National Conservation Area, broken down as follows: BLM lands, 259,000 acres; U.S. Forest Service lands, 9,000 acres; New Mexico State lands, 55,000 acres; and private lands, 62,000 acres.

The proposed NCA will be managed by the Bureau of Land Management and the U.S. Forest Service, who will cooperatively develop a general management plan for the area. The plan will address the management of recreational uses of the Rio Grande river, a transportation plan providing effective access to areas in the NCA, an interpretation and educational program, fuelwood harvests, law enforcement, native American uses of the NCA, cultural and archaeological resources, wildlife habitat, and wilderness study areas.

The bill also includes provisions that withdraw the Rio Grande river corridor from mining activity, as well as provisions that respect and preserve the rights of native Americans in the area. Uses essential to the surrounding communities, such as grazing, hunting, trapping, and fishing will be allowed to continue.

In addition, the bill establishes two interpretive and educational centers to provide for public interpretation and education of the biological, geological, and tri-cultural significance of the conservation area. It also requires studies of the area to determine its suitability as a biosphere reserve, the feasibility of establishing a research institute, a water quality study, and evaluations of sections of Embudo Creek and Rio San Antonio Creek for possible wild and scenic designation.

The bill also establishes the Rio Grande del Norte Conservation Area Advisory Committee, which will consist of 15 members reflecting the board cross section of interests impacted by the establishment of the NCA. The committee will advise the Secretary of Interior on the preparation and implementation of the general management plan.

Mr. Speaker, this legislation not only addresses the need to preserve and protect a unique area of the State of New Mexico, but a way of life that has withstood the test of time. I urge my colleagues to join me in this effort.

THE SURRENDER OF PABLO ESCOBAR

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. GILMAN. Mr. Speaker, on Wednesday, June 19, 1991 the world's most infamous drug trafficker surrender is to Government officials in Colombia. Pablo Escobar, the leader of the world's largest illicit narcotic trafficking organization—the Medellin Cartel—surrendered on conditions that would make any fugitive rush to surrender, and might encourage some innocent people to admit to crimes they never committed.

Mr. Speaker, Pablo Escobar is being jailed in a luxury prison that more closely resembles a hotel in which he can relax, watch TV, stroll the grounds which overlook his hometown of Envigado, and receive unlimited visits by his mother, and the mayor of the Envigado, Mario Rodriguez. The jail also serves as the "University of Peace," where by studying law, Escobar can reduce his sentence by a least 2 years. Escobar's sentence is expected to be set at between 4 and 10 years.

Mr. Speaker, this is an outrageous betrayal by the Colombian Government of all those who have lost their lives at the hands of this one drug trafficker. Pablo Escobar is single-handedly responsible for the assassination of hundreds of judges, newspaper editors, security officials, and politicians. He is also largely responsible for the misery of drug abuse in each and every one of our cities in the United States. His cartel is the source of much of the drug-related violence that occurs all over the world—from the small towns in Middle America, to the streets of London, Paris, and Tokyo, to Medellin, Colombia.

Mr. Speaker, Pablo Escobar is a ruthless, murderous criminal who should be treated as such. His surrender would be welcome if it could be believed that the world would be saved from his lethal trading and dealing; but, regretably this will probably not occur. Pablo Escobar will probably be able to freely continue to operate his illicit business from the plush accommodations in his mountain-top jail. The terms of Escobar's imprisonment offer no incentives for this man to reform. This is not punishment for his extensive crimes.

Mr. Spreaker, I would like to submit for the RECORD several articles and editorials that have appeared recently in newspapers across our Nation. The American people feel betrayed and demand, as some of us in the Congress do, in calling for stricter and sterner treatment for this ruthless drug kingpin:

[From the Miami Herald, June 18, 1991]

POLICE SAY ESCOBAR PLANS TO OVERSEE DRUG TRADE FROM COLOMBIAN PRISON

(By Ana Arana)

BOGOTA, COLOMBIA.—Drug trafficker Pablo Escobar, who has promised to surrender in the next few days, has left in place an infrastructure to continue his business from prison and a military force to strike at the government in case he is betrayed, according to law enforcement sources.

If he surrenders, Escobar will follow the steps of Fabio, Juan David and Jorge Luis Ochoa, his former associates who surrendered a few months ago and have continued a successful trafficking business from their jail cells, police sources said.

For Escobar, continuation of the drug business will pay to sustain his private army, they said.

Judging from intercepted correspondence between Escobar and his henchmen, law enforcement sources estimate that Escobar still has an army of 120 men who themselves command between 50 to 200 other gunmen.

A lawyer in contact with the Medellin Cartel confirmed that Escobar is leaving an army in place and that the recent escape from jail of three suspected gunmen was related to Escobar's idea of forming an effective army to leave behind.

Escobar's lawyers met this week with government judicial representatives, apparently to work out final details of the drug lord's surrender. But Western diplomats, U.S. officials and Colombian police question whether he actually will surrender by June 5, as he promised last week.

"Escobar would want to know exactly what he is going to get," a Western diplomat said. "He might want to wait until the Constituent Assembly meeting ends in July," he added.

A special assembly that is rewriting Colombia's Constitution plans to ban extradition of Colombians and could restructure the government's judicial system, and do away with secret judges for drug-trafficking cases.

Government officials are pleased with Escobar's decision to surrender.

But as the surrender of Escobar becomes more imminent, foreign and Colombian law enforcement sources say the government policy does not guarantee that traffickers do not continue their business from jail.

The Ochoa brothers, for example, surrendered last December and January. In March, however, they celebrated the successful smuggling of 14 tons of cocaine into Spain, police said.

The brothers have denied the trafficking charges.

The Ochoas have been able to continue their work unabated because they wrested from the government a guarantee to pick their own security at the jail in the town of Itagui, law enforcement sources said.

Guards inside the prison are approved by the prisoners, according to police. Because the Ochoas fear that Colombian law enforcement officers would try to harm them, police officers guard only the outside of the prison.

Escobar also is requesting a jail in the municipality of Envigado, a suburb of Medellin, a city in which he exercises a great deal of control.

[From the Washington Times, June 21, 1991]

U.S. AGENTS SAY ESCOBAR MAY KEEP RUNNING CARTEL

(By Michael Hedges)

The surrender in Colombia of Pablo Escobar, perhaps the world's most notorious cocaine smuggler, has symbolic value but probably won't stop the outlaw from continuing to run his empire, experts said.

"Escobar is now incarcerated in a Monty Hall-type program," said Thomas Cash, special agent in charge of the Drug Enforcement Administration's Miami office. "It was strictly 'Let's Make a Deal.' I have reason to believe that when you select a prison in your own town, one you helped build, nothing will change."

Escobar surrendered in his home town, Envigado, after a change in the Colombian constitution that would bar his extradition to the United States. He is now housed in a special jail prepared for his surrender to await trial.

It is unlikely that he will ever face justice on nine indictments in the United States, including the case against Panama's ousted ruler, Gen. Manuel Antonio Noriega. Escobar is charged with murder and drug smuggling.

"None of those indictments or the evidence in the cases is going into the shredder," Mr. Cash said. "We will just have to let the plan unfold."

For the past five years the United States has sought the extradition of Escobar, but political changes in Colombia, including the legitimization of the Marxist M-19 party that had denounced the U.S.-Colombian extradition treaty, made that possibility increasingly unlikely, experts said.

One of those indictments charged Escobar with ordering the murder of Barry Seal, a government witness against him who was machine-gunned to death by three Colombians in Baton Rouge, La., in 1986.

Dick Gregorie, former deputy U.S. attorney in Miami who prepared the first U.S. indictment of Escobar, said yesterday: "I got a call early in the week from Barry Seal's widow and she was literally in tears. I'm disturbed about what has happened because I thought it was important to make that case."

Escobar, 41, was the head of the Medellin cartel, a group of cocaine smugglers who had waged war on the Colombian justice system and press while selling as much as 80 percent of all the cocaine entering the United States.

He has been charged with crimes ranging from complicity in the Aug. 18, 1989, murder of presidential candidate Sen. Luis Carlos Galan to ordering the bombing of a Colombian airliner, in which 106 persons died.

But in recent years the bloodshed generated by the Medellin gang's assassination tactics had turned the Colombian public against them, and the cartel went into decline. Mr. Cash and other U.S. experts said yesterday that another cartel based in the city of Cali is now more powerful.

The Colombians were optimistic about what the surrender of Escobar symbolized. "I think the cartel is already out of business. All the main leaders of the cartel are behind bars. And I think this is the ending of the cartel of Medellin," Colombian President Cesar Gaviria said Wednesday. "I trust this is the end of narcoterrorism in Colombia."

But Colombian Attorney General Juan Sepulveda said: "Escobar surrenders, but many Pablo Escobars remain. Drug trafficking does not stop with the surrender of Escobar. The business will go on as long as it continues to be a profitable, illicit activity."

White House spokesman Sean Walsh said Wednesday that the United States wants Escobar brought to justice. "Obviously, we would like to see him brought to justice in the United States, but if he can be brought to justice and receive appropriate punishment in Colombia, we welcome it," he said.

U.S. officials privately make clear they expect Escobar to get a stiff prison sentence and will be closely watching the outcome of Escobar's trial. Colombian news reports say Escobar could be sentenced to between four and 10 years in jail.

For now he is housed in a facility that boasts three huge bedrooms with walk-in closets and private baths, a soccer field, a game room, lawns, and a panoramic view of the Medellin valley.

U.S. Justice Department officials said the Colombian govenment has been supplied with copies of the evidence in the Barry Seal murder. "It is not clear if that means that will become part of the case against him, but they have the evidence," an official said.

Mr. Cash said whatever sentence is eventually imposed may be largely meaningless. "If Pablo Escobar was at Marion federal prison, I'd have a great deal of confidence that he would not be able to control his 4,000-man empire. We are not opening any champagne over his incarceration in the Colombian jail," he said.

[From the New York Times, June 21, 1991]

DRUG BARON'S PRISON HAS EVERY COMFORT: EVEN MOM AND TV

(By James Brooke)

ENVIGADO, COLOMBIA, June.—On Pablo Escobar Gaviria's first night in jail, the Mayor of this city stopped by to watch television with him.

"We watched all the news shows and had a good laugh at the way they were presenting it," said the Mayor, José Mario Rodriguez, referring to the surrender on Wednesday of Mr. Escobar, the country's most-wanted drug trafficker.

The Mayor's chumminess with Mr. Escobar may be explained by the fact that Envigado's wealthiest native son has showered the town with good works: a stadium, a hospital and street lighting. With the highest per-capita city budget in Colombia, Envigado offers amenities unheard of elsewhere: unemployment insurance, health insurance, 350 rent-free apartments for poor families, 1,500 weekly food baskets for poor families, 2,500 lunches for school-children and 10,000 scholarships for grade school, high school and university students.

VISITS FROM MOTHER

Mayor Rodriguez has denied that Mr. Escobar's cocaine syndicate, based in nearby Medellin, pays for many of the benefits. But Colombia's Government believes otherwise. In 1989, Envigado was one of a handful of towns occupied by the army during a nationwide crackdown on trafficking.

In addition to the Mayor, the cocaine trafficker's mother, Herminda Gaviria de Escobar, enjoys free access to the jail, which was built to his specifications during negotiations with the Government over the terms of his surrender. The negotiations produced a detailed contract governing who can be in the prison.

Asked whether the trafficker controls his jail, President César Gaviri-Trujillo said in an interview on Thrusday: "Escobar won't control who comes and goes. The Government has control."

POLICE, KEEP OUT

But on Thursday, army guards turned back five members of Colombia's anti-narcotics police and two directors of a prison in neighboring Medellin. Under a contract negotiated my Mr. Escobar's lawyers, police officers and soldier are only allowed into the prison in the event of a riot.

The group he fears most is the Medellin police, 400 of whom were killed after Mr. Escobar announced that he would pay a bounty of $2,000 for every dead officer.

Internal guard duty is performed by 40 guards who are carefully screened by the trafficker's allies in this city. Outside guard duty is performed by 150 soldiers. To preclude assassination attempts by inmates, every new prisoner must be approved by a "security committee" which is influenced by the trafficers.

ROADS AND AIRSPACE SECURED

Mr. Escobar, who recently terrorized Colombia with car bombs, has chosen a remote Andean refuge that is virtually impregnable to car bombs. Sole access is by a steep, one-lane dirt road that is passable only by four-wheel drive vehicles. One mile below the prison, a steel barrier blocks further road access. From their mountain perch, Mr. Escobar's guards can watch through their binoculars any vehicles laboring up the mountain road.

In recent years, Mr. Escobar lost several valued employees to attacks by helicopter-borne police forces, and he apparently fears more aerial attacks. Civil aviation authorities have closed the airspace over the jail, and the trafficker is reported to have demanded a radar system and steel roofs.

Prison doors swing open easily for the Rev. Rafael Garcia Herreros, a Roman Catholic priest who mediated the trafficker's surrender.

Next week, Father Garcia plans to come here to hear Mr. Escobar's confession and to bless a small chapel that the trafficker's mother has built in town. In the past, Catholic authorities in Medellin have been reluctant to consecrate churches that may have been built with money from cocaine trafficking.

Arguing that humanitarian considerations demand that Colombians serve jail sentences close to their families. Father Garcia has started a campaign to repatriate the thousands of Colombians serving jail sentences in the United States.

The 81-year-old priest told reporters on Thursday that he plans to travel to the United States soon in an attempt to win repatriation of Carlos Lehder. Mr. Lehder, once a Medellin cartel leader, is now serving a 135-year sentence in an Illinois jail for cocaine trafficking.

The priest proposed a prison alternative for Mr. Escobar, a low-income housing project in Bogotá. "If the inhabitants of Minuto de Dios allow me," Father Garcia said, "I'm thinking of inviting him to live with us, to serve his sentence here."

It is unlikely that Mr. Escobar would trade the security and family warmth he now enjoys in his hometown prison for a row house in Bogotá. Today, his brother, Roberto, and another fugitive, Gustavo González Flores, entered the prison, bringing the total of Medellin cartel members there to seven.

[From the Miami Herald, June 21, 1991]

STUDIES MAY CUT ESCOBAR SENTENCE JAIL TO BE "UNIVERSITY OF PEACE"

(By Ann Arana)

BOGOTA, COLOMBIA.—Pablo Escobar's jail will function as a "University of Peace," where Escobar will be able to ease at least two years from his sentence by studying law, said the Rev. Rafael Garcia-Herreros, the 84-year-old priest who helped negotiate the drug trafficker's surrender.

Garcia-Herreros said Thursday that the books and desks for the "University of Peace" were expected any time at Escobar's high-security jail in Envigado.

Reporters stationed along the road that leads to the jail reported the arrival Thursday afternoon of several women with their faces covered and vehicles carrying color televisions and electrical applicances for the jail.

Two more members of the Medellin Cartel surrendered Thursday in Envigado. The two are not major figures, but one was identified as Valentin de Jesus Taborda Echeverria, alias "the cashier."

Taborda Echeverria, 53, reportedly was involved in the kidnapping of former Bogota Mayor Andres Pastrana Arango in 1988.

Three cartel enforcers surrendered Wednesday: Otoniel Gonzalez Franco, known as "Otto," John Jairo Velasquez Vasquez, "Popeye," and Carlos Aguilar Gallego, "El Mugre" (the grimy one). The three were responsible for many bombings and assassinations ordered by Escobar when former President Virgilio Barco ordered an all-out push against drug gangs, according to judicial sources.

Escobar said that 12 more men will surrender in the next few days to serve as the drug kingpin's internal jail guard, Radio Caracol said.

Justice Minister Jaime Garaldo Angel told Caracol Thursday that Escobar would serve about eight years in jail, if he is receives reduced sentences in exchanges for having surrendered and confessed to crimes, good behavior and for studying in jail. According to Colombian law, maximum jail terms are 30 years.

The justice minister also said Colombia was working toward repatriating several Colombians who are serving jail terms in other countries. According to Giraldo, 50 Colombians who have served one-third of their sentences in Mexico will be repatriated next week.

Garcia-Herreros has expressed interest in a campaign to bring back former Medellin cartel member Carlos Lehder, who is serving a life sentence at a federal prison in Illinois.

The priest has been nominated for the Nobel Peace Prize for his mediation efforts with Escobar's surrender.

Wednesday night and Thursday, Colombia media were concerned about the international reaction to Escobar's surrender, especially responses from the United States. Government officials and other politicians who supported the government policy to entice the surrender of traffickers in Colombia emphasized that Colombia cannot fight drug trafficking alone.

U.S. drug control director Bob Martinez raised questions Thurdsay about the surrender in an interview on ABC's Good Morning America.

"What kind of sentencing will take place? Is this going to be Pablo's hacienda or is it going to be a real prison?" Martinez asked. "Are the barbed wires out there to keep people out so he can do business, or is it to incarcerate him so he can't do business?

U.S. officials, however, say there is no question of reprisals against Colombia for granting immunity from extradition to drug traffickers. They say Washington is committed to sending evidence to help Colombian courts convict them.

[From the Miami Herald, June 21, 1991]

PRISONER PABLO ESCOBAR

Does the surrender of Pablo Escobar, multibillionaire head of Colombia's Medellin Cartel, mean that President Cesar Gaviria has won the jackpot on which he has bet his administration? Or does it mean that crime does pay, pay fabulously, because Colombia punishes murder and mayhem with a feather duster?

It means a bit of both, actually.

First off, President Gaviria—who defended his drug-cartel policy in two recent visits with The Herald's Editorial Board—clearly represents the wishes of the overwhelming majority of Colombians.

Simply put, Colombians are sick unto death of cartel bombings, kidnappings, and threats. Many see their nation as torn asunder by mindless violence that to them is America's fault, not theirs. Without Americans' insatiable lust for cocaine, they reason, the cartels would not exist, much less be rich enough to corrupt Colombia's institutions, and powerful and pitiless enough to kill anyone whom they could not corrupt.

President Gaviria's policy, then, is as understandable as the grass-roots support that underlies it. In formulating it, he reversed the courageous policy of total war and extradition declared on the cartels by his predecessor, President Virgilio Barco.

But understandable does not mean wise. Nor does it yet mean successful. If Mr. Gaviria's policy in fact brings peace to Colombia, if it stops the killing of judges and police and journalists and political candidates, then no doubt it will be proclaimed wise.

Proclamations are premature just now, though. Especially President Gaviria's proclamation of Escobar's surrender as "an historic victory in the war on drugs." Victory? Truce, perhaps. But Victory?

Where is the victory in letting one of the world's most violent, corruptive criminals escape prosecution for his heinous crimes to serve a mere five-year sentence for lesser offenses? But not in prison, of course. Oh, no. Escobar's version of Devil's Island is a former drug-rehabilitation center (how ironic!) outside Medellin. He has outfitted it with every luxury—and his own acolytes as his guards. There, "hard labor" means playing soccer on Escobar's private field.

President Gaviria's critics allege that Escobar plans to continue masterminding the Medellin Cartel from his "jail." What's to deter him? Not the fear of extradition: That disappeared when, simultaneously with his surrender on Wednesday, an assembly rewriting the Colombian Constitution voted tentatively to ban extradition.

America's big stick thus is broken. To break the cartels once and for all, America must first break its own big snort.

[From the New York Times, June 21, 1991]

SURRENDER IN COLOMBIA

Colombian officials hail the surrender of Pablo Escobar, the infamous leader of the Medellin drug cartel, as the beginning of a new era of domestic tranquillity. But celebrations are premature. Colombia's President, César Gaviria Trujillo, must first persuade the world that the arrest is more than a momentary triumph—and that he and his Government are truly serious about fighting drugs.

The hunt for Pablo Escobar began in earnest in 1989 after the assassination of a presidential candidate, Luis Carlos Galán. Colombian authorities pressed a campaign against drug traffickers, destroying their laboratories, seizing their property and arresting those they could find. But top leaders like Pablo Escobar avoided capture.

When Mr. Gaviria took office last year, he announced a new policy. If traffickers agreed to surrender and confess to a crime, Colombia would spare them what they feared the most: extradition to the United States. Instead, Colombia would strengthen its judiciary and prosecute the drug barons at home. A number of traffickers responded, culminating in the Escobar surrender this week.

His decision apparently reflects his fear that the police would kill him on the spot. He also faced additional threats from rival cartels and guerrilla groups he once considered allies.

As a result, he insisted that he be confined to special quarters where the security measures are designed as much to keep assassins out as to keep him in.

Colombia's willingness to negotiate such matters properly raises questions: How effective is the new Colombian judiciary and can it prosecute Mr. Escobar seriously? Will he be sentenced to more than a token term? Will he be prevented from conducting business from prison? And will the authorities move to strip him of the assets—land, money, airplanes—that sustain his power?

Without reassuring answers, Pablo Escobar's surrender of freedom may end in Mr. Gaviria's surrender of credibility.

[From the Washington Post, June 24, 1991]

WHO SURRENDERED?

Pablo Escobar's bloody two-year campaign against extradition to the United States was waged not just to stay in Colombia close to the source of his power. The thought of standing trial in the United States, where he faced numerous indictments for drug trafficking and murder, led him and his Medellin cocaine cartel henchmen to wreak havoc on his country. Their motto, "Better a tomb in Colombia than a prison cell in the United States," sparked a wave of assassinations, terrorism, bombings, and kidnappings. Violence eventually became a function of the threat of extradition, and Colombians lost heart. Some fear the Colombian government has, too.

Colombian president Cesar Gaviria's offer to suspend extradition and reduce the sentences of drug traffickers who surrender and confess was accepted by Mr. Escobar and two top lieutenants on Wednesday. He was joined on Friday by his chief deputy and brother, Roberto. More of his gang are expected to surrender and join him in the customized jail. They delayed turning themselves in, however, until a special assembly went one step further and wrote an extradition ban into the Colombian constitution. For all practical purposes, Pablo Escobar, while not home free, is home-bound. He is housed in a custom-built prison on a hilltop near his hometown of Envigado. Denying press reports to the contrary, the Colombian government insists that the facility is austere, with no more conveniences than those found in most U.S. prisons. The New York Times reports that the town mayor stopped by to watch TV with him on his first night in jail.

The charge that they gave away too much is not well received in Colombia, where Mr. Escobar's surrender is hailed as a major victory for the government. With Pablo Escobar off the scene and others from the inner circle either killed or in jail, the Medellin drug cartel's leadership has been effectively dismantled, they argue. But it is too soon to say who has won. Now that the Colombian judicial system has him, the question is what will be done with him? Having decided to protect international criminals like Pablo Escobar and other cocaine drug barons from the application of justice in the United States and other countries they have victimized, Colombians bear the heavy burden of proving that their judicial system is strong enough to ensure that justice will be done.

[From the New York Times, June 24, 1991]

ESCOBAR'S GILDED CAGE

(By Peter B. Bensinger)

CHICAGO.—The so-called surrender of Pablo Escobar Gaviria in Colombia on Wednesday is not only the surrender of the world's biggest drug dealer but also the surrender of justice by the U.S. and Colombia.

Mr. Escobar was the head of the Medellin cartel, the world's biggest cocaine ring, and the chief of a deadly terrorist organization. But when the Colombian Government, under the leadership of President Cesar Gaviria Trujillo, enacted a law last week banning the extradition of criminals, Mr. Escobar turned himself in, free from prosecution in the U.S.

Mr. Escobar should be on death row, not in a posh mountain retreat, built to his specifications and overlooking his hometown of Envigado. Colombian Presidential candidates, a justice minister, an attorney general, police officers, an editor of a leading newspaper, drug agency informants and innocent civilians have been killed under Mr. Escobar's direction, and he should be tried for these crimes. He faces nine separate indictments in the U.S. in four different Federal court jurisdictions.

The State Department regrets Colombia's decision. What baloney (other worlds come to mind). What would it say if a foreign country broke a treaty obligation or sent spies into the U.S. or threatened U.S. citizens abroad? This action was shocking; it is not a surprise. For months we have heard about Mr. Escobar turning himself in for a light sentence and no extradition. The U.S. should have made it clear that such a deal was unacceptable. Narcotics agents all over the world put their lives on the line to put criminals like Mr. Escobar behind bars. The Administration and the drug czar, Bob Martinez, should back them up.

The U.S. cannot look the other way. Five people a day die in this country from cocaine overdose. Dozens more are killed daily as a result of cocaine-related violence, millions are addicted—their lives and futures destroyed by drugs provided by Mr. Escobar's empire.

I have seen the violence spawned by Mr. Escobar's cartel: police officers murdered throughout the U.S.; our agents killed in Colombia and elsewhere. It is a sad duty to preside at funerals and to console grieving widows and children.

Who represented these people when the deal was made to let Mr. Escobar retire quietly at 41? Mr. Escobar has made billions from his vicious attacks on law and justice. Has his property been seized, his assets forfeited, his organization been destroyed, his future put at risk behind an electrified 18-foot fence? Does Mr. Escobar's punishment fit his crimes? We have spent billions on our drug control effort, but when the target presents itself, we cave in. Mr. Escobar is safe, but we are not.

For the world's No. 1 drug dealer to set his own terms, to pick his own jail suite and his own jailers is an outrage. When the biggest criminal writes the laws, it's a travesty of justice for Colombia and the world. We looked the other way instead of preventing the disaster.

How can we dream of winning the drug war when the opposition sets the terms and calls the shots?

RESTORING OUR FIRST FREEDOM

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. SOLARZ. Mr. Speaker, yesterday, I reintroduced the Religious Freedom Restoration Act of 1991. This legislation will reverse the disastrous effects of a dastardly and unprovoked attack on our first freedom by the Supreme Court of the United States.

On April 17, 1990, the Supreme Court dealt a devastating blow to religious freedom in the United States. In the case of Oregon Employment Division versus Smith, a majority of the Justices virtually eliminated the first amendment's requirement that Government accommodate the religious practices of all Americans unless it can demonstrate that the burden imposed is the least restrictive means available to achieve a compelling state interest.

With the stroke of a pen, the Supreme Court virtually removed religious freedom—our first freedom—from the Bill of Rights.

We have always accommodated religion, even when religious practices have conflicted with important national priorities. We have allowed the Amish to withdraw their children from compulsory education. We have allowed the use of wine in religious ceremonies during Prohibition. We have allowed deferments from conscription to accommodate religious pacificism even in times of war.

We have been strengthened rather than weakened as a nation by this remarkable record of accommodation. Yet Justice Scalia, writing for the Court, called this outstanding and uniquely American tradition of religious tolerance a luxury we can no longer afford.

The Religious Freedom Restoration Act would simply prohibit the Government from burdening a person's free exercise of religion, even if that burden results from a rule of general applicability, unless it can demonstrate that the governmental action is essential to further a compelling governmental interest and that it is the least restrictive means of furthering that compelling governmental interest.

While the Congress cannot alter the Supreme Court's interpretation of the Bill of Rights by statute, we can decide to accommodate the religious rights of all Americans beyond the Court's narrow reading of the first amendment. Even Mr. Justice Scalia, writing for the majority in Smith, recognized the right of legislatures to accommodate the free exercise of religion beyond what is required by the Court's interpretation of the Bill of Rights.

This legislation has the narrow purpose of restoring the compelling interest test, as enunciated nearly 30 years ago in Sherbert versus Verner and again in Wisconsin versus Yoder. The test strikes an appropriate balance between the needs of the majority and the rights of religious minorities. It would provide a claim or defense to persons whose religious exercise is burdened by Government.

The bill does not attempt to dictate the result in any particular case. Rather, it returns to the courts the role of engaging in this delicate balancing test. It is a rejection of Justice Scalia's attempt to turn our first freedom over to the will of political majorities.

As Mr. Justice Jackson so eloquently put it in West Virginia Board of Education versus Barnette:

> The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to a vote; they depend on the outcome of no elections.

The Court's reading of the first amendment in Smith is out of step with the Nation and with our historical commitment to religious liberty.

America cannot afford to lose its first freedom—the freedom not just to believe but to act according to the dictates of one's religious faith—free from the restrictions of governmental regulation or interference.

Religious freedom is the foundation of our way of life. This Nation has always provided a haven for refugees from religious persecution. We are Americans because those who came before us voted for freedom with their feet. My family, like many of yours, came to America to worship freely. Even today, Jews from the Soviet Union, Buddhists from Southeast Asia, Catholics from Northern Ireland, Bahais from Iran, and many more willingly renounce their homelands and risk their lives for the luxury of religious freedom.

The Court's grievous and shortsighted error must not be permitted to stand unchallenged. That is why 41 of my colleagues and I have introduced the Religious Freedom Restoration Act. This legislation will simply restore the legal standard for protecting religious freedom that worked so well for more than a generation.

The broad and diverse support this legislation has already drawn from within both the Congress and the religious and civil rights communities demonstrates how fundamental religious freedom is to our way of life.

It is fair to say that support for this bill is ecumenical, both religiously and politically.The diversity of this coalition reflects the diversity of this Nation. That diversity has always made America strong, and will, I believe, guarantee swift passage of this important legislation.

AMERICA HAS LOST A CHAMPION OF JUSTICE

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. TOWNS. Mr. Speaker, today marks a sad day in America and for the champions of freedom, justice, and equality throughout the world. Supreme Court Justice Thurgood Marshall has announced his resignation from the highest court in the land, leaving an unequaled legacy of judicial activism, compassion, and fairness. As the first and only black Supreme Court Justice, his departure from the Court leaves an enormous void which demands that this institution step forward to protect those statutes which he struggled so hard to create, first as counsel and later as a jurist of unimpeachable commitment to the most basic of human and civil rights.

We, the members of the Congressional Black Caucus recognize that replacing Justice Marshall with a suitably qualified candidate will be difficult. We commend for consideration only that this person meet the standard which Thurgood Marshall has set. Perhaps the greatest testimony to that vision of the law is reflected in Justice Marshall's address before the 1966 White House Conference on Civil Rights where he stated:

> I will attempt no assessment of how far we have come and what is left to be done. Clearly, there remains a great deal of work in translating into concrete reality the rights already won, and new tools must still be forged. That is the goal of the proposed Civil Rights Act of 1966. There are, however, some lessons for the future in the history of the struggle for Negro rights.
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> What is striking to me is the importance of law in determining the condition of the Negro. He was effectively enslaved, not by brute force, but by a law which declared him a chattel of his master, who was given a legal right to recapture him, even in free territory. He was emancipated by law, and then disfranchised and segregated by law. And, finally, he is winning equality by law.
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> Of course, law—whether embodied in acts of Congress or judicial decisions—is, in some measure a response to national opinion, and, of course, non-legal, even illegal events, can significantly affect the development of the law. But I submit that the history of the Negro demonstrates the importance of getting rid of hostile laws and seeking the security of new friendly laws. Provided there is a determination to enforce it, law can change things for the better. There is very little truth in the old refrain that one cannot legislate equality. Laws not only provide concrete benefits; they can even change the hearts of men—some men, anyway—for good or evil. Certainly, I think the history I have just traced makes it clear that the hearts of men do not change of themselves.
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> Of course, I don't mean to exaggerate the force of law. Evasion, intimidation, violence, may sometimes defeat the best of laws. But, to an important degree, they, too, can effectively be legislated against. The simple fact is that most people will obey the law. And some at least will be converted by it. What is more, the Negro himself will more readily acquiesce in his lot unless he has a legally recognized claim to a better life. I think the Segregation decision of 1954 probably did more than anything else to awaken the Negro from his apathy to demanding his right to equality.
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> It seems to me that the experience under the recent public accommodations law and the Voting Rights Act of 1965 proves the point. Of course there have been resistance and evasion and intimidation in both cases. But it must have surprised the cynics that so many restaurants in fact desegregated in obedience to the law and, more so, that so many Negroes in Alabama and elsewhere are actually voting less than a year after the Voting Act was passed.
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> I do not suggest a complacent reliance on the self-executing force of existing laws. On the contrary, I advocate more laws and stronger laws. And the passage of such laws requires untiring efforts.
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> Just as Supreme Court decisions on the "White Primary," "Restrictive Covenants," and school segregation provided the impetus for the stepped-up protests of Negroes, we must use the present tools—not as an end, but, rather as additional incentive to restudy and renew our drive toward ending the gap between theory and practice.
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> Moreover, laws have only limited effect if they are not vigorously enforced. What I do say is that faith in the efficacy of laws. Perhaps that is because I am a lawyer and not a missionary. But I think history—which proves so many things—proves me right.

OPENING OF THE 10TH ANNUAL "AN ARTISTIC DISCOVERY" EXHIBITION

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. WEISS. Mr. Speaker, as chairman of the congressional arts caucus, it was my great pleasure today to participate in the opening ceremonies of "An Artistic Discovery"—the congressional high school art competition and exhibition. This year, 249 congressional districts participated in the competition. These winning works will hang in the Cannon corridor to the Capitol until May of next year.

Over the past decade, nearly 2,500 local contests have been conducted which have involved more than 375,000 high school students.

With 140 students and their families in Washington to celebrate the opening—as well as many participating Members, staff, Speaker THOMAS S. FOLEY, Minority Leader ROBERT H. MICHEL and other special guests—this year's festivities were truly a celebration.

I submit my opening comments in honor of the event to be printed in the RECORD.

STATEMENT OF HON. TED WEISS

It is wonderful to stand before you today to pay honor to the winners of "An Artistic Discovery"—the tenth annual high school art competition. These young artists epitomize the excellence in education and in the arts which America can take such great pride in.

For what has now been a decade, Members of Congress have sponsored high school art competitions in their districts, bringing together talented young people, arts educators, families and local business and community leaders. Each year, we in the Capitol are treated to a panorama of outstanding artworks. The thousands of visitors who view these works are simply dumbstruck that the art was created by high school students. Each of us are overwhelmed not only by the talent contained in the works, but by the vision and humanity which they express.

Congress can truly be proud of this bipartisan effort to recognize and encourage the arts and education throughout the country. But, we must do more. We must ensure that every student in every school has the opportunity to learn and to grow from arts programs. For these are the programs which teach our students self-expression, understanding, discipline, and creativity.

There are a countless number of people who have worked hard to make "An Artistic Discovery" such a success. certainly the 249 Members of Congress and their staffs who participated this year. We are also grateful to George White, the Architect of the Capitol and his staff in facilitating this professional exhibit. Also, we would like to recognize General Motors for providing both resources and guidance for the past eight years. We are also honored to have two of America's most popular and talented young actors, Elisabeth Shue and William Baldwin, who have graciously come to Washington to help open the exhibit.

Finally, and most importantly, we wish to thank the students, the artists. It is they who we celebrate, they who we respect, and they who have contributed to the vitality of our Nation's culture.

FEDERAL EARTHQUAKE INSURANCE AS A MECHANISM FOR INCREASING EARTHQUAKE PREPAREDNESS THROUGHOUT THE NATION

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. BROWN. Mr. Speaker, in October 1989 the United States got a strong reminder of the ever-present threat of major urban earthquakes, when the Loma Prieta earthquake caused 62 deaths, severe social and economic disruption, and billions of dollars in damage to the San Francisco Bay region. Forty States, in addition to California, are susceptible to damaging earthquakes. Some of these earthquakes will unquestionably dwarf the Loma Prieta quake in terms of size and extent of destruction. The question is this: will we be prepared?

Over the past three decades I have spoken on this floor dozens of times in support of Federal programs to increase earthquake preparedness not just in California, but throughout the Nation. Fortunately, severe earthquakes in the United States are an infrequent occurrence, but this also means that we in Congress tend to be overly complacent about the threat that earthquakes pose both to our citizens and to our economy.

For this reason, I am very pleased that my colleagues AL SWIFT, whose State of Washington has recently been identified as a potential site of catastrophic earthquakes, today introduced a bill that would create a Federal earthquake insurance program. Although I have some substantive disagreement with the methods proposed in this legislation, I am in support of the overall goal of the bill, which is to boost earthquake preparedness on a nationwide basis. For this reason, I am an original cosponsor of Mr. SWIFT's legislation. Congress needs to pursue the issue of earthquake insurance energetically and comprehensively before the next catastrophic earthquake strikes.

During the last Congress, both Mr. SWIFT and I introduced Federal earthquake insurance legislation. Our approaches were quite different, and represented, on the one hand, our personal history of involvement with this issue, and on the other, our shared concern over the potentially disastrous consequences of major urban earthquakes.

Mr. SWIFT's bill focused on the importance of creating the largest possible pool of homeowner participants in the insurance program, in order to create the largest possible Federal fund to pay out claims, and to offer the broadest possible financial protection for American homowners as well as the insurance industry.

My own approach, which reflects my longtime involvement with the National Earthquake Hazards Reduction Program, was predicated on the need for communities to adopt and enforce building codes that would reduce earthquake damage and consequent social and economic disruption resulting from earthquakes. I proposed that insurance availability be contingent upon adoption of these earthquake hazard mitigation measures; thus the insurance program was in fact subservient to the mitigation program.

The bill that Mr. SWIFT introduced today maintains the approach that he supported last year. My decision to cosponsor this legislation reflects my desire to see meaningful Congressional scrutiny of this issue, and to remind my colleagues about the overall importance of earthquake preparedness. Last year, by introducing two distinct bills, we highlighted the different ways in which the problem of earthquake insurance and earthquake hazard mitigation could be approached. This year, by introducing a single bill, we hope to more efficiently move the legislation through Congress, with the clear expectation on my part that a proper balance between insurance sales and earthquake mitigation will emerge as the bill matures.

Thus, Mr. SWIFT's bill represents a compromise to the extent that we have settled on a single legislative vehicle—one that confronts the fundamental issue of urban earthquakes and their disastrous consequences. It does not, however, represent a final substantive compromise, because it is still, in its essence, a bill that focuses on selling insurance to the broadcast possible pool of homeowners. All the same, the overriding motivation here—to shield Americans from the disaster of a catastrophic urban earthquake—is shared equally by Mr. SWIFT and me.

Let me, for the record, briefly outline my concerns about the legislation that has been introduced. It does contain a mitigation component, and this is a step in the right direction, and it suggests several avenues for meaningful compromise. The bill as introduced requires States to adopt mitigation programs, but it does not yet include practical, effective measures for implementation and enforcement of these programs. Without enforcement, homeowners have no incentive to mitigate, especially if they know that their property is covered by Federal insurance. This has the effect of encouraging inadequate construction practices, thus increasing Federal liability for losses, and missing the opportunity to increase earthquake preparedness. We know, from our experience with the earthquakes that have struck California over the past two decades, that aggressive implementation and enforcement of earthquake hazard mitigation measures saves lives and money. We must apply this principle to other earthquake-prone areas of the Nation.

A second concern is that the proposed mitigation program would operate at a statewide level, whereas building codes and ordinances—the main source of mitigation—are locally adopted and enforced in most cases. Thus, the bill would require a whole new State-based structure for building code enforcement, whereas an adequate and reasonably efficient structure already exists at the community level throughout much of the Nation.

Third, the mitigation provisions in the new legislation would apply only to individual homes. The experience of the Loma Prieta earthquake, however, shows us that a great proportion of the disruption resulting from urban earthquakes is caused by damage to commercial structures, public facilities such as hospitals, schools, and fire stations, and lifelines such as bridges, highways, electric power transmission lines, and water and sewage lines. There is no reason that mitigation provisions in a Federal insurance program cannot be applied to this whole spectrum of facilities and infrastructure, especially when the Federal government, in return, is accepting a burden of liability that had formerly been borne by the private sector.

Finally, we are still lacking much-needed quantitative analysis of the potential impact of a catastrophic urban earthquake on the insurance industry, the Federal government, and the national economy. The Federal Emergency Management Agency has just begun such an analysis, and the results of this study should provide important guidelines for any Federal earthquake insurance initiative. Until this analysis is completed, we cannot be sure to design an earthquake insurance program that serves the best interests of all Americans.

As the debate over earthquake insurance develops, we must not lose sight of our basic goal: to protect Americans from the potentially disastrous consequences of earthquakes. In recent years, earthquakes in Iran, Armenia, Mexico City, and elsewhere have shown us that a few seconds of shaking can shatter the lives of hundreds of thousands of human beings. The United States is not immune from such a disaster, and we must continue in our efforts to increase our level of preparedness. A Federal earthquake insurance program may offer an effective mechanism for doing so.

H.R. 2780

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. ROYBAL. Mr. Speaker, one of every nine elderly Americans or 3 million people aged 65 and over are housed in our Nation's 300,000 nursing homes, board and care facilities, and mental institutions. Two decades of hearings and research by the House Select Committee on Aging and its Subcommittee on Health and Long-Term Care reveal that abuses—ranging from the denial of the right to make basic personal choices to horrid instances of physical and sexual abuse and neglect, sometimes resulting in death—are frequent occurrences nationwide.

Aging Committee research has also revealed that, in many States, the only active and effective advocate for elderly residents of institutions are State long-term care ombudsmen authorized under title III of the Older Americans Act. This program, however, is woefully underfunded by the Federal Government, and its work in some instances is administratively hampered in the States.

Elder abuse, neglect, and exploitation of elders living in the community is also rampant. After extensive national surveys and review of the literature, the committee found that this shocking type of abuse, often perpetrated in the home by family members, guardians, and other caretakers, touched the lives of 1 million seniors annually. Efforts to address this kind of abuse by State adult protective service programs have proved inadequate; the committee found that we need a Federal response similar to that which has proved so effective in reducing child abuse.

Yesterday I introduced legislation, H.R. 2780, the National Older Americans Advocacy and Protection Amendments of 1991, which will respond to these concerns. I was joined in this effort by my colleagues, the Honorable MATTHEW MARTINEZ, the Honorable MARY ROSE OAKAR, the Honorable RON WYDEN, the Honorable THOMAS DOWNEY and the Honorable DALE KILDEE. This legislation represents a bold step forward in quality, authority, and availablility of ombudsman services for long-term care facility residents, and addresses the evergrowing problems of elder abuse, neglect, and exploitation in both institutions and in the community.

The bill would strengthen the Federal role in providing national leadership to the long-term care ombudsman program, increases the effectiveness of long-term ombudsman activities, provide for greater autonomy and protection from conflicts of interest, and mandate better coverage of board and care residents to provide a consistent and timely response to serious problems affecting their rights and welfare.

To enhance the ability of long-term care ombudsmen to protect the rights of residents of board and care homes, the legislation calls upon the National Academy of Sciences, through the Institute of Medicine [IOM], to establish a National Commission on Board and Care Facility Quality similar to the IOM commission that recommended the current Federal regulatory structure for nursing homes. Composed of consumers and providers as well as other experts, the Commission would make recommendations to the Congress concerning the establishment of minimum national standards for the quality, health, and safety of residents of such facilities and the enforcement of such standards.

This legislation would also create a National Center on Elder Abuse and provide grants for elder abuse prevention and treatment services in the community as well as in institutions.

The following is a summary of the major provisions in this legislation.

SUMMARY

STRENGTHENED FEDERAL ROLE IN THE LONG-TERM CARE OMBUDSMAN PROGRAM

State long-term care ombudsman programs vary greatly from State to State in their size and effectiveness. There has often been a lack of Federal leadership, oversight, coordination, and support for State ombudsman programs. State long-term care ombudsmen need an effective and visible advocate at the Federal level within the Administration on Aging.

This bill would establish within the Administration on Aging an Office of Long-Term Care Ombudsman headed by an Associate Commissioner for Ombudsman Services. The Associate Commissioner would perform the following duties: serve as the effective and visible advocate on behalf of older long-term care facility residents within the Department of Health and Human Services and other agencies of the Federal government; review and make recommendations regarding long-term care ombudsman provisions in State plans; provide leadership and coordination for the long-term care program nationwide; keep the Commissioner and the Secretary informed about the Ombudsman program; review existing and proposed laws relating to the Ombudsman program and make recommendations; coordinate relationships between the Administration on Aging and Federal, State, and local offices with respect to the Ombudsman program; and serve as a liaison with the Ombudsman Resource Center (continuation of the currently existing Ombudsman Resource Center would be mandated).

Both the Commissioner and Associate Commissioner would have the authority to hold hearings, take testimony, and issue subpoenas to investigate the operation or violation of Federal laws that are administered by the Department of Health and Human Services and adversely affect the health, safety, welfare, or rights of older individuals. The Commissioner or Associate Commissioner would refer suspected violations of State law to the appropriate authority in the State.

TIMELY RESPONSE TO COMPLAINTS AND INQUIRIES FROM LONG-TERM CARE RESIDENTS AND OTHERS CONCERNED ABOUT THEIR CARE

In many States the State long-term care ombudsman has had to attempt to handle all long-term care complaints personally without adequate support from local staff or volunteers. Complaints often go unaddressed for long periods.

The legislation would require that States set up a statewide program coordinated by the State long-term care ombudsman. Regular access by residents to the local long-term care ombudsmen and timely response to complaints are mandated.

OUTREACH, EDUCATION, AND EMPOWERMENT SERVICES FOR LONG-TERM CARE RESIDENTS AND THEIR FAMILIES

A recnt report by the U.S. Inspector General found that the most effective long-term care ombudsman programs were highly visible in the community. This legislation would ensure that all long-term care ombudsman programs have high visibility.

Long-term care ombudsman programs would do outreach to inform residents about ombudsman services and how to assert their rights. Long-term care ombudsmen would assist residents and their families in the development of skills which enable them to address needs on their own behalf. They would promote the development of citizen organizations and resident and family councils to protect the rights and well-being of residents.

IMPROVED ACCESS TO RESIDENTS FOR LONG-TERM CARE OMBUDSMAN

Long-term care ombudsmen have often found it difficult to see residents to investigate complaints, monitor the well-being of residents, and inform residents of their rights and how to assert them. The legislation would require immediate access to residents.

EXPANDED AUTHORITY FOR LONG LONG-TERM CARE OMBUDSMAN TO PURSUE ADVOCACY

The resolution of resident complaints often necessitates commenting on public policies, appealing administrative decisions, and legal action to obtain redress. Long-term care ombudsmen find it difficult to obtain needed legal services for many reasons, including the fact that many attorneys are unfamiliar with the legal problems of residents and attorneys must often go out to where the residents live.

The legislation would enlarge the long-term care ombudsman duties to include representing residents' interests before public agencies and seeking administrative, legal and other actions to protect the rights and well-being of residents. The State agency responsible for the administration of the Older Americans Act in the State would have to ensure that adequate legal counsel were available to provide advice, consultation and legal services to the long-term care ombudsman office. The ombudsmen would also review and, if necessary, comment on existing or proposed laws, regulations and other governmental policies and actions that pertain to the rights and well-being of the residents of long-term care facilities.

STRENGTHENED CONFLICT OF INTEREST PROHIBITIONS WITHIN THE LONG-TERM CARE OMBUDSMAN PROGRAM

Long-term care ombudsmen would have greater autonomy and protection from political pressures in doing their job. Vigorous advocacy on behalf of residents can often anger some very powerful interests in the States and communities. In addition to imposing sanctions on any entity that interferes with the performance of ombudsmen duties or retaliates against residents, employees, or other complainants, States would be required to establish, and specify in writing, mechanisms to identify and remedy any conflicts of interest.

The legislation would prohibit long-term care ombudsmen, their representatives, their immediate families, and anyone involved in the designation of an ombudsman from having any financial, management, or employment interest in a long-term care facility. They would also be prohibited from any direct involvement in the licensing or certification of any long-term care facility or service.

INCREASED ACCOUNTABILITY OF THE LONG-TERM CARE OMBUDSMAN PROGRAM

To meet the need for greater accountability in the State and local long-term care ombudsman programs, several provisions are included in this legislation. The responsibilities of the ombudsman office are expanded and explicitly mandated. Reporting requirements are increased to make certain that problems encountered by the ombudsmen and proposed solutions are made known to policymakers and the public. Qualifications for the State ombudsman office are spelled out to ensure that the ombudsman has training or experience in working with long-term care residents and advocating on their behalf, program management, and dispute resolution techniques.

Local long-term care ombudsman offices are supposed to be subdivisions of the State long-term care ombudsman office, but there has often been a lack of clarity with regard to this important relationship. The legislation would provide that all those who provide long-term care ombudsmen services at the local level would have to be designated by the State long-term care ombudsman. Training would be required of all designated representatives of the ombudsman office.

PREVENTION AND TREATMENT OF ELDER ABUSE IN THE COMMUNITY AS WELL AS IN INSTITUTIONS

To further address the problem of elder abuse, in the community as well as in institutions, there would be established within the Administration on Aging a National Center on Elder Abuse. The Center would disseminate annually a summary of recently conducted research on elder abuse, neglect, and exploitation; develop an information clearinghouse; publish training materals; provide technical assistance to programs relating to the special problems of elder abuse; conduct research into the causes of elder abuse; and conduct studies of the incidence of elder abuse.

The Secretary of Health and Human Services, through the Center, is authorized to make grants to States, public agencies, or nonprofit organizations for elder abuse prevention and treatment programs.

INSTITUTE OF MEDICINE STUDY TO DEVELOP PROTECTIVE STANDARDS IN BOARD AND CARE HOMES

After a 10-year investigation, the Subcommittee on Health and Long-Term Care released a report in 1989 documenting the fact that the States do a miserable job of protecting the elderly and disabled residents of board and care homes. "Board and care" is the broad term used to describe facilities that provide shelter, food, and protection to frail and disabled individuals. Two Federal programs for the elderly and the disabled, Supplemental Security Income and Social Security, are the principal sources of payment for care in a board and care home.

The legislation would call upon the Institute of Medicine (IOM) to establish a National Commission on Board and Care Facility Quality similar to the IOM commission that recommended the current Federal regulatory structure for nursing homes. The Commission would be composed of both consumers and providers as well as other experts in the field. The Commission would recommend to the Congress uniform national standards to protect the rights of an estimated 1 million Americans currently residing in board and care homes and an estimated 3.2 million more of our citizens currently at risk for board and care placement.

I urge my colleagues on both sides of the aisle to join me in supporting this important legislation to protect the residents of our long-term care facilities and prevent the abuse, neglect, and exploitation of our elderly citizens.

RECALCITRANT CHINA: THE CONGRESSIONAL HUMAN RIGHTS CAUCUS DISCUSSES PRISON LABOR AND MFN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. LANTOS. Mr. Speaker, this month the United States House of Representatives will consider the President's request to extend most-favored-nation trading status for China. As we argue the merits of the administration's policy, we should do so fully cognizant of the facts. Those facts do not bode well for the President's policy. In fact, they show the President's China strategy for what it is: an unmitigated failure.

It is a sad irony that the President's call for MFN falls on the second anniversary of Beijing's vicious and bloody crackdown against peaceful prodemocratic demonstrators in Tiananmen Square. If that ugly episode was merely an anomaly, a deviation from an otherwise steady course charted by Chinese authorities toward a more open and democratic Chinese society, the President's approach would make more sense. It is clear, however, that Tiananmen Square was not an aberration.

Just last week, the congressional human rights caucus heard testimony on yet another outrage perpetrated by Chinese authorities: the widespread use of prison labor for the production of goods for export. Many prisoners arrested for crimes against the state or counterrevolutionary activity are forced to produce such goods under horrendous working and living conditions. Imagine: The shoes you are wearing may have been manufactured by a student arrested for his or her democratic activities.

Mr. Speaker, contrary to the President's policy, all evidence points to an increasingly recalcitrant China. In support of this assertion, I would like to submit the testimony of those participating in the congressional human rights caucus discussion of Chinese prison labor for the RECORD.

Mr. Speaker, I insert statements of the following individuals into the RECORD: Sidney Jones, the executive director of Asia Watch; and James V. Feinerman, associate professor at Georgetown University Law Center and editor in chief of China Law Reporter. The following statements speak to China's utter contempt for basic standards of human rights. I urge my colleagues to give their testimony the serious and thoughtful attention it deserves.

STATEMENT OF SIDNEY JONES

The production of export goods by Chinese prisoners has become a major human rights issue, focusing attention on the vast and inaccessible labor camp system in China, the people detained there, and the conditions under which they work. We should state at the outset that prison labor per se is not an abuse and the opportunity to work for pay while serving a sentence is actually a humane feature of many prison systems, including our own.

But we're concerned about the question of prison labor in China for several reasons. First, many of the prisoners producing export goods are sent to the camps without any judicial hearing whatsoever and others are forced to stay on after their sentences expire. And a significant proportion of the gulag inmates may be political dissidents, arrested for the crime of "counterrevolution."

A second concern is that working conditions inside these camps are reported to be poor, even dangerous, and in some cases, the prisoners get no remuneration whatsoever.

Last but not least, the importation of prison-made goods is against U.S. law. Let's take each of these factors in turn.

No one knows how many men, women and adolescents are detained in the Chinese laogai or labor camp network, or indeed, how many camps there are. Estimates of the total prison population in China, including labor camps, range from official Chinese government figures quoted by the State Department's annual human rights report of 1.1 million, some .5 percent of whom are political prisoners, to a figure of 16 million used by scholar Harry Wu, some 10 percent of whom may be political prisoners. Wu notes that some camps, such as Qinghai Province's No. 2 Labor Reform Detachment, may have a combined population of criminal and political prisoners of over 50,000 people.

Young people may also be inmates. The State Department report notes that in two labor camps near Beijing in 1990, there were 800 youths detained there for "hooliganism" during the 1989 demonstrations.

The gulf between official and independent sources on the prison population only underscores how difficult it is to obtain information when no international observers are allowed access to the camps. The official "model prison" tour does not ordinarily include labor camps, and visitors to factories may be totally unaware that they are on the grounds of a labor camp. In one official document unearthed by Asia Watch, a factory manager says, "We made it an explicit rule that whenever foreign businessmen come to the workshops to inspect product samples, they must be accompanied by a special person * * *. Prisoners are not allowed to have direct contact or talk with foreign businessmen * * *."

The camps, officially known as "reform-through-labor enterprises," produce manufactured and agricultural products for export to 81 countries at far lower costs than regular state-owned enterprises. Some of the products include denim textiles, socks, marble tiles, T-shirts, valves, electric fans, engines, coal, wine, tea, furs and leather.

The people producing these goods fall into three categories: people sentenced by a court to "reform through labor;" people assigned without trial to these camps for "re-education through labor" for up to three years; and people forcibly and indefinitely retained as workers after the completion of their sentences so that export activity will not be diminished by their departure. The latter policy is most commonly applied against those considered "unrepentant." One government document found by Asia Watch even suggests that had the forcible retention of unrepentant detainees been more rigorously applied, the Tiananmen Square protests of 1989 would not have broken out.

Political dissidents may be found in all three categories, and Asia Watch believes that the anti-crime sweep that resulted in close to a million arrests between May and September 1990—and those are official figures—was closely linked to ongoing political repression, with "counterrevolutionaries" as much the target of the sweep as arsonists, murderers and robbers.

Many but by no means all of the labor camps which produce goods for export are located in the coastal provinces of Guangdong, Juangsu and Fujian. These areas in general have fewer "counterrevolutionary" prisoners than elsewhere in China but we know of several detained there, including Wang Xizhe, serving a 14-year sentence for writing articles and editing an unofficial journal during the 1979 Democracy Wall movement, and Luo Haixing, a Hong Kong resident who received a five-year sentence in March 1991 for trying, unsuccessfully, to help a key dissident leader and his wife flee China.

Many of the prisoners swept up in the recent anti-crime wave are believed to have been absorbed by labor reform farms, considered by the Chinese government to be the "foundation" of the labor reform economy.[1] These farms exist all over China, producing food grains, tea, fruit, poultry and eggs, meat and fish products. One document from late 1990 notes that the farms located in "frontier" areas face "grave economic difficulties" and have not been able to pay their employees for over a year.

Working conditions in the reform-through-labor enterprises are reported to be grim, exhausting and often dangerous. According to an official Chinese law journal, prisoners are sometimes assigned tasks such as handling explosives or performing blasting operations in open-pit mines. Prisoner medical services are either poor or non-existent. Food rations can be cut as a disciplinary measure or failure to meet production quotas, and prisoners who "resist reform" can receive physical punishment, including electric shocks and prolonged solitary confinement.

Some prisoners do receive payment for their work. But for others receiving a "strict regime" treatment, a policy called the "four cessations" applies: no visits, no personal money, no letters, no leisure activities. Official documents portray a harsh atmosphere inside the camps, even for ordinary prisoners. One labor camp official, noting the difficulties of export production, says, "Convicts working in a labor reform factory are not masters of the enterprise; they are criminals in society, and there is a negative, antagonistic and disruptive side to them. Faced with a serious task of foreign trade production, our mill has insisted on instilling in our cadre of police a sense of dictatorship and a sense of hardship, so they are constantly on the alert ***."

If concerns about conditions in the labor camps and who is forced to work there were not enough, the fact that some products are destined for the U.S. when the importation of prison-made goods is against U.S. law should set off alarm bells here. The Chinese government flaunts the use of prison labor as a way of increasing foreign exchange earnings, and it is clearly a central government policy rather than the opportunism of local officials, as recent government statements suggest.

One document obtained by Asia Watch dated October 1990, written by someone working in the Bureau of Labor Reform in the Ministry of Justice, states:

"The 1990's will be another decade of rapid growth for labor reform farming. At the Third Session of the Seventh National People's Congress, Premier Li Peng called on governments at all levels to give top priority to agriculture in their economic work ***. The labor reform farms must seize this opportunity and elevate labor reform farming to a higher plateau ***. The leadership of the judicial administration at all levels should lobby for special economic policies so as to create a relaxed and more lenient external environment for the labor reform farms."

The official goes on:

The Third Plenum of the party's 13th Central Committee made the decision to carry out rectification and readjustment while deepening the reforms. This is a grim challenge to the labor reform farms; it also offers an opportunity for growth ***. The labor reform farms should concentrate on perfecting the reform measures and coordinate them well. They must carry through those measures that have proved effective in the course of the decade of reform; at the same time they must *** further explore new avenues for reform on the condition that control of the prisoners is not jeopardized. Those measures and methods that help reform the prisoners and [at the same time] develop production should be continued.

A quote from the 1989 Yearbook of Local Historical Records of Shandong Province stands in marked contrast to the Chinese government's denials that prison-made goods are exported or attempts to exculpate the central government by blaming the practice on local officials:

[I]n 1988, the reform-through-labor production in Shandong earnestly carrying out the important strategic plan of the Party's Central Committee to speed up the economic development in the coastal regions, made a great effort to develop foreign-oriented economy by fully utilizing . . . Shandong's advantageous conditions in opening its doors to the outside world.

It is significant that when the U.S. consulate in Shanghai tried to visit the New Life Cotton Mill, a reform-through-labor enterprise named in the documents obtained by Asia Watch as exporting goods to the United States, it was told the bill was closed to foreigners.

The use of prison labor to produce goods for export is clearly central government policy, and it is clearly incumbent on the Bush administration to see that U.S. law banning such goods is not being violated. But it is also time that the Chinese government allowed international access to its vast network of prisons and labor camps to ascertain who is detained there and how they are treated. Placing conditions on Most Favored Nation status might help bring that about and give some measure of protection to the men and women in the Chinese gulag.

STATEMENT OF JAMES V. FEINERMAN

Mr. Chairman and Members of the Caucus: Thank you for holding these hearings and for providing an opportunity for me to present my views and to share information gathered on a recent visit to the People's Republic of China (PRC). The issue of extending Most-Favored-Nation (MFN) trade status for the PRC provides a focus for consideration of the importance of human rights concerns in formulating United States policy towards the PRC. Among the many issues regarding China's human rights practices which have been raised over the past two years since the Beijing Massacre in and around Tiananmen Square, the recurrent questions surrounding PRC use of prison labor to produce goods for export remain difficult to answer.

Despite the cloak of official secrecy and repeated denials by the Chinese government, it is now incontestable that prison labor has been, and continues to be, used to manufacture exports for markets where the most hard currency can be earned. While a few foreign venture partners may have been aware of these arrangements in the past, many more foreign investors in China have unwittingly been enticed by local government officials and unscrupulous middlemen into sourcing and supply arrangements which rely upon prison labor.

This cynical use of prison labor to generate export revenues provides just one of the many reasons for the United States to deny an extension of MFN—or, at the very least, to make extension conditional upon demonstrated improvements in the Chinese human rights regime. Moreover, such practices violate both the letter and the spirit of U.S. laws, especially Section 307 of the Tariff Act of 1930. Now that the United States is considering ratification of the International Labor Organization's Convention Against Forced Labor, it is particularly appropriate to denounce Chinese export of prison-made goods and to apply U.S. laws. In the long run, clear linkage of our trade and foreign policy to the promotion of human rights in China will serve the interests of the peoples of the United States and the PRC.

Today, I will briefly present an eyewitness account of export production by political prisoners in China and some additional background about Chinese government policies with respect to forced labor in several regions of the PRC.

First-hand Experience of Prison Labor Exports. In March, 1991, I was part of a delegation of the American Bar Association which visited Beijing and Shanghai for ten days to explore the present state of the Chinese legal system and legal profession as well as certain obvious human rights concerns, particularly the trials of pro-democracy dissidents. While the delegation was in Shanghai, we visited the Shanghai Prison. At the delegation's request, as part of an overall tour of the prison, we were shown the ward where political prisoners were housed.

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[1] Ye Yaojin, "The Past and Prospects of Labor Reform Farming", Theoretical Studies in Labor Reform and Labor Re-education, October 1990.

The "counter-revolutionary prisoners," as our Chinese hosts referred to them, were all held separately in a single cell block of the Shanghai prison. The prisoners were jailed in circumstances indistinguishable from those of the other cell blocks the delegation had visited. A number of names on the cell doors were prefixed by a red cross, but according to the wardens that merely meant that the occupant was "elderly" (over 60) and thus entitled to better food rations and an extra hour of rest each night. The inmates in this cell block had even produced a mimeographed newspaper with articles on Marxism-Leninism and poems and headed by a quote from the chief warden speaking at a meeting about how to deal with counter-revolutionaries. Most of the time the delegation was in the cell block, the prisoners were sitting on rows of benches watching Premier Li Peng give an opening address to the most recent session of the National People's Congress, China's rubber-stamp legislature. Two prisoners were designated to speak to the delegation; both of them were serving 8-to-10-year sentences for counter-revolutionary activities, and one of them was from Hong Kong. Many of the prisoners in this cell block seemed considerably older than the prisoners elsewhere in the prison; indeed, most of them were at least middle-aged.

As the delegation was about to leave the cell block, one of the delegation's members, Mary Curtin, noticed a large pile of cardboard cartons. She asked to see them, and the delegation discovered that these "counter-revolutionary prisoners" were folding cardboard four-pack cartons for a joint venture operation of Seagram's in a special industrial zone in Shanghai. The Deputy Warden and others became very agitated when Mrs. Curtin and others asked to take samples of these cartons away; they assured the delegation that these items never entered foreign commerce and that the work had been sub-contracted out to them by a middleman. They seemed clearly aware of the potential problem that would result from news of this discovery reaching a Western audience. In the end, the delegation left all the boxes behind. The product, in these boxes, was available for purchase—at least to the foreign community—in Shanghai; the Wellcome Supermarket in the Portman Hotel, where the delegation was housed, offered them for sale.

News of this discovery did eventually surface in several U.S. publications.[1] At that time, spokesmen for Seagram's joint venture in Shanghai, Shanghai Seagram, explained that the work on the packages had been contracted out by a third party without Seagram's knowledge. A Sino-Singaporean joint venture printing firm which was supposed to manufacture the cartons hired a local middleman who contracted for peasants and political prisoners to assemble the packaging. Seagram's claims that it has since instructed its packaging manager to fire the middleman and severed all ties with the Shanghai prison. Yet the convoluted arrangements for producing the cartons which eventually materialized demonstrate the pitfalls facing even those companies which intend to conduct their business in China with an honest regard for human rights concerns. They may not be able to keep track of the numerous conduits for transactions leading to the manufacture of a final product in China. Nonetheless, the importation of such products into the United States would be a clear violation of U.S. federal law; furthermore, emerging standards of human rights currently being codified in international conventions would make forced labor production of export goods illegal in all signatory countries. Finally, the guilty reaction of the Shanghai prison officials, along with the repeated denials of Chinese governmental spokesmen, reveal a uniform awareness on the part of China's leaders that such practices are unacceptable.[2]

China's Extensive Labor Reform Camp System. As Harry Wu has detailed in a recent aricle,[3] China compels criminals and other detailed citizens to work in various sorts of labor reform camps, all of which are economic enterprises in the PRC. The products of this forced labor is sold in the Chinese domestic market as well as on the international market. Responsible estimates of the number of people laboring under these circumstances in China range from 2–3 million to as many as 20 million. Each labor reform camp has two names: one used by the public security system, which is usually bureaucratically descriptive (e.g., No. 1 Prison, No. 12 Reeducation-Through-Labor Camp, etc.) and the other a name by which the camp is known to the general public as a production unit (*e.g.*, Qinghe Farm). The PRC government refers to such enterprise as "Special State-run Enterprises.

Various reports suggest that these enterprises are an important component of China's domestic economy, contributing substantial percentages of the national production of such important commodities as zinc, mercury, asbestos and even tea. More germane to the concerns of the Caucus, however, is the considerable evidence that forced labor may be employed in connection with export production and foreign investment enterprises operating within the PRC. For example, Sweden's Volvo Automobile Corporation was solicited by an overseas Chinese representative for the Chinese Labor Reform Bureau who offered to provide fully staffed factories, land for construction of new plants or "large numbers of criminals who already have received basic technical training as very cheap laborers on a lease basis." Volvo reportedly responded that it was not interested in any such arrangements.[4]

Evidence of PRC Government Policy to Promote Prison Exports. As has previously been documented by an Asia Watch report released in April of this year,[5] the PRC government is systematically exploiting the labor of prisoners in Chinese prisons, labor camps and other organs of criminal control to produce cheap manufactured exports. Journal articles published in restricted-circulation publications boast about the eager acceptance of foreign buyers who welcome the low-cost, high-quality products turned out by prison labor in Chinese labor reform enterprises. Such evidence puts the lie to official Chinese government statements over the past few months, in the face of mounting evidence produced by foreign visitors, that such exports are unauthorized or exceptional departures from central government policy by local enterprises.[6]

Reports from several regions in China now suggest just how widespread the policy to encourage prison labor exports is, how long it has been in place and how duplicitous Chinese spokesmen have been in denying the practices. A 1987 Yearbook for Shandong Province, in the Northeast,[7] a 1986 Yearbook for Yunnan Province, in the Southwest,[8] and a 1987 Yearbook for Guangxi Province, in the Southeast,[9] all document a concerted effort to produce exports and foreign currency profits from those exports by state-controlled reform-through-labor organs in widely separated regions of the PRC. The devastating impact of these policies on China's image abroad has led the Chinese leadership to respond, not by ending the policies, but rather by forbidding any further reportage on the use of prisoners to make export products.[10] According to informed persons, the central authorities have issued a confidential document, to be circulated only within the Communist Party to press organs in Beijing, ordering the domestic mass media in China not to report on prison labor exports, "so as not to allow Western countries to step up accusations and, at the same time, not to hurt China's image, which has not been good."

Conclusion. The overwhelming evidence supports contentions, long argued but previously lacking firm support, that the official policy of the PRC government is to use prison labor, including that of political prisoners, to produce goods for export to foreign markets. The import of such products into the United States violates existing federal legislation. In addition, such practices are another example of abuses of human rights which, when taken together and considered in their enormity, should disqualify the PRC from receiving Most-Favored-Nation status. At the very least, the United States Customs Service should heighten its scrutiny of imports from the PRC to determine that no products resulting from prison labor enter this country. Inspection of China's prisons and labor camps by U.S. officials and/or non-governmental human rights monitoring organizations should be requested to determine the extent of China's current prison labor export industry and the efficacy of any announced attempts to curtail these abuses.

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[1] *E.g.*, Lubman, "Chinese prison labor used on Seagram packs," San Francisco Examiner, Apr. 10, 1991, at 2; "China's Ugly Export Secret: Prison Labor," Business Week, Apr. 22, 1991, at 42.

[2] Letter of Chen Defu, Press Counselor, Chinese Embassy—Washington, New York Times, Oct. 5, 1990: "No products made in prison [in China] are exported." See also Song, "French Joint Venture Denies Using Slave Labor," China Daily, June 19, 1990, at 2 (denying report in the Financial Times, that a Sino-French joint venture winery bought grapes from a suburban Beijing "labor farm").

[3] Wu "Laogai: The Chinese Gulag," in Vol. II, Human Rights Tribune, No. 1, February 1991, at 3.

[4] Wu, supra note 3, at 4.

[5] Asia Watch, "Prison Labor in China," April 19, 1991.

[6] See e.g., XINHUA News Release, "Spokesman on U.S. Trade, Property Rights," 9 May 1991, reprinted in BFIS Daily Report: China, May 10, 1991, at 10, arguing: "Since China started to implement the policy of reform and opening to the outside world, its export-oriented economy has expanded greatly, and local and foreign trade enterprises now have great decisionmaking power."

[7] "Shadong Reports Reform-Through-Labor Exports," section reprinted in FBIS Daily Report: China, May 21, 1991, at 32 (14 projects with manufacturers and businessmen from the U.S., France, the Federal Republic of Germany, Japan and Belgium).

[8] "Yunnan Confirms Prison Camp Exports," section reprinted in FBIS Daily Report: China, May 17, 1991, at 22, ("Golden Horse" X195 diesel engines on sale in 13 foreign countries and regions).

[9] "Guangxi Reports Exports from Labor Camps," section reprinted in FBIS Daily Report: China, May 17, 1991, at 23 (diesel engines sold in Hong Kong, Australia and Southeast Asian countries; black tea sold in Britain and the U.S.).

[10] Hong Kong HSIN PAO [in Chinese], "Government Bans Reportage on Prison Labor," translated in FBIS Daily Report: China, May 24, 1991, at 20.

CLOSE THE ILLEGAL DRUG LAB LOOPHOLE: SUPPORT THE PRECURSOR CHEMICAL CONTROL ACT OF 1991

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. WYDEN. Mr. Speaker, there is a giant loophole in the Chemical Diversion Act which is allowing criminals to continue to manufacture methamphetamine and its smokable counterpart—ice.

Ephedrine is a key ingredient in the methamphetamine manufacturing process. In its liquid or powder form, it is a restricted chemical and transactions involving it are monitored by the Drug Enforcement Administration. However, ephedrine is exempted from DEA scrutiny and restriction in its capsule or tablet form. Therefore, criminals are buying huge amounts of ephedrine tablets and simply crushing them up to make methamphetamine.

Around the Western States, DEA reports finding large caches of ephedrine tablets during recent seizures of illegal drug labs. One site contained over 1 million ephedrine tablets.

In Oregon, the Board of Pharmacy has taken steps to control the over-the-counter [OTC] sales of ephedrine, yet criminal meth cookers can simply cross State lines to purchase the necessary ingredients to make their deadly drug.

According to the Oregon State Police, ephederine is also widely available through mail order houses which seem to specialize in selling large amounts of this precursor chemical in tablet form. I would like to include for the record a copy of a letter from Oregon State Police Lt. Robert W. Miller, which describes this problem.

Furthermore, there is no requirement for handlers of precursor chemicals to register with the DEA. As a result, the DEA is left pretty much in the dark about who's out there selling restricted precursors. This makes it very difficult to spot the offenders.

The DEA Administrator cited the need for this information in order to "more effectively control the distribution of list 1 chemicals which are primarily precursors," in a recent letter to the Speaker of the House of Representatives.

In a letter which I am also including for the record, Ruth Vandever, executive director of the Oregon Board of Pharmacy expressed her concern that due to the loopholes in the Chemical Diversion Act, the methamphetamine problem persists in Western States and is certain to creep eastward unless action is taken.

Today I am introducing legislation, the Precursor Chemical Control Act of 1991, that will keep the key ingredients for this dangerous drug out of the hands of criminals.

First, my legislation will remove the exemption of tableted precursor chemicals from the Diversion Act controls and reporting requirements. This way, these products will still be available for legitimate use, but transactions involving large amounts will be accounted for and reported to the DEA.

Second, my legislation requires that all handlers of restricted precursors register with the DEA. Handlers means manufacturers, suppliers, importers, exporters, sellers, and distributors. This is no different than what is required of physicians and pharmacists who handle controlled substances.

Let's strengthen our efforts to crack down on illegal drug laboratories, close the precursor chemical loopholes, and eliminate the nationwide expansion of the methamphetamine scourge.

OREGON DEPARTMENT OF STATE POLICE,
Salem, OR, June 26, 1991.

Congressman RON WYDEN,
Washington, DC.

This letter is in response to a request from your office regarding problems encountered with ephedrine tablets and their use in clandestine methamphetamine laboratories.

In 1990, the Western States Information Network reported the seizure of (60) sixty methamphetamine labs in Oregon. Of this total, there were fourteen (14) incidents listing ephedrine as a precursor that was seized.

Current 1991 statistics report twelve (12) methamphetamine labs seized in Oregon, with one incident of ephedrine mentioned.

The future trend of methamphetamine production in Oregon will soon evolve to the ephedrine process. This is based on lessons learned from California.

In 1987, the Oregon Board of Pharmacy listed bulk ephedrine as a schedule II controlled substance in an effort to curb its widespread use in the production of illicit methamphetamine. In April of 1990, the Oregon Board of Pharmacy restricted the sale of over-the-counter ephedrine to prescription only. Police reports received from Idaho, Oregon, Washington, and Canada indicated over-the-counter ephedrine tablets sold by drug outlets in the Portland, Oregon area had become a source of ephedrine for northwest "methlab cooks."

Retail drug outlets in other states are now being utilized for a source of ephedrine tablets through catalog mail orders. Seizures of bottles containing 1000 ephedrine tablets indicate that they are being ground into powder for methamphetamine production.

It is currently a Class A Misdemeanor in Oregon for a person to sell, give away, barter, distribute, buy, receive, or possess any federal legend drug, which over-the-counter ephedrine is now designated.

I hope this information has assisted you. Please feel free to contact me if I may be of further assistance.

Sincerely,

ROBERT W. MILLER,
Lieutenant, Drug Enforcement Section.

OREGON BOARD OF PHARMACY,
Portland, OR, May 29, 1991.

ALICIA KNIGHT,
Congressman RON WYDEN,
Washington, DC.

DEAR ALICIA: I sent a copy of your March 14 memo proposing legislative changes in the Chemical Diversion Act to the directors of pharmacy boards in Washington, Idaho, Nevada and Arizona. Since then, I have had opportunity to discuss the proposals with them in person at the National Association of Boards of Pharmacy (NAPB) annual meeting.

They and I agree that the proposals have much merit and would encourage and support efforts by Congressman Wyden to remove the exempt status of ephedrine and pseudoephedrine tablets and to require the registration of persons distributing precursor chemicals.

My impression at the NAPB meeting was that the methamphetamine precursor problem, or at least the awareness of a problem, is still pretty concentrated in the western states. I am certain that it will creep eastward and that the creative minds of our western 'meth' chemists will creep right along with it. It is difficult to stay one step behind them, much less one step ahead.

To end on a note of optimism, I will pass along a recent quote from a Multnomah County Deputy Sheriff * * * "The only reason we finally win is that they are dumber than we are."

Thanks for all your help.

Sincerely,

RUTH VANDEVER, RPh,
Executive Director.

CELEBRATING THE 135TH ANNIVERSARY OF THE BIRTH OF SCIENTIST-INVENTOR NIKOLA TESLA

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. ROE. Mr. Speaker, it is with distinct pleasure that I rise today to pay tribute to an extraordinary scientist, inventor, and patriot. Nikola Tesla, son of a Serbian Orthodox clergyman, emigrated to the United States at the age of 28 and proceeded to revolutionize electromagnetic technology and pave the way for many of our modern machines and techniques such as robotics, computers, satellites, and microwaves.

Born on July 10, 1856 in the Smijan, Lika region of what is now Yugoslavia, he came to this country and later became an American citizen in 1891. This, as he often told friends, he valued more than any of the scientific honors to come to him. Honorary degrees he tossed into drawers, but his certificate of naturalization was always kept in his safe. He died in New York City on January 7, 1943, but today, July 10, will mark the 135th anniversary of his birth, so I take this opportunity to remember a lifetime of accomplishments and scientific advancements.

Following his technical training at the Polytechnic School in Graz and the University of Prague, he worked at the telephone company in Budapest and later at the Continental Edison Co. in Paris. Unable to interest European scientists in a new alternating-current motor he envisioned, Tesla moved to the United States in 1884. After redesigning dynamos for Thomas Edison in New York City, he established his own laboratory in 1887 and began a spectacular career of research and invention. By the beginning of the 20th century his achievements had made the name of Tesla as world famous as that of Edison.

Tesla's first and probably greatest accomplishment was his discovery of the rotating magnetic field and then his clever adaptation of it to his induction motor and polyphase system. The combination of the motor and his system yielded the first practical means for creating large quantities of electricity in one place and sending it economically over long distances for use at another place. Tesla's invention made possible the large-scale harnessing of Niagara Falls at the end of the century and allowed electric light and power to be provided wherever needed. Today practically all the world's electricity is still generated and transmitted by means of the Tesla polyphase system and is turned back into mechanical power by updated models of motors originally covered by his patents.

Hoping to develop a light more efficient than the incandescent lamp, Tesla began to investigate alternating currents of higher voltages. In 1891 he created the "Tesla coil," an air-core transformer that had its primary and secondary tuned to resonance. For operation on these high voltages, he developed tubular lights filled with gas, coated with phosphor, and lacking filaments—forerunners of modern neon and fluorescent lights. While studying currents from his coil, Tesla also made pioneer contributions to the then unborn fields of high-frequency induction heating, diathermy, and radio.

Among many honors, Tesla received degrees from Columbia and Yale Universities, the Elliot Cresson Medal of the Franklin Institute, and the Edison Medal of the American Institute of Electrical Engineers. In 1956, as part of international commemorations of the centennial of his birth, the term "tesla" (T) was adopted as the unit of magnetic flux density in the mksa system.

Mr. Speaker, I am sure my colleagues here in the House join me in honoring this man who contributed so much knowledge to our Nation and to the world. Nikola Tesla was one of the most extraordinary of scientists, almost supernaturally gifted, erratic, and flamboyant, he was and remains a hero and mentor to many of the 20th century's most famous scientists. Nikola Tesla's 700 inventions radically altered and continue to influence the world in which we live. It is only fitting that we honor him here in the U.S. Congress on this the 135th anniversary of his birth.

IMPROVING THE AVAILABILITY AND AFFORDABILITY OF EARTHQUAKE INSURANCE

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. DREIER of California. Mr. Speaker, I am pleased today to join as an original cosponsor of H.R. 2806, a bill to create an Earthquake Insurance and Loss Mitigation Program. It was introduced this morning by my colleague from Washington, Mr. SWIFT. We are also fortunate to have as cosponsors the chairman of the Science and Technology Committee, Mr. BROWN, and another hard working member of that committee, Mr. BOEHLERT.

H.R. 2806 represents nearly 18 months of discussion and compromise, incorporating the best features of two bills introduced in the 101st Congress: H.R 4915, sponsored by Representatives BROWN and BOEHLERT, and H.R. 4480, sponsored by Representative SWIFT and myself. I look forward to working with this distinguished group of cosponsors to enact H.R. 2806 into law as soon as possible.

Mr. Speaker, the 1989 Loma Prieta earthquake in California, which killed 67 people and caused 8 to 10 billion dollars' worth of property losses, was the most damaging earthquake to hit California since 1906. Despite California's long history of damaging earthquakes, a surprisingly small number of Californians have opted to purchase earthquake insurance.

Throughout the rest of the United States, where the incidence of damaging earthquakes is lower, but the risk is still significant, the proportion of home and property owners who purchase earthquake insurance is even smaller. Consequently, many potentially unavoidable—and unforeseeable—losses from earthquakes in the United States are not insured. Further, the losses that are covered could, in a major earthquake, be so large as to disrupt our entire economy.

Recognizing the potentially devastating impact of a large earthquake, we are seeking ways to minimize that impact through legislation to implement a national earthquake insurance, Reinsurance and Loss Mitigation Program. H.R. 2806 was drafted with unprecedented cooperation between scientists, engineers, academics, and representatives of the insurance industry.

Mr. Speaker, catastrophic earthquakes are inevitable. We know they are going to strike. We can even predict with some reliability where they might occur. We have been reminded of the awesome power of earthquakes all too recently. For example, the Mexico City earthquake in 1985 killed thousands and caused economic losses in the neighborhood of $4 billion. The Soviet Armenian earthquake of 1988 was responsible for over 25,000 deaths and 18,000 injuries, and left over half-a-million people homeless. Just last year, massive jolts in Iran and the Philippines caused upwards of 50,000 and 1,600 deaths respectively. During a visit last year to the Philippines, I saw first hand the devastation and human suffering wrought by catastrophic earthquakes.

The United States has not been immune to earthquakes. The Loma Prieta-San Francisco earthquake is still a vivid memory for most Americans. But it was a smaller tremor in my congressional district—the Whittier Narrows quake of 1987—that brought the earthquake risk home to me. This earthquake killed eight people and caused property losses of over $300 million. But it left an enduring legacy for my constituents. In fact, some of the small businesses in downtown Whittier are still trying to recuperate.

Neither Loma Prieta nor Whittier Narrows was the big one that seismologists are predicting for the United States. Most scientists agree that there is a virtual certainty that a monster quake at least 30 times more powerful than the Loma Prieta earthquake will strike somewhere in the United States within the next 40 years.

Catastrophic earthquakes are not only a California problem. Studies by the U.S. Geological Survey confirm that the big one could as easily occur east of the Rocky Mountains as in the Western States. The largest earthquakes in recorded American history occurred along the New Madrid Seismic Zone in the Central United States during the winter of 1811–12. The series of New Madrid quakes were felt throughout the Eastern half of the United States, ringing church bells in Boston and collapsing scaffolding on the Capitol Building in Washington, DC.

The U.S. Geological Survey estimates that there is between a 16 and 63 percent chance that an earthquake in the magnitude 6.0 to 6.5 range could strike New Madrid in the next 15 years. Given the geology and the relative lack of preparedness of the region, such an event could easily cause billions of dollars in losses to housing alone. A recurrence of the magnitude 8 earthquake that struck in 1811–12 would cause thousands of casualties, and damage would run in excess of $50 billion.

Besides the New Madrid Seismic Zone, which runs through a seven-State region affecting Missouri, Tennessee, Mississippi, Kentucky, Arkansas, Indiana, and Illinois, other high-risk areas in the United States include the States of Washington, Utah, South Carolina, Alaska, Hawaii, and Massachusetts. None of these States are anywhere near as prepared for a major earthquake as California. Preparation and mitigation measures, resulting from years of living with the immediate threat of earthquakes, are what kept the loses in the Loma Prieta earthquake relatively low.

The impact of a devastating earthquake occurring near a major metropolitan area would not be limited to the immediate vicinity. It would be felt throughout the country. Destroyed lifelines, such as highways, bridges, oil and gas pipelines, and communication lines, would affect regions thousands of miles from the epicenter.

An earthquake in the Central United States, for example, given its location at the crossroads of the Nation, could disrupt the flow of natural gas and oil to the cities of the eastern seaboard, leaving the financial markets of New York City without power and communication links, and disrupting world financial transactions.

Insured losses in such an event could easily exceed $50 billion to $60 billion. A loss of this magnitude would ripple through the national economy, impacting the stock and municipal bond markets, and affecting the economies of the world.

Despite the enormous financial disruptions that would inevitably result from large losses, some of the biggest losers in a major earthquake could be ordinary consumers, including those who live far from the quake's epicenter. These people might be unable to purchase insurance for ordinary perils such as auto and general liability, as many insurance companies would not have any funds available to write new policies after covering the catastrophic losses resulting from the earthquake. As bad as this is, individual homeowners would probably suffer the most. Fewer than 10 percent of the homeowners in the United States have earthquake insurance.

Earthquake insurance is generally not purchased because the premiums and deductibles are simply too high. A major earthquake would be particularly catastrophic for those uninsured homeowners who could lose a lifetime's worth of equity in a few seconds of shaking.

H.R. 2806 will help remedy many of these problems. The legislation creates two separate but parallel insurance programs: A Primary Earthquake Insurance Program which covers shake damages and applies to all residential property in the United States that is secured by government-backed mortgages; and an excess reinsurance program which covers all related earthquake damages and is triggered if the quake exceeds about $10 billion in insured losses.

This bill would make available to nearly all homeowners in the U.S. insurance protection against losses resulted from direct shake damages for all earthquakes. Such a universal program spreads the risk throughout the country, so premiums would drop automatically. Most homeowners would see at least a 60-percent reduction in earthquake premiums. Under the proposal, high-risk areas—such as my home State of California—might pay as much as $50 per year for an average house while low-risk areas might pay premiums as low as $2. Presently, Californians are paying well over $100 on average for earthquake coverage.

The reserve funds will help cushion the economic blow of a truly catastrophic earthquake. The program also allows the property and casualty insurance industry to remain viable and to continue offering insurance coverage to consumers following a major disaster.

This approach provides the United States with a means to rebuild the Nation's economy, peoples' lives, homes, and businesses by prefunding earthquake losses and reducing the great reliance on government disaster assistance following an earthquake. The program will rely on premiums collected from homeowners and the insurance industry, not the taxpayers. Government moneys could be borrowed in the interim only if a serious earthquake strikes before the funds have built up sufficient amounts to cover the loss, but must be paid back from future premiums with interest.

Mr. Speaker, we learned some valuable lessons last year from the congressional hearings. The primary concern expressed was the need for a strong nationwide loss prevention program which would help mitigate the losses from future earthquakes. With the assistance of a blue-ribbon panel of mitigation experts, we created a strong mitigation program including locally developed and implemented building codes, seismic standards, and measures to increase the resistance of structures to earthquakes. The mitigation program uses a combination of reward-based incentives and phased-in requirements to ensure that local communities across America enact loss reduction measures.

This legislation can serve as a model for the rest of the world. Already Japan and New Zealand have their own government earthquake insurance and reinsurance programs in effect. Most important, Mr. Speaker, it incorporates loss mitigation provisions to help reduce the impact of earthquakes by protecting property and saving lives.

I hope my colleagues in the House will study the merits of H.R. 2806 carefully, will agree that it is a necessary program, and will join us as a cosponsor of this legislation to establish a national earthquake insurance and loss mitigation program.

THE MADRID PROTOCOL ON ANTARCTICA

HON. RON de LUGO

OF VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. DE LUGO. Mr. Speaker, I rise to express my great disappointment with the recent decision of the administration to oppose the Madrid protocol, an agreement worked out in April among the Antarctic Treaty nations that would have banned all commercial mining in Antarctica for a period of 50 years.

June 23 was the 30th anniversary of the ratification and entry into force of the Antarctic Treaty. Representatives of the 26 countries with full voting rights, who had drafted the Madrid protocol in April, met again in Madrid with hopes of having a formal signing of it on June 23.

As chairman of the Subcommittee on Insular and International Affairs which has jurisdiction regarding Antarctica, I was one of those Members instrumental in seeing that House Concurrent Resolution 109 which commemorated the June 23 anniversary and encouraged the United States to close Antarctica to commercial minerals development for at least 99 years, was approved by the House in time for the Madrid meetings.

Unfortunately, the U.S. delegation was the only one of the 26 Antarctic Treaty nations to return to Madrid without Government approval to sign the protocol. It took this position in spite of the fact that two bills supporting the moratorium on mining became law last year: Public Law 101–594, the Antarctic Protection Act of 1990 that was sponsored by the late Representative Silvio Conte and Public Law 101–620, a joint resolution that called on the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty consultative parties for the full protection of Antarctica as a global ecological commons. Furthermore, the administration's representatives submitted a proposed amendment that would have allowed any country to disassociate itself from the ban if an amendment it proposed was not put into effect within 3 years, a proposal that environmentalists lamented. The result was not only that the protocol was not signed but that the United States has isolated itself within the international community.

At last week's meetings in Madrid, there was no indication that the United States took the position supported by the legislation that had been approved by the Congress and signed by the President seriously.

I urge the President, who has proclaimed his desire to be known as an environmental president, to end this attempt to change the Madrid protocol as it was attained by consensus and join with the other signatory nations in signing it as soon as possible.

THE CSCE EXPERTS MEETING ON NATIONAL MINORITIES

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. HOYER. Mr. Speaker, from July 1–19, 1991, the Conference on Security and Cooperation in Europe [CSCE] will hold a meeting of experts on national minorities in Geneva, Switzerland. As Chairman of the Commission on Security and Cooperation in Europe, I would like to draw attention to this meeting and to express my regret that I could not be there at its opening.

First of all, I would like to pay tribute to the U.S. head of delegation, Ambassador Max Kampelman. His appointment reflects the high priority the United States places on the CSCE and on the Geneva meeting. I would also like to commend Switzerland for hosting the meeting and for displaying what I am sure will be excellent hospitality. Switzerland and the United States share a rich history of friendship; indeed, the Library of Congress in Washington is currently celebrating this history with an exhibition entitled "The Sister Republics."

The Geneva meeting has been called to address a problem we hoped would not outlast the 20th century. Throughout Europe, history has witnessed the suffering caused by national and ethnic persecution. Many of the 35 CSCE states have been torn by ethnic conflicts. Our own country once fought a bloody civil war whose root cause was the cruellest manifestation of racial intolerance: slavery. And the United States has long struggled to redress the legacy of such persecution.

Over the past year, we have welcomed the countries of Eastern Europe onto the path of democracy. We have encouraged and admired their brave transition to pluralism, democratically elected governments, and rule-of-law societies. But democracy is not a plateau to be achieved or a reward to be attained. Democracy is a concept and a condition to be nurtured, and bolstered, and protected. And one measure of a democracy is the degree of protection it accords its most vulnerable components. One true measure of a democracy is the treatment of its minorities.

The CSCE Copenhagen Document, now 1 year old, recognized this and included groundbreaking language on minority rights. And one of the main tasks in Geneva must be to review the implementation of existing CSCE commitments, such as those in the Copenhagen Document. Through this review, member states, including our own, should acknowledge their own shortcomings but also highlight their experience in protecting the rights of minorities.

Responding to minority issues is a complex and often controversial endeavor. Yet history has taught us some lessons. One thing that has not worked is trying to pretend that minority problems don't exist. One thing that has not worked is trying to pretend that only one system is capable of erasing animosities. One thing that has not worked is turning a deaf ear to criticism and concerns.

Prejudice and discrimination based on racial or ethnic difference are of serious concern in all CSCE countries. But while their specific manifestations may be different, I believe we all share a common desire: that justice in our countries be fairly and equally granted, that injustice in our countries be swiftly and equitably corrected, and that diversity among our people be firmly and unreservedly respected. This common aspiration must be the driving force in Geneva.

There are many approaches to combating discrimination. I firmly believe, however, that expressions of hatred and prejudice should be fought not by limiting freedom of expression or association but by strong condemnation of such expressions and a more active promotion of tolerance, mutual understanding, and equal rights.

Fortunately, the CSCE does not begin its work from scratch. The Copenhagen Document provides the fundamental framework: rule of law, participatory government, individual civil and political rights, and nondiscrimination. Bolstering these practices will take time. But when conflict erupts in violence, there is no time. In these situations, the government's message must be immediate and clear: Acts of violence, against persons, or property, will not be tolerated.

A government cannot legislate feelings. But it can promote cultural exchange, as was recently discussed at the CSCE meeting in Krakow. It can encourage tolerance and respect through its own policies and conduct. It can work, in a positive way, to provide responsible and responsive leadership. In particular, it can oppose popular discrimination against minorities, and make legal remedies readily accessible to members of minority groups when their rights are denied.

In this context, perhaps the most important aspect of the rule of law is not just its ability to prevent wrong, but rather, its capacity to redress wrongs. This function is what nurtures the faith of the people in the system—and is crucial in any state, but particularly in those where faith has been betrayed for many years.

One of the sorriest episodes in American history was the wrongful internment of Japanese-Americans during World War II. In the celebrated Supreme Court case of Korematsu versus United States, Justice Jackson, one of the lone dissenting voices, wrote:

> Much is said of the danger to liberty from the Army program for deporting and detaining these citizens of Japanese extraction. But a judicial construction of the due process clause that will sustain this order is a far more subtle blow to liberty than the promulgation of the order itself.

As we recall all too well, the courts failed in this case to protect the rights of the individual. But the system was strong enough, and committed enough, to correct its own mistakes. Years later, the U.S. Congress enacted historic legislation to redress the wrongs done to Japanese-Americans in those tragic times. The system struggled with itself to provide the justice it had wrongfully denied.

This cathartic element of the rule of law is perhaps its greatest virtue.

These issues represent only a fraction of the potential for discussion in Geneva. As member states share their experiences and confront their shortcomings, we can strive for greater social tolerance and harmony together. This meeting is not about settling past scores, it is about recognizing and respecting differences. It is about allowing all individuals to enjoy the full expression of their national and cultural identity. In short, it is about advancing human dignity. Human dignity, human freedom, human values.

In the words of the Framer of the American Constitution, Thomas Jefferson, we are bound by a "* * * sacred principle, that though the will of the majority is in all cases to prevail, that will to be rightful must be reasonable; [and] that the minority possess their equal rights, which equal law must protect, and to violate would be oppression."

Mr. Speaker, the Geneva meeting is a very important CSCE meeting and is coming at a time when the issue of national minorities is threatening certain CSCE states. It is an appropriate forum for the CSCE countries to deal seriously and decisively with the issue. The Commission will have several of its staff participating as members of the U.S. delegation under the leadership of Ambassador Kampelman. We will be following the meeting closely and hope to convene a hearing upon the meeting's conclusion.

H.R. 1400

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. CUNNINGHAM. Mr. Speaker, I rise today to again urge that the House move promptly toward enacting the President's crime bill, H.R. 1400. As a cosponsor of this bill, I am disappointed by the delay in considering this critical legislation.

Among the most important provisions of H.R. 1400 are its desperately needed reforms of the habeas corpus process. Recently, I received a copy of a letter to Senator BIDEN regarding the omnibus crime bill and habeas corpus reform.

Twenty-nine State attorneys general have endorsed the habeas corpus reform provisions of H.R. 1400. The letter reads in part:

> We have concluded that meaningful habeas corpus reform must include a standard of federal court review which defers to full and fair adjudication by state courts and respects the integrity of state court processes * * * We are pleased that the U.S. Senate will be considering the long-needed reform of the federal habeas corpus process. Thirty-six states have adopted capital punishment procedures for appropriate cases. All fifty states must defend state court judgments in federal courts under the federal habeas corpus process. It is well-settled that the process is not working. Only the Congress can establish reasonable habeas corpus procedures and restore public confidence in our criminal justice system.

This endorsement of the Federal habeas corpus reform provisions of H.R. 1400 was signed by the attorney general or equivalent officer of Alabama, Alaska, Arizona, California, Colorado, Connecticut, Florida, Georgia, Guam, Hawaii, Idaho, Indiana, Kansas, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Jersey, North Carolina, Oregon, Pennsylvania, South Dakota, Texas, Utah, Vermont, Washington, West Virginia, and Wyoming.

Additionally, the attorneys general of the nine States comprising the ninth circuit have also issued a statement in support of the habeas corpus reform provisions of H.R. 1400. Their statement says:

> [We] conclude that meaningful Federal habeas corpus reform is necessary to promote the finality of state court judgments, curb repetitious and unnecessary litigation, and restore public confidence in the criminal justice process; [and] strongly endorse the provisions of S. 635 (H.R. 1400), titles II and X, as the best legislative package currently before the U.S. Senate to remedy the problems of lack of finality and unnecessary and incessant litigation currently experienced under the Federal habeas corpus process.

This statement was signed by Attorney General Charles E. Cole of Alaska, Attorney General Grant Woods of Arizona, Attorney General Daniel E. Lungren of California, Attorney General Warren Price III of Hawaii, Attorney General Larry EchoHawk of Idaho, Attorney General Marc Racicot of Montana, Attorney General Frankie Sue del Papa of Nevada, Attorney General Dave Frohnmayer of Oregon, and Attorney General Ken Eikenberry of Washington.

Mr. Speaker, it is time that we in Congress heed the advice of our Nation's top law enforcement officers. They are pleading with us to enact the habeas corpus reform provisions of H.R. 1400. I urge the House to move quickly to enact the President's crime bill.

IACOCCA SPEAKS ON JAPANESE AUTO DUMPING

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. DINGELL. Mr. Speaker, I insert for the edification of my colleagues an article in the June 17 edition of the Detroit Free Press by Lee Iacocca on the problem of auto "dumping" by the Japanese. He says it's time to get tough with this insidious problem.

Mr. Iacocca cites the price manipulation of the Jeep Cherokee which sells in the United States at a suggested retail price of $22,300 and gets marked up in Japan to $34,000. The Toyota minivan sells in Japan at $22,200 and gets marked down in the United States to $15,200.

Some say healthy competition. But I agree with Mr. Iacocca that it is blatant dumping and I agree with the Big Three in their antidumping suit that the situation must be rectified.

I ask my colleagues to discover the facts.

LET'S GET TOUGH ON JAPANESE AUTO "DUMPING"

> It looked for a while as if we'd finally solved the mystery of the Bermuda Triangle, but it's still with us. And so is an even bigger mystery that takes place somewhere in the middle of the Pacific Ocean.
>
> Picture two ships, both loaded with trucks, one sailing west from America to Japan, and the other heading this way. The one going west is loaded with Jeep Cherokees, and the one coming this way is carrying Toyota minivans. (There are 20 times more ships

coming this way than heading toward Japan, but that's another story and another column.)

The Cherokee carries a manufacturer's suggested retail price in the United States of $22,300. The Toyota minivan has almost the identical price in its home market of Japan—$22,200.

Then something strange happens.

Somehow as these two ships pass in the night, the price tags on all the American trucks go up and those from Japan all go down.

For example, that $22,300 Cherokee gets marked up $12,000 to $34,400 while the price tag on the Japanese minivan goes down $7,000 to $15,200. The two trucks that started their boat rides at almost exactly the same price are $19,200 apart by the time one lands in Long Beach, Calif., and the other one hits the docks at Yokohama, Japan.

What's going on here? Are some mischievous little creatures emerging from the deep and changing the prices? No, there's no mystery at all. There are no gremlins crawling out of the sea. The price of the Cherokee goes up because of Japanese non-tariff trade barriers designed to protect that market from foreign competition, and the price of the Toyota minivan goes down because they're being illegally "dumped" in this market to grab market share from American auto companies.

When a product is sold in this country for less than it costs to make or less than consumers in the home market pay for it, that's dumping. And it's against the law. It's illegal because common sense tells you that the foreign producer isn't doing that because he's got a soft spot in his heart for the American consumer. He wants to control the market so one day he can dictate prices and the consumer will be his pawn.

By the way, not one dime of that $12,100 price hike for the Cherokee is profit for its American manufacturer. It goes for customs fees, to meet certain unique Japanese vehicle regulations, and most of all (72 percent of the increase) for distribution costs once the Cherokee reaches Japan. The distribution costs are high because the major Japanese car companies won't let their dealers handle American cars—something that's illegal in this country under our antitrust laws.

So the Cherokee arrives in Japan with a huge price disadvantage. The Toyota minivan, on the other hand, is cheaper for American buyers than for Japanese buyers. How can that be? Doesn't the boat ride at least cost something?

Of course it does. That's why General Motors, Ford and Chrysler filed a formal complaint with the federal government two weeks ago accusing Japanese companies of dumping minivans into the American market.

The Big Three complaint raised a lot of eyebrows because it's the first time the three companies—whose main goal in life has always been to knock each other's heads in—have gotten together on an issue like this. And if it gets favorable action, it'll be the first time the government has done anything about the predatory trade practices that have seen Japanese companies take a third of the American automotive market.

Let's face it, the United States has been nothing if not hospitable to Japanese vehicles. Consider what happens when one of those Japanese minivans is off-loaded in this country.

Four U.S. regulators all look it over. The guy from the Environmental Protection Agency inspects it and declares that it is a truck an will only have to meet the emissions standards for U.S. trucks, which are naturally not as strict as those for cars.

Behind him is the man from National Highway Traffic Safety Administration, who certifies that it is indeed a truck so it won't have to have the same safety devices as a car. And then comes the inspector from the Department of Transportation who also agrees that the vehicle is a truck so it won't have to meet the higher fuel economy requirements of a car.

But then comes the fourth inspector. He's from the Customs Service. He looks at the Japanese minivan and says, "Nope, this isn't a truck at all, it's a car" And that means it only pays a duty of 2.5 percent instead of the 25-percent duty on trucks.

That really sounds like Bermuda Triangle stuff, but again there's no mystery about it. It's because the $100-million Japan lobby in Washington has been writing America's trade rules.

The dumping action is long overdue. You can bet that the hordes of Japanese lobbyists will be working overtime to defeat it. But American taxpayers, American auto companies and their workers, and ultimately American consumers are all at risk when foreign companies can manipulate the American market the way Japan has done for years.

Maybe this will be the beginning of the end. Maybe we can start taking some of the mystery out of our auto trade with Japan and start putting some fairness in.

CONCERN FOR SOVIET REFUSENIK SAMUEL ROMBE

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. SWETT. Mr. Speaker, I rise today to draw my colleagues' attention to yet another case of oppression in the Soviet Union. The case is that of Samuel Rombe, a Jew who has been denied permission to emigrate from the Soviet Union. Since 1975, when he first applied for an emigration visa, his life has been plagued by numerous injustices inflicted upon him by the anti-Semitic Soviet regime.

Following his initial appeal for permission to emigrate to Israel, Mr. Rombe was fired from his prestigious position as a biologist in the field of reproduction. For no other reason than wanting to leave the U.S.S.R. for a place where he and his family could live peacefully as Jews, he was discriminated against and his career came to a halt.

Since that time, Samuel Rombe has worked in other jobs where his impressive skills and training are wasted: as a doorman, a truck driver, a farmer, and a shop clerk, among others.

Mr. Speaker, Mr. Rombe is even less fortunate than many of his fellow refuseniks. Like most refuseniks, he has lost his job, his status and his right to work in the field for which he was trained. Worse than that, he has also been imprisoned—not just once, but twice.

He was first jailed in July 1981 on trumped-up charges of currency trafficking and speculation because his financial plight had forced him to sell some of his deceased mother's jewelry. But 5 months of jail and 3 years of hard labor at Gorky did not deter Mr. Rombe from his struggle to receive permission to emigrate. Last year his family was finally given the necessary documents allowing them to leave the country. But just days before their scheduled departure, Mr. Rombe was framed by the KGB and again arrested on unfounded charges of violation of currency operations. His daughter left Moscow and is eagerly awaiting the arrival of the rest of her family at her home in New Hampshire.

But Mr. Rombe is once again in jail. During his arrest he was brutally beaten by 15 armed KGB agents and, despite his deteriorating health, he has been denied medical attention at the Matrossikaia Tishena Prison in Moscow where he has been awaiting trial and without bail, for more than 6 months. His family has been told that he will be sentenced to 10 years of imprisonment. It is my hope that another decade of repression will not be inflicted on this long-suffering man and his family.

Although a signatory to the Universal Declaration of Human Rights, the Soviet Union has continually ignored that document's provisions by failing to allow its citizens free exit and entry.

Mr. Speaker, I ask my colleagues to join me in expressing support for Mr. Samuel Rombe and his fight for emigration, and to continue to urge the Soviet Union to obtain the release of Mr. Rombe as well as the thousands of other refuseniks who remain prisoners in their own land.

A CONGRESSIONAL SALUTE TO CAPT. LARRY D. JOHNSON, COMMANDER, LONG BEACH NAVAL SHIPYARD

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. ANDERSON. Mr. Speaker, during the early days of World War II, Congress recognized the need for an additional naval shipyard on the west coast and authorized construction of what is now the Long Beach Naval Shipyard, located on Terminal Island in Long Beach, CA. This is one of eight naval shipyards performing top-quality ship repair overhaul, maintenance, repair, and modernization for the U.S. Navy's ships. This work is truly essential to our defense posture and to maintenance of a fleet that is ready for all conceivable types of duty at sea.

As the older types of ships that Long Beach Naval Shipyard has historically worked on have been released from active fleet service by retirement and decommissioning, and as some of the remaining active ship types have been made the subject of competitive procurement procedures for overhaul and repair, Long Beach Naval Shipyard has been confronted with a need to drastically reduce the size of its work force. The management team of Long Beach Naval Shipyard affirmatively chose to do that in a fiscally responsible way, by reducing overhead and other expenses at approximately the same rate at which direct revenues were falling and by maintaining a sound business basis for continued service to the U.S.

Navy. In 1984, Long Beach Naval Shipyard employed over 7,000 persons; by the end of 1989, the employment level had been reduced to just over 4,000, a reduction of more than 40 percent. The financial performance of the Long Beach Naval Shipyard has, however, improved such that the accumulated operating results account—similar to a private corporation's retained earnings account—now stands at a positive balance of more than $53 million. Over this time, Long Beach Naval Shipyard has set records in ship overhaul completions which meet or beat established delivery schedules, has demonstrated improvement after improvement in the execution of new threat upgrade weapons system major modernization packages on U.S.S. *Leahy* (CG-16), and U.S.S. *Belkap* (CG-26) class ships, and has set unbeatable time and cost performance records in head-to-head competition with the private ship repair industry on U.S.S. *Spruance* (DD-963) and U.S.S. *Kidd* (DD-993) class ships. In congressionally mandated public/private competition for surface ship overhauls since 1985, eight ships have been awarded to public shipyards in what has become a fierce competitive environment among providers in a rapidly declining industry. Seven of those ships were won by Long Beach Naval Shipyard. On completion of the regular overhaul of the competition ship U.S.S. *Callaghan* (DDG-994), the innovative comprehensive project management concept applied resulted in the shipyards receiving a performance rating in excess of 98 percent from the Performance Fee Board, which is the highest rating ever assigned of any ship at any shipyard for a complete overhaul. The reorganization of Long Beach Naval Shipyard is recognized in the industry as a quantum leap toward increased efficiency and is now being used by the Naval Sea System Command as the model to review for potential restructuring and downsizing of the seven other naval shipyards in response to the declining fleet size of the future. The achievement record of Long Beach Naval Shipyard was especially recognized when the Secretary of the Navy awarded it the Navy Meritorious Unit Citation in January 1991, making it the only west coast naval shipyard to receive that honor.

The credit for these successes belongs to the determined work force of Long Beach Naval Shipyard and to the inspirational leadership of the shipyard commander, Capt. Larry D. Johnson. As the shipyard commander for 4 years, he has provided the strong direction and dedicated leadership which has enabled the Long Beach Naval Shipyard to complete exceedingly complex assignments with high output quality, cost-effective work procedures, and increasing productivity. Included in these accomplishments was successful completion of 26 scheduled ship repair periods—overhauls and restricted availabilities—one post-shakedown availability on a newly built ship, and 26 emergency availabilities for ships of the Pacific Fleet for repair of damaged major equipment on extremely short notice, as well as three weapons systems upgrade availabilities on Coast Guard ships.

Capt. Larry D. Johnson was born in McPherson, KS, and attended the University of New Mexico. He graduated in 1960 with a bachelor of science degree in electrical engineering and was commissioned through the Naval Reserve Officers' Training Corps [ROTC] program. Following commissioning, he served on board U.S.S. *Blue* (DD-744) as damage control assistant, on U.S.S. *Boyd* (DD-544) as chief engineer, on U.S.S. *Halsey* (CG-23) as hull officer, and on U.S.S. *Joseph Strauss* (DDG-16) as chief engineer. Larry Johnson later continued his formal education at the U.S. Naval Postgraduate School in Monterey, CA, where he earned a master of science degree in mechanical engineering in 1968. Following his professional designation as an engineering duty officer, Larry Johnson served on the staffs of: Commander in Chief, U.S. Pacific Fleet; Commander, Naval Surface Force, U.S. Atlantic Fleet. He also had tours of duty at both Puget Sound Naval Shipyard and Long Beach Naval Shipyard before assignment as the chief of staff for maintenance and engineering for the Commander, Naval Surface Force, U.S. Pacific Fleet.

On 29 June 1987, Capt. Larry D. Johnson returned to Long Beach Naval Shipyard to assume the duties of shipyard commander. At each step in his Navy career, Larry Johnson has been recognized for diligent, dedicated, enthusiastic, and outstanding performance. He has been honored numerous times and wears the Legion of Merit Medal with gold star in lieu of second award, the Meritorious Service Medal with gold star in lieu of second award, the Navy Commendation Medal, the Navy Achievement Medal, the Meritorious Unit Commendation with bronze star, the National Defense Service Medal with bronze star, the Armed Forces Expeditionary Medal, the Vietnam Service Medal, and the Republic of Vietnam Campaign Medal. His personal tradition of exemplary service has continued while serving as shipyard commander, where he has applied his knowledge and experience to improve the operations of the Long Beach Naval Shipyard and to successfully increase its abilities to complete all shipyard and other assignments. As a direct result of his visionary leadership and overall management goals and supporting objectives, the shipyard's military and civilian management team has become fully fused into a dynamic entity.

The progressive management style Larry Johnson has brought to the Long Beach Naval Shipyard assures its continuation as an active industrial facility and thus maintains it as a welcomed source of thousands of jobs, and millions of dollars in income to the South Bay area. The people of Long Beach and the surrounding communities will long benefit from this man's efforts. Upon his retirement from active military service, we are compelled to recognize that his personal achievements and contributions to Long Beach Naval Shipyard operations will leave long-lasting strengthening impacts on a profession vital to the security of the United States. My wife, Lee, joins me in congratulating Capt. Larry Johnson on the culmination of a most successful and rewarding career in military service. We hope that he and his wife Vivian will enjoy a prosperous and happy future. We are certain that he will continue to make highly beneficial contributions to both his country and his immediate community.

CONGRESSIONAL CALL TO CONSCIENCE VIGIL

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mrs. LOWEY of New York. Mr. Speaker, I rise today to participate in the congressional call to conscience vigil for Soviet Jews. In doing so, I join many of my colleagues who have taken the time to ensure that the plight of the Soviet Jews is not forgotten and remains in the public eye. Each week, we have brought before this House the case of an individual or family in the Soviet Union which has been kept from leaving by the Soviet Government. It is important to realize that some individuals are still being denied permission to emigrate, despite the recent Soviet emigration law, on the grounds that they have had access to state secrets that could jeopardize the security of the Soviet Union.

One of these refuseniks is Grigory Friedkin. Mr. Friedkin worked as an engineer and a chemical physicist and his wife Enta as a textile engineer at NPO [scientific production combine] Krasnoznamennik, a firm under the auspices of the Ministry of Medium Machine Construction—later transferred to the Ministry of Defense—until they were fired in 1989.

In October 1990, Grigory applied for an exit visa. His application was refused in January 1991 because of his alleged "connection with knowledge of state secrets and other grounds touching upon the security of the state."

Enta's parents have been allowed to leave and are now in Israel. Enta and their two children, Mikhail and Anna, have been granted permission to emigrate as well. Only Grigory, even though he was fired over 2 years ago, has been denied an exit visa and must wait until January 1994. This has created an unjust hardship for this family with no legitimate basis in fact.

The Soviet Government should move expeditiously to grant Mr. Friedkin's request to emigrate. Waiting 2½ years would not serve any constructive purpose, but it would mean 2½ years less time that the Friedkin family can be reunited in Israel.

As we have seen the gates of the Soviet Union open wide to allow an unprecedented number of Jews to emigrate to Israel, we must remember that these gates still do not allow all those who so desire to leave.

EDWARD G. BREEN: 1908-91

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. HALL of Ohio. Mr. Speaker, last month, Edward G. Breen, a former Representative from Ohio, mayor of Dayton, and president of the Montgomery County Commission, died at the age of 82.

Mr. Breen was born in Dayton on June 10, 1908. The son of a hotel manager, Mr. Breen became a hotel manager himself. He distinguished himself in World War II serving in North Africa and Italy.

At the age of 37, Mr. Breen took office as Dayton's youngest mayor. He was elected as a Democrat from the Third District to the Eighty-first and Eighty-second Congresses and served from January 3, 1949. He resigned in 1951 due to ill health.

However, Mr. Breen did not retire from politics. In 1956 he was elected to the Montgomery County Commission on which he served until 1960. He served two terms as president of the Commission.

During his years in government service, Mr. Breen established himself as a true leader. One of his great strengths was his ability to pull together diverse factions. He was always dignified, yet he could reach out to everyone. He was an inspiration to the young leaders of Dayton.

Mr. Breen set the highest standards for community service. As the Representative who holds the seat he once occupied, I am reminded of his record of service which can serve as a model for the leaders of today and tomorrow.

PROBLEM ORIENTED POLICING

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. DORNAN of California. Mr. Speaker, crime is running rampant in our country. Our communities are besieged by rapists, thieves, drug abusers, and casually indiscriminate murderers. Our police forces are strained to their limits in applying all their resources trying to deal with crime. Indeed, the terrible situation we see now is the impetus for my Police Corps legislation. But on a local level, communities are by necessity becoming more imaginative in their efforts to respond to crime.

One such effort has been producing real results since 1989 in the city of Santa Ana in my congressional district. Police Chief Paul M. Walters has adapted an operational strategy called problem oriented policing [POP]. This program builds on the highly successful concept of community oriented policing [COP], used by the Santa Ana Police Department since 1975. POP involves working together with citizens to identify conditions that contribute to crime and developing comprehensive solutions to specific problems. It is a long-term approach which seeks to alter those conditions in the community that encourage crime and disorder.

In a Los Angeles Times op-ed article last year, Chief Walters described the concept behind problem oriented policing. He bases his plan on a social phenomenon first described in 1982 by two well-known figures in law enforcement, James Q. Wilson and George L. Kelling, called the "broken windows" phenomenon. The theory uses the analogy of a broken window. When the first window broken in a building is not repaired quickly, people will conclude that no one cares about the building, and more windows will be broken. The point is that if disorderly behavior is allowed to thrive, it becomes a broken window that begets more disorder.

So the emphasis of crime prevention is at the heart of POP. It includes the direct involvement of the community which, after all, knows its needs better than anyone else. But exactly how is this done? One example described in an article in the Orange County Register entitled, "A Force With POP" is indicative of the relative ease in implementing problem oriented policing:

> Night after night, the prostitutes and drug dealers stood 20 abreast, lined up in the shadows of the Harbor Boulevard parking lot, ready to cut a deal.
>
> "It got so bad we had to walk some of the women that came in here out to their cars," said Chester Chiudioni, owner of Chiudioni's Subs and Pizza * * *. It was bad.
>
> Police chased suspects around the area, but what finally solved the problem wasn't a massive raid. Through telephone calls, meetings and discussions, Investigator Don Fox of the Santa Ana Police Department's Westend District Substation last month persuaded the plaza's landlords and tenants to put up four bright outside lights, clean up graffiti and trash, and hire a security guard to patrol the center.
>
> Presto. Criminal activity all but disappeared.

Problem oriented policing is truly a new concept in law enforcement. For it to work properly, the police department must be more accessible to the public. To do this, the Santa Ana Police Department opened self-contained substations. While traditional department substations are little more than storefronts for residents to file complaints and for officers to check paperwork, POP substations are staffed by 35 officers covering patrol, traffic, and investigative divisions, and function as minipolice departments assigned to a geographical area of the city.

Problem oriented policing, Mr. Speaker, is the wave of the future, and the Santa Ana Police Department is writing the book on it. It provides the structural framework needed to deal with crime before it becomes a problem. As Chief Walters said in a recent Los Angeles Times article:

> When we allow unruly conduct to flourish, severe crime problems quickly ensue * * *. My intent and purpose is to reestablish the rules of conduct, which all people expect in a civil society * * *. Our responsibility is to maintain order and to prevent future problems by fixing those 'broken windows' wherever we find them.

Mr. Speaker, I commend Chief Walters and the Santa Ana Police Department, and wish them continued success with this exciting program.

MASSPIRG WINS PHILIP HART DISTINGUISHED CONSUMER SERVICE AWARD

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. MARKEY. Mr. Speaker, I rise today to make my colleagues aware that the Massachusetts public interest group, known as MASSPIRG, has won this year's coveted Philip Hart distinguished consumer service award. The Philip Hart award is presented by the Consumer Federation of America.

MASSPIRG is prominent through out the commonwealth of Massachusetts and nationwide for, among other things, their effective canvassing work. If you've ever stepped foot in Massachusetts you've probably been solicited by a MASSPIRG canvasser. One time I opened up my front door in Malden to find a MASSPIRG canvasser soliciting membership. I told him that I didn't need to give him money since I was a Congressman and worked on MASSPIRG initiatives all the time. He just looked at me and then finally said, "if you're really a Congressman, I'll only take cash."

In fact, I recently received the following letter from a Massachusetts resident. "Dear Congressman: I recently had a MASSPIRG canvasser at my front door. I told her that she'd come to the wrong place. I said I never use generic drugs, I don't mind waiting for checks to clear, I don't test my home drinking water, I don't care about the terms on my credit card, I don't live near a nuclear powerplant, and I don't care to give them any money. Then the canvasser told me that MASSPIRG is fighting to revitalize the two-party Democratic form of government. I immediately wrote a check for $100. Signed, Governor Bill Weld."

But it's not just MASSPIRG's canvassers who are ubiquitous. It's MASSPIRG lawyers and lobbyists, researchers and writers, organizers and activists. In 19 years MASSPIRG has become the largest state-wide consumer and environmental organization in the country. With Janet Domenitz at the helm, and Doug Phelps before her, MASSPIRG has built itself into a major presence in Massachusetts.

MASSPIRGERS are an exceptional lot. They look like typical college kids, but unlike other college kids who head off for M.D.S. and M.B.A.S, MASSPIRGERS have headed off for a degree in citizenship in their own communities—and some have made it their careers, at great financial sacrifice. MASSPIRGERS are researching the hazards posed by all-terrain vehicles and childrens toys, how merchants use unfair and deceptive credit card practices, and how little most citizens know about how to respond properly to an emergency at a nuclear power plant. And when it comes to educating their fellow citizens, MASSPIRG have no peer at any of Massachusetts' hundreds of campuses: MASSPIRG staff are teaching consumers how to avoid being scammed when renting a car, how to select nontoxic products for their families, how to save hundreds of dollars by choosing the right insurance company, and, most importantly, how to be an active and effective member of one's own community.

MASSPIRG has been behind just about every major consumer, environmental, insurance, and energy initative in the commonwealth of Massachusetts for nearly two decades. And MASSPIRG's influence extends well beyond the State lines—MASSPIRGERS were instrumental in working with Gene Karpinski and creating U.S. PIRG, they lobby for Federal laws, and they help train their counterparts nationwide.

Not that every day over the past 19 years has gone perfectly for MASSPIRG. Apparently Janet Domenitz has hired the same forensic scientists who are exhuming the body of Zachary Taylor to see if the recycling initiative died a natural death or was killed.

But most of the past 19 years have gone MASSPIRG's way. And that means it has gone the people's way. We in Congress, have desk jobs. MASSPIRG is the front-line infantry of the consumer movement and they have earned this well-deserved recognition the hard way—one door at a time. The Oscars have a lifetime achievement award. If CFA had one, MASSPIRG would win it, because what they do they do every year, year after year.

Alexis De Tocqueville wrote almost two centuries ago, that "America is a land of wonders, in which everything is in constant motion and every change seems an improvement."

Today, so much of our Nation has abandoned the quality that made us great. We are engaged in a sort of ancestor worship. But not at MASSPIRG. For MASSPIRG continues to strive and will persist in promoting change after change, improvement upon improvement. So far, after 19 years, they're off to a pretty good start.

DEDICATION OF THE SILVIO O. CONTE FEDERAL BUILDING IN PITTSFIELD

HON. JOHN W. OLVER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. OLVER. Mr. Speaker, I rise today to introduce a bill on behalf of Members of the Massachusetts delegation naming the Federal Building in Pittsfield, MA, the Silvio O. Conte Federal Building. Senators KERRY and KENNEDY are also introducing a similar bill in the other Chamber today.

Many people know of Sil Conte's tremendous contributions to the country, western Massachusetts and the city of Pittsfield. I cannot think of a more fitting honor than naming the Federal Building in his home city of Pittsfield after this great man.

Sil Conte was a champion for the working people of the District and the Nation. He fought hard for the education of our children. He was a great friend and protector of the environment.

Sil Conte loved his city and everyone has the deepest respect for the man who gave his whole life to public service.

As I said in my first statement on the floor of this Chamber, Sil Conte's shoes were very large and though they can never be filled, I certainly hope to follow in his footsteps.

ORPHAN DRUG PRICES: UP, UP AND AWAY

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. STUDDS. Mr. Speaker, last week, I took the floor to alert my colleagues to a June 16 New York Times Magazine article concerning the marketing of recombinant human growth hormone (r-hGH). That article noted the continuing high cost of growth hormone, which, as an "orphan drug" enjoys market exclusivity under the Federal Orphan Drug Act.

Another article in the June 25 Washington Post health section vividly illustrates the cruelly ironic situation facing many rare-disease sufferers—once orphan therapies finally reach approval they are priced beyond the financial capacities of those afflicted. However, the Post article describes one newly approved orphan drug, Ceredase, a key enzyme lacking in those with Gaucher's disease, which carries an annual price tag of $200,000. This will exhaust the private insurance coverage of most patients within only 5 years.

Nor is this the only exorbitantly priced orphan drug. The article describes numerous others. While the burden on individual patients is deeply troubling, it should also be noted that State and Federal budgets—through Medicaid and Medicare—shoulder a large and growing share of the burden associated with high orphan drug prices.

The article is the latest I have seen which raises serious questions about how the Orphan Drug Act is currently functioning. I commend it to my colleagues.

THE HIGH COST OF RARE DISEASES—WHEN PATIENTS CAN'T AFFORD TO BUY LIFESAVING DRUGS

(By Larry Thompson)

When the pain came back again, it started in Laura Glickman's righ hip. It came on slowly, so she was able to make it through exams at Garison-Forest, a girls' boarding school outside of Baltimore. But then the pain spread to her back and both arms, and grew in intensity, forcing the thin, brown-eyed girl into the school's infirmary.

Glickman, 16, of New Orleans, suffers from Gaucher's disease (pronounced gloshays), an inherited illness that deprives her of an enzyme that normally dissolves a certain kind of fatty material in the body. As a result, the fat accumulates, clogging her spleen, liver and the blood vessels in her bones.

Until recently, most people with Gaucher's died in middle age, after a painful, debilitating illness. But now, after more than 30 years of research, scientists at the National Institute of Neurological Disorders and Stroke have perfected a drug that can melt away the fatty material and relieve the pain it causes in the estimated 5,000 to 15,000 Americans who have the disorder. The Food and Drug Administration approved the new medication for general use on April 8.

The trouble for Laura Glickman is that her family cannot afford it and they lack health insurance that will cover it. The drug—called Ceredase and made by the Genzyme Corp. of Cambridge, Mass.—costs more than $200,000 a year.

Laura Glickman is among the 10 million to 20 million Americans who suffer from one of 5,000 rare diseases. As new drugs are developed for these disorders, an increasing number of patients are caught between the hope of finally having a life-saving treatment and the despair that they cannot afford the therapy.

Ironically, this Catch-22 has its roots in legislation designed to increase the number of treatments for rare diseases. In 1983, Congress passed the Orphan Drug Act to give pharmaceutical companies incentives to develop new treatments for diseases that afflict fewer than 200,000 people—often called "orphan" diseases. Drug companies had been reluctant to spend the average $231 million and 12 years required to take a drug from discovery to final approval because the potential market for such drugs is so limited.

To make orphan drugs more attractive commercially, Congress gave the drug makers a seven-year monopoly on a new medicine, eliminating competition and allowing companies to charge whatever they deem appropriate.

As a result, some of the new orphan drugs are so expensive that they are out of reach for a significant number of patients.

"The prices charged are beyond anything that Congress imagined when the act was passed in 1983," said Rep. Henry A. Waxman (D-Calif.), chairman of the House subcommittee on health and the environment. "It is hard to believe that companies need the advantages of the Orphan Drug Act for drugs that cost tens or even hundreds of thousands of dollars a year."

Some patients, like Laura Glickman, do not have health insurance plans that cover these new treatments. Even for people who have insurance, there is usually an annual out-of-pocket cost of $1,000 or $2,000. Most important, nearly every health plan has a lifetime maximum benefit, usually around $1 million.

Because Ceredase merely replaces the missing enzyme, it is not a cure for Gaucher's, and patients need to take the drug for the rest of their lives. On the average, four to five years worth of Ceredase can use up the person's lifetime health insurance coverage.

"We are in a moral dilemma with this drug," said Abbey S. Meyers, executive director of the National Organization for Rare Disorders, an advocacy group for people suffering from rare diseases. "Some kids are not insured, and they are not going to be able to afford it. Even if the family is insured, it cannot afford the 20 percent co-payment" so common with many major medical insurance programs that cover prescriptions.

So far, 55 new orphan drugs have been approved by the FDA since the act was passed, compared to 34 before the act. Currently, 176 medicines are being tested for rare diseases, according to the Pharmaceutical Manufacturers Association, a trade group representing the major drug companies. The FDA lists more than 400 compounds at all stages of development as orphan drugs.

Ceredase is among the most expensive, but it is not the only orphan drug that carriers a high price tag.

Adagen, a drug developed by Enzon Inc. of South Plainfield, N.J., was the first enzyme replacement therapy to win FDA approval. Adagen treats a rare inherited illness called severe combined immune deficiency, in which the children fail to develop a normal immune system and suffer serious, chronic infections. Before the drug became available, patients died by age 2. Children now survive with their weekly injection, but each vial of the drug costs $2,200, putting annual treatment costs somewhere between a quarter-million and a half-million dollars, depending on the patient's body weight.

Another orphan drug—erythropoetin, also known as Epotin alpha, made by Amgen, Inc., Thousand Oaks, Calif.—stimulates the production of red blood cells. Patients with kidney failure stop making this normal body hormone and need regular blood transfusions. Treatment with erythropoetin eliminates the need for transfusions for many patients, but it costs an average of $4,500 a year for each of the 50,600 people who need it for the rest of their lives. These patients receive treatment through Medicare, putting the annual government cost for the drug at $280 million.

The anti-AIDS drug Retrovir, better known as AZT also qualified as an orphan drug when it came on the market in 1987. It is still classified as an orphan drug. Burroughs Wellcome of Research Triangle Park, N.C., caused a furor among AIDS activists and public health officials when it initially charged $10,000 a year for the medication. With up to a million Americans infected with the AIDS virus, but not yet sick, the potential market now exceeds 200,000 patients. Currently, about 60,000 patients a year are treated for AIDS. Meanwhile, public pressure has forced AZT's price to drop to around $2,200 a year.

Human growth hormone, an orphan drug approved in 1985, costs $10,000 to $15,000 to treat the 15,000 youngsters who fail to grow to a normal height because of a pituitary disorder. Last year, sales of the hormone reached $157 million for Genentech Inc. of South San Francisco, Calif., and an estimated $100 million for Eli Lilly of Indianapolis, according to a market analysis published in Scrip, an industry newsletter.

For rare-disease patient advocates, the development of these new drugs marks the first time that medical science has focused major attention on diseases that afflict relatively few people. "There is a part of it that we are very excited about," said Karen Cohn, executive director of the National Gaucher Foundation, an advocacy group based in Washington. "But if people can't get on them because of cost, then it will be academic for most of the people who need it."

BIRTH OF A DRUG

Some of the newly released drugs, including Ceradase, have been under development for years. Roscoe O. Brady, a researcher at the National Institute of Neurological Disorders and Stroke, has been searching for the cause of and a cure for Gaucher's since 1957. By 1965, Brady proved an enzyme that broke down the fatty material from the destruction of old blood cells was missing in Gaucher's patients. That discovery suggested a treatment: inject the normal enzyme into patients and the symptoms should go away. Purifying large quantities of the enzyme, however, was difficult.

It took until the late 1970s for the NIH team to produce enough enzyme to test eight patients, including Laura Glickman. In that study, only one young boy improved, but his recovery was dramatic.

"He felt better. His spleen got smaller. His liver got smaller," Brady said. "And the best of all, his bones got better."

For the other volunteers, that formulation of the enzyme proved to be ineffective. But the experiment was promising enough for the Genzyme Corp. of Cambridge, Mass., to become interested in making Brady's drug commercially. Additional NIH studies with an improved version of the enzyme, now mass produced by Genzyme, were more successful. In the spring of 1989, a trial with 24 patients was launched to prove the effectiveness of the drug. By the following spring, the patients receiving the medication were getting better.

"Ceredase produced a clear reversal of the signs and symptoms of Gaucher's disease." Norman Barton, the clinical director of the NIH trials, told the FDA in a 1990 hearing.

In one 9-year old girl, Barton said, the disease had caused her normally tiny spleen to grow to more than 7 pounds, or 17 percent of her total body weight. Six months after treatment had begun, it had shrunk to 1½ pounds, or about 4 percent of her body weight. Normally, the spleen is less than 1 percent of body weight.

This study, published in the New England Journal of Medicine, provided the basis for FDA's approval of Ceredase in April.

The more than 30 years of research leading to a successful treatment for Gaucher's is a triumph for Brady, Barton and the NIH. For Gaucher's patients, it is the first good chance for a normal life. And for Genzyme, the company the federal government asked to transfer the technology from the laboratory to the bedside, it is a potential bonanza.

PROFITS AND POLITICS

Genzyme did not fully commit itself to Gaucher's research until 1987, when it decided to mass-produce the enzyme for the NIH clinical trials.

The company invested "between $40 million and $50 million, including buying back the rights from several partnerships," said Alison Taunton-Rigby, the company's senior vice president for biotherapeutics.

The partnerships originally were sold to raise money to fund the enzyme production. According to its 1990 annual report, Genzyme spent slightly more than $23 million to buy back those research partnerships. The company's investment in research on Ceredase is between $20 million and $30 million, Taunton-Rigby said, adding that the company will soon be investing an additional $50 million to $75 million in manufacturing facilities in the United States and France.

Based on the cost of production, which includes isolating the enzyme from human placenta, Taunton-Rigby said, the company is charging $3.50 for each unit of enzyme. The cost of treating a patient is variable, depending on the patient's weight and severity of the disease.

The standard initial treatment is 60 units for every kilogram of the patient's body weight, Taunton-Rigby said. Genzyme calculates that the average Gaucher's patient only weighs 40 kilograms (88 pounds) because most of the very sick patients who will be treated first are children and young adults. In those patients, the average charge for a single, 1-to-2-hour, intravenous infusion of Ceredase will be $8,400. The average adult weighs 80 kilograms (176 pounds) and will cost more to treat.

Ceredase is injected every two weeks, an average annual treatment cost of about $218,400 for each patient. This does not include the cost of giving the drug intravenously in a doctor's office.

So far, Taunton-Rigby said, more than 100 patients—most of them children—are being treated with Ceredase. Costs have exceeded $200,000 a year in some cases; others have been less.

Genzyme told the FDA in 1990 that it expects to treat between 500 and 1,000 patients by the end of 1991, and plans eventually to treat between 2,000 and 3,000 patients annually. If that many patients are treated with Ceredase, revenues in the first year could be as high as $109.2 million to $218.4 million. Taunton-Rigby, however, estimated a lower revenue for all products of the company—around $100 million for 1991, with profits of $10 million.

Company officials hope that once patients are stabilized, they can go on a lower maintenance dose of Ceredase that would be less expensive. Scientists are also testing whether low-dose Ceredase plus a vitamin regimen is just as effective as the higher dose as an initial therapy.

No matter what the final dose—or price—of Ceredase, the high cost of orphan drugs is already causing concern not only for patients but for insurers and government officials. Some leaders in Congress think that overall, the drug companies are abusing the Orphan Drug Act.

Last year, Waxman led the effort to amend the act to inject some competition into the orphan drug market; the amendment was vetoed by President Bush on the grounds that it stifled competition.

Waxman is now considering a cap on orphan drug sales. If a drug's sales exceeded a financial threshold, then the company would lose its orphan drug monopoly.

"That would clearly identify drugs which are not orphan drugs as the term is traditionally used," Waxman said. "These drugs are not orphans because they have parents willing to invest in their future."

Legislation to introduce a sales cap would probably cause a major fight since drug companies already oppose such limits. "It would be a disincentive to develop new drugs," said Thomas Copmann, executive director of the Pharmaceutical Manufacturers Association's Council on Drugs for Rare Diseases. "We already have enough of those."

HITTING THE INSURANCE CAP

Congressional amendments will not change some of the financial problems already faced by people with rare diseases. Glickman lost her insurance after her family was forced to sell its business and has health insurance that limits coverage for Gaucher's to $10,000 for her lifetime.

Now that Ceredase has FDA approval, a number of the country's biggest health insurance carriers, including the Travelers Group, Liberty Mutual, and Blue Cross and Blue Shield have decided that they will cover the drug treatment under their current policies.

But they are not going to cover it forever. Most health insurance policies limit the amount of coverage provided over a person's lifetime: a cap of $1 million is fairly common. Once a person uses up the lifetime maximum, he or she essentially has no more health insurance.

This is a problem hemophiliacs have been struggling with in recent years. The bleeding disorder occurs in men who are born with a genetic defect that destroys one of the many proteins involved in clotting blood. As a result, a simple cut can cause them to bleed to death.

Since the late 1960s, when physicians found a way to produce blood clotting factors, hemophiliacs have been able to prevent severe bleeding by routinely injecting themselves with these clotting factors. But when the AIDS epidemic threatened hemophiliacs because it can be transmitted by blood products, manufacturers of clotting factors changed the process to protect hemophiliacs from AIDS. That, however, caused a 10-fold price increase.

The prescription now costs about $100,000 a year, said Paul Haas, an economics professor at Bowling Green State University and past president of the National Hemophilia Foundation. "If there are [medical] complications, that [cost] goes up dramatically," he said.

Many hemophiliacs are starting to get close to their lifetime maximum; some already have run out. "As they reach those caps and run out of insurance," said Haas, who has two hemophiliac sons, "they go into a spend-down. They have to get rid of their assets so they can go on the public dole."

As more orphan drugs are approved, the cost of these therapies is going to affect more and more Americans. As they, too, run out of health insurance, the issue is expected to generate more attention from both Congress and the public.

A partial solution may come from some of the pharmaceutical companies themselves. A few have voluntary programs that provide free drugs for indigent patients. Enzon, the producer of Adagen, has said it will help patients find funding or provide the drug free. Genzyme says it is setting up a program for people who lack the ability to pay but will not say who will qualify for assistance.

Meanwhile, Congress is struggling to find some way to hold down the cost of these new medications, while assuring that drug companies continue to invest in orphan drugs. Until there is legislation or new regulations governing federally-funded research, the drug companies can be expected to follow the current rules of the marketplace and charge whatever they can for their new products.

But the high cost of orphan drugs is also causing concern in the drug industry. As Nick Ruggieri, vice president for government affairs for Ares Serono, an Italian pharmaceutical company with a subsidiary in Boston, put it: "It [the Orphan Drug Act] is just an invitation to rip off the customers. Any drug can be turned into a moneymaker if you charge enough for it. Since you [the drug company] have a monopoly, you have the patient over a barrel."

ONE FAMILY'S STRUGGLE WITH GAUCHER'S DISEASE

(By Larry Thompson)

Gaucher's disease usually comes as a surprise. It is an inherited illness that parents can carry without having the disease themselves, and can unknowningly pass on to their children.

That is what happened to Louise and Larry Glickman twice.

Their ordeal started in May, 1973 when their 3-year-old son became feverish, cranky and inconsolable while playing outside in the hot New Orleans sunshine. After a misdiagnosis of leukemia and several months of doctors' visits, the parents learned their son had Gaucher's. A week later, Louise Glickman learned she was pregnant.

Gaucher's occurs when a child inherits two copies of a defective gene—one from each parent—that normally makes an enzyme to process a certain kind of fat. Because the gene is defective, it fails to make a normal enzyme causing the fat to accumulate in the body. As the fat slowly builds up, it clogs the liver, spleen and blood vessels in the bones, causing pain and deterioration.

Laura, the second child of Louise and Larry Glickman, also was born with a severe form of Gaucher's. Her first symptoms were anemia, daily nose bleeds and chronic exhaustion. Then she developed an enlarged abdomen as her spleen and liver filled with fat-choked cells.

"The worst was getting teased" by the neighborhood children, she recalled. "Kids would ask, "Are you pregnant?'"

In 1986, surgeons partially removed her spleen because it was crowding other organs so badly that food did not remain in her intestines long enough to be absorbed. But without a spleen, fat began to gather in the blood vessels of her bones, causing bone tissue to die. As a result, she suffered intense bone pain that would force her to lie in bed for days at a time.

"I could always feel the pain no matter what position I was in," she said.

Until the drug Ceredase was developed, doctors could do little for Gaucher's patients except treat their symptoms and make them comfortable. Laura, however, was among the first to receive a prototype version of Ceredase during a National Institutes of Health study more than a decade ago.

While she did not show any improvement with the experimental therapy, results of the study were promising enough for Genzyme Corp. to continue research on the drug.

Until 1988, the Glickmans say they did not worry about the cost of medical care for their children. While there was little the Glickman family could do to control the disease, they had good insurance through their restaurant business. For five years, they owned a New Orleans restaurant that employed 120 workers and served more than 1,000 meals per day.

"As long as we had control of our own business," said Louise Glickman, a founding member of the National Gaucher Foundation, "we had control of our own health insurance."

But when the oil bust and the Louisiana recession hit, they lost the restaurant—and, with it, their health insurance. In 1988, Larry and Louise Glickman divorced.

After a period without medical insurance, the children are currently covered under a policy that specifically limits the costs from Gaucher's disease to $5,000 a year and $10,000 for a lifetime.

As a result, the family cannot afford to pay for Ceredase, the $200,000-a-year drug treatment that was recently approved by the FDA.

Laura, however, has found a way to get the drug: she volunteered for another NIH study, and receives treatment free of charge. She makes the trip to Bethesda from her New Orleans home every two weeks in order to receive treatment.

Not long ago, she received her first treatment. As she lay on the pale orange bedspread of her hospital bed, the needle inserted into her left hand squeezed a steady flow of Ceredase into her body. A tangle of tubing and syringes pinned her right hand so that Marc Patterson, a NIH physician, could extract a milliliter of blood every five minutes to measure the level of enzyme in her blood.

In the study that started in April, NIH scientists want to find out whether, as some preliminary research suggests, adding a vitamin can make a low dose of the drug as effective as a high dose. In part, the study is aimed at reducing the cost of Ceredase by lowering its dose.

Laura Glickman is receiving one-fifth the normal dose that has been shown to be effective. She will not know whether she was in the group getting the helpful vitamin until the end of the study, which is scheduled to conclude next year.

Her mother says she feels conflicting emotions about her daughter's participation in the current study. "I have been very emotional about this," said Louise Glickman. "I am afraid to feel any kind of relief. I am afraid nothing will happen."

Laura Glickman, however, remains optimistic.

"Mostly I hope that I will grow, and I won't have any bone pain, and that I'll have a normal school year," said the 4-foot, 11-inch teenager. "And that I grow. God, that would be great."

CONGRESSMAN ERDREICH COMMENDS BIRMINGHAM GRANDMOTHER FOR AWARD-WINNING LETTER TO GRANDCHILDREN

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. ERDREICH. Mr. Speaker, I'd like to call your attention to an award-winning letter written by one of my constituents, Mrs. Jeanne Weaver, to her three grandchildren, Jonathan Smalley, Justin Croninger, and Katie Croninger. The letter was selected from hundreds of entries in the University of Alabama at Birmingham's MedWise Writing Contest. Mrs. Weaver's faith in democracy, belief in diversity, and hope for the future beautifully articulates the American dream.

I'd like to take this opportunity to share her thoughts, as presented to her grandchildren, with my colleagues. Her letter reads:

DEAR GRANDCHILDREN: How proud I am to be an American! I am proud to live in America because of the great beauty of her land: the white sands of Destin beach, the Blue Ridge Mountains of Virginia, the grainfields of the prairie states, the giant Redwoods of the Northwest, the majestic craggy coastline of the Pacific, even the towering skyscrapers of Manhattan.

Though I am attached to the land, for me, America's greatness lies in her people and institutions. The distinctive character of her schools, libraries, museums, concert halls, hospitals, research labs, churches, and most especially, her democratic spirit of government reflects the vibrant and generous spirit of her people—their restless energy and love of freedom, their friendliness and neighborliness and compassion.

I am also proud of the commitment of America's people—volunteers as well as paid workers—to resolve the very real problems of racism and bigotry, consumerism and pollution, our mounting national debt, crime and drugs, and the cycle of poverty—problems that threaten the vitality of our nation.

Above all, I am proud to live in America because of the opportunities she offers her citizens. Where else could a Depression-era farm girl, like myself, rise to earn a PhD and become a college teacher?

To you, my three grandchildren, I bequeath my pride in American citizenship and the opportunities it offers to Americans to become, just as I and your parents have become, whatever they wish—a ballerina, an aerospace engineer, or even our president.

GRANDMOTHER.

THE 50TH ANNIVERSARY OF ST. GABRIEL PARISH

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Ms. PELOSI. Mr. Speaker, I rise today to pay special recognition to the parish of St. Gabriel the Archangel in the sunset district of San Francisco, which will be celebrating its 50th anniversary of its founding on June 30, 1991.

The parish of St. Gabriel the Archangel came into being when Archbishop John J. Mitty, on June 28, 1941, appointed Father George J. Bedford its founding pastor.

The new parish community celebrated its first Mass on Sunday, August 3, 1941, in what was known as Frank McHugh's Hardware Store at 44th Avenue and Taraval Street. The furnishings necessary to turn the hardware store into a church were supplied by many people including the Mesdames of the Scared Heart and the Sisters of the Holy Family, the church supply stores of the city and many generous parishioners.

A building fund committee set to work at once to raise the funds necessary to construct the permanent St. Gabriel Church. The original church has been enlarged twice bringing its present seating capacity to 800. Between 1948 and 1954 the rectory, convent, and auditorium-gymnasium were completed.

St. Gabriel School was opened in February 1948 under the direction of the Sisters of Mercy, Burlingame who welcomed 423 students to five grades. At that time, with an enrollment of 1,200 students, St. Gabriel was the largest Catholic elementary school west of the Mississippi River. Over 3,000 alumni claim St. Gabriel as their alma mater.

St. Gabriel's parishioners are grateful for the dedication of the pastors who have led and served St. Gabriel parish over these 50 years and for the many fine priests who assisted them. Msgr. George Bedford, pastor until his death, was succeeded by Msgr. Francis Quinn. Msgr. James B. Flynn became pastor in 1979 when Monsignor Quinn became bishop of Sacramento. In 1987, Monsignor Flynn became director of the diaconate program at St. Patrick's Seminary and St. Gabriel welcomed its fourth and present pastor, Father Carl A. Schipper.

Over the years, numerous parish organizations, such as the Liturgy Committee, the Ladies Sodality Legion of Mary, the Peace and Justice Committee, the Ulloa Seniors, the Cross Roads for Young Adults, the youth ministry and the parents organizations have worked to meet the spiritual and social needs of the parishioners.

San Francisco is proud of the reputation the parish has for involving so many of its parishioners in the life of the parish and its direction. We are proud of the generosity of the parishioners in responding to appeals for contributions of time, energy, and finances to meet the many needs of our San Francisco community. We are proud of the ethnic and cultural diversity of St. Gabriel which reflects the richness of San Francisco as a whole.

I commend St. Gabriel for their many contributions to the community and congratulate them on their 50th anniversary. I know that St. Gabriel's Parish looks with pride and joy at time past and with confidence to the futrue and that the parish's 1,800 families will be drawn together by a continuing desire for renewal of the faith and greet the 21st century with courage and trust in divine providence.

REESE AIR FORCE BASE AND LUBBOCK, TX—A PARTNERSHIP FOR 50 YEARS

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. COMBEST. Mr. Speaker, I would like to tell the House of Representatives about a successful partnership between Reese Air Force Base and Lubbock, TX, that has existed for 50 years.

On June 26, 1941, the War Department accepted an invitation from the citizens of Lubbock to form an Army Air Corps flying training field after the citizens of Lubbock County donated 2,000 acres to the War Department. Since that day in 1941, this west Texas community has embraced the airmen and women that have had the privilege of serving at Reese. These 50 years of training top quality military pilots has been marked with cooperation and support from both base officials and the public.

Reese Air Force Base has had a long and distinguished history of training topnotch military pilots. By the end of World War II a total of 7,008 bomber, fighter, and transport pilots had been trained at Reese Air Force Base. The stirring successes the Air Force displayed during Operation Desert Storm can be attributed to the training regimen at Reese. At any given time, an estimated 30 percent of the pilots flying Air Force aircraft during Operation Desert Storm were Reese Air Force base-trained graduates.

During these times when military bases are being streamlined and closed, Reese begins its next 50 years with expanded responsibilities. Reese continues its mission because its officers and personnel have demonstrated responsible handling of resources and have taken initiatives to do the job efficiently and cost effectively. The arrival of the T-1A Jayhawk, which will be the third pilot training aircraft, will enable the base to implement the Specialized Undergraduate Training [SUPT] Program.

It is a job well done, truly a mission accomplished daily at Reese Air Force Base.

PAINESVILLE FIRE DEPARTMENT 150TH BIRTHDAY

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. ECKART. Mr. Speaker, I rise today, July 19, 1991, in commemoration of the Painesville Fire Department's sesquicentennial birthday. One hundred and fifty years ago tragedy struck Painesville, OH. A fire destroyed the materials at the new site for the Lake County courthouse and delayed its completion until 1852. This disaster gave birth to an institution that has survived the test of time, including a civil war and two world wars.

The city of Painesville established its fire department in 1841. It has provided continuous service to the city and the surrounding communities of northeast Ohio since that time. The first recorded mutual aid call made by the Cleveland Fire Department included pumpers from the Painesville Fire Company.

After continuously improving fire-fighting skills and equipment in 1921, the Painesville Fire Department became a paid professional fire department. Through the years the department has expanded in several ways, including pioneering the emergency medical service system.

Now under the leadership of Chief Jack A. Martin, the sixth fire chief in the history of Painesville, the department continues its outstanding service to the community.

Congratulations to the Painesville Fire Department on 150 years service. This year the department shares the admiration of myself, the people it serves and that of the entire country.

THE RURAL SCHOOLS OF AMERICA ACT OF 1991

HON. CARL C. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. PERKINS. Mr. Speaker, finally, after too long a period of neglect, education has moved to the top of the national agenda. We are starting to realize how crucial the education of our children will be for the continued success and prosperity of our great Nation. However, little attention has been focused on the desperate state of America's decaying rural school system. Rural America faces an educational crisis of epidemic proportions.

Approximately one out of every four of America's rural children live below the poverty line, and the isolation and small size of many rural schools present unique transportation and access problems. The average rural school building is over 45 years old and in serious disrepair. Rural pre-schoolers have less access to early childhood development programs than other children, and rural high school graduates are less likely to attend college than their peers. Rural schools also face many of the same problems as other schools, such as substance abuse, declining graduation rates, dropouts, and teacher shortages. Unless immediate action is taken, the educational paralysis of our rural children will doom an entire generation, and perhaps a way of life, to extinction.

Today, I am proud to introduce the Rural Schools of America Act of 1991, which begins to address the often overlooked needs of education in rural America. This bill provides dollars for goals, as well as dollars for the rebuilding of the physical infrastructure of the rural school system.

The Rural Schools of America Act will provide funding for school districts to implement tutoring and mentoring programs, prepare more rural graduates for postsecondary education, emphasize daycare and early childhood programs, and recruit and train qualified teachers.

The Rural Schools of America Act will provide much needed funds for the repair and renovation of school buildings, and the construction of desperately needed new facilities. Many rural districts have been hit with the unexpected cost of removing asbestos, lead and radon, and this bill will help make these schools safe for our children. The Rural Schools of America Act will enable schools to become more accessible for the disabled and provide improved services for homeless students.

One important development we see nationwide is the emergence of local coalitions in support of education. This legislation will encourage parents, teachers, community groups and area businesses to work together to formulate a local education strategy. In addition, the Rural Schools of America Act establishes a National Rural Regional Education Center in each region to conduct research, evaluate and monitor activities, and disseminate information. This legislation calls on the President to establish a White House Conference on Rural Education to mobilize Federal agencies and coordinate a national rural strategy, as well as appointing an Assistant Secretary for Rural Education.

The Rural Schools of America Act of 1991 will begin the task of addressing the educational needs of rural children in America. For many of these children, education represents the sole opportunity to change their lives. I would ask for the support of my distinguished colleagues on this vital piece of legislation. I hope many of you will see fit to join me and cosponsor this legislation.

TRIBUTE TO THE VETERANS AFFAIRS MEDICAL CENTER IN TUSCALOOSA, AL

HON. CLAUDE HARRIS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. HARRIS. Mr. Speaker, I rise today to pay tribute to the Veterans Affairs Medical Center in Tuscaloosa, AL, for its recent accomplishment as the recipient of the 1991 President's Council on Management Improvement Award for Management Excellence. The Tuscaloosa Veterans Affairs Medical Center was chosen for this award for its significant improvements in the quality and productivity of Federal services. Chosen from among the 36 Federal agencies that were nominated, this award is quite a honor. It was the only Veterans Affairs medical facility in the country to receive this award.

I would like to take this opportunity to tell you about the VAMC Tuscaloosa. It is 1 of 41 Veterans Affairs medical centers in southern region 3. It is a predominately psychiatric facility that offers acute outpatient and nursing home services. Located in west central Alabama, the VAMC is affiliated with the University of Alabama Medical School. During its existence, the VAMC has truly proven its responsiveness and dedication to the public.

Mr. Speaker, I know the Members of the House will join me in recognizing the commitment of the Tuscaloosa Veterans Affairs Medical Center in improving the quality of services to our veterans. Again, I extend my congratulations to the Tuscaloosa Veterans Affairs Medical Center and encourage all Federal agencies to strive to match the outstanding efforts of this year's recipient of the President's Council on Management Improvement.

TRIBUTE TO DR. DENZIL BARKER

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. HUBBARD. Mr. Speaker, I take this opportunity to pay tribute to Dr. Denzil G. Barker, a retired physician who served the people of Knott County, KY, for over 40 years. This well-liked and admired eastern Kentucky doctor died at age 75 on March 1, 1991, in Hopkinsville, KY, after a long illness.

Dr. Barker retired from his medical practice in Hindman, KY, in 1987, at which time he and his lovely wife, Gladys "Mickey" Barker, moved to Hopkinsville, which is in my congressional district, to be closer to their daughter. Prior to that, the Barkers had been residents of Hindman for 43 years.

Denzil Barker was born at White Oak, KY, which is located in Magoffin County, on March 16, 1916. He graduated from Caney Junior College which is now Alice Lloyd College. He later received his bachelor of arts degree from the University of Kentucky and his medical doctorate from Tulane University. While at the University of Kentucky, Dr. Barker had the distinction of being Kentucky's candidate for Rhodes scholar.

During World War II, Dr. Barker served as a medical officer in the South Pacific with the U.S. Army. After the war, he returned to the mountains of eastern Kentucky to establish his medical practice as he had pledged he would do while studying at Caney Junior College.

For 35 years, Dr. Barker served as chairman of the Knott County Board of Health and during his years of practice he received recognition and numerous honors. In 1962, he was the recipient of the Kentucky Citizen Doctor of the Year Award, was a charter member of the American Academy of General Practitioners and also the American Academy of Family Physicians.

In addition to his medical practice, Dr. Barker served his community in other ways. He was twice elected as mayor of the city of Hindman, and he was a member of the board of trustees of Alice Lloyd College. He was a longtime member of the First Baptist Church in Hindman, where he served as chairman of the church's board of deacons and as a Sunday school teacher. In 1988, he was inducted into the Knott County Hall of Fame, and the week of his retirement was designated as "Dr. Denzil Barker Week" in Knott County.

Dr. Barker was a beloved figure in Knott County and surrounding communities and he was respected by all of us who knew him.

In addition to his wife, he is survived by two sons, Dean Gregory Barker of Houston, TX, and Mark Turner Barker of Knoxville, TN; a daughter, Denzila (Dennie) Burke of Hopkinsville; his mother, Maude Barker of Hazard, KY; one brother, Herbert Barker of Point Pleasant, WV; and five grandchildren.

Dr. Barker's talented daughter, Denzila (Dennie) Burke, was a field representatives for our First Congressional District office in Hopkinsville during 1983–85.

My wife, Carol, joins me in extending our sincere sympathy to the family of Dr. Denzil Barker, a beloved physician who served his community well.

THE 29TH INFANTRY DIVISION 50TH ANNIVERSARY

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. MCMILLEN of Maryland. Mr. Speaker, I rise today to acknowledge the celebration on Saturday, June 29, 1991, at Fort Meade, MD of the 50th anniversary of the mobilization of the 29th Infantry Division for World War II.

It was this division that was part of the Allied forces that stormed the Normandy beaches on D-day, June 6, 1944. Comprising mostly Marylanders and Virginians, it was the only Guard division that participated in the greatest amphibious assault in history.

Reactivated in October 1985 as the only light infantry division in the National Guard and one of five in the U.S. Army, the 29th Infantry Division remains a Maryland-Virginia unit, which has reached a high level of combat readiness in a short time.

The highlights of the celebration will be a pass in review and recognition of our Operation Desert Storm and Desert Shield troops and those veterans who served with the division in World War I and World War II.

My greatest thanks goes to all of the veterans who served with the 29th Infantry Division. I speak for all Americans in saluting this division for serving our country so well and protecting freedom and liberty throughout the world.

TRIBUTE TO ERICK J. BONANG

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Mr. REED. Mr. Speaker, I rise today to salute a distinguished young man from Rhode Island who has attained the rank of Eagle Scout in the Boy Scouts of America. He is of Erick J. Bonang of Troop 1 in Coventry, and he is honored this week for his notworthy achievement.

Not every young American who joins the Boy Scouts earns the prestigious Eagle Scout Award. In fact, only 2.5 percent of all Boy Scouts do. To earn the award, a Boy Scout must fulfill requirements in the areas of leadership service, and outdoor skills. He must earn 21 merit badges, 11 of which are required from areas such as citizenship in the community, citizenship in the Nation, citizenship in the world, safety, environmental science, and first aid.

As he progresses through the Boy Scout ranks, a Scout must demonstrate participation in increasingly more responsible service projects. He must also demonstrate leadership skills by holding one or more specific youth leadership positions in his patrol and/or troop. These young men have distinguished themselves in accordance with these criteria.

For his Eagle Scout project, Erick Bonang removed and replaced a deteriortated deck at St. Vincent dePaul Church in Coventry. Removal of the deck created a safe and healthy environment for all those in the community who use the church.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scout Erick Bonang. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must meet. This program has through its 80 years honed and enhanced the leadership skills and commitment to public service of many outstanding Americans, two dozen of whom now serve in the House.

It is my sincere belief that Erick Bonang will continue his public service and in so doing will further demonstrate himself and consequently better his community. I am proud that Erick Bonang undertook his Scout activity in my representative district, and I join friends, colleagues, and family who this week salute him.

H.R. 2258

HON. JILL L. LONG

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 27, 1991

Ms. LONG. Mr. Speaker, a major report sponsored by the Progressive Policy Institute has been issued on the roads out of poverty and, in particular, on microenterprises.

Microenterprises are small businesses with one to five employees. Increasingly, it is becoming clear that one way to break the cycle of poverty in which so many families and individuals find themselves is to start their own microenterprise.

However, Government programs to alleviate poverty are overwhelmingly directed at relief efforts rather than at efforts to attack the root of poverty. In fact, these programs discourage entrepreneurship. The AFDC Program will often cut off benefits to poor individuals who are trying to start their own businesses as they accumulate start-up capital for the business.

This report makes several recommendations for the promotion of microenterprises and other self-help strategies to address poverty. These recommendations are reflected in legislation, H.R. 2258, introduced in the 102d Congress by the chairman of the Select Committee on Hunger, Representative TONY HALL.

Microenterprises are a common sense solution to the problem of poverty and I urge my colleagues to lend their support to the promotion of these businesses and cosponsor H.R. 2258.

SENATE—*Friday, June 28, 1991*

(Legislative day of Tuesday, June 11, 1991)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

God of our fathers who inhabits eternity and infinity, as recess begins and Senators travel, we thank You for Your promise to Joshua, "* * * Be strong and of good courage; be not afraid, neither be thou dismayed: for the Lord thy God is with thee whithersoever thou goest."—Joshua 1:9. Grant to those who travel journeying mercies and safe return.

Father in Heaven, the Senators have been working long hours under difficult, emotional, sometimes divisive conditions. We pray that this recess will be a time of healing, reconciling, deepening of relationships with families, and that the Senators will find time for rest, recreation, and renewal. Bless their labors which duty demands and return them safely to their work here.

We pray for all who serve so diligently in the Senate who will now enjoy a brief respite from their responsibilities, that this recess will be for them a rewarding time with family and friends. Bless those who remain on the job here in the Capitol.

We pray in His name who never leaves us or forsakes us. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 28, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President, we will return to the consideration of the crime bill immediately. It is my hope that Senators who have amendments that they wish to offer will do so.

The distinguished former chairman of the committee is here and present. The present chairman of the committee is here, Senators ready to proceed with respect to this matter.

I hope we can move with dispatch on the several amendments which may be remaining.

Senators should be aware that rollcall votes are likely throughout the day.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. Will the Senator withhold that request?

Mr. MITCHELL. I withhold.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Without objection, the leadership time is reserved.

VIOLENT CRIME CONTROL ACT

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of S. 1241, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1241) to control and reduce violent crime.

The Senate resumed consideration of the bill.

Pending:

Specter modified amendment No. 381, to establish post-conviction proceedings to ensure that the death penalty is expeditiously carried out.

Mr. THURMOND. Mr. President, we have been on this crime bill now several days. I think we ought to get through with it today, and early today if we can. If those who have amendments will come in and offer the amendments, then let us get going. There is no use wasting hours and hours as we have done for the last few days.

I wish to commend the leaders in trying to push along, and I am sure we can make time here to finish up this bill and give the country a good crime bill.

I hope that we can get going here very quickly and get a lot done here as soon as possible.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Idaho is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. CRAIG. Mr. President, I ask unanimous consent that the following list of first-degree amendments, which I send to the desk, be considered in order of their sponsors' arrival in the Chamber, and that no other amendments or motions to recommit be in order prior to the disposition of these amendments, except for those which the two managers have cleared for consideration.

Mr. President, both the minority and majority have agreed on this, along with the managers of the legislation.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KASTEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Wisconsin.

AMENDMENT NO. 433

(Purpose: To address the growing problems of rural crime in a systematic and effective manner with a program of practical and focused research, development, and dissemination)

Mr. KASTEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The assistant legislative clerk read as follows:

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The Senator from Wisconsin [Mr. KASTEN] proposes an amendment numbered 433.

Mr. KASTEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new title:

TITLE —RURAL CRIME PREVENTION STRATEGY

SEC. 01. FINDINGS.

The Congress makes the following findings:

(1) The traditional supportive roles in the family, church, school, and community have declined in importance as a positive social factor influencing the prevention and control of crime in rural areas. As a result in recent years rural areas have experienced a marked increase in crime rates. This increase is taking its toll on rural law enforcement practitioners who are already encumbered by numerous characteristics that are unique to their rural circumstances.

(2) Compounding the increase in crime rates, rural police unlike their urban counterparts, are likely to encounter a multitude of nontraditional police tasks such as fire and railroad emergencies, search and rescue missions, animal control problems, livestock theft, wildlife enforcement, illegal distilleries, illegal crop farming and drug manufacturing, rural drug trafficking, and toxic dumping.

(3) These problems are further exacerbated by the rural officer's distinct disadvantage with respect to the lack of adequate training to manage these varied assignments, the low degree of specialization of job tasks, unique job stress factors, and inadequate data resources. Inadequate rural crime statistics and data analysis capabilities further frustrate the rural police organization's ability to cope with the nature, extent, and trends of rural crime.

(4) Rural law enforcement agencies are at a critical juncture, and strategic planning and action are imperative. The Domestic Chemical Action Group as convened by the National Institute of Justice in October 1990 has recommended that rural police receive training in various safety issues related to the identification, investigation, and seizure of illicit drug and chemical laboratories located in rural areas. Without such specialized training officials will face a high probability of explosions endangering police personnel and the community. National Institute of Justice sponsored research of environmental crime in major urban areas, including Los Angeles, has revealed the lack of police training in the identification, investigation, and clean-up of toxic and hazardous waste areas. It can be said with certainty that this recognized need for hazardous materials training is equally critical for rural police organizations.

SEC. 02. STRATEGY TO ADDRESS RURAL CRIME.

The purpose of this title is to address the growing problems of rural crime in a systematic and effective manner with a program of practical and focused research, development, and dissemination designed to assist States and units of local government in rural areas throughout the country in implementing specific programs and strategies which offer a high probability of improving the functioning of their criminal justice systems.

SEC. 03. NATIONAL INSTITUTE OF JUSTICE NATIONAL ASSESSMENT.

(a) IN GENERAL.—The Director of the National Institute of Justice (referred to in this title as the "Director") shall conduct a national assessment of the nature and extent of rural crime in the United States, the needs of law enforcement and criminal justice professionals in rural States and communities, and promising strategies to respond effectively to those challenges, including—

(1) the problem of clandestine drug laboratories; changing patterns in their location and operation; safety and liability issues for both law enforcement officers and the community in the identification, investigation, seizure, and clean-up of clandestine laboratories;

(2) other environmental crimes, such as the dumping of hazardous and toxic wastes; the pollution of streams, rivers, and ground water; and access of rural communities to the expertise necessary to successfully identify, investigate, and prosecute such crimes;

(3) the cultivation of illegal crops, such as marijuana, including changing patterns in location and techniques for identification, investigation, and destruction;

(4) the problems of drug and alcohol abuse in rural communities, including law enforcement and criminal justice response and access to treatment services;

(5) the problems of family violence and child abuse, including law enforcement and criminal justice response and access to services for victims of such crimes;

(6) the problems of juvenile delinquency and vandalism as they affect rural communities;

(7) the access of law enforcement and criminal justice professionals in rural communities to the services of crime laboratories, the Automated Fingerprint Identification System, and other technological support;

(8) the access of law enforcement and criminal justice professionals in rural communities to professional training and development and the identification of models for the delivery of such training; and

(9) the special problems of drug abuse in jurisdictions with populations of 50,000 or less.

(b) FINAL REPORT.—The Director shall submit the national assessment to the President and Congress not later than 12 months after the date of enactment of this title.

(c) DISSEMINATION OF REPORT.—Based on the results of the national assessment and analysis of successful and promising strategies in these areas, the Director shall disseminate the results not only through reports, publications, and clearinghouse services, but also through programs of training and technical assistance, designed to address the realities and challenges of rural law enforcement.

SEC. 04. PILOT PROGRAMS.

(a) IN GENERAL.—The Director is authorized to make grants to local law enforcement agencies for pilot programs and field tests of particularly promising strategies and models, which could then serve as the basis for demonstration and education programs under the Bureau of Justice Assistance Discretionary Grant Program.

(b) TYPES OF PROGRAMS.—Pilot programs funded under this section may include—

(1) programs to develop and demonstrate new or improved approaches or techniques for rural criminal justice systems;

(2) programs of training and technical assistance to meet the needs of rural law enforcement and criminal justice professionals including safety;

(3) a rural initiative to study and improve the response to traffic safety problems and drug interdiction;

(4) an ongoing program to assist law enforcement professionals in dealing with the hazards of clandestine drug laboratories;

(5) victim assistance information to assist departments in beginning and maintaining strong programs to assist victims and witnesses of crime;

(6) emergency preparedness information for community groups concerned about disaster preparedness on the family and community level; and

(7) program targeted at communities of less than 50,000 stressing the need for production of public safety through extensive partnership efforts between law enforcement, other local government agencies, businesses, schools, community and social organizations, and citizens.

SEC. 05. FUNDING.

There are authorized to be appropriated $5,000,000 to carry out the national assessment and pilot programs required by this title.

Mr. KASTEN. Mr. President, I believe that one of the greatest problems facing law enforcement to date is the rising problem of crime, not in our urban areas, but in the rural areas of our Nation. That is why I have offered this amendment, in order that we might direct our resources in a manner that addresses the problem of rural crime head on.

My amendment would direct the National Institute of Justice to conduct a 1-year study on the nature and extent of crimes committed in rural America, and second, on the needs of law enforcement and criminal justice professionals in rural States and in rural communities.

Once the study has been completed, the development of a hard-hitting strategy to combat the problems associated with rural crime will be developed and summarily implemented.

Senator BIDEN's comprehensive rural crime program has great merit, but I think it is imperative to take the time to assess and study the problems facing the rural areas of our country, in order to more effectively target our resources, target them now, and also target them in the years to come.

I want to commend the Senator from Delaware and the Judiciary Committee for the recent release of their report on rural crime. However, in dealing with a problem of this magnitude, I think the best approach is to, first, identify the problem and, secondly, to develop a strategy to deal with the problem, and then to implement a plan of action to address the problem of rural crime.

Mr. President, the amendment also calls upon the Director of the National Institute of Justice to implement pilot programs of proven effectiveness. Such programs should include the development and demonstration of new or improved approaches or techniques for rural criminal justice systems; the implementation of training, safety, and technical programs of assistance; rural initiatives to study and improve response to traffic safety problems and drug interdiction; an ongoing program to help rural law enforcement to deal effectively with the problems caused by clandestine drug labs and their impact on the environment and also the community; an increased cooperation between Federal, State, and local law enforcement informational networks; and the development of victims assistance, emergency preparedness, drug and alcohol abuse, and domestic violence programs.

Mr. President, assessing the nature of the rural crime problem in our Nation and subsequently developing a strategy to deal with this crisis would be the logical first step to eradicate the crime that has plagued rural America for many years.

Mr. President, I understand that this amendment has been cleared by both the majority and minority side. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 433) was agreed to.

Mr. KASTEN. I move to reconsider the vote and move to table that motion.

The motion to lay on the table was agreed to.

AMENDMENT NO. 434

(Purpose: To amend title 18, United States Code, to create a Federal offense for violent felonies against the elderly)

Mr. KASTEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN] proposes an amendment numbered 434.

Mr. KASTEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new title:

TITLE —VIOLENT FELONIES AGAINST THE ELDERLY

SEC. 01. VIOLENT FELONIES AGAINST THE ELDERLY.

(a) IN GENERAL.—Chapter 227 of title 18, United States Code, is amended by adding at the end the following new section:

"§3581. Mandatory sentence for felony against individual of age sixty-five or over

"(a) Upon any plea of guilty or nolo contendere or verdict or finding of guilty of a defendant of a crime of violence under this title, if any victim of such crime is an individual who had attained age sixty-five on or before the date that the offense was committed, the court shall sentence the defendant to imprisonment—

"(1) for a term of not less than one-half of the maximum term of imprisonment provided for such crime under this title, in the case of a first offense to which this section is applicable; and

"(2) for a term of not less than three-fourths of the maximum term of imprisonment provided for such crime under this title, in the case of a Second or subsequent offense to which this section is applicable.

"(b) Notwithstanding any other provision of law, with respect to a sentence imposed under subsection (a) of this section—

"(1) the court shall not suspend such sentence;

"(2) the court shall not give the defendant a probationary sentence;

"(3) no defendant shall be eligible for release on parole before the end of such sentence;

"(4) such sentence shall be served consecutively to any other sentence imposed under this title; and

"(5) the court shall reject any plea agreement which would result in the imposition of a term of imprisonment less than that which would have been imposed under subsection (a) of this section in connection with any charged offense.

"(c) As used in this section, the term—

"(1) 'crime of violence' means—

"(A) a felony that has as an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another; or

"(B) a felony that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense; and

"(2) 'victim' means an individual against whom an offense has been or is being committed.".

(b) AMENDMENT TO TABLE OF SECTIONS.—The table of sections for chapter 227 of title 18, United States Code, is amended by adding at the end the following new item:

"3581. Mandatory sentence for felony against individual of age sixty-five or over.".

(c) OTHER TECHNICAL AMENDMENTS.—(1) Section 3731 of title 18, United States Code, is amended by inserting after the second paragraph the following new paragraph:

"An appeal by the United States shall lie to a court of appeals from an otherwise final decision, judgment, or order of a district court sentencing a defendant on the ground that such sentence is less severe than that required under section 3581 of this title.".

(2) Rule 32(c) of the Federal Rules of Criminal Procedure is amended—

(A) by adding at the end of the first paragraph in paragraph (1) the following new sentence: "Neither the defendant nor the court may waive a presentence investigation and report unless there is in the record information sufficient for the court to determine whether a mandatory sentence must be imposed pursuant to title 18, United States Court, section 3581."; and

(B) in paragraph (2)(D), by inserting after "the offense" the following: "and information relating to whether any victim of the offense had attained age 65 on the date that the offense was committed.".

(3) Rule 11(e)(1) of the Federal Rules of Criminal Procedure is amended by striking out "The" after "IN GENERAL." and inserting in lieu thereof "Except as provided in title 18, United States Code, section 3581, the".

Mr. KASTEN. Mr. President, there is an alarming increase in violent crimes committed against the elderly in our Nation. In the past decade, seniors have fallen prey to an unbelievable number of auto thefts, personal and household larcenies, murders and burglaries.

Something must be done to put an end to this travesty.

My amendment would not allow the courts to suspend the sentence of an individual found guilty of committing a felony against someone age 65 or older.

An individual convicted of a first offense will receive a term of not less than one-half the maximum term of imprisonment for the particular offense. If that individual is found guilty of a second offense he will receive a term of not less than three-fourths the maximum term of imprisonment for the offense.

Further, the court would not be allowed to accept a plea which would reduce time served; allow parole before completion of serving the imposed sentence; give the defendant a probationary sentence; and, prohibit the sentence to be served consecutively to any other sentence the convicted may be serving.

As unfortunate as it may sound, our law enforcement officials have been telling senior citizens to trust no one, advice that doesn't have to be repeated in today's climate. There used to be a time in this country of ours, not so long ago, that a person could drive or walk to the store for groceries without fearing for such things as whether or not the door had been locked, or whether the car was locked, or whether their valuables had been stored in a safe place before they had left. Most importantly, our elderly should not fear for their lives on the way to and from the store.

Mr. President, I for one would like to be able to bring those days of old back. I would like to think that the lives of my parents, your parents and the parents, grandparents and great-grandparents of every American can be made safer with the adoption of this legislation. Let us give our seniors the respect and admiration they deserve instead of the humiliation and disrespect they have been receiving. A vote for my amendment is a vote to protect our Nation's elderly.

Mr. President, I understand that this amendment has been cleared on both sides, and I therefore urge its immediate adoption.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (No. 434) was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KASTEN. Mr. President, I ask unanimous consent that Senator HATFIELD be added as a cosponsor to the rural crime amendment, No. 434.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KASTEN. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Idaho.

Mr. SYMMS. Mr. President, I seek the floor just to speak on a bill, the pending gun control bill that we have before us. I think we need to recognize what we have here, and we do, Mr. President, have before the Senate a bill that will severely restrict the rights of people to buy and own legal firearms in the United States.

People say well, you are carrying that a little far are you not, Senator? Mr. President, I would say, what would happen if looking at the first amendment, we went down to the newspapers and said well, when you write editorials in the paper you first have to let them be cleared for a 7-day period and let the local authorities decide whether or not it is OK for this editorial to be carried. It has to be approved by the local law enforcement people for 7 days before it can be printed. I think you would get quite a different response to this.

But what has happened is—and I would have to say that I compliment the leadership—that last night they did take out some very obnoxious parts of this bill. Gun registration, the waiver of someone's right to protection under normal protections under the law, and other factors that were very obnoxious to Senator STEVENS, who made the point on the floor last night.

But, we still have before us a bill that bans 14 semiautomatic weapons, and requires a 7-day waiting period for the legal purchase of a firearm in this country. It is the camel's nose under the tent, is what it is. It is gun control no matter how you look at it.

The President, over 100 days ago, asked Congress to send him a crime bill. As I said, Mr. President, now we have a partial crime bill because of amendments that were put in on the floor that improve it so that it has some more respect for criminal control than it had when it came from the committee. But it still is a gun control bill.

I might just review what happened. When this bill came to the committee, and I mean from the committee to the floor, this bill would have effectively outlawed the death penalty by requiring that it be imposed in accordance with strict racial quotas. I found it interesting that when Senator HELMS had an amendment pending before the Senate that dealt with racial quotas, that somehow that was not in order; yet, when the bill came from the committee it was laced with racial quotas with respect to the death penalty.

The pending bill that came from the committee also would have expanded the rights of the convicted criminals by overturning six Supreme Court decisions limiting the rights of habeas corpus. The bill would have limited the rights of ordinary citizens to protect themselves against crime through the use of handguns. The bill would, with one hand, throw billions of dollars at problems created by the very leniency toward criminals which this bill enhances.

In sum Mr. President, the bill loses sight of some of the most fundamental prerequisites for anticrime legislation. We should be striving to punish the criminals not to divert the public attention that somehow having a 7-day waiting period is going to make one whit of difference with respect to the crime control in this country. It will make no difference to have a 7-day waiting period. Eighty percent-plus of all the firearms used in the commission of felonies in this country are illegally purchased or they are not purchased through anyplace where they have a 7-day waiting period even if it is the law.

The record shows, Mr. President, as I said last night and I will say again through this Senator, that in the States that have had a waiting period it has not worked, the violent crime has gone up. The States that are really trying to punish criminals, their violent crime has gone down.

So I think we are losing sight here and diverting the public attention and doing a real disservice to the American people when those of us in the U.S. Senate succumb to doing something just because it may appear to be, on the surface, popular, but it will have no impact at all with respect to crime control and making streets safer places for people to be. Some Members of the Senate may have succeeded in fooling themselves, but the American people have not been fooled. Maybe we are fooling ourselves, Mr. President, maybe that is what it is. Maybe the Senate is fooling itself into thinking we are doing something.

Eventually the American people are going to recognize it. They are going to look at the RECORD and they are going to find out who voted for gun control in the U.S. Senate and who voted for freedom and personal responsibility, and who voted for crime control.

People in Jacksonville, FL, where the murder rate has risen to 84 percent in the last 5 years, were interested in curtailing the right of criminals to file frivolous petitions.

The citizens of New Orleans, where the murder rate has risen to 101 percent from 1985 to 1990, want to reduce the options open to criminals to ban evidence obtained in good faith in their criminal trials and not to extend them.

The people of Milwaukee, where the murder rate has risen to 126 percent from 1985 to 1990, has risen another 43 percent already in 1991, want to implement the death penalty, not have done away with as the bill came from the committee with racial quotas.

Mr. President, the distinguished chairman of the committee the very able Senator from Delaware makes a statement here on the floor that he fails to see how the abuses of habeas corpus have had any relationship to my ability to go to the store without fear of becoming a victim of a crime.

Mr. President, I would say in response to anyone who alleges that an expansion of criminal rights has no impact on public safety, I wish to relate the legal convolutions involved in connection with one vicious crime, and I think herein lies our problem in the country and this is what the American people are talking about.

The point is, the American people that I talk to across the country are concerned with issues, just like the story I am about to relate.

The crime occurred on the night of March 21, 1962, in a small town in California when a convicted rapist, Booker Hillery rammed a pair of sewing scissors into the throat of 15-year-old Marlene Miller. Marlene was using the scissors to make a birthday dress for her 16th birthday when Booker Hillery took the scissors and rammed them up her throat and rammed them into her spinal column and her brain.

After he had attempted to rape the young girl he jabbed the scissors, which were monogrammed with her name, into her throat up to the handles, and dumped her body in an irrigation ditch.

How had Hillery gotten around to do this? No. 1, he was out on parole from an earlier rape conviction. He was tried for this case of ramming the scissors up Marlene Miller's throat and sentenced to death.

This was 1962, Mr. President. But his sentence to death was not the end of this sorry tragic episode. In fact, it was just the beginning of a 29-year ordeal for Marline's family and friends, an ordeal which is still a long way from reaching a conclusion.

Hillery appealed, arguing that the jury that sentenced him to death, had been erroneously told that if he received a life sentence he could be released on parole. Although this was absolutely true at the time of the trial, a subsequent case created a new rule. So the California Supreme Court, after initially upholding the conviction, in 1965 ordered a new trial with respect to the sentencing phase.

Hillery was tried a second time in the sentencing phase. Again, he was sentenced to death. This time he filed a habeas corpus petition claiming that a potential juror had been improperly excused because she felt she could not sentence anyone to death. Again, the sentence was thrown out.

So a third time Hillery was tried in the sentencing phase. A third time he was sentenced to death. A third time he appealed his death sentence. This time he argued the death penalty was unconstitutional under the California Constitution, and his sentence was reduced to life imprisonment.

Having overturned the death penalty, however was only the beginning for Hillery. Now this fellow, who is a child molester, a rapist, and a murderer began his long campaign to be released to the streets. Later that year, Hillery filed still another habeas corpus demanding his release on the ground that blacks had been excluded from the grand jury which indicted him.

This was particularly a pathetic line of argument because there was no evidence of any discrimination in connection with the judicial proceedings. Although the county in question had a black population of less than four-tenths of 1 percent, the judge responsible for the grand jury selection had solicited the identity of a potential black juror from Hillery's lawyer. When a black jury candidate was located, he was excluded at his own request because jury service would have conflicted with his employment. It had nothing to do with discrimination. Absolutely nothing to do with it. It just did not work.

In spite of this fact, after 5 additional years of litigation, and thousands and thousands of dollars, a U.S. district court granted Hillery's habeas corpus petition and ordered him released and retried. That unfortunate decision was affirmed by both the U.S. Court of Appeals and the U.S. Supreme Court.

Rather than turning Hillery loose on the street to murder and rape more young girls, Hillery was retried. On December 18, 1986—now remember, Mr. President, it was in March 1962 when he rammed the monogrammed scissors into the throat of young Marlene Miller; now it is December 18, 1986—he was again convicted of murdering Marlene Miller, a murder which occurred 24 years earlier. This time, he was sentenced to life in prison.

Mr. President, if this was the end of the episode and they had put him in jail and had thrown the key away and we did not have to worry about it, that would be one thing. But the sorry episode still is not closed. Within hours of his 1986 conviction, he filed notice of appeal, and that appeal is still pending.

Twenty-nine years after Booker Hillery rammed a pair of scissors through Marlene Miller's throat, the case is still not closed—and, furthermore, it is not even close to being resolved.

It is only another pathetic illustration of a number of fundamental truths. And the reason I bring this out is the obvious lesson of this is very simple. The central reason for the country's escalating crime rate is the hardcore cadre of career criminals who are repeatedly released on the streets to victimize innocent people again, and again, and again. That is why Senator THURMOND has been fighting this case so hard for the rules of evidence, for the habeas corpus rules, and that is why it is such a fraud on the American people to put these gun control measures in this bill and deprive freedom and liberty from law-abiding citizens and do nothing, do absolutely nothing, about the problem of Booker Hillery.

Mr. President, in 1990, the Department of Justice published an elaborate profile of felony defendants in large urban counties. This study pointed out that two-thirds of the felony defendants had an arrest record; almost four-fifths of that group has a felony arrest record. Furthermore, one quarter of all felony defendants had four or more felony arrests.

So what we are saying is, and what the report shows the facts are, it is the same people who are doing these crimes over and over again. What this country needs Mr. President, is criminal control, not gun control.

Now there is more to the report. The average number of prior arrests for all the defendants was three felony arrest charges and three misdemeanor arrest charges. If you look at only defendants who had arrest records, the average number of prior arrests was four felonies arrests and five misdemeanor arrests.

Furthermore, Mr. President, roughly one-third of the defendants were already wards of the criminal justice system. They are already wards of the system. Forty-one percent were on probation and 34 percent were on pretrial release for a previous case that was still pending.

Finally, 59 percent of the defendants charged with violent offenses were released prior to disposition of their case. Forty-six percent of all released defendants were released on the day of their arrest or the following day. Only one-third of all defendants arrested on felony assault charges were ultimately convicted of felonies.

Mr. President, I happen to be one of the nonattorneys in the Senate but I say to my colleagues and to the Chair that it does not take a brain surgeon, when you look at these facts and figures, to figure out what is wrong. Most crimes are committed by career felons who should be in prison or should have been executed for past murders or other crimes of violence.

Even when arrested, these felons get released pending trial and go out and commit more crimes. Even after numerous felony convictions, a lenient criminal justice system has allowed these criminals to plea bargain their way out onto the street without serving time.

Mr. President, we need to harken back to the days when we were young and used to read Dick Tracy in the comics, when Tracy always said we have to make it so that crime does not pay. It is very simple, very easy to understand, but it is true. It may not be easy to become a reality to have a fair justice system. And I am the first to say that we have to be cautious to be sure that it is a fair justice system and they all get their day in court.

But I think that, at some point in time, rather than making it easier for States to prosecute felons, which is what we should be doing—make it easy to take those career criminals, those people that commit 80 percent of those crimes, the repeat offenders that have been in four, five times, committing armed robbery, burglary, rape, assault and battery, drug-related incidents, all of these kinds of crimes—rather than making it easier for them, the Federal Government has, unfortunately, thrown impediments in the path of the States and made it harder for them. They have made it difficult for effective law enforcement.

Currently, the penal systems of roughly 35 States are under control of the courts. Petitions by prisoners for release—called habeas corpus petitions—clog the courts with frivolous issues, ranging from double-bunking of prisoners to the adequacy of prison law libraries.

Mr. President, I would say that probably as we are here in the Senate this morning there may be Senators that have children or their staffs, or others that follow the Senate, and that if the sleeping arrangements of some of the children in summer camps came before the Federal courts on a habeas corpus petition they would probably be declared unconstitutional because they probably have too many children bunking in a room or something.

The Federal Government has played a significant role in getting us into this mess. That is why Senator THURMOND and others are trying to lead an effort to have the Federal Government get us out of the mess that it has helped get us into.

Last week, with the defeat of the President's crime bill, I think the Senate rejected the legislation that really was a big step in that direction.

First, it would establish a constitutionally viable death penalty at the Federal level for roughly 40 crimes.

I still think the Senate ought to reconsider what it has done and ought to consider going back and taking a look at the President's bill again. I think the American people should look at what the President's bill is. That is why this Senator is in absolutely no hurry for us to try to pass this bill before the break.

I think we need the time over the Fourth of July for our constituents, for the American people, to look at this bill and look at what the President sent us and compare these two measures and see which one will do the best job to help get the criminals off the streets and protect the citizens of this country, the law-abiding citizens, to have safe streets and good places to do business.

As I said, first, the President's bill would establish a constitutionally viable death penalty at the Federal level for roughly 40 crimes.

Second, the President's bill would limit habeas corpus petitions such as those used by Booker Hillery to keep his appeals alive for 29 years.

Third, the President's bill would create a good faith exception to the exclusionary rule, thereby ensuring that dangerous criminals are not released to seek further victims merely because of a technical violation or arcane rules of evidence.

I think that is a very important point. I have heard the distinguished senior Senator from South Carolina speak of this many times and I, as one Senator, am very disappointed that the President's bill is not the vehicle from which we are working here on the Senate floor. We simply do not have the votes and the American people need to know we do not have the votes. The American people need to know that the bill that came from the Judiciary Committee is an antigun, anti-crime-control bill. That is the way that it was when it came from the committee. It has been improved some but it is still a pro-gun-control bill; it takes guns away from law-abiding people, it diverts attention of law enforcement people so they are going to be spending their time shuffling paper instead of being out on the street, fighting crime.

After this endorsement of the President's bill, I might say I do not agree with every single provision in the President's anticrime bill; not with those provisions, those that I mentioned, which do go after legitimate gun owners.

But the bill Senator THURMOND offered took those out. He had a much better bill.

I do agree, however, with President Bush, that the key to taming crime in our cities is to take career criminals off the streets—control the criminals. By contrast, the approach of many of our congressional friends here is to punish the legitimate gun owners with inconveniences, expenses added to local law enforcement people with respect to the waiting period, tie up good police officers doing bureaucratic paperwork, get them off the streets while leaving the criminals unscathed.

Roughly 80 percent of all illegally used firearms are acquired illegally. These bills would do little to curb crime and violence on the Nation's streets. This reality is illustrated clearly by the fact that virtually every jurisdiction in America which has enacted or extended its waiting period for firearm purchases, including the States of Connecticut, California, and Washington, have witnessed an increase in violent crime substantially exceeding the national average.

For example, Indiana, California, Minnesota, New York, Connecticut—all have waiting periods. For the period between 1967 and 1989, these waiting period States all witnessed homicide increases exceeding the national average.

In Indiana, Mr. President, where they had a waiting period, the homicide rates went up 70 percent. In California, they have it; it went up 82 percent. In Minnesota, it was up 56 percent. In Connecticut, the increase was 146 percent. And in New York, a State famous for its rigid gun control laws, the homicide rate increase was 131 percent.

Compare that with some States that do not have a waiting period: in Alaska, the homicide rates were down 16 percent; in Nevada, the rates declined 24 percent. Prior to its adoption of a waiting period, Delaware homicide rates were dropped by 35 percent. Vermont homicide rates plummeted 39 percent. In my own State of Idaho, the homicide rates were down 40 percent.

Violent crime statistics tell the same story. States with waiting periods have experienced vast increases in violent crime compared with States without waiting periods.

So what is it that everybody is talking about in the national news today, about what is in this bill? That the Congress defeated the NRA last night on the Senate floor and they are going to impose a waiting period on the American people; as if, somehow, that placebo is going to have any impact on violent crime in the streets of America. The only thing that will stop violent crime on the streets of America is to lock up career criminals and do not return the key so they do not get back out to repeat the offenses against a new set of victims. That is the only way we are going to stop the problem.

Violent crime statistics tell the same story, over and over again. States with waiting periods have had increases, while States without them have had decreases. In New Jersey, the violent crime rate went up 223 percent from 1967 to 1989. In Massachusetts, it was up 429 percent. In Connecticut—the State of the distinguished Presiding Officer—the rate of violent crime soared an astronomical 434 percent.

At the same time, in Virginia, where they did not have a waiting period, the violent crime rate was up only 63 percent; in West Virginia, 51 percent; in Montana it crept up 38 percent.

I am not happy about any State where it goes up. But the fact it is the average rate of increase in Virginia, West Virginia, and Montana, three nonwaiting period States, was 51 percent, while the average increase in New Jersey, Massachusetts and Connecticut, the three waiting period States, was 362 percent. In other words, the rate of increase in violent crime in the waiting period States was over seven times that of the States without waiting periods.

FBI statistics point out that a majority of crime occurs in jurisdictions with waiting periods or gun permit systems in place. In fact, these gun control jurisdictions account for two-thirds of the U.S. homicides and three-quarters of the U.S. violent crime.

What am I saying, Mr. President? Why am I giving these statistics? Because it appears to this Senator, in those areas people have looked at the wrong problem. They have looked at guns and said guns are the problem, instead of looking at criminals and saying criminals are the problem and we are going to get the criminals off the street.

So the question is, Will having the so-called Brady Bill, or the 7-day waiting period that is in this bill which makes it a gun control bill, will it cut down on crimes of passion? According to the statistics, the answer is "no."

According to the FBI summary of homicide reports, the average rate of domestic homicides in cities with waiting periods is 2½ times the average rate of domestic homicide in cities without waiting periods. I wonder why that is.

Well, the fact is, people who are going to commit homicides, commit felonies and do illegal acts, do not buy the guns in the legal outlets anyway.

So the question is, do we think the American people want an increase in the homicide rate? No.

Do they want an increase in violent crime rates? No.

Do they want an increase in domestic violence? No.

In domestic homicide? I do not think so. The American people obviously do not want that. They want a decrease in the incidence of homicide. They want to slow down the growth of violent crime and domestic crime.

A comprehensive study exhaustively researched and written by the ACLU attorney David B. Kopel shows why waiting periods are more dangerous to the public than they are helpful. Waiting periods distract law enforcement officials from being on the street and fighting crime and getting criminals off the street. And they fail to keep the guns out of the hands of the felons.

Mr. President, I ask unanimous consent that Mr. Kopel's study be printed in the RECORD in full at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SYMMS. Ironically, the Washington interest groups that push these dubious gun control solutions are comprised of the same people who, 10 or 15 or 20 years ago, were blaming society for the incidence of crime in this country. At the same time they are blaming society for the incidence of crime in the country, they are passing laws that interfere with progress and the growth of jobs and opportunities in the country by raising taxes, and watching a decline of the private ownership in the inner cities. I think the American people are far ahead of the Congress on this issue. I think we are going to get a real shock—some people are—this year.

Actually, I guess I speak like all Members of Congress. We all think in terms of every 2 years as 1 year. I see my distinguished friend from Illinois who is in my class. When we say this year, we really mean next year because that is the election year.

I think in November 1992, there is going to be a real shock on the part of a lot of Members of Congress who have voted for gun control because the American people understand what the Founding Fathers were talking about. They understand that they wanted the law-abiding citizens to be able to own and purchase firearms, to be able to protect themselves from any kind of problem that might arise where they needed protection. They realized that it is the criminals in our society, not the honest, hard-working, law-abiding gunowners of America, who are responsible for crime.

Furthermore, the American people realize that the only way to reduce crime on the streets is to take the criminals off the streets. So unless Congress begins to take a leadership role in this area and begins to punish criminals rather than the American people, I am convinced that come the fall of 1992, the American people are going to speak to that issue and they are going to speak to it loudly and clearly.

I urge my colleagues to still look at ways to strip these gun control measures from this legislation that do absolutely nothing in terms of fighting crime and will make no contribution to making the streets safer in America, and then address some of the problems that will.

I want to summarize by saying, Mr. President, that we should make it tougher on the criminals and get the criminals off the streets and leave the law-abiding citizens alone; in fact, encourage them to own their own firearms, handled properly, and safely, so they can protect their own families.

Mr. President, there is one other area I wish to speak to. All you have to do is go to the inner cities of America where the breakdown in law and order is the worst and that is where you will find socialism the most rampant. What has happened in this country is when you go into the inner city, there is no privately owned property any more. If this Congress could have the courage to freeze the Federal budget and stop hiring thousands and thousands of bureaucrats, reduce the taxes on capital gains and on property, take public housing and homestead, give it to the people, if necessary, set up housing units where people own their houses so they can have pride and a sense of ownership, we will find we can do much more for getting rid of crime than all of this other nonsense of spending billions and billions of dollars, sending people off to foreign countries to try to interdict the supply of drugs. We need to address the problem at home, give recognition to the virtues, values, and humanitarianism of capitalism, freedom, and the private owner aspects of our country so the young people growing up, whether they are black, Hispanic, whatever, in the inner cities have the opportunity to know what it means to live in a home that their parents own or their mother owns. We do not do that.

What we do is encourage a welfare state mentality with no respect for private property in the inner cities. About the only business that is left is selling drugs. That is the only form of capitalism left in some of these inner cities. It is tragic. It is a statement of tragedy, in my view, on the American Congress.

What does the American Congress want to do? The liberal leadership of the Congress wants to put a ban on peoples' ability to buy a gun, and somehow it will solve the problem. It will do nothing, Mr. President, to solve the problem.

What this country needs to do is to get the criminals off the streets and restore opportunities for people. We should be freezing the budget. We should be reducing taxes on capital assets and we should be privatizing the inner city so the people can own something in the inner city.

There is no question in my mind that it would go a long way toward reducing the crime problem and reduce the demand for drugs in this country and is a way to fight the problem with respect to what we are doing overseas and all the money we spend on interdiction. We spend billions and billions of dollars.

We had a bill that passed the Congress last year; $9 billion was added for the drug problem. Two Senators voted against it; 98 to 2. The two Senators who voted—I read the press claims—they both had the same response and later in consultation they said they had not talked to each other. They said it is a waste of money unless we address the real problem: Private ownership, respect for private property, restore the opportunity for young people to get a job.

Secretary Kemp talks about this all the time. I only wish we could have more momentum for what he has tried to do at HUD so that we can actually see we can privatize some of these areas in the inner city. That is the way to fight crime, so that people have a sense of ownership. You bet, if they owned their house, they may want to own a gun to protect their house from the hoodlums on the street if we are not going to give the support to the law enforcement people to take the hoodlums off the street and lock them up. That is what needs to be done, Mr. President.

To pass a gun control bill and somehow think it is going to do any good for anyone I think would be a tragic mistake. That is why this Senator would like very much to see the Congress and the leadership go on recess. I think the best thing we can do today would be to set this bill aside and go on recess, go home, talk to our constituents, find out what they think about this question, go out and have some town meetings and ask them what they think about it and then we can come back and address this problem after the recess.

I think it would be a mistake for us to stay here and try to pass this gun control bill now, which will do nothing to solve the problems of crime in this country, even though the bill has been substantially improved since it left the Judiciary Committee. I commend those Senators who have had a part in that to improve the bill. It still has a long way to go in my view.

Mr. President, I see my good friend from Illinois is on his feet. I understand he is prepared to offer an amendment. I will at this point yield the floor.

EXHIBIT 1

[From Independence Institute, Mar. 25, 1991]

WHY GUN WAITING PERIODS THREATEN PUBLIC SAFETY

(By David B. Kopel)

EXECUTIVE SUMMARY

"Honey, I forgot to duck." Remember the day Ronald Reagan was shot? The President, grinning up from his hospital bed on March 30, 1981, was able to joke about a gunman's attempt on his life. But his press secretary, James Brady, fared much worse; shots from the same pistol left him permanently disabled. The nation was shocked, the gun control movement galvanized.

This month's observance of ten years since the day Reagan and Brady were shot by John Hinckley is an occasion for renewed consideration of what can realistically be done to keep firearms from falling into the wrong hands and being used for the wrong purposes.

The leading proposal before Congress and state legislatures is to require that any retail purchase of a handgun be preceded by a waiting period, during which a background check on the purchaser's criminal and mental record could be conducted.

A waiting period has strong initial appeal. The tradeoffs appear positive: relatively small costs in exchange for significant gains in public safety.

But an exhaustive study of the issue by attorney and gun control expert David Kopel concludes that this preception is misleading. When all the evidence is dispassionately weighed, all the consequences traced, Kopel finds that there is a very real possibility that gun waiting periods threaten public safety.

The reason: law enforcement resources diverted and law-abiding citizens disarmed. Proponents are doubtless right in saying that a federally imposed waiting period would save at least one life somewhere, the author concedes. But he says that is beside the point if America as a whole would be marginally less secure against crime, violence, and fear as a result of the new restriction. Kopel's research and analysis show why the waiting period's vast cost is likely to more than cancel its apparent benefits.

Advocates of the waiting period use the Hinckley case as a symbol, opinion polls to suggest momentum, criminological studies and state experience for empirical validation. None of the four stands up to scrutiny, however. The proposed law would not in fact have halted purchase of the gun used to shoot Reagan and Brady. Polling results turn out to be flawed and mixed. No criminlogist has shown that waiting periods work. California and other states with waiting periods show only a minuscle arrest rate and widespread unfairness to the law-abiding.

There is shock value in the scenario of guns "too easily bought" by drug dealers, psychotic killers, persons bent on killing a spouse or themselves, or purchasers intending to use them in hot blood. Yet hard data and common sense show little benefit from a waiting period even in such lurid situations.

Against the meager-to-nil impact of waiting periods on crime control must be set their clearly negative impact on the average American's ability to count on police protection or protect himself.

Specifically: Is it desirable to have law enforcement agencies bogged in a vast new paperwork morass and harried with lawsuits over insufficient background checks? To have a threatened person face dangerous, sometimes indefinite, delays in obtaining a self-defense gun? To set in place a mechanism for *de facto* universal gun registration and a political stepping stone to outright gun prohibition? To legislate in disregard of the "no prior restraints" and "least restrictive means" principles that should safeguard not only the Second Amendment, but the whole Bill of Rights? All these are foreseeable effects of the proposal.

Alternatives to the waiting period proposal might include a Virginia-style instant phone check on the purchaser's background, creation of a firearms owner ID card, or adding one's fingerprint to a computerized driver's license (the so-called "smart card"). These measures are preferable in many respects, since they are at least as effective as waiting periods at disarming criminals, and are less likely to be used to disarm citizens. Yet these alternatives, like the waiting period, are subject to evasion by criminals and abuse by government administrators, and create serious risks of privacy violations.

Ultimately, the Kopel study concludes, practicality and constitutionality are best served by strategies that aim to cut gun crime not by targeting the legitimate retail firearms trade, but instead by aiming at the black market where most criminals get most of their guns.

INTRODUCTION

Waiting periods: Many states already have them; most national police organizations, most people, and most gun owners are for them. In the 1970s, even the National Rifle Association supported the idea of a carefully-crafted state waiting period. So who could be opposed?

This paper suggests that sometimes a majority of NRA members, a majority of gun owners, and even a majority of all the people may not always be right.

Waiting periods come in two basic shapes. The "limited" waiting period is a relatively short wait for retail handgun purchases. Proposals for such a law have attracted many co-sponsors in Congress, and lost by margins that (while not narrow) are far from the landslides usually thought to be the National Rifle Association's norm in crushing gun control. The wide support for a limited handgun waiting period in Congress reflects the growing persuasiveness of Handgun Control, Inc., the anti-gun lobby.

The more comprehensive waiting period applies to all guns, including long guns, and applies to all transfers, including gifts between family members. The wait itself is much longer. The comprehensive wait is also supported by Handgun Control, Inc. (HCI). HCI has persuaded legislatures in California, Connecticut, and Rhode Island to adopt a comprehensive wait, supplanting the existing limited handgun wait in those states.

Although HCI backs the new comprehensive waits in California and other states, the ultimate goal is an even stronger comprehensive wait. In 1990, Colorado State Senator Pat Pascoe introduced a waiting period bill which HCI Chair Sarah Brady called "everything on my wish list."[1] The bill provided:

As in California, a comprehensive background check and waiting period on both handguns and long guns, for all transactions, including intra-family gifts.

Each gun purchase would require a background check of up to two weeks, followed by a waiting period of one week. An applicant would then be given a permit to purchase, good for 60 days.

The applicant would pay a fee of up to $20 for each purchase permit.

There would be no exception for a person who needed a firearm for self-defense. In fact, even if the police strongly wanted the citizen to acquire a gun because of imminent deadly threats, a one week delay would still be mandatory.[2]

Presently the only state with a law that is more severe than Colorado's very strict proposal is New Jersey.

The waiting period concept (both limited and comprehensive) reflects the belief that there should be a police check before a person buys a gun. In the form of an instant telephone check, the National Rifle Association is essentially willing to accept the police assent principle, providing the system is structured properly. The instant check is currently in effect in Virginia, with few apparent problems (and some successes) so far. Handgun Control, Inc. accepted the instant check in Virginia, and opposed it in Ohio.

Since the instant telephone check is sometimes offered as an alternative to the waiting period, the telephone check is discussed in this paper. Other regulatory alternatives to a waiting period are also considered.

The paper discusses the following issues: Would a waiting period have stopped John Hinckley? What do the polls of police and of citizens say about waiting periods, and what implications should be drawn from the results? What have the criminologists learned about waiting periods? What good have they done in states where they already exist? If a waiting period could save at least one life (and it certainly could) isn't it a good idea? What are the disadvantages and risks of waiting periods and other police permission systems like the instant telephone check? Are there meritorious alternatives to waiting periods? The paper also offers suggestions about how a waiting period should be structured, if a legislature elects to enact one.

The views of Handgun Control, Inc. on waiting periods and gun control are discussed throughout, because, as HCI puts it, the waiting period is the group's "flagship" bill and HCI is by far the most important gun control lobby.

I. JOHN HINCKLEY

Synopsis: Handgun Control, Inc. claims that a waiting period and background check "certainly" would have stopped John Hinckley, who attempted to assassinate President Reagan. Yet Hinckley had no felony record, and no public record of mental disability. HCI asserts that Hinckley was not a resident of Texas, the state where he bought the gun, and that a background check would have revealed that he was illegally buying a handgun in a state where he was not a resident. The evidence indicates that Hinckley was a legal Texas resident. In any case, HCI's proposed background check involves only criminal and mental records, and not an address check. Accordingly, it is very unlikely that the background check would have affected Hinckley.

The national waiting period is commonly known as "the Brady Bill." Its supporters named it after Sarah Brady, the Chair of HCI. To many people, the fact that a waiting period would have stopped John Hinckley from shooting President Reagan and crippling his Press Secretary Jim Brady is reason enough to enact such a law.

Both the perpetrator and the main victim of Hinckley's attack agree that a waiting period would have prevented the crime. Currently under indefinite commitment to St. Elizabeth's mental hospital in Washington, John Hinckley has petitioned to be allowed access to reporters so that he can speak out for handgun control and for a waiting period. Hinckley explains that he was in "a valium depression" when he acted, and a waiting period might have given his better self time to reassert control. But in fact, Hinckley bought the assassination gun in October 1980, months before the assassination attempt. A wait would obviously have had no impact.

Legislators usually pay little attention to the policy suggestions of the criminally insane. The more persuasive spokesperson for the waiting period is Sarah Brady, wife of the man crippled by Hinckley. "Had a waiting period been in effect seven years ago, John Hinckley would not have had the opportunity to buy the gun he used," says Mrs. Brady.[3]

Mrs. Brady bemoans the fact that Hinckley was able to buy the gun with no waiting period to see if he had a criminal or mental illness record.[4] But Hinckley had no public record of mental illness; hence a mental records check would have done no good.[5]

As for a criminal records check, a police background check was run on Hinckley a few days before he bought the gun, and nothing turned up. Hinckley was caught trying to smuggle a gun aboard a plane on October 9, 1980, in Nashville. His name was run through the National Crime Information Center, which reported, correctly, that he had no felony convictions in any jurisdiction. He was promptly released after paying a fine of $62.50 and pleading guilty to a misdemeanor.[6]

Although Mrs. Brady complains about the lack of a criminal/mental check on Hinckley, she does not explicitly affirm that such checks would have affected him. Instead, Mrs. Brady's detailed explanation involves Hinckley's residence status.

On October 13, 1980, John Hinckley walked into Rocky's Pawn Shop, in Dallas, Texas, and walked out shortly thereafter with two .22 caliber RG revolvers. As with the retail purchase of any gun, the gun dealer was required to complete a federal form which listed Hinckley's address. Because Hinckley was buying two guns in the same five-day period (in fact, at the same moment), the dealer also filled out another federal form. That federal form was sent to the local office of the Bureau of Alcohol, Tobacco and Firearms.

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[1] Footnotes at end of article.

By federal law, the dealer was required to verify that Hinckley was a resident of Texas, the state in which he was buying the handgun. When asked for identification, Hinckley offered his Texas driver's license.[7]

Mrs. Brady details how a background check might have helped: "He lied about his address and used an old Texas driver's license to purchase that revolver. He was not a Texas resident. A police check would have stopped him from buying a handgun in Texas."[8] As she puts it, "He lied on his purchase application. Given time, the police could have caught the lie and put him in jail."[9]

Accordingly, Mrs. Brady states: "A simple check would have stopped him . . . John Hinckley might well have been in jail instead of on his way to Washington."[10] Indeed, her assurance that the waiting period would have stopped Hinckley is often unequivocal: "There's no doubt that he would not have been able to purchase that gun."[11] Or, "John Hinckley would never have walked out of that Texas pawnshop with the handgun that came within an inch of killing Ronald Reagan."[12]

But the facts are hardly as clear-cut as Mrs. Brady asserts.

Hinckley moved around a great deal, from one Texas address to another. The Lubbock address he listed on his federal gun form (the address for a rooming house) was different from both his driver's license address and his address in the then-current Lubbock phone book.[13] Of course moving frequently is not a federal crime. Because the only purpose of the driver's license is to prove residence in the state, there is no federal requirement that a handgun purchaser reside at the street address shown on his license, as long as the address is in the same state. Even if Hinckley had deliberately made a false statement about his address, the act would not have been illegal; a false statement on the federal form is illegal only if it relates to the purchaser's eligibility.[14] While a person's state of residence does relate to eligibility, address within that state does not.

In other words, Hinckley's purchase would have been illegal under federal law only if he was not a resident of Texas. Merely offering a Texas driver's license with a street address that was no longer current and was different from the address put on the federal form was not in itself illegal.

Was Hinckley a Texas resident? Contrary to what Handgun Control implies, it has never been determined that Hinckley was not. During the previous summer, he had attended both summer sessions at Texas Tech in Lubbock. According to federal rules, a university student is considered a resident of the area where he attends school, and may purchase firearms there.[15] Notably, when Hinckley was arrested in Nashville (a few days before he bought the handguns), he identified himself as a Texas resident.

Significantly, Hinckley, after the assassination attempt, was the subject of an intensive federal investigation. The federal government used every resource possible to ensure Hinckley's conviction. Notably, Hinckley was not charged with illegally purchasing the handguns in Texas. Had the prosecutors believed that Hinckley was guilty of an illegal gun purchase, the charges would likely have been brought. After all, Hinckley would then have had to convince a Texas jury that he was insane not just on the day of the assassination, but six months beforehand.

If the full resources of the Department of Justice did not find enough evidence even to charge Hinckley with an illegal gun purchase, it is not realistic to claim that a 7-day background check would have found the exact same transaction illegal.

Moreover, law enforcement authorities already had an opportunity to run a check on Hinckley. Because Hinckley bought two handguns on the same day, his purchase was immediately reported to the Bureau of Alcohol, Tobacco and Firearms, as required by federal law.

II. PUBLIC AND POLICE OPINION

Synopsis: Polling data show that large majorities of American citizens, as well as of big-city police chiefs, favor a waiting period. Polls of command-rank officers find them skeptical about waiting periods. For all the polling, flaws in the wording of the questions probably exaggerates the extent of public support and command-rank police hostility. In any case, polls are poor guides to public policy, particularly when Constitutional rights are involved. The reflexive hostility of some police officials towards the Second, Fourth, and Fifth Amendments to the Constitution should not be entitled to much weight in the deliberative process.

A. Police

Handgun Control, Inc. and its Congressional allies claim that a waiting period is supported by "every major police organization" in the country.[23] The assertion is based on a selective definition of "major police organization." The American Federation of Police, with 103,000 members, is the second-largest rank and file police organization in the United States, and is headed by Saginaw County Deputy Dennis Ray Martin, who has won awards from President Bush for anti-drug work. Martin and the American Federation of Police oppose a waiting period. The National Association of Chiefs of Police, with 10,000 members, is the second-largest command rank organization in the United States. It opposes a waiting period. Apparently neither of these organizations, being merely the second-largest in their field qualifies as a "major police organization."[24]

Many important police organizations do support a waiting period.[25] Yet very few of these police organizations have actually bothered to ask the police what they think. One group that did ask was the Police Executive Research Forum (PERF), a Washington think tank comprising about 500 present and former big-city police executives. PERF's membership poll found 92% in favor of a national seven-day waiting period for handguns, and 6% opposed.[26] Thus, among big-city police chiefs, support for a waiting period is nearly unanimous.

The National Association of Chiefs of Police (NACOP) conducts annual national surveys of the opinion of command rank police officers. The survey is sent to all known commanders, not only NACOP members. In 1989, the waiting period questions and responses were:

"Do you believe that a waiting period to purchase a handgun or any type of firearm will have any effect on criminals getting firearms?" Yes—29.1%; No—70.9%.

"The 'Brady Bill' offers a national 7 day waiting period that gives local police or sheriffs an option to check for previous criminal activities, possible drug or alcohol dependency and mental instability. Do you think you would be able to conduct such an investigation in a 7 day period?" Yes—44.7%; No—55.3%.

"Some states have longer waiting periods and some less. Would you agree that it should be a state mandated law rather than a federal regulation as regards to firearms purchase requirements?" Should be State—62.7%; Should be Federal—37.3%.[37]

In 1990, the questions and answers were:

"Do you believe that a waiting period to purchase a handgun or any type of firearm will have any effect on criminals getting firearms?" Yes—23.9%; No—76.1%

"Do you believe that in the national 7 day waiting period proposed before Congress (Brady Bill) that you can fully determine that the applicant has no criminal record; is not mentally unsound; or is an abuser of drugs or alcohol?" Yes—14.4%; No—85.6%.

"No funds to carry out this 7 day 'investigation' are provided in this Bill for police. Do you believe that your department has the manpower to conduct this investigation without taking patrol officers off the street?" Yes—10.6%; No—89.4%.

"There is no provision to protect you from a lawsuit in the event that you approve (after 7 days) an applicant who is a criminal, may be mentally unsound, or a drug or alcohol abuser. Do you believe that the 'Brady Bill' may leave you open to a future civil lawsuit?" No—10.2%; Yes—89.8%.[28]

While the NACOP polls are interesting evidence regarding police opinion, they must be interpreted cautiously. Although every fact stated in the NACOP questions is true, the tone of some of the questions was slanted against the waiting period. A graphic example of a pollster's ability to elicit different response by slight changes in the question is shown in the contrasting 1989 and 1990 answers on whether 7 days was enough time to complete the background check. In 1989, 55% said that 7 days would not be long enough. In 1990, the question was revised to ask if the background check could be fully completed in 7 days, and the time question was followed by a question which noted that no extra funds for the check would be available. For the 1990 survey, the number of respondents who said that 7 days was not long enough shot up to 86%.

In both the 1989 and 1990 surveys, the questions about waiting periods affecting criminals were phrased in a neutral way. But the 1990 questions regarding police civil liability clearly did, like the Gallup poll on a waiting period, elicit a particular response. Notably, the neutral questions (about waiting periods affecting criminals) drew responses of about 70–76% negative on the waiting period, while the most biased question (about civil liability), drew about a 90% negative.

Accordingly, NACOP's most extreme figures, of 90% command rank hostility to the waiting period, are likely too high, for the same reason that Gallup's 91% pro-wait figures for the general public is too high. (The Gallup poll is discussed below.) The NACOP survey does seem to indicate that a majority of command rank officers (perhaps something less than 70%) are skeptical about waiting periods. The most definite conclusion that can be drawn from the NACOP and PERF surveys is that Handgun Control's claim to have the near-unanimous support of the police is true only for major urban chiefs.[29]

A large number of working officers seem to agree with Willis Booth, a former police chief, and Executive Director of the Florida Police Chiefs Association: "I think any working policemen will tell you that the crooks already have guns. If a criminal fills out an application and sends his application . . . he's the biggest, dumbest crook I've ever seen."

Put aside the evidence regarding police opinion, and hypothesize that every police chief in the United States supported a national waiting period. Should their position determine the law?

The opinion of police chiefs is not the arbiter of our Constitutional rights. Some police executives criticize the exclusionary rule; they claim that a strong Fourth Amendment causes crime. Some police executives criticize the *Miranda* decision, and claim that a strong Fifth Amendment causes crime. Many police executives say that a strong Second Amendment causes crime. In every case the executives are wrong.[30]

Police chiefs are, after all, not generally renowned for their regard to the Constitution. As the NACOP polling indicates, huge majorities of command ranks favor sharp limits on death penalty appeals, draconian drug laws, and widespread drug testing.

Likewise, self-proclaimed allies of law enforcement have eroded their credibility by supporting bans on "plastic guns" (which do not exist) or by claiming that a law which lets a Pennsylvania hunter drive to Maine without obtaining a New York gun permit would threaten the lives of police officers.[31]

In short, the reflexive hostility of some police officials toward the Second, Fourth, and Fifth Amendments is not entitled to much weight in the deliberative process.

Why does the waiting period have nearly unanimous support among big-city police executives? While it is true that some big-city chiefs (such as Ari Zavaras of Denver and Joseph McNamara of San Jose) are ardent enemies of the right to bear arms, not all chiefs are out to destroy gun ownership. One reason for supporting the waiting period is its intuitive appeal; at first glance, it seems like a way to interdict at least some criminals, without interfering with legitimate gun owners.

Perhaps another reason that some police chiefs favor the waiting period is that police chiefs, like any other administrators of large government offices, often seek to expand their official power. From the perspective of a police administrator, more power may mean more officers performing administrative tasks and supervising more transactions by the citizenry. The same mentality leads to the creation of paperwork empires in the Pentagon or in the Hubert H. Humphrey building, even if the emphasis on paperwork hinders the agency's performance of its assigned mission.

B. Public opinion polls

The Gallup Poll reports: "91% of Americans Favor Brady Amendment."[32] If the polls are for it, who can be against it?

One reason to be cautious about polls is that the bias of the pollster can skew the poll. By modifying the wording of a question, "You can come up with any result you want," says Peter Hart, pollster for the Dukakis campaign.

The Gallup poll about waiting periods posed the question in a way that assumed the waiting period really would help the police keep guns away from illegitimate persons: "Would you favor or oppose a national law requiring a seven-day waiting period before a handgun could be purchased, in order to determine whether the prospective buyer has been convicted of a felony or is mentally ill."[33] As discussed below, the criminological and real-world evidence on waiting periods shows that they do virtually no good in keeping illegitimate users from getting guns; criminals do not buy guns in gun stores.

Most people are for something that works. If the question assumes that a waiting period would work, it is bound to receive nearly unanimous support. But the real question is whether waiting periods work as well as Gallup assumed they do.

The most important reason polls should not always prevail is because the Constitution does not depend on polls. Violating the Constitution can be a popular thing. By huge majorities, Americans would favor all of the following:

Banning use of civic auditoriums by atheists, or by people denouncing the government, or by patriotic groups advocating war against a foreign enemy;

Using a federal censorship board to decide which television shows are permissible;

Infiltrating non-violent dissident groups with FBI agents.[34]

Every one of those popular ideas would violate the Constitution. The precise reason for putting certain fundamental rights in the Constitution is to protect them from transient majorities.[35]

No measure could have been more unconstitutional than herding American citizens of Japanese descent into concentration camps during WWII. Public opinion and the press almost unanimously favored this repression, despite the total lack of evidence that these Americans were disloyal.

Even though the public sometimes backs unconstitutional measures, the public still has the common sense to know that the Constitution is more important. One survey asked: "Suppose the President and Congress have to violate a Constitutional principle to pass an important law the people wanted. Would you support them in this action?"

28% said yes, "because the Constitution shouldn't be allowed to stand in the way of what the people need and want."

49% said no, "because protecting the Constitution is more important to the national welfare than any law could possibly be."[36]

Finally, while the majority of the public does favor a waiting period (although probably by less than the 91% majority found by Gallup's biased question), the public opposes "a law giving police the power to decide who may or may not own firearms" by a 65% to 29% margin.[37] Accordingly, if a waiting period were conducted within the limits implied in the Gallup poll (every legitimate owner got the gun in no more than seven days), the public might well support a waiting period. But if waiting periods turned out to give police the opportunity to interfere with citizens' right to buy firearms, the large majority of the public would oppose a waiting period. As detailed below, waiting periods in practice often lead to the kinds of police abuses which the public overwhelmingly opposes.

III. CRIMINOLOGICAL STUDIES

Synopsis: Criminologists of every persuasion have examined waiting periods, and not one has found statistically significant evidence that waiting periods are effective. Studies of felony prisoners show that virtually none of them obtain crime guns by personal over the counter purchase, the only kind of criminal gun acquisition that a background check could stop.

"Virtually every study ever conducted proves that where there are local or state laws requiring a waiting period and background check, handguns are harder to obtain by those who are prone to misuse them," claims Handgun Control, Inc.[38] The claim is false. Every study of waiting periods has found no evidence that they are effective. There is not a single study published in any academic journal which concludes waiting periods are effective. The results show just the opposite.

Professor Matthew DeZee states: "I firmly believe that more restrictive legislation is necessary to reduce the volume of gun crime." Yet his comparative study of state laws, including waiting periods, found "The results indicate that not a single gun control law, and not all the gun control laws added together, had a significant impact . . . in determining gun violence. It appears, then, that present legislation created to reduce the level of violence in society falls short of its goals . . . Gun laws do not appear to affect gun crimes."[39]

Professors Joseph P. Magadinno and Marshall H. Medoff, both of California State University, Long Beach, performed two studies of waiting periods at the state level. The first study, using data from 1979 and previous years, compared the 1979 robbery and homicide rates in states that had waiting periods with states that did not. The study also looked at changes in the robbery and homicide rates in states which had recently changed their laws regarding firearms sales. Both aspects of the study found that there was no correlation between waiting periods and lower homicide or robbery rates.[40]

The second Magadinno-Medoff analyzed state gun laws and rates of homicide, robbery, and aggravated assault in 1960 and 1970. The results were consistent with the hypothesis that stricter gun control laws have no impact on crime.[41]

When the U.S. Senate Judiciary Committee investigated the issue, the Committee found no evidence that waiting periods affect crime. There was no correlation between a waiting period and lower crime rates.[42]

Duke University's Philip Cook, who is generally supportive of gun control, explains why there is no apparent statistical impact:

"[W]e suspect that most felons and other ineligibles who obtain guns do so not because the state's screening system fails to discover their criminal record, but rather because these people find ways of circumventing the screening system entirely . . . Under these circumstances, developing a more intensive and reliable screening process is probably not worth the additional cost . . . It is known that such screening systems are widely circumvented and, furthermore, that state criminal record files are sufficiently incomplete that a felon who did choose to submit to the required police check before buying a handgun would have a sporting chance of having his application accepted."[43]

Assistant Attorney General John Bolton observes, "Those persons with a criminal record who are prohibited from purchasing a handgun are the ones most likely to obtain false identification documents to support a new name."[44]

Of course the Magadinno-Medoff, Senate Judiciary, and DeZee studies do not completely destroy the case for a waiting period. It might be that state waiting periods have a small impact on crime, even if that impact is too small to be statistically significant. Moreover, even if state waiting periods were acknowledged as demonstrable failures, it might be that a federal wait would be effective.

Under the Carter Administration, the National Institute of Justice offered a grant to the former president of the American Sociological Association and two colleagues to survey the field of research on gun control. Peter Rossi and his coauthors Jim Wright and Kathleen Daly began their work convinced of the need for strict national gun control. Indeed, Wright had already written about the need for more control. After looking at the data, however, the three researchers found no convincing evidence that gun control curbs crime.[45]

A few years later, Wright and Rossi conducted another National Institute of Justice study, this one of the gun use patterns of criminals. They interviewed prisoners in ten state systems. The study confirmed that many criminals are indeed frightened of armed citizens.[46] Notably, the second National Institute of Justice study discovered that felons in states with strict laws found obtaining a gun no more difficult than in states with more moderate laws. Almost all felons, regardless of the severity of their state's laws, reported that they would have little or no difficulty obtaining a gun soon after release.

Wright and Rossi asked the prisoners where they obtained their last handgun, and 21% replied at a gun store. Hence, HCI argues, a waiting period and background check would affect a significant figure of gun crimes. But Wright and Rossi disagree with HCI's interpretation of their data. They write:

"One might as a matter of federal policy require that every firearms transaction be reported to the cognizant authorities, and the appropriate criminal records check undertaken; but one quickly senses that this measure would have little or no effect on the criminal users whom we are trying to interdict and a considerable effect on legitimate users. . . . The ideal gun crime policy is one that impacts directly on the illicit user but leaves the legitimate user pretty much alone."[47]

Careful analysis of the Wright-Rossi data shows that far less than 21% of criminal gun users would be affected by a background check. The 21% who obtained their last crime handgun at a gun store included 5% who had obtained the gun by theft, rather than by purchase. Of the 16% who had obtained the gun by purchase, at least some likely did not have disqualifying criminal records at the time of purchase.

Further, not all of the guns acquired by criminals are acquired for crime. (Many criminals live in neighborhoods with other criminals, and hence own guns for defense.) The more likely a felon was to be a serious gun criminal, the less likely he was to have acquired a retail gun. For example, of the criminals who specialized in unarmed crime, 30% obtained their most recent handgun at a store (by purchase or by theft.) Of the "handgun predators" who specialize in handgun crime, only 7% had gotten a handgun from a store. For criminals as a whole, of the guns that had been obtained "to use in a crime," 12% came from a store.[48]

Since about one-fourth of the handguns from stores were stolen from stores, only about 9% of handguns obtained to use in a crime, (and about 5-6% of handguns obtained by handgun predators) came from a retail purchase. Nine percent or even five percent still seems to be a significant number of criminals buying guns in gun stores. But Wright and Rossi explain that their data: "does not imply that the men in question themselves simply walked into a gun shop and bought themselves a gun, in direct defiance of the Gun Control Act of 1968. In many cases, these purchases would have been made in the felon's behalf by friends or associates with "clean" records, which is, to be sure, still quite illegal. Although, we asked these men where and how they had obtained their most recent guns, we did not ask who, exactly, had obtained them."[49]

Assuming that only half the purchases were made by legal surrogates, the background check is entirely irrelevant to 95-98% of crime gun acquisitions.

The large majority of all gun acquisitions are by people who already own a gun. If the pattern also holds true for criminals, then the background check would impact only a fraction of the already tiny percentage of criminals who personally buy guns at retail. In other words, of all guns acquired for crime, only about 0.5% to 2% are personally bought at a retail outlet by a person with an existing criminal record who does not already have another gun.[50]

The basic problem with waiting periods is shown by a Bureau of Alcohol, Tobacco and Firearms study of gun dealer sales in Des Moines and Greenville. The study found that about one to two percent of sales were to dangerous criminals.[51] In short, waiting periods have no statistically noticeable impact on any type of crime because only a tiny fraction of crime guns are purchased at retail by ineligible buyers.

Waiting periods have existed in some states for over half a century. Yet after all this time, there is not a single criminological study ever published which shows waiting periods to have any beneficial impact. While the researchers who have studied waiting periods have very diverse views on the gun debate in general, *all* researchers have concluded that there is no evidence that waiting periods cause any statistically significant benefits.

IV. THE WAITING PERIOD (IN)ACTION

Synopsis: Although no evidence ties waiting periods to reduced crime rates, the experience of states with waiting periods shows only a small percentage of retail gun buyers are denied because of criminal records. Of these, about 1% are deemed worth arresting. The number of people who are illegally or arbitrarily denied their right to bear arms by abuse of a background check system is about as large as, and sometimes far larger than, the number of criminals denied.

Although the academics have never found any statistically significant effect from waiting periods, it would be incorrect to conclude that waiting periods accomplish nothing. The following section reports results in several jurisdictions that already have waiting periods. The particular jurisdictions discussed were selected because: 1. The police have compiled and released data for that jurisdiction; and 2. The jurisdiction is cited as a success story by Handgun Control, Inc.; 3. Data is available to test the veracity of the figures from the police or HCI. The data shows that: 1. Some people with criminal or mental records do attempt retail gun purchases, and are stopped by a background check; 2. Handgun Control, Inc. consistently overstates the efficacy of the background check in its model jurisdictions.

California: Officials state that their background check for handguns interdicted 1,900 illegal purchases in 1989.[52] Nevertheless, California's handgun homicide rate rose 21% from 1979 to 1988, even as gun laws grew tighter.[53] California has no appeals process, so it is impossible to determine how many of the denials are proper. As discussed below, the California waiting period forms have been used to build a government data-base of gun owners.

About 10% of California's 300,000 "assault weapon" owners have registered their weapons, as required by law. The group that complied with the retroactive registration law surely qualifies as a highly law-abiding set of people. Yet this group of highly law-abiding gun-owners, when they attempt to buy a new rifle or pistol following California's 15-day waiting period, find that the California Department of Justice has put a 1 to 4 month hold on their application, because they are registered "assault weapon" owners.[54]

A Los Angeles City Councilman, noting the thriving market in stolen Rolex watches, has suggested that all Rolex watches be registered, and a five-day waiting period be imposed on transfers of second-hand Rolexes. The Rolex waiting period has been ridiculed by most other Los Angeles politicians, and written up in the national press as another instance of California silliness. It might be asked why so many people who dismiss the idea that registration and a waiting period would affect the criminal sale of Rolex watches think that registration and a waiting period would affect the criminal sale of firearms.

Broward County, Florida: Handgun Control correctly notes that in 1984-85, 37 persons were kept from buying guns by the county's ten waiting day period (which has since been preempted by state law).[55] Handgun Control fails to point out that nearly half of the rejections were for unpaid traffic tickets or similar offenses which do not legally disqualify Floridians from gun ownership.[56] HCI also fails to point out that gun suicides actually increased after the waiting period was implemented.

Columbus, Georgia: HCI claims that the city's 3-day wait catches two felons a week trying to buy handguns.[57] HCI exaggerates the rate four-fold, and implies that the numbers relate to arrests, rather than merely to denials.[58]

Illinois: Prospective gun purchasers must obtain a Firearms Owners Identification card (FOID), which is valid for five years. There are about 5,000 applications every week for the card. Over the weekend, a list of applicants is run through the State Department of Mental Health, revealing about 10 applicants who are ineligible to buy because of mental disability.[59] Illinois' automated licensing system often takes 60 days to authorize a clearance.[60]

Illinois issues FOID cards to about 78% of applicants. Another 17% are issued a card after following up an initial rejection, for a total about 20,000 FOID cards issued annually. Around 5% of applications are ultimately rejected. In 1988, there were 2,470 persons (about 2.5% of applicants) denied an FOID card on the basis of felony convictions, and 779 previously-issued cards were revoked due to felony convictions.[61]

The most thorough study of the Illinois system was conducted by Professor David Bordua. Happily, "the system was run with real attention to due process protections for firearms owners." Unfortunately, "even its administrators were not convinced it was effective." The system, which costs over a million dollars a year to process, was summarized as "inherently weak."[62]

Maryland: About 700-800 of every 20,000 applicants a given year are denied. (The waiting period/police permission applies to all handguns and to long guns considered "assault weapons.") According to state police testimony before a Congressional subcommittee, the hundreds of denials typically lead to only a handful of prosecutions.[63]

Notably, 78% of appeals result in a reversal of the initial denial by the police.[64] The success rate on appeals likely understates the police error rate in initial denials. Many people who have been improperly denied may have neither the finances nor the energy to pursue an appeal. (Similarly, the ACLU indicates that only a minority of people improperly denied welfare benefits appeal.)

Although the waiting period is by statute supposed to last only one week, the police may take longer, and gun shops will not release the firearm until the police have completed their review.

New Jersey: Firearms laws in New Jersey are the strictest of any American state. Handgun Control states that "10,000 convicted felons have been caught trying to buy handguns.[65] The cost to legitimate gun owners has been severe. The number of New Jersey citizens arbitrarily denied the right to possess arms under the New Jersey law is almost as large as the number of criminals who were prevented from law-abiding transactions.[66] About one-quarter of the rejections in New Jersey are based on the hunch of police that it would not be a good idea for a person to own a gun, rather than on any specific disqualifying criterion.[67] Although New Jersey law requires that the authorities act on gun license applications within 30 days, delays of 90 days are routine; some applications are delayed for years, for no valid reason.[68]

The cost to the non-gun-owning citizens of New Jersey has also been severe. The New Jersey licensing system is so expensive that it costs $4,442.13 (more than the salary of a state trooper for one month) for each denial based on criminal, mental, or alcohol abuse records.[69] It might be that the resources diverted into the licensing system might have saved far more lives if they had been spent on putting state troopers on patrol, instead of putting troopers behind a desk.

The overall crime rate and the gun crime rate in New Jersey has remained consistent with the rate in other states in the region, even though none of them imposes gun controls as strict as New Jersey's.

Pennsylvania: In Pennsylvania, handgun buyers face a 48 hour waiting period (72 hours in practice), during which local police or sheriff may conduct a check.[70] After the buyer picks up the handgun, the transaction record is sent to the state police firearms unit, which checks the name against a list of violent felons. Data for the first check by local police is kept at the county level, so there are no comprehensive figures available.

In addition to checking the approximately 130,000–150,000 handgun transfers that occur in a year, the state police are also automating their old records of firearms transfers (which date back to 1931), and checking the old names against the same list of violent felons. In 1988, the state police performed about 230,000 total records checks, resulting in about 80 "hits."

When a "hit" is found, state troopers are sent to confiscate the gun, and the local district attorney may bring charges for unlawful gun possession by a felon. Ms. Sharon Crawford, head of the state police firearms unit, recalled only one case in her memory where a person had committed a crime in the two to three week interval between taking possession of the gun and the arrival of the state trooper, or had refused to hand the gun over to the trooper. In the one case, the person had shot (not fatally) someone else during an argument.

The explanation for the generally peaceful behavior of the persons caught with illegal guns is that the purchases were not with the intention of use in a crime, but rather were self-defense and/or hunting purchases by persons who did not realize they were ineligible or who hoped to slip through the system.[71]

The Pennsylvania data validates the findings by Wright and Rossi: there are many attempted and/or completed firearms acquisitions by ex-felons that are unrelated to any effort to use the gun in a crime. Accordingly, the number of crimes prevented by a system that keeps ex-felons from buying guns in stores is likely to be significantly less than the number of ex-felons who are caught buying guns. (All this is not to say that the "felon-in-possession" cases should not be prosecuted or taken seriously; the point is simply that most attempted acquisitions were not for a criminal purpose.)

It would not be correct to use the Pennsylvania state data to conclude that background checks are pointless. The data above refers only to the state police check of names against violent felony convictions. The data do not show what impact the first check, by the local police, has had. It might be that most felons buying guns for crime are stopped at the local level, and are hence never checked by the state system.

Virginia: In 1989, Virginia enacted an instant telephone check, with the consent of both HCI and the NRA. About 16 to 20% of phone applications result in a "hit," requiring the rejected applicant to submit fingerprints to the police to prove his non-criminal identity.[72] The ultimate denial rate of about ½% to 1% is the same as in other states with longer waiting periods. The first year the check was in effect, there were 540 denials, leading to arrest of 7 fugitives, including one wanted for murder.[73] (There was also at least one false arrest.) The Virginia system required 16 new full-time state employees, and $391,000 in annual operating costs.[74] Because the Virginia system appears to be working reasonably well, it is touted as model by many right-to-bear arms advocates.

In sum, the evidence shows that a permission system does result in some denials, at least half of which turn out to be incorrect. Even for the denials that are correctly applied to ineligible purchasers, it is not correct to assume that the denial has thereby prevented a crime. Virtually no-one who intends to commit a gun crime buys from a gun store. Ineligible people do sometimes attempt retail transactions, but that act is hardly proof that they intended a crime.

Of the people who are rejected by permission systems, a mere 1 percent are arrested.[75] In other words, where a permission system is in effect, about 1 in 10,000 applicants turns out to be a criminal who is arrested. A success rate of one true "hit" for every 10,000 searches is, literally, not much better than the odds of finding a needle a haystack—and is not cost-effective method of catching needles.

V. PARTICULAR TARGETS OF WAITING PERIODS

Synopsis: The suggestion that people who transact in illegal drugs could be denied firearms under any gun control system is patently silly. Psychotic mass murderers have repeatedly bought guns in states with waiting periods. There is no evidence that waiting periods prevent suicides or domestic homicides. Hardly any crimes could even theoretically be prevented by a "cooling off" period. A perfect waiting period or other permission system would not even stop criminals from getting even retail guns. False identification is not hard to procure. And although a fingerprint or other biometric check would defeat false identification, most criminals would still likely know someone without a felony record. The surrogate buyer could still buy a gun for a criminal at retail.

Although waiting periods might have little impact on the average criminal, it is sometimes suggested that waiting periods might deter particular kinds of gun misusers.

A. Drug dealers

In 1988, Handgun Control, Inc. attempted to hang its national waiting period on the drug bill, under the theory that the waiting period would disarm narcotics distributors. HCI still continues to promise that a waiting period will help take guns away from drug dealers.[76]

It stretches credulity to promise that any kind of gun legislation, including a waiting period, would have the slightest impact on drug dealers. Dealers, being expert in the black market, would have the readiest access to false identification, and to underground supplies. They are the last people gun control could impact.

Drug dealers obviously cannot count on the police or the courts for protection from violence. Because of this, and because dealers are a valuable robbery target, it would virtually be suicide for them not to carry a gun.[77]

In addition, drug dealers cannot use normal legal and social commercial dispute resolution mechanisms. Like the gangsters of alcohol prohibition days, drug dealers need guns to protect their business' income and territory. Thus, many drug dealers must own a gun for their lives and their livelihood.

No matter how scarce guns become for civilians, there will always be one for a criminal who can pay enough. Street handguns now sell for less than $100. If the price went up to $2,000, dealers would still buy them, because dealers would have to. Spending a few hours' or days' profits on self-protection is the only logical decision for a dealer. Can anyone really believe that an individual who buys pure heroin by the ounce, who transacts in the highly illegal chemicals used to produce amphetamine, or who sells cocaine on the toughest street-corners in the worst neighborhoods will not know where to buy an illegal gun?

B. Homicidal maniacs

Patrick Purdy, who killed five children in Stockton, California, bought five guns over the counter in California, despite the state's strict 15-day waiting period. Laurie Dann bought a handgun and shot up a second grade classroom in Illinois, killing one child, wounding five, and then killing herself despite that state's requirement that all gun owners be licensed, and still undergo a waiting period before each firearm acquisition.[78] Mark David Chapman, John Lennon's assassin, bought a handgun in Hawaii, a state with one of the strictest waiting periods in the nation. Canada has a nationwide licensing system, yet a deranged man was able to buy a rifle with which he shot and killed 14 women in December 1989.[79] Criminals like Eugene Thompson (a felon and a cocaine addict who shot up a Denver suburb in March 1989) do not buy guns legally; they steal them. The criminally insane are criminally insane day off and on for years and years, not just for the three weeks covered by a waiting period. They periodically consult psychiatrists and acquire firearms without immediately or soon thereafter perpetrating crimes of insanity.

The latest claim that a waiting period would have stopped a maniac involves a mental patient who bought a gun in an Atlanta suburb without a wait, shot up shoppers at Atlanta's Perimeter Mall, killed one of them, and wounded four others. DeKalb County promptly approved a 15 day waiting period.[80] Handgun Control's national fundraising claims that the killer would have been stopped had a waiting period been in effect.[81] The claim is false; the killer's record of mental disorder was entirely private, and he had never been adjudicated mentally incompetent, or involuntarily committed.

C. Suicides

There are simply too many other ways for people to kill themselves. After Canada implemented a national licensing system in 1978, its gun suicide rate did drop;[82] but the overall suicide rate remained the same.[83] Japan almost totally bans guns, but suffers a suicide rate twice the U.S. level.[84]

D. Domestic homicides

Many handgun control advocates assume that a waiting period would prevent "impulse killings."[85] But most domestic killings occur at night, when gun stores are closed. Most perpetrators are intoxicated with drugs and alcohol, and thus legally forbidden to buy a gun anyway. The image of a murderously enraged person leaving home, driving to a gun store, finding one open after 10 p.m. (when most crimes of passion occur), buying a weapon, and driving home to kill is a little silly.[86]

In any case, husbands who kill wives rarely use guns. Wives who kill husbands do often use guns, and are usually defending themselves or their children against felonious attacks.[87]

E. People in need of "cooling-off"

Criminologist Gary Kleck points out that for a "cooling-off" period to prevent homicide, a number of conditions must be fulfilled: 1. The gun the killer used was the only one he owned, or the only one he could have used in the crime; 2. The killer acquired the gun from a source that would be expected to obey gun control laws (a licensed dealer); 3. The gun was purchased and used in the homicide in a time period shorter than the "cooling-off" period. Discussing an analysis of 1982 Florida homicides, Kleck found that 0.9% (about 1 in 100) homicides fit all three criteria. He estimated that nationally about 0.5% (1 in 200) would fit all three criteria.

Nevertheless, Kleck suggested that a waiting period would not prevent even 1 in 200 homicides. For the homicide to actually be prevented, several other conditions would all have to be fulfilled: 1. The killer was the kind of person who would not have been willing to kill even afer waiting; in other words, the killing was an isolated act, rather than the culmination of a log history of assaults by the killer; 2. The killer would not have acquired and successfully used a gun that did not require cooling off (such as a long gun, in most states); 3. The killer would not have been able to complete the homicide with any weapon other than a gun; 4. The killer would not have been able or willing to obtain a gun from a non-retail source. Considering all the necessary criteria, Kleck did not find any Florida homicides which a cooling-off period clearly would have prevented.[88] While supporting a background check, Kleck concluded that a cooling-off period would in itself do no good. Hence, he thought the waiting period to offer no advantage over the instant check.

F. Summary: What benefits can be expected from a waiting period?

New York City Mayor David Dinkins asserts that "The Brady Bill could save thousands of lives in its first year."[89] Although many credulous New Yorkers believed their Mayor, and flooded House of Representatives Speaker Tom Foley's office with phone calls demanding passage of the waiting period, there is not a serious criminologist in the United States who thinks the Mayor's assertion has any basis in reality.

A perfect waiting period or other permission system would not even stop criminals from getting retail guns. False identification is not hard to procure. And although a fingerprint or other biometric check would defeat false identification, most criminals would still likely know someone without a felony record. The surrogate buyer could still buy a gun for a criminal at retail.

When pressed for whether the waiting period will deprive criminals of guns, HCI demurs, but expresses confidence that a waiting period will make gun acquisition more troublesome for criminals.[90] Likewise, the Federal Task Force which studied background checks acknowledges that "[E]ven a perfect felon identification system would not keep most felons from acquiring firearms,"[91] but nonetheless supported a permission system, hoping that by forcing some criminal buyers onto the black market would leave them less able to obtain high-quality firearms.[92]

But would a waiting period or other permission even inconvenience criminals, considering that hardly any of them obtain crime guns through dealers anyway? Moreover, the current black market supplies even fully automatic firearms, which have been under a strict federal licensing system since 1934, and have been illegal to manufacture for civilians since 1986. If the black market can supply machine guns, it is doubtful that it cannot supply other high-quality weapons.

Still, as Professors Cook and Blose point out, there must be at least a few inexperienced or impecunious criminals for whom even a porous permission system would delay gun acquisition for at least some period. Moreover, the waiting period, simply because it will reduce gun sales to legal purchasers (see below) would reduce the number of guns in circulation. It seems likely that one of those unbought guns might one day have been part of a suicide or homicide or accident that might not otherwise have occurred.

Proponents of permission systems say that they will be successful if they save a single life.[93] It seems clear that a waiting period or other permission system would, inevitably, prevent at least one firearms fatality. Even if a waiting period would have no discernible impact on crime in general, it would save at least one life. Is it therefore a good idea? The next Part discusses that question.

VI. PROBLEMS CAUSED BY A WAITING PERIOD

Synopsis: Substantial police resources are inefficiently diverted from street patrol to desk work. A background check consumes about $40,000 in police salary for every arrest it produces. Resources may be further consumed by lawsuits regarding allegedly insufficient background checks. Waiting periods prevent a person from acquiring a gun for several days, and if implemented improperly (as they often are) waiting periods may result in total denial of a person's legitimate right to bear arms. The diversion of police resources, coupled with the interference with the acquisiton of self-defense guns, may mean that a waiting period would cause a net loss of lives.

Severe problems with the data quality of existing criminal justice records will result in large numbers of false denials, requiring the victims to undergo a lengthy process to prove that they are not criminals. An initial denial stands only a 50% chance of being accurate and proper.

Moreover, waiting periods may provide a mechanism for gun registration, erode the confidentiality of medical records, and work a substantial financial hardship on the firearms dealers and users. Advocates of gun prohibition see waiting periods as a useful first step towards their ultimate goal.

A. The drain on police resources

Police resources are finite. The question is not whether a waiting period would save one life, but whether other uses of the police resources spent administering a waiting period might save more lives if used elsewhere.

Under a national comprehensive waiting period, the drain on police resources would be staggering. There are approximately 7.5 million firearms transactions annually.[94] If a waiting period were to be rigorous enough to stop future Hinckleys, it would have to include in-person address verification. (See Part I, above.) How many hours would it take for a policeman to run a national criminal records check, and to visit the home of every person who applied? One hour, at the very least. That would be 7.5 million police hours spent checking up on honest citizens, instead of looking for criminals. In the haystack of applications by honest citizens, police would search for a few needles left by the nation's very stupidest criminals. Looking for crime, police officers would be directed into a paperwork enterprise particularly unlikely to lead to criminals. Would not all those millions of police hours be better spent on patrol, on the streets instead of behind a desk?[95]

According to the Task Force, implementing a national comprehensive permission system would require the FBI to hire 395 additional clerical employees to process the requests for fingerprint card readings for the (approximately) 725,000 citizens who would be denied permission to purchase because they have the same name as a criminal, or because police records noted an arrest but not a subsequent acquittal.

A national waiting period and background check could cost from tens to hundred millions of dollars.[96] Applying the 1 arrest per 10,000 applicant review figure, each arrest would cost approximately 40,000 dollars, or the one-year salary of a full-time, fairly senior police officer.[97]

Such profligate use of police manpower is an impediment to crime control. One useful notification to existing waiting periods would be to exempt persons who already have a gun. (Proof of lawful purchase of another gun might suffice for the exemption.) After all, a person who buys a second revolver is hardly more dangerous than a person with only one gun.

The waiting period is an impediment to effective law enforcement in a more subtle way also: Local politicians who are failing to take effective steps to control crime use the campaign for a national waiting period as a tool to divert the attention to the national scene away from local law enforcement. For example, after Utah tourist Brian Watkins was stabbed in a New York city subway in the summer of 1990, New York Mayor Dinkins announced that what was needed to stop New York City crime was a national gun waiting period, or even gun prohibition. The Mayor now makes the call for a national "Brady Bill" the centerpiece of his response to publicized shootings in New York, regardless of whether evidence indicates that a waiting period would have had an effect on the particular shootings.[98]

B. Lawsuits against the police

At a time when local police resources are already stretched thin, the national waiting period bill imposes very substantial paperwork and manpower requirements on most police forces in the country. The bill claims it is cost-free, because the background check would be optional. But the bill's prime lobbyist, Handgun Control Inc., has already announced that its legal defense fund will sue police departments that do not implement the backgound check.[99] Much to the delight of Handgun Control, a woman has already won $350,000 from the city of Philadelphia for not conducting a thorough enough background check of a man who killed her husband.[100]

In this regard, it is astonishing that persons who claim to speak for the nation's police want a law to make police departments everywhere vulnerable to a brand new form of tort litigation.

C. Covert registration

Waiting periods and other permission systems can operate as de facto gun registration. Once the police are told who is applying to buy a gun, they may simply add that person's name to their list of gun owners, as is the practice in New Jersey, New York and other states. The California Justice Department has used the waiting period, without statutory authorization to do so, to compile a list of handgun owners.[101] In Oregon, the police are allowed to retain handgun purchase records up to five years.

One attempted solution to problem of covert registration is to require the police to destroy the purchase application records. The national waiting period bill purports to require record destruction, but does not really do so.[102] Moreover, not even the toughest language in a federal bill could compel a state officer to destroy records, because Congress has no authority to compel an act by a state or local officer which is not required by the U.S. Constitution.[103]

Under neither proposed federal nor existing state systems is the pretense of required destruction backed up by meaningful enforcement. Police who keep illegal records are subject to no penalties or civil liability. Significantly, the practice of making daily computer back-up tapes means that even if original records are destroyed, back-up records will still exist.

Precisely because most waiting periods amount to covert registration, many otherwise law-abiding gun owners will resist them.[104] The principal objection of Constitutionalists to gun registration is that it has frequently been a prelude to and a tool for gun confiscation.[105] Additionally, the government has no authority to register people merely for exercising their Constitutional rights.[106]

In states where waiting periods already exist, the legislature should specify liquidated damages against officials who illegally compile registration lists. In cases of intentional wrong-doing, criminal prosecutions, similar to existing criminal prosecutions for federal Privacy Act violations, should be allowed.[107]

D. Privacy of medical records

The vast majority of people with mental illnesses, such as John Hinckley, never enter state treatment systems. Pressure will inevitably build to end the confidentiality of private medical records, so the police can check these records as well. In California, legislators enacting a comprehensive waiting period were told that mental health records would be kept fully confidential. But the same year the law was enacted, the California Department of Justice began ordering public and private mental health clinics to report their clients to the state, which puts them in a database along with felons that is useable by the police. Included in the database are non-violent persons who have voluntarily checked themselves into private facilities for problems such as anxiety or stress.[108] A number of jurisdictions already require purchasers to waive the confidentiality of their medical or mental health records.[109] Illinois queries, "Are you mentally retarded?"[110] New Jersey asks the McCarthy-style question "Have your even been attended, treated or observed by any doctor or psychiatrist or at any hospital or mental institution on an in-patient or outpatient basis for any mental or psychiatric condition?" The State also inquires, "Do you suffer from a physical defect or sickness?"[111] The mother who consulted a psychiatrist on one occasion because her son had died must confess herself to the New Jersey police, upon pain of criminal prosecution.[112]

And it is not only the government that can use firearms background checks to disclose private medical information. An employer can conduct inexpensive inquiries into the mental health records and criminal background of prospective or current employees by ordering them to produce proof that they are eligible to buy a gun, and hence have no mental or criminal record. Some employers in Illinois use this tactic.

E. Denial of ability to obtain a gun

A waiting period provides anti-rights police administrators with an easy opportunity for abuse. In New Jersey, the police often simply refuse to process gun purchase applications.[113] In cases of budgetary constraint, firearms applications may suffer inordinate or even permanent delays.[114]

Although a statute may specifically limit the reasons for disqualifying a buyer, police may disqualify for other, illegal reasons. In Maryland, where an appeals process exists, the police are over-ruled on 78% of appeals.[115]

Indeed, many of the police departments which most vociferously champion "reasonable" gun controls routinely abuse those controls once enacted. The St. Louis police have denied permits to homosexuals, nonvoters, and wives who lack their husband's permission.[116] Although New Jersey law requires that the authorities act on gun license applications within 30 days, delays of 90 days are routine; some applications are delayed for years, for no valid reason.[117] Mayor Richard Hatcher of Gary, Indiana, ordered his police department not to give license application forms tc anyone.[118] The Police Department in New York City has refused to issue legally-required licenses, even when twice commanded by appeals courts to do so. The Department has also refused to even hand out blank application forms.[119]

Most police, fortunately, are law-abiding, and would not engage in the abuses typical in New York City and Maryland. Nevertheless, even in law-abiding jurisdictions, the waiting period, by definition, delays for a number of days a citizen's acquisition of a firearm. For a hunter planning a trip next month, the delay is inconsequential. For a young woman being threatened by an ex-boyfriend, the delay may be fatal.

Simply put, seven days is too long for a woman whose ex-boyfriend is promising to come over and batter her. Seven days is too long for families when a burglar strikes three homes in a neighborhood in one week, and may strike that night. Twenty-four hours is too long to wait when the Gainesville serial murderer is loose, and every woman is a potential victim.

The issue is not hypothetical. In September 1990, a mail carrier named Catherine Latta of Charlotte, North Carolina, went to the police to obtain permission to buy a handgun. Her ex-boyfriend had previously robbed her, assaulted her several times, and raped her. The clerk at the sheriff's office informed her the gun permit would take two to four weeks. "I told her I'd be dead by then," Ms. Latta later recalled. That afternoon, she went to a bad part of town, and bought an illegal $20 semi-automatic pistol on the street. Five hours later, her ex-boyfriend attacked her outside her house, and she shot him dead. The county prosecutor decided not to prosecute Ms. Latta for either the self-defense homicide, or the illegal gun.[120]

In 1985 in San Leandro, California, a woman and her daughter were threatened by a neighbor. Instead of being able immediately to obtain a handgun for self-defense, the woman had to wait 15 days. The day after she finally was allowed to pick up her gun, the neighbor attacked them, and she shot him in self-defense. Had the man attacked 14 days after his initial threat, rather than 16 days after, the woman and her daughter would have been raped. Of course the state of California would have denied liability, as it has repeatedly denied liability for its failure to protect citizens against specific threats from specific criminals.

The national waiting period proposal does allow a waiver of the 7-day wait if the locality's chief law enforcement official (or his designee) issues a written order stating that immediate purchase is necessary to protect the life of the gun purchaser or someone in her household.[121] In practical terms, it is very doubtful that a potential crime victim (particularly the poor and minorities who are the victims of most violent crime), will be able to obtain a rapid appointment with the police administrator who will issue a gun authorization. If the administrator is out of town, or busy, or uninterested, the victim is out of luck. And if the potential victim is receiving threatening phone calls that deal only with rape, aggravated assault, or mayhem, even a sympathetic police chief cannot issue an exemption, since there is no threat to the victim's life.

Some of the people killed by a waiting period could, ironically, be people who have volunteered to defend the United States. Members of the armed forces are allowed to carry handguns as sidearms, if they so choose. Many infantry grunts might want a Colt .45 or a Glock 9mm on their hip, in case their government-issue M-16 rifle jams in a firefight. Television stations in Texas and Alabama reported high levels of sales of 9 millimeter handguns to servicemen shipping out to Saudi Arabia. But in states like California, with a minimum wait of 15 days, the short period between notification of call-up and departure date is not enough time for a soldier to be cleared by the firearms control apparatus. As a result, soldiers from California and similar states were placed in greater peril.[122] Happily, the rapid collapse of the Iraqi army reduced the importance of back-up sidearms.

As the Fifth Circuit Court of Appeals has held, "the right to defend oneself from deadly attack is fundamental."[123] A waiting period puts that fundamental right on hold.[124]

A person who is falsely imprisoned by the state can get out of jail a week later, with perhaps no permanent harm done. Newspapers which libel a person by mistake can always publish corrective stories the next day. A person who is denied the right to bear arms for a week may, at the end of the week, be dead. A deprivation of even 24 hours of the means to self-defense may mean a deprivation of life itself.

Of course the number of persons who would be killed or injured because of the waiting period would be small, so small as to be statistically unnoticeable. But so would the number of persons saved by a waiting period.

Proponents of a waiting period have not carried the burden of demonstrating that a waiting period would be a net saving of lives, taking into account the people who die because they cannot defend themselves, and taking into account the diversion of police resources away from street patrol.

To reduce the abuses and injuries that waiting periods could cause, a number of prophylactic measures make sense: Any waiting period should have an explicit appeals process. At the appeal, the government should have the burden of proving that the citizen is not entitled to possess a firearm. Normal rules of evidence should apply, and citizens should not be victimized by anonymous rumors and other sorts of hearsay evidence. Citizens who are victorious in their appeal should be entitled to attorney's fees.

Moreover, any person injured by the failure of police to properly and promptly approve an application should have a right to sue for damages. (When a person is killed because the police failed to act, the survivors would have the right to sue.)

Under the legal doctrine of sovereign immunity, the police have no duty to protect any individual citizen from crime, even if the citizen has received death threats and the police have negligently failed to provide protection.[125] In cases where the government affirmatively interferes with a person's ability to protect herself (the interval between an application to purchase a firearm and approval), the doctrine of sovereign immunity should not apply. The government should not be able to strip a person of her right to defend herself, and then assert that it has no responsibility for the consequences.

F. Financial hardships

Almost all waiting period/permission systems require the firearms purchaser to pay the entire cost of the system. It is Constitutionally odious to make people pay the government so the government can satisfy itself that they are fit to exercise their Constitutional rights. The young woman in the ghetto who needs an inexpensive handgun for self-defense, or the young man in Appalachia who wishes to hunt squirrel with a .22 rifle are not the cause of the crime problem. Even an $8 fee may drive the cost of their $50 gun out of reach.

For all firearms purchasers, not just poor people who need a defense gun, a waiting period requires an additional trip to the firearms store, more time spent by the clerk at the store, lost sales due to people who do not have the time to make repeated trips, and a host of other transaction costs. For a person who lives in a small town, and needs to make a long trip to get to a store with a good selection of merchandise, the inconvenience can be substantial.

The waiting period severely impacts firearms dealers and manufacturers. The reason is that most guns are bought by persons who already own guns, often as an impulse addition to a collection. If two trips to the store are required, the buyer often loses interest in the sale. For example, the number of handgun sale records reviewed by the Pennsylvania state police is one-third less than the number of handgun purchase applications. Most of the drop-off is caused by potential purchasers who, after a few days, decide not to buy the gun.[126]

The waiting period also indirectly impacts government resources. A substantial decline in firearms sales mean a substantial decline of several hundred million dollars in firearms excise taxes, and perhaps also a substantial decline in revenue for wildlife commissions.[127]

From a criminal justice standpoint, the loss of gun sales is inconsequential. The fact that a person who already legally owns three guns ends up not buying a fourth does not make him more vulnerable to crime, nor does it make him more dangerous to the public. (There is no correlation between gun density and gun crime.[128])

The loss in sales, irrelevant to the crime issue, is very harmful to retailers and manufacturers. Automobile dealers, liquor stores, and tobacco outlets all sell products that kill many people, but they are not burdened with a rule that makes lawful users make repeated trips for the same transaction.

It should be emphasized that substantial burdens on firearms owners and the firearms industry might well be justified if tangible benefits resulted. But as the evidence discussed above indicates, waiting periods simply do not prevent guns from coming into the wrong hands.

G. The data quality problem

The existing state of criminal records in most jurisdictions is simply too primitive to support a background check that is part of a waiting period (or part of an instant telephone check).

The FBI "estimates that approximately one-half of the arrest charges in their records do not show a final disposition." [129]

Only 40% to 60% of the nation's felony records are automated.[130] Many states do not have fully automated criminal records name indexes.[131] Many indexes are not currently searchable by information transmitted from the outside, such as telephone lines or computers. In some states, the same master index (such as a fingerprint index) that contains all felons will also include child care workers, various license holders, and firearms permit holders.[132]

For citizens regarding whom false information has been incorrectly recorded on a "rap" sheet, there is no remedy. Courts have held that even after an acquittal or dismissal of charges, a person has no Constitutional right to have an arrest purged from his record.[133] (It should be noted that racial minorities are disproportionately victimized by arrests that do not prove worthy of a conviction.)

According to the Department of Justice study, performing a reliable background check under current data quality conditions would take 30 days. The Department found that shorter background checks (such as one week or three weeks) were no more reliable than instant checks. That conclusion is consistent with opinion in the police surveys, which shows most command rank officers do not believe that seven days would give them enough time to do a background check.[134]

Because of the severe problems with the existing data quality, the Department of Justice Task Force concluded: "[A]pproximately 50% of the cases where persons appear to have a criminal history record based on an initial name search are eventually found to be false hits . . . Indeed, in many (perhaps most) cases an initial indication of a criminal record would eventually be shown to be untrue because it resulted from misidentification with someone else with a common name and date of birth." As a result, only 84–88% of gun purchasers would be able to pass an initial check.[135]

If there were a national comprehensive check, approximately 725,000 persons a year would be falsely denied under either the waiting period or the instant telephone check.[136] The 725,000 faced with false denials would then have to prove their innocence by being fingerprinted, and entered in a data base of eligible gun buyers. The "secondary verification process" (proving their non-criminal identity to the police) that would take four to six weeks.[137]

The list of people processed through secondary verification would be another basis for gun registration.

Accordingly, as minimum condition for any kind of background check system should include the establishment of a data base consisting only of convicted felons and other ineligibles.

H. A step towards prohibition

Why waiting periods? It is understandable why many legislators would be attracted to an idea that, at first glance, seems eminently plausible. Many legislators accept the reasoning "guns don't kill people; people kill people." So instead of controlling guns (through gun registration), why not control people who may abuse guns?[138]

But the anti-gun lobbies, being expert in the issue, know better. They know the facts of the Hinckley assassination. So why do they support a waiting period?

The National Coalition to Ban Handguns [recently renamed the Coalition Against Gun Violence] candidly admits that gun controls do nothing to prevent criminals from obtaining guns.[139] The CSGV believes that criminals are not the issue; handguns have no place in civilian hands. Moderate controls over handguns are a step toward to a ban. Policy statements distributed by the NCBH forthrightly admit as much.[140]

Even in the most academic settings, the question may come down to whether a person is "for" guns or "against" them. At a debate at the American Society of Criminology Conference in November 1989, the participants were asked what number of lives saved would be necessary for them to consider a waiting period worthwhile. Both sides of the debate agreed that the number of lives saved was not determinative of their positions. Dr. Paul Blackman, the National Rifle Association representative, replied that he thought the waiting period might end up with a net cost of lives. He also stated that alcohol prohibition had saved lives, but still was not a good idea. Darrel Stephens, Executive Director of the Police Executive Research Forum, replied that he would still favor a waiting period even if it were proven not to save any lives. He reasoned that the extra effort required to purchase a gun would convince some people not to buy a gun, and less guns in civilians hands would be good in itself.[141].

What about Handgun Control, Inc., the more powerful of the two major anti-gun lobbies? Their stated motto is merely "Keeping handguns out of the wrong hands." But their agenda is prohibition. HCI's former Chairman has stated that he favors intermediate control as a waystation to near-total handgun prohibition.[142] The organization supports handgun prohibition as a policy matter.[143] As one of HCI's Congressional allies acknowledges, the 7-day handgun wait "is not really enough, but it is a start." [144]

What good does a waiting period do for the goal of handgun prohibition? Waiting periods facilitate gun registration, which HCI praises as a prelude to gun prohibition.[145] The national waiting period proposal includes a number of subtle provisions which facilitate prohibition: an anti-gun police chief could indefinitely delay a purchase application by refusing to mail back acknowledgement of receipt of the application; and the definition of "handgun" is elastic enough to include a number of long guns.[146]

As discussed above, waiting periods sharply reduce gun sales. While there are no anticrime benefits, HCI sees reduced sales (rather than just reducing uncontrolled sales) as good in itself, and a necessary precondition to prohibition.[147]

Most importantly, the waiting period is social conditioning. It sends the message that citizens do not possess a right to bear arms, but merely a privilege dependent on police permission.[148]

VII. CONSTITUTIONAL ISSUES

Synopsis: Waiting periods are a prior restraint on the exercise of Constitutional rights. The very point of basic rights like free speech, or free exercise of religion, or the right to keep and bear arms, is that a citizen does not need to ask for government approval to exercise those rights. Waiting periods, because of their inefficacy and potential for abuse, are not the least restrictive means of attacking gun crime without interfering with the right to bear arms. A federal waiting period violates the 10th Amendment by forcing state officials to perform background checks.

Is a federal waiting period Constitutional? The issue has never been directly tested in court. State waiting periods are common, but the prevalence of a practice is no guarantee of its Constitutionality. Racial segregation, after all, was the norm in most of the U.S. for the century after the Civil War, even though the Constitution forbade it.

One view of Constitutional interpretation was articulated by Justice Black. He viewed the Constitutional prohibitions literally. For example, he took the First Amendment's command "Congress shall make no law respecting the freedom of speech . . ." to mean that Congress could pass no law regarding free speech. Justice Black viewed the Second Amendment with a similar literalness: "Its prohibition is absolute." [149] The more prevalent view, however, is that no Constitutional provision is absolute.

Regardless of which view is adopted, the most appropriate guide for analysis of the Second Amendment is the First Amendment. Of the entire Bill of Rights, only the First, Second, and Third Amendments guarantee particular substantive rights.[150] Amendments Four through Eight are due process requirements for the government to obey, while Amendments Nine and Ten are nonspecific reservations of rights. The Supreme Court has indicated that the First and Second Amendments should be interpreted according to the same principles.[151] Indeed, it is necessary to interpret the Second Amendment with just as much vigor as the First in order to obey the Court's command that all Constitutional rights must be treated with equal respect, with no right being particularly favored or disfavored.[152] And of course all Constitutional rights must be broadly construed.[153]

A. Prior restraints on constitutional rights

While the First Amendment protects freedom of speech, there are legitimate debates about what kinds of communication are considered "speech." Pornography, picketing, price-fixing, and perjury are activities which, at least arguably, are not included within the freedom of speech. Likewise, the right to bear "arms" is sometimes said not to apply to machine guns, nunchakus, brass knuckles, switchblades, or antiaircraft rockets.

For communication that is clearly within the freedom of speech (such as political commentary), the single clearest principle is that prior restraints are virtually never lawful. While the government (through laws against libel or against criminal incitement) may punish speech after it occurs, the government may almost never impose a prior restraint by requiring a person receive permission before speaking.[154]

The various police permission proposals destory the normal presumption of innocence and impose prior restraints. A person is forbidden to exercise her right to bear arms unless the police satisfy themselves that the person is not guilty.[155] Citizens who wish to protect themselves should not have to wait to receive police permission. The very point of basic rights like free speech, or free exercise of religion, or the right to keep and bear arms, is that a citizen does not need to ask for government approval to exercise those rights.[156]

A judicial decision permitting a prior restraint on the right to bear arms would inevitably endanger the right to abortion. If prior restraints and waiting periods on the right to bear arms are allowed, why not require women who need an abortion to submit to a waiting period, pass a simple test on the nature of fetal life and risks of abortion, and obtain permission from a local health agency?

The chance that any given person acquiring gun by any method, including by theft, will perpetrate a homicide is 1 in 3,000. In future years, a legislature dominated by prolife forces could point out that a woman seeking an abortion does so with the intention of killing the fetus. If a chance of a killing smaller than 1 in 300 justifies a prior restraint, then surely the uncertainty of a killing in case of abortion would also justify a prior restraint.

B. Balancing tests

Another principle, originally developed under First Amendment analysis, but now considered to have general applicability, is that of "least restrictive means." When the government regulates Constitutionally-protected activity (such as speech or interstate commerce), even if the government is pursuing a substantial purpose: "that purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved. The breadth of legislative abridgement must be viewed in light of less drastic means for achieving the same basic purpose." [157]

Courts have directly applied the principle to strike down infringements on the right to keep and bear arms.[158]

Because a waiting period is so patently ineffective, it is not the least restrictive means to achieve the substantial government interest in reducing a gun misuse. The waiting period fails the less restrictive means test because it imposes a broad restriction on all firearms purchases (or all handgun purchases for a limited wait) that is not narrowly tailored. There are a large number of less restrictive methods the government might adopt, discussed below in Part VIII, to reduce gun misuse.

C. Federalism

Handgun Control, Inc. claims that 22 states have waiting periods. The statement is not completely accurate. The majority of American states impose no major restrictions on firearms purchases in addition to those under existing federal law. Federal law requires the purchaser of any gun to fill out a form which is permanently retained by the dealer, and is available for inspection by federal authorities. Some states require handgun purchasers (or all gun owners) to obtain a license. Once granted a license, the license holder may obtain an unlimited number of firearms of all types without further approval, for as long as the license is valid (for life, or a term of one or more years).[159] South Carolina runs a background check after the person has picked up the gun.[160] Wisconsin has a two day waiting period, but no background check.[161]

Only 16 states actually have a system like what is proposed by Handgun Control, Inc. as a federal law, and pushed by HCI in the state legislatures: a statute requiring individual police permission for every single handgun purchase. In four of those states (Pennsylvania, Oregon, Indiana, and Washington), a person who holds a permit to carry a concealed firearm is exempt from the waiting period; the police are statutorily required to grant concealed carry permits to all citizens unless there is a particular legal disability. Connecticut exempts from its wait anyone with a state hunting or local gun license, and allows transfers in less than 14 days if approval is granted earlier.[162] Tennessee also allows an instant transaction if the police approve, and in some rural counties, the waiting period is not enforced. Of the 12 states that require handgun purchasers to receive individual permission for each purchase under all circumstances, 3 have a waiting period shorter than the 7-day standard commonly proposed.[163] Thus, the 7-day waiting period for every handgun purchased proposed by Handgun Control is more severe than the existing laws in 41 of the 50 states.

Forty-one of the fifty states have decided not to implement laws as severe as the proposed uniform 7-day wait. Sometimes the federal government, viewing a growing trend in the states, makes the progressive state legislation into federal law. It cannot be said that there is a national trend in favor of waiting periods. It is true that some states that already had waiting periods for handguns have extended them to long guns.[164] (The move is logical, since long guns, especially shotguns, are so much deadlier than handguns.)[165] Similarly, Florida, which already allowed counties to have limited 3-day waiting periods, voted in November 1990 to make the wait statewide. The new Florida law had several provisions which made it more palatable to supporters of the right to bear arms; the law provides for a wait only, with no background check or police permission. Persons with handgun carry permits (which are required by law to be issued to all qualified applicants) are exempt from the wait. As a state constitutional amendment, the Florida wait prevents the state legislature from enacting stricter gun laws.

In states that do not already have waiting periods, there has been no willingness to adopt one. In the last decade, not one state without a waiting period has added one. Even Ohio, the home state of both sponsors of the federal waiting period, has repeatedly rejected a waiting period.[166] Indeed, the large majority of states, through preemption laws, have forbidden or abolished local waiting periods.[167]

It is sometimes asserted that the lack of a waiting period in some states makes enforcement of the law impossible in states that have one.[168] But ever since the Federal Gun Control Act of 1968, citizens are only permitted to buy handguns in the state where they reside. If a Marylander wished to evade his state's 7-day wait, and buy in a state without a wait (such as West Virginia), he could not do so without providing proof that he was a resident of the other state. Only persons possessing false identification could evade the background check in one state.

When faced with the federalism argument, some supporters of a national waiting period reply that the proposals merely allow the choice of a background check. States already have that choice, of course. The state legislature of Iowa could enact a background check if it wished; it does not need the assistance of the federal government to have a "choice." Besides, as discussed above, Handgun Control, Inc. has already announced it will sue police departments that do not "choose" to conduct a background check. Because of HCI's lawsuit strategy, the seven-day wait would in practice be mandatory—even though the large majority of states have apparently decided that public safety is enhanced if their citizens can acquire the means of self-defense in less than a week.

Since the net effect of Handgun Control's strategy would be to impose on state officials a federal obligation to conduct a background check, the national waiting period is an unconstitutional exercise of Congressional power. As the Supreme Court has ruled: "the Federal Government, under the Constitution, has no power to impose on a State officer, as such, any duty whatever, and compel him to perform it; for if it possessed this power, it might overload the officer with duties that would fill up all his time, and disable him from performing his obligations to the State, and might impose on him duties of a character incompatible with the rank and dignity to which he was elevated by the State." [169]

The Supreme Court's concerns are particularly apt in the case of the national background check. The mandatory check would require each state to assign some number of police officers or other employees (ranging from a few dozen in a small state doing a retail handgun-only check to several hundred in a large state under HCI's comprehensive check) to the job of checking the backgrounds of its citizens. Although the state legislature would have preferred to devote the time of its employees to the more urgent task of fighting criminals, the federal government would force the state to use its own resources to process paperwork from honest citizens.

The national waiting period violates, at the very least, the spirit of the Tenth Amendment.[170]

VIII. ALTERNATIVES

Synopsis: There a number of alternatives that—while clearly superior to the waiting period—do not represent good policy choices in themselves. The Instant Telephone Check and the 7 day waiting period/background check both use the same (often inaccurate) database; the Instant Check has the obvious advantage of being speedy, and not interfering with expeditious acquisition of a self-defense gun. Firearms Owners Identification Cards take a long time to obtain initially, and serve as a basis for gun-owner registration and overly broad fingerprinting of the general population. Turning drivers licenses into "smart cards" also requires citizens to submit fingerprints to the government in order to exercise their Constitutional rights. The most effective way to deal with criminals possessing guns is to better enforce laws regarding criminal gun acuisition and to target the black market trade that supplies the gigantic majority of criminal guns. Researchers from the National Institute of Justice have suggested several possibilities to directly attack the black market; none of the NIJ proposals interferes with Constitutional rights.

Henny Youngman was once asked how he liked his wife. "Compared to what?" he replied. There are a number of alternative controls on retail gun sales that, compared to a waiting period, are quite attractive.

If the only issue to be decided is what kinds of restrictive controls on retail gun sales are best, all of the alternatives detailed below compare favorably to the waiting period. They are just as effective at stopping legal purchases by ineligible buyers as a waiting period would be. Because the alternatives do not give the abusive administrators an easy opportunity maliciously to block every retail transaction, these alternatives are much less likely to result in wholesale denials of the right to bear arms, and hence less likely to threaten public safety. At the same time, they consume police resources at a rate equal to or significantly less than the rate at which a waiting period would consume police resources. Hence, the alternatives are clearly superior to a waiting period from all perspectives.

On the other hand, if the question is not how to further restrict retail gun sales, but instead if any such restrictions would be worthwhile, none of the alternative controls appear satisfactory. Like a waiting period, the alternative controls on legitimate sales can be evaded, and will likely do virtually nothing to disarm criminals. And while the alternative controls are not as dangerous to civil liberties as is a waiting period, the alternatives still pose some danger.

The most effective way to promote public safety and preserve civil liberties is to crack down on the black market that supplies criminal guns. A number of approaches for attacking the black market are suggested below.

A. "Instant" checks

One alternative to waiting periods is an "instant telephone check." The first state to enact such a check was Virginia; and Florida and Delaware have recently followed suit. When a Virginia gun dealer sells any handgun or certain long guns to a Virginia resident, the dealer calls a toll-free number at state police headquarters, to verify that the purchaser has no legal disqualification. If everything proceeds properly, the sale can be consummated with no more delay than a credit card check might entail.

Support of an instant check is widespread. Criminologists and legal scholars such as Gary Kleck, Don Kates, and Robert Cottrol who are generally skeptical of gun prohibition support the instant check system. Even big-city police chiefs who generally agree with Handgun Control, Inc., split from that group in preferring the instant check over a national firearms identification card.[171] The National Rifle Association also supported the instant telephone check in Virginia.

In terms of sorting out ineligible buyers, the instant check is just as effective as a 7-day waiting period, according to the Department of Justice Task Force, and for that reason is supported by Attorney General.[172] Unfortunately, in terms of preventing incorrect denials of the right to bear arms, the instant check is just as bad as the waiting period. Because the data quality for instant checks is, according to the Task Force, equivalent to that for a one or three week background check, only 84%–88% of applicants will be initially allowed to purchase if there were a national instant check. The unlucky remainder must go through a secondary verification process (such as submitting fingerprints at state police headquarters) that would take several weeks.[173]

Of course a criminal can evade an "instant" check just as easily as he can evade any other check. All he needs is a fake driver's license with another name. Since false social security and alien registration cards may sometimes be bought for as little as $35,[174] and since those cards are usually sufficient to obtain a driver's license, the instant check is likely to be just as porous as longer checks. The instant check, therefore, like the waiting period, could be evaded by anyone with false identification.[175]

For the purchasers who are rejected initially, fingerprint checks might be required to verify their identity. It is estimated that, if the instant check were national and comprehensive, the FBI would need 395 new clerical employees and 8,000 more square feet of office space to process the fingerprint work.[176] Given the limited efficacy of any police permission system, it might be considered whether 395 additional FBI employees might be better employed at projects focused on criminals, rather than on law-abiding citizens.

An instant check will cost between $7.07 and $9.39 per purchase.[177] For a person buying a high-quality target pistol, the cost is hardly noticeable. For a poor person buying a $40 used revolver for self-defense, the cost is considerable. The cost could be justifiable, if it yielded important benefits.

Significantly, the instant check is subject to the same problem of creating a gun and gun-owner registration system as is a waiting period. As the Task Force observes, "Any system that requires a criminal history record check prior to purchase of a firearm creates the potential for the automated tracking of individuals who seek to purchase firearms."[178] If a transaction number must be placed on the dealer gun sale form (to prove he made the check), and if the state retains its own record of transaction numbers, the record-keeping could easily be perverted into gun registration.

At the least, any instant check system should include protections to absolutely bar gun-owner record retention, and should specify that if computer or other failure prevents the police from approving the sale, the sale should be delayed no more than 24 hours.

The instant check is clearly preferable to a waiting period. The instant check uses the same criminal/mental data base as would a waiting period, and would therefore be equally effective in denying ineligible buyers. Because the large majority of sales would be approved on the spot, abusive administrators would have much less of an opportunity to interfere with the right to bear arms. It is true that an instant check eliminates the "cooling off" feature of a waiting period; but as discussed above, the number of crimes that could be prevented by "cooling off" is very, very small. The loss to public safety from the elimination of the "cooling off" period is more than offset by allowing persons who need a gun for immediate self-defense to get one, and by substantially reducing the numbers of arbitrary denials of firearms purchases.

B. Firearms owners identification cards

One suggested alternative to waiting periods for each firearm purchase is the creation of a Firearm Owners Identification Card (FOID). A person applies once for FOID card and submits her fingerprints to the authorities; after a four to six week review process, the person is granted a card which allows her to make unlimited purchases, with no further approval, as long as the card remains valid. (The card might expire after one year, or three years, or be valid for life). Massachusetts and Illinois are among the states currently using a FOID system. Faced with the choice between the instant telephone check and the FOID card, Handgun Control, Inc. prefers the FOID card.[179]

The Task Force suggests that each FOID card would cost $30. Approximately 1,700 new FBI employees would be required to process the necessary fingerprint checks of FBI files. According to the Task Force, the FOID card, taking up to six weeks to process, would be substantially more accurate than an instant check or a short waiting period.

As with the instant check or the waiting period, the list of FOID owners would be a de facto registration list of gun owners. The more serious civil liberties problem, however, involves massive fingerprinting.

The National Association of Police Organizations favors the collection of fingerprints of gun owners as the first step towards a comprehensive fingerprint system: "Hence the development of such an integrated national fingerprint system should be considered not merely for its benefits in connection with felon identification concerning firearms purchases but also in connection with improving law enforcement in general."[180]

The American Civil Liberties Union states "limited criminal history record checks, with fingerprint cards, are justified in certain licensing and employment situations. However, we oppose routine fingerprinting of all individuals who seek to buy firearms as an intrusion into privacy that cannot be justified by the minuscule benefit that may be achieved * * *.[181] Of course, the ACLU's principle should also apply not only to proposed national fingerprinting proposals, but also to the current practice in states such as New York and Illinois which routinely fingerprint the large fraction of the population which exercises its right to bear arms.

The same arguments that lead one to reject a national or identity card apply to federal gun licensing through a FOID. A national licensing system would require the collection of dossiers on half the households in the United States (or a quarter, for handgun-only record-keeping).

Implementing national gun licensing would make introduction of a national identity card more likely. Assuming that a large proportion of American families would become accustomed to the government collecting extensive data about them, they would probably not oppose making everyone else go through the same procedures for a national identity card.

Although the problem of illegal immigration is immense, Congress has repeatedly rejected calls for a national ID card. The same reasons that impelled Congress to reject that national ID card should impel Congress (and the states) to reject large steps towards such a card.

C. Smart cards

Another suggestion for screening of firearms purchasers has been the development of "smart" cards. As the Task Force explains, "every adult would carry an identification card issued by the state of residence, such as a driver's license, that would have electronically imprinted identifying information."[182] An instant fingerprint check in gun stores will within a few years be technologically feasible.[183]

The Smart Card seems to pose no serious problems from a pure Second Amendment viewpoint. There would be no false denials, since the cardholder would not be confused with other people with similar names and birth dates. There would be hardly any delays in purchases, since almost everyone would have a smart card.[184] There would be less risk of creating a gun registration system, although some states would be tempted to include gun registration data directly on the smart card.

Nevertheless, civil libertarians (including those with no interest in the gun issue) should oppose the smart card for the same reason that they oppose a firearms owners identification card (FOID). Both smart and FOID cards are a huge step towards a national identity card. Smart/FOID cards would of course be introduced with the assurance that they would only be used for limited purposes. But the Social Security Number, it was promised, would only be used for Social Security; today, the SSN is in effect a mandatory universal identification number, demanded by all levels of government and by businesses.

The National Rifle Association rejects the idea that persons who fill out the federal gun purchase form (form 4473) should be required to affix a fingerprint: "Exercise of a constitutional right cannot be conditioned on making fingerprints available to the police.[185] Indeed, the Supreme Court has held that Constitution forbids states to collect fingerprints of people merely because they exercise their Constitutional rights.[186] But the smart card requires a citizen to offer his fingerprint for government approval before exercising his right to bear arms.

The instant driver's license fingerprint scan offers few anti-crime advantages over the instant telephone check. Both can be evaded with false identification. (In the case of the fingerprint scan, the criminal just make sure to have someone else's print placed on his fake driver's license.[187] The instant fingerprint scan proposal would result in every state having a fingerprint of all of its adult citizens. It is questionable whether states currently ought to be fingerprinting citizens who obtain drivers' licenses. It is repugnant to federalism to force states to erode the privacy of their citizens by forcing the states to collect fingerprints.

Like the FOID card, the smart card looks handsome when compared to the waiting period, since it is more effective in denying ineligible buyer, and is less suspectible to repeated abuse by anti-gun administrators. But standing on its own, the smart card fails important civil liberties tests.

D. Anti-crime alternatives that do not infringe civil liberties

If the goal is really to keep felons from obtaining guns (rather than imposing gun control on honest citizens for its own sake), then the focus on retail sales is entirely misplaced. Hardly any felons buy crime guns in stores; almost all of the guns come from the underground market. A system aimed at disarming criminals should aim primarily at the black market.

The National Institute of Justice authors, Wright and Rossi, suggest "stiff penalties for firearms transfers to felons whenever these were detected and, in the same framework, stiff penalties for the crime of gun theft."[188] Enhanced penalties for transfers to felons were added to federal law in 1986, and should be added to state laws as well. To assist prosecutions of gun theft, states should follow Virginia's lead, and make sale of a stolen firearm a special, serious offense.[189] In many states, the theft and sale of $75 gun amounts to only petty larceny. Selling a "hot" $75 pistol should be a more serious offense than selling a "hot" $75 toaster-oven.

Other ways to keep criminals away from guns include closer monitoring of parolees and probationers, and more intensive crackdowns on fencing operations for stolen firearms. State of federal strike forces aimed directly at gun-runners might be introduced or augmented. To deal with the rare cases of criminals with non-false identification buying guns at retail, police departments could distribute wanted posters and/or gun felon lists to gun stores.[190]

Funding for any of the above programs should come from the same general revenues that support all law enforcement, or from a special assessment on convicted gun felons.[191] Persons exercising their Constitutional right to bear arms should not be forced to pay a special tax to support enforcement efforts against gun criminals, any more than camera owners or magazine readers should be taxed to pay for enforcement of child pornography laws.

IX. CONCLUSION

One night a man was walking down the street, and saw his friend crawling on the sidewalk, near a lamppost. The friend explained that he was looking for his wallet. The man got down on his knees, and helped the friend look. After about 15 minutes, the man said "I don't think your wallet is anyplace near this lamppost."

"Of course it isn't," the friend replied. "It fell out of my pocket over there, in that dark alley."

"Then why are you looking all the way over here, by the lamppost?" the man asked.

"Because the light is so much better over here."

Where should police officers look for armed criminals? In the dark alleys and black markets where criminals sell guns? Or behind a desk, where the light is better, so they can examine paperwork filled out by law-abiding citizens?

Especially when a legislature is considering laws that impact fundamental rights, it is improper to pass legislation simply because "it might help a little" or "it won't do much harm." Proponents of a new law have the burden of proving that their new law will accomplish a significant positive good. The burden is all the higher when proposed legislation affects a significant number of people, and waiting periods regulate the 50% of American households that choose to possess firearms. Proponents of a waiting period have failed to carry their burden of persuasion.

The criminological evidence is solidly against the waiting period. Most police do not favor the waiting period, and even if they did, their opinions do not over-ride Constitutional commands. While the Constitutional question is not at all well-settled, analysis of core Constitutional principles suggests that a waiting period cannot pass muster under the bar on prior restraints or the requirement of "least restrictive means."

Of all the proposals for increased restrictions on retail firearms sales, the waiting period scores last in terms of disarming criminals, and first in terms of threatening the exercise of the right to bear arms. Alternative restrictions share many of the waiting period's defects. At the federal level, all of the proposals violate the spirit of the Tenth Amendment guaranteeing state autonomy. All of the proposals facilitate gun registration. All of the proposals force a citizen wishing to exercise her right to bear arms to receive, at least once, permission from the government. The waiting period gives abusive administrators a chance to interfere with every firearms transaction, while the alternatives allow interference with some transactions. In terms of fighting crime, all of the proposals are essentially trivial. They will force police officers to carry out a surveillance of ordinary citizens that will almost never result in the arrest of a criminal.

The strongest evidence against a waiting period comes from the copywriters of Handgun Control, Inc., the lead proponent of the bill. They have chosen to build their case on a misrepresentation—the empirically false claim that a waiting period would have stopped John Hinckley. If Handgun Control, Inc.'s most compelling argument is false, why should legisators or other citizens believe HCI's other assertions? Why should the public accept controls like waiting periods which are designed as intermediate steps toward prohibition? Why should Americans accept alternatives like instant telephone checks or smart cards which—although better in every respect than waiting periods—fail to eliminate the civil liberties problem created by forcing people to risk being put on a government list because they exercise their rights.

The premise of the waiting period—and of most suggested alternatives—is that citizens can be required to ask police permission before exercising their rights. But the Constitution does not create a privilege to possess sporting guns. The Constitution recognizes a fundamental human right to keep and bear arms.[192] And that is why waiting periods, besides being ineffective, are illegal and immoral.

FOOTNOTES

[1] "Sarah Brady said Pascoe's bill is 'everything on my wish list that I've been wishing for a federal level.'" Gary Massaro, "Bradys Appeal for Gun Control," *Rocky Mountain News*, Jan. 26, 1990.

[2] Senate Bill 90-93, Colorado Senate, 57th General Assembly, Second Regular Session (1990).

[3] Mrs. Brady quoted in Sam Meddis, "Petitioners Taking Aim at Gun Laws," *USA Today*, July 20, 1988.

[4] Mrs. Sarah Brady, Testimony before House of Representative Judiciary Committee, Oct. 28, 1985, quoted in *Congressional Record*, Feb. 5, 1987, p. S.792.

[5] James Brady, Fund-raising letter for Handgun Control, Inc., "Wednesday morning" (summer 1990), p. 1: "John Hinckley—a man with a history of mental problems—purchased an easily concealed handgun." Most recipients of the fund-raising letter are not aware, as Mr. Brady surely must be, that no background check could have discovered Hinckley's entirely private record of consultation with mental therapists. The fund-raising letter, which includes substantial portions of Mr. Brady's standard testimony before Congressional committees, is hereinafter cited as James Brady Fund-raising letter.

[6] Hinckley transcript, pp. 1489–1559; Opposition to Defendant's Motion for Bail. He also forfeited the guns he had been attempting to carry onto the plane.

[7] Texas driver's license #9457099, issued to John W. Hinckley, Jr., 1612 Avenue Y, Lubbock, Texas. Hinckley trial pp. 1751–52.

[8] Sarah Brady, "How to Deter Future Hinckleys," *New York Times*, Nov. 8, 1985. Also: Barbara Lautman, HCI Communications Director, "Only the Criminals Are Hurt By Waiting," *USA Today*, May 26, 1987, p. 12A; Handgun Control, Inc., "Briefing Paper on the Brady Amendment" (1988): "Had a waiting period been in effect and a background check undertaken, it could have been determined that Hinckley committed a felony by lying about his address on the federal forms and he could have been stopped." Ohio Senator Metzenbaum (the lead Senate sponsor of the waiting period) claims that Hinckley submitted "a defective driver's license." Sen. Metzenbaum, *Congressional Record*, Feb. 4, 1987, p. S792.

[9] Advertisement, "A $29 handgun shattered my family's life." *The New Republic*, July 18, 1988, inside front cover. Also, same advertisement, *New York Times*, August 1, 1988, p. 1. Rep. Edward Feighan (House sponsor of waiting period), "Feighan Introduces Bill to Deter Criminals and Save Lives," Press Release, February 4, 1987: "One check would have told a Texas dealer that John Hinckley was using a false address and could have prevented him from purchasing a handgun."

[10] Mrs. Sarah Brady, Congressional testimony, quoted in "Flagship Bill Introduced," *Washington Report* (Handgun Control, Inc. newsletter), Spring 1987, pp. 1–2.

[11] "Brady Backs a Wait on Handgun Sales," *USA Today*, June 17, 1987, p. 2A.

[12] Advertisement, "A $29 handgun shattered my family's life." *The New Republic*, July 18, 1988, inside front cover. Also, same advertisement, *New York Times*, August 1, 1988, p. 1.

[13] Southwestern Bell, *Lubbock-Slaton Telephone Directory* (November 1979) (listing "John W. Hinckley . . . 409 University Av.").

[14] 18 United States Code §522(a)(6).

[15] ATF Rul. 80-21, reprinted in Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, *(Your Guide to) Federal Firearms Regulation 1988–89*, ATF P 5300.4 (6-88), p. 73.

[16] Rep. James Sensenbrenner, Jr. (R-Wisc.), "Fact Verus Fiction on the Brady Amendment," August 11, 1988 (part of "Dear Colleague" letter titled "NRA Shoots Self in Foot"), p. 2.

[17] Shots from a .38 caliber are almost twice as likely to kill as .22 calibre attacks. Franklin Zimiring, *The Medium is the Message: Firearms Caliber as a Determinant of Death from Assault*, 1 Journal of Legal Studies 97 (Jan. 1972).

The campaign Mrs. Brady and HCI wage against "Saturday Night Specials" (cheap handguns like the RG 22) is particularly odd in light of the fact that Hinckley owned guns more powerful than a "Saturday Night Special," and had a ban on "Saturday Night Specials" been in effect, Hinckley would not have been able to buy the cheap handguns in Texas, and probably would have used the higher-quality (and deadlier) handguns.

[18] Advertisement, "A $29 handgun shattered my family's life," *The New Republic*, July 18, 1988, inside front cover. Same advertisement, *New York Times*, August 1, 1988, p. 1. See also James Brady Fund-raising letter, p. 1: "That shot—from a $29 Saturday Night Special—changed my life . . ." Also, Sarah Brady: "Nine years ago, I got thrown into the issue when John Hinckley bought a $29 handgun in Dallas," in Peter Nye, "National Gun-Control Position," *The National Voter* (League of Women Voters), October/November 1990, p. 5.

[19] "Gun Used to Shoot Reagan called a $47 'Saturday Night Special'," *Baltimore Sun*, March 31, 1981 (reporting testimony of federal agents based on their examination of the purchase record for the transaction involving Hinckley). See also, Pete Earley, "The Gun: A Saturday Night Special From Miami," *Washington Post*, March 31, 1981: "When model RG14 finally reaches the public, its price tag is about $47.50—one of the cheapest pistols available." (article about model of gun used by Hinckley).

[20] Mrs. Brady also offers diverse stories about her own involvement in the anti-gun crusade. In a November 1985 *New York Times* op-ed, she explained her involvement as directly triggered by NRA's attempt to repeal federal gun control through the McClure-Volkmer bill:

"*Last July*, the Senate passed the McClure-Volkmer bill, which would make it even easier for the kind of tragedy that struck down my husband to happen again. This bill would severely undermine federal gun laws by allowing anyone to buy a handgun across state lines, by limiting Government inspections of gun dealers' records and by repealing certain handgun record-keeping requirements. *I decided I had to do more than think about the problem.*" Sarah Brady, "How to Deter Future Hinckleys," *New York Times*, Nov. 8, 1985 (emphasis added).

"As a *New York Times* reporter described it:

"*Mrs. Brady first enlisted in the fight for gun control in the summer of 1985* when it appeared that the Senate was about to adopt a measure backed by the NRA that was designed to weaken the 1968 Gun Control-Act."

"It just enraged me," she recalled of the effort to alter the comprehensive law.

Barbara Bamarekian, "Fighting the Fight on Gun Control," *New York Times*, Feb. 10, 1987, p. B10.

"But another newspaper states that Mrs. Brady has actually been an anti-gun activist since 1973, not since 1985, as she twice claimed in the *New York Times*." According to a *USA Today* profile, "Sarah Brady has spent nearly a third of her life arguing for tougher gun laws . . . Brady, daughter of an FBI agent, *began her fight for stronger gun laws in 1973*, when she tried to ban Saturday Night Specials . . ." "Brady Backs a Wait on Handgun Sales," *USA Today*, June 17, 1987, p. 2A (emphasis added).

"In light of Mrs. Brady's deceptions about matters large and small, her attack on the NRA, 'I think they tend to prevaricate quite often' seems a case of the pot calling the kettle black. ABC News/Time Forum, January 24, 1990, show #ABC-11, transcript."

"It is also ironic that she congratulates herself: 'I have tried very hard not to make it an emotional issue because I think that is what the gun lobby has done." *New York Times*, Feb. 10, 1987. A reader of Handgun Control's late 1990 fund-raising letter might find the rhetoric somewhat emotional.

"[Y]ou are at risk. You are in danger of also becoming a victim of the senseless handgun violence . . . [S]top our insane national handgun war . . . Frankly, what makes me livid is that the NRA opposes the Brady Bill because they claim it's an inconvenience . . . For their convenience, I experience pain—sometimes so intense I cry . . . I need help getting out of bed, help taking a shower, help getting dressed and, damn it, even help going to the bathroom . . . The NRA lobbyists can go to hell! . . . [T]he NRA lobbyists scream FOUL! . . .But the mightly NRA roars NO! And the cowards in Congress cringe! . . . . I desperately need your help. James Brady Fund-raising letter (emphasis in original).

[21] For example, Hank Johnson, Executive Editor, "Making a Case for Gun Control," *Athens Daily News* (Georgia), September 16, 1990 ("Had such a waiting period been in effect when John Hinckley walked into a Dallas pawn shop . . . he could have been stopped.")

[22] Sarah Brady, Vice Chair, Handgun Control, Inc., Statement (press release), February 4, 1987, p. 1. Presumably she meant to say "1980."

[23] Handgun Control, Inc., "Briefing Paper on the Brady Amendment" (1988); Rep. Feighan (sponsor of waiting period), remarks, *Congressional Record*, September 15, 1988, p. H7636.

[24] The National Sheriffs Association, which currently supports the waiting period, certainly qualifies as a major law enforcement organization, since it is the largest group of sheriffs in the United States. Interestingly Handgun Control, Inc. claimed in 1988 to have the support of "every major law enforcement organization," even though in 1988 the NSA had voted not to support a waiting period. Apparently when the NSA later changed its mind and supported Handgun Control, the NSA then qualified as a "major police organizations."

Both NACOP and AFP are for-profit organizations, and are associated with retired police chief Gerald Arenberg, who is also associated with other for-profit organizations. Handgun Control, Inc., sometimes announces this fact as if it somehow delegitimizes the NACOP and AFP—although the more than 100,000 law enforcement officers who have joined these organizations apparently do not agree. Perhaps no major law enforcement organization has been more tainted by financial impropriety than has the International Association of Chiefs of Police, a strong supporter of the waiting period; the questionable financial practices of IACP's former leadership should certainly not disqualify it as a voice for its members. *A fortiori*, the for-profit status of NACOP and AFP, untainted by any hint of scandal, should not disqualify these groups as police voices.

[25] The Federal Law Enforcement Officers Association, Fraternal Order of Police, International Brotherhood of Police Officers, International Association of Chiefs of Police, Major Cities Chief Administrators, National Association of Police Organizations, National Organization of Black Law Enforcement Executives, National Sheriffs Association, National Troopers Coalition, Police Executive Research Forum, Police Foundation (a think-tank), and Police Management Association. *Congressonal Record*, Sept. 15, 1988, p. H7639; Handgun Control, Inc., "Briefing Paper on the Brady Bill," p. 2.

[26] "What PERF Members Think About Police Education, Assault Weapons, Toy Guns, Etc." *Subject to Debate* (PERF newsletter) March/April 1989, p. 1. It cannot be said that PERF has done an outstanding job of informing its members of the technicalities of the firearms debate. Ninety-four percent of PERF members favored a ban on nondetectable weapons, apparently unaware of testimony from the Bureau of Alcohol, Tobacco and Firearms and from the Federal Aviation Administration that there was no such thing as an undetectable weapon currently in existence or technologically feasible in the foreseeable future.

[27] National Association of Chiefs of Police, "American Law Officers Survey for 1989." The NACOP survey was sent to 16,259 command officers, and 16% responded. The 16% represented departments which employ 172,355 officers.

Both the NACOP and the PERF surveys were conducted by mail, and response was voluntary. Because the surveys were not conducted by random sampling, it is not possible to assign a confidence interval to either survey. Accordingly, it is statistically possible that either or both of the surveys is not a correct measure of its population's opinion.

On the other hand, it seems very possible that both PERF and NACOP were accurate measures. The responses to other questions in the surveys revealed results that would be expected of the sample populations. The big-city chiefs (PERF), favored: educational requirements for entry-level police (77%); an "assault weapon" ban (76%); funds for drug research (85%); and collection of data on hate crimes (78%).

Likewise, the NACOP survey found results that are consistent with the expected conservative orientation of national police commanders as a whole: belief that the death penalty deters crime (93.8%); opposition to drug legalization (94.4%); belief that "the courts are too soft on criminals in general" (95.6%), and belief that their department was undermanned (87.3%).

In any case, it is doubtful that Handgun Control, Inc. would criticize the NACOP survey, since NACOP's survey methodology is the same as PERF's, and Handgun Control cites the PERF survey in its own informational literature. Handgun Control, Inc., "Waiting Periods Work."

[28] National Association of Chiefs of Police, "American Law Officers Survey for the Year 1990." The NACOP survey was sent to approximately 16,000 command officers, and 10% responded. See the previous endnote for caveats regarding the response rate.

[29] Hand Control, Inc. claims that the NRA has lost police allies because it has "gone off the deep end" by opposing reasonable gun controls. Interestingly, when HCI tried its "deep end" advertisement in *Police* magazine, the magazine received mail "unrivaled by any subject in the last two years," most of the writers "saying they didn't like the contents of the ad one bit." *Police*'s editor composed an editorial condemning Handgun Control Inc., defending the NRA, and warning that "HCI is trying to erode the Second Amendment." F. McKeen Thompson, "Readers Respond to HCI . . . And We Agree," *Police (The Law Officer's Magazine)*, vol. 11, no. 12 (December 1987). p. 4.

In any case, the NRA is not the only group to lose friends over its extreme stands. On most issues, the Fraternal Order of Police is a staunch ally of Handgun Control. (The FOP leadership switched sides on the gun debate in anger over the NRA's stand on armor-piercing bullets.) But when Handgun Control helped push the New Jersey legislature to enact a bizarre and overboard "assault weapon" ban (it even applied to BB guns), the local chapter of the Fraternal Order of Police strongly opposed the law. Apparently, the FOP did not agree with HCI that BB guns should be confiscated as assault weapons. Dewey R. Stokes, "Major Issues Face FOP," *National FOP Journal*, Summer 1990, p. 4 (describing FOP stand in New Jersey, and national FOP support for New Jersey's opposition).

[30] Regarding the criminal procedure amendments to the Constitution, only a small percent of cases are not prosecuted or are reduced to lesser charges because of the rules against illegally seized physical evidence and coerced confessions. Peter F. Nardulli, "The Societal Cost of the Exclusionary Rule: An Empirical Assessment," 1983 *American Bar Foundation Research Journal* (1983): 585–610; Thomas Y. Davies, "A Hard Look at What We Know (and Still Need to Learn) about the 'Costs' of the Exclusionary Rule: The NIJ Study and Other Studies of 'Lost' Arrests," 1983 *American Bar Foundation Research Journal* (1983): 611–90; "Legal Safeguards Don't Hamper Crime-Fighting," *National Law Journal*, December 12, 1988, p.5.: Six-tenths of one percent to 2.35% of cases are dismissed because of bad searches; in a survey of prosecutors, 87% said that 5% or less of their cases were dismissed because of Miranda problems.

[31] See for example the remarks of Rep. Mel Levine (D-Calif.), *Congressional Record*, April 10, 1986, p. H1746 (allowing interstate transportation of handguns for sporting purposes will cause "mayhem . . . on our streets . . . and further handicap law enforcement efforts to control handgun crime."); remarks of Rep. Howard Wolpe (D-Mich), ibid. ("[T]he police in my district are concerned that the Volkmer substitute would add considerably more peril to their job than already exists.")

[32] "91% of Americans Favor Brady Amendment," *Subject to Debate*, Nov./Dec. 1988, p. 10.

[33] *Subject to Debate*.

[34] Polling data from Herber McClosky & Alida Brill, *Dimensions of Tolerance: What Americans Believe About Civil Liberties*. (New York: Russell Sage Foundation, 1988).

[35] "It established some rights of the individual as unalienable and which consequently, no majority has a right to deprive them of." Albert Gallatin, Congressional and Cabinet officer of the early American Republic, quoted in Richard E. Gardiner, "To Preserve Liberty: A Look at the Right to Keep and Bear Arms," 10 *Northern Kentucky Law Review* 63, 79n. (1982).

[36] McCloskey and Brill.

[37] Wright, Rossi, and Daly, pp. 223–35.

[38] Sarah Brady, Fund-raising letter for Handgun Control, Inc., "Wednesday," (no date, 1988).

[39] Matthew DeZee, "Gun Control Legislation: Impact and Ideology," *Law & Policy Quarterly* 5 (July 1983): 363–79. Although DeZee stated that he supported stricter gun laws, he did not offer any proposals.

[40] "Homicides, Robberies and States 'Cooling-Off' Schemes," in ed. Donald B. Kates, *Why Handgun Bans Can't Work* (Bellevue, Wash: Second Amendment Foundation, 1982), pp. 101–12.

[41] "An Empirical Analysis of Federal and State Firearms Control Laws," in *Firearms and Violence; Issues of Public Policy* (Cambridge, Mass.: Ballinger, 1984): 225–58 (the study also found no perceptible impact on crime or gun acquisition from the federal Gun Control Act of 1968).

[42] *Report on the Federal Firearm Owners Protection Act*, S. Rep. no 3476, 97th Cong., 2d sess. (1982), pp. 51–52.

[43] Philip. J. Cook & James Blose, "State Programs for Screening Handgun Buyers," *Annals of the American Academy of Political Science* 455 (May 1981), pp. 88–90. Although skepitcal about screening systems as a panacea, Cook and Blose still favor screening since it might increase the marginal price or time needed to obtain a gun for inexperienced criminals (such as teenagers), and might keep weakly-motivated criminals from obtaining guns at all. *Ibid.*, pp. 90–91.

Although Cook and Blose do not offer evidence, their intuition about possible benefits is not implausible. But since waiting periods and other screening systems do not show any statistical effect, it must be that the number of criminals actually affected is fairly small. Parts IV and V below discuss how the potential benefits of a waiting period compare to the potential harms.

One study I have cited in earlier works (Cato Institute and Senate Testimony, both 1988) for the inefficacy of gun control is Douglas Murray, (1975). My citation to Murray was an error. As Wright, Rossi, and Daly point out, Murray's statistical model has a design flow which minimizes any possible relationship between gun laws and gun crime.

[44] Assistant Attorney General John R. Bolton, Letter to House Judiciary Chairman Peter Rodino, March 19, 1986.

[45] James Wright, Peter Rossi, and Kathleen Daly, *Under the Gun: Weapons, Crime and Violence in America* (Hawthorne, N.Y.: Aldine, 1983).

[46] James Wright and Peter Rossi *Armed and Considered Dangerous: A Survey of Felons and Their Firearms* (New York: Aldine, 1986). Three-fifths of the prisoners studied said that a criminal would not attack a potential victim who was known to be armed. Two-fifths of them had decided not to commit a crime because they thought the victim might have a gun. Criminals in states with higher civilian gun ownership rates worried the most about armed victims.

[47] *The Armed Criminal in America*, p. 46 (report to National Institute of Justice; later republished as *Armed and Considered Dangerous).*

One of the authors, Professor James Wright, nevertheless sees little disadvantage in a waiting period. He calls it "a reasonable precaution" and argues "Few legitimate purposes to which a firearm might be put are thwarted if the user has to wait a few days, or even a few weeks, between filing the application and actually acquiring the weapon." James D. Wright, firearms chapter in ed. Joseph F. Sheley, *Criminology* (Wadsworth Pub., 1991), p. 442. Professor Wright's view seems to be that while the waiting period, like any screening system, might yield only small benefits, it is worthwhile because it exacts virtually no costs. The counterargument that the waiting period's small benefits are outweighed by the damage it does to public safety is discussed below. Professor Wright's assumption that a waiting period "leaves the legitimate user pretty much alone" is true in theory but not in fact; as detailed below, a waiting period can be and often is administratively abused and made into a prohibition.

[48] Wright & Rossi, pp. 181–87.

[49] Ibid, p. 188, n. 3.

[50] There is of course some value in keeping a criminal from obtaining a second gun or a better gun, but the process would be unlikely to stop a criminal from perpetrating a given armed crime.

[51] Bureau of Alcohol, Tobacco and Firearms, Assistant Director of Criminal Enforcement, Memorandum to Director, July 10, 1975 (Greenville survey; of 20,047 names submitted to FBI for record checks, 68 had felony convictions; of those, 41 had not been represented by counsel at their conviction or who committed crimes in the distant past; twenty-seven buyers were prosecuted) of the 1.3% of buyers selected for prosecution, .9% had non-violent felony convictions, and .4% had violent convictions). Bureau of Alcohol, Tobacco and Firearms, Assistant Director for Criminal Enforcement, memorandum to Director, May 8, 1975 (of 374 records checked, 39 were purchasers with felony records who were not appropriate for prosecution because of age or non-violent nature of felony; six purchasers were prosecuted).

[52] Douglas A. Blackmon, "Gun Sale Limits Don't Cut Crime, Experts Say," *Atlanta Journal & Constitution*, May 29, 1990, p. A–9. The number for previous years were: for 1981, 1365; for 1982, 1008; for 1983, 1148; for 1984, 1349; for 1985, 1413; for 1986, 1515. Anita Lagunas, Supervisor, Firearms Control Unit, California Attorney General, Letter to Richard Gardiner, National Rifle Association, March 23, 1987.

[53] California Board of Criminal Statistics, in Blackmon.

[54] William Davis, "Gun Law Backfires," *Los Angeles Daily News*, Mar. 4, 1991 (letter to the editor from law enforcement officer and licensed federal firearms dealer whose application was put on hold).

There are also reports that all "assault weapon" registrants have been placed in police computer lists of persons whose pose a special hazard. California's practice of enforcing its laws with special severity against persons who are especially law-abiding makes the registrants seem naive, and seems to vindicate the intuitive distrust of gun registration felt by most gun-owners.

[55] Handgun Control, Inc., "Briefing Paper."

[56] "Gun Control: It Threatens the Right People," *Tallahassee Democrat*, February 1, 1985 (In six months period since waiting period went into effect, 37 of 1,425 applicants were denied; of the 37, 14 were denied for "outstanding arrest records for traffic offenses and other misdemeanors).

[57] Handgun Control, Inc., "The Case for a Waiting Period."

[58] In response to a letter from the NRA requesting information about the Columbus waiting period, the police department analyzed its records and found that in the period January 1, 1985 through July 22, 1985, thirty of the 1,419 handgun purchase applications had been refused. Due to man-hour limitations, the department was not able to provide data for other periods. G.J. McCain, Major, Bureau of Support Services, Columbus Police Department, letter to Richard Gardiner, National Rifle Association, September 12, 1985. Of the 32 denials, seven were because of outstanding warrants, four were due to marijuana cases, three for other drug cases, thirteen were for felony convictions other than marijuana, and five were due to age.

[59] Bureau of Justice Statistics, *Identifying Persons, Other Than Felons, Ineligible to Purchase Firearms: A Feasibility Study* (May 1990) (report performed under contract by Enforth Corporation, Cambridge, Massachusetts), p. 25.

[60] Pete Shields, *Guns Don't Die—People Do* (New York: Arbor House, 1981), p. 83.

[61] Task Force, p. 86.

[62] David Bordua, "Operation and Effects of Firearms Owners Identification and Waiting Period Legislation in Illinois," (University of Illinois: unpublished paper, 1985).

[63] Sgt. R.G. Pepersack, Sr., Maryland State Police, Commander, Firearms License Section, written testimony and oral questioning before United States Senate Committee on the Judiciary, Subcommittee on the Constitution, regarding S. 466, "Handgun Violence Prevention Act," June 16, 1987 (In 1986, there were 20,704 applications, 1,102 initial disapprovals, 370 approvals granted upon appeal, and 14 currently active cases involving an applicant who had a conviction of a crime of violence, of which 5 or 6 had been selected for prosecution for attempting an illegal purchase.)

[64] Pepersack, p. 2 (of 471 appellants in 1986, 370[78%] were ultimately approved).

Because so many initial denials are overturned, it is misleading for Handgun Control, Inc. to characterize the entire total of initial denials as "people who were trying to purchase handguns illegally." "The Case for a Waiting Period."

[65] "The Case for a Waiting Period." Also, "Flagship Bill Introduced," *Washington Report* (Handgun Control, Inc. newsletter), Spring 1987, p. 1.

[66] From 1966 (when current controls were enacted) until June 1988, there were 1,153,400 applications for either a permit to purchase a handgun or a firearms identification card. Of those applications, 28,850 (2.5%) were denied. According to reporter Eugene Kiley, of the *Bergen Record*, the state police conducted a random survey of 507 applicants in 1985. Applying the percentages from the 1985 survey to the data as a whole leads to the following breakdowns for the denials:

Reason	Percent	Number
Criminal Record	29	8,366
Falsifying Application	35	10,097
Public Health, Safety and Welfare	20	5,770
Mental or Alcoholic	7	2,020
Insufficient Reason to Issue	6	1,731

In other words, the total denials for actual danger (8,366 criminal record, plus 2,020 mental or alcoholic=10,386) uncomfortably close to the number of denials for patently arbitrary reasons (5,770 public health, plus 1,731 insufficient reason=7,501). If the denials based on falsifying application (10,097) are also considered arbitrary (since the category does not include falsifications relating to criminal, mental, or alcoholic ineligibility), the number of arbitrary denials significantly exceeds the number of legitimate denials.

[67] Ibid.

[68] Statement of Robert F. Mackinnon, on behalf of the Coalition of New Jersey Sportsmen, before the House Committee on the Judiciary, on *Legislation to Modify the 1968 Gun Control Act*, part 2, serial no. 131, 99th Congress, 1st and 2nd sess., Feb. 27, 1986 (Washington: Government Printing Office, 1987), p. 1418.

For example of the New Jersey law in operation, see W. Peter Haas, Chairman, Public Safety Committee, Borough of Mountain Lakes, letter to Police Chief Joseph Spinozzi, July 29, 1968 ("it is my opinion that you as Chief of Police of our Borough deny any applications for any type of weapons permits. You may accept the application and fully process that application to the point of approval or disapproval, then disapprove and notify the applicant of your decision and their recourse through the County Court . . . Article 4 Section 2A: 151–33 (d) . . . authorizes the disapproval of any person where the issuance would not be in the public interest of welfare. It is my belief that it is not in the public interest to issue permits . . .")

[69] Each application takes about four hours to process. Colonel Clinton Pagano, testimony before the New Jersey Assembly and Public Safety Committee, hearing on a. 594, February 1988. If one assumes that each man hour costs the state of New Jersey ten dollars, the licensing system has cost New Jersey $46,136,000. (The figure is in 1988 dollars, and based on the figure of 1,153,400 total applications in 1966–88, cited in the previous endnote.) There have been 10,386 denials based on criminal, mental, or alcohol records (see previous endnote), and dividing that number into the total dollar cost yields the cost per denial of $4,442.13.

[70] The dealer must report the sale to local police within 6 hours. The police have 48 hours to veto the sale, but in practice dealers generally wait 72 hours, to be sure to avoid liability for a sale in an ineligible person. Weekends and holidays do not count for purposes of the 48 hour computation.

Police believe that the law requires all private transfers to be routed through retail dealers, so that police can perform the check, but the requirement, if it exists, is widely ignored.

All information regarding Pennsylvania comes from the author's August 28, 1990 telephone conversation with Ms. Sharon H. Crawford, head of the state police firearms unit, in Harrisburg.

[71] A good number of "hits" are based on felony convictions from many years before, or on a conviction of aggravated assault, which some people (negligently) do not realize is a disqualifying felony.

[72] Task Force, p. 87.

[73] Blackmon.

[74] Task Force, p. 89.

[75] In Virginia, 8 of 673 ineligibles (1.2%) were arrested. Handgun Control, Inc., "The Case for a Waiting Period" (1990). See also the Maryland date discussed above.

[76] James Brady Fund-raising letter, p. 3: "Seven days to help police thwart a purchase by a drug dealer."

[77] As Sterling Johnson, New York City's former special narcotics prosecutor acknowledged, "You either have to protect yourself with a gun or get out of the [drug] business." Anthony M. DeStefano, "City Teens: Armed and Dangerous," *New York Newsday*, Sept. 24, 1990, p. 30.

[78] Blackmon.

[79] "Killer Fraternized with Men in Army Fatigues," *The Globe and Mail*, December 9, 1989; "Killer's Letter Blames Feminists," *The Globe and Mail*, December 8, 1989.

To be precise, Canada does not have a formal waiting period. In 1978, Canada implemented a national law which required police permission for every handgun purchase, and a one-time license (good for five years) for long gun purchases. The license application requirement served, in effect, as a waiting period for most first-time gun purchasers.

[80] Blackmon.

[81] James Brady Fund-raising letter.

[82] Elisabeth Scarff, Decision Dynamics Corporation, *Evaluation of the Canadian Gun Control Legislation* (Ottawa: Canadian Government Publishing Centre, 1983) (prepared for the Solicitor General of Canada), pp. 5, 29.

[83] A study of Toronto indicated that the gun laws decreased firearms suicide by men, but "the difference was apparently offset by an increase in suicide by leaping." Charles L. Rich, James G. Young, Richard C. Fowler, John Wagner, Nancy A. Black, "Guns and Suicide: Possible Effects of Some Specific Legislation," *American Journal of Psychiatry*, 147 (no. 3, March 1990), p. 342.

[84] World Health Organization, *World Health Statistics, 1984* (Geneva: W.H.O., 1984), pp. 183, 189; United States Bureaus of the Census, *Statistical Abstract of the United States, 1989* (Washington: Government Printing Office, 1989), p. 820.

[85] "Legislature: Pass Handgun Law," *Denver Post*, January 24, 1975.

[86] David Hardy, "Legal Restrictions on Firearms Ownership as an Answer to Violent Crime: What Was the Question?" *Hamline Law Review* 6 (July 1983): 404. It might be wondered if lives would be saved if homicidally enraged husbands "cooled off" while driving around at night look for open firearms dealers willing to sell to drunken and agitated customers, rather than staying home and finding alternative weapons.

[87] In a Detroit study, 75% of wives who shot and killed their husbands were legally defending themselves or their children against illegal attacks. The figure for Miami was 60%, and for Houston, 85.7%. "[W]hen women kill, their victims are . . . most typically men who have assaulted them." Martin Daly and Margo Wilson, *Homicide* (New York: Aldine, 1988), pp. 15, 200, 278.

Saunders, "When Battered Women Use Violence: Husband Abuse or Self-Defense," *Violence and Victims* 1 (1986), p. 49; Barnard et al., "Till Death Do Us Part: A Study of Spouse Murder," *Bulletin of the American Academy of Psych. and the Law* 10 (1982): 271; Donald T. Lunde, *Murder and Madness* (San Francisco: San Francisco Book Co., 1976), p. 10 (in 85% of decedent-precipitated interspousal homicides, the wife kills an abusing husband); E. Benedek, "Women and Homicide," in ed. Bruce Danto, *The Human Side of Homicide* (New York: Columbia, 1982).

It is sometimes suggested that the abused woman is to blame for not leaving the relationship. Many women do leave, only to be followed and killed by their former mate.

See generally Lenore E. Walker, *Terrifying Love: Why Battered Women Kill and How Society Responds* (New York: Harper and Row, 1989); Cynthia K. Gillespie, *Justifiable Homicide: Battered Women, Self-Defense, and the Law* (Columbus: Ohio State University Press, 1989).

[88] Gary Kleck, *Guns and Violence* (Hawthorne, New York: Aldine, 1991, forthcoming) chapter 8. The study of 1982 data Kleck reviewed is Ted Mannelli, "Handgun Control," Report to the Executive Office of the Governor, State of Florida (Tallahassee: University of Florida, 1982) (unpublished).

[89] "Excerpts from Dinkin's Address: Mobilizing to Fight Crime," *New York Times*, October 3, 1990, p. B2.

[90] Eric Stenson, "Laws Limiting Access to Guns Putting Dent in NRA's Clout," *Asbury Park Press*, Aug. 5, 1990.

[91] 54 Fed. Reg. 43532.

[92] Task Force, p. 24.

[93] For example, the Lakewood, Colorado, police chief defended the Pascoe 21-day comprehensive wait: "If we can save one life, it's worth it." Also, Richard Boyd, President of Fraternal Order of Police, quoted in "Two Sides Spiritedly Debate Bill on Gun-purchase Waiting Period," *The Capital Times* (Madison, Wisc.), June 18, 1987; Rep. Edward Feighan (House sponsor of waiting period), "Feighan Introduced Bill to Deter Criminals and Save Lives," Press Release, February 4, 1987 ("If this bill can save even one life, which I know it can, Congress should act on it now."); Fraternal Order of Police: "If the seven-day waiting period will save just one life—the life of a law enforcement officer or a citizen—then [Congress'] work will be successful." quoted in Handgun Control, Inc., "Waiting Periods Work."

If the criteria for legislation is whether it will save a single life, legislatures would also want to consider a ban on new private swimming pools and on cigarette lighters, as well as a reduction of the speed limit to 15 m.p.h. There is of course no Constitutional right to swim or light fires or drive at a particular speed; and pools, cigarette lighters, and cars are not usually considered useful for self-defense. Cars kill many more people than guns. Cigarette lighters cause more fatal accidents for children than do guns. (In 1984, the number of accidental deaths from all types of guns for children under the age of 5 was 34, while the same year 90 children aged 0–4 were killed by cigarette lighters. Centers for Disease Control, "Mortality and Morbidity Weekly Report," March 11, 1988, p. 145; *Consumer's Research*, May 1988, p. 34.)

[94] Bureau of Alcohol, Tobacco and Firearms estimate cited in Task Force on Felon Identification System, *Report to the Attorney General on Systems for Identifying Felons Who Attempt to Purchase Firearms* (Washington: Department of Justice, October 1989), p. 34 [hereinafter "Task Force"].

The Task Force was chaired by Assistant Attorney General Richard B. Abell, and included the Bureau of Alcohol, Tobacco and Firearms; the Bureau of Justice Assistance; the Bureau of Justice Statistics; the Federal Bureau of Investigation; the Immigration and Naturalization Service; the National Institute of Justice; and the U.S. Marshals Service.

[95] The Current federal proposal applies only to retail handgun sales, reducing the number of transactions the police have to check down to "only" two and a half million. Since the anti-gun lobby has already pushed several states to include long guns in the waiting period, and pushed California to include even gifts between family members in the waiting period, it is appropriate to consider cost estimates for waiting period schemes on the ultimate system that will be implemented, rather than on what is proposed as a "first step."

One way to reduce the number of required checks by the police would be to exempt low-volume firearms dealers (50 or less sales per year) from the required check. Most such dealers sell only to persons they already know (such as members of their shooting club) and therefore, in effect, perform their own background check prior to sales.

The New York City system takes the equivalent of almost 100 full time personnel. Research Associates Inc., *A Preliminary Cost Analysis of Firarms Control Programs* (Silver Spring, Maryland: R.A.I., 1968), prepared for the National Commission on the Causes and Prevention of Violence, pp. 23, 27–28.

In Washington, D.C. the firearms ballistic lab is so underfinanced that it is nearly two years behind in providing ballistic anlaysis of firearms used in crimes. Sari Horwitz, "Caseload Weighs Down D.C.'s Ballistic Lab," *Washington Post*, March 8, 1989. Given that Washington, D.C. spends more per capita on police than any other city in the United States, and given the utter failure of the police department to meet even mininal standards in protecting public safety, it is disheartening to see Washington, D.C.'s current police chief spending his time lobbying for a national waiting period, which would impose significant manpower and paperwork costs on other police departments.

[96] The Department of Justice Task Force did not specifically analyze the cost of a 7-day waiting period, since the Task Force found that such a wait would be no more effective than an instant check. The Task Force did analzye the cost of a Firearms Owner Identification card, under which a card good for three years would be issued, allowing unlimited purchases after an initial background check lasting 30 days. Since the FOID system would not require repeated checks for the same person buying several guns, the FOID system would likely cost significantly less than a waiting period. The Task Force estimated the start-up cost of FOIDs at $148–153 millon, and the annual operating costs at $136–161 million. Task Force, p. 106.

The cost estimate makes the assumption that most jurisdictions would undertake the "voluntary" background check out of fear of being sued by HCI. If the check were truly voluntary and most police departments declined to perform it, the additional costs of the law would be small.

In any case, the total costs of the "Brady Bill" are nowhere near the "billions" which the NRA cited as the upper cost range in its 1988 campaign against the bill. A figure of billions would only be justified only by combining the cost for several years of operation of the bill. A national check on every gun transfer, retail and private, long gun and handgun, might well cost billions. Even though the comprehensive billion-dollar check seems to be the long-term goal of Handgun Control, Inc., there is no current national proposal to that effect.

For an instant telephone check, the Virginia police had requested an $8 per transaction fee to cover costs. If costs in other jurisdictions are about the same, a national check for retail handgun sales would cost about $20 million ($8 × 2.5 million sales). A national check on all gun transfers would be about $60 million ($8 × 7.5 million transfers.)

[97] The cost anlaysis improves if one assumes that in addition to leading to the arrest of one criminal, the 10,000 background checks and cooling off periods prevented several people without criminal records from obtaining guns that they would have used in crime or a suicide attempt. See the discussion in Part III for the expected very small size of those groups.

[98] For example, David Seifman, "City's Latest Crime Shocker Fails to Stir Mayor's Anger," *New York Post*, Sept. 5, 1990, p. 4; Donatella Lorch, "Girl is Killed by Stray Bullet in Brooklyn," *New York Times*, Sept. 24, 1990, p. A1 (Although the newspapers did not report that the gun involved as a "bad" gun like a "Saturday Night Special" or an "assault weapon," the Mayor stated: "Her death leaves me griefstricken and outraged . . . at the failure of our state and federal governments to bring an end to the manufacture and distribution of these tools of death.") "Excerpts from Dinkins's Address: Mobilizing to Fight Crime," *New York Times*, Oct. 5, 1990, p. B2 (The speech concluded, "we ache for the protection that only a federal law can give us—the Brady Bill." He implored New Yorkers to call U.S. House Speaker Foley to demand passage of the "Brady Bill," which could save thousands of lives in its first year, including yours.")

[99] N.T. "Pete" Shields, fund-raising letter for Handgun Legal Action Fund, "confidential, Wednesday morning" (1988), See *Warren* v. *District of Columbia*, 444 A.2d 1 (D.C. App. 1981). Unfortunately, after police departments began complying with the paperwork rules, citizens who are victimized by crime will have no right to sue the police chiefs for putting their officers behind a desk, instead of on anti-crime patrol.

[100] Eileen Welsome, "Killing Spree Leads to Talk of Gun Control," *Albuquerque Tribune*, n.d; Shields, fundraising letter (1988), p. 3.

[101] "Background Checks Done Strictly by the Book," *San Diego Union*, February 21, 1990 ("We have an archive where we keep all those records, alphabetized by the gun owners' names," said Entricon. [Justice Department official]).

[102] The 1991 version of the national police permission bill, H.R. 7, explicitly states that it imposes no obligations on law enforcement officials. §(a)(2).

[103] *Puerto Rico* v. *Branstad*, 483 U.S. 219 (1987).

Of course Congress could compel destruction of registration records if it made a finding that gun registration violates the Second Amendment. Congress has the power under the section five of the Fourteenth Amendment to outlaw state violations of Constitutional rights. Logical consistency would mandate that the registration ban apply to other state and local gun registration as well.

[104] Registration is routinely flouted. In Illinois, for example, a 1977 study showed that compliance with handgun registration was only about 25 percent. Donald B. Kates, "Handgun Control: Prohibition Revisited," *Inquiry*, December 5, 1977, p. 20, n. 1. Compliance with retroactive registration of semiautomatics in Boston and Denver has been about 1%. About 10% of California's 300,000 "assault weapon" owners registered as required by law.

[105] Registration lists facilitated gun confiscation in Greece, Ireland, Jamaica, and Bermuda. B. Bruce-Briggs, "The Great American War," *The Public Interest*, (Fall 1976), p. 59; Kates, *Why Handguns Bans Can't Work*, p. 16.

The Washington, D.C., city council considered (but did not enact) a proposal to use registration lists to confiscate all shotguns and handguns in the city. When reminded that the registration plan had been enacted with the explicit promise to gun owners that it would not be used for confiscation, the confiscation's sponsor retorted, "Well, I never promised them anything!" "Wilson's Gun Proposal," *Washington Star-News*, February 15, 1975, p. A 12; Lawrence Francis, "Washington Report," *Guns & Ammo*, December 1976, p. 86.

The Evanston, Illinois, police department also attempted to use state registration lists to enforce a gun ban. Paul Blackman, "Civil Liberties and Gun-Law Enforcement: Some Implications of Expanding the Power of the Police to Enforce a 'Liberal' Victimless Crime," Paper presented at the annual meeting of the American Society of Criminology, Cincinnati, 1984, p. 14. In 1989, the Illinois Legislature considered a proposal to confiscate semi-automatics, using the existing gun registration forms to find out where to round up the guns.

When Illinois Firearms Owners Identification Cards were first issued, persons with felony convictions were eligible to possess a firearm if the conviction was more than 5 years in the past. Later, the Illinois legislature retroactively changed the bar date to 20 years. Registered owners who had a felony conviction more than 5 years old and less than 20 had their guns confiscated. Since there are always proposals to expand the class of prohibited persons (such as barring all persons with even single misdemeanor drug or violent offense, no matter how long ago), and always proposals to confiscate various lawfully-acquired types of weapons, many gun-owners are leery of being placed on any kind of government list—even if they are in full compliance with the (current) law.

For more on registration, see note 52 and accompanying text.

[106] The Supreme Court has ruled that the Constitution prohibits the government from registering purchasers of newspapers and magazines, even of foreign Communist propaganda. *Lamont, DBA Basic Pamphlets* v. *Postmaster General*, 381 U.S. 301 (1965). The U.S. Post Office intercepted "foreign Communist propaganda" before delivery, and required the addressees to sign a form before receiving the items. The Court's narrow holding was based on the principle that addressees should not have to go to the trouble of filling out a form to receive particular items of politically oriented mail. Since the Post Office had stopped maintaining lists of propaganda recipients before the case was heard, the Court did not specifically rule on the list-keeping practices. One may infer that the Post Office threw away its lists because it expected the Court would find them unconstitutional. See also *Thomas* v. *Collins*, 323 U.S. 516 (1944) (registration of labor organizers).

[107] 5 United States Code §552a(i)(1).

[108] Carl Ingram, "Gun Law Forces Mental Hospitals to Name Patients," *Los Angeles Times*, Feb. 7, 1991.

[109] For example, Arlington, Virginia, requires handgun applicants to "authorize a review and full disclosure of all arrest and medical psychiatric records." Form 2020–63 (Form 4/88).

[110] State of Illinois, Department of Public Safety, Firearm Owners Identification Application, question 9, FOID–1.

[111] State of New Jersey, "Application for Firearms Purchaser Identification Card," forms STS–3 (rev. 9–1–79).

[112] A number of studies have argued that former mental patients are no more prone to commit violent crimes than is the public as a whole. U.S. Senate Subcommittee on the Constitution, Judiciary Committee, "Hearings on the Constitutional Rights of the Mentally Ill," 91st Congress, 1st & 2d sessions (Washington: 1977), p. 277; B. Ennis, *Prisoners of Psychiatry* (1970), pp. vi, 225p G. Morris, "Criminality and the Right to Treatment," in *The Mentally Ill and the Right to Treatment* (1970), pp. 121–24; Livermore, Malmquist, & Meehl, "On the Justifications for Civil Commitment," 117 *University of Pennsylvania Law Review* 75, 83 n.22 (1969), all cited in David T. Hardy & John Stompoly, "Of Arms and the Law," 51 *Chicago-Kent Law Review* 62, 97 (1974).

Some studies have suggested that committal decisions are often unfair and incorrect. A. Wiley, "Rights of the Mentally Ill," p. 11; Ennis, p. vii.

[113] Rep. Marlenee, *Congressional Record*, Sept. 15, 1988, pp. H7643–44.

[114] For several months in 1970, the F.B.I. ran out of funds to process state requests for fingerprint checks. Some New Jersey chiefs of police stopped processing firearms permit applications, and told gun applicants to sue in court to obtain a license. J. Edgar Hoover, Director, Federal Bureau of Investigation, Letter to All Fingerprint Contributors, May 21, 1970; Joseph Santiago, "Chief Balks On Permits For Guns," *The Record*, July 10, 1970; John Spencer, "Registration of Guns Becomes Prohibition of Guns," (letter to the editor), *The Record*, n.d. (written Aug. 27, 1970).

[115] Testimony of Sergeant R.G. Pepersack, Md. St. Police Commander, Firearms Lic. Sect., before Subcomm. on the Const., June 16, 1987.

[116] Donald B. Kates, "On Reducing Violence or Liberty," *Civil Liberties Review*, (American Civil Liberties Union) August/September 1976, p. 56.

[117] Statement of Robert F. Mackinnon, on behalf of the Coalition of New Jersey Sportsmen, before the House Committee on the Judiciary, on *Legislation to Modify the 1968 Gun Control Act*, part 2, serial no. 131, 99th Congress, 1st and 2d sess., Feb. 27, 1986 (Washington, D.C.: Government Printing Office, 1987), p. 1418. According to the Department of Justice Task Force, the typical delay in New Jersey is 6 to 10 weeks. Task Force, p. 84.

[118] For a variety of cases of lawless enforcement of the gun laws, see *Motley* v. *Kellogg*, 409 N.E.2d 1207 (Ind. App. 1980) (police chief "denied members of the community the opportunity to obtain a gun permit and bear arms for their self-defense); *Schubert* v. *DeBard*, 398 N.E.2d 1339 (Ind. App. 1980) (police determination that self-defense did not constitute "good reason" for gun permit voided by court); *Buffa* v. *Police Dept. of Suffolk County*, 47 A.D.2d 841, 366 N.Y.S.2d 162 (2d Dept. 1975) (mere "withdrawal of police approval" was insufficient grounds to revoke license); *Storace* v. *Mariano*, 35 Conn. Sup. 28, 391, A.2d 1347, 1349 (1978) ("in my opinion, he is an unsuitable person to carry a gun" was not a suitable reason for denying a permit); *Salute* v. *Pitchess*, 61 Cal. App. 3d 557, 132 Cal. Rptr. 345, 347 (2d Dist. 1976) (sheriff's unilateral determination "that only selected public officials can show good cause for a permit" was illegal); *Schwanda* v. *Bonney*, 418 A.2d 163, 165 (Me. 1980) (voiding police effort to impose criteria not based on statute); *Iley* v. *Harris*, 345 So.2d 336, 337 (Fla. 1977).

[119] For some examples of the New York Police Department's flagrant abuse of the statutory licensing procedure, see: *Shapiro* v. *Cawley*, 46 A.D.2d 633, 634, 360 N.Y.S.2d 7, 8 (1st Dept. 1974) (ordering N.Y.C. Police Department to abandon illegal policy of requiring applicants for on-premises pistol license to demonstrate unique "need"); *Turner* v. *Codd*, 85 Misc. 2d 483, 484, 378 N.Y.S.2d 888, 889 (Special Term Part 1, N.Y. County, 1975) (ordering N.Y.C. Police Department to obey *Shapiro* decision); *Echtman* v. *Codd*, no. 4062–76 (N.Y. County) (class action lawsuit which finally forced Police Department to obey *Shapiro* decision).

Also: *Bomer* v. *Murphy*, no. 14606–71 (N.Y. County) (to compel Department to issue blank application forms for target shooting licenses); *Klapper* v. *Codd*, 78 Misc.2d 377, 356 N.Y.S.2d 431 (Sup. Ct., Spec. Term, N.Y. Cty.) (overturning refusal to issue license because applicant had changed jobs several times); *Castelli* v. *Cawley*, New York Law Journal, March 19, 1974, p. 2, col. 2 (Applicant suffered from post-nasal drip, and repeatedly cleared his throat during interview. His interviewer "diagnosed" a "nervous condition" and rejected the application. An appeals court overturned the decision, noting that the applicant's employment as a diamond cutter indicated "steady nerves.")

[120] Gary L. Wright, "Woman Won't Be Charged: Boyfriend's Slaying Ruled Self-Defense," *Charlotte Observer*, October 3, 1990.

[121] H.R. 7, §(a)(1)(B).

[122] Robert E. McSherly, Jr., letter to the Editor of *Orange County Register*, reprinted in Gun Owner's ACTION Committee, *We The People* (newsletter), September 1990, p. 7.

[123] *United States* v. *Panter*, 688 F.2d 268, 271 (5th Cir. 1982).

[124] Notably, many gun control activists do not consider self-defense legitimate. The United Methodist Church, which founded the National Coalition to Ban Handguns, and whose Washington office building also houses the NCBH, declares that people should submit to rape and robbery rather than endanger the criminal's life by shooting him. Methodist Board of Church and Society, "Handguns in the United States" (pamphlet); same statement in Rev. Brockway, "But the Bible Doesn't Mention Pistols," *Engage-Social Action Forum*, May 1977, pp. 39–40. The Presbyterian Church, another affiliate of the National Coalition to Ban Handguns, supports a complete ban on handguns because it opposes "the killing of anyone, anywhere, for any reason," including defense of others against a life-threatening attack. Rev. Young, Director of Criminal Justice Program for Presbyterian Church, testifying in 1985–6 Hearings on Legislation to Modify the 1968 Gun Control Act, House Judiciary Committee, Sub-

committee on Crime, vol. I, p. 128. The *Washington Post* condemns "the need that some homeowners and shopkeepers believe they have for weapons to defend themselves" as representing "the worst instincts in the human character," Editorial, "Guns and the Civilizing Process," *Washington Post*, September 26, 1972.

[125]. See, for example, *Bowers* v. *DeVito* 686 F.2d 616 (7th Cir. 1982) (no federal Constitutional requirement that police provide protection); *Calogrides* v. *Mobile*, 475 So. 2d. 560 (Ala. 1985); Cal. Govt. Code §§845 (no liability for failure to provide police protection) and 846 (no liability for failure to arrest or to retain arrested person in custody); *Davidson* v. *Westminister*, 32 Cal.3d 197, 185 Cal. Rep. 252; 649 P.2d 894 (1982); *Stone* v. *State* 106 Cal.App.3d 924, 165 Cal. Rep. 339 (1980); *Morgan* v. *District of Columbia*, 468 A.2d 1306 (D.C.App. 1983); *Warren* v. *District of Columbia*, 444 A.2d 1 (D.C. App 1981); *Sapp* v. *Tallahassee*, 348 So.2d 363 (Fla. App. 1st Dist.), *cert. denied* 354 So.2d 985 (Fla. 1977); Ill. Rev. Stat. 4-102; *Keane* v. *Chicago*, 98 Ill. App.2d 460, 240 N.E.2d 321 (1st Dist. 1968); *Jamison* v. *Chicago*, 48 Ill. App. 3d 567 (1st Dist. 1977); *Simpson's Food Fair* v. *Evansville*, 272 N.E.2d 871 (Ind. App.); *Silver* v. *Minneapolis* 170 N.W.2d 206 (Minn. 1969); *Wuetrich* v. *Delia*, 155 N.J. Super. 324, 326, 382 A.2d 929, 930, *certif. denied* 77 N.J. 486, 391 A.2d 500 (1978); *Chapman* v. *Philadelphia*, 290 Pa. Super. 281, 434 A.2d 753 (Penn. 1981); *Morris* v. *Musser*, 84 Pa. Cmwth. 170, 478 A.2d 937 (1984).

The law in New York remains as decided by the Court of Appeals the 1959 case *Riss* v. *New York:* the government is not liable even for a grossly negligent failure to protect a crime victim. In the *Riss* case, a young woman telephoned the police and begged for help because her ex-boyfriend had repeatedly threatened "If I can't have you, no one else will have you, and when I get through with you, no-one else will want you." The day after she had pleaded for police protection, the ex-boyfriend threw lye in her face, blinding her in one eye, severly damaging the other, and permanently scarring her features. "What makes the City's position particularly difficult to understand," wrote a dissenting opinion, "is that, in conformity to the dictates of the law, Linda did not carry any weapon for self-defense. Thus, by a rather bitter irony she was required to rely for protection on the City of New York which now denies all responsibility to her." *Riss* v. *New York*, 22 N.Y.2d 579, 293 N.Y.S.2d 897, 240 N.E.2d 806 (1958).

Ruth Brunell called the police on 20 different occasions to beg for protection from her husband. He was arrested only one time. One evening Mr. Brunell telephoned his wife and told he was coming over to kill her. When she called the police, they refused her request that they come to protect her. They told her to call back when he got there. Mr. Brunell stabbed his wife to death before she could call the police to tell them that he was there. The court held that the San Jose police were not liable for ignoring Mrs. Brunell's pleas for help. *Hartzler* v. *City of San Jose*, 46 Cal. App. 3d 6 (1st Dist. 1975). The year after wining the *Hartzler* case, the San Jose government appointed Joseph McNamara Police Chief. Chief McNamara has since become the leading police spokesman for HCI.

[126] The ⅓ figure comes from the author's conversion with Ms. Sherman, head of the Pennsylvania state police firearms unit, cited above. Part of the ⅓ drop-off may be caused by people who are disqualified by the local police background check, but (based on data from other states) ineligible buyers only account for, at most, a few percent of buyers. The rest of the ⅓ drop-off, therefore, is best explained by buyers changing their mind, as would buyers of virtually every product, if forced to make two trips for a single purchase.

[127] Research Associates, Inc., p. 34 (A firearms control program that substantially reduced gun sales would result in a tax revenue loss, in 1968 dollars, of over one hundred million dollars.)

[128] Gary Kleck, "The Relationship Between Gun Ownership Levels and Rates of Violence in the United States," in ed. Donald B. Kates *Firearms and Violence: Issues of Public Policy* (Cambridge, Mass.: Ballinger, 1984): 99–132.

[129] Task Force Draft, 54 Federal Register 43528, Oct. 25, 1989.

[130] Task Force, p. 10.

[131] Eleven states do not have automated records. Ten other states have less than 65% of their records automated. Task Force. p. 8.

[132] "Testimony of Gary L. Bush Chairman, Search Group, Inc., Before the Subcommittee on Crime of the House Judiciary Committee," January 25, 1990, p. 14.

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[155] Rep. Bosco derides the quaint notion that "gun purchasers in America should be considered innocent until they prove themselves guilty." *Congressional Record*, Sept. 15, 1988, p. H7651.

[156] The right to bear arms obviously includes the right to purchase them, just as the right to free speech includes the right to purchase printed matter.

[157] *Shelton* v. *Tucker*, 364 U.S. 479, 488 (1960). See also *Schneider* v. *State*, 308 U.S. 147, 161, 165 (1939); *American Communications Association* v. *Douds* 339 U.S. 382 (1950); *Louisiana ex rel. Gremillion* v. *NAACP*, 366 U.S. 293 (1961); *NAACP* v. *Alabama*, 377 U.S. 288, 307–8 (1963); *Talley* v. *California*, 362 U.S. 60 (1960); *Dean Milk* v. *Madison*, 340 U.S. 349 (1951).

[158] "[T]he legitimate governmental purpose in regulating the right to bear arms cannot be pursued by means that broadly stifle the exercise of this right where the governmental purpose can be more narrowly achieved." *State ex rel. Princeton* v. *Buckner*, 377 S.E.2d 139, 144 (W.Va. 1988). See also *City of Lakewood* v. *Pillow*, 180 Colo. 20, 501 P.2d 744, 745 (Colo. 1972) (voiding ban on gun sales within city limits and a requirement that persons carrying firearms be licensed: "Even though the governmental purpose may be legitimate and substantial, that purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved.")

[159] Some states with a license system are Indiana (license for handguns valid for 4 years); Iowa (handguns, 1 year); Massachusetts (all guns, lifetime); Minnesota (handguns, 1 year).

[160] Pennsylvania runs a state records check after the person picks up the handgun following a 48 hour wait. Task Force, pp. 82–83.

[161] Task Force, p. 83.

[162] Rep. Kennelly, *Congressional Record*, Sept. 15, 1988, p. H7650.

[163] The states with waiting periods for each handgun purchase are listed below. In some cases, the time period is not a minimum waiting period, but the maximum time the police are allowed to process an application for a permit to purchase a handgun [the time limits are not always observed, see Parts IV and V above]: Alabama (2 days); California (all guns, 15 days); Connecticut (all guns, 14 days); Hawaii (handguns, 15 days); Maryland (handguns and "assault weapons," 7 days); Michigan (handguns); Missouri (handguns, must issue within 7 days); New Jersey (all guns, 30 days); New York (handguns, 180 days); North Carolina (handguns, 30 days); Oregon (handguns, 15 days); Pennsylvania (handguns, 2 days); Rhode Island (all guns, 7 days); South Dakota (handguns, 2 days); Tennessee (handguns, 15 days); Washington (handguns, 5 days); Wisconsin (handguns, 2 days). *Identifying Persons, Other Than Felons*, p. 114, exhibit B.4 (and updated to account for 1990 changes in state laws).

[164] California and Rhode Island in 1990. Maryland extended its wait to "assault weapons" in 1989.

[165] "At close range, the shotgun is the most formidable and destructive of all arms . . . Unlike bullets, shotgun pellets rarely exit the body. Therefore, the kinetic energy of wounding in shotguns is usually equal to the striking energy . . . all the kinetic energy is transferred to the body as wounding effects." Vincent J.M. DiMaio, *Gunshot Wounds: Practical Aspects of Firearms, Ballistics, and Forensic Techniques* (New York: Elsevier, 1985), pp. 182–83.

"Shotgun injuries have not been compared with other bullet wounds of the abdomen as they are a thing apart . . . . [A]t close range, they are as deadly as a cannon." R. Taylor, "Gunshot Wounds of the Abdomen," *Annals of Surgery* 177 (1973): 174–75.

[166] The lead sponsors are Rep. Feighan in the House and Sen. Metzenbaum in the Senate.

[167] Forty-one states have some form of preemption. Of the 41, 36 are by statute, and 5 by judicial decree. Some of the preemption states (such as Massachusetts) allow local gun controls if the state legislature approves them; some other preemption states (like Virginia) have grandfathered in restrictive local ordinances.

[168] Rep. Hoyer (Maryland), *Congressional Record*, Sept. 15, 1988, p. H7640.

[169] *Kentucky* v. *Dennison*, 65 U.S. (24 How.) 66, 107–8 (1860) (state official's refusal to deliver escaped slave under Federal Fugitive Slave Act).

[170] The Tenth Amendment reserves state authority regarding powers not delegated the federal government: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

[171] Members of the Police Executive Research Forum (a think-tank for major urban police chiefs) supported an instant check over a firearms license card by a margin of 49% to 46%. Task Force, p. 113; Police Executive Research Forum, Comments on Justice Department's "Draft Report on Systems for Identifying Felons Who Attempt to Purchase Firearms," July 26, 1989, p. 2.

[172] The Attorney General of the United States insists that any verification system for firearms purchasers be at the point of sale, without further delays; he reasons that any check that would be significantly more accurate would take a month, and "Such a delay would impose an unreasonable burden on legitimate gun purchasers." Richard Thornburgh, Attorney General, Letter to Dan Quayle, November 20, 1989, p. 2; *Identifying Persons, Other Than Felons*, p. 91.

[173] In Florida, where an instant check began a few weeks before the publication date of this monograph, a man was denied the right to purchase because the police computer located a 10-year-old outstanding bench warrant. The warrant turned out to be for a lawsuit involving a bad check; the man had never even been told that a lawsuit has been filed against him.

[174] "U.S.'s Barriers to Employment Are Not Stopping the Influx," *New York Times*, October 9, 1989, p. A13 (quoting I.N.S. assistant director for investigation for Los Angeles. Several illegal workers said that a good set of papers cost $300.)

[175] 54 Fed. Reg. 43537.

[176] Task Force, p. 40.

[177] Task Force, p. 39.

[178] 54 Fed. Reg. 43546.

[179] Handgun Control, Inc., letter to Walter Barbee, Office of the Assistant Attorney General, July 26, 1989.

[180] Comments to the Task Force.

[181] Comments to the Task Force.

[182] 54 Fed. Reg. 43530.

[183] William S. Sessions, FBI Director, "The FBI and the Challenges of the 21st Century," *FBI Law Enforcement Bulletin*, January 1989, p. 3 (near-term feasibility of instant fingerprint readers in police cars).

[184] People without driver's licenses or other official identification might face delays if such a card were mandatory for a purchase. Currently firearms dealers may sell to someone whose identity they have verified, and verification may include personal knowledge. Currently, a small dealer can sell to a friend even if the friend does not present official identification, since the dealer knows the purchaser's bona fides based on personal knowledge.

[185] National Rifle Association, "Comments of the National Rifle Association of America, Inc. on Draft Report of Identifying Felons Who Attempt to Purchase Firearms," (July 26 1989), p. 30.

[186] In *Schneider* v. *State*, 308 U.S. 147, 164 (1939), the Court voided a New Jersey Law requiring pamphleteers to undergo a "burdensome and inquisitorial examination, including photographing and fingerprinting." New Jersey, noted for its disdain of Second Amendment rights, apparently needs to be repeatedly reminded to obey the First Amendment as well. Despite the plain language of *Schneider*, a New Jersey township enacted a law requiring political canvassers to be finger printed. A federal appeals court found the fingerprinting, "stigmatizing, and an inappropriate burden on their right to do political work." *New Jersey Citizen Action* v. *Edison Township*, 797 F.2d 1250, 1262–65 (3d Cir. 1986), *cert. denied*, 479 U.S. 1103 (1987).

[187] As the Task force explained, "the biometric card does not solve the problem of individuals using fraudulent 'breeder' documents, such as birth certificates, to obtain the biometric ID card."

[188] Wright & Rossi, p. 191. The "McClure-Volkmer" firearms law reform in 1986 enhanced penalties for gun transfers to felons. 18 United States Code §922(d).

[189] Virginia Code §18.2.–108.1(1988).

[190] The measure would be Constitutional according to the principles of *Paul* v. *Davis*, 424 U.S. 693 (1976) (distribution of names and photos of "active shoplifters" to retail stores).

[191] 18 United States Code §3013.

[192] *United States* v. *Cruikshank*, 343 U.S. 542, 551–553 (1876). The Court stated that the rights to peaceably assemble and to keep and bear arms were not created by the Constitution, but merely recognized in

the document. Those rights, the Court said, were not dependent on the Constitution for their existence, but were found "wherever civilization exists."

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Illinois.

Mr. DIXON. Mr. President, I want to thank my friend, the distinguished senior Senator from Idaho, for his usual courtesy. I appreciate very much his yielding the floor so I can have an opportunity to send an amendment to the desk that has been agreed to on both sides, Mr. President.

AMENDMENT NO. 435

(Purpose: To amend title 18 of the United States Code to punish as a Federal criminal offense the acts of international parental child kidnaping)

Mr. DIXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois was to be recognized to offer an amendment. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DIXON], for himself and Mr. RIEGLE, proposes an amendment numbered 435.

Mr. DIXON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

TITLE —INTERNATIONAL PARENTAL CHILD KIDNAPPING

SEC. 01. OFFENSE.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—(1) Chapter 55 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1204. International parental child kidnapping

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'child' means an individual under the age of sixteen at the time the offense occurred;

"(2) the term 'person' means a parent, putative parent, or family member related to the child victim by blood or marriage;

"(3) the term 'lawful custodian' means—

"(A) an individual or individuals granted legal custody or entitled to physical possession of a child pursuant to a court order; or

"(B) the mother of the child when the parents have not been married to each other, the father's paternity has not been established by a court of law, and no other individual has been granted custody of the child by a court of law;

"(b) Any person who—

"(1) intentionally removes a child from or conceals or detains a child outside the territorial jurisdiction of the United States—

"(A) without the consent of the individual who has been granted sole custody, care, possession, or guardianship of the child;

"(B) for more than 90 days without consent of the other joint custodial parent;

"(C) in violation of a valid court order which prohibits the removal of the child from a local jurisdiction, State, or the United States;

"(D) without the consent of the mother or lawful custodian of the child if the parents have never been married to each other and the father has never established paternity in a court of law;

"(E) during the pendency of a judicial proceeding affecting marriage, custody, or paternity, but prior to the issuance of a temporary or final order determining custody;

"(F) when the child was taken with physical force or the threat of physical force; or

"(G) if the parents of such child are or have been married to each other, or have never been married to each other, but paternity has been established by a court of law, and there has been no court order of custody, and conceals the child for fifteen days outside the jurisdiction of the United States, and fails to make reasonable attempts within the fifteen-day period to notify the other parent of the whereabouts of the child or to arrange reasonable visitation or contact with the child;

"(2) being a parent of the child, instructs another person to remove, conceal, or detain the child when that act when committed by the instructing parent would be a violation of this section; or

"(3) removes a child from or conceals or detains a child outside the territorial jurisdiction of the United States, for payment or promise of payment at the instruction of a person who has not been granted custody of the child by a court of law,

shall be guilty of child kidnapping and shall be fined in accordance with this title or imprisoned not more than three years, or both.

"(d) It shall be an affirmative defense under this section that—

"(1) the defendant acted within the provisions of a valid court order granting the defendant legal custody or visitation rights and that order was obtained pursuant to the Uniform Child Custody Jurisdiction Act and was in effect at the time of the offense;

"(2) the defendant was fleeing an incidence or pattern of domestic violence;

"(3) the defendant had physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond the defendant's control, and the defendant notified or made reasonable attempts to notify the other parent or lawful custodian of the child of such circumstances within 24 hours after the visitation period had expired and returned the child as soon as possible.

"(e) There is criminal jurisdiction over conduct prohibited by this section if any court in the United States has or could have jurisdiction to determine custody of the child subject to the prohibited conduct pursuant to the Uniform Child Custody Jurisdiction Act.".

(2) The table of sections for chapter 55 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1204. International parental child kidnapping.".

(b) INCREASED PENALTY.—Section 994 of title 28, United States Code, is amended by—

(1) redesignating subsections (o), (p), (q), (r), (s), (t), (u), (v), (w), and (x) as subsections (p), (q), (r), (s), (t), (u), (v), (w), (x), and (y), respectively; and

(2) inserting after subsection (n) the following new subsection:

"(o) The Commission shall ensure that the guidelines reflect the appropriateness of imposing a greater sentence than would otherwise be imposed for an offense under section 1204 of title 18, United States Code, if—

"(1) the defendant abused or neglected the kidnapped child during the removal, concealing, or detaining of the child or placed or caused the child to be placed in the care of another individual who abused or neglected the child;

"(2) the defendant inflicted or threatened to inflict physical harm on the child or on a parent or lawful custodian of the child with the intent to cause such parent or lawful custodian to discontinue criminal prosecution of the defendant under this section;

"(3) the defendant demanded payment in exchange for return of the kidnapped child or demanded that the defendant be relieved of the financial or legal obligation to support the child in exchange for return of the child; or

"(4) the defendant committed the offense while armed with a deadly weapon or the removal of the child resulted in serious bodily injury to another individual.".

SEC. 02. EFFECT OF PRIOR REMOVAL.

If a child was removed from the territorial jurisdiction of the United States prior to the date of enactment of this Act, charges under section 1204 of title 18, United States Code, as added by section 01, may be brought only in cases involving the concealing or detaining of the child in violation of a court order that was in effect at the time of the child's removal from the territorial jurisdiction of the United States.

SEC. 03. RELATION TO THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL PARENTAL CHILD ABDUCTION.

(a) RULE OF CONSTRUCTION.—None of the provisions of this title or amendments made by this title shall be construed to detract from the provisions of the Hague Convention on the Civil Aspects of International Parental Child Abduction, done at the The Hague on October 25, 1980.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that, inasmuch as use of the procedures under the Hague Convention on the Civil Aspects of International Parental Child Abduction has resulted in the return of many children, those procedures, in circumstances in which they are applicable, should be the option of first choice for a parent who seeks the return of a child who has been removed from the parent.

SEC. 04. AUTHORIZATION OF APPROPRIATIONS FOR TRAINING AND EDUCATIONAL PROGRAMS.

There is authorized to be appropriated $250,000 to conduct national, regional, and State training and education programs on criminal and civil aspects of international and interstate parental child abduction under the State Justice Institute Act of 1984 (42 U.S.C. 10701 et seq.).

Mr. DIXON. Mr. President, my amendment has been agreed to on both sides. It is essentially similar to S. 1236, the International Parental Kidnaping Act of 1991, closes a loophole in current Federal law which allows for the unabated kidnaping of America's children by their parents or legal guardians. This amendment tells America's parents that no longer is parentage an excuse for kidnaping their children.

Let us be frank about this crime, Mr. President. In most instances, the abducting parent is not acting in the best interests of the child. He or she is acting out against the other parent or legal custodian, and the child is used as a pawn. In those instances where a parent takes a child out of the country for legitimate purposes, or in compliance with a valid court order of custody, there are affirmative defenses provided in the bill.

As the leader in the effort to protect America's children from international parental child abduction, I am committed to enacting legislation that will increase the likelihood that an abducted child will be returned to their left-behind parent.

One of the most effective means available to parents at this time is the Hague Convention on the Civil Aspects of International Parental Child Abduction, to which the United States became a party to in 1988. Some 20 countries have ratified the convention, and children are being returned under the provisions of the convention.

However, most nations of the world are not a party to the convention. More must and can be done to help resolve these situations. This amendment will help.

First, it will increase the possibility of extradition of an abducting parent, and at a minimum, increase our leverage for the return of the child in the face of an extradition proceeding.

At present, a left-behind parent can seek relief through the unlawful flight to avoid prosecution statute, otherwise known as a UFAP. However, according to the Department of Justice's comments on similar legislation in the 101st Congress, the UFAP "has been of limited effectiveness when the fugitive parent flees to a foreign country." Further, the Department of Justice states, "it is our understanding that the UFAP statute is not an extraditable offense under any existing treaty." A UFAP warrant will "rarely, if ever, provide a basis for compelling the return of a fugitive parent from abroad."

This amendment is also needed to deter future abductions. The Hague Convention, according to officials at the State Department, has served to deter abductions. There is every reason to believe criminal prosecutions of international parental child abduction will serve as a deterrent as well.

Last, this amendment will strengthen the hand of U.S. officials when working with foreign governments to seek the return of an abducted child. Unless the United States takes this crime seriously, and making this a Federal felony shows we do take it seriously, why should any other country take our pronouncements on the subject seriously? If we are serious about this doing all we can to get our abducted children back, then let us make the act of international parental child abduction a Federal felony.

Mr. President, in view of the fact that I apparently have a little time, I would like to share with my colleague in the chair, because he is a former distinguished attorney general in the State of Connecticut, a man that I hold in very high regard, the history of how I got into this.

Some years ago, a lady, who is a registered nurse in Cicero, IL, contacted me. She was married to a Saudi Arabian man from a family of stature in Saudi Arabia. In the course of that marriage, she had two lovely daughters. The gentleman was a man who drank excessively, beat her, beat the children. Ultimately, she obtained a divorce in the Circuit Court of Cook County, IL, in Chicago.

Now, both parties were served; both parties had lawyers.

Thereafter, she was reluctant to let the father visit with the two daughters because of his past performance and the fact that, when he was intoxicated, he would beat the children. But her lawyer advised her she must give him an opportunity for visitation. Being a decent, law-abiding citizen, she did. At the first opportunity, he took the two children out to O'Hare Airport and flew them to Saudi Arabia, where they remain to this day.

Mr. President, the outrageous nature of this situation is, I tell you with sincere regret, the Saudi Arabian Government gives women no standing in their courts. This poor woman has no redress in the courts of Saudi Arabia and no way to get these two daughters back. This Senator has spent years trying to influence the Saudi Arabian Embassy. I have met with their people in this country. They have had lawyers in my office discussing this with me. All through the experiences we have had, including this last Mideastern experience with Desert Storm, we have continued to try to get these two little girls back to their lawful, custodial mother in Cook County, IL, and throughout this terrible, agonizing experience for her she has been rejected at every turn.

When I first looked into this, I found, Mr. President, that the State Department, frankly, was not doing much to help. I put an amendment on a State Department authorization bill several years ago directing the State Department to do certain things. I am delighted to say that a good friend of mine at that time was in the State Department, in the Reagan administration, Ed Derwinski, who is now the distinguished Secretary of Veterans Affairs, who had served with me as a Republican member of the Illinois House years ago when I was a kid in the Illinois House, and served with great distinction, I think 20 years or more, as a U.S. Congressman from the southern area of Cook County and Will County, IL, in my State. He was kind enough to take it upon himself to help me with the State Department. We later met with folks there who finally developed a consensus for having a desk in every Embassy in the world where some individual would be the point person that folks having abducted children could talk to in any country in the world. That has helped a little bit, not much.

I was one of the major supporters of and made many speeches in this Chamber for The Hague Convention. That helped a little but not a lot. The problem is only about 20 countries belong to the Hague Convention. The Chair would know which ones they are: England, the United States, Canada, France, Germany—the countries you expect would belong.

The plain fact is in the Middle East when these problems occur, in most cases if women are parents of children and their husbands leave them and take the children, they have no standing in the courts in that part of the world. It is an outrage. There are 4,000 cases, Mr. President, in the United States of America of lawful custodial parents who have lost their children through illegal acts of abduction by the parent that was not entitled to custody.

Just the other day I had a call from Newsweek magazine, which apparently is doing an article on this, may I say, Mr. President. Do you know one of the things they are doing an article on? Do you know what has happened in this country? There is an industry down in either North or South Carolina, one of the Carolinas—I apologize; I cannot remember which one—where some form of delta force type officials have set up shop. What they will do for you, if you can afford it and you can pay the price, is go steal the child back, go into the foreign country fully armed to the teeth and in the dark of night kidnap back the child. That is the state of the international law in the world today. I think it is an outrage.

Now, somebody might say, well, it is not a very big problem. I know 4,000 people in a country of this size is not a very big number. I am going to tell you, Mr. President, if you have ever had a personal experience with one of those problems—and I know the Presiding Officer is a father himself, and I am a father three times and a grandfather seven times—there is no problem that will compare with the loss of a child and the grieving and the suffering that goes on as a consequence of it.

I do not know, Mr. President, to what extent this will solve the problem. This is the fourth time, may I say to the Presiding Officer, I have put this amendment on a major and practically important piece of legislation in the hopes that it would become the law.

I hope this crime bill is going to survive, Mr. President. I think this crime bill will be a survivor. We have accommodated the administration in almost every way, including habeas corpus, with the possible exception of the exclusionary rule, which has been improved some by the distinguished chairman of the committee and the senior Senator from Delaware. But I think we have a doggone good bill here that addresses crime in America. While there could be some differences of opinion about what we are doing on guns, and this Senator certainly realizes that, basically we have a bill that the average American thinks ought to become law. So I hope that this amendment, which has been agreed to on both sides, will finally become law and 4,000 parents in America, who have been denied their own children that they were awarded legal custody of in the court, will finally have an opportunity, through the extradition process, this now elevating this situation to the crime of kidnaping, to obtain the restoration of their lawful custodial rights and the custody of their children.

Mr. President, I thank the chairman of the committee, the distinguished manager on this side, and I thank the ranking member and the distinguished manager on the other side for their cooperation and ask that we have a rollcall vote at this time on the adoption of my amendment.

The PRESIDING OFFICER (Mr. ROBB). Is there sufficient second?

There is not a sufficient second.

Mr. DIXON. I just want a vote, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Illinois.

The amendment (No. 435) was agreed to.

Mr. DIXON. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, at an appropriate time it will be my intention to offer an amendment which will take the form of a sense-of-the-Senate amendment, and in order to effectively use the time remaining I would like to make some comments about that proposal at this time.

Mr. President, in 1988 we considered the last major crime and antidrug bill. I offered an amendment to direct the General Accounting Office to review the issue of balance in the criminal justice system.

What does balance in the system mean? It means that there is a relationship among the various parts of the criminal justice system which must be synchronized if we are to accomplish the objective of deterrence, effectiveness, and judicial efficiency.

What is the criminal justice system made up of? You can think of it roughly in three parts; what I could call the beginning of the system, which is essentially those aspects that are responsible for attempting to deter crime, to investigate crime, to make arrests, and then to bring prosecution. The middle part of the system is the judicial system in which those prosecutions are heard. The end of the system is the consequences for those persons who have been subject to some legal sanction, whether it is probation, parole or incarceration.

If any one of those three parts of the system is imbalanced, for instance is inadequately supported, it will cause serious disruption in the rest of the system.

Today, we are particularly aware of the deficiencies at the end of the system. Virtually all of our States and the Federal penal system are woefully overcrowded; therefore resulting in such diverse circumstances as inmates receiving only a small fraction of the sentence to which they were referred, persons who under normal circumstances would have been incarcerated being released on probation or parole because of the inadequacies within the penal system.

Mr. President, I want to focus today on the middle part of the system, the courts.

The GAO report released in April of this year entitled "Criminal Federal Justice System, A Model to Estimate System Workload," is based on some of the work which has been done in the various States, including my State of Florida, to tempt to analyze through computer modeling what would be the implications of actions on one part of the criminal justice system, and on the balance of the system.

For instance, we know that if we add an additional 100 DEA agents, drug enforcement agency agents, they will make an additional number of arrests. The whole purpose of increasing the capacity at the front end of the system is to do a superior job in the investigation and in the arrest and subsequent prosecution function.

That increased capacity is going to then impact the middle part of the system, which is our Federal courts.

One of the most striking conclusions in this study, Mr. President, is the fact that as a result of what we have done recently in terms of increasing the front end of the system, including the ability to bring cases and prosecute cases to U.S. district attorneys' offices was 62,400. The estimate is that by the end of fiscal year 1992—that would be September 30, 1992, or 2 years later—that number will be reduced to 28,400.

We should take considerable pride in the fact that we have funded the front end of the system sufficiently to not only make a significantly larger number of cases, but to actually bring those cases to the courts. Where we should not be so happy, Mr. President, is what we have done to the middle part of the system. The same report indicates that as of October 1, 1990, there were 49,400 cases pending in our Federal district courts. All of these statistics refer exclusively to criminal cases.

But the projection is that by 2 years later, September 30, 1992, there will be 69,300 cases pending in the Federal district courts.

So we are constipating the criminal justice system in the middle section by the inadequacy of our Federal judicial system to be able to process the number of cases that the front end of the system is now developing.

I suggest that we are exacerbating that problem by what we are doing today, and we are doing this in a very noble cause. We want to strengthen the ability of Federal agencies in cooperation with State and local law enforcement agencies to better protect our people by being better able to deter, and when crime occurs, to investigate and make arrests and bring prosecutions.

We are, by the whole series of actions which we are taking here, substantially adding to the burden of the Federal district court.

I have a letter, which ask unanimous consent, Mr. President, to be printed in the RECORD, dated June 27, 1991, from the General Accounting Office, in which the GAO extrapolates on the analysis used in its April report against the original bill as reported by the Judiciary Committee.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GENERAL ACCOUNTING OFFICE,
Washington, DC, June 27, 1991.

Hon. BOB GRAHAM,
U.S. Senate.

DEAR SENATOR GRAHAM: As requested, we have used our federal criminal justice system model to estimate the national workload impact on the federal criminal justice system of enacting the budgetary increases provided by Title X of S. 1241, "The Violent Crime Control Act of 1991."

Title X would provide an additional $345.5 million to federal law enforcement agencies, U.S. Attorneys, the courts, and support agencies, such as the Marshals Service and Defenders Service for criminal law enforcement. These increases would be in addition to any other appropriations. Our workload estimates assume that these increases would be in addition to any increases included in the President's fiscal year 1992 budget request.

The bill includes an additional $100.5 million for the Drug Enforcement Administration; $98 million for the Federal Bureau of Investigation; $45 million for the Immigration and Naturalization Service; $15 million for the Bureau of Alcohol Tobacco and Firearms; $45 million for the U.S. Attorneys; $20 million for the federal courts; $12 million for the federal Defenders' Service; and $10 million for the Marshals Service.

The workload estimates provided below assume that existing investigative and prosecutorial priorities and policies will remain essentially unchanged.

The principal probable impact of enacting these budgetary increases would be to increase substantially an already growing backlog of criminal defendants in the federal courts. Our model estimates that the district court backlog could grow by about 29,000 defendants by the end of fiscal year 1992. Using the federal court's estimated overall average of 1.4 defendants per criminal case, this means an additional backlog of about 21,000 cases. (Drug cases average 1.9 defendants per case).

Overall, the proposed budgetary increases could result in about 6,000 more persons referred to the U.S. Attorneys for prosecution; an additional 29,000 persons indicted by the U.S. Attorneys (including persons already referred to the U.S. Attorneys, but against whom action has not yet been taken); and an increase of about 29,000 defendants pending in federal district courts at the end of 1992, for a total of about 98,000. Using the Defenders Service estimate that about 75 percent of all criminal defendants require a court-appointed attorney, an additional 22,000 persons could need such representation.

The principal constraint on the courts ability to deal with the increased workload is the number of available district court judges. Last year, Congress authorized an additional 74 district court judgeships for a total 649. The model's estimates are based on an Administrative Office projection that about 612 of these 649 positions will be filled in fiscal year 1992. Because it is not anticipated that enactment of this bill would lead to an increase in the number of judicial positions filled, the number of defendants the courts could handle would be expected to be about the same with or without the bill's passage.

Of course, judges could increase the number of criminal defendants adjudicated if they increase the proportion of their time devoted to criminal cases. Our model's estimates assume that nationally district court judges will continue to spend about 40 percent of their time on criminal cases. If judges increase the percentage of time devoted to criminal cases, it is likely to mean delays in civil cases. In some districts, judges already devote more than half their time to their criminal caseload.

Sincerely,

LOWELL DODGE,
Director, Administration of Justice Issues.

Mr. GRAHAM. Mr. President, just to quote a few sentences from this letter: It states that title X of this bill would provide an additional $345.5 million to Federal law enforcement agencies, U.S. attorneys, the courts, the support agencies such as Marshals Services and Defendant Services for criminal law enforcement. These increases would be in addition to any other appropriation.

The bill includes an additional $105 million for DEA, $98 million for the FBI, $45 million for Immigration and Naturalization, $15 million for the Bureau of Alcohol, Tobacco, and Firearms, $45 million for U.S. attorneys, $20 million for the Federal courts, $12 million for Federal Defenders' Services and $10 million for the Marshals Service.

The estimate is "the principal probable impact of enacting these budgetary increases would be to increase substantially an already growing backlog of criminal defendants in the Federal courts. Our model estimates that the district court backlog would grow by about 29,000 defendants by the end of the fiscal year 1992,"

As I indicated in my previous statement prior to this, we were estimating a backlog of 69,300. We are about to increase that by another 29,000.

What can we do? I would suggest that there have been two principal areas of concern relative to adequate capacity of our Federal district courts, Mr. President.

First, we have been creating Federal district courts on essentially a historical basis. The process is that the judicial conference, which is chaired by the chief justice and membered by Federal judges, looks at what has happened in the past in terms of the number of case files. Then it recommends, based on that historical information, what number of new Federal courts from the appellate to the district level should be created. That recommendation goes to the appropriate committees of the Congress, and through the legislative process those positions are eventually considered, and possibly created.

The difficulty with this is that our actions, in creating additional crimes, increasing capacity to enforce those crimes, is causing an avalanche against the Federal district courts, which that retroactive analysis is never going to close.

We will never be able to make up the backlog, as long as we are proceeding in that manner. And so the sense-of-the-Senate proposal that I intend to offer would state that it is the sense of the Senate that the Judicial Conference should be encouraged to no longer rely solely on historical data to make its recommendations to Congress for additional judgeships, but should also utilize a workload model program designed to anticipate increased criminal violence resulting from no increased funding in one important component of the Federal court justice system and to take into account the time expended in the appointment and confirmation process.

It is that second item which represents the other part of our cause of this problem. During the current administration, it has taken an average of 502 days from the time of judgeship becomes vacant, either because of death, resignation, or the creation of a new judicial position, until that position is actually filled with a real live human being, which means, Mr. President, that under our current circumstance, we are talking about a delay of in the range of 2 to 3 years from the time the Judicial Conference, based on historic information, recommends that a vacancy be filled or that a new position should be created until it actually is filled. While that is happening, thousands and thousands of cases are being backlogged in the Federal district courts.

So the second thing we need to do is to encourage at both the White House level, Department of Justice, and within our confirmation process, a more expedited process. I do not mean that we should be lax in terms of standards, but we need a sense of the importance of filling these vacant positions, a sense of urgency, which I do not believe has been evinced during this current administration.

I want to commend Chairman BIDEN for the expeditious handling of those nominations for purposes of confirmation. I use the specific example of our State of Florida, where we currently have close to a crisis—if that word is not appropriately applied—in our Federal judiciary. There are 31 district court positions in Florida. As of today, 10 of those positions are vacant.

What have been the consequences? The consequences have been that the courts in the middle district of Florida, which stretches from Jacksonville to southwest Florida, are not hearing civil cases. If you have an environmental case, or an S&L issue, or any other civil case that requires a Federal judge for disposition, you have to wait in a line that does not move, because no civil cases are being considered by the regular judges in the middle district of Florida, because of their nine positions. Four of them are now vacant.

I commend Chairman BIDEN's sensitivity to this issue. When the President did finally accommodate two individuals to fill two of those four vacancies, he has expedited their hearings and has made it possible for their confirmation to occur as rapidly as possible.

Mr. President, we are facing a very serious problem, one which I think has largely been overlooked in much of the debate we have had the past few days. We have casually adopted provisions to require additional Federal procedures. For instance, one of the amendments that we considered yesterday will require that, under certain circumstances, State prisoners will now have additional Federal sanctions imposed against them. That means more criminal justice filings for our Federal district courts. We have done these things all in the spirit of trying to protect our people, but have also done it in the ignorance of what that implication would be for the totality of our Federal criminal justice system.

Mr. President, I conclude by saying that, at the appropriate time, I hope that the Senate will consider the sense-of-the-Senate proposal that I will offer, which essentially is a directive to the Judicial Conference, urging that it take anticipatory analysis of the needs of the Federal judiciary, and that the White House and Department of Justice will be more sensitive and will give a greater priority and sense of responsibility for the urgency in filling these vacancies, so that our Federal district courts can fulfill their very central role in a functioning, balanced Federal criminal justice system.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

AMENDMENT NO. 436

(Purpose: To modify the eligibility criteria for assignment to boot camp prisons, and for other purposes)

Mr. LEVIN. Mr. President, I send an amendment to the desk which I understand has been cleared by both sides.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 436.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 162, lines 20 and 21, strike "National Drug Control Policy" and insert "the Bureau of Prisons".

On page 162, line 22, strike "Bureau of Prisons" and insert "National Drug Control Policy".

On page 164, line 11, strike "9" and insert "15".

On page 164, lines 22 through 25 and page 165, line 1, strike "Any person who has been convicted of a criminal offense in any State, or who anticipates entering a plea of guilty of such offense, but who has not yet been sentenced, may apply to be assigned to a boot camp" and insert "The head of a State corrections department or the head's designee may apply for boot camp placement for any person who have been convicted of a criminal offense in that State, or who anticipates entering a plea of guilty of such offense, but who has not yet been sentenced".

On page 165, line 4, strike "counsel for the applicant" and insert "the head of the State corrections department or the head's designee".

On page 165, line 8, strike "14" and insert "30".

On page 166, line 6, strike "if the defendant" and all that follows through line 9 and insert "if the defendant is eligible for assignment to a boot camp under State law.".

On page 166, strike lines 16 through 24 and insert the following:

(4) Any State referring a prisoner to a boot camp shall reimburse the Bureau of Prisons for the full cost of the incarceration of the prisoner, except that if the prisoner successfully completes the boot camp program, the Bureau of Prisons shall return to the State 20 percent of the amount paid for that prisoner. The total amount returned to each State under this paragraph in each fiscal year shall be used by that State to provide the aftercare supervision and services required by paragraph (e).

On page 166, after line 24, add the following:

(e) POST-RELEASE SUPERVISION.—(1) Any state seeking to refer a State prisoner to a boot camp prison shall submit to the Director of the Bureau of Prisons an aftercare plan setting forth the provisions that the State will make for the continued supervision of the prisoner following release. The aftercare plan shall also contain provisions for educational and vocational training and drug or other counseling and treatment where appropriate.

(2) The Bureau of Prisons shall develop an aftercare plan setting forth the provisions that will be made for the continued supervision of Federal prisoners following release. The aftercare plan shall also contain provisions for educational and vocational training and drug or other counseling and treatment where appropriate.

On page 167, line 1, strike "(e)" and insert "(f)".

One page 167, line 3, after "1992" insert ", available until expended,".

Mr. LEVIN. Mr. President, Senator BIDEN's bill contains a provision for the establishment of 10 boot camp prisons at closed military installations to serve both State and Federal prisoners. My amendment expands the number of individuals who would be eligible for boot camp placement and gives greater recognition to the experience of the States in operating their boot camp programs.

Boot camps provide an intensive, short-term confinement for young adult offenders who have not been previously imprisoned. Twenty-three States now include boot camps as part of their corrections programs, and the Federal Bureau of Prisons has introduced a modified boot camp program—which they call "intensive incarceration"—on a pilot basis.

Offenders typically spend between 90 and 180 days in boot camps. During that period, they are subject to rigorous discipline, hard work, physical labor, and a military type atmosphere that leaves no room for street-smart talk or actions. If an offender cannot make it through the boot camp program, he is either returned to the sentencing judge or, in some States, to the corrections department, for reassignment to a normal prison term, which is generally longer than the boot camp term.

The Subcommittee on Oversight of Government Management, which I chair, held two hearings on boot camp prisons last year. The subcommittee staff and I visited boot camps in my home State of Michigan and Florida. We were impressed with what we observed.

As traditional prisons at every level of the criminal justice system become more and more overcrowded, leading to early release for some and a search for alternatives to incarceration for others, boot camps are a practical approach to the problem for carefully selected types of criminals.

First, boot camps are serious punishment. They also serve as a deterrent and they help ensure that those who break the law are held accountable for their actions. At the same time, boot camps help to break the cycle of crime. Too often, our prisons—State and Federal—are graduate schools of crime. Offenders, particularly the younger ones, often come out of traditional prisons more hardened and less likely to become useful members of society than when they went in. Boot camp prisons hold promise as a way out of this dilemma.

Last year, Senator COATS and I offered a boot camp amendment that was included in the 1990 crime bill. That amendment called for Federal aid to States to help them create or expand boot camp programs. The amendment attracted widespread, bipartisan support and is now law.

Senator BIDEN's current proposal takes another step by calling for an ambitious expansion of the boot camp concept, using the Federal prison system to make boot camp available to both State and Federal prisoners.

The purpose of my amendment this morning is to strengthen the Biden proposal by enlarging the class of prisoners who could be eligible for this type of incarceration based on what we have learned from the States' experience.

First, my amendment would change the eligibility criteria for Federal prisoners to be placed in boot camp from level 9 under the Federal sentencing guidelines to level 15. In practical terms, this means moving from first-time offenders who are facing 4-to-10 month sentences up to offenders facing up to 2-year sentences.

The experience of States with boot camp programs indicates that even offenders facing up to 5 years in prison can be successful in boot camps. This is in large part because, despite the length of potential sentence, these individuals have never been locked up before. It is also true because the threat of a longer sentence gives prisoners an incentive to complete a far more rigorous boot camp program. However, because I believe it is better to be cautious in this area, my amendment increases the maximum sentence eligible for consideration to 2 years for Federal prisoners.

The second part of my amendment deals with the eligibility of State prisoners for boot camp placement. As I've noted, 23 States have already started boot camp programs, and some of them have been up and running for 7 or 8 years. These States have given a lot of thought to who should be placed in boot camp. In some States, the criteria have been refined over time, based on the States' experience in running a boot camp day-to-day.

My amendment would take advantage of this reservoir of State expertise by deferring to State law in defining which State prisoners are eligible for placement in these new boot camps. Under Senator BIDEN's proposal, only drug offenders and those who have failed a drug test could be sent to boot camp. I think that these types of offenders are good candidates for boot camp but they are not the only ones.

In my State of Michigan, for example, corrections officials assign offenders convicted of nondrug-related crimes such as breaking and entering, receiving stolen property, assault, and car theft to boot camp. This is simply an area where the States are ahead of the Federal Government, and I think we should let the States use the knowledge they've acquired to help make this new boot camp proposal work.

My amendment makes several other changes. The bill as currently drafted gives the drug czar principal responsibility for choosing boot camp sites, with the Bureau of Prisons serving in an advisory role. This does not make sense, given the Bureau of Prisons' expertise in corrections matters. Therefore, my amendment reverses this relationship by making the Bureau of Prisons the lead agency and the drug czar the adviser.

Also, the bill as currently drafted would allow State prisoners to apply directly for placement in these new boot camps. I think it is more appropriate and wiser to have State corrections departments perform that job and retain control over assignment decisions. My amendment, therefore, would require the State corrections departments to apply for boot camp placement on behalf of State prisoners.

Finally, we learned something else from our hearings and our conversations with State corrections officials last year. Sending a prisoner to boot camp for 90 days or 180 days—however tough the program is—is not going to turn someone's life around in and of itself. There has to be follow-through. Once a prisoner is done with boot camp, he needs to be placed in a situation where the positive new attitudes and sense of responsibility can grow. This may mean a half-way house or intensive probation; it may mean alcohol or drug abuse counseling; it may mean vocational education or literacy training; or it may mean help finding a job.

Whatever it takes in a particular case, the lessons a prisoner learns in boot camp need to be reinforced on the outside if they are going to take hold. My amendment requires that the Federal Government and States that want to place prisoners in boot camp must have plans in place for providing postrelease supervision and services before boot camp placement is permitted, in order to help make sure that the lessons of boot camp stick.

Mr. President, I thank the managers of the bill for clearing the amendment and yield the floor.

The PRESIDING OFFICER. Is there additional debate?

If not, the question occurs on amendment No. 436 proposed by the Senator from Michigan.

The question is on agreeing to the amendment of the Senator from Michigan.

The amendment (No. 436) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. BURNS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. I thank the Chair.

Mr. BURNS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WELLSTONE). Without objection, it is so ordered.

AMENDMENT NO. 440

(Purpose: To amend the definition of "serous drug offense" in section 924 of title 18, United States Code.)

Mr. SEYMOUR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator should be aware that under the agreement his amendment would not be in order at this time.

Mr. SEYMOUR. Mr. President, I believe the amendment has been cleared by both sides.

The PRESIDING OFFICER. Without objection, the clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from California [Mr. SEYMOUR] proposes an amendment numbered 440.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . DEFINITION OF SERIOUS DRUG OFFENSE.

Section 924(e)(2)(A) of title 18, United States Code, is amended by—

(1) adding "or" at the end of clause (ii); and

(2) adding at the end thereof the following new clause:

"(iii) an offense under State law which, if it had been prosecuted as a violation of the Controlled Substances Act as that Act provided at the time of the offense, would have been punishable by a maximum term of ten years or more;".

Mr. SEYMOUR. Mr. President, this amendment which I proposed and was adopted yesterday was inadvertently stricken when the Senate agreed to strike portions of title 12 of S. 1241. I understand that both sides agreed to this amendment, and I thank the Republican leader and the distinguished senior Senator from South Carolina for bringing it to my attention.

Unless there is any objection, Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 440) was agreed to.

Mr. SEYMOUR. I move to reconsider the vote.

Mr. BURNS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SEYMOUR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I ask unanimous consent that we set aside the legislation before us and permit me to read a statement as if in morning business.

Mr. LEAHY. Mr. President, reserving the right to object, and I will not object, will the Senator indicate approximately how much time that might be?

Mr. ROTH. I think about 5 minutes.

Mr. LEAHY. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware is recognized.

Mr. ROTH. I thank the Chair.

(The remarks of Mr. ROTH pertaining to the introduction of S. 1428 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I ask unanimous consent to be able to continue to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE GULF AND KUWAIT

Mr. LEAHY. Mr. President, we are all of us here deeply relieved that the number of Americans returning from the Persian Gulf is so high and, of course, that the number killed and wounded was so low.

Like all of us, I supported our troops in battle and was proud of their bravery and professionalism. We should not forget that more than 300 Americans gave their lives to rid Kuwait of brutal invaders. But today, with the war won and our troops coming home and Kuwait trying to recover from a 7-month ordeal, I am increasingly concerned about events in that country.

In early May I visited Kuwait. My discussions with Embassy officials, Government representatives, representatives of the Kuwaiti Government, and leaders of the political opposition only served to deepen my concern.

The Kuwaiti royal family, the al Sabahs, when they got invaded, fled their country while thousands of Kuwaiti citizens stayed, suffered, and died in defense of the homeland their leaders had fled from. And now the royal family, having finally come back to their country, appear oblivious of popular changes, of governmental change, in the war's aftermath, popular stirring by those who had the bravery to stay, resist, and fight while their leaders feld.

In fact, the exiled emir showed far more concern for having his palace restored, to a degree I guess he felt suitable, he felt far more concern for that than for his own government when he finally returned to Kuwait. After supervising the restoration of his palace from afar, in a nice, safe place, he finally came back and his first act upon return was to impose martial law, almost to say that, "Those of you who suffered and died to try to protect my country while I lived in the splendid isolation, safely afar, now that I am finally back I am going to impose martial law on you."

The emir named his cousin, Crown Prince Saad Abdulla Sabah, as martial law governor and then, according to press reports, went further and informed citizens abroad they would not be permitted to return home for another 3 months. The emir has finally announced that elections for a new parliament will be held in October 1992, over a year and half after we bled and died for the liberation of Kuwait.

In the meantime, Kuwait continues to be governed by the autocratic rule of the emir, with no elected legislature. Press censorship and suppression of political opposition continues unabated. Kuwait's alien population is oppressed, it is mistreated, with very credible reports of hideous torture and even murder.

Some chaos, of course, is inevitable in Kuwait. It takes time to rebuild institutions. But I can see no reason why immediate, unequivocal, binding commitments to democracy and major political reforms cannot be announced by the Emir and his government today, right now. The 1962 constitution should be reinstated at once, with a firm commitment to women's sufferage, with talks initiated between opposing parties, with political reform, and the building of a consensus for governmental action.

Americans question the need to wait more than a year for free elections. Is this why the al Sabah family were willing to come back to their own country? Are they seeking to avoid scrutiny, by elected representatives, of current rule? Are they concerned that some of the people in their country might actually ask for an accounting of what they have done with billions of dollars from oil revenues?

The warning signs are there. There was one critic who criticized the Sabah family for the opulence in which they have lived in the midst of severe hardship, how they lived totally oblivious to what has gone on in their country, concerned only about their own personal comfort. He criticized. He was shot and killed. Another critic who spoke of the luxury they lived in was seriously wounded.

Leaders of the Kuwaiti resistance are justifiably concerned with the censorship restrictions on political activity and the foot dragging in restoring the 1962 constitution, in fact, the absence of even discussion about reforms and, of course, the absolute dead silence on the part of the Government on extending suffrage to women.

Refugees returning from Iraq and other countries are bitter because of the callous treatment, even the indifference they got from governmental officials and the lack of food and water and transportation. Those Kuwaitis and aliens who showed far more courage than the ruling family, who remained during the cruel Iraqi occupation, are subjected now to arbitrary arrest and mistreatment by Kuwaiti soldiers and police. The steady consolidation of power by the Emir and his pampered family since 1986, when he suspended the National Assembly, continues, and it alarms the people of Kuwait.

I welcome reports that the Emir has vowed to Secretary of State Baker that democracy will be instituted in Kuwait. I welcome reports that he has vowed that the 1962 constitution will be restored. But I think most Kuwaitis have heard all that before and they have heard those promises before.

Reports that soldiers are detaining and torturing and expelling Iraqi sympathizers and people who speak out against the Emir's regime still continue. Palestinians and Arab aliens bear the brunt of this ongoing terrorism.

The recent show trials of alleged collaborators are a farce. People are hearded into the court. The judge is read certain things he wants. They are there for a matter of minutes and it is basically almost like "Gilbert and Sullivan," with the "Off with their heads," except this time it is reality, they are convicted. Herd them in, read a couple of pages, tell the people, "You are convicted." Out you go. With those sentences in "Gilbert and Sullivan," the next night the same troops are there to perform again. Here they are not. It is not a farce; the sentences are real. One defendant was tried and sentenced in a matter of minutes to serve 15 years imprisonment because he wore a Saddam Hussein T-shirt. Remember, the Kuwait Government, just weeks before the invasion, were praising Saddam Hussein. Actually our Government was, too, for that matter. And Saddam Hussein T-shirts were pretty prevalent things.

Death sentences have been ordered, without any right of appeal, on the basis of confessions. Where do these confessions come from? There is pretty credible evidence that the confessions were forced from the people who gave them. Torture somebody, force a confession, and then sentence him to death based on what was forced out of him. The trials are a gross violation of human rights. They deserve the condemnation of every nation with respect for internationally recognized standards of due process and human decency. Kuwait should be condemned for what they have done in these trials in the same way that we have condemned Saddam Hussein for his violations of human rights. We cannot say we condemn violations of human rights by somebody we may be fighting, but, if they are a friend of ours, if they commit human rights violations, this great democracy of ours will close its eyes and not speak about it. Human rights violations are human rights violations, whether committed by friend or foe. The Bush administration should condemn these trials and demand a cessation to forced confessions and convictions based on hearsay and nonexistent evidence by informers and police agents.

I know that Kuwait has never been a democracy and nobody has an illusion about that. Its government is like an extended family empire: Kuwait, Inc., as some have dubbed it.

Before the Iraqi invasion, Kuwait's government was among the world's richest. They had about $100 billion in foreign assets and reserves. They did not hold that in Kuwait, incidentally. Virtually all of it was held abroad. The earnings today on its foreign investments rival the $8 billion a year they used to get from oil exports. I think there has been an international outcry, and justifiably so, over Kuwait. After all, we sent 500,000 very brave young American men and women, along with thousands of our allies, to liberate Kuwait. We have a right to speak about what happens after that. The Bush administration now says our purpose was not to defend democracy in Kuwait but to defeat naked aggression and a threat to the world's supply of oil.

This semifeudal state was in the path of Saddam Hussein's military conquest. But did we liberate the people? Or did we liberate the Government? Does the sacrifice of so many families here in the United States not give us the right to plead a case for Kuwait's true liberation? Have we not a right to question what we have achieved, if we return people to bondage rather than set them free? If we commit the power and the prestige and the fortunes of the United States to liberate a country, can we not ask what happens to the people of that country after we liberate them?

I have publicly praised the President on his conduct of the war in the Persian Gulf, but I fear I am going to be a far harsher judge of how he keeps the peace now that the war has been won. All Americans can be proud of our men and women who went to the Persian Gulf and served so valiantly. All of us can be proud of the coalition of allies who joined together. Certainly we showed, I believe, a far greater commitment to the liberation of Kuwait than ever their own leaders. American forces moved into Kuwait immediately upon liberation. It was our very brave marines and others, as we now know from press accounts, who went in even before that, U.S. Marines and other forces went in, risking their lives for the liberation of Kuwait. Maybe it should have told us something when the Emir of Kuwait, the leader of the country, did not want to leave his luxurious palace in another safe country to even show up until 6 weeks later. He was not the one willing to risk his life. He was willing to have Americans risk theirs for that liberation. He was not even willing to risk his comfort.

He finally got back there. I think those of us who speak on this floor on behalf of all the brave American men and women who put their lives on the line for that country can now say to him, what are you going to do to make our sacrifice worthwhile?

What are you going to do for your own people? What are you going to do to give them the freedom that we fought and died to preserve for it?

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

Mr. MITCHELL. Mr. President, in just a few minutes, I will propound a unanimous consent request which I hope will be agreed to and which will, if agreed to, permit us to complete action on the firearms provision of the bill and then hopefully proceed to complete action on the remainder of the bill.

This proposed agreement is the product of lengthy discussions over several days which I have had with the distinguished Republican leader and a number of interested Senators on both sides. It attempts to give everyone the opportunity to express their view on this subject and then vote on it.

The agreement would provide that, first, I would file a cloture motion on the bill and that we would shortly, thereafter, have a vote on cloture. Obviously, if cloture is invoked, the bill would then be completed under the provisions of rule XXII. If cloture is not invoked, then Senator DOLE would be recognized to offer, in behalf of himself, myself, and several other Senators who have been involved in this process, an amendment relating to firearms control that is a compromise that we have discussed and have agreed to, except for one provision to which I will refer in a moment.

The one provision on which we disagree is preemption of those States which now have waiting periods and background checks and which would not otherwise be covered under the Brady bill provisions or the provisions now in the bill. So what we contemplate is that I would then file a second-degree amendment, which would strike from the compromise the preemption provisions. That is the one matter on which Senator DOLE and I are unable to reach agreement. And that following the vote on my amendment to strike the preemption provisions, we would then vote immediately on the Dole-Mitchell compromise as amended, if amended; that there be no other amendments with respect to firearms to the bill unless agreed to by the managers.

There may be some minor provisions on which there can be agreement on both sides and obviously, that would be, in any event, permitted by unanimous consent. So that would be the provision.

What we want to do in this colloquy is to inform Senators of where we stand and how we hope to proceed and permit a full understanding of this before I actually propound the request.

I would like now, Mr. President, to yield to the distinguished Republican leader for such comments as he may wish to make on this.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, first of all, the majority leader has accurately stated what we would hope to do. Now, we recognize it only takes one Senator to object, and if that is the case then there would be a cloture vote tomorrow.

Mr. MITCHELL. That is correct.

Mr. DOLE. On Saturday. I would say at the outset I am not certain what we gain by that except we discommode about 40 or 50 of our colleagues who have commitments in their home States and other places. So I hope we will be permitted to immediately have a cloture vote, and then we will offer what we consider to be a compromise on every issue except preemption, on which we cannot agree, and then there would be an effort, a motion by the distinguished majority leader to strike preemption. Then we would vote on preemption and then vote on whatever is remaining, amended or unamended. And this would for all practical purposes end the debate on gun provisions.

I am not certain whether or not cloture will be invoked. I would hope cloture is not invoked. If cloture is invoked, then we proceed down the path of rule XXII. But I do know that there are some who would like to see this matter brought to a conclusion; others may feel differently about it.

But I urge my colleagues on this side not to object to this proposal when it is made. We want to give everybody notice. We do not want anybody to misunderstand. Some may have some gun provisions. But it is my hope that if they can be agreed upon by the managers, then I think there is no problem. But if we are going to try to conclude debate on the gun provisions—there were four provisions stricken last night. That was a major step in the right direction as far as this Senator was concerned. They were troubling provisions. Some said they were minor. They were very important to many people. So we believe we have made some progress.

There was a vote on the Stevens amendment. We had good debate. The vote was 54 to 44 against the Stevens amendment. It seems there are some of us, and I would say this particularly for the managers of the crime bill, who would like to complete action on the crime bill, as I understand the Senator from South Carolina. So we are hoping to cooperate and help the managers, too.

So, Mr. President, I hope we can get this agreement.

The PRESIDING OFFICER (Mr. FORD). The majority leader.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. MITCHELL. Would the Senator like me to yield?

Mr. METZENBAUM. Yes.

Mr. MITCHELL. I have not propounded a request yet.

Yes, I will be pleased to yield to the Senators from Ohio, Idaho, and New Mexico.

Mr. CRAIG. Will the Senator yield?

Mr. MITCHELL. Let me yield first to the Senator from Ohio.

Mr. METZENBAUM. There is no secret about—will the Senator from Kansas be good enough to give us his attention? There is no secret about the fact that one of the more controversial aspects of this crime bill has been the so-called Brady bill. Is it my understanding that the amendment to be proposed by the Senator from Kansas is to deal with the question of the waiting period as proposed by the Brady bill with some variations that have been discussed and negotiated, but that the essence and thrust of the proposal will deal with the whole question of the waiting period before an individual can walk in and buy a gun.

Mr. DOLE. That is correct.

Mr. METZENBAUM. I thank the Senator.

Mr. MITCHELL. I will be pleased to yield to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I thank the leader for yielding.

My concern in what the Senator is proposing to us is the possibility in the remainder of the bill of other gun amendments or amendments prohibiting certain gun ownership or processes and procedures around that ownership being germane. Can I understand that if the Dole-Mitchell or Mitchell-Dole proposal is put forward, and the process as the Senator has underlined it and outlined it in this agreement goes forward, that no other amendments dealing with guns would be in order?

Mr. MITCHELL. Unless otherwise agreed to by both managers.

Mr. CRAIG. Unless otherwise agreed to mutually.

Mr. MITCHELL. That is right, by both managers.

Mr. CRAIG. I thank the leader for yielding.

Mr. MITCHELL. I am pleased to yield to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I thank the majority leader. Last night in a casual conversation I discussed with the leader a paragraph (iv) on page 240 that deals with an "adjudicated mentally defective person" or "mentally incompetent person," telling the majority leader that I desired to debate this in an effort to strike it. I do not know whether we would do it, but the Senator from New Mexico thinks this should be stricken.

How can I make sure that if cloture were invoked, and I would have the right to offer this amendment when I do not know what the substitute amendment does? I cannot amend it by reference because I do not have it.

It is not pending as legislation. Would I just ask the leader to include these words and then if they are included in the substitute I could strike them?

Mr. MITCHELL. Mr. President, I do not know whether that specific provision is in the——

Mr. DOMENICI. In the Mitchell-Dole or Dole-Mitchell?

Mr. MITCHELL. Yes. I do not know. I have not had a chance to review the situation. I may well support striking it or removing it somehow from the bill, and there may not be any disagreement on that.

Mr. DOMENICI. It might be that it is not going to be in the Senator's substitute.

Mr. MITCHELL. It may well be.

Mr. DOMENICI. If it is not, I have no questions. But if it is, I would just want the right to offer an amendment.

Mr. MITCHELL. I must say if I grant consent to offer that amendment, I have a whole bunch of others who want consent. Might I suggest, would not that influence the Senator's decision how to vote on cloture? Obviously, he would be free to vote against cloture at that time. We are going to have a cloture vote. We are either going to have it today or tomorrow.

Mr. DOMENICI. If I did not say I am not going to support cloture and I hope it is not invoked, that is the case. But I just said, it has happened before. What if it does anyway, it is invoked? I will be precluded. And I will work on that in the next 5 minutes or so.

Mr. MITCHELL. OK.

Mr. DOMENICI. I thank the leader.

Mr. MITCHELL. I will be pleased to yield to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. I was not on the floor, and maybe the majority leader said this. If so, I apologize. Did the Senator outline what the makeup of the Dole-Mitchell, Mitchell-Dole amendment will be?

Mr. MITCHELL. No, I did not in my comments. I have not yet propounded a request. But I have a document which we prepared which describes it.

Mr. SYMMS. The reason I asked the question, Mr. President, is that if I read the last part of the unanimous-consent request correctly, no amendments to the language proposed be stricken or motions to recommit be in order, there could be no other issue dealing with firearms in this bill.

Mr. MITCHELL. That is correct.

Mr. SYMMS. That would be correct. But there would be no other limitation with respect to the bill?

Mr. MITCHELL. That is correct.

Mr. SYMMS. In terms of time, time agreements, amendments would be in order.

Mr. President, if the Senator will yield further, I do not know whether I want to object to this or not, but I have been very hesitant to see a bill which carries what I consider to be gun control forward and make it any easier to pass it. I realize the majority leader has the votes and sooner or later he can pass this bill. But it seems to me that for those of us who feel very strongly about not passing gun control legislation, we are making it extremely easy to do this. What time is the Senator proposing to propound this request?

Mr. MITCHELL. In just a few moments, following this discussion. Might I say to the Senator that first there is going to be a cloture vote. We will either have a cloture vote today or a cloture vote tomorrow.

So I understand, the Senator is opposed to cloture.

Mr. SYMMS. That is correct.

Mr. MITCHELL. It may be in his personal interest to have the cloture vote tomorrow but that inconveniences a lot of Senators. The Senator has to make a decision on that. If we cannot get this agreement, we are just going to stay here, stay on the bill, and until it becomes impossible for the Senate to continue. Under the adjournment resolution, we can continue through next Tuesday. I truly hope not to do that.

I tried very hard to accommodate the interests of as many Senators as possible consistent with doing the business we have to do.

Mr. SYMMS. Can I ask the majority leader if he thinks it would be possible—there is one other Senator that I need to talk to before I not lodge an objection. I may decide not to lodge an objection. If I could have a moment to step off the floor, I would appreciate it.

Mr. MITCHELL. Certainly, I am pleased to accommodate the Senator. I want to say that I think everything that is proposed to be done here will occur eventually. The question is whether we can do it in a manner that accommodates the schedules of as many Senators as possible. I understand the Senator has the right to object.

Mr. SYMMS. I do need to speak to one Senator that I told I would object to this, at least until I consult with him. Otherwise, I would be constrained to object.

Mr. MITCHELL. I understand that.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, will my friend from Ohio yield?

Mr. GLENN. I yield the floor.

Mr. DIXON. Mr. President, I have the permission of the majority leader. If it is all right with my friends on the other side, I ask unanimous consent to proceed as though in morning business very briefly for the purpose of introducing a bill totally unrelated to the crime bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois is recognized.

Mr. DIXON. I thank the Chair.

(The remarks of Mr. DIXON pertaining to the introduction of S. 1425 are located in today's RECORD under "Statements on Introduced Bills and Joint resolutions.")

The PRESIDING OFFICER. The Senator from Ohio is recognized.

AMENDMENT NO. 501

(Purpose: To require the Bureau of Prisons to study the feasibility and cost-effectiveness of using prefabricated modular units for prison facilities)

Mr. GLENN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator from Ohio has the right under the unanimous-consent agreement to forward an amendment to the desk on a Bureau of Prisons study. Is that the amendment of the Senator?

Mr. GLENN. That is correct.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. GLENN] proposes an amendment numbered 501.

Mr. GLENN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 167, between lines 8 and 9, insert the following:

SEC. 1402. USE OF PREFABRICATED MODULAR HOUSING.

Not later than 20 days after the date of enactment of this Act, and at least 60 days prior to the completion of planning or award of a contract for the acquisition or construction of facilities for any light or medium security prison, the Bureau of Prisons shall prepare and submit to Congress a report that—

(1) assesses the feasibility and cost-effectiveness of using prefabricated modular units such as Quonset huts for permanent or temporary housing and other facilities in light, medium, and maximum security prisons;

(2) describe the types of facilities for which the use of such units is feasible and cost-effective and identifies plans by the Bureau to use such units at particular prisons; and

(3) describes the types of facilities for which the use of such units is considered not to be feasible or cost-effective and identifies plans for particular prisons for which the use of such units either has not been considered or has been rejected for the reason that their use would not be feasible or cost-effective or for any other reason.

Mr. GLENN. Mr. President, I rise today to offer an amendment which has been accepted on both sides, but I do want to make a few remarks about it because I think it is important.

What I am trying to address is a problem which is undermining the effectiveness of our judicial system in States and cities across the country, and wreaking havoc with crime control efforts. That issue is prison overcrowding; to have space to put people once we catch them.

The epidemic of crime plaguing our schools and streets and families is placing everyone in danger. Yesterday the Cleveland Plain Dealer carried an editorial detailing a series of drive-by shootings in Cleveland, including one that claimed the life of a East Side teenager who has just happened to be at the wrong place at the wrong time. "Innocent people," the paper wrote, "are becoming the casualties of this lawlessness."

The breadth and depth of the crime problem in America means that no segment of our society is left untouched. The statistics are truly frightening. Mr. President, according to the Department of Justice there is one murder committed every 24 minutes in the United States; one forceable rape every 6 minutes; one robbery every 55 seconds; and one violent crime every 19 seconds. All told, 6 million Americans, from all backgrounds and walks of life, fall victim to violent crimes each year.

The crime package we are considering today will strengthen many of the tools available to fight the increasing tide of violent crime. It is my intention at this point to probably vote for it. The legislation provides some $1 billion to help hire more police officers, more prosecutors, more FBI agents, and more DEA agents. The crime bill we are now considering shows that the Federal Government is ready to fight fire with fire by stepping up enforcement.

By stepping up enforcement, however, we create a new problem. When we get criminals off the streets, where are we going to put them?

With or without the current crime bill, one daunting fact remains: Regardless of how much we beef up enforcement and increase the length of sentences, our prison system does not give us the ability to carry out the tough, mandatory prison terms which are already the law of the land. It is not that we need more laws. We are not adequately enforcing and carrying out sentences under existing laws.

It is hard to believe, but the number of prisoners in State and Federal prisons has increased by over 100 percent since 1980, in just 11 years of time. And dozens of States are under court order to not take in any more prisoners. There is no place to put them. What good does it do to catch them?

Judges and prison officials are being forced to play a sort of Russian roulette in allocating prison space, making impossible choices on who to keep locked up and who to let go.

These are choices which should not have to be made. Criminals should get the message that whether they are convicted of a drive-by shooting or the sale of drugs to a child, they will serve their full sentences. Unfortunately, this is not the message that they are receiving.

Stiff prison terms plus overloaded prisons send a message to criminals that society wants to put them away but does not have the means. In other words, society talks like Rambo and acts like Bambi. A career of crime is a career with little or no risk of really serving hard time.

If there is "no room at the inn" for convicted criminals, then the deterrent of a long prison term is made hollow. It is a mockery.

The amendment I offer today would look at ways of alleviating our Nation's immediate prison overcrowding crisis, while at the same time making the housing of criminals more cost-effective.

What I am going to talk about now is not the hard core prisoners who must be in high security prisons. Those are expensive. But let me go back to some earlier days in my own life.

When I was in the Marine Corps I spent a good deal of my time in Quonset huts. Quonset huts, so named because they were first manufactured in Quonset Point, RI, are prefabricated shelters of corrugated metal. We have all seen them. They are rounded, long huts. They are very cheap. They can be put up very rapidly.

My amendment authorizes a study by the Bureau of Prisons to investigate the feasibility of using Quonset Huts and/or other modular or prefabricated structures, such as the Butler buildings or other alternatives, even inflatables, that would be alternatives to traditional, expensive, brick and mortar facilities.

There are those, I am sure, who would say that Quonset huts and their compatriots, other rapid-construction-type buildings, might be too harsh. It would provide prisoners with inadequate living space or too much of a spartan existence.

I make two points. First, I, like millions of military personnel, have spent a significant part of my life in those types of prefab structures. If it is good enough to house soldiers and sailors and marines serving their country, I feel it is good enough to house convicted criminals.

I repeat, I am not talking about the hard core criminals who are really big, major security risks. I am talking about those who are in for lesser crimes who are not that violent, hard core group of prisoners. We need someplace to put them.

We have some estimates that to make modern maximum security prison cells these days, it may cost as much as $175,000 per prisoner. Certainly we can incarcerate people who deserve incarceration at a far lesser cost than that.

While Quonset huts may not offer plush accommodations, I believe there is something to be said for prisoners serving their time in a spartan but certainly livable, condition. We have had times in the past, on military bases, whole cities of these prefabricated structures that grew up almost overnight and they were quite livable. They can have a Quonset hut or a prefab building for a library, recreation center, training hut, a TV place, a sick bay, and one for storage. And they are quite OK.

The structure might not have the plush gymnasiums and all the Nautilus equipment, but people can get their exercise outside. And we surround these places with big expensive walls. For minimum—and medium security—prisoners, which are the majority of the prisoners that are not given jail sentences at all or serve very little time, we can surround these facilities with things like concertina wire. What is wrong with that to keep them in? That would not cost very much. And no walls would even be required.

Mr. President, I think some of these less costly options are things that would help us get our prison system back on an even keel again, and are far less expensive. For many of these type structures you do not even need a concrete base. They can be built on beams, have plywood floors, and they last for years and years. Some of them from back in World War II days, in fact, are still in use.

Do we need concrete driveways and walkways? I would say gravel was quite adequate for us back in times past and would be adequate now. You can even have the prisoners build them themselves in a few hours, as many of us did in the past with a hammer in our hand and help put those things together. They go up rapidly. They are comfortable once they are built.

I spent a winter in China in one of those and spent summers in them also.

I do not think we need air-conditioning for these. That would cut back some of the expenses, also. I might say, Annie, my wife, and two children lived at two different times in half a standard Quonset hut and went through a winter at Quantico where we got up every morning and started a wood fire. I do not see anything wrong with prisoners doing anything like that either. These things can be designed in prefab buildings with open bunk rooms or individual rooms. They can be regular-size buildings or things like the king-size Quonset that are larger, or what ever.

The point is, we can do much better at locking up more of our people and making prison terms certain if we can put up some of these facilities that are not so onerous to the taxpayer. Taxpayers pay up to $175,000 per prisoner for maximum security facilities.

Do we need what we could call palaces for prisoners? Do they have to have all of those type facilities? I think not. Palaces for prisoners, palaces for punks, we might say. I do not think we need that.

Are we afraid of somehow warping the people put into these facilities? I think not. Maybe some of their personalities need to be warped a bit. The situation we find ourselves in right now is the police go out and risk their lives, judges may want to give tough sentences, the public wants to put these people away. But, we cannot always do that because the jails cost too much. So we turn them loose and say, now, you be good or else.

With our high recidivism rate, up to 70-some percent I understand it is now, then we start over again. The police again apprehend them, the judges again sentence them. Again, there is no place to put them. We have repeat offenders with rap sheets that show all their crimes, but little penalty shown on the other side of that rap sheet.

The District of Columbia will have, I suppose, between 400 and 500 murders this year; drugs rampant; crime all-time high; police risk their lives. They cannot send them to Lorton. Lorton is beyond their maximum capacity already, so they are contracting out. And judges, at the same time, are not sentencing people for the sentences they should have because there is no place to put them.

Mr. President, I would find it quite acceptable to say that we should go back to some of the ideas of earlier days, such as work farms. What is wrong with having a prison area that is on 500 or 1,000 acres, where these prisoners go out and grow their own food? I think a hoe in a man's hand can be a real character builder. It might just help some of these people to mend the error of their ways. They will see that food does not always come from fast food windows. They will see that french fries start in the ground and corn does an amazing growing job in some 90 days. At harvest time you eat some, you store some, you preserve some and you can some for the winter and for next spring.

Is that a crazy idea that these people might be required to grow their own food, I do not find any difficulty with that at all in my own opinion of what I think our penal system should do. These ideas are consistent with our justice system, that says that you can sentence people and when you sentence them, there will be a facility to put them in.

Mr. President, I am not arguing that things like Quonset huts or prefab buildings would be the answer for housing all prisoners, but, at the very least, it would provide an overflow relief valve. Not all prisoners need to be housed in high security environments. Nonetheless, they certainly should be locked up, and nobody questions that they must be locked up. Housing such criminals in less than plush surroundings, housing them in prefabricated housing accomplishes two important things. First, it ensures that all offenders, regardless of their offense, serve time. Second, it frees up space in the brick and mortar high-security facilities for violent criminals to serve a greater percentage of their prison terms.

I know that a number of States are currently using prefab housing to alleviate some of their prison overcrowding problems. My own State of Ohio has been experimenting to some extent with that. In Pennsylvania, they have 128 prefab cells which were designed, manufactured and installed and occupied in 140 days. In Nassau County, Long Island, construction has begun on an 832-cell full-service jail of this type.

The experience of these States may provide guidance for the Nation as to the practicality of some of this prefab housing. Buildings can be ready for occupancy quickly, usually in less than half the time it takes to build a conventional structure. They can be designed for easy expansion, and adapted to other uses if the prison space is no longer needed. An entire building or portion of it can even be removed from a site altogther, if necessary.

So, Mr. President, my amendment is very simple. It just requires the Bureau of Prisons to submit to the Congress a feasibility study prior to acquiring or constructing any light- or medium-security prisons. Title XIV of the crime bill, in fact, before us authorizes the establishment of 10 military style boot camps. I strongly support this provision and would like to have the Bureau of Prisons specifically look at these facilities for use as possible test cases for this concept.

It is perfectly conceivable to expect that prefab housing on these and other sites could save the taxpayers literally hundreds of millions of dollars in construction costs, and result in the confinement of far more prisoners. Traditional brick and mortar facilities cost a low of between $35,000 and $50,000 per bed to put up. On the highside, some costs run up as high as $175,000 per prisoner. Prefab housing, I think, could be constructed for a small fraction of this cost.

Pending the outcome of a study by the Bureau of Prisons on this issue, I see no reason why the alternative I support cannot dramatically increase prison space while at the same time provide taxpayers with more bunks for the buck.

Mr. President, the current prison overcrowding crisis constitutes a direct threat to the safety of our Nation's citizens and the effectiveness of our judicial system. Desperate problems often require innovative solutions, and I believe that alternative prison construction is one such solution.

Mr. President, this amendment has been cleared on both sides of the aisle.

I look forward to getting this Bureau of Prisons study because I think it may show we can lock up more criminals. Our crime bill tries to get tough with criminals. We try to enhance apprehension. We try to provide ways for the courts and everyone else to treat criminals in a tough fashion. But at the end of the line, with all of the apprehension, all of the court procedures and everything else, if there is no place to put them, it makes very little difference what we have done.

This amendment proposes a way of getting tough on crime, but easing up on the tax dollars. I think it will be a big step forward to make certain that every person who is apprehended and sentenced serves time—and full-time—without having that sentence cut short just because there is no prison facility to keep that person locked up.

So, Mr. President, I look forward to having this amendment approved by the full Senate. As I said, it has been cleared by both sides by the distinguished floor managers of the bill. I ask for its consideration.

The PRESIDING OFFICER. Is there further debate?

Hearing none, the question is on agreeing to the amendment.

The amendment (No. 501) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I had no objection to the amendment of the distinguished Senator from Ohio, but I though I might take about 3 or 4 minutes to discuss the overall authorizations included in this bill before us for law enforcement in the United States.

First, because some of the language in the bill which is pending says we are going to have new FBI agents, new DEA agents, and new district judges, new U.S. attorneys, I hope no one really takes any of that very seriously because, actually, we do not need to provide for any more.

The truth is we are not paying now for what are already authorized. As a matter of fact, some may be interested in knowing if we think we are providing new FBI agents in this bill, the appropriations bill which came out of the House reduced the FBI number of agents by 500, that is, 500 less than the President asked for, reduced the number of new U.S. attorneys to zero, no new ones, and the President asked for about 65.

So I thought it would be good to remind those who are concerned about crime and fighting crime that probably none of the provisions in this bill authorizing more law enforcement fighters—FBI, DEA, U.S. attorneys—will be a reality. They have made for good rhetoric but clearly we do not have the money to pay for any of them.

We are providing less this year than the President asked for. It does not seem we will have any money next year; we will have less, and the year after perhaps even less. So we do not need any more authorization. What we need is more priority, that is, restrain other programs so we can pay for what we have already authorized.

I thank the Chair, and I yield the floor.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, in accordance with my prior statement I now will seek consent as outlined earlier in my colloquy with the distinguished Republican leader and other Senators.

Mr. President, I ask unanimous consent that a vote on the cloture motion that I now send to the desk occur at 2:25 p.m. today; that if cloture is invoked, the bill be completed under the provisions of rule XXII; that if cloture is not invoked Senator DOLE be recognized, without intervening action or debate, to offer an amendment on behalf of himself, Senator METZENBAUM, and others; that the only amendment to the amendment in order be one to be offered by Senator MITCHELL relative to the State preemption provision on which there be 1 hour for debate, equally divided and controlled between Senators MITCHELL and DOLE; following the conclusion or yielding back of time there be a vote on the Mitchell amendment followed immediately without intervening action or debate by a vote on the Dole-Metzenbaum amendment, as amended, if amended; and that no amendments to the language proposed to be stricken or motions to recommit be in order prior to the disposition of the Dole-Metzenbaum amendment, as amended, if amended; and that no further amendments on the topic of firearms be in order to this bill unless agreed to by the managers.

Mr. DOLE. Mr. President, reserving the right to object, and I shall not object, I think the Senator from Alaska wishes to be heard on a reservation because he has discovered some provisions that were not called to our attention earlier. I think he is now able to resolve concerns about four out of the five. I would rather he speak to the reservation. So I yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, reserving the right to object, and I do not think I shall object, I have not seen a copy of this substitute that is mentioned. Will we be able to see that before this goes into effect? I would like to see it. Is it in draft form now?

Mr. DOLE. If I may respond to the Senator from Alaska, I have my staff, along with attorneys, going over the draft. The answer is, yes, the Senator can see it forthwith.

Mr. STEVENS. I think we should be able to see that before we agree.

Second, in that regard, I have been trying to pin down the meaning of the provision that is section 1239 on page 150, dealing with the receipt of firearms by a nonresident. I am informed that was in the President's bill. I thank the majority staff for giving us that information. I am also informed that its intent is to cover those legal resident aliens who are associated with the embassies of foreign countries. I do not find any such limitation, and it was called to my attention as being a provision that might have a serious impact upon foreign visitors who come to a State such as mine to hunt and to buy guns. They usually end up by giving them to their guides or leaving them in this country. This provision, as I understand it, would bar anybody from even delivering to that person a gun for such a time period.

We are trying to find an interpretation of that. I would like to ask if we can exclude from the restrictions that are in the majority leader's unanimous-consent agreement an amendment to deal with that section, in which we would hope to add an interpretive provision to make sure it does not restrict legal tourists in the country, for the specific purpose of hunting, from acquiring a firearm for that purpose. It is my understanding that it deals with more than just handguns; it deals with firearms per se.

I am informed that this provision does include long guns. This will cover rifles and shotguns. The other provisions that we were considering do not. If that is correct, it is a provision that is in a different category than the handgun provision we were dealing with last night. That amendment dealt only with handgun provisions. I would like to clarify that section if this agreement is entered into.

Mr. MITCHELL. Well, Mr. President, if I might respond, I am not familiar with the provision to which the Senator just referred. I first learned of it a few moments ago and was advised it was in the President's bill, which was included in the bill presented here. The Senator makes a persuasive case and, on the face of it, without knowing of any reason to the contrary, I would be persuaded to be supportive of that effort.

The problem with making an exception to the agreement is that there are a number of Senators on our side who have expressed an interest in offering amendments, but would agree to permit the agreement to go forward only on the condition that there would not be any amendments. So if you have one, I would feel compelled to return to them, and they may well want amendments, which may, in effect, defeat the purpose of this.

I wonder if the Senator would permit us to proceed with the understanding that we will work with the managers and others and seek to get that corrected. I am unable to make a commitment as to the result now. I will make a commitment as to the effort now.

As the Senator knows, we took, our several provisions yesterday that he and others wished to be removed. I commit myself to a good-faith effort, but I do not see an obstacle. I have not heard from anybody who might have a contrary view. I do not know, for example, whether the President, in whose bill this was included, might feel so strongly about it that he or members of his administration would object to its being taken out. I do not think they would. My guess is that not many of them are aware of the provision or did not have the intention stated by the Senator.

Mr. STEVENS. Mr. President, I am grateful to the majority leader for his comments. It takes a long time to get bills like this analyzed by people who are directly affected, and live 5,000 miles away. If this is going to seriously impede the very substantial guide business for foreign hunters in my State, then I have no alternative but to object. All I want to do is to have the authority to offer an amendment that would clarify that with regard to the persons that are affected. I think that is not really a gun amendment. But, as I understand the majority leader's amendment, it may be. I am not seeking to change the imposition of this for the people it should be directed to. I want to make certain it does not catch up those that it was not intended to cover.

Mr. MITCHELL. Mr. President, I have no problem with that, no objection to that; and assuming there is no argument to the contrary, of which I am now unaware, I would be prepared to support that fully and urge that it be approved by the managers. But I cannot, in good conscious and good faith to others who have been persuaded to permit the agreement to go forward on the condition there be no amendments, agree to one amendment without first going back to them and explaining it, which, if it leads to many amendments, would defeat the purpose of the agreement. I am not disagreeing, and I think the Senator would feel the same way if he were among those who agreed to go forward on the basis of no amendment. I hope he will permit us to proceed in what I expect will not a difficult. I know it will be a good-faith effort to accommodate the legitimate concern which the Senator has expressed.

The PRESIDING OFFICER. Is there objection?

Mr. WALLOP. Reserving the right to object. On the same subject that the Senator from Alaska raises, there is, among my constituents in Wyoming, a man named Roger Green, whose livelihood is a gunsmith, among whose customers are international gun collectors from all over the world. A significant portion of his business is the manufacture and construction of guns, sporting weapons, for these foreign collectors. It would strike me that we are about to remove half of his livelihood.

Mr. MITCHELL. Well, Mr. President, I respond, as I have said previously, I am persuaded by the logic of the argument. This was a proposal by the President.

Mr. WALLOP. Who is not infallible, as the majority leader occasionally points out.

Mr. MITCHELL. I think we ought to give those who made the proposal the opportunity to tell us if there is a reasonable argument in response to that made by the Senators. I have no problem trying to get it out and, under the agreement, the managers can agree to take an amendment, and I would expect this kind of amendment.

The problem I have is that if we agree to reserve for one amendment, then we have to go back to other Senators who said they want amendments, and give them the opportunity to offer their amendments, or to agree not to offer amendments in light of the knowledge that there is an amendment, as opposed to the current situation in which there are none. I really think this is not going to be a problem. I hope we could get this. There are a lot of Senators who are anxious to proceed with respect to this matter. That is the situation in which we are in.

Mr. WALLOP. Again, I just ask—I have no quarrel and no doubt in my mind of the majority leader's circumstance and that he will try. But where does that leave us, the conclusion of all of this, if after everything is tried, we fail, and we then have agreed to something that is known to penetrate the livelihoods of some perfectly legitimate citizens of America?

Mr. MITCHELL. If that is the case, I assure the Senator there is a long way between action this afternoon, final passage of this bill in the Senate, and this becoming law. We have the conference coming up. It has to go to the President. If the provision is so lacking in merit, as suggested, then it seems to me it will not be difficult to get that done by consent here some Tuesday night when we get back. What we have here is a procedural problem with how best to go forward.

Mr. WALLOP. Yes, I understand that, except that as one understands it, the consent request being propounded would preclude that.

Mr. MITCHELL. I can only say to my colleagues, and I appreciate the concerns expressed, I hope we can get this request agreed to. If we cannot, then we will timely have to return to the bill and file the cloture motion and have a cloture vote tomorrow. I do not want to do that and I do not think this is such that it ought to prevent us from getting the agreement. Under the circumstance I would hope the Senator would accept the good-faith representation and we will look at it. I am persuaded. Unless someone on the other side has some compelling argument that is not obvious now, I will do all I can to help the Senators make the change.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. MITCHELL. Yes.

Mr. STEVENS. I want to be in good faith on this too, as I am sure my friend is. My problem is I am just informed now what I said was true, absolutely, that these long guns were not covered before; they will be covered by this provision. Under the firearms concept, it will apply to nonresident tourists who come to our country specifically to hunt and to buy guns as recommended by the guides. They have been able to do so in the past but will not be able to do that if that becomes law.

I am not able to get hold of the person who prepared this section. We are trying to do that now, in the President's bill, as to whether that was the intention.

I was informed the intention was to prevent the delivery of guns to those people who claim legal nonresident status associated with embassies and foreign diplomatic efforts. It goes further, according to my people, and I wish to suggest that if we can get the kind of information which I think we can here in the next hour, we can include that in the minority leader's amendment.

Mr. MITCHELL. We will certainly be prepared to consider that and that may be one alternative way to proceed.

Mr. STEVENS. It is not barred, but it is not subject to amendment once presented.

Mr. MITCHELL. If the managers agree, you can offer the amendment. It is so clear, and it seems to me clear, that there should not be any trouble in persuading the managers, I hope. There will be no trouble in persuading me.

Mr. STEVENS. I hear from the chairman of the Judiciary Committee they have no reservation about changing the definition of what a person means under the amendment.

Mr. MITCHELL. My apologies. I was momentarily distracted.

Mr. STEVENS. I inquired of the distinguished Senator from Delaware, the chairman of the Judiciary Committee, who informed us it was in the President's bill. So if they are not the authors of this provision, I am sure the President is personally not the author either.

Mr. BIDEN. Mr. President, I apologize to the Senator from Alaska. I have not been listening. Quite frankly, I have been working on another matter. I am not certain. If I understand the broad outlines, it is a provision in the President's bill that we incorporated into the Biden bill which deal with the ability of nonresidents to purchase firearms. Is that the provision the Senator is referring to?

Mr. STEVENS. That is right.

Mr. BIDEN. What is his question?

Mr. STEVENS. It is my understanding it deals now with the portion of the law that is not covered under the existing law with the delivery of shotguns, rifles, or long guns to nonresidents who are legally in this country for the purpose of hunting. And according to our laws, nonresidents can apply and obtain licenses to hunt in my State. They do quite often and do buy guns.

Mr. BIDEN. As I read the President's legislation, I think that is correct. You will have to give me a moment to take a look at the legislation.

Mr. STEVENS. What I am trying to do is preserve the right, notwithstanding this amendment on the topic of firearms, to deal with the topic of those who may obtain firearms.

I might state, Mr. President, if the majority leader and the chairman would permit me, I am just informed that the Justice Department has been monitoring this exchange and is sending up a proposed change; it will be here in a few minutes.

Mr. MITCHELL. If that is the case, we ought to be able to include it in our bill and have no disagreement to do so.

Mr. STEVENS. All right on that basis.

The PRESIDING OFFICER. Is there objection? The majority leader has the floor.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I modify my request, so that the vote on the cloture motion occur at 2:45 rather than at 2:25 as stated in the request initially. In all other respects I renew the request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, Senators should be aware that a vote on the cloture motion will occur at 2:45 p.m. followed by, if cloture is invoked, we will then proceed to completion of the bill under rule XXII. If cloture is not invoked, then Senator DOLE will be recognized to offer the Dole-Metzenbaum amendment. I will then be recognized to offer an amendment to that amendment and there will be 1 hour of debate and vote on both those amendments.

I thank my colleagues for their patience.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

The PRESIDING OFFICER. By unanimous consent, the hour of 2:45 p.m. having arrived, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 1241, a bill to control and reduce violent crime:

Jeff Bingaman, George Mitchell, Tom Daschle, B.A. Mikulski, David L. Boren, Claiborne Pell, J.J. Exon, Daniel K. Akaka, Joe Biden, Howard M. Metzenbaum, Terry Sanford, J. Lieberman, Kent Conrad, Charles A. Robb, Edward M. Kennedy, Brock Adams, Herb Kohl.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the bill S. 1241, a bill to control and reduce violent crime, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The yeas and nays resulted—yeas 41, nays 58, as follows:

[Rollcall Vote No. 114 Leg.]

YEAS—41

Adams
Akaka
Bentsen
Biden
Bradley
Bumpers
Burdick
Chafee
Cranston
Daschle
DeConcini
Dixon
Dodd
Durenberger
Fowler
Glenn
Gore
Graham
Harkin
Hollings
Inouye
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Lieberman
Mikulski
Mitchell
Moynihan
Nunn
Pell
Riegle
Robb
Sanford
Sarbanes
Simon
Wirth
Wofford

NAYS—58

Baucus
Bingaman
Bond
Boren
Breaux
Brown
Bryan
Burns
Byrd
Coats
Cochran
Cohen
Conrad
Craig
D'Amato
Danforth
Dole
Domenici
Exon
Ford
Garn
Gorton
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Johnston
Kassebaum
Kasten
Levin
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Murkowski
Nickles
Packwood
Pressler
Reid
Rockefeller
Roth
Rudman
Sasser
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wellstone

NOT VOTING—1

Pryor

The PRESIDING OFFICER (Mr. SANFORD). On this vote, the yeas are 41, the nays are 58. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, let me first say to my colleagues on this side that we are going to try to expedite this, and still have a discussion here principally of the compromise. A number of Members have plans that have been made a long time ago. It is very difficult to get reservations on a holiday weekend. So I tell you we are going to move as quickly as we can.

We are not in the process of going over the amendment very carefully to make certain everything we agreed upon is in the amendment, and nothing else. That should be available in a few moments. In the meantime, it seems to me, in order to move everything along, we should make our statements. And I will make my statement on the so-called compromise at this time. I will offer the compromise later.

Mr. President, we have been preparing for this vote for a long time. The question is how best guarantee to the American people that Congress has done everything we are able to ensure those who have lost their right to possess firearms are, in fact, kept from obtaining guns.

Every Senator is deeply saddened each and every time a gun is used by one individual against another. So there is no question that every Senator wants some sanity brought to the runaway use of firearms to threaten, maim and kill members of our society.

This is an emotional issue, one that shakes many Senators to the core of their beliefs, but at the core of each and every Senator is the desire to enact a system to keep guns in their rightful place, while punishing those who misuse the constitutional right to keep and bear arms.

On many occasions, the majority leader has said that both sides to this debate actually agree on more issues than those on which they disagree. That statement contains more truth than any other entered into this debate.

With that in mind, the majority leader and I, along with the assistance of a great many of our colleagues on both sides of the aisle, have been working for several weeks to craft what is now being called the compromise approach.

At the outset, let me be clear about my views. To look the American people in the eye and tell them we have done the best we could to guarantee guns sold in stores throughout the country were being purchased only by those allowed to own firearms, we must do a background check each and every time any gun is sold. The 1968 Gun Control Act is very specific about who has forfeited this truly American right. Only when we have a system to check the name of the prospective purchaser against the list of those who forfeited the right to gun ownership can we give that guarantee to the American people.

Waiting periods, of any length, do not inherently contain this guarantee. And, background checks against lists containing only partial information give only a partial guarantee. Therefore, I do not support waiting periods in and of themselves. Nor do I support a system whereby each State would check records available only to that State and no other State.

The so-called compromise contains this total system. However, it also gives to those who support the waiting periods of the Brady bill the waiting periods they support.

Ninety days after enactment, a Federal waiting period of 5 business days would be imposed on the States. This waiting period applies only to handguns which is the identical application contained in the Brady bill. The Brady bill also contains a provision under which any State that conducts background checks on prospective handgun purchasers is exempt from this Federal waiting period. The compromise contains this principle as well.

Two and one-half years after enactment, a Federal—50-State—background check is put into place only if the Attorney General certifies that the system contains 5 years of criminal histories with 80 percent reliability. When the system is certified, consistent with the Brady bill, the Federal waiting period is removed.

Mr. President, that, in a nutshell, is the basic outline of the compromise—2½ years of a Federal waiting period followed by a Federal background check.

In negotiating this compromise, many provisions were added to ensure we could give an ironclad guarantee to the American people that we have developed the best system. Six months after the date of enactment, the Attorney General will announce two decisions: First, he must designate the system to be used including the software each State government and Federal agency must use for their records. Second, after reviewing the condition of the records on a State-by-State basis, he will establish a timetable for each of the States to computerize criminal records to guarantee that in 5 years each of the States are fully computerized and are at least 80 percent accurate for at least 5 previous years.

Two and one-half years after enactment, the Attorney General will decide if the background check system can be certified for operation. In order to certify, the States have the capacity to operate, that the States are in compliance with the timetables established earlier, and that the system possesses a national average data bank of criminal records for the previous 5 years which is at least 80 percent accurate. States not capable or not on schedule with their timetable will remain under the 5-business day waiting period. Once operational, the system will check the background of purchasers of all firearms, not just handguns as is envisioned by the Brady bill.

There is one remaining guarantee we can give the American people. If any State does not achieve the 5-year goal of possessing 5 years of criminal records with 80-percent accuracy within 6 years of enactment, that State is again subjected to the 5-business day waiting period until it comes into compliance.

Further, we have put two what I will call "hammers" contained in the bill. To ensure the Justice Department does its part, if the hardware is not ready in 2½ years, the Department of Justice will lose 5 percent of its general administrative funds each and every day until the system is up and running. Second, to ensure States do their part, any State not cooperating could lose up to 50 percent of the funds received by State police agencies from the Federal Government under the State and local law enforcement grant program.

At this point, let me state the reason for the hammer on the Justice Department. The 1988 drug bill contained a requirement that the department establish a system to check felony records of prospective gun purchasers. Notwithstanding the repeated efforts of the Attorney General to establish the system, it does not exist. The nay sayers and hand wringers have frustrated the very able efforts of the attorney general. The compromise says enough is enough. Forget the gold plating and get the system to at least 80-percent reliability. This is not intended to create an incentive for the attorney general to make an inaccurate certification, and I am certain no attorney general would engage in that practice.

The bill also contains assistance to States in the form of $100 million to help create computer bases.

Mr. President, on all of these matters, the distinguished majority leader and I, along with a great many of our colleagues are in agreement. There is one item of disagreement in the compromise. With respect to waiting periods established by the States, a separate procedure is established for treatment. The Brady bill has as its basic premise that since firearms are easily transportable across State lines, a Federal system is needed. Second, the Brady bill established the principle that, if background checks are conducted, no waiting period is required.

If a State has a waiting period, that waiting period will remain in effect for a minimum of 5 years. Only if all 50 States have records with 80-percent reliability will there be any effect on State-imposed waiting periods. However, only if two stringent conditions are met, State waiting periods may be preempted. First, the system must be in place in all 50 States. Second, after a minimum of 5 years, only if all 50 States have 5 years of records with at least 80-percent accuracy, will preemption occur.

I happen to believe this is fully consistent with the Brady bill. We must remember, the Brady bill says if there is a check, there is no need for a wait. The preemption provision takes it a step further and says only if there is a reliable check, is there no need for State waiting periods.

Mr. President, let me say that I think we have made some progress. I hope that when we have the vote on the so-called compromise amendment, it will be adopted by a substantial majority. I will go next door to see if we have been able to agree on the entire compromise, and I will be offering it in a few moments.

Mr. MITCHELL. Mr. President, I yield 10 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, if you went out today to buy a lottery ticket, the odds are something like one million to one against you. Those odds are no greater than the odds you could have received 6 months ago that the distinguished minority leader and I would be joining together to offer the Brady amendment on the floor of the Senate. I am very pleased that it has occurred and that we have been able to work this matter out.

Mr. President, I rise in support of this Brady bill amendment to the crime bill.

It was over 4 years ago that I first introduced a bill to mandate a waiting period.

In that time over 80,000 people have been killed with handguns.

I do not rise to say that had the Brady bill been in effect since that time, all 80,000 people would not have been killed. Of course not. I think that a substantially lesser number would have been killed.

This past January, I again introduced this bill, S. 257, along with Senators KASSEBAUM, CHAFEE, KENNEDY, SIMON, PELL, LAUTENBERG, MIKULSKI, MOYNIHAN, KERRY, AKAKA, LEVIN, GLENN, DODD, WELLSTONE, HARKIN, and CRANSTON.

We named the bill after two very courageous people, Jim and Sarah Brady.

As everyone knows, Jim Brady was serving as President Reagan's press secretary 10 years ago, when he was shot in the head by John Hinckley in his attempt to assassinate the President.

I want to say that no two people have conducted themselves more admirably, and no two people have been more persistent, more persuasive in talking with Members of the U.S. Senate and the House than have the Bradys. They have been pleasant, cooperative, and they have been wonderful in their approach. They have tried to impress upon people in the House and the Senate the significance of a 1-week waiting period.

I think the entire Nation owes them a great debt of gratitude. It goes without saying that we owe Jim Brady a tremendous debt of gratitude for what occurred to him. John Hinckley shot him. We owe a special debt of gratitude to the two of them for what they have done in making this day possible. Without them, we would not be standing here prepared to adopt the Brady amendment.

This amendment before us would require a national 5-working-day waiting period prior to the purchase of a handgun—I make an emphasis—5 working day. So that although the original bill said 7 day, it pretty much comes to the same, maybe a little longer. It depends on the day of the week in which it is done.

Within 6 months of the enactment of this bill, the Attorney General will select a system and software for a national instant background checks of persons who attempt to purchase firearms.

Within 12 months of enactment the Attorney General will review the condition of each State's criminal history records and establish a timetable for each State to plug those records into the national system.

Thirty months after enactment or any time thereafter the Attorney General may certify that the national system has met the timetables and is operational.

Such certification cannot be made until the Attorney General can certify that the following standards have been met:

First, the national system must be able to access criminal history records that have at least 80 percent currency of case dispositions, that is at least 80 percent of the arrest records must contain information as to whether or not there was a conviction after arrest, for all records for which there has been some activity in the last 5 years, that is records of people who have been arrested in the last 5 years.

Second, the States must be in compliance with the State timetables.

If the Attorney General can certify this, then the waiting period is no longer in effect, and is replaced by this national instant check system.

If any individual State has not met its timetable the waiting period is still required in that State.

Six years after enactment, if any State where the waiting period phased out has not met the State standard of records covering the preceding 5 years with 80 percent currency of case dispositions, then the 5-business day waiting period is reinstated in that State.

The Brady bill, as I introduced it in the Senate, and as was passed by the House, provided for a phaseout of the waiting period once we could adequately do instant background checks.

This amendment establishes tough, definable standards for purposes of determining when we have reached that point.

Unlike the McCollum amendment which set no specific standards for an instant check system, this amendment sets specific standards that will ensure that the Attorney General cannot certify a sham instant check system.

Most importantly, unlike McCollum, Staggers, and Stevens, this Brady bill amendment would, 90 days after enactment, institute a 5-business day waiting period for handgun purchases and ensure that the waiting period not expire until such time that an instant check system can be a reality.

This waiting period of 5 business days, in effect 1 week, would enable the local police to run a background check on gun purchasers.

In that time police can check criminal history records to see if the purchaser has a felony record.

In some instances they may be able to check local court records to see if the purchaser has been adjudicated mentally ill.

If the police found that the purchaser was prohibited by law from possessing a firearm, they would so notify the gun dealer, and the sale would not be made.

Every year over 12,000 people use handguns to take their own lives. And another 8,000 people are murdered by assailants armed with handguns.

People like Lt. Rick Gould of the Florence, SC, Police Department, who was shot and killed by a mentally disturbed man with a handgun purchased 7 hours earlier.

People like Greg Musick, who was shot and killed in a Georgia shopping mall by a man armed with a handgun. The gunman, who wounded four others in the shooting, had a felony record and bought the handgun the day before, just hours after his release from a State mental hospital.

These handgun shootings do not make history, like an attempt on the President's life. Some of them make headlines of local newspapers for a day or two, and are then all too quickly forgotten by most of the public.

When you cast your vote today, I urge my colleagues not to forget these innocent victims or their families.

The President and the Attorney General have been telling us they support creating an instant check system immediately.

That is not possible. The Senate settled that issue in the early hours this morning by rejecting the Stevens amendment.

I do not know where the administration stands now. The Attorney General has been on both sides of this issue.

I remember when Mr. Thornburgh testified before the Judiciary Committee at his confirmation hearing in 1988. At that time I asked him if he, as Attorney General, would support a 7-day waiting period. He replied, "We have a waiting period in Pennsylvania, as I told you, Senator, and I think it is an appropriate tool to utilize in giving law enforcement agencies the opportunity to maximize their chances of keeping these weapons out of the hands of individuals who show a propensity toward violent crime."

I then asked him directly, "Would you support the concept of a 1-week waiting period?"

And he replied, "Yes, yes."

Unfortunately after his confirmation by the Senate, the Attorney General reversed his position and has become the administration's leading opponent of the Brady bill.

As Mr. Thornburgh slowly clears out his desk at the Justice Department this summer and awaits an appeals court decision on whether there will be an election for him to run in this year, I hope, that when the Senate passes the Brady bill, he would live up to his 1988 promise and counsel the President to sign it into law.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I yield 5 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. GORE. Mr. President, I thank the majority leader for yielding.

Over the past few weeks I have been privileged to work with the distinguished majority leader and with my colleague from Wisconsin, Senator KOHL, to draft legislation that makes a real effort to keep handguns away from those who are already prevented by law from owning them, without compromising the legitimate rights of citizens of this country who wish to own guns.

I would also like to take this opportunity to salute my colleague from Ohio, Mr. METZENBAUM, whose commitment to this issue and whose expertise and unwaivering diligence have made this bill a reality. And also the distinguished Republican leader, Senator DOLE, who has been engaged in discussions with the majority leader, Senator KOHL, Senator METZENBAUM, and myself for quite some time now, and it is those discussions which have resulted in the compromise that is now before the Senate.

It is already illegal for convicted criminals and those judged mentally ill by the courts to purchase handguns. Today we rely on the honor system to keep these dangerous weapons out of their hands. A criminal can walk in a store today, or someone who is a convicted felon, or seriously mentally ill, and take the official form, look at the question that asks about these things, and check the box marked "no," and then just walk out the door with a gun. This bill will stop that from happening.

Let me be clear I respect the rights of law-abiding gun owners. But this provision is designed to protect against the abuse of the right to have firearms by those who really should not have them.

In Tennessee we already have a 15-day waiting period and background check before a firearm can be purchased. Let me read you the Tennessee State law, Mr. President. It says that the sheriff of each county is instructed, the sheriff shall conduct a background investigation of the person and shall issue the directive and permit only if satisfied with the results of the investigation. And they have 15 days in which to do that.

I want to tell my colleagues here that the experience in Tennessee has been very favorable. Our waiting period works and, Tennessee law will become even more effective because this legislation will provide State officials with the resources they need to create the most up-to-date accurate system for conducting background checks on handgun purchasers.

Mr. President, technically when the amendment is laid down and then the question is put to the Senate, the immediate question will be on an amendment by the majority leader to strike from the Dole-Metzenbaum provision a preemption of a measure which would strike down all State laws like the one in Tennessee, and substitute the Federal provision. The amendment by the majority leader will strike that preemption provision of the Dole-Metzenbaum amendment.

I hope that the vote will be unanimous in striking that preemption clause. I feel like it will probably not be all that controversial I hope, because obviously a State like Tennessee that already has a 15-day waiting period ought to be able to decide for itself what powers its county sheriffs ought to have in protecting the citizens of that county. So, I hope and fully expect that the preemption measure in the amendment that will be offered by the Republican leader and Senator METZENBAUM will be struck out of the bill.

The underlying compromise amendment is really better and stronger and more effective in meeting the objectives of the advocates of the Brady bill and in meeting many of the objectives of those who with the National Rifle Association preferred an immediate background check.

It is truly amazing to me, I say this in all sincerity, Mr. President, that two points of view so far apart, or perceived to be so far apart, could come so close together in the amendment that will soon be offered because the waiting period is established in this, and then the measures are put in place to make possible the instant background check.

This is one of those rare occasions when the process which the Senate spends so much time on, small discussion groups, trying to figure out some way to satisfy the objections of people who feel strongly about provisions of legislation—we do this all the time and unfortunately it does not always lead to good results, sometimes we just get bogged down and nothing happens—and this time it has produced a result that is better than either of the two contending diametrically opposed positions with which we started. I think that it is a rare example of the Senate working its will in a way that is very productive in improving legislation in the process of discussing it.

Opponents said that the Brady bill was useless without a mandatory background check. Whether you agree with that or not, that has been corrected. Opponents said they wanted an instant background check. We came up with a bill with funds to help the States get their records in top shape and online so that the instant check can become a reality as soon as possible.

We now have a measure which ensures that until that system is in place a waiting period will remain in effect so that a check can be made with the records that are available.

In closing, Mr. President, violence in this country and violence with guns is a problem that must be addressed not next month, not next year, but now; and we have the opportunity to take meaningful action today.

With due compliments to my colleagues who worked so hard on this compromise measure, I urge every Member of this Senate, first of all to strike preemption, and then to support the amendment which will shortly be offered.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield 5 minutes to the distinguished Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. I thank my colleague for yielding.

I hope all of us in this body will, for a moment, focus very clearly on what is before us. We are about to have an amendment laid down that has a waiting period. It has also an instantaneous background check. It also provides for Federal preemption for the purposes of uniformity in laws that, for years, many have argued is necessary if there is to be an attempt to keep firearms out of the hands of criminals.

Now, with all of those provisions within this amendment I think you will find it curious, as you listen to the debate this afternoon on it, to find that people are picking and choosing and, in fact, contradicting themselves in the debates they have made in recent days over this issue.

For example, just a few minutes ago, our colleague from Ohio who yesterday said that instantaneous background check was nothing but a lottery system waiting to happen is now, in fact, endorsing it and is the cosponsor of the measure.

Is that inconsistency? I suggest that it might be if, in fact, you argue one day that it will not work and the next day that it will work.

I was arguing yesterday, with respect to the Stevens amendment, that instantaneous background check, if properly implemented, would work. The question is the waiting period. The question is, Can you deny citizens of this country, for any purpose, what we have historically believed to be a constitutional right? And, if you do deny that even for a moment in time, that you might argue it was worth denying, will it work? Will, in fact, the criminal element of this country all line up at the local gun shop, abide by the law, fill out the forms and wait for the law enforcement area agents to find out that they are, first, in the vicinity and second, are trying to acquire a firearm? I suggest if this is put in place that will not happen.

Now it happens only in 1 out of 6 times, or 17 percent of the time. And it is argued that that is good enough to provide broad-based protection for the average citizen in this country when for a moment of time we are denying their constitutional right.

There is another provision that will be offered. It is my understanding that the majority leader will offer a provision to strike Federal preemption. Interestingly enough, over the last several days of debate on the crime bill we have selectively, on occasion, decided that we were either for or against Federal preemption.

You will hear on the floor tonight that no one should ever stand in the way of a State. Yet we all nearly voted unanimously to support the D'Amato amendments, which were clearly Federal preemption over State authority in certain criminal areas.

I suggest the argument of Federal preemption is a selective argument. If it fits you, you wear it. If it does not, you declothe yourself of it and deny it should ever be put in place. And that is the debate that will go on this afternoon.

I suggest if we are truly looking for Federal uniformity, if we are looking to catch those who might traffic between States, or hop one border to another, then we really ought to assure the citizens of this country that that criminal element, who we attempt to snag by this law, will play the game unless the game is foolproof. This game will not be foolproof if we do not have uniformity across State lines.

Let me for the moment that is left to me talk about second amendment rights. I suspect 50 years ago this kind of debate would never have occurred in the Halls of the Congress; most assuredly not in the Chamber of the Senate. We would simply never have considered the idea that we would, for a moment in time, if not for all time, adjust or change what we believe to be the basic and fundamental rights of the citizens of this country. But that is what we are debating today, if not for a moment in time, for all time.

Will it work? Should we do it? If it works then we probably should do it. But the question is are we denying somebody a basic right?

We heard a colleague say a moment ago that over 8,000 people were killed last year by the use of a handgun. That is a statistic. That is a fact. I will not dispute it. But I will suggest this is another statistic and that is that 645,000 men and women in this country used a firearm last year to prevent themselves from being robbed, being raped or, in fact, having their homes broken into or their family in any way threatened. That is called the right of self-protection.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMENICI. Mr. President, I yield my colleague 2 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 additional minutes.

Mr. CRAIG. I thank my colleague for yielding me 2 more minutes.

That is called the right of self-protection. That is what the amendment is all about. What is proposed will not work in the way it is offered.

If we could assure uniformity, I would seriously consider a blink, a moment in time when I would forget a constitutional second amendment right to assure that we could protect the citizens of this country by building an instantaneous background check in a way that would snag the criminal.

That will not happen. By definition it will not happen. In practicality, it will not happen. Because we simply will never get the criminal element of our country marching in lockstep to the tune of the law.

The criminal has said, by definition, if I cannot get a handgun, I will get a long gun. If I cannot get a gun, I will get a stick. But I will find a weapon to use for the purpose I have in the commission of a crime. That is reality.

If we want to play politics—and that is what we have chosen to do today—if you want to go home and say I am going to make the streets of America safer when in fact you will not by this action, then you must vote for it because that is the way you will say it.

The streets of America will not be safer tomorrow or next year by the passage of this law. That cannot happen until we toughen up on the criminal element, until the laws of this country recognize if you use a handgun in the commission of a crime, there is substantial penalty, and you will not plea bargain anybody back to the streets who perpetrate such an act.

That is the fundamental issue; that is the debate. That is the division we are talking about. We will now see a motion to strike preemption critical to this legislation.

Look at it in the package sense and also recognize that one works against the other.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL. Mr. President, I yield 5 minutes to the Senator from Wisconsin.

I want to thank and commend the Senator from Wisconsin, one of the leaders in the effort to draft and gain enactment of this important legislation.

Mr. KOHL. Mr. President, I rise in strong support of the amendment I drafted with Senators MITCHELL, DOLE, and METZENBAUM. Once we dispose of the preemption language—and I am confident we will—this proposal will maintain the integrity of the Brady bill. And it represents a milestone: for the first time ever, the U.S. Senate is about to go on record in support of mandatory background checks for gun purchasers and in support of waiting periods.

Mr. President, our proposal takes the best elements of the Staggers amendment and the Brady bill. It is not a panacea for the violence in our cities and on our streets, but it is nevertheless an effective way of keeping guns out of the hands of criminals and drug traffickers. We need to pass this simple, effective, and straightforward measure—and defeat any efforts to weaken it—because it will help save lives.

The sad truth is that many of our cities are now less safe than war zones. From last August to this March, nearly 300 Americans died in the Persian Gulf. But during that very same period, more than 1,200 Americans were murdered in New York, more than 1,000 murdered in Los Angeles, and more than 300 murdered right here in our Nation's Capital.

Wisconsin is not immune to this gun-related violence. Last year my State set a record with more than 200 senseless killings. Most of those murdered were killed with guns, and many of the dead were children.

National statistics tell the same tragic story. According to the Department of Justice, more than 20 percent of all criminals obtain their handguns through licensed dealers, despite present Federal laws. Guns were responsible for over 10,000 murders last year, more than a 20-percent increase since 1987. And guns were used in more than 600,000 violent crimes in 1990.

In short, we need to find a better way to keep lethal weapons from dangerous people. The Brady bill works toward this goal. And in the amended form before you today, the measure will be even more effective.

Let me briefly describe our proposal. First, it would keep a waiting period in place. And waiting periods are crucial, Mr. President, to cool off individuals who are contemplating impulse killings or suicide. Do not take my word for it: every major law enforcement organization agrees.

Second, it would require that background checks are made, and we need to update our computerized criminal records so that these checks can be made more effectively. But through a system of incentives, this compromise would make background checks mandatory in every State. And it would give $100 million to States to update their criminal records—an improvement that is essential to accurately screen handgun buyers.

Mr. President, if we do not enact this proposal, what are the alternatives? Confiscating peoples firearms? That is wrong, unfair, and probably unconstitutional. Longer sentences? We have tried this for the last decade and, in any event, longer sentences are already replete in this bill. A national computerized instant check system? We defeated that last night.

Mr. President, our compromise has received the endorsements of Sarah and Jim Brady as well as every major police group. Moreover, it is supported by every living former President, including Ronald Reagan.

Why have all these people joined with us? And why do I believe our amendment will soon become law? The answer is simple: Our compromise combines the Brady bill with the NRA's proposal to effectively reduce handgun-related deaths. Waiting periods and mandatory background checks do work: Lives can and will be saved if we enact this measure.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. I yield 3 minutes to Senator CHAFEE and 7 minutes to Senator THURMOND when, in rotation, it is his turn.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I want to thank the distinguished Senator from New Mexico for yielding. Every so often in the Senate we see the results of actions by individual people pressing for the passage of legislation. I can recall the tremendous efforts that Peggy Barry, who lost a son in a fishing accident off Alaska and dedicated herself to achieving improved safety on American fishing vessels. She worked for many years on that and was finally successful. We see another example tonight coming to fruition: the work of Sarah and Jim Brady on this particular legislation. I think they are owed a tremendous debt of gratitude by all Americans, not just Americans now but Americans in the future and Americans who will live because of the results of this act.

Briefly, Mr. President, looking at the pluses, the pluses as it covers all firearms. It mandates background checks. It has a 5-business day wait. That is not 7 days, but it could well be 7 days since it is a 5-business day wait. It mandates that the States put in the automation of their criminal records and, as I say, it provides for background checks. It is not just a delay, a waiting period. It provides that during that waiting period there must be a background check on the individual.

What are the minuses? Mr. President, I think probably the principal minus is the preemption of States laws. I strongly believe there should be some period of delay, called a cooling off period, if you would, from the time that an individual comes in and wishes to purchase a handgun and the time that individual is able to purchase the handgun. It is not satisfactory, it is not adequate, in my judgment, just to have the automated criminal record check. A swift check, yes. This has probably 80 to 85 percent accuracy. That is splendid. You can tell if a person has a prior criminal record.

Mr. President, individuals come in in a fit of anger, rage—it might be a domestic matter—purchase a handgun, clearly has no criminal record and would be able to obtain that gun and go right out of the store and use it in a harmful way. So I think the mandated waiting period of some time, not as long as with the advent of the criminal record check. It would not have to be as long as 7 days, but I think some period, perhaps 48 hours, or something close thereto, is salutary.

So, Mr. President, I think overall the managers of the bill and the negotiators have done a very good job on this. It is not perfect, but certainly it is an excellent bill.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 7 minutes.

Mr. THURMOND. Mr. President, we are now considering provisions of the Violent Crime Control Act which provide for a 7-day waiting period for the purchase of handguns.

Perhaps no other title in this bill has been the subject of as much discussion and hyperbole in the media as the Brady bill language.

The proponents of this language suggest that enactment of this provision would prevent convicted felons from purchasing firearms from licensed dealers. They bolster their arguments with statistics, charts, and public opinion polls.

The opponents of this provision suggest that the Brady bill will not work, and more importantly, violates our second amendment right to bear arms. They feel criminals do not buy guns through legal channels. Furthermore, they argue that criminal history records in most States are not adquate to conduct effective background checks and scarce law enforcement resources will be diverted for this purpose. They, too, bolster their argument with statistics, charts, and public opinion polls.

There is room for belief and there is room for doubt on both sides of this issue. The polemics of gun control often produce heated debate and a tenacity to one's conviction on this issue.

Those representing both sides of this matter often use anecdotal persuasion to further their cause. These homilies on firearms generate much emotion and sympathy for the particular group offering their sermon. Clearly, empirical data is available to support both sides of this issue.

The progun control groups cite public opinion polls which show overwhelming support for the Brady bill. But the opponents also rely on surveys that show public opinion considerably waning when respondents are asked questions on the specific details and requirements of this proposal.

Both sides use interviews with law enforcement groups to buttress their argument. While one side refers to support by law enforcement for the Brady bill as an effective tool to keep guns from criminals, the other side quotes members of law enforcement who say the Brady bill would have no effect on criminals obtaining firearms.

As legislators, we must distill this conflicting information and find a workable solution that will prevent criminals from purchasing firearms from licensed dealers.

My support for the Constitution's second amendment right to bear arms is well documented during my service in the U.S. Senate. However, it could not be seriously argued that this is an absolute right which would allow convicted felons, other criminals and miscreants to own firearms.

There are currently Federal laws prohibiting the following categories of people from possessing firearms: First, any person convicted of a crime punishable by imprisonment for a term exceeding 1 year; second, a fugitive from justice; third, unlawful users of, or addicted to, controlled substances; fourth, those persons adjudicated as a mental defective or who have been committed to a mental institution; fifth, illegal aliens; sixth, those persons dishonorably discharged from the Armed Forces; and seventh, any U.S. citizen who has renounced his citizenship.

Title 27 in S. 1241 would require a 7-day waiting period before purchasing a firearm to allow law enforcement to conduct a background check on a prospective purchaser.

There has been considerable debate that complete records do not exist to do an adequate and effective check in 7 days. Of course, the ideal system would be an instant check and provide 100 percent arrest and disposition reporting. But, the available data tells us that the percentage is something less, and much more needs to be done to upgrade and automate these criminal records.

For example, the State of Virginia, which uses an instant background check has a relatively high level of disposition reporting at 85 percent. While there are a few States with better record quality than Virginia, there are many more States with worse. Clearly, the quality of the computerized criminal history records is critical in any type of background check on prospective purchasers.

According to the Bureau of Alcohol, Tobacco and Firearms, approximately 7.5 million new and used firearms are sold each year. Four out of seven guns sold are handguns. With this large number of guns sold annually, it is imperative that a system for background checks be able to accurately accommodate a large number of inquires on any given day.

The amendment now before us focuses on establishing a sound, responsive, and accurate system for an automated firearm purchaser record check. As I stated earlier, the quality of the criminal records is a determinative factor. An instant background check system is going to be effective only to the extent that there are accurate criminal records from which to draw.

Under this amendment, the Attorney General must take certain and definitive steps toward establishment of a national system to provide instantaneous checks for ineligible firearms purchasers. Additionally, funding is made available for the States to upgrade and fully automate their criminal history records. At a later time, the States will share their felony conviction records with the instant check system being setup by the Attorney

General. Two years after enactment of this legislation, the burden falls on the Attorney General to certify that the system is operational.

This instant check system will be used by licensed dealers to check the eligibility of purchasers of all firearms and no records of legitimate purchasers may be kept.

Mr. President, during the interim period before the instant check system is in place, this amendment provides for a 5-day waiting period prior to the purchase of any handgun. During this time, local law enforcement will use their available resources to conduct a background check.

This preapproval period could be helpful until the States upgrade and fully automate their systems under this amendment. The Office of Technology Assessment reports that most States have only partially automated criminal history files and few have complete disposition reports in these files. It is important for the States to improve their records to reflect the final disposition of those arrested within their borders. The funding authorized in this legislation will allow them to acheve this goal and help identify convicted felons who attempt to purchase firearms.

Mr. President, under this amendment, we will move in 2 years to a fully automated instant check system. I believe this will be most effective to identify and prohibit criminals from purchasing firearms from licensed dealers.

In the interim there will be a waiting period of 5 days for background checks on prospective gun purchasers. There has been some discussion that adoption of a waiting period would render a fatal blow to the second amendment. I am a strong supporter of the second amendment but do not share this fatalistic view. I do not believe that we will cross the Rubicon of gun control should the Congress adopt this amendment.

Mr. President, I believe this proposal is reasonable and offers an effective solution to achieve our goals. I urge my colleagues to support its adoption.

Mr. BIDEN. Mr. President, I yield myself 3 minutes on behalf of the majority leader.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, it seems to me this vote is very simple and very stark. Today, we strike a blow for common sense, for crime control, and for making the streets safer. It is as simple as that. Today, the Senate approves the Brady bill, a first rational, moderate step toward stopping killing in the streets. And today, with the passage of the Brady bill and the agreement not to strike any of the other bill's firearms provisions, we guarantee that the crime bill that passes the Senate will contain some sound anticrime measures. Of that we can be certain.

We will not finish the crime bill today, but today we move an important step closer toward getting a bill, a good, tough bill to make the streets safer, which is why we say we are fighting for a crime bill.

So, Mr. President, let us pass a tough crime bill. Let us pass the Brady bill. It is the least we owe American police officers. It is the least we owe the American people. And it is the most we will be able to immediately do to diminish the carnage in our streets.

I yield whatever time I have remaining back to the leadership.

A parliamentary inquiry. How much of the Senator's 3 minutes did I use?

The PRESIDING OFFICER. Two minutes.

Mr. BIDEN. Two minutes. I will not use the other minute. I yield it to the majority leader.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I think we have 3 minutes on the amendment, and I yield the 3 minutes to Senator STEVENS.

Mr. STEVENS. Mr. President, I spoke last night at length so I will not speak very long now. We started this process because the group associated with the Brady amendment believed that the current State laws which provide for registration, waiting periods, all kinds of restrictions on the purchase of guns do not work and we need a Federal law, they said, for a waiting period. That is what this bill started out to be, a waiting period.

Now we have a situation where my good friend from Delaware says this is the first step. This is the first step toward what? What is the second step? Is it to try to put into Federal law the registration provisions that do not work in the District of Columbia and in New York? What is it?

The thing that bothers me now is I understand that the preemption provisions of this current amendment will be knocked out. What will we have left? We have a Federal law that is going to apply to the States that do not have any waiting period until the System that I sought last night is proven to work—5 years under this bill, 2 years under mine. When that Federal System is working, the current States that do not have waiting periods once again will have no waiting periods, but the States that have 15, 20, 25 days, those waiting periods will prevail.

What this means to me is we are going to see now the Brady people will move to the States. This is nothing but a public relations gimmick when it comes right down to it. I think we are going to see an assault on the States so each one of the States then has a waiting period. Then we will be told the waiting periods of States do work so we can do away with the Federal waiting period after all. It is a very circuitous reasoning, Mr. President, in my opinion.

The real problem is—I agree with the Senator from Idaho—no matter what you say, this is tampering with second amendment rights. It is being done by people who want to take the first step down a long road to take away from our citizens the right to keep and bear arms.

I am sorry to say I cannot support the majority leader's amendment. I do not think it will achieve anything towards bringing about increased crime control. What it is going to do is present legitimate gun owners and sportsmen of this country with a whole series of new restrictions. No one has really mentioned to whom it will apply. It will not apply to me; my handguns are in Alaska, and I have had them a long time. This applies to the young people of this country. When they want to buy a gun, either for self-protection or sport, or perhaps they decide to go up to my State to hunt and fish and they want a handgun, they are going to face restrictions that I never faced.

The PRESIDING OFFICER. All the time under the control of the Republican leader has expired.

Mr. BIDEN. Mr. President, will the leader yield me 10 seconds? In response to my friend from Alaska, when he said the Senator from Delaware said this is the first step, the Senator meant and said this is the first step taken in this crime debate where we will be truly voting for something that will impact upon street crime, the first step in this bill. All the votes we have taken thus far will in no way directly impact on street crime. This will. That is what I meant by the first step.

Mr. MITCHELL. Mr. President, I yield 30 seconds to the Senator from Ohio.

The PRESIDING OFFICER (Mr. DECONCINI). The Senator from Ohio.

Mr. METZENBAUM. Mr. President, in moving forward with the passage of the Brady bill, we would not be where we are today were it not for the leadership of the majority leader, Senator MITCHELL, and the strong assistance of Senators KOHL and GORE. When things were bogged down and it looked as if it was going to be a touch-and-go situation as to whether we could pass the Brady bill, it was they who stepped into the breach, to come up with a compromise that was more acceptable to others. It could not have been done without Senator MITCHELL's able leadership and the strong supporting positions of Senator GORE and Senator KOHL. Senator BIDEN, who is managing this bill, has done a herculean job. He has stood out here on the floor when things were going the roughest. Without him, none of us would be where we are today on this fine bill.

AMENDMENT NO. 503

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. METZENBAUM, Mr. MITCHELL, Mr. DOMENICI, Mr. KOHL, Mr. THURMOND, and Mr. GORE, proposes an amendment numbered 503.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 236, strike line 7 and all that follows through the end of the bill and insert the following:

TITLE XXVII—FELON FIREARM PURCHASE PREVENTION

SEC. 2701. FEDERAL FIREARMS LICENSEE REQUIRED TO CONDUCT CRIMINAL BACKGROUND CHECK BEFORE TRANSFER OF FIREARM TO NONLICENSEE.

(a) INTERIM PROVISION.—Section 922 of title 18, United States Code, as amended by section 702 of this Act, is amended by adding at the end the following new subsection:

"(u)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending on the date that the Attorney General certifies that the national instant criminal background check system is in compliance with section 2702(d)(1) of the Violent Crime Control Act of 1991 (except as provided as paragraphs (2) and (3) of section 2702(d) of such Act); it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

"(A) after the most recent proposal of such transfer by the transferee—

"(i) the transferor has—

"(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

"(II) verified the identification of the transferee by examining the identification document presented; and

"(III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(ii)(I) 5 business days (as defined by days in which State offices are open) have elapsed from the date the transferee furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt for possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

"(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

"(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day peroid ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

"(C)(i) the transferee has presented to the transferor a permit that—

"(I) allows the transferee to possess a handgun; and

"(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

"(D) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(E) on application of the transferor, the Attorney General has certified that compliance with subparagraph (A)(i)(III) is impracticable because of the inability of the transferor to communicate with the chief law enforcement officer because of the remote location and absence of telecommunication facilities in the remote location of the licensed premises.

"(2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 business days whether the transferee has a criminal record or whether there is any other legal impediment to the transferee's receiving a handgun, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.

"(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

"(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

"(B) a statement that transferee—

"(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(ii) is not a fugitive from justice;

"(iii) is not an unlawful use of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

"(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

"(v) is not an alien who is illegally or unlawfully in the United States;

"(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

"(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

"(C) the date the statement is made; and

"(D) notice that the transferee intends to obtain a handgun from the transferor.

"(4) The chief law enforcement officer of the place of residence of a prospective transferee of a handgun, at the request of a person who alleges the person requires access to a handgun because of a threat to the life of the person or a member of the household of the person, shall immediately meet with the person and forthwith sign a written statement described in paragraph (1)(B) unless the officer has clear and convincing evidence that no threat was made to the life of the person or any member of the household of the person.

"(5) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall immediately communicate all information the transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of the place of business of the transferor; and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(6) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

"(7)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction.

"(B)(1) Unless the chief law enforcement officer to whom notice is provided under paragraph (1)(A)(i)(III) determines that a transaction shall, within 5 days after the date the transferee made such statement, destroy and record containing information derived from such statement.

"(ii) Information conveyed to a chief law enforcement officer under paragraph (1)(A)(i)(III)—

"(I) shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and

"(II) shall not be used for any purpose other than to carry out this subsection.

"(8) A chief law enforcement officer shall not be liable in an action at law for damages for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section.

"(9) For purposes of this subsection, the term 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

"(10) The Secretary shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to licensed dealers and to the public.".

(b) PERMANENT PROVISION.—Section 922 of title 18, United States Code, as amended by subsection (a), is amended by adding at the end the following new subsection:

"(v)(1) Beginning on the date that the Attorney General certifies that the national instant criminal background check system is in compliance with section 2702(d)(1) of the Violent Crime Control Act of 1991 (except as provided in paragraphs (2) and (3) of section 2702(d) of such Act), a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm from the business inventory of the licensee to any other person who is not such a licensee, unless—

"(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section 2703 of the Felon Firearm Purchase Prevention Act of 1991; and

"(B) the system notifies the licensee that the system has not located any record that demonstrates that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section.

"(2) Paragraph (1) shall not apply to a firearm transfer between a licensee and another person if—

"(A) such other person presents to the licensee a valid permit or license, issued by the State or political subdivision thereof in which the transfer is to occur, that authorizes such other person to purchase, possess, or carry a firearm;

"(B) The Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(C) on application of the transferor, the Secretary has certified that compliance with paragraph (1)(A) is impracticable because of the inability of the transferor to communicate with the national instant criminal background check system because of the remote location and absence of telecommunication facilities in the remote location of the licenses premises.

"(3) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a firearm by such other person would violate subsection (g) or (n), and the licensee transfers a firearm to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

"(4) If the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that receipt of a firearm by such other person would violate subsection (g) or (n), the Secretary may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under this section, and may impose on the licensee a civil fine of not more than $5,000.

"(5) A State employee responsible for providing information to the national instant criminal background check system shall not be liable in an action at law for damages for failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful under this section.".

(c) PENALTY.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "(2) or (3)"; and

(2) by adding at the end the following:

"(5) Whoever knowingly violates section 922 (u) or (v) shall be fined not more than $1,000, imprisoned for not more than 1 year, or both.".

SEC. 2702. NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

(a) ESTABLISHMENT OF SYSTEM.—The Attorney General of the United States shall establish a national instant criminal background check system that any licensee may contact for information on whether receipt of a firearm by a prospective transferee thereof would violate section 922 (g) or (n) of title 18, United States Code.

(b) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—The Attorney General shall expedite—

(1) the incorporation of State criminal history records into the Federal criminal records system maintained by the Federal Bureau of Investigation;

(2) the development of hardware and software systems to link State criminal history check systems into the national instant criminal background check system established by the Attorney General pursuant to this section; and

(3) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

(c) PROVISION OF STATE CRIMINAL RECORDS TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.—(1) Not later than 6 months after the date of enactment of this Act, the Attorney General shall—

(A) determine the type of computer hardware and software that will be used to operate the national instant criminal background check system and the means by which State criminal records systems will communicate with the national system;

(B) investigate the criminal records system of each State and determine for each State a timetable by which the State should be able to provide criminal records on an on line capacity basis to the national system;

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(2) The Attorney General shall require as a part of the State timetable that the State achieve, by the end of 5 years after the date of enactment of this Act, at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an entry of activity within the last 5 years and continue to maintain such a system.

(d) NATIONAL SYSTEM CERTIFICATION.—(1) On or after the date that is 30 months after the date of enactment of this Act, the Attorney General shall certify that—

(A) the national system has achieved at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an entry of activity within the last 5 years on a national average basis; and

(B) the States are in compliance with the timetable established pursuant to subsection (C).

(2) If on the date of certification in paragraph (1), a State that is not in compliance with the timetable established pursuant to subsection (c), the provision of section 922(u) of title 18, United States Code, as added by section 2701, shall remain in effect in such State. The Attorney General shall certify if a State subject to the provisions of section 922(u) under the preceding sentence achieves compliance with its timetable after the date of certification in paragraph (1) and section 922(u) of title 18, United States Code, as added by section 2701, shall not apply to such State.

(3) Six years after the date of enactment of this Act, the Attorney General shall certify whether or not a State is in compliance with subsection (c)(2) and if the State is not in compliance, the provisions of section 922(u) of title 18, United States Code, shall be in effect. The Attorney General shall certify if a State subject to the provisions of section 922(u) under the preceding sentence achieves compliance with the standards in subsection (c)(2) and section 922(u) of title 18, United States Code, as added by section 2701, shall not apply to such State.

(e) NOTIFICATION OF LICENSEES.—On establishment of the system under this section, the Attorney General shall notify each licensee of the existence and purpose of the system and the means to be used to contact the system.

(f) ADMINISTRATIVE PROVISIONS.—

(1) AUTHORITY TO OBTAIN OFFICIAL INFORMATION.—Notwithstanding any other law, the Attorney General may secure directly from any department or agency of the United States such information on persons for whom receipt of a firearm would violate section 922(g) or (n) of title 18, United States Code as is necessary to enable the system to operate in accordance with this section. On request of the Attorney General, the head of such department or agency shall furnish such information to the system.

(2) OTHER AUTHORITY.—The Attorney General shall develop such computer software, design and obtain such telecommunications and computer hardware, and employ such personnel, as are necessary to establish and operate the system in accordance with this section.

(g) CORRECTION OF ERRONEOUS SYSTEM INFORMATION.—If the system established under this section informs an individual contacting the system that receipt of a firearm by a prospective transferee would violate section 922 (g) or (n) of title 18, United States Code, the transferee may request the Attorney General to provide such other person with the reasons therefor. Upon receipt of such a request, the Attorney General shall immediately comply with the request. The transferee may submit to the Attorney General information that to correct, clarify, or supplement records of the system with respect to the transferee. After receipt of such information, the Attorney General shall immediately consider the information, investigate the matter further, and correct all erroneous Federal records relating to such the transferee and give notice of the error to any Federal department or agency or any State that was the source of such erroneous records.

(h) REGULATIONS.—After 90 days notice to the public and an opportunity for hearing by interested parties, the Attorney General shall prescribe regulations to ensure the privacy and security of the information of the system established under this section.

(i) PROHIBITIONS RELATING TO ESTABLISHMENT OF REGISTRATION SYSTEMS WITH RESPECT TO FIREARMS.—No department, agency, officer, or employee of the United States may—

(1) require that any record or portion thereof maintained by the system established under this section be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(2) use the system established under this section to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions, except with respect to persons prohibited by section 922(g) or (n) of title 18, United States Code, from receiving a firearm.

(j) DEFINITIONS.—As used in this section:

(1) LICENSEE.—The term "licensee" means a licensed importer, licensed manufacturer, or licensed dealer under section 923 of title 18, United States Code.

(2) OTHER TERMS.—The terms "firearm", "licensed importer", "licensed manufacturer", and "licensed dealer" have the meanings stated in section 921(a) (3), (9), (10), and (11), respectively, of title 18, United States Code.

SEC. 2703. FUNDING FOR IMPROVEMENT OF CRIMINAL RECORDS.

(a) IMPROVEMENTS IN STATE RECORDS.—

(1) USE OF FORMULA GRANTS.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the records required by the Attorney General under section 3 of the Felon Firearm Purchase Prevention Act of 1991 with the Attorney General for the purpose of implementing the Felon Firearm Purchase Prevention Act of 1991.".

(2) ADDITIONAL FUNDING.—

(A) GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS.—The Attorney General shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(i) for the creation of a computerized criminal history record system or improvement of an existing system;

(ii) to improve accessibility to the national instant criminal background system; and

(iii) upon establishment of the national system, to assist the State in the transmittal of criminal records to the national system.

(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under subparagraph (A) a total of $100,000,000 for fiscal year 1992 and all fiscal years thereafter.

(b) WITHHOLDING STATE FUNDS.—Effective on the date of enactment of this Act the Attorney General may reduce by up to 50 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that is not in compliance with the timetable established for such State under section 2702(c).

(c) WITHHOLDING OF DEPARTMENT OF JUSTICE FUNDS.—If the Attorney General does not certify the national instant criminal background check system pursuant to section 2702(d)(1) by—

(1) 30 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal beginning in the calendar year that is 30 months after the date of enactment of this Act shall be reduced by 5 percent on a monthly basis; and

(2) 42 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal beginning in the calendar year that is 42 months after the date of enactment of this Act shall be reduced by 10 percent on a monthly basis.

(d) If, beginning 5 years after the date of this enactment, the Attorney General certifies all States are in compliance with section 2702(d), all State laws requiring a waiting period for the purchase of firearms are preempted by the provisions of this title.

Mr. DOLE. Mr. President this amendment has been checked by staff on both sides, and by Members to some extent. We think it is satisfactory.

AMENDMENT NO. 504 TO AMENDMENT NO. 503

Mr. MITCHELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] proposes an amendment numbered 504 to amendment numbered 503.

On page 18 of the amendment strike all after line 13.

Mr. DURENBERGER. Mr. President, I will support the compromise Dole-Metzenbaum amendment, but only if we approve the majority leader's amendment striking the portion of the amendment that preempts State handgun laws.

Mr. President, last night I expressed my views on why I oppose a national handgun waiting period. In my view, a national waiting period, whether it be 5 days or 7 days, will not prevent criminals from obtaining handguns because the vast majority of criminals do not need and use ordinary and legitimate commercial means to obtain weapons.

Five out of six criminals obtain their handguns illegally. Everyone agrees with that fact. Criminals buy in the black market, they break in the gun stores, they steal guns from the homes of law-abiding citizens. Or they purchase guns from individuals with no prior criminal records who have legally purchased handguns through licensed gun dealers. Nothing we do on the Senate floor will change this fact.

However, Mr. President, if the majority leader's amendment striking Federal preemption is agreed to, I will support the compromise because the compromise increases from $40 to $100 million the amount of money that the Federal Government will provide to the States in order to establish a national computerized instant check system. However, I will not support this compromise if the final version preempts State handgun laws.

Mr. President, I believe there is no justification for the preemption provision contained in this bill. I have not heard a single argument to justify this unnecessary intrusion by the Federal Government into an area that has traditionally been within the purview of State and local governments.

Mr. President, in some parts of our country, especially in some of the major metropolitan areas, local police have found crime so overwhelming and pervasive that they have sought the enactment of State laws restricting gun ownership. In most cases, these laws have not served as a panacea for crime. But they reflect the feelings and frustrations of the local citizenry and local law enforcement.

Currently 26 of the 50 States have adopted waiting period laws and permit-to-purchase laws. Some of these waiting periods are as short as 2 days, others as long as 15 days. In my own State of Minnesota, the waiting period is 7 days. In 24 States, the State legislatures have expressed their view that waiting periods to purchase handguns are unnecessary.

Mr. President, I see no reason that there should be one uniform law governing handgun purchases in America. Can anyone in this body tell me that the police in the South Bronx of New York, or in Detroit MI, cope with the same problems as the State police in Wyoming or the local police in Bemiji MN. Of course not. Economic and social conditions in many of our cities demand firearms rules that are vastly different from the rules that govern small communities and sparsely populated States.

Mr. President, I will reluctantly vote for the Brady bill compromise that has been arduously worked out between the leadership on both sides of the aisle, along with proponents and opponents of a national waiting period.

I will do so with a sense of relief that the best interests as well as the major concerns of both sides have been met in my opinion.

I will do so with a real special sense of gratitude to my friend Jim Brady and his incredible wife Sarah for making sure we close this 23-year-old hole in guns law of this country.

Mr. SIMPSON. I want to make it clear for the record that we are really discussing two issues here today. One relates to whether or not waiting periods are ever advisable. The other relates to whether the Federal Government can reduce the length of the various existing State waiting periods through its power of preemption.

I rise in support of the amendment by our fine minority leader concerning the concept of preemption. I oppose the motion by the majority leader to strike the provision regarding preemption of State waiting periods.

The Federal Government should never—in my view—preempt State laws without strong and compelling reasons to do so. When we preempt, we wipe out a State law—erase it—nullify it. We substitute our judgment for the decisions made by the duly elected representatives of State government. When we preempt, we are, indeed, big brother. The people of Wyoming do not like that, and I do not, either. Only in most rare and extreme circumstances should we exercise that awesome Federal power over the States.

In this case, I think we have a strong and compelling reason to do so. Without preemption in this amendment, we are allowing even more intrusive State laws to add to the damage done to the second amendment today.

Mr. President, I also oppose all waiting periods. I do not think any waiting period will work—I do not believe it can work. The waiting period in the underlying bill can never work.

However, there are States like Massachusetts and California with laws that are far more intrusive than even this legislation. We must do all we can at every level to avoid destroying the second amendment rights of American citizens altogether. But we simply do not have the votes to protect that amendment as we should.

This is a sad day for the Constitution. The Framers, I suspect, would not be proud of the U.S. Senate if they were watching today, because in this so-called crime bill, we are now trying to amend a section which clearly ignores the spirit of the second amendment.

I am saddened by the double standard of some of our colleagues.

I was heartened to hear the distinguished chairman of the Judiciary Committee early this week, during debate on the exclusionary rule, when he said: "We can't change an amendment to the Constitution—even a little bit—we can't do that". Of course, there the chairman was using that as an example to argue against an amendment changing the law on the fourth amendment. The fourth amendment, and its protections for criminals, is obviously more sacred than the second to most of my colleagues.

But now, we are pretending that the second amendment does not exist. I wonder where the reverence is for the Bill of Rights—the reverence displayed on this floor just 4 days ago—where is it now?

The proponents have turned a crime bill debate into a debate on gun control. We owe it to our costituents to be very honest here. The waiting period will do nothing to curb violent crime. Criminals who are naive enough to go to a gun store to buy a firearm are at least smart enough to lie about their identity. In reality, though, this Brady bill concept will do nothing more than send these types out into the streets to buy firearms from other criminals. They will then just pay a higher price and exact a higher price from their future victims to make up the dfference.

The original Brady bill was misguided.

The idea of a waiting period—whether 7 days, 5 days, or 5 years, really does nothing at all to prevent the criminal from obtaining a firearm.

We were defeated last night when we tried to offer a realistic and sensible proposal as a substitute—one which respected the Constitution and the rights of law-abiding citizens.

The proponents of national gun control proved to us last night that we do not have the votes to protect the second amendment in the U.S. Senate. Those votes just are not there. We can leave it to the American people to decide whether they want to correct that situation in the future—at the ballot box.

The Dole language does constitute an appropriate improvement. However, it still imposes the distasteful waiting periods and I must therefore oppose it.

This bill will now go to conferfence. I would hope to be a conferee. In that conference, I would do all that is possible to further improve this legislation and still respect the rights that our Founding Fathers envisioned in the second amendment.

I richly commend our fine leader—the Senator from Kansas—for his courage in going forward with this compromise. He is tireless and sincere. His is a great improvement over what is now in the bill. I know he has labored long and hard with the best of faith. This has been very difficult and trying for me not to join him in his effort, but he has shown true leadership. That is his essence.

Mr. MITCHELL addressed the Chair.

Mr. DOLE. We are prepared to vote on the amendment.

Mr. MITCHELL. We are prepared to vote on the pending amendment, and then I ask that for the time I have remaining to make remarks I be permitted to make them after the adoption of this amendment.

Mr. STEVENS. Will there be a rollcall vote on the amendment?

Mr. DOLE. If someone requests a rollcall, there will be.

Mr. STEVENS. With preemption shut out, all of us who support the second amendment will oppose the Dole amendment. So I will not ask for a rollcall vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the second degree, offered by the Senator from Maine.

The amendment (No. 504) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I urge my colleagues to vote for the compromise handgun control amendment to the crime bill.

In place of a vague discretionary law which would permit an attorney general to put a background check into effect simply at his own discretion, this provision contains concrete and serious standards that must exist before such a system can be pronounced operational.

The Brady legislation that was passed by the House contained no such standards—in fact, it contained nothing that would have led to the creation of a national checking system.

That was a major flaw in that legislation and the modification now before us corrects it in a sensible and achievable way.

The modification also contains a time provision which, in the opinions of some, reflects the time that such a system can be put into effect.

But to make absolutely certain that no system goes into effect unless it is, in fact, a national and accurate checking system, our modification provides for a retriggering of the waiting period for any State which fails to meet the national records standards.

There are two checkpoints in the life of this legislation which are both important.

One comes in 2½ years time. At that time, 2½ years after enactment, the Attorney General will review the situation as it exists with respect to national records, State records and the operational capacities of the national checking system, and if he finds that they meet the standards set forth in the bill, he will certify the system operational.

At that time, the waiting period would end in those States covered by this bill—States which do not now have their own waiting period or checking system under state law.

The other checkpoint under this bill comes 6 years after enactment when the national goal for every State is reviewed.

The national goal is to achieve a criminal record system which is full and accurate and up to date. If any State, at that time, has not met the standard, the waiting period is reimposed in that State.

This is a moderate, sensible proposal that will achieve what both the opposing sides identify as their common goal: Preventing legal handgun sales to convicted felons.

That is a goal each side has tried to reach by different means.

The supporters of a handgun purchase waiting period and the opponents of a handgun purchase waiting period agree that their goal is to keep handguns out of the hands of convicted felons.

I know of no Senator who disagrees with that goal.

Both sides agree that to do so, a background check of handgun purchasers is needed.

I know of no Senator who disputes that fact.

Our proposal therefore seeks to achieve that common goal. It does so more effectively than either side's competing proposal does, standing alone.

The Brady proposal, as passed in the House, provides for a waiting period, with no background check necessary, in those States which do not now have a waiting period or a background check—that is some 29 States in all. The Brady proposal rests on the hope that a background check will be done, but the actual language of the bill contains nothing to further that hope.

It does nothing to ensure that the criminal records which would have to be checked will be either current or complete.

As a result, the proposal imposes a wait—in many cases on States which have already affirmatively considered and rejected the idea—and then implicitly hopes something will come of it.

The Senate turned down a similar 14-day wait by a 2-to-1 margin several years ago.

Our proposal seeks to correct those shortcomings.

It provides resources to the States for both the costs of conducting a background check and of updating and automating State criminal history records, so that a background check will have a reasonable probability of accurately determining a buyer's right to purchase.

The proposal does not meet all the objections of both sides.

The National Rifle Association has criticized it because it contains no absolute deadline to end the waiting period when a national instant check system is in place. They suggest that the lack of a deadline implies an indefinite duration for a waiting period. They criticize it because it will not lead to a single national law governing handgun sales, but perpetuates the existing differences in state laws.

Supporters of the Brady bill oppose the fact that our provisions will speed up the point-of-sale check system so that the waiting period will end sooner rather than later in States that do not want to have a waiting period. They would like to see less emphasis on the check and more emphasis on the wait.

But our proposal is not designed to meet the specifications of either side. Instead, it is designed with the concerns of the public at large, the State authorities and the Federal criminal justice system in mind.

The people of this Nation are concerned and angry about random gun violence. They are asking for more effective laws to curb it.

This proposal is not a total response to that demand. But it is a prudent, sensible measure that will help reduce that random violence.

The States do not all have the ability to check out handgun buyers today, and not all of them want to divert the police resources to take up that new task, especially States where gun-related crime rates are low.

The Federal authorities are required by the 1988 drug bill to put into place some kind of checking system, but today lack the authority to compel State cooperation in setting up the record system needed to support a national check.

And, not least, common sense says that if we are going to ask people to wait for 7 days to receive a gun they wish to buy, that we ought to use the time delay to do something more than inconvenience the buyer.

In other words, if we are going to require a wait, we ought to do a check during that wait; if we are going to do a check, we ought to make sure the records checked are reasonably accurate and updated.

And if we are going to make this a national policy, we have to do something to make sure the records involved are national in scope.

That is what our proposal seeks to do. It does not fully satisfy either side: But it does meet what both claim as their goal more fully and more quickly than do either of their competing proposals.

The principal purpose of this proposal is to help keep handguns out of the hands of felons.

The Brady proposal provides that when a national background check system is in place, the waiting period will end. The purpose of the waiting period, in other words, is to allow time for the check to be done. But the Brady proposal does not require a check to be done.

The approach supported by the National Rifle Association sought to impose the solution of an instant phone check, but it did not take into account the practicalities of time or resources to reach that solution.

Standing alone, neither approach would have been effective.

Current law requires the Attorney General to establish a method of making effective background checks on handgun buyers. But current law leaves the process—its pace and its standards—to the Attorney General's discretion.

The Justice Department has announced that a national, telephone background check will be the system used to respond to that law. But the Department has not said when such a system will be in place, what it considers to be adequate national coverage, or what the role of the States will be.

Our proposal seeks to resolve those questions.

It gives the States the resources to conduct a background check while the criminal records are being improved.

It gives the States the resources and the incentives to steadily improve those records.

And it provides incentives for the Justice Department to make a good faith effort to establish a workable system in as short a time period as is compatible with a comprehensive and accurate system.

Only 21 States today share their criminal data with the FBI system. For a national check to be truly national, all the States' records must be accessible through a central system.

Our proposal seeks to ensure that when a criminal background check is conducted, the records that will be consulted will be reasonably complete and current.

Today, in many States, reasonably complete and current records are not readily available.

A great deal of emotion and rhetoric always fuel debates over firearms. That has been the case in this instance.

Supporters of the Brady bill approach argue that the use of firearms in crimes and accidental killings is too high a price to pay for unrestricted access to handguns, and that at least those persons who are by law already prohibited from owning a handgun ought to be prevented from easily buying one.

Supporters of the National Rifle Association argue that the vast majority of all guns, including handguns, are purchased and owned by law-abiding citizens, whose rights ought not be infringed because of a very small minority of criminals.

Emotional arguments and controversy do not arise when one side is completely in the right and the other is completely in the wrong.

Controversy arises precisely when there is some truth on both sides of an issue.

That is the case here.

Supporters of a waiting period are right to say that the easy accessibility of handguns may contribute to crime and accidents. They make a fair argument in saying that a brief waiting period is a reasonable accommodation to a serious social problem.

The National Rifle Association and its supporters are right to remind us that the overwhelming majority of American gun owners are not criminals. They are law-abiding citizens whose ownership of firearms poses no threat to anyone.

Controversy also arises when exaggerated claims and misleading rhetoric is used. That has also happened on this issue.

Some supporters of a waiting period approach have implied that it is a panacea for firearms violence. That is just not true.

No waiting period is going to keep handguns from the hands of the mentally incompetent or unstable or drug addicts, because our society does not maintain readily available lists of persons with mental instabilities or addictions.

Meantime, some opponents of a waiting period have suggested that even the most minor inconvenience to a handgun purchaser is a constitutional violation and the first step to firearms confiscation. That is not true either. Our Nation has had laws governing firearms sales for well over half a century and there is no indication that the right of law-abiding persons to purchase firearms is any more at risk today than it was 50 or 100 years ago.

We have just ended a highway bill debate in which it sometimes seemed that we lost sight of the fact that our Nation is diverse, that some States are geographically large with small populations, that others are relatively small in size with large populations.

On this issue, which is a very different one, we face the same underlying situation: A diverse nation in which some Americans experience the freedom and peace of mind that comes in a rural setting, where guns pose no particular threat; and other Americans live in concentrated urban populations, where guns represent a very present danger.

I don't think we can or should tell either of our populations that their concerns do not matter. We cannot turn our backs to the fact that citizens in our larger cities are frightened by the easy availability of firearms. But we cannot and should not ask our rural people to live for all time under a regime geared to the needs and fears of urban residents.

There is a middle way where both sides can acknowledge the legitimate concerns of the other and accommodate to them. That is what our proposal is designed to do. We are asking residents of both rural and urban America to recognize that they are all part of the same nation. What is a problem for some of them for some of the time is important to others, and vice versa.

That is what I think Senators should do. Almost all of us have both rural and urban constituencies. We have to accommodate the differences in those constituencies and we ought to do it by asking both sides to recognize the concerns of the other.

The people we represent are more important than either the media pressures or the competing demands of the lobbying groups involved here.

I believe we have developed the least intrusive way feasible of meeting a common goal. The fact that we do not have agreement on the means to get there reflects differences that our proposal acknowledges and seeks to deal with by asking both sides for patience over time.

It is a reasonable, responsible proposal and deserves the support of all Members.

This is a very effective proposal. It includes a national background check system that is put in place. It includes a mandatory background check on purchases of handguns. It provides Federal resources to the States to build the instant check system. Incentives and disincentives for the State and Justice Department are included to bring the program up to speed at the earliest feasible time. There are defined standards that must be certified before the waiting period is phased out and a fail-safe mechanism that reimposes the waiting period if any State fails to meet and maintain the requirements of a current instant check system.

Now with the adoption of the amendment just voted on, there is no preemption of the rights of those States who on their own have selected to adopt waiting periods and background checks.

Mr. President, I want to thank all of those who have been involved; Senator DOLE, who has been involved with the negotiations in this with me for several days; Senator METZENBAUM, who has led this fight for 4 years, and without whose effort and persistence we would not be here today; Senator GORE and Senator KOHL, who joined with me earlier to participate in this; Senator BIDEN and many others. This is a group effort. It is a good effort.

I urge all Senators to vote for this proposal.

The PRESIDING OFFICER. All time has expired.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The question is on the amendment.

Mr. MITCHELL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that after the vote I be recognized for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Kansas.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 67, nays 32, as follows:

[Rollcall Vote No. 115 Leg.]

YEAS—67

Adams
Akaka
Bentsen
Biden
Bingaman
Boren
Bradley
Bryan
Bumpers
Burdick
Byrd
Chafee
Coats
Cohen
Conrad
Cranston
D'Amato
Daschle
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Gorton
Graham
Harkin
Hatfield
Inouye
Jeffords
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Levin
Lieberman
Lugar
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Simon
Thurmond
Warner
Wellstone
Wirth
Wofford

NAYS—32

Baucus
Bond
Breaux
Brown
Burns
Cochran
Craig
Danforth
DeConcini
Garn
Gramm
Grassley
Hatch
Heflin
Helms
Hollings
Johnston
Leahy
Lott
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Shelby
Simpson
Smith
Specter
Stevens
Symms
Wallop

NOT VOTING—1

Pryor

So, the amendment (No. 503) as amended, was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I believe under the previous order the distinguished Republican leader was to be recognized for 2 minutes.

The PRESIDING OFFICER. The Republican leader is recognized for 2 minutes.

Mr. DOLE. Mr. President, I will not take 2 minutes just to thank all my colleagues on each side, those who supported and those who finally opposed the compromise. I think it is an improvement. I think because of the discussions we had with those on both sides of the issue, we ended up with a stronger position on gun control, or on whatever you may call it. I think it is the right decision and I hope we can prevail, that this view will prevail, or we can even do better when this matter goes to conference.

I thank the distinguished majority leader and others, and the distinguished Senator from Idaho who was one of the leaders in the group who met in my office for days, along with Senator STEVENS of Alaska, Senator HATCH, Senator SYMMS of Idaho, and others who spent a great deal of time trying to come to grips with this very important issue.

I yield the remainder of my time.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I want to add my thanks to all of those who participated in making this very significant vote possible. A strong majority of the Senate has demonstrated their deep concern for dealing with the problem of violence in our society.

Mr. President, Senators involved played important roles, but I think each of us will acknowledge that it was the tremendous support, knowledge, effort, and dedication of key staff in the drafting of legislation and the conduct of extensive negotiations, often in very long nights, that made it possible. I do not know and cannot mention all of them, but I do want to mention some who have played an important role.

John Leibowitz of Senator KOHL's staff, Leeann Brackett of Senator GORE's staff, Kevin Burtzlaff, and Bill Corr of Senator METZENBAUM's staff, Jim Whittinghill of Senator DOLE's staff and, last but surely not least, Anita Jensen of my staff, who devoted literally hundreds of hours to this effort. All of them are to be commended. All of them played a very significant role in the achievement reached here in the Senate today.

I thank all of them. I want also, again, to thank the distinguished Senator from Delaware [Mr. BIDEN] and Ron Klain of his staff, who were fully supportive throughout this process and have pursued the crime bill itself with such diligence and skill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

JUSTICE THURGOOD MARSHALL AND THE CIVIL RIGHTS ACT

Mr. BRADLEY. Mr. President, yesterday, after 24 years of distinguished service, Justice Thurgood Marshall announced his retirement as Associate Justice of the Supreme Court of the United States. That announcement ends the formal career of a man who has guided, shaped, and led the moral conscience of this Nation for half a century. His retirement marks the end of a career dedicated to the advancement of civil rights for this Nation and the advancement of human rights for the world. For the rights he promoted, for the causes he championed, and for the Nation he served, we as a people have suffered a moral loss.

But that was not the only moral loss yesterday. Justice Marshall's announcement preceded by a matter of hours the announcement of the Senator from Missouri from the Senate that his attempt to negotiate a compromise on the pending civil rights negotiation with the President had failed. Apparently we are condemned to a long, hot summer of racial politics, and that is a significant moral loss for the Nation as well.

I appreciate and commend the efforts of Senator DANFORTH to put partisan interests aside in recognition that civil rights for Americans deserves discussion on a higher level. The sincerity of his beliefs on this bill is beyond question.

We should remember it was the White House that broke off talks. And why? Because it appears the President is being successful in his attempt to make quotas the Willie Horton poster child of the 1992 election cycle.

The Wall Street Journal reports this morning that 50 percent of all voters believe the Democratic Party backs quotas, while only 14 percent believe it does not. By contrast, voters view the Republican Party as antiquota by 47 percent to 18 percent. This view of Democrats is not true, but that is what the people seem to believe for now.

So, well done, Mr. President. You have clearly achieved your goal on this bill. You have convinced people of what is not true.

Let me say to the President, there is a higher road to take on this issue. There are loftier goals that could be set. You could, Mr. President, support the compromise efforts in this body on the civil rights bill. So far this has been, for you, the road not taken.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FOWLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

AMENDMENTS NOS. 505, 506, 507, 508, 509

Mr. FOWLER. Mr. President, I ask unanimous consent it be in order for the Senate to proceed en bloc to the consideration of the amendments I now send to the desk; that the amendments be agreed to en bloc and the motions to reconsider be laid upon the table.

Mr. STEVENS. Reserving the right to object, what is this?

Mr. FOWLER. I will be glad to repeat it for the Senator from Alaska.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator to consider the amendment at the desk en bloc?

Without objection, it is so ordered. The amendments will be stated.

The legislative clerk read as follows:

The Senator from Georgia [Mr. FOWLER], for Mr. BIDEN, proposes an amendment numbered 505.

The Senator from Georgia [Mr. FOWLER], for Mr. PRYOR, proposes an amendment numbered 506.

The Senator from Georgia [Mr. FOWLER], for Mr. KENNEDY, for himself, and Mr. HATCH, proposes an amendment numbered 507.

The Senator from Georgia [Mr. FOWLER], for Mr. GRAHAM, proposes an amendment numbered 508.

The Senator from Georgia [Mr. FOWLER], proposes an amendment numbered 509.

Mr. FOWLER. Mr. President, the five amendments before the Senate are as follows. They were cleared by the other side.

A credit card fraud amendment by the chairman of the committee [Mr. BIDEN]; an amendment dealing with preventing wire tapping, which was offered by the chairman for the Senator from Arkansas [Mr. PRYOR]; an amendment jointly authored by Mr. KENNEDY and Mr. HATCH on art theft; an amendment by Mr. GRAHAM, of Florida, on judicial vacancies; an amendment by Senator FOWLER, of Georgia, on police corps.

The PRESIDING OFFICER. Without objection, the amendments will be agreed to en block as requested by the Senator from Georgia.

The amendments were agreed to, en bloc, as follows:

AMENDMENT NO. 505

At the appropriate place, insert the following:

SEC. . CONSUMER PROTECTION AGAINST CREDIT CARD FRAUD ACT OF 1991.

(a) SHORT TITLE.—This section may be cited as the "Consumer Protection Against Credit Card Fraud Act of 1991".

(b) FRAUD AND RELATED ACTIVITY IN CONNECTION WITH ACCESS DEVICES.—Section 1029 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting after paragraph

(4) the following new paragraphs:

"(5) knowingly and with intent to defraud effects transactions, with one or more access devices issued to another person or persons, to receive payment or any other thing of value during any one-year period the aggregate value of which is equal to or greater than $1,000;

"(6) without the authorization of the issuer of the access device, knowingly and with intent to defraud solicits a person for the purpose of—

"(A) offering an access device; or

"(B) selling information regarding or an application to obtain an access device; or

"(7) without the authorization of the credit card system member or its agent, knowingly and with intent to defraud causes or arranges for another person to present to the member or its agent, for payment, one or more evidences or records of transactions made by an access device;".

(c) TECHNICAL AMENDMENTS.—Section 1029 of title 18, United States Code, as amended by subsection (b), is amended—

(1) in subsection (a) by striking "or" at the end of paragraph (3);

(2) in subsection (c)(1) by striking "(a)(2) or (a)(3)" and inserting "(a)(2), (3), (5), (6), or (7)"; and

(3) in subsection (e) by—

(A) striking "and" at the end of paragraph (5);

(B) adding "and" at the end of paragraph (6); and

(C) adding at the end thereof the following new paragraph:

"(7) the term 'credit card system member' means a financial institution or other entity that is a member of a credit card system, including an entity, whether affiliated with or identical to the credit card issuer, that is the sole member of a credit card system.".

AMENDMENT NO. 506

(a) Section 2511(1) of Title 18 is amended—

(1) by striking "or" at the end of paragraph (c);

(2) by inserting "or" after the semicolon at the end of paragraph (d); and

(3) by adding the following new paragraph:

"(e)(i) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by sections 2511(2)(a)(ii), 2511(b)–(c), 2511(e), 2516, and 2518 of this subchapter, (ii) knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, (iii) having obtained or received the information in connection with a criminal investigation, (iv) with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation;"

(b) Section 2515 of Title 18 is amended by adding at the end the following new paragraph:

"This section shall not apply to the admission into evidence of the contents of a wire or oral communication, or evidence derived therefrom, which has been disclosed in violation of Section 2511(1)(e)."

Mr BIDEN. Mr. President, I ask unanimous consent that a letter to me from Senator PRYOR concerning the wiretap amendment he and I worked on be printed in the RECORD at the appropriate place.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 27, 1991.

Hon. JOSEPH BIDEN,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, DC.

DEAR JOE: I am writing to thank you for securing inclusion of my wiretap proposal in this year's crime bill. I know that you supported my proposal in the 101st Congress, and I greatly appreciate your courtesy in assisting its passage again this year. As I am continuing my recovery from a recent heart attack, I am unable to participate in the current debate regarding the "Violent Crime Control Act of 1991".

My interest in reforming the federal wiretap statute can be traced to the Impeachment Trial of former Judge Alcee Hastings in 1989. During the course of those proceedings, it came to my attention that several loopholes exist in the current federal wiretap statute. Specifically, the statute fails to prohibit unauthorized disclosure of lawfully obtained wiretap information (1) by private persons or government officials who work for nonlaw enforcement agencies (e.g., judges, court personnel) or (2) made for reasons other than obstructing interception of a particular conversation or communication (e.g., exposing an undercover investigation). My proposal will close these loopholes by prohibiting improper disclosure of lawfully obtained wiretap information by any person for the general purpose of obstructing a criminal investigation.

As you know, undercover criminal investigations which employ wiretaps are often very sensitive operations that place at risk the lives of law enforcement officers. Those officers have the right to know that prosecutors will have clear statutory authority under which to bring charges against any individual who intentionally discloses confidential wiretap information and thereby jeopardizes the officers' lives. I believe my wiretap proposal gives those officers the assurance they deserve. Mr. Chairman, we must send a clear message that the unauthorized disclosure of confidential wiretap information is dangerous to law enforcement officers and will meet with harsh punishment.

Your assistance and cooperation regarding this matter are greatly appreciated.

Sincerely,

DAVID PRYOR.

AMENDMENT NO. 507

At the appropriate place, insert the following:

SEC. . THEFTS OF MAJOR ART WORKS.

(a) OFFENSE.—Chapet 31 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 668. Theft of a major art work

"(a) Whoever steals or obtains by fraud any object of cultural heritage held in a museum shall be fined under this title, imprisoned not more than the maximum term of imprisonment for a class C felony, or both.

"(b) A museum which exhibits to the public or holds in storage any stolen object of cultural heritage knowing such object is stolen shall be fined under this title, imprisoned not more than the maximum term of imprisonment for a class C felony, or both.

"(c) Notwithstanding section 3282 of this title, the statute of limitations for an offense under this section shall be 20 years.

"(d) The property of a person convicted of an offense under this section shall be subject to criminal forfeiture under section 982 of this title.

"(e) For purposes of this section—

"(1) The term 'museum' means an organized and permanent institution, essentially educational or aesthetic in purpose with professional staff, which owns and utilizes tangible objects, cares for them, and exhibits them to the public on some regularly scheduled period.

"(2) The term 'stolen object of cultural heritage' means a stoler object reported to law enforcement authorities as stolen and registered with the International Foundation for Art Research, Smith International Adjustors, or any equivalent registry.".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 31 of title 18, United States Code, is amended by adding at the end thereof the following:

"668. Theft of a major art work.".

AMENDMENT NO. 507

Mr. KENNEDY. Mr. President, I offer this amendment with my colleague from Utah, Mr. HATCH, to respond to the growing number of major art thefts in this country and abroad, many of which have had serious impacts on the public and the arts. Ninety percent of stolen art is never recovered; however, 40 percent of well-known works are recovered because the notoriety of the theft makes the works difficult to sell or even display.

Stolen works of art are often irreplaceable. As a result, museums are forced to undertake expensive measures to protect their treasures, and the burden is equally great on smaller and less established museums and galleries.

Art theft may well be the world's most profitable criminal trade after illegal narcotics. The worldwide market for stolen art is estimated to run as high as $1 to $2 billion annually, about the size of the legitimate art business in 1989. Indeed, a number of drug traffickers use art works to launder money. Only recently have there been any efforts to develop an international computerized register of stolen artwork.

This amendment will facilitate law enforcement efforts by increasing the statute of limitations for art thefts. Investigators, prosecutors, museums, and galleries will have more time to assess their losses and bring charges against art criminals, particularly in cases where art thieves hide stolen art for long periods of time.

The amendment also makes art thefts an explicit Federal offense, and authorizes the Federal Bureau of Investigation to commence investigations of such thefts immediately. In addition, the amendment will punish museums and galleries that knowingly exhibit or store stolen art. Finally, the amendment subjects art thieves to criminal forfeiture sanctions and adjusts the penalties for thefts.

Commensurate with its statutory duty to promulgate guidelines and policy statements that structure sentencing authority, the U.S. Sentencing Commission will undoubtedly consider the need for any change in the guidelines to reflect the increased penalties that this amendment would make applicable to thefts of major art works.

One approach the Commission may wish to consider would be promulgating a policy statement directing generally that when priceless objects are stolen, an upward departure from the otherwise applicable guideline range may be appropriate. In any case, it will be up to the Commission to determine the best course of action giving effect to the intent of this amendment. The amendment is an important step toward addressing the serious problem of art thefts and punishing those who assault our cultural heritage by depriving us of these great works.

Mr. President, I ask unanimous consent that these articles concerning the March 1990 theft at the Isabella Stewart Gardner Museum, be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Mar. 22, 1991]

BOSTON ART THEFT: MUSEUMS REVIEW SECURITY SYSTEMS

(By Laura Van Tuyl)

BOSTON.—As average citizens and aficionados alike become fascinated over the heady prices that fine art is commanding today—so does the cunning thief.

Rising market values for paintings and other objects have prompted an increase in the number of art thefts around the world, industry officials say.

The lastest casualty is the Isabella Stewart Gardner Museum here, where an estimated $200 million worth of art was stolen March 18. The heist was a severe jolt to the staff of this small, but world-class, institution. Thieves made off with 13 items including a rare Vermeer painting, three Rembrandts, and five Degas works in the largest art theft ever in the United States. The works stolen were not insured for theft.

As a result of this and thefts elsewhere, museums are reviewing security measures in a world where not even the most sophisticated surveillance equipment can be 100 percent effective.

At the Gardner, security guards allowed two men posing as police officers to enter the museum during the night. The men disconnected the state-of-the-art alarm system and spent two hours removing selected works.

Anne Hawley, the Gardner's director, called the crime "a barbaric act," but expressed confidence the objects would be returned. "The public's access to art is continuing to be eroded by these kinds of activities," she said during a press conference.

While precise figures for the number of stolen art and antique objects are unavailable, theft "certainly seems to be on the rise," says Margaret O'Brien of the *International Foundation for Art Research (IFAR)*, a clearinghouse for art-theft information. In 1988, the foundation had 24,000 files on stolen art, compared with 32,000 files today. Thefts reported to IFAR occur mostly in Italy, says Ms. O'Brien, with the Netherlands in second place. Many pieces go underground for years.

Soaring prices and "the corresponding publicity the prices get seem to encourage more theft," says William Martin, a detective with the Los Angeles Police Department, who traces stolen art. "We have a big problem in this city," mostly affecting private collections and galleries, Mr. Martin says.

Recent major thefts include the taking of three van Gogh paintings, worth $72 million, from the Kroeller-Mueller Museum in in the Netherlands in 1988. They have since been recovered. Last year, a Gauguin watercolor disappeared from a customs warehouse at London's Heathrow Airport, and liturgical silver relics were taken from a seminary in Monteriggioni, Italy.

In some cases, ransom is demanded from the art's owner or the owner's insurer. Stolen paintings have been discovered during drug raids, too. Drug cartels trade paintings back and forth to circumvent money-laundering problems, or as a commodity, instead of trading money," says Charles Moore, a private investigator in Brockton, Mass.

Since the art taken from the Gardner Museum is so widely known, criminals will have a hard time unloading it. "There can't be many people in the world that in a few weeks won't become familiar with that list of pictures," say Jay Cantor, director of museum services for Christie's in New York. Both Christie's and Sotheby's auction houses are underwriting a $1 million reward for information leading to the return of the works.

Art industry experts agree boosting security is the key to reducing art thefts. Fortunately, "over the last four years there have been vast improvements in alarm systems for galleries and museums," says Gregory Smith, vice president of Smith International Adjustors, which handles art-theft claims.

"The problem is," says detective Moore, "you can have the most sophisticated system installed, but it's only as good as the human element involved." He advises museums to have several different alarm systems.

Around the world, police agencies tend to cooperate well in searching for stolen artwork, says detective Martin, who recently attended a world art conference in Lyon, France, hosted by Interpol, the international police agency. But art-theft laws in various countries need to be coordinated, he says. According to some laws, a person who buys a work of art in good faith gets full title to it, "even if it's stolen," Martin says.

"In the museum community, there is a high degree of sharing of ideas" concerning security, says Anne Evans, administrator of the National Gallery in Washington, D.C. A rising number of thefts cause "people in the museum business to be extremely careful. . . . We're apalled by the kind of loss the Gardner has suffered. . . . For us, it's a good reminder that all the effort we put into security is worth it."

[From the Journal of Commerce, May 25, 1990]

BOSTON CASE FOCUSES ATTENTION ON ART BURGLARY EPIDEMIC

NEW YORK.—Two million dollars worth of stolen art treasures could surface any day if police get a break in what has evolved into the most extensive dragnet ever for stolen U.S. Art. But history suggests the paintings could remain out of sight for years, while the thieves peddle them to a wealthy art collector or drug baron, use them to publicize a political cause or wait for burning interest in the art works to cool down.

Rembrandt's "The Storm on the Sea of Galilee" and other masterpieces stolen from Boston's Gardner Museum in March are probably lying covered in canvas in the corner of a cool, dark basement here or one of several other art capitals, part of a scheme authorities believe was painstakingly plotted months before the record-breaking Boston heist.

Whatever its outcome, the Gardner case already has focused attention on an epidemic of art burglaries here and abroad—a crime spree that has built stolen art into a billion dollar business, second only to narcotics, threatens to transform galleries into armed garrisons and has gone largely ignored by police, prosecutors and the public.

Art thieves inhabit a steamy, seamy world, law enforcement officials say: Wealthy drug lords commission thefts to adorn their walls or buy pilfered paintings because they are easier to smuggle out than cash. Organized crime has added art theft to gambling, drugs and other vices. Thieves sell art through an international network of dealers, who market it to respectable collectors. And political extremists, dictators such as the deposed Idi Amin of Uganda, unethical international bankers and other shady characters buy and sell stolen works.

The authorities are better at describing the thieves than catching them, however: 90% of stolen paintings, sculptures and other art works are never recovered.

"Law enforcement's priorities reflect the view of society that art is something for rich people. Even though museum attendance far outnumbers that at all national sports events combined, it doesn't seem to affect people in the same way; it isn't a bread and butter issue," said Charles Koczka, who spent 14 years tracking art thieves for the U.S. Customs Service.

"I often thought that to wake up America, it would take something like Philadelphia learning that the Liberty Bell was gone and finding it in another country. We're a rather young country and haven't had a serious loss," Mr. Koczka added.

America's losses are mounting fast, though. New York City police say the number of art thefts here has doubled in the past year, with comparable increases reported across the country.

Soaring art prices are partly to blame: The cost of Impressionist paintings, a good barometer of the market, has risen 25% each of the last two years. "Thieves have discovered they can make a big profit even though they earn just 1% of the painting's value. It's better than stealing televisions, Walkmen or gold chains," said Constance Lowenthal, head of the International Foundation for Art Research, a New York group that tracks stolen paintings.

Art theft also is front-page news. That publicity, along with the ease of pulling the heists and the likelihood of getting away clean, encourages copy-cat crimes, police say. "If you walked into the Bank of Boston you wouldn't see $300,000 lying on a table unattended, but that's exactly what is happening in galleries and museums," said Detective Joseph Keenan, New York City's senior art investigator.

The Gardner heist, the biggest ever, is sure to fuel the stealing frenzy. "If thieves show up as cops or firemen how, under pressure and fear, can we check who they really are?" asked John Walsh, director of the nation's wealthiest museum, the J. Paul Getty in California.

Law enforcement officials, meanwhile, are severely constrained in their ability to fight back. New York and Los Angeles are the only police departments with art theft specialists; Los Angeles has two who work full-time out of a department of 8,257, while New York has several part-timers out of a force of 26,199. The FBI and Customs Service are equally strapped, with a dozen or so agents who spend a large part of their time investigating stolen art.

By comparison, France has 30 full-time art investigators and Italy has 80.

In the Gardner case, however, no resources are being spared to nab the thieves and retrieve their loot: The FBI's Boston office initially assigned 20 agents to the case, 12 of whom are still working on it. Agents in several other cities where there are strong leads also are working full time, with help from officials in the 54 remaining field offices and legal attaches in embassies from Hong Kong to London to South America.

Boston police are helping out, too, and interpol has alerted law enforcement officials in its 153 bureaus worldwide. Authorities reached out to the public on May 13 through the television show "America's Most Wanted."

"It's probably the most extensive investigation we've ever done," said Tron Brekke, assistant agent in charge of the Boston FBI office. Unlike other art thefts, he explained, at the Gardner "They tied up the guards, it was a violent crime. Then there is the notoriety and value of the paintings."

Who has the Gardner works, and why did they take them?

The assumption with most stolen paintings would be that they had entered the art underworld, a clandestine network of professional thieves, fences and shady dealers who channel works from their rightful owners to collectors, museums and others who assume they are making legal purchases and often do not ask too many questions. But the Gardner paintings by Vermeer, Rembrandt and other masters are too well known to pass off as legitimate and too hot for savvy crooks to handle, experts agree.

That leaves several intriguing possibilities, according to interviews with past and present FBI and Customs agents. New York City police, Scotland Yard officials, gallery owners, auction house executives, insurance adjusters and appraisers, museum curators and other specialists. Based on cases of art theft that have been cracked, here are what they say are the most likely scenarios:

Drugs. To wealthy drug kingpins "Art is just like gold and diamonds. They put their money into art to make it easier to take in and out of the country," said Victoria Ovis of the Customs Service's New York office. Sometimes that art is bought legally, police say, and sometimes it is stolen.

Drug barons also appear to be commissioning art thefts. Stolen paintings were captured during drug raids last year in Amsterdam and this year in Scotland, and investigators suspect the same thing is happening in the United States.

Organized crime. "They're definitely involved with stolen art * * * But they're not the majority," said Thomas Moscardini, a 21-year veteran of the New York City Police Department who specialized in art investigations. The Mafia's motivation is simple, he added. Easy money, the same as they get from narcotics, gambling and prostitution.

Political activists. In 1911, Vincenzo Perugia spirited the Mona Lisa out of the Louvre to return it to Italy, which he said was its rightful owner. Decades later, IRA terrorists stole paintings from British collectors to collect a ransom and attention. Eight weeks ago, some investigators speculate, activists may have raided the Gardner to bring money or publicity to a yet-to-be disclosed cause.

Japan. The place to sell stolen art, many investigators say, is Japan, a country wealthy enough to buy more and more treasures and with art-theft laws weak enough to entice crooks.

The European connection. In Switzerland, investors can store works of art or anything else in "Free ports" without worrying about thieves breaking in, governments extracting taxes or investigators finding out what they have. Warehouses there are as secure—and discrete—as Swiss banks and would be a logical place to stash stolen paintings, said Paul Tucker, who organized the Museum of Fine Art's recent Monet exhibit.

[From the Christian Science Monitor, Nov. 6, 1990]

Art Theft Update: Heist Unsolved, Gardner Moves On

(By Laura Van Tuyl)

BOSTON.—The largest art theft in the United States has dropped out of the media spotlight, but every day at the Isabella Stewart Gardner Museum here staff members have to face the blank spots on the walls where the treasured works once hung.

Over six months after the $200 million heist, which rocked this city and reverberated around the world, the atmosphere at the Gardner Museum is a mixture of hope and nagging worry, fortitude and uncertainty. Despite the museum's offering of a $1 million reward for information leading to the safe recovery of the works, the case remains unsolved.

"It's a very active case," asserts director Anne Hawley, interviewed in her office. The FBI "has told us they still have the same amount of manpower they did at the beginning. They want very much to crack it."

"We're still evaluating information and still trying to pursue leads," says William McMullin, special agent for the FBI in Boston, who declined to comment further.

The sense of loss at the Gardner has been relieved somewhat by the generous outpouring of community support since the theft, says Ms. Hawley.

"The theft just shattered the community's complacency about this institution," she says. An ad agency, a research firm, a hotel, and a local carpenter are among the many sources now donating services. "People woke up to realize that this is a vulnerable institution, that it's not wealthy, that it needs help from the community if it's to be preserved for future generations."

Attendance at the Gardner increased 35 percent after the theft last March, though Hawley attributes the rise, in part, to the blockbuster Monet show going on concurrently at the nearby Museum of Fine Arts, which drew 537,000 people. Visitor levels at the Gardner have now dropped significantly from that previous high, however, and Hawley is forging ahead with ambitious plans to increase membership from 1,800 to 5,000.

During the interview, Hawley refused to talk about changes in security procedures since the theft, though the museum, in contrast to a year ago, was literally crawling with blue-uniformed guards. It was later confirmed by a museum spokeswoman that the Gardner has hired a museum security consultant and is considering plans to build a bulletproof "secure vault" for use by the guards.

Though Hawley could not emphasize enough the sense of grief the staff was still feeling, "my mood is certainly back on track," she says. Her spirits have been lifted by a new fall lecture series and by several staff members she has brought on board who are eager and upbeat, including music director Scott Nickrenz, who will guide the Gardner's much-heralded tradition of chamber music concerts. Mr. Nickrenz is a cellist and the director of chamber music at the Spoleto Festivals in South Carolina, Italy, and Australia.

Conservation of the 2,000-piece collection, however, is the museum's chief concern, says Hawley, since the collection is permanent and cannot be altered nor added to. Both Hawley and the conservation staff are constantly worrying about the unknown condition the 13 stolen items, which include a rare Vermeer painting, three works by Rembrandt, and three by Degas.

"If they're being left in a damp basement somewhere, they're not going to be in too good of a shape," said Barbara Mangum, conservator of objects. Mold growth or warping could occur, as well as damage from direct sunlight or ultraviolet light.

The two Rembrandt oil paintings, "The Storm on the Sea of Galilee" and "The Lady and Gentleman in Black," were violently cut out of their frames. The pictures might have been folded or rolled, which could be disastrous if they remain that way for long.

While the creasing or warping of a masterpiece is awful to contemplate, the loss of paint is a conservation's "worst fear," says Mrs Mangum. After the thieves had sliced through the Rembrandts, minute chips of paint were found on the floor and retrieved with tweezers. If the paintings are returned, the chips can be reapplied. Interestingly, analysis of the chips, conservators say, can yield valuable information about the master's painting techniques—insights not attainable through infrared and X-ray analysis.

The Boston-based Polaroid Corporation, using large-format photography and digital image processing, is making photographic reproductions of the stolen works from the museum's supply of transparencies. Hawley is planning to exhibit the images, which she says are "amazing" fool-proof likenesses of the originals. "We find there is a tremendous amount of vision interest in looking at these works," she says.

The more familiar the public is with the artworks, the greater the chances are of finding them. Hawley says she is encouraged by some recent major recoveries of stolen art. This summer, 25 Old Master drawings and paintings, among other items, were returned in mint condition to New York's Colnaghi Art Gallery robbed in February 1988. That was the largest art theft in the US before the Gardner incident. And in April, the FBI announced it had recovered four 17th-century Dutch paintings stolen eight years ago from the Detroit Institute of Art.

These events are part of "a regular ebb and flow" of thefts and recoveries, says Constance Lowenthal, director of the International Foundation for Art Research, an organization that tracks stolen art. she is not suprised, despite the well-known nature of the Gardner works and the $1 million reward, that nothing has turned up.

"There are some thefts of masterpieces where the works are recovered very quickly," she says, "but often we wait many years. There's no predictable timetable for expecting a recovery. It requires a tremendous amount of patience."

Amendment No. 508

In the appropriate place insert the following:

The Congress finds that:

An adequately supported Federal judiciary is essential to the enforcement of law and order in the United States, and

Section 331 of Title 28 provides in pertinent part that the Chief Justice shall submit to Congress an annual report of the proceedings of the Judicial Conference and its recommendations for legislation, and

In 1990, in response to the recommendations of the Judicial Conference for additional judgeships, Congress enacted legislation creating 85 additional judgeships with an effective date of December 1, 1990, and

Only one of these vacancies has been filled, and

During the current administration, it has taken an average of 502 days from the time a judgeship becomes vacant until such vacancy is filled, and

The enactment of legislation providing additional funding for the investigation and prosecution facets of the criminal justice system has a direct and positive impact on the needs and workload of the Judiciary, which is already severely overloaded with criminal cases, and

Recommendations by the Judicial Conference for the filling of judicial vacancies are currently made on the basis of historical data alone, and

The General Accounting Office, pursuant to the 1988 Anti-Drug Abuse Act, has developed a computer model that measures the potential effect of fiscal increases on one or more parts of the criminal justice system on the Judiciary, and

The General Accounting Office has established that an increase in the resources allocated to the investigative and prosecutorial parts of the criminal justice system, brings about an increase in the number of criminal cases filed, which in turn adds to the need for additional judgeships, and

The allocation of resources to portions of the federal criminal justice system other than the Judiciary contributes to the need for additional judgeships that cannot be anticipated by the use of historical data alone, and

The use of historical data alone, because of its inability to project the need for additional judgeships attributable to the increase in criminal caseload adds to the delay in meeting the needs of the Judiciary.

Therefore, it is the Sense of the Senate:

It is the sense of the Senate that the Judicial Conference should be encouraged to make its recommendations to Congress for additional judgeships utilizing historical data and a workload estimate model designed to anticipate an increase in criminal filings resulting from increased funding in one or more components of the federal criminal justice system, and to take into account the time expended in the appointive and confirmation process.

Amendment No. 509

On page 100, line 16, please insert the following language as new subsection (2):

"Such training programs shall include a drug education program which:

(a) trains Police Corps participants concerning drug and alcohol abuse education and prevention;

(b) develops a framework for their collaboration with the local school systems and community resources to reduce the availability and demand for drugs by teaching students to recognize and resist pressures to experiment with drugs and alcohol. This may specifically include instruction about:

(i) understanding the consequences of drug abuse;

(ii) resistance techniques;

(iii) managing stress without taking drugs;

(iv) positive alternatives to drug abuse behavior;

(v) self-esteem building activities;

(vi) resistance to peer pressure and gang pressure;

(vii) decision-making and risk taking;

(viii) interpersonal and communications skills."

On page 106, line 9, after the period insert the following: "This section authorizes sums as may be necessary to implement this program."

AMENDMENT NO. 509

Mr. FOWLER. Mr. President, I rise today to propose an amendment to the Police Corps provisions of the crime bill.

I think the Police Corps proposal is on the right track. It extends the ROTC concept to law enforcement by offering full scholarships to students willing to commit to 4 years of service as a law enforcement officer after graduation. Police Corps students will receive training during the summer to qualify them to make the maximum contribution to our law enforcement efforts.

The amendment I propose is designed to incorporate intensive drug education programs into that training. It calls on the Director of the Police Corps to develop a framework for participants to collaborate with local school systems and community resources to reduce the availability and demand for drugs by teaching students to recognize and resist pressures to experiment with drugs and alcohol.

This may be accomplished by teaching our school children such important skills as: understanding the consequences of drug abuse, resistance techniques, managing stress without taking drugs, positive alternatives to drug-abuse behavior, self-esteem building activities, resistance to peer pressure and gang pressure, decisionmaking and risk taking, and interpersonal and communications skills.

The idea is to get these young police officers involved in schools and communities teaching other young people about drug abuse—much the same way we do in the very impressive DARE Program. In addition to giving youngsters police role models, we would be giving them peer role models as well. We would have trained young people teaching the young people coming up right behind them.

There is a general consensus that our national drug control policy must focus on reducing the demand for drugs, not simply the supply. If demand can be eliminated, then the supply side of the equation is irrelevant. This is where drug education plays a role.

However, the fact remains that our struggle has just begun. For example, only one State, Connecticut, can provide comprehensive drug education programs for students in every grade. In only eight States do the resources exist to provide comprehensive drug education programs to 50 percent of its students. Even more disturbing is knowing that 29 States are only able to reach one-third of its students with this important message. The facts do not lie; many kids are left out in the cold.

We are spending a lot of time, during this crime bill debate, talking about enforcement, about training to fight the dangerous war against drugs, about buying equipment to match the ordinance of the drug dealers. We are calling for tougher laws—and the jails, prosecutors, police officers, and judges to implement them.

It is time to build an infrastructure of drug education into our law enforcement operations. The more we can inculcate that antidrug awareness into our schools and communities, the more we can build a bond of trust between law enforcement and American youth, the better off we will be.

I believe we can use the Police Corps to help build drug-free communities, and I ask my colleagues to commit the U.S. Senate to that purpose.

AMENDMENT NO. 510

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 510.

On page 150, on line 21, immediately before the period insert the following: "unless such receipt is for lawful sporting purposes.".

Mr. STEVENS. Mr. President, this is the language that was sent to me by the Department of Justice to clear up the problem that I have mentioned about the receipt-of-firearms-by-nonresidents provision, which appears on page 150 of the bill. It has been cleared by both sides. I am hopeful it will be agreed to now so that we can be sure that we do not inadvertently have just a disastrous effect upon the international tourism that is associated with legitimate hunting by licensed persons for sporting purposes, in our Western States in particular.

Mr. FOWLER. Mr. President, we agree with the amendment.

The PRESIDING OFFICER. The question is an agreeing to the amendment.

The amendment (No. 510) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FOWLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I thank the distinguished managers of the bill and staff for working with us, and I appreciate the courtesy of the Senate.

Mr. FOWLER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

The Senator from Delaware is recognized.

AMENDMENT NO. 503, AS MODIFIED

Mr. BIDEN. Mr. President, I ask unanimous consent that the Dole-Metzenbaum amendment No. 503 be modified to have stricken only through page 245, line 15 of the bill.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

AMENDMENT NO. 511

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for Mr. ROTH, proposes an amendment numbered 511.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 114, strike all on lines 22 through 26.

Mr. ROTH. Mr. President, this amendment strikes language in the legislation which would make it Federal law that law enforcement officers could actively participate in political activity. I am concerned with this language because it runs counter to the premise of the Federal Hatch Act, which governs the political activity of Federal employees and certain State and local employees whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a Federal agency.

I am also concerned with this language to the extent that this Federal law will preempt State Hatch Act laws governing the political activity of State employees.

The legislation we are considering does not appear to make a distinction between State and Federal law enforcement officers. Under current law, Federal law enforcement officers are covered under the Hatch Act. This section would repeal that coverage.

Mr. President, as the ranking member of the Senate Governmental Affairs Committee, I spent 2 weeks on the Senate floor last session arguing against legislation from the committee which would have repealed the Hatch Act for Federal employees. The language in this bill goes farther with regard to law enforcement officers than that bill, which I might add the President vetoed, and the Senate sustained that veto.

This legislation allows law enforcement officers to participate in political activity, but does not define the term political activity. Law enforcement officers could run for office, or solicit contributions from the public at large.

The legislation offered by the Governmental Affairs Committee last year did not allow for such activity.

In addition, the legislation last year attempted to provide some additional protections to offset the changes that were made, such as preventing solicitation of political activity of any person who is the subject of or a participant in an ongoing audit, investigation, or enforcement action being carried out by the employing office of such employee. The provision before us provides no such attempt to offset the changes being made.

Mr. President, the foregoing discussion illustrates the complexity and importance of this issue. The Committee on Governmental Affairs has debated the issue of the Hatch Act over many years. The language in the bill joins in that debate.

No hearings have been held with regard to this provision during this session. Clearly this provision needs greater examination before being considered by the Senate. I urge the adoption of my amendment and appreciate the cooperation of the chairman of the Judiciary Committee.

Mr. BIDEN. This amendment of Senator ROTH relates to the policeman bill of rights, which is in the Biden bill. It strikes one portion of the language in that bill. The managers on the Republican side are prepared to accept the Roth amendment, and I am prepared to accept the Roth amendment. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 511) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 513

(Purpose: To establish a U.S. Marshals Association)

Mr. THURMOND. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment numbered 513.

Mr. THURMOND. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Marshals Association Establishment Act".

SEC. 2. ESTABLISHMENT AND PURPOSES OF ASSOCIATION.

(a) ESTABLISHMENT.—There is established the United States Marshals Association (hereinafter in this Act referred to as the "Association"). The Association is a charitable and nonprofit corporation and is not an agency or establishment of the United States.

(b) PURPOSES.—The purposes of the Association are—

(1) to elevate and strengthen public knowledge of law enforcement in general, and the United States Marshals Service in particular;

(2) to promote the exchange of information among private and public institutions and individuals about law enforcement and justice systems issues;

(3) to organize symposia, studies, and research in carrying out paragraphs (1) and (2);

(4) to study the history of law enforcement;

(5) to produce, sell, and distribute educational materials on law enforcement and justice systems issues;

(6) to accept and administer private gifts or property for the benefit of, or in connection with, the activities and services of the United States Marshals Service; and

(7) to promote law enforcement.

SEC. 3. BOARD OF DIRECTORS OF THE ASSOCIATION.

(a) ESTABLISHMENT AND MEMBERSHIP.—The Association shall have a governing Board of Directors (hereinafter referred to in this Act as the "Board"), which shall consist of not less than 3 nor more than 20 Directors, each of whom shall be a United States citizen and be knowledgeable or experienced in law enforcement matters. The Director of the United States Marshals Service shall be a nonvoting member of the Board, ex officio. Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

(b) APPOINTMENT AND TERMS.—

(1) INITIAL APPOINTMENT.—The Directors of the Board first appointed shall be appointed by the United States Marshals Association, a non-profit corporation in existence before the enactment of this Act, which is organized under the laws of the State of Virginia.

(2) SUBSEQUENT APPOINTMENT.—The Directors of the Board appointed after the appointment of Directors under paragraph (1) shall be appointed in the manner provided in the bylaws of the Association.

(3) ADVICE OF DIRECTOR.—Any Director of the Board may be appointed with the advice of the Director of the United States Marshals Service (hereinafter referred to in this Act as the "Director").

(4) TERMS.—The Directors of the Board shall be appointed for terms of 4 years. A vacancy on the Board shall be filled in the manner in which the original appointment was made. No individual may serve more than 2 consecutive terms as a Director of the Board.

(c) CHAIR.—The chair of the Board shall be elected by the Board from its members to a 2-year term.

(d) QUORUM.—A majority of the current membership of the Board shall constitute a quorum for the transaction of business.

(e) MEETINGS.—The Board shall meet at the call of the chair at least twice each year. If a Director of the Board misses 3 consecutive regularly scheduled meetings, that individual may be removed from the Board as provided in the bylaws of the Association, and that vacancy may be filled in accordance with subsection (b).

(f) REIMBURSEMENT OF EXPENSES.—Members of the Board shall serve without pay, but may be reimbursed for the actual and necessary travel and subsistence expenses incurred by them in the performance of the duties of the Association.

(g) GENERAL POWERS.—(1) The Board may complete the organization of the Association by—

(A) appointment officers and employees;

(B) adopting a constitution and bylaws consistent with the purposes of the Association and the provisions of this Act, and

(C) carrying out such other actions as may be necessary to carry out this Act.

(2) The following limitations apply with respect to the appointment of officers and employees of the Association:

(A) Officers and employees may not be appointed until the Association has sufficient funds to pay them for their services. Officers and employees of the Association shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the maximum rate of pay payable under section 5376 of title 5, United States Code, for a position classified above grade GS-15 of the General Schedule.

(B) The first officer or employee appointed by the Board shall be the Secretary of the Board who—

(i) shall serve, at the direction of the Board, as its chief operating officer, and

(ii) shall be knowledgeable and experienced in matters relating to law enforcement.

(h) ADVISORY COUNCIL.—The chair of Board may appoint an Advisory Council of up to 15 members to advise the Association on its activities under this Act. Members of the Advisory Council have no vote in matters before the Association.

SEC. 4. MEMBERSHIP.

(a) ELIGIBILITY.—Eligibility for membership in the Association shall be limited to persons and organizations demonstrating support of the stated purpose, goals, and functions of the Association. Categories of membership shall be as follows:

(1) Regular member, which shall be limited to individuals actively or formerly employed in the United States Marshals Service.

(2) Associate member, which shall be limited to individuals who are qualified by training or experience in Federal, State, local, or foreign law enforcement.

(3) Honorary member, which shall be limited to individuals who have an outstanding record of service in the public or private sector.

(4) Corporate member, which shall be limited to nongovernmental public, private, or nonprofit organizations which support the purposes of the United States Marshals Association.

(5) Sponsoring member, which shall be limited to Federal or State government entities.

(b) APPLICATION.—Persons may apply or be nominated for membership in the Association. Any such application shall be made in writing on the form provided by the Association.

(c) SPONSORSHIP.—Applicants or nominees for membership in any category except that of sponsoring member must be proposed by a regular member. Acceptance of applicants or nominees for membership shall be determined by a majority vote of the Board.

(d) DUES FOR MEMBERS.—Membership dues shall be established by the Board. Dues must accompany a prospective member's application. No dues shall be required in the case of honorary members or sponsoring members.

(e) VOTING.—A member may vote in matters for which the vote of the Association is required, and may serve on the Board.

(f) SUSPENSION OR EXPULSION OF MEMBERS.—A member may be suspended or expelled for nonpayment of dues in arrears for at least 60 days, for good cause, or for other reasons by a vote of two-thirds of the Board in accordance with procedures prescribed in Robert's Rules of Order. No member who has been suspended or expelled from the Association may be readmitted to membership for a period of 1 year, and readmission thereafter shall require the consent of two-thirds of the Board.

SEC. 5. RIGHTS AND OBLIGATIONS OF THE ASSOCIATION.

(A) IN GENERAL.—The Association—

(1) shall have perpetual succession;

(2) may conduct business throughout the several States, territories, and possessions of the United States.

(3) shall have its principal offices in the State of Virginia or such other place as may be determined by the Board; and

(4) shall at all times maintain a designated agent authorized to accept service of process for the Association.

The service of process upon the agent required under paragraph (4), or the mailing of such process to the business address of such agent, shall be deemed to be service upon the Association.

(b) SEAL.—The Association may use the seal, insignia, or badge of the United States Marshals Service, and other materials unique to the United States Marshals Service, only with the express written permission of the Director.

(c) POWERS.—To carry out its purposes under section 2, the Association shall have, in addition to the powers otherwise given it under this Act, the usual powers of a corporation acting as a trustee in the State of Virginia or wherever else the Association is incorporated. The Association shall have the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, or real or personal property or any income therefrom or other interest therein:

(2) to acquire by purchase or exchange any real or personal property or interest therein;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income therefrom;

(4) to borrow money and issue bonds, debentures, or other debt instruments:

(5) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that the Directors of the Board shall not be personally liable, except for gross negligence;

(6) to carry into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions; and

(7) to do any and all acts necessary and proper to carry out the purposes of the Association.

A gift, devise, or bequest may be accepted by the Association even though it is encumbered, restricted, or subject to the beneficial interests of private persons if any current or future interest therein is for the benefit of the Association.

SEC. 6. ADMINISTRATIVE SERVICES AND SUPPORT.

The Director may provide personnel, facilities, and other administrative services to the Association, including reimbursement of expenses under section 3, not to exceed the then current Federal Government per diem rates, for a period of up to 5 years from the date of the enactment of this Act, and may accept reimbursement therefore, to be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing such services.

SEC. 7. VOLUNTEER STATUS.

The Director may, notwithstanding section 1342 of title 31, United States Code, accept voluntary services of the Association in the performance of the functions of the Association under this act.

SEC. 8. RESTRICTIONS.

(A) FINANCIAL INTERESTS.—No part of the income or assets of the Association shall inure to any member or officer of the Association or Director of the Board or be distributed to any such person. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers or the Association or reimbursement for actual necessary expenses in amounts approved by the Board.

(b) PROHIBITION ON LOANS.—The Association shall not make any loan to any Director of the Board or to any officer or employee of the Association.

(c) PROHIBITION ON STOCK.—The Association shall have no power to issue any shares of stock or to declare or pay any dividends.

SEC. 9. AUDITS, REPORT REQUIREMENTS, AND PETITION OR ATTORNEY GENERAL FOR EQUITABLE RELIEF.

(a) AUDITS.—For purposes of the Act entitled "An Act for audit of accounts of private corporations established under Federal law," approved August 30, 1964 (Public Law 88-504, 36 U.S.C. 1101 through 1103), the Association shall be treated as a private corporation established under Federal law.

(b) REPORT.—The Association shall, as soon as practicable after the end of each fiscal year, transmit to the Congress a report of its proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments.

(c) RELIEF WITH RESPECT TO CERTAIN ASSOCIATION ACTS OR FAILURE TO ACT.—If the Association—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with its pruposes set forth in section 2(b); or

(2) refuses, fails, or neglects to discharge its obligations under this Act, or threatens to do so,

the Attorney General of the United States may petition the appropriate court for such equitable relief as may be necessary or appropriate.

SEC. 10. UNITED STATES RELEASE FROM LIABILIITY.

The United States shall not be liable for any debts, defaults, acts, or omissions of the Association, nor shall the full faith and credit of the United States extend to any obligation of the Association.

SEC. 11. NONDISCRIMINATION.

(a) EMPLOYMENT PRACTICES.—Notwithstanding section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b)) or section 101(5)(B) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(5)(B)), the Association and any agent of the Association shall be considered an employer for purposes of title VII of the Civil Rights Act of 1964 and the Americans with Disabilities Act of 1990 if the Association is engaged in an industry affecting commerce and meets the minimum employee requirements set forth in those Acts.

(b) MEMBERSHIP PRACTICES.—

(1) PROHIBITED PRACTICES.—It shall be unlawful for the Association, on the basis of the race, color, religion, sex, national origin, age, or disability, of an individual, to—

(A) fail or refuse to accept the individual into membership;

(B) expel the individual from membership;

(C) suspend the membership of the individual; or

(D) discriminate against the individual with respect to any of the benefits or obligations of membership.

(2) ENFORCEMENT.—

(A) RIGHT OF ACTION.—Any person may bring a civil action to enforce paragraph (1) in any appropriate United States district court. Any such action may be dismissed for just cause.

(B) INJUNCTIVE RELIEF.—In any civil action brought under this paragraph, the court may grant as relief any permanent or temporary injuction, temporary restraining order, or other equitable relief as the court determines appropriate.

SEC. 12. ACQUISITION OF ASSETS AND LIABILITIES OF EXISTING ASSOCIATION.

The Association may acquire the assets of the United States Marshals Association, a nonprofit organization organized under the laws of the State of Virginia before the enactment of this Act.

SEC. 13. AMENDMENT AND REPEAL.

The Congress expressly reserves the right to repeal or amend this Act at any time.

Mr. THURMOND. Mr. President, I am pleased to offer this amendment to the crime bill which establishes a U.S. Marshals Association. This amendment is nearly identical to S. 134, which Senator BIDEN and I introduced earlier this year. S. 134 unanimously passed both the Senate Judiciary Committee and the full Senate and is currently in the House Judiciary Committee. The companion legislation, H.R. 2665, was introduced in the House by Congressmen GEKAS and HUGHES.

I feel it is only appropriate to elevate and strengthen public knowledge of law enforcement in general and the U.S. Marshals Service in particular by offering this amendment to establish a U.S. Marshals Association. This amendment is modeled after similar legislation which established the National Fish and Wildlife Foundation and the National Park Foundation.

I urge my colleagues to support this worthwhile amendment.

The PRESIDING OFFICER. Is there further debate? Is there objection to the amendment?

Mr. THURMOND. Both sides have agreed to it, Mr. President.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the amendment.

The amendment (No. 513) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 514

(Purpose: To study racial and ethnic bias in the criminal justice system)

Mr. GRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 514.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 35, beginning with line 12, strike through line 18 on page 44 and insert the following:

SEC. 207. RACIAL AND ETHNIC BIAS STUDY GRANTS.

(a) FINDINGS.—The Congress finds that—

(1) equality under law is tested most profoundly by whether a legal system tolerates race playing a role in the criminal justice system; and

(2) States should examine their criminal justice systems in order to ensure that racial and ethnic bias has no part in such criminal justice systems.

(b) AUTHORIZATION OF GRANT PROGRAM.—

(1) IN GENERAL.—The Attorney General, through the Bureau of Justice Assistance, is authorized to make grants to States that have established by State law or by the court of last resort a plan for analyzing the role of race in that State's criminal justice system. Such plan shall include recommendations designed to correct any findings that racial and ethnic bias plays such a role.

(2) CRITERIA FOR GRANTS.—Grants under this subsection shall be awarded based upon criteria established by the Attorney General. In establishing the criteria, the Attorney General shall take into consideration the population of the respective States, the racial and ethnic composition of the population of the States, and the crime rates of the States.

(3) REPORTS BY STATES.—Recipients of grants under this subsection shall report the findings and recommendations of studies funded by grants under this subsection to the Congress within reasonable time limits established by the Attorney General.

(4) REIMBURSEMENT OF STATES.—Grants may be made to reimburse States for work started prior to the date of enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out the provisions of this section.

Mr. GRAHAM. Mr. President, the amendment which I have sent to the desk has been cleared on both sides.

This amendment is virtually identical to an amendment I offered and the Senate accepted during debate on last year's crime bill.

This amendment authorizes a small grant program for States to conduct studies on racial and ethnic bias in their criminal justice systems.

I believe, Mr. President, that this is a proper response to the concerns raised earlier in this debate about racial and ethnic discrimination in our judical system.

An assessment of what can be done to rid the system of bias is best conducted by individual States.

The State of Florida recently concluded such a study, which received tremendous support from judges, attorneys, and citizens throughout the State.

The general objective of the Florida study was to assess whether minority offenders are being treated fairly and equally at each stage of criminal justice proceedings.

The study found that:

First, racial and ethnic minorities are severly underrepresented as judges in Florida.

Second, relationships between law enforcement and minorities are adversely affected by cultural differences and misunderstandings.

Third, minority juveniles are being treated more harshly than nonminiority juveniles at all stages of the juvenile justice system.

Fourth, differential treatment of minority juveniles results, in part, from racial bias by police officers, prosecutors, and judges.

I am pleased to report that the recent session of the Florida Legislature accepted and passed into law every recommendation for legislative action contained in the initial report by the study commission.

Recommendations adopted include:

Mandate minority attorney and citizen membership on each judicial nominating commission in Florida;

Seek racial and ethnic diversity in judicial nominations;

Instruct the Florida Department of Law Enforcement to recruit, hire, retain, and promote minorities;

Create a civil rights division within the attorney general's office;

Require training of law enforcement officials in race relations.

Mr. President, similar studies have been or are being conducted in 10 other States: Arizona, California, Hawaii, Iowa, Massachusetts, Michigan, New Jersey, New Mexico, New York, and Washington.

A number of other States have expressed interest to the National Center for State Courts in conducting racial and ethnic bias studies.

In developing this amendment, I had three goals in mind:

First, Congress should do nothing to disrupt the discretionary nature of our criminal justice system;

Second, our States should not be prohibited from applying their laws in a constitutional manner;

Third, we should attempt to analyze the issue of not only potential discrimination in capital litigation, but also potential bias in the entire judicial system—from our law schools to our courtrooms.

This amendment calls for the authorization of $2 million during each of the the next 5 years to make grants to States for racial and ethnic bias studies.

The grants would be administered by the Attorney General through the Bureau of Justice Assistance.

Studies would have to be established by either the highest court of the State, the State legislature, or the chief executive officer of the State.

In establishing criteria for awarding the grants, the Attorney General would take into consideration the population of the respective States, the racial and ethnic composition of the population of the States, and the crime rates of the States.

Mr. President, it is my hope that States will use these funds to look at the entire justice systems and develop innovative methods of not only dealing with discrimination but also of encouraging participation in our justice system by all members of our society.

I hope, as a result of this amendment, other States will be encouraged to do likewise.

Mr. GRAHAM. Mr. President, I urge the adoption of the amendment.

Mr. THURMOND. Mr. President, we do not oppose the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 514) was agreed to.

Mr. GRAHAM. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SYMMS. Mr. President, I ask unanimous consent to proceed for 1 minute as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

A BRIGHT AMERICAN PATRIOT—JOHN TOWER

Mr. SYMMS. Mr. President, this week the O'Leary/Kamber Report, Special Issue, May of 1991 is dedicated to a bright American patriot and to one of the greatest Senators, in my book, that ever served in the U.S. Senate, frankly.

We lost that Senator this year in a tragic airplane crash in Georgia with his daughter.

> Thirty years ago this month, a giant named Tower was elected to the United States Senate.

I am quoting Brad O'Leary.

> Having served as his chief fundraiser and one of his key consultants for 14 years, I

have dedicated this Special Issue of the O'Leary-Kamber Report to this young professor from Wichita Falls, Texas, who played such a key role in shaping America's future.

Mr. President, I ask unanimous consent that this entire report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

JOHN TOWER, PATRIOT

(By Brad O'Leary)

A few weeks ago I lost a friend; Texas lost a hero; America lost a leader; but history claimed a legend.

He died almost 30 years to the day he was elected United States senator. For 24 of those years, my life was enriched by association and friendship with him.

The first time I set eyes on John Tower, he reminded me of the actor Ronald Coleman and especially his famous character, the British schoolteacher Mr. Chips.

The irony is that John Tower really was a schoolteacher. This was a role he never really relinquished when he left his profession to run against a Texas legend—Lyndon B. Johnson.

THE FIRST SOUTHERN GOP SENATOR

Some say John Tower ran against Johnson because no one else in the Texas Republican Party would. But in reality, Tower wanted to take on LBJ because he had a vision for America directly the opposite of Texas' senior senator.

He lost to Johnson in the 1960 general election. But, in 1961, as LBJ moved into the vice president's office, John Tower was off and running in a special election to fill the vacancy. In less than three months, John Tower became the first Republican elected to a statewide office in the old Confederacy since Reconstruction. And, shortly thereafter he began a political battle for the heart and soul of Americans throughout the South.

CREATING THE TWO-PARTY SOUTH

History will say that John Tower was responsible for establishing the two party system—not only in Texas—but in the entire South. His first book, Time for Conservatives, was a mandatory textbook for newly emerging conservative Republican candidates.

From 1961 on John Tower did not just spend time in Washington and Texas. He traveled around Texas and the South recruiting, teaching, and spreading the conservative gospel. Within a decade, he was changing Southern politics forever. There is not a state he didn't travel to and the stories about the lives he touched are part of his legend.

On one of his early trips, Senator Tower traveled to a party barbecue in South Carolina and gave a speech. One man there was so impressed he decided to register as a Republican and, in addition to his duties as a successful dentist, become a part-time politician. That man, Jimmie Edwards, went on to become the first modern-day Republican Governor of South Carolina.

A Tennessee county chairman called John Tower and begged him to come to the "Volunteer State" to help raise money so that a candidate for Congress could be recruited to run against an "unbeatable" Democrat.

The dinner was a success. There was plenty of money raised but no candidate stepped forward. Shortly thereafter, John Tower personally recruited the county chairman to run. County Chairman Bill Brock went on to the House of Representatives, the United States Senate, and then served as chairman of the Republican National Committee before moving to the president's Cabinet.

There are similar stories to be told about other governors, senators and congressmen who ran and won in Louisiana, Georgia, North Carolina, Virginia, Mississippi, Alabama, Arkansas, South Carolina and Tennessee.

When Jeremiah Denton and Mack Mattingly won their Senate seats in 1980 John Tower could take comfort in the fact that he had finally brought the two party system to all of the states in which he had campaigned.

FIRST MILLION-DOLLAR DINNER

Those who John Tower helped never forgot. In 1981, Southern governors, senators and congressmen came to a dinner to honor him. They paid tribute to his twenty years of service and to his role in bringing the two party system to every state in the Old Confederacy.

The dinner became the first million dollar dinner for a federal candidate in U.S. history. No senator or president prior to that time had ever achieved a million dollar single event.

The individuals who gathered in Dallas that evening came to honor Tower just for what he had accomplished, but for the vision he had for a strong, confident, growing America.

They came to pay tribute to a man who fought not only for individual liberty and the free enterprise system, but for a free world as well.

THE ENLISTED MAN WHO NEVER FORGET

John Tower's vision was formed in the crux of battle as an enlisted man in the U.S. Navy during World War II—a vision kept alive by the memory of the blood of fallen comrades.

When he was elected to the U.S. Senate and appointed to the Armed Services Committee, the top Navy brass made a number of attempts to award him a commission. Instead, he spurned all attempts and remained an enlisted man. He did so because he was concerned not just about winning wars, but of having the technology needed to save the lives of the enlisted men who fight America's wars of freedom.

During the tumultuous '60s, '70s and '80s, John Tower became an expert on defense and on NATO. He flew repeatedly to Germany and Great Britain to forge the military and political alliances that he believed would free Eastern Europe and bring down the Berlin Wall. He always reminded his audiences that the Wall had gone up the first year he served in the Senate and he was determined to see it fall!

In 1981, when Ronald Reagan was elected president, John Tower became chairman of the Senate Armed Services Committee. He took President Reagan's dream of an American defense force that is second to none—and made it a reality. Under John Tower's watch, the advanced technological weapons systems which recently proved so pivotal in the Middle East came into being.

That task was not an easy one. Although Reagan had won a resounding mandate in the presidential election, the nation's sluggish economy and memories of the fiascos in Vietnam and Iran had made both the military and defense industry quite unpopular with the American public.

The work John Tower almost singlehandedly did to get Congress to pass the Reagan defense building can be only appreciated by thinking every life saved during Operation Desert Storm.

DEVOTED FATHER

John Tower loved his country, just as much as he loved his family.

His daughters, Penny, Pooh and Jean were at the center of his heart. They were very much a part of his political life and of his campaigning. In 1971 and 1972, one or all three spent weekends traveling throughout Texas with their dad.

The bond John Tower had with his daughters in the early years became even closer as they grew into beautiful young women, Pooh, in particular, put aside the recklessness of teenage years to become his friend, confidant and traveling companion. She was with him when that plane came to rest in the red clay of Georgia. As father and daughter, they had shared with each other a richness of life that can only be envied by fathers everywhere.

Those who didn't really know John Tower thought him cold and aloof. But in reality, his life was rich and full and filled with love and humor.

THE REAL MAN

Those who did think Tower aloof and unresponsive never knew the real man. One weekend in 1972 when we had a series of fundraisers planned, he told me to cancel them. He refused to allow me to give any excuse except to tell people it was due to the press of Senate business. There were a lot of irritated people who thought the Senator just wanted a weekend vacation on the Gulf of Mexico.

Indeed, that weekend he was in Galveston. In fact, he was out on the Gulf. But he was not vacationing, nor was he fishing. He spent the weekend with a man he had never met before—a Texan and a father. This man's son was reported missing in the Gulf a few days earlier and he called Senator Tower in the hopes that his intervention would get the Coast Guard to keep up the search. John Tower went to Galveston to help.

People today continue to tell hundreds of stories about John Tower that involve thousands of constituents.

DIGNITY AMIDST DIRTY ATTACKS

John Tower's love of his family and his commitment to honor and integrity almost cost him his Senate seat in the 1978 election.

In October of that year, only a few weeks before the voters went to the polls, his opponent Bob Krueger, along with Krueger's campaign manager, Gary Mauro, used a sleazy tactic that is the epitome of negative campaigning in their desperation to win. They took a story written by a nationally syndicated columnist about an unnamed U.S. senator whose taste in wine, women and song was legendary, and announced to the press that John Tower was the senator cited.

The press reacted in delight because most disliked Tower for his conservative views. They pushed the Krueger camp for more information and the Democrats fed it to them.

But their game came apart when the press finally descended on the syndicated columnist, who indicated that the Krueger camp had not told the truth and that the senator was not John Tower. The press was furious with the Democratic campaign and vilified Gary Mauro for making up the stories.

When candidate Krueger was pressed as to why he did not condemn the actions of Mauro and others in his campaign, he stated that he believed that's who John Tower was. And even though the column had not been written about John Tower, Krueger insisted it could have been.

These are the same unsubstantiated, unproven, untrue, sleazy stories that a

Democratic senator would use eleven years later to deny his enemy the post he most sought to serve his country.

When Krueger offered to shake Tower's hand in the last days of the campaign, John Tower disdained any contact with the man. A photo of Tower rejecting Krueger's handshake ran on the front page of 36 daily newspapers in the state. In only one paper did a story accompany the photo explaining why the handshake was refused.

The political tracking polls showed Tower's lead evaporate from nine points ahead to four points behind almost overnight. Some supporters wanted Tower to apologize—but Tower would never surrender, never retreat. Instead, he took John Connally's advice to stand his ground by going on TV and explaining his actions.

In a classic campaign commercial, the Senator went on TV. He showed the picture of the handshake and talked about the lies and innuendo that Krueger and his campaign had stated. He also talked of the pain this incident had brought to his daughters and his family. And finally, he spoke of the fact that as a Texan, he'd always been taught that a handshake was meant as a man's bond—his integrity and commitment—and as an extension of friendship.

On election night 1978, in what was to go down as one of the closest contests in Texas history, John Tower beat the odds and won re-election.

COUNTRY & WESTERN ROOTS

Perhaps the real John Tower was the country and western disc jockey named "Tex" Tower, whose radio jobs helped develop his voice and humor. From Beaumont to Waco his voice was heard long into the night. On occasion, you could even hear him sing a song or two with groups like "Possum Heap and the Melody Makers."

If John Tower hadn't become a senator he might have become an actor—or even a country and western singer.

I was present at John's last political event. It was last October in Dallas when he served as master of ceremonies at the Dallas Symphony Center at a fundraiser for Phil Gramm. There were no speeches, just "Tex" Tower, hamming it up on stage with Mo Bandy, Fred Travalena, Crystal Gayle, and the Gatlin Brothers. John Tower's presence at that event left everyone who was there with a special memory that will never be forgotten.

JOHN TOWER'S LEGACY

In sum, John Tower was a young teacher, father of three, and country western disc jockey. He came to the Senate a financially poor man with no stocks or bonds or real estate but rich in integrity. He retired with no stocks or bonds or real estate but with that enormous integrity still intact.

Even the liberal newspaper, *The Texas Observer*, which rarely had kind words for John Tower's politics, would write that he may have been the most honest man ever elected to the U.S. Senate.

When John Tower retired in 1984, he had a campaign war chest of almost two million dollars—all of which he could have converted to his personal wealth. Instead, he offered the money back to his contributors. Only a handful requested it. And the two million dollars which was not taken back did not go into his personal bank account. Rather, it funded a voter registration and get-out-the-vote effort which would guarantee his seat was won by Phil Gramm and that his state was carried by Ronald Reagan.

John Tower's integrity led President Reagan to select him to head the Commission to investigate the Iran-Contra affair, and it led President Bush to appoint him as chairman of the U.S. Intelligence Commission.

John Tower never stopped teaching. The men and women who served under him went on to great things. These include one who became a U.S. senator, three who went on to be congressmen, two who were appointed ambassadors, one who became a national security advisor, two others who became secretary of the Navy and secretary of the Air Force, and eight who served as special assistants to the president. Others served in prominent positions in and out of government.

The individuals whose life John Tower touched include the president of the United States, the vice president, governors, senators, congressmen, state legislators and patriots who still keep alive the dream of freedom he passed to them.

As we walk the road of the future, all of us who knew John Tower personally can best remember him by an act of love, an act of courage and an act of political commitment.

I know that the first hero of Texas, Ben Milam, would be proud that the words Deaf Smith used to honor him more than 150 years ago could also be used to honor this modern day hero.

Mourn that a teacher's spirit
  a high heroic soul
His earthly light extinguished
  and is blotted from the roll.

Where stand the bold of Texas
  who nobly dare the fight
That liberty is waging
  against the haughty hand of might.

Not a loftier heart ere perished
  more generous and brave
With prouder scorn for coward acts
  that make a man a slave.

To the true, the bold, the gallant
  were his sympathy allied.
As a heart to heart of brother
  by bond of blood is tied.

Pure were his patriotic virtues
  unbound by the sordid love of self
Or from all that makes ambition crime
  or stoops to earth to help.

He knew alone his country
  in the hour of her need
To free and to exalt her
  he saw no other need.

Like the earliest of our martyrs
  to fall in freedoms cause
  To spend the treasure of his blood
  for liberty and laws.

As bright as they example
So bright shall be thy fame
And generations yet unborn
  shall honor Tower's name.

Your students loved you. We'll miss you. Goodbye, "Mr. Chips."

Mr. SYMMS. Mr. President, I hope that some of my colleagues who have fond memories of this giant of an intellect, this outstanding chairman of the Armed Services Committee of the U.S. Senate, an enlisted man in the U.S. Navy who never forgot the enlisted men of the U.S. military, the person who really, when history is written, will be credited with starting and developing the two-party South, the first Senator elected since Reconstruction on the Republican ticket in the South, will read this report. I think it is just a very fine report. I urge my colleagues to look at it.

Mr. SYMMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 514, AS MODIFIED

Mr. SYMMS. Mr. President, I ask unanimous consent that amendment No. 514 be modified to reflect the changes I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The modification will be incorporated.

The amendment (No. 514), as modified, is as follows:

At the appropriate place, insert the following:

SEC. . RACIAL AND ETHNIC BIAS STUDY GRANTS.

(a) FINDINGS.—The Congress finds that—

(1) equality under law is tested most profoundly by whether a legal system tolerates race playing a role in the criminal justice system; and

(2) States should examine their criminal justice systems in order to ensure that racial and ethnic bias has no part in such criminal justice systems.

(b) AUTHORIZATION OF GRANT PROGRAM.—

(1) IN GENERAL.—The Attorney General, through the Bureau of Justice Assistance, is authorized to make grants to States that have established by State law or by the court of last resort a plan for analyzing the role of race in that State's criminal justice system. Such plan shall include recommendations designed to correct any findings that racial and ethnic bias plays such a role.

(2) CRITERIA FOR GRANTS.—Grants under this subsection shall be awarded based upon criteria established by the Attorney General. In establishing the criteria, the Attorney General shall take into consideration the population of the respective States, the racial and ethnic composition of the population of the States, and the crime rates of the States.

(3) REPORTS BY STATES.—Recipients of grants under this subsection shall report the findings and recommendations of studies funded by grants under this subsection to the Congress within reasonable time limits established by the Attorney General.

(4) REIMBURSEMENT OF STATES.—Grants may be made to reimburse States for work started prior to the date of enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out the provisions of this section.

Mr. SYMMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the following amendments on a list which I will submit for printing in the RECORD, if this agreement is accepted, be the only remaining first-degree amendments in order to the bill; that any amendment whose subject matter is listed as unspecified must be relevant to the provisions of the bill; that any second-degree amendment must be relevant to the amendment to which it is offered; and that the prior agreement relative to firearms amendments remain in effect.

The PRESIDING OFFICER. Is there objection?

Mr. SYMMS. Reserving the right to object, I sense the frustration that the majority leader has. I know that he would like to have entered into this agreement that I shall in a moment or two object to. But I want to first say that there have been some objections to one of the amendments, the Wirth amendment, that was on the list, by Senators on our side from the Banking Committee. I have advised those Senators that there is still no limitation stopping Senator WIRTH from offering that amendment. But that objection is there.

There are other Senators that do not want to be limited to what amendments they may decide to come up with after they study the bill through the break. I will just say to my good friend, the majority leader, that I believe he has basically passed the Rubicon, so to speak, on this bill by getting the gun issue behind him. I do not think there will be a lot of amendments coming in. We are prepared on this side to start out on Monday, debate the Rudman amendment, have a vote on that, and I think the Bingaman amendment.

I believe that the leader may be able to get this agreement on Monday after Senators look at it.

But I do lodge objection to that request now.

The PRESIDING OFFICER. The request is not agreed to.

Mr. MITCHELL. Mr. President, I am deeply disturbed by the unwillingness of our Republican colleagues to permit prompt disposition of this bill.

For the past several weeks, President Bush has campaigned around the United States criticizing the Congress for not completing action on the transportation bill and the crime bill. Throughout that entire period, sometimes on the very day on which the President was making his campaign speeches of criticism of the Congress, Republican Senators were preventing the Senate from completing actions on those very bills. And, of course, that pattern continues today.

We are trying to complete action on the crime bill which the President says he wants. We are prevented from completing action by Republican Senators, and then the President, leader of the Republican Party, will go around the country and give campaign speeches criticizing the Congress without once ever acknowledging that the delay is caused by members of his own party.

The Presidents statements are incomplete, inaccurate, and highly misleading. I just want to say I understand and respect the right of our colleagues to object to this agreement, just as they objected to bring up the highway bill, just as they objected to moving forward on the highway bill, just as they have objected to moving forward on this bill. They have that right.

But I do not think the President has the right in these circumstances to go around the country giving these campaign speeches, making misleading statements about the inability of the Congress to complete action without disclosing to the American people that the reason we are not able to complete action is because of the unwillingness of Republican Senators to cooperate in the effort to move this legislation forward.

I deeply regret that. I can do nothing about it, of course. I accept, in perfect good faith, the statement made by my good friend and colleague of the reasons for these objections. There have been reasons for all of the objections, and they are permitted under the rules.

But I hope that the American people will understand that when these campaign speeches are made by the President, they are misleading, because they do not disclose the full truth of the reasons for the delays, in bringing about complete action on this legislation.

The list of amendments follows:

KNOWN DEMOCRATIC AMENDMENTS TO S. 1241, CRIME BILL

Kennedy: Customs service; substance abuse.

Metzenbaum: OSHA; prisoner location.

Levin: Emergency rooms (w/Kennedy); death penalty (colloquy only 15 min.); unspecified.

Kohl: Community coalition; relative to rape; women in prison.

Wirth: Financial investment status.

Bingaman: Literacy—state prisons.

Lieberman: Immunity statute.

Fowler: Hunters rights Federal lands.

Bradley: Gangs sports mentor programs.

Moynihan: Ammunition ban certain calibers; Federal firearms licensing; ammunition report requirements.

Graham: Police corps; racial bias.

Wofford: Environmental crimes.

Kerry: Ban export to foreign countries of assault weapons; drug treatment on demand.

Cranston: Unspecified.

Mitchell: Unspecified.

Heflin: Computerization of persons adjudged mentally incompetent.

Riegle: Additional assistance high violent crime areas.

DeConcini: Outlaw gangs.

Leahy: FBI.

Bentsen: Re: Simon IRS notification language adopted earlier (Simon #389); striking other possible "blue slip" material—Secs. 812F, 1228, 1231, and 1232.

BIDEN

1. Violence Against Women.
2. Habeas—Full and Fair Strike.
2B. Habeas—Full and Fair Strike #2.
3. Habeas—Full and Fair Definition #1.
4. Habeas—Full and Fair Definition #2.
4B. Habeas—Full and Fair Definition #3.
5. Habeas—Counsel Standards.
6. Habeas—Retroactivity.
7. Habeas—Federal Habeas Reform.
8. Police corps.
9. Police Bill of Rights.
10. Rural Crime.
11. D.E.A.A.
12. Youth Violence.
13. Drunk Driving.
14. Federal Law Enforcement.
15. Boot Camps.
16. Regional Prisons.
17. Crime Victims.
18. Exclusionary Rule Reform.
19. Organized Crime Strike Forces.
20. Crime Related.

KNOWN REPUBLICAN AMENDMENTS TO THE CRIME BILL

Brown: Waiver of waiting period.

Rudman: Habeas corpus; police.

Helms/Thurmond: Child pornography.

Seymour: Anti-Gang amendment; exploitation of aliens.

Specter: Grants for State prosecutors in capital cases; drug court division; State prisoner education project amendment; Habeas Corpus/counsel standards.

Gramm: 1. Mandatory minimum penalty for firearm violations; 2. Mandatory minimum penalty for drug use in prisons; 3. Prison release program; 4. Deportation of criminal aliens.

Helms: Oliver North; sexually explicit violence on T.V.; crime related; rape victims.

Stevens: Gun provision substitute.

Symms: Gun related; enterprise zones.

Kasten: Prison literacy.

Murkowski: Gun control provision.

Dole: Violence against women; AIDS (medical profession disclosure); leadership; outbound mail.

Thurmond: Sexually explicit advertising; 2 contingency fees; strike exclusionary rule; 1988 death penalty procedures; capital funding of prosecutors; Habeas Corpus/Fed. System; strike Bill of Rights; strike D.O.J. drug division; strike Police Corp; police officers bill of rights; strike and insert exclusionary rules provision; exclusionary rule; full and fair definition; 2 Habeas Corpus; 3 crime related.

Simpson: Gun provisions; criminal alien deportation.

Nickles: Testing for sexual offenses.

Hatch: Prior evidence/sex offenses.

Cochran: Law enforcement agency rule.

Grassley: Rape shields.

McConnell: Tech. to child registration.

AMENDMENT NO. 421

Mr. BROWN. Mr. President, as ranking member of the Subcommittee on Technology and the Law, of the Senate Judiciary Committee, and as an original cosponsor of this legislation, I am pleased to join with Senators LEAHY and KOHL in offering S. 1322 as an amendment to S. 1241, the crime bill.

S. 1322 represents the culmination of the efforts of the Subcommittee on Technology and the Law to clarify and strengthen the existing Federal law dealing with computer abuse crimes. The current measure under consideration is identical to S. 2476, the Computer Abuse Amendments Act of 1990, which passed the Senate unanimously in the last Congress.

This measure has the support of computer manufacturers and the software industry. Both groups believe S. 1322 strikes the proper balance between the need for strong laws against computer abuse and the need to promote the free flow of information across computer information networks. The Department of Justice has stated that the bill is an improvement over existing Federal laws.

During the past decade, computer information networks have become an integral part of communications in modern society. Technological advances in the development of computer networks have enabled network users in different States and even different countries to communicate and exchange information. Computer networks now provide vital links for the exchange of financial information, scientific research data, and national security information. Unfortunately, the rapid technological advances that have led to the proliferation of computer information networks also have provided computer criminals with additional opportunities to introduce harmful computer worms and viruses into computer systems.

Despite the rapid technological advances in the computer manufacturing and software industries, computer security technology has not been able to keep pace with the spread of new computer abuse techniques. The existing Federal law governing computer abuse, the Computer Fraud and Abuse Act of 1986 [CFAA], has not been able to deal effectively with the new forms of computer viruses and worms which have emerged in the past 5 years.

With the number of microcomputers used in the workplace expected to increase from 10 to 34 million in the next 3 years, computer crime will become a much bigger concern for businessmen and law-enforcement officials. A recent study by the accounting firm of Ernst & Whinney, cited in the National Institute of Justice Journal, estimated that computer crime now causes between $3 and $5 billion in damages each year. Three-quarters of the law enforcement officers responding to a National Institute of Justice survey identified computer crime as an issue likely to take up a significant part of their workload in the future.

S. 1322 amends the CFAA and brings Federal computer crime statutes up-to-date with recent advances in computer technology and computer abuse techniques. The CFAA had created a felony violation for gaining unauthorized access to a computer used either by or for the Federal Government. This definition of a felony violation allowed computer criminals, who were able to introduce harmful computer viruses into an information network without illegally accessing a computer, to escape prosecution. S. 1322 closes this loophole by making the main element of a felony violation under the CFAA the malicious intent of a perpetrator in transmitting a computer worm or virus designed to damage or disable a computer network.

The bill also expands the scope of criminal offenses under the CFAA to include incidents of computer abuse which do not rise to the level of a felony violation. S. 1322 creates a misdemeanor violation for transmitting a computer program with reckless disregard for the potentially harmful effects of the program on other computers.

In recognition of ever-increasing numbers of computer information networks, the bill expands the scope of statutory protection against computer abuse to cover all computers used in interstate commerce or communications, not just computers used by or for the Federal Government.

S. 1322 also creates a civil cause of action for victims of felony computer abuse violations under the CFAA. The civil remedy will be limited to recovery for economic loss or damages resulting directly from the felony violation. The addition of a civil cause of action to the CFAA will strengthen the existing Federal law and provide an effective deterrent against computer abuse activities.

Passage of this legislation will serve to continue to promote the rapid growth of computer information networks, while at the same time updating Federal computer crime laws to take into account the new varieties of computer abuse techniques. S. 1322 will help clarify and strengthen the laws that are so essential to protect the computer information networks on which so many people now depend.

As an original cosponsor of S. 1322, I urge the Senate to adopt this measure as an amendment to S. 1241, the crime bill.

Thank you, Mr. President.

Mr. LEVIN. Mr. President, I would like to ask a question of the distinguished majority leader, one of the sponsors of the Brady Handgun Violence Prevention Act, title XXVII of the Violent Crime Control Act (S. 1241).

The legislation directs the Attorney General to establish a grant program to be used "for the creation of a computerized criminal history record system or improvement of an existing system," and "to defray the cost to State and local law enforcement agencies in conducting background checks on prospective handgun purchases."

Michigan has, at great expense, purchased an automated fingerprint identification system [AFIS]. As a result, Michigan's computerized criminal records included fingerprints. Michigan's AFIS has enabled State and local law enforcement to solve over 900 cases they could not have otherwise solved. In one such case, Michigan police officers were able to identify and convict a man who abducted and sexually assaulted a 4-year-old girl from a latent fingerprint on her clothing. This man is now behind bars.

My question to my colleague is whether the operation and improvement of an AFIS would be an eligible expense under this grant program.

Mr. MITCHELL. It is our intention that it be an eligible expense.

Mr. LEVIN. I thank the majority leader for his cooperation and his leadership on this important legislation.

AMENDMENT NO. 416

JUVENILE GANG PROVISIONS

Mr. KOHL. The Juvenile Justice Subcommittee which I chair has jurisdiction over the Juvenile Justice and Delinquency Prevention Act and all matters pertaining to children, families, the courts, and the law. As such, the subcommittee has jurisdiction over juvenile gang issues.

Mr. BIDEN. I agree with my colleague from Wisconsin.

Mr. KOHL. Therefore, my subcommittee intends to review the juvenile gang provisions that are a part of this omnibus crime legislation, reserving the right to amend them accordingly.

Mr. SIMON. Because of my interest in education and health care, I would like to play a role in reshaping the gang provisions.

Mr. BINGAMAN. And I would like to participate as well, given that gang prevention will be critical in international border areas.

Mr. BIDEN. I welcome the review and possible subsequent changes in the juvenile gang provisions I have offered as a part of S. 1241 by the Subcommittee on Juvenile Justice. As a member of that subcommittee, I look forward to working with my colleagues in revisiting these issues.

JULY AGENDA OF LEGISLATION TO COME BEFORE THE SENATE

Mr. MITCHELL. Mr. President, I now submit for printing in the RECORD a list of legislation that may be considered by the Senate in the July legislative period. In accordance with my practice, this gives notice to Senators of legislation that may be considered during the upcoming legislative period. As the document states, and as will be printed in the RECORD, this is a nonexclusive listing which is alphabetized and not ranked according to priority. But this does give Senators the best and most timely and accurate notice possible at this time of the measures that we will be considering.

Mr. President, I ask unanimous consent that the list be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LEGISLATION THAT MAY BE CONSIDERED BY THE SENATE IN JULY

Appropriations bills

Cable Television Consumer Protection Act, S. 12

China MFN

Civil Rights Act of 1991

Corporate Average Fuel Economy Improvement bill [CAFE], S. 279

Defense authorization bill

Education Improvement Act, S. 2

Family and Medical Leave Act, S. 5

Federal Facilities Act, S. 596

Foreign Aid/State/USIA authorizations

"Gag" rule regulation repeal, S. 323

Motor voter bill, S. 250

National Energy Security Act, S. 1220

As well as any other legislation that the Leader may propose for the Senate's consideration; this is a nonexclusive listing, which is alphabetized and is not ranked according to priority.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO MIKE MASARU MASAOKA

Mr. INOUYE. Mr. President, it is with great sadness that I address my colleagues today. Although we all realize that death is inevitable, it is always difficult to accept its finality when it involves a close and dear friend of many years. The passing of Mike Masaru Masaoka is indeed a very sad event, but one that should remind us of the glories of battles fought and battles won.

Mike was a noble American patriot; the most illustrious leader of the Japanese American Citizens League; and a crusader who improved the plight of the oppressed and the downtrodden. Mike dedicated his life to redressing the inequities suffered by Japanese-Americans. He worked tirelessly to convince Americans to live up to the ideals upon which this Nation was founded—liberty and equal justice under law. In doing so, Mike helped to improve the civil rights of all minorities.

In 1941, Mike left his position at the University of Utah to work on a full-time basis for the Japanese-Americans Citizens League. He called upon the JACL to broaden its scope and become a national organization open to all people who wanted to end discrimination against Japanese-Americans. He worked diligently to spread the message that Japanese-Americans were loyal to this great Nation. Mike wrote a statement which eloquently told of his love for America. U.S. Senator Elbert D. Thomas inserted it into the CONGRESSIONAL RECORD in May 1941. It stated:

> I am proud that I am an American citizen of Japanese ancestry for my very background makes me appreciate more fully the wonderful advantages of this Nation. I believe in her institutions, ideals and traditions; I glory in her heritage; I boast of her history; I trust in her future. She has granted me liberties and opportunities such as no individual enjoys in this world today. She has given me an education befitting kings. She has entrusted me with responsibilities of the franchise. She has permitted me to build a home, to earn a livelihood, to worship, think, speak and act as I please—a free man equal to every other man.
>
> Although some individuals may discriminate against me, I shall never become bitter or lose faith, for I know that such persons are not representative of the majority of the American people. True, I shall do all in my power to discourage such practices, but I shall do it in the American way; aboveboard, in the open, through courts of law, by education, by proving myself to be worthy of equal treatment and consideration. I am firm in my belief that American sportsmanship and attitude of fair play will judge citizenship and patriotism on the basis of action and achievement, and not on the basis of physical characteristics.
>
> Because I believe in America, and I trust she believes in me, and because I have received innumerable benefits from her, I pledge myself to do honor to her at all times and all places; to support her Constitution; to obey her laws; to respect her flag; to defend her against all enemies, foreign or domestic; to actively assume my duties and obligations as a citizen, cheerfully and without any reservation whatsoever, in the hope that I may become a better American in a greater America.

Mr. President, about seven months after this beautiful and profound statement was heard in this chamber, the United States was at war with Japan. Mike and I volunteered and served in the 442d Infantry Regimental Combat Team. The difference was that Mike volunteered from behind barbed wires—he volunteered from within the Manzanar Relocation Camp. He stood tall to prove his patriotism, and to lay to rest any doubts about the loyalty of Japanese-Americans. Many made the supreme sacrifice to demonstrate their loyalty to and love for America in the hope that future generations of Japanese-Americans would enjoy a better life without the need to prove their loyalty, and without discrimination.

The war between nations may have ended in 1945, but the fight for equal protection and justice had just begun. It became a burning passion for Mike. He dedicated his life to assure that the lives of our comrades, including his brother, would not be sacrificed in vain. Mike moved to Washington, DC, and continued his fight. This time the battle was against unjust and discriminatory laws and the enemies, bigotry and racism.

Mike was the founder of Japanese-American redress—an enlightened and bright chapter in our Nation's history which has helped to cleanse the darkness of internment. It is symbolic that the Civil Liberties Act was signed into law in the 100th Congress, the Bicentennial Commemoration of the Constitution of the United States. On the 100th birthday of the United States Constitution, it was most fitting that through Japanese redress, we, as a nation, apologized for the wrongs committed in contravention of the letter and the spirit of this guiding document. In large part, Mike was responsible for making it a reality.

Mr. President, the passing of Mike Masaru Masaoka will leave a void in the ranks of his comrades in the 442d, and for the many others who knew, respected, and loved him. It has always been my high honor to know, to seek counsel and to work with this giant of a man. My loss of a friend is our Nation's loss of a great American patriot.

My heart goes out to Mike's beloved wife and companion, Etsu. Though mere words may not suffice in expressing our sadness, it must comfort her to know that there are many in this land who share her burden of grief.

AMNESTY INTERNATIONAL REPORT—HUMAN RIGHTS ABUSES IN NORTHERN IRELAND

Mr. KENNEDY. Mr. President, a recent Amnesty International report on human rights in Britain and Northern Ireland raises serious concerns about abuse of detainees, unfair trials and the shoot-to-kill policy of British security forces in Northern Ireland.

Of particular concern is the treatment of those taken to police interrogation centers after being arrested under antiterrorist legislation. Suspects are frequently denied access to an attorney, sometimes for up to 48 hours. Many are severely beaten and some are beaten so hard that their eardrums are perforated. In 1987 and 1988, a total of 963 complaints of police brutality were made, but only 13 were considered by investigators to be prima facie evidence of at least a disciplinary offense. Successful prosecution is virtually nonexistent.

Such brutal treatment inevitably raises questions about whether suspects can have a fair trial. They have been prevented from having an attorney during interrogation, their cases often rest solely on confessions likely to have been coerced, and evidence is frequently withheld from defense attorneys. The cases of the Birmingham Six, the Guildford Four and the Maguire family are well-known examples of blatant miscarriages of justice.

Police conduct is often unacceptable. In the case of the Birmingham Six, 14 of the 25 officers involved were found to have lied or proved unreliable. In the case of Anthony Wellington, who was convicted for armed robbery in 1988, tests showed that three of the eight pages of his alleged confession were inserted at a later date. Yet authorities are rarely held accountable for their actions. Investigations into allegations of army and police misconduct are kept internal and are slow in being carried out, and the findings are usually kept secret.

In 1982, Amnesty International first raised concerns about the use of lethal force by security forces. That year, members of the Royal Ulster Constabulary killed six unarmed people. A false explanation of events was concocted by senior police officials, who directed subordinates to lie about the events. When John Stalker, who was appointed to investigate the incidents, apparently uncovered important evidence, he was dismissed from the investigation under suspicious circumstances suggesting a further coverup. The findings of his successor were never published, and no police officer was convicted in any of the killings.

Since 1969, only two members of the security forces have been found guilty in any of the numerous killings that have taken place in suspicious circumstances. One received a suspended sentence on a manslaughter charge. The other was sentenced to life in prison for murder, but was released after less than 3 years and reinstated in the army.

Since court prosecutions against members of the security forces are few, the coroner's inquest often becomes the primary method of investigating suspicious deaths. Yet inquests are fraught with problems which frustrate attempts to reach the truth. Legislation dating back to 1959 prevents inquests from naming those responsible for unlawful killings. Members of the security forces are not required to give oral evidence at inquests, and forensic evidence and witness statements do not have to be released before the start of the inquest. Free legal aid is not available, and it is difficult for many families to obtain adequate representation at the inquests. There are often significant delays between the death and the inquest—six cases from 1982 are still in limbo, with the victims' remains yet to be examined by a coroner.

Examples of controversial killings are numerous. In one incident last year, three men were killed by undercover members of the British Army as they were committing a robbery. Witnesses say that the soldiers were not threatened and yet no effort was made to arrest the suspects or avoid the use of lethal force. Witnesses also say that two of the robbers were shot while lying on the ground. The unarmed driver of the getaway car was shot six times and the fatal shot was fired at close range. The 2 others were shot at least 10 times each. No officer was prosecuted in the case.

Two young people were shot and killed last year while joyriding in a stolen car. Authorities say they fired after the group drove through an army checkpoint and struck a soldier. Witnesses say there was no checkpoint and no one had been hit.

In December, Fergal Caraher was killed when the British Army opened fire on him and his brother in Cullyhanna. The army claimed that the brothers drove through a checkpoint, but witnesses claim they stopped, spoke with the soldiers and were shot as they drove away. Because of their dissatisfaction and lack of confidence in the official inquiry, Mr. Caraher's parents have initiated an independent inquiry.

In the past 7 months, seven people have been killed by the security forces, in circumstances suggesting that the persons were killed while carrying out, or about to carry out, violent activities themselves. I hold no brief for IRA violence. But that is no excuse for British forces to execute suspected members of the IRA on the spot, instead of apprehending them, if possible, without the use of lethal force. As long as these suspicions linger, confidence in the forces of law and order is undermined.

A further issue of great concern is the problem of collusion between the security forces and Protestant paramilitary groups. In 1989, it was discovered that the security forces had handed over police files on Catholics suspected of involvement with the IRA to such groups. Protestant extremists admit they used the information contained in these files to assassinate one man and target several other alleged IRA operatives. An investigation led by a British chief constable, John Stevens, followed, but no members of the RUC were charged.

Despite the Stevens inquiry, allegations of collusion continue. In March, four Catholics were killed by Protestant paramilitaries in Cappagh, an area heavily patrolled by British security forces. The perpetrators were able to move quickly in and out of a nationalist area, normally under heavy surveillance by the security forces, and precisely target their victims. Again, the question is whether this attack could have been carried out without the help, or at least the acquiesence, of the security forces.

The rule of law is the bedrock of our society and the touchstone of justice. Without it, no system of democracy can survive. Compromising the rule of law, in whatever cause, undermines confidence in the system of justice and ultimately in government itself. No society can afford that. Obviously, the social fabric in Northern Ireland is under heavy strain, suffering from over two decades of violence and upheaval. But the tragedy will only deepen if the rule of law itself becomes a victim of the violence.

Earlier this year, following the release of the Birmingham Six, the British Government announced that a Royal Commission would be established to review the criminal justice process in the United Kingdom. Last month, the Commission was officially created under the chairmanship of Viscount Runciman. I join in calling on the British Government to extend the mandate of the Commission to include Northern Ireland, to establish an independent judicial inquiry into suspicious killings by the security forces, to institute government procedures to ensure that detainees are not abused, and to put an end to those human rights abuses.

Mr. President, I ask unanimous consent that recent news articles on the Amnesty International Report and related issues may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 8, 1991]

AMNESTY ACCUSES BRITAIN OF HUMAN RIGHTS ABUSES

(By Glenn Frankel)

LONDON, June 7.—Amnesty International today accused Britain of seriously undermining human rights, especially in Northern Ireland, and charged that the government frequently covers up illegal actions by security forces.

The London-based human rights organization outlined a long list of allegations—including ill-treatment of suspects, unfair trials, misuse of national security as justification for arrests, killings of suspects without warning, abuse of asylum seekers—in which it said the government had shown little regard for individual rights. And it said Britain's record on many of these issues had actually worsened in recent years despite the government's stated commitment to international treaties.

"This report outlines the persistent failure of the British government to deal with some of the most fundamental allegations that can be made when it comes to human rights," said Amnesty spokesman Robert Reoch.

The report's conclusions are likely to be embarrassing for a society that depicts itself as the foundation of Western legal values and for a government whose officials often cite Amnesty's findings in their condemnations of Third World governments.

The government said it would examine the report in detail and promised a reply from Home Secretary Kenneth Baker. A Home Office spokeswoman said: "We don't accept at all its general conclusion. In some instances the report seeks to draw those conclusions from a small number of individual cases, and it is sometimes selective in its use of statistics and fact."

Several miscarriages of justice in mainland Britain have been exposed in recent months—including a case in which police and forensic experts allegedly falsified or distorted evidence leading to the convictions and long-term imprisonment of 17 people of Irish origin for terrorist bombings. These have led to the establishment of a royal commission charged with broadly reexamining the British criminal justice system. But Amnesty said it wants the mandate of the commission extended to include Northern Ireland.

British authorities in the province, which has undergone more than two decades of sectarian violence, have used anti-terrorism laws that Amnesty said offer fewer safeguards and more opportunities for abuse. "Steps that have been shown to prevent ill-treatment, like bringing suspects before a judge shortly after arrest and allowing lawyers to be present during interrogation, are not followed when people are arrested under anti-terrorist laws," said the report.

It said it wants an independent judicial review into all the alleged "shoot-to-kill" incidents since 1982 in which soldiers or police have shot suspects, many of them unarmed, often without warning.

"The organization found disturbing the evidence that police investigations may have been deliberately superficial in order to protect security force personnel," the report said.

The "shoot-to-kill" issue arose again this week when an undercover commando squad ambushed and killed three known IRA gunmen without apparent warning. Two of the men were armed and all three had long histories of involvement in IRA hit squads, according to police.

The report said rules on the use of lethal force for police and soldiers were inadequate and noted that the regulations themselves were secret documents. More than 300 people have died in disputed killings by security forces in the province since 1969, the report said, but it alleged that only 21 cases had been brought to trial and that only one soldier had been convicted of murder. The soldier in that case was sentenced to life imprisonment but released after two years and reinstated in the army, according to Amnesty.

The IRA's legal political wing, Sinn Fein, said the report demonstrated Britain's "systematic abuse of human rights." But the execution of an alleged police informer, whose body was found in Londonderry this morning, raised new questions about Sinn Fein's own commitment to human rights. One of those held for questioning was Hugh Brady, a Sinn Fein city councilman.

[From the New York Times, June 2, 1991]

FAITH IN BRITISH JUSTICE IS SHAKEN BY FORCED CONFESSIONS AND FALSE JAILINGS

(By Craig R. Whitney)

LISBURN, NORTHERN IRELAND.—Noel R. Bell nervously clasped his hands together as he sat at a table with his parents in the visitors' center at Maghaberry Prison and talked about the confession, seven and a half years ago, that put him behind bars for life for a murder he says he had nothing to do with.

"I just told the police what I thought they wanted to hear," Mr. Bell, who is 27 years old, said in the accent of his native Armagh. "I was afraid they'd keep beating me until they got it. I was sure it would all be straightened out, like a joke. It sounds naive, doesn't it?

A few months or years ago, such an asssertion might have been dismissed out of hand, because Mr. Bell is a Protestant, a member of the British Army's Ulster Defense Regiment who was convicted of killing a Roman Catholic. Links between the security forces and illegal Protestant paramilitary groups that have joined in battle against the Irish Republican Army paramilitaries are widely accepted as fact in Northern Ireland, and the idea that the police would torture a Protestant soldier would have struck most people here as absurd.

But elsewhere in Britain as well as here in Ulster, faith in the British criminal justice system, and in the police, has been severely shaken by a series of miscarriages of justice that have sent innocent people to jail for long sentences.

What most of them show is what many common criminals in nonpolitical cases have been saying for a long time, a refrain now echoed by growing numbers of officials and scholars. They say that behind what may seem to be the genteel image of the unarmed British bobby is a police force that is not above "putting the boot in" to get confessions out of people they think are guilty, a prosecutorial system more geared to securing convictions than to insuring that justice is done, and a judiciary slow to recognize that there is any problem.

So great is the concern that in March, the Government announced the formation of a royal commission under Lord Runciman of Doxford, a Cambridge University sociologist and scholar, to study the need for changes in criminal law, police practice and trial procedure. "We must not be carried away by a quite erroneous belief that everything in our current arrangements is flawed," Home Secretary Kenneth Baker told a police conference last month. "However, I believe that it is now necessary to undertake a review of the criminal justice process."

CASES AGAINST I.R.A. ARE MOST NOTORIOUS

The most notorious cases have involved Irish Catholics accused of acts of terrorism on behalf of the outlawed Irish Republican Army, which seeks the end of British control in Protestant-dominated Northern Ireland. Mr. Bell is similarly accused, but he is a Presbyterian who with three other members of the Ulster Defense Regiment confessed to plotting to murder a Catholic, Adrian Carroll, who was killed outside his home in Armagh on Nov. 8, 1983. Mr. Carroll, 24, belonged to a family of supporters of Irish unification, and his brother Roddy had been shot dead by a police anti-terrorist squad in unexplained circumstances less than a year earlier.

The four made their confessions, the only evidence directly tying them to Mr. Carroll's murder, while they were in police custody in the notorious Castlereagh holding center, without access to legal counsel.

The men maintained that they were tortured into confessing, with words the police had put into their mouths. The judge who tried the case without a jury did not believe them, nor did the three other judges who heard their appeal in 1987.

The police are now reinvestigating some aspects of the case, and Mr. Bell and the others hope the results will cause Peter Brooke, the Northern Ireland secretary, to refer their case back to the Court of Appeal.

Except for their religious and political connections, the case of the "U.D.R. Four" falls into a familiar pattern.

The "Guildford Four," the "Birmingham Six" and the "Maguire Seven" all involved Irish defendants connected by the authorities with a wave of terrorist bombings in the Midlands of England in the mid-1970's, part of the Irish Republican Army's long campaign to force Britain to leave Northern Ireland.

All were convicted either on the basis of forensic evidence that later turned out to be flawed or on the basis of confessions they said were beaten or coerced out of them by the police.

"MAGUIRE SEVEN" HOPE TO BE CLEARED

The "Maguire Seven," a family group convicted in 1974 of handling nitroglycerine used to make bombs, served sentences of between 4 and 14 years, and one of them died while in prison in 1980. The only evidence against them at the trial was the results of forensic tests showing traces of the explosive on their hands and gloves.

A public inquiry into the case last year found that scientists testifying about the tests had concealed evidence that cast doubt on these results, and that the convictions should be thrown out. This month, the defendants expect to clear their names at the Court of Appeal in London.

In the "Guildford Four" and "Birmingham Six" cases, Irish defendants accused of bombings that killed more than a score of people in Guildford and Birmingham in 1974 also confessed in police custody before being charged.

The defendants argued later that their confessions had been beaten out of them by the police. New evidence eventually led the prosecution to acknowledge that the convictions had been invalid.

The "Birmingham Six"—won their freedom on March 14 after spending more than 16 years in jail for the bombings of two pubs in Birmingham in 1974.

This year, for the first time, the Government acknowledged that forensic tests had been flawed and misleading, and three appeals judges invalidated the confessions.

REOPENING A CASE IS OFTEN DIFFICULT

"The convictions are both unsafe and unsatisfactory," concluded the judges, using legal language to indicate reasonable doubt about the guilt of the defendants. But the judges did not say whether they thought that these men, who had spent most of their adult lives in jail, were innocent.

After conviction and initial appeal, reopening a case is a difficult procedure.

As one lawyer tells it, the judges are often on the defensive. "You find there's a private war going on, where the judiciary feel it's an impertinence to refer a case back to them," the lawyer said.

It was the freeing of the Birmingham Six after so many years that led to the formation of the royal commission, which Mr. Baker told the House of Commons would work to "minimize so far as possible the likelihood of such events happening again."

"This will be the most serious opportunity in generations to address the question of what is going wrong," said Gareth Peirce, a solicitor who represented five of the six in their last appeal. But she said she doubted that the commission would concern itself very much with what she views as the fundamental reason why such blatant abuses of police authority could take place repeatedly.

"We don't have a written constitution in this country," Mrs. Peirce said. "Nobody goes around in this country thinking we have rights—the state grants us rights."

"The American Constitution was written by people who realized that the majority would always be tempted to take away the rights of the minority," she said. "In all these cases in Britain, we're talking about minorities who in practice have been deprived of their rights."

ABUSES NOT LIMITED TO TERRORISM CASES

The alleged abuses are not limited to terrorism cases by any means.

After Police Constable Keith Blakelock was hacked to death in a race riot in North London in 1985, thousands of police officers descended on the area and arrested 369 people. Six of those arrested were later charged with the murder, all solely on the basis of the confessions they had made while in police custody. Three of them, adult men, were convicted and sentenced to life imprisonment. All three have asked for leave to appeal, but only one, Engin Raghip, has had his case referred back to the Court of Appeal, which is expected to hear his case by this fall.

But three others, all juveniles, were acquitted by the trial judge, including a 13-year-old boy who confessed after being held 48 hours in a police cell, clad only in his underpants and covered with vomit. The trial judge, reprimanding the police detective in charge of the case for forgetting that the suspect was only a child, described his purported admissions as "fantastical," "make-believe" and "ritualistic."

In days gone by, suspects "helping police with their inquiries" and later charged with crimes could expect little public sympathy if they claimed innocence. But public confidence in the police has fallen sharply in the last decade, according to surveys made by the Home Office, which also found that many people believed that complaining about police behavior was useless.

The independent Police Complaints Authority investigated 4,879 complaints of assault by the police in 1990, and disciplinary charges were brought in 68 of them. Of 1,038 other complaints of irregular arrest, 11 resulted in charges.

An unusual concentration came from the West Midlands Serious Crime Squad, which was dissolved by the Government in 1989. The West Yorkshire police are now investigating more than 700 arrests made by the squad, and there are 15 other appeals by men who claim that detectives from it fabricated evidence against them.

SOME SUGGEST CURBS ON CONFESSIONS

But there is far less concern about limitations of individual rights by perfectly legal means. A majority in the House of Commons can pass laws limiting the rights of people who are viewed as a threat, and British governments since the early 1970's have repeatedly used this power. The Prevention of Terrorism Acts passed since 1974 empower the police to detain people suspected of membership in organizations like the I.R.A. for up to a week without charge. In Northern Irleand, judges have been trying terrorist cases without juries since 1973.

What to do? Lord Scarman, a distinguished retired jurist who as Leslie G. Scarman once sat on the appeals bench in London, has suggested that confession alone should not be enough to convict a person of a crime, unless it is made in open court or in the presence of a solicitor or other independent witness.

Others believe that only a written bill of rights offers meaningful protection against legal abuses.

For some, like the Birmingham Six, any reform will come too late.

The Home Office has given each of them and the Guildford Four 50,000 pounds, $85,000, as interim compensation for their illegal incarceration for 16 and a half years, according to William Power, who is one of the six, but a spokesman for the Home Office said he could not confirm the amount. The final awards would be based on individual estimates of lost earnings over the period, with additional amounts for "pain and suffering," the Home Office said.

[From the New York Times, June 27, 1991]

CONVICTIONS OVERTURNED FOR SEVEN IN I.R.A. BLASTS

(By Steven Prokesch)

LONDON, June 26.—A British appeals court overturned today the 1976 convictions of six members of a family of Irish Londoners and a friend who had served long prison sentences for supposedly operating a bomb factory for the Irish Republican Army.

The ruling marks the third time in less than two years that a British appeals court has overturned the convictions of groups that were supposedly involved in the I.R.A.'s bombing campaign in Britain in the 1970's that generated outrage in Britain and a backlash against the Irish.

One of the seven, Patrick (Guiseppe) Conlon, died in 1980 while serving a 12-year sentence. The others completed their sentences of between 4 and 14 years. The last was released in 1990.

The seven are Annie Maguire, who is now 54; her husband Patrick, 57; their sons, Patrick Jr., 29, and Vincent, 32; Shaun Smyth, Mrs. Maguire's 52-year-old brother; Mr. Conlon, who was related to the Maguires by marriage, and Patrick O'Neill, 49, a family friend.

A Government inquiry led by Sir John May last year concluded that the forensic evidence used to convict the seven—traces of nitroglycerine found on their hands and on Mrs. Maguire's plastic gloves in the family's London house—was unreliable.

In the appeal proceedings, the Government's Director of Prosecution also said the convictions were unsafe and unsatisfactory.

Sir John criticized the Government's scientists, saying their tests were so flawed they could not be relied upon and that they had concealed experiments that cast doubt on the case.

But the court today cleared the defendants only on the grounds that "the possibility of innocent contamination cannot be excluded." The judges said the defendants could have been contaminated by touching a towel that others who had handled nitroglycerine had touched and that similarly the nitroglycerine on the gloves did not necessarily come from the seven.

In October 1989, a British appeals court overturned the convictions of three Roman Catholic men born in Northern Ireland and an English woman who had been given life sentences in 1975 for killing five people in the bombing of a bar in Guilford, England, in 1974. The four maintained that their confessions had been forced from them. Two of them, one of whom was Mrs. Maguire's nephew, mentioned her name among many others, which led the police to raid the Maguire house.

Last March, six Roman Catholic men born in Northern Ireland were freed from prison after serving more than 16 years of life sentences given to them for supposedly bombing two bars in Birmingham, England, in 1974, killing 21 people. Confessions and forensic evidence were discredited.

These miscarriages of justice have caused the Conservative Government to order a sweeping review of the British legal system.

Some of those involved in the case were angry that the court ruling seemed to leave the possibility that the seven had been involved with the I.R.A., which is fighting to force the British from Northern Ireland.

Bridie Brennan, daughter of the late Mr. Conlon, said: "My father is innocent. Justice hasn't been done. There is no justice in this country."

Patrick Maguire Jr. attacked the I.R.A.: "Justice will never be done until the men and women who plant bombs stop. It is because of those sort of people that the likes of us get into trouble."

BALTIC FREEDOM DAY

Mr. PRESSLER. Mr. President, I would like to take a moment to acknowledge Baltic Freedom Day, which occurred June 14. Each year I have cosponsored the legislation that commemorates the hopes and dreams of the Baltic peoples to be free.

As former Deputy Assistant Secretary for Human Rights and Humanitarian Affairs, Paula J. Dobriansky noted in a 1989 address before the Baltic American Freedom League, the Baltic nations have struggled throughout history to become free, independent lands. These lands often were conquered by invading forces. Yet, under every occupying force, the Baltic peoples have maintained and even strengthened their deeply rooted desire for freedom.

In 1918, the Baltic peoples' dreams for self-determination came true. From that year until 1940, when the Soviet Union ruthlessly invaded and conquered their lands, the Baltic peoples lived under their democratic governments. Furthermore, they demonstrated a strong economic ability as independent countries. Tragically, all this was lost when the Soviet Union subjugated these hard-working peoples and instituted a reign of terror that will never be forgotten.

Even under the oppression of the U.S.S.R. the spirit of the Baltics can be seen. The Baltic lands have been among the most economically successful regions in all of the Soviet empire. Just as the Soviet Union's colonialist economic policies could not completely devour the industrial strength of the Baltic region, neither can its tanks and Black Berets suppress the Baltic people's desires for freedom.

For the last 50 years the citizens of Latvia, Estonia, and Lithuania have been subject to Soviet control, repression, and terror. From the mass deportations in 1941 up to the unwarranted attacks upon unarmed customs officials in the last few weeks, the peoples of these lands have lived in fear of an occupying force that has been intolerant of their aspirations to live as free men and women. It is our duty, as citizens of the greatest democracy on Earth, to remember these citizens of nations that are not as fortunate as our own. Our Government has never recognized Soviet sovereignty claims over Baltic States; yet, the Soviet Union persistently rejects our calls for Baltic freedom. We must keep in mind the suffering the people of those nations have endured for the sake of freedom and sovereignty. Above all, we must not forget those who have lost their lives or continue to risk their lives in the effort to free the Baltic nations.

It is fitting and proper to commemorate the struggles of the Baltic nations. I applaud President Bush for signing the proclamation that made June 14, 1991, Baltic Freedom Day. All Americans should understand that these nations are being held in the Soviet Union against their will. I share Estonian head of parliament Arnold Rüütel's sentiments that Baltic Freedom Day should be as much "a day of hope" as "a day of mourning," looking forward to the time when Americans will be able to celebrate Baltic Freedom Day with truly independent Lithuanians, Latvians, and Estonians.

FAREWELL ADDRESS OF HARVARD PRESIDENT DEREK BOK, "THE SOCIAL RESPONSIBILITIES OF AMERICAN UNIVERSITIES"

Mr. KENNEDY. Mr. President, on June 6, Derek Bok gave his farewell address as president of Harvard University. He came to office in 1971 in an era of student protests and antiwar demonstrations that were dividing American universities and the rest of the Nation from itself. Now, after 20 years of principled leadership and outstanding achievement in the cause of Harvard and higher education, he is stepping down, at a time when the world of American education and the country itself are very different places.

As a crisis manager and problem solver, President Bok belonged to a new breed of university leaders. A lawyer by training, and a professor and then dean at Harvard Law School, he became an instant and enduring success as president of the university, and his tenure has been widely praised.

Under his leadership, among other notable achievements, the undergraduate college instituted a core curriculum that has become a guide for academic excellence in colleges throughout the country. The John F. Kennedy School of Government, established during his administration, has taken its place on a par with Harvard Law School and Harvard Business School, renowned for its role in public policy research and in training young men and women for Government service.

Appropriately, President Bok chose as the topic of his farewell address the theme "The Social Responsibilities of American Universities." He spoke to an audience of more than 20,000 students, family members, professors, and alumni in Harvard Yard after the university's commencement exercises. His address is a vigorous challenge to all of us to confront the rising tide of poverty, crime, homelessness, and other serious problems. He said:

> Despite the gravity of these problems, an eerie indifference hangs over the land. It is the peculiar misfortune of our age that those most fortunately placed in our society seem least exposed to the suffering around them and least inclined to help.

He observed that universities are under widespread attack for increased tuition, for inadequate financial aid to students, for affirmative action, and for attempts to broaden their curriculums beyond conventional studies of Western civilization. But the real attack on universities, he said, should come from an entirely different direction—the abdication of their basic responsibility to help society meet its larger needs.

As he stated, university "research on school reform, poverty, crime and many other social afflictions lags far behind the urgency of these problems for our society." No ivory tower for President Derek Bok.

During his 20 years in office, President Bok touched the lives and inspired the dreams of thousands of young men and women from all parts of the United States and many other lands. He is an outstanding educator, administrator, and philosopher who has presided over an era of renewed excellence in the Nation's oldest and most famous university.

In sum, President Bok's farewell address is an eloquent analysis of the immensely important social mission of the modern university. I believe that it will be of interest to all of us in the Senate who are concerned about these challenges and the proper role of our great universities.

I ask unanimous consent that it may be printed in the RECORD, along with an article on President Bok from the Harvard Alumni Gazette of June 1990.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Address of President Derek Bok]

"THE SOCIAL RESPONSIBILITIES OF AMERICAN UNIVERSITIES"

(Harvard University, June 6, 1991)

It is always a moving experience to look out at all of you, our graduates, who have gathered here from neighboring towns and distant places to offer your respects to this venerable institution. Over the years, I have come to understand how Harvard has touched your lives—by lifting hopes and ambitions, by helping to create lasting friendships, by arousing intellectual curiosity and awakening life-long interests. These gifts are priceless, but you have amply repaid them. Throughout my twenty years of service, your interest in Harvard has never flagged, and I can scarcely find words eloquent enough to express my gratitude.

Over a half century ago, some wit remarked that Harvard evokes a loyalty from its alumni that is comparable only to the fealty sworn by subjects to a sovereign power. Truly, your loyalty is remarkable. But I have never found it to be a blind loyalty—an unquestioning belief in alma mater right or wrong. It is not even as much a loyalty to Harvard as it is a belief in Harvard's ideals of intellectual freedom and high scholarly standards. Time and again throughout my presidency, your faith in what this University could be and should be has pushed me to try harder to fulfill your hopes. Such loyalty is precious. I thank you for it and know that you will give much more of the same to my exceptionally able, dedicated successor.

In this, my last speech to all of you, I would like to share some very personal thoughts about the direction in which I have tried to take the University and the reasons why I chose to do so. This is not a simple task, for Harvard is hardly a simple institution. It is not merely a university but a universe of many separate galaxies and solar systems—a vast collection of stars and planets, some growing hotter and more luminous, others giving off a paler glow, some shining only with reflected light, and a few, like meteors, bursting across the heavens in an incandescent moment of glory.

To find in this great cosmos a single pattern or theme requires a desperate oversimplification. But having no choice, I thought that I would spend these last few minutes pondering a question that has preoccupied me throughout these past two decades. What social purpose can an American university claim to have at the end of the twentieth century? What contribution can we make to society that will justify the benefits we receive and inspire the students who come here to learn?

This is not the only question to ask of Harvard, but it has grown to be particularly important during my presidency. Forty years ago, when I first arrived here as a student, the answer was obvious. America and its universities were united in a common resolve to build a system of scientific research that was preeminent in the world and to expand our colleges to embrace a larger segment of the nation's youth. In less than two decades, we achieved these goals and created the strongest universities of any country on earth.

By the time I took office, this unity of purpose had all but disappeared. Our students were alienated from a society in which they saw their heroes assassinated, their government engaged in a brutal war, their leaders embroiled at the highest level in scandal and deceit. Undergraduates no longer had much interest in careers of public service. Some turned to political protest and cried out loudly for grandiose reforms. Others quietly prepared themselves for lucrative callings: "If you find yourself on the Titanic," one Harvard senior explained, "why not grab a comfortable deck chair and go first class?"

Meanwhile, government officials and the general public had little patience with the violence and intolerance on university campuses. After the demise of the Great Society and the misadventures of the Best and the Brightest, many Americans even lost confidence in advanced knowledge as a key to progress or in experts as guides to help resolve our problems. In this demoralized environment, the social purpose of the University seemed very much in doubt.

As I end my term of office, the campuses are quieter, and the angry tumult of the late 1960s is all but forgotten. Even so, the bonds of understanding between our universities and the nation have not grown stronger. While universities are as dependent as ever on public support, neither educators nor community leaders share a clear, compelling view of what universities can do for the society. Instead of common efforts toward common goals, there is a buzzing confusion of complaints over tuitions, financial aid practices, reading lists, affirmative action, even modern literacy theory. Although these are all legitimate issues, the fact that they dominate the debate about American higher education only shows how muddled we are about why universities truly matter to the society.

This confusion is rather new for Harvard. Those who founded the College had little doubt about its social mission. Harvard was built to perpetuate a learned ministry and to prepare the magistrates and landed gentry who would watch over the affairs of the Commonwealth. Through the next 300 years, its purposes changed as the campus grew more secular. But Harvard still educated a Protestant aristocracy in the great Western tradition of humane learning to prepare them for leadership in the civil society.

Of course, the Harvard of that era had many faults. There was something too elitist, too smug, too insular about a university that took so many of its applicants from the best private schools and the privileged classes. Looking back even on Eliot's Harvard and Lowell's too, we are uncomfortable at the thought of a campus where women were excluded, where blacks were barely tolerated, where poor students rented cold-water flats while their well-to-do classmates lived in Gold Coast apartments and worried about making the right final clubs.

No one today would choose to go back to the old Harvard. Most of us believe that the curriculum has become much richer, the faculty deeper in talent, the student body more intelligent, more egalitarian, more diverse, more interesting.

Yet the old Harvard had one advantage. There was a tacit understanding of what its social purpose was and where its ultimate significance lay. Those who came—however indolent, however content with their gentlemen's C's—assumed that Harvard was there to prepare them to be leaders of society—to serve it, improve it, and preside over its institutions. In President Eliot's words, "Teachers and students alike are profoundly moved by the desire to serve the democratic community." As late as 1936, at our Tercentenary Celebration, Franklin Roosevelt repeated this theme when he said: "Here are to be trained, not lawyers and doctors merely, not teachers and businessmen merely. . . . Harvard trains men to be citizens in that high Athenian sense which compels a man to live his life unceasingly aware that its civic significance is its most abiding."

Though Harvard may have improved in many respects, it is no longer clear what civic significance still inspires our work and justifies the subsidies, benefits, and protections that society grants us to help us carry on our labors.

Are we simply training an elite with the skills they need to move into the professions and achieve worldly success? No, you will say, we are doing more than that. We have made a reality of the American Dream by turning a hereditary aristocracy into an aristocracy of talent. We have opened doors to able students from opposed minorities, from poor neighborhoods, from rural backwaters. We have become an instrument for achieving America's ideals of social mobility and equal opportunity. And that is no small achievement, grant you. It has taken great effort, and great generosity from alumni like yourselves, to make it possible to admit every deserving student, regardless of family income.

And yet, we have to face some hard truths. Admitting the ablest students in America is a noble practice, but in today's society, children from working class families, urban ghettos, or country villages are too often handicapped by poor schools, broken homes, and troubled neighborhoods to fare well in the stiff competition to enter Harvard College. Despite the thirty million dollars in undergraduate scholarships that we award each year, the fact is that we enroll fewer students from farm communities or blue collar families than we did 75 or even 100 years ago.

We must also ask ourselves whether it is enough to offer a Harvard education to the brightest applicants without asking how their talents will be used. Surely we cannot justify our existence merely by enrolling students lucky enough to possess a high I.Q. and giving them the knowledge and skills they need to succeed in their profession. Nor is such an education sufficient to give meaning and fulfillment to the lives of those who come here to study. A Harvard education must serve a larger social purpose to justify our existence and inspire our students.

But surely, you will answer, I have left out the most important part. Harvard is not merely helping the talented few to succeed. By giving able students the education they need, Harvard and universities like it supply the human capital that helps our businesses to grow, our economy to prosper, our legislatures to rule wisely, our hospitals to minister brilliantly to the sick, our law courts to dispense justice. By virtue of their superior skills and education, our graduates will assume positions of leadership to guide their professions in the service of society. In this way, we do as our forefathers did but on a grander scale with students of more diverse and exceptional abilities.

This rationale may have sufficed through generations when America seemed to be steadily advancing, conquering its problems, drawing closer to the promised land of opportunity, security, and prosperity for all. In those years, universities could assume that the education they offered was a vital ingredient in the progress of the nation. Today, however, we no longer take progress for granted. While freedom and democracy are gaining around the world, bringing hope to many millions and an end to the long Cold War, here in America many of our problems are growing larger, and the goal of prosperity for all seems more elusive than before.

We may have the world's best business schools, but our industries have slipped, one by one, behind their competitors in Germany, Japan, and other industrial nations. We may turn out the world's best trained lawyers, but our courts are choked with litigation, and our poor and middle class can often not afford an attorney. The technical virtuosity of our doctors may be the envy of the world, yet over 30 million Americans lack any kind of medical insurance, even as health costs rise to consume a larger share of the Gross National Product than in any other country on earth.

During my 20 years in office, conditions have actually grown worse for many millions of our citizens. The bottom third of our population has gotten poorer, not richer. The average worker today receives a lower real income than his parents had two decades ago. Our public schools have likewise lost ground, and the performance of their students has gradually sunk toward the bottom in comparison with other industrial nations. Almost 50 years ago, teachers reported that the greatest problems they faced were whispering in class, running in the halls, and chewing gum. Today the list has changed to include such grim entries as bringing guns to school, using drugs, and committing acts of physical violence.

These misfortunes rise to tragic proportions in our poor communities. In the past 20 years, homicide, homelessness, poverty, drug abuse, and chronic unemployment have all grown more severe. The violence in our urban ghettos has now reached the point that young males actually have a lower chance of survival in the course of a year than combat soldiers had at the peak of the Vietnam war. Nationwide, one out of five children lives in poverty; over 100,000 have no homes in which to sleep. One child in eight does not get enough to eat and carries greater risks of being retarded, falling ill, and missing school.

One need not stray very far from Harvard Yard to witness sights I never saw as a student in the 1950s. Each morning as I drive to work, I pass the huddled shapes of bodies sleeping on the grates surrounding Holyoke Center. Each noon when I go to lunch, I see the outstretched hands of ragged figures pleading for quarters and dimes. On winter evenings, when I return home, Harvard undergraduates, not yet twenty years of age, go forth to nearby homeless shelters and perform the grim duty of deciding who can enter to sleep and who must be turned away into the frigid night.

Despite the gravity of these problems, an eerie indifference hangs over the land. It is the peculiar misfortune of our age that those most fortunately placed in our society seem least exposed to the suffering around them and least inclined to help. Instead of a popular outcry to end the urban violence, the poverty, the homelessness, the hunger of children, the loudest clamor we hear from the public today is No New Taxes—and this in a country where the total tax burden is lower than in any industrial country in the world.

Against this rising tide of insensitivity and neglect, is it enough for Harvard to attract the brightest students if we do not excel in making them caring, active, enlightened citizens and civic leaders? In asking this question, I do not mean in any way to suggest that we should press upon our students any particular social policies or economic doctrines. There is no proper place at Harvard for Political Correctness. But neither should we accept the view, so prevalent in the society, that it is politically correct to tolerate our domestic problems and stand by idly when there is so much work to be done to revitalize our nation. At Harvard, surely, we must give our students the breadth of knowledge and the powers of analysis and reflective judgment that will equip them to participate wisely in civic and community affairs. We must work much harder to strengthen our efforts to prepare able people for professions, such as teaching, government service, ministry, and public health, that grapple on a daily basis with the gravest challenges facing our society. And we must do our very best to work with all our students to deepen their concern for those who need help, to build within them a strong sense of ethical responsibility, to help them acknowledge that exceptional talent carries with it exceptional responsibility for the welfare of others. We must teach them, in short, to appreciate the Biblical admonition: "Much has been given and much will be expected."

These efforts, important as they are, do not exhaust our social mission. The causes of the nation's plight go beyond a dearth of humane, responsible citizens and leaders. Even when the desire to help exists, government and community leaders are often stymied by an inability to know what to do about problems as baffling and complicated as poverty, crime, or inadequate schools. Many programs have been tried in an effort to solve these problems; all too often they have failed. Much of our current dissatisfaction with government results from these failures, and many of the failures are the result of ignorance.

Yet the very ignorance that confounds society is a call to action for universities. It underscores another vital social purpose: to contribute the knowledge that will help society discover how to overcome its most pressing problems.

Educators and scholars have long felt ambivalent about this responsibility. The traditional view has been that great universities should promote discovery and the growth of knowledge, not by trying to solve the world's problems but by encouraging scholars to pursue the truth wherever their curiosity leads them.

That view remains extraordinarily important. We must always do our best to attract the most creative, powerful minds to Harvard and give them the freedom and support they need to make their most profound contributions. The scholars that succeed most grandly are the brightest stars in our firmament. If their achievements do not solve immediate problems, they endure nonetheless as monuments of our civilization to enlarge our understanding of our culture, our past, our environment, and, not least, ourselves.

But contributions of this stature are not the only work of a great university. Much of our research, especially in our professional schools, has a more practical thrust, so much so that universities have become the nation's principal resource for helping our society to comprehend its problems. If America expands its Headstart program, discourages smoking to lower the incidence of cancer and heart disease, uses computers to improve corporate performance, or develops new national assessment tests to chart the progress of its schools, it must rely on research carried out by university investigators. Those who do such work can also claim a respected place in our firmament. As Oscar Handlin has observed, "Our troubled planet can no longer afford the luxury of pursuits confined to an ivory tower. . . . Scholarship has to prove its worth not only on its own terms but by service to the nation and the world."

In the conditions of modern society, then, universities bear two important social responsibilities: one involving education, the other research. While this thought is hardly revolutionary, the truth is that neither of these tasks has yet received the attention it deserves on campuses across the nation. Education for humane citizenship is a stunted enterprise, while preparation for teaching and most of the other helping professions suffers from benign neglect. Meanwhile, research on school reform, poverty, crime and many other social afflictions lags far behind the urgency of these problems for our society. Surely, these shortcomings make a more important subject for debate than most of the issues that have dominated recent discussions about higher education.

The contributions we need to pursue our social mission come from every part of the scholarly universe—from academic disciplines and from professional schools, from the humanities as well as the sciences. Indeed, if any single thread connects many of the initiatives I have taken at Harvard, it is the effort to strengthen our work along these lines. It is our social mission that animates much of the Core Curriculum and the emphasis placed on moral reasoning, ethics, and community service in the College and professional schools. It was this mission that inspired the building of a Kennedy School that could attract able people to government and train them to exercise power wisely. It was this mission that spurred our efforts to strengthen the schools of Education, Public Health, and Divinity—each of them faculties weak in material resources but strong in their orientation toward serving human needs. It was this mission, finally, that led to the creation of active centers of research to work on such pressing human problems as poverty, arms control, Third World development, AIDS, housing, public education, delivery of health care, and soon, I hope, the environment.

In making these efforts, I know full well that no social problem will ever be solved by universities alone. We have no power to implement laws, nor do our scholars have a special talent for devising practical solutions. These are the proper tasks of lawmakers, officials, and community leaders. Still, the crucial fact remains that lawmakers and officials will never solve our problems without the new discoveries, the specialized knowledge, the highly educated people that universities uniquely supply. That is why universities are already so essential to our society. As time goes on, and our problems grow increasingly complex, our data increasingly voluminous, our technical apparatus increasingly elaborate, the role of these institutions can only become more critical.

It is vital that we all understand this role and recognize its significance. Unless society appreciates the contributions of its universities, it will eventually reduce them to the status of another interest group by gradually stripping away the protection and support they need to stay preeminent in the world. Unless universities take their social responsibilities seriously, they will never inspire their students with a purpose large enough to fill their lives with meaning. More important still, unless universities discharge their duties to the society, they will fail to do everything they can to make this "troubled planet" a better, happier place.

Because of its good fortune, Harvard has a special obligation to give generously of its ability and imagination to the society that sustains it. Looking back on these two decades, I am grateful for all that so many of my colleagues have done to carry out this responsibility vigorously and well. Because of these efforts, I can leave you now, secure in the faith that at a critical time in our nation's history, Harvard will do its best to lend its talents to the cause of justice, compassion, and enlightenment in a world in urgent need of these blessings.

[From the Harvard Alumni Gazette, June 1990]

PRESIDENT BOK TO STEP DOWN ON JUNE 30, 1991

After 20 years as president of Harvard University, President Derek Bok has announced that he will step down at the end of the 1991 academic year.

A search committee will be formed shortly to help select a new president.

Looking back over almost two decades in office, Bok said: "It has been an extraordinary privilege to serve so long as president of Harvard. I cannot imagine another job that would have been so stimulating and absorbing. As Harvard plans for the challenges of the 1990s, however, and prepares to launch a major capital campaign, it is time for me to step down and allow a new president to provide fresh energy and continuity of leadership throughout the next decade."

Henry Rosovsky, a member of the Harvard Corporation and the acting dean of the Faculty of Arts and Sciences, said of Bok's retirement: "It is almost impossible for me to think of Harvard without Derek Bok as president. He has cared deeply about improving every aspect of Harvard. He has also been a most thoughtful leader of higher education in America. I think the entire Harvard community will very much miss his leadership, and no one will miss him more than I."

Many educational innovations were initiated at Harvard under Bok's presidency including the establishment of the Core-Curriculum of the College and the New Pathway at the Medical School, along with various other new educational programs and curricula reforms in other faculties. In addition, centers and programs for the improvement of teaching were created in a number of faculties, and large-scale efforts were organized to train graduate student instructors in teaching skills.

Bok is credited with developing the John F. Kennedy School of Government into a major professional school with a full complement of professional and executive programs to prepare men and women for responsible posts in government at all levels.

The status of women changed substantially during the Bok presidency with the adoption of a policy of equal access to the College and an integration of financial aid programs for undergraduates on a gender-blind basis. In 1970, there were 3 female tenured faculty members at Harvard University. By 1971, the number of female tenured faculty rose to 6, and by 1973, the number was 14. The 1990 total for female tenured faculty was 71. In 1971, there were 42 female ladder faculty (Associate and Assistant Professors), and by 1973, that number had risen to 76. By 1990, the number of female ladder faculty totaled 424.

In 1971 there were 23 minority tenured faculty members and 34 minority ladder faculty (Associate and Assistant Professors). By 1973, that number had risen to 44. By 1990, the number of minority ladder faculty had reached 202.

Among nonfaculty employees, in 1971 there were 843 female professional nonfaculty employees. By 1973, there were 1,032 female professional nonfaculty, and by 1990 there were 2,134 female professional employees (Executive/Administrative/Managerial and Professional/Nonfaculty categories). For minority professional nonfaculty employees, in 1971, there were 190. By 1973, there were 220 minority professional nonfaculty employees. In 1990, there were 328 minority professional nonfaculty employees (Executive/Administrative/Managerial and Professional/Nonfaculty categories).

Bok helped establish new programs and research centers to address a series of national and international problems, including poverty, AIDS, international security, energy and the environment, business and government, and professional ethics.

During Bok's 20-year presidency, programs in the arts were strengthened through the arrival of the American Repertory Theatre, the establishment of the Office for the Arts with programs involving more than 3,000 undergraduates, the completion of two new art museums, and the reorganization of the Department of Visual and Environmental Studies.

Bok also began a University-wide initiative in the teaching of ethics. Courses in moral reasoning were made a required component of the undergraduate Core Curriculum and in the teaching of professional schools. Programs in community service were also introduced or enlarged resulting in an increase to 60 percent of undergraduates who perform community service during their college years.

The Extension School, the Summer School, and many other programs of executive and continuing education were created and enlarged. Together, these programs currently enroll almost 60,000 nondegree students every year.

The athletic plant was expanded and renovated, and a complete complement of women's teams was established during Bok's presidency. Recently, the Harvard athletic program ranked among the 10 best in the country.

Bok completely reorganized the central administration and established a legal office, an office of government and community affairs, and new methods of budgeting and financial planning.

The University completed a $359 million capital campaign, and gifts to the University rose from less than $50 million in 1971-72 to more than $200 million in 1989-90.

A new investment organization, Harvard Management Company, was created to manage the University's endowment. The total value of the endowment rose from $1 billion in 1971 to approximately $5 billion currently.

Bok has written three books on higher education: *Beyond the Ivory Tower* (1982), *Higher Learning* (1986), and *Universities and the Future of America* (1990). He has served as chairman of the American Council on Education and the Association of American Universities and as a member of the board of the National Association of Independent Colleges and Universities. He has been named by several national publications as the most influential leader in American education and has been listed among the most effective university presidents in national surveys.

With regard to his future plans, Bok said, "I haven't yet had time to think about what to do next. I expect to consider my future plans very carefully over the coming year." The Corporation has already asked Bok to remain at Harvard as a University Professor, the highest academic distinction that the University can bestow.

Bok became the 25th President of Harvard on July 1, 1971. Before taking office, Bok was the dean of the Harvard Law School where he was an authority on labor law and antitrust law.

Derek Curtis Bok was born in Bryn Mawr, Pa., on March 22, 1930, the son of Curtis Bok and Margaret (Plummer) Bok. His father was a judge of the Court of Common Pleas in Philadelphia and later an associate justice of the Supreme Court of Pennsylvania.

Bok's grandfather was Edward Bok, who was an immigrant from the Netherlands as a boy and became the first editor of the *Ladies Home Journal*. A great-grandfather was Cyrus H.K. Curtis, founder of the publishing house.

Bok grew up on the West Coast, attending California schools and Stanford University, where he was elected to Phi Beta Kappa and Phi Kappa Sigma, and received the B.A. degree in 1951. At the Harvard Law School, where he received the LL.B. degree *magna cum laude* in 1954, he was an editor of the *Harvard Law Review*.

After law school, he went to Paris on a Fulbright Scholarship. There he met Sissela Ann Myrdal, a student from Sweden, and in 1955 they were married at Louviers, France.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,295th day that Terry Anderson has been held captive in Lebanon.

RESIGNATION OF SUPREME COURT JUSTICE THURGOOD MARSHALL

Mr. DODD. Mr. President, I rise today to pay tribute to Thurgood Marshall, and to thank him for six decades of service to the principles on which this great Nation was founded: that all men are created equal, and that they are endowed by their creator with certain inalienable rights.

Throughout his distinguished career, Justice Marshall has been a brave champion of those rights. He has championed life in his steadfast commitment to individual freedom despite social and political pressure to limit it. As chief counsel of the NAACP, he was a true proponent of liberty: his arguments in the landmark Brown versus Board of Education case freed children all over the Nation from the chains of the separate but equal doctrine that kept from them the multicultural richness of America. And Justice Marshall, the great-grandson of a slave who rose to the highest rank to which an attorney can aspire, is a living example of the fact that in this country, no matter what the odds, happiness pursued with dignity can indeed be achieved.

Justice Marshall has earned his place in history as a judge and a lawyer who gave equal treatment under the law to all citizens, no matter how weak or strong, rich or poor, powerful or disenfranchised. He has applied his formidable legal skill, dedication, and experience to good purpose in the service of our country, and his retirement from the Nation's Highest Court marks the end of an era.

Justice Marshall's resignation provides President Bush with the opportunity to put equality under the law before party politics or personal ideology. These are troubled times for civil rights, and all I can say is that I look to George Bush now for courageous leadership.

I look to the President to nominate a successor to Justice Marshall who will approach every case that comes before the Supreme Court with the same profound respect for the rights of all Americans that Thurgood Marshall has demonstrated through the years.

I would ask the President to think of the children whose life, liberty, and happiness will be affected for decades by the decision that he makes now. And I sincerely hope that the man or woman who follows Justice Marshall to our land's Highest Court will do so with the same mission: to protect the rights of all our citizens.

RECENT ESCALATION OF VIOLENCE IN LITHUANIA

Mr. BRADLEY. Mr. President, I would like to call the attention of the Senate to Wednesday's events in Lithuania. At around 4:30 on June 26, approximately 50 OMON troops armed with automatic rifles and submachine-guns took over the central telephone and telegraph office in Vilnius. The Black Berets held the employees of the building at gunpoint and told them that they were searching for illegal weapons. They occupied the telecommunications center for 2 hours and 20 minutes. They emerged claiming that they had found some unspecified quantity of pistols and explosives in an airshaft. But no one had actually seen the confiscated material.

This latest act of force by Soviet security forces—and let me emphasize that this is only the latest in a long series of actions—represents a significant escalation of Soviet efforts to intimidate the governments and people of the Baltic States.

It was not an isolated action. At the same time, the television tower in Kaunas was taken over and temporarily disabled. Vilnius radio went silent during the raid. While the telecommunications center was occupied, armed men entered the power station in Vilnius and tried to shut off power to Lithuania. Reports indicate that it was coordinated with air support and ground support forces.

Until service was restored around 9, Lithuania was cut off from the world. No faxes, no telephone calls, no telex. For more than 4 hours, the Lithuanian legation here in Washington did not know if we would see a repetition of what had happened in January. For more than 4 hours, the Government could not communicate with its citizens and Lithuanians could not communicate with each other. For more than 4 hours, the OMON forces even cut off communications with the nuclear powerplant in Ignalia, a Chernobyl-type reactor with a poor safety record.

These are the same Black Berets who were responsible for the deaths of 30 Lithuanians in January. this is also the same building that they tried to seize in January. I urge my colleagues to examine the documents on these attacks which I received from President Landsbergis and inserted into the RECORD on May 15, 1991, and compare those eyewitness accounts to the report of the Soviet procurator, who found that Lithuanian terrorists were responsible for the deaths.

Who was responsible? Who gave the orders? The Black Berets say they had orders from the local pro-Moscow procurator. The Minister of Interior, Mr. Pugo, has denied responsibility, and of course, Mr. Gorbachev disavows any advance knowledge of the incident.

No knowledge. But neither was there any reprimand. Not even a real condemnation, just a statement laying the blame on unnamed individuals trying to spoil the atmosphere for Gorbachev's upcoming meetings with Western leaders. Mr. Gorbachev has, however, commissioned a study of the attack. The study will be done by the same Mr. Pugo who is in charge of the forces that carried out the attack. I would not be surprised, Mr. President—in fact I think one could almost predict—that Mr. Pugo will find that the actions of the OMON forces he commands were entirely justified.

Mr. President, whatever lies are reported by the Minister of Interior, the fact is that the leadership in Moscow has created and fostered an atmosphere in which the use of force and violence is used to coerce the decisions made by the Baltic States. Even if Mr. Gorbachev did not explicitly order the attacks, he has clearly sanctioned the continuing intimidation of the Baltics.

What do these actions accomplish? It is Moscow's message to the Baltics, to the republics, and indeed to all democratic forces in the U.S.S.R. that the center is still in control. That they can still cut you off from the world. That they can still cut you off from your population. The seemingly endless string of attacks on customs posts in the Baltics reminds those governments that they are powerless against those who feel no compunction about putting Chairman Mao's dictum that power flows from the barrel of a gun into practice.

We should respond with a message of our own. We should affirm the principle that power must be legitimized by democratic elections—like those which elected the current leaders of the Baltics and the Russian republic. We should affirm the principle that the Baltics are sovereign states who are only part of the Soviet Union by virtue of the Molotov-Ribbentrop pact of 1939. This affirmation must be more than a proforma mouthing of the nonrecognition formula, it should be explicit in all of our dealings with the Soviet Union from their requests for aid and credit guarantees, to the establishment of offices and technical assistance in the Baltics.

I believe that the United States can do more. We could demand that the Soviet forces who are still occupying press and public buildings in Vilnius and Riga, Latvia withdraw from those buildings and return them to their rightful owners.

And when we begin to talk about implementing a trade agreement with the Soviet Union and MFN for the Soviet Union—which seems to be an incomprehensible step in light of this escalating intimidation—the legal rights of the Baltic States must be explicitly endorsed in those agreements.

In sum, Mr. President, the United States should stand strongly behind the forces in the Soviet Union that have legitimacy, but not power. And we should be vigorously condemning the violent actions of the forces that have no legitimacy, but use the power of the Communist political machine. To do any less would be a step away from supporting the Lithuanians who were held at gunpoint and their government.

STEMMING THE TIDE OF VIOLENCE IN YUGOSLAVIA

Mr. PELL. Mr. President, last night, the Senate agreed to a resolution that the minority leader and I introduced with regard to Yugoslavia. Our resolution was an appeal for sanity in Yugoslavia, where violence broke out between the Yugoslav Army and the Slovenian militia. The resolution condemned the use of force in Yugoslavia and called for an end to the hostilities; it urged the central government to agree to calls for negotiations leading to a peaceful settlement of the issues affecting all of Yugoslavia; and it urged the Republic of Serbia to allow the normal constitutional rotation of the Federal Presidency to occur.

Press reports indicate that more than 100 people have been killed or injured in yesterday's fighting. Despite its lack of constitutional authority, the Yugoslav Army deployed troops and tanks along the Slovenian borders, seized border posts, and mobilized troops and tanks in Croatia. This action, ostensibly, was in response to the June 25 declarations of independence by Croatia and Slovenia.

In using force to respond to the independence declarations, the Army has ignored completely the fact that Slovenia and Croatia have expressed their desire for a negotiated settlement on shaping a new Yugoslav union. I hope that Slovenia and Croatia will continue to seek a dialog with the other republics, and that the central government and the other republics will respond positively and immediately to those requests.

Mr. President, I would also note that this week's independence declarations did not occur in a vacuum. In my view, too little attention has been given to Serbia's destructive contribution to the current crisis. In many ways, Serbia's actions, including its obstruction of the constitutional rotation of the Federal Presidency and its blatant human rights abuses against the Albanians of Kosovo, have encouraged the Croatians and Slovenians to take steps to disassociate themselves from Serbia and the Yugoslav federation. I would hope that the Republic of Serbia would do its part to end the current crisis by, at the very least, ending its obstruction of the Presidential rotation.

This morning, the news out of Yugoslavia has been a bit more positive than it was yesterday. Although army troops remain poised at the Slovenian border, press reports indicate that the Federal Army has declared a cease-fire in that republic. I sincerely hope that the army will honor its cease-fire pledge, and that the next step—that of peaceful dialog—will be taken. We have also received word this morning of another welcome development in this regard. Namely, the European Community has announced that it is sending a delegation to Yugoslavia to seek a negotiated settlement to the current crisis. I sincerely hope that all parties in Yugoslavia will respond positively to EC mediation efforts.

Finally, Mr. President, I would note that international pressure has been cited as contributing to today's cease-fire announcement. I am pleased that the Senate has joined with the U.S. administration and other governments throughout the world in declaring unequivocally and firmly its opposition to the use of force to solve Yugoslavia's differences. By passing Senate Resolution 147 last night, the Senate has taken one small but significant step to stem the tide of violence in Yugoslavia. I hope that Yugoslavia will continue to hear us.

TRAGEDY IN YUGOSLAVIA

Mr. DECONCINI. Mr. President, this week we are witnessing a tragedy of enermous proportions in Yugoslavia. Following declarations by the republics of Slovenia and Croatia proclaiming that they were, in effect, seceding from the country, Yugoslav military units moved in to ensure that this would not happen. The result, among other things, is the absolutely unnecessary loss of life, the death of Yugoslavs at the hands of fellow Yugoslavs. The unfortunate news today is that the conflict seems to be escalating.

Yesterday, as Cochairman of the Helsinki Commission, I joined with Representative STENY HOYER, the Commission's Chairman, in condemning the use of force and violence in Yugoslavia, such as the deployment of the Federal armed forces in Slovenia. We opposed the use of force in Yugoslavia as a method by which to solve that country's many problems, including the use of force to maintain the federation.

The CSCE, or Helsinki process, has been viewed as a forum where the United States, along with Canada and Europe, can best seek to bring peace and dialog back to Yugoslavia. Indeed, the crisis in Yugoslavia has increasingly been on the agenda of recent CSCE meetings. Now, several West European countries have called for using, for the first time, a newly developed emergency mechanism to convene a meeting to focus exclusively on the conflict in Yugoslavia. It is, in my view, not only appropriate but critical that the United States give its immediate endorsement to this proposal, and that the meeting be convened quickly.

Bringing Yugoslavia back to peace must be our first priority. Making Yugoslavia fully democratic must be an immediate second if further outbreaks of violent clashes are to be avoided in the future.

Whether Yugoslavia will remain a federation, confederation, association of sovereign states or fully independent countries is, of course, for the peoples of Yugoslavia to decide for themselves. One thing, however, must be clarified. The steps Slovenia and Croatia have taken at times may not have been the ones preferred by the international community, but nobody—I repeat, nobody—has done more to undermine the preservation of a united, Federal Yugoslavia than those who have sought to maintain it through undemocratic means. These officials reside not in Ljubljana nor in Zagreb, but in Belgrade. They have given the Slovenes, the Croats, and increasingly the Bosnians and Macedonians all of the reasons they need for wanting to go their own way. Choosing republic independence has therefore, over time, become to these people synonomous with choosing individual freedom.

Demonstrations by opposition groups in Kosovo, and in Belgrade this year, indicate that all Yugoslavs, in fact, want to live peacefully and in freedom. If respect for human rights and fundamental freedoms, along with other aspects of democratic government, does not become universal in Yugoslavia, no dialog will produce mutual agreement among all parties in Yugoslavia on the fate of that country, and conflict and violence can be expected both to continue and spread. I truly hope that the leaders of Yugoslavia choose the democratic course before it is too late.

CRISIS IN YUGOSLAVIA

Mr. D'AMATO. Mr. President, I rise today to urge the Federal Government of the Republic of Yugoslavia to cease the use of force in their effort to keep that country together.

While we wish to see a united Yugoslavia, a union can never be achieved through force. Instead, it must form with the consent of all the citizens of Yugoslavia.

It is clear to me that the Federal Government of Yugoslavia has chosen to use force to solve a problem that it has been avoiding for many years. They have failed to control the violent, oppressive leadership of Serbia, which has engaged in a pattern of gross human rights violations against Albanians in Kosovo. As a result, the other minorities, fearful of Serbian domination, have chosen to rebel.

The fault for this independence movement lies squarely on the shoulders of the Federal leadership. Had the Federal Government of Yugoslavia acted to protect the rights of one minority, other minorities would be more willing to remain part of that country.

Slovenia and Croatia have instead declared their independence. They no longer feel that they can coexist with the brutal Communist leadership of Serbia.

Unfortunately, the United States, in its quest to preserve Yugoslavia, has adopted a policy which rewards the Yugoslav Federal Government for its failure to protect human rights. I'm afraid this policy, which has only motivated the Serbian leadership toward further violence, will precipitate the dissolution of Yugoslavia.

It is time the United States firmly stood up to the terroristic rule of Slobodan Milosevic. It is obvious that the Federal Government in Yugoslavia has chosen to use force to kill the oppressed, instead of controlling the oppressors. We must firmly ally ourselves with the forces of democracy and human rights. Unfortunately, we have yet to do so in unequivocal terms.

It is not too late for the United States to firmly state that it supports the forces of freedom and democracy in Yugoslavia. Such a message, coupled with strong pressure on the central government to confront the Serbian leadership, could give Slovenes, Croats, and other minorities in Yugoslavia a reason to remain in the union.

As long as the Serbians continue to oppress the Albanian minority in Kosovo, every other constituent member of the Yugoslavian federation must look with horror at the prospect of a Yugoslavia dominated by Serbians and consequently yearn for its dissolution.

SENATE RESOLUTION 147

Mr. NICKLES. Mr. President, last night the Senate adopted a resolution, Senate Resolution 147, sponsored by Senator DOLE, Senator PELL, Senator PRESSLER, Senator BYRD, Senator HELMS, myself, and Senator RIEGLE to express the Senate's opposition to the use of force to resolve the political differences in Yugoslavia. As all my colleagues are well aware, the Yugoslavian Central Government has been using force now to suppress the Republic of Slovenia and quite possibly the Republic of Croatia because of their moves toward democracy and independence.

This resolution condemns the use of that force. That force is unnecessary. It is not called for. I call it to the attention of my colleagues because we agreed to it last night at 1, and I am afraid many of my colleagues were not aware of it. But that resolution expresses our outrage at the use of force to suppress democracies.

The United States should not, and I believe will not, turn its back on the democratic forces in Yugoslavia. The problem is not that democracy is breaking out in Croatia and Slovenia. The problem is the totalitarian Communist forces in Serbia have tried to extend their domination, their totalitarian regime now through the use of the Army. That is very regrettable, and it will not be without consequence, as far as at least this Senator is concerned.

There is an outstanding article in the Wall Street Journal, "Yugoslavia on the Brink." I ask unanimous consent it be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

YUGOSLAVIA ON THE BRINK

If all the king's horses and all the king's men couldn't piece Humpty Dumpty together, then keeping the titular nation of Yugoslavia together may have reached the point of futility. Certainly it has reached a danger point, as evidenced by the fighting that raged across Slovenia yesterday, leaving a reported 100 people dead or injured. The West might be wise to consider seriously the reality that two nationalities have overwhelmingly voiced their desire to break free from Belgrade and integrate into Western Europe.

The republics of Slovenia and Croatia declared independence from communist-dominated Serbia despite explicit warnings that the U.S., France and Britain, among others, would not recognize their secessions. (Austria and Germany are less adamant.) The West had supported Yugoslavia's federal Prime Minister Ante Markovic, who has seemed to offer the best hope of keeping the republics stitched together.

For a time it seemed that a real breakup could be avoided. But centuries of historic division along cultural, political and religious lines made Mr. Markovic's eventual failure predictable. As the two maps here show, the conflicting regions are divided much as they were from 1719 until 1878, when Croatia and Slovenia were aligned with the West under the Hapsburgs, while the Ottomans imposed their brand of governance on the Serbs.

Today Serbian communists, while professing to support a strong federal government, have worked to thwart Mr. Markovic's economic and political reforms. They exploited nationalism to divert attention from social failures. The Serbian president, Slobodan Milosevic, employed Serbian dominance of the army officer corps to threaten other republics.

Slovenia and Croatia, the two wealthiest republics with strong historic ties to Central and Western Europe, meanwhile drafted plans for reforms. The two stopped sending funds to the federal government and held referendums in which large majorities of the people voted for independence. When Croatia's 600,000-strong Serbian minority (out of a total residency of 4.5 million) cried foul, the path for collision was set.

Moreover the West's efforts to prop up the progressive-minded Mr. Markovic appear only to have encouraged hard-liner Milosevic. The Serbian president (whose popularity with Serbs has slipped badly) seems to see Western opposition to the breakup as a mandate for military intervention. Thus Yugoslav tanks have taken up key positions in the breakaway states, generating a tense war of nerves.

For the U.S. and Europe, this situation calls for a fresh, more realistic look at policy. It should be asked whether there is more likelihood of the Slovenes and Croats successfully developing as democratic states outside Yugoslavia than coexisting peacefully within it. By insisting on preserving a federated Yugoslavia the West could encourage further intimidation by Serbian President Milosevic and lose all chance for a peaceful transition.

The breakaway republics are not demanding that an iron divide be erected between themselves and the rest of Yugoslavia. They only are rejecting the right of the federal government and Serbia to dominate their policies. The mere fact of their small size need hardly be an issue. If it were, Switzerland would not be Europe's richest country.

The U.S. and Europe, by aligning themselves with what is in effect the Milosevic camp, fuel the tensions. If an accommodation can be found to patch Yugoslavia together, so much the better. But it will have to be a very different Yugoslavia from this one, where the uncompromising position of a single man, Slobodan Milosevic, has brought about a dangerous crisis.

Mr. NICKLES. Mr. President, for my colleagues' information I ask unanimous consent to include this resolution again, Senate Resolution 147, for their information, and also for the public's information, again expressing our outrage about the use of force against the democracies in Slovenia and Croatia.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S. RES. 147

Whereas, since May 15, 1991, the government of the Republic of Serbia has blocked the constitutional rotation of the federal presidency of Yugoslavia, effectively leaving Yugoslavia without a President and commander-in-chief of the Yugoslav Army;

Whereas, on June 25, 1991, the democratic republics of Croatia and Slovenia declared their independence;

Whereas, in conjunction with these declarations of independence, Croatia and Slovenia have indicated their willingness to continue dialogue and negotiations with the other republics of Yugoslavia on the future of Yugoslavia;

Whereas, on June 26, 1991, in response to these declarations, the Yugoslav central government, despite its lack of constitutional authority, ordered the Yugoslav Army to deploy troops and tanks along the Slovenian borders, to seize border posts, and to mobilize Yugoslav Army troops and tanks in Croatia;

Whereas, the Yugoslav Army is presently carrying out those instructions;

Whereas, there are reports of growing numbers of deaths of civilians, militiamen, policemen and soldiers as a result of fighting between Yugoslav Army forces and militia forces of the republics of Slovenia and Croatia;

Whereas, in its June 26 statement on Yugoslavia, the United States Department of State asserted that, "The United States strongly opposes the use or threat of force to resolve political differences in Yugoslavia": Now, therefore, be it

Resolved, That—

(a) the Senate condemns the use of force to resolve political differences within Yugoslavia;

(b) the Senate calls on the Yugoslav central government to cease using the Yugoslav Army to address the current crisis, and instead urges the central government to respond positively and immediately to domestic and international calls for negotiations leading to a peaceful settlement.

(c) the Senate calls on the government of the Republic of Serbia to stop blocking the rotation of the Yugoslav Presidency.

TRIBUTE TO THE LATE CURRIE SPIVEY OF SOUTH CAROLINA

Mr. THURMOND. Mr. President, I rise today to pay tribute to my good friend Currie Spivey of South Carolina, who was tragically killed in a plane crash on June 21. Mr. Spivey was a man of integrity and dedication and his death is a great loss for our State.

Currie Spivey was an outstanding individual in every way. He was a keen businessman and a committed community leader. He was a loyal, trusted friend, and a fine husband and father. He was one of the most public-spirited men I have known, and he always went out of his way to help others.

At the time of his death, Currie Spivey was chairman of the South Carolina State Development Board. Although he had only held this post since January, Mr. Spivey had already initiated positive change in the board, and I have no doubt he would have accomplished great things had he continued his work. While the cause of his plane crash remains unknown at this time, the effect is clear: South Carolina has lost a good friend.

I would like to take this opportunity to offer my condolences to Mr. Spivey's wife, Kay, and children, James Spivey and Beth Paschal and the rest of his fine family.

Mr. President, I ask unanimous consent that an editorial from the State newspaper detailing some of Mr. Spivey's accomplishments on behalf of South Carolina be included in the RECORD immediately following my remarks.

There being no objection, the editorial was ordered printed in the RECORD, as follows:

[From the State, June 26, 1991]

CURRIE SPIVEY'S LEGACY

The death of Currie Spivey, killed in an airplane crash near Columbia, removes from our midst a business luminary of vision and acumen, leadership qualities he turned to immediate, progressive effect when he took over as chairman of the state Development Board earlier this year.

Upon assuming control of the industry-hunting agency, Mr. Spivey brought in accounting executives of four large South Carolina firms to help the board's eight division heads set priorities.

A cost-cutting agenda was put into place, including structural reorganization and the concept of zero-based budgeting. Zero-based budgeting means agencies' future budgets will be built from scratch.

Buck Mickel, then executive vice president of Daniel Construction Co. in Greenville, hired Mr. Spivey in 1963. Mr. Spivey rose to become vice president of sales for Daniel in 1970 and its president in 1977.

"It was obvious he had all the talents," Mr. Mickel said. "He was good-looking, well-balanced, easy to get along with, easy to meet people, very competent, very aggressive and had visions of what he wanted to do. He wanted to be a success; he wanted to build up the South."

The sights were set but, tragically, it will remain to others to carry forward on his high aspirations for a robust, economically viable South Carolina. Accountability and other reforms he instituted at the Development Board are not only his legacy but a challenge as well to other departments of the state bureaucracy to follow suit.

STATEMENT ON THE NOMINATION OF HARVEY E. SCHLESINGER

Mr. GRAHAM. Mr. President, I am pleased that in the wee hours of the morning, the Senate confirmed the nomination of Harvey E. Schlesinger for the U.S. District Court for the Middle District of Florida.

Harvey Schlesinger received his law degree from the University of Richmond in 1965.

Following graduation he served in our Nation's Armed Forces as an assistant counsel to the staff judge advocate, Fort McPherson, GA.

In 1970, after discharge from the Army, he became assistant U.S. attorney for the middle district of Florida.

Selected in 1975, Judge Schlesinger continues to serve as the U.S. magistrate judge for the middle district of Florida.

During his long legal career, Judge Schlesinger has gained substantial experience adjudicating a broad range of legal problems.

As an adjunct professor for the University of North Florida, he dedicates his time to sharing his knowledge with others.

Judge Schlesinger has also devoted significant time and energy to many civil organizations, including helping the mentally retarded and the Boy Scouts of America.

I am very proud of Judge Schlesinger's accomplishments. His distinguished background, coupled with his obvious legal skills, qualify him for selection.

I am pleased that the Senate has acted expeditiously in confirming him to the Federal bench in the middle district of Florida.

STATEMENT ON THE NOMINATION OF RALPH W. NIMMONS

Mr. GRAHAM. Mr. President, I am pleased that in the wee hours of the morning, the Senate confirmed the nomination of Ralph W. Nimmons for the U.S. District Court for the Middle District of Florida.

A graduate of the University of Florida College of Law, Judge Nimmons has had a long and illustrious legal career.

Beginning with the public defender's office in 1965, Judge Nimmons has served with distinction in both the public and private sectors.

As Governor, I had the pleasure of appointing Judge Nimmons to the Florida First District Court of Appeals, in 1983.

Prior to his selection to the Appellate bench, he served as assistant State attorney in the Fourth Florida Circuit, as assistant general counsel for the city of Jacksonville, and as Fourth Judicial Circuit Court judge.

He has participated in many organizations and activities related to his work, usually shouldering the leadership positions.

As a founding member and former treasurer, Judge Nimmons was very active in the development of the Jacksonville Wolfson Children's Hospital.

Judge Nimmons has exemplified the characteristics necessary of the Federal judiciary.

I am pleased that the Senate has acted expeditiously in confirming him as to the Federal bench in the middle district of Florida.

FAILED PROMISE OF AIRLINE DEREGULATION

Mr. McCAIN. Mr. President, yesterday America West joined Continental, Pan Am, and Midway Airlines in declaring the need for the protection of chapter 11 of the bankruptcy laws to permit reorganization. Along with TWA, which has threatened to invoke chapter 11, 5 out of the 12 largest U.S. airlines, carrying one quarter of all traffic, are operating under the protection of chapter 11.

How has this happened? The immediate causes are obvious. The triple whammy of the gulf war, higher fuel prices, and the recession have created losses of $4 billion in 1990 for the industry as a whole and an additional $2 billion in losses for the first quarter of this year. The losses have been particularly devastating for younger, expanding carriers like America West.

While it is clear that all airlines are currently under financial stress, it is also apparent that there is an underlying trend toward more concentration and consolidation in the industry. As recently as 1984, the eight largest airlines carried only 74 percent of all passengers. Through mergers and liquidations, concentration in the industry has reached a point where, today, the top eight airlines carry 92 percent of the traffic. With a quarter of the industry under the protection of chapter 11, I fear that we will see even more concentration.

Was this consolidation and concentration in the airline industry inevitable? Secretary Skinner, who has suggested that as few as three airlines will survive, seems to believe so.

I reject this premise. The promise of airline deregulation was not an oligopoly of just three or four airlines dominating air traffic, airports, and air fares. The promise of airline deregulation was clearly stated in the declaration of purpose in the 1978 act:

> The prevention of unfair, deceptive, predatory, or anticompetitive practices in air transportation, and the avoidance of unreasonable industry concentration, excessive market domination, and monopoly power.

Airline deregulation was supposed to mean entrepreneurs would have the opportunity to start new airlines and succeed through providing consumers with better service at lower prices. The announcement of America West's decision to invoke chapter 11 sends a signal that the promise of deregulation has been broken.

The frustration of deregulation's intent was not inevitable. Rather, it is the direct result of either indifference or outright hostility on the part of the Department of Transportation toward increased airline competition and new entrants. An examination of the Department's actions and inaction is instructive.

During the 1980's, the Department of Transportation played Will Rogers to the airline industry. It never met a merger it would not approve. Texas International, People's Express, New York Air, Frontier, Western, North Central, Southern, Hughes Airwest, National, Ozark, Empire, and Piedmont Airlines all disappeared, increasing concentration.

Numerous studies by the General Accounting Office [GAO] and the Department of Transportation [DOT] have documented that computer reservation systems or CRS's are a significant barrier to competition. The DOT's own proposed rulemaking on CRS's, released this spring, admits that CRS's are anticompetitive. Yet that same rulemaking refuses to address the worst aspect of CRS's: excessive booking fees. As a result, a few rich airlines will continue to squeeze unfair profits out of their competitors.

The GAO has also documented the importance for new entrants of access to the four slot-controlled airports: Washington National, Chicago O'Hare, and New York Kennedy and LaGuardia. Without access to these airports, smaller carriers are unable to build a national route system to attract the more profitable business travelers. To date, the DOT has not fixed this barrier to competition and has failed to issue a required rulemaking on providing new entrants access to these four airports.

Finally, DOT has allowed valuable international aviation routes to be sold to the highest bidder, regardless of the sale's effect on the viability of the airlines involved or airline competition in general. This is especially galling considering that the routes were originally awarded free to an airline only after a long comprehensive process to select the carrier which would provide the best service and the most competition.

Mr. President, it is clear that if the DOT is unwilling to preserve the benefits of competition that were promised through airline deregulation, this Congress will need to provide additional direction. I look forward to working with my colleagues on the Commerce Committee to produce legislation to promote competition.

America West was the last of the postderegulation carriers to avoid reorganization under chapter 11. It has now asked the Bankruptcy Court for protection so that it may restructure its debts. Like Continental Airlines, which invoked chapter 11 over half a year ago, I believe that America West will be able to use chapter 11 to strengthen the carrier and survive a very difficult period for all airlines.

The survival of America West is important for Arizona. America West is the largest private employer in the State, with nearly 10,000 employees in Arizona. In addition, America West provides the State with world-class air service and connections, significantly contributing to the business environment in Arizona.

Finally, Mr. President, the survival of America West is important to anyone who flies on an airline. As a product of deregulation, America West shows what free and open competition will bring in lower fares and improved service. If the barriers to competition that hold back innovative carriers, such as America West, are not struck down, the entire traveling public will pay the price.

HONORING LT. GEN. WILLIAM G. PAGONIS

Mr. SPECTER. Mr. President, today I would like to honor an American war hero as well as a model citizen, Lt. Gen. William G. Pagonis of the 22d Support Command, U.S. Army.

Gus Pagonis was one of the leaders responsible for making Operation Desert Shield/Desert Storm an overwhelming success. With little time and on short notice, the lieutenant general and a small staff put into effect a plan that involved the receipt and the forward movement of critical supplies into the theater of operation.

Operation Desert Shield was the largest, fastest, farthest, and most successful military deployment ever recorded in history. In less than 5 months, over 300,000 Army troops and their equipment were deployed from the United States and Germany to Saudi Arabia. The magnitude of the logistical requirement was compounded by the need to develop a complete operational infrastructure in theater. The 22d Support Command had to simultaneously receive and support incoming combat elements while building the requisite infrastructure. The successful receipt, movement, and sustainment of two full Army Corps plus echelon above corps [EAC] units, with hostilities imminent, was a feat unmatched in military history.

Mr. President, I believe the tremendous victory in Operation Desert Storm was a direct consequence of this highly successful logistical effort. Yet, the work of the 22d Support Command did not cease after hostilities ended.

The support command continued to sustain all Army forces in Iraq and Kuwait while simultaneously planning and executing the massive redeployment of elements of those forces back to the continental United States.

The success of the 22d Support Command in Operation Desert Shield and Desert Storm should be attributed to superb leadership, initiative at all levels, and above all, the exceptionally well-trained and motivated soldiers of the command.

Just as impressive as General Pagonis' recent achievements within the armed services are his efforts to raise and support his fine family. He and his wife, Cheryl, have two children who have decided to follow in his footsteps by serving the United States of America. Gus is a captain in the U.S. Army and is presently serving in Saudi Arabia. General Pagonis' other son, Robert, recently joined the ranks of the U.S. Army.

Mr. Speaker, I ask my colleagues to join me in saluting a fine man and an outstanding soldier, Lt. Gen. William G. Pagonis, for serving his nation with distinction and honor and for being an exemplary figure for all Americans.

THE 27TH ANNUAL ALL-AMERICAN COLLEGIATE GOLF FOUNDATION EVENT

Mr. PRESSLER. Mr. President, it recently was my great privilege to participate in the 27th Annual All-American Collegiate Golf Foundation event. I want to pay tribute to the All-American Collegiate Golf Hall of Fame inductees and the All-American team who gave so generously of their time. Also, I especially would like to recognize the foundation's efforts to expand minority participation in collegiate golf.

On Tuesday of this week, a special ceremony was held at the city hall of New York which put forth the goals of the foundation's minority golf program. This program is making considerable progress in providing opportunities for minorities to become involved in collegiate golf.

Mr. President, I was especially impressed by the efforts made by collegiate golfers. Many people are unaware of the amount of time and effort collegiate golfers must invest in this sport. When these young men and women participate in a tournament, they usually play one practice round, which is 18 holes, before the actual tournament begins.

After the 18-hole practice round, the tournaments usually consist of 54 holes. This means that it usually requires a minimum of 3 days, plus travel time, for these golfers to participate in each tournament. Moreover, most collegiate golfers play approximately 10 tournaments per year.

Considering this time commitment and the corresponding financial obligations necessary to participate in collegiate golf, it is especially difficult for minorities to become involved in collegiate golf programs. They need financial support, and the Collegiate Golf Foundation's minority program is a big step in the right direction.

Mr. President, I also would like to pay tribute to the organizers of this program: William Fugazy, general chairman; Allen Paulson, man of the year in business; Madeleine Paulson, woman of the year; Vincent Sombrotto, man of the year in labor; and to the many others who have participated in this program. I also would like to pay special tribute to Rosemarie Taglione, who does an outstanding job as the scholarship administrator of the foundation.

Mr. President, I ask unanimous consent that a message published in the event's program from foundation chairman William Fugazy be printed in the RECORD.

There being no objection, the message was ordered to be printed in the RECORD, as follows:

MESSAGE FROM THE GENERAL CHAIRMAN

Tonight marks the 27th Anniversary of the All-American Collegiate Golf Foundation Awards Dinner. What began as an ambitious dream in 1964 by Arnold Palmer and myself, has grown into a phenomenal success story.

Over the last two decades, the popularity of this great lifetime sport has experienced tremendous growth. During this time, we have watched an illustrious parade of golfers develop from emerging hopefuls into legendary superstars.

As a result of the growing interest in the sport and the generous support toward the Foundation, our extensive scholarship program has expanded beyond all expectations. Although the highlight of the evening is to honor the top collegiate golfers and other prominent figures, the main focus is to provide funding for academically deserving students through our scholarship program. In addition to the hundreds of young people who have received scholarships over the years, the Foundation also contributes to youth oriented charities, hospitals, relief services and medical centers.

Plans are now under way for the launching of the All-American Summer Golf Clinic to introduce and encourage minority youth's participation in golf.

The success of the Foundation would not be possible without the support of people such as those we are honoring tonight: Allen & Madeleine Paulson, Vincent R. Sombrotto, and our Hall of Famers: Patty Berg and Dave Stockton.

Together with Tournament Co-Chairman, Peter Bonanni, and Executive Committee Chairman Tom Clark, I want to thank all of you who have been so supportive and dedicated to the All-American Collegiate Golf Foundation. Your love and generosity toward the Foundation will insure our continued success today and in the future.

With Warmest Regards,

WILLIAM DENIS FUGAZY.

CHINA'S MISRULE IN TIBET

Mr. PELL. Mr. President, as the Congress examines MFN trading status for the People's Republic of China, we are faced with many issues and many experts. I would like to draw the attention of my colleagues to the issue of China's misrule of Tibet and to the views of Mr. Lodi Gyari, president of the International Campaign for Tibet and special envoy of the Dalai Lama.

I have been, for many years, a friend of the Dalai Lama. He is a remarkable man—an advocate for peace in confrontation against an often violent regime. I have also been, for too long a time without resolution, a supporter of Tibet in its struggle for freedom and democracy.

The Chinese have been persistent in their disinformation campaign regarding the situation in Tibet as well as China's historic claims to Tibet, the cruelties of feudal rule under the Dalai Lamas, and the "peaceful liberation" of Tibet by the Red army.

On May 25, China declared a day of celebration in Lhasa and unveiled a monument, as high as the United States Capitol dome, to commemorate the 40th anniversary of their rule in Tibet. What transpired in Lhasa that day was not the cheerful massing of the Tibetan populace chanting promotherland slogans, but rather an around the clock curfew and a pervasive military buildup intended to intimidate pro-independence demonstrations. And because Western visitors already in Lhasa were restricted to their hotels, the foreign press banned, and invited Western dignitaries boycotted this so-called celebration, reports on what happened on May 25 are limited to the smuggled-out accounts of a few daring Tibetans and the disinformation of the Chinese press.

I am gravely concerned about the situation in Tibet. And as long as the Chinese pursue a policy of deceit and oppressive rule in Tibet, and are unwilling to negotiate an arrangement with the Tibetan government-in-exile that would save that nation from extinction, I find it difficult to support the unconditional extension of nondiscriminatory trade relations with China.

Mr. President, I urge my colleagues to read and consider Mr. Lodi Gyari's article "Behind the Chinese Curtain" that appeared in the June 15 Providence Journal. Mr. Gyari is not a China scholar or think-tank sinologist. Rather, he was an eyewitness to China's invasion and occupation of Tibet and a survivor of the 1959 flight of some 80,000 Tibetans to refuge in India. His two young brothers died in his arms in the snowy passes of the Himalayas. He spent his teenage years aiding the Dalai Lama in the resettlement of his fellow exiles, and has served as a cabinet member of the Tibetan government-in-exile. He is the kind of expert to whom we should listen during these days of deliberation, and I ask unanimous consent that Mr. Gyari's article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BEHIND THE CHINESE CURTAIN

(By Lodi G. Gyari)

China is often its own worst enemy. It spent months planning lavish celebrations in Lhasa to mark the 40th anniversary of its rule of Tibet, but the ceremonies only antagonized and humiliated an already bitter Tibetan population. Western countries boycotted the event. The celebration may be a blessing in disguise, for the world is now more focused on the deplorable situation in Tibet and is laboring to determine the best method of assisting Tibet in its struggle for freedom and democracy.

To prepare for the anniversary, Beijing imposed a 22-hour-a-day curfew to ward off demonstrations, and banned the foreign press. China drastically increased its military presence and undertook strict security measures to protect top Communist Party officials coming from Beijing.

That China would highlight its misrule of Tibet as its most-favored-nation trading status comes up for review has baffled seasoned Tibet and China watchers.

Are they really so brazen as to celebrate what can only be classified as wanton destruction of Tibetan civilization? Or are they just reaffirming their military might and their dogmatic resolve as if their repressive rule is the only future for Tibet?

Beijing's hard-liners are not about to get out of the business of repressing the Chinese or the Tibetan people. So far the United States has all but abdicated its significant and unique potential to help China democratize and, at a bare minimum, to help Tibet maintain its separate identity.

It is one of today's greatest ironies that many of Beijing's leaders were the ones who imported and imposed a Western ideology on their country, and now rely on the West for their survival. They took Marxism down an extreme and brutal path at home, exported it to Tibet, and virtually annihilated an ancient civilization. They are being propped up by the foreign exchange flow into China, which they use in part to subsidize the military occupation of Tibet.

Beijing's propaganda about the celebrations reached an unprecedented volume and concentrated on bold claims of rapid economic development of the country. But when the Chinese boast of building thousands of miles of roads, Tibetans see them used principally for military purposes and to extract natural resources. When they record the number of schools built, Tibetans watch their children learning Chinese language and ideology. When they tout the number of hydroelectric stations built, Tibetans see apartments of Chinese immigrants brightly lit, and Tibetan homes dark.

These are not easy issues. Tibetans may be receiving some benefits from Chinese colonialism, but the question remains—at what cost? Mao Zedong said "power comes from the barrel of a gun," and the Chinese seem intent on continually proving that, but as in Poland during the 1980s, repression in Tibet only seems to create more martyrs, strengthen Tibetan resistance and bring international scrutiny.

It is time for the West to pressure China to change fundamentally its policy in Tibet. Our main goal is the same as every other oppressed people: Survival. We first need to stop Beijing's economic inducements for Chinese to move to Tibet. Jobs, housing, medical care and education are often provided to Tibetans, if at all, only after the Chinese settlers have been taken care of. We must find ways to hold Beijing accountable for blatant human rights abuses—the beating and shooting of demonstrators, arbitrary arrests, imprisonment and torture. We further need the help of the West to end the environmental exploitation of our lands.

The West has a crucial role to play in helping the people of China and Tibet regain their humanity. Denying or at least strictly conditioning MFN will weaken the hard-liners and give much needed hope to those fighting for freedom and democracy.

WISCONSIN'S FRIENDS OF THE ENVIRONMENT

Mr. KASTEN. Mr. President, I rise today to draw the attention of my colleagues to the outstanding environmental leadership of 10 Wisconsin companies.

The companies were honored last Tuesday, June 25, as winners of the 1991 Wisconsin Business Friend of the Environment Awards sponsored by the Wisconsin Manufacturers and Commerce Association of Businesses. Here are the winners and some of their achievements:

GE Medical Systems of Waukesha replaced the plastic foam in its packaging with recycled cardboard scraps.

Green Bay Packaging Inc. of Green Bay converted its pulp-making facility to a 100 percent recycled fiber mill.

Hayes Manufacturing Group of Neenah recycles waste paper cores—keeping some 2,000 tons of waste paperboard out of landfills this year.

John Deere Horicon Works Inc. of Horicon has started recycling packaging material.

Menasha Corp. of Hartford has cut its use of solvents and waste generation by 80 percent.

Parker Pen USA Ltd. of Janesville cut its use of Freon by 67 percent last year.

Presto Products Co. of Appleton has created a mobile recycling service—called the Poly Trolley—that grinds plastic for reuse in plastic products.

Vulcan Chemicals of Port Edwards cut the amount of mercuric sulfide waste it generates by 32 percent.

Wisconsin Electric Power Co. of Milwaukee reused 47 percent of its coal ash last year.

Wisconsin Power & Light Co. of Madison took in 115,000 waste rubber tires last year—and used them to generate over 3 million kilowatt hours of electricity.

These 10 companies deserve praise for their achievements. They point out ways in which we can make society more environmentally friendly—ensuring a clean and safe environment for future generations.

RECENT VIOLENCE IN NICARAGUA: A POTENTIAL THREAT TO DEMOCRACY

Mr. PELL. Mr. President, increasing violence on the part of Sandinista militants as a way to dissuade the Chamorro government and the National Assembly from overturning previous legislation on property rights is posing a major threat to democracy in Nicaragua. It is most disturbing to read about bomb attacks on the homes and offices of UNO leaders, and of the violent takeover of the city hall and a radio station in Managua. Also disturbing are the reports of renewed Contra activity. The property dispute is raging over laws passed in the last two months of the outgoing Sandinista government that granted titles to Sandinista loyalists who were given government-owned property, including houses, vehicles, and farmland. The Chamorro government is pledged not to take away property that was given to the poor or to the campesinos in its effort to reacquire the property.

The volatile situation, produced by both the contras and Sandinista militants, has the potential to exacerbate the polarization that remains in the country and, more critically, to explode into a major conflagration. The Chamorro government is attempting to negotiate a settlement on the property issue with the Sandinista leadership in an effort to reach an accommodation that will be satisfactory to all concerned. Some Sandinista leaders have spoken of the need to rectify the situation for the sake of the party's prestige and credibility. I hope that the party leaders will assert their authority over the militants so that calm can be restored in order to permit this issue to be peacefully resolved in the same spirit that the Sandinistas relinquished power after their defeat at the polls last year.

ROGER MICHAEL MAHONY: FIRST NATIVE-BORN ANGELENO NAMED TO COLLEGE OF CARDINALS

Mr. SEYMOUR. Mr. President, today marks a great day for Roman Catholics of my State, as well as for Californians of all faiths, for today in Rome the first native-born Californian was elected to the College of Cardinals of the Roman Catholic Church by Pope John Paul II.

Cardinal Roger Michael Mahony has not only earned a place in the history of the Roman Catholic Church, but also in the history of my State. I ask the Senate to join with me in honoring him today. At this point, I ask that the announcement of the Archdiocese of Los Angeles be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BIOGRAPHY OF CARDINAL ROGER MAHONY

The first native Angeleno to serve as Catholic Archbishop of Los Angeles, Roger Michael Mahony was born in Hollywood on February 27, 1936, and called North Hollywood home until 1962 when he was ordained a priest for the Diocese of Monterey-Fresno (now the Diocese of Fresno).

His parents, Loretta Marie (Baron) and the late Victor James Mahony, sent him to the grammar school at their parish, St. Charles Borromeo, North Hollywood.

After graduating from grade school, Mahony attended the Los Angeles College Preparatory Seminary in 1950 and entered Our Lady Queen of the Angels Seminary in San Fernando in 1954.

He received an A.A. degree in 1956 and continued his studies for the priesthood at St. John's Seminary College in Camarillo, where he earned his B.A. degree in 1958. From 1958 until 1962, Mahony was a student at St. John's Theologate and earned an S.T.B. degree.

Although Mahony was from the Los Angeles Archdiocese, he decided to become a priest for the Diocese of Monterey-Fresno because there was a greater need for priests in that primarily rural part of California, and because of a special desire to minister to the Hispanic community, many of them migrant farm workers in the San Joaquin Valley.

Following his ordination to the priesthood by Bishop Aloysius J. Willinger, C.Ss.R., in Fresno's St. John's Cathedral on May 1, 1962, Father Mahony served as assistant pastor of the Cathedral parish until the following September when he went to the National Catholic School of Social Service at the Catholic University of America, Washington, D.C.

In June, 1964, having earned a master's degree in social work, Mahony returned to Fresno and became the diocesan director of Catholic Charities and Social Service, executive director of the local Catholic Welfare Bureau, executive director of the Infant of Prague Adoption Service, and chaplain to the St. Vincent de Paul Society.

During this time, he was in residence at St. Genevieve's parish, becoming administrator of the parish in September, 1964, and pastor three years later. Also in 1967, Pope Paul VI named him a Chaplain to His Holiness, with the title of "Reverend Monsignor."

Mahony served as an instructor and assistant professor of social work at Fresno State University from 1965 until 1967.

In December, 1968, he moved to St. John's Cathedral, becoming its rector in May, 1973. In 1970, Msgr. Mahony became chancellor of the Diocese of Fresno under Bishop Hugh A. Donohoe.

Pope Paul appointed Mahony titular bishop of Tamascani and auxiliary to the bishop of Fresno in January, 1975, and Bishop Donohoe ordained him to the episcopate on the Feast of St. Joseph, March 19. As auxiliary bishop, he also became vicar general of the diocese.

Gov. Edmund G. (Jerry) Brown appointed Bishop Mahony as the first chairman of the California Agricultural Labor Relations Board in 1975. The board was instrumental in settling many of the labor disputes between the United Farm Workers Union and various growers in the state.

Bishop Mahony was named the third bishop of Stockton by Pope John Paul II on February 26, 1980, and was installed as bishop on April 17, 1980.

When the Archdiocese of Los Angeles became vacant with the retirement of Cardinal Timothy Manning, Mahony was appointed archbishop by Pope John Paul on July 16, 1985. The following September 5, Archbishop Mahony was installed in St. Vibiana's Cathedral as Los Angeles' fourth archbishop.

To care more effectively for the 3.4 million Catholics in his three-county see, in 1986 Archbishop Mahony established five pastoral regions, each headed by its own auxiliary bishop.

He also convened an Archdiocesan Convocation which took place November 1-2, 1986, after a year of preparation. Through meetings at the local parish and regional levels, culminating with the Convocation itself, priests, religious and lay leaders prioritized the needs of the Catholic community and developed a pastoral plan to meet those needs.

A pastoral plan for the huge Hispanic community had been announced the previous June at Celebración '86, held in Dodger Stadium.

The Archbishop has been an outspoken leader in protecting the rights and interests of immigrants. The Catholic Charities of the Los Angeles Archdiocese processed more applications for amnesty under the 1986 Immigration Reform and Control Act than any other single agency in the country.

Since becoming a bishop in 1975, Mahony has served on numerous committees and commissions of the National Conference of Catholic Bishops (NCCB) and the United States Catholic Conference (USCC). He is presently the chairman of the NCCB Committee on Farm Labor, a member of the NCCB Committee on Migration and Refugees, a member of the NCCB Ad Hoc Committee on Stewardship, and a consultant to the NCCB Committee for Pro-Life Activities.

A member of the USCC Committee on Social Development and World Peace, he served as chairman of the International Section from 1987 until 1990. In this capacity, Archbishop Mahony led fact-finding missions to the Middle East, Central America, and Southeast Asia, subsequently developing position papers on achieving peace with justice in these regions adopted by the American bishops.

In November, 1990, when the United States was readying itself to use armed force to eject the occupying troops of Iraq from Kuwait, the Archbishop sent a letter to Secretary of State James Baker III, asking the government to weigh the Catholic Church's criteria for considering warfare "just" before engaging in combat. This letter, later adopted by the NCCB/USCC as its own, helped to spark a national debate on the morality of war.

Pope John Paul has appointed and reappointed Archbishop Mahony to the Pontifical Council of Justice and Peace; his current term expires in 1995. He is also a member of the Pontifical Council for Pastoral Care of Migrants and Itinerant People (term expires 1996) and the Pontifical Council for Social Communications (term expires 1994).

As an appointee of the Pope, the Archbishop participated in the worldwide Synod of Bishops on the Role of the Laity in the Church and the World during October, 1987.

Archbishop Mahony has received honorary doctorates from Loyola Marymount University, Los Angeles (1986); the University of Portland, Oregon (1988); and the University of Notre Dame, South Bend, Indiana (1989).

He has been a member of the board of trustees of the Catholic University of America; the Los Angeles 2000 Committee; the Federal Commission on Agricultural Workers; the Blue Ribbon Committee for Affordable Housing, City of Los Angeles; and the Commission to Draft an Ethics Code for Los Angeles City Government.

On May 29, 1991, at his weekly general audience, Pope John Paul II announced that he would elevate Archbishop Mahony and 21 others to the College of Cardinals at a consistory to be held on June 28, 1991.

THE FOURTH VICTIM OF THE NAZI-SOVIET PACT

Mr. HELMS. Mr. President, I am pleased to cosponsor the resolution of the senior Senator from South Dakota, [Mr. PRESSLER]—a resolution that acknowledges the fourth victim of the Nazi-Soviet Pact of 1939, namely, the Romanian lands of Bessarabia and Northern Bucovina, or Moldavia. Although the Hitler-Stalin pact was signed by emissaries of Stalin and Hitler before World War II, the effects of that pact are vividly alive today for the people of the Baltic States and Moldavia.

On August 23, 1939, the worst and most cruel tyrants of the century ruined the lives of millions of people and the course of history. Thousands of people from Lithuania, Latvia, Estonia, and Moldavia were deported to Siberia. Those who survived, and their descendents, have been forced to live under communism's yoke.

Mr. President, I am pleased to note that these nations are fighting peacefully to regain their freedom. The Baltic States have democratically elected governments that deserve our support, assistance, and recognition. Today, they are in a diplomatic battle to remove Soviet forces from their territory. The United States has never recognized the incorporation of the Baltic States into the Soviet Union.

The situation in Soviet-occupied Moldavia is equally tragic. However, according to United States policy, Moldavia is not in the same legal category as the Baltic States, although it, too, was illegally seized by the Soviet Union. The documents I am about to cite, show how Moldavia was forcefully seized from Romania in 1940.

Two years ago, on May 10, 1989, I spoke on the Senate floor, publishing for the first time the Nazi-Soviet Pact, its secret protocols, and related diplomatic documents that I found in the German, British, and American archives. These documents were distributed in Soviet-occupied Lithuania, Latvia, and Estonia.

Several months later, the Soviet central government finally acknowledged the existence of the Pact with one sidebar—the governments of the Baltic States asked for membership in the Soviet Union. Mr. President, this claim is preposterous and refuted by our longstanding nonrecognition policy of the Soviet annexation.

Mr. President, the Baltic States were not enough for the tyrannical drafters of the Pact. Hitler and Stalin had one more victim in mind—the Romanian province of Moldavia. According to the secret supplementary protocol to the Nazi-Soviet Pact, Nazi Germany formerly declared its disinterest in Bessarabia. Article 3 of the secret supplementary protocols reads as follows:

> As regards southeastern Europe, Soviet interest in Bessarabia is emphasized. The Ger-

man side declares its complete lack of interest in these areas.

In June 1940 the Soviet Union poised Red Army troops on the border of the Romanian province of Bessarabia. On June 26, the Romanian Minister to Moscow, George Davidescu, was summoned by Minister Molotov. He was handed an ultimatum making two demands. The first was to return at any price Bessarabia to the Soviet Union, and the second to transmit to the Soviet Union Northern Bucovina.

Mr. President, both of these demands were completely unreasonable and unprovoked. Bessarabia and Northern Bucovina are traditionally Romanian lands. The people of Bessarabia and Northern Bucovina speak the Romanian language, which is of Latin origin. They posed no menace to the Soviet Union.

The ultimatum further stated that:

> In 1918, profiting from Russia's military weakness, Romania took from the Soviet Union a part of her territory, thus striking a blow at the secular unity of Bessarabia, principally inhabited by Ukrainians, with the Soviet's Republic of the Ukraine.

Mr. President, this assertion is far from reality. According to demographic statistics taken in 1930, Romanians comprised 56 percent of Bessarabia's territory, Russians 13 percent and Ukrainians 12 percent. The percentage of Romanians in Bessarabia fell significantly according to census statistics in 1817 which recorded Romanian as 87 percent of the population. Intense Russification in the period 1812–62 had taken its toll. The percentage of Moldavians diminished by 30 percent from 1817 to 1930.

The much smaller Romanian nation had no choice but to capitulate to her much larger neighbor's demands. Having recently witnessed the brutal occupation of Lithuania, Latvia, and Estonia earlier that month, and lack of a protest from the allied nations, the leaders of Romania understood the brutality of the Soviet regime. In order to prevent major bloodshed, the Romanian government agreed to evacuate Bessarabia. The nightmare for the Romanian people of Moldavia had just begun.

Mr. President, the resolution introduced today is an historic document. The resolution gives legal justification to the plea of the Romanian people of Moldavia for self-determination and recognition of their land as Soviet-occupied.

Tomorrow, the 51st anniversary of Soviet occupation, Moldavians will commemorate this sad day in their history. These people deserve the right to determine their own future. I lend them my support.

Mr. SYMMS. Mr. President, I have the utmost respect for the majority leader, and I know his frustration. I have said to him that being the majority leader of the U.S. Senate probably is the second hardest job in the United States. No question about that.

But I have to say that these objections that have been lodged are totally within the rules of the Senate. There is a deep division, philosophically, in this Senate and by individual Senators that represent sovereign States about the protection of the rights of the second amendment of the Constitution. That has been a very difficult thing for many of us. We do not like it. We have been defeated. The gun control people have had a major victory by adoption of this amendment.

I said to the Senator last week when I was the Republican manager on the highway bill, the leader was cooperative and deserved all credit. If my memory serves me correctly, it was the distinguished occupant of the chair, the former Governor of Florida, who was doing his job for Florida, that held us up most of the last day on his amendments. I respect that. He was doing what he thought he should do to defend his State.

I know that the President makes those statements, but I think that the crime bill the President sent down from the White House to Capitol Hill is not the crime bill that we are talking about passing. The crime bill we have here today that will be passed probably next week, when we return after the 4th of July, is a different bill. So I do not think individual Senators can be expected to just accept that without trying to put their imprints on it. That it just the way the system works.

I have no apologies to make for any of those on this side, including myself, that are not yet to go into a unanimous-consent agreement on limitations on amendments other than what we have already agreed to.

I think we made a major concession from those on my side of the aisle that agreed to the unanimous-consent agreement that previously passed today, and I think we made great headway, and the majority leader deserves commendation that he brought the Senate this far.

If my sense of this body has any validity, I think the big hurdle is over and things will go rapidly when we return. I say that with all respect to the leader, and to the distinguished occupant of the chair, who I say is a Democrat.

Mr. MITCHELL. A very good one.

Mr. President, I want to make it clear, as I thought I did in my remarks, that I do not question the right of any Senator under the rules to object to a unanimous-consent request. I do not object to the right or the duty of any Senator who aggressively represents the interest of the persons in his or her State. What I object to is the President making these campaign speeches without disclosing the full circumstances of the delays.

The President clearly seeks to create a political advantage for himself and for Republicans by criticizing the democratic Congress for not completing action on his bills. That creates a highly misleading impression among the American people, because it does not disclose the truthful fact that it is Republican Senators who are preventing the Senate from completing action on those bills.

I do not challenge the right of a Republican Senator to object. That right exists for any Senator. What I challenge, and what I strongly object to, and what I deeply resent, is the misleading statements made by the President, intended for the sole purpose of creating a political advantage for himself and his political party, without disclosing the full facts with respect to delay. That is my concern about it.

The Senator from Idaho and every Senator, myself included, has rights under the rules, and there is nothing inappropriate about a Senator exercising his or her rights under the rules. I wish to make that perfectly clear.

I think it is inappropriate, and I think it is wrong, and I think it is misleading for the President to make these campaign speeches to create a misleading impression by not disclosing the full circumstances in making that criticism.

Mr. President, I would be pleased to give the Senator the last word on this subject, if he has anything more he wants to say. I think I have made my point.

Mr. SYMMS. Mr. President, our able leader is such a master himself that I am sure his side of the story is getting out. He is making his case very well.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Items Nos. 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, and the nominations placed on the Secretary's desk of the Foreign Service.

I further ask unanimous consent that the nominees be confirmed en bloc, any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The nominations, considered and confirmed, en bloc, are as follows:

DEPARTMENT OF STATE

John E. Bennett, of Washington, a career member of the Senior Foreign Service, class of counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea.

Mary Ann Casey, of Colorado, a career member of the Senior Foreign Service, class of counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic and Popular Republic of Algeria.

William Harrison Courtney, of West Virginia, a career member of the Senior Foreign Service, class of counselor, for the rank of Ambassador during his tenure of service as U.S. Commissioner for the Bilateral Consultative Commission and the Joint Consultative Commission established by the Threshold Test Ban Treaty [TTBT] and the Peaceful Nuclear Explosions Treaty [PNET].

John Thomas McCarthy, of New York, a career member of the Senior Foreign Service, class of minister-counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Tunisia.

Nicholas Platt, of the District of Columbia, a career member of the Senior Foreign Service, class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Islamic Republic of Pakistan.

Gordon S. Brown, of California, a career member of the Senior Foreign Service, class of minister-counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Mauritania.

Robert H. Pelletreau, Jr., of Connecticut, a career member of the Senior Foreign Service, class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Arab Republic of Egypt.

J. Stapleton Roy, of Pennsylvania, a career member of the Senior Foreign Service, class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of China.

Johnnie Carson, of Illinois, a career member of the Senior Foreign Service, class of counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Uganda.

Lynn Marvin Hansen, of Colorado, for the rank of Ambassador during his tenure of service as U.S. Representative on the Conventional Armed Forces in Europe [CFE] Joint Consultative Group and to the Negotiations on Conventional Armed Forces in Europe [CFE].

Jane E. Becker, of the District of Columbia, a career member of the Senior Foreign Service, class of counselor, to be Representative of the Ambassador Extraordinary and Plenipotentiary of the United States of America to the Vienna Office of the United Nations and Deputy Representative of the United States of America to the International Atomic Energy Agency, with the rank of Ambassador.

Richard W. Carlson, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Seychelles.

PEACE CORPS NATIONAL ADVISORY COUNCIL

The following-named persons to be members of the Peace Corps National Advisory Council for the terms indicated:

John J. McCarthy, of California, for a term expiring October 6, 1992.

Craig R. Stapleton, of Connecticut, for a term expiring October 6, 1991.

Myron A. Wick III, of California, to be a member of the Peace Corps National Advisory Council for a term expiring October 6, 1992.

Tom G. Kessinger, of Pennsylvania, to be a member of the Peace Corps National Advisory Council for a term expiring October 6, 1991.

Niara Sudarkasa, of Pennsylvania, to be a member of the Peace Corps National Advisory Council for a term expiring October 6, 1991.

BOARD FOR INTERNATIONAL BROADCASTING

Lane Kirkland, of the District of Columbia, to be a member of the Board for International Broadcasting for a term expiring April 28, 1993 (reappointment).

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE FOREIGN SERVICE

Foreign Service nominations beginning Keith Bovetti, and ending Dale Slaght, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 24, 1991.

Foreign Service nominations beginning David P. Dod, and ending Victor D. Comras, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 24, 1991.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

MESSAGES FROM THE HOUSE

At 1:19 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 543. An act to establish the Manzanar National Historic Site in the State of California;

H.R. 2280. An act to amend title 38, United States Code, to extend and improve veterans health care programs;

H.R. 2508. An act to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and to redesignate that act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993, and for other purposes;

H.R. 2698. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1992, and for other purposes;

H.R. 2699. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1992, and for other purposes;

H.R. 2707. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1992, and for other purposes;

H.J. Res. 182. Joint resolution designating the month of November 1991 and the month of November 1992, each as "National American Indian Heritage Month"; and

H.J. Res. 183. Joint resolution to designate the second Sunday in October of 1991 as "National Children's Day".

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 158. Joint resolution authorizing the use of the rotunda of the Capitol by the National League of POW/MIA Families for a ceremony to honor the members of the Armed Services and civilians still imprisoned, missing, and unaccounted for as a result of the Vietnam conflict.

The message further announced that pursuant to the provisions of section 3(a) of Public Law 86-380, the Speaker appoints the following Members on the part of the House to the Advisory Commission on Intergovernmental Relations: Mr. WEISS and Mr. THOMAS of Wyoming.

The message also announced that pursuant to the provisions of section 2923(e)(2) of Public Law 101-510, the Speaker appoints from private life Mr. Don Gray of Fort Washington, MD, to the task force to make findings and recommendations for environmental restoration at military bases scheduled for closure on the part of the House.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker has signed the following enrolled bill and joint resolutions:

S. 674. An act to designate the building in Monterey, TN, which houses the primary operations of the U.S. Postal Service as the "J.E. (Eddie) Russell Post Office Building", and for other purposes;

H.J. Res. 72. Joint resolution to designate December 7, 1991, as "National Pearl Harbor Remembrance Day";

H.J. Res. 138. Joint resolution designating the week beginning July 21, 1991, as "Lyme Disease Awareness Week";

H.J. Res. 149. Joint resolution designating March 1992 as "Women's History Month"; and

H.J. Res. 259. Joint resolution designating July 2, 1991, as "National Literacy Day".

The enrolled bill and joint resolutions were subsequently signed by the President pro tempore [Mr. BYRD].

MEASURES REFERRED

The following bills and joint resolutions were read the first and second times by unanimous consent, and referred as indicated:

H.R. 543. An act to establish the Manzanar National Historic Site in the State of California; to the Committee on Energy and Natural Resources.

H.R. 2280. An act to amend title 38, United States Code, to extend and improve veterans health care programs.

H.R. 2508. An act to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and to redesignate that act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993, and for other purposes; to the Committee on Foreign Relations.

H.R. 2698. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1992, and for other purposes; to the Committee on Appropriations.

H.R. 2699. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1992, and for other purposes; to the Committee on Appropriations.

H.R. 2707. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1992, and for other purposes; to the Committee on Appropriations.

H.J. Res. 182. Joint resolution designating the month of November 1991 and the month of November 1992, each as "National American Indian Heritage Month"; to the Committee on the Judiciary.

H.J. Res. 183. Joint resolution to designate the second Sunday in October of 1991 as "National Children's Day"; to the Committee on the Judiciary.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 158. Joint resolution authorizing the use of the rotunda of the Capitol by the National League of POW/MIA Families for a ceremony to honor the members of the Armed Services and civilians still imprisoned, missing, and unaccounted for as a result of the Vietnam conflict; to the Committee on Rules and Administration.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2250. An act to amend title 38, United States Code, to extend and improve veterans health care programs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 12. A bill to amend title VI of the Communications Act of 1934 to ensure carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates, and for other purposes (Rept. No. 102-92).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 218. A bill to require the Secretary of Commerce to make additional frequencies available for commercial assignment in order to promote the development and use of new telecommunications technologies, and for other purposes (Rept. No. 102-93).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PRESSLER (for himself, Mr. SYMMS, Mr. COCHRAN, Mr. KASTEN, and Mr. GRASSLEY):

S. 1419. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for amounts paid by a health care professional as interest on student loans if the professional agrees to practice medicine for at least 2 years in a rural community; to the Committee on Finance.

By Mr. COCHRAN:

S. 1420. A bill to amend the Community Reinvestment Act of 1977 to reduce onerous recordkeeping and reporting requirements for regulated financial institutions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. COATS:

S. 1421. A bill to extend until January 1, 1996, the suspension of duty on certain clock radios; to the Committee on Finance.

By Mr. HARKIN (for himself, Mr. WELLSTONE, and Mr. CONRAD):

S. 1422. A bill to provide disaster assistance to producers on a farm who suffered certain losses in the quantity of the 1990 or 1991 crop of a commodity harvested as the result of damaging weather or related condition, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DODD (for himself, Mr. RIEGLE, Mr. D'AMATO, Mr. SANFORD, Mr. WIRTH, Mr. BRYAN, Mr. BOND, Ms. MIKULSKI, and Mr. SIMON):

S. 1423. A bill to amend the Securities Exchange Act of 1934 with respect to limited partnership rollups; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CONRAD (for himself and Mr. BURDICK):

S. 1424. A bill to amend chapter 17 of title 38, United States Code, to require the Secretary of Veterans Affairs to conduct a mobile health care clinic program for furnishing health care to veterans located in rural areas of the United States; to the Committee on Veterans Affairs.

By Mr. DIXON:

S. 1425. A bill to authorize the President to appoint a chief executive officer for the Resolution Trust Corporation; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BUMPERS (for himself, Mr. MITCHELL, Mr. BAUCUS, Mr. HARKIN, Mr. WELLSTONE, and Mr. LIEBERMAN):

S. 1426. A bill to authorize the Small Business Administration to conduct a demonstration program to enhance the economic opportunities of startup, newly established, and growing small business concerns by providing loans and technical assistance through intermediaries; to the Committee on Small Business.

By Mr. RUDMAN (for himself and Mr. SMITH):

S. 1427. A bill to amend title 28, United States Code, to authorize the appointment of an additional bankruptcy judge; to the Committee on the Judiciary.

By Mr. ROTH:

S. 1428. A bill to amend the Foreign Assistance Act of 1961, the Export-Import Bank Act of 1945, and the Commodity Credit Corporation Charter Act to prohibit the noncompetitive awarding of insurance contracts on certain Government-supported exports; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KASTEN (by request):

S. 1429. A bill to amend the Natural Gas Pipeline Safety Act of 1968, as amended, and the Hazardous Liquid Pipeline Safety Act of 1979, as amended, to authorize appropriations for fiscal years 1992 and 1993, and for other purposes.

S. 1430. A bill to amend the Federal Railroad Safety Act of 1970, and for other purposes.

By Mr. CRANSTON (for himself, Mr. D'AMATO, and Mr. SANFORD):

S. 1431. A bill to amend the Housing Act of 1949; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DODD:

S. 1432. A bill to extend the existing suspension of duty on 3,5,6-trichlorosalicylic acid; to the Committee on Finance.

By Mr. DOLE:

S.J. Res. 173. Joint resolution designating 1991 as the 25th anniversary year of the formation of the President's Committee on Mental Retardation; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself, Mr. PELL, Mr. HELMS, Mr. PRESSLER, Mr. BYRD, Mr. NICKLES, and Mr. RIEGLE):

S. Res. 147. Resolution to express Senate opposition to the use of force to resolve political differences in Yugoslavia; considered and agreed to.

By Mr. PRESSLER (for himself and Mr. HELMS):

S. Res. 148. Resolution to express the sense of the Senate that the United States should support the right to self-determination of the people of the Republic of Moldavia and northern Bucovina; to the Committee on Foreign Relations.

By Mr. DOLE (for himself and Mrs. KASSEBAUM):

S. Res. 149. A resolution to commend the 1st Infantry Division (Mechanized) for their outstanding performance during Operations Desert Shield and Desert Storm; considered and agreed to.

By Mr. MOYNIHAN (for himself, Mr. MACK, Mr. PRESSLER, Ms. MIKULSKI, Mr. MCCAIN, Mr. D'AMATO, Mr. KERRY, Mr. SARBANES, Mr. GRAHAM, Mr. INOUYE, Mr. JOHNSTON, Mr. GRASSLEY, Mr. DECONCINI, Mr. DIXON, Mr. SPECTER, Mr. HARKIN, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, and Mr. HATCH):

S. Res. 150. A resolution expressing the sense of the Senate urging the President to call on the President of Syria to permit the extradition of fugitive Nazi war criminal Alois Brunner; to the Committee on Foreign Relations.

By Mr. SPECTER (for himself and Mr. WOFFORD):

S. Res. 151. A resolution expressing the sense of the Senate that research on development of high-speed ground transportation systems and a modern infrastructure in the United States should be encouraged, and that participation of the private sector in this country and Japan will be necessary and welcome; to the Committee on Foreign Relations.

By Mr. CRANSTON:

S. Con. Res. 50. Concurrent resolution expressing the sense of the Congress relating to the rescue of approximately 14,000 Ethiopian Jews from Ethiopia to Israel, and to the current famine in Ethiopia; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COCHRAN:

S. 1420. A bill to amend the Community Reinvestment Act of 1977 to reduce onerous recordkeeping and reporting requirements for regulated financial institutions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

SMALL BANK PAPERWORK REDUCTION ACT

Mr. COCHRAN. Mr. President, today I am introducing the Small Bank Paperwork Reduction Act. This bill recognizes the importance of community banks to our financial system and is designed to relieve the onerous burden of needless paperwork that is imposed on them by Federal laws and regulations. The provisions of this bill do not address any law or regulation which is necessary to ensure that a bank is operated in a safe and sound manner. In fact, if the provisions of this bill become law, many banks will be even more safe and more sound because their employees will be able to evaluate loan applications and perform other functions necessary to a bank's operation instead of spending their time filling out paperwork.

Bankers are not the only ones who are concerned about the regulatory burden on banks. Some regulators also see the need to consider the current burden on banks before additional requirements are imposed. Martha Segar, a former member of the Federal Reserve Board, has said, "A compelling need should be demonstrated before new legal requirements are added to the array of existing rules."

A newsletter published by the Conference of State Bank Supervisors included this comment: "The cumulative effect of too many laws and regulations may impair bank profitability to the disadvantage of bank safety and soundness." This newsletter used the analogy of weight training. "Generally, you can think of regulation as a weight-training belt; wearing it when you exercise makes you stronger. But as you add more and more weight to the belt, eventually you reach a point at which the weight does more harm than good. Instead of building up your muscles, you hurt yourself, and then you can't exercise at all."

Mr. President, many small banks have had too much weight added to their belts. They are suffering under the mountains of paperwork on which their employees must spend an inordinate amount of time. In fact many small banks have been forced to hire full-time compliance officers to make sure all the papers are filled out and filed properly.

Some of this paperwork is necessary and proper to ensure that depositors' funds are protected. However, much of the reporting is duplicative, and some is downright superfluous. The highly subjective and inconsistent evaluations of bank examiners make it even more difficult for banks to determine how much documentation is enough.

The Small Bank Paperwork Reduction Act is legislation that will provide alternatives to the massive amounts of paper that occupy rooms full of filing cabinets in small banks. Its provisions will allow small banks to concentrate on what they do best—lending to their communities—and will add a degree of objectivity to the evaluation of the performance of medium-sized banks. It will provide some commonsense changes to laws and regulations that have been implemented in a less-than-commonsense manner. And it will require regulatory agencies to evaluate their own policies to identify those that are obsolete or duplicative.

COMMUNITY REINVESTMENT ACT AMENDMENTS

The centerpiece of the bill is a reform of the way in which banks are judged to be meeting the credit needs of their communities. The Community Reinvestment Act of 1977 [CRA] was a laudable piece of legislation. In fact, even as it has been amended over the years, the law itself is not at all unreasonable. The cornerstone of the CRA reads:

> In connection with its examination of a financial institution, the appropriate Federal financial regulatory agency shall (1) assess the institutions' record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with safe and sound operation of such institution; and (2) take such record into account in its evaluation of an application for a deposit facility by such institution.

When CRA was introduced in the Senate in 1977, its author, Senator Proxmire, stated his belief that CRA would require no increase in paperwork. The Banking Committee's report on CRA said,

> The Committee believes that the regulatory agencies already have sufficient data available to carry out the intent of this Act without requiring additional redtape. * * * [A]dditional reporting burdens would not be necessary or appropriate to the enforcement of this Title.

I do not doubt the sincerity of those statements which were made in 1977, but in the ensuing years since enactment of CRA, the very redtape the committee considered inappropriate to the enforcement of CRA has become a millstone around the neck of small banks.

The problem, Mr. President, is not in the law itself, but in the manner in which the law is being enforced. One problem is that the regulations promulgated to implement the law are not clear in the guidance for complying with the law. This leaves tremendous discretion to the individual examiners who have been requiring banks to prove their compliance with the law in inconsistent—and sometimes absurd—ways. What complicates this situation further is that the examiners serve as prosecutor, judge, jury, and appeals court in the evaluation of a bank's compliance with CRA.

The legislation I have introduced will provide relief from this ambiguous implementation of the law. It will allow examiners to spend a minimal amount of time on CRA compliance evaluations and spend more time where they should be concentrating—the safety and soundness of a bank's activities.

Under this bill, small banks will be required to identify the communities they intend to serve; they will make available to the public a list of the types of credit they offer; and they will make available to the public any letters they received concerning their performance in meeting the credit needs of their community. This provision will also apply to branches of institutions if the branches are located in a small town and have deposits of less than $100 million. This reduced paperwork burden will only be available to banks which have proven that they have not discriminated in their lending practices at any time in the previous 10 years.

Medium-sized banks will have the option of being examined under a new, more objective process. This will allow a bank to submit a plan to its regulatory agency describing its strategy for meeting the credit needs of its community. If the plan meets certain criteria, it will be approved by the regulator and the bank will be examined every 3 years, rather than the current practice of annual examinations.

For both the small- and medium-sized banks, an annual declaration of compliance will be required, with severe penalties for filing a fraudulent declaration.

For banks with less than $1 billion in assets, adequate compliance with CRA will provide a 2-year shelter against dilatory challenges to their expansion plans.

My bill will allow any bank to appeal a negative CRA rating given by a bank examiner.

In addition, this bill will prohibit examiners from requiring banks to account for their loans and deposits on a geographic basis. In its consideration of the original CRA, the Banking Committee expressly rejected the notion of credit allocation. By requiring banks to geocode their loans, the examiners are imposing a requirement clearly contrary to the intent of Congress.

MISCELLANEOUS AMENDMENTS

Mr. President, in addition to CRA, there are numerous laws and regulations that have an onerous effect on small banks. My bill would change several of those requirements.

A number of these laws and regulations provide no real protection for consumers, and in fact are a nuisance to consumers as well as banks. These are provisions we have chosen to correct in this legislation.

Most of these changes affect reporting deadlines and eliminate some report duplication by various agencies.

The bill also provides small banks relief from some data-processing requirements as they relate to currency transaction reports, or CTR's. Another provision sets a $100,000 de minimis level for real estate transactions that require a certified or licensed appraiser to perform the appraisal.

CONCLUSION

Mr. President, I urge the members of the Senate Banking Committee to adopt the approaches to small bank paperwork relief included in this bill as they consider banking legislation later this summer. That legislation is sure to produce more laws—and therefore more regulations—that banks will have to comply with. In the midst of adding new burdens on them, I believe small banks should be given a reprieve from unnecessary paperwork burdens that divert attention from what those banks are intended to do.

Let's give them a break. They deserve it.

Mr. President, I ask unanimous consent that the text and a summary of the bill be included at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1420

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Bank Paperwork Reduction Act".

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the goals of the Community Reinvestment Act of 1977 and other consumer protection laws are laudable;

(2) the paperwork required to comply with the Community Reinvestment Act of 1977 is superfluous for the vast majority of community banks, since the traditional relationship of these banks to their communities is such that the credit needs of their communities are met in the normal course of business;

(3) small financial institutions are small businesses, and as such are hindered significantly by onerous paperwork requirements;

(4) the cumulative effect of the paperwork requirements that are imposed on financial institutions associated with such laws should be considered before imposing new requirements; and

(5) in some cases, existing paperwork requirements applicable to financial institutions should be eliminated.

TITLE I—COMMUNITY REINVESTMENT ACT AMENDMENTS

SEC. 102. MODIFIED EVALUATIONS.

The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended by adding at the end the following new sections:

"SEC. 808. SMALL INSTITUTION AND BRANCH PROVISIONS.

"(a) SCOPE.—This section shall only apply during a calendar year—

"(1) to a federally regulated financial institution that—

"(A) has not been found to be in violation of section 701 of the Equal Credit Opportunity Act, or any other substantive provision of such Act, for the 10-year period preceding such calendar year; and

"(B) had total assets as of the preceding December 31, of not more than—

"(i) $250,000,000, if the preceding year is 1991;

"(ii) $260,000,000, if the preceding year is 1992;

"(iii) $270,000,000, if the preceding year is 1993;

"(iv) $280,000,000, if the preceding year is 1994; and

"(v) $290,000,000, if the preceding year is 1995, or any year thereafter; and

"(2) to a branch of a federally regulated financial institution, if—

"(A) the institution has not been found to be in violation of section 701 of the Equal Credit Opportunity Act or any other substantive provision of such Act for the 10-year period preceding such calendar year; and

"(B) the branch—

"(i) had total deposits on December 31 of the preceding year of less than $100,000,000; and

"(ii) is located in a community with a population of not more than 50,000.

"(b) MODIFIED REPORTING.—In lieu of being evaluated under section 804 during the calendar year referred to in subsection (a), a regulated financial institution or branch described in subsection (a) shall—

"(1) declare in writing to the appropriate Federal financial supervisory agency that it is a regulated financial institution or branch described in subsection (a), and that it is in compliance with this subsection;

"(2) display any notices as required by the appropriate Federal financial supervisory agency concerning its compliance with the requirements of this Act; and

"(3) make available for public inspection information regarding the record of such institution or branch in meeting the credit needs of its entire community, including—

"(A) an accurate identification of the community it serves;

"(B) a list of the types of credit offered by the institution;

"(C) public comments received within the previous 2 years regarding the institution's or branch's service of the entire community's credit needs; and

"(D) copies of any declaration submitted under paragraph (1).

"(c) PENALTIES.—If the appropriate Federal financial supervisory agency finds that a regulated financial institution or branch has submitted intentionally false information to the appropriate Federal financial supervisory agency or otherwise willfully violated the requirements of subsection (b), such institution or branch—

"(1) shall, notwithstanding this section or section 810(d), be subject to the requirements of section 804 for a period of not more than 10 years; and

"(2) shall be subject to a fine of not more than $10,000.

"SEC. 809. MID-SIZED INSTITUTION PROVISIONS.

"(a) IN GENERAL.—This section shall only apply during a calendar year to a regulated financial institution that—

"(1) is not described in section 808(a); and

"(2) had total assets as of the preceding December 31, of not more than—

"(A) $750,000,000, if the preceding year is 1991;

"(B) $760,000,000, if the preceding year is 1992;

"(C) $770,000,000, if the preceding year is 1993;

"(D) $780,000,000, if the preceding year is 1994; and

"(E) $790,000,000, if the preceding year is 1995, or any year thereafter.

"(b) REGULATORY ELECTION.—A regulated financial institution described in subsection (a) shall notify the appropriate Federal financial institutions supervisory agency of its election either—

"(1) to be evaluated in accordance with section 804 and regulations promulgated thereunder; or

"(2) to submit a plan described in subsection (c) for the approval of the appropriate Federal financial supervisory agency. Such regulated financial institution may, at any time, notify the appropriate Federal financial supervisory agency of a change in its election decision under this subsection.

"(c) COMMUNITY REINVESTMENT PLAN.—

"(1) PLAN CRITERIA.—For purposes of this subsection, the Federal Financial Institutions Examination Council shall, by rule, regulation, or order—

"(A) establish a list of activities, products, and services designed to assist a regulated financial institution in meeting the credit needs of its entire community;

"(B) assign a value to each activity, product, and service listed in accordance with subparagraph (A); and

"(C) specify a minimum aggregate value (based on the individual values assigned under subparagraph (B)) required for approval of an institution's plan under paragraph (3).

"(2) PLAN SUBMISSION.—To comply with this section, a regulated financial institution shall submit for approval to the appropriate Federal financial supervisory agency a plan to institute the activities and provide the products and services listed by such agency in accordance with paragraph (1)(A), *or equivalent activities, products, and services* that are intended to enhance the institution's ability to serve the credit needs of its entire community.

"(3) PLAN APPROVAL; NOTIFICATION.—If the plan submitted by a regulated financial institution includes a combination of activities, products, and services that meets the minimum aggregate value specified in accordance with paragraph (1)(C), the appropriate Federal financial supervisory agency shall approve such plan. Not later than 30 days after submission of the plan, the appropriate Federal financial supervisory agency shall notify the regulated financial institution in writing of the approval or nonapproval of such plan.

"(4) ANNUAL DECLARATION.—Once each year following the approval of a plan under paragraph (3), the regulated financial institution submitting such plan shall declare in writing to the appropriate Federal financial supervisory agency that it is complying with its approved plan. An institution that fails to submit such declaration, or is otherwise not in compliance with the plan, shall become subject to the requirements of section 804.

"(5) PERIODIC REVIEW.—

"(A) IN GENERAL.—Not less than 3 nor more than 4 years after the date of approval of a regulated financial institution's plan, and once every 3 years thereafter, the appropriate Federal financial supervisory agency shall evaluate the implementation of the activities and the provision of the products and services listed by each institution in its approved plan.

"(B) RATING.—On the basis of the review conducted under subparagraph (A), the appropriate Federal financial supervisory agency shall give the regulated financial institution a confidential rating of 'satisfactory' or 'unsatisfactory' compliance with its plan. Upon receipt of an unsatisfactory rating, the regulated financial institution shall be notified by the appropriate Federal financial supervisory agency of specific actions necessary for the institution to achieve a satisfactory rating. Not later than 6 months after such notification, the appropriate Federal financial supervisory agency shall again evaluate the institution's compliance with its approved plan and provide a rating of such compliance. A rating of unsatisfactory resulting from the second evaluation referred to above shall be appealable under section 811.

"(6) DISQUALIFICATION FOR UNSATISFACTORY RATING.—An institution that receives a final rating of unsatisfactory under paragraph (5) shall be disqualified from making the election described in subsection (b) for a period of 5 years from the date of notification of such rating. Such institution shall be subject to the requirements of section 804 during the restricted 5-year period.

"SEC. 810. SAFE HARBOR.

"(a) IN GENERAL.—Notwithstanding section 804(2), an application for a deposit facility by a regulated financial institution that has less than $1,000,000,000 in total assets shall not be denied on the basis of such institution's compliance with this Act if such institution—

"(1) received a rating in its last evaluation under section 804 of outstanding or satisfactory in its record of meeting community credit needs, as provided in section 807(b);

"(2) maintains continued compliance with section 808; or

"(3) received a rating of satisfactory in its last review under section 809(c)(5).

"(b) BRANCH EVALUATIONS.—In carrying out an evaluation of an application by a regulated financial institution for a deposit facility under section 804(2), the appropriate Federal financial supervisory agency shall not consider the record of a branch of such institution in meeting the credit needs of its community if the branch is in compliance with the requirements of section 808.

"SEC. 811. APPEALS PROCESS.

"A regulated financial institution that receives a rating of needs to improve or substantial noncompliance in meeting community credit needs, as provided in section 807(d)(2), or a rating of unsatisfactory, as provided in section 809(c)(5), from the appropriate Federal financial supervisory agency may appeal such rating to the Appeals Panel in accordance with section 1012 of the Federal Financial Institutions Examination Council Act of 1978.

"SEC. 812. GEOGRAPHICAL CODING REQUIREMENT PROHIBITED.

"No Federal financial supervisory agency shall require a regulated financial institution to collect, prepare, file, or maintain data on lending or deposit patterns according to geographic location in order to assess such institution's compliance with this Act.".

SEC. 103. APPEALS OF UNSATISFACTORY RATINGS.

The Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3301 et seq.) is amended by adding at the end the following:

"SEC. 1012. ESTABLISHMENT OF APPEALS PANEL.

"(a) ESTABLISHMENT.—There is established within the Council the Appeals Panel.

"(b) FUNCTION.—The function of the Appeals Panel shall be to consider appeals brought by aggrieved regulated financial institutions under section 811 of the Community Reinvestment Act of 1977.

"(c) COMPOSITION.—The Appeals Panel shall be an ad hoc body, comprised of the chairman of the Council, or his or her designee, and not less than 2 or more than 4 additional individuals selected by the chairman of the Council. An officer or employee of the appropriate Federal financial supervisory agency (as defined in section 803 of the Community Reinvestment Act of 1977) that issued the rating being challenged shall not serve on the Appeals Panel.

"(d) PROCESS.—The chairman of the Council shall establish such rules and regulations as are necessary for the Appeals Panel to carry out its function under this section.".

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. REAL ESTATE SETTLEMENT PROCEDURES ACT.

Section 5(d) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604(d)) is amended by striking the last sentence and inserting "The Secretary may specify a maximum period of time which may elapse between the submission of an application and the provision of the booklet. However, if such application is denied by the lender prior to the expiration of the time period referred to in the previous sentence, provision of the booklet shall not be required.".

SEC. 202. MODIFICATION OR WAIVER OF RIGHT OF RECISION.

Section 125(d) of the Truth in Lending Act (15 U.S.C. 1635(d)) is amended by striking ", if it finds that such action is necessary in order to permit homeowners to meet bona fide personal financial emergencies,".

SEC. 203. HOME OWNERSHIP DEBT COUNSELING NOTICE.

Paragraph (5) of section 106(c) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)) is amended—

(1) by striking subparagraph (B) and inserting the following:

"(B) NOTIFICATION REQUIREMENTS.—The notification required in subparagraph (A) shall be made—

"(i) in a manner approved by the Secretary; and

"(ii) together with the first notice of home loan delinquency to a homeowner."; and

(2) in subparagraph (C), by striking "the expiration of the 45-day period under subparagraph (B)(ii)." and inserting "such notification is required to be made under subparagraph (B).".

SEC. 204. HOME MORTGAGE DISCLOSURES.

Section 304(a) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(a)) is amended by adding at the end the following:

"(3) Notwithstanding paragraph (1), a depository institution which has a branch office located within a primary metropolitan statistical area shall only be required to maintain and make available the information required by paragraph (1) for such branch.".

SEC. 205. REPORT FORMS.

Effective 6 months after the date of enactment of this Act, no insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act, shall be required to prepare, file, or maintain any form for the purpose of collection, analysis, or maintenance of appropriate data to further the purposes of, or to fulfill the requirements of the Fair Housing Act, other than a form for data collection, analysis, or maintenance required under the Home Mortgage Disclosure Act of 1975.

SEC. 206. BANK HOLDING COMPANY ASSET REPORTING.

Notwithstanding any other provision of law, a bank holding company, as defined in section 2 of the Bank Holding Company Act of 1956, that—

(1) has combined assets of less than $150,000,000; and

(2) controls more than one bank,

shall not be required to file consolidated or parent-company-only financial statements any more frequently than semiannually.

SEC. 207. CURRENCY TRANSACTION REPORTS.

Section 21(b) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(b)) is amended—

(1) by inserting "(1) IN GENERAL.—" after "(b)"; and

(2) by adding at the end the following:

"(2) RECORDKEEPING EXCEPTION.—Notwithstanding paragraph (1), an insured depository institution that has less than $250,000,000 in assets shall not be required to aggregate daily deposits to one account for the purpose of submitting any currency transaction reports required under this section.".

SEC. 208. CERTIFIED AND LICENSED REAL ESTATE APPRAISERS.

Section 1114 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3343) is amended by inserting before the period the following: ", except that the services of a State certified or licensed appraiser shall not be required for a federally related transaction having a value less than $100,000".

SEC. 209. PAPERWORK REDUCTION STUDY.

Not later than 18 months after the date of enactment of this Act, each appropriate Federal banking agency, as defined in section 3(q) of the Federal Deposit Insurance Act, shall complete an evaluation of its respective rules and regulations to determine whether any paperwork or reporting requirements are duplicative, obsolete, or unnecessarily burdensome, for the purpose of reducing such requirements, where possible.

SMALL BANK PAPERWORK REDUCTION ACT SUMMARY

TITLE I—COMMUNITY REINVESTMENT ACT (CRA)

A bank will have limited reporting responsibilities under CRA, if it (a) has not been found in violation of substantive nondiscrimination regulations in the previous 10 years; and (b) has less than $250 million in assets (with moderate increases each year for 5 years). A branch of a bank will have these same limited reporting requirements if the branch is in a town of less than 50,000 and has deposits of less than $100 million. A normal CRA examination of a bank will not take into account the activities of a branch that qualifies under this provision.

Any bank or branch of a bank referred to above will be required to delineate its community, post modified CRA notices in appropriate places, and have a public CRA file, including a list of the types of credit offered, any comments received from the public in the past 2 years on the bank's compliance with CRA, and any certification submitted to comply with this section.

An annual declaration will be required to certify compliance with this provision. Substantial penalties will be imposed for filing fraudulent information.

Any bank with between $250 million and $750 million in assets (with moderate increases over 5 years) will have the option to choose an alternative CRA rating process, as follows:

(a) The Federal Financial Institutions Examination Council (FFIEC) will establish a list of activities, products, and services intended to meet the goals of CRA and assign a value to each item listed. FFIEC will specify a minimum aggregate value that must be met by banks to qualify for the alternative examination process.

(b) A bank which chooses this option will submit a plan to its appropriate regulatory agency describing its strategy to meet the credit needs of its community. A bank may substitute equivalent activities, products, or services for those on the list approved by the FFIEC, subject to the approval of its regulatory agency.

(c) Within 30 days of submission of the plan, the regulatory agency shall give notice of approval or disapproval. If the plan meets the "minimum value" criteria, it will be approved.

(d) A bank with an approved plan will issue annual declarations of its compliance with this provision. Examinations will take place every three years following approval of the plan. If a bank is found not in compliance, it will be notified of the actions it must take to come into compliance and be given 6 months to comply. If it is still not in compliance, it may appeal the decision. If, on appeal, the bank is found to be not in compliance, it shall be subject to the normal CRA examination process for 5 years.

Any bank which has less than $1 billion in assets and received an outstanding or satisfactory rating in its most recent examination (if it occurred within the past two years) shall not be subject to a challenge of an application for additional deposit facilities on CRA-compliance grounds.

No bank shall be required to code its loans and/or deposits according to geographic location to assess CRA compliance.

Any bank which receives a less-than-satisfactory rating may appeal that rating to an appeals panel to be created under the Federal Financial Institutions Examination Council.

MISCELLANEOUS AMENDMENTS

Real Estate Settlement Procedures Act—A time period may be established within which an estimate of settlement costs shall be provided to a borrower. Such estimate shall not be required if the lender has denied the loan within the given period of time.

Right of Rescission—Any federally regulated financial institution shall be allowed to offer to a mortgage borrower a waiver of the "right of rescission," under less restrictive circumstances than the current requirement.

Debt Counseling Notice—The Homeownership Debt Counseling notice requirement will be modified to allow banks to send these notices with the first notice of delinquency.

Home Mortgage Disclosure Act—(a) If a branch of a bank is located in Metropolitan Statistical Area (MSA), data from HMDA compliance may only be required from that branch, not the entire bank; (b) any bank which is subject to reporting under HMDA will not be subject to reporting under the Fair Housing Act.

Small Bank Holding Company reports—Multibank holding companies with consolidated assets of less than $150 million shall not be required to file consolidated or parent-company-only financial statements any more frequently than semi-annually.

Currency Transaction Reports—Any bank with less than $250 million in assets is not required to aggregate daily deposits to one account for the purpose of submitting currency transaction reports (CTRs).

Real Estate Appraisals—Real Estate transactions of less than $100,000 shall not be required to be appraised by a licensed or certified appraiser.

Paperwork Reduction Study—Each banking regulatory agency will be required to study their laws and regulations to determine which are duplicative, obsolete, or unnecessarily burdensome.

By Mr. HARKIN (for himself, Mr. WELLSTONE, and Mr. CONRAD):

S. 1422. A bill to provide disaster assistance to producers on a form who suffered certain losses in the quantity of the 1990 or 1991 crop of a commodity harvested as the result of damaging weather or related condition, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

DISASTER ASSISTANCE ACT

Mr. HARKIN. Mr. President, I am today introducing legislation to provide assistance to help alleviate the critical problems facing farm families, rural businesses, and communities caused by natural disaster in Iowa and other parts of our Nation.

In Iowa, extremely heavy rainfall has flooded crops and greatly delayed or prevented planting on millions of acres of land. Floods and excessive rainfall have also destroyed or damaged pasture and forage crops. For example, the Iowa Corn Growers Association has estimated that weather has prevented planting of corn on 1 million acres in Iowa that had been intended for corn. Of the approximately 12 million acres planted to corn, 2.8 million acres are estimated to have been planted between May 20 and May 30 and are expected to suffer a 15-percent yield reduction. In addition, 2.3 million acres were planted after June 1 and face a 30-percent potential yield loss.

Hence the Iowa Corn Growers estimates that the late planting and prevented planting have already caused a 17-percent reduction in Iowa's corn crop. Equally important, though, the late planting in wet soils has made the corn crop very vulnerable to soil compaction, hot and dry weather, insects, and disease. And ironically, parts of Iowa are now experiencing a shortage of rainfall just as the moisture needs of crops increase.

So it is clear that in general Iowa farmers are facing significant yield reductions and financial losses. The combination of adverse crop conditions could take losses in Iowa near $1 billion, depending of course on the weather. The situation is far more serious in particular areas of Iowa where the weather and crop conditions have been much worse than the average for the State. Farm families in those areas are confronting truly desperate financial problems caused by disaster conditions.

We must also keep in mind the impact that such natural disasters in agricultural areas have on whole communities and their economies and businesses. Sales of agricultural supplies have declined significantly as adverse weather conditions delayed or prevented planting. Reduced production also means there will also be less economic activity this fall from the hauling, storing, selling, and processing of agricultural commodities in communities affected by natural disaster. Moreover, when the farm economy suffers, businesses up and down main street in rural communities also suffer.

This spring's disaster conditions have hit farm families and rural communities at a very critical time. The past several years have allowed very little opportunity to recover from the crisis of the mideighties or to rebuild any financial cushion or reserves to help cover the losses that now are inevitable.

What farm families and rural communities need at this time is some assurance that meaningful steps are being taken to help them through this crisis. I regret to say that the steps taken by the administration have been too little and too late.

I have provided the Secretary of Agriculture with a number of suggestions for actions that the Department of Agriculture could take under its existing authority to alleviate a good share of the problems and the despair caused by the current disaster conditions. Among my suggestions were delaying any required repayment of advance deficiency payments without interest; providing price support on substitute crops, such as soybeans, grown on land where the planting of corn or other program crops is prevented; extending Federal Crop Insurance Program planting deadlines; providing coverage of prevented planting as one of the perils encompassed by the standard FCIC policy; allowing a limited new period with appropriate conditions for enrolling in crop insurance; and implementing the standby disaster assistance program in the 1990 farm bill if the crop insurance actions are not taken or to the extent that crop insurance coverage is inadequate to alleviate the economic emergency facing farmers.

These steps have not been taken and I see no indication that the administration is planning to do so. That is regrettable, since such actions could be taken quickly and would most likely be less costly than other means of disaster assistance. My suggestions would also help to strengthen the crop insurance program while helping farmers deal with disaster conditions.

The Department of Agriculture has designated 76 Iowa counties as disaster counties or contiguous to disaster counties. From the standpoint of assistance, the principal significance of that designation is that farmers in those counties may apply for FmHA emergency disaster loans. Unfortunately, the help that such loans will provide is very limited. Eligibility for the loans is determined on a case-by-case basis, so not all affected farmers will be able to obtain loans. In fact, farmers who have been hit the worst may not qualify because their repayment ability may be doubtful. For those who do qualify, the amount of the loan is by no means generous. Moreover, farmers who are already financially strapped can ill-afford to take on more debt. They need some help in replacing income.

The offering of FmHA disaster loans is in reality the bare minimum that the Department of Agriculture could offer in these circumstances to farm families devastated by natural disaster. Because of the critical need for disaster assistance, and in light of USDA's grudging approach thus far to providing assistance, it is essential for Congress to move ahead with disaster assistance legislation. Some will say that there is no money in the Federal budget to cover disaster assistance; that despite the human tragedy and devastation, we simply can do no more. That seems to be the attitude behind the administration response so far to the situation. I reject this assertion. Farm families and rural communities in Iowa and elsewhere are facing desperate financial situations, and in a budget of nearly a trillion and a half dollars, surely enough can be found to help address such pressing needs.

The principal provisions of this legislation, which is based largely upon the successful Disaster Assistance Act of 1988, are as follows:

Crop loss benefits: Provides disaster benefits to producers of all commercial crops, including program crops, nonprogram crops and soybeans, who suffer crop losses in excess of 35 percent of the program payment yield, county yield or normal yield in 1990 or 1991 due to damaging weather—defined to include drought, hail, excessive moisture, freeze, tornado, hurricane, earthquake or excessive wind—or related condition.

Benefits on losses between 35 and 75 percent: Disaster payments on wheat, feedgrains, cotton, and rice are paid at the rate of 65 percent of the target price level for producers who participated in the commodity program. For those who did not participate in the program the payment would be 65 percent of the county loan rate on the commodity. For soybeans and other nonprogram crops, disaster payment will be made at a rate of 65 percent of the average producer market price for the last 5 years, excluding the high and low years. For peanuts, sugar beets, sugarcane, and tobacco, payments will be made at the rate of 65 percent of the 1989 support price level.

Benefits on losses over 75 percent: Disaster payments on the portion of the production loss in excess of 75 percent will be paid at a rate of 90 percent of the target price, support price, average price or loan rate, as applicable.

Crop quality reduction payments: The bill provides additional payments up to 10 percent of the applicable payment rate to compensate for the reduced quality of the crop actually harvested due to adverse weather or related conditions.

Repayment of advance deficiency payments: No repayment of advance deficiency payments will be required on that part of production losses up to 35 percent. For losses above 35 percent, producers may not receive both a deficiency payment and a disaster payment. However, producers would not be required to repay advance deficiency payments prior to December 31, 1992.

Federal crop insurance payments and future year coverage: For an individual producer, the combined crop insurance benefits and disaster payments may not exceed 100 percent of the yield used for calculating disaster payments, or the crop insurance yield if it is greater, times the acreage for the crop planted or prevented from being planted times the target price, support price, average price or loan rate, as applicable.

Producers accepting disaster payments or the guarantee of advance deficiency payments would be required to purchase crop insurance for the 1992 and 1993 crop years with the following exceptions: First, if crop insurance coverage is not available, second, if the producer's annual premium rate is greater than 125 percent of the average premium rate for the 1990 crop, third, if the producer's annual premium rate is greater than 25 percent of the disaster benefits received, fourth, if on appeal, the county committee determines that the purchase of crop insurance would impose an undue financial hardship on the producer, or fifth, if the payment or guarantee is for a loss from prevented planting, unless FCIC offers the same coverage in terms of yields and prices for prevented planting as it does for other perils in its standard policy.

Payment limitations: Total benefits to a producer for crop losses are limited to $100,000. The combined benefits to a producer for crop losses and emergency livestock assistance may not exceed $100,000. Producers may not receive both disaster payments and emergency livestock assistance based on the same crop loss.

Oilseeds planted on 0/92, 50/92 and prevented planting acres: For 1991, in counties declared to be disaster counties—and in contiguous counties—acreage prevented from being planted to program crops may be enrolled in the 0/92 or 50/92 programs and soybeans or other nonprogram crops may be planted on acreage otherwise required to be devoted to conserving uses. The bills would also reverse the current USDA rule that prohibits placing under price support loan soybeans and other oilseeds grown on intended program crop acreage for which prevented planting is credit.

Emergency Forage Program: The bill provides a 50-percent cost share program for reseeding of established pasture land damaged in 1990 or 1991 in order to provide grazing and haying in late fall 1991 and early spring 1992. An owner or operator of pasture land may receive as much as $3,500 in payments under the program.

Farm operating loans: The bill directs USDA to provide operating loans to the maximum extent possible to farmers suffering major losses due to damaging weather or related condition and to provide guarantees for loans to refinance and reamortize 1990 or 1991 operating loans or installments on loans due in 1991 or 1992.

Assistance for rural businesses: USDA is directed to provide guarantees for loans, and restructuring and refinancing of loans, to businesses in rural areas to alleviate distress from damaging weather or related condition. Up to $200 million is to be available in the program, with individual guarantees of up to $500,000.

Mr. President, I urge my colleagues to support this urgently needed legislation.

By Mr. DODD (for himself, Mr. RIEGLE, Mr. D'AMATO, Mr. SANFORD, Mr. WIRTH, Mr. BRYAN, Mr. BOND, Ms. MIKULSKI, and Mr. SIMON):

S. 1423. A bill to amend the Securities Exchange Act of 1934 with respect to limited partnership rollups; to the Committee on Banking, Housing, and Urban Affairs.

LIMITED PARTNERSHIP ROLLUP REFORM ACT

Mr. DODD. Mr. President, today I am introducing legislation designed to address the widespread investor losses and abuses that have arisen in the $130 billion market for publicly held limited partnerships. I am joined in introducing the legislation by Chairman RIEGLE and a number of our colleagues.

This legislation would: First, require complete and understandable disclosure to limited partnership investors solicited in rollup transactions; second, give investors the tools to communicate with other limited partnership investors, in order to mount opposition to abusive rollup proposals; third, give investors more time to consider complicated transactions and fully understand the risks; fourth, remove the current incentives for brokers and market professionals to pressure investors to vote in favor of rollups that may not be in their interests; and fifth, provide alternatives for investors faced with rollups, so they are not forced into transactions against their wishes.

According to industry data, out of 11 million U.S. investors in these partnerships, an estimated 8 million are small investors, with an average investment of $10,000. As small as this might sound, for many of these individuals this may represent the bulk of their savings. Yet many have seen the value of their investments drop by half or more, while partnership sponsors and market professionals have reaped millions of dollars in fees by taking separate limited partnerships and rolling them up into new entities. In abusive partnership rollup transactions, the risks have not been fully disclosed, investors have felt pressured to vote for transactions they did not fully understand, and the proxy rules of the Securities and Exchange Commission have been stacked against them.

When they invested in the original limited partnerships, none of these investors believed they were getting a risk-free return—but promises were made to them. First, they were told that they would receive distributions from their partnership investment on a yearly or periodic basis, and that in a certain period of time—usually 8 to 10 years—all of the property bought by the partnership would be sold. At that time, it was promised that the investors, the limited partners, would receive proceeds from the sale of the remaining property and other assets.

They also were assured that the general partners had a great incentive to look out for the interests of the limited partner investors, because, except for their management fees, the general partners could not take any profits out of the partnerships until the limited partners received their share. That, at least, was the way the original deals were structured.

But the assets of many partnerships, especially those invested in real estate, have declined in value in recent years. Sponsoring organizations and general partners have been unable to sell new partnerships; their fee bases have shrunk; and their prospects for taking a profit after paying off the limited partners has declined substantially. Limited partner investors have found that the original deals are being changed. Many general partners have attempted to "roll up" existing limited partnerships into new entities and, in doing so, have deprived investors of their original rights under the partnership agreement.

In testimony before the Securities Subcommittee, as well as in many letters to the subcommittee from individuals around the country, investors have told disturbing stories about abuses in these rollup transactions. Investors in more than 30 States have written to me, saying that they have been confused by 200- and 300-page proxy statements. They have felt pressured to vote "yes" for the roll-ups. And, even if they vote "no" they are being forced into investments they had no intention of being in, because other investors did not fully understand the risks and voted for the rollups.

At our February hearing, Margaret Hooker, a limited partnership investor from Connecticut who "was saving on a long term basis," told us about a 45-percent loss on her limited partnership investment, which was subject to a rollup transaction.

Another witness at our February hearing, Ronald Rybicki of Detroit, said he made a $20,000 investment in what he felt was "the most comprehensive and conservative limited partnership" he could find. However, after 4 years, Mr. Rybicki's limited partnership was rolled up with other partnerships. He told the subcommittee, "Most of the original goals of the program were changed.* * * (there were) huge unjustified increases in management expenses * * * (and) certain votes would require 75-percent shareholder approval." As a result of the rollup, after 1 day of trading, Mr. Rybicki realized a 75-percent loss on "hard-earned money earmarked for retirement".

Another investor from Connecticut wrote, "As a teacher, this investment was an important part of my savings for retirement * * * even though I voted no, I had no say or influence in determining the outcome of my investment * * * I feel caught in a system in which I have no recourse." Another Connecticut investor wrote, "On January 21, 1991, I found that my $25,000 was now worth $6,300. I have since learned that management is enjoying an annual compensation * * * of $1 million and wiped out $3.4 million of accumulated investors priority (interests)."

It became clear to me that these abuses need to be addressed. Over the past 3 months, I have worked with Chairman RIEGLE and my other colleagues, as well as with investor representatives and others, in developing the legislation we are introducing today.

Just 2 weeks ago, the Securities and Exchange Commission proposed a series of rules that would require greater disclosure in rollups, improve the proxy process, and address other abuses in rollups. These rules, if adopted, fully implemented and vigorously enforced, would accomplish many of the objectives of this legislation.

It is imperative that the SEC move forward quickly to adopt these rules in final form. Nonetheless, I am not assured that these rules will provide the full extent of protections needed for investors subject to rollups. Therefore, I am writing the SEC to urge it to move forward quickly to adopt final rules, and have further asked the agency to address those parts of the legislation not covered by the proposed rules and advises the Congress whether, in the absence of further action, investors in limited partnerships will be fully protected.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1423

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Limited Partnership Rollup Reform Act of 1991".

SEC. 2. REVISION OF PROXY SOLICITATION RULES WITH RESPECT TO PARTNERSHIP ROLLUP TRANSACTIONS.

(a) AMENDMENT.—Section 14 of the Securities and Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end thereof the following new subsection:

"(h) PROXY SOLICITATIONS AND TENDER OFFERS IN CONNECTION WITH PARTNERSHIP ROLLUPS.—

"(1) PROXY RULES TO CONTAIN SPECIAL PROVISIONS.—It shall be unlawful for any person to solicit any proxy, consent, or authorization concerning a partnership rollup transaction, or to make any tender offer in furtherance of a partnership rollup transaction, unless such transaction is conducted in accordance with rules prescribed by the Commission under this subsection. Such rules shall—

"(A) permit—

"(i) any holder of a security that is the subject of the proposed partnership rollup transaction to engage in preliminary communications for the purposes of determining whether to solicit proxies, consents, or authorizations in opposition to the proposed transaction, and

"(ii) any registered broker-dealer who is not compensated for soliciting proxies, consents, or authorizations with respect to the proposed transaction to engage in communications with its employees and customers for the purpose of expressing an opinion or giving a recommendation with respect to a proposed transaction, without regard to whether any such communication would otherwise be considered a solicitation of proxies, and without being required to file soliciting material with the Commission prior to making that determination,

but nothing in this subparagraph shall be construed to limit the application of any provision of this title prohibiting, or reasonably designed to prevent, fraudulent, deceptive, or manipulative acts or practices under this title;

"(B) prohibit compensating any person soliciting proxies, consents, or authorizations directly from security holders concerning such a transaction—

"(i) on the basis of whether the solicited proxies, consents, or authorizations either approve or disapprove the proposed transaction; or

"(ii) contingent on the transaction's approval, disapproval, or completion;

"(C) require the issuer to provide to any holder of the securities that are the subject of the transaction a list of the holders of record of such securities in such form and subject to such terms and conditions as the Commission may determine, except that the Commission may provide, by rule or order, for (i) deletions from such list as necessary to protect legitimate security holder requests for confidentiality, and (ii) forwarding communications to such security holders (requesting confidentiality) and to the beneficial owners of securities held by a nominee, trustee, or custodian;

"(D) provide that any soliciting material distributed in connection with a partnership rollup transaction—

"(i) be clear, concise, and understandable and contain appropriate captions or headings;

"(ii) contain a clear, concise, understandable, and prominent risk disclosure in the forefront of the prospectus summary, including—

"(I) any changes in the business plan, voting rights, form of ownership interest or management compensation in the proposed partnership rollup transaction from the original limited partnership;

"(II) the conflicts of interest, if any, of the general partner; and

"(III) the projected price performance based upon the relationship between exchange values and trading values;

"(iii) contain a clear, concise, and understandable comparison, and if appropriate, a side-by-side comparison, of each original partnership and proposed partnership rollup transaction, including—

"(I) the business plan and investment philosophy;

"(II) cash distribution policies, including disclosure of management fees and other forms of compensation to general partners and affiliates, and dividend and reinvestment policies;

"(III) voting rights and governance provisions;

"(IV) general partner and limited partners' respective ownership interests; and

"(V) such other issues as the Commission determines to be material to informed consideration of partnership rollup transactions;

"(iv) contain a clear, concise, and understandable summary of—

"(I) the proposed partnership rollup transaction and its material consequences for investors;

"(II) any conflicts of interest required to be disclosed in the soliciting material;

"(III) any changes in voting rights that will result from the transaction;

"(IV) any changes in the form of ownership interest, management compensation, and their consequences;

"(V) the effects of the partnership rollup transaction on investors in each limited partnership involved in the transaction;

"(VI) the method used to determine the value of limited partners' interests to be exchanged for the securities in the partnership rollup transaction;

"(VII) management's evaluation, if any, of alternatives to the partnership rollup transaction, such as liquidation;

"(VIII) whether the management has concluded that the proposed rollup transaction is fair to each class of security holders, and a discussion of the basis for that conclusion;

"(IX) any provisions for dissenting shareholders to exercise appraisal or other rights;

"(X) the performance of comparable partnership rollup transactions that have been completed and are listed on a national securities exchange or in the national market system, including the—

"(aa) price performance over a period of time;

"(bb) return on investment to limited partners; and

"(cc) trading value of the security immediately following the partnership rollup transaction in contrast to appraisal and exchange values of the security; and

"(XI) such other matters or risks as the Commission determines to be necessary or appropriate to facilitate informed consideration of partnership rollup transactions;

"(E) provide that the soliciting material describe in reasonable detail any opinion, appraisal, or report that is prepared by a person, unaffiliated with the general partner or sponsor and received by the entity subject to the transaction or its affiliates and that is related to the proposed transaction, a copy of which shall be required to be filed with the Commission, which description shall include—

"(i) the identity and qualifications of the person who has prepared any opinion, appraisal or report;

"(ii) the method of selection of such party and any past, existing or contemplated material relationships between the party, or any of its affiliates and the entity requesting or receiving the opinion, appraisal, or report;

"(iii) the material terms of the engagement, including compensation arrangements and access to the books and records of the entities subject to a partnership rollup transaction;

"(iv) the basis for rendering and methods used in developing the opinion, appraisal, or report;

"(v) a statement of whether the party has, in connection with a rollup transaction (I) undertaken an analysis of the fairness of the proposed rollup transaction to each class of security holders and an independent investigation of the underlying facts, and (II) arrived at an independent valuation of the transaction or relied solely upon information provided by the entities subject to the transaction or their affiliates;

"(vi) the procedures followed and the bases for any findings and conclusions reached in connection with any such analysis, investigation or valuation; and

"(vii) other such information as the Commission determines to be necessary or appropriate to facilitate informed consideration of partnership rollup transactions;

"(F) provide that any opinion, appraisal, or report referred to in subparagraph (E) shall be prepared by an unaffiliated person—

"(i) who is independent of the person or persons proposing the rollup transaction;

"(ii) who does not receive any compensation contingent on the transaction's approval or completion;

"(iii) who has been given access by the issuer to all of the books, records, and premises of—

"(I) the sponsor of such partnership rollup transaction,

"(II) the entity that is proposed to be rolled up, and

"(III) the entity into which the partnership is to be rolled up, if such entity is already in existence, or appropriate financial statements for the resulting entity if the entity is not already in existence,

to the extent in each instance that such books, records, and premises are relevant to the proposed transaction; and

"(iv) who has undertaken an independent analysis of the fairness of the proposed rollup transaction to security holders based upon the information obtained through such access and upon other independently obtained information; and

"(G) provide that any solicitation or offering period with respect to any proxy solicitation or tender offer in a partnership rollup transaction shall be for not less than 60 days or such longer period as the Commission by rule or order may prescribe; and

"(H) contain such other provisions as the Commission determines to be necessary or appropriate for the protection of investors in partnership rollup transactions.

"(2) EXEMPTIONS.—The Commission may, consistent with the public interest, the protection of investors, and the purposes of this Act, exempt by rule or order any security or class of securities, any transaction or class of transactions, or any person or class of persons, in whole or in part, conditionally or unconditionally, from the requirements imposed pursuant to paragraph (1) or, from the definition contained in paragraph (4)(A).

"(3) EFFECT ON COMMISSION AUTHORITY.—Nothing in this subsection limits the authority of the Commission under subsection (a) or (d) of this section or any other provision of this title or precludes the Commission from imposing, under any other such provision, a remedy or procedure required to be imposed under this subsection.

"(4) DEFINITIONS.—As used in this subsection—

"(A) The term 'partnership rollup transaction' means a transaction involving the combination or reorganization of one or more limited partnerships, directly, indirectly, or through a series of transactions, where some or all investors in one or more of the partnerships receive new securities or securities in another entity. Such term does not include a transaction—

"(i) involving only securities reported under a transaction plan declared effective before January 1, 1991, by the Commission under section 11A of this title;

"(ii) involving only issuers that are not required to register or report under section 12 of this title both, before and after the transaction; or

"(iii) involving the reorganization of a single limited partnership if, as a consequence of the proposed transaction, there will be no significant adverse change to security holders in voting rights, the term of existence of the entity, management compensation, or investment objectives.

"(B) The term 'partnership' means—

"(i) a limited partnership, or

"(ii) a successor entity to one or more limited partnerships, which was formed after January 1, 1991.".

(b) SCHEDULE FOR REGULATIONS.—The Securities and Exchange Commission shall, within 9 months after the date of enactment of this Act, publish proposed regulations, and, within 18 months after such date of enactment, prescribe final regulations, to implement the requirements of section 14(h) of the Securities Exchange Act of 1934.

SEC. 3. RULES OF FAIR PRACTICE IN ROLLUP TRANSACTIONS.

(a) REGISTERED SECURITIES ASSOCIATION RULES.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end thereof the following new paragraph:

"(12) The rules of the association to promote just and equitable principles of trade, as required by paragraph (6) of this subsection, include rules to prevent members of the association from participating in any partnership rollup transaction (as such term is defined in section 14(h)(4) of this title) unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to either or both of the following:

"(i) an appraisal and compensation or to retain a security under the same terms and conditions as the original issue, or

"(ii) other comparable rights designed to protect limited partners, including, when the association determines it to be necessary to protect such rights, the use of an independent committee of limited partners unaffiliated with the general partner or sponsor which will act to protect the interests of limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of management profit-sharing interests and incentive fees into asset-based management fees.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a partnership rollup transaction who casts a vote against the transaction and affirmatively exercises the rights available under this paragraph, except that for purposes of an exchange or tender offer such term means any person who files an objection in writing under the rules of the association during the period in which the offer is outstanding.".

(b) LISTING STANDARDS OF NATIONAL SECURITIES EXCHANGES.—Section 6(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(b)) is amended by adding at the end thereof the following:

"(9) The rules of the exchange prohibit the listing of any security resulting from a partnership rollup transaction (as such term is defined in section 14(h)(4) of this title), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to either or both of the following:

"(i) an appraisal and compensation or to retain a security under the same terms and conditions as the original issue, or

"(ii) other comparable rights designed to protect limited partners, including, when the exchange determines it to be necessary to protect such rights, the use of an independent committee of limited partners unaffiliated with the general partner or sponsor which will act to protect the interests of dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of management profit-sharing interests and incentive fees into asset-based management fees.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a partnership transaction who casts a vote against the transaction and affirmatively exercises the rights available under this paragraph, except that for purposes of an exchange or tender offer such term means any person who files an objection in writing under the rules of the exchange during the period in which the offer is outstanding.".

(c) DESIGNATION OF NATIONAL MARKET SYSTEM SECURITIES.—Section 11A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78k-1(a)) is amended by adding at the end thereof the following new paragraph:

"(4) The rules of the Commission under paragraph (2) designating qualified securities shall prohibit the designation for trading in the national market system of any security resulting from a partnership rollup transaction (as such term is defined in section 14(h)(4) of this title), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

"(A) the right of dissenting limited partners to either or both of the following:

"(i) an appraisal and compensation or to retain a security under the same terms and conditions as the original issue, or

"(ii) other comparable rights designed to protect limited partners, including, when the association determines it to be necessary to protect such rights, the use of an independent committee of limited partners unaffiliated with the general partner or sponsor which will act to protect the interests of dissenting limited partners;

"(B) the right not to have their voting power unfairly reduced or abridged;

"(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

"(D) restrictions on the conversion of management profit-sharing interests and incentive fees into asset-based management fees.

As used in this paragraph, the term 'dissenting limited partner' means a holder of a beneficial interest in a limited partnership that is the subject of a partnership transaction who casts a vote against the transaction and affirmatively exercises the rights available under this paragraph, except that for purposes of an exchange or tender offer such term means any person who files an objection in writing under the rules of the association during the period in which the offer is outstanding.".

(d) EFFECT ON EXISTING AUTHORITY.—The amendments made by this section shall not limit the authority of the Commission, a registered securities association, or a national securities exchange under any provision of the Securities Exchange Act of 1934 or preclude the Commission or such association or exchange from imposing, under any other such provision, a remedy or procedure required to be imposed under such amendments.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SECTION-BY-SECTION ANALYSIS OF THE LIMITED PARTNERSHIP ROLLUP REFORM ACT OF 1991

SECTION 1. SHORT TITLE

This section sets forth the short title of the Act, the "Limited Partnership Rollup Reform Act of 1991."

SECTION 2. REVISION OF PROXY SOLICITATION RULES AND DISCLOSURE WITH RESPECT TO PARTNERSHIP ROLLUP TRANSACTIONS

Adds a new Section 14(h) to the Securities and Exchange Act of 1934 to require special proxy solicitation and tender offer rules to be adopted in connection with limited partnership rollups.

Communications Among Securityholders.—The new rules would permit holders of shares in the proposed limited partnership rollup to engage in preliminary communications with other limited partners, for the purpose of determining whether to solicit proxies, consents, or authorizations in opposition to the proposed transaction, prior to the transaction date, and permit any registered broker dealer who is not compensated for soliciting proxies, consents, or authorizations with respect to the proposed transaction to engage in communications with its employees and customers for the purpose of expressing an opinion or giving a recommendation with respect to the proposed transaction (1) without regard as to whether such action is in violation of proxy solicitation rules, and (2) without first having to file soliciting material with the Securities and Exchange Commission (SEC) prior to making that determination. Fraudulent, deceptive or manipulative acts or practices, however, are not protected under this subsection.

Under current proxy rules, limited partners are allowed to engage in preliminary communications with up to 10 limited partners, without having to file soliciting material with the SEC. Given the complicated nature of these transactions and the lack of information available to limited partners concerning the pending rollup transaction, investors have sought to communicate with other investors about proposed rollup transactions. Limited partners attempting to communicate with fellow limited partners have found themselves in violation of proxy solicitation rules. This section would clarify that limited partners would have the ability to communicate with each other without being in violation of proxy solicitation rules.

Limitations on Soliciting Broker-Dealers.—This section would also clarify that any registered broker dealer who is not compensated for soliciting proxies with respect to the proposed transaction would be allowed to communicate with its clients or employees without violating proxy solicitation rules. This would avoid any conflict of interest that might arise between the broker and the client investor if the broker dealer were being compensated for a related proxy solicitation.

The new rules also would prohibit the compensation of any person soliciting proxies, consents, or authorizations from securities holders concerning such a transaction: (1) on the basis of whether the solicited proxies, consents, or authorizations either approve or disapprove the proposed transaction; or (2) if such compensation is contingent on the transaction's approval, disapproval, or completion.

This section would address the conflict of interest that arises if a person is soliciting proxies and being compensated for the delivery of a specific outcome. Currently, a conflict of interest arises in partnership rollup transactions when a solicitor's compensation is based on the delivery of a "yes" vote (a vote that approves the transaction) or the outcome of the transaction. This section would address this conflict of interest.

Security Lists.—The rules would require the issuer to provide any limited partner involved in a rollup transaction a list of names of all limited partners and general partners involved in the proposed transaction, except where the SEC determines that deletions from such list are necessary to: (1) protect the confidentiality of certain limited partners, and (2) to protect the confidentiality of the names of beneficial owners held in street name. This would allow investors to contact other limited partners in order to communicate concerns related to the proposed partnership rollup transaction.

Full and Fair Disclosure.—The new rules would require greater disclosure to investors, by requiring that the rollup soliciting material be written in a manner understandable to the everyday investor. The prospectus must be clear, concise and understandable, contain appropriate captions or headings and include:

(1) a prominent risk disclosure in the forefront of the prospectus summary highlighting any changes in the business paln, voting rights, form of ownership interest or management compensation, general partner's conflicts of interest, and projected price performance based upon the relationship between exchange values and trading values;

(2) a concise and understandable comparison, and where appropriate, a side-by-side comparison, of each original partnership and proposed rollup comparing the business plan and investment philosophy, cash distribution policies, voting rights and governance provisions, and general partner and limited partners' respective ownership interests; and

(3) a summary discussing the effects of the proposed transaction, including any conflicts of interest, any changes in voting rights, any changes in the form of ownership interest or management compensation, the valuation method used to determine the value of limited partners' interests, any provisions providing for "dissenters' rights", and the gen-

eral partners' evaluation of alternatives to the transaction, such as liquidation, including whether management has determined that the proposed transaction is fair to each limited partner and the basis for such conclusion.

The prospectus must also clearly discuss the performance of partnership rollup transactions that have been completed and are listed on a national securities exchange or in the national market system, including price performance, return on investment to limited partners, and actual initial trading value of a partnership rollup transaction in contrast to appraisal and exchange values.

Appraisals.—The rule would require that the soliciting material describe in reasonable detail any opinion, appraisal or report related to the proposed transaction that is prepared by a person unaffiliated with the general partner or sponsor, and received by the entity subject to the transaction or its affiliates that are related to the proposed transaction. A copy of the opinion, appraisal or report shall be required to be filed with the SEC. The description shall include but not be limited to:

(1) the identity and qualifications of the unaffiliated person who has prepared the opinion, appraisal or report;

(2) the method of selecting such person, and any past, existing or contemplated material relationships between the person, or any of its affiliates and the person requesting or receiving the opinion, appraisal or report;

(3) the material terms of the engagement, including but not limited to compensation arrangements and access to the books and records of the entities subject to a partnership rollup transaction;

(4) the basis for rendering and methods used in developing the report, opinion or appraisal;

(5) a statement whether the person has (1) undertaken in connection with a rollup transaction, an analysis of the fairness of the proposed rollup transaction to each class of security holders and an independent investigation of the underlying facts and (2) arrived at an independent valuation of the transaction or relied solely upon information provided by the entities subject to the transaction of their affiliates: and

(6) the procedures followed and the bases for any findings and conclusions reached in connection with any such analysis, investigation or valuation.

The rules would also require that any opinion, appraisal or report related to the proposed transaction shall be prepared by an unaffiliated person who: (1) is independent of the persons proposing the rollup transaction; (2) does not receive any compensation that is contingent on the transaction's approval or completion; and (3) has been given access by the issuer to any and all books, records, and premises of the sponsor or sponsors of the partnership rollup transaction, the entity that is proposed to be rolled up, and the entity into which the partnership is to be rolled up (if such entity is already in existence) to the extent that such books, records, and premises are relevant to the proposed transactions.

Minimum Offering Period.—The rules also would provide for a larger minimum offering period, by requiring that all shareholders have at least sixty days to review a prospectus. In the event that changes are made to the original prospectus, the review period shall be extended as determined by the SEC. The complex nature of rollup transactions have led to prospectuses that are lengthy and complicated. Given the lack of institutional investment in limited partnerships, there is also the absence of institutional review and analysis of partnership rollup transactions. Therefore, the overwhelming majority of those invested in limited partnerships are individual investors, and there is the need to extend the period of review of the transaction prospectus to allow limited partners to analyze the proposal, communicate concerns, and offer alternatives.

Exemptions.—New section 14(h)(2) would give the SEC the authority, at any time after the date of enactment, to exempt by rule or order certain securities, transactions and persons or classes of persons from the requirements imposed pursuant to paragraph 1, the proxy solicitation rules in connection with partnership rollups, and paragraph 4, the definition of partnership rollup transaction, consistent with the public interest, the protection of investors, and the purposes of this Act. With this exemptive authority, the SEC should allow those partnership rollup transactions that are fully disclosed to proceed while the rules and regulations are being promulgated.

Effect on Commission Authority.—New section 14(h)(3), states that nothing in the bill shall be construed to limit the SEC's authority under any other provision of the securities laws or to preclude the SEC from imposing, under any such other provision, a remedy or procedure required to be imposed under this subsection.

Definition.—Section 14(h)(4) defines the term 'partnership rollup transaction' to be a transaction involving the combination or reorganization of one or more limited partnerships, either directly, indirectly, or through a series of transactions, where some or all investors in one or more of the partnerships or partnerships receive new securities or securities in another entity.

The term 'partnership rollup transaction' does not apply to: (1) a transaction involving seasoned, publicly traded securities that report under a transaction plan declared effective before January 1, 1991 (this would include securities that trade on the New York Stock Exchange, American Stock Exchange, and NASDAQ/National Market System); (2) any transaction involving privately owned limited partnerships (not required to register with the SEC) which generally involve a limited number of sophisticated investors and will not trade on public markets; and (3) a transaction involving the reorganization of a single limited partnership, if as a consequence of the proposed transaction, there will be no significant adverse change to securities holders' in voting rights, the life of the entity, management compensation or investment objectives.

This section also defined the term 'partnership' to mean (1) a limited partnership, or (2) a successor entity to one or more limited partnerships which was formed after January 1, 1991.

Schedule for Regulations.—This section requires that the SEC shall publish proposed regulation to rollup transaction within 9 months of the enactment date, and prescribe final regulations within 18 months of the enactment date of this Bill.

SECTION 3. RULES OF FAIR PRACTICE AND LISTING STANDARDS IN ROLLUP TRANSACTIONS.

Registered Securities Association Rules.—This section amends Section 15A(b) of the Securities Exchange Act of 1934 to require that the rules of a national securities association promote just and equitable principles of trade and prevent members of the association from participating in any rollup transaction that does not protect the rights of limited partners.

These protections shall include the right of dissenting limited partners to receive either or both of the following: (1) an appraisal and compensation or to retain a security under the same terms and conditions as the original issue, or (2) other comparable rights designed to protect limited partners, including, when the association determines it to be necessary to the protection of such rights, the use of an independent committee of limited partners unaffiliated with the general partner or sponsor which will act to protect the interests of limited partners.

The structure of the independent committee of limited partners would be similar to the structure of a bondholders bankruptcy committee. Any limited partner, unaffiliated with the general partner or partnership rollup sponsor, would be allowed to serve on such committee. The independent committee would have the authority to hire independent advisors to work with the general partner or sponsor and negotiate on behalf of the limited partners in structuring the transaction. The independent committee would have the authority to make recommendations to the limited partners regarding the proposed transaction. However, the independent committee would not have any binding authority on the vote of the limited partners.

Protections afforded limited partners under this section also include: (1) the right not to have their voting power unfairly reduced or abridged; (2) the right not to bear an unfair portion of the costs of a rejected rollup transaction; and (3) restrictions on the conversion of management profit-sharing interests and incentive fees into asset management fees.

This provision defines the term 'dissenting limited partner' as a holder of a benefical interest in a limited partnership that is the subject of a partnership transaction who casts a vote against the transaction and affirmatively exercises the rights available under this paragraph. For the purpose of an exchange or tender offer such term is defined as any person who files an objection to the transaction in writing.

Listing Standards of National Securities Exchanges.—This section amends Section 6(b) of the Securities Exchange Act of 1934 to prohibit an exchange from listing any securities resulting from a rollup transaction unless such transaction protects the rights of limited partners.

These rights include the right of dissenting limited partners to receive either or both of the following: (1) an appraisal and compensation or to retain a security under the same terms and conditions as the original issue, or (2) other comparable rights designed to protect limited partners, including, when the association determines it to be necessary to the protection of such rights, the use of an independent committee of limited partners unaffiliated with the general partner or sponsor which will act to protect the interests of limited partners.

These rights also include: (1) the right not to have their voting power unfairly reduced or abridged; (2) the right not to bear an unfair portion of the costs of a rejected rollup transaction; and (3) restrictions on the conversion of management profit-sharing interests and incentive fees into asset management fees.

The term 'dissenting limited partner' is defined as a holder of a beneficial interest in a limited partnership that is the subject of a partnership transaction who casts a vote against the transaction and affirmatively exercises the rights available under this paragraph. For the purposes of an exchange or tender offer such term is defined as any person who files an objection to the transaction in writing.

Designation of National Market System Securities.—This section amends Section 11A(a) of the Securities Exchange Act of 1934 to prohibit any national market system from trading any security resulting from a rollup transaction unless such transaction contains protection for limited partners similar to the protections provided for exchange listed securities above.

Effect on Existing Authority.—The amendments made by this section shall not limit or preclude the authority of the SEC, a registered securities association, or national securities exchange under the Securities and Exchange Act of 1934 from imposing, under any other such provision, a remedy or procedure required to be imposed under such amendments.

Effective Date.—The amendments of this section shall take effect 18 months after the date of enactment of this Act.

• Mr. RIEGLE. Mr. President, I am pleased to be a cosponsor of the Limited Partnership Rollup Reform Act of 1991. I believe Government action is needed to prevent abuses of limited partners, who place both their money and their fiduciary trust with general partners. It seems clear that at least in some of the limited partnership reorganizations—referred to as "rollups"—that have occurred to date, public limited partners have been the victims of unfair practices by general partners. This legislation is intended to put a stop to this abuse.

The strength of the U.S. capital markets rests upon investor confidence in the integrity of the market. I know that Senator DODD, chairman of the Securities Subcommittee of the Senate Banking Committee, believes as strongly as I do that we must insure that all aspects of the capital markets are fair in order to instill the trust necessary for individual investors to place their hard-earned money in these markets.

I want to commend Senator DODD for his diligent work on this issue. For well over a year, staff of the Securities Subcommittee has been meeting with the Securities and Exchange Commission to determine what steps should be taken to prevent abuses in limited partnership rollups. In February this year, the Securities Subcommittee held a hearing on this issue, at which Mr. Ron Rybicki, a Michigan resident, testified as to his personal experience as a limited partner whose investment was "rollup." Mr. Rybicki, as well as other witnesses that day, detailed abuses that we cannot allow to continue. The almost 8 million limited partners in this country, over 300,000 of whom live in Michigan, need to be protected from unfair rollups.

Since that hearing, Senator DODD has continued his efforts to prod the SEC to take action on this issue while simultaneously working on proposed legislation. To date, both of these efforts have been successful. The SEC has published proposed regulations on rollups that, if vigorously implemented, would go a long way to preventing abuses of limited partners in rollup transactions. I am pleased to be a cosponsor of the Limited Partnership Rollup Reform Act of 1991.•

By Mr. CONRAD (for himself and Mr. BURDICK):

S. 1424. A bill to amend chapter 17 of title 38, United States Code, to require the Secretary of Veterans Affairs to conduct a mobile health care clinic program for furnishing health care to veterans located in rural areas in the United States; to the Committee on Veterans Affairs.

DVA MOBILE HEALTH CARE CLINIC ACT

• Mr. CONRAD. Mr. President, the bill I am introducing today would require the Department of Veterans Affairs to establish a permanent mobile health care clinic program to provide health care assistance to veterans living in rural areas of the country.

At present, the Department of Veterans Affairs has plans to operate mobile health care clinics in only a handful of the States that have large numbers of rural veterans. The Department maintains that existing programs can meet the needs of rural veterans for medical care. But a lot has changed since the decision about these programs was made. This country fought a war, and now has about 540,000 more veterans. Many thousands of them are returning home to rural areas, far away from the nearest veterans' health care facility.

In North Dakota, for example, over 34,000 people—more than 50 percent of the States' veterans—live in counties 100 miles or more from the Fargo DVA Medical Center, the only DVA health care facility in the entire State. More than 15,000 of these veterans live in counties in the western and northern part of the State, places that DVA has designated as medically underserved areas. Because of where these veterans live, as well as the limitations on DVA funding to open new medical facilities or clinics, many are not receiving the benefits of health care to which they are entitled at a Department of Veterans Affairs medical facility.

Mr. President, the Department of Veterans Affairs should look at the implications of its statistics. The majority of veterans may live within a 100-mile radius of the nearest DVA health care facility, but that facility does not consistently meet their needs for health care. The further away veterans live from a DVA health care facility, the less likely they are to travel great distances for routine health care.

According to a Department of Veterans Affairs report in 1986 entitled "Study of Health Care Services to Veterans Living in Geographically Remote Areas," more than 131,000 veterans live in counties that are 2 hours from the nearest DVA health care facility. How many of these veterans forgo checkups and preventive care because of the inconvenience of driving such distances? How often do they suffer serious illness that might have been checked and cured at an earlier stage?

The legislation that I am introducing today would respond to the health care concerns of rural veterans by authorizing the Department of Veterans Affairs to establish mobile health care clinics in those States with a significant population of veterans living in areas at least 100 miles away from the nearest DVA health care facility. At present, the Department of Affairs has identified 30 States in this category.

Under my bill, $45 million would be authorized over a 5-year period for the mobile health care clinic program. Beginning with an annual appropriation of $3 million in fiscal year 1992, and increasing to $15 million in fiscal year 1997, this funding would support the development of five new clinics annually, as well as the maintenance of all health care clinics in operation from previous years. Over the 5-year period, the authorization should support, at an estimated cost of $600,000 per mobile clinic annually, mobile clinics in 25 States with significant rural veteran populations.

Mr. President, I understand that Congress in 1988 approved the Veterans' Benefits and Services Act—Pub. L. 100–322—which authorized the Department of Veterans Affairs to establish a 2-year pilot mobile health care program to serve rural veterans. Specifically, the law authorized the operation of at least two mobile health care clinics in each of the four regions: the Northeast, the Midwest, the South, and the West.

The Department of Veterans Affairs is now in the process of implementing this law. Clinics are expected to begin operation no later than 1992 in five States: Arizona, Maine, Missouri, Washington, and North Carolina. Under the pilot program, the clinics will provide limited outpatient services including immunizations, preventive health care, posthospital followup services, and treatment of chronic conditions.

I applaud the efforts of my distinguished colleagues, especially the majority leader, Mr. MITCHELL, the distinguished chairman of the Senate Committee on Veterans' Affairs, Mr. CRANSTON, and my distinguished colleagues from Arizona, Mr. DECONCINI, and Vermont, Mr. LEAHY, for their leadership in securing passage of this mobile health care clinic initiative and in focusing attention on the special health care needs of rural veterans.

I am concerned, however, about the 25 States including North Dakota, which are not part of the original pilot program to assist rural veterans. Because the current pilot program will not become operational until 1992, further expansion of these clinics is at least 2 years away. In the meantime, rural veterans continue to be denied access to this important health care option.

Mr. President, the Department of Veterans Affairs has had considerable experience with health care services for rural veterans, including the benefit of several demonstrations during the 1980's involving of mobile health care clinic programs in Western States. Drawing on this experience, I believe the DVA can design an effective mobile clinic program that will bring vital health care services to veterans in remote parts of the country.

We have a moral obligation to provide our veterans with the best and most accessible health care possible. We must rely on innovative approaches to meet the needs of veterans in isolated, rural areas of the country. This bill would substantially improve the health services available to rural veterans, and I strongly urge my colleagues to join in supporting it. I thank the Chair and yield the floor.

Mr. President, I ask unanimous consent that the text of this legislation be printed at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1424

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MOBILE HEALTH-CARE CLINIC PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Chapter 17 of title 38, United States Code, is amended by adding at the end of subchapter II the following new section:

"§ 620D. Health care through mobile clinics

"(a) During the five-year period beginning on October 1, 1991, the Secretary shall conduct a rural mobile health care clinic program in States where significant numbers of the resident veterans reside in rural areas (as determined by the Secretary). The Secretary shall conduct the program in accordance with this section.

"(b) In carrying out the mobile health care clinic program, the Secretary shall provide health care services to the veterans described in subsection (c) at locations convenient to the residences of such veterans by furnishing such services through the use of mobile health care clinics equipped, operated, and maintained in an appropriate manner by personnel of the Department.

"(c) A veteran is eligible to receive health care services through mobile health care clinics under the program if the veteran—

"(1) is eligible for health care under this chapter; and

"(2) resides (A) in a State referred to in subsection (a), and (B) at least 100 miles from the nearest Department health-care facility.

"(d) The Secretary shall commence operation of at least three mobile health care clinics in each fiscal year of the program. The Secretary may not operate more than one mobile health care clinic in any State in any such fiscal year.

"(e) Not later than September 30, 1997, the Secretary shall submit to Congress a report containing an evaluation of the program. The report shall include the following:

"(1) A description of the program, including (A) the number of mobile health care clinics operated under the program, (B) the States in which such clinics were operated, (C) the health care services furnished by the clinics, (D) a description of the veterans who were furnished care by the clinics, and (E) the costs of furnishing such care.

"(2) An assessment by the Secretary of the effectiveness of the program in furnishing health care to veterans referred to in subsection (c).

"(3) Any plans for administrative action, and any recommendations for legislation, that the Secretary considers appropriate.".

(b) CLERICAL AMENDMENT.—The table of sections of such chapter is amended by inserting after the item relating to section 620C the following new item:

"620D. Care through mobile clinics.".

SEC. 2 AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for the conduct of the mobile health care clinics program required by section 620D of title 38, United States Code (as added by section 1), as follows:

(1) For fiscal year 1992, $3,000,000.
(2) For fiscal year 1993, $6,000,000.
(3) For fiscal year 1994, $9,000,000.
(4) For fiscal year 1995, $12,000,000.
(5) For fiscal year 1996, $15,000,000.

By Mr. DIXON:

S. 1425. A bill to authorize the President to appoint a chief executive officer for the Resolution Trust Corporation; to the Committee on Banking, Housing, and Urban Affairs.

APPOINTMENT OF CHIEF EXECUTIVE OFFICER OF THE RESOLUTION TRUST CORPORATION

Mr. DIXON. Mr. President, for some time I have been hearing from a variety of sources that the Resolution Trust Corporation is floundering. Citizens in my State of Illinois are joining the nationwide chorus in asking what the RTC is doing? Why can it not be run more efficiently? Some Washington voices have dismissed the RTC's ineptitude as merely "business as usual" for a giant bureaucracy. Some have blamed the administration for creating the RTC. Others blame the Congress for approving the RTC structure. And, when there is no one left to blame, the economy becomes the culprit.

Mr. President, it is time for the blame to stop and thoughtful reconstruction to begin. The time for business as usual is over. The enormity of the problem, the repercussions to our Nation's financial health and the need to protect the taxpayer all underscore the importance of our mission.

In 1988, the administration asked for $19 billion to clean up the savings and loan industry. In 1989 the figure was revised upward to $40 billion. Now Chairman Seidman and Secretary Brady tell us that $160 billion will be needed—$160 billion, This is $141 billion more than the administration told us it would need shortly after the election of 1988. This is a staggering sum by any calculation, but it is horrifying at a time when all of the signals tell us that the RTC's house is not in order.

Mr. President, last week, the Consumer and Regulatory Affairs Subcommittee, which I chair over at the Senate Banking Committee, held a hearing on the real estate asset disposition activities of the Resolution Trust Corporation.

At that hearing Philip Searle, who is chairman of the national advisory board to the RTC Oversight Board, offered an analysis of the problem and a recommended solution. I would like all Senators to hear what he had to say. I agree with his recommendation and intend to push for its implementation.

Searle stated:

> A major flaw in FIRREA was to choose to staff the RTC largely with career bank or thrift bureaucrats. Although such staffing may have been suitable for handling resolutions, it is inappropriate now that the RTC's primary mission is asset disposition, that is, managing successfully the largest real estate sales organization in history in an entrepreneurial, freemarket economy and society.

He continued:

> The most important single action that can be taken with respect to improving the people is the recruitment of a highly-qualified, experienced chief executive officer and senior management team for the RTC from the private sector. Unless this is done, the likelihood that the necessary sales/marketing culture will be installed in RTC is nil.

Many people are critical of the two-board structure which the administration designed for the RTC. There is the Oversight Board and the RTC board; the RTC's board is the same as the FDIC's board. And as we all know too well, the FDIC has an awful lot to do these days. I was never a fan of this split authority, but the administration had wanted it this way and Congress decided to go along. We hoped that the Oversight Board would help in providing actual oversight over the RTC's operations.

Twenty months into the RTC's life, we now find a mess. The GAO says that the real estate asset disposition activities are "disappointing." The testimony I heard last week was more critical than just "disappointing." As of the end of the first quarter of 1991, the RTC owned $18 billion of real estate, and had managed to sell only $5 billion through all of its combined sales activities. In addition, the RTC held $21 billion of delinquent real estate loans. All told, its total inventory of assets exceeded $160 billion on March 31.

We have given the administration enough time to start up this organization. Now Congress must say, "Enough is enough. These problems must be fixed."

The quickest and best solution, in my view, is to find a topflight chief executive with outstanding private sector experience. Let us recruit such a man or woman and put him or her in charge. That person could then assemble a dynamic team who have the proper professional expertise to manage the RTC and dispose of assets at the highest possible return to the taxpayers.

We have a major national problem with the RTC, and we need to call forth the best from our private sector to fix it. I do not want to embarrass the many dedicated, hard-working professionals at the RTC; I commend them for their public service.

I do believe, however, that many people over there are in over their heads. They are doing the best they can, but we need better. We need a dynamite individual to take charge and to put in place an experienced senior team of professionals.

Mr. President, today I am introducing a bill that calls for a new RTC chief executive officer. This CEO would be appointed by the President and confirmed by the Senate.

In a time when finger pointing and sidestepping responsibility has become epidemic, we need a strong executive who can make decisions and make the RTC work. I do not mean to imply that all of the RTC's problems will be instantly solved. They will not. Clearly the debris from the savings and loan crisis will continue to litter our economic landscape for some time. But I do believe that a strong CEO can take action to solve the bureaucratic nightmares which we hear about in horror story after horror story.

It will be a tough job and there will be nowhere to hide. The person will stand to receive great credit or great criticism. We must find one person who can take responsibility for this colossal bureaucracy called the RTC.

With $160 billion of the taxpayer's dollars invested in this cleanup, it is imperative that we give someone the tools to do the job well and do the job now.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPOINTMENT OF CHIEF EXECUTIVE OFFICER OF THE RESOLUTION TRUST CORPORATION.

Section 21A(b)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(1)) is amended by adding at the end the following new subparagraph:

"(D) CHIEF EXECUTIVE OFFICER.—

"(i) APPOINTMENT.—The President is authorized to appoint, by and with the advice and consent of the Senate, an individual to serve as the chief executive officer of the Corporation for such term as the President determines.

"(ii) RESPONSIBILITIES.—Notwithstanding any other provision of this Act, the chief executive officer shall—

"(I) carry out the daily administrative and business affairs of the Corporation;

By Mr. BUMPERS (for himself, Mr. MITCHELL, Mr. BAUCUS, Mr. HARKIN, Mr. WELLSTONE, and Mr. LIEBERMAN):

S. 1426. A bill to authorize the Small Business Administration to conduct a demonstration program to enhance the economic opportunities of startup, newly established, and growing small business concerns by providing loans and technical assistance through intermediaries; to the Committee on Small Business.

SMALL BUSINESS ECONOMIC OPPORTUNITY ENHANCEMENT ACT

Mr. BUMPERS. Mr. President, I am pleased to be joined by the distinguished majority leader in introducing a bill to establish an innovative new program in the Small Business Administration which holds promise of expanded economic opportunity for thousands of Americans at the bottom of the economic ladder. Senator MITCHELL along with Senators BAUCUS, HARKIN, LIEBERMAN, WELLSTONE, GRASSLEY, AND DIXON, are cosponsors of this bill which will establish SBA's first microlending program.

Mircroloans, Mr. President, are very modest loans—anywhere from a few hundred to a few thousand dollars—to the smallest businesses, those which usually have little or no credit history or access to capital from conventional sources. People who are most economically disadvantaged have been overlooked for too long, both by SBA and by the House and Senate Committees on Small Business. We have concentrated on helping existing businesses become more successful, or helping successful individuals to start businesses, rather than focusing on economic opportunity for the least advantaged.

First, let me give the Bush administration some credit for having suggested this program, although the administration's followthrough has been less than I first hoped. Last December, I was elated to read in the Wall Street Journal that the President's budget for fiscal year 1992 would contain a new proposal for a microloan program for severely economically disadvantaged individuals. It was said the Small Business Administration would manage this program. It seemed to me that the microloan concept was timely and was a hopeful sign of a new attitude toward small business and economic opportunity from an administration which has had little concern for either.

When the President's budget arrived, however, we had to read the fine print to even discover the ballyhooed microloan initiative. After a hearing in the Committee on Small Business, it became readily apparent that there was no real proposal under serious consideration. I am glad to say, however, that this has changed.

When Pat Saiki was nominated as Administrator, I encouraged her to develop a microloan program, and to come back to our committee with legislation if needed. She and her staff have been cooperative with our committee staff and with various groups around the country who are managing successful microloan programs. While I cannot say that this bill is an administration bill—and clearly is it not—I do believe that Pat Saiki and many dedicated professionals at SBA would like very much a program like this enacted. In fact, she recently sent me the Administration's legislative proposal. While that bill is well intended and has some good ideas, it is not the bill which Senator MITCHELL and I are today introducing.

The Senate Small Business Committee held a hearing on May 6, of this year, and it was one of the best hearings I can recall sitting through. We heard testimony from community organizations around the country who are successfully making microloans today. We also heard a recording of a story which aired on National Public Radio a few weeks earlier which concerned Pine Bluff, AR. So, it had my full attention. An organization in Pine Bluff called the Good Faith Fund has been making microloans for almost 2 years. The NPR reporter interviewed a Pine Bluff woman who had borrowed $1,500 to buy a cookstove and a steam table. Working in her own business has been her dream for years. Today, she is happily and successfully operating a catering business. Blessed with a talent for cooking and a desire to work, she finally has what she needs for a chance at success—a little money. She said that all of her borrowing group had one thing in common: "We're all hard workers." It was a heartwarming story, and one which can be replicated across the country.

The Good Faith Fund, incidentally, along with some other microloan programs, utilizes a lending model from the Grameen Bank of Bangladesh. It is ironic at least that Americans who have expended so many billions for economic development in other countries would today look to one of the least developed countries to learn how to develop our own country. The Grameen Bank utilizes committees of borrowers who have authority to decide who among them will first be eligible for a loan, and who also have responsibility for collecting the loan. The borrowers, both in Pine Bluff and in Bangladesh, meet in these committees regularly to discuss their problems and possible solutions. In so doing, they all learn more about business, and they provide each other with a support system which helps keep them going when times get tough.

Mr. President, here is what we proposed to do: SBA will make direct loans at the Treasury's cost of money to nonprofit community organizations for the purpose of microlending. First of all, this is purely a pilot program. In the first year we will authorize no more than 35 projects, and in the second year, SBA may choose up to 20 more projects. No State may receive more than $1 million in funding for not more than two projects in the first year, and no one organization may get more than $750,000 in the first year. Most, I believe, will choose to borrow substantially less. In the second year of funding, a single organization may borrow up to an additional $500,000 if they are successful, and State funding may total up to $1.5 million with a possibility of two additional projects per State.

This program is aimed at very small borrowers. A loan may not exceed $15,000, unless the borrower shows that he or she cannot obtain credit elsewhere and has good prospects for success. In no event can a loan exceed $25,000, and the average loan will be much less because intermediaries must maintain an average loan portfolio of less than $10,000 for each loan.

An integral part of successful microlending is intensive technical assistance for the borrowers. All sources agree that these borrowers need, in almost every instance, much more training, teaching and handholding than does the ordinary small business borrower. Bear in mind that we are talking in some cases about people who are on public assistance, notwithstanding that they would prefer not to be. Some of these people do not have bank accounts as yet. Yet, I am convinced beyond any doubt, many of these people are capable and hard workers and want more than anything in life to break the cycle of poverty and dependence.

We are saying to these people, "Yes, it can be done, and we want to help."

To fund the technical assistance and training which is needed, this bill will provide for grants equal to 20 percent of the amount loaned for microloans. Moreover, the lending intermediaries will be required to provide a 50-percent match, which may include in-kind contributions, for this technical assistance grant. In addition, borrowing organizations will be required to provide a 15-percent match in cash of the amount they seek to borrow from SBA. This 15-percent cash match will, in effect, fund a loan loss reserve to help ensure that the intermediaries are able to repay SBA.

Loans will be made to individuals by the intermediary organizations, not by SBA. SBA will serve as the banker for the intermediaries, but it does not have either the resources or the skills to provide the technical assistance needed by this class of borrowers. SBA will not review individual loan applications for the intermediaries, but it will require certain annual reports of successes and failures by the intermediaries.

The lending organizations will borrow from SBA at a rate of interest based on the 5-year Treasury bill rate. We will, however, permit the intermediaries to amortize their loans over 10 years. They will, in turn, be permitted to charge borrowers up to four points above the prime rate of interest, as established quarterly by SBA. Clearly, Mr. President, this program is not a give-away for anyone. It is a loan program, not a grant program. It is an introduction to the cold, hard facts of business life. You have to pay interest to borrow money, and you have to pay the money back in a timely fashion. Only by following these realities will the borrowers be able to establish a credit record which will enable them to make the transition to the economic mainstream.

And that is the point of this program—to allow those who haven't had much of chance to participate in our economy by starting a business. We give a lot of lip service in this body to entrepreneurship. The entrepreneur and the small business owner have been responsible for the preponderance of economic growth over the last 10 years. Most of the new jobs have come from small companies, not from the Fortune 500. Senators love to recite these facts, and everyone loves small business, even though we don't often do much for them and often put new burdens on them. This bill offers a chance for Senators to put their money where their mouth is. If we really believe in the free enterprise system and the hope it offers, then we should make it accessible to everyone. If free enterprise is the solution for Eastern Europe and the Soviet Union and Bangladesh, maybe we should encourage it a little more here. I ask all Senators to cosponsor this bill.

Mr. MITCHELL. Mr. President, I am pleased to join the chairman of the Small Business Committee in introducing the Small Business Economic Opportunity Enhancement Act of 1991. Senator BUMPERS has been encouraging the Small Business Administration implement a program of this type for several years, and I commend him for all the work he has put into this initiative.

Very small businesses are seldom the focus of public policy or resources. Yet there is growing recognition that microbusinesses play a vital role in job creation and economic growth. It is estimated that very small businesses and microenterprises provide more than 50 percent of all new job opportunities nationwide, yet they are totally underserved by the Federal Government. For example, in 1988 out of the over 17,000 loans made by the SBA, only 3 percent of the total loans made by the agency were for amounts under $25,000. In the same year, only .01 percent of the SBA's total obligations represented loans of less than $10,000. For rural areas, where one-quarter of the Nation's population live, only one loan of less than $10,000 was made.

It is no secret that it is very difficult today for small businesses, particularly microbusinesses and solely owned proprietorships, to obtain credit. In fact, I have heard from some small-business people that they've lost their line of credit even though they've never made a late payment. Small businesses with lower lending needs, shorter credit histories, and less conventional forms of security are victims of the new financial environment, where access to credit is nearly nonexistent. The so-called credit crunch is not so much a matter of less money being lent—it's a matter of more particular lending: the larger, more secure, safer risks are getting the loans. As a result, many small businesses are suffering and many potential businesses are unable to start up.

We are pleased to be introducing legislation to demonstrate the effectiveness of small-business activity in creating job and enterprise opportunity, especially in areas hit hardest by the recession. Also, to demonstrate the effectiveness of intermediary organizations in assisting small businesses through a range of financing and technical assistance services. The Small Business Committee held a hearing in May to examine microbusiness development programs and the SBA. The legislation we have developed is a direct result of the testimony provided at that hearing by the SBA, bankers, and intermediary organizations who are currently involved in lending.

This legislation will make funds available through the Small Business Administration to intermediary, nonprofit organizations with a demonstrated record of achievement in microbusiness lending. The intermediaries will then loan the money to very small businesses or entrepreneurs with limited financial resources who are unable to obtain commercial credit, yet possess the potential to be successful. Such a program can also eventually enable these businesses to develop a positive credit rating with commercial lending institutions.

Accompanying the lack of capital being provided to microbusinesses is the absence of technical assistance—planning, cash flow management, business development, and other services to help these companies establish and expand themselves. This issue is also addressed in the legislation, to enable the intermediaries to provide the technical assistance so desperately needed by these new and growing small businesses.

In the current recession, lending to very small businesses can be a cost-effective way to create jobs and retain jobs. By providing short-term, small-scale financial assistance in the form of microloans, this legislation will enable a number of hardworking, innovative Americans to pursue and achieve some very simple goals: to become or remain employed; to become or remain self-sufficient tax-paying citizens; and to achieve or retain a decent standard of living in difficult economic times. These are goals that every American has the right to pursue and achieve. I hope you will join me in supporting this legislation.

By Mr. RUDMAN (for himself and Mr. SMITH):

S. 1427. A bill to amend title 28, United States Code, to authorize the appointment of an additional bankruptcy judge; to the Committee on the Judiciary.

APPOINTMENT OF ADDITIONAL BANKRUPTCY JUDGE

• Mr. RUDMAN. Mr. President, I rise today, along with Senator SMITH, to introduce legislation to add a second bankruptcy judgeship for the New Hampshire Judicial District. The Judicial Council for the First Circuit has voted unanimously to support the second judgeship and it is my understanding that the Judical Conference Committee on the Administration of the Bankruptcy System is in the process of conducting an assessment according to its procedures. Unfortunately, it does not appear that the assessment process will be completed before the Senate considers the general bankruptcy judgeship bill now pending in the Judiciary Committee; thus the need for this legislation.

The need for a second bankruptcy judgeship for New Hampshire is clear. Statistical information on caseload volume unequivocally shows that New Hampshire exceeds the criteria for creation of an additional bankruptcy judgeship. When evaluating requests for additional bankruptcy judgeships, the Committee on the Administration of the Bankruptcy System has established a two-prong threshold test. The first is a caseload of 1,800-2,000 filings per judgeship and the second is 100 chapter 11 filings per judgeship.

For 1990, the workload figures indicate that total filings per judgeship in the District of New Hampshire have risen to 2,568, up 94 percent over 1989. Over the past 5 years, New Hampshire was second in the Nation in terms of percentage increase of total case filings, with an increase of 361 percent. In terms of New England States, New Hampshire has the highest frequency of bankruptcy filings relative to the number of households per State, for calendar year 1990. The district also has an extraordinarily high number of chapter 11 filings. For the period ending September 30, 1990, 150 chapter 11 cases were filed in the State. The national average was 69 chapter 11 cases per judge.

Having reviewed the data, I have no doubt that the demands upon New Hampshire's sole bankruptcy judge are excessive and that the statistics from his court justify an additional judgeship. A permanent judgeship is the only solution for New Hampshire to ensure the responsibility and accountability of judicial case management and to promote continuity of involvement with the cases. Given the statistics, it is only fair and equitable to grant New Hampshire the same benefits as other jurisdictions with lighter caseloads.•

• Mr. SMITH. Mr. President, I am pleased to join my colleague from the State of New Hampshire in introducing legislation to create an additional bankruptcy judge for our State.

The Judicial Council for the First Circuit Court of Appeals has voted unanimously to recommend an additional bankruptcy judge for New Hampshire. In addition, the caseload of New Hampshire's existing judgeship clearly exceeds criteria established by the Committee on the Administration of the Bankruptcy System.

That committee required a caseload of 1,800 to 2,000 filings per judgeship. The 1990 New Hampshire figures were 2,568 filings for one bankruptcy judge.

The second criterion is 100 chapter 11 filings per judgeship. For fiscal year 1990, New Hampshire had 150 chapter 11 cases.

So, Mr. President, it is clear that our State is in serious need of the relief which this legislation would provide, and I would urge that my colleagues on the Senate Judiciary Committee act speedily to grant us that relief.•

By Mr. ROTH:

S. 1428. A bill to amend the Foreign Assistance Act of 1961, the Export-Import Bank Act of 1945, and the Commodity Credit Corporation Charter Act to prohibit the noncompetitive awarding of insurance contracts on certain Government-supported exports; to the Committee on Banking, Housing, and Urban Development.

U.S. INSURANCE AND OVERSEAS AID ACT

• Mr. ROTH. Mr. President, I suspect that many Members of the Senate will be shocked by the content of the legislation which I am placing before the Senate today. I believe they will be shocked because it will reveal to them a problem of which many of them are unaware and which may make them somewhat angry.

Mr. President, this Nation generously assists other nations which are in need. It sends emergency food assistance to the hungry. It assists in the financing of transactions which the recipient nation otherwise might not be able to afford. It advances credits to nations which lack the ready cash to purchase U.S. agricultural products. Many of these transactions and shipments are of considerable size and the insurance contracts associated with these transactions are of considerable value.

Who would believe that, in many cases, U.S. insurance companies are excluded from bidding on insurance contracts relating to U.S. aid shipments and U.S.-financed transactions? And, furthermore, who would believe that those U.S. companies are excluded because of regulations issued by the recipients of U.S. foreign assistance? In short, Mr. President, the message we hear from abroad is, "Yes, we will accept your commodity credits but, no, we will not allow your insurance companies to bid on these transactions.

This is absurd. U.S. insurance companies are being told that they cannot bid upon transactions and shipments financed and paid for by the U.S. taxpayer.

In order to remedy this absurd situation, I am introducing the U.S. Insurance and Overseas Aid Act. The purpose of this legislation is quite simple. It amends the Foreign Assistance Act of 1961 and the Export-Import Bank Act of 1945 and the Commodity Credit Charter Act to prohibit the noncompetitive awarding of insurance contracts on Government supported exports. It entrusts the Office of the U.S. Trade Representative with monitoring the nondiscriminatory, fair treatment of insurance companies in the granting of insurance contracts in these circumstances.

Finally, it asserts that, on occasions where the Office of the U.S. Trade Representative finds that U.S. insurance companies have been the victims of discrimination, then the insurance contracts on the shipment or shipments in question shall be open only to U.S. insurance companies.

Mr. President, I would ask my colleagues to note that this is not a protectionist piece of legislation. It does not mandate that any contract should be reserved to U.S. insurance companies. It simply ensures fair play for all, and I am sure that we are all in favor of that.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1428

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 2 of part I of the Foreign Assistance Act of 1961 is amended by inserting after section 240A the following new section:

"SEC. 240B. PROHIBITION ON NONCOMPETITIVE AWARDING OF INSURANCE CONTRACTS ON CERTAIN GOVERNMENT-SUPPORTED EXPORTS.

(a) PROHIBITION.—No insurance, reinsurance, guarantee, or other financing may be issued by the Corporation with respect to any investment in a project unless the appropriate investor first certifies to the Corporation that any contract for the export of goods as part of such investment shall include a clause requiring that United States insurance companies have a fair and open competitive opportunity to provide insurance against risk of loss of such export.

"(b) REPORTS BY UNITED STATES TRADE REPRESENTATIVE.—The United States Trade Representative shall review the actions of the Corporation under this section and, after consultation with representatives of United States insurance companies, shall report to the Congress in the report required by section 181(b) of the Trade Act of 1974 with respect to such actions.

"(c) DEFINITIONS.—For purposes of this section—

"(1) the term 'United States insurance company'—

"(A) includes an individual, partnership, corporation, holding company, or other legal entity which is authorized, or in the case of a holding company, subsidiaries of which are authorized, by a State to engage in the business of issuing insurance contracts or reinsuring the risk underwritten by insurance companies; and

"(B) includes foreign operations, branches, agencies, subsidiaries, affiliates, or joint ventures of any entity described in subparagraph (A);

"(2) United States insurance companies shall have had a 'fair' and open competitive opportunity to provide insurance' if they—

"(A) have received notice of the opportunity to provide insurance; and

"(B) have been evaluated on a nondiscriminatory basis.".

SEC. 2. EXPORT-IMPORT BANK OF THE UNITED STATES.

The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended by adding at the end the following:

"SEC. 17. PROHIBITION ON NONCOMPETITIVE AWARDING OF INSURANCE CONTRACTS ON CERTAIN GOVERNMENT-SUPPORTED EXPORTS.

"(a) PROHIBITION.—The Bank may not guarantee, insure, extend credit or participate in the extension of credit with respect to any export unless the Bank receives a certification that any contract relating to the export of goods shall include a clause requiring that United States insurance companies have a fair and open competitive opportunity to provide insurance against risk of loss of such export.

"(b) REPORTS BY UNITED STATES TRADE REPRESENTATIVE.—The United States Trade representative shall review the actions of the Bank under this section and, after consultation with representatives of United States insurance companies, shall report to the Congress in the report required by section 181(b) of the Trade Act of 1974 with respect to such actions.

"(c) DEFINITIONS.—For purposes of this section—

"(1) the term 'United States insurance company'—

"(A) includes an individual, partnership, corporation, holding company, or other legal entity which is authorized, or in the case of a holding company, subsidiaries of which are authorized, by a State to engage in the business of issuing insurance contracts or reinsuring the risk underwritten by insurance companies; and

"(B) includes foreign operations, branches, agencies, subsidiaries, affiliates, or joint ventures of any entity described in subparagraph (A);

"(2) United States insurance companies shall have had a 'fair and open competitive opportunity to provide insurance' if they—

"(A) have received notice of the opportunity to provide insurance; and

"(B) have been evaluated on a nondiscriminatory basis.".

SEC. 3. COMMODITY CREDIT CORPORATION.

The Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.) is amended by adding at the end the following new section:

"SEC. 20. PROHIBITION ON NONCOMPETITIVE AWARDING OF INSURANCE CONTRACTS ON CERTAIN GOVERMENT-SUPPORTED EXPORTS.

"(a) PROHIBITION.—The Corporation may not guarantee, insure, extend credit or participate in the extension of credit with respect to any export unless the Corporation receives a certification that any contract relating to the export of agricultural commodities shall include a clause requiring that United States insurance companies have a fair and open competitive opportunity to provide insurance against risk of loss of the export.

"(b) REPORTS BY UNITED STATES TRADE REPRESENTATIVE.—the United States Trade Representative shall review the actions of the corporation under this section and, after consultation with respresentatives of United States insurance companies, shall report to Congress in the report required by section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)) with respect to the actions.

"(c) DEFINITIONS.—For purposes of this section:

"(1) UNITED STATES.—The term 'United States insurance company'—

"(A) includes an individual, partnership, corporation, holding company, or other legal entity that is authorized, or in the case of a holding company, subsidiaries of which are authorized, by a State to engage in the business of issuing insurance contracts or reinsuring the risk underwritten by insurance companies; and

"(B) includes foreign operations, branches, agencies, subsidiaries, affiliates, or joint ventures of any entity described in subparagraph (A).

"(2) FAIR AND OPEN COMPETITIVE OPPORTUNITY TO PROVIDE INSURANCE.—The term 'fair and open competitive opportunity to provide insurance' means, with respect to a United States insurance company, that the company—

"(A) has received notice of the opportunity to provide insurance; and

"(B) has been evaluated on a nondiscriminatory basis.".

SEC. 4. DETERMINATIONS OF DISCRIMINATION.

(a) DETERMINATION BY THE UNITED STATES TRADE REPRESENTATIVE.—Whenever the United States Trade Representative determines that United States insurance companies have been denied a fair and open competitive opportunity to provide insurance against risk of loss in violation of section 240B of the Foreign Assistance Act of 1961, section 17 of the Export-Import Bank Act of 1945, or section 20 of the Commodity Credit Corporation Charter Act as added by this Act, then—

(1) the Overseas Private Investment Corporation may not insure, reinsure, finance, or otherwise assist in any investment.

(2) the Export-Import Bank may not guarantee, insure, extend, credit, or participate in the extension of credit with respect to any export, and

(3) the Commodity Credit Corporation, may not guarantee, insure, extend credit, or participate in the extension of credit with respect to any export of agricultural commodities,

unless the transaction involves a United States firm, subsidiary, or affiliate doing business in a foreign country with which the United States has an agreement regarding the insurance of international transactions.

(b) REGULATIONS REQUIRED.—The United States Trade Representative shall prescribe such regulations as may be necessary to carry out this section.●

By Mr. RUDMAN (by request):

S. 1429. A bill to amend the Natural Gas Pipeline Safety Act of 1968, as amended, and the Hazardous Liquid Pipeline Safety Act of 1979, as amended, to authorize appropriations for fiscal years 1992 and 1993, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1430. A bill to amend the Federal Railroad Safety Act of 1970, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATURAL GAS PIPELINE SAFETY ACT AND THE FEDERAL RAILROAD SAFETY ACT AUTHORIZATION

Mr. RUDMAN. Mr. President, I rise this afternoon to introduce by request two bills on behalf of the administration. The first is entitled the Natural Gas Pipeline and Safety Act of 1991 and I would ask that a copy of the bill be printed in the RECORD following my remarks. I would also ask that the transmittal letter from Department of Transportation Secretary Samuel K. Skinner to Vice President DAN QUAYLE be printed in the RECORD following my remarks, as well as a section-by-section analysis of the bill itself.

I also introduce by request the Federal Railroad Safety Authorization Act of 1991, and ask that the bill itself, the transmittal letter from Department of Transportation Secretary Samuel K. Skinner to Vice President DAN QUAYLE, and a section-by-section analysis be printed in the RECORD following my remarks.

I ask that these two pieces of legislation be appropriately referred to the committee of jurisdiction.

Thank you, Mr. President.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1429

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "Pipeline Safety Reauthorization Act of 1991".

TITLE I—NATURAL GAS

SEC. 101. This title may be cited as the "Natural Gas Pipeline Safety Authorization Act of 1991."

SEC. 102. Section 2(3) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. §1671(3)) is amended by inserting the words "(including the control of gas being delivered in consumer-owned pipe)" immediately following the words "distribution of gas".

SEC. 103. Section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. §1672) is amended—

(1) by inserting the words "that has submitted a current certification under section 5(a) of this Act" in paragraph (a)(1) between the words "Any State agency" and "may adopt additional or more stringent safety standards";

(2) by adding the following at the end of subsection (g): "The Secretary may extend such regulation to require existing transmission facilities to be modified to require existing transmission facilities to be modified to permit the inspection of such facili-

ties with instrumented internal inspection devices."

SEC. 104. Section 5 of the Natural Gas Piepline Safety Act of 1968 (49 U.S.C. App. §1674) is amended by removing the words "(including a municipality)" from paragraphs (a) and (b), both places they appear.

SEC. 105 Section 5(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. §1674(a)) is amended—

(1) by removing the word "when" in the first sentence of subsection (a) and inserting the words "to the extent that" in its place; and

(2) by removing the words "$5,000" and adding the words "an amount established by the Secretary".

(3) by adding the following new subsection (g):

"(g) The Secretary may, by regulation, assess the costs incurred by the Department of Transportation in monitoring the design and construction of facilities prior to their operation. Such amounts shall be collected from the persons responsible for the development of the pipeline facilities, and shall be deposited into the Pipeline Safety Fund. Amounts collected under this section shall be available, until expended, without further appropriation, up to $500,000 for each fiscal year, to pay the Federal costs of the monitoring."

SEC. 108. Section 16(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. §1683(a)) is amended by replacing the words "April 15" with "August 15".

SEC. 109. Section 17(a)(9) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. §1684 is amended:

(1) by striking "and" at the end of paragraph (a)(8);

(2) by striking the period at the end of paragraph (a)(9) and inserting a semicolon;

(3) by adding the following new paragraphs (a)(10) and (11) as follows:

"(a)(10) $5,562,000 for the fiscal year ending September 30, 1992; and

"(a)(11) Such sums as may be necessary for the fiscal year ending September 30, 1993.";

(4) by removing the word "1991" from the heading in subsection (c) and inserting the word "1993" in its place; and

(5) by removing the word "and" immediately preceding the word "5,500,000" in subsection (c), removing the period from the last sentence of subsection (c), and adding the words ", $7,000,000 for the fiscal year ending September 30, 1992, and such sums as may be necessary for the fiscal year ending September 30, 1993.".

TITLE II—HAZARDOUS LIQUIDS

SEC. 201. This title may be cited as the "Hazardous Liquid Pipeline Safety Authorization Act of 1991."

SEC. 202. Section 203 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. §2002) is amended by—

(1) removing the period at the end of pargraph (a)(1) and inserting the words "and the protection of the environment.";

(2) inserting the words "including the environment," before the word "and" in paragraph (a)(2)(A);

(3) by striking "and" at the end of pargraph (b)(3);

(4) by striking the period at the end of paragraph (b)(4) and inserting a semicolon followed by the word "and";

(5) by adding a new paragraph (b)(5) to read as follows:

"(5) the extent to which the standards will contribute to protection of the environment.";

(6) by inserting the words "that has submitted a current certification under section 205(a) of this Act" in paragraph (d) between the words "Any State agency" and "may adopt additional or more stringent safety standards";

(7) inserting the words "including environmentally sensitive areas," in paragraph (i)(2) between the words "supplementary geographic description," and "showing the location"; and

(8) by adding the following at the end of subsection (k): "The Secretary may extend such regulation to require existing pipeline facilities to be modified to permit the inspection of such facilities with instrumented internal inspection devices."

SEC. 203. Section 205(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. §2004(a)) is amended—

(1) be removing the word "when" in the first sentence of subsection (a) and inserting the words "to the extent that" in its place; and

(2) by removing the words "$5,000" and adding the words "an amount established by the Secretary".

SEC. 204. Section 208(a)(1) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. §2007(a)(1)) is amended by replacing the number "$10,000" with the number "$25,000".

SEC. 205. Section 209(b) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. §2008(b)) is amended by—

(1) inserting the words "including the environment," immediately following the words "life or property," in paragraphs (1), (2)(A), and (2)(B);

(2) replacing the period following the word "property" with a comma and adding the words "including the environment." in paragraphs (2)(B) and (5); and

(3) inserting the words "proximity to environmentally sensitive areas," in paragraph (3)(C) between the words "associated with such areas," and "and the population density".

SEC. 206. Section 210 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. §2009) is amended by—

(1) removing the period following the word "safety" in paragraph (b)(4) and adding the words "and protection of the environment."; and

(2) inserting the words "proximity to environmentally sensitive areas," in paragraphs (c)(2)(D) and (d)(2)(D) between the words "pipeline facilities are located," and "and the existing and projected population".

SEC. 207. Section 211 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. §2010) is amended:

(1) by adding the following new subsection (f):

"(f) In case of contumacy or refusal to obey a subpoena, or refusal to allow officers, employees, or agents authorized by the Secretary to enter, conduct inspections, or examine records and properties for purposes of determining compliance with this Act [49 U.S.C. App. §§2001 et seq.], by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such district court shall, upon the request of the Attorney General, acting at the request of the Secretary, have jurisdiction to issue to such person an order requiring such person to comply forthwith. Failure to obey such an order is punishable by that court as a contempt of court."; and

(2) by adding the following new subsection (g):

"(g) The Secretary may, by regulation, assess the costs incurred by the Department of Transportation in monitoring the design and construction of facilities prior to their operation. Such amounts shall be collected from the persons responsible for the development of the pipeline facilities, and shall be deposited into the Pipeline Safety Fund. Amounts collected under this section shall be available, until expended, without further appropriation, up to $500,000 for each fiscal year, to pay the Federal costs of the monitoring."

SEC. 208. Section 213(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. §2012(a)) is amended by replacing the words "April 15" with "August 15".

SEC. 209. Section 214(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. §2013(a)) is amended:

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting a semicolon; and

(3) by adding the following new paragraphs (10) and (11) as follows:

"(10) $1,391,000 for the fiscal year ending September 30, 1992; and

"(11) Such sums as may be necessary for the fiscal year ending September 30, 1993."

SECTION-BY-SECTION ANALYSIS

TITLE I—NATURAL GAS

SEC. 102. This amendment would clarify the Secretary's authority to require distribution companies to provide basic maintenance, such as corrosion protection, for piping owned by the ultimate consumer of the gas. Within the last several years, gas explosions have destroyed homes and killed and injured residents in Kansas and Missouri. The explosions were due to deteriorated gas lines located in the homeowners' yards. These accidents might have been averted had the distribution company provided necessary maintenance for the lines. Although some states have already acted, the Secretary should possess clear authority to establish nationally applicable Federal minimum standards for these lines.

The distribution company, rather than the consumer, controls the flow of gas, possesses the necessary expertise with respect to the operation and maintenance of pipeline facilities, and it compensated for the gas service it provides. It is, therefore, reasonable to impose responsibility for the maintenance and safe operation of "yard" lines up to the building wall on the distribution companies regardless of the ownership of the pipe or the location of the meter. Once the pipe is within the building walls controlled by the consumer, issues relating to maintenance change and the local building and housing codes and fire ordinances provide an appropriate safety regime in lieu of federally-established pipeline safety regulation. Once the Act is amended, the Department would address piping up to the building wall, by regulation.

Amending the NGPSA in this manner would not affect the ability of state utility regulators to consider any regulations that place safety responsibility on the operators for customer owned lines when determining appropriate rates and charges for gas service.

SEC. 103. This amendment would clarify the Secretary's authority to monitor state activities. Section 3 of the NGPSA states that "[a]ny State agency may adopt additional or more stringent safety standards for intrastate pipeline transportation if such standards are compatible with the Federal minimum standards." At least one Federal circuit court has construed similar language in the HLPSA to mean that any state governing body, including local governments, may regulate intrastate pipeline transportation, without filing a certification with the Department under Section 5(a) of the NGPSA. This interpretation impedes the Secretary's ability to monitor the activities of those states that exercise regulatory authority over intrastate pipelines. It could also result in inconsistent state safety and enforcement programs. For this reason, RSPA believes that only those states that submit annual certifications under Section 5(a) of the NGPSA should be permitted to adopt additional or more stringent safety standards for intrastate pipelines.

The proposed legislation would amend the NGPSA by clarifying the Department's authority to require, by regulation, the construction of pig traps where inspections with instrumented internal inspection devices, or "smart pigs", is necessary to assure compliance with the pipeline safety regulations.

SEC. 104. Under the existing provisions of Section 5(a) of the NGPSA, a State agency (including a municipality) may assume regulatory jurisdiction over the safety standards and practices applicable to intrastate pipeline transportation if it certifies annually to the Secretary that, among other things, it has adopted each Federal safety standard promulgated by the Secretary under the NGPSA, and conducts an enforcement program that includes inspections by qualified inspectors and authorizes the imposition of civil penalties. Section 5(b) of the Act allows the Secretary to authorize a State agency (including a municipality) to carry out on behalf of the Department certain functions relating to intrastate pipeline transportation by agreement, where no annual certification has been provided. States that participate in these cooperative programs are eligible to receive grant monies from the Department to assist them in carrying out their pipeline safety program. These cooperative programs, which now include only State government agencies, fully meet the safety objectives of the NGPSA.

No municipality has submitted a certification to date. Given the nature of pipelines, it is unlikely that pipeline safety regulation by municipalities would be preferable to regulation by State agencies having statewide jurisdiction over intrastate pipeline transportation. In addition, regulation by municipalities would impose on the Department the additional burden of monitoring local government agencies. Thus, the language including municipalities within the definition of State agency is deleted as unnecessary to meet the safety objectives.

SEC. 105. Section 5(a) of the NGPSA provides that, with certain limited exceptions, the authority of the Secretary under the Act to prescribe safety standards and enforce compliance with such standards shall not apply to intrastate pipeline transportation when the applicable safety standards and practices are regulated by a certifying State agency.

The intent of this provision was to give certifying states primary responsibility for conducting civil enforcement programs through such means as inspections, requiring record keeping, and imposing civil penalties, to assure compliance by intrastate pipeline facilities with the safety standards and to prevent unnecessary duplication of efforts in inspection and enforcement.

Some intrastate pipeline operators have construed this limited grant of authority to mean that Federal jurisdiction is totally supplanted by the state's assumption of primary responsibility for enforcement. This is incorrect. The Secretary continues to inspect and enforce in "certified" states in many situations. For example, the Secretary, not the state, inspects for and enforces Federal annual reporting requirements, new Federal regulations not yet adopted by the state, and matters involving pipeline facilities over which state authority is absent or inadequate (such as civil violations by unregulated master meters or criminal violations otherwise regulated by municipalities).

In addition, even with respect to matters clearly regulated by the state, the Secretary may, with notice and an opportunity for hearing, assert Federal jurisdiction "to achieve adequate enforcement" upon making a determination that the State agency is not satisfactorily enforcing compliance with the Federal safety standards, and the burden of proof is on the State agency to show otherwise.

To avoid misconstruing Section 5(a), the proposed legislation would, by way of clarification, expressly limit the Secretary's grant of authority to certifying states over intrastate pipeline transportation, to the extent that the certifying state is regulating the applicable safety standards and practices and is conducting a civil enforcement program.

Under the proposed legislation, Section 5(a) would also be amended to allow the Secretary to establish, by regulation, a threshold dollar amount of property damage resulting from an accident or incident for purposes of annual reporting by certifying states. This would enable the threshold dollar amount for state reporting to be consistent with the requirements for operator reporting in the pipeline safety regulations.

SEC. 106. The NGPSA was amended in 1988 by increasing the maximum civil penalty for each violation of the Act from $1,000 for each day the violation persists, to $10,000 per day. RSPA believes that the maximum civil penalty amount that can be imposed for each day of a violation should again be increased, from $10,000 to $25,000. This increase is justified as a means of promoting greater operator diligence in complying with the pipeline safety regulations. Many regulatory violations could be avoided by greater operator attentiveness to the regulatory requirements and at relatively little cost; however, the consequences of such violations may be severe. Raising the penalty ceiling would provide RSPA with greater latitude in enforcement cases against multiple offenders and in more egregious cases.

SEC. 107. Under section 14(a) of the NGPSA, the Secretary is authorized to, among other things, conduct investigations, make reports, issue subpoenas, conduct hearings, and require the production of relevant documents and records to the extent necessary to carry out his responsibilities under the NGPSA. (49 U.S.C. App. §1681(a)) Absent from that section is a clear statement of the Secretary's authority to enforce subpoenas judicially through the Attorney General. This authority may be necessary before an enforcement action is initiated because information obtained through a subpoena may assist the Department in determining whether to initiate an action, and what kind of action to take. It may also be necessary to compel pipeline testing in the event of a failure or accident in which the National Transportation Safety Board (NTSB) is not involved. This legislative amendment would make explicit the Secretary's authority to enforce subpoenas issued pursuant to the authority granted in the NGPSA.

In fulfilling the Department's responsibilities for monitoring compliance with the design and construction of pipeline facilities, the Secretary may inspect pipeline facilities and review pipeline design during the planning for and construction of the pipeline. As currently enacted, Section 7005 of the Consolidated Omnibus Budget Reconciliation Act of 1985 does not allow the Secretary to assess fees against pipeline facilities prior to their operation. Furthermore, nothing explicitly allows the Secretary to establish fees to recoup the special costs of such preoperational inspections from the developers. As a result, operating pipeline facilities bear the costs of the pipeline safety program which are attributable to the construction of new, and possibly competing, facilities. This amendment will allow the Secretary to adopt rules to take into account the costs of providing Departmental services to new pipeline construction and assess those costs against the developers of new pipelines. Funds paid to the Secretary pursuant to this provision would be deposited into the Pipeline Safety Fund and made available without further appropriation.

SEC. 108. In accordance with Section 16(a) of the NGPSA, the Secretary is required to present to Congress a comprehensive report on the administration of the Act on April 15 of each year. The areas that must be reported are detailed in paragraphs (a)(1)-(11), and in many instances require information submitted by the states, which report on a calendar year basis. The April 15 deadline for submission of the Department's report to Congress generally has not allowed for the time required by the states to evaluate and prepare their data for submission and for the Department to conduct its analysis of this data for presentation in the annual report. This has resulted in the repeatedly late submission of the annual report to Congress. Amending the deadline from April 15 to August 15 would help provide sufficient time for the Department to submit its annual report on a timely basis.

SEC. 109. This amendment provides an authorization of $5,562,000 for fiscal year 1992 and such sums as may be necessary for fiscal year 1993 for continued operation of the pipeline safety program for the transportation of natural gas under the NGPSA. The amendment also provides an authorization of $7,000,000 for fiscal year 1992 for the grants-in-aid program, and such sums as may be required for fiscal year 1993.

TITLE II

SECS. 202, 205, 206. The Hazardous Liquid Pipeline Safety Act of 1979, as amended, directs the Secretary to establish minimum Federal safety standards for the transportation of hazardous liquids and for pipeline facilities. In developing standards, the Secretary is directed to consider various criteria and objectives, such as the extent to which such standards will contribute to public safety. Section 202 of the proposed bill would explicitly add protection of the environment as a consideration in developing minimum safety standards. Any condition that constitutes a hazard to the environment would also be a reportable condition. Similarly, the HLPSA authorizes the Secretary to issue an order directing corrective action if the Secretary determines that any pipeline facility is hazardous to life or property. Section 205 of the proposed bill would clarify that a hazard to the environment would also be a sufficient basis for issuance of a hazardous facility order. Protection of the environment would also be a factor in assessing the adequacy of an operator's written inspection and maintenance plan under Section 206 of the proposed legislation, as well as a consideration in determining the frequency and type of inspection and testing appropriate for hazardous liquid pipelines.

Section 202 of the Act would also be amended to allow the Secretary to require the construction of pig traps in certain situations, as established by regulation, so as to permit the use of smart pigs. This amendment is consistent with the proposed amendment to the NGPSA, for the reasons set forth in the discussion of Section 103 of this bill.

SEC. 203. This amendment would make identical changes to the HLPSA as is proposed for the NGPSA in Section 105 of this bill concerning: (1) clarification that the Secretary's grant of authority to certifying states over intrastate pipeline transportation is limited to the extent to which the certifying state is regulating the applicable safety standards and practices and is conducting a civil enforcement program, and (2) allowing the Secretary to establish the threshold dollar amount of property damage from an accident or incident for purposes of annual reporting.

SEC. 204. This amendment would make an identical change to the HLPSA as is proposed for the NGPSA in Section 106 of this bill concerning increased maximum civil penalty amounts which may be assessed for each day a violation persists.

SEC. 207. This amendment would make an identical change to the HLPSA as is proposed for the NGPSA in Section 107 of this bill concerning authority to enforce subpoenas issued pursuant to statutory authority and to assess costs incurred by the Department in preconstruction monitoring of compliance of pipeline facilities. As under the NGPSA, funds paid to the Secretary pursuant to this provision would be deposited into the Pipeline Safety Fund and made available without further appropriation.

SEC. 208. For the reasons set forth in the paragraph pertaining to Section 108 of this bill, this amendment would establish an August 15 deadline for the Secretary's comprehensive report to Congress on the administration of the HLPSA.

SEC. 209. This amendment provides an authorization of $1,391,000 for the fiscal year 1992 and such sums as may be necessary for fiscal year 1993 to support the Department's hazardous liquid pipeline safety program under the HLPSA.

THE SECRETARY OF TRANSPORTATION,
Washington, DC, May 14, 1991.

Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a proposed bill,

"To amend the Natural Gas Pipeline Safety Act of 1968, as amended, and the Hazardous Liquid Pipeline Safety Act of 1969, as amended, to authorize appropriations for fiscal years 1992 and 1993, and for other purposes."

The proposed bill would authorize appropriations for the administration of the pipeline safety programs for the transportation of natural gas under the NGPSA and hazardous liquids under the HLPSA for fiscal years 1992 and 1993.

The proposed bill furthers safety initiatives enacted by the 100th Congress with regard to internal inspection of pipelines, and adds protection of the environment as an explicit consideration in regulation under the HLPSA. In recent years, the Department has increasingly based its regulatory and enforcement decisions on controlling the risks to the environment posed by the pipeline transportation of hazardous liquids. The explicit recognition of the Department's environmental role proposed here furthers the Administration's focus on environmental issues. The bill proposes to increase the maximum civil penalty amount that could be assessed per day for each violation and to allow the Secretary to assess costs incurred by the Department in monitoring the design and construction of new facilities prior to their operation. These costs would be assessed against the pipeline developer, thereby relieving operating pipeline facilities from bearing the costs of pre-operational inspections for other, and possibly competing, facilities. Funds would be deposited into the Pipeline Safety Fund and would be made available without further appropriation.

The Omnibus Budget Reconciliation Act (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go (PAYGO) requirement. That is, no such bill should result in an increase in the deficit; and if it does, it must trigger a sequester if it is not fully offset. Offsetting collections in this bill would equal its increase in direct spending, resulting in a new zero PAYGO effect. Thus, considered alone, this bill meets the PAYGO requirement of OBRA.

The bill also contains technical amendments that serve to clarify the Department's authority to regulate intrastate pipelines under the cooperative Federal-State programs authorized by the NGPSA and HLPSA, as well as its authority to enforce subpoenas. Another amendment would change the date of the Department's annual report to Congress pursuant to the NGPSA and the HLPSA in order to allow sufficient time to collect and evaluate State data.

The proposed legislation will enhance the Department's efficient administration of the NGPSA and HLPSA. It will not adversely affect the environment. Upon enactment, some provisions of the legislation, such as possible requirements for the use of instrumented internal inspection devices, or "smart pigs", under certain circumstances, and assessing the cost of pre-operational monitoring, may result in additional costs to some pipeline operators. These costs would be offset by the ancillary benefits of assuring that new facilities comply with the pipeline safety regulations and the anticipated savings resulting from enhanced safety. For this reason, the proposed legislation will not have an inflationary impact on the economy.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of the proposed legislation to Congress, and that its enactment would be in accord with the President's program.

Sincerely,

SAMUEL K. SKINNER.

S. 1430

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Railroad Safety Authorization Act of 1991."

AUTHORIZATION FOR APPROPRIATIONS

SEC. 2. Section 214 of the Federal Railroad Safety Act of 1970 (45 U.S.C. §444) is amended by striking all words after the title and inserting immediately thereafter the following:

"(a) There are authorized to be appropriated to carry out the provisions of this Act not to exceed $41,024,000 for general safety operations, plus $26,298,000 for railroad research and development for the fiscal year ending September 30, 1992; and such sums as may be necessary for the fiscal year ending September 30, 1993. The Secretary is authorized to request, receive, and use payments from non-Federal sources for expenses incurred in training safety employees of private industry, State and local authorities, or other public authorities, other than State rail safety inspectors participating in training pursuant to section 206 of this title.

"(b) Sums appropriated under this section for railroad research and development and automated track inspection are authorized to remain available until expended.".

CLARIFICATION OF APPLICABILITY OF PENALTY PROVISIONS

SEC. 3. Section 209(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(a)) is amended by striking the parenthetical clause after "person" and inserting in its place the following: "(including but not limited to a railroad; any manager, supervisor, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; or any contractor providing goods or services to a railroad)."

PROTECTION OF RAILROAD SAFETY ENFORCEMENT PERSONNEL

SEC. 4. Section 1114 of Title 18, United States Code, is amended by inserting "or any officer or employee of the Federal Railroad Administration assigned to perform investigative, inspection, or law enforcement functions," immediately after "any employee of the Coast Guard assigned to perform investigative, inspection or law enforcement functions,".

REPEAL OF THE HOURS OF SERVICE ACT

SEC. 5. Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding a new subsection (r) as follows:

"(r)(1) The Hours of Service Act (45 U.S.C. 61–64b) is hereby repealed effective one hundred and eighty days from the date of enactment of this title."

"(2) Within one hundred and eighty days of enactment of this title, the Secretary shall issue regulations embodying the substantive provisions of the Hours of Service Act, except that the Secretary may make linguistic changes necessary to transform those provisions into regulatory form. These regulations shall become effective when published, and their issuance shall not be subject to judicial review. Any subsequent changes in these regulations, however, shall be subject to judicial review as provided in subsection (f) of this section."

"(3) After issuance of the present Hours of Service Act in regulatory form, the Secretary is authorized to amend those regulations as the Secretary deems necessary in accordance with the Secretary's general authority under subsection (a) of this section.".

REPEAL OF CERTAIN OLDER SAFETY LAWS

SEC. 6. Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding new subsections (s) and (t), as follows:

"(s)(1) The following statutes are hereby repealed effective one hundred and eighty days from the date of enactment of this title: the Safety Appliance Acts, 45 U.S.C. 1–14, 16; the Locomotive Inspection Act, 45 U.S.C. 22–34; an Act concerning Block Signal Systems, 45 U.S.C. 35; an Act concerning Inspection and Testing of Railroad Cars and Appliances, 45 U.S.C. 36–37; the Accident Reports Act, 45 U.S.C. 38–43; and the Signal Inspection Act, 49 App. U.S.C. 26.

"(2) Within one hundred and eighty days of enactment of this title, the Secretary shall issue regulations embodying the substantive provisions of the statutes referred to in subsection (1) of this section that are not already in regulatory form at the time of enactment, except that the Secretary may make linguistic changes necessary to transform those provisions into regulatory form. These regulations shall become effective when published, and their issuance shall not be subject to judicial review. After issuance of the substantive provisions of these statutes in regulatory form, the Secretary is authorized to amend those regulations as the Secretary deems necessary in accordance with the Secretary's general authority under subsection (a) of this section. Any subsequent changes in these regulations, however, shall be subject to judicial review as provided in subsection (f) of this section.

"(t) Neither reports of accidents or incidents submitted to the Secretary in accordance with regulations issued under this title nor reports of investigations of accidents or incidents prepared by or for the Secretary in accordance with authority provided under this title, nor any part thereof, shall be submitted as evidence or used for any purpose in any suit or action for damages growing out of any matter mentioned in said report or investigation.".

SECTION-BY-SECTION ANALYSIS OF THE FEDERAL RAILROAD SAFETY AUTHORIZATION ACT OF 1991

AUTHORIZATION FOR APPROPRIATIONS

Section 2 would authorize appropriations for fiscal years 1992 and 1993, for the Federal Railroad Administration's (FRA) railroad safety program. The authorization levels for fiscal year 1992 would be $41,024,000 for FRA's general safety operations, plus $26,298,000 for railroad research and development. For the fiscal year ending September 30, 1993, the bill would authorize appropriation of such sums as may be necessary.

CLARIFICATION OF APPLICABILITY OF PENALTY PROVISIONS

Section 3 would clarify that the Secretary's enforcement authority (civil penalties, injunctive relief, compliance order, and emergency orders) under the Federal Railroad Safety Act of 1970 applies to any person who violates a rule, regulation, order, or standard issued under the Act. This section would also clarify that the parenthetical list after the word "person" is language of illustration, and add as additional illustrations two categories of persons that are very likely to be in a position to commit violations: (1) owners, manufacturers, and lessees of railroad equipment, track, or facilities (e.g., an owner of track over which a railroad operates), and (2) contractors who provide goods or services to a railroad (e.g., a company that contracts to provide signal maintenance services). While the Department has no doubt that *all* categories of persons are covered by the existing statute (*see* 1 U.S.C. 1), this amendment will prevent needless litigation over Congress' intent and send a message to certain categories of persons that they need to plan their activities to be in compliance with the Act and rules and orders issued under it.

PROTECTION OF RAILROAD SAFETY ENFORCEMENT PERSONNEL

Section 4 would amend section 1114 of Title 18, United States Code, to include FRA enforcement personnel among those Federal officials and employees protected by Federal criminal law against assault, intimidation, or interference in performance of their official duties. FRA field personnel desire this protection, especially since the onset of individual liability for violations of the railroad safety laws has created an increased fear of verbal and physical assaults against these law enforcement personnel.

REPEAL OF THE HOURS OF SERVICE ACT

Section 5 would repeal the Hours of Service Act. This statute, first enacted in 1907, contains no substantive rulemaking authority. As a result, this statute is probably the greatest problem among the older (i.e., pre-1970) statutes. The countless questions left unanswered by the statutory text must be filled in by interpretation rather than by regulation, with its attendant safeguards of notice and comment. The statute contains many anomalies that a rational rulemaking process would likely eliminate. For example, dispatchers are generally limited to nine hours on duty where two or more shifts are employed but can work up to twelve hours in a one-shift operation (which could be more stressful than a multiple-shift operation).

More important, the lack of regulatory authority over duty hours—authority that other DOT agencies have with respect to their modes of transportation—precludes FRA from making use of scientific learning on the issue of sleep cycles and fatigue-induced performance failures. The Federal Railroad Safety Act of 1970 provides ample authority to deal with the entire subject of maximum work periods and minimum rest periods in light of current information on those subjects. However, the Hours of Service Act effectively precludes such a rational regulatory initiative because the Safety Act authority may only be used to supplement the earlier statutes. Where the Hours of Service Act sets a rigid requirement, e.g., maximum on-duty and minimum off-duty periods for operating employees, a regulation could not vary from it.

The proposed legislation would require that the existing substantive provisions be issued as regulations to coincide with repeal of the statute. Subject to the requirements of the rulemaking process and the scrutiny of judicial review, FRA would be free to amend those regulations to provide a more complete and consistent regulatory framework than is now possible. FRA has no intention to increase the existing maximum limits on duty hours for a normal work day (generally twelve hours in a twenty-four hour period, except for a sixteen-hour limit in certain emergencies), which are the basic protections in the current Act.

REPEAL OF CERTAIN OLDER SAFETY LAWS

Section 6 would repeal the railroad safety laws in addition to the Hours of Service Act that predated the Federal Railroad Safety Act of 1970 ("Safety Act"). The Safety Act provides the Secretary with complete authority to do what the Secretary deems necessary in the railroad safety area, except that those actions may only supplement the statutes in effect prior to the Safety Act. The older statutes contain a great deal of hackneyed language (e.g., references to the "director of locomotive inspection" (45 U.S.C. 31), an office that has not existed for decades), and are largely superfluous in light of the plenary authority ("all areas of railroad safety") contained in the Safety Act. Moreover, certain of those older statutes are actually detrimental to safety and/or sound technological development. For example, the Safety Appliance Acts contain certain prescriptions concerning rail equipment (e.g., the requirement for grabirons or handholds on the roofs of all cars in 45 U.S.C. 11) that may not make sense in light of changed car construction technology and emerging new railroad technologies such as magnetic levitation. There is a provision in existing law, 45 U.S.C. 1013, that permits the Secretary, after a hearing or based on an agreement between railroad labor representatives and the developer of the new technology, to exempt any railroad equipment from the requirements of the Safety Appliance Acts if those requirements would preclude the development or implementation of more efficient railroad equipment or other transportation innovations. However, that provision permits only a piecemeal, exemption-based approach to new technology and contains a somewhat vague standard for determining whether an exemption should be granted.

In those few substantive areas that are covered by the older statutes but as yet not covered by FRA's regulations, FRA would be required to issue regulations containing the statutes' substantive provisions within 180 days of enactment. Any subsequent substantive changes would be subject to the normal rulemaking requirements and judicial review. Also, the prohibition against use of railroad or FRA accident reports in private tort litigation—now found in 45 U.S.C. 41—would be preserved in the Safety Act.

Repeal of these statutes would have no effect on the liability of railroads for injuries suffered by railroad workers under the Federal Employers' Liability Act. ("FELA"), 45 U.S.C. §51 et seq. Sections 3 and 4 of FELA bar, respectively, the defenses of contributory negligence and assumption of the risk where the violation of "any statute enacted for the safety of employees" contributed to the employee's death or injury. Accordingly, violations of the rail safety statutes are frequently alleged as part of an action under FELA. However, existing section 208(c) of the Safety Act provides that orders or regulations issued under the Safety Act "have the same force and effect as a statute" for purposes of section 3 and 4 of FELA. Therefore, reissuance of the older safety statutes as regulations under the Safety Act would leave parties to a FELA lawsuit in the very same position as when the provisions were statutory. The point here is that, although the Department is elsewhere recommending legislation to repeal FELA, that proposal and this one are in no way linked and each should be considered on its own merits.

THE SECRETARY OF TRANSPORTATION,
Washington, DC, June 11, 1991.

Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Transmitted herewith is a bill, "The Federal Railroad Safety Authorization Act of 1991."

This bill would authorize appropriations for the Department's railroad safety program for fiscal years 1992 and 1993, and make certain amendments, primarily technical in nature, to the Federal Railroad Safety Act of 1970. It would also repeal certain older railroad safety statutes no longer needed for effective administration of the railroad safety program.

FY 1992–1993 authorization: Section 2 of the bill would authorize appropriations for general safety operations of $41,024,000, and for railroad research and development of $26,298,000 for fiscal year 1992, and such sums as may be necessary for fiscal year 1993.

Amendments to the Safety Act: Section 3 of the bill would amend the enforcement provision of the Safety Act to clarify that it applies to all "persons" and expand the language of illustration accompanying the term "person." This is intended to prevent needless litigation and provide guidance to the regulated community.

Protection of railroad safety enforcement personnel: Section 4 would ensure that those involved in inspection, investigation, or law enforcement in connection with the railroad safety program are given the same protection from assault, intimidation, and interference now provided similar law enforcement personnel under the Federal criminal code.

Repeal of the older safety statutes: Sections 5 and 6 would repeal the Federal railroad safety statutes enacted prior to the Federal Railroad Safety Act of 1970, which provides the Secretary with authority over "all areas of railroad safety." The older statutes are all superfluous in view of the complete authority granted by the 1970 Act, and some of those statutes are actually impediments to the sound administration of the Federal railroad safety program. Regulations embodying the substantive provisions of those statutes have already been issued or would be issued to coincide with repeal.

The Omnibus Budget Reconciliation Act (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and if it does, it will trigger a sequester if it is not fully offset. Offsetting collections allowed by this bill would recover costs of rail safety training activities, resulting in a net zero PAYGO effect. Thus, considered alone, this bill meets the pay-as-you-go requirement of OBRA.

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submittal of this legislative proposal to Congress, and that its enactment would be in accord with the program of the President.

Sincerely,

SAMUEL K. SKINNER.

By Mr. CRANSTON:

S. 1431. A bill to amend the Housing Act of 1949; to the Committee on Banking, Housing, and Urban Affairs.

EXTENSION OF RURAL HOUSING PROGRAMS

● Mr. CRANSTON. Mr. President, I introduce a bill today to extend for 1 year the authorization for two important rural housing programs.

The National Affordable Housing Act, enacted last year, provided a 2-year reauthorization of the major rural housing programs. Due to an inadvertent drafting error, two programs were reauthorized only through fiscal year 1991, although appropriations were authorized for fiscal years 1991 and 1992.

The bill I offer today would extend the authorizations for these programs—the section 515 Rural Rental Loan Program and the section 523 Mutual and Self-Help Housing Grant and Loan Program—through fiscal year 1992.

This is a simple, straightforward reauthorization to correct a technical error in last year's housing bill. I intend to ask my colleagues on the Agriculture Appropriations Subcommittee to include the text of this bill in this year's Agriculture and related agencies appropriations bill to ensure that these important programs are continued without disruption.●

By Mr. DOLE:

S.J. Res. 173. Joint resolution designating 1991 as the 25th anniversary year of the formation of the President's Committee on Mental Retardation, to the Committee on the Judiciary.

ANNIVERSARY YEAR OF THE FORMATION OF THE PRESIDENT'S COMMITTEE ON MENTAL RETARDATION

Mr. DOLE. Mr. President, on July 26, 1990, President Bush signed landmark legislation guaranteeing the inclusion of people with disabilities into the mainstream of American society. This law, the Americans with Disabilities Act [ADA], is intended to prevent discrimination in employment, public accommodations, transportation, and telecommunications. Many have called the day of signing the first true Independence Day for Americans with disabilities.

Prior to the ADA's enactment, few people with disabilities, particularly those with mental retardation, have had the opportunity to speak for themselves. During the last 25 years, citizens with mental retardation have shattered this myth. Not only have they spoken for themselves, but they have become their own strong vocal advocates. They are helping Americans understand that their needs are just as important as any other group of citizens.

Since the establishment of the President's Committee on Mental Retardation in 1966, the committee has been instrumental and effective in advising the President about the social, physical, medical, and biomedical needs of persons with mental retardation. To heighten public awareness, the committee has worked diligently to foster an understanding that many forms of mental retardation are preventable. Furthermore, it has created job training, career, and housing opportunities to assist those with mental retardation achieve full citizenship.

Despite all of its accomplishments, the work of the President's Committee on Mental Retardation is not yet finished. More can be done to educate the general public about the prevention of mental retardation and to assist the mentally retarded in taking their rightful place in our society.

I ask that my colleagues join me in designating the year 1991 as the 25th anniversary year of the formation of the President's Committee on Mental Retardation. I look forward to working with the committee in implementing its policy recommendations.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 173

Whereas for many years citizens with mental retardation were considered the only disability group in the United States that could not speak for themselves;

Whereas during the last 25 years citizens with mental retardation have shattered this myth, not only by speaking for themselves, but also by becoming their own strong vocal advocates and helping Americans to understand that their needs are just as important as any other group of citizens;

Whereas since it was formed in 1966, the President's Committee on Mental Retardation has been instrumental and effective in advising the President about the social, physical, medical and biomedical needs of persons with mental retardation;

Whereas the President's Committee on Mental Retardation has worked diligently to foster an understanding that many forms of mental retardation are preventable;

Whereas over 250 known causes of mental retardation result from social, biomedical, and environmental factors, and research has shown that over half of them are preventable;

Whereas during the past 25 years, the President's Committee on Mental Retardation has worked closely with local, national, and international organizations to reduce the incidence of mental retardation and to assist persons with mental retardation to achieve full citizenship as productive, taxpaying members of society;

Whereas through the efforts of the President's Committee on Mental Retardation, persons with mental retardation have been freed from back wards of institutions, training opportunities have been developed and citizens with mental retardation have been encouraged to live and work independently, securing jobs and housing, side by side with the general population;

Whereas despite all of its accomplishments, the work of the President's Committee on Mental Retardation is not yet finished as more can be done to educate the general public about the prevention of mental retardation and to assist people with mental retardation in taking their rightful place in our society: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the year 1991, is designated as the "25th Anniversary Year of the Formation of the President's Committee on Mental Retardation". The President, is authorized and requested to issue a proclamation calling upon the people of the United States to observe the Year with appropriate programs, ceremonies, and activities.

ADDITIONAL COSPONSORS

S. 88

At the request of Mr. DURENBERGER, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 88, a bill to amend the Internal Revenue Code of 1986 to make permanent the deduction for health insurance costs for self-employed individuals.

S. 140

At the request of Mr. WIRTH, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 140, a bill to increase Federal payments in lieu of taxes to units of general local government, and for other purposes.

S. 141

At the request of Mr. DASCHLE, the name of the Senator from Kentucky

[Mr. FORD] was added as a cosponsor of S. 141, a bill to amend the Internal Revenue Code of 1986 to extend the solar and geothermal energy tax credits through 1996.

S. 190

At the request of Mr. GRAHAM, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 190, a bill to amend 3104 of title 38, United States Code, to permit veterans who have a service-connected disability and who are retired members of the Armed Forces to receive compensation, without reduction, concurrently with retired pay reduced on the basis of the degree of the disability rating of such veteran.

S. 194

At the request of Mr. MCCAIN, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 194, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 311

At the request of Mr. ROTH, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 311, a bill to make long-term care insurance available to civilian Federal employees, and for other purposes.

S. 316

At the request of Mr. CRAIG, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 316, a bill to provide for treatment of Federal pay in the same manner as non-Federal pay with respect to garnishment and similar legal process.

S. 523

At the request of Mr. SIMON, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 523, a bill to authorize the establishment of the National African-American Memorial Museum within the Smithsonian Institution.

S. 533

At the request of Mr. GLENN, the names of the Senator from Illinois [Mr. SIMON], the Senator from California [Mr. CRANSTON], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of S. 533, a bill to establish the Department of the Environment, provide for a Bureau of Environmental Statistics and a Presidential Commission on Improving Environmental Protection, and for other purposes.

S. 597

At the request of Mr. DODD, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 597, a bill to amend the Public Health Service Act to establish and expand grant programs for evaluation and treatment of parents who are abusers and children of substance abusers, and for other purposes.

S. 601

At the request of Mr. ADAMS, the names of the Senator from Colorado [Mr. WIRTH], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 601, a bill to withhold United States military assistance for El Salvador, subject to certain conditions.

S. 643

At the request of Mr. COATS, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 643, a bill to amend the Internal Revenue Code of 1986 to increase the personal exemption for dependent children of a taxpayer who are 6 years old or younger.

S. 701

At the request of Mr. COATS, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 701, a bill to amend the Internal Revenue Code of 1986 to increase the amount of the exemption for dependent children under age 18 to $3,500, and for other purposes.

S. 765

At the request of Mr. BREAUX, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 765, a bill to amend the Internal Revenue Code of 1986 to exclude the imposition of employer Social Security taxes on cash tips.

S. 985

At the request of Mr. SIMON, the names of the Senator from Maine [Mr. COHEN], the Senator from Maryland [Ms. MIKULSKI], the Senator from Maryland [Mr. SARBANES], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of S. 985, a bill to assure the people of the Horn of Africa the right to food and the other basic necessities of life and to promote peace and development in the region.

S. 1044

At the request of Mr. GLENN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1044, a bill entitled the "Federal Resources Management Act".

S. 1128

At the request of Mr. GLENN, the names of the Senator from New York [Mr. D'AMATO], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Tennessee [Mr. GORE], the Senator from Iowa [Mr. HARKIN], the Senator from Mississippi [Mr. LOTT], the Senator from Rhode Island [Mr. PELL], the Senator from North Carolina [Mr. HELMS], the Senator from Colorado [Mr. WIRTH], the Senator from Massachusetts [Mr. KERRY], the Senator from Arizona [Mr. DECONCINI], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from California [Mr. CRANSTON] were added as cosponsors of S. 1128, a bill to impose sanctions against foreign persons and United States persons that assist foreign countries in acquiring a nuclear explosive device or unsafeguarded special nuclear material, and for other purposes.

S. 1147

At the request of Mr. LIEBERMAN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1147, a bill to require that the United States Government hold certain discussions and report to Congress with respect to the secondary and tertiary boycotts of Israel by Arab nations.

S. 1157

At the request of Mr. DASCHLE, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 1157, a bill to amend the Internal Revenue Code of 1986 to allow the energy investment credit for solar energy and geothermal property against the entire regular tax and the alternative minimum tax.

S. 1175

At the request of Mr. KERRY, the names of the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 1175, a bill to make eligibility standards for the award of the Purple Heart currently in effect applicable to members of the Armed Forces of the United States who were taken prisoners or taken captive by a hostile foreign government or its agents or a hostile force before April 25, 1962, and for other purposes.

S. 1190

At the request of Mr. DASCHLE, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1190, a bill to amend the Internal Revenue Code of 1986 to increase the standard mileage rate deduction for charitable use of passenger automobiles.

S. 1195

At the request of Mr. DODD, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 1195, a bill to authorize the establishment of a memorial on Federal land in the District of Columbia to honor individuals who have served as volunteers in the Peace Corps.

S. 1226

At the request of Mr. JEFFORDS, the names of the Senator from Kentucky [Mr. FORD] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1226, a bill to direct the Administrator of the Environmental Protection Agency to establish a small community environmental compliance planning program.

S. 1245

At the request of Mr. DASCHLE, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 1245, a bill to amend the Internal Revenue Code of 1986 to clarify that customer base, market share, and other similar intangible items are amortizable.

S. 1269

At the request of Mr. HARKIN, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1269, a bill to require the Secretary of Energy to expedite the development of hydrogen derived from renewable energy sources as an alternative energy system for residential, industrial, utility, and motor vehicle use, and for other purposes.

S. 1270

At the request of Mr. MCCAIN, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 1270, a bill to require the heads of departments and agencies of the Federal Government to disclose information concerning U.S. personnel classified as prisoners of war or missing in action.

S. 1332

At the request of Mr. GRASSLEY, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 1332, a bill to amend title XVIII of the Social Security Act to provide relief to physicians with respect to excessive regulations under the Medicare Program.

S. 1354

At the request of Mr. HARKIN, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 1354, a bill to amend title II of the Social Security Act to increase the amount of remuneration an election official or worker may receive and be excluded from an agreement between a State and the Secretary providing for the extension of benefits under such title to State employees.

S. 1358

At the request of Mr. GRAHAM, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 1358, a bill to amend chapter 17 of title 38, United States Code, to require the Secretary of Veterans Affairs to conduct a hospice care pilot program and to provide certain hospice care services to terminally ill veterans.

S. 1378

At the request of Mr. DIXON, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1378, a bill to amend the Arms Export Control Act to delay the approval of arms sales, exports, and licensing agreements unless the corresponding memorandum of understanding, before entry into force, has been transmitted to the Congress.

S. 1383

At the request of Mr. MCCAIN, the names of the Senator from Virginia [Mr. ROBB], the Senator from Hawaii [Mr. INOUYE], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 1383, a bill to amend title 10, United States Code, to provide for payment under CHAMPUS of certain health care expenses incurred by members and former members of the uniformed services and their dependents who are entitled to retired or retainer pay and who are otherwise ineligible for such payment by reason of their entitlement to benefits under title XVIII of the Social Security Act because of a disability, and for other purposes.

SENATE JOINT RESOLUTION 160

At the request of Mr. KERRY, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of Senate Joint Resolution 160, a joint resolution designating the week beginning October 20, 1991, as "World Population Awareness Week."

SENATE JOINT RESOLUTION 164

At the request of Mr. GORE, the names of the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Joint Resolution 164, a joint resolution designating the weeks of October 27, 1991, through November 2, 1991, and October 11, 1992, through October 17, 1992, each separately as "National Job Skills Week."

SENATE JOINT RESOLUTION 165

At the request of Mr. CRANSTON, the names of the Senator from Iowa [Mr. GRASSLEY], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of Senate Joint Resolution 165, a joint resolution to prohibit the proposed sale to the United Arab Emirates of AH-64 Apache attack helicopters.

SENATE CONCURRENT RESOLUTION 37

At the request of Mr. KERRY, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of Senate Concurrent Resolution 37, a concurrent resolution calling for a United States policy of strengthening and maintaining indefinitely the current International Whaling Commission moratorium on the commercial killings of whales, and otherwise expressing the sense of the Congress with respect to conserving and protecting the world's whale, dolphin, and porpoise populations.

SENATE RESOLUTION 144

At the request of Mr. KERRY, the names of the Senator from Rhode Island [Mr. PELL] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of Senate Resolution 144, a resolution to encourage the European Commission to vote to ban drift nets for all European Community fishing fleets on July 8, and for other purposes.

AMENDMENT NO. 383

At the request of Mr. BAUCUS, the names of the Senator from Wyoming [Mr. SIMPSON], the Senator from Montana [Mr. BURNS], the Senator from Colorado [Mr. WIRTH], the Senator from Wyoming [Mr. WALLOP], the Senator from Arizona [Mr. DECONCINI], the Senator from Idaho [Mr. SYMMS], the Senator from Nevada [Mr. REID], and the Senator from Utah [Mr. GARN] were added as cosponsors of Amendment No. 383 intended to be proposed to H.R. 2686, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes.

SENATE CONCURRENT RESOLUTION 50—RELATIVE TO THE RESCUE OF APPROXIMATELY 14,000 ETHIOPIAN JEWS

Mr. CRANSTON submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations.

S. CON. RES. 50

Whereas, despite 2,700 years of anti-Semitism, physical destruction, land confiscation, enslavement and forced conversion, Ethiopian Jews, or "Beta Yisrael", have maintained their Jewish heritage and prayed for their return to their biblical homeland;

Whereas, approximately 14,000 Ethiopian Jews have been separated—brother from sister, husband from wife, and parent from child—since the emergency airlifts of Operation Moses and Operation Joshua in 1984 and 1985;

Whereas the Administration carried out its diplomatic negotiations with the Ethiopian Government based on a policy of family reunification and human rights in Ethiopia;

Whereas the lives of Ethiopian Jews waiting to join the families in Israel are imperiled by the Civil War in Ethiopia; and

Whereas several thousand Ethiopian Jews in war zones have not been rescued, and millions of Ethiopians remain at risk because of famine and a civil war that has ravaged that nation for decades: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that—

(1) President Bush, Administration officials, and the President's emissary should be commended for their involvement in key diplomatic initiatives to secure the timely release of approximately 14,000 Ethiopian Jews;

(2) The Government of Israel should be commended for—

(A) carrying out "Operation Solomon", one of the largest rescues of its kind in history;

(B) its ceaseless diplomatic and humanitarian efforts in reuniting Jews with their families over the course of several years; and

(C) welcoming this beleaguered community with open arms;

(3) dedicated individuals and private voluntary organizations should be applauded for their unflagging support of the Jewish community in Ethiopia; and

(4) the United States should make every effort—

(A) to bring an end to the civil war in Ethiopia;

(B) to increase its support for famine relief so that millions of Ethiopians do not perish; and

(C) to ensure the swift and safe release to Israel of the thousands of Ethiopian Jews still remaining in Ethiopia.

Mr. CRANSTON. Mr. President, I rise today to introduce a concurrent resolution on the miraculous rescue of 14,000 Ethiopian Jews from Ethiopia—Operation Solomon.

It is only appropriate that we commend the groups and individuals who contributed to this marvelous event. The images of Operation Solomon and the stories of this modern day exodus have allowed us all to share in the joy of Ethiopia Jews being reunited with family members in Israel. Their sense of wonder and relief is palpable.

This resolution is much more than a pat on the back. It is a reminder that more work lies ahead. As formal transition talks begin in Ethiopia next week, we all yearn for a free and peaceful transition to democracy in that beautiful, but troubled, land. We must play an active role in helping this process moved forward.

We must also work to ensure that famine relief reaches the millions of Ethiopians at risk. The civil war has taken its toll and many will die unless relief efforts are increased. In this area, we can lend a hand.

Finally, we must not forget that 3,000 Ethiopian Jews remain in northern Ethiopia and more than 300 are still in Addis Ababa. We must do all we can to ensure their safe passage to Israel. As the Senate chair of the Congressional Caucus for Ethiopian Jewry, I look forward to working with caucus members on this matter in the coming weeks.•

SENATE RESOLUTION 149—CONGRATULATING THE 1ST INFANTRY DIVISION FOR THEIR PERFORMANCE DURING OPERATION DESERT STORM

Mr. DOLE (for himself and Mrs. KASSEBAUM) submitted the following resolution; which was considered and agreed to:

S. RES. 149

Whereas the 1st Infantry Division (Mechanized) was deployed to the Persian Gulf in support of Operation Desert Shield on December 26, 1990.

Whereas over 12,000 soldiers and over 7,000 pieces of equipment were transported from Fort Riley, Kansas to Saudi Arabia in less than sixty days. This deployment included a difficult equipment modernization "on the fly".

Whereas the 1st Infantry Division (Mechanized) arrived in Saudi Arabia trained and ready.

Whereas the 1st Infantry Division, under the brilliant command of General Thomas G. Rhame, spearheaded the armored attack into Iraq on February 24, 1991, traveling over 260 kilometers in less than 100 hours and cut off the path of retreat for the fleeing Iraqi Army.

Whereas during the campaign, the 1st Infantry Division engaged and destroyed all or parts of eleven enemy divisions, including elements of the Republican Guard. The division captured over 11,400 Iraqi prisoners of war—twice as many as any other unit in the Kuwaiti theater of operations.

Whereas the "Big Red One" hosted the historic cease fire meeting between representatives of the allied coalition, led by General H. Norman Schwarzkopf, and the defeated Iraqi Army.

Whereas following the defeat of the Iraqi Army and the cease fire, the 1st Infantry Division continued to clear Iraqi equipment, assisted in the repatriation of Kuwaiti citizens and assisted in relief efforts following the war: Now therefore be it, *Resolved*, That—

(a) The Senate commends all of the soldiers of the 1st Infantry Division for their outstanding devotion to duty, professionalism, and courage under fire throughout Operations Desert Shield and Desert Storm;

(b) The Senate commends Major General Thomas G. Rhame, his staff, and all the commanders and leaders for their superb command, brilliant tactical employment of forces, and outstanding leadership of the "Big Red One".

SENATE RESOLUTION 150—RELATIVE TO THE EXTRADITION OF ALOIS BRUNNER

Mr. MOYNIHAN (for himself, Mr. MACK, Mr. PRESSLER, Ms. MIKULSKI, Mr. MCCAIN, Mr. D'AMATO, Mr. KERREY, Mr. SARBANES, Mr. GRAHAM, Mr. INOUYE, Mr. JOHNSTON, Mr. GRASSLEY, Mr. DECONCINI, Mr. DIXON, Mr. SPECTER, Mr. HARKIN, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, and Mr. HATCH) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 150

Whereas Austrian-born Alois Brunner, who joined the Nazi party at the age of 19, was the deputy and personal secretary to Adolf Eichmann, who was personally responsible for sending to their deaths more than 120,000 Jews from Austria, Germany, France, Slovakia, and Greece;

Whereas in 1938, after Kristallnacht, Brunner joined the Nazi Secret Police and subsequently requested a transfer to the Central Office for Jewish Emigration in Vienna, where he began his career in genocide as Eichmann's personal secretary;

Whereas Brunner helped execute Eichmann's plan for the Final Solution;

Whereas Brunner was particularly brutal toward French Jews, sending to their deaths more than 200 children from Jewish-operated orphanages, including 34 children from Louviciennes;

Whereas in 1954, Brunner was sentenced to death in absentia by French courts in Paris and Marseilles for crimes against humanity;

Whereas since 1955, Brunner has lived in Damascus, Syria, under the protection of the Syrian government and Syrian bodyguards and has assumed the names of Dr. Georg Fisher;

Whereas it is well known that Brunner lives in an apartment at 7 Rue Haddad in Damascus;

Whereas the Syrian government has frequently denied that Brunner lives in Syria; and

Whereas attempts by Austria and Germany to secure Brunner's extradition from Syria have been unsuccessful; Now, therefore, be it hereby

Resolved by the Senate That the Senate urges the President to call on the President of Syria to permit the extradition of the fugitive Nazi war criminal Alois Brunner for trial in Germany.

Mr. MOYNIHAN. Mr. President, we have read recently that the Syrian Government is providing refuge to Nazi war criminal Alois Brunner. In 1954 a French court sentenced Brunner to death in absentia for his activities. Yet, the Syrians have refused Austrian and German extradition requests and provide security guards for Brunner.

Mr. President, there is a certain hideous symbolism in the Syrian Government's decision to shield a man so intimately involved in carrying out the Holocaust. Indeed, to shield a key aide to Adolf Eichmann. It is manifest that this infamous war criminal be brought to justice.

The search for peace in the Middle East will require confidence-building measures which demonstrate the good faith of the Arab States. Accordingly, Syria should immediately agree to extradite Brunner so that he can stand trial for this crimes against humanity.

I rise today with 19 of my colleagues to introduce a resolution calling on the President to urge Syria to permit the extradition of Brunner. I urge all of our colleagues to join us in this effort.

SENATE RESOLUTION 151—RELATIVE TO RESEARCH AND DEVELOPMENT ON HIGH SPEED GROUND TRANSPORTATION

Mr. SPECTER (for himself and Mr. WOFFORD) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 151

Resolved,

The Senate encourages international participation in new technologies for high speed rail and magnetic levitation transportation systems. The Senate further encourages such participation in the development of facilities in the United States for research and manufacturing of these systems.

The Senate anticipates significant future demand for high speed rail and magnetic levitation transportation systems in this country, as well as real opportunities for international joint ventures in the development of these systems.

The Senate encourages continuing positive commercial relations between the United States and Japan, and requests the President to work with the Japanese government to secure international investment in this area.

The Secretary of the Senate shall transmit a copy of this resolution to the President.

AMENDMENTS SUBMITTED

VIOLENT CRIME CONTROL ACT

KASTEN AMENDMENT NO. 433

Mr. Kasten proposed an amendment to the bill (S. 1241) to reduce and control violent crime; as follows:

At the end of the bill, add the following new title:

TITLE —RURAL CRIME PREVENTION STRATEGY

SEC. 01. FINDINGS.

The Congress makes the following findings:

(1) The traditional supportive roles in the family, church, school, and community have declined in importance as a positive social factor influencing the prevention and control of crime in rural areas. As a result in recent years rural areas have experienced a marked increase in crime rates. This increase is taking its toll on rural law enforcement practitioners who are already encumbered by numerous characteristics that are unique to their rural circumstances.

(2) Compounding the increase in crime rates, rural police unlike their urban counterparts, are likely to encounter a multitude of nontraditional police tasks such as fire and railroad emergencies, search and rescue missions, animal control problems, livestock theft, wildlife enforcement, illegal distilleries, illegal crop farming and drug manufacturing, rural drug trafficking, and toxic dumping.

(3) These problems are further exacerbated by the rural officer's distinct disadvantage with respect to the lack of adequate training to manage these varied assignments, the low degree of specialization of job tasks, unique job stress factors, and inadequate data resources. Inadequate rural crime statistics and data analysis capabilities further frustrate the rural police organization's ability to cope with the nature, extent, and trends of rural crime.

(4) Rural law enforcement agencies are at a critical juncture, and strategic planning and action are imperative. The Domestic Chemical Action Group as convened by the National Institute of Justice in October 1990 has recommended that rural police receive training in various safety issues related to the identification, investigation, and seizure of illicit drug and chemical laboratories located in rural areas. Without such specialized training officials will face a high probability of explosions endangering police personnel and the community. National Institute of Justice sponsored research of environmental crime in major urban areas, including Los Angeles, has revealed the lack of police training in the identification, investigation, and clean-up of toxic and hazardous waste areas. It can be said with certainty that this recognized need for hazardous materials training is equally critical for rural police organizations.

SEC. 02. STRATEGY TO ADDRESS RURAL CRIME.

The purpose of this title is to address the growing problems of rural crime in a systematic and effective manner with a program of practical and focused research, development, and dissemination designed to assist States and units of local government in rural areas throughout the country in implementing specific programs and strategies which offer a high probability of improving the functioning of their criminal justice systems.

SEC. 03. NATIONAL INSTITUTE OF JUSTICE NATIONAL ASSESSMENT.

(a) IN GENERAL.—The Director of the National Institute of Justice (referred to in this title as the "Director") shall conduct a national assessment of the nature and extent of rural crime in the United States, the needs of law enforcement and criminal justice professionals in rural States and communities, and promising strategies to respond effectively to those challenges, including—

(1) the problem of clandestine drug laboratories; changing patterns in their location and operation; safety and liability issues for both law enforcement officers and the community in the identification, investigation, seizure, and clean-up of clandestine laboratories;

(2) other environmental crimes, such as the dumping of hazardous and toxic wastes; the pollution of streams, rivers, and ground water; and access of rural communities to the expertise necessary to successfully identify, investigate, and prosecute such crimes;

(3) the cultivation of illegal crops, such as marijuana, including changing patterns in location and techniques for identification, investigation, and destruction;

(4) the problems of drug and alcohol abuse in rural communities, including law enforcement and criminal justice response and access to treatment services;

(5) the problems of family violence and child abuse, including law enforcement and criminal justice response and access to services for victims of such crimes;

(6) the problems of juvenile delinquency and vandalism as they affect rural communities;

(7) the access of law enforcement and criminal justice professionals in rural communities to the services of crime laboratories, the Automated Fingerprint Identification System, and other technological support;

(8) the access of law enforcement and criminal justice professionals in rural communities to professional training and development and the identification of models for the delivery of such training; and

(9) the special problems of drug abuse in jurisdictions with populations of 50,000 or less.

(b) FINAL REPORT.—The Director shall submit the national assessment to the President and Congress not later than 12 months after the date of enactment of this title.

(c) DISSEMINATION OF REPORT.—Based on the results of the national assessment and analysis of successful and promising strategies in these areas, the Director shall disseminate the results not only through reports, publications, and clearinghouse services, but also through programs of training and technical assistance, designed to address the realities and challenges of rural law enforcement.

SEC. 04. PILOT PROGRAMS.

(a) IN GENERAL.—The Director is authorized to make grants to local law enforcement agencies for pilot programs and field tests of particularly promising strategies and models, which could then serve as the basis for demonstration and education programs under the Bureau of Justice Assistance Discretionary Grant Program.

(b) TYPES OF PROGRAMS.—Pilot programs funded under this section may include—

(1) programs to develop and demonstrate new or improved approaches or techniques for rural criminal justice systems;

(2) programs of training and technical assistance to meet the needs of rural law enforcement and criminal justice professionals including safety;

(3) a rural initiative to study and improve the response to traffic safety problems and drug interdiction;

(4) an ongoing program to assist law enforcement professionals in dealing with the hazards of clandestine drug laboratories;

(5) victim assistance information to assist departments in beginning and maintaining strong programs to assist victims and witnesses of crime;

(6) emergency preparedness information for community groups concerned about disaster preparedness on the family and community level; and

(7) program targeted at communities of less than 50,000 stressing the need for production of public safety through extensive partnership efforts between law enforcement, other local government agencies, businesses, schools, community and social organizations, and citizens.

SEC. 05. FUNDING.

There are authorized to be appropriated $5,000,000 to carry out the national assessment and pilot programs required by this title.

KASTEN (AND HATFIELD) AMENDMENT NO. 434

Mr. KASTEN (for himself and Mr. HATFIELD) proposed an amendment to the bill S. 1241, supra, as follows:

At the end of the bill, add the following new title:

TITLE —VIOLENT FELONIES AGAINST THE ELDERLY

SEC. 01. VIOLENT FELONIES AGAINST THE ELDERLY.

(a) IN GENERAL.—Chapter 227 of title 18, United States Code, is amended by adding at the end the following new section:

"§3581. Mandatory sentence for felony against individual of age sixty-five or over

"(a) Upon any plea of guilty or nolo contendere or verdict or finding of guilty of a defendant of a crime of violence under this title, if any victim of such crime is an individual who had attained age sixty-five on or before the date that the offense was committed, the court shall sentence the defendant to imprisonment—

"(1) for a term of not less than one-half of the maximum term of imprisonment provided for such crime under this title, in the case of a first offense to which this section is applicable; and

"(2) for a term of not less than three-fourths of the maximum term of imprisonment provided for such crime under this title, in the case of a Second or subsequent offense to which this section is applicable.

"(b) Notwithstanding any other provision of law, with respect to a sentence imposed under subsection (a) of this section—

"(1) the court shall not suspend such sentence;

"(2) the court shall not give the defendant a probationary sentence;

"(3) no defendant shall be eligible for release on parole before the end of such sentence;

"(4) such sentence shall be served consecutively to any other sentence imposed under this title; and

"(5) the court shall reject any plea agreement which would result in the imposition of a term of imprisonment less than that which would have been imposed under subsection (a) of this section in connection with any charged offense.

"(c) As used in this section, the term—

"(1) 'crime of violence' means—

"(A) a felony that has as an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another; or

"(B) a felony that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense; and

"(2) 'victim' means an individual against whom an offense has been or is being committed.".

(b) AMENDMENT TO TABLE OF SECTIONS.—The table of sections for chapter 227 of title 18, United States Code, is amended by adding at the end the following new item:

"3581. Mandatory sentence for felony against individual of age sixty-five or over.".

(c) OTHER TECHNICAL AMENDMENTS.—(1) Section 3731 of title 18, United States Code, is amended by inserting after the second paragraph the following new paragraph:

"An appeal by the United States shall lie to a court of appeals from an otherwise final decision, judgment, or order of a district court sentencing a defendant on the ground that such sentence is less severe than that required under section 3581 of this title.".

(2) Rule 32(c) of the Federal Rules of Criminal Procedure is amended—

(A) by adding at the end of the first paragraph in paragraph (1) the following new sentence: "Neither the defendant nor the court may waive a presentence investigation and report unless there is in the record information sufficient for the court to determine whether a mandatory sentence must be imposed pursuant to title 18, United States Court, section 3581."; and

(B) in paragraph (2)(D), by inserting after "the offense" the following: "and information relating to whether any victim of the offense had attained age 65 on the date that the offense was committed.".

(3) Rule 11(e)(1) of the Federal Rules of Criminal Procedure is amended by striking out "The" after "IN GENERAL." and inserting in lieu thereof "Except as provided in title 18, United States Code, section 3581, the".

DIXON AMENDMENT NO. 435

Mr. DIXON (for himself and Mr. RIEGLE) proposed an amendment to the bill S. 1241, supra, as follows:

At the end of the bill, add the following:

TITLE —INTERNATIONAL PARENTAL CHILD KIDNAPPING

SEC. 01. OFFENSE.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—(1) Chapter 55 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1204. International parental child kidnapping

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'child' means an individual under the age of sixteen at the time the offense occurred;

"(2) the term 'person' means a parent, putative parent, or family member related to the child victim by blood or marriage;

"(3) the term 'lawful custodian' means—

"(A) an individual or individuals granted legal custody or entitled to physical possession of a child pursuant to a court order; or

"(B) the mother of the child when the parents have not been married to each other, the father's paternity has not been established by a court of law, and no other individual has been granted custody of the child by a court of law;

"(b) Any person who—

"(1) intentionally removes a child from or conceals or detains a child outside the territorial jurisdiction of the United States—

"(A) without the consent of the individual who has been granted sole custody, care, possession, or guardianship of the child;

"(B) for more than 90 days without consent of the other joint custodial parent;

"(C) in violation of a valid court order which prohibits the removal of the child from a local jurisdiction, State, or the United States;

"(D) without the consent of the mother or lawful custodian of the child if the parents have never been married to each other and the father has never established paternity in a court of law;

"(E) during the pendency of a judicial proceeding affecting marriage, custody, or paternity, but prior to the issuance of a temporary or final order determining custody;

"(F) when the child was taken with physical force or the threat of physical force; or

"(G) if the parents of such child are or have been married to each other, or have never been married to each other, but paternity has been established by a court of law, and there has been no court order of custody, and conceals the child for fifteen days outside the jurisdiction of the United States, and fails to make reasonable attempts within the fifteen-day period to notify the other parent of the whereabouts of the child or to arrange reasonable visitation or contact with the child;

"(2) being a parent of the child, instructs another person to remove, conceal, or detain the child when that act when committed by the instructing parent would be a violation of this section; or

"(3) removes a child from or conceals or detains a child outside the territorial jurisdiction of the United States, for payment or promise of payment at the instruction of a person who has not been granted custody of the child by a court of law,

shall be guilty of child kidnapping and shall be fined in accordance with this title or imprisoned not more than three years, or both.

"(d) It shall be an affirmative defense under this section that—

"(1) the defendant acted within the provisions of a valid court order granting the defendant legal custody or visitation rights and that order was obtained pursuant to the Uniform Child Custody Jurisdiction Act and was in effect at the time of the offense;

"(2) the defendant was fleeing an incidence or pattern of domestic violence;

"(3) the defendant had physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond the defendant's control, and the defendant notified or made reasonable attempts to notify the other parent or lawful custodian of the child of such circumstances within 24 hours after the visitation period had expired and returned the child as soon as possible.

"(e) There is criminal jurisdiction over conduct prohibited by this section if any court in the United States has or could have jurisdiction to determine custody of the child subject to the prohibited conduct pursuant to the Uniform Child Custody Jurisdiction Act.".

(2) The table of sections for chapter 55 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1204. International parental child kidnapping.".

(b) INCREASED PENALTY.—Section 994 of title 28, United States Code, is amended by—

(1) redesignating subsections (o), (p), (q), (r), (s), (t), (u), (v), (w), and (x) as subsections (p), (q), (r), (s), (t), (u), (v), (w), (x), and (y), respectively; and

(2) inserting after subsection (n) the following new subsection:

"(o) The Commission shall ensure that the guidelines reflect the appropriateness of imposing a greater sentence than would otherwise be imposed for an offense under section 1204 of title 18, United States Code, if—

"(1) the defendant abused or neglected the kidnapped child during the removal, concealing, or detaining of the child or placed or caused the child to be placed in the care of another individual who abused or neglected the child;

"(2) the defendant inflicted or threatened to inflict physical harm on the child or on a parent or lawful custodian of the child with the intent to cause such parent or lawful custodian to discontinue criminal prosecution of the defendant under this section;

"(3) the defendant demanded payment in exchange for return of the kidnapped child or demanded that the defendant be relieved of the financial or legal obligation to support the child in exchange for return of the child; or

"(4) the defendant committed the offense while armed with a deadly weapon or the removal of the child resulted in serious bodily injury to another individual.".

SEC. 02. EFFECT OF PRIOR REMOVAL.

If a child was removed from the territorial jurisdiction of the United States prior to the date of enactment of this Act, charges under section 1204 of title 18, United States Code, as added by section 01, may be brought only in cases involving the concealing or deataining of the child in violation of a court order that was in effect at the time of the child's removal from the territorial jurisdiction of the United States.

SEC. 03. RELATION TO THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL PARENTAL CHILD ABDUCTION.

(a) RULE OF CONSTRUCTION.—None of the provisions of this title or amendments made by this title shall be construed to detract from the provisions of the Hague Convention on the Civil Aspects of International Parental Child Abduction, done at the The Hague on October 25, 1980.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that, inasmuch as use of the procedures under the Hague Convention on the Civil Aspects of International Parental Child Abduction has resulted in the return of many children, those procedures, in circumstances in which they are applicable, should be the option of first choice for a parent who seeks the return of a child who has been removed from the parent.

SEC. 04. AUTHORIZATION OF APPROPRIATIONS FOR TRAINING AND EDUCATIONAL PROGRAMS.

There is authorized to be appropriated $250,000 to conduct national, regional, and State training and education programs on criminal and civil aspects of international and interstate parental child abduction under the State Justice Institute Act of 1984 (42 U.S.C. 10701 et seq.).

LEVIN AMENDMENT NO. 436

Mr. LEVIN proposed an amendment to the bill S. 1241, supra, as follows:

On page 162, lines 20 and 21, strike "National Drug Control Policy" and insert "the Bureau of Prisons".

On page 162, line 22, strike "Bureau of Prisons" and insert "National Drug Control Policy".

On page 164, line 11, strike "9" and insert "15".

On page 164, lines 22 through 25 and page 165, line 1, strike "Any person who has been convicted of a criminal offense in any State, or who anticipates entering a plea of guilty of such offense, but who has not yet been sentenced, may apply to be assigned to a boot camp" and insert "The head of a State corrections department or the head's designee may apply for boot camp placement for any person who has been convicted of a criminal offense in that State, or who anticipates entering a plea of quilty of such offense, but who has not yet been sentenced".

On page 165, line 4, strike "counsel for the applicant" and insert "the head of the State corrections department or the head's designee".

On page 165, line 8, strike "14" and insert "30".

On page 166, line 6, strike "if the defendant" and all that follows through line 9 and insert "if the defendant is eligible for assignment to a boot camp under State law.".

On page 166, strike lines 16 through 24 and insert the following:

(4) Any State referring a prisoner to a boot camp shall reimburse the Bureau of Prisons for the full cost of the incarceration of the prisoner, except that if the prisoner successfully completes the boot camp program, the Bureau of Prisons shall return to the State 20 percent of the amount paid for that prisoner. The total amount returned to each State under this paragraph in each fiscal year shall be used by that State to provide the aftercare supervision and services required by paragraph (e).

On page 166, after line 24, add the following:

(e) POST-RELEASE SUPERVISION.—(1) Any state seeking to refer a State prisoner to a boot camp prison shall submit to the Director of the Bureau of Prisons an aftercare plan setting forth the provisions that the State will make for the continued supervision of the prisoner following release. The aftercare plan shall also contain provisions for educational and vocational training and drug or other counseling and treatment where appropriate.

(2) The Bureau of Prisons shall develop an aftercare plan setting forth the provisions that will be made for the continued supervision of Federal prisoners following release. The aftercare plan shall also contain provisions for educational and vocational training and drug or other counseling and treatment where appropriate.

On page 167, line 1, strike "(e)" and insert "(f)".

One page 167, line 3, after "1992" insert ", available until expended,".

ROTH AMENDMENT NOS. 437 AND 438

(Ordered to lie on the table.)

Mr. ROTH submitted two amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT NO. 437

On page 114, strike all on lines 22 through 26.

AMENDMENT NO. 438

At the end of the bill, add the following:

TITLE —ENVIRONMENTAL COMPLIANCE

SEC. 01. ENVIRONMENTAL COMPLIANCE.

(a) IN GENERAL.—Title 18 of the United States Code is amended by inserting after chapter 33 the following new chapter:

"CHAPTER 34—ENVIRONMENTAL COMPLIANCE

"731. Environmental compliance audit.
"732. Definition.

"§ 731. Environmental compliance audit

"(a) IN GENERAL.—A court of the United States—

"(1) shall, when sentencing an organization for an environmental offense that is a felony; and

"(2) may, when sentencing an organization for a misdemeanor environmental offense,

require that the organization pay for an environmental compliance audit.

"(b) APPOINTMENT OF INDEPENDENT EXPERT.—The court shall appoint an independent expert—

"(1) with no prior involvement in the environmental management of the organization sentenced to conduct an environmental compliance audit under this section; and

"(2) who has demonstrated abilities to properly conduct such audits.

"(c) CONTENTS OF COMPLIANCE AUDIT.—(1) An environmental compliance audit shall—

"(A) identify all causes of and factors that contributed to the increased risk relating to the offense;

"(B) recommend specific measures that should be taken to prevent a recurrence of those causes and factors; and

"(C) recommend a schedule for implementation of the measures described in subparagraph (B).

"(2) An environmental compliance audit shall not recommend measures under paragraph (1)(B) that would require the violation of an environmental statute, regulation, or permit.

"(d) CONFIDENTIALITY OF INFORMATION.—(1) Any records, reports, or information obtained from any person under this section shall be available to the public, except that upon a showing satisfactory to the court by any person that records, reports, or information, or particular parts thereof (other than health or safety effects data) to which the court shall access under this section if made public would divulge information entitled to protection under section 1905 of this title, such information or particular portion thereof shall be considered confidential in accordance with the purposes of that section, except that such record, report, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this section, or when relevant in any proceeding under this section.

"(2) In submitting data under this section, a person required to provide such data may—

"(A) designate the data which such person believes is entitled to protection under this subsection; and

"(B) submit such designated data separately from other data submitted under this section.

A designation under this subsection shall be made in writing and in such manner as the court may order.

"(e) COURT-ORDERED IMPLEMENTATION OF COMPLIANCE AUDIT.—(1) The court shall order the defendant to implement the recommendations of the environmental compliance audit after considering the factors described in paragraph (2).

"(2) In considering the extent to which the recommendation of an environmental compliance audit will be required to be implemented, the court shall consider whether—

"(A) the recommendation will achieve the result that the recommendation seeks to bring about;

"(B) the environmental benefits of implementing the recommendation outweigh any adverse environmental effects;

"(C) the technology exists to carry out the recommendation;

"(D) remedial or mitigative action has already achieved the results the recommendation seeks to bring about; and

"(E) in the case of a recommendation under any of paragraphs (2) through (4) of subsection (c), there is another means to achieve the equivalent result at less cost to the defendant.

"(f) EXTENSION OF PERMISSIBLE TERM OF PROBATION.—In a case where an environmental compliance audit is ordered, the court may impose a term of probation that is longer than the term otherwise permitted by law if the court determines that the longer term is necessary to implement the environmental compliance audit.

"(g) SANCTIONS FOR FAILURE TO IMPLEMENT COMPLIANCE AUDIT.—In addition to any other sanctions the court may impose for failure to implement an environmental compliance audit, the court may—

"(1) hold any appropriate party in contempt; or

"(2) appoint a special master to conduct the relevant affairs of the defendant.

"(h) ADDITIONAL STANDING TO RAISE FAILURE TO IMPLEMENT COMPLIANCE AUDIT; BURDEN OF PROOF.—(1) The prosecutor, auditor, or any governmental agency may present evidence to the court that a defendant has failed to fully implement an environmental compliance audit.

"(2) When evidence of failure to implement an environmental compliance audit is presented pursuant to paragraph (1), the court shall consider all relevant evidence and, if the court determines that the defendant has not fully implemented the environmental compliance audit, order appropriate sanctions.

"§ 732. Definition

"For the purposes of this chapter, the term 'environmental offense' means a criminal violation of—

"(1) the Clean Air Act (42 U.S.C. 7401 et seq.);

"(2) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (commonly known as the Clean Water Act);

"(3) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

"(4) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(5) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.);

"(6) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

"(7) title XIV of the Public Health Service Act (42 U.S.C. 300f et seq.) (commonly known as the Safe Drinking Water Act);

"(8) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

"(9) the Lacey Act; and

"(10) the Emergency Planning and Community Right-To-Know Act of 1986.".

(b) TECHNICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 33 the following new item:

"34. Environmental compliance. .... 741".

(c) RULE OF CONSIDERATION.—The amendments made by this Act shall not be construed as preempting regulation by the States of any activities that may have an effect on the environment.

WIRTH AMENDMENT NO. 439

(Ordered to lie on the table.)

Mr. WIRTH submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, insert the following new title:

TITLE —PUBLIC INFORMATION CONCERNING FAILED DEPOSITORY INSTITUTIONS

SEC. 01. AVAILABILITY OF EXAMINATION REPORTS.

(a) PUBLIC AVAILABILITY OF INFORMATION.—The appropriate Federal banking agency shall publish and make available to the public reports of all examinations of each institution described in section 04, or of a holding company of such institution, that was performed by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, or any predecessor thereof, during the 5-year period preceding the transfer, failure, or receipt of funds described in section 04.

(b) DELAY OF PUBLICATION.—If the appropriate Federal banking agency makes a determination in writing that publication of an examination report would seriously threaten the safety or soundness of an insured depository institution, such agency may delay publication of the examination report for a reasonable period of time, not to exceed 6 months from the date of the transfer, failure, or receipt of funds described in section 04.

SEC. 02. PROHIBITION OF CONFIDENTIAL SETTLEMENTS.

Notwithstanding any other provision of law or any rule, regulation, or order issued thereunder, all agreements or settlements of claims between the Resolution Trust Corporation or the Federal Deposit Insurance Corporation and any other party, where such agreement or claim relates to an institution described in section 04, shall be published and made available to the public.

SEC. 03. APPLICABILITY.

The requirements of section 01 shall apply—

(1) to any insured depository institution that has had its assets or liabilities, or any part thereof, transferred to the FSLIC Resolution Fund or the Resolution Trust Corporation; and

(2) to any member of the Bank Insurance Fund, if during the fiscal year that the institution has either failed or received funds, as defined in section 04, the Bank Insurance Fund—

(A) has outstanding loans, or has otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve Bank; or

(B) has a negative fund balance; and

(3) to any member of the Savings Association Insurance Fund, if during the fiscal year that the institution has either failed or received funds, as defined in section 04, the Savings Association Insurance Fund—

(A) has outstanding loans, or has otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve Bank; or

(B) has a negative fund balance.

SEC. 04. DEFINITIONS.

For purposes of this title—

(1) an insured depository institution has "failed" if—

(A) the Federal Deposit Insurance Corporation or the Resolution Trust Corporation—

(i) has been appointed as conservator or receiver for such institution; or

(ii) has exercised the power to provide assistance under section 13(c) of the Federal Deposit Insurance Act or section 21A of the Federal Home Loan Bank Act; or

(B) a bridge bank has been established under section 11(i) of the Federal Deposit Insurance Act;

(2) an insured depository institution has "received funds" if the institution, its holding company, or an acquiring institution receives cash or other valuable consideration from the Resolution Trust Corporation or the Federal Deposit Insurance Corporation, whether in the form of a loan, a payment to depositors or other creditors, the assumption of liabilities, or otherwise; and

(3) the term "insured depository institution" shall have the same meaning as in section 3 of the Federal Deposit Insurance Act.

SEYMOUR AMENDMENT NO. 440

Mr. SEYMOUR proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place, insert the following:

SEC. . DEFINITION OF SERIOUS DRUG OFFENSE.

Section 924(e)(2)(A) of title 18, United States Code, is amended by—

(1) adding "or" at the end of clause (ii); and

(2) adding at the end thereof the following new clause:

"(iii) an offense under State law which, if it had been prosecuted as a violation of the Controlled Substances Act as that Act provided at the time of the offense, would have been punishable by a maximum term of ten years or more;".

LEVIN (AND OTHERS) AMENDMENT NO. 441

(Ordered to lie on the table.)

Mr. LEVIN (for himself, Mr. SIMON, Mr. MOYNIHAN, and Mr. KERRY) submitted an amendment intended to be proposed by them to the bill S. 1241, supra, as follows:

AMENDMENT NO. 441

At the appropriate place insert the following new section:

SEC. . HOSPITAL EMERGENCY DEPARTMENT GRANTS.

The Public Health Service Act is amended by inserting after section 330 (42 U.S.C. 254c) the following new section:

"SEC. 330A. GRANTS FOR UNCOMPENSATED COSTS OF HOSPITAL EMERGENCY DEPARTMENTS OPERATING IN AREAS IMPACTED BY DRUG-RELATED ILLNESS AND VIOLENCE.

"(a) ESTABLISHMENT.—The Secretary shall make grants to eligible hospitals to assist the hospitals in paying for the uncompensated costs of providing emergency department services.

"(b) APPLICATION.—To be eligible to receive a grant under subsection (a), a hospital shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary determines to be necessary to carry out such subsection.

"(c) ELIGIBILITY.—Hospitals eligible to receive a grant under subsection (a) shall be hospitals in areas that have emergency departments that—

"(1) have incurred substantial uncompensated costs in providing emergency department services in areas with a significant incidence of illness and violence arising from the abuse of drugs;

"(2) serve, during the period of the grant, a patient population that includes a significant number of patients who are treated for drug abuse or wounds resulting from drug-related violent crimes; and

"(3) have an emergency department volume of not less than 20,000 patient visits per year.

"(d) PRIORITY.—The Secretary shall give priority to those grant applicants that submit plans to indicate that they have in place or are developing a data collection system on violence and substance abuse related injuries. A portion of the grant may be used to support such a system.

"(e) LIMITATION ON DURATION OF SUPPORT.—The period during which a hospital receives payments under subsection (a) may not exceed 3 fiscal years, except that the Secretary may waive such requirement and authorize a hospital to receive such payments for 1 additional year.

"(f) REGULATION.—Not later than 6 months after the date of the enactment of this section, the Secretary shall promulgate regulations to carry out this section.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $200,000,000 for fiscal year 1992, $225,000,000 for fiscal year 1993, and $250,000,000 for fiscal year 1994.".

KERRY AMENDMENT NOS. 442 THROUGH 444

(Ordered to lie on the table.)

Mr. KERRY submitted three amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT NO. 442

At the appropriate place, insert the following new section:

SEC. . Chapter 3 of the Arms Export Control Act (22 U.S.C. 2751 et seq.) is amended by adding at the end thereof the following:

"SEC. 40A. EXPORTS TO MAJOR ILLICIT DRUG-PRODUCING AND MAJOR DRUG-TRANSIT COUNTRIES.—(a)(1) Except as provided in paragraph (2), and notwithstanding section 38 of this Act, weapons designated as assault weapons under this section may not be exported to any country which is a major illicit drug-producing country or major drug-transit country.

"(2) The prohibition in subsection (a) shall not apply to lawful exports to the governments of major illicit drug-producing countries or major drug-transit countries.

"(3) For purposes of this subsection, the terms 'major illicit drug producing country' and 'major drug-transit country' shall have the same meaning as are given to such terms by paragraph (2) and (5) of section 481(i) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(i)).

"(b) For purposes of this section, the term 'assault weapon' means all firearms designated as assault weapons in this subsection and all other semi-automatic firearms which are determined by the Secretary of the Treasury, in consultation with the Attorney General, to be assault weapons, as provided by this section. Such terms shall include, in addition to any other firearm identified by the Secretary, all versions of the following, including any combination of parts from which any such firearm can be assembled, firearms sold under the designation provided in this subsection and firearms which are identical, sold under any designation:

"(1) Auto-Ordnance Thompson models 1927 and M-1;

"(2) Armalite AR-180;

"(3) Calico M-900;

"(4) Encom Mark IV, MP-9, and MP-45;

"(5) Heckler and Koch HK-91, HK-93, and HK-94;

"(6) Norinco, Mitchell, and Polytechnologies Avtomat Kalashnikovs (all models);

"(7) Action Arms Israeli Military Industries UZI and Galil;

"(8) Beretta AR-70 (SC-70);

"(9) Colt AR-15 and CAR-15;

"(10) Fabrique Nationale FN/FAL, FN/LAR, and FNC;

"(11) MAC 10 and MAC 11;

"(12) Steyr AUG;

"(13) Intratec TEC-9;

"(14) Streetsweeper and Striker 12; and

"(15) Any weapon which is denied importation to the United States by the Bureau of Alcohol, Tobacco and Firearms.

AMENDMENT NO. 443

At the appropriate place in the bill, insert the following new section:

SEC. . (a) Recognizing that drug and alcohol abuse are significant contributing factors to violent crime in the United States, it shall be the policy of the United States to provide all citizens who suffer from drug abuse or alcoholism with access on demand to drug abuse and alcoholism treatment facilities.

(b) The Secretary of Health and Human Services is authorized to issue appropriate regulations in furtherance of the policy set forth in this Section.

(c) The Secretary of Health and Human Services shall provide a Report to the Congress on February 1, 1992, which sets forth a plan by which the policy set forth in this Section shall be fully implemented during fiscal year 1993.

AMENDMENT NO. 444

At the appropriate place in the bill, insert the following new section:

SEC. . Sense of the Senate. Recognizing that drug and alcohol abuse are significant contributing factors to violent crime in the United States, it is the Sense of the Senate that the United States should provide all citizens who suffer from drug abuse or alcoholism with access on demand to drug abuse and alcoholism treatment facilities.

BENTSEN AMENDMENT NOS. 445 THROUGH 447

(Ordered to lie on the table.)

Mr. BENTSEN submitted three amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT NO. 445

On page 94, strike lines 19 through 23.

AMENDMENT NO. 446

On page 143, strike lines 14 through 23.

AMENDMENT NO. 447

On page 145, beginning with line 8, strike all through page 148, line 3.

BIDEN AMENDMENT NOS. 448 THROUGH 458

(Ordered to lie on the table.)

Mr. BIDEN submitted 11 amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT NO. 448

Add at the appropriate place in the bill:

TITLE I—SAFER STREETS AND NEIGHBORHOODS

SEC. 101. SHORT TITLE.

This title may be cited as the "Safer Streets and Neighborhoods Act of 1991".

SEC. 102. GRANTS TO STATE AND LOCAL AGENCIES.

Paragraph (5) of section 1001(a) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(5) There are authorized to be appropriated $1,000,000,000 for fiscal year 1992 and such sums as may be necessary in fiscal years 1993 and 1994 to carry out the programs under parts D and E of this title.".

SEC. 103. CONTINUATION OF FEDERAL STATE FUNDING FORMULA.

Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 211 of the Department of Justice Appropriations Act, 1990 (Public Law 101-162) and section 601 of the Crime Control Act of 1990 (Public Law 101-647), is amended by striking "1991" and inserting "1992".

Add at the appropriate place in the bill:

TITLE VIII—POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT

SEC. 801. SHORT TITLE.

This title may be cited as the "Police Corps and Law Enforcement Training and Education Act".

SEC. 802. PURPOSES.

The purposes of this title are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol;

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement; and

(3) assist State and local law enforcement efforts to enhance the educational status of law enforcement personnel both through increasing the educational level of existing officers and by recruiting more highly educated officers.

SEC. 803. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps and Law Enforcement Education shall be headed by a Director (referred to in this title as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program established in subtitle A and the Law Enforcement Scholarship program established in subtitle B and shall have authority to promulgate regulations to implement this title.

SEC. 804. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program under subtitle A or the Law Enforcement Scholarship program under subtitle B shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this title;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program;

(4) if the State desires to participate in the Police Corps program under subtitle A, meet the requirements of section 816; and

(5) if the State desires to participate in the Law Enforcement Scholarship program under subtitle B, meet the requirements of section 826.

Subtitle A—Police Corps Program

SEC. 811. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "academic year" means a traditional academic year beginning in August or September and ending in the following May or June;

(2) the term "dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director;

(3) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree; or

(B) a course of graduate study following award of a baccalaureate degree, including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses;

(4) the term "participant" means a participant in the Police Corps program selected pursuant to section 813;

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and

(6) the term "State Police Corps program" means a State police corps program approved under section 816.

SEC. 812. SCHOLARSHIP ASSISTANCE.

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director is authorized to award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B) each scholarship payment made under this section for each academic year shall not exceed—

(i) $10,000; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The total amount of scholarship assistance received by any one student under this section shall not exceed $40,000.

(4) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(5)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director is authorized to make payments to a participant to reimburse such participant for the costs of educational expenses if such student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $10,000; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The total amount of payments made pursuant to subparagraph (A) to any one student shall not exceed $40,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to attend a 4-year institution of higher education.

(d) AGREEMENT.—(1) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director. Each such agreement shall contain assurances that the participant shall—

(A) after successful completion of a baccalaureate program and training as prescribed in section 814, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(B) complete satisfactorily—

(i) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the case of graduate study);

(ii) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 814; and

(C) repay all of the scholarship or payment received plus interest at the rate of 10 percent in the event that the conditions of subparagraphs (A) and (B) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) In the event that a scholarship recipient is unable to comply with the repayment provision set forth in subparagraph (B) of paragraph (1) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from participants who violate the agreement described in paragraph (1).

(e) DEPENDENT CHILD.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties,

shall be entitled to the scholarship assistance authorized in this section. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) GROSS INCOME.—For purposes of section 61 of the Internal Revenue Code of 1986, a participant's or dependent child's gross income shall not include any amount paid as scholarship assistance under this section or as a stipend under section 814.

(g) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

(h) DEFINITION.—For the purposes of this section the term "institution of higher education" has the meaning given that term in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

SEC. 813. SELECTION OF PARTICIPANTS.

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participant must—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to section 815(c)(5), including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this title, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section 815, and such a participant shall be subject to the same benefits and obligations under this subtitle as other participants, including those stated in section (b)(1) (E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 815, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this Act that there shall be no more than 20,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 20,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of racial and ethnic groups whose representation on the police forces within the State is substantially less than in the population of the State as a whole. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, a 4-year institution of higher education (as described in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)))—

(A) as a full-time student in an undergraduate program; or

(B) for purposes of taking a graduate course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) A participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(f) ADMISSION OF APPLICANTS.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

SEC. 814. POLICE CORPS TRAINING.

(a) IN GENERAL.—(1) The Director shall establish programs of training for Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing State training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subtitle.

(2) The Director is authorized to enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces), to obtain the services of persons qualified to participate in and contribute to the training process.

(3) The Director is authorized to enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(b) Training Sessions.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, one during the summer following completion of sophomore year and one during the summer following completion of junior year. If a participant enters the program after sophomore year, the participant shall complete 16 weeks of training at times determined by the Director.

(c) Further Training.—The 16 weeks of Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section 816 shall include assurances that following completion of a participant's course of education each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Police Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) Course of Training.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) Evaluation of Participants.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Director at the conclusion of each training session in order to remain in the Police Corps program.

(f) Stipend.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

SEC. 815. SERVICE OBLIGATION.

(a) Swearing In.—Upon satisfactory completion of the participant's course of education and training program established in section 814 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) Rights and Responsibilities.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) Discipline.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 812, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 812(d)(1)(C) shall not apply.

SEC. 816. STATE PLAN REQUIREMENTS.

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 813;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since June 21, 1989; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) assure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

SEC. 817. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $400,000,000 for fiscal year 1992 and such sums as are necessary to carry out the subtitle for fiscal years 1993, 1994, 1995, and 1996.

Subtitle B—Law Enforcement Scholarship Program

SEC. 821. DEFINITIONS.

As used in this subtitle—

(1) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies and related expenses;

(2) the term "institution of higher education" has the meaning given that term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(3) the term "law enforcement position" means employment as an officer in a State or local police force, or correctional institution; and

(4) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 822. ALLOTMENT.

From amounts appropriated under the authority of section 829, the Director shall allocate—

(1) 80 percent of such funds to States on the basis of the number of law enforcement officers in each State; and

(2) 20 percent of such funds to States on the basis of the State's shortage of law enforcement personnel and the need for assistance under this subtitle.

SEC. 823. PROGRAM ESTABLISHED.

(a) In General.—From amounts available pursuant to section 822 each State shall pay the Federal share of the cost of awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education.

(b) Federal Share.—(1) The Federal share of the cost of scholarships under this subtitle shall not exceed 60 percent.

(2) The non-Federal share of the cost of scholarships under this subtitle shall be supplied from sources other than the Federal Government.

(c) Responsibilities of the Director.—The Director shall be responsible for the administration of the program conducted pursuant to this subtitle and shall, in consultation with the Assistant Secretary for Postsecondary Education, promulgate regulations to implement this subtitle.

(d) Special Rule.—Each State receiving an allotment under section 823 shall ensure that each scholarship recipient under this subtitle be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(e) Supplementation of Funding.—Funds received under this subtitle shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. 824. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—Scholarships awarded under this subtitle shall be for a period of one academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this subtitle may use such scholarship for educational expenses at any accredited institution of higher education.

SEC. 825. ELIGIBILITY.

An individual shall be eligible to receive a scholarship under this subtitle if such individual has been employed in law enforcement for 2 years immediately preceding the date for which assistance is sought.

SEC. 826. STATE PLAN REQUIREMENTS.

A State law enforcement scholarship plan shall—

(1) contain assurances that the State shall make scholarship payments to institutions of higher education on behalf of individuals receiving financial assistance under this subtitle;

(2) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel;

(3) contain assurances that the State shall promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in high schools and community colleges; and

(4) contain assurances that the State shall not expend for administrative expenses more than 8 percent of Federal funds received under section 823.

SEC. 827. LOCAL APPLICATION.

(a) IN GENERAL.—Each individual desiring a scholarship under this subtitle shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require. Each such application shall describe the academic courses for which financial assistance is sought.

(b) PRIORITY.—In awarding scholarships under this subtitle, each State shall give priority to applications from individuals who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State; and

(2) pursuing an undergraduate degree.

SEC. 828. SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—Each individual receiving a scholarship under this subtitle shall enter into an agreement with the Director.

(b) CONTENTS.—Each agreement described in subsection (a) shall—

(1) provide assurances that the individual shall work in a law enforcement position in the State which awarded such individual the scholarship in accordance with the service obligation described in subsection (c) after completion of such individual's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the individual will repay all of the scholarship assistance awarded under this title in accordance with such terms and conditions as the Director shall prescribe, in the event that the requirements of the agreement under paragraph (1) are not complied with except where the individual—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which an individual receiving a scholarship under this subtitle may seek employment in the field of law enforcement in a State other than the State which awarded such individual the scholarship under this subtitle.

(c) SERVICE OBLIGATION.—(1) Each individual awarded a scholarship under this subtitle shall work in a law enforcement position in the State which awarded such individual the scholarship for a period of one month for each credit hour for which financial assistance is received under this subtitle.

(2) For purposes of satisfying the requirement specified in paragraph (1) each individual awarded a scholarship under this Act shall work in a law enforcement position in the State which awarded such individual the scholarship for not less than 6 months nor more than 2 years.

SEC. 829. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $30,000,000 for fiscal year 1992 and such sums as are necessary to carry out the subtitle for fiscal years 1993, 1994, 1995, and 1996.

Subtitle C—Reports

SEC. 831. REPORTS TO CONGRESS.

(a) ANNUAL REPORTS.—No later than April 1 of each fiscal year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate. Such report shall—

(1) state the number of current and past participants in the Police Corps program authorized by subtitle A, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic dispersion of participants in the Police Corps program;

(3) state the number of present and past scholarship recipients under subtitle B, categorized according to the levels of educational study in which such recipients are engaged and the years of service such recipients have served in law enforcement;

(4) describe the geographic, racial, and gender dispersion of scholarship recipients under subtitle B; and

(5) describe the progress of the programs authorized by this title and make recommendations for changes in the programs.

(b) SPECIAL REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall submit a report to Congress containing a plan to expand the assistance provided under subtitle B to Federal law enforcement officers. Such plan shall contain information of the number and type of Federal law enforcement officers eligible for such assistance.

AMENDMENT NO. 450

Add at the appropriate place in the bill:

TITLE X—FEDERAL LAW ENFORCEMENT AGENCIES

SEC. 1001. SHORT TITLE.

This title may be cited as the "Federal Law Enforcement Act of 1991".

SEC. 1002. AUTHORIZATION FOR FEDERAL LAW ENFORCEMENT AGENCIES.

There is authorized to be appropriated for fiscal year 1992, $345,500,000 (which shall be in addition to any other appropriations) to be allocated as follows:

(1) For the Drug Enforcement Administration, $100,500,000, which shall include:

(A) not to exceed $45,000,000 to hire, equip and train not less than 350 agents and necessary support personnel to expand DEA investigations and operations against drug trafficking organizations in rural areas;

(B) not to exceed $25,000,000 to expand DEA State and Local Task Forces, including payment of state and local overtime, equipment and personnel costs; and

(C) not to exceed $5,000,000 to hire, equip and train not less than 50 special agents and necessary support personnel to investigate violations of the Controlled Substances Act relating to anabolic steroids.

(2) For the Federal Bureau of Investigation, $98,000,000 for the hiring of additional agents and support personnel to be dedicated to the investigation of drug trafficking organizations;

(3) For the Immigration and Naturalization Service, $45,000,000, to be further allocated as follows:

(A) $25,000,000 to hire, train and equip no fewer than 500 full-time equivalent Border Patrol officer positions;

(B) $20,000,000, to hire, train and equip no fewer than 400 full-time equivalent INS criminal investigators dedicated to drug trafficking by illegal aliens and to deportations of criminal aliens.

(4) For the United States attorneys, $45,000,000 to hire and train not less than 350 additional prosecutors and support personnel dedicated to the prosecution of drug trafficking and related offenses;

(5) For the United States Marshals Service, $10,000,000;

(6) For the Bureau of Alcohol, Tobacco, and Firearms, $15,000,000 to hire, equip and train not less than 100 special agents and support personnel to investigate firearms violations committed by drug trafficking organizations, particularly violent gangs;

(7) For the United States courts, $20,000,000 for additional magistrates, probation officers, other personnel and equipment to address the case-load generated by the additional investigative and prosecutorial resources provided in this title; and

(8) For Federal defender services, $12,000,000 for the defense of persons prosecuted for drug trafficking and related crimes.

AMENDMENT NO. 451

Add at the appropriate place in the bill:

TITLE XIII—PRISON FOR VIOLENT DRUG OFFENDERS

SEC. 1301. REGIONAL PRISONS.

(a) FINDINGS—The Congress makes the following findings:

(1) The total population of Federal, State, and local prisons and jails increased by 84 percent between 1980 and 1988 and currently numbers more than 900,000 people.

(2) More than 60 percent of all prisoners have a history of drug abuse or are regularly using drugs while in prison, but only 11 percent of State prison inmates and 7 percent of Federal prisoners are enrolled in drug treatment programs. Hundreds of thousands of prisoners are not receiving needed drug treatment while incarcerated, and the number of such persons is increasing rapidly.

(3) Drug-abusing prisoners are highly likely to return to crime upon release but the recidivism rate is much lower for those who successfully complete treatment programs. Providing drug treatment to prisoners during incarceration therefore provides an opportunity to break the cycle of recidivism, reducing the crime rate and future prison overcrowding.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the fiscal year ending September 30, 1992, the following amounts:

(1) $600,000,000 for the construction of 10 regional prisons; and

(2) $100,000,000 for the operation of such regional prisons for one year.

Such amounts shall be in addition to any other amounts authorized to be appropriated to the Bureau of Prisons.

(c) LOCATION AND POPULATION.—The regional prisons authorized by this section shall be located in places chosen by the Director of National Drug Control Policy, after consulting with the Director of the Bureau of Prisons, not less than 6 months after the effective date of this section. Each such facility shall be used to accommodate a population consisting of State and Federal prisoners in proportions of 20 percent Federal and 90 percent State.

(d) ELIGIBILITY OF PRISONERS—The regional prisons authorized by this section shall be used to incarcerate State and Federal prisoners who have release dates of not more than 2 years from the date of assignment to the prison and who have been found to have substance abuse problems requiring long-term treatment.

(e) STATE RESPONSIBILITIES.—(1) The States shall select prisoners for assignment to the regional prisons who, in addition to satisfying eligibility criteria otherwise specified in this section, have long-term drug abuse problems and serious criminal histories. Selection of such persons is necessary for the regional prison program to have the maximum impact on the crime rate and future prison overcrowding, since such persons are the ones most likely to commit new crimes following release. Prisoners selected for assignment to a regional prison must agree to the assignment.

(2) Any State seeking to refer a State prisoner to a regional prison shall submit to the Director of the Bureau of Prisons (referred to as the"Director") an aftercare plan setting forth the provisions that State will make for the continued treatment of the prisoner in a therapeutic community following release. The aftercare plan shall also contain provisions for vocational job training where appropriate.

(3) The State referring the prisoner to the regional prison (referred as the "sending State") shall reimburse the Bureau of Prisons for the full cost of the incarceration and treatment of the prisoner, except that if the prisoner successfully completes the treatment program, the Director shall return to the sending State 25 percent of the amount paid for that prisoner. The total amount returned to each State under this paragraph in each fiscal year shall be used by that State to provide the aftercare treatment required by paragraph (2).

(f) POWERS OF THE DIRECTOR.—(1) The Director shall have the exclusive right to determine whether or not a State or Federal prisoner satisfies the eligibility requirements of this section and whether the prisoner is to be accepted into the regional prison program. The Director shall have the right to make this determination after the staff of the regional prison has had an opportunity to interview the prisoner in person.

(2) The Director shall have the exclusive right to determine if a prisoner in the regional treatment program is complying with all of the conditions and requirements of the program. The Director shall have the authority to return any prisoner not complying with the conditions and requirements of the program to the sending State at any time. The Director shall notify the sending State whenever such prisoner is returned that the prisoner has not successfully completed the treatment program.

AMENDMENT NO. 452

Add at the appropriate place in the bill:

TITLE XIV—BOOT CAMPS

SEC. 1401. BOOT CAMPS.

(a) IN GENERAL.—Not later than 1 year after the effective date of this section, the Attorney General shall establish within the Bureau of Prisons 10 military-style boot camp prisons (referred to in this title as "boot camps"). The boot camps will be located on closed military installations on sites to be chosen by the Director of National Drug Control Policy, after consultation with the Director of the Bureau of Prisons, and will provide a highly regimented schedule of strict discipline, physical training, work, drill, and ceremony characteristic of military basic training as well as remedial education and treatment for substance abuse.

(b) CAPACITY.—Each boot camp shall be designed to accommodate between 200 and 300 inmates for periods of not less than 90 days and not greater than 120 days. Not more than 20 percent of the inmates shall be Federal prisoners. The remaining inmates shall be State prisoners who are accepted for participation in the boot camp program pursuant to subsection (d).

(c) FEDERAL PRISONERS.—Section 3582 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(e) BOOT CAMP PRISON AS A SENTENCING ALTERNATIVE.—(1) The court, in imposing sentence in the circumstances described in paragraph (2), may designate the defendant as eligible for placement in a boot camp prison. The Bureau of Prisons shall determine whether a defendant so designated will be assigned to a boot camp prison.

"(2) A defendant may be designated as eligible for placement in boot camp prison if—

"(A) the defendant—

"(i) is under 25 years of age;

"(ii) has no prior conviction for which he or she has served more than 10 days incarceration; and

"(iii) has been convicted of an offense involving a controller substance punishable under the Controlled Substances Act or the Controlled Substances Export and Import Act, or any other offense if the defendant, at the time of arrest or at any time therefore, tested positive for the presence of a controlled substance in his or her blood or urine; and

"(B) the sentencing court finds that the defendant's total offense level under the Federal sentencing guidelines is level 9 or less.

"(3) If the Director of the Bureau of Prisons finds that an inmate placed in a boot camp prison pursuant to this subsection has willfully refused to comply with the conditions of confinement in the boot camp, the Director may transfer the inmate to any other correctional facility in the Federal prison system.

"(4) Successful completion of assignment to a boot camp shall constitute satisfaction of any period of active incarceration, but shall not affect any aspect of a sentence relating to a fine, restitution, or supervised release.".

(d) STATE PRISONERS.—(1) Any person who has been convicted of a criminal offense in any State, or who anticipates entering a plea of guilty of such offense, but who has not yet been sentenced, may apply to be assigned to a boot camp. Such application shall be made to the Bureau of Prisons and shall be in the form designated by the Director of the Bureau of Prisons and shall contain a statement certified by counsel for the applicant that at the time of sentencing the applicant is likely to be eligible for assignment to a boot camp pursuant to paragraph (2). The Bureau of Prisons shall respond to such applicants within 14 days so that the sentencing court is aware of the result of the application at the time of sentencing. In responsing to such applications, the Bureau of Prisons shall determine, on the basis of the availability of space, whether a defendant who becomes eligible for assignment to a boot camp prison at the time of sentencing will be so assigned.

(2) A person convicted of a State criminal offense shall be eligible for assignment to a boot camp if he or she—

(A) is under 25 years of age;

(B) has no prior conviction for which he or she has served more than 10 days incarceration;

(C) has been sentenced to a term of imprisonment that will be satisfied under the law of the sentencing State if the defendant successfully completes a term or not less than 90 days nor more than 120 days in a boot camp;

(D) has been designated by the sentencing court as eligible for assignment to a boot camp; and

(E) has been convicted of an offense involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or any other offense if the defendant, at the time of arrest or at any time thereafter, tested positive for the presence of a controlled substance in his or her blood or urine.

(3) If the Director of the Bureau of Prisons finds that an inmate placed in a boot camp prison pursuant to this subsection has willfully refused to comply with the conditions of confinement in the boot camp, the Director may transfer the inmate back to the jurisdiction of the State sentencing court.

(4) Each State that refers a prisoner to a boot camp shall reimburse the Bureau of Prisons for—

(A) 80 percent of the cost incurred by the Bureau of Prisons for incarceration and treatment and other services to such prisoner that successfully completes the program; and

(B) 100 percent of such costs for each prisoner that enters a boot camp but does not successfully complete the program.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $150,000,000 for fiscal year 1992 of which not more than $12,500,000 shall be used to convert each closed military base to a boot camp prison and not more than $2,500,000 shall be used to operate each boot camp for one fiscal year. Such amounts shall be in addition to any other amounts authorized to be appropriated to the Bureau of Prisons.

AMENDMENT NO. 453

Add at the appropriate place in the bill:

TITLE XV—YOUTH VIOLENCE ACT

Subtitle A—Increasing Penalties for Employing Children to Distribute Drugs Near Schools and Playgrounds

SEC. 1501. STRENGTHENING FEDERAL PENALTIES.

Section 419 of the Controlled Substances Act (21 U.S.C. 859) is amended as follows:

(1) at the end of subsection (b) by adding the following:

"(c) Notwithstanding any other provision of law, any person at least 18 years of age who knowingly and intentionally—

"(1) employs, hires, uses, persuades, induces, entices, or coerces, a person under 18 years of age to violate any provision of this section; or

"(2) employs, hires, uses, persuades, induces, entices, or coerces, a person under 18 years of age to assist in avoiding detection or apprehension for any offense of this section by any Federal, State, or local law enforcement official,

is punishable by a term of imprisonment, or fine, or both, up to triple that authorized by section 841(b) of this title.";

(2) in subsection (c) by—

(A) striking "(c)" and inserting in lieu thereof "(d)";

(B) inserting "or (c)" after "imposed under subsection (b)"; and

(C) inserting "or (c)" after "convicted under subsection (b)";

(3) in subsection (d) by striking "(d)" and inserting in lieu thereof "(e)".

Subtitle B—Antigang Grants

SEC. 1511. GRANT PROGRAM.

The Juvenile Justice and Delinquency Prevention Act of 1974 is amended in part B by—

(1) inserting after the heading for such part the following:

"Subpart I—General Grant Programs"; and

(2) adding at the end thereof a new subpart II, as follows:

"Subpart II—Juvenile Drug Trafficking and Gang Prevention Grants

"FORMULA GRANTS

"SEC. 231. (a) The Administrator is authorized to make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective programs including education, prevention, treatment and enforcement programs to reduce—

"(1) the formation or continuation of juvenile gangs; and

"(2) the use and sale of illegal drugs by juveniles.

"(b) The grants made under this section can be used for any of the following specific purposes:

"(1) To reduce the participation of juveniles in drug related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary schools;

"(2) To reduce juvenile involvement in organized crime, drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles;

"(3) To develop within the juvenile justice system, including the juvenile corrections system, new and innovative means to address the problems of juveniles convicted of serious, drug-related and gang-related offenses;

"(4) To reduce juvenile drug and gang-related activity in public housing projects;

"(5) To provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to identify drug-dependent or gang-involved juvenile offenders and to provide appropriate counseling and treatment to such offenders;

"(6) To promote the involvement of all juveniles in lawful activities, including in-school and after-school programs for academic, athletic or artistic enrichment that also teach that drug and gang involvement are wrong.

"(7) To facilitate Federal and State cooperation with local school officials to develop education, prevention and treatment programs for juveniles who are likely to participate in the drug trafficking, drug use or gang-related activities;

"(8) To prevent juvenile drug and gang involvement in public housing projects through programs establishing youth sports and other activities, including girls and boys clubs, scout troops, and little leagues;

"(9) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system; with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers; and

"(10) To provide education and treatment programs for youth exposed to severe violence in their homes, schools or neighborhoods.

"(c) Of the funds made available to each State under this section (Formula Grants) 50 per centum of the funds made available to each State in any fiscal year shall be used for juvenile drug supply reduction programs and 50 per centum shall be used for juvenile drug demand reduction programs.

"SPECIAL EMPHASIS DRUG DEMAND REDUCTION AND ENFORCEMENT GRANTS

"SEC. 232. (a) The purpose of this section is to provide additional Federal assistance and support to identify promising new juvenile drug demand reduction and enforcement programs, to replicate and demonstrate these programs to serve as national, regional or local models that could be used, in whole or in part, by other public and private juvenile justice programs, and to provide technical assistance and training to public or private organizations to implement similar programs. In making grants under this section, the Administrator shall give priority to programs aimed at juvenile involvement in organized gang- and drug-related activities, including supply and demand reduction programs.

"(b) The Administrator is authorized to make grants to, or enter into contracts with, public or private non-profit agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231. The Administrator shall have final authority over all funds awarded under this subchapter.

"(c) Of the total amount appropriated for this subchapter, 20 per centum shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231 as described in section 232(a). Grants made under this section may be made for amounts up to 100 per centum of the costs of the programs or projects.

"AUTHORIZATION

"SEC. 233. There is authorized to be appropriated $100,000,000 in fiscal year 1992 and such sums as may be necessary in fiscal year 1993 to carry out the purposes of this subpart.

"ALLOCATION OF FUND

"SEC. 234. Of the total amounts appropriated under this subpart in any fiscal year the amount remaining after setting aside the amounts required to be reserved to carry out section 232 (Discretionary Grants) shall be allocated as follows:

"(1) $400,000 shall be allocated to each of the participating States;

"(2) Of the total funds remaining after the allocation under paragraph (a), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of juveniles of such State bears to the population of juveniles of all the States.

"APPLICATION

"SEC. 235. (a) Each State applying for grants under section 231 (Formula Grants) and each public or private entity applying for grants under section 232 (Discretionary Grants) shall submit an application to the Administrator in such form and containing such information as the Administrator shall prescribe.

"(b) To the extent practical, the Administrator shall prescribe regulations governing applications for this subpart that are substantially similar to the applications required under part I (general juvenile justice formula grant) and part C (special emphasis prevention and treatment grants), including the procedures relating to competition.

"(c) In addition to the requirements prescribed in subsection (b), each State application submitted under section 231 shall include a detailed description of how the funds made available shall be coordinated with Federal assistance provided in parts B and C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 and by the Bureau of Justice Assistance under the Drug Control and System Improvement Grant program.

"REVIEW AND APPROVAL OF APPLICATIONS

"SEC. 236. The procedures and time limits imposed on the Federal and State Governments under sections 505 and 508, respectively, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 relating to the review of applications and distribution of Federal funds shall apply to the review of applications and distribution of funds under this subpart.".

SEC. 1512. CONFORMING AMENDMENTS.

(a) TITLE II.—Section 291 of title II of the Juvenile Justice Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(other than part D)";

(B) and by striking paragraph (2) in its entirety; and

(2) in subsection (b) by striking "(other than part D)".

(b) PART D.—Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 is hereby repealed.

(c) PART E.—Part E of title II of such Act is redesignated as part D.

Subtitle C—Juvenile Penalties

SEC. 1521. TREATMENT OF VIOLENT JUVENILES AS ADULTS.

(a) DESIGNATION OF UNDESIGNATED PARAGRAPHS.—Section 5032 of title 18, United States Code, is amended by designating undesignated paragraphs one through eleven as subsections (a) through (k), respectively.

(b) JURISDICTION OVER CERTAIN FIREARMS OFFENSES.—Section 5032(a) of title 18, United States Code, as so designated by this section, is amended by striking "922(p)" and inserting "924(b), (g), or (h)".

(c) ADULT STATUS OF JUVENILES WHO COMMIT FIREARMS OFFENSES.—Section 5032(d) of title 18, United States Code, is amended—

(1) by striking "A juvenile" and inserting "(1) Except as provided in paragraphs (2) and (3), a juvenile";

(2) by striking ", except that," and designating the following matter up to the semicolon as paragraph (2);

(3) by striking "however" after the semicolon and designating the remaining matter as paragraph (3); and

(4) by inserting in paragraph (2) "or section 924 (b), (g), or (h) of this title," after "959),".

(d) FACTORS FOR TRANSFERRING A JUVENILE TO ADULT STATUS.—Section 5032(e) of title 18, United States Code, is amended—

(1) by inserting "(1)" before "Evidence";

(2) by striking "intellectual development and psychological maturity;" and inserting "level of intellectual development and maturity; and";

(3) by inserting ", such as rehabilitation and substance abuse treatment," after "past treatment efforts";

(4) by striking "; the availability of programs designed to treat the juvenile's behavioral problems"; and

(5) by adding at the end the following:

"(2) In considering the nature of the offense, as required by this subsection, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use and distribution of controlled substances or firearms. Such factors, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of such factors shall not preclude a transfer to adult status.".

SEC. 1522. SERIOUS DRUG OFFENSES BY JUVENILES AS ARMED CAREER CRIMINAL ACT PREDICATES.

(a) ACT OF JUVENILE DELINQUENCY.—Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking out "or" at the end of clause (i);

(2) by striking out "and" at the end of clause (ii) and inserting in lieu thereof "or"; and

(3) by adding a new clause (iii), as follows:

"(iii) any act of juvenile delinquency that if committed by an adult would be punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)); and".

(b) SERIOUS DRUG OFFENSE.—Section 924(e)(2)(C) of title 18, United States Code, is amended by adding "or serious drug offense" after "violent felony".

AMENDMENT NO. 454

Add at the appropriate place in the bill:

TITLE XVI—RURAL CRIME AND DRUG CONTROL ACT

Subtitle A—Fighting Drug Trafficking in Rural Areas

SEC. 1601. AUTHORIZATIONS FOR RURAL LAW ENFORCEMENT AGENCIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end thereof the following new paragraph:

"(7) There are authorized to be appropriated $50,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994 to carry out part O of this title.".

(b) AMENDMENT TO BASE ALLOCATION.—Section 1501(a)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "$100,000" and inserting in lieu thereof "$250,000".

SEC. 1602. RURAL DRUG ENFORCEMENT TASK FORCES.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Governors, mayors, and chief executive officers of State and local law enforcement agencies, shall establish a Rural Drug Enforcement Task Force in each of the Federal judicial districts which encompass significant rural lands.

(b) TASK FORCE MEMBERSHIP.—The task forces established under subsection (a) shall be chaired by the United States Attorney for the respective Federal judicial district. The task forces shall include representatives from—

(1) State and local law enforcement agencies;

(2) the Drug Enforcement Administration;

(3) the Federal Bureau of Investigation;

(4) the Immigration and Naturalization Service and

(5) law enforcement officers from the United States Park Police, United States Forest Service and Bureau of Land Management, and such other Federal law enforcement agencies as the Attorney General may direct.

SEC. 1603. CROSS-DESIGNATION OF FEDERAL OFFICERS.

The Attorney General shall cross-designate up to 100 law enforcement officers from each of the agencies specified under section 1502(b)(5) with jurisdiction to enforce the provisions of the Controlled Substances Act on non-Federal lands to the extent necessary to effect the purposes of this title.

SEC. 1604. RURAL DRUG ENFORCEMENT TRAINING.

(a) SPECIALIZED TRAINING FOR RURAL OFFICERS.—The Director of the Federal Law Enforcement Training Center shall develop a specialized course of instruction devoted to training law enforcement officers from rural agencies in the investigation of drug trafficking and related crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 in each of the fiscal years 1992, 1993 and 1994 to carry out the purposes of subsection (a) of this section.

Subtitle B—Increasing Penalties for Certain Drug Trafficking Offenses

SEC. 1611. SHORT TITLE.

This subtitle may be cited as the "Ice Enforcement Act of 1991".

SEC. 1612. STRENGTHENING FEDERAL PENALTIES.

(a) LARGE AMOUNT.—Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended—

(1) in clause (vii) by striking "or" at the end thereof;

(2) by inserting "or" at the end of clause (viii); and

(3) by adding a new clause (ix) as follows:

"(ix) 25 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is 80 percent pure and crystalline in form.".

(b) SMALLER AMOUNT.—Section 401(b) (1)(B) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)) is amended as follows:

(1) at the end of clause (vii) by striking "or";

(2) by inserting at the end of clause (vii) the word "or"; and

(3) by adding a new clause (ix) as follows:

"(ix) 5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is 80 percent pure and crystalline in form.".

Subtitle C—Rural Drug Prevention and Treatment

SEC. 1621. RURAL SUBSTANCE ABUSE TREATMENT AND EDUCATION GRANTS.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end thereof the following new section:

"SEC. 509H. RURAL SUBSTANCE ABUSE TREATMENT.

"(a) IN GENERAL.—The Director of the Office for Treatment Improvement (hereafter referred to in this section as the 'Director') shall establish a program to provide grants to hospitals, community health centers, migrant health centers, health entities of Indian tribes and tribal organizations (as defined in section 1913(b)(5)), and other appropriate entities that serve nonmetropolitan areas to assist such entities in development and implementing projects that provide, or expand the availability of, substance abuse treatment services.

"(b) REQUIREMENTS.—To receive a grant under this section a hospital, community health center, or treatment facility shall—

"(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

"(2) operate, or have a plan to operate, an approved substance abuse treatment program;

"(3) agree to coordinate the project assisted under this section with substance abuse treatment activities with the State and local agencies responsible for substance abuse treatment; and

"(4) prepare and submit an application in accordance with subsection (c).

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section an entity shall submit an application to the Director at such time, in such manner, and containing such information as the Director shall require.

"(2) COORDINATED APPLICATIONS.—State agencies that are responsible for substance abuse treatment may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

"(d) PREVENTION PROGRAMS.—

"(1) IN GENERAL.—Each entity receiving a grant under this section may use a portion of such grant funds to further community-based substance abuse prevention activities.

"(2) REGULATIONS.—The Director, in consultation with the Director of the Office of Substance Abuse Prevention, shall promulgate regulations regarding the activities described in paragraph (1).

"(e) SPECIAL CONSIDERATION.—In awarding grants under this section the Director shall give priority to—

"(1) projects sponsored by rural hospitals that are qualified to receive rural health care transition grants as provided for in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987;

"(2) projects serving nonmetropolitan areas that establish links and coordinate activities between hospitals, community health centers, community mental health centers, and substance abuse treatment centers; and

"(3) projects that are designed to serve areas that have no available existing treatment facilities.

"(f) DURATION.—Grants awarded under subsection (a) shall be for a period not to exceed 3 years, except that the Director may establish a procedure for renewal of grants under subsection (a).

"(g) GEOGRAPHIC DISTRIBUTION.—To the extent practicable, the Director shall provide grants to fund at least one project in each State.

"(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there are authorized to be appropriated $25,000,000 for each of the fiscal years 1992 and 1993.".

SEC. 1622. CLEARINGHOUSE PROGRAM.

Section 509 of the Public Health Service Act (42 U.S.C. 290aa-7) is amended—

(1) in paragraph (3), by striking out "and" at the end thereof;

(2) in paragraph (4), by striking out the period; and

(3) by adding at the end thereof the following new paragraphs—

"(5) to gather information pertaining to rural drug abuse treatment and education projects funded by the Alcohol, Drug Abuse, and Mental Health Administration, as well as other such projects operating throughout the United States; and

"(6) to disseminate such information to rural hospitals, community health centers, community mental health centers, treatment facilities, community organizations, and other interested individuals.".

Subtitle D—Rural Land Recovery Act

SEC. 1631. DIRECTOR OF RURAL LAND RECOVERY.

Each of the task forces established under section 1502(a) shall include one Director of Rural Land Recovery whose duties shall include the coordination of all activities outlined under this subtitle.

SEC. 1632. PROSECUTION OF CLANDESTINE LABORATORY OPERATORS.

(a) IN GENERAL.—State and Federal prosecutors, when bringing charges against the operators of clandestine methamphetamine and other dangerous drug laboratories shall, to the fullest extent possible, include, in addition to drug-related counts, counts involving infringements of the Resource Conservation and Recovery Act or any other environmental protection Act, including—

(1) illegal disposal of hazardous waste; and

(2) knowing endangerment of the environment.

(b) LAW SUITS.—State and Federal prosecutors and private citizens may bring suit against the operators of clandestine methamphetamine and other dangerous drug laboratories for environmental and health related damages caused by the operators in their manufacture of illicit substances.

AMENDMENT NO. 455

Add at the appropriate place in the bill:

TITLE XVII—DRUG EMERGENCY AREAS ACT OF 1991

SEC. 1701. SHORT TITLE.

This title may be cited as the "Drug Emergency Areas Act of 1991".

SEC. 1702. DRUG EMERGENCY AREAS.

Subsection (c) of section 1005 of the National Narcotics Leadership Act of 1988 is amended to read as follows:

"(c) DECLARATION OF DRUG EMERGENCY AREAS.—

"(1) PRESIDENTIAL DECLARATION.—(A) In the event that a major drug-related emergency exists throughout a State or a part of a State, the President may, in consultation with the Director and other appropriate officials, declare such State or part of a State to be a drug emergency area and may take any and all necessary actions authorized by this subsection or otherwise authorized by law.

"(B) For the purposes of this subsection, the term 'major drug-related emergency' means any occasion or instance in which drug trafficking, drug abuse, or drug-related violence reaches such levels, as determined by the President, that Federal assistance is needed to supplement State and local efforts and capabilities to save lives, and to protect property and public health and safety.

"(2) PROCEDURE FOR DECLARATION.—(A) All requests for a declaration by the President designating an area to be a drug emergency area shall be made, in writing, by the Governor or chief executive officer of any affected State or local government, respectively, and shall be forwarded to the President through the Director in such form as the Director may by regulation require. One or more cities, counties, or States may submit a joint request for designation as a drug emergency area under this subsection.

"(B) Any request made under clause (A) of this paragraph shall be based on a written finding that the major drug-related emergency is of such severity and magnitude that effective response to save lives, and to protect property and public health and safety, that Federal assistance is necessary.

"(C) The President shall not limit declarations made under this subsection to highly-populated centers of drug trafficking, drug use or drug-related violence, but shall also consider applications from governments of less populated areas where the magnitude and severity of such activities is beyond the capability of the State or local government to respond.

"(D) As part of a request for a declaration by the President under this subsection, and as a prerequisite to Federal drug emergency assistance under this subsection, the Governor(s) or chief executive officer(s) shall—

"(i) take appropriate response action under State or local law and furnish such information on the nature and amount of State and local resources which have been or will be committed to alleviating the major drug-related emergency;

"(ii) certify that State and local government obligations and expenditures will comply with all applicable cost-sharing requirements of this subsection; and

"(iii) submit a detailed plan outlining the State and/or local goverment's short- and long-term plans to respond to the major drug-related emergency, specifying the types and levels of Federal assistance requested, and including explicit goals (where possible quantitative goals) and timetables and shall specify how Federal assistance under this subsection is intended to achieve such goals.

"(E) The Director shall review any request submitted pursuant to this subsection and forward the application, along with a recommendation to the President on whether to approve or disapprove the application, within 30 days after receiving such application. Based on the application and the recommendation of the Director, the President may declare an area to be a drug emergency area under this subsection.

"(3) FEDERAL MONETARY ASSISTANCE.—(A) The President is authorized to make grants to State or local governments of up to, in the aggregate for any single major drug-related emergency, $50,000,000.

"(B) The Federal share of assistance under this section shall not be greater than 75 percent of the costs necessary to implement the short- and long-term plan outlined in paragraph (2)(D)(iii).

"(C) Federal assistance under this subsection shall not be provided to a drug disaster area for more than 1 year. In any case where Federal assistance is provided under this Act, the Governor(s) or chief executive officer(s) may apply to the President, through the Director, for an extension of assistance beyond 1 year. The President, based on the recommendation of the Director, may extend the provision of Federal assistance for not more than an additional 180 days.

"(D) Any State or local government receiving Federal assistance under this subsection shall balance the allocation of such assistance evenly between drug supply reduction and drug demand reduction efforts, unless State or local conditions dictate otherwise.

"(4) NONMONETARY ASSISTANCE.—In addition to the assistance provided under paragrah (3), the President may—

"(A) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts; and

"(B) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

"(5) ISSUANCE OF IMPLEMENTING REGULATIONS.—Not later than 90 days after the enactment of this subsection, the Director shall issue regulations to implement this subsection, including such regulations as may be necessary relating to applications for Federal assistance and the provision of Federal monetary and nonmonetary assistance.

"(6) AUDIT BY COMPTROLLER GENERAL.—The Comptroller General shall conduct an audit of any Federal assistance (both monetary and nonmonetary) of an amount greater than $100,000 provided to a State or local government under this subsection, including an evaluation of the effectiveness of such assistance based on the goals contained in the application for assistance.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year 1992, 1993, 1994, 1995, and 1996, $300,000,000 to carry out the purposes of this subsection.".

TITLE XVIII—DRUNK DRIVING CHILD PROTECTION ACT

SEC. 1801. SHORT TITLE.

This title may be cited as the "Drunk Driving Child Protection Act of 1991".

SEC. 1802. STATE LAWS APPLIED IN AREAS OF FEDERAL JURISDICTION.

Section 13(b) of title 18, United States Code, is amended by—

(1) striking "For purposes" and inserting "(1) Subject to paragraph (2) and for purposes"; and

(2) adding at the end thereof the following new paragraph:

"(2)(A) In addition to any term of imprisonment provided for operating a motor vehicle under the influence of a drug or alcohol imposed under the law of a State, territory, possession, or district, the punishment for such an offense under this section shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, 5 years, or if death of a minor is caused, 10 years, and an additional fine of not more than $1,000, or both, if—

"(i) a minor (other than the offender) was present in the motor vehicle when the offense was committed; and

"(ii) the law of the State, territory, possession, or district in which the offense occurred does not provide an additional term of imprisonment under the circumstances described in clause (i).

"(B) For the purposes of subparagraph (A), the term 'minor' means a person less than 18 years of age.".

SEC. 1803. COMMON CARRIERS.

Section 342 of title 18, United States Code, is amended by—

(1) inserting "(a)" before "Whoever"; and

(2) adding at the end thereof the following new subsection:

"(b)(1) In addition to any term of imprisonment imposed for an offense under subsection (a), the punishment for such an offense shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, 5 years, or if death of a minor is caused, 10 years, and an additional fine of not more than $1,000, or both, if a minor (other than the offender) was present in the common carrier when the offense was committed.

"(2) For the purposes of paragraph (1), the term 'minor' means a person less than 18 years of age.".

SEC. 1804. SENSE OF CONGRESS CONCERNING CHILD CUSTODY AND VISITATION RIGHTS.

It is the sense of the Congress that in determining child custody and visitation rights, the courts should take into consideration the history of drunk driving that any person involved in the determination may have.

TITLE XIX—COMMISSION ON CRIME AND VIOLENCE

SEC. 1901. ESTABLISHMENT OF COMMISSION.

There is established a commission to be known as the "National Commission on Crime and Violence in America". The Commission shall be composed of 22 members, appointed as follows:

(1) 6 persons by the President;

(2) 8 persons by the Speaker of the House of Representatives, two of whom shall be appointed on the recommendation of the minority leader; and

(3) 8 persons by the President pro tempore of the Senate, six of whom shall be appointed on the recommendation of the Majority Leader of the Senate and two of whom shall be appointed on the recommendation of the Minority Leader of the Senate.

SEC. 1902. PURPOSE.

The purposes of the Commission are as follows:

(1) To develop a comprehensive and effective crime control plan which will serve as a "blueprint" for action in the 1990s. The report shall include an estimated cost for implementing any recommendations made by the commission.

(2) To bring attention to successful models and programs in crime prevention and crime control.

(3) To reach out beyond the traditional criminal justice community for ideas when developing the comprehensive crime control plan.

(4) To recommend improvements in the coordination of local, State and Federal crime control efforts.

SEC. 1903. RESPONSIBILITIES OF THE COMMISSION.

The commission shall be responsible for the following:

(1) Reviewing the effectiveness of traditional criminal justice approaches in preventing and controlling crime and violence.

(2) Examining the impact that changes to state and Federal law have had in controlling crime and violence.

(3) Examining the problem of youth gangs and provide recommendations as to how to reduce youth involvement in violent crime.

(4) Examining the extent to which assault weapons and high power firearms have contributed to violence and murder in America.

(5) Convening field hearings in various regions of the country to receive testimony from a cross section of criminal justice professionals, business leaders, elected officials, medical doctors, and other citizens that wish to participate.

(6) Review all segments of our criminal justice system, including the law enforcement, prosecution, defense, judicial, corrections components in developing the crime control plan.

SEC. 1904. COMMISSION MEMBERS.

(a) CHAIRPERSON.—The President shall designate a chairperson from among the members of the Commission.

(b) COMPOSITION OF MEMBERSHIP.—The Commission members will represent a cross-section of professions that include law enforcement, prosecution, judges, corrections, education, medicine, business, religion, military, welfare and social services, sports, entertainment, victims of crime, and elected officials from State, local and Federal Government that equally represent both political parties.

SEC. 1905. ADMINISTRATIVE PROVISIONS.

(a) FEDERAL AGENCY SUPPORT.—All Federal agencies shall provide such support and assistance as may be necessary for the Commission to carry out its functions.

(b) EXECUTIVE DIRECTOR AND STAFF.—The President is authorized to appoint and compensate an executive director. Subject to such regulations as the Commission may prescribe, staff of the commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive services and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(c) DETAILED FEDERAL EMPLOYEES.—Upon the request of the chairperson, the heads of executive and military departments are authorized to detail employees to work with the executive director without regard to the provisions of section 3341 of title 5, United States Code.

(d) TEMPORARY AND INTERMITTENT EMPLOYEES.—Subject to rules prescribed by the commission, the chairperson may procure temporary and intermittent services under section 3108(b) of title 5, United States Code, but at a rate of base pay not to exceed the annual rate of base pay for GS-18 of the General Schedule.

SEC. 1906. REPORT.

The Commission shall submit a final report to the President and the Congress not later than one year after the appointment of the Chairperson. The report shall include the findings and recommendations of the Commission as well as proposals for any legislative action necessary to implement such recommendations.

SEC. 1907. TERMINATION.

The Commission shall terminate 30 days after submitting the report required under section 1806.

AMENDMENT NO. 456

Add at the appropriate place in the bill:

TITLE XXII—ORGANIZED CRIME AND DANGEROUS DRUGS DIVISION

Subtitle A—Establishment of an Organized Crime and Dangerous Drugs Division in the Department of Justice

SEC. 2201. SHORT TITLE.

This title may be cited as the "Justice Department Organized Crime and Drug Enforcement Enhancement Act of 1991".

SEC. 2202. FINDINGS.

The Congress finds that—

(1) organized criminal activity contributes significantly to the importation, distribution, and sale of illegal and dangerous drugs;

(2) trends in drug trafficking patterns necessitate a response that gives significant weight to—

(A) the prosecution of drug related crimes; and

(B) the forfeiture and seizure of assets and other civil remedies used to strike at the inherent strength of the drug networks and groups;

(3) the structure of the Department of Justice Criminal Division is inadequate to address such drug-related problems; and

(4) the prosecutorial resources devoted to such problems have been inadequately organized.

SEC. 2203. PURPOSES.

The purposes of this title are to—

(1) establish a new division in the Department of Justice by combining the resources of the Criminal Division and the United States Attorneys offices used for the eradication of organized crime, narcotics, and dangerous drugs with additional resources needed to pursue civil sanctions;

(2) enhance the ability of the Department of Justice to deal with international criminal activity;

(3) enhance the ability of the Department of Justice to maintain a vigorous criminal and equally important civil assault upon organized criminal groups and narcotics traffickers both domestic and international;

(4) enhance the ability of the Department of Justice to attack money laundering activities, both domestic and international; and

(5) maintain the level of effort of the Department of Justice against traditional organized crime activity through the maintenance of independent strike forces.

SEC. 2204. ESTABLISHMENT OF ORGANIZED CRIME AND DANGEROUS DRUGS DIVISION.

(a) ESTABLISHMENT.—There is established within the Department of Justice, the Organized Crime and Dangerous Drugs Division, which shall consist initially of the following units and programs of the Department of Justice as they were organized and were functioning on September 30, 1989:

(1) the Organized Crime and Racketeering Section of the Criminal Division and all subordinate strike forces therein;

(2) the Narcotic and Dangerous Drug Section of the Criminal Division;

(3) the Asset Forfeiture Office of the Criminal Division; and

(4) the Organized Crime Drug Enforcement Task Force Program.

(b) TRANSFER.—(1) There are transferred to the Organized Crime and Dangerous Drugs Division—

(A) all functions of each office and program described under subsection (a)(1), (2), (3), and (4) exercised on September 30, 1989; and

(B) all personnel and available funds of each such office and program.

(2) For the purposes of paragraph (1)(A) the term "functions" means all duties, obligations, powers, authorities, responsibilities, rights, privileges, activities, and programs.

SEC. 2205. ASSISTANT ATTORNEY GENERAL FOR ORGANIZED CRIME AND DANGEROUS DRUGS.

(a) ASSISTANT ATTORNEY GENERAL.—There shall be at the head of the Organized Crime and Dangerous Drugs Division established by this title, an Assistant Attorney General of the Department of Justice for the Organized Crime and Dangerous Drugs Division, who shall—

(1) be appointed by the President, by and with the advice and consent of the Senate;

(2) report directly to the Attorney General of the United States;

(3) coordinate all activities and policies of the Division with the Director of National Drug Control Policy; and

(4) ensure that all investigations and prosecutions are coordinated within the Department of Justice to provide the greatest use of civil proceedings and forfeitures to attack the financial resources of organized criminal and narcotics enterprises.

(b) COMPENSATION.—(1) Section 5315 of title 5, United States Code, is amended by striking out:

"Assistant Attorneys General (10)."

and inserting in lieu thereof:

"Assistant Attorneys General (11).".

(2) The Assistant Attorney General of the Organized Crime and Dangerous Drugs Division shall be paid at the rate of basic pay payable for level IV of the Executive Schedule.

SEC. 2206 DEPUTY ASSISTANT ATTORNEY GENERAL.

(a) ESTABLISHMENT.—There is established the position of Deputy Assistant Attorney General of the Organized Crime and Dangerous Drugs Division, who shall report directly and be responsible to the Assistant Attorney General of the Organized Crime and Dangerous Drugs Division.

(b) COMPENSATION.—The Deputy Assistant Attorney General of the Organized Crime and Dangerous Drugs Division shall be paid the rate of basic pay payable for level V of the Executive Schedule.

SEC. 2207. ADMINISTRATIVE ORGANIZATION OF THE DIVISION.

There shall be established within the Organized Crime and Dangerous Drugs Division such sections and offices as the Attorney General shall deem appropriate to maintain or increase the level of enforcement activities in the following areas:

(1) Criminal Racketeering (including of all activities and personnel transferred from the Organized Crime and Racketeering Section dealing with criminal investigation and prosecution of traditional organized crime, other than civil proceedings or forfeiture);

(2) Criminal Narcotics Trafficking (including all activities and personnel transferred from the Criminal Division and the Organized Crime Drug Enforcement Task Force Program dealing with large scale drug trafficking);

(3) Money laundering (including all activities transferred from the Criminal Division and Organized Crime Drug Enforcement Task Force Program dealing with money laundering investigations and the negotiation of international agreements on financial crimes);

(4) Asset Forfeiture (including all activities and personnel transferred from the Criminal Division dealing with asset forfeiture);

(5) International Crime (indicating the activities and functions set forth in Subtitle B of this title); and

(6) Civil Enforcement (including activities and personnel currently engaged in civil enforcement of the drug and racketeering laws and such additional personnel as may be added pursuant to this Act).

SEC. 2208. COORDINATION AND ENHANCEMENT OF FIELD ACTIVITIES.

(a) ORGANIZED CRIME AND DANGEROUS DRUGS DIVISION.—The Attorney General shall establish no fewer than 20 field offices of the Organized Crime and Dangerous Drug Division. All such field offices of the Division shall be known as Organized Crime and Dangerous Drug Strike Forces.

(b) OFFICES IN SAME AREA.—If two or more sections of the Division established field offices in the same metropolitan area, such offices shall—

(A) be in the same location;

(B) coordinate activities; and

(C) be organized as separate sections of a strike force.

(c) TRANSITION.—(1) Consistent with the provisions of this title—

(A) the Organized Crime and Racketeering Section of the Criminal Division is redesignated as the Criminal Racketeering Section of the Organized Crime and Dangerous Drug Division; and

(B) the Organized Crime Strike Forces are redesignated as the field offices of the Division.

(2) Not later than 180 days after the date of the enactment of this subtitle, the Attorney General shall transfer all attorneys and support staff assigned to the Organized Crime Drug Enforcement Task Forces before such date to the Organized Crime and Dangerous Drug Division and designated the Criminal Narcotics Section. The Assistant Attorney General for such Division shall assign such personnel to the field offices of the Division, with the initial assignments being made to the cities where units of such Task Forces were located before the date of enactment of this subtitle.

(3)(A) Consistent with the provisions of this title, the Asset Forfeiture Office of the Criminal Division is redesignated as the Asset Forfeiture and Civil Enforcement Section of the Organized Crime and Dangerous Drug Division.

(B) Not later than 180 days after the date of the enactment of this subtitle, the Assistant Attorney General shall establish field offices of the Asset Forfeiture and Civil Enforcement Section of the Organized Crime and Dangerous Drug Division which shall include—

(i) agents from the United States Drug Enforcement Administration, the Federal Bureau of Investigation, the Internal Revenue Service, and United States Marshals Office; and

(ii) other individuals experienced, trained and expert in complex financial transactions involving cash, notes, securities, and similar negotiable instruments, with a special expertise in banking matters and business dealings.

(d) DIFFERENT ORGANIZATIONAL STRUCTURE.—Nothing in subsection (c) shall prevent the Attorney General, consistent with the purposes of this title and the provisions of section 2107, from instituting a different organizational structure within the Organized Crime and Dangerous Drug Division as the Attorney General shall deem appropriate following a period of transition.

(e) STRIKE FORCES PLANS.—(1) The agents assigned to the Organized Crime and Dangerous Drug Strike Forces (including all agents assigned to the Organized Crime Drug Enforcement Task Forces program before the date of enactment of this title) shall be dedicated exclusively to and located with the Strike Forces so that the Strike Forces personnel may develop expertise and function as a working unit.

(2) The agents assigned to the Strike Forces from the various participating agencies shall be given credit for the work of the Strike Forces, regardless of the statutory authority used to prosecute Strike Forces cases.

(f) REPORT.—Not later than 1 year after the date of the enactment of this title, the Assistant Attorney General for Organized Crime and Dangerous Drugs in consultation with the Director of National Drug Control Policy, shall report to the Congress on the areas of the United States (especially the southwest border of the United States) that may require increased assistance from the Department of Justice through the establishment of additional strike forces.

(g) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $45,000,000 for salaries and expenses of the Organized Crime and Dangerous Drug Division of the Department of Justice for fiscal year 1992.

(2) Any appropriation of funds authorized under paragraph (1) shall be in addition to any appropriations requested by the President in the 1992 fiscal year budget submitted by the President to the Congress for fiscal year 1992, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1992.

Subtitle B—International Prosecution Teams

SEC. 2211. INTERNATIONAL PROSECUTION TEAMS.

(a) FINDINGS.—The Congress finds that—

(1) Drug trafficking, organized crime, and money laundering are problems that are international in scope.

(2) The traditional focus of United States law enforcement agencies on domestic criminal activity has restricted the development of the necessary expertise and coordination to address the international aspects of these problems adequately.

(3) The Justice Department must expand its resources and reorganize its component to engage in new responsibilities and activities involving international crime.

(b) INTERNATIONAL DRUG ENFORCEMENT TEAMS.—In addition to the components and functions otherwise specified in this chapter, the Organized Crime and Dangerous Drug Division shall include no fewer than 10 International Drug Enforcement Teams devoted exclusively to investigating, prosecuting and supporting the investigation and prosecution of international drug cases. Such teams shall be responsive for developing expertise in handling civil and criminal cases involving extradition, money laundering, drug-related corruption, and other complex cases relating to international drug trafficking.

(c) RELATIONSHIP OF TEAM MEMBERS.—Organized Crime and Dangerous Drug Division personnel assigned to the International Drug Enforcement Teams shall work closely with, and where practical be co-located with, agents and liaison personnel of the various law enforcement, diplomatic, intelligence, and military agencies who shall be assigned as necessary to the enforcement teams.

(d) GOALS.—The teams shall be organized to—

(1) increase the expertise of the Department of Justice in matters relating to international law enforcement and foreign policy;

(2) improve coordination among United States and foreign agencies responsible for law enforcement, foreign policy, and international banking;

(3) target resources toward cases with maximum impact on international narcotics trafficking;

(4) gain the cooperation of private entities in the United States and foreign countries whose cooperation in cases involving money laundering and other drug-related financial crimes is essential; and

AMENDMENT NO. 457

Add at the appropriate place in the bill:

TITLE VII—ASSAULT WEAPONS

SEC. 701. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1991".

SEC. 702. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(s)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(t)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this subsection, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 703. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(29) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 10 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 704. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 705. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 706. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 707. STUDY BY ATTORNEY GENERAL.

(a) In General.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) Report.—No later than 30 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 708. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARMS, OR SMUGGLING AN ASSAULT WEAPON IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined not more than $1,000 (in accordance with section 3571(e) of this title), imprisoned for not more than 6 months, or both.".

SEC. 709. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 30 days after the date of enactment of this title. This title, except for section 707, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for section 707, shall be repealed.

Amendment No. 458

Add at the appropriate place in the bill, the following:

TITLE XXVII—BRADY HANDGUN VIOLENCE PREVENTION ACT

SEC. 2701. SHORT TITLE.

This title may be cited as the "Brady Handgun Violence Prevention Act".

SEC. 2702. WAITING PERIOD REQUIRED BEFORE PURCHASE OF HANDGUN.

(a) In General.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(u)(1) It shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

"(A) after the most recent proposal of such transfer by the transferee—

"(i) the transferor has—

"(I) received from the transferee a statement of the transferee containing the information described in paragraph (2);

"(II) verified the identification of the transferee by examining the identification document presented; and

"(III) within one day after the transferee furnishes the statement, provided a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(ii)(I) seven days have elapsed from the date the transferee furnished the statement, and the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

"(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

"(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, which states that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

"(C)(i) the transferee has presented to the transferor a permit which—

"(I) allows the transferee to possess a handgun; and

"(II) was issued not more than five years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of handgun by the transferee would be in violation of law;

"(D) the law of the State—

"(i) prohibits any licensed importer, licensed manufacturer, or licensed dealer from transferring a handgun to an individual who is not licensed under section 923, before at least 7 days have elapsed from the date of the transferee proposes such transfer; or

"(ii) requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law; or

"(E) the transferor has received a report from any system of felon identification established by the Attorney General pursuant to section 6213(a) of the Anti-Drug Abuse Act of 1988, that available information does not indicate that possession or receipt of a handgun by the transferee would violate Federal, State, or local law.

"(2) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

"(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

"(B) a statement that the transferee—

"(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year;

"(ii) is not a fugitive from justice;

"(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

"(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

"(v) is not an alien who is illegally or unlawfully in the United States;

"(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

"(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

"(C) the date the statement is made; and

"(D) notice that the transferee intends to obtain a handgun from the transferor.

"(3) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall immediately communicate all information the transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of the place of business of the transferor, and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(4) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

"(5)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with paragraph (1)(A)(i)(III) with respect to the statement.

"(B) Unless the chief law enforcement officer to whom a copy of the statement is sent determines that a transaction would violate Federal, State, or local law, the officer shall, within 30 days after the date the transferee made such statement, destroy such copy and any record containing information derived from such statement.

"(6) For purposes of this subsection, the term 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer, or the designee of any such individual.

"(7) This subsection shall not apply to the sale of a firearm in the circumstances described in subsection (c).

"(8) The Secretary shall take necessary actions to assure that the provisions of this subsection are published and disseminated to dealers and to the public.

"(9) A chief law enforcement officer shall not be liable to any person, for action taken by the officer to ascertain whether a transferee of a handgun has a criminal record or whether there is any other legal impediment to the transferee receiving a handgun, under any Federal, State, or local law except a law that specifically provides for such liability.".

(b) HANDGUN DEFINED.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(31) The term 'handgun' means—

"(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and

"(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.".

(c) PENALTY.—Section 924(a) of such title is amended—

(1) in paragraph (1), by striking "paragraph (2) or (3) of "; and inserting "(2), (3), or (4)"; and

(2) by adding at the end the following:

"(5) Whoever knowingly violates section 922(u) shall be fined not more than $1,000, imprisoned for not more than one year, or both.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to conduct engaged in 90 or more days after the date of the enactment of this Act.

SEC. 2703. GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS AND TO DEFRAY THE COSTS OF BACKGROUND CHECKS.

(a) IN GENERAL.—The Attorney General shall, subject to appropriations, make a grant to an eligible State to be used—

(1) for the creation of a computerized criminal history record system or improvement of an existing system; and

(2) to defray the cost to State and local law enforcement agencies in conducting background checks on prospective handgun purchasers.

(b) ELIGIBLE STATES.—An eligible State under subsection (a) is one that—

(1) participates in, or makes arrangements to begin participating in by the end of 1993, the Interstate Identification Index operated by the Federal Bureau of Investigation;

(2) makes arrangements to achieve, by the end of 1995, at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an entry of activity within 5 years prior to the date of enactment of this Act and thereafter; and

(3) in the case of a State other than a State described in section 922(u)(1)(D) of title 18, United States Code, establishes, by the end of 1993, procedures under which State and local law enforcement officers to whom statements are provided pursuant to section 922(c)(2) or 922(u)(1)(A)(i)(III), of title 18, United States Code, are required to make a reasonable effort to ascertain whether a transferee of a handgun has a criminal record or whether there is any other legal impediment to the transferee receiving a handgun, using whatever Federal, State and local recordkeeping systems are readily available for the purpose.

(c) ALLOCATION.—Funds appropriated for grants under subsection (a) shall be allocated as follows:

(1) 50 percent of such funds shall be allocated among the States in accordance with their respective populations.

(2) 50 percent of such funds shall be allocated among the States at the discretion of the Attorney General.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under subsection (a) a total of $40,000,000 for fiscal year 1992 and all fiscal years thereafter.

DOLE (AND MITCHELL) AMENDMENT NO. 459

(Ordered to lie on the table.)

Mr. DOLE (for himself and Mr. MITCHELL) submitted an amendment intended to be proposed by them to the bill S. 1241, supra, as follows:

On page 236, strike line 7 and all that follows through the end of the bill and insert the following:

TITLE XXVII—FELON FIREARM PURCHASE PREVENTION ACT OF 1991

SEC. 2701. SHORT TITLE.

This title may be cited as the "Felon Firearm Purchase Prevention Act of 1991".

SEC. 2702. FEDERAL FIREARMS LICENSEE REQUIRED TO CONDUCT CRIMINAL BACKGROUND CHECK BEFORE TRANSFER OF FIREARM TO NONLICENSEE.

(a) INTERIM PROVISION.—Section 922 of title 18, United States Code, as amended by section 702 of this Act, is amended by adding at the end the following new subsection:

"(u)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending on the date that the Attorney General certifies that the national instant criminal background check system is in compliance with section 2703(d)(3) of the Felon Firearm Purchase Prevention Act of 1991, it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

"(A) after the most recent proposal of such transfer by the transferee—

"(i) the transferor has—

"(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

"(II) verified the identification of the transferee by examining the identification document presented; and

"(III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(ii)(I) 5 days have elapsed from the date the transferee furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

"(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

"(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

"(C)(i) the transferee has presented to the transferor a permit that—

"(I) allows the transferee to possess a handgun; and

"(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of the law;

"(D) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; and

"(E) on application of the transferor, the Secretary has certified that compliance with subparagraph (A)(i)(III) is impracticable because of the inability of the transferor to communicate with the chief law enforcement officer because of the remote location of the licensed premises.

"(2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 days whether the transferee has a criminal record or whether there is any other legal impediment to the transferee's receiving a handgun, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.

"(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

"(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

"(B) a statement that transferee—

"(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(ii) is not a fugitive from justice;

"(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

"(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

"(v) is not an alien who is illegally or unlawfully in the United States;

"(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

"(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

"(C) the date the statement is made; and

"(D) notice that the transferee intends to obtain a handgun from the transferor.

"(4) The chief law enforcement officer of the place of residence of a prospective transferee of a handgun, at the request of a person who alleges the person requires access to a handgun because of a threat to the life of the person or a member of the household of the person, shall immediately meet with the person and forthwith sign a written statement described in paragraph (1)(B) unless the officer has clear and convincing evidence that no threat was made to the life of the person or any member of the household of the person.

"(5) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall immediately communicate all information the transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of the place of business of the transferor; and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(6) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

"(7)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction.

"(B)(i) Unless the chief law enforcement officer to whom notice is provided under paragraph (1)(A)(i)(III) determines that a transaction would violate Federal, State, or local law, the officer shall, within 5 days after the date the transferee made such statement, destroy any record containing information derived from such statement.

"(ii) Information conveyed to a chief law enforcement officer under paragraph (1)(A)(i)(III)—

"(I) shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and

"(II) shall not be used for any purpose other than to carry out this subsection.

"(8) A chief law enforcement officer shall not be liable in an action at law for damages for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section.

"(9) For purposes of this subsection, the term 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

"(10) The Secretary shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to licensed dealers and to the public.".

"(b) PERMANENT PROVISION.—Section 922 of title 18, United States Code, as amended by subsection (a), is amended by adding at the end the following new subsection:

"(v)(1) Beginning on the date that the Attorney General certifies that the national instant criminal background check system is in compliance with section 2703(d)(1) of the Felon Firearm Purchase Prevention Act of 1991, a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm from the business inventory of the licensee to any other person who is not such a licensee, unless—

"(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section 2703 of the Felon Firearm Purchase Prevention Act of 1991; and

"(B) the system notifies the licensee that the system has not located any record that demonstrates that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section.

"(2) Paragraph (1) shall not apply to a firearm transfer between a licensee and another person if—

"(A) such other person presents to the licensee a valid permit or license, issued by the State or political subdivision thereof in which the transfer is to occur, that authorizes such other person to purchase, possess, or carry a firearm;

"(B) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(C) on application of the transferor, the Secretary has certified that compliance with paragraph (1)(A) is impracticable because of the inability of the transferor to communicate with the national instant criminal background check system because of the remote location of the licensees premises.

"(3) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a firearm by such other person would violate subsection (g) or (n), and the licensee transfers a firearm to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

"(4) If the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that receipt of a firearm by such other person would violate subsection (g) or (n), the Secretary may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under this section, and may impose on the licensee a civil fine of not more than $5,000.

"(5) A State employee responsible for providing information to the national instant criminal background check system shall not be liable in an action at law for damages for failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful under this section.".

(c) PENALTY.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "(2) or (3)" and inserting "(2), (3), or (4)"; and

(2) by adding at the end the following:

"(5) Whoever knowingly violates section 922 (u) or (v) shall be fined not more than $1,000, imprisoned for not more than 1 year, or both.".

SEC. 2703. NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

(a) ESTABLISHMENT OF SYSTEM.—The Attorney General of the United States shall establish a national instant criminal background check system that any licensee may contact for information on whether receipt of a firearm by a prospective transferee thereof would violate section 922 (g) or (n) of title 18, United States Code.

(b) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—The Attorney General shall expedite—

(1) the incorporation of State criminal history records into the Federal criminal records system maintained by the Federal Bureau of Investigation;

(2) the development of hardware and software systems to link State criminal history check systems into the national instant criminal background check system established by the Attorney General pursuant to this section; and

(3) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

(c) PROVISION OF STATE CRIMINAL RECORDS TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall—

(1) determine the type of computer hardware and software that will be used to operate the national instant criminal background check system and the means by which State criminal records systems will communicate with the national system;

(2) investigate the criminal records system of each State and determine for each State a timetable by which the State should be able to provide criminal records on an on line capacity basis to the national system;

(3) notify each State of the determination made pursuant to paragraphs (1) and (2).

The Attorney General shall require as a part of the State timetable that the State achieve, by the end of 5 years after the date of enactment of this Act, at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an entry of activity within the last 5 years.

(d) NATIONAL SYSTEM CERTIFICATION.—(1) On or after the date that is 30 months after the date of enactment of this Act, the Attorney General shall certify that—

(A) the national system has achieved at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an entry of activity within the last 5 years on a national average basis; and

(B) The States are in compliance with the timetable established pursuant to subsection (c).

(2) On the date of certification in paragraph (1) a State is not in compliance with the timetable established pursuant to subsection (c). The Attorney General shall certify that, after 5 years after the date of enactment of this Act, a State is not in compliance with its timetable and the date after such period that the State achieves compliance.

(3) The date on which all States are in compliance with the timetable the provisions of section 922(u) of title 18, United States Code is repealed with respect to all States.

(e) Notification of Licensees.—On establishment of the system under this section, the Attorney General shall notify each licensee of the existence and purpose of the system and the means to be used to contact the system.

(f) Administrative Provisions.—

(1) Authority to obtain official information.—Notwithstanding any other law, the Attorney General may secure directly from any department or agency of the United States such information on persons for whom receipt of a firearm would violate section 922(g) or (n) of title 18, United States Code as is necessary to enable the system to operate in accordance with this section. On request of the Attorney General, the head of such department or agency shall furnish such information to the system.

(2) Other authority.—The Attorney General shall develop such computer software, design and obtain such telecommunications and computer hardware, and employ such personnel, as are necessary to establish and operate the system in accordance with this section.

(g) Correction of Erroneous System Information.—If the system established under this section informs an individual contacting the system that receipt of a firearm by a prospective transferee would violate section 922(g) or (n) of title 18, United States Code, the transferee may request the Attorney General to provide such other person with the reasons therefor. Upon receipt of such a request, the Attorney General shall immediately comply with the request. The transferee may submit to the Attorney General information that to correct, clarify, or supplement records of the system with respect to the transferee. After receipt of such information, the Attorney General shall immediately consider the information, investigate the matter further, and correct all erroneous Federal records relating to such the transferee and give notice of the error to any Federal department or agency or any State that was the source of such erroneous records.

(h) Regulations.—After 90 days notice to the public and an opportunity for hearing by interested parties, the Attorney General shall prescribe regulations to ensure the privacy and security of the information of the system established under this section.

(i) Prohibitions Relating to Establishment of Registration Systems with Respect to Firearms.—No department, agency, officer, or employee of the United States may—

(1) require that any record or portion thereof maintained by the system established under this section be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(2) use the system established under this section to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions, except with respect to persons prohibited by section 922(g) or (n) of title 18, United States Code, from receiving a firearm.

(j) Definitions.—As used in this section:

(1) Licensee.—The term "licensee" means a licensed importer, licensed manufacturer, or licensed dealer under section 923 of title 18, United States Code.

(2) Other terms.—The terms "firearm", "licensed importer", "licensed manufacturer", and "licensed dealer" have the meanings stated in section 921(a) (3), (9), (10), and (11), respectively, of title 18, United States Code.

SEC. 2704. FUNDING FOR IMPROVEMENT OF CRIMINAL RECORDS.

(a) Improvements in State Records.—

(1) use of formula grants.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and "; and

(3) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the records required by the Attorney General under section 3 of the Felon Firearm Purchase Prevention Act of 1991 with the Attorney General for the purpose of implementing the Felon Firearm Purchase Prevention Act of 1991.".

(2) Additional funding.—

(A) Grants for the improvement of criminal records.—The Attorney General shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(i) for the creation of a computerized criminal history record system or improvement of an existing system;

(ii) to improve accessibility to the national instant criminal background system; and

(iii) upon establishment of the national system, to assist the State in the transmittal of criminal records to the national system.

(B) Authorization of appropriations.—There are authorized to be appropriated for grants under subparagraph (A) a total of $100,000,000 for fiscal year 1992 and all fiscal years thereafter.

(b) Withholding State Funds.—Effective on the effective date of section 922(v) of title 18, United States Code, the Attorney General may reduce by 10 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that has not provided criminal background information to the national instant criminal background check system in compliance with subsection (b)(2) and shall reallocate that amount to the other States.

(c) Withholding of Department of Justice Funds.—If the Attorney General does not certify the national instant criminal background check system pursuant to section

(1) 30 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal beginning in the calendar year that is 30 months after the date of enactment of this Act shall be reduced by 5 percent on a monthly basis; and

(2) 42 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal beginning in the calendar year that is 42 months after the date of enactment of this Act shall be reduced by 10 percent on a monthly basis.

(d) 5 years after the date of enactment, all State laws requiring a waiting period for the purchase of firearms are preempted by the provisions of this title.

LIEBERMAN AMENDMENT NO. 460

(Ordered to lie on the table.)

Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . IMMUNIZED TESTIMONY.

(a) Amendment of Title 18, United States Code.—Section 6002 of title 18, United States Code, is amended by—

(1) inserting "(a)" before "Whenever"; and

(2) adding at the end the following new subsection:

"(b)(1) Testimony of a witness that is based on the witness's personal knowledge, irrespective of whether the witness has been exposed to testimony compelled under subsection (a), shall not be considered to be directly or indirectly derived from or to constitute a use of such compelled testimony if—

"(A) the prosecution has made no use of the immunized testimony; and

"(B) the witness was not exposed to the immunized testimony by the prosecution or by a third party acting, directly or indirectly, at the direction of the prosecution.

"(2) This subsection does not affect the prosecution's affirmative duty to prove that the evidence it proposes to use is otherwise derived from legitimate sources wholly independent of the compelled testimony.

"(c) Subsection (b) of this section shall be applied so as to fully protect a witness's privilege against self-incrimination in all respects. If, in the particular circumstances of any case, any provision of subsection (b) cannot be applied in a manner fully consistent with a witness's privilege against self-incrimination, the provision shall be applied only to the extent it is fully consistent with the witness's privilege against self-incrimination, and the remainder of this section shall be fully applicable.".

(b) Applicability.—The amendment made by subsection (a) shall apply to compelled testimony that is given on or after the date of enactment of this Act.

FOWLER AMENDMENT NOS. 461 and 462

(Ordered to lie on the table.)

Mr. FOWLER submitted two amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

Amendment No. 461

At the end of the bill, add the following new title:

TITLE XXVIII—RECREATIONAL HUNTING SAFETY AND PRESERVATION

SEC. 2801. SHORT TITLE.

This title may be cited as the "Recreational Hunting Safety and Preservation Act of 1991".

SEC. 2802. FINDINGS.

Congress finds that—

(1) recreational hunting, when carried out pursuant to law (as implemented by the regulations of Federal and State wildlife management agencies) is a necessary and beneficial element in the proper conservation and management of healthy, abundant, and biologically diverse wildlife resources;

(2) recreational hunters (because of a generally demonstrated concern with the conservation of wildlife resources and preservation of habitat necessary for the breeding and maintenance of healthy wildlife populations, and through a familiarity with the resources gained from experience in the field) are a valuable asset in ensuring enlightened public input into decisions regarding management and maintenance programs for wildlife resources and habitat;

(3)(A) recreational hunting supports industries highly significant to the national economy through sales in interstate commerce of sporting goods; and

(B) the Federal excise taxes imposed on the sales provide a major source of funding for vital programs of wildlife conservation and management;

(4) various persons are engaging in (and have announced an intent to continue to engage in) a variety of disruptive activities with the premediated purpose of preventing and interfering with the conduct of lawful recreational hunting within Federal lands, which activities—

(A) place both recreational hunters and the disruptive persons in imminent jeopardy of grave physical injury or death;

(B) disrupt the peaceful, lawful, and prudent conduct of wildlife population and habitat management programs by Federal and State wildlife management agencies; and

(C) ultimately may alter the planned program objectives, resulting in—

(i) undesirable patterns of activity within populations of wildlife;

(ii) the endangerment of the future viability of wildlife species; and

(iii) damage to habitat values;

(5) Federal lands comprise one important wildlife habitat resource that—

(A) supports many large, diverse, and vital populations of wildlife; and

(B) offers significant opportunities for legal recreational hunting as an important management tool to ensure the future viability of the wildlife populations;

(6) it is the right of citizens of the United States freely to enjoy lawful recreational hunting within Federal lands in accordance with regulations promulgated by Federal and State wildlife management agencies; and

(7) in many instances under current law, vagueness and ambiguity exist regarding the application of State laws and enforcement activities relating to the—

(A) safety of hunters; and

(B) legal rights of recreational hunters to participate peacefully in lawful hunts within Federal lands.

SEC. 2803. DEFINITIONS.

As used in this title:

(1) FEDERAL LANDS.—The term "Federal lands" means—

(A) national forests;

(B) public lands; and

(C) lands and waters included in the National Wildlife Refuge System (as established by section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd)).

(2) LAWFUL HUNT.—The term "lawful hunt" means an occasion when an individual is engaged in the taking or harvesting (or attempted taking or harvesting) through a legal means and during a specified legal season of a wildlife or fish, within a unit of the Federal lands, which activity—

(A)(i) is authorized by or licensed under the law of the State in which it takes place; or

(ii) is regulated by game or fishing seasons established by the State in which it takes place;

(B) is not prohibited by a law of the United States; and

(C) does not infringe upon a right of an owner of private property.

(3) NATIONAL FOREST.—The term "national forest" means land included in the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a))).

(4) PERSON.—The term "person" includes corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.

(5) PUBLIC LANDS.—The term "public lands" has the same meaning as is provided in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)).

(6) SECRETARY.—The term "Secretary" means—

(A) the Secretary of Agriculture with respect to national forests; and

(B) the Secretary of the Interior with respect to—

(i) public lands; and

(ii) lands and waters included in the National Wildlife Refuge System.

SEC. 2804. OBSTRUCTION OF A LAWFUL HUNT.

(a) VIOLATION.—It is unlawful for a person knowingly and with the intent of obstructing, impeding, or interfering with a lawful hunt by an individual to—

(1) obstruct, impede, or otherwise interfere with a lawful hunt by an individual;

(2) scare, herd, harass, decoy, or otherwise engage in activities designed to affect wildlife in a unit of the Federal lands;

(3) engage in activities that prevent or impede the reasonable and usual means of access by those who intend to participate in a lawful hunt, whether the activities occur within a unit of the Federal lands or upon a public or private road, highway, path, trail, or other normal route of access to a unit of the Federal lands;

(4) take or abuse property, equipment, or hunting dogs being used in conjunction with a lawful hunt; or

(5) enter into a unit of the Federal lands, travel in interstate commerce, use the United States mails or an instrumentality of interstate telephonic or electronic communications, or transport or cause to be transported in interstate commerce a material or item, to further—

(A) a scheme or effort to obstruct, impede, or otherwise interfere with a lawful hunt; or

(B) the efforts of another person to obstruct, impede, or interfere with a lawful hunt.

(b) MULTIPLE VIOLATIONS.—The Secretary may consider participation by a person in more than one of the activities described in this section to constitute multiple violations.

SEC. 2805. CIVIL PENALTIES.

(a) IN GENERAL.—A person who engages in an activity described in section 2804 shall be assessed a civil penalty of not less than $500, and not more than $5,000, for each violation.

(b) VIOLATION INVOLVING FORCE OR VIOLENCE.—Upon a determination by a court that the activity involved the use of force or violence, or the threatened use of force or violence, against the person or property of another person, a person who engages in an activity described in section 2804 shall be assessed a civil penalty of not less than $1,000, and not more than $10,000, for each violation.

(C) RELATIONSHIP TO OTHER PENALTIES.—The penalties established by this section shall be in addition to other criminal or civil penalties that may be levied against the person as a result of an activity in violation of section 2804.

(d) PROCEDURE.—

(1) COMPLAINTS FROM GOVERNMENT AGENTS.—Upon receipt of a written complaint from an officer, employee, or agent of a Federal agency that a person violated section 2804, the Secretary shall—

(A) forward the complaint to the United States Attorney for the Federal judicial district in which the violation is alleged to have occurred; and

(B) request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty specified in subsection (a) or (b).

(2) COMPLAINTS FROM INDIVIDUALS.—Upon receipt of a sworn affidavit from an individual and a determination by the Secretary that the statement contains sufficient factual data to create a reasonable belief that a violation of section 2804 has occurred, the Secretary shall—

(A) forward a complaint to the United States Attorney for the Federal judicial district in which the violation is alleged to have occurred; and

(B) request the Attorney General of the United States to institute a civil action for the imposition and collection of the civil penalty specified in subsection (a) or (b).

(e) USE OF PENALTY MONEY COLLECTED.—After deduction of costs attributable to collection, money collected from penalties shall be—

(1) deposited into the trust fund established pursuant to the Act entitled "An Act to provide that the United States shall aid the States in wildlife-restoration projects, and for other purposes", approved September 2, 1937 (16 U.S.C. 669) (commonly known as the "Pitman-Robertson Wildlife Restoration Act"), to support the activities authorized by that Act and undertaken by State wildlife management agencies; or

(2) used in such other manner as the Secretary determines will enhance the funding and implementation of—

(A) the North American Waterfowl Management Plan signed by the Secretary of the Interior and the Minister of Environment for Canada in May 1986; or

(B) a similar program that the Secretary determines will enhance wildlife management—

(i) within Federal lands; or

(ii) on private or State-owned lands when the efforts will also provide a benefit to wildlife management objectives within Federal lands.

SEC. 2806. OTHER RELIEF.

(a) INJUNCTIVE RELIEF.—Injunctive relief against a violation of section 2804 may be sought by—

(1) the head of a State agency with jurisdiction over fish or wildlife management;

(2) the Attorney General of the United States; or

(3) any person who is or would be adversely affected by the violation, or a hunting or

sportsman's organization to which the person belongs.

(b) DAMAGES AND ATTORNEY'S FEES.—Any person who is or would be adversely affected by a violation of section 2804, or a hunting or sportsman's organization to which the person belongs, may bring a civil action to recover—

(1) actual and punitive damages; and

(2) reasonable attorney's fees.

SEC. 2807. RELATIONSHIP TO STATE AND LOCAL LAW AND CIVIL ACTIONS.

(a) LAW OR ORDINANCE.—This title is not intended to preempt a State law or local ordinance that provides for civil or criminal penalties for a person who obstructs or otherwise interferes with a lawful hunt.

(b) CIVIL ACTION.—The bringing of an action pursuant to this title shall not prevent an independent action against a person under a State law or local ordinance.

SEC. 2808. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this title.

AMENDMENT NO. 462

On page 100, line 16, please insert the following language as new subsection (2):

"Such training programs shall include a drug education program which:

"(a) trains Police Corps participants concerning drug and alcohol abuse education and prevention;

"(b) develops a framework for their collaboration with the local school systems and community resources to reduce the availability and demand for drugs by teaching students to recognize and resist pressures to experiment with drugs and alcohol. This may specifically include instruction about:

"(i) understanding the consequences of drug abuse;

"(ii) resistance techniques;

"(iii) managing stress without taking drugs;

"(iv) positive alternatives to drug abuse behavior;

"(v) self-esteem building activities;

"(vi) resistance to peer pressure and gang pressure;

"(vii) decision-making and risk taking;

"(viii) interpersonal and communications skills.".

On page 106, line 9, after the period insert the following: "This section authorizes sums as may be necessary to implement this program.".

BIDEN AMENDMENTS NOS. 463 THROUGH 467

(Ordered to lie on the table.)

Mr. BIDEN submitted five amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT NO. 463

Add at the appropriate place in the bill:

TITLE XX—PROTECTION OF CRIME VICTIMS

SEC. 2001. SHORT TITLE.

This title may be cited as the "Victims' Rights and Restitution Act of 1991".

SEC. 2002. AVAILABLE OF FUNDS.

Section 1402 of the Victims Crime Act of 1984, as amended, is amended—

(a) by striking subsection (c) and redesignating (d), (e), (f) and (g) as subsections (c), (d), (e), and (f), respective; and

(b) by adding a new subsection (c) to read as follows:

"(c) Availability of funds for expenditure; grant program percentages

"(1) Sums deposited in the Fund shall remain in the Fund and be available for expenditure under this subsection for grants under this chapter without fiscal year limitation.

"(2) The Funds shall be available as follows:

"(A) Of the first $100,000,000 deposited in the Fund in a particular fiscal year—

"(i) 49.5 percent shall be available for grants under section 10602 of this title;

"(ii) 45 percent shall be available for grants under section 10603(a) of this title;

"(iii) 1 percent shall be available for grants under section 10603(c) of this title; and

"(iv) 4.5 percent shall be available for grants as provided in section 10603a of this title.

"(B) The next $5,500,000 deposited in the Fund in a particular fiscal year shall be available for grants as provided in section 10603a of this title.

"(D) The next $4,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under section 10603a of this title.

"(E) The next $2,200,000 deposited in the Fund in a particular fiscal year shall be available to the judicial branch for administrative costs to carry out the functions of the judicial branch under sections 3611 and 3612 of title 18, United States Code.

"(F) Any deposits in the Fund in a particular fiscal year that remain after the funds are distributed under subparagraphs (A) through (E) shall be available as follows:

"(i) 47.5 percent shall be available for grants under section 10602 of this title;

"(ii) 47.5 percent shall be available for grants under section 10603(a) of this title; and

"(iii) 5 percent shall be available for grants under section 10603(c)(1)(B) of this title.

SEC. 2003. AMENDMENT OF RESTITUTION PROVISIONS.

(A) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a) by—

(A) striking "(a) The court" and inserting "(a)(1) The court";

(B) striking "may order" and inserting "shall order"; and

(C) adding at the end thereof the following new paragraph:

"(2) In addition to ordering restitution of the victim of the offense of which a defendant is convicted, a court may order restitution of any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(A) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (c) by striking "If the Court decides to order restitution under this section, the" and inserting "The";

(5) by striking subsections (d), (e), (f), (g), and (h); and

(6) by adding at the end thereof the following new subsections:

"(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restoration order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to the clerk of the court for accounting and payment by the clerk in accordance with this subsection;

"(2) the clerk of the court shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful;

"(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

"(C) disburse money received from an offender so that each of the following obligations is paid in full in the following sequence:

"(i) a penalty assessment under section 3013 of title 18, United States Code;

"(ii) restitution of all victims; and

"(iii) all other fines, penalties, costs, and other payments required under the sentence; and

"(3) the offender shall advise the clerk of the court of any change in the offender's address during the term of the restitution order.

"(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(k) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter (B) of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

"(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end thereof the following new subsection:

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

AMENDMENT NO. 464

Add at the appropriate place in the bill:

TITLE XX—PROTECTION OF CRIME VICTIMS

SEC. 2001. SHORT TITLE.

This title may be cited as the "Victims' Rights and Restitution Act of 1991".

SEC. 2002. AVAILABILITY OF FUNDS.

Section 1402 of the Victims of Crime Act of 1984, as amended, is amended—

(a) by striking subsection (c) and redesignating (d), (e), (f) and (g) as subsections (c), (d), (e), and (f), respective; and

(b) by adding a new subsection (c) to read as follows:

"(c) Availability of funds for expenditure; grant program percentages

"(1) Sums deposited in the Fund shall remain in the Fund and be available for expenditure under this subsection for grants under this chapter without fiscal year limitation.

"(2) The Fund shall be available as follows:

"(A) Of the first $100,000,000 deposited in the Fund in a particular fiscal year—

"(i) 49.5 percent shall be available for grants under section 10602 of this title;

"(ii) 45 percent shall be available for grants under section 10603(a) of this title;

"(iii) 1 percent shall be available for grants under section 10603(c) of this title; and

"(iv) 4.5 percent shall be available for grants as provided in section 10603a of this title.

"(B) The next $5,500,000 deposited in the Fund in a particular fiscal year shall be available for grants as provided in section 10603a of this title.

"(D) The next $4,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under section 10603(a) of this title.

"(E) The next $2,200,000 deposited in the Fund in a particular fiscal year shall be available to the judicial branch for administrative costs to carry out the functions of the judicial branch under sections 3611 and 3612 of title 18, United States Code.

"(F) Any deposits in the Fund in a particular fiscal year that remain after the funds are distributed under subparagraphs (A) through (E) shall be available as follows:

"(i) 47.5 percent shall be available for grants under section 10602 of this title;

"(ii) 47.5 percent shall be available for grants under section 10603(a) of this title; and

"(iii) 5 percent shall be available for grants under section 10603(c)(10(B) of this title.

SEC. 2003. AMENDMENT OF RESTITUTION PROVISIONS.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a) by—

(A) striking "(a) The court" and inserting "(a)(1) The court";

(B) striking "may order" and inserting "shall order"; and

(C) adding at the end thereof the following new paragraph:

"(2) In addition to ordering restitution of the victim of the offense of which a defendant is convicted, a court may order restitution of any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(A) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (c) by striking "If the Court decides to order restriction under this section, the" and inserting "The";

(5) by striking subsections (d), (e), (f), (g), and (h); and

(6) by adding at the end thereof the following new subsections:

"(d)(1) The courts shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restoration order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to the clerk of the court for accounting and payment by the clerk in accordance with this subsection;

"(2) the clerk of the court shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful;

"(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

"(C) disburse money received from an offender so that each of the following obligations is paid in full in the following sequence:

"(i) a penalty assessment under section 3013 of title 18, United States Code;

"(ii) restitution of all victims; and

"(iii) all other fines, penalties, costs, and other payments required under the sentence; and

"(3) the offender shall advise the clerk of the court of any change in the offender's address during the term of the restitution order.

"(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In detemining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(k) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter (B) of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

"(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) Procedure for Issuing Order of Restitution.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs,"; and

(4) by adding at the end thereof the following new subsection:

"(e) The court may refer any issue arising the connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

Amendment No. 465

Add at the appropriate place in the bill:

TITLE XVIII—DRUNK DRIVING CHILD PROTECTION ACT

SEC. 1801. SHORT TITLE.

This title may be cited as the "Drunk Driving Child Protection Act of 1991".

SEC. 1802. STATE LAWS APPLIED IN AREAS OF FEDERAL JURISDICTION.

Section 13(b) of title 18, United States Code, is amended by—

(1) striking "For purposes" and inserting "(1) Subject to paragraph (2) and for purposes"; and

(2) adding at the end thereof the following new paragraph:

"(2)(A) In addition to any term of imprisonment provided for operating a motor vehicle under the influence of a drug or alcohol under the law of a State, territory, possession, or district, the punishment for such an offense under this section shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, 5 years, or if death of a minor is caused, 10 years, and an additional fine of not more than $1,000, or both, if—

"(i) a minor (other than the offender) was present in the motor vehicle when the offense was committed; and

"(ii) the law of the State, territory, possession, or district in which the offense occurred does not provide an additional term of imprisonment under the circumstances described in clause (i).

"(B) For the purposes of subparagraph (A), the term 'minor' means a person less than 18 years of age.".

SEC. 1803. COMMON CARRIERS.

Section 342 of title 18, United States Code, is amended by—

(1) inserting "(a) before "Whoever"; and

(2) adding at the end thereon the following new subsection:

"(b)(1) In addition to any term of imprisonment imposed for an offense under subsection (a), the punishment for such an offense shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, 5 years, or if death of a minor is caused, 10 years, and an additional fine of not more than $1,000, or both, if a minor (other than the offender) was present in the common carrier when the offense was committed.

"(2) For the purposes of paragraph (1), the term 'minor' means a person less than 18 years of age.".

SEC. 1804. SENSE OF CONGRESS CONCERNING CHILD CUSTODY AND VISITATION RIGHTS.

It is the sense of the Congress that in determining child custody and visitation rights, the courts should take into consideration the history of drunk driving that any person involved in the determination may have.

Amendment No. 466

Add at the appropriate place in the bill

TITLE IX—POLICE OFFICERS' BILL OF RIGHTS ACT OF 1991

SEC. 901. SHORT TITLE.

This title may be cited as the "Police Officer's Bill of Rights Act of 1991".

SEC. 902. RIGHTS OF LAW ENFORCEMENT OFFICERS.

Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781 et seq.) is amended by adding at the end thereof the following new section:

"RIGHTS OF LAW ENFORCEMENT OFFICERS

"(b) Rights of Law Enforcement Officers While Under Investigation.—When a law enforcement officer is under investigation or is subjected to questioning for any reason, other than in connection with an investigation or action described in subsection (h), under circumstances that could lead to disciplinary action, the following minimum standards shall apply:

"(1) Questioning of the law enforcement officer shall be conducted at a reasonable hour, preferably when the law enforcement officer is on duty, unless exigent circumstances otherwise require.

"(2) Questioning of the law enforcement officer shall take place at the offices of those conducting the investigation or the place where such law enforcement officer reports for duty unless the officer consents in writing to being questioned elsewhere.

"(3) The law enforcement officer under investigation shall be informed, at the commencement of any questioning, of the name, rank, and command of the officer conducting the questioning.

"(4) During any single period of questioning of the law enforcement officer, all questions shall be asked by or through a single investigator.

"(5) The law enforcement officer under investigation shall be informed in writing of the nature of the investigation prior to any questioning.

"(6) Any questioning of a law enforcement officer in connection with an investigation shall be for a reasonable period of time and shall allow for reasonable periods for the rest and personal necessities of the law enforcement officer.

"(7) No threat against, harassment of, or promise or reward (except an officer of immunity from prosecution) to any law enforcement officer shall be made in connection with an investigation to induce the answering of any question.

"(8) All questioning of any law enforcement officer in connection with the investigation shall be recorded in full in writing or by electronic device, and a copy of the transcript shall be made available to the officer under investigation.

"(9) The law enforcement officer under investigation shall be entitled to the presence of counsel (or any other one person of the officer's choice) at any questioning of the officer, unless the officer consents in writing to being questioned outside the presence of counsel.

"(10) At the conclusion of the investigation, the person in charge of the investigation shall inform the law enforcement officer under investigation, in writing, of the investigative findings and any recommendation for disciplinary action that the person intends to make.

"(11) A law enforcement officer who brought before a disciplinary hearing shall be provided access to all transcripts, records, written statements, written reports and analyses and video tapes pertinent to the case that—

"(A) contain exculpatory information;

"(B) are intended to support any disciplinary action; or

"(C) are to be introduced in the disciplinary hearing.

"(c) OPPORTUNITY FOR A HEARING.—(1) Except in a case of summary punishment or emergency suspension described in subsection (d), if an investigation of a law enforcement officer results in a recommendation of disciplinary action, the law enforcement agency shall notify the law enforcement officer that the officer is entitled to a hearing on the issues by a hearing officer or board.

"(2)(A) Subject to subparagraph (B), a State shall determine the composition of a disciplinary hearing board and the procedures for a disciplinary hearing.

"(B) A disciplinary hearing board that includes employees of the law enforcement agency of which the officer who is the subject of the hearing is a member shall include at least one law enforcement officer of equal or lesser rank to the officer who is the subject of the hearing.

"(3) A penalty greater than that which was recommended by the trial board cannot be imposed upon the officer.

"(d) SUMMARY PUNISHMENT AND EMERGENCY SUSPENSION.—(1) This section does not preclude a State from providing for summary punishment or emergency suspension for misconduct by a law enforcement officer.

"(2) An emergency suspension shall not affect or infringe on the health benefits of a law enforcement officer.

"(e) NOTICE OF DISCIPLINARY ACTION.—When disciplinary action is to be taken against a law enforcement officer, the officer shall be notified of the action and the reasons therefor a reasonable time before the action takes effect.

"(f) RETALIATION FOR EXERCISING RIGHTS.—There shall be no penalty or threat of penalty against a law enforcement officer for the exercise of the officer's rights under this section.

"(g) OTHER REMEDIES NOT IMPAIRED.—(1) Nothing in this section shall be construed to impair any other legal remedy that a law enforcement officer has with respect to any rights under this section.

"(2) A law enforcement officer may waive any of the rights guaranteed by this section.

"(h) APPLICATION OF SECTION.—This section does not apply in the case of—

"(1) an investigation of criminal conduct by a law enforcement officer; or

"(2) a nondisciplinary action taken in good faith on the basis of a law enforcement officer's employment-related performance.

"(i) DEFINITIONS.—For the purposes of this section—

"(1) the term 'disciplinary action' means the suspension, demotion, reduction in pay or other employment benefit, dismissal, transfer, or similar action taken agianst a law enforcement officer as punishment for misconduct;

"(2) the term 'emergency suspension' means temporary action imposed by the head of the law enforcement agency when that official determines that the action is in the best interests of the public;

"(3) the term 'summary punishment' means punishment imposed for a minor violation of a law enforcement agency's rules and regulations that does not result in disciplinary action;

"(4) the term 'law enforcement agency' means a public agency charged by law with the duty to investigate crimes or apprehend or hold in custody persons charged with or convicted of crimes; and

"(5) the term 'law enforcement officer' means a full-time police officer, sheriff, or correctional officer of a law enforcement agency.

"(j) PROHIBITION OF ADVERSE MATERIAL IN OFFICER'S FILE.—A law enforcement agency shall not insert any adverse material into the file of any law enforcement officer unless the officer has had an opportunity to review and comment in writing on the adverse material.

"(k) DISCLOSURE OF PERSONAL ASSETS.—A law enforcement officer shall not be required or requested to disclose any item of the officer's personal property, income, assets, sources of income, debts, personal or domestic expenditures (including those of any member of the officer's household), unless

"(1) the information is necessary in investigating a violation of any Federal, State, or local law, rule, or regulation with respect to the performance of official duties; or

"(2) such disclosure is required by Federal, State, or local law.

"(l) ENFORCEMENT OF PROTECTIONS FOR LAW ENFORCEMENT OFFICERS.—(1) A State shall have not more than 2 legislative sessions to enact a Law Enforcement Officer's Bill of Rights that provides rights for law enforcement officers that are substantially similar to the rights afforded under this section.

"(2) After the expiration of the time limit described in paragraph (1), a law enforcement officer shall have a cause of action in State court for the recovery of pecuniary and other damages and full reinstatement against a law enforcement agency that materially violates the rights afforded by this section.

"(3) The sovereign immunity of a State shall not apply in the case of a violation of the rights afforded by this section.

"(m) STATES' RIGHTS.—This section does not preempt State law or collective bargaining agreements or discussions during the collective bargaining process that provide rights for law enforcement officers that are substantially similar to the rights afforded by this section.".

TITLE X—FEDERAL LAW ENFORCEMENT AGENCIES

SEC. 1001. SHORT TITLE.

This title maybe cited as the "Federal Law Enforcement Act of 1991".

SEC. 1002. AUTHORIZATION FOR FEDERAL LAW ENFORCEMENT AGENCIES.

There is authorized to be appropriated for fiscal year 1992, \$345,500,000 (which shall be in addition to any other appropriations) to be allocated as follows:

(1) For the Drug Enforcement Administration, \$100,500,000, which shall include:

(A) not to exceed \$45,000,000 to hire, equip and train not less than 350 agents and necessary support personnel to expand DEA investigations and operations against drug trafficking organizations in rural areas;

(B) not to exceed \$25,000,000 to expand DEA State and Local Task Forces, including payment of state and local overtime, equipment and personnel costs; and

(C) not to exceed \$5,000,000 to hire, quip and train not less than 50 special agents and

AMENDMENT NO. 467

Add at the appropriate place in the bill:

TITLE XII—PUNISHMENT OF GUN CRIMINALS

SEC. 1201. SHORT TITLE.

This title may be cited as the "Gun Criminals Punishment Act of 1991".

Subtitle A—Increased Penalties for Gun Offenses

SEC. 1211. DEATH PENALTY FOR GUN MURDERS.

Section 924(c) of title 18, United States Code, is amended by—

(1) inserting "(A)" after "(1)";

(2) designating the second sentence as subparagraph (B);

(3) designating the third and fourth sentences as subparagraph (D); and

(4) inserting before subparagraph (D) the following:

"(C) Whoever violates the terms of subparagraph (A) and discharges a firearm that kills another person, shall, if the killing—

"(A) is a first degree murder as defined in section 1111(a) of this title, be punished by death or imprisonment for any term of years or for life, fined under this title, or both; or

"(B) is a murder other than a first degree murder as defined in section 1111(a) of this title, be fined under this title, imprisoned for any term of years or for life, or both.".

SEC. 1212. INCREASED PENALTIES FOR VIOLENT GUN CRIMES.

(a) IN GENERAL.—Section 924(c)(1) of title 18, United States Code, is amended by—

(1) striking subparagraph (A) and inserting the following:

"(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) discharges, uses, carries, or otherwise possesses a firearm shall, in addition to the penalties already provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for a term from 5 to 10 years;

"(ii) discharges, uses, carries, or otherwise possesses a firearm that is an assault weapon, short-barreled rifle, or short-barreled shotgun, shall, in addition to the penalties already provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for a term from 10 to 15 years; or

"(iii) discharges, uses, carries, or otherwise possesses a firearm that is a machinegun, a destructive device, or is equipped with a firearm silencer or firearm muffler, shall be sentenced to imprisonment for 30 years,"; and

(2) striking subparagraph (B), as designated by section 1211 of this Act, and inserting the following:

"(B) In the case of a second conviction under this subsection, such person shall be sentenced to imprisonment for 20 years and, if the firearm is an assault weapon, a short-barreled rifle, a short-barreled shotgun, a machinegun, a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment.".

(b) SENTENCING GUIDELINES FOR NEW PENALTIES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission, shall promulgate guidelines or amend existing guidelines to provide for a sentencing enhancement in accord with the provisions of subsection (c)(1) of section 924 of title 18, United States Code.

Subtitle B—Firearms and Related Amendments

SEC. 1221. POSSESSION OF AN EXPLOSIVE DURING THE COMMISSION OF A FELONY.

(a) POSSESSION OF EXPLOSIVES.—Section 844(h) of title 18, United States Code, is amended by—

(1) striking "carries an explosive during" and inserting "uses, carries, or otherwise possesses an explosive during"; and

(2) striking "used or carried" and inserting "used, carried, or possessed".

(b) PENALTY.— Section 844(h) of title 18, United States Code, is amended by striking "ten years" and inserting "twenty years".

SEC. 1222. CLARIFICATION OF DEFINITION OF CONVICTION.

Section 921(a)(20) of title 18, United States Code, is amended by adding at the end the following: "Notwithstanding the previous sentence, if the conviction was for a violent felony involving the threatened or actual use of a firearm or explosive or was for a serious drug offense, as defined in section 924(e) of this title, the person shall be considered convicted for purposes of this chapter irrespective of any pardon, setting aside, expunction or restoration of civil rights.".

SEC. 1223. PERMITTING CONSIDERATION OF PRETRIAL DETENTION FOR CERTAIN FIREARMS AND EXPLOSIVES OFFENSES.

Section 3142(f)(1) of title 18, United States Code, is amended by—

(1) striking "or" after the semicolon in subparagraph (C);

(2) redesignating subparagraph (D) as subparagraph (E); and

(3) inserting after subparagraph (C) the following:

"(D) an offense under section 844(a) that is a violation of subsection (d) (h), or (i) of section 842 or an offense under section 924(a) that is a violation of title 18, United States Code, section 922 (d), (g), (h), (i), (j), or (o), or an offense under section 844(d), or 924 (b), (g), (h), (i) of this title or section 922 (s) or (t).".

SEC. 1224. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING.

Section 924 of title 18, United States Code, is amended by adding at the end thereof the following:

"(m) Whoever, with the intent to engage in or to promote conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3);

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than ten years, fined under this title, or both.".

SEC. 1225. THEFT OF FIREARMS AND EXPLOSIVES.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding at the end thereof:

"(j) whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(k) Whoever steals any explosive materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, or fined under this title, or both.".

SEC. 1226. CONFORMING AMENDMENT PROVIDING MANDATORY REVOCATION OF SUPERVISED RELEASE FOR POSSESSION OF A FIREARM.

Section 3583 of title 18, United States Code is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 1227. INCREASED PENALTY FOR KNOWINGLY FALSE, MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (a)(1)(B), by striking out "(a)(6),"; and

(2) in subsection (a)(2), by inserting "(a)(6)," after "subsections".

SEC. 1228. STATUTE OF LIMITATIONS FOR CERTAIN GANGSTER WEAPON OFFENSES.

Section 6531 of the Internal Revenue Code of 1986 (26 U.S.C. 6531, relating to periods of limitation of criminal prosecutions) is amended by striking "except that the period of limitation shall be six years" and inserting in lieu thereof "except that the period of limitation shall be five years for offenses described in section 5861 (relating to firearms) and the period of limitation shall be six years".

SEC. 1229. POSSESSION OF EXPLOSIVES BY FELONS AND OTHERS.

Section 842(i) of title 18, United States Code, is amended by inserting "or possess" after "to receive".

SEC. 1230. SUMMARY DESTRUCTION OF EXPLOSIVES SUBJECT TO FORFEITURE.

Section 844(c) of title 18, United States Code, is amended by redesignating subsection (c) as subsection (c)(1) and by adding paragraphs (2) and (3) as follows:

"(2) Notwithstanding the provisions of paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture where it is impracticable or unsafe to remove the materials to a place of storage, or where it is unsafe to store them, the seizing officer is authorized to destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least one credible witness. The seizing officer shall make a report of the seizure and take samples as the Secretary may by regulation prescribe.

"(3) Within sixty days after any destruction made pursuant to paragraph (2), the owner of, including any person having an interest in, the property so destroyed may make application to the Secretary for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Secretary that—

"(A) the property has not been used or involved in a violation of law; or

"(B) any unlawful involvement or use of the property was without the claimant's knowledge, consent, or willful blindness,

the Secretary shall make an allowance to the claimant not exceeding the value of the property destroyed.".

SEC. 1231. SUMMARY FORFEITURE OF UNREGISTERED NATIONAL FIREARMS ACT WEAPONS.

Section 5872 of title 26, United States Code, is amended by redesignating subsection (a) as subsection (a)(1) and by adding paragraphs (2) and (3) to read as follows:

"(2) UNREGISTERED NATIONAL FIREARMS ACT WEAPONS.—Notwithstanding the provisions of paragraph (1), the provisions of sections 7323 and 7325 shall not apply to any firearm which is not registered in the National Firearms Registration and Transfer Record pursuant to section 5841. No property rights shal exist in any such unregistered firearm and it shall be summarily forfeited to the United States.

"(3) RIGHTS OF INNOCENT OWNERS.—Within one year after the summary forfeiture made pursuant to paragraph (2) the owner of, including any person having an interest in, the property seized may make application to the Secretary for reimbursement of the value of such property. If the claimant establishes to the satisfaction of the Secretary that—

"(A) such property has not been involved or used in a violation of law; or

"(B) any unlawful involvement or use of such property had been without the claimant's consent, knowledge, or willful blindness,

the Secretary shall make an allowance to such claimant not exceeding the value of the property so forfeited.".

SEC. 1232. DISPOSITION OF FORFEITED FIREARMS.

Subsection 5872(b) of the Internal Revenue Code of 1986 (26 U.S.C. 5872(b)), is amended to read as follows:

"(b) DISPOSAL.—In the case of the forfeiture of any firearm, where there is no remissin or mitigation of forfeiture thereof—

"(1) The Secretary may retain the firearm for official use of the Department of the Treasury or, if not so retained, offer to transfer the weapon without charge to any other executive department or independent establishment of the Government for official use by it and, if the offer is accepted, so transfer the firearm;

"(2) If the firearm is not disposed of pursuant to paragraph (1), is a firearm other than a machinegun or a firearm forfeited for a violation of this chapter, is a firearm that in the opinion of the Secretary is not so defective that its disposition pursuant to this paragraph would create an unreasonable risk of a malfunction likely to result in death or bodily injury, and is a firearm which (in the judgment of the Secretary, taking into consideration evidence of present value and evidence that like firearms are not available except as collector's items, or that the value of like firearms available in ordinary commercial channels is substantially less) derives a substantial part of its monetary value from the fact that it is novel, rare, or because of its association with some historical figure, period, or event the Secretary may sell such firearm, after public notice, at public sale to a dealer licensed under the provisions of chapter 44 of title 18, United States Code;

"(3) If the firearm has not been disposed of pursuant to paragraphs (1) or (2), the Secretary shall transfer the firearm to the Administrator of General Services, General Services Administrator, who shall destroy or provide for the destruction of such firearm; and

"(4) No decision or action of the Secretary pursuant to this subsection shall be subject to judicial review.".

SEC. 1233. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

(a) Section 924(e)(1) of title 18, United States Code, is amended by striking ", and such person shall not be eligible for parole with respect to the sentence imposed under this subsection".

(b) Section 924(c)(1) of title 18, United States Code, is amended by striking "No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.".

SEC. 1234. POSSESSION OF STOLEN FIREARMS.

Section 922(j) of title 18, United States Code, is amended by inserting "possess," before "receive,".

SEC. 1235. USING A FIREARM IN THE COMMISSION OF COUNTERFEITING OR FORGERY.

Section 924(c)(1) of title 18, United States Code, is amended by inserting "or during and in relation to any felony punishable under chapter 25 (relating to counterfeiting and forgery) of this title" after "for which he may be prosecuted in a court of the United States,".

SEC. 1236. MANDATORY PENALTY FOR FIREARMS POSSESSION BY VIOLENT FELONS AND SERIOUS DRUG OFFENDERS.

(a) Section 924(a)(1) of title 18, United States Code, is amended by inserting a comma before "or both" and by inserting before the period at the end thereof the following: ", and if the violation is a violation of subsection (g)(1) of section 922 by a person who has a previous conviction for a violent felony or a serious drug offense as defined in subsection (e)(2) of this section, a sentence imposed under this paragraph shall include a term of imprisonment of not less than five years.".

SEC. 1237. REPORTING OF MULTIPLE FIREARMS SALES.

Subsection 923(g)(1)(D)(3) of title 18, United States Code, is amended—

(1) by deleting the phrase "five consecutive business days" and inserting in lieu thereof "thirty consecutive days"; and

(2) by adding a new sentence at the end thereof as follows: "Each licensee shall forward a copy of the report to the chief law enforcement officer of the place of residence of the unlicensed person not later than the close of business on the date that the multiple sale or disposition occurs.".

SEC. 1238. POSSESSION OF STOLEN FIREARMS AND EXPLOSIVES.

(a) FIREARMS.—Section 922(j) of title 18, United States Code, is amended by inserting "possess," before "conceal";

(b) EXPLOSIVES.—Section 842(h) of title 18, United States Code, is amended by inserting "possess," before "conceal".

SEC. 1239. RECEIPT OF FIREARMS BY NONRESIDENT.

Section 922(a) of title 18, United States Code, is amended—

(1) in paragraph (7) by striking "and" at the end thereof;

(2) in paragraph (8) by striking the period at the end thereof and inserting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms.".

SEC. 1240. FIREARMS AND EXPLOSIVES CONSPIRACY.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(k) Whoever conspires to commit any offense defined in this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(l) Whoever conspires to commit any offense defined in this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 1241. THEFT OF FIREARMS OR EXPLOSIVES FROM LICENSEE.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(l) Whoever steals any firearm from a licensed importer, licensed manufacturer, licensed dealer or licensed collector shall be fined in accordance with the title, imprisoned not more than ten years, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(m) Whoever steals any explosive material from a licensed importer, licensed manufacturer or licensed dealer, or from any permittee shall be fined in accordance with this title, imprisoned not more than ten years, or both.".

SEC. 1242. DISPOSING OF EXPLOSIVE TO PROHIBITED PERSONS.

Section 842(d) of title 18, United State Code, is amended by striking "licensee" and inserting in lieu thereof "person".

SEC. 1243. CLARIFICATION OF "BURGLARY" UNDER THE ARMED CAREER CRIMINAL STATUTE.

Section 924(e)(2) of title 18, United States Code, is amended by adding at the end thereof the following:

"(D) the term 'burglary' means any crime punishable by a term of imprisonment exceeding one year and consisting of entering or remaining surreptitiously within a building that is the property of another with intent to engage in conduct constituting a Federal or State offense.".

SEC. 1244. CLARIFICATION OF PENALTY ENHANCEMENT.

Section 924(c)(1)(D) of title 18, United States Code, is amended by striking "convicted of a violation of" and inserting "Sentenced pursuant to".

SEC. 1245. BAR ON SALE OF FIREARMS AND EXPLOSIVE TO OR POSSESSION OF FIREARMS AND EXPLOSIVES BY PERSONS CONVICTED OF A VIOLENT OR SERIOUS DRUG MISDEMEANOR.

(a) FIREARMS.—Sections 842(d)(2) and 922(d)(1) of title 18, United States Code, are each amended by inserting ", or has been convicted in any court of any crime of violence involving use of a firearm or destructive device or misdemeanor drug or narcotic offense (as defined in section 404(c) of the Controlled Substances Act, 21 U.S.C. 844(c)) for which the maximum penalty authorized is greater than 6 months (it is a bar to a prosecution under this paragraph that the conviction for a misdemeanor drug or narcotic offense occurred prior to the date of enactment of the Violent Crime Control Act of 1991)" after "crime punishable by imprisonment for a term exceeding one year";

(b) EXPLOSIVES.—Sections 842(i)(1) and 922(g)(1) of title 18, United States Code, are each amended by inserting "or has been convicted in any court of any crime of violence involving use of a firearm or destructive device or misdemeanor drug or narcotic offense (as defined in section 404(c) of the Controlled Substances Act, 21 U.S.C. 844(c)) for which the maximum penalty authorized is greater than 6 months (it is a bar to a prosecution under this section that the conviction for a serious misdemeanor drug or narcotic offense occurred prior to the date of enactment of the Violent Crime Control Act of 1991)" after "crime punishable by imprisonment for a term exceeding one year";

Subtitle C—Prohibited Gun Clips and Magazines

SEC. 1251. FINDINGS.

The Congress finds that—

(1) offenses involving firearms equipped with magazines, belts, drums, feed strips, and other similar devices that enable such firearms to fire more than fifteen rounds without reloading, and particularly drug offenses, with their attendant loss of life and the generation of illegal profits, affect interstate and foreign commerce; and

(2) such devices are themselves sold in interstate and foreign commerce, and are moved in commerce for the purpose of use in violent crimes.

SEC. 1252. CERTAIN AMMUNITION CLIPS AND MAGAZINES DEFINED AS FIREARMS.

Section 921(a)(3) of title 18, United States Code, is amended by striking "or" before "(D)", and by striking out the period after the word "device" and inserting in lieu thereof "; or (E) any ammunition feeding device.".

SEC. 1253. DEFINITION OF AMMUNITION FEEDING DEVICE.

Section 921(a) of title 18, United States Code, is amended by adding a new paragraph at the end thereof as follows:

"(30) The term 'ammunition feeding device' means a detachable magazine, belt, drum, feed strip, or similar device which has a capacity of, or which can be readily restored or converted to accept more than 15 rounds of ammunition. The term also includes any combination of parts from which such device can be assembled. Notwithstanding the foregoing, such term shall not include any attached tubular device designed to accept and capable of operating with only .22 rim-fire caliber ammunition.".

SEC. 1254. PROHIBITIONS APPLICABLE TO AMMUNITION FEEDING DEVICES.

Section 922 of title 18, United States Code, is amended by adding new subsections (v), (w), and (x), as follows:

"(v) It shall be unlawful for any person to import, manufacturer, transport, ship, transfer, receive, or possess an ammunition feeding device, except that this subsection shall not apply to—

"(1) any importation or manufacture of such a device for sale or distribution by a licensed importer or licensed manufacturer to the United States or any department, agency, or political subdivision thereof;

"(2) any possession, shipment, transportation of or transfer (in accordance with the provisions of subsections (w) and (x)) of such a device that was lawfully possessed before this subsection takes effect; or

"(3) any manufacture of such a device for the purpose of exportation.

"(w) The Secretary shall maintain a central registry of all ammunition feeding devices transferred after the effective date of this subsection which, after such transfer, are not in the possession or under the control of the United States, or any department or agency thereof or any department, agency, or political subdivision thereof. This registry shall be known as the National Ammunition Feeding Device Registry. The registry shall include—

"(1) identification of the device;

"(2) date of registration;

"(3) identification and address of the person entitled to possess the device; and

"(4) such other information as may be required by regulations promulgated by the Secretary.

"(x) Each transferor of an ammunition feeding device that was lawfully possessed before the effective date of subsection (v) shall (except in the case of a transfer to the United States, or any department or agency thereof or any State or any department, agency, or political subdivision thereof) register the device to the transferee in accordance with regulations promulgated by the Secretary. Any information or evidence required to be provided in the course of such registration by a natural person shall be subject to the use-restriction provisions of section 5848 of title 26, United States Code. The transferor shall, contemporaneously with the registration of the device, pay a fee of $25 to the Secretary. A transferee of an ammunition feeding device required to be registered as required by this subsection shall retain proof of such registration which shall be made available to the Secretary upon request.".

SEC. 1255. IDENTIFICATION MARKINGS FOR AMMUNITION FEEDING DEVICES.

Section 923(i) of title 18, United States Code, is amended by adding at the end thereof a new sentence as follows: "An ammunition feeding device shall be identified by a serial number and such other identification as the Secretary may by regulations prescribe.".

SEC. 1256. CRIMINAL PENALTIES.

Subsection 924(a)(2) of title 18, United States Code, is amended by striking out "or (o)" and inserting in lieu there of "(o), or (v)".

SEC. 1257. NONINTERRUPTION OF BUSINESS FOR PERSONS IN THE BUSINESS OF IMPORTING OR MANUFACTURING AMMUNITION FEEDING DEVICES.

Any person engaging in the business of manufacturing or importing ammunition feeding devices requiring a license under the provisions of chapter 44 of title 18, United States Code, who was engaged in such business on the date of enactment of this Act, and who files an application for a license under the provisions of section 923 of title 18, United States Code, within 30 days after the date of enactment, may continue such business pending final action on the application. All provisions of chapter 44 of title 18, United States Code, shall apply to such applicant in the same manner and to the same extent as if the applicant were a holder of a license under chapter 44.

RIEGLE AMENDMENT NO. 468

(Ordered to lie on the table.)

Mr. RIEGLE submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . REGIONAL VIOLENT CRIME ASSISTANCE.

The Omnibus Crime and Safe Streets Act of 1968 (42 U.S.C. 3701 et seq.) is amended—

(1) by amending section 511 to read as follows:

"ALLOCATION OF FUNDS FOR GRANTS

"(a) SPECIAL DISCRETIONARY FUNDS.—Of the total amount appropriated for this part (other than chapter B of this subpart) in any fiscal year—

"(1) if that amount is $250,000,000 or less, 20 percent shall be reserved and set aside for ths section in a special discretionary fund for use by the Director in carrying out the purpsoes specified in section 503;

"(2) if that amount is greater than $250,000,000 but less than $500,000,000—

"(A) $50,000,000 shall be reserved and set aside for this section in the special discretionary fund described in paragraph (1); and

"(B) 20 percent of the excess over $250,000,000 shall be reserved and set aside for this section in a special discretionary fund for use by the Director in carrying out the purposes specified in section 513; and

"(3) if that amount is greater than $500,000,000—

"(A) $50,000,000 shall be reserved and set aside for this section in the special discretionary fund described in paragraph (1); and

"(B) $50,000,000 shall be reserved and set aside for this section in the special discretionary fund described in paragraph (2)(B).

"(b) AMOUNT OF GRANTS.—Grants under this section may be made for amounts up to 75 percent of the costs of the programs or projects contained in the approved application.";

(2) in section 512 by inserting "for purposes specified in section 503" after "section 511"; and

(3) by inserting after section 521 the following new section:

"REGIONAL VIOLENT CRIME ASSISTANCE

"(a) PURPOSES OF GRANTS.—The Director may make a grant to a State for the purposes of—

"(1) enhancing law enforcement and criminal justice systems in regions that suffer from high rates of violent crime or face particular violent crime problems that warrent Federal assistance; and

"(2) developing and implementing multijurisdictional strategies to respond to and prevent violent crime.

"(b) AMOUNT.—(1) No grantee under subsection (a) shall receive a grant exceeding $10,000,000.

(c) CONSIDERATIONS IN AWARDING GRANTS.—(1) In awarding grants under subsection (a), the Director shall give priority to—

"(A) states that develop and implement plans to assist law enforcement and criminal justice authorities from or near jurisdictions with high rates of violent crime; and

"(B) states that propose to develop a multijurisdictional or regional approach to respond to or prevent violent crime.

"(2) The Director shall not limit grants under subsection (a) to highly populated centers of violent crime, but shall give due consideration to applications from less populated regions where the magnitude and severity of violent crime warrants Federal assistance.

"(3) The Director shall not limit grants under subsection (a) to the enhancement of law enforcement capabilities, but shall give due consideration to applications that propose to use funds for the improvement of the criminal justice system in general.".

METZENBAUM AMENDMENT NO. 469

(Ordered to lie on the table.)

Mr. METZENBAUM submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, insert the following:

Paragraph (b) of section 3621 of title 18, United States Code, is amended by inserting after subsection (5) the following:

"However, the bureau may not consider the social or economic status of the prisoner in designating the place of the prisoner's imprisonment."

LEAHY AMENDMENT NO. 470

(Ordered to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place, insert the following:

SEC. . FEDERAL BUREAU OF INVESTIGATION ACCESS TO CERTAIN TELEPHONE SUBSCRIBER INFORMATION.

(a) REQUIRED CERTIFICATION.—Section 2709(b) of title 18, United States Code, is amended to read as follows:

"(b) REQUIRED CERTIFICATION.—The Director of the Federal Bureau of Investigation, or his designee in a position not lower than Deputy Assistant Director in the Intelligence Division, may—

"(1) request the name, address, length of service, and toll billing records if the Director (or his designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the name, address, length of service, and toll billing records sought are relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801); and

"(2) request the name, address, and length of service of a person or entity if the Director (or his designee in a postion not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that communication facilities registered in the name of the person or entity have been used, through the services of such provider, in communication with—

"(i) an individual who is engaging or has engaged in international terrorism as defined in section 101(c) of the Foreign Intelligence Surveillance Act or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States; or

"(ii) a foreign power or an agent of a foreign power under circumstances giving reason to believe that the communication concerned international terrorism or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States.".

(b) REPORT TO JUDICIARY COMMITTEES.—Section 2709(e) of title 18, United States Code, is amended by adding after "Senate" the following: ", and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,".

BIDEN AMENDMENT NO. 471

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

Add at the appropriate place in the bill:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violence Against Women Act of 1991".

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—SAFE STREETS FOR WOMEN

Sec. 101. Short title.

Subtitle A—Federal Penalties for Sex Crimes

Sec. 111. Repeat offenders.
Sec. 112. Federal penalties.
Sec. 113. Mandatory restitution for sex crimes.

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

Sec. 121. Grants to combat violent crimes against women.

Subtitle C—Safety for Women in Public Transit and Public Parks

Sec. 131. Grants for capital improvements to prevent crime in public transportation.
Sec. 132. Grants for capital improvements to prevent crime in national parks.
Sec. 133. Grants for capital improvements to prevent crime in public parks.

Subtitle D—National Commission on Violent Crime Against Women

Sec. 141. Establishment.
Sec. 142. Duties of commission.
Sec. 143. Membership.
Sec. 144. Reports.
Sec. 145. Executive Director and staff.
Sec. 146. Powers of commission.
Sec. 147. Authorization of appropriations.
Sec. 148. Termination.

Subtitle E—New Evidentiary Rules

Sec. 151. Sexual history in all criminal cases.
Sec. 152. Sexual history in civil cases.
Sec. 153. Amendments to rape shield law.
Sec. 154. Evidence of clothing.

Subtitle F—Assistance to Victims of Sexual Assault

Sec. 161. Education and prevention grants to reduce sexual assaults against women.
Sec. 162. Rape exam payments.

TITLE II—SAFE HOMES FOR WOMEN

Sec. 201. Short title.

Subtitle A—Interstate Enforcement

Sec. 211. Interstate enforcement.

Subtitle B—Arrest in Spousal Abuse Cases

Sec. 221. Encouraging arrest policies.

Subtitle C—Funding for Shelters

Sec. 231. Authorization.

Subtitle D—Family Violence Prevention and Services Act Amendments

Sec. 241. Expansion of purpose.
Sec. 242. Expansion of State demonstration grant program.
Sec. 243. Grants for public information campaigns.
Sec. 244. State commissions on domestic violence.
Sec. 245. Indian tribes.
Sec. 246. Funding limitations.
Sec. 247. Grants to entities other than States; local share.
Sec. 248. Shelter and related assistance.
Sec. 249. Law enforcement training and technical assistance grants.
Sec. 250. Report on recordkeeping.
Sec. 251. Model State leadership incentive grants for domestic violence intervention.
Sec. 252. Funding for technical assistance centers.

Subtitle E—Youth Education and Domestic Violence

Sec. 261. Educating youth about domestic violence.

Subtitle F—Confidentiality for Abused Persons

Sec. 271. Confidentiality for abused persons.

TITLE III—CIVIL RIGHTS

Sec. 301. Civil rights.

TITLE IV—SAFE CAMPUSES FOR WOMEN

Sec. 401. Short title.
Sec. 402. Findings.
Sec. 403. Grants for campus rape education.
Sec. 404. Disclosure of disciplinary proceedings in sex assault cases on campus.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

Sec. 501. Short title.

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

Sec. 511. Grants authorized.
Sec. 512. Training provided by grants.
Sec. 513. Cooperation in developing programs in making grants under this title.
Sec. 514. Authorization of appropriations.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

Sec. 521. Education and training grants.
Sec. 522. Cooperation in developing programs.
Sec. 523. Authorization of appropriations.

TITLE I—SAFE STREETS FOR WOMEN

SEC. 101. SHORT TITLE.

This title may be cited as the "Safe Streets for Women Act of 1991".

Subtitle A—Federal Penalties for Sex Crimes

SEC. 111. REPEAT OFFENDERS.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2247. Repeat offenders

"Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide that any person who commits a violation of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise provided in the guidelines, or up to twice the fine authorized in the guidelines, or both.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2247. Repeat offenders.".

SEC. 112. FEDERAL PENALTIES.

(a) RAPE AND AGGRAVATED RAPE.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide that a defendant convicted of aggravated rape under section 2241 of title 18, United States Code, or rape under section 2242 of title 18, United States Code, shall be assigned a base offense level under chapter 2 of the sentencing guidelines that is at least 4 levels greater than the base offense level applicable to such offenses under the guidelines in effect on November 1, 1990, or otherwise shall amend the guidelines applicable to such offenses so as to achieve a comparable minimum guideline sentence. In amending such guidelines, the Sentencing Commission shall review the appropriateness of existing specific offense characteristics or other adjustments applicable to such offenses, and make such changes as it deems appropriate, taking into account the severity of rape offenses, with or without aggravating factors; the unique nature and duration of the mental injuries inflicted on the victims of such offenses; and any other relevant factors.

(b) EFFECT OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instructions set forth in subsection (a) so as to achieve a comparable result.

(b) STATUTORY RAPE.—

(1) Section 2243(a) of title 18, United States Code, is amended by striking "5 years" and inserting "10 years".

(2) Section 2243(b) of title 18, United States Code, is amended by striking "one year," and inserting "two years,".

(3) Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to incorporate the increase in maximum penalties provided by this section for sections 2243(a) and 2243(b) of title 18, United States Code.

SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to paragraph (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or matters related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or his delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2248. Mandatory restitution.".

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) redesignating part N as part O;

(2) redesignating section 1401 as section 1501; and

(3) adding after part M the following:

"PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"SEC. 1401. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribes, cities, and other localities to develop effective law enforcement and prosecution strategies to combat violent crimes against women and, in particular, to focus efforts on those areas with the highest rates of violent crime against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide additional personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing police and prosecution policies, protocols, or orders specifically devoted to identifying and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, prosecutions, and convictions for the crimes of sexual assault and domestic violence; and

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, to increase reporting and reduce attrition rates for cases involving violent crimes against women, including the crimes of sexual assault and domestic violence.

"(c) GRANTS FOR MULTIPLE USES.—Grants under this part must be used for at least 3 of the 5 purposes listed in subsection (b).

"Subpart 1—High Intensity Crime Area Grants

"SEC. 1411. HIGH INTENSITY GRANTS.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the 'Director') shall make grants to areas of 'high intensity crime' against women.

"(b) DEFINITION.—For purposes of this part, a 'high intensity crime area' means an area with one of the 40 highest rates of violent crime against women, as determined by the Bureau of Justice Statistics pursuant to section 1412.

"SEC. 1412. HIGH INTENSITY GRANT APPLICATION.

"(a) COMPUTATION.—Within 45 days after the date of enactment of this part, the Bureau of Justice Statistics shall compile a list of the 40 areas with the highest rates of violent crime against women based on the combined female victimization rate per population for assault, sexual assault (including, but not limited to, rape), murder, robbery, and kidnapping.

"(b) USE OF DATA.—In calculating the combined female victimization rate required by subsection (a), the Bureau of Justice Statistics may rely on—

"(1) existing data collected by States, municipalities, Indian reservations or statistical metropolitan areas showing the number of police reports of the crimes listed in subsection (a); and

"(2) existing data collected by the Federal Bureau of Investigation, including data from those governmental entities already complying with the National Incident Based Reporting System, showing the number of police reports of crimes listed in subsection (a).

"(c) PUBLICATION.—After compiling the list set forth in subsection (a), the Bureau of Justice Statistics shall convey it to the Director who shall publish it in the Federal Register.

"(d) QUALIFICATION.—Upon satisfying the terms of subsection (e), any high intensity crime area shall be qualified for a grant under this subpart upon application by the chief executive officer of the governmental entities responsible for law enforcement and prosecution of criminal offenses within the area and certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate program grants, with nongovernmental nonprofit victim services programs; and

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(e) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application must provide the certifications required by subsection (d) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (d)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall ensure, to the extent practicable, that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served; and

"(C) give priority to areas with the greatest showing of need.

"(g) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this part. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"Subpart 2—Other Grants to States to Combat Violent Crimes Against Women

"SEC. 1421. GENERAL GRANTS TO STATES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to States, for use by States, units of local government in the States, and nonprofit nongovernmental victim services programs in the States, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be—

"(1) $500,000 to each State; and

"(2) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application shall include the certifications of qualification required by subsection (c) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (c)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(e) DISBURSEMENT.—(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that States will—

"(A) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 200,000;

"(B) determine the amount of subgrants based on the population to be served; and

"(C) give priority to areas with the greatest showing of need.

"(f) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"SEC. 1422. GENERAL GRANTS TO TRIBES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of $35,000 and maximum grants of $300,000.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b); and

"(2) at least 25 percent of the grant funds shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—(1) Applications shall be made directly to the Director and shall contain a description of the tribes' law enforcement responsibilities for the Indian country described in the application and a description of the tribes' system of courts, including whether the tribal government operates courts of Indian offenses as defined in 25 U.S.C. 1301 or CFR courts under 25 CFR 11 et seq.

"(2) Applications shall be in such form as the Director may prescribe and shall specify the nature of the program proposed by the applicant tribe, the data and information on which the program is based, and the extent to which the program plans to use or incorporate existing services available in the Indian country where the grant will be used.

"(3) The term of any grant shall be for a minimum of 3 years.

"(e) GRANTEE REPORTING.—At the end of the first 12 months of the grant period and at the end of each year thereafter, the Indian tribal granted shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

"(2) The term 'Indian country' has the meaning given to such term by section 1151 of title 18, United States Code.

"Subpart 3—General Terms and Conditions

"SEC. 1431. GENERAL DEFINITIONS.

"As used in this part—

"(1) the term 'victim services program' means any public or private nonprofit program that assists victims, including (A) nongovernmental nonprofit organizations such as rape crisis centers or battered women's shelters, including nonprofit nongovernmental organizations assisting victims through the legal process and (B) victim/witness programs within governmental entities;

"(2) the term 'sexual assault' includes not only assaults committed by offenders who are strangers to the victim but also assaults committed by offenders who are known or related by blood or marriage to the victim; and

"(3) the term 'domestic violence' includes felony and misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse, or any other person similarly situated to a spouse who is protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"SEC. 1432. GENERAL TERMS AND CONDITIONS.

"(a) NONMONETARY ASSISTANCE.—In addition to the assistance provided under subparts 1 or 2, the Director may direct any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts.

"(b) BUREAU REPORTING.—No later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Judiciary Committees of the House and the Senate a report that includes, for each high intensity crime area (as provided in subpart 1) and for each State and for each grantee Indian tribe (as provided in subpart 2)—

"(1) the amount of grants made under this part;

"(2) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(3) a copy of each grantee report filed pursuant to sections 1412(g) and 1421(f).

"(c) REGULATIONS.—No later than 45 days after the date of enactment of this part, the Director shall publish proposed regulations implementing this part. No later than 120 days after such date, the Director shall publish final regulations implementing this part.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year 1992, 1993, and 1994, $100,000,000 to carry out the purposes of subpart 1, and $190,000,000 to carry out the purposes of subpart 2, and $10,000,000 to carry out the purposes of section 1422 of subpart 2.".

Subtitle C—Safety for Women in Public Transit and Public Parks

SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

Section 24 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION

"SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, and not to exceed $10,000,000, the Secretary shall make capital grants for the prevention of crime and to increase security in existing and future public transportation systems. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

"(b) GRANTS FOR LIGHTING, CAMERA SURVEILLANCE, AND SECURITY PHONES.—

"(1) From the sums authorized for expenditure under this section for crime prevention, the Secretary is authorized to make grants and loans to States and local public bodies or agencies for the purpose of increasing the safety of public transportation by—

"(A) increasing lighting within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(B) increasing camera surveillance of areas within and adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(C) providing emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages; or

"(D) any other project intended to increase the security and safety of existing or planned public transportation systems.

"(2) From the sums authorized under this section, at least 75 percent shall be expended on projects of the type described in subsection (b)(1) (A) and (B).

"(c) REPORTING.—All grants under this section are contingent upon the filing of a report with the Secretary and the Department of Justice, Office of Victims of Crime, showing crime rates in or adjacent to public transportation before, and for a 1-year period after, the capital improvement. Statistics shall be broken down by type of crime, sex, race, and relationship of victim to the offender.

"(d) INCREASED FEDERAL SHARE.—Notwithstanding any other provision of this Act, the Federal share under this section for each capital improvement project which enhances the safety and security of public transportation systems and which is not required by law (including any other provision of this chapter) shall be 90 percent of the net project cost of such project.

"(e) SPECIAL GRANTS FOR PROJECTS TO STUDY INCREASING SECURITY FOR WOMEN.—From the sums authorized under this section, the Secretary shall provide grants and loans for the purpose of studying ways to reduce violent crimes against women in public transit through better design or operation of public transit systems.

"(f) GENERAL REQUIREMENTS.—All grants or loans provided under this section shall be subject to all the terms, conditions, requirements, and provisions applicable to grants and loans made under section 2(a).".

SEC. 132. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN NATIONAL PARKS.

The Act of August 18, 1970, the National Park System Improvements in Administration Act (90 Stat. 1931; 16 U.S.C. 1a-1 et seq.) is amended by adding at the end thereof the following:

"SEC. 13. NATIONAL PARK SYSTEM CRIME PREVENTION ASSISTANCE.

"(a) From the sums authorized pursuant to section 7 of the Land and Water Conservation Act of 1965, and not to exceed $10,000,000, the Secretary of the Interior is authorized to provide Federal assistance to reduce the incidence of violent crime in the National Park System.

"(b) The Secretary shall direct the chief official responsible for law enforcement within the National Park Services to—

"(1) compile a list of areas within the National Park System with the highest rates of violent crime;

"(2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and

"(3) publish the information required by paragraphs (1) and (2) in the Federal Register.

"(c) No later than 120 days after the date of enactment of this section, and based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute funds throughout the National Park Service. Priority shall be given to those areas with the highest rates of sexual assault.

"(d) Funds provided under this section may be used for the following purposes—

"(1) to increase lighting within or adjacent to public parks and recreation areas;

"(2) to provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(3) to increase security or law enforcement personnel within or adjacent to public parks and recreation areas; and

"(4) any other project intended to increase the security and safety of public parks and recreation areas.".

SEC. 133. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC PARKS.

Section 6 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 4601-8) is amended by adding at the end thereof the following new subsection:

"(h) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed $15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding the terms of subsection (c), the Secretary is authorized to provide 70 percent improvement grants for projects undertaken by any State for the purposes outlined in this subsection. The remaining share of the cost shall be borne by the State.".

Subtitle D—National Commission on Violent Crime Against Women

SEC. 141. ESTABLISHMENT.

There is established a commission to be known as the National Commission on Violent Crime Against Women (hereinafter referred to as "the Commission").

SEC. 142. DUTIES OF COMMISSION.

(a) GENERAL PURPOSE OF THE COMMISSION.—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crime against women.

(b) FUNCTIONS.—The Commission shall perform the following functions—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses; and

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence.

SEC. 143. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) three of whom shall be—

(I) the Attorney General;

(II) the Secretary of Health and Human Services; and

(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of violent crime.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) CONGRESSIONAL COMMITTEE RECOMMENDATIONS.—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) REQUIREMENTS OF APPOINTMENTS.—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their education, training, and experience, including experience in advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of law enforcement, prosecution, judicial administration, legal expertise, victim compensation boards, and victim advocacy.

(4) TERM OF MEMBERS.—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) VACANCY.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) CHAIRMAN.—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) MEETINGS.—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least six times.

(e) PAY.—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) PER DIEM.—While away from their homes or regular places of business in the performance of duties for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) DEADLINE FOR APPOINTMENT.—Not later than 45 days after the date of the enactment of this Act, the members of the Commission shall be appointed.

SEC. 144. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

SEC. 145. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable under GS-18 of the General Schedule as contained in title 5, United States Code.

(b) STAFF.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 146. POWERS OF COMMISSION.

(a) HEARINGS.—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) DELEGATION.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) ACCESS TO INFORMATION.—The Commission may secure directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, except to the extent that the department or agency is expressly prohibited by law from furnishing such information. On the request of the Chairman of the Commission, the head of such a department or agency shall furnish nonprohibited information to the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 147. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $500,000 to carry out the purposes of this subtitle.

SEC. 148. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed one year.

Subtitle E—New Evidentiary Rules

SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

The Federal Rules of Evidence are amended by inserting after rule 412 the following:

"Rule 412A. Evidence of victim's past behavior in other criminal cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Nothwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, reputation or opinion evidence of the past sexual behavior of an alleged victim is not admissible.

"(b) ADMISSIBILITY.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, evidence of an alleged victim's past sexual behavior (other than reputation and opinion evidence) may be admissible if—

"(1) the evidence is admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of the evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the alleged victim's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the alleged victim.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence.

Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2) that the evidence that the defendant seeks to offer is relevant and that the probative value of such evidence outweighs the danger of unfair prejudice such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

The Federal Rules of Evidence, as amended by section 151 of this Act, are amended by adding after rule 412A the following:

"Rule 412B. Evidence of past sexual behavior in civil cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

"(b) ADMISSIBLE EVIDENCE.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

"(1) admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of such evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the plaintiff's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the plaintiff.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the plaintiff and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2) that the evidence that the defendant seeks to offer is relevant and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies evidence which may be offered and areas with respect to which the plaintiff may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

"(d) DEFINITIONS.—For purposes of this rule, a case involving a claim of actionable sexual misconduct, includes, but is not limited to, sex harassment or discrimination claims brought pursuant to title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)) and gender bias claims brought pursuant to title III of the Violence Against Women Act of 1991.".

SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end thereof the following:

"(e) INTERLOCUTORY APPEAL.—Notwithstanding any other provision of law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

"(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim."; and

(2) by adding at the end of subdivision (c)(3) the following: "In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 154. EVIDENCE OF CLOTHING.

The Federal Rules of Evidence are amended by adding after rule 412 the following:

"Rule 413. Evidence of victim's clothing as inciting violence

"Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged.".

Subtitle F—Assistance to Victims of Sexual Assault

SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended as follows:

(1) by adding at the end thereof the following new section:

"§ 1910A. Use of allotments for rape prevention education

"(a) Notwithstanding the terms of section 1904(a)(1) of this title, amounts transferred by the State for use under this part may be used for rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities, which programs may include—

"(1) educational seminars;

"(2) the operation of hotlines;

"(3) training programs for professionals;

"(4) the preparation of informational materials; and

"(5) other efforts to increase awareness of the facts about, or to help prevent, sexual assault.

"(b) States providing grant monies must assure that at least 15 percent of the monies are devoted to education programs targeted for junior high school and high school students.

"(c) There are authorized to be appropriated under this section for each fiscal year 1992, 1993, and 1994, $65,000,000 to carry out the purposes of this section.

"(d) Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) For purposes of this section, the term 'rape prevention and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim.

"(f) States shall be allotted funds under this section pursuant to the terms of sections 1902 and 1903, and subject to the conditions provided in this section and sections 1904 through 1909.";

(2) striking section 1901(b); and

(3) striking section 1904(a)(1)(G).

SEC. 162. RAPE EXAM PAYMENTS.

"No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 unless the State or other grantee incurs the full cost of forensic medical exams for victims of sexual assault. A State or other grantee does not incur the full medical cost of forensic medical exams if it chooses to reimburse the victim after the fact unless the reimbursement program waives any minimum loss or deductible requirement, provides victim reimbursement within a reasonable time (90 days), permits applications for reimbursement within one year from the date of the exam, and provides information to all subjects of forensic medical exams about how to obtain reimbursement.

TITLE II—SAFE HOMES FOR WOMEN

SEC. 201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1990".

Subtitle A—Interstate Enforcement

SEC. 211. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

"Chapter 110A—Violence Against Spouses

"Sec. 2261. Traveling to commit spousal abuse.

"Sec. 2262. Interstate violation of protection orders.

"Sec. 2263. Restitution.

"Sec. 2264. Full faith and credit given to protection orders.

"Sec. 2265. Definitions for chapter.

"§ 2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels or causes another (including the intended victim) to travel across State lines or in interstate commerce with the intent to injure a spouse or intimate partner and who, during the course of any such travel or thereafter, does an act that injures his or her spouse or intimate partner in violation of a criminal law of the State where the injury occurs, shall be fined not more than $1,000 or imprisoned for not more than 5 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(b) NO STATE LAW.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, a person violating this section shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(c) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

"§ 2262. Interstate violation of protection orders

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered or any agent of that person who travels or causes another (including the intended victim) to travel across State lines or in interstate commerce with the intent to injure a spouse or intimate partner and who, during the course of such travel or thereafter, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, with the intent to injure his or her spouse or intimate partner, shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than six months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(b) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

"§ 2263. Interim protections

"In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the protection of an abused spouse or intimate partner pending final adjudication of the case, upon a showing of a likelihood of danger to the abused spouse or intimate partner.

"§ 2264. Restitution

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to subsection (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation; and

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the offender, including obligations to dependents.

"(B) An order under this section may direct the defendant to make a single lump-sum payment, or partial payments at specified intervals. The order shall provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(C) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or his delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) RESTITUTION AND CRIMINAL PENALTIES.—An award of restitution to the victim of an offense under this chapter shall not be a substitute for imposition of punishment under sections 2261 and 2262.

"(e) DEFINITIONS.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.

"§ 2265. Full faith and credit given to protection orders

"(a) FULL FAITH AND CREDIT.—Any protection order issued consistent with the terms of subsection (b) by the court of one State (the issuing State) shall be accorded full faith and credit by the court of another

State (the enforcing State) and enforced as if it were the order of the enforcing State.

"(b) PROTECTION ORDER.—A protection order issued by a State court is consistent with the provisions of this section if—

"(1) such court has jurisdiction over the parties and matter under the law of such State; and

"(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

"(c) CROSS OR COUNTER PETITION.—A protection order issued by a State court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

"(1) no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or

"(2) if a cross or counter petition has been filed, if the court did not make specific findings that each party was entitled to such an order.

"§ 2266. Definitions for chapter

"As used in this chapter—

"(1) the term 'spouse or intimate partner' includes—

"(A) a present or former spouse, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

"(B) any other person similarly situated to a spouse, other than a child, who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

"(2) the term 'protection order' includes any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except those done in self-defense, that results in physical injury or sexual abuse; and

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States.".

(b) TABLE OF CHAPTERS.—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

"110A. Violence against spouses .... 2261.".

Subtitle B—Arrest in Spousal Abuse Cases

SEC. 221. ENCOURAGING ARREST POLICIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10400) is amended by adding after section 311 the following:

"SEC. 312. ENCOURAGING ARREST POLICIES.

"(a) PURPOSE.—To encourage States, Indian tribes and localities to treat spousal violence as a serious violation of criminal law, the Secretary is authorized to make grants to eligible States, Indian tribes, municipalities, or local government entities for the following purposes:

"(1) to implement pro-arrest programs and policies in police departments and to improve tracking of cases involving spousal abuse;

"(2) to centralize and coordinate police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges;

"(3) to educate judges in criminal and other courts about spousal abuse and to improve judicial handling of such cases.

"(b) ELIGIBILITY.—(1) Eligible grantees are those States, Indian tribes, municipalities or other local government entities that—

"(A) demonstrate, through arrest and conviction statistics, that their laws or policies have been effective in significantly increasing the number of arrests made of spouse abusers; and

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed or mandate arrest of spouses violating the terms of a valid and outstanding protection order; or

"(ii) permit warrantless misdemeanor arrests of spouse abusers and encourage the use of that authority; and

"(C) demonstrate that their laws and policies discourage 'dual' arrests of abused and abuser and the increase in arrest rates demonstrated pursuant to paragraph (1)(A) is not the result of increased dual arrests.

"(2) For purposes of this section, the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

"(3) For purposes of this section, the term 'spousal or spouse abuse' includes abuse of a current or former spouse, a person who shares a child in common with the abuser, and a person who cohabits with or has cohabited with the abuser as a spouse.

"(4) The eligibility requirements provided in this section shall take effect one year after the date of enactment of this section.

"(c) DELEGATION AND AUTHORIZATION.—The Secretary shall delegate to the Attorney General of the United States the Secretary's responsibilities for carrying out this section to the Attorney General. There are authorized to be appropriated not in excess of $25,000,000 for each fiscal year to be used for the purpose of making grants under this section.

"(d) APPLICATION.—An eligible grantee shall submit an application to the Secretary. Such application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribes, municipality, or local government entity that the conditions of subsection (b) are met;

"(2) describe the entity's plans to further the purposes listed in subsection (a);

"(3) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(4) identify the nonprofit nongovernmental victim services programs that will be consulted in developing, and implementing, the program.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a grantee that—

"(1) does not currently provide for centralized handling of cases involving spousal or family violence in any one of the areas listed in this subsection—police, prosecutors, and courts; and

"(2) demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving spousal or family violence.

"(f) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described in subsection (d)(2) and containing such additional information as the Secretary may prescribe.

"(g) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.".

Subtitle C—Funding for Shelters

SEC. 231. AUTHORIZATION.

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

"SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out the provisions of this title, $85,000,000 for fiscal year 1992, $100,000,000, for fiscal year 1993, and $125,000,000 for fiscal year 1994.

"(b) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 85 percent shall be used by the Secretary for making grants under section 303.

"(c) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not more than 5 percent shall be used by the Secretary for making grants under section 314.".

Subtitle D—Family Violence Prevention and Services Act Amendments

SEC. 241. EXPANSION OF PURPOSE.

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

SEC. 242. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.

Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

SEC. 243. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

"GRANTS FOR PUBLIC INFORMATION CAMPAIGNS

"SEC. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) An application submitted under subsection (b) shall—

"(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk.".

SEC. 244. STATE COMMISSIONS ON DOMESTIC VIOLENCE.

Section 303(a)(2) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(2)) is amended—

(1) by striking "and" at the end of subparagraph (F);

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by inserting after subparagraph (F) the following new subparagraph:

"(G) provides assurances that, not later than 1 year after receipt of funds, the State shall have established a Commission on Domestic Violence to examine issues including—

"(i) the use of mandatory arrest of accused offenders;

"(ii) the adoption of 'no-drop' or vertical prosecution policies;

"(iii) the use of mandatory requirements for presentencing investigations;

"(iv) the length of time taken to prosecute cases or reach plea agreements;

"(v) the use of plea agreements;

"(vi) the testifying by victims at post-conviction sentencing and release hearings;

"(vii) the consistency of sentencing practices;

"(viii) restitution of victims;

"(ix) the reporting practices of and significance to be accorded to prior convictions (both felonies and misdemeanors); and

"(x) such other matters as the Commission believes merit investigation.

In implementing this requirement, State grantees must certify to the Secretary that—

"(aa) no less than one-third of Commission members be victim advocates associated with nonprofit shelters; and

"(bb) no more than 2 percent of the grant monies awarded shall be used to support the required Commission.".

SEC. 245. INDIAN TRIBES.

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "from sums appropriated shall make no less than 10 percent available for".

SEC. 246. FUNDING LIMITATIONS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by striking ", and" and all that follows through "fiscal years".

SEC. 247. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: "No demonstration grant may be made under this section to an entity other than a State or Indian tribe unless the entity provides 50 percent of the funding of the program or project funded by the grant.".

SEC. 248. SHELTER AND RELATED ASSISTANCE.

Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended by—

(1) striking "not less than 60 percent" and inserting "not less than 75 percent"; and

(2) striking "immediate shelter and related assistance to victims of family violence and their dependents" and inserting "shelter and related assistance to victims of family violence and their dependents, including any, but not requiring all of the following—

"(1) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(2) transportation, legal assistance, referrals, and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(3) comprehensive counseling about parenting, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services, employment training, social skills (including communication skills), home management, and assertiveness training; and

"(4) day care services for children who are victims of family violence or the dependents of such victims.".

SEC. 249. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.

Section 311(b) of the Family Violence Protection and Services Act (42 U.S.C. 10410(b)) is amended by adding at the end thereof the following new subparagraph:

"(d) Training grants may be made under this section only to private nonprofit organizations that have experience in providing training and technical assistance to law enforcement personnel on a national or regional basis.".

SEC. 250. REPORT ON RECORDKEEPING.

Not later than 120 days after the date of enactment of this Act, the Government Accounting Office shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine efforts to date of the FBI and Justice Department to collect statistics on domestic violence and the feasibility of, including a suggested timetable for, requiring that the relationship between an offender and victim be reported in Federal and State records of crimes of assault, aggravated assault, rape, and other violent crimes.

SEC. 251. MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.

The Family Violence Prevention Services Act, as amended by section 103 of this Act, is amended by adding at the end thereof the following new section:

"MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION

"SEC. 315. (a) The Secretary, in cooperation with the Attorney General, shall award grants to not less than 10 States to assist in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

"(1) increase the number of prosecutions for domestic violence crimes;

"(2) encourage the reporting of incidences of domestic violence; and

"(3) facilitate 'arrests and aggressive' prosecution policies.

"(b) To be designated as a model State under subsection (a), a State shall have in effect—

"(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

"(2) a law or policy that discourages 'dual' arrests;

"(3) statewide prosecution policies that—

"(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

"(4) statewide guidelines for judges that—

"(A) reduce the automatic issuance of mutual restraining or protective orders in cases where only one spouse has sought a restraining or protective order;

"(B) discourage custody or joint custody orders by spouse abusers; and

"(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute;

"(5) develop and disseminate methods to improve the criminal justice system's response to domestic violence to make existing remedies as easily available as possible to victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

"(c)(1) In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section $25,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) Funds shall be distributed under this section so that no State shall receive more than $2,500,000 in each fiscal year under this section.

"(3) The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section.".

SEC. 252. FUNDING FOR TECHNICAL ASSISTANCE CENTERS.

The Family Violence Prevention and Services Act is amended by inserting after section 308 the following:

"SEC. 308A. TECHNICAL ASSISTANCE CENTERS.

"(a) PURPOSE.—The purpose of this section is to provide training and technical assistance to State, Indian tribal, and local domestic violence programs and to other professionals who provide services to victims of domestic violence. From the sums authorized under this title, the Secretary shall provide grants or contracts with public or private nonprofit organizations, for the establishment and maintenance of six national resource centers serving defined geographic areas. One national resource center shall offer resource, policy, and/or training assistance to Federal, State, Indian tribal, and local government agencies on issues pertaining to domestic violence and serve a coordinating and resource-sharing function among domestic violence service providers, and maintain a central resource library. The other national resource centers shall provide information, training and technical assistance to State, tribal and local domestic violence service providers. In addition, each national center shall specialize in one of the following areas of domestic violence service, prevention or law:

"(1) Public awareness and prevention education;

"(2) Criminal justice response to domestic violence, including court-mandated abuser treatment;

"(3) Child abuse and domestic violence, including domestic violence and child custody issues;

"(4) Domestic violence victim self-defense;

"(5) Medical personnel training; and

"(6) Enhancing victims' access to effective legal assistance.

"(b) ELIGIBILITY.—Eligible grantees are private non-profit organizations that—

"(1) focus primarily on domestic violence;

"(2) provide documentation to the Secretary demonstrating experience with issues of domestic violence, particularly in the specific area for which it is applying;

"(3) include on its advisory boards representatives from domestic violence programs in the region who are geographically and culturally diverse; and

"(4) demonstrate strong support from domestic violence advocates in the region for their designation as the regional resource center.

"(c) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described and containing such additional information as the Secretary may prescribe.

"(d) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section.

"(e) FUNDING.—From the sums appropriated under section 310 of this title, not in excess of $2,000,000 for each fiscal year shall be used for the purpose of making grants under this section.".

Subtitle E—Youth Education and Domestic Violence

SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate his powers to the Secretary of Education, hereinafter referred to as the "Secretary". The Secretary shall develop model programs for education of young people about domestic violence and violence among intimate partners.

(b) NATURE OF PROGRAM.—The Secretary shall develop three separate programs for three different audiences: primary and middle schools, secondary schools, and institutions of higher education. These model programs shall be developed with the input of educational experts, law enforcement personnel, legal and psychological experts on battering, and victim advocate organizations such as battered women's shelters. The participation of each of these groups or individual consultants from such groups is essential to the development of a program that meets both the needs of educational institutions and the needs of the domestic violence problem.

(c) REVIEW AND DISSEMINATION.—Not later than 9 months after the date of enactment of this Act, the Secretary shall transmit the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.

(d) AUTHORIZATION.—There are authorized to be appropriated under this section for fiscal year 1992, $200,000 to carry out the purposes of this section.

Subtitle F—Confidentiality for Abused Persons

SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.

No later than 90 days after the enactment of this Act, the Postmaster General shall promulgate regulations to secure the confidentiality of abused persons' addresses or otherwise prohibit the disclosure of an abused person's address consistent with the following guidelines:

(1) confidentiality shall be provided upon the presentation to an appropriate postal official of an existing and valid court order for the protection of an abused spouse;

(2) disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited; and

(3) compilations of addresses existing at the time the order is presented to an appropriate postal official shall be excluded from the scope of the proposed regulations.

TITLE III—CIVIL RIGHTS

SEC. 301. CIVIL RIGHTS.

(a) FINDINGS.—The Congress finds that—

(1) crimes motivated by the victim's gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for gender crimes committed on the street or in the home; and

(3) State and Federal criminal laws do not adequately protect against the bias element of gender crimes, which separates these crimes from acts of random violence, nor do they adequately provide victims the opportunity to vindicate their interests.

(b) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any person, including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State, who deprives another of the rights, privileges or immunities secured by the Constitution and laws as enumerated in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive or declaratory relief, or such other relief as the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in this section, including rape, sexual assault, sexual abuse, abusive sexual contact, or any other crime of violence committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

SEC. 302. CONFORMING AMENDMENT.

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: ", or title III of the Violence Against Women Act of 1991,".

TITLE IV—SAFE CAMPUSES FOR WOMEN

SEC. 401. SHORT TITLE.

This title may be cited as the "Safe Campuses for Women Act of 1990".

SEC. 402. FINDINGS.

The Congress finds that—

(1) rape prevention and education programs are essential to an educational environment free of fear for students' personal safety;

(2) sexual assault on campus, whether by fellow students or not, is widespread among the Nation's higher education institutions: experts estimate that 1 in 7 of the women now in college have been raped and over half of college rape victims know their attackers;

(3) sexual assault poses a grave threat to the physical and mental well-being of students and may significantly impair the learning process; and

(4) action by schools to educate students may make substantial inroads on the incidence of rape, including the incidence of acquaintance rape on campus.

SEC. 403. GRANTS FOR CAMPUS RAPE EDUCATION.

Title X of the Higher Education Act of 1965 is amended to add at the end thereof the following:

"PART D—GRANTS FOR CAMPUS RAPE EDUCATION."

SEC. 1071. GRANTS FOR CAMPUS RAPE EDUCATION.

"(a) IN GENERAL.—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for rape education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

"(4) Not less than 50 percent of sums available for the purposes of this section shall be used to make grants under subsection (c) of this section.

"(b) GENERAL RAPE PREVENTION AND EDUCATION GRANTS.—Grants under this section shall be used to educate and provide support services to student victims of rape or sexual assault. Grants may be used for the following purposes:

"(1) to provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of rape, sexual assault, and other gender-motivated crimes;

"(2) to develop, disseminate, or implement campus security and student disciplinary policies to prevent and discipline rape, sexual assault and other gender-motivated crimes;

"(3) to develop, enlarge or strengthen support services programs including medical or psychological counseling to assist victims' recovery from rape, sexual assault, or other gender-motivated crimes;

"(4) to create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action; and

"(5) to implement, operate, or improve rape education and prevention programs, including programs making use of peer-to-peer education.

"(c) MODEL GRANTS.—Not less than 25 percent of the funds authorized under this section shall be available for grants for model demonstration programs to be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student rape victims.

"(d) ELIGIBILITY.—No institution of higher education or consortium of such institutions shall be eligible for a grant under this section unless—

"(1) its student code of conduct, or other written policy governing student behavior, explicitly prohibits not only rape but all forms of sexual assault; and

"(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual assault the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual assault: *Provided*, That nothing in this section shall be interpreted to authorize disclosure to any person other than the victim.

"(e) APPLICATIONS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—

"(A) set forth the activities and programs to be carried out with funds granted under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) explain how the program intends to address the issue of acquaintance rape;

"(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

"(e) GRANTEE REPORTING.—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) Except as otherwise provided, the terms used in this part shall have the meaning provided under section 2981 of this title.

"(2) For purposes of this subchapter, the following terms have the following meanings:

"(A) The term 'rape education and prevention' includes programs that provide educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual assault.

"(B) The term 'Secretary' means the Secretary of Education.

"(g) GENERAL TERMS AND CONDITIONS.—(1) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.

"(2) No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

"(A) the amount of grants made under this section;

"(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(C) a copy of each grantee report filed pursuant to subsection (e) of this section.

"(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated $20,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995.".

SEC. 404. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.

Section 204(f) of the Crime Awareness and Campus Security Act of 1990 is amended to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

"(i) murder;

"(ii) rape or sexual assault;

"(iii) robbery;

"(iv) aggravated assault;

"(v) burglary; and

"(vi) motor vehicle theft.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

SECTION 501. SHORT TITLE.

This title may be cited as the "Equal Justice for Women in the Courts Act of 1991".

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

SEC. 511. GRANTS AUTHORIZED.

The State Justice Institute is authorized to award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SEC. 512. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation,

and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the batterer, to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel, and the legitimate reasons why victims of domestic violence may refuse to testify against a defendant;

(18) the need for orders of protection, and the implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence cases;

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims; and

(20) current information on the impact of pornography on crimes against women, or data on other activities that tend to degrade women.

SEC. 513. COOPERATION IN DEVELOPING PROGRAMS IN MAKING GRANTS UNDER THIS TITLE.

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this subtitle are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 514. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $600,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

SEC. 521. EDUCATION AND TRAINING GRANTS.

(a) STUDY.—The Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use of data collection techniques such as reviews of trial and appellate opinions and transcripts, public hearings, and inquiries to attorneys practicing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) MODEL PROGRAMS.—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 512 of subtitle A; and

(B) all procedural and substantive aspects of the legal rights and remedies for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

SEC. 522. COOPERATION IN DEVELOPING PROGRAMS.

In implementing this subtitle, the Federal Judicial Center shall ensure that the study and model programs are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 523. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $400,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 521(a) of this subtitle.

SPECTER AMENDMENT NO. 472

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place, inserts the following new Section:

SEC. . FUNDING FOR DEATH PENALTY PROSECUTIONS.

Part E of Title 1 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. §§3711 *et seq.*) is amended by adding the following new section:

SEC. 515. Notwithstanding any other provision of this subpart, the Director shall provide grants to the States, from the funding allocated pursuant to section 511, for the purpose of supporting litigation pertaining to federal habeas corpus petitions in capital cases. The total funding available for such grants within any fiscal year shall be equal to the funding provided to capital resource centers, pursuant to federal appropriation, in the same fiscal year."

METZENBAUM AMENDMENT NOS. 473 THROUGH 479

(Ordered to lie on the table.)

Mr. METZENBAUM submitted seven amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT No. 473

At the end, insert the following:

SEC. 1. SHORT TITLE.

This Act may be cited as the "Brady Handgun Violence Prevention Act."

SEC. 2. WAITING PERIOD REQUIRED BEFORE PURCHASE OF HANDGUN.

(a) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(u)(1) It shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

"(A) after the most recent proposal of such transfer by the transferee—

"(i) the transferor has—

"(I) received from the transferee a statement of the transferee containing the information described in paragraph (2);

"(II) verified the identification of the transferee by examining the identification document presented; and

"(III) within one day after the transferee furnishes the statement, provided a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(ii)(I) 7 days have elapsed from the date the transferee furnished the statement, and the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

"(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

"(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10 day period ending on the date of the most recent proposal of such transfer by the transferee, which states that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

"(C)(i) the transferee has presented to the transferor a permit which—

"(I) allows the transferee to possess a handgun; and

"(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

"(D) the law of the State—

"(i) prohibits any licensed importer, licensed manufacturer, or licensed dealer from transferrring a handgun to an individual who is not licensed under section 923, before at least 7 days have elapsed from the date the transferee proposes such transfer; or

"(ii) requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verifies that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law; or

"(E) the transferor has received a report from any system of felon identification established by the Attorney General pursuant to section 6213(a) of the Anti-Drug Abuse Act of 1988, that available information does not indicate that possession or receipt of a handgun by the transferee would violate Federal, State, or local law.

"(2) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

"(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

"(B) a statement that transferee—

"(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(ii) is not a fugitive from justice;

"(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

"(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

"(v) is not an alien who is illegally or unlawfully in the United States;

"(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

"(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

"(C) the date the statement is made; and

"(D) notice that the transferee intends to obtain a handgun from the transferor.

"(3) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall immediately communicate all information the transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of the place of business of the transferor; and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(4) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

"(5)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with paragraph (1)(A)(i)(III) with respect to the statement.

"(B) Unless the chief law enforcement officer to whom a copy of the statement is sent determines that a transaction would violate Federal, State, or local law, the officer shall, within 30 days after the date the transferee made such statement, destroy such copy and any record containing information derived from the statement.

"(6) For purposes of this subsection, the term, 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer, or the designee of any such individual.

"(7) This subsection shall not apply to the sale of a firearm in the circumstances described in subsection (c).

"(8) The Secretary shall take necessary actions to assure that the provisions of this subsection are published and disseminated to dealers and to the public.

"(9) A chief law enforcement officer shall not be liable to any person for action taken by the officer to ascertain whether a transferee of a handgun has a criminal record or whether there is any other legal impediment to the transferee receiving a handgun under any Federal, State, or local law except a law that specifically provides for such liability.".

(b) HANDGUN DEFINED.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(31) The term 'handgun' means—

"(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and

"(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.".

(c) PENALTY.—Section 924(a) of such title is amended—

(1) in paragraph (1), by striking "paragraph (2) or (3) of"; and

(2) by adding at the end the following:

"(5) Whoever knowingly violates section 922(u) shall be fined not more than $1,000, imprisoned for not more than one year, or both.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to conduct engaged in 100 or more days after the date of the enactment of this Act.

SEC. 3. GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS AND TO DEFRAY THE COSTS OF BACKGROUND CHECKS.

(a) IN GENERAL.—The Attorney General shall, subject to appropriations, make a grant to an eligible State to be used—

(1) for the creation of a computerized criminal history record system or improvement of an existing system; and

(2) to defray the costs to state and local law enforcement agencies of conducting background checks of prospective handgun purchasers.

(b) ELIGIBLE STATES.—An eligible State under subsection (a) is one that—

(1) participates in, or makes arrangements to begin participating in by the end of 1993, the Interstate Identification Index operated by the Federal Bureau of Investigation;

(2) makes arrangements to achieve, by the end of 1995, at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an entry of activity within 5 years prior to the date of enactment of this Act and thereafter; and

(3) in the case of a State other than a State described in section 922(u)(1)(D) of title 18, United States Code, establishes, by the end of 1993, procedures under which State and local law enforcement officers to whom statements are provided pursuant to section 922(c)(2) or 922(u)(1)(A)(i)(III) of title 18, United States Code, are required to make a reasonable effort to ascertain whether a transferee of a handgun has a criminal record or whether there is any other legal impediment to the transferee receiving a handgun, using whatever Federal, State, and local recordkeeping systems are readily available for this purpose.

(c) ALLOCATION.—Funds appropriated for grants under subsection (a) shall be allocated as follows:

(1) 50 percent of such funds shall be allocated among the States in accordance with their respective populations.

(2) 50 percent of such funds shall be allocated among the States at the discretion of the Attorney General.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under subsection (a) a total of $40,000,000 for fiscal year 1992 and all fiscal years thereafter.

AMENDMENT NO. 474

At the appropriate place, insert the following:

SEC. 1. SHORT TITLE.

This Act may be cited as the "Brady Handgun Violence Prevention Act."

SEC. 2. WAITING PERIOD REQUIRED BEFORE PURCHASE OF HANDGUN.

(a) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(u)(1) It shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

"(A) after the most recent proposal of such transfer by the transferee—

"(i) the transferor has—

"(I) received from the transferee a statement of the transferee containing the information described in paragraph (2);

"(II) verified the identification of the transferee by examining the identification document presented; and

"(III) within one day after the transferee furnishes the statement, provided a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(ii)(I) 7 days have elapsed from the date the transferee furnished the statement, and the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

"(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

"(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10 day period ending on the date of the most recent proposal of such transfer by the transferee, which states that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

"(C)(i) the transferee has presented to the transferor a permit which—

"(I) allows the transferee to possess a handgun; and

"(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

"(D) the law of the State—

"(i) prohibits any licensed importer, licensed manufacturer, or licensed dealer from transferring a handgun to an individual who is not licensed under section 923, before at least 7 days have elapsed from the date the transferee proposes such transfer; or

"(ii) requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verifies that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law; or

"(E) the transferor has received a report from any system of felon identification established by the Attorney General pursuant to section 6213(a) of the Anti-Drug Abuse Act of 1988, that available information does not indicate that possession or receipt of a handgun by the transferee would violate Federal, State, or local law.

"(2) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

"(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

"(B) a statement that transferee—

"(i) is not under indictment for , and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(ii) is not a fugitive from justice;

"(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

"(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

"(v) is not an alien who is illegally or unlawfully in the United States;

"(vi) has not been discharged from the Armed Forces under dishonorable conditions; and;

"(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

"(C) the date the statement is made; and

"(D) notice that the transferee intends to obtain a handgun from the transferor.

"(3) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall immediately communicate all information the transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of the place of business of the transferor; and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(4) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

"(5)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with paragraph (1)(A)(i)(III) with respect to the statement.

"(B) Unless the chief law enforcement officer to whom a copy of the statement is sent determines that a transaction would violate Federal, State, or local law, the officer shall, within 30 days after the date the transferee made such statement, destroy such copy and any record containing information derived from the statement.

"(6) For purposes of this subsection, the term, 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer, or the designee of any such individual.

"(7) This subsection shall not apply to the sale of a firearm in the circumstances described in subsection (c).

"(8) The Secretary shall take necessary actions to assure that the provisions of this subsection are published and disseminated to dealers and to the public.

"(9) A chief law enforcement officer shall not be liable to any person for action taken by the officer to ascertain whether a transferee of a handgun has a criminal record or whether there is any other legal impediment to the transferee receiving a handgun under any Federal, State, or local law except a law that specifically provides for such liability.".

(b) HANDGUN DEFINED.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(31) The term 'handgun' means—

"(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and

"(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.".

(c) PENALTY.—Section 924(a) of such title is amended—

(1) in paragraph (1), by striking "paragraph (2) or (3) of"; and

(2) by adding at the end the following:

"(5) Whoever knowingly violates section 922(u) shall be fined not more than $1,000, imprisoned for not more than one year, or both.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to conduct engaged in 95 or more days after the date of the enactment of this Act.

SEC. 3. GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS AND TO DEFRAY THE COSTS OF BACKGROUND CHECKS.

(a) IN GENERAL.—The Attorney General, shall, subject to appropriations, make a grant to an eligible State to be used—

(1) for the creation of a computerized criminal history record system or improvement of an existing system; and

(2) to defray the costs to state and local law enforcement agencies of conducting background checks of prospective handgun purchasers.

(b) ELIGIBLE STATES.—An eligible State under subsection (a) is one that—

(1) participates in, or makes arrangements to begin participating in by the end of 1993, the Interstate Identification Index operated by the Federal Bureau of Investigation;

(2) makes arrangements to achieve, by the end of 1995, at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an entry of activity within 5 years prior to the date of enactment of this Act and thereafter; and

(3) in the case of a State other than a State described in section 922(u)(1)(D) of title 18, United States Code, establishes, by the end of 1993, procedures under which State and local law enforcement officers to whom statements are provided pursuant to section 922(c)(2) or 922(c)(1)(A)(i)(III) of title 18, United States Code, are required to make a reasonable effort to ascertain whether a transferee of a handgun has a criminal record or whether there is any other legal impediment to the transferee receiving a handgun, using whatever Federal, State, and local recordkeeping systems are readily available for this purpose.

(c) ALLOCATION.—Funds appropriated for grants under subsection (a) shall be allocated as follows:

(1) 50 percent of such funds shall be allocated among the States in accordance with their respective populations.

(2) 50 percent of such funds shall be allocated among the States at the discretion of the Attorney General.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under subsection (a) a total of $40,000,000 for fiscal year 1992 and all fiscal years thereafter.

AMENDMENT NO. 475

Strike all after the first word proposed to be stricken and insert in lieu thereof the following:

SEC. 1. SHORT TITLE.

This Act may be cited as the "Brady Handgun Violence Prevention Act".

SEC. 2. WAITING PERIOD REQUIRED BEFORE PURCHASE OF HANDGUN.

(a) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(u)(1) It shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

"(A) after the most recent proposal of such transfer by the transferee—

"(i) the transferor has—

"(I) received from the transferee a statement of the transferee containing the information described in paragraph (2);

"(II) verified the identification of the transferee by examining the identification document presented; and

"(III) within one day after the transferee furnishes the statement, provided a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(ii)(I) 7 days have elapsed from the date the transferee furnished the statement, and the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

"(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

"(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10 day period ending on the date of the most recent proposal of such transfer by the transferee, which states that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

"(C)(i) the transferee has presented to the transferor a permit which—

"(I) allows the transferee to possess a handgun; and

"(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

"(D) the law of the State—

"(i) prohibits any licensed importer, licensed manufacturer, or licensed dealer from transferring a handgun to an individual who is not licensed under section 923, before at least 7 days have elapsed from the date the transferee proposes such transfer; or

"(ii) requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verifies that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law; or

"(E) the transferor has received a report from any system of felon identification established by the Attorney General pursuant to section 6213(a) of the Anti-Drug Abuse Act of 1988, that available information does not indicate that possession or receipt of a handgun by the transferee would violate Federal, State, or local law.

"(2) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

"(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

"(B) a statement that transferee—

"(i) is not under indictment for, and has not been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

"(ii) is not a fugitive from justice;

"(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

"(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

"(v) is not an alien who is illegally or unlawfully in the United States;

"(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

"(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

"(C) the date the statement is made; and

"(D) notice that the transferee intends to obtain a handgun from the transferor.

"(3) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall immediately communicate all information the transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of the place of business of the transferor; and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(4) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

"(5)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with paragraph (1)(A)(i)(III) with respect to the statement.

"(B) Unless the chief law enforcement officer to whom a copy of the statement is sent determines that a transaction would violate Federal, State, or local law, the officer shall, within 30 days after the date the transferee made such statement, destroy such copy and any record containing information derived from the statement.

"(6) For purposes of this subsection, the term, 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer, or the designee of any such individual.

"(7) This subsection shall not apply to the sale of a firearm in the circumstances described in subsection (c).

"(8) The Secretary shall take necessary actions to assure that the provisions of this subsection are published and disseminated to dealers and to the public.

"(9) A chief law enforcement officer shall not be liable to any person for action taken by the officer to ascertain whether a transferee of a handgun has a criminal record or whether there is any other legal impediment to the transferee receiving a handgun under any Federal, State, or local law except a law that specifically provides for such liability.".

(b) HANDGUN DEFINED.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(31) The term 'handgun' means—

"(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and

"(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.".

(c) PENALTY.—Section 924(a) of such title is amended—

(1) in paragraph (1), by striking "paragraph (2) or (3) of"; and

(2) by adding at the end the following:

"(5) Whoever knowingly violates section 922(u) shall be fined not more than $1,000, imprisoned for not more than one year, or both.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to conduct engaged in 100 or more days after the date of the enactment of this Act.

SEC. 3. GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS AND TO DEFRAY THE COSTS OF BACKGROUND CHECKS.

(a) IN GENERAL.—The Attorney General shall, subject to appropriations, make a grant to an eligible State to be used—

(1) for the creation of a computerized criminal history record system or improvement of an existing system; and

(2) to defray the costs to state and local law enforcement agencies of conducting background checks of prospective handgun purchasers.

(b) ELIGIBLE STATES.—An eligible State under subsection (a) is one that—

(1) participates in, or makes arrangements to begin participating in by the end of 1993, the Interstate Identification Index operated by the Federal Bureau of Investigation;

(2) makes arrangements to achieve, by the end of 1995, at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an entry of activity within 5 years prior to the date of enactment of this Act and thereafter; and

(3) in the case of a State other than a State described in section 922(u)(1)(D) of title 18, United States Code, establishes, by the end of 1993, procedures under which State and local law enforcement officers to whom statements are provided pursuant to section 922(c)(2) or 922(c)(1)(A)(i)(III) of title 18, United States Code, are required to make a reasonable effort to ascertain whether a transferee of a handgun has a criminal record or whether there is any other legal impediment to the transferee receiving a handgun, using whatever Federal, State, and local recordkeeping systems are readily available for this purpose.

(c) ALLOCATION.—Funds appropriated for grants under subsection (a) shall be allocated as follows:

(1) 50 percent of such funds shall be allocated among the States in accordance with their respective populations.

(2) 50 percent of such funds shall be allocated among the States at the discretion of the Attorney General.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under subsection (a) a total of $40,000,000 for fiscal year 1992 and all fiscal years thereafter.

AMENDMENT NO. 476

Strike all after the first word proposed to be stricken and insert in lieu thereof the following:

SEC. 1. SHORT TITLE.

This Act may be cited as the "Brady Handgun Violence Prevention Act".

SEC. 2. WAITING PERIOD REQUIRED BEFORE PURCHASE OF HANDGUN.

(a) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(u)(1) It shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

"(A) after the most recent proposal of such transfer by the transferee—

"(i) the transferor has—

"(I) received from the transferee a statement of the transferee containing the information described in paragraph (2);

"(II) verified the identification of the transferee by examining the identification document presented; and

"(III) within one day after the transferee furnishes the statement, provided a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(ii)(I) days have elapsed from the date the transferee furnished the statement, and the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

"(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law:

"(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10 day period ending on the date of the most recent proposal of such transfer by the transferee, which states that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

"(C)(i) the transferee has presented to the transferor a permit which—

"(I) allows the transferee to possess a handgun; and

"(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued by only after an authorized government official has verified that the information availiable to such official does not indicate that possession of a handgun by the transferee would be in violation of law:

"(D) the law of the State—

"(i) prohibits any licensed importer, licensed manufacturer, or licensed dealer from transferring a handgun to an individual who is not licensed under section 923, before at least 7 days have elapsed from the date the transferee proposes such transfer; or

"(ii) requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verifies that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law; or

"(E) the transferor has received a report from any system of felon identification established by the Attorney General pursuant to section 6213(a) of the Anti-Drug Abuse Act of 1988, that available information does not indicate that possession or receipt of a handgun by the transferee would violate Federal, State, or local law.

"(2) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

"(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

"(B) a statement that transferee—

"(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(ii) is not a fugitive from justice;

"(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

"(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

"(v) is not an alien who is illegally or unlawfully in the United States;

"(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

"(vii) is not a person who, having been a citizen of the United states, has renounced such citizenship;

"(C) the date the statement is made; and

"(D) notice that the transferee intends to obtain a handgun from the transferor.

"(3) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Fedferal, State, or local law shall immediately communicate all information the transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of the place of business of the transferor; and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(4) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

"(5)(A) Any transferor who sells, delivers, or otherwise transfer a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with paragraph (1)(A)(i)(III) with respect to the statement.

"(B) Unless the chief law enforcement officer to whom a copy of the statement is sent determines that a transaction would violate Federal, State, or local law, the officer shall, within 30 days after the date the transferee made such statement, destroy such copy and any record containing information derived from the statement.

"(6) For purposes of this subsection, the term, 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer, or the designee of any such individual.

"(7) This subsection shall not apply to the sale of a firearm in the circumstances described in subsection (c).

"(8) The Secretary shall take necessary actions to assure that the provisions of this subsection are published and disseminated to dealers and to the public.

"(9) A chief law enforcement officer shall not be liable to any person for action taken by the officer to ascertain whether a transferee of the handgun has a criminal record or whether there is any other legal impediment to the transferee receiving a handgun under any Federal, State, or local law except a law that specifically provides for such liability.".

(b) HANDGUN DEFINED.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(31) The term 'handgun' means—

"(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and

"(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.".

(c) PENALTY.—Section 924(a) of such title is amended—

(1) in paragraph (1), by striking "paragraph (2) or (3) of"; and

(2) by adding at the end the following:

"(5) Whoever knowingly violates section 922(u) shall be fined not more than $1,000, imprisoned for not more than one year, or both.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to conduct engaged in 105 or more days after the date of the enactment of this Act.

SEC. 3. GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS AND TO DEFRAY THE COSTS OF BACKGROUND CHECKS.

(a) IN GENERAL.—The Attorney General shall, subject to appropriations, make a grant to an eligible State to be used—

(1) for the creation of a computerized criminal history record system or improvement of an existing system; and

(2) to defray the costs to State and local law enforcement agencies of conducting background checks of prospective handgun purchasers.

(b) ELIGIBLE STATES.—An eligible State under subsection (a) is one that—

(1) participates in, or makes arrangements to begin participating in by the end of 1993, the Interstate Identification Index operated by the Federal Bureau of Investigation;

(2) makes arrangements to achieve, by the end of 1995, at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an entry of activity within 5 years prior to the date of enactment of this Act and thereafter; and

(3) in the case of a State other than a State described in section 922(u)(1)(D) of title 18, United States Code, establishes, by the end of 1993, procedures under which State and local law enforcement officers to whom statements are provided pursuant to section 922(c)(2) or 922(c)(1)(A)(i)(III) of title 18, United States Code, are required to make a reasonable effort to ascertain whether a transferee of a handgun has a criminal record or whether there is any other legal impediment to the transferee receiving a handgun, using whatever Federal, State, and local recordkeeping system are readily available for this purpose.

(c) ALLOCATION.—Funds appropriated for grants under subsection (a) shall be allocated as follows:

(1) 50 percent of such funds shall be allocated among the States in accordance with their respective populations.

(2) 50 percent of such funds shall be allocated among the States at the discretion of the Attorney General.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under subsection (a) a total of $40,000,000 for fiscal year 1992 and all fiscal years thereafter.

AMENDMENT NO. 477

In lieu of the amendable matter, insert: "with instructions to report back forthwith with the following amendment:

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Brady Handgun Violence Prevention Act".

SEC. 2. WAITING PERIOD REQUIRED BEFORE PURCHASE OF HANDGUN.

(a) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(u)(1) It shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

"(A) after the most recent proposal of such transfer by the transferee—

"(i) the transferor has—

"(I) received from the transferee a statement of the transferee containing the information described in paragraph (2);

"(II) verified the identification of the transferee by examining the identification document presented; and

"(III) within one day after the transferee furnishes the statement, provided a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(ii)(I) 7 days have elapsed from the date the transferee furnished the statement, and the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

"(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

"(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10 day period ending on the date of the most recent proposal of such transfer by the transferee, which states that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

"(C)(i) the transferee has presented to the transferor a permit which—

"(I) allows the transferee to possess a handgun; and

"(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

"(D) the law of the State—

"(i) prohibits any licensed importer, licensed manufacturer, or licensed dealer from transferring a handgun to an individual who is not licensed under section 923, before at least 7 days have elapsed from the date the transferee proposes such transfer; or

"(ii) requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verifies that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law; or

"(E) the transferor has received a report from any system of felon identification established by the Attorney General pursuant to section 6213(a) of the Anti-Drug Abuse Act of 1988, that available information does not indicate that possession or receipt of a handgun by the transferee would violate Federal, State, or local law.

"(2) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

"(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

"(B) a statement that transferee—

"(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(ii) is not a fugitive from justice;

"(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

"(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

"(v) is not an alien who is illegally or unlawfully in the United States;

"(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

"(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

"(C) the date the statement is made; and

"(D) notice that the transferee intends to obtain a handgun from the transferor.

"(3) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall immediately communicate all information the transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of the place of business of the transferor; and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(4) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

"(5)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with paragraph (1)(A)(i)(III) with respect to the statement.

"(B) Unless the chief law enforcement officer to whom a copy of the statement is sent determines that a transaction would violate Federal, State, or local law, the officer shall, within 30 days after the date the transferee made such statement, destroy such copy and any record containing information derived from the statement.

"(6) For purposes of this subsection, the term, 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer, or the designee of any such individual.

"(7) This subsection shall not apply to the sale of a firearm in the circumstances described in subsection (c).

"(8) The Secretary shall take necessary actions to assure that the provisions of this subsection are published and disseminated to dealers and to the public.

"(9) A chief law enforcement officer shall not be liable to any person for action taken by the officer to ascertain whether a transferee of a handgun has a criminal record or whether there is any other legal impediment to the transferee receiving a handgun under any Federal, State, or local law except a law that specifically provides for such liability.".

(b) HANDGUN DEFINED.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(31) The term 'handgun' means—

"(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and

"(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.".

(c) PENALTY.—Section 924(a) of such title is amended—

(1) in paragraph (1), by striking "paragraph (2) or (3) of"; and

(2) by adding at the end the following:

"(5) Whoever knowingly violates section 922(u) shall be fined not more than $1,000, imprisoned for not more than one year, or both.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to conduct engaged in 120 or more days after the date of the enactment of this Act.

SEC. 3. GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS AND TO DEFRAY THE COSTS OF BACKGROUND CHECKS.

(a) IN GENERAL.—The Attorney General shall, subject to appropriations, make a grant to an eligible State to be used—

(1) for the creation of a computerized criminal history record system or improvement of an existing system; and

(2) to defray the costs to state and local law enforcement agencies of conducting background checks of prospective handgun purchasers.

(b) ELIGIBLE STATES.—An eligible State under subsection (a) is one that—

(1) participates in, or makes arrangements to begin participating in by the end of 1993, the Interstate Identification Index operated by the Federal Bureau of Investigation;

(2) makes arrangements to achieve, by the end of 1995, at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an entry of activity within 5 years prior to the date of enactment of this Act and thereafter; and

(3) in the case of a State other than a State described in section 922(u)(1)(D) of title 18, United States Code, establishes, by the end of 1993, procedures under which State and local law enforcement officers to whom statements are provided pursuant to section 922(c)(2) or 922(u)(1)(A)(i)(III) of title 18, United States Code, are required to make a reasonable effort to ascertain whether a transferee of a handgun has a criminal record or whether there is any other legal impediment to the transferee receiving a handgun, using whatever Federal, State, and local recordkeeping systems are readily available for this purpose.

(c) ALLOCATION.—Funds appropriated for grants under subsection (a) shall be allocated as follows:

(1) 50 percent of such funds shall be allocated among the States in accordance with their respective populations.

(2) 50 percent of such funds shall be allocated among the States at the discretion of the Attorney General.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under subsection (a) a total of $40,000,000 for fiscal year 1992 and all fiscal years thereafter.

AMENDMENT NO. 478

In lieu of the matter proposed to be stricken, insert the following:

SEC. 1. SHORT TITLE.

This Act may be cited as the "Brady Handgun Violence Prevention Act."

SEC. 2. WAITING PERIOD REQUIRED BEFORE PURCHASE OF HANDGUN.

(a) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(u)(1) It shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

"(A) after the most recent proposal of such transfer by the transferee—

"(i) the transferor has—

"(I) received from the transferee a statement of the transferee containing the information described in paragraph (2);

"(II) verified the identification of the transferee by examining the identification document presented; and

"(III) within one day after the transferee furnishes the statement, provided a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(ii)(I) 7 days have elapsed from the date the transferee furnished the statement, and the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

"(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

"(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10 day period ending on the date of the most recent proposal of such transfer by the transferee, which states that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

"(C)(i) the transferee has presented to the transferor a permit which—

"(I) allows the transferee to possess a handgun; and

"(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

"(D) the law of the State—

"(i) prohibits any licensed importer, licensed manufacturer, or licensed dealer from transferring a handgun to an individual who is not licensed under section 923, before at least 7 days have elapsed from the date the transferee proposes such transfer; or

"(ii) requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verifies that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law; or

"(E) the transferor has received a report from any system of felon identification established by the Attorney General pursuant to section 6213(a) of the Anti-Drug Abuse Act of 1988, that available information does not indicate that possesion or receipt of a handgun by the transferee would violate Federal, State, or local law.

"(2) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

"(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

"(B) a statement that transferee—

"(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(ii) is not a fugitive from justice;

"(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

"(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

"(v) is not an alien who is illegally or unlawfully in the United States;

"(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

"(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

"(C) the date the statement is made; and

"(D) notice that the transferee intends to obtain a handgun from the transferor.

"(3) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall immediately communicate all information the transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of the place of business of the transferor; and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(4) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

"(5)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with paragraph (1)(A)(i)(III) with respect to the statement.

"(B) Unless the chief law enforcement officer to whom a copy of the statement is sent determines that a transaction would violate Federal, State, or local law, the officer shall, within 30 days after the date the transferee made such statement, destroy such copy and any record containing information derived from the statement.

"(6) For purposes of this subsection, the term, 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer, or the designee of any such individual.

"(7) This subsection shall not apply to the sale of a firearm in the circumstances described in subsection (c).

"(8) The Secretary shall take necessary actions to assure that the provisions of this subsection are published and disseminated to dealers and to the public.

"(9) A chief law enforcement officer shall not be liable to any person for action taken by the officer to ascertain whether a transferee of a handgun has a criminal record or whether there is any other legal impediment to the transferee receiving a handgun under any Federal, State, or local law except a law that specifically provides for such liability.".

(b) Handgun Defined.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(31) The term 'handgun' means—

"(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and

"(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.".

(c) Penalty.—Section 924(a) of such title is amended—

(1) in paragraph (1), by striking "paragraph (2) or (3) of"; and

(2) by adding at the end the following:

"(5) Whoever knowingly violates section 922(u) shall be fined not more than $1,000, imprisoned for not more than one year, or both.".

(d) Effective Date.—The amendments made by this section shall apply to conduct engaged in 95 or more days after the date of the enactment of this Act.

SEC. 3. GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS AND TO DEFRAY THE COSTS OF BACKGROUND CHECKS.

(a) In General.—The Attorney General shall, subject to appropriations, make a grant to an eligible State to be used—

(1) for the creation of a computerized criminal history record system or improvement of an existing system; and

(2) to defray the costs to state and local law enforcement agencies of conducting background checks of prospective handgun purchasers.

(b) Eligible States.—An eligible State under subsection (a) is one that—

(1) participates in, or makes arrangements to begin participating in by the end of 1993, the Interstate Identification Index operated by the Federal Bureau of Investigation;

(2) makes arrangements to achieve, by the end of 1995, at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an entry of activity within 5 years prior to the date of enactment of this Act and thereafter; and

(3) in the case of a State other than a State described in section 922(u)(1)(D) of title 18, United States Code, establishes, by the end of 1993, procedures under which State and local law enforcement officers to whom statements are provided pursuant to section 922(c)(2) or 922(u)(1)(A)(III) of title 18, United States Code, are required to make a reasonable effort to ascertain whether a transferee of a handgun has a criminal record or whether there is any other legal impediment to the transferee receiving a handgun, using whatever Federal, State, and local recordkeeping systems are readily available for this purpose.

(c) Allocation.—Funds appropriated for grants under subsection (a) shall be allocated as follows:

(1) 50 percent of such funds shall be allocated among the States in accordance with their respective populations.

(2) 50 percent of such funds shall be allocated among the States at the discretion of the Attorney General.

(d) Authorization of Appropriations.—There are authorized to be appropriated for grants under subsection (a) a total of $40,000,000 for fiscal year 1992 and all fiscal years thereafter.

AMENDMENT NO. 479

In lieu of the matter proposed to be stricken, insert the following:

SEC. 1. SHORT TITLE.

This Act may be cited as the "Brady Handgun Violence Prevention Act."

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"(A) after the most recent proposal of such transfer by the transferee—

"(i) the transferor has—

"(I) received from the transferee a statement of the transferee containing the information described in paragraph (2);

"(II) verified the identification of the transferee by examining the identification document presented; and

"(III) within one day after the transferee furnishes the statement, provided a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(ii)(I) 7 days have elapsed from the date the transferee furnished the statement, and the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

"(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

"(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10 day period ending on the date of the most recent proposal of such transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

"(C)(i) the transferee has presented to the transferor a permit which—

"(I) allows the transferee to possess a handgun; and

"(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

"(D) the law of the State—

"(i) prohibits any licensed importer, licensed manufacturer, or licensed dealer from transferring a handgun to an individual who is not licensed under section 923, before at least 7 days have elapsed from the date the transferee proposes such transfer; or

"(ii) requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verifies that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law; or

"(E) the transferor has received a report from any system of felon identification established by the Attorney General pursuant to section 6213(a) of the Anti-Drug Abuse Act of 1988, that available information does not indicate that possession or receipt of a handgun by the transferee would violate Federal, State, or local law.

"(2) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

"(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

"(B) a statement that transferee—

"(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(ii) is not a fugitive from justice;

"(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

"(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

"(v) is not an alien who is illegally or unlawfully in the United States;

"(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

"(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

"(C) the date the statement is made; and

"(D) notice that the transferee intends to obtain a handgun from the transferor.

"(3) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall immediately communicate all information the transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of the place of business of the transferor; and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(4) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

"(5)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with paragraph (1)(A)(i)(III) with respect to the statement.

"(B) Unless the chief law enforcement officer to whom a copy of the statement is sent determines that a transaction would violate Federal, State, or local law, the officer shall, within 30 days after the date the transferee made such statement, destroy such copy and any record containing information derived from the statement.

"(6) For purposes of this subsection, the term, 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer, or the designee of any such individual.

"(7) This subsection shall not apply to the sale of a firearm in the circumstances described in subsection (c).

"(8) The Secretary shall take necessary actions to assure that the provisions of this subsection are published and disseminated to dealers and to the public.

"(9) A chief law enforcement officer shall not be liable to any person for action taken by the officer to ascertain whether a transferee of a handgun has a criminal record or whether there is any other legal impediment to the transferee receiving a handgun under any Federal, State, or local law except a law that specifically provides for such liability.".

"(b) HANDGUN DEFINED.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(31) The term 'handgun' means—

"(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and

"(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.".

(c) PENALTY.—Section 924(a) of such title is amended—

(1) in paragraph (1), by striking "paragraph (2) or (3) of"; and

(2) by adding at the end the following:

"(5) Whoever knowingly violates section 922(u) shall be fined not more than $1,000, imprisoned for not more than one year, or both.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to conduct engaged in 95 or more days after the date of the enactment of this Act.

SEC. 3. GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS AND TO DEFRAY THE COSTS OF BACKGROUND CHECKS.

(a) IN GENERAL.—The Attorney General shall, subject to appropriations, make a grant to an eligible State to be used—

(1) for the creation of a computerized criminal history record system or improvement of an existing system; and

(2) to defray the costs of State and local law enforcement agencies of conducting background checks of prospective handgun purchasers.

(b) ELIGIBLE STATES.—An eligible State under subsection (a) is one that—

"(1) participates in, or makes arrangements to begin participating in by the end of 1993, the Interstate Identification Index operated by the Federal Bureau of Investigation;

"(2) makes arrangements to achieve, by the end of 1995, at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an entry of activity within 5 years prior to the date of enactment of this Act and thereafter; and

"(3) in the case of a State other than a State described in section 922(u)(1)(D) of title 18, United States Code, establishes, by the end of 1993, procedures under which State and local law enforcement officers to whom statements are provided pursuant to section 922(c)(2) or 922(u)(1)(A)(i)(III) of title 18, United States Code, are required to make a reasonable effort to ascertain whether a transferee of a handgun has a criminal record or whether there is any other legal impediment to the tansferee receiving a handgun, using whatever Federal, State, and local recordkeeping systems are readily available for this purposes.

(c) ALLOCATION.—Funds appropriated for grants under subsection (a) shall be allocated as follows:

(1) 50 percent of such funds shall be allocated among the States in accordance with their respective populations.

(2) 50 percent of such funds shall be allocated among the States at the discretion of the Attorney General.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under subsection (a) a total of $40,000,000 for fiscal year 1992 and all fiscal years thereafter.

HATCH AMENDMENT NO. 480

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place add the following:

SEC. . Section 3432 of title 18, United States Code, is amended by striking "the veniremen, and of", and by striking "venireman and".

THURMOND AMENDMENTS NOS. 481 THROUGH 483

(Ordered to lie on the table.)

Mr. THURMOND submitted three amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT NO. 481

At the appropriate place add the following:

Subtitle A—Sentencing and Magistrates Amendments

SEC. 101. CORRECTION OF RESENTENCING SANCTION FOR REVOCATION OF PROHIBITION FOR POSSESSION OF A CONTROLLED SUBSTANCE.

Section 3565(a) of title 18, United States Code, is amended by striking "sentence the defendant to not less than one-third of the original sentence" and inserting in lieu thereof "resentence the defendant under subchapter A to a sentence that includes a term of imprisonment.".

SEC. 102. AUTHORIZATION OF PROHIBITION FOR PETTY OFFENSES IN CERTAIN CASES.

Section 3561(a)(3) of title 18, United States Code, is amended by adding at the end: "However, this paragraph does not preclude the imposition of a sentence to a term of prohibition for a petty offense if the defendant has been sentenced to a term of imprisonment at the same time for another such offense.".

SEC. 103. TRIAL BY A MAGISTRATE IN PETTY OFFENSE CASES.

Section 3401 of title 18, United States Code, is amended—

(1) in subsection (b) by adding "other than a petty offense" after misdemeanor"; and

(2) in subsection (g) by amending the first sentence to read as follows: "The magistrate judge may, in a petty offense case involving a juvenile, exercise all powers granted to the district court under chapter 403 of this title."

SEC. 104. CONFORMING AUTHORITY FOR MAGISTRATES TO REVOKE SUPERVISED RELEASE IN ADDITION TO PROBATION IN MISDEMEANOR CASES IN WHICH THE MAGISTRATE IMPOSED SENTENCE.

Section 3401(d) of title 18, United States Code, is amended by adding at the end the following: "A magistrate judge who has sentenced a person to a term of supervised release shall also have power to revoke or modify the term or conditions of such supervised release."

SEC. 105. AVAILABILITY OF SUPERVISED RELEASE FOR JUVENILE OFFENDERS.

Section 5037 of title 18, United States Code, is amended—

(1) in subsection (a) by striking "place him on probation, or commit him to official de-

tention" and inserting in lieu thereof "place the juvenile on probation, or commit the juvenile to official detention (including the possibility of a term of supervised release)" and by striking "subsection (d)" and inserting in lieu thereof "subsection (e)"; and

(2) by redesignating subsection (d) as subsection (e) and adding a new subsection (d), as follows:

"(d) The term for which supervised release may be ordered for a juvenile found to be a juvenile delinquent may not extend—

(1) in the case of a juvenile who is less than eighteen years old, beyond the lesser of—

(A) the date when the juvenile becomes twenty-one years old; or

(B) the maximum term that would be authorized by section 3583(b) if the juvenile had been tried and convicted as an adult; or

(2) in the case of a juvenile who is between eighteen and twenty-one years old—

(A) who if convicted as an adult would be convicted of a Class A, B, or C felony, beyond five years; or

(B) if any other case beyond the lesser of—

(i) three years; or

(ii) the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult.".

Subtitle B—White Collar Crime Amendments

SEC. 201. RECEIVING THE PROCEEDS OF A POSTAL ROBBERY.

Section 2114 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsection (a); and

(2) by adding at the end the following new subsection:

"(b) Whoever receives, possesses, conceals, or disposes of any money or other property which has been obtained in violation of this section, knowing the same to have been unlawfully obtained, shall be imprisoned not more than ten years, fined under this title, or both.".

SEC. 202. RECEIVING THE PROCEEDS OF EXTORTION OR KIDNAPPING.

(a) Chapter 41 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§880. Receiving the proceeds of extortion

"Whoever receives, possesses, conceals, or disposes of any money or other property which was obtained from the commission of any offense under this chapter that is punishable by imprisonment for more than one year, knowing the same to have been unlawfully obtained, shall be imprisoned not more than three years, fined under this title, or both."; and

(2) in the table of sections, by adding at the end thereof the following item: "880. Receiving the proceeds of extortion."

(b) Section 1202 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsection "(a)"; and

(2) by adding the following new subsections:

"(b) Whoever transports, transmits, or transfers in interstate or foreign commerce any proceeds of a kidnapping punishable under State law by imprisonment for more than one year, or receives, possesses, conceals, or disposes of any such proceeds after they have crossed a State or United States boundary, knowing the proceeds to have been unlawfully obtained, shall be imprisoned not more than ten years, fined under this title, or both".

"(c) For purposes of this section, the term 'State' has the meaning set forth in section 245(d) of this title.

SEC. 203. CONFORMING ADDITION TO OBSTRUCTION OF CIVIL INVESTIGATIVE DEMAND STATUTE.

Section 1505 of title 18, United States Code, is amended by inserting "section 1968 of this title, section 3733 of title 31, United States Code or" before "the Antitrust Civil Process Act".

SEC. 204. CONFORMING AMENDMENTS TO 18 U.S.C. 3322.

Section 3322 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting "or (D)" after "section 981(a)(1)(C)"; and

(2) in subsection (d) by inserting "225," after "215," and by inserting ", 1032," after "1014,".

SEC. 205. CONFORMING ADDITION OF PREDICATE OFFENSES TO FINANCIAL INSTITUTIONS REWARDS STATUTE.

Section 3059A of title 18, United States Code is amended—

(1) by inserting "225," after "215";

(2) by striking "or" before "1344"; and

(3) by inserting ", or 1517" after "1344".

SEC. 206. DEFINITION OF SAVINGS AND LOAN ASSOCIATION IN BANK ROBBERY STATUTE.

Section 2113 of title 18, United States Code, is amended by adding at the end the following:

"(h) As used in this section, the term 'savings and loan association' means (1) any Federal saving association or State savings association (as defined in section 3(b) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(b)) having accounts insured by the Federal Deposit Insurance Corporation, and (2) any corporation described in section 3(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)(C)) which is operating under the laws of the United States.".

SEC. 207. CONFORMING DEFINITION OF "1 YEAR PERIOD" IN 18 U.S.C. 1516.

Section 1516(b) of title 18, United States Code, is amended—

(1) by inserting "(i)" before "the term"; and

(2) by inserting before the period the following: ", and (ii) the term "in any 1 year period" has the meaning given to the term 'in any one-year period' in section 666 of this title.

Subtitle C—Miscellaneous Amendments

SEC. 301. SEXUAL ABUSE AMENDMENTS.

(a) DEFINITIONS OF SEXUAL ACT AND SEXUAL CONTACT. FOR VICTIMS UNDER THE AGE OF 16.—Paragraph (2) of section 2245 of title 18, United States Code, is amended—

(i) in subparagraph (B) by striking "or" after the semicolon;

(ii) In subparagraph (C) by striking "; and" and inserting in lieu thereof "; and

(iii) by inserting a new subparagraph (D) as follows:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

(b) REDESIGNATION OF SECTION.—Section 2245 of title 18, United Sttes Code, is redisignated section 2246.

(c) PENALTIES FOR SUBSEQUENT OFFENSES.—Chapter 109A of title 18, United States Code, is amended by inserting the following new section after secton 2244;

"2245. Penalties for subsequent offenses

"Any person who violates a provision of this chapter after a prior conviction under a provision of this chapter or the law of a State (as defined in section 513 of this title) for conduct proscribed by this chapter has become final is punishable by a term of imprisonment up to twice that otherwise authorized.".

(d) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by—

(1) striking "2245" and inserting in lieu thereof "2246"; and

(2) inserting the following after the item relating to section 2244:

"2245. Penalties for subsequent offenses.".

SEC. 302. OPTIONAL VENUE FOR ESPIONAGE AND RELATED OFFENSES.

(a) IN GENERAL.—Chapter 211 of title 18, United States Code, is amended by inserting:

"§3239. Optional venue for espionage and related offenses.

"The trial for any offense involving a violation, begun or committed upon the high seas or elsewhere out of the jurisdiction of any particular State or district, of—

"(1) section 793, 794, 798, or section 1030(a)(1) of this title;

"(2) section 601 of the National Security Act of 1947 (50 U.S.C. 421); or

"(3) section 4(b) or 4(c) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783(b) or (c)); may be in the District of Columbia or in any other district authorized by law.".

(b) CLERICAL AMENDMENT.—The item relating to section 3239 in the table of sections at the beginning of chapter 211 of title 18, United States Code, is amended to read as follows:

"Optional venue for espionage and related offense.".

SEC. 303. GRAND JURY ACCESS TO CERTAIN RECORDS.

Section 631 of the Communications Act of 1934 (47 U.S.C. 551) is amended by adding at the end thereof the following new subsection:

"(i) EXCEPTION FOR FEDERAL GRAND JURY PROCEEDING.—Nothing in this section shall apply to any subpoena or court order issued in connection with proceedings before a Federal grand jury.".

SEC. 304. AUTHORIZATION FOR ONE ADDITIONAL CRIMINAL DIVISION EMPLOYEE TO APPROVE CERTAIN COURT APPLICATIONS.

(a) Section 2516(1) of title 18, United States Code, is amended by striking "or any Deputy Assistant Attorney General in the Criminal Division specially designated by the Attorney General" and inserting in lieu thereof "or nay Deputy Assistant Attorney General in, or one other officer or employee of, the Criminal Division specially designated by the Attorney General"; and

(b) Section 6003(b) of title 18, United States Code, is amended by—

(1) striking "or" before "Deputy Assistant Attorney General" and inserting in lieu thereof a comma, and

(2) inserting "or one other officer or employee of the Criminal Division designated by the Attorney General" after "Deputy Assistant Attorney General".

SEC. 305. CONFORMING AMENDMENT TO THE ELECTRONIC COMMUNICATIONS PRIVACY ACT.

Section 2705(a)(1)(B) of title 18, United States Codes, is amended by inserting "or trial" after "grand jury".

SEC. 306. CLARIFICATION OF INAPPLICABILITY OF 18 U.S.C. 2515 TO CERTAIN DISCLOSURES.

Section 2515 of title 18, United States Code, is amended by adding at the end the following: "This section shall not apply to the disclosure by the United States, a State, or a political subdivision thereof in a criminal trial or hearing or before a grand jury of the contents of a wire or oral communication, or evidence derived therefrom, the interception of which was in violation of section 2511(2)(d).".

SEC. 307. DISCLOSURE OF CONTENTS OF A LAWFUL INTERCEPTION WITH INTENT TO OBSTRUCT A CRIMINAL INVESTIGATION.

(a) Section 2511(1) of title 18, United States Code, is amended—(1) by striking "or" at the end of paragraph (c);

(2) by inserting "or" after the semicolon at the end of paragraph (d); and

(3) by adding the following new paragraph:

"(e) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by this chapter, knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, with intent to obstruct, impede, or interfere with a criminal investigation";

(b) Section 2515 of title 18, United States Code, is amended by adding at the end the following new paragraph:

"This section shall not apply to the admission into evidence of the contents of a wire or oral communication, or evidence derived therefrom, which has been disclosed in violation of section 2511(1)(e).".

SEC. 308. DEFINITION OF LIVESTOCK.

Section 2311 of title 18, United States Code, is amended by inserting after the second paragraph relating to the definition of "cattle" the following:

"Livestock means any domestic animals raised for home use, consumption, or profit, such as horses, pigs, goats, fowl, sheep, and cattle, or the carcasses thereof;".

SEC. 309. LEADERSHIP ROLE IN CRIME AS FACTOR FOR TRANSFERRING A JUVENILE TO ADULT STATUS.

Section 5032 of title 18, United States Code, is amended in the fifth undesignated paragraph by adding at the end the following: "In considering the nature of the offense, as required by this paragraph, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use and distribution of controlled substances or firearms. Such a factor, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of such factor shall not preclude such a transfer.".

SEC. 310. CONFORMING AMENDMENT TO PRECLUSION OF NOTICE OF ELECTRONIC COMMUNICATIONS PRIVACY ACT.

Section 2705(b) of title 18, United States Code, is amended by inserting "or 2703(c)(1)" after "when it is not required to notify the subscriber or customer under section 2703(b)(1)".

Subtitle D—Technical Amendments

SEC. 401. CORRECTIONS OF ERRONEOUS CROSS-REFERENCES AND MISDESIGNATIONS.

(1) Section 1791(b) of title 18, United States Code, is amended by striking "(c)" wherever it appears and inserting in lieu thereof "(d)";

(2) Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207-51; 21 U.S.C. 857)" and inserting in lieu thereof "section 422 of the Controlled Substances Act (21 U.S.C. 863)";

(3) Section 2703(d) of title 18, United States Code, is amended by striking "section 3126(2)(A)" and inserting in lieu thereof "section 3127(2)(A)";

(4) Section 666(d) of title 18, United States Code, is amended by redesignating the fourth paragraph relating to the definition of the term "State" as paragraph (5).

(5) Section 4247(h) of title 18, United States Code, is amended by striking "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting in lieu thereof "subsection (e) of section 4241, 4244, 4245, or 4246, or subsection (f) of section 4243,";

(6) Section 408(b)(2)(A) of the Controlled Substances Act (21 U.S.C. 848(b)(2)(A)) is amended by striking "subsection (d)(1)" and inserting in lieu thereof "subsection (c)(1)";

(7)(a) Section 994(h) of title 28, United States Code, is amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" each place it appears and inserting in lieu thereof "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)"; (b) section 924(e) of title 18, United States Code, is amended by striking "the first section or section 3 of Public Law 96-350 (21 U.S.C. 955a seq.)" and inserting in lieu thereof "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(8) Section 2596(d) of the Crime Control Act of 1990 is amended, effective retroactively to the date of enactment of such Act, by striking "951(c)(1)" and inserting in lieu thereof "951(c)(2)"; and

(9) Section 1031 of title 18, United States Code, is amended by redesignating subsection (g) as enacted by Public Law 101-123 as subsection (h).

SEC. 402. REPEAL OF OBSOLETE PROVISIONS IN TITLE 18

Title 18, United States Code, is amended—

(1) in section 212, by striking "or of any National Agricultural Credit Corporation," and by striking "or National Agricultural Credit Corporations";

(2) in section 213, by striking "or examiner of National Agricultural Credit Corporations";

(3) in section 709, by repealing the seventh and thirteenth paragraphs;

(4) in section 711, by repealing the second paragraph;

(5) by repealing section 754 and amending the table of sections for chapter 35 accordingly;

(6) in sections 657 and 1006, by striking "Reconstruction Finance Corporation,", and by striking "Farmers' Home Corporation,";

(7) in section 658, by striking "Farmers' Home Corporation,";

(8) in section 1013, by striking ", or by any National Agricultural Credit Corporation";

(9) in section 1014, by striking "Reconstruction Finance Corporation," by striking "Farmers' Home Corporation," and by striking the second comma following the words "Federal Reserve Act";

(10) in section 1160, by striking "white person" and inserting in lieu thereof "non-Indian";

(11) in section 1698, by repealing the second paragraph;

(12) by repealing sections 1904 and 1908 and amending the table of sections for chapter 93 accordingly;

(13) in section 1909, by inserting "or" before "farm credit examiner" and by striking "or an examiner of National Agricultural Credit Corporations,";

(14) by repealing sections 2157 and 2391 and amending the table of sections for chapters 105 and 115 accordingly;

(15) in section 2257 by repealing the subsections (f) and (g) that were enacted by Public Law 100-690;

(16) in section 3113, by repealing the third paragraph; and

(17) in section 3281, by striking "except for offenses barred by the provisions of law existing on August 4, 1939".

SEC. 403. CORRECTION OF DRAFTING ERROR IN THE FOREIGN CORRUPT PRACTICES ACT.

Section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2) is amended, in subsection (a)(3), by striking "issuer" and inserting in lieu thereof "domestic concern".

SEC. 404. ELIMINATION OF REDUNDANT PENALTY PROVISION IN 18 U.S.C. 1116.

Section 1116(a) of title 18, United States Code, is amended by striking ", and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years".

SEC. 405. ELIMINATION OF REDUNDANT PENALTY.

Section 1864(c) of title 18, United States Code, is amended by striking "(b)(3), (4), or (5)" and inserting in lieu thereof "(b)(5)".

SEC. 406. CORRECTIONS OF MISSPELLINGS AND GRAMMATICAL ERRORS.

Title 18, United States Code, is amended:

(1) in section 151, by striking "mean" and inserting in lieu thereof "means";

(2) in section 513(c)(4), by striking "association or persons" and inserting in lieu thereof "association of persons";

(3) in section 1014, by striking the comma following a comma after "Act";

(4) in section 1956(e), by striking "Environmental" and inserting in lieu thereof "Environmental";

(5) in section 3125, by striking the quotation marks in paragraph (a)(2), and by striking "provider for" and inserting in lieu thereof "provider of" in subsection (d); and

(6) in section 3731, by striking "order of a district courts" and inserting in lieu thereof "order of a district court" in the second undesignated paragraph.

AMENDMENT NO. 482

At the appropriate place add the following:

SEC. 1. (a) KNOWLEDGE REQUIREMENT FOR STOLEN OR COUNTERFEIT PROPERTY.—Chapter 1 of title 18, United States Code, is amended by adding at the end thereof a new section, as follows:

"§ 21. Stolen or counterfeit nature of property for certain crimes defined

Wherever in this title it is an element of an offense that any property was embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated and that the defendant knew that the property was of such character, such element may be established by proof that the defendant, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated. For purposes of this section, the term "official representation" means any representation made by a federal law enforcement officer (as defined in section 115) or by another person at the direction or with the approval of such an officer.

(b) TABLE OF SECTIONS.—The table of sections for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following: "21. Stolen or counterfeit nature of property for certain crimes defined.".

SEC. 2. CONFORMING AMENDMENT.—Section 510(b) of title 18, United States Code, is amended by striking "that in fact is stolen or bears a forged or falsely made endorsement or signature".

AMENDMENT NO. 483

At the appropriate place add the following:

SEC. 232. ENHANCEMENT OF PENALTIES FOR DRUG TRAFFICKING IN PRISONS.

Section 1791 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting before "Any" the following new sentence: "Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence imposed by any court for an offense involving such a controlled substance.";

(2) in subsection (d)(1)(A), by inserting after "a firearm or destructive device" the words "or a controlled substance in schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C) of this subsection";

(3) in subsection (d)(1)(B), by inserting before "ammunition," the following: "marijuana or a controlled substance in schedule III, other than a controlled substance referred to in subparagraph (C) of this subsection,";

(4) in subsection (d)(1)(C), by inserting "methamphetamine, its salts, isomers, and salts of its isomers," after "a narcotic drug,";

(5) in subsection (d)(1)(D), by inserting "(A), (B), or" before "(C)"; and

(6) in subsection (b), by striking "(c)" each place it appears and inserting in lieu thereof "(d)".

SEC. 233. SEIZURE OF VEHICLES WITH CONCEALED COMPARTMENTS.

(a) Section 3 of the Anti-Smuggling Act of 1935 (19 U.S.C. 1703) is amended:

(1) by amending the title of such section to read as follows:

"Sec. 1703. Seizure and forfeiture of vessels, vehicles and other conveyances";

(2) by amending the title of subsection (a) to read as follows:

"(a) Vessels, vehicles and other conveyances subject to seizure and forfeiture";

(3) by amending the title of subsection (b) to read as follows:

"(b) Vessels, vehicles and other conveyances' defined";

(4) by inserting ", vehicle, or other conveyances" after the word "vessel" everywhere it appears in the text of subsections (a) and (b); and

(5) by amending subsection (c) to read as follows:

"(c) Acts constituting prima facie evidence of vessel, vehicle or other conveyance engaged in smuggling

"For the purposes of this section, prima facie evidence that a vessel, vehicle, or other conveyance is being, or has been, or is attempting to be employed in smuggling or to defraud the revenue of the United States shall be—

"(1) in the case of a vessel, the fact that a vessel has become subject to pursuit as provided in section 1581 of title 17, United States Code, or is a hovering vessel, or that a vessel fails, at any place within the customs waters of the United States or within a customs-enforcement area, to display lights as required by law.

"(2) in the case of a vehicle or other conveyance, the fact that a vehicle or other conveyance has any compartment or equipment that is built or fitted out for smuggling.".

(b) The table of sections for Chapter 5 of title 19, United States Code, is amended by striking the items relating to section 1703 and inserting in lieu thereof the following:

"1703. Seizure and forfeiture of vessels, vehicles and other conveyances.
"(a) Vessels, vehicles and other conveyances subject to seizure and forfeiture.
"(b) Vessels, vehicles and other conveyances defined.
"(c) Acts constituting prima facie evidence of vessel, vehicles or other conveyances engaged in smuggling.".

SEC. 234. CLOSE LOOPHOLE FOR ILLEGAL IMPORTATION OF SMALL DRUG QUANTITIES.

Section 497(a)(2)(A) of the Tariff act of 1930 (19 U.S.C. 1497(a)(2)(A)) is amended by adding "or $500, whichever is greater" after "value of the article".

SEC. 236. DRUG PARAPHERNALIA AMENDMENT.

Section 422 of the Controlled Substances Act (21 U.S.C. 863) is amended by adding the following new subsection (g):

"(g) Civil Enforcement.

"The Attorney General may bring a civil action against any person who violates the provisions of this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking or has taken place. The court in which such action is brought shall determine the existence of any violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief, including injunctions, as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

SEC. 238. CONFORMING AMENDMENTS CONCERNING MARIHUANA.

(a) Section 401(b)(1)(D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(D)) and section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) are each amended by striking out "with respect to less than 50 kilograms of marihuana" and inserting in lieu thereof, "with respect to less than 50 kilograms of a mixture or substance containing a detectable amount of marihuana";

(b) Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) is amended by striking out "except in the case of 100 or more marihuana plants" and inserting in lieu thereof "except in the case of 50 or more marihuana plants".

SEC. 239. ADDITION OF DRUG CONSPIRACIES AND ATTEMPTS AND SERIOUS CRACK POSSESSION OFFENSES BY JUVENILES AS WARRANTING ADULT PROSECUTION.

Section 5032 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph by striking "an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841) or sections 1002(a), 1003, 1005, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 960(b)(1), (2), or (3))," and inserting in lieu thereof "an offense (or conspiracy or attempt to commit an offense) described in section 401, or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841, 844, or 846), section 1002(a), 1003, 1005, 1009, 1010(b)(1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b)(1), (2), or (3), or 963),"; and

(2) in the fourth undesignated paragraph—

(A) by striking "an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959)" and inserting in lieu thereof "an offense (or a conspiracy or attempt to commit an offense) described in section 401, or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841, 844, or 846), or section 1002(a), 1005, 1009, 1010(b)(1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959, 960(b)(1), (2), or (3), or 963)"; and

(B) by striking "subsection (b)(1)(A), (B), or (C), (D), or (e) of section 401 of the Controlled Substances Act, or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b)(1), (2), (3))" and inserting in lieu thereof "or an offense (or conspiracy or attempt to commit an offense) described in section 401(b)(1)(A), (B), or (C), (d), or (e), or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A), (B), or (C), (d), or (e), 844 or 846, or section 1002(a), 1003, 1009, 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b)(1), (2), or (3), or 963)".

SEC. 241. CONFORMING AMENDMENT ADDING CERTAIN DRUG OFFENSES AS REQUIRING FINGERPRINTING AND RECORDS FOR RECIDIVIST JUVENILES.

Sections 5038(d) and (f) of title 18, United States Code, are each amended by striking "or an offense described in sections 841, 952(a), 955, or 959, of title 21," and inserting in lieu thereof "or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841) or section 1002(a), 1003, 1005, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a) 953, 955, 959, or 960(b)(1), (2), or (3)),".

SEC. 242. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER THE RICO STATUTE.

Section 1961(1) of title 18, United States Code, is amended by striking "narcotic or other dangerous drugs" each place those words appear and inserting in lieu thereof "a controlled substance or listed chemical, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)".

SEC. 243. CONFORMING AMENDMENTS TO RECIDIVIST PENALTY PROVISIONS OF THE CONTROLLED SUBSTANCES ACT AND THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

(1) Sections 401(b)(1)(B), (C), and (D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B), (C), and (D) and sections 1010(b)(1), (2), and (3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1), (2), and (3)) are each amended in the sentence or sentences beginning "If any person commits" by striking "one or more prior convictions" through "have become final" and inserting in lieu thereof "a prior conviction for a felony drug offense has become final";

(2) Section 1012(b) of the Controlled Substances Import and Export Act (21 U.S.C. 962(b)) is amended by striking "one or more prior convictions of him for a felony under any provision of this subchapter or subchapter I of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant drugs, have become final" and inserting in lieu thereof "one or

more prior convictions of such person for a felony drug offense have become final'';

(3) Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking the sentence beginning ''For purposes of this subparagraph, the term 'felony drug offense' means'';

(4) Section 401 of the Controlled Substances Act (21 U.S.C. 841) and section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) are each amended by adding a new subsection (c), as follows:

''(c) For purposes of this title, the term 'felony drug offense' means an offense that is punishable by imprisonment for more than one year under any law of the United States or of a State or foreign country that prohibits or restricts conduct relating to narcotic drugs, marihuana, or depressant or stimulant substances.''; and

(5) Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended by adding after the sentence beginning ''If any person commits'' the following: ''If any person commits a violation of this paragraph or of section 418, 419, or 420 of the Controlled Substances Act after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence.''.

SEC. 244. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

(a) Sections 401(b)(1)(A) and (B) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A) and (B)) are each amended by striking ''No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.'';

(b) Sections 1010(b)(1) and (2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1) and (2)) are each amended by striking ''No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.'';

(c) Section 419(c) of the Controlled Substances Act (21 U.S.C. 860(c)) is amended by striking ''; parole'' in the heading of such section and by striking ''An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.'';

(d) Section 420(e) of the Controlled Substances Act (21 U.S.C. 861(a)) is amended by striking ''; parole'' in the heading of such section and by striking ''An individual convicted under this section of an offense for which a mandatory minimum term of imprisonment is applicable shall not be eligible for parole under section 4202 of title 18 until the individual has served the mandatory term of imprisonment as enhanced by this section.''.

SEC. 245. CONFORMING AMENDMENT TO PROVISION PUNISHING A SECOND OFFENSE OF DISTRIBUTING DRUGS TO A MINOR.

Section 418(b) of the Controlled Substances Act (21 U.S.C. 859(b)) is amended by striking ''one year'' and inserting in lieu thereof ''three years''.

MITCHELL AMENDMENT NO. 484

(Ordered to lie on the table.)

Mr. MITCHELL submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

On page 236, strike line 7 and all that follows through the end of the bill and insert the following:

TITLE XXVII—FELON FIREARM PURCHASE PREVENTION ACT OF 1991

SEC. 2701. SHORT TITLE.

This title may be cited as the ''Felon Firearm Purchase Prevention Act of 1991''.

SEC. 2702. FEDERAL FIREARMS LICENSEE REQUIRED TO CONDUCT CRIMINAL BACKGROUND CHECK BEFORE TRANSFER OF FIREARM TO NONLICENSEE.

(a) INTERIM PROVISION.—Section 922 of title 18, United States Code, as amended by section 702 of this Act, is amended by adding at the end the following new subsection:

''(u)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending on the date that the Attorney General certifies that the national instant criminal background check system is in compliance with section 2703(d)(3) of the Felon Firearm Purchase Prevention Act of 1991, it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

''(A) after the most recent proposal of such transfer by the transferee—

''(i) the transferor has—

''(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

''(II) verified the identification of the transferee by examining the identification document presented; and

''(III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and

(ii)(I) 5 days have elapsed from the date the transferee furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

''(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

''(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stting that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

''(C)(i) the transferee has presented to the transferor a permit that—

''(I) allows the transferee to possess a handgun; and

''(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

''(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

''(D) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; and

''(E) on application of the transferor, the Secretary has certified that compliance with subparagraph (A)(i)(III) is impracticable because of the inability of the transferor to communicate with the chief law enforcement officer because of the remote location of the licensed premises.

''(2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragrph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 days whether the transferee has a criminal record or whether there is any other legal impediment to the transferee's receiving a handgun, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.

''(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

''(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

''(B) a statement that transferee—

''(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

''(ii) is not a fugitive from justice;

''(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

''(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

''(v) is not an alien who is illegally or unlawfully in the United States;

''(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

''(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

''(C) the date the statement is made; and

''(D) notice that the transferee intends to obtain a handgun from the transferor.

''(4) The chief law enforcement officer of the place of residence of a prospecitve transferee of a handgun, at the request of a person who alleges the person requires access to a handgun because of threat to the life of the person or a member of the household of the person, shall immediately meet with the person and forthwith sign a written statement described in paragraph (1)(B) unless the officer has clear and convincing evidence that no threat was made to the life of the person or any member of the household of the person.

''(5) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall immediately communicate all information the transferor has about the transfer and the transferee to—

''(A) the chief law enforcement officer of the place of business of the transferor; and

''(B) the chief law enforcement officer of the place of residence of the transferee.

''(6) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

''(7)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction.

"(B)(i) Unless the chief law enforcement officer to whom notice is provided under paragraph (1)(A)(i)(III) determines that a transaction would violate Federal, State, or local law, the officer shall, within 5 days after the date the transferee made such statement, destroy any record containing information derived from such statement.

"(ii) Information conveyed to a chief law enforcement officer under paragraph (1)(A)(i)(III)—

"(I) shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and

"(II) shall not be used for any purpose other than to carry out this subsection.

"(8) A chief law enforcmenet officer shall not be liable in an action at law for damages for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section.

"(9) For purposes of this subsection, the term 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer or the deisgnee of any such individual.

"(10) The Secretary shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to licensed dealers and to the public.".

(b) PERMANENT PROVISION.—Section 922 of title 18, United States Code, as amended by subsection (a), is amended by adding at the end the following new subsection:

"(v)(1) Beginning on the date that the Attorney General certifies that the national instant criminal background check system is in compliance with section 2703(d)(1) of the Felon Firearm Purchase Prevention Act of 1991, a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm from the business inventory of the licensee to any other person who is not such a licensee, unless—

"(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section 2703 of the Felon Firearm Purchase Prevention Act of 1991; and

"(B) the system notifies the licensee that the system has not located any record that demonstrates that the receipt of a firearm by such other person would violate subsection (g) or (h) of this seciton.

"(2) Paragraph (1) shall not apply to a firearm transfer between a licensee and anotehr person if—

"(A) such otehr person presents to the licensee a valid permit or license, issued by the State or political subdivision thereof in which the transfer is to occur, that authorizes such other person to purchase, possess, or carry a firearm;

"(B) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(C) on application of the transferor, the Secretary has certified that compliance with paragraph (1)(A) is impracticable because of the inability of the transferor to communicate with the national instant criminal background check system because of the remote location of the licenses premises.

"(3) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a firearm by such other person would violate subsection (g) or (n), and the licensee transfers a firearm to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

"(4) If the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that receipt of a firearm by such other person would violate subsection (g) or (n), the Secretary may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under this section, and may impose on the licensee a civil fine of not more than $5,000.

"(5) A State employee responsible for providing information to the national instant criminal background check system shall not be liable in an action at law for damages for failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful under this section.".

(c) PENALTY.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "(2) or (3)" and inserting "(2), (3), or (4)"; and

(2) by adding at the end the following:

"(5) Whoever knowingly violates section 922 (u) or (v) shall be fined not more than $1,000, imprisoned for not more than 1 year, or both.".

SEC. 2703. NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

(a) ESTABLISHMENT OF SYSTEM.—The Attorney General of the United States shall establish a national instant criminal background check system that any licensee may contact for information on whether receipt of a firearm by a prospective transferee thereof would violate section 922(g) or (n) of title 18, United States Code.

(b) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—The Attorney general shall expedite—

(1) the incorporation of State criminal history records into the Federal criminal records system maintained by the Federal Bureau of Investigation;

(2) the development of hardware and software systems to link State criminal history check systems into the national instant criminal background check system established by the Attorney General pursuant to this section; and

(3) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

(c) PROVISION OF STATE CRIMINAL RECORDS TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall—

(1) determine the type of computer hardware and software that will be used to operate the national instant criminal background check system and the means by which State criminal records systems will communicate with the national system;

(2) investigate the criminal records system of each State and determine for each State a timetable by which the State should be able to provide criminal records on an on line capacity basis to the national system;

(3) notify each State of the determinations made pursuant to paragraphs (1) and (2).

The Attorney General shall require as a part of the State timetable that the State achieve, by the end of 5 years after the date of enactment of this Act, at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an entry of activity within the last 5 years.

(d) NATIONAL SYSTEM CERTIFICATION.—(1) On or after the date that is 30 months after the date of enactment of this Act, the Attorney General shall certify—

(A) the date the national system has achieved at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an entry of activity within the last 5 years on a national average basis; and

(B) the date each State is in compliance with the timetable established pursuant to subsection (b).

(2) The Attorney General shall certify that, after 5 years after the date of enactment of this Act, a State is not in compliance with its timetable and the date after such period that the State achieves compliance.

(3) The date on which all States are in compliance with the timetable the provisions of section 922(u) of title 18, United States Code is repealed with respect to all States.

(e) NOTIFICATION OF LICENSEES.—On establishment of the system under this section, the Attorney General shall notify each licensee of the existence and purpose of the system and the means to be used to contact the system.

(f) ADMINISTRATIVE PROVISIONS.—

(1) AUTHORITY TO OBTAIN OFFICIAL INFORMATION.—Notwithstanding any other law, the Attorney General may secure directly from any department or agency of the United States such information on perso'ns for whom receipt of a firearm would violate section 922(g) or (n) of title 18, United States Code as is necessary to enable the system to operate in accordance with this section. On request of the Attorney General, the head of such department or agency shall furnish such information to the system.

(2) OTHER AUTHORITY.—The Attorney General shall develop such computer software, design and obtain such telecommunications and computer hardware, and employ such personnel, as are necessary to establish and operate the system in accordance with this section.

(g) CORRECTION OF ERRONEOUS SYSTEM INFORMATION.—If the system established under this section informs an individual contacting the system that receipt of a firearm by a prospective transferee would violate section 922(g) or (n) of title 18, United States Code, the transferee may request the Attorney General to provide such other person with the reasons therefor. Upon receipt of such a request, the Attorney General shall immediately comply with the request. The transferee may submit to the Attorney General information to correct, clarify, or supplement records of the system with respect to the transferee. After receipt of such information, the Attorney General shall immediately consider the information, investigate the matter further, and correct all erroneous Federal records relating to the transferee and give notice of the error to any Federal department or agency or any State that was the source of such erroneous records.

(h) REGULATIONS.—After 90 days notice to the public and an opportunity for hearing by interested parties, the Attorney General shall prescribe regulations to ensure the privacy and security of the information of the system established under this section.

(i) PROHIBITIONS RELATING TO ESTABLISHMENT OF REGISTRATION SYSTEMS WITH RESPECT TO FIREARMS.—No department, agency, officer, or employee of the United States may—

(1) require that any record or portion thereof maintained by the system established under this section be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(2) use the system established under this section to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions, except with respect to persons prohibited by section 922(g) or (n) of title 18, United States Code, from receiving a firearm.

(j) DEFINITIONS.—As used in this section:

(1) LICENSEE.—The term "licensee" means a licensed importer, licensed manufacturer, or licensed dealer under section 923 of title 18, United States Code.

(2) OTHER TERMS.—The terms "firearm", "licensed importer", "licensed manufacturer", and "licensed dealer" have the meanings stated in section 921(a) (3), (9), (10), and (11), respectively, of title 18, United States Code.

SEC. 2704. FUNDING FOR IMPROVEMENT OF CRIMINAL RECORDS.

(a) IMPROVEMENTS IN STATE RECORDS.—

(1) USE OF FORMULA GRANTS.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and "; and

(3) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), and (2), and (3) and the records required by the Attorney General under section 3 of the Felon Firearm Purchase Prevention Act of 1991 with the Attorney General for the purpose of implementing the Felon Firearm Purchase Prevention Act of 1991.".

(2) ADDITIONAL FUNDING.—

(A) GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS.—The Attorney General shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(i) for the creation of a computerized criminal history record system or improvement of an existing system;

(ii) to improve accessibility to the national instant criminal background system; and

(iii) upon establishment of the national system, to assist the State in the transmittal of criminal records to the national system.

(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under subparagraph (A) a total of $100,000,000 for fiscal year 1992 and all fiscal years thereafter.

(b) WITHHOLDING STATE FUNDS.—Effective on the effective date of section 922(v) of title 18, United States Code, the Attorney General may reduce by 10 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that has not provided criminal background information to the national instant criminal background check system in compliance with subsection (b)(2) and shall reallocate that amount to the other States.

(c) WITHHOLDING OF DEPARTMENT OF JUSTICE FUNDS.—If the Attorney General does not certify the national instant criminal background check system pursuant to section 2703(d)(1) by—

(1) 30 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal year beginning in the calendar year that is 30 months after the date of enactment of this Act shall be reduced by 5 percent on a monthly basis; and

(2) 42 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal year beginning in the calendar year that is 42 months after the date of enactment of this Act shall be reduced by 10 percent on a monthly basis.

THURMOND AMENDMENTS NOS. 485 THROUGH 494

(Ordered to lie on the table.)

Mr. THURMOND submitted 10 amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT NO. 485

At the end of title XXIII insert the following:

"Nothing in this section shall be construed to alter or change current law or to inhibit the courts of the United States from expanding exceptions to the exclusion of evidence from criminal trials."

AMENDMENT NO. 486

Strike page 114, Line 13 through page 122, line 2 and in lieu thereof insert the following:

SEC. 901. SHORT TITLE.

This title may be cited as the "Police Officers' Bill of Rights Act of 1991".

SEC. 902. RIGHTS OF LAW ENFORCEMENT OFFICERS.

Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781 et seq.) is amended by adding at the end thereof the following new section:

"RIGHTS OF LAW ENFORCEMENT OFFICERS

"SEC. 819 (a) RIGHTS OF LAW ENFORCEMENT OFFICERS WHILE UNDER INVESTIGATION.—The States shall give consideration to adopting the standards and requirements contained in this section. These standards may require that when a law enforcement officer is under investigation or is subjected to questioning for any reason, other than in connection with an investigation or action described in subsection (h), under circumstances that could lead to disciplinary action, the following minimum standards apply:

"(1) Questioning of the law enforcement officer shall be conducted at a reasonable hour, preferably when the law enforcement officer is on duty, unless exigent circumstances otherwise require.

"(2) Questioning of the law enforcement officer shall take place at the offices of those conducting the investigation or the place where such law enforcement officer reports for duty unless the officer consents in writing to being questioned elsewhere.

"(3) The law enforcement officer under investigation shall be informed, at the commencement of any questioning, of the name, rank, and command of the officer conducting the questioning.

"(4) During any single period of questioning of the law enforcement officer, all questions shall be asked by or through a single investigator.

"(5) The law enforcement officer under investigation shall be informed in writing of the nature of the investigation prior to any questioning.

"(6) Any questioning of a law enforcement officer in connection with an investigation shall be for a reasonable period of time and shall allow for reasonable periods for the rest and personal necessities of the law enforcement officer.

"(7) No threat against, harassment of, or promise or reward (except an officer of immunity from prosecution) to any law enforcement officer shall be made in connection with an investigation to induce the answering of any question.

"(8) All questioning of any law enforcement officer in connection with the investigation shall be recorded in full in writing or by electronic device, and a copy of the transcript shall be made available to the officer under investigation.

"(9) The law enforcement officer under investigation shall be entitled to the presense of counsel (or any other one person of the officer's choice) at any questioning of the officer, unless the officer consents in writing to being questioned outside the presence of counsel.

"(10) At the conclusion of the investigation, the person in charge of the investigation shall inform the law enforcement officer under investigation, in writing, of the investigative findings and any recommendation for disciplinary action that the person intends to make.

"(11) A law enforcement officer who brought before a disciplinary hearing shall be provided access to all transcripts, records, written statements, written reports and analyses and video tapes pertinent to the case that:

"(A) contain exculpatory information;

"(B) are intended to support any disciplinary action; or

"(C) are to be introduced in the disciplinary hearing.

"(b) OPPORTUNITY FOR A HEARING.—The States shall give due consideration to proposals which ensure that, except in a case of summary punishment or emergency suspension described in subsection (d), if an investigation of a law enforcement officer results in a recommendation of disciplinary action, the law enforcement agency shall notify the law enforcement officer that the officer is entitled to a hearing on the issues by a hearing officer or board.

"(2)(A) Subject to subparagraph (B), a State shall determine the composition of any such disciplinary hearing board and the procedures for a disciplinary hearing.

"(B) A disciplinary hearing board that includes employees of the law enforcement agency of which the officer who is the subject of the hearing is a member shall include at least one law enforcement officer of equal or lesser rank to the officer who is the subject of the hearing.

"(d) SUMMARY PUNISHMENT AND EMERGENCY SUSPENSION.—(1) This section does not preclude a State from providing for summary punishment of emergency suspension for misconduct by a law enforcement officer.

"(2) An emergency suspension shall not affect or infringe on the health benefits of a law enforcement officer.

"(e) NOTICE OF DISCIPLINARY ACTION.—When disciplinary action is to be taken against a law enforcement officer, the officer shall be notified of the action and the reasons therefor a reasonable time before the action takes effect.

"(f) RETALIATION FOR EXERCISING RIGHTS.—There shall be no penalty or threat of penalty against a law enforcement officer for the exercise of the officer's rights under this section.

"(g) OTHER REMEDIES NOT IMPAIRED.—(1) Nothing in this section shall be construed to impair any other legal remedy that a law enforcement officer has with respect to any rights under this section.

"(2) A law enforcement officer may waive any of the rights guaranteed by this section.

"(h) APPLICATION OF SECTION.—This section does not apply in the case of—

"(1) an investigation of criminal conduct by a law enforcement officer; or

"(2) a nondisciplinary action taken in good faith on the basis of a law enforcement officer's employment-related performance.

"(i) DEFINITIONS.—For the purposes of this section—

"(1) the term 'disciplinary action' means the suspension, demotion, reduction in pay or other employment benefits, dismissal, transfer, or similar action taken against a law enforcement officer as punishment for misconduct;

"(2) the term 'emergency suspension' means temporary action imposed by the head of the law enforcement agency when that official determines that the action is in the best interests of the public;

"(3) the term 'summary punishment' means punishment imposed for a minor violation of a law enforcement agency's rules and regulations that does not result in disciplinary action;

"(4) the term 'law enforcement agency' means a public agency charged by law with the duty to investigate crimes or apprehend or hold in custody persons charged with or convicted of crimes; and

"(5) the term 'law enforcement officer' means a full-time police officer, sheriff, or correctional officer of a law enforcement agency.

"(j) PROHIBITION OF ADVERSE MATERIAL IN OFFICER'S FILE.—A law enforcement agency shall not insert any adverse material into the file of any law enforcement officer unless the officer has had an opportunity to review and comment in writing on the adverse material.

"(k) DISCLOSURE OF PERSONAL ASSETS.—A law enforcement officer shall not be required or requested to disclose any item of the officer's personal property, income, assets, sources of income, debt, personal or domestic expenditures (including those of any member of the officer's household), unless

"(1) the information is necessary in investigating a violation of any Federal, State, or local law, rule, or regulation with respect to the performance of official duties; or

"(2) such disclosure is required by Federal, State, or local law.

"(l) ENFORCEMENT OF PROTECTIONS FOR LAW ENFORCEMENT OFFICERS.—(1) A State may provide rights for law enforcement officers that are substantially similar to the rights afforded under this section.

"(m) STATES' RIGHTS.—This section does not preempt State law or collective bargaining agreements or discussions during the collective bargaining process that provide rights for law enforcement officers that are substantially similar to the rights afforded by this section.".

AMENDMENT NO. 487

Strike title XXIII.

AMENDMENT NO. 488

Strike title VIII.

AMENDMENT NO. 489

Strike title IX.

AMENDMENT NO. 490

Strike title XXII.

AMENDMENT NO. 491

At the appropriate place in the bill, add the following:

SECTION 1. PROHIBITION OF UNSOLICITED SEXUALLY ORIENTED ADVERTISEMENTS AND OTHER MATTERS.

Chapter 83 of title 18, United States Code, is amended by adding the following section:

"§ 1735A. Prohibition of unsolicited sexually oriented advertisements and other matters

"(a) Any person who—

"(1) for himself, or by his agents or assigns, knowingly uses the mails for the mailing, carriage in the mails or delivery of—

"(A) any unsolicited sexually oriented advertisement; or

"(B) any unsolicited obscene, lewd, lascivious, indecent, filthy, or vile article, matter, thing, device, or substance;

to any individual or group of individuals; or

"(2) violates any regulation of the postal service issued pursuant to subsection (e), shall be imprisoned not more than 5 years, or fined not more than $100,000, or both for the first offense, and shall be imprisoned not more than 10 years, or fined not more than $200,000, or both, for any second or subsequent offense.

"(b) Whenever, on the basis of any information available to it, the Postal Service believes that a violation of this section has occurred, the Postal Service shall inform the Attorney General. The Attorney General may commence a civil action to recover a civil penalty not to exceed $100,000. Any such action shall be brought in the district court of the United States within the jurisdiction of which the advertisement or other mail matter involved shall have been sent or received.

"(c) All criminal fines or civil penalties collected under this section shall be paid into the Treasury of the United States.

"(d) For purposes of this section, 'sexually oriented advertisement' means any advertisement that depicts, in actual or simulated form, or explicitly describes, in a predominantly sexual context, human genitalia, any act of natural or unnatural sexual intercourse, any act of sadism or masochism, or any other erotic subject directly related to the foregoing. Material otherwise within the definition of this subsection shall be deemed not to constitute a sexually oriented advertisement if it constitutes only a small and insignificant part of the whole of a single catalog, book, periodical, or other work the remainder of which is not primarily devoted to sexual matters.

"(e) The Postal Service shall prescribe such regulations as may be necessary to carry out this section.".

SEC. 2. AMENDMENT TO RICO.

Paragraph (1) of section 1961 of title 18, United States Code, is amended by inserting after "section 1513 (relating to retaliating against a witness, victim, or an informant)" the following: ", section 1735A (relating to mailing of obscene matter or sexually oriented advertising)".

AMENDMENT NO. 492

At the appropriate place in the bill, add the following:

That chapter 11 of title 18, United States Code, is amended by—

(1) inserting between sections 219 and 223, the following new section:

"§ 220. Contingency fees in lobbying

"(a)(1) It shall be unlawful for any person to make, with intent to influence, any oral or written communication on behalf of any other person other than the United States to any department, agency, court, House of Congress, or commission of the United States, for compensation if such compensation has knowingly been made dependent—

"(A) upon any action of Congress, including but not limited to actions of either the House of Representatives or the Senate, or any committee or member thereof, or the passage or defeat of any proposed legislation;

"(B) upon the securing of an award, or upon the denial of an award, of a contract or grant by establishment of the Federal Government; or

"(C) upon the securing, or upon the denial, of any Federal financial assistance or any other Federal contract or grant.

"(2) The provisions of paragraph (1) shall not apply in any case involving the collection of any amount owed on a debt or on a contract claim owed to a person by the Federal Government.

"(h) Any person who violates the provisions of this section shall be fined not more than $50,000 or imprisoned not more than two years, or both.

"(c) The Attorney General may bring a civil action in any United States district court, on behalf of the United States, against any person who engages in conduct prohibited by this section in lieu of or in addition to an action taken pursuant to subsection (b), and, upon proof of such conduct by a preponderance of the evidence, may recover twice the amount of any proceeds obtained by that person due to such conduct. Such civil action shall be barred unless the action is commenced within six years after the later of (1) the date on which the prohibited conduct occurred, or (2) the date on which the United States became or reasonably should have become aware that the prohibited conduct had occurred."; and

(2) amending the table of sections by striking out the item between the item relating to section 219 and the item relating to section 224 and inserting in lieu thereof the following:

"220. Contingency fees in lobbying.".

SEC. 2. This Act and the amendments made by this Act shall become effective on the date of enactment of this Act and shall apply to any contract entered into on or after such date of enactment.

AMENDMENT NO. 493

At the appropriate place in the bill, add the following:

That Chapter 11 of Title 18, United States Code, is amended by—

(1) inserting between sections 219 and 223, the following new section:

"SECTION 220. CONTINGENCY FEES IN LOBBYING

"(a)(1) It shall be unlawful for any person to make, with intent to influence, any oral or written communication on behalf of any person other than the United States, to any department, agency, court, House of Congress, or commission of the United States, for compensation if such compensation has knowingly been made dependent upon—

"(A) any action of Congress, including, but not limited to actions of either the House of Representatives or the Senate, or any committee or member thereof, or the passage or defeat of any legislation;

"(B) the securing, or the denial, of an award, grant, or cooperative agreement by establishment of the Federal Government; or

"(C) the securing, or denial, of an award, of any Federal financial assistance or any other Federal contract, grant, or cooperative agreement.

"(2) The provisions of paragraph (1) shall not apply in any case involving the collection of any amount owed on a debt or on a contract claim owed to a person by the Federal Government.

"(3) The provisions of paragraph (1) shall not apply in any case in which a person has employed or retained a bona fide employee or established commercial or selling agency, to solicit or obtain business on a continuing basis, under an understanding or agreement for an established commission, percentage, brokerage, or fee comparable to customary fees for similar services related to commercial business under the circumstances described in either subparagraphs (B) or (C).

"(b) Any person who violates the provisions of this section shall be fined not more than $50,000 or imprisoned not more than 2 years, or both.

"(c)(1) The Attorney General may bring a civil action in any United States district court, on behalf of the United States against any person who engages in conduct prohibited by this section in lieu of or in addition to an action taken pursuant to subsection (b), and, upon proof of such conduct by a preponderance of the evidence, may recover twice the amount of any proceeds obtained by that person due to such conduct. Such civil action shall be barred unless the action commenced within six years after the later of (1) the date on which the prohibited conduct occurred, or (2) the date on which the United States became or reasonably should have become aware that the prohibited conduct had occurred." and

(2) amending the table of sections by striking out the item between the items relating to section 219 and the item relating to section 244 and inserting in lieu thereof the following:

"220. Contingency fees in lobbying.".

SEC. 2. This Act and the amendments made by this Act shall become effective on the date of enactment of this Act and shall apply to any contract, grant or cooperative agreement entered into on or after such date of enactment.

AMENDMENT NO. 494

Following the last word in title I, insert the following:

"§ 3598. Appointment of counsel

"(a) REPRESENTATION OF INDIGENT DEFENDANTS.—Notwithstanding any other provision of law, this section shall govern the appointment of counsel for any defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, for an offense against the United States, where the defendant is or becomes financially unable to obtain adequate representation. Such a defendant shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in section 3599(b) of this title has occurred.

"(b) REPRESENTATION BEFORE FINALITY OF JUDGMENT.—A defendant within the scope of this section shall have counsel appointed for trial representation as provided in section 3005 of this title. At least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel.

"(c) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the district court that imposed the sentence. Within ten days of receipt of such notice, the district court shall proceed to make a determination whether the defendant is eligible under this section for appointment of counsel for subsequent proceedings. On the basis of the determination, the court shall issue an order: (1) appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel; (2) finding, after a hearing if necessary, that the defendant rejected appointment of counsel and made the decision with an understanding of its legal consequences; or (3) denying the appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(d) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under this section, at least one counsel appointed for trial representation must have been admitted to the bar for at least five years and have at least three years of experience in the trial of felony cases in the federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least five years and have at least three years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(e) APPLICABILITY OF CRIMINAL JUSTICE ACT.—Except as otherwise provided in this section, the provisions of section 3006A of this title shall apply to appointments under this section.

"(f) CLAIMS OF INEFFECTIVENESS OF COUNSEL.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28, United States Code, in a capital case shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"§ 3599. Collateral attack on judgment imposing sentence of death

"(a) TIME FOR MAKING SECTION 2255 MOTION.—In a case in which sentence of death has been imposed, and the judgment has become final as described in section 3598(c) of this title, a motion in the case under section 2255 of title 28, United States Code, must be filed within ninety days of the issuance of the order relating to appointment of counsel under section 3598(c) of this title. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding sixty days. A motion described in this section shall have priority over all noncapital matters in the district court, and in the court of appeals on review of the district court's decision.

"(b) STAY OF EXECUTION.—The execution of a sentence of death shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28, United States Code. The stay shall run continuously following imposition of the sentence, and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subsection (a), or fails to make a timely application for court of appeals review following the denial of such motion by a district court; or

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, United States Code, the motion under that section is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of his decision, the defendant waives the right to file a motion under section 2255 of title 28, United States Code.

"(c) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (b) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim was (A) the result of governmental action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.";

COCHRAN AMENDMENT NO. 495

(Ordered to lie on the table.)

Mr. COCHRAN submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the end of the bill, add the following:

AMENDMENT NO. 495

TITLE —DRUG SUPPLY REDUCTION

Subtitle A—Interdiction Systems Improvements

SEC. 01. SHORT TITLE FOR SUBTITLE A.

This subtitle may be cited as the "Order to Land and To Bring To Act of 1991."

SEC. 02. SANCTIONS FOR FAILURE TO LAND OR TO BRING TO.

(a) Chapter 109 of title 18 of the United States Code, is amended by adding at the end thereof the following new section:

"§ 2237. Order to land or bring to

"(a)(1) In the enforcement of the laws of the United States relating to controlled substances, as that term is defined in the Controlled Substances Act, or relating to money laundering (sections 1956–57 of this title), it shall be unlawful for the pilot, operator, or person in charge of any aircraft which has crossed the border of the United States, or any aircraft subject to the jurisdiction of the United States operating outside the United States, to refuse to obey the order of an authorized Federal law enforcement officer to land.

"(2) The Administrator of the Federal Aviation Administration and the Commissioner of Customs, upon consultation with the Attorney General, shall prescribe regulations governing the means by which an order to land may be communicated to the pilot, operator, or person in charge of an aircraft by Federal law enforcement officers.

"(3) This section does not limit in any way the preexisting authority of a customs officer under section 581 of the Tariff Act of 1930 or any other provision of law enforced or administered by the Customs Service, or the preexisting authority of any Federal law enforcement officer under any law of the United States to order an aircraft to land or a vessel to bring to.

"(b) It is unlawful for any master, operator, or person in charge of a vessel of the United States or a vessel subject to the jurisdiction of the United States to fail to bring to that vessel on being ordered to do so by a Federal law enforcement officer authorized to issue such an order.

"(c) Consent or waiver of objection by a foreign nation to the enforcement of United States law by the United States under this section may be obtained by radio, telephone, or similar oral or electronic means, and may be proved by certification of the Secretary of State or the Secretary's designee.

"(d) For purposes of this section:—

"(1) a "vessel of the United States" or a "vessel subject to the jurisdiction of the United States" has the meaning set forth in the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) an aircraft "subject to the jurisdiction of the United States" includes— "(A) an aircraft located over the United States or the customs waters of the United States;

"(B) an aircraft located in the airspace of a foreign nation, where that nation consents to the enforcement of United States law by the United States; and

"(C) over the high seas, an aircraft without nationality, an aircraft of United States registry, or an aircraft registered in a foreign nation where the nation of registry has consented or waived objection to the enforcement of United States law by the United States;

"(3) the term "bring to" means to cause a vessel to slow or come to a stop to facilitate a law enforcement boarding by adjusting the course and speed of the vessel to account for the weather conditions and sea state; and

"(4) "Federal law enforcement officer" has the meaning set forth in section 115 of this title.

"(e) A person who intentionally violates the provisions of this section shall be subject to—

"(1) imprisonment for not more than two years; and

"(2) a fine as provided in this title.

"(f) Any vessel or aircraft that is used in a violation of this section may be seized and forfeited. The provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under any of the provisions of this section; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose. Any vessel or aircraft that is used in a violation of this section is also liable in rem for any fine or civil penalty imposed under this section.".

(b) CONFORMING AMENDMENT.—The analysis at the beginning of chapter 109 of title 18, United States Code, is amended by adding at the end the following:

"2237. Order to land or to bring to.".

SEC. 03. FAA REVOCATION AUTHORITY.

(a) Section 501(e) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401(e)) is amended by adding at the end the following:

"(3)(A) The registration of an aircraft shall be immediately revoked upon the failure of the operator of an aircraft to follow the order of a Federal law enforcement officer to land an aircraft, as provided in section 2237 of title 18 of the United States Code. The Administrator shall notify forthwith the owner of the aircraft that the owner of the aircraft no longer holds United States registration for that aircraft.

"(B) The Administrator shall establish procedures for the owner of the aircraft to show cause—

(i) why the registration was not revoked, as a matter of law, by operation of subparagraph (A) of this subsection (3); or

(ii) why circumstances existed pursuant to which the Administrator should determine that, notwithstanding subparagraph (A), it would be in the public interest to issue a new certificate of registration to the owner to be effective concurrent with the revocation occasioned by operation of subparagraph (A).".

(b) Section 609 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1429(e)) is amended by adding at the end the following new subsection (d):

"(d)(1) The Administrator shall issue an order revoking the airman certificate of any person if the Administrator finds that (A) such person, while acting as the operator of an aircraft, failed to follow the order of a law enforcement officer to land the aircraft as provided in section 2237 of title 18 of the United States Code, and (B) that such person knew or had reason to know that he had been ordered to land the aircraft.

"(2) If the Administrator determines that extenuating circumstances existed, such as safety of flight, which justified a deviation by the airman from the order to land, the provisions of paragraph (1) of this subsection shall not apply.

"(3) The provisions of subsection (c)(3) of this section shall apply to any revocation of the airman certificate of any person for failing to follow the order of a Federal law enforcement officer to land an aircraft.".

SEC. 04. COAST GUARD AIR INTERDICTION AUTHORITY.

(a) AIR INTERDICTION AUTHORITY.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 96. Air interdiction authority

"The Coast Guard may issue orders and make inquiries, searches, seizures, and arrests with respect to violations of laws of the United States occurring aboard any aircraft subject to the jurisdiction of the United States over the high seas and waters over which the United States has jurisdiction. Any order issued under this section to land an aircraft shall be communicated pursuant to regulations promulgated pursuant to section 2237 of title 18, United States Code.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 5 of such title is amended by adding at the end the following:

"96. Air interdiction authority."

SEC. 05. COAST GUARD CIVIL PENALTY PROVISIONS.

(a) CIVIL PENALTY.—Chapter 17 of title 14, United States Code, is amended by adding the following new section:

"§ 667. Civil penalty for failure to comply with a lawful boarding or order to land

"(a) The master, operator or person in charge of a vessel or the pilot or operator of an aircraft who intentionally fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft in violation of section 2237 of title 18, United States Code, or section 96 of title 14, United States Code, is liable to the United States Government for a civil penalty of not more than $25,000, which may be assessed by the Secretary after notice and opportunity to be heard.

"(b) The master, operator or person in charge of a vessel or the pilot or operator of an aircraft who negligently fails to comply with an order of a Coast Guard commissoned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft in violation of section 2237 of title 18, United States Code, or section 96 of title 14, United States Code, is liable to the United States Government for a civil penalty of not more than $5,000, which may be assessed by the Secretary after notice and opportunity to be heard.

"(c) Any vessel or aircraft used in violation of section 2237 of title 18, United States Code, or section 96 of title 14, United States Code, is also liable in rem for the criminal or civil penalty assessed under this section.".

"(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 666 the following:

"667. Civil penalty for failure to comply with a lawful boarding or order to land.".

SEC. 06. CUSTOMS ORDERS.

Section 581 of the Tariff Act of 1930, as amended (19 U.S.C. 1581) is further amended by adding a paragraph (i) to read as follows:

"(i) As used in this section, the term "authorized place" includes—

"(1) with respect to a vehicle, any location in a foreign country at which United States Customs Officers are permitted to conduct inspections, examinations, or searches;

"(2) with respect to aircraft to which this section applies by virtue of section 644 of this Act (19 U.S.C. 1644), or regulations issued thereunder, or section 2237 of title 18 of the United States Code, any location outside of the United States, including a foreign country at which United States Customs Officers are permitted to conduct inspections, examinations, or searches.".

SEC. 07. CUSTOMS CIVIL PENALTY PROVISIONS.

(a) The Tariff Act of 1930, as amended, is further amended by adding a new section 591 (19 U.S.C. 1591) as follows:

"§ 591. Civil penalty for failure to obey an order to land or to bring to

"(a) The pilot or operator of an aircraft who intentionally fails to comply with an order of an officer of the customs relating to the landing of an aircraft in violation of section 1581 of this title, or of section 2237 of title 18 of the United States Code, is subject to a civil penalty of not more than $25,000 which may be assessed by the appropriate customs officer.

"(b) The pilot or operator of an aircraft who negligently fails to comply with an order of an officer of the customs relating to the landing of an aircraft in violation of section 1581 of this title, or of section 2237 of title 18 of the United States Code, is subject to a civil penalty of not more than $5,000, which may be assessed by the appropriate customs officer.".

Subtitle B—New Coast Guard Authorities

SEC. 11. SHORT TITLE FOR SUBTITLE B.

This subtitle may be cited as the "Coast Guard Assistance Act of 1991."

SEC. 12. INFORMATION EXCHANGE AND ASSISTANCE.

Section 142 of title 14, United States Code is amended—

(a) by inserting "(a)" at the beginning of the text, the words "and international organizations" after "with foreign governments", and the words "maritime law enforcement, maritime environmental protection, and" after "matters dealing with".

(b) by adding a new subsection "(b)" as follows:

"(b) the Coast Guard may, when so requested by the Secretary of State, utilize its personnel and facilities to assist any foreign government or international organization to perform any activity for which such personnel and facilities are specially qualified.".

SEC. 13. ASSISTANCE TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS.

(a) IN GENERAL.—Section 149 of title 14, United States Code is amended to read as follows:

"§ 149. Assistance to foreign governments and international organizations

"The President may upon application from the foreign governments or international organizations concerned, and whenever in his discretion the public interest renders such a course advisable, utilize officers and enlisted members of the Coast Guard to assist foreign governments or international organizations in matters concerning which the Coast Guard may be of assistance. Utilization of members may include the detail of such members. Arrangements may be made by the Secretary with countries to which such officers are enlisted members are detailed to perform functions under this section, for reimbursement to the United States or other sharing of the cost of performing such functions. While so detailed, such officers and enlisted members shall receive the pay and allowances to which they are entitled in the Coast Guard and shall be allowed the same credit for all service while so detailed, as if serving with the Coast Guard.".

(b) CONFORMING AMENDMENT.—The analysis at the beginning of chapter 7 of title 14, United States Code, is amended by replacing the wording following "149" with:

"Assistance to foreign governments and international organizations."

SEC. 14. AMENDMENT TO THE MANSFIELD AMENDMENT TO PERMIT MARITIME LAW ENFORCEMENT OPERATIONS IN ARCHIPELAGIC WATERS.

Section 2291(c)(4) of title 22, United States Code, is amended by inserting the words ", and archipelagic waters" after the words "territorial sea".

THURMOND (AND HATCH) AMENDMENT NO. 496

(Ordered to lie on the table.)

Mr. THURMOND (for himself and Mr. HATCH) submitted an amendment intended to be proposed by them to the bill S. 1241, supra, as follows:

Strike page 222 line 18 through page 223 line 24 and insert the following:

SEC. 2301. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2237. Evidence obtained by invalid warrant

"(a) Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in reasonable reliance on a warrant issued by a detached and neutral magistrate ultimately found to be invalid, unless—

"(1) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

"(2) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(3) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(4) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid.

"(b) This section shall not be construed to require or authorize the exclusion of evidence in any proceeding.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following:

HATCH AMENDMENT NO. 497

(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place, insert the following:

TITLE —SEXUAL VIOLENCE AND CHILD ABUSE

SEC. 801. ADMISSIBILITY OF EVIDENCE OF SIMILAR CRIMES IN SEXUAL ASSAULT AND CHILD MOLESTATION CASES.

The Federal Rules of Evidence are amended by adding after rule 412 the following new rules:

"Rule 413. Evidence of Similar Crimes in Sexual Assault Cases

"(a) In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and rule 415, 'offense of sexual assault' means a crime under Federal law or the law of a State that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code;

"(2) contact, without consent, between any part of a defendant's body or an object and the genitals or anus of another person;

"(3) contact, without consent, between the genitals or anus of the defendant and any part of another person's body;

"(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(5) an attempt or conspiracy to engage in conduct described in paragraphs (1)–(4).

"Rule 414. Evidence of Similar Crimes in Child Molestation Cases

"(a) In a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of another offense or offenses of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and rule 415, "child" means a person below the age of fourteen, and "offense of child molestation" means a crime under Federal law or the law of a State that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code, that was committed in relation to a child;

"(2) any conduct proscribed by chapter 110 of title 18, United States Code;

"(3) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(4) contact between the genitals or anus of the defendant and any part of the body of a child;

"(5) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

"(6) an attempt or conspiracy to engage in conduct described in paragraphs (1)–(5).

"Rule 415. Evidence of Similar Acts in Civil Cases Concerning Sexual Assault or Child Molestation

"(a) In a civil case in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual assault or child molestation, evidence of that party's commission of another offense or offenses of sexual assault or child molestation is admissible and may be considered as provided in rule 413 and rule 414 of these rules.

"(b) A party who intends to offer evidence under this rule shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.".

GRAHAM AMENDMENT NO. 498

(Ordered to lie on the table.)

Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

In the appropriate place insert the following:

The Congress finds that:

An adequately supported Federal judiciary is essential to the enforcement of law and order in the United States, and

Section 331 of Title 28 provides in pertinent part that the Chief Justice shall submit to Congress an annual report of the proceedings of the Judicial Conference and its recommendations for legislation, and

In 1990, in response to the recommendations of the Judicial Conference for additional judgeships, Congress enacted legislation creating 85 additional judgeships with an effective date of December 1, 1990, and

Only one of these vacancies has been filled, and

During the current administration, it has taken an average of 502 days from the time a judgeship becomes vacant until such vacancy is filled, and

The enactment of legislation providing additional funding for the investigation and prosecution facets of the criminal justice system has a direct and positive impact on the needs and workload of the Judiciary, which is already severely overloaded with criminal cases, and

Recommendations by the Judicial Conference for the filling of judicial vacancies are currently made on the basis of historical data alone, and

The General Accounting Office, pursuant to the 1988 Anti-Drug Abuse Act, has developed a computer model that measures the potential effect of fiscal increases on one or more parts of the criminal justice system on the Judiciary, and

The General Accounting Office has established that an increase in the resources allocated to the investigative and prosecutorial parts of the criminal justice system, brings about an increase in the number of criminal cases filed, which in turn adds to the need for additional judgeships, and

The allocation of resources to portions of the federal criminal justice system other than the Judiciary contributes to the need for additional judgeships that cannot be anticipated by the use of historical data alone, and

The use of historical data alone, because of its inability to project the need for additional judgeships attributable to the increase in criminal caseload adds to the delay in meeting the needs of the Judiciary.

Therefore, it is the Sense of the Senate:

It is the sense of the Senate that the Judicial Conference should be encouraged to make its recommendations to Congress for additional judgeships utilizing historical data and a workload estimate model designed to anticipate an increase in criminal filings resulting from increased funding in one or more components of the federal criminal justice system, and to take into account the time expended in the appointive and confirmation process.

THURMOND AMENDMENT NO. 499

(Ordered to lie on the table.)

Mr. THURMOND submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

Section 2254 of title 28 United States Code, as amended by this Act, is further amended by adding a new subsection (i) reading as follows:

"(i) An adjudication of a claim in state proceedings is full and fair in the sense of this section, unless the adjudication was conducted in a manner inconsistent with the procedural requirements of federal law that are applicable to state proceedings was contrary to or involved an arbitrary or unreasonable interpretation or application of clearly established federal law, or involved an arbitrary or unreasonable determination of the facts in light of the evidence presented."

SPECTER AMENDMENT NO. 500

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place, add the following new section:

SEC. 01. GRANTS FOR TRAINING IN LITERACY AND MARKETABLE JOB SKILLS FOR INMATES IN STATE PRISONS.

There are hereby authorized to be appropriated annually $5,000,000 to the National Institute of Corrections of the Federal Bureau of Prisons to make grants to States for educational programs for criminal offenders in State correctional institutions, including—

(1) academic programs for—

(A) basic education with special emphasis on reading, writing, vocabulary, and arithmetic; and

(B) secondary school credit programs;

(2) vocational training programs;

(3) training for teaching personnel specializing in corrections education; and

(4) guidance and counseling programs.

The Institute shall set aside a portion of this appropriation for a grant to track, document, and evaluate the overall correctional education initiative.

GLENN AMENDMENT NO. 501

Mr. GLENN proposed an amendment to the bill S. 1241, supra, as follows:

On page 167, between lines 8 and 9, insert the following:

SEC. 1402. USE OF PREFABRICATED MODULAR HOUSING.

Not later than 20 days after the date of enactment of this Act, and at least 60 days prior to the completion of planning or award of a contract for the acquisition or construction of facilities for any light or medium security prison, the Bureau of Prisons shall prepare and submit to Congress a report that—

(1) assesses the feasibility and cost-effectiveness of using prefabricated modular units such as Quonset huts for permanent or temporary housing and other facilities in light, medium, and maximum security prisons;

(2) describes the types of facilities for which the use of such units is feasible and cost-effective and identifies plans by the Bureau to use such units at particular prisons; and

(3) describes the types of facilities for which the use of such units is considered not to be feasible or cost-effective and identifies plans for particular prisons for which the use of such units either has not been considered or has been rejected for the reason that their use would not be feasible or cost-effective or for any other reason.

KOHL AMENDMENT NO. 502

(Ordered to lie on the table.)

Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place, insert the following:

SEC. . NATIONAL CHILD ABUSER REGISTRATION ACT OF 1991.

(a) SHORT TITLE.—This section may be cited as the "National Child Abuser Registration Act of 1991".

(b) DEFINITIONS.—For the purposes of this section—

(1) the term "child" means a person who is a child for the purposes of the criminal child abuse law of a State'

(2) the term "child abuse" means the physical, psychological, or emotional injuring, sexual abuse or exploitation, neglectful treatment, or maltreatment of a child by any person in violation of the criminal child abuse law of a State;

(3) the term "child abuser information" means the following facts concerning a person who has violated the criminal child abuse laws of a State:

(A) name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, address of legal residence, and a brief description of the crime or crimes committed by the offender; and

(B) any other information that the Federal Bureau of Investigation or the National Crime Information Center determines may be useful in identifying child abusers;

(4) the term "criminal child abuse law of a State" means the law of a state that establishes criminal penalties for the commission of child abuse by a parent or other family member of a child or by any other person;

(5) the term "National Crime Information Center" means the division of the Federal Bureau of Investigation that serves as a computerized information source on wanted criminals, persons named in arrest warrants, runaways, missing children, and stolen property for use by Federal, State, and local law enforcement authorities; and

(6) the term "State" means each of the States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific.

(c) FINDINGS.—The Congress finds that—

(1) disturbing increases have occurred in recent years in the number of reported cases of child abuse and neglect, some involving persons previously convicted of crimes of child abuse;

(2) many children who run away from home, who fall prey to pornography and prostitution, who suffer from a dependency on alcohol and drugs, and who become juvenile offenders, have been victims of child abuse;

(3) research has shown that child abuse tends to repeat itself, and some parents who abuse their children were once victims themselves;

(4) in recognition of the increased cases of child abuse, several States have established agencies to receive and maintain data relating to cases of child abuse;

(5) currently there exists no centralized national source through which a law enforcement agency can obtain data relating to persons who have committed crimes of child abuse;

(6) partly bacause of the lack of available and accurate information at the national level, persons who have committed acts of child abuse in one State have been able to go to another State to commit the crime again, in some cases in a position of authority over children; and

(7) the Nation cannot afford to ignore the importance of preventing child abuse.

(d) PURPOSES.—The purposes of this section are—

(1) to establish a national system through which current, accurate information concerning persons who commit crimes of child abuse can be obtained from a centralized source;

(2) to assist in the prevention of second incidents of child abuse by providing information about persons who have been convicted of a crime of child abuse to organizations whose primary concern is that of child welfare and care; and

(3) to understand the problem of child abuse in the United States by providing statistical and informational data to the Department of Justice, the National Center on Child Abuse and Neglect, the Congress, and other interested parties.

(e) REPORTING BY THE STATES.—

(1) IN GENERAL.—A State which reports the convictions of named individuals to the Federal Bureau of Investigation shall include all convictions for child abuse as defined in this section.

(2) GUIDELINES.—The Attorney General shall establish guidelines for the reporting of child abuser information, including procedures for carrying out the purposes of this section.

(f) STATE COMPLIANCE.—

(1) COMPLIANCE DATE.—Each State shall have 3 years from the date of the enactment of this section in which to implement the provisions of this section.

(2) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of the Omnibus Crime Control and Safe Streets Act (42 U.S.C. 3756) received by a state not complying with the provisions of this section 3 years after the date of enactment of this section shall be reduced by 25 percent and the unallocated funds shall be reallocated to the States in compliance with this section.

DOLE (AND OTHERS) AMENDMENT NO. 503

Mr. DOLE (for himself, Mr. METZENBAUM, Mr. MITCHELL, Mr. DOMENICI, Mr. KOHL, Mr. THURMOND, and Mr. GORE) proposed an amendment to the bill S. 1241, supra, as follows:

On page 236, strike line 7 and all that follows through the end of the bill and insert the following:

TITLE XXVII—FELON FIREARM PURCHASE PREVENTION

SEC. 2701. FEDERAL FIREARMS LICENSEE REQUIRED TO CONDUCT CRIMINAL BACKGROUND CHECK BEFORE TRANSFER OF FIREARM TO NONLICENSEE.

(a) INTERIM PROVISION.—Section 922 of title 18, United States Code, as amended by section 702 of this Act, is amended by adding at the end of the following new subsection:

"(u)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending on the date that the Attorney General certifies that the national instant criminal background check system is in compliance with section 2702(d)(1) of the Violent Crime Control Act of 1991 except as provided as paragraph (2) and (3) of section 2702(d) of such Act); it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

"(A) after the most recent proposal of such transfer by the transferee—

"(i) the transferor has—

"(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

"(II) verified the identification of the transferee by examining the identification document presented; and

"(III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(ii)(I) 5 business days (as defined by days in which State offices are open) have elapsed from the date the transferee furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

"(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

"(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

"(C)(i) the transferee has presented to the transferor a permit that—

"(I) allows the transferee to possess a handgun; and

"(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

"(D) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(E) on application of the transferor, the Attorney General has certified that compliance with subparagraph (A)(i)(III) is impracticable because of the inability of the transferor to communicate with the chief law enforcement officer because of the remote location and absence of telecommunications facilities in the remote location of the licensed premises.

"(2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 business days whether the transferee has a criminal record or whether there is any other legal impediment to the transferee's receiving a handgun, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.

"(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

"(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

"(B) a statement that transferee—

"(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(ii) is not a fugitive from justice;

"(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

"(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

"(v) is not an alien who is illegally or unlawfully in the United States;

"(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

"(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

"(C) the date the statement is made; and

"(D) notice that the transferee intends to obtain a handgun from the transferor.

"(4) The chief law enforcement officer of the place of residence of a prospective transferee of a handgun, at the request of a person who alleges the person requires access to a handgun becuase of a threat to the life of the person or a member of the household of the person, shall immediately meet with the person and forthwith sign a written statement described in paragraph (1)(B) unless the officer has clear and convincing evidence that no threat was made to the life of the person or any member of the household of the person.

"(5) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall immediately communicate all information the transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of the place of business of the transferor; and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(6) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

"(7)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction.

"(B)(i) Unless the chief law enforcement officer to whom notice is provided under paragraph (1)(A)(i)(III) determines that a transaction would violate Federal, State, or local law, the officer shall, within 5 days after the date the transferee made such statement, destroy any record containing information derived from such statement.

"(ii) Information conveyed to a chief law enforcement officer under paragraph (1)(A)(i)(III)—

"(I) shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and

"(II) shall not be used for any purpose other than to carry out this subsection.

"(8) A chief law enforcement officer shall not be liable in an action at law for damages for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section.

"(9) For purposes of this subsection, the term 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

"(10) The Secretary shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to licensed dealers and to the public.".

(b) PERMANENT PROVISION.—Section 922 of title 18, United States Code, as amended by subsection (a), is amended by adding at the end the following new subsection:

"(v)(1) Beginning on the date that the Attorney General certifies that the national instant criminal background check system is in compliance with section 2702(d)(1) of the Violent Crime Control Act of 1991 (except as provided in paragraphs (2) and (3) of section 2702(d) of such Act), a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm from the business inventory of the licensee to any other person who is not such a licensee, unless—

"(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section 2703 of the Felon Firearm Purchase Prevention Act of 1991; and

"(B) the system notifies the licensee that the system has not located any record that demonstrates that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section.

"(2) Paragraph (1) shall not apply to a firearm transfer between a licensee and another person if—

"(A) such other person presents to the licensee a valid permit or license, issued by the State or political subdivision thereof in which the transfer is to occur, that authorizes such other person to purchase, possess, or carry a firearm;

"(B) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(C) on application of the transferor, the Secretary has certified that compliance with paragraph (1)(A) is impracticable because of the inability of the transferor to communicate with the national instant criminal background check system because of the remote location and absence of telecomunication facilities in the remote location of the licenses premises.

"(3) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a firearm by such other person would violate subsection (g) or (n), and the licensee transfers a firearm to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

"(4) If the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that receipt of a firearm by such other person would violate subsection (g) or (n), the Secretary may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under this section, and may impose on the licensee a civil fine of not more than $5,000.

"(5) A State employee responsible for providing information to the national instant criminal background check system shall not be liable in an action at law for damages for failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful under this section.".

(c) PENALTY.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "(2) or (3)"; and

(2) by adding at the end the following:

"(5) Whoever knowingly violates section 922 (u) or (v) shall be fined not more than $1,000, imprisoned for not more than 1 year, or both.".

SEC. 2702. NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

(a) ESTABLISHMENT OF SYSTEM.—The Attorney General of the United States shall establish a national instant criminal background check system that any licensee may contact for information on whether receipt of a firearm by a prospective transferee thereof would violate section 922(g) or (n) of title 18, United States Code.

(b) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—The Attorney General shall expedite—

(1) the incorporation of State criminal history records into the Federal criminal records system maintained by the Federal Bureau of Investigation;

(2) the development of hardware and software systems to link State criminal history check systems into the national instant criminal background check system established by the Attorney General pursuant to this section; and

(3) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

(c) PROVISION OF STATE CRIMINAL RECORDS TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM—(1) Not later than 6 months after the date of enactment of this Act, the Attorney General shall—

(A) determine the type of computer hardware and software that will be used to operate the national instant criminal background check system and the means by which State criminal records systems will communicate with the national system;

(B) investigate the criminal records system of each State and determine for each State a timetable by which the State should be able to provide criminal records on an on line capacity basis to the national system;

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(2) The Attorney General shall require as a part of the State timetable that the State achieve, by the end of 5 years after the date of enactment of this Act, at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an entry of activity within the last 5 years and continue to maintain such a system.

(d) NATIONAL SYSTEM CERTIFICATION.—(1) On or after the date that is 30 months after the date of enactment of this Act, the Attorney General shall certify that—

(A) the national system has achieved at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an entry of activity within the last 5 years on a national average baseis; and

(B) the States are in compliance with the timetable established pursuant to subsection (c).

(2) If on the date of certification in paragraph (1), a State that is not in compliance with the timetable established pursuant to subsection (c), the provision of section 922(u) of title 18, United States Code, as added by section 2701, shall remain in effect in such State. The Attorney General shall certify if a State subject to the provisions of section 922(u) under the preceding sentence achieves compliance with its timetable after the date of certification in paragraph (1) and section 922(u) of title 18, United States Code, as added by section 2701, shall not apply to such State.

(3) Six years after the date of enactment of this Act, the Attorney General shall certify whether or not a State is in compliance with subsection (c)(2) and if the State is not in compliance, the provisions of section 922(u) of title 18, United States Code, shall be in effect. The Attorney General shall certify if a State subject to the provisions of section 922(u) under the preceding sentence achieves compliance with the standards in subsection (c)(2) and section 922(u) of title 18, United States Code, as added by section 2701, shall not apply to such State.

(e) NOTIFICATION OF LICENSEES.—On establishment of the system under this section, the Attorney General shall notify each licensee of the existence and purpose of the system and the means to be used to contact the system.

(f) ADMINISTRATIVE PROVISIONS.—

(1) AUTHORITY TO OBTAIN OFFICIAL INFORMATION.—Notwithstanding any other law, the Attorney General may secure directly from any department or agency of the United States such information on persons for whom receipt of a firearm would violate section 922(g) or (n) of title 18, United States Code as is necessary to enable the system to operate in accordance with this section. On request of the Attorney General, the head of such department or agency shall furnish such information to the system.

(2) OTHER AUTHORITY.—The Attorney General shall develop such computer software, design and obtain such telecommunications and computer hardware, and employ such personnel, as are necessary to establish and operate the system in accordance with this section.

(g) CORRECTION OF ERRONEOUS SYSTEM INFORMATION.—If the system established under this section informs an individual contacting the system that receipt of a firearm by a prospective transferee would violate section 922 (g) or (n) of title 18, United States Code, the transferee may request the Attorney General to provide such other person with the reasons therefor. Upon receipt of such a request, the Attorney General shall immediately comply with the request. The transferee may submit to the Attorney General information that to correct, clarify, or supplement records of the system with respect to the transferee. After receipt of such information, the Attorney General shall immediately consider the information, investigate the matter further, and correct all erroneous Federal records relating to such the transferee and give notice of the error to any Federal department or agency or any State that was the source of such erroneous records.

(h) REGULATIONS.—After 90 days notice to the public and an opportunity for hearing by interested parties, the Attorney General shall prescribe regulations to ensure the privacy and security of the information of the system established under this section.

(i) PROHIBITIONS RELATING TO ESTABLISHMENT OF REGISTRATION SYSTEMS WITH RESPECT TO FIREARMS.—No department, agency, officer, or employee of the United States may—

(1) require that any record or portion thereof maintained by the system estab-

lished under this section be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(2) use the system established under this section to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions, except with respect to persons prohibited by section 922 (g) or (n) of title 18, United States Code, from receiving a firearm.

(j) DEFINITIONS.—As used in this section:

(1) LICENSEE.—The term "licensee" means a licensed importer, licensed manufacturer, or licensed dealer under section 923 of title 18, United States Code.

(2) OTHER TERMS.—The terms "firearm", "licensed importer", "licensed manufacturer", and "licensed dealer" have the meanings stated in section 921(a) (3), (9), (10), and (11), respectively, of title 18, United States Code.

SEC. 2703. FUNDING FOR IMPROVEMENT OF CRIMINAL RECORDS.

(a) IMPROVEMENTS IN STATE RECORDS.—

(1) USE OF FORMULA GRANTS.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and "; and

(3) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the records required by the Attorney General under section 3 of the Felon Firearm Purchase Prevention Act of 1991 with the Attorney General for the purpose of implementing the Felon Firearm Purchase Prevention Act of 1991.".

(2) ADDITIONAL FUNDING.—

(A) GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS.—The Attorney General shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(i) for the creation of a computerized criminal history record system or improvement of an existing system;

(ii) to improve accessibility to the national instant criminal background system; and

(iii) upon establishment of the national system, to assist the State in the transmittal of criminal records to the national system.

(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under subparagraph (A) a total of $100,000,000 for fiscal year 1992 and all fiscal years thereafter.

(b) WITHHOLDING STATE FUNDS.—Effective on the date of enactment of this Act the Attorney General may reduce by up to 50 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that is not in compliance with the timetable established for such State under section 2702(c).

(c) WITHHOLDING OF DEPARTMENT OF JUSTICE FUNDS.—If the Attorney General does not certify the national instant criminal background check system pursuant to section 2702(d)(1) by—

(1) 30 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal beginning in the calendar year that is 30 months after the date of enactment of this Act shall be reduced by 5 percent on a monthly basis; and

(2) 42 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal beginning in the calendar year that is 42 months after the date of enactment of this Act shall be reduced by 10 percent on a monthly basis.

(d) If, beginning 5 years after the date of enactment of this Act the Attorney General certifies all states are in compliance with section 2702(c) all State laws requiring a waiting period for the purchase of firearms are preempted by the provisions of this title.

MITCHELL AMENDMENT NO. 504

Mr. MITCHELL proposed an amendment to amendment No. 503 proposed by Mr. DOLE (and others) to the bill S. 1241, supra, as follows:

On page 18 of the amendment strike all after line 13.

BIDEN AMENDMENT NO. 505

Mr. FOWLER (for Mr. BIDEN) proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place, insert the following:

SEC. . CONSUMER PROTECTION AGAINST CREDIT CARD FRAUD ACT OF 1991.

(a) SHORT TITLE.—This section may be cited as the "Consumer Protection Against Credit Card Fraud Act of 1991".

(b) FRAUD AND RELATED ACTIVITY IN CONNECTION WITH ACCESS DEVICES.—Section 1029 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting after paragraph (4) the following new paragraphs:

"(5) knowingly and with intent to defraud effects transactions, with one or more access devices issued to another person or persons, to receive payment or any other thing of value during any one-year period the aggregate value of which is equal to or greater than $1,000;

"(6) without the authorization of the issuer of the access device, knowingly and with intent to defraud solicits a person for the purpose of—

"(A) offering an access device; or

"(B) selling information regarding or an application to obtain an access device; or

"(7) without the authorization of the credit card system member or its agent, knowingly and with intent to defraud causes or arranges for another person to present to the member or its agent, for payment, one or more evidences or records of transactions made by an access device;".

(c) TECHNICAL AMENDMENTS.—Section 1029 of title 18, United States Code, as amended by subsection (b), is amended—

(1) in subsection (a) by striking "or" at the end of paragraph (3);

(2) in subsection (c)(1) by striking "(a)(2) or (a)(3)" and inserting "(a) (2), (3), (5), (6), or (7)"; and

(3) in subsection (e) by—

(A) striking "and" at the end of paragraph (5);

(B) adding "and" at the end of paragraph (6); and

(C) adding at the end thereof the following new paragraph:

"(7) the term 'credit card system member' means a financial institution or other entity that is a member of a credit card system, including an entity, whether affiliated with or identical to the credit card issuer, that is the sole member of a credit card system.".

PRYOR AMENDMENT NO. 506

Mr. FOWLER (for Mr. PRYOR) proposed an amendment to the bill S. 1241, supra, as follows:

(a) Section 2511(1) of title 18 is amended—

(1) by striking "or" at the end of paragraph (c);

(2) by inserting "or" after the semicolon at the end of paragraph (d); and

(3) by adding the following new paragraph:

"(e)(i) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by Sections 2511(2)(a)(ii), 2511(b)-(c), 2511(e), 2516, and 2518 of this subchapter, (ii) knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, (iii) having obtained or received the information in connection with a criminal investigation, (iv) with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation;"

(b) Section 2515 of title 18 is amended by adding at the end the following new paragraph:

"This section shall not apply to the admission into evidence of the contents of a wire or oral communication, or evidence derived therefrom, which has been disclosed in violation of Section 2511(1)(e)."

KENNEDY (AND HATCH) AMENDMENT NO. 507

Mr. FOWLER (for Mr. KENNEDY, for himself and Mr. HATCH) proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place, insert the following:

SEC. . THEFTS OF MAJOR ART WORKS.

(a) OFFENSE.—Chapter 31 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 668. Theft of a major art work

"(a) Whoever steals or obtains by fraud any object of cultural heritage held in a museum shall be fined under this title, imprisoned not more than the maximum term of imprisonment for a class C felony, or both.

"(b) A museum which exhibits to the public or holds in storage any stolen object of cultural heritage knowing such object is stolen shall be fined under this title, imprisoned not more than the maximum term of imprisonment for a class C felony, or both.

"(c) Notwithstanding section 3282 of this title, the statute of limitations for an offense under this section shall be 20 years.

"(d) The property of a person convicted of an offense under this section shall be subject to criminal forfeiture under section 982 of this title.

"(e) For purposes of this section—

"(1) The term 'museum' means an organized and permanent institution, essentially educational or aesthetic in purpose with professional staff, which owns and utilizes tangible objects, cares for them, and exhibits them to the public on some regularly scheduled period.

"(2) The term 'stolen object of cultural heritage' means a stolen object reported to law enforcement authorities as stolen and registered with the International Foundation for Art Research, Smith International Adjustors, or any equivalent registry.".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 31 of title 18, United States Code, is amended by adding at the end thereof the following:

"668. Theft of a major art work.

GRAHAM AMENDMENT NO. 508

Mr. FOWLER (for Mr. GRAHAM) proposed an amendment to the bill S. 1241, supra, as follows:

In the appropriate place insert the following:

The Congress finds that:

An adequately supported Federal judiciary is essential to the enforcement of law and order in the United States, and

Section 331 of Title 28 provides in pertinent part that the Chief Justice shall submit to Congress an annual report of the proceedings of the Judicial Conference and its recommendations for legislation, and

In 1990, in response to the recommendations of the Judicial Conference for additional judgeships, Congress enacted legislation creating 85 additional judgeships with an effective date of December 1, 1990, and

Only one of these vacancies has been filled, and

During the current administration, it has taken an average of 502 days from the time a judgeship becomes vacant until such vacancy is filled, and

The enactment of legislation providing additional funding for the investigation and prosecution facets of the criminal justice system has a direct and positive impact on the needs and workload of the Judiciary, which is already severely overloaded with criminal cases, and

Recommendations by the Judicial Conference for the filling of judicial vacancies are currently made on the basis of historical data alone, and

The General Accounting Office, pursuant to the 1988 Anti-Drug Abuse Act, has developed a computer model that measures the potential effect of fiscal increases on one or more parts of the criminal justice system on the Judiciary, and

The General Accounting Office has established that an increase in the resources allocated to the investigative and prosecutorial parts of the criminal justice system, brings about an increase in the number of criminal cases filed, which in turn adds to the need for additional judgeships, and

The allocation of resources to portions of the federal criminal justice system other than the Judiciary contributes to the need for additional judgeships that cannot be anticipated by the use of historical data alone, and

The use of historical data alone, because of its inability to project the need for additional judgeships attributable to the increase in criminal caseload adds to the delay in meeting the needs of the Judiciary.

Therefore, it is the Sense of the Senate:

It is the sense of the Senate that the Judicial Conference should be encouraged to make its recommendations to Congress for additional judgeships utilizing historical data and a workload estimate model designed to anticipate an increase in criminal filings resulting from increased funding in one or more components of the federal criminal justice system, and to take into account the time expended in the appointive and confirmation process.

FOWLER AMENDMENT NO. 509

Mr. FOWLER proposed an amendment to the bill S. 1241, supra, as follows:

On page 100, line 16, please insert the following language as new subsection (2):

"Such training programs shall include a drug education program which:

"(a) trains Police Corps participants concerning drug and alcohol abuse education and prevention;

"(b) develops a framework for their collaboration with the local school systems and community resources to reduce the availability and demand for drugs by teaching students to recognize and resist pressures to experiment with drugs and alcohol. This may specifically include instruction about:

"(i) understanding the consequences of drug abuse;

"(ii) resistance techniques;

"(iii) managing stress without taking drugs;

"(iv) positive alternatives to drug abuse behavior;

"(v) self-esteem building activities;

"(vi) resistance to peer pressure and gang pressure;

"(vii) decision-making and risk taking;

"(viii) interpersonal and communications skills.".

On page 106, line 9, after the period insert the following: "This section authorizes sums as may be necessary to implement this program.".

STEVENS AMENDMENT NO. 510

Mr. STEVENS proposed an amendment to the bill S. 1241, supra, as follows:

On page 150 on line 21 immediately before the period insert the following: unless such receipt is for lawful sporting purposes.

ROTH AMENDMENT NO. 511

Mr. BIDEN (for Mr. ROTH) proposed an amendment to the bill S. 1241, supra, as follows:

On page 114, strike all on lines 22 through 26.

WOFFORD AMENDMENT NO. 512

(Ordered to lie on the table.)

Mr. WOFFORD submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the end of the bill, add the following:

TITLE —ENVIRONMENTAL COMPLIANCE

SEC. 01. ENVIRONMENTAL COMPLIANCE.

(a) IN GENERAL.—Title 18 of the United States Code is amended by inserting after chapter 33 the following new chapter:

"CHAPTER 34—ENVIRONMENTAL COMPLIANCE

"731. Environmental compliance audit.
"732. Definition.

"§ 731. Environmental compliance audit

"(a) IN GENERAL.—A court of the United States—

"(1) shall, when sentencing an organization for an environmental offense that is a felony; and

"(2) may, when sentencing an organization for a misdemeanor environmental offense,

require that the organization pay for an environmental compliance audit.

"(b) APPOINTMENT OF INDEPENDENT EXPERT.—The court shall appoint an independent expert—

"(1) with no prior involvement in the management of the organization sentenced to conduct an environmental compliance audit under this section; and

"(2) who has demonstrated abilities to properly conduct such audits.

"(c) CONTENTS OF COMPLIANCE AUDIT.—(1) An environmental compliance audit shall—

"(A) identify all causes of and factors relating to the offense; and

"(B) recommend specific measures that should be taken to prevent a recurrence of those causes and factors and avoid potential environmental offenses.

"(2) An environmental compliance audit shall not recommend measures under paragraph (1)(B) that would require the violation of an environmental statute, regulation, or permit.

"(d) COURT-ORDERED IMPLEMENTATION OF COMPLIANCE AUDIT.—The court shall order the defentant to implement the appropriate recommendations of the environmental compliance audit.

"(e) ADDITIONAL STANDING TO RAISE FAILURE TO IMPLEMENT COMPLIANCE AUDIT; BURDEN OF PROOF.—(1) The prosecutor, auditor, any governmental agency, or any private individual may present evidence to the court that a defendant has failed to fully implement an environmental compliance audit.

"(2) when evidence of failure to implement an environmental compliance audit is presented pursuant to paragraph (1), the court shall consider all relevant evidence and, of the court determines that the defendant has not fully implemented the environmental compliance audit, order appropriate sanctions.

"§ 732. Definition

"For the purposes of this chapter, the term 'environmental offense' means a criminal violation of—

"(1) the Clean Air Act (42 U.S.C. 7401 et seq.);

"(2) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) commonly known as the Clean Water Act);

"(3) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

GRAHAM AMENDMENT NO. 514

Mr. GRAHAM proposed an amendment, which was subsequently modified, to the bill S. 1241, supra, as follows:

At the appropriate place, insert the following:

SEC. . RACIAL AND ETHNIC BIAS STUDY GRANTS.

(a) FINDINGS.—The Congress finds that—

(1) equality under law is tested most profoundly by whether a legal system tolerates race playing a role in the criminal justice system; and

(2) States should examine their criminal justice systems in order to ensure that racial and ethnic bias has no part in such criminal justice systems.

(b) AUTHORIZATION OF GRANT PROGRAM.—

(1) IN GENERAL.—The Attorney General, through the Bureau of Justice Assistance, is authorized to make grants to states that have established by State law or by the court of last resort a plan for analyzing the role of race in that State's criminal justice system. Such plan shall include recommendations designed to correct any find-

ings that racial and ethnic bias plays such a role.

(2) CRITERIA FOR GRANTS.—Grants under this subsection shall be awarded based upon criteria established by the Attorney General. In establishing the criteria, the Attorney General shall take into consideration the population of the respective States, the racial and ethnic composition of the population of the States, and the crime rates of the States.

(3) REPORTS BY STATES.—Recipients of grants under this subsection shall report the findings and recommendations of studies funded by grants under this subsection to the Congress within reasonable time limits established by the Attorney General.

(4) REIMBURSEMENT OF STATES.—Grants may be made to reimburse States for work started prior to the date of enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out the provisions of this section.

THURMOND AMENDMENT NO. 513

Mr. THURMOND proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, add the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Marshals Association Establishment Act".

SEC. 2. ESTABLISHMENT AND PURPOSE OF ASSOCIATION.

(a) ESTABLISHMENT.—There is established the United States Marshals Association (hereinafter in this Act referred to as the "Association"). The Association is a charitable and nonprofit corporation and is not an agency or establishment of the United States.

(b) PURPOSES.—The purposes of the Association are—

(1) to elevate and strengthen public knowledge of law enforcement in general, and the United States Marshals Service in particular;

(2) to promote the exchange of information among private and public institutions and individuals about law enforcement and justice systems issues;

(3) to organize symposia, studies, and research in carrying out paragraphs (1) and (2);

(4) to study the history of law enforcement;

(5) to produce, sell, and distribute educational materials on law enforcement and justice systems issues;

(6) to accept and administer private gifts or property for the benefit of, or in connection with, the activities and services of the United States Marshals Service; and

(7) to promote law enforcement.

SEC. 3. BOARD OF DIRECTORS OF THE ASSOCIATION.

(a) ESTABLISHMENT AND MEMBERSHIP.—The Association shall have a governing Board of Directors (hereinafter referred to in this Act as the "Board"), which shall consist of not less than 3 nor more than 20 Directors, each of whom shall be a United States citizen and be knowledgeable or experienced in law enforcement matters. The Director of the United States Marshals Service shall be a nonvoting member of the Board, ex officio. Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

(b) APPOINTMENT AND TERMS.—

(1) INITIAL APPOINTMENT.—The Directors of the Board first appointed shall be appointed by the United States Marshals Association, a non-profit corporation in existence before the enactment of this Act, which is organized under the laws of the State of Virginia.

(2) SUBSEQUENT APPOINTMENT.—The Directors of the Board appointed after the appointment of Directors under paragraph (1) shall be appointed in the manner provided in the bylaws of the Association.

(3) ADVICE OF DIRECTOR.—Any Director of the Board may be appointed with the advice of the Director of the United States Marshals Service (hereinafter referred to in this Act as the "Director".

(4) TERMS.—The Directors of the Board shall be appointed for terms of 4 years. A vacancy on the Board shall be filled in the manner in which the original appointment was made. No individual may serve for more than 2 consecutive terms as a Director of the Board.

(c) CHAIR.—The chair of the Board shall be elected by the Board from its members to a 2-year term.

(d) QUORUM.—A majority of the current membership of the Board shall constitute a quorum for the transaction of business.

(e) MEETINGS.—The Board shall meet at the call of the chair at least twice each year. If a Director of the Board misses 3 consecutive regularly scheduled meetings, that individual may be removed from the Board as provided in the bylaws of the Association, and that vacancy may be filled in accordance with subsection (b).

(f) REIMBURSEMENT OF EXPENSES.—Members of the Board shall serve without pay, but may be reimbursed for the actual and necessary travel and subsistence expenses incurred by them in the performance of the duties of the Association.

(g) GENERAL POWERS.—(1) The Board may complete the organization of the Association by—

(A) appointing officers and employees;

(B) adopting a constitution and bylaws consistent with the purposes of the Association and the provisions of this Act; and

(C) carrying out such other actions as may be necessary to carry out this Act.

(2) The following limitations apply with respect to the appointment of officers and employees of the Association:

(A) Officers and employees may not be appointed until the Association has sufficient funds to pay them for their services. Officers and employees of the Association shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the maximum rate of pay payable under section 5376 of title 5, United States Code, for a position classified above grade GS-15 of the General Schedule.

(B) The first officer or employee appointed by the Board shall be the Secretary of the Board who—

(i) shall serve, at the direction of the Board, as its chief operating officer, and

(ii) shall be knowledgeable and experienced in matters relating to law enforcement.

(h) ADVISORY COUNCIL.—The chair of Board may appoint an Advisory Council of up to 15 members to advise the Association on its activities under this Act. Members of the Advisory Council have no vote in matters before the Association.

SEC. 4. MEMBERSHIP.

(a) ELIGIBILITY.—Eligibility for membership in the Association shall be limited to persons and organizations demonstrating support of the stated purpose, goals, and functions of the Association. Categories of membership shall be as follows:

(1) Regular member, which shall be limited to individuals actively or formerly employed in the United States Marshals Service.

(2) Associate member, which shall be limited to individuals who are qualified by training or experience in Federal, State, local, or foreign law enforcement.

(3) Honorary member, which shall be limited to individuals who have an outstanding record of service in the public or private sector.

(4) Corporate member, which shall be limited to nongovernmental public, private, or nonprofit organizations which support the purposes of the United States Marshals Association.

(5) Sponsoring member, which shall be limited to Federal or State government entities.

(b) APPLICATION.—Persons may apply or be nominated for membership in the Association. Any such application shall be made in writing on the form provided by the Association.

(c) SPONSORSHIP.—Applicants or nominees for membership in any category except that of sponsoring member must be proposed by a regular member. Acceptance of applicants or nominees for membership shall be determined by a majority vote of the Board.

(d) DUES FOR MEMBERS.—Membership dues shall be established by the Board. Dues must accompany a prospective member's application. No dues shall be required in the case of honorary members or sponsoring members.

(e) VOTING.—A member may vote in matters for which the vote of the Association is required, and may serve on the Board.

(f) SUSPENSION OR EXPULSION OF MEMBERS.—A member may be suspended or expelled for nonpayment of dues in arrears for at least 60 days, for good cause, or for other reasons by a vote of two-thirds of the Board in accordance with procedures prescribed in Robert's Rules of Order. No member who has been suspended or expelled from the Association may be readmitted to membership for a period of 1 year, and readmission thereafter shall require the consent of two-thirds of the Board.

SEC. 5. RIGHTS AND OBLIGATIONS OF THE ASSOCIATION.

(a) IN GENERAL.—The Association—

(1) shall have perpetual succession;

(2) may conduct business throughout the several States, territories, and possessions of the United States;

(3) shall have its principal offices in the State of Virginia or such other place as may be determined by the Board; and

(4) shall at all times maintain a designated agent authorized to accept service of process for the Association.

The service of process upon the agent required under paragraph (4), or the mailing of such process to the business address of such agent, shall be deemed to be service upon the Association.

(b) SEAL.—The Association may use the seal, insignia, or badge of the United States Marshals Service, and other materials unique to the United States Marshals Service, only with the express written permission of the Director.

(c) POWERS.—To carry out its purposes under section 2, the Association shall have, in addition to the powers otherwise given it under this Act, the usual powers of a corporation acting as a trustee in the State of Virginia or wherever else the Association is incorporated. The Association shall have the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(2) to acquire by purchase or exchange any real or personal property or interest therein;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income therefrom;

(4) to borrow money and issue bonds, debentures, or other debt instruments;

(5) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that the Directors of the Board shall not be personally liable, except for gross negligence;

(6) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions; and

(7) to do any and all acts necessary and proper to carry out the purposes of the Association.

A gift, devise, or bequest may be accepted by the Association even though it is encumbered, restricted, or subject to the beneficial interest of private persons if any current or future interest therein is for the benefit of the Association.

SEC. 6. ADMINISTRATIVE SERVICES AND SUPPORT.

The Director may provide personnel, facilities, and other administrative services to the Association, including reimbursement of expenses under section 3, not to exceed the then current Federal Government per diem rates, for a period of up to 5 years from the date of the enactment of this Act, and may accept reimbursement therefor, to be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing such services.

SEC. 7. VOLUNTEER STATUS.

The Director may, notwithstanding section 1342 of title 31, United States Code, accept voluntary services of the Association in the performance of the functions of the Association under this Act.

SEC. 8. RESTRICTIONS.

(a) FINANCIAL INTERESTS.—No part of the income or assets of the Association shall inure to any member or officer of the Association or Director of the Board or be distributed to any such person. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers or the Association or reimbursement for actual necessary expenses in amounts approved by the Board.

(b) PROHIBITION ON LOANS.—The Association shall not make any loan to any Director of the Board or to any officer or employee of the Association.

(c) PROHIBITION ON STOCK.—The Association shall have no power to issue any shares of stock or to declare or pay any dividends.

SEC. 9. AUDITS, REPORT REQUIREMENTS, AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF.

(a) AUDITS.—For purposes of the Act entitled "An Act for audit of accounts of private corporations established under Federal law," approved August 30, 1964 (Public Law 88-504, 36 U.S.C. 1101 through 1103), the Association shall be treated as a private corporation established under Federal law.

(b) REPORT.—The Association shall, as soon as practicable after the end of each fiscal year, transmit to the Congress a report of its proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments.

(c) RELIEF WITH RESPECT TO CERTAIN ASSOCIATION ACTS OR FAILURE TO ACT.—If the Association—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with its purposes set forth in section 2(b); or

(2) refuses, fails, or neglects to discharge its obligations under this Act, or threatens to do so, the Attorney General of the United States may petition the appropriate court for such equitable relief as may be necessary or appropriate.

SEC. 10. UNITED STATES RELEASE FROM LIABILITY.

The United States shall not be liable for any debts, defaults, acts, or omissions of the Association, nor shall the full faith and credit of the United States extend to any obligation of the Association.

SEC. 11. NONDISCRIMINATION.

(a) EMPLOYMENT PRACTICES.—Notwithstanding section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b)) or section 101(5)(B) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(5)(B)), the Association and any agent of the Association shall be considered an employer for purposes of title VII of the Civil Rights Act of 1964 and the Americans with Disabilities Act of 1990 if the Association is engaged in an industry affecting commerce and meets the minimum employee requirements set forth in those Acts.

(b) MEMBERSHIP PRACTICES.—

(1) PROHIBITED PRACTICES.—It shall be unlawful for the Association, on the basis of the race, color, religion, sex, national origin, age, or disability, of an individual, to—

(A) fail or refuse to accept the individual into membership;

(B) expel the individual from membership;

(C) suspend the membership of the individual; or

(D) discriminate against the individual with respect to any of the benefits or obligations of membership.

(2) ENFORCEMENT.—

(A) RIGHT OF ACTION.—Any person may bring a civil action to enforce paragraph (1) in any appropriate United States district court. Any such action may be dismissed for just cause.

(B) INJUNCTIVE RELIEF.—In any civil action brought under this paragraph, the court may grant as relief any permanent or temporary injunction, temporary restraining order, or other equitable relief as the court determines appropriate.

SEC. 12. ACQUISITION OF ASSETS AND LIABILITIES OF EXISITING ASSOCIATION.

The Association may acquire the assets of the United States Marshals Association, a nonprofit organization organized under the laws of the State of Virginia before the enactment of this Act.

SEC. 13. AMENDMENT AND REPEAL.

The Congress expressly reserves the right to repeal or amend this Act at any time.

INTELLIGENCE AUTHORIZATION ACT

SMITH AMENDMENT NO. 515

Mr. SYMMS (for Mr. SMITH) proposed an amendment to the bill (S. 1325) to authorize appropriations for fiscal year 1991 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, as follows:

At the appropriate place in the reported bill insert the following new section:

SEC. . FURNISHING OF INTELLIGENCE INFORMATION TO THE SENATE AND HOUSE SELECT COMMITTEES ON INTELLIGENCE.

(a) FURNISHING OF SPECIFIC INFORMATION.—In accordance with Section 501 of the National Security Act of 1947, the head of any department or agency of the United States involved in any intelligence activities which may pertain to United States military personnel listed as prisoner, missing, or unaccounted for in military actions shall furnish any information or documents in the possession, custody, or control of the department or agency, or person paid by such department or agency, whenever requested by the Senate or House Select Committee on Intelligence.

(b) ACCESS BY COMMITTEES AND MEMBERS OF CONGRESS.—In accordance with Senate Resolution 400, 94th Congress and House Resolution 658, 95th Congress, the Senate and House Select Committees on Intelligence shall, upon request and under such regulations as the committees have prescribed to protect the classification of such information, make any information described in subsection (a) available to any other committee or any other Member of Congress and appropriately cleared staff.

NOTICES OF HEARINGS

SUBCOMMITTEE ON DOMESTIC AND FOREIGN MARKETING AND PRODUCT PROMOTION

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry Subcommittee on Domestic and Foreign Marketing and Product Promotion will hold a hearing on the importation of subsidized grains from Sweden. The hearing will be held on Monday, July 8, 1991, at 2 p.m. in SR-332. Senator KENT CONRAD will preside.

For further information please contact Kent Hall at 224-2043.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for my colleagues and the public that 2 days of hearings have been scheduled before the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on S. 1351, the "Department of Energy Science and Technology Partnership Act."

The hearings will take place on Wednesday, July 24, 1991, and Thursday, July 25, 1991. Both days of hearings will take place at 2 p.m. in room SD-366 of the Dirksen Senate Office Building, First and C Streets, NE., Washington, DC.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, Attention: Mary Louise Wagner.

For further information, please contact Mary Louise Wagner of the committee staff at 202/224-7569.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Friday, June 28, 1991, at 9:30 a.m., for a hearing on "Poultry Safety: Consumers at Risk."

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO DR. CHARLES E. ANDREWS

• Mr. KERREY. Mr. President, on Sunday, June 30, Dr. Charles E. Andrews will retire as the fifth chancellor of the University of Nebraska Medical Center [UNMC]. Characteristically, he declined an offer by the board of regents for a retirement dinner; he didn't have a prepared speech for the final board of regents meeting.

I have known Charlie Andrews for some 8 years now. He is an inspiration and he is my friend.

In 1983, we lured him away from West Virginia University Medical Center. He brought with him heart, soul, vision, wit, and an enduring twinkle in his eyes. He showed us foresight, conviction and a courage to stand by his convictions.

UNMC is today in large part of reflection of his expertise, commitment and boundless energy.

He was instrumental in establishing the Organ and Bone Marrow Transplant Program at the Medical Center. Today the liver transplant and bone marrow transplant programs are among the most active in the country.

During his 8 years at UNMC, he has placed a renewed emphasis on research, especially cancer research. This has led to major advances at the Eppley Institute for Research in Cancer and Allied Diseases, which has been designated as 1 of 15 laboratory cancer research centers in the United States by the National Cancer Institute. It is the only such facility located in Nebraska or the six adjacent States.

Under his direction, UNMC opened the University Geriatric Center in 1989, a major step forward in meeting the needs of an aging population. UNMC hopes this center will eventually become the first geriatric hospital in the country.

His contributions have not, however, been limited to Omaha. Charlie Andrews provided the impetus for the innovative use of communications technology to address health care needs in rural Nebraska. Today, we teach nursing skills through distance learning programs and we provide information, consultation and support to physicians and health care professionals in rural communities through his efforts. The Rural Health Education Network and the Rural Health Opportunities Program have put the State on the cutting edge of education and patient care in less populated areas.

The UNMC College of Nursing experienced growth under his stewardship as nursing programs for Scottsbluff and Kearney were added to the existing programs in Omaha and Lincoln. A doctoral program was added to the nursing curriculum in 1990 and the Niedfelt Nursing Research Center was opened in Omaha.

In 1988, he took the lead in making UNMC one of the first Omaha employers to establish a smoke and tobacco free work environment. Under his leadership, UNMC became the first employer to affiliate with a health maintenance organization. He also instituted a general education diploma for UNMC employees.

Under his direction, UNMC has been active in establishing joint programs with other Omaha area hospitals, thus avoiding costly duplication of services.

When Charlie Andrews announced his retirement last January, the Omaha World Herald ran an editorial which highlighted some of his accomplishments. I ask that a copy of that editorial be included in the RECORD.

I, of course, wish that Charlie Andrews had chosen not to retire, that he would continue to move UNMC ahead. But, I understand his decision. I and all Nebraska will miss his leadership at UNMC but I expect to continue to benefit from his counsel and recommendations.

The editorial follows:

DR. ANDREWS A STRONG LEADER

Dr. Charles E. Andrews has been a strong leader and a good manager as chancellor of the University of Nebraska Medical Center. He set high goals for the medical center, then worked hard to achieve them.

Dr. Andrews will leave his post June 30 after seven years. He will leave behind a record of excellence in recruiting and retaining top-level doctors, researchers and teachers. Under his direction, the medical center excelled in research and service to the public.

The medical center's work in some fields, including research on liver diseases and cancer, came to be known internationally. The university is among the few institutions anywhere in the world to specialize in the use of monoclonal antibodies—synthetic substances—to treat pancreatic cancer.

Dr. Andrews is also entitled to credit for the success of UNMC's transplant programs, including the liver, solid organ and bone marrow programs. The medical center has attracted some of the transplantation field's top people to its staff.

He has also been the guiding force in the rural health education network. He has encouraged the recruiting of medical students who might be likely to return to rural areas to practice. And he has expanded the medical center's reach across Nebraska, creating the Rural Health Opportunities Program at Chadron State College and Wayne State College.

Peers call Dr. Andrews a man of vision who can be a fierce fighter for improvements. "He is willing to take chances," said Dr. Michael Sorrell, department chairman for internal medicine. "He has vision and courage."

Dr. Andrews was a sensible manager. His formula for success: Obtain the best facilities you can, recruit top faculty members and researchers and then let them go about their work.

In a recent interview, he said, "I think the medical center is well on its way to becoming a major Midwest health care, education and research center." As the medical center continues toward that goal, a large part of the credit goes to Dr. Charles E. Andrews.•

IRAQ's NEW THREAT TO WORLD PEACE

• Mr. McCAIN. Mr. President, the events that have taken place in Iraq today have proved that Iraq and Saddam Hussein are still a major threat to world peace. We must be careful about rushing into calls for military action, in Iraq or any part of the world. We must wait to learn the facts, and we must wait for President Bush to decide on a course of action and provide the leadership in this crisis that he has provided so consistently since coming to office. But, we are clearly in a crisis and we must clearly take suitable action.

The problem is Iraq's weapons of mass destruction. We have liberated Kuwait, we have destroyed Saddam Hussein's military dominance of the gulf region, and we have ended his ability to attack other nations successfully with conventional weapons. It is clear, however, that we underestimated Iraq's dedication to acquiring nuclear weapons, and there are growing indications that Iraq may also possess a much larger capability to deliver other weapons of mass destruction than we had previously hoped.

THE THREAT OF IRAQI NUCLEAR WEAPONS

In the case of nuclear weapons, the many experts who denied that Iraq was near the point that it could build a bomb, and who attacked this reason for military action in the gulf, have been proved conclusively wrong. Iraq admitted after the ceasefire that it had more than the 48 pounds of weapons grade uranium that most experts outside of the U.S. Government had dreamed of before the war. Where many such experts thought Iraq might not have enough material for a bomb, it became apparent that it clearly had enough fissile material for one weapon, and might well have enough for two.

A recent defector has made it clear that Iraq also had at least four secret nuclear facilities, one of which may well have been producing large amounts of additional material. If this source is right, and many intelligence experts believe that he is, Iraq has enough material to build 2 to 4 bombs, and a facility that could make several weapons a year even if we recover all of the weapons grade material that Iraq has declared to the United Nations and the International Agency for Atomic Energy.

We are not talking about theoretical threats or ones that depend on outside supplies of weapons material. We are talking about a massive national effort involving billions and billions of dollars which seems to involve 15 years of effort to acquire uranium from sources outside Iraq, work on three different methods of enrichment, and the development of processing and mining facilities in Iraq. We are talking about equipment, material, and technology that may be scattered over the entire country.

Further, we have no way to be certain what nuclear weapons designs Iraq has brought near to maturity, what level of enrichment it has achieved, or how far along it is with other critical components like nuclear weapons reflectors and neutron initiators. These technical factors determine how many weapons Iraq can build, how it can deliver them, and the yield of its weapons—which could range anywhere from around 5 kilotons to over 20 kilotons per weapon.

THE OTHER THREATS TO PEACE

These facts would be frightening enough, Mr. President, but they are only part of the story. Iraq's proliferation efforts also involve chemical weapons, biological weapons, missiles, and long range strike aircraft.

In the case of chemical weapons, Iraq admitted to the United Nations in April that it still had 9,420 chemical artillery rounds, 1,076 chemical bombs, and close to 1,000 tons of mustard and nerve gas. It did not, however, admit that it had persistent nerve gas and blood agents like cyanide gas. It claimed that something like one-third of its chemical stockpile might be buried under war damaged facilities that could not be fully inspected. It may well have understated its stocks of those chemical weapons it did declare, and some sources claim that Iraq dispersed many of its key equipment items and stocks for the production of chemical weapons before the United States began bombing.

In the case of biological weapons, Iraq has flatly denied the fact that it has such weapons. There is, however, virtually no doubt that it does have such weapons. There are indications that it may also have dispersed much of the equipment necessary to produce biological weapons, and there is no question that it retains all the required expertise and technology. I hardly need point out that these are ideal weapons for terrorism and covert action.

As for missiles, Iraq has admitted that it has regular Scuds, 50 modified longer range Hussein variants of the Scud, at least 30 chemical and 23 regular warheads for the Scud, and a substantial number of launchers—launchers that it can still manufacture. Iraq has not, however, said one word about the massive manufacturing and research facilities it established before the war, its stockpiles of missile components, and new missile types it has in development. It is not clear that we were able to destroy as many of these facilities as we once hoped, and there is again the possibility that substantial amounts of missile components and production and test equipment have been dispersed throughout the country.

Finally, we must not forget that the technical glamour of missiles in no way means they are Iraq's only weapons delivery system. It can use long range aircraft to carry far more tonnage than it can deliver with missiles, it has far more weapons that aircraft can deliver, and its aircraft have more range and far greater reliability. If Iraq does rush into nuclear bomb production, it may well have to use an aircraft to deliver such weapons for several years to come.

SADDAM'S SHELL GAME OF HORROR: ROOTING OUT THE TOOLS OF GENOCIDE

Given this background, it is clear that we cannot be satisfied with anything less that a comprehensive and continuing U.N. inspection of Iraq and the destruction of all of Iraq's major stockpiles and weapons production facilities. We cannot rely on half measures and half certainties. We cannot let Saddam win his shell game of horror.

We must explore every option in depriving Iraq of the ability to stockpile, manufacture, and deliver weapons of mass destruction. We must not tolerate any violation of the terms of the ceasefire, and any violation of Iraq's international agreements.

We must also face the fact that we can never be certain that our knowledge of Iraq's capabilities is complete unless inspection takes place on the ground. Deeply buried facilities can only be inspected by actual visits. Iraq has had months to hide material and equipment, has literally hundreds of military storage facilites, and much of this equipment is small and hard to detect.

If we are to root out this threat to world peace, it also will not be the task of the moment. It will take a long series of inspections, a major and well funded inspection force, and the ability to move rapidly throughout Iraq and inspect on a moment's notice. We must insist on such an effort before allowing Iraq to resume its exports of oil and before we lose the opportunity made possible by our military victory.

Finally, we must announce to the world that any nation or company that exports the technology and material for weapons of mass destruction, and/or missiles and attack aircraft, to Iraq is the enemy of peace. We must establish a regime of sanctions to punish such nations of the kind I have advocated in S. 309.—the Nonproliferation and Arms Transfer Control Act—now awaiting action by this body. We cannot deprive Iraq of the skilled technicians and expertise that it has gained in its search for genocide. Even when we have rooted out today's threat, we must be certain we have taken the steps to halt tomorrow's!•

WEST VIRGINIA STUDENT HAS WINNING PEACE ESSAY

• Mr. ROCKEFELLER. Mr. President, I rise today to inform my colleagues of the achievement of a citizen of West Virginia. Mellow Means, a ninth grader at Spring Hill Junior High in South Charleston, has won first place in a State-level competition for the 1990–91 National Peace Essay Contest, sponsored by the U.S. Institute of Peace.

The U.S. Institute of Peace, which was created by an act of Congress in 1984, sponsors the Peace Essay Contest annually in an effort to encourage serious contemplation of the basic issues of war and peace in our Nation's schools. This year students were called on to explore one instance when the U.S. Government made a significant contribution to the prevention or resolution of a violent international conflict.

In her submission, Mellow grappled with two crises that punctuated America's relations with the small nation of Cuba and the huge nation of the U.S.S.R. She explored the failure of military intervention evinced during the Bay of Pigs invasion. She tried to understand the tenuous line which separated negotiation from conflict and war from peace during those fateful days now known collectively as the Cuban missile crisis. In exploring the use of negotiations and military force, Mellow found that "in these two very different ways to resolve problems, that in this instance, the peaceful approach seemed to be the best."

In her research, Mellow learned that the Cuban missile crisis of October 1962 took this nation and the world to the brink of destruction. She recognized and argued for the value of negotiation and the importance of peace in 1962. Her explorations remind us all of the importance of peace today. I would like to congratulate Mellow on her prize. I would also like to thank her for her insight and her fitting reminder of the importance of peace for our times.

Mr. President, I ask that a full copy of Mellow's essay, "The Cuban Missile Crisis," be placed in the RECORD.

The essay follows:

THE CUBAN MISSILE CRISIS

Of the many disagreements and misunderstandings the United States have been involved with, I could not remember a potentially violent conflict that was resolved peacefully.

After researching and discussing many international topics, I chose the Cuban Missile Crisis and the events that led up to it.

I feel that this crisis best shows that there are two ways to solve International conflicts. One way is by military pressure, force or invasion. The other being sanctions, embargos, negotiations and even just the threat of military intervention, both of which were actually pursued in this confrontation.

There was political tension between the United States and Cuba in the late 1950's because after the Bastista dictatorship was overthrown and Fidel Castro was sworn in as Prime Minister, he took American assets and redistributed them. He also placed Communists in government positions. These actions alarmed the American people.

The Cubans had resentment for the United States because wealthy Cuban exiles, who had lost their land under the redistribution laws, raided Cuba trying to overthrow Fidel Castro and regain their wealth and land. During these bombing raids, American-made planes were being used by the exiles.

During the time of these strained relations, the Soviet deputy premiere visited Cuba. Russia signed a trade agreement with Cuba where the Soviet Union would buy sugar for the next five years and supply Cuba with oil, which the American oil companies refused to process.

Castro then ordered the seizure of Cuba's United States owned oil companies and the nationalization of these refineries. As a result, the United States withdrew all of its technicians from the oil fields, and in June of 1960, the United States House of Representatives passed a bill reducing the imports of Cuban sugar. This bill prompted Khruschev to announce that the Soviet Union would buy all of the sugar rejected by the United States of America. Khrushchev also said that he would provide military assistance to Cuba if necessary in the event of an invasion.

These events are what led to strained relations between Cuba and the United States and which finally prompted the United States in January of 1961 to stop buying Cuban sugar, to cut all exports from the United States and to break all diplomatic relations with Cuba.

It had become obvious that a clash between Cuba and the United States was approaching and in January, 1961, Castro ordered members of the American embassy staff to leave Cuba.

On January 1, 1961, Castro held a parade in Havana, many Russian tanks and weapons were in this parade. The Cuban secret service also stepped up its campaign against all anti-government revolutionaries. Also, a voluntary peoples militia was formed.

By the middle of March, practically everything about the invasion of the United States into Cuba, except its time and place, were public knowledge. This invasion, which was suppose to be organized and led by the "Cuban Revolutionary Council" in Miami, was the first conflict between the two countries. It was called the Bay of Pigs.

The plan for the invasion was to train 1,500 men, arm them, supply them with tanks and ships, and lead them into Cuba. They were to be greeted by the Cuban people who, according to American CIA information, wanted rid of Fidel Castro themselves.

The invasion finally began on April 15, 1961. B-52's with Cuban markings flew over the island bombing two Cuban airfields and military quarters. Castro, expecting the invasion would soon be under way, had hidden his military planes and placed decoy planes in view. The damage to the airforce was slight. Seven men were killed and forty-four injured in the attack. Throughout Cuba, police began to round up everyone even suspected of being anti-government. The thousands arrested included bishops, journalists and the underground, including 2,500 CIA agents. This completely took out of action all those who might have responded to the invasion and was a huge blow to its success.

On April 16, 1961, Kennedy secretly gave permission for the attacks to continue. The men in the group consisted of ex-soldiers in Batista's army, priests and ex-owners of more than 800,000 acres of Cuban land. These exiles, more than 1,500 men, along with two United States battleships and three freighters loaded with United States tanks and artillery and escorted by two Navy destroyers, started landing the morning of April 17, 1961. The landing sight, thought to be perfect, was a long and narrow bay on the southern central coast in a relatively hard-to-reach area surrounded by land and swamp. There were, however, three major down falls to this invasion. First, the place chosen by the invaders was one of Castro's favorite fishing spots and he knew every road and track way plus the local militia had been alerted by sentries who in turn informed an army battalion stationed nearby. Second, Cuba's airforce had not been destroyed. Fidel's airplanes led Cuba in heavy aerial bombing, which were important to his success in the Bay of Pigs. Third, the expected response of the Cuban people was not forthcoming. Those that would have been supportive of the invaders had been imprisoned when the bombing of the airfields began two days before. It soon became very clear that the invasion was doomed. By the 19th, the invaders were forced to concede defeat. Castro's forces captured 1,180 prisoners; 129 had been killed. The result of the failed invasion was a great victory for Fidel Castro and the Cuban revolution was for the first time publicly proclaimed a "Marxist-Leninist State". Castro also proclaimed there would be no more formal elections.

Because of the trade sanctions, Cuba became more and more dependent on the Soviet Union. Castro also still feared another invasion. So in July of 1962, Castro requested more military aid from Russia. The Russians agreed to supply Cuba with missile and nuclear weapons.

The United States learned of these missile sites through photographs from U.S. planes. Kennedy, concerned about the prospect of nuclear war missiles, announced that the United States would set up a naval blockade to prevent further Soviet ships into Cuba and demanded that all missiles be removed. This confrontation between the two countries was very much a nuclear war scare. Khrushchev finally agreed to dismantle the missiles if the United States would guarantee that it wouldn't participate in any more Cuban attacks. Finally on October 27, 1962, President Kennedy agreed to Khrushchev's terms and Khushchev agreed to remove the missles. A month later, Cuban blockades were removed. This, in my opinion, was the beginning of the U.S. Russian peace treaties to remove and limit the number of nuclear weapons between the two countries.

In my opinion, these conflicts show the contrasting differences between negotiations and military force. "The Cold War" between the United States and the Soviet Union very much threatened international peace at this point in time, and brought the world very close to nuclear destruction. I found that in these two very different ways to resolve problems, that in this instance, the peaceful approach seemed to be the best.

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MICRO-ENTERPRISE LOAN FUND

● Mr. GRASSLEY. Mr. Chairman, I am most pleased to be an original cosponsor of this bill by Senator BUMPERS. This micro-loan demonstration project will work perfectly with the micro-enterprise legislation I introduced on Wednesday. By providing mechanisms for startup finance of small businesses, this bill will enable many welfare-dependent women and other low-income individuals to become proud business owners.

S. 1395, my Micro-Enterprise Act, will enable prospective entrepreneurs to exclude this loan from the calculation of assets when calculating eligibility for public assistance. My bill also excludes income derived from the first year of the business operation from public assistance eligibility. This will enable budding entrepreneurs to reinvest receipts back into their business or to begin paying off the loan.

These two bills together not only will give participants the opportunity to get off welfare, but will also give them independence and a renewed sense of self-worth.

I look forward to working with Senator BUMPERS on this legislation in the Small Business Committee.●

HONORING THE BIG RED ONE

● Mrs. KASSEBAUM. Mr. President, on the Fourth of July I will have the honor of participating in the welcome home ceremonies for the Big Red One at Fort Riley, KS. As President Bush has said, this should be one of the best Fourth of July celebrations in recent years.

The 1st Infantry Division at Fort Riley has a long history that gives pride not only to Kansans but all Americans. Our tribute to the Big Red One's mission in the Persian Gulf builds further on its many honors, including D-day, Korea, and Vietnam.

I am proud to join with Senator DOLE in supporting this resolution, which expresses the appreciation of the Senate and the American people for the commitment, sacrifice, and success of all the members of the Big Red One and their commanding general, Thomas Rhame, in their effort in the gulf.

The 1st Infantry Division had one of the toughest missions in the gulf war. The 12,000 men and women of the division from Kansas were sent to breach Iraq's defenses and were the first American unit to enter Iraq. They went up against Saddam Hussein's best forces, the elite Republican Guard, and successfully cleared a path into southern Iraq for other units.

The bravery and tenacity of the 1st Division was one of the essential keys to our success in the gulf war. As General Rhame has explained, the division pushed relentlessly both day and night, without giving the Iraqi soldiers a break, and defeated them resoundingly. The division's attack was unprecedented in terms of speed and distance. During their lightning strike, the 1st Division destroyed 388 Iraqi tanks, 400 armed personnel carriers, and took 11,400 Iraqi prisoners of war.

As a result of that great offensive action, the 1st Division was positioned for the historic mission of hosting the peace conference conducted by General Schwarzkopf—an honor truly befitting the role they played in the war.

The price of freedom and peace never comes cheaply. As we honor the 1st Division on the Fourth of July, our hearts will be with those families whose loved ones made the ultimate sacrifice in the gulf war. It is their valor and the valor of the entire 1st Division that has contributed to making our Armed Forces and our country the symbol of freedom and democracy to millions of people around the world.•

A TRIBUTE TO LINDA ALVARADO

• Mr. WIRTH. Mr. President, I am very pleased to report that major league baseball is on its way to Denver, CO. I am also pleased to recognize one of the many outstanding business leaders in Denver who is responsible for bringing major league baseball to Colorado, Ms. Linda Alvarado.

I have known Linda for a number of years. Like many people in Colorado, I have great admiration for her ability as a business and community leader. Linda has been involved in general contracting and construction, but her business talents have gone well beyond her own firm. Linda has long been recognized as a force in civic affairs, and her advice and perspective on important political and economic issues is valued throughout Colorado. She is now poised to blaze a new trail as a minority woman coowner of a major league baseball team.

I am pleased to recognize Linda Alvarado's considerable achievements, and ask that an article from the Rocky Mountain News describing Linda's contribution toward bringing major league baseball to Denver be printed in the RECORD.

The article follows:

[From the Rocky Mountain News, June 17, 1991]

ALVARADO ALREADY MAJOR LEAGUE

(By Hector Gutierrez)

The blue skies, the weather and all of Denver's quality-of-life attractions are what brought Linda Alvarado to the Mile High City.

Now add another attraction to the list and it will probably make Alvarado stay in Denver for good: Major League Baseball.

This time it won't be only for fun. Alvarado is a limited partner in the Colorado General Partnership for the team. Major league owners are expected to formally approve the franchise soon; the team would start play in 1993.

Alvarado has come far. She attended her first baseball game in 1960s at Chavez Ravine in Los Angeles. She began working in the development and construction business in the early 1970s.

It was something of a gamble for a Latino woman to enter the construction field in 1976. Alvarado's parents mortgaged their home so that she could start her business, a general contracting firm.

Alvarado Construction Inc. has hit it big since. "Thank God for parents," Alvarado said.

Among the firm's projects, Alvarado Construction has helped build the Colorado Convention Center, Concourse B at Stapleton International Airport and a nine-story building for U S West Communications in Inverness Park.

"I have to say this was nontraditional for women to be contemplating this," Alvarado said. "It took a period of time—years—to be developing credibility in an industry where there were simply not many women in ownership roles."

As a potential co-owner of a major league team, Alvarado takes yet another role in which very few minorities and women have been able to prosper.

It is no secret to her that minorities and women have had limited opportunities to get into the higher echelons of Major League Baseball organizations.

"Baseball has been a sport in which Hispanics have achieved great success," said Alvarado, who celebrates her 40th birthday tomorrow.

Still, Alvarado awaits for the word that will give Denver and Miami the go-ahead to be part of the National League.

She credits Mayor Federico Peña for trying to bring huge economic projects to the city in an attempt to get Denver out of its financial slump.

"I think his track record will show how, as a strong leader at a time when our economy was struggling, he was able to assemble business leaders and community leaders and citizens to work together on numerous endeavors," Alvarado said.

NEWSMAKER—LINDA ALVARADO

Born: June 18, 1951, in Albuquerque.

Occupation: President of Alvarado Construction Inc. and limited partner in the ownership of Denver's expansion baseball team.

Background: After graduating from college in California, she started in construction management in 1974 and later formed her own general contracting business.

Education: Bachelor's degree in behavioral science from Pomona College in California.

Personal: Married, three children.

Quote: "Over the years, Hispanic fans like me have enthusiastically supported major league teams from the stands. Today, our abilities reach far beyond being only observers and players of the game. They desire participation in ownership roles."•

TRIBUTE TO COL. CHARLIE FISHER

• Mr. DECONCINI. Mr. President, I would like to take a moment to call to my colleagues' attention an award that was received by a remarkable constituent from Sun City, AZ, retired Col. Charles Fisher.

On May 24, Colonel Fisher was inducted into the U.S. Army Infantry Officer Candidates School Hall of Fame. This award is bestowed on those who have distinguished themselves in military or civilian service. Charlie Fisher has an outstanding record of lifetime achievements in both these areas. He served with distinction in Europe during the Second World War. In receiving this award, Charlie Fisher joins many other outstanding Americans such as Senator DOLE, Caspar Weinberger, and former Secretary of the Army March. He served with the Department of the Army until his retirement in 1974. After he retired from active service, he entered the Army Reserve.

During his long and distinguished service in the Army, Colonel Fisher received numerous decorations including the Legion of Merit, Meritorious Service Medal with oak leaf cluster, U.S. Army Reserve Outstanding Achievement Medal, Army Commendation Medal, and the Good Conduct Medal.

Since his retirement, Charlie has directed his energies into the Retired Officers Association where he serves on the board of directors. He also serves as vice president for Army Affairs of the U.S. Reserve Officers Association. From these positions, Charlie has kept me informed on the issues of importance to these organizations. No association could have a more active and dedicated advocate, and I have relied on Charlie's counsel and advice throughout my Senate career. Charlie has also been an active member of the Sun City community. Arizona is indeed proud to count Charlie Fisher as one of its most distinguished citizens.•

FORUM ON ADOLESCENT HEALTH

• Mr. INOUYE. Mr. President, I would like to express my sincere appreciation to the individuals who participated in the community health forum on adolescent health which the Office of Children and Youth, State of Hawaii, and I cosponsored on May 25, 1991, at the Farrington High School Auditorium in Honolulu, HI.

I was especially pleased with the diverse representation of health-care providers, educators, community leaders, concerned parents, and youth who participated in the forum. Their presence indicated that the people of Hawaii want to address and respond to the serious health concerns which affect our adolescents today. They are ready to cooperatively work to improve and provide the best possible health care services for Hawaii's youth which, in turn, affects an adolescent's ability to learn and become a contributing member of our society.

Mr. President, we in paradise are not shielded from our Nation's adolescent health problems. In 1988, a State department of health report, "Adolescent Health In Hawaii," indicated that among our 10th graders, 42 percent engage in sexual intercourse, 40 percent have family problems, 17 percent have attempted suicide, 18 percent use cigarettes, 14 percent use marijuana, 41 percent use alcohol, and 15 percent use drugs. It is tragic that the majority of our young people report that they have only medium self-esteem. At such a young age, they should feel good about themselves, and about the prospects of a bright and challenging future.

During the 2-hour community meeting, we discussed issues which were highlighted in the Office of Technology Assessment report entitled "Adolescent Health." My distinguished colleagues, Senators KASSEBAUM and STEVENS, and I, together with 34 other Members of Congress, requested this report in 1988, and I am proud that it has stimulated positive initiatives to promote health and preventive measures for adolescents and their families. I would now like to summarize the comments and recommendations of my constituents regarding the future welfare of our adolescents:

Access to health care services for our adolescents was the primary concern among the participants. The healthcare providers and educators in Hawaii, Ms. Geri Marullo, deputy director of the department of health [DOH], Ms. Virginia Jackson, DOH program specialist of the children's adolescent mental health division, Dr. David Paperny of Kaiser Medical Center, Mr. Kengo Takata, department of education, State department superintendent, and State Representative Dennis Arakaki, agreed that health and education go hand in hand. Each in their own way voiced support for the establishment of a school-based health clinic. A pilot program has been scheduled for the 1991–92 school year. It is planned that such a center would provide comprehensive services which include care for physical illness, general medical examinations needed for involvement in athletics, mental health counseling, laboratory tests, reproductive health care, counseling for family members, prescriptions, and coordination of care. Moreover, Mr. Myron Thompson, Kamehameha Schools/Bishop estate trustee, shared the successes of some similar school-based health centers, prenatal education, and early education prevention programs. Their successes indicate that the State's pilot program, as well as other joint health and education programs, can succeed with the proper administration which is sensitive to the needs of the students and the concerns of their parents.

The concerned parents, Ms. Barbara Afe, Ms. Yvonne Zembik, Ms. Victoria Letuli, Ms. Jasmine Williams, Ms. Theresa Cummings, and Ms. Shirlee Goodgame agreed that adolescents are in need of more health education and accessible facilities. However, they strongly objected to the relinquishment of parental rights and the potential lack of parental involvement at the school-based health care centers, and requested that they be included in the decisions involving contraception and other health care matters. They also requested consideration of more family-oriented programs, such as guidance on better interactions between the youth and the parent. It is their view that healthy adolescents are dependent upon a healthy family.

Mr. Carlson Jedrick and Mr. Travis Wilder, students of the Hawaii Job Corps, and Ms. Helene Zeug and Ms. Merleen Subia, leaders of the 4–H Program, shared their positive experiences in these programs with me. Both Mr. Jedrick and Mr. Wilder received vocational education and training that boosted their self-esteem after numerous difficulties in the past. Ms. Helene Zeug and Ms. Merleen Subia, of the 4–H Program, assisted young adults in developing life skills such as parenting and proper nutrition habits. They believe that these programs are invaluable in providing at-risk youth with the opportunity to become healthy and contributing members of society.

The president of the Hawaii State Student Council, Mr. Winston Sakurai, expressed what it is like to be an adolescent. He stated that it is a very difficult age; it is a transition from childhood to adulthood. He expressed that parents, as well as adolescents, must readjust to this growth. As the parent-child role evolves, the new relationship which develops may cause hardships and difficulties. Mr. Sakurai expressed his concern for more peer counseling and support groups at centers which are accessible to adolescents.

Mr. President, I believe that it is our responsibility to assist our adolescents in overcoming the increasing obstacles which they face today. Prevention, through education and health promotion, is critical to ensuring that adolescents make a healthy transition into adulthood. The success and valuable input secured at the adolescent health forum clearly demonstrated that we, in Hawaii, are ready to meet the challenges which lie ahead in providing our youth with the best accessible health care services.•

THE RESULTS OF THE BERLIN MEETING OF THE CSCE COUNCIL

• Mr. DECONCINI. Mr. President, as cochairman of the Commission on Security and Cooperation in Europe I am pleased to note the progress made during the recent meeting of CSCE foreign ministers in Berlin, June 19–20, 1991. The CSCE Council is an integral part of the political consultative mechanism mandated by the heads of state or government of the CSCE participating states during their summit meeting in Paris last November.

In keeping with its mandate, the Council considered a number of CSCE-related matters. The first matter of business was to endorse the full participation of Albania in the Helsinki process, signaling an end to that country's self-imposed isolation. Albania spurned a role in CSCE when invited to participate in the early 1970's. Now, as a mark of Albania's progress toward democracy, Albania officially stated its acceptance in their entirety of all commitments and responsibilities contained in the Helsinki Final Act and other CSCE documents and declared its determination to act in accordance with their provisions. I am encouraged by this development and look forward to further improvements in the human rights situation in Albania. I have followed developments in Albania very closely and have led two delegations to that country to meet with government officials, opposition leaders, and private citizens.

Taking account of the current situation in Yugoslavia, the ministers issued a statement expressing "friendly concern and their support for democratic development, unity, and territorial integrity of Yugoslavia." They called for "full application of human rights in all parts of Yugoslavia, including the rights of minorities." "The way out of the present difficult impasse should be found without recourse to the use of force and in conformity with legal and constitutional procedures," they said.

The ministers welcomed the establishment of a CSCE parliamentary assembly based on the resolution adopted by parliamentarians from the participating states in Madrid in April. According to the resolution, the assembly will meet once a year to, among other things, assess the implementation of CSCE objectives.

The ministers took an important step in calling for the start of informal preparatory consultations to lay the foundation for new negotiations on disarmament and confidence and security building. These consultations are expected to begin in September. The actual negotiations, to be open to all CSCE participating states, are likely to convene in early 1992 following the Helsinki followup meeting.

Finally, the ministers also sought to further elaborate CSCE structures for conflict resolution, including the Vienna-based Conflict Prevention Center [CPC]. While I welcome such initiatives, a close reading of the discussions in Berlin give cause for serious concern.

Last November the CSCE leaders observed that Europe is liberating itself from the legacy of the past. Apparently we still have quite a way to go in this quest despite considerable progress in the past few years. For example, when the issue of the Baltic States was raised in Berlin last week, Soviet Deputy Foreign Minister Kvitsinsky termed the matter an internal affair outside the jurisdiction of CSCE.

The Soviets have a long history of relying on this stale phrase whenever they wanted to avoid addressing an issue, particularly human rights. It fell out of use in the mid-1980's as Soviet officials began to engage in human rights and other important aspects of United States-Soviet relations. We had all hoped that, like so many vestiges of the period of stagnation, this phrase too had been dropped from the Soviet lexicon. But the legacy of the past continues. Even more dismaying is the fact that the United States and other CSCE states agreed to its return to CSCE.

Work on a mechanism for emergency consultations and peaceful settlement of disputes was threatened when the Soviets raised objections, arguing that the mechanism could be used to undermine the principle of nonintervention in internal affairs. While it is true that the Final Act contains a section by this title, its provisions are primarily directed against the threat or use of force. Nevertheless, this has not stopped the Soviet Union from citing this principle when other participating states would raise questions regarding Moscow's human rights policies and practices.

Mindful that under the CSCE consensus rule the Soviets held an effective veto over their work, the participants bowed to Soviet pressure to include an explicit reference to the principle of nonintervention in internal affairs to mollify Soviet concerns. The resulting compromise sends the wrong signal to Moscow at a time when it is the state which is resorting to strong-arm tactics and aggression against the Baltics.

The Baltic issue is not a domestic matter as Soviets attempt to portray it. The United States and many CSCE participating states have never recognized the illegal and forceful incorporation of Latvia, Lithuania, and Estonia into the Soviet Union.

Nonintervention is not the issue. No one has suggested the use of force in the Baltics, that is of course except for certain reactionary elements in the Soviet Union and their allies in the Baltic States. Special military units dispatched by Moscow have killed more than a score of civilians in the Baltic States since the beginning of the year. Other forms of intimidations have been used as well. Ironically, the only ones using force in the Baltics are the Soviet occupiers. The time has come to end the Soviet Union's 51-year occupation of Latvia, Lithuania, and Estonia, a legacy of the Stalinist period.

The real issue is self-determination—one of the principles likewise enshrined in the Helsinki Final Act. "By virtue of the principle of equal rights and self-determination of peoples, all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social, and cultural development," it declares. The peoples of the Baltic States have democratically and peacefully expressed their wish to be free and independent.

The real question is whether the West, including the United States, is willing to champion the cause of Baltic freedom. Merely repeating our nonrecognition policy is not enough. President Bush promised members of the Baltic community that, "the fate of freedom in the Baltics will remain high on our agenda." A concrete step which could be taken by the United States is to raise the issue at every opportunity within the CSCE. Likewise the United States should formally press for Baltic participation at CSCE meetings—something which has never been done—even if it risks a Soviet nyet.

Last week in Berlin, legitimate Baltic representatives were relegated to the sidelines, being allowed to attend only the public opening and closing ceremonies. They were then sent to the locker room when the Soviets objected to their continued presence. The Baltic States desire, and deserve, to play an active role in CSCE.

Last week, German Foreign Minister Hans-Dietrich Genscher, in welcoming Albanian participation in CSCE, said that the "last gap in Europe has now been closed." That may be the view of some here and abroad. I disagree.

The CSCE is often called the all-European process. I look forward to the day when all European states, including the Baltic States, are listed among the participating states of the Conference on Security and Cooperation in Europe. Such a reality will be possible only if the United States backs up its words with concrete deeds.•

TRIBUTE TO COL. RICHARD V. GORSKI

• Mr. JOHNSTON. Mr. President, I rise today to honor Col. Rick Gorski, U.S. Army Corps of Engineers, upon his retirement on July 1, 1991, after 25 years of dedicated and professional service.

Colonel Gorski's military record represents a professional career filled with extraordinary accomplishments. A graduate from the U.S. Military Academy at West Point, Colonel Gorski has proudly served in assignments throughout the United States, to include the Pentagon, and in command and staff positions with military engineer units in Southeast Asia and Europe. Among his military awards are the Legion of Merit, the Bronze Star, the Air Medal, the Ranger tab, and parachutist badge.

Mr. President, in January 1989, Colonel Gorski became the 52d Commander and district engineer of the New Orleans District, U.S. Army Corps of Engineers. During this period, he has guided the largest civil works district in our country. He was responsible for water resources development in 30,000 square miles of south-central and coastal Louisiana and several major hurricane protection and flood control projects. Additionally, Colonel Gorski was responsible for 2,800 miles of navigable waterways, among them the Mississippi River ship chanel and some 300 miles of the Gulf Intracoastal Waterway, as well as the Mississippi River and tributaries flood control project.

I am personally grateful for Colonel Gorski's leadership on the many projects to protect and enhance the coastal and inland wetland resources of Louisiana. Specifically, his involvement with the Caenarveon fresh water diversion project was truly invaluable as was his commitment to the restoration of Queen Bess Island, Wine Island Shoals, and the beach at Grand Isle.

Today, I not only acknowledge and congratulate Rick Gorski on his exceptional service to our country, but I also applaud and thank him for his valuable and lasting contrtibutions to the State of Louisiana. Simply, Mr. President, we will miss his leadership and foresight, and we wish him, his wife, Lina, and their two children, Lisa and Amanda, much success and Godspeed.•

THE IMPORTANCE OF TEACHING WESTERN CULTURE AND VALUES IN SCHOOLS

• Mr. LIEBERMAN. Mr. President, the New York Times, on Friday, June 21, 1991, ran a front page article about the State of New York's attempts to refashion its schools' teaching of history and of social studies. A State panel of teachers and scholars presented to the State Education Commissioner a 97-page report titled, "One Nation, Many Peoples: A Declaration of Cultural Independence." I have two serious objections to this report: First, that if its recommendations were undertaken in full it would undermine real education in this country; and second, that by so doing, it would undermine some of the common cultural and historical experiences which are the underpinning of our democracy.

The report is an indictment of the present teaching methods and subjects. It charges that it is only a part of our culture which is taught, that more weight should be given to "the country's diverse ethnic traditions and the sufferings of some immigrant groups," according the the Times. That sounds worth considering until one reads further. Columbus would no longer be a discoverer, but a voyager, as if he had merely decided to take a cruise. Thanksgiving would no longer be celebrated but rather, acknowledged as, for some groups, a day of mourning.

The report suggests that the United States is a culturally diverse country, that we share no common culture, that what is being taught in our schools is only the prerogative of white males, that it is aggressive, intolerant of nonwhite cultures and expansionist. What does it mean to be an American, Mr. President, if we have no shared culture? I think we do have a shared culture; I know it must be taught in the schools. One large part of our shared culture is our form of government; it is democracy, that pledge we take to one another that we will lay aside cultural differences when we need to in order to continue to live in a land that is free, a country that is based on the notion that all are created equal, a country with a bill of rights and a constitution designed to protect those rights, a country unique in the history of the world because of this shared ideal.

It is highly ironic, to say the least, Mr. President, that at a time when countries around the world are struggling to adopt and to better understand our history, culture, our values and our emphasis on the individual rights of human beings over those of the state, that in this country we should be turning our backs on those ideals, and disparaging that common culture and history. Mandela, Havel, and Walesa all came to address this body to celebrate those very ideals, that very culture and history. What is Mandela's struggle but for the rights of the individual over that of the state? Havel and Walesa stood before the Congress of the United States and quoted to us the words of Jefferson, the words of Lincoln. The Bill of Rights and the Constitution were, until recently, secretly passed around hand to hand on the streets of Prague and Warsaw. They were considered too dangerous because they celebrate the rights of the individual over that of the state. In our country, I fear, there are those who would like to see those documents hidden away in dusty libraries, no longer relevant.

To understand where those ideas come from and why men and women have been willing to die—not just Americans—in their cause, we must have an understanding of Western civilization. Those ideas came from a basis of shared experience and learning. The ideas are enlightened and informed by new experience and by the contributions of each new generation and each new American; but our system of government and of law is based on assumptions about the world and our place in it that come predominantly from Western culture, and to demean learning about that culture in the name of expanding our understanding is to me wrong-headed.

Dean Donald Kagan of Yale College gave an address earlier this year in which he says much more eloquently than I why it is important to keep on teaching Western culture and Western values in our schools.

> Our country is not a nation, like most others, "Nation" comes from the Latin word for birth: A nation is a group of people of common ancestry, a breed. Chinese, Frenchmen, and Swedes feel a bond that ties them to their compatriates as to a greatly extended family and provides the unity and commitment they need. But Americans do not share a common ancestry and a common blood. They and their forebears come from every corner of the earth. What they have in common and what brings them together is a system of laws and beliefs that shaped the establishment of the country, a system developed within the context of Western civilization. It should be obvious, then, that all Americans need to learn about that civilization if we are to understand our country's origins, and share in its heritage, purposes, and character.

To the charge that Western literature and history should not be given prominence in school curricula because Western civilization has a history of "slavery, imperialism, racial prejudice, addition to war, and the exclusion of women and people not of the white race from its rights and privileges," Dean Kagan responds:

> The assault on the character of Western civilization badly distorts history. Its flaws are real enough, but they are common to almost all the civilizations known on any continent at any time in human history. What is remarkable about the Western heritage and what makes it essential is the important ways in which it has departed from the common experience. More than any other it has asserted the claims of the individual against those of the State, limiting its power and creating a realm of privacy into which it cannot penetrate * * * it is the champion of representative democracy as the normal way for human beings to govern themselves, in place of the different varieties of monarchy, oligarchy and tyranny that have ruled most of the human race throughout history and rule most of the world today. It has produced the theory and practice of the separation of church from state, thereby protecting each from the other and creating a free and safe place for the individual conscience. At its core is a tolerance and respect for diversity unknown in most cultures. One of its most telling characteristics is its encouragement of criticism of itself and its ways. Only in the West can we imagine a movement to neglect the culture's own heritage in favor of another. The university itself, a specially sheltered place for such self-examination, is a Western phenomenon only partially assimilated in other cultures.

I agree with the writers of the New York report that cultural diversity should be a strength rather than a weakness, that students should learn about their personal heritage in addition to their country's heritage. We should all be able to express our opinions freely to one another and to explore them together. But I also agree with Dean Kagan, that in order to do so, "some part of our studies must be in common, and their natural subject is the experience of which our country is the heir and of which it remains an important part."

One of the great attributes of our culture is its elasticity, its inclusiveness. We have regularly embraced new groups and new ideas in a substained attempt to achieve the democratic ideal we hve set for ourselves. We must not now demean our common heritage to show respect for components of it. We must not disparage our heroes like Columbus and our holidays like Thanksgiving in order to achieve contemporary political correctness.

Dean Kagan said further:

> During the revolution that brought us independence Benjamin Franklin addressed his colleagues, different from one another in so many ways, yet dependent on one another for survival and success, using a serious pun to make his point. He told them that they must all hang together or assuredly they would all hang separately. That warning still has meaning for Americans today. As our land becomes ever more diverse the danger of separation, segregation by ethnic group, mutual suspicion and hostility increases and with it the danger to the national unity which, ironically, is essential to the qualities that attracted its many peoples to this country.

Our shared cultures, Mr. President, may be more than any other on earth, a culture based on a principle, in that it is formed from a contract, an agreement we make as Americans that we will respect one another's differences and rights to be different, that we will join hands, even in disagreement, that we will forget temporarily our own ethnic backgrounds, assumptions, views of the world, when it is necessary to come together to protect our country of individuals.

That is not an easy concept to grasp, Mr. President. And I do not believe it can be grasped without a firm understanding of the real historical events that led us to this place, the points of view and cultural assumptions, and actual experiences of the men and women who have made up Western civilization.•

THE 75TH BIRTHDAY OF LARRY HALPRIN

• Mr. HATFIELD. Mr. President, Sunday, June 30, marks an important date—the 75th anniversary of the birth of one of America's greatest landscape architects, Lawrence Halprin. An article in Smithsonian Magazine, December 1988 referred to him as "one of the preeminent place-makers" of the 20th century.

Mr. President, I ask that this article be placed in the RECORD at the conclusion of my remarks.

Expert in many things, Larry delights most in designing gardenesque spaces where people are drawn to meditate, to explore or just to relax and feel a part of nature. Having spent his early years as a city boy in Brooklyn, Larry is a great believer in the importance of man being in harmony with nature. He sees mankind as an integral part of complex ecological operations.

Larry's experiences on a kibbutz as a youngster, taught him the value of labor and the value of the community in the life of the individual. These values are reflected in his beautiful creations.

I'm proud that my State of Oregon provided the launching site for national recognition of his talents. His design of the Portland Civic Auditorium Memorial received instant attention and praise. In San Francisco, where Larry moved following his studies at Harvard's Graduate School of Design and a stint in the Navy, he has designed Sea Ranch, Ghiradelli Square, Levi Plaza, Embarcadero Plaza and other wonderful outdoor spaces.

The crowning achievement in Larry's long and illustrious career, was his being selected by the Franklin Delano Roosevelt Commission to design the memorial to the former President. The memorial will be located in Washington, DC, near the Jefferson, Lincoln, and Washington Memorials. Designed in the 1970's, construction of the memorial is about to be commenced and dedication is scheduled for 1995. Created with sensitivity and passion, the Roosevelt Memorial consists of four outdoor rooms in which water and landscaping play an important role. The events of the Roosevelt administration will be told through sculptures and quotations of the President's which will be carved on the memorial's granite wall.

At 75 years of age, Mr. Halprin is busily engaged in what he most loves, designing beautiful outdoor spaces which enable people to go several directions, to be alone, to meet others, to reflect and experience. The personality of this great artist is best reflected by his own words in describing the neighborhood in which he and his wife, Anna, live:

> A redwood house in the woods; looking at the mountain and having it look back at me; forty years of living, the footsteps and laughter of my children, the continuity of Anna, the excitiment of the city seen across the bay. I could like my neighborhood to interface between private and common, and all kinds of diversity of people, ages, heritages.

I am pleased to congratulate Larry Halprin, creator of the Franklin Delano Roosevelt Memorial on his 75th birthday, and invite my colleagues to join me in wishing him many more years of bringing nature's beauty and tranquility into the cities of America.

The article referred to earlier follows:

LAWRENCE HALPRIN: MAKER OF PLACES AND LIVING SPACES

(By Benjamin Forgey)

On a pleasant, clear afternoon, Lawrence Halprin ambulates his handiwork—Levi's Plaza, an urban park on flatlands, between abandoned warehouse along San Francisco Bay and the eastern foot of Telegraph Hill. It's a splendid, surprising place with a great boulder fountain, a paved plaza, undulating green hilllocks, a winding man-made stream, beautiful trees placed just so, and plenty of welcoming nooks.

In one of these, Halprin, comes upon a woman seated alone, in dappled shade. Rhythmic splashings of water make a soothing backdrop for her meditations. A smile lights up Halprin's deeply tanned face as he turns to his guest and says, "I plan for that."

Levi's, completed in 1982, is a late masterwork, its seemingly effortless complexity a summary of all that has gone before. Halprin, now 72, a handsome, intense man with a warm, weathered, bearded visage and fierce eyes, has a right to be proud. He's customarily described as a landscape architect, which is fine, as far as it goes. But he's also an ecologist, environmentalist, city planner, urban designer, architect, writer, theorist, artist. What it all adds up to is that he is one of the preeminent place-makers of the 20th century.

Planning and designing common spaces where human beings can meditate or move about privately or together, has been the leitmotiv of Halprin's adventurous 40 years as a professional. He has done it many times and many ways in the San Francisco Bay Area, his home since the end of World War II, and also in Seattle, Fort Worth, Minneapolis, Los Angeles and Portland, Oregon, as well as in Florence, Italy, in Jerusalem, and in other cities big and small.

The Bay Area is a textbook of Halprin's growth. From early residential gardens in the hills of Berkeley or Marin County, to booming downtown San Francisco, where he's masterminded such large, complex projects as the remaking of Market Street and created such remarkable spaces as Ghirardelli Square, Embarcadero Plaza and Levi's to the windswept coastline of Sea Ranch, an extraordinary development 100 miles north of the city, the Bay Area has been his principal laboratory for thought and action.

Like most San Franciscans, native or adopted, Halprin firmly believes the city to be America's most beautiful, and he thinks and speaks of the Bay Area as a regional ecological whole. His lifestyle mirrors this conception. Halprin's office is located in the city itself—it's a commodious, made-over warehouse in a low-rent, low-rise, transitional zone south of the downtown skyscrapers. His home is a wooded retreat in Kentfield, on the eastern flank of Mount Tamalpais north of the city, where he and his wife, Anna, an avant-garde dancer and choreographer, have raised their family. Halprin, of course, designed the pathways and the redwood dance deck, for more than 30 years the setting not only of Anna's investigations of dance but also of Halprin's own fruitful early experiments to track the ways real people move around in real spaces. Involving students, dancers and professionals in diverse fields, the experiments were encounters in which no one could anticipate the result, but through which dynamic and vital solutions to problems of public and private space were suggested.

Halprin was born in Brooklyn in 1916. His father, Samuel, was president of a scientific-instruments export firm; his mother, Rose, was a prominent figure in American Zionism. One can see budding in Halprin's early life many of the patterns that have characterized his maturity. It may not be far-fetched to see something of his mature persona—the tension-filled combination of passionate independence with an equally strong belief in close collaboration—in his high school career as a baseball player. In this team-oriented sport Halprin was a star and his position was that of pitcher, the most independent yet in-control member of the team.

Halprin's teenage experience on a kibbutz between Haifa and the Sea of Galilee directly foreshadowed his intellectual and practical involvements with communities and the commonality of public spaces. "It was utopian, idealistic and socially adventurous," he recalls enthusiastically. "I learned the idea of labor as a value there—it's not something you do when you can't do something else. And the common ownership of things communal—you could read directly from that some of what we did at Sea Ranch. Plus, we planted great acres of trees in those rocky hills at Sea Ranch," he continues. "I planted more than half a million trees there." Halprin's idealism obviously hasn't been lost, just tempered by long experience.

He was a city boy who also loved nature and the country. When college time came he chose not a city school but the Cornell University School of Agriculture in upstate Ithaca, from which he received a B.S. degree in 1959. Two years later he received a master's degree in horticulture from the University of Wisconsin. At both institutions he put together an unusual assortment of courses—botany, geology, geography, landscaping—that transcended the norms of the time. "I studied what amounted to ecology," he reflected, "but of course nobody called it that."

In his mature career Halprin became the most ecologically conscious of designers—he sees mankind as an integral part of the complex ecological operations. Perhaps more fully than that of any other major designer, Halprin's approach fits the prescription of Ian McHarg, another seminal figure in postwar landscape architecture. McHarg's important 1969 book was titled "Design with Nature," and this succinctly is what Halprin seeks to do.

As a scholarship student at Harvard's Graduate School of Design, with an outstanding group of classmates (including Philip Johnson, I. M. Pei, Edward Larrabee Barnes and Paul Rudolph) under a stellar collection of teachers (architects Walter Croplus and Marcel Breuer, designer-photographer László Moholy-Nagy and landscape architect Christopher Tunnard), Halprin added a solid grounding in architecture to this impressive base. "I'm good at a lot of things, but I'm best at designing," he has said unselfconsciously.

At Harvard he also encountered San Francisco architect William Wurster and his wife, social planner Catherine Bauer Wurster. Their friendship was to influence his decision to settle in San Francisco when he mustered out of the Navy as a lieutenant junior grade in 1945. Postwar San Francisco was an exciting place to be for a young man with his ambitions and talents. Noted landscape architect Thomas Church was there; Halprin practiced in Church's office until 1949, when he went out on his own. And there was the background of a proud, idiosyncratic regional architecture.

In the 1930s Wurster and a group of similarly talented young architects had begun to experiment in what was to become known as the "Second Bay Tradition" (following the turn-of-the-century "First Bay Tradition" of Bernard Maybeck and others). An important characteristic of this group was that it consistently conceived of the natural site as an integral part of the building art. Not a few of the expansive "outdoor rooms" attached to their residential projects, including those of his own Wurster-designed home in Kentfield, were designed by Halprin in the late 1940s and throughout the '50s.

No less important was the fact that in Berkeley a group of landscape architects and city planners had sewn the seeds of the strong regional planning movement that was to have significant positive impact on the Bay Area—helping, among other accomplishments, to save the bay itself from a disastrous amount of landfill. Their efforts were instrumental in the creation of the College of Environmental Design of the University of California, whose program of interdisciplinary breadth perfectly complemented Halprin's interests.

All of this was grist for young Halprin's mill. In addition, as his longtime friend and former associate Jim Burns points out, because of his work with Anna Halprin and her San Francisco Dancers' Workshop, "he spent a lot of time collaborating with people in areas of an art seldom encountered by most landscape architects: composers, musicians, scene and lighting designers, scriptwriters, performers, choreographers."

Halprin's professional interests and his involvement in avant-garde theory and practice continued to feed into each other, with surprising results. He conducted a series of unusual "Experiments in the Environment" at his place in Sea Ranch and elsewhere, participatory gatherings designed to uncover intuitive, collective responses to the natural and urban landscapes. Out of these experiments emerged, in the public sphere, what Halprin called "Taking Part" workshops, which were processes designed to get all elements of a community involved in helping to make decisions about its future. Such workshops helped to create a consensus behind a revived riverfront park system in Fort Worth, for example, and an invigorated Main Street in Charlottesville, Virginia.

Halprin's primary interest remained the urban park. As early as 1949, in a magazine article he had defined a garden as "a framework for activities." He invented a system he called "motation" (a word combining "movement" and "notation"), basically an alphabet of symbols indicating the principal characteristics of a given place, and the speed and direction of movement through it. On a freeway, for instance, you would have to know how many cars moved from one place to another and at what speed, the peak hours of travel, and the like. Motation can describe this. But, he adds, you would also want to imagine how esthetic and human needs, such as skyline and other views, might be met in the design. In the 1960s he refined and expanded this idea. This system enabled Halprin and colleagues not only to better record movement through the physical environment, but also to better design spaces in a way that guarantees a satisfying variety of activities. At Nicollet Mall in the heart of Minneapolis, for instance, through the use of curvilinear design, plantings, textures and stonework, Halprin has given an urban center an ambient, relaxing thoroughfare through which people obviously enjoy strolling, busy as they are.

All of Halprin's designs reflect this passion to give people as many options as possible—to go this way or that, to reverse directions, to pause, to start over, to be alone, to meet others, and to experience as many different sights, smells and sounds as the site permits.

The '60s, not coincidentally, was the decade of Halprin's emergence as an international force in urban and landscape design. In January 1960, the Lawrence Halprin firm incorporated into Lawrence Halprin & Associates, "an interdisciplinary group of planners, landscape architects, architects, ecologists, designers and photographers devoted to evolving experimental work that addresses broad issues of environmental design as well as social and political issues in regions, cities and public spaces."

For more than a decade this ambitious, high-energy crew would attract many of the best and brightest young designers from around the world. In 1962 alone, the firm began work on Sea Ranch, Ghirardelli Square and Embarcadero Plaza, and on Nicollet Mall—an amazing list. Each of these projects would have a major impact not only upon its immediate setting but also generally upon the theory and practice of "landscape architecture."

Sea Ranch became perhaps Halprin's greatest ecological design demonstration project. His master plan for clustering buildings to preserve natural contours, views and open spaces for common use was put to paper only after the most painstaking scrutiny of the terrain and climate. If today the principles ring of common sense (though they're still too often violated in practice, even at Sea Ranch in its maturing years), at the time they represented a dramatic break with customary my-home-is-my-castle (and damn everybody and everything else) building patterns.

Sea Ranch was also one of Halprin's first superscale collaborative ventures. Using a sympathetic palette of natural woods and shingle roofs, and a build-with-the-wind philosophy they had worked out together, all of the original architects—Charles Moore (SMITHSONIAN, JUNE 1984), Donlyn Lyndon, William Turnbull, Richard Whitaker and Joseph Esherick—won awards for their Sea Ranch projects. Halprin himself earned an Award of Honor from the American Institute of Architects for the Swim and Tennis Club he designed.

Ghirardelli Square was another bold break with convention and it, too, has become a famous model. Comprising a lively, sophisticated combination of older buildings (most notably a 19th-century chocolate factory) with new construction, it was the first of the major center-city success stories to pair preservation with new economic uses. Halprin's contribution may have been the most important part of the puzzle—a site plan that takes advantage of San Francisco's slopes, and a sequence of buildings, stairwells, pathways and open spaces to keep every visitor happily moving. Every visitor, that is, who is not enticed to pause awhile to enjoy the spectacle (and the tremendous views of the bay) from plentiful benches, chairs and sitting ledges.

Embarcadero Plaza, a wide, flat expanse at the edge of San Francisco's dense downtown, is the most open of Halprin's civic spaces. Conceived as a great communal gathering place, it was completed well before the giant buildings filled in behind it, and for years seemed rather too big and isolated. But it was foresightful—it's a necessary counterpoise to the scale of the new downtown and, unique in the city, it stands ready to accommodate all manner of celebratory event. "Every city deserves a space like this," he says, and he and Anna have helped to prove it by staging a number of dance celebrations there. The Embarcadero fountain, an engineering feat (designed in collaboration with artist Armand Vaillancourt), forms a bold, behemoth endpiece to the plaza.

Nearby, in green relief to the plaza's nearly treeless expanse, is Embarcadero Park, another Halprin design with a point to prove: it was molded out of leftover land underneath sweeping freeway ramps, making sculptures out of them. Even though like many San Franciscans he opposed the freeway itself, Halprin, almost alone, saw the potential of the land below it. Later, in Seattle, he performed a similar transformation with the Seattle Freeway Park, except that this time the reclamation occurred above and to the sides of the burrowed, divisive highway. "The trick," he said, "is to perceive the old freeway as a part of the cityscape and tame it, rather than complain about it."

COPING WITH THE UNIVERSALLY UNKNOWN

Nicollet Mall was another exercise in urban reclamation, one of the early major efforts (and, far and away, one of the more successful) to return a traditional, decaying center-city street to pedestrians. Besides devising an ingenious, curving, central service roadway, which gave them the opportunity to vary the width of the sidewalk and thus to create there a number of special places, Halprin and company designed all the "street furniture"—light standards, planting pots, clocks, benches, bollards, bike racks. "The office enlarged itself in response to these needs," he recalls. "We had to cope with things we didn't know anything about, and nobody else did either."

It was Lovejoy Plaza in Portland, begun in 1961, that propelled Halprin and his firm into the public consciousness in a big way. Lovejoy was a dramatic, eminently photographable, extraordinarily usable turnabout from the big, featureless plazas then afflicting American cities—a climb-on, walk-through, look-at and listen-to-me sculpted space whose visual, psychological centerpiece (typically a bit off-center) is a spiraling, cascading waterfall. If few enthusiastic visitors are aware of the motational studies by which Halprin was able to calculate the variety of activities they would enjoy there, all are able to sense the stupendous naturalness of its monumental concrete forms.

Halprin spent weeks in the High Sierra studying rock formations and the movements and sounds of water in a natural habitat (rare is the Halprin park that does not employ water in myraid ways), and vigorously recording them in his notebooks. His idea, he has often said since, is not to imitate the actual forms of nature but to emulate its processes. His success in Portland was galvanic: the Lovejoy fountain was an immediate hit and it remains the most famous image of a Halprin park to this day.

What is less known to those who have not visited the city is that Lovejoy is but a part of a larger entity called the "Portland Open Space Sequence." A block away is Pettigrove Park, as serene as Lovejoy is vivacious, with its green, shaded knolls. Three blocks along this urban sequence—the parks are surrounded by relatively non-descript modern office, apartment and parking structure—is the Ira Keller Fountain, another one of Halprin's stunning, walk-on, waterfall-fountain plazas. This tension-release-tension sequence is typical of Halprin. It also illustrates his formidable persuasiveness: the fountain, completed in 1970, was to have been a parking lot in front of a new civic auditorium until Halprin complained strenuously to the powers that be and, trump, was able to turn it into a notable civic resource.

Still later he added another important piece, the Portland Transit Mall, comprising two parallel, limited access streets 12 blocks long, in the heart of the city, each with special plantings, pavings and street furniture. To Halprin, the pedestrian-friendly links between the larger parts of the sequence are its most important aspects: "They are a progression of walkways, fountains, little places to sit, benches, plazas—I think that all cities based on this principle would become beautiful cities."

As Halprin's reputation flourished, the firm grew space; in 1973 he opened a short-lived branch office in New York. But just as his experimental temperament and intellectual interests paralleled the opening up of art forms (particularly dance) in the 1960s, so did his office reflect the decade's strains. The original members of the firm, especially Halprin, continued to make most of the basic design decisions; the younger people, resentful, demanded a more principatory organization. This seemed fair, in view of the philosophy the firm was practicing in its Taking Part workshops. But the resulting reorganization of the firm was an uneasy compromise.

In 1975 Halprin suddenly disbanded his flourishing firm to pursue full time his interests in Round House, a "studio/think tank" with an experimental bent. Not surprisely, Halprin's time away from the design studio was brief. He reopened his practice in 1978, and the new organization is a tight, familial, ten-person ship of which he unquestionably is the captain. His weathered face has taken on the look of one of his beloved, craggy outcroppings in the Sierra, an effect intensified by his manner of dress—he favors lumberjack checks, string ties, big Western belt buckles. He's relaxed, but he husbands his time intently between work, "friends all over the world" and family. (Daugher Daria has two children, Ruthanna and Jahan; daughter Rana also has two, Levanna and Micah. All are frequent visitors to the Halprins' homes.)

One of the projects Halprin undertook with Round-House (in collaboration with partner Sue Yung Li Ikeda) was a film about the proposed memorial to Franklin Delano Roosevelt in Washington, DC, which Halprin had designed in 1975 and which today remains his chief piece of unfinished business. The FDR Memorial, though smiled upon by the relevant federal agencies in the 1970s and approved by Congress in 1982, has not yet been funded.

Designed for the curving western edge of the Tidal Basin, near the monuments to Jefferson and Washington, it combines many familar Halprin themes—deployment of water as a primary element, the blending of man-made with natural features, the use of up-to-date materials and art, and a flex-and-release sequence of spaces to insure and enhance movement through space. The symbolic focal points are to be four "garden rooms" symbolic of Roosevelt's well-known Four Freedoms (speech, religion, and freedom from want and from fear).

It is, his wife Anna believes, "the most emotional" of Halprin's creations. If so, there are autobiographical reasons. "I went through the Depression with him," Halprin has said, echoing the feelings of many, "and I came out of it with him." By startling coincidence, Halprin was on picket duty aboard a destroyer off Okinawa when he learned of FDR's death. "We wept." Soon after, the ship was hit by a kamikaze plane and cut in half. Halprin was sent to San Francisco on survivor's leave.

Today Halprin is engaged with customary vigor on a variety of major design projects. Commissions underway include a master plan for an 80-acre tract of land (formerly occupied by a Fiat factory) on the outskirts of Florence; a mile-long streetscape with a centerpiece park, designed to bring an endangered form of activity—people walking pleasurably—back to downtown Los Angeles; and, closer to home, an endeavor to change people's attitude toward Alcatraz Island, so that the intrinsic beauty of the place, and not just its grim history as a maximum-security prison, will become apparent—and available—to all.

In Israel (his mother is buried in Jerusalem), Halprin has been almost continuously engaged in one project or another for three decades. ("I think, and I suspect that Larry thinks so, too, that, deeply, he is a Jerusalemite first," wrote Mayor Teddy Kollek in the book accompanying a 1986 Halprin retrospective exhibition at the San Francisco Museum of Modern Art.) His latest work there, completed last summer, is one of his more spartan, spectacular, beautiful creations.

This is the Walter and Elise Haas Promenade, a linear park that follows the sweeping line of a ridge about a mile south of the Old City, overlooking the Dome of the Rock. It is a land hallowed to Jew, Christian, Arab, Muslim. Halprin, with typical sensitivity, designed everything in it—the pathway paved with golden Jerusalem stones, a belvedere, steps, berms, niches, railings, magnificent lampstands—to let the land and the view and the sense of place speak for themselves.

In 1971, performing for himself a task he had assigned others in one of his workshops, Halprin wrote about his own neighborhood (in Kentfield) as, "A redwood house in the woods. Looking at Mount Tamalpais and having it look back at me. Twenty years of living—The footsteps and laughter of my children, the continuity of Ann. . . . The hammock swinging over the woods and then the long drive to the city. . . . The excitement of the city seen across the bay. . . ."

A rich, contented vision, up to a point. But the area is "Anglo-Saxon predominantly" and "upper-middle-class white," where there is "no echo" of his Jewishness and "very few community activities which bind us together except for our common love of the out-of-doors.

"I would like my neighborhood to be," he concluded, using first a visual symbol for interconnectedness and then the words, "interfaces. . . . Through linkages between private and common and all kinds of diversity of people—ages—heritages." It is the basic vision behind the wonderful, sophisticated spaces Lawrence Halprin has provided for us.●

COMMENDING THE 1ST INFANTRY DIVISION (MECHANIZED)

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 149, a resolution commending the 1st Infantry Division, submitted earlier today by Senators DOLE and KASSEBAUM.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 149) to commend the 1st Infantry Division (Mechanized) for their outstanding performance during Operations Desert Shield and Desert Storm.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

THE 1ST INFANTRY DIVISION

Mr. DOLE. Mr. President, on behalf of Senator KASSEBAUM and myself I offer Senate Resolution 149 commending the 1st Infantry Division (Mechanized) for their courage and sacrifice during Operations Desert Shield and Desert Storm. The "Big Red One" led the armored assault against Hussein's forces in one of the most dramatic flanking maneuvers in military history.

Throughout the campaign, from the first day of mobilization to the days following the cease-fire, the 1st Division conducted themselves in the highest traditions of the U.S. Army. All Americans can be proud in what our soldiers have accomplished and in the professional manner in which they performed what was asked of them.

I will join Senator KASSEBAUM and Army Chief of Staff General Sullivan in honoring the 1st Infantry Division this Fourth of July at Fort Riley, KS. On that day of national celebration, when Americans reflect on the devotion to duty and courage of our men and women in uniform—and when Americans celebrate our precious freedom so long cherished and defended—let them also remember the sacrifice of those who laid down their lives for its cause. May we be worthy of their sacrifice.

HONORING THE BIG RED ONE

Mrs. KASSEBAUM. Mr. President, on the Fourth of July, I will have the honor of participating in the welcome home ceremonies for the Big Red One at Fort Riley, KS. As President Bush has said, this should be one of the best Fourth of July celebrations in recent years.

The First Infantry Division at Fort Riley has a long history that gives pride not only to Kansans but all Americans. Our tribute to the Big Red One's mission in the Persian Gulf builds further on its many honors, including D-day, Korea, and Vietnam.

I am proud to join with Senator DOLE in supporting this resolution which expresses the appreciation of the Senate and the American people for the commitment, sacrifice, and success of all the members of the Big Red One and their commanding general, Thomas Rhame, in their effort in the Gulf.

The First Infantry Division had one of the toughest missions in the gulf war. The 12,000 men and women of the division from Kansas were sent to breach Iraq's defenses and were the first American unit to enter Iraq. They went up against Saddam Hussein's best forces, the elite Republican Guard, and successfully cleared a path into southern Iraq for other units.

The bravery and tenacity of the First Division was one of the essential keys to our success in the gulf war. As General Rhame has explained, the division pushed relentlessly both day and night, without giving the Iraqi soldiers a break, and defeated them resoundingly. The division's attack was unprecedented in terms of speed and distance. During their lightning strike, the First Division destroyed 388 Iraqi tanks, 400 armored personnel carriers, and took 11,400 Iraqi prisoners of war.

As a result of that great offensive action, the First Division was positioned for the historic mission of hosting the peace conference conducted by Gen. Schwarzkopf—an honor truly befitting the role they played in the war.

The price of freedom and peace never comes cheaply. As we honor the First Division on the Fourth of July, our hearts will be with those families whose loved ones made the ultimate sacrifice in the gulf war. It is their valor and the valor of the entire First Division that has contributed to making our Armed Forces and our country the symbol of freedom and democracy to millions of people around the world.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 149) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas the First Infantry Division (Mechanized) was deployed to the Persian Gulf in support of Operation Desert Shield on December 26, 1990.

Whereas over 12,000 soldiers and over 7,000 pieces of equipment were transported from Fort Riley, KS. To Saudi Arabia in less than 60 days. This deployment included a difficult equipment modernization "on the fly".

Whereas the First Infantry Division (Mechanized) arrived in Saudi Arabia trained and ready.

Whereas the First Infantry Division, under the brilliant command of Gen. Thomas G. Rhame, spearheaded the armored attack into Iraq on February 24, 1991, traveling over 260 kilometers in less than 100 hours and cut off the path of retreat for the fleeing Iraqi Army.

Whereas during the campaign, the 1st Infantry Division engaged and destroyed all or parts of 11 enemy divisions, including elements of the Republican Guard. The division captured over 11,400 Iraqi prisoners of war—twice as many as any other unit in the Kuwaiti theater of operations.

Whereas the "Big Red One" hosted the historic cease fire meeting between representatives of the allied coalition, led by General H. Norman Schwarzkopf, and the defeated Iraqi Army.

Whereas following the defeat of the Iraqi Army and the cease fire, the 1st Infantry Division continued to clear Iraqi equipment, assisted in the repatriation of Kuwaiti citizens and assisted in relief efforts following the war: Now therefore be it,

Resolved, That—

(A) The Senate commends all of the soldiers of the 1st Infantry Division for their outstanding devotion to duty, professionalism, and courage under fire throughout Operations Desert Shield and Desert Storm;

(B) The Senate commends Maj. Gen. Thomas G. Rhame, his staff, and all the commanders and leaders for their superb command, brilliant tactical employment of forces, and outstanding leadership of the "Big Red One".

Mr. SYMMS. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STATUS OF SALVADORANS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2332 regarding the status for Salvadorans.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2332) to amend the Immigration Act of 1990 to extend for 4 months the application deadline for special temporary protected status for Salvadorans.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. Is there debate?

Is there objection? Without objection, the bill deemed read a third time and passed.

So the bill (H.R. 2332) was deemed read a third time and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INTELLIGENCE AUTHORIZATION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be discharged from further consideration of S. 1325, the intelligence authorization bill, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1325) to authorize appropriations for fiscal year 1991 for intelligence activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to considered the bill.

Mr. BOREN. Mr. President, the Senate takes up today the Intelligence authorization bill for fiscal year 1991. Congress passed an earlier version of this bill last October, assured at the time that the President would sign it.

In the weeks following adjournment, however, administration lawyers discovered problems with the bill that they had not seen previously. Despite my efforts and those of Senator COHEN, who was vice chairman of the committee at the time, to assure the administration that the concerns belatedly being raised were unfounded and could be addressed if necessary in this year's bill, the President announced on November 30, 1990, that he would not sign the bill.

In his message of disapproval, he cited two principal concerns, both arising in the so-called oversight title of the bill.

The first dealt with a sentence added in conference to the definition of the term "covert action" which provided that a request to a foreign government or private citizen to undertake a covert action on behalf of the United States would itself be treated as a covert action requiring a Presidential finding and prior reporting to the Congress. The President objected to this wording because he believed it would interfere with the conduct of diplomacy. In his view, it would create uncertainty upon diplomats and could deter foreign governments from undertaking diplomatic discussions.

The second concern dealt with report language explaining what is meant by notice "in a timely fashion." As you will recall, Mr. President, under existing law, the President is required to provide prior notice of covert actions to Congress, but that when prior notice is withheld, notice must follow "in a timely fashion."

This phrase is not defined in existing law, nor is it explained in legislative history. In 1986, in the aftermath of the Iran-Contra disclosures, the Department of Justice issued a legal opinion interpreting this phrase as providing the President with "virtually unfettered discretion to choose the right moment to notify the Congress" of a covert action. In later testimony on this opinion, the justice department witness conceded that this might mean months or even years.

Needless to say, this interpretation was completely at odds with the committee's interpretation of timely notice. Indeed, such an interpretation would deprive the phrase of any meaning at all.

We took this matter up with the Bush administration in 1988, asking how the President intended to comply with the statutory timely notice requirement. In a letter to both intelligence committees, he explained his intent as follows:

> I anticipate that in almost all instances prior notice will be possible. In those rare instances where prior notice is not approved, I anticipate that notice will be provided within a new days. Any withholding beyond this period will be based upon my assertion of authority granted this office by the Constitution.

In the oversight provisions of the fiscal year 1991 Intelligence authorization bill, the timely notice formulation of current law is retained. In reenacting this phrase last year, however, we thought it important that the Justice Department's legal interpretation of this phrase as it had existed in previous law be rejected. Moreover, we sought in last year's report language to explain that in our view timely notice meant within a few days as the President had said he intended to comply with existing law. The conference report was deliberately silent on the issue of whether the Constitution might permit the President to withhold for longer periods.

In any case, the President in his veto message said he regarded the conference report language as undercutting his agreement with the committee by saying that "notice in a timely fashion" should be interpreted to mean "within a few days" without exception. According to the President's statement, this interpretation would "unconstitutionally infringe on the authority of the President and impair any administration's effective implementation of covert action programs."

This had not been our intent. Indeed, it is difficult to see how report language interpreting a statutory provision could infringe upon the constitutional authority of the President. We were only explaining what our own intent had been in enacting the statute, not to circumscribe or limit authorities granted by the Constitution.

Still, we were willing to work with the President to see if we could not arrive at an explanation of the phrase "notice in a timely fashion" that would satisfy the basis requirements of both branches.

I am pleased to report, Mr. President, that the committee has been able to arrive at compromise language with the administration on the third parties issue, and, while we do not yet have agreement on the report language on timely notice, it has been substantially revised in a good faith effort to craft reasonable language that respects the positions of both branches. I am satisfied we have accomplished all that we can in our discussions of this provision, and it is time to move the legislation. I am hopeful that the House will accept this compromise in conference, and, ultimately that the administration itself will see its way clear to accept it. This is a reasonable compromise arrived at after a long series of ardous discussions; in no way would it justify a veto of this bill.

Let me explain very briefly how we propose to resolve the administration concerns.

First, on the issue of requests to third parties, we have agreed to drop the word "requests," which was at the heart of the President's concern, but to amend the definition of covert action to clarify that any covert action which is undertaken "on behalf of the United States and under its control" will require a finding and notice to the Congress. In report language on this provision, we go on to state that we regard any situation where the United States is providing funding or other forms of significant assistance to a third party, or U.S. personnel are involved in providing direction and assistance to a third party, to undertake a covert action on behalf of the United States, we consider these situations to require prior Presidential approval and reporting to the Congress.

The administration agrees with this approach. What we were unable to agree on is whether the circumstances cited in the report language were the only circumstances where U.S. control of a third pary might constitute a covert action. The administration would, indeed, have preferred describing these circumstances as the only ones where U.S. involvement might constitute control for purposes of the definition. My personal view is that there could be circumstances other than those cited specifically in the report language where U.S. involvement might constitute control. The report language is silent on this point, however, setting forth only the circumstances where agreement was possible.

On the timely notice issue, the report language on this provision has been revised in a manner which I believe reflects comity between the branches and best serves their respective interests in this critical area. It makes clear that it is our mutual intent to return to the understandings of 1980 which underlay the timely notice formulation as initially drafted.

From the standpoint of the committee, this means rejecting the Justice Department's interpretation of existing law to give the President unfettered discretion when to notify Congress of covert actions. It also means making clear the committee's own interpretation of the statutory notice requirement.

From the standpoint of the administration, it means obtaining recognition that regardless of how the timely notice formulation might be interpreted in report language, the authority of the President to withhold notice of covert actions from the Congress ultimately depends upon the authorities granted the President by the Constitution. The President understandably does not want to be in the position of having to violate a statutory requirement—as interpreted by report language—in order to assert such constitutional powers.

We believe that the needs of both branches are accommodated by the language of the report. While we make clear that we believe it is in the mutual interest of both branches to interpret timely notice to mean within a few days, as the President himself has said he intended to implement existing law, the report makes clear that this interpretation cannot be legally binding upon the President if the Constitution does, in fact, provide authority for the President to withhold notice of covert actions for longer periods. In his letter to the committees, which I noted earlier, the President asserts that such authority exists. The committee has never accepted this assertion, but we recognize that we are in no position to resolve the constitutional issue. We cannot by statute add to or subtract from whatever powers may be granted by the Constitution. We are willing to leave the matter there.

It is also essential, Mr. President, that in considering the resolution of the two points at issue, we not lose sight of the importance of the oversight title as a whole. Title VI of the Senate bill represents a major overhaul of the legislative framework for the congressional oversight of covert actions. It is the single-most important legislative response to the deficiencies highlighted by the Iran-Contra affair. Indeed, it implements many of the recommendations made in the final report of the Iran-Contra committees.

The fact of the matter, Mr. President, is that congressional oversight of covert actions depends primarily upon directives issued by the executive branch and upon prior practice, rather than upon law. Title VI of the Senate bill seeks to change this—to establish clear and comprehensive rules to govern the approval and reporting of covert actions in a form that cannot be changed or ignored by future administrations.

Let me list a few specific examples;

Existing law—the Hughes-Ryan amendment—prohibits only CIA from using appropriated funds to carry out covert actions without a Presidential finding and reporting to the committees. The oversight title applies this restriction to all agencies.

Existing law—the Hughes-Ryan amendment and the 1980 Oversight Act—applies only to covert actions undertaken by CIA and does not include covert actions undertaken by other elements of the Government. Executive Order 12333 fills the gap by applying the requirement for a Presidential finding and reporting to the intelligence committees to all agencies. The oversight title would by law extend this requirement to any element of the Government which is used to carry out a covert action, not simply CIA.

Existing law—the Hughes-Ryan amendment and the 1980 Oversight Act—defines covert actions only as operations in foreign countries, other than activities intended solely for obtaining necessary intelligence. This would literally cover every activity that CIA—or any other agency should they be covered—undertakes that is not intelligence collection. Such an interpretation is unworkable in practice and has been largely ignored by both the committee and the executive branch since it was written. There is nothing which authoritatively says what a covert action is and what it is not. A covert action is thus whatever it has become over time. The oversight title for the first time defines and explains the term in detail in an effort to authoritatively set forth what has been current practice. It cannot cover every possibility, but it provides far more certitude than we have at present.

Existing law has no provisions which require, first, that findings be in writing; second, that findings cannot retroactively authorize covert actions; third, that findings must specify all Government entities who are participating in a covert action; fourth, or that findings must specify whether third parties will be involved in carrying out the operation. An NSC directive substantially imposes these requirements on departments and agencies, but can be waived by the President. Title VI makes each of these requirements a matter of law.

Existing law has no prohibition on utilizing covert actions to influence domestic politics, public opinion, or the media. There is such a prohibition in Executive Order 12333. The oversight title makes this prohibition a matter of law.

Existing law has no provisions requiring that significant changes in covert action programs be reported in advance to the Congress. This has been existing practice, but title VI makes it a matter of law.

Mr. President, my point is, title VI to this bill represents a significant stop forward in terms of putting into the law itself a set of clear and comprehensive rules for oversight. These measures are good government measures, designed to ensure accountability and to ensure consultation in what is perhaps the most sensitive and potentially damaging type of activity in which this country finds it must engage.

I believe the administration deserves a great deal of credit for its willingness to accept the enactment of these salutary provisions. By allowing these reform measures to move forward, the President clearly demonstrates that he share our interest in creating a system of accountability and consultation which in the end can only serve the best interests of this country.

Mr. President, I hope my colleagues on both sides of the aisle will support this legislation. From an institutional point of view, it will provide a far more effective statutory framework for the exercise of Congress' proper oversight role in the area of covert actions. But it does not hamstring the President in terms of his ability to take timely actions to protect U.S. interests. No one wants that result.

This bill is important to the committee, Mr. President, for other reasons as well.

Although fiscal year 1991 is more than half over, it is important to the committee that expenditures of funds appropriated for intelligence activities be properly authorized. Section 502 of the National Security Act of 1947, in fact, provides that no appropriated funds may be expended for intelligence activities that have not been specifically authorized. From the committee's standpoint, only the annual intelligence authorization bill serves this function.

When the bill was vetoed last November, the committee so advised the administration, and while recognizing that expenditures for intelligence activities would necessarily have to continue until a new bill could be enacted, the committee was obliged to consider them of questionable legal status. We urged the administration, in the absence of an authorization bill, to nonetheless continue to abide by the spending limits and conditions contained in the bill. The administration advised us that it would do so.

It is, therefore, important to us even at this late date to have a specific authorization of intelligence expenditures.

In conclusion, I note there are a number of significant provisions in this bill apart from those I have already mentioned. All of these are as they appeared in last year's conference report. To summarize each very briefly:

Title I of the bill authorizes appropriations for the intelligence activities of the U.S. Government, incorporating by reference the classified schedule of authorizations. While this schedule is not made public, it is available to any Member in the committee's offices.

Title II authorizes appropriations for the Intelligence Community Staff for fiscal year 1991 at $28,880,000, and authorizes 240 personnel for that organization.

Title III contains a series of six minor amendments to CIA retirement programs. The most significant of these is section 305 which corrects an inconsistency in the treatment of former CIA spouses whose benefits were terminated because of remarriage before the age of 55. Under existing law, former spouses divorced after November 15, 1982, could have their benefits restored upon dissolution of their subsequent marriage, but former spouses divorced before this date could not. Section 305 permits both groups to have their benefits restored in such circumstances.

Title IV contains five general provisions pertaining to miscellaneous topics. Section 401 provides authority to pay increases in compensation and benefits which may be subsequently authorized by law. Section 402 provides that nothing in the bill authorizes intelligence activities which are not otherwise authorized by the Constitution or laws of the United States. Section 403 addresses a particular problem that CIA has had with employees of the foreign broadcast information service who serve as translators of public broadcasts in Hong Kong. Developed in consultation with the Immigration Subcommittees in both Houses, this provision permits the DCI to use unallocated portions of his annual allocation to permit up to 100 aliens to enter the United States to take care of FBI's employees who wish to come to the United States after 1997. Section 404 provides that certain counterintelligence positions in the Department of Energy will be excepted from the competitive civil service. Section 405 directs the Director of Central Intelligence to require elements of the intelligence community to contract with U.S. firms in appropriate circumstances.

Title V contains four provisions relating to Department of Defense intelligence activities. Section 501 permits DOD components to charge CIA the same rate charged to other DOD components for airlift services. Section 502 authorize the Defense Mapping Agency to withhold maps from public disclosure under certain specified circumstances. Section 503 provides the Director of the National Security Agency to use appropriated funds to provide assistance to certain former employees who may otherwise pose a security risk. Section 504 would provide authority to the Defense Department to engage in commercial activities to provide security for intelligence activities undertaken abroad by elements of the Department of Defense, albeit under a system of close and continuing internal and congressional oversight. Section 505 provides that the Secretary of Defense shall provide access to Members of Congress to a DIA report commonly known as the Tighe report concerning intelligence on POW's/MIA's.

Title VI, of course, is the oversight title I have already discussed.

In conclusion, Mr. President, let me simply acknowledge the contributions of all of the members of the committee, as well as our very competent and dedicated staff, to the development of this legislation.

It has been truly a cooperative, bipartisan effort of which the committee and the Senate itself can be proud. I urge my colleagues to support it.

Mr. MURKOWSKI. Mr. President, I am pleased that the Senate is now ready to address the 1991 authorization bill for the intelligence community. As you know, a previous version of the bill was not signed by the President. Senator BOREN, the distinguished chairman of our committee, and I began the process of working to resolve problems associated with the President's veto when we met with General Scowcroft and Judge Webster in January. Three issues were discussed with the administration, all relating to covert action.

The first issue, raised in the President's message of disapproval last year, pertained to language added by the House of Representatives in conference to the effect that any request to a foreign government or private citizen to conduct a covert action on behalf of the United States was deemed to be a covert action subject to the restrictions and requirements of the bill. The President believed this provision was drafted vaguely, and would adversely interfere with normal diplomatic exchanges. We have made changes to address these concerns.

Another issue, involving the definition of covert action and traditional Armed Forces activities, has been resolved with the Department of Defense.

The remaining issue, involving the definition of "timely" notice of covert actions, has been the most difficult to resolve. The law requires that the President notify Congress before he undertakes a covert action program. If circumstances make prior notification impossible, then the President must notify Congress "in a timely fashion." The definition of "timely" was not nailed down in 1980, when this provision was codified. We all are aware of the unfortunate lack of timely notice of certain covert action findings during Iran-Contra. In fact, the Senate at one point passed legislation requiring that "timely" should be defined as meaning "48 hours," although this view did not prevail in conference with the House last year.

Our committee and this President share a desire to make sure that Congress be notified promptly of a covert action finding—if the President cannot notify Congress before he undertakes a covert action program. However, getting from here to there has been enormously difficult. The President clearly believes he should not be bound by a specific time constraint, given his view that the Constitution provides him with certain flexibility as Commander in Chief. On the other hand, Congress has established an oversight authority that has as a fundamental underpinning the requirement that we be kept informed of many aspects of our intelligence activities, including covert actions.

Throughout our negotiations, I have communicated a number of times with the White House, as has the chairman. As a result of these discussions, I believe that we should adopt the bill now, and move it into conference with the House. Certainly, this issue of defining timely notice will be a major item to be discussed with our House counterparts. For our part, I believe our report language sets forth our understanding of what "timely" notice means. By the same token, we clearly set forth the President's view of his constitutional authority. In fact, our report concedes that neither the Congress nor the President is able to resolve this constitutional issue.

I share the concerns of a number of persons within the administration, and indeed in Congress about this issue. Foremost among them is the concern that, as we codify procedures relating to covert actions—which has not been completely done before—our language needs to be precise. This includes our report language where we interpret what we believe we have done. If our definitional language, or our interpretative language, is not clear, then in the worst case scenario, the special counsel statute may come into play. We must not permit a special counsel in the future latching on to loose language to investigate endlessly or to prosecute unfairly those who get caught up in political, rather than real, offenses.

The President clearly believes that, as Commander in Chief, a President possesses strong authority to conduct operations—covert and otherwise—without a rigid requirement to provide notice within a particular timeframe to another branch of Government, namely Congress. While President Bush has indicated in correspondence with both the Senate and House Intelligence Committees that he will provide notice "within a few days" of instituting a covert action program—assuming he cannot provide notice in advance—he has been careful to preserve his belief that the Constitution does not mandate this result.

On balance, I believe our report language on "timely" notice is carefully crafted to meet our institutional demands, and those of the President.

Mr. President, I want to close by commending Senator BOREN, chairman of our committee, for working so diligently to maintain the covert action and other reform provisions in our 1991 bill. This session I began service as vice chairman of the committee, and it has been a pleasure to work with Senator BOREN on this important measure. He made a commitment to include reform measures in this bill, and he has resisted the expedient approach when the going got tough to simply save those reform provisions for our 1992 bill. Much of what is in this bill is a credit to DAVID BOREN's persistence.

I urge the Senate to adopt this important measure.

The PRESIDING OFFICER. Is there further debate?

AMENDMENT NO. 515

Mr. SYMMS. Mr. President, I have an amendment on behalf of Senator SMITH that I send to the desk for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS] for Mr. SMITH, proposes an amendment numbered 515.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the reported bill insert the following new section:

SEC. . FURNISHING OF INTELLIGENCE INFORMATION TO THE SENATE AND HOUSE SELECT COMMITTEES ON INTELLIGENCE.

(a) FURNISHING OF SPECIFIC INFORMATION.—In accordance with Section 501 of the National Security Act of 1947, the head of any department or agency of the United States involved in any intelligence activities which may pertain to United States military personnel listed as prisoner, missing, or unaccounted for in military actions shall furnish any information or documents in the possession, custody, or control of the department or agency, or person paid by such department or agency, whenever requested by the Senate or House Select Committee on Intelligence.

(b) ACCESS BY COMMITTEES AND MEMBERS OF CONGRESS.—In accordance with Senate Resolution 400, 94th Congress and House Resolution 658, 95th Congress, the Senate and House Select Committees on Intelligence shall, upon request and under such regulations as the committees have prescribed to protect the classification of such information, make any information described in subsection (a) available to any other committee or any other Member of Congress and appropriately cleared staff.

Mr. BOREN. Mr. President, the amendment of the Senator from New Hampshire is agreeable to the committee. It would make clear that the authority of the Intelligence Committees under existing law to have access to intelligence information applies fully to intelligence information concerning POW's/MIA's. Indeed, the committee has already written to the Secretary of Defense requesting access to such information and fully expects compliance with its request. I ask unanimous consent that a copy of this correspondence be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, June 20, 1991.
SSCI 91-2865.
HON. DICK CHENEY,
Secretary of Defense, The Pentagon, Washington, DC.

DEAR SECRETARY CHENEY: As you may know, my Senate colleagues, Jesse Helms, Bob Smith and Charles Grassley, have been extremely concerned and committed to resolving outstanding issues affecting American POW/MIAs in Southeast Asia.

It is my understanding that they have requested that intelligence documents be brought to the Senate for their review. I have been told that the Department of Defense and specifically the Defense Intelligence Agency has resisted making these documents directly available to the Senate.

I am writing to strongly urge that the documents in question be sent to the Senate to be reviewed by interested Senators and appropriately cleared staff.

As you know, the Senate Select Committee on Intelligence is currently the repository for thousands of highly classified documents. Notwithstanding the fact that the information request on POW/MIAs may be enormous, I believe that there may be ways to facilitate the requests of my colleagues, and at the same time, maintain the high security standards required. The Senate Select Committee on Intelligence is here to serve all members of the Senate, and I believe we can do so on the POW/MIA issue as well.

The POW/MIA issue is a difficult and emotional one for many Americans. I think we need to do all we can to resolve questions affecting the loved ones of so many American families. Again, I urge you to reverse the decision to deny the Senate direct access to intelligence documents. I stand ready to work with you in this regard.

Sincerely,
DAVID L. BOREN,
Chairman.

The PRESIDING OFFICER. Is there further debate on the amendment? Is there objection to the amendment?

The amendment (No. 515) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 83, H.R. 1455, the House companion, that all after the enacting clause be stricken, and the text of S. 1325, as amended, be inserted in lieu thereof, that the bill be advanced to third reading and passed and the motion to reconsider be laid upon the table; that the Senate insist upon its amendment, request a conference with the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair appoints the following conferees: From the Select Committee on Intelligence: Mr. BOREN, Mr. NUNN, Mr. HOLLINGS, Mr. BRADLEY, Mr. CRANSTON, Mr. DECONCINI, Mr. METZENBAUM, Mr. GLENN, Mr. MURKOWSKI, Mr. WARNER, Mr. D'AMATO, Mr. DANFORTH, Mr. RUDMAN, Mr. GORTON, and Mr. CHAFEE.

From the Committee on Armed Services: Mr. EXON and Mr. THURMOND.

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 1325 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration, en bloc, of Calendar Nos. 135, 136, and 137, that the committee amendments where indicated be agreed to; that the resolutions be adopted; that the preambles be agreed to; and that the amendment to the preamble be agreed to. That the motions to reconsider, en bloc, be laid upon the table; and the amendment to the title where appropriate be agreed to

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the consideration of these items appear individually in the RECORD and that any statements thereon appear at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMERGENCY HUMANITARIAN AND POLITICAL SITUATION IN SOMALIA

The resolution (S. Res. 115) expressing the sense of the Senate regarding the emergency humanitarian and political situation in Somalia, was considered, and agreed to.

The preamble was agreed to.

The resolution and the preamble are as follow:

Whereas the civil war in Somalia has devastated the nation, and the lack of food, water and other humanitarian assistance threatens the lives of thousands of Somalis in the coming months;

Whereas the conflict in Somalia, even since the fall of President Siad Barre in January 1991, continues unabated;

Whereas the emergency humanitarian crisis is a direct result of the continuing civil conflict;

Whereas the response of the international community to pleas for humanitarian relief and assistance has been inadequate;

Whereas the United Nations, in particular, has not been active in promoting and mobilizing relief efforts;

Whereas the continuing conflict in Somalia inhibits relief efforts in Somalia; Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) all parties in the Somalia conflict should put humanitarian needs above military goals and declare an immediate cease-fire to allow the delivery of relief and to serve as the basis of a lasting settlement;

(2) the President of the United States should lead world-wide humanitarian efforts in Somalia to relieve the suffering;

(3) the President should assist the efforts of private voluntary organizations, including the International Committee of the Red Cross and Doctors Without Borders, in their humanitarian efforts in Somalia;

(4) the United Nations should make the humanitarian crisis in Somalia an item of high priority, working to coordinate and accelerate relief efforts;

(5) neighboring states should actively support and facilitate relief efforts through and from their territory; and be it further

Resolved, That—

(6) the President should actively explore possible United States initiatives to reconcile the conflicting factions and should encourage and support efforts by outside mediators;

(7) the Secretary-General of the United Nations and the President of the Organization of African Unity should work to resolve the conflict.

CONGRATULATIONS TO THE TOWNS OF DERBY AND ANSONIA, CT

The resolution (S. Res. 125) to extend congratulations to the towns of Derby and Ansonia, CT, on the occasion of the bicentennial of the appointment of David Humphreys as the United States first ambassador, was considered and agreed to.

The preamble was agreed to.

The resolution and the preamble are as follows:

Whereas on February 21, 1791, the Senate gave advice and consent to the nomination of David Humphreys as Minister Resident from the United States to her most faithful Majesty and Queen of Portugal;

Whereas David Humphreys was a Connecticut son, decorated patriot and close friend of George Washington;

Whereas this appointment served as the opening chapter of United States diplomacy (Minister Resident being the direct precursor of Ambassador), and more specifically, of the United States' longstanding and honored relationship with Portugal;

Whereas Mr. Humphreys was presented at the Court of Lisbon as the Minister Resident to Portugal on May 22, 1791; and

Whereas the citizens of the towns of Derby and Ansonia, which once comprised Mr. Humphreys' town of Old Derby, take special pride in their native son, and are celebrating this important bicentennial: Now, therefore, be it

Resolved, That the Senate extends congratulations to the towns of Derby and Ansonia, Connecticut, on the occasion of the bicentennial of the appointment of David Humphreys as the United States' first Ambassador.

ENCOURAGING A BAN ON DRIFTNETS FOR ALL EUROPEAN COMMUNITY FISHING FLEETS

The Senate proceeded to consider the resolution (S. Res. 144) to encourage the European Commission to vote to ban driftnets for all European Community fishing fleets on July 8, and for other purposes, which had been reported from the Committee on Foreign Relations with amendments.

Whereas the Convention for the Prohibition of Fishing with Long Driftnets in the

South Pacific, also known as the Wellington Convention, prohibits the use of a net or combination of nets longer than 2.5 kilometers in length which drifts on or in the water;

Whereas the United States domestic law prohibits the use of large-scale driftnets, which are defined as a gillnet or series of gillnets that have a total length of 1.5 miles (2.5 kilometers) or more;

Whereas United Nations Resolution 44/225 specifically calls for immediate cessation of expansion of large-scale driftnet fishing on the high seas;

Whereas the European Community cosponsored United Nations Resolution 45/197, which reaffirms United Nations Resolution 44/225;

Whereas the damage caused by the use of large-scale driftnets (2.5 kilometers or longer) on the high seas can be crippling to efforts to conserve fisheries within the exclusive economic zones of coastal States;

Whereas there are currently no effective conservation and management measures that will make large-scale driftnet fishing an acceptable fishing technology;

Whereas votes in the European Community and other regional fora to ban large-scale driftnet fishing are critical to the global effort to accomplish that goal;

Whereas the expansion of large-scale driftnet fishing by certain European Community fishing fleets on the high seas is in direct contravention of United Nations Resolutions 44/225 and 45/197; and

Whereas approval of the Fishery Council of the European Community's proposal to ban large-scale driftnets (2.5 kilometers or longer), which is scheduled to be voted on July 8, is critical to the success of the global fight to ban large-scale driftnets, and is therefore of extreme importance to the United States Government: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Secretary of State, in cooperation with the Congress and other Federal agencies with competence over large-scale driftnet fishing, should communicate to members of the European Community the support of the United States to obtain an immediate ban on the use of all large-scale high seas driftnets or a combination of driftnets of 2.5 kilometers or longer by European Community fishing fleets.

The title was amended so as to read: "A resolution to encourage the European Community to vote to ban driftnets for all European Community fishing fleets on July 8 and for other purposes".

Mr. KERRY. Mr. President, I commend the adoption today of Senate Resolution 144, a resolution urging the European Commission at its upcoming meeting on July 8 to vote to ban the use of large-scale driftnets of 2.5 kilometers or longer by the European Community's fishing fleet.

Driftnet fishing is one of the most egregious fishery practices plaguing our seas. Entire marine ecosystems are being thrown out of balance because of the selfish, short-sighted fishing exploits of a handful of nations. At a time when many countries are attempting to halt this destruction in the North and South Pacific oceans, a new generation of driftnet vessels is showing up in the Atlantic and Indian Oceans. In the past, driftnetting was attributable to the greed of the South Koreans, Taiwanese and Japanese which far outweighed any conservation ethic. Today other fishing nations such as France, Britain and Ireland have decided they were missing out on a golden fishing opportunity and are expanding driftnet fishing into the Atlantic. The number of vessels deploying driftnets in the European Exclusive Economic Zone has increased from 16 in 1988 to 37 in 1989. Last year two Irish vessels and four vessels from the United Kingdom joined the fleet, and we can anticipate more in the future unless they are stopped.

Two years ago the United Nations passed resolution 44/225 which Senator STEVENS and I helped develop. This resolution specifically calls for the immediate cessation of the expansion of driftnet fishing on the high seas. The European Community, including France, Ireland and Great Britain, was supportive of the resolution and in fact cosponsored U.N. Resolution 45/197 which reaffirmed the need for U.N. Resolution 44/225.

Mr. President, for France, Great Britain and Ireland to suddenly expand their driftnet fleets, flies in the face of this U.N. resolution.

France and Britain argue that they are not violating the U.N. General Assembly resolution on driftnet fishing because in their view, the driftnets they use are not large scale. Mr. President, this could not be further from the truth. Officially these vessels use nets ranging from 2.5 to 7 kilometers in length. In my view that is certainly large scale, but, more importantly, under U.S. law, a large scale driftnet is defined as a gillnet or series of gillnets that has a total length of 1.5 miles which is approximately equal to 2.5 kilometers. And furthermore, under the Wellington Convention the use of drifnets or combinations of nets longer than 2.5 kilometers is prohibited. So for these European nations to contend that their nets are not large scale is basically absurd.

This assertion only serves to reinforce the notion that we need a global convention with uniform definitions specifying that using nets longer than 2.5 kilometers or 1.5 miles is unlawful.

On July 8 the European Commission Fisheries Council of Ministers will meet to vote on a resolution banning the use of high seas driftnets by all members of the European Community fishing fleet. It is my hope that the EC will adopt such a ban. An EC ban will strengthen the global effort to eradicate driftnets worldwide. And the resolution that we are introducing today seeks to send a message to the European Community that Congress feels very strongly about this issue.

In the past, driftnets fishing occurred in the North and South Pacific. These curtains of death have literally been strip mining our areas. The Wellington Convention has sought to eradicate driftnets beginning in the South Pacific and similar efforts are being made in the North Pacific. The reason for this is simple. During the fishing season today, more than 1,000 driftnet vessels from Japan, Korea, and Taiwan are deploying over 30,000 miles of nets each night in the North Pacific, totaling more than 1 million miles each year.

In the end, I am afraid this flagrant abuse to our fish stocks is going to remedy itself, because if the world continues along this wasteful course eventually there will be no fish left to catch. Scientists estimate that the oceans can only supply 100 million tons of fish a year. The world's fishermen already take over 85 million tons and continue to increase their harvests. The need for overall international fisheries management could not be more important than it is today.

Driftnets are indiscriminate, ensnaring thousands of dolphins, whales and sea lions and other marine mammals as well as killing hundreds of thousands of sea birds and nontargeted fish. Thirty to 50 percent of the catch is lost when the nets are hauled in, and one third of the fish brought aboard the vessel has no commercial value. This is a fundamental pirating of our seas.

The world's fishing nations have been irresponsible in permitting this wasteful and destructive fishing practice to continue. We must develop a world ethic to restore and manage valuable ocean resources and promote their sustainable harvest. Nations spanning the globe must regard our oceans as one single ocean resource for all to share. That means sharing in the responsibility to conserve this resource, by enforcing fishing treaties and international efforts.

Mr. President, this resolution is designed to convey to the European Community our strong belief that driftnets must be banned worldwide and I thank my colleagues for their support in this effort.

The amendments were agreed to.

The resolution, as amended, was agreed to.

The amendments to the preamble were agreed to.

The preamble, as amended, was agreed to.

The resolution, as amended, and the preamble, as amended, are as follows:

S. RES. 144

Whereas the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, also known as the Wellington Convention, prohibits the use of a net or combination of nets longer than 2.5 kilometers in length which drifts on or in the water;

Whereas the United States domestic law prohibits the use of large-scale driftnets, which are defined as a gillnet or series of gillnets that have a total length of 1.5 miles (2.5 kilometers) or more;

Whereas United Nations Resolution 44/ 225 specifically calls for immediate cessation of expansion of large-scale driftnet fishing on the high seas;

Whereas the European Community cosponsored United Nations Resolution 45/ 197, which reaffirms United Nations Resolution 44/225;

Whereas the damage caused by the use of large-scale driftnets (2.5 kilometers or longer) on the high seas can be crippling to efforts to conserve fisheries within the exclusive economic zones of coastal States;

Whereas there are currently no effective conservation and management measures that will make large-scale driftnet fishing an acceptable fishing technology;

Whereas votes in the European Community and other regional fora to ban large-scale driftnet fishing are critical to the global effort to accomplish that goal;

Whereas the expansion of large-scale driftnet fishing by certain European Community fishing fleets on the high seas is in direct contravention of United Nations Resolutions 44/225 and 45/197; and

Whereas approval of the Fishery Council of the European Community's proposal to ban large-scale driftnets (2.5 kilometers or longer), which is scheduled to be voted on July 8, is critical to the success of the global fight to ban large-scale driftnets, and is therefore of extreme importance to the United States Government: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Secretary of State, in cooperation with the Congress and other Federal agencies with competence over large-scale driftnet fishing, should communicate to members of the European Community the support of the United States to obtain an immediate ban on the use of all large-scale high seas driftnets or a combination of driftnets of 2.5 kilometers or longer by European Community fishing fleets.

Amend the title so as to read: "To encourage the European Community to vote to ban driftnets for all European Community fishing fleets on July 8 and for other purposes.".

MEASURE PLACED ON CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that H.R. 2280, the veterans health care amendments, just received from the House, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

MONTREAL PROTOCOLS RATIFICATION INQUIRY TO AMERICAN LAW DIVISION ON SEPARATION OF POWERS CONCERNS

Mr. MITCHELL. Mr. President, last month the Republican leader inquired about the possibility of scheduling the Montreal Protocols for action by the Senate. I indicated that I would take the request under consideration and respond to him at an appropriate time in the near future.

I wish to do so today to indicate some concerns of importance to the Senate which I believe need to be considered.

The Montreal Protocols involve international liability standards for international aviation. Both proponents and opponents of ratification seem to agree that the current standards under the 1920 Warsaw Convention and 1955 Hague Convention, as well as the interim 1975 Montreal Agreement for the United States, are inadequate. The difference is over whether the Warsaw Convention should be renounced and the United States therefore should seek a new system, or whether the protocols should be ratified as an overall, albeit perhaps imperfect improvement of the status quo.

In 1983, the Senate withheld consent to ratification of the protocols by a vote of 50 to 42, which lacked the constitutional two-thirds majority. What is different about the issue today is the supplemental compensation plan [SCP] that also is proposed as a condition of ratification.

As currently proposed, the SCP would be implemented under existing authority of the Department of Transportation. However, there is concern as to whether statutory authorization of a supplemental compensation plan should be required—in part because the Montreal Protocols reflect fundamental issues of American tort law and the SCP itself is unprecedented.

This concern raises questions about the Senate's institutional powers, which do not necessarily involve the merits of the Montreal Protocols themselves, but which I believe need to be carefully examined before the Senate makes a decision on whether or not to consent to ratification. On June 24, 1991, I wrote to the Chief of the American Law Division of the Congressional Research Service asking for legal analysis of these questions.

Mr. President, I ask unanimous consent that a copy of the letter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MITCHELL. I have asked for a detailed and careful, but also expeditious examination of this institutional area of concern. I will not make any decision with regard to the protocols until I have had an opportunity to review a response from the American Law Division.

I do want to state that I have had some very good, productive discussions on the merits of the protocols with Secretary of Transportation Sam Skinner and both proponents and opponents of ratification.

In recent weeks, Secretary Skinner and others have been helpful to me in providing detailed responses to my inquiries about the protocols. Separate from the inquiry I have made to the American Law Division, I believe that the information they have provided should be considered carefully by all Members of the Senate.

I ask unanimous consent that copies of selected correspondence be printed in the RECORD in sequence at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. MITCHELL. The Montreal Protocols involve balancing a number of complex issues. I would ask all my colleagues to give them very careful consideration.

EXHIBIT NO. 1

U.S. SENATE,
OFFICE OF THE MAJORITY LEADER,
Washington, DC, June 24, 1991.
Mr. RICHARD C. EHLKE,
Chief, American Law Division, Congressional Research Service, Washington, DC.

DEAR MR. EHLKE: The Montreal Aviation Protocols currently are pending on the Senate calendar. As part of my review of the Protocols in anticipation of a scheduling decision, I am concerned about the legal authority for the supplemental compensation plan (SCP) upon which the proposed ratification of the Protocols would be conditioned.

I have reviewed the January 25th memorandum from the American Law Division contained in Appendix III of the Senate Foreign Relations Committee Report (Exec. Rept. 102-1) which discusses the existing authority of the Department of Transportation to implement the SCP without additional legislation by Congress. However, I am concerned less with whether Congressional legislation is necessary as with whether statutory authorization might be appropriate or advisable under the circumstances.

The Protocols reflect fundamental issues of American tort law, and the Department of Transportation has acknowledged that the proposed SCP is unprecedented. There may be advantages of flexibility in relying on administrative authority for the SCP; however, because ratification would be conditioned upon its implementation, I also am concerned about implications for the institutional separation of powers that might occur if the Senate relies on the Executive Branch to fashion the SCP's specific provisions.

I would be interested in any observations or analysis which you might offer relative to these concerns. I also request opinions on the following specific questions:

1. What precedents exist for the Senate giving consent to ratification of treaties and protocols in which ratification is conditioned on additional agency actions? How is the proposed ratification of the Montreal Protocols similar or different?

2. If the Senate consents to ratification of the Protocols as currently proposed and the Department of Transportation implements the SCP under its existing authority, causing the Protocols to become effective—would Congress retain the power to statutorily authorize (and perhaps amend) the SCP at any later time?

3. If the Senate consents to ratification of the Protocols and the Department of Transportation implements the SCP, causing the Protocols to become effective—would the Senate have an ability at any later time to seek to renounce the Protocols and/or the original Warsaw Convention?

4. Under the proposed resolution of ratification (Exec. Rept. 102-1, p. 20), "the President shall give notice of denunciation of these Protocols if, at any time after their entry into force for the United States, he determines that a satisfactory supplemental plan as periodically reviewed by the Secretary of Transportation in light of new economic or other relevant circumstances, is not in operation for the United States." In light of this provision, what would be the effect of any invalidation of the SCP by a court of law or an abandonment of the SCP

by the Executive Branch at some future date? Could an obligation of denunciation be enforced judicially and who might have standing to do so?

I ask for your careful and detailed, but also expeditious attention to these concerns. Please contact Bob Carolla of my staff at 224-5344 if any additional information is required. Thank you for your assistance.

Sincerely,

GEORGE J. MITCHELL.

EXHIBIT 2

MONTREAL PROTOCOLS STATEMENT (AS INDICATED IN TEXT)

Insert 1:

June 24th letter to American Law Division

Insert 2:

a. March 21st letter from Secretary of Transportation.

b. April 24th letter with comments from Association of Trial Lawyers of America (ATA).

c. May 14th memorandum from aviation trial lawyers Michael Olin and Aaron Podhurst.

d. May 20th letter from counsels to International Air Transportation Association (IOTA) and Air Transport Association of America (ATA).

e. June 5th memorandum from Assistant General Counsel for International Law, Department of Transportation.

THE SECRETARY OF TRANSPORTATION,
Washington, DC, March 21, 1991.
Hon. GEORGE J. MITCHELL,
Majority Leader,
U.S. Senate,
Washington, DC.

DEAR MR. MAJORITY LEADER: Thank you for your letter of February 28, requesting answers to several questions concerning the Senate ratification of the Montreal (Warsaw) Protocols, and the proposed Supplemental Compensation Plan. Our responses to your questions are enclosed.

Please let me know if we can be of any further assistance.

With best regards.

Sincerely,

SAMUEL K. SKINNER.

RESPONSES TO QUESTIONS

1. Question: The Montreal Protocols establish a strict liability system for international air carriers. As you know, the Congress has to date refused to ratify the liability regime established under the Oil Spill Protocols because of their preemption of Federal and State laws and their insulation of potentially responsible parties from liability. How are the Montreal Protocols similar or different?

Response: Although both sets of protocols are based on strict but limited liability, the Montreal Protocols differ from the Oil Spill Protocols in a number of important respects.

The debate over the Oil Spill Protocols was not about the efficacy of our domestic legal system in dealing with oil spills within U.S. waters (although the identity, availability, and financial responsibility of the spiller remain major concerns), but rather about whether the application of domestic law would, by imposing unacceptable financial risks on tanker operators, impede the delivery of oil to our shores. Alternatively, the financial exposure associated with the application of domestic law might lead to an intentional fragmentation of the tanker industry into a great many one-ship companies each of which would be incapable of satisfying claims arising as the result of a spill.

The Montreal Protocols, on the other hand, are designed to remedy acknowledged limits on the ability of our domestic legal system even to entertain cases arising as the result of international air mishaps. That is, while the oil spills of primary concern to Americans are those that occur within U.S. waters, and therefore within the jurisdiction of our domestic legal system, international aviation accidents affecting U.S. citizens can occur in the jurisdiction of any country in the world. The law that may be applied in many cases would not be U.S. law. Access to U.S. courts may also be questionable.

APPLICATION OF FOREIGN LAWS

U.S. citizens may fare very badly under foreign laws, particularly if forced to bring an action in foreign courts. Even if the United States were no longer a party to the Warsaw Convention, the Warsaw limits of $10,000-$20,000 might nevertheless be applied to a U.S. citizen who traveled on a foreign air carrier between two foreign points. Even where a U.S. court asserts jurisdiction and applies U.S. law, the expense, difficulty, and time associated with the required litigation would detract substantially from the real value of any ultimate recovery.

2. Question: What precedents exist for the proposed supplemental compensation fund? Why should statutory authorization be unnecessary?

Response:

PRECEDENT FOR MANDATED INSURANCE REQUIREMENTS

There is no specific precedent for the Supplemental Compensation Plan—a system for ensuring unlimited recovery of damages by U.S. citizens regardless of the circumstances surrounding an international aviation accident. On the other hand, there is substantial precedent for the essential elements of the Plan—for the collection of passenger surcharges, and for requiring participation in a carrier agreement affecting passenger liability.

Surcharges to cover specific airline costs are not a new concept. When the hijacking threat required new FAA standards of security, the Civil Aeronautics Board specified and approved a maximum passenger surcharge to cover these added costs. See, CAB Order 74-9-82. The Department of Transportation also recently approved a surcharge to cover the increased cost of insurance resulting from Iraq hostilities in the Persian Gulf (Order 90-9-44), as well as surcharges to offset substantial fuel cost increases (Orders 90-9-43, 90-9-44, 90-12-21, and 90-12-56). Moreover, the Civil Aeronautics Board frequently permitted special costs for operations to be reflected in higher charges under airline tariffs. See, e.g., increased fuel costs, Orders 73-3-63, 74-3-63, 74-7-141.

In 1966, the Civil Aeronautics Board was instrumental in bringing about an agreement among all of the airlines, U.S. and foreign, that fly between the U.S. and foreign points. That accord—the so-called "Montreal Agreement"—waives the Warsaw liability limits up to $75,000, and accepts strict liability. The Department currently requires that all U.S. and foreign air carriers be parties to that Agreement (14 CFR Part 203).

DOT STATUTORY AUTHORITY

The Department of Justice and the Congressional Research Service have both confirmed that the Department of Transportation (DOT) has ample existing statutory authority to implement the proposed Supplemental Compensation Plan (SCP). It may do so through an approval (and or conditioning) of the Air Carrier Agreement providing for the Plan, by review of subsequently filed tariffs implementing the provisions of the Agreement, and by adoption of regulations requiring all air carriers and foreign air carriers to participate in the Plan. See, Exec. Rept. 102-1, Senate Foreign Relations Committee, 102d Cong., 1st Sess., February 5, 1991, App. III, pp. 69-73.

It should be noted that the adoption of the existing Montreal Agreement in 1966 under this same basic statutory scheme has never been challenged. The Montreal Agreement, which effectively raised the limit of carrier liability to $75,000 and adopted a regime of strict liability, was proposed by carriers and approved by the Civil Aeronautics Board, the predecessor of the DOT. CAB Order E-23680 (May 13, 1966), 31 Fed. Reg. 7302 (May 19, 1966). Participation in that Agreement was made mandatory for all U.S. carriers and foreign air carriers by regulation. 14 CFR Part 203.

3. Question: The supplemental compensation plan will be required to provide for compensation not less than $500 million per aircraft per incident. In effect, however, this amount may serve as a limit on the total compensation available under the plan. Although the $500 million may be periodically increased, can increases be applied on an *ex post facto* basis to any particular incident?

Response: There has never been an accident in which total recoveries attributable to the passengers on board a single aircraft have approached $500 million.[1] The figure is included in the Plan only to create an "insurable risk", an element that enables the insurance industry to gauge its maximum exposure for the purposes of establishing costs. The figure applies to each aircraft in a given incident, which means that in a collision of two aircraft, the maximum available would be $1 billion. Thus, it would not operate, as a practical matter, as a limitation on individual recoveries.

The Plan would not permit a higher cap to be applied retroactively. On the other hand, the Plan provides that the per occurrence amount should be "not less than" $500 million. The figure may well be higher from the outset. Should it appear in the administrative proceeding through which DOT will review and grant final approval to the Plan that this amount could potentially limit the recoveries of individual passengers, we will require that the figure be increased. Moreover, we will monitor the operation of the Plan and will be in a position to require increases at any time, should rising recovery levels warrant.

4. Question: The supplemental compensation plan is to be funded through a $2-$3 surcharge on airline passenger tickets. Will this surcharge be applied to all passengers on all airline flights? What increases in the surcharge might be expected over time?

Response: The passenger plan surcharge would be collected only from passengers—U.S. and non-U.S. citizens—whose journey originates in the United States. Thus, no surcharge would be collected for a passenger departing the United States on a return segment of a round trip ticket, regardless of nationality. (The initial origin and ultimate destination of a journey would be determined from the passenger ticket.) While no surcharge would be collected from a U.S. citizen whose journey originates from a point outside the United States, whether the destination is in the U.S. or in another foreign country, the U.S. citizen would still receive the benefits of the Plan. In other words, there is no link, for U.S. citizens, between the collection of the surcharge and receipt of the benefits of the Plan.

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[1] The highest recovery we are aware of to date was $400 million in the Japan Air Lines Mount Fuji crash, involving approximately 500 passengers on a single aircraft. The highest per aircraft total of recoveries for a U.S. carrier was about $200 million. It should be noted, in this connection, that a portion of the passengers on any international flight would be non-U.S. citizens whose journeys did not originate in the United States. Those non-U.S. citizens would not be covered by the Plan, and hence their recoveriers would not come out of the Supplemental Compensation Plan (*i.e.*, would ot be charged against the $500 million).

While it is not possible to predict with accuracy whether the surcharge amount would increase or decrease, the progressive improvement in the carriers' safety record has kept U.S. airline insurance costs relatively low, and can be expected to result in a diminution in the surcharge over time.

There are several points which may be kept in mind in considering insurance costs:

The contract will be entered into only after a wide competitive solicitation from the insurance industry to assure that the lowest costs available will apply.

The initial and any change in the costs of the Plan will be reviewed by the Department before taking effect. If there should be any significant difference between an increase in the Plan's costs and the cost of insurance generally available to U.S. carriers, the Department would require a thorough justification, and would disapprove or condition the Plan if such justification were not satisfactory.

Over the long term, the Department would require a reasonable relationship between the payout under the Plan and the surcharges collected.

5. Question: Is it possible to shift the cost of funding the supplemental compensation plan from passengers to airlines or other sources?

Response: Under any system of liability covered by insurance, whether established under the Protocols and Supplemental Compensation Plan, or under insurance secured by the airline on its own behalf, the passenger ultimately bears the costs. Even domestically, where the Warsaw Convention does not apply, airlines are required to be insured by Part 205 of the Department's Regulations (14 CFR Part 205). The costs of this insurance are paid for by the passenger through the price of the airline ticket in the same manner as any other costs of the airline in providing air transportation services. Section 3.2 of the Plan requires that the surcharge "shall be a part of the advertised ticket price." As such, there is no real distinction between insurance costs normally included as part of the ticket price and a surcharge which is "a part of the advertised ticket price."

6. Question: Under the Portocols, how will airline accountability for aviation safety be ensured?

Response: The Federal Aviation Administration's regulation of the safety and security of airlines has resulted in a consistently impressive safety record, and one which has improved steadily over the years. Moreover, the U.S. is the recognized leader in establishing a very high worldwide level of aviation safety through its work in the International Civil Aviation Organization. Foreign carriers must adhere to ICAO standards in order to operate to the United States.

The consequences to an airline of any relaxation of safety-related measures are extremely severe. Deviation from FAA safety requirements puts the airline's right to do business in jeopardy. Further, airlines can expect to suffer substantial revenue losses following an accident. Concern about these consequences far exceeds any incentive arising from liability exposure.

As noted in the 1991 Senate Foreign Relations Committee Report, studies by the General Accounting Office, Rand and Clemson University confirm that increased liability exposure does not have an appreciable impact on airline safety. First, all airlines carry insurance against liability exposure at levels far above the Protocol limitations. Further, parties other than the airline would remain liable under the common law negligence liability system. Thus, to the extent that complex aviation litigation is considered to serve a useful function in disclosing safety breaches, litigation pursuant to the third party subrogation rights of the Supplemental Plan Contractor would fulfill that function.

7. Question: In our discussion, reference was made to increased travel by Americans on foreign carriers as part of our international economy, and the fact that those travelers may lack legal protection. How many Americans are estimated to travel abroad on foreign carriers? How many foreign carriers—or which carriers in which countries—might not be subject to U.S. legal jurisdiction?

Response: The point that I was trying to make is not tied to historic figures on how many U.S. citizens travel on foreign airlines. Rather, it is that as U.S. business becomes increasingly international (and it must if we are to remain competitive), more and more U.S. citizens will be travelling abroad on journeys that do not begin or end in the United States. Regardless of whether they are flying on U.S. or foreign airlines, these people will likely be beyond the reach of the U.S. legal system, either in terms of U.S. court jurisdiction over the carrier, or in terms of a foreign country's law being applied to their case in a U.S. or foreign court. To leave our citizens unprotected in these circumstances is, in our view, unconscionable.

We do not have figures on Americans traveling on foreign carriers between two foreign points. For travel to and from the U.S., however, Immigration and Naturalization Service Data show that of the 38.6 million U.S. citizen passengers flying abroad (excluding Canada) for the 12-month period ended September 30, 1990, 16.6 million U.S. citizens, or 42.9 percent, traveled on foreign air carriers. For the five calendar years 1985 through 1989, an annual average of 32.7 million U.S. citizens traveled abroad (excluding Canada), of which an annual average of 14.8 million, or 45.3 percent, traveled on foreign carriers. For such trips, of course—to and from the U.S.—both U.S. and foreign carriers are subject to the same legal regime.

8. Question: What will be the consequences if the Senate rejects the Protocols? What alternatives exist to the existing Warsaw Convention?

Response: If the Senate rejects the Protocols, the United States would certainly have to consider denunciation of the Warsaw Convention. Continuation of the current $75,000 limit applicable for journeys to and from the United States is clearly unacceptable for any substantial period of time. Renegotiation of the Protocols would be such a time consuming process, with the outcome so uncertain, that it is unlikely to be a practical solution.

Adoption of a new Montreal Agreement type arrangement (thereby increasing the liability limit for trips to and from the U.S. to a level higher than $75,000), while perhaps possible, would leave the $10,000-$20,000 limits applicable to most journeys between foreign points, and would not be likely to provide for unlimited liability as provided under the Protocols and Supplemental Compensation Plan.

If we did denounce the Convention, U.S. citizens in some cases would be able to establish jurisdiction in U.S. courts and have access to damages without limitation, which would depend on their ability to provide fault. (There might be no fault, however, in cases involving, for example, terrorist acts or acts of war.) But such cases, even if ultimately successful, would be subject to extensive litigation concerning proof of fault, and extremely complex litigation over the application of conflicts of laws principles.

For a U.S. citizen traveling between two foreign points on a foreign airline, the application of U.S. law which would provide for unlimited liability would be questionable, and access to U.S. courts might be very difficult where travel was on a foreign airline not operating to the U.S. If we denounced the Warsaw Convention, foreign airlines not operating to the U.S. might well revise their interline arrangements to avoid an agency relationship which would subject them to U.S. law. Some foreign governments might go so far as to adopt laws to protect their airlines from the unlimited liability exposure in the U.S.

THE ASSOCIATION OF
TRIAL LAWYERS OF AMERICA
Washington, DC, April 24, 1991.

Hon. GEORGE J. MITCHELL,
Senate Russell Office Building, Washington, DC.

DEAR MR. MAJORITY LEADER: Thank you for sharing with us Secretary of Transportation Skinner's response to your letter of February 28 and for giving us an opportunity to comment on that response. ATLA deeply appreciates your interest in our views and, as always, we want to be of maximum assistance to your office and to the Senate as it renews its consideration of the Montreal Protocols.

There are a number of issues raised by Secretary Skinner that command our attention; we hope that this letter will fully respond to those issues. Frankly, however, it would be difficult to comment seriatim on the full response of the Secretary to each of the eight questions posed by your February correspondence. Matters relating, for example, to issues such as the Oil Spill Protocols or the number of Americans estimated to travel abroad or the airlines' and the Administration's expectations regarding future increases in the passenger surcharge are either outside the area of our primary expertise or call for judgments that might be presumptuous on our part. Still, we hope these comments will contribute constructively to a better understanding of the debate.

I.

Beginning with the Secretary's response to your first question, without commenting on the Oil Spill Protocols, we are struck by the contention that the Montreal Protocols "are designed to remedy acknowledged limits on the ability of our domestic legal system even to entertain cases arising as a result of international air mishaps." Our domestic legal system is not the issue. The law of liability in international air transportation is governed by an existing international treaty presently in force, the Warsaw Convention. The limits intended to be remedied by the Montreal Protocols are the liability limits imposed by that Convention, not by domestic law.

The Warsaw Convention, ratified by the Senate in 1929, formulated a system of liability limits designed to protect the then infant airline industry. The liability of a commercial carrier for a disaster in international aviation was limited to $10,000 per passenger, an amount subsequently increased to $75,000 per passenger by an inter-carrier agreement when the United States threatened to renounce the Convention in 1966. Although the $75,000 limitation is presently in force, under the existing Convention an airline is liable for provable damages—without limitation—upon proof of willful misconduct. There would be no such liability under the Protocols. The Senate can assess the Protocols, then, only in the context of the Warsaw Convention; the Secretary cannot pretend the issue is the domestic civil justice system.

Is it a good idea to perpetuate an outdated, sixty-year-old treaty or would ratifying the Protocols, as Senators Biden and Simon have concluded, "cement in place a defective system and worsen it by eliminating any opportunity for fault based litigation?"

II.

Secretary Skinner's response to your second question, regarding the necessity of statutory authorization for the proposed Supplemental Compensation Plan, is also of concern and seems to raise as many questions as it resolves. The Secretary himself acknowledges "(t)here is no specific precedent for the * * * Plan." Frankly, we are not entirely comfortable with the view that there presently exists clear and ample statutory authority for the Department of Transportation to implement the proposed Plan. Although we are aware that the Justice Department has concluded that such authority exists, a case can be made that reliance on Section 412 of the 1978 Airline Deregulation Act, without more, as a basis for that authority, is a questionable interpretation of Congress' intent. Still, even if Secretary Skinner is correct, even if there in fact exists an adequate existing delegation which would allow D.O.T. to implement the Plan without additional authority, we do not believe it would be prudent for the Senate to permit that result. The issue must not be solely: Is statutory authorization necessary; it also must be: Is statutory authorization wise and prudent and in the best interests of the American travelling public.

Given the limitation on the rights of American citizens that would be imposed by ratification of the Montreal Protocols, and given the recognized and admitted insufficiency of the compensation provided under the Protocols, there is now universal agreement (including by the Secretary of Transportation) that the Protocols should not become operative—even if agreed to by the Senate—unless a Supplemental Compensation Plan is in place and in force. To ensure the implementation of a satisfactory plan and to guarantee that it continues to provide sufficient levels of compensation, mere reliance on the good faith and good will of the commerical airline industry is not enough. Nor is that an acceptable exercise of the Senate's responsibility to the American flying public. As an alternative, the Senate cannot comfortably delegate to the Secretary of Transportation and to the President its own authority in this matter to safeguard the best interests of American passengers—especially at a time when the Senate is being asked to ratify a treaty that restricts passenger rights. Instead it should insist that as a condition for depositing the instruments of ratification, a Supplemental Compensation Plan must first be statutorily enacted.

The Secretary's responses to other of your questions further underscores our concern. In responding to question four, Secretary Skinner makes clear his understanding that the passenger surcharge envisoned by the Plan may increase from time to time and that "it is not possible to predict with accuracy" the future cost of the Plan to the travelling public. Perhaps more troubling even than the lack of any assurance regarding the cost of the Plan is the absence in the Plan of any guarantee as to its continued level of covered damages. It cannot be enough for the Secretary of Transportation, the President and the airlines simply to say: "Trust us." The Resolution of ratification itself would permit the Secretary of Transportation to review the Supplemental Plan at any time "in light of new economic or other relevant circumstances."

We find it instructive also that in responding to question three, the Secretary makes the point that even the 500 million dollar per aircraft per incident limitation may be increased by the Department if it concludes that in the future such an increase is warranted. Why should the Senate remove itself from that determination?

III.

Finally, we are left with the haunting question posed in number six—that is, the relation between the Protocols and an airline's accountability for aviation safety. It is the question itself, really more so than the particulars of any response, including Secretary Skinner's, that must profoundly engage the Senate. The history of civil litigation (as well as common sense) informs us that it simply is not credible to suggest that exposure to liability has no impact on product safety, or in this case on airline safety. And make no mistake: above what even the Secretary concludes is insufficient compensation of $130,000 per passenger, the Montreal Protocols would provide an absolute and unbreakable limitation on an air carrier's liability—an exemption, really—from responsibility no matter how gross its misconduct.

The notion that people and institutions are individually accountable and responsible for their behavior and for the harm they cause is not only a bulwark principle of our jurisprudence, it is a hallmark of our free society. The Protocols, however, would relieve the airlines of responsibility and at the same time impose upon the flying public the cost of funding that special relief. At best, the Senate should think long and hard before bringing about that result. Or, it may be as Senators Biden and Simon have already concluded: "There is no justification for limited liability of airlines in this day and age."

Again, Mr. Majority Leader, thank you for your many courtesies and for the opportunity to express our views. We look forward to working with you and with your office in whatever manner you feel would be helpful.

Sincerely yours,

MICHAEL MAHER.

MAY 14, 1991.

MEMORANDUM

To: Senator George Mitchell, Attention: Robert Carolla.

From: Michael Olin/Aaron Podhurst.

Re: Montreal Protocols with Proposed Supplemental Compensation Plan.

The current Warsaw Convention/Montreal Agreement framework within which personal injury and wrongful death claims arising out of international air transportation are resolved is antiquated, inadequate, and frankly, unconscionable. The existing framework provides absolute liability up to $75,000.00 for any "accident".[1] Any claimant who desires to recover more than $75,000.00 must prove that the carrier was guilty of "willful misconduct." As is obvious, in most carrier crashes the passengers are killed and the $75,000.00 limit is ridiculously low. Even if the air carrier's misfeasance has caused the crash, liability is limited to $75,000.00, unless the passenger can leap the higher hurdle of "willful misconduct."

The current impetus for change, then, is occasioned in large part because the current Warsaw framework is so bad. But frankly, U.S. renunciation of the Warsaw Convention/Montreal Agreement, as occurred in 1965 (when the limit of liability was even lower) is preferable to the instant proposal. Although such renunciation would still leave gaps in the ability of American citizens to recover against foreign air carriers in certain circumstances, those circumstances are fairly limited, and are not within the purview of the current framework anyway.[2]

For example, the claims of American citizens living overseas injured or killed in a crash between two foreign countries are not now governed by the Montreal Agreement. The proposal under consideration would provide first party insurance for such claims. But the benefits of including this new type of claim in the first party insurance pool may be illusory anyway, given the fact that foreign substantive law is likely to apply to such claims under section 2.5 of the proposal (more on this later), and that such law is probably not as equitable as American wrongful death provisions. In other words, the carrot of expanding the scope of covered claims is really a mirage, and should not be viewed as an incentive to enact a poorly drafted scheme of compensation for the vast majority of claims which arise out of traditional Warsaw Convention/Montreal Agreement circumstances where there was a scheduled departure, stop, or arrival in the United States. Even with all of the Warsaw Convention's pitfalls, most victims are ultimately able to obtain reasonable recoveries. So while the best scenario may be to renounce Warsaw, the worst is to adopt this proposal. The middle ground is to defeat the proposal, and live with the status quo.

The current proposal essentially provides a form of first-party insurance to travelers in international or foreign air transportation. Opposition to this proposal arises from the fundamental notion that people should be individually responsible for harm that they cause. In other words, tortfeasors should be accountable and responsible for their actions. This notion forms the bulwark of America's tort system, and passage of the proposal under consideration simply eliminates it. The proposal provides for absolute liability on an air carrier up to $130,000.00 for any "accident," whether it is the carrier's fault or not, and then shifts responsibility for any excess damages suffered by passengers to the passengers themselves, who are required to buy insurance at fixed rates but with uncertain benefits.

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[1] "Accident" was defined in AIR FRANCE versus SAKS, 470 U.S. 392 (1985) to mean any "unexpected or unusual event or happening that is external to the passenger." It has been held to include injuries in the course of hijack attempts, and arguably would include even one passenger spilling soup on another.

[2] The current framework is, of course, the Warsaw Convention of 1929 (adhered to by the U.S. in 1934) with the added benefits of the Article 22 (1) authorized Montreal Agreement of 1966. The proposal under consideration requires, as a condition precedent to adoption of the Supplemental Compensation Plan, that the U.S. ratify Montreal Protocol 3, written in 1975. This protocol includes provisions from the 1955 Hague Protocol and 1971 Guatemala City Protocol, which heretofore have not been adopted by the U.S. Adopting Montreal Protocol 3 now raises the $75,000 limit to $130,000, and incorporates section 35A (referenced in the preamble to the Supplemental Compensation Plan) into the existing framework. Section 35A precludes the airlines from paying for the additional insurance mandated by the Supplemental Compensation Plan.

For Congress to approve a no-fault plan on the basis that the injured shall pay for their own damages caused by a wrongdoer breaches every fundamental concept of American jurisprudence. Such a proposal violates all of the primary and paradigmatic concepts of the American tort system. Allowing such a notion to pass here would be but the first brick in the wall. Next, no doubt, will be attempts to expand the concept to all domestic travel,[3] then to other areas of law like products liability, medical malpractice, etc. This is simply another attempt to expand the notion of "no fault," which should not be countenanced simply because the existing Warsaw system is so bad.[4] Indeed, to favor this proposal, or accept it voluntarily, is to enhance the possibility of the destruction of the tort system.

With that background in mind, what follows are specific comments on the individual sections of the Supplemental Compensation Plan.

Section 1. Definitions:

Subsection 1.5.

This section defines a carrier as "any entity that undertakes directly to carry persons as a common carrier for compensation or hire." This should be read in its general sense, not its specific sense. In other words, the question is not whether on a particular flight the carrier has received compensation, but whether the carrier generally receives compensation. What if, for example, a carrier offers a free promotional flight or a sweepstakes flight, and the winner is injured? Such a person should be covered under the Plan, which requires that this definition be read "generally."

Subsection 1.11.

This section expands the scope of claims covered beyond those presently governed by the Warsaw Convention/Montreal Agreement because it also covers cases arising in foreign air transportation. See page 2, supra. It does not provide for punitive damages, and "appears" to provide for all compensatory damages, both economic and non-economic. This apparently "enhanced" damage provision, however, is somewhat illusory, as will be discussed later.

Subsection 1.12.

As previously mentioned, coverage is broader in some respects than under existing law. However, this definition would not cover non-U.S. citizens who are visiting the United States. In other words, a British citizen who is killed on either a London-New York, or New York-London flight is not a "covered person," and would be left to his existing remedy under the current Warsaw Convention/Montreal Agreement. This means that in the Lockerbie cases, for example, all U.S. citizens would be covered under the plan, but all British citizens who were beginning their trip would not, and that there cases against the carriers would be filed and would proceed under the provisions of the existing Warsaw Convention/Montreal Agreement.

Section 2.1 Liability of Contractor.

Under this provision, the contractor is liable for "an event." This apparently refers to §2.3 (c) which states that the contractor is not liable unless an action can be sustained by the claimant against the carrier under the Convention. And as previously noted, the convention requires an "accident."

The $500,000,000.00 minimum limitation is quite troubling for reasons discussed later.

Sub-section (b) of Section 2.1 is also troubling. It provides that the liability of the contractor shall not be affected by the insolvency of the carrier. But how, for example, does this provision relate to a Chapter 11 Bankruptcy filing and the stay provisions of the Bankruptcy Act? In other words, if the liability of the contractor is contingent upon the carrier's tender of the first $130,000,00, and the carrier files Chapter 11 proceedings resulting in an automatic stay, won't actions against the contractor be unnecessarily delayed? The plan does not provide for a means of addressing potential delay from a Bankruptcy filing. As experiences in the Lockerbie cases indicate, even the existence of $750,000,000.00 in insurance has not enabled the claimants to obtain complete relief from the Bankruptcy stay, at least not yet. Indeed, existence of the bankruptcy proceeding has allowed Pan Am to misuse the Bankruptcy Act for purposes unrelated to protecting the bankruptcy estate. Thus, while this provision provides that the liability of the contractor shall not be affected by the insolvency of the carrier, the procedural impediments that such a bankruptcy filing throws in the way of moving the claims forward are significant.

Section 2.2. Conditions.

The very specific provisions requiring claimants to cooperate with an insurance carrier provide a source of great difficulty. This one is only the first of several such provisions found in the plan. Experience teaches that where insurance policies require this level of cooperation, it essentially gives the insurance carrier carte blanche to make whatever demands it wants, even unreasonable demands, on claimants before the insurer is obligated to do anything. The more provisions in an insurance policy that talk about these types of conditions precedent, the more likely a Court will find that a claimant, either inadvertently or from lack of ability, did not comply. Indeed, what happens if a Court rules that a claimant has not complied with these conditions? Is the claimant's claim barred in its entirety? Can the claimant still proceed against the carrier? This type of provision is an invitation to the insurance company to delay resolution of claims and abuse claimants.

Sub-section (b) provides that the contractor is not liable unless the carrier would be responsible under the terms of the existing Warsaw Convention/Montreal Agreement. As we know, however, current law provides that the carrier's fault or not. This, of course, at least challenges the assertion made by some that the carrier's continued responsibility for the first portion of the damages provides a sufficient incentive to the carrier to be careful and safety conscious. If the carrier is absolutely liable, whether it is the carrier's fault or not, the carrier's "safety consciousness" will be governed by factors other than its liability for the first $130,000. Abolition of the Warsaw Convention/Montreal Agreement, however, *will* provide true accountability under American tort law, as could an Article 22(1) agreement as referenced in footnote 4.

Sub-section (c) seems overly broad. It provides that the claimant shall assign to the contractor any recovery or right of recovery for covered damages from any other potentially liable party. The way that this is phrased, it could be construed to include other first-party insurance benefits that the claimant might have, such as life insurance, health insurance, or disability insurance. It ought to be made clear that the type of recovery rights that are to be assigned are those that the claimant has *in tort*. In other words, if a claimant is wise enough to have other first-party insurance benefits available to him, the contractor should not be able to assume those rights.

Section 2.3. Limitations.

Sub-section (a) provides that no claimant shall have the right to contest the contractor's evaluation of a claim made by any other claimant. In the usual case, this is not a problem. What happens, however, if the total claims exceed $500,000,000? In that instance, every claimant has an interest in what every other claimant might get, and indeed the plan provides for a declaratory action in the District Courts for the District of Columbia, to determine this allocation. This appears to be an internal inconsistency.

Sub-section (d) of Section 2.2 raises the question of the appropriate statute of limitations in "foreign air transportation." Traditional Warsaw Convention/Montreal Agreement claims are subject to a two year statute of limitations. But what about a U.S. citizen traveling from France to Yugoslavia, i.e. "foreign air transportation" as defined by the plan? Do we know what that statute of limitations is? Do we want to provide that claims arising in "foreign air transportation" are governed by the two-year statute of limitations under the Warsaw Convention?

Section 2.4. Exclusions.

This memo will make no attempt to address the policy arguments for and against the allowance of punitive damages. The authors believe that they serve a salutary purpose, borne out by history and recently affirmed by the Supreme Court. Space does not allow repetition of that discussion here. The Second Circuit and the Eleventh Circuit have now concluded that the Warsaw Convention does not allow punitive damages. This is not, however, to say that that will become the law of the land, particularly in light of the last two Supreme Court cases on punitive damages holding that neither the 8th Amendment nor the due process clause serve as an impediment to such awards. Note that the abolition of punitive damages here extends beyond Warsaw Convention cases because the proposal itself, as previously noted, extends beyond Warsaw Convention claims, and indeed, may encompass claims where punitive damages *are* now available.

Subsection (b) of Section 2.4 is a disaster. This provision eliminates any possibility of a bad faith claim against the contractor. In other words, the contractor is free to act in bad faith in handling the claim, in delaying the claim, in failing to settle the claim, and its only responsibility will ultimately be to pay the claim. Because the attorneys' fee provision found later in the proposal is illusory (there is no real liability or potential liability for attorneys' fees) and the plan does not provide for pre-judgment interest, the contractor will have no real incentive to settle early. This means, in effect, that there will be no early settlements unless the contractor can get one cheaply i.e., for far less than the claim is worth. Addition of a provision requiring payment of prejudgment interest or imposing a duty of good faith (like Fla. Stat. §624.155, copy attached) would ensure that the contractor has an appropriate incentive to promptly and fairly settle all claims.

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[3] The domestic carriers will no doubt decry, "why should we be penalized for flying domestically? We have to pay for our own insurance and assume our own risks, and international carriers are allowed to shift this risk to the passengers themselves. Our balance sheet simply cannot afford it!"

[4] Please note in passing that there is no good reason why the carriers cannot pay directly for this insurance. As noted above in footnote 2, if the Montreal Protocols are not adopted, there is no reason why the carriers can't be required to buy the additional liability insurance needed to fund a Supplemental Compensation Plan. Such a requirement could be imposed under the same provision that authorized the 1966 Montreal Agreement—the Article 22 (1) special contract clause. This scenario would leave the carriers absolutely liable up to $75,000 for any "accident," but liable for any excess on the basis of traditional fault notions. This alternate scenario is but one of many that could be devised to provide equitable and fair relief to the victims of international air travel accidents.

Section 2.5. Choice of Law.

This is one of the most interesting provisions of the plan. First, query what the phrase "to the extent consistent with the Convention in this Plan" adds to the section. The section appears to read the same without that phrase.

Second, this section belies the assertion that the plan provides for unlimited economic and non-economic damages, because it appears to refer to ordinary choice of law provisions currently utilized in actions brought under the Warsaw Convention/Montreal Agreement. This means, for example, that in those cases arising in foreign air transportation (such as a claim arising out of an accident on a flight from Paris to Luxembourg), ordinary choice of law rules will govern the damage remedies. In other words, the claimant will probably end up with the application of foreign law anyway. This is why the provisions previously noted about unlimited liability for economic and non-economic losses are, to some extent, illusory. What, for example, if French law provides caps on damages or, like some foreign countries, caps and limitations that are unrealistic when applied to U.S. citizens? This is particularly true in Central and South American countries where damage caps can be as low as a few thousand dollars. Nothing in this choice of law provision allows the claimant to avoid the application of such unreasonable limits to his case. The proposal merely removes the "artificial" $75,000 (raised to $130,000) cap, but still refers for substantive damage purposes to local law. Some local law, like Florida's in some cases, may be acceptable; some local law may not.

This provision also does not appear to address the issue of whether the Warsaw Convention creates its own damage law. We now know that most Courts are holding that the Warsaw Convention does create an independent cause of action. Indeed, some Courts have held that that cause of action is exclusive. Will there be a burgeoning federal law of damages in Warsaw Convention cases like there is in admirality? And if so, how does that fit into the puzzle? Will that federal law of damages be limited to economic loss? It could! There is a real risk that this provision will ultimately result in limiting recoveries to less than would otherwise be available if the United States were simply to renounce the convention, either because of the elimination of punitive damages, or because of a burgeoning federal law of damages which might be limited to economic losses only, or some other variation of the two. Perhaps the plan should refer to the law of the U.S. domicile of the citizen injured as the governing substantive law of damages? Or perhaps the plan should spell out the elements of damage recoverable irrespective of local law? There are serious issues raised by this provision, and the "selling point" of unlimited liability for economic and non-economic damages used by proponents of the proposal is imaginary.

Note also that the cost of this first-party insurance will apparently be the same for all passengers, whether they are children, single adults, bread winners, parents, etc., and that, unlike most first-party insurance where one pays a specific amount for a particular amount of coverage, this insurance has no such guarantee. Some claimants might pay the same amount for what ultimately becomes a small recovery, and others will make a large recovery? Is this an appropriate way to spread the risk?

Section 4.4. Notice and Information to Contractor.

Sub-section (a) provides that the carrier shall notify the contractor of any claim for personal injury or death "filed." Does this imply that there is no duty of notification until a lawsuit is filed? Why shouldn't the duty of notification arise upon the making of a claim? There is a risk that the word "filed" is or will be read as a term of art, implying a lawsuit.

Section 4.5. Claim Evaluation and Assistance.

Under this provision, the contractor must reimburse the carrier, its insurers or agents for the cost of the carrier's assistance to the contractor. Ultimately, the cost of this will be included in premium calculations applicable to the passengers. Currently, the carriers are contractually obliged to cooperate with their insurers, and the carriers have to bear the cost of that cooperation. Why should the cost of this shift to the passengers?

Section 5.1. Notice to Claimants.

The potential form of these notices is troubling. Recalling the famous (at least in aviation circles) "Alpert letter" sent to the victims of the Pan Am crash in Kenner, Louisiana, reveals that this section could be subject to abuse. Such notices may include such advice as "you don't need a lawyer to make this claim," "we will treat you fairly," etc. This needs to be looked at carefully.

Section 5.3. Settlement Inducement.

Like section 2.2, this allows the contractor to determine what it wants and requires the claimant to jump through as many hoops as it would like in order to trigger any obligation on the carrier's part. There simply is no reason to believe that insurance companies will act fairly or reasonably in the processing of claims, especially in the absence of a prejudgment interest or bad faith provision. Indeed, this language is slanted in favor of the insurance company. First, it requires that the claimant file a Proof of Claim in the form and detail specified by the contractor, and then goes on to provide that the contractor can ask for additional information. What additional information can there be if the claimant has already provided the claim "in the form and detail specified by the contractor?"

The attorney's fee provision is meaningless and deceptive. Even if the claimant complies with all the contractor's requests, there is no responsibility for attorneys' fees if the contractor makes an offer of two-thirds of the economic damages ultimately awarded. What about those claims where non-economic awards are allowed? A claimant in Florida might have a million dollar intangible loss, but only a $50,000 economic loss, and the carrier avoids responsibility for attorney's fees by making a $34,000 offer! If an attorney's fee provision is designed to prompt reasonable and timely settlement offers, it at least ought to have some teeth. These provisions allow the carrier to abuse the claimants with constant requests for information and then, after they have been abused, provide them with low-ball offers that take the contractor off the hook for attorneys' fees. Finally, if the claimant has not already done so, and after months of delay, the claimant will hire a lawyer. And in conjunction with Section 2.4(b), there is no liability for bad faith, or prejudgment interest. In other words, there is no real incentive for the contractor to settle early on a reasonable basis.

Section 5.4. Medical Benefits.

What about funeral bills?

Section 5.5. Consolidation of Claims.

This is a very dangerous provision. First the Proofs of Claim will almost always exceed $500,000,000. Just like Federal Tort Claims are submitted at high numbers, these Proofs of Claim will no doubt be submitted at high numbers. There simply is no downside to a high submission, and every downside to a low one. Indeed, the provisions of Section 5.3(b)(2) appears to require a high number. The Proof of Claim, of course, does not address the contractor's true exposure for damages; it merely preserves a claimant's options. Once the contractor adds all the Proofs up, each claimant automatically submits to the jurisdiction of the District Court in the District of Columbia. Who is going to pay for all of the claimants' lawyers to not only prosecute their damage claims, but to defend their rights in the allocation proceeding in the District Court? Finally, if the $500,000,000 is insufficient, why shouldn't the claimant be entitled to pursue third parties who might be liable to that claimant, instead of the claimant being required to assign those rights to the contractor? The liability limits should be established at a level that there is no possibility of the need for an allocation procedure.

Section 5.6. Recovery from Third Parties.

Under this proposal, the claimant has assigned all rights to the contractor to pursue third parties. What does it mean to say that the contractor shall use its "best efforts" to recover those damages? Does this inure to the benefit of the claimants? How does this relate to the limitation of liability lawsuit in the District of Columbia that will inevitably be filed under Section 5.5? Doesn't this provision foster litigation? What if the contractor is able to resolve all of the claims for under $500,000,000.00, and decides, for whatever reason, not to pursue third-party actions. Is it required to do so? Does this affect premiums?

Section 5.8. Consent to Jurisdiction.

Does this mean that as to claims filed against the contractor, there will be no multi-district litigation under 28 USC §1407? If it is intended to mean that, the provision should say so. This language does not. As previously noted, foreign nationals will still have the right to bring suit under the Warsaw Convention/Montreal Agreement. The Lockerbie crash makes that clear, because a number of claims by British citizens are pending in Florida's state and federal courts.

Does this provision affect removal rights? Will the contractor be permitted to remove claims filed against it in state court to federal court? The consent provided here ought to be a little more clear so that the plaintiffs' choice of forum will be meaningful. Query whether the contractor ought to have the right to remove cases from state court to federal court merely to have a damage trial. The federal courts are busy enough. Query also whether, by contract, the parties can waive the judicial forum non-convenients doctrine.

Section 6.1. Proof of Claim and Settlement.

Here we have yet another description of the burden on the claimant. At least, for the first time, this section mentions "reasonable" information requests. As previously noted, what happens if the claimant doesn't comply? Is the claim barred? Does the claim revert to one against the carrier? Can the claimant file suit before six months? The proposal doesn't say. The claimant probably ought not to be precluded from filing suit while the contractor is processing his claim.[5]

Anyone who does tort work knows that the potential for abuse under sub-paragraph (c) is high. According to this provision, the contractor can have multiple examinations whenever the contractor wants them.

Section 6.2. Action Against Contractor.

This relates to questions noted previously. It clearly implies (without directly saying) that no action can be brought unless there is "no settlement." We cannot know whether there will be a settlement until the contractor makes an offer. And the contractor won't make an offer until the claimant provides all the information the contractor requires. It needs to be clear that the claimant can file suit at any time.

Section 6.3. Claim Disposition.

This again raises the issue of what happens if there has been an apportionment proceeding in the District of Columbia. If there has been, and the claimant receives less than his full damages because of that, why should the claimant assign his rights of recovery to the contractor when the claimant has not been fully compensated?

Sub-paragraph (e), as also noted previously, should operate as a release of all those liable to the claimant *in tort*. There should not be any question about whether this applies to first party benefits that the claimant otherwise has available.

Section 6.5. Consent to Jurisdiction.

Please refer back to comments on the proceedings in the District of Columbia, particularly as to who pays for the claimant's lawyer.

Section 7.2. Criteria for Contractor.

What happens if, despite all attempts to be careful, the contractor becomes insolvent? Do the claims revert against the carrier? Are the claimants' claims delayed until the contractor's insolvency is concluded? Who is responsible? There are a host of problems that can occur here, and simply saying that a "solvent" insurer will be selected as contractor doesn't answer the question. No one would have believed ten years ago that some of the insurance companies in financial trouble today *would* be in trouble today.

Section 8.3. Governing Law and Interpretation.

Delaware is a very "corporation friendly" state. What implications does this have?

MISCELLANEOUS

1. Can this type of proposal effectively confer subject-matter jurisdiction on courts that may not otherwise have it?[6]

2. To what extent will regulation of the cost of this insurance be effective?

MAY 20, 1991.

Re Comments on Supplemental Compensation Plan.

Senator GEORGE MITCHELL, Majority Leader,
U.S. Senate, Washington, DC.

DEAR SENATOR MITCHELL: By memorandum dated May 14, 1991, Michael Olin and Aaron Podhurst, members of a prominent firm of aviation trial lawyers, have offered extensive comments on the draft Supplemental Compensation Plan that will accompany Montreal Protocol No. 3. The text of the Resolution of Ratification now before the United States Senate requires the operation of a satisfactory Plan as a condition of ratification of, and continued adherence to, the Warsaw Convention as amended by the Protocol.

The draft Plan was submitted to the Senate by Secretary Skinner on February 1, 1991. The Plan was drafted by the airline associations in consultation with the Departments of Justice, Transportation and State, airline insurers, plaintiff's lawyers and the families of the victims of past airline tragedies. As Secretary Skinner specifically noted, however, the Plan is subject to the approval of the Department of Transportation in a public proceeding, where necessary and appropriate changes will be made to enhance the consumer protections provided under the Plan.

It is in this context that we welcome comments, such as the Olin & Podhurst memorandum, that suggest improvements to the Supplemental Compensation Plan. These comments are addressed in the enclosed analysis. Nevertheless, one comment deserves special attention because it is suggested that the current choice of law rule in the Plan makes its expanded protections for U.S. citizens a "mirage", since it could lead to the application of foreign law to limit an American's wrongful death recovery.

The draft plan originally submitted to the Senate by then Secretary Burnley on June 24, 1988, contained specific choice of law rules that invoked the law where the ticket was purchased, or if not purchased in the United States, the state of the passenger's permanent residence, or if neither a fallback state. Thus, the application of foreign law was expressly prohibited by that draft. In the process of rewriting the Burnley plan to expand the Plan's coverage, we received comments from trial lawyers to the effect that the Plan should not specify choice of law rules different than those applicable to the carrier. This would allow attorneys to continue to rely upon jurisdictions with favorable choice of law rules in wrongful death cases. Since any action under the Plan would be for damages only, in most cases the law of the decedent's domicile would govern in a wrongful death action. That was the rule in New York under the doctrine of *Kilberg* v. *Northeast Airlines, Inc.* decided in 1961. However, in January, 1991, the Court of Appeals for the Second Circuit set aside the *Kilberg* doctrine, applying Chinese law to limit the recovery of two Americans killed in an airline crash in China. *Barkanic* v. *CAAC*, 923 F.2d 957 (2d Cir. 1991). We have received several comments suggesting that this decision requires reconsideration of the Plan's choice of law rules to preclude the application of foreign law. We have already notified attorneys of the Department of Transportation that such a change would be appropriate. It was never the intent of the drafters of the Plan or anyone else we have consulted—including the Departments of Transportation and Justice—that foreign law should be applied to claims made under the Plan.

Our prinicipal difference with the Olin & Podhurst memorandum, of course, is its characterization of the effects of ratification of Montreal Protocol No. 3, and its suggestion that a continuation of the status quo is appropriate. The available evidence shows that most victims are *not* ultimately able to obtain reasonable recoveries on a timely basis under the current Warsaw Convention. The recent GAO study of Montreal Protocol No. 3 properly cites RAND Corporation data showing that the average compensation for economic losses in accidents governed by the current treaty are substantially less than that received in cases involving Americans killed in domestic aviation. Further, Warsaw cases can take over ten years to litigate, thereby depriving claimants of timely compensation. The KAL 007 cases have been in litigation for almost eight years and those families have not received any compensation. Many of those families have learned from experience that compensation delayed in this manner is compensation effectively denied.

The purpose of Montreal Protocol No. 3 is not to protect airlines from responsibility for their conduct, no more than the workmen's compensation laws are designed to protect employers from their own practices. This treaty was negotiated by the U.S. Government to ensure that U.S. citizens who are passengers in international air transportation are compensated for personal injury and death, no matter what the cause may be, in an otherwise uncertain international legal environment. The limitation the carrier's absolute liability to its passengers established by Montreal Protocol No. 3 was at the highest level the United States Government could negotiate with the world aviation community. It was one of the many reasons why the United States insisted upon the right set forth in Article 35A to establish a supplemental compensation system such as the one now accompanying Montreal Protocol No. 3. Moreover, airlines will continue to be held accountable for their safety practices by the travelling public, by government oversight and regulation, by the press, and in many cases by litigation for personal injury and property damage brought by persons other than the airline's own passengers.

Our preliminary analysis of some of the specific comments raised in the Olin & Podhurst memorandum is enclosed. Many of the comments involve what the authors believe are ambiguities in its drafting. It is almost impossible to draft a document of this kind that is entirely devoid of any perceived ambiguities. Therefore, section 8.3 of the draft Plan provides that "Any ambiguities arising under the Agreement shall be construed in favor of providing adequate and timely compensation for death or personal injury of passengers covered by this Agreement."

Thank you for providing us the opportunity to address these important issues. We assure you that all suggestions will be considered carefully before the draft Plan is submitted to the Department of Transportation, for formal public comment and approval. In that context, the Secretary of Transportation will ultimately determine the final improvements to the Supplemental Compensation Plan.

Sincerely,

Warren L. Dean, Dyer, Ellis, Joseph & Mills, Counsel to the International Air Transportation Association; James E. Landry, Senior Vice President and

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[5] Another question. If the carrier contests its responsibility for the first $130,000.00, will there be one lawsuit or two? Will the claimant have to sue the carrier first and get an excess judgment? Will that excess judgment bind the contractor? Does the claimant sue both the carrier and the contractor in the same lawsuit? If so, does the carrier consent to jurisdiction in the same forum that the contractor does?

[6] For example, in an allocation proceeding brought by the contractor in the District Courts for the District of Columbia, what if there is no diversity between the contractor and the plaintiff? The claim arises under this contract, and it is far from clear to me that that gives rise to federal question jurisdiction. So how does that claim get into court?

General Counsel Air Transport Association of American.

SECTION 1. DEFINITIONS

SECTION 1.5

It is suggested that the definition of carrier should be read generally, so as not exclude passengers flying on the free or promotional air transportation. Free or reduced rate transportation is specifically covered by the Plan.

SECTION 1.11

It is suggested that the expanded protection for the U.S citizens and permanent resident travelling between foreign points is illusory, because of the potential application of foreign law. Foreign law will not be applied to determine recoverable damages under the Plan.

SECTION 1.12

It is suggested that British citizens visiting New York would be governed by the existing Warsaw Convention, not by Protocol No. 3 and the Supplemental Compensation Plan. The United Kingdom has already ratified Montreal Protocol No. 3. The British citizen (assuming his or her ticket was not purchased in the U.S.) would be governed by Montreal Protocol No. 3 and whatever supplemental system is established by the British Government. If the ticket is purchased here, the U.S. Supplemental Compensation plan would apply.

SECTION 2.1. LIABILITY OF CONTRACTOR

It is suggested that the liability of the Contractor for any "event" differs from the liability of the airline for an "accident" under the Convention. Montreal Protocol No. 3 replaces "accident" with "event" to establish clearly that the treaty covers acts of terrorism.

It is further suggested that an automatic stay in an airline bankruptcy might affect the responsibilities of the Contractor under the Plan. The Plan specifically provides to the contrary, and the Plan should be unaffected by the procedures of filing under the Bankruptcy Act. If additional clarification of this point is deemed necessary, it will be added.

SECTION 2.2. CONDITIONS

It is suggested that the provisions requiring a passenger to cooperate with the Contractor are conditions of the Contractor's liability under the Plan, and that abuses will inevitably result from this. Cooperation with the Contractor, however, is a condition of the expedited dispute resolution procedures only, not of the Contractor's liability.

It is further suggested that the Plan provides that the Contractor is not liable unless the carrier would be responsible for an "accident" under the terms of the "existing Warsaw Convention/Montreal Agreement." The Plan supplements the Convention as amended by Montreal Protocol No. 3, which provide liability for any "event" causing death or personal injury. The "existing Warsaw Convention/Montreal Agreement" will no longer apply.

It is suggested that subsection (c) is overly broad in that it could be interpreted to require the assignment of the claimant's own first party insurance such as life or health insurance. It is extremely doubtful that this provision would be so construed, and it is certainly not intended to require such an assignment. Nevertheless, if clarification of the intent of this provision is necessary, language to that effect can be added.

SECTION 2.3. LIMITATIONS

It is suggested that the overall limitation of the Plan's coverage raises troubling questions, including the contestability of other claims. First, the Plan specifies that $500 million is the minimum, not maximum, coverage the Plan must provide for. The contestability of other claims, which is not authorized under the Plan, would not appear to be necessary, even in the extraordinarily rare possiblity this feature may ever be invoked. In this regard no airline accident to date has exceeded these levels. DOT has the power to raise the minimum level of coverage required under the Plan at any time experience suggests such an increase is necessary or desirable.

It is uncertain whether the Plan should specify the applicable period of limitation, even if it is in foreign air transportation, but this issue can be examined further.

SECTION 2.4. EXCLUSIONS

The Plan does not, as suggested, abolish claims for punitive damages beyond the Convention where they otherwise might lie. It simply does not cover punitive damages.

It is suggested that the contractor is free to act in bad faith in handling claims, with the assertion that its liability to pay attorney's fees is illusory. Without more, its impossible to assess these contentions. However, the operation of the Plan is subject to continuing oversight by the Department of Transportation and it is extremely difficult to envision continued bad faith claims administration. The Contractor is, after all, absolutely liable to the claimant for provable damages in court. Furthermore, the prospect of having to pay for attorney's fees in dispute settlement is considered a significant settlement incentive by insurers familiar with the Plan.

SECTION 2.5. CHOICE OF LAW

The comment that the draft Plan's choice of law rules undermine the benefits of the Plan is addressed in the letter transmitting this analysis. It is merely sufficient here to note that trial lawyers themselves differ on these issues, and that changing developments in state tort law, such as the Barkanic case, can have a devastating effect on the ability of American citizens to recover damages arising from events abroad. The flexibility inherent in the Plan to respond to these developments to the benefit of U.S. travellers is one of its most beneficial features.

SECTION 4.4. NOTICE AND INFORMATION TO CONTRACTOR

It is suggested that the term "filed" will be read as a term of art, limiting notice to lawsuits actually filed. That is not the intent of this provision and its language can be clarified.

SECTION 4.5. CLAIM EVALUATION AND ASSISTANCE

This provision was added to ensure that the agents and insurers of foreign airlines in particular will not have any disincentive to offer their full and complete cooperation to the Contractor.

SECTION 5.1. NOTICE TO CLAIMANTS

As has been previously mentioned the Plan is subject to continuing oversight by the Department of Transportation and any potential abuses by the Contractor can be addressed in that context. This would include objectionable terms in a notice to the claimant.

SECTION 5.3. SETTLEMENT INDUCEMENT

This comment once again assumes that a Contractor will act in bad faith in handling claims arising from a covered event. The likelihood of this occurring and the remedy for it have been previously addressed. See previous discussion with respect to section 2.4.

SECTION 5.4. MEDICAL BENEFITS

Funeral bills are of course covered by the Plan as are all other economic damages. This is the first time anyone has suggested interim payments are required for this expense.

SECTION 5.5. CONSOLIDATION OF CLAIMS

It is suggested here that the extremely unlikely event that the overall coverage of the Plan may be approached imposes a burden on the claimants. The same burden is borne by claimants under the tort system where the defendant files in bankruptcy and claims are limited to the insurance proceeds. It is the intent of the airlines to procure sufficient coverage so that this provision need not be invoked, but it is hoped that the procedures provided in the Plan would minimize the hardship in the extremely unlikely event that the Plan's coverage is exhausted in any accident. See previous discussion with respect to section 2.3.

SECTION 5.6. RECOVERIES FROM THIRD PARTIES

The Plan specifically provides that recoveries from third parties inure to the benefit of claimants in any consolidation action brought under the Plan.

SECTION 5.8. CONSENT TO JURISDICTION

This section merely ensures that a claimant may obtain jurisdiction over the Plan. How that jurisdiction will be exercised is in part the option of the claimant, and other trial lawyers have indicated that they clearly prefer flexibility in these matters.

SECTION 6.1. PROOF OF CLAIM IN SETTLEMENT

The potential for abuse in cooperation with the Contractor has been asserted repeatedly. The Plan only requires such cooperation where expedited dispute settlement procedures are involved. The claimant is not precluded from filing suit at any time.

SECTION 6.2. ACTION AGAINST CONTRACTOR

It is suggested here that the plan implies than no action can be brought against the Contractor unless there is "no settlement." Obviously, if there is a settlement, no action can be brought against the Contractor. The Plan does not state or imply anything else.

SECTION 6.3. CLAIM DISPOSITION

It is suggested here that the assignment of the claimants' rights should be reduced by the extent of any uncompensated claims that are apportioned against the total coverage of the Plan. That is exactly what the Plan provides for, in explicit language set forth in this section. The comments shed no light on why that language, which was drafted in consultation with other trial lawyers, is not adequate.

SECTION 6.5. CONSENT TO JURISDICTION

See previous discussion with respect to section 5.5.

SECTION 7.2. CRITERIA FOR CONTRACTOR

The selection of the Contractor will be subject to approval by the Department of Transportation in a public proceeding. Its solvency will be the principal consideration for selection.

SECTION 8.3. GOVERNING LAW AND INTERPRETATION

We would be pleased to consider any other suggestion for governing law.

Miscellaneous

1. This Plan does not confer subject matter jurisdiction, which Federal courts will have in any event. See attached letter to Senator Biden from Professors Lowenfeld and Mendelsohn.

2. The coverage for the supplemental compensation plan will be competitively procured. Its costs will be commensurate with the capacity of the marketplace, as are the insurance costs of all transportation companies that are ultimately borne by the users of those services.

NEW YORK UNIVERSITY,
SCHOOL OF LAW,
New York, NY, March 7, 1991.

Hon. JOSEPH R. BIDEN, Jr.,
U.S. Senate,
Washington, DC.

DEAR SENATOR BIDEN: You have asked for our views concerning the need for legislation to implement the so-called Supplemental Compensation Plan pursuant to Article 35A of the Warsaw Convention for the Unification of Certain Rules Relating to International Carriage by Air, as it would be amended by Additional Protocol No. 3 to the said Convention, done at Montreal, September 25, 1975 and presently pending before the Senate. Our expertise in this area stems from our earlier participation in the problems of compensation for passengers injured or killed in international air transportation when we were officials of the U.S. Department of State in the 1960's, as well as subsequent writing, teaching, and testimony on the subject.[1]

The Supplemental Compensation Plan

The Supplemental Compensation Plan, as you know, is designed to enable the United States to remain part of the world-wide Warsaw Convention system as it would be amended, while providing the United States citizens (and other eligible passengers) or their survivors with compensation adequate by current American standards. In the version presently before the Senate, the Supplemental Compensation Plan would provide a fund that would be liable, without limit and regardless of anyone's fault, for both economic and non-economic damages arising from an accident in international air transportation (as defined). This liability would be in excess of the amounts for which the air carrier could be held liable under the Convention/Protocol—about $130,000 per person. The fund would be managed by a contractor under the supervision of the Secretary of Transportation, and would be financed by a contribution collected from passengers at the time they purchased their tickets.

Jurisdiction of Courts under the Plan

In the version presently before the Senate, the Supplemental Compensation Plan does not expressly confer jurisdiction on any particular court, but provides, in §§5.8 and 6.2, for consent by the contractor to jurisdiction of any court within the United States having subject matter jurisdiction, which seems to include both state and federal courts. It also provides, in §5.5, for consolidation of claims in the U.S. District Court for the District of Columbia in the event the limit of coverage per incident might be exceeded, and provides in §6.5 that claimants agree to the jurisdiction of that court in the situation contemplated. All of these provisions, and the Plan itself, would be in implementation of Article 35A of the Convention as it would be amended.

Normally, a claimant in behalf of a passenger would present his/her claim first against the carrier, and the contractor would be liable only for the excess over the Convention limit. The Plan also provides, in §1.11, for compensation for passengers injured in international air transportation not covered by the Convention. Thus where a foreign carrier is not amenable to suit in the United States, or where the carrier settles with a claimant prior to suit, a claimant may wish to sue the contractor directly, without joining the carrier.

The Question Presented

You have asked whether legislation is required to carry out these provisions of the Plan. While legislation might well be desirable from the point of view of Congress, in that the Plan, together with the Protocol, would make significant changes in the legal regime governing compensation for persons injured or killed in international air transportation, our conclusion is that if the Protocol is ratified upon advice and consent of the Senate, as provided in Article II, §2, cl.2 of the Constitution, in express contemplation of the Supplemental Compensation submitted to the Senate, there would be no Constitutional impediment to putting the Plan into effect without implementing legislation. Of course, if the Plan were expressly authorized by legislation, its essential features would be "locked in," and less susceptible to being altered by administrative action.

Further, it is difficult to see which of the persons who may be affected by the Plan would have standing and incentive to challenge the Plan. Claimants who would be entitled to compensation without limit would have no incentive to challenge either the jurisdictional or substantive provisions of the Plan: air carriers—domestic as well as foreign—would continue to enjoy protection of the Convention and Protocol; and third parties such as air traffic control and manufacturers would be no worse off—and usually better off—by virtue of the operation of the Plan. The only situation is which a claimant (and his/her attorney) might be worse off by operation of the Plan would be the rare circumstance in which—if there were no Convention and no Supplemental Compensation Plan—a claimant might be able to establish grounds for punitive damages. But such a claimant would not have standing to challenge the Plan itself and a challenge to the Convention would certainly fail. We look at each of the principal issues in detail below.

1. Jurisdiction of the Federal Courts

It is now clear that a claim against an air carrier covered by the Convention is a federal question arising under a treaty.[2] Under a 1989 decision of the U.S. Supreme Court, *Finley* v. *United States*, 109 S. Ct. 52 (1989) (rejecting suit against a private defendant sought to be joined to a suit in federal court under the Federal Tort Claims Act against the Federal Aviation Administration), there was some danger that if a claimant in a federal action against an airline arising under the Convention sought to join the contractor in the same action in federal court, the claim against the contractor might be dismissed if complete diversity did not exist between the claimant or claimants and the contractor. However, section 310 of the Judicial Improvements Act, Pub. L. 101-650 (Dec. 1, 1990), enacting a new provision of the Judiciary Code, 28 U.S.C. §1367, appears to have cured that problem.

New section 1367, permits federal courts to exercise "supplemental jurisdiction over all other claims that are so related to claims in the [original federal question action] that they form part of the same case or controversy * * *", and makes clear that this supplemental jurisdiction includes "claims that involve the joinder * * * of additional parties," such as the contractor under the Supplemental Plan. While subsection (c) of section 1367 provides that in some circumstances the district court may decline to exercise supplemental jurisdiction, it seems clear that to do so in the context of an airline disaster subject to the amended Warsaw Convention and the Supplemental Compensation Plan would be an abuse of discretion. We are confident that whatever concern there may have been about jurisdiction in federal courts over claims under the Plan under 28 U.S.C. §1331 has now been removed by enactment of §1367, and we do not believe that any further concern on that score is justified. Only in the case where the claimant seeks to sue the contractor directly without suing the carrier (i.e., in non-Convention cases or where the carrier has settled with the claimant prior to suit) is there a chance that federal courts might not have jurisdiction, and then only if there were no diversity of citizenship between the claimant and the contractor. In those rare cases a claim against the contractor could, of course, be brought in state court.

2. The Supplemental Compensation Plan Compared to the 1966 Montreal Agreement.

You asked in your letter about differences between the Supplemental Compensation Plan and the Montreal Agreement of 1966 that might be relevant to the need for implementing legislation. It seems to us that the current Supplemental Compensation Plan stands on much firmer ground than the 1966 Agreement, in that it has been widely discussed, has been the subject of hearings and revisions, and would be regarded as coming within the ratification process, whereas the 1966 Agreement was literally put together overnight without any participation by the public.[3] We believe it is highly instructive that no legal challenge has been raised to the Montreal Agreement of 1966, and that in several cases under the Warsaw Convention in the interval, the U.S. Supreme Court has taken for granted that the Agreement is part of U.S. law.[4] It is of course true that the 1966 Montreal Agreement does not require any extra payment on the part of passengers, but we do not believe this difference is decisive.

3. Non-Warsaw Travelers

You asked whether the aspect of the plan that grants benefits to U.S. citizen air travelers not governed by the Convention requires implementing legislation. Apart from the issue concerning the jurisdiction of the federal courts as discussed above, we do not see any need for implementing legislation with respect to travel by U.S. citizens between foreign points. The contractor has bound itself to be liable for damages according to the Plan, and the claimants would not be deprived of any right they would otherwise have.

If it turns out that a flight on which an accident occurs is not governed by the Convention (for instance if the ticket covers travel between the United States and country *X*, *X* is a country that has not ratified the Montreal Protocol, and the United States has denounced the unamended Warsaw Convention), it is conceivable that a claim might be brought directly against the carrier involved, without reference to the Plan; such a claim would make sense for the claimant only if he/she were willing to await a jury trial covering not only fault of the carrier proximately causing the accident, but such gross misconduct as would justify imposition of punitive damages. If a claimant were prepared to take this course—and it would be a brave lawyer indeed who would advise his client to give up the assured recovery of compensation under the Supplemental Compensation Plan—the Plan as a whole would not in any way be impaired.

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[1] See, e.g., Lowenfeld and Mendelsohn, "The United States and the Warsaw Convention," 80 Harv. L. Rev. 497 (1967): A. Lowenfeld, *Aviation Law*, Ch. VII (New York: Matthew Bender 1981).

[2] See *Benjamin v. British European Airways*, 572 F.2d 913 (2d Cir. 1978).

[3] See Lowenfeld and Mendelsohn, note 1 supra, at pp. 593-96.

[4] See, e.g., *Air France v. Saks*, 740 U.S. 392, 395-96 (1985); *Chan v. Korean Air Lines, Ltd.*, 490 U.S. 122. 123-26 (1989).

4. The Ticket Surcharge

Finally, you ask about the authority to collect the "contribution" from passengers to finance the Supplemental Compensation Plan. We agree with the Department of Justice that the contribution or surcharge is not a tax, because it does not go into the Public Treasury. The authority to require collection of the surcharge would flow directly from Article 35A of the amended Convention, which authorizes parties to the convention to adopt a supplemental compensation plan and sets express conditions on collection of a surcharge—no cost (other than administrative) to the carriers; no discrimination between carriers—i.e., the plan must apply to all carriers, domestic and foreign; and whoever has contributed to the plan must be entitled to the benefits. The treaty itself thus would support any amendment by the Secretary to the regulations of the Department of Transportation (present 14 C.F.R. Part 203) needed to implement the plan, including the requirement of contributions to support the Supplemental Compensation Plan.

Conclusion

In sum, repeating our letter of June 19, 1990, the most critical need in connection with the Warsaw Convention is to take some action, either ratification of the Montreal Protocols and implementation of the Supplemental Compensation Plan, or denunciation of the Convention. There is no excuse for maintaining the 1966 Interim Agreement in effect for a 26th year. It would be a simple matter to draft implementing legislation for the Supplemental Compensation Plan, and we would be glad to assist in such effort. In our judgment, however, there is no need to adopt legislation in order to bring the Plan into effect, assuming the United States, and then the required number of other states, ratify the Montreal Protocols to the Convention.

Respectfully Submitted,
ANDREAS F. LOWENFELD.
ALLAN I. MENDELSOHN.

DEPARTMENT OF TRANSPORTATION,
Washington, DC., June 5, 1991.

MEMORANDUM

Subject: Montreal Protocols—Olin and Podhurst Comments on Draft Supplemental Compensation Plan.

From: Donald H. Horn, Assistant General Counsel for International Law.

To: Robert Carolla, Legislative Assistant to Senator George J. Mitchell.

We have examined the May 14, 1991 memorandum from Michael Olin and Aaron Podhurst, providing some detailed comments on the draft Supplemental Compensation Plan. For ease of discussion, the comments fall generally into three categories: (1) those which raise significant substantive problems which appear, absent a strong justification to the contrary, to require a revision in the draft Supplemental Compensation Plan; (2) those regarding Plan provisions which appear to be drafted in a manner which may give rise to unnecessary burdens on claimants, and may provide undue protection or advantages for the Contractor or the carriers; and (3) those regarding Plan provisions which have led to confusion or ambiguity in interpretation, as to which clarification by minor drafting changes may be appropriate.

At the outset, I would like to reiterate the statement of Secretary Skinner in his letter of February 1, 1991, submitting the latest version of the Supplemental Compensation Plan to the Senate Foreign Relations Committee. He said that the Plan remains subject to revisions that may appear in the public proceeding before the Department for approval of the Plan to be necessary or appropriate to enhance the consumer protections provided under the Plan. In this respect we welcome the comments of Messrs. Olin and Podhurst, since they have highlighted certain instances where revisions may indeed be appropriate. We would anticipate that other comments of interested parties may reveal further unintentional inadequacies or ambiguities in the Plan which warrant revision. The public proceeding which will be held before the Department approves the Plan pursuant to section 412 of the Federal Aviation Act, is designed precisely to solicit the maximum public participation, so that we can be assured that the final version of the Plan delivers all of the intended benefits.

The Olin/Podhurst Memorandum Clearly raises one significant difficulty which warrants a revision to avoid unintended results. Section 2.5 provides for the applicability of the same choice of law as applicable to an action against the carrier. The Memorandum points out that, particularly where the Convention (the Warsaw Convention as amended by the Montreal Protocols) is not applicable, foreign law might be applied, and might include limits of liability either of the unamended Convention or of foreign national law. See, *Barkanic* v. *CAAC*, 923 F. 2d. 957 (2d Cir. 1991). It certainly was not the intent of the Plan to permit limitations of liability applicable under foreign law to be applied in a manner that might defeat the unlimited recoveries provided under the Plan. The carriers appear to agree that these provisions should be revisited to ensure that such a result would not occur.

The Memorandum also points out various provisions where the Plan may be drafted in a manner which is weighted unduly in favor of the Contractor or carriers, at the expense of claimants. The section 5.3 Settlement Inducement provision appears to be in this category. It excludes the payment of a claimant's attorneys' fees by the Contractor, if the Contractor makes a timely offer of settlement that includes compensation for damages for "economic" loss (as opposed to both economic and non-ecomonic losses) this is at least two-thirds of the amount of damages ultimately awarded. While most cases that would be subject to compensation under the Plan would be for wrongful death, as to which damages are likely to be primarily "economic", it does appear that this provision may be sufficiently restrictive in a sufficient number of cases to unduly limit the effectiveness of the settlement inducement feature. We believe that this matter warrants further consideration. Other provisions in this category include: section 2.4(b)—exoneration of the Contractor even when he acts in bad faith, and sections 5.3 and 6.1—which may require a timely meeting of possibly unnecessary and repetitous requests by the Contractor for information from the claimant. As currently set forth in the Plan, failure to timely provide such information could render the settlement inducement feature inapplicable. We will carefully consider the comments of all parties in our public proceeding, in order to determine whether these apparent restrictions on claimants' benefits under the Plan are justified by legitimate concerns on the part of the Contractor.

Many of the other comments appear to involve perceived ambiguities or confusion as to the use of definitions or words of art. Many of these perceived difficulties may be resolved by minor drafting changes. The Department will give careful consideration to any proposed drafting suggestions which may improve the text of the Agreement, or remove ambiguities.

Of primary significance is the fact that the terms of the Plan must be approved by the Department of Transportation after a full public proceeding in which all interested parties may comment and proposes revisions to the plan. We will solicit comments from consumers, trial lawyers, insurance companies, airlines, and any other members of the public who may have an interest. Set forth below is a synopsis of the procedures we envision which will insure that all interested persons will have an ample opportunity to participate in the Department's review process. In addition, the contract with the Contractor, and any amendments or revisions to the Plan or the contract, will be subject to Department review under similar procedures. Moreover, review or reconsideration of any feature of the Plan may be initiated by the Department at any time following a petition by any interested person, or on the Department's own initiative. This includes the level of the Compensation Plan contribution, or any change in the level of that contribution.

TERMS OF THE PLAN

The Plan provides that it shall be filed with the Secretary of Transportation for approval under sections 412 and 414 of the Federal Aviation Act (49 U.S.C. 1382, 1384), and that any amendment or addition shall be similarly filed for approval (§§4.9, 8.2). It further provides that:

"This Agreement and each addition or amendment thereto shall have no force and effect until and unless 1) such approval is Granted by the Secretary and then only according to the terms of the Agreement and any conditions of any order granting such approval, and 2) the Secretary requries carriers holding authority under the Federal Aviation Act to be deemed to have agreed to the provisions of this Agreement." (§8.2)

Similarly, the contract which will be negotiated with the Contractor must be approved by the Secretary prior to its effectiveness, or the effectiveness of any renegotiation or amendment to the contract. (§§7.5, 7.6)

In addition, the Department would, in accordance with sections 8.1(d) and 8.2(b) of the Plan, by a rulemaking and/or show cause proceeding, include as a condition in all U.S. Air carrier certificates, foreign air carrier permits, or other authority issued by the Department (e.g., a §416 exemption), a requirement that all carriers operating to, from or within the United States shall be deemed to have agreed to the terms of the Agreement. Such a rule is currently in effect with respect to the so-called Montreal Intercarrier Agreement providing for the $75,000 limit to and from the United States under the unamended Warsaw Convention. See, 14 C.F.R. Part 203.

ANTICIPATED SCENARIO OF DEPARTMENT APPROVAL OF THE PLAN AND CONTRACT

A recapitulation of a scenario of the Department's approval and monitoring of the operation of the Plan and the contract is as follows:

1. The Senate grants its advice and consent to ratification of Montreal Protocols 3 and 4.
2. ATA and IATA invite submission of proposals to act as Contractor under the Plan by widespread advertisement and direct solicitation of known interested companies.
3. The Plan and possibly a tentative contract is submitted to the Department for approval under Sections 412 and 414 of the Federal Aviation Act.
4. The Department invites all interested persons to submit comments by Notice published inter alia in the Federal Register.
5. The Department issues a show cause order and/or a Notice of Rulemaking proposing to amend all outstanding certificates, permits and other authority to require that all carriers shall be deemed to have agreed to the terms of the Agreement.
6. The Department issues a final order approving the Plan and/or contract with appropriate conditions to insure that the operation of the Plan will not be adverse to the public interest, and finalizes the certificate, permit and other authority conditions which constitute agreement to the terms of the Plan.
7. The United States deposits the U.S. ratification of Montreal Protocols 3 and 4, together with a Notice of Denunciation of the Warsaw Convention unamended by Montreal Protocols 3 and 4.
8. We anticipate rapid ratification by other countries of Montreal Protocols 3 and 4 following the U.S. ratification, and denunciation of the unamended Warsaw Convention, since only parties to Montreal Protocols 3 and 4 would remain under a Warsaw Treaty relationship with the United States upon the effectiveness of the U.S. denunciation of the unamended Warsaw Convention (6 months following its deposit).
9. The Warsaw Convention as amended by Montreal Protocols 3 and 4 will become effective on the 90th day following the deposit of the 30th ratification of the Protocols (19 countries had ratified as of June 4, 1991).
10. At least 45 days prior to the effective date of the Protocols, ATA and IATA will file for approval under sections 412 and 414 of the Federal Aviation Act any revisions to the contract with the Contractor (including any change in the level of the Plan Contribution). After appropriate notification and participation by interested persons, the Department will approve the revisions subject to necessary or appropriate conditions.
11. The Plan will become effective upon the effectiveness of the Montreal Protocols to the Warsaw Convention, but only after all Department approvals have been obtained, including approval of the level of the Plan Contribution.
12. Any revisions to the Plan Contribution, the contract with the Contractor under the Plan, or the Plan itself, will not become effective until filed with the Department, and approved by the Department, subject to appropriate conditions.

ORDER OF PROCEDURE FOR MONDAY, JULY 8, 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate resumes consideration of S. 1241, the crime bill, Senator RUDMAN be recognized to offer his amendment relative to police; that there be 1 hour for debate equally divided in the usual form prior to Senator BIDEN'S motion to table the Rudman amendment; that the Biden tabling vote be set to occur at 7 p.m. on Monday, July 8; that once Senator BIDEN has made the motion to table the Rudman amendment, that amendment be laid aside and Senator BINGAMAN be recognized to offer his amendment on literacy in State prisons; that only relevant second-degree amendments be in order to Senator BINGAMAN'S amendment; and that no amendments to any language that may be stricken be in order, and no motions to recommit be in order prior to the disposition of these amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, JULY 8, 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate adjourns today it stand in adjournment until 3:30 p.m. on Monday, July 8, and that when the Senate reconvenes on Monday, July 8, the Journal of Proceedings be deemed to have been approved to date; the call of the calendar be waived; and no motions or resolutions come over under the rule; that the morning hour be deemed to have expired; that following the time for the two leaders there be a period for morning business not to extend beyond 4 p.m., with Senators permitted to speak therein for up to 5 minutes each; and that the Senate resume consideration of the crime bill, S. 1241, at 4 p.m. on that day.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL MONDAY, JULY 8, 1991, AT 3:30 P.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand adjourned as provided for in House Concurrent Resolution 175, until 3:30 p.m., on Monday, July 8.

There being no objection, the Senate, at 6:38 p.m. adjourned until Monday, July 8, 1991, at 3:30 p.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 28, 1991:

DEPARTMENT OF STATE

JOHN E. BENNETT, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF EQUATORIAL GUINEA.

MARY ANN CASEY, OF COLORADO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DEMOCRATIC AND POPULAR REPUBLIC OF ALGERIA.

WILLIAM HARRISON COURTNEY, OF WEST VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS U.S. COMMISSIONER FOR THE BILATERAL CONSULTATIVE COMMISSION AND THE JOINT CONSULTATIVE COMMISSION ESTABLISHED BY THE THRESHOLD TEST BAN TREATY (TTBT) AND THE PEACEFUL NUCLEAR EXPLOSIONS TREATY (PNET).

JOHN THOMAS MCCARTHY, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER—COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TUNISIA.

NICHOLAS PLATT, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ISLAMIC REPUBLIC OF PAKISTAN.

GORDON S. BROWN, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER—COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ISLAMIC REPUBLIC OF MAURITANIA.

ROBERT H. PELLETREAU, JR., OF CONNECTICUT, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ARAB REPUBLIC OF EGYPT.

J. STAPLETON ROY, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE PEOPLE'S REPUBLIC OF CHINA.

JOHNNIE CARSON, OF ILLINOIS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF UGANDA.

LYNN MARVIN HANSEN, OF COLORADO, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS U.S. REPRESENTATIVE ON THE CONVENTIONAL ARMED FORCES IN EUROPE (CFE) JOINT CONSULTATIVE GROUP AND TO THE NEGOTIATIONS ON CONVENTIONAL ARMED FORCES IN EUROPE (CFE).

JANE E. BECKER, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE VIENNA OFFICE OF THE UNITED NATIONS AND DEPUTY REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE INTERNATIONAL ATOMIC ENERGY AGENCY, WITH THE RANK OF AMBASSADOR.

RICHARD W. CARLSON, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SEYCHELLES.

PEACE CORPS NATIONAL ADVISORY COUNCIL

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE PEACE CORPS NATIONAL ADVISORY COUNCIL FOR THE TERMS INDICATED:

JOHN J. MCCARTHY, OF CALIFORNIA, FOR A TERM EXPIRING OCTOBER 6, 1992.

CRAIG R. STAPLETON, OF CONNECTICUT, FOR A TERM EXPIRING OCTOBER 6, 1991.

MYRON A. WICK III, OF CALIFORNIA, TO BE A MEMBER OF THE PEACE CORPS NATIONAL ADVISORY COUNCIL FOR A TERM EXPIRING OCTOBER 6, 1992.

TOM G. KESSINGER, OF PENNSYLVANIA, TO BE A MEMBER OF THE PEACE CORPS NATIONAL ADVISORY COUNCIL FOR A TERM EXPIRING OCTOBER 6, 1991.

NIARA SUDARKASA, OF PENNSYLVANIA, TO BE A MEMBER OF THE PEACE CORPS NATIONAL ADVISORY COUNCIL FOR A TERM EXPIRING OCTOBER 6, 1991.

BOARD FOR INTERNATIONAL BROADCASTING

LANE KIRKLAND, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD FOR INTERNATIONAL BROADASTING FOR A TERM EXPIRING APRIL 28, 1993.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING KEITH BOVETTI, AND ENDING DALE SLAGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 24, 1991.

FOREIGN SERVICE NOMINATIONS BEGINNING DAVID P. DOD, AND ENDING VICTOR D. COMRAS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 24, 1991.

SENATE—*Monday, July 8, 1991*

The Senate met at 3:30 p.m. and was called to order by the Honorable CHARLES S. ROBB, a Senator from the State of Virginia.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Blessed is the nation whose God is the Lord * * *. Psalm 33:12.

God of our fathers, it is not for nothing that the official motto we print on our coins is, "In God We Trust." It was not without reason that George Washington said in his first inaugural address, "* * * It would be peculiarly improper to omit in this first official act my fervent supplications to that Almighty Being who rules over the universe, who presides in the counsels of nations, and whose providential aides can supply every human defect * * *."

God of our fathers, restore to our leadership that living faith. Make Your presence, Your power, Your wisdom felt in this place this week. With less than 5 months—100 working days—left in the 1st session of the 102d Congress, grant that Your servants will find a way to eliminate trivia, avoid legislative gridlock, and finish the session with productivity and achievement in which all may take great satisfaction and pride.

Lead us, Lord, in the way of truth and justice. To the glory of God and the blessing of the Nation. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 8, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHARLES S. ROBB, a Senator from the State of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. ROBB thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President, this afternoon, following the time reserved for the two leaders, there will be a period for the transaction of morning business not to extend beyond 4 p.m., during which Senators may speak for up to 5 minutes each.

At 4 p.m., when the Senate resumes consideration of S. 1241, the crime bill, Senator RUDMAN will be recognized to offer an amendment relating to police, on which there will be a 1-hour time limitation. At the conclusion of that hour, Senator BIDEN will be recognized to move to table the Rudman amendment. The vote on Senator BIDEN's motion to table the Rudman amendment will occur at 7 p.m. this evening. Once Senator BIDEN moves to table the Rudman amendment, that amendment will be laid aside and Senator BINGAMAN will be recognized to offer an amendment relating to literacy in State prisons with no time limit on that amendment and with relevant second-degree amendments in order.

Mr. President, I want to repeat what I stated publicly prior to the recent July 4 recess and with respect to which I wrote to every Senator, that is the Senate will now be in session on Tuesday, Wednesday, and Thursday evenings with votes occurring at any time during the evening. There will be votes on Mondays, not prior to 5 p.m., however. That is, stated another way, there will be votes on Mondays after 5 p.m. and there will be votes on Fridays up until 3 p.m. I urge Senators to plan their schedules accordingly.

THE 150TH ANNIVERSARY OF THE SENATE PRESS GALLERY

Mr. MITCHELL. Mr. President, and I say to Members of the Senate, today we mark the 150th anniversary of the U.S. Senate Press Gallery. On July 8, 1841, the Senate voted to establish the first Reporters' Gallery. On that day, the first front row of the gallery immediately above the Presiding Officer's rostrum in the Old Senate Chamber was set aside for the press. Then only 10 small desks were reserved for the reporters from the local Washington papers and for a few letter writers or correspondents from newspapers outside of Washington.

Prior to the establishment of the gallery, the Senate operated without any press gallery. In fact, for its first 5 years, the Senate had no galleries for the press or the public. Press were later admitted to all legislative sessions—first to fend for themselves in the public galleries, then with floor privileges for only handful of reporters from the Washington papers. In 1839, when regional reporters petitioned for the same access as local reporters, Senators rejected these demands. One Senator, John Niles of Connecticut, who was a newspaper publisher himself, referred to the correspondents as "miserable scribblers" who earn "a miserable subsistence from their vile and dirty misrepresentations of the proceeding here."

In 1841, the Senate provided the press with a separate gallery and in 1859, when the Senate moved to this Chamber, the Senate provided the press with a larger Press Gallery, with its own lobby and telegraph facilities. The Senate designated a superintendent to oversee the operations of the Press Gallery, and since 1884 the journalists themselves have elected a Standing Committee of Correspondents to grant accreditation and set other rules governing the gallery.

Today, the Press Gallery has grown to four press galleries to accommodate the needs of the daily press, radio, and television correspondents, periodical press, and news photographers. The Senate Press Gallery today is ably run by Bob Peterson and his staff, and the Standing Committee of Correspondents is headed by Mike Waldman of Newsday.

The Press Galleries are now a permanent fixture of the U.S. Senate. Sometimes members of the media can be seen hanging over the gallery desks trying to get a glimpse of the rollcall tally or attempting to read the lips of Senators telling tales in the well. No matter what the hour or the issue, the press is here to monitor and report to the American people our words and deeds. Our form of democracy could not function without a free press to watch over the legislative and other branches of Government. Therefore, I know I speak for all Senators when I say that we salute all the members of the press and the staff of the Press Galleries on the occasion of the 150th anniversary of the Senate Press Gallery. The bill will be placed on the calendar.

The Senator from Utah [Mr. HATCH] is recognized for 5 minutes.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, for not to extend beyond the hour of 4 p.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

MEASURE READ FOR SECOND TIME—H.R. 1

The ACTING PRESIDENT pro tempore. The clerk will read for the second time from the calendar, under bills and joint resolutions read the first time, H.R. 1.

The legislative clerk read as follows:

A bill (H.R. 1) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes.

Mr. MITCHELL. Mr. President, I object to further proceedings with respect to the consideration of H.R. 1.

The ACTING PRESIDENT pro tempore. Objection is noted.

INDEPENDENCE OF THE JUDICIARY

Mr. HATCH. Mr. President, special interest groups seeking to impose litmus tests on judicial nominees as a precondition of their confirmation threaten to destroy the independence of the Federal judiciary. The single-minded, rule-or-ruin desire to assure preordained votes on particular issues is an assault on the role of the judiciary as a coequal branch of our tripartite central government. The drive by special interest advocacy groups to achieve short-term political gain by blocking a nominee they believe will disagree with them on a particular issue or set of issues will do long-term—and perhaps permanent—damage to the judiciary as an institution.

The independence of the Federal judiciary is equally important to all Americans. This is not a liberal or conservative issue. Liberals and conservatives should be equally troubled by any threat to judicial independence. Regardless of one's views on affirmative action, church-state relations, the first amendment, or abortion, the Senate should not be party to efforts to diminish the independence of the judiciary for the sake of assuring that particular cases or issues are decided in a manner satisfactory to some or most Members of the Senate.

Americans expect that each Federal judge and each Supreme Court Justice will fairly assess the merits of every case as the judge or Justice sees them.

Americans do not want judges deciding cases based on express or implied commitments to the President, the Senate, or individual Senators. Americans do not want judges deciding cases based on what some special interest advocacy group will think about the decision.

NOMINATION OF CLARENCE THOMAS

Mr. HATCH. Mr. President, I have a great deal of respect for Barbara Reynolds, inquiry editor of USA Today. She is certainly entitled to express whatever views she has on Judge Clarence Thomas—indeed, she has grudgingly urged his confirmation. But I am shocked and dismayed by many of the comments she made regarding Judge Thomas, whom I have known for over 10 years, and about his wife. Her July 5, 1991, column is laced with innuendoes and inappropriate personal attacks. I want to respond to some of them. Judge Thomas is constrained to be silent until his confirmation hearings and cannot readily respond. But I would like to do so on my own, as his friend.

She said that Judge Thomas "strikes me as a man who would get a note from his boss before singing 'we shall overcome.'" Anyone who knows Judge Thomas knows he is very much his own man. He is fiercely independent.

Next, it is claimed that Judge Thomas, while Chairman of the EEOC "spent much of his time stalling age, sex, and racial discrimination cases." In fact, the EEOC, under his chairmanship, brought to the courts an impressive number of those cases, rising from 195 in fiscal year 1983 to a record 599 in fiscal year 1989. A May 17, 1987, editorial of the Washington Post, no shill for Reagan civil rights policies, entitled "The EEOC Is Thriving," praised "the quiet but persistent leadership of Chairman Clarence Thomas * * *."

He did not oppose reverse discrimination. He has asserted that our Nation's civil rights laws should be equally applicable to everyone, regardless of race, color, or creed.

Next, Ms. Reynolds says about Judge Thomas, "if he is influenced by his wife, a white conservative who lobbied against comparable pay for women, he will be antiwomen's issues." Now, Mr. President, let us ponder that one for a moment, because it packs an impressive number of innunendoes into 23 words. Why should we consider whether this particular nominee will be influenced by his wife in his role as Justice? Did anyone ask white male nominees whether they would be influenced by their wives? Is it relevant that his wife is "white" or that she is a conservative? Does it matter that she lobbied against so-called comparable worth, a so-called theory of pay discrimination that has been thoroughly discredited by economists and virtually all courts considering it? Opposing comparable worth is not antiwomen; it is common sense. Congress has declined to enact legislation calling for a comparable worth study of the Federal work force in three consecutive Congresses. Why would anyone drag Mrs. Thomas into this? And, incidentally, as chairman of the EEOC, Judge Thomas had concluded all on his own that comparable worth is not a cognizable discrimination theory under title VII of the 1964 Civil Rights Act.

Finally, in endorsing his nomination, Ms. Reynolds says, "* * * if Hugo Black, who once was a member of the KKK could become a distinguished liberal justice, there is hope that a Negro can turn black. Maybe Thomas, who would have lifetime employment as a Justice, could find his soul."

Mr. President, this is ugly business. If I had not read it with my own eyes, I would not have believed she could say that about Clarence Thomas. This vile slur suggests that if a black American does not think like the traditional civil rights leadership, he or she is not really black. This is political correctness at its worst.

What really bothers some people about this nomination is that it highlights highly respectable views held by some black Americans who do not march in lockstep with what is usually called the traditional civil rights leadership. Mr. President, regardless of whether one is sympathetic to the views of Judge Thomas and other black Americans who agree with him, this kind of ad hominem, anti-intellectual attack diminishes the debate. This kind of effort to enforce political correctness is grossly unfair.

I hope the debate over this nomination does not continue to sink to this level.

Mr. President, I have known Clarence Thomas now for around 10 years. I have to tell you he is a very intelligent person. He is a masterful human being. He is fiercely independent. He has worked his way up the hard way. He came from abject poverty. He knows the sting of discrimination. He knows what it is like to go to segregated schools. He has been through all of that, but he happens to be a little different in philosophy from those who are on the far left. By the way, he happens to be a little different from those who are on the far right, too.

He is not an extremist. He is somebody who I expect to be a centrist on the Court, and I think we will all be proud of him, regardless of our race, our creed, our sex, or our national origin. He is the type of person that I think the best aspects of America produce.

Clarence Thomas is a fine fellow. He is a very, very bright man. He has done a very good job in all three branches of Government and in State government as well. He has had a wide variety of experience for his 43 years. I think we ought to be very proud that somebody could come from the poverty, lack of opportunity, and the deprivation he has, to now be nominated by the President of the United States to the Supreme Court of the United States of America. I know that he will serve well.

I would prefer that we keep the debate on higher levels because I really believe, yes, you can criticize Clarence Thomas for one view or another. But, overall, you are going to find a very fine man here who will be a terrific Justice on the Supreme Court.

Mr. President, I look forward to the confirmation proceedings, and I hope that they go well for Judge Thomas. He is a worthy nominee.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Idaho [Mr. CRAIG].

NOMINATION OF CLARENCE THOMAS

Mr. CRAIG. Mr. President, let me associate myself with the remarks of my colleague from Utah as they relate to the nomination of Judge Thomas to the U.S. Supreme Court. I am going to watch this man with great fascination over the course of the next several months as the issues that will build around him begin to take root.

I hope that we can vacate the processes that have begun to appear in this body when we would choose to play what I call item politics with the appointment of an individual when we should be looking at his or her scholarship that they will bring to the judicial arm of our Government, as has been historically the case with the Senate, and so I welcome the remarks of my colleague from Utah and wish to associate myself with them.

THE CRIME BILL

Mr. CRAIG. Mr. President, I would like to begin again to discuss, as we will now for the balance of several days of this week, S. 1241, or the crime bill that we concluded with prior to the July 4 recess.

Some of my colleagues have suggested on this floor that any crime bill is better than no crime bill at all.

Our President has spoken loudly in behalf of the need for adjustments in the criminal justice code of this country—that amendments were clearly necessary—and set forth early this year with the proposal and has since that time correctly on occasion jabbed us appropriately on the backside for failing to respond in a timely fashion as we began in the weeks prior to the July 4 recess.

So let me for a short time bring up to date what we have done. We have passed habeas corpus reforms that will make sure justice is done once a criminal is in jail. However, we failed to pass exclusionary rule reforms to help the police and the courts put criminals in jail.

Mr. President, we passed tough criminal penalties that will help deter gun-related crimes. However, we have created a whole new range of victimless paperwork violations to burden law-abiding gun owners and distract law enforcement officials from the real business of fighting crime.

We have passed capital punishment reforms to strike at big-business drug operators and murderers in the District of Columbia. However, we have created new obstacles to make it harder for law-abiding citizens to obtain firearms to protect themselves, their families, and their property.

I do not agree at all times with our President, but I watched as this administration presented to the Congress his version of an anticrime package that was carefully crafted with targeted reforms designed to help—not to hinder—law enforcement. I would suggest to you that is not what the Senate is about at this moment.

We will be taking up additional amendments starting this afternoon, but none will touch the items that I have already mentioned. That would lead me to wonder, as I think the public should wonder at this moment, how much poison are we expected to swallow, Mr. President, in order that we obtain for our public a few drops of the medicine, the reform that is necessary? I believe that is the question at this time.

I yield the remainder of my time.

MAUREEN ORTH IN VANITY FAIR

Mr. MOYNIHAN. Mr. President, sometimes a Yankee can find out more than a British subject. As proof, I cite Maureen Orth's absorbing piece about a recent Prime Minister in this month's issue of Vanity Fair. Fleet Street could do no better; indeed, not half so well. The former Queen's first minister reveals things in this piece that all of my colleagues will benefit from reading.

Mr. President, I ask that the text of Maureen Orth's insightful article be entered in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MAGGIE'S BIG PROBLEM

For Margaret Thatcher, it was a throwback to the glory days. Here she was in the White House private quarters, reveling in a lavish dinner party in her honor, basking in the golden glow of twenty-four-inch tapers, gazing out over the perfect pink and fuchsia roses floating in crystal bowls, the centerpieces on six tables for ten. Only hours earlier, in the East Room of the White House, George Bush had awarded her the Presidential Medal of Freedom, America's highest civilian honor. He had praised "the greengrocer's daughter who shaped a nation to her will," and concluded, "Prime Minister, there will always be an England, but there can never be another Margaret Thatcher." She had raced from the exquisite high up to "the Queen's Bedroom" to change into a long black pleated skirt and brilliant red-and-black brocade jacket for cocktails. And now America's most powerful leaders were getting up to pay her homage. It was as if the colonies had not yet heard the news of her unceremonious sacking as prime minister last November by the members of her own Conservative Party. Barbara Bush rose to toast the new baronet, Sir Denis Thatcher. "They broke the mold when they made you, Denis. . . . As the Spouse of a powerful leader, you do it better than anyone."

Sir Denis graciously thanked his hosts and quoted Mark Antony "upon entering Cleopatra's bedroom: I did not come here to talk."

The evening was, quite simply, divine. Former secretary of state George Shultz gave the former prime minister advice on agents for her memoirs; she confessed to being overwhelmed "by my paper." Her entrepreneurial and controversial son, Mark, let it be known to that other feisty entrepreneur seated next to him, the flame-haired Georgette Mosbacher, that he had made millions in the home-burglar-alarm business. Mark's blonde Texas wife, Diane, startled some with what appeared to be a try at a British accent. But no matter. Margaret Thatcher was in the inner sanctum of power, surrounded by old chums from summits and Star Wars, there only to administer her massive doses of adulation. Naturally, the lady who had ruled Britain for the last eleven and a half years gave as good as she got, extolling America as "a can-do, will-do society," and she heaped praise upon early Americans as model social Darwinists for freedom: "self-selected . . . there were no subsidies here."

Then suddenly the spell was broken. One of the heroes of the day, Secretary of Defense Dick Cheney, the unflappable hand that urged boldness in launching and guiding Desert Storm, actually uttered the unspoken name: John Major. It was inadvertent yet totally appropriate to invoke the leader of our greatest Gulf ally, but how could he? So what if the new prime minister was Mrs. Thatcher's handpicked choice? She gave no indication of distress, of course, but that mention jolted more than few to focus on the ghastly fate that had befallen her only a few months before. Remarked one guest, "It was as if he had spilled something dirty on the tablecloth."

Even when life was beautiful now it was cruel. Exceedingly so. As usual, Mrs. Thatcher's son, Mark, was part of the problem. Now, while acting as her personal manager as she planned a new career in international relations, he was facing a fire storm of criticism from her friends and former advisers that would erupt before long in a *Sunday Times* of London headline: "MARK IS WRECKING YOUR LIFE."

To add insult to injury, while Margaret Thatcher was polishing off her chocolate mint souffle with President Bush, and peering across the roses to British golfer Nick Faldo, and even at the very moment when the president was saying that "she defined the essence of the United Kingdom," one of the safest Conservative seats in Britain—Ribble Valley—was going down to defeat in a striking by-election upset. And it was all being blamed on Margaret Thatcher and her legacy, the hated poll tax.

Let the longest-serving British prime minister in this century eat cake in America. At home Margaret Thatcher was eating crow.

"The pattern of my life was fractured," Mrs. Thatcher said the next day in the residence of the British ambassador, referring to her surprise resignation and removal from office. Dressed in a crisp, spring suit and her ubiquitous pearls, she plumped all the pillows on the sofa in the decorous drawing room, then sat down and balanced a porcelain teacup in the palm of her graceful hand. She chose her words carefully: "It's like throwing a pane of glass with a complicated map upon it on the floor," she said, "and all habits and thoughts and actions that went with it and the staff that went with it. . . . You threw it on the floor and it shattered." And the pieces? Margaret Thatcher's eyes blazed. "You couldn't pick up those pieces."

As though the answer to what had happened might be found amid the debris, Thatcher began to recite her daily and seasonal rhythms as prime minister. Mondays, "we went down to the House of Commons for preparations for questions at two o'clock," she said. "Questions at the House were on Tuesdays and Thursday, so on Mondays and Wednesdays we saw foreign statesmen. There were a certain number of overseas events—the economic summit, two European councils. All of this structure happened; you geared your clothes buying to external visits and your conferences. You geared your hair to when you were in the House etc., and then you had a certain amount of entertaining. In June there was the Trooping of the Color, a whole range of engagements throughout the year which became the pattern of my life." All gone after nearly twelve years, on ninety-six hours' notice. She paused. "Sometimes I say, "Which day is it?" I never said that at NO. 10."

"She is like a great athlete suddenly confined to a wheelchair," says Christine Wall, the Conservative Party press officer who was on loan to Mrs. Thatcher for her U.S. trip.

"She wants worrisome problems, she wants to make decisions, she wants to tell you what to do and to save you from yourself," says another insider. "Now she answers her own phone sometimes. What a comedown that is—like Napoleon having to saddle his own horse."

"In a sense she hasn't come to yet from the concussion—everything was so brutal and sudden," adds Sir Peregrine Worsthorne, a Thatcher loyalist who edits the right-wing Sunday Telegraph editorial page. "She's pretty shell-shocked still. The Iron Lady has a very emotional side. People underestimated the extent to which she was shattered by this." The day after Mrs. Thatcher lost a Conservative Party leadership battle and decided to resign in the interest of party unity, Worsthorne got a call from Thatcher's press secretary, Bernard Ingham: "The prime minister would like to say good-bye." Arriving at 10 Downing Street, Worsthorne was stunned by what he found. "I went round thinking there'd be a long queue of people waiting to say farewell. I found myself alone. I expected to stay fifteen minutes, which would be quite normal. After an hour, I ran out of conversation. She was very short of people." On the way out Worsthorne ran into Thatcher's journalist daughter, Carol. "She had a basket on her arm from the supermarket, 'bringing Mummy's supplies' of cold chicken or something for dinner. It was very disorienting."

The day before, Thatcher had made her astounding farewell speech in the House of Commons, which even those who consider her a dire enemy regarded as an extraordinary display of political bravura. "She had had that high and had gone off of that," says Worsthorne. "She had time on her hands. Voila. The lassitude of impotence had begun."

Tory Party leadership transitions are known to be less than genteel, but this ouster seemed a classic illustration of the axiom that she who lives by the sword shall die by it. Here was a prime minister known for her prodigious recall, who routinely exhausted her aides with her energy, who every night, no matter the hour, relished "doing her boxes"—locked red boxes filled with confidential papers from every ministry delivered by dispatch riders who would roar through town to deposit them on her doorstep at 10 Downing Street. Here was a phenomenal woman who was devoid of hobbies or interests off the world stage, who once said that taking vacations tends to cause colds. "She wanted us to be like the Japanese," grumbles one political observer. Here was a leader who, by hijacking the Conservative Party and bending it to her will, had bestowed upon England "Thatcherism." And if you were not with her in the dismantling of the welfare state and the charge toward privatization, you were mushy, a "wet." Anyone who couldn't keep up or who displeased her was ruthlessly sacrificed. "In the United States, she has this reputation as a chaste, saintly figure," says Andrew Stephen, Washington bureau chief of the London *Observer*. "In fact she's knifed every Cabinet minister she's every had in the back. That's how she survived eleven years."

One of her favorite instruments of torture was Ingham, her powerful press secretary, who would leak to the reporters on the Parliament "Lobby" that certain unsuspecting ministers were in trouble. This penchant for denigration earned him the sobriquet "the Yorkshire Rasputin" from one of the ministers, John Biffen. Biffen, himself later axed, would add, "He was the sewer, rather than the sewage."

But now it was Mrs. Thatcher who was instantaneously, irrevocably out. "She thought she was unassailable," says Thatcherite columnist Frank Johnson. "It was hubris. She was brought down by the fault of her virtues—her enormous bravery in battling the most powerful opponent of all, the European Community."

Others take a less charitable view: "She'd become slightly potty by the end and lost touch with reality," says one observer. Thatcher's opposition to a united Europe, and the poll tax—the hated straight levy per head that replaced property taxes to finance local government—certainly helped make her hugely unpopular; in April 1990 her approval rating was 23 percent, the lowest for a prime minister in memory. By November she was stuck at just 26 percent. Many in her own Tory Party were, as Mrs. Thatcher puts it, "running scared," convinced she would cause them to lose the next election. When the votes were counted in a challenge to her leadership of the party by her ex-defense minister Michael Heseltine, she had a clear majority. But under the convoluted Tory leadership formula, she would have had to submit to a second ballot. Rather than do so she stepped down.

"I have never been defeated" by the people, she said no fewer than five times during our interview. "I've never been defeated in an election. I have never been defeated in a vote of confidence in the Parliament, so I don't know what that would be like." This last was spoken as if she were flicking an imaginary crumb off her bodice. Moreover, Margaret Thatcher refuses to concede that the poll tax was even an error, and declares that she would have won a fourth election had The People decided. "We had gone through difficult times before. You don't run scared about by-elections midterm."

"So if the people had judged your overall record you would have won?"

"Yes. That's right. But had I gone on we would have had a fairly open split party, and it would not have been easy to get some things done."

"I'd still be there if I had my choice," she said at another point. "I did not have my choice, so I decided to do the best thing for my party for the future. . . . And I knew I'd still have a good bit of influence."

But what about the unceremonious way she was pushed out, forced to pack up and vacate No. 10 as well as Chequers, the prime minister's weekend retreat, on just four days' notice?

"I will suggest that no future prime minister has to do that, because prime ministers have a dignity as ex-prime ministers by virtue of their prime-ministerial office," she intoned with Monty Pythonish zeal.

Still, there was little humor in her predicament. For months after leaving office, Mrs. Thatcher seemed uncharacteristically frozen in indecision. Her friends tried to cheer her up with a luncheon at David Frost's, a weekend at the grand manor house of trade-and-industry minister Lord Hesketh, a party at millionaire novelist Jeffrey Archer's with a cake baked in the shape of the Order of Merit. Even John Major was said to be concerned; when he came to Washington for talks with President Bush before the Gulf War began, he told her American friends, "Be sure to look up Maggie—she's down." Those who made the trip found her worried about money: somehow Denis's comfortable retirement and her son's reputed millions weren't going to be enough. Had the leader who had slashed benefits throughout her three terms become too dependent on the perquisites of the state? By American standards, ex-prime ministers don't get much: an annual pension of roughly $45,000. As long as Thatcher kept her seat in the House of Commons, she was also entitled to her M.P.'s salary of $37,000, one constituency secretary, a small basement office, and a $19,000 cost-of-living allowance. Then, just before Easter, acting on complaints about her financial straits, John Major delivered a golden egg to the woman the London *Times* had dubbed "the high priestess of self-help"—an additional $53,000 a year to all ex-prime ministers, effective immediately. "It's very welcome and I'm extremely grateful" was Mrs. Thatcher's comment.

Yet the thing she wanted most they couldn't give her—her power back. Sir Charles Powell, the foreign-affairs private secretary, continued to brief her twice a week until he left government last March. But, after that, one of the best-informed creatures in the universe was reduced to calling government agencies for reports "the moment they are available to the press."

And no wonder she was so distraught about the whole mess. First, there were 65,000 letters to answer—65,000 that poured in from all over the world in the weeks after her resignation. But she had no real staff, only a borrowed office and a few volunteers who showed up to answer the phone. Then there were her living arrangements—her Georgian manse manqué, on a golf course behind an iron gate in the village of Dulwich, about a half-hour southeast of central London in light traffic, was too far away. She had to find a more convenient pied-à-terre. (Henry Ford II's widow solved this problem, lending her an apartment in Eaton Square.) Invitations to speak poured in, but who could sort through them? How much should she charge? Literary agents were desperate to deliver bids worth millions for a quick kiss-and-tell. Could she sell them on her notion of a serious historical examination of her era? How should she position herself? If she were to comment on current affairs, would it look as though she were meddling in John Major's government? How would she raise the money to maintain herself as a world stateswoman? Should she take a job? Now that she was out, would she still suffer the indignity of having Denis's business affairs questioned and investigated by the press? Since he was now a baronet, might she care to be known as Lady

Thatcher? Or should she give up her seat in the Commons, move on to the House of Lords, and take the title of Countess of Grantham, the little town in north-central England where she grew up? How would she stay in touch? Where should she go for lunch? Who'd do the shopping? Who was in charge here? Oh, could Maggie tell them, could she?

As it happened, she could. Mrs. Thatcher announced at length that she wanted to create "the Thatcher Foundation," devoted to education and research with a focus on "freedom" and Eastern Europe. Characteristically, she would prefer creating her own project to taking a post. The United Nations, mentioned in the press as a possibility, was out of the question: "My views are far too strongly held for that. Her Methodist roots would make her abhor sulking and wasting time in self-pity, but they would also act as a brake on "the commercialization of statecraft." "We're very mindful of Reagan's bitter Japanese experience," says Christine Wall of the scandal the former president created when it was discovered he and Nancy had accepted $2 million from a Japanese media company for appearances there.

The next step was to assemble her legions of powerful friends to help launch her again. The powerful friends eagerly offered their help and then waited. And waited.

"She could have put together a blue-ribbon panel of British businesspeople who would have helped her organize her office, get a staff, and get it all done," says Charles Price, former U.S. ambassador to the United Kingdom. "There were plenty of dynamic people around to help." Not only did Thatcher not accept her wealthy friends' offers of contacts and staff, she never got back to them. Several suspect they know the reason. "She has put all her affairs in the hands of her son, Mark Thatcher," says a British tycoon, "and a lot of people don't like Mark Thatcher; he's very stubborn and thinks he knows everything. We know he's wrong, but who the hell is going to mix in? Everyone is scared to death to confront her about it."

"Some people have tried to do so," according to Price, "first questioning the wisdom of a foundation and then of having family members involved. It kind of goes into thin air."

"If she fades out, his stature diminishes, and he has no sensitivity professionally or personally," says a former aide. "Nobody advising her day-to-day has the expertise to help her—it's an enormous waste. She needs a manager very badly." It never occurred to anyone, for example, to computerize the 65,000 names from the letters of condolence as a mailing list of potential donors for the Thatcher Foundation.

One story making the rounds in London recently was that Mark Thatcher enjoys referring to President Bush as "George." But all his adult life he has given those who know him the impression he is very much in a hurry to make it big and more than willing to trade off his mother's name to do so. "He's for use," says a powerful member of the Texas establishment. "The word is, if you want to use him you can use him." Mark himself once said, "I suppose I was the slowest learner in the family, the last to realize that because of Mum's success everyone would have their eyes that much closer on me, their expectations that much higher." Today if you want to get to Mrs. Thatcher, one way or the other you must go through Mark. He is her adored child, the light of her life. But to most of those outside the family who are close to Mrs. Thatcher, he is known as "that dreadful son."

"The son is a fly in the ointment," agrees famed literary agent Irving Lazar. Lazar said he offered to advise Mrs. Thatcher on her memoirs "even if I wasn't the agent," but never got to meet her. "The son thinks he can be the agent," Lazar says. "He's decided he knows all about publishing, and he's an amateur. He overestimates the value of the book, and what's worse, when he had the chance to strike he didn't."

After a dose of arrogance and delaying tactics, a number of U.S. publishers are already cooling to the book. A group of prominent agents were invited to London to meet Mrs. Thatcher, but were told that in order to qualify they would first have to fill out an elaborate questionnaire regarding their qualifications. Then, just before they were due to leave, the trip was abruptly canceled.

"We are not dashing into the memoirs," says Mrs. Thatcher briskly. "We're making quite certain the memoirs will be a vigorous intellectual historical record of what we did and what happened."

"What she doesn't realize," counters Lazar, "is that there's a hot moment when you can get a lot of money. When publishers have time to reflect that Americans don't understand the basic system of politics in Britain, she won't get as much. She turned Britain around and made it far more influential in the world. She won the hearts of the world. But what's happening now is that a lot of her glamour is being dissipated."

Apparently, the foundation is not much farther along than the memoirs. It must not be viewed as any sort of clearinghouse for her political ideas, lest the British Charity Commission, which is very strict in these matters, rule against giving it tax-exempt status. Nonetheless, the foundation has already hit a snag in England with those who worry that raising money for it would siphon off funds from the coffers of the Conservative Party just when it will need them to mount another election campaign. On the American side Charles Price raises the same questions, saying Mrs. Thatcher's foundation will be direct competition with "a number of think tanks."

"We've got to raise in excess of $20 million," says Lord McAlpine, the head of the board of trustees, who dismisses such doubts. "I was treasurer of the Conservative Party for sixteen years. The last thing I want to do is anything that will harm the party's chances." Mark Thatcher has told rich Texans he hopes to raise "$20 million a year for the next five years" for the foundation, although no one can recall being asked to make a donation.

While she waits for her new life to take shape, Mrs. Thatcher, who has avoided the back benches of the House of Commons, still makes her regular rounds in Finchley, the modest district north of London filled with the elderly, people she has known and represented since 1959, a safe haven that will not be easy to give up if she moves on to the House of Lords as expected. Her small staff in Finchley tries vainly to keep her schedule full. "If she has a program of three things to do for the day, she's noticeably looking for other things to do," says her Finchley representative, Mike Love. "The one lesson you learn in writing a program for her is that you *never* put on it 'free time' or the word 'rest.'"

Mrs. Thatcher admits that several months is not enough time to rebuild a life, but in true Thatcherite fashion she is gamely making the attempt: "You have to create a new pane of glass—we are building up new habits." One of those habits—and the best way to keep the glamour alive, of course—is to travel to the United States, where the money and adulation that are so lacking at home are plentiful. America and Maggie Thatcher is the story of milk and honey meeting iron and silk. Certainly at the $2,500-a-plate March of the Glittering Mummies that was Ronald Reagan's eightieth-birthday party in Beverly Hills last February, Mrs. Thatcher was the superstar—even when it was difficult to see who came through the metal detector first, Ricardo Montalban or Cesar Romero, Phyllis or Barry Diller, Dinah Shore or Ed Meese, Rupert Murdoch or Eva Gabor, and, dead last, Elizabeth Taylor, all cleavage and curls with her latest thirtyish escort in tow. Not to mention Thatcher's holding hands with Nancy Reagan herself, the photo ops with Merv Griffin and Dan Quayle, listening to Liza Minnelli sing "New York, New York" to a bunch of people who despise New York, and watching Ronald Reagan lean over to blow out his candles and get frosting smeared all over his tux—well, it certainly beat getting slagged off by Neil Kinnock. And Mrs. Thatcher, sparkling in gold brocade and black velvet, did get the longest standing ovation of the night. That ought to be worth something in future donations to the Thatcher Foundation.

But the next morning the world, and her diminished status in it, intruded rudely. What was supposed to have been a carefree breakfast with the vice president in Century City became a full-scale news conference when word arrived that terrorists had fired three mortar rounds at the British Cabinet meeting being held at 10 Downing Street. Mrs. Thatcher, dressed in a navy suit with brass buttons that looked like a military uniform, was ready with a statement, handwritten on a scrap of paper. She then found herself in the ludicrously unnatural position of ceding control of the event to Dan Quayle and watching him grope with reporters' questions. There were moments when she actually rocked up on her toes, clenched her fists, and bit her lip as if to silence herself. Finally, a question that implied British and American imperialism was the cause of anti-American sentiment in the Gulf pushed her over the edge. When she was next asked to give her views, she blasted, "I think all comment should be directed to criticism of Saddam Hussein, who started a brutal war on the second of August and has been prosecuting it ever since." She glared at the offending reporter. "Criticism should be directed towards him, not those who are standing against aggression."

Once again, she had flattened the opposition. Is that why Americans love her so? Is that why, on Capitol Hill, when tourists see her they break into spontaneous applause? "I don't know, but I'm eternally grateful they do," she says. It certainly didn't hurt that she was always so breathtakingly well informed, the cerebral half of the heralded Thatcher-Reagan alliance. Reagan might be able to get away with watching The Sound of Music on TV the night before an economic summit instead of reading his briefing book, but Mrs. Thatcher never could nor would.

Margaret Thatcher's relationship with Ronald Reagan was a cornerstone of eighties geopolitics and a great comfort to them both. Today, out of power, both are symbols of the ear of brash acquisitiveness, yet Americans sensed in her the toughness and command of facts that the Gipper was often seen to lack. If Ronald Reagan acted on political instinct, Margaret Thatcher was able to provide the intellectual rationale. "We shared the same views and were fighting to get them accepted," she says. "Don't forget, we had to fight to get them accepted."

"Reagan was particularly appreciative of having Thatcher in his corner during his early ventures onto the world stage, when his inner confidence may not quite have matched his fortress of convictions," writes Lou Cannon in his definitive new political biography, *President Reagan: The Role of a Lifetime*. "She was quite good at reinforcing him when he needed it, and made a point of giving him credit for something he hadn't said," agrees former national-security adviser Robert McFarlane. "She was truly conscious of his limitations, but she adored his constancy—they both understood the power that derives from constancy." Margaret Thatcher was also masterful at having her way with the President. "I wouldn't say she exploited him," says McFarlane, "but she knew how to play upon his lack of knowledge and is chivalrous nature. To be in a room with her really *stirrrrrs* you," McFarlane adds. "She is a performer, an overwhelming presence. I couldn't be around her without just feeling . . . passion is the wrong word, I guess. She could move men and she knew it. Oh yes!"

Denis Thatcher had a more succinct explanation: "With Ronald Reagan," he told an American friend, "it takes a while for the penny to drop." Yet even when they knew they were being had, the Yanks couldn't seem to get enough of her. Both Charles Price and Robert McFarlane remember the Christmastime visit in 1983 when Margaret Thatcher was flying to Washington from the Far East. After landing at Hickam Air Force Base near Pearl Harbor in the middle of the night, she announced she wanted to visit the battle site. Of course, said the meet-and-greets, they'd get her a car. "That won't be necessary she replied, fishing a flashlight out of her purse and setting off on foot.

Hours later, at Camp David, she had Star Wars on her mind. "Her real purpose was to rein Reagan in before he did serious damage to the alliance—the Europeans were very alarmed by S.D.I.," says McFarlane. "She and two aides sat across the table from the whole array of the top people in the administration," says Price. "'Look here Ron,' she said. 'I think we may face considerable turmoil in the alliance. . . . I think you should make a statement today.'" Mrs. Thatcher dived into her handbag once again. "I brought one." With minor tinkerings, says McFarlane, this was the communiqué that was issued shortly afterward.

She and George Bush were old friends by the time, years later, the president presented Margaret Thatcher with "the Handbag Award" Thatcher with "the Handbag Award" at a State Department lunch. There is no doubt she always wanted Bush to go all the way. Richard Fisher, a Dallas investment banker who befriended Denis and Mark Thatcher in the mid-1980s and had been for a time an aide to Treasury Secretary Michael Blumenthal in the Carter administration, has several private lunches and dinners with the prime minister during that election cycle. She once delivered to him a blistering lecture on the importance of loyalty. "You cannot succeed in politics unless you are loyal to those who got you there," he remembers her saying. "This is George's greatest attribute—he has been loyal to Ron." She had sized up Dukakis quickly. "This Dukakis fellow is a lightweight, an absolute lightweight," she said, "a lightweight with delusions of grandeur. This is a dangerous combination."

A few months later when Fisher saw her again, on the eve of the Republican convention, Margaret Thatcher was most concerned about whom George Bush would choose as running mate. "I would like to see him pick Colin Powell," Mrs. Thatcher said of the general who had yet to become chairman of the Joint Chiefs. "It would be a bold and high risk. I wish George would do something of this nature and just say, 'Right, I'll make it work.'"

But by the time George Bush assumed office in January of 1989, Margaret Thatcher had, in the words of a senior American official present at the meetings between the two, "lost the ability to listen." She lectured Deputy Secretary of State Lawrence Eagleburger for twenty minutes at a time "and didn't even seem to hear his answers." At a meeting in Colorado in 1989, when Bush tried to engage her in a political bull session, she answered him "as if she were turning on a cassette tape." She was asked to try to relax and she did somewhat, eventually, but by then the Americans, while ever respecting her intellect, generally considered her "difficult and imperial." ("She always talks too much when she's nervous," explains a friend.) Nevertheless, Margaret Thatcher is widely viewed to have bolstered George Bush's resolve to send troops to the Gulf, since the two of them happened to be in Aspen together when Saddam Hussein invaded Kuwait, and she was also in the Oval Office when Cheney called to tell the president that King Fahd would allow American troops on Saudi Arabian soil.

At the Medal of Freedom ceremony, Bush himself alluded to Thatcher's help on that score and her lack of self-doubt. He remembered telephoning her early on in the Gulf crisis to say that he was planning to allow a single Iraqi vessel through the naval blockade the allies had imposed. She "agreed with the decision, but then added these words of caution—words that guided me through the Gulf crisis. Words I'll never forget as long as I'm alive," said the president. "'Remember, George,' she said, 'this is no time to go wobbly.'"

When she herself was thrown off-balance, Margaret Thatcher turned to the person she has always trusted most in the world, her husband. After the first unsuccessful vote for party leadership was taken last November, Mrs. Thatcher, in Paris for a summit on European security, said she would run on the second ballot. Once home, however, she discussed her plight with Denis. "He said he thought it would be better if I did not stand again," she says. "It relieved my mind in a way because that was the decision I came to." Actually, says a friend, Denis had told him two years earlier that "he'd had it—the best thing about being prime minister was going to Chequers."

"If you want any help, you ask for it at home. If you've got any problems, you take them home. That's what family life is about." Mrs. Thatcher sat up straight and stressed every consonant. "It is the home always to be there—always certain that you can find there, no matter what happens, affection and loyalty. . . . Home is where you come to when you have nothing better to do.

"Denis is absolutely marvelous," she went on. "We are a very close-knit family." In addition to the Thatchers' thirty-seven-year-old twins, Mark and Carol, there's Mark's congenial wife, Diane—a former Kappa Kappa Gamma at Southern Methodist University and the daughter of a car dealer—and their two-year-old son. Carol, a freelance writer and, friends say, the one with the sense of humor, has stayed in the background, while her mother has put Mark in charge of everything and found solace with the affable Sir Denis. Now seventy-six, he is "the mainstay of my life," says Mrs. Thatcher, and, according to Lord Hesketh, "the bedrock on which the whole cathedral sits."

"She is this extraordinary combination of world-historic figure and common-garden housewife," says her former staffer and *National Review* editor John O'Sullivan. "She could change in a second flat from being Queen Victoria, Queen Elizabeth, Attila the Hun, or Genghis Khan to being a 1950s wife," agrees one of her former ministers. Three years ago after the Trooping of the Color on the Queen's birthday, Richard Fisher remembers, he went to the private quarters at No. 10 to find "Margaret Thatcher down on her hands and knees packing her own bag, and there's Denis mixing a salad with his hands in the pantry." Lord McAlpine says, "The dynamic of their relationship is simple: it's just love, true affection, romance—they love each other. He's enormously protective of her."

When asked to speak in personal terms about Denis, however, Mrs. Thatcher fielded the question with English reserve. "Denis is on several boards, which he is extremely conscientious about—all the board papers are thoroughly analyzed before he ever goes to board meetings. He's run the family business. He knows what it's like when you are committing your own money. . . . He's a crack accountant and he also always has been mad keen on certain sports and living up to certain standards in those sports." Golf, she said, which Sir Denis plays with left-handed women's clubs, is his favorite. "He's very, very pro golf," she said in her best instructional tone, "because when it comes to playing professional golf, the standards of the golf are some of the highest standards in sports. There are *no* histrionics."

Denis has been celebrated in British pop culture through the play *Anyone for Denis?*, in which he is "mad keen" on golf chiefly for the libations of the nineteenth hole, and in the hilarious "Dear Bill" letters in *Private Eye*, in which an old buffer never far from gin meltdown partakes in and reports on a daffy right-wing world.

In fact, such a cover of buffoonery serves him well. Denis Thatcher is far right in his views—he has always been an avid advocate of trade with South Africa and has called the BBC "a viper's nest" of "outrageous bloody pinkos." (A female dinner partner remembers him referring to Indians as "Wogs.") "He played the fall man and he was ridiculed," says Fisher. "That was fine—that was his role." But during his wife's tenure, Denis, like his son, also had the propriety of several of his business dealings questioned.

For many years Denis was a consultant for a building group called I.D.C.—he spent six to seven days a month working for the group, which is involved in civil engineering. His most controversial intervention on the firm's behalf came to light when his letter to the government's secretary of state for Wales—about delays in building permits on an I.D.C. project—was published in the British press in 1981. The message from Denis Thatcher, on 10 Downing Street notepaper, prompted the secretary to scrawl to his staff in the margin. "The explanation had better be good and quick."

Also in 1981, Denis and Mark Thatcher got embroiled in a controversial building contract in Oman. Mrs. Thatcher was making an official visit there during the same time that a British construction company, Cementation International, was bidding on a billion-dollar university complex. Mark, who was working as a consultant for Cementation, showed up as well. Mrs. Thatcher lobbied on behalf of the company, and after it won the contract, Mark reaped a sizable fee. For his part, Denis Thatcher was chairman of a company that had a 50 percent interest in a bid to subcontract to Cementation. After The Observer broke the story in 1984, Mrs. Thatcher and her government were criticized in Parliament for the striking conflict of interest. Later The Sunday Times revealed that Denis was a co-signatory on the bank account in which Mark's fee was deposited.

These days, Denis, who spends one week out of four in the U.S., is in business with some heavily investigated characters. One of his major ventures—he serves as deputy chairman—is with Attwoods, a British waste-management concern. Municipal garbage contracts and landfills in high-growth areas like Florida are a lucrative business, and a substantial portion of Attwoods' profit comes from an American subsidiary, Industrial Waste Services in Miami. When Attwoods acquired I.W.S. in 1984, it was owned by Jack R. Casagrande and Ralph Velocci and some of their relatives; as part of the sale, these relatives received Attwoods stock, and Casagrande and Velocci have joined Denis Thatcher on the Attwoods board. Casagrande and Velocci come from three generations involved in the garbage trade in New Jersey and New York, where another company Casagrande has an interest in was charged with price-fixing and illegal property-rights schemes. A 1986 report from Maurice Hinchey, chairman of the New York State Assembly Environmental Conservation Committee, stated that organized crime is "a dominating presence" in the state's garbage industry.

"One of the great advantages for I.W.S. was to be subsumed under a British corporation which had the luster of the Thatcher name," says Alan Block, a professor at Pennsylvania State University and the author of a book on organized crime's ties to the waste industry. F.B.I. reports refer to I.W.S.'s business dealings with convicted mob associate Mel Cooper, now serving twenty-five years in prison for racketeering. Cooper ran a garbage-equipment leasing operation in New York that was alleged to be a front for loansharking operations connected to the Gambino, Genovese, and Colombo crime families.

In 1986, I.W.S. was convicted in Florida of conspiracy in a criminal anti-trust case and fined $375,000. Also that year, Casagrande and Velocci were investigated, but not indicted, in an alleged bribe of the mayor of Opa-Locka, Florida, for that city's garbage contract. In 1987, a civil suit was brought against I.W.S. and Casagrande and several other defendants for allegedly defrauding Marion County, Florida, in a garbage-conversion scheme. Casagrande was also charged with grand theft and conspiracy. Earlier this year, I.W.S. and Casagrande were part of a $2.3 million out-of-court settlement.

While Margaret Thatcher was prime minister, unofficial Downing Street and Attwoods sources would reportedly dismiss any news accounts of the company's activities by asking the rhetorical question "Do you think British intelligence would allow Denis Thatcher to take a job that could be linked to the Mafia?" Hinchey claims that Scotland Yard, at least, did inquire about Attwoods and I.W.S. "I've seen documents from British authorities," he says. "They knew about these things and were frustrated about it." Yet British authorities apparently did not contact others who could have aided them. Says Robert Waters, at the time an assistant state attorney in Florida's Organized Crime and Public Corruption Unit, "I was the one conducting the bribery investigation, and nobody from the British government ever contacted me or any of my detectives."

By all accounts, Denis has never questioned his own authority. "In his own house he would have the last word," says Lord McAlpine. "It is a conventional relationship." But the paradox exists that, despite his being an apparent male chauvinist, it was Denis's money, gotten from the family chemical-and-paint business (he once wrote a book called *Accounting and Costing in the Paint Industry*), that allowed his wife to pursue a political career. "He has always seemed dazzled by—and devoted to—her," says Lord Gowrie, Thatcher's minister of the arts, who is now chairman of Sotheby's U.K. But Denis, though fiercely protective of his wife, has also injected a note of reality. Gowrie recalls an after-dinner speech she once made at the Imperial War Museum in the flush of victory after the Falklands War. Afterward she asked, "Dear, was I too long?" "Bit," he replied.

If Denis has successfully deflected criticism of his business transgressions, his son has not been as fortunate. In fact, almost nobody has a very kind word for Mark Thatcher. "Mark gets a bit of a bum rap," says John O'Sullivan, the National Review editor. "He doesn't have immense charm. He's not winning." Indeed. He's the son who mixes with international arms traders; the wheeler-dealer, suddenly wealthy son who travels with a butler and; last fall, bought a $3.5 million London town house with up-to-the-minute heavy security; the inept son who got lost in the desert for six days on the Paris-to-Dakar rally when he wanted to be a racecar driver, causing his mother her first public tears (and prompting former German chancellor Helmut Schmidt to comment privately, "It's the first time I ever realized she was a woman"); the arrogant son who got his mother in hot water over the Oman deal and who has more recently clumsily hinted that certain people haven't done enough to support the foundation she wants to set up; the boorish son who used to pull out a walkie-talkie in the middle of dinner parties to talk to his bodyguards; the snobbish son who told the cultivated billionaire Walter Annenberg that he was setting his table with the wrong glasses for red wine and that his golf course was "Mickey Mouse."

"He's not the brightest guy in the world," says columnist Nigel Dempster, "and clearly what he's done smells a little." That son. "I think Mark is extremely bright and loyal to his mother," says Richard Fisher, a Mark defender. "I think he realizes that great people can serve and then be forgotten and their offspring amount to nothing. The Churchills basically live in poverty by Texas standards. He will take good care of his mother." Recently when Fisher hosted eighteen for dinner in Mrs. Thatcher's honor in Dallas, he toasted her "as a wife and mother first, then as the greatest prime minister since Churchill." "Richard," she replied, "you have finally got your priorities right."

"I see something else," Fisher continues. "I think she's a loving mother, and, if anything, there is a sense of loss that in her career she didn't spend enough time with her children. I wouldn't call it guilt, but she works very hard to love her two kids."

When asked directly about Mark's role in her life today, Mrs. Thatcher was not at all pleased. "He is helping make some of the arrangements, and he is a very, very good businessman. He's a born businessman, as indeed my husband was. He built up his own business and he managed to sell part of his interest in it." When pressed about just what sort of business he was in, she reluctantly answered. "It's a big concern for security—the best possible kind of home-security systems." Asked about his qualifications to handle her affairs now, she lost her patience. "Look, my children are not children anymore," she said. "They know about life. I find he is one of the most businesslike people I deal with. You want something done, he does it quickly—there's no 'Oh, well, I'll do it tomorrow.'"

Despite the perception of many loyalists that the foundation is a "nonstarter," McAlpine confidently predicts "we'll be quite active by the end of the summer." Mrs. Thatcher herself says, "The foundation has to operate in Britain, America, and in Japan. There are people the world over who think the way we do."

Apparently so. The day after she received the Medal of Freedom, Thatcher was introduced by Federal Reserve Board Chairman Alan Greenspan to members of five right-wing think tanks at the posh Four Seasons Hotel in Washington. She delivered (gratis) a rousing forty-five minutes address on Europe and advocated the economic equivalent of NATO. Imagine crossing the TelePrompTer technique of Reagan with her brains—for these thirsty hard-liners her words went down like vintage champagne. Anyone who had thought she might modify her views on opposing a common European currency or a European Superstate as a result of her downfall would have been deeply disappointed. "Utopian aspirations," she informed her rapt audience of right-wing stars, "have never made for a stable polity."

Her next stop, Dallas, seemed more of a favor to Mark, who made sure she was wined and dined by the civic elite. At one dinner, she took issue with the C.E.O. of *The Dallas Morning News*, who, in a discussion about social inequities, dared to mention the notion of a class structure. "Any reference to class distinctions is a Marxist concept," Mrs. Thatcher told him. Although she was now able to command a cool $60,000 per speech—$20,000 more than Henry Kissinger gets—she made yet another speech for free to a room full of wowed million- and billionaires. During the question-and-answer period following, she referred to the special relationship between Britain and the United States: if it ever faltered, she promised in jest, "I may come back."

Finally, though, it was the plight of the Kurds that led Mrs. Thatcher to abandon her stance of official reticence. "The people need help, and they need it now," she admonished on April 3, while President Bush was on vacation in Florida and John Major was glimpsed at a soccer match. "It is not a question of standing on legal niceties. . . . Supposing they were your children, wouldn't you want to help?" Major's announcement of emergency aid to the Kurds followed three hours later, but his aides angrily rejected the suggestion that Mrs. Thatcher was in any way responsible. "It is time some of the elderly loose cannons on the deck were pitched overboard and shut up," one senior minister reportedly snapped.

A week later, when she returned to New York to open the newly remodeled British Airways terminal at J.F.K. airport, Mrs.

Thatcher also dropped by the United Nations and had a "very lively ding-dong" about the Kurds and the Gulf with Javier Pérez de Céllar and other U.N. heavies.

"She's invigorated, in very good form," says John O'Sullivan, but "she wishes she were in office." And yet, he says, "when she was in power there were always constraints—she couldn't develop a positive agenda. With the reception she received from that Washington speech, she realized she could be this new world figure—a female Kissinger," he enthuses. "There are still remnants of official caution, but I could see her shaking it off. In another six months she'll be unrecognizable. She'll get more outspoken."

That's just what many Conservatives in Britain fear most. Already Major's government has begun to dismantle the poll tax and increase child benefits. That old consensus is rearing its equitable head. For Margaret Thatcher that's roughly the equivalent of making Jesse Jackson the head of the Ku Klux Klan. Already, it is said, she has taken to calling Major's government "the B team."

Reports are now circulating that, in addition to a visit with Gorbachev in May, she will make a triumphant appearance—as a sort of Britannia-on-a-chariot symbol—at next year's Republican convention. "There's no shortage of people who would love to entertain her," says her close friend and former minister Cecil Parkinson. "But that's not a career, is it?"

"She's going through a period of enormous boredom," says Lord Hesketh. Nevertheless, royalists like Hesketh maintain, one must never count Margaret Thatcher out. "She was destroyed by the poll tax and her views on Europe. The chattering classes—the media, the dons, the Pinters—they all hate her, they loathe her. They are unable to have serious thoughts about what she's done, what she's achieved. They're absolutely blinded by their hatred. Because they don't like her they say she's gone. Exit, stage right. That's a great advantage to her."

"If she aspires to be an influence in British politics, and I think she does," says Robert McFarlane, "there is a need for a pause. If she'll just tap her foot for a while, they'll come her way. They'll realize what a giant she is."

"My role now is to go round the world saying, propounding, what I believe in, and to help those reaching out to democracy," Mrs. Thatcher declares. In the U.S., she's already got millions on her side. Deep in Orange County, the denizens are still talking about the penetrating speech they recently heard from her. "After all," said one matron, "she is the most powerful woman who ever lived."

For Margaret Thatcher, at least there'll always be an America.

REMEMBERING JOHN FRANKE: A LIFETIME DEDICATED TO PUBLIC SERVICE

Mr. DOLE. Mr. President, as U.S. Senators, we often have the opportunity to rise to offer kind words or good news about the outstanding people of our State. Today, however, I rise to pay respect to a man who will be missed by all in Kansas. John Franke, Jr. passed away July 3, 1991. John dedicated his life to making a difference for his community, his State and his country. He brought a special brand of enthusiasm and dedication to his work.

John and his wife, Midge, were some of my earliest supporters, and I will never forget their loyalty and friendship. They were always there when I needed them. When I first ran for the U.S. Senate in 1968, they opened up their home and their hearts to help, introducing me to their friends and to Johnson County.

John started his career in local government in Merriam, KS. He first served on the Merriam City Council from 1965–70 and was then elected mayor in 1971–72. He served as a Johnson County Commissioner from 1973–81.

In 1981, John was appointed regional director of the Environmental Protection Agency for Region VII in Kansas City. He and Midge moved to Washington, DC, where he was appointed Deputy Assistant Secretary for Administration for the U.S. Department of Agriculture in 1982 and subsequently as an Assistant Secretary from 1983–89.

Franks was appointed in 1989 by President Bush as Director of the Federal Quality Institute. He also served as Vice Chairman of the President's Council on Management Improvement and as Chairman of its Government Operations Committee.

Though John came to Washington, DC, he kept strong roots in Kansas. No one loved Kansas more than John Franke.

He will especially be remembered by his family, his wife, Midge, his three sons, Michael, John, and Robert, his father John Franke, Sr., and a host of friends and colleagues throughout the Nation.

REGARDING VOTES ON THE CRIME BILL ON MONDAY, JULY 8

• Mr. MURKOWSKI. Mr. President, I regret to inform my colleagues that I will be unable to participate in votes occurring in the Senate on Monday July 8, 1991. My absence is necessitated because I will be with the Secretary of Energy, Adm. James D. Watkins, in my State of Alaska.

Secretary Watkins is traveling in Alaska, at my invitation, to meet with community, business and State government leaders, and to view firsthand the oil exploration and production initiatives that form the cornerstone of the President's national energy strategy. In addition, the Secretary's trip offers Alaskans the opportunity to discuss with the Secretary the many issues of national importance that are currently pending before the Department of Energy.

Mr. President, let the record reflect that had I been present I would have voted nay on the Biden motion to table the Rudman amendment to the crime bill.•

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,305th day that Terry Anderson has been held captive in Lebanon.

THE CLARENCE THOMAS NOMINATION

Mr. DANFORTH. Mr. President, 1 week ago today, while attending a meeting with the mayor and the city council in St. Joseph, MO, I received word that there was a phone call from the President in Kennebunkport. By the time I got to the phone I was told that the President had already started the press conference, at which he announced that Judge Clarence Thomas of the U.S. Court of Appeals for the District of Columbia was going to be nominated to be a Justice on the Supreme Court of the United States. I can say that very seldom in my life has a more exciting event happened to me. It was a tremendous personal thrill to get this word from the administration because my own experience with Clarence Thomas goes back some 17 years.

Seventeen years ago, when Judge Thomas was a third-year law student at Yale law school, I interviewed him for a job in my office when I was attorney general of Missouri. I remember being very impressed with him at that time and I did offer him a job in the attorney general's office. He accepted the job offer and he came to Jefferson City and he worked with me for 2 years or so.

Then, after I came to the Senate in the late 1970's, once again I asked Clarence Thomas to come to work for me and he came to Washington. At that time he had been a member of the legal staff at Monsanto Co., headquartered in St. Louis. He left his job in the private sector and he came to work for me here in Washington as a legislative assistant.

So I have twice been in the position of employing Clarence Thomas. Twice in two different capacities he has worked for me. And I have kept track of him ever since. I have seen him several times every year. I have had a number of opportunities to speak with him and find out what is going on in his life in the various important jobs he has had since he left my employment back around 1980 or 1981 or so.

I know Clarence Thomas very well, and because of my personal knowledge of him, I was particularly excited—thrilled, really—to receive word from the President that Clarence Thomas would be nominated to the Supreme Court of the United States.

Mr. President, I think Clarence Thomas brings to the Supreme Court a very valuable perspective. I know there has been a lot of comment that maybe this is some quota program on the part of the President. I cannot put myself in the mind of President Bush but I can say this: That I believe that in the Supreme Court of the United States it is important for the Justices to represent a breadth of experience. I do not think that in the Supreme Court we want simply breathing brains, disembodied minds who, in computer-like fashion, apply the precedents to a particular case.

A Justice's reading of the law is bound to be read through the perspective, the glasses of a lifetime of experience and Clarence Thomas' experience in life is unusual, particularly in the Supreme Court. A person who was raised in poverty, a person who did not know indoor plumbing until he was 7 years old, a person raised by his grandparents who were illiterate, who was taught the value of hard work, who was put through the Catholic schools in Savannah, GA, and eventually on to Holy Cross and then Yale Law School.

Clarence Thomas is the best Clarence Thomas that he can possibly be. He has made the most of what he was given in life. And I think that that is a valuable perspective to bring to the Supreme Court of the United States.

Many people have speculated as to what kind of justice Judge Thomas would be. Many people have indicated that in the confirmation proceedings they plan to try to find out how he would vote on this issue or that. President Bush has stated that he did not ask Judge Thomas to predetermine how he would hold in any particular case. And I think that it would be improper to do so. I think that it is improper to try to have a marked Justice on the Supreme Court of the United States.

But I can say from having known this man for 17 years, that if anyone thinks that Clarence Thomas is absolutely predictable, if anyone thinks that Clarence Thomas is a predetermined vote on any particular issue, that individual does not know Clarence Thomas. The President said at Kennebunkport, ME, that Clarence Thomas is fiercely independent. He is one of the most independent people I have ever known. He calls them as he sees them, and that was certainly true when he worked for me, both in the attorney general's office and here in my Senate office in Washington.

He was never a person who would be pigeonholed into any particular category, and I believe that on the Supreme Court of the United States, he would be that kind of Justice. He would call them as he sees them. His issues would not be predetermined. He would not attempt to shove his own political philosophy into any particular case which he was deciding. But he would be a person who would view the law through the window of his own time experience. He is a person and would be a Justice who would have great empathy for the ordinary person. In many ways, Mr. President, Clarence Thomas is the people's nominee for the Supreme Court of the United States.

I have told Judge Thomas that I would do absolutely everything I can to try to assure his confirmation by the Senate, and I plan to do that, and maybe the best thing I can do is maintain a low visibility. I do not know. Whatever it takes I will do for Clarence Thomas. I believe in this person as a human being, I believe in the excellence of his ability, and I believe he would make a splendid member of the Supreme Court.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. AKAKA). Morning business is closed.

VIOLENT CRIME CONTROL ACT

The PRESIDING OFFICER. The Senate will now resume consideration of S. 1241. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1241) to control and reduce violent crime.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the Senator from New Hampshire [Mr. RUDMAN] is recognized to offer an amendment relative to police, on which there shall be 1 hour of debate, equally divided in the usual form.

The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, let me state what I believe to be the parliamentary situation. It is my understanding that there will be 1 hour equally divided between the distinguished chairman of the committee, Senator BIDEN, and myself. At the conclusion of that, there will be a motion to table. Then the amendment will be laid aside, and other business will take place. At 7 p.m. this evening there will be a vote on the Biden motion to table the Rudman amendment.

Do I state that corectly?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 516

(Purpose: To provide authorizations to local law enforcement personnel to combat drugs and crime)

Mr. RUDMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. RUDMAN] proposes an amendment numbered 516.

Mr. RUDMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, after line 22, insert the following:

"SEC. 104. GRANTS FOR STATE AND LOCAL LAW ENFORCEMENT.

(a) FINDINGS.—Congress finds that—

(1) State and local police officers are on the front lines of the war against drug-related and other violent crimes;

(2) State and local police officers are directly knowledgeable of the particular problems of crime in their districts, and of the way to best address these problems; and

(3) the most effective way to combat drug-related and other violent crime in the streets is to increase the number of law enforcement personnel operating at the state and local levels of government.

(b) GRANTS.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, is authorized to make grants to State and local law enforcement agencies for the purpose of combatting drug-related and other violent crimes. Such grants must be used to supplement and not supplant existing resources. Grants may be awarded only for direct personnel costs associated with employing law enforcement officers.

(c) ALLOCATION.—Of the total amounts appropriated for this section, there shall be allocated to each State and local unit of government an amount which bears the same proportion to the total amount appropriated as the the amount of enforcement officers employed in such state or local unit of government as of June 1, 1991, bears to the total number of law enforcement officers employed in the United States as of June 1, 1991.

(d) DEFINITIONS.—For the purpose of this section—

(1) the term "law enforcement agency" means any agency of the District of Columbia, any of the several states, or unit of general local government, including a county, township, city or political subdivision thereof, which employs law enforcement officers, and has as its primary mission law enforcement; and

(2) the term "law enforcement officer" mean any officer of the District of Columbia, any of the several states, or unit of general local government, including a county, township, city or political subdivision thereof, who is empowered by law to conduct investigations of, or make arrests because of, offenses against the United States, the District of Columbia, a state, or a unit of general local government.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,206,500,000 for fiscal year 1992 and such sums as are necessary for fiscal year 1993, 1994, and 1995 to carry out this section."

On page 78, strike lines 1 through 24.

On page 86, strike line 3 and all that follows through page 114, line 10.

On page 122, strike line 3 and all that follows through page 124, line 13.

On page 158, strike line 20 and all that follows through page 167, line 8.

On page 168, strike line 18 and all that follows through page 175, line 11.

On page 178, strike lines 10 through 23.

On page 180, strike lines 5 through 15.

On page 182, strike line 1 and all that follows through page 185, line 4.

On page 187, strike line 1 and all that follows through page 192, line 12.

On page 210, strike line 12 and all that follows through page 220, line 12.

Mr. RUDMAN. Mr. President, I ask unanimous consent that Senator COCHRAN of Mississippi be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RUDMAN. Mr. President, this amendment is really philosophical in nature. I want to say to my friend from Delaware that he and I disagree on very little in this bill. I commend the Senator from Delaware, Senator THURMOND, Senator HATCH, and others, for the remarkable work they have done to fashion this bill. Let me also say that I think that much of the President's bill deserves our strong support.

However, I have listened for the last several years, both on this floor and in the Appropriations Committee, about the need to fight crime. And over the last 10 years I have either served as chairman or ranking member, with Senator HOLLINGS of South Carolina, of the State, Justice, Commerce Subcommittee of the Senate Appropriations Committee. Over those years, with strong support on both sides of the aisle, and certainly with the strong support of the chairman and the ranking member of the Senate Judiciary Committee, we have done a very adequate job in funding Federal law enforcement.

As a matter of fact, the increase in appropriations to the U.S. Department of Justice over that period has been phenomenal. In many ways, in terms of percentages, it compares to what we have done in the area of defense. This is appropriate. Let me point out that this year straight law enforcement funding at the Federal level is $5.36 billion. That is a great deal of money.

The chairman of the committee and many members of the Judiciary Committee, in fashioning this legislation that is before us, decided to add incrementally to those programs and beyond that to create some new initiatives which are strongly supported by many Members of the Senate.

It is important to note, however, that those are Federal initiatives. A good example of that is found on page 122 of the pending bill which is title X, Federal Law Enforcement Agencies. Section 1002 of the bill reads as follows:

> There is authorized to be appropriated for fiscal year 1992, $345,500,000 (which shall be in addition to any other appropriations) to be allocated as follows:

That, of course, is not true with all of the appropriations in here because some of them are in fact new initiatives, but in many cases they are essentially substantial add ons.

Now I take a different view. I want to make the point that crime in America is inversely proportional to the number of police we have on the streets. The more policemen, the less crime. The less policemen, the more crime.

As a matter of fact, to take a perfectly absurd example, I am confident that if you put a policeman on every street corner of the city of Washington the murder, rape, drug dealing, aggravated assault, and armed robbery that we read about every morning in the paper would substantially decrease. This is proven by every experiment in this country. When I served as attorney general of my State a number of years ago, one of the things we found was that when we targeted an area and increased police activity in that particular area, the crime in that area decreased.

What are we doing with this crime bill? We are essentially buttressing Federal law enforcement, and I am all for that. I think that is important. But we have limited resources to allocate.

This is not a very complicated amendment. It is a pretty basic amendment. What it does is take most of the money that has been carefully crafted within this bill for Federal law enforcement and, to be fair, in some cases for State and local law enforcement initiatives—with the two exceptions—transfers it on a per cop basis to local, State, and county law enforcement agencies across this country.

Let me for the record—although I know the Senator from Delaware is aware of it, because I have discussed this with him—mention the two areas that are not struck by this amendment. The first one is $1 billion for State antidrug grants. This is actually a $100 million increase over the current authorization of $900 million. We do not strike that in this amendment because it is an ongoing and successful program.

The second provision we did not strike—because I thought it would be frankly, irresponsible in terms of all the debate we have had in this Chamber about gun control—is the amount designated for the Brady bill for States to create computerized criminal history record systems. We did not strike that provision.

But in fact we did wipe out everything else. So that everybody knows what we are talking about, let me briefly tell you what we took out. We took out $75 million for counterterrorism; $400 million for the police corps proposal, which I strongly support. It is a scholarship program for young people going into law enforcement. It is an excellent program. I support it. It is important. But not as important as fighting crime directly.

We took out the $345 million for addons to Federal law enforcement agencies, FBI, DEA, and so forth; $700 million for regional prisons; $150 million for boot camps; $100 million for antigang grants; $76 million for rural crime and drug control; $300 million for drug emergency areas; and $45 million for reorganizing the criminal division of Justice. We took all of that out.

That is not to say, Mr. President, that I do not think that many of those sums are wisely spent. I am saying we are involved in a war on street crime. That is what we are really talking about. When you talk to Americans, whether in Washington, DC, or Wilmington, DE, or Manchester, NH, you talk about crime, they are talking about murder, aggravated assault, robbery, rape, and drug dealing.

My amendment goes to the heart of that problem. If you want to do something about that, then you put more police on the street and more detectives solving crime.

What we have done here in the pending bill is essentially a lot of things which I put in the area of "not preventative." In fact they are therapeutic in a sense. They are after the fact. I want to start eliminating crime in the streets.

I am sure the Senator from Delaware joins me in that, but the philosophy here is different. I want to do it directly and locally.

How do we do it? We do it very simply. In 1989 there were roughly 496,000 local police in this country; local, State, county police, 496,000. Their average salary, entry level, by the way, was $16,800 going up to $19,000 for a senior patrol officer, up to $22,000 for a sergeant, and a chief averaged between $26,000 and $29,000 a year in America. Those are not large sums of money considering their responsibilities.

In 1988, the last year that figures are truly accurate, we spent about $25 billion for local, State, and county police protection.

Now what does this amendment do? This amendment takes the strength of every police department in America as of June 1, 1991, and says to that department you will get a pro rata share of this pot of money which is now being put in this amendment in order to supplement your police; not for administration, not for equipment, not for supervisory activities, not for computers, and not for radio equipment. This is for hiring more police.

In other words if the city of Manchester, NH, had 100 policemen on its payroll on June 1, under this program, it would receive about a 9-percent increase, or 9 additional officers. For a city like New York, that has maybe 10,000 policemen, it might mean an additional 800 or 900, and so forth and so on.

The Presiding Officer is from Hawaii. I do not know what the size of the Honolulu department is, but I daresay they would love to have an increase in strength paid for with Federal dollars. So that is what this amendment does.

It is not very complicated. It does it in in a grant program carefully administered by Justice. It should have very little overhead involved. It is a question of each department across America certifying to the Justice Department as to how many officers they have—who are what I call line officers, detectives, street policemen, supervisors in the field—and adding to that figure. That is pretty much all there is to this amendment. But philosophically, there is a great deal more to it.

Let me just yield at this moment to anybody else who wishes to speak by closing initially on this thought: Very few Americans feel safe in the streets of major cities today. In fact, Mr. President, very few Americans in suburban areas feel terribly secure in the streets in America today. Crime is a national scandal.

Yes, we can have special grants for drug programs and more prisons and more boot camps, but if we want to attack this in the way that we carried out the operation called Desert Storm, you do it with massive force.

The great controversy here, people may recall, was when General Schwarzkopf told the President if the President wanted him to carry out that action, he did not need 25,000 troops; he needed 500,000. And he was asked why. His answer was, if we are going to do it quickly and effectively and completely, we need overwhelming manpower. What the police of America need today is overwhelming manpower to get out in the streets and attack crime directly.

Let me conclude by saying that I do not criticize what the committee and what the chairman have in their bill. Many of the provisions are good programs. That money is needed. But given a choice between buttressing Federal law enforcement and putting the money directly out in the cities and towns of America to fight crime directly, I think this is a better choice of resources today.

Mr. President, I yield the floor.

Mr. COCHRAN. Mr. President, will the distinguished Senator yield to me a few minutes on his amendment?

Mr. RUDMAN. How much time would my friend from Mississippi like?

Mr. COCHRAN. Five minutes.

Mr. RUDMAN. I yield the Senator from Mississippi 5 minutes.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 5 minutes.

Mr. COCHRAN. Mr. President I thank the distinguished Senator from New Hampshire for yielding to me, and I congratulate him on his initiative in offering this amendment. I am pleased to be a cosponsor.

Just last month, and only a few miles from this Capitol, a man walked up to a U.S. Navy commander who was waiting for a bus in a Pentagon parking lot and, without warning, fired several shots with a .22 caliber pistol, fatally wounding the Navy commander.

Part of the tragedy here, Mr. President, is that this kind of violent crime is happening too frequently in the cities of this country. Far too often, we read or hear of random or unprovoked acts of violence against innocent victims. The end result is that we are all victims or potential victims. Americans in every city in our Nation are afraid of what might happen if they happen to be in the wrong place at the wrong time.

This month, in New York City, a 30-year-old woman was attacked while she was walking her dog. Her attacker, a homeless drifter with a history of violence and mental instability, attacked her with a carving knife, and then, according to witnesses, walked away very nonchalantly, leaving her to die.

In Memphis, TN, a man was shot while walking with his wife in a city park. Three assailants had approached him with a gun and demanded the keys to his car. When the couple started to run away, they were both shot. He died from a gunshot wound in the chest. She is recovering from a leg wound.

In my home State of Mississippi, a man who ran a soup kitchen was shot to death after he approached a homeless man who had been seen with a gun and asked him to leave. The man with a gun had a reputation for bizarre behavior. In this instance, he started to walk away, then all of the sudden he turned and he started shooting.

Mr. President, there are no simple solutions to the problem of random or unprovoked violence, or to violent crime in general. We cannot ensure that acts like these will never occur again. But what we can do is help put more police on the streets. Police deter and prevent crime. They also make sure that violent criminals are apprehended in a timely manner before they can commit new crimes. Putting more police on the street is a proven and effective means by which we can fight the menace of violent crime, and the amendment proposed by the distinguished Senator from New Hampshire, [Mr. RUDMAN] would help do exactly that.

This amendment would put more funds into the hands of the State and local authorities to increase the number of officers on duty on the streets, as they did in the city of Charleston, SC. In Charleston, police chief Reuben Greenberg has created an elite unit of foot patrolmen. Crime in Charleston has been reduced by 42 percent.

A similar program has been undertaken in Mobile, AL. Within 5 months after adopting the plan, Mobile's serious crime fell by 18 percent.

Mr. President, a similar plan involving a new city police/vice narcotics unit is now in place in Meridian, MS. This unit will aggressively go after street-level drug violations that are occurring in the city. By this means, the city hopes to decrease the broad range of criminal activity that is associated with the drug trade. But they need money to keep it going.

Countless other cities need help. They need more officers on the streets, and this amendment will help do that. I hope the Senate will approve it.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I compliment the Senator from New Hampshire on his concern for the needs of local law enforcement. As he knows, in his other responsibility on the Appropriations Committee, this has been a bit of an ongoing battle with the last two administrations.

There is a consensus that has been reached by this President and the last President, this Attorney General and the last several Attorneys General, that we should leave basically to the States the things that are State responsibilities.

The President is fond of pointing out that 94 or 95 or 96 percent of all the crime in America is committed within local jurisdictions, beyond the jurisdiction of the Federal Government, and then whether it is his national drug strategy or his crime bill, he then sends up strategies that reflect that allocation of financial responsibility as well.

So the Senator from New Hampshire and I are in agreement, and the Senator from Mississippi, on the need for increased aid to local law enforcement from the Federal level, Federal aid for local law enforcement.

In our drug strategy, which is not before us at the moment, the national drug strategy, we call for doubling the aid to State and local police from $450 million in 1990 to $900 million in 1991. And the grant for juvenile justice, which President Reagan continually attempted to eliminate also goes directly to police.

And now there is a requirement, a call for all of the State and local aid to go directly to police. With the help and leadership of the Senator from New Hampshire, we have, notwithstanding the cries of, if not "foul," that it is unnecessary to drastically increase the aid to State and local police, as we do here in the amendment before us.

In the proposal sent up by the Justice Department for the appropriations for the Department of Justice, they call for a cut in aid to State and local from $686 million to roughly $606 million.

Once again the Senator from New Hampshire and I are on the same wavelength. Once again, which happens occasionally, he has taken a higher wave, or a lower wave, or slightly different wave than the Senator from Delaware.

Let me suggest at the outset, as has been our intention from the outset of this newfound debate on crime and drugs, which really began in earnest in about 1985, there has been a massive increase. The Senator from New Hampshire, along with the Senator from Delaware and others, has constantly pushed for more State and local aid.

But in this case I think my friend from New Hampshire has taken a point that on its face is logical and sound. There is no question that the more police there are on the street—to use his analogy, if there were a police person on every street corner—crime would go down. I have no doubt that that is true. As a matter of fact, I have pointed out constantly to the Attorney General that, over the last 10 years in the 15 largest cities in America, the police forces have increased only 1 percent. In some cities they have smaller police forces today than they had 10 and 15 years ago. That is not because they have gone out and purchased toys. That is not because they have gone out and purchased equipment or because of administrative costs. It is because budgets have been cut or they have been unable to keep up with inflation.

So there is a correlation. But I believe the Senator from New Hampshire takes it to an extreme, an extreme that results in a perversion of the very thing he is intending to do. Let us say, for example, we asked local police officers in towns the size of Manchester, NH, which I have visited on a number of occasions, or Wilmington, DE, or Tupelo, or any other city of comparable size, whether or not they would want the size of their police force doubled or they would like to see the FBI crack the 100 identifiable drug cartels, drug gangs, drug organizations in this country. And that is what the Director of the FBI said to us. He said they have identified 100 of these gangs that deal cross-country, cross-border—across State borders. If we said to them we can wipe out all those gangs, those Mafia-type organizations, or we will triple your police force, I think there is not a one who would not say, take care of getting rid of the drugs for me.

If we said to them: Tell you what, I will make you a deal. There are roughly two-thirds of the States in the Nation which are under Federal court order for prison overcrowding. We have constant testimony in our Judiciary Committee from the major police organizations pointing out that they arrest, convict, send to jail, and then have released from jail immediately or shortly thereafter but long before the sentence is served, dangerous felons into the street because there is no prison space. What space is there is so overcrowded that the Federal court said it violates the eighth amendment, so you must release them.

I suspect if you said to the police department in Wilmington, DE, we can expand the size of the prison population, the facilities to house prisoners twofold or double your police force, it would be a close call. If we said expand it twofold or increase your police force 50 percent, it would not even be close, because what they want is these recidivists off the street.

As the Senator from South Carolina has pointed out repeatedly, we have a relatively small number of very violent people committing an incredibly large number of crimes. The Senator from Pennsylvania [Mr. SPECTER] has made it one of his great concerns to deal with violent repeat offenders.

I suspect if you said to a number of cities in South Carolina, or in Delaware, or in New Hampshire, rural communities: Look, we can double your police force from one to two, or from two to four, or from three to six, or we can get into this area of your State two new DEA agents and we can train you at Glynco, down in Georgia, and there will be additional FBI people in your State to deal with the drug problem, I will bet everybody but the chief—because all chiefs want to have more people working for them—everybody but the chief would say train me. Get me the expert help. Because crime in rural America is increasing. Based on a report the majority staff released from the Judiciary Committee, crime in rural America is increasing at a faster rate than it is in urban America. And almost all the violence attendant with the concerns of the Senator from New Hampshire and the Senators from Delaware, South Carolina, Mississippi, and Utah, and all of us on this floor, is directly related to drugs.

Mr. President, I would like to do both. I wish we had enough money to say we are going to keep all the programs the police say they badly want in this legislation. I might add I am not speaking about the Senator from South Carolina. But the President did not think we needed any of these programs. The President's crime bill contained none of this, none of what the Senator from New Hampshire is suggesting, none of what it effects in the Biden bill that is before the Senate. We all agree in a bipartisan way that we have to do more to deal with this problem other than change habeas corpus, which we have; increase the death penalty, which we have; deal with the exclusionary rule. Other than those things we have to do something. And that is what this debate is about.

Let us be very clear about what this amendment does. As the Senator from New Hampshire pointed out, the amendment of the Senator wipes out every anticrime initiative in this bill, every single one, and replaces them with a single new program.

Before I talk about this new program that Senator RUDMAN proposes to insert in lieu of our crime bill, let me say a few words about the proposals the Senator's amendments would remove, and they include: The addition of new prisons for drug offenders, wiped out. There will be no money left for that. The Baucus-Pryor plan to fight crime in rural America, wiped out; the boot camp program, which my friend from New Hampshire himself supports, supported by Senators COATS and LEVIN, Senator BOREN, Senator BENTSEN, all modeled after amendments they have offered; the Sasser-Specter-Graham police corps plan to upgrade and attract additional personnel into the police forces; added FBI, DEA, and Customs agents requested by our Federal law enforcement officers and the Director of the FBI; the Drug Emergency Areas Act sponsored by a bipartisan coalition of 20 Senators and an antigang plan developed by Senator KOHL and myself.

Under the Rudman amendment, they will all be wiped out; all of these proposals so carefully developed in hearings and meetings over the past 2 years, coauthored or cosponsored or supported by almost 70 Members of this Senate, and they will all be gone.

It would not be bad for them all to go if the underlying thesis of the Senator's proposal was as accurate as he believes it to be. What does the Senator from New Hampshire propose instead of the police corps, instead of a rural crime program, instead of prisons or boot camps? He proposes a single program to add more police officers, and this is the important part, to add more police officers in the areas that already have the largest number of police.

That is right, sending more police to places that already have the most police. There is no discretion left to the Governors to decide where the need is the greatest; no discretion is left to the Attorney General to decide where the Federal Government can help the most. I am sure there are places in the Presiding Officer's State and the States of my colleagues on the floor who are listening where they have a relatively large police force or a modest police force, and for a whole range of reasons crime is not as serious in that particular area as it is in another area of the State with a similar police force and similar size.

I need not tell the Presiding Officer from Hawaii about ice. He is the one who brought it to the attention of the U.S. Senate. What happened with ice, the new form of methamphetamine? It attacked certain key areas of his islands, not every place equally, and police and efforts by the DEA and the FBI were targeted to deal with the most significant areas affected by this new dreaded form of addiction.

Under this legislation the Governor would have no discretion, no discretion to the local police officers and officials to decide what anticrime programs work best in their communities. No, Senator RUDMAN has a single plan with a single initiative, and that is its appeal, quite frankly, its simplicity: Put more cops on the streets, on the streets that already have the most cops.

I have been here a long time, and I have had Senators come up to me and say, as the ranking Member and as Chair of this committee, that our rural areas are in trouble. "We only have a handful of cops out there, Joe, can you help?" Our small towns are now being overwhelmed by big city gangs. That is why my friend from Montana became so involved in the rural crime initiative. He found out that those gangs that were cooking the new forms of methamphetamine that are used were coming from California, Southern California and motorcycles in large numbers, camping out in rural parts of his State and making up this new drug and distributing it from there. They said, we need help.

Our local police chiefs say they want drug education programs in our schools or treatment centers to get addicts off the streets. I do not know how many police officers have come to us and said that the drug problem will not be solved by police alone. These are the tough, hard women and men who risk and give their lives, who come before our committee and say, "Hey, we cannot do it no matter how many police you give us unless there is also drug education in the schools, drug treatment programs, prisons to house these people, programs within the prisons," and so on and so forth.

I have not had anyone, though, come up to me in my years in the Senate and in this capacity and say, "Joe, what we really need is to send more police to the cities that have the most police already." And yet that is what the Senator's amendment does, instead of doing any of the things that I discussed earlier.

If that is a war on crime, the Senator's proposal is to send reinforcements to the place where our troops are already the largest. That does not make the most sense to me.

He made an analogy, and I think it is important, to the Persian Gulf war. He said that Schwarzkopf said, "Mr. President, if you want me to do the job, do not send me 200,000 troops; send me half a million." But I wonder what General Schwarzkopf would have said if the President said, "I will tell you what I'm going to do. You want those extra 225,000 troops. We cannot afford the Stealth aircraft to come with it. We cannot afford to have that high technology equipment every American saw on their television screens." I wonder what Schwarzkopf would have said had he been presented with a budget dilemma that we are presented with.

I should reiterate at the outset, I would like to do every single thing the Senator from New Hampshire wants and everything that is in this bill. We need them both. We need them both, and I have said publicly, I found, to my political detriment, I am prepared to do both at the expense of every other program in Government, including education, which I have strongly supported, including the military, including every other program. But I have learned I am in a distinct minority in that regard.

So what would have happened if Schwarzkopf had been told, OK, general, you've got your 500,000 troops, but you do not have the aircraft, you have half the number of aircraft you now have, you do not have the Stealth aircraft, you do not have the various missiles that we have used and, by the way, you are not going to be able to be in a position to have the program that got so many phenomenal, rave reviews, the program that allowed the interception of Scud missiles as they came in.

Here is your choice, General. Instead of the $250,000 that I was prepared to give you, I will give you $300,000 and all that equipment or $500,000 and none of that equipment, because that is the more appropriate analogy here. We should give the police all the equipment and help the Senator from Delaware is arguing for and for what the Senator from New Hampshire is arguing. But instead, having battled with this for years, the Senator from Delaware tried his best—it does not mean I am right—along with some 70 other Senators to come up with a balance, an appropriate balance where we significantly increased the number of police available to local police departments, the so-called Bryan grants, and gave them additional things, all of which they say they need badly.

So, Mr. President, what we have is a balance, a balance that in this Senator's view is badly shaken, is destroyed if you take out the 10 or 20 pieces that make up this balance and say now it will all go to local police. Keep in mind how this goes, Mr. President. What will happen—and the Senator from New Hampshire has been very straightforward about this—if you have a police force of 10,000, 5,000—and some cities have police forces of 5,000—or a police force of 4 in a small town, you will have distributed on a prorated basis—not per capita basis, in terms of population, but in terms of the existing police agents that are out there now—I am trying to remember how many police officers there are in the country. I think there are roughly 5,200,000 policy officers. And so what you will have distributed is all the money, all the effort, everything in this legislation based upon the number of police officers that exist at this moment.

There are parts of Philadelphia, PA, that are inundated, inundated, by organized crime and drug cartels. They are drug disaster areas, not unlike disaster areas in the wake of a hurricane. There are rural areas of my State and other States that are drug disaster areas. They need the ability of the Governor and the local enforcement people to target additional help to those areas based upon a planning model that relates to the problem. This ignores that.

I would be happy with this amendment if the Senator said, I tell you what, we are going to take all the money in this legislation, pick the 10 or 12 worst crime areas in America and give them all of those police. But this is so diffuse it is a little bit like what we have done with the President's programs. He goes out there, spreads it out so thin, without any targeted effort to it, and that if you are going to add New York—New York City has how many police officers? I should know this—25,000 police officers. Now, under this amendment, I do not know how many new police officers they will get. They will get some new police officers, but it is not going to double their force. It is not going to increase it by 50 percent, 25 percent, 10 percent. I do not know what the number is, but relatively speaking it is going to be small. So the impact the Senator wants I respectfully suggest will not be felt. What we decided when we were putting together this legislation was that we would get a much bigger bang for the buck by seeing to it that we gather up in 10 regional prisons the worst drug offenders and put them all in one spot, diminishing the call on the local prison system.

We would go into those rural areas that are badly hit now and give them what they need most, expertise in how to deal with drug cartels and gangs, with additional DEA agents, with additional training and with some additional police officers. But before we toss this entire authorization into a single pot, talk to your local cops, police chiefs, and mayors. Some say they want more foot soldiers, like Senator RUDMAN proposes, but others say they want more prisons, others want boot camps, drug treatment centers to pack away youthful drug offenders. Others want boys clubs and girls clubs that keep kids out of trouble.

But I have never had anyone say to me: "Joe, what we really need is to send more police to the cities that have the most police already." And yet, that is what the Senator's amendment does—instead of doing any of the things that I have discussed earlier.

If this is a war on crime, the Senator's proposal is to send reinforcements to the place where our troops are largest in number. That makes little sense to me.

The Senator from New Hampshire says that the initiatives we have in the bill will not work, and that instead we should just increase the number of police on the streets. That sounds well and good, but think about it for a second.

Once Senator RUDMAN's new cops arrest all of these criminals, where will they be put? Senator RUDMAN wipes out the jails and boot camps proposed in this bill.

Once these new cops catch drug offenders, what then? Senator RUDMAN's amendment wipes out the emergency aid to all local areas—big and small—for dealing with the drug crisis.

And when these new cops encounter an international drug ring, or a national organized crime gang, who do they call for help? Senator RUDMAN's amendment wipes out the additional FBI agents that Director Sessions says he needs to crack down on these large trafficking groups.

Help for local law enforcement? Sure. We are all for that.

This bill raises the authorization for the Byrne grants to local law enforcement to a record level, and Senator RUDMAN's amendment acknowledges the importance of this by leaving that authorization alone.

But before we toss the entire authorization into a single pot, talk to your local cops, police chiefs, and mayors. Some say they want more "foot soldiers," like Senator RUDMAN proposes. But others say that they want more prisons.

Others want boot camps and drug treatment centers to pack away youthful drug offenders.

Others want boys clubs and girls clubs to keep kids out of trouble. Others want special help for rural areas. Others want more help or training from the Feds.

Senator RUDMAN's amendment leaves open one—and only one—of these options.

And again, it is the option of sending in more street police to the places that already have the most police in the first place.

So I say to my colleagues: If you are concerned about places that have a large number of police officers already, vote for Senator RUDMAN's amendment.

But if you want to help the places that are short on police—

If you want to fight rural crime;

If you want to see more Federal law agents tracking down the biggest and worst traffickers;

If you want more prisons, more boot camps;

If you want aid for the areas hardest hit by drug use; and

If you want a police corps;

Then vote against the amendment of the Senator from New Hampshire.

Maybe these programs are not all perfect. But Senator RUDMAN's amendment goes far beyond throwing out the baby with the bath water—it blows up the bathtub, too.

I want to compliment my friend from New Hampshire for his relentless efforts to do something about crime, and I respectfully suggest, though, if we could do it all, it would be useful, but to trade off what is in the bill for what the Senator proposes I think would have a very damaging impact on our ability to do what we hope to do. I yield the floor.

Mr. RUDMAN. Mr. President, with the hour as early as it is, if the chairman of the committee would like additional time beyond the agreement, I do not have any problem with that.

Mr. BIDEN. Mr. President, as usual the Senator from New Hampshire is incredibly gracious, but I seek no more time and I am ready to proceed as ordered.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. RUDMAN. Mr. President, I yield 3 minutes to the distinguished ranking member of the committee, Senator THURMOND, or if he needs more than 3 minutes, that will be fine.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 3 minutes.

Mr. THURMOND. Mr. President, I rise in support of my colleague from New Hampshire's amendment. Senator RUDMAN proposes to take the increased authorizations contained in the Biden bill and use that money to hire additional local law enforcement officers. For the record, I support many of these proposals contained in the Biden bill in principle. I agree with Senator BIDEN that more money should be spent on Federal law enforcement. However, Senator RUDMAN has recognized that Congress can get more "bang for the buck." The amendment focuses money, which would have been spread over several programs under the Biden bill, on hiring more police officers. The Rudman amendment will put more police on the street which will directly impact upon the crime problem.

I should note that we are bound by a budget agreement which the Senate voted to support last fall. The additional money Senator BIDEN proposes may simply be unavailable. In fact, as part of last year's Crime Control Act, Congress made promises to law enforcement for fiscal year 1991—$300 million in increased authorizations for Federal law enforcement over and above what was appropriated. Although fiscal year 1991 began in November, none of this additional money has been appropriated. In fact, the Senate recently passed the fiscal year 1992 budget which cut the Department of Justice's budget by 11 percent. The House Appropriations Committee recently cut over a half a billion dollars out of the Department's appropriations bill.

In summary, I support creation of one system which will make money available to State and local law enforcement so they can hire more police officers. Many of the additional spending proposals in the Biden bill are good ideas and I support them. Yet, it is unlikely these proposals will be funded. Instead, the Rudman amendment focuses upon the need for more police which will reduce crime in our Nation.

For these reasons, I will oppose the motion to table the Rudman amendment.

Mr. RUDMAN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 9 minutes 4 seconds.

Mr. RUDMAN. I do not believe I will use all of that. I want to respond briefly to some of the comments by the distinguished chairman of the Judiciary Committee.

Let me first point out that I am delighted—I do not say this with any sarcasm, but with more of a sense of irony—that we are finally debating the crime bill and how to stamp out crime.

With all due respect, I have been very much involved in the debate of the exclusionary rule, habeas corpus, and, yes, the death penalty. But the fact is that although these are very interesting issues—and they are very important issues with the possible exception of the deterrence of the death penalty which has not been proven to anyone's satisfaction—I support that penalty but nonetheless other than that possibility nothing so far we have talked about is directly pertinent to stamping out crime in the streets.

Let me just say to my friend from Delaware that I have a fundamental disagreement with this administration and the prior administration. I say that as a Republican who has supported both of those Presidents. The fact is that I totally disagree with the advice they are getting that somehow the Federal Government does not have an obligation to do more for local law enforcement.

I know that the Senator from South Carolina shares that view. He has stated it on a number of occasions. But as a matter of fact we have had great difficulty with this administration and the prior administration on this point. The Senator from Delaware is quite correct.

But let me take this now a step further and say to my friend from Delaware that I am not letting any cats out of the bag to tell him that the State, Justice, Commerce Subcommittee is marking up its appropriations for the Justice Department among others tomorrow. It might interest him to know that without these figures being binding because Senator HOLLINGS and I of course will meet with the committee tomorrow—we are talking about around a 17-percent increase over last year for the FBI, about a 7-percent increase for the DEA, and a whopping 19-percent increase for prisons.

The point I am making is that when you talk about increasing agencies by those percentages over current levels, we are talking about a great deal of money. It is not as if we are underfunding Federal law enforcement. That is the point I want to make.

Let me just point out that this year law enforcement will spend a total of $30 billion—$25 billion local and State, country, and about $5 billion Federal. The Federal Government spends 17½ percent of that money. Yet only 8 percent of the prisoners in this country are Federal prisoners; the States spend 83 percent of the money on 93 percent of the prisoners. The statistics are very compelling.

I agree with almost everything the Senator from Delaware said with the exception of one thing. When he talked about the fact that more policemen go to those areas that have more police, that is true—but that is because there is more crime in those areas. Obviously, New York City needs more than

Wilmington. Wilmington probably needs more than Manchester, NH; Charleston, SC, probably needs more than Concord, NH. It depends on the population. The figures on crime track those populations very closely.

The Senator asked a question. I will give him the answer. This amendment will give you about a 9-percent increase of police in the street.

By the way, I am sure the Senator misspoke. There are approximately 500,000 sworn law enforcement officers in America today. The Senator said 5 million. I think he meant 500,000.

Mr. BIDEN. I thank the Senator. I meant to say slightly over half million.

Mr. RUDMAN. If we had 5 million, we will not even be discussing the crime bill.

Mr. BIDEN. That is exactly right.

Mr. RUDMAN. Let me conclude, unless anyone else wants to speak on this amendment, and if the Senator wants to speak against the amendment, I have some time left and I will be happy to yield to anybody who wants to speak.

Let me simply say this, Mr. President. This is a matter of choices. Everything that the Senator from Delaware has said about what is in his bill I agree with. They are sound programs. I support many of them. He has done a magnificent job in outlining some things that the Federal Government can do, and do more of.

But in light of what we are doing for Federal law enforcement, I am choosing to help the local police across this country increase the number of police officers on the streets. We are not dealing with highfalutin ideas or the exclusionary rule, and habeas corpus, and all of these other things that we lawyers love to talk about. We are talking aobut murder, rape, robbery, and aggravated assault, and the average American being absolutely intimidated to walk in his city or her city.

Thus, Mr. President, I simply submit to the Senate that although I do support what is in this bill, I have made a choice. I have said in this day of scarce resources let us put more money into local, county, and State law enforcement and let us see whether or not the kinds of examples that the Senator from Mississippi spoke of in Charleston, SC, and other places in this country, where more police put in special task forces to attack street crime—whether or not that will do more good than building more Federal prisons, and giving the DEA and the FBI more money than they already have. That is my contention.

Senator BIDEN and I do not have a disagreement fundamentally on how we attack crime. We simply are picking different places to put today's resources. I would join him if we could do both. The fact is when the committee meets tomorrow, we will consider increasing the FBI by about 17 percent, 19 percent for prisons, and other increases across the board—I think we are doing a good job for Federal law enforcement.

I want do something for local, State and county law enforcement agencies. That is a fundamental difference of opinion as to how to allocate resources, not as to the problem generally.

I thank my friend for the excellent quality of the debate. Unless somebody else wishes to speak, I am going to yield back the remainder of my time.

The PRESIDING OFFICER (Mr. LIEBERMAN). The time on the amendment has been yielded.

Mr. BIDEN. Mr. President, I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. I am not proceeding on the specific legislation. I have been informed that we are to proceed to another amendment immediately after this but that Senator is unable to be on the floor for another 15 minutes. I seek not to drag it out anymore but this Senator wishes to proceed, and we would not be inappropriate to ask for an additonal 15 minutes equally divided. I am not seeking that. I want you to know that.

Mr. RUDMAN. If the Senator will yield to me for a question or a comment——

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senator from New Hampshire and I be able to proceed for an additonal 5 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RUDMAN. I say to the distinguished chairman of the committee I really do not have anything else to say. I believe we have debated it fully and fairly. It is a clear issue, I believe. The people understand it. So I really do not have any need for additional time.

My understanding was the Senator from Delaware was going to move to table and ask for the yeas and nays, and once that was achieved then it would be laid aside. Then I presume the Senate would go into a quorum call until the next amendment is presented.

Mr. BIDEN. Mr. President, that is exactly correct. I was just checking to see if the Senator wanted more time. He is correct. We do not have a disagreement about the needs. We are trying to determine how best to allocate scarce resources for what we both believe—I know I believe, and I do not want to speak for my friend from New Hampshire: I think he believes as well—is the single, most serious domestic problem we have; violent crime in America.

• Mr. BURNS. Mr. President, I rise to explain the positioning of my vote on the Rudman amendment to S. 1241, the crime bill at 7 p.m. this evening. I was scheduled to arrive in Washington, DC, at 4:42 p.m. on Northwest flight 706 from Great Falls, MT, connecting with flight 1026 in Minneapolis. Unfortunately, flight 706 developed mechanical trouble and was unable to depart the airport. The best alternate flight left Great Falls at 2 p.m. and thus delayed my arrival into Washington until 9:20 p.m. after the 7 p.m. vote.

I therefore asked that I be positioned in opposition to Senator BIDEN's motion to table the amendment by Senator RUDMAN.

I thank the Chair.•

Mr. BAUCUS. Mr. President, the amendment of the distinguished Senator from New Hampshire [Mr. RUDMAN] would do great harm to the cause of reducing rural drug use. I must, therefore, vigorously oppose it.

As I have said repeatedly, rural areas are not immune to the drug problems facing this country. The plague of drugs has moved from the back alleys of big cities to the main streets of small towns. In fact, the latest crime figures show that violent crimes linked to drugs have increased faster in Montana than anywhere else in the country.

In 1989, Montana experienced a 23-percent increase in violent crime—a much greater increase than in either Los Angeles or New York.

The weeds planted by drug dealers could turn the fields and plains of our rural States into jungles of crime and violence.

The Senator from New Hampshire's amendment would delete funding for drug enforcement in rural areas and transfer it to general police operations. But in so doing, it will stifle the progress that drug agents in rural America have been making in recent months.

For instance, in the past several weeks, the Southwest Montana Drug Task Force has arrested over 40 suspects involved in illegal drug trafficking, including cocaine, marijuana, and LSD. If the Senator from New Hampshire's amendment is successful, there is a good chance that this recent sting operation will be the drug task force's last.

Requests for further funding of this task force already have been denied by financially strapped county authorities. The Rural Crime and Drug Control Act, which is a part of this crime bill, would keep the drug task force, and others like it, in business. However, if this amendment is adopted, it would strip rural areas of one of their most effective antidrug tools.

The Senator from New Hampshire's amendment would also eliminate funds for drug treatment and prevention. We know from experience that winning the war on drugs requires an attack on three fronts: enforcement, treatment, and prevention. This amendment ignores the lessons of the past by neglecting the treatment and prevention programs needed to reduce the demand for drugs.

Finally, this amendment is unfair to most States. Under the amendment's funding formula, 34 States, including Montana, lose money. The biggest States, such as California and New York, stand to receive 25 percent of this Nation's drug enforcement dollars, with one-third of that going to the big cities.

The Rural Crime and Drug Control Act is fair, balanced, and an integral part of the national drug strategy. It will help reduce drug use and drug-related violent crime in rural areas.

By taking away the necessary funding for these efforts, this amendment will let the escalating violent crime rates in rural States go even higher. Rural America will no longer have fields of dreams but nightmares of crime and drugs.

Mr. President, I urge all my colleagues to stand with me, and the other sponsors of the rural drug provisions—Senators BIDEN, PRYOR, and HARKIN—and defeat this amendment.

Mr. BIDEN. Mr. President, I will in just a few seconds move to table, and ask for the yeas and nays. But I hope my colleagues will see that there is a better way to help local police. We help them. We add additional local police in the Biden legislation, but we also add other additional help rather than all just local police.

If there is nothing further to say on the part of my colleague from New Hampshire, I move to table the Rudman amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, since the succeeding Senator who, it has been announced, will offer an amendment is not yet on the floor, I ask unanimous consent that I might proceed for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

LAWSUIT REGARDING THE PHILADELPHIA NAVAL SHIPYARD

Mr. SPECTER. Mr. President, I have sought the floor to acquaint my colleagues with an important lawsuit which has been filed this afternoon relating to the base-closure proceedings and involves the Philadelphia Navy Yard, where a number of Members of Congress, including Senator WOFFORD, Senator BRADLEY, Senator LAUTENBERG, Governor Casey of the Commonwealth of Pennsylvania, State Attorney General of Pennsylvania Ernest Preate, Represenative CURT WELDON, Representative THOMAS FOGLIETTA, Representative ROBERT ANDREWS, Representative LAWRENCE COUGHLIN, the city of Philadelphia, representatives of the International Federation of Professional and Technical Engineers, and representatives of the Metal Trades Council, Local 687 Machinists, have filed suit against the Department of the Navy and Department of Defense and the Base Closing Commission because of the violations of the Base Closure Act.

In this litigation filed in the United States District Court for the Eastern District of Pennsylvania, a declaratory judgment is sought to declare invalid the proceedings of the Base Closing Commission because of specific violations of the Base Closing Act. For one, Mr. President, there is set forth in the facts a chronology which reveals the refusal of the Department of the Navy to turn over to Members of Congress material documents, including memoranda from Admiral Heckman and Admiral Claman, supporting the retention of the Philadelphia Navy Yard, although downsizing it; action by the Department of Navy, through the Under Secretary of the Navy Howard, to urge Admiral Heckman not to testify before the Base Closure Commission; the failure of the justification provided by the Department of the Navy to meet the standards required by the base closure statute; the part played by the General Accounting Office, specifically under the base closure law, to submit its findings, which the General Accounting Office did in May of this year, saying that although the Department of Defense complied with the statute as to the Army closures and the Air Force closures, the Department of Navy had not complied with the requirements. In their findings there were specific references made to the Philadelphia Navy Yard.

Mr. President, I suggest that this is a very important litigation.

The distinguished Philadelphia law firm of Dilworth, Paxson, Kalish & Kauffman has undertaken the representation pro bono—that is without charge—because of the very important issues involved.

This is not only a matter of enormous economic importance to the Delaware Valley region, but it is of grave national importance to issues of national security, where the Philadelphia Navy Yard has historically played a very vital role for national defense. In the gulf war it was clear that air power was a significant factor in our victory there and that the carriers played a significant role in supporting air power, and that the Philadelphia Navy Yard was significant for its servicing of many of those carriers. So that underlying this issue are vital concerns of national security, in addition to what is obviously important for the economy of the Delaware Valley region.

The gravamen of this litigation, Mr. President, goes not only to process but to actual suppression of key evidence which, if it had been available for the hearings in Washington on May 22, and in Philadelphia on May 24, would have led to a contrary conclusion—that is, the retention of the Philadelphia Navy Yard.

Although the documents are lengthy, I ask unanimous consent, Mr. President, that the complaint for declaratory judgment and the memorandum of law in support of the request for declaratory judgment be printed in full in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[In the U.S. District Court for the Eastern District of Pennsylvania]

SEN. ARLEN SPECTER, SEN. HARRIS WOFFORD, SEN. BILL BRADLEY, SEN. FRANK R. LAUTENBERG, GOVERNOR ROBERT P. CASEY, COMMONWEALTH OF PENNSYLVANIA, PENNSYLVANIA ATTORNEY GENERAL ERNEST D. PREATE, JR., REP. CURT WELDON, REP. THOMAS FOGLIETTA, REP. ROBERT ANDREWS, REP. R. LAWRENCE COUGHLIN, CITY OF PHILADELPHIA, HOWARD J. LANDRY, AND INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL ENGINEERS, LOCAL 3, AND WILLIAM F. REIL AND METAL TRADES COUNCIL, LOCAL 687 MACHINISTS, PLAINTIFFS, *v.* H. LAWRENCE GARRETT III, SECRETARY OF THE NAVY, RICHARD CHENEY, SECRETARY OF DEFENSE, THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION AND ITS MEMBERS JAMES A. COURTER, WILLIAM L. BALL III, HOWARD H. CALLAWAY, DUANE H. CASSIDY, ARTHUR LEVITT, JR., JAMES C. SMITH II, AND ROBERT D. STUART, JR., DEFENDANTS

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiffs Sen. Arlen Specter, Sen. Harris Wofford, Sen. Bill Bradley, Sen, Frank R. Lautenberg, Governor Robert P. Casey, the Commonwealth of Pennsylvania, Pennsylvania Attorney General Ernest D. Preate, Jr., Rep. Curt Weldon, Rep. Thomas Foglietta, Rep. Robert E. Andrews, Rep. R. Lawrence Coughlin, the City of Philadelphia, Howard J. Landry, International Federation of Professional and Technical Engineers, Local 3, William F. Reil and Metal Trades Council, Local 687 Machinists allege as follows:

INTRODUCTION

1. A declaratory judgment is necessary to prevent the imminent and unlawful closing of the Philadelphia Naval Shipyard (also referred to as the "Shipyard"), the largest employer in the Philadelphia area. The actions taken by the government officials responsible for ensuring an independent, equal, lawful and fair process for closing and realigning military installations under the Defense Base Closure and Realignment Act of 1990 (the "Base Closure Act"), Public Law 101-510, Title XXIX, §§2901-2910 (November 5, 1990), have violated the Base Closure Act and the

procedures and regulations promulgated thereunder in *at least 18 separate and material respects*.

2. The plaintiffs respectfully request a declaratory judgment that the Secretary of Defense, the Secretary of Navy and the Base Closure and Realignment Commission's actions are fundamentally inconsistent with the Base Closure Act and other applicable law and are therefore void.

3. Immediate declaratory relief is necessary because the defendants' unlawful conduct has resulted in the Shipyard being placed on a list of military installations slated for closure. If the requested relief is not granted, the plaintiffs will be immediately and irreparably injured.

PLAINTIFFS

4. Plaintiff United States Senator Arlen Specter is a citizen of the Commonwealth of Pennsylvania with his residence in Philadelphia County, Pennsylvania, and an office at Room 9400, Green Federal Building, 6th and Arch Streets, Philadelphia, Pennsylvania.

5. Plaintiff United States Senator Harris Wofford is a citizen of the Commonwealth of Pennsylvania with his residence in Montgomery County, Pennsylvania, and an office at Room 9456, Green Federal Building, 6th and Arch Streets, Philadelphia, Pennsylvania.

6. Plaintiff United States Senator Bill Bradley is a citizen of the State of New Jersey with his residence in Morris County, New Jersey, and an office at Union-1605, Vauxhall Road, Union, New Jersey.

7. Plaintiff United States Senator Frank R. Lautenberg is a citizen of the State of New Jersey with his residence in Secaucus, New Jersey, and an office at Gateway I, Newark, New Jersey.

8. Plaintiff Governor Robert P. Casey is a citizen of the Commonwealth of Pennsylvania with his residence in Lackawanna County, Pennsylvania, and an office at Room 229, Main Capitol, Harrisburg, Pennsylvania.

9. Plaintiff the Commonwealth of Pennsylvania is a State of the United States.

10. Plaintiff Pennsylvania Attorney General Ernest D. Preate, Jr. is a citizen of the Commonwealth of Pennsylvania with his residence in Lackawanna County, Pennsylvania, and an office at 16th Floor, Strawberry Square, Harrisburg, Pennsylvania. Plaintiff Preate sues individually and as Attorney General of the Commonwealth of Pennsylvania.

11. Plaintiff United States Representative Curt Weldon is a citizen of the Commonwealth of Pennsylvania with his residence in Delaware County, Pennsylvania, and an office at 1554 Garrett Road, Upper Darby, Pennsylvania.

12. Plaintiff United States Representative Thomas Foglietta is a citizen of the Commonwealth of Pennsylvania with his residence in Philadelphia County, Pennsylvania, and an office at Room 10402, Green Federal Building, 6th and Arch Streets, Philadelphia, Pennsylvania.

13. Plaintiff United States Representative Robert E. Andrews is a citizen of the State of New Jersey with his residence in Camden County, New Jersey, and an office at 16 Somerdale Square, Somerdale, New Jersey 08083.

14. Plaintiff United States Representative R. Lawrence Coughlin is a citizen of the Commonwealth of Pennsylvania with his residence in Montgomery County, Pennsylvania, and an office in Norristown, Pennsylvania.

15. Plaintiff the City of Philadelphia is a municipality of the Commonwealth of Pennsylvania.

16. Plaintiff Howard J. Landry is the President of the International Federation of Professional and Technical Engineers, Local 3, and is a citizen of the State of New Jersey with his residence in Cherry Hill, New Jersey. Landry has been employed since 1972 by the Shipyard and has over twenty-seven years of federal service employment. Landry is a member of the class of employees whose jobs will be eliminated if the Shipyard is closed in accordance with the July 1, 1991 recommendation of the Defense Base Closure and Realignment Commission.

17. Plaintiff International Federation of Professional and Technical Engineers ("IFPTE"), Local 3, is the exclusive bargaining representative for virtually all General Schedule ("GS") employees of the Shipyard. IFPTE Local 3 has its principal place of business at the Shipyard, Philadelphia, Pennsylvania. IFPTE represents over 1,300 employees of the Shipyard. These employees are employed in GS grades 3 through 12 and work as engineers, technicians and clerical staff, predominantly holding positions in all phases of the repair, overhaul and maintenance of Navy vessels. Nearly all of these employees will lose their jobs if the Shipyard is closed in accordance with the July 1, 1991 recommendation of the Defense Base Closure and Realignment Commission.

18. Plaintiff William F. Reil, the President of the Metal Trades Council, Local 687 Machinists, is a citizen of the Commonwealth of Pennsylvania with his residence in Philadelphia, Pennsylvania. Reil has been employed since 1953 by the Shipyard. Reil is a member of the class of employees whose jobs will be eliminated if the Shipyard is closed in accordance with the July 1, 1991 recommendation of the Defense Base Closure and Realignment Commission.

19. Plaintiff Metal Trades Council, Local 687 Machinists ("MTC"), is the exclusive bargaining representative for all blue collar workers at the Shipyard. MTC represents over 8,000 employees of the Shipyard and Naval Station. Nearly all of these employees will lose their jobs if the Shipyard is closed in accordance with the July 1, 1991 recommendation of the Defense Base Closure and Realignment Commission.

DEFENDANTS

20. Defendant H. Lawrence Garrett, III is the Secretary of the Navy and maintains his principal office at the Department of the Navy, the Pentagon, Washington, D.C. Defendant Garrett is sued in his official capacity as Secretary of Navy.

21. Defendant Richard Cheney is the Secretary of Defense and maintains his principal office at the Department of Defense, The Pentagon, Washington, D.C. Defendant Cheney is sued in his official capacity as Secretary of Defense.

22. Defendant The Defense Base Closure and Realignment Commission (the "Commission") is the agency of the United States charged with ensuring an independent, equal, lawful and fair process for closing and realigning military installations.

23. Defendant James A. Courter is Chairman of the Commission and is sued in his official capacity.

24. Defendant William L. Ball, III is a member of the Commission and is sued in his official capacity.

25. Defendant Howard H. Callaway is a member of the Commission and is sued in his official capacity.

26. Defendant Gen. Duane H. Cassidy, USAF (Ret.) is a member of the Commission and is sued in his official capacity.

27. Defendant Arthur Levitt Jr. is a member of the Commission and is sued in his official capacity.

28. Defendant James C. Smith, II, P.E. is a member of the Commission and is sued in his official capacity.

29. Defendant Robert D. Stuart, Jr. is a member of the Commission and is sued in his official capacity.

JURISDICTION AND VENUE

30. This Court has jurisdiction over the subject matter of this lawsuit pursuant to: (a) the Declaratory Judgment Act, 28 U.S.C. §§2201 and 2202; (b) 28 U.S.C. §§1331, 1337, 1346 and 1361; (c) the Defense Base Closure and Realignment Act of 1990, Public Law 101-510, Title XXIX, §§2901-2910 (November 5, 1990); and (d) the Administrative Procedure Act, 5 U.S.C. §§701 *et seq.*

31. Venue is proper in this Court pursuant to 28 U.S.C. §1391.

STATEMENT OF FACTS

A. The Philadelphia Naval Shipyard

32. Founded in 1801, the Philadelphia Naval Shipyard is a major industrial complex consisting of extensive and large drydocks, piers, production shops, equipment and other assets valued at almost 3 billion dollars. The Philadelphia Naval Station services the Shipyard.

33. Operations at the Shipyard involve at least 47,000 jobs in the Philadelphia area (31,000 direct and indirect positions, 7,000 additional ship-associated personnel and 9,100 direct and indirect positions associated with the Philadelphia Naval Station).

34. There are eight Naval Shipyards in the United States: Puget Sound, Norfolk, Philadelphia, Mare Island, Charleston, Pearl Harbor, Portsmouth and Long Beach.

35. Almost 15% of the total repair and modernization work performed by all eight Naval Shipyards is accomplished at the Philadelphia Shipyard.

36. In addition to performing work on large amphibious ships and other large vessels, the Philadelphia Shipyard's physical assets and experienced work force make it the premier facility for work on the Navy's non-nuclear aircraft carriers and highly sophisticated and complex cruisers and destroyers.

37. The Shipyard excels in the Service Life Extension Program ("SLEP"), which extends the life of non-nuclear carriers in the Naval fleet by 15-30 years at a cost of about $1 billion or less per carrier.

38. Philadelphia is the only Naval Shipyard performing SLEP work.

39. In the 1991 Defense Appropriation Act, the Congress has required a $405 million CV-SLEP on the aircraft carrier U.S.S. Kennedy to be performed at the Shipyard. The CV-SLEP is not scheduled to be completed until mid-1996.

40. From 1980 through the present, Philadelphia has led all eight Naval Shipyards in efficiency and cost-effectiveness, due largely to the excellence of its highly skilled work force.

41. Contrary to the statements of the Navy, not a penny will be saved by the closure of the Shipyard.

42. Philadelphia is one of only two Naval Shipyards operating in the black with positive net operating results in the last two years.

43. The Shipyard differs from most other governmental agencies because it operates as a private business and it not funded directly from the defense budget. Personnel payrolls, building maintenance and nearly all other overhead and operating expenses are paid for by selling Shipyard services to

customers in a highly competitive environment.

44. Unlike most other governmental agencies, the Shipyard does not receive annual appropriations in support of operations. Rather, it generates its revenues by charging customers for work performed.

45. If the Shipyard is closed, the work performed there will ultimately be performed at greater cost to the Navy.

B. Enactment of the 1990 Defense Base Closure and Realignment Act

46. On May 3, 1988, then Secretary of Defense, Frank Carlucci, chartered the Defense Secretary's Commission on Base Realignment and Closure to evaluate and recommend a reduction in the military installations located in the United States.

47. In October 1988, Congress passed and the President signed Public Law 100-526, the Defense Authorization Amendment and Base Closure and Realignment Act.

48. The 1988 Commission on Base Realignment and Closure recommended that 86 bases be closed and 59 bases be realigned or partially closed. These recommendations were strongly criticized by members of Congress and the public.

49. Congressional critics contended that the 1988 base closure and realignment recommendation process had not been sufficiently open to public scrutiny.

50. Congressional critics also charged that faulty data had been used to reach the 1988 final closure recommendations.

51. Congress believes that the General Accounting Office ("GAO") should have reviewed the data considered by the 1988 Commission on Base Realignment and Closure.

52. On January 29, 1990, Secretary of Defense Cheney announced a proposal to close 36 bases in the United States, including the Shipyard.

53. In connection with that proposal, the Vice Chief of Naval Operations conducted a study to justify the proposed closure. This study concluded that the Shipyard should not be closed.

54. On November 5, 1990, to redress the criticisms raised by the 1988 base closure process, the President signed into law the Base Closure Act.

55. The Base Closure Act:

(a) Expressly stated that its "purpose" was "to provide a *fair process* that will result in the timely closure and realignment of military installations" [10 U.S.C. §2901(b) (emphasis supplied)];

(b) Required that all meetings of the Commission "be open to the public," except where classified information was being discussed [10 U.S.C. §2902(e)(2)(A)];

(c) Mandated the development and application of "final criteria" for making the closure and realignment determinations [10 U.S.C. §2903(b)(2)(A) and (c)];

(d) Mandated the creation of a six year force-structure plan for the Armed Forces for making the closure and realignment determinations [10 U.S.C. §2903(a) and (c)];

(e) Required the Secretary of Defense to consider all military installations "equally" for closure or realignment [10 U.S.C. §2903(c)(3)];

(f) Required the Secretary of Defense to transmit to the Commission "a summary of the selection process that resulted in the recommendation for [closure or realignment] of each installation, including a justification for each recommendation [10 U.S.C. §2903(c)(2)]; and

(g) Required the Secretary of Defense to transmit to the GAO "all information used by the Department in making its recommendations to the Commission for closures and realignments," and required the GAO (i) to assist the Commission in its review and analysis of the recommendations made by the Secretary and (ii) to transmit to the Commission and to Congress "a report containing a detailed analysis of the Secretary's recommendations and selection process" 45 days *before* the Commission's report was to be transmitted to the President [10 U.S.C. §§2903(c)(4), 2903(d)(5)(A) and 2903(d)(5)(B)].

C. The Oversight role of Congress under the Base Closure Act

56. The April 1991 Base Closure and Realignment Report of the Department of Defense ("DOD") acknowledges the significant oversight role retained by Congress with respect to military installation closures and realignments:

"(a) Authority to disapprove by law the Secretary's final criteria;

"(b) Receipt of the Secretary of Defense's force structure plan;

"(c) Receipt of the Secretary's recommended closures and realignments;

"(d) The role of the General Accounting Office; and

"(e) The requirement that the Commission's proceedings, information, and deliberations be open, on request, to designated members of Congress."

D. The evaluative and oversight role of the General Accounting Office under the Base Closure Act

57. During the 1988 base closure process, Congress belatedly called upon the GAO to examine the 1988 commission's methodology, findings and recommendations.

58. Congress ensured an integral and timely role for the GAO during the 1991 base closure process.

59. The Secretary's April 1991 Base Closure and Realignment Report to the Commission described the GAO's essential role:

"Public Law 101-510 provided for the General Accounting Office (GAO) to *monitor* the activities, *while they occur*, of the Military Departments, the Defense Agencies and the Department of Defense in selecting bases for closure or realignment under the Act.

"The GAO is required to provide the Commission *and the Congress* with a detailed analysis of the Secretary of Defense's recommendations and selection process. The GAO report, due by May 15, 1991, is also intended to describe how the DOD selection process was conducted and whether it met the requirements of the Act. In addition, the GAO is required to assist the Commission, if requested, with its review and analysis of the Secretary's recommendations." (Emphasis supplied.)

60. Purporting to comply with Congressional mandates, the Commission stated at p. 1-5 of its July 1, 1991 Base Closure and Realignment Report to the President that the "GAO has been an integral part of the process."

E. The 1991 Defense Base Closure Commission

61. The Base Closure Act provides for an eight member Commission to conduct an independent, equal, lawful and fair process for closing and realigning military installations.

62. To ensure the independence of the Commission, the Base Closure Act requires that the President nominate commissioners only after consulting with the speaker of the House of Representatives concerning the appointment of two members, the majority leader of the Senate concerning two members, the minority leader of the House of Representatives concerning the appointment of one member and the minority leader of the Senate concerning the appointment of one member.

63. The President nominated former New Jersey Congressman James A. Courter as Chairman of the Commission and the following seven as members of the Commission: William L. Ball III, former Secretary of the Navy; Howard H. (Bo) Callaway, former Secretary of the Army; Duane H. Cassidy, former commander-in-chief of the United States Transportation Command of the Military Airlift Command; Arthur Levitt, Jr., chairman of the board of Levitt Media Company; James C. Smith II, P.E., formerly a member of the Secretary of Defense's 1988 Base Closure Commission; Robert D. Stuart, Jr., former chairman of the board of the Quaker Oats Company; and Alexander Trowbridge, former Secretary of Commerce.

64. These nominations were confirmed by the Senate.

65. On May 17, 1991, Alexander Trowbridge resigned from the Commission because of a conflict of interest arising out of his ownership of a majority of stock in certain companies that had significant Pentagon contracts.

66. Section 2902 of the Base Closure Act requires that all vacancies be filled in the same manner as the original appointment.

67. In accordance with Congress' oversight role under the Base Closure Act, Alexander Trowbridge had been nominated by the President after consultation with Speaker Foley.

68. In violation of the Base Closure Act, Trowbridge's vacancy was never filled.

69. The Commission established four procedures for gathering evidence to review the DOD's base closure proposals: (a) 15 public hearings in Washington, D.C. to receive information from the DOD, legislators and other experts; (b) 14 regional and site hearings to obtain public comment; (c) site visits by the Commissioners of the major facilities proposed for closure; and (d) review by the Commission's staff of the Armed Services' processes and data.

70. Under the Base Closure Act, the Commission was required to submit its Report to the President by July 1, 1991, setting forth its findings, conclusions and recommendations for closures and realignments inside the United States.

F. The Department of Defense base closure criteria for process

71. The Base Closure Act directs the Secretary of Defense to: (1) develop selection criteria for making recommendations for the closure of military installations and to finalize such criteria after public comment; (2) provide to Congress (with the Department of Defense's budget request for fiscal year 1992) a six-year, force-structure plan for the Armed Forces; (3) submit to the Commission by April 15, 1991 a list of military installations recommended for closure or realignment "*on the basis of the force-structure plan and the final criteria*" [10 U.S.C. §2903(c)(1) (emphasis supplied)]; and (4) make available to the Commission, the GAO and Congress "*all information* used by the Department in making its recommendations to the Commission for closures and realignments" [10 U.S.C. §2903(c)(4) (emphasis supplied)].

72. As part the objective process for determining whether to close a military installation, the Base Closure Act required the Secretary of Defense to establish selection criteria to be used in making a closure recommendation.

73. In developing these criteria, the Secretary was required to publish proposed cri-

teria in the Federal Register and solicit public comments.

74. The DOD published eight proposed criteria and requested comments on November 30, 1990.

75. The proposed criteria closely mirrored the criteria established for the 1988 Defense Secretary's Commission on Base Realignment and Closure. The only notable differences were that priority consideration was given to military value criteria and payback was no longer limited to six years.

76. As a result of numerous public concerns raised about the criteria's broad nature and the need for objective measures or factors for the criteria, on December 10, 1990, the DOD issued a memorandum setting forth "policy guidance" and "record keeping" requirements to the Military Departments as follows:

"The recommendations in the studies must be based on the final base closure and realignment selection criteria established under that Section [2903 of the Act]; and

"The studies must consider *all* military installations inside the United States * * * *on an equal footing* * * *"

DOD components shall keep:

"Descriptions of how base closure and realignment selections were made, and how they met the final selection criteria;

"Data, information and analysis considered in making base closure and realignment selections; and

"Documentation for each recommendation to the Secretary of Defense to close or realign a military installation under the Act." (Emphasis supplied.)

77. On February 13, 1991, the DOD issued a memorandum setting forth "internal control" guidance to the Military Departments requiring implementation of an "internal control plan" which "at a minimum" was to include:

"Uniform guidance defining data requirements and sources for each category of base,

"Systems for verifying accuracy of data,

"Documentation justifying any changes made to data submissions, and

"Procedures to check the accuracy of the analysis made from the data provided."

78. The February 13, 1991 DOD Memorandum also provided the following procedures for evaluating base closures and realignments: (a) if there was no excess capacity in a certain category, the bases in that category were exempted from closure; (b) if there was excess capacity and a base was recommended for closure or realignment, the Department's analysis must have considered all military bases within that category and any cross-categories; and (c) military bases could only be excluded from further review if they were militarily/geographically unique or mission essential such that no other base could substitute for them.

79. On February 15, 1991, the DOD published in the *Federal Register* eight proposed final criteria to govern the base closure and realignment process.

80. The first four criteria concerned "military value," and were to receive preference:

"(1) Current and future mission requirements and the impact of operational readiness of the Department of Defense's total-force.

"(2) The availability and condition of land, facilities and associated air space at both the existing and potential receiving locations.

"(3) The ability to accommodate contingency, mobilization, and future total force requirements at both the existing and potential receiving locations.

"(4) The cost and manpower implications."

The fifth criteria concerned "return on investment":

"(5) The extent and timing of potential costs and savings, including the number of years, beginning with the date of completion of closure or realignment, for the savings to exceed the costs."

The final three criteria involved "impacts":

"(6) The economic impact on local communities.

"(7) The ability of both the existing and potential receiving communities' infrastructures to support forces, missions, and personnel.

"(8) The environmental impact."

81. The proposed criteria were subject to Congressional review between February 15, 1991 and March 15, 1991. The criteria became final on March 15, 1991.

G. The necessity for the Navy to develop and implement an internal control plan

82. The February 13, 1991 DOD Memorandum also required each Military Department to develop and implement an "internal control plan" to ensure the accuracy of data collection and analyses. At a minimum, the internal control plan was required to include (1) uniform guidance defining data requirements and sources for each category of base, (2) systems for verifying accuracy of data, (3) documentation justifying any changes made to data submissions, and (4) procedures to check the accuracy of the analyses made from the data provided.

83. The Navy failed to implement an "internal control plan" that ensured the accuracy of its data collection and analysis. The Navy did not prepare minutes of its deliberations on closures and realignments.

H. The Navy's pre-determination to close the Philadelphia Naval Shipyard

84. On December 10, 1990, the DOD issued the exclusive procedures which the Military Departments were to follow in making defense base closure and realignment recommendations.

85. In accordance with the Base Closure Act, the procedures required that all military installations be considered *equally*, "without regard to whether the installation has been previously considered or proposed for closure or realignment by the Department of Defense."

86. In blatant contravention of the express language of the Base Closure Act, its own internal procedures and clear Congressional intent to establish an objective and fair process, the Navy used a completely arbitrary, subjective process designed to justify a predetermined conclusion to close the Shipyard.

87. Documents that were withheld by the Navy until after the close of the Commission's public hearings established that, as early as December 19, 1990—prior to the DOD's establishment of a force structure plan or final criteria for evaluating base closures—the Secretary of the Navy had already decided to close the Shipyard.

88. *On December 19, 1990*, Admiral Peter Heckman, then Commander of the Naval Sea Systems Command, wrote a memorandum to the Chief of Naval Operations urging the Navy's reconsideration of its decision to close the Shipyard:

"While I realize that the *Secretary has been briefed and has concurred with the proposal to mothball Philadelphia Naval Shipyard*, I strongly recommend that *this decision* be reconsidered. It is more prudent to downsize Philadelphia Naval Shipyard . . .

"Further, I recommend that the drawdown of Philadelphia Naval Shipyard to an SRF size shipyard not be done until FY 95, as the shipyard is required to support scheduled workload until that time." (Emphasis supplied.)

89. Although Admiral Heckman was responsible for oversight of all Naval Shipyards, the Navy refused to allow him to become a part of the base closure process.

90. Admiral Heckman retired from the Navy on or about May 1, 1991. After his retirement, Admiral Heckman was instructed by the Assistant Secretary of the Navy, Donald Howard, that he was *not* to testify before the Commission at the public hearings on the Philadelphia Naval Shipyard.

91. The Navy predetermination to close the Philadelphia Naval Shipyard is confirmed by its treatment of other Naval Shipyards during the base closure process.

92. Navy guidelines expressly prohibited non-emergency capital upgrades of any military installations on the 1990 Base Closure List during the 1991 base closure process.

93. Nevertheless, on February 4, 1991—one day prior to the commencement of the Navy's force structure review process—the Chief Naval Officer requested $1.05 million to upgrade for nuclear certification a shipyard that was clearly subject to the base closure process: Long Beach Naval Shipyard.

94. Long Beach is the only shipyard other than Philadelphia that does not have a nuclear certification.

95. The Navy's decision to upgrade Long Beach not only violated its own guidelines but clearly establishes a predisposition by the Navy to close the Philadelphia Navy Shipyard.

I. The Navy Base Structure Committee's blatant disregard for its own evaluation results

96. In December 1990, the Secretary of the Navy established a six-member Base Structure Committee ("BSC") to conduct a base structure review and to determine the Navy's closure and realignment candidates.

97. The BSC was charged with reviewing all installations inside the United States *equally*, "without regard to whether the installation was previously considered for closure or realignment."

98. By applying their admittedly subjective judgment, the BSC candidly admitted that it arrived at base closure decisions that "differed from the assessments one might make using the raw empirical data."

99. The BSC initially categorized all facilities according to function—e.g., Naval Air Stations, Naval Shipyards—to determine which categories possessed significant excess capacity.

100. The Navy then applied the eight selection criteria in two phases by assigning color codes to military bases in categories with excess capacity.

101. Phase I of the BSC's analysis required a consideration of the first four military criteria. After Phase I was completed, the Navy excluded those bases which it determined "were distinguished by virtue of their operational value," *i.e.*, those that it gave an overall "green" rating under the first four military criteria.

102. Under the Navy's rating system, a "green" rating received one point, a "yellow" rating received two points, and a "red" rating (favoring closure) received three points.

103. The Navy's color-coded/point approach resulted in the following total point allocations to each of the eight Naval Shipyards in the United States:

Shipyard	*Points*
Puget Sound, WA	4
Norfolk, VA	5

Shipyard	*Points*
Philadelphia, PA	6
Charleston, SC	6
Mare Island, CA	6
Pearl Harbor, HI	6
Portsmouth, ME	6
Long Beach, CA	7

104. Puget Sound received a "green" rating for each of the first four military criteria and was therefore excluded from further closure consideration.

105. In accordance with the BSC base closure criteria, the seven remaining Naval Shipyards should have been evaluated under the remaining four non-military criteria set forth in Phase II.

106. Using the BSC's own rating system, the Philadelphia Naval Shipyard should have been treated the same as Charleston, Mare Island, Pearl Harbor and Portsmouth and better than Long Beach.

107. Ignoring its own rating system and in blatant disregard of the statutory mandate that all bases be considered "equally," the Navy—for no apparent reason and without any supporting documentation or analysis—gave overall "green" ratings to three *undeserving* shipyards: Mare Island, which just like Philadelphia Naval Shipyard, received two "yellow" and two "green" ratings; Norfolk, which received three "green" and one "yellow" ratings; and Pearl Harbor, which received one "red" and three "green" ratings.

108. The BSC then arbitrarily, unilaterally and without reference to any one of the eight DOD criteria excluded all of the six nuclear-capable shipyards from any further review without providing any documentation or analysis to justify a drydock need for nuclear ships as compared with conventional carriers.

109. This process left only Long Beach (which is one of *two* California shipyards) and Philadelphia for further review.

110. To circumvent the fact that Long Beach scored poorly in three of the four military criteria and overall had the worst rating of all eight Naval Shipyards, the BSC then excluded Long Beach from further consideration contending that *one* of the drydocks at that shipyard could be used "to handle West Coast aircraft carriers (including CVN emergency work)." [Navy Report, Tab C, p. 10].

111. By this egregious process of elimination, the BSC was left with *only one yard* to consider for closure under the remaining four criteria, the Philadelphia Naval Shipyard. The BSC then performed a perfunctory application of the second four non-military criteria with respect to the Philadelphia Naval Shipyard to ensure its closure.

J. The Navy's force structure plan

112. The Base Closure Act required the Navy to create a force-structure plan based on the Navy's inventory of its fleet and projections of work necessary to upgrade and maintain its fleet during a six year fiscal period. Base closure recommendations and decisions were to be based on this plan, pursuant to Section 2903(a) and (c) of the Base Closure Act.

113. The Navy's force structure plan and conclusions regarding the Navy's drydock needs fall far short of the statutory requirements. The plan fails to provide the requisite specificity necessary to determine how many large drydocks, such as those at the Shipyard, the Navy will need from 1992 through 1997, including the number and types of ships that will remain in the fleet and the number of anticipated repairs, overhaulds and refuelings required on those ships during the relevant time period.

114. In fact, the Navy's own April 1991 Report contradicts the conclusion that any of the Naval Shipyards should be closed.

115. The Navy's Reports stated that the Navy is currently fully utilizing its drydocks "in excess of 100%." The Report also stated that the number of large amphibious ships is increasing and for 1994 and 1997 there will be insufficient naval drydocks to handle large carriers. [Navy Report, Tab C, p. 2]

116. In its Report, the Navy also determined that shipyard workloads would be virtually unaffected:

"While the Navy fleet in general is downsizing by 19%, *the types of ships worked on by the Naval Shipyards is downsizing by only 1%, and in some cases is increasing (large Amphibious and AEGIS ships)*. Thus, the need for certain facilities to accomplish this work is *not* diminished."—[Navy Report, Tab C, p. 2 (emphasis added)].

117. A March 1991 memorandum from Admiral Claman, Commander Naval Sea Systems Command, to the Chief of Naval Operations confirmed that the Navy's utilization of shipyards for large amphibious ships and other large vessels would be between 84.2% and 106.9% for fiscal years 1992 through 1997.

118. Since the Navy requires that Shipyards reserve 30% of their space for emergency repairs, it is clear that Shipyards, such as the Philadelphia Naval Shipyard, servicing large amphibious ships and other large vessels will have no "excess" capacity during the relevant six year period and should have been excluded from further review under the base closure process.

119. The Navy's failure to prepare and follow an adequate force structure plan substantially prejudiced Naval Shipyards, such as the Philadelphia Naval Shipyard, since Philadelphia has: (a) three of the Navy's five East Cost drydocks that are capable of handling large amphibious ships and other large vessels; and (b) two of only three East Coast drydocks capable of handling carriers.

120. A March 15, 1991 memo from Admiral Heckman to the Chief of Naval Operations recognized that "retention of a credible repair capability at Philadelphia for naval ships home ported in the Northeast area is the most cost effective solution." Admiral Heckman concluded that:

"[T]he workload distribution for naval shipyard in the 90's supports full operations at Philadelphia, through mid FY 95. As previously briefed, executing a realignment of Philadelphia Naval Shipyard in FY 93 will cause significant perturbations to carrier overhauling yard assignment and could result in an East Coast CV overhauling on the West Coast."

121. Despite express requests for the foregoing information by interested members of Congress, the Navy deliberately withheld the Claman and Heckman memoranda from the GAO, the Commission, Congress and the public until after the close of the public hearings.

122. The BSC submitted its recommendations, including its proposal to close the Philadelphia Naval Shipyard, to the Secretary of the Navy.

123. The Secretary of the Navy submitted BSC's nominated bases for closure and realignment to the Secretary of Defense.

124. On April 12, 1991, Secretary Cheney issued the DOD's Base Closure Report. The Report adopted the Navy's proposals and recommended 43 base closures, including the Philadelphia Naval Shipyard.

K. The May 16, 1991 General Accounting Office report

125. The Base Closure Act provides for the GAO to monitor the activities of the Military Departments, the Defense Agencies and the Department of Defense in selecting bases for closure or realignment under the Act.

126. The GAO was required (a) to assist the Commission in its review and analysis of the Secretary of Defense's closure recommendations and (b) to provide the Commission and the Congress with a detailed analysis of the Secretary of Defense's recommendations and selection process. The GAO Report was also intended to describe how the DOD selection process was conducted and whether it met the requirements of the Act.

127. Despite the clear mandates of the Base Closure Act and the DOD's internal guidelines and regulations, the Navy failed to provide the GAO with sufficient documentation to support either its base closure process or its recommendations for closure.

128. The GAO's independent Report, entitled *Observations on the Analyses Supporting Proposed Closures and Realignments*, was issued on May 16, 1991, in accordance with the statutory mandate of the Base Closure Act. A copy of the relevant text of the GAO report is annexed hereto as Exhibit A.

129. The GAO Report found that the Army and Air Force could document their use of the force-structure plan and the military value criteria. Therefore, the GAO concluded that the base closure recommendations made by the Army and Air Force were "adequately supported."

130. In stark contrast, the GAO concluded that the Navy's recommendations and processes were entirely inadequate.

131. The GAO Report concluded that the Navy did not offer sufficient documentation to prove whether or not its process followed the force structure and selection criteria, thereby preventing the GAO from evaluating the Navy's specific recommendations for closure:

"We were unable to conduct an extensive review of the process the Navy used to recommend bases for closure or realignment, because the Navy did not adequately document its decision-making process or the results of its deliberations. In addition, the Navy did not establish an internal control plan to ensure the validity and accuracy of information used in its assessment as required by OSD.

"Due to the limited documentation of its process, we also could not assess the reasonableness of the Navy's recommendations for closures."—[GAO Report at p. 46].

132. In addition to the lack of adequate documentation, and the absence of any internal control plan, the GAO determined that it could not evaluate the Navy's "methodology" for reviewing air stations, shipyards, or labs. [GAO Report at pp. 46–48].

133. Significantly, the GAO Report stated that, on May 7, 1991, the Navy's BSC informed the GAO that the BSC had ignored the data prepared by its working groups because of the BSC's view that "much of the data were biased in favor of keeping bases open and were inadequate for an objective assessment of the Navy's basing needs." According to the BSC, it therefore relied on informal briefings and meetings, many of which were in closed executive sessions. [GAO Report at p. 46].

134. The GAO Report identified three additional deficiencies in the Navy's process for determining base closures: (1) insufficient justification to support "the basis for the [BSC's] military value ratings for Navy installations"; (2) the implementation and use of an inconsistent color coding system to rate military bases; and (3) the Navy's failure to assign responsibility for developing

and implementing an internal control plan to ensure the accuracy of information used by the Navy in its base structure reviews. [GAO Report at p. 48].

135. The GAO also discovered that, despite DOD guidance to the contrary, the Navy used budget data which did not use 1991 dollars as its baseline.

136. The GAO discovered inconsistencies in the Navy's service costs, savings estimates, payback calculations and recovery of closure costs. The GAO report concluded that the result of these inconsistencies was an overstatement of estimated annual savings and a shortening of the payback period for several closures.

137. The GAO Report also identified inconsistencies within the BSC's internal rating process, including the fact that the BSC had given identical ratings to two naval bases (Mare Island and Philadelphia Naval Shipyard) on each of the first four military selection criteria, but—without any discernable justification—had arbitrarily assigned an overall rating of green to one (Mare Island) and yellow to the other (Philadelphia Naval Shipyard). [GAO Report at p. 48].

138. Similarly, the BSC had assigned identical ratings to five naval bases but did not treat such bases equally. Again, the Philadelphia Naval Shipyard was not excluded from the closure process although four other naval shipyards which received identical ratings were excluded from further review.

139. The GAO Report concluded that, since the BSC "did not document these differences," the GAO "could not determine the rationale for its final decisions" and "could not comment on the Committee's closure and realignment recommendations based on the process." [GAO Report at p. 48].

140. In sum, the GAO Report found that the Navy and its BSC:

(a) Had not treated all bases equally, as required by the Base Closure Act;

(b) Had not complied with the Secretary of Defense's first four military selection criteria, as required by the Base Closure Act;

(c) Had not complied with the Secretary of Defense's "record keeping" and "internal controls" requirements; and

(d) Had prevented the GAO from performing its statutory mandate of reviewing and analyzing the recommendations for Naval base closures made by the Secretary of Defense and transmitting to Congress and the Commission a report containing a detailed analysis of the Secretary of Defense's recommendations for Naval base closures and the Navy selection process.

L. Public Hearings

141. The Base Closure Act established the 1991 Defense Base Closure and Realignment Commission to ensure that "the [base closure] process is open." [Report to President, p. 1-5].

142. The Base Closure Act therefore requires the Commission to conduct its proceedings in public and open its records and deliberations to public scrutiny.

143. The Commission expressly invited and received public testimony in Washington, D.C. from members of Congress.

144. By letter dated April 23, 1991, the Commission established five pages of procedures to govern Congressional testimony at the Commission's hearings. The Commission's procedures provided that:

"All members of Congress have the opportunity to testify before the Commission in Washington D.C. Members of Congress will have the opportunity to make introductory comments at regional hearings. However, their formal oral testimony and comments for the record should be presented at the Washington, D.C. hearing."

145. The Commission's official procedures also provided that the "recommended deadline for receipt of written material is May 20 to ensure that the Commission has adequate time to review all written documentation."

146. In accordance with the Base Closure Act, the Commission scheduled and held 28 hearings across the United States.

147. Congressional testimony on the Philadelphia Naval Shipyard was scheduled in Washington, D.C. for May 22, 1991. The regional hearing regarding the Philadelphia Naval Shipyard was scheduled for May 24, 1991.

148. In violation of the Base Closure Act and other applicable law, additional documentation was thereafter provided to the Commission that was not subject to GAO analysis or public comment and debate.

149. In blatant violation of the Base Closure Act, closed meetings with the Navy's BSC were held by the Commission on May 24, 1991 *after* the public hearings were completed.

150. Moreover, on May 24, 1991—*after* the close of the public hearings—the Commission requested that the Navy's BSC provide it with additional information to "try to resolve missing gaps in the information provided."

151. Thereafter, the Navy's BSC provided additional documents and information to the Commission, including COBRA analyses, data underlying the color coding ratings, data regarding the VCNO study and other information regarding Navy closure recommendations, without affording interested members of Congress or the public a meaningful opportunity to comment on such information at a public hearing.

152. Despite repeated demands by members of Congress for a public hearing on the additional information supplied by the Navy, the Commission refused to allow any public debate.

M. The July 1, 1991 Commission report to the President

153. On July 1, 1991, the Commission submitted its recommendations for the closure or realignment of U.S. military installations to the President.

154. In its July 1, 1991 Report to the President, the Commission stated:

"The Navy presented a special challenge to the Commission. Its selection process was more subjective and less documented than that of either the Army or the Air Force. To determine whether the Navy complied with the law, the Commission's staff held a series of meetings with members of the Navy's Base Structure Commission and other high ranking naval officers . . ."

These individuals responded to questions and supplied information to the Commission.

155. The Commission findings with respect to the Philadelphia Naval Shipyard were as follows:

"The Commission found that the overall public shipyard workload is falling significantly because of force reductions and budget limitations. The projected workload in nuclear shipyards during the 1990s was found to limit the potential for closing any nuclear shipyard until the late 1990s.

"The largest portion of Philadelphia's recent workload has been CV-SLEP, which the Navy desires to terminate. However, Congress has passed legislation that requires a CV-SLEP at Philadelphia. The Commission found that this CV-SLEP should be completed in mid-1996, about a year before the required closure date.

"Workload is available that could be diverted from public and private East Coast shipyards to Philadelphia to bring its activity up to levels that justify keeping it open. However, this would limit the Navy's ability to meet its target of putting 30 percent of its repair work in private yards . . .

"The Commission found that the combination of carrier-capable drydocks at Norfolk Naval Shipyard, *Newport News Shipbuilding*, and the mothballed drydocks at Philadelphia provide capacity for unplanned requirements.

156. The Commission exceeded its statutory authority in making base closure recommendations by considering the availability of privately-owned shipyards, such as Newport News, to provide emergency service for the Navy's fleet.

157. Consideration of private facilities as part of a force-structure plan to provide emergency service for the Navy's fleet is impermissible under the Base Closure Act and departs from long standing Navy strategic and operational requirements.

158. The Navy was fully aware of the need to keep the Philadelphia Naval Shipyard open, but withheld such information from the GAO, the Commission and the public. The March 1991 Admiral Claman memorandum to the Chief of Naval Operations clearly recognized that:

"Closure of Philadelphia Naval Shipyard, without retention of the large carrier capable dry docks creates a shortfall in dry dock capability for emergent dockings of aircraft carriers . . . Without the dry docks available at Philadelphia, the only other dock capable of taking an emergent carrier docking is at Newport News Shipbuilding (NNSB). Exhibit C-7 illustrates this situation graphically. This dock is privately owned and its docking schedule is not controlled by the Navy. The cost to have NNSB provide a dedicated dock under contract is considered prohibitive."

159. The Commission adopted the BSC's conclusion that the Shipyard should be closed based upon projected workload trends. However, the Navy's force structure plan lacked sufficient detail for the Commission to evaluate the Secretary's recommendations.

160. The law requires the President to approve or disapprove the Commission's recommendations by July 15, 1991. If approved, the report will be sent to Congress. Unless Congress enacts a joint resolution disapproving the Commission's proposals within 45 legislative days (or prior to when Congress adjourns for the session), the Secretary must begin to close or realign those installations listed in the report.

161. In fact, the Navy failed to produce, and the Commission failed to obtain, detailed information about projected Naval Shipyard workloads.

162. The Navy failed to engage in a fair and objective process and did not treat all military installations equally in recommending the closure of the Shipyard.

163. The Navy deviated substantially from the force structure plan and base closure criteria in recommending the closure of the Shipyard.

164. The Navy failed to base its decision on each of the final selection criteria and failed to apply each of the eight criteria equally, fairly and objectively.

165. The Navy failed to provide *all* information used in making its base closure recommendations to the GAO and members of Congress and failed to consider all available information concerning the Shipyard, especially information which would have pre-

vented the BSC from recommending its closure.

166. The Commission's adoption of the DOD's recommended base closures and realignments also violated the procedural and substantive safeguards set forth in the Base Closure Act wth respect to other military installations, including its recommendations to close the Philadelphia Naval Station and the realignment and elimination of the Warminster Naval Air Development Center and the U.S. Army Corps of Engineers division and district management headquarters located in the Commonwealth of Pennsylvania .

167. The foregoing actions of the defendants are in bad faith, arbitrary, capricious and in violation of the law.

N. Irreparable injury

168. The foregoing conduct of defendants will cause plaintiffs to suffer immediate and irreparable harm.

169. According to the Navy's December 1990 Final Environmental Impact Statement for Base Closure/Realignment of the Philadelphia Naval Shipyard ("FEIS"), the direct economic consequence of the proposed closure of the Philadelphia Naval Shipyards includes a reduction in present Navy employment in the Philadelphia region by 88 percent, which represents eliminating directly almost 15,000 employment positions and indirectly causing the loss of an additional 7,384 jobs in the Philadelphia area.

170. The FEIS stated that the proposed closure would add an estimated 16,856 workers to the unemployment rolls (a 17.4 percent increase) and increase unemployment in the geographical region from 3.8 percent (in 1989) to 4.5 percent of the work force.

171. The FEIS also stated that "many employees of Philadelphia Naval Shipyard would experience difficulty reentering the labor force without considerable retraining."

172. According to the FEIS, direct income and expenditures that would be withdrawn from the Philadelphia region as a result of the proposed closure would total $536.9 million.

173. An Economic Impact Report prepared by the Pennsylvania Economy League ("PEL") and submitted to the Naval Facilities Engineering Command on October 17, 1990 by the Commonwealth of Pennsylvania and the State of New Jersey concluded that closing the Philadelphia Naval Shipyard would have a much greater impact on the economy of Philadelphia and the entire tristate region than that set forth in the FEIS since the Shipyard is the largest employer in the Philadelphia area.

174. Economic activity connected with the Philadelphia Naval Shipyard accounts for for $2.1 billion in gross product in the Philadelphia metropolitan statistical area. This represents 1.45 percent of the region's total economic activity.

175. The PEL's Economic Impact Report concluded that the unemployment rate would jump 25 percent from 5.8 to 7.6 percent in the Philadelphia region, that the region would suffer a loss of $915 million in wage and salary income and retail sales would decline $382.8 million.

176. Plaintiffs do not have an adequate remedy at law.

177. There is presently an actual controversy between the parties, within the meaning of the Declaratory Judgment Act, 28 U.S.C. §§2201-2202.

COUNT I—ALL PLAINTIFFS V. THE SECRETARY OF DEFENSE AND THE SECRETARY OF THE NAVY

178. Plaintiffs incorporate herein by reference paragraphs 1 through 177 above, as if fully set forth herein.

179. The Secretary of Defense, by and through his agent the Secretary of the Navy, adopted the list of closure and realignment recommendations made by the Navy's BSC in violation of the procedural and substantive safeguards and requirements set forth in the Base Closure Act, in that:

a. They failed to make available to the Commission, the GAO and Congress all information which was used by the Navy in making its recommendations to the Commission, in violation of Section 2903(c)(4) of the Base Closure Act;

b. They failed to provide the GAO with the data necessary for the GAO to perform its statutorily mandated duty to assist the Commission in its review and analysis of the recommendations for base closures made by the Navy and the Secretary of Defense, in violation of Section 2903(d)(5)(A) of the Base Closure Act;

c. They failed to provide the GAO with the data necessary for the GAO to perform its statutorily mandated duty to prepare and transmit to Congress and the Commission a detailed review and analysis of the Navy's and the Secretary of Defense's recommendations for Naval base Closures and the procedures employed by the Navy and the Secretary of Defense in arriving at such recommendations, in violation of Section 2903(d)(5)(B) of the Base Closure Act;

d. They failed to publish in the Federal Register and transmit to the congressional defense committees and to the Commission a summary of the selection process that resulted in the recommendation for closure for each installation, together with a justification for each recommendation, in violation of Sections 2903(c) (1) and (2) of the Base Closure Act;

e. They failed to consider all Naval installations inside the United States equally, without regard to whether the installations has been previously considered or proposed for closure or realignment, in violation of Section 2903(c)(3) of the Base Closure Act;

f. They failed to apply the eight final criteria adopted by DOD equally to all Naval installations in making their recommendations for Navy base closures, in violation of Section 2903(c)(1) of the Base Closure Act;

g. They utilized criteria which were not published and adopted in accordance with Section 2903 of the Base Closure Act;

h. They failed to implement record keeping and internal controls promulgated by DOD in order to insure an accurate and fair decision-making process, in violation of the Base Closure Act; and

i. They failed to adopt a force structure plan for the Navy in compliance with Section 2903(a) of the Base Closure Act and failed to base their base closure recommendations on a force structure plan which complied with the Base Closure Act.

180. The Secretary of the Navy's and the Secretary of Defense's actions were arbitrary and capricious, not in conformity with law and will inflict substantial irreparable harm on the plaintiffs for which there is no adequate remedy at law.

Wherefore, plaintiffs respectfully request that this Court:

a. Find and declare that the list of Naval closure and realignment proposals provided by the Secretary of the Navy and the Secretary of Defense to the Commission on April 12, 1991 was developed in a manner inconsistent with the requirements of the Base Closure Act and is therefore void;

b. Find and declare that the Secretary of the Navy's and the Secretary of Defense's adoption of the list of closure and realignment recommendations, findings and conclusions made by the Navy's BSC was arbitrary and capricious, and otherwise not in conformity with law;

c. Pursuant to 5 U.S.C. §706(2), hold unlawful and void that portion of the list of closure and realignment proposals, findings and conclusions which were submitted by the Secretary of the Navy;

d. Enjoin the Secretary of Defense from taking any action based upon the list of closure and realignment proposals submitted by the Secretary of the Navy; and

e. Grant such other and further relief as this Court deems just and equitable.

COUNT II—ALL PLAINTIFFS V. THE BASE CLOSURE COMMISSION

181. Plaintiffs incorporate herein by reference paragraphs 1 through 180 above, as if fully set forth herein.

182. The Commission, in reviewing and makings its recommendations regarding the base closures submitted by the Secretary of the Navy, violated the procedural and substantive safeguards and requirements set forth in the Base Closure Act, in that:

a. It based its decision on a significant amount of substantive information supplied by the Navy which was not evaluated or even made available to the GAO or to Congress, in violation of the Base Closure Act;

b. It failed to ensure that the GAO performed its statutorily mandated duty of assisting the Commission in its review and analysis of the recommendations for base closures made by the Navy and the Secretary of Defense, in violation of Section 2903(d)(5)(A) of the Base Closure Act;

c. It failed to ensure that the GAO performed its statutorily mandated duty of preparing and transmitting to Congress and the Commission a report containing a detailed review and analysis of the Navy's and the Secretary of Defense's recommendations for Naval base closures and the procedures employed by the Navy and the Secretary of Defense in arriving at such recommendations, in violation of Section 2903(d)(5)(B) of the Base Closure Act;

d. It decided to adopt the list of closure and realignment recommendations made by the Navy's BSC even though the GAO had found that the Navy and its BSC: (i) had not treated all bases equally, as required by the Base Closure Act; (ii) had not complied with the Secretary of Defense's first four military selection criteria, as required by the Base Closure Act; and (iii) had not complied with the Secretary of Defense's "record keeping" and "internal controls" requirements;

e. It failed to hold public hearings, in violation of section 2903(d)(1) of the Base Closure Act, because it did not include certain pivotal information regarding the Navy's recommendations and selection process in the record until after the close of the public hearings;

f. It failed to consider all Naval installations inside the United States equally, without regard to whether the installations had been previously considered or proposed for closure or realignment, in violation of Section 2903(c)(3) of the Base Closure Act;

g. It failed to apply the eight final criteria adopted by DOD equally to all Naval installations in making its recommendations for Navy base closures, in violation of Section 2903(c)(1) of the Base Closure Act;

h. It utilized criteria which were not published and adopted in accordance with Section 2903 of the Base Closure Act; and

i. It exceeded its statutory authority in making Naval base closure recommendations by considering privately-owned shipyards.

183. The Commission's actions were arbitrary and capricious, not in conformity with law and will inflict substantial irreparable harm on the plaintiffs for which there is no adequate remedy at law.

WHEREFORE, plaintiffs respectfully request that this Court:

a. Find and declare that the Navy's list of closure and realignment recommendations, submitted by the Commission to the President on July 1, 1991, was adopted by the Commission in violation of the Base Closure Act and is therefore void;

b. Find and declare that the Commission's adoption of the list of closure and realignment recommendations, findings and conclusions made by the Navy's BSC was arbitrary and capricious, and otherwise not in conformity with law;

c. Pursuant to 5 U.S.C. §706(2), hold unlawful and void that portion of the list of closure and realignment recommendations, findings and conclusions which were submitted by the Secretary of the Navy and adopted by the Commission;

d. Enjoin the Secretary of Defense from taking any action based upon the list of closure and realignment recommendations made by the Commission; and

e. Grant such other and further relief as this Court deems just and equitable.

COUNT III—LANDRY, REIL, IFPTE AND MTC V. ALL DEFENDANTS

184. Plaintiffs incorporate herein by reference paragraphs 1 through 183 above, as if fully set forth herein.

185. The defendants' actions constitute a violation of the plaintiffs' rights to Due Process as guaranteed under the Fifth Amendment of the United States Constitution.

186. The Base Closure Act expressly entitles the plaintiffs to a "fair process" by which it will be decided which military installations should be closed. Additionally, the Base Closure Act entitles the plaintiffs to have the Philadelphia Naval Shipyard remain open and in operation unless and until it is determined, in accordance with the Base Closure Act, that the closure of the Shipyard is warranted.

187. The defendants' disregard of the procedures set forth in the Base Closure Act, as more fully described in Counts I and II of this Complaint, impermissibly interfered with the rights which were granted to the plaintiffs under the Base Closure Act, and constitute violations of the Due Process Clause of the United States Constitution.

Wherefore, plaintiffs respectfully request that this Court:

a. Find and declare that defendents' actions in developing, adopting, and concurring in the Navy's list of closure and realignment recommendations provided by the Commission to the President on July 1, 1991 violated the plaintiffs' rights guaranteed by the Due Process Clause of the United States Constitution;

b. Pursuant to 5 U.S.C. §706(2), hold unlawful and void that portion of the list of closure and realignment proposals, findings and conclusions which were submitted by the Secretary of the Navy and adopted to the Commission;

c. Enjoin the Secretary of Defense from taking any action based upon the list of closure and realignment proposals submitted by the Secretary of the Navy and the Secretary of Defense and made by the Commission; and

d. Grant such other the further relief as this Court deems just and equitable.

Bruce W. Kauffman, I.D. No. 04466; David H. Pittinsky, I.D. No 04552; Camille J. Wolf I.D. No. 47307; Patrick T. Davish; I.D. No. 50400, John V. O'Hara; I.D. No. 57681, Mark A. Nation; I.D. No. 59150, Dilworth, Paxson, Kalish & Kauffman; and Sen. Arlen Specter; Attorneys for Plaintiffs.

Dated: July 8, 1991.

[U.S. General Accounting Office Report to the Congress and the Chairman, Defense Base Closure and Realignment Commission]

MILITARY BASES: OBSERVATIONS ON THE ANALYSES SUPPORTING PROPOSED CLOSURES AND REALIGNMENTS, MAY 1991

EXECUTIVE SUMMARY

Purpose

The Department of Defense (DOD) spends billions of dollars annually operating its military bases in the United States. Events taking place throughout the world and within the United States have caused a reevaluation of our military strategy, and U.S. forces are to be significantly reduced. DOD and the Congress both recognize that with a reduced force structure there is a need to close and realign military installations.

The Defense Base Closure and Realignment Act of 1990 (P.L. 101-510) established a new process for DOD base closure and realignment actions within the United States. The act established an independent Defense Base Closure and Realignment Commission and specified procedures that the President, DOD, GAO, and the Commission must follow, through 1995, in order for bases to be closed or realigned.

This report responds to the act's requirement that GAO provide the Congress and the Commission, by May 15, 1991, an analysis of the Secretary of Defense's April 12, 1991, recommendations of bases for closure and realignment and the selection process used. GAO also received numerous letters, requests, and materials in connection with this review from congressmen, state and local government officials, and private citizens; however, due to the lack of time available to respond to each of the issues raised, GAO has submitted the materials to the Commission for its use.

Background

In 1988, the Secretary of Defense chartered the Commission on Base Realignment and Closure to review military installations within the United States for realignment and closure. Later that year the Commission recommended that 145 installations be closed or realigned. The Secretary of Defense and the Congress accepted all the Commission's recommendations.

The Secretary of Defense unilaterally recommended additional closures and realignments on January 29, 1990, as a result of the shrinking defense budget. The Congress subsequently passed the Defense Base Closure and Realignment Act of 1990, which halted any closure actions based on the January 29, 1990, list and required all installations in the United States to be compared equally against (1) criteria to be developed by DOD and (2) the future years' Force Structure Plan (fiscal years 1992 to 1997).

The final eight criteria against which the April 12, 1991, list of proposed military installation closures and realignments was to be measured included four related to the military value of the installations and four others that addressed the number of years needed to recover the costs of closure and realignment; the economic impact on communities; the ability of both the existing and potential receiving communities; infrastructure to support forces, missions, and personnel; and the environmental impact. DOD guidance provided to the services directed that they give priority to the four criteria that addressed the military value of installations.

Results in brief

GAO agrees that a reduced military force structure requires that military installations be closed and realigned. The DOD process, when properly implemented, allows for a reduction in the U.S. military base structure by emphasizing the military value of the installations. Indeed, DOD successfully nominated 43 bases for closure and 28 for realignment. This represents a significant start in the process to propose bases for closure and realignment every other year for the next 6 years.

The Army and the Air Force can document the use of DOD's Force Structure Plan and the four military value criteria in the selection process. GAO found some inconsistencies in the way they developed military value rankings for quantifiable attributes used to compare similar installations; however, GAO believes those inconsistencies were not significant. GAO considers the closure and realignment recommendations made by the Army and the Air Force to be adequately supported.

Although the Navy had insufficient documentation to support its efforts, which precluded GAO from evaluating the Navy's process, this does not mean that Navy bases should not be closed. However, since the Navy did not document the rationale for its decisions, GAO was unable to analyze its specific closure and realignment recommendations. As an alternative means of evaluating the Navy's recommendations, GAO looked at ship berthing capacity in comparison to the Force Structure Plan. After analyzing capacity data, GAO found that the Navy will have significant excess berthing capacity if only the recommended facilities are closed. GAO found that changes have occurred in the strategic homeporting concept, which when combined with excess available pier space for berthing ships, supports the recommendation for fewer Navy bases.

Although recognizing that differences exist in the composition and functions of each service's bases, GAO is concerned that DOD's guidance allowed estimating processes and cost factors used by the services to vary. GAO analyzed the sensitivity of years to recover closing costs (the projected payback period) for each closure or realignment to 50 percent and 100 percent increases in one-time costs. The analysis showed that the payback period for many of the recommendations did not substantially increase. There are several recommended closure and realignment actions, however, where the payback is sensitive to one-time costs.

PRINCIPAL FINDINGS

The Army's process and recommendations

The Army established the Total Army Basing Study group in 1990 to develop a total Army basing strategy and then tasked it to recommend potential closures and realignments. The Army used a two-phased approach to evaluate potential bases for closure or realignment that was designed to treat all bases equally. In phase I, it categorized all its installations by major mission categories and evaluated their military value in quantitative terms. The Army Audit Agency was involved in the process to review and verify data collected for the quantitative analysis. In phase II, the Army used the Force Structure Plan, the phase I results, and the major commands' future plans. It also considered (1) the economic payback for possible alternatives and (2) the socioeconomic and environmental impacts on the communities involved in the final proposed closures.

Because the Army's process was well documented, which enabled GAO to evaluate the process, and the Army Audit Agency provided a check in the process, GAO believes that the resulting recommendations were well supported.

The Air Force's process and recommendations

The Air Force process was designed to treat all bases equally, and the selections were based on DOD's criteria and the Force Structure Plan. The process emphasized the first four criteria, which address military value. Also, the judgments of the Secretary of the Air Force and individual members of the Air Force Base Closure Executive Group, which was supported by a working group, were a part of the process.

The Air Force initially identified all Air Force-owned property within the United States and then excluded 35 active components bases from the process after doing a (1) capacity analysis and (2) mission-essential analysis. The 51 remaining active component bases were then rated on the basis of approximately 80 subelements for DOD's eight criteria. The Air Force also considered Reserve Component bases for potential closure or realignment using a slightly different process. As a result of these assessments, the Secretary of the Air Force then recommended closing 14 bases and realigning 1 base. GAO's analysis focused on the data supporting the closure or realignment decisions. Generally, GAO found that the rationale was adequately supported by documentation.

The Navy's process and recommendations

Due to inadequate documentation of the process used by the Navy, GAO was unable to independently evaluate the relative military value of the bases considered. Further, the Navy did not establish required internal controls to ensure the accuracy of the data used.

According to the Navy, it established a Base Structure Committee to conduct its closure process. The Committee decided that the input it received from its working group was biased in favor of keeping bases open. Thus, the Committee based its recommendations on information provided during meetings with various Navy and Marine Corps headquarters officials and representatives from various field organizations.

GAO's review of the Navy's ship berthing capacity studies found that there would be significant excess space beyond what the Committee calculated, even if the bases recommended for closure were included.

COBRA model used in cost savings estimates

The revised Cost of Base Realignment Actions (COBRA) model addresses a full range of factors for estimating the costs, savings, and payback period related to closure and realignment actions. GAO found cases where the services used inaccurate data in the model. GAO also found that the cost estimating process ignored the cost of Medicare to the federal government. However, overall, GAO believes that the recommendations made for base closings and realignments offer an opportunity for substantial savings.

DOD did not ensure cost comparability

Without DOD oversight of the COBRA cost estimating process, each service approached common problems in different ways. Although DOD called for submission of cost estimates expressed in fiscal year 1991 dollars, the services used budget data for other than 1991 dollars as their basedlines for estimating costs and savings. Service costs and savings estimates, as well as payback calculations, did not consistently rely on fiscal year 1991 input data. These errors could reduce estimated annual savings and lengthen the payback period for several closures.

Recommendations

GAO recommends that the Secretary of Defense:

Require the Secretary of the Navy to submit to the Defense Base Closure and Realignment Commission specific details on the manner in which its Base Structure Committee compared based to develop closure and realignment recommendations and ensure the use of consistent procedures and practices among the services in future base closure and realignment reviews.

GAO also recommends that the Chairman, Defense Base Closure and Realignment Commission:

Consider, in evaluating the Navy requirement for bases, the impact of excess space for ship berths on base requirements and

Consider for all the services the effects of incorrect cost and savings estimates on all proposed base closures and realignments, using the results of GAO's sensitivity analysis.

CHAPTER 4.—THE NAVY'S BASE CLOSURE AND REALIGNMENT PROCESS AND ASSOCIATED RECOMMENDATIONS

We were unable to conduct an extensive review of the process the Navy used to recommend bases for closure or realignment, because the Navy did not adequately document its decision-making process or the results of its deliberations. In addition, the Navy did not establish an internal control plan to ensure the validity and accuracy of information used on its assessment as required by OSD.

Due to the limited documentation of its process, we also could not assess the reasonableness of the Navy's recommendations for closures. However, we reviewed and recalculated the Navy's ship berthing capacity analysis and found that excess capacity would remain, even with the closure of recommended bases.

THE NAVY'S PROCESS AS DESCRIBED BY NAVY OFFICIALS

The Navy's Base Structure Committee, which was charged with making base closure and realignment recommendations, began its review of the Navy's basing structure in late January 1991. However, the Committee did not fully explain its process to us until May 7, 1991, when it informed us that after review of data prepared by its working group, the Base Structure Committee decided that much of the data were biased in favor of keeping bases open and were inadequate for an objective assessment of the Navy's basing needs. Its review, therefore, emphasized a series of briefings and meetings attended by Committee members, Navy and Marine Corps headquarters officials, and representatives of field activities. According to Committee members, decisions made during the process were sometimes made in the presence of everyone in the meetings and were clear to everyone in attendance. In other cases, the decisions were made by the Committee in closed executive sessions. Bases on this review, the Committee proposed closure and realignment actions to the Secretary of the Navy on March 21, 1991.

We reviewed the charts that were used in the presentations to the Committee. These charts were generally in outline form. Our review of this information showed that presentations were organized by 23 Navy and 6 Marine Corps categories representing the various Navy functions and missions. For example, the category "naval stations" included bases that have deep water harbors and piers and serve as home bases for Navy surface ships and aircraft carriers. The category "naval air stations" included bases that have runways and hangars and serve as home bases for aircraft. Other categories included submarine bases, shipyards, aviation depots, supply centers/depots, Marine Corps bases, Marine Corps air stations, reserve centers, and RDE&E activities.

The Base Structure Committee told us that a capacity analysis was then discussed for each functional category, which compared the 1977 force structure facility requirements against the existing inventory. Critical factors were identified for each category and served as units of measure for capacity. For example, pier space was used as the primary unit of measure for naval stations, and airfield apron and hangar space were used for naval air stations.

Of the eight categories of bases the Committee retained for further closure and realignment analysis, four were retained because the Base Structure Committee identified potential excess capacity: (1) naval stations, (2) naval air stations, (3) shipyards and (4) Marine Corps air stations. Two other categories—the training and construction battalion centers categories—were retained for further analysis, because they showed potential excess capacity in segments of the overall categories. The medical category was also retained because of the link between medical facilities and major installations that were being evaluated for closure or realignment. Finally, the RDT&E category was retained for analysis based on a mandated requirement to reduce personnel by 20 percent.

A military value rating was then assigned by the Base Structure Committee to each base in all the categories being analyzed except for the medical category.[1] Committee members told us that they rated each installation using the first four DOD selection criteria, which addressed military value, and then they independently assigned each installation an overall color-coded rating.

Bases receiving an overall green rating were excluded from further study, according to Committee members. For example, in the naval stations category the base receiving an overall green were Coronado, Guam, Ingleside, Little Creek, Mayport, Mobile, New York (Staten Island), Norfolk, Pascagoula, Pearl Harbor, Puget Sound/Everett, and San Diego. The Committee continued to evaluate bases that were given an oveall rating of yellow or red. Additional bases were excluded from further review because of their unique assets, geographic location, strategic importance, or operational value, leaving 19 bases and the RDT&E category to be evaluated for closure.

Committee members told us they then performed a "quick estimate" cost-benefit analysis of each of the remaining bases to determine the feasibility of closing them. After making its final decisions, a full COBRA analysis for those closure candidates was conducted. Local economic and environmental impact analyses were also done for the closure candidates.

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[1] Three hospitals were reviewed because three installations with hospitals were being considered for closure: Orlando Naval Training Center, Whidbey Island Naval Air Station, and Long Beach Naval Station.

The Committee proposed closing 11 bases and 10 RDT&E facilities. It also recommended that 1 base and 16 RDT&E facilities be realigned. In addition, three hospitals were proposed to be closed as a result of the Committee's decisions.

GAO'S VIEWS ON THE NAVY'S PROCESS

In addition to the limitations placed on our review by the lack of adequate documentation, we identified three problems with the Navy's process. First, due to the lack of supporting documentation, we could not determine the basis for the Committee's military value ratings for Navy installations. In late March, we received selected data given to the Committee by its Working Group. This information was provided to us, but we were not advised unitl May 7, 1991, that the Committee had decided that much of this data were biased in favor of keeping bases open. In mid-April, the Base Structure Committee provided us with four additional volumes of material that consisted primarily of briefing charts that were basically outlines of matters and data to be discussed, without any explanation or supporting data. Also, Committee members said they did not prepare minutes of their deliberations.

Second, we identified apparent inconsistencies within the Committee's internal rating process. For example, the Committee had given identical ratings to two naval stations on each of the first four DOD selection criteria but had assigned an overall rating of green to one and yellow to the other. Similarly, the Committee had assigned identical ratings to six naval air stations for the first four DOD selection criteria. Four bases were assigned an overall rating of yellow and two an overall rating of green. These inconsistencies are significant because any base given an overall rating of green, based on the first four DOD selection criteria, was excluded from further closure or realignment consideration. In explanation, Committee members stated that "not all yellows are equal" and "not all greens are equal." Since the Committee did not document these differences, we could not determine the rationale for its final decisions.

Lastly, although required by OSD policy guidance to develop and implement an internal control plan for its base structure reviews, the Navy did not assign responsibility for developing and implementing such a plan.

GAO'S VIEWS ON THE CLOSURE AND REALIGNMENT RECOMMENDATIONS

Because the Committee did not document the rationale for its decisions, we could not comment on the Committee's closure and realignment recommendations based on the process. As an alternative, we looked at ship berthing capacity of naval stations in comparison to the Force Structure Plan because naval stations are a major category of the Navy's facilities. Also, we have conducted prior work and have ongoing work related to homeporting needs. Data obtained from the Navy's Assistant Chief of Naval Operations (Surface Warfare) showed that the most appropriate indicator for naval station requirements is ship berthing capacity. An analysis of the capacity data showed the Navy will have excess capacity remaining if only the four recommended naval stations are closed.

The Navy's capacity analysis indicates an inventory of 257.6 thousand feet of berthing (KFB) at naval stations and a requirement of 174.2 KFB, leaving an excess of 83.4 KFB. This excess represents the capacity at naval stations worldwide and also includes some inadequate berthing space. In addition, 14.5 KFB of berthing space is available at facilities other than naval stations.

When we subtracted the 75.2 KFB identified with space associated with (1) overseas facilities, (2) recommended closures, and (3) inadequate berthing facilities, 22.7 KFB of excess berthing capacity remains (see table 4.1).

[In the U.S. District Court for the Eastern District of Pennsylvania]

SEN. ARLEN SPECTER, SEN. HARRIS WOFFORD, SEN. BILL BRADLEY, SEN. FRANK R. LAUTENBERG, GOVERNOR ROBERT P. CASEY, COMMONWEALTH OF PENNSYLVANIA, PENNSYLVANIA ATTORNEY GENERAL ERNEST D. PREATE, JR., REP. CURT WELDON, REP. THOMAS FOGLIETTA, REP. ROBERT ANDREWS, REP. R. LAWRENCE COUGHLIN, CITY OF PHILADELPHIA, HOWARD J. LANDRY, AND INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL ENGINEERS, LOCAL 3, AND WILLIAM F. REIL AND METAL TRADES COUNCIL, LOCAL 687 MACHINISTS, PLAINTIFFS, *v.* H. LAWRENCE GARRETT, III, SECRETARY OF NAVY, RICHARD CHENEY, SECRETARY OF DEFENSE, THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION AND ITS MEMBERS JAMES A. COURTER, WILLIAM L. BALL, III, HOWARD H. CALLAWAY, DUANE H. CASSIDY, ARTHUR LEVITT, JR., JAMES C. SMITH, II, AND ROBERT D. STUART, JR., DEFENDANTS

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' REQUEST FOR DECLARATORY RELIEF

Plaintiffs United States Senator Arlen Specter, United States Senator Harris Wofford, United States Senator Bill Bradley, United States Senator Frank R. Lautenberg, Governor Robert P. Casey, Commonwealth of Pennsylvania, Pennsylvania Attorney General Ernest D. Preate, Jr., United States Representatives Curt Weldon, Thomas Foglietta, Robert Andrews and R. Lawrence Coughlin, City of Philadelphia, Howard J. Landry, International Federation of Professional and Technical Engineers, Local 3, William F. Reil and Metal Trades Council Local 687 Machinists hereby respectfully submit, by their undersigned counsel, this Memorandum of Law in Support of the Complaint for Declaratory Judgment filed contemporaneously herewith.

I. INTRODUCTION

By their Complaint, plaintiffs seek a declaratory judgment to prevent the unlawful closing of the Philadelphia Naval Shipyard (also referred to as the "Shipyard"), the Philadelphia area's largest employer. The actions taken by defendants with regard to the Shipyard have violated the express mandates of the Defense Base Closure and Realignment Act of 1990 (the "Base Closure Act"), Public Law 101-510, Title XXIX, §§2901–2910 (November 5, 1990), and thus precluded an independent, equal and fair process for closing and realigning military installations. In particular, defendants have failed to follow numerous express statutorily prescribed procedural and substantive safeguards. Defendants' actions have substantially prejudiced the interests of plaintiffs herein and are subject to immediate judicial review.

II. STATEMENT OF FACTS

A full exposition of the facts underlying this matter is contained in the Complaint, which is incorporated herein by reference.

III. ARGUMENT

A. The actions of defendants taken pursuant to the Base Closure Act are subject to judicial review

It is axiomatic that "judicial review of a final agency action by an aggrieved person will not be cut off unless there is persuasive reason to believe that such was the purpose of Congress." *Abbott Laboratories* v. *Gardner*, 387 U.S. 136, 140 (1967); *National Treasury Employees Union* v. *United States Merit System*, 743 F.2d 895, 906 (D.C. Cir. 1984); *see also Society Hill Civic Association* v. *Harris*, 632 F.2d 1045, 1055 (3d Cir. 1980).[1] In recognition of this principle, the Administrative Procedure Act, 5 U.S.C. §§701 *et seq.* ("APA"), establishes a strong presumption of reviewability. *See, e.g., Kirby* v. *United States Department of Housing & Urban Development*, 675 F.2d 60, 67 (3d Cir. 1982) ("The Supreme Court has made it clear that there is a strong presumption that agency action is reviewable.").

The Supreme Court further elaborated on this theme in *Abbott Labs*, holding that the APA's "generous review provisions must be given a hospitable interpretation," and that "only upon a showing of clear and convincing evidence of a contrary legislative intent should the courts restrict access to judicial review." 387 U.S. at 141 (citations omitted); *see also Citizens to Preserve Overton Park, Inc.* v. *Volpe*, 401 U.S. 402 (1971); *Society Hill Civic Association*, 632 F.2d at 1055. Section 702 of the APA thus provides:

> "A person suffering legal wrong because of an agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof."

5 U.S.C. §702. This broad grant of the right to judicial review is limited only "to the extent that statutes preclude judicial review" or "agency action is committed to agency discretion by law." 5 U.S.C. §701(a). Both of these exceptions are to be read exceedingly narrowly, and neither has any applicability to the instant action. *See Heckler* v. *Chaney*, 470 U.S. 821, 829 (1984); *State of Florida, Dept. of Business Regulation* v. *United States Dept. of Interior*, 768 F.2d 1248, 1255 (11th Cir. 1985).

The first exception "requires explicit statutory language precluding review," which is plainly absent from the Base Closure Act. *See California Human Development Corp.* v. *Brock*, 762 F.2d 1044, 1048 n. 28 (D.C. Cir. 1985). The second exception is likewise inapplicable, as it is strictly limited to those "rare instances where statutes are drawn in such broad terms that in a given case there is no law to apply." *Overton Park, supra*, 401 U.S. at 410 (quoting legislative history of the APA); *Society Hill Civic Assoc.*, 632 F.2d at 1045. Given the elaborate procedural and substantive safeguards established by the Base Closure Act, and the previous history which provided those safeguards, there is manifestly "law to apply."

Moreover, the Third Circuit has held that review is always available, notwithstanding this exception, for violations of statutory procedures of the sort involved in the instant action:

> *"Even when agency action is determined to have been committed to agency discretion by law, that determination does not completely in-*

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[1] There can be little doubt that the DOD, the Department of the Navy and the Commission are administrative agencies, and that the actions challenged herein constitute final agency actions. *See* 5 U.S.C. §551(1) (regarding the definition of "administrative agencies"); *Solar Turbines, Inc.* v. *Seif*, 879 F.2d 1073, 1080–81 (3d Cir. 1989) (discussing the definition of "final agency action").

sulate the action from judicial review. As this court has noted, a court may in any event consider allegations that the agency lacked jurisdiction, that the agency's decision was occasioned by impermissible influences, such as fraud or bribery, *or that the decision violates constitutional, statutory or regulatory command.* For the APA circumscribes judicial review only to the extent that . . . agency action is committed to agency discretion by law; it does not foreclose judicial review altogether."

Kirby, 675 F.2d at 67 (*quoting Local 2855 AFGE v. United States,* 602 F.2d 574, 578 (3d Cir. 1979)) (underlined emphasis added; bold emphasis in original).

Accordingly, the blatant failure of the Secretary of Defense, the Secretary of the Navy and the Commission to follow the unambiguous statutory command of the Base Closure Act has resulted in flawed agency actions which are clearly subjected to judicial review by this Court under the APA.

B. The defendant's blatant failure to follow the unambiguous procedural and substantive safeguards of the Base Closure Act Mandates a declaration that the list of recommended closures and realignments be declared void insofar as it relates to naval facilities.

As the Complaint filed in this matter demonstrates, the Secretary of Defense, the Secretary of the Navy and the Commission have blatantly disregarded not only the procedural and substantive safeguards governing base closures expressly mandated by the Base Closure Act, but also their own procedures and regulations promulgated pursuant to the Base Closure Act. These violations have inflicted substantial prejudice to the interests of the plaintiffs herein contrary to the express objective of Congress in adoping the Base Closure Act.

The APA specifically provides for the review of agency action to determine whether it complies with statutory mandates and statutorily prescribed procedures:

The reviewing court shall—

* * * * *

(2) hold unlawful and set aside agency action, findings, and conclusions found to be—

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(B) contrary to constitutional right, power, privilege or immunity;

* * * * *

(D) without observance of procedure required by law;

5. U.S.C. §706(2)(A)(B)((D). The actions of the defendants herein were plainly "not in accordance with law" and "without observance of procedure required by law" (*i.e.*, the Base Closure Act) and were "contrary to constitutional right" (*i.e.*, the Due Process Clause of the Fifth Amendment).

Furthermore, it is clear that a reviewing court must carefully examine the challenged actions "to determine independently that the [agencies have] not acted unfairly *or in disregard of the statutorily prescribed procedures.* . . ." *Natural Resources Defense Council v. Environmental Protection Agency,* 790 F.2d 289, 297 (3d. Cir. 1986) (emphasis added). Equally importantly, this Court must invalidate agency actions which "are inconsistent with a stautory mandate or that frustrate a statutory policy." *Department of Navy v. Federal Labor Relations Authority.* 840 F.2d 1131, 1134 (3d Cir. 1988), *cert. denied,* 488 U.S. 881 (1988). In this regard, the Court of Appeals for the District of Columbia has recognized the authority of a reviewing court to closely scrutinize agency action which is alleged to violate statutorily prescribed procedures:

"Even more so than our review of EPA's statutory interpretations, our review of its *procedural integrity* in promulgating the regulation before us is the product of our independent judgment, and our main reliance in ensuring that, despite its broad discretion, the Agency has not acted unfairly *or in disregard of the statutorily prescribed procedures.* [citation omitted] *Our assertion of judicial independence in carrying out the procedural aspect of the review function derives from this country's historical reliance on the courts as the exponents of procedural fairness.*"

Weyerhouser Company v. Costle, 590 F.2d 1011, 1027 (D.C. Cir. 1978) (emphasis added); *see also Natural Resources Defense Council, Inc. v. S.E.C.,* 606 F.2d 1031, 1048 (D.C. Cir. 1979) ("Our review of an agency's procedural compliance with statutory norms is an exacting one.") Given that the process which resulted in the defendants' recommendation to close the Philadelphia Naval Shipyard could hardly have been more unfair or have departed by a wider margin from the statutorily prescribed procedures, it is mainfestly within the competence of this Court to review that process and declare its results void insofar as Navy bases are concerned.

C. The process by which the Commission arrived at its list of recommended closures of naval bases was riddled with procedural irregularities and substantive violations of the Base Closure Act

1. The Navy's failure to provide the data necessary for the GAO to perform its important statutory duty under the base Closure Act was a violation of the act.

The Base Closure Act specifically provides that the GAO is to play a critical role in ensuring the integrity and fairness of the Commission's process. Thus, Section 2903(d)(5) requires the Comptroller General to: (1) assist the Commission in its review and analysis of the recommendations for base closures made by the Navy and the Secretary of Defense; and (2) transmit to the Congress and the Commission "a report containing a detailed analysis of the Secretary's recommendations and selection process."

In order to permit the GAO to perform its statutorily mandated function, the Base Closure Act specifically imposes upon the Secretary of Defense the following duty:

"The Secretary shall make available to the Commission and the Comptroller General of the United States *all information* used by the Department in making its recommendations to the Commission for closures and realignments."

10 U.S.C. §2903(c)(4) (emphasis supplied). The Secretary of Defense failed to provide this information to the GAO.

As a direct result of the Secretary's violation of the Base Closure Act, the GAO was disabled from *both* assisting the Commission in its review and analysis of the Navy base closure recommendations *and* providing the "detailed analysis of the Secretary's recommendations and selection process" as required by the Base Closure Act. Thus, on May 16, 1991, the GAO published its report concluding that the Navy's documentation was patently insufficient:

"We were unable to conduct an extensive review of the process the Navy used to recommend bases for closure or realignment, because the Navy did not adequately document its decision-making process or the results of its deliberations. In addition, the Navy did not establish an internal control plan to ensure the validity and accuracy of information used in its assessment as required by OSD.

"Due to the limited documentation of its process, we also could not assess the reasonableness of the Navy's recommendations for closures."

See GAO Report to the Commission dated May 16, 1991 (the "GAO Report") at p.46, a true and correct copy of which is attached to the Complaint as Exhibit A.

In addition to the lack of adequate documentation, the GAO report identified three deficiencies in the Navy's process for determining base closures: (1) insufficient justification to support the basis for the Navy Base Structure Committee's ("BSC") military value ratings of Navy installations; (2) the implementation and use of an unclear, unequal and inconsistent color coding system to rate military bases;[2] and (3) the Navy's failure to assign responsibility for developing and implementing an internal control plan to ensure the accuracy of information used by the Navy in its base structure reviews, as required by the Office of the Secretary of Defense policy guidelines.[3] [GAO Report at p. 48]

The GAO also identified inconsistencies within the Committee's internal rating process, including the fact that the BSC had given identical ratings to two naval stations—(Mare Island and the Philadelphia Naval Shipyard)—on each of the first four military selection criteria but had assigned an overall higher rating of green to Mare Island and an overall lower rating of yellow to the Philadelphia Naval Shipyard. Similarly, the BSC had assigned identical ratings to six naval stations but did not treat them equally.[4] The Philadelphia Naval Shipyard was not excluded from the base closure process by the BSC, although the five other naval stations which received identical or worse ratings were excluded from further review.

The GAO Report concluded that since the BSC "did not document these differences," the GAO "could not determine the rationale for its final decisions" and could not comment on the Committee's closure and realignment recommendations based on the process." The Secretary thus plainly failed to meet the express requirements of the Base Closure Act, thereby disabling the GAO from submitting a report containing a detailed analysis of the Secretary's recommendations and selection process.

Indeed, on May 7, 1991, shortly before the GAO disseminated its report, the BSC admitted that "much of the [Navy's] data were biased in favor of keeping bases open and were inadequate for an objective assessment of the Navy's basing needs."[5] [GAO Report at p. 46] As a result, the BSC admitted that it had reached its decisions through a series of informal meetings, many of which were closed executive sessions. [GAO Report at p. 46] The Navy's admittedly *ad hoc* approach to base closure recommendations flies in the face of the procedural and substantive safeguards and requirements established by the Base Closure Act.

This egregious violation of the Base Closure Act clearly requires that this Court declare void that portion of the Commission's recommendations for base closures and realignments which relate to Navy facilities *See, e.g., Kirby,* 675 F.2d at 68.

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[2] This procedural irregularity is discussed, *infra*, at 14–17.

[3] This procedural irregularity is discussed, *infra*, at 17–19.

[4] *See, infra*, at 14–17.

[5] This admission is especially significant since the BSC's process involved excluding 7 of 8 shipyards from the base closure process, thereby leaving *only* the Philadelphia Naval Shipyard for possible closure. *See, infra*, at 15–17.

2. The Commission's Failure To Provide Meaningful Public Hearings Is A Violation Of The Base Closure Act.

In accordance with the Congressional objective of ensuring the procedural integrity of the base closure and realignment process, the Base Closure Act expressly provides that the Commission shall conduct public hearings on the Secretary's recommendations. 10 U.S.C.§2904(d). The Base Closure Act also requires the Commission to open its records and deliberations to public scrutiny. 10 U.S.C. §2902(e)(2)(A)(B).

Thus, the Commission expressly invited and received public testimony in Washington, DC from members of Congress. By letter dated April 23, 1991, the Commission established procedures to govern Congressional testimony at the hearings:

"All members of Congress have the opportunity to testify before the Commission in Washington DC. Members of Congress will have the opportunity to make introductory comments at regional hearings. However, their formal oral testimony and comments for the record should be presented at the Washington, DC hearing."

The Commission's official procedures also provided that the "recommended deadline for receipt of written material is May 20 to ensure that the Commission has adequate time to review all written documentation."

In accordance with the Base Closure Act, the Commission scheduled and held 28 hearings across the United States. Congressional testimony on the Philadelphia Naval Shipyard was scheduled in Washington, DC for May 22, 1991. The regional hearing regarding the Philadelphia Naval Shipyard was scheduled for May 24, 1991. In violation of the Base Closure Act and other applicable law, additional documentation was thereafter provided to the Commission *that was not subject to GAO analysis or public comment and debate.*

In blatant violation of the Base Closure Act, closed meetings with the Navy's BSC were held by the Commission on May 24, 1991 *after* the public hearings were completed. Moreover, on May 24, 1991—*after* the close of the public hearings—the Commission requested that the Navy's BSC provide it with additional information to "try to resolve missing gaps in the information provided." Thereafter, the Navy's BSC provided additional documents and information to the Commission without affording interested members of Congress or the public a meaningful opportunity to comment on such information at a public hearing.

Under these circumstances, the requirement of public hearings in the Base Closure Act has plainly been violated. *See, e.g., National Wildlife Federation v. Marsh,* 568 F.Supp. 985, 994 (D.D.C. 1983); *Joseph v. Adams,* 467 F. Supp. 141, 160-61 (E.D. Mich. 1978); *see also Monongahela Power Company v. Marsh,* 1988 WL 84262 (D.D.C. 1988). The facts and holding of *National Wildlife Federation* are particularly relevant to the instant case and compel the conclusion that the list of recommended closures and realignments of Navy bases should be declared void. The plaintiffs in *National Wildlife Federation* brought suit against the Secretary of the Army seeking a declaration that a dredging and construction permit issued by the Army was invalid. The plaintiff asserted that the permit was invalid because the Army relied upon a staff report which was not made a part of the record until *after* the public hearings were held. According to the plaintiff, the consideration of this staff evaluation only after the close of the period for public comment violated its right to meaningfully participate in the statutorily required public hearings.

The Court held that the inclusion of important data in the record after the conclusion of public hearings had in fact violated the relevant statute, stating in terms equally applicable here:

"[T]he opportunity to comment and the right to a hearing both necessarily require that the Army present for public scrutiny the rationale and pivotal data underlying its proposed action *before* the close of the comment and hearing period. Unfortunately, that requirement was not satisfied in the administrative proceeding here. After a careful examination of the administrative record, the Court finds that the inclusion of the Staff Evaluation in the administrative record *after* the close of the comment and hearing period had the effect of shielding the essential data and the agency's rationale from public hearing and comment."

National Wildlife Federation, 568 F. Supp. at 994 (emphasis in original). The Court concluded in this same vein: "Only when the public is adequately informed can there be any exchange of views and any real dialogue as to the final decision. And without such dialogue any notion of real public participation is necessarily an illusion." 568 F. Supp. at 993 (quoting *U.S. Lines v. Federal Maritime Commission,* 584 F.2d 519, 540 (D.C. Cir. 1978)); *see also Portland Cement Association v. Ruckelshaus,* 486 F.2d 375 (D.C. Cir. 1973), *cert. denied,* 417 U.S. 921 (1974).

Accordingly, the Navy's failure to disclose important and material information and documentation *before* conclusion of the public hearings required by the Base Closure Act is a clear violation of the Act.

3. The failure of the Secretary of Defense to consider all naval installations equally was a violation of the Base Closure Act.

Section 2903(c)(3) of the Base Closure Act expressly provides that "the Secretary shall consider all military installations inside the United States equally without regard to whether the installation has been previously considered or proposed for closure or realignment by the Department." The actions of the Secretary of the Navy with respect to the Philadelphia Naval Shipyard were clearly a violation of both the letter and spirit of this provision of the Base Closure Act.

The Complaint discloses that, in December 1990, the Secretary of the Navy established the BSC to conduct a base structure review and to determine the Navy's closure and realignment candidates. In accordance with the Base Closure Act's mandate, the BSC was charged with reviewing all installations inside the United States *equally,* "without regard to whether the installation was previously considered for closure or realignment."

The BSC initially categorized all facilities according to function—e.g., naval air stations, Naval Shipyards—to determine which categories possessed significant excess capacity. The Navy then applied the eight selection criteria in two phases by assigning color codes to military bases in categories with excess capacity. Phase I of the BSC's analysis required a consideration of the first four military criteria. After Phase I was completed, the Navy excluded those bases which it determined "were distinguished by virtue of their operational value," *i.e.* those that it gave an overall "green" rating under the first four military criteria.

Under the Navy's rating system, a "green" rating received one point, a "yellow" rating received two points, and a "red" rating (favoring closure) received three points. The Navy's color-coded/point approach resulted in the following total point allocation to each of the eight Naval Shipyards in the United States:

Shipyard:	*Points*
Puget Sound	4
Norfolk	5
Philadelphia	6
Charleston	6
Mare Island	6
Pearl Harbour	6
Portsmouth	6
Long Beach	7

Thus, Puget Sound received a "green" rating for each of the first four military criteria and was therefore excluded from further consideration of closure.

In accordance with the BSC base closure criteria, the seven remaining Shipyards should have been evaluated under the remaining four non-military criteria set forth in Phase II. Using the BSC's own rating system, the Philadelphia Naval Shipyard should have been treated the same as Charleston, Mare Island, Pearl Harbor and Portsmouth and better than Long Beach. However, the Navy ignored its own rating system and blatantly disregarded the statutory mandate that all bases be considered "equally." Thus, the Navy—for no apparent reason and without any supporting documentation or analysis—gave overall "green" ratings to three other shipyards: Mare Island, which just like the Philadelphia Naval Shipyard, received two "yellow" and two green ratings; Norfolk, which received three "green" and one "yellow" ratings; and Pearl Harbor, which received one "red" and three "green" ratings.

The BSC then arbitrarily, unilaterally and without reference to any one of the eight selection criteria, excluded all of the six nuclear-capable shipyards from any further review without providing any documentation or analysis to justify a drydock need for nuclear ships as compared with conventional carriers. This process left only Long Beach and Philadelphia for further review.

To circumvent the fact that Long Beach scored poorly in three of the four military criteria and overall had the worst rating of all eight Naval Shipyards, the BSC then excluded Long Beach from further consideration, contending that *one* of the drydocks at that shipyard could be used "to handle West Coast aircraft carriers (including CVN emergency work)." Navy Report, Tab C, p. 10. By this egregious process of elimination, the BSC was left with *only one yard* to consider for closure under the remaining four criteria, the Philadelphia Naval Shipyard. The BSC then performed a perfunctory application of the second four non-military criteria with respect to the Philadelphia Naval Shipyard to ensure its closure.

Accordingly, the Navy, through this procedural parody, made a mockery of both the letter and spirit of the Base Closure Act.

4. The failure of the Navy to comply with the Department of Defense regulations with respect to the Navy's base closure actions requires invalidation of the resulting list of naval closures

An agency's failure to abide by its own regulations is alone grounds for invalidating agency action. *See Boddie* v. *Department of Navy,* 827 F.2d 1578, 1580 (Fed. Cir. 1987); *Kelley* v. *Calio,* 831 F.2d 190, 191-92 ("It is the duty of a reviewing court to ensure that an agency follows its own procedural rules."); *Wojciechowicz* v. *Department of Army,* 763 F.2d 149, 153 (3d Cir. 1985). In this case, the failure of the Navy to abide by the requirements promulgated by the Department of Defense in furtherance of the Base Closure Act mandates invalidation of the base closure list compiled as a result of the Navy's failure.

On December 10, 1990, the DOD issued "policy guidance" and "record keeping" requirements to the Military Departments as follows:

"The recommendations in the studies must be based on the final base closure and realignment selection criteria established under that Section [2903 of the Act]; and

"The studies must consider all military installations inside the United States . . . on an equal footing . . ."

* * * * *

DOD components shall keep:

Descriptions of how base closure and realignment selections were made, and how they met the final selection criteria;

Data, information and analysis considered in making base closure and realignment selections; and

Documentation for each recommendation to the Secretary of Defense to close or realign a military installation under the Act.

The DOD subsequently issued "internal control" guidance to the Military Departments requiring implementation of an "internal control plan" which "at a minimum" was to include:

Uniform guidance defining data requirements and sources for each category of base,

Systems for verifying accuracy of data,

Documentation justifying any changes made to data submissions, and

Procedures to check the accuracy of the analysis made from the data provided.[6]

The February 13, 1991 DOD Memorandum also provided the following procedures for evaluating closures and realignments: (a) if there was excess capacity and a base was recommended for closure or realignment, the Department's analysis must have considered all military bases within that category and any cross-categories; and (b) military bases could only be excluded from further review if they were militarily/geographically unique or mission essential such that no other base could substitute for them.

However, as found by the GAO in its May 16, 1991 Report, the Navy failed completely to meet any of these requirements in its procedures for base closures and realignments. *See, supra*, at 8–11. Thus, the GAO concluded in its Report that it "could not determine the rationale for [the BSC's] final decisions" and "could not comment on the Committee's closure and realignment recommendations based on the process."

Accordingly, the BSC and the Navy violated the DOD regulations promulgated in furtherance of the Base Closure Act, thereby invalidating the BSC's recommendations of base closures.

D. Plaintiffs' rights under the due process clause of the fifth amendment have been violated by defendants' violations of the Base Closure Act

The Due Process Clause protects individuals' property interests from interference by the federal government. Property interests are created by state and federal statutory schemes and customs which create a "legitimate claim of entitlement" to a specific benefit. *Board of Regents v. Roth*, 408 U.S. 564, 577 (1972). A claim of unconstitutional deprivation under the Fifth Amendments has three essential elements: 1) the claimant must be deprived of a protectable interest; 2) that deprivation must be due to some governmental action; and 3) the deprivation must be without due process. *Cospito v. Heckler*, 742 F.2d 72, 80 (3d Cir. 1984), *cert. denied*, 471 U.S. 1131 (1985).

The plaintiff unions and their members clearly have a property interest in the continued operation of the Philadelphia Naval Shipyard unless and until it is determined pursuant to a nonarbitrary application of the criteria established under the Base Closure Act that the Shipyard should be closed. *See, e.g., Hixon v. Durbin*, 560 F. Supp. 654 (E.D. Pa. 1983) (property interest in having proposed, executory contracts reviewed in accordance with state law and approved if they meet the requirement of state law); *Three Rivers Cablevision v. City of Pittsburgh*, 502 F. Supp. 1118 (W.D. Pa. 1980) (property interest is the right of lowest responsible bidder in full compliance with the specification to be awarded the contract). For example, the Third Circuit in *Winsett v. McGinnes*, 617 F.2d 996, 1006–08 (3d Cir. 1980), *cert. denied*, 449 U.S. 1093 (1981) found that the plaintiff had a protected interest in the exercise of a government agency's discretion "within established parameters." Similarly, in this matter the discretion of the Commission, the Secretary the Navy and the Secretary of Defense must all be exercised within the "established parameters" and procedural mandates established by the Base Closure Act.

Plaintiffs' right to a fair, open and procedurally correct application of the Base Closure Act is particularly evident in light of the history, Congressional intent and significant procedural safeguards of the Base Closure Act. Thus, the Base Closure Act was passed by Congress to address the criticisms levelled at the 1988 base closure act. Complaint ¶45. To this end, Section 2901(b) expressly states that the "purpose" of the Act was "to provide a *fair process* that will result in the timely closure and realignment of military installations." (emphasis supplied). As demonstrated previously, the Act also contained numerous substantive and procedural safeguards to ensure that persons in the position of plaintiff unions and their members were not the victims of the arbitrary, parochial application of government power.

Having determined that plaintiffs have a protected property interest, the only further inquiry the Court must undertake is to determine what process is due. *Mathews v. Eldridge*, 424 U.S. 319, 334 (1975). In the instant matter it is clear that the procedures mandated by the Base Closure Act provided an appropriate and necessary degree of protection of plaintiffs' property interest. Thus, the blatant violation of the procedures mandated by the Base Closure Act are a violation of the Fifth Amendment Due Process rights of plaintiff unions and their members.

IV. CONCLUSION

For the reasons stated in this Memorandum and the Complaint submitted herewith, plaintiffs respectfully request declaratory relief to prevent irreparable harm to them and the general public.

Bruce W. Kauffman; David H. Pittinsky; Camille J. Wolf; Patrick T. Davish; John V. O'Hara; Mark A. Nation; Martin Farrell; Dilworth, Paxson, Kalish & Kauffman; and Sen. Arlen Specter; Attorneys for Plaintiffs.

Dated: July 8, 1991.

Mr. SPECTER. I thank the Chair, I yield the floor, and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 517

(Purpose: To assist States in establishing and administering literacy programs for prisoners)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico is recognized for the purpose of proposing an amendment.

The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself, Mr. DOMENICI, and Mr. WIRTH, proposes an amendment numbered 517.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

TITLE —LITERACY EDUCATION FOR STATE PRISONERS

SEC. . MANDATORY LITERACY PROGRAM.

(a) INITIAL REQUIREMENT.—On or before the date that is 2 years after the date of the enactment of this Act, each State correctional system shall have in effect a mandatory functional literacy program in at least 1 major correctional facility.

(b) SUBSEQUENT REQUIREMENT.—On or before the date that is 5 years after the date of the enactment of this Act, each State correctional system and each local jail and detention center with a population of more than 100 inmates shall have in effect a mandatory functional literacy program.

(c) PROGRAM REQUIREMENTS.—(1) Each mandatory functional literacy program required by subsections (a) and (b) shall—

(A) to the extent possible, make use of advanced technologies, such as interactive video- and computer-based adult literacy learning; and

(B) include adequate opportunities for appropriate education services and the screening and testing of all inmates for functional literacy and learning disabilities upon arrival in the system or at the jail or detention center.

(2) Each mandatory functional literacy program required by subsections (a) and (b) may include—

(A) a requirement that each person incarcerated in the system, jail, or detention center who is not functionally literate, except a person described in paragraph (3), shall participate in the program until the person—

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[6] Although not published in the Federal Register, these requirements were the equivalent of regulations for purposes of judicial review under the APA. *See Lucas* v. *Hodges*, 730 F.2d 1493, 1504 n. 20 (D.C. Cir. 1984), *vacated on other grounds*, 738 F.2d 1392 (1984) (Agencies are "bound by their own substantive and procedural rules and policies, whether or not they are published in the Federal Register, if they are intended as mandatory.").

(i) achieves functional literacy;

(ii) is granted parole;

(iii) completes his or her sentence; or

(iv) is released pursuant to court order;

(B) a prohibition on granting parole to any person described in subparagraph (A) who refuses to participate in the program, unless the State parole board determines that the prohibition should be waived in a particular case; and

(C) an inmate participation incentive program, which may include—

(i) better housing opportunities;

(ii) monetary incentives for achievement; and

(iii) positive reports to parole authorities for inmates who participate and progress in the literacy program.

(3) A requirement such as the requirement described in paragraph (2)(A) may not apply to a person who—

(A) is serving a life sentence without possibility of parole;

(B) is terminally ill;

(C) is under a sentence of death; or

(D) is exempted by the chief officer of the system, jail, or detention center by reason of the person's documented learning disability or other significant learning problem.

(d) ANNUAL REPORT.—(1) Within 90 days after the close of the first calendar year in which a literacy program required by subsection (a) is placed in operation, and annually for each of the 4 years thereafter, the chief correction officer of each State correctional system shall submit a report to the Attorney General with respect to the State's literacy program.

(2) A report under paragraph (1) shall disclose—

(A) the number of persons who were tested for eligibility during the preceding year;

(B) the number of persons who were eligible for the literacy program during the preceding year;

(C) the number of persons who participated in the literacy program during the preceding year;

(D) the names and types of tests that were used to determine functional literacy;

(E) the average number of hours of instruction that were provided per week and the average number per student during the preceding year;

(F) sample data on achievement of participants in the program, including the number of participants who achieved functional literacy;

(G) data on all direct and indirect costs of the program; and

(H) a plan for implementing a system-wide mandatory functional literacy program, as required by subsection (b), and, if appropriate, information on progress toward such a program.

(3) Upon receipt of a report required by this subsection, the Attorney General shall distribute copies of the report to the Office of Correctional Education and the appropriate Congressional committees.

(e) COMPLIANCE GRANTS.—(1) The Attorney General shall make grants to State correctional agencies for the purpose of assisting in carrying out the programs, developing the plans, and submitting the reports required by this section.

(2) A State corrections agency is eligible to receive a grant under this subsection if the agency agrees to provide to the Attorney General—

(A) such data as the Attorney General may request concerning the cost and feasibility of operating the mandatory functional literacy programs required by subsections (a) and (b); and

(B) a detailed plan outlining the methods by which the requirements of subsections (a) and (b) will be met, including specific goals and timetables.

(f) LIFE SKILLS TRAINING GRANTS.—(1) The Attorney General is authorized to make grants to State and local correctional agencies to assist them in establishing and operating programs designed to reduce recidivism through the development and improvement of life skills necessary for reintegration into society.

(2) To be eligible to receive a grant under this subsection, a State or local correctional agency shall—

(A) submit an application to the Attorney General or his designee at such time, in such manner, and containing such information as the Attorney General shall require; and

(B) agree to report annually to the Attorney General on the participation rate, cost, and effectiveness of the program and any other aspect of the program upon which the Attorney General may request information.

(3) In awarding grants under this section, the Attorney General shall—

(A) consult with the Office of Correctional Education; and

(B) give priority to programs that have the greatest potential for innovation, effectiveness, and replication in other systems, jails, and detention centers.

(4)(A) The Attorney General shall award no more than ten grants per year under this subsection.

(B) Grants awarded under this subsection shall be for a period not to exceed 3 years, except that the Attorney General may establish a procedure for renewal of the grants under paragraph (1).

(g) WITHHOLDING OF GRANTS.—(1) On and after the date that is 2 years after the date of enactment of this Act, the Attorney General shall withhold grants under title I of the Omnibus Crime Control and Safe Streets Act of 1968, in an amount not to exceed 50 percent of the previous year's grant allocation to the State, to any State that does not have in effect a functional literacy program described in subsection (a).

(2) On and after the date that is 5 years after the date of enactment of this Act, the Attorney General shall withhold grants under title I of the Omnibus Crime Control and Safe Streets Act of 1968, in an amount not to exceed 50 percent of the previous year's grant allocation to the State, to any State that does not have in effect a functional literacy program described in subsection (b).

(h) DEFINITIONS.—For the purposes of this section—

(1) the term "functional literacy" means at least an eighth grade equivalence in reading on a nationally recognized standardized test;

(2) the term "Office of Correctional Education" means the Office of Correctional Education within the Department of Education established under the Carl D. Perkins Vocational and Applied Technology Act Amendments of 1990 (Public Law 101-392); and

(3) the term "life skills" may include self-development, communication skills, job and financial skills development, education, interpersonal and family relationships, stress and anger management, and addictive behavior rehabilitation.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for purposes of carrying out this section $10,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, and $25,000,000 for fiscal year 1995.

(j) FUNDING THRESHOLD FOR EFFECT OF TITLE.—The provisions of this title shall apply in those fiscal years for which funds are appropriated in an amount not less than one-half the amount authorized in subsection (i).

Mr. BINGAMAN. Mr. President, this amendment is being offered on behalf of myself, Senator DOMENICI and Senator WIRTH. It has two purposes: First and foremost, the amendment is intended to help us reduce crime in the United States; second, it has the additional benefit that it will work toward realization of one of the six national education goals that the President and the Governors have agreed upon, and that is goal No. 5, which states that every adult American should be literate and possess the knowledge and skill necessary to compete in a global economy and exercise the rights and responsibilities of citizenship. This goal includes individuals incarcerated in our Federal and State prisons.

The amendment addresses the need of the specific population, and it requires States to establish mandatory functional literacy education programs in their prisons and jails and detention centers—at least some of those with over 100 inmates. It provides Federal financial support to help the States to get these programs up and running.

Mr. President, fighting crime with every tool available is what the legislation pending before the Senate is about. This is a very comprehensive bill. In the pending bill before the Senate today, we broaden the Federal death penalty, toughen penalties against violent and drug-related crimes; we authorize special enforcement area grant programs; we establish a national commission to study crime in the United States. But in my view, none of the tools that we are using in the effort to fight crime is as effective as another tool which we say very little about, and that, of course, is education.

I am convinced that education, and specifically literacy training programs in Federal prisons where they are already mandatory, and throughout State and local prison systems, will reduce recidivism.

Ultimately, these programs will benefit our Nation's economy and reduce the level of fear of crime that exists in the general population.

Mr. President, it is hard to believe—at least it is hard to believe when you first hear the statistic—but more than 620,000 individuals are incarcerated in the United States today. And most of those individuals cannot read or write.

In fact, today's inmate population represents the Nation's single largest concentration of illiterate adults. A full 60 percent, or 372,000 individuals, are estimated to be functionally illiterate. Once released from prison, many of these people stand a good chance of returning to prison. This is because they are leaving prison in the same way that they came in, and that is illiterate. Without the basic skills of reading and writing, their chances are low for finding legitimate employment in our ever more complex and information-based society.

Being illiterate is, of course, not the only reason that one commits a crime, but the fact that more than 60 percent of our prison inmates are functionally illiterate should focus our attention on a possible connection between the two.

Jerome Miller, who is the president of the National Center on Institutions and Alternatives, recently stated—and I will quote two sentences from him here. He said:

> Education deters criminal activity. Studies show that those with a high school diploma who spend time in prison are less likely to be rearrested than those who have not graduated from high school. The likelihood of being arrested for delinquent behavior as a teenager is nearly twice as great for children who do not have the Head Start advantage as for those who participate in this extensive early education program.

That is the end of the quotation. I agree with Mr. Miller. Education does deter criminal activity. Fortunately, the Directors of our Federal Prison System, along with several of their State counterparts, have recognized the importance of education and have established mandatory literacy education programs in their prison systems. States such as Virginia, Tennessee, and Pennsylvania have enacted legislation that links literacy with the right to a parole, or the opportunity for parole.

Nearly 10 years ago, the Federal Bureau of Prisons adopted its first mandatory adult basic education policy. Originally, the policy required that all inmates who functioned at the sixth grade reading level or lower were required to enroll in an adult basic literacy program for 90 days.

Using incentives, rewards, encouragement, and work promotion opportunities, the Bureau has combined work and education to create a program that has far exceeded the expectations of inmates, staff, and observers.

Currently, all new admissions to the Federal Prison System are tested to determine their incoming literacy level. If a new inmate does not meet a minimum level of literacy competency, he or she is enrolled in a program aimed at providing quality instruction by a qualified reading specialist. Together, they work, toward a tangible, measurable goal of increased reading and writing ability. The almost universal acceptance of this program and widespread appreciations for its results have recently led the Bureau to strengthen its requirements.

After completing the sixth grade achievements level pilot program in 1985, the Bureau raised the mandatory literacy standards to an eighth grade equivalency. Today, the standard is a 12th grade equivalency, and more than 120 days of instruction with a focus on training for higher skills, higher paying jobs, and in the outside job markets.

Nearly 35 percent of the Bureau's inmates are now enrolled in school, with half of those continuing their studies after the mandatory 120-day period. The fact that no legal action or grievances have been filed as a result of their program is a fact that is worthy to note, particularly with the tremendous amount of litigation that surrounds our prision systems today.

Through this amendment, my colleagues and I are recommending that we help—we, the Federal Government—help our State prison systems move in the same direction.

Mr. President, I am proud to say that my home State of New Mexico has come very close to the Federal concept in creating a comprehensive program that addresses the needs of both the inmate population and the citizens of our State.

The need for this program in New Mexico, however, is still great. When using eighth grade equivalency standards, 70 percent of the New Mexico inmate population was deemed in need of literacy education programs. Recently, a study conducted by the New Mexico State Prison System revealed a 15-percent recidivism rate for those inmates who completed at least 1 year of college, versus a recidivism rate of 68 percent for the prison's general population.

Other studies conducted around the country reveal similar statistics. A Minnesota study covering the 47-year period between 1930 and 1977 compared those who participated in education programs with those who did not and found a significant relationship between correctional education participation and a lowered rate of recidivism. Similarly, a 4-year study of 320 adult male felons discharged from West Virginia corrections institutions found lower recidivism with increased participation in prison education programs.

Mr. President, the data are clear; the conclusion is simple. Education works at reducing recidivism and reducing the amount of criminal activity. To refuse to support literacy training for incarcerated individuals is, in my view, very shortsighted. I believe that if we really want to fight crime, we must give people a fighting chance. And this amendment will give incarcerated individuals around the country that opportunity.

I am proposing that we establish a Federal grant program to be administered by the Department of Justice, which would help every State establish a mandatory literacy education program in at least one major correctional facility over the 2-year period following the effective date of this act.

Another component of the program would require States to establish a systemwide literacy program within 5 years. For the programs first and second years, $10 million and $15 million, respectively, would be authorized.

Funding authorizations would increase after that time, based on the State's annual reports on program costs.

Mr. President, I am convinced that these programs will be cost effective and that they will have a rapid payback for society. Based on current costs of the literacy program in the Illinois prisons, if only 5.5 percent of the over 10,000 inmates released on parole last year avoid returning to prison, the literacy program will have paid for itself in 1 year.

In conclusion, I want to make clear to my colleagues that this amendment is not an entirely new one. In fact, legislation very similar to this, authored by our colleague in the House of Representatives, Representative GINGRICH, passed both the House and Senate during the 101st Congress as part of H.R. 5115 and S. 695. In the 102d Congress, legislation identical to the measure that emerged from the end-of-the-session conference on S. 695 passed the House on March 19 of this year and was favorably reported by the Senate Labor and Human Resources Committee as part of S. 2 in mid-April.

This amendment differs from the Gingrich measure only in a few key areas. First, as introduced in this Congress, the provision amended the Adult Education Act and authorized the Secretary of Education to make grants to the States for literacy programs. The amendment I am offering today gives the authority to the Attorney General and the Department of Justice, but directs the Attorney General to share data and information with the Department of Education's Office of Correctional Education.

My amendment requires the States to submit a slightly more detailed annual report, which is to include details of the State's plan for a systemwide program, and encourages them to use advanced technologies, such as interactive video and computer-based literacy education programs whenever possible.

The amendment does not dictate the type of literacy training program the States are to establish. It leaves this determination and the flexibility to create programs specifically tailored to meet the needs of prison populations up to the States.

Finally, in recognition of the fiscal restraint under which State and local governments operate, this amendment stipulates that its provisions will only be effective in those least half of the amount authorized in the bill.

Mr. President, with this amendment, we have a unique opportunity to actually do something significant to fight crime as part of this crime bill and at the same time to improve our Nation's embarrassingly high illiteracy rate.

I urge my colleagues to support the amendment and work with me toward its enactment into law.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Is there further debate?

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 518 TO AMENDMENT NO. 517

(Purpose: To establish discretionary literacy programs)

Mr. THURMOND. Mr. President, I send a second-degree amendment to the Bingaman amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], proposes an amendment numbered 518 to amendment No. 517.

Mr. THURMOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike everything after the first words and insert the following:

LITERACY EDUCATION FOR STATE PRISONERS

SEC. . MANDATORY LITERACY PROGRAM.

(a) ESTABLISHMENT.—The chief correctional officer of each State correctional system may establish a demonstration, or systemwide functional literacy program.

(b) PROGRAM REQUIREMENTS.—(1) To qualify for funding under subsection (d), each functional literacy program shall—

(A) to the extent possible, make use of advanced technologies; and

(B) include—

(i) a requirement that each person incarcerated in the system, jail, or detention center who is not functionally literate, except a person described in paragraph (2), shall participate in the program until the person—

(I) achieves functional literacy;

(II) is granted parole;

(III) completes his or her sentence; or

(IV) is released pursuant to court order;

(ii) a prohibition on granting parole to any person described in clause (i) who refuses to participate in the program, unless the State parole board determines that the prohibition should be waived in a particular case; and

(iii) adequate opportunities for appropriate education services and the testing of all inmates for functional literacy upon arrival in the system or at the jail or detention center.

(2) The requirement of paragraph (1)(B) shall not apply to a person who—

(A) is serving a life sentence without possibility of parole:

(B) is terminally ill;

(C) is under a sentence of death; or

(D) is exempted by the chief officer of the system, jail, or detention center by reason of the person's documented learning disability or other significant learning problem.

(c) ANNUAL REPORT.—(1) Within 90 days after the close of the first calendar year in which a literacy program authorized by subsection (a) is placed in operation, and annually for each of the 4 years thereafter, the chief correction officer of each State correctional system shall submit a report to the Attorney General with respect to its literacy program.

(2) A report under paragraph (1) shall disclose—

(A) the number of persons who were tested for eligibility during the preceding year;

(B) the number of persons who were eligible for the literacy program during the preceding year;

(C) the number of persons who participated in the literacy program during the preceding year;

(D) the names and types of tests that were used to determine functional literacy;

(E) the average number of hours of instruction that were provided per week and the average number per student during the preceding year;

(F) sample data on achievement of participants in the program, including the number of participants who achieved functional literacy;

(G) data on all and indirect costs of the program; and

(H) a plan for implementing a system-wide mandatory functional literacy program, as required by subsection (b), and, if appropriate information on progress toward such a program.

(d) COMPLIANCE GRANTS.—(1) The Attorney General shall make grants to State correctional agencies who elect to establish a program described in paragraph (a) for the purpose of assisting in carrying out the programs, developing the plans, and submitting the reports required by this section.

(2) A State corrections agency is eligible to receive a grant under this subsection if the agency agrees to provide to the Attorney General—

(A) such data as the Attorney General may request concerning the cost and feasibility of operating the mandatory functional literacy programs required by subsections (a) and (b); and

(B) a detailed plan outlining the methods by which the requirements of subsections (a) and (b) will be met, including specific goals and timetables.

(3) There are authorized to be appropriated for purposes of carrying out this section $10,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, and $25,000,000 for fiscal year 1995.

(e) DEFINITION.—For the purposes of this section, the term "functional literacy" means at least an eighth grade equivalence in reading on a nationally recognized standardized test.

Mr. DANFORTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I understand what the distinguished Senator from New Mexico is trying to do, and I think his aims are commendable. But, again, this is another mandate from the Federal Government, a mandate at a time when all of our States are having financial difficulties. I look at what they have been going through up in Connecticut where our former colleague Lowell Weicker is trying to increase taxes so he can meet the Connecticut budgetary needs. I look at our former colleague out in California, Senator Wilson, who has had a horrendous year trying to get the $14 billion-plus deficit under control.

Here we are once again mandating something else upon the backs of the States and saying we are going to fund it with Federal Government funds but not guaranteeing it. We get the States hooked on this mandate, forcing them to do things that they probably just would not do voluntarily, even though the aims are commendable, and, in the end, we will probably drop them. We have done this in so many of these Federal programs, including Federal revenue sharing, at a time when they need funds the most.

It is nice to come up with altruistic programs, but who is going to fund it? Is the Federal Government going to always fund it? Why mandate it? If we mandate it upon the backs of the States, then they have to provide these programs. To me that is one of the diseases that is going on in the Congress of the United States. We have these wonderful ideas, so we mandate programs on the States, under the guise we are going to give them some money, and then we wind up sometime in the future not giving them the money they need.

This is a mandated literacy program for prisoners. Who can fight that? Who really would not like to do that? We know that there are illiterate prisoners. We know there are a high percentage of illiterate prisoners. All of us have to be concerned about that. Again, though, we are mandating it on the backs of the States. They cannot do any more of these Federal programs.

The Federal Government should not mandate that the States provide a literacy program for every inmate in their prisons when neither the Federal Government nor the States have the funds to pay for them. We do not have it here and they certainly do not have it there, as high-minded and altruistic as that approach may be.

I agree we need to provide literacy programs to individuals who are not functionally literate. However, such programs need to be provided within the budgetary constraints of each State, and they should be part of an overall education and training program provided by the individual States for inmates.

The Federal Government should not impose programs on States that must be funded by the States, especially since such a requirement may force a State to abandon other education and training programs to prisoners which are currently very successful so that they can concentrate their funds on mandatory literacy programs outlined by the Federal Government which may not be as effective for that particular State correctional institution.

As I have said, many States are having very serious financial problems, and this is the wrong time to mandate yet another new Federal program and force States to eliminate other programs in the State that are working well if there are not funds available for the literacy program.

This bill also penalizes States that do not implement mandatory literacy programs by reducing their funds for crime prevention under title I of the Omnibus Crime Control and Safe Streets Act.

Why penalize poor States by increasing their crime rate if they are too poor to provide for literacy programs? That is exactly what is going to happen here. If they are too poor to provide for these programs, then they lose funds for crime prevention that would help them to keep crime down.

To me that is legislation working against legislation. That is an imposition of a mandate that works against other needs of the State. That is an approach towards crime that ruins other approaches toward crime.

The Federal Government, it seems to me, should leave decisions about who can and who cannot be paroled to the States themselves.

Am I correct in assuming that the Federal Government has determined that illiteracy is a greater sin than any other?

The Bingaman amendment restricts the rights of States to grant parole to any individual who is not functionally literate and is unwilling to participate in a literacy program. Therefore, if a State has to reduce its prison population, it is free to release literate murderers but will violate Federal law if it releases a forger who is not functionally literate and who is not willing to participate in a literacy program.

The Bingaman amendment provides that the State may grant a waiver to do this. I suppose States will do that. But if that is so, why have that particular provision? If it is not so, then every argument I am making now has merit and ought to concern everybody. The approach just simply does not make a lot of sense to me. Again, I support the concept of providing literacy programs for those who are incarcerated, but States need to do this based on their own needs and their own financial constraints.

I think the Federal Government has no right, or at least it should take the position it has no right to impose or mandate such programs on the States. This is important stuff. Every time we turn around somebody here in the Congress has come up with a new mandate on the States or a new mandate on business or a new mandate on small business or another new mandate which costs somebody money that really nobody can afford in this current economy.

I commend the distinguished Senator from New Mexico for his concerns about illiteracy in the prisons. I am concerned about it too. I wish we could do more about it. I wish we had the money to solve every societal ill. I would gladly spend it if we had it. Right now we are facing a $270 billion deficit this year alone. We are looking toward a $3 trillion national debt. And yet we are coming up with more mandates, more mandates under the guise that we are going to help the States. In fact, if we do not have the money, they have to come up with the money when they did not have it to begin with.

I wish we could solve every ill in our society. Nothing could give me greater pleasure than to pass legislation back here that would solve every ill in our society. I think every one of us feels the same way. We all can come up with ideas that will work if we have the money. However, I do not think the fact that we do not have the money is the sole reason why we should vote down the amendment of the distinguished Senator from New Mexico. It is an adequate reason but it is not the sole reason.

The real reason is it is another mandate. It is another direction by us that States, have to do this even though they are incapable of doing it. It is another mandate which we will not back up with Federal dollars. It is another mandate that really does not make very much sense. It is a mandate that may force States to discontinue education and training programs that do work in the States so that they can fulfill this Federal mandate which might not work as well.

The Senator from South Carolina has filed an amendment that is a reasonable approach. It is compassionate. It recognizes reality. It does not try to impose on the States that which they cannot fulfill. It does not try to impose on the Federal financing machine that which it cannot finance. I think it is a reasonable approach.

The credit for coming up with this idea not only should go to the distinguished Senator from South Carolina but to our friend and colleague from New Mexico as well because, had he not brought his amendment forward, I do not know that the Thurmond amendment would have been thought of.

But I support the approach of the distinguished Senator from South Carolina. His amendment recognizes the importance of making prisoners literate and the rights of States to voluntarily implement statewide literacy programs in the prisons. His amendment basically would make grants to States that apply for them to solve their literacy problems. However States would have the voluntary right to apply for them. They could make their own decisions. It is not mandated on their backs against their will or against their ability to pay. It has some sense to it as we are recognizing the rights of States. We are suggesting to them it is a good idea; we are willing to put up some money for it, even though it is not going to be enough to solve all the problems in every State in this Union.

Again, I wish we could solve all literacy problems in this society, but in the United States of America, where our school children do not have enough books and supplies, where we do not have enough money to fund the educational programs of this country the way they need to be, where we all have to face budgetary deficit problems, we do not need another mandate on the backs of everybody. I think it is the wrong thing to do under the circumstances. The approach of the Senator from South Carolina would give the States the right to approve the choice.

Mr. President, I have taken enough time. It is an interesting issue. It is one on which I have sympathy for both sides, but I think we have to practically do what we can, not altruistically do something that is not going to work; something we know in the end may deter States from doing that which is good which they are doing now, in favor of a mandate which they cannot meet.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I wish to commend the able Senator from Utah on his excellent remarks.

I rise today to offer a second degree amendment to the Bingaman amendment. The amendment offered by my colleague from New Mexico imposes a prison literacy requirement upon the State prison systems. It requires that the States establish a mandatory literacy program in virtually every prison, jail, and detention center for the purpose of teaching inmates how to read.

I have no objection with the legitimate desire of my colleague to ensure that inmates, who are later paroled from prison, are functionally literate. Nevertheless, I believe it is inappropriate to mandate that the State implement such programs and penalize them if they fail to do so. My amendment, rather than imposing this burden upon the States and penalizing them for not acting, encourages the States to set up such a program.

Mr. President, it is no secret that State correctional systems are financially strapped. Many have an insufficient number of prison cells and are forced to release prisoners prematurely in order to comply with Federal court orders. At a time when so many States are being pushed to the limit in their efforts to fight crime, should Congress mandate that they spend their limited dollars on prison literacy programs? The answer is "no". Although the Bingaman amendment proposes to provide $70 million for implementation of the programs, the State will still be required to establish these programs even if only half the money is appropriated by the Federal Government. Every Senator here knows that the odds of this program being fully funded are slim. Furthermore, this amendment ignores that some States would prefer to fund job skills programs rather than literacy courses to teach skills to these prisoners if they had to choose between that and the literacy courses. Yet, failure to implement these literacy programs will result in a loss of Department of Justice grants.

A close reading of the amendment illustrates the burdens this places upon the States. The Bingaman amendment requires that the States test every inmate to determine their literacy level. The mandatory literacy requirement would apply to virtually every prisoner not serving a life term. It would require the States to make use of advanced technologies such as interactive video and computer-based literacy learning. I ask my colleagues, where do you think educational computers would prove more beneficial—in our schools teaching our young people or in prison teaching convicted criminals?

The amendment also urges that incentives be put in place for those who participate in the mandatory program. These incentives could include better housing and, believe it or not, money. In other words, convicted criminals would be paid to learn. This is inappropriate.

If the States choose to adopt such a literacy program, that is one thing. Yet, to require them, as this amendment does, to establish such a program is another thing altogether. Such a requirement may be inconsistent with State priorities as well as proven literacy programs already in place.

Mr. President, my amendment will authorize the same funding levels contained in the Bingaman legislation. However, my amendment makes clear that this program is discretionary. If the money authorized under this amendment is appropriated, the States would be free to apply for grants to implement such a program.

I agree with my colleague from New Mexico that education is a valuable tool in crime prevention. I taught school a number of years—I was superintendent of schools. I know, as well as those who appreciate education as much as I do, that it can help in so many ways—even crime prevention. But those who possess an education may be less inclined to commit crime. However, the Federal Government should not force upon the States unrealistic and costly requirements which will add to their already burdened criminal justice systems.

I applaud my colleague's desire to rehabilitate criminals. However, rehabilitation is an ancillary responsibility of our Nation's criminal justice system. The first responsibility is to punish those who choose to commit illegal acts. Congress should not be imposing these literacy programs upon the States while they are struggling to comply with Federal prison cap orders.

Rather, Congress should encourage the States to adopt realistic programs which ensure that funds are spent where most needed. The Thurmond amendment adopts the spirit of the Bingaman amendment without adding unnecessarily to the already overburdened State prison systems.

For these reasons, I urge my colleagues to support the Thurmond amendment.

My amendment adopts the spirit of the Bingaman amendment without adding unnecessarily to the already overburdened State prison systems. Mr. President, I just want to say that I hope the Senate will approve my amendment, the second-degree amendment to the Bingaman amendment.

I have been a Senator here for going on 37 years. In almost every year the Federal Government has enacted more and more programs to mandate things that the States are required to do. The States do not have the money. They may have to choose. Are you going to let them choose where they can use the money that they have in order to teach children in school? Or are they going to be forced to put this money into prisons?

If we had plenty of money, that is one thing. But if we have to choose between the schoolchildren and the prisoners, I say take the schoolchildren. The States should be able to determine that. If they have only so much money, they will have to make that decision. We should not mandate and make the States do something that is going to increase the burden upon the States.

The Federal Government can take care of its own business. And they have enough here to do it. They have enough responsibility already without trying to run the Federal Government and the States. We have made a mistake for years and years in mandating that the States do things, by putting burdens on the States. Let the Federal Government run its own business.

I yield the floor, Mr. President.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, let me make just a few points in response to the Senator from South Carolina, the Senator from Utah, and the arguments they have made in opposition to my amendment and in favor of the amendment of the Senator from South Carolina.

First of all, I think it is worthwhile to point out that essentially the same proposal that I am making here was included in the bill which we reported out of the Labor and Human Resources Committee, S. 2, earlier this year; in April, I believe. And it was not opposed by the Senator from Utah or the Senator from South Carolina in that form.

There is no requirement in my amendment that States make participation in a literacy program a precondition for parole. This amendment says that this is one of the considerations States may take into account. But we say on page 2, line 14, "Each mandatory functional literacy program required by these subsections may include" a requirement that the persons incarcerated participate in these programs in order to be granted parole.

So it is up to each State, and it is up to each locality whether they in fact do that under the proposal that I have made.

The suggestion is made very forcefully by my colleague from South Carolina that the Federal Government should not be overriding the discretion of the States in a matter such as this; we should leave it up to the States. And I would suggest to the Senator that we are overriding the discretion of the States in a great many areas in this crime bill. We have determined that the problem of crime in this country is sufficiently great that we need to do that.

We have an amendment that was adopted week before last, before we went out for the Fourth of July recess, that Senator D'AMATO proposed, where essentially we imposed mandatory minimum Federal sentences on any State crime in which a gun is used. That is a very, very far-reaching preemption of discretion by the States.

I think anybody who is familiar with the State-Federal relationship in criminal justice would acknowledge that is a far greater intrusion into State jurisdiction than anything I am proposing in my amendment.

We adopted an amendment by the Senator from Kentucky [Mr. MCCONNELL] which requires State agencies to register all child abuse offenders in a separate computer system with the Justice Department. And we provided in that amendment that if they do not do so, States lose child abuse prevention and treatment funds. That is clearly a mandate to the States, and it is very clear that the Federal Government would enforce that in a very real way.

We also adopted an amendment by the Senator from Minnesota [Mr. DURENBERGER] which requires States to track anyone convicted of child abuse for a 10-year period. And if a State has not put into place that kind of a tracking system within 3 years, it will lose 25 percent of its share of the $500 million grant program for State and local law enforcement.

The point is very simple, Mr. President: That is, that the Federal Government has stepped in and directed State action in areas where the Federal Government felt that there was a real need. And that is what I am suggesting exists in this circumstance.

Mr. President, as I indicated in my opening statement, I firmly believe that the types of literacy training programs we would help establish are extremely cost effective; not just cost effective for the Federal Government, but for States, and cost effective for local governmental entities that have substantial numbers of people incarcerated.

This will, in fact, save money over a reasonably short period of time. It will save money for the States by reducing recidivism.

We say that the Federal Government should not load additional costs onto the State. What about the costs of continuing with a 68-percent rate of recidivism in our system? That is exactly what we have in my home State of New Mexico among those who do not participate in literacy programs; they come back into prison. Sixty-eight percent of the people who are released from prison come back in because they have committed additional crimes, or they have violated their probation or parole, and they are right back where they were before. That is not an efficient system. That involves tremendous additional costs to the States.

The States, in my opinion, need to be encouraged. If we adopt the substitute amendment that the Senator from South Carolina has proposed, we essentially are saying: Forget about it for the time being, but some day we are going to be interested in finding out whether you do anything in this area.

If we are serious about wanting to reduce crime and reduce the rate of recidivism and the number of professional career criminals in our system, then we need to get serious about training people to read and write when they come into our prison system.

This amendment begins to get serious in that respect. I think it is the very least we ought to do, and I urge my colleagues to support the amendment.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I ask unanimous consent to proceed for 5 minutes as in morning business on a separate subject.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, the U.S. Senate has a unique opportunity to establish an innovative method for preserving the Nation's private forest lands and preventing them from a systematic conversion into commercial developments. It is called the Forest Legacy Program.

Authorized last year in the farm bill under the leadership of Senator LEAHY, the Forest Legacy Program will provide the Federal Government with the authority to acquire conservation easements through pilot programs in five States—Vermont, Maine, New York, New Hampshire, and Washington. A conservation easement is one in which the Forest Service pays market value to a willing private landowner and the landowner, in turn, relinquishes all rights to use his or her land except the right to use it for forest management and eventual timber harvest consistent with the program's objectives. In other words, the Forest Service purchases all development rights and the landowner retains all forestry rights.

In the State of Washington, development is on the rise. The freeways are becoming increasingly crowded and housing developments are cropping up in places we always assumed would remain unspoiled. Specifically, forest land along the I-90 corridor between Seattle and the Cascade crest is being sold to developers at a rapid clip. The State legislature recently passed a comprehensive growth management bill and State and local agencies throughout Washington are preparing to implement the controls authorized by that bill. But these efforts are not enough.

What is needed is an economic incentive for landowners to keep their lands forested. Landowners are no longer able unaided to resist the temptation to cash in on their land. Most of these landowners would be proud to pass their land on, as forest land, to their children and grandchildren, but they have no financial motivation for doing so. The Forest Legacy Program gives them a much needed incentive to retain their land as forest land.

A conservation easement under the Forest Legacy Program would provide the landowner with a sizable down payment, often 75 to 80 percent of full market value, but still allowing him or her to retain ownership and management of the land for his, or her family and future generations. In this way, the Forest Legacy Program is aptly named.

For those of my colleagues who may resist this as another attempt to build a Federal land acquisition program, let me explain. Under the Forest Legacy Program, the Federal Government will not acquire any land; only easements. As a result, the Federal Government will not pay the operating and management costs it pays forever on land it takes into full ownership. Instead, the landowner retains ownership and management responsibilities for the land and the Government, the people, enjoy the benefits of the forests forever.

The problem, Mr. President, is not the lack of support for his program. National environmental organizations and the timber industry alike strongly support the program. In fact, most would like to see this program eventually expanded to apply in all 50 States. Nothing in the authorizing legislation prevents such expansion.

Nor is the Forest Legacy Program lacking an adequate infrastructure to carry out its objectives. Both the Forest Service and the Washington State Department of Natural Resources are writing regulations to implement this program. The problem, Mr. President, is a lack of funding. The House has sent us an Interior appropriations bill that contains absolutely no funding for this potentially very powerful program. I have asked that the Senate Committee on Appropriations fund this program with $25 million. I ask that my colleagues in the Senate also see the need for this great program and vote to provide the funding that it needs to begin.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, has leader time been reserved?

The PRESIDING OFFICER. The Senator may proceed on his leader time.

OPERATION PRAIRIE STORM COFFEYVILLE, KS

Mr. DOLE. Mr. President, throughout America citizens are filled with pride since the successful conclusion of Operation Desert Storm and the return of our brave soldiers. This pride is no more evident than in Coffeyville, KS, from where I have recently visited.

This spring, Bill Moffitt, manager of Funk Manufacturing Co., came up with the idea behind Operation Prairie Storm. The creed of Operation Prairie Storm says it all: This "is a campaign to restore confidence and pride in the city of Coffeyville. We want to welcome our Desert Storm troops home to a place made better by a prairie storm, inspired by their performance liberating Kuwait."

Mr. President, I personally toured areas of the city with Mayor Albert C. Liebert where Operation Prairie Storm was evident. The results are impressive:

Approximately 150 vacated houses have been torn down; scores of homes have been repainted with the help of 8,000 gallons of paint donated by the

Sherwin-Williams Co.; the Coffeyville State Bank, Condon National Bank and Bank IV have created a $1 million low interest loan pool to assist homeowners with much needed repairs; over 1,500 volunteers have taken to the streets and policed roadways and other community areas for trash—including the planting of trees and flowers all over town—and I might add, this is a town of about a little over 13,000; street signs and fire hydrants have been repainted and restored; and plans are in the works to continue the effort through the year by aggressive fundraising, a fall "fun day" sports event, and a "shop at home" campaign during the holiday season.

A number of other individuals are responsible for getting Operation Prairie Storm off the ground: Pat Marso, president of the Condon National Bank; Glen Weldon, Coffeyville city manager; Arthur Hyatt, city of Coffeyville; Dan Kinney, president Coffeyville Community College, Herman Colbert, Aptus Environmental Services; and Bob Douglass, Farmland Industries. And there are many, many more who would be too numerous to name.

Mr. President, this is what community pride is all about. This project is a lesson for all Americans about what we can do for ourselves if we put our minds and hearts into it.

I am proud of the people of Coffeyville—and they should be proud of themselves. Well over 20,000 hours of volunteer effort have been expended and thousands of dollars were pledged by area businesses to assist in the effort.

Mr. President, it is refreshing to see a community do what Coffeyville has done. And the reason I am standing here talking about one city in my State is because I think it is something other cities in other States may want to take a look at; take a look at what one small town has been able to do to, in effect, not only keep itself alive but, as I said earlier, to sort of have a better place for these young men and women to come back home to and for others in the area looking for jobs and looking for opportunity.

So that is the reason I have come to the Senate floor in the hope that other communities will take notice and plan their own community pride events. I salute the citizens of Coffeyville and the success of Operation Prairie Storm.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of the civic organizations who have committed to Operation Prairie Storm to date and a list of businesses committed to Operation Prairie Storm to date.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CIVIC ORGANIZATIONS COMMITTED TO DATE

Board of Education, Chamber of Commerce, City Commission, Coffeyville Pride, Coffeyville Women's Club, Convention & Visitors Bureau, Garden Club, Jaycees, Leadership Coffeyville, Evening Lion's Club, Morning Lion's Club, Planning & Zoning Commission, Rotary Club, Sertoma Club, and Verdigris Valley Women's Barbershop Chours.

BUSINESSES COMMITTED TO DATE

Acme Foundry, Aptus, Baldwin Standard, Bank IV, Boles Jewelry, Carter Auto Supplies, Clough Oil Co., Coffeyville Community College, Coffeyville Journal, Coffeyville Regional Medical Center, Coffeyville State Bank, Condon National Bank, and Crescent Oil Co.

Decket Construction, Dixon Industries, Farmland Industries, Funk Manufacturing, KGGF/KQQF, Kansas Delivery Service, Mulller Construction, SEK Railroad, Sunset Disposal, Taylor Crane & Rigging, Thompson Bros. Ind. Supplies, Watco Inc, and Western Publishing Co.

CELEBRATING THE 150TH ANNIVERSARY OF THE SENATE PRESS GALLERY

Mr. DOLE. Mr. President, today I join the distinguished majority leader in celebrating a special anniversary of a Capitol Hill institution that for the past 150 years has helped tell the world why our democracy is the best in the world.

On July 8, 1841, with the creation of a permanent Senate Press Gallery, newspaper reporters finally got a home of their own in the Capitol, and since that time, someone has been there to cover every minute of floor action, or inaction.

No doubt about it, that is exactly the way our Founding Fathers wanted it, and we would not have it any other way. It is the kind of access to democracy great Americans such as Thomas Jefferson and Benjamin Franklin envisioned when they wrote the Constitution.

It all began on that July day with only 10 desks for the reporters. In fact, some of my friends in the press insist there are still only 10.

But times, of course, have changed: From the ink-well pen to the ballpoint, from the typewriter to the high-technology world of computers, the Senate Press Gallery has grown with the times, thanks to decades of hard work by dedicated staffers.

Today, thanks to the strong leadership of Superintendent Bob Peterson, the gallery handles the crush of some 2,100 credentialed reporters with professionalism and grace under pressure.

It was not easy in 1841, and it is not easy in 1991—just ask Bob.

But he gets the tough job done, ably assisted by Merri Baker, Jim Saris, Joelle Jordan, Joe Keenan, and Wendy Oscarson. They put in long, long, long hours. It's not a very pleasant rule to live by, but Bob Peterson's crew knows that when the Senate is in, they are in.

During the past 150 years, the Senate Press Gallery has witnessed, and reported on a panorama of American history. In the meantime, they have also made some history such as admitting the first woman reporter in 1850, and later, the first black reporter in 1947.

The Press Gallery has also withstood a Senate investigation, an 1871 inquiry into the unauthorized publication in the New York Times of the Treaty of Washington, which settled differences between the United States and Great Britain brought on by the Civil War.

The Senate did not like this breach of national security, and so it demanded the reporters spill the beans on their front page treaty scoop.

To the surprise of no one, the reporters declined. Well, the Senate responded by having the reporters imprisoned in a room in the Capitol. As usual, however, the Senate miscalculated when it came to trying to intimidate the press: The print prisoners ate well, entertained guests, and became journalistic martyrs.

The Senate wised up and released the "Capitol Hill Two."

Today, Senators and print reporters are still held hostage, but only by the mysterious and frustrating ways of the Senate.

As we celebrate the 150th anniversary of the Press Gallery, let us celebrate this living example of American Democracy—long may it continue.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 516

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the motion to table the Rudman amendment No. 516.

The yeas and nays are ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. BUMPERS], the Senator from North Dakota [Mr. BURDICK], the Senator from California [Mr. CRANSTON], the Senator from Iowa [Mr. HARKIN], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

I further announce that, if present and voting, the Senator from North Dakota [Mr. BURDICK] would vote "aye."

Mr. SIMPSON. I announce that the Senator from Montana [Mr. BURNS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Utah [Mr. GARN], the Senator from Vermont [Mr. JEFFORDS], the Senator from Arkansas [Mr. MURKOWSKI], and the Senator from Delaware [Mr. ROTH] are necessarily absent.

I further announces that, if present and voting the Senator from Montana [Mr. BURNS] would vote "nay."

The PRESIDING OFFICER [Mr. CONRAD]. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 39, as follows:

[Rollcall Vote No. 116 Leg.]

YEAS—49

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bryan
Byrd
Conrad
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Gore
Graham
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerry
Kohl
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Nunn
Pell
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Wellstone
Wirth
Wofford

NAYS—39

Bond
Brown
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
Dole
Domenici
Durenberger
Gorton
Gramm
Grassley
Hatch
Hatfield
Helms
Kassebaum
Kasten
Lautenberg
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Nickles
Packwood
Pressler
Rudman
Seymour
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—12

Bumpers
Burdick
Burns
Chafee
Cranston
Garn
Harkin
Jeffords
Kerrey
Murkowski
Pryor
Roth

So the motion to lay on the table the amendment (No. 516) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Delaware.

AMENDMENT NO. 517

Mr. BIDEN. Mr. President, I ask unanimous consent that the Bingaman amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 519

(Purpose: To establish sports mentoring and coaching programs in which athletes serve as role models for youth to teach that athletics provide a positive alternative to drug and gang involvement)

Mr. BIDEN. Mr. President, I send an amendment to the desk on behalf of Senator BRADLEY.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for Mr. BRADLEY proposes an amendment numbered 519.

Mr. BIDEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 171, between lines 15 and 16, insert the following:

"(11) To establish sports mentoring and coaching programs in which athletes serve as role models for youth to teach that athletics provide a positive alternative to drug and gang involvement.

Mr. BRADLEY. Mr. President, inadequate health care, deteriorating schools, and overcrowded, unsafe housing are just a few of the hurdles that kids in the inner city face every day.

One of the biggest threats to these children's future success is the street gangs which dominate too many of our Nation's inner cities. Gangs present an image of money, cars, and status to these youths. But nothing could be farther from the truth, gangs are nothing more than a passport to a world of drugs, violence, and death.

I am proud of the fact that the crime bill now before us includes the Youth Violence Act which seeks to curb the influence of youth gangs in America's inner cities. The Senate has had the foresight to see this is a battle we must fight on two fronts. One front is tough penalties for the violent activities of the gangs. This year's crime bill, as we all know, toughens penalties in many different ways.

The second front is the Antigang Grant Program which will fund activities that open windows of opportunity for inner-city kids and show them ways of life which does not include the drugs and violence inherent in the life of a gang member.

One of the most effective alternatives to gangs is sports. Many of these grants will go to athletic programs that develop teamwork and respect for one's body. But athletics alone cannot save America's inner-city youth from the lure of street gangs. These kids are in desperate need of positive role models.

This is especially true for young men in areas where more than 60 percent of the families lack an adult male figure. If we do not help provide positive role models to these youth, we are surrendering in the battle against street gangs.

It is for this reason that I offer this amendment to the Youth Violence Act. My amendment would provide that some of the funds authorized under the antigangs grants will go to establishing sports mentoring and coaching programs. These programs would involve athletes serving as role models to these at-risk youths.

These role models will show these kids that athletics provide a positive alternative to the drugs and violence of the street gangs.

Violent street gangs have become one of the greatest threats to the success to the next generation of Americans. In order to prevent the further expansion of these gangs, we must help today's youths in their struggle against the street gangs. We need to aid them in overcoming this threat to their future success and in fact their very lives.

Sports, teamwork, and strong role models are some of the ingredients of opportunity. The Youth Violence Act provisions in this bill and this amendment will make all this more possible.

Mr. BIDEN. Mr. President, this amendment would allow antigang grants to be used to established sports mentoring and coaching programs. It has been accepted on both sides. I urge adoption of the amendment.

Mr. THURMOND. Mr. President, we have no objection.

The PRESIDING OFFICER. Is there further debate on the amendment? If not the question is on agreeing to the amendment.

The amendment (No. 519) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, a number of our colleagues are on the floor and I have been asked a number of times what the managers hope to accomplish with regard to timing for the remainder of this bill.

I have spoken with the ranking member, Senator THURMOND, and both he and I are very, very anxious to finish this bill. There are a significant number of amendments that are filed that we hope that we can eliminate in light of the last vote. We have a number of them no longer relevant. I do not think the movers of the amendment would wish to proceed in light of the outcome of the last vote.

There are about a half a dozen very sticky points remaining among and between the Justice Department, my Republican friends and the Democratic side. I think we can work most of those issues out relating to habeas corpus, the exclusionary rule, antiterrorism, Justice Department strike forces, and a few others. It is my hope that meeting very shortly with the ranking member and with Senator SIMPSON and others we can come up by tomorrow morning with a package of amendments that we can agree on and quite possibly with a lot of luck get a unanimous-consent offer at least tomorrow and that unanimous-consent agreement as to the extent of the amendments that would be in order.

It would be my hope, and I will yield in a moment to my colleague from South Carolina, I say to the leadership on both sides to finish this bill tomorrow. I would very much urge the leadership to consider keeping us in tomorrow as long as it takes to finish this legislation. We have already adopted over 65 or 70 amendments to this bill already, and I see no reason why, since all of the significant amendments have already been debated that we cannot come to cloture—I mean that not literally—but bring this to an end.

I yield to my colleague from South Carolina.

Mr. THURMOND. Mr. President, I think there is a good chance, and I hope we can get together on some of these matters tonight. And if so we can shorten the length of time the bill will take greatly and may finish it tomorrow.

There is one thing I want to say, though. If we keep on offering amendments and burden this bill down like a Christmas tree, then it could go on for days and days. I suggest that the amendments that are not germane should await until a further day for action.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I would say what my friend from South Carolina already knows: Obviously any Senator has a right to offer as many amendments as he or she wishes and talk as long as they want.

We attempted on several occasions to reach unanimous-consent agreements relative to the number of amendments that will be in order, and on each occasion one of our friends on the Republican side has disagreed with that and has objected to that unanimous-consent agreement.

But I am confident, with our distinguished colleague from South Carolina pushing this now, as I know he will, that we may be able to move more expeditiously than we have thus far.

Mr. WIRTH. Will the chairman yield?

Mr. BIDEN. Yes.

Mr. WIRTH. The Senator from Colorado has an amendment, which I have had pending now for at least 2 weeks, related to disclosure in the savings and loan industry. I just wanted to say, as we look to try to expedite this, that I would be very happy to agree to whatever agreement on time that the chairman and the ranking member thought was appropriate, an hour of time evenly divided or whatever, as you were putting together whatever agreement might come up. I would be happy to put that kind of a limitation on it.

Mr. BIDEN. I say to my friend from Colorado, I know he has had a keen interest in this amendment that he has referred to, and that he has been willing to debate and vote on it for some time now. We will do what we can to see if we can encompass it in an agreement. Obviously, no one is going to deny the Senator his right to offer that amendment, nor do I think he should be denied that right. But hopefully we can, in the next several hours and tomorrow morning, come up with an overall agreement that would give some time limitations on his amendment and others as well.

Mr. WIRTH. I appreciate the chairman's consideration and that of the ranking Republican member.

Mr. THURMOND. Since this is a Banking Committee matter, I think we better hear them on this. I understand this is very controversial and may take a long time. But if you could talk to the banking people, they will give us an opinion on that.

UNANIMOUS-CONSENT AGREEMENT

Mr. BIDEN. Mr. President, I am about to propound a unanimous-consent agreement that both sides have agreed to relative to votes beginning tomorrow on this legislation.

I ask unanimous consent that, when the Senate resumes consideration on S. 1241 on Tuesday at 9:30 a.m., there be 30 minutes remaining for debate on the Thurmond amendment No. 518 to the Bingaman amendment No. 517, with the time equally divided and controlled in the usual form; that when all time is used or yielded back, the Senate, without intervening action or debate, proceed to vote on the Thurmond amendment No. 518; further, that upon disposition of the Thurmond amendment No. 518, the only relevant second-degree amendments remaining in order to the Bingaman amendment be an amendment by Senator BROWN and an amendment by Senator SIMON; that there be 20 minutes for debate on the Brown amendment, equally divided and controlled in the usual form; that when the time is used or yielded back on the Brown amendment, the Senate proceed to vote, without intervening action or debate, on or in relation to the Brown amendment; that upon disposition of the Brown amendment, Senator SIMON be recognized to offer his amendment on which there be 10 minutes equally divided and controlled in the usual form; that when time is used or yielded back, the Senate, without intervening action or debate, proceed to vote on or in relation to the Simon amendment; that upon disposition of the Simon amendment, the Senate, without intervening action or debate, proceed to vote on the Bingaman amendment No. 517, as amended, if amended; further that no amendment to any language proposed to be stricken nor motion to recommit be in order during the pendency of these amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BRYAN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send to the desk a cloture motion.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 1241, a bill to control and reduce violent crime:

Jeff Bingaman, George Mitchell, Tom Daschle, Barbara Mikulski, Claiborne Pell, J.J. Exon, Daniel K. Akaka, Joe Biden, Howard Metzenbaum, Terry Sanford, Joseph Lieberman, Kent Conrad, Charles S. Robb, Edward M. Kennedy, Brock Adams, Herb Kohl.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE 1972 ABM TREATY

Mr. HEFLIN. Mr. President, it has been 19 years since the Antiballistic Missile Treaty was ratified, and we are still debating its merits. Some of the treaty's detractors have suggested that the lessons of the Persian Gulf war support abandonment of the treaty; the proliferation of ballistic missiles demand that we scrap the treaty; the disarray in the Soviet Union has made it necessary to back away from the treaty. After careful examination, I believe these arguments do not support the provocative measure called for. I, therefore, suggest that any of my colleagues who still advocate abandoning the treaty to fully consider the consequences of this action.

I was heartened by the recent release of the May 23, 1991, Warner-Cohen white paper, which is an encouraging move toward a bipartisan consensus on the direction of the program. The strategic defense initiative is too important to our national security to continue to be locked into a divisive debate, centered on the plans for early deployment of Brilliant Pebbles. I hope their move reflects a belief that we should try, in good faith, to modify the ABM Treaty, and resist moves to abrogate it.

To be clear, let me state that I, too, have reservations about the philosophical underpinnings of the treaty. I am not among those who believe that there is something sacred about the treaty, conferring upon it some kind of religious immunity to criticism or modification. I can fully understand the initial Soviet reaction when the idea of limiting ballistic missile defenses was first proposed to them. President Johnson broached the idea of limiting antimissile defenses to Premier Kosygin at the Glassboro summit in 1967, and Kosygin was flabbergasted. He thought it was a loony idea to deliberately limit the protection of one's homeland against nuclear missile attack. Kosygin did not warm up to the idea even when it was explained in terms of the doctrine of mutually assured destruction [MAD], which holds that stability is achieved by the total vulnerability of the populations of both superpowers to a nuclear attack.

The Soviet Union eventually agreed to the limitations of the ABM Treaty, I believe, because they feared United States superiority in defense technology, represented at the time by the Safeguard system. The evidence from the negotiating record does not support the view that their agreement was based on an adoption of the U.S. doctrine of MAD. A strong case can be made that, during the 19 years since the signing of the ABM Treaty, the Soviets have continued to respect U.S. strategic defense technology and they have little appetite for engaging in increased competition in this field.

Viewed in historical perspective, I can also identify with the late Don Brennan, of the Hudson Institute, when he observed that the 1972 interim offensive accords did the right thing poorly and the ABM Treaty did the wrong thing well. We would have a safer world today if we had concentrated more on limiting offensive ballistic missiles than on proscribing strategic defense. Only in recent years have we made real progress on limiting offensive strategic arms, with the START talks, although the consummation of these talks now appears to be receding day by day.

It should be recalled that the scope and pace of the U.S. ballistic missile defense program was severely curtailed, in the name of the ABM Treaty, during the mid to late 1970's. During this period, continual budget cuts and restrictive language were imposed by Congress in the mistaken belief that the spirit of detente with the Soviet Union could best be served by unilateral restraint in this field. Accordingly, the Safeguard site, the single deployment location allowed us under the 1974 protocol to the treaty, was closed down by direction of Congress and R&D was slowed to a trickle. By contrast, the Soviet Union maintained and continually upgraded their allowed site around Moscow, and they never exhibited a reluctance to invest in R&D.

Since then, in what must be viewed as an historic reversal of roles, the United States has displayed increasing dissatisfaction with the limitations of the treaty since the initiation of the Strategic Defense Initiative Program in 1983, while the Soviets have grown more comfortable with its limitations. Notwithstanding the Soviet violation of the treaty with the Krasnoyarsk radar, which they subsequentially agreed to dismantle, they seem to be increasingly concerned with keeping the treaty intact. No doubt, the Soviet cooperation is motivated by self-interest and an aversion to intensified competition in strategic defense, but it is, nonetheless, a discernible trend. The most striking example of the U.S. change in attitude toward the treaty was the move by the Reagan administration in 1985 to adopt a "broad" or "legally correct" interpretation of the treaty. This move, like other recent proposals, was motivated by the desire to remove or ease the limitations on development, testing, and deployment of space-based weapons. This body strenuously resisted this reinterpretation of the treaty, and insisted on the strict interpretation that we have observed to this day.

Having expressed my reservations about the theories underlying the treaty, and recounted the shifting attitudes we have witnessed during the 19 years of its existence, let me repeat that I am opposed to U.S. abrogation of the treaty, and that I am in favor of negotiations to effect modifications.

The Warner-Cohen white paper recommends pursuing negotiations with the Soviets to allow for the full testing and development of space-based weapons, and to authorize more ground-based ABM sites. While I favor both these goals, I believe we must be realistic or we will see no progress in the negotiations. Our goal is not only an effective defense, but a more stable relationship with the Soviets. No one would disagree that we are years ahead of them in research on space-based weapons, and the Soviets are sure to want concessions to allow them time to reach parity with us in that regard. The fact that hundreds of Brilliant Pebbles, as currently envisioned, could be rapidly deployed without any of the site preparation work required for ground-based interceptors will not be lost on the Soviets. If we are to reach an agreement with them in the next 2 years, or the next 10, we must understand the Soviets' concerns and be prepared to accept a compromise that increases the security of both nations.

In the charged atmosphere which currently surrounds the Brilliant Pebbles debate, it is difficult to avoid black or white positions and argue for matters of degree. But, I judge that there are degrees of change to the ABM Treaty which are both achievable and desirable. Increases in the number of sites and interceptors is both. At this time, lifting the prohibitions on spaced-based weapons is neither. In addition to the reasons I mentioned above, I must admit that there are still serious questions in my mind about Brilliant Pebble's degree of technological maturity, and their proposed application to enforce a U.S. role as international policemen of ballistic missiles.

Is it realistic to assume that a U.S. role as international policeman, as called for by the GPALS mission, is one that we can take on unilaterally? The recent war in the Persian Gulf required 11 different United Nations resolutions to sanction the intervention of coalition forces. Can a much larger, global role be undertaken by the United States without any international authority? I have been told by the military that rules of engagement can be readily formulated for missiles attacking the United States, and I do not doubt it. But what about missiles launched from India against Pakistan, or by China against one of its neighbors? It is not reasonable that this concept can be adopted without first formulating a plan to obtain international agreement, and such a plan would require extensive debate in the Congress, as well as in the United Nations and other security forums. If the GPALS mission is not to conflict with the President's vision of a new world order, then any deployment must be based on international cooperation, not unilateral action.

There have been bleak suggestions that the United States proceed at some point with the deployment of Brilliant Pebbles even if the Soviets do not agree. Considering the current instability of the Soviet Union, it is difficult to imagine a course of action more fraught with danger and uncertainty. I certainly cannot predict the reaction of the Soviet leadership if they woke up one morning to the news that the United States had begun placing weapons in space that overflew their country. Some observers have predicted the Soviets would try to shoot them down. Others have speculated that it would trigger an even further buildup of their already massive strategic forces. My greatest fear is that this provocative deployment would give the Soviet military, which is increasingly bearing the brunt of central government reform measures, the leverage it needs to seize control. There are, however, steps that we can take that will not add to the destabilization of the Soviet Union, and will provide some level of protection to the continental United States.

The 1972 ABM Treaty and the 1974 protocol allow the construction of a single ABM site with 100 interceptors. A deployment at our chosen site would provide a substantial level of protection for the continental United States from a limited attack or accidental launch from the Soviet mainland and most Third World nations. With the inclusion of advanced sensors, deployed and used in a treaty-compliant manner, the site's protected footprint would be greatly increased. Even though this system would provide defense of our Nation's territory, it will not, as some have stated, violate article I of the ABM Treaty. During the treaty's negotiations, the United States rejected any missile range limitations, choosing instead to rely on the limits on the number of missiles and sites to fulfill the restriction of article I. Even with these constraints on sites and missiles still intact, I believe there is merit in seriously planning to build a defense, as currently allowed, to provide the American people with some level of protection. At the same time, we should begin negotiations with the Soviets to expand the level of protection allowed under the treaty. The first step in these negotiations would be to bilaterally agree to rescind the 1974 protocol to the treaty. This would allow the construction of a second site close to Washington, DC. With this new site we could defend much of the Atlantic coast from an SLBM attack. An additional site is required on the Pacific coast to provide full continental U.S. protection from all types of limited ballistic missile attacks.

The trivialization of the capability of a treaty-compliant defense system frequently includes reminders that, as I stated before, one site will not protect the States of Alaska and Hawaii and we would remain vulnerable to a submarine missile attack off our coasts. I am aware of these limitations, and I favor immediate negotiations with the Soviets to allow more ground-based sites to fill these gaps. However, these limitations do not inexorably lead to the conclusion that we need to begin deploying space-based weapons, an act that would forestall negotiations and not necessarily provide the ideal solution to the problem. Furthermore, a provocative space-based deployment would only compound the submarine problem. The Soviets could simply increase the mix of cruise missiles in their subs and thus render both the space and ground-based elements of GPALS useless. I believe the solution to the threat of submarine attack will hinge largely on the success of ongoing arms control talks.

As acknowledged earlier, a treaty-compliant defense has limitations. I believe that the level of capability achievable using a single site with 100 interceptors, a capability much greater than that described in recent proposals, is worthwhile, and should be pursued. There are no compelling reasons to wait 2 years, the suggested time limitation for treaty modifications, before beginning a treaty-compliant defense. If we begin work this year, we could have an operational defense system by fiscal year 1998.

One of the main values of beginning a treaty-compliant defense is gearing up our infrastructure to produce and build a larger, more capable defense system. Since Safeguard, our machinery for producing, manning, controlling, and building defense systems has been dormant. Even in advance of the results of further negotiations to expand the number of sites and interceptors allowed under the treaty, we could be far along on the learning curve with what is presently allowed.

Throughout my remarks today, I am conscious of repeated references to a bilateral approach with the Soviet Union, and to the preservation of the health and vitality of the arms control process. My motives for doing this are embedded in the best security interests of the United States, not any impulse to appease the Soviet Union nor to compromise essential defense initiatives simply because they may look threatening. I strongly believe that our own security will not be enhanced by deploying space-based weapons at the expense of the ABM Treaty. Besides the effect this move would have on the stability of the Soviet Union, the resultant poisoning of the arms control process could very well set back the START process, the most promising agreement to appear on the horizon in many years.

Going back to the years just prior to the announcement of SDI, I was active in the fight to increase the level of effort in this country in strategic defense R&D and I was particularly supportive of space-based directed energy weapon concepts. I continue to believe that a truly effective defense will ultimately require spaced-based weapons and that research on this class of weapon should be vigorously pursued. Brilliant Pebbles represents some highly innovative technology that merits continued research. My main problem with GPALS and its cornerstone, Brilliant Pebbles, is that it has become our only deployment option. Its proponents have attempted to block any effort to work within the treaty, and have used their all or nothing support of space-based weapons to block any modification of the treaty during the defense and space talks. It is time to begin investing our money in deployment options that reflect where we stand today, both technologically and politically.

It would behoove us all to reach an agreement on the direction of the SDI program that would end the bickering and unleash the creative energies of our technical community on needed defense technologies and systems. At this critical point in the fiscal year 1992 defense budget cycle, I stand ready to work with my colleagues in Congress and with representatives of the administration to find the key to consensus.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on July 1, 1991, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

H.R. 2332. An act to amend the Immigration Act of 1990 to extend for 4 months the application deadline for special temporary protected status for Salvadorans.

Under the authority of the order of the Senate of January 3, 1991, the enrolled bill was signed on July 1, 1991, during the recess of the Senate, by the Vice President.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 1. An act to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes.

REPORTS OF COMMITTEES RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of June 24, 1991, the following reports of committees were submitted on July 2, 1991:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 427. A bill to disclaim any interests of the United States in certain lands on San Juan Island, Washington and for other purposes (Rept. No. 102–94).

By Mr. DECONCINI, from the Committee on Appropriations, with amendments:

H.R. 2622. A bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1992, and for other purposes (Rept. No. 102–95).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 631. A bill to authorize appropriations for the Motor Carrier Safety Assistance Program, and for other purposes (Rept. No. 102–96).

H.R. 1988. A bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control, and data communications, construction of facilities, research and program management, and Inspector General, and for other purposes (Rept. No. 102–97).

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S. 1433. An original bill to authorize appropriations for fiscal years 1992 and 1993 for the Department of State, and for other purposes (Rept. No. 102–98).

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S. 1434. An original bill to amend the Arms Control and Disarmament Act to authorize appropriations for the Arms Control and Disarmament Agency for fiscal year 1992, and for other purposes (Rept. No. 102–99).

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S. 1435. An original bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, and related statutory provisions, to authorize economic and security assistance programs for fiscal years 1992 and 1993, and for other purposes (Rept. No. 102–100).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRAHAM (for himself, Mr. JEFFORDS, Mr. THURMOND, Mr. STEVENS, Mr. MACK, Mr. DOLE, Mr. SEYMOUR, Mr. CHAFEE, Mr. SPECTER, Mr. GRASSLEY, Mrs. KASSEBAUM, Mr. BOND, Mr. CRAIG, Mr. DURENBERGER, Mr. COCHRAN, Mr. LEVIN, Mr. INOUYE, Mr. BURDICK, Mr. BRADLEY, Mr. GORE, Mr. AKAKA, Mr. BENTSEN, Mr. WOFFORD, Mr. REID, Mr. DECONCINI, Mr. BRYAN, Mr. SANFORD, Mr. RIEGLE, Mr. ADAMS, Mr. SIMON, Mr. NUNN, Mr. CONRAD, Mr. DIXON, Mr. CRANSTON, Mr. SHELBY, Mr. ROCKEFELLER, Mr. GLENN, Mr. PRYOR, Mr. LAUTENBERG, and Mr. HEFLIN):

S.J. Res. 174. A joint resolution designating the month of May 1992, as "National Amyotrophic Lateral Sclerosis Awareness Month"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM (for himself, Mr. JEFFORDS, Mr. THURMOND, Mr. STEVENS, Mr. MACK, Mr. DOLE, Mr. SEYMOUR, Mr. CHAFEE, Mr. SPECTER, Mr. GRASSLEY, Mrs. KASSEBAUM, Mr. BOND, Mr. CRAIG, Mr. DURENBERGER, Mr. COCHRAN, Mr. LEVIN, Mr. INOUYE, Mr. BURDICK, Mr. BRADLEY, Mr. GORE, Mr. AKAKA, Mr. BENTSEN, Mr. WOFFORD, Mr. REID, Mr. DECONCINI, Mr. BRYAN, Mr. SANFORD, Mr. RIEGLE, Mr. ADAMS, Mr. SIMON, Mr. NUNN, Mr. CONRAD, Mr. DIXON, Mr. CRANSTON, Mr. SHELBY, Mr. ROCKEFELLER, Mr. GLENN, Mr. PRYOR, Mr. LAUTENBERG, and Mr. HEFLIN):

S.J. Res. 174. A joint resolution designating the month of May 1992, as "National Amyotrophic Lateral Sclerosis Awareness Month"; to the Committee on the Judiciary.

NATIONAL AMYOTROPHIC LATERAL SCLEROSIS MONTH

• Mr. GRAHAM. Mr. President, today I am introducing legislation designating May 1992 as "National ALS Awareness Month."

Amyotrophic lateral sclerosis [ALS], more commonly known as Lou Gehrig's Disease, will strike 5,000 people this year. This is a rate of 13 new cases per day. Of today's population, more than 300,000 people will die from ALS. Sadly, the National Institutes of Health has found that victims are increasingly younger; many are in their twenties and thirties, and some are mere teenagers.

ALS patients have an average life expectancy of 2 to 3 years. During this time, victims can expect to lose total movement of their arms, legs, fingers, and toes as well as the ability to speak, swallow, or breathe. One's mental capacities, however, will never be affected.

More than 100 years after it was first discovered in 1869, there is still no known cause or cure. However, the New England Journal of Medicine has reported the identification and location of a gene responsible for one of the two types of ALS. This is the first major breakthrough in determining the cause of ALS.

Raising the public awareness of this disease can only lead to more breakthroughs and eventually a cure. This year marks the 51st anniversary of the death of one of America's greatest baseball players, Lou Gehrig, who died of this disease. May 1992 is also the month during which the ALS Association will march in Washington. I hope my colleagues will join the fight for a cure for ALS by cosponsoring this resolution.

This commemorative is dedicated to a victim of ALS, Bruce Packman, whose son Kevin was an intern in my office in June. Kevin inspired me to introduce this resolution.

I ask unanimous consent that the text of the resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 174

Whereas over 300,000 people alive today will eventually die from Amyotrophic Lateral Sclerosis ("ALS"), commonly known as "Lou Gehrig's Disease", which afflicts the motor-neuron system of the human body;

Whereas at least 5,000 people will be diagnosed this year as having ALS, or an average of 13 cases per day;

Whereas there is still no known cause or cure for ALS despite the fact that the disease was discovered in 1869;

Whereas victims of this disease may lose total movement of their arms, legs, fingers, and toes, as well as the ability to speak, swallow, or breathe;

Whereas ALS patients have an average life expectancy of between 2 and 3 years after being diagnosed as having the disease;

Whereas wheelchairs, respirators, and feeding tubes are often necessary to assist those who outlive the average life expectancy;

Whereas the National Institutes of Health have found that victims of ALS are increasingly younger, with many in their 20's and 30's, and some mere teenagers;

Whereas ALS strikes people regardless of race, sex, age, or ethnicity;

Whereas the number of male victims of ALS under the age of 50 equals the number of female victims, but over the age of 50, male victims outnumber female victims by a ratio of 3 to 1;

Whereas finding the causes of, and the cure for, ALS will prevent the disease from robbing hundreds of thousands of Americans of their dignity and lives;

Whereas 1992 marks the 51st anniversary of the death of one of America's greatest baseball players, Lou Gehrig, for whom the disease was named; and

Whereas raising public awareness of this disease will facilitate the discovery of a cure: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of May 1992, is designated as "National Amyotrophic Lateral Sclerosis Awareness Month". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate programs and activities.•

ADDITIONAL COSPONSORS

S. 28

At the request of Mr. MOYNIHAN, the names of the Senator from California [Mr. CRANSTON] and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 28, a bill to amend title 13, United States Code, to remedy the historic undercount of the poor and minorities in the decennial census of population and to otherwise improve the overall accuracy of the population data collected in the decennial census by directing the use of appropriate statistical adjustment procedures, and for other purposes.

S. 50

At the request of Mr. SYMMS, the names of the Senator from Oregon [Mr. HATFIELD] and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 50, a bill to ensure that agencies establish the appropriate procedures for assessing whether or not regulation may result in the taking of private property, so as to avoid such where possible.

S. 81

At the request of Mr. LOTT, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 81, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 93

At the request of Mr. PRESSLER, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 93, a bill to authorize the Secretary of Transportation to carry out a highway bridge demonstration project to improve the flow of traffic between the States of Nebraska and South Dakota.

S. 98

At the request of Mr. PRESSLER, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 98, a bill to amend the National Aeronautics and Space Administration Authorization Act, fiscal year 1989.

S. 167

At the request of Mr. WOFFORD, his name was added as a cosponsor of S. 167, a bill to amend the Internal Revenue Code of 1986 to permanently extend qualified mortgage bonds.

S. 239

At the request of Mr. SARBANES, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 239, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 255

At the request of Mr. BINGAMAN, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 255, a bill to require Congress to purchase recycled paper and paper products to the greatest extent practicable.

S. 284

At the request of Mr. BRADLEY, the names of the Senator from Utah [Mr. HATCH] and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 284, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 316

At the request of Mr. CRAIG, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 316, a bill to provide for treatment of Federal pay in the same manner as non-Federal pay with respect to garnishment and similar legal process.

S. 474

At the request of Mr. DECONCINI, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 474, a bill to prohibit sports gambling under State law.

S. 567

At the request of Mr. SANFORD, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 567, a bill to amend title II of the Social Security Act to provide for a gradual period of transition (under a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in years after 1916 and before 1927 (and related beneficiaries) and to provide for increases in such workers' benefits accordingly, and for other purposes.

S. 588

At the request of Mr. MITCHELL, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 588, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of certain cooperative service organizations of private and community foundations.

S. 614

At the request of Mr. DASCHLE, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 614, a bill to amend title XVIII of the Social Security Act to provide coverage under such title for certain chiropractic services authorized to be performed under State law, and for other purposes.

S. 651

At the request of Mr. GARN, the names of the Senator from Idaho [Mr. SYMMS] and the Senator from Georgia [Mr. NUNN] were added as cosponsors of S. 651, a bill to improve the administration of the Federal Deposit Insurance Corporation, and to make technical amendments to the Federal Deposit Insurance Act, the Federal Home Loan Bank Act, and the National Bank Act.

S. 657

At the request of Mr. LEAHY, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 657, a bill to amend the Child Nutrition Act of 1966 to provide for more competitive pricing of infant formula for the special supplemental food program for women, infants, and children [WIC], and for other purposes.

S. 734

At the request of Mr. GRAHAM, the names of the Senator from Nevada [Mr. REID] and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 734, a bill to permanently prohibit the Secretary of the Interior from preparing for or conducting any activity under the Outer Continental Shelf Lands Act on certain portions of the Outer Continental Shelf off the State of Florida, to prohibit activities other than certain required environmental or oceanographic studies under the Outer Continental Shelf Lands Act within the part of the Eastern Gulf of Mexico Planning Area lying off the State of Florida, and for other purposes.

S. 736

At the request of Mr. GRAHAM, the names of the Senator from Nevada [Mr. REID] and the Senator from Iowa [Mr. HARKIN] were added as a cosponsors of S. 736, a bill to amend the Outer Continental Shelf Lands Act.

S. 747

At the request of Mr. PRYOR, the names of the Senator from Oregon [Mr. HATFIELD] and the Senator from Georgia [Mr. FOWLER] were added as cosponsors of S. 747, a bill to amend the Internal Revenue Code of 1986 to clarify portions of the code relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 752

At the request of Mr. BAUCUS, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 752, a bill to amend the Internal Revenue Code of 1986 to make the allocation of research and experimental expenditures permanent.

S. 781

At the request of Mr. SARBANES, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 781, a bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

S. 803

At the request of Mr. REID, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 803, a bill to amend the Family Violence Prevention and Services Act to provide grants to States to fund State domestic violence coalitions, and for other purposes.

S. 840

At the request of Mr. DURENBERGER, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 840, a bill to amend the Internal Revenue Code of 1986 to provide a simplified method for computing the deductions allowable to home day care providers for the business use of their homes.

S. 879

At the request of Mr. DASCHLE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 879, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of certain amounts received by a cooperative telephone company indirectly from its members.

S. 882

At the request of Mr. SARBANES, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 882, a bill to amend subpart 4 of part A of title IV of the Higher Education Act of 1965 to mandate a 4-year grant cycle and to require adequate notice of the success or failure of grant applications.

S. 884

At the request of Mr. PACKWOOD, the names of the Senator from California [Mr. CRANSTON], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 884, a bill to require the President to impose economic sanctions against countries that fail to eliminate large-scale driftnet fishing.

S. 902

At the request of Mr. BRADLEY, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 902, a bill to amend title XIX of the Social Security Act to reduce infant mortality through improvement of coverage of services to pregnant women and infants under the Medicaid Program.

S. 904

At the request of Mr. BRADLEY, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 904, a bill to provide for the establishment of Children's Vaccine Initiative, and for other purposes.

S. 905

At the request of Mr. BRADLEY, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 905, a bill to amend title XIX of the Social Security Act to improve the childhood immunization rate by providing for coverage of additional vaccines under the Medicaid Program and for enhanced Federal payment to States for vaccines administered to children under such program, and for other purposes.

S. 913

At the request of Mr. BAUCUS, the names of the Senator from Maryland [Ms. MIKULSKI] and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 913, a bill to amend the Internal Revenue Code of 1987 to increase the amount of bonds eligible for certain small issuer exceptions, and for other purposes.

S. 972

At the request of Mr. BRADLEY, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 972, a bill to amend the Social Security Act to add a new title under such act to provide assistance to States in providing services to support informal caregivers of individuals with functional limitations.

S. 979

At the request of Mr. BINGAMAN, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 979, a bill to provide for strong Department of Energy support of research and development of technologies identified in the most recent National Critical Technologies Report as critical to U.S. economic prosperity and national security, and for other purposes.

S. 1112

At the request of Mr. HOLLINGS, the names of the Senator from New Mexico [Mr. BINGAMAN], the Senator from Missouri [Mr. BOND], the Senator from Oregon [Mr. PACKWOOD], and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 1112, a bill to establish a commission to advise the President on proposals for national commemorative events.

S. 1135

At the request of Mr. KENNEDY, the names of the Senator from South Dakota [Mr. DASCHLE] and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 1135, a bill to provide financial assistance to eligible local educational agencies to improve urban and rural education, and for other purposes.

S. 1141

At the request of Mr. KENNEDY, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1141 a bill to help the Nation achieve the national education goals by supporting the creation of a new generation of American schools in communities across the country; rewarding schools that demonstrate outstanding gains in student performance and other progress toward the national education goals creating academies to improve leadership and core-course teaching in schools nationwide; supporting State and local efforts to attract qualified individuals to teaching and educational administration; providing States and localities with statutory and regulatory flexibility in exchange for greater accountability for student learning; encouraging, testing, and evaluating educational choice programs; increasing the potential usefulness of the National Assessment of Educational Progress to State and local decisionmakers; expanding Federal support for literacy improvements; and for other purposes.

S. 1156

At the request of Mr. PACKWOOD, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1156, a bill to provide for the protection and management of certain areas on public domain lands managed by the Bureau of Land Management and lands withdrawn from the public domain managed by the Forest Service in the States of California, Oregon, and Washington; to ensure proper conservation of the natural resources of such lands, including enhancement of habitat; to provide assistance to communities and individuals effected by management decisions on such lands; to facilitate the implementation of land management plans for such public domain lands and Federal lands elsewhere; and for other purposes.

S. 1175

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1175, a bill to make eligibility standards for the award of the Purple Heart currently in effect applicable to members of the Armed Forces of the United States who were taken prisoners or taken captive by a hostile foreign government or its agents or a hostile force before April 25, 1962, and for other purposes.

S. 1190

At the request of Mr. DASCHLE, the names of the Senator from Massachusetts [Mr. KERRY] and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of S. 1190, a bill to amend the Internal Revenue Code of 1986 to increase the standard mileage rate deduction for charitable use of passenger automobiles.

S. 1270

At the request of Mr. MCCAIN, the names of the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 1270, a bill to require the heads of departments and agencies of the Federal Government to disclose information concerning U.S. personnel classified as prisoners of war or missing in action.

SENATE JOINT RESOLUTION 124

At the request of Mr. BRADLEY, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of Senate Joint Resolution 124, a joint resolution to designate "National Visiting Nurse Associations Week" for 1992.

SENATE JOINT RESOLUTION 131

At the request of Mr. LUGAR, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Kansas [Mr. DOLE], the Senator from Tennessee [Mr. GORE], the Senator from Michigan [Mr. RIEGLE], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of Senate Joint Resolution 131, a joint resolution designating October 1991 as "National Down Syndrome Awareness Month."

SENATE JOINT RESOLUTION 164

At the request of Mr. GORE, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Joint Resolution 164, a joint resolution designating the weeks of October 27, 1991, through November 2, 1991, and October 11, 1992, through October 17, 1992, each separately as "National Job Skills Week."

SENATE RESOLUTION 82

At the request of Mr. SMITH, the names of the Senator from South Carolina [Mr. HOLLINGS] and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of Senate Resolution 82, a resolution to establish a Select Committee on POW/MIA Affairs.

SENATE RESOLUTION 126

At the request of Mr. SMITH, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of Senate Resolution 126, a resolution encouraging the President to exercise the line-item veto.

AMENDMENTS SUBMITTED

VIOLENT CRIME CONTROL ACT

RUDMAN (AND COCHRAN) AMENDMENT NO. 516

Mr. RUDMAN (for himself and Mr. COCHRAN) proposed an amendment to the bill (S. 1241) to control and reduce violent crime, as follows:

On page 8, after line 22, insert the following:

"SEC. 104. GRANTS FOR STATE AND LOCAL LAW ENFORCEMENT.

(a) FINDINGS.—Congress finds that—

(1) State and local police officers are on the front lines of the war against drug-related and other violent crimes;

(2) State and local police officers are directly knowledgeable of the particular problems of crime in their districts, and of the way to best address these problems; and

(3) the most effective way to combat drug-related and other violent crime in the streets is to increase the number of law enforcement personnel operating at the state and local levels of government.

(b) GRANTS.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, is authorized to make grants to State and local enforcement agencies for the purpose of combatting drug-related and other violent crimes. Such grants must be used to supplement and not supplant existing resources. Grants may be awarded only for direct personnel costs associated with employing law enforcement officers.

(c) ALLOCATION.—Of the total amounts appropriated for this section, there shall be allocated to each State and local unit of government an amount which bears the same proportion to the total amount appropriated as the amount of law enforcement officers employed in such state or local unit of government as of June 1, 1991, bears to the total number of law enforcement officers employed in the United States as of June 1, 1991.

(d) DEFINITIONS.—For the purposes of this section—

(1) the term "law enforcement agency" means any agency of the District of Columbia, any of the several states, or unit of general local government, including a county, township, city or political subdivision thereof, which employs law enforcement officers, and has as its primary mission law enforcement; and

(2) the term "law enforcement officer" means any officer of the District of Columbia, any of the several states, or unit of general local government, including a county, township, city or political subdivision thereof, who is empowered by law to conduct investigations of, or make arrests because of, offenses against the United States, the District of Columbia, a state, or a unit of general local government.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,206,500,000 for fiscal year 1992 and such sums as are necessary for fiscal year 1993, 1994, and 1995 to carry out this section."

On page 78, strike lines 1 through 24.

On page 86, strike line 3 and all that follows through page 114, line 10.

On page 122, strike line 3 and all that follows through page 124, line 13.

On page 158, strike line 20 and all that follows through page 167, line 8.

On page 168, strike line 18 and all that follows through page 175, line 11.

On page 178, strike lines 10 through 23.

On page 180, strike lines 5 through 15.

On page 182, strike line 1 and all that follows through page 185, line 4.

On page 187, strike line 1 and all that follows through page 192, line 18.

On page 210, strike line 12 and all that follows through page 220, line 12.

BINGAMAN (AND OTHERS) AMENDMENT NO. 517

Mr. BINGAMAN (for himself, Mr. DOMENICI, and Mr. WIRTH) proposed an amendment to the bill S. 1241, supra, as follows:

At the end of the bill, add the following:

TITLE —LITERACY EDUCATION FOR STATE PRISONERS

SEC. . MANDATORY LITERACY PROGRAM.

(a) INITIAL REQUIREMENT.—On or before the date that is 2 years after the date of the enactment of this Act, each State correctional system shall have in effect a mandatory functional literacy program in at least 1 major correctional facility.

(b) SUBSEQUENT REQUIREMENT.—On or before the date that is 5 years after the date of the enactment of this Act, each State correctional system and each local jail and detention center with a population of more than 100 inmates shall have in effect a mandatory functional literacy program.

(c) PROGRAM REQUIREMENTS.—(1) Each mandatory functional literacy program required by subsections (a) and (b) shall—

(A) to the extent possible, make use of advanced technologies, such as interactive video- and computer-based adult literacy learning; and

(B) include adequate opportunities for appropriate education services and the screening and testing of all inmates for functional literacy and learning disabilities upon arrival in the system or at the jail or detention center.

(2) Each mandatory functional literacy program required by subsections (a) and (b) may include—

(A) a requirement that each person incarcerated in the system, jail, or detention center who is not functionally literate, except a person described in paragraph (3), shall participate in the program until the person—

(i) achieves functional literacy;

(ii) is granted parole;

(iii) completes his or her sentence; or

(iv) is released pursuant to court order;

(B) a prohibition on granting parole to any person described in subparagraph (A) who refuses to participate in the program, unless the State parole board determines that the prohibition should be waived in a particular case; and

(C) an inmate participation incentive program, which may include—

(i) better housing opportunities;

(ii) monetary incentives for achievement; and

(iii) positive reports to parole authorities for inmates who participate and progress in the literacy program.

(3) A requirement such as the requirement described in paragraph (2)(A) may not apply to a person who—

(A) is serving a life sentence without possibility of parole;

(B) is terminally ill;

(C) is under a sentence of death; or

(D) is exempted by the chief officer of the system, jail, or detention center by reason of the person's documented learning disability or other significant learning problem.

(d) ANNUAL REPORT.—(1) Within 90 days after the close of the first calendar year in which a literacy program required by subsection (a) is placed in operation, and annually for each of the 4 years thereafter, the chief correction officer of each State correctional system shall submit a report to the Attorney General with respect to the State's literacy program.

(2) A report under paragraph (1) shall disclose—

(A) the number of persons who were tested for eligibility during the preceding year;

(B) the number of persons who were eligible for the literacy program during the preceding year;

(C) the number of persons who participated in the literacy program during the preceding year;

(D) the names and types of tests that were used to determine functional literacy;

(E) the average number of hours of instruction that were provided per week and the average number per student during the preceding year;

(F) sample data on achievement of participants in the program, including the number of participants who achieved functional literacy;

(G) data on all direct and indirect costs of the program; and

(H) a plan for implementing a system-wide mandatory functional literacy program, as required by subsection (b), and, if appropriate, information on progress toward such a program.

(3) Upon receipt of a report required by this subsection, the Attorney General shall distribute copies of the report to the Office of Correctional Education and the appropriate Congressional committees.

(e) COMPLIANCE GRANTS.—(1) The Attorney General shall make grants to State correctional agencies for the purpose of assisting in carrying out the programs, developing the plans, and submitting the reports required by this section.

(2) A State corrections agency is eligible to receive a grant under this subsection if the agency agrees to provide to the Attorney General—

(A) such data as the Attorney General may request concerning the cost and feasibility of operating the mandatory functional literacy programs required by subsections (a) and (b); and

(B) a detailed plan outlining the methods by which the requirements of subsections (a) and (b) will be met, including specific goals and timetables.

(f) LIFE SKILLS TRAINING GRANTS.—(1) The Attorney General is authorized to make grants to State and local correctional agencies to assist them in establishing and operating programs designed to reduce recidivism through the development and improvement of life skills necessary for reintegration into society.

(2) To be eligible to receive a grant under this subsection, a State or local correctional agency shall—

(A) submit an application to the Attorney General or his designee at such time, in such manner, and containing such information as the Attorney General shall require; and

(B) agree to report annually to the Attorney General on the participation rate, cost, and effectiveness of the program and any other aspect of the program upon which the Attorney General may request information.

(3) In awarding grants under this section, the Attorney General shall—

(A) consult with the Office of Correctional Education; and

(B) give priority to programs that have the greatest potential for innovation, effectiveness, and replication in other systems, jails, and detention centers.

(4)(A) The Attorney General shall award no more than ten grants per year under this subsection.

(B) Grants awarded under this subsection shall be for a period not to exceed 3 years, except that the Attorney General may establish a procedure for renewal of the grants under paragraph (1).

(g) Withholding of Grants.—(1) On and after the date that is 2 years after the date of enactment of this Act, the Attorney General shall withhold grants under title I of the Omnibus Crime Control and Safe Streets Act of 1968, in an amount not to exceed 50 percent of the previous year's grant allocation to the State, to any State that does not have in effect a functional literacy program described in subsection (a).

(2) On and after the date that is 5 years after the date of enactment of this Act, the Attorney General shall withhold grants under title I of the Omnibus Crime Control and Safe Streets Act of 1968, in an amount not to exceed 50 percent of the previous year's grant allocation to the State, to any State that does not have in effect a functional literacy program described in subsection (b).

(h) Definitions.—For the purposes of this section—

(1) the term "functional literacy" means at least an eighth grade equivalence in reading on a nationally recognized standardized test;

(2) the term "Office of Correctional Education" means the Office of Correctional Education within the Department of Education established under the Carl D. Perkins Vocational and Applied Technology Act Amendments of 1990 (Public Law 101-392); and

(3) the term "life skills" may include self-development, communication skills, job and financial skills development, education, interpersonal and family relationships, stress and anger management, and addictive behavior rehabilitation.

(i) Authorization of Appropriations.—There are authorized to be appropriated for purposes of carrying out this section $10,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, and $25,000,000 for fiscal year 1995.

(j) Funding Threshold for Effect of Title.—The provisions of this title shall apply in those fiscal years for which funds are appropriated in an amount not less than one-half the amount authorized in subsection (i).

THURMOND AMENDMENT NO. 518

Mr. THURMOND proposed an amendment to amendment No. 517 proposed by Mr. Bingaman (and others) to the bill S. 1241, supra, as follows:

Strike everything after the first word and insert the following:

LITERACY EDUCATION FOR STATE PRISONERS

SEC. . MANDATORY LITERACY PROGRAM.

(a) Establishment.—The chief correctional officer of each State correctional system may establish a demonstration, or system-wide functional literacy program.

(b) Program Requirements.—(1) To qualify for funding under subsection (d), each functional literacy program shall—

(A) to the extent possible, make use of advanced technologies; and

(B) include—

(i) a requirement that each person incarcerated in the system, jail, or detention center who is not functionally literate, except a person described in paragraph (2), shall participate in the program until the person—

(I) achieves functional literacy;

(II) is granted parole;

(III) completes his or her sentence; or

(IV) is released pursuant to court order;

(ii) a prohibition on granting parole to any person described in clause (i) who refuses to participate in the program, unless the State parole board determines that the prohibition should be waived in a particular case; and

(iii) adequate opportunities for appropriate education services and the testing of all inmates for functional literacy upon arrival in the system or at the jail or detention center.

(2) The requirement of paragraph (1)(B) shall not apply to a person who—

(A) is serving a life sentence without possibility of parole;

(B) is terminally ill;

(C) is under a sentence of death; or

(D) is exempted by the chief officer of the system, jail, or detention center by reason of the person's documented learning disability or other significant learning problem.

(c) Annual Report.—(1) Within 90 days after the close of the first calendar year in which a literacy program authorized by subsection (a) is placed in operation, and annually for each of the 4 years thereafter, the chief correction officer of each State correctional system shall submit a report to the Attorney General with respect to its literacy program.

(2) A report under paragraph (1) shall disclose—

(A) the number of persons who were tested for eligibility during the preceding year;

(B) the number of persons who were eligible for the literacy program during the preceding year;

(C) the number of persons who participated in the literacy program during the preceding year;

(D) the names and types of tests that were used to determine functional literacy;

(E) the average number of hours of instruction that were provided per week and the average number per student during the preceding year;

(F) sample data on achievement of participants in the program, including the number of participants who achieved functional literacy;

(G) data on all direct and indirect costs of the program; and

(H) a plan for implementing a system-wide mandatory functional literacy program, as required by subsection (b), and, if appropriate, information on progress toward such a program.

(d) Compliance Grants.—(1) The Attorney General shall make grants to State correctional agencies who elect to establish a program described in paragraph (a) for the purpose of assisting in carrying out the programs, developing the plans, and submitting the reports required by this section.

(2) A State corrections agency is eligible to receive a grant under this subsection if the agency agrees to provide to the Attorney General—

(A) such data as the Attorney General may request concerning the cost and feasibility of operating the mandatory functional literacy programs required by subsections (a) and (b); and

(B) a detailed plan outlining the methods by which the requirements of subsections (a) and (b) will be met, including specific goals and timetables.

(3) There are authorized to be appropriated for purposes of carrying out this section $10,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, and $25,000,000 for fiscal year 1995.

(e) Definition.—For the purposes of this section, the term "functional literacy" means at least an eighth grade equivalence in reading on a nationally recognized standardized test.

BRADLEY AMENDMENT NO. 519

Mr. BIDEN (for Mr. Bradley) proposed an amendment to the bill S. 1241, supra, as follows:

On page 171, between lines 15 and 16, insert the following:

"(11) To establish sports mentoring and coaching programs in which athletes serve as role models for youth to teach that athletics provide a positive alternative to drug and gang involvement.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for my colleagues and the public that the hearing scheduled before the Committee on Energy and Natural Resources on July 23, 1991, on consent to amendments by the State of Hawaii to the Hawaiian Homes Commission Act, will not include consideration of Senate Joint Resolution 22, as was originally announced. The committee will be considering Senate Joint Resolutions 23 through 34.

The hearing will take place at 2 p.m. in room SD-366 of the Dirksen Senate Office Building, Washington, DC.

For further information, please contact Allen Stayman of the committee staff at 202-224-7865.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President. I would like to announce that the Select Committee on India Affairs will be holding a hearing on Tuesday, July 9, 1991, beginning at 2 p.m., in 485 Russell Senate Office Building on S. 1350, Zuni River Watershed Act of 1991.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. GLENN. Mr. President, I would like to announce that the Subcommittee on Federal Services, Post Office, and Civil Service, of the Committee on Governmental Affairs, will hold a hearing on July 9, 1991. The Postmaster General of the United States will present the annual report of the Postal Service.

The hearing is scheduled for 10 a.m., in room 342 of the Senate Dirksen Office Building. For further information, please contact Ed Gleiman, subcommittee staff director, at 224-2254.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON SOCIAL SECURITY AND FAMILY POLICY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Social Security and Family Policy of the Committee on Finance be authorized to meet during the session of the Senate on July 8, 1991, at 1:30 p.m. to hold a hearing on implementation of the Job Opportunities and Basic Skills Training Program [JOBS] enacted by the Family Support Act of 1988.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON DOMESTIC AND FOREIGN MARKETING AND PRODUCT PROMOTION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry Subcommittee on Domestic and Foreign Marketing and Product Promotion be allowed to meet during the session of the Senate on Monday, July 8, 1991, at 2 p.m., to hold a hearing on the importation of subsidized grains from Sweden.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON DEFENSE INDUSTRY AND TECHNOLOGY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Defense Industry and Technology Subcommittee on the Committee on Armed Services be authorized to meet on Monday, July 8, 1991, at 3:30 p.m. in executive session, for markup of defense industry and technology programs for fiscal years 1992–93.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NATIONAL ENDOWMENT FOR DEMOCRACY

• Mr. LIEBERMAN. Mr. President, one of the truly inspiring developments of the last decade has been the spread of democracies across the globe. The 1980's has been the decade of democracy. From Latin America, to Africa, to Eastern Europe, to the Middle East, and Asia, democratic governments have taken root.

In Asia, democratic elections have been held in South Korea and Pakistan, and political reform continues to make headway in Taiwan. India, the largest democracy in the world, held an election, even after the tragic assassination of former Prime Minister Gandhi. The one party state is crumbling in much of southern and west Africa. Central and South America—from El Salvador to Chile—has been a hotbed of democratic reform. And democracy has had an auspicious start in the nineties with the election of Boris Yeltsin as the first popularly selected President of the Russian Republic. Throughout the world, democracy and pluralism appear to be the wave of the future, and the United States can take pride in inspiring and supporting this movement.

The United States has helped to foster democracy by the example we have set and by specific programs we have offered. One of the most important of these has been the National Endowment for Democracy [NED] under the leadership of Carl Gershman. Just a few examples demonstrate the effectiveness of NED's activities:

NED provided direct support to democratic elections in Nicaragua, Namibia, the Philippines, and Chile by distributing printing presses and computers, and by participating in election monitoring. In each case, these elections led to the ouster of repressive dictactorships.

NED provided financial assistance for free trade unions in the Soviet Union, Poland, and South Africa, all of which have helped democratic forces.

NED encouraged the growth of free markets, particularly in Latin America. Specifically, it has supported the path-breaking work of Peruvian political scientist Hernando de Soto, who has documented how heavy-handed state bureaucracies impede economic development among the poor.

Because of its fine work, NED has received praise from many heads of state in newly democratic nations including Vaclav Havel, Violetta Chamarro, Corazon Aquino, and Oscar Arias.

I saw NED's excellent work first hand when I served as coleader of an international delegation of observers sponsored by the National Democratic Institute, one of NED's affiliates, to the elections in Romania in May 1990. NDI operated in a thoroughly professional manner, providing us with a full range of briefings, training sessions, and all the support we needed to monitor the elections for evidence of fraud. NDI's presence on the scene helped to ensure a fairer election and to point the way toward further progress for Romania.

Despite NED's critical contributions to democratic movements, some have argued that with the end of the cold war and the defeat of Saddam Hussein, the United States can deemphasize the democratic outreach programs of NED. But NED serves hard headed U.S. interests, in addition to serving the wider interests of humankind, because free market democracies usually end up being peaceful friends of America. These friends offer economic markets for our products and reliable support for our diplomatic policies. By assisting prodemocracy movements and free markets around the world, NED has helped to save many millions of dollars that otherwise would have gone to defense spending and economic assistance. So the modest NED budget—just $25 million last year—is an excellent investment.

Mr. President, now is not the time to retreat from the world. Now is the moment to lead the world to democracy. The end of the cold war should spur us to greater efforts to ensure that democracies become firmly rooted in the former Soviet bloc and the rest of the Third World. NED will help lead the way toward the day when flourishing democracies will preside throughout the world and most dictatorships will be a distant memory of a dark past.•

HONORING LISA BROWER

• Mr. KASTEN. Mr. President, America is making great progress in the war on drugs thanks to the rise of enlightened attitudes among young people. Nowhere is this enlightened attitude more visible than in a recent prize-winning essay by Lisa Brower of Elmbrook Middle School in Elm Grove, WI.

Lisa Brower has just won the "Books Make a Difference" contest sponsored by Read magazine. Her essay "The Book That Has Made the Greatest Difference in My Life" outlines how reading the powerful antidrug story "Go Ask Alice" led her to make a personal commitment never to use drugs.

Lisa deserves our warmest congratulations. I recommend her essay to the attention of my colleagues, and I ask unanimous consent that it be included in the RECORD at the conclusion of my remarks.

The essay follows:

GO ASK ALICE

(By Lisa Brower)

No, Alice, don't! (If that's even your name.) Don't take drugs.

"I know," she replies. Alice knows what's bad for her, but she can't help herself. She lets me down when she gives in to peer pressure and takes drugs.

I'm part of Alice. She breathes; I breathe. She speaks; I speak. She writes; I read. She writes her whole teenage life in her diary, and now it is my turn to read her pain, joy, and confusion.

The book I am part of is *Go Ask Alice*, an anonymously written diary. Alice writes the diary and is the main character. If Alice is happy when I set the book down, then I am happy for the rest of the day. But soon I am drawn back to Alice's world by an irresistible force. If she has a mood swing, which she often does, so do I. If she is mad, so am I. I set the book down and go yell at the wall. I can't hurt the wall's feelings. But Alice yells at the people who mean the most to her. After, she goes back to the diary to write, and I go back to read.

Now Alice is sad for yelling at her loved ones, and I go and apologize to the wall. The wall seems to brighten a little. Everything has feelings. But Alice does not apologize. Her loved ones understand. I feel sorry for them, for their feelings are hurt. They will do anything for Alice. My mind jumps back to her. Is she happy? Angry? Sad? Surprised? I can't keep track. I'll just read.

I'm freezing! I go to turn up the heat, but it isn't that. It is 72 degrees in the house. I return to Alice. I realize it is not me. It is

Alice who is cold. She is sleeping in the street in an unknown place. She sleeps, forgetting everything. It is better to sleep than to face reality. This is not me! Wake up, Alice. Nothing but sleep. . . .

Finally, she is home, trying to put her life together. She is in love. I am not. I love my family the most. So does she, but she loves her boyfriend all the same.

She stops writing. No, don't! Write, Alice. She will not. She is past her early teenage years, too mature now to write. I turn the page, expecting to see blank pages staring back at me.

Dead. No, I am not. She is not. But we are. An overdose of drugs. I am slipping away, whisked away in my tears.

But I am not Alice. I am alive. She is gone.

Thanks, Alice. I will now know never to take drugs and make your mistakes. You are still alive in your book. Now thousands read your diary and learn what not to do. Keep writing, Alice. Keep writing. We'll keep reading.●

GREEN THUMB, INC.

● Mr. ROCKEFELLER. Mr. President, I rise today to congratulate and commend an organization that is changing the lives of elderly Americans and to particularly thank them for their hard work and dedication to the State of West Virginia. I would like to call my colleagues' attention to Green Thumb, Inc., which is a nonprofit corporation that operates in 44 States and Puerto Rico promoting job training and independence for low-income elderly. One of my favorite examples of how Green Thumb works is the recent story of Mary C. Onion of Beckley, WV.

For many years, Mary had worked for various schools and businesses throughout the region and had always enjoyed working with children. But, when her mother became ill, Mary had to stop working to care for her. Early this year, Mary was ready to reenter the work force, at age 70. When she applied, however, she discovered that the computer had changed her job dramatically. Through Green Thumb, Mary is acquiring computer training and is now employed by the Beckley Junior High School. With the help of Green Thumb, Mary is now doing what she enjoys and is also adding to her economic stability and her own independence.

Green Thumb, Inc. was begun in 1965 under the Senior Community Service Employment Program, that now employs over 64,000 low-income seniors. All of Green Thumb's enrollees have incomes that are at or below 125 percent of the established poverty level. The typical enrollee is a 68-year-old woman who lives on less than $6,280 per year. The vast majority of enrollees reside in rural areas with restricted access to essential services like health care and transportation. Enrollees get on-the-job training, corresponding to their interests and experiences, while they are part of the Green Thumb Program, as well as individual counseling on finding and keeping jobs. The program also works with other agencies to assist enrollees with housing, nutrition, health care, and other social services.

This vital program is up for reauthorization in 1991 under the Older Americans Act, and its proposed budget had been cut by $47.5 million. This budget cut will result in a loss of 13,000 opportunities to help. I warn against these cuts and rise in support of a model program that is doing something for the low-income elderly of America. Speaking for West Virginians, I praise Green Thumb for contributing to the dignity, well-being and independence of those they serve.●

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

● Mr. SARBANES. Mr. President, I rise today to bring to the attention of all my colleagues the Second White House Conference on Library and Information Services which will be held this week from July 9 to 13 at the Washington Convention Center. The Conference has been preceded by speakouts, town hall meetings, and Governors' conferences across the Nation, where recommendations were developed for the further improvement of library and information services and their use by the citizens of our country. The themes chosen for the Conference—library and information services for expanding literacy, improving productivity, and strengthening democracy—illustrate the importance of the library to our communities and to our Nation. I was pleased to be invited to serve as an honorary delegate to the Conference and want to commend all those who have helped bring it to fruition.

The Federal Government has long recognized the importance of supporting our Nation's libraries with Federal assistance first provided to public libraries in 1956 through the Library Services Act, which provided public library service to rural areas that had no such service. In 1964, that law was replaced with the current Library Services and Construction Act. As amended most recently in 1990, Public Law 101-254, the LSCA contains eight titles authorizing aid to public libraries through fiscal year 1994. A variety of other Federal programs provide additional assistance to public, college, and school libraries. While each of these programs is relatively small, the aggregate level of Federal assistance to libraries, including both grants and other forms of aid, is more substantial and is of critical importance to the continued provision of effective library services to our citizenry.

Such assistance is especially important when one considers that libraries are the only public agencies in which the services rendered are intended for, and available to, every segment of society. The termination of all Federal support for public library programs, recommended repeatedly by the Reagan administration and continued in large part by the current administration, would trigger the elimination of the most far-reaching and innovative programs offered by public libraries. Wisely, the Congress has consistently rejected efforts to eliminate or drastically reduce Federal support for libraries. In similar manner, the administration's fiscal year 1992 budget recommendation for libraries, which would have imposed a 75.5-percent cut from the level appropriated in fiscal year 1991 for LSCA programs and Higher Education Act title II library programs, was rejected by the Congress in the budget resolution passed this spring.

Even so, libraries throughout the country are undergoing unprecedented hard times with budgetary constraints prompting staff reductions and cutbacks in services. Reductions in support for library programs over the past decade have also resulted in a current shortage of trained librarians. Existing shortages of librarians will be exacerbated by a shortage of graduate library school faculty. Graduate library school faculty are in short supply because of the closing of some library schools, the decrease in financial support, the higher than average age of library school faculty, and fewer librarians with Ph.D.'s going into teaching.

The importance of continuing a stable, reliable financial base to ensure an acceptable standard of library service for every American cannot be overestimated, particularly in an age in which we are experiencing a vast explosion of information. The Association of Research Libraries and the American Library Association report that internationally 1,000 books are published daily, nationally 9,600 different periodicals are published annually, and the total of all printed knowledge doubles every 8 years. Clearly, this makes the vital services provided by libraries increasingly important, and the challenges facing those who work in the field increasingly complex.

In addition, the 20th century has seen a new dimension added to library services. Libraries now provide not only books and periodicals, but a myriad of other things as well, including computer services, audio-visual materials, facilities for lectures and performances, tapes, videocassettes, and works of art for exhibit or loan to the public. Libraries provide special facilities for the elderly and disabled, and in many communities, library services are organized for local schools, hospitals, and prisons.

Developments in scientific and industrial research, with a consequent vast increase in the publication of specialized information, have led to a demand for rapid and easy access to a wide range of periodical literature and an information service that could furnish references and bibliographies on specific subjects. A significant result of this has been the growth of special libraries, often connected with commercial enterprises or specialized professional bodies, which in turn have had a marked influence on the kind of services offered in research libraries and in public libraries.

As the one type of library accountable to the total community, the public library of the future must play a strong coordinative role. It must act as a point of entry into the national network of libraries and information resources as well as continuing to lead all libraries in responding to societal changes and consequent needs. This week's Conference on Libraries will serve as a critical forum for the discussion of the development of a coordinated national policy to ensure that library resources are readily available to all who need and want them.

Mr. President, I have spoken many times on the importance of libraries and the need to encourage those involved in the library profession because of the essential work they perform. The library is one of the ladders of opportunity in this society, and we ought never to forget that. Libraries are more than passive repositories of information—they are an essential component of the total education structure and are of economic, cultural, and social benefit to citizens of all ages, occupations, and economic standing in every community.

In this and in previous Congresses, I have introduced a number of proposals which address the need for continued support for library programs. I have also inserted in the RECORD an excellent piece from the Washington Post written by Haynes Johnson which, in my view, very poignantly illustrates the importance of libraries in the daily lives of our citizens.

In his remarks, Mr. Johnson quotes an article from the Wall Street Journal which likened the most extreme example of a lack of adequate support for libraries—the closing of a library—to a death in the family. In describing the closing of one small library, reporter James S. Hirsch wrote:

> On the library's last day, children brought stuffed bears and flowers for the librarian. Later, residents who hadn't heard the news pounded on the locked wooden door of the building." He quoted the librarian as saying, "They couldn't believe we were really closing. To a child, the library was always there. Then something is missing from their life. It's like when someone dies, there's a little empty space there.

As important as the loss of library and education services are to the individual, we must also keep in mind the loss to society as a whole. As Thomas Jefferson so aptly put it:

> A Nation that expects to be ignorant and free, expects what never was and never will be.

For democracy to work, the individual citizen has to have the capacity to understand the problems and to register an informed judgment. Libraries are an important component in a society which must educate and train its citizens to be responsible participants in a democratic system. We are also a Nation that holds out to its citizens the chance to move from very limited circumstances as a youth all the way to the top if they possess the ability. It is through education that we give our people an opportunity to move upwards, to participate fully in American life and to make their maximum contribution to society—and again, the services provided by libraries are a critical part of that system.

The Second White House Conference on Libraries and Information Services provides an excellent opportunity to consider the path our Nation must take in the future to further our education system and to prevent the erosion of the unique and vital services provided by libraries to citizens and communities throughout the country. I want to take this opportunity to salute those involved in the library and education profession and all those who are participating in this week's conference. It is their dedication and hard work which enabled the convening of a Second White House Conference on Libraries. I urge all my colleagues to join me in working with them to ensure the continued access of critical library services to every American.•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

• Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Dan Berkovitz, a member of the staff of Senator BURDICK, to participate in a program in Indonesia, sponsored by the Republic of Indonesia and the U.S.-Asia Institute, from August 16 to 1991.

The committee has determined that participation by Mr. Berkovitz in the program in Indonesia, at the expense of the Indonesian Government and the U.S.-Asia Institute, is in the interest of the Senate and the United States.•

THE INCOME DEPENDENT EDUCATIONAL ASSISTANT LOAN ACT OF 1991—S. 1414

• Mr. AKAKA. Mr. President, I request that the text of the Income Dependent Educational Assistance Loan Act of 1991 [IDEAL], S. 1414, be printed in the RECORD.

The text of the bill follows:

S. 1414

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEMONSTRATION PROGRAM.

The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) is amended by inserting at the end thereof the following new title:

"TITLE XVI—INCOME DEPENDENT EDUCATIONAL ASSISTANCE LOANS

"SEC. 1601. SHORT TITLE.

"This title may be cited as the 'Income Dependent Educational Assistance Loan Act'.

"SEC. 1602. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—

"(1) LOANS AUTHORIZED.—The Assistant Secretary shall carry out a demonstration program of making loans to students in 10 congressional districts in accordance with the provisions of this title.

"(2) USE AT ANY ELIGIBLE INSTITUTION PERMITTED.—Each individual receiving a loan under this title may use such loan funds to attend any eligible institution.

"(b) PROGRAM REQUIREMENTS.—The program described in subsection (a) shall—

"(1) require a student who receives a loan under this title to use such loan to attend an eligible institution;

"(2) require each eligible institution that receives funds under this title to—

"(A) submit to the Assistant Secretary, at such time and in such form as the Assistant Secretary may require by regulation, a list of applicants and the amounts for which such applicants are qualified under section 1604; and

"(B) promptly notify the Assistant Secretary, on request, of any change in enrollment status of any recipient of a loan under this title; and

"(3) require the Assistant Secretary—

"(A) to establish an account for each recipient of a loan under this title by name and taxpayer identification number; and

"(B) provide for the increase in the total amount stated for each such account by any amounts subsequently loaned to such recipient.

"SEC. 1603. INSTITUTIONAL AGREEMENTS.

"(a) TERMS OF AGREEMENT.—In order to qualify its students for loans under this title, an eligible institution shall enter into an agreement with the Assistant Secretary which—

"(1) provides that the institution will collect applications for loans under this title from its students that are in such form and contain or are accompanied by such information as the Assistant Secretary may require by regulation;

"(2) contains assurances that the institution shall, on the basis of such applications, provide to the Assistant Secretary the information required by section 1602(b)(2) and shall certify to the Assistant Secretary the cost of attendance determination;

"(3) provides that the institution shall provide to each student applying for a loan under this title a notice provided by the Assistant Secretary of the student's obligations and responsibilities under the loan;

"(4) provides that, if a student withdraws after receiving a loan under this title and is owed a refund—

"(A) the institution will pay to the Assistant Secretary for deposit into the Income Dependent Educational Assistance Loan Trust Fund a portion of such refund, in accordance with regulations prescribed by the Assistant Secretary to ensure receipt of an amount which bears the same ratio to such refund as such loan bore to the cost of attendance of such student; and

"(B) the Assistant Secretary will credit the amount of such refund to the student's account;

"(5) contains such additional terms and conditions as the Assistant Secretary prescribes by regulation to protect the fiscal interest of the United States and to ensure effective administration of the program under this title; and

"(6) contains assurances that the amount of a loan an eligible student may receive under this title shall not affect the amount of other student financial assistance such student may receive from the institution.

"(b) ENFORCEMENT OF AGREEMENT.—The Secretary may, after notice and opportunity for a hearing to the institution concerned, suspend or revoke, in whole or in part, the agreement of any eligible institution if the Assistant Secretary finds that such institution has failed to comply with this title or any regulation prescribed under this title or has failed to comply with any term or condition of its agreement under subsection (a). No funds shall be loaned under this title to any student at any eligible institution while the agreement of such institution is suspended or revoked, and the Assistant Secretary may institute proceedings to recover any funds held by such institution. The Assistant Secretary shall have the same authority with respect to functions under this title as the Secretary has with respect to his functions under part B of title IV of this Act.

"SEC. 1604. AMOUNT AND TERMS OF LOAN.

"(a) ELIGIBLE AMOUNTS.—

"(1) ANNUAL LIMITS.—Any individual who is determined by an eligible institution to be an eligible student for any academic year shall be eligible to receive a loan for such academic year in an amount which is not more than—

"(A) $10,000; or

"(B) the cost of attendance at such institution, determined in accordance with section 484, whichever is less.

"(2) LIMITATIONS ON BORROWING CAPACITY.—No individual may receive any amount in an additional loan under this title which exceeds the excess of—

"(A) $40,000; over

"(B) the total original principal amounts of all prior loans under this title to such individual less any refunds credited to such individual's account under section 1603(a)(4).

"(3) ADJUSTMENT OF LIMITS FOR INFLATION.—Each of the dollar amounts specified in paragraphs (1) and (2) shall be adjusted for any academic year after calendar year 1994 to provide for the increase in the average cost of postsecondary education as determined by the Assistant Secretary for the calendar year preceding such academic year.

"(4) COMPUTATION OF OUTSTANDING LOAN OBLIGATIONS.—For the purposes of this subsection, any loan obligations of an individual pursuant to student loan programs under title IV of this Act or title VII of the Public Health Service Act shall be counted toward annual and aggregate borrowing capacity limits. For purposes of annual and aggregate loan limits under any such student loan program, loans under this title shall be counted as loans under such program.

"(5) ADJUSTMENTS OF ANNUAL LIMITS FOR LESS THAN FULL-TIME STUDENTS.—For any student who is enrolled on a less than full-time basis, loan amounts for which such student shall be eligible for any academic year under this subsection shall be reduced in accordance with regulations prescribed by the Assistant Secretary.

"(b) TERMS OF LOANS.—Each eligible student applying for a loan under this title shall sign a written agreement which—

"(1) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under the applicable law, create a binding obligation, endorsement may be required;

"(2) provides that such student will repay the amount of the loan in accordance with the repayment provisions described in section 1606;

"(3) certifies that the student has received and read the notice required by section 1603(a)(3); and

"(4) contains such additional terms and conditions as the Assistant Secretary may prescribe by regulation.

"(c) DISBURSEMENT OF PROCEEDS OF LOANS.—The Assistant Secretary shall, by regulation, provide for the distribution of loans to eligible students and for the appropriate notification of eligible institutions of the amounts of loans which are approved for any eligible student, and for the allocation of the proceeds of such loan by semester or other portion of an academic year. The Assistant Secretary shall distribute the proceeds of loans under this title by disbursing to the eligible institution a check or other instrument that is payable to and requires the endorsement or other certification by the student. Such proceeds shall be credited to any obligations of the eligible student to the eligible institution related to the cost of attendance at such institution, with any excess being paid to the student.

"SEC. 1605. TRUST FUND.

"(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund, to be known as the Income Dependent Educational Assistance Loan Trust Fund (hereafter in this section referred to as the 'Trust Fund'), consisting of such amounts as are transferred to the Trust Fund under subsection (b)(1) of this section, such amounts as are authorized under section 1608, and any interest earned on investment of amounts in the Trust Fund under subsection (c)(3) of this section.

"(b) TRANSFER OF AMOUNTS.—

"(1) IN GENERAL.—Subject to the limitation in paragraph (2), the Secretary of the Treasury shall transfer to the Trust Fund amounts equivalent to repayment levies received in the Treasury under section 59B of the Internal Revenue Code of 1986.

"(2) TRANSFERS BASED ON ESTIMATES.—The amounts required to be transferred to the Trust Fund under paragraph (1) shall be transferred at least quarterly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the Treasury. Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(c) INVESTMENT OF TRUST FUND.—

"(1) IN GENERAL.—It shall be the duty of the Assistant Secretary to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired—

"(A) on original issue at the issue price, or

"(B) by purchase of outstanding obligations at the market price.

The purposes for which obligations of the United States may be issued under chapter 31 of title 31, United States Code, are hereby extended to authorize the issuance at par of special obligations exclusively to the Trust Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the Public Debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Assistant Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

"(2) SALE OF OBLIGATION.—Any obligation acquired by the Trust Fund (except special obligations issued exclusively to the Trust Fund) may be sold by the Assistant Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

"(3) CREDITS TO TRUST FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

"(d) OBLIGATIONS FROM TRUST FUND.—The Assistant Secretary is hereafter authorized to obligate such sums as are available in the Trust Fund (including any amounts not obligated in previous fiscal years) for—

"(1) awarding loans to eligible students in accordance with the provisions of this Act; and

"(2) properly allocable administrative costs of the Federal Government for the activities specified above.

"(e) REPORT TO CONGRESS.—It shall be the duty of the Assistant Secretary to hold the Trust Fund, and to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as both a House and Senate document of the session of the Congress to which the report is made.

"SEC. 1606. REPAYMENT PROVISIONS.

"(a) PROCEDURE.—

"(1) IN GENERAL.—The Assistant Secretary shall develop a procedure for computing a repayment percentage for each borrower under this title using the cohort repayment factors described in paragraph (2).

"(2) FACTORS.—The cohort repayment percentage described in paragraph (1) shall take into consideration the following factors:

"(A) The total amount of loans awarded to the borrower under this title.

"(B) The age of the borrower.

"(C) The year in which such a loan was awarded.

"(D) The cohort repayment percentage shall only apply to the first $50,000 of an individual's wages (as defined in section 3121(a)) and self-employment income (as defined in section 1402(b) of the Internal Revenue Code of 1986), determined without regard to any dollar limitation contained in such sections.

"(E) The cohort repayment percentage shall be adjusted over time for average coverage and self-employment income growth.

"(F) The buyout procedure described in paragraph (3).

"(G) Maximum repayment period shall not exceed 25 years.

"(H) No borrower shall be required to make repayments beyond age 65.

"(I) The Trust Fund is intended to earn an overall interest rate, on all loans made in any academic year equal to the average interest rate on United States obligations issued in such year, plus an administrative expense premium of not more than 0.25 percent.

"(3) BUYOUT PROVISION.—The Assistant Secretary shall develop a procedure under which borrowers may repay, at any time, the total amount of loans borrowed under this title. Such procedure shall include a prepayment premium to discourage borrowers from repaying the total amount of loans borrowed under this title pursuant to the previous sentence.

"(b) CERTIFICATION TO THE SECRETARY OF THE TREASURY.—The Assistant Secretary shall calculate the repayment percentage described in subsection (a) for each borrower that the Assistant Secretary determines is in repayment status, and shall transmit such information along with the borrower's taxpayer identification number to the borrower and to the Secretary of the Treasury by January 1 of each calendar year.

"SEC. 1607. DEFINITIONS.

"For purposes of this title—

"(1) the term 'Assistant Secretary' means the Assistant Secretary For Postsecondary Education;

"(2) the term 'eligible institution' has the meaning given such term by paragraph (1) or (2) of section 435(a); and

"(3) the term 'eligible student' means a student who is a United States citizen and who has attained the age of 17 years but not the age of 56 years.

"SEC. 1608. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Equity Investment in America Trust Fund such sums as may be necessary for fiscal year 1992 and the 4 succeeding fiscal years to carry out the provisions of this title.".

SEC. 2. COLLECTION OF LOANS.

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VIII—EDUCATIONAL LOAN REPAYMENT LEVY

"Sec. 59B. Educational loan repayment levy.

"SEC. 59B. EDUCATIONAL LOAN REPAYMENT LEVY.

"(a) IN GENERAL.—In the case of an individual who receives a certification from the Assistant Secretary of Education under section 1606(b) of the Higher Education Act of 1965, there is hereby imposed (in addition to any other tax imposed by this subtitle) a repayment levy equal to the repayment percentage (as certified by the Assistant Secretary) of such individual's qualified earnings for the taxable year as does not exceed $50,000.

"(b) QUALIFIED EARNINGS.—For purposes of subsection (a), the term 'qualified earnings' means wages (as defined in section 2131(a)) and self-employment income (as defined in section 1402(b)), determined without regard to any dollar limitation contained in such sections.".

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Part VIII. Educational loan repayment levy.".•

ENVIRONMENTAL PROTECTION PROTOCOL TO THE ANTARCTIC TREATY

• Mr. DURENBERGER. Mr. President, 2 weeks ago, I was on the Senate floor asking why the United States was standing alone in its refusal to sign the Antarctic Treaty. As I said then, of the 26 voting members to the Antarctic protocol, we were the only country unable to secure its Government's approval for that treaty. In other words, President Bush would not allow our signature to appear on this document. Following that statement, I also wrote a letter to President Bush expressing my disappointment and asking that he consider allowing the United States' signature to appear on this important charter.

Well, Mr. President, while we were all away during the July 4 recess, he did just that. Last Wednesday, when he was in South Dakota dedicating Mount Rushmore, President Bush announced that the United States will indeed sign the environmental protection protocol to the Antarctic Treaty.

As one of those who expressed previous discontentment with our previously announced reluctance to sign this treaty in its present form, I want to now call attention to the wisdom of last week's decision. And, I wanted to take this opportunity to commend the President for his leadership in protecting this vast and vulnerable natural resource.

Among other things, this new environmental measure will preserve native species of Antarctic plants and animals, and will place essential limits on tourism, waste disposal, and marine pollution. I strongly support these measures that were based largely on U.S. initiatives.

However, it was the mineral development provisions that gave us some reluctance to sign this treaty, even though the current draft leaves open the door to lifting or altering the treaty's ban on mineral activity after 50 years. That provision adequately addresses legitimate United States' concerns regarding potential development—and sufficiently protects the Antarctic environment—without foreclosing future options. Although I am wary of any development, I believe that this is an excellent step toward protecting this world resource for the next half century.

Mr. President, President Bush illustrated his commitment to the environment last year when he directed his administration to work toward an indefinite ban on drilling in Antarctic. This recent decision codifies that commitment and enhances American leadership and credibility on these and other issues involving the global environment.

There is no question that the Environmental protection protocol is of utmost importance to the Antarctic environment. I am thankful that the administration recognized this reality and that, when the voting members convene in October, the words "United States of America" will appear on this very important document.•

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. on Tuesday, July 9; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that the Senate resume consideration of S. 1241, as provided under the previous unanimous-consent agreement; and that on Tuesday, the Senate stand in recess from 12:30 p.m. to 2:15 p.m. in order to accommodate the respective party conferences; further, that Senators may file first-degree amendments until 1 p.m., notwithstanding a recess of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess, under the previous order, until 9:30 a.m. on Tuesday, July 9.

There being no objection, the Senate, at 8:15 p.m., recessed until Tuesday, July 9, 1991, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 8, 1991:

SUPREME COURT OF THE UNITED STATES

CLARENCE THOMAS, OF GEORGIA, TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES, VICE THURGOOD MARSHALL, RETIRED.

IN THE AIR FORCE

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE U.S. AIR FORCE TO THE GRADE OF BRIGADIER GENERAL UNDER THE PROVISIONS OF SECTION 624, TITLE 10 OF THE UNITED STATES CODE:

To be brigadier general

COL. JOHN J. ALLEN [redacted] REGULAR AIR FORCE.
COL. PETER C. BELLISARIO, [redacted] REGULAR AIR FORCE.
COL. PAUL K. CARLTON, JR., [redacted] REGULAR AIR FORCE.
COL. GEORGE P. COLE, JR., [redacted] REGULAR AIR FORCE.

COL. ROGER G. DEKOK, [redacted] REGULAR AIR FORCE.
COL. ROBERT S. DICKMAN, [redacted] REGULAR AIR FORCE.
COL. PATRICK K. GAMBLE [redacted] REGULAR AIR FORCE.
COL. JOHN H. GARRISON, [redacted] REGULAR AIR FORCE.
COL. THOMAS D. GENSLER, [redacted] REGULAR AIR FORCE.
COL. FRANCIS C. GIDEON, JR. [redacted] REGULAR AIR FORCE.
COL. ORIN L. GODSEY, [redacted] REGULAR AIR FORCE.
COL. JOHN A. GORDON, [redacted] REGULAR AIR FORCE.
COL. EDWARD F. GRILLO, JR. [redacted] REGULAR AIR FORCE.
COL. JOHN B. HALL, JR. [redacted] REGULAR AIR FORCE.
COL. JOHN W. HANDY, [redacted] REGULAR AIR FORCE.
COL. CHARLES R. HEFLEBOWER, [redacted] REGULAR AIR FORCE.
COL. THOMAS L. HEMINGWAY, [redacted] REGULAR AIR FORCE.
COL. JAMES L. HIGHAM, [redacted] REGULAR AIR FORCE.
COL. ELDON W. JOERSZ, [redacted] REGULAR AIR FORCE.
COL. DWIGHT M. KEALOHA, [redacted] REGULAR AIR FORCE.
COL. THOMAS E. KUENNING, JR., [redacted] REGULAR AIR FORCE.
COL. NORMAND G. LEZY, [redacted] REGULAR AIR FORCE.
COL. DONALD E. LORANGER, JR. [redacted] REGULAR AIR FORCE.
COL. EUGENE A. LUPIA, [redacted] REGULAR AIR FORCE.
COL. JAMES I. MATHERS [redacted] REGULAR AIR FORCE.
COL. JOHN M. MCBROOM, [redacted] REGULAR AIR FORCE.
COL. GEORGE K. MUELLNER, [redacted] REGULAR AIR FORCE.
COL. LLOYD W. NEWTON, [redacted] REGULAR AIR FORCE.
COL. TAD J. OELSTROM, [redacted] REGULAR AIR FORCE.
COL. RUDOLF F. PEKSENS [redacted] REGULAR AIR FORCE.
COL. THOMAS D. PILSCH, [redacted] REGULAR AIR FORCE.
COL. ROBERT F. RAGGIO, [redacted] REGULAR AIR FORCE.
COL. JAMES M. RICHARDS, III [redacted] REGULAR AIR FORCE.
COL. JOHN B. SAMS, JR. [redacted] REGULAR AIR FORCE.
COL. MONROE S. SAMS, JR. [redacted] REGULAR AIR FORCE.
COL. MICHAEL C. SHORT, [redacted] REGULAR AIR FORCE.
COL. RAYMOND A. SHULSTAD, [redacted] REGULAR AIR FORCE.
COL. RONDAL H. SMITH, [redacted] REGULAR AIR FORCE.
COL. EUGENE L. TATTINI [redacted] REGULAR AIR FORCE.
COL. ANTHONY J. TOLIN, [redacted] REGULAR AIR FORCE.
COL. SUE E. TURNER [redacted] REGULAR AIR FORCE.

IN THE ARMY

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. JAMES R. HALL, JR [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. LEON E. SALOMON [redacted] U.S. ARMY.

IN THE AIR FORCE

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8067, TO PERFORM DUTIES INDICATED WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A HIGHER GRADE THAN THAT INDICATED.

MEDICAL CORPS

To be colonel

FRANK E. CARPENTER [redacted]

DENTAL CORPS

To be lieutenant colonel

LUIS J. BLANCO [redacted]
JOSEPH J. BUTASEK [redacted]
CRAIG L. NELSON [redacted]

To be major

MICHAEL J. ATWOOD [redacted]
DAVID A. GONZALES [redacted]
GEORGE H. GUERRANT [redacted]
KELVIN K. KRAUSE [redacted]
PATRICK A. MATTIE [redacted]
DENNIS R. MILLER [redacted]
THOMAS G. OLDAG [redacted]
DONALD C. SEDBERRY [redacted]
OTHA L. SOLOMON, JR [redacted]
RONALD G. VERRETT [redacted]

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICER BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

LINE OF THE AIR FORCE

To be captain

STEPHEN M. HASWELL [redacted]

THE FOLLOWING INDIVIDUALS FOR APPOINTMENT AS RESERVE OF THE AIR FORCE, IN GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 593, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8067, TO PERFORM THE DUTIES INDICATED.

MEDICAL CORPS

To be lieutenant colonel

DANIEL P. GREEN, JR. [redacted]
BHAKTAN KRISHNAN [redacted]
DAVID A. STRASSBURG [redacted]

THE FOLLOWING AIR FORCE OFFICERS FOR PERMANENT PROMOTION IN THE UNITED STATES AIR FORCE, IN ACCORDANCE WITH TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 1552, WITH DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

LINE OF THE AIR FORCE

To be colonel

CHARLES P. DATEMA [redacted]
JOHN W. FISHER [redacted]

To be lieutenant colonel

JOHN D. VAIL [redacted]

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 593 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER)

LINE OF THE AIR FORCE

To be lieutenant colonel

MAJOR REESE R. ARMSTRONG, [redacted] 3/7/91.
MAJOR BARRY D. BEARDSLEE [redacted] 3/22/91.
MAJOR EDWARD W. BOYKIN, [redacted] 3/2/91.
MAJOR JAMES C. BROWN, [redacted] 3/19/91.
MAJOR RONALD C. BROWN, [redacted] 3/4/91.
MAJOR DAVID A. BRUBAKER, [redacted] 3/18/91.
MAJOR ALLEN B. COFIORI, [redacted] 3/2/91.
MAJOR HUGH T. COLE III, [redacted] 3/14/91.
MAJOR GARRY L. FRAISE, [redacted] 2/28/91.
MAJOR GARY L. HALL, [redacted] 2/28/91.
MAJOR VAUGHON C. HANCHETT, [redacted] 3/11/91.
MAJOR RICHARD W. JOHNSON, [redacted] 2/25/91.
MAJOR GREGORY E. KEEFE, [redacted] 3/19/91.
MAJOR STEPHEN W. LEFEBVRE, [redacted] 3/1/91.
MAJOR DONALD E. MCKELVEY, [redacted] 3/22/91.
MAJOR ARNE E. MOE, [redacted] 3/22/91.
MAJOR BARRON V. NESSELRODE, [redacted] 3/18/91.
MAJOR JOHN PATRICK, JR., [redacted] 3/2/91.
MAJOR JOHN G. POSEY, [redacted] 3/5/91.
MAJOR THOMAS J. RADEKE, [redacted] 2/28/91.
MAJOR HAROLD E. REED, [redacted] 3/20/91.
MAJOR ALBERT L. ROSE, [redacted] 3/3/91.
MAJOR JAMES E. SHEPARD, [redacted] 3/9/91.
MAJOR KENNETH R. SIMPSON, [redacted] 1/6/90.
MAJOR ROBERT J. STACK, [redacted] 3/3/91.
MAJOR CHARLES R. STUEVE, [redacted] 3/3/91.
MAJOR JAY W. VANPELT, [redacted] 2/21/91.
MAJOR STEPHEN L. VONDERHEIDE, [redacted] 3/11/91.
MAJOR DONALD F. WAID, [redacted] 2/22/91.
MAJOR ROY F. WALDEN, [redacted] 3/9/91.
MAJOR PATRICK C. WELCH, [redacted] 3/14/91.
MAJOR GREGORY G. WILMOTH, [redacted] 3/18/91.
MAJOR DANIEL J. WILSON, [redacted] 3/18/91.

CHAPLAIN CORPS

To be lieutenant colonel

MAJ. VERGEL L. LATTIMORE [redacted] 1/31/91.

BIOMEDICAL SCIENCES CORPS

To be lieutenant colonel

MAJ. CARL W. OBERG, [redacted] 3/1/91.

DENTAL CORPS

To be lieutenant colonel

MAJ. RANEY J. DESCHENES [redacted] 3/1/91.
MAJ. EDMUND D. EFFORT [redacted] 2/9/91.

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C. SECTIONS 593(A); AND 3385:

ARMY PROMOTION LIST

To be colonel

MAYNARD K. BEAN [redacted]
HAL E. HUNTER, III [redacted]
PETE G. MILEY [redacted]
PAUL E. NEATROUR [redacted]
MARION W. REESE [redacted]
MICHAEL A. REYNOLDS [redacted]
RAYMOND L. SAVO [redacted]

ARMY PROMOTION LIST

To be lieutenant colonel

DAVID R. BACKES [redacted]
DENISE N. BAKEN [redacted]
JOHN M. BRAUN [redacted]
DOUGLAS FRIEDMAN, [redacted]
JOHN R. GROVES, JR. [redacted]
DONALD A. HAUS, [redacted]
CARL D. LAWRENCE [redacted]
LAWRENCE H. LEE [redacted]
JOHN J. ORMANDO [redacted]
SIDNEY S. RIGGS, III [redacted]
JOSEPH M. SCATURO [redacted]
FRANK J. SMITH [redacted]
KENT A. SMITH [redacted]
THOMAS J. SULLIVAN [redacted]
JOHN B. STATOVY, JR. [redacted]
DAVID C. STROCK [redacted]
DANIEL J. TAYLOR [redacted]

CHAPLAIN CORPS

To be lieutenant colonel

WILLIAM R. MORGAN [redacted]

MEDICAL SERVICE CORPS

To be lieutenant colonel

ELIZABETH I. ROBINSON-FLANDERS [redacted]

ARMY NURSE CORPS

To be lieutenant colonel

DELORES J. PODHORN [redacted]

IN THE NAVY

THE FOLLOWING NAMED NAVY ENLISTED COMMISSIONING PROGRAM CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

JAMES M. CASTLEBERRY
CAROL N. DULA
CLEVELAND O. EASON
LAURI A. GEVERINK WETZE
SIDNEY E. HALL
SHAUN A. HILLIS
DWIGHT D. KILGORE
DAVID M. MCCAIN
BRUCE E. MILCHUCK
DARRY M. TOPPIN
JAMES R. WORTHY

THE FOLLOWING NAMED DISTINGUISHED NAVAL GRADUATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

CHRIS ANDERSON
TRACY BERGEN
STEVEN BLATUS
MATTHEW BULLWINKEL
ANDREW COLLIER
JAMES J. CROSS
ROBERT JOHNSON
DARRYL MADERY
JEFFERY MASON
RONALD MCFARLAND
JASON MILLER
GARY J. PATENAUDE
TERRY E. RIENER
JOEL ROBINSON
RICHARD H. ROSS
GREGORY SAUKULAK
CHRISTOPHER SCHWARTZ
CHRISTOPHER SERWINSKI
PATRICIA SNYDER
STEPHEN TUCK
ARTHUR WAGNER
WILLIAM WALSH
DAVID WILLIAMS
JOHN J. ZERR, II

THE FOLLOWING NAMED LIEUTENANT (JUNIOR GRADE) U.S. NAVY, RETIRED, TO BE REAPPOINTED PERMANENT CHIEF WARRANT OFFICER, W–2 AND TEMPORARY LIEUTENANT (JUNIOR GRADE) FROM THE TEMPORARY DISABILITY RETIRED LIST, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 1211

BOBBY D. GAY

THE FOLLOWING NAMED U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

ANTONIA C. CHALMERS

THE FOLLOWING NAMED U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE LINE OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

VICKI S. PEARSON

IN THE NAVY

THE FOLLOWING NAMED COMMANDERS OF THE RESERVE OF THE U. S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF CAPTAIN IN THE STAFF CORPS, AS INDICATED, PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

MEDICAL CORPS OFFICERS

To be captain

ROBERT FREDRICK AARSTAD
HAROLD KENDALL AGNER
ELI T. ANDERSON
MIGUEL ANGEL ARCACHA, JR
JOSEPH ANTHONY ARENDS
ANGELITO MERCADO ARIAS
ROBERT MARSHALL AUSTIN
RICHARD WEYRO BABIN
MICHAEL STEPHEN BAKER

NATHAN BARRETT
JUAN CARLOS BARRIONUEVO
JAMES DEWITT BEARDEN, III
PHILIP C. BENTON
ARJUN BHATTACHARYA
ALEXANDER ANTHONY BIRCH, JR
KIRBY ISAAC BLAND
RICHARD ALAN BLOOMFIELD
ROBERT EMMETT BONNER
STANLEY EDWARD BORUM
JOHN PATRICK BRYANT
VERNON CARLISLE BUCKLEY
EDWIN PETER CAMIEL, JR
JOHN ANTHONY CELLA
MARTHA STEELE CHINNERY
FRANCIS HAMMOND COLE, JR
DAVID E. CONWILL
PAUL BOWMAN CORBETT
CARMEN J. CORRALL
JOHN MICHAEL COSTANTINO
JAMES MICHAEL DAILY
THOMAS ALAN DANIEL
REBECCA ELIZABETH DEVILLERS
JOHN DUFFY DEWALT
GREGORY JOHN ESTLUND
LUIS GALLO ESTRERA, JR
KURT JAMES EVANS
THOMAS CAREY FARRELL, JR
JOHN A. FETCHERO, JR
DAVID R. FIELD
ALAN MARK FIRESTONE
JON MEREDITH GREIF
VICENTE ALVAREZ GUECO, JR
GERALD DOUGLAS HAGIN
GARY J. HARPOLD
JERALD BRUCE HERSHMAN
RALPH WILLIAM HIGER
CHARLES MARSHALL HOUSE
SHAHIDUL ISLAM
JAMES MARTIN JACQUET, JR
BLUETT EMERY JONES
CHARLES BRUCE JONES
BILL CHESTER JOSWIG
SEBASTIAN KALLINGAL
DAESONG KIM
SEIJI KITAGAWA
RICHARD W. KLATT
EUGENE STEVEN KOSTIUK
WILLIAM MARTIN LIEBMAN
JOHN M. LIVINGSTON
PHILLIP REID LUBBERS
PETER JOSEPH LUKOWSKI
BRUCE ARNON MALLIN
MARTIN J. MALONEY
HAROLD VICTOR MARKESBERY
JOHN OWEN MARTIN, JR
FREDERICK W. MAYER
PAUL MICHAEL MCFADDEN
VENU GOPAL MENON
LEONARD A. METILDI
STEPHEN MICHAEL MILLBERN
THOMAS R. MOORE
COLEMAN A. MOSLEY, JR
CHARLES EVANS MURPHY, JR
E. ANN MYERS
BOBBY GENE NEVILS
JOHN GREGORY NEWBY
EDWARD JOSEPH OTTEN
GREGORY P. PARK
JOHN A. PAUZE
PETER EMMETT PHILBIN
RODOLFO LIONGCO PINEDA
DONALD SANDERSON PROUGH
RONALD LLOYD RHULE
CHARLES LANE RICE
JACK EDWARD RIGGS
WILLIAM VINCENT RONAN
RONALD PHILLIP ROPER
PAULA A. RYALS
ROBERT FRANK SACHA
WILLIAM FRANCIS SCHRANTZ
JOHN CHRISTIAN SCHWARTZ
WILLIAM ORLON SHAFFER
ALAN I. SHAPIRO
GEORGE M. SHUMAIK
DURET STANFORD SMITH
ROBERT W. SMITH
JONATHAN GERSHON SOLOMON
WARD WILLIAM STEVENS, JR
LARRY DOUGLAS SUTTON
SHERIDAN ANDREW THIRINGER
DONALD BRUCE THORNTON
MICHAEL P. VEZERIDIS
RICHARD PAUL VIDACOVICH
BRADY COLE WAY
CHARLES EDWARD WHITE
JOHN CHARLES WILLIAMSON
JAMES DEWITT WOODS

DENTAL CORPS OFFICERS

To be captain

STEPHEN GRIFFIN ALVIS
JOHN B. CHRISTENSEN
ROBERT LOWELL DUELL
EARL THOMAS ELSTNER, JR
BRUCE C. HEILMAN
RONALD P. HEMPEL
GILBERT HORACE LARSON
THOMAS MACARTHUR LEWIS
RICHARD ANTHONY MANCINO
ERNEST WILLIAM MEHARRA
BYRON THAD PETERSEN
WILLIAM LOUIS ROBERTS
LOUIS DAVID SCHULTZ
RANDALL M. SPEER
THOMAS HAL STEWART
CHARLES E. TONEY
PHILIP L. TOPCIK
JONATHAN CHARLES WALDRON
JOSEPH A. WANDERS
JAMES D. WATKINS
PETER M. WEAVER
THOMAS M. WILLIAMS

MEDICAL SERVICE CORPS OFFICERS

To be captain

JOSEPH CARROLL FISHER
ROBERT MARTIN HEUBLEIN, JR
HENRY ALEXANDER HUDSON, JR
PERRY THOMPSON JONES
MARK T. MCDOWALL
MARSTON VAL ROLOFF
RICHARD MCLLAR FAIR SOUTHBY
KAREN STEPHANIE VARTAN

JUDGE ADVOCATE GENERAL'S CORPS OFFICERS

To be captain

DAVID WORTH BAGLEY, II
JOSEPH A. BROOKS
CRAY JENINGS COPPINS, JR
MICHAEL J. DONAHUE
WILLIAM KENNETH EWAN
JOHN LESLIE HILLER
CHARLES MARSHALL INGRAM
ARTHUR LEARY, III
GEORGE WRIGHT LENNON
NORMAN LEE MILLER
DONALD LEONARD NELSON
ROBERT C. PETERSON
DAVID GALLIMORE POWELL
DALE W. READ, JR
JAMES W. RUDE
ANTHONY WAYNE VAUGHN
JOHN G. WALLACE
LISALEE ANNE WELLS

NURSE CORPS OFFICERS

To be captain

MARIE DIANNE COOK
MARGARET ALLYN CROWE
DIANE LYNN DUDDLES
BARBARA HARRIS ENGLISBE
MARSHA ARLENE FITZGERALD
PAULA RUTH GALLAGHER
ANITA MOBLEY GILLCHREST
ANN FLYNN HOLLER
HELENMARIE BERGIN KRANZ
KATHLEEN ANN LADNER
BRENDA ROGERS LANCE
SUZANNE ELIZABETH MALLOY
DOROTHY ANN MCKINZIE
JACQUELINE LEE OBERBECK
CLAIRE JUDITH PATTERSON
ALEXANDRA GARRISON POLLARD
BERNICE REAVIS SCHROBO
MARTHA PHILLIPS SHEPHERD
MARY CASE WHEELER
REGGIE ARTHUR WILLIAMS

SUPPLY CORPS OFFICERS

To be captain

SAMUEL ALPHONSE ALLEN, JR
WALTER DENNIS ATCHLEY
PAUL GEORGE BANG
KIM DOUGLAS BARRETT
WILLIAM STROKER BATES
LESLIE JAMES BEASSIE
RICHARD EDWARD BRADLEY
JOHN PRICE BURKE
JACK ARTHUR CANON
GERALD DUANE CLARK
FREDERICK WEAVER CLARKE, IV
EDWARD GEORGE CUMESTY
JOHN LEROY CUMMINS
MICHAEL FRANCIS CURTIN
ROBERT ERNEST DAVIS
JOHN EDWARD DELAPPA
DANIEL JOSEPH DICKERSON
JAMES WHITNEY DUNCAN
GENE HARVEY DUNLAP
DANIEL EDWARD FERRARI
ALVIN FINCH
JACK ALLEN GILBERT
JOHN CLEMENT GILLESPIE
KENT MICHAEL GREALISH
DAVID MICHAEL GRIMES
MICHAEL GOODWIN HARRINGTON
JOHN KEITH HASSENPLUG
REGINALD STANLEY HAYES
WILLIAM ANDREW HILL, III
JAMES M. HOLLOWAY, JR
MARK ANDREW HUBBARD
PATRICK ELBERT HURLEY
WALTER WILLIAM JENKINS
STEVEN KENT JOHNSON
WILLIAM ALFRED JOHNSON
GEORGE BRYAN JONES, JR
LARRY JAMES KAYE
PAUL RICHARDSON KEEFER
JAMES PETER KOELSCH
BRUCE EDWARD KOSAVEACH
WILLIAM WENDELL KRONCKE
JAMES WILLIAM LOCKE, JR
JAY FREDRIC LUBIN
NORMAN WILLIAM MADGE
ROY ESTILL MILLER, III
ROBERT RYLAND PERCY, III
CURTIS ERNST PEW
WILLIAM BROWN PIERCE
EDWARD JOSEPH QUIJADA
LYLE VERNON RICH
JOHN WAYNE ROGERS
CLAYTON LEE SCHENCK
JOHN SAMUEL SHAFFER
STEPHEN LLOYD SIDES
WILLIAM EMIL STAHNKE
RICHARD RALPH STOCKING
KENNETH GRAY TILLEY, JR
WILLIAM H. TRIPLETT, JR
BRIAN CLINTON UNDERWOOD
EDWARD SEYMOUR UNDERWOOD, JR
RICHARD HENRY VALADE
JAMES MARTIN WARD
JOSEPH EDWARD WILLIAMSON
CAREY ROBERT WONG
FREDERICK GARRY WONG

SUPPLY CORPS OFFICERS (TAR)

To be captain

JACQUES T. BELLAIRS
BRIAN QUINN HALLER
JOHN PAUL OCHENKOWSKI
THOMAS W. ROSSLEY

CHAPLAIN CORPS OFFICERS

To be captain

PETER HESS BECKWITH
WILLIAM GERARD CONDON
NOEL VERNON GRIFFETH
WILLIAM ROBERT MAY
LOWELL H. MAYS
THOMAS BERNARD MCGRATH
NEALE CORNELIUS THOMPSON

CIVIL ENGINEER CORPS OFFICERS

To be captain

KENNETH ADAIR CHACEY
LARRY GEORGE DEVRIES
THOMAS EDWARD DIERCKMAN
FRANCIS EMIDIO FALCONE
CARL EDMUND JACOBSON
DALE C. JOHANNESMEYER
THOMAS SCOTT KEY
BRUCE HAROLD KINNEY
HUGH WILLIAM MARCY
JOSEPH A. MCKENZIE, III
JAMES MICHIO NAGASHIMA
RICHARD DEAN PADRICK
NORMAN D. RADERER
JAMES GRAVES ROGERS, III
BRUCE HUGH SPELLER
MARLIN U. THOMAS

IN THE NAVY

THE FOLLOWING NAMED LIEUTENANT COMMANDERS OF THE RESERVE OF THE U. S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF COMMANDER IN THE STAFF CORPS, AS INDICATED, PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

MEDICAL CORPS OFFICERS

To be commander

LAWRENCE ELLIOTT ADLER
AUBREY LOUIS ARMSTRONG
GARY LEIGH ATKINSON
CHARLES OLIVER BARKER
WEBSTER CARLYLE BAZEMORE
ISIS ANIS BEBAWY
ALYN LAMAR BENEZETTE
ROBERT FRANKLIN BLOOM
GERARD D. BROWN
THOMAS LAVERN BRYANT
WILLIAM RODGRICH BURGE
ENRIQUE GUILLERMO CHANG
BLISS WATSON CLARK
ROBERT H. CONDON
NICHOLAS A. COOK
STEVEN WALTER COUTRAS
DANIEL LAWRENCE DALE
DAVID BENJAMIN DANZER
KARLOTTA MARGARET DAVIS
JOHN M. DAWSON
ANDREW CHRISTOPHE DELAURIER
PATRICK DENNIS DEMARS
CLIFFORD SCOTT DEUTSCHMAN
THOMAS W. DUGDALE
ROBERT WILLIAM DUNLAY
TAREK AHMED ELBESHBESHY
JOHN ERDMAN
STEPHEN RICHARD EVANS
MARK JOSEPH FITZMAURICE
LOUIS BLANDING FOWLER, JR
DANIEL JOSEPH FREDMAN
MICHAEL JAMES GAFFEY
SABAH KAMIL GEORGE
JEFFREY D. GEORGIA
RICHARD HENRY GETTYS, JR
JERRY SAMUEL GIVENS
GARY MICHAEL GLAZE
ANTONI BERNARD GORAL
JAMES N. GROTH
PAUL F. GUAY
ANDREW CHARLES GYGI, JR
DALE E. HANSEN
RUSSELL HOWARD HARRIS
ROSS A. HELLER
ELWOOD W. HOPKINS, III
GARY RICHARD HOROWITZ
MICHAEL JOHN HUGHEY
KELVIN BRADLEY IMHOF
LAVERNE DOROTHY INGRAM
LEROY THOMAS JACKSON
DANIEL MORRIS JACOBS
JOHN M. JOLY
STEVE ERLING JORDAN
JERRY R. KELLEY
CATHERINE THERESA KEMMER
SALEEM AHMED KHAN
ERIC POST KINDWALL
ARNOLD S. KIRSHENBAUM
DAVID STEPHEN KLEIN
JOHN A. KONA
CRAIG HOWARD LEICHT
PETER BREWSTER LETARTE
RALPH WAYNE LOVE
GREGORY MARTIN LOWER
OSCAR ERNEST LUJAN
DOUGALD C. MACGILLIVRAY
RONALD C. MACINTYRE
GEORGE PATRICK MACRIS
HOWARD WILLIAM MARKER
FREDRICK ALLAN MARTIN
DOUGLAS WILLIAM MARX
JAMES VINCENT MCGARRY
GREGORY J. MCHUGH
MARGARET MARY MCKIBBEN
SCOTT ALAN MCPHERSON
JAY HARVEY MEAD
LEE MILLER MORIN
STEVEN RONALD MYRICK
RALPH ARTHUR NELSON
FREDERIC GEORGE NICOLA
PRASIT NIMITYONGSKUL
THOMAS WILLIAM OBRIEN
CHARLES DICKENS OFFICER
WILLIAM YOUNG OH
JOHN H. OLDERSHAW
TIMOTHY HERBERT OMLEY
ROBIN E. OSBORN
JOHN FRANCISCO PADILLA
KIRK D. PAGEL
STEPHEN KELLER PARKINSON
LEWIS REUVEN PASTERNAK
PABLO MANABANAN PEREZ
WHITTON MARK POTAMPA
TERRY PAUL RAST
MICHAEL PAUL REGAN
DORIS ANNETTE REID
WILLIAM OWEN RICHARDS
PHILIP GAVIN ROBINSON
WILLCOX KIRKLAND RUFFIN
WILLIAM NEVINS RUSH
GREGORY MICHAEL SARACCO
VICTOR F. SCHORN
ALAN G. SCHREIBER
THOMAS PATRICK SHEEHAN
GEORGE HASKEL SIMMONS
ANTHONY V. SMITH
DAVID ALBERT SMITH
ARINETA SPEER
CHESTER LEE STRUNK
BENTO HAO TAN
TIMOTHY BOHDAN TRUSEWYCH
LARRY EVANS TUNE
FRED MONROE USSERY, III
LEONARD JOSEPH WEIRETER, JR
ANDREW JOHN WILSON
JOSEPH FREDERIC WILSON
ABRAHAM LINCOLN WOODS, III
DEATRA LYNN YOUNG
MICHAEL S. ZIEBELMAN

DENTAL CORPS OFFICERS

To be commander

MICHAEL ANTHONY ABBOTT
DAVID L. BLACK
RICHARD R. BRIGHT, JR
THOMAS R. BRODERICK
REGINALD HORACE CARDOZO
CAROLINE ESTHER CIOTTI
MARY V. DECICCO
NEIL DAVID DEMAREE
JOAN E. DENDINGER
WILLIAM J. DICKINSON
JOHN E. EDGERTON
JOSEPH W. FULLER, III
YENDIS LETITIA GIBSONKING
EDWARD WYATT GRAY
HAROLD CHRIS HAAS
BOLIVAR P. HERDOIZA
GEORGE M. HILGENDORF, JR
JOHN JONE JING HOM
LAWRENCE NMN HSIA
THOMAS GREGORY JACOBS
DAVID WILLIAM JAMESON
DAVID ROY JENNINGS
STEVEN C. MARTINKA
ROBERT CHARLES MILLER
ALBERT NMN NERI, JR
RICHARD D. NOURSE
GLENN M. OKIHIRO
BRIAN P. OSULLIVAN
WILLIAM E. PEARSON
GARY RICHARD PETERSON
DONALD MIER PRIMLEY
EDWARD A. PRISTERNIK
JAMES P. RITTER
GUSTAV ROBERT ROBERTSON
DAVID LEE SEALS
JAMES A. STAKIAS
MYRON JAY TARANOW
DAVID P. TIMMIS
JOSEPH RICHARD TYSON
PAUL F. VARNIS
MARTHA COCHRAN WALLACE
DEBORAH JEANNE WHITMAN
HARRIS EDWARDS WILLIAMS
DOUGLAS L. WIRTH
JOHN D. YOUNG

MEDICAL SERVICE CORPS OFFICERS

To be commander

PAUL E. ANTONIOU
MELVIN VICTOR BERRETT
JOHN GLEN BLUMENSTOCK
ARCHIE THEODORE BOURBON, JR
WILLIAM JAMES BUCKINGHAM
LYNN ASA DUBOSE
RAYMOND LAVERNE FORD
DARRELL RAY GALLOWAY
JOHN HENRY GILBERT, III
LARRY THOMAS HARTUNG
MICHAEL JOHN HITCHKO
ELIZABETH KATHLEEN HOLMES
RONALD SABY JULIANA
JIMMIE O. LLOYD
MARIE FRANCES LYON
DANIEL LEROY MANNEN
DAVID B. MATHER
EDDIE MCCORVEY, JR
ROBERT E. MCGUIRE
LESLIE CLIFFORD NOLEN
JEANINE NOEL OROURKE
WALTER CARL OTTO, JR
DENNIS R. PERRY
RAY RICHARD QUINTO
KENNETH EVERETT ROBINSON
MARSHA ALLISON SCHJOLBERG
THOMAS KLINE SEELY
VANN ARTHUR SMITH
STANLEY ALLAN STRAUSS
CREED TAYLOR, JR
HARVEY FLOYD THOMAS
JAMES RANDALL VROOM
ROBERT MICHAEL WARLING
RUSSELL JAMES WATSON
ALAN DAVID WILL

DENNIS EDWARD WONG
BENNIE THELMON WOODARD, JR
DAVID RICHARD WOODARD
RICHARD CHARLES ZATCOFF

JUDGE ADVOCATE GENERAL'S CORPS OFFICERS

To be commander

RICHARD CHESTER ADAMSON
LOIS B. AGRONICK
PETER JOHN BRADY
JOSEPH JOHN CHOVANEC, II
KRISTY LYNN CHRISTEN
CHARLES CARSON COMPTON
PETER CHRISTOPHER CUSHING
THOMAS NED DAVIS, JR
THOMAS JAMES DEMAY
WILLIAM PATRICK DEVEREAUX
EARL FREDERICK DEWEY, II
HARRY A. DUSENBERRY
DANTE M. FILETTI
STEPHEN JAY FIREOVED
PETER F. FROST
DANIEL P. FRY
PAUL HOWARD GILLIAM
THOMAS P. GROCE
LAWRENCE PAGE HADDOCK, JR
ARTHUR LESTER HAIZLIP
TIMOTHY PATRICK HANNON
JAMES FRANCIS HARRINGTON
LEONARD JAMES HENSON
DANIEL JOSEPH HERLING
LOUANN LEAMING HOFMANN
ROBERT FRANCIS HUARD
CHARLES S. HUGHES
JEFFREY A. HURLEY
GORDON DOUGLAS IVINS
NORTON C. JOERG
ATHIEL STAUBYN JONES
PHILEMINA MCNEIL JONES
BRADLEY KEITH KOLMAN
MOHMMAD FAROOQ LAKHANI
HENRY NMN LAZZARO
DAVID DALTON LENNON
EDWARD J. LYNCH
RICHARD B. MILLER
WILLIAM ERIC MINAMYER
LARRY CHARLES MOORER
RICKIE LEON PEARSON
THOMAS C. SANTORO
CHESTER LEONARD SMITH, JR
ROBERT J. SMITH
FRANK L. TEZAK
ANDREW A. THOMAS
JOSEPH PATRICK TWINING
THOMAS H. VANHOOZER, JR
FREDERICK ARTHUR WILD, III
GERALD A. WILLIAMS
PHILIP EDWARD WILLIAMS
RICHARD MICHAEL WILLIAMS
STEPHEN LOUIS WILSON
JAMES ANDREW WYNN, JR
BENEDICT K. ZOBRIST, II

NURSE CORPS OFFICERS

To be commander

BARBARA QUINN ALLEN
JUDITH JEAN ARMITAGE
BONNIE EDITH ASHCOM
MINDY LAFAYE ASHTON
NANCY JUNE ATKINSON
THOMAS KEEN BADGER
PATRICIA H. BAIRD
ARLINDA JANE BEFORT
PAMELA HELEN BEGERT
NEGRON SUSAN MARIE BENYA
RUTHANNE BISHOP
ARTHUR DOUGLAS BLACKSHAW, JR
TOM WILLIAM BLANEY
PHILIP LEE BOERSTLER
EILEEN OBRIEN BOW
CAROL MARIE BROWN
HONORENE LAURAINE BROWN
LINDA KAY BROWN
WILLIAM EDWARD BROWN
DIANNE MARIE CAPRIDOWDY
MARY KELLY CAREY
SUE DARNELL CARNER
YVONNE MARIE CAVENEY
MAUREEN ANNE CHRISTOPHER
PETER PAUL CHVALA, JR
JUDITH ANN COHEN
JENNIFER LYNN COLLINS
KATHLEEN MARIE COMBS
JOAN ELMYRA COTTER
GAIL DAVIS CRAWFORD
SUSAN ANN CUDDY
MARY JULENA DAACK
MARY ELLA DEAN
JOHNNA LYNN DETTIS
ANGELA DIGRANDE
PATRICIA S. DONOVAN
LINDA MLADENKA DUNN
NANCY ELAINE DUNN
MARY LEE EADY
JOYCE ANDREA ECKHART
NANCY FIGEROID ERICKSEN
KATE GILLIES FELIX
CYNTHIA MAJESKI FIELD
ALBERT JAMES FITTIPALDI
KAREN WISNIEWSKI FOSTER
CARMELLA ANN FRANZ
CAROLE KATHLEEN FREUND
JOANNE ELIZABETH FRITCH
PATRICIA ANN GARRITY
JUDITH KATHRYN GAVIGAN
KATHY SUE GOOKIN
PAUL ALLEN GRAY, JR
SANDRA HARRIS GROENE
ELLEN FRANCES HALTER
MARGARET MCDONALD HAMMOND
SUSAN JANE HART
MARGARET ELLEN HASLER
GLORIA JEAN HENDERSON
RANDI KATHLEEN HIBAN
LINDA GARLENE HOLLEMAN
FREDA MAY JONES
JUDITH NUTT JONES
DONNA INGS KREFT
VICKI LYNN KUCH
GAIL LYNN KUHN
ANN LABORDE
SANDRA LEE LANICCA
MARY LOU LAPOINTE
JOSEPH CLEOPHAS LEBLANC, JR
CAROL ANN MAHONEY
JULIE FLEMING MARTINDALE
CHRISTINE MARIE MAY
LAURA ANN MCCLAY
TERRI CHRISTINE MCDONALD
ELIZABETH GUNTHORPE MERCKER
VICTORIA ELIZABETH MEYER
ROBERTA LEE MORIARTY
LAUREL ANNE MURRAY
BARBARA LOUISE NASTARI
JOHN PETER OUDSHOORN
DOROTHY BALKCOM PALER
NANCY MICHELL PAULS
SHAUNEE KAY PITMAN
PATRICIA SILLMAN POHL
VIRGINIA YODER PRUETT
KATHERINE ELAINE RATH
LOUISE MAE REINERT
JUDITH EILEEN ROCKWELL
RAE ANN ROSSA
MARCIA ELISE ROSTAD
CYNTHIA ANN ROSTOCK
CAROL SCHAEFERMCKNIGHT
ANNE MARIE SCHIEL
ANN CHRISTINE SCHWEITZER
MARY KATHLEEN SMITH
SARA JULIUS SONGY
MARGARET ELLEN SPATH
ELSIE MARGARET SPENCER
SHARON LOUISE SPROWLS
DONNA DANIELS STAIGER
DEBORAH KAREN LUNDBE STEELE
JULIA GRIMM STEVENS
MABELLE KATHLEEN STURM
SUSAN CAROL TESAR
PATRICIA JAMES TURNER
MELINDA HAYNES VERNON
CHRISTINE MARIE WALSH
SHIRLEY JEAN WALZ
MARY LOU WASSEL
DONNA JOHNSON WEHE
MARY GLENN WESTON
EILEEN JOYCE LORD WILLIAMS
VANCE ARNOLD WORMWOOD
MARILYN LEE WRIGHT
CAROL ANN YATES

SUPPLY CORPS OFFICERS

To be commander

THOMAS K. AANSTOOS
THOMAS L. ANDREWS, III
KIMBERLY JOY ANNUNZIATA
ERIC JOHN ATKINSON
CHARLES THOMAS BACH
THOMAS QUENTIN BAKKE
HARVEY HAROLD BLACKISTON
THOMAS FLOYD BOYCE
DAVID W. BUNTIN
JACK M. CAPELLA
MICHAEL F. CARON
MARK E. CHESTON
DOUGLAS CHIN
WAYNE H. CROW
MARGARET ANN CUNNINGHAM
RICHARD WALTER DAVIS
JAMES RAYMOND DEVINEY
JACKIE MICHAEL DOOLY
DAVID E. DRIVER
JAMES ALAN DUERMEYER
JOHN ROGER DURMICK
RAYMOND PHILLIP ENGLISH
THOMAS HERBERT BRYA FERRANT
STEVEN SCOTT FOSTER
THOMAS M. FRESHWATER
DANIEL LOUIS FREYE
RICHARD GARTMAYER
BRYAN R. GENT
ALFRED F. GENTLE, JR
JAMES R. GEORGE
MICHAEL DENNIS GLOVER
GREG J. GOEKS
MICHAEL MILTON GRADO
EDWARD DELNO GROVE
EDWARD M. GRUBE
EDWARD GARRETT GUMMER
ROBERT DEAN HAAS
MELVIN STUART HARDER, III
JOHN PAUL HODGES
JAMES HOWARD HUEFNER
LAWRENCE JOHN HUWE
BRIAN SANFORD ISHAM
JOHN O. JENSEN
J. W. KALKSTEIN
JOHN MARSHALL KILLEY
JAMES KINNARD
ALVIN HENRY KLASSEN
WALTER GLENN KNOX
DOUGLAS JAMES KOUPASH
ALLAN K. LABARRE
KENNETH LEON LAWING
ROBERT MICHAEL LOVE
JOHN WILLARD MADSEN
DAVID WILLIAM MAIBAUM
HELEN DIANE MANNO
FRANK FRICK MASTERSON, JR
LISA HEATLY MASTERSON
JOHN RICHARD MESENBRINK
CLINTON THADDEUS MESSNER, II
JON LEE MILLS
THEODORE J. MONACO
MICHAEL JOHN ODONNELL
DAVID JOSEPH PAVEGLIO
JEFFREY ROY PEARCE
ERNEST H. PICKLE
JAMES GLENN PIROLLI
ALAN BEN POWER
STEPHEN ROBERT PRICE, JR
GARY LEE PRITCHARD
WILLIAM C. QUINN
EDWARD J. RAM
JAMES A. RAWLINS
GARY MICHAEL REITER
STEPHEN DOUGLAS ROUND
GREGORY P. RUDY
JOHN DELBERT RUSH
MICHAEL W. SAMSON
ANDREW K. SARANCHOCK
MICHAEL PASQUALE SCACCHI
RALPH MICHAEL SCAPEROTTA
EDWARD J. SCHMITT, JR
LARRY JAMES SCHNEIDER
MARK ROBERT SCHWEER
EDWARD WILLIAM SHENK, III
STEVEN HOLLEY SHOCKLEY
EDWARD L. SIMPSON
LEE L. SORENSON
WILLIAM EARL SOULE
PATRICIA CLYMANS SPENCER
JOHN STEVEN STEFFY
JOHN NORD STENSLAND
JOHN EDWARD SUTTERFIELD, JR
JOSEPH ZACHARY TAYLOR, JR
LAWRENCE CERTAIN TURNER
GARY E. WATKINS
KENNETH THOMAS WEIR, JR
THOMAS EDWARD WESTLAKE
CLIFFORD LAWSON WOODALL
JAMES WILSON WRIGHT
ROBERT ALDEN WULFF

SUPPLY CORPS OFFICERS (TAR)

To be commander

MICHAEL F. CAPEN
MICHAEL STEVEN CURRY
RICHARD PHILIP GRAEF, JR
DARL D. KLINE
GERALD J. LADOUCEUR
LARRY M. LAUGHLIN
PAUL E. VARNER

CHAPLAIN CORPS OFFICERS

To be commander

BENJAMIN RALPH BELCHER
RICHARD JOHN BOECK, JR
CARL WILLIAM FILER
JOHN GEORGE FISCHER
LEE H. GRISHMAN
JAY LYNN HOPPUS
DENNIS PAUL KOCH
WALTER HENRY LOVELADY
RONALD LEE MINTON
GARY LEE MOORE
JAMES BERNARD MULLER
DAVID THOMAS RIECK
ANTHONY THOMAS ROSSETTI
ELVIN CLAYTON SCOTT
SALVATOR M. STEFULA
DANIEL ROBERT STEWART
JOSEPH DAVID STINSON
STEVEN E. THOMAS
ALFONSO TODD, JR
KEVIN MAURICE TURMAN

CIVIL ENGINEER CORPS OFFICERS

To be commander

ROBERT JOSEPH ANDERSON
JAMES MICHAEL BOERNGE
MICHAEL ANTON BRUECKMANN
JAMES ALBERT CAULDER, JR
JAMES FRANCIS CONLEY
ROBERT EDWARD DEROCHA
LARRY MITCHELL EAST
DEBORAH ANN FORD
RALPH THOMAS GUTIERREZ
RICHARD TURNER HAMNER
WILLARD RAY HAYNES
GARY ALLAN LASHAM
ANTHONY DUNSTAN MATTHEWS
MICHAEL JAY MCVANN
RICHARD CHARLES MICHEL
WILLIAM SCOTT PERKINS
JAMES MICHAEL PETERS
THOMAS MICHAEL RODGERS
WILLIAM RALPH SCOGIN
WILLIAM ALLEN SIRONEN
KURT DOUGLAS SISSON
CHARLES THOMAS THOMPSON

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS RESERVE FOR PERMANENT APPOINTMENT TO THE GRADE OF LIEUTENANT COLONEL UNDER TITLE 10, UNITED STATES CODE, SECTION 5912:

STEVEN ALLEN, [redacted]
KENNETH J. BAIRLEY, [redacted]
PHILIP M. BAMBRICK, [redacted]
DANIEL E. BECKER, [redacted]
DAVID J. BIOW, [redacted]
MARY T. BOOKWALTER, [redacted]
JOHN R. BRANCH, [redacted]
EMMITT D. BREWINGTON, [redacted]
MARY K. BROUSSARD, [redacted]
JAMES J. BRYAN, [redacted]
ROBERTO A. BURCIAGA, [redacted]
PATRICK J. BURGER, [redacted]
GARRY L. BUSH, [redacted]
FREDERICK C. BYSTROM, [redacted]
GEORGE E. CARPENTER, [redacted]
HERMAN W. CARVER, JR, [redacted]
WILLIAM D. CAVANAUGH, JR, [redacted]
MICHAEL P. CLANCEY, [redacted]
RICHARD D. COULTER, [redacted]
CHARLES E. COUNTRYMAN, [redacted]
BARBARA B. CROSS, [redacted]
ALLAN F. CRUZ, [redacted]
DAVID H. CUMMINS, [redacted]
RICHARD M. CUSICK, [redacted]
JOHN M. DALY, [redacted]
KENNETH D. DANCAK, [redacted]
SAMPSON D. DARDEN, [redacted]
IRA S. DAVIS, [redacted]
DANIEL DELLOSSO, [redacted]
LARRY J. DENNIS, [redacted]
ALEJANDRO T. DEVORA, JR, [redacted]
DANIEL A. DONOHUE, [redacted]
JAMES V. DOYLE, [redacted]
PETER C. DUCAT, [redacted]
LEON M. DUDENHEFER, [redacted]
WILLIAM K. DUNCAN, [redacted]
WINNIE B. DUNN, [redacted]
REINA M. DUVAL, [redacted]
ROBERT M. FINER, [redacted]
PAUL A. FLAHERTY, [redacted]
STEPHEN P. FOLAN, [redacted]
DANIEL K. FRANKLIN, [redacted]
ROBERT S. FRANKS, JR, [redacted]
WILLIAM A. GAITA, [redacted]
JOHN W. GEORGES, [redacted]
LARRY M. GILLESPIE, [redacted]
THOMAS P. GILLETTE, [redacted]
NORMAN V. GILMORE, [redacted]
EDWARD C. GRONSETH, [redacted]
WILLARD D. HALL, JR, [redacted]
RICHARD F. HAMILTON, [redacted]
KEVIN P. HART, [redacted]
RICHARD L. HILL, [redacted]
ROBERT W. HILLERY, [redacted]
LARRY D. HINKLE, [redacted]
LASH L. HOCUTT, [redacted]
WILLIAM H. HOOKS, [redacted]
JAMES C. HOSMER, [redacted]
ANN D. HOUGH, [redacted]
WILLIAM J. HOWEY, [redacted]
CAROLYN A. HUDSON, [redacted]
MICHAEL K. HUGHES, [redacted]
JAMES M. IRWIN, [redacted]
DWIGHT D. JONES, [redacted]
RALPH A. JORDAN, [redacted]
SHAWN M. KEEFE, [redacted]
JAMES A. KELLY, [redacted]
FRANK W. KNIPPENBERG, [redacted]
ROYDEN T. KOITO, [redacted]
MICHELE D. KRAUSE, [redacted]
FRANK F. KRIDER, [redacted]
THEODORE LAMBERT, [redacted]
MARK LAURITZEN, [redacted]
JOHN G. MADDEN, III, [redacted]
HENRY E. MAHER, [redacted]
KENNETH L. MARSHBANKS, [redacted]
NATHANIEL T. MCCLESKEY, [redacted]
GARY L. MCELVAIN, [redacted]
EDWARD C. MILLER, [redacted]
LISA A. MOORE, [redacted]
ROGER K. MOORE, [redacted]
DANIEL A. MOROCO, JR, [redacted]
RICHARD T. MORROW, [redacted]
GLORIA J. MOYHER, [redacted]
STEPHEN P. NASCA, [redacted]
THOMAS A. NIELSEN, [redacted]
WILLIAM F. OEHL, JR, [redacted]
LAWRENCE P. ONEIL, [redacted]
RAUL G. ORDONEZ, [redacted]
JOHN P. PACZKOWSKI, [redacted]
LESTER A. PAGANO, [redacted]
ROBERT E. PARCELL, [redacted]
GREGORY A. PATTERSON, [redacted]
PAUL E. PETTERSON, [redacted]
MARK A. PILLAR, [redacted]
GREGORY J. PLUSH, [redacted]
KIM T. POOLE, [redacted]
HARRY H. PORTER, JR, [redacted]
LLOYD L. PORTERFIELD, II, [redacted]
WENDELL A. PORTH, JR, [redacted]
WATSON O. POWELL, III, [redacted]
RICHARD A. PRICE, JR, [redacted]
GEORGE S. PRIEST, [redacted]
GARY R. PURCELL, [redacted]
KEVIN T. RADEMAKER, [redacted]
EDWARD J. RAMIREZ, [redacted]

ANNE E. RATHMELL [redacted]
GEORGE D. REHAK [redacted]
NICHOLAS E. REYNOLDS [redacted]
GENE A. RIDDER [redacted]
MIRIAM K. ROBBS [redacted]
GLENN H. ROBINSON [redacted]
RICHARD L. RODECKER [redacted]
JOHN R. RUCKRIEGEL [redacted]
THOMAS P. RYAN [redacted]
DAVID W. SADLER [redacted]
RONALD E. SCHLITT [redacted]
HARVEY F. SEEGERS, JR [redacted]
JOHN M. SEVOLD [redacted]
JAMES J. SEWARD [redacted]
MICHAEL P. SHIELDS [redacted]
WILLIAM B. SHORES [redacted]
JOHN W. SLIDER [redacted]
ALAN R. SMITH [redacted]
JAMES A. SMITH, JR [redacted]
MARSHALL A. SMITH [redacted]
GEORGE A. SNELL [redacted]
RICHARD J. STACY [redacted]
DARRYL D. STANLEY [redacted]
BARRY J. STATIA [redacted]
JAMES J. STOPS [redacted]
RONALD D. STOUT [redacted]
CLYDE N. STURGEON [redacted]
JAMES D. SULLIVAN, JR [redacted]
SUSAN M. SWIATEK [redacted]
CHARLES J. TEMPLE [redacted]
MARK THIFFAULT [redacted]
BETTYANN P. THOMPSON, [redacted]
JAMES A. TIPPLE [redacted]
JAMES M. TOOMEY [redacted]
PETER G. TRAPHAGEN [redacted]
ROY B. TRUESDALE, [redacted]
ELIZABETH A. UPDEGROVE, [redacted]
JULIAN VAZQUEZ, III, [redacted]
FREDERICK R. WAGNER, JR. [redacted]
HAROLD G. WALKER, [redacted]
DAVID O. WARD, [redacted]
GERALD E. WEBB [redacted]
RANDEL A. WEBB [redacted]
PAUL D. WEDGE, [redacted]
FRANKLIN W. WELBORN, II, [redacted]
VICTORIA A. WHITMORE, [redacted]
THOMAS P. WILKINSON, [redacted]
SHARON L. WILSON, [redacted]
JOHN A. WOOLLEY, III [redacted]
RICHARD A. WRIGHT [redacted]
JOHN K. YOUNG, [redacted]
JOSEPH G. ZEBROOK [redacted]
MARK J. ZEHFUS, [redacted]
ANDREW D. ZINN, [redacted]

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, July 9, 1991, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 10

9:00 a.m.

Armed Services

Business meeting, to mark up S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense.

SR-222

9:30 a.m.

Environment and Public Works

Environmental Protection Subcommittee

To resume hearings on implementation of section 404 of the Clean Water Act (P.L. 100-4), providing for a Federal wetland protection program.

SD-406

10:00 a.m.

Appropriations

Commerce, Justice, State, and the Judiciary Subcommittee

To hold hearings to review newly discovered problems in the weather satellite program of the National Oceanic and Atmospheric Administration.

SR-253

Banking, Housing, and Urban Affairs

Business meeting, to consider proposed legislation to extend the regulatory authority of the Secretary of the Treasury under the Government Securities Act of 1986, and the nominations of Lawrence B. Lindsey, of Virginia, to be a Member of the Board of Governors of the Federal Reserve System, David W. Mullins Jr., of Arkansas, to be Vice Chairman of the Federal Reserve System, Constance Bastine Harriman, of California, to be a Member of the Board of Directors of the Export-Import Bank of the United States, and Raoul Lord Carroll, of the District of Columbia, to be President, Government National Mortgage Association.

SD-538

Labor and Human Resources

To hold hearings on S. 1074, to revise the authority under the Food, Drug, and Cosmetic Act to regulate pesticides in food.

SD-430

2:00 p.m.

Commerce, Science, and Transportation

Foreign Commerce and Tourism Subcommittee

To hold hearings to examine national tourism policy.

SR-253

Foreign Relations

To hold hearings on the nominations of Charles R. Bowers, of California, to be Ambassador to the Republic of Bolivia, Sally G. Cowal, of Massachusetts, to be Ambassador to the Republic of Trinidad and Tobago, Morris D. Busby, of Virginia, to be Ambassador to the Republic of Colombia, and Luis Guinot, Jr., of Puerto Rico, to be Ambassador to the Republic of Costa Rica.

SD-419

Select on Intelligence

To hold closed hearings on intelligence matters.

SH-219

JULY 11

9:00 a.m.

Armed Services

Business meeting, to continue to mark up S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense.

SR-222

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold hearings on proposals to ensure the safety and soundness of government sponsored enterprises.

SD-538

Environment and Public Works

Superfund, Ocean and Water Protection Subcommittee

To hold hearings on S. 1278, authorizing funds for fiscal years 1992, 1993, and 1994 for the Office of Environmental Quality.

SD-406

Foreign Relations

To hold hearings on the proposed Conventional Forces in Europe (CFE) Treaty.

SD-419

Governmental Affairs

General Services, Federalism, and the District of Columbia Subcommittee

To hold hearings to examine the District of Columbia's financial situation.

SD-342

Judiciary

Immigration and Refugee Affairs Subcommittee

To hold hearings on proposed legislation authorizing funds for the Refugee Act Resettlement program.

SD-226

2:00 p.m.

Finance

Medicare and Long-Term Care Subcommittee

To hold hearings on Medicare hospital capital payment policy.

SD-215

Foreign Relations

European Affairs Subcommittee

Closed briefing to receive an update on the Cyprus negotiations.

S-116, Capitol

Judiciary

To hold hearings on the nominations of Fernando J. Gaitan, Jr., to be United States District Judge for the Western District of Missouri, Clyde H. Hamilton, of South Carolina, to be United States Circuit Judge for the Fourth Circuit, and Morton A. Brody, to be United States District Judge for the District of Maine.

SD-226

3:00 p.m.

Appropriations

Business meeting, to mark up H.R. 2608, making appropriations for fiscal year 1992 for the Departments of Commerce, Justice, State, the Judiciary and related agencies, H.R. 2707, making appropriations for fiscal year 1992 for the Departments of Labor, Health and Human Services, and Education, and related agencies, H.R. 2519, making appropriations for fiscal year 1992 for the Departments of Veterans Affairs, and Housing and Urban Development, and related agencies, and H.R. 2699, making appropriations for fiscal year 1992 for the government of the District of Columbia.

S-128, Capitol

JULY 15

2:00 p.m.

Energy and Natural Resources

Energy Research and Development Subcommittee

To hold hearings to review the Department of Energy's role in math and science education.

SD-366

JULY 16

9:30 a.m.

Commerce, Science, and Transportation

Surface Transportation Subcommittee

To hold hearings on proposed legislation authorizing funds for rail safety programs.

SR-253

Governmental Affairs

Oversight of Government Management Subcommittee

To resume oversight hearings on the administration and enforcement of the Federal lobbying disclosure laws.

SD-342

Special on Aging

To hold hearings to examine the treatment of low-income medicare beneficiaries.

SD-562

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

JULY 17

9:00 a.m.

Select on Indian Affairs

To hold hearings on S. 754, to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program.

SR–485

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD–366

JULY 18

9:30 a.m.

Environment and Public Works

Environmental Protection Subcommittee

To resume hearings on S. 1081, to revise and authorize funds for programs of the Federal Water Pollution Control Act, focusing on coastal protection, clean lakes, and the Great Lakes and Mexico border areas.

SD–406

10:00 a.m.

Select on Indian Affairs

Business meeting, to mark up S. 291, San Carlos Apache Water Rights Act, S. 668, Consolidated Environmental Grants, S. 362, Mowa Band of Choctaw Indians Recognition Act, S. 45, Jena Band of Choctaw Indians Recognition Act, and S. 374, Aroostook Band of Micmacs Settlement Act; to be followed by hearings on S. 1287, Tribal Self-Governance Demonstration Project Act.

SR–485

2:00 p.m.

Environment and Public Works

Environmental Protection Subcommittee

To continue hearings on S. 1081, to revise and authorize funds for programs of the Federal Water Pollution Control Act, focusing on compliance and enforcement, and State certification of Federal projects.

SD–406

2:30 p.m.

Energy and Natural Resources

To hold hearings on S. 1018, to establish and measure the Nation's progress toward greater energy security.

SD–366

JULY 19

9:30 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings to examine efforts to combat fraud and abuse in the insurance industry.

SD–342

JULY 23

9:30 a.m.

Rules and Administration

To hear and consider a report from the Architect of the Capitol on current projects, and to consider other pending legislative and administrative business.

SR–301

2:00 p.m.

Energy and Natural Resources

To hold hearings on Senate Joint Resolutions 22 through 34, to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act of 1920.

SD–366

JULY 24

9:30 a.m.

Joint Printing

To resume hearings to examine the technological future of the Government Printing Office.

B–318 Rayburn Building

JULY 25

9:30 a.m.

Rules and Administration

To hold hearings on S. 165, to direct the Secretary of the Senate or the Clerk of the House of Representatives, when any appropriations bill or joint resolution passes both Houses in the same form, to cause the enrolling clerk of the appropriate House to enroll each item of the bill or resolution as a separate bill or resolution.

SR–301

10:30 a.m.

Rules and Administration

To hold hearings on S. Res. 82, to establish the Senate Select Committee on POW/MIA Affairs.

SR–301

2:00 p.m.

Labor and Human Resources

Employment and Productivity Subcommittee

To hold joint hearings with the Select Committee on Indian Affairs on employment on Indian reservations.

SR–485

Select on Indian Affairs

To hold joint hearings with the Committee on Labor and Human Resources' Subcommittee on Employment and Productivity on employment on Indian reservations.

SR–485

JULY 30

9:30 a.m.

Energy and Natural Resources

To hold oversight hearings on the resettlement of the Rongelap, Marshall Islands.

SD–366

HOUSE OF REPRESENTATIVES—*Tuesday, July 9, 1991*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

From the rising of the Sun until the going down of the same, we are aware, O God, of power in the universe, whether it be in the power of nature, or the power of the armies, or the power of any might. Teach us also, gracious God, to sense the power of the spirit—a power that transforms lives and makes all things new. As You have blessed each of us with all good gifts and have breathed into us the very breath of life, so too may we become aware of the gift of Your spirit in our lives—a spirit that enlightens, that strengthens, that heals, that gives the peace, and reconciliation that can transform our lives and the lives of others. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from North Carolina [Mr. BALLENGER] please come forward and lead the House in the Pledge of Allegiance.

Mr. BALLENGER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1455. An act to authorize appropriations for fiscal year 1991 for intelligence activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 1455) entitled "An Act to authorize appropriations for fiscal year 1991 for intelligence activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes", requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints from the Select Committee on Intelligence: Mr. BOREN, Mr. NUNN, Mr. HOLLINGS, Mr. BRADLEY, Mr. CRANSTON, Mr. DECONCINI, Mr. METZENBAUM, Mr. GLENN, Mr. MURKOWSKI, Mr. WARNER, Mr. D'AMATO, Mr. DANFORTH, Mr. RUDMAN, Mr. GORTON, and Mr. CHAFEE; from the Committee on Armed Services: Mr. EXON and Mr. THURMOND; to be the conferees on the part of the Senate.

RESIGNATION AS MEMBER OF COMMITTEE ON THE BUDGET

The SPEAKER laid before the House the following resignation as a member of the Committee on the Budget.

WASHINGTON, DC,
May 22, 1991.

Hon. THOMAS S. FOLEY,
Speaker of the House, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Effective close of business on June 30, 1991, I hereby resign my position on the House Budget Committee.

Sincerely,

DICK ARMEY,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

ELECTION OF MEMBER TO COMMITTEE ON THE BUDGET

Mr. MICHEL. Mr. Speaker, I offer a privileged resolution (H. Res. 188) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 188

Resolved, That Representative Paxon of New York be and is hereby elected to the Committee on the Budget.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
July 8, 1991.

Hon. THOMAS S. FOLEY,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received the following messages from the Secretary of the Senate:

1. Received at 9:40 a.m. on Friday, June 28, 1991: That the Senate passed without amendment, H.J. Res. 259.

2. Received at 7:00 p.m. on Friday, June 28, 1991: That the Senate passed without amendment, H.R. 2332.

With great respect, I am

Sincerely yours,

DONNALD K. ANDERSON,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill and joint resolutions on Friday, June 28, 1991:

S. 674. An act to designate the building in Monterey, TN, which houses the primary operations of the U.S. Postal Service as the "J.E. (Eddie) Russell Post Office Building", and for other purposes;

H.J. Res. 72. Joint resolution to designate December 7, 1991, as "National Pearl Harbor Rememberance Day";

H.J. Res. 138. Joint resolution designating the week beginning July 21, 1991, as "Lyme Disease Awareness Week";

H.J. Res. 149. Joint resolution designating March 1991 as "Women's History Month"; and

H.J. Res. 259. Joint resolution designating July 2, 1991, as "National Literacy Day."

The following enrolled bill was signed by the Speaker pro tempore on Monday, July 1, 1991:

H.R. 2332. An act to amend the Immigration Act of 1990 to extend for 4 months the application deadline for special temporary protected status for Salvadorans.

APPOINTMENT OF MEMBER TO ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

The SPEAKER. Pursuant to the provisions of section 3(a) of Public Law 86-380, and the order of the House of June 26, 1991, empowering the Speaker to make appointments authorized by law or by the House, the Chair on June 28, 1991, did appoint to the Advisory Commission on Intergovernmental Relations on the part of the House the gentleman from New Jersey [Mr. PAYNE].

RESIGNATION FROM THE HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following resignation from the House of Representatives:

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

HOUSE OF REPRESENTATIVES,
Washington, DC, July 1, 1991.
Hon. THOMAS S. FOLEY,
Speaker, The Capitol, Washington, DC.

DEAR MR. SPEAKER: As the result of a recently diagnosed illness, I regretfully find myself unable to continue to serve the people of the Seventh Congressional District at the necessary level of personal commitment they expect and deserve. Therefore, on advice of my personal physician and after consultation with my family, I have today notified the Honorable Lawrence Douglas Wilder, Governor of the Commonwealth of Virginia, of my resignation as the Representative of the Commonwealth of Virginia in the House of Representatives of the Congress of the United States for the Seventh Congressional District effective November 5, 1991.

This decision has been an extremely difficult one for me to make. I have spent a good portion of my life serving the citizens of the Commonwealth, first as a Member of the General Assembly for twenty years, then as a Member of the House for more than six years. While it has been a great privilege and honor to serve in this House, I have reluctantly concluded that the recent impairment to my health prevents me from continuing my service. I thank the people of the Commonwealth and the Seventh Congressional District for placing their trust in me. I hope that I have served them well.

With kindest personal regards.
Sincerely,
D. FRENCH SLAUGHTER, Jr.,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, July 1, 1991.
Hon. L. DOUGLAS WILDER,
Governor, Commonwealth of Virginia, Office of the Governor, Richmond, VA.

DEAR GOVERNOR WILDER: As the result of a recently diagnosed illness, I regretfully find myself unable to continue to serve the people of the Seventh Congressional District at the necessary level of personal commitment they expect and deserve. Therefore, on advice of my personal physician and after consultation with my family, I hereby announce my resignation as the Representative of the Commonwealth of Virginia in the House of Representatives of the Congress of the United States for the Seventh Congressional District effective November 5, 1991.

I tender my resignation as of the stated date so that the citizens of the Seventh Congressional District will continue to be represented until a successor can be timely elected. I have also consciously followed this schedule in order to permit a Special Election at the time of the regularly scheduled November 5, 1991, General Election in order to avoid any undue expense to the Commonwealth and the localities within the Seventh Congressional District in the conduct of the Special Election.

This decision has been an extremely difficult one for me to make. I have spent a good portion of my life serving the citizens of the Commonwealth, first as a Member of the General Assembly for twenty years, then as a Member of Congress for more than six years. While it has been a great privilege and honor to serve, I have reluctantly concluded that the recent impairment to my health prevents me from continuing my service. I thank the people of the Commonwealth and the Seventh Congressional District for placing their trust in me. I hope that I have served them well.

With kindest personal regards.
Sincerely,
D. FRENCH SLAUGHTER, Jr.,
Member of Congress.

RESIGNATION AS MEMBER OF COMMITTEE ON SMALL BUSINESS

The SPEAKER laid before the House the following resignation as a member of the Committee on Small Business:

HOUSE OF REPRESENTATIVES,
Washington, DC, June 28, 1991.
Hon. THOMAS FOLEY,
Speaker, House of Representatives, The Capitol, Washington, DC.

DEAR MR. SPEAKER: Due to my recent appointment to the Science, Space, and Technology Committee, I am writing to resign as a member of the House Small Business Committee.

During my two and a half years on the Small Business Committee, it has explored and addressed many interesting matters affecting the small business community. I have found my work on the committee exciting and challenging.

I have enjoyed the opportunity to serve under the able leadership of Chairman LaFalce. I look forward to working with Chairman Brown and all of my colleagues on the important issues facing the 102nd Congress.

Sincerely,
ELIOT L. ENGEL,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 1455, INTELLIGENCE AUTHORIZATION ACT, FISCAL YEAR 1991

Mr. MCCURDY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1455) to authorize appropriations for fiscal year 1991 for intelligence activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma? The Chair hears none, and appoints the following conferees and, without objection, reserves the right to appoint additional conferees:

From the Permanent Select Committee on Intelligence: Mr. MCCURDY, Mr. WILSON, Mrs. KENNELLY, and Messrs. GLICKMAN, MAVROULES, RICHARDSON, SOLARZ, DICKS, DELLUMS, BONIOR, SABO, OWENS of Utah, SHUSTER, COMBEST, BEREUTER, DORNAN of California, YOUNG of Florida, MARTIN and GEKAS.

From the Committee on Armed Services, for the consideration of Department of Defense tactical intelligence and related activities and section 505 of both the House bill and the Senate amendment: Messrs. ASPIN, SKELTON, and DICKINSON.

There was no objection.

THANKS TO RESIDENTS OF GUAM, AND RECONSIDER NEED FOR BASES IN PHILIPPINES

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I rise with two things to talk about this morning: No. 1, I think everyone in this body owes a tremendous debt of gratitude to the wonderful residents of Guam, U.S.A. We do not think about that territory very often, but they have just executed the largest peacetime evacuation in the history of the planet. They have taken care of over 19,000 people coming out of the Philippines, 1,300 pets, and all sorts of other things.

Mr. Speaker, they did it with incredible, incredible grace and style. I think we all want to sincerely thank them.

Mr. Speaker, I also want to say that from the photographs and things we are seeing in the Philippines, I think we ought to send a very clear message: That this body, with its budget constraints, with the lessening threat in the Pacific, with so many bases having been closed domestically, is not going to be willing to run out and spend billions of dollars to clean up bases, when we have absolutely no idea if the volcano will go off again and will restart the whole cycle.

Mr. Speaker, it has been a great tragedy and people have reacted very well, but I think we want to send a real monetary message, that there is not a lot of money in the kitty, it is running out, and I think it is time that we probably put a close to that chapter.

□ 1210

DWIGHT D. EISENHOWER HONORED FOR HIS COMMITMENT TO SMALL BUSINESS

(Mr. IRELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. IRELAND. Mr. Speaker, this afternoon Small Business Administrator Patricia Saiki will dedicate the conference room at the new SBA headquarters in memory of President Dwight D. Eisenhower. She will be accompanied at the dedication by the late President's granddaughter, Susan Eisenhower.

Mr. Speaker, of all the many tributes paid President Eisenhower over the years, this is surely one of the most deserving, for it was Dwight D. Eisenhower who created the Small Business Administration. When the House-passed legislation authorizing the SBA started to languish in the Senate he sent word that he wanted the bill passed immediately. As a result, the Senate took up and passed by voice vote the amended House version. On July 30, 1953, President Eisenhower signed the bill and the Small Business Administration was born.

President Eisenhower did not just say he was for small business; he acted on his convictions. My colleagues, all of us in Congress can learn from his example. It's easy to say we're for small business, but it's how we vote that really counts.

SWEARING IN THE KENTUCKIANA MARINE PLATOON

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, over the years I have had a chance to take part in many ceremonies, ceremonies of graduation, ceremonies of retirement, ceremonies of installation, ceremonies of investiture. But I have never had the opportunity until Thursday, the Fourth of July, to take part in the ceremony of induction.

I had the pleasure of swearing in 55 young recruits, from Kentucky and southern Indiana, into the Marine Corps in Cardinal Stadium back home in Louisville.

It was a moving ceremony. I had the chance, both before and after the ceremony, to speak with these young recruits, to shake their hands and to talk with them. And of course, one can tell a great deal about human beings from the eyes. The eyes are said to be the window of the soul.

The eyes of these 55 recruits tell me they will be good Marines and they will be great Americans.

I would like to salute Maj. David Breen, who is the commandant of the Marine recruiting station in Louisville, and the two sergeants, Sgt. Steve Grimes and Drew Milburn, who were so helpful in setting up the ceremony.

I believe, Mr. Speaker, that our Armed Forces are in good shape with young recruits like the ones I was privileged to swear into the Marine Corps last Thursday.

SOAK THE RICH LUXURY TAX SHOULD BE REPEALED

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, the 10 percent soak the rich luxury tax incorporated in last year's budget reconciliation bill is having a devastating impact on many of this Nation's workers. No business has been harder hit than the boating industry.

Comparing first quarter large boat sales in 1990 and 1991 reveals an 85 percent sales decrease. Since these boats are traditionally recession-proof, only a slight portion of this decline can be attributed to a sluggish economy. Furthermore, over the same time period, sales of pleasure boats under $100,000 have only dropped 20 percent. Obviously, the new luxury tax is to blame for this huge sales decrease.

This dramatic sales loss has cost thousands of workers their jobs by forcing drastic production cutbacks or outright closings of boatyards from Maine to Florida. For example, Hatteras Yachts has closed 4 of 6 production lines at their High Point, NC plant, causing almost 300 workers to lose their jobs.

Related industries have been deeply hurt as well. As a result of a drop in demand, 275 employees who produced fiberglass for yachts at the PPG plant in Shelby, NC, have found themselves out of work.

Instead of soaking the rich, Congress has only forced many hard-working American citizens to draw unemployment checks. Hopefully, we can work for tax fairness by repealing these detrimental taxes.

ISOLATING CHINA IS NOT THE ANSWER: CONTINUE MFN STATUS

(Mr. ANDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON. Mr. Speaker, after careful consideration of this difficult policy question, I have concluded that we should approve continued most-favored-nation status to the People's Republic of China. I do not stand here today to defend the actions of the People's Republic of China. We all have been outraged by China's deplorable human rights abuses, their indiscriminate sales of nuclear weapons and technology, and their violations of international trade practices.

I stand to defend Americans, Americans whose jobs and businesses depend on continued trade with China. Americans who have invested their effort and resources into encouraging economic and political reform within China. Quite honestly, I stand to defend all Americans, for certainly every one of us will benefit from improved relations with a nation of over a billion people.

China's human rights abuses, whether against pro-democracy activists in Tiananmen Square or Tibet, have been well documented. While China's actions have been unquestionably deplorable, we must determine if revoking most-favored-nation status will correct their policies. I submit that manipulation of MFN is an inappropriate instrument with which to address these concerns. There are other, more exact means available to express our disapproval of China's policies. We cannot realistically expect to encourage change in China by severing our relations with them. In fact, history clearly illustrates that isolating China and imposing economic self-sufficiency upon her people has lead to brutal periods of government repression.

I do not, however, advocate turning a blind eye to China's abuses. The United States immediately condemned and sanctioned the horrors of Tiananmen Square, and more than 2 years later we remain the only Western democracy still imposing such sanctions. We could also become the only country to rescind MFN status to China, but without international support for our position, substantive changes in Chinese policies would be unlikely. I strongly urge that we use our influence to promote tolerance and peaceful dissent within China.

Western influence has already initiated free-market-oriented reforms in the coastal provinces neighboring Hong Kong. Discontinuing most-favored-nation status would severely hurt those regions of the country that promise to lead the way for China's reform. The continued free flow of products, information, and ideas from the West is critical to any hopes the Chinese people have for peacefully modernizing their country.

This debate boils down to one very basic question: What approach promises the best chance to alter China's behavior? I believe extending MFN status, while not a perfect solution, does offer us the best opportunity to promote meaningful reforms in China, while continuing to advance our own national interests.

AS WE APPROACH JULY 26

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, in Cuba these days, Fidel Castro is most likely busily preparing for his annual verbal assault on the Free World, his infamous marathon speech on July 26. But today we read that Castro is also busily continuing his assault on the Cuban people, reportedly cashing in on their misery on the order of a million dollars a week. It seems that Castro—the Western Hemisphere's last Marxist dictator—is selling the only commodity he's got left that's worth anything, his own people.

Today and everyday in Miami, Cuban immigrants, desperate for a way out of the black hole that Castro has made of their country, are scraping together the minimum $500 worth of ransom, defined in Cuba as a visa fee, and heading on a 1-way trip to America. They start off by paying Castro's price for a tourist visa, and some predict as many as 30,000 a year will never go back. There is an additional, troubling aspect to the current situation, especially for

Florida. We would like to be able to offer housing, schooling, medical care, and jobs, but Florida cannot and should not be expected to shoulder the burden alone.

EXTEND MFN TO CHINA WITHOUT CONDITIONS

(Mr. BARRETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT. Mr. Speaker, the debate on renewing most-favored-nation trade status to the Peoples Republic of China has focused on two options: placing conditions on MFN, or rejecting MFN altogether.

After a careful review of this issue, I have come to the firm conclusion that we must renew MFN to China without conditions.

While I detest the crackdown by the Chinese Government on prodemocracy forces, I am unconvinced that placing conditions, or rejecting MFN, will help the forces of democracy in China effect change. Indeed, I fear that placing conditions on MFN may place harmful and counterproductive conditions on those striving for democracy in China.

Many claim the human rights abuses being committed by the Communist government deserve a response by our Government; I agree. But our reply should be one that will effect a positive change in China. That can be best accomplished by extending most-favored-nation trade status without conditions.

HOUSE BILL 2595, PLACING CEILING ON NUMBER OF FEDERAL EMPLOYEES

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute.)

Mr. THOMAS of Wyoming. Mr. Speaker, over the last couple of weeks we have seen an awful lot of activity going on among States and cities with respect to employees and laying off employees, having to put furloughs on employees. It has been a very difficult situation in a number of States and cities.

I want to bring to the attention of my colleagues House bill 2595, which was introduced by myself and 12 others about 2 weeks ago, which would have the effect of putting a ceiling on the number of Federal employees at this year's Presidential budget of 2.9 million employees.

The purpose of this bill is twofold: One is to add another important leg to the efforts to control Federal spending. One is a line-item veto. The second is a balanced budget amendment, and I think the third is to put some limitation on Federal employees.

☐ 1220

The other is to protect our good Federal employees who do such a great job for all of us by trying to avoid this business of having to lay people off when there are too many employees and not enough money.

Mr. Speaker, I would urge my colleagues to take a look at this as another one of those steps that would cause us to be able to treat the employees as they should be treated as Federal employees for the great job they do and yet do something about reducing the Federal budget. I would ask you to take a look at H.R. 2595.

OUR DRUG WAR IS FAR FROM OVER

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, we have been informed by our drug agencies that our efforts in the war on drugs have resulted in a decrease in both cocaine use and overall drug addiction nationwide. Despite this encouraging news, our drug war is far from over. Recent projections for heroin supply indicates an alarming increase over the next few years.

Worldwide production of heroin has doubled since 1986 and at the same time heroin purity has increased eightfold along the east coast. The booming supply of heroin leads to lower prices and greater availability.

The consequences of increased drug abuse are grave. Besides the potential for overdosing, there is the resultant dramatic increase in the spread of AIDS and hepatitis B due to the use of dirty needles by drug users. Along with the hazards confronting users themselves, our Nation's innocent citizens face a great deal of danger. The FBI has recently reported that murder, rape, robbery, and aggravated assault have increased 10 percent nationwide between 1986 and 1990. This dramatic increase is mostly attributed to drug use and trafficking. As I have reported in the past, 85 percent of those arrested for violent crimes in this country test positive for drugs.

Mr. Speaker, I am deeply concerned and so are our constituents throughout the Nation. Fighting this scourge must be our highest priority. We must help our communities become drug free and we must give our Nation's police officers and drug enforcement agents the necessary resources to fight our war on drugs and crime.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Wednesday, July 10, 1991.

EMERGING TELECOMMUNICATIONS TECHNOLOGIES ACT OF 1991

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 531) to establish procedures to improve the allocation and assignment to the electromagnetic spectrum, and for other purposes, as amended.

The Clerk read as follows:

H.R. 531

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emerging Telecommunications Technologies Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Federal Government currently reserves for its own use, or has priority of access to, approximately 40 percent of the electromagnetic spectrum that is assigned for use pursuant to the Communications Act of 1934;

(2) many of such frequencies are underutilized by Federal Government licensees;

(3) the public interest requires that many of such frequencies be utilized more efficiently by Federal Government and non-Federal licensees;

(4) additional frequencies are assigned for services that could be obtained more efficiently from commercial carriers or other vendors;

(5) scarcity of assignable frequencies for licensing by the Commission can and will—

(A) impede the development and commercialization of new telecommunications products and services;

(B) limit the capacity and efficiency of the United States telecommunications systems;

(C) prevent some State and local police, fire, and emergency services from obtaining urgently needed radio channels; and

(D) adversely affect the productive capacity and international competitiveness of the United States economy;

(6) a reassignment of these frequencies can produce significant economic returns; and

(7) the Secretary of Commerce, the President, and the Federal Communications Commission should be directed to take appropriate steps to correct these deficiencies.

SEC. 3. NATIONAL SPECTRUM PLANNING.

(a) PLANNING ACTIVITIES.—The Assistant Secretary of Commerce for Communications and Information and the Chairman of the Commission shall meet, at least biannually, to conduct joint spectrum planning with respect to the following issues—

(1) the future spectrum requirements for public and private uses, including State and local government public safety agencies;

(2) the spectrum allocation actions necessary to accommodate those uses; and

(3) actions necessary to promote the efficient use of the spectrum, including spectrum management techniques to promote increased shared use of the spectrum that does not cause harmful interference as a means of increasing commercial access.

(b) REPORTS.—The Assistant Secretary of Commerce for Communications and Information and the Chairman of the Commission shall submit a joint annual report to the Committee on Energy and Commerce of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, the

Secretary, and the Commission on the joint spectrum planning activities conducted under subsection (a) and recommendations for action developed pursuant to such activities.

(c) REPORTING REQUIREMENTS.—The first annual report submitted after the date of the report by the advisory committee under section 4(d)(4) shall—

(1) include an analysis of and response to that committee report; and

(2) include an analysis of the effect on spectrum efficiency and the cost of equipment to Federal spectrum users of maintaining separate allocations for Federal Government and non-Federal Government licensees for the same or similar services.

SEC. 4. IDENTIFICATION OF REALLOCABLE FREQUENCIES.

(a) IDENTIFICATION REQUIRED.—The Secretary shall, within 24 months after the date of the enactment of this Act, prepare and submit to the President and the Congress a report identifying bands of frequencies that—

(1) are allocated on a primary basis for Federal Government use and eligible for licensing pursuant to section 305(a) of the Act (47 U.S.C. 305(a));

(2) are not required for the present or identifiable future needs of the Federal Government;

(3) can feasibly be made available, as of the date of submission of the report or at any time during the next 15 years, for use under the Act (other than for Federal Government stations under such section 305);

(4) will not result in costs to the Federal Government, or losses of services or benefits to the public, that are excessive in relation to the benefits that may be obtained by non-Federal licensees; and

(5) are most likely to have the greatest potential for productive uses and public benefits under the Act.

(b) MINIMUM AMOUNT OF SPECTRUM RECOMMENDED.—

(1) IN GENERAL.—Based on the report required by subsection (a), the Secretary shall recommend for reallocation, for use other than by Federal Government stations under section 305 of the Act (47 U.S.C. 305), bands of frequencies that span a total of not less than 200 megahertz, that are located below 6 gigahertz, and that meet the criteria specified in paragraphs (1) through (4) of subsection (a). The Secretary may not include, in such 200 megahertz, bands of frequencies that span more than 20 megahertz and that are located between 5 and 6 gigahertz. If the report identifies (as meeting such criteria) bands of frequencies spanning more than 200 megahertz, the report shall identify and recommend for reallocation those bands (spanning not less than 200 megahertz) that meet the criteria specified in paragraph (5) of such subsection.

(2) MIXED USES PERMITTED TO BE COUNTED.—Bands of frequencies which the Secretary's report recommends be partially retained for use by Federal Government stations, but which are also recommended to be reallocated to be made available under the Act for use by non-Federal stations, may be counted toward the minimum spectrum required by paragraph (1) of this subsection, except that—

(A) the bands of frequencies counted under this paragraph may not count toward more than one-half of the minimum required by paragraph (1) of this subsection;

(B) a band of frequencies may not be counted under this paragraph unless the assignments of the band to Federal Government stations under section 305 of the Act (47 U.S.C. 305) are limited by geographic area, by time, or by other means so as to guarantee that the potential use to be made by such Federal Government stations is substantially less (as measured by geographic area, time, or otherwise) than the potential use to be made by non-Federal stations; and

(C) the operational sharing permitted under this paragraph shall be subject to coordination procedures which the Commission shall establish and implement to ensure against harmful interference.

(c) CRITERIA FOR IDENTIFICATION.—

(1) NEEDS OF THE FEDERAL GOVERNMENT.—In determining whether a band of frequencies meets the criteria specified in subsection (a)(2), the Secretary shall—

(A) consider whether the band of frequencies is used to provide a communications service that is or could be available from a commercial carrier or other vendor;

(B) seek to promote—

(i) the maximum practicable reliance on commercially available substitutes;

(ii) the sharing of frequencies (as permitted under subsection (b)(2));

(iii) the development and use of new communications technologies; and

(iv) the use of nonradiating communications systems where practicable; and

(C) seek to avoid—

(i) serious degradation of Federal Government services and operations; and

(ii) excessive costs to the Federal Government and users of Federal Government services.

(2) FEASIBILITY OF USE.—In determining whether a frequency band meets the criteria specified in subsection (a)(3), the Secretary shall—

(A) assume such frequencies will be assigned by the Commission under section 303 of the Act (47 U.S.C. 303) over the course of not less than 15 years;

(B) assume reasonable rates of scientific progress and growth of demand for telecommunications services;

(C) determine the extent to which the reallocation or reassignment will relieve actual or potential scarcity of frequencies available for licensing by the Commission for non-Federal use;

(D) seek to include frequencies which can be used to stimulate the development of new technologies; and

(E) consider the immediate and recurring costs to reestablish services displaced by the reallocation of spectrum.

(3) COMMERCIAL USE.—In determining whether a band of frequencies meets the criteria specified in subsection (a)(4), the Secretary shall consider—

(A) the extent to which equipment is available that is capable of utilizing the band;

(B) the proximity of frequencies that are already assigned for commercial or other non-Federal use; and

(C) the activities of foreign governments in making frequencies available for experimentation or commercial assignments in order to support their domestic manufacturers of equipment.

(4) POWER AGENCY FREQUENCIES.—

(A) ELIGIBLE FOR MIXED USE ONLY.—The frequencies assigned to any Federal power agency may only be eligible for mixed use under subsection (b)(2) in geographically separate areas and shall not be recommended for the purposes of withdrawing that assignment. In any case where a frequency is to be shared by an affected Federal power agency and a non-Federal user, such use by the non-Federal user shall, consistent with the procedures established under subsection (b)(2)(C), not cause harmful interference to the affected Federal power agency or adversely affect the reliability of its power system.

(B) DEFINITION.—As used in this paragraph, the term "Federal power agency" means the Tennessee Valley Authority, the Bonneville Power Administration, the Western Area Power Administration, or the Southwestern Power Administration.

(d) PROCEDURE FOR IDENTIFICATION OF REALLOCABLE BANDS OF FREQUENCIES.—

(1) SUBMISSION OF PRELIMINARY IDENTIFICATION TO CONGRESS.—Within 12 months after the date of the enactment of this Act, the Secretary shall prepare and submit to the Congress a report which makes a preliminary identification of reallocable bands of frequencies which meet the criteria established by this section.

(2) CONVENING OF ADVISORY COMMITTEE.—Not later than the date the Secretary submits the report required by paragraph (1), the Secretary shall convene an advisory committee to—

(A) review the bands of frequencies identified in such report;

(B) advise the Secretary with respect to (i) the bands of frequencies which should be included in the final report required by subsection (a), and (ii) the effective dates which should be established under subsection (e) with respect to such frequencies;

(C) receive public comment on the Secretary's report and on the final report; and

(D) prepare and submit the report required by paragraph (4).

The advisory committee shall meet at least monthly until each of the actions required by section 5(a) have taken place.

(3) COMPOSITION OF COMMITTEE; CHAIRMAN.—The advisory committee shall include—

(A) the Chairman of the Commission and the Assistant Secretary of Commerce for Communications and Information, and one other representative of the Federal Government as designated by the Secretary; and

(B) representatives of—

(i) United States manufacturers of spectrum-dependent telecommunications equipment;

(ii) commercial carriers;

(iii) other users of the electromagnetic spectrum, including radio and television broadcast licensees, State and local public safety agencies, and the aviation industry; and

(iv) other interested members of the public who are knowledgeable about the uses of the electromagnetic spectrum.

A majority of the members of the committee shall be members described in subparagraph (B), and one of such members shall be designated as chairman by the Secretary.

(4) RECOMMENDATIONS ON SPECTRUM ALLOCATION PROCEDURES.—The advisory committee shall, not later than 36 months after the date of the enactment of this Act, submit to the Secretary, the Commission, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Commerce, Science and Transportation of the Senate, a report containing such recommendations as the advisory committee considers appropriate for the reform of the process of allocating the electromagnetic spectrum between Federal and non-Federal use, and any dissenting views thereon.

(e) TIMETABLE FOR REALLOCATION AND LIMITATION.—

(1) TIMETABLE REQUIRED.—The Secretary shall, as part of the report required by subsection (a), include a timetable that recommends immediate and delayed effective dates by which the President shall withdraw or limit assignments on the frequencies specified in the report.

(2) EXPEDITED REALLOCATION OF INITIAL 30 MHZ PERMITTED.—The Secretary may prepare and submit to the President a report which specifically identifies an initial 30 megahertz of spectrum that meets the criteria described in subsection (a) and that can be made available for reallocation immediately upon issuance of the report required by this section.

(3) DELAYED EFFECTIVE DATE.—The recommended delayed effective dates shall—

(A) permit the earliest possible reallocation of the frequency bands, taking into account the requirements of section 6(1);

(B) be based on the useful remaining life of equipment that has been purchased or contracted for to operate on identified frequencies;

(C) be based on the need to coordinate frequency use with other nations; and

(D) take into account the relationship between the costs to the Federal Government of changing to different frequencies and the benefits that may be obtained from commercial and other non-Federal uses of the reassigned frequencies.

SEC. 5. WITHDRAWAL OF ASSIGNMENT TO FEDERAL GOVERNMENT STATIONS.

(a) IN GENERAL.—The President shall—

(1) within 6 months after receipt of the Secretary's report under section 4(a), withdraw the assignment to a Federal Government station of any frequency which the report recommends for immediate reallocation;

(2) within such 6-month period, limit the assignment to a Federal Government station of any frequency which the report recommends be made immediately available for mixed use under section 4(b)(2);

(3) by the delayed effective date recommended by the Secretary under section 4(e) (except as provided in subsection (b)(4) of this section), withdraw or limit the assignment to a Federal Government station of any frequency which the report recommends be reallocated or made available for mixed use on such delayed effective date;

(4) assign or reassign other frequencies to Federal Government stations as necessary to adjust to such withdrawal or limitation of assignments; and

(5) transmit a notice and description to the Commission and each House of Congress of the actions taken under this subsection.

(b) EXCEPTIONS.—

(1) AUTHORITY TO SUBSTITUTE.—If the President determines that a circumstance described in paragraph (2) exists, the President—

(A) may substitute an alternative frequency or band of frequencies for the frequency or band that is subject to such determination and withdraw (or limit) the assignment of that alternative frequency or band in the manner required by subsection (a); and

(B) shall submit a statement of the reasons for taking the action described in subparagraph (A) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(2) GROUNDS FOR SUBSTITUTION.—For purposes of paragraph (1), the following circumstances are described in this paragraph:

(A) the reassignment would seriously jeopardize the national defense interests of the United States;

(B) the frequency proposed for reassignment is uniquely suited to meeting important governmental needs;

(C) the reassignment would seriously jeopardize public health or safety; or

(D) the reassignment will result in costs to the Federal Government that are excessive in relation to the benefits that may be obtained from commercial or other non-Federal uses of the reassigned frequency.

(3) CRITERIA FOR SUBSTITUTED FREQUENCIES.—For purposes of paragraph (1), a frequency may not be substituted for a frequency identified by the report of the Secretary under section 4(a) unless the substituted frequency also meets each of the criteria specified by section 4(a).

(4) DELAYS IN IMPLEMENTATION.—If the President determines that any action cannot be completed by the delayed effective date recommended by the Secretary pursuant to section 4(e), or that such an action by such date would result in a frequency being unused as a consequence of the Commission's plan under section 6, the President may—

(A) withdraw or limit the assignment to Federal Government stations on a later date that is consistent with such plan, except that the President shall notify each committee specified in paragraph (1)(B) and the Commission of the reason that withdrawal or limitation at a later date is required; or

(B) substitute alternative frequencies pursuant to the provisions of this subsection.

(c) LIMITATION ON DELEGATION.—Notwithstanding any other provision of law, the authorities and duties established by this section may not be delegated.

SEC. 6. DISTRIBUTION OF FREQUENCIES BY THE COMMISSION.

Not later than 1 year after the President notifies the Commission pursuant to section 5(a)(5), the Commission shall prepare, in consultation with the Assistant Secretary of Commerce for Communications and Information when necessary, and submit to the President and the Congress, a plan for the distribution under the Act of the frequency bands reallocated pursuant to the requirements of this Act. Such plan shall—

(1) not propose the immediate distribution of all such frequencies, but, taking into account the timetable recommended by the Secretary pursuant to section 4(e), shall propose—

(A) gradually to distribute the frequencies remaining, after making the reservation required by subparagraph (B), over the course of a period of not less than 10 years beginning on the date of submission of such plan; and

(B) to reserve a significant portion of such frequencies for distribution beginning after the end of such 10-year period;

(2) contain appropriate provisions to ensure—

(A) the availability of frequencies for new technologies and services in accordance with the policies of section 7 of the Act (47 U.S.C. 157); and

(B) the availability of frequencies to stimulate the development of such technologies;

(3) address (A) the feasibility of reallocating spectrum from current commercial and other non-Federal uses to provide for more efficient use of the spectrum, and (B) innovation and marketplace developments that may affect the relative efficiencies of different spectrum allocations; and

(4) not prevent the Commission from allocating bands of frequencies for specific uses in future rulemaking proceedings.

SEC. 7. AUTHORITY TO RECOVER REASSIGNED FREQUENCIES.

(a) AUTHORITY OF PRESIDENT.—Subsequent to the withdrawal of assignment to Federal Government stations pursuant to section 5, the President may reclaim reassigned frequencies for reassignment to Federal Government stations in accordance with this section.

(b) PROCEDURE FOR RECLAIMING FREQUENCIES.—

(1) UNALLOCATED FREQUENCIES.—If the frequencies to be reclaimed have not been allocated or assigned by the Commission pursuant to the Act, the President shall follow the procedures for substitution of frequencies established by section 5(b) of this Act.

(2) ALLOCATED FREQUENCIES.—If the frequencies to be reclaimed have been allocated or assigned by the Commission, the President shall follow the procedures for substitution of frequencies established by section 5(b) of this Act, except that the notification required by section 5(b)(1)(A) shall include—

(A) a timetable to accommodate an orderly transition for licensees to obtain new frequencies and equipment necessary for its utilization; and

(B) an estimate of the cost of displacing spectrum users licensed by the Commission.

(c) COSTS OF RECLAIMING FREQUENCIES; APPROPRIATIONS AUTHORIZED.—The Federal Government shall bear all costs of reclaiming frequencies pursuant to this section, including the cost of equipment which is rendered unusable, the cost of relocating operations to a different frequency band, and any other costs that are directly attributable to the reclaiming of the frequency pursuant to this section. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(d) EFFECTIVE DATE OF RECLAIMED FREQUENCIES.—The Commission shall not withdraw licenses for any reclaimed frequencies until the end of the fiscal year following the fiscal year in which the President's notification is received.

(e) EFFECT ON OTHER LAW.—Nothing in this section shall be construed to limit or otherwise affect the authority of the President under sections 305 and 706 of the Act (47 U.S.C. 606).

SEC. 8. DEFINITIONS.

As used in this Act:

(1) The term "allocation" means an entry in the National Table of Frequency Allocations of a given frequency band for the purpose of its use by one or more radiocommunication services.

(2) The term "assignment" means an authorization given to a station licensee to use specific frequencies or channels.

(3) The term "commercial carrier" means any entity that uses a facility licensed by the Federal Communications Commission pursuant to the Communications Act of 1934 for hire or for its own use, but does not include Federal Government stations licensed pursuant to section 305 of the Act (47 U.S.C. 305).

(4) The term "Commission" means the Federal Communications Commission.

(5) The term "Secretary" means the Secretary of Commerce.

(6) The term "the Act" means the Communications Act of 1934 (47 U.S.C. 151 et seq.).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 531, the Emerging Telecommunications Technologies Act of 1991 which would require the Secretary of Commerce to identify and transfer 200 MHz of radio frequency spectrum, currently assigned to the Federal Government users, for reallocation to our Nation's commercial sector. I want to commend Chairman DINGELL for his leadership and insight in shaping this critical piece of legislation—legislation that will serve as a cornerstone for future growth in the U.S. telecommunications industry and economy.

All across the country, telecommunications technologies are changing the face of the business landscape and are creating exciting new opportunities for the American consumer. The radio frequency spectrum or airwaves, constitutes the medium through which these new technologies carry information. Industries which rely on the spectrum—from television and radio broadcasting and cellular phones to satellite transmissions and garage door openers—together generate more than $100 billion in annual revenues.

As wireless technologies develop however, their commerical viability is increasingly threatened by the lack of available radio spectrum. This piece of legislation proposes a realistic and pragmatic means of effectively identifying spectrum presently underutilized by the Federal Government and transfering it to the FCC for reallocation to the private sector. This will then create much needed breathing room in which new technologies can make it to market and flourish.

One example of a technological innovation envisioned by the bill would enable people using laptop and note-book sized computers to communicate with each other, wherever they are located and to connect with files and databases anywhere in the world. While there are a number of proposals for expanded personal communications services [PCS], to date, policymakers have not yet made adequate provision for the coming revolution in personal productivity represented by the communicating PC's. Presently there are no adequate frequencies assigned in the United States for this sort of technology, and it will not exist but for a new allocation of spectrum. Apple Computer, IBM, NCR, Tandy, and Compaq among other companies, have supported a spectrum allocation for data-PC's technology.

The benefits of the increased productivity in U.S. education and industry that will result from this one new technology alone have inherent value; this allocation would create the environment for virtually unlimited access to the power of computing for students, business people, professionals, public servants, and consumers in every walk of life. The development of the new technology also will significantly affect U.S. competitiveness in the world economy. With adequate spectrum resources, U.S. computer and information industries are in a position to become the world leader in the development and use of wireless PC networks and, as a result, set the international standards for hardware, frequencies, and software protocols on a de facto basis.

The proposal for allocation of frequencies for data-PC's is thus an example of the type of spectrum use that scores high in the bill's criteria uniqueness, necessity, productivity, and competitiveness, and is indicative of the type of exciting technological development that this bill will foster.

As the Commission considers new technologies, such as personal communications services [PCS] which will become an element of our Nation's telecommunications infrastructure, we must adopt policies that promote competition among diverse providers while not excluding viable competitors.

It is vitally important that we adopt policies now to make this limited natural resource, the radio airwaves, more available. Our international competitors have already begun the process of reallocating radio frequencies and establishing spectrum reserves. As a nation, we simply cannot delay any longer if we hope to take advantage of the opportunities these new technologies offer.

H.R. 531 is a public policy blueprint that creates these exciting new opportunities. It enables technology to spur robust economic growth and to improve our way of life. This legislation requires the Federal Government to employ more efficient spectrum management techniques so that it can transfer some of its unused and underutilized spectrum for reassignment to emerging commercial technologies. H.R. 531 proposes a realistic and pragmatic means of effectively reallocating at least 200 megahertz of the radio frequency spectrum from the Federal Government to the private sector and the public safety community.

H.R. 531 is the foundation for our efforts to achieve this objective and help our Nation fulfill its technological and economic future. Without passage of H.R. 531 many of tomorrow's new technologies and services may forever remain a gleam in the eyes of their inventors and investors. The concepts embodied in this bill will truly lay the groundwork for new frontiers in telecommunications, perhaps bringing us to the day when Dick Tracy two-way video wristwatches become as common as congressional beepers around here. This legislation represents more than a shifting of frequencies from the present to the future however, it represents the replenishment of a vital resource, a renewing of our Nation's commitment to technological preeminence and the distinction of having the best telecommunications infrastructure in the world.

In the last session of Congress, this legislation was unanimously accepted by the committee and the full House. With the bill ready for passage on the floor of the U.S. Senate, it was held hostage to peripheral budgetary wrangling. This effectively prevented the Nation from moving forward, from taking the first step of identifying and transfering spectrum. This year again, efforts were made to delay passage of this bill until fiscal and assignment issues unrelated to this first step were resolved.

I agree with the administration and with Mr. RITTER and my other colleagues that reform of the assignment process is necessary and that our review should consider the administration's proposals to have a revenue-raising element in the spectrum assignment process. I am committed to working with my colleague from Pennsylvania and the administration to develop a consensus solution to these important assignment issues. As part of that effort, the subcommittee will hold a hearing in mid-September, where Secretary Mosbacher will have an opportunity to articulate the administration's policy. I look forward to working with Mr. RITTER and my other colleagues on their separate legislative proposal. Today's passage of H.R. 531 will in no way prejudice our deliberations on the much-needed legislative reform of the FCC's flawed assignment process.

I would again like to commend Chairman DINGELL and his excellent staff, David Leach and Jack Clough, for their leadership on this issue and thank Mr. LENT, Mr. RINALDO, as well as Mike Regan of the minority staff for their steadfast support and cooperation.

I urge my colleagues' support for this legislation.

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Mr. Speaker, I would also like to thank on my staff for his work over the past year, John Kinney, who is leaving to start law school at De Paul University as a scholarship student in August. This will be his last piece of legislation on the floor. I would like to thank him for his effort, and would like to also thank the minority counsel as well.

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the primary role of Congress in the communications field is to preserve and promote competition and innovation wherever possible. This is particularly important now in the emerging and fiercely competitive global telecommunications market.

To promote American competitiveness in the field of telecommunications, we must make our scarce radio spectrum resources available for as many different uses as possible and ensure that it is used efficiently.

Presently, the radio spectrum—the very lifeblood of the communications industry—is overcrowded. This not only stifles existing users of spectrum, but potential new users of that spectrum as well. These promising new users include high definition television [HDTV], digital audio broadcasting [DAB], and personal communications networks [PCN], the next generation of portable telephones. With the expected deployment of these systems in the near future, this Nation faces the threat of a spectrum crisis.

H.R. 531 takes a commonsense approach to addressing this crisis: It promotes efficient spectrum use, encourages greater Government coordination, and makes much needed spectrum available for commercial users. The legislation will also stimulate technological innovation within our domestic telecommunications industry.

For years, the Government has championed policies designed to promote efficient spectrum use. This bill requires the Government to practice what it preaches and turn over the spectrum it doesn't need for private use wherever possible. No more, no less.

We recognize that the Government has a multitude of legitimate spectrum uses that we must continue to provide for, but, like all spectrum users, the Government should be required to justify spectrum needs.

H.R. 531 puts this process in motion by requiring the National Telecommunications and Information Administration [NTIA], the spectrum coordinator for the Government, to review current Government spectrum use and select, within 2 years, 200 megahertz for reallocation to commercial users. To meet our most pressing needs, the bill provides for the expedited identification and reallocation of 30 megahertz of spectrum.

The FCC would then take responsibility for determining how best to allocate the newly available spectrum to existing and new technologies. H.R. 531 mandates that the FCC carefully weigh the benefits and costs to the public of any proposed reallocation.

We all know that the commercial potential of new communications technologies will be essential to our economy as we move into the next century. Without new spectrum allocation and assignment policies like H.R. 531, our communications infrastructure will become even more congested and will be frozen into obsolete technologies.

Finally, I want to commend the chairman of the Energy and Commerce Committee, Mr. DINGELL, for his leadership on this important issue. Both he and the chairman of the Telecommunications Subcommittee, Mr. MARKEY, should be commended for the time and effort they have put into this issue, which is one of the most important long-range issues we face. I hope and believe that this bill will make a positive contribution to America's competitive position in the years to come.

I urge all Members of the House to support H.R. 531.

Mr. Speaker, I would be remiss if I did not commend the chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL], for his leadership on this important issue. Both the chairman and the distinguished chairman of the Subcommittee on Telecommunications and Finance, the gentleman from Massachusetts [Mr. MARKEY], should be commended for the time and effort they have put into this issue, which is one of the most important long-range issues we face. I think the proposal of the gentleman from Massachusetts [Mr. MARKEY], which was enunciated on the floor, for handling the other problems allocated with spectrum allocation, are very noteworthy and to the point. I hope and believe this bill will make a positive contribution to America's competitive position in the years to come.

Once again, I want to acknowledge the hard work of the subcommittee members, the subcommittee staff, the gentleman from Massachusetts [Mr. MARKEY], and on this side, in particular, the gentleman from Pennsylvania [Mr. RITTER] and the gentleman from Ohio [Mr. OXLEY], as well as on the other side, the gentleman from Louisiana. [Mr. TAUZIN].

Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Speaker, I rise in support of H.R. 531, the Emerging Telecommunications Technologies Act of 1991.

I want to commend our colleague, the chairman of the subcommittee, the gentleman from Massachusetts [Mr. MARKEY] for his leadership in this area, as well as the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], and the subcommittee for staying on top of these opportunities which present itself, so that America can fulfill the potential in this burgeoning area of telecommunications.

This bill gives the way, as we have heard, for 200 megahertz of spectrum to be reallocated from Government use to private use.

As we have heard, as well, there is no doubt we are running out of room in the usable radio spectrum, and there is tremendous opportunity out there in the private sector to take advantage of spectrum. Private industry is doing its best to implement spectrum management techniques. However, Government users have not been forced to use the spectrum as efficiently as they should. By moving 200 megahertz of spectrum from the Government to the private sector, I think we will begin to force the Government to be as efficient as the private industry counterparts.

However, I do feel we are missing a great opportunity here. With this particular bill, the spectrum we made available will be handed out free of charge.

In the past, this had meant that speculators, with no particular communications skill or knowledge, but with enough luck to hold the "winning" number in a Federal Communications Commission lottery, these speculators receive the license. Now, the recent cellular license winner in Cape Cod is a good example.

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The applicant's goal is often just to turn around and sell the license for a huge windfall profit. That is what happened here, not to construct the communications system for which the license has been awarded. In such diverse publications as the Washington Post, the New York Times and The Economist, articles and editorials have appeared questioning why the Government gives away these valuable licenses of a public good radio spectrum for free. Is it not about time we ought to put an end to the process?

I have authored H.R. 1407, along with my colleague, the gentleman from Ohio [Mr. OXLEY] and my colleague, the gentleman from Louisiana [Mr. TAUZIN]. This is a bill to mandate that spectrum be reallocated on a competitive bidding basis, where the public is the recipient of the bid. Competitive bidding for spectrum makes sense. The Government uses competitive bidding for oil and natural gas leases. Why not somewhat similar systems for spectrum licenses?

Some people argue that only the deep pockets will be able to play the bidding game. Well, the news is that only the deep pockets can play the game today.

Today there is no requirement that the lottery winner take into account such principles as minority ownership, diversity, or the needs of innovative small business; but if the FCC manages the bidding process, the Government can make sure that all these principles are taken into account.

Spectrum bidding is a taxpayer relief concept. That is why the National Taxpayers Union supports competitive bidding. I am also confident that a competitive bidding mechanism can be developed that insures that those with legitimate spectrum needs can be accommodated in the years to come. Again, the FCC manages it. It is not straight flat out bidding exposure to the highest bidder.

Furthermore, we could target at least some or all of that revenue perhaps for telecommunications infrastructure improvement. The gentleman from Massachusetts [Mr. MARKEY] just spoke eloquently on the need to provide the basis for telecommunications improvements over the years. Infrastructure is important. Perhaps this could serve as an important source of revenue for enhancing telecommunications infrastructure.

The SPEAKER pro tempore (Mr. MAZZOLI). The time of the gentleman from Pennsylvania has expired.

Mr. RINALDO. Mr. Speaker, I yield 1 additional minute to the gentleman.

Mr. RITTER. America's economic competitiveness depends on an advanced telecommunications and information network. Fiber optics is one particular example. Perhaps this money from spectrum bidding could be used to further America's investment in fiber optic networks. It is really imperative that Congress promote policies for telecommunications infrastructure development; otherwise we risk allowing others to surpass us in an information economy based on global telecommunications now into the next century.

Getting back to the bill before us, I support H.R. 531. It is a good first step. It has the potential of opening up additional spectrum for telecommunications technologies.

The gentleman from Massachusetts [Mr. MARKEY] and I have discussed the issue of competitive bidding and he has acceded to holding a hearing in September. I look forward to that hearing. I appreciate the chairman's willingness to work with me on this extremely important issue.

Mr. RINALDO. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I would like to commend my colleague, Chairman DINGELL, for his continued efforts to establish a broad framework for promoting the efficient use of the radio spectrum.

H.R. 531 introduces 200 megahertz of new spectrum to the marketplace, the purpose of which is to promote the growth of our telecommunications industry. As we approach the dawn of a new century, advances in telecommunications technologies are spurring economic growth and enhancing our quality of life. Many of these advances depend on the use of the radio spectrum, and passage of H.R. 531 represents a step toward ensuring that the spectrum needs of these emerging telecommunications technologies can be met.

While H.R. 531 represents a significant step in the right direction, I believe that we have an opportunity to realize even greater gains. My colleague from Pennsylvania, Mr. RITTER, and I have introduced a bill, H.R. 1407, which would distribute new spectrum by competitive bidding. The spectrum is a valuable public resource, and the American public should realize the financial, as well as the technological, benefits generated by this resource.

Hearings on H.R. 1407 will commence in September with testimony from Secretary of Commerce Robert Mosbacher. I am hopeful that the many benefits of this legislation will become apparent, as I believe it is good public policy.

Auctioning spectrum space makes sense, and there are four reasons why H.R. 1407 is good public policy. Auctions would produce more innovative uses of spectrum space. Auctions would lead to more efficient allocation of a limited amount of spectrum space. Auctions would produce revenues which could be used to reduce the Federal budget deficit. And finally, auctions would bring spectrum allocation in line with other fee-for-use programs.

By supporting H.R. 1407, we have an opportunity to truly give the public its money's worth, and that's good public policy.

Mr. MARKEY. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I have no other Members who are seeking recognition, but I would like to say this to the gentleman from Ohio [Mr. OXLEY] and to the gentleman from Pennsylvania [Mr. RITTER] that I am going to work with them through the gentleman from New Jersey [Mr. RINALDO] to fashion legislation. We will begin with the hearing with Mr. Mosbacher testifying.

Step one then will be the passage of this legislation which will begin the process of identifying and recapturing 200 megahertz spectrum, and then a reform process put on the books for its dissemination back out into the commercial marketplace, with some set asides for the public service, for public safety and other areas that we will have to deal with in a subsequent piece of legislation; so we will work with the gentleman. This is our foundation and we will move forward, and I thank the gentleman for his cooperation.

Again in conclusion, I would like to thank the ranking minority member of the full committee, the gentleman from New York [Mr. LENT].

I would like to thank Gerry Salemme of the staff, and I would like to thank Colin Crowell of my staff and again my good friend, the gentleman from New Jersey [Mr. RINALDO].

Mr. Speaker, I urge full support of the House for this legislation. It is a critically important piece of long-term competitiveness for our country.

Let me once again restate that the Japanese are targeting 20 to 22 percent of their Gross National Product that will be telecommunications hardware or software by the year 2000. Our country has to have a plan, we have to have a strategy and this piece of legislation is a critical part of that strategy.

Mr. LENT. Mr. Speaker, during the last decade, we have seen a profound and beneficial change in our daily lives. The telecommunications technologies that have emerged in that time—fax machines, cellular phones, and even the pagers that Members of Congress use—all are now so common that we take them for granted.

The benefits of these then-new technologies came about in part because we gave them room to grow. The FCC allocated part of the radio frequency spectrum to the pagers and the cellular phones. We invested that scarce resource in the private sector and have since reaped a large reward.

Unfortunately, this decade may not repeat the success of the last. The reason? The spectrum is jammed; most of the space is taken. Promising new technologies, such as high definition television [HDTV], may suffocate if we do not make more spectrum available.

H.R. 531 does just that. This bill takes government frequencies that might be put to a better use and turns them over to the private sector. Under H.R. 531, the Commerce Department would coordinate and consolidate government spectrum usage in an effort to make it more efficient.

This process should free up approximately 200 megahertz of spectrum, or the equivalent of 33 TV channels, for private use. This investment will have a handsome payoff in the next 10 years as existing and future technologies, such as personal communications networks [PCN] and HDTV, use the frequencies that H.R. 531 makes available.

I want to commend the full committee chairman, Mr. DINGELL, for his leadership on this important issue. I also want to commend the subcommittee chairman, Mr. MARKEY, and the ranking Republican member, Mr. RINALDO, for the considerable effort that they have devoted to this issue in the subcommittee. Together they have forged a bill that promises an enormous return on the small investment it makes.

I urge all the Members of the House to support H.R. 531, the emerging Telecommunications Technologies Act of 1991.

Mr. DINGELL. Mr. Speaker, I rise in support of H.R. 531, the Emerging Telecommunications Technologies Act. I would like to commend Mr. MARKEY, the chairman of the Subcommittee of Telecommunications and Finance, for bringing this bill before the House so expeditiously. I would also like to commend him for compiling a hearing record in support of this legislation that will serve as a resource for years to come.

In many ways, H.R. 531 is an obscure piece of legislation. Congress seldom legislates on spectrum issues. Indeed, prior to the hearings held by our Subcommittee on Telecommunications and Finance, the last comprehensive set of hearings that were held on the Government's procedures for making decisions on its own spectrum use took place in 1959. However, H.R. 531 has generated considerable attention, and spectrum management issues have become a much higher priority for the telecommunications industries and those in Government who oversee them.

Although they may be obscure, spectrum management decisions made in the next few years will have a profound effect on the way Americans work, relax, and live their daily lives well into the next century. A wide variety of new technologies can bring innovative services to the market—but only if the necessary spectrum is made available.

Therein lies the problem. The Federal Communications Commission has no vacant frequencies available to license for new technologies or services, no matter how desirable they may be. Under the most optimistic scenario, the introduction of new technologies will be delayed for a considerable period of time while the Commission attempts to take frequencies away from an existing user. More than likely, however, is that a great many technologies will never be introduced at all, due to the lack of available spectrum. Neither is an acceptable alternative as we enter the 21st century.

The adverse effect of the spectrum shortage is not limited to the introduction of new technologies. When corporate decisionmakers are deciding to allocate their research dollars, it is unlikely that they will invest in research and development of spectrum-dependent technologies, knowing that there are no available frequencies. The likelihood of ever recovering those investments is slight. And, if a lengthy regulatory fight at the FCC is a precondition of obtaining an allocation, the combination of uncertainty, cost, and risk will have the effect of steering research funds into other areas where a payoff is more likely.

Our Asian and European competitors are not so constrained. Americans use more spectrum than any other nation, and thus our spectrum shortage is far more acute and poses problems that are unique to the United States. This is not an indictment—the American people have access to more radio and television signals, and more mobile radio technologies, than the citizens of any other nation. But the effect of our unique problems will be to see leadership in wireless technologies migrate to Japan, Europe, and other countries.

H.R. 531 was drafted so that we might avoid losing our lead in wireless technologies, and help assure that the benefits of the technological revolution are not lost to the American people. While there are a variety of problems that are unaddressed by the legislation, it will go a long way toward assuring that the FCC will be able to provide for our future spectrum needs.

In my view, the spectrum shortage we currently face is, in large part, the result of decisions made in the early part of the 20th Century. At that time, radio was in its infancy. The driving force that brought the Federal Government into the act was the need to prevent interference, as unlicensed and unregulated operators used the airwaves without restraint.

Authority to regulate spectrum use—by Government and non-Government users—was vested in the Commerce Department, under then-Secretary Herbert Hoover. In 1922, Secretary Hoover created the Interagency Radio Advisory Committee, to provide him with advice on the spectrum needs of the Federal Government. This unified control over all spectrum use enabled him to make informed decisions that would prevent interference between commercial and Government users.

For the next 5 years, this structure made sense. But in 1927, Congress created the Federal Radio Commission, and relieved the Secretary of Commerce of his responsibility to regulate the use of the spectrum by non-Government users. In 1934, the authorities vested in the FRC were transferred to the newly formed FCC, which has had the responsibility ever since.

Although both the regulatory structure and the amount of use of the spectrum have changed since 1922, the IRAC lives on. It continues to advise the Secretary of the Government's spectrum needs, and does an admirable job. But the tasks facing spectrum managers have grown considerably more complex since 1922.

Instead of merely regulating spectrum use to prevent interference, today's spectrum managers must weigh a host of competing demands. Today, their task is dominated by the need to apportion a scarce resource among competing—and in most cases, deserving—claimants.

But the regulatory structure established in 1922, and modified in 1927 and 1934, does not lend itself to the efficient management of a scarce resource. It is as if we had two landlords, operating independently, renting space in the same building.

Moreover, the internal procedures utilized by the IRAC do not lend themselves to the efficient management of the Government's portion of the spectrum. Meetings are held behind closed doors. No public input is sought. Decisions are seldom announced to the public, even after repeated inquiries are made. While the current Administrator of the National Telecommunications and Information Administration has set in motion a series of reforms designed to open the process to public scrutiny, which are commendable, we are still left with the legacy of nearly 70 years of closed-door decision-making.

The hearing record compiled by the Telecommunications Subcommittee leaves no doubt that these inefficient procedures have resulted in inefficient use of this scarce resource. Technologies such as trunking—long utilized by commercial operators—are still in the experimental phase for Government users. It is clear that the rigors of the FCC's procedures have resulted in more efficient spectrum use by non-Government users than by the Government.

H.R. 531 is designed to remedy this problem. It will require that the Commerce Department and the FCC conduct joint planning activities, so as to ensure greater levels of coordination and cooperation. Specifically, the legislation requires that these activities address: the future spectrum requirements for public and private uses, the allocation actions necessary to accommodate those uses, and actions necessary to promote the efficient use of the spectrum, including spectrum management techniques to promote increased shared use of the spectrum that does not cause harmful interference as a means of increasing commercial access.

This last point is extremely important. The Government currently has exclusive access to frequencies that are utilized in rural areas. Some of these uses are classified, and concern Defense Department programs for weapons testing—which is, as a general practice, conducted in remote areas. Other applications involve remote sensing to warn of rising water in rivers and reservoirs, which could result in flooding. I have no quarrel with these uses. But I see no reason why a prudent sharing arrangement cannot be worked out, whereby these same frequencies can be reused in urban areas, and help relieve congestion.

In addition to addressing the problems caused by 70 years of bifurcated management, the legislation contains other provisions as well. It requires that the Commerce Department identify 200 mHz of spectrum used or allocated to Government users that, over time, will be transferred to the FCC for licensing to non-Government users. It will increase reliance on services provided by private sector vendors, such as system operators or common carriers, for the provision of services the Government currently provides for itself. In short, H.R. 531 will have a substantial effect on the efficiency of Government spectrum use, now and in the future.

By requiring that 200 mHz of spectrum be freed up for non-Government uses, the legislation will also result in the availability of blocks of frequencies that the FCC will be able to allocate for new technologies. Innovators and entrepreneurs will be able to conduct research with the knowledge that they at least have a fighting chance to obtain an allocation of spectrum. American companies can make investment decisions to engage in research and development of spectrum-dependent technologies in the United States, and not migrate off shore. American users will continue to have access to cutting edge technologies that will help us to compete internationally.

H.R. 531 is not a panacea for all that ails us. But its beneficial effects will be virtually immediate and long lasting. Its passage by Congress should not be held hostage to theories about spectrum auctions or other problems that involve the Commission's licensing practices. Those problems need to be addressed—but first we must make sure that the Commission has something to license.

It is my hope that the passage of H.R. 531, and its implementation by the executive branch, will create a new environment for spectrum managers. The current ad hoc approach to allocation decisions can be replaced with a more rational approach. For example, local public safety agencies utilize frequencies at 200, 400 and 800 mHz. That means that each police cruiser needs to have three radios in its trunk—an expensive proposition for local taxpayers. Not only is this an inefficient use of taxpayer dollars, it is an inefficient use of spectrum as well. Over time, the freedom that H.R. 531 gives to spectrum managers will enable them to create common blocks of frequencies for public safety and other users, reducing their costs and increasing spectrum efficiency simultaneously.

The Emerging Telecommunications Technologies Act is a bill whose time has come. Unless this landmark legislation is passed and signed into law, American manufacturing companies will lose their lead in bringing new wireless technologies to U.S. users. Americans have developed an appreciation for the benefits that spectrum-dependent technologies can bring. They deserve to benefit from new radio technologies well into the next century.

Mr. Speaker, I urge my colleagues to support this important legislation. It has been endorsed by a wide variety of spectrum users—in fact, I am not aware of a single organization that opposes H.R. 531. Among those supporting the bill is a group known as APCO [the Association of Public Safety Communications Officers]. APCO's support is due to the need for additional frequencies for public safety use, by local police and fire departments. Unless H.R. 531 is passed, local public safety officers will not have access to the spectrum they need and deserve, and will continue to encounter delays that are simply intolerable.

Mr. Speaker, H.R. 531 was reported by unanimous voice vote by the Subcommittee on Telecommunications and Finance, and by the Committee on Energy and Commerce. It is substantially similar to H.R. 2965, which passed the House a year ago by unanimous voice vote. I urge my colleagues to support this important legislative initiative, which I regard as one of the most important to come before this House this year.

Mr. RINALDO. Mr. Speaker, I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 531, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on H.R. 531, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

STRIPED BASS ACT OF 1991

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2387) to authorize appropriations for certain programs for the conservation of striped bass, and for other purposes as amended.

The Clerk read as follows:

H.R. 2387

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Striped Bass Act of 1991".

SEC. 2. ATLANTIC STRIPED BASS CONSERVATION ACT ENFORCEMENT, REAUTHORIZATION, AND EXTENSION.

(a) Enforcement of Moratorium on Atlantic Striped Bass Fishing.—Section 5(e) of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended—

(1) in the first sentence by inserting "(1)" before "The Secretaries"; and

(2) by adding at the end the following new paragraphs:

"(2) Enforcement authority.—A person authorized by the Secretaries may take any action to enforce a moratorium declared under section 4(b) that an officer authorized by the Secretary under section 311(b) of the Magnuson Fishery Conservation and Management Act may take to enforce that Act.

"(3) Regulations.—The Secretaries may issue regulations to implement this subsection.".

(b) Authorization of Appropriations; Cooperative Agreements.—Section 7 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended—

(1) by inserting before "For each" the following: "(a) Authorization.—";

(2) by striking "and 1991," and inserting "1991, 1992, 1993, and 1994,";

(3) by adding at the end the following new subsection:

"(b) Cooperative Agreements.—The Secretaries may enter into cooperative agreements with the Atlantic States Marine Fisheries Commission for the purpose of using amounts appropriated pursuant to this section to provide financial assistance to the Commission for carrying out its functions under this Act."; and

(4) in the heading for the section by inserting before the period at the end the following: "; COOPERATIVE AGREEMENTS".

(c) Extension of Effective Period.—Section 9 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended by striking "1991." and inserting "1994.".

SEC. 3. REAUTHORIZATION OF STRIPED BASS STUDIES UNDER ANADROMOUS FISH CONSERVATION ACT.

(a) Conduct and Scope of Studies.—Section 7(a) of the Anadromous Fish Conservation Act (16 U.S.C. 757g(a)) is amended to read as follows:

"(a) Conduct and Scope of Studies.—The Secretary shall cooperate with States and other non-Federal interests in conducting scientific studies of the anadromous stocks of Atlantic striped bass. These studies shall include, but not be limited to—

"(1) estimates of recruitment, spawning potential, mortality rates, stock composition of coastal fisheries, and other population parameters;

"(2) investigations of factors affecting abundance of striped bass, including analyses of the extent and causes of mortality at successive life stages; and

"(3) monitoring population abundance and age and sex composition of striped bass stocks on fishery-dependent and fishery-independent data.".

(b) Authorization of Appropriations.—Section 7(d) of the Anadromous Fish Conservation Act (16 U.S.C. 757g(d)) is amended—

(1) by striking "1988, 1989, 1990, and 1991." and inserting "1991, 1992, 1993, and 1994."; and

(2) by striking the third sentence.

SEC. 4. FISHERY MANAGEMENT PLAN ON STRIPED BASS.

Section 6 of the Act entitled "An Act to authorize appropriations to carry out the Atlantic Striped Bass Conservation Act for fiscal years 1989 through 1991, and for other purposes", approved November 3, 1988 (Public Law 100-589), is amended—

(1) by striking subsection (c);

(2) in subsection (d) by striking "or (c)"; and

(3) by striking subsection (f).

The SPEAKER pro tempore (Mr. Mazzoli). Pursuant to the rule, the gentleman from Massachusetts [Mr. Studds] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. Young] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. Studds].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2387, the Striped Bass Act of 1991 modifies and extends the Striped Bass Conservation Act of 1984 and the Federal Striped Bass Study for an additional 3 years.

On May 30, the Subcommittee on Fisheries and Wildlife Conservation and the Environment held a hearing on the bill, and every witness, including the administration, testified in support of the legislation. At our subcommittee markup on June 20, we added three minor amendments that reflected suggestions we received at our hearing. The following week, the bill was unanimously approved by the full Committee on Merchant Marine and Fisheries.

Mr. Speaker, the Striped Bass Act of 1984 was passed in response to a dramatic decline in the striped bass populations along the east coast in the 1970's and early 1980's. The act, along with sound management, State and regional cooperation, and strong support from the commercial and sports fishermen, have all contributed to the recovery of the striper.

The stripers' comeback, Mr. Speaker, is no less miraculous than the efforts of Jim Palmer and Jimmy Connors. But in order to avoid the same outcome as the efforts of those two great athletes, we need to maintain sound conservation practices for the striped bass. H.R. 2387 will ensure the full recovery of the striper, and I urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2387, the Striped Bass Act of 1991, and I encourage my colleagues to do the same.

Even though the migratory range of the Atlantic striped bass does not extend to the coast of Alaska, I fully support the reauthorization efforts of the committee. I am pleased to hear that the numbers of the stripers are apparently getting stronger, and the management plan in contributing to the full restoration of the species.

However, I would like to state that I am extremely hesitant to interfere further with State management programs, even if the range of the stock extends beyond a single State's waters. States should be encouraged to work together for joint management of fish stocks.

H.R. 2387 is simply a reauthorization, with a few minor adjustments, mainly for clarification purposes. Again, I encourage my colleagues to support this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. Armey].

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, let me first congratulate the gentleman from Massachusetts [Mr. Studds] and the gentleman from Alaska [Mr. Young] for bringing this bill forward.

Mr. Speaker, I would like to take a moment to speak on behalf of the striped bass.

As a fisherman I recognize the value of our domestic fish population for the recreational pleasure of the American public.

I do not think we have an opportunity often to speak up on behalf of the bass population of this Nation.

Now, it is true that Bill Westmoreland loves small-mouthed bass and there is no doubt that Bill Dance loves large-mouthed bass most of all. But my heart goes out for the striped bass.

This is an enormous, wonderful recreational fish; a good fighter and a good contestant at any time that you manage to snag one.

Not only should we enjoy the striped bass, but we should recognize that he does on our behalf a wonderful gesture when he takes our bait; and we should play with him, we should enjoy the contest, and we should then do the fair thing, put him back in his home to provide recreation for yet another dedicated angler.

We should introduce our children to the striped bass and to others of the species.

Mr. Speaker, I live with an abiding faith that a youngster who spends his idle time plotting and scheming for that time in which he is going to catch the biggest bass in the lake is a youngster who will not go astray.

Now, a parent, a mother or a father who spends their time on the lake or on the shore with the youngster helping that youngster to develop these skills, this sense of sportsmanship, this sense of fair play to catch the wonderful striped bass, and then release him home for others to enjoy is a youngster who will be taught by that parent all the best merits of sportsmanship, good conduct, and good manners and a youngster that is not likely to go astray.

So I applaud the gentleman for bringing this legislation forward, and I applaud the Congress for what I am sure will be their unqualified support on behalf of the bass that will provide for our children an inspiration for greater, more responsible citizenship in the future.

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have to confess I was unprepared for this outburst of enthusiasm and perspective and humanity and just general understanding of life from Texas. I am deeply appreciative, as I know the striper is remarkable. I want to commend—we have to commend one another, as you know, here and apparently it is part of the rules.

The preceding bill, I think, broke some record with respect to Members commending one another any number of times. But the gentleman from Alaska, notwithstanding the fact that he slipped for a moment and referred to this as a rockfish, we appreciate the understanding of the gentleman from Texas, almost as far distant, that its real name is striper.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume, just to compliment the gentleman from Massachusetts [Mr. STUDDS].

It is a striped bass in Massachusetts and in the Chesapeake Bay and in California, but as I mentioned before, it does not come to Alaska. We can only say "salmon," and we will address that issue in the next bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 2387, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ENCOURAGING THE EUROPEAN COMMISSION TO BAN LARGE-SCALE DRIFT-NET FISHING

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 182) to express the sense of the House of Representatives that the Secretary of State should encourage the European Commission to vote to ban all large-scale drift-net fishing by all European Community fishing fleets, as amended.

The Clerk read as follows:

H. RES. 182

"Whereas United Nations Resolution 44/225 specifically calls for the immediate cessation of expansion of large-scale driftnet fishing on the high seas;

"Whereas the European Community cosponsored United Nations Resolution 45/197, which reaffirms United Nations Resolution 44/225;

"Whereas the damage caused by the use of large-scale driftnets on the high seas can be crippling to efforts to conserve fisheries within the exclusive economic zones of coastal States;

"Whereas there are currently no effective conservation and management measures that will make large-scale driftnet fishing an acceptable fishing technology;

"Whereas votes in the European Community and other regional fora to ban large-scale driftnet fishing are critical to the global effort to accomplish that goal;

"Whereas the expansion of large-scale driftnet fishing on the high seas by certain European Community fishing fleets is in contravention of United Nations Resolutions 44/225 and 45/197; and

"Whereas approval by the Fishery Council of the European Community of a proposal to ban large-scale driftnet fishing, which is scheduled to be voted on by the European Commission in the near future, is critical to the success of the global fight to ban large-scale driftnet fishing, and is therefore of extreme importance to the United States Government: Now, therefore, be it

"*Resolved*, That it is the sense of the House of Representatives that the Secretary of State, in consultation with the Congress and other Federal agencies with competence regarding large-scale driftnet fishing, should communicate to members of the European Community the support of the United States to obtain an immediate ban on all large-scale driftnet fishing by European Community fishing fleets, including all fishing using one driftnet, or a combination of driftnets, having a total length greater than 2.5 kilometers."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 182 is a simple resolution with a powerful message to the European Community to act now to ban large-scale drift net fishing by its member fleets.

The Merchant Marine and Fisheries Committee recently learned that the European Community is about to consider the issue of large-scale driftnet fishing. The Fishery Council of the Community is expected to vote in the very near future on whether to ban the use of large-scale drift nets. House Resolution 182 is intended to put the House of Representatives on record as favoring such a ban.

Most Members are probably aware of the destructive large-scale drift net fishing that occurs in the Pacific Ocean by fishermen from Japan, Taiwan, and Korea. Driftnets up to 40 miles long are used to catch salmon, squid, and tuna, but in the process also slaughter thousands of seabirds, whales, dolphins, and sea turtles. In response to this tragic situation the United Nations has passed resolutions prohibiting any further expansion of large-scale drift net fishing and calling for a complete moratorium on the use of these killer nets on the high seas by June 30, 1992.

Last year this Congress prohibited U.S. fishermen from using large-scale drift nets—nets over one and one-half miles long. This resolution encourages the European Community to do the same and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of both drift net resolutions that the House will be considering today, and I urge each of my colleagues to do the same.

The large-scale drift net issue is of particular concern to me. This gear type has stripped the ocean of numerous target and nontarget marine resources, including those which support Alaskan fisheries.

Taiwaneses, Korean, and Japanese fishing fleets set thousands of miles of this monofilament net each day. Each net can be as long as 60 kilometers. These nets drift with the tide entangling anything on the surface or in the water. Victims of this gear include whales, dolphins, turtles, sea birds, and salmon, just to name a few. Perhaps some of my colleagues are not aware but many of these same critters are protected, and the directed or incidental killing of some species is in violation of marine mammal protection laws.

The impacts to the fishing industry in Alaska from the incidental catch and directed taking of salmon on the high seas is unacceptable. The Japanese fisheries in the North Pacific are notorious for a high salmon by-catch, and many believe the illegal directed taking of salmon on the high seas.

I have just returned from Alaska, where just last week the fishermen were protesting. The contentious issue was the price they were being offered by processing plants, which are mainly Japanese owned. The price was more than 50 percent below that of 1 year ago. The reasons given were that there was so much salmon on the market. Why? Well, that is what everyone is asking. Clearly, there has been an increase in the legitimate supplies of salmon on the world market. But what portion of the salmon glut is due to the illegal high seas fishing. What kind of gear are they using? Large-scale drift nets. One way to combat this particular source of salmon to the benefit of the Alaskan fishermen is to stand behind the ban on the use of large-scale driftnets. This is just one more reason for my support of this measure.

However, the jury is still out on whether or not there really is a glut of salmon on the market, of if the Japanese-owned processing plants were simply getting together and offering one, very low price. Regardless of the market price for salmon, the processors would have taken a large chunk of profit, by offering such a low price. I am concerned for the Alaskan fishermen and have taken steps to see that they are not taken advantage of. I have asked the General Accounting Office to look into the possibility that the processors have engaged in price fixing to the detriment of the fishermen. I sincerely hope that no such price fixing has occured, but regardless of the findings we are doing something positive today, by taking steps to eliminate an illegal and harmful supply of salmon.

The 1990 statistics from observer data on the directed taking and by-catch using large-scale drift nets show extraordinary numbers. These statistics reinforce my opinion that the losses due to this gear type are extensive and unacceptable. To make matters worse, these data are from only 10 percent of the Japanese fleet. The numbers do not include the other 90 percent or any of the other foreign fishing fleets.

Up until recently, the Pacific Ocean was the center of United States concern of drift net activities. More than 800 driftnet vessels from Japan, Taiwan, and Korea fish in the Pacific, mainly for squid, tuna, and billfish. However, it has been reportedly that vessels carry this gear type have been recently spotted in the Caribbean. We are concerned that the use of this gear may continue to spread.

The United Nations has attempted to take a firm stand on the issue of large-scale drift nets by calling for a moratorium on the use of this gear by the end of June 1992, unless scientific evidence indicates that the negative impacts from using this gear is insignificant.

The first of the two drift net resolutions encourages the European Commission to vote to ban the use of large-scale driftnets by all European Community fishing fleets. House Resolution 182 resolves that the U.S. Department of State, in consultation with the Congress and other Federal agencies, should communicate to members of the European Commission that the United States supports an immediate ban on the use of this gear type by all European Community fishing craft.

The scientists do not yet know the impacts on fish populations from stripping the oceans. There is a great deal of speculation on the impacts of marine mammal populations, and the health of the entire marine ecosystem.

Let me make another stand behind the ban on the use of large-scale driftnets before we no longer need expert scientists to tell us how badly damaged the oceans are. I once again encourage my colleagues to support both resolutions banning the use of this gear.

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Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, it does not take a Jacques Cousteau to understand the devastating impact the use of large-scale drift nets has on the marine environment. It is rather elementary—toss a few miles of invisible monofilament netting into the sea in hopes of targeting 1 or 2 fisheries, perhaps tuna or squid, and you are bound to entangle at least 50 other marine species that happen to be in the wrong place at the wrong time. I cannot think of a quicker and more efficient way to depopulate the sea.

I would not go so far as to say the United States has a perfect record in this area, but we can take credit for recognizing the problem and trying to do something about it. We took the first step toward reducing the mortality rates of dolphins, turtles, sea birds, and other marine creatures last year when we passed the Dolphin Protection Consumer Information Act. Today we will advance one step farther in our quest to protect the bountiful sea by passing House Concurrent Resolution 113 and House Resolution 182.

Recently my office received a report of the observations of the Japanese high seas squid drift net fishery in the North Pacific Ocean. I was angered by the findings, but I have to say that I was not surprised. Images of dolphins, loggerheads, rays, sailfish, puffins, and fur seals being trapped, drowned, and crushed for no good reason were haunting.

The United States is not the only nation aware of the devastating toll this method of fishing has taken on the sea. No nation can plead ignorance. That is why I find it unconscinable that any nation would allow its fishing industry to continue such practices. The time has come to make large-scale drift-net fishing a method of the past.

You might say I am particularly sensitive to this issue because I am particularly sensitive to the plight of the dolphin. At my home in Florida, it is not uncommon to look out my window and see dolphins frolicking. Unfortunately we have lost a large number of the dolphin population in the Gulf of Mexico over the past few years due to a number of events. To the average Floridan, dolphins are one of the most cherished natural resources; one dead dolphin is one too many.

Sometimes it seems the rest of the world does not feel the same way about dolphins, or for that matter, for any of the other wonderful marine creatures God has placed on this Earth. The world is a little careless, it seems.

T.S. Eliot once said, "The Seas has many voices." I am afraid that is something is not done soon to stop this method of fishing—a method that is virtually the equivalent of strip-mining the ocean—those voices may be lost forever.

We are not suggesting that commercial fishing is out of bounds. We are rather advocating wise use of our natural resources, so we will continue to have natural resources to use in the future.

Mr. STUDDS. Mr. Speaker, I want to commend the gentleman from Florida [Mr. GOSS] and wish him well in his effort to introduce poetry to the floor of the House. It is a challenge.

Mr. Speaker, I yield 5 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, I wish to rise and associate myself with the remarks of the previous speaker, the gentleman from Florida [Mr. GOSS], and commend our chairman, the gentleman from Massachusetts [Mr. STUDDS], for his foresight in bringing this resolution before this body.

Mr. Speaker, last week I had the opportunity to participate in a gathering of Members of the Parliament or Congress from Japan, from the European Community, from the United States and from the Soviet Union. Unanimously they support the concept that the drift nets are a menace to any environmentally sustainable use of our natural resources from the oceans and that we should do all we can to ban their use.

I urge this body and the European Community to take these steps now.

Mr. YOUNG of Alaska. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I speak in support of the immediate ban on the use of large-scale drift nets by international fishing fleets, House Concurrent Resolution 113. Drift-net fishing anywhere in the world can threaten the viability of marine species and ecosystems for entire regions.

I also support H.R. 182 which calls for an immediate ban on the use of large-scale drift nets by European community fishing fleets.

This resolution defines large-scale drift nets as one or a combination of nets that are more than 1.5 miles long. These plastic nets, which stretch for miles to catch fish below the ocean's surface, indiscriminately kill hundreds of thousands of marine mammals, endangered sea turtles, seabirds and millions of nontarget fish.

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Numerous organizations have worked to prevent the widespread damage that large-scale drift nets inflict upon mammals and nontarget species of fish. U.N. General Assembly Resolution 44-225, which was unanimously approved, calls for a moratorium on this practice by June 30, 1992. The Magnuson fishery conservation reauthorization—Public Law 101-627—prohibited the use of large-scale drift nets in U.S. waters, banned their use by U.S. fishing fleets anywhere in the world and urged the administration to negotiate a worldwide ban of these drift nets. As the gentlewoman from Washington [Mrs. UNSOELD] stated earlier. The Global Legislators Organization for a Balanced Environment [GLOBE], an organization of 59 parliamentarians from the European Parliament, the United States Congress and the Diet of Japan supports all initiatives prohibiting the use of large-scale drift nets. I am a member of a GLOBE U.S.A., as is the gentlewoman from Washington [Mrs. UNSOELD], which met just last week in Tokyo with GLOBE International—GLOBE EC, GLOBE U.S.A., GLOBE Japan, and GLOBE U.S.S.R.—strongly supported implementation of U.N. Resolution 44/225. Mrs. UNSOELD was instrumental in working out compromises with the Japanese Diet, and I commend her for that.

I urge my colleagues to support this resolution to communicate to the State and Commerce Departments to submit to Congress recommendations of actions, including sanctions, for the United States to implement the international moratorium and the United States ban of large-scale drift nets. It will emphasize to the international community the U.S. support for a moratorium on large-scale drift nets and end the unintended damage to our precious environment.

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend the gentleman from Alaska, the gentlewoman from Washington, the gentleman from Oregon, the gentleman from Florida, and the gentlewoman from Maryland, as well as any other Member even remotely associated with this issue, in the strongest possible terms.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to remind Members that this issue has been before Congress before. We voted, along with the gentleman from Massachusetts [Mr. STUDDS], and in fact passed a more restrictive piece of legislation over to the Senate, which would have given the President the ability to impose sanctions on countries. That was rejected by another committee in this House and was stripped from the Senate bill, and that is actually an amendment to the Pell amendment, which I have offered, and has been introduced this year also. Hopefully the committee, and the gentleman from Florida [Mr. GIBBONS], will see the wisdom to pass that piece of legislation. Because with all the rhetoric one hears today, and I compliment everyone for this effort, it still is not going to be enough, until those countries that we have no treaty with, have no observers on their vessels, primarily Taiwan, are going to continue to use these nets.

Mr. Speaker, we have identified Japan in this resolution, and we have identified some other countries, but the real problem is Taiwan. Until we can address that issue, we are not going to accomplish our goal.

As many previous Members mentioned, how any country can condone this activity, I cannot understand. But we are also one of the largest importers of their products. Taiwan hats, Taiwan fireworks, Taiwan this, Taiwan that. Check your shelves as you go into your home, Mr. Speaker, and you will find out we are the biggest importer from Taiwan.

Mr. Speaker, we ought to be able to leverage that buying of their products into having them stop this terrible crime they are committing at sea. That is the important factor here.

Mr. Speaker, these are two positive steps, but they are not strong enough yet. We have to make sure that if we do not see immediate action, if there is no action by 1992, we must impose sanctions on those countries that are using this terrible, terrible tactic to catch immature fish and all the marine mammals on the high seas. Mr. Speaker, that is very, very important.

Mr. BEREUTER. Mr. Speaker, this Member rises in strong support for House Resolution 182, which calls for the United States to encourage the European Commission to ban large-scale drift net fishing by all EC fishing fleets.

It should be self-evident that a drift net fishing ban is in the interest of the European Community and its member nations. Indeed, such a ban is in everyone's interest. Drift nets are quite simply death machines, and have already wreaked incalculable damage in both the South Pacific and the North Pacific. Were drift nets to become common in the North Atlantic—where the fishing fleets of the EC member nations operate—these rich and productive waters could soon be stripped nearly bare.

The European Commission will soon consider whether to permit the use of 10-kilometer long drift nets, as some EC members have proposed. Drift nets of this length simply cannot be made safe, and would inevitably entangle countless incidental fish, marine mammals, turtles, and pelagic birds. Moreover, an European Commission decision to permit 10-kilometer drift nets would be in direct contravention of the U.N. resolutions that call for an end to large-scale drift net fishing.

While it is possible that the EC may seek to permit large-scale drift nets, it is also possible that the European Commission may follow the lead of the United States and ban drift net fishing entirely. It is this Member's sincere hope that the European Commission will adopt such a ban. House Resolution 182 sends a very strong message to that effect, and this Member commends the author of this resolution, the gentleman from Massachusetts [Mr. STUDDS], for his leadership in delivering that message.

Mr. Speaker, as ranking member of the Foreign Affairs subcommittee with jurisdiction over international environmental matters, this Member would note that the Committee on Foreign Affairs will also monitor the issue of drift net fishing very closely. It is an issue that demands the attention of us all. This Member urges the swift adoption of House Resolution 182.

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and agree to the resolution, House Resolution 182, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The title of the resolution was amended so as to read:

A resolution to express the sense of the House of Representatives that the Secretary of State should encourage the European Community to vote to ban all large-scale drift-net fishing by all European Community fishing fleets.

A motion to reconsider was laid on the table.

INTERNATIONAL MORATORIUM ON THE USE OF LARGE-SCALE DRIFT NETS

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 113) to express the sense of the Congress that the President should seek an international moratorium on the use of large-scale drift nets called for in U.N. Resolution 44-225, while working to achieve the U.S. policy of a permanent ban on large-scale drift nets, as amended.

The Clerk read as follows:

H. CON. RES. 113

Whereas large-scale driftnets are nearly invisible, miles-long monofilament nets that are fished just below the surface on the open seas for the purpose of entangling fish and squid in the webbing;

Whereas the best available scientific data indicates large-scale driftnets incidentally kill thousands of endangered sea turtles, hundreds-of-thousands of marine mammals and millions of nontarget fishes;

Whereas continued large-scale driftnet fishing to collect further scientific information is unacceptable because it will undermine efforts to responsibly harvest and conserve pelagic and anadromous marine resources;

Whereas United Nations Resolution 44–225 provides a strong statement of concern by the global community regarding the impacts of large-scale driftnet fishing and calls for a moratorium on the use of these nets beyond the exclusive economic zone of any nation by June 30, 1992;

Whereas unless a joint assessment of scientifically sound data by all members of the international community concludes that there is no reasonable expectation of unacceptable impacts by large-scale driftnet fisheries, the conditions for relief from the moratorium recommended in United Nations Resolution 44–225 are not met; and

Whereas the Fishery Conservation Amendments of 1990 (Public Law 101–627) declares the use of large-scale driftnets beyond the exclusive economic zone of any nations to be an indiscriminate and wasteful fishing method, contains directives in support of the moratorium called for in United Nations Resolution 44–225, and establishes a new national policy of securing a permanent ban on the use of this fishing technique: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress—

(1) that the President—

(A) should coordinate efforts between Federal agencies, affected coastal States, the Congress, the commercial fishing industry, and the conservation community to secure a moratorium on large-scale driftnet fishing by June, 1992, as called for in United Nations Resolution 44–225, and

(B) while seeking that moratorium, should work to achieve the United States policy of a permanent ban on large-scale driftnet fishing, as set forth in the Fishery Conservation Amendments of 1990 (Public Law 101–627); and

(2) that the Secretary of State and the Secretary of Commerce should submit to the Congress by not later than 90 days after the date of the adoption of this concurrent resolution recommendations and evaluation of appropriate steps, measures, policies, and changes in laws, including sanctions, which should be undertaken by the United States Government to implement the moratorium referred to in paragraph (1)(A) and to secure a ban on large-scale pelagic driftnets.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 113 seeks a permanent worldwide ban on the highly indiscriminate and wasteful practice of large-scale driftnet fishing.

House Concurrent Resolution 113 was introduced by Representative UNSOELD this past April and approved by the Committee on Merchant Marine and Fisheries on June 27, 1991. The resolution is important because it states, once and for all, that the policy of this country is to seek a permanent, global ban on large-scale drift-net fishing.

House Concurrent Resolution 113 is good fisheries policy, good environmental policy, and good economic policy. It enjoys the board support of the fishing industry and environmentalists. It makes sense and I urge Members to support it. But before I yield to my colleague from Washington to more fully explain her resolution, I want to commend her for leadership in fighting for a worldwide ban on large-scale drift-net fishing. This fight must be fought and with warriors like JOLENE UNSOELD on our side, I have no doubt about the outcome.

Mr. Speaker, I yield 5 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, the purpose of this resolution is to give our President and his administration still another push—to tell them once again that this wasteful and destructive fishing practice of large-scale drift-net fishing is wanton massacre on the high seas and has no place in the civilized world. This resolution will give us more leverage to use against drift-net pirate nations such as Taiwan, Japan, and South Korea.

Large-scale drift-net fishing is probably the single most destructive human activity disrupting marine life throughout the world. These nets—which stretch up to 30 miles in length—are awesomely efficient killing machines, causing death to endangered sea turtles, hundreds of thousands of seabirds, tens of thousands of marine mammals, and millions of nontarget fish. Japanese officials acknowledge up to a 70-percent bycatch rate—that's 70 percent of the catch being killed by mistake.

Worldwide concern over these fisheries has led to the U.N. General Assembly adopting Resolution 44/225, calling for a moratorium on all large-scale drift-net fishing on the high seas by June 30, 1992, unless an adequate conservation program can be agreed to by all parties. Congress formally supported the U.N. moratorium and established a U.S. policy of seeking a permanent ban on this wasteful and destructive fishing practice in last year's Fishery Conservation Act amendments.

With both Congress and the United Nations denouncing these fisheries, one would think that the drift-netting nations would be well on their way to ending these fisheries. Instead, driftnet fleets are expanding their destruction to new oceans, and drift-netting nations are arguing that conservation programs short of a moratorium can be developed.

Last week, I was in Japan to meet with members of the Japanese Diet and the director of the Japanese Fisheries Agency. I heard arguments that we need more studies on the impact of drift nets, and I learned that Japan believes these studies will show they will be in compliance with the U.N. resolution.

We don't need more studies. Large-scale drift-net fishing is a biologically and environmentally devastating fishing practice that makes sustainable use of our resources impossible—devastating to our fish, our economy, our jobs, and our marine environment.

As we see more and more data documenting the unsustainable rate of bycatch, as we cite more and more violations of international drift-net agreements and as we begin to uncover highly organized smuggling operations in southeast Asia, we know it's time to stop this destructive madness. It is time to implement the U.S. policy of a permanent, worldwide ban on large-scale drift-nets. And the first step is the moratorium under U.N. Resolution 44/225.

Before I conclude I want to thank the distinguished chairmen of our full committee and subcommittee for their efforts in bringing this resolution before this body today.

I also to want to thank the ranking minority member of our fisheries subcommittee for all of his efforts over many years to bring these pirate driftnet fleets under control. The gentleman from Alaska has an excellent proposal that would expand the President's embargo authority against nations that violate international agreements—such as drift nets. Currently, the President only has authority to embargo fishery products—among the few products for which the United States has a trade surplus with these nations. Representative YOUNG's bill would allow the President to embargo or threaten to embargo other products, such as electronics—products that contribute nearly $31 billion annually to our trade deficit.

The use of trade as a lever to encourage conservation is well established in U.S. law. The threat of sanctions has led to improved enforcement of the ban on commercial whaling and to improved fishery conservation off both the Atlantic and Pacific coasts.

We can debate the merits of Representative YOUNG's proposal at a later date. I mention it now because, despite last year's legislation and a U.N. resolution opposing large-scale drift nets, the slaughter on the high seas continues—and, in all likelihood, will continue until we are ready to take serious action. The first step toward making the high seas safer for marine life is the moratorium on large-scale driftnet fishing called for in U.N. Resolution 44/225. But the most meaningful and final step should be implementing the U.S. policy of a permanent ban on these curtains of death.

I look forward to continuing to work with our committee leadership on this issue, and I urge support for the resolution calling for adoption of the U.N. moratorium on large-scale drift nets.

□ 1320

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

I want to compliment the previous speaker, the gentlewoman from Washington [Mrs. UNSOELD] for her leadership in this role. This is a joint effort between the State of Washington and the State of Alaska to try to stop this terrible crime on the high seas. I do strongly support this legislation, and I urge its adoption with the other resolution.

As the gentlewoman mentioned, and I mentioned previously, we need to have a strong and stronger position to be able to implement the 1992 restriction, the U.N. resolution, and we shall have to do that, I am afraid, because these resolutions, good as they are, as the gentlewoman mentioned, last year we passed one in a reauthorization, and they have not followed the mandate of that legislation itself.

I have to say, in all respects, that the sea is one area that we must continue to protect and not only protect environmentally, we must continue to protect it from the taking of all species.

Mr. Speaker, these are nets that would go, for instance, from Washington, DC, to Baltimore. They are nets that are approximately a half mile deep. If they lose one from the back of a vessel, it continues to patrol and prowl the sea. No one ever really harvests from them, and they catch and destroy and catch and destroy.

When they are actually taken in or have not been lost, they are catching immature fish. A salmon that is caught at high seas only is one-third grown, and when he arrives on shore or the proximity of the shore, he weighs as high as 14 pounds. but at high seas he may weigh 3½ to 4 pounds. What a wasteful fishery. And why these countries are continuing to do it, I do not know.

It is not a profitable fishery. It destroys the market. And what they are doing is catching one-third of the fish, when it is immature, when they could have the whole fish closer to shore.

It not only affects Alaska, it affects all our coastal communities. If we do not put a stop to this now, it is going to go around the world. It will not be in the North Pacific. It will be in the Caribbean. It will be on the east coast. It will be all around the world. And we will have ruined our seas and those mammals and species of mammals and fish that live in it.

I again compliment the gentlewoman from Washington [Mrs. UNSOELD] and I encourage my colleagues, let us go forth and give the President the power so we can stop these countries who are not listening to the Congress today.

Mr. Speaker, I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Speaker, I rise in strong support of this resolution because it tells the administration something important. It tells the administration to get off its hands and enforce the international moratorium on illegal high seas drift-net fishing.

The destruction caused by ocean drift-net pirates, particularly from Asian nations, is absolutely horrifying, as my colleagues today have testified to. Countless thousands of marine mammals, sea turtles, sharks, tuna, and sea birds are trapped and killed because of this pernicious practice.

In the North Pacific alone, as many as 125,000 marine mammals and a quarter of a million sea birds are slaughtered each year from foreign high seas drift-nets.

Unless we stop the slaughter, and it is a slaughter, the North Pacific could become a biological desert devoid of these populations.

Especially critical to my region are the salmon whose numbers have fallen so drastically in recent years that some species have now been proposed to be listed under the Endangered Species Act. This may mean in my region major changes in hydropower generation, in navigation, in irrigation, and utility rates for the people of the Pacific Northwest. That is very difficult to accept. But what makes it even more difficult, Mr. Speaker, is watching that happen and then to see these foreign fleets criminally responsible for up to 30,000 metric tons of North Pacific salmon and steelhead being taken illegally from the North Pacific each year.

Several years ago, Mr. Speaker, representatives of the Northwest Steelheaders came to me with their concerns about this matter, the environmental and economic damage caused by large-scale high seas drift nets. I was outraged, as my colleagues who have spoken today are, and I have worked with commercial fishermen, environmental organizations, and constituents in Oregon, in my district and elsewhere, to develop legislation banning the practice of drift netting and to allocate the financial resources needed to enforce the law.

Enforcement is as important as the legislation banning the practice. As a member of the Committee on Appropriations, I have worked over the past several years to secure over a $1 billion in additional funding for the U.S. Coast Guard for enforcement of laws banning large-scale drift-net fishing. This funding had led to a dramatic increase in cutter patrols, surveillance flights, boardings, and seizures of those high seas pirates in recent years. Working with Northwest representatives and National Marine Fishery Service, we passed an amendment last year allowing the NMFS to use seized assets for further surveillance and prosecution of the illegal drift nets.

This was an important and highly effective step toward providing resources needed to enforce drift-net law. Illegal drift-net fishing is an international outrage. We must not ignore it. We must bring it to a stop.

The laws in place today are a step in the right direction, but we do need enforcement. And just as I cannot understand, as the gentleman from Alaska [Mr. YOUNG] expressed it, how foreigners can engage in this practice, I must also say I cannot personally understand why our own administration does not get tougher with these Asian nations who are condoning these practices on the high seas.

This resolution is merely a sense-of-the-Congress resolution. It is not nearly as strong as the legislation introduced by my friend, the gentleman from Alaska [Mr. YOUNG] which should be passed. But at least it is a signal not only to the Asian nations who perpetuate these fleets and condone them, it is a signal to the administration also that we want strong executive action. And this Congress demands it. And if the administration wants to avoid economic sanctions being passed by the Congress, a good way to do that would be to pay heed to the voice of the Congress expressed in this resolution today.

I compliment my colleagues who have shown their leadership on this issue.

□ 1330

Mr. YOUNG of Alaska. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Speaker, it is time to put an end to the strip mining of fishery resources—the use of high seas drift nets.

We have discovered that the vastness of the ocean does not guarantee that fisheries will last forever. Runs can be overfished, inland habitats can be destroyed by bad forestry or water diversions, weakened fishing populations can be wiped out by disease.

These are problems generally faced by only one or two species at a time. But the use of high seas drift nets threatens an entire range of marine life.

Korean, Japanese, and Taiwanese fishermen who scour the oceans with their drift nets catch more than one target species. Their 40-mile-long nets entrap marine life from one end of the food chain to the other. The nets do not discriminate between juveniles and adults. They snare federally protected sea going mammals, birds, even endangered species, such as sea turtles.

On California's north coast, which I represent, several runs of salmon and steelhead are on the threshold of extinction. If they disappear, much of our fishing industry will go with them.

High seas gill nets are perhaps not the most immediate threat to north coast salmon, but their threat is real. For gill nets shred the fabric of life in the oceans. They destroy not only salmon, but the fish they feed upon, and the fish those fish feed upon.

My State has already put restrictions on the use of drift nets within our U.S. waters. But fish do not know international boundaries. I ask you to support the Studds bill—House Concurrent Resolution 113—and end environmental piracy on the high seas.

Mr. BEREUTER. Mr. Speaker, the issue of the use of drift nets is not a new issue. Regrettably, in recent years this body has all too much experience with the lethal and destructive effects of drift-net fishing.

It is no secret that drift nets wreak unimaginable damage upon the ocean's ecosystem. Plastic filament nets that are 30 feet deep and up to 40 or 50 miles long, drift nets kill practically everything they gather. This practice quite literally amounts to strip mining the ocean.

The numbers of incidental killings are simply staggering. For example, monitoring on 32 Japanese boats during the last 6 months of 1989 showed that drift-net fishing incurred the following incidental killings: Over 58,000 blue sharks, 914 dolphins, 141 porpoises, 52 seals, 25 puffins, 22 marine turtles, 539 albatrosses, and almost 9,000 other pelagic birds. Incredibly, this terrible toll was exacted by a mere 4 percent of the Japanese North Pacific drift-net fishing fleet. This Member would also note that Japan has additional drift-net fishing fleets, and that several other nations are engaged in drift-net fishing. The message is clear—drift nets are killing our oceans.

Mr. Speaker, the Foreign Affairs Committee's Subcommittee on Human Rights and International Organizations, which has jurisdiction over international environmental matters and where this Member serves as ranking Republican, held a hearing last year on the deadly impact of drift-net fishing. It was an important and enlightening hearing. One of the most disturbing facts brought to light during that hearing was that drift nets entangle and kill 1 marine mammal for every 10 harvestable fish. For every 10 tuna that a drift net captures, a whale is killed, or a dolphin, or a seal. And this does not include the massive killings of birds, turtles, and nonedible fish. In short, Mr. Speaker, the wanton destruction boggles the mind.

This Member would also note that drift nets which are lost or abandoned, the so-called ghost nets, continue their destruction long after they have been forgotten and replaced by their owners. Hundreds of thousands of marine animals become entangled in these castaway nets each year, dying from man's neglect.

Fortunately the U.N. General Assembly has unanimously approved a resolution calling for a worldwide moratorium on the use of large-scale drift nets by June 30, 1992. While some might argue that a worldwide moratorium is unrealistic or overly ambitious, this Member believes it is a matter of basic self-interest demands that we work toward the elimination of drift nets. If we do not put a stop to drift-net fishing, the oceans will most assuredly die. An international moratorium is a worthy goal, one that the United States should actively support. House Concurrent Resolution 113 simply calls upon the President to seek such an international moratorium on drift-net fishing.

Mr. Speaker, this Member's home State of Nebraska does not border the ocean. On the contrary, it is as far from the ocean as any State in the Nation. So I cannot claim any parochial interest in this matter. But the protection of the oceans should not—indeed must not—be viewed as a parochial matter. On this matter; this Member is motivated to speak and act by the appalling environmental damage caused by drift nets. Therefore; this Member rises in the strong support of House Concurrent Resolution 113 and to urge its swift and unanimous adoption.

Mrs. MINK. Mr. Speaker, out in the oceans there is a menace large and sinister, lurking just below the surface of the water. It stretches for literally hundreds of miles across the open sea, bringing death to millions of creatures that inhabit the undersea world. It is the single most destructive tool of open ocean fishing—the drift net.

Imagine a single net three times as long as Constitution Avenue snaring every manner of fish, seagoing mammal such as dolphins, sea lions, and whales, and even seabirds unfortunate enough to be ensnared while simply alighting midsea. This is the reality of a fishing practice that is far too widespread, far too indiscriminate, and growing by the day.

Drift-net fishing is a lucrative technique for fishing companies. Though the countries most known for using this technique are Korea, Taiwan, and Japan in the Pacific, in the past 2 years, it has gained popularity among the fleets of France, Great Britain, and Ireland in the Atlantic.

Drift nets threaten not just the balance, but the very existence of our ocean ecosystems. With estimates that the world's oceans can only produce a total of 100 million tons of fish a year, and with present estimates at over 85 million tons, it may not be long before we could see an irreversible decline in marine life.

As a Representative of the island State of Hawaii, I fully appreciate the harm that can be done by these massive and destructive nets. Our tradition in the islands is to respect the ocean, take only what we need and can use, and leave the rest for another day. Preserving our most precious sources of life and sustenance on land and sea is a heritage too often forgotten by modern societies.

But the United States and other nations have recognized the problem, and the United Nations has called for a moratorium on the use of large scale drift nets through Resolution 44-225. Still more pressure must be placed on enforcement and more support must be given to efforts to stop the devastation of our oceans natural resources by nonabiding nations.

Mr. Speaker, I urge my fellow Members of Congress to support House Concurrent Resolution 113, introduced by my distinguished colleague Representative JOLENE UNSOELD, which calls upon the President to seek an international moratorium on large scale drift nets, and work to achieve a permanent ban on this insidious and wasteful practice.

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion, offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 113, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the three measures just passed and agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

HOUR OF MEETING ON WEDNESDAY, JULY 10, 1991, AND THURSDAY, JULY 11, 1991

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Wednesday, July 10, 1991, and that when the House adjourns on Wednesday, July 10, it adjourn to meet at noon on Thursday, July 11, 1991.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

IMPORTANCE OF ADULT EDUCATION

Mr. KILDEE. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 279) to declare it to be the policy of the United States that there should be a renewed and sustained commitment by the Federal Government and the American people to the importance of adult education.

The Clerk read as follows:

H.J. RES. 279

Whereas a well educated citizenry is the foundation of democracy, the people of all ages should use every means available to gain knowledge and skills;

Whereas the Adult Education Act offers educational opportunities for out-of-school adults age 16 and older who lack the literacy levels needed for effective citizenship and productive employment;

Whereas the Adult Education Act serves adults who need to acquire basic life skills, to continue their eduction through secondary school, and to attain literacy levels required to secure employment or occupational training;

Whereas the Adult Education Act puts special emphasis on such adult populations as the incarcerated, individuals of limited English proficiency, adults with disabilities, adult immigrants, the chronically unemployed, homeless adults, the institutionalized, and minorities;

Whereas the Adult Education Act has provided adult basic, adult secondary, and English-as-a-Second-Language instruction to over 40,000,000 men and women since 1966;

Whereas the Adult Education Act has initiated programs located throughout the 57 States and territories, in urban, suburban, and rural settings;

Whereas the Adult Education Act encourages the participation of over 94,000 volunteers who selflessly devote their time to educating adults in need of literacy instruction;

Whereas the Adult Education Act supports the national goal that every adult American will be literate and will possess the knowledge and skill necessary to compete in a global economy and exercise the rights and responsibilities of citizenship;

Whereas the Adult Education Act reinforces the principle that we are a nation of students and recognizes that learning is a lifelong process;

Whereas on November 3, 1966, the Adult Education Act was signed into law; and

Whereas the Congress supports the Adult Education Act's goal of educating adults so that they can lead fulfilling, more productive lives: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the policy of the United States that—

(1) the 25th anniversary of Federal aid to improve the basic and literacy skills of adults through the Adult Education Act should be recognized and observed by the Nation; and

(2) there should be a continued commitment to Federal aid for educating adults through the Adult Education Act in order to increase adult literacy and assure a productive workforce and a competitive America in the 21st century.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan [Mr. KILDEE] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. KLUG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Joint Resolution 279 was introduced by my colleague on the Education and Labor Committee, Mr. TOM COLEMAN, to recognize the 25th anniversary of the Adult Education Act and to reaffirm Congress' support for providing education services to the adult population.

The Adult Education Act has served over 40 million adults since its enactment in 1966, enabling those individuals, Mr. Speaker, to be full participants in society.

Additionally, the Adult Education Act plays a critical role in developing the kind of skilled work force needed for America to compete economically on a global basis.

I commend Mr. COLEMAN for introducing the resolution and urge its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. KLUG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this joint resolution introduced by Mr. COLEMAN of Missouri and Mr. KILDEE, which recognizes the importance of adult education. The Adult Education Act will celebrate its 25th anniversary this November. It is fitting that we acknowledge the benefits that have been accrued as a result of this act.

Not only does the Adult Education Act provide instruction for the many adults in our society who are at risk due to their lack of basic skills and literacy, but it affords adults the opportunity to gain the knowledge necessary to pass the general education development test or to receive their adult high school diplomas. Instruction is provided by over 66,000 full and part-time teachers, and over 90,000 literacy volunteers participate in the program mostly as tutors.

House Joint Resolution 279 is a fitting honor to this worthwhile progam. As we look for solutions to the critical education issues facing us, we should not forget those programs that have served us well. I urge my colleagues to indicate their support of this program through their support of this resolution today.

Mrs. MINK. Mr. Speaker, I rise to express my strong support for Joint Resolution 279 which declares it to be the policy of the United States that there should be a renewed and sustained commitment by the Federal Government and the American people to support adult education because of its importance to our Nation's economy.

Mr. Speaker, all too often we think of education only in terms of our children. We look to programs such as Head Start in the hope that if our young students get the proper beginning to their education they will be better able to benefit from academic pursuits and thereby achieve productive and fulfilling lives.

Just as I firmly believe in the importance of childhood education, I also believe that it is never too late for any citizen of this country to benefit from learning.

When, for whatever reason, an American man or woman has gone on through life without reaping the benefits of our education system, they are nonetheless a valuable resource, but there will come a time when they will feel the need to go back to school to meet the challenges of the future.

Adult education is an investment in our untapped human potential. Fulfilling the educational needs of an adult helps to build our work force in greater productivity. It means one more person who can perhaps educate others. And very importantly for mothers and fathers who seek adult education, it means that their children will benefit from learning support at home as well as in school.

Adult education may also be one of our very best means of addressing the needs of America's homeless families. Households that are headed by individuals who survived before with little vocational skills and education are often thrust out onto the street when the only jobs they knew dried up. Their lack of expertise cripples their chances of being hired and prevents them from escaping the economic hardships that keep them homeless and without hope.

It is more important than ever, in these tough economic times, that we encourage adult education, adult literacy, and job skills generally. We must redouble our efforts to help adults and in that way help families, so that our people can become more productive, better able to meet the challenges that face them and contribute to the strength of this country.

An individual is never too old to learn and we must strive to do what we can to promote greater educational opportunities for America's adults. I urge my colleagues to support this important resolution.

Mr. COLEMAN of Missouri. Mr. Speaker, I rise in support of this resolution and hope for its speedy consideration by the other body. This resolution publicly states our continued support of and commitment to the Adult Education Act as we approach its 25th anniversary this November.

We all know the costs of illiteracy to this Nation. In the workplace alone many injuries occur as a result of individuals being unable to read basic safety signs. Many workers are unable to advance in their jobs because of a lack of literacy, and productivity in the workplace lags because of a lack of basic literacy skills. Moreover, it has been estimated that due to errors, accidents and turnovers, the cost of workplace illiteracy is $20 billion annually. This is just a sample of how critical programs that foster basic literacy training are to this Nation.

The Adult Education Act is such a program. Over the course of its 25 year existence it has served hundreds of thousands of adults, enabling them to increase their literacy skills, increase their self esteem and become more productive in the workplace. Instruction focuses on basic skills, English as a second language, and high school equivalency activities. Through participation in adult education programs, many have passed the general education development test and others have received adult high school diplomas. Further, many participants have become U.S. citizens, and others have left the unemployment or welfare roles. Clearly, out investment in Adult Education Act programs has yielded significant results for the individuals involved as well as for the Nation as a whole.

The Adult Education Act is the cornerstone of Federal assistance to adults lacking basic education and literacy skills. At a time when we are hoping to raise the overall literacy rate in this country, and when the President is calling for every adult to become a lifelong learner, it is fitting to renew our commitment to the

Adult Education Act and recognize the 25th anniversary of this worthwhile program, as we do through this joint resolution. I urge my colleagues to join me in supporting the activities operated through this program by accepting this resolution today.

Mr. FORD of Michigan. Mr. Speaker, I rise today in support of House Joint Resolution 279.

This joint resolution is a statement of policy that there should be a renewed and sustained commitment by the Federal Government and the American people to adult education.

On November 3, 1991, it will be 25 years since Federal assistance for adult education and literacy programs were authorized through the Adult Education Act [AEA]. This joint resolution which we are addressing today is a much needed renewed commitment by the Federal Government offering educational opportunities for out-of-school adults age 16 and older who lack the literacy levels needed for effective citizenship and productive employment.

Many reports continue to show widespread illiteracy among adults who may not be able to read, write, speak, or otherwise communicate effectively enough to meet the demands of modern society. Illiteracy in the Nation's work force implies losses through low productivity, accidents, employee errors, and extra training programs. There is no agreement on the costs of illiteracy, but some estimates are over $200 billion annually.

The U.S. Department of Education estimate of the adult illiteracy rate is 13 percent—17 to 21 million persons. Other estimates of illiteracy range from 5 percent to more than 50 percent of the adult population.

Mr. Speaker, although the Federal Government has recognized the illiteracy problem for many years and has authorized Federal assistance for 25 years, the problem of educating America's adult population remains pervasive. It has also been cited in reports that one of the problems in the area of literacy has been the lack of a universal definition. Consequently, in 1988, Congress required in the adult education amendments that the Department of Education submit a report to Congress on the definition of literacy and then to estimate the extent of adult literacy in the Nation. Although we have received a report regarding the definition, we have not yet received an accurate estimate of the number of Americans affected.

We must renew our commitment on the eve of the 25th anniversary of the Adult Education Act to our adult population by providing educational opportunities in order that all Americans may have a more productive and higher quality of life.

Mr. KLUG. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KILDEE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. KILDEE] that the House suspend the rules and pass the joint resolution, House Joint Resolution 279.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 279, the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

CHILD ABUSE PROGRAMS, ADOPTION OPPORTUNITIES, AND FAMILY VIOLENCE PREVENTION EXTENSION ACT OF 1991

Mr. OWENS of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2720) to extened for 1 year the authorizations of appropriations for the programs under the Child Abuse Prevention and Treatment Act and the Family Violence Prevention and Services Act, and for certain programs relating to adoption opportunities, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2720

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Child Abuse Programs, Adoption Opportunities, and Family Violence Prevention Extension Act of 1991".

SEC. 2. EXTENSION OF PROGRAMS UNDER CHILD ABUSE PREVENTION AND TREATMENT ACT.

(a) GENERAL PROGRAM.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 114(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106h(a)) is amended in the first sentence—

(A) by striking "and" after "1990,"; and

(B) by inserting before the period the following: ", and 1992".

(2) SEPARATE AUTHORIZATION OF APPROPRIATIONS FOR ADVISORY BOARD ON CHILD ABUSE AND NEGLECT.—Section 102 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5102) is amended by adding at the end the following new subsection:

"(h) AUTHORIZATION OF APPROPRIATIONS.—If the amount appropriated under section 114(a) for fiscal year 1992 exceeds the amount appropriated under that section for fiscal year 1991, there is authorized to be appropriated for carrying out this section $1,000,000 for fiscal year 1992.".

(b) AUTHORIZATION OF APPROPRIATIONS FOR GRANTS WITH RESPECT TO ENCOURAGING STATES TO MAINTAIN CERTAIN FUNDING MECHANISMS.—Section 203(c) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116b(c)) is amended by striking "1991," and all that follows and inserting "1992.".

SEC. 3. EXTENSION OF CERTAIN PROGRAMS RELATING TO ADOPTION OPPORTUNITIES.

Section 205 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5115) is amended in subsections (a) and (b) by striking "and 1991" each place such term appears and inserting "1991, and 1992".

SEC. 4. EXTENSION OF PROGRAMS UNDER FAMILY VIOLENCE PREVENTION AND SERVICES ACT.

Section 310(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10409(a)) is amended—

(1) by striking "and" after "1990,"; and

(2) by inserting ", and 1992" before the period.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. OWENS] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. KLUG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. OWENS].

Mr. OWENS of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to speak in support of H.R. 2720, the Child Abuse Programs, Adoption Opportunities, and Family Violence Prevention Extension Act of 1991, which extends for 1 year the authorization of appropriations for the programs under this act.

In a recent hearing before the Subcommittee on Select Education, both the U.S. Advisory Board and the General Accounting Office noted serious problems in the implementation of Federal policy in the area of child abuse and neglect. Based on their recommendation, we have decided to extend the act for 1 year.

In 1974, there were approximately 60,000 cases of reported child abuse and 1.1 million by the end of 1979. During the 1980's the number of cases had more than doubled to 2.4 million. This dramatic rise in the incidence of child abuse and neglect, together with an insufficient response to the deepening crisis, has meant that the National Center for Child Abuse and Neglect [NCCAN] is inadequately prepared to meet the challenges facing the Nation. The Advisory Board points out that the child protection system is without the resources to cope with the scale of the current crisis.

In the coming months, we look forward to working in a bipartisan fashion with the U.S. Child Abuse Advisory Board, the GAO, and other groups in taking a comprehensive look at what the Federal role should be in this area. With good will on all sides, and a desire to respond honestly and boldly to the crisis we face, we stand an excellent chance, by early next year, of crafting significant legislation that will be responsive to the realities of the 1990's. I commend Mr. KLUG and Mr. BALLENGER, the Republican members of the Subcommittee on Select Education, for supporting H.R. 2720. I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. KLUG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to express my strong support for H.R. 2720 and to urge its prompt adoption. A 1-year extension of the Child Abuse, Adoption Opportunities, and Family Violence programs will authorize continuation of important research and demonstration projects on child protection and allow Congress sufficient time to consider the findings and recommendations of a recent study conducted by the U.S. Advisory Board on Child Abuse and Neglect.

Over the past two decades we have all become more aware of the magnitude of child abuse and neglect in this country. Our subcommittee recently heard testimony from experts in this field that each year over 1 million children are abused or neglected and over 1,000 children die as a result of abuse. These numbers refer only to those cases that have been substantiated. There is much evidence to suggest they are just a fraction of the actual incidence of abuse and neglect, much of which goes unreported.

I believe we all share a sense of urgency about the need to better protect children and families from incidents of abuse, neglect and domestic violence. The three programs that H.R. 2720 would extend are directed at finding ways to prevent such violence and to treat the special needs of children who are victims of abuse. The grants authorized by these programs assist States in identifying families who are most at risk and providing them with prevention and treatment services at the earliest possible opportunities.

Although these grant programs are relatively small in resource levels, the research findings and model interventions they generate have the potential to reduce the burgeoning human and financial costs of child abuse and neglect. Each year billions are spent at the Federal, State, and local levels on law enforcement, juvenile courts, foster care and residential facilities, and treatment of adults who were mistreated as children. The yearly cost of out-of-home placement and treatment for a single child is as high as $50,000 in some communities. Only by focusing on prevention can we hope to reduce the tremendous social costs of these human tragedies.

In amending the Child Abuse Act of 1988, Congress created the U.S. Advisory Board on Child Abuse and Neglect and directed it to evaluate the Nation's efforts to deal with maltreatment of children. In its first report, recently submitted to Congress, the Board concluded that child abuse and neglect in the United States now represents a national emergency. The Board also found that the system the Nation has devised to respond to the problem is failing. Most important, the Board developed a series of specific policy recommendations to reform the current system of fragmented services. Together, these recommendations comprise a new strategy for protection of our Nation's children.

The coming year will provide us with an opportunity to study the Board's findings and to develop and consider specific legislative proposals based on its recommendations. The 1-year extension provided for in H.R. 2720 will allow us to conduct those deliberations in the context of programs we have in place and to strengthen those programs in a manner consistent with a new strategy for prevention and treatment of child abuse.

In closing, I would like to recognize and thank the chairman of the Subcommittee on Select Education, Mr. OWENS, for his leadership on these issues and for continuing the Congress' bipartisan support for these programs.

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Mr. OWENS of New York. Mr. Speaker, I yield myself such time as I may consumer.

Mr. Speaker, for the benefit of those who are not familiar with this act, I would like to read a summary statement.

Originally enacted in 1974, the Child Abuse Prevention and Treatment Act Public Law 93-247 established several service programs and administrative and research offices to combat problems relating to child abuse and neglect. The act has been extended and amended several times with its programs being extended through fiscal year 1991 by the Child Abuse Prevention, Adoption, and Family Services Act of 1988, Public Law 100-294. Most recently, the act was amended in the 101st Congress—Public Law 101-226—to specifically authorize services for children whose parents are substance abusers. The Child Abuse Act requires that States have in place mandatory child abuse and neglect reporting systems in order to receive money. The programs under this act are administered by the National Center on Child Abuse and Neglect [NCCAN], Administration for Children, Youth, and Families [ACYF], Office of Human Development Services [OHDS], Department of Health and Human Services [DHHS].

Currently, the act authorizes six grant programs.

Grants to States for child abuse and neglect prevention and treatment programs—with money earmarked for States to develop and use mechanisms to respond to reports of medical neglect of children, including cases of withholding treatment from disabled infants with life-threatening conditions, and to improve services for these children.

Demonstration grants to public or private nonprofit organizations designed to prevent, identify, and treat child abuse and neglect—including the identification, prevention, and treatment of child sexual abuse.

Grants to States for programs relating to the investigation and prosecution of child abuse cases, and in particular those involving child sexual abuse.

Training and technical assistance grants to, among other things, assist States in developing programs to meet the requirements relating to reporting of medical neglect.

Child abuse challenge grants intended to encourage States to establish and maintain children's trust funds to support child abuse and neglect prevention activities.

Emergency child abuse prevention services grants to State and local child abuse agencies, community and mental health agencies, and nonprofit youth-serving organizations, for children whose parents are substance abusers.

In addition, NCCAN oversees research, collects data, and studies the incidence of child abuse and neglect. NCCAN also funds a national information clearinghouse for maintaining and disseminating information on effective programs in the field. The act also authorizes a U.S. Advisory Board on Child Abuse and Neglect, an Inter-Agency Task Force on Child Abuse and Neglect, and a Presidential Commission on Child and Youth Deaths—which has never been funded. In fiscal year 1991 the components of the child abuse act have received a total appropriation of $59 million. Funds for the State grants relating to investigating and presecuting child abuse cases are provided for under the Victims of Crime Act.

Mr. Speaker, I urge my colleagues to vote for this act.

Mrs. MINK. Mr. Speaker, I rise in strong support of the vital child abuse programs that this Congress has wisely funded, the extension of authorization for the Child Abuse Prevention and Treatment Act and the Family Violence Prevention and Services Act, and especially the 2½ million children and 6 million women who were victims of abuse this past year.

The numbers are frightening. Each statistic represents a child or a spouse for whom home has become a dangerous place to live, and for many thousands of women and children this abuse leads to their death.

Since 1974, when the Child Abuse Prevention and Treatment Act became law, Congress has recognized its responsibility to protect the welfare of our Nation's children. In the 16 years of the act's existence it has been amended to address the needs of at risk children. The 101st Congress amended the act to take into account children whose parents are substance abusers.

I believe we have two important goals.

First, we must do everything in our power to stop the abuse and neglect of America's children and provide treatment for both the physical and emotional harm that has been done to them.

Second, we must support and encourage ways to prevent abuse from occurring in order to break the cycle of violence that is all too often passed on from parent to child.

We know that abuse impacts practically every area of a child's life. They often have trouble in school, it becomes harder for the child to develop emotionally, and the effect of the child's self esteem could very well last a lifetime.

With regard to family violence, we have only recently begun to understand the size and severity of spouse abuse in our country. Add to that our growing understanding of elderly abuse, and we can begin to appreciate the terrible problems facing State and local agencies. Congress has done much to encourage program development and promote the establishment of shelters for victims of family violence.

And also of importance, the Federal Government has assisted in compiling more accurate estimates of how many people are victims of family violence. With better information about the number of families affected, States can better allocate their efforts and establish greater priorities for family violence prevention programs. Even still, we know far too many cases of family violence, as well as child abuse, go unreported.

Mr. Speaker, with instances of abuse on the rise, I feel strongly that now, more than ever, Congress must express its support of the efforts across our Nation to deal with these devastating problems. I strongly urge the passage of H.R. 2720 and the continued authorization of our child abuse and family violence prevention programs.

Mr. BALLENGER. Mr. Speaker, I would like to offer my support for H.R. 2720, the extension of Child Abuse Prevention and Treatment Act. I believe that a 1-year extension of the bill will allow us the time we need to focus on ways to improve the child protection system for children and families at risk. The Advisory Board on Child Abuse and Neglect has done a thorough job evaluating the system we now have in place and identifying the weaknesses in that system. I look forwad to working with my colleages on the subcommittee over the next year to follow up on the commission's findings with specific legislative changes.

Finally, I'd like to take this opportunity to thank my colleague, SCOTT KLUG, for taking a leadership role within the subcommittee on these issues. As you know, the agenda for our Subcommittee on Select Education has an ambitious agenda this year, and I am delighted that SCOTT has been willing to share responsibility with me for handling these important issues.

Mr. KLUG. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OWENS of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New York [Mr. OWENS] that the House suspend the rules and pass the bill, H.R. 2720, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2720, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF A JOINT RESOLUTION, A BILL, AND A CONCURRENT RESOLUTION RELATING TO MOST-FAVORED-NATION TREATMENT FOR THE PEOPLE'S REPUBLIC OF CHINA

Mr. MOAKLEY from the Committee on Rules, submitted a privileged report (Rept. No. 102–145) on the resolution (H. Res. 189) providing for the consideration of a joint resolution, a bill, and a concurrent resolution relating to most-favored-nation treatment for the People's Republic of China, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT OF PROCEDURE TO BE FOLLOWED RELATING TO CONSIDERATION OF H.R. 5, AMENDING THE NATIONAL LABOR RELATIONS ACT AND THE RAILWAY LABOR ACT

Mr. MOAKLEY. Mr. Speaker, this is to notify members of the House of the Rules Committee's plans regarding H.R. 5, legislation to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes. The committee is planning to meet on Tuesday, July 16, 1991, to take testimony on the bill. In order to assure timely consideration of the bill on the floor, the Rules Committee is considering a rule that may limit the offering of amendments.

Any Member who is contemplating an amendment to H.R. 5 should submit, to the Rules Committee in H–312 in the Capitol, 55 copies of the amendment and a brief explanation of the amendment no later than 5 p.m. on July 15, 1991.

We appreciate the cooperation of all Members in this effort to be fair and orderly in granting a rule for H.R. 5.

TRIBUTE TO COUNTRY MUSIC LEGEND ROY ACUFF

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. CLEMENT] is recognized for 5 minutes.

Mr. CLEMENT. Mr. Speaker, I want to join President Bush and Americans everywhere in paying tribute to country music legend Roy C. Acuff, who today was awarded one of the 1991 National Medal of Arts, the Nation's highest commendation to artists and patrons of the arts.

As Tennesseans and country music fans know everywhere, Roy Acuff is truly deserving of this prestigious award. The award is given by the President of the United States to those individuals or groups who, in his judgment, are deserving of special recognition by reason of their outstanding contributions to the excellence, growth, support, and availability of the arts in the United States. Those qualities fit Roy Acuff to a tee.

Born in Maynardville, TN, September 15, 1903, Roy Acuff is the first living artist to be elected to the Country Music Hall of Fame. He became the best-known country music singer of the World War II era and has remained a leading country artist as well as mentor and adviser to many younger country musicians. His personal popularity has helped to make the Grand Ole Opry the leading country music radio and stage show and make country music one of the most loved forms of American music anywhere.

After a stint in the early 1930's as a fiddler and singer with a medicine show, Roy Acuff formed a band named the Tennessee Crackerjacks and appeared on local Knoxville radio stations. By the time the American Record Co. invited them to cut several records, they were one of the most popular groups in Tennessee and had changed their name to the Crazy Tennesseans. One of the songs with which he is most strongly identified, "The Great Speckled Bird," was on their first recording. Also from their first recording session came "The Wabash Cannonball," which Acuff has used as a signature song.

The band's statewide popularity proved helpful in getting an invitation in early 1938 to substitute on the Grand Ole Opry. According to Roy, he and the band set out for Nashville, they still argued among themselves about what material to perform. After two songs in which Roy characterized his performance as "awful," he turned to "The Great Speckled Bird," which the band had urged him not to use.

Acuff recalls that for 2 weeks after the show the band didn't hear anything. He says:

> Out of the blue I received a telegram asking me if I would come and take a regular job. The mail had come in tremendous—bushel baskets full—and they sent them on to me in Knoxville. That night "The Great Speckled Bird" changed my life.

Soon, however, Acuff would change the Opry by becoming its first singing star, beginning the trend away from emphasis on the old string bands.

During 1939 the name of the band changed to the Smoky Mountain Boys. And throughout the 1940's, Roy and the band's records were top country sellers. Their top sellers included "Wreck on the Highway," "Fireball Mail," "Night Train to Memphis," "Low and Lonely," "Pins and Needles (In My Heart)," "Beneath the Lonely Mound of Clay," and "Precious Jewel."

In 1942, Acuff joined with Fred Rose to form Acuff-Rose Publishing Co., which became a major force in country music and helped establish Nashville as its center. One of the company's first stars was Hank Williams and among the famous titles it published were "Tennessee Waltz," "Jambalaya," and "Your Cheatin' Heart." At one time, writers under contract had written twice as many top 10 country and No. 1 hits than the next most successful publisher of country music.

During the 1940's and 1950's, Acuff became the best-known country singer in the Nation. His records sold by the millions all over the world. His name became synonymous with the Grand Ole Opry. And his repertory, heavily weighted with sacred and traditional melodies, hasn't changed much since his first Opry appearance. Writes one historian of music:

> When Roy Acuff raised his voice in his mournful, mountain style, he seemed to suggest all the verities for which Americans were fighting: Home, mother, and God.

During World War II Ernie Pyle corroborated Acuff's international fame in a report filed during the battle of Okinawa. On attacking a position held by the Marines, Pyle claimed, a Japanese banzai battalion employed a battle cry which it believed the zenith of insults: "To hell with Roosevelt, to hell with Babe Ruth, to hell with Roy Acuff."

Acuff's film appearances have also helped to popularize country music. In the 1940 Republic film "Grand Ole Opry," Acuff was considered the star of the movie even though other longtime Opry stars and luminaries were featured. His other films have included "Hi Neighbor," 1942 Republic Pictures; "O' My Darling Clementine," 1943 Republic Pictures; "Cowboy Canteen," 1944 Columbia Pictures; "Sing Neighbor Sing," 1944 Republic Pictures; "Night Train to Memphis," 1946 Republic Pictures; "Smoky Mountain Melody," 1948 Columbia Pictures; and "Home in San Antone," 1949 Columbia Pictures.

While Acuff's recordings since the late 1950's have not penetrated the top of the single's charts, he has remained a fans' favorite on the Grand Ole Opry and on the road. He continued to tour extensively until he was nearly 70 years old. And, starting in 1949, when the Russians blockaded Berlin, and ending in 1971, Acuff and his band performed annually in USO shows for U.S. Armed Forces overseas. Acuff still hosts half-hour segments on the Opry several nights each week, where he sings, introduces other artists, and extols the down-homeness of country music and country living.

Roy Acuff is not only a favorite of fans, he is a favorite of his colleagues. He is respected for his musical style and his efforts to popularize country music, as evidenced by his election in 1962 to the Country Music Hall of Fame, the first living artist so honored. More important, he is beloved for his untiring encouragement of and advice to younger artists.

The title "King of Country Music" was bestowed on Roy Acuff by baseball great and long-time friend Dizzy Dean. It is hard to imagine any other individual who can wear that crown with such distinction, warmth, and generosity as Roy Acuff.

As George D. Hay, the solemn Old Judge and founder of the Grand Ole Opry said in 1945:

> For many years our biggest drawing card was Uncle Dave Macon. However, from the Smoky Mountains of East Tennessee there descended upon us in 1937 a young man who was destined to become a leader in his field of entertainment. His head and heart joined the fingers which handled his fiddle and bow and it was not long before he started to burn up the countryside like a forest fire.

That fire still burns in Roy Acuff. And in recognition of him and his lifelong contribution to this uniquely American form of music, it is most appropriate that the Nation bestow on him a National Medal of Arts.

Congratulations Roy, and thank you.

[Encyclopedia of Folk, Country and Western Music, 2d Ed., 1983]

ROY ACUFF

Acuff, Roy: Singer, fiddler, band leader (Crazy Tennesseans; Smoky Mountain Boys), emcee, songwriter, record and music industry executive. Born Maynardsville, Tennessee, September 15, 1903. First living member of the Country Music Hall of Fame, elected in 1962.

Few would argue with Dizzy Dean's designation of Roy Acuff as "The King of Country Music." Embodying the soul and symbol of the Grand Ole Opry in the 1940s, Roy Claxton Acuff remained its most charismatic figure over the ensuing decades.

Giving little evidence of having must interest in a music career until he was in his late twenties, Roy, as a child, excelled in athletics. His talent was impressive: he won thirteen athletic letters in high school. While not starring on the playing field, he was holding the center of the stage. He recalled that he "acted in every play they [the high school] had."

After high school, Acuff played semi-pro baseball and had hopes of having a successful tryout for a major league baseball team when disaster struck. Playing in a game in Knoxville on July 7, 1929, he suffered a sunstroke and collapsed in the dougout. After a week, another fainting spell came and, following three months of rest, still another. When a fourth attack hit him during a round of golf, he was so ill he had to spend most of his time indoors for almost two years. Slowly he recovered his strength, and as he noted, "I had to pick me out a new career."

His father's collection of country records helped point the way. Roy spent many hours at home listening to the fiddling tunes of Fiddlin' John Carson and Gid Tanner and the Skiller Lickers, trying to emulate the masters.

By 1932, he seemed in excellent health again. But if it were not for a neighbor named Dr. Hauer, a patent medicine man, Roy might not have gone into music. He asked Roy to join his show, to sell something call "Moc-A-Tan." As Roy told Douglas B. Green of the Country Music Foundation, "There was three of us that got to do all the entertainment, and I got to play every type of character: the blackface, the little girl's part, the old woman's part, plus play the fiddle and sing. And I'd sing real loud on the med show, sing where they could hear me a long ways. Yes, I got a world of training."

The tour lasted from spring to early fall. When it was over, Roy formed a band, the "Tennessee Crackerjacks." In a relatively short time, they had a following in the Knoxville region and soon were being featured on local stations KNOX and WROL. By the time they were approached by American Record Company to cut some sides, they were one of the most popular groups in Tennessee and had changed their name to the Crazy Tennesseans. Their first session, which included an odd type of gospel song called "The Great Speckled Bird," took place in Chicago on October 26, 1936.

Even prior to that, Acuff had yearned to join the Grand Ole Opry. Several inquiries had received little encouragement. But in early 1938, star Opry performer Arthur Smith, a favorite fiddler with program fans, got into an argument with the show and was suspended. A replacement was needed in a hurry. Someone thought of Acuff and, on the rainy night of February 19, 1938, he and the band set out for Nashville, arguing among themselves about what material to offer.

The matter still wasn't settled when Roy opened their set on the Dixie Tabernacle stage in East Nashville with the fiddle tune "The Old Hen Cackled and the Rooster's Going to Crow." He was so nervous, he told Green, "I did an awful poor job of fiddling. I played back of the bridge about as much as I played in front of it." Then he turned to dobro player Clell Summey and told him to start "The Great Speckled Bird," a number the band had urged him not to use. Again he felt he wasn't at his best. When the band left for their next engagement everyone thought they'd ruined their big chance.

Acuff recalled, "I didn't hear anything for two weeks after we returned to Knoxville. Out of the blue I received a telegram from David Stone asking me if I would come and take a regular job. The mail had come in tremendous—bushel baskets full—and they sent them on to me in Knoxville. That night 'The Great Speckled Bird' really changed my life."

Before 1938 was over, Acuff had begun to make his mark on the Opry and on country fans across the country. His single of the old Carter Family success, "Wabash Cannonball," was one of the most popular releases of 1938. He caught the fancy of Opry fans so rapidly that within a year's time he had replaced Uncle Dave Macon, the original superstar of the show, as the top performer. In the 1940 Republic film Grand Ole Opry, Acuff was considered the star of the movie, although Uncle Dave and other longtime luminaries were featured. Acuff also held center stage in 1940 on the "Prince Albert" broadcast, the most prestigious portion of the Opry program.

During 1939, at the urging of Opry management, the name of Roy's band was changed to the Smoky Mountain Boys, a name that stayed with the band. Although early members like Clell Summey and bassist Ed Jones departed to be replaced by other musicians as the 1940s went by, the band makeup in the mid-1940s remained together for many years: Howard "Howdy" Forrester, Jimmie Riddle on harmonica and accordion, Pete Kirby (better known as Bashful Brother Oswald) on dobro, banjo, and vocals. Other members in the 1940s were Lonnie "Pap" Wilson, Jess Easterday, and Tommy Magness. By the 1970s, Forrester, Kirby, and Riddle still were in the fold, along with Gene Martin, Charlie Collins, and Onie Wheeler.

Roy's records were top country sellers almost every month throughout the 1940s. His top sellers of the period included "Wreck on the Highway" and "Fireball Mail" in 1942, and "Night Train to Memphis" "Low and Lonely," and "Pins and Needles (In My Heart)" in 1943. Things were going so well for him in the early 1940s that he expanded his activities into the publishing field, joining forces with Fred Rose to form Acuff-Rose Publishing in 1942. The company became a major force in country music development over the decades, and its staff of contract writers provided not only some of the finest country songs but many of the top-ranked performers as well.

During the 1940s and early 1950s, Acuff made dozens of singles and albums that were issued on the Vocalion, Okeh, or Columbia labels (Columbia bought out the American Record Company). Some of his Vocalion singles were "Steamboat Whistle Blues," "New Greenback Dollar," "Steel Guitar Chimes," "Wabash Cannonball," "The Beautiful Picture," "The Great Shining Light," and "The Rising Sun." His output on Okeh included "Vagabond's Dream," "Haven of Dreams," "Beautiful Brown Eyes," "Living on the Mountain," "Baby Mine," "Ida Red," "Smoky Mountain Rag," "Will the Circle Be Unbroken," "When I Lay My Burden Down," "Streamline Cannonball," "Weary River," "Just to Ease My Worried Mind," "The Broken Heart," "The Precious Jewel," "Worried Mind," "Lyin' Women Blues," "Are You Thinking of Me Darling," "Wreck on the Highway," "Night Train to Memphis," "Don't Make Me Go to Bed and I'll Be Good," and "It's Too Late to Worry Anymore."

Roy's recordings for Columbia those years were even greater in number than his combined total of Vocalion and Okeh. His Columbia list included many of the songs listed above, plus some others as "Beneath That Precious Mound of Clay," "It Won't Be Long," "Branded Wherever I Go," "Do You Wonder Why," "The Devil's Train," "The Songbirds Are Singing in Heaven," "I Saw the Light," "Unloved and Unclaimed," "Mule Skinner Blues," "Not a Word from Home," "Waiting for My Call to Glory," "I Called and Nobody Answered," "Golden Treasure," "Heartaches and Flowers," "Tennessee Waltz," "Sweeter than the Flowers," "Polk Country Breakdown," "I'll Always Care," and "Black Mountain Rag."

Since childhood, Roy had harbored thoughts of emulating his father's legal career. In the 1940's he ran for governor of Tennessee on the Republican ticket, both in 1944 and in 1948. Had Tennessee been a state less dominated by the Democratic Party, things might have been different. As it was, though, Acuff lost both times and stuck to his musical career thereafter.

During the 1950's and first part of the 1960, Roy was no longer able to penetrate the upper segments of the singles charts, but remained a fans' favorite on the Opry as well as on the county fair, rodeo, and concert circuits. Even if Roy himself wasn't dominating the charts, the output of Acuff-Rose was. Through 1967, that company's writers turned out 108 song that made the top 10, including fifteen number-one records. That was more than twice as many top-10 successes as the next publisher, Hill and Range. During those years, Roy also diversified into other enterprises, operating Roy Acuff Hobby Exhibits, Dunbar Cave Park and Recreation Center near Clarksville Tennessee. He also helped Fred Rose start Hickory Records and became a member of the Hickory recording roster in 1957. (His association with Columbia ended in 1952 and was followed by brief stays with Decca, MGM, and Capitol, before the Hickory alignment.)

Most of his album work from 1957 was for Hickory. Some earlier material was reissued on various labels in the 1960s, such as Capitol's Best of Roy Acuff in 1963, Great Roy Acuff in 1964, and Voice of Roy Acuff in 1965, and MGM's Hymn Time in 1962 and Smoky Mountain Boys in 1956. He was represented on Pickwick in the 1960s by the album How Beautiful Heaven Must Be. Decca also issued material by Roy in a series of seven albums titled All Time Country & Western Hits issued at intervals from July 1960 to August 1966. His name also graced several Harmony Record LPs, such as Roy Acuff (3/58), That Glory Bound Train (7/61), and Great Roy Acuff (7/65).

His Hickory LPs of the 1960s included American Folk Songs, Gospel Songs, King of Country Music, Once More, Songs of the Grand Ole Opry, The World Is His Stage, all issued or reissued in July 1964; Great Train Songs, Hall of Fame, Sings Hank Williams (1/67); Treasury of Hits (7/69). Harmony issued the LPs Waiting for My Call in August 1969 and Night Train to Memphis in July 1970. Hickory issued Roy Acuff Time in 1970. Also released about that time was the Columbia album Roy Acuff's Greatest Hits, and on Hilltop, Roy Acuff Country.

Like most country stars during their heyday, Roy was on the road hundreds of days each year. His schedules included long overseas trips to entertain the U.S. armed forces. His first such effort was to Berlin during the 1949 Russian blockade and continued with shows in Korea in the 1950s and the Dominican Republic and Vietnam in the 1960s. Roy and the Smoky Mountain Boys also were featured in concerts in many European countries. The intensive tour grind came to a halt, though, on July 10, 1965, in an automobile accident that injured Roy and several band members. He returned to action on the Opry three weeks later, but cut back sharply on the road work, pruning his schedule to almost nothing by 1972, when he was nearly seventy years old. Roy continued to be a mainstay of the Opry, however, delighting countless fans throughout the decade of the 1970s. On the occasional Opry specials telecast on PBS, the show often included segments showing Roy happily presiding over impromptu jam sessions by Opry greats in his dressing room.

During the 1960s and 1970s, Roy's recorded output included a sizable number of remakes of earlier hits on Hickory. But he also included new numbers, such as his single "Back in the Country" in 1974. Many of those recordings, old and new, were included in the two-record Roy Acuff's Greatest Hits, Volume 1, issued by Elektra in 1978. In 1979, Elektra issued Volume 2.

Roy was nominated for the Country Music Hall of Fame in 1961 and his plaque was unveiled there the following year. It read, in part, "The Smoky Mountain Boy . . . fiddle[d] and sang his way into the hearts of millions the world over, often times bringing country music to areas where it had never been before. 'The King of Country Music' . . . has carried his troupe of performers overseas to entertain his country's armed forces at Christmas time for more than 20 years. Many successful artists credit their success to a helping hand and encouraging words from Roy Acuff."

VICTIMS OF THE NOTCH INEQUITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island [Mr. MACHTLEY] is recognized for 60 minutes.

Mr. MACHTLEY. Mr. Speaker, today I begin this special order with many of my colleagues who may or may not have the opportunity to be here because of the holiday schedule and coming back. This special order is to once again discuss the notch victim scenario and try and explain the historical facts that occurred, and explain the consensus bill that has been filed here in the House where there will be a press conference tomorrow to try and get more of our colleagues to join.

The first question is obviously raised by the issue of notch, and as I discuss this, I am sure there are Members who have had a great deal more experience, who have listened to these arguments, who have sat and heard the various explanations made, who are saying, "Not again, I thought we resolved this issue."

Frankly, when I first heard of the notch, I thought perhaps it was an issue of fairness, which has been clearly thought out, one which has been articulated, and one which did not need a resolution. However, as I began to review the scenario, as I looked at the record, I looked at what had happened and what had been intended, and it became clear to me, at the urging of my parents who are both notch victims, that what happened is unintended, and what has occurred is clear discrimination based on nothing more than fortuitous births.

The first question one might ask, how many people are really affected by this notch inequity and the Social Security payment system? The estimate is that some 7 million people were born between the year 1917 and 1921. An additional 5 million were born in the years 1921 through 1926. There are some who try and characterize the notch years as a very distinctive category of years between 1917 and 1921.

As the charts will show, it actually extends beyond 1921, out to 1926 through the transition formulas. In 1972 Congress increased the Social Security benefits by 20 percent to assure the retirees in the Nation that they would have a standard of living which was increasing with rising wages and rising inflation.

□ 1350

At the same time, Congress provided for automatic future increases based upon changes in wages. This 1972 law in effect had automatic changes for wages and price adjustments. Automatic adjustments after 1972 were to become effective in 1975.

In the interim, Congress provided for an 11 percent increase in 1974.

In 1975, the Social Security Advisory Council warned that the formula could become too generous in the next century, and in fact some said that the repayment to those who were retiring in the next century could in fact exceed their replacement rate contribution.

It was also intended that the replacement rate, which is a term of art which is used when discussing Social Security benefits, would approximate 42 to 45 percent.

In 1976, it became clear that it was increasing at the rate which then in 1977 was 54 percent.

In 1976, President Gerald Ford proposed that the benefit formula be revised to slow the increase in benefits over the long-term period. He did this by suggesting there should be a 10-year transition period.

In 1977, President Carter incorporated President Ford's benefit proposal into the Social Security reform package he sent to Congress.

Here in Congress, after nearly a year of debate, we passed a 10-year proposal, and the Senate passed a measure calling for a smaller 5-year phasing.

The final bill drafted in conference committee incorporated the Senate's shorter 5-year phasein and increased the benefits based on the House proposal.

In 1978, the Social Security Administration in its monthly research bulletin published an article by its chief actuary warning that a technical amendment may be necessary to provide a smoother transition. In particular, he said the drop in replacement rates for age 65 retirees will be about double what Congress anticipated. Congress anticipated that during this transition period of time for those people who were born from 1917 through 1921 that the transition reduction would be approximately 5 to 6 percent. This is a very complex formula which was used prior to 1977 and is frankly a complex formula which was used for the transitional period, but what was intended was clearly not to create such a drop in anticipated earnings that those people who would retire at age 62 and 65 would see an unexpected or precipitous drop in their incomes; but what happened was precisely what was not intended. In fact, in 1920 for people who were born then, their income is decreased 20 percent over what they would have received had they fortuitously been born in 1960.

This chart which I have here I think very clearly shows the average monthly benefits for those who were going to retire at age 65. Here is what we would have had in this blue line under the 1972 law. You can see it was increasing at a much faster rate than was probably possible to fund.

Congress, both the Senate and the House, had anticipated in 1977 that they would have a gradual transition below the 1972 law, but certainly not what this red line reflects the actual drop.

If you look at this and you see the 1917–22, et cetera, you see this precipitous drop. This was the final year for those born in 1960 and then it began to drop.

The people who are least affected were those who were 62 because this happened to be the set of facts that Congress had used for those who were 62 and retired before this transition rule went into effect, but what Congress forgot to look at is what happens to those people who were 65 and retired during this transition period.

This next chart I think shows it clearly. The purple is the average benefit of what was actually being received. You can note from 1910 up through 1917, again the precipitous increase in benefits based upon the replacement rate formula which was used.

In 1977, a new formula was introduced and they said we are going to reduce it by 5 percent; but note the difference between this blue line and this blue line, and then between this blue line and compare that with what would have been received had the person been born in 1915 or 1916.

Finally, when you get down here to 1920, as I indicated earlier, there is a full 19.5 percent reduction below what was anticipated.

What you see here in the red I will discuss in a few moments. That was what was anticipated. They wanted to have a smooth curve, one which would easily transition into the new formula; but because of the reduction in replacement rates which went not down to 43 percent from a high of about 54 percent in 1976, but what went down in fact in the year 1940 to 40.3 percent. That was totally unexpected and unplanned for.

The House Ways and Means Committee in 1979 held numerous hearings to try to determine was this anticipated, was this to be corrected, or were they merely to permit this to continue to occur?

In 1983, Dear Abby announced to the Nation through perhaps a very innocent column and a letter that this was in fact discrimination. Many people began to ask questions about why they were receiving less money because of the fortuitousness of their birth date.

In fact, if you say, well, how much is really involved here, if you took the average worker who was born in the period of 1917 through 1926, if you took an average wage earner during this period of time who retired at age 65, that person, male or female, would receive an average of $912 less per year than someone who was born fortuitously either before 1917 or after 1927, so we are talking about a substantial amount of money.

When you look at just the year 1920, the actual reduction in their receipts is substantially higher than the average of $912.

If you took a person who was 62 on their retirement, the difference between what they would have received during this period of time and the average of what they would have received prior to 1916 and after 1927 is $456, still a very substantial sum.

The period 1920, let us look at that one year for those who are so unfortunate to have been born in that year when they go to their post office and accept their Social Security check. Their difference is $1,992, based upon the average receipts for Social Security beneficiaries different than had they been born in 1916, in 1917 or beyond; so we are talking about a substantial amount of money here.

What makes this even more critical is that these people who were born during this period of 1917 on out through 1927, who are now our senior citizens, are the least able to go back into the work force and to earn additional income. Frankly, we even penalize them for what they have paid into the Social Security system. If they go back into the work force we are telling them we are going to reduce their receipts based upon their earnings beyond a certain limit.

Frankly, I feel that is discrimination in and of itself, and if we are going to want to encourage people to work, we need to remove that earnings test completely, but that is a story for another day.

Today we are just talking about this inequity, this discrimination, this unintended consequence which we now have, and which affects 12 million people.

In my home State alone, Rhode Island, 63,000 people are affected by this unintended consequence.

You may say, well, it is not that important, it is relatively small when you break it down in a monthly check. The difference, though, that $83, that $125 a month, may be the difference between having an adequate nutritious meal, being able to pay for your rent, paying for your heat in the winter, that is what it means to our elderly. These are the same people, also, who went through the Depression, who raised my year group—the baby boomers—who wanted to make sure that we got a college education and in many cases had a better opportunity than they had, who fought during World War II, who established the preeminence of this country in the world, and who now are asking not for something which is more than they are entitled to; what they are asking for is equity.

☐ 1400

Our system of government has always relied upon this concept of fairness and equity. When you look at the facts, when you consider the difference in payment, based upon unintended consequences and based upon fortuitousness of birth, you find a situation which is totally unacceptable.

Now, why has something not been done? People have talked. Many of the people have said, "Let's not get involved. We can not in fact afford to replace the difference in cost." While we talk, unfortunately, people who were born between the years 1917 and 1927 are dying daily. These are our senior citizens, there are many of them still paying taxes, in many cases, those who are helping their grandchildren; but they are waiting, waiting for some resolution.

In the past Congress we had 10 bills, as I indicated when I started. Many of my colleagues have been fighting this issue since the very beginning of the recognition of the mistake which was made.

Congressman ROYBAL, Congressman RINALDO, Congressman FRED GRANDY, and in the other body many of the Senators have been leaders, have been outspoken and have looked at this and have crafted unique, different, and, I think, very positive potential resolutions. But we had 10 bills in the last Congress. Though we had many, many cosponsors on these bills, we also found that we could not get everyone to agree on a possible resolution.

There were some who said, "Let's go back in time to the period in which these people were discriminated against, and let's give them money for their past discrimination."

There were those who said, "Let's give them what was anticipated. Let's go back to the old pre-1977 formula. Let's give them what they should have gotten under the 1972 formula."

I think it is fair to say that under the 1972 formula there are those who got what we can call the bonanza. If we have what is referred to as notch victims, we have prior to 1917 bonanza beneficiaries and we cannot go back. I think it would be generally considered an inappropriate act to say: "Let's go back and change the formula and take away the money which these people," who are often those who, if you look at those who are living in poverty in this country, it is our senior citizens, particularly the senior woman who has survived her spouse, who is living off his social security. It would be totally unconscionable to go back and take away her benefits.

So we have those who said, "We can't continue this increase in benefits. We can't in fact give them what they should have received under the pre-1977 law." But I think there is a better approach, one which gives the equitable resolution which people are asking, and that is what has been discussed and put into language—not yet law; we hope it soon will be law—under the House bill which has been drafted as H.R. 917.

What this House bill says is, there is a recognition that an inequity, an inequitable scenario developed. We cannot go back, because we may not be able to afford it and pay for what they should have or could have received had they been born prior to 1917.

But what we might be able to do is fill in the pothole, look at what has been referred to as the notch, and we ought to be able to do what was anticipated, what was intended. Reduce it by a 5- or 10-percent figure over the 1926. You can see in 1928 the formula begins to increase for those beneficiaries who were born after 1928. So that the years that we need to figure out a transition for are the years 1917 through 1927, that same, coincidental 10-year period which President Ford and President Carter wanted in their original resolution.

The way that is proposed in the bill, H.R. 917, to correct this is to look at what the person would have received under the pre-1977 bill, figure out what his or her benefits were, and then we take the new formula under the post-1977 benefits, and we compute what they would have received under that scenario. We subtract the two, and we get a delta, the difference between pre-1972, if it had been under this, and what it had been under this (indicating).

So the difference between these two is the delta. We then have a multiplier that we use for each year because you can see that for each year from 1917 through 1927 there is a difference in what was or what is being received under this replacement value.

The difference is a multiplier. We multiply the difference between pre-1977 and 1972 formula, the 1977 formula by the delta, and then we add that to what is now the replacement rate under the 1977 formula.

That gives us what you see, the benefits by year based on birth, which was anticipated.

The monthly benefits increases for a worker who is retiring at age 65, who was born in 1918, would be $64; the wage increase here for an average worker—and again please do not misunderstand an average for every worker, because it is the equivalent of looking at a swimming pool; one end may be 3 feet deep and on the other end it may be 9 feet deep, or even 12 feet deep. The average is somewhere in between.

So you have to look at your specifics.

But if you look at the average worker in this period of time, in 1917, you would add $46 per month onto their existing check. When you get down to 1920, the largest discriminatory factor, you would add $88; 1921, it would be $72; $59, $47, $30, $15, and finally out in 1926 it would be $16.

That would give you a smooth transitional curve which would in fact, I think correct this inequity. The obvious question that comes up is if this is so simple, "Why don't we do it?"

The argument that has been raised time and time again is that it costs money. I think that is a fair argument. But let us look at the facts.

The Social Security system has been increasing at a fairly remarkable pace. In fact, there are those in Congress and out in the media who would suggest it is increasing at such a rapid rate that we should reduce or do away with some of the Social Security payments which the middle income has to pay and, therefore, it will reduce their tax burden. This increase in rates is increasing over 1991, on this chart, through 1999. By 1999, at the current rate—and there is no reason to expect that during the next 9 years we will have a different increase—you can see that we anticipate that we would have about $1.123 trillion in the Social Security surplus. Even in 1977, when they had the hearings and testimony on what was going to amass in this system, it was always anticipated that in the years 1997 through 1999, some place in this scenario we would have this amount of surplus.

Now, frankly, looking at this amount of surplus, I am doing so from a very personal standpoint because once you get beyond here into the year 2010, then my generation—the baby-boomers, the post-World War II baby-boomers—we are going to need all of that surplus in order to pay our benefits because the number of workers, the number of small children in this country, has been drastically decreasing.

What would it cost? It is estimated in 1992, if we fill in the pothole, it would cost $4.6 billion. That is a lot of money. But if you look at it in relationship to how many billions of dollars we have in the trust reserve, it is merely a small, small fraction. In each of these years out through 1995, you can see that we never go over $4.9 billion, never go over $5 billion per year. Now, one can say that if you took this out beyond the year 2000 and added $5 billion, times the number of years that we have, which is 10, for instance, that would be $50 billion and that is an excessive sum of money.

I think when you put it in relationship to what the current reserve is in the trust fund, no one will know the difference between giving to those people who ought to receive the money because it is not new taxes that are needed, it is not additional revenue that is needed, it is merely taking out of the reserve fund and helping those who definitely—as a result of their inability to have this money—recognize the loss of this additional sum of money.

To the woman who is living on a fixed income, $83 a month means a great deal. To the country, which has a surplus of $1.1 trillion in the Social Security system in 1999, $83 may not mean a great deal of money.

□ 1410

However, Mr. Speaker, we do have, as indicated in here, sufficient moneys, and so that argument is not there, and I think it is time that we explain this, and I think there are frankly arguments in Congress that sometimes miss the mark. But I think here, clearly, we have a situation which is again discriminatory, but we also have a very reasonable way of paying for it and ending this discrimination.

We now have about 234 cosponsors on H.R. 917. This is a bill which I think is affordable and which, in fact, tells other senior citizens that we have not forgotten them, that we recognize what was unintended and that we intend to correct it before they die off. Clearly, once we start getting beyond 1999 and go into the next decade, there will be fewer of these notch victims available or alive because of the natural life cycle, and so, when we go beyond here, this amount of money will actually start to decrease, and it will no longer be a reduction in the surplus which has been accumulating in the Social Security system.

Mr. Speaker, it is an important issue, and it is important because it is affecting our senior citizens. They never asked for more than they are entitled to. Often these are people, our parents who are at home, who are our neighbors and friends. They ask only for what they think is fair.

I have yet to see a senior citizen who knows that his grandchild is expecting to live in a country as wealthy, as fortunate, and as a leader in the world, who is asking for their grandchild's inheritance. What I hear is senior citizens who are asking for what is due them because of a fortuitous circumstance of their birth, and I have heard this, as I am sure other Congressmen have.

Mr. Speaker, this is a box of 5,000 of my constituents who have written in saying, "We are affected, and we feel so strongly about this that we want you to do something. We want you to speak out and try and correct this inequitable scenario. We want you to try to convince your colleagues that this needs to be changed." Five thousand voters, 5,000 senior citizens, 5,000 human beings, are being affected to the point where they will sit down, write, put a stamp on it, and mail it to their Congressman. That tells me these people understand the inequitable situation which is occurring.

Mr. Speaker, at this time I yield to a distinguished colleague, the gentleman from Florida [Mr. GOSS] who has been a leader on this issue.

Mr. GOSS. Mr. Speaker, I thank the gentleman from Rhode Island [Mr. MACHTLEY], very much for yielding, and I want to commend the Congressman from the Ocean State for doing such a fabulous job of explaining where we are and why we are there on this subject.

It is often said that there are two things certain in life; death and taxes. Well, I can tell my colleagues that there is more than that: death, taxes, and letters on the notch baby, as we have just seen.

I say to the gentleman from Rhode Island [Mr. MACHTLEY] "For your 5,000, I'll match you and raise you two, and then we'll keep counting."

Mr. Speaker, in my area of Florida alone I believe we have something like 893,178 people affected in the State of Florida. I believe a good share of them must be from my district. I personally know many of them, and I have corresponded with just about all of them it seems. The reason is because this is unfair, as the gentleman has said so eloquently.

Some might wonder and say, "My gosh! Why is it that, while you've done this brilliant exposition here today, we don't have more than those 234 colleagues available right now?" The point is that much of the business of this body is done in committee and in hard-working groups, and then it comes to the floor, and we have opportunities like this to discuss these things and to update each other on what is happening and to recognize the progress that has been made, and I suspect that, as we all go through the vagaries of the scheduling program here, that some days it is hard to know exactly what time we are going to do what piece of business. But this piece of business' time is coming, and it is coming because people like the gentleman from Rhode Island [Mr. MACHTLEY] are making it happen, and I commend him for the people in Florida who are thankful for his leadership on this at this time.

Mr. Speaker, I sometimes think when we talk about the fairness issue, I think of my own family. I have four kids, and I have made arrangements with them for certain chores. They get certain allowances, and, if I tried to say at the end of the month, "Well, I seem to think I might run out of money, so I'm going to pick one of you four children not to get your allowance this month," I would expect to hear something about fairness, and I suspect some of the things I have tried to teach my children about fairness and some of the values that we try and teach as leaders about fairness in this Nation would come home to roost.

Mr. Speaker, I do think there is a very critical fairness issue here. I say, "You can't ignore 12 million people who are affected because of an arithmetical formula. They have needs, as I believe it has been beautifully pointed out by Congressman MACHTLEY, and there are varying degrees of dollars involved. It may be a hundred dollars a month, it may be a little more, it may be a little less, but it means a lot to retirees on fixed incomes, an awful lot to retirees on fixed incomes, and we have a great many of them, I suspect, in the Congressman's district in Rhode Island and certainly in my district in Florida."

I think the last point I would like to make on this now is: Will this go away if Congress does nothing about it? Inevitably, statistically, arithmetically, it has to go away. Despite the marvels of the medical profession we are not all going to live forever, so inevitably this will pass. But is that right? And the answer is clearly: No, this is not right, it is not fair, it is not American to ignore it, and we have got to do something about it.

Perhaps the people of our Nation are going to do something about it before we do. I hope not because we are supposed to be leading.

I would like to share with my colleagues, if I may, a very brief statement which explains how the feeling runs in our district. There is an authoress named Martha Parnell from Fort Meyers who wrote a book called "Bye Bye Poverty, Ola Mexico." It is a true story about a, quote, very broke notch baby trying to survive financially on our Social Security. The dedication on this book reads:

> I dedicate this book to all you notch babies, wherever you are, and, if Congress has not corrected that big fat mistake by the time you read this, I suggest we vote the (expletive) out of office.

That is a very subtle statement about the fact that patience is running out, and I am just delighted to be able to be here today to share with the gentleman from Rhode Island [Mr. MACHTLEY] the good news that we now have 234 sponsors on this bill, and that we are making progress, and there is good stuff ahead with people like the gentleman from Rhode Island leading.

□ 1420

Mr. Speaker, it is now my distinct privilege and pleasure to yield to the gentleman from Massachusetts [Mr. FRANK], who has 330,000 constituents who are victims of this Notch Act.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman from Rhode Island.

Mr. Speaker, I have enjoyed the chance to work with the gentleman from Rhode Island on a number of issues. Since our districts join, we are often working together on matters involving the economy, the banking situation, and the environment. I thank him for the leadership he is showing here because he knows, Mr. Speaker, that the unfairness of the Notch Act has been a particularly sore point to many people in that part of New England that he and I represent, Rhode Island and the southeastern part of Massachusetts. It is an area where there are a large number of people who care a great deal about American values. Some of them are recent immigrants. More are the children of immigrants or the grandchildren of immigrants. Some, of course, are people whose families have been here longer. But they are people for whom American ideals are very real. They are people, on the whole, who have worked very hard.

The Notch Act is not a subject of great interest to the very wealthy. People concerned about the loss of $50 or $125 a month on Social Security payments are not the people who are living off their investments, they are not the people who are living off their great wealth, they are hard-working men and women who did what they were told they were supposed to do in America. They went to work, many of them at an early age. Of the current victims of the Notch Act, I do not think there are many we are talking about who are college graduates. We are talking about people who were children in the Depression and who left to go to work soon after high school, if they were lucky enough to finish, in many cases. They went to work to bring in money to support their families. They are people who have worked 30 or more likely 40, sometimes 50 years at hard jobs, in textile factories, in the mills, in other manufacturing industries, and in service industries, making deliveries, making repairs, being available to others. They worked hard. They earned money, and they put their children through school. They gave to their children the benefits they could not have themselves. They built homes, and they bought homes. They are people who contributed mightily to this country, and they are particularly, when we look at the numbers of people born in 1917 and after, the generation that fought World War II and saved civilization from the greatest threat it has known in modern history, Adolph Hitler.

What they are saying is very simple. They are saying, "Please do not deprive us of money based on an accident of when we were born."

We have a great deficit in this country that we all want to reduce. My friend, the gentleman from Rhode Island, myself, and others are not here asking to increase the deficit in any meaningful way, because what we are talking about, as the gentleman from Rhode Island has literally and graphically made clear, is surpluses. We are talking about taking a small part of a growing, enduring surplus and making it available to people who suffer because of when they were born.

We are not asking to repeal the entire act that brought about this situation. Yes, there was an error that came about in the 1970's in that people were being overcompensated for inflation after retiring as a result of legislation adopted in the early 1970's. The part of the bill that became law in the 1970's that reduced that is not at issue. What is at issue is how we reduce it, what discriminatory impact we allow. What can we do for those people who were caught by that accident of birth?

We have had countless examples of people who worked side-by-side at the same job for the same wages for years and years and years, and then on their retirement found that one was getting $75 or $100 a month more than the other because one was born 2 or 3 years earlier. That is not in compliance with the American ideals these people put forward.

I want to see the deficit reduced, Mr. Speaker. I see the chart that my friends has exhibited there. Let me ask the gentleman again so that I may be sure: What are we talking about as an actual rate of expenditure in our legislation?

Mr. MACHTLEY. This would be, beginning in 1992, $4.6 billion out of an increased surplus of $350 billion.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman from Rhode Island.

Let me make one other point about the $4.6 billion we are talking about. It is less than the amount that the United States spends to subsidize the defense of Japan. The United States taxpayers pay more to keep troops in Japan than we are asking to be put in the notch. The United States taxpayers pay infinitely more to continue to deter an attack that is not coming in Europe by the Warsaw Pact that we are asking here.

Yes, we should be saving money. We should be providing greater efficiency to the greatest extent that we can. We could be cutting back in areas such as in defense and elsewhere. But to say to 72-year-old men and women who have worked hard all their lives that they would get less than others identical to them in every respect except a couple of years difference in age is not worthly of the greatest country in the world.

What we have here is a compromise. It is far less then everything people are asking for, but it is a significant amount. We are talking about hard-working people who are living day-to-day and month-to-month on their social security in many cases, people who have earned better from this country than they are receiving.

So I am pleased to join with the gentleman from Rhode Island in this effort. We have a lot of people coming together on this, including the gentleman from California [Mr. ROYBAL], who chairs the Select Committee on Aging. It is bipartisan, it is national in scope, it is fair, and I hope the leadership of the House will take the simple step of allowing us to vote on this.

Mr. MACHTLEY. Mr. Speaker, will the gentleman defer to me for just a moment?

Mr. FRANK of Massachusetts. Yes, of course.

Mr. MACHTLEY. Mr. Speaker, one thing I think that is so important to point out to our colleagues who may be concerned about where we are to get the money based upon our budget agreement which we passed is that the money is there. We are not asking for a new appropriation of money. What we are asking is to take it out of reserves that are increasing.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman for pointing that out.

When people say, "Oh, we would like to maybe do that, but we can't because of the budget agreement," we have to remind people that the budget agreement was not imposed by Brazil or the budget agreement was not enforced against us by India. The budget agreement is an act of Congress, and if we have a perfectly sensible thing we want to do that requires a small amendment to the budget agreement, we can do it. What we are saying is that we have huge surpluses that are building up in Social Security, and let us make those surpluses a little less big. Everybody acknowledges this, and we ought to be clear as to why we have this big surplus.

In 1980 the panic set in and everybody was afraid that Social Security was going to wind up, because we had, in the late 1970's and the early 1980's, because of the oil shock and other things, very high inflation, double-digit inflation, and then we had a bad recession, and we did projections and we assumed that the payroll tax was not going to be able to bring in what we needed to make those high-digit payouts. But inflation subsided for a variety of reasons, the recession ended, and we have in fact had a higher level of employment than we thought we would. So we brought in much more Social Security trust fund money than had been anticipated, and we did that, by the way, people should understand, not profligately. We raised the Social Security taxes on working people, and we cut the benefits. In 1983 Congress and the President put through legislation which cut the cost of living in half. I voted against it, but let me point out my two colleagues were not here at the time, so we are able to discuss it fairly freely. But the fact is that we raised the taxes and they cut the benefit. That is why we have a big surplus.

So we are saying that for the American people, having been taxed more for Social Security and the cost-of-living increases having been in effect cut in half because the payment date for the cost-of-living increases was pushed back from July 1 to January 1, that is the same as cutting it in half every year—or it is cutting it in half every year—and we are saying that we should take some of the enormous surplus we are building up as a result of that and distribute a very small amount of it among people who are being discriminated against because of their age.

I thank the gentleman from Rhode Island for giving us the chance to voice our support for this. If people want to know, is this why we support it in Congress, the answer is, "Of course," or else it would have been on the floor, and if people do not like this and they could beat it, they would not vote it out here. But I am ready to stand up and say, yes, I understand what I am doing. I am reducing a large surplus. It is in the amount of several billions of dollars, and given the size of the surplus, it does not represent a significant fiscal impact. It is within the margin of error in estimating by far on the annual deficit.

Mr. Speaker, I thank the gentleman for yielding.

□ 1430

Mr. MACHTLEY. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. FRANK] for not only participating in this special order, but last year when we had this special order, I was reminded before I came over here that when we did this special order on this issue last year, we had more Members join us than in any previous special order for the whole year. While we probably have fewer Members here today, I think there are more Members who are becoming aware of this scenario in Congress and who want to make a change.

Mr. FRANK of Massachusetts. Mr. Speaker, if the gentleman will yield further, we ought to point out that today is a day on which there are no votes being taken in Congress, so many Members are in their districts being available to their constituents. That is why there are fewer Members here physically participating.

Mr. Speaker, that is certainly no sign of diminished interest. We have a majority of Members of the House cosponsoring this bill for the first time. People expecting this to fade away should look at the increasing number of cosponsors and realize their expectations.

Mr. MACHTLEY. Mr. Speaker, as the gentleman from Massachusetts [Mr. FRANK] knows, if we tried to put a discharge petition through, we now have 234 sponsors of this bill. If every one of them signed a discharge petition, it is certainly possible we could get this bill on the floor. I think it is important that we all, in a bipartisan fashion, work to find a resolution to this. It may be tangentially important or connected, but I think when you look at what is happening in this country in health care today, people who are the least able to pay for their plan 65 coverage, their additional prescription drugs, the people who are most impacted by the inflation in health care, are the senior citizens. If you can put $50 to $100 a month into the hands of senior citizens, people like Carl Stockman in Patuxent, Lucy Castro, Nellie Zerva, and Caesar Pina, all of these are people who have written me saying, as Yvonne Nolan says, "I am 70 years young, and I lost my husband a year ago. I need that extra money to help me live."

These are not people going on vacation. These are people who are trying to make ends meet on very limited budgets with inflation eating away at their buying power.

As the gentleman from Florida [Mr. GOSS], who has been so active on these issues, as well as the gentleman from Massachusetts [Mr. FRANK] know, those States who have large senior populations, we witness on a regular daily basis people coming to our office, who are not looking for enormous amounts nor extreme assistance. What they are looking for are basic substances of life, the ability to pay their rent, their heat, their food, and maybe, just maybe, enough money so that they can give their kids a gift on one of their birthdays or the holidays.

One of the things I wanted to point out for Members and staff and others who may be watching, when the question comes up, who will be affected by H.R. 917, the answer is that retirees who were born after January 1, 1917, and before January 2, 1927, and their dependents, retired workers are first eligible for benefits on their 62d birthday. The second category are survivors of workers born after January 1, 1917, and before January 2, 1927, if the worker dies on or after the year of his or her 62d birthday.

The third category are workers which are often forgotten when we talk about Social Security benefits, and those are the disabled. We are talking about disability beneficiaries for those born after January 1, 1917, and before January 2, 1927, beginning with the month they attain age 65, and are reclassified as retired workers.

Mr. Speaker, this is a very important issue. As I indicated, there will be a press conference tomorrow at 10 o'clock. The intent of this special order is to make people aware of the issue, to make staffs and Members of Congress aware that there is a consensus bill, one bill in Congress, which can clearly and equitably create a scenario that is financially possible, and will take care of an inequitable situation which is discriminating against our senior citizens, our parents, like Ken and Mary Machtley, who have worked hard to make sure I can get an education to be here today.

Mr. Speaker, we must as Members of Congress recognize an obligation to represent their interests, as well as those of young Americans and middle aged Americans. Our Nation is diverse ethnically as well as from an age standpoint.

Mr. Speaker, we have an obligation as Members of Congress to represent all strata of our constituents. None have such little importance that we should overlook them. Every classification, every age group in our constitutency, needs to have a voice.

Often senior citizens are unable to come to Washington, unable to write or speak out. So today I am pleased and proud to be here in the well of this distinguished body to talk about an issue which I think is unfair, and which ought to be corrected. I greatly appreciate the support of Members. We will have more special orders. We will talk about this issue until such time as it is corrected.

GENERAL LEAVE

Mr. MACHTLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the subject of my special order today.

The SPEAKER pro tempore (Mr. OLIN). Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. MACHTLEY) to revise and extend his remarks and include extraneous material:)

Mr. EMERSON, for 60 minutes, on July 18.

The following Members (at the request of Mr. BILBRAY) to revise and extend their remarks and include extraneous matterial:

Mr. DORGAN of North Dakota, for 5 minutes, today.

Mr. ANDREWS of New Jersey, for 5 minutes, today and July 10.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. CLEMENT, for 5 minutes, today.

Mr. OWENS of New York, for 60 minutes each day, on July 29, 30, and 31 and on August 1 and 2.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MACHTLEY) and to include extraneous matter:)

Ms. ROS-LEHTINEN in two instances.

Mr. MACHTLEY.

Mr. BROOMFIELD.

Mr. DORNAN of California.

(The following Members (at the request of Mr. BILBRAY) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN in 10 instances.

Mr. ANNUNZIO in six instances.

Mrs. LLOYD in five instances.

Mr. HAMILTON in 10 instances.

Mr. DE LA GARZA in 10 instances.

Mr. DE LUGO.

Mr. SERRANO in two instances.

Mr. MCMILLEN of Maryland.

Mr. ASPIN.

Mr. YATES.

Ms. LONG in two instances.

Mr. RANGEL in two instances.

Mr. TORRES.

Mr. SWETT.

Mr. LEHMAN of Florida.

Mr. MURTHA.

Mr. LUKEN.

Mrs. LOWEY of New York.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2332. An act to amend the Immigration Act of 1990 to extend for 4 months the application deadline for special temporary protected status for Salvadorans;

H.J. Res. 72. Joint resolution to designate December 7, 1991, as "National Pearl Harbor Remembrance Day";

H.J. Res. 138. Joint resolution designating the week beginning July 21, 1991, as "Lyme Disease Awareness Week";

H.J. Res. 149. Joint resolution designating March 1992 as "Women's History Month";

H.J. Res. 259. Joint resolution designating July 2, 1991, as "National Literacy Day."

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 674. An act to designate the building in Monterey, TN, which houses the primary operations of the U.S. Postal Service as the "J.E. (Eddie) Russell Post Office Building," and for other purposes.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills and joint resolutions of the House of the following titles:

On July 1, 1991:

H.R. 2332. An act to amend the Immigration Act of 1991 to extend for 4 months the application deadline for special temporary protected status for Salvadorans:

H.J. Res. 72. Joint resolution to designate December 7, 1991, as "National Pearl Harbor Remembrance Day";

H.J. Res. 138. Joint resolution designating the week beginning July 21, 1991, as "Lyme Disease Awareness Week";

H.J. Res. 149. Joint resolution designating March 1991 and March 1992 both as "Women's History Month"; and

H.J. Res. 259. Joint resolution designating July 2, 1991, as "National Literacy Day."

ADJOURNMENT

Mr. MACHTLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 36 minutes p.m.) under its previous order, the House adjourned until tomorrow, Wednesday, July 10, 1991, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1642. A communication from the President of the United States, transmitting amendments to the fiscal year 1991 and fiscal year 1992 requests for appropriations for the Federal Emergency Management Agency, and for fiscal year 1991 for the Department of Defense, pursuant to 31 U.S.C. 1107 (H. Doc. No. 102-107); to the Committee on Appropriations and ordered to be printed.

1643. A communication from the President of the United States, transmitting two proposed rescissions, and two revised deferrals of budget authority, pursuant to 2 U.S.C. 683(a)(1) (H. Doc. No. 102-108); to the Committee on Appropriations and ordered to be printed.

1644. A letter from the Chairman, Council of the District of Columbia, transmitting copies of D.C. Act 9-50, "District of Columbia Public Hall Regulation Temporary Amendment Act of 1991," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

1645. A letter from the Deparment of Justice, transmitting the Department's 1990 annual report on missing children, pursuant to 42 U.S.C. 5773(a); to the Committee on Education and Labor.

1646. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

1647. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to authorize the President to transfer defense articles to member countries of the North Atlantic Treaty Organization in accord with the Treaty on Conventional Armed Forces in Europe, and for other purposes; to the Committee on Foreign Affairs.

1648. A letter from the Inspector General, Department of Labor, transmitting the semiannual report of the inspector general for the period October 1, 1990 through March 31, 1991, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

1649. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting a copy of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1650. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting a copy of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1651. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting a copy of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1652. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting a copy of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1653. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to amend the Government Losses in Shipment Act to provide a permanent indefinite appropriation for the replacement of valuables, or the value thereof, lost, destroyed, or damaged in the course of shipment; to the Committee on Post Office and Civil Service.

1654. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to establish a new position at the Assistant Secretary level at the Department of Commerce; to the Committee on Post Office and Civil Service.

1655. A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to revoke the withdrawal of certain public lands in Multnomah County, OR, to remove land from the Cibola and Havasu National Wildlife Refuges, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

1656. A letter from the Director, Office of Management and Budget, transmitting the report on the costs of domestic and international emergencies and on the threats posed by the Kuwaiti oil fires, pursuant to Public Law 102-55, chapter III (105 Stat. 293); jointly, to the Committees on Appropriations, Agriculture, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on June 26, 1991, the following report was filed on June 28, 1991]

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2507. A bill to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes; with an amendment (Rept. 102-136). Referred to the Committee of the Whole House on the State of the Union.

[Pursuant to the order of the House on June 26, 1991, the following report was filed on July 2, 1991]

Mr. CONYERS: Committee on Government Operations. Report on strengthening the export licensing system (Rept. 102-137). Referred to the Committee of the Whole House on the State of the Union.

[Pursuant to the order of the House on June 26, 1991, the following report was filed on July 3, 1991]

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 1096. A bill to authorize appropriations for programs, functions, and activities of the Bureau of Land Management for fiscal years 1992, 1993, 1994, and 1995; to improve the management of the public lands; and for other purposes; with an amendment (Rept. 102-138). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on Government Operations. Report on Bureau of Prisons halfway houses: Contracting out responsibility (Rept. 102-139). Referred to the Committee of the Whole House on the State of the Union.

[Submitted July 9, 1991]

Mr. ROSTENKOWSKI: Committee on Ways and Means. House Joint Resolution 263. Joint resolution disapproving the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China (Rept. 102-140). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 2212. A bill regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes; with amendments (Rept. 102–141). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. House Concurrent Resolution 174. Concurrent resolution concerning relations between the United States and the People's Republic of China (Rept. 102–142, Pt. 1). Ordered to be printed.

Mr. FASCELL: Committee on Foreign Affairs. House Concurrent Resolution 174. Concurrent resolution concerning relations between the United States and the People's Republic of China; with amendments (Rept. 102–142, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on Government Operations. Report on testing fraud and other Northrop improprieties in the Harrier II jet and cruise missile programs underscore need for additional procurement safeguards (Rept. 102–143). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 2387. A bill to authorize appropriations for certain programs for the conservation of striped bass, and for other purposes; with an amendment (Rept. 102–144). Referred to the Committee of the Whole House on the State of the Union.

Mr. FROST: Committee on Rules. House Resolution 189. Resolution providing for the consideration of a joint resolution, a bill, and a concurrent resolution relating to most-favored-nation treatment for the People's Republic of China (Rept. 102–145). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[Omitted from the Record of June 26, 1991]

By Mr. STENHOLM (for himself, Mr. Smith of Oregon, Mr. Carper, Ms. Snowe, Mr. Moody, Mr. Barton of Texas, Mr. Gibbons, Mr. Michel, Mr. Valentine, Mr. Fish, Mr. Payne of Virginia, Mr. Walker, Mr. Browder, Mr. Duncan, Mrs. Patterson, Mr. Gunderson, Mrs. Byron, Mr. Inhofe, Mr. Ray, Mr. Edwards of Oklahoma, Mr. Taylor of Mississippi, Mr. Allard, Mr. Anderson, Mr. Andrews of Texas, Mr. Annunzio, Mr. Anthony, Mr. Archer, Mr. Armey, Mr. Bacchus, Mr. Baker, Mr. Ballenger, Mr. Barnard, Mr. Barrett, Mr. Bateman, Mr. Bennett, Mrs. Bentley, Mr. Bereuter, Mr. Bevill, Mr. Bilbray, Mr. Bilirakis, Mr. Blaz, Mr. Bliley, Mr. Boehlert, Mr. Boehner, Mr. Brewster, Mr. Broomfield, Mr. Bryant, Mr. Bunning, Mr. Burton of Indiana, Mr. Bustamante, Mr. Callahan, Mr. Camp, Mr. Campbell of Colorado, Mr. Campbell of California, Mr. Chandler, Mr. Chapman, Mr. Clement, Mr. Clinger, Mr. Coble, Mr. Coleman of Missouri, Mr. Combest, Mr. Condit, Mr. Cooper, Mr. Costello, Mr. Coughlin, Mr. Cox of California, Mr. Cramer, Mr. Crane, Mr. Cunningham, Mr. Dannemeyer, Mr. Darden, Mr. Davis, Mr. DeFazio, Mr. DeLay, Mr. Derrick, Mr. de la Garza, Mr. Dickinson, Mr. Dooley, Mr. Doolittle, Mr. Dorgan of North Dakota, Mr. Dornan of California, Mr. Dreier of California, Mr. Eckart, Mr. Edwards of Texas, Mr. Emerson, Mr. English, Mr. Erdreich, Mr. Espy, Mr. Fawell, Mr. Fields, Mr. Franks of Connecticut, Mr. Gallegly, Mr. Gallo, Mr. Gekas, Mr. Geren of Texas, Mr. Gilchrest, Mr. Gillmor, Mr. Gingrich, Mr. Goodling, Mr. Gordon, Mr. Goss, Mr. Grandy, Mr. Hall of Texas, Mr. Hammerschmidt, Mr. Hancock, Mr. Hansen, Mr. Harris, Mr. Hastert, Mr. Hatcher, Mr. Hayes of Louisiana, Mr. Hefley, Mr. Hefner, Mr. Henry, Mr. Herger, Mr. Hobson, Mr. Holloway, Mr. Hopkins, Mr. Horton, Mr. Hubbard, Mr. Huckaby, Mr. Hunter, Mr. Hutto, Mr. Hyde, Mr. Ireland, Mr. Jacobs, Mr. James, Mr. Jenkins, Mrs. Johnson of Connecticut, Mr. Johnson of Texas, Mr. Johnson of South Dakota, Mr. Johnston of Florida, Mr. Jones of Georgia, Mr. Jones of North Carolina, Mr. Jontz, Mr. Kasich, Mr. Kleczka, Mr. Klug, Mr. Kolbe, Mr. Kolter, Mr. Kyl, Mr. Lagomarsino, Mr. Lancaster, Mr. Laughlin, Mr. Leach, Mr. Lent, Mr. Lewis of California, Mr. Lewis of Florida, Mr. Lightfoot, Mr. Lipinski, Mr. Livington, Mrs. Lloyd, Ms. Long, Mr. Lowery of California, Mr. Luken, Mr. Machtley, Mr. Marlenee, Mr. Martin, Mr. McCandless, Mr. McCollum, Mr. McCrery, Mr. McCurdy, Mr. McDade, Mr. McEwen, Mr. McGrath, Mr. McMillan of North Carolina, Mr. McMillen of Maryland, Mrs. Meyers of Kansas, Mr. Miller of Ohio, Mr. Miller of Washington, Ms. Molinari, Mr. Montgomery, Mr. Moorhead, Mr. Morrison, Mr. Murphy, Mr. Myers of Indiana, Mr. Neal of Massachusetts, Mr. Nichols, Mr. Nussle, Mr. Olin, Mr. Ortiz, Mr. Orton, Mr. Owens of Utah, Mr. Oxley, Mr. Packard, Mr. Pallone, Mr. Parker, Mr. Paxon, Mr. Penny, Mr. Peterson of Florida, Mr. Petri, Mr. Pickle, Mr. Porter, Mr. Poshard, Mr. Price, Mr. Pursell, Mr. Quillen, Mr. Ramstad, Mr. Ravenel, Mr. Regula, Mr. Richardson, Mr. Ridge, Mr. Riggs, Mr. Ritter, Mr. Roberts, Mr. Roemer, Mr. Rogers, Mr. Rohrabacher, Mr. Ros-Lehtinen, Mr. Roth, Mr. Rowland, Mr. Sangmeister, Mr. Santorum, Mr. Sarpalius, Mr. Saxton, Mr. Schaefer, Mr. Schiff, Mr. Schulze, Mr. Sensenbrenner, Mr. Shaw, Mr. Shuster, Mr. Sisisky, Mr. Skeen, Mr. Skelton, Mr. Slaughter of Virginia, Mr. Smith of New Jersey, Mr. Smith of Texas, Mr. Solomon, Mr. Spence, Mr. Spratt, Mr. Stallings, Mr. Stearns, Mr. Stump, Mr. Sundquist, Mr. Swett, Mr. Tallon, Mr. Tanner, Mr. Tauzin, Mr. Taylor of North Carolina, Mr. Thomas of Wyoming, Mr. Thomas of Georgia, Mr. Thomas of California, Mr. Upton, Mr. Vander Jagt, Mrs. Vucanovich, Mr. Walsh, Mr. Weber, Mr. Weldon, Mr. Wilson, Mr. Wolf, Mr. Wylie, Mr. Young of Florida, Mr. Young of Alaska, Mr. Zeliff, and Mr. Zimmer):

H.J. Res. 290. Joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government and for greater accountability in the enactment of tax legislation; to the Committee on the Judiciary.

By Mr. PERKINS:

H.J. Res. 291. Joint resolution to designate the weeks of October 27, 1991 through November 2, 1991, and October 11, 1992 through October 17, 1992, each separately as "National Job Skills Week"; to the Committee on Post Office and Civil Service.

[Submitted July 9, 1991]

By Mr. FRANK of Massachusetts:

H.R. 2828. A bill to amend the Ethics in Government Act of 1978 to remove the limitation on the authorization of appropriations for the Office of Government Ethics; jointly, to the Committees on the Judiciary and Post Office and Civil Service.

By Mr. SWIFT:

H.R. 2829. A bill to strengthen the authority of the Federal Trade Commission regarding fraud and consumer abuse committed in connection with sales made with a telephone and for other purposes; to the Committee on Energy and Commerce.

By Ms. LONG (for herself, Mr. Penny, Mr. Allard, Mr. Poshard, Mr. Jacobs, Mr. Frank of Massachusetts, Mr. Fawell, Mr. Dwyer of New Jersey, Mr. Rohrabacher, Mr. Traficant, Mr. Slattery, Ms. Kaptur, Mr. Shays, Mr. Hefley, Mr. Blaz, Mr. Stearns, Mr. Harris, Mr. Dannemeyer, Mr. Thomas of Georgia, Mr. Frost, and Mr. Johnson of South Dakota):

H.R. 2830. A bill to ensure that whenever the annual adjustment in General Schedule pay rates is reduced or foregone, the annual pay adjustment for Members of Congress, justices and judges of the United States, and certain senior officials in the executive branch shall likewise be reduced or foregone, and for other purposes; jointly, to the Committees on Post Office and Civil Service, the Judiciary, and House Administration.

By Mr. DAVIS (for himself and Mr. Camp):

H.R. 2831. A bill to minimize the adverse effects on local communities caused by the closure of military installations; jointly, to the Committees on Armed Services and Government Operations.

By Mr. JONES of North Carolina:

H.R. 2832. A bill to amend Public Law 97–360; to the Committee on Merchant Marine and Fisheries.

By Mr. PETRI:

H.R. 2833. A bill to permit States in certain cases to waive application of the requirements of the Commercial Motor Vehicle Safety Act of 1986 with respect to a vehicle which is being operated for the purpose of removing snow or ice from a roadway by plowing, sanding, or salting; to the Committee on Public Works and Transportation.

By Mr. RITTER (by request):

H.R. 2834. A bill to amend the Federal Railroad Safety Act of 1970 and for other purposes; to the Committee on Energy and Commerce.

By Mr. SABO:

H.R. 2835. A bill to direct the Secretary of Transportation to conduct a program to promote and facilitate the implementation of Intelligent Vehicle-Highway Systems as a component of the Nation's surface transportation systems, and for other purposes; jointly, to the Committees on Public Works and Transportation and Science, Space, and Technology.

By Mr. SHARP (for himself, Mr. Mineta (both by request), Mr. Moorhead and Mr. Shuster):

H.R. 2836. A bill to amend the Natural Gas Pipeline Safety Act of 1968, as amended, and the Hazardous Liquid Pipeline Safety Act of

1979, as amended, to authorize appropriations for fiscal years 1992 and 1993, and for other purposes; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

By Mr. STENHOLM:

H.R. 2837. A bill to amend the Agricultural Act of 1949 to improve the milk price support program and to establish a milk inventory management program to operate during calendar years in which purchases of milk and milk products by the Commodity Credit Corporation are estimated to exceed 5 billion pounds; to the Committee on Agriculture.

By Mr. WEISS (for himself, Mr. YATRON, Mr. KENNEDY, Mr. FEIGHAN, Mr. PAYNE of New Jersey, and Mr. BURTON of Indiana):

H. Con. Res. 176. Concurrent resolution expressing the sense of the Congress regarding human rights violations in the Islamic Republic of Mauritania; jointly, to the Committees on Foreign Affairs and Banking, Finance and Urban Affairs.

By Mr. YATRON (for himself and Mr. BEREUTER):

H. Con. Res. 177. Concurrent resolution calling for a U.S. policy of strengthening and maintaining indefinitely the current International Whaling Commission moratorium on the commercial killing of whales, and otherwise expressing the sense of the Congress with respect to conserving and protecting the world's whale, dolphin, and porpoise populations; jointly, to the Committees on Foreign Affairs and Merchant Marine and Fisheries.

By Mr. MICHEL:

H. Res. 188. Resolution electing Representative Paxon of New York to the Committee on Budget. Considered and agreed to.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

208. By the SPEAKER: Memorial of the General Assembly of the State of New Jersey, relative to lead content levels; to the Committee on Energy and Commerce.

209. Also, memorial of the Legislature of the State of Louisiana, relative to enactment of a POW/MIA truth bill; to the Committee on Government Operations.

210. Also, memorial of the Legislature of the State of Nebraska, relative to grazing fees; to the Committee on Interior and Insular Affairs.

211. Also, memorial of the Legislature of the State of Louisiana, relative to Christopher Columbus; to the Committee on Post Office and Civil Service.

212. Also, memorial of the General Assembly of the State of New Jersey, relative to unemployment; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 46: Mr. LANCASTER.

H.R. 53: Mr. EVANS, Mr. BENNETT, Mr. BOEHNER, Mr. FEIGHAN, Mr. HOCHBRUECKNER, Mr. LEHMAN of California, Mr. HOYER, and Mr. MURPHY.

H.R. 110: Mr. GEJDENSON.

H.R. 203: Mr. WOLPE.

H.R. 252: Mrs. SCHROEDER.

H.R. 381: Mr. ORTIZ, Mr. KLUG, Mr. GUNDERSON, Mr. BILBRAY, and Mr. BEREUTER.

H.R. 421: Mr. SMITH of Florida, and Ms. SLAUGHTER of New York.

H.R. 573: Mr. FISH and Mr. DIXON.

H.R. 576: Mr. OBERSTAR, Mr. BATEMAN, Mr. HUBBARD, Mr. DEFAZIO, Mr. MURTHA, and Mr. PALLONE.

H.R. 602: Mr. BALLENGER.

H.R. 710: Mr. HAYES of Louisiana and Mr. ENGLISH.

H.R. 776: Mr. SWETT.

H.R. 793: Mr. CONDIT, Mr. KOPETSKI, and Mr. LIPINSKI.

H.R. 814: Mr. PORTER, Mr. KANJORSKI, and Mr. DIXON.

H.R. 830: Mr. SCHEUER, Mr. JOHNSON of South Dakota, and Mr. KILDEE.

H.R. 845: Mr. BOEHNER.

H.R. 870: Mr. AUCOIN and Mr. WISE.

H.R. 871: Mr. AUCOIN and Mr. WISE.

H.R. 872: Mr. AUCOIN and Mr. WISE.

H.R. 873: Mr. AUCOIN and Mr. WISE.

H.R. 961: Mr. HEFLEY and Mr. SLATTERY.

H.R. 967: Mr. BACCHUS and Ms. NORTON.

H.R. 1048: Mr. HAYES of Illinois.

H.R. 1111: Mr. HOYER.

H.R. 1124: Mr. JONES of North Carolina and Mr. SPRATT.

H.R. 1195: Mr. LAFALCE, Mr. FALEOMAVAEGA, Mr. HORTON, Mr. SERRANO, Mr. ROGERS, Mr. ABERCROMBIE, Ms. KAPTUR, Mr. HAYES of Illinois, Mr. JEFFERSON, Mr. GEJDENSON, Mr. REED, and Mr. ESPY.

H.R. 1200: Mr. JOHNSON of South Dakota, Mr. BERMAN, Mr. DELLUMS, Mr. EDWARDS of California, Mr. CAMPBELL of Colorado, Mr. GIBBONS, Mr. DARDEN, Mr. JONES of Georgia, Mrs. MINK, Mr. JACOBS, Mr. MCCLOSKEY, Mr. MARKEY, Mr. BONIOR, Mr. LEVIN of Michigan, Mr. EMERSON, Mr. ROE, Mr. ACKERMAN, Mr. FLAKE, Ms. MOLINARI, Mr. RANGEL, Mr. SERRANO, Ms. KAPTUR, Mr. LUKEN, Mr. BORSKI, Mr. CLINGER, Mr. MACHTLEY, Mr. CLEMENT, Mr. GORDON, Mr. COLEMAN of Texas, Mr. HANSEN, Mr. SANDERS, Mr. CHANDLER, Mr. SWIFT, Mr. RAHALL, Mr. ROWLAND, Mrs. ROUKEMA, Ms. ROS-LEHTINEN, Mr. SARPALIUS, Mr. VISCLOSKY, and Mr. JENKINS.

H.R. 1288: Mr. MCCLOSKEY.

H.R. 1334: Mr. KILDEE.

H.R. 1335: Mr. OWENS of New York, Mr. KOLTER, Mr. ANNUNZIO, and Mr. MFUME.

H.R. 1385: Mr. POSHARD, Mr. VOLKMER, and Mr. FUSTER.

H.R. 1432: Mr. CALLAHAN.

H.R. 1497: Mr. BAKER and Mr. WILSON.

H.R. 1502: Mr. ERDREICH, Mr. BUSTAMANTE, Mr. KILDEE, Mr. BONIOR, Mr. CONYERS, Mr. ESPY, Mr. MFUME, Mr. SHAYS, Mr. STOKES, and Mr. HAYES of Illinois.

H.R. 1527: Mr. JEFFERSON, Mr. PENNY, and Mr. HUBBARD.

H.R. 1531: Mr. WOLF, Mr. ERDREICH, and Ms. ROS-LEHTINEN.

H.R. 1545: Mr. RAY and Mr. IRELAND.

H.R. 1601: Mr. ABERCROMBIE.

H.R. 1648: Mr. SANTORUM and Mr. GILLMOR.

H.R. 1663: Mr. SPENCE.

H.R. 1669: Mr. PERKINS, Mr. STUDDS, and Mrs. COLLINS of Michigan.

H.R. 1708: Mr. FROST, Mrs. LOWEY of New York, Mr. BRYANT, Mr. ESPY, and Mr. SCHEUER.

H.R. 1771: Mr. BACCHUS, Mr. COLEMAN of Texas, Mr. FORD of Michigan, Mr. HOYER, Mr. MCMILLEN of Maryland, Mr. NAGLE, Mr. SUNDQUIST, and Mr. WISE.

H.R. 1774: Ms. NORTON.

H.R. 1883: Mr. GILLMOR and Mr. HALL of Ohio.

H.R. 2001: Mr. BALLENGER.

H.R. 2027: Mr. EMERSON.

H.R. 2029: Mr. DWYER of New Jersey.

H.R. 2049: Mr. FIELDS.

H.R. 2070: Mr. LAGOMARSINO.

H.R. 2082: Mr. RIGGS.

H.R. 2083: Ms. NORTON, Mrs. BOXER, Mr. YATES, Mr. OBERSTAR, Mr. PERKINS, and Mr. LEHMAN of Florida.

H.R. 2089: Mr. EVANS, Mr. GILLMOR, Mr. ROE, Mr. ROGERS, and Mr. OWENS of New York.

H.R. 2115: Mr. SKAGGS, Mr. BACCHUS, and Mr. ABERCROMBIE.

H.R. 2185: Mr. RITTER, Mr. TAUZIN, Mr. INHOFE, Mr. EMERSON, Mr. DELAY, Mr. TAYLOR of North Carolina, Mr. CRANE, Mr. BUNNING, and Mr. SHUSTER.

H.R. 2188: Mr. FRANK of Massachusetts, Mr. PERKINS, Mr. JEFFERSON, Mr. FROST, Mr. EVANS, Ms. ROS-LEHTINEN, Mr. SKAGGS, and Mr. TORRES.

H.R. 2210: Mr. HUGHES, Mr. BILBRAY, and Ms. NORTON.

H.R. 2234: Mr. WEBER, Mr. BREWSTER, Mr. ESPY, and Mr. HERGER.

H.R. 2248: Mr. OBERSTAR and Mr. KOSTMAYER.

H.R. 2279: Mr. MARKEY and Mr. BEILENSON.

H.R. 2303: Mr. KOSTMAYER.

H.R. 2333: Mr. HATCHER, Ms. NORTON, Mr. FROST, Mr. TRAXLER, and Mr. LANCASTER.

H.R. 2342: Mr. SIKORSKI.

H.R. 2355: Mr. FRANK of Massachusetts, Mr. WOLPE, Mr. SMITH of Florida, Mr. BEILENSON, Ms. ROS-LEHTINEN, Mr. LANTOS, Mr. SERRANO, Mr. YATES, and Mrs. MORELLA.

H.R. 2371: Mr. YOUNG of Florida, Mr. GILLMOR, and Mr. SANTORUM.

H.R. 2440: Mr. EVANS, Mrs. COLLINS of Michigan, Mr. ESPY, Mr. TOWNS, and Mr. COSTELLO.

H.R. 2484: Mr. WEBER, Mr. POSHARD, Mr. EMERSON, Mr. HAMMERSCHMIDT, Mr. JOHNSON of South Dakota, Mr. SKEEN, and Mr. EVANS.

H.R. 2511: Mr. LEVINE of California and Mr. ECKART.

H.R. 2540: Mr. ANNUNZIO, Mr. WOLPE, Mr. LANTOS, and Mr. JONTZ.

H.R. 2541: Mr. LANTOS, Mr. WELDON, Mr. JONES of North Carolina, and Mr. GILCHREST.

H.R. 2559: Mr. FRANK of Massachusetts, Mr. ACKERMAN, Mr. WOLPE, Mr. SMITH of Florida, Mr. BEILENSON, Ms. ROS-LEHTINEN, Mr. LANTOS, Mr. SERRANO, and Mr. YATES.

H.R. 2560: Mr. HAMILTON and Mr. LIGHTFOOT.

H.R. 2566: Mr. MONTGOMERY, Mr. BATEMAN, Mr. OLIN, Mr. FROST, Mr. THOMAS of Georgia, Mr. SISISKY, Mr. HAMILTON, Mr. BURTON of Indiana, Mr. SYNAR, Mr. JONTZ, Mr. NEAL of North Carolina, and Mr. WILSON.

H.R. 2567: Mr. KILDEE.

H.R. 2579: Mr. HERGER.

H.R. 2584: Mr. ANDREWS of Maine and Mr. SCHEUER.

H.R. 2620: Mr. RITTER.

H.R. 2632: Mr. BURTON of Indiana, Ms. KAPTUR, and Mr. STALLINGS.

H.R. 2670: Mr. WASHINGTON and Mr. JONTZ.

H.R. 2786: Mr. SCHIFF, Mr. BOEHLERT, and Mr. HORTON.

H.J. Res. 67: Mr. PETERSON of Florida.

H.J. Res. 107: Mr. MCMILLEN of Maryland, Mr. HORTON, Mr. DWYER of New Jersey, Mr. SERRANO, Ms. KAPTUR, Mr. ZELIFF, Ms. NORTON, Mr. LIGHTFOOT, Mr. ABERCROMBIE, Mr. ROEMER, and Mr. FROST.

H.J. Res. 180: Mr. BORSKI, Mr. EVANS, Mr. GILLMOR, Mr. MANTON, Mr. MURTHA, Mr. MCEWEN, Mr. ROEMER, and Mr. SCHAEFER.

H.J. Res. 188: Mr. FROST.

H.J. Res. 217: Mr. COOPER, Mr. MCCANDLESS, Mr. NOWAK, Mr. FORD of Michigan, Mr. GALLEGLY, Mr. GALLO, Mr. WISE, Mr. MATSUI, Mr. BROWN, Mr. HALL of Ohio, Mr. NEAL of North Carolina, Mr. HAYES of Illinois, Mr. BALLENGER, Mr. MCGRATH, Mr. TALLON, Mr.

PURSELL, Mr. HOCHBRUECKNER, Mr. OWENS of Utah, Mr. KANJORSKI, Mr. ASPIN, Mr. RIGGS, Mr. DANNEMEYER, Mr. PAYNE of Virginia, Mr. DUNCAN, Mr. FROST, Mr. SKEEN, Mr. PACKARD, Mr. YATRON, Mr. WYLIE, Mr. TRAXLER, Mr. SHARP, Mr. RHODES, Mr. KASICH, Ms. OAKAR, Mr. ARCHER, Mr. COUGHLIN, and Mrs. MORELLA.

H.J. Res. 244: Mr. BEILENSON, Mr. BRYANT, Mr. CLEMENT, Mrs. COLLINS of Illinois, Mr. DYMALLY, Mr. FROST, Mr. GONZALEZ, Mr. GUARINI, Mrs. JOHNSON of Connecticut, Mr. KENNEDY, Mr. KILDEE, Mr. MCGRATH, Mr. MCNULTY, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. RANGEL, Mr. SKEEN, Mr. SLATTERY, and Mr. TOWNS.

H.J. Res. 263: Mr. FROST, Mr. EVANS, Mr. SKAGGS, Ms. ROS-LEHTINEN, Mr. TORRES, and Mr. BARTON of Texas.

H.J. Res. 264: Mr. HALL of Ohio, Mr. KOSTMAYER, Mr. WALSH, Mr. LANCASTER, Mr. FROST, Mr. KENNEDY, and Mr. GORDON.

H.J. Res. 270: Mr. SCHUMER, Mr. KLECZKA, and Mr. DURBIN.

H.J. Res. 273: Mr. BURTON of Indiana, Mr. JACOBS, Mr. JONTZ, Ms. LONG, Mr. MCCLOSKEY, Mr. MYERS of Indiana, Mr. ROEMER, Mr. SHARP, and Mr. VISCLOSKY.

H. Con. Res. 160: Mr. JONTZ, Mr. LEVINE of California, Mr. FROST, Mr. SANDERS, Mr. GEJDENSON, Mr. DIXON, Mr. MARKEY, Mr. OWENS of New York, Mr. ESPY, Mr. MFUME Mr. YATES, Mr. TOWNS, Mr. FORD of Tennessee, and Ms. NORTON.

H. Con. Res. 168: Mr. HALL of Ohio, Mr. DELLUMS, Mrs. PATTERSON, Mr. DYMALLY, Mr. HUGHES, Mr. HORTON, Mr. MCDERMOTT, Mr. FUSTER, Mr. MATSUI, Mr. ABERCROMBIE, Mr. BONIOR, Mr. RAHALL, Mr. RANGEL, and Mr. JOHNSON of South Dakota.

H. Res. 40: Mrs. ROUKEMA.

H. Res. 42: Mr. JOHNSON of South Dakota.

H. Res. 115: Mr. BARNARD, Mr. GEJDENSON, Mr. REED, Mr. MARKEY, Mr. DOOLEY, Mr. SHARP, Mr. FROST, Mr. DWYER of New Jersey, Mrs. MORELLA, Mr. HALL of Ohio, Mr. SMITH of Florida, Mr. WASHINGTON, and Mr. ROE.

H. Res. 164: Mr. ESPY, Mr. ACKERMAN, Mr. FRANK of Massachusetts, Mr. FUSTER, Mr. OWENS of Utah, Mr. RANGEL, Ms. NORTON, Mr. FROST, and Mr. TOWNS.

H. Res. 167: Mr. MRAZEK, Mrs. BOXER, Mrs. PATTERSON, Mr. SHUSTER, Mr. FALEOMAVAEGA, Mr. GEJDENSON, Mr. FASCELL, Mr. FAZIO, and Mr. LAGOMARSINO.

H. Res. 168: Mr. FORD of Tennessee and Ms. KAPTUR.

H. Res. 184: Mr. BATEMAN, Mr. DORNAN of California, Mr. SPENCE, Mr. BILIRAKIS, Mr. MONTGOMERY, Mr. QUILLEN, Mrs. MEYERS of Kansas, Mr. HARRIS, Mr. DANNEMEYER, Mr. GILMAN, Mr. FASCELL, Mr. RANGEL, Mr. MCNULTY, Mr. ESPY, Mrs. BYRON, Mr. SKEEN, Mr. JENKINS, Mr. BALLENGER, and Mr. GUNDERSON.

SENATE—*Tuesday, July 9, 1991*

(Legislative day of Monday, July 8, 1991)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable PAUL D. WELLSTONE, a Senator from the State of Minnesota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Ye shall know the truth, and the truth shall make you free.—John 8:32.

Eternal God, perfect in truth and justice, we pray this morning for the members of the Senate press and media. We thank You for their hard work and their commitment to keep the people informed. We realize that much of the people's knowledge and most of the information, good or bad, they receive comes through their labors which are indispensable to a free society. Thank You for their patience during barren periods when nothing newsworthy is happening, and the public expects them to produce anyway. Thank You for their courage when an assignment involves great risk.

Grant to them special grace when criticism, which comes so often and so easily, is unjust, and they simply have to take it. We pray for their families who sometimes must suffer their long absences from home when duty requires it. Thank You, Father, for the men and women of the Senate press and media. Bless them, assure them of Your love and ours, and encourage them when they are tempted to give up.

We ask this in His name who was truth incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 9, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PAUL D. WELLSTONE, a Senator from the State of Minnesota, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WELLSTONE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President and Members of the Senate, under a unanimous-consent agreement reached last evening, there will now be 30 minutes for debate on a Thurmond second-degree amendment to the Bingaman amendment, and a vote on that Thurmond amendment will occur at or shortly after 10 a.m. There will then be a series of other amendments as prescribed in the agreement, and then we will be proceeding to further consideration of the bill once the Bingaman amendment is ultimately accepted or rejected.

Senators should expect rollcall votes throughout the day beginning, as I previously stated, at about 10 a.m. as the managers, who deserve our gratitude and commendation for their perseverance, Senators BIDEN and THURMOND, continue to move forward in an effort to complete action on this measure.

Mr. DOLE. Will the majority leader yield?

Mr. MITCHELL. Mr. President, I will be pleased to yield to the distinguished Republican leader.

Mr. DOLE. I am sorry I was not here earlier, but as I understand, the majority leader has made it clear there will be a lot of votes today into the evening and everybody ought to be on notice. The same is true for the remainder of the week.

Mr. MITCHELL. Mr. President, that is correct.

Mr. DOLE. Including Monday of next week. I think we need to continue to make that statement because some of our colleagues are not quite certain, although I think they might have discovered yesterday, that there will be votes on Monday.

Mr. MITCHELL. Yes, there will be.

Mr. DOLE. With the exception of this Friday, I think votes on the following Friday.

Mr. MITCHELL. That is correct. Mr. President, the Senate will not be in session this Friday, but thereafter for the remainder of this legislative period there will be votes on Mondays and Fridays, as we attempt to move forward to complete the business of the Senate.

I might note, with the distinguished Republican leader present, all Senators should be aware that a cloture motion on the bill was filed last evening, and therefore under the rule Senators have until 1 p.m. today to file amendments. Senators should be aware of that and be prepared to complete action on this bill as soon as possible. It is my hope—and I know the managers hope this very much; we discussed this last evening—that we complete action today, although it would require a lengthy session. I hope that we are going to be able to get that done. But in the event we are not, a cloture motion has been filed which will ripen for a vote tomorrow.

Mr. President, I thank my colleagues.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

ARMS CONTROL

Mr. DOLE. Mr. President, with all of the activity surrounding START and CFE—especially over the past few months—some of our other arms control efforts are sometimes overshadowed. Yet, every now and then, it is worthwhile to pause and look at what our negotiators are trying to do, especially when we in the Congress face decisions in their subject area.

This year we have some important decisions to make on ballistic missile defense. Therefore, I think we should examine what is going on in the United States-Soviet defense and space talks [DST] in Geneva.

Last Tuesday, our chief negotiator, Ambassador Dave Smith, outlined the status of DST for the Conference on Disarmament. He is optimistic, particularly in light of the Bush-Gorbachev agreement to continue DST without delay after START is concluded.

I would like to share with you two insights from Ambassador Smith's speech which, in my view, are relevant to our deliberations here in the Senate.

First, the ABM Treaty was written in another era, when its drafters—Soviet and American—could not foresee a

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

world in which a Saddam Hussein possesses ballistic missiles.

Deploying any meaningful defense—whether it is President Bush's GPALS or some of the other plans conceived in the Congress—will require substantial changes to the ABM Treaty. None will be easily negotiated, nevertheless our Ambassador is optimistic and we need to back him the best way we can.

Second, in an era of improved United States-Soviet relations, despite some setbacks and doubts, nobody is talking about ABM Treaty abrogation. The Bush administration is working for a negotiated solution. For this reason, Ambassador Smith points out:

> We have been engaged in the defense and space talks for 6 years and remain committed to their future.

In the coming weeks, as we decide how to proceed on the critical issue of ballistic missile defenses, let us bear in mind the true reality of the prospects for the defense and space talks.

I commend Ambassador Smith's speech to my colleagues and ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT TO THE OUTER SPACE COMMITTEE OF THE CONFERENCE ON DISARMAMENT, JUNE 25, 1991

(By Ambassador David J. Smith)

Mr. Chairman:

I

When I last had the privilege of addressing the Conference on Disarmament on the status of the Defense and Space Talks, I began by stressing President George Bush's words of February 7, 1990: "In the 1990s, strategic defenses make more sense than ever before." I begin this way again today because so many of the events of the sixteen months since those words were spoken have proven them all the more valid.

The President was speaking at the midpoint of a two-year review of the U.S. Strategic Defense Initiative (SDI) at a time when many rapid changes were occurring in the world. These changes diminished our concern over the possibility of a strategic first strike with ballistic missiles against the United States relative to our growing concern over ballistic missile proliferation and accidental or unauthorized launches. Therefore, in his January 29, 1991, State of the Union Address, President Bush ordered a redirection of the SDI program to "protection from limited ballistic missile strikes, whatever their source."

Though backed by two years of study which when began long before anyone imagined there would be a Persian Gulf War, the President's announcement could not be heard but through the thunder of the War. From that perspective, the results of our study and the President's decision were prescient.

President Bush recently summed it all up in a few sentences addressed to the graduating class of the U.S. Air Force Academy on May 29, 1991:

"We learned that missile defense works and that it promotes peace and security. In the Gulf we had the technologies of defense to pick up where theories of deterrence left off. The Patriot saved lives and helped keep the coalition together.

"And while the Patriot worked well in the Gulf, we must prepare for the missiles more likely to be used by future aggressors. We cannot build a defense system that simply responds to the threats of the past."

II

Despite the overwhelming military force marshalled to enforce U.N. Resolutions, notions of deterrence prevented neither the tragic war in the Gulf from starting nor ballistic missiles from being launched. SCUD missiles were fired in the opening days of conflict and targeted at civilian populations. Patriot interceptors defended troops and civilians, and greatly lessened the political terror that the SCUD attacks were designed to spread. The Patriot proved instrumental in containing the conflict, maintaining the international coalition, and possibly shortening the war. And let us not forget the most simple and important fact: the Patriot saved lives.

Yet, had these SCUD missiles been mated with chemical or nuclear warheads, the short-range Patriots could not have intercepted their targets far enough from civilian populations to provide the necessary defense. Far greater human tragedy would have occurred. Further, the SCUD is an old ballistic missile; far more capable missiles have already been developed.

The Patriot originally was designed as a point air defense weapon; it does not have the range, speed and maneuverability to intercept more capable, advanced types of ballistic missiles. Its success proved that defensive technology is feasible, but advanced interceptors, much more capable than the Patriot, are required to meet future crises that will involve ever more advanced missile threats.

According to Secretary of Defense Dick Cheney, by the year 2000, in addition to the United States and Soviet Union, more than two dozen countries will have ballistic missiles; fifteen of these countries will have the technical capabilities to produce their own missiles; half of these countries will have, or will be developing, nuclear capability. By 2000, thirty countries will have chemical weapons; ten will be able to field biological weapons. Many of these countries will have ballistic missiles of various ranges; a few could achieve strategic range. In addition, as we saw in the Gulf War, ballistic missiles can be improved to add to their ranges and capabilities.

Such an environment can only be met with a broad, comprehensive strategy which includes political and diplomatic measures as well as defenses. The United States is dedicated to strengthening and expanding the Missile Technology Control Regime and the Non-Proliferation Treaty, supporting the work of the Australia Group and advancing President Bush's Middle East arms control proposal. With dedication from all of us, we can expect to build upon the successes these efforts have already achieved. Still, experience and common sense suggest that these efforts alone cannot stop all proliferation. The introduction of modest, effective defenses will complement the MTCR and other diplomatic efforts to deter missile proliferation.

III

America's new approach to ballistic missile defense, announced by President Bush on January 29, is called Global Protection Against Limited Strikes (GPALS). Half the size of the original SDI "Phase I" plan, the GPALS architecture shifts the focus of strategic ballistic missile defense away from deterrence of a strategic ballistic missile attack to protection against the emerging and limited ballistic missile threat. Because it is limited in scope and scale, GPALS will not threaten the Soviet strategic retaliatory capability, an oft-stated Soviet concern over SDI. Therefore, given improving U.S.-Soviet relations and growing concern for ballistic missile proliferation and accidental and unauthorized launch, GPALS represents an appropriate approach to defenses based on the evolving international environment.

A GPALS defense would include various sensors and three ground- and space-based intercepters to ensure global coverage against missiles of all ranges:

Space- and surface-based sensors to provide global, continuous surveillance and tracking, from launch to intercept, of ballistic missiles of all ranges—theater to strategic. This is a crucial element for a successful global defense.

Surface-based, nonnuclear, transportable, kinetic interceptors to protect U.S. forces deployed abroad and U.S. allies and friends against ballistic missiles of theater range.

Space-based, nonnuclear, kinetic interceptors to provide continuous, global interception capability against missiles with ranges in excess of 500–1000 km (300–600 miles). Thus, the space-based element will protect the U.S., allies and friends against both theater and strategic missiles and will provide the broadest, most effective global coverage.

Finally, surface-based, nonnuclear, kinetic interceptors located in the U.S. to protect the U.S. from ballistic missiles of all ranges.

IV

Any meaningful deployment of ballistic missile defenses will require a change in the legal regime established by the ABM Treaty. Therefore, although the world has changed, and our Program adjusted accordingly, our goal in the Defense and Space Talks remains consistent. We seek to negotiate a cooperative transition to allow increased reliance on strategic ballistic missile defenses.

Over the six year history of our Talks, we have explained to our Soviet colleagues that, despite the best of intentions, the ABM Treaty did not yield the stability nor the reductions in strategic offensive arms its framers intended. It is not the ABM Treaty but the improved relationship between the United States and the Soviet Union that is about to bring us the first ever agreement for stabilizing reductions in strategic offensive forces. Deployment of strategic defenses would further enhance stability. We believe this argument is, and will remain, valid.

We also continue to believe that, in concert with reductions in strategic offensive arms, effective defenses would greatly reduce any strategic benefits a side might obtain by cheating on international arms reductions agreements. Defenses would help deter the proliferation of ballistic missile technology and devalue the potential political and military leverage of ballistic missiles—long thought to be the terror weapons of choice.

The proliferation of ballistic missile technology, underscored by the lessons learned from the Gulf War, confirms our conclusion that the regime established by the ABM Treaty must be changed. Positive changes in U.S.-Soviet relations, the need to address a truly mutual concern, and a U.S. ballistic missile defense program which averts stated Soviet concerns may now provide a real opportunity for success in our negotiations. I stress that a negotiated cooperative transition is our goal. This is why we have been engaged in the Defense and Space Talks for six years and remain committed to their future.

V

The United States continues to offer a mechanism, the U.S. Defense and Space Treaty, to permit deployment of defenses beyond the ABM Treaty following three years discussion of specific measures for implementing a cooperative transition. Such a process of negotiation and discussion of concrete measures is far preferable to withdrawal from the ABM Treaty under the supreme interests provision found in Article XV of that Treaty. The U.S. approach is measured, reasonable and appropriate.

We also understand full well that the negotiated cooperative transition we seek cannot be built in a vacuum but requires a sound foundation of trust. Therefore, another U.S. approach in the Defense and Space Talks is ensuring predictability in the development of the U.S.-Soviet strategic relationship which has up to now been characterized by secrecy. In contrast, openness makes the strategic relationship predictable, averting miscalculation and technological surprise, and thus is stabilizing.

To encourage openness, the United States has proposed a number of predictability measures designed to create a better understanding of strategic ballistic missile defense activities as early as the research stage—years before the appearance of advanced defenses in the field. These U.S. measures include annual exchanges of data, meetings of experts, briefings, visits to laboratories, observations of tests, and ABM test satellite notifications.

As a demonstration of the U.S. approach and commitment to openness, at the Wyoming Ministerial in September 1989, Secretary of State Baker invited a group of Soviet experts to visit two U.S. laboratories conducting SDI research. In December 1989, ten Soviet experts visited the Alpha Chemical Laser at the TRW facility at San Juan Capistrano, California, and the BEAR Neutral Particle Beam Experiment at the Los Alamos National Laboratory, New Mexico. The Soviet guests saw hardware up close and had an opportunity to ask questions of U.S. scientists conducting the research.

To continue the momentum, Secretary Baker took further initiatives. In the spring of 1990, the United States proposed that the U.S. and Soviet Union conclude a free-standing executive agreement on these matters. Later in 1990, the U.S. proposed pilot implementation of U.S. predictability measures—a "trial run." And last Fall, the U.S. proposed that the two sides conduct "dual pilot implementation"—the United States would demonstrate its proposed predictability measures, and the Soviet Union would demonstrate its measures.

The United States remains committed to reciprocal openness in this area which we believe would be inherently stabilizing, consistent with the developing trends in U.S.-Soviet relations. We also believe that early conclusion of a free-standing predictability measures agreement would afford us the opportunity to build greater trust upon which we could construct even greater successes in the Defense and Space Talks.

VI

With the proliferation of ballistic missile technology growing near Soviet Borders, and with our GPALS plan, the United States believes Soviet attitudes should evolve to permit defenses against mutual concerns. Although to date there has been no shift in the official Soviet position on the deployment of defenses beyond the narrow limits of the ABM Treaty, we continue to see evidence of an internal Soviet discussion over the role of ballistic missile defenses. In addition, missile defense is more consistent with the new Soviet emphasis on "defensive doctrine." Thus, incentives exist for the Soviets to join with us to explore constructive measures to counter emerging threats.

The changes in the international environment, the lessons learned from the Gulf War, the improvement in U.S.-Soviet relations, and the shift to a defensive doctrine in the Soviet Union all should encourage our Soviet colleagues to consider relaxation of ABM Treaty constraints to meet mutual concerns.

There is considerable reason for optimism in the Defense and Space Talks. Here in Geneva, following the signing of the START Treaty, Presidents Bush and Gorbachev, in their June 1990 Washington Joint Summit Statement, committed the U.S. and USSR to seek an "appropriate relationship between strategic offenses and defenses." This is a good sign. Soon, the United States and the Soviet Union will begin to construct this new regime that could permit greater reliance on defenses. This commitment should enable the sides to build upon improving relations and achieve success in future Defense and Space Talks to deal cooperatively with the evolving international environment.

I hope to report great success to you the next time we meet. Thank you.

NOMINATION OF CLARENCE THOMAS

Mr. DOLE. Mr. President, there will be a lot of attention focused on the nomination of Clarence Thomas to be a Justice of the U.S. Supreme Court.

I had met Judge Thomas before, but again on yesterday many of us had an opportunity to have a brief meeting with the nominee and discuss strategy, if you will, or at least discuss how to proceed. I understand he will be meeting this morning with the distinguished chairman of the Judiciary Committee and the distinguished ranking Republican member of that committee, Senator THURMOND.

Mr. President, as the grandson of a sharecropper in the segregated South, the young Clarence Thomas was constantly reminded that the American dream was a white man's dream—never to be realized, never to be shared, by those Americans whose skin happened to be a different color.

Despite a childhood of poverty and Jim Crow, Clarence Thomas rejected the easy path of resignation, relentlessly pursuing—instead—the more difficult road of hard work and a commitment to excellence.

As an assistant attorney general for the State of Missouri, as Chairman of the Equal Employment Opportunity Commission, and, now, as a distinguished member of the D.C. Court of Appeals, Clarence Thomas has indeed compiled an impressive record of public service achievement.

This record speaks for itself, and in fact, has been praised by none other than the Washington Post, which has cited Clarence Thomas' "quiet but persistent leadership" of the EEOC.

DON'T POLITICIZE THE CONFIRMATION PROCESS

Unfortunately, Mr. President, some of the politically correct litmus-testers here in Washington want to deny the fulfillment of Clarence Thomas' all-American dream, not because he lacks the talent or the drive, but because he is a successful black man who also happens to be a Republican and a conservative.

Before his confirmation hearings even begin, these litmus-testers would expect Judge Thomas to go beyond explanations of judicial or legal philosophy and answer specific questions about specific cases that may come before him as a sitting member of the Supreme Court sometime in the future.

If the answers are not the correct ones, if Judge Thomas does not mark the right box, then he should not be confirmed—or so the reasoning goes.

Needless to say, this litmus-test approach has been rejected by anyone who is serious about maintaining the independence of the Federal judiciary.

As former Chief Justice Warren Burger recently cautioned, and I quote:

> No nominee worthy of confirmation will allow his or her position to become fixed before the issues are fully defined * * * before the Supreme Court with all the nuances that accompany a constitutional case. Presidents and legislators have always had platforms and agendas, but for judges the only agenda should be the Constitution and laws agreeable with the Constitution.

Mr. President, the Senate should heed the former Chief Justice's advice and resist the temptation of transforming Federal judges into politicians.

Federal judges should judge only from the Federal bench.

They should not, and must not, prejudge cases from the bench of a Senate confirmation hearing.

Clarence Thomas understands this, but he also understands real-life people with real-life problems.

He will be a people's Justice, committed to the rule of law, but equally committed to the cause of justice for all Americans.

Mr. President, Clarence Thomas has succeeded in putting Pinpoint, GA, on the map.

And I have no doubt that he will leave his mark on the Supreme Court when confirmed by the U.S. Senate, the sooner, the better.

RESERVATION OF REPUBLICAN LEADER TIME

Mr. DOLE. Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Without objection, the leader's time is reserved.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

VIOLENT CRIME CONTROL ACT

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of S. 1241 which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1241) to control and reduce violent crime.

The Senate resumed consideration of the bill.

Pending:

Bingaman amendment No. 517, to authorize funds to assist States in establishing and administering mandatory functional literacy programs for prisoners.

(2) Thurmond amendment No. 518 (to amendment No. 517), in the nature of a substitute.

Mr. THURMOND. Mr. President, I yield 3 minutes to the able Senator from Wyoming to speak on this subject.

AMENDMENT NO. 518 TO AMENDMENT NO. 517

The ACTING PRESIDENT pro tempore. There will now be 30 minutes of debate equally divided on the Thurmond amendment No. 518 to the Bingaman amendment No. 517.

The Senator from Wyoming is recognized.

Mr. SIMPSON. Thank you Mr. President. Mr. President, I commend the Senator from New Mexico for trying to make certain that the concept of rehabilitation really does mean something. I think his motives are good. However, I must also say, Mr. President, that my dear friend and colleague, the Senator from South Carolina, raised a number of good points as has my able friend from Utah, Senator HATCH.

This amendment simply allows the States a little bit of discretion in determining for themselves how to implement education programs. Small States such as mine, the State of Wyoming, simply do not have a pot of money they can reach into to implement these grand programs. The underlying amendment by the Senator from New Mexico indeed mandates compliance.

In a sense we are obviously federalizing the way in which the States provide their educational services to prisoners. We only promise to help them financially. This is only an authorization in this bill. We really have not spent a dime and do not know if we will, even though I think indeed we should with regard to the literacy program.

At the same time we are directing the States not only to spend money they may not have, we are telling them that if they do not dive into that pot of money that we will take away some of the Federal assistance we may be providing to them already, which is a critical, I think, defect.

Why do we in a sense then punish policemen or law enforcement generally and everyone else in the State justice systems in order to force them to do something they simply may not be able to afford.

So, Mr. President, I do not think that is right. I urge my colleagues to support this second-degree amendment offered by the Senator from South Carolina. We should be leading by setting an example at the Federal level and not by the use of a club. I do indeed believe I understand fully what the Senator from New Mexico is doing, and more importantly, after practicing law for 18 years and dealing many times with the public, and a public defender, I saw so many times that literacy itself is the key to any future success, the ability to read and write. Since one has a little time on his or her hands in these remarkable institutions, it seems to me that the theme is very good. I just have difficulty with mandating provisions other than the carrot and the stick approach.

I thank the chair.

The ACTING PRESIDENT pro tempore. Who yield time?

Mr. BINGAMAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I yield myself 5 minutes of the time allotted to me.

First, let me commend the Senator from South Carolina for acknowledging in his amendment the importance of doing something in this area. I do think that there is a recognition that we should move ahead in literacy training here. I do not agree with the Senator from South Carolina in his choice of how to move ahead, but for the first time in this crime bill, we have at least a recognition under this amendment that there is an importance to be attached to this kind of an effort in reducing crime. And that is the main purpose.

I also want to, for the record, correct a statement which I made last evening in the debate, where I indicated that it was my belief that the Senator from South Carolina and the Senator from Utah had both supported, essentially, the same provision that my amendment contained in S. 2, when that bill came out of the Labor and Human Resources Committee. I was in error in that statement. They did not support that, I am informed. In fact, they voted against it. But that bill still was reported by the Labor and Human Resources Committee, and essentially the same legislation has passed the House, as I indicated last evening.

The only point I make is that the distinction between the two proposals before the Senate is very clear. My bill would direct the States to pursue this, would give them 5 years in which to do it, and would give them substantial discretion in how they pursued it and the nature of the program they set up, but still would give the U.S. Attorney General authority to step in and withhold funds, if he did not believe they were in fact going forward, as the Congress would direct in my amendment.

The Senator from South Carolina, on the other hand, says that we will support these efforts at the State level, but it is purely discretionary, it is up to the States whether they decide to do this. Each State will make up its own mind.

Mr. President, I think that is a good issue to be before the Senate. Are we serious about wanting to move in this direction, or are we not? Are we in fact going to put some teeth in a provision in the law here, or are we not?

Literacy and education are subjects that all politicians love to support, especially at the Federal level. At the Federal level there is very little downside in supporting efforts to improve education or improve literacy because, generally, it is recognized and acknowledged that it is a State and local problem, and the States and the localities really have to deal with them.

I am suggesting here that the Federal Government should take some responsibility and step in and commit money to it, should require that it be done, should give plenty of leeway—we are talking about a 5-year lead time—to put in place these programs. I think it is important that we go ahead and direct that this action be taken.

I ask those who support the amendment of the Senator from South Carolina whether we believe that the Governors and the President were intending that our education goals be discretionary, when the President and the Governors said that one of our education goals was to ensure that every adult American be literate by the year 2000; was that intended to be discretionary, as to each State? Was it the national intent, was it the President's intent, that only those States that really agreed with that should pursue that goal?

I do not believe so. I thought these were national goals that we were committed to pursue. And, really, through the legislation which I have offered, I believe we are making or would make a significant step toward achieving the goal, particularly goal No. 5. The amendment by the Senator from South Carolina eliminates any requirement that anything be done. Accordingly, I have to resist it. And I hope the Senate will defeat the amendment that has been offered.

I yield the floor and reserve the remainder of my time.

Mr. THURMOND addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, shortly, the Senate will vote on the Thurmond second-degree amendment to the Bingaman amendment. The issue before the Senate is not whether the Senate supports prison literacy programs. Both the Bingaman and Thurmond amendments establish prison literacy programs. Rather, the issue before the Senate is should the Federal Government mandate that the States institute literacy programs for all inmates? The Bingaman amendment imposes a prison literacy requirement upon all State prison systems. It requires that the States establish a mandatory literacy program in virtually every prison, jail, and detention center. My amendment, on the other hand, rather than imposing this burden upon the States and penalizing them for not acting, encourages the States to set up such a program.

I would like to address some of the points raised by my colleague from New Mexico. Yesterday, he asserted that Senator HATCH and I voted in favor of this proposal as part of S. 2—the literacy bill—when the Labor Committee marked up the measure. In fact, Senator HATCH and I both voted against S. 2.

Mr. President, Senator BINGAMAN has argued that the Senate has preempted the States in other parts of this crime bill. Specifically, he cited two amendments offered by Senator D'AMATO which enhanced the Federal penalties for firearms related offenses and authorized the death penalty for murders committed with a firearm. He stated that these amendments forced the States to adopt such penalties. However, these amendments did not force the States to change their laws. They simply expanded Federal jurisdiction to permit prosecution in Federal courts in specific cases where the States wish to defer to Federal authorities. In fact, both amendments contain language which makes clear that this expanded authority "shall be used to supplement" and "not supplant the efforts of State and local prosecutors." Simply stated, these amendments do not force the States to adopt minimum mandatory sentences or the death penalty, as my colleague has argued.

Mr. President, it is no secret that State correctional systems are financially strapped. Many have an insufficient number of prison cells and are forced to release prisoners prematurely in order to comply with Federal court orders. As Senator BIDEN noted yesterday, approximately two-thirds of the States are under Federal court order to limit the number of prisoners in their facilities. At a time when so many States are being pushed to the limit in their efforts to fight crime by building needed additional prison space, should Congress mandate that they spend their limited dollars on prison literacy programs? The answer is no. The States will still be required to establish these programs even if only half the money authorized under this amendment is appropriated. Every Senator here knows that the odds of this program being fully funded are slim. Yet, failure to implement these literacy programs will result in a loss of Department of Justice grants.

The Bingaman measure would require the States to make use of advanced technologies such as interactive video and computer-based literacy learning. The Bingaman amendment forces the States to spend their limited dollars on teaching rapists and murderers rather than children. The amendment also urges the States to pay these convicted criminals to learn. This is inappropriate. Such a program may be inconsistent with State priorities as well as proven literacy programs already in place.

Mr. President, my amendment will authorize the same funding levels contained in the Bingaman legislation. However, my amendment makes clear that this program is discretionary and gives the States greater flexibility.

In closing, I agree with my colleague from New Mexico that education is a valuable tool in crime prevention. However, the Federal Government should not force upon the States unrealistic and costly requirements which will add to their already burdened criminal justice systems. Congress should not be imposing these literacy programs upon the States while they are struggling to comply with Federal prison cap orders. Rather, Congress should encourage the States to adopt realistic programs which ensure that funds are spent where most needed.

For these reasons, I urge my colleagues to support the Thurmond amendment.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. THURMOND. Mr. President, I yield 5 minutes to the distinguished Senator from Utah.

The ACTING PRESIDENT pro tempore. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, the distinguished Senator from South Carolina has spoken very well on this issue. As I said yesterday, I commend the distinguished Senator from New Mexico for his desire to bring literacy training to all prisoners in State and local prisons, jails, and detention centers. Frankly, it is a great desire of all of us. The problem is—where do you get the funds to do it?

Second, the thing I find most objectionable about his amendment is he is again coming up with a Federal mandate that is imposed upon all the States at a time when the States cannot meet their budgetary requirements. Most Governors, if not all Governors, are having tremendous difficulties meeting the budgetary needs of their State and almost every one of them will say that he or she does not have the money to meet the educational needs of the children of the State.

Yet we are going to mandate on the backs of the States an august, very costly program that they have to comply with for prisoners. It is a worthy goal but I think sometimes we have to make priority choices.

The distinguished Senator from South Carolina has filed an amendment that basically would make this a grant program to the States, and help the States, but not make them, provide this training. Actually, the Thurmond amendment establishes a discretionary grant program under the Department of Justice which makes funds available to the States for the purpose of establishing statewide or demonstration prison literacy programs. Rather than forcing or mandating the States to implement prison literacy programs, as the Bingaman amendment does, the Thurmond amendment makes it very clear that these programs are discretionary in the States, allows States to make their own priority choices, and does not mandate these programs.

The Bingaman amendment goes even further. If the States do not comply with the mandated aspects of his amendment—and there they are all mandated—then his amendment penalizes the States by withholding Federal funds for prisoners if the States fail to implement such a program.

Many States are a little gun shy of taking another mandate from the Federal Government that may or may not be funded in the future. As I look at the legislation he authorizes it at $10 million the first year; $15 million, $20 million, and $25 million in subsequent years but none of those funds are going to cover the cost of the literacy programs for all prisoners in the States as required by this amendment. So States will have to meet the costs of these programs from their own funds.

Mr. President, there comes a time when all of us facing $270 billion deficits and a $3 trillion national debt have to agree that we can no longer tell the States what they have to do. We can no longer mandate on their backs things that have to be done. If we are going to do it, we ought to at least give them the funds to be able to do it. I believe $20 million or $40 million is not enough for them to do what they are required to do. I believe $100 million will not meet the needs of the States in order to do the things that the distinguished Senator from New Mexico's amendment requires of them.

Why are we mandating anything on the backs of the States? If anything, over the last 10 or 15 years we have been placing onerous burdens on States and taking away Federal funds because we cannot meet our own budgetary needs.

I commend the distinguished Senator from New Mexico for his compassionate instincts in wanting to help those in prison who are not literate. I understand that. I have the same compassionate feelings, but I will tell you one thing—if I have to choose between those who are convicted of willful and heinous crimes receiving literacy training and the young kids in the individual States who are currently suffering because we do not have enough funds to do the educational work that needs to be done in the State, I am going to choose the kids every time. That is really the question: Are we going to take care of the kids who do not have a properly funded education or are we going to start pouring new moneys into a program, though worthy, altruistic and compassionate, that really will take the money from the kids?

I do not see why this is a Democrat or Republican issue. This is an issue of common sense. If we reach the point where we can afford to help the States fund literacy programs for prisoners, let us do it, but let us do it when we can pay the costs and not mandate it on the backs of the States who cannot. I do not know of one State in this Union who can meet these mandates if the moneys are not there. They just cannot pull more money out of thin air and none of them have enough to fund educational programs as it is.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BINGAMAN. Mr. President, how much time remains on my side and on the other side?

The ACTING PRESIDENT pro tempore. Ten minutes.

Mr. BINGAMAN. Mr. President, I yield myself 5 additional minutes.

Mr. President, I would just say as to the idea that we are making it discretionary for the States to pursue literacy training, it has been discretionary for the States to pursue literacy training. Some States have done it; some have not done it. I am fortunate that my State has pursued literacy training and has a reasonably good program in place. We can certainly do better. I think we would definitely try to do better under the amendment that I have proposed.

But to suggest that we are doing anything significant with the amendment of the Senator from South Carolina I think is a little disingenious in that they have had the discretion to pursue a literacy program. There is no Federal prohibition against that. In fact, all criminologists that I am aware of recognize the importance of providing people with the basics, particularly with the ability to read and write, as a part of allowing them to give up a life of crime and pursue some kind of law-abiding activity. All we are trying to do here is to move the States in that direction.

Let me just point out for the Senate the obvious provisions that we have in the bill which are intended to work with the States. This is not an onerous, get your act together next week kind of amendment.

First, let me point out this amendment applies only to facilities where there are 100 or more inmates in prison. In my State, there is one at the local level and there are several at the State level. But clearly this is not every jail or detention center in the country by any means.

Second, there are provisions in here that allow the chief correctional officer of the State or the local governmental entity to waive the requirement for a prisoner to take this literacy training where circumstances justify.

Third, there is a 5-year waiting period before the significant parts of this amendment take effect.

So we are talking here essentially about late 1996, 1997, before this requirement would even take effect. We are trying to direct States to move in this direction, to take this issue seriously, and to do what needs to be done.

The argument that we ought to be putting our money into education of our children sounds to me a little hollow in light of some of the votes that we have around the Senate here on funding of education. I favor increased funding for education, but I think we are all aware that the amount of funds available for public education and Federal assistance to public education is pretty constrained and has been, and over the last 10 years it has dropped significantly at the Federal level in real terms.

So we are not arguing here about taking funds that are available to children and shifting them over here. We are talking about taking funds out of the criminal justice system and saying that part of the criminal justice system needs to be directed toward keeping these prisoners from going in and out of jails most of their lives, which is in fact the case.

I cited yesterday the statistics to the Senate where 68 percent of the prisoners in my State, in our State prison system in New Mexico, 68 percent of the prisoners who did not receive literacy training returned to prison after they were first paroled. I think that is a deplorable circumstance and one that we have all over this country.

We need to try to help and ensure that once we send prisoners out of those prisons they can at least read and write and have some chance of remaining out and not pursuing the life of crime. Obviously, that does not solve the whole problem, but I would suggest to you it comes closer to solving a significant part of the problem than most anything else we have in this crime bill.

The suggestion was made that this is an issue of common sense. It is just a question of when we do it, when can we afford to do it. I would suggest to you that unless we adopt something like my amendment we will not be seriously pursuing this prior to the turn of the century. I think that would be unfortunate.

We do have these national education goals, as I said before, and I would like to see the Senate and the Congress take those goals seriously. We had no part in drafting those goals. The President and the Governors did not ask the Congress to draft those goals. But I think we should take them seriously, and this amendment helps to see that they are actually taken seriously and implemented.

Mr. President, I yield 2 minutes to the Senator from Delaware.

(Mr. BRYAN assumed the chair.)

Mr. BIDEN. Mr. President, I hope I will only take 1 minute.

Mr. President, every once in a while on the floor we do something that is fairly sound and fairly basic and recognizes a basic truism. One of the basic truisms of our criminal justice system is that many of the people in jails and in prisons who have acted out in antisocial ways in antisocial behavior have done so for a lot of complicated reasons, none of which are excusable and should be punished, and our bill does that.

But underlying the problem is a simply basic fact. A lot of those women and men are totally illiterate and that significantly contributes to their antisocial behavior, because they have no stake in anything and see very little prospect of gaining a stake. That, again, does not in any way excuse their behavior.

But this is just good, straight, common sense. If we could ask the Lord to come down and he could wave a wand, would there be a man or woman in here that would not say we would like every person in prison to become instantly literate and have confidence in their capability of conducting themselves outside prison walls? How could that possibly do anything but help?

So what the Senator from New Mexico is doing is not some goody-goody concern for the plight of those in prison; it is a serious, hard-baked concern for the plight of the people in this gallery and those who are watching this on television, it is hardnosed, good, common sense.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BINGAMAN. Mr. President, I yield 2 minutes to the Senator from Illinois.

Mr. SIMON. Mr. President, I rise in strong support of the Bingaman amendment. We now spend more money to house a prisoner for a year than we spend for a student at Harvard for 1 year. For us not to spend a little bit more and see that these prisoners can learn how to read and write just does not make sense.

We spend a lot of time talking about drugs on this floor. Before the Labor and Human Resources Committee, the head of the NIH division that deals with drugs came and testified on the breakdown of who is using drugs by ethnic group, age group, and everything else. The group that is using drugs the most, he said, are the unemployed. The majority of those who are unemployed in this Nation 5 weeks or more are functionally illiterate.

We have to give people who are in prisons, when they get out, some kind of an option. You talk about anticrime programs. If there is any criticism of the Bingaman amendment it is that it does not take full effect for 5 years. I am sure he would like to make it 2 years or 1 year, and so would I. But this is moving us in a genuine anticrime direction, not just puffery. This is the real thing. I think we ought to stick with the real thing; we ought to stick with the Bingaman amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BINGAMAN. How much time remains on my side?

The PRESIDING OFFICER. One minute and 20 seconds.

Mr. BINGAMAN. Mr. President, I think this is a very good issue for the Senate to be debating. I think it is a good issue for us to have a vote on. I think the vote on the Thurmond amendment will in fact signal a couple of very important things. First, it will signal whether part of this crime bill is going to include a serious effort at reducing criminal behavior in our society.

I have supported the death penalty. I do not know, 40 or 50 or 60 times we impose the death penalty in this bill. I cannot tell you how many times after all the amendments have been offered. But I support imposing the death penalty. I support strong sentences. I support locking them up and throwing away the key, as the philosophy generally is around here.

But I also support giving people the ability to read and write so that they can, if they choose, veer away from a life of crime and make themselves into useful citizens. And I think that is what my amendment would require happen. The Thurmond amendment takes away that requirement and makes it discretionary. The question is: is the Senate going to be serious about an effort to provide literacy training to prisoners? I believe it should be. I believe we should defeat the Thurmond amendment and I hope my colleagues will join me in doing that.

I yield the floor.

Mr. KASTEN. Mr. President, no one can doubt the importance of having our prison inmates gain the necessary literacy skills that will keep them from becoming repeat offenders in the outside world after release.

What we have before us are two ways of working toward that goal. This goal of literacy training is one I share and was included in the SECURE crime bill that I introduced, S. 1335.

I am concerned, however, that where I wanted to proceed when adequate funds were made available to the States for this federally mandated program, under the Bingaman proposal we start right away to back off from our financial responsibility for this program. If the Federal Government comes up with just one-half of the amount, then the financially strapped States will have to come up with the other half. My Secretary of Corrections has major problems with this at a time that he faces other budget cutbacks in vocational/technical training and other areas.

I think if we are not going to assure the Federal funding of this federally mandated program, we should provide the incentive of such Federal moneys as are available, without threatening the loss of other badly needed Federal funds. The approach establishes again the Federal priority, and should push the States toward adopting their own programs. If this approach, with all of the innovation that the States can bring to bear is not being adopted after several years, then we can revisit this mandatory requirement.

I do agree with the concern of the Senator from New Mexico as to his desire to bring literacy to our State prisoners. However, if we are not willing to come up with all of the funding on a Federal level for this Federal mandate, I think we should pursue the incentive approach of the Thurmond amendment.

Mr. THURMOND. Mr. President, I just want to say in closing that if the Federal Government wants to establish these programs and pay for it, fine. But do not make the States pay for it if they are not able. If you have to choose between education for the children or the prisoners, I say educate the children first. And only the States can make that decision.

All over this Nation judges are turning prisoners loose because they do not have prison space. The States may say, "We better build some prisons, incarcerate these prisoners rather than have this literacy program." They may have to choose. There is only so much money available. Why should the Federal Government mandate to make the States do something they are not able to do?

Let the States choose. The people in the States have just as much sense down there as we have here in Congress, and sometimes I think much more, and are more practical. They are living down there; they understand the situation. But this amendment makes the States do something whether they are able to or not. And this applies to every State prison and every prisoner in every State prison, not just Federal prisons. It is not right for this Federal Government to come in and demand that the States do something if they are not able to do it.

Mr. President, I hope this amendment will be adopted. It is just an amendment to the Senator's amendment. And the programs can go on and be discretionary and not mandatory.

The PRESIDING OFFICER. The Chair would inform the Senator that the time allocated to him has expired. The time allocated to the Senator from New Mexico has expired.

Mr. THURMOND. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 518. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN], the Senator from North Dakota [Mr. BURDICK], and the Senator from California [Mr. CRANSTON] are necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

I further announce that, if present and voting, the Senator from North Dakota [Mr. BURDICK] would vote "nay."

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE] and the Senator from Vermont [Mr. JEFFORDS] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 55, nays 39, as follows:

[Rollcall Vote No. 117 Leg.]

YEAS—55

Bond
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
Dole
Durenberger
Exon
Ford
Fowler
Garn
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Hollings
Kassebaum
Kasten
Kerrey
Leahy
Lott
Lugar
Mack
McCain
McConnell
Mitchell
Murkowski
Nickles
Nunn
Packwood
Pressler
Robb
Roth
Rudman
Seymour
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner

NAYS—39

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Conrad
Daschle
DeConcini
Dixon
Dodd
Domenici
Glenn
Gore
Inouye
Johnston
Kennedy
Kerry
Kohl
Lautenberg
Levin
Lieberman
Metzenbaum
Mikulski
Moynihan
Pell
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Wellstone
Wirth
Wofford

NOT VOTING—6

Burdick
Chafee
Cranston
Harkin
Jeffords
Pryor

So the amendment (No. 518) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. BURNS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, since my amendment was agreed to, Mr. BROWN of Colorado will not offer his amendment.

AMENDMENT NO. 520 TO AMENDMENT NO. 518

The PRESIDING OFFICER. The Chair, having been informed that the Senator from Colorado [Mr. BROWN] will not offer his amendment, under the previous order, the Senator from Illinois has an opportunity to offer a second-degree amendment with a prearranged time agreement of 10 minutes, controlled 5 minutes by himself and 5 minutes to the Senator from South Carolina.

The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, we will not need to use the 10 minutes. And because my original amendment was drafted to the Bingaman amendment and is in the process of being redrafted, I ask unanimous consent that the amendment I now send to the desk be in order, notwithstanding the adoption of the Thurmond amendment, and notwithstanding it strikes the amendment in more than one place.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, we have no objection to the amendment. We are willing to accept it.

Mr. SIMON. Mr. President, this amendment is cosponsored by Senator KOHL. It simply clarifies the language on learning disabilities. I know of no opposition. I hope it can be adopted.

The PRESIDING OFFICER. The Senator has made a unanimous-consent request. There is no objection to it, so the request made by the Senator from Illinois is agreed to. His amendment may be so amended. It will be in order when offered.

Mr. SIMON. Mr. President, I now offer the amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON], for himself and Mr. KOHL, proposes an amendment numbered 520 to amendment No. 518.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amend amdt. No. 518 (Thurmond) as follows:

In the first section (b)(B)(i)(I) insert after "literacy", "or in the case of an individual with a disability, achieves a level of functional literacy commensurate with his or her ability.".

In (b)(B)(iii) strike all after "appropriate education services" and insert in lieu: "and the screening and testing of all inmates for functional literacy and disabilities affecting functional literacy, including learning disabilities, upon arrival in the system or at the jail or detention center.".

Strike all of (b)(2)(D).

In (c)(2)(D) insert after "literacy" the following: "and the names and types of tests that were used to determine disabilities affecting functional literacy.".

Mr. SIMON. Mr. President, this amendment simply clarifies the language in terms of learning disabilities. As Mr. THURMOND has indicated, there is no objection to it. I know of no objection. I hope we can adopt the amendment.

Mr. KOHL. Mr. President, I rise in support of the amendment offered by our colleague from Illinois. I want to commend him for his long-term efforts in this area.

Some 60 percent of our prison population is functionally illiterate. Once we have failed to educate or intervene with this at-risk group, it seems to me that we have a responsibility to provide that education and training during incarceration. With appropriate testing and literacy training, we can turn many of those lives around. We can keep many offenders from becoming repeat offenders by helping them to develop the skills they need to get and keep jobs on the outside. The Senator from New Mexico's amendment is a good step in that direction.

However, I have concerns that without screening for disabilities, especially learning disabilities, that we would not be able to address some of the very real obstacles to learning that many in juvenile detention centers and prison face. Research has shown that learning disabled youths are two times as likely to be judged delinquent by the courts as are nonlearning disabled youth. When the National Center for Learning Disabilities trains parents, educators and family court judges on learning disabilities, here are some of the indicators they suggest looking for: A short attention span, difficulty following directions, poor reading ability, poor eye-hand coordination, quick temper, impulsivity, disorganized, accident prone, extremely overactive or underactive. Is it any wonder, Mr. President, that left unserved or misdiagnosed, these individuals might easily find themselves in detention centers, jails or prisons?

One study found that 36 percent of boys who were ruled delinquent by the courts had learning disabilities. I think it is important that, before we deny parole based on illiteracy, we screen and assess those people for learning disabilities. It is important to distinguish between illiteracy, learning, and other disabilities. They mandate different services, and we ought to be cognizant of that. We should provide access to those services even behind bars, if we must.

So I want to join my colleagues from Illinois and New Mexico. The amendment before us is a substantial contribution to the prison literacy program. I urge my colleagues' support.

The PRESIDING OFFICER. Is there further debate?

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico [Mr. BINGAMAN].

Mr. BINGAMAN. Mr. President, I support the amendment. It is an excellent amendment and helps clarify what we originally intended.

The PRESIDING OFFICER. Is there further debate?

Mr. SIMON. Mr. President, as I have just been advised by the staff because the amendment has to be technically modified for the Thurmond amendment, I ask unanimous consent that the staff be authorized to correct the amendment to conform to the Thurmond amendment.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, we have no objection.

The PRESIDING OFFICER. The Chair hears none. The request of the Senator is agreed to.

The Chair informs the Senator from Illinois that there is still time allocated to him.

Mr. SIMON. I yield back my time.

Mr. THURMOND. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to Amendment No. 520. Is there further debate?

The amendment (No. 520) was agreed to.

Mr. SIMON. I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I will only take one brief minute to say that I struggled with that last vote regarding prisoner literacy. I struggled with it because I think literacy is the key component in curbing crime in the country. It is certainly no panacea.

But just to give you an idea of the effect of this sort of program, I remember when I was Governor of my State, Betty, my wife, got a small grant for Arkansas from the National Endowment for the Arts. We used that money to establish an art program in elementary schools around the State and also to start an art program at the penitentiary. We found that a lot of inmates who never had a dog's chance had a lot of artistic talent. And the end of the story is if somebody had picked up on that talent at a tender age and guided it, directed it, and cultivated it, a lot of those fellows would not have been in the penitentiary.

The Senator from New Mexico has an absolutely excellent idea. This sort of literacy program ought to be mandatory in every State. It is my understanding that we have a literacy program in the prisons in my State because I know our Governor has been deeply involved in literacy.

Normally I just routinely vote with the Senator from New Mexico because of my profound respect for his judgment, his integrity, and his vision on issues like this. The only reason I chose not to vote with him on this amendment, the Thurmond amendment, was because virtually every State in the country is broke. And no matter how meritorious a matter might be I do not know how many more things we can mandate that the States pick up the tab for.

In my opinion, a grants program is probably going to entice most of them along. I think probably most States already have a literacy program in their penitentiaries. If they do not, I think this grants program, administered on a discretionary basis, will certainly bring them along, and if it does not, then in future votes I will support the idea of the Senator from New Mexico. I applaud his efforts, I cannot think of a single more worthwhile thing that the States could be doing, or that the Federal Government could be doing. I might just ask the Senator from New Mexico, while I am on my feet, if the Federal Government has a literacy program that is mandated in all of our Federal penitentiaries.

Mr. BINGAMAN. I respond to the Senator that, yes, the Federal Government does, through the Bureau of Prisons. It is a very good program. At this point I think about 35 percent of the Federal prisoners are participating in an education program at this time. This is exactly the kind of thing we are trying to institute in each State.

Mr. BUMPERS. One additional questions to the Senator. The proper time to have made this speech was on the debate on the amendment, not after it was voted on. But to satisfy personal curiosity, do we have good figures on how many people going to prison are illiterate when they enter it for the first time?

Mr. BINGAMAN. We do not have as good as figures, I respond to the Senator, as we shoud have. The estimate we have been given by the Bureau of Prisons is that it is something in the range of 60 percent of the prisoners. There are 620,000 inmates in this country today who are in fact illiterate, at least not able to read to the eighth-grade level, which is what we are trying to accomplish through this amendment.

Mr. BUMPERS. I cannot think of anything that would help curb the crime rate more. Of course we all know that we now have upward of 50, I believe, crimes in this bill for which somebody can be executed. Somebody said to me the other day that we covered everything but jaywalking.

I have not heard one single speech on this floor about who is committing the crimes in this country and why they are committing them. We all know that poverty and ignorance are the two great breeders of crime, but we would rather stand here and talk all day long about other things.

Certainly we have to do it. We have to get criminals off the street, and we have to lock them up and do the best we can, but for every 8 we are locking up 10 more are jumping up to take their places.

When you consider that one out of every five children in this country is growing up in poverty, you can rest assured that we will overtake Colombia as the crime capital of the world in 1993. In the out years long after most people in this body have been gone those 20 percent of the children in this country who are growing up in poverty, a good big percentage of them, are going to be on welfare, or are going to be hopelessly unemployed, or are going to be imprisoned. Yet I have not heard one single speech around here—about that. I guess everybody is afraid to be classified as a bleeding heart if they try to deal with the root cause of crime instead of dealing with the branches of it.

But I think that the Senator from New Mexico has opened up a debate on one of the most serious problems, and has proposed a solution.

Mr. President, I yield the floor.

Mr. SIMON. Mr. President, I appreciate the leadership our colleague Senator BINGAMAN has provided on this important issue. There is no question that by reducing functional illiteracy among our prison population we will be taking effective steps to reduce our overall level of crime. I strongly support his initiative and hope we act on it favorably.

There was one area in which I suggested some modification—involving the attention we need to give to the role disabilities play in functional illiteracy—and I am pleased that my colleague has accepted these changes. I should add that our colleagues Senator KOHL and Senator HARKIN also had a major part in working out language on this.

In order to be effective, the literacy programs we offer to prisoners must take into account the disabilities that might have contributed to their functional illiteracy. If we are going to require inmates to participate in these programs and reward them for their success, we need to make sure the programs are designed to work effectively for them and achievement is measured by the efforts an individual makes to reach his or her maximum potential.

Above all, we should not be giving excuses for individuals with disabilities to be left out. For too many years, we routinely put exemptions in the law for people with disabilities when we required mandatory schooling. The thought may have been that we were doing them a favor. In reality, we were denying an equal opportunity for education to millions of children and young adults with disabilities.

We frankly need more information on the links between learning disabilities and other disabilities that affect literacy, and those who wind up in our prisons. The small amount of data we have indicates people with these disabilities could be 60 percent of our prison population. Some information from people working on the problems of learning disability and attention deficit disorder indicates the percent could be even higher.

We know that more than 40 percent of children currently being served under the Individuals With Disabilities Education Act have learning disabilities. They have a greater hope than our children had in the past that they will be taught to read, but we are not succeeding with all of them. And those who went through school before we started making these efforts make up part of our prison populations.

The Office of Juvenile Justice determined back in the 1970's that 36.5 percent of one group of delinquent boys had previously undiagnosed learning disabilities. They estimated about one-third of the 100,000 youths then in juvenile detention had undetected learning disabilities. The good news they reported was that with just 60 hours of appropriate remedial training, these youths rarely had an incidence of a repeat offense. The unfortunate news today is that we did not follow up to make sure all those young people got that 60 hours of training. We can be fairly certain a large number are now adults in our prison system—and they have still not gotten the literacy training they need to function in society.

The best policy is to make sure we prevent the frustration and failure children face when they do not learn to read—whether it is because of a learning disability, some other disability, or because of an overcrowded classroom or some other failure in our education system. But we clearly have not been putting this best policy into effect. Many, many young people have faced frustration and failure, and it has played some role in their delinquency and then involvement in more serious crime, although we do not know the accurate dimensions of that problem.

One of the benefits of the Bingaman amendment is that it will give us a better picture of the problem of illiteracy and its relationship to crime. I hope it ultimately also will add to our determination to act in a more cost effective and humane way: To invest in the quality education our children must have to succeed so they will not wind up in getting remedial services behind the bars of prison.

This is needed, positive, and effective anticrime amendment, and again, I commend our colleague for his leadership.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment No. 517, as amended.

Mr. BINGAMAN. Mr. President, could I take another minute or two of the Senate's time before we go to final vote on the amendment.

I recognize that a good share of what we have proposed in my amendment was essentially stricken when we adopted the Thurmond perfecting amendment. But I say that there are a couple of good things that remain.

One is that we are authorizing $10 million this next year and then that continues to increase up to $25 million for use in literacy programs. I think everyone here knows that is a futile act unless we follow through with an appropriation.

I urge my colleagues to just take note that we need this support in funding this program in the appropriations process as well as in the authorizing process.

So some of those who opposed my amendment and favored the Thurmond approach instead indicated that they felt very strongly that this money should be available at the Federal level, and we should try to help the States. I just say that when we get down to appropriating funds we need to actually put the money in this program, and see to it that it is administered and implemented in the way we believe it should be.

But I appreciate the fact that we are doing something in this area, and I wish it had been more, but perhaps in the coming months we can find a way to do even more.

So I urge my colleagues to support the amendment.

Mr. BIDEN. Mr. President, I rise to compliment my friend from New Mexico on coming forward on one of the truly helpful amendments in this legislation. I wish it had gone through as he had proposed, but this is a significant start. I compliment him for his effort.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from New Mexico, as amended.

The amendment (No. 517), as amended, was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BINGAMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I ask unanimous consent that Senator COCHRAN now be recognized to offer an amendment regarding illegal drug supply reduction, with only relevant second degree amendments in order to the Cochran amendment; that no amendment to any language proposed to be stricken or a motion to recommit be in order during the pendency of the Cochran amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Mississippi [Mr. COCHRAN] is recognized.

AMENDMENT NO. 495

(Purpose: An amendment to augment and clarify law enforcement agency roles in ordering aircraft to land and vessels to bring to, and for other purposes.)

Mr. COCHRAN. Mr. President, I ask that my amendment be reported, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN] proposes an amendment numbered 495.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

TITLE —DRUG SUPPLY REDUCTION

Subtitle A—Interdiction Systems Improvements

SEC. 01. SHORT TITLE FOR SUBTITLE A.

This subtitle may be cited as the "Order To Land or To Bring To Act of 1991."

SEC. 02. SANCTIONS FOR FAILURE TO LAND OR TO BRING TO.

(a) Chapter 109 of title 18 of the United States Code, is amended by adding at the end thereof the following new section:

"SEC. 2237. ORDER TO LAND OR BRING TO.

"(a)(1) In the enforcement of the laws of the United States relating to controlled substances, as that term is defined in the Controlled Substances Act, or relating to money laundering (sections 1956–57 of this title), it shall be unlawful for the pilot, operator, or person in charge of any aircraft which has crossed the border of the United States, or any aircraft subject to the jurisdiction of the United States operating outside the United States, to refuse to obey the order of an authorized Federal law enforcement officer to land.

"(2) The Administrator of the Federal Aviation Administration and the Commissioner of Customs, upon consultation with the Attorney General, shall prescribe regulations governing the means by which an order to land may be communicated to the pilot, operator, or person in charge of an aircraft by Federal law enforcement officers.

"(3) This section does not limit in any way the preexisting authority of a customs officer under section 581 of the Tariff Act of 1930 or any other provision of law enforced or administered by the Customs Service, or the preexisting authority of any Federal law enforcement officer under any law of the United States to order an aircraft to land or a vessel to bring to.

"(b) It is unlawful for any master, operator, or person in charge of a vessel of the United States or a vessel subject to the jurisdiction of the United States to fail to bring to that vessel on being ordered to do so by a Federal law enforcement officer authorized to issue such an order.

"(c) Consent or waiver of objection by a foreign nation to the enforcement of United States law by the United States under this section may be obtained by radio, telephone, or similar oral or electronic means, and may be proved by certification of the Secretary of State of the Secretary's designee.

"(d) For purposes of this section—

"(1) a "vessel of the United States" or a "vessel subject to the jurisdiction of the United States" has the meaning set forth in the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) an aircraft "subject to the jurisdiction of the United States" includes—

"(A) an aircraft located over the United States or the customs waters of the United States;

"(B) an aircraft located in the airspace of a foreign nation, where that nation consents to the enforcement of United States law by the United States; and

"(C) over the high seas, an aircraft without nationality, an aircraft of United States registry, or an aircraft registered in a foreign nation where the nation of registry has consented or waived objection to the enforcement of United States law by the United States;

"(3) the term "bring to" means to cause a vessel to slow or come to a stop to facilitate a law enforcement boarding by adjusting the course and speed of the vessel to account for the weather conditions and sea state; and

"(4) "Federal law enforcement officer" has the meaning set forth in section 115 of this title.

"(e) A person who intentionally violates the provisions of this section shall be subject to—

"(1) imprisonment for not more than two years; and

"(2) a fine as provided in this title.

"(f) Any vessel or aircraft that is used in a violation of this section may be seized and forfeited. The provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under any of the provisions of this section; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose. Any vessel or aircraft that is used in a violation of this section is also liable in rem for any fine or civil penalty imposed under this section.".

(b) CONFORMING AMENDMENT.—The analysis at the beginning of chapter 109 of title 18, United States Code, is amended by adding at the end the following:

"2237. Order to land or to bring to.".

SEC. 03. FAA REVOCATION AUTHORITY.

(a) Section 501(e) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401(e)) is amended by adding at the end the following:

"(3)(A) The registration of an aircraft shall be immediately revoked upon the failure of the operator of an aircraft to follow the order of a Federal law enforcement officer to land an aircraft, as provided in section 2237 of title 18 of the United States Code. The Administrator shall notify forthwith the owner of the aircraft that the owner of the aircraft no longer holds United States registration for that aircraft.

"(B) The Administrator shall establish procedures for the owner of the aircraft to show cause—

(i) why the registration was not revoked, as a matter of law, by operation of subparagraph (A) of this subsection (3); or

(ii) why circumstances existed pursuant to which the Administrator should determine that, notwithstanding subparagraph (A), it would be in the public interest to issue a new certificate of registration to the owner to be effective concurrent with the revocation occasioned by operation of subparagraph (A).".

(b) Section 609 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1429(e)) is amended by adding at the end the following new subsection (d):

"(d)(1) The Administrator shall issue an order revoking the airman certificate of any person if the Administrator finds that (A) such person, while acting as the operator of an aircraft, failed to follow the order of a law enforcement officer to land the aircraft as provided in section 2237 of title 18 of the United States Code, and (B) that such person knew or had reason to know that he had been ordered to land the aircraft.

"(2) If the Administrator determines that extenuating circumstances existed, such as safety of flight, which justified a deviation by the airman from the order to land the provisions of paragraph (1) of this subsection shall not apply.

"(3) The provisions of subsection (c)(3) of this section shall apply to any revocation of the airman certificate of any person for failing to follow the order of a Federal law enforcement officer to land an aircraft.".

SEC. 04. COAST GUARD AIR INTERDICTION AUTHORITY.

(a) AIR INTERDICTION AUTHORITY.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following new section:

"SEC. 96. AIR INTERDICTION AUTHORITY.

"The Coast Guard may issue orders and make inquiries, searches, seizures, and arrests with respect to violations of laws of the United States occurring aboard any aircraft subject to the jurisdiction of the United States over the high seas and waters over which the United States has jurisdiction. Any order issued under this section to land an aircraft shall be communicated pursuant to regulations promulgated pursuant to section 2237 of title 18, United States Code.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 5 of such title is amended by adding at the end the following:

"96. Air Interdiction authority."

SEC. 05. COAST GUARD CIVIL PENALTY PROVISIONS.

(a) CIVIL PENALTY.—Chapter 17 of title 14, United States Code, is amended by adding the following new section:

"SEC. 667. CIVIL PENALTY FOR FAILURE TO COMPLY WITH A LAWFUL BOARDING OR ORDER TO LAND.

"(a) The master, operator or person in charge of a vessel or the pilot or operator of an aircraft who intentionally fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft in violation of section 2237 of title 18, United States Code, or section 96 of title 14, United States Code, is liable to the United States Government for a civil penalty of not more than $25,000, which may be assessed by the Secretary after notice and opportunity to be heard.

"(b) The master, operator or person in charge of a vessel or the pilot or operator of an aircraft who negligently fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft in violation of section 2237 of title 18, United States Code, or section 96 of title 14, United States Code, is liable to the United States Government for a civil penalty of not more than $5,000, which may be assessed by the Secretary after notice and opportunity to be heard.

"(c) Any vessel or aircraft used in violation of section 2237 of title 18, United States Code, or section 96 of title 14, United States Code, is also liable in rem for the criminal or civil penalty assessed under this section.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 666 the following:

"667. Civil penalty for failure to comply with a lawful boarding or order to land."

SEC. 06. CUSTOMS ORDERS.

Section 581 of the Tariff Act of 1930, as amended (19 U.S.C. 1581) is further amended by adding a paragraph (i) to read as follows:

"(i) As used in this section, the term "authorized place" includes—

"(1) with respect to a vehicle, any location in a foreign country at which United States Customs Officers are permitted to conduct inspections, examinations, or searches;

"(2) with respect to aircraft to which this section applies by virtue of section 644 of this Act (19 U.S.C. 1644), or regulations issued thereunder, or section 2237 of title 18 of the United States Code, any location outside of the United States, including a foreign country at which United States Customs Officers are permitted to conduct inspections, examinations, or searches.".

SEC. 07. CUSTOMS CIVIL PENALTY PROVISIONS.

(a) The Tariff Act of 1930, as amended, is further amended by adding a new section 591 (19 U.S.C. 1591) as follows:

"SEC. 591. CIVIL PENALTY FOR FAILURE TO OBEY AN ORDER TO LAND OR TO BRING TO.

"(a) The pilot or operator of an aircraft who intentionally fails to comply with an order of an officer of the customs relating to the landing of an aircraft in violation of section 1581 of this title, or of section 2237 of title 18 of the United States Code, is subject to a civil penalty of not more than $25,000 which may be assessed by the appropriate customs officer.

"(b) The pilot or operator of an aircraft who negligently fails to comply with an order of an officer of the customs relating to the landing of an aircraft in violation of section 1581 of this title, or of section 2237 of title 18 of the United States Code, is subject to a civil penalty of not more than $5,000, which may be assessed by the appropriate customs officer.".

Subtitle B—New Coast Guard Authorities

SEC. 11. SHORT TITLE FOR SUBTITLE B.

This subtitle may be cited as the "Coast Guard Assistance Act of 1991."

SEC. 12. INFORMATION EXCHANGE AND ASSISTANCE.

Section 142 of title 14, United States Code is amended—

(a) by inserting "(a)" at the beginning of the text, the words "and international organizations" after "with foreign governments", and the words "maritime law enforcement, maritime environmental protection, and" after "matters dealing with".

(b) by adding a new subsection "(b)" as follows:

"(b) the Coast Guard may, when so requested by the Secretary of State, utilize its personnel and facilities to assist any foreign government or international organization to perform any activity for which such personnel and facilities are especially qualified.".

SEC. 13. ASSISTANCE TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS.

(a) IN GENERAL.—Section 149 of title 14, United States Code is amended to read as follows:

SEC. 149. ASSISTANCE TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS.

"The President may upon application from the foreign governments or international organizations concerned, and whenever in his discretion the public interest renders such a course advisable, utilize officers and enlisted members of the Coast Guard to assist foreign governments or international organizations in matters concerning which the Coast Guard may be of assistance. Utilization of members may include the detail of such members. Arrangements may be made by the Secretary with countries to which such officers and enlisted members are detailed to perform functions under this section, for reimbursement to the United States or other sharing of the cost of performing such functions. While so detailed, such officers and enlisted members shall receive the pay and allowances to which they are entitled in the Coast Guard and shall be allowed the same credit for all service while so detailed, as if serving with the Coast Guard.".

(b) CONFORMING AMENDMENT.—The analysis at the beginning of chapter 7 of title 14, United States Code, is amended by replacing the wording following "149" with: "Assistance to foreign governments and international organizations."

SEC. 14. AMENDMENT TO THE MANSFIELD AMENDMENT TO PERMIT MARITIME LAW ENFORCEMENT OPERATIONS IN ARCHIPELAGIC WATERS.

Section 2291(c)(4) of title 22, United States Code, is amended by inserting the words ", and archipelagic waters" after the words "territorial sea".

Mr. COCHRAN. Mr. President, the purpose of this amendment is to provide legal authority for the U.S. Coast Guard to conduct search and seizure operations involving drug smuggling similar to the authorities that are now in the law and vest authority in the U.S. Customs Service.

Specifically, it will create criminal and civil penalties for refusing to heed

Coast Guard instructions to land the plane, or to allow the Coast Guard to board a vessel at sea if drug smuggling is suspected. In effect, it will give the Coast Guard authority to use methods of drug interdiction that are currently employed by the Customs Service. It would also allow the Coast Guard to be more involved in coordinating efforts with foreign countries and with international organizations.

Statistics have clearly shown that the influence of drugs in the commission of violent crime in this country is beyond question. And most of these drugs come from importation activities, smuggling activities into the United States from other countries. In 1990, between 375 and 545 metric tons of cocaine came across our borders, 101 tons of that was seized by law enforcement authorities, leaving hundreds of tons of cocaine to infiltrate our society.

The estimated value of the cocaine that made it to the streets of the cities of this country is estimated to be between $25 billion and $44 billion.

Of course, we have to improve efforts to reduce the demand for these drugs, but we also must look at strengthening our own laws and our own capabilities of dealing with drug smuggling activities. Under the leadership of the administration and, particularly Governor Martinez, in his position as drug czar, there has been a package of suggested changes made to the Congress with a request that these laws be strengthened and improved. That is the purpose of this amendment. It deals with the narrow issue of the U.S. Coast Guard authority in trying to help improve their opportunity for dealing with drug-smuggling activities.

I hope the amendment can be agreed to, Mr. President.

The PRESIDING OFFICER. Is there further debate?

Mr. GLENN. Mr. President, I have a couple of questions for my colleague from Mississippi.

The PRESIDING OFFICER. Does the Senator yield to the Senator from Ohio for a question?

Mr. COCHRAN. Yes.

Mr. GLENN. Mr. President, I want to make certain we are not getting in a similar situation as to what we had last year, where we are going to permit enforcement authorities to actually have the authority to shoot down private aircraft. We defeated that last year on the floor, and I was very much involved with that. And I want to make certain that nothing in the proposed legislation, which I have just received a copy of, can be interpreted to permit that kind of activity.

As I understand it, what would be proposed with regard to aircraft would be that the Federal Aviation Administration would be charged with investigating and promulgating ways by which orders to land could be communicated to a particular aircraft, and then the other enforcement provisions of the legislation, such as confiscation of aircraft, revocation of pilot certificate, and things like that, would be the means of enforcing this. But the main thrust with regard to aircraft would be only in working out a successful, satisfactory means of communicating an order to land and identifying the person giving the order in some way—I do not know quite how—as the authority, not just a clandestine broadcast of some kind; but the main question is: This would not authorize any shootdown or forcedown of an aircraft similar to what we had in last year's legislation; is that correct?

Mr. COCHRAN. Mr. President, if the Senator would yield, I would be happy to respond to his question.

His reading of the amendment is correct. This does not create any new authority to use weapons to shoot down an aircraft that does not respond to an order to land. It does create an opportunity to revoke a license and take other steps in the way of sanctions that would enforce the authority to direct a landing by the Coast Guard. We hope that the FAA and the Coast Guard could work together to develop procedures that are well understood and publicized to help carry out the intent of the amendment.

Mr. GLENN. A further question: Does this legislation apply only to the Coast Guard, or would it apply to FAA authorities, or others who are involved in Federal law enforcement?

Mr. COCHRAN. It purports to apply primarily to the Coast Guard. Insofar as other agencies may be involved, I am not able to say that it attempts to vest any new powers specifically in other agencies. But if they are cooperating and are a part of a Coast Guard-directed operation and under the jurisdiction of the Coast Guard, then it could very well be that they might have the same standing as the Coast Guard for the purpose of this amendment. But the amendment does not seek to vest any new powers in any other agency directly.

Mr. GLENN. In section 02, in one of the latter part of that paragraph, it indicates:

> * * * it shall be unlawful for the pilot, operator, or person in charge of any aircraft which has crossed the border of the United States, or any aircraft subject to the jurisdiction of the United States operating outside the United States, to refuse to obey the order of an authorized Federal Law enforcement officer to land.

That would broaden it, I guess, to any Federal law enforcement officer. That would be more broad than just the Coast Guard; is that correct?

Mr. COCHRAN. It would only apply to the agencies that have that authority. This amendment does not seek to create any new authority for any other agency specifically, except the Coast Guard.

Mr. GLENN. Could the Senator tell me whether there has been any advance consultation with FAA as to exactly how this would work, because this idea of communicating and making sure it is authenticated and making sure the pilot understands that it is coming from a Federal law enforcement officer legitimately is a considerable problem. This is the problem we ran into last year. I am not opposing what the Senator is trying to do here. I think it is probably well justified. I am trying to find out exactly how it would operate.

Mr. COCHRAN. The amendment was developed, in consultation with many Federal agencies, by the Office of Drug Control Policy. We were asked to try to help initiate congressional action that would give effect to the suggestion of the Office of Drug Control Policy.

So it has been the subject of discussion and review by all relevant Federal agencies, we are told, including the FAA.

Mr. GLENN. But can the Senator tell me, please, if there is any way worked out yet, or any method proposed yet, by which this order to land would be promulgated to an aircraft—who it would come from, how it is authenticated, how we know it is not just someone broadcasting who does not have this kind of Federal authority?

Mr. COCHRAN. We have not had any indication that that has been finally agreed upon among the agencies that would be involved in developing that kind of regulation to implement this law. This law, if it is approved by the Congress, would simply vest the authority in the Coast Guard and provide authority for sanctions to be imposed. The details would have to be worked out in terms of communications and how you are able to determine the legality of an order to land, the authority of a person sending a message. The Senator is quite right, these are problems that are practical and need to be taken into account by the Coast Guard and anybody else who seeks to give that kind of order. As I understand it, the Customs Service is now involved in that kind of legal activity that is sanctioned by law—directions to land, forcing the landing of planes suspected to be carrying contraband.

I am personally not familiar with how they do that, but I am sure the Coast Guard is going to follow very closely whatever appropriate steps have been taken by the customs official to use that kind of authority.

(Mr. ROBB assumed the chair.)

Mr. GLENN. I am not opposing the amendment—I repeat that—at this point. I am just trying to get clarification on it. My next question would be if such arrangements can be worked out.

What the Senator is proposing is that FAA and the appropriate authorities, Coast Guard and others of these Federal law enforcement agencies, are authorized to try and work out some method by which an aircraft could be ordered to land if that can be worked out; is that correct?

Mr. COCHRAN. I am happy to work with the Senator. This bill, of course, will go to conference and there will be opportunity to fine tune it and improve it, maybe, in consultation with the House. But I hope that we could do it that way rather than trying to rewrite it right here without the benefit of the advice and counsel from downtown.

Mr. GLENN. Let me say to my distinguished colleague from Mississippi, I am not proposing to make amendments this morning to it here. As I understood, it is to authorize the Federal law enforcement agencies, including the Coast Guard, to look into ways and prescribe regulations governing, as the bill says, the means by which an order to land may be communicated to the pilot.

Mr. COCHRAN. May I just ask a question? Is the Senator reading from a staff memo? He is not reading from my amendment, I do not think.

Mr. GLENN. Yes, I am.

Mr. COCHRAN. I cannot find it. Where was the Senator?

Mr. GLENN. Section 2(a)(2), and I read from the amendment.

> The Administrator of the Federal Aviation Administration and the Commissioner of Customs, upon consultation with the Attorney General, shall prescribe regulations governing the means by which an order to land may be communicated to the pilot, operator, or person in charge of an aircraft by Federal law enforcement officers.

In other words, as I interpret that, they are just to try and work out regulations governing the means by which an order to land may be communicated. Is that correct?

Mr. COCHRAN. They are being given an order by the Congress to prescribe regulations governing the means by which an order to land may be communicated to the pilot, operator, or person in charge of an aircraft.

Mr. GLENN. I repeat my previous question then. According to that paragraph, if they are to develop that, do we have an idea of what may be the means that they may order a person to land and be so indicated and the pilot will know it is justified?

Mr. COCHRAN. This Senator does not know personally what those regulations will be. That is one reason why we are hoping that they will respond to this amendment by developing regulations that will work, that will be clearly understood, and that would help improve our drug interdiction effort.

As far as this morning being able to predict what the regulations will contain, this Senator is not capable of doing that. I would hope that we would monitor the process. We will have an opportunity to comment during the period, and we all have to review the proposed regulations, and if they miss the boat or if it is a regulation that is impractical, I think we will have an opportunity to express ourselves at that point.

Mr. FORD. Mr. President, may I join the colloquy here with my friends?

The PRESIDING OFFICER. The Chair will remind the Senator from Kentucky the Senator from Ohio has the floor.

Mr. GLENN. I am glad to yield without losing my right to the floor.

Mr. FORD. Just a question. Is this not practically the same amendment we had recently, or similar to that, where you would have a private airplane warning? Could we not get into that if the regulations come out that way?

Mr. GLENN. I have read this and, as I understand it, this is only dealing with how you will communicate an order to an airplane to land from an authorized Federal official who has authority to do exactly that. That is considered. That is much different than the one we debated last year that the Senator, my colleague from Kentucky, Senator MCCONNELL, offered, that included such draconian measures, as I saw it, as shooting down an aircraft that refused to land and you somehow are supposed to communicate over to another airplane either by signals or something or other—which nobody quite defined at that time—that he is supposed to land and, if he chooses to ignore you, you were authorized to shoot the airplane down.

Mr. COCHRAN. If the Senator will yield, I want to make real clear we are not trying to authorize the shooting down of airplanes by this amendment. What we are trying to do is give the authority to revoke a pilot's license if he refuses to obey a lawful command issued to land.

Mr. FORD. I want to be sure we are not coming in the back door.

The PRESIDING OFFICER. The Chair will remind Senators to please address the questions through the Chair.

Mr. FORD. I thought I had, Mr. President. I apologize.

Mr. President, I wanted to tell my colleagues I wanted to establish that we were not getting into the same posture under these circumstances that we were then. And most of the private operators that I visited with were quite concerned about being shot down or warned, or things of that nature. I just want to be sure we were not traveling down that same primrose path.

Mr. GLENN. The Senator is correct. I add, as I understand this, it is to authorize FAA and appropriate law enforcement officials first to seek if they can develop such a means of communication so that the pilot would know that he definitely has been ordered to land by Federal officials. Absent the development of such a system of communication, there is no further action that would be permitted under this; is that correct?

Mr. COCHRAN. This involves things other than directions to aircraft. This has to do with boarding vessels and requiring vessels to heave to and be permitted to board, and other actions, cooperating with international agencies and other countries in drug smuggling activities. So there are several new powers created and sanctions authorized under this amendment. This is simply one of several.

But I appreciate the Senator's expression of concern and notice that the amendment directs that any such regulation be written in consultation with the Attorney General. I am confident that every effort is going to be made to safeguard the rights of innocent citizens and others who may have reason to be flying general aviation aircraft.

Mr. GLENN. I would say I would rather doubt, Mr. President, that such a means can be developed for aircraft. We went into this very thoroughly last year, and perhaps some means can be devised that would permit such an order to be given in some way so that the person would know that transmission came from a legitimate authority. It has to work at night. It has to work in weather and work under all sorts of conditions.

With the assurances of the Senator that nothing in this can be construed to make a physical force-down or a shoot-down possible, which was proposed last year, I would have no objection to this legislation. I would certainly follow closely any development that the law enforcement officers and the FAA might develop that would apply to private aircraft, which I was particularly concerned about.

I do not have any doubt about the ability of a Coast Guard vessel to pull up alongside another vessel at sea, a ship, and be identified at night or day or any other time by search light or whatever it is that is there. Just the visibility of the type ship and its markings and everything else identify it positively, and any ship at sea knows what a Coast Guard vessel looks like when it is pulled up alongside and tells the other vessel to stop. There is not any doubt about that. But for aircraft, it is a little different.

After the experience last year, which I thought was very misguided and shortsighted and then the proposal that was defeated last year to permit enforcement authority to actually shoot down a private aircraft if they told him how to land and it did not land or whatever, I wanted to make certain we were not getting into that same type situation again.

Mr. President, with those understandings and clarifications by my friend from Mississippi, which I appreciate, I would have no objection to this. But I want to follow very closely whatever method may be developed by these people and in the way of communicating any orders to land and how they might be carried out.

I thank the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Mississippi [Mr. COCHRAN].

Mr. COCHRAN. Mr. President, I thank sincerely my distinguished friend from Ohio for his comments and inquiries. His expertise as a pilot and experience in aviation is well known around the world. His observations and comments I think are very helpful in our understanding of some of the practical implications of the law of this kind of regulation that might be issued and implemented.

So I am joining with him in committing myself to the Senate to also follow carefully the writing of these regulations and to consult with others so as we go through this process to be sure that the rights of innocent pilots and others who might have a reason to be flying aircraft in a lawful way, not committing any crime at all, would be taken into account in the writing of the regulations so that those rights will be safeguarded completely. I thank the Senator very much.

Mr. President, to further clarify and explain the amendment, in January of this year, President Bush submitted to the Congress his national drug control strategy for 1991. This is the third such report since the creation of the Office of National Drug Control Policy in 1988. This report recognizes that "prevention is the only answer in the long run, but in the short run, increased interdiction, international, and law enforcement efforts are necessary" in the continuing battle against illegal drug use.

The amendment I have offered will help meet the goals of the President's strategy. It will give the Coast Guard increased authority in drug interdiction efforts. It will create criminal and civil penalties for refusing to heed Coast Guard instructions to land a plane or to allow the Coast Guard to board a vessel at sea if drug smuggling is suspected. In effect, it will give the Coast Guard authority to use methods of drug interdiction that are currently employed by the Customs Service. My amendment would also allow the Coast Guard to be more involved in coordinating efforts with foreign countries and with international organizations.

Mr. President, while these are not major issues on their surface when compared to amendments on the death penalty or other issues we have debated on this bill, the connection of the illegal drug trade to violent crime is indisputable, and every effort we make to inhibit the illegal distribution of drugs is a step toward reducing violent crime.

A 1989 survey of 23 major cities conducted by the National Institute of Justice found that 73 percent of the men arrested in those cities on robbery charges tested positive for drugs at the time of arrest; the corresponding figure for women was 75 percent. When arrests were made on murder charges in these cities, 57 percent of the men and 46 percent of the women arrested tested positive for drugs. For aggravated assault arrests, 55 percent of the men and 53 percent of the women tested positive for drugs. And on sex offenses, including rape, 44 percent of the men tested positive for the presence of drugs in their system.

Mr. President, these statistics are one indication of the influence of drugs in the commission of violent crime. But where do these drugs come from? One hundred percent of the cocaine supply in the United States is imported from other countries. In 1990, between 375 and 545 metric tons of cocaine came across our borders; 101 tons of that was seized by law enforcement authorities, leaving hundreds of tons of cocaine to infiltrate our society. The estimated value of the cocaine that made it to our streets: $26 to $44 billion.

While we must improve our efforts to reduce the demand for drugs, we must also look to ways to let drug criminals know that if they pursue their trade, they will be apprehended and held accountable for their actions.

Under the leadership of President Reagan and now President Bush, the United States has developed an expansive web of law enforcement mechanisms designed to impede the invasion of illegal drugs into our country. This amendment will provide one more obstacle to those who might otherwise evade our drug interdiction efforts.

The PRESIDING OFFICER. The Senator from Mississippi retains the floor.

Mr. COCHRAN. Mr. President, I know of no other Senators seeking recognition to speak on the amendment.

May I inquire if there is time remaining under the order?

The PRESIDING OFFICER. There is no time agreement on this particular amendment. Is there additional debate?

If not, the question occurs on amendment 495 offered by the Senator from Mississippi. The question is on agreeing to the amendment of the Senator from Mississippi.

The amendment (No. 495) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent to speak as if in morning hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CLARENCE THOMAS NOMINATION

Mr. THURMOND. Mr. President, I was pleased to meet this morning with President Bush's nominee, Judge Clarence Thomas, who has been chosen to serve as an Associate Justice of the U.S. Supreme Court. I was impressed with his intellect and keen knowledge of the law. He is a dedicated and principled individual who would be an outstanding addition to the Court.

Judge Thomas has an eminent background which I believe will serve him well as an Associate Justice of the Supreme Court. He was born in Pinpoint, GA, on June 23, 1948, and moved to Savannah where he was raised by his grandparents. In his youth, Judge Thomas overcame difficult economic conditions and excelled in his studies. He later attended the Immaculate Conception Seminary for 2 years before transferring to Holy Cross College where he was a member of the Honors Program, graduating in 1971. In 1974, he graduated from Yale Law School, one of our Nation's top schools.

In addition to his impressive academic background, Judge Thomas has practical experience which will be helpful to him in this position. Following law school, Judge Thomas worked for Senator DANFORTH, then the attorney general for the State of Missouri, as an assistant attorney general. He represented the State before the trial courts, appellate courts and the Supreme Court of Missouri on matters ranging from taxation to criminal law. From 1977 to 1979, he worked for the Monsanto Co. handling general corporate matters such as antitrust, contracts, and governmental regulation.

In 1979, he again went to work for Senator DANFORTH as a legislative assistant, responsible for issues relating to energy, environment, Federal lands and public works. President Reagan nominated Judge Thomas in 1981, to the position of Assistant Secretary for Civil Rights for the Department of Education. In 1982, he was nominated by President Reagan to be the Chairman of the U.S. Equal Employment Opportunity Commission where he served before being nominated to the circuit court.

As well, I believe it is worth noting that the Senate overwhelmingly voted to confirm Judge Thomas' nomination to the circuit court.

Mr. President, now that Judge Thomas has been selected to serve as an Associate Justice of the Supreme Court, there are those who would urge his rejection based solely on a preconcieved notion of how he would rule on a specific case which may come before the court. I do not believe that it is appropriate to characterize Judge Thomas as an unwavering ideologue who has made up his mind about how he would decide specific cases. To do so is unfair—unfair to Judge Thomas and the American public. Judge Thomas' background indicates that he will be sensitive to those individuals who will have their cases decided by the highest court in this Nation. As well, Judge Thomas is a young man, and once confirmed, will serve for many years on the Supreme Court. His fate should not hinge on any particular issue, when over the years he will rule on hundreds, possibly thousands of issues.

In closing, Judge Thomas acknowledges that he has been a beneficiary of the diligent work of individuals such as Justice Marshall and of others involved in civil rights efforts. I do not believe Judge Thomas will undermine the progress that has been made in this area. To the contrary, I am confident that Judge Thomas is honored to have been nominated to serve in the seat occupied by Justice Marshall. Now that President Bush has stated that he will nominate Judge Thomas, the Judiciary Committee and the full Senate will begin to thoroughly examine his background and experience for this important position. As we proceed with this process, I look forward to a swift, fair, and comprehensive review of his record.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

Mr. BIDEN. Mr. President, we have a cloture motion filed, and as of 1 hour and 4 minutes from now it would no longer be in order to file first-degree amendments to this bill. To accommodate Senators who have interest in filing first-degree amendments and do not have the time to get them in by 1 o'clock, I now ask unanimous consent that the time for filing first-degree amendments be extended until 4 p.m. today.

The PRESIDING OFFICER. Is there objection to the request by the Senator from Delaware? If not, the time for filing first-degree amendments is extended until 4 p.m. today.

RECESS UNTIL 2:15 P.M.

Mr. BIDEN. Mr. President, to bring my colleagues and their staffs up to date Senator THURMOND and I, along with other interested parties sitting in the leadership, believe there is a way to deal with the most contentious amendments remaining. There are over 70 amendments that remain, and I suspect by the time 4 o'clock arrives there may be well above 70 amendments. So we think we have an outline as to how to proceed that would allow us to bring to a conclusion debate on this crime bill today. With the grace of God and the good will of our neighbors, we will make that.

But in order to gain approval of this proposal, the Senator from South Carolina and I have agreed on, we each believe it is appropriate for us to bring this proposal before our respective caucuses, which begin at 12:30.

Notwithstanding the fact we have not proceeded on any amendment for the last 20 minutes to a half-hour and are not likely to proceed on any between now and 2:15, notwithstanding that we will be able to make greater progress on this bill than had we been here voting the last hour and the next 2 hours, Mr. President, I ask—this has been cleared by the leadership—unanimous consent that in order to accommodate the ability of Senator THURMOND and myself to make our case to each of the caucuses, the Senate now stand in recess until 2:15.

There being no objection, at 11:58 a.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ADAMS].

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak for 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NOMINATION OF JUDGE CLARENCE THOMAS TO THE U.S. SUPREME COURT

Mr. GRASSLEY. Mr. President, now that the President of the United States has nominated Judge Clarence Thomas to the highest court of our Nation I want to speak about that but more from the standpoint of the Senate's role in the selection of a Supreme Court Justice, now that President Bush has nominated Judge Clarence Thomas for the High Court.

The Constitution gives the President the responsibility for nominating candidates for the Federal judiciary. The Senate role, spelled out in that same clause of article 2, dealing with the powers of the Executive, not the legislative branch, is to "advise and consent" to the nomination.

It is not the Senate's responsibility to second-guess, or substitute its own judgment for that of the President. The Framers envisioned that the Senate's role would be to act as a check against a President who appoints his political cronies to life-tenured judicial positions. In fact, Alexander Hamilton, in the Federalist Papers, wrote that the advise and consent role "would be an excellent check upon a spirit of favoritism in the President * * *."

While the Constitution gives the President the principle role in selecting judges for the Federal courts, including the Supreme Court, our role is to ensure that the candidates have the intellect, integrity, and temperament to serve in that high capacity particularly the high capacity of the Supreme Court. No, we are not here to be a rubber stamp for the President's nominations, but our inquiry should be focussed on the nominee's objective qualifications.

Some of my colleagues have already called for a litmus test on certain issues. But I would remind my colleagues of the deferential role the Senate has played in recent nominations. During the confirmation process for Justice Sandra Day O'Connor in 1981, for example, Senator BIDEN, now the distinguished chairman of the Judiciary Committee, said:

> We are not attempting to determine whether or not the nominee agrees with all of us on each and every pressing social or legal issue of the day.

Senator BIDEN candidly continued:

> If that were the test, no one would pass by [the Judiciary] committee, much less the full Senate.

The senior Senator from Massachusetts [Mr. KENNEDY] during that proceeding was even more direct:

> It is offensive to suggest that a potential Justice of the Supreme Court must pass some presumed test of judicial philosophy. It is even more offensive to suggest that a potential justice must pass the litmus test of any single-issue interest group.

And Senator METZENBAUM, during the floor debate preceding the vote on then-Judge O'Connor, stated:

> I believe there is something basically un-American about saying that a person should or should not be confirmed for the Supreme Court or should or should not be elected to public office based upon somebody's view that they are wrong on one issue.

Mr. President, a nominee cannot and should not answer specific policy questions. A nominee cannot and should not be asked to decide a case until that case, with all of its particular facts, presents itself.

And most importantly, the American people have nothing to fear from a judge who practices judicial restraint.

That approach gives deference to the more democratic branches of Government, our own Congress of the United States, and our own 50 State legislatures. We are elected to make the difficult decisions on matters of broad public policy. And, of course, we are accountable to the people when we take a stand, or if we fail to take a stand. In regard to that, judges are not in that sort of position.

I want to share some of my observations about the worthy nominee the President has sent to the Senate—Judge Clarence Thomas.

Judge Thomas is not an unfamiliar individual to many of us. We confirmed him for the appellate court here in Washington, DC, a little more than a year ago. Before that, he chaired the Equal Employment Opportunity Commission for some 7 years. He got his professional start with our distinguished colleague Senator DANFORTH, first in the Missouri Attorney General's Office, and then here as a legislative assistant. He came from a poor home, a segregated community, and faced enormous obstacles. But Judge Thomas had what others do not: The support and love of his family, especially his grandfather, and dedicated teachers who instilled in him the importance of education.

Judge Thomas is a role model for all Americans, and in many ways he represents the legacy of Justice Marshall. Justice Marshall led the battle against segregation. Because of his work, Judge Thomas attended some of the finest academic institutions in this Nation and has achieved great heights.

Some will argue that his conservative views put him at odds with Justice Marshall, but Justice Marshall's legacy is also about diversity: No community, black or white, is monolithic. And Justice Marshall's fight for equality for black Americans has to encompass the right of black Americans to have their particular views on matters of public policy. Judge Thomas should not be penalized because he knows minorities can succeed without the liberal designed social-engineering so prevalent in our society.

Mr. President, I will have questions for Judge Thomas when he comes before the Judiciary Committee in September. I will reserve the right to evaluate the nominee in light of all the information that comes before us. But as I said in the previous Judiciary Committee hearing on Judge Thomas, he is a doer who has courageously defied the establishment. Along the way he may have ruffled some feathers, but that is true of anyone who has attained high achievement. He is a man to be respected and admired.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Who seeks recognition?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, in a moment, I intend to offer an amendment on behalf of myself and Senators HATCH, BIDEN, D'AMATO, DECONCINI, SPECTER, GRAHAM, and KERRY. To move the process forward, I will now briefly describe the amendment to be offered.

This amendment would use up to $30 million in unexpended money from the Customs Service asset forfeiture fund to support drug treatment programs. If enacted into law, it would make a modest, additional sum of money available to activities that reduce the demands for drugs, and thereby prevent crimes.

This bipartisan proposal does not take a single dollar out of the hand of law enforcement. Under current law, money that the Customs Service does not use for its own purposes reverts to the General Treasury. I believe we can make better use of this money to help fight the war on drugs.

It is appropriate that some assets seized from criminal defendants should be used for drug treatment because treatment reduces crime. Addicts who complete a treatment program are five times less likely to be arrested than those who are not afforded treatment.

In a recent landmark study, the Institute of Medicine concluded that "treatment reduces the drug consumption and other criminal behavior of a substantial number of people."

The need for drug treatment services has never been greater. Treatment is available to only one in eight addicts who need it. Tens of thousands of addicts languish on waiting lists for treatment programs, and many commit crimes to support their addiction while waiting for an opportunity to get help.

In effect, this amendment adds money for the war on drugs and provides that a modest portion of the billion dollars seized each year under the Federal forfeiture laws will be used to prevent crimes through drug treatment.

We have been advised by the Congressional Budget Office that this amendment does not violate the Budget Enforcement Act, and will not count against the budget caps. This is the intent of the sponsors of this amendment.

I ask unanimous consent a copy of the CBO letter be printed in the RECORD after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. I am grateful that the managers on both sides have indicated a willingness to accept this amendment, and I will withhold introducing the amendment until the floor manager is present on the floor.

I yield the floor.

EXHIBIT 1

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 8, 1991.

Hon. EDWARD KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: At your request, the Congressional Budget Office has reviewed a proposed amendment to S. 1241, the Violent Crime Control Act of 1991. This amendment would require that unobligated amounts in excess of $15 million remaining in the Customs Forfeiture Fund at the end of each fiscal year be transferred to the Department of Health and Human Services (HHS) and expended for drug treatment grants. Currently, such amounts are deposited into the general fund.

Based on information from the United States Customs Service, it appears that between $29 million and $30 million in the Customs Forfeiture Fund will remain unobligated at the end of fiscal year 1991, of which $14 million to $15 million will be transferred to the general fund. Under the proposed amendment, this $14 million to $15 million would instead be transferred to HHS and would result in additional direct spending of $14 million to $15 million in fiscal years 1992–1994.

Because scorekeeping estimates have to be consistent with the baseline projections, however, CBO would estimate that the proposed amendment would have no budgetary impact in any fiscal year and that there would be no pay-as-you-go scoring under Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. CBO has previously estimated its baseline projections that the full amounts deposited into the Customs Forefeiture Fund in each of the fiscal years 1991–1996 will be obligated, and thus that there will be no unobligated amounts available for deposit into the general fund. If there were unobligated funds in excess of $15 million that were transferred to HHS under this amendment, it would be recorded as a technical reestimate and would not trigger any pay-as-you-go scoring by CBO. Of course, the Office of Management and Budget makes the ultimate decision on pay-as-you-go scoring for the purpose of determining whether a sequester is necessary in any particular year.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mitchell Rosenfeld, who can be reached at 226–2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I want to compliment the distinguished Senator from Massachusetts for this amendment. He and I—and I think everybody else in this body—realize that there is not enough money being spent on rehabilitation of drug users and drug abusers.

We are doing a lot in this crime bill to try to interdict the flow of drugs and to try to use effective law enforcement methods to bring down the force of the law as hard as we can on drug traffickers, kingpins, and other drug possessors.

The fact of the matter is that we are never going to solve this problem if all we do is look at the supply side of the equation. So, the distinguished Senator from Massachusetts and myself are filing this amendment to make sure that we look at the demand side as well. We must look at the rehabilitation of people who suffer as a result of drug addiction or drug overuse.

These asset forfeiture funds, thus far, have been used for other purposes. But we think this is a valid, effective, worthwhile, and intelligent use of these asset forfeiture funds to the extent that we provide for their use in this amendment.

So I commend Senator KENNEDY. I support this amendment, and we are prepared to accept it on this side. I believe Senator THURMOND is prepared to speak to it.

Mr. KENNEDY. Mr. President, I thank my friend and colleague from Utah for his comments. We both serve on the Judiciary Committee, which has primary responsibility for law enforcement and sentencing legislation.

At the same time, Senator HATCH and I serve as the Chair and the ranking minority member of the Labor and Human Resources Committee, which has primary responsibility for legislation regarding the education, treatment, and rehabilitation of those who are suffering from drug addiction. So it is particularly appropriate that we work together in this very modest but important endeavor.

AMENDMENT NO. 538

(Purpose: To provide for the use of unexpended funds from the Customs Forfeiture Fund)

Mr. KENNEDY. Mr. President, I now send the amendment I have already described to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself, Mr. HATCH, Mr. BIDEN, Mr. D'AMATO, Mr. DECONCINI, Mr. SPECTER, Mr. GRAHAM, and Mr. KERRY proposes an amendment numbered 538.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . USE OF UNOBLIGATED FUNDS FROM CUSTOMS FORFEITURE FUND.

Section 613A(f)(3) of the Tariff Act of 1930 (19 U.S.C. 1613b(f)(3)) is amended by striking "in excess of" and all that follows through the period and inserting "remaining in the Fund shall be utilized as follows:

"(i) The first $15,000,000 shall remain in the Fund.

"(ii) The next $30,000,000 shall be transferred to the Department of Health and Human Services and expended for drug treatment through grant programs set forth in titles V or XIX of the Public Health Services Act.

"(iii) Any remaining money shall be deposited into the general fund of the Treasury of the United States.".

Mr. THURMOND. Mr. President, we have no objection to the amendment. For the record, am I correct that it is limited to $30 million? I would like for the Senator to answer that.

Mr. KENNEDY. Will the Senator be kind enough to repeat the question?

Mr. THURMOND. I say we have no objection to the amendment, but I want the record to show that the amendment is limited to $30 million; is that correct?

Mr. KENNEDY. The Senator is correct.

The PRESIDING OFFICER. Is there further debate?

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

If there is no further debate, the question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment (No. 538) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the role.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER [Mr. FOWLER]. Without objection, it is so ordered.

The Senator from South Dakota is recognized.

Mr. DASCHLE. Mr. President, I ask unanimous consent to proceed for 5 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Dakota is recognized.

Mr. DASCHLE. I thank the Chair.

(The remarks of Mr. DASCHLE pertaining to the introduction of S. 1438 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DASCHLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, by way of explanation to my colleagues, we have been for the last 5 hours negotiating in great detail and with, we thought to be, all the principals involved in the issues that I am about to propound a unanimous-consent agreement regarding; that is habeas corpus, exclusionary rule, and a range of other issues.

If we can get this unanimous-consent agreement, Senator THURMOND, Senator HATCH, myself, Senator MITCHELL, and others believe we would take a giant step toward passing this bill, and in very short order.

I am told there may be an objection, but, nevertheless, I am going to propound the unanimous-consent agreement at this moment and hope that there would be no objection because, once again, this has been a bill that we have been told by everyone, particularly the President, is badly needed. As a matter of fact, a White House spokesman, as recently as today, indicated the President likes the bill and is prepared to sign the bill if it were in this form. I hope we can move on with this. Let me proceed and propound the unanimous-consent request.

UNANIMOUS-CONSENT REQUEST

Mr. BIDEN. Mr. President, I now ask unanimous consent that title XXII of S. 1241 relating to organized crime strike forces be stricken from the bill; that no further amendments related to the topics of habeas corpus reform, exclusionary rule reform, and the removal of alien terrorists be in order to this bill; that the Specter-Thurmond amendment No. 472 relating to prosecution funding be agreed to; that Senator THURMOND then be recognized to offer an amendment relating to the police bill of rights with 1 hour of debate equally divided and controlled in the usual form, with a vote on the Thurmond amendment to occur on the expiration of the time on the amendment; that no amendment to the above amendments or to any text they propose to strike or motions to recommit be in order during the Senate's consideration of the above amendments.

That is my unanimous-consent request.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, we have no objection.

Mr. STEVENS. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Alaska reserves the right to object.

Mr. STEVENS. Mr. President, on behalf of myself and several other Members on this side, I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. BIDEN. Mr. President, I liked it better when my friend from Alaska said "reserving the right to object." It got my hopes up for a moment that he might not object.

I hope, Mr. President, that we can move on.

UNANIMOUS-CONSENT AGREEMENT

Mr. BIDEN. Mr. President, I then ask the following: I ask unanimous consent that Senator THURMOND be recognized now to offer an amendment relating to the police bill of rights with 1 hour of debate equally divided and controlled in the usual form and with a vote on the Thurmond amendment to occur at the expiration of that time; that no amendments to the above amendment or that any text they propose to strike or motions to recommit be in order during the Senate's consideration of the Thurmond amendment.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object. May I have one moment?

I withdraw my reservation.

The PRESIDING OFFICER. Hearing no objection, the unanimous-consent request is adopted.

The Senator from South Carolina [Mr. THURMOND] is recognized under the agreement to offer an amendment.

AMENDMENT NO. 486

Mr. THURMOND. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment numbered 486.

Mr. THURMOND. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER [Ms. MIKULSKI]. Without objection, it is so ordered.

The amendment is as follows:

Strike page 114, line 13 through page 122, line 2, and in lieu thereof insert the following:

SEC. 901. SHORT TITLE.

This title may be cited as the "Police Officers' Bill or Rights Act of 1991".

SEC. 902. RIGHTS OF LAW ENFORCEMENT OFFICERS.

Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781 et seq.) is amended by adding at the end thereof the following new section:

"RIGHTS OF LAW ENFORCEMENT OFFICERS

"SEC. 819(a) RIGHTS OF LAW ENFORCEMENT OFFICERS WHILE UNDER INVESTIGATION.—The States shall give consideration to adopt the standards and requirements contained in this section. These standards may require that when a law enforcement officer is under investigation or is subjected to questioning for any reason, other than in connection with an investigation or action described in subsection (h), under circumstances that could lead to disciplinary action, the following minimum standards apply:

"(1) Questioning of the law enforcement officer shall be conducted at a reasonable hour, preferably when the law enforcement officer is on duty, unless exigent circumstances otherwise require.

"(2) Questioning of the law enforcement officer shall take place at the offices of those conducting the investigation or the place where such law enforcement officer reports for duty unless the officer consents in writing to being questioned elsewhere.

"(3) The law enforcement officer under investigation shall be informed, at the commencement of any questioning, of the name, rank, and command of the officer conducting the questioning.

"(4) During any single period of questioning of the law enforcement officer, all questions shall be asked by or through a single investigator.

"(5) The law enforcement officer under investigation shall be informed in writing of the nature of the investigation prior to any questioning.

"(6) Any questioning of a law enforcement officer in connection with an investigation shall be for a reasonable period of time and shall allow for reasonable periods for the rest of personal necessities of the law enforcement officer.

"(7) No threat against, harassment of, or promise of reward (except an offer of immunity from prosecution) to any law enforcement officer shall be made in connection with an investigation to induce the answering of any question.

"(8) All questioning of any law enforcement officer in connection with the investigation shall be recorded in full in writing or by electronic device, and a copy of the transcript shall be made available to the officer under investigation.

"(9) The law enforcement officer under investigation shall be entitled to the presence of counsel (or any other person of the officer's choice) at any questioning of the officer, unless the officer consents in writing to being questioned outside the presence of counsel.

"(10) At the conclusion of the investigation, the person in charge of the investigation shall inform the law enforcement officer under investigation, in writing, of the investigative findings and any recommendation for disciplinary action that the person intends to make.

"(11) A law enforcement officer who is brought before a disciplinary hearing shall be provided access to all transcripts, records, written statements, written reports and analyses and video tapes pertinent to the case that—

"(A) contain exculpatory information;

"(B) are intended to support any disciplinary action; or

"(C) are to be introduced in the disciplinary hearing.

"(b) OPPORTUNITY FOR A HEARING.—(1) The States shall give due consideration to proposals which ensure that, except in a case of summary punishment or emergency suspension described in subsection (d), if an investigation of a law enforcement officer results in a recommendation of disciplinary action, the law enforcement agency shall notify the law enforcement officer that the officer is entitled to a hearing on the issues by a hearing officer or board.

"(2)(A) Subject to subparagraph (B), a State shall determine the composition of any such disciplinary hearing board and the procedures for a disciplinary hearing.

"(B) A disciplinary hearing board that includes employees of the law enforcement agency of which the officer who is the subject of the hearing is a member shall include at least one law enforcement officer of equal or lesser rank to the officer who is the subject of the hearing.

"(d) SUMMARY PUNISHMENT AND EMERGENCY SUSPENSION.—(1) This section does not preclude a State from providing for summary punishment or emergency suspension for misconduct by a law enforcement officer.

"(2) An emergency suspension will not affect or infringe on the health benefits of a law enforcement officer.

"(e) NOTICE OF DISCIPLINARY ACTION.—When disciplinary action is to be taken against a law enforcement officer, the officer shall be notified of the action and the reasons therefor a reasonable time before the action takes effect.

"(f) RETALIATION FOR EXERCISING RIGHTS.—There shall be no penalty or threat of penalty against a law enforcement officer for the exercise of the officer's rights under this section.

"(g) OTHER REMEDIES NOT IMPAIRED.—(1) Nothing in this section shall be construed to impair any other legal remedy that a law enforcement officer has with respect to any rights under this section.

"(2) A law enforcement officer may waive any of the rights guaranteed by this section.

"(h) APPLICATION OF SECTION.—This section does not apply in the case of—

"(1) an investigation of criminal conduct by a law enforcement officer; or

"(2) a nondisciplinary action taken in good faith on the basis of a law enforcement officer's employment-related performance.

"(i) DEFINITIONS.—For the purpose of this section—

"(1) the term 'disciplinary action' means the suspension, demotion, reduction in pay or other employment benefit, dismissal, transfer, or similar action taken against a law enforcement officer as punishment for misconduct;

"(2) the term 'emergency suspension' means temporary action imposed by the head of the law enforcement agency when that official determines that the action is in the best interest of the public;

"(3) the term 'summary punishment' means punishment imposed for a minor violation of a law enforcement agency's rules and regulations that does not result in disciplinary action;

"(4) the term 'law enforcement agency' means a public agency charged by law with the duty to investigate crimes or apprehend or hold in custody persons charged with or convicted of crimes; and

"(5) the term 'law enforcement officer' means a full-time police officer, sheriff, or correctional officer of a law enforcement agency.

"(j) PROHIBITION OF ADVERSE MATERIAL IN OFFICER'S FILE.—A law enforcement agency shall not insert any adverse material into the file of any law enforcement officer unless the officer has had an opportunity to review and comment in writing on the adverse material.

"(k) DISCLOSURE OF PERSONAL ASSETS.—A law enforcement officer shall not be required or requested to disclose any item of the officer's personal property, income, assets, soruces of income, debts, personal or domestic expenditures (including those of any member of the officer's household), unless

"(1) the information is necessary in investigating a violation of any Federal, State, or local law, rule, or regulation with respect to the performance of official duties; or

"(2) such disclosure is required by Federal, State, or local law.

"(l) ENFORCEMENT OF PROTECTIONS FOR LAW ENFORCEMENT OFFICERS.—(1) A State may provide rights for law enforcement officers that are substantially similar to the rights afforded under this section.

"(m) STATES' RIGHTS.—This section does not preempt State law or collective bargaining agreements or discussions during the collective bargaining process that provide rights for law enforcement officers that are substantially similar to the rights afforded by this section.".

Mr. THURMOND. Madam President, today, I rise to offer an amendment which will make some revisions to title IX of the pending bill. This provision of the Biden bill proposes to establish a police officers' bill of rights. While I believe the rights of law enforcement officers must be provided for, this proposal simply goes too far by imposing strict requirements on State and local law enforcement officials. This measure mandates that all States afford certain rights to law enforcement officers in all disciplinary proceedings. My amendment makes adoption of this proposal discretionary.

Although this legislation's proponents speak about this legislation in terms of constitutional rights, it has absolutely nothing to do with constitutional rights. It has nothing to do with the right of an officer to be free from violence at the hands of criminals. It has nothing to do with the right to be free from unjust criminal prosecution. However, it has everything to do with labor and management. Simply stated, this proposal is an effort to push through Congress additional rights for officers which the States have chosen not to provide. The Biden measure gives law enforcement officers substantial control over how their respective law enforcement agency is run. It would have a disruptive effect on the ability of law enforcement agencies to do their job.

The Biden bill mandates that the States provide certain benefits to all officers when they could face disciplinary action. It mandates that discovery rights and the right to counsel be provided to all officers in cases which could result in any disciplinary action. It also requires that every State create a law enforcement grievance commission to review all disciplinary action. The effect on this may well turn every police department into a courthouse as opposed to a law enforcement agency.

Briefly, I would like to discuss some of the specific problems cited by opponents of this legislation, including the International Association of Chiefs of Police and the National Sheriff's Association. First, the Biden version of the police officer's bill of rights would federalize local law enforcement. For example, it will override existing State laws which may provide similar or greater rights to officers. It also second guesses those States which have closely examined this issue, deemed their current procedures adequate, and chosen not to enact such a law. Yet, this proposal is in the Biden bill even though no hearings have been held on this legislation—neither here nor in the House. We should give all interested parties the opportunity to consider this proposal before it passes the Senate.

Madam President, the bill would also alter carefully balanced collective-bargaining agreements between police agencies and police unions. This measure unilaterally changes existing agreements on such sensitive matters as investigative procedures, the ability of the police chief to discipline members of his force, and the composition and function of disciplinary panels.

Madam President, all officers would be entitled to have a lawyer present at all times. Remember, these are not criminal investigations this bill is addressing. The officer would have the right to an attorney if his chief wanted to reprimand him for continued tardiness. The agency could only conduct questioning with one officer. All discussions would have to be recorded. No action could be taken against the officer until he had a hearing before a board comprised, in part, of fellow officers. While some ideas may have merit, should the Federal Government impose these requirements upon the States? My answer is no.

Furthermore, the bill subjects the States to civil liability for failing to adequately provide these rights and withholds Federal grant money if they fail to enact such a statute. At a time when State and local governments are faced with truly disastrous fiscal problems, this bill subjects them to greater liability and takes away funds which are being used to fight crime.

Madam President, my amendment urges the States to consider enacting a bill of rights. It recognizes that some legislatures may deem these procedures preferable to their own current law. Yet, the Thurmond amendment makes clear that the decision to extend these disciplinary rights to law enforcement is discretionary—not a mandatory requirement imposed on the States and local communities by the Federal Government.

I strongly believe that the right to exercise discipline over law enforcement officers who act inappropriately must remain with the chief executive of that department. Yet, if the States, either through legislation or through collective bargaining, choose to change the current system, that is their decision. I strongly believe Congress should not interfere and pass the far-reaching legislation contained in S. 1241. Federally mandated rights for officers who are the subject of improper activity would seriously impinge upon the chief executives necessary control over his force. If the Biden measure were to become law, every agency, no matter how small, would be subjected to these disciplinary rights. Every disciplinary action, no matter how minor or serious, would be further complicated by these added rights. If this legislation became law, executives would be restrained from taking appropriate disciplinary action against officers who may commit serious offenses—such as those who beat Rodney King in Los Angeles.

In closing, the bill of rights language in the Biden bill is strongly opposed by law enforcement at all levels. The International Association of Chiefs of Police opposes the Biden measure. The National Sheriff's Association opposes it as well. Police commissioners, chiefs, and sheriffs all across the Nation oppose this bill—including Lee Brown, the police commissioner of New York City. My amendment encourages the States to consider such a proposal. However, it recognizes that the decision on how to discipline officers must rest with those who are responsible for fighting crime—the States themselves.

For these reasons, I strongly urge my colleagues to support the Thurmond amendment.

Madam President, the Senate earlier today, by a vote of 55 to 39, turned back a proposal that would have mandated States to do certain things. This is a similar amendment. If the Members of the Senate voted today for the Thurmond amendment on that question, this is a similar amendment.

It is high time that this Federal Government stop trying to mandate to the States what to do.

They have just as much right, just as much intelligence, and just as much responsibility to perform their duties without regard to the Federal Government mandating it on them.

I want to say further if a chief of police or a sheriff or those in charge cannot discipline their own people because they are late or some other crime, who is going to do it? Are you going to have a lawyer present every time they call a man in and say you are late and you have been late 10 days straight?

Are you going to have to have a lawyer come in? Will you have to have a commission to hear it? Madam President, it just does not make sense.

I hope the Senate will see fit to adopt this amendment.

Mr. BIDEN. Madam President, I know no one on the floor in the U.S. Senate who is more a friend of the police officers of this country than the Senator from South Carolina. But I think that the Senator from South Carolina and others—because I have read some news accounts of my proposal here in the bill—misunderstand a little bit of what the policemen's bill of rights contained in the Biden crime bill really does.

Let me start off by suggesting what the so-called policemen's bill of rights does not purport to do and does not do. I read in the press and I heard today that the example of the police activity relating to Rodney King would require the bill or rights to be kicked into effect and counsel provisions and other aspects of the bill be required to be adhered to. That is not true. This does not affect any criminal accusations made against any police officer. It does not affect that.

This does not affect collective bargaining. This does not affect cases where we have circumstances where there is anything other than an egregious violation of the rights of a police officer.

Let me tell you the kind of thing it does affect. Sheriff, in town, been in town for years. New deputy sheriff gets hired on, deputy sheriff arrests and/or tickets the wrong guy—the right guy in the sense that he is parked in the wrong place or violating the law but the wrong guy. And he gets fired for that. He just gets fired—no reasonable explanation, no good cause. That is the kind of thing this affects.

On page 119 of the legislation, subsection (h), it says Application of Section. It says this section does not apply in the case of, one, an investigation of criminal conduct by a law-enforcement officer. It does not apply. This bill does not apply. It also does not apply in cases of nondisciplinary action taken in good faith on the basis of a law-enforcement officer's employment-related performance. It does not apply.

It applies in those egregious circumstances that I have made reference to. The policy officers' bill of rights provides procedural standards and safeguards for the conduct of internal investigation in law-enforcement agencies and, despite the critical role police officers play in upholding our constitutional rights and guarantees, internal disciplinary procedures in law-enforcement agencies vary widely from agency to agency, county to county, and State to State.

The rights guaranteed by this bill include, one, the right to be informed in writing of charges brought against the police officer, not an unusual or outrageous requirement; two, the right to have counsel present during interviews in the course of an investigation that is not criminal and an investigation that is not related to normal employment-related performance.

These safeguards are modeled on the Stantards for Internal Investigations established by the National Commission on the Accreditation of Law Enforcement Agencies. The bill, however, reserves substantial rights for the States. The protections do not apply to minor violations of department rules, nor to actions taken on the basis of an officer's job-related performance. It does not apply in either of those circumstances.

Also, as I said for the third time, the bill does not apply to criminal investigations. Police officers under criminal investigation would have the same rights, no more, no less, than any other criminal defendant. Any police officer whose rights are violated could recover pecuniary and other damages, including reinstatement, by filing suit in a State court.

Police officers whose rights are violated would be authorized to recover pecuniary or other damages including reinstatement, by filing suit in a State court.

I want to emphasize again, Madam President, the police officer's bill of rights that I have included in my legislation would not apply to criminal investigations of police misconduct. I want that canard to be dealt with. It does not apply in those circumstances. It applies in the circumstance in situations other than job performance, where you have a tyrannical and/or capricious management of a police agency and people are summarily dismissed or suspended, that they in fact be protected, and they be given the right to know in writing what the charges are against them as well as have counsel there to protect their rights, which are being abused.

So, Madam President, I ask unanimous consent that there be printed in the RECORD letters from the Law Enforcement Grand Lodge of Fraternal Order of Police, the FOP's endorsement. I will not take the time now to read the letter, but they very strongly endorse the bill of rights that I am proposing and oppose the Thurmond amendment.

The National Association of Police Organizations strongly supports what I am proposing and strongly opposes what the Senator from South Carolina is proposing.

The International Brotherhood of Police Officers strongly supports what I am proposing and strongly opposes Senator THURMOND'S approach.

The Patrolmen's Benevolent Association strongly supports what I am proposing and opposes the Thurmond amendment.

I did not bother to go through the number of police officers represented, but for example the FOP represents over 220,000 police officers in this country, strongly in support of the Biden bill of rights and strongly opposed to the Thurmond attempt to amend it.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FRATERNAL ORDER OF POLICE,
Columbus, OH, June 25, 1991.

Hon. JOHN CHAFEE,
U.S. Senate, Washington, DC.

DEAR SENATOR CHAFEE: On behalf of more than 220,000 members, of the National Fraternal Order of Police, I am writing to urge your support of S 1043, the Police Officers Bill of Rights (POBR). This important legislation has been introduced by Senator Joe Biden and is attached to the Crime Bill. The POBR will provide officers with due process for administrative violations and more importantly define procedures for a law enforcement agency to follow. For to long officers have faced disciplinary action without due process. This type of atmosphere allows for selective discipline to occur.

To us in the law enforcement field this is a sensible piece of legislation who's time has come for passage. Throughout our country, there are prisoner's, victim's, and disabled person's bills of rights established, while at the same time few police officer's bill of rights exist.

Congress has gone to great lengths to insure that citizens and workers are treated fairly and equitably, but has overlooked the police in these debates. You now have the opportunity to ensure fair and equitable treatment for police officers by supporting S. 1043. There are administrators who will urge you not support this legislation by casting a cloud over the issue of due process by citing the unfortunate events that occurred in Los Angeles. As previously stated, this legislation provides due process for administrative violations only and not criminal investigations or charges.

Your favorable consideration this matter is appreciated.

Respectfully,

DEWEY R. SOKES,
President.

NATIONAL ASSOCIATION OF
POLICE ORGANIZATIONS, INC.,
Washington, DC, June 25, 1991.

DEAR SENATOR: On behalf of the more than 130,000 rank-and-file police officers represented by the National Association of Police Organizations (NAPO), I am writing to urge your support for S. 1043, the Police Officer's Bill of Rights (POBR), which has been incorporated as Title IX of S. 1241, the so-called Biden Crime Bill.

I wrote you on June 14, 1991, with regard to NAPO's endorsement of POBR as well as its support for the Brady Bill and the Law Enforcement Officer's Scholarship Act, which are also contained in the Biden Crime Bill. NAPO stands behind its original endorsements of these measures and wishes to reaffirm them as the Senate resumes consideration of the Crime Bill this week.

An additional reason for this letter is that I have been advised that the International Association of Chiefs of Police (IACP) has asked you to delete POBR from the Crime Package. Accordingly, I would be remiss in my obligations and responsibilities to our membership if I were to permit the IACP's claims to go unrebutted.

In its June 21, 1991 letter to you, the IACP, in support of its position, claims that "[l]aw enforcement, by its very nature, is a matter of local concern, not Federal concern." This, to say the least, is a "head in the sand" approach which ignores the fact that crime in America has become of major national importance and takes up a substantial amount of the attention of Federal elected officials, lawmakers, and administrators. Further, State and local law enforcement have been the beneficiaries of substantial Federal assistance in recent years and have benefited from Federal grants, asset forfeiture payments, information and technology sharing, Federal law enforcement training and benefits for survivors of police officers killed in the line of duty. Also, State and local law enforcement are significantly subject to Federal constitutional limitations and restraints in such areas as permissible searches and investigatory techniques. Therefore, for the IACP to claim that enactment of the POBR would wrongfully "federalize local law enforcement" is utterly disingenuous since police management has been only too willing to seek and accept Federal help when it suits its purposes.

The IACP's additional assertion that POBR "would inevitably weaken the ability of police executives to discipline police officers for acts of serious misconduct," is equally spurious. All POBR would do would be to establish minimal standards of due process for administrative violations so as to reduce the potentiality of arbitrary, capricious and selective discipline occurring within police ranks. POBR would not apply at all to violations of criminal laws or emergency suspensions.

As to the IACP claim that there is "seriously potential" that POBR would alter "carefully balanced collective bargaining agreements between police agencies and police unions," it is totally without foundation. For one thing, the Bill expressly declares that it does not preempt the provisions of collective bargaining agreements. Moreover, the thrust of the legislation is to provide rights for police officers in that majority of States in which there is not right to collective bargaining for police officers.

As to the IACP complaint regarding "civil liability," the fact is that the only such liability as might occur under POBR would be in connection with those States that do not have or adopt provisions substantially equivalent to POBR as is required under the law. Hence, each and every State is in a position to avoid any Federal civil liability by having on its books a law comparable to POBR.

Further, contrary to the IACP's claim, POBR in no way seeks to remove from the "chief executive of [a] department" the right to "exercise discipline over law enforcement officers." All POBR would do would be to assure that discipline is imposed fairly and in accordance with procedural due process.

Finally, it is deeply shocking that the IACP would assert that the proposed legislation is "unwise and untimely, particularly in light of the notorious police beatings we recently witnessed in Los Angeles." To punish all of the half million decent, law-abiding and hard-working police officers in the United States for the wrongs of a few is suggestive of precisely the arbitrary attitude on the part of police management that POBR proposes to overcome.

Accordingly, NAPO urges you to adopt POBR as it is presently constituted in the Biden Crime Bill so as to demonstrate your support for the basic right of America's police rank-and-file to procedural fairness.

Sincerely yours,

ROBERT SCULLY,
President.

INTERNATIONAL BROTHERHOOD
OF POLICE OFFICERS,
Arlington, VA, June 25, 1991.

Hon. JOSEPH BIDEN,
U.S. Senate, Washington, DC.

DEAR SENATOR BIDEN: The International Brotherhood of Police Officers is an affiliate of the Service Employees International Union, the fifth largest union in the AFL-CIO. On behalf of the 40,000 rank and file state and local police officers that IBPO represents, I am writing for your support for the "Police Officers' Bill of Rights Act of 1991", which is contained in Title IX of S. 1241.

Title IX addresses two areas of fundamental concern to law enforcement officers and indeed all Americans: political activity rights and due process rights. First of all, Title IX allows officers to participate fully in the political process except while on duty or acting in an official capacity. IBPO believes that police officers, like any other citizen, should be afforded their first amendment rights to participate in the political arena on their own time.

Secondly, Title IX extends due process rights to officers under internal investigation for administrative violations. Currently, many state laws prevent police officers from receiving these protections usually accorded by collective bargaining agreements. Police officers, because of the nature of their work, are frequently the subject of harassing complaints. Too often, adequate due process rights are not afforded to police officers during internal investigations into possible misconduct. Title IX remedies this unfortunate situation by providing all officers with basic, fundamental due process protections.

Some police management organizations have argued that this bill would weaken or destroy existing collective bargaining agreements, or weaken police executives authority to discipline officers. Both of these claims lack merit. The Police Officers' Bill of Rights, introduced by Senator Biden as part of his omnibus crime package, only provides due process protections to police officers under scrutiny for administrative violations. Title IX of S. 1241 creates minimum standards for officers under investigation that would ensure a fair appraisal of his or her case. These standards include the right to be questioned at a reasonable time and place, by a single investigator. In addition, officers would have the right to representation by counsel and the right to advance written notice of the nature of the investigation prior to any questioning. In addition, the provisions of the bill explicitly provide that existing collective bargaining agreements are not preempted.

IBPO firmly believes that police officers, who are expected to uphold the public trust given to them, must be fully accountable for their actions when, on occasion, that trust is betrayed. However the Police Officers' Bill of Rights in no way attempts to excuse, delay, or de-emphasize the responsibilities that police officers accept when joining the force. Title IX specifically does not preclude a State from providing for a summary punishment (punishment for a minor violation of rules and regulations that does not result in disciplinary action) or an emergency suspension for misconduct by a law enforcement officer. Moreover, Title IX does not apply in an investigation of criminal conduct by a law enforcement officer.

Therefore, arguments that may be heard on the Senate floor regarding the recent incident in Los Angeles will not apply. No one condones the actions that occurred in this isolated incident. However, attempting to use the Los Angeles incident as a means to denying rank and file police officers due process rights is misleading when the provisions of the Police Officers' Bill of Rights would not apply when an officer is placed on emergency suspension or when the investigation of the officer involves possible criminal conduct.

In summary, IBPO believes that in order to foster increased police professionalism at each level, from the rookie cop to the chief of the department, law enforcement officers must be afforded due process rights when under investigation for administrative violations. In addition, the political activity of police officers should not be limited when the officer is off-duty. Therefore, I urge you to stand with the rank and file officers of this country and support the Police Officers' Bill of Rights by opposing any motions to strike Title IX from the crime bill.

Sincerely,

KENNETH T. LYONS,
National President.

PATROLMEN'S BENEVOLVENT ASSOCIATION OF THE CITY OF NEW YORK, INC.,
New York, NY, June 25, 1991.

DEAR SENATOR: On behalf of the New York City Patrolmen's Benevolent Association, the oldest and largest police organization in the United States, representing 20,000 active and 15,000 retired police officers, we would like to enlist your support for Senate Bill #1043, which is currently being deliberated by the U.S. Senate.

The major thrust of this proposed legislation would grant to police officers across the nation the same fundamental Constitutional privileges accorded to all American citizens—including the most insipid, violent criminal imaginable. It is truly one of the ironies of our great democracy that some of the nation's police officers continue to be relegated to a status of second-class citizenship induced by an administrative denial of Constitutional freedoms.

Whereas police officers must fastidiously observe every basic Constitutional guaranty, such as the right of a suspect to remain silent, and the right of a suspect to have adequate legal representation, they themselves are arbitrarily stripped of those guaranties by police chiefs who wield an absoltute power to suspend and dismiss any officer who dares to invoke his/her rights in any investigation involving some controversial action taken by an officer, particularly where deadly physical force was used.

I need not dramatize too emphatically the fact that police officers, in the climate extant in our society, play a vital role, a role fraught with legal, political and social complexities that have made the police job both difficult and dangerous to perform, even in areas that formerly were characterized as tranquil settings. This sad commentary on the deteriorating quality of life on America's streets has been fostered by the triple menaces of drug dealing, illegal gun proliferation and a propensity for violence.

And police officers, who form America's first line of defense, must daily, at great risk of life, cope with the sheer intensity of this triple threat societal phenomenon. In waging the war on crime that is sweeping across virtually every sector of the nation, the police are sustaining a terrible toll: Often they are wounded; often they must pay the supreme sacrifice; often they are wrongfully castigated for alleged acts of brutality.

Self-styled political activists have sprung up in just about every community, particularly in troubled urban centers, and they—for self-serving motivation—have fomented unrest. For obvious reasons, the police, readily observed as the pawns of society, remain the principal target of these political agitators. Now, more then ever, when police find themselves under constant attack, they need to be afforded basic legal protection that can only be accomplished through federal legislation.

This is so because police administrators, whose very existence is created and sustained by political action, are influenced more by political currents than by a sense of fairness and objectivity when it comes to meeting out justice for police officers brought up on controversial charges. Overzealous district attorneys have similar political inclinations due to pressures brought to bear on their office.

It is indeed shameful that police administrators and district attorneys in certain parts of the country possess unassailable dictatorial power, a power that has allowed them to sacrifice police officers on the altar of political activism. Since the mid sixties, police officers in New York City have enjoyed the protection of a contractually guaranteed Bill of Rights, and this argreement has worked well in terms of conducting investigations of police actions in an atmosphere that observes adequately the rights of police officers and management, or any other investigative authority. Our police brothers and sisters throughout the nation are entitled to the same protection. Please support Senate Bill #1043, and join the effort to grant police officers the same rights that criminals already have.

Sincerely,

PHIL CARUSO,
President.

Mr. BIDEN. Madam President, the representation here of the organizations that I have just read off I am informed by staff represents over 400,000 police officers in this country. There are only roughly 500,000 police officers in this country.

It is long overdue, Madam President, that we give police officers the basic civil rights that they are entitled to, that other people are entitled to, that Federal employees are entitled to; that other people who are summarily dismissed and significant actions taken against them be able to at least know in writing what the charge is, and have to explain what the charge is and defend what the charge is with that person being able to be adequately represented at the time.

I reserve the remainder of my time, Madam President.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Madam President, I suggest the absence of a quorum and ask that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Madam President, there has been references on and off the floor that the proposal that I have in my legislation would supersede States rights.

Madam President, if there is an agreement, a procedure similar at all to what is being proposed in the policeman's bill of rights in the States in place, the State law supersedes, not the Federal law, the State law supersedes. This does though affect States where there is no protection whatsoever.

Again, I reiterate: This does not affect cases that involve normal job performance, nor does it affect matters where there is a criminal charge being investigated or case pending against a police officer in neither of those instances. It affects those cases where the caprice or the absolutely inexplicable conduct of a civilian or police officer in dismissing or penalizing a police officer on the force is done so without explanation and without opportunity for that police officer to make his case.

So, Madam President, I just wanted to reiterate that point.

I reserve the remainder of my time.

Mr. THURMOND. Madam President, I yield to the distinguished Senator from Wyoming such time as he may require.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Madam President, I commend the two managers of this bill for their work and what they are trying to do which is obviously having more difficulty for them and that, of course, is not directed to this amendment.

I do concur with Senator THURMOND here. This police officers' bill of rights was a very crisply presented, good idea. I think in the beginning and over the months it has kind of encrusted itself with some remarkable things which I think do intrude on the States. I concur with him.

I think that indeed we all know the rights of law enforcement officers have to be provided for. I think this simply goes too far. By imposing these strict requirements on the State and local enforcement officials, the measure mandates or requires that all States afford certain rights to law enforcement officers in all disciplinary proceedings. And I agree with Senator THURMOND that you are going to turn police stations into courthouses if you can really take this one to its ultimate result. I do not think that is the appropriate thing to do.

So, I would certainly support Senator THURMOND, and I would in this particular amendment. I hope that, as the hours roll on with regard to this crime bill which is a critically important piece of legislation, with perhaps the threat of the Thursday crunch, and there is obviously difficulty in meeting the need to do work on Friday, and I understand that fully, and we appreciate that deference when that is extended to us, but it is an important measure, and we can revisit again and again and again the issues of death penalty, exclusionary rule, habeas corpus, gun issues. There is nothing more volatile in my State than revisiting gun issues. I said time and again the issue of gun control in Wyoming is simply how steady you hold your rifle and nothing more. And it is not some vestige of red necks, or people who like to kill.

In fact, we really do not have a lot of killing of one another in Wyoming. We have really no restrictions on firearm ownership. Here in the District of Columbia where they have the strictest possible gun control legislation—and they seem to have made that a most extraordinary part of this community's life, a sad one—and that is death and murder in extraordinary amounts.

So, if we can pull ourselves back to the issues, I will certainly continue to try to work with the two managers and those who want to get a thoughtful crime bill and then get something that will work that we can use in conference. I hope that we will do much better in conference than we did the last time where the House conferees simply rejected every single shred of the House bill. I have never seen that in all my activities in conference, and I have had some good ones, some rather rich ones, but never one like that, where there was simply an absolute rejection of what their own Members of their own majority party and many of the minority party had put together. We cannot afford that. We certainly want to get our vehicle prepared and over to them.

And I thank the managers.

Mr. THURMOND. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Madam President, how much time do we have?

The PRESIDING OFFICER. The Senator from South Carolina has 13 minutes and 28 seconds. The Senator from Delaware has 19 minutes and 45 seconds.

Mr. THURMOND. Madam President, I yield 7 minutes to the distinguished Senator from Utah, if he requires that much time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Thank you, Madam President, and I thank my colleague from South Carolina for his kindness.

Madam President, I rise in support of Senator THURMOND's amendment which reasonably modifies title IX of this bill, the "police officers' bill of rights of 1991." That title currently imposes very stringent and detailed Federal requirements on State and local law enforcement agencies when they seek to investigate incidents of alleged misconduct by police officers. The Thurmond amendment gives States the option to accept or not accept these requirements.

Again, Senator THURMOND does not believe in mandating these requirements on the backs of the States. We have too many mandates coming down from the Federal Government and that is really what is wrong. The States just simply cannot meet all these mandates. And so Senator THURMOND has a reasonable approach that says States will have the option to accept or not accept these requirements. But at least they will have the choice. We just cannot continually tell them what they can do.

No Senator has been more vocal than I in supporting law enforcement officers around this Nation and throughout every State in the Nation, particularly in efforts to allow them to do their jobs in the most effective and unencumbered way possible. Further, if law enforcement officers are questioned about their own alleged wrongdoing or that of their fellow officers, certain procedural protections may be appropriate.

But, many of our law enforcement officers are represented by strong and effective unions who, working with management, representatives and officials at the State and local level, are better positioned than we here at the Federal level to develop detailed procedures and protections for questioning employees during investigations.

Title IX, in its current form, is an extreme example of a congressional mandate that seeks to micromanage personnel policies and practices at the worksite. The eight pages of this title read like a local personnel manual or a collective bargaining agreement. They consist of detailed requirements regarding the time, place, content of, and participants in, any questioning, formal or informal, of any law enforcement officer. The questioning may be for "any reason under circumstances that could lead to disciplinary action," against the officer being questioned or a fellow officer. And the disciplinary action could be as minor as a 1-day suspension. Most significantly, a material violation of any of these requirements entitles the law enforcement officer whose conduct may clearly warrant disciplinary action up to and including discharge, to full reinstatement and damages in State court.

Madam President, I have often opposed efforts to unnecessarily tie the hands of our law enforcement officers when they are trying to do their jobs. I cannot at the same time support a new Federal mandate that ties the hands of our law enforcement agencies to investigate allegations of wrongdoing by fellow law enforcement officers and to take appropriate disciplinary action. If the procedures currently followed by certain State or local law enforcement agencies are believed to be inadequate, then changes should be proposed, discussed, and debated at that level. No case has been made that I am aware of for congressionally mandated personnel policies governing the questioning of local law enforcement employees.

I would, therefore, urge that Senator THURMOND's amendment, which leaves matters of this kind where they ought to be, at the State level, be adopted.

Finally, Madam President, I ask unanimous consent that a letter from the police commissioner of the city of New York, who is also president of the International Association of Chiefs of Police, be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE POLICE COMMISSIONER,
City of New York, June 21, 1991.

Hon. JOSEPH BIDEN,
Senate Judiciary Committee,
Washington, DC.

DEAR SENATOR BIDEN: I am writing to urge you, in the strongest possible terms, to delete the Police Officer's Bill of Rights, S. 1043, from the crime package which you have introduced.

I urge you to take this action on behalf of the New York City Police Department and on behalf of the International Association of Chiefs of Police, of which I am President.

Law enforcement, by its very nature, is a matter of local concern, not federal concern. The Police Officer's Bill of Rights would federalize local law enforcement and would upset carefully balanced interests that have served law enforcement and the community well.

For example, the Police Officer's Bill of Rights would introduce federal rights of "discovery" into disciplinary proceedings within all police departments. We have made significant progress over the years toward professionalizing the police forces of our communities, by holding police officers to a high level of accountability for their misconduct. We have done this in large measure by developing disciplinary proceedings that are fair and balanced. There is no need for a federally imposed right of discovery that would inevitably weaken the ability of police executives to discipline police officers for acts of serious misconduct.

As a second example, I would point to the serious potential of this federal legislation for altering carefully balanced collective bargaining agreements between police agencies and police unions. The Police Officer's Bill of Rights would unilaterally alter existing collective bargaining agreements on such sensitive matters as investigative procedures regarding allegations of misconduct, the responsibility of the chief of police to discipline members of his force, and the composition and function of diciplinary panels.

As a third example, I would cite the Bill's provisions regarding civil liability. At a time when state and local governments are reeling under fiscal constraints, it seems unwise to created federal rights of police officers to recover pecuniary and other damages against law enforcement agencies. Similarly, it seems totally inappropriate for the Congress to create federal rights of reinstatement for police officers, thereby overriding state laws on these matters.

As the chief executive of one of the largest police agencies in the country, I believe strongly that the right to exercise discipline over law enforcement officers, who are authorized to use deadly force and who on occasion abuse that privilege by engaging in various forms of misconduct, must remain with the chief executive of that department. Federally created rights of police officers would seriously impinge upon that necessary civilian control over the police.

As a public official, I am also very troubled that the Senate of the United States is on the verge of enacting such far reaching legislation without a public hearing, without consideration of the views of law enforcement executives, without listening to the opinions of state and local officials and legislators who have been carefully crafting the labor-management agreements and the disciplinary procedures that would now be abrogated by this federal legislation.

In closing, I strongly urge you to delete the Police Officer's Bill of Rights from the crime package. This bill is unwise and untimely, particularly in light of the notorious police beatings we recently witnessed in Los Angeles. The Senate would be seriously abrogating its responsibilities to the law enforcement community and the citizenry in general if it were to enact this bill without giving it the full public consideration that such sweeping legislation would properly deserve.

Sincerely,

LEE P. BROWN,
Police Commissioner.

Mr. HATCH. That letter urges that this title be struck from the bill. Commissioner Brown's letter makes many good arguments against the provision, not the least of which is the effect that the damages that may be awarded under this title may have on State governments currently reeling under fiscal constraints.

Madam President, I have found that the more we tell State and local law enforcement officials what they can and cannot do, the more crime we have, the more difficult it is in enforcing the law, the more difficult it is in enforcing the disciplinary proceedings among police officers, and the more difficult it is to have the States run an efficient police force the way it should be run both on the State and local level. This particular provision in the bill deserves to be stricken.

The distinguished Senator from South Carolina has come up with, I think, a reasonable approach. I think it pays for us to follow that approach and give the States the option. If they want to conform to these types of provisions, let them choose to do so. If they do not want to, why impose something upon them that they really do not need, that is not going to help them be any more efficient, that is not going to help in the fight against crime, and that in the end is going to cost the taxpayers a lot more money, especially given that States are strapped for cash now.

It is nice to come up with ideas like this, but who is going to pay for them? The Federal Government is not going to wind up paying for them. In the end, it is going to be the States and the local governments, and they cannot afford it any more, especially when you have procedural nonsubstantive requirements that basically just run up even more costs without really benefiting anybody. This particular provision I think fits that category. I hope that everybody in the U.S. Senate will consider voting against it and supporting Senator THURMOND's amendment, which I think is a reasonable modification of title IX of this bill.

Madam President, I have to say in conclusion that the distinguished Senator from South Carolina really feels deeply about these matters, and so do I. He has done a terrific job on this Judiciary Committee. I want to compliment the distinguished Senator from Delaware, too. They have both put yeomen's hours in before, during, and after, and now on the floor on this bill. Both of them deserve a lot of support.

I have to admit that I want to support the distinguished chairman of this committee as I want to support the ranking minority member. In this particular instance, I really believe that we should quit this process of mandating extra requirements, extra costs on the backs of the States, and then changing the approaches that they have so we dictate personnel policy. What in the world is the Congress of the United States—and especially the august U.S. Senate—doing dictating personnel policies for police departments around this country?

The thoughts, I think, are well intentioned. I think they are wrong, though well intentioned.

Madam President, I yield the floor.

The PRESIDING OFFICER (Mr. KOHL). The time of the Senator has expired. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, the distinguished chairman of the committee, Senator BIDEN, has just stated that this would have no effect on the Rodney King type of case, if we recall the Rodney King case, in Los Angeles, CA.

Under this provision, if Chief Gates, the chief of police out in Los Angeles, wanted to reprimand or take any disciplinary action against one of the officers who stood by and watched Mr. King being beaten, their rights under the provision would apply.

Furthermore, I want to know why we should mandate to the States these rights. My amendment does not attack the goals of Senator BIDEN's bill; it simply makes the decision discretionary upon the States. Senator BIDEN's bill second guesses every State decision on this issue.

When the States are financially strapped, should we force the States to adopt these standards? I say, no. Should we open up collective-bargaining agreements, as the Biden measure would do? I say, no. My amendment keeps the spirit of the Biden measure without forcing the States to adopt it. It simply makes it discretionary if they want to do it.

Senator BIDEN has stated his measure does not preempt State law. This is not accurate. It does do so. It preempts all State laws and collective bargaining agreements which do not fully comply with his measure. Of course, those which provide greater rights are not preempted.

I repeat that the International Association of Chiefs of Police, and that means the chiefs of police throughout this Nation, all the States in this Nation, are against this bill. I repeat, the Sheriffs Association of the United States, its members, are against this bill.

Why should we tell the States what to do in handling the personnel policies in law enforcement against the wishes of that State? Why should we interfere with the sheriffs in performing their duties? If they do not perform their duties right, there is a county council any policeman can appeal to. There is a city council any policeman can appeal to if a chief does something that is wrong.

Why should the Federal Government, the great powerful Federal Government here in Washington, dip down and try to tell the cities and the counties and the States what to do? I say it is wrong. It is a violation of federalism. It is a violation, I think, of the Constitution. And I do not think we ought to do it.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, as you might expect, I take issue with the characterization of my legislation. But with regard to mandates in this bill, we have heard that phrase a number of times today. There are several mandates that have been added to this bill by our Republican colleagues; for example, the McConnell amendment.

I do not know how the senior Senator from South Carolina voted on that, but the McConnell amendment requires States to set up computerized recordkeeping for child abusers. It requires them to do that; mandates that they do that. It violates their States' rights. It interferes in the conduct of their State laws. But what is right is right, and it makes sense to do that.

The Durenberger amendment requires States to track child abusers released from prison for 10 years. It requires them. It tells every State you must—you must—track. We, the Federal Government, tell you you must track any State prisoner who, in fact, was released from prison after serving his or her term, or however they were released, for 10 years after they have been released.

The D'Amato amendment effectively allows the Federal prosecutors to preempt State prosecutors where there is a murder committed with a firearm. Because there are two D'Amato amendments, I would appreciate the indulgence of my colleagues for just a moment. One allowed the Federal prosecutors to step in where there was a firearm used, or a drug-related crime and a violent offense, and prosecute in Federal court. There was another D'Amato amendment—and I cannot recall whether it was agreed to, we have so many death amendments—that called for the Federal prosecutors, the Federal courts, to be able to have tried in Federal court anyone who committed a murder with the use of a firearm even in States where there is no death penalty in those States. We did not have any reluctance on that one to talk about overriding the States.

What we do here with regard to policemen's rights, there are 400,000 police officers out there who think this is a pretty important piece of legislation. There are 400,000 police officers out there who think what is right is right; that nobody should be able to, in a capricious manner, without good cause, take disciplinary action against a police officer on a police force unless the charges have been read to him and put in writing, and unless he has the opportunity to have somebody with him representing him when these charges are made and the action is taken.

That is not a particularly preposterous notion. It does not require such charges to be put forward if it is not a significant matter. If you are not showing up, if you are not punching the clock on time, and you get fired, you do not have to have the charges in writing. You do not have to have, as it relates to your job performance, a lawyer sitting there with you before they can do anything. If you are a suspect in a criminal investigation, this does not apply to you.

This is trying to get at the whim and caprice that a number of officers, of the 400,000 police officers who are for this, say they are subjected to. What is right is right. It is right that States should track child abusers after they have been let out of prison. It is right that we should have a requirement that States update and computerize their recordkeeping on child abusers. And it is right that police officers who are subject to the whim and caprice—not job related; not job performance activities; not criminal activities—have the right to have those charges written so they know why they are being fired, and have a chance to be represented and make their case.

That is what this does. I think it is right. I think it makes sense, and I am prepared to vote if my colleague is.

I will withhold the remainder of my time, unless my colleague is willing to yield back his time, as well, and we vote.

Mr. THURMOND. Mr. President, I want to say in closing there is a great distinction between the Federal Government and the States working together to apprehend and detect crime, and the Federal Government going down and mandating procedures on purely administrative matters. If they can do it in this case, if they can tell the sheriffs and chiefs of police of this Nation how they can discipline their people, they can also go down and tell the superintendents of the schools how they can discipline their schoolteachers.

Are we going to establish a precedent such as that? We better keep the Federal Government out of these things and let the States run their own policies. I think the superintendents of schools and the sheriffs and law-enforcement chiefs of police are just as capable of handling their matters as we can dictate from Washington. They have plenty of sense; they have plenty of experience. They know what works down there. Why should we, sitting here in Washington, in this Capitol, tell them how to run their business? That is not federalism. After all, the Federal Government has certain powers; the States have all powers under the Constitution not specifically delegated to the Federal Government. These powers are with the States and ought to stay with the States.

Mr. President, I am willing to yield back my time if the Senator is.

Mr. BIDEN. I yield back the remainder of my time as well and ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I am pleased that the Senator from Delaware has included a version of the police officers' bill of rights in this crime bill. It is remarkably similar to my bill which I introduced last year, and again this year. In fact, 75 percent of the Biden text is identical to mine.

However, his bill mistakenly goes further than my bill in the 25 percent which the Senator changed. It creates a new cause of action for recovery of punitive and other damages if the rights set forth in the bill are violated. This just goes too far. States and cities will undoubtedly face frivolous and costly lawsuits as a result of the Biden language.

The Thurmond amendment takes out this bad section. Therefore, I will support the Thurmond amendment. Although the Thurmond amendment makes the bill of rights discretionary, it nevertheless sets forth a good blueprint for the States.

Mr. President, I introduced S. 322 this year because law enforcement officers across America face great challenges every day as they fight the war against crime and drugs. They are on the front line and their lives are in constant jeopardy. All of us owe them our gratitude and our respect.

Congress can emphasize that respect by making certain that the rights of law enforcement officers are protected when the going gets rough. My bill would guarantee that police officers will be treated fairly during any inquiry.

Mr. President, too often law enforcement officers lose their jobs for frivolous reasons—or for no reason at all. For example, the officer may have a difference of opinion with a superior.

Let me make it clear—my bill (S. 322) does not preempt existing State laws that meet the minimum requirements of the bill.

Mr. President, S. 322 differs from the Biden bill in several respects. My bill does not include a section authorizing law enforcement officers to engage in political activity. Second, S. 322 does not include a section on the disclosure of finances. I feel that each State should be allowed to decide how to deal with that particular issue.

Finally, as I stated earlier, the Biden bill creates a new cause of action. For these reasons, I support the Thurmond amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment, No. 486, offered by the Senator from South Carolina [Mr. THURMOND]. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR], is absent because of illness.

Mr. SIMPSON. I announced that the Senator from Vermont [Mr. JEFFORDS], is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 43, nays 55, as follows:

Rollcall Vote No. 118 Leg.

YEAS—43

Bond
Brown
Burns
Chafee
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
Dole
Domenici
Durenberger
Garn
Gorton
Gramm
Grassley
Hatch
Hatfield
Helms
Hollings
Kassebaum
Kasten
Leahy
Lott
Lugar
Mack
McCain
Murkowski
Nickles
Packwood
Pressler
Roth
Rudman
Seymour
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner

NAYS—55

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bryan
Bumpers
Burdick
Byrd
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Heflin
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Levin
Lieberman
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Wellstone
Wirth
Wofford

NOT VOTING—2

Jeffords
Pryor

So the amendment (No. 486) was rejected.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT

Mr. BIDEN. Mr. President, I now would like to propound a unanimous-consent request that has been agreed to on both sides relating to the amendments and the long list of amendments that have been cleared by the managers on both sides.

That is what I am about to do, to let Senators know what to do. So there is nothing of great moment consequence. We are not about to undo anything that has been done in the bill.

Mr. President, I ask unanimous consent that the following amendments be the next amendments in order to the bill, that no amendment to the amendments or to any text be proposed to be stricken or motions to recommit be in order during the pendency of these amendments: The Hatch amendment; the Deparment of Justice employee attorneys' fees; then the Pell-Thurmond amendment on deportation of aliens convicted of felony drunk driving; the Wofford amendment on environmental audits; the McConnell amendment on technical amendments to child registration; and the Metzenbaum amendment on prison selection. I ask unanimous consent that all of these amendments be accepted.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. THURMOND. We have no objection, Mr. President.

Mr. BIDEN. Mr. President, I move they be agreed to en bloc.

Mr. FOWLER. Mr. President, reserving the right to object. I shall not object. But I want to make clear to the chairman, if I heard him correctly over the little bit of confusion, the understanding of the Senator from Georgia is that the unanimous-consent request only lists these amendments for consideration in the order that the chairman reported, and that this is not an exclusive list of amendments.

Mr. BIDEN. Responding to the Senator's question, Mr. President, that is correct. What I am attempting to do, and what the Senator from South Carolina and I are attempting to do—there are somewhere between 70 and 100 amendments.

There are somewhere between 70 and 100 amendments. We are attempting to, as we move along, determine whatever amendments we can get agreed to or get an agreement to have a vote on—and we have not been all that successful in being able to order votes here—and that we enter them as separate unanimous-consent requests, and just keep whittling this list down.

Nothing that the Senator from Delaware has requested in this unanimous-consent agreement prejudices anybody's right on any other amendments or any aspect of the bill, other than that we would consider and pass, en bloc, the Hatch, Pell, Wofford, McConnell and Metzenbaum amendments, all of which have been agreed to by the managers of both sides and cleared on both sides. That is all it would do.

Mr. FOWLER. I thank the Senator and withdraw my objection.

Mr. BIDEN. Mr. President, I further ask unanimous consent that after we adopt these amendments en bloc, each of the Senators who have amendments can come and speak at whatever time is convenient for them to each of these amendments, or that their statements will be able to be entered into the RECORD prior to the adoption of these amendments.

Mr. President, I amend my unanimous-consent request—since in fact all five of these amendments are not in hand at the moment to send to the desk, I renew the request in the following way: That all of the amendments that I have mentioned—Hatch, Pell, Wofford, McConnell and Metzenbaum amendments—be considered in the order in which they are read and that no amendments to these amendments or any text proposed to be stricken or motions to recommit be in order during the pendency of these amendments.

Quite frankly, in a matter of moments, we will have them to send to the desk.

Mr. STEVENS. Is there a time agreement on each of the amendments?

Mr. BIDEN. Mr. President, I request there be no more than a minute on each amendment.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, we have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NOS. 562, 563, 564, 565, 566, AND 567

Mr. BIDEN. Mr. President, I send six amendments to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. The amendments will be considered en bloc. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 562, as follows:

AMENDMENT NO. 562

(Purpose: To provide an award of attorney's fees for employees of the Department of Justice)

At the appropriate place, insert the following:

In 28 U.S.C. 519, designate the current matter as subsection (a) and add the following:

(b) AWARD OF FEES.—

d(1) CURRENT EMPLOYEES.—Upon the application of any current employee of the Department of Justice who was the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for reasonable attorney's fees incurred by the employee as a result of such investigation.

(2) FORMER EMPLOYEES.—Upon the application of any former employee of the Department of Justice who was the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for those reasonable attorney's fees incurred by that former employee as result of such investigation.

(3) EVALUATION OF AWARD.—The Attorney General may make an inquiry into the reasonableness of the sum requested. In making such inquiry the Attorney General shall consider:

(A) the sufficiency of the documentation accompanying the request;

(B) the need or justification for the underlying item;

(C) the reasonableness of the sum requested in light of the nature of the investigation; and

(D) current rates for legal services in the community in which the investigation took place.

Mr. HATCH. Mr. President, under the current regulations and policy, the Department of Justice does not provide adequate—or even any—reimbursement for private attorney's fees incurred by working level Justice Department personnel in proceedings arising out of the conduct of their official duties. Justice Department attorneys, however, are increasingly subject to private and public misconduct proceedings. For example, according to the 1988 Annual Report to the Attorney General of the Office of Professional Responsibility [OPR], OPR received 424 complaints in calendar year 1988 involving allegations of misconduct against Department employees. Forty-two percent of the complaints involved Department attorneys. Significantly, OPR reported, a notable increase over the previous year in the number of complaints alleging abuse of prosecutorial or investigative authority * * * from 12 percent to 15 percent of the total number of complaints received. [1988 Report at 5.] OPR also reported that less than 10 percent of the cases closed during 1988 were substantiated. [*Id.*]

Justice Department regulations and policies unwisely restrict the Department's ability to assist working level employees to defend against the increasing incidence of apparently groundless complaints. Working level Department officials cannot obtain reimbursement for private attorney's fees incurred defending against a Federal criminal investigation or an internal administrative investigation. Although reimbursement is within the Department's discretion for civil, State, criminal, and congressional proceedings, the amounts provided can be grossly inadequate. In contrast, high level Government officials can obtain full reimbursement for private legal fees incurred in criminal investigations, which frequently total in excess of six figures.

CURRENT REGULATIONS AND POLICY

INVESTIGATION AND COMPLAINTS

Justice Department employees are subject to external and internal proceedings and investigations on the conduct of their official duties. In particular, civil and criminal proceedings alleging abuse of prosecutorial discretion, misconduct, and subordination of perjury appear to be increasing. These proceedings can serve, and are apparently sometimes intended, to intimidate prosecutors. Moreover, the increasing frequency with which Department lawyers feel required to challenge aspects of defense lawyers' relationships with their clients, particularly fee arrangements, has seemingly made defense lawyers more willing to charge prosecutors with breaches of professional standards. Because the Justice Department has ultimate responsibility for enforcing U.S. law, the Department must investigate any allegations zealously to ensure that the integrity of its personnel and procedures is beyond reproach.

As a result, the Justice Department has elaborate procedures for the review and referral of claims brought against its employees. The Attorney General has a separate office devoted to the review of such claims, OPR, and recently the post of Inspector General was created in the Justice Department to investigate misconduct. OPR's responsibilities for reviewing claims against Department officials are set forth in 28 CFR 0.39a which mandates a review of, any information or allegation concerning conduct by a Department employee that may be in violation of law, regulations or order, or of applicable standards of conduct, or that may constitute mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health or safety.

OPR's review also must include any "preliminary inquiry" necessary to determine whether the matter should be referred to other branches of the Justice Department. [28 CFR 0.39c.] The complaints OPR typically investigates include bribery, obstruction of justice, abuse of discretion, unprofessional behavior and unauthorized release of information. OPR must refer any matter which "appears to warrant examination" to various divisions of the Department for prosecution. [28 CFR 0.39d.] In short, the OPR must review thoroughly any allegation brought to its attention.

REPRESENTATION OF DEPARTMENT EMPLOYEES SUBJECT TO COMPLAINT

LAW, REGULATIONS AND POLICIES

With respect to the burden and costs of defending against such proceedings, the Justice Department has broad discretion, to attend to the interest of the United States in a suit pending in a court of the United States, or in a court of a State, or to attend any other interest of the United States." [28 U.S.C. 517.] Under Department of Justice regulations, Justice may provide representation to "a Federal employee," including former ones, who requires representation in civil or congressional proceedings and State criminal proceedings when the actions for which representation is required appear to have been performed within the scope of the employee's employment and representation "would otherwise be in the interest of the United States." [28 CFR 50.15(a).] Where defense of an attorney would raise "conflicts with the interests of the United States," the government provides private counsel "in appropriate cases." [28 CFR 50.15 (10)(iii).] The appointment of private counsel is "subject to the availability of funds." [28 CFR 50.16a.]

There are two significant exceptions to this policy: Federal criminal investigations of working level employees and internal disciplinary proceedings. In the case of a Federal criminal investigation, the Justice Department may not provide representation in such proceedings or a related civil, congressional or State criminal proceeding. "The litigation division, however in its discretion, may provide a private attorney to the employee at Federal expense * * *" but only for the related proceedings. [28 CFR 50.15 (4)(6).] Moreover, the Comptroller General has held that when a department investigates itself, it may neither represent nor reimburse private attorney's fees because it is against the interest of the United States to defend its own employee. The Governments' interest lies in the investigation, not the defense, according to the Comptroller General. [See 58 Comp. Gen. 613 (1979).]

This policy was discussed comprehensively in a June 18, 1980, opinion given by the Office of Legal Counsel of the Department of Justice to the National Highway Traffic Safety Administration ("1980 Opinion"). According to the Justice Department opinion, representing an employee, or providing private counsel to an employee when a conflict of interest makes it impossible for the Department to represent him, can serve two legitimate functions. It can establish the lawfulness of authorized conduct and prevent employees from being deterred from the "vigorous performance of their tasks by the threat of litigation."

The opinion clearly states, however, that the authority to provide counsel does not extend to situations in which the employee is under internal investigation. In these situations, the Justice Department takes the position that the purpose of the investigation is to determine what the interests of the United States require—prosecution, exoneration, or something in-between—and therefore "the Department cannot provided a defense of personal interests in the investigation." [1980 Opinion, P.2.]

Discussion of instances in which exonerated Justice Department employees have been forced to bear significant legal fees in defending their official conduct is predictably rare. Investigations by OPR, the Public Integrity Section of the Justice Department or a Federal grand jury are all ordinarily confidential and most persons, even after exoneration, are understandably reluctant to publicize these events in order to complain about the inadequacy of Department reimbursement policies. But that goes to change the underlying unfairness of the current situation.

REIMBURSEMENT OF ATTORNEY'S FEES FOR HIGH RANKING OFFICIALS

In contrast to the situation described above, the Independent Counsel Reauthorization Act provides for full reimbursement of counsel's fees incurred by high level Federal officials subject to investigation for possible violations of Federal criminal law. 28 U.S.C. 593 (f) states:

> Upon the request of an individual who is the subject of an investigation conducted by an independent counsel pursuant to this chapter, the division of the court may, if no indictment is brought against such individual pursuant to that investigation, award reimbursement for those reasonable attorneys' fee incurred by that individual during that investigation which would not have been incurred but for the requirements of this chapter. The division of the court shall notify the Attorney General of any request for Attorneys' fees under this subsection.
>
> (2) EVALUATION OF FEES
>
> The division of the court may direct the Attorney General to file a written evaluation of any request for attorneys' fees under this subsection, analyzing for each expense—
>
> (A) the sufficiency of the documentation;
>
> (B) the need of a justification for the underlying item; and
>
> (C) the reasonableness of the amount of money requested.

The justification for reimbursement offered in the 1982 Ethics in Government Act in which the fee provision was originally enacted was that the costs of defense for a public figure were "staggering" and involved potentially "devastating publicity." [S. Rept. No. 97-496, 1982 U.S. Code Cong, & Admin. News 3537, 3554-55.] The Senate report notes, for example, that Hamilton Jordan's legal fees for defending himself against drug use charges exceed six figures. Id. Yet the terms "staggering" and "devastating" are equally descriptive of the economic and emotional impact of a charge of prosecutorial misconduct against an assistant U.S. attorney who is typically young, inexperienced, earns a starting salary of between $30,000-40,000 a year and is usually a relatively recent law school graduate.

Providing legal fees to high-ranking government officials subject to investigation for violation of criminal law but not to working level employees such as assistant U.S. attorneys is unfair. High ranking officials obviously receive larger government salaries than their working level colleagues and not infrequently leave Government employment for highly lucrative private sector positions. They can thus afford to pay the costs of defense more easily than a government lawyer only a few years out of law school. Moreover, they are less vulnerable to the chilling effect misconduct or criminal investigations can have on employees on the front line of prosecution. Pursuing the Department's law enforcement mission in a vigorous fashion will inevitably expose Department employees to a combative atmosphere where disagreements about proper conduct seem likely and complaints about the conduct of Department employees are largely inevitable.

PRIVATE ATTORNEY'S FEES INCURRED BY WORKING LEVEL JUSTICE DEPARTMENT PERSONNEL SHOULD BE ELIGIBLE FOR FULL REIMBURSEMENT

FULL REIMBURSEMENT ELIMINATES CONFLICT OF INTEREST

The reimbursement provisions of the Independent Counsel Act demonstrate that the public interest in assisting government officials with the staggering cost and devastating impact of investigation can outweigh any real or perceived conflict of interest. As noted above, Justice will not provide reimbursement of counsel fees in Federal criminal proceedings or internal investigations on the grounds that conflict is irreconcilable, since the Federal Government is investigating to determine where the public interest lies and cannot logically provide or fund a defense to such investigation.

The Independent Counsel Act, however, correctly provides reimbursement for attorney's fees if the person under investigation is vindicated. By limiting Government assistance only to such circumstances, the public interest in clearly served. Any conflict attributable to the "Government arguing with the Government" is rendered void. By providing reimbursement only for a successful defense, any incentive to defending private counsel to go easy with the Government because it will reimburse his or her fees is removed. Also, by providing the means for an adequate defense for its employees, the U.S. Government ensures that frivolous or vindictive investigations are terminated quickly. At the same time, there is no incentive under such an arrangement for the Government to prosecute less zealously; indeed, a successful prosecution saves costs since there then would be no obligation to pay legal fees.

If no reimbursement is available, however, the possibility of serious conflicts is great. If an assistant U.S. attorney must retain private defense counsel, it is likely that the defense counsel would have to provide the U.S. attorney with a fee discount, or pro bono representation as described above. This concession arguably creates an incentive, real or apparent, to give the defense lawyer better treatment in future proceedings, even if the individual employee does not deal with his or her lawyer again since a sense of institutional gratitude is natural toward an attorney who assists a beleaguered colleague. Similarly, if an assistant U.S.

attorney goes into debt to pay defense costs, this obligation creates an obvious source for future conflicts.

REIMBURSEMENT SHOULD BE LIMITED TO DOJ EMPLOYEES

Provision for reimbursement of private attorney's fees limited to Justice Department employees can be fully justified. Justice employees, because of their duties, are far more often subject to allegations of misconduct, usually by defendants and less often by courts. In either event, the reality is that DOJ employees—both lawyers and agents—are in a position of constant adversity. Allegations brought against them often must be pursued by the Department to maintain the appearance and reality of evenhandedness. In order to prevent this occasional need for self-defense from becoming a disincentive to government service, or to force assistant U.S. attorneys to roam the defense bar looking for handouts in the form of free legal service—a disagreeable situation to say the least—some legislative relief is appropriate. My amendment provides such relief.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. PELL] proposes an amendment numbered 563, as follows:

AMENDMENT NO. 563

(Purpose: To amend the Immigration and Nationality Act to provide for the deportation of aliens who are convicted of felony drunk driving)

At the appropriate place in the bill, add the following:

That (a) section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1251(a)) is amended—

(1) by striking out "or" at the end of paragraph (20);

(2) by striking out the period at the end of paragraph (21) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(22) is convicted of operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance arising in connection with a fatal traffic accident or traffic accident resulting in serious bodily injury to an innocent party.".

Mr. PELL. Mr. President, I am pleased to offer this amendment along with my colleague Senator THURMOND. Under this amendment, the Immigration and Naturalization Service would be given the authority to deport non-U.S. citizens convicted of felony drunk driving.

Specifically, this amendment applies to aliens convicted of causing serious bodily injury or death while operating a motor vehicle under the influence of alcohol or drugs.

The need for this amendment was brought to my attention by Mothers Against Drunk Driving. MADD told me about a case in Florida where a resident alien was convicted of drunk driving after causing a crash in which an innocent 73-year-old woman received a crushed pelvis, a punctured lung, broken ribs and serious stomach wounds. This was the third drunk driving conviction for this alien and yet he was allowed to remain in this country.

This is not right and the law should be corrected. If an alien is convicted of murder, rape, assault, robbery, or drug possession, that alien is eligible for deportation. But if an alien is convicted of felony drunk driving after causing serious harm or even death, no deportation can occur.

This amendment would add felony drunk driving to the list of crimes that may warrant deportation. The amendment does not mandate automatic deportation, it simply includes felony drunk driving as one of several serious crimes that may make an alien eligible for deportation.

Mothers Against Drunk Driving has done an excellent job over the last 10 years in fighting drunk driving and this amendment has their full support. This amendment also has the support of my distinguished colleague from South Carolina, Senator THURMOND and the chairman of the Judiciary Committee, Senator BIDEN.

Mr. President, I hope that this amendment can be accepted by the managers of the bill and I appreciate their courtesy.

Mr. THURMOND. Mr. President, I rise today in strong support of the amendment to the crime bill offered by Senator PELL. This proposal will amend the Immigration and Nationality Act to provide for the deportation of aliens who are convicted of drunk driving while under the influence of alcohol or illegal drugs, and cause a death or serious bodily injury to an innocent party. This amendment is virtually identical to S. 1210, a bill introduced by Senator PELL earlier this year.

Mr. President, we are all aware of the horrors that result from drunk driving. It is imperative that the Congress act to stop people from getting behind the wheel of an automobile when they are under the influence of alcohol or drugs.

Presently, Federal law compels the deportation of an alien who has been convicted of committing certain criminal offenses. For example, if an alien is convicted of a crime involving "moral turpitude" which, under case law includes such crimes as murder, rape, robbery, and assault, then that alien can be deported. However, if an alien drives while under the influence of alcohol or drugs, and he or she kills or seriously injures an innocent victim, the alien cannot be deported.

Mr. President, this bill does not change the procedures for deportation. This bill simply adds another class to the current list of deportable aliens. The Mothers Against Drunk Driving strongly advocate the necessity of this amendment to reflect society's intolerance for drunk driving and its consequences.

Mr. President, I believe that this amendment will serve the important purpose of deporting those who kill or injure an innocent victim when he or she chooses to drive while under the influence of alcohol or drugs. I urge my colleagues to accept this important amendment.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. WOFFORD] proposes an amendment numbered 564, as follows:

AMENDMENT NO. 564

(Purpose: To amend title 18, United States Code, with respect to environmental compliance)

At the end of the bill, add the following:

TITLE —ENVIRONMENTAL COMPLIANCE

SEC. 01. ENVIRONMENTAL COMPLIANCE.

(a) IN GENERAL.—Title 18 of the United States Code is amended by inserting after chapter 33 the following new chapter:

"CHAPTER 34—ENVIRONMENTAL COMPLIANCE

"731. Environmental compliance audit.
"732. Definition.

"§ 731. Environmental compliance audit

"(a) IN GENERAL.—A court of the United States—

"(1) shall, when sentencing an organization for an environmental offense that is a felony; and

"(2) may, when sentencing an organization for a misdemeanor environmental offense,

require that the organization pay for an environmental compliance audit.

"(b) APPOINTMENT OF INDEPENDENT EXPERT.—The court shall appoint an independent expert—

"(1) with no prior involvement in the management of the organization sentenced to conduct an environmental compliance audit under this section; and

"(2) who has demonstrated abilities to properly conduct such audits.

"(c) CONTENTS OF COMPLIANCE AUDIT.—(1) An environmental compliance audit shall—

"(A) identify all causes of and factors relating to the offense; and

"(B) recommend specific measures that should be taken to prevent a recurrence of those causes and factors and avoid potential environmental offenses.

"(2) An environmental compliance audit shall not recommend measures under paragraph (1)(B) that would require the violation of an environmental statute, regulation, or permit.

"(d) COURT-ORDERED IMPLEMENTATION OF COMPLIANCE AUDIT.—The court shall order the defendant to implement the appropriate recommendations of the environmental compliance audit.

"(e) ADDITIONAL STANDING TO RAISE FAILURE TO IMPLEMENT COMPLIANCE AUDIT.—(1) The prosecutor, auditor, any governmental agency, or any private individual may present evidence to the court that a defendant has failed to comply with the court order under subsection (d).

"(2) When evidence of failure to comply with the court order under subsection (d) is presented pursuant to paragraph (1), the court shall consider all relevant evidence and, if the court determines that the defendant has not fully complied with the court order, order appropriate sanctions.

"§ 732. Definition

"For the purposes of this chapter, the term 'environmental offense' means a criminal violation of—

"(1) the Clean Air Act (42 U.S.C. 7401 et seq.);

"(2) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (commonly known as the Clean Water Act);

"(3) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

"(4) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(5) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.);

"(6) the Solid Waste Disposal Act (42 U.S.C. 5901 et seq.);

"(7) title XIV of the Public Health Service Act (42 U.S.C. 300f et seq.) (commonly known as the Safe Drinking Water Act); and

"(8) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

(b) Technical Amendment.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 33 the following new item:

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I rise to express my support for the amendment just read which was offered by the junior Senator from Pennsylvania [Mr. Wofford].

Senator Wofford's amendment assures that those committing felonies under our major Federal environmental laws are required to conduct environmental compliance audits. These audits, which judges must require for felonies and may require for misdemeanors, are to identify the problems related to the crime and to identify ways to prevent similar crimes from occurring.

The amendment provides courts with this additional appropriate tool for addressing preventable environmental problems.

I am pleased that, so soon after joining the Senate, the Senator from Pennsylvania has addressed this problem of violations of environmental laws. This nonpreemptive provision should help us prevent further risk in the future to public health and to the environment from exposure to pollution. Prevention is our least expensive option, as experience has repeatedly demonstrated. Such compliance orders should help us prevent environmental crimes from occurring. I applaud the Senator for his worthwhile amendment.

Mr. BIDEN. Mr. President, I would like to commend my colleague from Pennsylvania for proposing this amendment. It will provide judges in environmental cases an important new tool to gain real improvements in the operations of troubled factories.

The amendment allows judges to require a company, after it has been convicted of a felony violation of a Federal environmental statute, to conduct an environmental audit of its operations. I would note that the standard for a felony conviction under these statutes is quite high, so it is not a requirement that will be mandated for simple errors or operational glitches in a factory.

The audit will be valuable in making companies that, by their conviction in a court of law, have shown that they are not taking seriously the importance of controlling pollution from their operations. The audit requirement will prevent those companies from simply dismissing the cost of the fine as a cost of doing business.

The audit requirement will allow the courts to more directly focus management's attention on the portions of the factory's operations causing the problems, be they personnel or machinery.

I would like to address one assumption that may be made about the audit requirement—that it will necessitate investment in expensive pollution control equipment that some companies cannot afford. This will not be the case. The wording of the amendment allows an emphasis of any audit to be placed on pollution prevention measures, or those that reduce or eliminate the generation of hazardous wastes in the first place, not after it is produced.

If the pollution prevention option is aggressively pursued when audits are required, the public will be better served because they will face a much reduced risk from the factory. And the company owners may even be surprised to see better performance and a stronger bottom line. Too many plant managers view pollution control as an expense, but extensive experience with pollution prevention shows it will often save companies money.

The value of an audit has been demonstrated thousands of times over in a slightly different requirement. Section 313 of Superfund requires factories to report their emission levels. The so-called "community right to know" reporting requirements were strenuously opposed by industry when proposed.

But once they started, the reports opened the eyes of factory managers across the Nation to the amount of pollution that flows from their works. The result has been embarrassment at first, but then, in many cases, a determination to reduce those numbers. That is good for the companies and better for the environment and nearby communities.

That is the type of change that I believe the Senator from Pennsylvania's amendment will bring about. It will force an open assessment of a company's environmental operations, and I am convinced it will prove to be a most valuable change. I commend him for his effort in bringing this before the Senate.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. McConnell] proposes an amendment numbered 565, as follows:

Amendment No. 565

(Purpose: To make technical corrections and modifications to the amendment)

On page 3 of the amendment, line 1, after the semicolon insert "and".

On page 3 of the amendment, line 5, strike "; and" and insert a period.

On page 3 of the amendment, strike lines 6 through 8.

On page 5 of the amendment, strike lines 3 through 5 and insert the following:

(a) In General.—A State which reports the convictions of named individuals to the Federal Bureau of Investigation shall include all convictions for child abuse as defined by this title.

On page 5 of the amendment, line 6, strike "(1)".

On page 5 of the amendment, strike lines 10 through 23.

On page 5 of the amendment, strike beginning with line 24 through line 6 on page 6 and insert the following:

SEC. 06. COMPLIANCE AND FUNDING.

(a) State Compliance.—Each State shall have 3 years from the date of enactment of this title in which to implement the provisions of section 05.

(b) Ineligibility for Funds.—The allocation of funds under section 506 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) received by a State not complying with the provisions of subsection (a) 3 years after the date of enactment of this title shall be reduced by 25 percent and the unallocated funds shall be reallocated to the States in compliance with subsection (a).

Mr. KOHL. Mr. President, I would like to thank and commend my distinguished colleague from Kentucky for the changes he made in his "child abuser registration amendment." His substitute language clarifies the role of the law enforcement agencies in supplying information on criminal convictions for child abuse. Child welfare agencies can not be held responsible for routinely tracking law enforcement information nor should Federal child abuse funds be leveraged to force them to do so. Again, I thank Senator McConnell for his attention to my concerns here and his willingness to clarify his amendment accordingly.

The legislative clerk read as follows:

The Senator from Ohio [Mr. Metzenbaum] proposes an amendment numbered 566, as follows:

Amendment No. 566

(Purpose: To assure that social and economic status shall not be a factor in determining a prisoner's place of imprisonment)

At the appropriate place in the bill, insert the following:

Paragraph (b) of section 3621 of title 18, United States Code, is amended by inserting after subsection (5) the following:

"However, the Bureau may not consider the social or economic status of the prisoner in designating the place of the prisoner's imprisonment."

Mr. METZENBAUM. Mr. President, I rise merely to comment on my amendment, because I want to be certain that the Bureau of Prisons understands the significance of the amendment. Under the law today, the Bureau of Prisons has the obligation to designate the place of the prisoners imprisonment, and in deciding where that place should be, they are required to take into consideration the resources of the facility, the nature and circumstances of the offense, history and characteristics of the prisoners, and other things.

The amendment that has just been adopted provides as follows: "However, the bureau may not consider the social or economic status of the prisoner in designating the place of the prisoner's imprisonment."

Simply stated, what that amendment says is that the Bureau of Prisons shall not take a look and see that white collar criminals are given special consideration as to the kinds of prisons to which they are assigned. So often I have read in the papers and seen on TV the beautiful prisons that some criminals—white collar criminals—go to, wealthy criminals. Poor criminals do not go to them. In some prisons there are tennis facilities, baseball facilities, and it is like a second home. That is fine. I have no problem with having that kind of prison. But I do not believe that because of the social or economic situation of the prisoner, just because he or she was an executive of some large corporation, or had been involved in some large stock swindle from some very prestigious investment banking firm, that individual has a right to go to those prisons, and other prisoners do not have a right to share those facilities.

I hope that the director of the Bureau of Prisons understands what the intent of the United States Senate is in enacting this amendment, so that in the future we will not read stories about how special people were given special prisons to spend their time in while they were incarcerated with the Federal Government. Thank you very much.

I yield the floor.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. KOHL] proposes an amendment numbered 567, as follows:

AMENDMENT NO. 567

(Purpose: To amend the Bureau of Justice Assistance Act to assist communities in developing coalitions to implement a substance abuse prevention and intervention program, and for other purposes)

At the appropriate place, insert the following:

SEC. . DEPARTMENT OF JUSTICE COMMUNITY SUBSTANCE ABUSE PREVENTION ACT OF 1991.

(a) SHORT TITLE.—This section may be cited as the "Department of Justice Community Substance Abuse Prevention Act of 1991".

(b) COMMUNITY PARTNERSHIPS.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"Subpart 4—Community Coalitions on Substance Abuse

"GRANTS TO COMBAT SUBSTANCE ABUSE

"SEC. 531. (a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) representatives of 3 of the following groups: the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, and the appropriate State agency, shall make grants to eligible coalitions in order to—

"(1) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(2) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(3) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(4) develop a consensus regarding the priorities of a community concerning substance abuse;

"(5) develop a plan to implement such priorities; and

"(6) coordinate substance abuse services and activities, including prevention activities in the schools or communities and substance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under subsection (b) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Attorney General and the appropriate State agency in order to receive a grant under this section. Such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem, emphasizing who is at risk and specifying which groups of individuals should be targeted for prevention and intervention;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5) and to report on such plan to the Attorney General on an annual basis; and

"(6) contain such additional information and assurances as the Attorney General and the appropriate State agency may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Attorney General and the appropriate State agency shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) REVIEW.—Each coaltion receiving money pursuant to the provisions of this section shall submit an annual report to the Attorney General, and the appropriate State agency, evaluating the effectiveness of the plan described in subsection (b)(5) and containing such additional information as the Attorney General, or the appropriate State agency, may prescribe. The Attorney General, in conjunction with the Director of the Bureau of Justice Assistance, and the appropriate State agency, shall submit an annual review to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives. Such review shall—

"(1) evaluate the grant program established in this section to determine its effectiveness;

"(2) implement necessary changes to the program that can be done by the Attorney General; and

"(3) recommend any statutory changes that are necessary.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section, $15,000,000 for fiscal year 1992, $20,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994.".

"(c) AMENDMENTS TO TABLE OF SECTIONS.—The table of sections of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"SUBPART 4—COMMUNITY COALITION ON SUBSTANCE ABUSE

"Sec. 531. Grants to combat substance abuse.".

Mr. KOHL. Mr. President, I am offering an amendment that goes to the heart of much of the violent crime of today. For days we have considered amendments calling for the death penalty, requiring mandatory minimum sentences, and adding more and more law enforcement personnel. I believe many of these provisions are necessary, and I voted for most of them. But I also believe that unless the cause of violent crime is attacked at the lower level, the trend of increasing violent crime will continue unabated. Unless we confront the massive drug problem in this country, incidents of drug-related violent crime will keep multiplying.

This amendment will prompt community-based action against drugs, and the violence so closely associated with drug activity. It is common wisdom that grassroots activity produces creative and lasting solutions. Local communities know what they need; how to achieve it; and whether it works. The best thing Washington can do is spur coalitions in each city among business leaders, neighborhood activists, municipal officials, teachers, parents, labor unions, police organizations, religious groups, and others. Mr. President, this is not a handout, it is a hand up; it is community self-help, community self-reliance, community repair, and community empowerment.

This amendment confronts the epidemic of drug related violent crime by treating the source, not a symptom. By authorizing the Attorney General to assist communities in planning and implementing comprehensive drug abuse programs, it will reduce the number of violent crimes we all know stem from drug abuse. Under this amendment, a community that organizes a representative coalition may receive a grant through the Bureau of Justice Assistance. That money would be used to plan strategies and coordinate prevention activities. A coalition would also be required to identify and solicit funding sources to make its activities self-sufficient.

Mr. President, I think all of us could agree that we need to concentrate on the next generation. Accordingly, recipient coalitions must involve those who work with children, such as teachers and coaches. Also, coalitions must include police and social service agencies.

I am acutely aware of the need to assess our efforts as we go along. We simply cannot afford to throw away money at problems. We have to make sure each program is getting results, and in a cost-efficient way. That is why this amendment requires every coalition to provide an annual report to the Attorney General. In turn, the Attorney General must evaluate the effectiveness of the grant program in an annual report to the House and Senate Judiciary Committees. In this way, Congress will maintain oversight of the entire program and can make any necessary modifications.

Mr. President, community self-help is not a partisan issue. It is a matter of letting the people who experience a problem devise methods for fixing it. I understand that this amendment has been cleared by both sides, and I move for its adoption. Thank you, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments (Nos. 562, 563, 564, 565, 566, and 567) were agreed to en bloc.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 564

Mr. WOFFORD. Mr. President, I appreciate the words by the distinguished majority leader, and I am pleased that this amendment providing for the cleanup of toxic criminal pollution has been adopted.

This amendment addresses the aftermath of environmental crime. Currently, criminals prosecuted under our environmental laws can pay a fine and walk away from the harm they have done. Our courts have no authority to order polluters to clean up their toxic mess. This amendment will give courts the tools they need to guarantee that these sites are cleaned up and steps are taken to prevent further damage.

It provides for a thorough evaluation of the site of the crime by an independent expert. Recommendations for cleanup, based on this evaluation, would then be implemented by a court order. This process is known as an environmental audit, but that term is a misnomer. Rather than a mere assessment of the damage, my amendment sets up a procedure for the cleanup and restoration of the site.

Court-ordered environmental audits should be standard operating procedure; courts should have clear, explicit authority to order the cleanup of environmental disasters and ensure that their causes are eliminated. It makes little sense to fine the guilty parties, no matter the size of the fine, and allow the destruction to go unrepaired and the causes go uncorrected.

Mr. President, the body of our Criminal Code is very old; part of a tradition which reaches back hundreds of years. By contrast, the body of our environmental law is very young. So while we're updating our criminal laws to deal with the violence and fear that are rampant in our communities today, it is time to deal with the violence that's being done not only to our environment, but to our public health, our quality of life and our children's future. I think the best way to do this is to allow the prosecution of environmental crimes under the Criminal Code.

During the past 25 years, Congress has enacted progressive legislation to help protect, preserve, and even restore our environment. Many States have done the same, and none more so than my own.

But I submit, Mr. President, that penalties for the most egregious insults to our environment are neither tough enough to deter the offense, nor sufficiently codified to enable speedy, compelling prosecution. In fact, most statutes place a cap on the fines imposed on environmental criminals. Equally important, there is no legal requirement that the environmental damage resulting from the crime be fully audited and the underlying causes of the damage be remedied.

When people are victimized by crime, the shock and the trauma don't go away quickly. We know that the pain and the scars can last a long time. And I believe that our recognition of that fact has provided a powerful sense of purpose and passion to debate that's been carried on in this Chamber over the crime bill.

But the same holds true when irresponsible companies commit crimes against our natural environment. The consequences can be horrifying and long term. And sometimes the full damage won't even be clear for years to come.

My State and our Nation have experienced one instance after another in which oilspills, toxic waste leaks, and other environmental disasters have resulted in lasting damage to our ecosystems and our quality of life.

Polluting our natural environment—like drug violence on our streets—robs our children of their future. We ought to treat severe, long-term damage to the air we breathe, the water we drink and the land we live on like other major crimes against society. And those who poison our children and cause severe damage to our environment ought to be in prison stripes, not pinstripes.

Clearly, it is not enough to have a policy that says "the polluter pays." Too many polluters can afford to pay. We need a punishment that really punishes. We need tougher standards and stiffer penalties for those who willfully, negligently, or recklessly fail to protect the health and safety of our families and our communities.

My original amendment, which I am not offering today, would match the punishment with the crime; it says that if you commit a deadly offense against our natural environment, you will be held criminally accountable for the extent of the consequences—that you'll be liable for prosecution with the full force of the U.S. Criminal Code.

It would create two new environmental felonies; reckless endangerment to the environment, a course of illegal conduct endangerment felony; and a negligent endangerment misdemeanor. It calls for enhanced penalties for egregious violations of the major existing environmental statutes. It brings many of these enhanced sanctions in line with those of the 1990 Clean Air Act. My original amendment would make the penalties for environmental crimes correspond to the harm done by polluters. It would increase the average upper level fine from $2,500 to $25,000 for individuals, and environmental criminals would face up to 30 years in prison instead of the 5 available under current law. These tough new penalties reflect the fact that our water, land, and biological diversity merit the same kind of protection as our air.

I believe that consistency among our major environmental statutes would promote better compliance—offenders would know that if they commit a serious violation, regardless of the statute, regardless of how, where or what they damage, the sanctions they'll face will be tough and sure.

By amending the Criminal Code itself we would improve the ability to prosecute violators. So that if an employer allows his workers to handle toxic materials in a dangerous way, a reckless endangerment provision will make it easier for a prosecutor to prove that the employer should have known of the danger, and failed to do something about it.

Mr. President, these steps are absolutely necessary if we are to protect our citizens from the harm done by toxic pollution. I look forward to working with my colleagues on this issue, and I thank you for the opportunity to speak today.

Mr. LIEBERMAN. Mr. President, I am pleased to rise in support of Senator WOFFORD'S amendent which would require corporate polluters to conduct an environmental audit after being found guilty of a felony environmental crime. The audit, which would be conducted by an outside expert, would be an independent assessment which would recommend specific measures that the defendant must take to clean up the site and prevent future environmental offenses. These recommendations must be implemented by the defendant, subject to a court order.

This amendment is similar to provisions in S. 761, the Hazardous Pollution Planning Act, which I introduced earlier this year. My legislation would require that independent audits be conducted at facilities where there is a history of noncompliance with the terms of permits or other provisions of environmental laws and where the facility may present a threat to human health and the environment.

Mr. President, recent studies have indicated that there is widespread noncompliance with our environmental laws. EPA's Science Advisory Board, EPA's inspector general and the General Accounting Office have all recently issued reports concluding that our Nation's laws are not being adequately enforced. For example, the General Accounting Office has testified that "enforcement of our Nation's water quality laws continues to be weak and sporadic." In a recently completed study, the public interest group U.S. PIRG found that in just a 3-month period from July–September 1990, 12 percent of the Nation's largest industrial facilities and 13 percent of municipalities were in significant noncompliance with the Clean Water Act.

Mr. President, I believe that independent audits of facilities with long histories of defying our environmental laws can help improve the record of poor compliance with our environmental laws, and send a clear message to environmental violators that they will need to take steps to ensure that systems are in place at their facilities to prevent future environmental offenses. The amendment offered by Senator WOFFORD is an important first step in introducing the concept of environmental audits into our laws and I congratulate him on showing this leadership.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware.

Mr. BIDEN. Mr. President, there are a number of Senators who wish to speak on the amendments that we just adopted.

I ask unanimous consent that anyone be permitted to speak on the amendments just adopted for the next 20 minutes, with no other business being in order.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object; which amendment?

Mr. BIDEN. The ones we just adopted.

Mr. STEVENS. All of them?

Mr. BIDEN. If they wish to speak to them.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I understand that the amendment by the distinguished Senator from Wisconsin [Mr. KOHL] has been modified on the line we suggested, and if that is the case, we have no further objection to that amendment.

Mr. STEVENS. Mr. President, what is the pending business?

The PRESIDING OFFICER. Under the previous order, for the next 19 minutes, debate is to be confined to the previous amendments adopted en bloc.

Mr. STEVENS. Who has the floor?

The PRESIDING OFFICER. The Senator from Alaska has the floor.

AMENDMENT NO. 566

Mr. STEVENS. Mr. President, while the Senator from Ohio is here, I would like to address some questions about his amendment, which was just adopted.

It is my understanding that the social or economic conditions or the situation of a prisoner cannot be considered for the purpose of assignment to a prison.

Having been a U.S. attorney, and having known a few U.S. attorneys who got in trouble, or marshals or judges, does that include the social status of a person based upon past employment, or are we to say that they cannot consider the condition of prisoners as they assign them to prisons based upon their social and economic condition in that sense? Is that what the Senator's amendment does?

Mr. METZENBAUM. I am not sure I understand what the question of the Senator from Alaska is. The thrust of my amendment is to say that the president of the XYZ Corp. should not be privileged to go to a fun prison, one where we have games and a lot of outdoor activities, as compared to prisoners who may commit crimes in the inner city and not be permitted to go to that kind of a prison.

The amendment addresses itself to the social or economic status of the prisoner.

Mr. STEVENS. Mr. President, if I have the floor, we have a time limitation.

I just want to say that I do not think this amendment had any hearings. I think it is going to cause the abuse and killing of some prisoners. The current assignment by the Bureau of Prisons, to my knowledge, has never been under attack on this floor. And this amendment comes along and is adopted, without anyone seeing it, on the basis of social and economic condition of the prisoner. That is precisely what they look at when they assign prisoners to jails.

I really believe the Senator from Ohio is going to be responsible for some deaths. I cannot believe that the Senate would adopt an amendment like that. I want to read it again:

> * * * the Bureau may not consider the social or economic status of the prisoner in designating the place of the prisoner's imprisonment.

In addition to that, I know of several instances where young men and women have been assigned to specific prisons because they had a college background. That is a social and economic condition. Shall we put them all in the prisons where they have felons who have been convicted of violent crimes?

I think this attack on the Bureau of Prisons' policies ought to be examined, and I am chagrined that I have been trying to watch this floor, but I did not see this one. The Senate has already adopted it. I am going to go back and take a look at it. If that is not dropped in conference, I can assure the Senate we are going to go into this Metzenbaum amendment at length because it is wrong. It is wrong policy.

We should take into account the social and economic conditions of prisoners in determining where they are put. We should take into account their education status—that is social; their past experience in their jobs—that is economic. And may I tell you, if you try to take some past U.S. marshal that made a mistake, or deputy U.S. attorney, or U.S. attorney, or judge, and put him into a common prison where people are there, where they have convicted violent criminals, therein I think you have made a great, great mistake.

The Senate has made a mistake again in allowing the procedure of taking up these amendment without having them printed and being put on the desk.

I ask a parliamentary inquiry. Is there not a rule that says that these amendments have to be available prior to consideration?

The PRESIDING OFFICER. There is no such rule in the Senate.

Mr. STEVENS. I do not think this was ever proposed before it was adopted, before we had the agreement on it. It was not presented before the agreement was entered into. Is there not such a rule that it has to be at the desk before it can be considered and be the subject of an agreement?

The PRESIDING OFFICER. It is sufficient that the amendment be sent to the desk at the time of its consideration.

Mr. STEVENS. It was not sent to the desk. I am not going to raise the point of order now, but I want the Senate to be on notice, if this amendment survives, there will have to be cloture on this bill when it comes out of conference.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio.

Mr. METZENBAUM. Mr. President, for the edification of my colleague from Alaska, let me say that this is not a surprise amendment. This amendment was in the hands of and circulated to both sides several days ago. It was discussed several days ago.

I have been informed indirectly, not directly, that the Justice Department is aware of the amendment and has cleared it. I do not know that for certain. I have been told that is the case.

I want to reiterate the point I made when the amendment was offered, and that is I think that prisoners ought not to receive special treatment just because they wear a white collar; just because they are rich; just because they have a better education than anybody else. I think prisoners ought to be treated on the basis of the crimes they have committed and not on their social and economic status.

I yield the floor.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY—THE TREATY ON CONVENTIONAL ARMED FORCES IN EUROPE AND THE CONVENTION FOR A NORTH PACIFIC MARINE SCIENCE ORGANIZATION

Mr. MITCHELL. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from two treaties transmitted today to the Senate by the President: The Treaty on Conventional Armed Forces in Europe, Treaty Document No. 102-8, and the Convention for a North Pacific Marine Science Organization, Treaty Document No. 102-9.

I also ask unanimous consent that the treaties be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The messages of the President are as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the Treaty on Conventional Armed Forces in Europe (CFE). The Treaty includes the following documents, which are integral parts thereof: the Protocol on Existing Types (with an Annex thereto), the Protocol on Aircraft Reclassification, the Protocol on Reduction, the Protocol on Helicopter Recategorization, the Protocol on Information Exchange (with an Annex on Format), the Protocol on Inspection, the Protocol on the Joint Consultative Group, and the Protocol on Provisional Application. The Treaty, together with the Protocols, was signed at Paris on November 19, 1990. I transmit also, for the information of the Senate, the Report of the Department of State on the Treaty.

In addition, I transmit herewith, for the information of the Senate, six documents associated with, but not part of, the Treaty that are relevant to the Senate's consideration of the Treaty: Statement by the Union of Soviet Socialist Republics, dated June 14, 1991; Statement by the Government of the United States of America, dated June 14, 1991, responding to the Statement by the Union of Soviet Socialist Republics (Statements identical in content were made by the 20 other signatory states on the same date. Copies of these Statements are also transmitted.); Declaration by the Government of the Federal Republic of Germany on the Personnel Strength of German Armed Forces, dated November 19, 1990; Declaration of the States Parties to the Treaty on Conventional Armed Forces in Europe With Respect to Personnel Strength, dated November 19, 1990; Declaration of the States Parties to the Treaty on Conventional Armed Forces in Europe With Respect to Land-Based Naval Aircraft, dated November 19, 1990; and Statement by the Representative of the Union of Soviet Socialist Republics to the Joint Consultative Group, dated June 14, 1991. The first two Statements are legally binding and constitute a separate international agreement, while the latter four documents represent political commitments.

The CFE Treaty is the most ambitious arms control agreement ever concluded. The complexities of negotiating a treaty involving 22 nations and tens of thousands of armaments spread over an area of more than two and a half million square miles were immense. Difficult technical issues such as definitions, counting rules, methods for destroying reduced equipment, and inspection rights were painstakingly negotiated.

The Treaty is the first conventional arms control agreement since World War II. It marks the first time in history that European nations, together with the United States and Canada, have agreed to reduce and numerically limit their land-based conventional military equipment, especially equipment necessary to conduct offensive operations. Significantly, the reductions will eliminate the overwhelming Soviet numerical advantage in conventional armaments that has existed in Europe for more than 40 years. The Treaty's limits enhance stability by ending force disparities, and they limit the capability for launching surprise attack and initiating large-scale offensive action in Europe.

The Treaty contains a wide-ranging verification regime. Under this regime, in which intrusive on-site inspection complements national technical means to monitor compliance, ground and air forces of the participating states in the area of application of the Treaty will be subject to inspection, either at declared sites or with challenge inspections. The Treaty also provides for a detailed information exchange on the command organization of each participating state's land, air, and air defense forces as well as information about the number and location of each participating state's military equipment, subject to the limitations and other provisions of the Treaty. This information will be updated periodically and as significant changes to such data and reductions of equipment take place.

The military equipment to be reduced and limited consists of battle tanks, armored combat vehicles, artillery, attack helicopters, and combat aircraft in service with the conventional armed forces of the States Parties in Europe from the Atlantic to the Urals. Inclusion of the Baltic military district within the area of application of Treaty ensures that the Treaty's limits apply comprehensively to all Soviet forces within the area. This does not represent any change in the longstanding U.S. policy of nonrecognition of the forcible incorporation of the Baltic States into the Soviet Union. At the conclusion of the 40-month reduction period, the numerical limits on this equipment in the area of application for each group of participating states will be as follows: 20,000 battle tanks, 30,000 armored combat vehicles, 20,000 pieces of artillery, 2,000 attack helicopters, and 6,800 combat aircraft. All military equipment subject to and in excess of these limits that was in the area of application at the time of Treaty signature or entry into force (whichever amount is greater) must be destroyed or, within specified limits, converted to nonmilitary or other purposes. Subceilings are established for specific geographical zones within the area of application, the purpose of these being to thin out forces on the central front while forestalling buildups in the flank areas. Under the so-called "sufficiency rule" of the Treaty, no State Party may hold more than approximately one-third of the total amount of equipment in these five categories permitted within the area of application as a whole.

Above and beyond eliminating force disparities and limiting the capability for launching large-scale offensive action, the CFE Treaty will be of major importance in laying the indispensable foundation for the post-Cold War security architecture in Europe. Only with this foundation in place can we move from a European security order based on confrontation to one based on cooperation.

I believe that the CFE Treaty is in the best interests of the United States and represents an important step in defining the new security regime in Europe. It achieves unprecedented arms reductions that strengthen U.S., Canadian, and European security. Therefore, I urge the Senate to give early and favorable consideration to the Treaty and its related Protocols and Annexes, and to give advice and consent to its ratification.

GEORGE BUSH.

THE WHITE HOUSE, *July 9, 1991.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Convention for a North Pacific Marine Science Organization (PICES), which was done at Ottawa on December 12, 1990, and signed by the United States on May 28, 1991. I transmit also, for the information of the Senate, the report by the Department of State with respect to the Convention.

I believe that the new organization to be created by the Convention will contribute significantly to understanding the role of the ocean in global change as well as address other pressing scientific problems in the northern North Pacific Ocean region. Since understanding global change is one of my highest scientific priorities, I believe that it is very important that the United States ratify the Convention in time to participate formally in the initial work of the organization.

PICES would advance scientific knowledge of the region's interactions between the ocean, atmosphere, and land, their role in and response to global weather and climate change, impacts on flora, fauna, ecosystems, and their uses, and responses to human activities, filling the current need for such coordination and cooperation in scientific research in the region. This may include:

—regional aspects of some global change research;

—research on living resources and their ecosystems, broader than traditional fisheries research, resulting in a sound scientific basis for taking living resource management decisions (although PICES itself would not deal with management);

—research on pollution and environmental quality; and

—other research that requires broad coordination and an interdisciplinary approach, including identification of pressing research problems and planning research programs, developing and coordinating multinational research projects, promoting exchange of scientific data and information, and organizing scientific workshops and symposia.

Canada, the People's Republic of China, Japan, the Union of Soviet Socialist Republic, and the United States cooperated in the development of the Convention, which will enter into force following ratification, acceptance, or approval by three of the possible five signatory States. It is anticipated that the Convention will enter into force before the end of 1992. A few nonsignatory nations are expected to accede to the Convention after it has entered into force.

I recommend that the Senate give early and favorable consideration to the Convention and give its advice and consent to ratification.

GEORGE BUSH.

THE WHITE HOUSE, *July 9, 1991.*

MINORITY PARTY CHANGE IN COMMITTEES

Mr. DOLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 152) to make a minority party change in committees.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 152) was agreed to, as follows:

S. RES. 152

Resolved, That the following Senator shall be added to the minority party's membership on the Committee on Foreign Relations for the One Hundred Second Congress or until their successors are appointed:

Mr. Jeffords.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

L. DOUGLAS ABRAM FEDERAL BUILDING

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 133, S. 276, designating a Federal building in St. Louis.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 276) to designate the Federal building located at 1520 Market Street in St. Louis, Missouri as the "L. Douglas Abram Federal Building".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 568

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of Senator CHAFEE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. CHAFEE, proposes an amendment numbered 568.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert a new section:

"SEC. . CONTINUATION OF AUTHORIZATION.

( ) Notwithstanding section 1001(a) of the Water Resources Development Act of 1986, the project for navigation, Providence, Rhode Island, authorized by section 1166(c) of the Water Resources Development Act of 1986, shall remain authorized to be carried out by the Secretary. The project described in subsection (a) shall not be authorized for construction after the last day of the five-year period that begins on the date of the enactment of this Act unless, during this period, funds have been obligated for construction (including planning and design) of the project."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 568) was agreed to.

The PRESIDING OFFICER. If there are no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as amended, as follows:

S. 276

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located at 1520 Market Street, St. Louis, Missouri shall hereafter be known and designated as the "L. Douglas Abram Federal Building". Any reference in law, map, regulation, document, record, or other paper of the United States shall be deemed to be a reference to the "L. Douglas Abram Federal Building".

SEC. 2. CONTINUATION OF AUTHORIZATION.

Notwithstanding section 1001(a) of the Water Resources Development Act of 1986, the project for navigation, Providence, Rhode Island, authorized by section 1166(c) of the Water Resources Development Act of 1986, shall remain authorized to be carried out by the Secretary. The project described in subsection (a) shall not be authorized for construction after the last day of the 5-year period that begins on the date of the enactment of this Act unless, during this period, funds have been obligated for construction, including planning and design, of the project.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AUTHORIZATION ACT OF 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 122, S. 1012, the National Highway Traffic Safety Administration Authorization Act of 1991.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1012) to authorize appropriation for the activities and programs of the National Highway Traffic Safety Administration, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 1012

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Highway Traffic Safety Administration Authorization Act of 1991".

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "bus" means a motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons;

(2) "multipurpose passenger vehicle" means a motor vehicle with motive power (except a trailer), designed to carry 10 persons or fewer, which is constructed either on a truck chassis or with special features for occasional off-road operation;

(3) "passenger car" means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer), designed for carrying 10 persons or fewer;

(4) "Secretary" means the Secretary of Transportation; and

(5) "truck" means a motor vehicle with motive power, except a trailer, designed primarily for the transportation of property or special purpose equipment.

TITLE I—AUTHORIZATION OF APPROPRIATIONS

GENERAL AUTHORIZATIONS

SEC. 101. (a) TRAFFIC AND MOTOR VEHICLE SAFETY PROGRAM.—For the National Highway Traffic Safety Administration to carry out the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), there are authorized to be appropriated $68,722,000 for fiscal year 1992, $71,333,436 for fiscal year 1993, and $74,044,106 for fiscal year 1994.

(b) MOTOR VEHICLE INFORMATION AND COST SAVINGS PROGRAMS.—For the National Highway Traffic Safety Administration to carry out the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), there are authorized to be appropriated $6,485,000 for fiscal year 1992, $6,731,430 for fiscal year 1993, and $6,987,224 for fiscal year 1994.

(c) NATIONAL DRIVER REGISTER ACT.—Section 211(b) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) is amended—

(1) by striking "and" the second time it appears; and

(2) by inserting immediately before the period at the end the following: **["not]** ", *not* to exceed $6,131,000 for fiscal year 1992, not to exceed $6,363,978 for fiscal year 1993, and not to exceed $6,605,809 for fiscal year 1994".

(d) NHTSA HIGHWAY SAFETY PROGRAMS.—For the National Highway Traffic Safety Administration to carry out section 402 of title 23, United States Code, there are authorized to be **[appropriated]** *appropriated, out of the Highway Trust Fund (other than the Mass Transit Account),* $126,000,000 for fiscal year 1992, $130,788,000 for fiscal year 1993, $135,757,944 for fiscal year 1994, $140,916,745 for fiscal year 1995, and $146,271,573 for fiscal year 1996.

(e) NHTSA HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For the National Highway Traffic Safety Administration to carry out section 403 of title 23, United States Code, there are authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), $45,869,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996.

INTELLIGENT VEHICLE-HIGHWAY SYSTEMS

SEC. 102. The Secretary shall **[expand]** *expend* the sums authorized under section 101(e) as the Secretary deems necessary for the purpose of conducting research on intelligent vehicle-highway systems. The Secretary shall develop a strategic plan with specific milestones, goals, and objectives for that research. The research should place particular emphasis on aspects of those systems that will increase safety, and should identify any aspects of the systems that might degrade safety.

TITLE II—REQUIREMENTS FOR VEHICLES

SIDE IMPACT PROTECTION

SEC. 201. (a) AMENDMENT OF FMVSS STANDARD 214.—The Secretary shall, not later than 12 months after the date of enactment of this Act, issue a final rule amending Federal Motor Vehicle Safety Standard 214, published as section 571.214 of title 49, Code of Federal Regulations. The rule shall establish performance criteria for improved head injury protection for occupants of passenger cars in side impact accidents.

(b) EXTENSION TO MULTIPURPOSE PASSENGER VEHICLES.—Not later than 18 months after the date of enactment of this Act, the Secretary shall issue a final rule to extend the applicability of such **[standard]** *Standard* 214 to multipurpose passenger vehicles, taking into account the performance criteria established by the final rule issued in accordance with subsection (a).

AUTOMOBILE CRASHWORTHINESS DATA

SEC. 202. (a) STUDY AND INVESTIGATION.—(1) The Secretary shall, within 30 days after the date of enactment of this Act, enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation regarding means of establishing a method for calculating a uniform numerical rating, or series of ratings, which will enable consumers to compare meaningfully the crashworthiness of different passenger car and multipurpose passenger vehicle makes and models.

(2) Such study shall include examination of current and proposed crashworthiness tests and testing procedures and shall be directed to determining whether additional objective, accurate, and relevant information regarding the comparative crashworthiness of different passenger car and multipurpose passenger vehicle makes and models reasonably can be provided to consumers by means of a crashworthiness rating rule. Such study shall include examination of at least the following proposed elements of a crashworthiness rating **[rule—]** *rule:*

(A) information on the degree to which different passenger car and multipurpose passenger vehicle makes and models will protect occupants across the range of motor vehicle crash types when in use on public roads;

(B) a repeatable and objective test which is capable of identifying meaningful differences in the degree of crash protection provided occupants by the vehicles tested, with respect to such aspects of crashworthiness as occupant crash protection with and without use of manual seatbelts, fuel system integrity, and other relevant aspects;

(C) ratings which are accurate, simple in form, readily understandable, and of benefit to consumers in making informed decisions in the purchase of automobiles;

(D) **[dissemination]** *dissemination* of comparative crashworthiness ratings to consumers either at the time of introduction of a new passenger car or multipurpose passenger vehicle make or model or very soon after such time of introduction; and

(E) the development and dissemination of crashworthiness data at a cost which is reasonably balanced with the benefits of such data to consumers in making informed purchase decisions.

(3) Any such arrangement shall require the National Academy of Sciences to report to the Secretary and the Congress not later than 19 months after the date of enactment of this Act on the results of such study and investigation, together with its recommendations. The Secretary shall, to the extent permitted by law, furnish to the Academy upon its request any information which the Academy considers necessary to conduct the investigation and study required by this subsection.

(4) Within 60 days after transmittal of the report of the National Academy of Sciences to the Secretary and the Congress under paragraph (3), the Secretary shall initiate a period (not longer than 90 days) for public comment on implementation of the rec-

ommendations of the National Academy of Sciences with respect to a rule promulgated under title II of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) establishing an objectively based system for determining and publishing accurate comparative crashworthiness ratings for different makes and models of passengers cars and multipurpose passenger vehicles.

(5) Not later than 180 days after the close of the public comment period provided for in paragraph (4) of this subsection, the Secretary shall determine, on the basis of the report of the National Academy of Sciences and the public comments on such report, whether an objectively based system can be established by means of which accurate and relevant information can be derived that reasonably predicts the degree to which different makes and models of passenger cars and multipurpose passenger vehicles provide protection to occupants against the risk of personal injury or death as a result of motor vehicle accidents. The Secretary shall promptly publish the basis of such determination, and shall transmit such determination to the Congress.

(b) RULE ON COMPARATIVE CRASHWORTHINESS RATING SYSTEM.—(1) If the Secretary determines that the system described in subsection (a)(5) can be established, the Secretary shall, subject to the exception provided in paragraph (2), not later than 3 years after the date of enactment of this Act, promulgate a final rule under section 201 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1941) establishing an objectively based system for determining and publishing accurate comparative crashworthiness ratings for different makes and models of passenger cars and multipurpose passenger vehicles. The rule promulgated under such section 201 shall be practicable and shall provide to the public relevant objective information in a simple and readily understandable form in order to facilitate comparison among the various makes and models of passenger cars and multipurpose passenger vehicles so as to contribute meaningfully to informed purchase decisions.

(2) The Secretary shall not promulgate such rule unless—

(A) a period of 60 calendar days has passed after the Secretary has transmitted to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a summary of the comments received during the period for public comment specified in subsection (a)(4); or

(B) each such committee before the expiration of such 60-day period has transmitted to the Secretary written notice to the effect that such committee has no objection to the promulgation of such rule.

(c) RULE ON PROVIDING CRASHWORTHINESS INFORMATION TO PURCHASERS.—If the Secretary promulgates a rule under subsection (b), not later than 6 months after such promulgation, the Secretary shall by rule establish procedures requiring passenger cars and multipurpose passenger vehicle dealers to make available to prospective passenger car and multipurpose passenger vehicle purchasers information developed by the Secretary and provided to the dealer which contains data comparing the crashworthiness of passenger cars and multipurpose passenger vehicles.

STANDARDS COMPLIANCE

SEC. 203. Section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392) is amended by adding at the end **[of]** the following new subsection:

"(j)(1) The Secretary shall establish a schedule for use in ensuring compliance with each Federal motor vehicle safety standard established under this Act which the Secretary determines is capable of being tested. Such schedule shall ensure that each such standard is the subject of testing and evaluation on a regular, rotating basis.

"(2) The Secretary shall, not later than 6 months after the date of enactment of this subsection, conduct a review of the method for the collection of data regarding accidents related to Federal motor vehicle safety standards established under this Act. The Secretary shall consider the desirability of collecting data in addition to that information collected as of the date of enactment of this subsection, and shall estimate the costs involved in the collection of such additional data, as well as the benefits to safety likely to be derived from such collection. If the Secretary determines that such benefits outweigh the costs of such collection, the Secretary shall collect such additional data and utilize it in determining which motor vehicles should be the subject of testing for compliance with Federal motor vehicle safety standards established under this Act.".

INVESTIGATION AND PENALTY PROCEDURES

SEC. 204. (a) INVESTIGATION PROCEDURES.—Section 112(a)(1) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1401(a)(1)) is amended by adding at the end the following: "The Secretary shall establish written guidelines and procedures for conducting any inspection or investigation regarding noncompliance with this title or any rules, regulations, or orders issued under this title. Such guidelines and procedures shall indicate timetables for processing of such inspections and investigations to ensure that such processing occurs in an expeditious and thorough manner. In addition, the Secretary shall develop criteria and procedures for use in determining when the results of such an investigation should be considered by the Secretary to be the subject of a civil penalty under section 109 of this title. Nothing in this paragraph shall be construed to limit the ability of the Secretary to exceed any time limitation specified in such timetables where the Secretary determines that additional time is necessary for the processing of any such inspection or investigation.".

(b) CIVIL PENALTY PROCEDURES.—Section 109(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1398(a)) is amended by adding at the end the following: "The Secretary shall establish procedures for determining the manner in which, and the time within which, a determination should be made regarding whether a civil penalty should be imposed under this section. Nothing in this subsection shall be construed to limit the ability of the Secretary to exceed any time limitation specified for making any such determination where the Secretary determines that additional time is necessary for making a determination regarding whether a civil penalty should be imposed under this section.".

MULTIPURPOSE PASSENGER VEHICLE SAFETY

SEC. 205. (a) FINDINGS.—The Congress finds that—

(1) multipurpose passenger vehicles have become increasingly popular during this decade and are being used increasingly for the transportation of passengers, not property; and

(2) the safety passengers in multipurpose passenger vehicles has been compromised by the failure to apply to them the Federal motor vehicle safety standards applicable to passenger cars.

(b) RULEMAKING PROCEEDING.—(1) In accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of such Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms, the Secretary shall, not later than 12 months after the date of enactment of this Act, complete a rulemaking proceeding to review the system of classification of vehicles with a gross vehicle weight under 10,000 pounds to determine if such vehicles should be reclassified.

(2) Any reclassification pursuant to paragraph (1) shall, to the maximum extent practicable, classify as a passenger car every motor vehicle determined by the Department of the Treasury or United States Customs Service to be a motor car or other motor vehicle principally designed for the transport of persons under heading 8703 of the Harmonized Tariff Schedule of the United States. Nothing in this section shall prevent the Secretary from classifying as a passenger car any motor vehicle determined by the Department of the Treasury or United States Customs Service to be a motor vehicle for the transport of goods under heading 8704 of such Harmonized Tariff Schedule.

ROLLOVER PROTECTION

SEC. 206. The Secretary shall, within 12 months after the date of enactment of this Act, complete a rulemaking proceeding to consider establishment of a Federal Motor Vehicle Safety Standard to protect against unreasonable risk of rollover of passenger cars and multipurpose passenger vehicles.

REAR SEATBELTS

SEC. 207. The Secretary shall expend such portion of the funds authorized to be appropriated under the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), for each of the fiscal years 1992 and 1993, as the Secretary deems necessary for the purpose of disseminating information to consumers regarding the manner in which passenger cars may be retrofitted with lap and shoulder rear seatbelts.

IMPACT RESISTANCE CAPABILITY OF BUMPERS

SEC. 208. (a) DISCLOSURE OF BUMPER IMPACT CAPABILITY.—The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) is amended by inserting immediately after section 102 the following new subsection:

"DISCLOSURE OF BUMPER IMPACT CAPABILITY

"SEC. 102A. (a) The Secretary shall promulgate, in accordance with the provisions of this section, a regulation establishing passenger motor vehicle bumper system labeling requirements. Such regulation shall apply to passenger motor vehicles manufactured for model years beginning more than 180 days after the date such regulation is promulgated, as provided in subsection (c)(2) of this section.

"(b)(1) The regulation required to be promulgated in subsection (a) of this section shall provide that, before any passenger motor vehicle is offered for sale, the manufacturer shall affix a label to such vehicle, in a format prescribed in such regulation, disclosing an impact speed at which the manufacturer represents that the vehicle meets the applicable damage criteria.

"(2) For purposes of this subsection, the term 'applicable damage criteria' means the damage criteria applicable under section

581.5(c) of title 49, Code of Federal Regulations (as in effect on the date of enactment of this section).

"(c)(1) Not later than 90 days after the date of enactment of this section, the Secretary shall publish in the Federal Register a proposed initial regulation under this section.

"(2) Not later than 180 days after such date of enactment, the Secretary shall promulgate a final initial regulation under this section.

"(d) The Secretary may allow a manufacturer to comply with the labeling requirements of subsection (b) of this section by permitting such manufacturer to make the bumper system impact speed disclosure required in subsection (b) of this section on the label required by section 506 of this Act or section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

"(e) The regulation promulgated under subsection (a) of this section shall provide that the information disclosed under this section be provided to the Secretary at the beginning of the model year for the model involved. As soon as practicable after receiving such information, the Secretary shall furnish and distribute to the public such information in a simple and readily understandable form in order to facilitate comparison among the various types of passenger vehicles. The Secretary may by rule require automobile dealers to distribute to prospective purchasers any information compiled pursuant to this subsection.

"(f) For purposes of this section, the term 'passenger motor vehicle' means any motor vehicle to which the standard under part 581 of title 49, Code of Federal Regulations, is applicable.".

(b) AMENDMENT OF BUMPER STANDARD.—(1) Not later than 1 year after the date of enactment of this Act, the Secretary shall amend the bumper standard published as part 581 of title 49, Code of Federal Regulations, to ensure that such standard is identical to the bumper standard under such part 581 which was in effect on January 1, 1982. The amended standard shall apply to all passenger cars manufactured after September 1, 1992.

(2) Nothing in this subsection shall be construed to prohibit the Secretary from requiring under such part 581 that passenger car bumpers be capable of resisting impact speeds higher than those specified in the bumper standard in effect under such part 581 on January 1, 1982.

CHILD BOOSTER SEATS

SEC. 209. (a) IN GENERAL.—In accordance with applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), the Secretary shall conduct a rulemaking proceeding to amend Federal Motor Vehicle Safety Standard 213, published as section 571.213 of title 49, Code of Federal Regulations, to increase the safety of child booster seats used in passenger cars. The proceeding shall be initiated not later than 30 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

(b) DEFINITION.—As used in this section, the term "child booster seat" has the meaning given the term "booster seat" in section 571.213 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act.

AIRBAG REQUIREMENTS

SEC. 210. (a) AIRBAGS FOR CARS ACQUIRED FOR FEDERAL USE.—The Secretary, in cooperation with the Administrator of General Services and the heads of other appropriate Federal agencies, shall establish a program requiring that all passenger cars acquired after September 30, 1991, for use by the Federal Government be equipped, to the maximum extent practicable, with driver-side airbags and that all passenger cars acquired after September 30, 1993, for use by the Federal Government be equipped, to the maximum extent practicable, with airbags for both the driver and front seat outboard seating positions.

(b) AIRBAGS FOR CERTAIN OTHER VEHICLES.—(1) Passenger cars, and those trucks, buses, and multipurpose passenger vehicles that have a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less, shall, in accordance with the following schedule, be equipped with airbags complying with the occupant crash protection requirements under S4.1.2.1 of Federal Motor Vehicle Safety Standard 208, published as section 571.208 of title 49, Code of Federal Regulations:

(A) All passenger cars manufactured on and after September 1, 1995, shall be so equipped for both the driver and right front seat outboard seating positions.

(B) All such trucks, buses, and multipurpose passenger vehicles manufactured on and after September 1, 1996, and before September 1, 1997, shall, at a minimum, be so equipped for the driver side.

(C) All such trucks, buses, and multipurpose passenger vehicles manufactured on and after September 1, 1997, shall be so equipped for both the driver and right front seat outboard seating positions.

(2) For purposes of sections 108 through 112, 114, 115, 116, 118, 120, 121, and 151 through 158 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1397 through 1401, 1403, 1404, 1405, 1406, 1408, 1409, and 1411 through 1418), the requirements of paragraph (1) of this subsection are deemed to be a Federal motor vehicle safety standard prescribed pursuant to section 103 of that Act (15 U.S.C. 1392).

STATE MOTOR VEHICLE SAFETY INSPECTION PROGRAMS

SEC. 211. Part A of title III of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1961 et seq.) is amended by adding at the end the following new section:

"STATE MOTOR VEHICLE SAFETY INSPECTION PROGRAMS

"SEC. 304. (a) The Congress finds that—

"(1) State motor vehicle safety inspection programs, when properly administered, can reduce the rate of highway traffic accidents by a significant percentage;

"(2) the 1990 amendments to the Clean Air Act will subject approximately 60 percent of the vehicles in the United States to emissions inspection;

"(3) as States plan to implement the requirement for emissions inspections, there is considerable potential for simultaneously and economically implementing effective motor vehicle safety inspection programs; **[and]**

"(4) the Secretary, as part of the effort to reduce highway accidents, should make every effort to ensure that the potential for effective State motor vehicle safety inspection programs is realized; *and*

"(5) the Secretary and the Administrator of the Environmental Protection Agency shall coordinate their efforts so as to ensure maximum coordination of motor vehicle safety inspections and required emissions inspections.

"(b) The Secretary shall, within six months after the date of enactment of this section and every year thereafter, submit a report to Congress detailing the efforts of the Secretary to ensure that State motor vehicle safety inspection programs are implemented in the most effective manner possible. The report shall—

"(1) specify Federal manpower allocations for support of State motor vehicle safety inspection efforts;

"(2) specify allocations and expenditures of Federal funds on such efforts;

"(3) describe the extent and effect of the coordination by the Secretary and the Administrator of the Environmental Protection Agency of their respective efforts regarding motor vehicle safety inspection and required emissions inspections, and of the coordination of State motor vehicle safety inspections and emissions inspections;

"(4) list the States that do not have a periodic safety inspection program for motor vehicles that meets the requirements of Highway Safety Program Standard Number 1 and part 570 of title 49, Code of Federal Regulations; and

"(5) include any data, furnished by the States that do operate such safety inspection programs, that concerns the relative effectiveness of their particular programs.".

RECALL OF CERTAIN MOTOR VEHICLES

SEC. 212. (a) NOTIFICATION OF DEFECT OR FAILURE TO COMPLY.—Section 153 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1413) is amended by adding at the end the following new subsections:

"(d) If the Secretary determines that a notification sent by a manufacturer pursuant to subsection (c) of this section has not resulted in an adequate number of vehicles or items of equipment being returned for remedy, the Secretary may direct the manufacturer to send a second notification in such manner as the Secretary may by regulation prescribe.

"(e)(1) Any lessor who receives a notification required by section 151 or 152 pertaining to any leased motor vehicle shall send a copy of such notice to the lessee in such manner as the Secretary may by regulation prescribe.

"(2) For purposes of this subsection, the term 'leased motor vehicle' means any motor vehicle which is leased to a person for a term of at least four months by a lessor who has leased five or more vehicles in the 12 months preceding the date of the notification.".

(b) LIMITATION ON SALE OR LEASE OF CERTAIN VEHICLES.—Section 154 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1414) is amended by adding at the end the following:

"(d) If notification is required under section 151 or by an order under section 152(b) and has been furnished by the manufacturer to a dealer of motor vehicles with respect to any new motor vehicle or new item of replacement equipment in the dealer's possession at the time of notification which fails to comply with an applicable Federal motor vehicle safety standard or contains a defect which relates to motor vehicle safety, such dealer may sell or lease such motor vehicle or item of replacement equipment only if—

"(1) the defect or failure to comply has been remedied in accordance with this section before delivery under such sale or lease; or

"(2) in the case of notification required by an order under section 152(b), enforcement of the order has been restrained in an action to which section 155(a) applies or such order has been set aside in such an action.

Nothing in this subsection shall be construed to prohibit any dealer from offering for sale or lease such vehicle or item of equipment.".

DARKENED WINDOWS

SEC. 213. (a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding on the use of darkened windshields and window glass in passenger cars and multipurpose passenger vehicles, including but not limited to the issues of—

(1) the harmonization of light transmittance requirements for multipurpose passenger vehicles with light transmittance requirements for passenger cars;

(2) performance requirements for light transmittance; and

(3) appropriate levels of light transmittance.

The proceeding shall consider the effects of such issues in the context of the safe operation of passenger cars and multipurpose passenger vehicles, as well as on the hazards to the safety of law enforcement personnel as a result of such use of darkened windshields and window glass.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 6 months after the date of enactment of this Act and completed not later than 18 months after the date of enactment.

GRANT PROGRAM CONCERNING USE OF SEATBELTS AND CHILD RESTRAINT SYSTEMS

SEC. 214. (a) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"§411. Seatbelt and child restraint programs

"(a) Subject to the provisions of this section, the Secretary shall make grants to those States which adopt and implement seatbelt and child restraint programs which include measures described in this section to foster the increased use of seatbelts and the correct use of child restraint systems. Such grants may only be used by recipient States to implement and enforce such measures.

"(b) No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for seatbelt and child restraint programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this section.

"(c) No State may receive grants under this section in more than 3 fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the seatbelt and child restraint program adopted by the State pursuant to subsection (a) of this section;

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third fiscal year the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) Subject to subsection (c), the amount of a grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) of this section shall equal 20 percent of the amount apportioned to such State for fiscal year 1991 under section 402.

"(e) A State is eligible for a grant under this section if such State—

"(1) has in force and effect a law requiring all **[front seat]** *such* occupants of a passenger car to use seatbelts;

"(2) has achieved—

"(A) in the year immediately preceding a first-year grant, the lesser of either (i) 70 percent seatbelt use by all front seat occupants of passenger cars in the State or (ii) a rate of seatbelt use by all such occupants that is 20 percentage points higher than the rate achieved in 1990;

"(B) in the year immediately preceding a second-year grant, the lesser of either (i) 80 percent seatbelt use by all such occupants or (ii) the rate of seatbelt use by all such occupants that is 35 percentage points higher than the rate achieved in 1990; and

"(C) in the year immediately preceding a third-year grant, the lesser of either (i) 90 percent seatbelt use by all **[front seat]** *such* occupants or (ii) the rate of seatbelt use by all such occupants that is 45 percentage points higher than the rate achieved in 1990; and

"(3) has in force and effect an effective program, as determined by the Secretary, for encouraging the correct use of child restraint systems.

"(f) As used in this section, the term 'child restraint system' has the meaning given such term in section 571.213 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.

"(g) There are authorized to be appropriated, from any funds in the Treasury not otherwise appropriated, to carry out this section, $10,000,000 for the fiscal year 1991, and $20,000,000 for each of the fiscal years 1992 and 1993.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following:

["411. Seatbelt and child restraint programs.".]

"411. Seatbelt and child restraint programs.".

METHODS OF REDUCING HEAD INJURIES

SEC. 215. (a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider methods of reducing head injuries in passenger cars and multipurpose passenger vehicles from contact with vehicle interior components, including those in the head impact area as defined in section 571.3(b) of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act, and to revise the Federal motor vehicle safety standards as appropriate.

(b) DEADLINES.—The proceeding required under subsection (a) shall be initiated not less than 60 days after the date of enactment of this Act and completed not later than 2 years after such date of enactment.

PEDESTRIAN SAFETY

SEC. 216. (a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider the establishment of a standard to minimize pedestrian death and injury, including injury to the head, thorax, and legs, attributable to vehicle components.

(b) DEADLINES.—The proceeding required under subsection (a) shall be initiated not later than 6 months after the date of enactment of this Act and completed not later than 2 years after such date of enactment.

DAYTIME RUNNING LIGHTS

SEC. 217. (a) RULEMAKING PROCEEDING.—Not later than 12 months after the date of enactment of this Act, the Secretary shall complete a rulemaking proceeding to amend Federal Motor Vehicle Safety Standard 108, published as section 571.108 of title 49, Code of Federal Regulations, to authorize passenger cars and multipurpose passenger vehicles to be equipped with daytime running lights, notwithstanding any State law or regulation that affects the use of such lights.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the safety implications of the use of such lights in the United States, including the recommendations of the Secretary concerning whether to require passenger cars and multipurpose passenger vehicles to be equipped with such lights.

ANTILOCK BRAKE SYSTEMS

SEC. 218. (a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding concerning whether to adopt a Federal motor vehicle safety standard requiring antilock brake systems for all passenger cars and multipurpose passenger vehicles manufactured after September 1, 1996.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 90 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

HEADS-UP DISPLAYS

SEC. 219. (a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider the establishment of a standard requiring that passenger cars and multipurpose passenger vehicles shall be equipped with heads-up displays capable of projecting speed, fuel, and other instrument readings on the lower part of the windshield, enabling the driver to check such readings without looking down.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 90 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

SAFETY BELT DESIGN

SEC. 220. (a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider whether to amend any existing standard applicable to seatbelts, as published under part 571 of title 49, Code of Federal Regulations, for modification of seatbelt design in order to take into account the needs of children and short adults.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 90 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

CRITERIA FOR STANDARDS

SEC. 221. Any standard established under a proceeding required by sections 206, 213, 215, 216, 217, 218, 219, or 220 shall be in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 **[(16]** (*15* .S.C. 1381 et seq.), including the provisions of section 103(a) of that Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms.

TITLE III—[HIGHWAY TRAFFIC SAFETY] *IMPAIRED DRIVING ENFORCEMENT*

SHORT TITLE

SEC. 301. This title may be cited as the "Impaired Driving Prevention Act of 1991".

[IMPAIRED DRIVING ENFORCEMENT] *AMENDMENT TO TITLE 23, UNITED STATES CODE*

SEC. 302. (a) ESTABLISHMENT OF GRANT PROGRAM.—Chapter 4 of title 23, United States Code, is amended by inserting immediately after section 404 the following new section:

"§405. Impaired driving enforcement programs

"(a) GENERAL AUTHORITY.—Subject to the provisions of this section, the Secretary shall make basic and supplemental grants to those States which adopt and implement impaired driving enforcement programs which include measures, described in this section, to improve the effectiveness of the enforcement of laws to prevent impaired driving. Such grants may only be used by recipient States to implement and enforce such measures.

"(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for impaired driving enforcement programs at or above the average level of such expenditures in its 2 fiscal years preceding the fiscal year in which this section is enacted.

"(c) FEDERAL SHARE.—No State may receive grants under this section in more than 5 fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the impaired driving enforcement program adopted by the State pursuant to subsection (a);

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third fiscal year the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) MAXIMUM AMOUNT OF BASIC GRANTS.—Subject to subsection (c), the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) shall equal 30 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title.

"(e) ELIGIBILITY FOR BASIC GRANTS.—

"(1) GENERAL.—For purposes of this section, a State is eligible for a basic grant if such State—

"(A) provides for a program (funded at the level required under paragraph (2)) to conduct highway checkpoints for the detection *and deterrence* of persons who operate motor vehicles while under the influence of alcohol or a controlled substance, including the training, manpower, and equipment associated with the conduct of such checkpoints;

"(B) provides for a program (funded at the level required under paragraph (2)) to acquire video equipment to be used in detecting persons who operate motor vehicles while under the influence of alcohol or a controlled substance and in effectively prosecuting those persons, and to train personnel in the use of that equipment;

"(C) establishes an expedited driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

"(i) when a law enforcement officer has probable cause under State law to believe a person has committed an alcohol-related traffic offense and such person is determined, on the basis of a chemical test, to have been under the influence of alcohol while operating the motor vehicle or refuses to submit to such a test as proposed by the officer, the officer shall serve such person with a written notice of suspension or revocation of the driver's license of such person and take possession of such driver's license;

"(ii) the notice of suspension or revocation referred to in clause (i) shall provide information on the administrative procedures under which the State may suspend or revoke in accordance with the objectives of this section a driver's license of a person for operating a motor vehicle while under the influence of alcohol and shall specify any rights of the operator under such procedures;

"(iii) the State shall provide, in the administrative procedures referred to in clause (ii), for due process of law, including the right to an administrative review of a driver's license suspension or revocation within the time period specified in clause (vi);

"(iv) after serving notice and taking possession of a driver's license in accordance with clause (i), the law enforcement officer immediately shall report to the State entity responsible for administering **[drivers licenses']** *drivers' licenses* all information relevant to the action taken in accordance with this clause;

"(v) in the case of a person who, in any 5-year period beginning after the date of enactment of this section, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as proposed by the law enforcement officer, the State entity responsible for administering **[driver's]** *drivers'* licenses, upon receipt of the report of the law enforcement officer—

"(I) shall suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

"(II) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

"(vi) the suspension and revocation referred to under clause (iv) shall take effect not later than 30 days after the day on which the person first received notice of the suspension or revocation in accordance with clause (ii);

"(D) requires that any person with a blood alcohol concentration equal to or greater than the following percentage when operating a motor vehicle shall be deemed to be driving while under the influence of alcohol:

"(i) 0.10 percent for each of the first 3 fiscal years in which a basic grant is received; and

"(ii) 0.08 percent for each of the last 2 fiscal years in which a basic grant is received;

"(E) enacts a statute which provides that—

"(i) any person convicted of a first violation of driving under the influence of alcohol shall receive—

"(I) a mandatory license suspension for a period of not less than 90 days; and

"(II) either an assignment of 100 hours of community service or a minimum sentence of imprisonment for 48 consecutive hours;

"(ii) any person convicted of a second violation of driving under the influence of alcohol within 5 years after a conviction for the same offense shall receive a mandatory minimum sentence of imprisonment for 10 days and license revocation for not less than 1 year;

"(iii) any person convicted of a third or subsequent violation of driving under the influence of alcohol within 5 years after a prior conviction for the same offense shall—

"(I) receive a mandatory minimum sentence of imprisonment for 120 days; and

"(II) have his or her license revoked for not less than 3 years; and

"(iv) any person convicted of driving with a suspended or revoked license or in violation of a restriction imposed as a result of a conviction for driving under the influence of alcohol shall receive a mandatory sentence of imprisonment for at least 30 days, and shall upon release from imprisonment receive an additional period of license suspension or revocation of not less than the period of suspension or revocation remaining in effect at the time of commission of the offense of driving with a suspended or revoked license; and

"(F) provides for a self-sustaining drunk driving prevention program under which a significant portion of the fines and surcharges collected from persons **[convicted of operating]** *by reason of their operation of* a motor vehicle while under the influence of alcohol are returned, or an equivalent amount of non-Federal funds are provided, to those communities which have comprehensive programs for the prevention of such operations of motor vehicles.

"(2) REQUIRED FUNDING LEVELS.—The funding level for the program described in paragraph (1)(A), and for the program described in paragraph (1)(B), shall be an amount equal to or greater than—

"(A) the average level of expenditures by the State for such program in its 2 fiscal years preceding the date of enactment of this section, plus

"(B) 2.4 percent of the amount apportioned to the State for fiscal year 1989 under section 402 of this title.

"(3) WAIVER FOR REDUCED FATALITIES.—If the rate of alcohol-related fatalities (as defined in the Fatal Accident Reporting System of the National Highway Traffic Safety Administration) in a State decreases by an average of 3 percent per calendar year for the 5 consecutive calendar years prior to the fiscal year for which the State would receive a basic grant under this section, the Secretary may waive for that State the basic grant eligibility requirements of one subparagraph among subparagraphs (A) through (F) of paragraph (1).

"(f) SUPPLEMENTAL GRANT PROGRAM.—

"(1) MANDATORY BLOOD ALCOHOL CONCENTRATION TESTING PROGRAMS.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c) of this section, not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides for mandatory blood alcohol concentration testing whenever a law enforcement officer has probable cause under State law to believe that a driver of a motor vehicle involved in an accident resulting in the loss of human life or, as determined by the Secretary, serious bodily injury, has committed an alcohol-related traffic offense.

"(2) PROGRAM FOR PREVENTING DRIVERS UNDER AGE 21 FROM OBTAINING ALCOHOLIC BEVERAGES.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides for and increases its enforcement of an effective system for preventing **[operators of motor vehicles]** *persons* under age 21 from obtaining alcoholic beverages, which may include the issuance of drivers' licenses to persons under age 21 that are easily distinguishable in appearance from drivers' licenses issued to persons 21 years of age and older.

"(3) DRUGGED DRIVING PREVENTION.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State—

"(A) provides for laws concerning drugged driving under which—

"(i) a person shall not drive or be in actual physical control of a motor vehicle while under the influence of alcohol, a controlled substance or combination of controlled substances, or any combination of alcohol and controlled substances;

"(ii) any person who operates a motor vehicle upon the highways of the State shall be deemed to have given consent to a test or tests of his or her blood, breath, or urine for the purpose of determining the blood alcohol concentration or the presence of controlled substances in his or her body;

"(iii) the driver's license of a person shall be suspended promptly, for a period of not less than 90 days in the case of a first offender and not less than 1 year in the case of any repeat offender, when a law enforcement officer has probable cause under State law to believe such person has committed a traffic offense relating to controlled substances use, and such person (I) is determined, on the basis of 1 or more chemical tests, to have been under the influence of controlled substances while operating a motor vehicle, or (II) refuses to submit to such a test as proposed by the officer;

"(B) enacts a statute which provides that—

"(i) any person convicted of a first violation of driving under the influence of controlled substances or alcohol, or both, shall receive—

"(I) a mandatory license suspension for a period of not less than 90 days; and

"(II) either an assignment of 100 hours of community service or a minimum sentence of imprisonment for 48 consecutive hours;

"(ii) any person convicted of a second violation of driving under the influence of controlled substances or alcohol, or both, within 5 years after a conviction for the same offense shall receive a mandatory minimum sentence of imprisonment for 10 days and license revocation for not less than 1 year;

"(iii) any person convicted of a third or subsequent violation of driving under the influence of controlled substances or alcohol, or both, within 5 years after a prior conviction for the same offense shall—

"(I) receive a mandatory minimum sentence of imprisonment for 120 days; and

"(II) have his or her license revoked for not less than 3 years; and

"(iv) any person convicted of driving with a suspended or revoked license or in violation of a restriction imposed as a result of a conviction for driving under the influence of controlled substances or alcohol, or both, shall receive a mandatory sentence of imprisonment for at least 30 days, and shall upon release from imprisonment receive an additional period of license suspension or revocation of not less than the period of suspension or revocation remaining in effect at the time of commission of the offense of driving with a suspended or revoked license;

"(C) provides for an effective system, as determined by the Secretary, for—

"(i) the detection of driving under the influence of controlled substances;

"(ii) the administration of a chemical test or tests to any driver who a law enforcement officer has probable cause to believe has committed a traffic offense relating to controlled substances use; and

"(iii) in instances where such probable cause exists, the prosecution of (I) those who are determined, on the basis of 1 or more chemical tests, to have been operating a motor vehicle while under the influence of controlled substances and (II) those who refuse to submit to such a test as proposed by a law enforcement officer; and

"(D) has in effect two of the following programs:

"(i) an effective educational program, as determined by the Secretary, for the prevention of driving under the influence of controlled substances;

"(ii) an effective program, as determined by the Secretary, for training law enforcement officers to detect driving under the influence of controlled substances; and

"(iii) an effective program, as determined by the Secretary, for the rehabilitation and treatment of those convicted of driving under the influence of controlled substances.

"(4) BLOOD ALCOHOL CONCENTRATION STANDARD.—For purposes of this section, a State is eligible for a supplemental grant (only for any of the first 3 fiscal years in which a basic grant is received) in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires that any person with a blood alcohol concentration of 0.08 or greater when operating a motor vehicle shall be deemed to be driving while under the influence of alcohol.

"(5) UNLAWFUL OPEN CONTAINER AND CONSUMPTION OF ALCOHOL PROGRAMS.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State makes unlawful the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway, except—

"(A) as allowed in the passenger area, by persons (other than the driver), of any motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers; or

"(B) as otherwise specifically allowed by such State, with the approval of the Secretary, but in no event may the driver of such motor vehicle be allowed to possess or consume an alcoholic beverage in the passenger area.

"(6) SUSPENSION OF REGISTRATION AND RETURN OF LICENSE PLATE PROGRAM.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides for the suspension of the registration of, and the return to such State of the license plates for, any motor vehicle owned by an individual who—

"(A) has been convicted on more than 1 occasion of an alcohol-related traffic offense within any 5-year period after the date of enactment of this section; or

"(B) has been convicted of driving while his or her driver's license is suspended or revoked by reason of a conviction for such an offense.

A State may provide limited exceptions to such suspension of registration or return of license plates, on an individual basis, to avoid undue hardship to any individual, including any family member of the convicted individual, and any co-owner of the motor vehicle, who is completely dependent on the motor vehicle for the necessities of life. Such exceptions may not result in unrestricted reinstatement of the registration or unrestricted return of the license plates of the motor vehicle.

"(7) SUPPLEMENTAL GRANTS AS BEING IN ADDITION TO OTHER GRANTS.—A supplemental grant under this section shall be in addition to any basic grant or any other supplemental grant received by such State.

"(g) EFFECT OF PARTICIPATION IN PROGRAMS UNDER SECTIONS 408 AND 410.—No State may receive a grant under this section for any fiscal year for which that State is a recipient of a grant under section 408 or 410 of this title.

["(g)] *"(h)* DEFINITIONS.—As used in this section—

"(1) ALCOHOLIC BEVERAGE.—The term 'alcoholic beverage' has the meaning such term has under section 158(c) of this title.

"(2) CONTROLLED SUBSTANCES.—The term 'controlled substances' has the meaning such term has under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

"(3) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning such term has under section 154(b) of this title.

"(4) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term 'open alcoholic beverage container' means any bottle, can, or other receptacle—

"(A) which contains any amount of an alcoholic beverage; and

"(B)(i) which is open or has a broken seal, or

"(ii) the contents of which are partially removed.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, out of the Highway Trust **[Fund,]** *Fund (other than the Mass Transit Account),* $25,000,000 for the fiscal year ending September 30, **[1995,]** *1992,* and $50,000,000 per fiscal year for the fiscal years ending September 30, **[1996,]** *1993,* September 30, **[1997,]** *1994,* September 30, **[1998,]** *1995,* and September 30, **[1999,]** *1996,* respectively. All provisions of chapter 1 of this title that are applicable to Federal-aid primary highway funds, other than provisions relating to the apportionment formula and provisions limiting the expenditures of such funds to Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section and except that sums authorized by this subsection shall remain available until expended.".

[(b) *Phaseout of Other Programs.*—**(1) Section 408(g) of title 23, United States Code, is amended by inserting "or until October 1, 1994, whichever occurs first" immediately after "until expended".**

[(2) Section 410(h) of title 23, United States Code, is amended by inserting "or until October 1, 1994, whichever occurs first" immediately after "until expended".**]**

[(c)] *(b)* DEADLINES FOR ISSUANCE OF REGULATIONS.—The Secretary of Transportation shall issue and publish in the Federal Register proposed regulations to implement section 405 of title 23, United States Code (as added by subsection (a) of this section), not later than December 1, 1992. The final regulations for such implementation shall be issued, published in the Federal Register, and transmitted to Congress before March 1, 1994.

[(d)] *(c)* CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United

States Code, is amended by inserting immediately after the item relating to section 404 the following new item:

["405. Impaired driving enforcement programs.".]

"405. Impaired driving enforcement programs.".

The PRESIDING OFFICER. The question is on agreeing to the committee amendments, en bloc.

The committee amendments were agreed to, en bloc.

AMENDMENT NO. 569

(Purpose: To make a perfecting amendment)

Mr. MITCHELL. Mr. President, on behalf of Senator BRYAN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. BRYAN, proposes an amendment numbered 569.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 51, lines 6 through 13, strike "All provisions" and everything that follows; and on page 51, line 14, strike "sums" and insert in lieu thereof "Sums".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 569) was agreed to.

Mr. BRYAN. Mr. President, as chairman of the Consumer Subcommittee, I am pleased that the Senate is considering S. 1012, which is a comprehensive reauthorization of the National Highway Traffic Safety Administration, or NHTSA. I am especially pleased to have as cosponsors of this bill my Commerce Committee colleagues Senators HOLLINGS, DANFORTH, GORTON, KERRY, and MCCAIN, all of whom have distinguished records of hard work and experience in the area of highway safety.

NHTSA's responsibility can be simply stated—to save lives. Obviously, nothing could be of greater importance, or more deserving of our attention and efforts toward reauthorization.

NHTSA's primary responsibility is to improve the safety of our vehicles and our highways. Since the agency was created in 1966, progress has been made. However, about 45,000 people still are killed on our highways each year, and motor vehicle-related injuries are the leading cause of death for children over 1 year old. Motor vehicle crashes cost the U.S. economy $74 billion each year. There can be no doubt that NHTSA, and those of us who consider legislation in this area, still have our work cut out for us.

As everyone who works on highway safety issues is aware, the effort to reauthorize NHTSA has been strenuous, but as yet unsuccessful. The agency has been without an authorization since 1982, despite the fact that the Senate has passed three separate bills during this time. In the last Congress, in March of 1989, I introduced S. 673, which was unanimously approved by the Commerce Committee, and passed by the Senate on a voice vote in August of 1989. Despite the early Senate action, the bill was not enacted into law.

The authorization bill the Senate is considering today has already been adopted by the Senate without objection as an amendment to the highway bill, S. 1012, which recently passed the Senate. Because there has been difficulty in prior years with insuring that the House considers such legislation, I am asking my colleagues to also enact this legislation in its freestanding form to provide the maximum opportunity for its enactment into law.

The issues addressing by this legislation include requirements that NHTSA complete rulemaking to improve the safety of passenger vehicles, including additional head injury protection and rollover protection, airbags antilock brakes. As improved technology becomes available and proven, we want to insure that it is provided for all consumers, and not just those who can afford luxury cars.

In particular, with respect to airbags, this bill will require that airbags be available in all cars and light trucks on a phased-in schedule. There now is general agreement that airbags with manual seatbelts offer occupants superior protection to any other system, yet NHTSA's current rules allow manufacturers to use either automatic seat belts or airbags. While most manufacturers are moving toward airbags on their own, this bill will insure that the installation of airbags will not vary from model to model, but will be available to all.

Additionally, this bill contains authorizations for NHTSA's operations and research, and its programs funded out of the highway trust fund, including programs established by sections 402 and 403 of title 23 United States Code, and impaired driving prevention grants to States. Section 402 provides funds to the States through a formula based on population and highway mileage to assist in highway safety through NHTSA-approved programs. Section 403 funds research in a number of safety areas, including intelligent vehicle-highway systems.

The operations and research funding and the section 403 program adopt the administration's requests for fiscal year 1992. The operations and research funding is increased by the inflation factor recommended by the Congressional Budget Office for fiscal years 1993 and 1994. The section 403 funding is the administration's request for fiscal year 1992, and identical amounts for 4 additional years. Since the administration's request for 1992 is a substantial increase over prior years' funding, no increases have been authorized for later years. The section 402 funding provides the 1991 authorized amount for fiscal year 1992, and increases this amount by the Congressional Budget Office inflation factor for an additional 4 years.

This bill also replaces the two current NHTSA-administered programs of impaired driving prevention grants—sections 408 and 410 of title 23 United States Code—with one new program. The new program is structured in a manner identical to the current programs, but eliminates the overlap between the two, retains the most effective elements of each, and adds some additional measures that have been shown to be effective to prevent impaired driving. Incentive grants are provided to States to encourage such actions as: Prompt suspension of drivers' licenses of impaired drivers; sobriety checkpoints; and mandatory minimum penalties for those convicted of impaired driving.

I believe this bill is comprehensive and will provide important authorization and direction to this vital agency. All parties working on highway safety share the common goal of saving lives and preventing injuries. This bill will advance that process, and go a long way toward achieving these goals. I urge my colleagues to support it.

Mr. HOLLINGS. Mr. President, as chairman of the Commerce Committee, I am pleased to join my my colleagues, including Senator BRYAN, chairman of the Consumer Subcommittee, in supporting this legislation to reauthorize the National Highway Traffic Safety Administration, or NHTSA. It is obvious that this agency has the power, ultimately, to save lives. An agency with this kind of responsibility deserves our fullest support, encouragement, and oversight, and reauthorization legislation is an important part of the congressional support for these safety activities. However, despite the efforts of this committee and the Senate, including Senate passage of reauthorization legislation by voice vote early in the 101st Congress, NHTSA has not been reauthorized since 1982. I certainly will do everything I can to avoid a similar result this Congress.

The issues within NHTSA's responsibility deserve serious and immediate attention because they can provide vital improvements in the safety of the motor vehicles and highways of this country. Over 900 people are killed on our highways each week, so there can be no question that these issues are of the highest priority.

This legislation contains authorizations for a number of important operations, research activities, and State grant programs which NHTSA administers. In my view, among the most important is the incentive grants program provided to encourage States to address more effectively the issue of impaired driving. Approximately 50 percent of all traffic fatalities are alcohol-related, so there is enormous potential for saving lives by addressing this issue. This authorization bill reorganizes, streamlines, and improves the two current incentive grant programs into one program that effectively encourages States to take the particular measures believed to be most successful in preventing impaired driving. These include prompt license suspension for impaired drivers, mandatory minimum penalties for those convicted of impaired driving, use of sobriety checkpoints, and improved enforcement of 21 drinking age laws.

The legislation also addresses a broad range of other safety measures, including vehicle manufacturing standards and accident avoidance research. I believe its enactment will continue the progress we have seen since NHTSA's creation in 1966 in reducing highway deaths and injuries. I urge my colleagues to support this important measures.

Mr. DANFORTH. Mr. President, today I join Senators BRYAN, HOLLINGS, GORTON, and others in urging Senate passage of the National Highway Traffic Safety Administration [NHTSA] Reauthorization Act of 1991, S. 1012, designed to reduce highway death and injury. Each year, 45,000 Americans die in highway crashes. In my home State of Missouri, there were 1,096 highway deaths last year—a 4-percent increase over the previous year. According to the Department of Transportation [DOT], highway crashes cost the U.S. economy $75 billion annually.

Congress has given NHTSA primary responsibility for solving highway safety problems. Despite the importance of NHTSA, no reauthorization has been enacted since 1982. In the last 9 years, the Senate has approved, without opposition, three reauthorization bills. The Senate and the House have been unable to reach agreement, however. I hope that, in this Congress, NHTSA legislation will be enacted. This NHTSA bill is a comprehensive highway safety measure. It addresses issues raised in previous NHTSA bills, requires action on promising new safety technologies, and launches a new offensive against impaired driving.

UNFINISHED BUSINESS

Each year 9,000 Americans are killed in side-impact crashes. In 1979, NHTSA opened a rulemaking to improve its side-impact standard, which was inadequate because it only called for a small door beam that did not protect occupants in vehicle-to-vehicle crashes.

Last September, NHTSA announced a modification to the passenger car side-impact protection standard designed to prevent pelvic and torso injuries. NHTSA has not completed a modification to the standard that would prevent head injuries from side impact. These injuries account for about one-half of side-impact deaths. The last four Senate-passed NHTSA bills required improved passenger car side-impact protection to prevent head, torso, and pelvic injuries. This year's NHTSA bill requires the agency to conduct a rulemakng on reducing such head injuries.

Another important issue addressed in earlier bills is multipurpose vehicle [MPV] safety. MPV's, which include minivans, pickups, and four-wheel drive vehicles, currently account for about one-third of the light-duty vehicle market. In 1990, MPV sales increased to $5 million because these relatively inexpensive vehicles are being used as passenger cars. Although MPV's compete directly with passenger cars, NHTSA has exempted them from a number of passenger car safety standards. These exemptions have contributed to the annual toll of more than 8,500 MPV fatalities.

Recently, some of these exemptions have been eliminated. Our bill would complete the process by requiring an MVP rollover prevention standard. Many MPV's, particularly sport-utility vehicles, have high centers of gravity, which can cause them to roll over. For example, NHTSA reports that 64 percent of all single-vehicle accidents of the discontinued Suzuki Samurai involved rollover. The rollover rate for full-sized sedans in single-vehicle crashes is only 8 percent. Our legislation also includes a provision from earlier bills requiring the development of an MPV side-impact protection standard equal to the standard being developed for passenger cars.

Another piece of unfinished business is the need for a rulemaking on methods to reduce head injuries. Each year, between 400,000 and 500,000 Americans suffer head injuries in automobile crashes. The National Head Injury Foundation estimates that over 50,000 of these head injury victims are permanently disabled. An airbag can eliminate head injuries resulting from frontal crashes. Even if all cars are equipped with airbags, however, head injuries will still occur from rollover and side-impact crashes. The rulemaking would draw on NHTSA's research, which indicates that many of these head injuries can be prevented if additional padding is placed in the interior of the car where a crash victim's head is likely to hit.

Our legislation also contains language from last Congress' NHTSA bill requiring NNTSA to conduct a rulemaking on reducing pedestrian injuries resulting from vehicle design. Since 1981, NHTSA has done considerable research on reducing the annual toll of 8,000 pedestrian fatalities. It has identified sources of pedestrian injuries and vehicle design changes to minimize these injuries, but, to data, NHTSA has not conducted a rulemaking.

Our final item of unfinished business involves automobile bumpers. Our bill contains language from previous bills to require NHTSA to raise the bumper collision standard to 5 miles per hour [mph]. In 1982, NHTSA lowered its standards for bumpers from 5 miles per hour to 2.5 miles per hour. This lower standard has been costly to consumers. A recent Insurance Institute for Highway Safety [IIHS] study tested the bumper strength of 34 different cars in a 5 mile per hour crash test. Damages to those vehicles ranged from $618 to $3,300. In the worst cases, the Hyundai Sonata and Subaru Legacy sustained damages totaling $3,300. Before the bumper standard was lowered, the 1981 Ford Escort sustained no damages from the same test.

AIRBAGS

Our bill requires that all passenger cars manufactured on or after September 1, 1995, have both driver—and passenger-side airbags. In addition, MPV's manufactured after September 1, 1997, must have both driver—and passenger-side airbags. These lifesavings devices would save thousands of lives annually if all passenger vehicles had them.

NEW VEHICLE TECHNOLOGIES

Our legislation encourages new technologies to prevent accidents and relieve congestion. One such technology is a smart car/smart highway system. According to NHTSA, driver error contributes to more than 80 percent of all crashes. In advanced smart car/highway systems, automatic braking or steering is used to help overcome a driver's lapse in judgment or his inability to detect risks. These advanced systems will rely on computers and radio signals beamed up from the roadway to keep vehicles spaced safely and moving smoothly.

Less advanced systems might include safety improvements such as enhanced cruise control, which uses a radar technology to help maintain a safe following and leading distance. Another radar-related technology provides a driver with a warning if he attempts to switch lanes when there is a vehicle in his blind spot.

For fiscal year 1992, the Bush administration has requested $62 million for smart car/highway research with $8 million of this money scheduled to go to NHTSA. Our legislation would encourage DOT to develop a strategic plan to maximize the safety benefits of these systems.

Daytime running lights are another promising new technology. There is considerable evidence that equipping vehicles with these lights increases the visibility of vehicles and can reduce accidents. An IIHS study of a fleet of 2,000 cars equipped with such lights found that they had 7-percent fewer accidents than unlighted cars in the same fleet. In addition, a Finnish study showed that multivehicle accidents dropped 27 percent once daytime running lights were required. Moreover, Canada now requires that all new vehicles sold in that country have automatic daytime running lights. Our legislation requires a rulemaking on whether manufacturers should be permitted to equip vehicles with daytime running lights, notwithstanding any state law that affects the use of such lights. It also requires NHTSA to study whether these lights should be standard equipment.

Antilock brake systems are another promising safety technology. These brakes greatly increase the ability of a vehicle to stop in a short distance and in a straight line. They are especially effective in wet, snowy, or icy conditions. Currently, antilock brakes are available on some pickup trucks and luxury models. Our bill requires NHTSA to conduct a rulemaking on whether antilock brakes should be mandated for passenger cars and MPV's.

Our bill also requires NHTSA to consider a new technology known as heads-up display systems. These displays can project speed, fuel, and other instrument readings onto the lower part of the windshield, enabling the driver to check readings without looking down, enhancing safety.

THE IMPAIRED DRIVING PREVENTION ACT OF 1991

Our bill also addresses the leading cause of highway death—drunk and drugged driving, an issue on which Congress has played a leadership role during the last decade.

In 1982, according to NHTSA, 25,170 Americans were killed in alcohol-related crashes. Since that year, Congress has created State grant programs to encourage enactment and enforcement of tough drunk driving laws and the National Minimum Drinking Age Act. These efforts have made a small but measurable difference. NHTSA reports that there were 22,415 drunk driving fatalities in 1989. The percentage of fatal crashes that are alcohol-related has also dropped from 57.2 percent to 49.2 percent.

Our bill creates an incentive grant program that will encourage States to take some promising impaired driving prevention initiatives. One of these initiatives involves increased use of sobriety checkpoints. These checkpoints have been endorsed as an effective tool to fight impaired driving by DOT Secretary Samuel K. Skinner and National Transportation Safety Board Chairman James Kolstad. In June 1989, the Supreme Court upheld the constitutionality of such checkpoints by a vote of 6 to 3. In a concurring opinion, Justice Blackmun called impaired driving a "tragic aspect of American life" and cited an earlier decision in which he "noted that the 'slaughter on our highways exceeds the death toll of all our wars.'"

Another requirement for receiving a grant under the new program involves efforts to videotape impaired drivers. Some local law enforcement officials are using video cameras to record the image of a weaving car and its incoherent driver. Aetna Life & Casualty and MADD have formed a partnership to purchase a limited number of video cameras for the police departments in cities such as Columbus, OH, and Kansas City, MO. Michael Creamer, a deputy sheriff in Columbus, explained the importance of the camera, "We'll show the judge, the jury and the courtroom how they really looked driving on the wrong side, falling down by the car, unable to walk or recite the alphabet." Creamer said all 17 drunk drivers that his department videotaped have pled guilty. Last May, the Supreme Court upheld the use of videotaping drunk drivers by an 8-to-1 margin.

Another requirement under the new program involves BAC levels. A State would have to establish a per se BAC standard of no more than 0.10 percent for the first 3 years. To qualify for the grant after that time, the State would have to have a 0.08 percent BAC standard. Virtually every major developed country has a standard lower than 0.10 percent BAC: Canada 0.08 percent BAC; Australia 0.05 percent BAC; Finland 0.05 percent BAC; Norway 0.05 percent BAC; Sweden. 0.02 percent BAC; France 0.08 percent BAC; Spain 0.08 percent BAC; Japan 0.08 percent BAC; and U.K. 0.08 percent BAC. States with 0.08 percent BAC per se include Utah, Oregon, California, and Maine. The scientific community believes that 0.08 percent BAC is well above the level of driving impairment. To get above 0.08 percent, a 170-pound male must drink four drinks in 1 hour on an empty stomach. He will metabolize 0.015 percent, or about one drink an hour, so he must continue to drink to stay at 0.08 percent.

Thirty-seven studies show impaired depth perception, vision, and judgment at levels at or below 0.04 percent BAC.

Two additional features of this new program merit discussion: First, the program endeavors to give States some flexibility by waiving one of the five basic criteria if they can show reduced alcohol-related fatalities over a 5-year period; and second, the program provides a supplemental grant to States that create an effective drugged driving prevention program. A 1988 DOT review of drugged driving indicates between 10 percent and 22 percent of crash-involved drivers tested positive for drugs.

CONCLUSION

This legislation will reduce impaired driving, make vehicles more crashworthy, and help drivers avoid accidents. I urge my colleagues to support it.

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as amended, as follows:

S. 591

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "National Highway Traffic Safety Administration Authorization Act of 1991".

DEFINITIONS

Sec. 2. As used in this Act, the term—

(1) "bus" means a motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons;

(2) "multipurpose passenger vehicle" means a motor vehicle with motive power (except a trailer), designed to carry 10 persons or fewer, which is constructed either on a truck chassis or with special features for occasional off-road operation;

(3) "passenger car" means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer), designed for carrying 10 persons or fewer;

(4) "Secretary" means the Secretary of Transportation; and

(5) "truck" means a motor vehicle with motive power, except a trailer, designed primarily for the transportation of property or special purpose equipment.

TITLE I—AUTHORIZATION OF APPROPRIATIONS

GENERAL AUTHORIZATIONS

Sec. 101. (a) Traffic and Motor Vehicle Safety Program.—For the National Highway Traffic Safety Administration to carry out the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), there are authorized to be appropriated $68,722,000 for fiscal year 1992, $71,333,436 for fiscal year 1993, and $74,044,106 for fiscal year 1994.

(b) Motor Vehicle Information and Cost Savings Programs.—For the National Highway Traffic Safety Administration to carry out the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), there are authorized to be appropriated $6,485,000 for fiscal year 1992, $6,731,430 for fiscal year 1993, and $6,987,224 for fiscal year 1994.

(c) National Driver Register Act.—Section 211(b) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) is amended—

(1) by striking "and" the second time it appears; and

(2) by inserting immediately before the period at the end the following: ", not to exceed $6,131,000 for fiscal year 1992, not to exceed $6,363,978 for fiscal year 1993, and not to exceed $6,605,809 for fiscal year 1994".

(d) NHTSA Highway Safety Programs.—For the National Highway Traffic Safety Administration to carry out section 402 of title 23, United States Code, there are authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), $126,000,000 for fiscal year 1992, $130,788,000 for fiscal year 1993, $135,757,944 for fiscal year 1994, $140,916,745 for fiscal year 1995, and $146,271,573 for fiscal year 1996.

(e) NHTSA Highway Safety Research and Development.—For the National Highway Traffic Safety Administration to carry out section 403 of title 23, United States Code, there are authorized to be appropriated, out of the Highway Trust Fund (other than the

Mass Transit Account), $45,869,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996.

INTELLIGENT VEHICLE-HIGHWAY SYSTEMS

SEC. 102. The Secretary shall expend the sums authorized under section 101(e) as the Secretary deems necessary for the purpose of conducting research on intelligent vehicle-highway systems. The Secretary shall develop a strategic plan with specific milestones, goals, and objectives for that research. The research should place particular emphasis on aspects of those systems that will increase safety, and should identify any aspects of the systems that might degrade safety.

TITLE II—REQUIREMENTS FOR VEHICLES

SIDE IMPACT PROTECTION

SEC. 201. (a) AMENDMENT OF FMVSS STANDARD 214.—The Secretary shall, not later than 12 months after the date of enactment of this Act, issue a final rule amending Federal Motor Vehicle Safety Standard 214, published as section 571.214 of title 49, Code of Federal Regulations. The rule shall establish performance criteria for improved head injury protection for occupants of passenger cars in side impact accidents.

(b) EXTENSION TO MULTIPURPOSE PASSENGER VEHICLES.—Not later than 18 months after the date of enactment of this Act, the Secretary shall issue a final rule to extend the applicability of such Standard 214 to multipurpose passenger vehicles, taking into account the performance criteria established by the final rule issued in accordance with subsection (a).

AUTOMOBILE CRASHWORTHINESS DATA

SEC. 202. (a) STUDY AND INVESTIGATION.—(1) The Secretary shall, within 30 days after the date of enactment of this Act, enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation regarding means of establishing a method for calculating a uniform numerical rating, or series of ratings, which will enable consumers to compare meaningfully the crashworthiness of different passenger car and multipurpose passenger vehicle makes and models.

(2) Such study shall include examination of current and proposed crashworthiness tests and testing procedures and shall be directed to determining whether additional objective, accurate, and relevant information regarding the comparative crashworthiness of different passenger car and multipurpose passenger vehicle makes and models reasonably can be provided to consumers by means of a crashworthiness rating rule. Such study shall include examination of at least the following proposed elements of a crashworthiness rating rule:

(A) information on the degree to which different passenger car and multipurpose passenger vehicle makes and models will protect occupants across the range of motor vehicle crash types when in use on public roads;

(B) a repeatable and objective test which is capable of identifying meaningful differences in the degree of crash protection provided occupants by the vehicles tested, with respect to such aspects of crashworthiness as occupant crash protection with and without use of manual seatbelts, fuel system integrity, and other relevant aspects;

(C) ratings which are accurate, simple in form, readily understandable, and of benefit to consumers in making informed decisions in the purchase of automobiles;

(D) dissemination of comparative crashworthiness ratings to consumers either at the time of introduction of a new passenger car or multipurpose passenger vehicle make or model or very soon after such time of introduction; and

(E) the development and dissemination of crashworthiness data at a cost which is reasonably balanced with the benefits of such data to consumers in making informed purchase decisions.

(3) Any such arrangement shall require the National Academy of Sciences to report to the Secretary and the Congress not later than 19 months after the date of enactment of this Act on the results of such study and investigation, together with its recommendations. The Secretary shall, to the extent permitted by law, furnish to the Academy upon its request any information which the Academy considers necessary to conduct the investigation and study required by this subsection.

(4) Within 60 days after transmittal of the report of the National Academy of Sciences to the Secretary and the Congress under paragraph (3), the Secretary shall initiate a period (not longer than 90 days) for public comment on implementation of the recommendations of the National Academy of Sciences with respect to a rule promulgated under title II of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) establishing an objectively based system for determining and publishing accurate comparative crashworthiness ratings for different makes and models of passengers cars and multipurpose passenger vehicles.

(5) Not later than 180 days after the close of the public comment period provided for in paragraph (4) of this subsection, the Secretary shall determine, on the basis of the report of the National Academy of Sciences and the public comments on such report, whether an objectively based system can be established by means of which accurate and relevant information can be derived that reasonably predicts the degree to which different makes and models of passenger cars and multipurpose passenger vehicles provide protection to occupants against the risk of personal injury or death as a result of motor vehicle accidents. The Secretary shall promptly publish the basis of such determination, and shall transmit such determination to the Congress.

(b) RULE ON COMPARATIVE CRASHWORTHINESS RATING SYSTEM.—(1) If the Secretary determines that the system described in subsection (a)(5) can be established, the Secretary shall, subject to the exception provided in paragraph (2), not later than 3 years after the date of enactment of this Act, promulgate a final rule under section 201 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1941) establishing an objectively based system for determining and publishing accurate comparative crashworthiness ratings for different makes and models of passenger cars and multipurpose passenger vehicles. The rule promulgated under such section 201 shall be practicable and shall provide to the public relevant objective information in a simple and readily understandable form in order to facilitate comparison among the various makes and models of passenger cars and multipurpose passenger vehicles so as to contribute meaningfully to informed purchase decisions.

(2) The Secretary shall not promulgate such rule unless—

(A) a period of 60 calendar days has passed after the Secretary has transmitted to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a summary of the comments received during the period for public comment specified in subsection (a)(4); or

(B) each such committee before the expiration of such 60-day period has transmitted to the Secretary written notice to the effect that such committee has no objection to the promulgation of such rule.

(c) RULE ON PROVIDING CRASHWORTHINESS INFORMATION TO PURCHASERS.—If the Secretary promulgates a rule under subsection (b), not later than 6 months after such promulgation, the Secretary shall by rule establish procedures requiring passenger cars and multipurpose passenger vehicle dealers to make available to prospective passenger car and multipurpose passenger vehicle purchasers information developed by the Secretary and provided to the dealer which contains data comparing the crashworthiness of passenger cars and multipurpose passenger vehicles.

STANDARDS COMPLIANCE

SEC. 203. Section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392) is amended by adding at the end the following new subsection:

"(j)(1) The Secretary shall establish a schedule for use in ensuring compliance with each Federal motor vehicle safety standard established under this Act which the Secretary determines is capable of being tested. Such schedule shall ensure that each such standard is the subject of testing and evaluation on a regular, rotating basis.

"(2) The Secretary shall, not later than 6 months after the date of enactment of this subsection, conduct a review of the method for the collection of data regarding accidents related to Federal motor vehicle safety standards established under this Act. The Secretary shall consider the desirability of collecting data in addition to that information collected as of the date of enactment of this subsection, and shall estimate the costs involved in the collection of such additional data, as well as the benefits to safety likely to be derived from such collection. If the Secretary determines that such benefits outweigh the costs of such collection, the Secretary shall collect such additional data and utilize it in determining which motor vehicles should be the subject of testing for compliance with Federal motor vehicle safety standards established under this Act.".

INVESTIGATION AND PENALTY PROCEDURES

SEC. 204. (a) INVESTIGATION PROCEDURES.—Section 112(a)(1) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1401(a)(1)) is amended by adding at the end the following: "The Secretary shall establish written guidelines and procedures for conducting any inspection or investigation regarding noncompliance with this title or any rules, regulations, or orders issued under this title. Such guidelines and procedures shall indicate timetables for processing of such inspections and investigations to ensure that such processing occurs in an expeditious and thorough manner. In addition, the Secretary shall develop criteria and procedures for use in determining when the results of such an investigation should be considered by the Secretary to be the subject of a civil penalty under section 109 of this title. Nothing in this paragraph shall be construed to limit the ability of the Secretary to exceed any time limitation specified in such timetables where the Secretary determines that additional time is necessary for the processing of any such inspection or investigation.".

(b) CIVIL PENALTY PROCEDURES.—Section 109(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1398(a)) is amended by adding at the end the following: "The Secretary shall establish procedures for determining the manner in which, and the time within which, a determination should be made regarding whether a civil penalty should be imposed under this section. Nothing in this subsection shall be construed to limit the ability of the Secretary to exceed any time limitation specified for making any such determination where the Secretary determines that additional time is necessary for making a determination regarding whether a civil penalty should be imposed under this section.".

MULTIPURPOSE PASSENGER VEHICLE SAFETY

SEC. 205. (a) FINDINGS.—The Congress finds that—

(1) multipurpose passenger vehicles have become increasingly popular during this decade and are being used increasingly for the transportation of passengers, not property; and

(2) the safety passengers in multipurpose passenger vehicles has been compromised by the failure to apply to them the Federal motor vehicle safety standards applicable to passenger cars.

(b) RULEMAKING PROCEEDING.—(1) In accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of such Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms, the Secretary shall, not later than 12 months after the date of enactment of this Act, complete a rulemaking proceeding to review the system of classification of vehicles with a gross vehicle weight under 10,000 pounds to determine if such vehicles should be reclassified.

(2) Any reclassification pursuant to paragraph (1) shall, to the maximum extent practicable, classify as a passenger car every motor vehicle determined by the Department of the Treasury or United States Customs Service to be a motor car or other motor vehicle principally designed for the transport of persons under heading 8703 of the Harmonized Tariff Schedule of the United States. Nothing in this section shall prevent the Secretary from classifying as a passenger car any motor vehicle determined by the Department of the Treasury or United States Customs Service to be a motor vehicle for the transport of goods under heading 8704 of such Harmonized Tariff Schedule.

ROLLOVER PROTECTION

SEC. 206. The Secretary shall, within 12 months after the date of enactment of this Act, complete a rulemaking proceeding to consider establishment of a Federal Motor Vehicle Safety Standard to protect against unreasonable risk of rollover of passenger cars and multipurpose passenger vehicles.

REAR SEATBELTS

SEC. 207. The Secretary shall expend such portion of the funds authorized to be appropriated under the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), for each of the fiscal years 1992 and 1993, as the Secretary deems necessary for the purpose of disseminating information to consumers regarding the manner in which passenger cars may be retrofitted with lap and shoulder rear seatbelts.

IMPACT RESISTANCE CAPABILITY OF BUMPERS

SEC. 208. (a) DISCLOSURE OF BUMPER IMPACT CAPABILITY.—The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) is amended by inserting immediately after section 102 the following new subsection:

"DISCLOSURE OF BUMPER IMPACT CAPABILITY

"SEC. 102A. (a) The Secretary shall promulgate, in accordance with the provisions of this section, a regulation establishing passenger motor vehicle bumper system labeling requirements. Such regulation shall apply to passenger motor vehicles manufactured for model years beginning more than 180 days after the date such regulation is promulgated, as provided in subsection (c)(2) of this section.

"(b)(1) The regulation required to be promulgated in subsection (a) of this section shall provide that, before any passenger motor vehicle is offered for sale, the manufacturer shall affix a label to such vehicle, in a format prescribed in such regulation, disclosing an impact speed at which the manufacturer represents that the vehicle meets the applicable damage criteria.

"(2) For purposes of this subsection, the term 'applicable damage criteria' means the damage criteria applicable under section 581.5(c) of title 49, Code of Federal Regulations (as in effect on the date of enactment of this section).

"(c)(1) Not later than 90 days after the date of enactment of this section, the Secretary shall publish in the Federal Register a proposed initial regulation under this section.

"(2) Not later than 180 days after such date of enactment, the Secretary shall promulgate a final initial regulation under this section.

"(d) The Secretary may allow a manufacturer to comply with the labeling requirements of subsection (b) of this section by permitting such manufacturer to make the bumper system impact speed disclosure required in subsection (b) of this section on the label required by section 506 of this Act or section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

"(e) The regulation promulgated under subsection (a) of this section shall provide that the information disclosed under this section be provided to the Secretary at the beginning of the model year for the model involved. As soon as practicable after receiving such information, the Secretary shall furnish and distribute to the public such information in a simple and readily understandable form in order to facilitate comparison among the various types of passenger vehicles. The Secretary may by rule require automobile dealers to distribute to prospective purchasers any information compiled pursuant to this subsection.

"(f) For purposes of this section, the term 'passenger motor vehicle' means any motor vehicle to which the standard under part 581 of title 49, Code of Federal Regulations, is applicable.".

(b) AMENDMENT OF BUMPER STANDARD.—(1) Not later than 1 year after the date of enactment of this Act, the Secretary shall amend the bumper standard published as part 581 of title 49, Code of Federal Regulations, to ensure that such standard is identical to the bumper standard under such part 581 which was in effect on January 1, 1982. The amended standard shall apply to all passenger cars manufactured after September 1, 1992.

(2) Nothing in this subsection shall be construed to prohibit the Secretary from requiring under such part 581 that passenger car bumpers be capable of resisting impact speeds higher than those specified in the bumper standard in effect under such part 581 on January 1, 1982.

CHILD BOOSTER SEATS

SEC. 209. (a) IN GENERAL.—In accordance with applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), the Secretary shall conduct a rulemaking proceeding to amend Federal Motor Vehicle Safety Standard 213, published as section 571.213 of title 49, Code of Federal Regulations, to increase the safety of child booster seats used in passenger cars. The proceeding shall be initiated not later than 30 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

(b) DEFINITION.—As used in this section, the term "child booster seat" has the meaning given the term "booster seat" in section 571.213 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act.

AIRBAG REQUIREMENTS

SEC. 210. (a) AIRBAGS FOR CARS ACQUIRED FOR FEDERAL USE.—The Secretary, in cooperation with the Administrator of General Services and the heads of other appropriate Federal agencies, shall establish a program requiring that all passenger cars acquired after September 30, 1991, for use by the Federal Government be equipped, to the maximum extent practicable, with driver-side airbags and that all passenger cars acquired after September 30, 1993, for use by the Federal Government be equipped, to the maximum extent practicable, with airbags for both the driver and front seat outboard seating positions.

(b) AIRBAGS FOR CERTAIN OTHER VEHICLES.—(1) Passenger cars, and those trucks, buses, and multipurpose passenger vehicles that have a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less, shall, in accordance with the following schedule, be equipped with airbags complying with the occupant crash protection requirements under S4.1.2.1 of Federal Motor Vehicle Safety Standard 208, published as section 571.208 of title 49, Code of Federal Regulations:

(A) All passenger cars manufactured on and after September 1, 1995, shall be so equipped for both the driver and right front seat outboard seating positions.

(B) All such trucks, buses, and multipurpose passenger vehicles manufactured on and after September 1, 1996, and before September 1, 1997, shall, at a minimum, be so equipped for the driver side.

(C) All such trucks, buses, and multipurpose passenger vehicles manufactured on and after September 1, 1997, shall be so equipped for both the driver and right front seat outboard seating positions.

(2) For purposes of sections 108 through 112, 114, 115, 116, 118, 120, 121, and 151 through 158 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1397 through 1401, 1403, 1404, 1405, 1406, 1408, 1409, and 1411 through 1418), the requirements of paragraph (1) of this subsection are deemed to be a Federal motor vehicle safety standard prescribed pursuant to section 103 of that Act (15 U.S.C. 1392).

STATE MOTOR VEHICLE SAFETY INSPECTION PROGRAMS

SEC. 211. Part A of title III of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1961 et seq.) is amended by adding at the end the following new section:

"STATE MOTOR VEHICLE SAFETY INSPECTION PROGRAMS

"SEC. 304. (a) The Congress finds that—

"(1) State motor vehicle safety inspection programs, when properly administered, can reduce the rate of highway traffic accidents by a significant percentage;

"(2) the 1990 amendments to the Clean Air Act will subject approximately 60 percent of the vehicles in the United States to emissions inspection;

"(3) as States plan to implement the requirement for emissions inspections, there is considerable potential for simultaneously and economically implementing effective motor vehicle safety inspection programs;

"(4) the Secretary, as part of the effort to reduce highway accidents, should make every effort to ensure that the potential for effective State motor vehicle safety inspection programs is realized; and

"(5) the Secretary and the Administrator of the Environmental Protection Agency shall coordinate their efforts so as to ensure maximum coordination of motor vehicle safety inspections and required emissions inspections.

"(b) The Secretary shall, within six months after the date of enactment of this section and every year thereafter, submit a report to Congress detailing the efforts of the Secretary to ensure that State motor vehicle safety inspection programs are implemented in the most effective manner possible. The report shall—

"(1) specify Federal manpower allocations for support of State motor vehicle safety inspection efforts;

"(2) specify allocations and expenditures of Federal funds on such efforts;

"(3) describe the extent and effect of the coordination by the Secretary and the Administrator of the Environmental Protection Agency of their respective efforts regarding motor vehicle safety inspection and required emissions inspections, and of the coordination of State motor vehicle safety inspections and emissions inspections;

"(4) list the States that do not have a periodic safety inspection program for motor vehicles that meets the requirements of Highway Safety Program Standard Number 1 and part 570 of title 49, Code of Federal Regulations; and

"(5) include any data, furnished by the States that do operate such safety inspection programs, that concerns the relative effectiveness of their particular programs.".

RECALL OF CERTAIN MOTOR VEHICLES

SEC. 212. (a) NOTIFICATION OF DEFECT OR FAILURE TO COMPLY.—Section 153 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1413) is amended by adding at the end the following new subsections:

"(d) If the Secretary determines that a notification sent by a manufacturer pursuant to subsection (c) of this section has not resulted in an adequate number of vehicles or items of equipment being returned for remedy, the Secretary may direct the manufacturer to send a second notification in such manner as the Secretary may by regulation prescribe.

"(e)(1) Any lessor who receives a notification required by section 151 or 152 pertaining to any leased motor vehicle shall send a copy of such notice to the lessee in such manner as the Secretary may by regulation prescribe.

"(2) For purposes of this subsection, the term 'leased motor vehicle' means any motor vehicle which is leased to a person for a term of at least four months by a lessor who has leased five or more vehicles in the 12 months preceding the date of the notification.".

(b) LIMITATION ON SALE OR LEASE OF CERTAIN VEHICLES.—Section 154 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1414) is amended by adding at the end the following:

"(d) If notification is required under section 151 or by an order under section 152(b) and has been furnished by the manufacturer to a dealer of motor vehicles with respect to any new motor vehicle or new item of replacement equipment in the dealer's possession at the time of notification which fails to comply with an applicable Federal motor vehicle safety standard or contains a defect which relates to motor vehicle safety, such dealer may sell or lease such motor vehicle or item of replacement equipment only if—

"(1) the defect or failure to comply has been remedied in accordance with this section before delivery under such sale or lease; or

"(2) in the case of notification required by an order under section 152(b), enforcement of the order has been restrained in an action to which section 155(a) applies or such order has been set aside in such an action.

Nothing in this subsection shall be construed to prohibit any dealer from offering for sale or lease such vehicle or item of equipment.".

DARKENED WINDOWS

SEC. 213. (a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding on the use of darkened windshields and window glass in passenger cars and multipurpose passenger vehicles, including but not limited to the issues of—

(1) the harmonization of light transmittance requirements for multipurpose passenger vehicles with light transmittance requirements for passenger cars;

(2) performance requirements for light transmittance; and

(3) appropriate levels of light transmittance.

The proceeding shall consider the effects of such issues in the context of the safe operation of passenger cars and multipurpose passenger vehicles, as well as on the hazards to the safety of law enforcement personnel as a result of such use of darkened windshields and window glass.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 6 months after the date of enactment of this Act and completed not later than 18 months after the date of enactment.

GRANT PROGRAM CONCERNING USE OF SEATBELTS AND CHILD RESTRAINT SYSTEMS

SEC. 214. (a) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"§ 411. Seatbelt and child restraint programs

"(a) Subject to the provisions of this section, the Secretary shall make grants to those States which adopt and implement seatbelt and child restraint programs which include measures described in this section to foster the increased use of seatbelts and the correct use of child restraint systems. Such grants may only be used by recipient States to implement and enforce such measures.

"(b) No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for seatbelt and child restraint programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this section.

"(c) No State may receive grants under this section in more than 3 fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the seatbelt and child restraint program adopted by the State pursuant to subsection (a) of this section;

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third fiscal year the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) Subject to subsection (c), the amount of a grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) of this section shall equal 20 percent of the amount apportioned to such State for fiscal year 1991 under section 402.

"(e) A State is eligible for a grant under this section if such State—

"(1) has in force and effect a law requiring all such occupants of a passenger car to use seatbelts;

"(2) has achieved—

"(A) in the year immediately preceding a first-year grant, the lesser of either (i) 70 percent seatbelt use by all front seat occupants of passenger cars in the State or (ii) a rate of seatbelt use by all such occupants that is 20 percentage points higher than the rate achieved in 1990;

"(B) in the year immediately preceding a second-year grant, the lesser of either (i) 80 percent seatbelt use by all such occupants or (ii) the rate of seatbelt use by all such occupants that is 35 percentage points higher than the rate achieved in 1990; and

"(C) in the year immediately preceding a third-year grant, the lesser of either (i) 90 percent seatbelt use by all such occupants or (ii) the rate of seatbelt use by all such occupants that is 45 percentage points higher than the rate achieved in 1990; and

"(3) has in force and effect an effective program, as determined by the Secretary, for encouraging the correct use of child restraint systems.

"(f) As used in this section, the term 'child restraint system' has the meaning given such term in section 571.213 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.

"(g) There are authorized to be appropriated, from any funds in the Treasury not otherwise appropriated, to carry out this section, $10,000,000 for the fiscal year 1991, and $20,000,000 for each of the fiscal years 1992 and 1993.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following:

"411. Seatbelt and child restraint programs.".

METHODS OF REDUCING HEAD INJURIES

SEC. 215. (a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider methods of reducing head injuries in passenger cars and multipurpose passenger vehicles from contact with vehicle interior components, including those in the head impact area as defined in section 571.3(b) of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act, and to revise the Federal motor vehicle safety standards as appropriate.

(b) DEADLINES.—The proceeding required under subsection (a) shall be initiated not less than 60 days after the date of enactment of this Act and completed not later than 2 years after such date of enactment.

PEDESTRIAN SAFETY

SEC. 216. (a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider the establishment of a standard to minimize pedestrian death and injury, including injury to the head, thorax, and legs, attributable to vehicle components.

(b) DEADLINES.—The proceeding required under subsection (a) shall be initiated not later than 6 months after the date of enactment of this Act and completed not later than 2 years after such date of enactment.

DAYTIME RUNNING LIGHTS

SEC. 217. (a) RULEMAKING PROCEEDING.—Not later than 12 months after the date of enactment of this Act, the Secretary shall complete a rulemaking proceeding to amend Federal Motor Vehicle Safety Standard 108, published as section 571.108 of title 49, Code of Federal Regulations, to authorize passenger cars and multipurpose passenger vehicles to be equipped with daytime running lights, notwithstanding any State law or regulation that affects the use of such lights.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the safety implications of the use of such lights in the United States, including the recommendations of the Secretary concerning whether to require passenger cars and multipurpose passenger vehicles to be equipped with such lights.

ANTILOCK BRAKE SYSTEMS

SEC. 218. (a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding concerning whether to adopt a Federal motor vehicle safety standard requiring antilock brake systems for all passenger cars and multipurpose passenger vehicles manufactured after September 1, 1996.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 90 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

HEADS-UP DISPLAYS

SEC. 219. (a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider the establishment of a standard requiring that passenger cars and multipurpose passenger vehicles shall be equipped with heads-up displays capable of projecting speed, fuel, and other instrument readings on the lower part of the windshield, enabling the driver to check such readings without looking down.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 90 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

SAFETY BELT DESIGN

SEC. 220. (a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider whether to amend any existing standard applicable to seatbelts, as published under part 571 of title 49, Code of Federal Regulations, for modification of seatbelt design in order to take into account the needs of children and short adults.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 90 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

CRITERIA FOR STANDARDS

SEC. 221. Any standard established under a proceeding required by section 206, 213, 215, 216, 217, 218, 219, or 220 shall be in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of that Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms.

TITLE III—IMPAIRED DRIVING ENFORCEMENT

SHORT TITLE

SEC. 301. This title may be cited as the "Impaired Driving Prevention Act of 1991".

AMENDMENT TO TITLE 23, UNITED STATES CODE

SEC. 302. (a) ESTABLISHMENT OF GRANT PROGRAM.—Chapter 4 of title 23, United States Code, is amended by inserting immediately after section 404 the following new section:

"§ 405. Impaired driving enforcement programs

"(a) GENERAL AUTHORITY.—Subject to the provisions of this section, the Secretary shall make basic and supplemental grants to those States which adopt and implement impaired driving enforcement programs which include measures, described in this section, to improve the effectiveness of the enforcement of laws to prevent impaired driving. Such grants may only be used by recipient States to implement and enforce such measures.

"(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for impaired driving enforcement programs at or above the average level of such expenditures in its 2 fiscal years preceding the fiscal year in which this section is enacted.

"(c) FEDERAL SHARE.—No State may receive grants under this section in more than 5 fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the impaired driving enforcement program adopted by the State pursuant to subsection (a);

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third fiscal year the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) MAXIMUM AMOUNT OF BASIC GRANTS.—Subject to subsection (c), the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) shall equal 30 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title.

"(e) ELIGIBILITY FOR BASIC GRANTS.—

"(1) GENERAL.—For purposes of this section, a State is eligible for a basic grant if such State—

"(A) provides for a program (funded at the level required under paragraph (2)) to conduct highway checkpoints for the detection and deterrence of persons who operate motor vehicles while under the influence of alcohol or a controlled substance, including the training, manpower, and equipment associated with the conduct of such checkpoints;

"(B) provides for a program (funded at the level required under paragraph (2)) to acquire video equipment to be used in detecting persons who operate motor vehicles while under the influence of alcohol or a controlled substance and in effectively prosecuting those persons, and to train personnel in the use of that equipment;

"(C) establishes an expedited driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

"(i) when a law enforcement officer has probable cause under State law to believe a person has committed an alcohol-related traffic offense and such person is determined, on the basis of a chemical test, to have been under the influence of alcohol while operating the motor vehicle or refuses to submit to such a test as proposed by the officer, the officer shall serve such person with a written notice of suspension or revocation of the driver's license of such person and take possession of such driver's license;

"(ii) the notice of suspension or revocation referred to in clause (i) shall provide information on the administrative procedures under which the State may suspend or revoke in accordance with the objectives of this section a driver's license of a person for operating a motor vehicle while under the influence of alcohol and shall specify any rights of the operator under such procedures;

"(iii) the State shall provide, in the administrative procedures referred to in clause (ii), for due process of law, including the right to an administrative review of a driver's license suspension or revocation within the time period specified in clause (vi);

"(iv) after serving notice and taking possession of a driver's license in accordance with clause (i), the law enforcement officer immediately shall report to the State entity responsible for administering drivers' licenses all information relevant to the action taken in accordance with this clause;

"(v) in the case of a person who, in any 5-year period beginning after the date of enactment of this section, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as proposed by the law enforcement officer, the State entity responsible for administering drivers' licenses, upon receipt of the report of the law enforcement officer—

"(I) shall suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

"(II) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

"(vi) the suspension and revocation referred to under clause (iv) shall take effect not later than 30 days after the day on which the person first received notice of the suspension or revocation in accordance with clause (ii);

"(D) requires that any person with a blood alcohol concentration equal to or greater than the following percentage when operating a motor vehicle shall be deemed to be driving while under the influence of alcohol:

"(i) 0.10 percent for each of the first 3 fiscal years in which a basic grant is received; and

"(ii) 0.08 percent for each of the last 2 fiscal years in which a basic grant is received;

"(E) enacts a statute which provides that—

"(i) any person convicted of a first violation of driving under the influence of alcohol shall receive—

"(I) a mandatory license suspension for a period of not less than 90 days; and

"(II) either an assignment of 100 hours of community service or a minimum sentence of imprisonment for 48 consecutive hours;

"(ii) any person convicted of a second violation of driving under the influence of alcohol within 5 years after a conviction for the same offense shall receive a mandatory minimum sentence of imprisonment for 10 days and license revocation for not less than 1 year;

"(iii) any person convicted of a third or subsequent violation of driving under the influence of alcohol within 5 years after a prior conviction for the same offense shall—

"(I) receive a mandatory minimum sentence of imprisonment for 120 days; and

"(II) have his or her license revoked for not less than 3 years; and

"(iv) any person convicted of driving with a suspended or revoked license or in violation of a restriction imposed as a result of a conviction for driving under the influence of alcohol shall receive a mandatory sentence of imprisonment for at least 30 days, and shall upon release from imprisonment receive an additional period of license suspension or revocation of not less than the period of suspension or revocation remaining in effect at the time of commission of the offense of driving with a suspended or revoked license; and

"(F) provides for a self-sustaining drunk driving prevention program under which a significant portion of the fines and surcharges collected from persons by reason of their operation of a motor vehicle while under the influence of alcohol are returned, or an equivalent amount of non-Federal funds are provided, to those communities which have comprehensive programs for the prevention of such operations of motor vehicles.

"(2) REQUIRED FUNDING LEVELS.—The funding level for the program described in paragraph (1)(A), and for the program described in paragraph (1)(B), shall be an amount equal to or greater than—

"(A) the average level of expenditures by the State for such program in its 2 fiscal years preceding the date of enactment of this section, plus

"(B) 2.4 percent of the amount apportioned to the State for fiscal year 1989 under section 402 of this title.

"(3) WAIVER FOR REDUCED FATALITIES.—If the rate of alcohol-related fatalities (as defined in the Fatal Accident Reporting System of the National Highway Traffic Safety Administration) in a State decreases by an average of 3 percent per calendar year for the 5 consecutive calendar years prior to the fiscal year for which the State would receive a basic grant under this section, the Secretary may waive for that State the basic grant eligibility requirements of one subparagraph among subparagraphs (A) through (F) of paragraph (1).

"(f) SUPPLEMENTAL GRANT PROGRAM.—

"(1) MANDATORY BLOOD ALCOHOL CONCENTRATION TESTING PROGRAMS.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c) of this section, not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides for mandatory blood alcohol concentration testing whenever a law enforcement officer has probable cause under State law to believe that a driver of a motor vehicle involved in an accident resulting in the loss of human life or, as determined by the Secretary, serious bodily injury, has committed an alcohol-related traffic offense.

"(2) PROGRAM FOR PREVENTING DRIVERS UNDER AGE 21 FROM OBTAINING ALCOHOLIC BEVERAGES.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides for and increases its enforcement of an effective system for preventing persons under age 21 from obtaining alcoholic beverages, which may include the issuance of drivers' licenses to persons under age 21 that are easily distinguishable in appearance from drivers' licenses issued to persons 21 years of age and older.

"(3) DRUGGED DRIVING PREVENTION.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State—

"(A) provides for laws concerning drugged driving under which—

"(i) a person shall not drive or be in actual physical control of a motor vehicle while under the influence of alcohol, a controlled substance or combination of controlled substances, or any combination of alcohol and controlled substances;

"(ii) any person who operates a motor vehicle upon the highways of the State shall be deemed to have given consent to a test or tests of his or her blood, breath, or urine for the purpose of determining the blood alcohol concentration or the presence of controlled substances in his or her body;

"(iii) the driver's license of a person shall be suspended promptly, for a period of not less than 90 days in the case of a first offender and not less than 1 year in the case of any repeat offender, when a law enforcement officer has probable cause under State law to believe such person has committed a traffic offense relating to controlled substances use, and such person (I) is determined, on the basis of 1 or more chemical tests, to have been under the influence of controlled substances while operating a motor vehicle, or (II) refuses to submit to such a test as proposed by the officer;

"(B) enacts a statute which provides that—

"(i) any person convicted of a first violation of driving under the influence of controlled substances or alcohol, or both, shall receive—

"(I) a mandatory license suspension for a period of not less than 90 days; and

"(II) either an assignment of 100 hours of community service or a minimum sentence of imprisonment for 48 consecutive hours;

"(ii) any person convicted of a second violation of driving under the influence of controlled substances or alcohol, or both, within 5 years after a conviction for the same offense shall receive a mandatory minimum sentence of imprisonment for 10 days and license revocation for not less than 1 year;

"(iii) any person convicted of a third or subsequent violation of driving under the influence of controlled substances or alcohol, or both, within 5 years after a prior conviction for the same offense shall—

"(I) receive a mandatory minimum sentence of imprisonment for 120 days; and

"(II) have his or her license revoked for not less than 3 years; and

"(iv) any person convicted of driving with a suspended or revoked license or in violation of a restriction imposed as a result of a conviction for driving under the influence of controlled substances or alcohol, or both, shall receive a mandatory sentence of imprisonment for at least 30 days, and shall upon release from imprisonment receive an additional period of license suspension or revocation of not less than the period of suspension or revocation remaining in effect at the time of commission of the offense of driving with a suspended or revoked license;

"(C) provides for an effective system, as determined by the Secretary, for—

"(i) the detection of driving under the influence of controlled substances;

"(ii) the administration of a chemical test or tests to any driver who a law enforcement officer has probable cause to believe has committed a traffic offense relating to controlled substances use; and

"(iii) in instances where such probable cause exists, the prosecution of (I) those who are determined, on the basis of 1 or more chemical tests, to have been operating a motor vehicle while under the influence of controlled substances and (II) those who refuse to submit to such a test as proposed by a law enforcement officer; and

"(D) has in effect two of the following programs:

"(i) an effective educational program, as determined by the Secretary, for the prevention of driving under the influence of controlled substances;

"(ii) an effective program, as determined by the Secretary, for training law enforcement officers to detect driving under the influence of controlled substances; and

"(iii) an effective program, as determined by the Secretary, for the rehabilitation and treatment of those convicted of driving under the influence of controlled substances.

"(4) BLOOD ALCOHOL CONCENTRATION STANDARD.—For purposes of this section, a State is eligible for a supplemental grant (only for any of the first 3 fiscal years in which a basic grant is received) in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires that any person with a blood alcohol concentration of 0.08 or greater when operating a motor vehicle shall be deemed to be driving while under the influence of alcohol.

"(5) UNLAWFUL OPEN CONTAINER AND CONSUMPTION OF ALCOHOL PROGRAMS.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State makes unlawful the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway, except—

"(A) as allowed in the passenger area, by persons (other than the driver), of any motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers; or

"(B) as otherwise specifically allowed by such State, with the approval of the Secretary, but in no event may the driver of such motor vehicle be allowed to possess or consume an alcoholic beverage in the passenger area.

"(6) SUSPENSION OF REGISTRATION AND RETURN OF LICENSE PLATE PROGRAM.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides for the suspension of the registration of, and the return to such State of the license plates for, any motor vehicle owned by an individual who—

"(A) has been convicted on more than 1 occasion of an alcohol-related traffic offense within any 5-year period after the date of enactment of this section; or

"(B) has been convicted of driving while his or her driver's license is suspended or revoked by reason of a conviction for such an offense.

A State may provide limited exceptions to such suspension of registration or return of license plates, on an individual basis, to avoid undue hardship to any individual, including any family member of the convicted individual, and any co-owner of the motor vehicle, who is completely dependent on the motor vehicle for the necessities of life. Such exceptions may not result in unrestricted reinstatement of the registration or unrestricted return of the license plates of the motor vehicle.

"(7) SUPPLEMENTAL GRANTS AS BEING IN ADDITION TO OTHER GRANTS.—A supplemental grant under this section shall be in addition to any basic grant or any other supplemental grant received by such State.

"(g) EFFECT OF PARTICIPATION IN PROGRAMS UNDER SECTIONS 408 AND 410.—No State may receive a grant under this section for any fiscal year for which that State is a recipient of a grant under section 408 or 410 of this title.

"(h) DEFINITIONS.—As used in this section—

"(1) ALCOHOLIC BEVERAGE.—The term 'alcoholic beverage' has the meaning such term has under section 158(c) of this title.

"(2) CONTROLLED SUBSTANCES.—The term 'controlled substances' has the meaning such term has under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

"(3) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning such term has under section 154(b) of this title.

"(4) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term 'open alcoholic beverage container' means any bottle, can, or other receptacle—

"(A) which contains any amount of an alcoholic beverage; and

"(B)(i) which is open or has a broken seal, or

"(ii) the contents of which are partially removed.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $25,000,000 for the fiscal year ending September 30, 1992, and $50,000,000 per fiscal year for the fiscal years ending September 30, 1993, September 30, 1994, September 30, 1995, and September 30, 1996, respectively. Sums authorized by this subsection shall remain available until expended.".

(b) DEADLINES FOR ISSUANCE OF REGULATIONS.—The Secretary of Transportation shall issue and publish in the Federal Register proposed regulations to implement section 405 of title 23, United States Code (as added by subsection (a) of this section), not later than December 1, 1992. The final regulations for such implementation shall be issued, published in the Federal Register, and transmitted to Congress before March 1, 1994.

(c) CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United States Code, is amended by inserting immediately after the item relating to section 404 the following new item:

"405. Impaired driving enforcement programs.".

Passed the Senate July 9 (legislative day, July 8), 1991.

Attest:

Secretary.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill as amended was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HIGHWAY FATALITY AND INJURY REDUCTION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 104, S. 591, the Highway Fatality and Injury Reduction Act.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 591), the Highway Fatality and Injury Reduction Act of 1991.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. HOLLINGS. Mr. President, as an original cosponsor of S. 591, I am pleased that the Senate is considering this important measure. This bill would require airbags in cars and multipurpose vehicles like minivans, on a reasonable, phased-in schedule. Rarely has there been such unanimity on the importance of a type of safety equipment. All experts, including the National Highway Traffic Safety Administration [NHTSA] and the industry, agree that airbags are the best occupant protection in a frontal crash when used with a seatbelt. Yet current NHTSA rules permit the installation of airbags or automatic seatbelts, even though seatbelts are not as effective as airbags. This bill will correct that deficiency in current law.

Unfortunately, without this mandatory requirement, airbags have been available primarily to those who can buy luxury model vehicles. To the automakers' credit, they are changing this situation and have announced plans to have airbags in a significant portion of their fleets by model year 1994. Nevertheless, we need to make sure that all consumers have this lifesaving technology in their cars and multipurpose vehicles. This bill will do that.

When we know how to save lives, we should make sure that consumers get the benefits of that knowledge. Everyone agrees that airbags save lives. There should be no opposition to making them widely available. I urge my colleagues to support this bill.

Mr. DANFORTH. Mr. President, I am pleased to join Senators BRYAN, GORTON, ADAMS, and others in urging Senate passage of the Highway Fatality and Injury Reduction Act of 1991, legislation to require the installation of airbags in all passenger cars and light trucks. Each year, 45,000 Americans die in highway crashes and another 520,000 are hospitalized with serious injuries.

The single most important vehicle improvement we can make to reduce these fatalities and injuries is to require airbags in all cars and light trucks, which include minivans, four-wheel drives, and pickups. Under DOT's passive restraint rule, a car or light truck must be equipped with either airbags or automatic seatbelts. Although either option is available to manufacturers, statistics prove that airbags provide superior protection. So-called automatic seatbelts have not substantially increased belt use rates. These automatic belts can be either manually operated or, in some cases, may have motorized shoulder harnesses. A 1989 Insurance Institute for Highway Safety study on nonmotorized automatic belts found that the automatic feature had been disabled on one or more belts in 95 percent of the new cars it surveyed in dealer showrooms. Motorized automatic belts provide an automatic shoulder harness, but require the driver or passenger to buckle the lap belt. A report by the Highway Safety Research Center of the University of North Carolina found that less than 30 percent of the occupants of cars with motorized belts connected their lap belts. A June 13 New York Times article raised serious questions about whether vehicle occupants are protected adequately by motorized shoulder belts if they are not wearing their lap belts. The article cited the case of a crash involving a Georgia woman who was decapitated in a crash in which she was wearing a motorized shoulder belt and no lap belt.

Even when a seat belt is worn properly, it is not as effective as an airbag. A German study assessed the effectiveness of automatic belts on more than 600 passengers involved in frontal collisions. The study found that, even with automatic belts, 30.4 percent of the drivers suffered a head impact and 10.6 percent suffered skull-brain trauma. The study also found that 28.6 percent of the drivers sustained chest injuries. There also have been reports in this country about poor performance of automatic belts. According to the Institute for Injury Reduction, there have been crashes where a nonmotorized belt, which is connected to the door, allowed the driver of the car to be ejected when the door popped open.

In light of this overwhelming evidence, safety experts agree that seat belts cannot provide the protection that airbags provide in a severe crash. Even the Automotive News, in an editorial entitled "Most Passive Belts are Actively Foolish; Bring on the Bags," has recognized that:

> A not very funny thing happened on the way to getting airbags in cars: a new generation of every-worse seat belts. * * * The long-term solution is airbags and normal three-point belts. Fortunately, buyers now want bags. * * * Everybody should hurry it up. The sham-passive belts will be a short-lived, unfortunate footnote in the history of car safety.

In contrast to automatic belts, airbags have been a great success. State Farm Insurance Co. has been tracking the experience of its policyholders with airbag-equipped cars. In all but 5 out of 4,065 accidents in which the airbag deployed, the drivers survived. In Missouri alone, 164 State Farm policyholders have been saved from death or more serious injuries by airbags.

Examples of crashes of vehicles equipped with airbags eliminate any doubt regarding their lifesaving value. On August 31, 1990, an airbag-equipped Chevrolet Camaro slammed into a tree in Meridian, MS. The driver walked away from the accident, even though police said the care was traveling 50 mph when it hit the tree. On March 12, 1990, two airbag-equipped Chrysler Lebarons collided head on in Culpepper County, VA. The vehicles were destroyed, but the drivers walked away with minor bruises. In the summer of 1989, in Lancaster County, VA, the driver of a Chrysler LeBaron convertible with an airbag survived a head-on, 80-mph closing speed crash with a full-sized station wagon. In another accident 2 years ago, an 18-year-old driver from Lee, NH, survived a 50-mph crash into a large tree stump because he was driving an airbag-equipped Dodge Daytona. In July of 1989, in the mountains outside of Boise, ID, the Lincoln Continental driven by the parents of newswoman Kathleen Sullivan flew off the road. The car flew 58 feet in the air before landing on its roof. Local police and DOT officials said the couple survived the crash because their Continental had driver- and passenger-side airbags.

DOT has estimated that the general availability of airbags in passenger cars could prevent 8,000 fatalities annually. About 40 percent of all 1991 model cars will have driver-side airbags and a number of models will also have passenger-side airbags. Unfortunately, to date, very few small cars have been equipped with airbags. This omission means that the already existing difference in fatality rates between small and large cars will expand. Moreover, only a few light truck models have airbags.

Our legislation would eliminate some of these safety gaps. It requires all passenger cars manufactured on or after September 1, 1995, to have both driver- and passenger-side airbags. In addition, family vehicles, such as minivans, four-wheel drives, and small pickups manufactured after September 1, 1996, must have driver-side airbags, and those manufactured after September 1, 1997, must have both driver- and passenger-side airbags.

The American public has waited long enough for airbags in passenger cars, small trucks, and minivans. It is time we had them. I urge my colleagues to join me in supporting this lifesaving legislation.

Mr. BRYAN. Mr. President, I am pleased that the Senate is considering today a bill that will save thousands of lives each year by insuring that consumers who buy passenger vehicles will have airbags in their vehicles. It is rare that we have the opportunity to literally save many lives through a simple legislative measure. The National Highway Traffic Safety Administration has estimated that up to 12,000 lives each year can be saved if all cars have driver and passenger side airbags.

Airbags provide an important example of the potential for enhancing safety through technology, and a lesson in how difficult it can be to get that technology to the consumer. Everyone agrees that people are safer in cars that have airbags. And we have dramatic examples of more and more people who literally owe their lives to airbags.

However, the law is lagging behind technology. Current law requires at most that cars have either automatic seatbelts or airbags in the front seat of the vehicle. Other passenger vehicles—including the minivans used by many families, small pickup trucks, and jeeps—are not required to have either safety device, although a rulemaking to consider such a requirement is ongoing.

We know that automatic seatbelts are not as effective as airbags in protecting people in front end crashes. We also know that many automatic seatbelts are so poorly designed that they are often disconnected. Airbag-equipped cars are unquestionably safer.

Moreover, even though automakers seem to have become believers in airbags, without mandatory standards the vehicles that get airbags often are only the luxury models which are not affordable for many people. It is indefensible that a proven safety technology as effective as airbags would be available only if you can pay more for your car.

The bill we are considering today will correct this problem. It will require that cars manufactured after September 1, 1995, have airbags in the driver and passenger front seats. It also will require that vehicles such as jeeps, minivans, and small pickups have airbags in the driver's side after September 1, 1996, and that they have driver and passenger side airbags after September 1, 1997. It has already been passed by the Senate as an amendment to the highway bill, S. 1204. However, in order to give this important measure the maximum opportunity for consideration by the House of Representatives, I am asking my colleagues to also pass S. 591 as a freestanding bill.

Even though carmakers have said they will soon have airbags in most of their cars without this legislation, the bill is careful to give them several years leadtime in case some of them need to change some product plans. And the bill will insure that the current laudable plans to provide airbags are actually carried out in a timely fashion. With respect to pickups, minivans, and jeeps, the bill covers the same vehicles addressed in NHTSA's rule to require automatic seatbelts or airbags. NHTSA's rule would not insure that airbags are in these vehicles. Yet we know that the families that use these vehicles would be safer if they had those airbags.

The time has come to provide consumers with the safety benefits available through airbags. For evidence of this we need look no further than the auto industry itself, which now bases major advertising campaigns on its willingness to provide airbags. We must insure that the positive move toward airbags continues at a reasonable pace, and this legislation will do that. I urge my colleagues to join me in giving consumers the safety they want and need.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 591

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Highway Fatality and Injury Reduction Act of 1991".

DEFINITIONS

SEC. 2. In this Act, the term—

(1) "bus" means a motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons and having a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less.

(2) "multipurpose passenger vehicle" means a motor vehicle with motive power (except a trailer), designed to carry 10 persons or less, which is constructed either on a

truck chassis or with special features for occasional off-road operation, and which has a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less.

(3) "passenger car" means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer), designed for carrying 10 persons or less.

(4) "truck" means a motor vehicle with motive power, except a trailer, designed primarily for the transportation of property or special purpose equipment and having a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less.

AIRBAGS

SEC. 3. (a) Passenger cars, trucks, buses, and multipurpose passenger vehicles shall, in accordance with the following schedule, be equipped with airbags complying with the occupant crash protection requirements under S4.1.2.1 of Federal Motor Vehicle Safety Standard 208, published as section 571.208 of title 49, Code of Federal Regulations:

(1) All passenger cars manufactured on and after September 1, 1995, shall be so equipped for both the driver and right front seat outboard seating positions.

(2) All trucks, buses, and multipurpose passenger vehicles manufactured on and after September 1, 1996, and before September 1, 1997, shall, at a minimum, be so equipped for the driver side.

(3) All trucks, buses, and multipurpose passenger vehicles manufactured on and after September 1, 1997, shall be so equipped for both the driver and right front seat outboard seating positions.

(b) For purposes of sections 108 through 112, 114, 115, 116, 118, 120, 121, and 151 through 158 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1397 through 1401, 1403, 1404, 1405, 1406, 1408, 1409, and 1411 through 1418), the requirements of subsection (a) are deemed to be a Federal motor vehicle safety standard prescribed pursuant to section 103 of that Act (15 U.S.C. 1392).

Mr. MITCHELL. I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business not to extend beyond the hour of 6:45 p.m. today with Senators permitted to speak therein, and that at 6:45 p.m. today the majority leader or his designee be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

PENNSYLVANIA NEEDS GRECC's

Mr. SPECTER. Mr. President, I recently had the good fortune to travel with Secretary of Veterans Affairs Edward Derwinski to visit three of our VA medical centers in Pennsylvania: Philadelphia, Wilkes-Barre, and Pittsburgh.

One of the items that the Secretary and I discussed was the issue of the "graying" of our veteran population. Right now, about 30 percent of our 1.6 million Pennsylvania veterans are age 65 or older. Within the next 20 years, that percentage is expected to climb to 40 percent.

That is why I told the Secretary that I consider it extremely important that VA establish Geriatric Research, Education, and Clinical Centers—known as GRECC's—in Pennsylvania.

GRECC's were first authorized in Public Law No. 96-330, and are codified in section 4101(f) of title 38, United States Code. They are centers of excellence whose goals are to attract outstanding professionals to teach and to conduct research on aging in a clinical context, thereby having a positive effect on the provision of health care services to older veterans. While the Congress originally authorized 15 GRECC's nationwide in 1979, I was pleased to vote, in 1985 to increase that number to 25.

At this time there are 12 GRECC's in Massachusetts, Florida, Michigan, Arkansas, Washington State, North Carolina, Texas, and other States. GRECC's should be located in Pennsylvania.

In my view, Mr. President, GRECC's are essential to the development of new and innovative approaches to geriatric medicine which are humane, effective, and of appropriate quality. Indeed, Congress has heard testimony concerning VA's leadership role in the development of geriatrics in this country through the GRECC Program.

This kind of research is also cost effective. In a recent report entitled "Extending Life, Enhancing Life," the Institute of Medicine, a prestigious body affiliated with the National Academy of Sciences, tells us that the number of Americans 85 years or older is growing six times as fast as any other population segment. That report also tells us that the cost of caring for disabled older people will double in the next decade unless ways are found to prevent or delay disabling illness.

In 1990, support for research on aging from all sources—the National Institutes of Health, the Department of Veterans Affairs, other Federal departments and agencies and private foundations—totaled about $600 million. That's less than one-half of 1 percent of the $162 billion this country spent in 1987 to care for the disabilities and illnesses of older patients. The Institute's report emphasizes that this incredibly small investment is "a wasteful strategy in light of the potential contribution of research to improve the status of older persons and to reduce the enormous and expanding costs of their care."

Julius R. Krevans, chancellor of the University of California at San Francisco, and chairman of the panel which produced the report, illustrated in simple—but astounding—terms the cost effectiveness of this kind of research: "If we were able to postpone for one month the onset of the type of disability that leads to an elderly patient being placed in a nursing home," he said, "we would be talking in terms of savings of more than $3 billion a year."

I ask unanimous consent that an article on this report from the June 13, 1991, New York Times be inserted following my remarks.

Mr. President, Pennsylvania is one of the most veteran-rich States in our Nation. As a member of the Committee on Veterans' Affairs since I was first elected to this body, and as its ranking Republican member since the beginning of this Congress, I have developed a special appreciation for the crucial part Pennsylvania veterans have played in the ongoing greatness of America. I also know that Pennsylvanians love their State and are not generally part of the southward migration which has had such an overwhelming effect on some of our Sun Belt VA facilities.

The aging veterans in my State deserve the benefits which a GRECC can provide. They deserve the quality of life for which they were willing to risk their very lives.

That is why, Mr. President, I will be working closely with Secretary Derwinski to ensure that one of the these centers is established as soon as possible in Pennsylvania.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 13, 1991]

MILLIONS MORE FOR STUDY ON AGING COULD SAVE BILLIONS, REPORT SAYS

WASHINGTON, June 12.—Spending $312 million more each year on medical research into aging could save the nation billions of dollars and significantly improve the quality of life for America's elderly, a new Institute of Medicine report says.

The report, issued today, said the United States spends about $600 million on research into relieving the ailments of aging each year, while the cost of treating health problems of the elderly is more than $162 billion annually. The nation needs to increase research on the elderly to at least $913 million, the report said.

The Institute of Medicine is affiliated with the National Academy of Sciences, which is chartered by Congress to act as a scientific and technical adviser to the Federal Government.

"There are economic gains to be made by this research," said Julius R. Krevans, chairman of the committee that produced the report. "But greater gains would be in the quality of life that will be achieved by this research."

FAST-GROWING POPULATION

The report said that the number of Americans 85 years old or more is growing six times as fast as any other population segment and that the cost of caring for disabled older people will double in the next decade unless ways are found to prevent or delay disabling illnesses.

Mr. Krevans said studies show that if research found a way to delay by only a month the time that an elderly person goes into a nursing home, the nation could save $3 billion a year.

Research recommended by the committee would be directed not only toward preserving life, but also toward preserving function, thus enabling the elderly to be independent and free of disabling disease for a longer time.

"If we don't find ways of dealing with these issues, then the amount we're spending to care for these people is going to explode," said Mr. Krevans.

Some of the research is obviously needed and long overdue, the committee said.

Dr. John W. Rowe, a committee member who is president of Mount Sinai School of Medicine in New York, said there are 200,000 hip fractures a year in the United States. These usually occur among the elderly from falls and the injuries often end up permanently disabling older people.

Yet, there has been little research into the loss of balance, dizziness and fainting that leads to broken hips, he said.

"It's time to study why people fall." Dr. Rowe said. The idea sounds simple, he noted, but it has not been done and such studies have the potential of increasing the healthy life span.

"There is a lot of disability in old age that is preventable," he said, but research in the field has been neglected.

Dr. Caleb Finch, a member of the committee who is a professor at the University of California at Los Angeles, said advances in biomedical technology offer opportunities for research into aging.

Dr. Finch said the studies could concentrate on fundamentals like why aging causes the immune system to weaken, a slowing in cell replacement and abnormal cell growth in disorders like cancer or Alzheimer's disease.

GOAL ON QUALITY OF LIFE

"We're not going to eliminate death," he said. "We're not going to provide human immortality." But the research could improve the quality of life and function for the elderly.

The report, "Extending Life, Enhancing Life," recommends spending money on these areas of research:

Abnormal cell proliferation and the aging of the brain.

Preventing and correcting disabilities among the elderly, including heart, brain, muscular and metabolic disorders.

Social and psychological factors related to the aging process.

Health care delivery services.

The committee report also called for construction of 10 centers to concentrate on studies of the elderly. The report said this would require a one-time investment of $110 million.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,306th day that Terry Anderson has been held captive in Lebanon.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is concluded.

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for morning business be extended until 7:15 p.m., during which time Senators may be permitted to speak, and that at 7:15 p.m. the majority leader or his designee be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. Mr. President, I understand that we are currently in morning business; is that correct?

The PRESIDING OFFICER. The Senator is correct.

WHITE COLLAR CRIME

Mr. WIRTH. Mr. President, in morning business I obviously cannot offer an amendment, but what I wish to do is to once again explain the amendment which I have been attempting to offer and to which there is apparently some consternation and significant resistance on the other side. This consternation and resistance I have not yet been able to fathom or understand.

This amendment has been available now for the last 2 weeks. We have been asking those who are apparently opposed to the amendment to let us know what their problems are, what those problems are so that we might deal with them, and so far have had no response and no luck in getting an explanation as to why there is concern about this.

So let me once again if I might explain the amendment. We are currently debating a crime bill. That crime bill is dealing with a whole variety of issues running from habeas corpus to the death penalty, gun control, and so on. All of this is related to various aspects, or for the most part, related to various aspects of violent crime and crime as one traditionally views it, drug-related crime, street crime, and so on.

But there is a vast amount of crime in the country which effectively is not touched by this legislation or at all. The purpose of the Wirth amendment, which I and a great number of my colleagues wish to offer—I will list those colleagues right now: Senators ROCKEFELLER, WOFFORD, CONRAD, BRYAN, SIMON, LAUTENBERG, DASCHLE, METZENBAUM, HARKIN, KERREY of Nebraska, RIEGLE, FOWLER, WELLSTONE, and BINGAMAN. I am sure there will be many others as people come to understand what this amendment is all about. The purpose of this amendment is to help to get after the issue of white collar crime.

And what white-collar crime am I speaking about, Mr. President? The taxpayers of this country know what white-collar crime is. They are paying a tab today of at least $160 billion lost dollars in the S&L crisis; $160 billion has already gone down the chute or is projected this year to go down the chute, and there is going to be more—$160 billion already, Mr. President—and the taxpayer ought to know where that money is going.

That is the thrust of this amendment. Where is the money going? What happened in the S&L's? Let us make this all a mater of public record. What are we afraid of? Why are not these issues made public?

The public is spending $160 billion and the public does not know why an S&L failed, what happened, what regulatory failure was out there, what kind of arrangement might have been made between the regulator and the institution. And once there was a failure and the Government moved back in, brought suit against the board members or others tied to the failed S&L, we do not know what kind of a deal might have been cut between the Government and those individuals. If there was a settlement of a lawsuit, what were the terms and conditions of the settlement? One hundred sixty billion dollars of taxpayer money, Mr. President, and we do not have the ability to publicly find out what happened.

Now where does this $160 billion come from? You will remember, Mr. President, that just prior to the 1988 election, we were told that the total cost of the S&L bailout would be $19 billion. That would be perfectly adequate to do the job Mr. Gould told us in August 1988, 3 months before the 1988 election. Right after the 1988 election, the amount of money for the S&L failure ballooned significantly, and in 1989, the administration came back and told us that $19 billion was not adequate but in fact they needed $40 billion plus a $10 billion cushion.

The Congress said, "Well, you are trying to work out these S&L's. We will provide you with $50 billion." So by the end of 1989, Mr. President, the tab had gone up to about $50 billion. Was that enough? Not the case.

In 1990, the administration came back and asked us for another $40 billion; another $40 billion in 1990. So the tab then went to about $90 billion by the end of 1990. Was that adequate? Not enough.

And in 1991, we just heard that the total amount of lost money is going to be $160 billion. And this, Mr. President, does not include working capital. That is the capital required to work through and resolve these institutions which presumably the Government is going to get back. We will get that working capital back in terms of asset sales.

If you believe that all that working capital is going to come back, Mr. President, I suspect you would also believe that the Brazilians and others are going to be repaying their debt as well. But we know now that we are into this for at least $160 billion.

Where has the money gone, and why, why did these institutions fail?

Mr. President, I ask unanimous consent that a brief summary of the public disclosure amendment be printed in the RECORD following my remarks.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

(See exhibit 1.)

Mr. WIRTH. Mr. President, the purpose of the amendment is a very simple one. It requires Federal banking regulators to publish prior examination reports of a bank or thrift that fails or is provided public assistance. If public money goes in, we should know why it was that that institution failed.

Is that asking too much? It seems to me it is not, Mr. President. We ought to know. A vast amount of public money being spent is going into these failed institutions. Why does the public not know what happened?

So that is requirement No. 1 of the amendment which I would like to offer.

The second requirement requires the FDIC and the RTC to disclose all settlements regarding any claims arising from a failure of a bank or a thrift. There are settlements that are made between the Government and the members of the boards of these various institutions and other parties with ties to the institutions. Those settlements ought to be public. The public ought to know what their Government settled to do. It is public money that is used. Why cannot the public know?

Now some have suggested that this amendment is not a good idea because it might reach to those healthy institutions that have bought a failed S&L. That is not the case. This does not reach or touch those institutions at all. They have nothing to do with this. They are totally carved off. This only applies to failed institutions.

So if the argument or the reason for the opposition on the other side to this amendment, of which we have gotten no formal response, only the fact that they object and apparently quite strenuously to this veritable public disclosure amendment, if the reason for their objection is that they believe this touches healthy institutions, that is not the case. There is nothing in the language of the amendment that suggests that if they believe that there is something to suggest that, we will be happy to change the amendment and make sure very exclusively that healthy institutions are carved out. Others have suggested that this may threaten lawyer-client relationships, that there are lawyers involved in these institutions and that the lawyer-client relationship, a private, obviously privileged relationship somehow might be compromised by this amendment. Not the case.

There is nothing in this that touches in any way, shape, or form that lawyer-client relationship. It only touches those institutions themselves. It has nothing to do with the lawyer-client relationship.

Some have also suggested that the problem with this amendment is that it focuses only on one case, the Silverado case in Colorado, and that this is an attempt somehow to embarrass the Bush family or Neil Bush. Not the case.

The amendment is not limited to one institution or one settlement. I have not said anything linking the amendment to Silverado previously, and if this is a concern we'll cut that out, we will explicitly say that this has nothing to do with the Silverado settlement. We will explicitly take out that settlement.

So if there is concern about that, we will take that out. Just let us know. We will be happy to see if we can work it out. I cannot believe that the opponents, the apparent opponents—apparently there is a great deal of concern about this amendment—that the opponents of the amendment are going to have a problem with the idea of public disclosure of where public funds have been spent.

Mr. President, it has been said that sunshine is the best antiseptic. Certainly, I believe that that is the case. This is a sunshine amendment. This sunshine amendment will open up a valuable window into thrift failures and give taxpayers access to important information about why a financial institution failed and made the use of tax dollars necessary.

Why do we need this amendment? Well, there are so many of these failed institutions we do not have the capability here, with a very small staff available to the Senate Banking Committee, to go and investigate each one of these failed thrifts. There is no way we can do that. There is no way we can figure out what were the relationships between the regulators and the board members and the thrifts. What were their relationships? What did the regulators do over the last 3 or 4 years? Where were they if there were any? We have no way of finding that out. Was there any kind of analysis done of these amendments at all?

What this would do would be to open up that record so that public groups, public interest groups, citizen groups, the press, could go in and take a look. If there is a failure in East Orange, CA, or South Plains, TX, or North Rocky, CO, or whatever community it may be, if there is a failure in those communities, the local press, for example, can go into and try and find out what happened and try to dig this sort of thing out. And if there were irregularities involved, the public ought to know, the public ought to know who did what to whom.

This is $160 billion that we are talking about, Mr. President, $160 billion. It seems to me that the taxpayers are entitled to know why an expenditure of this scale became necessary.

But, today, taxpayers have no idea for the most part why an institution failed and have no means to obtain that information. You cannot get this information under the Freedom of Information Act. In some situations these documents have been leaked out. But you cannot get this information. You cannot get it at all.

This also would not currently apply to banks. Again let me say this does not apply to health institutions. It only applies in settlements of lawsuits filed by the Government against individuals and businesses involved in an institution's failure and the examination reports of banks and thrifts that have failed. This can provide valuable insight into why these institutions failed.

It seems to me this is just a very clear, simple, straightforward amendment to let the country's citizens know where this enormous amount of taxpayer expense is going.

Finally, let me say I understand there is significant resistance on the other side, for reasons I do not understand. I have laid out what I have had heard over the transom are problems that they have. If there are problems, we will be happy to fix this amendment.

People will say, does this belong on this bill? Of course it does. We are talking about white collar crime. We are not talking about guns and we are not talking about drugs. We are talking about blatant high-powered, white-collar crime; stealing from the taxpayers. The taxpayers ought to know where that money has gone.

In closing, I am concerned that the opponents will not even allow, under the current procedures, this amendment to come up. I am appalled by that. What do they have to hide? What is the problem? I wish they would come out here and tell us what is the problem. Why is open disclosure of how $160 billion of taxpayer money has been spent, why is that not a matter of public record? What is there to hide? There must be something to hide or there would not be this enormous concern.

I urge those who apparently oppose this amendment to let us know why. I would urge them to let us be able to proceed and have this amendment part of the crime bill. It is a crime, $160 billion down a rat hole.

To reiterate, Mr. President, I had hoped to offer the public disclosure amendment that I described before the July 4 recess. I had hoped we could consider it then and have been willing to enter into a time agreement so that we could swiftly debate and vote on the proposal. Instead, some of my colleagues on the other side of the aisle have resisted consideration of the amendment. I continue to hope that we may resolve the matter swiftly so that passage of the crime legislation will not be further delayed.

This sunshine amendment will open a valuable window into thrift failures and give taxpayers access to important information about why a financial institution failed and made the use of tax dollars necessary.

The estimated cost of the S&L crisis has increased steadily in recent years, from $19 billion in August 1988 to $160 billion today. We may see it increase further before we are through. Even if the current estimates hold, we will still have to pay hundreds of billions of dollars more to pay the interest on the funds borrowed to resolve the problem. Taxpayers are being forced to provide billions of dollars to resolve the industry's problems.

Fundamentally, I believe taxpayers are entitled to know why an expenditure of this scale became necessary. But today, when taxpayer money is spent on a failed thrift or bank, the taxpayers often have no idea why the institution failed, and have no means to obtain that information.

The public disclosure amendment has two principal parts. First, the amendment requires regulators to publish prior examination reports of a failed thrift or bank if taxpayer funds are used to cover the institution's losses or otherwise assist the institution. Second, the amendment prohibits the Federal Deposit Insurance Corporation [FDIC] and the Resolution Trust Corporation [RTC] from entering into secret agreements to settle lawsuits arising from the failure of a bank or thrift if the deposit insurance system requires public funds.

It is important to note that the requirements of the amendment only apply when the deposit insurance system has received taxpayer funds. When the insurance fund is healthy and failures are addressed with the industry's deposit insurance premiums, the amendment would not apply.

Today, the amendment would apply to savings and loans that are resolved by the Resolution Trust Corporation or whose remaining assets or liabilities are managed by the FSLIC resolution fund because both of those entities have used tens of billions of taxpayer money to meet their obligations.

The publication requirements would not currently apply to banks. However, if the administration's proposal authorizing the FDIC to borrow $70 billion from the taxpayer becomes law and taxpayer funds are borrowed, the publication requirements would be effective as long as that potential taxpayer liability was outstanding.

Settlements of lawsuits filed by the Government against individuals and businesses involved in an institution's failure and the examination reports of banks and thrifts can provide valuable insight into why an institution failed and why tax dollars were needed to cover the institution's losses.

Unfortunately, under current law, this important information is not available to the public. The amendment would correct that and shed some light on how the S&L crisis developed.

Disclosure is more than just an obligation to the taxpayer, it offers important benefits as well. Public disclosure can act as a forceful deterrent. Both bankers and regulators should know that the public will examine their actions when banks fail and hold them accountable.

Disclosure should not only promote more thorough bank examinations, but also fairer examinations. Some bankers have complained that examiners act arbitrarily. If disclosure is required, any arbitrary acts by the examiners will also come to light.

I would not be surprised if the banking regulators oppose this proposal. Some examination reports will, in retrospect, look bad after an institution has failed. I am sure that there are reports that regulators hope will never see the light of day. Other reports, no doubt, will show examiner warnings that should have been heeded.

Lax supervision did play a role in the S&L crisis—the combination of deregulation of thrift activities and relaxed supervision of thrifts was perhaps the greatest mistake of the 1980's. But the blame for that should not lie with the regulators. They were overworked at the time and requests for additional staff were ignored by an administration that felt a deregulated industry did not need supervision, acting as if there were no such thing as Federal deposit insurance.

Some banking regulators have opposed similar disclosure efforts in the past, arguing that disclosure will lead to bank runs. For example, regulators opposed the change in FIRREA that required the bank regulators to publish their final orders on enforcement actions. They said there would be bank runs; they said the sky would fall in. It did not. And regulators opposed the change in the Crime Control Act of 1990 that required the bank regulators to publish all of their enforcement orders and agreements. They said there would be bank runs; they said the sky would fall in. It did not.

I would not be surprised to see our financial regulators object to these disclosure requirements as well. However, in the case of institutions that have already failed the possibility of bank runs is not a concern.

Other administration officials have understood the importance of the sunshine of public disclosure in regulation of the financial industry. For example, Securities and Exchange Commission Chairman Richard Breeden, the White House's point man on the S&L cleanup when President Bush first took office has said:

> I would hope we would learn from the disastrous experience of the thrift crisis as we move forward in developing both accounting and disclosure standards * * *. I think public disclosure is the greatest disinfectant, one of the greatest disinfectants ever invented.

Mr. Marshall Breger, the Chairman of the Administrative Conference of the United States, an independent agency that develops recommendations to improve the administration of Federal programs, including regulatory efforts has said:

> The traditional approach to the oversight of financial institutions—namely, heavy reliance on informal or "quiet" procedures to achieve legislative and regulatory policy goals—was satisfactory because the workload was under control and there was no apparent systemic problems that needed to be solved. But when significant failures erupt among regulated entities, and the day-to-day workings of the federal agencies become front page news, traditional informal, nonadversarial, back-room approaches are no longer sufficient. Enhanced decisional regularity, procedural openness, and greater public accountability are now demanded * * *. I think sunlight, to quote Justice Brandeis, is indeed the best disinfectant.

I think Mr. Breeden, Mr. Berger, and Justice Brandeis are right. Sunlight is the best disinfectant. Sunlight offers a check against dangerous practices. If people want to keep their business practices private—there's an easy way to do it. Run a safe and sound institution. That is what we all want to see.

We should remember that banks are not a typical private business. They receive significant benefits from taxpayer support and guarantees. Deposit insurance and access to credit through Federal institutions such as the Federal Reserve and Federal home loan banks are examples of the special support we give depository institutions. With this kind of government backing, thrift and bank problems are a legitimate public concern.

When the insurance funds are healthy, losses are covered by private funds—the insurance premiums paid by banks and thrifts—and a degree of privacy is appropriate. But when the so-called safety net breaks down and tax dollars are tapped, we are in a different situation. Taxpayers have a right to know. And if a desire to avoid disclosure gives a thrift or bank another incentive to avoid excessive risks and fight harder to stay solvent, we will all benefit.

The public will benefit from public disclosure of both examination reports and settlements of lawsuits the Government files against individuals involved with failed financial institutions. Public disclosure does not mean the FDIC and RTC shouldn't pursue settlements of lawsuits, however.

FDIC and RTC lawsuits will offer an important window into the actions of management, directors, legal representatives, and auditors and how they contributed to a bank or thrift failure. Even a public settlement partially closes that window as witnesses do not testify and documents are not filed as evidence as they would if the suit went to trial. But regulators should be able to settle these lawsuits to avoid costly and time-consuming litigation that often has an uncertain outcome and free up FDIC or RTC resources to pursue other cases.

Settlements can be in the best interests of taxpayers. And partially closing the window is the price we pay for pursuing settlements. But we should not bring the shades down completely. That is why I think settlements should be available to the public. The public has a right to know about settlements if they are footing the bill for a bailout.

As long as settlements can be kept secret, public suspicion is inevitable. The public doesn't have a high degree of confidence in our banking regulators right now and are unlikely to trust secret settlements that offer the appearance of backroom deals. I believe taxpayers have a right to know about these settlements. But, just as importantly, I think disclosure of both settlements and examination reports will help stem the loss of public confidence in our financial regulators.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of the cosponsors of the Wirth public disclosure amendment, a letter to me from Sherry Ettleson, staff attorney of Public Citizen's Congress Watch, and a letter to me from Peggy Miller of the Consumer Federation of America.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COSPONSORS OF WIRTH PUBLIC DISCLOSURE AMENDMENT

Rockefeller, Wofford, Conrad, Bryan, Simon, Lautenberg, Daschle, Metzenbaum, Harkin, Kerrey, Riegle, Fowler, Wellstone, and Bingaman.

PUBLIC CITIZEN,
Washington, DC, July 9, 1991.

Hon. Senator WIRTH,
U.S. Senate, Washington, DC.

DEAR SENATOR WIRTH: On behalf of Public Citizen's Congress Watch I am writing to express our strong support for your Public Disclosure amendment to the Crime bill.

Taxpayers are paying billions of dollars to bailout hundreds of failed savings and loans. And soon taxpayers undoubtedly will be required to do the same for the banks. It is essential that the public have a complete and accurate accounting of where their tax dollars are going and why these institutions failed.

Your amendment to prohibit bank regulators from entering into secret agreements to settle claims arising from the failure of a bank or thrift and to require bank regulators to disclose the examination reports of failed institutions will help ensure that regulators are held accountable and act responsibly. It will help prevent such a financial crisis from ever happening again. Indeed, it will drag the regulators of the financial industry where they have never been before—into the sunlight of public accountability. This is the only way the public can make sure that regulators are not creating a new scandal while cleaning up another.

American taxpayers are already paying an outrageously steep price for the consequences of private-sector fraud and regulatory secrecy and ineptitude. There is no room for secrecy in the clean up efforts.

Sincerely,

SHERRY ETTLESON,
Staff Attorney,
Public Citizen's Congress Watch.

CONSUMER FEDERATION OF AMERICA,
Washington, DC, July 6, 1991.

Senator TIM WIRTH,
380 Russell Senate Office Building, Washington, DC.

DEAR SENATOR: I wanted to commend your decision to sponsor an amendment to S. 1241 which would require the public disclosure of information concerning examinations of failed federally-insured financial depository institutions.

In this era of increased bank and thrift insolvencies, which seems linked to the highly complex investment and ownership interworkings between financial companies and individuals, it becomes imperative for the public to have access to the information surrounding the decisions to close, merge or sell federally-insured institutions.

Regulators face extreme pressures to act quickly, and must evaluate enormous amounts of material when conducting an examination of a federally-insured depository institution.

Disclosing information of such examinations will serve to improve the inspection and understanding of the decisionmaking behind the final regulatory takeovers and resulting contracts. It will further help to clarify the chains of individuals and corporate involvement thereby helping to reduce fraudulent behavior.

We strongly support the inclusion of such an amendment on S. 1241.

Sincerely,

PEGGY MILLER.

EXHIBIT 1

SUMMARY OF PUBLIC DISCLOSURE AMENDMENT

DISCLOSURE REQUIREMENTS

Requires federal banking regulators to publish prior examination reports (going back five years) of a bank or thrift that fails or is provided public assistance.

Requires the FDIC and RTC to disclose all settlements regarding any claims arising from the failure of a bank or thrift.

INSTITUTIONS COVERED BY DISCLOSURE REQUIREMENTS

The amendment covers institutions that fail and receive assistance from the deposit insurance fund when the fund has received funds from the U.S. Treasury, or has received a loan from the Treasury, either directly or indirectly through the Federal Financing Bank or a Federal Reserve Bank.

The amendment would apply to all savings and loans that are either resolved by the Resolution Trust Corporation or whose remaining assets or liabilities are managed by the FSLIC Resolution Fund because both of those entities have used tens of billions of taxpayer money to meet the failed institution's obligations.

INSTITUTIONS NOT COVERED BY DISCLOSURE REQUIREMENTS

The publication requirements do not apply unless taxpayer funds are either directly or indirectly involved. If a bank or thrift goes out of business without requiring taxpayer assistance, examination reports and settlements would not have to be made public.

The publication requirements of the amendment would not currently apply to banks, because the FDIC is not currently using taxpayer funds, and has not borrowed any money, directly or indirectly, from the Treasury. However, if the Administration's proposal that authorizes the FDIC to borrow $70 billion from the taxpayer becomes law and the funds are borrowed, the publication requirements would be effective for failed banks as long as that taxpayer liability was outstanding.

REGULATORY DISCRETION

If the regulators believe that publication of an examination report would seriously threaten the safety or soundness of any insured institution, they may delay the publication of an examination report for up to 6 months.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, I commend my colleague from Colorado for his leadership on this. Just as a general rule in government, when we put things out in the open, the public has a chance to know whether we are making decisions in the public interest. If we do things in secret, there is an excellent chance the public interest is not being served. And particularly when we have these kinds of dollars involved.

Way back when, when I was in the State legislature as a young, green State legislator, I introduced a bill requiring local city councils and school boards and county boards to have their meetings open to the public. I was amazed at the squealing and the resistance that we had to something that simple. And the reason for the resistance was, frankly, it was much easier doing the things you do not want the public to know about if you do not have that open meeting.

Here we are talking about the public's dollars, how they are being spent. We are not talking about military secrets. We are not talking about how we put a nuclear weapon together. We are talking about one simple thing, how the public's money is being spent. And the question is: Does the public have the right to know how that is being spent?

Our colleague from Colorado, Senator WIRTH, says the public has a right to know. And I concur with him completely. Let us stand up and let the public know. If there are abuses—and there are bound to be some abuses when you spend that kind of money—let us find out where the abuses are. But let us not try to operate this Government in secret and invite abuses.

Mr. President, if no one else seeks recognition—I see the Presiding Officer is no longer presiding and the Senator from Nebraska is about to add his eloquent voice to this discussion. I yield the floor.

The PRESIDING OFFICER (Mr. WIRTH). The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, I, too, want to commend the distinguished occupant of the chair, the Senator from Colorado, for offering this amendment. I, too, am perplexed. It is hard to understand why our friends on the other side of the aisle will not permit this amendment to be accepted without the need for this parliamentary impasse.

It seems to me a rather simple and easy-to-understand requirement. We simply provide the taxpayers of the United States of America access to the information about how their taxpayer dollars are being spent. In particular, on something as expensive as this and as controversial as this, it seems to me it is extremely important to do that. Because we find the administration saying to us that they would like us to get involved less in the matters involving the Resolution Trust Corporation, that all of our second guessing and nitpicking is making it difficult for them to make decisions, making it difficult for them to carry out an expeditious handling of the assets.

One of the reasons we are doing the nitpicking is that the taxpayers do not know what is going on and they are asking us questions that, indeed, we are not able to answer. So I applaud the amendment of the distinguished Senator from Colorado. I appreciate his willingness to bring this out, in particular on the crime bill, where I think it deserves to be accepted and should in fact be accepted by our friends on the other side of the aisle, without any dispute at all. Indeed it seems to me it would be a commonsense thing to occur, were it to be a part of any other spending package.

So I thank my colleague for his effort and appreciate his willingness to make this fight and make this stand right now where, indeed, I think it is extremely important we do so.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. SIMON). The period of morning business having expired, the majority leader is recognized.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

Mr. MITCHELL. Mr. President, parliamentary inquiry. Is the pending business the crime bill, S. 1241?

The PRESIDING OFFICER. The majority leader is correct.

AMENDMENT NO. 421

Mr. KOHL. Mr. President, I would like to join the distinguished Senators from Vermont and Colorado, Senator LEAHY and Senator BROWN, in offering an amendment to the crime bill. The amendment, which has been adopted, is the Computer Abuse Amendments Act of 1991. As computer technology advances, the techniques for abusing computers also become more complex. These computer viruses and worms have made prosecution tenuous in many cases. Our amendment, by updating 18 U.S.C. 1030—the Computer Fraud and Abuse Act—will clarify the intent standard and the types of actions prohibited. This clarification will benefit both computer users and law enforcement in their effort to limit the episodes of computer abuse.

We all have heard the horror stories of computer viruses ravaging a computer system. Sometimes these acts of abuse are unintended, while at other times they are intentional. This amendment recognizes the difference between malicious, intentional behavior, and unintentional, accidental incident. As a result, the proposed language treates these different degrees of intent in a legally appropriate manner. If the harm from the virus was intended, or the virus was knowingly transmitted or transmitted with reckless disregard of a substantial and unjustifiable risk, the act is punishable as a criminal violation and a civil cause of action arises. If, on the other hand, there was an honest mistake, there is no violation or cause of action.

Mr. President, this amendment is identical to S. 2476, which the Senate passed by voice vote last year. Hearings were conducted by the Technology Subcommittee on computer abuse in the 101st Congress, and a detailed discussion of the amendment, in bill form, is available in Senate Report 101-544. Both the computer users and the computer industry support this proposal. And the Department of Justice has gone on record as believing the amendment will improve existing Federal laws.

Mr. President, I would like to commend my colleagues, Senator LEAHY, chairman of the Technology and the Law Subcommittee, and Senator BROWN, for their work on this amendment. I believe that our efforts will produce a law which will benefit the computer industry and computer users for many years.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair, without objection, directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 1241, a bill to control and reduce violent crime.

Wyche Fowler, Jr., Quentin Burdick, J.R. Biden Jr., B.A. Mikulski, Herb Kohl, Claiborne Pell, Edward Kennedy, Jeff Bingaman, Pat Leahy, Albert Gore, Jr., Joe Lieberman, Wendell Ford, Dennis DeConcini, Alan Cranston, Charles S. Robb, and Tom Daschle.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS FISCAL YEAR 1992

Mr. MITCHELL. Mr. President, pursuant to a previous order granting me the authority to proceed to Calendar No. 117, H.R. 2427, the energy and water appropriations bill, following a consultation with the Republican leader, I now exercise my right to call up that bill.

The PRESIDING OFFICER (Mr. KERREY). The clerk will report the bill.

The legislative clerk read as follows:

A bill (H.R. 2427) making appropriations for energy and water development for the fiscal year ending September 30, 1992, and for other purposes.

The Senate proceeded to the consideration of the bill which had been reported from the Committee on Appropriations, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 2427

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1992, for energy and water development, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, [$200,566,000] *$176,211,000*, to remain available until expended[: *Provided*, That with funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following items under General Investigations in fiscal year 1992 in the amounts specified:

[Red River Waterway, Index, Arkansas, to Denison Dam, Texas, $500,000;

[Casino Beach, Illinois, $375,000;

[Chicago Shoreline, Illinois, $325,000;

[Illinois Waterway Navigation Study, Illinois, $2,185,000;

[McCook and Thornton Reservoirs, Illinois, $3,000,000;

[Miami River Sediments, Florida, $200,000;

[Lake George, Hobart, Indiana, $330,000;

[Little Calumet River Basin (Cady Marsh Ditch), Indiana, $370,000;

[St. Louis Harbor, Missouri and Illinois, $900,000;

[Fort Fisher and Vicinity, North Carolina, $250,000;

[Passaic River Mainstem, New Jersey, $7,150,000, of which $400,000 shall be used to initiate the General Design Memorandum for the Streambank Restoration Project, West Bank of the Passaic River, as authorized by section 101(a)(18)(B) of Public Law 101–640;

[Buffalo Small Boat Harbor, New York, $70,000;

[Red River Waterway, Shreveport, Louisiana, to Daingerfield, Texas, $3,200,000; and

[La Conner, Washington, $60,000:

Provided further, That in carrying out the flood control study for Calleguas Creek, California, the Secretary of the Army, acting through the Chief of Engineers, is directed to consider the benefits resulting from a change in cropping patterns to more capital-intensive crops within the floodplain: *Provided further*, That using $425,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete a reconnaissance report and initiate a feasibility phase study of the bank stabilization problems at Norco Bluffs, California, as authorized by section 116(b) of the Water Resources Development Act of 1990: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and complete preconstruction engineering and design of the Miami River, Florida, sediments project, to include the full dredging of all polluted bottom sediments from the Seybold Canal and the Miami River between the mouth of the river and the salinity control structure at 36th Street, and the disposal of the polluted sediments in an environmentally sound manner, in compliance with Public Law 99–662, using funds appropriated for that purpose in this Act and the Energy and Water Development Appropriations Act, 1991, Public Law 101–514: *Provided further*, That using $200,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake the development of a comprehensive waterfront plan for the White River in central Indianapolis, Indiana: *Provided further*, That with $425,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete preconstruction engineering and design for the Olcott Harbor, New York, project, including all activities necessary to ready the project for construction as authorized by Public Law 99–662: *Provided further*, That with $700,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to create, in cooperation with the National Park Service and other agencies as appropriate, a comprehensive river corridor greenway plan for the Lackawanna River Basin, Pennsylvania: *Provided further*, That with $120,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake a study, in cooperation with the Port of Walla Walla, Washington, of the disposition of the current Walla Walla District headquarters: *Provided further*, That using $1,100,000 of the funds appropriated in the Energy and Water Development Appropriations Act, 1991, Public Law 101–514, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete the South Atlantic Cargo Traffic study authorized by section 116(a) of the Water Resources Development Act of 1990 at full Federal expense in accordance with existing law: *Provided, That with funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following items under General Investigations in fiscal year 1992 in the amounts specified:*

Red River Waterway, Index, Arkansas, to Denison Dam, Texas, $500,000;

Chicago Shoreline, Illinois, $150,000;

Illinois Waterway Navigation Study, Illinois, $1,000,000;

Little Calumet River Basin (Cady Marsh Ditch), Indiana, $170,000;

St. Louis Harbor, Missouri and Illinois, $500,000;

Passaic River Mainstem, New Jersey, $5,400,000, of which $400,000 shall be used to initiate the General Design Memorandum for the Streambank Restoration Project, West Bank of the Passaic River, as authorized by section 101(a)(18)(B) of Public Law 101–640;

Red River Waterway, Shreveport, Louisiana, to Daingerfield, Texas, $700,000; and

La Conner, Washington, $60,000:

Provided further, That using $425,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete a reconnaissance report and initiate a feasibility phase study of the bank stabilization problems at Norco Bluffs, California, as authorized by section 116(b) of the Water Resources Development Act of 1990: Provided further, That with $425,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete preconstruction engineering and design for the Olcott Harbor, New York, project, including all activities necessary to ready the project for construction as authorized by Public Law 99–662: Provided further, That the Secretary of the Army is authorized, in partnership with the Department of Transportation, and in coordination with other Federal agencies, including the Department of Energy, to conduct research and development associated with an advanced high speed magnetic levitation transportaton system: Provided further, That with $120,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake a study, in cooperation with the Port of Walla Walla, Washington, of the disposition of the current Walla Walla District headquarters: Provided further, That using $1,100,000 of the funds appropriated in the Energy and Water Development Appropriations Act, 1991, Public Law 101–514, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete the South Atlantic Cargo Traffic study authorized by section 116(a) of the Water Resources Development Act of 1990 at full Federal expense in accordance with existing law: Provided further, That with $300,000 for the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete a regional environmental reconnaissance study to identify and quantify point and nonpoint sources of pollution of Old Hickory, Percy Priest and Cheatham Lakes in Tennessee, and to complete is reconnaissance study of the nondam alternatives for the Mill Creek flood control project in Nashville, Tennessee.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), [$1,191,310,000] *$1,203,760,000*, of which such sums as are necessary pursuant to Public Law 99–662 shall be derived from the Inland Waterways Trust Fund, to remain available until expended[:-*Provided*, That with funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following projects in fiscal year 1992 in the amounts specified:

[Red River Emergency Bank Protection, Arkansas and Louisiana, $5,800,000;

[O'Hare Reservoir, Illinois, $4,000,000;

[Kissimmee River, Florida, $5,000,000;

[Red River Below Denison Dam, Louisiana, Arkansas, and Texas, $2,300,000;

[New York Harbor Collection and Removal of Drift, New York and New Jersey, $2,500,000; and

[Red River Basin Chloride Control, Texas and Oklahoma, $3,000,000:

Provided further, That with $20,500,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the work for the levees/floodwalls and to undertake other structural and nonstructural work associated with the Barbourville, Kentucky, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96–367 and to continue the work for the river diversion tunnels and to undertake other structural and nonstructural work associated with the Harlan, Kentucky, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96–367: *Provided further*, That no fully allocated funding policy shall apply to construction of the Barbourville, Kentucky, and Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project: *Provided further*, That using $44,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue to prosecute the planning, engineering, design and construction of projects under the sections 14, 103, 107, 111, 205 and 208 Continuing Authorities Programs: *Provided further*, That using $600,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Salyersville cut-through as authorized by Public Law 99–662, section 401(e)(1), in accordance with the Special Project Report for Salyersville, Kentucky, concurred in by the Ohio River Division Engineer on or about July 26, 1989: *Provided further*, That with $750,000 of the funds appropriated herein, or funds hereafter provided in subsequent annual appropriations Acts, the Secretary of the Army, acting through the Chief of Engineers, is directed to award continuing contracts until construction is complete in accordance with the terms and conditions of Public Law 100-202 for the Des Moines Recreational River and Greenbelt project in Iowa: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, shall expend $300,000 of the funds appropriated herein in fiscal year 1992 on plans and specifications, environmental documentation and hydraulic modeling to advance to the maximum extent practicable the project to restore the riverbed gradient at Mile 206 of the Sacramento River in California: *Provided further*, That with funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to construct the project for shoreline protection at Emeryville Point Park Marina, California, under the authority of section 103 of the River and Harbor Act of 1962, as amended, at a total estimated first cost of $1,396,000 with an estimated first Federal cost of $907,000 and an estimated first non-Federal cost of $489,000, in accordance with the plan recommended by the Division Commander in the report entitled Detailed Project Report, section 103, Shoreline Protection Project, Emeryville Point Park Marina dated November 1988. The cost sharing for this project shall be in accordance with the provisions of title I, section 103, of Public Law 99-662 for hurricane and storm damage reduction: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to construct the San Timoteo feature of the Santa Ana River Mainstem flood control project by scheduling design and construction. The Secretary is further directed to initiate and complete design and to fund and award all construction contracts necessary for completion of the San Timoteo feature. Furthermore, the Corps of Engineers is directed to use $2,000,000 of the funds appropriated herein to initiate the design: *Provided further*, That using $1,252,000 previously appropriated for the Hansen Dam, California, project, the Secretary of the Army, acting through the Chief of Engineers, is directed to plan, design and construct a swim lake and associated recreational facilities at Hansen Dam as described in the February 1991 Hansen Dam Master Plan prepared by the United States Army Corps of Engineers Los Angeles District: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to pursue the completion of the Ouachita-Black Rivers Navigation Project in Louisiana and Arkansas, including construction of the required cutoffs and bendway widenings in Louisiana. The Federal Government is authorized to advance rights-of-way acquisition for the cutoffs and bendway widenings at Federal expense, and the State of Louisiana shall have 10 years after construction begins to repay its portion of the costs: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, shall include as project costs in accordance with the Post Authorization Change Report, dated April 1989, as revised in January 1990, the costs for aesthetics for the Brush Creek, Kansas City, Missouri, project, which shall be shared with non-Federal interests under the provisions of section 103(a) of Public Law 99-662: *Provided further*, That with funds heretofore, herein or hereafter appropriated, the Secretary of the Army, acting through the Chief of Engineers, is directed to award continuing contracts until construction is complete in accordance with the terms and conditions of Public Law 101–101 for the O'Hare Reservoir, Illinois, and Wallisville Lake, Texas, projects: *Provided further*, That with funds appropriated herein and hereafter for the Lake Pontchartrain and Vicinity, Louisiana Hurricane Protection project, the Secretary of the Army is authorized and directed to provide parallel hurricane protection along the entire lengths of the Orleans Avenue and London Avenue Outfall Canals by raising levees and improving flood protection works along and parallel to the entire lengths of the outfall canals and other pertinent work necessary to complete an entire parallel protection system, to be cost shared as an authorized project feature, the Federal cost participation in which shall be 70 percent of the total cost of the entire parallel protection system, and the local cost participation in which shall be 30 percent of the total cost of such entire parallel protection system: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to construct project modifications for improvement of the environment, as part of the Anacostia River Flood Control and Navigation project, District of Columbia and Maryland, within Prince Georges County, Maryland, using $700,000 of the funds appropriated herein, under the authority of section 1135 of Public Law 99-662, as amended:]

Provided, That with funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following projects in fiscal year 1992 in the amounts specified:

Red River Emergency Bank Protection, Arkansas and Louisiana, $7,300,000;

O'Hare Reservoir, Illinois, $4,000,000;

Kissimmee River, Florida, $2,000,000;

Red River Below Denison Dam, Louisiana, Arkansas, and Texas, $2,300,000;

New York Harbor Collection and Removal of Drift, New York and New Jersey, $2,500,000:

Provided further, That with $20,500,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the work for the levees/floodwalls and to undertake other structural and nonstructural work associated with the Barbourville, Kentucky, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96–367 and to continue the work for the river diversion tunnels and to undertake other structural and nonstructural work associated with the Harlan, Kentucky, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96–367: Provided further, That with $9,000,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue floodwall construction at Matewan, West Virginia, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96–367: Provided further, That with $17,000,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the lower Mingo County, West Virginia, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96–367: Provided further, That with $1,110,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and complete specific project reports for McDowell County, West Virginia, Hatfield Bottom, West Virginia, Upper Mingo County, West Virginia, Wayne County, West Virginia, Tug Fork Tributaries, West Virginia, Upper Tug Fork, West Virginia, and Pike County, Kentucky: Provided further, That no fully allocated funding policy shall apply to construction of the Matewan, West Virginia, Lower Mingo County, West Virginia; specific projects reports for McDowell County, West Virginia, Upper Mingo County, West Virginia, Wayne County, West Virginia, Tug Fork Tributaries, West Virginia, Hatfield Bottom, West Virginia, Upper Tug Fork, West Virginia, and Pike County, Kentucky; and construction of Barbourville, Kentucky, and Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project: Provided further, That using $40,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue to prosecute the planning, engineering, design and construction of projects under the sections 14, 103, 107, 111, 205 and 208 Continuing Authorities Programs: Provided further, That with $750,000 of the funds appropriated herein, or funds hereafter provided in subsequent annual appropriations Acts, the Secretary of the Army, acting through the Chief of Engineers, is directed to award continuing contracts until construction is complete in accordance with the terms and conditions of Public Law 100–202 for the Des Moines Recreational River and Greenbelt project in Iowa: Provided further, That $100,000 of the funds appropriated herein shall be made available to the Town of Krotz Springs, Louisiana for restoration and improvement of Bayou Latanier: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, shall expend $300,000 of the funds appropriated herein in fiscal year 1992 on plans and specifications, environmental documentation and hydraulic modeling to advance to the maximum extent practicable the project to restore the riverbed gradient at Mile 206 of the Sacramento River in California: Provided further, That with $2,500,000 appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with construction of the Fort Yates Bridge, North Dakota and South Dakota project using continuing construction contracts: Provided further, That using $600,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to use continuing contracts to construct hurricane and storm protection measures for Folly Beach, South Carolina, in accordance with the Charleston District Engineer's Post Authorization Change Report dated May 1991: Provided further, That the Secretary of the Army is authorized and directed to provide $100,000, from funds herein appropriated to reimburse the Town of Grand Isle, Louisiana, for interim emergency measures constructed by the Town: Provided further, That within available funds, the Secretary of the Army, acting through the Chief of Engineers, is directed to study, design, and construct streambank protection measures along the bank of the Tennessee River adjacent to the Sequoyah Hills Park in the City of Knoxville, Tennessee, under the authority of section 14 of Public Law 79–526: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to construct the San Timoteo feature of the Santa Ana River Mainstem flood control project by scheduling design and construction. The Secretary is further directed to initiate and complete design and to fund and award all construction contracts necessary for completion of *the San Timoteo feature. Furthermore, the Corps of Engineers is directed to use $2,000,000 of the funds appropriated herein to initiate the design: Provided further, That with funds heretofore, herein or hereafter appropriated, the Secretary of the Army, acting through the Chief of Engineers, is directed to award continuing contracts until construction is complete in accordance with the terms and conditions of Public Law 101–101 for the O'Hare Reservoir, Illinois project: Provided further, That with funds appropriated herein and hereafter for the Lake Pontchartrain and Vicinity, Louisiana Hurricane Protection project, the Secretary of the Army is authorized and directed to provide parallel hurricane protection along the entire lengths of the Orleans Avenue and London Avenue Outfall Canals by raising levees and improving flood protection works along and parallel to the entire lengths of the outfall canals and other pertinent work necessary to complete an entire parallel protection system, to be cost shared as an authorized project feature, the Federal cost participation in which shall be 70 percent of the total cost of the entire parallel protection system, and the local cost participation in which shall be 30 percent of the total cost of such entire parallel protection system: Provided further, That with $1,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed, pursuant to section 1135 of the Water Resources Development Act of 1986 as amended, to rehabilitate Onondage Creek and Harbor* [; and, in addition, $73,681,000, to remain available until expended, is hereby appropriated for construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project] *and, in addition, $123,681,000, to remain available until expended, is hereby appropriated for construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project, and the Secretary of the Army is directed to complete the actions necessary to award continuing contracts, which are not to be considered fully funded, and to award such contracts for the second phase construction for Locks and Dams 4 and 5 during the first quarter of fiscal year 1992; to continue construction of the McDade, Moss, Elm Grove, and Cecile Revetments in Pool 5 which were previously directed to be initiated in fiscal year 1991; to award continuing contracts in fiscal year 1992 for construction of the following features of the Red River Waterway Pool 4 and 5 which are not to be considered fully funded: Caroll Capout, Cupples Capout, Sunny Point Revetment and Dikes, Curtis Revetment, and Eagle Bend Revetment; and to continue land acquisition in the vicinity of Stumpy Lake/Swan Lake/Loggy Bayou Wildlife Management area to insure acquisition of manageable units and to develop such lands to maximize benefits for mitigation of fish and wildlife losses; and to initiate planning and acquisition of mitigation lands in the Bayou Bodcau area for the mitigation of fish and wildlife losses all as authorized by laws.*

Flood Control, Mississippi River and Tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g–1), $353,437,000, to remain available until expended: *Provided*, That not less than $250,000 shall be available for bank stabilization measures as determined by the Chief of Engineers to be advisable for the control of bank erosion of streams in the Yazoo Basin, including the foothill area, and where necessary such measures shall complement similar works planned and constructed by the Soil Conservation Service and be limited to the areas of responsibility mutually agreeable to the District Engineer and the State Conservationist: *Provided further*, That the funds provided herein for operation and maintenance of Yazoo Basin Lakes shall be available for the maintenance of road and trail surfaces, alignments, widths, and drainage features: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $420,000 of the funds appropriated herein to continue preconstruction engineering and design studies on the Eastern Arkansas Region Comprehensive Study, Arkansas.

Operation and Maintenance, General

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, [$1,547,855,000] *$1,537,265,000*, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662, may be derived from that fund, and of which $15,000,000 shall be for construction, operation, and maintenance of outdoor recreation facilities, to be derived from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 4601)[: *Provided*, That not to exceed $8,000,000 shall be available for obligation for national emergency preparedness programs: *Provided further*, That $2,000,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the development of recreation facilities at Sepulveda Dam, California: *Provided further*, That using $400,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to plan and design a fifteen-acre swim lake and related recreational facilities at Hansen Dam, California: *Provided further*, That using $300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to dredge approximately 1,000 feet of the Ohio River along the Ashland, Kentucky, riverfront: *Provided further*, That using $1,800,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake the one-time repair and rehabilitation of the Flint, Michigan, project in order to restore the project to original project dimensions: *Provided further*, That $40,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the project for removal of silt and aquatic growth at Sauk Lake, Minnesota: *Provided further*, That $150,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, for the development of Gateway Park at the Lower Granite Lock and Dam project: *Provided further*, That with $8,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed on a one-time basis, to maintain access to existing State recognized port facilities on the Columbia and Snake Rivers between Bonneville Dam and Lewiston, Idaho, at a depth commensurate with the main navigation channel]: *Provided further, That with $4,825,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to modify the fish lift at the Cooper River, Charleston Harbor, South Carolina (Rediversion Project), authorized by the River and Harbor Act of 1968, Public Law 90–483, and to monitor operation of the fish lift for two years following such modifications: Provided further, That with $8,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed on a one-time basis, at full Federal expense, and without requirement of local sponsorship, to maintain navigation access to and berthing areas at all currently operating public and private commercial dock facilities associated with the Federal navigation project on the Columbia and Snake Rivers, from Bonneville Dam to Lewiston, Idaho, at a depth commensurate with the Federal navigation project, and that the Federal Government is exempted from any liability due to damages to public and private facilities including docks adjacent to the access channels and berthing areas resulting from this maintenance: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is authorized to provide water releases from Broken Bow Lake for the Mountain Fork trout fishery at no expense to the State of Oklahoma and under terms and conditions acceptable to the Secretary of the Army for a time period not to exceed two years from the date of enactment of this Act: Provided further*, That using $3,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to construct and maintain bank stabilization measures along the north bank of the Mississippi River Gulf Outlet from mile 49.9 through mile 56.1: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $1,500,000 of the funds appropriated herein to undertake measures needed to alleviate bank erosion and related problems associated with reservoir releases along the Missouri River below Fort Peck Dam as authorized by section 33 of the Water Resources Development Act of 1988: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to allocate resources and take other steps necessary to complete an environmental impact statement and related documents by June of 1992 on a plan to reoperate Folsom Dam to provide greater flood control, using funds appropriated for that purpose in fiscal year 1991. This plan shall require a cost sharing agreement between local sponsors and the Secretary of the Interior based on the requirements of section 103 of the Water Resources Development Act of 1986, with the costs for foregone water and power sales to be computed on the basis of actual reductions in supply attributable to greater operations for flood control in that year.

Regulatory Program

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $86,000,000, to remain available until expended.

None of the funds in this Act shall be used to identify or delineate any land as a "water of the United States" under the Federal Manual for Identifying and Delineating Jurisdictional Wetlands that was adopted in January 1989 or any subsequent manual not adopted in accordance with the requirements for notice and public comment of the rulemaking process of the Administrative Procedure Act nor shall any funds *be used for application or enforcement of the provisions of section 404 to activities undertaken on such lands.*

None of the funds in this Act shall be used to finalize or implement the proposed regulations to amend the fee structure for the Corps of Engineers regulatory program which were published in Federal Register, Vol. 55, No. 197, Thursday, October 11, 1990.

Revolving Fund

None of the funds from the revolving fund established by the Act of July 27, 1953, chapter 245 (33 U.S.C. 576), may be used to reimburse other Department of Defense appropriations used to acquire Standard Army Automated Contracting System equipment for Corps of Engineers activities.

Flood Control and Coastal Emergencies

For expenses necessary for emergency flood control, hurricane, and shore protection activities, as authorized by section 5 of the Flood Control Act, approved August 18, 1941, as amended, $15,000,000, to remain available until expended.

General Expenses

For expenses necessary for general administration and related functions in the office of the Chief of Engineers and offices of the Division Engineers; activities of the Board of Engineers for Rivers and Harbors, the Coastal Engineering Research Board, the Engineer Automation Support Activity, the Humphreys Engineer Center Support Activity and the Water Resources Support Center, $142,000,000, to remain available until expended.

Administrative Provisions

Appropriations in this title shall be available for expenses of attendance by military personnel at meetings in the manner authorized by section 4110 of title 5, United States Code, uniforms, and allowances therefor, as authorized by law (5 U.S.C. 5901–5902), and for printing, either during a recess or session of Congress, of survey reports authorized by law, and such survey reports as may be printed during a recess of Congress shall be printed, with illustrations, as documents of the next succeeding session of Congress; not to exceed $5,000 for official reception and representation expenses; and during the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 150 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS

Corps of Engineers—Civil

SEC. 101. Notwithstanding section 1001(b)(1) of the Water Resources Development Act of 1986, the project for navigation, Coosa River, Gadsden, Alabama, to Rome, Georgia, authorized by the River and Harbor Act of 1945, shall remain authorized to be carried out by the Secretary. The project described above shall not be authorized for construction after the last day of the 5-year period that begins on the date of enactment of this Act unless, during this period, funds have been obligated for construction (including planning and design) of the project.

SEC. 102. Public Law 99–88, 99 Stat. 293, 316, as modified by Public Law 99–349, 100 Stat. 710, 724, is amended by striking the last two sentences in the paragraph that authorizes acquisition of new buildings and appurtenant facilities for the U.S. Army Engineer District, Walla Walla, Washington.

[SEC. 103. The non-Federal share of the costs of preconstruction engineering and design of any water resources project constructed by the Secretary shall not be required to be paid prior to commencement of physical construction of the project.

[SEC. 104. Title III of Public Law 98–396 (98 Stat. 1369) is amended by inserting after section 303a the following new section:

["Sec. 303b. (1) The Secretary of the Army is authorized to convey to the Port of Camas-Washougal two parcels of land containing a total of approximately 45 acres and being a portion of an 82 acre tract of land acquired under the provisions of section 303a above and which is under the jurisdiction of the Department of the Army.

["(2) The conveyance authorized above shall be made in consideration of the fair market value of the land conveyed and shall be for any lawful purpose, including, without limitation, industrial, recreational and natural area development and the grantee may sell or otherwise dispose of such property without limitation.

["(3) The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary of the Army and the cost of such survey shall be borne by the Port of Camas-Washougal. The Secretary shall bear the costs of environmental review and appraisal.

["(4) The Secretary of the Army may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

["(5) The Secretary is also authorized to transfer, without monetary consideration, approximately 37 acres of predominantly wetlands comprising the remainder of the above mentioned 82 acre tract to the Department of the Interior, United States Fish and Wildlife Service, for inclusion in the Steigerwald Lake National Wildlife Refuge.".

[SEC. 105. The project for flood control, Guadalupe River, California, authorized by section 401(b) of the Water Resources Development Act of 1986 (Public Law 99–662), and the Energy and Water Development Appropriations Act of 1990 (Public Law 101–101), is modified to direct the Secretary of the Army to construct the project in accordance with the General Design Memorandum, dated January 1991 of the Sacramento District Engineer, and in accordance with the percentages specified in section 103 of the Water Resources Development Act of 1986, at a total cost of $134,300,000, with a first Federal cost of $67,300,000 and a first non-Federal cost of $67,000,000, further, if, after enactment of this Act and prior to award of the first construction contract by the Corps of Engineers, non-Federal interests initiate construction of the plan recommended herein, the Secretary shall credit such work toward the non-Federal share of the cost of the project.]

SEC. [106.] *103.* The present value of the capital costs to be prepaid by the city of Aberdeen, Washington, under the Wynoochee Lake project contract shall be $4,952,158.

SEC. [107.] *104.* The experimental water delivery program established under section 1302 of Public Law 98–181 is authorized to continue until the modifications to the Central and Southern Florida project authorized under section 104 of Public Law 101–229 are completed and implemented.

SEC. 105. The project for shoreline protection for Folly Beach, South Carolina, authorized by section 501(a) of the Water Resources Development Act of 1986 (Public Law 99–662; 100 Stat. 4136), is modified to authorize the Secretary to construct hurricane and storm protection measures based on the Charleston District Engineer's Post Authorization Change Report dated May 1991, at an estimated total initial cost of $15,283,000, with an estimated Federal cost of $12,990,000 and an estimated non-Federal cost of $2,293,000, and an annual cost of $647,000 for periodic beach nourishment over the life of the project, with an estimated annual Federal cost of $550,000 and an estimated non-Federal annual cost of $97,000.

SEC. 106. The Secretary of the Army, acting through the Chief of Engineers, is directed to maintain in caretaker status the navigational portion of the Fox River System in Wisconsin for a period of time extending one year from the date of enactment of this legislation. During this one-year period, the Corps of Engineers shall engage in good faith negotiations with the State of Wisconsin for the orderly transfer of ownership and operational duties of the Fox River System to the State of Wisconsin or other appropriate entity. No later than one year from the date of enactment of this legislation, the Corps of Engineers shall present to Congress the terms of a negotiated settlement reached between the Corps of Engineers and the State of Wisconsin. Such settlement shall include provisions for both the logistics and timing of the transfer, as well as a negotiated recommendation of monetary compensation to the State for repair and rehabilitation of damage and deterioration associated with all portions of the Fox River System which are being transferred to the State.

SEC. 107. None of the funds in this Act may be used to recommend closure or realignment of any United States Army Corps of Engineers civil works office, or by the United States Army Corps of Engineers to terminate, merge, or substantially reduce the work force of any such office prior to enactment by Congress of legislation authorizing such a policy.

TITLE II

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

GENERAL INVESTIGATIONS

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, to remain available until expended, [$13,789,000] *$13,204,000*: *Provided*, That, of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further*, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such amounts shall remain available until expended.

CONSTRUCTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Bureau of Reclamation use) and for other related activities as authorized by law, to remain available until expended, [$553,209,000] *$564,409,000*, of which [$85,093,000] *$92,093,000* shall be available for transfer to the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d), and $117,266,000 shall be available for transfer to the Lower Colorado River Basin Development Fund authorized by section 403 of the Act of September 30, 1968 (43 U.S.C. 1543), and such amounts as may be necessary shall be considered as though advanced to the Colorado River Dam Fund for the Boulder Canyon Project as authorized by the Act of December 21, 1928, as amended: *Provided*, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further*, That transfers to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation under this heading: *Provided further*, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such funds shall remain available until expended: *Provided further*, That the final point of discharge for the interceptor drain for the San Luis Unit shall not be determined until development by the Secretary of the Interior and the State of California of a plan, which shall conform with the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters: *Provided further*, That no part of the funds herein approved shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument: *Provided further*, That the funds contained in this Act for the Garrison Diversion Unit, North Dakota, shall be expended only in accordance with the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294): *Provided further*, That all costs of the safety of dams modification work at Coolidge Dam, San Carlos Irrigation Project, Arizona, performed under the authority of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 506), as amended, are in addition to the amount authorized in section 5 of said Act: *Provided further*, That none of the funds appropriated in this Act shall be used to study or construct the Cliff Dam feature of the Central Arizona Project: *Provided further*, That Plan 6 features of the Central Arizona Project other than Cliff Dam, including (1) water rights and associated lands within the State of Arizona acquired by the Secretary of the Interior through purchase, lease, or exchange, for municipal and industrial purposes, not to exceed 30,000 acre feet; and, (2) such increments of flood control that may be found to be feasible by the Secretary of the Interior at Horseshoe and Bartlett Dams, in consultation and cooperation with the Secretary of the Army and using Corps of Engineers evaluation criteria, developed in conjunction with dam safety modifications and consistent with applicable environmental law, are hereby deemed to constitute a suitable alternative to Orme Dam within the meaning of the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501 et seq.): *Provided further*, That of the funds appropriated herein, $900,000 shall be available to the Secretary of the Interior to complete the final design of the Shasta Dam, California, water release facilities for the purpose of selectively withdrawing water from Shasta Lake to control the temperature, turbidity, and dissolved oxygen content of water released from Shasta Dam: *Provided further, That with $7,000,000 appropriated herein, to remain available until expended, the Secretary of the Interior is directed to award continuing contracts which are not to be considered fully funded for the Sixth Water Aqueduct, Bonneville Unit, Central Utah Project: Provided further, That funds expended by the Central Utah Water Conservancy District in anticipation of passage of the Central Utah Project Completion Act, shall be credited toward the District's cost-sharing obligations required by the Completion Act.*

OPERATION AND MAINTENANCE

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, to remain available until expended, $258,685,000: *Provided*, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund, and the amount for program activities which can be derived from the special fee account established pursuant to the Act of December 22, 1987 (16 U.S.C. 4601–6a, as amended), may be derived from that fund: *Provided further*, That of the total appropriated, such amounts as may be required for replacement work on the Boulder Canyon Project which would require readvances to the Colorado River Dam Fund shall be readvanced to the Colorado River Dam Fund pursuant to section 5 of the Boulder Canyon Project Adjustment Act of July 19, 1940 (43 U.S.C. 618d), and such readvances since October 1, 1984, and in the future shall bear interest at the rate determined pursuant to section 104(a)(5) of Public Law 98–381: *Provided further*, That funds advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same purpose and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended: *Provided further*, That revenues in the Upper Colorado River Basin Fund shall be available for performing examination of existing structures on participating projects of the Colorado River Storage Project, the costs of which shall be nonreimbursable.

LOAN PROGRAM

[For administrative expenses related to loans to irrigation districts and other public agencies for construction of distribution systems on authorized Federal reclamation projects, and for loans and grants to non-Federal agencies for construction of projects, as authorized by the Acts of July 4, 1955, as amended (43 U.S.C. 421a–421d), and August 6, 1956, as amended (43 U.S.C. 422a–422l), $890,000: *Provided*, That of the total sums appropriated, the amount of program activities which can be financed by the reclamation fund shall be derived from that fund.]

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct loans authorized by the Act of August 6, 1956, as amended (43 U.S.C. 422a–422l), as follows: cost of direct loans $2,000,000, to remain available until expended: Provided, That these funds are available to subsidize gross obligations for the principal amount of direct loans of not to exceed $3,240,000: Provided further, That of the total sums appropriated, the amount of program activities which can be financed by the reclamation fund shall be derived from that fund.

In addition, for administrative expenses necessary to carry out the direct loan programs, $890,000.

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, $53,745,000, of which $800,000 shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377): *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

EMERGENCY FUND

For an additional amount for the "Emergency fund", as authorized by the Act of June 26, 1948 (43 U.S.C. 502), as amended, to remain available until expended for the purposes specified in said Act, $1,000,000, to be derived from the reclamation fund.

WORKING CAPITAL FUND

For capital equipment and facilities, $5,900,000, to remain available until expended, as authorized by the Act of November 1, 1985, (43 U.S.C. 1472).

SPECIAL FUNDS

(TRANSFER OF FUNDS)

Sums herein referred to as being derived from the reclamation fund or special fee account are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391) or the Act of December 22, 1987 (16 U.S.C. 4601–6a, as amended), respectively. Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified; and the unexpended balances of sums transferred for expenditure under the head "General Administrative Expenses" shall revert and be credited to the reclamation fund.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 16 passenger motor vehicles for replacement only; payment of claims for damages to or loss of property, personal injury, or death arising out of activities of the Bureau of Reclamation; payment, except as otherwise provided for, of compensation and expenses of persons on the rolls of the Bureau of Reclamation appointed as authorized by law to represent the United States in the negotiations and administration of interstate compacts without reimbursement or return under the reclamation laws; services as authorized by 5 U.S.C. 3109, in total not to exceed $500,000; rewards for information or evidence concerning violations of law involving property under the jurisdiction of the Bureau of Reclamation; performance of the functions specified under the head "Operation and Maintenance Administration", Bureau of Reclamation, in the Interior Department Appropriations Act 1945; preparation and dissemination of useful information including recordings, photographs, and photographic prints; and studies of recreational uses of reservoir areas, and investigation and recovery of archeological and paleontological remains in such areas in the same manner as provided for in the Acts of August 21, 1935 (16 U.S.C. 461–467) and June 27, 1960 (16 U.S.C. 469): *Provided*, That no part of any appropriation made herein shall be available pursuant to the Act of April 19, 1945 (43 U.S.C. 377), for expenses other than those incurred on behalf of specific reclamation projects except "General Administrative Expenses", amounts provided for plan formulation investigations under the head "General Investigations", and amounts provided for science and technology under the head "Construction Program".

Sums appropriated herein which are expended in the performance of reimbursable functions of the Bureau of Reclamation shall be returnable to the extent and in the manner provided by law.

No part of any appropriation for the Bureau of Reclamation, contained in this Act or in any prior Act, which represents amounts earned under the terms of a contract but remaining unpaid, shall be obligated for any other purpose, regardless of when such amounts are to be paid: *Provided*, That the incurring of any obligation prohibited by this paragraph shall be deemed a violation of 31 U.S.C. 1341.

No funds appropriated to the Bureau of Reclamation for operation and maintenance, except those derived from advances by water users, shall be used for the particular benefits of lands (a) within the boundaries of an irrigation district, (b) of any member of a water users' organization, or (c) of any individual when such district, organization, or individual is in arrears for more than twelve months in the payment of charges due under a contract entered into with the United States pursuant to laws administered by the Bureau of Reclamation.

None of the funds made available by this or any other Act shall be used by the Bureau of Reclamation for contracts for surveying and mapping services unless such contracts for which a solicitation is issued after the date of this Act are awarded in accordance with title IX of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 541 et seq.).

GENERAL PROVISIONS

DEPARTMENT OF THE INTERIOR

SEC. 201. Appropriations in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities or other facilities or equipment damaged, rendered inoperable, or destroyed by fire, flood, storm, drought, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specificially made available to the Department of the Interior for emergencies shall have been exhausted.

SEC. 202. The Secretary may authorize the expenditure or transfer (within each bureau or office) of any appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior.

SEC. 203. Appropriations in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency, or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by the Act of June 30, 1932 (31 U.S.C. 1535 and 1536): *Provided*, That reimbursements for costs of supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 204. Appropriations in this title shall be available for hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchases of reprints; payment for telephone services in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 205. The Bureau of Reclamation may invite non-Federal entities involved in cost sharing arrangements for the development of water projects to participate in the contracting processes without invoking the provision of the Federal Advisory Committee Act, Public Law 92-463 (3 U.C.A. Appendix 2 (1985 Supp.)).

TITLE III

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for energy supply, research and development activities, and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95–91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 35, of which 23 are for replacement only), [$2,854,053,000] *$2,940,916,000*, to remain available until expended [:–*Provided*, That the $7,500,000 provided in the Energy and Water Development Appropriations Act, Fiscal Year 1991, (Public Law 101–514) available only for the modification and operation of the Power Burst Facility at the Idaho National Engineering Laboratory, shall be available for the Boron Neutron Capture Therapy Research Program,] *of which $20,000,000 is for a Technology Research Program to be established within the Office of Energy Research which shall provide funds to the national laboratories of the Department of Energy for long-range fundamental technology research of interest to American industry and for co-funding cooperative research and development agreement (CRADAs) and, in considering proposals for funding, the Department shall take a broad view of projects that would benefit both the Department's traditional mission and the economy of the United States; and, of which $20,000,000 shall be available only for the Institute for Micromanufacturing, Louisiana Tech University and the Ambulatory Research and Education Building, Oregon Health Sciences University.*

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses incidental thereto necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95–91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of electricity to provide enrichment services; purchase of passenger motor vehicles (not to exceed 28, of which 25 are for replacement only), [$1,337,600,000] *$1,367,600,000*, to remain available until expended, *of which $193,600,000 shall be for the Atomic Vapor Laser Isotope Separation program including $20,000,000 for procurement of a commercial deployment contractor to be on line by October 1, 1991 and $15,000,000 for uranium processing and integration of Atomic Vapor Laser Isotope Separation into the fuel cycle*: *Provided*, That revenues received by the Department for the enrichment of uranium and estimated to total $1,547,000,000, in fiscal year 1992 shall be retained and used for the specific purpose of offsetting costs incurred by the Department in providing uranium enrichment service activities as authorized by section 201 of Public Law 95–238, notwithstanding the provisions of section 3302(b) of title 31, United States Code: *Provided further*, That the sum herein appropriated shall be reduced as uranium enrichment revenues are received during fiscal year 1992 so as to result in a final fiscal year 1992 appropriation estimated at not more than $0.

GENERAL SCIENCE AND RESEARCH ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for general science and research activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95–91), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 7 for replacement only) [$1,405,489,000, to remain available until expended, of which $10,000,000 is for the design of project 92–G–302, Femilab main injector] *$1,507,489,000, to remain available until expended.*

NUCLEAR WASTE DISPOSAL FUND

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, [$305,071,000] *$295,071,000*, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise his authority pursuant to section 302(e)(5) of said Act to issue obligations to the Secretary of the Treasury: *Provided*, That of the amount herein appropriated, within available funds, not to exceed [$3,000,000] *$5,000,000* may be provided to the State of Nevada, for the conduct of its oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97–425, as amended [, of which $100,000 shall be available for the State Legislature's oversight activities:] *Provided further*, That of the amount herein appropriated, not more than [$4,000,000] *$5,000,000* may be provided to affected local governments, as defined in the Act, to conduct appropriate activities pursuant to the Act: *Provided further*, That the distribution of the [funding herein provided between] *funds herein provided among* the affected units of local government shall be determined by the Department of Energy (DOE) and made available to the State and affected units of local government by direct payment: *Provided further*, That within 90 days of the completion of each Federal fiscal year, each entity shall provide certification to the DOE, that all funds expended from such direct payment moneys have been expended for activities as defined in Public Law 97–425, as amended. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: *Provided further*, That none of the funds herein appropriated may be used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in 18 U.S.C. 1913: *Provided further*, That none of the funds herein appropriated may be used for litigation expenses: *Provided further*, That of the amount appropriated herein, up to [$3,000,000] *$5,000,000* shall be available for infrastructure studies and other research and development work to be carried out by the University of Nevada, Las Vegas (UNLV) and the University of Nevada, Reno. Funding to the universities will be administered by the DOE through a cooperative agreement.

In paying the amounts determined to be appropriate as a result of the decision in Consolidated Edison Company of New York v. Department of Energy 870 F.2d 694 (D.C. Cir. 1989), the Department of Energy shall pay interest at a rate to be determined by the Secretary of the Treasury and calculated from the date the amounts were deposited into the Nuclear Waste Fund. [Such payments may be made by credits to future utility payments into the fund] *The payment of the amounts and interest may be made by giving credit for future utility payments into the Nuclear Waste Fund, using funds from the Nuclear Waste Fund without further appropriation, or both, as determined by the Secretary of Energy.*

ISOTOPE PRODUCTION AND DISTRIBUTION PROGRAM FUND

Revenues received hereafter from the disposition of isotopes and related services shall be credited to this account, to be available for carrying out the purposes of the isotope production and distribution program without further appropriation: *Provided*, That such revenues and all funds provided under this head in Public Law 101–101 shall remain available until expended: *Provided further*, That if at any time the amounts available to the fund are insufficient to enable the Department of Energy to discharge its responsibilities with respect to isotope production and distribution, the Secretary may borrow from amounts available in the Treasury, such sums as are necessary up to a maximum of $8,500,000, to remain available until expended.

[ATOMIC ENERGY DEFENSE ACTIVITIES

[For expenses of the Department of Energy activities, including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for atomic energy defense activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95–91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 236 for replacement only including 13 police-type vehicles, and purchase of 4 rotary-wing aircraft, for replacement only), $11,768,500,000, to remain available until expended, of which $100,000,000 shall be for design of new production reactor capacity, to become available for obligation 60 days after issuance of the Record of Decision on the Environmental Impact Statement on New Production Reactor Capacity; and of which $20,000,000 shall be made available to the State of New Mexico to assist the State and its affected units of local government in mitigating the environmental, social, economic, and other impacts resulting from the Waste Isolation Pilot Plant: *Provided*, That a portion of the $20,000,000 received by the State of New Mexico may be provided directly to the affected units of local government in the vicinity of, and along the transportation routes to, the Waste Isolation Pilot Plant based on a State assessment of needs, conducted in consultation with its affected units of local government, and the demonstration of impacts: *Provided further*, That the $20,000,000 shall be provided upon initiation of the performance assessment phase at the Waste Isolation Pilot Plant site.]

ATOMIC ENERGY DEFENSE ACTIVITIES

RESEARCH, DEVELOPMENT AND TESTING

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense research, development and testing activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion and the purchase of passenger motor vehicles (not to exceed 87 for replacement only), $1,976,650,000, to remain available until expended.

PRODUCTION AND SURVEILLANCE

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense production and surevillance activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et. seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion and the purchase of passenger motor vehicles (not to exceed 9 for replacement only), $2,590,478,000, to remain available until expended.

MATERIALS PRODUCTION

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense materials production activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et. seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion and the purchase of passenger motor vehicles (not to exceed 31 for replacement only), $1,891,900,000, to remain available until expended.

NEW PRODUCTION REACTOR

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense new production reactor activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et. seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $483,000,000, to remain available until expended, of which $100,000,000 shall be for design of new production reactor capacity, to become available for obligation sixty days after issuance of the Record of Decision on the Environmental Impact Statement on New Production Reactor Capacity.

NAVAL REACTORS

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense naval reactors activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et. seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion and the purchase of passenger motor vehicles (not to exceed 11 for replacement only), $818,000,000 to remain available until expended.

ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense environmental restoration and waste management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et. seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion and the purchase of passenger motor vehicles (not to exceed 70 for replacement only), $3,640,372,000, to remain available until expended, of which $20,000,000 shall be made available to the State of New Mexico to assist the State and its affected units of local government in mitigating the environmental, social, economic, and other impacts resulting from the Waste Isolation Pilot Plant: Povided, That a portion of the $20,000,000 received by the State of New Mexico may be provided directly to the affected units of local government in the vicinity of, and along the transportation routes to, the Waste Isolation Pilot Plant based on a State assessment of needs, conducted in consultation with its affected units of local government, and the demonstration of impacts: Provided further, That the $20,000,000 shall be provided upon initiation of the performance assessment phase at the Waste Isolation Pilot Plant site.

OTHER DEFENSE PROGRAMS

For expenses of the Department of Energy activities, including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for atomic energy defense, other defense program activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion and the purchase of passenger motor vehicles (not to exceed 28 for replacement only), $403,600,000 to remain available until expended.

[DEPARTMENTAL ADMINISTRATION]

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for Departmental Administration and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95–91), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $35,000) [$414,976,000] *$415,976,000*, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided*, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further*, That moneys received by the Department for miscellaneous revenues estimated to total $284,352,000 in fiscal year 1992 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95–238, notwithstanding the provisions of section 3302 of title 31, United States Code: *Provided further*, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1992 so as to result in a final fiscal year 1992 appropriation estimated at not more than [$130,624,000] *$131,624,000*.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $31,431,000, to remain available until expended.

[POWER MARKETING ADMINISTRATIONS]

POWER MARKETING ADMINISTRATIONS

Operation and Maintenance, Alaska Power Administration

For necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, $3,218,000, to remain available until expended.

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for the purchase, maintenance and operation of two rotary-wing aircraft for replacement only; and for official reception and representation expenses in an amount not to exceed $3,000.

During fiscal year 1992, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $23,869,000, to remain available until expended.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 connected therewith, in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $28,464,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $8,820,000 in reimbursements, to remain available until expended.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (Public Law 95-91), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, **[**$306,478,000**]** *$326,478,000*, to remain available until expended, of which **[**$278,173,000**]** *$298,423,000* shall be derived from the Department of the Interior Reclamation fund; in addition, the Secretary of the Treasury is authorized to transfer from the Colorado River Dam Fund to the Western Area Power Administration $5,465,000, to carry out the power marketing and transmission activities of the Boulder Canyon project as provided in section 104(a)(4) of the Hoover Power Plant Act of 1984, to remain available until expended.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (Public Law 95-91), including services as authorized by 5 U.S.C. 3109, including the hire of passenger motor vehicles; official reception and representation expenses (not to exceed $3,000); $141,071,000, to remain available until expended: *Provided*, That hereafter and notwithstanding any other provision of law, not to exceed $141,071,000 of revenues from fees and annual charges, and other services and collections in fiscal year 1992, shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1992, so as to result in a final fiscal year 1992 appropriation estimated at not more than $0.

The Federal Energy Regulatory Commission is authorized pursuant to section 4 of the Natural Gas Act to allow recovery, in advance, of expenses by natural-gas companies for research, development and demonstration activities by the Gas Research Institute for projects on the use of natural gas in motor vehicles and on the use of natural gas to control emissions from the combustion of other fuels: Provided, That the Commission finds that the benefits, including environmentcl benefits, to both existing and future ratepayers resulting from such activities exceed all direct costs to both existing and future ratepayers.

GENERAL PROVISIONS—DEPARTMENT OF ENERGY

SEC. 301. Appropriations for the Department of Energy under this title for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance and operation of aircraft; purchase, repair and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services. From these appropriations, transfers of sums may be made to other agencies of the United States Government for the performance of work for which this appropriation is made. None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriation Act. The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign.

(TRANSFER OF FUNDS)

SEC. 302. Not to exceed 5 per centum of any appropriation made available for the current fiscal year for Department of Energy activities funded in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise provided, shall be increased or decreased by more than 5 per centum by any such transfers, and any such proposed transfers shall be submitted promptly to the Committees on Appropriations of the House and Senate.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 303. The unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

MINORITY PARTICIPATION IN THE SUPERCONDUCTING SUPER COLLIDER

SEC. 304. (a) FEDERAL FUNDING.—The Secretary of Energy shall, to the fullest extent possible, ensure that at least 10 per centum of Federal funding for the development, construction, and operation of the Superconducting Super Collider be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6))), including historically black colleges and universities and colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans or Native Americans. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

(b) OTHER PARTICIPATION.—The Secretary of Energy shall, to the fullest extent possible, ensure significant participation, in addition to that described in subsection (a), in the development, construction, and operation of the Superconducting Super Collider by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6))) and economically disadvantaged women.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, and for necessary expenses for the Federal Cochairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, to remain available until expended, **[**$170,000,000**]** *$190,000,000*.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100-456, section 1441, $11,500,000, to remain available until expended.

DELAWARE RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Delaware River Basin Commission, as authorized by law (75 Stat. 716), $300,000.

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Delaware River Basin Commission, as authorized by law (75 Stat. 706, 707), $475,000.

INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

CONTRIBUTION TO INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

To enable the Secretary of the Treasury to pay in advance to the Interstate Commission on the Potomac River Basin the Federal contribution toward the expenses of the Commission during the current fiscal year in the administration of its business in the conservancy district established pursuant to the Act of July 11, 1940 (54 Stat. 748), as amended by the Act of September 25, 1970 (Public Law 91-407), $510,000, of which $210,000 shall be available for the local sponsor's share of the cost of the United States Army Corps of Engineers Anacostia River and Tributaries study in Maryland and the District of Columbia or other activities associated with the restoration of the Anacostia River.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including the employment of aliens; services authorized by section 3109 of title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $508,810,000, to remain available until expended, of which $19,962,000 shall be derived from the Nuclear Waste Fund: *Provided*, That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That moneys received by the Commission for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act of 1954, as amended, may be retained and used for salaries and expenses associated with those activities, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at $488,848,000 in fiscal year 1992 shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1992 from licensing fees, inspection services, and other services and collections, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1992 appropriation estimated at not more than $19,962,000.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, including services authorized by section 3109 of title 5, United States Code, $3,690,000, to remain available until expended; and in addition, an amount not to exceed 5 percent of this sum may be transferred from Salaries and Expenses, Nuclear Regulatory Commission: *Provided*, That notice of such transfers shall be given to the Committees on Appropriations of the House and Senate: *Provided further*, That from this appropriation, transfers of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1992 from licensing fees, inspection services, and other services and collections, so as to result in a final fiscal year 1992 appropriation estimated at not more than $0.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100-203, section 5051, $3,294,000, to be transferred from the Nuclear Waste Fund and to remain available until expended.

SUSQUEHANNA RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission as authorized by law (84 Stat. 1541), $284,000.

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1530, 1531), $310,000.

TENNESSEE VALLEY AUTHORITY

TENNESSEE VALLEY AUTHORITY FUND

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including purchase, hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, and for entering into contracts and making payments under section 11 of the National Trails System Act, as amended, $135,000,000, to remain available until expended: *Provided*, That this appropriation and other moneys available to the Tennessee Valley Authority may be used hereafter for payment of the allowances authorized by section 5948 of title 5, United States Code.

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 503. None of the programs, projects or activities as defined in the report accompanying this Act, may be eliminated or disproportionately reduced due to the application of "Savings and Slippage", "general reduction", or the provision of Public Law 99-177 or Public Law 100-119 unless such report expressly provides otherwise.

SEC. 504. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 505. None of the funds appropriated in this Act shall be used to implement a program of retention contracts for senior employees of the Tennessee Valley Authority.

SEC. 506. Notwithstanding any other provision of this Act or any other provision of law, none of the funds made available under this Act or any other law shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required "at cost" to a "market rate" or any other noncost-based method for the pricing of hydroelectric power by the six Federal public power authorities, or other agencies or authorities of the Federal Government, except as may be specifically authorized by Act of Congress hereafter enacted.

SEC. 507. Such sums as may be necessary for fiscal year 1992 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

[SEC. 508. None of the funds provided herein shall be used to implement the provisions of Public Law 101-576.]

This Act may be cited as the "Energy and Water Development Appropriations Act, 1992".

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, and Members of the Senate, I have just filed a second cloture motion on the crime bill which, unless a unanimous-consent agreement is entered to the contrary, will ripen for a vote 1 hour after the Senate convenes on Thursday morning.

A previous cloture motion will ripen for a vote 1 hour after the Senate convenes tomorrow.

In the interim, in view of our inability to move forward on the crime bill, I have exercised my authority to proceed to the energy and water appropriations bill, that action not requiring unanimous consent. I did so following consultation with the Republican leader, as provided under the previous agreement granting me that authority.

The deliberations on the energy and water appropriations bill will commence at approximately 7:45. The managers will be here ready to proceed, and I thank them for their willingness to do so on relatively short notice. The Senate will be in session this evening considering that legislation.

Tomorrow morning, at a time yet to be determined because we have not yet determined what time the Senate will reconvene tomorrow morning, there will be a vote on cloture on the crime bill, and that vote will determine whether or not Senators want to enact a crime bill or not. Those who are opposed to the bill will, of course, cast their votes in the negative. Those who want to proceed to complete action on the bill will cast their votes in the affirmative.

If cloture is voted by the Senate tomorrow morning, and we have not by then completed action on the energy and water appropriations bill, there will be two options: Either to continue on the crime bill until completion and then take up the energy and water appropriations bill, or to do the reverse. I will not make that decision until tomorrow morning, and following consultation with the managers of both bills and the distinguished Republican leader and the Republican managers of both bills.

If cloture is not invoked on the crime bill tomorrow, the Senate will continue with consideration of the energy and water appropriations bill—if that is not completed this evening—throughout the day tomorrow, and then a second cloture vote will follow on the crime bill on Thursday morning.

I am disappointed at our inability to complete action on the crime bill. I understand the rights of those Senators who are opposed to the bill, for whatever reason, to exercise their rights under the rules to seek to prevent action on the bill. But it seems to me that given the importance of the legislation and the diligent efforts that have been made by the managers, that proceeding in this fashion is the manner best calculated to permit us to reach a decision, one way or the other, on the crime bill.

Either we are for a crime bill and we will vote cloture and pass a bill, or we are not for a crime bill and we will not invoke cloture and we will be finished with crime legislation for this Congress.

In the meantime, so as not to further delay the Senate—we have been in quorum calls now for most of the day, and opponents of the crime bill have been able to prevent proceeding with dispatch on that bill—it seems to me it would be the best use of the Senate's time to devote our efforts this evening to the energy and water appropriations bill, and then proceed as I have just suggested.

Mr. WIRTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—H.R. 2622

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, following consultation with the Republican leader, may proceed at any time to the consideration of H.R. 2622, the Treasury-Postal appropriations bill, notwithstanding the provisions of rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 46 U.S.C. 1295(b), as amended by Public Law 101-595, appoints the following Senators to the Board of Visitors of the U.S. Merchant Marine Academy: the Senator from South Carolina [Mr. HOLLINGS], ex officio; the Senator from Louisiana [Mr. BREAUX], from the Committee on Commerce, Science, and Transportation; the Senator from Mississippi [Mr. LOTT], from the Committee on Commerce, Science, and Transportation; and the Senator from Florida [Mr. MACK], at large.

The Chair, on behalf of the Vice President, pursuant to 14 U.S.C. 194(a), as amended by Public Law 101-595, appoints the following Senators to the Board of Visitors of the U.S. Coast Guard Academy: the Senator from South Carolina [Mr. HOLLINGS], from the Committee on Commerce, Science, and Transportation; the Senator from Oregon [Mr. PACKWOOD], from the Committee on Commerce, Science, and Transportation; and the Senator from California [Mr. SEYMOUR], at large.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, FISCAL YEAR 1992

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from West Virginia, the distinguished President pro tempore, is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

Mr. President, H.R. 2427, the Energy and Water Development Appropriations Bill for fiscal year 1992, provides funding for the critical programs of the Department of Energy, the civil works programs of the U.S. Army Corps of Engineers, the Bureau of Reclamation in the Department of the Interior, and several independent agencies, including the Nuclear Regulatory Commission, the Tennessee Valley Authority, and the Appalachian Regional Commission.

The bill as recommended by the committee provides total obligational authority of $21,984,482,000. This amount is $374,654,000 above the President's request and $489,483,000 more than the House-passed bill. The bill as recommended is within the subcommittee's 602(b) allocations for both budget authority and outlays.

I commend Senator JOHNSTON, the chairman of the subcommittee, and Senator HATFIELD, who is the ranking minority member of both the subcommittee and the full committee, for their excellent work in accommodating the priorities of the Senate within the constraints of the budget allocation. I thank all members of the committee for their cooperation on this bill.

Mr. President, I would also like to compliment the majority and minority staff for their months of hard work in connection with this bill: Proctor Jones, David Gwaltney, Gloria Butland, Mark Walker, and Dorothy Pastis.

I urge my colleagues to support this bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I am pleased to present to the Senate, the energy and water appropriations bill for the fiscal year 1992.

This bill, H.R. 2427, passed the House of Representatives on May 29, 1991. The Subcommittee on Energy and Water Development marked up this bill on June 11 and the full Committee on Appropriations marked up and reported this bill on June 12, 1991. We marked up this bill as quickly as we could after receiving the bill from the House and receiving our 602(b) allocation. I want to assure the Members of the Senate that we have done the best we could to present a fair and balanced recommendation to the Senate in light of tough budgetary constraints.

Before summarizing the principal aspects of this year's appropriation bill, I want to take a moment to especially thank the chairman of our full Committee on Appropriations, the distinguished President pro tempore and our leader for all the hard work and for his understanding of the difficulties confronting us in moving these appropriation bills through the subcommittee, the full committee and now to the Senate. I commend the Chairman in leading us to this point.

Mr. President, as usual, I say each year—and I mean it more each year—that the cooperation, the teamwork, the leadership of the distinguished Senator from Oregon, Senator HATFIELD, who is a former chairman of the full committee and the ranking minority member of the committee, and the ranking minority member of the full committee, has been invaluable; he is an outstanding ranking minority member as he was an outstanding chairman, and I value his friendship as well as his leadership in these matters.

PURPOSE OF THE BILL

The purpose of this bill is to provide appropriations for the fiscal year 1992 beginning October 1, 1991, and ending September 30, 1992, for energy and water development, and for other related purposes.

It supplies funds for water resources development programs and related activities of the Department of the Army, Civil Functions—U.S. Army Corps of Engineers' Civil Works Program in title I; for the Department of the Interior's Bureau of Reclamation in title II; for the Department of Energy's energy research activities—except for fossil fuel programs and certain conservation and regulatory functions—including atomic energy defense activities in title III; and for related independent agencies and commissions, including the Appalachian Regional Commission and Appalachian regional development programs, the Nuclear Regulatory Commission, and the Tennessee Valley Authority in title IV.

SUMMARY OF RECOMMENDATIONS

Mr. President, the fiscal year 1992 budget estimates for the bill total $21,609,828,000 in new budget obligational authority. The recommendation of the committee provides $21,984,482,000. This amount is $374.6 million over the President's budget estimate and $489.4 million more than the House passed bill.

BILL HIGHLIGHTS

Atomic Energy Defense Activities

Research, Development, and Testing	$1,976,650,000
Production and Surveillance	2,590,478,000
Materials Production	1,891,900,000
New Production Reactors	483,000,000
Environmental Restoration and Waste Management (Defense)	3,640,382,000

ENERGY SUPPLY, RESEARCH, AND DEVELOPMENT

The bill recommended by the committee provides a total of $2,940,916,000 for energy supply, research, development and demonstration programs including:

Solar energy	158,866,000
Environmental restoration and waste management (nondefense)	602,495,000
Nuclear fission R&D	346,658,000
Magnetic fusion	337,100,000
Basic energy sciences	737,700,000
Biological and environmental health	326,460,000

GENERAL SCIENCE AND RESEARCH

The committee recommendation would provide $1,507,489,000 for High Energy Physics and Nuclear Physics. Major programs are:

High energyphysics research	637,999,000
Nuclear physics	354,390,000
Superconducting super collider	508,700,000

The major recommendations are as follows: First of all, the restoration of $75 million of the $100 million reduction made in the superconducting supercollidor for a total appropriation of $508,700,000 for the SSC. This is a reduction of $25 million from the President's budget and $75 million above the House. We believe these are sufficient funds to keep this on schedule.

The main injector at Fermi Lab is increased by $25 million. The House allowed $10 million for design, we provided $25 million without limitation.

On the atomic vapor laser isotope separation uranium enrichment program, the AVLIS program, we restore $30 million of the $50 million House reduction.

We provided for 14 new construction starts for water resource development. The House had no new starts. The total estimated Federal cost for these new starts is $291 million—not $291 million in this bill—that is the total cost.

INDEPENDENT AGENCIES

Also recommended in the bill is $502,706,000 for various regulatory and independent agencies of the Federal Government. Major programs include:

Appalachian Regional Commission	$190,000,000
Federal Energy Regulatory Commission	141,071,000
Nuclear Regulatory Commission	512,500,000
Tennessee Valley Authority	135,000,000

Approximately $160 million additional is allocated for several ongoing high priority construction projects to maintain the construction schedules and avoid further costly stretch-out and delays, such as in the Garrison project in North Dakota, Kissimmee in Florida, O'Hare in Illinois, Red River navigation, Tug Fork in Kentucky and West Virginia, and small projects continuing authority.

Two hundred million dollars more is provided than in the House for RDT&E at Lawrence Livermore and Los Alamos and Sandia, New Mexico. We were fortunate in getting this additional money from 050, which is the defense subcommittee, for our subcommittee, and this to be used at the national labs as indicated for very high priority projects.

Approximately $80 million has been allocated for miscellaneous energy R&D, general science, and basic research programs projects.

We have language here limiting the use of the Corps of Engineers regulatory funds on the use of jurisdictional wetlands manual under section 404 to determine wetlands unless such manual has been developed and issued under the public comment and notice rulemaking of the Administrative Procedures Act.

If I may have your quick attention on this, because it is likely to come up in further discussion. As all of you—as many of you know, the Corps of Engineers along with the EPA and Fish and Wildlife Service came up with a new manual in 1989 for section 404. Now, the new manual fundamentally changed the rules for determining what was a wetland and how you go about doing it.

The main change was it changed from discretionary to mandatory the application of the test to determine what was a wetland. One of the tests was that you have water some, I believe, 18 inches below the surface for a period of 7 days between the spring and the fall. Now, when that was advisory only then the Corps of Engineers had a lot of discretion as to how to apply that.

When it is mandatory, it brings in literally millions of acres as wetland. The practical effect of this is, first, that people are being prosecuted for violation of wetlands regulations when they did not know about the status as wetlands; second, it is taking private property for public use with no notice, no hearing.

Just all of a sudden, as one fellow down in Louisiana told me, he had ten acres that was worth $15,000 an acre, assessed as such for tax purposes. One day he finds out the Corps has designated it as wetlands. He said now that property is worth zero.

Now, this 1989 manual was adopted without public hearing or comment. All this provision does is it says that they may not enforce the 1989 manual unless adopted pursuant to the Administrative Procedures Act. So they have a number of choices that they can do. Either they can go back and re-institute the 1989 manual pursuant to the APA, or they can come up with changes to that pursuant to the APA, or they could reauthorize the Water Resources Act. Any of those things would qualify and put this back in.

Unless and until that is done, then the old rules that were in operation prior to 1989—I think they are 1972 rules—they would still be in effect.

Now, practically, if they want to comply with public notice and hearing and the right of all these property owners to be heard, they can do that even before the fiscal year starts, so that there would be absolutely no delay, none. The APA provides that rules can go into effect within 30 days after promulgation of those rules. So if they wanted to, on July 1 they can put out the rules to become effective 30 days later, giving the right to comment.

You do not even have the right, necessarily the right to public hearing, so long as you give the right to comment. That is all we are asking, is the right to be heard. And I think in hearing the complaints of these farmers and these people who want to plant trees, these people who want to build a house on land in Saint Tammany Parish in Louisiana that is 16 feet above flood plain, not subject to flooding, already developed, street lights, all of that, all they have to do is be given a right to be heard and that is all that this provision does.

Mr. President, this is a brief summary of the major funding for the major agencies contained in the bill. I hope that we can handle this measure on the floor in an expeditious manner so we can get to conference with the House of Representatives as soon as possible.

Mr. President, we have spent every penny that was available to us under a very tight 602(b) allocation and there just is not any more money. I know Senators have great projects which they wish to fund, and I have a lot that I want to fund, but there simply is not any money for it because it has all been spent.

So, with that, Mr. President, I defer to the distinguished ranking minority member, Senator HATFIELD, at this point.

Mr. HATFIELD. Mr. President, I thank the chairman of the committee. As a part of the working relationship that distinguishes this committee, his leadership and that of the chairman of the full committee, Senator BYRD. Senator BYRD has that rather daunting task of getting 13 appropriations bills out here on the floor after they have passed the House of Representatives, and not only get them out here on the floor but get them passed, get them to conference, and then get them down to the White House for the President's signature. That is indeed a monumental task and I know that we are here tonight in part because Senator BYRD has given that kind of leadership on the full committee, and Senator JOHNSTON as the chairman of the subcommittee has certainly reflected that same determination to get our business completed in an expeditious manner and in due time.

Mr. President, I want to thank Senator JOHNSTON for his exceptional work in bringing this bill before the Senate in such a timely, organized, and professional fashion. The Senate received the bill from the House on May 29, and the fact that we are already on the floor with such a clearly balanced product is a testament to our subcommittee chairman's organizational and leadership skills. Senator JOHNSTON has made the development of the bill a bipartisan process, and has worked hard to accommodate Members on both sides of the aisle.

I also want to thank the chairman of the full Appropriations Committee, Senator BYRD, for his work on the bill, as well. Through his leadership and dedication, I am confident that the Senate will have all 13 appropriations bills passed before the end of the fiscal year. From my own experiences as chairman of the committee, I know this to be a daunting task, but know that Chairman BYRD will accomplish it in his usual effortless style.

While Senator JOHNSTON has already given an excellent summary of the contents of the committee's fiscal year 1992 bill, I want to emphasize a few points of my own. First, we have tried to accommodate nearly all of the administration's objections to the House-passed bill.

Mr. President, I would like to make one or two brief observations for the simple fact that we may act on a bill and everyone knows unless the President is willing to agree to it there will be no legislation or no appropriation unless that veto or that disagreement is resolved.

This committee received a message from the White House signed by the Director of OMB, Mr. Richard Darman, on June 10, 1991. He noted in that letter, Mr. President, that the President of the United States, the White House, had four objections to the House-passed bill of energy and water. These four objections were the House's $100 million reduction from the budget request for the superconducting super collider [SSC], the $33.5 million cut in the funding for the Fermilab main injector for high energy physics research, the provisions barring the use of funds in the bill for the implementation of the Chief Financial Officers Act, and the restriction of appropriated funds to conduct certain studies of the pricing of hydroelectric power.

I am pleased to report to my colleagues that we have addressed 3 out of 4 of these concerns. We have recommended funding the SSC at $508.7 million—$75 million over the House, the Fermilab main injector at $25 million—$15 million more than the House, and we have struck the House language barring the implementation of the Chief Financial Officers Act.

I am pleased to say, however, that we have not deleted the restriction on studying the pricing of hydroelectric power, and it is my hope we will not do so at any time soon, even though that stands in direct contradiction to the White House's pleasure. I think the White House will be willing to settle on three of the four objections. After all, there has to be some kind of compromise in these differences that exist from time to time between the White House and the Congress, or a committee of the Congress.

While this bill is important to every Member of this body, and provides essential funding for many programs of national significance, I want to mention that there is a very specific regional interest that I have, coming from the Pacific Northwest, because this bill funds the operations of the Army Corps of Engineers and the Bureau of Reclamation and the Bonneville Power Administration, three agencies which are playing a critical role in the fight to save at least three runs of Columbia River Basin salmon from extinction.

The bill we have brought to the floor provides direction to these three agencies on their respective roles in this effort, as well as over $40 million for necessary actions, both to help the fish and to ease the burden of this situation on our region's economy.

While it may be nearly a year before the National Marine Fisheries Service makes a final listing decision on the Snake River sockeye, fall chinook, and the spring/summer chinook salmon, we are not waiting around, wringing our hands and complaining about the Endangered Species Act. No. We are working with the four Governors, those of Oregon, Washington, Idaho, and Montana, the Federal agencies, and other interested parties, and are developing a recovery strategy that can be implemented now, before a final listing decision is made. The enactment of this appropriations bill is crucial to our efforts to save the salmon and our unique way of life in the Pacific Northwest.

With that said, Mr. President, I would like to remind my colleagues that this bill is right up against our 602(b) allocation of $22.020 billion—$11.98 billion of that being function 050, defense, and $10.040 billion being discretionary—and that any amendments offered today will need to have offsets.

Mr. President, I once again express my deep gratitude for the excellent leadership of the chairman of the subcommittee, the Senator from Louisiana [Mr. JOHNSTON].

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator from Oregon for his kind remarks. I ask unanimous consent that the committee amendments be agreed to en bloc, with the exception of the committee amendment appearing on page 26, line 19 down through line 8 on page 27; and the committee amendment on page 51, line 10 through line 16; and that the bill as thus amended be regarded for the purpose of amendment as original text, provided that no point of order shall have been considered to have been waived by agreeing to this request.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

The committee amendments were agreed to en bloc except the committee amendment appearing on page 26, line 19 through line 8 on page 27; and the committee amendment on page 51, line 10 through line 16.

AMENDMENT NO. 570

(Purpose: Substitute for Committee amendment on Army Corps of Engineers section 404 wetlands Regulatory Program)

Mr. JOHNSTON. Mr. President, the two excepted amendments to those that were not agreed to en bloc were, first, a section 404 permit regulatory program amendment.

Mr. President, we have a separate amendment on that which I send to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 570.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter beginning on page 26, line 19 through line 8 on page 27 insert the following:

None of the funds in this Act shall be used to identify or delineate any land as a "water of the United States" under the Federal Manual for Identifying and Delineating Jurisdictional Wetlands that was adopted in January 1989 (1989 Manual) or any subsequent manual not adopted in accordance with the requirements for notice and public comment of the rule-making process of the Administrative Procedure Act.

In addition, regarding Corps of Engineers ongoing enforcement actions and permit application involving lands which the Corps or EPA has delineated as waters of the United States under the 1989 Manual, and which have not yet been completed on the date of enactment of this Act, the landowner or permit applicant shall have the option to elect a new delineation under the Corps 1987 Wetland Delineation Manual, or completion of the permit process or enforcement action based on the 1989 Manual delineation, unless the Corps of Engineers determines, after investigation and consultation with other appropriate parties, including the landowner or permit applicant, that the delineation would be substantially the same under either the 1987 or the 1989 Manual.

None of the funds in this Act shall be used to finalize or implement the proposed regulations to amend the fee structure for the Corps of Engineers regulatory program which were published in Federal Register, Vol. 55, No. 197, Thursday, October 11, 1990.

Mr. JOHNSTON. Mr. President, this amendment, which I have submitted, has been worked out in consultation with the majority leader, the Corps of Engineers, and others who are interested in this program.

What we did in committee, Mr. President, is provide that with respect to the section 404 Wetlands Permit Program, any regulations that were adopted under that program that did not comply with the Administrative Procedures Act could not be enforced with money provided under this bill.

What that practically means is that the regulations, or the manual, as it is called, which not only defined wetlands, but set forth the procedure under which the Corps of Engineers, EPA, and the Fish and Wildlife Service regulate wetlands—that the manuals must be adopted in accordance with the Administrative Procedures Act in order to be enforced.

In 1987, a manual was adopted setting forth definitions of what was a wetland and what was not, and providing in effect for some discretion in the administration of that program. That 1987 manual was adopted in accordance with the Administrative Procedure Act, which is to say, public hearings, notice, the right to make comments, the right in effect for citizens to be heard.

In 1989, another manual was adopted. This manual made tremendous changes in the wetlands program. It defined, for example, a wetland as being that which, in most years, for 7 days was wet at a level 18 inches below the ground.

When you consider the amount of wetness, particularly in my State, virtually the entire State is wet for 7 days during the growing season 18 inches below the ground. As a matter of fact, you could probably make that definition by saying at ground level, if only 7 days are being dealt with.

Moreover, the Corps of Engineers was deprived of the discretion which lay with the Corps of Engineers under that program. The practical effect was to bring in an amount of land nationwide consisting of 60 million acres, that figure being given by the head of the Fish and Wildlife Service in testimony before the House.

You can imagine the effect of including another 60 million acres of land which, in many cases, was high and dry or considered to be high and dry, wherein the Corps of Engineers had absolutely no discretion, where the value of property on the day before it was declared a wetland might be thousands and thousands of dollars per acre, and on the day after it was declared a wetland it would be worth zero because it could not be developed. Those kinds of situations pertained all over my State.

Not only was there the loss of property value, but many people who had done things innocently in wetland areas—whether it was forming a crawfish pond or farming or filling or dredging, or whatever—were being prosecuted criminally under a set of rules as to which they had no notice; they had no opportunity to be heard. No one had an opportunity to be heard.

What we said under our original amendment was that that 1989 manual, not adopted in accordance with the Administrative Procedures Act, could no longer be enforced. Since that time, we had meetings with the distinguished majority leader and his staff from the Environment and Public Works Committee who pointed out that there were ongoing some 5,000 permit applications nationwide. And, as the majority leader said, it was his desire also to have these rules adopted in accordance with the Administrative Procedures Act. Everyone thought we ought to have notice, and we ought to have the right to be heard, but 5,000 applications were pending under the 1989 manual.

We therefore came up with substitute language which has just been submitted, and which states that, for ongoing enforcement actions and permit applications uncompleted on the date of enactment of this provision, but which were based on the 1989 manual, the corps would provide the landowners the option to elect a new delineation based on the corps' 1987 manual, or completion of the action based on the 1989 delineation manual unless the corps were to consult with the landowner and determine that the delineation would be substantially the same under either the 1987 or 1989 manual.

In addition, the corps would be prohibited from implementing the 1990 proposal to increase the fees imposed on the public through the 404 program.

That fee increase was an increase, if I recall, from $50 to $500, to apply, which might be for only one lot.

As a practical matter, Mr. President, the Administrative Procedures Act provides for 30-days' notice so that they could comply with the law by submitting tomorrow a notice, and the 30 days provided under the Administrative Procedures Act would run and be over with well before the fiscal year.

As a practical matter, I think it would take longer than the 30 days stipulated by law. But we are not talking about a half a year or a year. We are talking about a matter of, well, it depends on how long they would want to take. But however long it is, it is a fundamental right. When you are dealing with not just hundreds of millions, but billions of dollars' worth of property value and the loss of freedom, indeed the criminal prosecution of people under a manual, somebody ought to have the right to be heard under those regulations. And that is what this amendment does. I believe it has been thoroughly discussed and gone over. So I yield the floor at this point, Mr. President.

Mr. SIMPSON. Mr. President, I want to express my full support for the amendment offered by the senior Senator from Louisiana, Senator JOHNSTON, regarding the future implementation of the 1989 Federal Delineation and Jurisdictional Wetlands Manual.

It is so unfortunate and wholly inappropriate that the Environmental Protection Agency and the Corps of Engineers have been unwilling, up to this point, to subject this manual and other important wetland memorandums and directives to the normal public comment process which is provided under the Administrative Procedures Act. Like all other major initiatives to protect our Nation's natural resources, the wetlands program is highly controversial and rarely satisfactory to a clear majority of concerned interests. That is to be expected. But it was completely unfair and very improper for these agencies to deny the American public their normal opportunity for scrutiny and comment.

The delineation manual is not simply a scientific report. It contains much science, but it also sets policy. Even if that was not its original purpose, it cannnot be disputed that it has been a statement of policy since its publication in 1989. Major initiatives and directives have been generated from this delineation and jurisdictional manual. Significant changes in the enforcement of the wetlands program directly resulted from the publication of this manual. I also believe that the two memorandums of agreement regarding enforcement and mitigation of wetlands—which have not been subject to the normal public comment period—should certainly be. It is the public's right.

This amendment is not a congressional maneuver to delay or sidetrack protection of our Nation's wetlands. However, it is clearly Congress response to the outcry in America that this particular regulatory program is totally out of control. This manual and related regulations have critically important policy implications that substantially impact State water rights, private property rights, property taxation matters, important flood control programs, as well as waterfowl habitat management and protection initiatives, to name just a few areas. The most significant of these far-reaching agency actions since 1977, including the manual and the aforementioned memoranda, have not been subjected to public comment. That, my colleagues, is absurd, arrogant, inappropriate governing—no matter what one's opinions are of the wetlands program.

Upon inclusion of this amendment in the fiscal year 1992 energy and water appropriations bill, I do encourage the Environmental Protection Agency and the Corps of Engineers to begin the public comment progress expeditiously and to treat it with the highest regard and honesty. It is no more than what is required for any other environmental initiative, and no less than the American public surely deserves.

Mr. BAUCUS. Mr. President, I am glad that the distinguished Senator from Louisiana has agreed to modify his provision in the energy and water appropriations bill (H.R. 2427), which would have adversely affected efforts by the Army Corps of Engineers to carry out section 404 of the Clean Water Act.

That provision would have prohibited the Army Corps of Engineers from using any funds after September 30, 1991, to identify or delineate any area as a wetland subject to section 404 of the Clean Water Act by means of the current (1989) Federal Manual for Identifying and Delineating Jurisdictional Wetlands or any subsequent manual that is not adopted in accordance with the requirements for notice and public comment under the Administrative Procedures Act.

I have called on the Federal agencies to adopt a technically sound and scientifically credible wetland identification manual that has been submitted to the public for review and comment before it is put in final form.

But the provision in the reported bill also would have prohibited the Corps of Engineers from using funds to apply or enforce section 404 with respect to any activities in areas that were delineated as wetlands using the current manual. The effect of this language would have been to require redelineation of the wetland sites identified in about 5,000 permit pending permit applications. Redelineation of these areas, as well as initial delineations for future permit applications and for those people who are trying to avoid filling wetlands, would have resulted in significant delays.

The provision would have required redelineation of thousands of pending section 404 enforcement actions—administrative, civil, judicial, and criminal—pending at the Department of Justice, before the courts, or under consideration at EPA or the Corps of Engineers. The provision would have caused considerable confusion regarding the status of all of those cases, as well as for any additional cases where a discharge had occurred and a delineation had been made under the 1989 manual.

Finally, the provision would have prevented the corps from monitoring or enforcing conditions to the tens of thousands of permits issued during the past 2 years that relied on the 1989 manual.

So I am glad that the provision has been substantially modified to largely resolve these concerns by removing the retroactive portions of the provision and requiring use of the 1987 corps wetlands manual in lieu of the 1989 manual. But I remain concerned that the modification offered by the Senator from Louisiana will result in greater confusion and delay.

The principal complaint of witnesses who have testified before the Subcommittee on Environmental Protection has been that people who apply for section 404 permits to develop wetlands is that the section 404 process is unduly complicated and time-consuming. Therefore, we should be looking for ways to reduce, not increase, those problems.

It would have been preferable to allow the corps to use the 1989 manual until December 31, 1991, or the date on which a manual is adopted in final form, whichever is earlier. This change would have given the Federal agencies a chance to make a smooth transition from the 1989 manual to a revised manual, thus avoiding a situation where the corps, under the energy and water bill, would be using one set of procedures—the 1987 manual—and the EPA and other Federal agencies would be using a different set of procedures—the 1989 manual.

The PRESIDING OFFICER. Is there further discussion of the amendment? If not, the question is on agreeing to the amendment offered by the Senator from Louisiana.

The amendment (No. 570) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I want to thank the distinguished Senator from Louisiana for his courtesy in the handling of this matter. He has described the situation, and I will not repeat it now. I think it is important that all Senators and the public understand that our objective is to have adopted, in final form, a manual, following public comment and the opportunity for people around the country to express their views as to how the proceedings with respect to wetlands should occur.

The difficulty we are now in is that the administration has been unwilling to submit the manual, first propounded in 1989 and now being used to implement the procedures, for public comment. The distinguished Senator from Louisiana and the ranking Member and many others are concerned about this. We may not agree on precisely what each definition or delineation is under the manual, but we do agree that what is needed is a public comment period and, following the consideration of those comments, adoption of a manual in final form that seeks to achieve what I think is the objective shared by the overwhelming majority of Senators, and that is preservation of wetlands in a reasonable and responsible way.

In most areas of public policy, there is a huge gap between the statement of general policy and its application in a specific set of facts. But I think in this instance, what we are trying to do and what this amendment is intended to do, as I understand it, is to encourage the administration to do that.

By coincidence, Mr. President, I will inform the distinguished Senator from Louisiana, the Environment and Public Works Committee has a hearing tomorrow morning on the subject of wetlands. I intend to attend that hearing to convey to the administration witnesses, the Administrator of the EPA, perhaps others from Interior, Fish and Wildlife, my view, and I believe the view of many others, that what we need out of the administration now is to put this manual out for public comment, receive that comment, and then propound in final form a manual that we hope will achieve our common objective.

So I thank the Senator. As I have said, we have had very good discussions on it. We may not agree on every application, every definition, every delineation, but we share in common a desire to get this process moving in a way that will end the uncertainty, anxiety, and difficulty that is now existing as a consequence of the administration's actions to date in this regard.

Mr. JOHNSTON. Mr. President, I thank the majority leader for his comment. He has stated it, as usual, correctly. It is our common desire to see the manual adopted after proper consideration and comments.

I might add that we had hearings on this matter in this committee. During that, after hearing some complaints from people from my State, I invited representatives of EPA, Fish and Wildlife, and the corps to come with me to my State to hear in person the comments and see some of the wetlands involved, which they did, which I think they found to be very constructive. I, as much as anybody in this body, want to protect wetlands. As the majority leader knows, I have had various amendments to try to get money to restore our wetlands and to mitigate their loss. With some success, we have been able to do that.

But on the question of the permitting and the procedures, it is very, very important to have the public, and particularly public bodies, involved. I believe that the new manual, whenever it is adopted, ought to involve public bodies first. The way the manual operates right now—and I will not go into it in great detail—if an individual property owner, an owner of one lot in a subdivision wants to do something that requires a permit, he must show that there is no other land in his county or parish that is available for this; that his is necessary, in effect, for that. It puts a huge burden on this individual property owner. That ought to be the kind of burden that a public body shoulders, along with the Corps of Engineers, EPA, and the Fish and Wildlife Service. I hope that the new manual will go through that procedure in designating wetlands.

In any event, I am very pleased we have been able to work this out at this interim stage of the proceedings, and I thank the majority leader for his constructive leadership.

Mr. MITCHELL. I thank my colleague.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

Mr. CHAFEE. Mr. President, I would like to be heard before the amendment is adopted, if I might.

The PRESIDING OFFICER. Without objection, the Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I would just like to thank the distinguished majority leader for his help in getting some of the problems straightened out. I think the final result is not necessarily what we would all want, at least what I would want. But life is a compromise around this place. It does seem complicated, I must say that. The new manual should be out very quickly. Then the confusion arises as to which manual in the meantime they operate under.

By the way, am I correct in saying that the line "nor shall any funds be used for application or enforcement of the provisions of section 404 to activities undertaken on such lands" has been stricken?

Mr. JOHNSTON. I believe the Senator is correct.

Mr. CHAFEE. If I am correct in this, it reads as follows, starting with the first paragraph:

> None of the funds in this act shall be used to identify or delineate any land as a "water of the United States" under the Federal Manual for Identifying and Delineating Jurisdictional Wetlands that was adopted in January 1989 (1989 Manual) or any subsequent manual not adopted in accordance with the requirements for notice and public comment of the rulemaking process * * *.

Mr. JOHNSTON. If I may interrupt the Senator, the Senator is correct. We did strike the phrase "nor shall any funds be used for application or enforcement of the provisions of section 404 to activities undertaken on such lands." We did strike that and added two additional paragraphs.

Mr. CHAFEE. Again, I would like to thank the majority leader for his work in connection with this. I also feel confident when the majority leader has worked on wetlands matters, because I know of his great concern. He and I have been involved with these battles for many, many years on the same side.

I want to thank the distinguished floor manager also for the arrangement. It is a little complicated. We are going to have a hearing tomorrow in which we will urge the EPA to get out their manual as rapidly as possible. So this all may be moot; a new manual may be out by the time this legislation is enacted into law.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator from Rhode Island. I know of his interest in wetlands. I know he recently made a trip to Louisiana and saw, among other things, Bayou Sauvage, which is a refuge I had something to do with creating. I thank him for his interest in that and wetlands in general.

Let me assure the Senator this is not meant to kill wetlands regulation at all. I think he understands that. I am certain he understands that. There need be no lengthy interregum at all—in fact, the 1987 manual as a floor will be there, so that no wetland as defined under the 1987 manual could be defiled without getting a permit from the Corps of Engineers.

I think it is fair to say that the principal difference, other than the procedures involved between the 1987 to the 1989 manual, is that under the 1987 manual the corps had discretion to go virtually as far as the 1989 manual. The 1989 manual gave no discretion to do so. It was mandatory and compulsory. So that the corps will have full authority to protect during whatever lag time there is before the new manual is adopted.

I hope that lag time is not lengthy, and I do hope it is one that recognizes the right of not only individuals but local governing bodies to be heard in this matter.

So I thank the Senator from Rhode Island for his interest.

Mr. CHAFEE. The distinguished Senator should feel very, very satisfied for Bayou Sauvage, which I think is in the neighborhood of 22,000 acres, which is a magnificent wetland that has, indeed, been saved. And all of it is in the environs of the city of New Orleans, if you can believe it. There it is. It has been saved and perhaps someday they will call it Bayou Johnston, for all we know.

Mr. JOHNSTON. We pronounce that in New Orleans, "Bayou Johnston."

Mr. MITCHELL. Will the Senator yield, because I want to make comment with respect to the remarks of the Senator from Rhode Island.

Mr. JOHNSTON. Yes, I am happy to yield.

Mr. MITCHELL. First, Mr. President, as every Member of the Senate knows, no Member of the Senate is more diligent in the protection of our environment generally, and preservation of wetlands specifically, than the Senator from Rhode Island.

I merely want to inform him that with respect to the amendment just adopted, it is a classic compromise. The Senator from Louisiana had a position that was in the bill; I suggested an alternative position; and we met and discussed it. The result is a middle ground between the two. It represents a balancing of competing concerns, both of which are valid.

The concern of the Senator from Louisiana was as to the problems that are currently arising from the implementation of the 1989 manual, the reasons he has stated, and there is no doubt that there are problems arising in that regard.

My concern, as I expressed to him, was the confusion that will result from the possibility of two changes in policy; one occurring at the beginning of the next fiscal year on October 1 when we go from implementation of the 1989 manual to an optional 1987 manual or 1989 manual, and then, hopefully, shortly thereafter to a final manual if the EPA moves and we get the period of public comment.

We discussed that in an open and candid way, and the result is a middle ground. I think both points of view are valid. As often happens, we are weighing competing concerns.

I want to assure the Senator from Rhode Island that I would have preferred a longer period of time to avoid the possibility of two changes in course of action in a relatively short period of time. The Senator from Louisiana would have preferred the original language in the bill. The result is, I think, a reasonable compromise, and it is a subject that I do look forward to working on with the Senator from Rhode Island.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, the reported committee amendment on page 51, lines 10 through 16, is an amendment that would strike House language and insert additional language to clarify the matter of payments and credits by utilities into the nuclear waste fund as a result of a court decision concerning overcharges and overpayments into the fund.

This amendment has raised issues concerning scorekeeping of future payments due the fund as well as credits for future payments. After further discussion with OMB, we have decided to leave the language as it was originally submitted when the budget was transmitted to Congress in January and, therefore, the committee-reported amendment is no longer necessary. This has been cleared on the Republican side and, inasmuch as it is no longer necessary, I move to table the proposed committee amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. JOHNSTON. I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 571

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 571:

On page 57 line 14 strike $403,600,000 and insert: "$567,600,000."

Mr. JOHNSTON. Mr. President, this is a technical amendment to correct an error in the bill. Due to the short time period the subcommittee had in putting the bill together, program direction funds amounting to $164,000,000 was inadvertently left out of the appropriation for other defense programs on page 57. This amendment merely conforms the bill to the total amount recommended by the committee.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 571) was agreed to.

Mr. JOHNSTON. I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I yield the floor.

Mr. DOMENICI. Mr. President, I know Senator GLENN has an amendment, and it will take just a moment. I am on the subcommittee, and I just wanted to make a couple of comments regarding the overall bill.

Obviously, Mr. President, this is very important to those of us who have national laboratories and defense nuclear activities within our States, and that happens to be the case as far as New Mexico is concerned.

Mr. President, I rise in support of the energy and water development appropriations bill reported by the Senate Appropriations Committee.

By CBO's scoring, this bill provides $22 billion in new budget authority and $13.1 billion in new outlays for the Department of Energy, the Corps of Engineers, the Bureau of Reclamation, and for other selected independent agencies. By CBO's scoring the bill is within its section 602(b) allocation.

I want to thank the distinguished chairman and ranking member for including additional funding for the Department of Energy's defense activities. This funding will help address what has been a steady erosion in funding for the core research, development and testing programs at DOE.

I also note that this action would not have been possible without the assistance and cooperation of the distinguished chairman of the full committee, Senator BYRD, and Senators INOUYE, and STEVENS.

I particularly appreciate the subcommittee's support for a number of projects and programs important to my home State of New Mexico.

One of these programs is $50 million in funding to carry out the National Competitiveness Technology Transfer Act of 1989, which I coauthored.

This legislation will encourage the integration of the scientific and technical expertise of DOE's national laboratories with U.S. industry to enhance their capabilities and their ability to compete in an expanding global market.

I commend the subcommittee chairman, the Senator from Louisiana, and Senator HATFIELD, the ranking member, for producing the first Senate appropriations bill for fiscal year 1992, a bill that falls within the subcommittee's 602(b) allocation and meets the caps of the budget summit agreement and CBO's estimates.

AMENDMENT NO. 572

(Purpose: To transfer funds for atomic energy defense activities from research, development and testing, and production and surveillance, to environmental restoration and waste management)

Mr. GLENN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio, [Mr. GLENN], proposes an amendment numbered 572.

Mr. GLENN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 54, line 2, strike "$1,976,650,000" and insert "$1,941,650,000".

On page 54, line 13, strike "$2,590,478,000" and insert "$2,507,478,000".

On page 56, line 14, strike "$3,640,372,000" and insert "$3,758,372,000".

Mr. GLENN. Mr. President, the purpose of this amendment is to restore $118 million to the Department of Energy's budget for its Office of Environmental Restoration and Waste Management. The amendment would also require a commensurate offset reduction in DOE's weapons activities program.

Unfortunately, the current bill requires a general reduction in the DOE cleanup program of $108.5 million. My amendment would put the DOE cleanup program at the spending level the House Armed Services Committee approved.

As a member of the Armed Services Committee with three DOE facilities in my home State of Ohio, and as chairman of the Governmental Affairs Committee, I have maintained a very special interest in DOE's nuclear weapons program for a long time. We have been working on this for about 7 years as Members of this body, and I have risen on this floor repeatedly to address this particular problem of waste management and cleanup.

Mr. President, it took many years of hearings, numerous reviews by the General Accounting Office, the National Academy of Sciences, and other independent groups to convince the Department of Energy that it had a very serious environmental safety and health problem.

In light of these problems our national policies regarding the production of nuclear weapons have undergone a remarkable transformation in the last few years. The buildup of the nuclear arsenal so aggressively promoted by the Department of Energy throughout the 1980's ultimately became a major factor in the incipient collapse of the department's nuclear industrial infrastructure.

This happened mainly because the very same elements that led to the successful development of the first nuclear weapons—isolation, secrecy, decentralized management, self-regulation, extensive contractor dependence—have left us with numerous deteriorating facilities, and enormous accumulations of dangerous waste products and profound contamination in the environment.

Mr. President, we all remember back in those days of the sixties, the fifties, when the watchword, the cry was in the weapons community "The Russians are coming. The Russians are coming." We had to get ready. So production was the watchword, production of fissile materials, production of materials for nuclear weapons.

Mr. JOHNSTON. Mr. President, I wonder if the Senator would yield to discuss a unanimous-consent request?

Mr. GLENN. Yes.

Mr. JOHNSTON. The majority leader had stated that the Senator from Ohio either wanted or was willing to have an hour equally divided on this amendment. If the Senator from New Mexico and the Senator from Oregon are willing, that would suit me, to have an hour equally divided.

Mr. DOMENICI. Briefly reserving the right to object, could I just discuss a matter with the Senator from Ohio for a moment before we agree?

I discussed this matter with the Senator generally before the amendment was offered. Since then, I have had a chance to look at it, and I had an indication from the Senator from Ohio that he did not intend to reduce its RD&T at the nuclear laboratories in his amendment. I am not choosing pieces but I just wanted to inform the Senator that he has reduced it by $35 million in this amendment; that is, the basic RD&T which is in this bill. That is not what I am concluding he intended to do.

Mr. GLENN. We have that function. If our figures are correct, I believe it is still some $230 million above the request by DOE. That is out of the function that encompasses weapons research development and testing.

If that comes out of labs, I was not aware that this was specifically oriented to the labs. If it is, well, it is still close to $230 million over what DOE requested.

Mr. DOMENICI. The Senator may be correct. But I understood that he did not want to take it out. I wanted to inform him that he had.

Mr. GLENN. I generally have said I have been supportive of the labs, and I have. I think I have supported the requests for increased money for the labs. I do not think they should be going downhill at all.

I am very much concerned about the environmental safety and health situation that we have created over the past 45 years or so. I just do not like to see money being reduced for that function. That is basically what this is all about.

Mr. DOMENICI. I do not know, without talking further with the chairman, whether I am prepared to agree to an hour because frankly the money that is in this account that I am referring to was actually transferred from defense to this account. Now we are going to reduce it. It would not even have been there but for the fact it came out of defense to go into this account, and now we are going to put it somewhere else. That is really not what it was intended for.

Perhaps a minute's discussion with the chairman might permit the Senator from New Mexico to agree.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, if it is agreeable with the distinguished Senator from Ohio, I will now ask unanimous consent that there be 1 hour for debate on this amendment equally divided between the distinguished Senator from Ohio, Mr. GLENN, and myself. Does anyone desire to amend that?

Mr. GLENN. If I have a half hour, that is fine. Now equally divided?

Mr. JOHNSTON. Provided that no second-degree amendment be in order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. Who yields time?

Mr. GLENN. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator is recognized.

Mr. GLENN. Mr. President, I indicated some of the problems that had developed, and I indicated back in those days, fifties, sixties, the cry was "The Russians are coming," and we have to produce nuclear materials for weapons. What do we do with the radioactive waste? Do not worry about those. We will put them out in a pit. We will store them some place. Worry about them later.

Now is later—starting about 7 years ago when we first began trying to address this program of environment safety and health and radioactivity.

Mr. President, now we find ourselves looking at an entirely different dilemma. Instead of facing the risk of not having enough nuclear weapons we face growing risks to our health, the environment, and the economy, from the legacy of the nuclear arms buildup of the past 50 years.

Moreover, with an acceleration of unilateral nuclear weapons retirements and continuing nuclear arms control we find ourselves ironically facing a new set of problems stemming from not having the basic industrial capability to safely manage the large amounts of surplus nuclear and hazardous materials coming back to the United States.

Given these circumstances, the problems of allocating shrinking resources between production and cleanup have never been greater. Nonetheless, the basic fact remains that waste management and environmental restoration has become one of the most important tasks that the DOE must address to assure the viability of the DOE nuclear weapons complex.

Thus, Mr. President, I am indeed disappointed to see that the energy and appropriations bill contains a general reduction of $108.5 million in DOE's environmental restoration of waste management budget compared to the House, and $65 million below the department's budget request, and an increase above the House allowance of $308 milion for DOE's weapons programs.

Mr. President, that is $250 million above DOE's budget request for weapons programs. I respectfully believe that this ratio of spending which favors production over cleanup once again does not reflect the changing priorities of the department. Indeed, it starts us back onto that same track of emphasis on production over safety and health that got us into this mess over the last 45 to 50 years.

Over the past few years, the DOE has, for the first time, been trying very hard to address the daunting health and environmental legacies of the nuclear arms race. Quite simply, since World War II, the DOE has used the environment of the sites they occupy as disposal media for massive amounts of radioactive and toxic wastes. Not surprisingly, the contamination that has been created is among the most severe in the world. At the Hanford Nuclear Reservation in Washington State some 400 billion gallons of hazardous and radioactive liquids have been dumped into the soil—enough to create a lake the size of Manhattan 80 feet deep. In particular, large amounts of high-level nuclear wastes were dumped there during the 1940's and 1950's into unlined burial trenches. Now there is concern by the Environmental Protection Agency that the soil beneath these trenches may be as radioactive as the contents of some of Hanford's high-level waste tanks. It is not known with any certainty how fast these contaminants are traveling.

The risks from DOE's radioactive wastes are not just limited to past dumping but also involve the potential for explosions in existing waste tanks at the Hanford and Savannah River sites. These problems were underscored last year at hearings regarding accident and explosion hazards at DOE high-level waste sites before the Governmental Affairs Committee. Unlike

DOE's reactors, the high-level waste tanks at Hanford and Savannah River cannot be shut down if a danger exists. And unlike DOE's reactors, until recently, the Department has virtually ignored waste accident problems.

Moreover, the technologies to stabilize and clean up these sites, in some cases, do not exist. The DOE has characterized less than a third of the contamination created. We know even less about the health impacts production may have had on the thousands of Americans who live near and work at DOE sites.

However, since Secretary Watkins took charge of the agency, he has taken steps to put the DOE cleanup program on a more sound operational basis. For instance: DOE has consolidated its cleanup efforts under a new Office of Environmental Restoration and Waste Management. Five-year cleanup budgets have been developed. Efforts are underway to reform DOE's open-ended contract system. The Department is attempting in good faith to comply with environmental laws; and major emphasis is being placed on research and development of waste management and cleanup technologies. That is all to the good.

Unfortunately, the spending cut embodied in the energy and water appropriations bill will set these efforts back. Specifically, the $108.5 million cut will delay cleanup actions at DOE sites across the country, making it necessary for DOE to renegotiate compliance agreement milestones—thus, leading to an eve more costly cleanup in the future. The number of compliance agreements reached with EPA and the States to better manage hazardous wastes and to clean up DOE sites will have grown from 59 in the fall of 1990 to 86 by the fall of this year.

This means that compliance agreements in California, Washington, Idaho, Nevada, Illinois, Ohio, Missouri, Texas, South Carolina, Florida, Tennessee, Kentucky, New York, Pennsylvania, and so forth, will be impacted.

The energy and water bill automatically puts the DOE in a poor bargaining position with regulators because spending levels favor weapons over health and environmental protection. Here we go down that slippery slope once again. The energy and water bill automatically puts DOE in that sort of a poor bargaining position.

Waste minimization, a key aspect of DOE's cleanup technology R&D program will be set back. Also, there is a distinct possibility that the restart of DOE's production facilities could be jeopardized after 90 days of operation by this cut because of not having adequate funding to meet Resource Conservation Recovery Act driven storage requirements. For example, the restart of the F and H reprocessing plants at the Savannah River Plant could be crippled because of the lack of adequate storage and treatment capacity required under the Resource Conservation and Recovery Act.

Increasing the budget for DOE's nuclear weapons program at the expense of the cleanup of DOE sites, would undermine public confidence in Secretary Watkin's efforts to restore the agency's badly damaged credibility.

Also, the $308 million increase in weapons spending, provided for in the energy and water bill, comes at a time when our nuclear arsenal requirements are shrinking. In February of this year, the Governmental Affairs Committee, which I chair, held an oversight hearing on the Department's proposed reconfiguration study for the nuclear weapons complex.

The study calls for a significant downsizing of the DOE's nuclear weapons research and development and production capability. It also suggests that additional plutonium production is not needed. In fact, at the hearing DOE indicated that the amount of surplus missile materials from retired warheads, which will have to be managed, could become quite large.

Perhaps one of the most striking facts that came out of that hearing was the degree to which the U.S. military is unilaterally retiring nuclear weapons outside of arms control agreements. DOE witnesses clearly indicated that the rate of unilateral warhead retirements not linked to arms control are and will be significantly greater that retirements linked to arms control, including the upcoming START agreement.

While I understand the need to fund the DOE's deteriorating nuclear weapons infrastructure—and I have supported that—I am also concerned that we not do this without taking into account the rather significant reduction in our nuclear arsenal requirements. Therefore, I want to make it clear that my amendment in no way is meant to take funding away from programs to assure the safe retirement of nuclear weapons and those programs designed to upgrade environmental, safety, and health activities associated with DOE's production and surveillance activities.

We should also not ignore the financial mismanagement problems of the weapons complex.

We now know, based on the work of the DOE inspector general that tens of millions of dollars have been mispent at DOE weapons sites. Large sums of money have been spent for projects which the Congress had not authorized. DOE contractors at weapons facilities and weapons laboratories were found to be engaging in spending practices that led to excessive and unecessary expenses for the Department. Competition has been found by the DOE inspector general to be an alien concept for DOE weapons contractors, who are wasting million of dollars that could have been saved by competitive procurement. Until recently, at the Savannah River Plant, the criminal theft of Federal money would have been considered to be an allowable cost because of inadequate contract standards.

Although the DOE cleanup program, from the very beginning was able to generate annual 5-year spending plans, DOE's defense program is over a year late in submitting its first 5-year spending plan, even though it was mandated by law in 1989.

Increasing the rate of spending for DOE's nuclear weapons program, at the expense of the cleanup of DOE sites, sends the wrong signal to the agency and to the American public.

It indicates that the Congress is willing to ignore the rather disturbing lack of control DOE has over its weapons contractors and also implies that the Congress is willing to reward this program, despite the continued misuse of funds.

Mr. President, protecting the health and environment of Americans, cleaning up the severe contamination at DOE sites, and restoring credibility to the Federal nuclear program should not be shortchanged. We spent years getting an adequate amount into this environmental safety and health budget, and I respectfully urge my colleagues to support my amendment to restore that funding, to increase funding for DOE's cleanup program, and require commensurate offset reductions in DOE's weapons program for all the reasons I have enumerated above. I believe this is the least we can do to ease the tremendous environmental burden we will leave our children as a result of the nuclear arms race.

Mr. President, just in summary I would say that what this amendment does itself is strike money from two places in the bill. It strikes money and adds money then in a third place.

The first place it strikes is out of the weapons research development and testing program. It only takes $35 million out of that program, which is already approximately $230 million above what was requested by DOE. The second place it cuts is weapons production and surveillance. It cuts $83 million, and that reduces DOE's request by $41 million. Add those together and it comes out to the $118 million added back to the environmental restoration and waste management account.

Mr. President, that equals the amount the House has already authorized in their legislation and I think is the least we can do after fighting for so many years for environmental cleanup funds so we can start the cleanup that has been neglected for so many decades.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from Ohio has 16½ minutes remaining. The Senator from Louisiana controls his remaining time.

Mr. JOHNSTON. Mr. President, I yield myself 5 minutes.

No one in this body is more concerned about environmental restoration and waste management than I. Well, perhaps the Senator from Colorado who has Rocky Flats is. I know about his deep concern.

At least let me say, Mr. President, it is a great concern with me. A few years ago I sponsored an amendment to have a research institute for defense cleanup. It is a huge problem in this country.

Mr. President, the fact that it is a huge problem does not mean that it is easily solvable or that indeed applying money to the program automatically results in cleanup.

If I may tell my colleagues what we have done in this account, in 1988, we had $881 million, in the environmental management account. By 1989 it was $1.73 billion. By 1990 it was $2.393 billion. By 1991 it was $3.455 billion and in this budget it is $3.6 billion.

Mr. President, it has gone from $880 million in 1988 to $3.7 billion requested for fiscal year 1992, more than four times the 1988 level.

The $3.640 billion recommendation in this bill is a 52-percent increase over the 1990 program and a 17-percent increase over the 1991 program. This is before adding the $340 million provided in the dire emergency supplemental bill.

Furthermore, Mr. President, it is unlikely that the money in that 1991 supplemental will be spent this year. Frankly, they do not know how to spend it. As of May 31, 1991, the unobligated balances in the environmental restoration and waste management program, this program, were $421 million and the uncosted balances—that is work not performed—amounted to $1.327 billion. This is the equivalent of a full half year's funding.

The amount recommended for environmental restoration and waste management is $595 million over the amount included in the 1991 energy and water appropriation bill. So, Mr. President, we have more money in this account than they know how to spend.

Mr. President, the assistant secretary in this matter is Leo Duffy, a man for whom we have high regard. When he testified recently before this committee, we discussed with him the huge problem he has in identifying these problems and determining how to clean them up, in managing a program that is growing by leaps and bounds; four times over this program has gone since 1988, four times over.

Now just the sheer physical job of managing that much money—I mean you do not spread dollar bills out on the ground and they do not automatically absorb nuclear waste. You have to figure out what the problem is, how to clean it up, get a contractor, oversee the contractor. Just to pump more money in does not help. So, Mr. President, we think a 400-percent increase since 1988 is enough.

On the question of whether we have raided this account in order to help the nuclear weapons account or in order to help any other account, the answer is definitely no.

The amount identified here, the $108.9 million, is an account that we call savings and slippage. That is a line item that is included in all of our accounts.

For example, the Corps of Engineers has a savings and slippage of $151 million in this bill. It means that work that they want to do and are able to do is delayed because of permit delays, because of weather delays, because of a whole series of things.

Just as I pointed out that they have $421 million in uncosted balances that is work not performed, there have been delays in the program. There always are.

Last year the administration requested and we budgeted some $142 million in so-called savings and slippage. So the $108 million which is less than last year for savings and slippage is not raiding the program. To the contrary, it is a lesser amount of transfer for the ordinary expected delays and problems along the way—permitting problems—for example, than we usually have. We did not take the $108 million out of this program in order to help anything else.

The $200 million which was put into the weapons labs, the distinguished Senator from New Mexico will speak about this in greater detail. But essentially, after we had made this $108 million—an additional 2 minutes Mr. President—after we had made this account for $108 million in savings and slippage, then the Senator from New Mexico and I went to the distinguished members of the Defense Appropriations Committee and asked for a transfer of $200 million from their account, which is the 050 account, to our account which is the 053 account.

The PRESIDING OFFICER. The time has expired.

Mr. JOHNSTON. Mr. President, I request an additional 2 minutes.

In addition to the 053 account which is for the weapons labs, it was a transfer from defense appropriations and those functions to defense emergency matters which is the national labs. That was the transfer. It was not a transfer out of cleanup for a noncleanup measure.

So, Mr. President, we really believe we are confident—in fact we are overconfident—that we have more money here than we can sensibly spend. I mean we provide it last year because it is a full half year's funding that it unspent.

Leo Duffy has an incredible problem in managing this account. We spoke about this in great detail.

The DOE inspector general has identified the environmental restoration and waste management program as the No. 1 area in DOE for potential fraud and abuse. Leo Duffy testified to that. Why is that? Because it is such a huge program with so many dollars.

Mr. President, if we had an extra $10 billion and we put it in this program this year it would not do any good. We do not know how to spend it. We have not been able to spend that which we already have. I wish we knew how. But we have enough money and the $108 million transfer for savings and slippage, believe me, is not robbing waste cleanup in order to do something else.

It is an ordinary accounting transfer problem, recognizing the realities of delay and the problems along the way.

Mr. DOMENICI. Mr. President, will the Senator yield me 5 minutes?

Mr. JOHNSTON. I yield 5 minutes to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I might say to the Senator from Ohio, you will note the overall amount of money in this bill for defense, that is DOE defense, is $200 million more than the President's budget request and $200 million more than the House bill. Now, that is really what happened. So the Senator will know—when we had the Secretary of Energy before the Appropriations Subcommittee, we asked him about the DOE defense budget for the National Laboratories and how much it was shortchanged when the budget was put to bed. I said to him, "About $200 million?" And the response was "About $200 million."

Now, I say to the Senator from Ohio, what we did is exactly what Senator JOHNSTON has indicated. We went over to the full Appropriations Committee and we said, "You should give us $200 million from defense, from function 050, the total for defense. Let us put it in an account so we will not shortchange DOE defense research activities."

The committee agreed. The Senator's amendment assumes that when we put that money in DOE for the three deterrent laboratories, after we had funded the other ones, we put the entire $200 million there. Obviously, we raised the level that the President asked for because the Secretary had already told us when they put the budget to bed, he shortchanged his own department by $200 million.

I really do not think, when environmental cleanup is going up in 4 years by over 300 percent, that is the account you want to add some more to. It has gone up more than 300 percent. I do not think the Senate really wants to remove money from nuclear research at the deterrent laboratories. In fact, I have a letter dated July 9 from the three lab directors. The letter is to Senator BENNETT JOHNSTON and Senator MARK HATFIELD. It clearly says that these laboratories are in a downhill slide; that their capability is greatly diminished from 5 or 6 years ago, and their workload, which the Senator from Ohio is very familiar with, is not going down because the Soviets are not reducing their nuclear capability. We are engaged day by day in all kinds of new arrangements, surveillance, and they have more work to do rather than less.

I ask unanimous consent that the letter to the two Senators be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LOS ALAMOS NATIONAL LABORATORY OF THE UNIVERSITY OF CALIFORNIA,
Los Alamos, NM, July 9, 1991.

Mr. J. BENNETT JOHNSTON,
Chairman, Senate Energy and National Resources Committee, Senate Hart Office Building, Washington, DC.
Mr. MARK HATFIELD,
Ranking Minority Member, Subcommittee on Energy and Water Development, Senate Hart Office Building, Washington, DC.

DEAR SENATORS JOHNSTON AND HATFIELD: An Op-Ed article by Mr. Leslie Gelb published in the New York Times on June 26, 1991 touched on the issue of funding of the Department of Energy nuclear weapons laboratories. His assertion that billions are being squandered in "full employment programs" along with allegations of "eating up a fortune in overhead" are grossly in error. Contrary to his allegation, we are deeply concerned about maintaining the technical competence for the nuclear weapons program as we reported to Senator Exon's Subcommittee on May 9, 1991. We want to reiterate some of our concerns in response to Mr. Gelb's article.

The current nuclear weapons research, development, and testing (RD&T) budget at the three nuclear weapons laboratories and the Nevada Test Site totals $1.7 billion, but the budget cuts of the past few years are placing nuclear competence at risk. The laboratories have lost nearly one-third of the skilled professionals working on nuclear weapons RD&T over the past five years. The RD&T share of the Energy Department's defense activities has dropped from 35 percent in 1978 to 16 percent today. Contrary to Mr. Gelb's assertion, the Department and key congressional committees are keenly aware of these budgetary shortfalls. Several departmental studies are addressing the concerns about nuclear weapons RD&T funding and nuclear competence.

The United States continues to rely on nuclear deterrence as a cornerstone of its national security. Nuclear deterrence has been successful for over 40 years because national leaders believe beyond a reasonable doubt that the nuclear forces, if called upon, are deliverable, survivable, and would function as intended. This belief does not rest on technical knowledge on the part of the leaders, but rather on assurances provided to those leaders by scientists and engineers in whom the leaders must have complete confidence.

Nuclear competence and, therefore, the credibility of the U.S. nuclear deterrent rest indispensably upon the credibility of the three nuclear weapons laboratories. The cold war thaw will allow deterrence with significantly reduced nuclear arsenals, but once we lose nuclear competence we undermine the credibility of the deterrent.

We are well aware that the role of nuclear weapons is changing as a new world order emerges. In fact, our priorities have already changed markedly, although our responsibilities have not diminished. For example, confidence in the safety of nuclear weapons continues to be of utmost importance. Safety today is measured against higher standards than ever before. Safety has always been built into the design and into handling and operating procedures. However, a recent congressional panel chaired by Professor Sidney Drell of Stanford University concluded that in tomorrow's stockpile more of the safety features in nuclear weapons must be built into the weapons themselves rather than depend as much on operational safeguards. Such safety features should be emphasized even if they result in less than optimal military characteristics.

The Drell panel challenged the laboratories to "launch a competitive priority effort . . . for new warhead designs that are as safe as physically possible against unintentional, accidental, or unauthorized detonation leading to a nuclear yield or the dispersal of plutonium." This challenge tops our priorities today as the nation carefully builds down its nuclear arsenal.

Building down the arsenals is important because arms control must not only "feel good", but it should reduce the risk of war and increase our nation's security. The fewer weapons that remain, the more important it becomes that we have confidence in those remaining. This confidence is based on the professional RD&T skills residing at the three laboratories.

The skills are also critical in assessing the nuclear proliferation threat as well as being able to respond to potential emergencies and terrorist threats.

Reconfiguring the nuclear weapons complex for the smaller arsenal of the future and cleaning up a legacy of nearly five decades of production will be enormously expensive. The weapons laboratories will be key elements in designing the smaller, safer, and more affordable nuclear weapons complex of the future.

Leo Duffy, the Energy Department's cleanup czar, has emphasized the need for new technologies to clean up better, safer, cheaper, and faster. We support his program. Avoiding future cleanup problems by preventing them at the source rather than at the "tailpipe" requires competence in all aspects of nuclear weapons design and development. Investing RD&T resources in such activities today will pay for itself many times over in the future.

Finally, the laboratories have been a key factor in keeping the nation at the forefront of defense technologies to meet the threat of a host of emerging and potential adversaries. The world does not appear to be at the "end of history," nor at the end of hostilities. Technological superiority will remain important as we face an uncertain future. We must remember that the world can change rapidly. The atomic bomb was developed because of a German threat, yet it was used to end the war with Japan, and in short order to deter the Soviets.

Has technology declined in importance so that democracies need no longer worry about military implications of new scientific breakthroughs? We think not! Whereas today the nation can afford to have fewer nuclear weapons, it cannot afford to be less smart.

Sincerely,

JOHN H. NUCHOLLS,
Director, Lawrence Livermore National Laboratory.

SIEGFRIED S. HECKER,
Director, Los Alamos National Laboratory.

ALBERT NARATH,
President, Sandia National Laboratories.

Mr. DOMENICI. Mr. President, I think it should be clear to everyone that the distinguished Senator from Louisiana and Senator HATFIELD from Oregon truly want to put as much in the environmental cleanup account as we can spend in a fiscal year. I believe they have truly done that. And they have also, at the same time, taken care of truly needed programs within the production and surveillance accounts.

And, as the distinguished chairman has said, the accounts for the research, development, and testing activities carried out by the National Laboratories has gone up because the money was received from the Department of Defense and put in this account for that purpose.

Obviously, if tonight the Senate is going to take money away from the research account, which would not have been there had we not allocated it to this account, obviously we would be better off leaving it to the Department of Defense to spend, rather than transferring it and using it for purposes that were not intended.

So I urge the Senate to turn this amendment down. I think the committee has done an excellent job in disbursing the money. I agree with the chairman; there will be more money in this cleanup account. A month before the fiscal year is over, they will still have $400 million remaining to be spent. I do not think we ought to keep doing that when other accounts do not have enough to do their jobs right.

I ask unanimous consent that a detailed statement of some of the activities that were deleted from the National Laboratories in the President's budget request be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ACTIVITIES DELETED FROM NATIONAL LABS FISCAL YEAR 1992 PRESIDENT'S BUDGET FOR DOE

	Millions
Stockpile maintenance: Includes safety assessments, component redevelopments, stockpile improvement projects	21.1
Weapon effects testing and diagnostics: Includes aboveground test development to reduce dependence on underground test	10.5
ICF: Includes timely demonstration of beam focusing and capsule implosion to meet NAS milestones	5.0
New weapon systems work: Includes testing and safety assessment, development, flight/ground/interface tests	26.0
Test equipment and flight instrumentation	6.7
Weapon use control development	9.5
Materials and process development: .. Includes environmentally acceptable materials and processes, accelerated aging, and characterization	14.8

	Millions
Weapon system engineering and integration: Includes Focal Point test bed, independent surety evaluations	52.4
Computation and modeling: Includes validation of codes for accident likelihood and consequence analysis	8.4

Minimizing the waste associated with the production of nuclear weapons through: The development of precision casting techniques for special nuclear weapons materials, $2 million; the development of alternative weapon case material, $3 million; minimization of reliance on toxic materials in new weapon designs, $3 million.

Existing nuclear weapon designs, and their associated fabrication and machining techniques, produce large amounts of hazardous materials. This investment will assure that hazardous byproducts are minimized in the future.

This investment will assist our safety concerns by developing safer weapons through: Acceleration of the development of Insensitive High Explosives (IHE) and Fire Resistant Pits (FRP) for existing warheads, $16 million; development of "supersafe" concepts for future weapons systems, $8 million; acceleration of computer simulation concepts for design and evaluation of nuclear weapon safety features, $5 million.

The IHE and FRP features would serve to prevent or minimize the release of contaminating radioactive material in accidents involving nuclear weapons. Innovative "supersafe" concepts should lead to even safer weapons in the future. Finally, more effective simulation techniques will help to minimize our need to test weapons to effectively evaluate their performance.

Mr. DOMENICI. Mr. President, I support the Energy and Water Development appropriations bill of fiscal year 1992 as reported by the Senate Appropriations Committee.

The bill now before the Senate includes a total of $11.97 billion in budget authority for the Department of Energy Atomic Energy Defense Activities. This recommendation is $200 million above the House bill and the President's fiscal year 1992 budget request.

The increased funding is included in the bill at my request, and with the concurrence of the distinguished chairman of the Appropriations Committee, Senator BYRD, the ranking member, Senator HATFIELD, and of the distinguished chairman and ranking member of the Defense Appropriations Subcommittee, Senators INOUYE and STEVENS.

The Senate Appropriations Committee has approved a reallocation of function 050, defense, funding from the Defense Appropriations Subcommittee to the Energy and Water Development Subcommittee for subfunction 053, atomic energy defense activities. This reallocation is fully consistent with the spending caps agreed to in the bipartisan budget agreement, and I thank my distinguished colleagues for their support of this important initiative.

These funds are critically needed to reverse a disturbing erosion of the core weapons research, development, and testing [RD&T] programs at the Department of Energy's [DOE's] three nuclear deterrent national laboratories.

Staffing levels are approaching the lowest levels in years, and the budget request falls $42.6 million short of even keeping pace with inflation. Adoption of the budget request would eliminate any initiatives to improve the safety of the nation's nuclear deterrent capability.

These declining budgets come at a time when these labs are being asked to perform at increasingly technical levels in the areas of environmental compliance, environmental cleanup, and the reconfiguration of the weapons complex.

With continued progress toward the signing of the START Treaty this summer, these laboratories are also tasked with significant activities related to arms control and verification.

The House Armed Services Committee recently published the recommendations of the Drell Panel on Nuclear Safety, which place a renewed priority on the safety of existing nuclear weapons.

A significant portion of these funds will be used to develop and accelerate warhead safety and security enhancements to better maintain the nuclear stockpile.

These funds will accelerate work on supersafe nuclear designs and on environmentally improved materials and processes used in nuclear weapons production.

A portion of these funds will be used to move forward with the timely demonstration of the inertial confinement fusion technology to meet National Academy of Sciences milestones.

Some of these funds will be devoted to improved testing, again necessary to ensure the safety of the nuclear stockpile.

In sum, the additional $200 million in defense funding would be allocated in the following manner: $150 million to weapons R&D, operations; $20 million to weapons R&D, capital equipment; $17.7 million to weapons testing; and $12.3 million to the Inertial Confinement Fusion Program.

In short, Mr. President, these funds are necessary if the DOE labs are to fulfill their mission of responsibility, ensure the nuclear deterrent capabilities of the Nation, and to maintain the nuclear stockpile in a safe and secure manner.

I urge the adoption of the Senate bill.

Mr. President, if I have any remaining time on my 5 minutes, I yield it back.

The PRESIDING OFFICER. The Senator from Ohio is in control of 16½ minutes.

Mr. GLENN. Mr. President, I yield 5 minutes to the distinguished Senator from Colorado.

Mr. WIRTH. I thank the distinguished Senator from Ohio for yielding and for raising this very important amendment. I appreciate the support that the distinguished chairman of the subcommittee and the distinguished Senator from New Mexico provide to the National Labs, and I have myself long been a supporter of the National Labs.

But as the All-Star Game is on right now, Mr. President, and as I would bet that 90 percent of our colleagues and 95 percent of the country are watching the All-Star Game and not watching this debate, they are missing what is essentially a very simple choice that we have in looking ahead at where the country is going, and what kind of problems we are facing.

The choice is whether we want to spend a great deal more building more nuclear weapons when the cold war is over, or do we, as DOE itself has said, want to put a greater priority on cleaning up? Do we want to build more nuclear weapons—For what? Or do we want to clean up and start on a task that we know is getting greater and greater.

I think, obviously, we should support the amendment offered by the Senator from Ohio and myself. I believe that we ought to put that money to work right here at home to clean up for our children and grandchildren the phenomenal waste mess that the DOE has created.

The argument is made that we cannot use this money effectively. The States of this country—the Senator from Ohio knows this—the States have already signed 62 compliance agreements with the Department of Energy—62—and another 25 agreements are in negotiation right now. These are agreements that we are just beginning to get going. And yet the statement is made that we cannot use the money.

Then the argument is made: Well, you cannot spend all this money this year. Then why in the world, Mr. President, did the Department of Energy's Environmental Restoration and Waste Management Office request $900 million more for cleanup funding: This is the Department of Energy, not the Environmental Protection Administration. This is the Department of Energy, requesting $900 million more for cleanup than was agreed to by OMB.

The Department's request went to OMB, went to Sununu and Darman and Co., and they turned it down. When that money got turned down, the Department of Energy appealed: They can use the money. They not only requested it, they then turned around and appealed.

And they said the following: They said if they did not have the money to fulfill their commitment, they would lose their bargaining position with all the regulators. The Department of Energy said they would be personally libel, officials down there, if the Department failed to request adequate funding to carry out the agreement. They said the public would lose confidence in the Department of Energy's effort to protect the health and safety of citizens and workers, and they said if this money was not granted, they certainly could not meet their 30-year cleanup goal to try to clean this up over 30 years.

Cannot use the money? Wait a minute. The Department itself requested a great deal more, and appealed it when the White House turned down their request. So to suggest, Mr. President, that the money cannot be effectively spent defies what was asked for by the Department initially.

Now, the $118 million goes into acounts that are already above the administration's request. The research, development, and testing account is already $178 million above the administration's request. We are already spending more than the administration itself asked us to spend on research, development, and testing of nuclear weapons.

The administration does not want to spend all this money on nuclear weapons. It is $165 million above the House appropriations level, and $22 million above the House Armed Services Committee authorized level.

Even if we want to go ahead and do a whole lot of development, testing, and research on new nuclear weapons, even if we want to do that, let us at least just stick with what the administration requested. This goes far above what even this administration requested.

The issue is very simple, Mr. President. It is a very, very simple issue. Do you want to spend even more money than requested by the administration for research, development, and testing of new nuclear weapons? Do you want to spend $118 million more, way above what even the administration requested? Or do you want to move towards what the administration requested to clean up? That is the choice we have now on the Glenn-Exon-Wirth amendment.

The PRESIDING OFFICER. The Senator from Ohio controls 11 minutes. The Senator from Louisiana controls 17½ minutes.

Mr. GLENN. Mr. President, let me respond in brief to the comments of the distinguished Senator from Louisiana and the distinguished Senator from New Mexico.

The distinguished Senator from New Mexico got his $200 million in there, and I agree with that and that is fine. But what we found is that the account is $230 million above the request by DOE, and that is the reason we only pulled $35 million out of that account. So we left about $195 million out of what the Senator from New Mexico says he was able to get into that account to benefit the laboratories. So I do not see that we have disturbed this arrangement that he had.

As far as the comments by the distinguished floor manager for the committee, in this cleanup account we are going to need somewhere upwards of $100 billion over a 20-year period. It has been estimated to be somewhere between $100 and probably $125 or $130 billion, which means we are going to average over that period something on the order of $5 to $8 billion, for that whole 20-year period to effect a cleanup. And the Senator from Louisiana is absolutely correct, you cannot throw money at it and make it go away. But you also cannot subtract money from it and make it happen either, I will tell you that.

What we have seen happen is we have been on a steady buildup of cleanup funds that we got started about 4 years ago after much effort. And now, for the very first time, we are talking about cutting those funds, reducing them for the very first time. And that is the wrong signal to send.

Reference was made to the savings and slippage account, but that is not in the DOE request, as I understand it. The Senator from Colorado has already mentioned the $900 million that was originally requested for EM that was not put in, that was taken out before it ever got out of DOE.

But the point I want to make is the money for the laboratories is in there, that $200 million. We took $35 million out of the $230, so you still have about $195 million left. So I do not really see we have disturbed that in any way at all.

What we are talking about is funds being reduced for the very first time. DOE requested $3.75 billion, and it was cut to $3.64 billion. We are trying to restore that and come up to the figure the House Armed Services Committee has.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Ohio has 8 minutes, 14 seconds. The Senator from Louisiana controls 17 minutes, 37 seconds.

Who yields time?

Mr. JOHNSTON. Mr. President I yield 3 minutes to the distinguished Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 3 minutes.

Mr. DOMENICI. Mr. President, I see the distinguished Senator from Colorado on the floor. I heard the discussion before the Senate by my distinguished neighbor to the north, and I think he said that we ought to put more money in cleanup rather than use it to build more nuclear weapons. Again, I want to suggest that of this $118 million add-on, $35 million is coming right out of the three nuclear deterrent laboratories. If we continue to reduce the funding for the national laboratories, then not only will we not be able to clean up Rocky Flats, which is of extreme importance to my friend, but the scientists from the laboratory in northern New Mexico are the ones designing the new facilities so that they will indeed be safe and clean, and, indeed, they are designing the next generation so there will never be another Rocky Flats as there was a few years ago.

We are told in the letter which I put in the RECORD, by not only that lab director but the one in California at Livermore and the one at Sandia, that if we do not raise the level of funding for their research, development, and training to keep their core scientists, they are going to lose their capability to attract and do the kind of job they have been doing.

So I believe funding the laboratories is funding cleanup because, indeed, they are the scientists who are going to enable us to do more cleanup in better ways with less money and build safer facilities and, indeed, safer nuclear weapons in the future.

Having said that, let me just make one additional comment. The nuclear laboratories now, so everyone will understand, their mission is not going down. But, of late, there is a new mission being added to these deterrent laboratories. It has to do with safety of the arsenal on nuclear weapons. A panel established by the U.S. House Armed Services Committee, the Drell Commission, has just reported, and they indicate that starting very soon the deterrent laboratories are going to have a brand new safety mission. It is not safety of the new weapons—they are doing that—but safety of the entire arsenal.

As peace breaks out and you expect long periods of time with extremely safe weapons, the report indicates that a great deal of real science, real math, real physics, real machinery is going to be needed for them to be able to do that job. So, it seems to the Senator from New Mexico that this is a basic question that goes as follows, and I hope the Senate will listen to this very simple explanation.

The Department of Energy estimated that when the year ends, there would be $140 million of the cleanup fund unused; $140 million. The committee, under the leadership of Senator JOHNSTON and Senator HATFIELD, used $108 million of the $140 million. They should use it. Why should you leave it there when the Department of Energy is telling you it is not going to be used? Surely it would be nice to leave it there so they will have more at the end of the year, but it was used for things the committee chairman and ranking member thought were needed for these United States. That is the issue.

Senator GLENN wants to put it back. They will have more unused at the end of the year.

The PRESIDING OFFICER. The time of the Senator from New Mexico has expired. The Senator from Ohio has 8 minutes, 40 seconds.

Mr. GLENN. I yield myself what time I may require.

Facts do not back up what the Senator talked about because DOE wanted an extra $900 million this year. They can use it. They wanted an extra $900 million.

If the distinguished Senator from New Mexico—could I have the attention of my colleague, please, just a minute? I want to point out something. We did not cut my colleague's laboratory money. There was $230 million above the administration request, $200 million of which was yours and would go to the laboratories. We only cut $35 million out that account. We did not go into it and cut the laboratory money.

So the laboratory money that my colleague received, wherever it came from—I am not aware of that, my colleague explained it a little while ago—it is still in there. We have not touched that, except for $5 million. We could yield that back if that is a real problem.

The Department requested more money for EM. We knew they could use it and we did not touch the lab money. You still have your $200 million in there. We cut out of weapons production and surveillance $83 million and added that to the $35 million above, and that is where our $118 million came from. So we do not disturb your lab money.

Mr. DOMENICI. If the Senator will yield on our time, I do not have the same arithmetic. I have it as $212 million from which you take $35 million. I do not care to argue about it, but the point is all of that add-on, whether it is $212 million or whatever, came from the Department of Defense account transferred to this bill.

So, to the extent my colleague is taking that money out, he is taking it and it was transferred there for that purpose.

Mr. WIRTH. Will the Senator yield?

Mr. GLENN. Two minutes to the Senator from Colorado.

Mr. WIRTH. On that front, the distinguished Senator from New Mexico, with whom I have worked on so many issues, and I am sorry that we differ on this one, the Senator from New Mexico said you have to have this money to clean up Rocky Flats and $35 million is cut from cleaning up or building the systems for cleaning up Rocky Flats. It is not true. As the Senator from Ohio pointed out, this $35 million is coming out of the weapons research, development, and testing.

Second, the distinguished Senator suggested that we have to spend a lot more money on safety. Let us look at the reality of that. We have cut the B-90. We have cut the SRAM T. Canceled two weapons programs, hurray. That is a good thing. The cold war is over. So why do we need tens of millions of dollars of additional money for safety programs.

Finally, assuming that the Glenn amendment passes, what are we left with?

We are still left with $178 million above the administration's own request. I have not heard those figures refuted anywhere. The research, development and testing account of concern to the Senator from New Mexico and his laboratories will still be $178 million above the administration's request. Even after the Glenn amendment is agreed to, we are still $178 million above the administration's own request. That outlines just what this is all about.

Do we want to spend even more above the administration's request on new weapons development, or do we want to start to meet the administration's request and clean this up? That is the choice.

The PRESIDING OFFICER. Time allocated to the Senator has expired. The Senator from Louisiana controls 13½ minutes.

Mr. JOHNSTON. Mr. President, I yield myself 2 minutes. The question was asked by the distinguished Senator from Colorado why do we need money for R&D on weapons when, in fact, we are canceling weapons? It is a very good question. The answer, though, Mr. President, is really pretty straightforward.

First of all, some of our weapons were unsafe. For example, the Shram A, which was a missile we used to have on all of our B-52 planes had in effect, it did not have insensitive high explosive as the trigger for the nuclear weapons and, in fact, there was a tremendous danger from the Shram A in case of an ordinary fire because the fire could detonate the explosive and that, in turn, would not result in a nuclear explosion but it would result in an ordinary explosion which, in turn, could deliver radioactive nuclear material over a wide area.

So part of the R&D fund presently needed is not only in the follow on to the Shram A to find an insensitive high explosive solution to that problem in that weapon, but in many other weapons, in fact, in every set of nuclear weapons.

Mr. WIRTH. Will the Senator yield?

Mr. JOHNSTON. Yes. Let me first talk about some of the other areas.

So we have a cold complex of R&D problems there.

Second, we also have environmental problems in the production of nuclear weapons. So part of the production money is for environmental compliance in the production side which does not come under Leo Duffy's program. It comes under the production side, but it is, nevertheless, for environmental compliance. Those are two illustrations of why we need the money. I yield to the Senator.

Mr. WIRTH. I appreciate the distinguished Senator yielding and I appreciate his concern for it. When I mention the B-90 and the SRAM T, I understand the other safety issues being worked on. But the original appropriation and authorization given to the Department of Energy assumed their people would be building the B-90 and SRAM T. Where have all those people gone? What are they doing? We canceled two programs and yet we have increased the amount of research, development, testing and production to go on.

We canceled the SRAM T and B-90, but we need more money? I do not understand.

Mr. JOHNSTON. We are talking about the R&D. We did not need the R&D in the SRAM T. Before they were canceled, they were ongoing programs, well tested, well developed. What we needed was R&D to test follow-on R&D programs to those programs that are canceled.

In other words, you do not need a research program to produce a Mercury Marquis automobile like we have on the lot out there. They are already ongoing. We need a research program to produce the car for the year 2000, and that, in effect, is why we need R&D money by virtue of the cancellation of ongoing programs.

Mr. President, I think we could perhaps shorten the time, unless the Senator would like to use all of his time.

Mr. GLENN. I want to yield 3 minutes to the distinguished Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. ADAMS. Mr. President, I thank the Senator from Ohio and I rise to support strongly the Glenn amendment.

In the State of Washington, we have had the experience of having in our State the largest nuclear waste dump in the free world. It may be the largest one in the entire world. We simply are not certain of the Soviet Union. We are not talking about optional activities in the cleanup that was mentioned by the Senator from Ohio. We are talking about the Federal Government living up to its environmental laws, living up to the milestones that it has agreed to with the State of Washington, which it is not doing.

At Hanford alone, one analysis indicates the environmental accounts are nearly $400 million below what is needed by these laws. For this reason, which was mentioned by the Senator from New Mexico, there was an additional amount of money that was not spent this year. That is why I have introduced the trust fund bill which would provide that moneys are carried over and kept in these trust funds just as we do with the highway trust fund, so these long-term accounts are available for the cleanup at Rocky Flats and at Hanford and at the other sites in the United States that have been contaminated by the U.S. Government.

This money should be kept and would be kept and will be kept. I am hopeful that the Armed Services Committee will come forth with this language in their bill.

I will close my remarks by saying this. This marks a shift at the Hanford site from production of weapons to cleanup of weapons and a new technology and a new future. There are more people employed at Hanford now than there were when we started this program 5 years ago. Those people are employed in new techniques, and I support the laboratory concept as indicated by the Senator from New Mexico.

We want a vitrification plant built at Hanford; we want the development of abilities to handle nuclear waste which we do not have now. We want to develop this so that it can go to other places in the country and assist them. This can be done with a trust fund account and it should be there. We do not want to go back to a production account. The production accounts have now been stabilized and are being shifted into environmental cleanup.

Mr. President, I am here tonight to speak strongly in favor of the Glenn amendment under consideration tonight.

There is absolutely no doubt that the cleanup of Department of Energy sites is being dramatically shortchanged. Last year, a reputable trade magazine said that the funding necessary for cleanup at DOE installations was halved by the administration in its final budget submission. Just this year, memos have been leaked suggesting that hundreds of millions of dollars were lopped off of the budget needed to meet environmental laws at DOE installations.

We are not talking about optional activities, here; we are talking about the Federal Government living up to the law.

The Glenn amendment would shift funding into this much-needed account. We owe it to our country, and to all of those who are still being exposed to the contaminants of the nuclear arms race, to vote in favor of this amendment.

I intend to do so.

The PRESIDING OFFICER. The time allocated to the Senator has expired.

Mr. ADAMS. I hope the Glenn amendment will be adopted and that we will clean up the mess that has been left by a destructive program.

The PRESIDING OFFICER. The Senator from Ohio controls 1 minute, 55 seconds.

Mr. GLENN. How much time on the other side?

The PRESIDING OFFICER. The other side controls 9 minutes, 30 seconds. Who yields time? The Senator from Louisiana controls 9½ minutes. The Senator from Ohio has 1 minute, 50 seconds.

Mr. JOHNSTON. Mr. President, does anyone on my side of the aisle want to be recognized?

Mr. President, I will repeat quickly the very simple argument that we have made, which is that between 1988 and 1992, we have quadrupled—that is a 400 percent increase in environmental cleanup. Mr. President, it is more money than Leo Duffy, who is the Assistant Secretary for Environmental Cleanup, can sensibly spend.

The inspector general of the Department of Energy said that this is the No. 1 account to watch for fraud, waste, and abuse because there are dollars, like my former colleague Russell Long used to talk about getting on top of the Washington Monument and throwing the dollars out and they will do some good out there somewhere.

Mr. President, this is one of the greatest priorities that the country has, to clean up nuclear waste. But quadrupling the money in a 4-year period ought to be enough. And, in fact, it is enough; and, in fact, it is more than they can spend right now, Mr. President. As I pointed out, we have almost a half year's money which is unspent and remains in the account; almost a half year's money—$421 million were in uncosted balances, that is work not performed. Altogether it amounts to $1.327 billion, which is the equivalent to a half a year's funding.

That is simply it, Mr. President. We believe we have as much as they can use, more than they can sensibly use.

If Leo Duffy can spend what we have in here, he will be a great Federal bureaucrat, he will be a wonderful Assistant Secretary, because it is a huge challenge to spend the $3.6 billion which we have provided.

I have made it clear, Mr. President, I believe that the savings in slippage, the $108 million, which was an account provided here, was not raiding this account but was a lesser reduction for savings and slippage than we had last year. It is a much lesser percentage than we had last year. It was much less than the Department of Energy recommended last year. It is a much less percentage than we have for the Corps of Engineers or our other accounts.

It is an ordinary budgetary function to have savings and slippage because of delays, because of weather, because you cannot get a permit. It is an ordinary accounting practice, Mr. President. It is not raiding this account.

So, Mr. President, at the appropriate time I will move to table this amendment, and not because we want less money for this very high priority but because we believe there is enough money in here, in fact more than we can sensibly use. So while I share the goals of the Senator from Ohio and the Senator from Colorado, we believe the budget as presented accomplishes those goals.

The PRESIDING OFFICER. The Senator from Ohio has 1 minute, 45 seconds.

Mr. GLENN. I yield myself such time as I may require.

Mr. President, a 400-percent increase when you start at a low amount does not amount to that much. What we need is somewhere between $5 to $8 billion a year. We were up to $3,705,000,000. This year is cut for the first time to $3,064,000,000. That sends exactly the wrong signal.

As far as the concerns of the Senator from New Mexico, we leave his $200 million, or almost that, not quite, but almost the $200 million he wanted in here for the laboratories. All we cut out was basically the excess over that. That is what we had agreed to in a colloquy we were going to have earlier today.

So, Mr. President, this is something I feel very strongly about. We should not cut EM funds.

I yield the remainder of the time to the Senator from Colorado.

Mr. WIRTH. Mr. President, the basic issue before us is do we want to spend more money on nuclear weapons programs than even the administration requested or do we want to help clean up a problem which is out there getting worse and worse and worse, meeting the request made by the Department of Energy. That is the simple issue that we have. Is the cold war over or not? Are we going to clean up for future generations or are we going to spend more than even this administration requested for research, development, and testing?

The PRESIDING OFFICER. The Senator from Louisiana has 5 minutes, 50 seconds.

Mr. JOHNSTON. Mr. President, I will not use my entire 5 minutes.

Mr. President, as stated by the Senator from Colorado, you would think that what our committee proposes is to take money from waste cleanup and put it to build more nuclear weapons. Mr. President, I can assure you that the distinguished Senator from Oregon [Mr. HATFIELD], and I would propose no such thing.

We are not trying to build new nuclear weapons. To the contrary, we are trying to make those that we have safer. For example, we have here $123 million for verification and control. That is not building new nuclear weapons, Mr. President. That is ensuring that those we have in stock can be operated safely, can operate as they are supposed to operate. It is a very expensive program. Production and surveillance—surveillance is seeing that the tritium levels are proper, and indeed we are going to have to trade tritium in some weapons. In other words, as we take the B-90, for example, out of production, we are going to have to take the tritium from it and put it in other weapons because, as my colleagues know, the half-life of tritium is about 81 years, so that it is a rapidly decaying nuclear element but an essential nuclear element.

In any event, Mr. President, there are a large number of items in this R&D account having nothing to do with building new nuclear weapons but, rather, making those we have safer, more reliable, and it is absolutely essential that we do this work. In any event, Mr. President, we did not take the money out of this cleanup account to put in that account. To the contrary, those were two separate functions.

Mr. President, I know that if my colleagues have been listening to this debate and have kept from falling asleep, not because it is not important but because when you are talking budget it is a very complex thing, let me just assure you of this one simple fact. We have not taken needed money from nuclear cleanup in order to build nuclear weapons. It simply has not been done. To the contrary, we have put more money in the cleanup of these plants than can possibly be used, and in any event we have not taken any money out of that account to put in the production of nuclear weapons.

Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Ohio has 15 seconds remaining.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

Mr. GLENN. I yield back, and ask for the yeas and nays.

Mr. JOHNSTON. Mr. President, I move to table the amendment and ask for the yeas and nays.

Mr. GLENN. I ask for the yeas and nays on tabling.

The PRESIDING OFFICER. The yeas and nays are requested on the motion to table.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Vermont [Mr. JEFFORDS] is necessarily absent.

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] is necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 54, nays 43, as follows:

[Rollcall Vote No. 119 Leg.]

YEAS—54

Bentsen
Bingaman
Bond
Breaux
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Conrad
Craig
D'Amato
Danforth
DeConcini
Dole
Domenici
Durenberger
Ford
Garn
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Hollings
Johnston
Kassebaum
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Murkowski
Nickles
Packwood
Pressler
Reid
Rudman
Sasser
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner

NAYS—43

Adams
Akaka
Baucus
Biden
Boren
Bradley
Brown
Cohen
Cranston
Daschle
Dixon
Dodd
Exon
Fowler
Glenn
Gore
Gorton
Graham
Harkin
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Nunn
Pell
Riegle
Robb
Rockefeller
Roth
Sanford
Sarbanes
Simon
Wellstone
Wirth
Wofford

NOT VOTING—3

Inouye
Jeffords
Pryor

So the motion to lay on the table the amendment (No. 572) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BASE REALIGNMENT AND CLOSURE

Mr. BOND. Mr. President, I rise to discuss one provision that was included during the full committee markup of this bill.

This was the amendment offered by Senators NICKLES, HOLLINGS, HARKIN, and myself to prevent the Corps of Engineers from spending any of their funds to implement a reorganization plan—unless the plan was enacted following normal congressional procedures.

This of course is aimed specifically at the Commission on Base Realignment and Closure which has decided to include an ultimatum on corps reorganization in their final report.

I have previously spoken to Secretary Cheney, written to the Commission, as well as cosigned a letter to the President urging that the corps plan not be included in the base-closing package.

I believe the BRAC has overstepped its bounds, and I believe a court challenge of their final product would prove successful. However, our amendment will also accomplish this goal and I hope it is retained.

My major concern about the Base Closing Commission's potential decision to include the Army Corps of Engineers reorganization plan in the base closing package is that the Commission does not have the expertise adequately to review the proposal.

While it is my belief that the closing of military bases will have some effect on the corps mission, the need for the Corps of Engineers to regulate our waterways, mitigate flood damage, and aid in Superfund cleanup has not diminished. Tying the restructuring of a predominately civilian-run and -oriented agency to the process of redefining our defense needs is a mistake. These two issues should be considered separately.

However, I do believe that reductions and reforms can be made in the corps. In particular the large civilian bureaucracy that has been built up should be reviewed. Thus I do not see our actions to block the BRAC action meaning anything other than we believe Congress—not the BRAC should review the corp plan.

Clearly the corps proposal should be reviewed by those with the expertise and understanding of Superfund, swampbuster, water quality, and wetlands issues. Therefore, Mr. President, I want to thank the committee for accepting our language, and hope that it will be preserved in conference.

Mr. President, I wish to spend a few moments discussing just one of the many issues I don't believe the corps proposal adequately reviewed. The Kansas City district is only one of the two districts which form the Corps National Design Center for the Superfund and Defense Environmental Restoration Programs—the programs which do the cleanup of the hazardous and toxic wastes in both civilian and DOD facilities.

In addition, the KC district's expertise has made it the center for handling the termal destruction of explosive wastes—obviously a key problem in many base cleanups.

The Kansas City district office has put together an excellent team of environmental scientists and engineers who then provide design and construction services for the EPA whenever the Federal Government is the lead agency, or to State agencies if they are the lead. Their area of responsibility now covers 50 percent of the Nation, and Superfund projects they are working on currently include sites in New Jersey, New York, Arkansas, Washington, Idaho, Louisiana, Oklahoma, and Kansas.

Clearly the KC corps has developed a special niche, but from everything I and the KC working group have been able to ascertain, the corps has not factored in the effects of a breakup or transfer of parts of this team. And I certainly do not believe the Base Closing Commission is designed to address these types of issues.

At a minimum, closing the Kansas City office will cause delays and confusion in removing hazardous and toxic wastes from cleanup sites. I believe that is too high a price to pay.

Mr. President, the employees of the KC corps office, as well as the community of Kansas City are more than ready and willing to address the issues raised by the corps plan—we only ask that we be given the chance to present our case, and in a forum which understands all the issues involved. That is what our amendment will do, and that is why it is so important that it be retained.

I thank the managers and yield the floor.

Mr. DOLE. Mr. President, I wonder if I might inquire of the majority leader the intentions of the managers on this bill for the remainder of the evening.

Mr. JOHNSTON. Mr. President, if I may respond to the distinguished minority leader, we would like to be able to work this out to have no more votes tonight if we can get all the amendments locked in for tomorrow so that we will know what work we have to do. Otherwise, we may have to plow ahead tonight. I hope we can get at least an identification of the amendments and exclude the others. I think there are a few amendments lurking. I wonder if Senators might be willing to identify their amendments and make a list of them and have all other amendments not in order, and then we could put it off until tomorrow morning and start at 9:30 sharp.

Does anyone have an amendment?

Mr. FOWLER. I have an amendment.

Mr. JOHNSTON. The Senator from Georgia, Mr. Fowler; and that relates to?

Mr. FOWLER. It is cosponsored by the Senator from Vermont, Mr. JEFFORDS. We have one on renewable energy.

Mr. DOLE. If the manager will yield, I think I can just submit a list of amendments. We have kept track of not many. Some may not be offered, but at least they would be in the loop.

Mr. JOHNSTON. Senator BUMPERS, did you have an amendment?

Mr. BUMPERS. Mr. President, I do have an amendment dealing with the superconductor super collider.

Mr. JOHNSTON. And we have an amendment by Senator KENNEDY.

Mr. HATFIELD. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. HATFIELD. Mr. President I have a list here that are all that I know of from the Republican side. You can just copy from them and announce them if you wish.

If the chairman will yield, I would just like to enumerate: Mr. STEVENS has one; Mr. D'AMATO has one; Mr. KASTEN has one; Mr. NICKLES has two; Mr. CHAFEE has one; and Mr. WALLOP has two.

Mr. JOHNSTON. And I believe Senator SPECTER and Senator WOFFORD have an amendment.

Mr. HATFIELD. And Senator DOLE has one.

Mr. DOLE. It may or may not be offered.

Mr. HATFIELD. And possibly Mr. GARN may have an amendment to Mr. FOWLER's amendment.

Mr. JOHNSTON. And on our side of the aisle there is Senator KENNEDY, Senator BUMPERS, and Senator FOWLER.

Mr. KENNEDY. Mr. President, I believe we can work ours out.

Mr. JOHNSTON. Yes, I believe we can work that out. But I wanted to preserve it on the list.

Does Senator WIRTH have an amendment?

Mr. WIRTH. Yes.

Mr. JOHNSTON. And that relates to?

Mr. WIRTH. Enriched uranium.

Mr. JOHNSTON. Are there any other amendments on our side of the aisle?

Mr. MOYNIHAN. Mr. President, Senator D'AMATO and I have two amendments that I believe will be accepted.

Mr. JOHNSTON. Are there any others on our side of the aisle?

Mr. President, I ask unanimous consent that there be no further rollcall votes—I guess the majority leader will do that—that the only amendments in order for this bill will be as follows:

An amendment by Senator STEVENS relating to Bethel, AK, Corps of Engineers construction;

Two amendments by Senators D'AMATO and MOYNIHAN relating to Onondaga Creek in New York and to the Montauk Point in New York, a Corps of Engineers project;

Senator KASTEN, relating to a State road and Ebner Coulees project. It is a Corps of Engineers project;

Two Nickles amendments relating to the Corps of Engineers' fee increases and the Oklahoma City riverfront project;

A Chafee amendment relating to a study and technology demonstration project at Cranston, RI. That is a corps project;

Two Wallop amendments, one relating to Shoshone irrigation project and the second relating to the Buffalo Bill dam. Those are Bureau of Reclamation projects;

A Specter and Wofford amendment relating to Wyoming Valley;

A Dole amendment;

A Kennedy amendment relating to I believe it is a Corps of Engineers project;

A Bumpers amendment relating to the superconducting super collider;

A Fowler and Jeffords amendment relating to renewable energy;

And a Wirth amendment relating to enriched uranium.

Mr. HATFIELD. With a possible amendment in the second degree to the Fowler amendment, by Mr. GARN.

Mr. JOHNSTON. A possible amendment in the second degree to the Fowler amendment, by Mr. GARN. And a possible Johnston amendment just in case we have left anything out. I further ask unanimous consent that no nongermane amendment—

Mr. HATFIELD. Will the Senator yield? And a possible amendment in the second degree by Mr. GRAMM to Mr. BUMPERS.

Mr. JOHNSTON. Yes, and a possible second degree amendment by Senator GRAMM, of Texas, to the Bumpers amendment; that, other than that, no second degree amendments be in order unless agreed to by both managers on both sides of the aisle and that no other amendments other than those enumerated be in order.

The PRESIDING OFFICER. Is there objection?

The Senator from New Jersey.

Mr. BRADLEY. Mr. President, reserving my right to object on two Wallop amendments, I would like to reserve the right to unlimited second-degree amendments on those two amendments. They deal with Bureau of Reclamation projects.

Mr. JOHNSTON. An unlimited number of second-degree amendments?

Mr. BRADLEY. An unlimited number.

Mr. JOHNSTON. I amend the request by reserving to Senator BRADLEY the right to amend in the second degree, the Shoshone irrigation project and the Buffalo Bill dam project amendments to be proposed by Mr. WALLOP, without any limitation on the number of second-degree amendments.

Mr. GARN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Utah may proceed.

Mr. GARN. Mr. President, I hesitate to object but this is an amendment which was just shown to me 2 or 3 minutes ago. I had no time to examine it or take a look at it, but to see enough that we are cutting out any funds in this area, nuclear power available for space exploration initiative. That is a priority of the President and this Senator. We zeroed funds for it last year.

Normally there is no person on this floor who is more cooperative in trying to expedite a schedule, but if the Fowler amendment stays in, with this little bit of examination on it, I will object and do object at this time.

The PRESIDING OFFICER. Objection is heard.

Mr. JOHNSTON. Mr. President, did the Senator object to the unanimous consent?

Mr. GARN. Yes, I did, unless the Fowler amendment is withdrawn.

Mr. JOHNSTON. Would the Senator withhold on that? We did not ask for a time agreement, simply that the amendment be in order—this whole list and no others be in order. So if the Senator from Utah wishes to filibuster he is certainly free to do so or amend in the second degree if he wants to amend the request. But what we would like to do is lock out all those other amendments that people might think of overnight like abortion or busing or whatever else, so we can finish this bill.

Mr. GARN. The Senator from Utah understands that, but it is a lot easier and quicker to object to this one amendment, which could be deleted rather than possibly having a filibuster.

Mr. JOHNSTON. I suspect he will be able to do that tomorrow. In other words, my colleague will be able to filibuster this amendment tomorrow.

Mr. GARN. I believe the chairman did not understand that it requires a lot less talk to say I object than it does to filibuster an amendment. We could solve this problem rather easily by simply not including the Fowler amendment as part of the unanimous-consent agreement and letting the rest be listed.

Mr. JOHNSTON. Mr. President, we really need to get this bill dispatched. I hope my two dear friends can come to some accommodation on this. I submit all Senator FOWLER is asking is the right to submit the amendment. The Senator can amend it, he can talk it to death.

Mr. HATFIELD. If the chairman would yield, I would like to only suggest all of us are here to do the business of the Senate. If we cannot get this kind of unanimous-consent agreement, I hope the leadership would keep us in session and let us proceed to handle these amendments as they come up, one by one. If there is a rollcall required, so be it.

I feel otherwise we just go on and on and on, on these bills. It is unnecessary.

I hope the leadership would consider a late session tonight.

Mr. JOHNSTON. Mr. President, I think we only have a couple of big amendments and I think if we stay a lot of these will disappear.

Mr. DOLE. Will the manager yield?

Mr. JOHNSTON. I hate to ask Senators to stay but I think the work will probably be shortened in the long run if we do.

Mr. DOLE. I think a lot of the Members have already disappeared. They were under the impression there would be no more votes. Maybe not rightfully, but at a quarter of 11, we have only been on this bill a little over 3 hours, not quite 3 hours. It is $21 billion.

I wonder if we expect to finish it before morning.

And if the Senator from New Jersey wishes to offer unlimited second-degree amendments I would interpose an objection on behalf of Senator WALLOP.

Mr. JOHNSTON. Mr. President, we are really not asking for very much. We are not asking anyone to surrender his right to filibuster. All we want to do is lock in these amendments because, believe me this bill can expand and expand and expand if we do not try to lock these things in tonight.

I ask Senators who do not just love staying here at night, to help us out because it will be another night we have to stay here. We have to go back on the crime bill tomorrow. People will be able to think of still more amendments.

This is a must-pass appropriations bill. If we do not lock in these amendments tonight, then by tomorrow it will expand. There will be another 30 amendments. By the time we finish with it, it may take a week. If we can, let us lock these in tonight since we are so close. Why do my two friends not get together and figure this thing out and let us move on.

Mr. SIMON. Mr. President I originally planned to have an amendment on this measure to increase the appropriation for desalination research. But the measure came up quickly this evening and we have not had a chance to prepare adequately for the amendment.

What is clear is that desalination research must become much more of a priority for this Nation and for other nations. Right now California, with 840 miles of shoreline, faces serious water shortages and every State in the Union will pay higher prices for fruits and vegetables because of this California water shortage. Florida faces a similar problem. And Florida has 1,800 miles of shoreline.

We are living in a world of increasing population and declining resources of water for drinking, agricultural, and industrial purposes.

We now depend on less than one-half of 1 percent of the world's water supplies for these purposes. The rest of the water of the world is salt water.

Five of us in the Senate were in the Middle East in December and leader after leader in the Middle East spent much more time talking to us about water than about oil. A recent issue of *Foreign Policy* magazine came out with an article titled "Water Wars" in which the author states that the next war in the Middle East is more likely to be over water than land.

My problem is this, and I address this question to Senator JOHNSTON: I have an amendment prepared to provide increased funding to the Bureau of Reclamation for desalination research, but frankly at this late hour, without adequate contact with my colleagues, it could be difficult. But if I see no alternative I will propose my amendment. But if I could be assured by the chairman of the subcommittee that he will make every effort to secure at least $5 million for desalination research in the Bureau of Reclamation conference with the House, I will not propose the amendment.

Mr. JOHNSTON. I agree with the Senator from Illinois on the importance of desalination research and I wish I could quickly accommodate an amendment this evening. But to do it hastily could do an injustice to other good causes. Obviously I cannot guarantee the Senator from Illinois that we can find the $5 million for the desalination program of the Bureau of Reclamation but I can assure him that I will make every effort to accommodate this very real need.

Mr. SIMON. On the basis of that assurance, Mr. President, I will not offer my amendment.

Mr. JOHNSTON. Mr. President, while we are trying to work out this time agreement, I think we are ready to move on to the next amendment. I urge whoever is ready, to come up with an amendment.

Mr. BUMPERS. Mr. President, I wonder if the distinguished floor manager will yield for a question?

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Would the distinguished floor manager respond to a question if he knows the answer? There is a reservation for a second-degree amendment by Senator GRAMM—I assume it is of Texas—to the super collider amendment. Could the Senator tell us the nature of that?

Mr. JOHNSTON. No. I do not know the nature of either the first-degree or the second-degree amendment.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I have two amendments on behalf of myself and Senator MOYNIHAN. One is dealing with Onondaga Lake. It is a technical correction to comport with a request of the Army Corps of Engineers. There is no money. It is a cleanup project of a lake.

The other concerns a Montauk lighthouse, which was the first Army Corps of Engineers project undertaken by a young general, General Washington, I believe. It would insert and provide $225,000 in funds appropriated by the Secretary of Army acting through the Chief, Corps of Engineers, to continue a reconnaissance study for Montauk Point.

The PRESIDING OFFICER. The Chair would point out to the Senator from New York the Senator from Louisiana still retains the floor.

Mr. D'AMATO. I ask if my distinguished colleague from Louisiana will yield?

Mr. JOHNSTON. Mr. President, I wonder if the Senator from New York would agree to our accepting the amendment on Montauk Point. As far as the Onondaga amendment we will be in conference and we would like to work on it in conference but not accept it at this point. Would that be agreeable to the distinguished Senator? We will look at this problem sympathetically in conference, but I am advised by staff that there is a problem in accepting the amendment at this point.

Mr. D'AMATO. One out of two at this hour in the evening is not bad. I am wondering if I might ask that we keep the list open for the purposes of considering Onondaga. There is no money involved. It is a technical correction which the Army Corps of Engineers pointed out to us. If we could do that maybe by tomorrow, why, we might be able to dispose of it rather than put it off indefinitely.

Mr. JOHNSTON. We are not asking for any unanimous consent to lock it out at this point. But I would request that the Senator withdraw Onondaga.

Mr. D'AMATO. I withdraw Onondaga.

Mr. JOHNSTON. In that case, Mr. President, on this side, we are prepared to accept Montauk.

Mr. HATFIELD. We are prepared to accept it also.

The PRESIDING OFFICER. Will the Senator from Louisiana relinquish the floor so the Senator from New York can proceed?

The Senator from New York is recognized.

AMENDMENT NO. 576

(Purpose: To make funds available to continue the reconnaissance study for Montauk Point, New York)

Mr. D'AMATO. Mr. President, I ask that the amendment on Montauk that has been submitted to the desk be considered.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for Mr. MOYNIHAN (for himself and Mr. D'AMATO) proposes an amendment numbered 576.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, line 16, after "99-662", insert the following: ": *Provided further*, That with $225,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the reconnaissance study for Montauk Point, New York, to be derived by transfer of funds otherwise made available to conduct a study of Onondaga Lake, New York".

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 576) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I wonder at this point if the Senator from Arkansas [Mr. BUMPERS] would be prepared to lay down his amendment and begin the debate on it and go for such time as he feels like going tonight, come back and commence it first thing in the morning?

Mr. BUMPERS. Mr. President, I am not prepared to offer that amendment right now.

Mr. JOHNSTON. I wonder if the Senator wants to offer it tomorrow?

Mr. BUMPERS. Yes.

Mr. JOHNSTON. Mr. President, I do not want to make Senators offer their amendments at a time when they do not want to. I would say we are ready to do business. I hope Senators will not keep us in quorum calls all day tomorrow while we are trying to get this bill done. This is a must-pass bill.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, while there are deliberations going on, I wonder if the majority leader will give us some idea as to what time he proposes to vote on cloture tomorrow. Normally it would be 1 hour after we come in, but I assume the vote would not occur then by unanimous consent. I am curious. If we get cloture on that bill then, of course, we are on that bill until we finish it; is that not correct?

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I will later this evening, at the conclusion of the consideration of this bill, seek consent to have the vote on the motion to invoke cloture at 2 p.m. tomorrow. As far as I know, there is no objection to that. We have discussed it with a large number of Senators and have had no objection.

It is my understanding from a previous discussion that if cloture is invoked, that since the agreement giving the majority leader authority to proceed to this bill permitted it irrespective of the provisions of the rule dealing with cloture, that I would then have the option to either proceed to completion of the crime bill, cloture having been invoked, or after which the energy appropriations bill would recur or to complete action on the energy bill after which the crime bill would recur.

Mr. BUMPERS. Is the majority leader saying he has received unanimous consent for that or will seek it?

Mr. MITCHELL. Has received it.

Mr. BUMPERS. You have received it?

Mr. MITCHELL. Yes, previously.

Mr. BUMPERS. And it is the majority leader's present plan then after cloture is voted either way to continue with the energy and water bill?

Mr. MITCHELL. No, it is not.

Mr. BUMPERS. I am sorry. I misunderstood the majority leader.

Mr. MITCHELL. What I stated is I believe I have the authority to elect to proceed with either bill if cloture is invoked. I have not made a decision on which bill to then proceed with and will not make one until tomorrow and have a chance to consult with the Republican leader and the managers on both sides of both bills, the crime and energy bills.

Mr. BUMPERS. Out of curiosity, Mr. President, I labored under the assumption that once we vote cloture, then we are on that bill until it is finished unless a unanimous consent agreement changes that.

Mr. MITCHELL. Mr. President, if I might respond, the unanimous-consent agreement with respect to the energy and water appropriations bill explicitly states in the concluding clause "notwithstanding the provisions of rule XXII."

Mr. BUMPERS. I see.

Mr. MITCHELL. Therefore, the authority exists to either proceed with the crime bill after cloture has been invoked, if cloture is invoked, or to move to this bill. I have not made a decision and, obviously, will want to consult with the managers of this bill and the crime bill and the Republican leader before making such a decision.

Mr. BUMPERS. I thank the majority leader.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. WIRTH. Mr. President, I would like to make some brief comments on the question of resuming plutonium operations at the Rocky Flats nuclear weapons plant near Denver—an issue of considerable importance to me and some 1 million Coloradans who live downstream and downwind from that Department of Energy facility. I then hope to engage the distinguished chairman of the Subcommittee on Energy and Water in a colloquy on that subject.

The bill before the Senate contains full funding for the DOE request for $478 million for fiscal year 1992 to support resumption of activities at Rocky Flats. This is in addition to the fiscal year 1991 supplemental appropriation of $283 million for Rocky Flats restart which we passed in the Senate only months ago—on top of the fiscal year 1991 budget of $550 million. We are in the process of spending over $1 billion to get this 40-year-old facility ready to resume plutonium operations in the Denver metropolitan area.

By what calculus of national interest are we spending these enormous sums? I have serious doubts about this use of taxpayers dollars, doubts about the safety of resuming operations at Rocky Flats, doubts about the need to restart Rocky Flats. Let me review these concerns.

First, DOE intends to close Rocky Flats. The end of the cold war provides the opportunity to put our strategic house in order, beginning with the DOE nuclear weapons complex, and in February, the DOE announced its own vision of a streamlined nuclear weapons complex. The Complex Reconfiguration Study outlined several options for downsizing and consolidating the complex. The only recommendation common to both the more modest scale-back option and the more ambitious consolidation option outlined in that study was to close Rocky Flats.

Yet, even as the Department of Energy states that Rocky must close, it wants us to spend at least $1.2 billion to put Rocky Flats back to work in the interim. With diminished budgets and growing environmental demands, we do not have the budgetary luxury to continue to play all the options. We must make some tough choices and make them sooner than the DOE appears to recognize.

Beyond the budgetary and programmatic issues, there are several very good reasons for the committee to take a hard look at the need for resuming operations at Rocky Flats and the safety of doing so at this 40-year-old facility.

Safety is paramount in nuclear operations, yet DOE will not be able to be in compliance with 69 of its own priority 1 safety orders before it intends to resume operations in Building 559. Just last month, DOE official Vic Stello acknowledged that "by the time we start up we are not going to have achieved the kind of industry standards of excellence that are out there in the commercial sector." These words cannot be very reassuring to the million people living near Rocky Flats.

Even more disturbing was the revelation that DOE has not even completed a comprehensive review of the adequacy of existing safety orders. Secretary Watkins has stated on several occasions that safety would come before production in the new culture at DOE. Why restart operations under these conditions if, in fact, safety is the first priority? I hope that the Senate will insist on rigorous and independent oversight of safety issues at Rocky before restart is considered.

Rocky Flats also has enormous problems with waste storage. Currently, Rocky Flats is in violation of the Resource Conservation and Recovery Act [RCRA]. Further operations will only compound this violation of Federal law. Furthermore, renewed production would soon result in Rocky Flats exceeding the agreed limit of 1,601 cubic yards of transuranic waste on site. Neither Idaho nor WIPP will be able to accept Rocky's radioactive waste. DOE's Richard Claytor acknowledged before the Armed Services Committee that Rocky Flats would likely reach the agreed transuranic waste limit within months of resumed operations. What then?

Finally, the question of need. We all agree that it is important to maintain a safe and secure deterrent. Is it necessary to resume operations at Rocky Flats for that purpose? I do not believe so.

Dr. John Nuckolls, director of Lawrence Livermore Laboratory, stated to the Armed Services Committee on May 9 that the use of retired plutonium pits for new warhead production, including the W-88, is not a question of "if" but of "when." Dr. Nuckolls' prepared statement noted that 'to bypass Rocky Flats, we have proposed a potentially revolutionary approach in which pits from retired weapons are reused. Extensive part reuse could reduce Complex 21 costs and minimize waste generation." Dr. Nuckolls' estimate for manufacturing W-88 warheads with reused its was 2 to 4 years. Other experts have suggested it could be done more rapidly with sufficient funding and sense of urgency. Furthermore, additional safety features could be incorporated in warheads designed to accommodate recycled plutonium pits.

Expert opinion, therefore, appears to be telling us that we can rely on the relatively straightforward—and much less costly—process of manufacturng new and safer warheads with retired plutonium pits, rather than manufacturing a new plutonium trigger for every new warhead. This being the case, we would not need to reopen Rocky Flats for the manufacture of new pits.

In sum, the DOE is moving ahead at great cost to the taxpayer to reopen a facility which they intend to close, which will generate additional waste it cannot handle, which will require scores of waivers to DOE's own safety rules, and which is not necessary to meet U.S. national security goals.

In consideration of this year's defense bill, the Armed Services Committee will, I believe, address these concerns. At a minimum, I hope that the Armed Services Committee will insist that the use of funds for resumption of operations at any building at Rocky Flats be conditioned on:

First, a rigorous oversight by the Defense Nuclear Facilities Safety Board to assure that that resumption of operations is safe; and

Second, completion of a report by the Defense Science Board on the alternatives to resumption of operations at Rocky Flats, including the option of pit reuse.

Involving an independent panel in reviewing and certifying the safety aspects of restart at Rocky is essential. The Secretary of Energy promised last year that an independent panel would review the environmental, safety, and health issues at Rocky Flats before restart. The Conway Board is well suited for that task, and should be expected to do more than simply make recommendations to the DOE.

An examination of alternatives to Rocky restart is equally important. The practice of custom building every plutonium trigger is expensive and wasteful. We have ample numbers of retired plutonium pits in storage which could be adapted for use in new warheads. This promising and cost-saving alternative demands serious and prompt attention. How can we justify expending over a billion dollars to reopen a facility which might be rendered redundant within 2 years? There is no credible national security rationale for doing so.

Mr. President, I would like to, if I might, engage the distinguished chairman of the subcommittee briefly in a colloguy relating to language in the committee report related to the Rocky Flats nuclear weapons plant. The distinguished chairman is well aware of my concerns about it. I appreciate his concern and understanding. I wanted to make sure that we were clear on what was meant by some of the language that was in the report on page 131.

First of all, the report says the Secretary of Energy has informed the committee that an independent panel is not needed to confirm the department's plans for Rocky Flats. Is it true, has the committee taken a position on an independent panel and reviewed that situation?

Mr. Johnston. Mr. President, I am very familiar with the concern of my friend from Colorado with respect to the language about Rocky Flats. I think his concern really is not well taken with this language. If I may explain what this language on page 131 of our report is intended to do.

It is a recitation in three cases, in two cases of what the Secretary of Energy has said, and in another case describing what the House did, and in the fourth case describing what the law is. The committee was not stating its own opinion with respect to the need for an independent body, independent panel, to confirm the need for the start-up of Rocky Flats or as to the seriousness of questions regarding the capability of other facilities to meet the national security requirements directed by the President.

Our language does not say that. We, in fact, did not take a vote on that and our language does not mean that.

All we were doing in this report is pointing out that the Secretary and the President have authority for this and pointing out what they said and detailing what the House had done. That is all our language meant.

So I believe that the fear of the Senator from Colorado that we had somehow taken a clear position on this as a committee is not well-founded. We did not do so.

Mr. WIRTH. Mr. President, if I might continue, I really appreciate that response from the chairman of the committee.

I might just ask one further question. The Senate Armed Services Committee, as the chairman and I have discussed, is in the process of sorting through a whole variety of issues related to our strategic posture—B-2, MX, Trident, and so on, and Rocky Flats fits into that.

Is it my understanding that the Appropriations Committee, in its deliberations, future deliberations on Rocky Flats would be guided by whatever direction was given by the Senate Armed Services Committee?

Mr. JOHNSTON. I would say that that is our habit, that is our standard operating procedure. I cannot imagine that we would not follow that in this case.

There have been cases in the history of the Republic where the Appropriations Committee did not follow the authorizing committee, but I do not know of any reason in this particular case why we would not do so. We are not urging any particular action in this area on behalf of the authorization committee because we have not taken a position on it. We are generally guided, the Senator is correct, by the authorizing committee and we welcome their advice.

Mr. WIRTH. Mr. President, again I appreciate that response by the chairman of the Appropriations Committee and his help overall on this issue.

Mr. JOHNSTON. Mr. President, I thank the Senator from Colorado.

Mr. President, I now reiterate my unanimous consent request with the following change, that with respect to the amendment of the Senator from Georgia, there be only two second-degree amendments to be proposed thereto in order by the Senator from Utah—Is that correct?—germane amendment to the first-degree amendment. Relevant or germane, what was the word? Relevant and germane.

Mr. GARN. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. GARN. I will not object with the understanding of reserving two second-degree, relevant amendments and no time agreement on the Fowler amendment.

Mr. JOHNSTON. Yes. There is no time agreement anywhere in our unanimous-consent request.

Mr. HATFIELD. Will the Senator yield?

Mr. JOHNSTON. Yes, certainly.

Mr. HATFIELD. Did the Senator amend his first request to include an amendment by the Senator from Montana [Mr. BURNS]?

Mr. JOHNSTON. No. But if that is the request——

Mr. HATFIELD. If the Senator would, and a second amendment to be offered by the Republican leader, Mr. DOLE.

Mr. JOHNSTON. I have a Dole amendment, unspecified.

Mr. HATFIELD. There are two Dole amendments.

Mr. JOHNSTON. Two Dole amendments. Is the subject matter specified?

Mr. HATFIELD. Yes. High technology research on one and related to the Corps of Engineers and Reclamation on the second.

Mr. JOHNSTON. Mr. President, I would further amend the UC request by including two Dole amendments specified as——

Mr. HATFIELD. High technology research and relating to the Corps of Engineers and Bureau of Reclamation.

Mr. JOHNSTON. And relating to the Bureau of Reclamation.

Mr. HATFIELD. Will the Senator also——

Mr. JOHNSTON. And the Corps of Engineers. And that there be no Dole unspecified amendment.

Mr. HATFIELD. Will the Senator consider amending his request also to indicate that the Senators should present their amendments in order or may lose their opportunity if they are not here to do so.

As the Senator from Maine, the Democratic leader included on one previous occasion of locking these amendments in, I think that expedited more than any other thing I have remembered, the handling of these many amendments. I tell you what will happen otherwise. These amendments are locked in and then no one will show up to offer those amendments until about 6 o'clock tomorrow night.

The Senator and I will be here as managers of the bill. This has been repeated so often, the inconsiderate attitude and action on the part of our colleagues in not being here to offer their amendments. The Democratic leader I think struck on a very, very fine approach to this. If you are serious about an amendment, you are here to do business. We are here to do business. Why should the managers wait 3 hours, while others in their good time decide it is not convenient, and yet there we are locked into those amendments.

I am only reiterating, I think, what is very well known to all of us. We have all had that experience one way or the other, as we have managed bills. But I hope that maybe the Democratic leader would reassert this proposal that he made so effectively the first time around.

Mr. WALLOP addressed the Chair.

Mr. JOHNSTON. Mr. President, I would not yet ask that we put these amendments in that particular order. I would like to discuss that with the Senator from Oregon. But I wonder if there is any other discussion.

Mr. WALLOP. Mr. President, reserving the right to object, and I shall not, I would like to ask the distinguished Senator from Louisiana if this would preclude entering into a colloquy with the Senator from Rhode Island and the Senator from Wyoming with regard to wetlands.

Mr. JOHNSTON. No, it would not preclude any colloquies or any conversations. Mr. President, I therefore put the request.

The PRESIDING OFFICER (Mr. SANFORD). Is there objection?

Mr. GARN. Reserving the right to object, I have a technical question, in that if it must be germane, I am dealing with an amendment that is talking about deleting money, and I would probably want to add some back. My understanding would be that germaneness would prohibit that. So my only question is, the Senator said relevant and germane?

Mr. JOHNSTON. I strike "germane" and put in only "relevant," with respect to the amendment of the Senator from Utah.

The PRESIDING OFFICER. Is there objection?

Mr. GARN. With the two second-degree amendments.

I thank the Senator.

The PRESIDING OFFICER. Is there objection?

If not, the unanimous-consent request is agreed to.

Mr. JOHNSTON. Mr. President, I point out to Senators that this unanimous-consent request does not guarantee that these amendments will be considered; that when we start rolling tomorrow—and we hope we are going to roll on these things—that when we run out of amendments and third reading is ready, we will be ready to proceed to third reading. I hope Senators understand that, because we do not want to spend the day in a quorum call.

Mr. President, I further would ask unanimous consent with respect to the second-degree amendment of the other Senators that they also be relevant to the first-degree amendments.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. JOHNSTON. Mr. President, I wonder when the majority leader wants to start tomorrow?

Mr. MITCHELL. Mr. President, we have two requests for time in the morning, and so I would suggest, in view of the hour, that we plan to be on the bill at 10 a.m. We will come in at approximately 9:20 with requests for time in the morning. So we will be on the bill at 10 o'clock.

Mr. JOHNSTON. Mr. President, I hope the Senator from Arkansas is here. We can agree to start with his amendment tomorrow.

I guess he is not here.

Mr. President, I ask the majority leader, if we begin this tomorrow and run out of amendments and are simply in a quorum call, is it his understanding that under this unanimous consent and under his instructions to me that we will be ready to move to third reading when we run out of amendments?

Mr. MITCHELL. Mr. President, we, of course, have attempted to accommodate Senators when they have indicated an intention to offer amendments, as every Senator has been in that position. But I think it is fair that Senators be on notice that we want to proceed to get this bill done, and Senators should be prepared to offer amendments if they intend to do so.

I might say to the distinguished manager and the distinguished Republican manager who raised the question about taking the amendments in order, if I could speak with the Senator from Oregon, the current agreement does not preclude a further agreement which would change the order, and put them in an order that the Senators would contemplate makes sense, and is consistent with the schedules of Senators involved. That is what we tried to do in the previous case and it worked out very well, as the Senator from Oregon noted.

I do not know if time permits that either this evening or tomorrow morning, but I would suggest that perhaps first thing in the morning your staffers could consult with the other Senators to prepare the same identified amendments, but in a different order consistent with the schedules of Senators, and then they would be on notice that they would have to proceed in the order suggested.

One of the reasons I was reluctant to accept the invitation of the Senator from Oregon to do that on this, is that when the list was ready I do not believe the managers had in mind, at that point, doing it in a way that precluded Senators if they were not here.

I think you might want to reorganize it in a way that is consistent with your own schedule, and with that of the other Senators. But I would like to proceed with dispatch tomorrow, if the other Senators will cooperate.

I thank the managers for their cooperation. I think among the most superfluous of things I have said today, or in any other day, is my announcement now that there will be no further rollcall votes this evening.

I yield the floor.

Mr. JOHNSTON. Mr. President, I am looking for the distinguished Senator from Idaho [Mr. CRAIG], who wanted to do a colloquy.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I thank my chairman for yielding.

Mr. President, I would like to engage the chairman of the subcommittee in a colloquy in relation to page 83, title III of this appropriations bill. I am referencing the boron-neutron-capture therapy within the biological-environmental research area.

Last year our former colleague, Senator McClure, was able to put in this legislation what we believe was critical and necessary funding to continue the research and the development of the power-burst reactor current at the laboratory in Idaho, to be able to assure that we would be able to progress in this very important research theory and consortium that was developing around this unique form of brain cancer research and medication.

The Secretary of Energy chose not to use that money. In fact, it is my understanding, he would wish to do otherwise.

This year our colleagues in the other body put some money back in the language and this committee in its wisdom, and I think appropriately so, said that the committee directs the Department to review the funding requirements and carry out the research program for the fiscal years of 1990–1995, as well as for the reactor modification required with the funding profile.

What we are saying, and what I think is very important and what I want the Record to show, is that we are asking now—or, more importantly, by law we are directing—the Secretary of Energy to come forth with a plan not only for the necessary modifications, but recommendations to be found no later than August 30 of this year, so that this Congress can then move forward with the appropriate appropriations, based on the schedule that the Secretary will develop and have before this body before the 1st of September.

That is my understanding of the language that is embodied within this particular appropriations bill. What I would like to ask of the Chairman, first of all: Is my understanding correct, that is the intent of the committee at this time?

Mr. JOHNSTON. Mr. President, the Senator is correct. The report from the Department of Energy which we mandate to be submitted to us, including a funding profile, would then permit the Congress to act, and to appropriate for the program.

Really without that funding, the Congress cannot act. This would, in fact, enable us to do that.

Mr. CRAIG. I thank my chairman for yielding. I certainly want to express my gratitude for the leadership the chairman has shown on this issue, along with the ranking minority member, the Senator from Oregon, Mr. HATFIELD. Both have demonstrated important leadership in this area.

I think what is so fundamentally important as we look at some of the changes that are current in the development of energy, and the directions our laboratories are taking, and which we want our laboratories to take, here is a unique opportunity in the area of nuclear medicine for the kind of quality research that is really a world precedent.

In fact, the world is now watching us to see if we are going to be leaders with the power-burst reactor in this nuclear research for brain cancer of this particular type. So it is important that we move forward with the funding profile from the Secretary.

I thank the chairman and leader of this subcommittee on this appropriation legislation for yielding.

I yield the remainder of my time.

Mr. JOHNSTON. I thank the Senator.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting two treaties which were referred to the appropriate committees.

(The treaties received today are printed at the end of the Senate proceedings.)

REPORT ON NATIONAL EMERGENCY WITH RESPECT TO LIBYA—MESSAGE FROM THE PRESIDENT—PM 58

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

1. I hereby report to the Congress on the developments since my last report of January 11, 1991, concerning the national emergency with respect to Libya that was declared in Executive Order No. 12543 of January 7, 1986. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c); section 204(c) of the International Emergency Economic Powers Act ("IEEPA"), 50 U.S.C. 1703(c); and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa-9(c).

2. Since my last report on January 11, 1991, the Libyan Sanctions Regulations (the "Regulations"), 31 C.F.R. Part 550, administered by the Office of Foreign Assets Control ("FAC") of the

Department of the Treasury, have been amended. This amendment, published on May 6, 1991, 56 FR 20541, adds an appendix to the Regulations containing a list of organizations determined to be within the term "Government of Libya" (Specially Designated Nationals of Libya). A copy of this amendment is attached. Since January 11, 1991, there have been no amendments or changes to orders of the Department of Commerce or the Department of Transportation implementing aspects of Executive Order No. 12543 relating to exports from the United States and air transportation, respectively.

3. During the current 6-month period, FAC made 15 decisions with respect to applications for licenses to engage in transactions under the Regulations, as well as 4 amendments to previously issued licenses. Several of these licenses were issued to former employees of the People's Committee for Students of the Socialist People's Libyan Arab Jamahiriya, also known as the PCLS, to permit them to engage in court actions against the PCLS to recover salary, severance pay, and other unpaid benefits.

4. Various enforcement actions mentioned in previous reports continue to be pursued, and investigations of possible violations of the Libyan sanctions were initiated. The recent amendment to the Regulations listing organizations determined to be Specially Designated Nationals ("SDNs") of Libya publicly identifies organizations located outside Libya that have been determined by FAC to be owned or controlled by, or acting on behalf of, the Government of Libya. For purposes of the Regulations, all dealings with the organizations listed will be considered dealings with the Government of Libya. All unlicensed transactions with these persons, or in property in which they have an interest, are prohibited. The initial listing of 48 Libyan SDNs is not intended as a static list, but will be augmented from time to time as additional organizations or individuals owned or controlled by, or acting on behalf of, the Government of Libya are identified.

5. The expenses incurred by the Federal Government in the 6-month period from December 15, 1990, through June 14, 1991, that are directly attributable to the exercise of powers and authorities conferred by the declaration of the Libyan national emergency are estimated at $254,700. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the Office of the General Counsel, and the U.S. Customs Service), the Department of State, and the Department of Commerce.

6. The policies and actions of the Government of Libya, such as support for terrorism and international destabilization and the pursuit of offensive weapons systems, particularly chemical weapons, continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. I shall continue to exercise the powers at my disposal to apply economic sanctions against Libya as long as those measures are appropriate, and will continue to report periodically to the Congress on significant developments as required by law.

GEORGE BUSH.

THE WHITE HOUSE, *July 9, 1991.*

REPORT ON CONSERVATION AND USE OF PETROLEUM AND NATURAL GAS IN FEDERAL FACILITIES—MESSAGE FROM THE PRESIDENT—PM 59

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

As required by section 403(c) of the Powerplant and Industrial Fuel Use Act of 1978, as amended (42 U.S.C. 8373(c)), I hereby transmit the twelfth annual report describing Federal actions with respect to the conservation and use of petroleum and natural gas in Federal facilities, which covers calendar year 1990.

GEORGE BUSH.

THE WHITE HOUSE, July 9, 1991.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance, without recommendation without amendment:

S. 1367. A bill to extend to the People's Republic of China renewal of nondiscriminatory (most-favored-nation) treatment until 1992 provided certain conditions are met (Rept. No. 102–101).

By Mr. BENTSEN, from the Committee on Finance, unfavorably without amendent:

S.J. Res. 153. Joint resolution disapproving the recommendation of the President to extend nondiscriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China (Rept. No. 102–102).

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment:

S.J. Res. 18. Joint resolution proposing an amendment to the constitution relating to a federal balanced budget (Rept. No. 102–103).

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–164. A concurrent resolution adopted by the Legislature of the State of Minnesota to the Committee on Agriculture, Nutrition, and Forestry.

"Whereas the health of Minnesota's dairy industry, which is now in crisis, is key to the economic well-being of the state of Minnesota; and

"Whereas agriculture is the number one revenue-producing industry in Minnesota, and the dairy industry produces the largest share of this revenue; and

"Whereas the current milk price is the lowest farmers have received since September, 1978; and

"Whereas the present milk support price of $10.10 per hundredweight fails to meet dairy farmers' minimum costs of production; and

"Whereas Minnesota has lost 10,000 dairy farmers since 1980, has lost 40 more in the past two weeks, and in the face of the present crisis will continue to lose dairy farmers at an alarming rate, threatening the very existence of the dairy industry in the state; and

"Whereas the income of dairy farmers will be further reduced by an assessment of five cents per hundredweight on nearly ten billion pounds of Minnesota milk in 1991, which is just the latest in a continuing string of increases in fees and assessments paid by dairy farmer; and

"Whereas federal milk marketing orders are discriminatory and skewed to give unfair advantage to large corporate farms of the West and South, suppressing milk prices in the Upper Midwest and inflating prices by several dollars per hundredweight in nontraditional dairy areas; and

"Whereas the dairy farmer has taken more substantial cuts in federal support than any other sector of our economy and agriculture itself, starting with repeal of the April, 1981, six-month price support adjustment for inflation and a continuous series of cuts and reductions in the price support base and fee and assessment increases paid by dairy farmers on milk production in every decision made by the President and Congress; and

"Whereas the Minnesota House and Senate and the Minnesota Governor are committed to preserving the family farm structure and Minnesota's small dairy farmers. Now, therefore, be it

"*Resolved by the Legislature of the State of Minnesota,* That it urges the President, Congress, and the Secretary of Agriculture to immediately respond to the crisis in the Midwest dairy industry by reopening the dairy provisions of the 1990 federal farm law to insure that Minnesota and Midwest dairy farmers receive cost of production plus a reasonable profit for their products; and be it further

"*Resolved,* That the United States Secretary of Agriculture should immediately take action to alleviate the Minnesota and Midwestern dairy crisis by modifying and changing the federal milk marketing order system so as to eliminate the discriminatory provisions from the orders that pay more for milk to Western and Southern producers than paid to Midwest dairy farmers and encourage increased dairy production in markets distant from the Upper Midwest, depressing prices for Minnesota producers; and be it further

Resolved, That Congress take immediate action to alleviate the crisis in the Midwest dairy industry by increasing milk price supports by $2.30 per hundredweight, an increase that will allow midwest producers to break even on costs of production; and be it further

Resolved, That the Secretary of State of the State of Minnesota is directed to prepare certified copies of this memorial and transmit them to the President of the United States, the President and Secretary of the

United States Senate, the Speaker and Chief Clerk of the United States House of Representatives, the Chair of the House of Representatives Committee on Agriculture, the Chair of the Dairy Division of the House of Representatives Committee on Agriculture, Minnesota's Senators and Representatives in Congress, and the United States Secretary of Agriculture."

POM-165. A resolution adopted by the Senate of the State of Michigan; to the Committee on Environment and Public Works:

"SENATE RESOLUTION NO. 76

"Whereas the Highway Trust Fund receives revenue from federal excise taxes on gasoline and diesel fuel, which represent user fees intended to support the country's highway system. However, a portion of this fund is currently being held captive to artificially balance the federal budget; and

"Whereas the most recent five-cent-per-gallon increase in federal fuel taxes allocated only 2.5 cents to the Highway Trust Fund, with the balance allocated to the federal government's general fund; and

"Whereas the current allocation formula for the Highway Trust Fund has the effect of returning only eighty-five percent of the money Michigan taxpayers contribute to Washington back to Michigan; and

"Whereas it is important to immediately address these inequities in order to preserve our state's highway system: now, therefore, be it

"Resolved by the Senate, That we hereby memorialize the President of the United States and the United States Congress to take appropriate steps to release certain funds from the Highway Trust Fund, to ensure that all of the recent federal fuel tax increases be allocated to the Highway Trust Fund, and to amend the Highway Trust Fund allocation formula to assure that Michigan receives its fair share of fuel tax revenue; and be it further

"*Resolved*, That a copy of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Michigan congressional delegation, and the Governor of Michigan."

POM-166. A resolution adopted by the House of Representatives of the State of Illinois; to the Committee on Finance:

"HOUSE RESOLUTION NO. 315

"Whereas the provisions set forth in 42 U.S.C. 415 of determining the primary insurance amount of a person receiving Social Security were amended in 1977 by Public Law 95-216; and

"Whereas that amendment resulted in disparate benefits according to when a person initially becomes eligible for benefits; and

"Whereas persons who were born during the years 1917 to 1926, inclusive, and who are commonly referred to as "notch babies," receive lower benefits than persons who were born before that time; and

"Whereas the payment of benefits under the Social Security System is not based on need or other considerations related to welfare, but on a program of insurance based on contributions by a person and his employer; and

"Whereas the discrimination between persons receiving benefits is totally inequitable and contrary to the principles of justice and fairness; and

"Whereas the Social Security Trust Fund has adequate reserves to eliminate this gross inequity; therefore, be it

"Resolved, by the House of Representatives of the eighty-seventh General Assembly of the State of Illinois, That Congress is hereby urged to enact legislation to eliminate inequities in the payment of Social Security benefits to persons based on the year in which they initially become eligible for benefits; and be it further

"*Resolved*, That a copy of this resolution be transmitted to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Illinois Congressional Delegation."

POM-167. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Governmental Affairs:

"HOUSE CONCURRENT RESOLUTION 183

"Whereas the freedom we enjoy as United States citizens is guarded by the men and women in the armed forces and should not be taken for granted; and

"Whereas in the recent history of our country we have been involved in conflicts which have required the deployment of the armed forces, and these conflicts have resulted in more than 88,000 American service personnel remaining prisoners of war or missing in action from World War II, the Korean War, and the Viet Nam Conflict; and

"Whereas the United States Foreign Relations Committee released an interim report that concluded that American service personnel were held in Southeast Asia after the end of the Viet Nam conflict; and

"Whereas on April 12, 1973, the United States Department of Defense publicly stated that there was 'no evidence' of live American POW's in Southeast Asia; and

"Whereas the public statement was given nine days after Pathet Lao leaders declared on April 3, 1973, that Laotian communist forces did, in fact, have live American prisoners of war in their control; and

"Whereas no POW's held by the Laotian government and military forces were ever released; and

"Whereas there have been more than 11,700 live sighting reports received by the Department of Defense since 1973 and, after detailed analysis, the Department of Defense admits there are a number of 'unresolved' and 'discrepancy' cases; and

"Whereas in October 1990, the United States Foreign Relations Committee released an 'Interim Report on the Southeast Asian POW/MIA Issue' that concluded that United States military and civilian personnel were held against their will in Southeast Asia, despite earlier public statements by the Department of Defense that there was 'no evidence' of live POW's, and that information available to the United States government does not rule out the probability that United States citizens are still being held in Southeast Asia; and

"Whereas the Senate interim report states that congressional inquiries into the POW/MIA issue have been hampered by information that was concealed from committee members, or was 'misinterpreted or manipulated' in government files; and

"Whereas the POW/MIA truth bill would direct the heads of the federal government agencies and departments to disclose information concerning the United States service personnel classified as prisoners of war or missing in action from World War II, the Korean War, and the Viet Nam Conflict; and

"Whereas this bill would censor the sources and methods used to collect the live sighting reports, thus protecting national security; and

"Whereas the families of these missing service personnel need and deserve the opportunity to have access to the information concerning the status of their loved ones after these may years; Now therefore, be it

"*Resolved*, That the legislature of Louisiana does hereby memorialize the Congress of the United States to appoint a select committee to assist the United States Senate Foreign Relations Committee in obtaining information in government files, to begin immediate committee hearings to consider enacting the POW/MIA truth bill, and to continue funding of this investigation that is vital to resolving the POW/MIA issue in Southeast Asia; and be it further

"*Resolved*, That the legislature does provide that a copy of this Resolution be transmitted to the secertary of state, the president and secretary of the United States, the speaker and chief clerk of the United States House of Representatives, and each member of the Louisiana congressional delegation."

POM-168. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on the Judiciary:

"JOINT RESOLUTION

"Whereas the American flag is a symbol of national unity, provides a beacon of hope and liberty for every nation in the world, is a source of tremendous national pride and is cherished as the embodiment of our country's history, traditions and ideals; and

"Whereas our Armed Forces have defended our country's freedoms under the banner of the Stars and Stripes from the Revolutionary War to the present day; and

"Whereas the American flag is also a symbol of the fundamental framework of individual rights laid down in the Constitution and is a symbol of the political heritage of this most noble experiment, our nation; and

"Whereas this is the bicentennial year of the passage of the Bill of Rights and as the individual rights guaranteed by those amendments to our nation's Constitution constitute the very essence of our political heritage of liberty and freedom; and

"Whereas the Bill of Rights has stood unchanged since its adoption on December 15, 1791 and, as a result, has served as the unvarying bulwark that protects individual liberty in this country; and

"Whereas any change to the Bill of Rights may create a dangerous precedent and may open the door to incremental erosion of the basic rights enjoyed by all Americans; now, therefore, be it

"*Resolved*, That We, your Memorialists, respectfully recommend and urge the President and the Congress of the United States to take appropriate action to ensure that proper respect and treatment will always be accorded to the American flag and to ensure that desecration of our flag will be prevented while continuing our nation's long and proud history of preserving the integrity of the Bill of Rights to the Constitution of the United States; and be it further

"*Resolved*, That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable George H. W. Bush, President of the United States; the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States; and each Member of the Maine Congressional Delegation."

POM-169. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on the Judiciary:

"JOINT RESOLUTION

"Whereas this the bicentennial year of the passage of the Bill of Rights; and

"Whereas the fundamental framework of individual rights as laid down in the Bill of Rights constitutes the very essence of our political heritage of liberty and guarantees our freedom; and

"Whereas the Bill of Rights has stood unchanged since its adoption on December 15, 1791 and, as a result, has served as the unvarying bulwark that protects individual liberty in this country; and

"Whereas any amendment to the Constitution on any single issue of the moment that diminishes to any degree the Bill of Rights will create a dangerous precedent and may open the door to incremental erosion of the basic rights enjoyed by all Americans: Now, therefore, be it

"Resolved, That We, your Memorialists, respectfully recommend and urge the Congress of the United States to reject any proposed amendment that may now or in the future diminish the strength of the Bill of Rights; and be it further

"Resolved, That We urge the Congress of the United States to secure and preserve the Bill of Rights in its historic and current form; and be it further

"Resolved, That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the Honorable George H. W. Bush, President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation."

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. METZENBAUM:

S. 1436. A bill to amend section 21A of the Federal Home Loan Bank Act to extend the period applicable to single family property in the Affordable Housing Program; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATCH:

S. 1437. A bill to amend title 28 of the United States Code to preclude the application of sovereign immunity in certain circumstances where a foreign state has taken property in violation of international law outside its territory; to the Committee on the Judiciary.

By Mr. DASCHLE:

S. 1438. A bill to provide for international negotiations to seek increased equity in the sharing by foreign countries of the costs of maintaining military forces of the United States in such countries; to the Committee on Armed Services.

By Mr. JOHNSTON:

S. 1439. A bill to authorize and direct the Secretary of Interior to convey certain lands in Livingston Parish, Louisiana; to the Committee on Energy and Natural Resources.

By Mr. BRADLEY:

S. 1440. A bill to establish a National Scenic Coastal Area System; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE:

S. Res. 152. Resolution to make a minority party change in Committees; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. METZENBAUM:

S. 1436. A bill to amend section 12A of the Federal Home Loan Bank Act to extend the period applicable to single family property in the Affordable Housing Program; to the Committee on Banking, Housing, and Urban Affairs.

EXTENSION OF PERIOD APPLICABLE TO SINGLE FAMILY HOUSING IN THE AFFORDABLE HOUSING PROGRAM

• Mr. METZENBAUM. Mr. President, I rise today to introduce legislation which should help make the American dream of home ownership a reality for more low-income Americans. This bill which amends the Financial Resource and Recovery Enforcement Act of 1989, is designed to assist low-income home buyers take full advantage of the special marketing period for single family homes in the affordable housing inventories of the Resolution Trust Corporation.

When FIRREA was passed, a 3-month marketing period was included to give low-income home buyers a window of opportunity to submit a bid on a home without having to compete with the savvy real estate speculators. Experience has shown that the marketing period is simply insufficient given all the steps required to prepare a home for sale, and the effort and time needed to submit a bid and complete a sale.

Congress gave the RTC the mandate to sell the office buildings, golf courses, condominums, and other assets that were once owned by failed savings and loans. We included provisions to create an affordable housing department to assist low-income home buyers in buying selected properties from the RTC's real estate inventory. It was one of the few opportunities that we had to salvage something worthwhile from the savings and loan debacle. It is no secret that the RTC did not want the responsibility of running the program. Their performance to date reflects this.

The program has fallen far short of its goals. Reports of abuse, excessive bureaucracy, properties ending up in the hands of overqualified buyers or speculators, and downright misrepresentations abound. Shrewd investor groups have taken advantage of the affordable housing program at the expense of those Americans who want to become homeowners. Once again we are hearing the sad and familiar tale of how a few savvy individuals have looted the Government for their personal gain.

The failures of the affordable housing program are not the result of a lack of interest from qualified low-income home buyers. The New York Times reported on June 26 that thousands of interested home buyers have qualified with RTC for consideration under the affordable housing program. Yet, we read how the time period for submitting a bid has expired on a greater number of homes than the RTC has actually sold within the marketing period. Given the RTC's inventory of single family homes, and the abounding interest from qualified buyers, we should either change the bureaucracy or give the home buyer more time.

Under the affordable housing program qualified low-income home buyers have the first right of refusal for up to 3 months on the sale of selected single family homes. The sale of these single family homes comprises a fraction of the total sales of assets that the RTC must make. According to RTC calculations, the income from the sale of these homes will only account for 1 percent of total income the RTC expects to receive from the sale of all assets. However, the RTC has made it every bit as complicated for a low-income home buyer to purchase a $30,000 house as it has for the sophisticated speculator to purchase a multimillion dollar complex.

In the sale of a single family home, the RTC must identify the property, clear the title, prepare the property for release to a clearing house, perform an appraisal, set a price, qualify buyers, perform an inspection, and market the property to low-income home buyers. For the potential home buyer, they must qualify for the program, find an eligible property, and perhaps most difficult of all, arrange financing. For those of us who have been fortunate enough to purchase a home, we are all too familiar with the delays and problems that frequently develop in buying a home, and yet, we expect the low-income home buyer to accomplish all of these tasks in a matter of weeks.

My bill extends the time period from 3 to 6 months so that any qualified buyer has sufficient time to purchase the home of his or her choosing. This extension of time available to submit a bid and complete a purchase will have the effect of maximizing the sales of affordable housing and will more effectively carry out the intentions of Congress. The extra time will also give the RTC affordable housing disposition program the necessary help to eliminate any abuses which have invaded the program. Most important, thousands of first time home buyers will have a reasonable opportunity of buying their own homes—a treasured achievement.

I ask unanimous consent that a recent series from the New York Times and an article from the Wall Street Journal on this subject appear in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, June 25, 1991]

RTC'S AFFORDABLE-HOUSING PLAN FALTERS

(By Todd Mason)

DALLAS.—State worker Trecia DeBaun was crestfallen in April when the Resolution Trust Corp. put out its list of affordable houses to be sold by sealed-bid auction just five days before the bids were due. With a job, two children and a daunting list of homes to inspect, she says, "it was an impossible deadline for a single parent."

So it goes with the RTC's affordable-housing program, the initiative that was supposed to make lemonade out of the nation's lemon thrifts by helping people in need of housing. So far, little of the lemonade has trickled down to the poor. Critics charge that the RTC largely ignored its obligations under the 1989 thrift reconstruction law until this spring and then geared up a headlong rush to clear out 80% of its inexpensive assets by June 30. In the stampede, they charge, many poor people have been trampled.

So far, sales have been strong in states like Florida and New Hampshire, where the RTC has small inventories and time to plan. As of April 30, sales contracts had been obtained on 5.679 homes, or 48% of the RTC's inventory then. But the agency is mainly reaping frustration in Texas, home to half of its inventory of modestly priced homes. In May, for example, the RTC offered 762 Texas homes but accepted bids on only half of them, due in part to late and sometimes inaccurate sales lists.

The agency's frenetic sales pace handicaps the working poor, who have little time to inspect houses and make decisions, and it presents an opportunity for speculators, complains John Henneberger, director of the Low-Income Housing Information Service in Austin, Texas. "It's been such a flop compared to its potential," he says.

The RTC, disputing Mr. Henneberger's conclusion, defends its hectic sales schedule. "These low-valued assets are very costly to maintain," says Dallas regional director Carmen J. Sullivan. "We're fundamentally tied to our goal of reducing costs to the taxpayer."

The conflict between housing the poor and minimizing taxpayer costs has dogged the affordable program ever since Congress slipped it into the 1989 thrift bailout bill. According to provisions of the law, low-income and moderate-income buyers and nonprofit groups have the exclusive right to buy RTC homes and condominium units priced at $67,500 or less for the first 90 days they are on the market. Trouble is, the standards used by the RTC to define an eligible buyer don't carve out much of an edge for low-income families.

The RTC, borrowing standards established by the Department of Housing and Urban Development, defines moderate income as 115% of median family income in a particular area. In Austin, Texas, for example, that amounts to $47,150 for a family of four. The agency defines low income as 80% of median income, or $32,800 in Austin, but offers no special breaks for those families. The median price of a home in Austin was only $85,000 in April.

Even with these generous guidelines, the RTC initially ignored its affordable-housing obligations, advocates charged in lawsuits filed in federal courts in Arizona and Texas this spring. Under its original sales rules, the RTC couldn't reduce prices for six months, meaning that the exclusive bidding period for low-income buyers expired before the agency could correct overly optimistic appraisals, which were legion. The suits also alleged that when RTC properties that originally exceeded the affordable-housing threshold of $67,500 were marked down below that level, those homes weren't set aside at all.

To settle the suits, the RTC promised to make amends, and geared up an ambitious sales campaign to tell potential buyers how the program worked. It also started recruiting nonprofit groups as technical advisers. "We needed experience to develop and change policies," says Stephen S. Allen, the program's director. "None of this could have happened on the day the law was signed."

Unfortunately, the RTC still can't provide Texas buyers with current and complete lists of homes for sale. When Ms. DeBaun, the buyer in Dallas, couldn't make sense of the RTC inventory and failed to interest a real estate broker in her search, she turned to Acorn, and advocacy group for the poor. But Acorn often loses its way in the bureaucratic thickets, too, admits Elizabeth A. Wolff, the group's regional director in Dallas. "We can't get the lists fast enough," she says. "It's a very frustrating enterprise." Meanwhile, Ms. DeBaum continues her search for a home.

While Ms. Sullivan concedes that RTC sales information isn't always accurate, she rests her defense on the results. She says that two-thirds of the successful bidders in the April and May Texas sales were low-income families as defined by the HUD/RTC standards. And buyers who aren't fast enough or confident enough to bid in the auctions can buy homes before—or after, if they remain unsold.

But there's hot competition in sealed-bid auctions for the choiciest properties, leaving homes of little value or appeal. (In a separate transaction, the RTC offered to give away 1,000 Texas homes to nonprofit groups but had found takers for only 400 of the hard-to-sell properties as of the June 5 deadline.)

The process has brought little but frustration to prospective buyers like Carmen Chavez-Lujan, a state worker in Austin who was prepared to bid $59,000 for an attractive suburban house with a swimming pool. A real estate broker told her the house was no longer for sale, she says. The RTC insisted it was. She was later told that the new owner had paid $33,000. She gave up on the program. "It just caused me a great deal of anger," she says.

"Investors are buying these properties still," charges Mr. Henneberger, the Austin housing advocate. He thinks that a few real estate brokers are steering the attractive properties to acquaintances or colleagues. He also believes that most brokers are turning away those buyers who could purchase homes only after a difficult search for financing. "We hear complaints of steering," says Ms. Sullivan, but she points again to the low-income profile of successful bidders.

The sales contracts, conditioned on obtaining mortgage loans, don't always turn into successful sales, though. Lenders in the Southwest are disqualifying low-income borrowers for even the slightest credit blemishes, says Gordon O. Packard, co-executive director of Primavera in Tucson. "It happens time and again," he says. "Each time, it's like kicking applicants in the stomach."

[From the New York Times, June 26, 1991]

FEW OF THE WORKING POOR GET HOUSES IN S&L RESCUE PLAN

(By Leslie Wayne)

AUSTIN, TX.—It's a tale of dreams gone awry.

When Congress created the Resolution Trust Corporation in 1989 to clean up the savings and loan mess, it decided to set aside thousands of foreclosed houses and apartments as low-cost housing for low-income people.

The notion was elegant in its simplicity: housing for the needy, thanks to the savings and loan crisis. The Government could provide decent shelter without spending a dime on new public housing. And the working poor, at long last, could own a home at a price they could pay.

It has not worked out like that. Virtually everyone agrees that the program has fallen short of its goals, though how far short is in dispute.

HARSH VIEWS EXPRESSED

"It's an unmitigated disaster," said Richard Jordan, a former board member of the Texas Housing Authority and a real estate investor. "The Government had the unprecedented opportunity to disperse people into single-family detached homes and it hasn't. Why? Because the program stinks."

Mr. Jordan is not alone in his view. Members of Congress and advocates of affordable housing say the Goverment has failed almost completely to exploit an important and rare opportunity.

Resolution Trust acknowledges that thus far only a small portion of the houses in the program have gone to the poor. But officials insist they have labored to devise policies to tackle an extremely difficult task, and they say that such a program cannot be established overnight. Stephen S. Allen, the corporation's head of affordable housing, said that under the circumstances "what we have accomplished has been remarkable."

WORKING POOR SHUT OUT

At any rate, thousands of inexpensive homes that could have gone to low-income buyers under the program have, in fact, been siphoned off and bought by investors. Middle-class buyers, who could otherwise afford housing, have been flocking to take advantage of bargain prices. And the working poor who could benefit the most from this program have been virtually shut out by, among other things, a lack of mortgages for them.

The program's critics contend that the Bush Administration, which fiercely opposed the program when it was initially set up by Congress, has actively tried to scuttle it through policies that discriminate against the poor.

Among them was a program that offered bigger discounts and better financing to sophisticated investors than to low-income buyers. Some of these policies have changed, housing advocates say, but the basic problems still exist.

"This has been a tremendous lost opportunity," said Frank H. Shafroth, director of Federal relations for the National League of Cities in Washington. "Something wonderful could have happened to a lot of families in America. But it didn't."

Representative Bruce F. Vento, a Minnesota Democrat who was chairman of a special Congressional task force on Resolution Trust, said he was disappointed. "The Administration and the R.T.C. had to be dragged kicking and screaming into the affordable-housing program," he said. "They have a basic reluctance to implement the law."

Mr. Allen of Resolution Trust said the expectations of the critics were unrealistic. "You can't help lower-income people buy when you have a mandate to return the maximum dollars to the Government," he said, "and it's a conflict. So it's an ongoing challenge for us to reach our target market."

THE PROGRAM: SOCIAL POLICY VS. TOP DOLLAR

To carry out the program, Resolution Trust has hired an impressive array of bureaucrats with a long history of service to the poor. But they find themselves caught between the agency's conflicting goals: Selling real estate at top dollar to reduce the cost of the savings and loan bailout for all taxpayers, and selling small houses at affordable prices. The agency is working at the juncture of social policy and quick real estate sales, and money talks.

Under the program as set up by Congress, a 90-day window was created in which low-income buyers and nonprofit organizations have the exclusive chance to buy Resolution Trust properties appraised at less than $67,500. If there are no takers, the houses are offered on the open market.

As of the end of April, 17,372 houses and 489 apartment complexes with 65,097 individual apartments have fallen within these guidelines. This represents $1.6 billion in real estate, or 10 percent of Resolution Trust's entire portfolio. And more housing will be added as the agency continues to take over insolvent savings and loans.

Besides social policy, there are strong economic incentives behind the affordable housing program. The Government estimates that it costs $18.25 a day, or about $6,600 a year, to carry a foreclosed house. At the same time, new public housing costs anywhere from $60,000 to $100,000 a unit.

In one fell swoop, the Government could lop off hundreds of millions of dollars in real estate carrying costs and provide new public housing on the cheap.

"If you believe the Government should intervene to help low and moderate families, this should be the way," said Representative Barney Frank, a Massachusetts Democrat and advocate of the program. "It's the lowest per-unit cost to the Government."

But sales so far have been agonizingly slow. Only 2,500 houses had been sold by May 1 and, by the end of that month, 13 apartment buildings had been sold. Critics contend that few of the houses have actually gone to low-income people.

At the same time, 3,300 houses and 174 apartment complexes have passed through the 90-day window unsold. In Texas, where nearly half the affordable properties are, brokers say many of these have since been snapped up by investors eager to take advantage of the prices, which for houses taken as part of savings and loans failures are substantially lower than those on the general real estate market.

And an additional 3,998 houses appraised at less than $67,500 never even got into the program and were sold to other buyers because of a rule, only recently changed, that excluded houses of savings and loans associations the Government had declared insolvent but had not yet seized. These houses instead were offered by the Government on the open market.

TRYING TO QUALIFY: MOST REFUSED AS CREDIT RISKS

Such numbers take on real meaning for DeeDee Cyphers, a single mother of three in Austin who is stretching to make ends meet on the $19,000 she earns as a senior accounting clerk for Travis County.

Ms. Cyphers is one of the people the program is intended to benefit. But, as with many like her, it has failed to reach her. "It's like the American dream is not coming true for the working poor, she said.

One day, a fellow employee showed Ms. Cyphers a flier for the Resolution Trust program. Intrigued, she got a list of properties and, with a broker, found a $26,000 house in a neighborhood she fell in love with. Her offer was accepted and a "sold" sign sprouted by the house. At night, she would drive by just to look. "It wasn't a mansion but it was cute," she said, "a nice place to raise my kids that wasn't trashed with drugs."

Even more attractive to her was the monthly mortgage payment of $308, significantly less than the $425 she struggles to pay in rent.

THE BANK SAYS NO

But Ms. Cyphers got turned down at the bank. This happened even though she had the down payment, had held the same job for five years and was applying under a special program of the Texas Housing Authority, which issued bonds specifically to provide mortgage money in local banks for low-income buyers of agency properties.

But the bank, in this case Guaranty Federal Savings, and not the housing authority makes the final credit decision. And the bank did not like the fact that seven years ago, when Ms. Cyphers and her former husband were laid off, they returned a leased car to a dealer who wanted the payments instead of the car. The dealer obtained a judgment against her.

For Ms. Cyphers, this disappointment turned into "heartbreak," in her words, when she learned recently that Resolution Trust was planning to give away to nonprofit agencies up to 3,000 houses it said it could not sell. Some of these are in bad shape but can certainly be fixed up.

"The R.T.C. is trying to give away houses and here I want to pay for one," she said. "I think they should try to help the working poor who are trying to get back on their feet. The houses are supposed to be affordable—to help the people out. If I were rich, I wouldn't need the R.T.C."

OVERSIGHT: CRITICS SAY BOARD HAMPERED PROGRAM

Much of the program's poor showing has been attributed by critics to restrictions in the initial law and to implementation policies of Resolution Trust's Oversight Board, whose members include Alan Greenspan, chairman of the Federal Reserve, and Jack F. Kemp, Housing and Urban Development Secretary.

The board allowed the agency to make big discounts in all properties except those in the affordable-housing program until just three months ago when Congress halted the practice by threatening to withhold the agency's funds. The effect was that people were buying houses outside the program cheaper than the poor could get them within the program during the 90-day period.

And seller financing has been offered by the agency to buyers of all other properties—except in the affordable-housing program, where Resolution Trust two years later is beginning to develop a limited program of financing for low-income buyers.

"There was just an ideological objection to helping poor people," Representative Frank said. The Bush Administration, he charged, "felt that poor people were a pain and they don't need them."

Not so, say members of the Administration and the Oversight Board. "We've been proactive in affordable housing," said Peter H. Monroe, president of the board. "In terms of the dollars the R.T.C. will collect from real estate, maybe 1 percent will come from residential affordable real estate."

Alfred A. DelliBovi, Under Secretary for Housing and Urban Development, said, "I can assure you there has been no foot-dragging by the Administration to carry out this law."

Critics acknowledge that some of the flaws in the program have been corrected but say the low-income citizens who were to have been given preference are still for the most part missing out.

THE TEXAS EXPERIENCE: FEW OF THE POOR GET HOUSES

Nowhere are the problems of the program more apparent than in Texas, where real estate prices have fallen so drastically that nearly every house that falls into the agency's hands meets the affordable-housing guidelines. And, nearly half of all affordable houses to be sold by the agency are in Texas, where the Texas Housing Authority estimates that 60,000 people are homeless. In Dallas, there is a two-year waiting list for public housing.

Potential buyers and nonprofit organizations said in interview that accurate information on what houses were available had been almost impossible to get. The bidding process is described as a nightmare of paperwork that discourages real estate brokers from even showing properties.

Before putting down a $500 earnest-money deposit on a house in the program, a prospective buyer must fill out a 25-page form. Until recently, the agency's real estate contract was 45 pages long instead of the standard 3 pages. "I've sold commercial property for the R.T.C. and that was a pain in the neck," a Houston broker said. "But it's nothing like the affordable-housing program. It's more of a headache than it's worth."

MORTGAGES HARD TO GET

More important, mortgage financing for low-income people has been hard to come by, despite the housing authority's bond issue, which raised $142 million to fund 8.35 percent mortgages through banks that would lend to low-income buyers of Resolution Trust houses.

So far, only 384 such loans have been made, leaving the agency with $122.5 million in unused mortgages. This comes despite a telephone hotline that has been getting nearly 800 calls a day, newspaper and radio ads and a mailing to more than 14,000 homes.

"The consumer is tearing down our door," said Richard H. Garza, former acting executive director of the authority. "Every time we put out a news release our telephone lines go haywire."

Much of the problem is that low-income people are not perceived as good credit risks. "If a low-income buyer has anything shaky on his credit record, he gets tossed out," said Elizabeth Wolff, head of the Dallas office of the Association of Community Organizations for Reform Now, or Acorn, a nonprofit agency. "Only the squeaky clean can qualify."

Clearly, mortgages for low-income groups have been a big part of the problem. Resolution Trust was authorized by Congress to help provide such financing but so far has done little. The banks, for their part, have been quick to turn down low-income applicants on the grounds that they present greater risk than others.

But housing advocates argue that lending to big investors is often chancier, as illustrated by the savings and loan crisis. At any rate, if the housing program is to work, the processing of getting mortgages will have to be made easier for those with low incomes.

"I was naive to think that this program could work for the low income," said Skip Beaird, executive director of the Housing Resources Association, a nonprofit Austin agency. "We get 60 calls a day from people excited that there might be something for them. But there isn't."

Each Wednesday night, Mr. Beaird and an assistant, MaryLee Claborn, sit in a conference room at the Travis County Human Services Building painstakingly counseling low-income people on where to get a Resolution Trust property list, how to find a broker and where to apply for a mortgage.

But they can recall only 3 people ever getting a house of the 1,000 or so they have counseled or conversed with on housing issues.

"The R.T.C. has a brochure that says, 'If you're paying $250 a month or more in rent, the R.T.C. wants to help you own your home,'" Ms. Claborn said. "And every time I see that, I get angry, it's so misleading."

SPECULATION: HAWAIIAN INVESTORS FIND TEXAS DEALS

The Resolution Trust office in Dallas is in a gleaming high-rise in an exclusive neighborhood, where Jane Keefe, head of the agency's Southwestern Regional Affordable Housing Office, oversees the program. Through the program, she said, 1,134 Texas houses have been sold at an average price of $41,000.

About half these sales, she said, were to people below 80 percent median income, or under $35,000 a year for a family of four. "For us to have half our sales to the really low-income families, I'd say we're successful," she said.

But housing advocates question just how successful Resolution Trust is, even by its own tally. And they are raising some serious questions about who exactly is buying the homes.

Through the Freedom of Information Act, John J. Henneberger, director of the Texas Low Income Housing Information Service, a nonprofit corporation, obtained lists of houses that the agency said it sold in Texas under the program.

By comparing the Resolution Trust lists with courthouse deeds, Mr. Henneberger said he found that many of the properties the agency said it sold were never sold at all. Other properties, he said, were purchased by investment groups from as far away as Hawaii and many were bought for cash—in amounts up to $30,000. Many of these properties had passed through the 90-day window and were sold to investors.

Mr. Henneberger and other housing advocates suspect that brokers are lying low until after the 90-day period and then pushing these properties to buyers with ready cash.

In Austin, for instance, Mr. Henneberger's spot check turned up condominiums with initial appraisals as high as $95,000 being sold to Hawaiian investors at prices in the $20,000 to $30,000 range. These were then listed as affordable-housing sales.

Mr. Henneberger said many questions were raised by the data: How did condos with high appraisals get into the program in the first place?

"What's emerging is a lot of confusion," Mr. Henneberger said. "I'm increasingly convinced the R.T.C. doesn't know what sold under the program. So how can they continue to turn out reports to Congress, if they don't know?"

Ms. Keefe said the lists might have bookkeeping errors and she denied that houses were slipping with any frequency into the hands of well-off investors during the 90-day period.

But houses have slipped through.

Recently, Resolution Trust agreed to sell 36 Texas homes in the affordable-housing program to a Houston real estate broker who had formed a charity—the Lung Transplant Foundation Inc.—just a day before he submitted his bid. The houses were being sold to the broker for $500 each and his son was to have collected a $500 commission on each sale—or some $18,000 in all. But after an article about the transactions appeared on June 6 in The San Antonio Light, the agency canceled the sale.

A sizable number of the Texas sales have been all-cash sales—some 20 percent, according to the agency's Dallas office. The agency said low-income people were often suspicious of banks and kept their money at home or tapped relatives to help. Deborah Kroupa, a housing specialist with Acorn, the agency in Dallas, disputed this. Low-income people, she said, rarely have more than $1,000 or $2,000 in "mattress money."

Ms. Kroupa said the money came from speculators who could get a friend or a relative to qualify for the program, buy the property and pay cash so there was no paperwork. Several months later, the buyer moves out, the house is refinanced at a bank and is converted into valuable rental property. With the cash pulled out, the investor can buy again.

Ms. Kroupa should know. She said this was work she once did herself as a real estate buyer but stopped because she said her conscience bothered her. "It's a legal loophole."

Senator Howard M. Metzenbaum, Democrat of Ohio, said he would introduce a measure in Congress to extend the 90-day window to 180 days. Nearly all nonprofit agencies would like to see the trust corporation streamline its marketing and sales process as well as begin to offer seller financing and greater price discounts to low-income families.

And some individuals and organizations, Acorn, for instance, have started to work with private banks to broaden credit standards to make more low-income persons eligible for mortgages.

As Mr. Jordan, the Austin developer, put it, "It should be as easy for a low-income person to buy a house as it is for a low-income person to buy a car."

[From the New York Times, June 27, 1991]

Housing Earmarked for the Poor Is Enriching Big Investors Instead

(By Leslie Wayne)

Dallas.—A Federal program of housing for the poor is turning into profits for big real estate investors, led by one of America's business giants, the General Electric Company.

General Electric is about to become the biggest buyer under a Federal program in which nearly 500 apartment complexes taken over from failed savings and loan institutions are being sold by the Resolution Trust Corporation at discount prices to investors who agree to set aside 35 percent of the units for low-income families.

In real estate circles, all eyes are drawn to the G.E. deal. The company's financial and investment arm, the General Electric Capital Corporation, has agreed to buy 28 complexes with a total of 5,959 units in four Texas cities and six cities outside Texas—at a price estimated at nearly 50 percent of market value.

MANDATED BY CONGRESS

Such discounts are meant to encourage sales of apartment complexes with limited rent controls under an affordable-housing program, mandated by Congress two years ago, to provide apartments and houses at prices the working poor can afford and without requiring the Government to pay for public housing.

In fact, in the portion of the program involving single-family homes, relatively few residences appear to have gone to the poor. But in the separate apartment program, a further complication emerges. Big investors, including General Electric, have figured out ways to obtain whole complexes and make hefty profits by adhering to the letter, if not the spirit, of the new law.

Critics contend that the Government is selling far more of its apartment complexes to for-profit investors than to nonprofit organizations whose primary mission is to help provide proper housing for the poor.

Moreover, they say, a plan by General Electric and other large buyers to lump the low-income units together and segregate them from the rest will inevitably create slums of the future.

Resolution Trust denies it is discriminating against lower-income groups in the apartment sales but it also says it has a duty to realize as much money within the bounds of the law as possible to minimize the costs of the savings and loan bailout.

The General Electric purchase, seen by investors as the model for future deals with Resolution Trust, is part of the first major package of apartments put out for bid under the agency's affordable-housing program. The package has 193 Texas apartment complexes, built originally by private developers and foreclosed on by the Government.

GOING TO LARGE BUYERS

Of that batch, more than 100 received no bids, and the largest number of the rest are being sold in bulk to large buyers, whom the trust corporation declines to identify. A number of other complexes, some too small to attract big investors, are being purchased by nonprofit agencies.

With a cost estimated at $75 million, the General Electric deal is the largest real estate transaction negotiated by the trust corporation not only in the affordable-housing program, but in sales of all property taken over in the savings and loan crisis. It exceeds the $65 million sale in March of a Palm Springs hotel to a group of Japanese investors and the $44 million sale of the Centrust building in Miami last month.

By agreeing to set aside apartments for low-income tenants and by buying in bulk, General Electric gets 40 to 50 percent taken off the purchase price—a far steeper discount than General Electric would have received if it had bought the same complexes outside the trust corporation's affordable-housing program. This discount reduces the amount the Government will get back to trim the costs of the savings and loan bailout.

THE CRITICS: SEGREGATING THE POOR

Advocates of low-income housing contend that the General Electric arrangement is not socially sound or, in the long run, economically beneficial to the taxpayer.

They say the company's plan to segregate—"aggregate" in real estate parlance—poor residents into a few of the complexes miles away from the others runs counter to the policy goal of mixing low-income families with other income levels in the same complexes to provide what is regarded as a generally healthier community mix.

"The big players are making some great real estate deals, and in five years what they will have done for affordable housing is zilch," said James Ervin, a consultant to the Volunteers of America, one of the nation's largest nonprofit corporations. "This loophole allows private developers to sneak to the front of the line, pull out the cream properties, throw the rest back and create new slums."

Charles B. Gough, a consultant to the Dallas Housing Authority, said: "I don't believe aggregating affordable-housing tenants is the intent of the law."

G.E. DEFENDS PROPOSAL

General Electric and the trust corporation disagree, contending the plan is both necessary and legal. Brown Thurman, a G.E. special projects manager who represented the company in the transaction, said: "The R.T.C. needs to have flexibility, or I won't bid. I will provide housing for the low income, but don't tie my hands. We're here to make a profit. If you restrict me as to what I can do and cannot do. I may or may not want to play."

Stephen S. Allen, head of the trust corporation's affordable-housing program, agreed on the importance of flexibility and aggregation.

"Aggregation," he said, "is permitted in the law. We'll be at this forever if we sell assets one by one. Our goal is to get a range of services to sell in bulk."

Yet the law permits only the big buyers to "aggregate." Buyers of just one apartment complex are specifically required to scatter low-income tenants throughout all buildings in that complex and not relegate them to a single building. The ability to aggregate was specifically put into the law to entice large private investors to buy properties in bulk to help move Resolution Trust's assets quickly, Mr. Allen said.

Based on the numbers, Texas real estate experts said General Electric could expect an annual operating return of 13 to 15 percent under current market conditions—a return regarded as excellent in the current market.

This compares with the return of 8 percent to 10 percent investors are receiving on similar apartment complexes bought without the large discount. Should rents rise, G.E. could earn as much as 15 to 18 percent.

Under aggregation, a buyer can quickly sell the complexes unencumbered by rent controls to another buyer for an immediate profit. In G.E.'s case, the company may further reduce its commitment to low-income housing and improve its return through a plan to sell the rent-controlled complexes to a nonprofit agency, which is trying to raise about $27.6 million to buy the units from G.E.

One of the reasons General Electric is able to bid on this deal is that it is a sophisticated, well-capitalized company with deep pockets. Resolution Trust is providing seller financing for many of its commercial properties but so far little in the affordable-housing program. In the Texas package, it accepted only all-cash Texas package, it accepted only all-cash offers. The net effect, according to Mr. Thurman of G.E., is that "only those with money can play."

OBSTACLES: TOUGH GOING FOR AGENCIES

Though Resolution Trust says it is working to improve the program, the nonprofit groups say that doing business with it has thus far been tough going, indeed. Of the few nonprofit groups that have managed to buy in, many have found that the agency has driven such hard financial bargains that they cannot fill their units with the extremely poor, as they would like, and still cover their debts.

"You can't house the homeless and pay a mortgage," said Louis Kurtz, housing development director at the Austin-Travis County Mental Health Center, which has purchased two small properties. "If the R.T.C. were committed to housing the homeless, that would be reflected in the purchase price."

Mr. Gough, the consultant, is currently bidding on a 280-unit complex and a 296-unit complex for the Dallas Housing Authority. He said he would like to fill his units with more than 35 percent low-income people, which he would not aggregate, but cannot unless some Government agency provides rent subsidies. No such money is currently available.

He estimates that it will cost $250 to $275 a month to cover the operating costs on each of his units. That is nearly $200 a month more than the average rent paid by tenants in Dallas public housing. "There is no way that I can fill 20 percent of the complex with very-low-income tenants," Mr. Gough said.

50 TRIES, NO DEALS

One agency that has had a particularly difficult time is the Volunteers of America, the nation's 22d-largest charity, founded nearly a century ago to provide housing to the poor. After two years of trying to buy some 50 trust corporation properties, it has been unable to close a single deal.

The organization says it has had financing problems and, in many cases when it finally learned what properties were available, the properties were no longer in the program for some reason—or were not yet available for sale.

"We see this as a large opportunity to take care of housing for a large number of people," said Mr. Ervin, the Volunteers consultant. "But we've got limited resources."

Volunteers has tried to persuade the R.T.C. to help provide financing to buyers in the affordable-housing program by submitting a bid one some properties in the Texas package but with a second mortgage provided by the R.T.C.

The organization reasoned that the law required the trust corporation to provide financing to nonprofit buyers. But Resolution Trust turned down the bid.

"Affordable housing is the law," Mr. Ervin said. "It's a commitment from Congress and there should be an emphasis on making sure that what is the intention of the law occurs, and that's not happening. The R.T.C.'s job is to create affordable housing, not to find ways not to allow it."

FINANCING: PROGRAM PLANNED TO AID AGENCIES

Resolution Trust says it is working with the Federal National Mortgage Association to develop a financing program that will help the nonprofit groups. Resolution Trust's Oversight Board has now adopted a policy allowing the agency to offer financing to nonprofit agencies with as little as a 5 percent down payment.

Still, although financing is important, the nonprofit groups said it could not alone solve all their problems with Resolution Trust.

Mr. Kurtz of the Travis County Mental Health Department has $2.5 million in foundation grants to buy apartment complexes for his clientele—whose average income is about 17 percent of the area's median, or about $400 a month. The department has purchased 129 individual Austin apartments in eight locations on the open market.

But the Mental Health Department has also purchased one 20-unit apartment complex for $192,000 from Resolution Trust and has bid $320,000 for a 26-unit Austin complex. In the first case, Mr. Kurtz bid 85 percent of the agency's asking price, in the second one, 87 percent, hardly great discounts in his opinion.

Mr. Kurtz said he was not prepared for just how slow and confusing the process of buying would be. When he tried to submit a letter of intent to make a bid, the trust corporation asked him to get a resolution from his board authorizing him to look at the property.

Another resolution was needed to authorize him to bid. Another was needed to prove the agency was nonprofit. After Mr. Kurtz tried to submit the bid, he said he had to register with the trust corporation in order to do so. Then, after he thought he had a contract, the agency lost his down-payment check. A file clerk eventually found it.

To get information on other properties in the area, Mr. Kurtz said he had to know the name of the failed savings and loan that had owned the property.

Once his first bid was submitted, he said no one at the trust corporation could tell him whether it was accepted. And when he wanted to buy a second property, Mr. Kurtz could not resubmit some of the identical documents from the first time, but had to start all over again.

"It's driving me crazy," he said.

Nor, in Mr. Kurtz's opinion, did he get any break on price for his troubles. And, after bidding on the two properties, he saw an ad placed by Resolution Trust in The New York Times for a property next door to one he was buying that was better designed for his mentally ill tenants.

When he called the broker, he found that the property had already passed through the 90-day window during which properties are set aside exclusively for buyers agreeing to the affordable-housing restrictions and that some 10 investors had already put in bids.

Mr. Allen of Resolution Trust said things are getting better. "I don't think our procedure is bureaucratic or has a lot of red tape," he said, "and we are looking at ways the process can be improved."

But Mr. Kurtz remains skeptical. "I go to homeless conferences, and I see the faces of R.T.C. people there," Mr. Kurtz said, "But the R.T.C. is doing nothing to house the homeless."

[From the New York Times, June 27, 1991]

G.E. SEEKS TO SELL TO AGENCY BUILDINGS SET ASIDE FOR POOR

The General Electric Company has negotiated what critics say will be a highly profitable deal with the Government by taking advantage of a housing program intended to help the poor.

The company is now trying to reduce its initial costs even further. It is seeking $26.6 million in financing for a nonprofit agency it has selected as a business partner.

The partner would buy 12 apartment complexes from General Electric that G.E. has agreed to buy from the Government. These units would be set aside in a segregated area designed for low-income tenants.

That agreement is part of G.E.'s overall package in which the company gets 28 apartment complexes at a price said to be substantially below market value.

The nonprofit agency is the National Center for Housing Management, an organization in Washington that trains personnel to run low-income housing but which has little experience in managing such housing. An intermediary, the Salisbury Capital Corporation of New York, has approached the Texas

Housing Authority to issue $27.6 million in tax-exempt bonds to finance the deal.

The housing authority is cool to the idea. Sources in the authority cite the nonprofit agency's lack of direct experience. The authority is also said to suspect that Salisbury has overestimated the revenue to be earned and believes the plan is really intended to shift General Electric's risk on the low-income properties to the authority and bondholders.

No one at Salisbury, the National Center or G.E. would comment.•

By Mr. DASCHLE:

S. 1438. A bill to provide for international negotiations to seek increased equity in the sharing by foreign countries of the costs of maintaining military forces of the United States in such countries; to the Committee on Armed Services.

DEFENSE BURDEN SHARING

Mr. DASCHLE. Mr. President, this afternoon I am introducing legislation that asks America's military allies to share in the cost of their own defense.

This bill is similar to an amendment authored by my friend, Congressman BYRON DORGAN, and adopted by the House of Representatives in May. It asks three things: First, that the President negotiate cost-sharing agreements with our military allies to offset American tax dollars spent for their defense; second, that a fund be established into which other nations may contribute if the President is able to negotiate burden-sharing agreements with them; and third, that the administration provide Congress with an accounting of allied contributions—whether in cash or in kind—to that fund.

That is all, Mr. President. We simply want our allies to pay their fair share of our mutual defense costs; we want the President to initiate negotiations designed to achieve a more equitable distribution of those costs; and we want a clear accounting of allied contributions to this effort. This legislation says only that, 40 years after America rebuilt Europe, at a time when Japan and the European Economic Community is prospering and American workers and their Government are sorely pressed, the nations we have defended, and continue to defend, should be asked to contribute more to their own defense.

This bill does not target specific countries or amounts. It simply gives the President the authority and, frankly, the motivation to move forward and negotiate agreements to provide for the defense of those nations in a more realistic and equitable manner.

Throughout the 20th century, the United States has demonstrated its willingness to assert a leadership role in the world in defense of liberty and democratic principles. In turn, our allies have enjoyed the security of the U.S. defense umbrella. While this arrangement has served the interest of freedom and democracy well, the changing international environment dictates a fundamental reassessment of the nature of our Nation's defense relationships with our allies.

We have 395 bases in 35 different countries. We spend $28 billion a year overseas in direct costs for the defense of our allies. And, the indirect cost of that defense has been estimated at well over $100 billion.

The European members of NATO collectively have a gross national product greater than that of the United States. Despite that economic power, which will undoubtedly grow after the European Community is formally united in 1992, the people of the United States continue to spend more on NATO defenses than the other 15 alliance members combined.

Is that fair?

During Operation Desert Shield/Desert Storm, President Bush and Secretary Baker asked a similar question. Is it fair for the United States to take on the burden all on our own? And with unanimity within and without the administration, in this Congress, we said no; if we are going to commit ourselves to activity within the Persian Gulf it must be a shared responsibility. So too now, Mr. President, we must ask our allies for that shared responsibility.

During Operation Desert Shield/Desert Storm, President Bush and Secretary Baker skillfully constructed an alliance that included not only joint forces and a unified command, but also payments from the members of that alliance to a mutual defense cooperative fund that was used to prosecute the gulf war. The cooperation achieved during the gulf war has shown us that burden sharing can work. It is time to establish a more formal mechanism to promote such burden sharing arrangements in other parts of the world as well. Without such a mechanism, burden sharing will remain more rhetoric than reality.

To continue to grow and prosper, our alliances must recognize the changing international environment and the mutual burden that a regional defense pact should entail. The United States can no longer afford to defend the world alone. We have borne that burden far longer than any people should. It has cost us dearly, and frankly, it is not fair.

America will never shirk its international responsibilities. We believe too strongly in freedom and in peace. But America must now ask those to whom we have given so freely for so long to begin to share in the responsibility.

That is all this legislation seeks. It prepares us for a more equal partnership with our allies and a better understanding of the level of commitment that friends have toward each other. It is the least we can ask from our allies and for the American taxpayer.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1438

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFENSE OFFSET PAYMENTS.

(a) DEFENSE COST-SHARING AGREEMENTS.—The President shall consult with foreign nations to seek to achieve, within six months after the date of the enactment of this Act, an agreement on proportionate defense cost-sharing with each foreign nation with which the United States has a bilateral or multilateral defense agreement. Each such defense cost-sharing agreement should provide that such nation agrees to share equitably with the United States, through cash compensation or in-kind contributions, or a combination thereof, the costs to the United States of maintaining military personnel or equipment in that nation or otherwise providing for the defense of that nation.

(b) CONSULTATIONS.—In the consultations conducted under subsection (a), the President should make maximum feasible use of the Department of Defense and of the post of Ambassador at Large created by section 8125(c) of the Department of Defense Appropriations Act, 1989 (10 U.S.C. 113 note).

(c) ALLIES MUTUAL DEFENSE PAYMENTS ACCOUNTING.—The Secretary of Defense shall maintain an accounting for defense cost-sharing under each agreement entered into with a foreign nation pursuant to subsection (a). Such accounting shall show for such nation—

(1) the amount of cost-sharing contributions agreed to;

(2) the amount of cost-sharing contributions delivered to date;

(3) the amount of additional contributions of such nation to any commonly funded multilateral programs providing for United States participation in the common defense;

(4) the amount of contributions made by the United States to any such commonly funded multilateral programs;

(5) the amount of the contributions of all other nations to any such commonly funded multilateral programs; and

(6) the cost to the United States of maintaining military personnel or equipment in that nation or otherwise providing for the defense of that nation.

(d) REPORTING REQUIREMENTS.—(1) Not later than 180 days after the date of the enactment of this Act, and each 180 days thereafter, the President shall submit a report, in classified and unclassified form, to the appropriate committees of the Congress concerning efforts and progress in carrying out the provisions of subsections (a) and (b).

(2) Not later than 180 days after the date of the enactment of this Act, and each 180 days thereafter, the Secretary of Defense shall submit to the appropriate committees of the Congress a report containing the accounting of defense cost-sharing contributions maintained pursuant to subsection (c).

By Mr. JOHNSTON:

S. 1439. A bill to authorize and direct the Secretary of the Interior to convey certain lands in Livingston Parish, LA; to the Committee on Energy and Natural Resources.

LIVINGSTON PARISH LAND EXCHANGE

• Mr. JOHNSTON. Mr. President, today, I join my distinguished colleague Representative RICHARD BAKER, Baton Rouge, in sponsoring legislation to aid a group of Livingston Parish residents in a long running dispute with the Federal Government over the legal ownership of the residents property.

The dispute involves a 640 acre tract of land which has been occupied as private property since prior to the Louisiana Purchase nearly 200 years ago.

The U.S. Interior Department's Bureau of Land Management has maintained that because no records exist transferring title to the land to private ownership at the time of the Louisiana Purchase, the area technically remains the property of the Federal Government.

Citing possible Federal mineral interests in the tract, the agency has blocked efforts by land holders to obtain patents that would establish legal ownership of the property.

The legislation introduced today would direct the Department of the Interior to formally convey the property to the occupants, while allowing the Department to retain mineral rights.

The failure of the Federal Government to acknowledge the private ownership of this land has caused tremendous and unnecessary legal burdens for the families who are affected. It is simply not fair these citizens continue to be haunted by some technical oversight that may have occurred some 200 years ago.

As chairman of the Senate Committee on Energy and Natural Resources I am committed to enactment of this measure this year. I strongly urge your support.●

By Mr. BRADLEY:

S. 1440. A bill to establish a National Scenic Coastal Area System; to the Committee on Commerce, Science, and Transportation.

NATIONAL SCENIC COASTAL AREA SYSTEM ACT

● Mr. BRADLEY. Mr. President, I rise today to introduce the National Scenic Coastal Area System Act. This legislation is designed to help coastal towns to plan for a future that preserves the unique features of their environment. This bill will provide a way by which scenic coastal areas can be managed as living landscapes where private ownership, existing communities, and established land uses can be maintained, even as outstanding public values are protected.

Mr. President, for the past three or four years, we have had underway in New Jersey "National Wild and Scenic River" studies—for the Great Egg River on the Atlantic coast and the Maurice, Manumuskin, and Menantico Rivers off the Delaware Bay.

In both cases, local communities came to the Congress asking for help. We passed a law and asked the National Park Service to assist local planners in studying these areas. The efforts allowed local communities to organize, with Federal help, and to begin the process of identifying and protecting unique river resources.

In one case, the Great Egg, the local communities have more or less coalesced and developed a comprehensive management plan. In the other case, there has been less harmony. But in both cases, the process itself has focused the debate on the ecological and cultural values of the rivers and their futures. The Wild and Scenic River program brought local communities together to debate and decide their own futures.

Mr. President, unique coastal communities should have some of the same opportunities. Often, in any growing town or area, there are natural and cultural values at risk. If there is an interest at the local level in protection or preservation, we should be able to lend a helping hand. The legislation that I am introducing today, the National Scenic Coastal Area System bill, would offer an outstretched hand. When you live in a coastal area, you are the most aware of special qualities—unique scenic vistas, a pattern of development that was sensitive to the ocean environment unique natural habitat, an historic quality, and so forth. And in most cases, the protection of these special qualities will depend on the local citizens. For these communities, this bill would:

First, give local citizens a goal to shoot for—designation as a National Scenic Coastal Area;

Second, give them Federal assistance for planning or management;

Third, assist them in the actual protection of the land; for example, the bill encourages the development of locally controlled land trusts which could acquire critical lands or easements by purchase from willing sellers or donations;

Fourth, pledge the Federal Government to live by an approved management plan; for example, there would be no Federal assistance for roads, dredging, or dredge spoil disposal that was incompatible with the local plan; and

Fifth, recognize the area as a National Scenic Coastal Area.

What communities would be able to apply for this assistance? The bill provides for the Secretary of the Interior to establish guidelines which will lay out the specifics of who can quality and how to apply for assistance. However, it is my intention to encourage the broadest participation. My legislation does not target only undeveloped windswept ocean beaches. It is not a replacement for wildlife refuges or state parks or national seashores. Rather, it is a complement to these programs.

My bill will use a broad brush. For instance, I hope this legislation to reach out to coastal communities in the Delaware Bay that have developed amongst the beautiful and spectacularly productive salt water marshes. Places like Reeds Beach and Pierces Point are surrounded by critical wetlands. Another example of what should be included is that classic expression of family recreation—the boardwalk—which represents another important ocean scene. In a community like Ocean City, NJ, where generations have strolled the wooden boardwalk at dawn or dusk, there is a living metaphor for family values and American history. How does a community preserve boardwalk scenery and the village atmosphere? These towns are under enormous pressure to increase density, put up the highrises, raze the older houses to make way for the new. We are not going to stop growth but, perhaps, we can ensure that such growth does not compromise the unique scenic values that attract us in the first place.

Mr. President, consider an island on the New Jersey shore called Long Beach Island. It is a beautiful stretch of Atlantic seashore. A recently completed Army Corps dredging project has left many local citizens concerned about side effects that might be destroying their beaches. A large jetty, the citizens maintain, is stopping the normal flow of sand down the coast. The outcome that they see is a shrinking barrier island. Under my legislation, this island could potentially become a national scenic coastal area. If so, this Federal project could not go forward unless it was reviewed and found compatible with plans to protect the island. Right now, the citizens know only that the project is complete and their beach is shrinking. No one has proved cause and effect. But, clearly, the best time to raise these issues and resolve them is before the project is underway. When our most fragile ocean areas are at risk, and already protected by the communities themselves, my legislation will force the Federal Government to have the same level or concern and caution. It is not just the caricature of a greedy developer that can destroy a coast line. The Federal Government, perhaps inadvertently, can do the same.

I emphasize for my colleagues that his is not a Federal Government—strong arm bill. There is no Federal condemnation authority. It is not a no growth plan, either, although it might shift local priorities and development plans. This legislation will help local coastal communities consider their future and act, if they wish, to protect the seashore qualities that they value most, even as these communities continue to grow, expand, evolve.

I ask unanimous consent to have the text of the bill printed following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1440

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Scenic Coastal Area System Act".

SEC. 2. FINDINGS.

(a) Findings.—The Congress finds that—

(1) the Nation's coasts provide important recreational opportunities for increasing numbers of Americans;

(2) pressures associated with increasing human populations near the coasts, including pollution and uncoordinated development, threaten coastal lands and waters and diminish their recreational and scenic values; and

(3) traditionally, coastal areas of national significance have been given a degree of protection through direct public acquisition and management as national parks, seashores, and wildlife refuges, but protection by such means is costly and needlessly excludes compatible uses of the coastal area that often are an integral or defining part of the coastal landscape.

(b) Purposes.—The purposes of this Act are—

(1) to establish a system of scenic coastal areas of regional or national significance protected through a partnership of local, State, and Federal governments;

(2) to encourage local efforts to protect scenic coastal areas through innovative means, including the use of land trusts, conservation easements, and other cooperative mechanisms;

(3) to increase the cost-effectiveness of efforts to conserve coastal resources by providing an alternative to reliance on public acquisition and Federal management; and

(4) to provide a mechanism by which scenic coastal areas can be managed as living landscapes in which private ownership, existing communities, and established land uses can be maintained, even as outstanding public values are protected.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) the term "coast" means a shoreline border of a State on the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, one of the Great Lakes, and their adjacent or connecting sounds, bays, harbors, roadsteads, shallows, marshes, lagoons, bayous, ponds and estuaries;

(2) the term "coastal lands" means lands extending landward from a coast, including waters lying in or flowing through such lands;

(3) the term "coastal waters" means waters extending seaward of a coast, including islands lying therein;

(4) the term "land trust" means an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation pursuant to section 501(a) of the Code and that is organized for the purpose of acquiring lands and interests in land in a scenic coastal area and holding and managing such lands and interests in land in trust for the benefit of the public;

(5) the term "scenic coastal area" means a scenic coastal area designated as such by enactment of a law described in section 8(b)(2);

(6) the term "scenic coastal area commission" means a scenic coastal area commission established under section 7;

(7) the term "Secretary" means the Secretary of the Interior;

(8) the term "State" includes a State of the United States, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, the Trust Territories of the Pacific Islands and American Samoa; and

(9) the term "system" means the National Scenic Coastal System established by section 3(a).

SEC. 4. ESTABLISHMENT OF SYSTEM.

(a) In General.—There is established the National Scenic Coastal Area System, comprised of scenic coastal areas, which shall be administered by the Secretary.

(b) Regulations.—The Secretary shall by regulation—

(1) designate an office in the Department of the Interior that will be responsible—

(A) for providing assistance to State and local governments pursuant to section 5(a);

(B) reviewing proposed coastal area plans pursuant to section 9(b);

(C) reviewing applications for cost-sharing grants pursuant to section 10; and

(D) monitoring the implementation of scenic coastal area plans; and

(2) specify criteria for the designation of scenic coastal areas that encourage biogeographic diversity and the representation of regionally and nationally important coastal landscapes within the system.

SEC. 5. ADVISORY AND TECHNICAL ASSISTANCE.

(a) Assistance in Preparation of Preliminary Studies.—The Secretary shall provide advisory and technical assistance to a unit of State or local government or a scenic coastal area commission in the preparation of a preliminary study required by section 7 and in the preparation of a scenic coastal area plan required by section 9.

(b) Threshold Showing.—Before committing resources to the rendering of assistance in the preparation of a preliminary study, the Secretary may require a threshold showing that—

(1) a proposed scenic coastal area possesses attributes that warrant protection under this Act; and

(2) there is a reasonable amount of local public support for the conduct of a study to determine whether the area should be designated as a scenic coastal area.

SEC. 6. PUBLIC PARTICIPATION.

(a) In General.—A preliminary study described in section 7 and a scenic coastal area plan described in section 9 shall be conducted with full public participation, in accordance with such requirements as the Secretary may prescribe to ensure that all interested persons have ample opportunity to make their interests known.

(b) Notice and Hearing.—Public participation under subsection (a) shall include—

(1) actual notice to each landowner in the proposed scenic coastal area and reasonable public notice to residents of the vicinity of the proposed scenic coastal area; and

(2) live hearings and opportunity to submit evidence and written comment.

SEC. 7. PRELIMINARY STUDIES.

(a) In General.—The process of designating a scenic coastal area shall begin with a preliminary study by a unit of State or local government or a scenic coastal area commission pursuant to this subsection.

(b) Purposes.—The purposes of a preliminary study shall be to obtain—

(1) a description of the specific significant archaeological, biological, historical, wilderness, recreational, or other values possessed by the proposed scenic coastal area that warrant protection under this Act;

(2) a map of the proposed scenic coastal area; and

(3) an assessment of the local public support of and opposition to the proposed designation; and

(4) an assessment of the prospects of producing a scenic coastal area plan that satisfies the requirement of section 9(a), including a detailed description of—

(A) the specific public benefits, such as water access, scenic views, improved fisheries, and increased tourism that are anticipated; and

(B) the methods of protection, such as the use of land trusts, zoning, and easements, that would primarily be used.

(c) Further Action.—(1) The findings of a preliminary study and recommendation for further action shall be submitted to the Governor and legislature of the State in which the proposed scenic coastal area is located.

(2) The Governor of the legislature of a State, as State law may allow, shall make a determination whether to nominate a scenic coastal area for inclusion in the system, and to proceed with preparation of a scenic coastal area plan in support of the nomination.

SEC. 8. SCENIC COASTAL AREA COMMISSIONS.

(a) In General.—A coastal area plan for a nominated scenic coastal area shall be prepared and implemented by or under the guidance of a scenic coastal area commission established for the purpose of preparing and implementing a coastal area plan for a single scenic coastal area or for a group of scenic coastal areas.

(b) Establishment.—(1) A scenic coastal area commission may be established by action of the Governor, legislature, or other unit of State or local government that, under either general or specific authority of State law, has power to establish such a commission.

(2) The members of a scenic coastal area commission shall include—

(A) at least 1 representative of the State agencies with responsibility for parks or the environment;

(B) at least 1 representative of the State agenices with responsibility for planning, transportation, or costal zone management;

(C) at least 1 representative of the governments of the country, city, town, and other jurisdictions in which the nominated scenic coastal area is situated;

(D) 1 representative of a land trust that operates within the area of the nominated scenic coastal area;

(E) at least 2 representatives of residents of the vicinity of the nominated scenic coastal area, who are not local government officials, appointed by the Governor of the State in which a nominated scenic coastal area is located; and

(F) 1 representative of each Federal agency that manages land in the nominated scenic coastal area, appointed by the head of the agency.

(3) Members of a scenic coastal area commission shall be appointed for renewable terms of 3 years, except that in the initial appointment of members, one-third of their number shall be appointed from terms of 1 year and one-third of terms of 2 years.

(c) Duties.—The duties of a scenic coastal area commission are to—

(1) prepare and review a scenic coastal area plan pursuant to section 9;

(2) act as the lead management agency for the scenic coastal area;

(3) monitor and facilitate implementation of the scenic coastal area plan;

(4) interpret and apply the scenic coastal area plan in light of changing circumstances;

(5) ensure that there is continued public participation in the administration of the scenic coastal area;

(6) work to ensure that the scenic coastal area plan is follwed by landowners and local governments;

(7) exercise authority to carry out land use and conservation planning (including authority to administer zoning and permit programs); and

(8) coordinate management and development of the scenic coastal area among Federal, State, and local governments.

SEC. 9. SCENIC COASTAL AREA PLANS.

(a) IN GENERAL.—A scenic coastal area commission, in consultation with Federal, State, and local agencies with land management responsibilities and with public participation as described in section 6, shall prepare a scenic coastal area plan for a nominated scenic coastal area that—

(1) defines the boundaries of the coastal lands and coastal waters that are to be included in the scenic coastal area;

(2) describes the specific significant archaeological, biological, historical, recreational, scenic, wilderness, or other values that the scenic coastal area possesses that warrant protection under this Act;

(3) assesses the condition of the lands and waters in the scenic coastal area and of indigenous populations of shellfish, fish, wildlife, plants, and their habitats;

(4) describes the protections that are afforded to the lands, waters, and wildlife in the proposed scenic coastal area under existing Federal, State, and local law;

(5) describes the benefits to the public, such as increased recreational opportunities, and the anticipated effect on the State and local economy including benefits such as increased tourism and detriments such as restrictions on business activity, that its designation as a scenic coastal area and management under the scenic coastal area plan would cause;

(6) prescribes measures to be taken to preserve its values, achieve the anticipated benefits of its designation, and minimize any adverse effects that may result from its designation as a scenic coastal area;

(7) states the scientific and other information that supports the identification of the values of the proposed scenic coastal area and the approach taken in the plan to protect them;

(8) describes the roles of Federal, State, and local government and of the private sector in implementing the scenic coastal area plan, including recommendation of any changes in law and any government or private funding that may be necessary to implement the scenic coastal area plan;

(9) makes recommendations, including a statement of objectives, policies, and priorities to guide public and private land use decisions and public acquisition of land and interests in land in the scenic coastal area;

(10) describes the land and water uses that are permitted by State and local law in the scenic coastal area, and changes in the law that will accompany designation of the scenic coastal area, and the efforts that the State and local governments have made and will make to enforce any restrictions in land or water use that apply or will apply in the scenic coastal area;

(11) includes a map of the scenic coastal area that describes the land use restrictions that apply or will apply to each property in the scenic coastal area, unless that information can be clearly conveyed without the use of a map;

(12) certifies that the scenic coastal area commission has been authorized by State or local law to perform the functions of a scenic coastal area commission under this Act with respect to the coastal area, with a description of the existing or proposed personnel and facilities of the scenic coastal area commission;

(13) certifies that 1 or more land trusts have been established and can operate within the scenic coastal area; and

(14) describes the relationship between the scenic coastal area plan and the State's coastal zone management plan.

(b) SUBMISSION TO THE SECRETARY AND THE CONGRESS.—(1) A scenic coastal area commission shall submit a scenic coastal area plan to the Secretary of the Interior, who shall—

(A) approve the scenic coastal area plan and submit it to Congress; or

(B) return the scenic coastal area plan to the scenic coastal area commission with suggestion for modification or for additional research, public hearings, or other action that the Secretary determines are necessary before the scenic coastal area plan can be approved.

(2) A nominated scenic coastal area shall be included in the system upon enactment of a law approving a scenic coastal area plan submitted to the Congress pursuant to paragraph (1)(A).

SEC. 10. GRANTS.

The Secretary may make grants to pay up to 50 percent of the following costs:

(1) The direct costs to a State or local government or a scenic coastal area commission in the preparation of a scenic coastal area plan.

(2) The direct transaction costs, such as the costs of surveys, appraisals, and title searches, to a donor in making and a State or local government or a land trust in accepting a donation of land or an interest in land in a scenic coastal area consistent with a scenic coastal area plan.

(3) The costs of a State or local government or at land trust in purchasing land or an interest in land in a scenic coastal area and managing it in accordance with a scenic coastal area plan.

(4) The costs of constructing and maintaining, consistent with a scenic coastal area plan—

(A) scenic overlooks on highways in or overlooking a scenic coastal area; and

(B) road access to a scenic coastal area and to public facilities therein.

SEC. 11. RESTRICTION ON FEDERAL ACTIONS.

No department, agency, or instrumentality of the United States shall make an expenditure or take an action with respect to land or an interest in land, in a scenic coastal area, including the acquisition of land or an interest in land, unless the activity for which the expenditure is made or the action is consistent with the scenic coastal area plan for the scenic coastal area.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of the Interior—

(1) $20,000,000 for fiscal year 1993, $25,000,000 for fiscal year 1994, and $40,000,000 for fiscal year 1995 for the making of grants under section 10; and

(2) such sums as are necessary to administer the system under this Act.

ADDITIONAL COSPONSORS

S. 21

At the request of Mr. CRANSTON, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 21, a bill to provide for protection of the public lands in the California desert.

S. 67

At the request of Mr. THURMOND, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 67, a bill to amend the Internal Revenue Code of 1986 to provide that service performed for an elementary or secondary school operated primarily for religious purposes is exempt from the Federal unemployment tax.

S. 68

At the request of Mr. THURMOND, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 68, a bill to amend title 10, United States Code, to authorize the appointment of chiropractors as commissioned officers in the Armed Forces to provide chiropractic care, and to amend title 37, United States Code, to provide special pay for chiropractic officers in the Armed Forces.

S. 140

At the request of Mr. WIRTH, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 140, a bill to increase Federal payments in lieu of taxes to units of general local government, and for other purposes.

S. 308

At the request of Mr. WOFFORD, his name was added as a cosponsor of S. 308, a bill to amend the Internal Revenue Code of 1986 to permanently extend the low-income housing credit.

S. 310

At the request of Mr. PELL, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 310, a bill to provide for full statutory wage adjustments for prevailing rate employees, and for other purposes.

S. 323

At the request of Mr. CHAFEE, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 323, a bill to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes.

S. 401

At the request of Mr. DOMENICI, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 401, a bill to amend the Internal Revenue Code of 1986 to exempt from the luxury excise tax parts or accessories installed for the use of passenger vehicles by disabled individuals.

S. 448

At the request of Mr. SYMMS, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 448, a bill to amend the Internal Revenue Code of 1986 to allow tax-exempt organizations to establish cash and deferred pension arrangements for their employees.

S. 473

At the request of Mr. DECONCINI, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 473, a bill to amend the Lanham Trademark Act of 1946 to protect the service marks of professional and amateur sports organizations from misappropriation by State lotteries.

S. 597

At the request of Mr. DODD, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 597, a bill to amend the Public Health Service Act to establish and expand grant programs for evaluation and treatment of parents who are abusers and children of substance abusers, and for other purposes.

S. 612

At the request of Mr. WOFFORD, his name was added as a cosponsor of S. 612, a bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes.

S. 747

At the request of Mr. PRYOR, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 747, a bill to amend the Internal Revenue Code of 1986 to clarify portions of the Code relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 914

At the request of Mr. GLENN, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 914, a bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

S. 924

At the request of Mr. KENNEDY, the names of the Senator from New York [Mr. MOYNIHAN] and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 924, a bill to amend the Public Health Service Act to establish a program of categorical grants to the States for comprehensive mental health services for children with serious emotional disturbance, and for other purposes.

S. 1261

At the request of Mr. DOLE, the names of the Senator from New Hampshire [Mr. SMITH] and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 1261, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury excise tax.

S. 1270

At the request of Mr. MCCAIN, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 1270, a bill to require the heads of departments and agencies of the Federal Government to disclose information concerning U.S. personnel classified as prisoners of war or missing in action.

S. 1327

At the request of Mr. BINGAMAN, the names of the Senator from Texas [Mr. BENTSEN] and the Senator from Tennessee [Mr. SASSER] were added as cosponsors of S. 1327, a bill to provide for a coordinated Federal program that will enhance the national security and economic competitiveness of the United States by ensuring continued U.S. technological leadership in the development and application of national critical technologies, and for other purposes.

S. 1332

At the request of Mr. BAUCUS, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Georiga [Mr. NUNN], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of S. 1332, a bill to amend title XVIII of the Social Security Act to provide relief to physicians with respect to excessive regulations under the medicare program.

S. 1358

At the request of Mr. GRAHAM, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1358, a bill to amend chapter 17 of title 38, United States Code, to require the Secretary of Veterans Affairs to conduct a hospice care pilot program and to provide certain hospice care services to terminally ill veterans.

S. 1381

At the request of Mr. GRAHAM, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1381 a bill to amend chapter 71 of title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay concurrently with disability compensation.

S. 1383

At the request of Mr. MCCAIN, the names of the Senator from South Carolina [Mr. HOLLINGS] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1383, a bill to amend title 10, United States Code, to provide for payment under CHAMPUS of certain health care expenses incurred by members and former members of the uniformed services and their dependents who are entitled to retired or retainer pay and who are otherwise ineligible for such payment by reason of their entitlement to benefits under title XVIII of the Social Security Act because of a disability, and for other purposes.

S. 1398

At the request of Mr. REID, the names of the Senator from Missouri [Mr. BOND], the Senator from Iowa [Mr. HARKIN], the Senator from North Carolina [Mr. HELMS], the Senator from Hawaii [Mr. INOUYE], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1398, a bill to amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from certain rules for determining contributions in aid of construction.

S. 1426

At the request of Mr. WOFFORD, his name was added as a cosponsor of S. 1426, a bill to authorize the Small Business Administration to conduct a demonstration program to enhance the economic opportunities of startup, newly established, and growing small business concerns by providing loans and technical assistance through intermediaries.

SENATE JOINT RESOLUTION 8

At the request of Mr. BURDICK, the names of the Senator from Indiana [Mr. LUGAR], and the Senator from Utah [Mr. HATCH] were added as cosponsors of Senate Joint Resolution 8, a joint resolution to authorize the President to issue a proclamation designating each of the weeks beginning on November 24, 1991, and November 22, 1992, as "National Family Week."

SENATE JOINT RESOLUTION 78

At the request of Mr. BENTSEN, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of Senate Joint Resolution 78, a joint resolution to designate the month of November 1991 and 1992 as "National Hospice Month."

SENATE JOINT RESOLUTION 140

At the request of Mr. WARNER, the names of the Senator from Colorado [Mr. BROWN], and the Senator from Utah [Mr. HATCH] were added as cosponsors of Senate Joint Resolution 140, a joint resolution to designate the week of July 27 through August 2, 1991, as "National Invent America! Week."

SENATE JOINT RESOLUTION 141

At the request of Mr. WARNER, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of Senate Joint Resolution 141, a joint resolution to designate the week beginning July 21, 1991, as "Korean War Veterans Remembrance Week."

SENATE JOINT RESOLUTION 157

At the request of Mr. ROCKEFELLER, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Joint Resolution 157, a joint resolution to designate the week beginning November 10, 1991, as "Hire a Veteran Week."

SENATE JOINT RESOLUTION 173

At the request of Mr. DOLE, the names of the Senator from Washington [Mr. ADAMS], the Senator from Hawaii [Mr. AKAKA], the Senator from Alaska [Mr. STEVENS], and the Senator from Pennsylvania [Mr. WOFFORD] were added as cosponsors of Senate Joint Resolution 173, a joint resolution designating 1991 as the 25th anniversary year of the formation of the President's Committee on Mental Retardation.

SENATE JOINT RESOLUTION 174

At the request of Mr. GRAHAM, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of Senate Joint Resolution 174, a joint resolution designating the month of May 1992, as "National Amyotrophic Lateral Sclerosis Awareness Month."

SENATE RESOLUTION 116

At the request of Mr. ROTH, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from North Dakota [Mr. BURDICK], the Senator from Wisconsin [Mr. KASTEN], the Senator from Idaho [Mr. CRAIG], and the Senator from Nebraska [Mr. KERREY] were added as cosponsors of Senate Resolution 116, a resolution to express the sense of the Senate in support of Taiwan's membership in the General Agreement on Tariffs and Trade.

SENATE RESOLUTION 150

At the request of Mr. MOYNIHAN, the names of the Senator from Oregon [Mr. PACKWOOD], the Senator from Connecticut [Mr. DODD], the Senator from Ohio [Mr. GLENN], the Senator from Hawaii [Mr. AKAKA], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of Senate Resolution 150, a resolution expressing the sense of the Senate urging the President to call on the President of Syria to permit the extradition of fugitive Nazi war criminal Alois Brunner.

SENATE RESOLUTION 152—CHANGING MINORITY COMMITTEE APPOINTMENTS

Mr. DOLE submitted the following resolution; which was considered and agreed to:

S. RES. 152

Resolved, That the following Senator shall be added to the minority party's membership on the Committee on Foreign Relations for the One Hundred Second Congress or until their successors are appointed:

Mr. Jeffords.

AMENDMENTS SUBMITTED

VIOLENT CRIME CONTROL ACT

SIMON (AND KOHL) AMENDMENT NO. 520

Mr. SIMON (for himself and Mr. KOHL) proposed an amendment to the bill (S. 1241) to control and reduce violent crime; as follows:

Amend amdt. No. 518 (Thurmond) as follows:

In the first section (b)(B)(i)(I) insert after "literacy," "or in the case of an individual with a disability, achieves a level of functional literacy commensurate with his or her ability.".

In (b)(B)(iii) strike all after "appropriate education services" and insert in lieu: "and the screening and testing of all inmates for functional literacy and disabilities affecting functional literacy, including learning disabilities, upon arrival in the system or at the jail or detention center.".

Strike all of (b)(2)(D).

In (c)(2)(D) insert after "literacy" the following: "and the names and types of tests that were used to determine disabilities affecting functional literacy.".

BIDEN AMENDMENT NO. 521

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

Add at the end of the bill the following:

TITLE—CIVIL RIGHTS

SEC. 301. CIVIL RIGHTS.

(a) FINDINGS.—The Congress finds that—

(1) crimes motivated by the victim's gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for gender crimes committed on the street or in the home;

(3) State and Federal criminal laws do not adequately protect against the bias element of gender-motivated crimes, which separates these crimes from acts of random violence, nor do those laws adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests;

(4) existing bias and discrimination in the criminal justice system often deprive victims of gender-motivated crimes of equal protection of the laws and the redress to which they are entitled;

(5) gender-motivated violence has a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business and in places involved in interstate commerce;

(6) gender-motivated violence has a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products;

(7) a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse effects of gender-motivated violence on interstate commerce; and

(8) victims of gender-motivated violence have a right to equal protection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

(b) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any person, including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State, who commits a crime of violence motivated by gender and thus deprives another of the rights, privileges or immunities secured by the Constitution or laws as enumerated in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence, motivated by gender" means any crime of violence, as defined in paragraph (2), committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offense described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

SEC. 302. CONFORMING AMENDMENT.

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: ", or title III of the Violence Against Women Act of 1991,".

D'AMATO AMENDMENT NO. 522

(Ordered to lie on the table.)

Mr. D'AMATO submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . SHORT TITLE.

This amendment may be cited as the Money Laundering Improvements Act of 1991.

TITLE —FORFEITURE PROCEDURES IN MONEY LAUNDERING CASES

SEC. . JURISDICTION IN CIVIL FORFEITURE CASES.

(a) IN GENERAL.—Section 1355 of title 28, United States Code, is amended by designating the existing matter as subsection (a), and by adding the following new subsections:

"(b) (1) A forfeiture action or proceeding may be brought in the district court for the district in which any of the acts or omissions giving rise to the forfeiture occurred, or in any other district where venue for the forfeiture action or proceeding is specifically provided by section 1395 of this title or any other statute.

"(2) Whenever property subject to forfeiture under the laws of the United States is located in a foreign country, or has been detained or seized pursuant to legal process or competent authority of a foreign government, an action or proceeding for forfeiture may be brought as provided in paragraph (1), or in the United States District Court for the District of Columbia.

"(c) "In any case in which a final order disposing of property in a civil forfeiture action or proceeding is appealed, removal of the property by the prevailing party shall not deprive the court of jurisdiction. Upon motion of the appealing party, the district court or the court of appeals shall issue any order necessary to preserve the right of the appealing party to the full value of the property at issue, including a stay of the judgment of the district court pending appeal or requiring the prevailing party to post an appeal bond.".

SEC. . CIVIL FORFEITURE OF FUNGIBLE PROPERTY.

(a) Chapter 46 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 984. Civil Forfeiture of Fungible Property

"(a) This section shall apply to any action for forfeiture brought by the United States.

"(b) In any forfeiture action in rem in which the subject property is cash, monetary instruments in bearer form, funds deposited in an account in a financial institution, or other fungible property, it shall not be necessary for the government to identify the specific property involved in the offense that is the basis for the forfeiture, nor shall it be a defense that the property involved in such an offense has been removed and replaced by identical property. Except as provided in subsection (c), any identical property found in the same place or account as the property involved in the offense that is the basis for the forfeiture shall be subject to forfeiture under this section.

"(c) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be commenced more than one year from the date of the offense.

"(d) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be taken against an account of an agency or branch of a foreign bank (as such terms are defined in paragraphs 1 and 3 of section 1(b) of the International Banking Act of 1978) held in the United States at another financial institution where said agency or branch is not itself a party to the offense that is the basis for the forfeiture.".

(b) The amendments made by this section shall apply retroactively.

(c) The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

"984. Civil forfeiture of fungible property.".

SEC. . ADMINISTRATIVE SUBPOENAS.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"985. Administrative Subpoenas

"(a) (1) For the purpose of conducting a civil investigation in contemplation of a civil forfeiture proceeding under this title or the Controlled Substances Act, the Attorney General may—

"(A) administer oaths and affirmations;

"(B) take evidence; and

"(C) by subpoena, summon witnesses and require the production of any books, papers, correspondence, memoranda, or other records which the Attorney General deems relevant or material to the inquiry. Such subpoena may require the attendance of witnesses and the production of any such records from any place in the United States at any place in the United States designated by the Attorney General.

"(2) The same procedures and limitations as are provided with respect to civil investigative demands in subsections (g), (h), and (j) of section 1968 of title 18, United States Code, apply with respect to a subpoena issued under this subsection. Process required by such subsections to be served upon the custodian shall be served on the Attorney General. Failure to comply with an order of the court to enforce such subpoena shall be punishable as contempt.

"(3) In the case of a subpoena for which the return date is less than 5 days after the date of service, no person shall be found in contempt for failure to comply by the return date if such person files a petition under paragraph (2) not later than 5 days after the date of service.

"(4) A subpoena may be issued pursuant to this subsection at any time up to the commencement of a judicial proceeding under this section."

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code is amended by adding the following:

"985. Administrative Subpoenas."

SEC. . PROCEDURE FOR SUBPOENAING BANK RECORDS.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"986. Subpoenas for Bank Records

"(a) At any time after the commencement of any action for forfeiture brought by the United States under this title or the Controlled Substances Act, any party may request the Clerk of the Court in the district in which the proceeding is pending to issue a subpoena duces tecum to any financial institution, as defined in 31 U.S.C. 5312(a), to produce books, records and any other documents at any place designated by the requesting party. All parties to the proceeding shall be notified of the issuance of any such subpoena. The procedures and limitations set forth in section 985 of this title shall apply to subpoenas issued under this section.

"(b) Service of a subpoena issued pursuant to this section shall be by certified mail. Records produced in response to such a subpoena may be produced in person or by mail, common carrier, or such other method as may be agreed upon by the party requesting the subpoena and the custodian of records. The party requesting the subpoena may require the custodian of records to submit an affidavit certifying the authenticity and completeness of the records and explaining the omission of any records called for in the subpoena.

"(c) Nothing in this section shall preclude any party from pursuing any form of discovery pursuant to the Federal Rules of Civil Procedure."

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

"986. Subpoenas for Bank Records."

Title .—Money Laundering

SEC. . DELETION OF REDUNDANT AND INADVERTENTLY LIMITING PROVISIONS IN 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by striking "section 1341 relating to mail fraud) or section 1343 (relating to wire fraud) affecting a financial institution, section 1344 (relating to bank fraud),"; and

(2) by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207-51; 21 U.S.C. 857)" and inserting "section 422 of the Controlled Substances Act".

SEC. . USE OF GRAND JURY INFORMATION FOR BANK FRAUD AND MONEY LAUNDERING FORFEITURES.

Section 3322(a) of title 18, United States Code, is amended—

(1) by striking "section 981(a)(1)(C)" and inserting "section 981(a)(1)"; and

(2) by inserting "or money laundering" after "concerning a banking law".

SEC. . STRUCTURING TRANSACTIONS TO EVADE CMIR REQUIREMENTS.

(a) Section 5324 of title 31, United States Code, is amended—

(1) by designating the existing provisions as subsection (a);

(2) by adding at the end the following new subsection:

"(b) No person shall for the purpose of evading the reporting requirements of section 5316—

"(1) fail to file a report required by section 5316, or cause or attempt to cause a person to fail to file such a report;

"(2) file or cause or attempt to cause a person to file a report required under section 5316 that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any importation or exportation of monetary instruments.".

(b) CONFORMING AMENDMENT. Section 5321(a)(4)(C) of title 31, United States Code, is amended by striking "under section 5317(d)".

(c) FORFEITURE. (1) Section 981(a) of title 18, United States Code, is amended by striking "5324" and inserting "5324(a)"; and

(2) Section 5317(c) of title 31, United States Code, is amended by inserting after the first sentence the following: "Any property, real or personal, involved in a transaction or attempted transaction in violation of section 5324(b), or any property traceable to such property, may be seized and forfeited to the United States Government."

SEC. . DISCLOSURE OF GEOGRAPHIC TARGETING ORDER.

Section 5326 of title 31, United States Code, is amended by adding the following new subsection:

"(c) No finanical institution or officer, director, employee or agent of a financial institution subject to an order under this section may disclose the existence of or terms of the order to any person except as prescribed by the Secretary."

SEC. . CLARIFICATION OF DEFINITION OF FINANCIAL INSTITUTIONS IN 18 U.S.C. 1956 AND 1957.

(a) Section 1957(f)(1) of title 18, United States Code, is amended by striking "financial institution (as defined in section 5312 of title 31)" and inserting in lieu thereof "financial institution (as defined in section 1956)".

(b) Section 1956(c)(6) of title 18, United States Code, is amended by striking "and the regulations" and inserting in lieu thereof "or the regulations".

SEC. . DEFINITION OF FINANCIAL TRANSACTION IN 18 U.S.C. 1956.

Section 1956(c)(4)(A) of title 18, United States Code, is amended—

(1) by striking ", which in any way or degree affects interstate or foreign commerce," and inserting that same stricken language after "a transaction"; and

(2) by inserting after "monetary instruments" the following: ", or (iii) involving the transfer of title to any real property, vehicle, vessel, or aircraft,".

SEC. . OBSTRUCTING A MONEY LAUNDERING INVESTIGATION.

Section 1510(b)(3)(B)(i) is amended by striking "or 1344" and inserting in lieu thereof ", 1344, 1956, 1957, or chapter 53 of title 31 (31 U.S.C. 5311 et seq.)".

SEC. . AWARDS IN MONEY LAUNDERING CASES.

Section 524(c)(1)(B) of title 28, United States Code, is amended by inserting "or of sections 1956 and 1957 of title 18, sections 5313, and 5324 of title 31, and section 6050I of title 26, United States Code" after "criminal drug laws of the United States".

SEC. . PENALTY FOR MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by inserting at the end the following new subsection:

"(g) Any person who conspires to commit any offense defined in this section or section 1957 shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. . TECHNICAL AND CONFORMING AMENDMENTS TO MONEY LAUNDERING PROVISION.

(a) Paragraph (a)(2) and subsection (b) of section 1956 of title 18, United States Code, are amended by striking "transportation" each place it appears and inserting in lieu thereof "transportation, transmission, or transfer";

(b) Subsection (a)(3) of section 1956 of title 18, United States Code, is amended by striking "represented by a law enforcement officer" and inserting in lieu thereof "represented".

SEC. . PRECLUSION OF NOTICE TO POSSIBLE SUSPECTS OF EXISTENCE OF A GRAND JURY SUBPOENA FOR BANK RECORDS IN MONEY LAUNDERING AND CONTROLLED SUBSTANCE INVESTIGATIONS.

Section 1120(b)(1)(A) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3420(b)(1)(A)) is amended by inserting before the semicolon "or crime involving a violation of the Controlled Substance Act, the Controlled Substances Import and Export Act, sections 1956 or 1957 of title 18, sections 5313, 5316 and 5324 of title 31, or section 6050I of title 26, United States Code".

SEC. . DEFINITION OF PROPERTY FOR CRIMINAL FORFEITURE

Section 982(b)(1)(A) of title 18, United States Code, is amended by striking "(c)" and inserting "(b), (c)".

SEC. . EXPANSION OF MONEY LAUNDERING AND FORFEITURE LAWS TO COVER PROCEEDS OF FOREIGN VIOLENT CRIMES.

Sections 981(a)(1)(B) and 1956(c)(7)(B) of title 18, United States Code, are each amended by—

(1) inserting "(i)" after "against a foreign nation involving"; and

(2) inserting "or (ii) kidnapping, robbery, or extortion" after "Controlled Substances Act)".

SEC. . ELIMINATION OF RESTRICTION ON DISPOSAL OF JUDICIALLY FORFEITED PROPERTY BY THE TREASURY DEPARTMENT AND THE POSTAL SERVICE.

Section 981(e) of title 18, United States Code, is amended by striking "The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited."

SEC. . NEW MONEY LAUNDERING PREDICATE OFFENSES

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by deleting "or" before "section 16" and inserting ", or any felony violation of the Foreign Corrupt Practices Act (15 U.S.C. §78dd-1 et seq.)" before the semi-colon; and

(2) by inserting "section 1708 (theft from the mail)," before "section 2113".

Title .—Bank Secrecy and Right to Financial Privacy Amendments

SEC. . AMENDMENTS TO THE BANK SECRECY ACT.

(a) Section 5324 of title 31, United States Code, is amended by adding the words "or section 5325 or the regulations thereunder" after the words "section 5318(a)," each time they appear.

(b) Section 5318 of title 31, United States Code is amended by adding new subsections (g) and (h), as follows:

"(g)(1) The Secretary may prescribe that financial institutions report suspicious transactions relevant to possible violation of law or regulation.

"(2) A financial institution may not notify any person involved in the transaction that the transaction has been reported.

"(3) The provisions of section 1103(c) of the Right to Financial Privacy Act of 1978 (Title XI of Public Law 95-630, as amended, 12 U.S.C. 3403(c)) shall apply to reports of suspicious transactions under this section.

"(h) In order to guard against money laundering through financial institutions, the Secretary may require financial institutions to have anti-money laundering programs, including at a minimum, the development of internal policies, procedures and controls, designation of a compliance officer, an ongoing employee training program, and an independent audit function to test the program. The Secretary may promulgate minimum standards for such procedures.".

(c) Section 5321(a)(5)(A) of title 31, United States Code, is amended by adding "or any person willfully causing" after "willfully violates".

(d) Section 5322 of title 31, United States Code, is amended adding "or section 5318(g)(1)" after "under section 5315," each time it appears.

(e) Section 1829b(j)(1) of title 12, United States Code, is amended by adding "or any person who willfully causes such a violation" after "gross negligence violates".

(f) Section 1955 of title 12, United States Code, is amended by adding "or any person willfully causing a violation of the regulation" after "applies".

(g) Section 1957 of title 12, United States Code, is amended by adding "or willfully causes a violation" after "whoever willfully violates".

SEC. . AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT.

(a) Section 1103(a) of the Right to Financial Privacy Act of 1978, (Title XI of Public Law 95-630, as amended, 12 U.S.C. 3403(c)), is amended

(1) by deleting the words, "in this chapter";

(2) by removing the period at the end thereof and adding the following:

"or for refusal to do business with any person before or after disclosure of a possible violation of law or regulation to a Government authority. For purposes of this section, in addition to financial institutions under this chapter, the term "financial institution" includes any business defined as a financial institution in section 5312(a)(2) of Title 31, United States Code, that is required by the Secretary of the Treasury under section 5318(g) of Title 31, United States Code, to file a suspicious transaction report with the Secretary.".

(b) Section 1112 of the Right to Financial Privacy Act of 1978 (Title XI of Public Law 95-630, as amended, 12 U.S.C. 3412) is amended—

(1) in paragraph (f)(1), by adding the words "or Secretary of the Treasury" after words "Attorney General";

(2) in paragraph (f)(1)(A) by adding the words "and in the case of the Secretary of the Treasury, a money laundering violation or violation of Chapter 53 of title 31, United States Code" after the word "law";

(3) in paragraph (f)(2) adding the words "Department of the Treasury" after the words "Department of Justice"; and

(4) by adding a new subsection (g) as follows:

"(g) Financial records originally obtained by an agency in accordance with this chapter may be transferred to the Secretary of the Treasury for analysis and use by the Financial Crimes Enforcement Network ("FinCEN") for criminal law enforcement purposes without customer notice."

Mr. D'AMATO. Mr. President, I ask unanimous consent that an analysis of my amendment, No. 522, be printed in the RECORD.

SECTION ANALYSIS OF MONEY LAUNDERING IMPROVEMENTS ACT OF 1991

SECTION 101

Title 28, Section 1355, gives the district courts subject matter jurisdiction over civil forfeiture cases. The venue statutes for forfeiture actions provide for venue in the district in which the subject property is located, 28 U.S.C. §1395, or in the district where a related criminal action is pending, 18 U.S.C. §981(h). But no statute defines when a court has jurisdiction over *the property* that is the subject of the suit. *See United States* v. *23,481*, 740 F. Supp. 950 (E.D.N.Y. 1990). This omission has resulted in unnecessary confusion and repetitive litigation of jurisdictional issues, *see, e.g., United States* v. *10,000 in U.S. Currency*, 860 F.2d 1511 (9th Cir. 1988); *United States* v. *Premises Known as Lots 50 & 51*, 681 F. Supp. 309 (E.D.N.C. 1988), and results in the government's having to file multiple forfeiture actions in different districts in the same case in order to satisfy jurisdictional requirements.

This provision, styled as an amendment to 28 U.S.C. §1355, resolves these issues for all forfeiture actions brought by the government.

Subsection (b)(1) sets forth as a general rule that jurisdiction for an *in rem* action lies in the district in which the acts giving rise to the forfeiture were committed. This would be a great improvement over current law which requires the government to file separate forfeiture actions in each district in which the subject property is found, even if all of the property represents the proceeds of criminal activity committed in the same place. (For example, if a Miami-based drug dealer launders his money by placing it in bank accounts in six states, the government would have to institute six separate forfeiture actions under §981 to recover the money.)

Under the early *in rem* cases, jurisdiction was proper only in the district where the property was "located." *See Pennington* v. *Fourth National Bank*, 243 U.S. 269, 272 (1917). This doctrine has been substantially eroded in recent years; and at least one court has speculated that the "minimum contacts" test of *International Shoe* may have completely replaced the territoriality question as a basis for the court's *in rem* jurisdiction. *See United States* v. *$10,000 in U.S. Currency, supra*. In any event, to the extent that the doctrine remains viable, it has generated litigation over various issues, such as the "location" of money seized in one district and deposited in an account in another district during the pendency of the forfeiture action. *See United States* v. *$23,481*, 740 F. Supp. 950.

Subsection (b)(1) resolves these issues by providing that the court in the district where the acts giving rise to the forfeiture occurred has jurisdiction over the forfeiture action. The subsection also makes clear this provision is not intended to affect jurisdiction based on the venue-for-forfeiture statutes that Congress has previously enacted or may enact in the future. For example, 28 U.S.C. §1395 provides for venue wherever the property is located, and 18 U.S.C. §981(h) and 21 U.S.C. §881(j) provide for venue in a civil forfeiture case in the district where a related criminal prosecution is pending. Although they do not say so explicitly, those statutes apply not only to venue but also to jurisdiction, since it would make no sense for Congress to provide for venue in a district without intending to give the court in that district jurisdiction as well. *See* 130 Cong. Rec., daily ed., January 26, 1984, at S267 (statement of Senator Laxalt explaining venue-for-forfeiture provision in 21 U.S.C. §881(j)).

Subsection (b)(1) thus makes clear that these venue-for-forfeiture statutes also give the court in the relevant district jurisdiction over the defendant property even if the property was not seized in that district and is not located there. *See Premises Known as Lots 50 & 51*, 681 F. Supp. at 311–13 (discussing constitutionality of this approach under 21 U.S.C. §881(j)).

Subsection (b)(2) addresses a problem that arises whenever property subject to forfeiture under the laws of the United States is located in a foreign country. As mentioned, under current law, it is probably no longer necessary to base *in rem* jurisdiction on the location of the property if there have been sufficient contacts with the district in which the suit is filed. *See United States* v. *$10,000 in U.S. Currency, supra*. No statute, however, says this, and the issue has to be repeatedly litigated whenever a foreign government is willing to give effect to a forfeiture order issued by a United States court and turn over seized property to the United States if only the United States is able to obtain such an order.

Subsection (b)(2) resolves this problem by providing for jurisdiction over such property in the United States District Court for the District of Columbia, in the district court for the district in which any of the acts giving rise to the forfeiture occurred, or in any other district where venue would be appropriate under a venue-for-forfeiture statute. If the acts giving rise to the forfeiture occurred in more than one district, as would commonly occur in a money laundering case, for example, jurisdiction would lie in any of those districts or in the District of Columbia.

Finally, subsection (c) addresses a recurring problem involving appeals in civil forfeiture actions. The question has two parts: 1) whether the removal of the *res* from the jurisdiction of the court following the entry of the district court order deprives the appellate court of jurisdiction over the appeal; and 2) whether the appellate court should take steps to ensure that the property is not diminished in value, taken out of the country, or otherwise made unavailable to the appellant in the event the appeal results in the reversal of the district court's judgment. *See United States* v. *Parcel of Land (Woburn City Athletic Club, Inc.)*, —F. 2d—, No. 90–1752 (1st Cir. Mar. 12, 1991), slip op. 6–9 (discussing but not deciding whether appellate court retains jurisdiction when district court does not stay forfeiture order and no longer has control over *res*).

The first sentence in subsection (c) resolves the first issue by providing without exception that an appellate court is not deprived of jurisdiction over an otherwise proper appeal simply because the *res* has been removed from the jurisdiction. This will allow successful claimants the use of their property pending appeal, and will allow the government to move the property for storage or investment purposes, without depriving the losing party of his appellate rights. The second sentence provides, however, that the appellate court is obliged to take whatever steps it deems necessary, including ordering the stay of the district court order or requiring the appellant to post an appeal bond, to ensure that while the appeal is pending, the party exercising control over the property does not take any action that would deprive the appellant of the full value of the property should the district court's judgment be reversed. The types of actions that the appellant court must seek to protect against are those listed in 21 U.S.C. §853(p).

SECTION 102

In 1986, Congress amended the criminal forfeiture statute, 21 U.S.C. §853, to authorize the forfeiture of substitute assets. *See* Section 1153(b), Anti-Drug Abuse Act of 1986, Pub. L. 99–570, 100 Stat. 3207–13. This provision, added as a new subsection (p), applies whenever property otherwise subject to forfeiture is unavailable because it cannot be located, has been sold to a third party, has been placed beyond the jurisdiction of the court, has been diminished in value, or has been commingled with other assets. In such a case, the court is authorized to order the forfeiture of any other property of equal value. In 1988, an identical provision was added to the criminal forfeiture statute that governs forfeitures in money laundering cases, 18 U.S.C. 982(b). *See* Sections 6463–64, Anti-Drug Abuse Act of 1988, Pub. L. 100–690, 102 Stat. 4374–75.

In a criminal case, the purpose of forfeiture is to punish the defendant. It is an *in personam* action directed at the defendant personally to punish him for his criminal acts. The scope of the punishment is circumscribed by the value of the property involved in or acquired through the commission of the criminal acts, but there is no reason why the punishment can be imposed only through the forfeiture of a specific piece of property. The forfeiture of any property of equal value imposes the same punishment fairly and effectively. If this were not the rule, a defendant could escape the punishment of forfeiture merely by, for example, placing certain property out of the reach of the court or commingling it with other property so that it could not easily be identified. Under the 1986 and 1988 amendments, the court can insure that the appropriate punishment is imposed irrespective of such attempts to avoid the consequences of criminal wrongdoing by ordering the forfeiture of some other property the defendant owns.

Forfeiture in a civil case is based on a different premise: It is intended not to punish a defendant; nor is it directed at any property owner personally. Rather it is an *in rem* action directed at a specific piece of property involved in criminal wrongdoing. In a civil forfeiture case, the property involved in a criminal offense is itself considered "guilty" and is forfeitable to the government regardless of the guilt or innocence of its owner. Thus it normally would be inconsistent with the theory of civil forfeiture to allow a court to order forfeiture of a substitute asset. In other words, if the theory underlying the forfeiture is that a specific piece of property is "guilty" and therefore forfeitable regardless of who its owner may be, it would make no sense for the government to order the forfeiture of another "innocent" asset when the guilty one is unavailable.

For this reason, the 1986 and 1988 substitute asset amendments applied only to the criminal forfeiture statutes, and not to the civil forfeiture statutes. That distinction should be maintained; but there are instances where strict adherence to the notion of forfeiture in civil cases only of identifiable "guilty" property makes no sense.

In the case of discrete tangible property, such as a car or boat or piece of real estate, the government should be limited in a civil case only to the forfeiture of the property actually involved in the criminal offense. If that property is unavailable, or is diminished in value, the government is simply "out of luck" since it is title to the property, not punishment of its owner, that the government has a right to pursue.

But in cases where the property is fungible, the government should be able to pursue title to the property without having to identify the specific item or items actually involved in an offense. In a case involving a quantity of cash, for example, that had been commingled with other cash, or kept in a place where identical quantities of cash were constantly being added and subtracted, the government could no more identify the specific dollar bills subject to forfeiture than it could identify a specific ton of grain in a grain elevator or a specific pile of bricks in the brickyard. In such a case, the government should be able to obtain title through civil forfeiture to the identical property found in the place where the "guilty" property had been kept.

The courts have recognized the soundness of this argument. In *United States* v. *Banco Cafetero Panama*, 797 F.2d 1154 (2d Cir. 1986), for example, the Second Circuit held that where funds deposited in a certain bank account were subject to civil forfeiture, the government could assume that the "guilty" property remained in the account, notwithstanding subsequent deposits and withdrawals, as long as the balance in the account always remained greater than or equal to the sum subject to forfeiture. *Id.* at 1160. In that case, however, the court based its holding on accepted accounting principles—such as the theory of "first in, last out"—rather than on any statutory authority that would be applicable to all cases involving fungible property. Experience has shown that this approach is inadequate to protect the property rights of the government in such cases.

Consider, for example, the case of a bank account involved in a money laundering scheme. Under 18 U.S.C. §981, all property involved in money laundering is forfeitable to the United States. *United States* v. *All Monies*, 754 F. Supp. 1467 (D. Haw. 1991). Thus if a money laundering offense involving a million dollars occurs on January 1, and the laundered money is deposited into a given bank account on that date, the government may seize the million dollars from the account as soon as it is deposited. Under *Banco Cafetero*, the government may still seize the million dollars a month later even if it can be shown that during the month of January there were numerous other deposits and withdrawals as long as the balance never fell below one million dollars. This is because the government is entitled to assume that the first deposit—the million dollars in laundered money—remains in the account until the last withdrawal is made.

The clever money launderer, however, being aware of the limitations of the accounting theories underlying cases such as

Banco Cafetero, will choose to place his laundered funds in accounts where the balance is highly volatile. For example, he may place the laundered funds in an account held by a money exchanger where, because of the nature of the business, the balance may vary from zero to a million dollars several times a week; yet in that case, the launderer may be assured that his money will still be available when he wants it because the balance in the account is sure to rise again to the million dollar level. Thus, to continue the above example, if a million dollars in laundered drug money is deposited into a volatile bank account on January 1, and the balance in facts dips to zero several times during the month but returns to one million dollars by the first day of February, the million dollars is still available to the criminal money launderer, but it is not forfeitable to the government.

The above scenario illustrates a weakness in the *Banco Cafetero* holding that can easily be exploited by money launderers, drug traffickers, and others whose criminal proceeds are subject to civil forfeiture. There is no reason why fungible property, such as the balance in a bank account, should escape forfeiture simply because the property is capable of being moved in and out of the government's view with great rapidity. If despite the apparent disbursement of the property it remains, by its fungible nature, capable of being replaced or reconstituted in identical form at any time, it should remain subject to forfeiture. Any other rule merely rewards those who contrive sophisticated shell games to hide the whereabouts of criminally derived property.

The proposed amendment adds a new section 984 to the forfeiture chapter in title 18 that is applicable to any civil forfeiture action brought under title 18 or title 21, including violations of the Bank Secrecy Act punishable by 31 U.S.C. §5322 for which forfeiture actions are undertaken pursuant to 18 U.S.C. §981. Sec. 984 provides that in cases involving fungible property, property is subject to forfeiture if it is identical to otherwise forfeitable property, is located or maintained in the same way as the original forfeitable property, and not more than one year has passed between the time the original property subject to forfeiture was so located or maintained and the time the forfeiture action was initiated by seizing the property or filing the complaint, regardless of whether or not the fungible property was continuously present or available between the time it became forfeitable and the time it was seized. (The time limitation is considered necessary to ensure that the property forfeited has a reasonable nexus to the offense giving rise to the original action for forfeiture.)

Thus under the amendment, a million dollars in laundered drug money that is deposited into a bank account on January 1, would be forfeitable from that account any time within the ensuing year that the balance in the account was at least one million dollars, even if, at various times in the interim, the balance fluctuated above and below the million dollar level. Once a year had passed, however, the government could no longer reasonably claim that the million dollars in the account was the same money that was originally forfeitable, and the forfeiture action could not be maintained.

The provision in subsection (d) carves out a very narrow exception that precludes uses of section 984 to forfeit assets held in the clearing account of a foreign bank through which laundered funds moved in the past, but where such funds are no longer to be found. The exception would not apply where the foreign bank itself was engaged in the offense giving rise to the forfeiture action.

The retroactive application of these amendments, as set forth in subsection (b), is in keeping with the normal rule for construing amendments to civil statutes. *See United States* v. *$5,644,540 in U.S. Currency*, 799 F.2d 1357, 1364 n. 8 (9th Cir. 1986) (*ex post facto* clause does not apply to civil forfeiture case).

SECTION 103

This gives the Attorney General the means, by way of an administrative subpoena, to acquire evidence in contemplation of a civil forfeiture action brought under title 18 or title 21. Its provisions are taken verbatim from Section 951 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA") (12 U.S.C. 1833a), Pub. L. 101-73, and it is intended to give the Attorney General the means to gather evidence in contemplation of a civil forfeiture action in a money laundering case in the same way that he may presently gather evidence in contemplation of civil enforcement action in a FIRREA case.

As Congress recognized in enacting Section 951 of FIRREA two years ago, such subpoena authority is necessary because in the context of a civil law enforcement action there is no procedure analogous to the issuance of a grand jury subpoena that allows the government to gather evidence before the filing of a complaint.

There is a simple precedent for this proposal. In RICO, for example, 18 U.S.C. §1968 provides for the issuance of a civil investigative demand to allow the government to gather evidence in contemplation of bringing a civil RICO suit. That provision was drawn from the Anti-Trust Civil Process Act, 15 U.S.C. §§1311–1314,[1] and was in turn the basis for §951 in FIRREA. Because the language of the present section is taken directly from FIRREA, the same limitations would apply to subpoenas issued in civil forfeiture investigations in money laundering cases as apply to civil enforcement of the bank fraud statutes.

SECTION 104

This provision simplifies the procedure for gathering bank records once a complaint is filed by any civil forfeiture case.

In a typical case, a wrongdoer such as a money launderer or drug trafficker, will place his illegally obtained property in bank accounts in numerous locations, often in a number of different states or districts. Presently, once a civil forfeiture complaint is filed, records pertaining to such accounts, or any other accounts that might be relevant to the forfeiture action, can be obtained only through the discovery process under the Federal Rules of Civil Procedure which requires the government to obtain a separate subpoena for the records in each and every one of the judicial districts in which the banks holding the records are located.

Thus if a forfeiture action is filed in Texas, but records relevant to the case are held by banks in Maimi, New York, and Los Angeles, the United States Attorney in Texas has to seek the issuance of subpoenas *duces tecum* by courts in Florida, New York and California in order to obtain the records needed in the Texas action. This is because Rule 45, FED. R. Civ. Pro., contemplates the issuance of a subpoena *duces tecum* only in the context of the taking of a deposition, and it requires that the subpoena be issued in the district where the deposition is to be taken.

In most civil forfeiture cases, there is no need to take the deposition of the custodian of bank records, and it is unnecessarily burdensome to have the subpoena issued by the court in the district where the bank is located when the forfeiture action is pending in some other district.

The proposed amendment would provide for the issuance of a subpoena duces tecum for bank records by the Clerk of the Court in the district where the forfeiture action was pending. Any party to the action could request the issuance of such a subpoena and would be required to give notice to all other parties. The final subsection makes clear that this section is intended to complement the discovery rules set forth in the Federal Rules of Civil Procedure and does not preclude any party from pursuing discovery under those Rules.

SECTION 201

Section 2706 of the Crime Control Act of 1990 added several bank fraud offenses to the definition of specified unlawful activity in §1956(c)(7)(D). The additions included 18 U.S.C. §§1005–07 and 1014. Unfortuantely, this amendment contained another provisions that could cause major problems in money laundering cases involving the proceeds of mail and wire fraud offenses.

Currently, under §1956(c)(7)(A), all RICO predicates are included in the definition of "specified unlawful activity". Because mail and wire fraud are RICO predicates, the laundering of the proceeds of *any* mail or wire fraud offense is currently prosecutable under §§1956 and 1957.

The 1990 amendment, however, added mail and wire fraud offenses "affecting a financial institution" to the definition of specified unlawful activity. The context of the amendment makes clear that it was the intent of Congress to *expand* the money laundering statute to cover banking crimes. *See Congressional Record*, daily ed., July 31, 1990, at H6005 (explaining section 106 of H.R. 5401 and indicating that new predicate offenses were being *added*, not limited). Unfortunately, the wording of the amendment will allow some defendants to argue that Congress could not have intended to pass a meaningless statute and that it therefore, must have intended to *restrict* the money laundering statute only to those fraud offenses affecting financial institutions. If that interpretation were to be accepted by a court, the result would be to exempt the laundering of the proceeds of many white collar crimes and public corruption offenses from prosecution under the money laundering statute.

This amendment makes clear that Congress' clear intent in enacting the savings and loan provisions in the 1990 Crime Control Act was to *enhance* prosecutorial authority, not restrict it, and that therefore the amendment to §1956(c)(7)(D) was a drafting error that was not intended to affect the inclusion of all mail and wire fraud offenses as money laundering predicates under §1956(c)(7)(A). The amendment also strikes the duplicate reference to 18 U.S.C. §1344 as that section is also already a money laundering predicate under §1956(c)(7)(A).

Finally, this section amends the reference to the drug paraphernalia statute to conform to the redesignation of that statute as part of the Controlled Substances Act by section 2401 of the Crime Control Act of 1990.

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[1] *See* S. Rep. No. 91–617, 91st Cong., 1st Sess. 161 (1969). For a list of other statutes that authorize the gathering of evidence by means of an administrative subpoena, *see* H. Rep. No. 94–1343, 94th Cong., 2nd Sess. 22 n.2 reprinted in 1970 U.S. CODE & ADMIN. NEWS 2617.

SECTION 202

This section amends a provision in the FIRREA Act of 1989 to conform to forfeiture amendments relating to bank fraud and money laundering that were included in the Crime Control Act of 1990.

Under current law, enacted in FIRREA in 1989, a person in lawful possession of grand jury information concerning a banking law violation may disclose that information to an attorney for the government for use in connection with a civil forfeiture action under 18 U.S.C. §981(a)(1)(C). The purpose of this provision is to make it possible for the government to use grand jury information to forfeit property involved in a bank fraud violation; it does not permit disclosure to persons outside of the government, nor does it permit government attorneys to use the information for any other purpose. Rather, it merely recognizes civil forfeiture actions under §981 as part of any law enforcement action arising out of a criminal investigation.

The limitation to forfeiture under "§981(a)(1)(C)," however, is obsolete. At the time FIRREA was enacted, all forfeitures relating to bank fraud violations were brought under §981(a)(1)(C). In the Crime Control Act of 1990, however, Congress added paragraphs (D) and (E) to section 981(a)(1), relating to other bank fraud violations involving the Resolution Trust Corporation. The amendment strikes the reference to paragraph (C) so that disclosure under 18 U.S.C. §3322(a) will be permitted in regard to any forfeiture under any part of §981(a)(1) including money laundering forfeitures.

SECTION 203

This amendment is identical to the provision that passed both the House and Senate in the 101st Congress. *See* §810 of S. 3037, §32 of H.R. 5889.

In the Anti-Drug Abuse Act of 1986, Congress created 31 U.S.C. 5324, which made it a crime to structure a transaction for the purpose of evading a currency transaction reporting requirement. The amendment creates a parallel provision regarding the monetary instrument reports (commonly called "CMIRs") that must be filed whenever instruments having a value of more than $10,000 are imported or exported.

Under the new provision, codified as subsection (b) of §5324, it would be illegal to structure the importation or exportation of monetary instruments with the intent to evade the CMIR reporting requirement. As is the case presently for structuring cases involving currency transaction reports, the government would have to prove that the defendant knew of the existence of the CMIR reporting requirement, but it would not have to prove that the defendant knew that structuring itself had been made illegal. *United States* v. *Hoyland*, 903 F.2d 1288 (9th Cir. 1990).

The amendment made in subsection (b) is technical in nature and is intended to avoid a double penalty when forfeiture and other civil sanctions are applied to the same case.

The amendment in subsection (c) makes clear that civil forfeitures for CTR structuring offenses will continue to be covered by §981 of title 18, while civil forfeitures for CMIR offenses, including the new structuring offenses, will continue to be covered by §5317 of title 31.

SECTION 204

This amendment passed the House and Senate in 1990 as §13 of H.R. 5889 and §204 of S. 3037. It corrects an oversight in §6185(c) the Anti-Drug Abuse Act of 1988, which authorized the Secretary of the Treasury to issue orders directing financial institutions in certain geographic areas to collect additional information regarding cash transactions, by providing a penalty for the disclosure of such orders.

SECTION 205

Currently, section 1956 and 1957, the two principal money laundering statutes, contain different and possibly inconsistent definitions of the term "financial institution." Under §1957, a financial institution is any entity listed in 31 U.S.C. 5312. Under §1956, however, a financial institution is any entity listed in §5312 and the regulations promulgated by the Secretary of the Treasury pursuant to that statute. *See* 31 CFR §103.11(i) (1990). Moreover, it is unclear whether the reference to the regulations in §1956 is meant to limit the definition of "financial institution" to those entitles that are listed in *both* the statute (i.e. 31 U.S.C. §5312) *and* the regulations, or whether Congress intended to include any entity referred to in *either* the statute *or* the regulations.

The amendment eliminates this confusion first by using the same definition of "financial institution" for both §1956 and §1957, and second by making clear that the definition includes any entity referred to in either 31 U.S.C. §5312 or the regulations promulgated thereunder.

SECTION 206

Section 1402 of the Crime Control Act of 1990 made several purely technical corrections to the definition of "financial tranaction" in 18 U.S.C. §1956(c)(4). The present amendment makes several additional minor changes to clarify the scope of the statute.

The substantive part of the amendment expands the definition of "financial transaction" to cover the transfer of title to real property, automobiles, boats, airplanes and other conveyances. This closes a loophole in section 1956 which allows someone to escape prosecution under the money laundering statute if he or she conceals or disguises the proceeds of unlawful activity by transferring title to property without receiving any funds or monetary instruments in return.

The remaining provisions are purely technical in nature.

SECTION 207

Under current law, 18 U.S.C. 1510(b), it is a crime for any employee of a financial institution to disclose the contents of a grand jury subpoena for bank records where the subpoena is issued in the course of an investigation of certain crimes. The crimes covered by this obstruction of justice statute are listed in 18 U.S.C. 1510(b)(3)(B). The amendment expands the listed of covered offenses to include the federal money laundering statutes.

SECTION 208

This section is virtually identical to a provision that passed the Senate twice in the 101st Congress. *See* §701(a)(5) of S. 1711; §1901(a)(5) of S. 1970. It allows the Asset Forfeiture Fund to be used to pay awards for information relating to violations of the criminal money laundering laws. This amendment differs from the version that passed the Senate previously only in that includes violations of 31 U.S.C. §5316 (relating to CMIR reports) and 26 U.S.C. §6050I (relating to Form 8300 reports) within the list of money laundering offenses.

SECTION 209

This amendment is virtually identical to an amendment introduced by Senator Biden that passed the Senate as §2437 of S. 1970 in 1990. The amendment, which is modeled on the penalty provision for drug conspiracies in 21 U.S.C. §846, would make the penalty for money laundering conspiracy equivalent to the penalty for the substantive money laundering offense. The only difference between this provision and the Biden amendment is that this amendment would apply only to conspiracies and not to attempt offenses.

SECTION 210

This section includes two technical amendments passed by the Senate in 1990 as section 3722 of S. 1970. The first amendment conforms the language in sections 1956(a)(2) and (b) to amendments made by section 6471 of the Anti-Drug Abuse Act of 1988, Pub. L. 100-690. That amendment clarified the scope of section (a)(2) to make clear that it covered not only physical "transportation" of property, but also the "transmission or transfer" of property, such as the transmission of funds by wire. The present amendment inserts "transmission or transfer" at the appropriate places in subsections (a)(2) and (b) so that they conform grammatically to the statute as amended in 1988.

The second amendment strikes redundant language in the "sting" provision enacted by section 6465 of the Anti-Drug Abuse Act of 1988.

SECTION 211

In the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), Congress amended 12 U.S.C. 3420 to prohibit a financial institution from notifying a customer of the existence of a grand jury subpoena for records naming such customer (or any information furnished in response to the subpoena) in any case involving a crime against any financial institution or supervisory agency. Other provisions of the Right to Financial Privacy Act exempt grand jury subpoenas from the Act's mandatory notice to customers provisions (12 U.S.C. 3413(i)), but except for the limited FIRREA amendment described above, the statute fails to prohibit a financial institution from voluntarily notifying a customer of the existence of a grand jury subpoena pertaining to his or her account. Such notification, of course, may alert a potential suspect of an investigation and permit the suspect to flee or conceal evidence. For that reason, the Act permits a prosecutor to obtain an order precluding such notification, upon certain showings, but the order is effective only for up to ninety days (see 12 U.S.C. 3409).

In drug and money laundering cases, the grand jury investigation is likely to be protracted and may involve numerous subpoenas for bank records. The administrative burdens in such cases imposed by the Act on overworked federal prosecutors to prepare the court papers necessary first to obtain, and then to secure extensions of, such preclusion-of-notice orders are unduly severe and unjustified. Accordingly, the amendment would expand the FIRREA addition of an automatic preclusion of notice to cover not only grand jury subpoenas for records relating to crimes against the financial institution, but also grand jury subpoenas for records relating to criminal investigations of the controlled substances and money laundering laws.

SECTION 212

This minor amendment merely incorporates the definition of property from 21 U.S.C. §853(b) (the drug forfeiture statute) into statute that governs money laundering forfeitures. Section 982 already incorporates virtually all of the other procedural and definitional sections of §853. The definition of property was left out of the statute as originally enacted in 1986 because at that time §982 only permitted forfeiture of commissions and fees paid to money launderers. In 1988, however, §982 forfeitures were expanded to include the property being laundered, proceeds traceable to that property, and property used to facilitate the laundering offense. *See United States* v. *All Monies*, 754 F. Supp. 1467 (D. Haw. 1991). In light of the 1988 amendment, the definition of property in §853(b) should be incorporated into §982. This conforms to the FIRREA forfeiture amendments of 1989 which incorporated the definition of property from §853(b) into §982(b)(1)(B) for FIRREA forfeitures.

The definition of property in §853(b) is as follows: "real property, including things growing on, affixed to, and found in land; and tangible and intangible personal property, including rights, privileges, interests, claims, and securities."

SECTION 213

At present, 18 U.S.C. §§1956(c)(7)(B) and 981(a)(1)(B) are co-extensive. The former makes foreign drug crimes in which a financial transaction occurs within the United States predicates for money laundering, while the later provides for civil forfeiture of the proceeds of such crimes if found in the United States. (Criminal forfeiture authority is automatically established under 18 U.S.C. §982(a)(1) for any offense under §1956.)

The proposal would expand the money laundering and civil forfeiture provisions described above so that they would also include the proceeds of foreign kidnappings, robberies, and extortions. The purpose is to make it more difficult for terrorists and other violent offenders to use the United States as a haven for the profits from their crimes.

SECTION 214

18. U.S.C. 981(e) governs the disposal of property forfeited by the Attorney General, the Secretary of the Treasury, or the Postal Service. The subsection provides, among other things, that the property may be retained, may be transferred to another federal agency, or may be transferred to a State or local law enforcement agency which participated directly in any of the acts which led to the forfeiture. The three federal departments or agencies are directed equitably to share the proceeds of forfeitures with such participating State and local law enforcement authorities.

Section 6469(b) of the Anti-Drug Abuse Act of 1988 added a sentence to 18 U.S.C. 981(e) which limited the authority of the Treasury Department and the Postal Service under that subsection to "property that has been administratively forfeited." No rationale for this limitation is stated and none is apparent. Prior to the 1988 Act, Treasury enjoyed the authority to dispose of property it seized irrespective of whether the property was later judicially forfeited in a proceeding conducted by the Attorney General. Possibly, the last sentence of subsection 981(e) was inserted because in some manner it was believed necessary to protect the litigating authority of the Attorney General. However, such litigating authority is not implicated by subsection 981(e), nor is there any other reason why Treasury and the Postal Service should not be able to dispose of property seized within their respective jurisdictions, as to which a judicial forfeiture proceeding is later brought. Accordingly, the amendment (which passed the Senate last year as §1911 of S. 1970) would repeal the last sentence of 18 U.S.C. 981(e) to give those agencies that authority.

SECTION 215

This section merely adds two additional criminal offenses to the list of "specified unlawful activity" in section 1956.

SECTION 301. AMENDMENTS TO THE BANK SECRECY ACT

Section (a). This technical amendment makes a change to the anti-structuring provision of the Bank Secrecy Act, 31 U.S.C. 5324, to specify that structuring transactions to avoid the $3000 identification requirement of 31 U.S.C. 5325 is prohibited.

By way of background, the anti-structuring provision of the Bank Secrecy Act, 31 U.S.C. 5324, prohibits structuring of transactions to avoid the currency reporting requirements of section 5313, *i.e.*, the $10,000 Currency Transaction Report requirement under 31 C.F.R. 103.22. In section 6185(b) of the Anti-Drug Abuse Act of 1988, Congress added section 5325 to further guard against the practice of "smurfing" drug proceeds by cash purchases of monetary instruments at amounts below the $10,000 reporting threshold. Section 5325 prohibits the cash purchase of certain monetary instruments—bank checks, cashier's checks, traveler's checks, money orders—in amounts greater than $3000 to non-account holders unless the financial institution verifies the identification of the purchaser. Treasury has issued regulations under section 5325, 31 C.F.R. 103.29, which require that financial institutions maintain a log of cash purchases of these instruments over $3000 which included a notation of the identification exacted for non-account holders.

Nevertheless, section 5324 only refers to structuring to avoid the Currency Transaction Report requirement. Therefore, the proposed amendment is needed because under the current law it could be argued that customer structuring of transactions or smurfing to avoid the $3000 identification requirement would not be a violation of the Bank Secrecy Act.

Section (b). This section contains provisions necessary to bring the financial enforcement program in the United States in conformity with the recommendations of the Financial Action Task Force ("FATF") on money laundering.

The FATF was convened by the 1989 G–7 Summit to study the state of international cooperation on money laundering and measures to improve cooperation in international money laundering cases. The group was composed of fifteen financial center countries and the European Community. After several meetings of experts from law enforcement, Justice and Finance Ministries, and bank supervisory authorities, in April 1990, the group issued a comprehensive report with 40 action recommendations for comprehensive domestic anti-money laundering programs and improved international cooperation in money laundering investigations, prosecutions, and forfeiture actions. The recommendations of the group have become the world model for effective anti-money laundering measures.

President Bush and the other heads of state and government endorsed the report of the Financial Action Task Force at the Houston Economic Summit in summer 1990, and the financial ministries of non-G–7 participants also endorsed the report. The Houston Summit reconvened the Task Force for another year. The mandate of the reconvened Task Force is to study possible complements to the original recommendations, to assess implementation of the recommendations, and to study how to expand the number of countries that subscribe to the recommendations. The reconvened Task Force is currently meeting. The original members have been joined by six other European countries and Hong Kong and the Gulf Cooperative Council.

By their endorsement, the Task Force members are committed to take necessary legislative and regulatory measures to implement the recommendations. Most of the countries are in the process of developing the necessary legislation. As can be expected, most of the recommendations reflect measures already in place in the United States because the United States was among the first countries to recognize the need for a comprehensive regulatory and legislative response to money laundering. Nevertheless, to fully measure up to the recommendations, our program requires some refinements which the amendments in this section address.

First, the Task Force recommendations (recommendation 9) provides that the same anti-money laundering measures recommended for banks be put in place for nonbank financial institutions, such as the requirement to report suspicious transactions possibly indicative of money laundering (recommendation 16) and to create anti-money laundering programs (recommendation 20). Our collective experience in the United States and abroad reflects that as banks become more effective in guarding against money laundering, money launderers turn to non-bank financial institutions, such as casas de cambio and telegraph companies. Many of these institutions are subject to the recordkeeping and reporting requirements of the Bank Secrecy Act, but unlike banks are not required to report suspicious transactions nor to have compliance programs to guard against money laundering. *See e.g.*, 12 C.F.R. 12.11 (relating to reports to suspected crimes by national banks); 12 C.F.R. 21.21 (relating to procedures for monitoring Bank Secrecy Act compliance by national banks).

Proposed section 31 U.S.C. 5318(g) authorizes the Secretary to require by regulation the reporting of suspicious transactions by any financial institution subject to the Bank Secrecy Act. Failure to report a suspicious transaction would subject the institution to the civil penalties of 31 U.S.C. 5321. It is anticipated that the Secretary would issue guidelines to assist financial institutions in identifying suspicious transactions.

Also in furtherance of the FATF recommendations, a financial institution, bank or non-bank, would be prohibited from warning its customer if it made a suspicious transaction report (recommendation 17). Under the Right to Financial Privacy Act ("RFPA"), 12 U.S.C. 3403(c), a financial institution may report a suspicious transaction free from civil liability for not notifying its customer, but is not specifically prohibited from warning the customer. The FATF concluded that in order for suspicious transactions reporting to be effective there must be a prohibition from notifying the persons involved in the suspicious transaction. Also, as discussed below, in a related amendment, it is proposed to extend the customer liability protection of the RFPA to all financial institutions subject to the Bank Secrecy Act, not just to the banking institutions generally subject to the RFPA.

Proposed section 31 U.S.C. 5318(h), which tracks the language of FATF recommendation 20, would authorize the Secretary to require financial institutions subject to the Bank Secrecy Act to have anti-money laundering programs which include, at a minimum, development of internal policies, procedures, and controls, designation of a compliance officer, an ongoing employee training program, and an independent audit function to test the program. The Secretary would be able to promulgate minimum standards for such procedures.

This recommendation was based on the regulations the U.S. bank regulators have in place pursuant to 12 U.S.C. 1818 to ensure Bank Secrecy Act compliance. *See e.g.*, 12 C.F.R. 21.21. The Secretary already has authority under 31 U.S.C. 5318 to promulgate procedures to issue procedures to ensure compliance with requirements of the Bank Secrecy Act. This amendment would eliminate the requirement that the procedures be linked to a Bank Secrecy Act requirement, *i.e.*, currency transaction reporting. The procedures would be geared at money laundering generally whether or not a customer dealt in cash. For instance, this authority could be used to require that anti-money laundering programs include "know your customer" procedures.

The Department of the Treasury envisions that the authority of proposed sections 5318(g) and (h) could be used with respect to any institution subject to the Bank Secrecy Act under 31 U.S.C. 5312 whether or not that institution is required to report currency transactions under the Bank Secrecy Act.

The amendments in sections (d) through (h) specify that persons who cause financial institutions to maintain false or incomplete records in contravention of the Bank Secrecy Act recordkeeper requirement would themselves be subject to civil sanctions. Currently, the Bank Secrecy Act recordkeeping civil penalties apply only to the financial institution required to maintain the record. (Criminal penalties already apply to persons causing such violations pursuant to 31 U.S.C. §§5322 and 5324(1) and (2), and 18 U.S.C. §2.) The penalties do not apply to a customer who caused a financial institution to maintain a false or incomplete record. As Treasury refines its recordkeeping requirements, *e.g.*, the proposal for enhanced funds transfer records, this may become a loophole in the statutory framework. The amendments in sections 1 (d) through (h) would cure this problem for records required under the general recordkeeping authority for insured financial institutions (12 U.S.C. 1829b), nonbank financial institutions (12 U.S.C. 1951–1959), and requirements promulgated pursuant to 31 U.S.C. 5314 (foreign financial agency records).

SECTION 302. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT

Section (a). Since the inception of the Right to Financial Privacy Act, pursuant to an exception in section 1103(c), 12 U.S.C. 3404(c), financial institutions have been able to report, in good faith, possible violations of law or regulation to federal authorities without notice to the suspected customer and free from civil liability under the RFPA. At the Administration's request in the Anti-Drug Abuse Act of 1986 and 1988, Congress further clarified this provision to specify what information a financial institution could give regarding the customer and the suspicious activity, and that the protection preempted any state law requiring notice to the customer. These changes were added to ensure that financial institutions would not be inhibited from reporting suspected violations, especially money laundering and Bank Secrecy Act reporting violations.

Nevertheless, banks have advised that there are other concerns beyond liability under privacy laws that in some instances complicate their treatment of suspicious transactions. For instance, they fear possible defamation actions or that if they sever relations with a customer, they may risk liability under the Fair Credit Reporting Act, 15 U.S.C. 1691, *et seq.*, or for breach of contract. *See Ricci* v. *Key Bancshares of Maine*, 768 F.2d 456 (1st Cir. 1985). However, if they continue relations with the customers, they fear that they may be implicated in any illegal activity.

In many cases, after a suspicion has been reported, Federal authorities will encourage financial institutions to continue dealing with a suspicious customer so his activities may be monitored. Unfortunately, in other cases, law enforcement authorities do not always follow-up with financial institutions on the disposition of suspicious activity reports. In any event, financial institutions should be free to sever relations with the customer based on their suspicions or on information about a customer received from law enforcement.

Section (a) addresses these concerns by extending the protection of section 1103(c) to a financial institution that severs relations with a customer or refuses to do business because of activities underlying a suspicious transaction report and by specifying that the financial institution that acts in good faith in reporting a suspicious transaction is protected from civil liability to the customer under any theory of state or Federal law.

This amendment also broadens the protection of section 1103(c) to the wide range of bank and non-bank institutions subject to the Bank Secrecy Act, 31 U.S.C. 5312, to the extent that these institutions are required to file suspicious transaction reports. Currently, the protection from civil liability may apply to financial institutions as defined in section 1101 of the RFPA (12 U.S.C. 3401), *e.g.*, banks credit unions, savings associations. Non-bank institutions which are required to file suspicious transaction reports may similarly be inhibited from reporting suspicious transactions by fear of civil liability for defamation or breach of contract or under financial or consumer privacy laws.

Under this proposal, the protection from civil liability would apply to any institution enumerated in 31 U.S.C. 5312 if the Secretary has exercised his regulatory authority under proposed 31 U.S.C. 5318(g) (Section _______ of this bill) by requiring that type of institution to file a report on suspicious transactions. Thus, if an institution such as check casher, securities broker, or foreign currency exchange, which is not categorized as a "financial institution" under the RFPA, but is categorized as such under 31 U.S.C. 5312 and the implementing regulations, and is required by regulation to file a suspicious transaction report, will be free from customer liability based on the suspicious transaction report.

Section (b). Section 1112 of the RFPA, 12 U.S.C. 3412, provides that agencies that obtain financial records in accordance with the RFPA (either after customer notice or pursuant to an authorized notice exception) notify a customer if it transfers the records to another agency.

The amendment in section (b) is necessary to facilitate the work of Treasury's new Financial Crimes Enforcement Network (FinCEN). FinCEN plans not only to analyze financial records, including records subject to the RFPA, *e.g.*, records received by administrative subpoena, to facilitate investigations and prosecution by non-Treasury agencies, but to integrate such records with other available records for further analysis to indentify new targets for criminal investigation. Treasury is concerned that this further use, independent of the needs of the agency that originally received the records in accordance with the RFPA, could be considered as a transfer of the records to Treasury necessitating customer notice under section 1112 of the RFPA.

The amendment adds a new subsection 1112(g) to provide that an agency can transfer records obtained in accordance with the RFPA to FinCEN for criminal law enforcement purposes without customer notice. FinCEN also would be able to disseminate the results of its analysis, whether based in whole or in part on records obtained subject to the RFPA, to the appropriate agency for criminal investigation without customer notice.

MOYNIHAN (AND SANFORD) AMENDMENT NO. 523

(Ordered to lie on the table.)

Mr. MOYNIHAN (for himself and Mr. SANFORD) proposed an amendment to the bill S. 1241, supra, as follows:

At the end of the bill add the following:

SEC. 2704. COMPLIANCE WITH STATE AND LOCAL FIREARMS LICENSING LAWS REQUIRED BEFORE ISSUANCE OF FEDERAL LICENSE TO DEAL IN FIREARMS.

(a) IN GENERAL.—Section 923(d)(1) of title 18, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) in the case of an application for a license to engage in the business of dealing in firearms—

"(i) the applicant has complied with all requirements imposed on persons desiring to engage in such a business by the State and political subdivision thereof in which the applicant conducts or intends to conduct such business; and

"(ii) the applicant has verified such compliance in a form and manner prescribed by the Secretary.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to applications for licenses that are submitted 90 or more days after the date of the enactment of this Act.

MOYNIHAN AMENDMENTS NOS. 524 AND 525

(Ordered to lie on the table.)

Mr. MOYNIHAN submitted two amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT NO. 524

At the end of the bill add the following:

SEC. 2704. PROHIBITION OF MANUFACTURE, IMPORTATION, OR TRANSFER OF CERTAIN TYPES OF AMMUNITION.

(a) UNLAWFUL ACTS.—Section 922(a) of title 18, United States Code, is amended by—

(1) striking "and" at the end of paragraph (7);

(2) striking the period at the end of paragraph (8) and inserting a semicolon; and

(3) adding at the end thereof the following new paragraphs:

"(9) for any person to manufacture, import, or transfer .25 or .32 caliber or 9 millimeter ammunition, except that this paragraph shall not apply to—

"(A) the manufacture or importation of such ammunition for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof; and

"(B) any manufacture or importation for testing or for experimenting authorized by the Secretary; and

"(10) for any manufacturer or importer to sell or deliver .25 or .32 caliber or 9 millimeter ammunition, except that this paragraph shall not apply to—

"(A) the sale or delivery by a manufacturer or importer of such ammunition for the use of the United States or any department or agency thereof of any State or any department, agency, or political subdivision thereof; and

"(B) the sale or delivery by a manufacturer or importer of such ammunition for testing or for experimenting authorized by the Secretary.".

(b) LICENSING.—Section 923 of title 18, United States Code, is amended—

(1) in subsection (a) by—

(A) amending paragraph (a)(A) to read as follows:

"(A) of destructive devices, ammunition for destructive devices, armor piercing ammunition, or .25 or .32 caliber or 9 millimeter ammunition, a fee of $1,000 per year;";

(B) amending paragraph (1)(C) to read as follows:

"(C) ammunition for firearms other than destructive devices, or armor piercing or .25 or .32 caliber or 9 millimeter ammunition for any firearm, a fee of $10 per year."; and

(C) amending paragraph (2) to read as follows:

"(2) If the applicant is an importer—

"(A) of destructive devices, ammunition for destructive devices, or armor piercing or .25 or .32 caliber or 9 millimeter ammunition for any firearm, a fee of $1,000 per year; or

"(B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, or ammunition other than armor piercing or .25 or .32 caliber or 9 millimeter ammunition for any firearm, a fee of $50 per year."; and

(2) by adding at the end thereof the following new subsection:

"(1) Licensed importers and licensed manufacturers shall mark all .25 and .32 caliber and 9 millimeter ammunition and packages containing such ammunition for distribution, in the manner prescribed by the Secretary by regulation.".

(c) USE OF RESTRICTED AMMUNITION.—Section 929 of title 18, United States Code, is amended—

(1) in subsection (a)(1) by inserting ", or .25 or .32 caliber or 9 millimeter ammunition" after "possession of armor piercing ammunition"; and

(2) in subsection (b) by inserting ", or .25 or .32 caliber or 9 millimeter ammunition," after "armor piercing ammunition".

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the first day of the first calendar month that begins more than 90 days after the date of enactment of this Act.

AMENDMENT NO. 525

At the end of the bill add the following:

SEC. 2704. RECORDS OF DISPOSITION OF AMMUNITION.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 923(g) of title 18, United States Code, is amended—

(1) in paragraph (1)(A) by inserting after the second sentence "Each licensed importer and manufacturer of ammunition shall maintain such records of importation, production, shipment, sale, or other disposition of ammunition at his place of business for such period and in such form as the Secretary may by regulations prescribe. Such records shall include the amount, caliber, and type of ammunition."; and

(2) by adding at the end thereof the following new paragraph:

"(6) Each licensed importer or manufacturer of ammunition shall annually prepare a summary report of imports, production, shipments, sales, and other dispositions during the preceding year. The report shall be prepared on a form specified by the Secretary, shall include the amounts, calibers, and types of ammunitions that were disposed of, and shall be forwarded to the office specified thereon not later than the close of business on the date specified by the Secretary.".

(c) STUDY OF CRIMINAL USE AND REGULATION OF AMMUNITION.—The Secretary of the Treasury shall request the National Academy of Sciences to—

(1) prepare, in consultation with the Secretary, a study of the criminal use and regulation of ammunition; and

(2) to submit to Congress, not later than July 1, 1993, a report with recommendations on the potential for preventing crime by regulating or restricting the availability of ammunition.

LAUTENBERG AMENDMENT NO. 526

(Ordered to lie on the table.)

Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

On page 170, line 9, add immediately after the word "housing" the following: "or federally assisted low income housing".

On page 171, line 4, add immediately after the word "housing" the following: "or federally assisted low income housing".

DOLE AMENDMENT NO. 527

(Ordered to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place add:

SEARCH OF OUTBOUND MAIL.

Section 5317(b) of title 31, United States Code, is amended to read as follows:

"(b)(1) For purposes of ensuring compliance with the requirements of section 5316 of this title or of sections 1956 and 1957 of title 18, United States Code, a customs officer may stop and search, at the border and without a search warrant, any vehicle, vessel, aircraft, or other conveyance, any envelope or other container (including mail transmitted by the United States Postal Service that is not sealed against inspection or that has a customs declaration affixed by the sender) and any person entering or departing the United States.

"(2) Notwithstanding section 3623(d) or any other provision of title 39, United States Code, with respect to a letter sealed against inspection that is being transmitted by the United States Postal Service, a search authorized by paragraph (1) may be conducted when a customs officer has reasonable cause to suspect that there are monetary instruments being transported in the letter.

"(3) Nothing in this section shall be construed to limit the authority of the Secretary of the Treasury or the United States Customs Service under any other law.".

MCCONNELL AMENDMENT NO. 528

(Ordered to lie on the table.)

Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the end of the bill, add the following:

TITLE —PUBLIC CORRUPTION

SEC. 01. SHORT TITLE.

This title may be cited as the "Anti-Corruption Act of 1991".

SEC. 02. OFFENSE.

Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 226. Public corruption

"(a) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of such State, or political subdivision of a State, shall be fined under this title, or imprisoned for not more than 10 years, or both.

"(b) Whoever, in a circumstances described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, runoff, special, or general election—

"(1) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the State in which the election is held;

"(2) through paying or offering to pay any person for voting;

"(3) through the procurement of submission of voter registrations that contain false material information, or omit material information; or

"(4) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information, shall be fined under this title or imprisoned for not more than ten years, or both.

"(c) Whoever, being a public official or an official or employee of a State, or political subdivision of a State, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the right to have the affairs of the State or political subdivision conducted on the basis of complete, true, and accurate material information, shall be fined under this title or imprisoned for not more than ten years, or both.

"(d) The circumstances referred to in subsections (a), (b), and (c) are that—

"(1) for the purpose of executing or concealing such scheme or artifice or attempting to do so, the person so doing—

"(A) places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(B) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(C) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(D) uses or causes to use of any facility of interstate or foreign commerce;

"(2) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce; or

"(3) as applied to an offense under subsection (b), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have some authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the 12-month period immediately preceding or following the election or date of the offense.

"(e) Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest service of a public official or person who has been selected to be a public official shall be fined under this title or imprisoned for not more than 10 years, or both.

"(f) Whoever being an official, or public official, or person who has been selected to be a public official, directly or indirectly, discharges, demotes, suspends, threatens, harasses, or, in any manner, discriminates against any employee or official of the United States or any State or political subdivision of such State, or endeavors to do so, in order to carry out or to conceal any scheme or artifice described in this section, shall be fined under this title or subject to imprisonment of up to 5 years or both.

"(g)(1) Any employee or official of the United States or any State or political subdivision of such State who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because of lawful acts done by the employee as a result of a violation of subsection (e) or because of actions by the employee on behalf of himself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may in a civil action, obtain all relief necessary to make such individuals whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, 3 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including reasonable litigation costs and reasonable attorney's fees.

"(2) An individual is not eligible for such relief if that individual participated in the violation of this section with respect to which such relief would be awarded.

"(3) A civil action or proceeding authorized by this subsection shall be stayed by a court upon the certification of an attorney for the Government, stating that such action or proceeding may adversely affect the interests of the Government in an ongoing criminal investigation or proceeding. The attorney for the Government shall promptly notify the court when the stay may be lifted without such adverse effects.

"(h) For purposes of this section—

"(1) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States;

"(2) the terms 'public official' and 'person who has been selected to be a public official' have the meaning set forth in section 201 of this title; the terms 'public official' and 'person who has been selected to be a public official' shall also include any person acting or pretending to act under color of official authority;

"(3) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) includes any person who has been nominated, appointed or selected to be an official or who has been officially informed that he or she will be so nominated, appointed or selected;

"(4) the term 'under color of official authority' includes any person who represents that he or she controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official; and

"(5) the term 'uses any facility of interstate or foreign commerce' includes the intrastate use of any facility that may also be used in interstate or foreign commerce.".

SEC. 03. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF SECTIONS.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following item:

"226. Public Corruption.".

(b) RICO.—Section 1961(1) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(c) INTERRUPTION OF COMMUNICATIONS.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

SEC. 04. INTERSTATE COMMERCE.

(a) IN GENERAL.—Section 1343 of title 18, United States Code, is amended by—

(1) striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(2) inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) CONFORMING AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended by striking "Fraud by wire, radio, or television" and inserting "Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by striking the analysis for section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate commerce.".

SEC. 05. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

"§ 220. Narcotics and public corruption

"(a) Any public official who, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or nonperformance of any official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State;

shall be guilty of a class B felony.

"(b) Any person who, directly or indirectly, corruptly gives, offers, or promises anything of value of any public official, or offers or promises any public official to give anything of value to any other person, with intent—

"(1) to influence any official act;

"(2) to influence such public official to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

"(3) to influence such public official to do or to omit to do any act in violation of such official's lawful duty;

shall be guilty of a class B felony.

"(c) There shall be Federal jurisdiction over an offense described in this section if such offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) For the purpose of this section—

"(1) the term 'public official' means—

"(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror;

"(C) an officer or employee or person acting for or on behalf of the government of any State, territory, or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, territory, possession, or political subdivision; or

"(D) any person who has been nominated or appointed to be a public official as defined in subparagraph (A), (B), or (C), or has been officially informed that he or she will be so nominated or appointed;

"(2) the term 'official act' means any decision, action, or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's official capacity, or in such official's place of trust or profit; and

"(3) the terms 'controlled substance' and 'controlled substance analogue' have the meaning set forth in section 102 of the Controlled Substances Act.".

(b) CONFORMING AMENDMENTS.—(1) Section 1961(1) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery),".

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (bribery of public officials and witnesses),".

(c) CHAPTER ANALYSIS.—The chapter analysis for chapter 11 of title 18, United States Code, is amended by inserting after the item for section 219 the following:

"220. Narcotics and public corruption.".

AMENDMENT NO. 530

At the appropriate place in the bill, insert the following:

SEC. . REGIONAL VIOLENT CRIME ASSISTANCE.

The Omnibus Crime and Safet Streets Act of 1968 (42 U.S.C. 3701 et seq.) is amended—

(1) by amending section 511 to read as follows:

"ALLOCATION OF FUNDS FOR GRANTS

"(a) SPECIAL DISCRETIONARY FUNDS.—Of the total amount appropriated for this part (other than chapter B of this subpart) in any fiscal year—

"(1) if that amount is $250,000,000 or less, 20 percent shall be reserved and set aside for this section in a special discretionary fund for use by the Director in carrying out the purposes specified in section 503;

"(2) if that amount is greater than $250,000,000 but less than $500,000,000—

"(A) $50,000,000 shall be reserved and set aside for this section in the special discretionary fund described in paragraph (1); and

"(B) 20 percent of the excess over $250,000,000 shall be reserved and set aside for this section in a special discretionary fund for use by the Director in carrying out the purposes specified in section 513; and

"(3) if that amount is greater than $500,000,000—

"(A) $50,000,000 shall be reserved and set aside for this section in the special discretionary fund described in paragraph (1); and

"(B) $50,000,000 shall be reserved and set aside for this section in the special discretionary fund described in paragraph (2)(B).

"(b) AMOUNT OF GRANTS.—Grants under this section may be made for amounts up to 100 percent of the costs of the programs or projects contained in the approved application.";

(2) in section 512 by inserting "for purposes specified in section 503" after "section 511"; and

(3) by inserting after section 512 the following new section:

"REGIONAL VIOLENT CRIME ASSISTANCE

"(a) PURPOSES OF GRANTS.—The Director may make a grant to a public agency for the purposes of—

"(1) enhancing law enforcement and criminal justice systems in regions that suffer from high rates of violent crime or fact particular violent crime problems that warrant Federal assistance; and

"(2) developing and implementing multijurisdictional strategies to respond to and prevent violent crime.

"(b) AMOUNT.—(1) No grantee under subsection (a) shall receive a grant exceeding $10,000,000.

"(c) CONSIDERATIONS IN AWARDING GRANTS.—(1) In awarding grants under subsection (a), the Director may give priority to—

"(A) applicants from or near jurisdictions with high rates of violent crime; and

"(B) applicants that propose to develop a multijurisdictional or regional approach to respond to or prevent violent crime.

"(2) The Director shall not limit grants under subsection (a) to highly populated centers of violent crime, but shall give due consideration to applications from less populated regions where the magnitude and severity of violent crime warrants Federal assistance.

"(3) The Director shall not limit grants under subsection (a) to the enhancement of law enforcement capabilities, but shall give due consideration to applications that propose to use funds for the improvement of the criminal justice system in general.".

RIEGLE AMENDMENT NOS. 529 AND 530

(Ordered to lie on the table.)

Mr. RIEGLE submitted two amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT NO. 529

At the appropriate place in the bill, insert the following:

SEC. —. REGIONAL VIOLENT CRIME ASSISTANCE.

The Omnibus Crime and Safe Streets Act of 1968 (42 U.S.C. 3701 et seq.) is amended—

(1) by amending section 511 to read as follows:

"ALLOCATION OF FUNDS FOR GRANTS

"(a) SPECIAL DISCRETIONARY FUNDS.—Of the total amount appropriated for this part (other than chapter B of this subpart) in any fiscal year—

"(1) if that amount is $250,000,000 or less, 20 percent shall be reserved and set aside for this section in a special discretionary fund for use by the Director in carrying out the purposes specified in section 503;

"(2) if that amount is greater than $250,000,000 but less than $500,000,000—

"(A) $50,000,000 shall be reserved and set aside for this section in the special discretionary fund described in paragraph (1); and

"(B) 20 percent of the excess over $250,000,000 shall be reserved and set aside for this section in a special discretionary fund for use by the Director in carrying out the purposes specified in section 513; and

"(3) if that amount is greater than $500,000,000—

"(A) $50,000,000 shall be reserved and set aside for this section in the special discretionary fund described in paragraph (1); and

"(B) $50,000,000 shall be reserved and set aside for this section in the special discretionary fund described in paragraph (2)(B)

"(b) AMOUNT OF GRANTS.—Grants under this section may be made for amounts up to 5 percent of the costs of the programs or projects contained in the approved application.";

(2) in section 512 by inserting "for purposes specified in section 503" after "section 511"; and

(3) by inserting after section 512 the following new section:

"REGIONAL VIOLENT CRIME ASSISTANCE

"(a) PURPOSES OF GRANTS.—The Director may make a grant to a state agency for the purposes of—

"(1) enhancing law enforcement and criminal justice systems in regions that suffer from high rates of violent crime or face particular violent crime problems that warrant Federal assistance; and

"(2) developing and implementing multijurisdictional strategies to respond to and prevent violent crime.

"(b) AMOUNT.—(1) No grantee under subsection (a) shall receive a grant exceeding $10,000,000.

"(c) CONSIDERATIONS IN AWARDING GRANTS.—(1) In awarding grants under subsection (a), the Director may give priority to—

"(A) states that develop and implement plans to assist law enforcement and criminal justice authorities from or near jurisdictions with high rates of violent crime; and

"(B) States that propose to develop a multijurisdictional or regional approach to respond to or prevent violent crime.

"(2) The Director shall not limit grants under subsection (a) to highly populated centers of violent crime, but shall give due consideration to applications from less populated regions where the magnitude and severity of violent crime warrants Federal assistance.

"(3) The Director shall not limit grants under subsection (a) to the enhancement of law enforcement capabilities, but shall give due consideration to applications that propose to use funds for the improvement of the criminal justice system in general.".

LEVIN AMENDMENT NO. 531

(Ordered to lie on the table.)

Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

Amend subsection (a) of section 202 of title II dealing with the Special Hearing to Determine Whether a Sentence of Death is Justified (section 3593), with respect to the Return of a Finding Concerning a Sentence of Death (subsection e) to strike the following sentence:

"Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than a lesser sentence."

And insert in lieu thereof the following:

"Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall determine whether a sentence of death shall be imposed rather than a lesser sentence."

HATCH AMENDMENT NOS. 532 AND 533

(Ordered to lie on the table.)

Mr. HATCH submitted two amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT NO. 532

At the appropriate place, add the following:

SEC. . (a) Notwithstanding any other provision of law or regulation, no Federal department or agency may—

(1) revoke a contract for the sale of any federally owned building or facility to any nonprofit organization, except for cause; or

(2) revoke a grant or loan awarded to any recipient for the purpose of purchasing a building or facility intended for a bona fide community purpose, except for cause.

(b) For purposes of this section, the term "cause" means evidence of illegal activity by the nonprofit organization or recipient of Federal funds, evidence of illegal activity taking place at the site, default on payments required as a condition of the purchase; or a breach of the terms and conditions governing the use of the building or facility.

(c) This section shall apply to any action taken by a federal department or agency to revoke a contract, grant, or loan after December 31, 1987.

AMENDMENT NO. 533

At the appropriate place, insert the following:

In 28 U.S.C. Section 519, designate the current matter as subsection '(a)' and add the following:

(b) AWARD OF FEES.—

(1) CURRENT EMPLOYEES.—Upon the application of any current employee of the De-

partment of Justice who was the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for reasonable attorney's fees incurred by that employee as a result of such investigation.

(2) FORMER EMPLOYEES.—Upon the application of any former employee of the Department of Justice who was the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for those reasonable attorney's fees incurred by that former employee as result of such investigation.

(3) EVALUATION OF AWARD.—The Attorney General may make an inquiry into the reasonableness of the sum requested. In making such inquiry the Attorney General shall consider:

(A) the sufficiency of the documentation accompanying the request;

(B) the need or justification for the underlying item;

(C) the reasonableness of the sum requested in light of the nature of the investigation; and

(D) current rates for legal services in the community in which the investigation took place.

THURMOND AMENDMENT NO. 534

(Ordered to lie on the table.)

Mr. THURMOND submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

In title VIII, strike "4 years" wherever it appears and insert "8 years".

SIMPSON AMENDMENT NO. 535

(Ordered to lie on the table.)

Mr. SIMPSON submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . SPECIAL REMOVAL OF TERRORIST ALIENS.

The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after section 242B the following new section:

"REMOVAL OF ALIEN TERRORISTS

"SEC. 242C. (a) DEFINITIONS.—As used in this section—

"(1) the term 'alien terrorist' means any alien likely to engage in activity described in section 241(a)(4) (A)(iii) or (B), except for—

"(A) an alien who commits an act which the actor knows, or reasonably should know, affords material support to any individual, organization, or government in conducting a terrorist activity at any time, including any of the following acts:

"(i) The preparation or planning of a terrorist activity;

"(ii) The gathering of information on potential targets for terrorist activity;

"(iii) The providing of any type of material support, including a safe house, transportation, communications, funds, false identification, weapons, explosives, or training, to any individual the actor knows or has reason to believe has committed or plans to commit an act of terrorist activity;

"(iv) The soliciting of funds or other things of value for terrorist activity or for any terrorist organization;

"(v) The solicitation of any individual for membership in a terrorist organization, terrorist government, or to engage in a terrorist activity; and

"(B) an alien who has been present for at least seven years as a lawful permanent resident alien, and who has either a spouse, child or parent who is a United States citizen;

"(2) the term 'classified information' has the same meaning as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App. IV);

"(3) the term 'national security' has the same meaning as defined in section 1(b) of the Classified Information Procedures Act (18 U.S.C. App. IV);

"(4) the term 'special court' means the court described in subsection (c) of this section; and

"(5) the term 'special removal hearing' means the hearing described in subsection (e) of this section.

"(b) APPLICATION FOR USE OF PROCEDURES.—The provisions of this section shall apply whenever the Attorney General certifies under seal to the special court that—

"(1) the Attorney General or Deputy Attorney General has approved of the proceeding under this section;

"(2) an alien terrorist is physically present in the United States; and

"(3) removal of such alien terrorist by deportation proceedings described in sections 242, 242A, or 242B would pose a risk to the national security of the United States because such proceedings would—

"(A) disclose classified information;

"(B) disclose a confidential source of information; or

"(C) reveal an investigative technique important to efficient law enforcement.

"(c) SPECIAL COURT.—(1) The Chief Justice of the United States shall publicly designate up to seven judges from up to seven United States judicial districts to hear and decide cases arising under this section, in a manner consistent with the designation of judges described in section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)).

"(2) The Chief Justice may, in his discretion, designate the same judges under this section as are designated pursuant to section 103(a) of the Foreign Intelligence Surveillance Act of 1978.

"(d) INVOCATION OF SPECIAL COURT PROCEDURE.—(1) When the Attorney General makes the application described in subsection (b), a single judge of the special court shall consider the application in camera and ex parte.

"(2) The judge shall invoke the procedures of subsection (e), if the judge determines that there is probable cause to believe that—

"(A) the alien who is the subject of the application has been correctly identified;

"(B) a deportation proceeding described in sections 242, 242A, or 242B would pose a risk to the national security of the United States because such proceedings would—

"(i) disclose classified information;

"(ii) disclose a confidential source of information; or

"(iii) reveal an investigative technique important to efficient law enforcement; and

"(C) the alien poses an immediate threat of death or serious bodily harm toward either—

"(i) a substantial number of persons in the United States or on board a common carrier departing the United States, or

"(ii) a citizen of the United States who holds public office or is otherwise of political significance.

"(e) SPECIAL REMOVAL HEARING.—(1) Except as provided in paragraph (4), the special removal hearing authorized by a showing of probable cause described in subsection (d)(2) shall be open to the public.

"(2) The alien shall have a right to be present at such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent such alien. Counsel may be appointed as described in section 3006A of title 18, United States Code.

"(3) The alien shall have—

"(A) a right to introduce evidence on his own behalf; and

"(B) except as provided in paragraph (4), a right to cross-examine any witness or request that the judge issue a subpoena for the presence of a named witness.

"(4) The judge shall authorize the introduction in camera and ex parte of any item of evidence for which the judge determines that public disclosure would pose a risk to the national security of the United States because it would—

"(A) disclose classified information;

"(B) disclose a confidential source of information; or

"(C) reveal an investigative technique important to efficient law enforcement.

"(5) With respect to any evidence described in paragraph (4), the judge shall cause to be delivered to the alien either—

"(A)(i) the substitution for such evidence of a statement admitting relevant facts that the specific evidence would tend to prove; or

"(ii) the substitution for such evidence of a summary of the specific evidence; or

"(B) if disclosure of even the substituted evidence described in subparagraph (A) would create a substantial risk of death or serious bodily harm to any person, a statement informing the alien that no such summary is possible.

"(6)(A) If the judge determines that the substituted evidence described in paragraph (5)(A) will provide the alien with substantially the same ability to make his defense as would disclosure of the specific evidence, then

"(i) such evidence shall be disclosed to the alien, and

"(ii) the determination of deportation (described in subsection (f)) may be made pursuant to this section.

"(B) If the judge determines that disclosure of even the substituted evidence described in paragraph (5)(A) would create a substantial risk of death or serious bodily harm to any person who is the source of the information, then the determination of deportation (described in subsection (f)) may be made pursuant to this section: *Provided*, That the judge makes the finding described in subparagraph (C).

"(C) For purposes of subparagraph (B), the judge shall issue a written statement finding that the alien's constitutional due process rights have been respected, including consideration of the following factors:

"(i) the alien's interest in remaining in the United States,

"(ii) whether the government has a compelling interest in not disclosing even the substituted evidence described in paragraph (5)(A), and

"(iii) whether the risk of an erroneous decision regarding deportability is low even if the substitute evidence described in paragraph (5)(A) is not disclosed.

"(f) DETERMINATION OF DEPORTATION.—(1) If the determination in subsection (e)(6)(A) has been made, the judge shall, considering the evidence on the record as a whole, require that the alien be deported if the Attorney General proves, by clear and convincing evidence, that the alien is subject to deportation because he is an alien as described in section 241(a)(4)(B).

"(2) If the determination in subsection (e)(5)(B) has been made, the judge shall, considering the evidence received (in camera and otherwise), require that the alien be deported if the Attorney General proves, by clear, convincing, and unequivocal evidence, that the alien is subject to deportation because he is an alien as described in section 241(a)(4)(B).

"(g) APPEALS.—(1) The alien may appeal a determination under subsection (f) to the court of appeals for the Federal Circuit, by filing a notice of appeal with such court within 20 days of the determination under such subsection.

"(2)(A) The Attorney General may appeal a determination under subsection (d), subsection (e), or subsection (f) to the court of appeals for the Federal Circuit, by filing a notice of appeal with such court within 20 days of the determination under any one of such subsections.

"(B) When requested by the Attorney General, the entire record of the proceeding under this section shall be transmitted to the court of appeals under seal. If the Attorney General is appealing a determination under subsection (d) or (e), the court of appeals shall consider such appeal in camera and ex parte.".

SEYMOUR AMENDMENTS NOS. 536 AND 537

(Ordered to lie on the table.)

Mr. SEYMOUR submitted two amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT No. 536

At the end of the bill, insert the following:

TITLE —EXPLOITATION OF ALIENS

SEC. 01. SHORT TITLE.

This title may be cited as the "Exploitation of Aliens Act of 1991".

SEC. 02. EXPLOITATION OF ALIENS.

(a) INDUCEMENT OF ALIENS.—A person who is 18 years of age or older who voluntarily solicits, counsels, encourages, commends, intimidates, or procures any alien with the intent that the alien commit an aggregated felony, as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than $100,000.

(b) COMMISSION OF CRIME BY ALIEN.—An alien who is induced by another person to commit and subsequently commits an aggravated felony, as defined in section 101(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than $100,000.

(c) CONSIDERATIONS.—In imposing a fine under subsection (a) or (b), the court shall consider the severity of the offense sought or committed by the offender as a circumstance in aggravation.

(d) ENFORCEMENT.—(1) A proceeding for assessment of a civil fine under subsection (a) or (b) may be brought in the first instance—

(A) in a civil action before a United States district court; or

(B) in an administrative proceeding before an administrative law judge in accordance with section 554 of title 5, United States Code.

(2) A decision and order of an administrative law judge under paragraph (1)(B) shall become the final agency decision and order of the Attorney General unless, within 30 days, the Attorney General modifies or vacates the decision and order, in which case the decision and order of the Attorney General shall become a final order.

(3) A person affected by a final order under this subsection may, not later than 45 days after the date on which the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

(4)(A) If a person found in violation of subsection (a) or (b) fails to comply with a final order issued by a circuit court or administrative law judge, the Attorney General may bring a civil action to seek compliance with the order in any appropriate district court of the United States.

(B) In a civil action under subparagraph (A), the validity and appropriateness of the final order shall not be subject to review.

SEC. 03. CRIMINAL ALIEN IDENTIFICATION AND REMOVAL FUND.

(a) ESTABLISHMENT.—(1) There is established in the Treasury of the United States the Criminal Alien Identification and Removal Fund (referred to as the "Fund").

(2) All fines collected pursuant to section 02 shall be covered into the Fund and shall be used for the purposes of this section.

§ 03(b)(1) to read as follows:

"(b) DISTRIBUTION OF MONIES IN THE FUND.—(1) Ninety percent of the monies covered into in the fund in any fiscal year may be used by the Attorney General—

"(A) to assist the Immigration and Naturalization Service to identify, investigate, apprehend, detain, and deport aliens who have committed an aggravated felony, and

"(B) to fund any of the 20 additional immigration judge positions authorized by section 512 of the Immigration Act of 1990 which have not been funded.".

(2) Ten percent of the monies covered into the fund in any fiscal year may be distributed in the form of grants to the States by the Attorney General for the purposes of—

(A) assisting the States in implementing section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11));

(B) expanding section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11)) to identify aliens—

(i) as they are processed for admission into State prisons; and

(ii) when they enter probation programs.

(c) TECHNICAL AMENDMENT.—Section 280(b)(1) of the Immigration and Nationality Act is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

AMENDMENT No. 537

At the appropriate place insert the following:

SEC. . PENALTIES FOR PARTICIPATION IN GANG ACTIVITY.

(a) Any person who willfully promotes, furthers, or assists in any felonius criminal conduct by the members of a criminal gang with knowledge that its members engage or have engaged in a pattern of criminal gang activity, shall be imprisoned not less than one year and not more than three years, except as provided in subsection (b) of this section.

(b) Whoever is convicted of an offense against the United States, which is committed knowingly for the benefit of, at the direction of, or in association with any criminal gang shall be, except in the circumstances described in paragraph (2) of this section, imprisoned in addition and consecutive to the punishment prescribed for the offense, or attempted offense, not less than three and not more than seven years.

(2) Any person who is convicted of an offense that results in serious bodily injury shall be imprisoned in addition and consecutive to the punishment prescribed for the offense, or attempted offense, not less than seven and not more than twelve years.

(c) As used in this section—

(1) the term "serious bodily injury" means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(2) the term "criminal gang" means a criminal syndicate of three or more persons that is commonly known by a certain name or identifier that engages in or has as one of its purposes engaging in offenses involving

(i) assault, homicide, firearms, explosives, robbery, and burglary, extortion, fraud, and witness intimidation, as defined in this title, or

(ii) possession, possession for sale, sale, transportation, manufacture, offer for sale, or offer to manufacture controlled substances as defined in the Controlled Substances Act.

KENNEDY (AND OTHERS) AMENDMENT NO. 538

Mr. KENNEDY (for himself, Mr. HATCH, Mr. BIDEN, Mr. D'AMATO, Mr. DECONCINI, Mr. SPECTER, Mr. GRAHAM, and Mr. KERRY) proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place, insert the following:

SEC. . USE OF UNOBLIGATED FUNDS FROM CUSTOMS FORFEITURE FUND.

Section 613A(f)(3) of the Tariff Act of 1930 (19 U.S.C. 1613b(f)(3)) is amended by striking "in excess of" and all that follows through the period and inserting "remaining in the Fund shall be utilized as follows:

"(i) The first $15,000,000 shall remain in the Fund.

"(ii) The next $30,000,000 shall be transferred to the Department of Health and Human Services and expended for drug treatment through grant programs set forth in titles V or XIX of the Public Health Services Act.

"(iii) Any remaining money shall be deposited into the general fund of the Treasury of the United States.".

KOHL AMENDMENT NOS. 539 AND 540

(Ordered to lie on the table.)

Mr. KOHL submitted two amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT No. 539

At the appropriate place, insert the following:

SEC. . DEPARTMENT OF JUSTICE COMMUNITY SUBSTANCE ABUSE PREVENTION ACT OF 1991.

(a) SHORT TITLE.—This section may be cited as the "Department of Justice Community Substance Abuse Prevention Act of 1991".

(b) COMMUNITY PARTNERSHIPS.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"Subpart 4—Community Coalitions on Substance Abuse

"GRANTS TO COMBAT SUBSTANCE ABUSE

"SEC. 531. (a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) representatives of 3 of the following groups: the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, and the appropriate State agency, shall make grants to eligible coalitions in order to—

"(1) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(2) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(3) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(4) develop a consensus regarding the priorities of a community concerning substance abuse;

"(5) develop a plan to implement such priorities; and

"(6) coordinate substance abuse services and activities, including prevention activities in the schools or communities and substance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under subsection (b) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Attorney General and the appropriate State agency in order to receive a grant under this section. Such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem, emphasizing who is at risk and specifying which groups of individuals should be targeted for prevention and intervention;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5) and to report on such plan to the Attorney General on an annual basis; and

"(6) contain such additional information and assurances as the Attorney General and the appropriate State agency may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Attorney General and the appropriate State agency shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) REVIEW.—Each coalition receiving money pursuant to the provisions of this section shall submit an annual report to the Attorney General, and the appropriate State agency, evaluating the effectiveness of the plan described in subsection (b)(5) and containing such additional information as the Attorney General, or the appropriate State agency, may prescribe. The Attorney General, in conjunction with the Director of the Bureau of Justice Assistance, and the appropriate State agency, shall submit an annual review to the committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives. Such review shall—

"(1) evaluate the grant program established in this section to determine its effectiveness;

"(2) implement necessary changes to the program that can be done by the Attorney General; and

"(3) recommend any statutory changes that are necessary.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section, $15,000,000 for fiscal year 1992, $20,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994."

(c) AMENDMENT TO TABLE OF SECTIONS.—The table of sections of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"SUBPART 4—COMMUNITY COALITION ON SUBSTANCE ABUSE

"Sec. 531. Grants to combat substance abuse."

AMENDMENT NO. 540

At the appropriate place, insert the following:

SEC. . PILOT PROGRAMS AT STATE AND LOCAL PRISONS TO PROVIDE COMPREHENSIVE SUBSTANCE ABUSE TREATMENT SERVICES FOR WOMEN.

Section 511 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3761) is amended by—

(1) inserting "(a) IN GENERAL.—" before "Of the total amount"; and

(2) adding at the end thereof the following:

"(b) CHILD AND YOUTH SOCIAL SERVICE PROGRAM STUDY.—Notwithstanding subsection (a), not less than $3,000,000 of the amount appropriated under this subpart shall be used for—

"(1) providing or arranging for the provision of intervention services for female inmates, including—

"(A) substance abuse and addiction treatment services, with priority given to discrete treatment units which provide detoxification if necessary, comprehensive substance abuse education, the development of individualized treatment plans, individual and group counseling, and ongoing access to self-help groups;

"(B) support services (such as counseling to address family violence and sexual assault);

"(C) life skills training (such as parenting and child development classes);

"(D) education services (such as literacy and vocational training); and

"(E) after care services; and

"(2) providing or arranging for the provision of ancillary social services and such other assistance that will ensure that women can maintain contact with their children and their children will receive age appropriate substance abuse education and counseling.".

SPECTER AMENDMENT NO. 541

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

On page 86, strike line 3 and all that follows through page 114, line 10, and insert the following:

TITLE VIII—POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT

SEC. 801. SHORT TITLE.

This title may be cited as the "Police Corps and Law Enforcement Training and Education Act".

SEC. 802. PURPOSES.

The purposes of this title are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol;

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement; and

(3) assist State and local law enforcement efforts to enhance the educational status of law enforcement personnel both through increasing the educational level of existing officers and by recruiting more highly educated officers.

SEC. 803. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps and Law Enforcement Education shall be headed by a Director (referred to in this title as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program established in subtitle A and the Law Enforcement Scholarship program established in subtitle B and shall have authority to promulgate regulations to implement this title.

SEC. 804. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) Lead Agency.—A State that desires to participate in the Police Corps program under subtitle A or the Law Enforcement Scholarship program under subtitle B shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) State Plans.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this title;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program;

(4) if the State desires to participate in the Police Corps program under subtitle A, meet the requirements of section 816; and

(5) if the State desires to participate in the Law Enforcement Scholarship program under subtitle B, meet the requirements of section 826.

Subtitle A—Police Corps Program

SEC. 811. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "academic year" means a traditional academic year beginning in August or September and ending in the following May or June;

(2) the term "dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director;

(3) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree; or

(B) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses;

(4) the term "participant" means a participant in the Police Corps program selected pursuant to section 813;

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and

(6) the term "State Police Corps program" means a State police corps program approved under section 816.

SEC. 812. SCHOLARSHIP ASSISTANCE.

(a) Scholarships Authorized.—(1) The Director is authorized to award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B) each scholarship payment made under this section for each academic year shall not exceed—

(i) $10,000; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The total amount of scholarship assistance received by any one student under this section shall not exceed $40,000.

(4) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(5)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution.

(b) Reimbursement Authorized.—(1) The Director is authorized to make payments to a participant to reimburse such participant for the costs of educational expenses if such student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $10,000; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The total amount of payments made pursuant to subparagraph (A) to any one student shall not exceed $40,000.

(c) Use of Scholarship.—Scholarships awarded under this subsection shall only be used to attend a 4-year institution of higher education.

(d) Agreement.—(1) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director. Each such agreement shall contain assurances that the participant shall—

(A) after successful completion of a baccalaureate program and training as prescribed in section 814, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(B) complete satisfactorily—

(i) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the case of graduate study);

(ii) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 814; and

(C) repay all of the scholarship or payment received plus interest at the rate of 10 percent in the event that the conditions of subparagraphs (A) and (B) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) In the event that a scholarship recipient is unable to comply with the repayment provision set forth in subparagraph (B) of paragraph (1) because of a physical or emotional disability for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from participants who violate the agreement described in paragraph (1).

(e) Dependent Child.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties;

shall be entitled to the scholarship assistance authorized in this section. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) Gross Income.—For purposes of section 61 of the Internal Revenue Code of 1986, a participant's or dependent child's gross income shall not include any amount paid as scholarship assistance under this section or as a stipend under section 814.

(g) Application.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

(h) Definition.—For the purposes of this section the term "institution of higher education" has the meaning given that term in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

SEC. 813. SELECTION OF PARTICIPANTS.

(a) In General.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) Selection Criteria and Qualifications.—(1) In order to participate in a State Police Corps program, a participant must—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to section 815(c)(5), including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this title, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section 815, and such a participant shall be subject to the same benefits and obligations under this subtitle as other participants, including those stated in section (b)(1) (E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 815, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this Act that there shall be no more than 20,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 20,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of racial and ethnic groups whose representation on the police forces within the State is substantially less than in the population of the State as a whole. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, a 4-year institution of higher education (as described in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)))—

(A) as a full-time student in an undergraduate program; or

(B) for purposes of taking a graduate course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) A participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(f) ADMISSION OF APPLICANTS.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

SEC. 814. POLICE CORPS TRAINING.

(a) IN GENERAL.—(1) The Director shall establish programs of training for Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing State training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subtitle.

(2) The Director is authorized to enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces), to obtain the services of persons qualified to participate in and contribute to the training process.

(3) The Director is authorized to enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, one during the summer following completion of sophomore year and one during the summer following completion of junior year. If a participant enters the program after sophomore year, the participant shall complete 16 weeks of training at times determined by the Director.

(c) FURTHER TRAINING.—The 16 weeks of Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section 816 shall include assurances that following completion of a participant's course of education each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Police Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) COURSE OF TRAINING.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) EVALUATION OF PARTICIPANTS.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Director at the conclusion of each training session in order to remain in the Police Corps program.

(f) STIPEND.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

SEC. 815. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon satisfactory completion of the participant's course of education and training program established in section 814 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 812, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 812(d)(1)(C) shall not apply.

SEC. 816. STATE PLAN REQUIREMENTS.

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 813;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since July 10, 1991; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) assure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

SEC. 817. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $100,000,000 for each of fiscal years 1992 and 1993, and $200,000,000 for each of fiscal years 1994, 1995, and 1996.

Subtitle B—Law Enforcement Scholarships Program

SEC. 821. SHORT TITLE.

This Subtitle may be cited as the "Law Enforcement Scholarships and Recruitment Subtitle".

SEC. 822. DEFINITIONS.

As used in this subtitle—

(1) the term "Director" means the Director of the Bureau of Justice Assistance;

(2) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree;

including the cost of tuition, fees, books, supplies, and related expenses;

(3) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965;

(4) the term "law enforcement position" means employment as an officer in a State or local police force, or correctional institution; and

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 823. ALLOTMENT.

From amounts appropriated pursuant to the authority of section 11, the Director shall allot—

(1) 80 percent of such funds to States on the basis of the number of law enforcement officers in each State compared to the number of law enforcement officers in all States; and

(2) 20 percent of such funds to States on the basis of the shortage of law enforcement personnel and the need for assistance under this subtitle in the State compared to the shortage of law enforcement personnel and the need for assistance under this subtitle in all States.

SEC. 824. PROGRAM ESTABLISHED.

(a) USE OF ALLOTMENT.—

(1) IN GENERAL.—Each State receiving an allotment pursuant to section 823 shall use such allotment to pay the Federal share of the costs of—

(A) awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education; and

(B) providing—

(i) full-time employment in summer; and

(ii) part-time (not to exceed 20 hours per week) employment during a period not to exceed one year.

(2) EMPLOYMENT.—The employment described in subparagraph (B) of paragraph (1) shall be provided by State and local law enforcement agencies for students who are juniors or seniors in high school or are enrolled in an accredited institution of higher education and who demonstrate an interest in undertaking a career in law enforcement. Such employment shall not be in a law enforcement position. Such employment shall consist of performing meaningful tasks that inform such students of the nature of the tasks performed by law enforcement agencies.

(b) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS.—The Secretary shall pay to each State receiving an allotment under section 823 the Federal share of the cost of the activities described in the application submitted pursuant to section 827.

(2) FEDERAL SHARE.—The Federal share shall not exceed 60 percent.

(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of scholarships and student employment provided under this subtitle shall be supplied from sources other than the Federal Government.

(c) LEAD AGENCY.—Each State receiving an allotment under section 823 shall designate an appropriate State agency to serve as the lead agency to conduct a scholarship program, a student employment program, or both in the State in accordance with this subtitle.

(d) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the programs conducted pursuant to this subtitle and shall, in consultation with the Assistant Secretary for Postsecondary Education, issue rules to implement this subtitle.

(e) ADMINISTRATIVE EXPENSES.—Each State receiving an allotment under section 823 may reserve not more than 8 percent of such allotment for administrative expenses.

(f) SPECIAL RULE.—Each State receiving an allotment under section 823 shall ensure that each scholarship recipient under this subtitle be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(g) SUPPLEMENTATION OF FUNDING.—Funds received under this subtitle shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. 825. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—Scholarships awarded under this subtitle shall be for a period of one academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this subtitle may use such scholarship for educational expenses at any accredited institution of higher education.

SEC. 826. ELIGIBILITY.

(a) SCHOLARSHIPS.—An individual shall be eligible to receive a scholarship under this subtitle if such individual has been employed in law enforcement for the 2-year period immediately proceeding the date on which assistance is sought.

(b) INELIGIBILITY FOR STUDENT EMPLOYMENT.—An individual who has been employed as a law enforcement officer is ineligible to participate in a student employment program carried out under this subtitle.

SEC. 827. STATE APPLICATION.

Each State desiring an allotment under section 823 shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require. Each such application shall—

(1) describe the scholarship program and the student employment program for which assistance under this subtitle is sought;

(2) contain assurances that the lead agency will work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out this subtitle;

(3) contain assurances that the State will advertise the scholarship assistance and student employment it will provide under this subtitle and that the State will use such programs to enhance recruitment efforts;

(4) contain assurances that the State will screen and select law enforcement personnel for participation in the scholarship program under this subtitle;

(5) contain assurances that under such student employment program the State will screen and select, for participation in such program, students who have an interest in undertaking a career in law enforcement;

(6) contain assurances that under such scholarship program the State will make scholarship payments to institutions of higher education on behalf of individuals receiving scholarships under this subtitle;

(7) with respect to such student employment program, identify—

(A) the employment tasks students will be assigned to perform;

(B) the compensation students will be paid to perform such tasks; and

(C) the training students will receive as part of their participation in such program;

(8) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel; and

(9) contain assurances that the State will promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in institutions of higher education.

SEC. 828. LOCAL APPLICATION.

(a) IN GENERAL.—Each individual who desires a scholarship or employment under this subtitle all submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require. Each such application shall describe the academic courses for which a scholarship is sought, or the location and duration of employment sought, as appropriate.

(b) PRIORITY.—In awarding scholarships and providing student employment under this subtitle, each State shall give priority to applications from individuals who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State;

(2) pursuing an undergraduate degree; and

(3) not receiving financial assistance under the Higher Education Act of 1965.

SEC. 829. SCHOLARSHIP AGREEMENT.

(A) IN GENERAL.—Each individual who receives a scholarship under this subtitle shall enter into an agreement with the Director.

(b) CONTENTS.—Each agreement described in subsection (a) shall—

(1) provide assurance that the individual will work in a law enforcement position in the State which awarded such individual the scholarship in accordance with the service obligation described in subsection (c) after completion of such individual's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the individual will repay the entire scholarship awarded under this subtitle in accordance with such terms and conditions as the Director shall prescribe, in the event that the requirements of such agreement are not complied with unless the individual—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which an individual receiving a scholarship under this subtitle may seek employment in the field of law enforcement in a State other than the State which awards such individual the scholarship under this subtitle.

(c) SERVICE OBLIGATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), each individual awarded a scholarship under this subtitle shall work in a law enforcement position in the State which awards such individual the scholarship for a period of one month for each credit hour for which funds are received under such scholarship.

(2) SPECIAL RULE.—For purposes of satisfying the requirement specified in paragraph (1), each individual awarded a scholarship under this subtitle shall work in a law enforcement position in the State which awarded such individual the scholarship for not less than 6 months nor more than 2 years.

SEC. 830. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out this subtitle.

(b) USES OF FUNDS.—Of the funds appropriated under subsection (a) for any fiscal year—

(1) 75 percent shall be available to provide scholarships described in section 824(a)(1)(A); and

(2) 25 percent shall be available to provide employment described in sections 824(a)(1)(B) and 824(a)(2).

Subtitle C—Reports

SEC. 831. REPORTS TO CONGRESS.

(a) ANNUAL REPORTS.—No later than April 1 of each fiscal year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of Senate. Such report shall—

(1) state the number of current and past participants in the Police Corps program authorized by subtitle A, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic dispersion of participants in the Police Corps program;

(3) state the number of present and past scholarship recipients under subtitle B, categorized according to the levels of educational study in which such recipients are engaged and the years of service such recipients have served in law enforcement;

(4) describe the geographic, racial, and gender dispersion of scholarship recipients under subtitle B; and

(5) describe the progress of the programs authorized by this title and make recommendations for changes in the programs.

(b) SPECIAL REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall submit a report to Congress containing a plan to expand the assistance provided under subtitle B to Federal law enforcement officers. Such plan shall contain information of the number and type of Federal law enforcement officers eligible for such assistance.

SEYMOUR AMENDMENT NO. 542

(Ordered to lie on the table.)

Mr. SEYMOUR submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place, insert the following:

SEC. . PENALTIES FOR CRIMINAL GANG ACTIVITY.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Chapter 1 of title 18, United States Code, as amended by section —, is amended by adding at the end thereof the following new section:

"§ 22. Criminal gang activity

"(a) PROMOTING, FURTHERING, OR ASSISTING IN CRIMINAL GANG ACTIVITY.—Except to the extent that a greater sentence is provided by other law (including subsection (b)), a person who willfully promotes, furthers, or assists in any felonious criminal conduct by the members of a criminal gang, with knowledge that its members engage or have engaged in a pattern of criminal gang activity, shall be imprisoned not less than 1 year and not more than 3 years.

"(b) ENHANCED PENALTY.—(1) Except as provided in paragraph (2), a person who is convicted of an offense shall, if the offense is committed knowingly for the benefit of, at the direction of, or in association with a criminal gang, in addition and consecutive to any term of imprisonment imposed for that offense, be imprisoned not less than 3 years and not more than 7 years.

"(2) In the case of an offense described in paragraph (1) that results in serious bodily injury to any person, the offender, in addition and consecutive to any term of imprisonment imposed for that offense, shall be imprisoned not less than 7 years and not more than 12 years.

"(c) DEFINITIONS.—As used in this section—

"(1) the term 'criminal gang' means a criminal syndicate of 3 or more persons that is commonly known by a certain name or identifier that engages in or has as 1 of its purposes engaging in offenses involving—

"(A) assault, homicide, firearms, explosives, robbery, burglary, extortion, fraud, or witness intimidation; or

"(B) possession, possession for sale, sale, transportation, manufacture, offer for sale, or offer to manufacture controlled substances (as those terms are defined in the Controlled Substances Act (21 U.S.C. 801 et seq.)); and

"(2) the term 'serious bodily injury' means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss of impairment of the function of a bodily member, organ, or mental faculty.".

(b) TECHNICAL AMENDMENT.—The table of chapters for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"22. Criminal gang activity.".

LEAHY AMENDMENT NO. 543

(Ordered to lie on the table.)

Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place, insert the following:

SEC. . FEDERAL BUREAU OF INVESTIGATION ACCESS TO CERTAIN TELEPHONE SUBSCRIBER INFORMATION.

(a) REQUIRED CERTIFICATION.—Section 2709(b) of title 18, United States Code, is amended to read as follows:

"(b) REQUIRED CERTIFICATION.—The Director of the Federal Bureau of Investigation, or his designee in a position not lower than Deputy Assistant Director in the Intelligence Division, may—

"(1) request the name, address, length of service, and toll billing records if the Director (or his designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the name, address, length of service, and toll billing records sought are relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801); and

"(2) request the name, address, and length of service of a person or entity if the Director (or his designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that communication facilities registered in the name of the person or entity have been used, through the services of such provider, in communication with—

"(i) an individual who is engaging or has engaged in international terrorism as defined in section 101(c) of the Foreign Intelligence Survellience Act or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States; or

"(ii) a foreign power or an agent of a foreign power under circumstances giving reason to believe that the communication concerned international terrorism or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States.".

(b) REPORT TO JUDICIARY COMMITTEES.—Section 2709(e) of title 18, United States Code, is amended by adding after "Senate" the following: ", and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,".

Notwithstanding any other provisions of this Act, the last paragraph of section 2515 of title 18, United States Code, as amended by this Act, is repealed.

WOFFORD AMENDMENT NO. 544

(Ordered to lie on the table.)

Mr. WOFFORD submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the end of the bill, add the following:

TITLE —ENVIRONMENTAL COMPLIANCE

SEC. 01. ENVIRONMENTAL COMPLIANCE.

(a) IN GENERAL.—Title 18 of the United States Code is amended by inserting after chapter 33 the following new chapter:

"CHAPTER 34—ENVIRONMENTAL COMPLIANCE

"731. Environmental compliance audit.
"732. Definition.

"§ 731. Environmental compliance audit

"(a) IN GENERAL.—A court of the United States—

"(1) shall, when sentencing an organization for an environmental offense that is a felony; and

"(2) may, when sentencing an organization for a misdemeanor environmental offense,

require that the organization pay for an environmental compliance audit.

"(b) APPOINTMENT OF INDEPENDENT EXPERT.—The court shall appoint an independent expert—

"(1) with no prior involvement in the management of the organization sentenced to conduct an environmental compliance audit under this section; and

"(2) who has demonstrated abilities to properly conduct such audits.

"(c) CONTENTS OF COMPLIANCE AUDIT.—(1) An environmental compliance audit shall—

"(A) identify all causes of and factors relating to the offense; and

"(B) recommend specific measures that should be taken to prevent a recurrence of those causes and factors and avoid potential environmental offenses.

"(2) An environmental compliance audit shall not recommend measures under paragraph (1)(B) that would require the violation of an environmental statute, regulation, or permit.

"(d) COURT-ORDERED IMPLEMENTATION OF COMPLIANCE AUDIT.—The court shall order the defendant to implement the appropriate recommendations of the environmental compliance audit.

"(e) ADDITIONAL STANDING TO RAISE FAILURE TO IMPLEMENT COMPLIANCE AUDIT.—(1) The prosecutor, auditor, any governmental agency, or any private individual may present evidence to the court that a defendant has failed to comply with the court order under subsection (d).

"(2) When evidence of failure to comply with the court order under subsection (d) is presented pursuant to paragraph (1), the court shall consider all relevant evidence and, if the court determines that the defendant has not fully complied with the court order, order appropriate sanctions.

"§ 732. Definition

"For the purposes of this chapter, the term 'environmental offense' means a criminal violation of—

"(1) the Clean Air Act (42 U.S.C. 7401 et seq.);

"(2) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (commonly known as the Clean Water Act);

"(3) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

"(4) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(5) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.);

"(6) the Solid Waste Disposal Act (42 U.S.C. 5901 et seq.);

"(7) title XIV of the Public Health Service Act (42 U.S.C. 300f et seq.) (commonly known as the Safe Drinking Water Act); and

"(8) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).".

(b) TECHNICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 33 the following new item:

JEFFORDS AMENDMENT NO. 545

(Ordered to lie on the table.)

Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, insert the following new subsections and redesignate accordingly:

SEC. . COMPLIANCE ASSURANCE ACTIVITIES.

(a) REPORTING OF COMPLIANCE ASSURANCE ACTIVITIES.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this section, the Administrator of the Environmental Protection Agency (referred to in this subsection as the "Administrator") shall promulgate regulations that require that each applicant for a permit issued under any provision of law described in paragraphs (1) through (8) of section 732 of title 18, United States Code, and each permittee issued a permit under any such provision, shall, as a condition to receiving any such permit, agree to—

(A) evaluate the internal control system of the entity that is the subject of the permit for the purpose of complying with clause (ii) of subparagraph (B);

(B) set forth in the application for the permit or a renewal of the permit—

(i) a brief description of the environmental compliance assurance system of the permittee (or applicant for a permit) used to ensure compliance with Federal, State, and local environmental laws;

(ii) an assessment of whether such environmental compliance assurance system (after any corrections of the type referred to in clause (iv)) reasonably assures compliance with Federal, State, and local environmental laws; and

(iii) the disclosure of any material weaknesses that have been identified in such environmental compliance assurance system and that have not been substantially corrected by the permittee (or applicant for a permit) as of the date of the filing of the permit application or permit renewal application.

(2) REQUIREMENT FOR REGULATIONS.—

(A) In promulgating regulations under this subsection, the Administrator shall ensure that—

(i) no such regulation shall create an unreasonable economic burden with respect to—

(I) small communities (as defined in subparagraph (B)); and

(II) small business concerns (as defined in section 3(a)(1) of the Small Business Act (15 U.S.C. 532(a)(1)); and

(ii) to the maximum extent possible, such regulations shall not impede the development or implementation of a consistent compliance assurance program by any permittee (within a single facility or among multiple facilities).

(B) For the purposes of this paragraph, the term "small community" means an incorporated or unincorporated community (as defined by the Administrator) with a population of less than 5,000 individuals.

(3) CONFIDENTIALITY OF AUDITS.—(A) Except as provided in subparagraph (B), notwithstanding any other provision of law, the Administrator may not require any permittee that is subject to the requirements of this section to submit any information (including any report or record) with respect to an environmental audit conducted by the permittee with respect to a facility of the permittee if such information is not otherwise required to be submitted pursuant to the reporting requirements under this subsection.

(B) If the Administrator determines that the information described in subparagraph (A) is material to a criminal investigation, the Administrator may require a permittee to submit such information.

(d) RULE OF CONSTRUCTION.—The amendments made by this Act shall not be construed as preempting regulation by the States of any activities that may have an effect on the environment.

WIRTH AMENDMENT NO. 546

(Ordered to lie on the table.)

Mr. WIRTH submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, insert the following new title:

TITLE —PUBLIC INFORMATION CONCERNING FAILED DEPOSITORY INSTITUTIONS

SEC. 01. AVAILABILITY OF EXAMINATION REPORTS.

(a) PUBLIC AVAILABILITY OF INFORMATION.—The appropriate Federal banking agency shall publish and make available to the public reports of all examinations of each institution described in section 04, or of a holding company of such institution, that was performed by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, or any predecessor thereof, during the 5-year period preceding the transfer, failure, or receipt of funds described in section 04.

(b) DELAY OF PUBLICATION.—If the appropriate Federal banking agency makes a determination in writing that publication of an examination report would seriously threaten the safety or soundness of an insured depository institution, such agency may delay publication of the examination report for a reasonable period of time, not to exceed 6 months from the date of the transfer, failure, or receipt of funds described in section 04.

SEC. 02. PROHIBITION OF CONFIDENTIAL SETTLEMENTS.

Notwithstanding any other provision of law or any rule, regulation, or order issued thereunder, all agreements or settlements of claims between the Resolution Trust Corporation or the Federal Deposit Insurance Corporation and any other party, where such agreement or claim relates to an institution described in section 04, shall be published and made available to the public.

SEC. 03. APPLICABILITY.

The requirements of section 01 shall apply—

(1) to any insured depository institution that has had its assets or liabilities, or any part thereof, transferred to the FSLIC Resolution Fund or the Resolution Trust Corporation; and

(2) to any member of the Bank Insurance Fund, if during the fiscal year that the institution has either failed or received funds, as defined in section 04, the Bank Insurance Fund—

(A) has outstanding loans, or has otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve Bank; or

(B) has a negative fund balance; and

(3) to any member of the Savings Association Insurance Fund, if during the fiscal year that the institution has either failed or received funds, as defined in section 04, the Savings Association Insurance Fund—

(A) has outstanding loans, or has otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve Bank; or

(B) has a negative fund balance.

SEC. 04. DEFINITIONS.

For purposes of this title—

(1) an insured depository institution has "failed" if—

(A) the Federal Deposit Insurance Corporation or the Resolution Trust Corporation—

(i) has been appointed as conservator or receiver for such institution; or

(ii) has exercised the power to provide assistance under section 13(c) of the Federal Deposit Insurance Act or section 21A of the Federal Home Loan Bank Act; or

(B) a bridge bank has been established under section 11(i) of the Federal Deposit Insurance Act;

(2) an insured depository institution has "received funds" if the institution, its holding company, or an acquiring institution receives cash or other valuable consideration from any Federal Reserve bank, the Resolution Trust Corporation or the Federal Deposit Insurance Corporation, whether in the form of a loan, a payment to depositors or other creditors, the assumption of liabilities, or otherwise; and

(3) the term "insured depository institution" shall have the same meaning as in section 3 of the Federal Deposit Insurance Act.

DOLE AMENDMENT NO. 547

(Ordered to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place, add the following:

SEC. . DRUG DISTRIBUTION TO PREGNANT WOMEN.

Section 418 of the Controlled Substances Act (21 U.S.C. 845) is amended by inserting ", or to a woman while she is pregnant," after "to a person under twenty-one years of age" in subsection (a) and subsection (b).

DOLE AMENDMENT NO. 548

(Ordered to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to amendment No. 503 proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place, add the following:

Notwithstanding any other provision of this Act amendment No. 503 is deemed to have the following changes:

(u)(1)(F): After (E) insert "or" and add a new subparagraph as follows:

"(F) The law of the State requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law."

[Note: This is identical with S. 1241, Calendar 110, page 238, line 21, and page 239, lines 3-10. It creates an exemption for States like Virginia, Florida, and Delaware with an instant criminal record check.]

(u)(7)(B): Delete "and" and insert "any". After "destroy", insert "the statement and".

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(v)(2)(C): Make the same change as for (u)(1)(F) above, except use "(D)" instead of "(F)".

(v)(5): After "employee", insert "or a political subdivision of a State or employee thereof".

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(b)(1): After "criminal", insert "conviction".

(i)(1): After "action", insert ", other than a record concerning a person prohibited from receipt of a firearm under §922 (g) or (n),".

DOLE AMENDMENT NOS. 549 AND 550

(Ordered to lie on the table.)

Mr. DOLE submitted two amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT NO. 549

At the appropriate place, add the following:

SEC. . TESTING OF CERTAIN INDIVIDUALS CHARGED WITH CERTAIN SEXUAL OFFENSES FOR THE PRESENCE OF THE ETIOLOGIC AGENT FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(a) HIV RELATED SERVICES FOR VICTIMS.—Victims of any offense of the type described in chapter 109A of title 18, United States Code, shall, on request, be provided with

(1) anonymous and confidential testing for the presence of the etiologic agent for acquired immune deficiency syndrome, and counseling concerning such, at no cost by appropriately trained staff operating through appropriate service providers, including rape crisis centers, community health centers, public health clinics, physicians, or other appropriate service providers; follow-up tests and counseling will be available at no cost on dates that occur six months and twelve months following the date of the initial test; and

(2) necessary and appropriate medical care.

(b) LIMITED TESTING OF DEFENDANTS.—

(1) COURT ORDER.—The victim of an offense of the type referred to in subsection (a) may obtain an order in the district court of the United States for the district in which charges are brought against the defendant charged with the offense, after notice to the defendant and on opportunity to be heard, requiring that the defendant be tested for the presence of the etiologic agent for acquired immune deficiency syndrome, and that the results of the test be communicated to the victim and the defendant. Any test result of the defendant given to the victim must be accompanied by appropriate counseling.

(2) SHOWING REQUIRED.—To obtain an order under paragraph (1), the victim must demonstrate that—

(A) The defendant has been charged with the offense in a state or federal court, and, if the defendant has been arrested without a warrant, a probable cause determination has been made.

(B) The test for the etiologic agent for acquired immune deficiency syndrome is requested by the victim; and

(C) The court determines that the alleged conduct of the defendant created a risk of transmission of the etiologic agent for acquired immune deficiency syndrome to the victim.

(3) FOLLOWUP TESTING.—The court shall order follow-up tests and counseling under paragraph (b)(1) if the initial test was negative. Such followup tests and counseling shall be performed at the request of the victim on dates that occur six months and twelve months following the date of the initial test.

(4) TERMINATION OF TESTING REQUIREMENTS.—An order for follow-up testing under paragraph (3) shall be terminated if the individual to be tested obtains an acquittal on, or dismissal of, all charged against such individual.

(c) CONFIDENTIALITY OF TEST.—The results of any test ordered under this section shall be disclosed only to the victim, or, where the court deems appropriate, to the parent or legal guardian of the victim, and to the person tested.

(d) DISCLOSURE OF TEST RESULTS.—The court shall issue an order to prohibit the disclosure of the results of any test performed under this section to anyone other than those mentioned in subsection (c). The contents of the court order shall be sealed. The results of such test performed on the defendant under this section shall not be used as evidence in any criminal trial, except that testing ordered under this section shall not be a bar to testing permitted under any other law.

(e) CONTEMPT FOR DISCLOSURE.—A victim who disclosed the results of a test in violation of this section may be held in contempt of court.

(f) EFFECT ON PENALTY.—The United States Sentencing Commission shall amend existing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender knew or had reason to know that he was infected with the human immunodeficiency virus, except where the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.

AMENDMENT NO. 550

At the appropriate place, add the following:

DOMESTIC AND STREET CRIME VIOLENCE AGAINST WOMEN

Subtitle A—Safety on College and University Campuses

SEC. 201. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.

Section 485(f) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)), as added by section 204(a) of the Crime Awareness and Campus Security Act of 1990 (Public Law 101-542), is amended—

(1) in paragraph (1)(F), to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

"(i) murder;

"(ii) rape, sexual assault, or any other abusive sexual conduct;

"(iii) robbery;

"(iv) aggravated assault;

"(v) burglary; and

"(vi) motor vehicle theft."; and

(2) in paragraph (3), to read as follows:

"(3) Each institution participating in any program under this section shall make timely reports on criminal offenses described in paragraph (1)(F) that the institution considers to be a threat to other students and employees. The institution shall provide the reports to students, parents or guardians of students, and employees, at the institution, and to local police agencies, in a manner that is timely and that will aid in the prevention of similar occurrences.".

Subtitle B—Stronger Penalties for Federal Sex Offenses

SEC. 211. CAPITAL PUNISHMENT FOR MURDERS IN CONNECTION WITH SEXUAL ASSAULTS AND CHILD MOLESTATIONS.

Title 18 of the United States Code is amended—

(1) by adding at the end of chapter 51 the following new section:

"§ 1118. Capital Punishment for Murders in Connection with Sexual Assaults and Child Molestations

"(a) OFFENSE.—It is an offense to cause the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or to cause the death of a person through the intentional infliction of serious bodily injury.

"(b) FEDERAL JURISDICTION.—There is Federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the course of another offense against the United States.

"(c) PENALTY.—An offense described in this section is a Class A felony. A sentence of death may be imposed for an offense described in this section as provided in subsections (d) through (l), except that a sentence of death may not be imposed on a defendant who was below the age of eighteen at the time of the commission of the crime.

"(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) DURESS.—The defendant was under unusual and substantial duress.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (pursuant to section 2 of this title) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors:

"(1) KILLING IN COURSE OF DESIGNATED SEX CRIMES.—The conduct resulting in death occurred in the course of an offense defined in chapter 109A, 110, or 117 of this title.

"(2) KILLING IN CONNECTION WITH SEXUAL ASSAULT OR CHILD MOLESTATION.—The defendant committed a crime of sexual assault or crime of child molestation, as defined in subsection (x), in the course of an offense on which Federal jurisdiction is based under subsection (b).

"(3) PRIOR CONVICTION OF SEXUAL ASSAULT OR CHILD MOLESTATION.—The defendant has previously been convicted of a crime of sexual assault or crime of child molestation as defined in subsection (x).

"(f) NOTICE OF INTENT TO SEEK DEATH PENALTY.—If the Government intends to seek the death penalty for an offense under this section, the attorney for the Government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time as the court may permit for good cause. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the Government will seek to prove as the basis for the death penalty. The factors for which notice is provided may include factors concerning the effect of the offense on the victim and the family of the victim. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have twelve members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the judge. Upon motion of the defendant, with the approval of the attorney for the Government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to 'the jury' in this section, where applicable, shall be understood as referring to the judge.

"(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been presented under subsection (f), may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The information presented may include trial transcripts and exhibits. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument, the defendant shall be permitted to reply, and the Government shall then be permitted to reply in rebuttal.

"(i) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(j) FINDING CONCERNING A SENTENCE OF DEATH.—If the jury specially finds under subsection (i) that one or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, then the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(k) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not consider the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"(l) IMPOSITION OF A SENTENCE OF DEATH.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law.

"(m) REVIEW OF A SENTENCE OF DEATH.—The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated with an appeal of the judgment of conviction and shall have priority over all non-capital matters in the court of appeals. The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error requiring reversal of the sentence that was properly preserved for review and raised on appeal. In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(n) IMPLEMENTATION OF SENTENCE OF DEATH.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed, or in the manner prescribed by the law of another State designated by the court if the law of the State in which the sentence was imposed does not provide for implementation of a sentence of death. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"(o) SPECIAL BAR TO EXECUTION OF PREGNANT WOMEN.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(p) CONSCIENTIOUS OBJECTION TO PARTICIPATION IN EXECUTION.—No employee of any State department of corrections or the Federal Bureau of Prisons and no person providing services to that department or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at, or to participate in, any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"(q) APPOINTMENT OF COUNSEL FOR INDIGENT CAPITAL DEFENDANTS.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in section 3005 of this title, and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, the provisions of section 3006A of this title shall apply to appointments under this section.

"(r) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make a determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(s) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under subsections (q) and (r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(t) CLAIMS OF INEFFECTIVENESS OF COUNSEL IN COLLATERAL PROCEEDINGS.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28, United States Code, in a case under this section shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(u) TIME FOR COLLATERAL ATTACK ON DEATH SENTENCE.—A motion under section 2255 of title 28, United States Code, attacking a sentence of death under this section, or the conviction on which it is predicated, must be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(v) STAY OF EXECUTION.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28, United States Code. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, United States Code, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 2255 of title 28, United States Code.

"(w) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"(x) DEFINITIONS.—For purposes of this section—

"(1) 'crime of sexual assault' means a crime under Federal or State law that involved—

"(A) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

"(B) contact, without consent, between the genitals or anus of the defendant and any part of the body of another person;

"(C) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(D) an attempt or conspiracy to engage in any conduct described in paragraphs (A) through (C);

"(2) 'crime of child molestation' means a crime under Federal or State law that involved—

"(A) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(B) contact between the genitals or anus of the defendant and any part of the body of a child;

"(C) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

"(D) an attempt or conspiracy to engage in any conduct described in paragraphs (A) through (C); and

"(3) 'child' means a person below the age of 14."; and

(2) by adding the following at the end of the table of sections for chapter 51:

"1118. Capital punishment for murders in connection with sexual assaults and child molestations.".

SEC. 212. INCREASED PENALTIES FOR RECIDIVIST SEX OFFENDERS.

(a) REDESIGNATION.—Section 2245 of title 18, United States Code, is redesignated section 2246.

(b) NEW SECTION.—Chapter 109A of title 18, United States Code, is amended by inserting the following new section after section 2244:

"§ 2245. Penalties for subsequent offenses

"Any person who violates a provision of this chapter after a prior conviction under a provision of this chapter or the law of a State (as defined in section 513 of this title) for conduct proscribed by this chapter has become final is punishable by a term of imprisonment up to twice that otherwise authorized.".

(c) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by—

(1) striking "2245" and inserting in lieu thereof "2246"; and

(2) inserting the following after the item relating to section 2244:

"2245. Penalties for subsequent offenses.".

SEC. 213. DEFINITION OF SEXUAL ACT FOR VICTIMS BELOW 16 YEARS OF AGE.

Paragraph (2) of section 2246 of title 18, United States Code, as redesignated by section 212 of this Act, is amended—

(1) in subparagraph (B) by striking "or" after the semicolon;

(2) in subparagraph (C) by striking "; and" and inserting "; or"; and

(3) by inserting a new subparagraph (D) as follows:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

SEC. 214. DRUG DISTRIBUTION TO PREGNANT WOMEN.

Section 418 of the Controlled Substances Act (21 U.S.C. 845) is amended by inserting ", or to a woman while she is pregnant," after "to a person under twenty-one years of age" in subsection (a) and subsection (b).

Subtitle D—Reform of Procedure and Evidentiary Requirements in Sex Offense and Other Cases

SEC. 231. ADMISSIBILITY OF EVIDENCE OF SIMILAR CRIMES IN SEXUAL ASSAULT AND CHILD MOLESTATION CASES.

The Federal Rules of Evidence are amended by adding after rule 412 the following new rules:

"Rule 413. Evidence of Similar Crimes in Sexual Assault Cases

"(a) In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and rule 415, 'offense of sexual assault' means a crime under Federal law or the law of a State that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code;

"(2) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

"(3) contact, without consent, between the genitals or anus of the defendant and any part of another person's body;

"(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(5) an attempt or conspiracy to engage in conduct described in paragraphs (1) through (4).

"Rule 414. Evidence of Similar Crimes in Child Molestation Cases

"(a) In a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of another offense or offenses of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and rule 415, 'child' means a person below the age of fourteen, and 'offense of child molestation' means a crime under Federal law or the law of a State that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code, that was committed in relation to a child;

"(2) any conduct proscribed by chapter 110 of title 18, United States Code;

"(3) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(4) contact between the genitals or anus of the defendant and any part of the body of a child;

"(5) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

"(6) an attempt or conspiracy to engage in conduct described in paragraphs (1) through (5).

"Rule 415. Evidence of Similar Acts in Civil Cases Concerning Sexual Assault or Child Molestation

"(a) In a civil case in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual assault or child molestation, evidence of that party's commission of another offense or offenses of sexual assault or child molestation is admissible and may be considered as provided in rule 413 and rule 414.

"(b) A party who intends to offer evidence under this rule shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.".

SEC. 232. RIGHT OF THE VICTIM TO AN IMPARTIAL JURY.

(a) FEDERAL RULES OF CRIMINAL PROCEDURE.—Rule 24(b) of the Federal Rules of Criminal Procedure is amended by striking "the Government is entitled to 6 peremptory challenges and the defendant or defendants jointly to 10 peremptory challenges" and inserting "each side is entitled to 6 peremptory challenges".

(b) PROHIBITION OF DISCRIMINATION IN SELECTION OF JURY.—Section 243 of title 18, United States Code, is amended by designating the text of the section as subsection (a) and by adding a new subsection at the end thereof as follows:

"(b) In a proceeding in a court of the United States, an attorney representing a criminal defendant shall not exercise peremptory challenges to exclude any person from the jury on the basis of race or color, or on the basis of any other classification that could not lawfully be used by a prosecutor as the basis for exercising peremptory challenges. The prosecutor shall have the same right as the defense attorney to challenge the exercise of peremptory challenges on this ground. In determining whether a defense attorney has engaged in discrimination in violation of this subsection, a court shall apply the same standards that would apply in making a like determination concerning the exercise of peremptory challenges by a prosecutor, and shall have the authority to grant the same relief that would be available in case of unlawful discrimination by a prosecutor.".

SEC. 233. RULES OF PROFESSIONAL CONDUCT FOR LAWYERS IN FEDERAL PRACTICE.

The following rules, to be known as the Rules of Professional Conduct for Lawyers in Federal Practice, are enacted and shall be included as an appendix to title 28, United States Code:

"RULES FOR PROFESSIONAL CONDUCT FOR LAWYERS IN FEDERAL PRACTICE

"Rule 1. Scope
"Rule 2. Litigation Abuses Prohibited
"Rule 3. Expediting Litigation
"Rule 4. Duty to Prevent Commission of Crime

"Rule 1. Scope

"(a) These rules apply to the conduct of lawyers in their representation of clients in relation to proceedings and potential proceedings before Federal tribunals.

"(b) For purposes of these rules, 'Federal tribunal' and 'tribunal' mean a court of the United States or an agency of the Federal Government that carries out adjudicatory or quasi-adjudicatory functions.

"Rule 2. Litigation Abuses Prohibited

"(a) A lawyer shall not engage in any action or course of conduct for the purpose of increasing the expense of litigation for any person, other than a liability under an order or judgment of a tribunal.

"(b) A lawyer shall not engage in any action or course of conduct that has no substantial purpose other than to distress, harass, embarrass, burden, or inconvenience another person.

"(c) A lawyer shall not offer evidence that the lawyer knows to be false or attempt to discredit evidence that the lawyer knows to be true.

"Rule 3. Expediting Litigation

"(a) A lawyer shall seek to bring about the expeditious conduct and conclusion of litigation.

"(b) A lawyer shall not seek a continuance or otherwise attempt to delay or prolong proceedings in the hope or expectation that—

"(1) evidence will become unavailable;

"(2) evidence will become more subject to impeachment or otherwise less useful to another party because of the passage of time; or

"(3) an advantage will be obtained in relation to another party because of the expense, frustration, distress, or other hardship resulting from prolonged or delayed proceedings.

"Rule 4. Duty to Prevent Commission of Crime

"(a) A lawyer may disclose information relating to the representation of a client to the extent necessary to prevent the commission of a crime or other unlawful act.

"(b) A lawyer shall disclose information relating to the representation of a client where disclosure is required by law. A lawyer shall also disclose such information to the extent necessary to prevent—

"(1) the commission of a crime involving the use or threatened use of force against another, or a substantial risk of death or serious injury to another; or

"(2) the commission of a crime of sexual assault or child molestation.

"(c) For purposes of this rule, the term 'crime' means a crime under Federal law or the law of a State, and the term 'unlawful act' means an act in violation of the law of the United States or the law of a State.".

SEC. 234. STATUTORY PRESUMPTION AGAINST CHILD CUSTODY.

(a) FINDINGS.—The Congress finds that—

(1) State courts have often failed to recognize the detrimental effects of having as a custodial parent an individual who physically abuses his or her spouse, insofar as the courts do not hear or weigh evidence of domestic violence in child custody litigation;

(2) joint custody forced upon hostile parents can create a dangerous psychological environment for a child;

(3) physical abuse of a spouse is relevant to child abuse in child custody disputes;

(4) the effects of physical abuse of a spouse on children include actual and potential emotional and physical harm, the negative effects of exposure to an inappropriate role model, and the potential for future harm where contact with the batterer continues;

(5) children are emotionally traumatized by witnessing physical abuse of a parent;

(6) children often become targets of physical abuse themselves or are injured when they attempt to intervene on behalf of a parent;

(7) even children who do not directly witness spousal abuse are affected by the climate of violence in their homes and experience shock, fear, guilt, long lasting impairment of self-esteem, and impairment of developmental and socialization skills;

(8) research into the intergenerational aspects of domestic violence reveals that violent tendencies may be passed on from one generation to the next;

(9) witnessing an aggressive parent as a role model may communicate to children that violence is an acceptable tool for resolving marital conflict; and

(10) few States have recognized the interrelated nature of child custody and battering and have enacted legislation that allows or requires courts to consider evidence of physical abuse of a spouse in child custody cases.

(b) SENSE OF THE CONGRESS.—(1) It is the sense of the Congress that, for purposes of determining child custody, credible evidence of physical abuse of a spouse should create a statutory presumption that it is detrimental to the child to be placed in the custody of the abusive spouse.

(2) This section is not intended to encourage States to prohibit supervised visitation.

SEC. 235. FULL FAITH AND CREDIT FOR PROTECTIVE ORDERS.

(a) ENFORCEMENT.—A protective order issued by a court of a State shall have the same full faith and credit in a court in another State that the order would have in a court of the State in which issued, and shall be enforced by the courts of any State as if it were issued in the State.

(b) DEFINITIONS.—As used in this section:

(1) The term "protective order" means an order prohibiting or limiting violence against, harassment of, contact or communication with, or physical proximity to another person.

(2) The term "State" has the meaning given the term in section 513(c)(5) of title 18, United States Code.

SEC. 236. HIV TESTING AND PENALTY ENHANCEMENT IN SEXUAL ABUSE CASES.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by inserting at the end thereof the following new section:

"§ 2247. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty

"(a) TESTING AT TIME OF PRE-TRIAL RELEASE DETERMINATION.—In a case in which a person is charged with an offense under this chapter, a judicial officer issuing an order pursuant to section 3142(a) of this title shall include in the order a requirement that a test for the human immunodeficiency virus be performed upon the person, and that follow-up tests for the virus be performed six months and twelve months following the date of the initial test, unless the judicial officer determines that the conduct of the person created no risk of transmission of the virus to the victim, and so states in the order. The order shall direct that the initial test be performed within 24 hours, or as soon thereafter as feasible. The person shall not be released from custody until the test is performed.

"(b) TESTING AT LATER TIME.—If a person charged with an offense under this chapter was not tested for the human immunodeficiency virus pursuant to subsection (a), the court may at a later time direct that such a test be performed upon the person, and that follow-up tests be performed six months and twelve months following the date of the initial test, if it appears to the court that the conduct of the person may have risked transmission of the virus to the victim. A testing requirement under this subsection may be imposed at any time while the charge is pending, or following conviction at any time prior to the person's completion of service of the sentence.

"(c) TERMINATION OF TESTING REQUIREMENT.—A requirement of follow-up testing imposed under this section shall be cancelled if any test is positive for the virus or the person obtains an acquittal on, or dismissal of, all charges under this chapter.

"(d) DISCLOSURE OF TEST RESULTS.—The results of any test for the human immunodeficiency virus performed pursuant to an order under this section shall be provided to the judicial officer or court. The judicial officer or court shall ensure that the results are disclosed only to the victim (or to the victim's parent or legal guardian, as appropriate), the attorney for the Government, and the person tested.

"(e) EFFECT ON PENALTY.—The United States Sentencing Commission shall amend existing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender knew or had reason to know that he was infected with the human immunodeficiency virus, except where the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.".

(b) CLERICAL AMENDMENT.—The chapter heading for chapter 109A of title 18, United States Code, is amended by inserting at the end thereof the following new item:

"2247. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty.".

SEC. 237. PAYMENT OF COST OF HIV TESTING FOR VICTIM.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 is amended by inserting before the period at the end thereof the following: ", the cost of up to two tests of the victim for the human immunodeficiency virus during the twelve months following the assault, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of the human immunodeficiency virus to the victim as the result of the assault".

Subtitle E—National Task Force on Violence Against Women

SEC. 241. ESTABLISHMENT.

Not later than 30 days after the date of enactment of this subtitle, the Attorney General shall establish a task force to be known as the "National Task Force on Violence against Women" (referred to in this subtitle as the "task force").

SEC. 242. DUTIES OF TASK FORCE.

(a) GENERAL PURPOSE OF TASK FORCE.—The task force shall develop a uniform Federal, State, and local law enforcement strategy aimed at protecting women against violent crime, punishing persons who commit such crimes, and enhancing the rights of victims of such crimes.

(b) DUTIES OF TASK FORCE.—The task force shall perform such functions as the Attorney General deems appropriate to carry out the purposes of the task force, including—

(1) considering the reports of past Federal and State task forces or commissions on violent crime, family violence, and crime victims, including the President's Task Force on Victims of Crime (1982), the Attorney General's Task Force on Family Violence (1984), and the task forces and commissions established by the States of Alabama, Alaska, Arkansas, Hawaii, Idaho, Indiana, Kansas, Louisiana, Michigan, Minnesota, Nebraska, New Mexico, New York, North Carolina, Rhode Island, Virginia, Texas, and Wyoming;

(2) developing strategies for Federal, State, and local law enforcement designated to protect women against violent crime, and to prosecute and punish those responsible for such crime;

(3) evaluating the adequacy of sentencing, incarceration, and release of violent offenders against women, and making recommendations designated to ensure that such offenders receive appropriate punishment; and

(4) evaluating the adequacy of the treatment of victims of violent crime against

women within the criminal justice system, and making recommendations designed to improve such treatment.

SEC. 243. MEMBERSHIP.

(a) In General.—The task force shall consist of up to 10 members, who shall be appointed by the Attorney General not later than 60 days after the date of enactment of this subtitle. The Attorney General shall ensure that the task force includes representatives of State and local law enforcement, the State and local judiciary, and groups dedicated to protecting the rights of victims.

(b) Chairman.—The Attorney General or his designee shall serve as the chairman of the task force.

SEC. 244. PAY.

(a) No Additional Compensation.—Members of the task force who are officers or employees of a governmental agency shall receive no additional compensation by reason of their service on the task force.

(b) Per Diem.—While away from their homes or regular places of business in the performance of duties for the task force, members of the task force shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

SEC. 245. EXECUTIVE DIRECTOR AND STAFF.

(a) Executive Director.—

(1) Appointment.—The task force shall have an Executive Director who shall be appointed by the Attorney General not later than 30 days after the task force is fully constituted under section 243.

(2) Compensation.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable under GS–18 of the General Schedule as contained in title 5, United States Code.

(b) Staff.—With the approval of the task force, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the task force.

(c) Applicability of Civil Service Laws.—The Executive Director and the additional personnel of the task force appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) Consultants.—Subject to such rules as may be prescribed by the task force, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 246. POWERS OF TASK FORCE.

(a) Hearings.—For the purpose of carrying out this subtitle, the task force may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the task force considers appropriate. The task force may administer oaths before the task force.

(b) Delegation.—Any member or employee of the task force may, if authorized by the task force, take any action that the task force is authorized to take under this subtitle.

(c) Access to Information.—The task force may secure directly from any executive department or agency such information as may be necessary to enable the task force to carry out this subtitle, to the extent access to such information is permitted by law. On request of the Attorney General, the head of such a department or agency shall furnish such permitted information to the task force.

(d) Mail.—The task force may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 247. REPORT.

Not later than 1 year after the date on which the task force is fully constituted under section 243, the Attorney General shall submit a detailed report to the Congress on the findings and recommendations of the task force.

SEC. 248. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $500,000 to carry out the purposes of this subtitle.

SEC. 249. TERMINATION.

The task force shall cease to exist 30 days after the date on which the Attorney General's report is submitted under section 247. The Attorney General may extend the life of the task force for a period of not to exceed one year.

Subtitle F—Prevention of Sexual Assault

SEC. 251. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

The Victims of Crime Act of 1984 is amended by inserting after section 1404 (42 U.S.C. 10603) the following new section:

"SEC. 1405. RAPE PREVENTION AND EDUCATION PROGRAMS.

"(a) Definition.—As used in this section, the term 'rape prevention and education' includes education and prevention efforts directed at offenses committed by—

"(1) offenders who are not known to the victim; and

"(2) offenders known to the victim.

"(b) Establishment.—The Attorney General shall establish a program of grants to assist States in supporting rape prevention and education programs.

"(c) Use of Funds.—A State may use a grant awarded under subsection (b) to support rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities, including programs that—

"(1) conduct educational seminars;

"(2) operate hotlines;

"(3) conduct training programs for professionals;

"(4) prepare informational materials; and

"(5) undertake other efforts to increase awareness of the facts about, or help prevent, sexual assault.

"(d) Application.—To be eligible to receive a grant under subsection (b), a State shall submit an application at such time, in such manner, and containing such agreements, assurances, and information as the Attorney General determines to be necessary to carry out this section. At a minimum, the application shall include—

"(1) an assurance that the State will use at least 15 percent of the grant money made available under this section to support education programs targeted for junior high school and high school students; and

"(2) an assurance that the State will pay for the full cost of forensic medical examinations for victims of sexual assault, and will, if the State receives funds under section 1403, pay for the cost of the examinations with such funds.

"(e) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $25,000,000 for each of the 1992 through 1994 fiscal years.".

Subtitle G—Domestic Violence Prevention Act of 1991

SEC. 261. SHORT TITLE.

This subtitle may be cited as the "Domestic Violence Prevention Act of 1991".

SEC. 262. EXPANSION OF PURPOSE.

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

SEC. 263. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.

Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

SEC. 264. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

"GRANTS FOR PUBLIC INFORMATION CAMPAIGNS

"Sec. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) An application submitted under subsection (b) shall—

"(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk.".

SEC. 265. STATE COMMISSIONS ON DOMESTIC VIOLENCE.

Section 303(a)(2) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(2)) is amended—

(1) by striking "and" at the end of subparagraph (F);

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by inserting after subparagraph (F) the following new subparagraph:

"(G) provides assurances that, not later than 1 year after receipt of funds, the State shall have established a Commission on Domestic Violence, which will include as members, representatives of antidomestic violence organizations and whose expenses will be paid out of funds other than those dedicated to providing services in domestic violence cases, to examine issues including—

"(i) the use of mandatory arrest of accused offenders;

"(ii) the adoption of 'no-drop' prosecution policies;

"(iii) the use of mandatory requirements for presentencing investigations;

"(iv) the length of time taken to prosecute cases or reach plea agreements;

"(v) the use of plea agreements;

"(vi) the testifying by victims at post-conviction sentencing and release hearings;

"(vii) the consistency of sentencing practices;

"(viii) restitution of victims;

"(ix) the reporting practices of and significance to be accorded to prior convictions (both felonies and misdemeanors); and

"(x) such other matters as the Commission believes merit investigation.".

SEC. 266. INDIAN TRIBES.

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "shall make no less than $1,000,000 available for".

SEC. 267. FUNDING LIMITATIONS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by striking ", and" and all that follows through "fiscal years".

SEC. 268. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: "No demonstration grant may be made under this section to an entity other than a State unless the entity provides 50 percent of the funding of the program or project funded by the grant.".

SEC. 269. SHELTER AND RELATED ASSISTANCE; RURAL AREAS.

Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended to read as follows:

"(g)(1) The Secretary shall ensure that, of the funds distributed under subsection (a) or (b)—

"(A) not less than 60 percent of the funds shall be distributed to entities for the purpose of providing shelter and related assistance to victims of family violence and their dependents, such as—

"(i) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(ii) transportation, legal assistance, referrals, and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(iii) comprehensive counseling about parenting, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services, employment training, social skills (including communication skills), home management, and assertiveness training; and

"(iv) day care services for children who are victims of family violence or the dependents of such victims; and

"(B) not less than 20 percent of the funds (which may include funds distributed under subparagraph (A)) shall be distributed to entities in rural areas.

"(2) As used in this subsection, the term 'rural area' means a territory of a State that is not within the outer boundary of any city or town that has a population of 20,000 or more, based on the latest decennial census of the United States.".

SEC. 270. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.

Section 311(b) of the Family Violence Protection and Services Act (42 U.S.C. 10410(b)) is amended by adding at the end thereof the following new subparagraph:

"(C) Training grants may be made under this section only to private nonprofit organizations that have experience in providing training and technical assistance to law enforcement personnel on a national or regional basis.".

SEC. 271. AUTHORIZATION OF APPROPRIATIONS.

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 310. (a) There are authorized to be appropriated to carry out this title, $60,000,000 for each of fiscal years 1992, 1993, and 1994.

"(b) Of the sums appropriated under subsection (a) for any fiscal year, not less than 85 percent shall be used by the Secretary for making grants under section 303.

"(c) Of the sums authorized to be appropriated under subsection (a) for any fiscal year, not more than 3 percent shall be used by the Secretary for making grants under section 314.".

SEC. 272. REPORT ON RECORDKEEPING.

Not later than 1 year after the date of enactment of this subtitle, the Attorney General shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine—

(1) the efforts that have been made by the Department of Justice, including the Federal Bureau of Investigation, to collect statistics on domestic violence; and

(2) the feasibility of requiring that the relationship between an offender and victim be reported in Federal records of crimes of aggravated assault, rape, and other violent crimes.

PELL (AND THURMOND) AMENDMENT NO. 551

(Ordered to lie on the table.)

Mr. PELL (for himself and Mr. THURMOND) submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, add the following:

That (a) Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1251(a)) is amended—

(1) by striking out "or" at the end of paragraph (20);

(2) by striking out the period at the end of paragraph (21) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(22) is convicted of operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance arising in connection with a fatal traffic accident or traffic accident resulting in serious bodily injury to an innocent party.".

SYMMS AMENDMENT NOS. 552 THROUGH 554

(Ordered to lie on the table.)

Mr. SYMMS submitted three amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT No. 552

"SEC. 01. MURDER.

"Subsection (b) of Section 801 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code 22-2404), is amended to read as follows:

"(b) Notwithstanding any other provision of law, a person convicted of first-degree murder shall be sentenced to life imprisonment, and the imposition or execution of such sentence shall not be suspended nor shall probation be granted nor shall the person be eligible for parole."

"SEC. 02. RAPE.

"Section 808 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code 22-2801), is amended by striking "any term of years" and inserting "any term of years which shall not be less than 20 years, and the imposition or execution of such sentence shall not be suspended nor shall probation be granted nor shall the person be eligible for parole prior to serving the minimum sentence."

"SEC. 03. KIDNAPPING.

"Section 812 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code 22-2101), is amended by striking "any term of years" and inserting "any term of years which shall not be less than 20 years, and the imposition or execution of such sentence shall not be suspended nor shall probation be granted nor shall the person be eligible for parole prior to serving the minimum sentence."

"SEC. 04. ASSAULT WITH A DANGEROUS WEAPON.

"Section 804 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code 22-502), is amended by striking "more" and inserting "less".".

AMENDMENT No. 553

At the appropriate place, add the following:

"SEC. 01. MURDER.

"Subsection (b) of Section 801 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code 22-2404), is amended to read as follows:

"(b) Notwithstanding any other provision of law, a person convicted of first-degree murder shall be sentenced to life imprisonment, and the imposition of execution of such sentence shall not be suspended nor shall probation be granted nor shall the person be eligible for parole."

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"Section 812 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code 22-2101), is amended by striking "any term of years" and inserting "any term of years which shall not be less than 20 years, and the imposition or execution of such sentence shall not be suspended nor shall probation be granted nor shall the person be eligible for parole prior to serving the minimum sentence."

AMENDMENT NO. 554

At the appropriate place, add the following:

"(a) Chapter 85 of title 28, United States Code, is amended by adding the following new section between section 1341 and 1342:

"SEC. 1341A. PROHIBITION OF JUDICIAL RELEASE OF VIOLENT FELONS AND SERIOUS DRUG OFFENDERS

"Notwithstanding any other provision of law, no inferior court established by Congress shall have jurisdiction to issue any remedy, order, injunction, writ, judgment, or other judicial decree requiring the release of any person imprisoned for violation of a serious drug offense or a violent felony, as defined in Public Law 99-308, solely on the basis of the conditions in the institution in which such individual is incarcerated."

"(b) The table of sections for chapter 85 is amended by inserting between the item relating to section 1341 and the item relating to section 1342 the following new item: "1341A. Prohibition of judicial release of violent felons and serious drug offenders.".

GRASSLEY (AND HATCH) AMENDMENT NO. 555

(Ordered to lie on the table.)

Mr. GRASSLEY (for himself and Mr. HATCH) submitted an amendment intended to be proposed by them to the bill S. 1241, supra; as follows:

At the appropriate place.

SEC. 303. SENSE OF THE SENATE CONCERNING PROTECTION OF THE PRIVACY OF RAPE VICTIMS.

(a) FINDINGS AND DECLARATION.—The Congress finds and declares that—

(1) there is a need for a strong and clear Federal response to violence against women, particularly with respect to the crime of rape;

(2) rape is an abominable and repugnant crime, and one that is severely underreported to law enforcement authorities because of its stigmatizing nature;

(3) the victims of rape are often further victimized by a criminal justice system that is insensitive to the trauma caused by the crime and are increasingly victimized by news media that are insensitive to the victim's emotional and psychological needs;

(4) rape victim's need for privacy should be respected;

(5) rape victims need to be encouraged to come forward and report the crime of rape without fear of being revictimized through involuntary public disclosure of their identities;

(6) rape victims need a reasonable expectation that their physical safety will be protected against retaliation or harassment by an assailant;

(7) the news media should, in the exercise of their discretion, balance the public's interest in knowing facts reported by free news media against important privacy interests of a rape victim, and an absolutist view of the public interest leads to insensitivity to a victim's privacy interest; and

(8) the public's interest in knowing the identity of a rape victim is small compared with the interests of maintaining the privacy of rape victims and encouraging rape victims to report and assist in the prosecution of the crime of rape.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that news media, law enforcement officers, and other persons should exercise restraint and respect a rape victim's privacy by not disclosing the victim's identity to the general public or facilitating such disclosure without the consent of the victim.

SYMMS AMENDMENT NO. 556

(Ordered to lie on the table.)

Mr. SYMMS submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place, add the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Prohibited Persons Registration Act of 1991".

SEC. 2. DEFINITIONS.

For the purposes of this Act—

(1) the term "prohibited person" means any person:

(A) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(B) who is a fugitive from justice;

(C) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(D) who has been adjudicated as a mental defective or who has been committed to a mental institution;

(E) who, being an alien, is illegally or unlawfully in the United States;

(F) who has been discharged from the Armed Forces under dishonorable conditions; or

(G) who, having been a citizen of the United States, has renounced his citizenship;

(2) the term "prohibited persons information" means the following facts concerning a person who is a prohibited person, as defined by this section:

(A) name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, address of legal residence, and a brief description of the circumstances which cause such person to be a prohibited person;

(B) any other information that the Federal Bureau of Investigation or the National Crime Information Center determines may be useful in identifying prohibited persons;

(3) the term "National Crime Information Center" means the division of the Federal Bureau of Investigation that serves as a computerized information source on wanted criminals, persons named in arrest warrants, runaways, missing children, and stolen property for use by Federal, State, and local law enforcement authorities; and;

(4) the term "State" means each of the States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to establish a national system through which current, accurate information concerning persons who are prohibited persons can be obtained from a centralized source;

(2) to assist in the prevention of felonies committed with firearms; and

(3) to understand the problem of crime and mental illness in the United States by providing statistical data to the Department of Justice, the Congress, and other interested parties.

SEC. 4. REPORTING BY THE STATES.

(a) IN GENERAL.—The Department of Defense, the States, agencies of the Federal government, and any program or activity receiving Federal funds shall report prohibited persons information in accordance with regulations promulgated by the Attorney General.

(b) GUIDELINES.—(1) The Attorney General shall establish guidelines for the reporting of prohibited persons information, including procedures for carrying out the purposes of this Act.

(2) The guidelines established under paragraph (1) shall require that—

(A) a reporting State, agency, or program or activity ensure that all prohibited persons information available to it and not available to the National Crime Information Center be made available to the National Crime Information Center; and

(B) the information provided to the National Crime Information Center under the provisions of this Act be made available to each licensed dealer (as defined by section 921 of title 18, United States Code) for the purpose of determining whether a person seeking to purchase a firearm is a prohibited person.

(c) ANNUAL REPORT.—The Attorney General shall publish an annual report containing a statistical summary of the prohibited persons information reported under this Act, together with whatever information he deems appropriate relating to the implementation of this Act.

HELMS AND THURMOND AMENDMENT NO. 557

(Ordered to lie on the table.)

Mr. HELMS (for himself and Mr. THURMOND) submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, add the following new section:

SEC. .

(1) Pursuant to its authority under section 994 of title 28, United States Code, the Sentencing Commission shall promulgate guidelines, or amend existing or proposed guidelines as follows:

(a) guideline 2G2.2 to provide a base offense level of not less than 15 and to provide at least a 5 level increase for offenders who have engaged in a pattern of activity involving the sexual abuse or exploitation of a minor.

(b) guideline 2G2.4 to provide that such guideline shall apply only to offense conduct that involves the simple possession of materials proscribed by chapter 110 of title 18, United States Code and guideline 2G2.2 to provide that such guideline shall apply to offense conduct that involves receipt or trafficking (including, but not limited to transportation, distribution, or shipping);

(c) guideline 2G2.4 to provide a base offense level of not less than 13, and to provide at least a 2 level increase for possessing 10 or more books, magazine, periodicals, films, video tapes or other items containing a visual depiction involving the sexual exploitation of a minor;

(d) section 2G3.1 to provide a base offense level of not less than 10;

(2)(a) Notwithstanding any other provision of law, the Sentencing Commission shall promulgate the amendments mandated in subsection (1) by November 1, 1991, or within 30 days after enactment, whichever is later. The amendments to the guidelines promulgated under subsection (1) shall take effect November 1, 1991, or 30 days after enactment, and shall supercede any amendment to the contrary contained in the amendments to the sentencing guidelines submitted to the Congress by the Sentencing Commission on or about May 1, 1991.

(b) The provisions of section 944(x) of title 28, United States Code, shall not apply to the promulgation or amendment of guidelines under this section.

DOLE AMENDMENTS NOS. 558 AND 559

(Ordered to lie on the table.)

Mr. DOLE submitted two amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT NO. 558

On page 81A line 2 strike through page 84 line 5 and insert in lieu thereof the following:

SEC. 301. DAMAGE REMEDY FOR SEX OFFENSES.

(a) CAUSE OF ACTION.—Any person who violates a provision of chapter 109A of title 18, United States Code, and any person who violates the law of a State (as defined in section 513 of that title) through conduct proscribed by chapter 109A if one of the circumstances described in subsection (b) exists, shall be liable to the victim in an action for compensatory and punitive damages, whether or not the violation has been charged or prosecuted and whether or not a trial of the person for such violation results in conviction.

(b) CIRCUMSTANCES RELATING TO VIOLATIONS OF STATE LAW.—The circumstances referred to in subsection (a) are:

(1) that the violation was committed under color of any statute, ordinance, regulation, custom, or usage of any State; or

(2) that the defendant traveled in interstate or foreign commerce or caused or induced another to move in interstate or foreign commerce in committing the violation or in furtherance of the violation.

(c) LIMITATIONS.—Any action brought under subsection (a) shall be commenced within three years of the date of the offense, the date on which the victim attains the age of 18 years, or the date on which a judgment of conviction for the offense is entered, whichever is the latest.

(d) JURISDICTION.—An action under subsection (a) may be brought in any appropriate United States District Court without regard to the amount in controversy.

SEC. 302. SPECIAL DIVERSITY JURISDICTION FOR STATE TORT CLAIMS AGAINST SEX OFFENDERS.

The district courts shall have original jurisdiction, concurrent with the courts of the States, of all civil actions arising out of violations of the law of a State (as defined in section 513 of title 18, United States Code) through conduct proscribed by chapter 109A of that title, if the victim and the defendant or defendants have diversity of citizenship as set forth in section 1332(a) of title 28, United States Code. Jurisdiction under this section shall be without regard to the amount in controversy.

AMENDMENT NO. 559

On page 81A line 2 strike through page 84 line 5 and insert the following:

SEC. . SUITS IN FEDERAL COURT.

Chapter 85 of title 28, United States Code, is amended—

(a) by inserting at the end the following:

"§ 1367. Sexual Violence and Gender-Based Violence

"(a) The district courts shall have original jurisdiction of all civil actions where—

"(1) a claim for damages or other relief is premised on the commission of a Federal or State crime involving conduct proscribed by chapter 109A of title 18, United States Code, or a Federal or State crime of violence that was committed because of animosity or bias based on gender; and

"(2) in case the crime on which the claim is premised was not a Federal crime, the defendant traveled in interstate or foreign commerce or caused or induced another to move in interstate or foreign commerce in committing the crime or in furtherance of the crime.

"(b) For purposes of this section, 'State' has the meaning given in section 513 of title 18, United States Code, and 'crime of violence' has the meaning given in section 16 of title 18, United States Code."; and

(b) by inserting at the end of the chapter analysis the following:

"1367. Sexual Violence and Gender-Based Violence.".

DECONCINI AMENDMENT NO. 560

(Ordered to lie on the table.)

Mr. DECONCINI submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

Notwithstanding Sec. DISCLOSURE OF RECORDS OF ARRESTS BY CAMPUS POLICE, section 438(a)(4)(b)(ii) shall read "(ii) records of any law enforcement unit of any educational agency or institution.

SIMON AMENDMENT NO. 561

(Ordered to lie on the table.)

Mr. SIMON submitted an amendment intended to be proposed by him to amendment No. 471 proposed by Mr. BIDEN to the bill S. 1241, supra, as follows:

Strike subtitle B of title V and insert the following:

Subtitle B—Education and Training For Judges And Court Personnel In Federal Courts

SEC. 521. AUTHORIZATIONS OF CIRCUIT STUDIES; EDUCATION AND TRAINING GRANTS.

(a) STUDY.—In order to gain a better understanding of the nature and the extent of gender bias in the Federal courts, the circuit courts are encouraged to conduct studies of the instances, if any, of gender bias in each circuit. The studies may include an examination of the effects of gender on—

(1) the treatment of litigants, witnesses, attorneys, jurors, and judicial officers in the courts, including before magistrate and bankruptcy judges;

(2) the interpretation and application of the law, both civil and criminal;

(3) treatment of defendants in criminal cases;

(4) victims of violent crimes;

(5) sentencing;

(6) sentencing alternatives, facilities for incarceration, and the nature of supervision of probation and parole;

(7) appointments to committees of the courts;

(8) case management and court sponsored alternative dispute resolution programs;

(9) the selection, retention, promotion, and treatment of employees;

(10) appointment of arbitrators, experts, and special masters; and

(11) those aspects of the topics listed in section 512 of subtitle A that pertain to issues within the jurisdiction of the Federal courts.

(b) CLEARINGHOUSE.—The Federal Judicial Center is requested to act as a clearinghouse to disseminate any reports and materials issued by the gender bias task forces under subsection (a) and to respond to requests for such reports and materials.

(c) MODEL PROGRAMS.—The Federal Judicial Center is requested to—

(1) include in the educational programs it presents and prepares, including the training programs for newly appointed judges, information on issues related to gender bias in the courts including such areas as are listed in subsection (a) along with such other topics as the Federal Judicial Center deems appropriate;

(2) prepare materials necessary to implement this subsection; and

(3) take into consideration the findings and recommendations of the studies conducted pursuant to subsection (a), and to consult with individuals with relevant expertise in gender bias issues as it prepares or revises such materials.

SEC. 522. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated for fiscal year 1992—

(1) $100,000 to the Federal Judicial Center to carry out the purposes of subsections (b) and (c) of section 521; and

(2) $300,000 to the Administrative Office of the United States Courts to carry out the purposes of this subtitle.

(b) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—The Administrative Office of the United States Courts shall allocate funds to Federal circuits under this subtitle that—

(1) undertake studies in their own circuits; or

(2) implement reforms recommended as a result of such studies in their own or other circuits, including education and training.

Funds shall be allocated to Federal circuits under this subtitle on a first come first serve basis in an amount not to exceed $50,000 on the first application. If within —— months after the date of enactment of this Act funds are still available, circuits that have received funds may reapply for additional funds, with not more than $200,000 going to any one circuit.

HATCH AMENDMENT NO. 562

Mr. HATCH proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place, insert the following:

In 28 U.S.C. section 519, designate the current matter as subsection '(a)' and add the following:

(b) AWARD OF FEES.—

(1) CURRENT EMPLOYEES.—Upon the application of any current employee of the Department of Justice who was the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for reasonable attorney's fees incurred by that employee as a result of such investigation.

(2) FORMER EMPLOYEES.—Upon the application of any former employee of the Department of Justice who was the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for those reasonable attorney's fees incurred by the former employee as result of such investigation.

(3) EVALUATION OF AWARD.—The Attorney General may make an inquiry into the reasonableness of the sum requested. In making such inquiry the Attorney General shall consider:

(A) the sufficiency of the documentation accompanying the request;

(B) the need or justification for the underlying item;

(C) the reasonableness of the sum requested in light of the nature of the investigation; and

(D) current rates for legal services in the community in which the investigation took place.

PELL AMENDMENT NO. 563

Mr. PELL proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, add the following:

That (a) section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1251(a)) is amended—

(1) by striking out "or" at the end of paragraph (20);

(2) by striking out the period at the end of paragraph (21) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(22) is convicted of operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance arising in connection with a fatal traffic accident or traffic accident resulting in serious bodily injury to an innocent party.".

WOFFORD AMENDMENT NO. 564

Mr. WOFFORD proposed an amendment to the bill S. 1241, supra, as follows:

At the end of the bill, add the following:

TITLE —ENVIRONMENTAL COMPLIANCE

SEC. 01. ENVIRONMENTAL COMPLIANCE.

(a) IN GENERAL.—Title 18 of the United States Code is amended by inserting after chapter 33 the following new chapter:

"CHAPTER 34—ENVIRONMENTAL COMPLIANCE

"731. Environmental compliance audit.
"732. Definition.

§ 731. Environmental compliance audit

"(a) IN GENERAL.—A court of the United States—

"(1) shall, when sentencing an organization for an environmental offense that is a felony; and

"(2) may, when sentencing an organization for a misdemeanor environmental offense,

require that the organization pay for an environmental compliance audit.

"(b) APPOINTMENT OF INDEPENDENT EXPERT.—The court shall appoint an independent expert—

"(1) with no prior involvement in the management of the organization sentenced to conduct an environmental compliance audit under this section; and

"(2) who has demonstrated abilities to properly conduct such audits.

"(c) CONTENTS OF COMPLIANCE AUDIT.—(1) An environmental compliance audit shall—

"(A) identify all causes of and factors relating to the offense; and

"(B) recommend specific measures that should be taken to prevent a recurrence of those causes and factors and avoid potential environmental offenses.

"(2) An environmental compliance audit shall not recommend measures under paragraph (1)(B) that would require the violation of an environmental statute, regulation, or permit.

"(d) COURT-ORDERED IMPLEMENTATION OF COMPLIANCE AUDIT.—The court shall order the defendant to implement the appropriate recommendations of the environmental compliance audit.

"(e) ADDITIONAL STANDING TO RAISE FAILURE TO IMPLEMENT COMPLIANCE AUDIT.—(1) The prosecutor, auditor, any governmental agency, or any private individual may present evidence to the court that a defendant has failed to comply with the court order under subsection (d).

"(2) When evidence of failure to comply with the court order under subsection (d) is presented pursuant to paragraph (1), the court shall consider all relevant evidence and, if the court determines that the defendant has not fully complied with the court order, order appropriate sanctions.

"§ 732. Definition

"For the purposes of this chapter, the term 'environmental offense' means a criminal violation of—

"(1) the Clean Air Act (42 U.S.C. 7401 et seq.);

"(2) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (commonly known as the Clean Water Act);

"(3) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

"(4) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(5) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.);

"(6) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

"(7) title XIV of the Public Health Service Act (42 U.S.C. 300f et seq.) (commonly known as the Safe Drinking Water Act); and

"(8) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

(b) TECHNICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 33 the following new item:

MCCONNELL AMENDMENT NO. 565

Mr. MCCONNELL proposed an amendment to amendment No. 409 proposed by Mr. MCCONNELL to the bill S. 1241, supra, as follows:

On page 3 of the amendment, line 1, after the semicolon insert "and".

On page 3 of the amendment, line 5, strike "; and" and insert a period.

On page 3 of the amendment, strike lines 6 through 8.

On page 5 of the amendment, strike lines 3 through 5 and insert the following:

(a) IN GENERAL.—A State which reports the convictions of named individuals to the Federal Bureau of Investigation shall include all convictions for child abuse as defined by this title.

On page 5 of the amendment, line 6, strike "(1)".

On page 5 of the amendment, strike lines 10 through 23.

On page 5 of the amendment, strike beginning with line 24 through line 6 on page 6 and insert the following:

SEC. 06. COMPLIANCE AND FUNDING.

(a) STATE COMPLIANCE.—Each State shall have 3 years from the date of enactment of this title in which to implement the provisions of section 05.

(b) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) received by a State not complying with the provisions of subsection (a) 3 years after the date of enactment of this title shall be reduced by 25 percent and the unallocated funds shall be reallocated to the States in compliance with subsection (a).

METZENBAUM AMENDMENT NO. 566

Mr. METZENBAUM proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, insert the following:

Paragraph (b) of section 3621 of title 18, United States Code, is amended by inserting after subsection (5) the following:

"However, the Bureau may not consider the social or economic status of the prisoner in designating the place of the prisoner's imprisonment."

KOHL AMENDMENT NO. 567

Mr. KOHL proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place, insert the following:

SEC. . DEPARTMENT OF JUSTICE COMMUNITY SUBSTANCE ABUSE PREVENTION ACT OF 1991.

(a) SHORT TITLE.—This section may be cited as the "Department of Justice Community Substance Abuse Prevention Act of 1991".

(b) COMMUNITY PARTNERSHIPS.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"Subpart 4—Community Coalitions on Substance Abuse

"GRANTS TO COMBAT SUBSTANCE ABUSE

"SEC. 531. (a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) representatives of 3 of the following groups: the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, and the appropriate State agency, shall make grants to eligible coalitions in order to—

"(1) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(2) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(3) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(4) develop a consensus regarding the priorities of a community concerning substance abuse;

"(5) develop a plan to implement such priorities; and

"(6) coordinate substance abuse services and activities, including prevention activities in the schools or communities and subtance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under subsection (b) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Attorney General and the appropriate State agency in order to receive a grant under this section. Such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem, emphasizing who is at risk and specifying which group of individuals should be targeted for prevention and intervention;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5) and to report on such plan to the Attorney General on an annual basis; and

"(6) contain such additional information and assurances as the Attorney General and the appropriate State agency may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Attorney General and the appropriate State agency shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) REVIEW.—Each coalition receiving money pursuant to the provisions of this section shall submit an annual report to the Attorney General, and the appropriate State agency, evaluating the effectiveness of the plan described in subsection (b)(5) and containing such additional information as the Attorney General, or the appropriate State agency, may prescribe. The Attorney General, in conjunction with the Director of the Bureau of Justice Assistance, and the appropriate State agency, shall submit an annual review to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives. Such review shall—

"(1) evaluate the grant program established in this section to determine its effectiveness;

"(2) implement necessary changes to the program that can be done by the Attorney General; and

"(3) recommend any statutory changes that are necessary.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section, $15,000,000 for fiscal year 1992, $20,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994.".

(c) AMENDMENT TO TABLE OF SECTIONS.—The table of sections of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"SUBPART 4—COMMUNITY COALITION ON SUBSTANCE ABUSE

"Sec. 531. Grants to combat substance abuse.".

L. DOUGLAS ABRAM FEDERAL BUILDING

CHAFEE AMENDMENT NO. 568

Mr. DOLE (for Mr. CHAFEE) proposed an amendment to the bill (S. 276) to designate the Federal building located at 1520 Market Street in Saint Louis, MO as the "L. Douglas Abram Federal Building," as follows:

At the end of the bill insert a new section:

"SEC. . CONTINUATION OF AUTHORIZATION.

( ) Notwithstanding section 1001(a) of the Water Resources Development Act of 1986, the project for navigation, Providence, Rhode Island, authorized by section 1166(c) of the Water Resources Development Act of 1986, shall remain authorized to be carried out by the Secretary. The project described in subsection (a) shall not be authorized for construction after the last day of the 5-year period that begins on the date of the enactment of this Act unless, during this period, funds have been obligated for construction (including planning and design) of the project."

NATIONAL HIGHWAY SAFETY ADMINISTRATION AUTHORIZATION ACT

BRYAN AMENDMENT NO. 569

Mr. MITCHELL (for Mr. BRYAN) proposed an amendment to the bill (S. 1012) to authorize appropriations for the activities and programs of the National Highway Traffic Safety Administration, and for other purposes, as follows:

On page 51, lines 6 through 13, strike "All provisions" and everything that follows; and on page 51, line 14, strike "sums" and insert in lieu thereof "Sums".

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, FISCAL YEAR 1992

JOHNSTON AMENDMENT NOS. 570 AND 571

Mr. JOHNSTON proposed two amendments to the bill (H.R. 2427) making appropriations for energy and water development for the fiscal year ending September 30, 1992, and for other purposes, as follows:

AMENDMENT NO. 570

In lieu of the matter beginning on page 26, line 19 through line 8 on page 27 insert the following:

None of the funds in this Act shall be used to identify or delineate any land as a "water of the United States" under the Federal Manual for Identifying and Delineating Jurisdictional Wetlands that was adopted in January 1989 (1989 Manual) or any subsequent manual not adopted in accordance with the requirements for notice and public comment of the rule-making process of the Administrative Procedure Act.

In addition, regarding Corps of Engineers ongoing enforcement actions and permit application involving lands which the Corps of EPA has delineated as waters of the United States under the 1989 Manual, and which have not yet been completed on the date of enactment of this Act, the landowner or permit applicant shall have the option to elect a new delineation under the Corps 1987 Wetland Delineation Manual, or completion of the permit process or enforcement action based on the 1989 Manual delineation, unless the Corps of Engineers determines, after investigation and consultation with other appropriate parties, including the landowner or permit applicant, that the delineation would be substantially the same under either the 1987 or the 1989 Manual.

None of the funds in this Act shall be used to finalize or implement the proposed regulations to amend the fee structure for the Corps of Engineers regulatory program which were published in Federal Register, Vol. 55, No. 197, Thursday, October 11, 1990.

AMENDMENT NO. 571

On page 57, line 14, strike $403,600,000 and insert: "$567,600,000".

GLENN AMENDMENT NO. 572

Mr. GLENN proposed an amendment to the bill H.R. 2427, supra, as follows:

On page 54, line 2, strike "$1,976,650,000" and insert "$1,941,650,000".

On page 54, line, 13, strike "$2,590,478,000" and insert "$2,507,478,000".

On page 56, line 14, strike "$3,640,372,000" and insert "$3,758,372,000".

VIOLENT CRIME CONTROL ACT

BIDEN AMENDMENTS NOS. 573 AND 574

(Ordered to lie on the table.)

Mr. BIDEN submitted two amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT No. 573

At the end of title XI of the bill, as amended by amendment No. 380, as modified, add the following new section:

"SEC. 11 . DEFINITION OF 'FULL AND FAIR' ADJUDICATION.

"Notwithstanding any other provision of law, a prisoner's claim is not fully and fairly adjudicated within the meaning of sections 2254 or 2259 of title 28, United States Code (as amended by this Act), when it has been decided incorrectly or erroneously as a matter of constitutional law."

AMENDMENT No. 574

At the end of title XI of the bill, as amended by amendment No. 380, as modified, add the following new section:

"SEC. 11 . DEFINITION OF 'FULL AND FAIR' ADJUDICATION.

"An adjudication of a claim in state proceedings is full and fair in the meaning of sections 2254 or 2259 of title 28, United State Code (as amended by this Act), unless the adjudication was conducted in a manner inconsistent with the procedural requirements of federal law that are applicable to state proceedings, was contrary to or involved an arbitrary or unreasonable interpretation or application of federal law, or involved an arbitrary or unreasonable determination of the facts in light of the evidence presented."

GARN AMENDMENT NO. 575

(Ordered to lie on the table.)

Mr. GARN submitted an amendment intended to be proposed by him to amendment No. 546 proposed by Mr. WIRTH to the bill S. 1241, supra, as follows:

Insert at the end of the Wirth amendment No. 546, the following new section:

"SEC. . EXEMPTION TO PROTECT THE DEPOSIT INSURANCE FUNDS.

"Notwithstanding any other provision of this Act, the appropriate Federal banking agency is not required to publish or make publicly available any examination report, confidential agreement, or settlement agreement (or part thereof) if such agency determines that public disclosure would—

"(1) result in increased costs to the Bank Insurance Fund, the Savings Association Insurance Fund, or the Resolution Trust Corporation;

"(2) interfere with the examination process for insured depository institutions or result in the disclosure of information provided in confidence to the examiner or other agency employee;

"(3) hamper the enforcement of Federal civil or criminal laws relating to financial institutions;

"(4) be inconsistent with the purposes of the Right to Financial Privacy Act or violative of the Freedom of Information Act or otherwise be an unwarranted invasion of customer privacy; or

"(5) result in a waiver of the agency's attorney-client privilege."

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, FISCAL YEAR 1992

MOYNIHAN (AND D'AMATO) AMENDMENT NO. 576

(Ordered to lie on the table.)

Mr. D'AMATO (for Mr. MOYNIHAN, for himself and Mr. D'AMATO) submitted an amendment intended to be proposed by them to the bill H.R. 2427, supra, as follows:

On page 7, line 16, after "99-662", insert the following: ": *Provided further*, That with $225,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the reconnaissance study for Montauk Point, New York, to be derived by transfer of funds otherwise made available to conduct a study of Onondaga Lake, New York".

MOYNIHAN AND D'AMATO AMENDMENT NO. 577

(Ordered to lie on the table.)

Mr. D'AMATO (for Mr. MOYNIHAN, for himself and Mr. D'AMATO) submitted an amendment intended to be proposed by them to the bill H.R. 2427, supra, as follows:

On page 20, lines 1 through 3, strike "section 1135 of the Water Resources Development Act of 1986 as amended, to rehabilitate Onondaga Creek and Harbor" and insert "section 401 of the Great Lakes Critical Programs Act of 1990 (Public Law 101-596), to carry out restoration work on Onondaga Lake, New York, consistent with the purposes of section 401 of such Act".

KENNEDY AND KERRY AMENDMENT NO. 578

(Ordered to lie on the table.)

Mr. KENNEDY (for himself and Mr. KERRY) submitted an amendment intended to be proposed by them to the bill H.R. 2427, supra, as follows:

On page 8, line 17, before the period insert the following: ": *Provided further*, That with $250,000 of funds appropriated herein, the Secretary of the Army shall undertake a reconnaissance level study to assess the water resource needs of the Muddy River in Massachusetts".

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for my colleagues and the public that the hearing before the Committee on Energy and Natural Resources on S. 1018, on July 18, 1991, has been rescheduled to begin at 3 p.m., rather than at 2:30 p.m. as was originally announced.

The purpose of the hearing is to receive testimony on S. 1018, legislation to establish and measure the Nation's progress toward greater energy security.

The hearing will take place in room 366 of the Dirksen Senate Office Building.

For further information, please contact Leslie Black Cordes of the committee staff at 202/224-9607.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. FORD. Mr. President, I would like to announce for my colleagues and the public that the hearing that had been scheduled before the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources regarding the Department of Energy's role in math and science education has been canceled.

The hearing was to have taken place on Monday, July 15, 1991, at 2 p.m. in room SD–366 of the Dirksen Senate Office Building, First and C Streets NW., Washington, DC.

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a full committee hearing on the independent contractors' review of the Small Business Administration's small business investment companies [SBIC] program—The Holloway Report. The hearing will take place on Tuesday, July 16, 1991, at 9:30 a.m., in room 428A of the Russell Senate Office Building. For further information, please call John Ball, staff director of the Small Business Committee, or Patricia Forbes, counsel to the committee at 224–5175.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. LEVIN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, will hold a hearing on Oversight of Legislative and Executive Branch Lobbying Disclosure, on Tuesday, July 16, 1991, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 9, at 2 p.m., to receive a closed briefing on the situation in Yugoslavia.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Federal Services, Post Office, and Civil Service Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, July 9, 1991, beginning to receive the annual report of the Postmaster General of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on July 9, 1991, beginning at 2 p.m., in 485 Russell Senate Office Building, on S. 1350, Zuni River Watershed Act of 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, July 9, beginning at 9:30 a.m., to conduct a hearing on the Water Pollution Prevention and Control Act (S. 1081) and related legislation to reauthorize the Clean Water Act with special emphasis on issues related to effluent guidelines, pretreatment and water quality standards.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MANPOWER AND PERSONNEL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Manpower and Personnel Subcommittee of the Committee on Armed Services be authorized to meet on Tuesday, July 9, 1991 at 8 a.m. in executive session, for markup of manpower and personnel programs for fiscal years 1992/1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS, SUSTAINABILITY AND SUPPORT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Readiness, Sustainability and Support Subcommittee of the Committee on Armed Services be authorized to meet on Tuesday, July 9, 1991 at 9 a.m. in executive session, for markup of readiness, sustainability and support programs for fiscal years 1992/1993, to include military construction programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Strategic Forces and Nuclear Deterrence Subcommittee of the Committee on Armed Services be authorized to meet on Tuesday, July 9, 1991 at 4:15 p.m. in executive session, for markup of strategic forces and nuclear deterrence programs for fiscal years 1992/1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PROJECTION FORCES AND REGIONAL DEFENSE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Projection Forces and Regional Defense Subcommittee of the Committee on Armed Services be authorized to meet on Tuesday, July 9, 1991 at 11 a.m. in executive session, for markup of projection forces and regional defense programs for fiscal years 1992/1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONVENTIONAL FORCES AND ALLIANCE DEFENSE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Conventional Forces and Alliance Defense Subcommittee of the Committee on Armed Services be authorized to meet on Tuesday, July 9, 1991 at 2:15 p.m. in Executive Session, for markup of conventional forces and alliance defense programs for fiscal years 1992/1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS, AND ALCOHOLISM

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Children, Family, Drugs and Alcoholism of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, July 9, 1991 at 9:30 a.m., for a hearing on Domestic Violence.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Research and General Legislation be allowed to meet during the session of the Senate on Tuesday, July 9, 1991 at 9 a.m., to hold a hearing on the research title of the 1990 farm bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CONGRATULATIONS TO HELPING STUDENTS, INC.

• Mr. ROCKEFELLER. Mr. President, as the chairman of the National Commission on Children, as a Senator, and as a father, I am extremely concerned with the needs of this Nation's children. It is easy for us to forget that one in five American children lives in poverty. I rise before the Senate today to praise the efforts of a group of outstanding Roane County, WV, school employees who have started a volunteer program to help needy schoolchildren in their community.

This exceptional program, called Helping Students, Inc., started as an initiative to provide children, who otherwise would have received no gifts, with toys and clothing at Christmas. Employees of Roane County schools contributed to the children's fund instead of exchanging gifts among themselves. The program proved to be extremely successful. In 1988, they went one step further and established a general fund to aid students in poverty. The children's fund was supported by voluntary payroll deductions, in which participating employees allowed a small amount to be deducted from their monthly paychecks. The response to this proposal has been overwhelming. As of February 1991, Helping Students, Inc. has provided 177 items of clothing for 47 students, made possible by contributions to the fund which have exceeded $4,000. There are over 100 employees who participate in this program. They include teachers, busdrivers, custodians, et cetera. These caring individuals are not wealthy, but they give as much as they can.

I want to commend Helping Students, Inc. Too many of our children arrive at school inadequately dressed. They are cold and they are hungry. Obviously as a consequence, their school work suffers. While we are all probably moved by the deplorable thought of children going to school without the proper clothing, this group of Roane County school employees has actually done something to help. Their work deserves notice and praise. Their activism is a model we should all try to emulate.•

AN ESSAY BY LISA ANN KRIMMER, OF COLORADO

• Mr. BROWN. Mr. President, I would like to submit for the RECORD the following essay by Lisa Ann Krimmer, of Colorado, who is 1 of only 12 recipients nationwide of the 1991 Public Service Scholarship:

WHY I HAVE CHOSEN A PUBLIC SERVICE CAREER

My father has been a Federal Service employee for over twenty-nine years working for the Department of Army for eighteen years, the Department of Energy for two years, and the Department of Interior's Bureau of Land Management for the last nine years. Having grown up as the daughter of a public servant and living in a family where service to others is a primary way of life, I beleive it is my destiny to continue in my parent's footsteps. I have chosen Physical Therapy as my major field of study and upon receipt of my degree expect to join the public service ranks either at the Federal level with an agency like the Veteran's Administration, Office of the Surgeon General, or the Office of Public Health; or a state or local health organization. My first preference is at the Federal level.

During high school I had intended to become a professional ballet dancer, studying ballet and other forms of dance for over twelve years, however I began to recognize a need for physical and occupational therapy in the performing arts, and when my high school offered a medical careers course at the beginning of my senior year, I enrolled.

That course not only peaked my interest but showed I had talent and ability for the medical profession. My parents have encouraged me at every stage of my life and I have tried to reciprocate their support by working with them on numerous volunteer activities in which they were engaged. My Dad always said: "It is important to one's self-worth, as well as to the benefit of others, be they individuals, organizations, or the community, to give of yourself wherever and whenever possible." With that philosophy my parents, with my help and participation, organized, managed, and assisted in numerous fundraising and volunteer activities. This included such organizations as charities (Hadassah Hospital, Childrens Hospital, Muscular Dystrophy, the Salvation Army, etc.); community groups (Good Samaritan Shelter for the Homeless, Denver Area Food Bank, Denver Zoological Foundation, etc.); and performing arts groups (Colorado Ballet, Cleo Parker Robinson Dance Company, David Taylor Dance Company, Ballet Arts Foundation, etc.).

My participation included soliciting donations, setting up for sales, gleaning fields, preparing and serving meals to the homeless, and providing dance entertainment to hospital in-patients, and senior citizens homes. Independent of my parents, I gave free dance instruction to underpriviledged children, taught children swimming lessons, helped foreign students at my high school adjust to our way of life in the United States and aided them with their studies, and worked with younger and foreign dance students in developing their dancing skills.

As a licensed Physical Therapist I will offer my services to those less fortunate and who cannot pay for therapy. Additionally, as a public servant I will be able to reach a larger segment of the public, be aware of national and world trends and developments in physical therapy, and thereby provide better care and service to everyone. I also plan to actively participate in and promote national health care and become a factor in improving and developing better health care programs.

My goal is not to become a "get rich quick" health professional, rather to do as my parents in living a comfortable life without stepping over others to achieve my goal. It is a good feeling to give of one's time and abilities to work for and help others. A career in public service will give me that opportunity while making my community, our country, and the world a better place in which to live.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Dan Berkovitz, a member of the staff of Senator BURDICK, to participate in a program in Indonesia, sponsored by the Republic of Indonesia and the United States-Asia Institute, from August 16-31, 1991.

The committee has determined that participation by Mr. Berkovitz in the program in Indonesia, at the expense of the Indonesian Government and the United States-Asia Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Rob Hall, a member of the staff of Senator NUNN, to participate in a program in Germany and Denmark, sponsored by the United States Department of Labor and the German Marshall Fund, from June 30 to July 7, 1991.

The committee has determined that participation by Mr. Hall in the program in Germany and Denmark, at the expense of the German Marshall Fund, is in the interest of the Senate and the United States.●

THE 1991 CALL TO CONSCIENCE

● Mr. BIDEN. Mr. President, I deeply regret that my colleagues and I must mark another year with Call to Conscience statements. While tremendous changes have occurred over the past 2 years in the Soviet Union and Eastern Europe, they have unfortunately not been enough to end the need for the Senate's annual Call to Conscience—the need to insist that the Soviet Union allow Soviet Jews, and all oppressed people, to emigrate freely.

Although the central Soviet Government has passed a liberalized emigration law, it remains to be seen how vigorously it will be enforced and what loopholes it might contain. I worry particularly about how some of the Kremlin's old, tired excuses to prevent emigration will be used in the future.

Still today Soviet Jews are being told they cannot leave the Soviet Union because of secrecy concerns. For example, Valery Brodsky, an engineer at the Hydrological Research Institute, has been denied permission to leave because he had a security clearance, although Valery has not had access to classified material for over 5 years. When his application was refused last year, Valery was told permission would not be forthcoming until 1995.

To make even more difficult the Brodsky family's situation, they live in Kiev, near the site of the Chernobyl nuclear disaster. According to relatives in the United States, the two Brodsky children, Boris, age 22, and Tatyiana, age 8, have both been ill as a result of the Chernobyl accident. Perhaps just as disturbing, the family has received anti-Semitic threats. The situation is so desperate that Irina Brodsky, Valery's wife, has considered leaving with her family even if Valery cannot.

Mr. President, I call on President Gorbachev to allow the Brodskys, and other families like them, to leave the Soviet Union. While the world appreciates the liberalization that has taken place under Gorbachev's leadership, it will never be considered adequate while oppression of Jews continues and free emigration is denied.●

TRIBUTE TO GERALD J. HOLE

● Mr. COATS. Mr. President, it is with great pleasure that I rise today to recognize Mr. Gerald J. Hole for his years of service to the people of the State of Indiana and the Indiana State Police. Mr. Hole has been a leading warrior in the fight against drug abuse for most of his 27-year career. Mr. Hole retired at the rank of captain and the position of commander of special investigations for the Indiana State Police on June 11, 1991. Mr. Hole's years of leadership and service in fighting drugs has made the people of Indiana safer from the ravages of drug abuse.

Although it is difficult to summarize an extraordinary career, I would like to mention two important achievements. First, on July 20, 1981, Mr. Hole received a bronze star from the Indiana State Police for meritorious service. Second, Mr. Hole led two different undercover investigations in the late 1970's and early 1980's that recovered approximately $5.5 million worth of stolen property.

On behalf of myself and the people of the State of Indiana, I would like to commend Mr. Hole for his distinguished years of service. I would also like to offer him my best wishes for continued success in civilian life.●

SMALL BUSINESS AND HEALTH CARE COSTS

● Mr. BUMPERS. Mr. President, the small business community is perplexed and frightened by the cost of health care and the attendant cost of health insurance for their employees. Many small businesses in the past have not carried employee health insurance, and it was not a particular barrier to hiring excellent employees or to retaining them.

But, times have changed and an almost insoluble situation has arisen for employer and employees with the skyrocketing of health care costs. I ask that the following letter from Jeremy Thornton of Mena, AR, be printed in the CONGRESSIONAL RECORD because he concisely and clearly has captured the no-win situation of many small businessmen in the Nation today.

The letter follows:

MENA TITLE CO.,
Mena, AR, June 21, 1991.
Hon. DALE BUMPERS,
Senate Office Building, Washington, DC.

DEAR SENATOR BUMPERS: I am a small businessman. My wife and I own and operate a land title business here in Mena. We try to do our best to provide a reliable, dependable and efficient service to the general public, the banking industry, realtors, and attorneys.

We have never had much turnover in employment, but recently illness took one of our key employees, and another decided to quit; in both cases, the fact that we do not have an employee health insurance plan was a problem. The employee who had to quit developed diabetes and the other has compared our "total package" and made the decision that another place of employment would be the best for her.

We feel that our business is becoming less able to compete for labor with larger firms. I have three (3) employees plus my wife and I for a total labor force of five (5). We have checked with a few health insurance companies and we come up with one big learning curve. To consider and make an evaluation of just one (1) health package is to realize that:

1. There is no standardization in basic coverage and it becomes a very complex and consuming thing to make the best decision for our basic health insurance needs. The worst part is that if you get on a program, they can change the rules and coverage anytime after the initial contract period. If they do this, and it is going to happen, we have two (2) choices: take what is offered on renewal, or get back into the competitive evaluation of other insurance companies plans, which is a drain on business time. So, without standardization in health insurance plan and some kind of stability of plan, it is tough for a small-time business to make the decision to fund a plan. We want to provide health insurance to our employees, but if we do, we want a "standardized medical package" and stability in costs and coverage before we agree to put a health insurance program in place. With the current system of health insurance, we do not think we can at anytime soon offer a health plan to our employees. That is a shame, for we truly think we need one.

2. The cost of a health program is more than we can sponsor (and even if we could, the extra time a health program would cost to administer is an additional burden). But if everyone has to offer health insurance, then my market would accept the additional costs.

It seems that small businesses (even though insurance companies say you can get into "pools of other small businesses") do not get the price breaks that large accounts (comparing this with a firm of, say, 500 employees). So sheer numbers put our business in a position of higher costs, yet I feel that our employees have every right to the basic need of health insurance as those in a firm whose employees number 500.

Up until recently, I did not think that the health insurance industry was out of hand. But it is. Eight years ago, my family took a health insurance policy with TIME Health Insurance Co. with a $1,000 deductible for about $1,000 premium per year. Now it has grown in cost to $2,500 per year. The fact that we have never had a claim against the policy is not that important, even though over 8 years there has been a 250% increase in cost. But after awhile, you get "locked in" on a program because at renewal time, other health insurance companies offer very little in the way of price competition for similar health plans (if there exists such a class of creatures!).

Up until recently, I did not think that a national health insurance plan was necessary. But it is. The market does not seem to control its costs though competitive forces. There are many health insurance companies; there are many hospitals; there are many doctors; there is no shortage of medical health care producers of products and services. There is no shortage of patients. But basic health care in the form of health insurance has become a problem for Middle Americans who are just small-time businesses and who would like to provide health plans but can't.

Doctors have, absolutely, the strongest trade union that has ever existed in America. Even family physicians make at least, if not more than, $150,000 per year in this economically depressed part of Arkansas. The disparity in how much physicians make in comparison to other labor inputs into our economic society is relative. What they are able to get for their services is a function of market forces. Apparently, the market forces offer no competitive alternative, and therefore how much doctors make, relative to others, has become a little of out whack. We know that doctors devote a lot of time to acquire their skills, and that there is a lot of stress in their occupation. But if you think about it, everyone who is working in America now has stress. Is your job less stressful than that of a doctor? You may not face the same stress situations but the level of stress is just as intense, I would think. Insurance companies feel they have to have "different features" to market their plans; that is so much horsefeathers and puffery. What they need is standardization of plan, then they might be able to evaluate risks more efficiently and improve their profits. By avoiding the competition within a framework of a standard health plan, they can point their fingers at others as being the source of the health care problems—at lawyers for trying to represent their clients, at doctors for charging too much, at the inefficiency of medical providers, at the government for increasing their costs by unnessary regulation. Health care providers of services and products are, for some reason, rarely scrutinized, except for hospitals. The providers of health care products get away with charging $120 for a $15 foam-mat (priced at Walmart) used on patient hospital beds. There isn't very much sanity in this kind of acquisition of supplies and materials.

These things lead me to think that the market forces of demand, supply and price are not operating very well in this marketplace. It is time for a national health plan, and I don't mean one which plays ball with the lobbying interests of doctors, insurance companies or health providers but one that will put the people of our Country on an even competitive level not only within our own boundaries but also with our major Western Nations.

It is time for you guys to do something for the people. I want to thank you for you taking the time to read this, and I hope you will consider it carefully.

Regards,

JEREMY D. THORTON.●

BUDGET SCOREKEEPING REPORT

● Mr. SASSER. Mr. President, I hereby submit to the Senate the most recent budget scorekeeping report for fiscal year 1991, prepared by the Congressional Budget Office under section 308(b) of the Congressional Budget Act of 1974, as amended. This report serves as the scorekeeping report for the purposes of section 605(b) and section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $0.4 billion in budget authority, and under the budget resolution by $0.4 billion in outlays. Current level is $1 million below the revenue target in 1991 and $6 million below the revenue target over the 5 years, 1991–95.

The current estimate of the deficit for purposes of calculating the maximum deficit amount is $326.6 billion, $0.4 billion below the maximum deficit amount for 1991 of $327.0 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 8, 1991.
Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1991 and is current through June 28, 1991. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Budget Enforcement Act of 1990 (Title XIII of Public Law 101-508). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of Senate Concurrent Resolution 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated June 24, 1991, there has been no action that affects the current level of spending and revenues.

Sincerely,

ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS., AS OF JUNE 28, 1991

[In billions of dollars]

	Revised on-budget aggregates[1]	Current level[2]	Current level +/− aggregates
On-budget:			
Budget authority	1,189.2	1,188.8	−0.4
Outlays	1,132.4	1,132.0	−.4
Revenues:			
1991	805.4	805.4	(3)
1991–95	4,690.3	4,690.3	(3)
Maximum deficit amount	327.0	326.6	−.4
Direct loan obligation	20.9	20.6	−.3
Guaranteed loan commitments	107.2	106.9	−.3
Debt subject to limit	4,145.0	3,442.0	−703.0
Off-budget:			
Social Security outlays:			
1991	234.2	234.2	....
1991–95	1,284.4	1,284.4	....
Social Security revenues:			
1991	303.1	303.1	....
1991–95	1,736.3	1,736.3	....

[1] The revised budget aggregates were made by the Senate Budget Committee staff in accordance with section 13112(f) of the Budget Enforcement Act of 1990 (title XIII of Public Law 101–508).

[2] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. In accordance with section 606(d)(2) of the Budget Enforcement Act of 1990 (title XIII of Public Law 101–508) and in consultation with the Budget Committee, current level excludes $45.3 billion in budget authority and $34.6 billion in outlays for designated emergencies including Operation Desert Shield/Desert Storm; $0.1 billion in budget authority and $0.2 billion in outlays for debt forgiveness for Egypt and Poland; and $0.2 billion in budget authority and outlays for Internal Revenue Service funding above the June 1990 baseline level. Current level outlays include a $1.1 billion savings for the Bank Insurance Fund that the Committee attributes to the Omnibus Budget Reconciliation Act (Public Law 101–508), and revenues include the Office of Management and Budget's estimate of $3.0 billion for the Internal Revenue Service provision in the Treasury-Postal Service Appropriations Bill (Public Law 101–509). The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[3] Less than $50,000,000.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1991 AS OF CLOSING OF BUSINESS JUNE 28, 1991

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			834.910
Permanent appropriations	725,105	633,016	
Other legislation	664,057	676,371	
Offsetting receipts	−210,616	−210,616	
Total enacted in previous sessions	1,178,546	1,098,770	834,910
II. Enacted this session:			
Extending IRS Deadline for Desert Storm troops (H.R. 4, Public Law 102–2)			−1
Veterans' education, employment and training amendments (H.R. 180, Public Law 102–16)	2	2	
Dire emergency supplemental appropriations for 1991 (H.R. 1281, Public Law 102–27)	3,823	1,401	
Higher education technical amendments (H.R. 1285, Public Law 102–26)	3	3	
OMB domestic discretionary sequester	−2	−1	
Emergency supplemental for humanitarian assistance (H.R. 2251, Public Law 102–55)	(1)		
Total enacted this session	3,826	1,405	−1
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory adjustments required to conform with current law estimates in revised on-budget aggregates	−8,572	539	
VI. Economic and technical assumption used by committee for budget enforcement act estimates	15,000	31,300	−29,500
On-budget current level	1,188,799	1,132,014	805,409
Revised on-budget aggregates	1,189,215	1,132,396	805,410
Amount remaining:			
Over budget resolution			
Under budget resolution	416	382	1

(1) Less than $500,000.

Note.—Numbers may not add due to rounding.•

UNANIMOUS-CONSENT AGREEMENT ON MOTION TO INVOKE CLOTURE ON S. 1241

Mr. JOHNSTON. Mr. President, on behalf of the majority leader, I ask unanimous consent that the vote on the motion to invoke cloture on S. 1241, the crime bill, occur at 2 p.m., Wednesday, July 10, with the mandatory live quorum having been waived.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDERS FOR TOMORROW

Mr. JOHNSTON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:15 a.m.; that following the prayer, the Journal of the proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein; that during morning business, Senator LIEBERMAN be recognized for up to 5 minutes, and that Senator BRADLEY be recognized for up to 30 minutes; that at 10 a.m., the Senate then resume consideration of H.R. 2427, the energy and water appropriations bill.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

RECESS UNTIL TOMORROW AT 9:15 A.M.

Mr. JOHNSTON. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess as under the previous order until 9:15 a.m., Wednesday, July 10.

There being no objection, the Senate, at 11:27 p.m., recessed until Wednesday, July 10, 1991, at 9:15 a.m.

EXTENSIONS OF REMARKS

SADDAM HUSSEIN'S THREATS OF TERRORIST REPRISALS GO UNFULFILLED

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. BROOMFIELD. Mr. Speaker, I want to commend the administration for effectively dealing with the threat of Iraqi-backed terrorism during the recent gulf crisis. Although Saddam Hussein's terrorist brigades may strike against the United States and our coalition partners in the future, the recent implementation of President Bush's counterterrorism policy has shown that America is ready and able to deal with the threat of Iraqi-sponsored terrorism.

Iraq and its allies attempted a number of terrorist operations against the United States during the conflict, a few of which succeeded. Most attacks, however, were countered. Those that were carried out were the work of local extremists, not terrorism's heavy hitters. The highly lethal attacks that have been the hallmark of the professional Middle Eastern terrorist groups did not occur.

Our government undertook a number of measures that proved to be highly effective against Saddam Hussein's promises to launch a major terrorist campaign. In response to Iraqi threats, the administration made it clear that the United States would hold Saddam Hussein personally responsible for acts of terrorism directed against the United States or its coalition partners.

United States and allied governments expelled over 200 Iraqi diplomats from their countries and disrupted Iraq's command and control systems in order to limit its ability to coordinate terrorist attacks. The United States also applied significant diplomatic pressure to state sponsors of terrorism, which harbor and train terrorist groups. U.S. diplomatic posts overseas tightened security, employed tough countermeasures, and reduced staffs. Police and intelligence information exchange with allied governments was augmented, and there was unprecedented cooperation between Western counterterrorism agencies. Overall, our counterterrorism efforts during the gulf crisis were well conceived and managed. As a result, the United States is better prepared to deal with international terrorism in the future.

I commend to my colleagues the following article by noted terrorism expert Neil C. Livingstone concerning Iraq's terrorist threat and our Government's commendable efforts to counter it.

[From Sea Power, April 1991]

WHERE WERE IRAQ'S TERRORISTS?

(By Neil C. Livingstone)

The caller to the Smithsonian Institution in Washington sounded ominous. "This is Yasir Arafat," he said. "And I'm going to blow up the National Zoo."

Welcome to the "phony war" that has been played out in numerous cities across the United States, and elsewhere around the world, since the onset of Operation Desert Storm. Each day brings new bomb threats and terrorist scares. Someone has just seen Abu Nidal at a popular shopping mall. There is a suspicious box in the lobby of a federal building. "Iraqi agents" have been spotted casing the Alaskan pipeline. A caller identifying himself as "Saddam Hussein" has just threatened to "burn down" Germantown, Md. The mayor of Detroit has declared a state of emergency over the "terrorist threat" and called on the governor to activate the National Guard.

Despite the flood of threats and "suspicious-person" sightings, there were no significant terrorist incidents in or against the United States in the nearly seven months between the Iraqi invasion of Kuwait last August and the onset of the ground campaign on 23 February. Although terrorist incidents were up sharply around the world—numbering over 150 between 16 January and 23 February—only one was directly linked to Iraq. In that incident, a bomb being transported by two Iraqis to an American target in the Philippines detonated prematurely, killing one of them.

All of the other incidents appear to be "sympathetic" actions by terrorist groups indigenous to the countries where the incidents occurred. Some were designed to show solidarity with Iraqi, but most apparently were efforts to grab headlines and to exploit the unusual amount of attention being devoted to any terrorist incident. The Irish Republican Army (IRA) attacks in mid-February on the British prime minister's residence, Number 10 Downing Street, and on two London train stations, according to British investigators, probably had taken months to plan, and were simply part of the ongoing war in Northern Ireland.

The absence of Iraqi-backed terrorist violence was in direct contrast to the predictions of many observers, who believed that the outbreak of war in the Gulf would be accompanied by the opening of a so-called terrorist "second front" by Saddam Hussein. The apprehension over potential terrorist attacks hit the airline industry particularly hard, in both the United States and Western Europe. Tourism dropped significantly. One London hotel reported only four rooms occupied shortly before the commencement of the ground war. Some travel agencies said business was off as much as 75 percent. In February, a U.S. jetliner bound for London reportedly departed with only one passenger in the tourist cabin.

By the time the ground war began, the State Department already had issued war-related travel advisories for Indonesia, Peru, Malaysia, the Philippines, Thailand, Tanzania, Saudi Arabia, Jordan, Qatar, Nigeria, India, Israel, Sudan, Tunisia, Syria, Mauritania, Bangladesh, Djibouti, Yemen, Morocco, and the United Arab Emirates and had recommended that all non-essential travel to these countries be deferred. Many American companies took the advice to heart and imposed major restrictions on corporate travel. One result was a boom in alternative means of "face-to-face" communication, such as teleconferencing. Teleconference companies were unable to keep up with demand.

Although it certainly made sense to avoid travel to countries in the theater of conflict and to Islamic nations where there was a high possibility of anti-American demonstrations or terrorist attacks, the drastic falloff of travel within the comtinental United States and to other areas of the world like Latin America and the Far East certainly was not warranted. In February, to stimulate domestic travel, First Lady Barbara Bush took a highly-publicized commercial flight to Indianapolis. Nevertheless, it will take a long time for the travel and tourism industries to recover.

On 23 February, as coalition forces drove into Kuwait and Iraq, Saddam Hussein once more called on Arabs around the world to strike at U.S. and other coalition targets. The U.S. State Department issued a new worldwide alert to all U.S. missions and military bases advising them to be prepared for terrorist attacks. But in the first days of the land offensive, there were only scattered reports of violence, and none of major significance.

Even if Iraq finally were able to launch the long-rumored "second front," the big question remains: Where were Saddam Hussein's terrorist legions in the first six weeks of the war? There are several possible answers. It may be that he held them in reserve, waiting to unleash them only after his Scud missiles were gone, when he had no other means of projecting power beyond his own borders. By the same token, it may be that the terrorist threat was overestimated from the beginning, and that many of the groups under Baghdad's control or that supported Saddam Hussein possessed only marginal capabilities, or willingness, to carry out attacks on Iraq's behalf.

The most likely answer, though, is that the steps taken by the United States and its allies to thwart and preempt terrorist operations were enormously successful. Beginning with an unprecedently high level of intelligence and police cooperation between coalition partners, the deliberately underpublicized counterterrorist campaign also included the tightening of visa and border controls, "hardening" many potential targets and removing others from the "line of fire," the expulsion of Iraqi diplomats and other suspected troublemakers, and the disruption of terrorist communications, travel plans, and financial sources. The long delay from the onset of the crisis in August to the actual commencement of hostilities in mid-January gave U.S. and coalition officials time to plan and prepare for the worst.

The fact that two of the most prominent state sponsors of terrorism are hostile to Iraq also may have helped: Syria is a coalition partner and Iran is officially neutral. Even Libyan dictator Muammar Qaddafi, another prominent state sponsor of terrorism, has remained on the sidelines. He is said to resent Saddam Hussein's personal prominence as well as his bid to seize the leadership of radical forces in the Arab world.

In the final analysis, the history of things that don't happen is often the most difficult history to write. It's impossible to prove a negative. But this much is certain: Saddam Hussein missed by many miles the opportunity to use terrorism effectively to coerce and intimidate the coalition partners and to influence their policies. The threat of Iraqi-sponsored terrorism created a pervasive global climate of fear, but perhaps that was just the thing needed to convince the United States and its normally complacent allies to put aside past differences and to implement the kinds of security precautions and procedures necessary to reduce their exposure to terrorist attacks.

The end of the war, however, as Pentagon and State Department officials have long warned, may represent just the beginning of the real terrorist threat. The Gulf War has re-energized every radical and terrorist organization in the Middle East and may well yet spawn a generation of terrorist attacks designed to "avenge" Saddam Hussein and those, like the Palestinians, who looked to him for deliverance. That is why one of the peace conditions imposed on Iraq at the cessation of hostilities must be not only the expulsion of all terrorists from Iraq but also meaningful (i.e., verifiable) assurances by the government in Baghdad that it will not aid and abet terrorists in the future or permit them to operate from Iraqi soil.

The Palestinians remain the wild card. There were, at the beginning of the war, more than 120,000 Palestinians in Kuwait, many of whom collaborated with that nation's Iraqi occupiers. As a result, the exiled Kuwaiti government has indicated that many if not most of them will be expelled once the legitimate government is restored and fully functioning. Many Israelis, moreover, will long remember Palestinians on the West Bank cheering Iraqi Scud missiles as they streaked toward civilian targets in Israel. In view of the alliance by Yasir Arafat and the Palestine Liberation Organization (PLO) with Saddam Hussein, and their support for his crimes against Kuwait, it would be unthinkable for the PLO, as it presently is constituted, to be granted any significant role in shaping the postwar Middle East. Only if Arafat and the other collaborators are removed can the PLO's claim to speak for the Palestinian people be given any real recognition. Until then, the PLO and its Palestinian supporters are likely to end up as two of the biggest losers in the conflict.

OSSINING EXTENDS WELL EARNED HONOR TO PERSIAN GULF VETERANS

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mrs. LOWEY of New York. Mr. Speaker, I rise today to join the people of Ossining, NY, in paying tribute to the 30 men and women who left that community to serve their Nation in the Persian Gulf. As was true with the tens of thousands of other Americans who joined our allies in freeing Kuwait, these individuals put their personal lives on hold to respond to the call to service of their Nation.

As the Ossining community joins to pay tribute to these individuals who literally put their lives on the line, it is with a sense of joy in their safe return and of sadness for the lives of the men and women whose lives were lost while serving with them in defense of freedom. Above all, however, there is an immense sense of pride in the unselfish dedication which all who served in Operations Desert Shield and Desert Storm have exhibited.

Observances of our own Independence Day have special significance this year. We have been reminded once again of the sacrifices which have been demanded of the people of this great Nation of ours over the last two centuries to secure freedom and to stand up to aggression. These men and women of Ossining, after their service, I am sure understand better than most how important our liberties and freedoms are. Each of us owes them a special debt of gratitude, just as we do to the thousands of veterans who have stood up for freedom in previous conflicts.

It is a pleasure, as their Congresswoman, to say thank you to these 30 individuals who were there when our Nation needed them.

WILMA SABALA: A "WOMAN OF ENTERPRISE"

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize today one of my constituents, Wilma Sabala, who recently was featured in the Miami Herald as the winner of the "Woman of Enterprise Award."

The 50-year-old Avon saleswoman accepted the award last month in New York City. The award is sponsored by Avon Products, Inc. and the U.S. Small Business Administration. It is given annually to six women, including one Avon employee, who excel in their fields.

Ms. Sabala's story is another example of an immigrant who achieved her dream through hard work and determination. In this case, Ms. Sabala's dream was to open a flower shop in Miami Beach. In 1990, she opened her shop, W. Sabala, Inc., on Miami Beach's famous Lincoln Road.

Ms. Sabala, a native of the small Central American country Belize, came to this country in 1970. She had a degree in home economics and community development from Queen Elizabeth College at the University of London and attended the Inter-American Institute for Agricultural Sciences in Costa Rica. She went to work as a companion to the wife of a Miami doctor, and also baby-sat and cleaned houses, after not finding jobs in one of her specialties.

But she had bigger goals, which she pursued as an Avon saleswoman. Initially, she worked as a saleswoman for two Miami Beach businesses which permitted her to stock Avon products as a sideline in their office. Eventually she was told to discontinue selling Avon. Finally she "decided to buy the store and turn it into a flower shop."

The year she started selling Avon products out of her flower shop, her sales reached $300,000, which was double what she sold in 1989. It was the second largest volume increase among Avon representatives nationwide, and it caught the attention of the awards committee. After being flown to Las Vegas to interview for the award, she filled out the application at the last minute as part of her 50th birthday resolution to answer all her mail. Ms. Sabala was chosen from among 600,000 applicants.

"Wilma is an incredible lady. She has determination unmatched by anyone I've seen. It is spiritual and motivational. She doesn't always think of Wilma's success, but of those around her. She's overcome challenges in her life that would stifle others," exults Marie Rodriguez, the Avon division sales manager for south Florida.

I am pleased to take this opportunity to pay tribute to Ms. Sabala. Her life is an inspiration to those who believe that the American dream is still possible in this great country. It is like the stories of the many successful immigrants who have helped make America and south Florida what it is today.

A SALUTE TO VOLUNTARISM

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. MURTHA. Mr. Speaker, I would like to salute Mrs. Francis Denton, an outstanding volunteer at the National Naval Medical Center in Bethesda, MD, who has given unselfishly of herself as a faithful Red Cross volunteer for the past 29 years. Mrs. Denton began her volunteer career as a Gray Lady in the early 1940's and at the age of 82 remains a dedicated, enthusiastic part of the Red Cross family. That's over 50 years of volunteer service.

Mrs. Denton is a shining example of what voluntarism is all about. She arrives at the medical center at 7 a.m. and sits at the busy information desk always willing to assist anyone who makes an inquiry. She is extremely gracious and always does a good job.

Mr. Speaker, Mrs. Denton was there to greet me when I visited the National Naval Medical Center recently. I went there to check on the quality of health care provided by the medical center. I would like to report that I have noticed a positive improvement in the service provided for patients over the last few years. The Navy must be complimented on these improvements in medical care at Bethesda. All the patients I spoke with were pleased with the quality of the care they were provided.

One of the keys of this improvement is the work of volunteers like Mrs. Denton. It is individuals like her that are the backbone of the military medical support system, and I am honored to bring her work to the attention of the House of Representatives.

CIVIL STRIFE CONTINUES

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. MICHEL. Mr. Speaker, although Nicaragua is no longer on the front pages of our newspapers, the fate of the Nicaraguan people still deserves our attention. This is why I want to bring to the attention of my colleagues a letter I recently received from Alfredo Cesar, President of the National Assembly of Nicaragua.

In his correspondence, President Cesar tells of threats and terrorist acts directed toward the Representatives of the National Assembly, a body very much like our own, responsible for legislating and ensuring the legal rights of each of Nicaragua's citizens. This terrorism includes "explosions in homes and political party offices, and even violence toward public buildings, private radio stations, and city halls in diverse parts of the country." President Cesar then writes, "The terrorist acts are being carried out by organizations and individuals clearly identified with the opposition party, FSLN."

Mr. Speaker, we have been intently following events in Yugoslavia which have led it to the brink of civil war. It is important for us to be aware that in the case of Nicaragua, the end of the civil war and a cease-fire has not provided a cessation of hostilities or violence against innocents. The Sandinistas are not only trying to rule from below, they are trying to ruin from below.

At this point in the RECORD, I wish to insert the letter sent to me by Alfredo Cesar, President of the National Assembly of Nicaragua, dated June 21, 1991.

[Translation]

NATIONAL ASSEMBLY,
Managua, 21 June 1991.

Hon. ROBERT H. MICHEL,
Minority Leader, U.S. House of Representatives

DEAR CONGRESSMAN MICHEL: I address this letter to you in order to bring to your attention to the violent threats and terrorist acts against Representatives to the National Assembly of the majority coalition, the National Opposition Union [UNO]. The terrorist acts are being carried out by organizations and individuals clearly identified with the opposition party, FSLN. The UNO representatives have become targets because they are exercising their Constitutional and legal rights to legislate as members of the legislative body of Nicaragua.

The act of legislating, which is what representatives of the National Assembly do, should not be the object of violent aggression. Such acts are an obvious violation of parliamentary rights. These terrorist acts have extended to include explosions in homes and political party offices, and even violence toward public buildings, private radio stations, and city halls in diverse parts of the country.

I bid you to transmit this message to the other Members of the United States Congress.

We appreciate your attention to the present situation. I take this opportunity to renew the assurances of my highest consideration and esteem.

Sincerely,
ALFREDO CESAR A.,
President,
National Assembly of Nicaragua.

A TRIBUTE TO ROBERT D. VESSEY

HON. CHARLES LUKEN

OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 9, 1991

Mr. LUKEN. Mr. Speaker, I rise today to pay tribute to a gentleman who has made service to others his primary goal. I speak on the occasion of the retirement on July 19, 1991, of Robert D. Vessey after 33 years of service to the American Red Cross.

For the past 12 years, Robert Vessey has served as director of disaster services of the American National Red Cross.

In fulfillment of those duties, Mr. Vessey has provided continuing support and counsel to officials in the First Congressional District of Ohio on a wide range of disaster matters. His expertise was invaluable during the June 2, 1990, tornadoes that destroyed or damaged nearly 1,000 homes in the First District of Ohio and 1,700 homes in the Greater Cincinnati area. Through his efforts, nearly $250,000 was provided from the American Red Cross Disaster Relief Fund to aid these tornado victims.

It is with deep appreciation that I thank Robert D. Vessey for the many services rendered to the people of Ohio who were victims of this major disaster and wish him well in his retirement.

A TRIBUTE TO MAYOR ALBERT TAINATONGO TOPASNA OF UMATAC

HON. BEN GARRIDO BLAZ

OF GUAM
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 9, 1991

Mr. BLAZ. Mr. Speaker, on July 6, 1991, my congressional district, the territory of Guam, paid homage through a State funeral to one of its most beloved and distinguished sons, the Honorable Albert Tainatongo Topasna, mayor of Guam's smallest village, Umatac, where, according to historians, the great discoverer Ferdinand Magellan landed in 1521.

That such a small village would produce such a big personality speaks so well of the village and of Al Topasna. I am of the view that in each community there are usually only 12 apostles who are always present when the roll is called for public service. Al Topasna was such a man.

When the roll was called to serve in the U.S. Armed Forces, he was present;

When the roll was called to serve the public again as a police officer, he was present;

When the roll was called to continue his public service as the commissioner and mayor of his village, he was present;

When the roll was called for community service above and beyond his own responsibilities in his village, he was present; and

When the roll was called to celebrate a good harvest—on land and in the sea—he was present.

Since his passing, a thousand praises have been said verbally and in print about this very common man whose uncommon love and affection for his family, friends, and, even his foes, made him stand out as a giant of a man in the eyes of all who knew him. For each of us, he meant something special—for a particular reason. For me, he meant someone in whom I could confide, someone with whom I could share, and someone from whom I could seek counsel. There are only so many people that each of us could trust with total confidence. Al Topasna was one of those.

We who serve in Congress often make it a point to insure that the record of this, the House of the people of America, reflect certain events for the sake of posterity.

It is with great lament, yet, with great pride, that I rise today in this House to memorialize the passing of, and pay final tribute to, my friend and colleague, Mayor Al Topasna.

It is my way of insuring that the annals of our history include a page devoted to him in recognition of his many contributions to our people, to Guam, and to the United States. It is the most I can do now for my friend; it is certainly the least he deserves.

Finally, I want to say that when St. Peter calls the roll from now on, the distinctive and booming voice of Al Topasna will be heard. Since he was a man of few words, no doubt when the roster is called, he would simply answer as he always did before with the usual: Present.

And present he will always be to his wife and family, and his thousands of friends. I, for one, will be forever grateful that I had him as a friend and I am profoundly honored and touched that he considered me as one of his.

Adios, lahi Al, esta y birada gi as Tan Marian Dak.

CATHOLIC HOSPICE SHOWS MERCY TO TERMINALLY ILL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 9, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, the Catholic Hospice in Miami Lakes, FL, meets the long-term care needs of the terminally ill in Dade County. A long-term illness depletes not only the financial resources of a family but also their morale. Catholic Hospice's Caregiver Program works to serve both the patient and the family by offering skilled medical care at home. At home, a certain degree of comfort and normalcy is restored to a family otherwise disrupted by illness.

The goal of the Catholic Hospice Caregiver Program is to offer care in one's residence, where a patient may reside in dignity and with Spanish and English speakers. The program is in the process of establishing a caregiver's fund to help support the cost of services to the Catholic Hospice. The fund will be especially important to meeting the care needs of terminally ill patients with limited resources and without immediate family.

Mr. Speaker, I commend the leadership of those who have made the work of the Catholic Hospice possible. The board of directors includes: Msgr. Bryan O. Walsh, president; Edward J. Rosasco, Jr., vice president; Sr. Jean Shively, secretary; Gloria Hansen, treasurer; Sr. Lorraine Kraverath; Dr. Miguel Suarez;

Patrick Garrett; Rev. Cornelius van der Poel. Full-time volunteers include: Nina Cannato and John Espirito, who are assisted by 52 caring part-time volunteers. The staff in charge of day-to-day affairs at the Catholic Hospice include: Janet L. Jones, executive director; Barbara Janosko, program director; Sally McKinnon, finance director; Jacqueline Irza, patient family care coordinator; Myrna Lechowitz-Rogoff, social services coordinator; Beverly Garrett, director of development; Barbara Vargo, volunteer coordinator; and Dr. Stanley Jonas, medical director assisted by 41 dedicated employees. I encourage all of those involved with the efforts of the Catholic Hospice in bringing comfort to the terminally ill to continue their good work.

NEW HAMPSHIRE PAYS TRIBUTE TO RAYMOND BURTON

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. SWETT. Mr. Speaker, on July 13, 1991, New Hampshire will honor one of its most committed and dedicated public servants, Executive Councilor Raymond S. Burton.

Councilor Burton has represented northern New Hampshire on the five-member executive council for 12 years. During his tenure, Burton has distinguished himself as an outspoken advocate for the many issues important to rural New Hampshire.

His "hands on" approach to government and willingness to stand up for the average citizen has endeared him to his constituents in the State's largest executive councilor district—all the way from Pittsburg in the north to Cornish in the south.

Working tirelessly to effectively represent his 200,000 constituents, Councilor Burton has earned his reputation as a champion of rural New Hampshire concerns.

Mr. Speaker, Councilor Burton has a long and distinguished record of public service. He began his career in government in 1967 when he served as sergeant at arms for the New Hampshire State Senate. He then went on to work on the staffs of Congressman James Cleveland and Gov. Walter Peterson.

During that same period, he also continued to represent his hometown of Bath, NH by serving on the school board for 16 years from 1962–78. He also served as a member of the North County Council.

Councilor Burton graduated from Woodsville High School in 1958 and Plymouth State College in 1962, where he studied teaching. He then taught in Warren and Andover for 5 years and still manages to find time today to take part in an adult education program.

Mr. Speaker, I rise before you today to ask my colleagues to join me in paying tribute to Executive Councilor Raymond Burton as he is recognized for a lifetime of public service.

HONORING MARTIN RENTERIA, CHIEF OF POLICE, MONTEBELLO UNIFIED SCHOOL DISTRICT

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. TORRES. Mr. Speaker, I rise today to recognize a special individual, Mr. Martin Renteria, chief of police for the Montebello Unified School District. Martin is retiring after 17 years of dedicated service to the city of Montebello.

Martin was born in Santa Barbara, CA. He was graduated from East Los Angeles College and California State University Los Angeles as a police science major. Later, he also earned a master's degree in public administration from the University of Southern California and holds several professional certificates. Martin resides in Montebello, CA, with his wife Esther, and together they have four grown children and five grandchildren.

Martin Renteria began his law enforcement career as a reserve officer with the Long Beach Police Department and later worked 4 years with the Arcadia Police Department as a fulltime officer. Martin later joined the Los Angeles County Sheriff's Department where he worked for 10 years and was a detective. Martin then went on to serve with the Los Angeles Community College Police Department where he was liaison between the College District Police and the Los Angeles City Chief of Police.

One of Martin's greatest successes, was establishing the Montebello Unified School District Police Department from which he now retires as its chief administrator. Martin established the department and got it certified by the California Peace Officers Standards and Training Commission. The department now consists of 43 officers and provides for the safety and well being of some 58,000 students, teachers, and staff in a six city area including Montebello, City of Commerce, Bell Gardens, and portions of East Los Angeles, Monterey Park, South San Gabriel, and Pico Rivera.

Martin is truly a community leader. He is a member of the Latin Business Association and the Latino Peace Officers Association, as well as the California Peace Officers Association and the California Association of Licensed Investigators. He has served as Sheriff Sherman Block's representative on the Los Angeles City and County Blue Ribbon Crime Task Force and was chairman and an 8 year member of the Montebello City Traffic and Safety Commission, and was director of United Way, Region III. Currently, Chief Renteria serves as president of the California School Peace Officers Association. Following his retirement from the Montebello Unified School District, Martin will head Trojan Security Services, Inc. It is clear, that the lessons learned from Martin Renteria's selfless commitment to public service and law enforcement specifically are a valuable legacy.

Mr. Speaker, on July 10, 1991, family, friends, civic leaders, and the law enforcement community will be gathered to honor Chief Martin Renteria and say farewell to a dynamic person. I ask my colleagues to join me in a salute to a fine individual, Mr. Martin Renteria, for his outstanding record of public service to the city of Montebello and all of Los Angeles County, and to wish him a long, fruitful and happy retirement.

THE LATE LUIGI DEL BIANCO OF PORT CHESTER: THE MAN WHO HELPED CARVE MOUNT RUSHMORE

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mrs. LOWEY of New York. Mr. Speaker, July 4 of this year, marked the 50th anniversary of the unveiling of Mount Rushmore National Monument in South Dakota. That monument is a national treasure. In the town of Port Chester, NY, residents still remember fondly their late neighbor, Luigi Del Bianco, known throughout his community as the man who helped carve Mount Rushmore.

From the day when, at 16 years of age, he first arrived in America from Italy in 1908, to his death in 1969, Luigi Del Bianco always exemplified the best of America. An artist and craftsman, educated in stonecutting and carving in Austria, he understood that hard work and dedication is the only sure route to success. His dedication to both his native and adopted countries and his appreciation of his rich heritage was evident when he returned to Italy to defend it against its Austro-Hungarian invaders in World War I, fighting in the Italian Army alongside American and Allied troops. Returning after the war to Port Chester, he married, and became a citizen of the United States, a status he always cherished, on January 13, 1928.

For more than 20 years, Luigi Del Bianco was a trusted lieutenant of the famous sculptor Gutzon Borglum, and assisted him on the Wars of America Memorial in Newark, NJ, the Stone Mountain project in Stone Mountain, GA, and the Mount Rushmore National Monument in South Dakota. At Mount Rushmore, Mr. Del Bianco distinguished himself as chief carver, where he concentrated especially on refining the expressions on the faces. He contributed greatly to the eyes of Abraham Lincoln, which are considered to be among the most lifelike and artistic parts of the monument.

Luigi Del Bianco did reserve some of his artistry for his hometown. I truly wish that my colleagues could see and thus appreciate his fine statuary at the Corpus Christi Church, the Lady of Fatima statue at the Holy Rosary School, and the Spanish-American War Memorial in Summerfield Park, which still grace Port Chester. Through his art and his upstanding character, Luigi Del Bianco, who came to this country as an immigrant, became an integral part of his community and his Nation. In the finest American tradition, he helped in shaping its most famous monument, adding to the esthetic heritage of Port Chester, and raising a fine family to continue the Del Bianco tradition of citizenship and patriotism. His life and his work remind us of the greatness of the

American ideal which we celebrate on Independence Day.

Luigi Del Bianco was truly a man who made a great impression on his neighbors, an immigrant who exemplified the great American values of hard work and dedication to this country, and a fine artist who made an indelible contribution to the United States. Port Chester will long remember Luigi Del Bianco, the man who helped carve Mount Rushmore. As we celebrate our Nation's 215th birthday, and the 50th anniversary of his great work, I am sure my colleagues will join me in remembering and honoring Luigi Del Bianco, who, through the work of his own hands, has left much for this Nation of ours. His works have been an inspiration to many.

THE "SICK" SURPRISE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. DORNAN of California. Mr. Speaker, there has been a lot of irresponsible, par-for-the-course, rumor-mongering in the media lately concerning the January 1981 release of our U.S. hostages who had been held in Iran for 444 days. A book written in 1989, and discounted by everyone but compulsive conspiracy extremists, offered the cynical theory that the Reagan-Bush campaign persuaded the Iranians to postpone release of the hostages until after the election to keep President Carter "a loser."

What is surprising, Mr. Speaker, the key person who has resurrected this unfounded rumor, namely Gary Sick, is a former specialist for the National Security Council, Carter administration.

The watchdog group Accuracy in Media has compiled a detailed report on the absence of facts surrounding this outrageous rumor. Why this rumor is being persistently hyped by the dominant liberal media and the political intentions of those who did the resurrecting is also covered by AIM. I am submitting for the RECORD their comprehensive report:

THE SICK SURPRISE

(By Accuracy in Media, Inc., Washington, DC, Reed Irvine, Editor; Joseph C. Goulden, Associate Editor, May 1991)

Why did Iran release the 52 American hostages on January 20, 1981, only minutes after Ronald Reagan's inauguration rather than shortly before the election on November 4, 1980? Here are two different answers.

(1) The Iranians, having failed to get Carter to accept their conditions for the release of the hostages before the election, and fearing that Reagan would be even tougher, finally signed an agreement on January 19 for far less than they could have gotten earlier.

(2) William J. Casey had persuaded Iran not to conclude a deal prior to the election by offering a better deal after Reagan was elected.

No. 1 is the answer suggested by Gary Sick in his 1985 book, "All Fall Down." Gary Sick was a Middle East specialist on the Carter National Security Council staff. His book provides a blow-by-blow description of the negotiations for the release of the hostages that began in September 1980 and were successfully concluded on January 19, 1981.

No. 2 is the answer given by Barbara Honegger, who worked briefly in the Reagan White House, where she attracted attention by appearing at functions dressed as a bunny rabbit. Honegger laid out her conspiracy theory in a 1989 book titled, "October Surprise," which relies heavily on dubious sources and heroic assumptions.

A number of reporters had checked out the rumors that the Reagan campaign had persuaded the Iranians not to release the hostages before the election, but few found them credible. When Honegger's book was published, few people except conspiracy-theory extremists were paying any attention to her scenario. It lay dormant until The New York Times decided to hype it in an extraordinary way on April 15, 1991. It devoted two-thirds of its op-ed paged to an article promoting it, and in the same issue ran a 24-column-inch story about the op-ed article. Both were distributed by the Times news service to papers throughout the country. Both also plugged a PBS Frontline program on the same subject that aired the next night. On April 17, Times columnist Leslie Gelb, a former Carter administration official who until recently edited the Times' op-ed page, weighed in with a column in which he said, "Hardball politics is one thing. But Presidential candidates or their aides interfering in life-and-death, war-and-peace decisions of a sitting President is quite another. It is treachery." ("Treachery" is different from treason, but in the context, treason was easily inferred.)

GARY SICK'S TURNABOUT

The "October Surprise" soon supplanted the Kennedy-compound rape case and Kitty Kelley's biography of Nancy Reagan as the media's scandal of choice. President Carter and others called for an investigation. House Speaker Thomas S. Foley termed the media reports "very disquieting," and said he had asked some of his colleagues to "explore informally" whether there was enough evidence to justify an investigation. Democrats on the House Judiciary Committee were reported to be considering asking the attorney general to appoint a special prosecutor. The Washington Post, which had run a lengthy article exposing the weakness of the evidence, joined the bandwagon on April 29 with an editorial supporting an investigation.

Leading the chorus was the author of the extraordinary op-ed article in The New York Times that had started the ball rolling—Gary Sick, the very same former Carter aide whose 1985 book shows how wacky Barbara Honegger's conspiracy theory is. After describing in detail the intricate and difficult negotiations for the release of the hostages that were finally concluded on January 19, Sick's book points out that the Iranians did not get a better deal by delaying the settlement until after the election.

He says: "The Iranian leaders could reasonably argue that whatever the outcome, Iran was likely to get a better deal before the elections than after. . . . The package that finally resolved the issue some ten weeks later was, in several respects, less advantageous to Iran than the offer the United States had on the table in October." He elaborates, "In retrospect, it appeared the longer Iran negotiated the less it got, and those in Teheran who opposed the settlement were not shy in drawing attention to the very considerable financial concessions the Iranian team had accepted. Certainly, if anyone had proposed such an outcome when the talks began in September 1980, it would have been rejected as unthinkable." He notes that the Iranian negotiators didn't even realize that Reagan would not take office the day after the election, but he comments that they were shrewd enough to realize that "a president assured of four years in office would be less likely to compromise than a president fighting for his political life." That explains why they reluctantly made their deal in the last hours of the Carter administration.

Sick now says that as recently as 1988 he had dismissed the rumors of a Republican effort to delay the release of the hostages, but in doing research on a book on Iranian policy during the last two years, he "began to recognize a curious pattern in the events surrounding the 1980 election." He says he conducted "hundreds of interviews, in the U.S., Europe and the Middle East," during which he was "told repeatedly that individuals associated with the Reagan-Bush campaign . . . met secretly with Iranian officials to delay the release of the American hostages until after the Presidential election. For this favor, Iran was rewarded with a substantial supply of arms from Israel."

Daniel Pipes, director of the Foreign Policy Research Institute, cast doubt on this explanation of Sick's turnabout. He wrote in The Wall Street Journal that during the 1988 election campaign Sick said that he no longer dismissed the conspiracy theory that Barbara Honegger and others had tried so hard to promote.

SICK'S PLOT SICKENS

Of the claimed "hundreds of interviews" Sick identified only two individuals by name in his New York Times article, only one of whom alleged the existence of a Republican plot. His other sources are described as "former Israeli intelligence agents, former Reagan campaign aides" or simply "sources." In the accompanying news story, Sick named three other individuals who, he said, had second-hand knowledge. Sick admitted some of his "sources" are "no boy scouts," but persons who have "been arrested or have served prison time for gun-running, fraud, counterfeiting or drugs." He added, "Some may be seeking publicity or revenge." He produced no new evidence from reliable named sources that would justify the Times' treatment of his article.

The one named source who charged that the Reagan campaign successfully blocked the release of the hostages was arms dealer Jamshid Hashemi. Sick said Hashemi and his brother, Cyrus, had "good contacts in Iranian revolutionary circles," but he omitted mention of the fact that in 1984, the Reagan Administration indicted Cyrus Hashemi on charges of illegally exporting weapons to Iran. Former attorney general Elliott Richardson contacted William Casey, then director of central intelligence, on Hashemi's behalf, pointing out that he had been helpful to the CIA. Richardson says that at that time neither Casey nor the Hashemis indicated that they knew each other, and Casey did not intervene on their behalf. Cyrus Hashemi died in 1986, his criminal case unresolved.

Sick didn't explain why the Reagan administration would prosecute a man who was privy to a secret that could have blown it sky high and why that man took the secret to his grave, not even mentioning it to his lawyer. Nor did he explain why he placed faith in a man he called "nefarious" and who was motivated by a personal grudge.

Sick claims that William J. Casey took the initiative in contacting Jamshid Hashemi in Washington in February or March 1980, right after Casey took over as manager of the Reagan campaign. He says Casey "made it clear that he wanted to prevent Jimmy Carter from gaining any political advantage from the hostage crisis." This implies that only four months after the hostages began their long ordeal, one of Casey's highest priorities was making sure that they remained in captivity until after the November election. Even if Casey harbored such an odious thought, he surely would not confide it to a nefarious Iranian arms merchant that he was meeting for the first time.

MEETINGS IN MADRID, PARIS

Sick maintains that the Hashemi brothers arranged for Casey to go to Madrid in late July 1980 to meet a powerful Iranian cleric named Mehdi Karrubi, who, he says, is now the speaker of the Iranian parliament. In a television interview with Dick Cavett on April 27, Sick said Casey told the Iranians, "Look, we don't want the hostages released before the election because that would possibly turn the election away." Casey is alleged to have promised that once Reagan was elected, he would release Iran's frozen assets and help them acquire military equipment through Israel. He says Karrubi took this offer back to Iran and that a second meeting was arranged in Madrid two or three weeks later "in which the deal was supposedly done." Sick claims that "two other (unnamed) sources" gave similar accounts. They were evidently unable to provide the exact dates of these meetings.

Richard Allen points out that he and Casey had been in Europe calling on prominent leaders in the first days of July. He says that with the convention coming up in mid-July and a heavy schedule of planning meetings in California immediately after, Casey had no time to dash off to Madrid to meet an Iranian cleric. In his book, Sick points out that there was political turmoil in Iran in July and August. President Bani Sadr was "locked in an intense and losing battle with the Islamic Republican Party over the selection of a prime minister and a cabinet." Not until September 10 were a prime minister and cabinet selected. Sick says, "The institutions that Khomeini had proclaimed necessary for the settlement of the hostage crisis were finally in place."

It would have been a waste of time for anyone to try to negotiate this complex and thorny issue in July and August. No one should know this better than Gary Sick. After the Iranians signaled their willingness to begin talks in mid-September, our best negotiators, backed by all the technical expertise in the government, spent four frustrating months trying to hammer out an agreement. The idea that Casey could have done that singlehandedly in three brief meetings when the Iranian government was in disarray is ludicrous.

Even though Sick says the deal was done in Madrid, he would have us believe that Casey and perhaps George Bush and others met with a high-level Iranian delegation in Paris between October 15 and 20, 1980. He claims that "more than 15 sources . . . claim direct or indirect knowledge of some aspects" of these meetings. But he did not name a single one of these sources in his long Times piece. He says it was again established that the Iranians would hold the hostages until after the November 4 election; "in return, Israel would serve as a conduit for arms and spare parts to Iran."

A LOOK AT THE SOURCES

The alleged Paris meeting has been a favorite of the conspiracy theorists because their sources claim that George Bush was one of those who attended. Barbara Honegger has been the main promoter of the claim that Bush was there. "Frontline" pushed it hard. Gary Sick denies endorsing it, but he is reluctant to dismiss it.

Honegger's sources for the Bush-in-Paris story are former Iranian president Bani Sadr, Heinrich (Harry) Rupp, Richard Brenneke and a William Herrman, another dubious self-proclaimed CIA contractor. Rupp, a gold dealer who was convicted of loan fraud that led to the failure of a bank in Aurora, Colorado in 1985, tried to involve the CIA in his defense. In an interview on KUSA-TV, Rupp claimed that he had flown William Casey and five other passengers from Washington to Paris on the night of October 18, 1980. In a Rocky Mountain News interview, he claimed that Bush had flown to Paris the same night on a Gulfstream jet with a different pilot but that he saw him on the tarmac at Le Bourget airport.

His friend Richard Brenneke, a pilot who claims to have smuggled arms and drugs while working for the CIA, had testified on Rupp's behalf at a sentencing hearing two week's prior to Rupp's KUSA interview. He was asked if he had any personal knowledge of flights by Rupp that involved George Bush. He replied, "Yes, sir, I do. On the 19th of October, Mr. Rupp brought Mr. Bush, Mr. Casey and a number of other people to Paris, France, from the United States, for a meeting with Iranian representatives." Brenneke testified that he himself participated as a CIA observer in a meeting with Iranians at the Hotel Florida in Paris together with Donald Gregg, a CIA employee assigned to the National Security Council staff, and a Frenchman named Robert Benes. Brenneke claimed he had been a CIA contractor for over 18 years.

The government charged Brenneke with perjury for swearing that Bush, Casey and Gregg were in Paris around October 19 and that he was a CIA employee. The case was tried in Portland, Oregon in April 1990. Under cross-examination, Brenneke said that he had been told by two Iranians and Robert Benes that George Bush and Richard V. Allen, the Reagan campaign foreign policy expert, were meeting with the Iranians in Paris. Brenneke then said, "I had no reason to believe them then, and I have no reason to believe them now." His dumfounded attorney asked why he had testified as he had at Rupp's sentencing hearing. He replied, "I simply repeated what I was told. I offered it without commentary or conclusion. I disbelieved it then, and I disbelieve it now."

Besides having sworn that he had personal knowledge that Rupp had flown Bush, Casey, Allen and others to Paris, Brenneke had told Barbara Honegger that he had four sources for the information that Bush was in Paris: Rupp, Robert Benes, Cyrus Hashemi and Donald Gregg. Benes and Gregg have both denied this; Hashemi is dead; and Rupp only claimed that he saw Bush at the airport.

To the astonishment of many, the Portland jury acquitted Brenneke despite his repudiation of his testimony and abundant evidence that it was false. Juror Mark Kristoff said the verdict had nothing to do with any "October Surprise." He was quoted in the Portland Oregonian on May 7, 1990, "We kept it simple. We didn't want to get involved in the presidential election." Kristoff indicated that the jurors had been impressed by the testimony that the CIA maintains "deniability," the privilege of lying to protect its secrets and its agents. Brenneke lawyer Michael Scott agreed, telling the Oregonian that the verdict did not prove that Bush secretly went to Paris. However, the government failed to prove to the satisfaction of the jurors that Bush, Casey and Gregg were not there, leaving a doubt that Gary Sick is now exploiting.

WHERE WAS GEORGE BUSH?

On CNN on May 1, Sick said that he was "not charging that George Bush was in Paris," but he felt "it would be easy to prove he was not in Paris," since he was then a vice presidential candidate. On Dick Cavett's show on CNBC on April 27, Sick attached considerable weight to Brenneke's acquittal on the perjury charge.

He said, "One of the things I've been struck by is that one of the people who has been giving testimony about this whole sequence of events was actually put on trial by the U.S. government last year for perjury. And he had said that he had heard that George Bush was in Paris for these meetings . . . and he saw Don Gregg, an intelligence guy who is now our ambassador to South Korea. Had seen them there and swore that they were there. The U.S. government brought a case against him for perjury . . . All they had to do was prove one of those charges was false and they send him to jail. They presented evidence. Don Gregg came back from Korea, testified at the trial, and the jury listened to all the testimony, and they found this man innocent. The government could not prove to the satisfaction of twelve ordinary Americans that George Bush was not in Paris, that Casey was not in Paris and that Don Gregg was not in Paris . . . I would like to see the campaign records opened up . . . If this isn't true, I'll be the first to admit I'm wrong."

The burden of proof in such cases rests primarily on those making the allegations. Anyone can make wild charges, and few people can produce documentary evidence of their whereabouts in the distant past. But Sick is right that a vice presidential candidate should not have that problem. For one thing, the Secret Service keeps track of his movements. Sick's scholarship is weak in two respects: (1) he doesn't know that Richard Brenneke said under oath that he didn't believe those who told him that Bush was in Paris; (2) he doesn't know that the record of Bush's movements on October 18–19, 1980 is shown in Honegger's book. To anyone but a diehard conspiracy theorist like Honegger it proves that Bush was not in Paris.

Honegger says the Secret Service logs show Bush speaking at 8:40 p.m. at Widener College near Chester, Pennsylvania and arriving at Washington National Airport at 9:25 p.m., which would be impossible. Honegger found that the Chester hotel records showed him checking out at 11:00 p.m., which would have put him back in Washington around midnight. The Secret Service logs for the next day, Sunday, October 19, put him at the Chevy Chase Club from 10:29 to 11:56 a.m., presumably playing tennis. He gave a speech to a Zionist group in Washington at 7:00 that evening. This doesn't satisfy Barbara Honegger, who says that either the Secret Service records are wrong or Bush was using a "double." It should satisfy a scholar like Gary Sick that Bush did not dash off to Paris.

WHERE WERE CASEY, GREGG AND ALLEN?

According to Honegger, the Boston Globe located Casey's appointment book at the Hoover Institution. It reported no entries for the weekend of October 18 and 19, but on October 20 he had appointments scheduled for 8:00 a.m., 10:00 a.m. and 4:00 p.m. Honegger writes darkly that the "Globe could find no evidence that the appointments listed for the

20th had actually been kept." She wants to believe that they weren't kept, because her sources claimed that Casey met with the Iranians in Paris that day.

Donald Gregg is accused by the conspiracy theorists of dashing off to Paris to help the Republicans negotiate a deal with Iran to block the release of the hostages at the same time he was serving President Carter on the staff of the National Security Council. Gregg testified that he and his family were at the beach on the weekend in question, but they could not provide documentary evidence to prove it. Finally, Richard V. Allen, who was also supposed to have been in Paris with Bush, Casey and Gregg, was actually credited by Honegger with having "an airtight alibi, at least for October 19." He was interviewed on a live television program that day.

THE PAYOFF

The Iranians have proven to be hard bargainers. The Iran-Contra hearings made it clear that the Iranians demanded arms-on-the-barrelhead before releasing any hostages. They showed their tenacity by dragging out the negotiations with the Carter administration for the release of the 52 hostages in January 1981 for four months, Gary Sick, Les Gelb and others in the media who have given credence to his suspicions would have us believe that these tough bargainers were so charmed by George Bush and Bill Casey, after meeting them for a few hours that they did their bidding in return for nothing but a promise that if elected, Reagan would sanction the Israeli sale of arms to Iran. Sick professes to find proof of this in the fact that Israeli did sell arms to Iran after Reagan took office.

But Carter's National Security Adviser, Zbigniew Brzezinski, says in his memoirs, Power and Principle, that the Carter administration was willing to provide arms and spare parts immediately if the hostages were released. He said that by mid-October they were even discussing "the possibility of prepositioning some of these spare parts in Germany, Algeria, or Pakistan, so that the Iranians could then promptly pick them up with their own aircraft." He notes that the NSC learned, "much to our dismay, that the Israelis had been secretly supplying American spare parts to the Iranians, without much concern for the negative impact this was having on our leverage with the Iranians on the hostage issue." Richard Allen says that Israel defended this as necessary to get Jews safely out of Iran, and there is evidence that they continued to ship some supplies, with or without U.S. approval in 1981.

STRATEGIC COOPERATION

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. ASPIN. Mr. Speaker, for most of the last decade, the centerpiece of American-Israeli relations has been what's known as "Strategic Cooperation." With the demise of the cold war, many friends of Israel have feared the demise of strategic cooperation, since many think the sole rationale for strategic cooperation was to structure Israel's assistance in combating the Soviet Union.

That is, however, a gross misunderstanding of what strategic cooperation is all about. There's much more to our strategic relationship with Israel than the cold war.

But neither should strategic cooperation be thought of as a static relationship, something that fulfills the goals outlined in the early 1980's and then rests on its laurels. I have always hoped strategic cooperation would be a dynamic relationship.

The Center for Foreign Policy Options has just come out with a 32-page study that pursues this theme entitled "The Future of United States-Israel Strategic Cooperation." It outlines in five crisply worded papers a series of initiatives that could be taken to expand and develop the relationship in the 1990's.

Alan Platt, an officer of the Center for Foreign Policy Options, has written the introduction to and summary of this excellent work. I commend the full report to all those interested in Israeli-American relations, and I ask to include the text of Mr. Platt's introduction and summary at this juncture.

INTRODUCTION, EXECUTIVE SUMMARY, AND RECOMMENDATIONS

(By Alan Platt)

As the Cold War recedes and the ramifications of the end of the Gulf War become clearer, it is obvious that the United States will have to rethink its strategy around the globe. Inevitably, this new strategy will involve having the United States take the lead in pursuing new foreign policy initiatives. Yet, there is no obvious blueprint about what kinds of global relationships should be sought from America's point of view. Indeed, especially in the next couple of years, America's approach is likely to be highly pragmatic, concentrating on solving new problems in an ad hoc manner. In a recently published monograph entitled "Beyond Alliances" that was completed by former Chairman of the Joint Chiefs of Staff General David Jones and two colleagues, it was argued that America must seek "focused partnerships." By this, the authors mean that "the new national strategy of the United States should be to take the lead in creating working partnerships with other nations to develop pragmatic solutions to the problems that undermine the security of all."[1]

One key bilateral relationship for the United States in this post-Gulf War world will be with Israel. Strategic, political, economic and cultural cooperation between the United States and Israel has grown in unprecedented ways in recent years. Perhaps most importantly in the wake of recent events in the Gulf is the nature and direction of the continuing strategic relationship between these two countries. U.S.-Israel strategic cooperation was never premised on solely countering the Soviet threat in the Middle East. Both Washington and Jerusalem favored a broader concept and approach. The fruits of this broader perspective were obvious during the recent Gulf conflict. It may be years before the public has a full understanding of the military and intelligence cooperation that took place between the United States and Israel prior to and during the conflict. Nevertheless, whether concerning training in the desert or deploying Israeli battle-tested systems such as reconnaissance drones or Have Nap air-to-ground missiles, American-Israeli bilateral strategic cooperation was of great value in helping the United States deal with Iraq's recent threat to American security interests in the region.

Where does U.S.-Israeli strategic cooperation go from here? Resulting from a year-long series of meetings that began in the spring of 1990 prior to the commencement of hostilities in the Gulf, this volume is designed to lay out several possible new directions and a series of prescriptive recommendations. Notwithstanding near-term developments in the peace process, a number of these ideas may be in the mutual interest of both countries to implement immediately. Others may usefully stimulate further thought and discussion. All are premised on the notion that as the Cold War and Gulf Crisis recede, future strategic cooperation between the United States and Israel will likely grow, probably in new directions, to meet the changing nature of the security threats facing both countries in a vital but unstable region of the world.

The first chapter, "The U.S.-Israeli Strategic Relationship after the Persian Gulf War," written by Steven L. Spiegel, outlines the contemporary political landscape in the Middle East in which U.S.-Israeli strategic cooperation, he predicts, is likely to grow. He argues that Israel in recent years has helped to further U.S. interests in the region by playing five broad roles: an anchor in an unstable region; a bulwark against Soviet expansion; an important Mediterranean presence; a partner in defense-industrial development; and an ally in regional intelligence gathering and fighting international terrorism. Spiegel then discusses how "these five major areas of U.S.-Israeli cooperation will endure and progress but in an altered way as we move into the post-cold war era." He concludes by discussing seven possible new areas of U.S.-Israeli cooperation: containing Islamic nationalism; countering new weapons threats; service as a major non-NATO ally; providing naval support and maintenance; enhancing high-tech cooperation; protecting the environment; and promoting democracy.

The chapters following Spiegel's each select a different thread of U.S.-Israeli collaborative activities and examine in more detail new means for the United States to realize the benefits of each. Peter Wilson's chapter investigates changing U.S. military requirements for the next twenty-five years—what he calls the trans-century—and how Israel can play a larger, highly beneficial role in the coming technological revolution in conventional weapons. Wilson argues that there are specific practical steps that can be taken to strengthen U.S.-Israeli military cooperation which, especially in light of the Gulf War, would serve the future security interests of both countries. Such steps would include: increased joint operational support efforts; joint weapons development in such areas as light combat vehicles, top attack and aerial munitions, and anti-tactical ballistic missiles; and regional arms control efforts.

In a chapter on U.S.-Israeli defense-industrial cooperation, William Schneider, Jr. argues for the creation of an organized institutional infrastructure to enhance defense-industrial collaboration as an element of strategic cooperation. An inevitably smaller U.S. military force structure will depend, Schneider argues, on the ability to mobilize its military and defense-industrial base to augment its diminished active duty force structure. Since Israeli defense industries have made major investment in new R&D technologies, the U.S. should make a concerted effort to take better advantage of those investments to the mutual benefit of both countries. To accomplish this Schneider believes that the United States would be well-advised to establish institutional arrangements which tie together future U.S military requirements and Israeli R&D and industrial capacity.

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[1] Alice Rivlin, David Jones, and Edward Meyer, Beyond Alliances: Global Security Through Focused Partnerships (October 2, 1990), A Study Funded by the MacArthur Foundation and the Rockefeller Foundation, p. 28.

Martin Ingall's chapter focuses on two potential new areas of strategic cooperation: special operations and drug interdiction. For Ingall, "as the Pentagon and other (U.S.) agencies seek more advanced special operations and interdiction systems, valuable lessons can be attained through cooperation with Israel." In this chapter, Ingall discusses in some detail a number of these lessons, which flow from Israel's advanced technology in such areas as robot reconnaissance vehicles, sensors to detect explosives and illegal drugs, and special operations boats and aircraft. He concludes that the United States and Israel, by jointly building on existing programs and growing budgets for low intensity conflict, can significantly increase their respective capabilities in these areas.

In a final chapter on U.S.-Israeli stratetic cooperation and the U.S.-Israeli Defense Memorandum of Understanding, Paul Forster discusses the details of how and why ongoing joint efforts have not gone as far or as fast as was originally envisaged. Forster evaluates "a decade of progress and pitfalls" concerning U.S.-Israeli scientist and engineer exchanges, data exchange agreements, reciprocal procurement, and cooperative weapons research and development. Forster recommends several new initiatives that would help overcome or mitigate the bureaucratic and political problems that have hampered cooperation under the current Defense Memorandum of Understanding. He concludes by observing that "movement towards more productive and stable U.S.-Israeli strategic cooperation would begin with the implementation of a number of the recommendations put forth herein" that would significantly expand activities under the Defense Memorandum of Understanding and would greatly benefit both countries.

Clearly, each of the authors demonstrates that the demise of the Cold War brings with it new opportunities for enhanced U.S. strategic cooperation with Israel. From the American perspective, such enhanced cooperation may, in fact, be increasingly desirable in light of projected reductions in the U.S. defense budget in the next few years and the simultaneous rise of new challenges to U.S. security interests in the Middle East. The fact remains that bilateral collaboration has much to offer both nations in the emerging "New World Order." With the ideas presented in this volume, we hope a new dialog can begin that explores the areas of common interest with fresh perspective and insight.

A TRIBUTE TO SOUTHPOINT MANOR AND THE NATIONAL NURSING HOME WEEK

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, it gives me great pleasure to recognize the efforts of south Florida in honoring the elderly of the area. Three south Florida nursing homes—Southpoint Manor, Hebrew Home for the Aged, and Gem Care Center—participated in the National Nursing Home Week which was held May 12–18.

The event was promoted by the Florida Health Care Association and made possible by many members of the community. Staff from the three nursing homes, health care professionals, doctors, businesses, volunteers, senior companions, and social workers gave their time and energy to make this event possible.

During the preparation of the celebration Southpoint Manor and the volunteers spent moments of anticipation with the hope and joy of what this event would be like for the residents. As they approached the date of the festival Southpoint Manor began to develop a bond among the entire staff and the other two nursing homes, Hebrew Home for the Aged and Gem Care Center. They were working for common goals, to bring the different members of the community together and to make the residents of the nursing home happy.

The 4-hour event brought a community together as both young and elderly enjoyed the festivities and learned from each other. The community showed its respect and care for the elderly at this event, which was greatly appreciated by the nursing home residents.

I commend these members of the community that took the time to care and recognize the elderly. They include members of Southpoint Manor Gladys R. Hernando, Selma Hodge, Karen Lark, Jesse Dunwoody, Eddy Hernando, Nick Antonacci, Maria Mayor, Maria Vergara, Louise Jones, Tyron Ryan, Joyce Williams, Marvel Walter, Jackie Carter, Dortha Vandecar, and Ruth Gordan.

A TRIBUTE TO IRVING HARRIS

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. YATES. Mr. Speaker, one of my oldest and dearest friends, Irving Harris, is being honored on Sunday, July 14, by the Chicago Chapter of the American Committee for the Weizmann Institute of Science. The committee has chosen well.

Irving Harris is one of the Nation's most distinguished citizens. He has been a giant in the business world for more than 40 years, and he is admired in Chicago and all across the country for his amazing accomplishments as an enlightened and generous humanitarian. This kind and thoroughly delightful man has invested vast amounts of his time and talents as well as his resources to make this a healthier, more humane, and decent country, and I am proud to call him my friend. Addie joins me in wishing Irv and Joan and all their many friends in Chicago a most memorable evening.

PRAISE FOR MRS. YEVOLA S. PETERS OF ANNAPOLIS

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. McMILLEN of Maryland. Mr. Speaker, on Sunday, July 14, the Anne Arundel County Economic Opportunity Committee will pay tribute to its chief executive officer, Mrs. Yevola S. Peters of Annapolis.

Mrs. Peters will be honored for her more than 20 years of service to the less fortunate citizens of Anne Arundel County. As Mrs. Peters will be leaving the Community Action Agency, tribute is in order for the wonderful work she has done.

Mrs. Peters first became involved in the Community Action Agency in 1969, first as director of the Youth Development Program, then as community organizer and coordinator of general community programming. Her leadership talents soon became evident as she ascended rapidly to the positions of chief program officer and assistant director. In 1976, Mrs. Peters became AACEOC's third executive director and the agency flourished under her leadership in spite of severe budget cuts. She vowed not to leave her position until she had eliminated a serious deficit; today, as she retires, she has been successful.

Mrs. Peters is an asset to the Anne Arundel County community, and her dedication to the fulfillment of the agency's mission of ameliorating conditions of poverty in this area is an example to us all. I congratulate Mrs. Peters on this occasion, and hope that many young Americans will follow in her footsteps as dedicated, active citizens in the community.

TRIBUTE TO JOHN F. KENNEDY HIGH SCHOOL ORCHESTRA

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. MATSUI. Mr. Speaker, I rise today to speak to you about the John F. Kennedy High School Orchestra which is traveling to Vienna, Austria, in July. This is a group of truly outstanding young people and I wanted to take this opportunity to extend my best wishes for a successful trip.

While in Vienna, the John F. Kennedy High School Orchestra will compete against 50 to 60 ensembles from 20 countries at the 20th Annual International Youth and Music Festival. Kennedy will be the first school in the Sacramento City Unified School District to send a music group to Vienna and will be one of only 19 groups from all of North America.

Nearly a half century ago, during World War II, 18 manuscripts by Wolfgang Amadeus Mozart, Franz Schubert, Michael Haydn, Eberlin, Gansbacher, Hummel, and Tauz disappeared from the eighth-century Benedictine Monastery of Kremsmeunster. These lost manuscripts are now being returned to Vienna from the University of California at Berkeley Library, which has had the manuscripts for the last 14 years. None of the 18 manuscripts has ever been published, and the John F. Kennedy High School Orchestra will be giving the world premiere of these works. As Vienna will be celebrating the 200th anniversary of Mozart's death this summer, this festival should be especially memorable for everyone involved.

In order to cover some of the high cost of sending such a large delegation, the students and their parents have organized a massive fundraising effort. Letters seeking tax-deductible donations are being sent to local businesses and the orchestra members are preparing for a bingo night, car wash, baseball card show, candy sale and other activities to raise money for the trip.

Mr. Speaker, all of us in the Sacramento community are extremely excited about this trip. It is not only an outstanding cultural, musical, and educational opportunity for the participants, but an outstanding example of what can be achieved when people come together and work hard in pursuit of a worthwhile endeavor.

THERE'S NO PLACE CALLED HOME

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. MILLER of California. Mr. Speaker, I would like to call my colleagues' attention to a report recently released by the Coro Foundation, "There's No Place Called Home," assessing the needs of homeless children in shelters in my neighboring county of Alameda, CA.

Homeless families with children are currently the fastest growing segment of the homeless population in our Nation. According to the U.S. Conference of Mayors, in 1989, one-fourth of all homeless people in the United States were children. In 1990, there was an estimated 13,000 homeless children in Alamenda County alone, three times the number of children who sought refuge in the county's homeless shelters in 1989. Despite this growth in homeless children, existing programs continue to focus on the needs of homeless adults, not homeless children.

As the Select Committee on Children, Youth, and Families documented, homeless children face a multitude of emotional, educational, and health problems. Without the stability of a home, not knowing where or when you will eat your next meal, and fearing separation from your parents all disrupt the emotional health and the quality of life of homeless children. Not surprisingly, homeless children are at high risk of potential mental health disorders. However, in such a chaotic environment, the well-being of children is often overlooked.

Although most of the shelters surveyed in Alameda County require that children stay in school, homeless children who want and need to attend school are often denied this opportunity. Many face the barriers of transportation, proper records, and immunization requirements. The constant move from shelter to shelter also causes a lack of continuity in homeless children's education. The study found that over two-thirds of the children had attended two different schools in the past year.

In addition to emotional stability and education, health care is a critical need for homeless children. More than 40 percent of the children did not have a regular medical doctor and had not received a dental checkup in more than a year. Over 40 percent of the interviewed parents said their children had special health care needs which included asthma, epilepsy, brain damage, and diabetes.

Today, several programs exist to help mitigate the debilitating effects of homelessness on children, but they are far from sufficient. The needs of homeless children and their families must finally be recognized and addressed. Congress responded by enacting the Stewart McKinney Homeless Assistance Act, and in recent years has targeted more resources for homeless children. But even if these programs were fully funded, they would not provide long-term solutions to the problems of homelessness.

Our Nation must recognize that the best way to break the cycle of homelessness is to prevent it from starting in the first place. While we must address the immediate needs of homeless children and their families, more importantly we must also target the root of the problem—the lack of affordable housing and the obstacles to preventive measures that work to keep vulnerable families together.

UNITED METHODIST CHURCH OF QUEENSBURY, NY, THRIVES DESPITE HUMBLE BEGINNINGS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. SOLOMON. Mr. Speaker, Americans are a deeply religious people.

And I would say that is especially true of the people of the 24th District of New York, which I have the privilege of representing. For many people, their place of worship seems to be the center of their lives. Whether the church traces its roots to the earliest colonial times, or only to post-World War II expansion, every one of them yields an interesting story of humble beginnings followed by growth.

Today, Mr. Speaker, I want to tell you the story of one of them, the United Methodist Church of Queensbury. But I could not tell it better than my hometown newspaper, the Glens Falls Post-Star, did recently, and I proudly enter the article in today's RECORD.

[From the Glens Falls Post-Star]

QBY CHURCH BUILT IN DO-IT-YOURSELF STYLE—RESTAURANT HOSTED METHODIST CHURCH'S 1ST SERVICE

(By Kim Sparks)

There was a necessity in the early 1960s for another Protestant church in Queensbury. There must have been, since the Troy Conference, the body that initiated action to begin another one, was not prone to frivolity.

As a matter of fact, in 1964, when the Troy Conference purchased the land where the United Methodist Church of Queensbury would eventually sit, over 100 years had passed since the organization had made such a move.

Before any money changed hands, however, a group of dedicated young people including Robert Patch and Warren Clark (both of this area and charter members of the church) surveyed Queensbury families. They walked house-to-house asking the inhabitants a couple of determining questions.

"If they said they were Catholic, we wished them well and thanked them for their time," Patch said. "But if they were Protestant, we asked them if they would consider attending a Methodist church if one were established in the area."

Patch said they found that there was a real interest, so in September 1965, after numerous meetings in various homes, a group of 75 people held their first worship service at JeRay's Restaurant on Route 9.

The group had been invited to use the banquet room by Mr. and Mrs. Ray Brennan, who owned the restaurant.

"The Brennans were perfect hosts and soon our Sunday morning services spread beyond that one spacious room," wrote Grant Cole, in a report where he described "important highlights of the development" of the United Methodist Church of Queensbury.

Cole was one of the first trustees of the church, as well as a charter member. Cole went on to praise the Brennans, writing that there was no charge for anything—not electricity, heat or snow plowing.

"The Brennans stayed up cleaning till 4 or 5 o'clock many Sunday mornings after hosting Saturday night dances at JeRay's," said Patch. "They would even take the beer signs down for us."

The group continued to hold services at JeRay's for almost three years. The congregation, along with its first pastor, the Rev. Edward Underwood, felt at home there, and they were determined to create a religious atmosphere.

"Samuel 'Pete' Wilson used to bring his organ from home every Sunday," recalled Patch. He said it took four people to move it from Wilson's station wagon and then back to the car after worship.

Meanwhile, word was traveling that the newly chartered congregation needed money to build a church. Although some funds were attained through a loan, other money came from the contributions of Methodist congregations everywhere.

Kenneth Gnade headed the building committee, which visited several area churches for construction ideas. The Queensbury congregation's building ended up being patterned after a church in Rexford.

The same building corporation, Ketchum Construction, was hired to do the job, breaking ground in December 1967.

Before this tangible part of the faith began, however, some structuring was accomplished at another level with the help of Ralph Nicolson. He and the Rev. Dr. Hobart Goewey (the Glens Falls district superintendent for the Troy Conference at the time) were key to the formation of the church.

They were part of a group of four people on the first committee which organized the election of the new church's officials. Nicolson, who holds membership at United Methodist Christ Church in Glens Falls, said that the committee lasted only as long as it took for the elections.

"It's not unusual for an established church to loan its members," Nicolson said. It's a temporary situation to familiarize the new church's members with the Methodist system, he said.

And they were certainly "familiar with the system" on Easter Sunday in April 1968, when the congregation held its first service in the completed building on Aviation Road.

It was not an elaborately styled church. The worshipers came in through white double doors that could just as easily have been the entrance to a schoolhouse.

Practicality counted. The sanctuary was used for worship and more; it was also a place for meetings and church dinners, for example.

It was called the "general purpose room" and so was simply decorated, complete with folding chairs set up in rows for Sundays.

The Rev. Roger U. Day lead 271 people in worship during that exciting first service. He had replaced the Rev. Underwood late in 1967.

By the time the church was consecrated, its name had changed twice. As early as February 1966, a suggestion box for names was set up and then a special congregational meeting was held. Out of that meeting came the "First Methodist Church of Queensbury."

But there were complaints that the name didn't promote the reputation being strived for. The congregation wanted the people of the area to know that anybody was welcome to join them—newcomers to the community as well as lifelong residents would be accepted into their group.

Thus, a second meeting bore the title "Queensbury Community Methodist Church." The present name, "United Methodist Church," was the result of a 1968 national decision.

A story of courage and "faith in action" (as a 1968 bulletin of the church described), it continues on with its fifth pastor, the Rev. Ralph Marino, who has given the Sunday sermons since 1986.

Marino, a tall, serious-looking man, might surprise some with his sense of humor. He holds a two-point charge, which means he also preaches at Sanford's Ridge in Kingsbury, which is a contrast to Queensbury United Methodist, since it's one of the oldest churches in the Troy Conference.

The newer building in this two-point charge has changed some over the years; it's now equipped with a handicap access ramp which leads up to inviting red doors.

Other slight changes may have taken place, but the general purpose room is still there, the kitchen used for cooking church dinners and cooking classes is still there, and so is the "Brennan Room" downstairs, named in honor of the couple who made the early services both possible and comfortable.

The "Brennan Room" is used for Sunday school and many different community meetings such as Alcoholics Anonymous, Al-a-Teen and Girl Scouts, to name a few. The basement area also holds rooms used for a semi-independent nursery school.

Four hundred people now belong to the United Methodist Church of Queensbury. As always, they are looking toward the future, a proposal exists to build a new sanctuary near the existing building that would hold more people.

IN HONOR OF THE PROMOTION TO BRIGADIER GENERAL FOR COL. FRANCIS D. TERRELL

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. RANGEL. Mr. Speaker, I would like to take this opportunity to congratulate Col. Francis D. Terrell, whom on July 13, 1991, will be promoted to the rank of brigadier general in the U.S. Army Reserve. Colonel Terrell has devoted his life to defending the freedom enjoyed by American citizens in the armed services and in the field of law.

A native New Yorker, Colonel Terrell was born in Caledonia and raised in Batvia. He was commissioned as a second lieutenant in 1963 after completing ROTC training as a distinguished military student. In December of that same year, he graduated from the Air Defense Artillery Officer Basic Branch Course at Fort Bliss, TX.

Colonel Terrell's academic record is exceptional: He has graduated from such fine military institutions as the Air Defense Artillery Officers Basic Course, the U.S.A. Infantry Airborne School, Special Warfare School, Defense Language Institute [Vietnamese], Judge Advocate Officers Basic and Advanced School, Command and General Staff College and the prestigious U.S. Army War College. He also graduated with a B.S. from the University of Toledo in chemical engineering and received a J.D. from Columbia Law School.

After joining the reserves in 1977, Colonel Terrell served a variety of legal positions including defense counsel, chief international law/claims, deputy staff judge advocate, staff judge advocate and Deputy Chief of Staff of Operations. On April 23, 1989, because of his valiant service rendered to the Reserves, he became the deputy commander, 77th ARCOM.

Colonel Terrell has achieved an accomplished civilian lifestyle as well as an outstanding military career. He has been the associate dean and director of the Greenberg Center for Legal Education and Urban Policy for the City College of New York since October 1988, helping to educate and guide our Nation's youth to become tomorrow's leaders. Decorated on many occasions, Colonel Terrell has been the recipient of the Bronze Star, three Meritorious Service Medals, the Republic of Vietnam Honor Medal, the Republic of Vietnam Gallantry Cross with Bronze Star as well as numerous other decorations.

I salute soon-to-be Brigadier General Terrell for all his past accomplishments, service to the community, and his dedication to upholding the laws of the United States of America.

ETHICS REFORM ACT OF 1989

HON. JILL L. LONG

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Ms. LONG. Mr. Speaker, as you know, the first Governmentwide ethics reform legislation in 10 years, the Ethics Reform Act of 1989, was enacted during the first session of the 101st Congress.

The intent of this legislation was to change and clarify the congressional codes of conduct and the ethics laws, rules, and regulations governing the three branches of Government. In order to achieve this, the Ethics Reform Act addressed several inequities and inconsistencies in Federal pay and fundamentally changed the methodology by which annual cost of living adjustments, or COLA's, are determined for Members of Congress, Federal judges and Justices and other top Government officials.

More specifically with regard to COLA's, this legislation determined that future COLA's for top officials in the executive, legislative, and judicial branches will be tied to certain elements of the employment cost index [ECI], the same index used to determine COLA's for general schedule Government employees.

The Ethics Reform Act also restored several previous years' COLA's for Members, judges, and other top Government officials. For much of the 1980's, Congress regularly denied itself, as well as other top Government officials, the annual COLA's. The Ethics Reform Act restored the January 1988, 2-percent COLA to Members of the Senate, the January 1989, 4.1-percent COLA to Members of both Houses, and the January 1990, 3.6-percent COLA to Members of both Houses. While the Congress has been effective at restoring COLA's, we have not been effective at including a provision for the reduction, cancellation or postponement of COLA's under severe circumstances.

Under current law, the President has the authority to reduce, cancel, or postpone COLA's for general schedule employees during times of war or severe economic crisis, but there is no similar mechanism to reduce, cancel, or postpone COLA's for Members of Congress or other top officials under these same dire circumstances.

Mr. Speaker, I do not believe it would be fair or equitable that if the President feels that circumstances warrant the reduction, cancellation, or postponement of COLA's for the over 1.5 million general schedule employees in this country, that we at the top of the legislative, judicial, and executive branches should continue to receive full COLA's. For this reason, several Members and I are introducing a bill today to remedy this situation.

It is not the intent of this legislation to give to the executive branch the authority to control the COLA's for the legislative and judicial branches. Our bill would simply provide that the rate of COLA's for Members of Congress, Federal judges and Justices and other top Government officials would never exceed that for general schedule employees.

In addition, while the Ethics Reform Act included a provision which requires COLA's for Members, judges, and other top officials to take effect at the same time as those for the general schedule, there is a 3-month time difference in the basis on which these COLA's are determined. COLA's for general schedule employees are currently based upon the change in the ECI from September to September while COLA's for Members, judges, and other top officials are based upon the change in the same index from December to December. The measure we are introducing today would eliminate this unnecessary difference in the basis for adjustments by making the time periods to be identical.

Mr. Speaker, while this is a somewhat technical piece of legislation, its purpose is quite simple—its purpose is to treat the COLA's of Members of Congress, Federal judges, and Justices and other top Government officials the same as the COLA's of general schedule Government employees. It is in the interest of fairness and equity that we introduce this measure.

TRIBUTE TO "THE WEEK OF THE HISPANIC JOURNALISTS"

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. SERRANO. Mr. Speaker, I rise today to join with the Puerto Rican Journalists Association of New York to celebrate "The Week of the Hispanic Journalists."

Mr. Speaker, the Puerto Rican Journalists Association works on behalf of the Puerto Rican members of the print and broadcast media. The primary goals of the organization are to inform the general public about the problems which our community faces and to promote unity and cooperation among the organizations within the Puerto Rican community through events and conferences. The organization provides a forum through which Puerto Rican journalists from the city of New York can meet and share concerns, and seeks to enhance the professionalist of its members.

Mr. Speaker, the Puerto Rican Journalists Association has organized a week-long celebration to honor the members of the Hispanic community who have chosen careers in journalism. Puerto Ricans, Dominicans, Cubans, Peruvians, Ecuadoreans, and Colombians in New York City will join together in celebration and recognition of the Hispanics who contribute to our city's extensive media.

Mr. Speaker, I am pleased to express my support of "The Week of the Hispanic Journalists" and I wish the participating organizations and journalists much success in this celebration of Hispanic culture.

THE RELEASE OF MILITARY AID TO THE GOVERNMENT OF EL SALVADOR

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. ABERCROMBIE. Mr. Speaker, I would like to commend the Honolulu Advertiser for its editorial of July 5 concerning military aid to El Salvador. Although my views have at times not been shared by this newspaper, I am pleased that I have the Advertiser's support on an issue as important as this.

I therefore call to my colleagues' attention the following editorial:

EL SALVADOR—MILITARY AID IS THE WRONG KIND

The great remaining obstacle to a cease-fire in the 11 year old civil war in El Salvador is the military's resistance to reform. So President Bush has done exactly the wrong thing in releasing $21 million in military aid to the government of President Alfredo Cristiani.

This invites more of the violence that's taken 75,000 lives, chased 500,000 Salvadoreans into exile and wrecked El Salvador's economy, environment and social fabric.

Already U.S. taxpayers have poured $4.7 billion into this misbegotten effort, more economic and military aid since 1979 for any country but Israel.

With a battlefield stalemate and communism out of fashion, peace prospects have improved. The rebel Farabundo Marti National Liberation front says it no longer seeks a one-party Marxists state. The government agreed to reforms.

But a nearly autonomous military force of 57,000 is resisting cutbacks, creation of a civilian police force and a purge of top human rights violators. Out in the countryside, the killing continues as the sides wrangle over areas they hope to control after a cease-fire.

Last fall, Congress froze half the $85 million in military aid promised for 1991. That was to protest the government's foot-dragging in searching out the killers of the six Jesuit priests and their housekeepers.

Now Bush says government forces need help because the FMLN started shooting down government aircraft last fall with smuggled-in shoulder-fired missiles. But aid will neither end the battle field stalement nor help Cristiani challenge the military and terrorist right.

The money could have helped rebuild tattered El Salvador. But Bush seems stuck in a Cold-War rut.

IRVIN "BROWNIE" BROWN

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. DE LUGO. Mr. Speaker, I rise to commend a truly outstanding Virgin Islander, a man who perhaps more than any other person in the territory, has brought joy, warmth, and a little deeper understanding to the daily lives of the people of the Virgin Islands.

Irvin Brown, known affectionately as Brownie, recently celebrated 25 years of service as an announcer, humorist, armchair philosopher, and personality on radio station WSTA on St. Thomas where he has hosted the early afternoon calypso show for 2½ decades.

Brownie is one of the rare individuals whom one meets and immediately likes. He has a joy in living which he exhibits to all who surround him. He exudes a warmth and personality that draws others to him and his attitude. Brownie is a natural comedian, with an unbelievably quick mind. Always ready with a funny remark, he can stand in front of a group of people and within a few seconds have their attention and within a few minutes have them holding their sides with laughter.

But this man is no joke. He works hard at every thing he does. As a taxi driver, he is the perfect ambassador of tourism, helping hundreds if not thousands of visitors each year to better know and enjoy the Virgin Islands and our people. He always goes out of his way to be sure that he can be of excellent service to our island guests.

Above and beyond this, his service to the community is legend. Brownie is the most hard-working Santa Claus in the Virgin Islands, spending the weeks before Christmas moving from one children's event to another, bedecked in costume, hosting parties, taking youngsters on his knee, helping them decide what they want for Christmas, making very sure they know they had better be good all year around, and making extra sure that the children have a good laugh or two before he leaves because the holidays are for children and Christmas is supposed to be fun.

Brownie is one of the most popular masters of ceremonies in the islands. His ready wit, his knowledge of so many in his community, his musical expertise as a professional drummer, his willing praise for winning contestants, and his true sympathy and good words for losing entrants, always earn him the thanks of participants and the respect of audiences.

His creation of an imaginary character, Walter, his sidekick from Tortola, is not only humorous, it is also a telling social commentary—though he denies it—on island life.

It is an understatement to say that Brownie is a Virgin Islands institution. Perhaps no one is better known, and more loved, than this man, because of his honesty, his genuineness, his good humor, his sincerity, and his love of life, people, and his community.

His trademark saying, "Good 'Ting," a phrase he often repeats, and his listeners never tire of, perhaps best summarizes his positive, upbeat attitude, one he continually shares will all whom he meets.

I am proud indeed to honor this beloved Virgin Islander, to count him as a personal friend, and to praise him for his countless good deeds, his continuing labors of love for the community, and the people he loves. I take the opportunity on the occasion of his 25th anniversary on Virgin Islands radio to wish him many, many more years of success. For his success becomes the success of everyone within the sound of his voice.

And so, Mr. Speaker, I say "Happy anniversary, Brownie" Keep up the good work, "ma son." And, "Good 'Ting."

CENTRAL BAPTIST CHURCH SERVING THE SOUTH FLORIDA COMMUNITY FOR NEARLY 100 YEARS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, the Central Baptist Church of Miami has served the spiritual needs, and in many ways the physical needs, of the south Florida community for nearly 100 years. Since its establishment in 1896, 1 day before the city of Miami was incorporated, the Central Baptist Church has been firmly planted in the urban community. Its legacy in the downtown area of Miami is significant, while many other institutions and buildings have gone and been replaced, this church has remained steadfast.

Today's Central Baptist Church has sought to make itself relevant to the needs of the community around it through a variety of outreach efforts. For 28 years it has provided physical assistance and spiritual encouragement to the homeless of Miami. The church also has a mission to the Korean immigrant community. A church day care program is provided for urban workers in Miami. There are also many ecumenical service projects the Central Baptist Church is involved in with synagogues and other churches throughout the south Florida area.

Mr. Speaker, the Central Baptist Church has been a light of hope since the founding of the city of Miami. I am encouraged by its efforts to reach out, support, and build up the community around it. Synagogues and churches alike provide our Nation with the character to ask for justice from our institutions, each other, and ourselves. I commend the current leadership of the Central Baptist Church for their efforts. This includes: Rev. Steve L. Kimmel; Willis Bax, chair of the deacons; Herbert Morris, chair of finance; Hugh O'Neil, chair of missions; and Bethany Grayson, president of the women's mission.

THE FLAG OF PUERTO RICO—100 YEARS OF STRENGTH AND UNITY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. RANGEL. Mr. Speaker, I would like to take this time to extend my congratulations to the Puerto Rican people who this month are celebrating the 100th anniversary of the Puerto Rican flag. I join with them in saluting this proud symbol of the patriotism and unity of a very courageous people.

Since it first flew, the flag has been a symbol of patriotism and struggle. Dr. Ramon Emeterio Betances, leader of a revolutionary movement that culminated in September 1898, wrote about the flag referring to the ongoing Spanish-American War, "It is essential when the American Army lands, they be received by Puerto Rican forces waving the flag of independence."

Today Puerto Rican children are often taught that the white star in the flag's blue triangle symbolizes Puerto Rico. The corners of the star represent the legislative, executive, and judicial branches of the Puerto Rican government. The three red stripes symbolize the government as a whole. The two white stripes signify the rights of the people and the freedom of the individual.

Puerto Rico has a rich and varied history that promises an even greater future. Christopher Columbus landed on the west coast of the island on November 19, 1493. Columbus originally named the island San Juan Bautista—St. John the Baptist. In the first years of the Spanish colony, the island was known as San Juan, and the capital city, as Puerto Rico—"rich port." After 1521, when the capital had been refounded, it was given the name San Juan, and the island was renamed Puerto Rico.

Puerto Rican history has credited two individuals with designing its flag. The original flag of Puerto Rico is said to have been created by Dr. Ramon Emeterio Betances in 1868. Dr. Betances was the leader of a revolutionary movement that culminated September 23, 1868. On this day an independent Republic of Puerto Rico was proclaimed. The event is known to many Puerto Ricans as "El Grito de Lares." Today this flag is known as "La Bandera de Lares."

The contemporary Puerto Rican flag is reported to have been designed in New York in 1895. This flag is said to have been designed by Antonio Velez Alvarado, a native of Manati, Puerto Rico. Legend has it that Alvarado envisioned the design during a dream in which he saw Puerto Rican and Cuban patriots struggling jointly for their nations' independence.

Although there has been some dispute over the origins of the Puerto Rican flag, there is unanimity in the belief that today the flag continues to signify Puerto Rican strength and unity. In the United States, the Puerto Rican flag is an image that helps bond the various segments of the Puerto Rican community.

Today Puerto Rico is not only considered a model of democracy that reinforces and inspires democratic institutions throughout the Caribbean, but is also an industrial and economic model for development in the Caribbean. Modern Puerto Rico is also the source of bicultural and bilingual skills technicians and corporate professionals.

Unfortunately, Puerto Rico, a country of natural beauty and vast resources, has been unable to determine its own destiny since its discovery by Columbus. Up to 1898, the island had been a colony of Spain for almost 400 years, and since then Puerto Rico became a territory of the United States. It is time that the people of Puerto Rico be given an opportunity to decide what is best for them as we approach a new century. People of such proven ability and even greater potential should be afforded the right to choose their own political future.

Currently, Puerto Ricans living on the island as American citizens receive substantially less federally suported medical and welfare benefits than those living in any of the 50 States. Clearly there is need for change when citizens of the United States receive different Federal benefits depending on where they are domiciled.

The celebration of the 100th anniversary of the Puerto Rican flag should be a reminder to Congress to take action toward deciding full citizenship for the Puerto Rican people.

TRIBUTE TO THOMAS S. CLARKE

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to Thomas S. Clarke, an outstanding citizen who has devoted over 40 years of this life to the cause of labor in the United States. On the evening of July 27, family and friends will gather together to recognize Mr. Clarke's numerous contributions.

A native of Columbia, MO, Mr. Clarke's long and distinguished career has been characterized by hard work and perseverance. His start came in 1942 when he served the Navy in ranks ranging from seaman to chief motor machinist. After serving this country in the military, he worked for the Civilian Conservation Corps and earned degrees from the Du Pont Explosives Technical School Utility and Engineering School in Illinois.

In 1948, Mr. Clark joined the Laborers Local Union No. 185 in Sacramento, where he worked in various occupational capacities. True to his nature, Mr. Clarke moved up the labor ladder and in 1965 was elected business manager of Local 185, a position he held until 1982. In 1982, Mr. Clarke earned his present post of business manager for the Northern California District Council of Laborers, a testament to his unsewerving dedication to labor.

In addition to his good work in the union, Mr. Clarke has also faithfully forwarded the cause of labor in his various responsibilities with the Foundation for Fair Contracting, the Sacramento Central Labor Council, and the Heavy Highway Committee of Northern California.

Fellow colleagues, please join me today in saluting an exceptional citizen and a loyal friend of labor, Thomas S. Clarke.

HUNTER W. CUTTING WILL BE MISSED

HON. JILL L. LONG

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Ms. LONG. Mr. Speaker, public service—especially public service as a congressional staffer—is not the easiest job in the world. As an employee for a Member of Congress, more often than not the pay is less than in the private sector and the hours are longer. I am thankful that regardless of this fact, so many young people still are interested in working for the people of our Nation.

In this regard, I will miss the valued public service of a staffer who is leaving my office. I have had the privilege of working with Hunter W. Cutting, a member of my staff here in Washington, DC, for over 2 years. Hunter is leaving the Hill to return to California—his native State.

Hunter has served on my legislative staff—for the last year as my senior legislative assistant. Hunter has been responsible for considerable input on the Select Committee on Hunger, in addition to having issue responsibility for work on labor, health, housing, civil rights, and social welfare issues.

A major—and let me say successful—undertaking that Hunter spearheaded was a Select Committee on Hunger field hearing in my congressional district. The chairman of the Hunger Committee, Congressman TONY HALL of Ohio, and another distinguished member of the committee, ENI F.H. FALEOMAVAEGA of American Samoa, were both impressed by what they learned on the day of the hearing in Indiana.

One of the key things that was apparent to the members of the committee was that hunger is no longer a crisis reserved for the unemployed and perpetually destitute, but, rather, is now a dilemma that strikes at working Americans and their families with alarming frequency. We saw this phenomenon in both urban and rural areas. As a result of this hearing that Hunter put together, I will be working hard to see that food stamps, WIC, commodity donations, school meals and other Government programs are more appropriately coordinated and targeted to address the hunger problem effectively.

In addition to Hunter's work with the Hunger Committee, he drafted the first bill that I introduced in the House of Representatives to direct more resources to local governments which are fighting drug abuse on the front lines. The F.I.G.H.T. drugs bill [Federal Incentives Going To Help Towns fighting Drugs Act], which was introduced in both the 101st and the 102d Congresses would allow taxpayers to check off one dollar of their tax liability to go to the anti-drug abuse programs in their own communities.

Hunter not only drafted the bill, but led the behind-the-scenes efforts to gain support for the bill. In fact, several national organizations endorsed the proposal, and 80 Members of the House of Representatives cosponsored the measure.

Another major project that Hunter initiated, as a result of the closure of unemployment offices in Indiana, was the drafting of legislation to reform the way we budget for the unemployment insurance program. Americans who are seeking employment at the same time as they seek to support themselves and their families should not bear the burden of irresponsible budgeting by the Government—Hunter understood this and took the initiative to do something about it. As a result of Hunter's work in this regard, I testified before a House Ways and Means Subcommittee to bring attention to the issue. I was also honored with an award for work on this issue from a national organization representing State unemployment officers.

These are just a few of the things that Hunter Cutting has been involved with during his time working with me. Hunter is an intelligent, considerate individual who not only cares, but demonstrated a special aptitude for addressing the needs of the less fortunate in our society.

I will miss seeing Hunter on a regular basis and I will miss his work. He has been a valuable asset to me and others who have had the pleasure to work with him.

INTELLIGENT VEHICLE HIGHWAY SYSTEMS ACT OF 1991

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. SABO. Mr. Speaker, our Nation's highways, streets, and transit systems provide a basic source of mobility for the citizens of this country. However, congestion problems from the growth of automobile use now threaten this mobility. Experts estimate that delays from congestion alone will result in productivity losses of up to $100 billion annually. Other negative effects include accident-related fatalities, increased air pollution, and inefficient fuel consumption. It is vitally important that we take steps to deal with these problems.

That is why, today, I am introducing the "Intelligent Vehicle-Highway Systems Act of 1991". This legislation directs the Secretary of Transportation to promote and facilitate the implementation of intelligent vehicle-highway systems as a component of the Nation's surface transportation system.

The term, intelligent vehicle and highway systems, or IVHS, refers to the technologies that are applied to motor vehicles and the transportation systems upon which they operate. Through the use of advanced computer, telecommunications, and control technology, IVHS can improve communication between drivers and traffic control centers, creating an integrated highway transportation system. This type of system makes automobile travel safer, more efficient, and more environmentally sound.

IVHS currently includes the use of off-the-shelf technology, such as variable message signs to alert drivers to traffic problems ahead and suggest alternative routes. More advanced IVHS systems would include the development or application of new technologies to allow individual automobiles to communicate with external systems helping the driver make decisions and control the car.

A May 1991 GAO report indicates the tremendous promise IVHS holds. Some of the improvements include: reduction of travel times in congested areas by as much as 50 percent, reduction of fuel consumption by as much as 10 percent through the elimination of delays and stops, and reductions of up to 15 percent in the pollution from automobiles. Clearly the widespread use of IVHS is consistent with the goals of improved productivity, clean air, reduced congestion, and improved highway safety. Implementation of IVHS can play a significant role by helping to make more efficient use of the roads, bridges, and tunnels that already exist. My legislation assures the rapid integration of advanced technology into our Nation's transportation systems.

Interest and support for IVHS have increased dramatically in the last few years. For example, a six-nation European effort called PROMETHEUS would devote $750 million to IVHS over an 8-year period. Japan also has initiated major IVHS efforts. But, in the United States, IVHS has only begun to emerge as an area for Federal policy action.

Growing Federal funding for IVHS reflects the emerging domestic interest, though it still lags behind efforts being conducted in Europe. Nonetheless, funding for IVHS has increased from $2.3 million in fiscal year 1990 to $20 million in fiscal year 1991. I believe we must continue this trend.

We can no longer build our way out of traffic congestion. American drivers waste 2 billion hours a year in traffic jams. In my home State, Minnesota, those wasted hours translate to an annual economic loss of more than one-half billion dollars. If conditions do not improve, the number of hours spent in delays could increase fourfold by the year 2005.

IVHS is being tested in various areas, including Minneapolis, MN. As a member of the House Transportation Appropriations Subcommittee, I've helped secure $1 million for the Minnesota program GuideStar. This system of ramp metering, changeable message signs, closed circuit cameras, and incident management has provided speed increases of 35 percent, accident reduction of 40 percent, and in some cases increased roadway capacity by 15 percent. But, by far the greatest achievement is Minnesota's low highway fatality rate, the lowest in the Nation.

Mr. Speaker, we can no longer do nothing. We need to take the necessary steps to solve our Nation's traffic problems. I believe my proposal addresses these problems in a reasonable way. By using advanced technologies on existing roadways we can solve this national problem without paving over any more valuable land. Thank you.

The following is a section-by-section summary of my legislation:

Sec. 1. Short Title: This act may be cited as the "Intelligent Vehicle-Highway System Act of 1991".

Sec. 2. Purpose and Scope: vests the responsibility for the Intelligent Vehicle-Highway Systems program with the Secretary of Transportation. It establishes the goals of the program, which include: improved efficiency and capacity of the highway system; helping attain Clean Air goals; development of IVHS industry in the United States; reduction of societal costs of traffic congestion; and improved productivity. In carrying out the mandates of the IVHS Act, the Secretary is required to work with the heads of other Federal agencies, and with the private sector and research facilities. The Secretary is also required to establish standards for IVHS systems, to enhance compatibility, to promote adoption of IVHS technologies, to reduce costs, and to establish an information clearinghouse.

Sec. 3. Advisory Committee: authorizes the Secretary to use advisory committees in carrying out the mandates of the title.

Sec. 4. Strategic Plan, Implementation Reports, and Report to Congress: directs the Secretary to develop, within one year, a strategic plan to implement the IVHS program. In doing so, the Secretary is to identify the short and long-term goals of the program, and develop an action plan to help put IVHS into wide use. One year after developing this plan, and annually thereafter, the Secretary is to submit to Congress a report on implementation of the strategic plan. The Secretary is also required to submit a report to Congress in two years, on any non-technical barriers to significant implementation of IVHS.

Sec. 5. Technical, Planning, and Project Assistance: authorizes the secretary to provide technical, planning and project assistance to State and local governments and other research entities. Multi-jurisdictional traffic management agencies would be made eligible for funding under the title. Criteria for use by the Secretary in determining what efforts to fund under this section are listed, focusing on consistency with the strategic plan developed by the Secretary.

Sec. 6. Applications of Technology: directs the Secretary to provide direct assistance for the implementation of IVHS to areas that would show the most immediate benefits. These include, among other factors, areas with high degrees of traffic congestion and air quality problems.

Sec. 7. Authorizations: For activities under Applications of Technology the Secretary may use funds authorized in section 104(a) of title 23, United States Code, not to exceed $150,000,000 for each of fiscal years 1992-1996. Five percent of the funds would be reserved for innovative projects that, while consistent with the Secretary's IVHS goals, would not otherwise attract substantial non-Federal funding. The Federal share of applications of IVHS technologies is 80% except for the innovative projects described above in which case the Secretary may waive the 20% match requirement.

Sec. 8. Definitions: defines "Intelligent Vehicle-Highway Systems" and "corridor".

H.R. 2780 STRENGTHENS THE OLDER AMERICANS ACT LONG-TERM CARE OMBUDSMAN AND ELDER ABUSE PROGRAMS

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. DOWNEY. Mr. Speaker, on June 26, I joined five of my colleagues, Representatives ROYBAL, MARTINEZ, WYDEN, OAKAR, and KILDEE, in introducing H.R. 2780, a bill which would amend the Older Americans Act to consolidate and strengthen the existing long-term care ombudsman and elder abuse programs in the act.

I am very proud of this legislation because it marks an important step forward in protecting the rights of older Americans. For over 10 years, Congress has struggled with these issues. Now, a number of us have joined our efforts to take advantage of the opportunity that the current reauthorization of the Older Americans Act provides and to focus our efforts on this important legislation.

H.R. 2780 increases the authority of the U.S. Commissioner on Aging with regard to elder abuse and the ombudsman programs. It creates an Office of Long-Term Care Ombudsman Programs, with investigative and subpoena powers, within the U.S. Administration on Aging. It also provides for the creation of an Associate Commissioner for Ombudsman Services.

H.R. 2780 establishes a National Center on Elder Abuse, which will collect information and research, develop training materials, provide technical assistance, and conduct research into elder abuse. The bill will also continue to fund Federal elder abuse prevention and treatment programs.

It is our intention to work to see that this legislation is incorporated into the Older Americans Act legislation now being considered by the House Education and Labor Committee and soon to come to the floor.

Mr. Speaker, I would like to take this opportunity to address an issue of particular concern to me. That is the issue of reporting laws required under the act. Just 2 months ago, as chairman of the Aging Committee's Subcommittee on Human Services, I convened a hearing based on a newly issued report by the General Accounting Office, "Elder Abuse—Effectiveness of Reporting Laws and Other Factors." I had requested this report in response to an earlier hearing of our subcommittee in 1989 on elder abuse in which some witnesses had expressed their concern about mandatory reporting laws.

My own concern about reporting laws arose from the feedback I received from officials in New York, which is one of eight States which use a voluntary reporting system, as opposed to a mandatory system. I was also struck by the fact that the States which do not have mandatory reporting systems nonetheless have active elder abuse programs. I want to make it clear that a voluntary system does not mean that there is no system to report elder abuse. Nor does it mean that there is no protection for an individual who reports a case of suspected elder abuse. States with voluntary reporting systems protect the reporter just as States with mandatory systems do.

Mr. Speaker, in the half century since the adoption of Social Security, older Americans have made significant gains. The majority of older Americans today enjoy a greater degree of income security and access to health care and social services than any previous generation. Because of improvements in discrimination laws, more older people work today.

The cumulative result of these changes is increased autonomy for elderly women and men. Today, it is not uncommon to find women and men in their eighties living in and contributing to their community. This increased autonomy is a hard-fought victory for older Americans, and it is maintained by a complex network of social, health, and income programs.

We must be extremely cautious in doing anything that would destroy or diminish that autonomy. As legislators, we are really just beginning to come to terms with the implications of this automomy. We realize that an older individual does not lose the capacity, or indeed the right, to make his or her own decisions regarding health care, housing, and finances.

As children of elderly parents, some of us are learning firsthand that, at times, we have to step back and let our parents make their own decision and then support them in their choice. The temptation always exists for us simply to take over and assume that we know best. But there is a subtle tradeoff between their autonomy and dignity and our sense of knowing what is best.

There is one more point to be made about this improved welfare and autonomy. Perversely, it may well make our parents more likely targets for elder abuse. Our job is to strike a balance between the need to protect their autonomy and to protect them from abuse. We must ask ourselves: "Have we made the life of the individual better?"

I am happy to say, Mr. Speaker, that I believe that H.R. 2780 strikes that balance. It allows States to continue with the type of reporting system they currently use and does not force them to choose either system. It preserves State flexibility in administering elder abuse programs while it channels new resources to the States.

In the months ahead, I will continue to work with my distinguished colleagues to ensure that this enhanced ombudsman and elder abuse program becomes a reality.

NATIONAL PRIZE FOR JULIE BOWMAN

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. PRICE. Mr. Speaker, I rise today to recognize the culinary talents of Julie Bowman, a 16-year-old from my home State of North Carolina.

Julie's recipe, curried turkey twist, won the national grand prize in the Turkey Lover's Recipe Contest, an award worth $2,500. Her winning recipe, chosen from over 500 nationally, incorporates one pound of turkey with her own sophisticated pasta salad. Julie also wrote essays about the nutritional value of her recipe and general food preparation safety.

This is not the first award Julie has won. Her apple pie has earned her accolades, as have her egg custard pie and her peanut butter pie. She is not only a talented cook: Julie has also won first place ribbons at the State fair in piano competitions and ceramics, as well as scholarships for ballet school and music camp for her flute playing talent.

Indeed, Mr. Speaker, it is my pleasure to represent such a motivated and talented young woman as Julie Bowman. She is a role model for her peers in North Carolina and nationwide.

"NEW" CHURCH HAS ROOTS GOING BACK TO 19TH CENTURY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. SOLOMON. Mr. Speaker, one of the most interesting things about the 24th District of New York is the number and diversity of our churches.

They all seem to have an interesting story to tell.

One of them, Trinity United Church of Wilton, has a founding date of no earlier than 1990, but that doesn't tell the story of the church's 19th century roots.

That story was told most eloquently by my hometown newspaper, the Glen Falls Post-Star, and today I will be proud to enter it in the RECORD.

WILTON CHURCH WAS BORN OUT OF MERGER OF 19TH CENTURY CHURCHES

(By Fiona Shukri)

WILTON.—Although the building is just over a year old, members of the Trinity United Church will tell you the area church dates back to 1839.

The church, located on Ballard Road, opened its doors Feb. 4, 1990, the result of a merger of three local churches, all of which were established in the 19th century.

Dwindling congregations and an increasingly difficult financial struggle to hold on to the buildings brought the South Wilton, Gurn Spring and Gansevoort congregations together in 1987, the Rev. Clinton Carter said.

Carter, who had served the three churches since 1981, became pastor of a unified congregation in Gurn Spring when the Gansevoort and South Wilton churches closed. The merger of the churches has allowed him to get to know his congregation better, Carter said.

He said that worshipers in each of the three churches would joke that they were lucky if they caught a glimpse of the back of their pastor's head as Carter scrambled from service to service each Sunday morning.

Preaching in just one location, Carter said, he can enjoy talking with everyone at fellowship services that follow the regular Sunday service.

Plumbing problems, and inadequate space at the Gurn Spring church, convinced the members a new building was necessary to house the merged congregations. A groundbreaking ceremony for the South Wilton church was held June 25, 1989.

The new church sits on six acres of land donated by Hurley resident Viola Woodruff Opdahl in memory of her parents, said history committee member Marian Hill.

The Skidmore alumna had attended the Gurn Spring church as a girl. Opdahl recently invited the history committee on a sight-seeing visit to Hurley. Along with the historicsl sites, Opdahl showed the group her large farmhouse, which was featured in the 1983 movie "Tootsie," Hill said.

Architect Wayne Peterson designed the new church, of which his parents are members, Carter said.

Local contractor Bob Shaw, who built the church, recently joined it as well, he said.

Adequate space and affordability were the two main requisites for the new building.

"We didn't want to build a Cadillac," Carter said with a laugh.

Simple, with white walls, wood accents and clean lines, the building seems open and spacious. Big, plain windows flood the church with light.

The sanctuary is decorated with pictures, and a cross-shaped window of clear glass is cut into the wall above the altar. Branches from an enormous tree at the side of the church fill the cross' view.

After attending a service one morning, Carter said, Bishop Dale White's wife suggested to Carter that the church never change the cross to stained glass. Watching the tree's leaves die in the blaze of autumn and be reborn in buds of springs, she said, was a wonderful attestment to the "newness of life."

The cross showcasing budding branches particularly enhances Easter services.

The new building is fully wheelchair accessible—something clients of the nearby Wilton Development Center have taken advantage of, Carter said.

Carter said he is particularly pleased with the building's classroom space. Children can attend Sunday School classes and toddlers can be watched while their parents worship.

Attending church as a family, Carter believes, is important. He said that young adults for whom church was a family experience are more likely to stay or return to the church after what he termed an inevitable period of questioning.

The church's history has led to some interesting problems conducting contemporary business. When deciding to sell the Gansevoort building, church members learned that the original 1938 deed to the building contained a clause stipulating that should the building cease to be a church, it be returned to the original owner, Herman Gansevoort.

Finding the legal heirs seemed a daunting task, until a lucky coincidence quickened the process.

While driving one day, Carter said, he noticed someone walking around the grounds of the recently closed Gansevoort church. He pulled over to see if he could assist the man, and learned that the stranger was a tourist from Canada named Gansevoort.

Knowing that his ancestors had lived in the area long ago, the man had stopped out of curiosity to learn what he could about the church.

Carter told Mr. Gansevoort about the deed and he was able to contact a distant relative who was surprised to learn that he was legal heir to the church.

The elderly gentleman decided he had no use for the building and consented to sign over the deed to members of the church. Paperwork to allow the members to sell the church is now being completed, Carter said.

Founded in 1854, the South Wilton church was bought by Peterson, the new church's architect. He now uses the building as his office. King Fuels bought the Gurn Spring church and plans to lease the building as office space, Carter said.

The history of the Trinity United Methodist Church is difficult to trace since so few records are available, said Lorraine Westcott, Wilton's town historian and a member of the church's history committee. But a 1939 pamphlet about local Methodist churches gives a brief outline.

The Gansevoort church was completed Dec. 19, 1839, at a cost of $1,132.24. A mortgage of $300 was left for a small group to pay. Just before the sum was due, in 1845, devoted member Mayhew Rice saved the building from sale by mortgaging his home and parcel of land.

In 1904, the church obtained a new bell. Carter said the bell was taken from the old building, and will be placed on the new building's front lawn.

Carter said the bell is not the only thing that remains the same in the new building. People, he said, are what make a church.

Although some congregation members are sentimental about the old buildings they used to worship in, Carter regards the upheaval as nothing more than a change in location.

He advises congregation members: "We haven't closed your church. We've closed the building where you meet. Your church is very much alive."

TRIBUTE TO ST. ANN'S CHURCH OF MORRISANIA CELEBRATION OF 150TH ANNIVERSARY

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. SERRANO. Mr. Speaker, I rise today to ask you and my distinguished colleagues to join with me in the celebration of 150 years of continuous secular and nonsecular service of St. Ann's Church of Morrisania to the community of the Bronx.

Mr. Speaker, St. Ann's Church of Morrisania is located on St. Ann's Avenue at 140th Street in my district, the South Bronx. The oldest surviving church in the Bronx, St. Ann's has contributed to the founding of America and has embodied the ideals of our Nation. Constructed of fieldstone, its facade combines federal-style austerity with gothic architecture.

St. Ann's church is built on land that was part of the original family of Jonas Bronck, the man for whom the borough is named. The ivy-covered walls and the many plaques, monuments, and memorials both inside and on the gounds give the church a feeling of strength and tradition. Altar paintings by the noted artist, Orestes Bernardini, and lovely stained glass windows add to its charm. A fire in the 1960's destroyed some of the altar paintings, but the church structure has withstood the test of time.

St. Ann's church reflects the history of the Bronx and of the United States. The original structure which still stands was built in 1841 by Gouverneur Morris II—whose father wrote the final draft of the U.S. Constitution—in honor of his mother, Anne Carey Randolph Morris. The crypts and vaults beneath the church contain the remains of many early pioneers, statesmen, legislators, judges, soldiers and sailors. Among them are: Lewis Morris, 1671–1746, who was the first native-born Chief Justice of New York; the first Governor of the Province of New Jersey; and the first Lord of the Manor of Morrisania, Maj. Gen. Lewis Morris, 1726–98; his grandson, a leader of the American Revolution and the only signer of the Declaration of Independence from what is now the Bronx; and Gouverneur Morris, 1752–1816, a member of both the New York Provincial and the Continental Congresses, whose hand penned the Constitution of the United States.

Also buried at St. Ann's are the wives and mothers of American patriots. The most notable of these Anne Carey Randolph, a direct descendant of the Indian princess, Pocahontas, and another member of the Morris family, in whose memory the church was built and after whom, along with St. Ann of the Gospel, it is named.

The Morrises, originally from Whales, purchased the property in 1670. Chief Justice Lewis Morris inherited the estate and became the first Lord of the Manor. Succeeding generations retained ownership, with the lordship passing from the fathers to sons. The family estate became known as Morrisania, as the area is still named today.

Gouverneur Morris built St. Ann's Church in 1841. In the original deed, he requested that his family should have access to the burial vaults, and also stipulated that none of the pews within the church or edifice should ever be sold, thus guaranteeing religious freedom and access to anyone who might be unable to afford such a luxury.

In the years that have passed, the parishioners and surrounding areas have undergone steady change and the church has continued to welcome all races and ethnicities. Beginning with the early English, St. Ann's has welcomed Irish, German, Italian, black and Hispanic immigrants. Today the congregation is two-thirds Hispanic and one-third African-American, well reflecting the people of our community.

Mr. Speaker, this church clearly boasts a history full of prominent people whose contributions molded and impacted the development of our community. But Mr. Speaker, history continues to be made at St. Ann's Church. Three years ago, a nationally acclaimed and award winning theater company, Pregones, started the only professional theater in the Bronx. The church serves as home to this acting company that presents Off Broadway plays by traditional Spanish playwrights. Last summer, St. Ann's and Pregones hosted the first international performing arts festival with participants from theatre companies from across the United States and Latin America. St. Ann's continues to promote its mission of community service with an After School Program, a summer camp, help and support for HIV positive persons, various health programs and many other activities.

Mr. Speaker, I am very proud of the history of this church, the oldest continually operating church in the Bronx. St. Ann's Church of Morrisania has served the people of the Bronx for 150 years, always extending a warm welcome to immigrants from all over the world, and striving to meet the changing needs of the community. This celebration of 150 years of the history of St. Ann's Church is an extraordinary event, and I am pleased to share this celebration with you.

A TRIBUTE TO MR. MITSUGI LARRY TANAKA

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. MATSUI. Mr. Speaker, I rise today to invite my fellow colleagues to join me in paying tribute to a distinguished member of my congressional district, Mr. Mitsugi Larry Tanaka.

Born and raised in the Sacramento area, Larry Tanaka's dedication to our country via his military service and his employment with the Department of Defense has given new meaning to civil service. Larry's long and distinguished career began when he was drafted and served in the famed 442d Regimental Combat Team. Larry is a two-time recipient of the Purple Heart for wounds he suffered in France and Italy. Upon his return to the States, he attended the University of California, Davis, then launched a career that would span 29 years with the Department of Defense at McClellan Air Force Base.

In addition to an excellent record of accomplishments with the military and civil service, Larry has been a fervent supporter of his community. Larry is a model citizen who proudly displays his dedication and love for this country while never forgetting his roots and heritage. This is demonstrated by his continued involvement with the 442d Association and his service to the Japanese-American community. Furthermore, Larry served in a number of important positions with the VFW Nisei Post 8985 of Sacramento including post commander in 1970–71.

Mr. Speaker, Larry's leadership and dedication to service are exemplary and deserve our appreciation. I ask that my colleagues join me in saluting Larry Tanaka.

TRIBUTE TO TIM JEFFERY: A VERY SPECIAL PERSON

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. LEHMAN of Florida. Mr. Speaker, Tim Jeffery is a hero.

On April 30 of this year, Mr. Jeffery was helping to install an irrigation system near a grocery store in Aventura, FL, when he witnessed a purse snatching. A young hoodlum grabbed the purse of an 85-year-old woman and ran to a waiting truck. Mr. Jeffery and an employee, Dan Holland, ran in hot pursuit, blocked the getaway vehicle and demanded the purse back. Mr. Jeffery was shot through the chest, and faces a long and difficult recovery as a result. A trust fund was created to help Tim and his wife, Diana, with the medical bills they have incurred, for Mr. Jeffery did not have health insurance.

Because of his strong sense of right and wrong, his willingness to help an otherwise helpless person and the great price he has paid for the split-second decisions he made on the basis of his convictions, Tim Jeffery deserves our special thanks, and our help. He has brought our North Dade community together as few have, and his efforts set an example of caring for our neighbors that will long be remembered.

I would like to share with my colleagues a news article which appeared in the Miami Herald which further describes this matter.

ACT OF BRAVERY RISKED LIFE, LIVELIHOOD—HE TRIED TO FOIL ROBBERY, NOW SAMARITAN IS IN INTENSIVE CARE

(By Sallie Hughes)

Five days after trying to get a purse-snatching victim's purse back, Tim Jeffery lies in intensive care with a bullet next to his spine.

The strapping 35-year-old sprinkler contractor may lose the use his left arm. Doctors have removed a piece of his lung. The hospital bill has passed $20,000. He has no insurance.

For his split-second decision to help an 85-year-old crime victim, Jeffery's life and livelihood are suddenly at risk.

"He's back from the dead, and I'm grateful for that," said his wife, Diane Jeffery, 38, a medical secretary. "I told the hospital I am willing to pay for the rest of my life."

They may have to: As of Friday, Tim Jeffery's hospital bill at Jackson Memorial Hospital already had hit $23,000, his wife said. And he's not out yet.

Jeffery has a one-man sprinkler repair and installation company in North Lauderdale. Friends say he works six days a week at jobs in Broward and Dade counties.

About 9:30 a.m. Tuesday, he and a helper were installing lawn sprinklers near the Publix Supermarket at 2952 Aventura Blvd. in North Dade, when 85-year-old Frances Kaye walked in front of the supermarket.

A man police later identified as Rudolph Muller, 18, of North Dade, allegedly snatched her purse and fled.

"I looked up and saw a guy grab a lady's purse. When I looked over at Tim, he was already up, running after the guy," said Dan Holland, 25, of Fort Lauderdale, who sometimes works for Jeffery.

Holland ran, too, and the pair took a stand in front of a black pickup truck, apparently the getaway truck, blocking its path.

Then Jeffery began pounding on one of the truck's dark-tinted windows, demanding the purse back, while Holland went to the other.

Without warning from inside the cab a bullet from a .45-caliber semiautomatic pistol shattered the window and tore into Jeffery's chest.

The bullet just missed his heart, punctured a lung, severed a key vein to his left arm and lodged near his spine, Diane Jeffery said.

The pickup sped away.

"I'm dying, I'm dying," Jeffery told Holland, then staggered to a patch of grass and collapsed.

"The people there were standing back on the sidewalk looking on in awe," Holland said. "It happened so fast."

Muller was apprehended and charged with attempted first-degree murder and strong-arm robbery. He is being held without bail police said. Police Saturday were still hunting for an accomplice.

Paramedics airlifted Jeffery to Jackson. Doctors decided it was best to leave the bullet where it was, Diane Jeffery said.

Once he can leave the hospital, Jeffery will have to learn to live with diminished lung capacity and may not regain full use of his left arm, she said. Friends and family don't know whether he will be able to return to work or fish and camp like he used to.

At best, Jeffery faces a year of physical therapy for the arm.

The cost will be staggering. Though his wife has insurance through her job, Jeffery, like 2.2 million other Floridians, decided insurance cost too much.

Now, in a desperate effort to cope with the bills, Diane Jeffery has set up a trust fund, and the Aventura Publix is collecting donations.

"With the kind of work he does, this will be very difficult for us," she said. "We are just regular people trying to get by."

HOW TO HELP

A trust fund has been set up for shooting victim Tim Jeffery. Contributions should go to Friends of Timothy Jeffery, c/o First Union Bank, 7201 W. McNab Rd., Tamarac, Fla. 33321.

All contributions will go toward medical bills.

CONGRESSMAN KILDEE HONORS MS. JANEANE MORRISSEY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. KILDEE. Mr. Speaker, I am honored to bring to the attention of my colleagues and the Nation a reception that will be held in Flint, MI on July 11 honoring Ms. Janeane Morrissey. The people of the Flint area have truly been blessed to have a woman of her caliber as manager of the McCree District Office of the Genesee County Department of Social Services. We are all deeply saddened that Ms. Morrissey will soon be leaving Flint to become director of the Muskegon County Department of Social Services.

Ms. Morrissey received her master's degree in social work from the University of Iowa. Her career began in Florida as a children's protective services worker. She moved to Iowa in 1977 where she served as assistant to the director of field operations and director of community programs with the Iowa Department of Social Services. Ms. Morrissey's rich career with the Michigan Department of Social Services began in 1980 as the special assistant to the director and the assistant to the director of field services administration. Genesee County Department of Social Services was graced with Ms. Morrissey's experience and knowledge in 1983, when she became deputy director. As deputy director, she was responsible for controlling the internal operations of a 750-person county social services office and providing social and financial services to 70,000 Genesee County residents. Her countless hours of work has contributed to making our city a better place to live.

Ms. Morrissey has worked side by side with my district office and other social service agencies to ensure those most vulnerable in our society are served. Her ability to place people above all other priorities has been an inspiration to me and all who work with her.

Mr. Speaker, I would like to take this moment to ask my colleagues in the U.S. House of Representatives to join with me in wishing Ms. Morrissey much success as director of the Muskegon County Department of Social Services. Her selflessness has touched the lives of countless people and will continue to serve as a message of bright hope to the State of Michigan.

THE LIBRARY COMPACT

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. OWENS of New York. Mr. Speaker, tomorrow morning over 900 delegates from across the United States will begin meeting in Washington as part of the 1991 White House Conference on Libraries and Information Services. Their charge will be to formulate recommendations to guide the President and the Congress in setting Federal library policy for the next decade and on into the next century.

President George Bush will be delivering the opening address at this critical educational summit. At that time, the organization Friends of Libraries USA [FOLUSA] will present him with a document which has been signed by over half a million Americans over the past year—the "Library Compact."

The Library Compact affirms the steadfast support of its signers for quality library and information services and their recognition of the essential value of reading, literacy, and knowledge in our society. The compact was first signed by the members of FOLUSA's National Advisory Council, including Wally "Famous" Amos; James H. Billington, the Librarian of Congress; Cecil H. Green, the founder of Texas Instruments; Vartan Gregorian, the president of Brown University; Toni Morrison, Pulitzer prize-winning author; Joe Paterno, Penn State University football coach; John Updike, Pulitzer prize-winning author; and Richard Wilbur, former poet laureate of the Library of Congress. Since then Americans from all walks of life and in every State of the Union have responded to FOLUSA's campaign and signed their names to the compact.

When the compact campaign was first launched, Robert Wedgeworth, dean of the Columbia University School of Library and Information Science, commented on the importance of this effort to galvanizing public support for libraries at a time their services and budgets are being cut back all around the Nation. "It's time for all Americans, young and old, rich and poor, to voice as one their support of these ideals," he observed. "Compacts have played important roles in our history. They remind us what we stand for and why. Our allegiances need such reaffirmation so they do not wither in the dim light of limited resources and competing priorities."

I am proud to note that Brooklyn, NY, played an important role in the compact campaign. The Brooklyn Public Library collected over 36,000 signatures from area residents, more than any other library system in the United States. Brooklyn also contributed one of the most eloquent testimonials to the value of libraries that I have ever read in the form of a letter to FOLUSA Executive Director Sandy Dolnick from 14-year-old Lakeea Lowry. In her letter enclosing copies of signed compacts she had circulated among families and friends, Ms. Lowry wrote:

> In words I can't express what a library is to me, Ms. Dolnick. I live in the projects where Drug Dealers are everywhere. When I want to go to my library I'm afraid to walk out of the Building (ask any of my family members). There is drug dealers everywhere. I escape my troubles by going to my library. Some people may not care. But this 14-year old does. I give a damn, so Mr. Bush should also. I want a college education. I want to go to Med. school. Even if my mother tells me I not going I'm fooling myself day after day. I block it out. My courage enstrengthens me to go on and on. The library helps me. I made friends in the library. One friend gave me a number to get an after school Job so I can start saving money for college and Med school. When I was looking for a place for a after school Job, see the library helped me extremely, Ms. Dolnick. The library is essential to all our lives. From ages 1-100. Please Just Please do me a favor. At the meeting tell Mr. Bush everything I told you. Tell him my only dream is that I could tell him personally. Unfortunately I can't. But please just do this favor. This 14 year old cares. Without the library what would I do? Mr. Bush please don't cut library expenses.

Lakeea Lowry will be pleased to hear that she is not the only one who "gives a damn" about library services and that hundreds of thousands of Americans have joined her in her plea to the President and other policymakers by signing copies of the Library Compact. Their efforts, and the work of the White House conference this week, will help to ensure that libraries receive the support and resources they need to continue to serve and educate Americans well into the next century.

I commend the text of the Library Compact to my colleagues:

> LIBRARY COMPACT
>
> We believe in the Library, for its:
>
> Nurturing of our children and youth, opening doors to the wonder and excitement of the world of ideas;
>
> Dedication to literacy, giving to all a key to fulfillment;
>
> Commitment to diversity, a foundation of pluralism, democracy and peace;
>
> Reservoir of memory, linking the records of yesterday with the possibilities of tomorrow;
>
> Continuum of knowledge, ever open to the changing form and flow of information; and
>
> Treasury of reading, where muse and spirit enrich the soul, and dreams excite discovery.
>
> For these reasons the Library is central to our lives, and we pledge ourselves steadfast in its support.
>
> James H. Billington, Cecil H. Green, Joe Paterno, John Updike; Ms. Toni Morrison, Vartan Gregorian, Richard Wilbur, Wally Amos.

HELSINKI COMMISSION URGES PEACEFUL DIALOG IN YUGOSLAVIA

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. HOYER. Mr. Speaker, the conflict in Yugoslavia today poses critical policy questions not just for the peoples of Yugoslavia, but for the nations of Europe, the Soviet Union, and the United States. The outcome of this struggle between the ideals of self-determination and the bonds of a modern nation state will be relevant to the future of national political movements, whether in the Soviet Union, Ethiopia, Cyprus or elsewhere. The present crisis will also test new institutional mechanisms established by the Conference on Security and Cooperation in Europe to work toward the resolution of political conflicts.

As the crisis within the Yugoslav federation has unfolded over the past years, the Helsinki Commission, of which I am chairman, has repeatedly urged the parties to engage in a peaceful dialog aimed at the achievement of a just, lasting, and democratic solution to the problems plaguing Yugoslavia. The use of force will neither resolve the political crisis nor will it in the long run unite the Republics of Yugoslavia.

The Commission applauds the efforts being undertaken by the European Community to broker a peaceful resolution of the conflict, and I believe that the Yugoslav military's present restraint is in some measure a reflection of the pressure brought upon it by the international community. While bloody civil wars may have been considered anachronisms in modern Europe, age-old tensions rekindled in Yugoslavia underline the staying power of national/ethnic conflicts, the danger of widespread arms proliferation and the difficulty of avoiding such problems, despite their obvious existence.

Mr. Speaker, I urge my colleagues and the administration to call on all of the Republics of Yugoslavia and the Federal Government to act in full accord with the principles embodied in the Helsinki Final Act, especially those regarding restraint from the use or threat of force, and respect for human rights. These principles established the basis for true security and cooperation in Europe, and Yugoslavia is bound to respect them in this present crisis as its political future unfolds.

TRIBUTE TO CHRISTOPHER LEE

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. MATSUI. Mr. Speaker, I rise today in order to pay tribute to Christopher Lee, an exceptional legal mind and a leader in the Asian-American community.

Mr. Lee received a B.A. in medical physics from the University of California at Berkeley, where he also received the John H. Wheeler Scholarship and was a member of the Honor Students Society. He then attended Whittier College School of Law where he received his juris doctor.

Christopher Lee began his legal career as a law clerk in a local firm and then progressively achieved higher positions. In 1986 he started working in the legislative affairs department of the criminal branch of the Los Angeles City attorney's office. Mr. Lee worked there for 2 years until he was promoted to the position of deputy city attorney. Today, Christopher Lee has a successful private law practice which focuses on international as well as criminal law.

Christopher Lee's involvement in the Asian-American community dates back to law school, where he was the founder and president of the Asian Pacific Law Students Society. He was also a volunteer law clerk for the Asian Pacific American Legal Center of southern California which provides legal services to indigent clients in the areas of immigration and family law. While working as deputy city attorney, Christopher Lee served as the Korean community liaison, working to maintain and improve relations with Korean community leaders and representing their needs to the city attorney's office. Christopher Lee has made a tremendous difference in the fight against discrimination and to guarantee justice to all citizens.

In short, California has benefited tremendously from Christopher Lee. He has dedicated his life to helping Asian-Americans and indeed Americans in general. I ask that my colleagues join me in saluting this remarkable man.

A SALUTE TO 21ST CONGRESSIONAL DISTRICT "ARTISTIC DISCOVERY" CHAMPIONS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. STOKES. Mr. Speaker, beginning this June and continuing through May of 1992, the corridors of the U.S. Capitol will be adorned with beautiful artwork from around the Nation. This special exhibit represents the culmination of "An Artistic Discovery 1991," the 10th annual art competition for high school students sponsored by the Congressional Arts Caucus. Since the program's inception in 1982, the Artistic Discovery competition has brought together some of the Nation's most prolific and talented young artists. During the next year, thousands of visitors to the Nation's Capital will have the occasion to view this unique collection of drawings, paintings, graphics and photographs.

Mr. Speaker, I am pleased to report that "An Artistic Discovery 1991" includes winning artwork from my congressional district. I would like to take the opportunity to congratulate Travis Smith of Warrensville Heights, OH, winner of the 21st District art competition. Travis' air brush painting of Janet Jackson was named the "Best-in-Show" from among 88 entries submitted by 12 high schools in the 21st Congressional District of Ohio.

Mr. Speaker, it is an honor to be a part of this wonderful competition and I am proud to salute the 1991 "Artistic Discovery" competitors from the 21st District of Ohio:

Bedord High School: Christine Carr, Melanie Gerhard, Madeline Maclkin, Ken Mazer, Richard Vacha, Dawn Watson, Supervisor, James Wallace, Instructor, Andrew Rabatin.

Bellefaire School: Bruce Hill, II, Lee Hubble, Jaime Lowy, Chelle Mackay, Adam McCall, Heather Molecke, Chris Stacy, Teacher, Karen Mehling.

Cleveland School of the Arts: David Bill, Corby Dennis, Rayshawn Hunt, Lawrence Kendrick, Zoran Markovic, Teacher, Andrew Hamlett.

Cleveland Heights High School: Jose Arias, Chris Baldini, Corbet Curfman, Emily Manista, Lydia Neilsen, Alex Petretich, Meghan Wilson, Sarah Younkin, Teacher, Sue Hood-Cogan, William Jerdon.

Collinwood: Michael Canady, Keith Ford, Robert Green, Duane Smith. Teacher, Jerry Dunnigan.

East High: Bernard Calloway, Timothy Holt. Teacher, Jaunace Watkins.

John Hay High School: Sheldon Blevins, Nicole Bridget, Lamark Crosby, Kenya Demore, Damien Dix, Santiago Harris, Damon Hart, Tamie Huston, Jeffrey Janis, Roy Odom, Brenda Rodriequez, Charles Whatley. Teachers, Kathleen Yates, Richard Chappini, Harriet Goldner.

John Marshall High School: Adam Braun, Lorenzo Hunter, Darrell Johnson. Teacher, Greg Cross.

Shaker Heights High School: Jomo Benn, Ron Blankstein, Andrew Cameron, Sarah Curry, Eve Gonsenhauser, Elizabeth Marshall, Melanie Rider, Laura Witcombe, Josh Yellon. Teachers, James Hoffman, Malcolm Brown, Jenny Russell, Susan Weiner.

Shaw High School: Larzell Cowan, James Greenwood, Lisa Henry, Abdur Jackson, James Johnson, Kirsten Rivers, Charles Sipp, Timothy Smith, III. Teacher, Susan Lokar.

South High School: Sheldon Brown, Davon Crawford, David Dabila, Melvin Frazier, Kipp Ginn, Don Harris, Travis Horne, Rolondo Johnson, Sounta Jones, Jameel King, Jolane Latten, Patrick Lyles, Lloyd Nickens, Carlos Sanchez, James Smith, Juanita Smith, Sean Smith, Tanisha Tate, Chris Whitfield. Teacher, Roman Rakowsky.

Warrensville Heights High School: Craig Brooks, Y'akee Burns, Travis Smith, Chere Stepp, Bryan Young. Teacher, James Evans.

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HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. WEISS. Mr. Speaker. Many of our colleagues had an opportunity to see a recent ABC documentary on the plight of Haitian sugar cane cutters in the Dominican Republic. These cane cutters, many of them young children, are recruited by Dominican government agents, who sometimes use force and deception to bring them to the cane fields.

Wages are low—usually less than a dollar a day for 12 to 14 hours of work—and medical care, sanitary facilities, and decent housing are nonexistent. Church groups have removed dozens of Haitian children from Dominican cane fields in recent months and repatriated them to their families in Haiti.

In 1990, the Dominican Government began to address the problem of the Haitian cane cutters. A Presidential decree was approved which, at least in principle, guaranteed certain basic rights, including freedom of movement and a minimum wage. Unfortunately, human rights organizations have found no evidence that working conditions or living conditions have improved since the decree was approved.

Today, a group of 35 Members of the House of Representatives has written to U.S. Trade Representative Carla Hills, urging her office to review the labor rights situation in the Dominican Republic. We have requested that the USTR accept for review a petition filed by the human rights organization Americas Watch.

As our letter argues, "It is vitally important that the USTR maintain the pressure on the Dominican Republic and insist that the paper promises contained in last year's Decree become a reality."

The text of the letter follows:

July 9, 1991.

Hon. CARLA HILLS,
U.S. Trade Representative, 600 17th Street, NW., Washington, DC.

DEAR AMBASSADOR HILLS: We write to request that your office accept for review a petition on labor rights in the Dominican Republic filed by Americas Watch last month.

As you know, Americas Watch's 1989 petition on the issue of forced labor of Haitians in the Dominican sugar industry was accepted by the USTR, which conducted an extensive 2-year review of the issue. As a result of the USTR's interest in the plight of Haitian cane-cutters, the Dominican Government began to address the problem in October 1990. A Presidential Decree was passed which mandated the provision of contracts for Haitian workers which granted the minimum wage and allowed freedom of movement.

Unfortunately, human rights organizations which monitored the 1991 harvest reported that the Decree was not being implemented and that officials of the government's State Sugar Council [CEA] continued to employ recruiters who used force and deception. The Dominican army continues to be involved in forcible recruitment of Haitians, and armed guards continued to prevent Haitians from leaving sugar plantations to search for work elsewhere or to return to Haiti. Moreover, many Haitians did not have work contracts, and those who did often could not read them. The provisions of the contracts were routinely ignored by CEA officials, and in some cases CEA officials actually seized the contracts from the Haitian workers when they arrived at the plantations.

Human rights groups found no evidence that working conditions or living conditions had improved since the Decree was passed. Almost none of the Haitian cane cutters are able to cut enough cane to earn the minimum wage (approximately $1.92 per day) and few can afford more than one meager meal per day. Sanitary facilities, cooking facilities, and medical care are nonexistent, and children as well as adults continue to be forcibly recruited.

It is vitally important that the USTR maintain pressure on the Dominican Republic and insist that the paper promises contained in last year's Decree become a reality. At a House Western Hemisphere Subcommittee hearing on this issue on June 12, administration witnesses promised to continue monitoring the situation in the Dominican Republic. We hope and expect that this promise means that the USTR intends to accept the Americas Watch petition for review, so that the Dominican Government's performance during the upcoming harvest will be formally monitored.

By placing the Dominican authorities on notice that the 1991-92 harvest will be monitored, the USTR will encourage the kinds of positive changes which are required if the Dominican Republic is to continue to receive trade benefits under the Generalized System of Preferences.

Thank you for your attention to this important matter.

Sincerely,

Ted Weiss, Ronald V. Dellums, Sam Gejdenson, Thomas J. Manton, William Lehman, Henry B. Gonzalez, Richard J. Durbin, Larry Smith, Peter Kostmayer, Donald M. Payne, Edward F. Feighan, Jim McDermott, Joe Moakley, Charles A. Hayes, Kweisi Mfume, Christopher H. Smith, Constance Morella, Alan Wheat, Esteban Torres, John Conyers, Jr., Jim Moody, Robert A. Borski, Wayne Owens, Gerry Studds, Robert Torricelli, Leon E. Panetta, James H. Bilbray, Robert J. Mrazek, Byron L. Dorgan, William J. Hughes, Sidney R. Yates, Mike Espy, Lane Evans, James L. Oberstar, Mervyn Dymally.

INTRODUCTION OF THE TELEPHONE DISCLOSURE AND DISPUTE RESOLUTION ACT

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. SWIFT. Mr. Speaker, today I am introducing legislation to address problems that have arisen in a very new and popular telecommunications technology, the pay-per-call 900-number industry.

This is an industry that has grown exponentially in the last few years. According to the Federal Trade Commission, in 1988 there were only 233 vendors of information services or products using 900-number systems; today there are over 14,000 vendors handling the approximately 1 billion 900-number calls that were made in 1990. The pay-per-call industry offers consumers a convenient, instantaneous method for purchasing goods and services. It has also offered some fly-by-night opportunists a convenient method for ripping off consumers through the use of a payment mechanism tied to the consumers' local telephone bill.

Because a consumer will almost always incur a financial obligation as soon as a pay-per-call transaction is initiated, the accuracy and descriptiveness of vendor advertisements become crucial in avoiding consumer abuse. My legislation would require the Federal Trade Commission to undertake a rulemaking to ensure the accuracy of any advertising for 900-numbers. This obligation for accuracy should include price-per-call and duration-of-call information, odds disclosure for lotteries, games, and sweepstakes, and obligations for obtaining parental consent for callers under the age of 18.

My legislation also addresses a key missing component in the existing payment mechanism for 900-numbers, and that is a formal dispute resolution procedure such as that used in adjudicating customer complaints in the credit card markets. After the breakup of AT&T, the current telephone payment mechanism was developed for channeling telephone charges from interexchange carriers to the consumer's telephone bill received from his or her local exchange carrier. This telephone billing system did not envision the successful application and widespread growth of the technology used in the 900-number pay-per-call industry. Nor does it offer the due process of dispute resolution that has evolved in the credit card industry. As the FTC recently said, "The absence of dispute resolution protections in the collection of 900-number charges stands in stark contrast to the self-help remedies available for credit card transactions."

The continued growth of the legitimate pay-per-call industry is dependent upon consumer confidence that unfair and deceptive behavior will be effectively curtailed and that consumers will have adequate rights of redress when they have legitimate complaints about 900-number charges on their telephone bill. Vendors of telephone-billed goods and services must also feel confident in their rights and obligations for resolving billing disputes if they are to use this new telephonic marketplace for the sale of products of more than nominal value. I believe my legislation, the "Telephone Disclosure and Dispute Resolution Act" will offer both consumers and vendors necessary protections that will help facilitate the growth of a robust and competitive pay-per-call marketplace.

A TRIBUTE TO KNOXVILLE'S MILITARY HEROES IN THE "HAIL THE HEROES" PARADE ON JULY 4

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. DUNCAN. Mr. Speaker, Knoxville celebrated Independence Day this July 4 by having a "Hail the Heroes" parade. The event honored east Tennesseans who served in the Persian Gulf war and in previous wars.

I am proud of all our troops who served in the Middle East. I am also proud of those who have served our country in other times of war. They represent the noble qualities we Americans hold dear.

Whenever duty has called, Americans—and Tennesseans in particular—have always responded faithfully. We hold duty, honor, and country in highest regard. And rightfully so, because these are among the greatest of basic American values.

Knoxville's Fourth of July parade this year featured two veterans each from World Wars I and II, the Korean war, Vietnam, and the Persian Gulf. The Knoxville News-Sentinel recently gave a brief history of five east Tennesseans who participated in the parade: O.F. Morley, Milton M. Klein, John Hunter, William Gerst, Thomas O. Rogers, and Donald Dunn.

I commend these veterans and would refer their stories to my colleagues.

VETERANS OF FIVE WARS—THOSE WHO SERVED IN CONFLICTS TO LEAD FOURTH OF JULY PARADE

(By Amy McRary and Sibyl Jefferson)

A red, white and blue celebration takes place Thursday as East Tennesseans honor the men and women who served in the Persian Gulf War and those from previous wars.

The "Hail the Heroes" parade in downtown Knoxville is part of the city's Fourth of July celebration.

Lining up amidst the 79 entries in the 11 a.m. Thursday parade is the lead float set to carry two veterans each from World War I, World War II, Korea, Vietnam and the Persian Gulf. Some participants are vets of more than one war.

In addition to those listed below, veterans scheduled to ride the lead float are: Peter C. Holland, in the U.S. Army during World War I, and Ray Moore, an Army corporal during the Korean War. Also scheduled to ride on this float are Lt. JG (junior grade) Helen Roth, a U.S. Navy nurse in Vietnam; and Retired Lt. Col. Keith Honaker, whose Army service included World War II and Vietnam. He also was a paratrooper with the 11th and 82nd Airborne.

Here, briefly, are some of the veterans' stories:

O.F. Morley was 23 and an accountant for a coal company in Virginia when he volunteered to serve in "The War To End All Wars."

It was Dec. 1, 1917, and World War I was raging in Europe. "Foolishness" made him enlist, he says with a laugh. He turned down a scholarship to the University of Virginia for a stint with the U.S. Army. "My roommate volunteered, so I wanted in."

When the Army organized a motor transport corps, Morley was transferred from the infantry. He served in France, first in the motor pool and then as a "chauffeur." Part of his duties were keeping four base hospitals around Nantes, France, supplied with bread and meat.

While Morley wasn't in combat, he saw its effects. Sometimes, during nights, he transported wounded soldiers to hospitals. He remembers the Allies' Meuse-Argonne offensive as a particularly bloody battle, "but they were all bad. I saw a lot of shot boys."

Morley, now 96, was in the Army until the middle of August 1919. He has lived in East Tennessee for 32 years and is an American Legion charter member.

He remembers "Woodrow Wilson telling us there won't be any more war. Boy, was he fooled." And he's got some advice for younger generations: "I'd tell them not to have a war unless it was in self-defense."

Milton M. Klein, professor emeritus of history at the University of Tennessee, calls World War II "an inspirational kind of war."

"We were sure we were fighting for a noble cause. It was the last war with very little internal division. . . ."

Klein served 4½ years in the U.S. Air Force during that "last good war." He enlisted as a private, left active duty as a captain. Remaining in the reserves another 15½ years, he retired as a lieutenant colonel. His war service included being an administrative officer stationed in the United States and Canada with air transport command. His unit transported men and equipment to the European and later Pacific war theaters.

The unit's service included evacuating wounded directly from France to Washington and New York in '44 after D-Day. "That was very, very gratifying because we could see the gratitude of the wounded."

Klein calls Desert Storm "magnificent, a real accomplishment." He praises the advanced technology, particularly that of the Air Force.

He is the president of the East Tennessee Chapter of the Retired Officers' Association and will ride in that organization's car in the parade.

Retired U.S. Army Lt. Col John Hunter is career military.

"I loved it," says Hunter. "I liked the discipline, the organization, the camaraderie of the people with whom you served. And frankly, as a career, there was a bit of security there."

You need a world map to track the South Carolina native's 24 years of service. His World War II service included being part of the Allies' invasion of Sicily and Italy.

He was stationed in Germany after WWII and later served in Korea. Hunter recalls the "startling" sound of silence as guns stopped at 2200 hours on July 27, 1953, with the Korean War armistice. "We had people killed within two hours of the armistice."

Hunter, now 72, retired from military service in 1960. He was amazed at the weapon technology in the Persian Gulf War and "very pleased with the leadership."

He also sees the downside of any conflict. "The wastefulness of it—not only of human life, but of materials and equipment."

Master Sgt. William "Bill" Gerst didn't see action in the Korean War. His feet were too big.

His combat experience came later, in Vietnam.

When he enlisted at 19 in the U.S. Marine Corps, "They didn't have any shoes big enough for me." Gerst stands 6-foot-5 and wore a size 14 shoe at the time. He now wears a size 15.

"I really wanted to go, but with no shoes. . ," his voice trails off. "I felt like I really missed something by not going. If I could have gone to the Persian Gulf, I would have."

Gerst and others who participated in a classified test at a Navy base in California at that time before the Korean War were precluded from combat.

Despite the moral debate over Vietnam, Gerst says, "I know then and still yet that what we were doing was right. The way we went about it—there is no doubt in my mind we were put in a non-win situation."

In 1968, he suffered a stroke after a head injury in Vietnam. He recovered at a Bethesda, Md., hospital.

"When I was in the hospital, they took two busloads of us to the Lincoln Memorial. There were protesters who blocked the road in front of us.

"The soldiers in Desert Storm sure had the backup of the American people." Gerst, now 60, enlisted in the Corps in 1950, retired in 1970 with four years' reserve duty.

"I'll always be a Marine. I have two grandsons who I spend every bit of time I can with. They love to look through my pictures. When the oldest was about 1½, he started calling me G.I. Joe. That's what they call me now."

Some 23 years in the U.S. Army led Lt. Col. Thomas O. Rogers through World War II and the Korean War.

"WWII was the last just war," says Rogers, who joined the military a week before the bombing of Pearl Harbor.

"Korea was a frustrating experience for a soldier in that he felt politically stymied, even more so than in the Vietnam War I think.

"The main thing about WWII was that everyone seemed to feel they were fighting a war with a cause. No one really had reservations about serving their country and laying down life."

Rogers was behind military lines in Korea. He draws comparisons of war today and former wars:

"The main difference is that we had two armies lined up opposing one another. Korea evolved into a stalemate. Desert Storm was over so quickly it never reached a part where our side bogged down or where the enemy was equally prepared.

"The Iraqis were not a pushover, but they were not the threat as the German army or the Chinese," says the 72-year-old Rogers.

He came to Knoxville in the 1950s as a National Guard adviser, and when he retired in 1964 he moved back here. He served with the anti-aircraft artillery in Panama and Germany and in the military intelligence artillery in Japan.

Donald Dunn has had two homecomings from war—and they were as different as the wars themselves.

He is a Marine Corps master sergeant with Company D of the 4th Combat Engineers. The reservist's duties in the Persian Gulf was to keep trucks running. The battalion cleared mine fields on its way into Kuwait.

This wasn't Dunn's first war. The Marine did a year's stint in Vietnam, from August 1969 to August 1970. When he came home from the war, "about four people came to meet me. This time, the whole town was there!"

The gulf was rougher for him in many ways. "Maybe it's because I'm older. But we went 60 days without a shower. I lived off boxes from home."

In the Persian Gulf, soldiers spent so much time preparing for conflict, "you had time to think about what was about ready to happen. In Vietnam, you didn't have time to think; it just went over your heads."

This parade, he says, is "definitely" for Vietnam vets who never had the warm homecomings Persian Gulf veterans received.

Dunn says the gulf war helped restore patriotism in America and praises the outpouring of support from citizens. "I just wish there was some way we could thank everybody. There's no way; nothing we could do to thank them all."

RICHARD WOLF DEDICATED TO HELPING OTHERS

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. HYDE. Mr. Speaker, it is a rare treat to cross paths with an individual such as Richard F. Wolf of Bensenville, IL, who has given so much of himself for the benefit of others. In June, 74-year-old Richard graduated from college. His is a marvelous story of persistence and courage—a story recently recounted by Barbara J. Martin in the June 11 edition of the Daily Herald, one of Chicagoland's three principal daily newspapers. Permit me to share his story with our colleagues:

74-YEAR-OLD HITS THE BOOKS TO CONTINUE HELPING OTHERS

(By Barbara J. Martin)

When Richard Wolf accepts his diploma from National Louis University on Saturday, he will find himself a little further along on his quest to help people.

That trek has taken the 74-year-old Wood Dale resident to Loyola University Hospital, where he trained to become a volunteer, back to the books to study for his general equivalency diploma, to the College of DuPage for an associate's degree and to Alexian Brothers Medical Center's hospice program for the terminally ill, where he has worked as a volunteer for 11 years.

After he receives his bachelor's degree from National Louis University on Saturday, Wolf said he hopes to get a part-time job helping others.

"I like to be the type of person to approach people and say, 'I'm here to help you. What can I do?' and make them comfortable," he said.

Wolf did not tell many people that he dropped out of high school in 1935 to get a job. He says part of it was the sudden availability of jobs in the industry during his senior year in high school "and because I loved softball. Softball interested me more than school."

Instead, he kept mum about his lack of a diploma and climbed a ladder of success in his career. "I did my job," he said. "I was well-respected and got promotions."

But something was missing. Although he had progressed steadily in his chosen field of metal forging, he felt self-conscious about his ability to present himself without more schooling.

Eventually, Wolf realized that he wanted to go back and finish his education. He wanted to be in a position where he could serve as a role model for other workers, and he wanted a job where he could prove his usefulness at helping other people.

Fifty years ago, Wolf's 21-year-old brother drowned in a boating accident. Identifying the body, he said "changed my whole life and made me want to help other people."

Although Wolf says he always tried to be supportive of his co-workers at International Harvester, it wasn't until the early 1970s—after the death of his first wife to cancer—that he trained at Loyola University Hospital to become a volunteer to help with terminally ill people. About the same time, to pull himself out of a deep depression, he enrolled in the Fred Astaire School of Dance and met Frances, his second wife.

Wolf credits Frances as his inspiration to go back to school.

"She was most instrumental in getting me started with the hospice program and getting my GED," Wolf said. "She has been my emotional support."

The two married in 1974. A political history and Chinese history professor, Frances tutored Wolf to help him get his general equivalency diploma in 1983. Once he began learning, Wolf was eager to continue. He soon enrolled at the College of DuPage, where he received an associate's degree in applied sciences.

A SALUTE TO THE NORTHEAST OHIO CHAPTER OF THE CONCERN II ORGANIZATION

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. STOKES. Mr. Speaker, I am proud to rise today to salute the Northeast Ohio Chapter of the Concern II Organization. Concern II is an all volunteer organization committed to funding cancer research for children in the area of immunology. August 3, 1991, has been designated as Concern II Day in the city of Cleveland. I would like to share with my colleagues some valuable information regarding this worthwhile organization.

Concern II was formed in 1981 in a westside Los Angeles living room. On hand were 10 friends who were concerned about cancer, particularly children's cancer. In just 10 years, Concern II has raised more than $2 million for cancer research throughout the world. Today, there are well over 2,000 members of the organization. These members are a diverse group of caring volunteers from all segments of society.

As a nonprofit organization, Concern II has dedicated 98 percent of all funds raised to cancer research. This percentage, unprecedented among charities, is possible because there are no paid employees of Concern II, and their fundraising philosophy is to cover all event costs through donations prior to the sale of tickets.

The Northeast Ohio Chapter of Concern II was formed in November 1988. There are only three Concern II chapters in the entire country. I am proud that my congressional district can lay claim to the only chapter existing outside the State of California. Since its inception nearly 3 years ago, Concern II has raised over $125,000 aimed at advancing a better understanding of cancer. All proceeds raised by this chapter go directly to researchers in the Greater Cleveland area.

The citizens of Greater Cleveland dedicate countless hours to this worthy cause. They should be commended for their efforts in aiding physicians and researchers around the world in their fight against pediatric cancer. Membership in this organization has grown considerably since its beginning. The Northeast Ohio Chapter of the Concern II Organization now boasts of a membership totaling well over 500 volunteers.

Mr. Speaker, in the long run, it is the children of tomorrow who will benefit from the funds Concern II is now raising. Concern II has established an effective network of support for cancer research in pediatric immunology. Without the support of such innovative programs, prestigious medical centers and universities worldwide would be limited in their exploration of new ways to combat cancer. Thanks to organizations like Concern II we have seen the survival rate of childhood cancer rise steadily. The enthusiasm and leadership demonstrated by the dedicated volunteers of Concern II is truly an inspiration.

Mr. Speaker, I hope my colleagues will join me in saluting the Concern II organization in recognition of its outstanding contributions in combating childhood cancer. We are proud to join in the celebration of Concern II Day.

HUMAN RIGHTS IN MAURITANIA

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 9, 1991

Mr. WEISS. Mr. Speaker, today, I—along with several of our colleagues—am introducing a concurrent resolution which calls attention to the extraordinary record of human rights violations in the Islamic Republic of Mauritania.

The government of Colonel Maaouya Ould Sid'Ahmed Taya has instituted an aggressive policy of Arabization in Mauritania—a policy which has been used to persecute and marginalize black Mauritanians, especially from the Halpulaar, Wolof, Soninke, and Bambara ethnic groups.

Over 500 black political prisoners, who were arrested in late 1990, have died in detention as a result of torture, neglect, or summary execution in the last few months. Entire villages have been burned, and the inhabitants' livestock, land, and belongings have been confiscated. Tens of thousands of black Mauritanians have been forced to leave the country—many still reside in refugee camps in Mali and Senegal.

Executions, torture, and forcible expulsion are only the most visible signs of government abuses. The Mauritanian leadership severely discriminates against non-Hassaniya-speaking black Mauritanians in all walks of life, including unequal access to education, employment, and health care.

Even the heinous practice of slavery, although formally abolished in Mauritania in 1980, continues in some parts of the country. According to the human rights organization, Africa Watch, which has conducted extensive interviews with escapees, there are tens of thousands of black slaves in Mauritania today.

In recent weeks, the government has taken a number of steps to improve Mauritania's atrocious human rights record. For example, in April the government released hundreds of political prisoners held without charge or trial. President Taya also announced that political parties would be allowed, and that legislative elections would be scheduled. These are indeed encouraging steps.

Unfortunately, despite these developments, in just the last month, Mauritanian authorities arrested a number of trade unionists and government critics who called for greater democratization. In other words, many of the same abuses continue.

The resolution my colleagues and I are introducing today condemns these abuses, commends the U.S. State Department for its excellent human rights reporting on Mauritania, and calls on the Bush administration to take several important steps in response to these violations. Most importantly, the resolution calls on the administration to oppose loans to Mauritania in the World Bank and the African Development Fund in accordance with section 701 of the International Financial Institutions Act.

I am pleased to be joined by several distinguished members of the House of Representatives in introducing their resolution. Among the original cosponsors are the chairman of the Subcommittee on Human Rights, Mr. YATRON, the ranking minority member of the Subcommittee on Africa, Mr. BURTON, as well as Mr. PAYNE of New Jersey, Mr. WOLPE, Mr. KENNEDY, and Mr. FEIGHAN.

I urge my colleagues to join in supporting this resolution and sending a strong message about our concern for human rights in Mauritania.

The text of the resolution follows:

CONCURRENT RESOLUTION

Expressing the sense of the Congress regarding human rights violations in the Islamic Republic of Mauritania.

Whereas the Government of the Islamic Republic of Mauritania, under the leadership of Colonel Maaouya Ould Sid' Ahmed Taya, engages in a consistent pattern of gross violations of internationally recognized human rights;

Whereas the Department of State, in its Country Reports on Human Rights Practices for 1990, stated that the human rights situation in Mauritania continued to deteriorate in 1990, with the government engaging in extrajudicial killings and torture;

Whereas political power in Mauritania remains firmly in the hands of the ruling "Beydanes" (Moors of Arab/Berber descent) and has been used to persecute and marginalize black Mauritanians from the Halpulaar, Wolof, Soninke, and Bambara ethnic groups;

Whereas members of these ethnic groups have been subjected to gross abuses of human rights by the Government of Mauritania, including the following: (1) the forcible expulsion in 1989 and 1990 of up to 60,000 black Mauritanians into Senegal and 10,000 into Mali, where most continue to reside in refugee camps; (2) the burning and destruction of entire villages and the confiscation of livestock, land, and belongings of black Mauritanians by the security forces in 1989 and 1990 in an effort to encourage their flight out of the country; (3) the death in detention as a result of torture, neglect, or summary execution of at least 500 political detainees, following the arrest of between 1,000 and 3,000 black Mauritanians in late 1990 and early 1991; (4) discrimination against non-Hassaniya-speaking black Mauritanians in all walks of life, including unequal access to education, employment, and health care; (5) an aggressive policy of "Arabization" designed to eradicate the history and culture of black ethnic groups; and (6) the use of state authority to expropriate land from black communities along the Senegal River Valley through violent tactics;

Whereas, despite the formal abolition of slavery in 1980, the practice continues in regions of Mauritania;

Whereas on June 5, 1991, seven opposition political leaders were arrested in Mauritania after they announced the formation of a coalition of opposition political groups; and

Whereas these gross abuses of human rights violate Mauritania's obligations under the Universal Declaration of Human Rights, the Convention to End All Forms of Racial Discrimination, the Convention on the Abolition of Slavery, the African Charter on Peoples' and Human Rights, and provisions of the Mauritanian Constitution: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) deplores and condemns the Government of Mauritania's persecution of non-Hassaniya-speaking black Mauritanians and the continued practice of slavery in Mauritania;

(2) calls upon the Government of Mauritania to abide by its international obligations and the provisions of the Mauritanian Constitution to protect the rights of all Mauritanians;

(3) calls upon the Government of Mauritania to permit an impartial investigation by independent Mauritanian organizations into the death in detention of hundreds of black Mauritanians and to bring to justice those responsible;

(4) calls upon the Government of Mauritania to permit international human rights and humanitarian organizations (including the International Committee of the Red Cross, Africa Watch, Amnesty International, and international medical organizations) to conduct fact-finding missions to Mauritania;

(5) calls upon the Government of Mauritania to take immediate steps to enforce Mauritania law and end the practice of slavery;

(6) welcomes recent actions by the Government of Mauritania, including the amnesty and release in April 1991 of hundreds of political prisoners held without charge or trial;

(7) further welcomes President Taya's announcement on April 15, 1991, promising leg-

islative elections and allowing political parties to be formed;

(8) regrets that, despite such promises, Mauritanian authorities nonetheless arrested in early June 1991 a number of trade unionists and government critics who had called for greater democratization;

(9) welcomes the diminution of tensions between Senegal and Mauritania, and encourages both governments to take actions to prevent a recurrence of the events of April 1989 by taking special measures to protect each other's nationals within their borders;

(10) commends the Department of State for its thorough reporting on human rights abuses in Mauritania in the Country Reports on Human Rights Practices for 1990; and

(11) calls upon the President to take the following actions to convey the concern of the United States about gross violations of human rights in Mauritania:

(A) Publicly condemn abuses of human rights such as killings and imprisonment of black Mauritanians and the continued practice of slavery.

(B) Encourage the appointment of a special rapporteur on Mauritania at the United Nations Human Rights Commission.

(C) Oppose loans to Mauritania in the World Bank and the African Development Fund in accordance with section 701 of the International Financial Institutions Act.

(D) Encourage the Government of France, the Government of Spain, the Government of Germany to limit assistance to Mauritania to humanitarian assistance provided through private voluntary organizations, and oppose loans to Mauritania in the World Bank and the African Development Fund.

SENATE—*Wednesday, July 10, 1991*

(Legislative day of Monday, July 8, 1991)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Judge not, that ye be not judged. For with what judgment ye judge, ye shall be judged * * *.—Matthew 7:1,2.

Gracious, patient Father in Heaven, we have become a nation of scapegoaters and self-justifiers. Most of us blame somebody else for what is wrong; rarely do any of us accept blame. We have become professionals at getting ourselves off the hook, much of the time finger-pointing at somebody else. Meanwhile our Nation suffers economic, political, social, moral, and ethical decay. Wrapping ourselves in a blanket of complacency we observe with apathy and indifference the decline of our culture, our society, our national hopes, while we accuse others of neglecting their responsibility.

Forgive us, merciful, living God, for our personal escapism, our self-justification. Renew us in our sense of the personal obligation of each of us in a true democracy. Help each of us accept our duty and exercise it when and where and how we ought.

In Jesus' name who commanded us to, "Judge not * * *." Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 10, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KERREY thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, for not to extend beyond the hour of 10 a.m., with the Senator from Connecticut [Mr. LIEBERMAN] permitted to speak for up to 5 minutes, and with the Senator from New Jersey [Mr. BRADLEY] permitted to speak for up to 30 minutes.

The Senator from Connecticut is recognized.

CHINA

Mr. LIEBERMAN. Mr. President, we have all been thinking a lot about China lately as our country considers the contours of our post-cold-war foreign policy, as we worry about our own economic competitiveness, and as we prepare in this Congress to decide now whether to continue customary trade relations with the People's Republic of China.

I rise today to offer the first of two statements on our relations with China. This one will focus on political and foreign policy concerns. On a later day, I hope to discuss economic and trade concerns with China.

Mr. President, the Tiananmen Square massacre left a scar on China's long history and on America's attitude toward China. How ironic that in the same year that Czechoslovakia was experiencing its final deliverance from communism, Beijing had its own Prague spring until that cruel night in early June.

Since then, Chinese leaders have cracked down on their country's nascent democratic movement. Approximately 1,400 people have been sentenced to prison terms or still await trial. Sentences, which range from a few years to more than a decade, lack logic, let alone justice. The Chinese press, which reported the events of the spring of 1989, is again shackled. Some Voice of America programs, which were broadcast without interference before Tiananmen, are now jammed. Church officials have been harassed. Fear is again palpable, particularly in Beijing.

To make matters worse, China may sell ballistic missiles to Syria and Pakistan, and will assist Algeria in constructing a nuclear powerplant. The missiles and facilities could, at some point, carry or produce weapons of mass destruction.

The frustration caused by these human rights abuses and arms sales is as deep as it is understandable. But as President Kennedy once advised: "The purpose of foreign policy is not to provide an outlet for our own sentiments of hope or indignation: it is to shape real events in a real world."

Shaping real events in a real world is the approach we must follow with China. We are engaged now in an important debate over whether we should stay engaged with China or turn our back on it until it behaves better. For better or worse, our role in the world and China's will continue to force us to remain engaged with this country of more than a billion people whose influence is felt everywhere in Asia and beyond.

China has helped to expel the Soviets from Afghanistan, protected Thailand from Vietnam, and urged a rapprochement between the two Koreas. China's cooperation will be essential if the Cambodian civil war is to end. China still serves as an important counterweight to a possible renewal of Soviet, Japanese, Vietnamese, and North Korean expansionism in Asia. China did not block the authorization to use force against Iraq or South Korea's membership at the United Nations. In these and countless other ways we are inevitably engaged with China in world events which the Chinese have shaped positively and negatively.

Shaping real events also forces us to work with China on environmental issues which are increasingly global. China's use of coal is already a major world environmental problem. As it modernizes and urbanizes, with one-fifth of the Earth's population, China's grim level of pollution will worsen, and that will affect the entire world, including the United States.

China is already one of the major producers of chlorofluorocarbons [CFCS], a major contributor to global warming and ozone depletion. China's consumption of CFCS is projected to rise 12 percent annually during much of the decade because of population growth and increased use of refrigeration. China just signed the Montreal protocol on chlorofluorocarbons [CFCS], but much work remains to be done.

If we remain directly engaged with China, we have the opportunity to influence the next generation of leaders,

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

who offer the prospect of better Sino-American relations. By the end of this decade, China will no longer be ruled by its eight octogenarians led by Deng Xiaoping. These leaders, who still remember vividly the Chinese civil war and the cultural revolution, are obsessed with the fear of disorder. Deng, for example, apparently equates the student idealists of 1989 with the violent bands of young people who wrought havoc across China during the cultural revolution, forcing Deng to flee, and leaving his son paralyzed.

The next generation of Chinese leadership will almost certainly be less paranoid about the outside world and less sensitive to any perceived slight to Chinese sovereignty. For the present rulers, the carving out of Western and Japanese economic spheres in China and the stationing of military expeditionary forces there during the early 20th century were determinative events of their childhoods. The Japanese invasion, one of the cruelest of history, consumed their youth. Even as sophisticated a Chinese leader as former Premier Chou En-lai once told Henry Kissinger that Japan, the Soviet Union, and the United States still had as their ultimate aim the division of China.

Engagement with China will also enable us to support its burgeoning economic reforms, and thereby induce political reforms. The economic reforms, which were started in late 1978 by Deng, have resulted in the privatization of agriculture, the establishment of thousands of market-based industries, particularly in the southern coastal provinces, and the sending of tens of thousands of students to learn science and technology in the west. Nearly half of China's economy is now run along free market lines.

The hardest-line element of the Chinese leadership, led by Chen Yun, opposes these economic reforms. Following Tiananmen Square, this faction tried to roll back the reforms and increase the central government's economic authority and tax revenues. But it was blocked by a coalition of more moderate Beijing and provincial officials, who has vested interests in the reforms and knew they were necessary for China to feed and employ its ever-growing population—about 17 million additional people a year. They appear to have won the struggle over economic reforms. Even the hard-line Premier, Li Peng, promised at the last Peoples' Congress that the reforms would be extended to the poorer interior provinces.

If the interior provinces are being drawn toward the coast, the coastal provinces, China's economic and population heartland, are being drawn toward the outside world. The southern provinces of Guangdong, including the city of Guangzhou, better known in the West as Canton, are already tightly linked with the Hong Kong-Macao region. The province of Fujian is becoming enmeshed with Taiwan. South Korea's influence is beginning to extend to the Shandong Peninsula. The Japanese economy is also reaching into China's provinces. In all these areas, local leaders are becoming more assertive and less willing to accept Beijing's economic dictates.

As events in South Korea and Taiwan have shown, we should not underestimate the political changes that may evolve out of economic reforms. Cracks are already appearing in the totalitarian structure of Communist China. In contrast with Beijing, provincial leaders were relatively restrained in dealing with the unrest of 1989. Many Chinese dissidents were able to make their way to freedom in Hong Kong with the help of scores of their sympathetic countrymen. The Communist state's propaganda is increasingly ignored, even in the countryside. Western dress and goods are pervasive; a Western education is cherished. All of these changes are revolutionary and suggest that the old Communist China is slowing dying.

We must hope that China's hard-line leaders see that the currents of history are working against a totalitarian state. Unlike a rudimentary, industrial economy, a modern state is too complex to be run by a small group of central planners; it demands decentralization and individual initiative. A modern economy requires extensive outside contracts for educating its young, promoting trade, and obtaining information. A modern state needs a modicum of political support from its educated citizens if they are to work in a productive manner. A modern China needs reform.

Chen Yun and his hard-line faction are reportedly still opposed to economic reform and remain deeply suspicious of the current economic contracts with capitalist Asia and the West. They managed to overturn several plans to release Fang Lizhi, the Chinese astrophysicist and spokesman for political reform at Tiananmen Square, who was a refugee in the United States Embassy for months. The Chen Yun faction argued that China would still face a series of endless demands even if Fang were released, why give into the Americans at all. They believe that the West intends to smother the Communist regime in a web of friendly contacts. While our current policy may not be that coherent, its ultimate design is, indeed, to undermine the Communist regime in such a manner.

Mr. President, the extensive trade China now has with the United States gives us an important tool to use in fostering economic and political reform. The merchants and entrepreneurs of the coastal provinces, and the students and intellectuals of the cities are China's hope and ours. We must use our economic leverage to help them and to limit Chinese arms proliferation and increase Chinese human rights. We must continue to use that leverage until the Beijing spring that existed before the cruel night in Tiananmen Square returns fully and finally to China's capital.

RACE AND CIVIL RIGHTS

Mr. BRADLEY. Mr. President, this is an open letter to President Bush. I hope he will hear it and I hope the American people will listen, too. I hope this letter will put the issue of race relations in a broader context than simply the Supreme Court nomination of Clarence Thomas. I offer this letter recognizing that when a black or white American speaks about race one necessarily speaks for someone else of a different race. That is awkward and subject to misinterpretation. But silence is worse.

DEAR MR. PRESIDENT: In 1988 you used the Willie Horton ad to divide white and black voters and appeal to fear. Now, based on your remarks about the 1991 Civil Rights Bill, you have begun to do the same thing again. Mr. President, we implore you—don't go down this path again. It's not good for the country. We can do better.

Racial tension is too dangerous to exploit and too important to ignore. America yearns for straight talk about race, but instead we get code words and a grasping after an early advantage in the 1992 election. Continued progress in race relations requires moral leadership and a clear sighted understanding of our national self-interest. And that must start with our President.

There is a place and a time for politics. The Willie Horton ad in your 1988 campaign will be played and analyzed by political pundits for years to come.

There is a place and time for leadership. The place for leadership is here—for our people, uncertain and divided once again on the issue of race. And the time for leadership is now.

So, Mr. President, tell us how you have worked through the issue of race in your own life. I don't mean speechwriter abstractions about equality or liberty but your own life experiences. When did you realize there was a difference between the lives of black people and the lives of white people in America? Where did you ever experience or see discrimination? How did you feel? What did you do? What images remain in your memory? Tell us more about how you grappled with the moral imperatives embodied in race relations and how you clarified the moral ambiguities that necessarily are a part of the attitude of every American who has given it any thought—any thought at all.

Do you believe silence will muffle the gunshots of rising racial violence in our cities? Do you believe that brotherhood will be destroyed by candor about the obstacles to its realization? Do you believe ignoring the division between the races will heal it? If you truly want it healed, why don't you spend some of the political capital represented by your 70 percent approval ratings and try to move our glacial collective humanity one inch forward.

Mr. President, you say you're against discrimination. Why not make a morally unambliguous statement and then back it up with action? At West Point you said you "will strike at discrimination wherever it exists." How will you do that and when? Why not try to change the racist attitudes of some Americans—even if they voted for you—so that all Americans can realize our ideals?

Mr. President, if these concerns are wrong, please dispel them. Please explain the following basis for our doubt.

DOUBT ONE—YOUR RECORD

Back in 1964 you ran for the U.S. Senate and you opposed the Civil Rights Act of that year. Why?

I remember that summer. I was a student intern in Washington, D.C., between my junior and senior years in college and I was in this Senate chamber that hot summer night when the bill passed. I remember that roll call. I remember thinking, "America is a better place because of this bill. All Americans—white or black—are better off." I remember the presidential election that summer too, when Senator Goldwater made the Civil Rights Act an issue in his campaign. I came to Washington that summer as a Republican. I left as a Democrat.

Why did you oppose that bill? Why did you say that the 1964 Civil Rights Act "violates the constitutional rights of all people?" Remember how America functioned in many parts of the country before it passed? Separate restrooms and drinking fountains for black and white, blacks turned away from hotels, restaurants, movies. Did you believe that black Americans should eat at the kitchen steps of restaurants, not in the dining room? Whose constitutional rights were being violated there?

Were you just opposing the Civil Rights Bill for political purposes? Were you just using race to get votes?

Did you ever change your mind and regret your opposition to the Civil Rights Act? If so, when? Did you ever express your regret publicly? What is your regret?

When you say today that you're against discrimination, I don't know what you mean because you have never repudiated or explained your past opposition to the most basic widening of opportunity for black Americans in the 20th century, the Civil Rights Act of 1964.

It sounds like you're trying to have it both ways—lip service to equality and political maneuvering against it.

What does you record mean? What have you stood for?

DOUBT TWO—ECONOMIC REALITY

Mr. President, over the last 11 years of Republican rule the poor and the middle class in America have not fared well. The average middle income family earned $31,000 in 1977 and $31,000 in 1990. No improvement. During the same time period, the richest 1% of American families went from earning $280,000 in 1977 to $549,000 in 1990. Now, how could that have happened? How could the majority of voters have supported governments whose primary achievement was to make the rich richer? The answer lies in the strategy and tactics of recent political campaigns.

Just as middle class America began to see their economic interests clearly and to come home to the Democratic party, Republicans interjected race into campaigns, to play on new fears and old prejudices, to drive a wedge through the middle class, to pry off a large enough portion to win.

Mr. President, most Americans recognize that in economic policy Republicans usually try to reward the rich, and Democrats usually do not. I accept that as part of the lore and debate and rhythm of American politics. What I cannot accept, because it eats at the core of our society, is inflaming racial tension to perpetuate power and then using that power to reward the rich and ignore the poor. It is a reasonable argument over means to say more for the wealthy is a price we pay to "lift all boats." It is a cynical manipulation to send messages to white working people that they have more in common with the wealthy than with the black worker next to them on the line, taking the same physical risks and struggling to make ends meet with the same pay.

Mr. President, I detest anyone who uses that tactic—whether it is a Democrat like George Wallace or a Republican like David Duke. The irony is that most of the people who voted for George Wallace or David Duke or George Bush because of race haven't benefited economically from the last decade. Many of them are worse off. Many have lost jobs, health insurance, pension benefits. Many more can't buy a house or pay property taxes or hope to send their child to college. The people who have benefited come from the wealthiest class in America. So, Mr. President, put bluntly, why shouldn't we doubt your commitment to racial justice and fair play when we see who has benefited most from the power that has been acquired through sowing the seeds of racial division?

DOUBT THREE—YOUR INCONSISTENT WORDS

We Americans hold a special trust on the issue of race. We fought one of the bloodiest wars in history over it—brother against brother, state against state, American against American. Our communities and our schools and our hearts have been torn by the issue. We have come too far, Mr. President. We do not need to be torn further. Most Americans who have absorbed our history know the wisdom of Zora Neale Hurston's words that, "Race is an explosive on the tongues of men." Race is most especially an explosive on the tongue of the President * * * or his men.

We have come too far. We need to be led not manipulated. We need leadership that will summon the best in us not the worst.

Yet you have tried to turn the Willie Horton code of 1988 into the quotas code of 1992. You have said that's not what you're doing but as you said at West Point, "You can't put a sign on a pig and say it's a horse."

Why do you say one thing with your statement against discrimination and another with your opposition to American businesses working with civil rights groups to get a civil rights bill most Americans could be proud of. Are you sending mixed signals or giving a big wink to a pocket of the electorate?

We measure our leader by what he says and by what he does. If both what he says and what he does are destructive of racial harmony, we must conclude that he wants to destroy racial harmony. If what he says and what he does are different, then what he does is more important. If he says different things at different times that are mutually contradictory, then we conclude he's trying to pull the wool over someone's eyes.

Mr. President, you need to be clearer, so that people on all sides understand where you are, what you believe and how you propose to make your beliefs a reality. Until then, you must understand that an increasing number of Americans will assume your convictions about issues of race and discrimination are no deeper than a water spider's footprint.

DOUBT FOUR—YOUR LEADERSHIP

Racial politics has an unseemly history in America. For only about five decades of the last 220 years have our politicians actively tried to heal racial wounds. Slavery blighted our ideals for nearly a century. Then a burst of hope from 1865 to 1876. Then nearly another century of exploitation and inhumanity including harsh and discriminatory treatment of Hispanics and many other immigrant groups. Then from 1945 to 1980, another burst of hope. Much was accomplished in this last period. But, all of us deep in our hearts know there's more to do.

Demagogues—both white and black—seek to deepen divisions. Misconceptions grow. Fears accelerate. Outlandish egos thrive on the misery of others.

Both races have to learn to speak candidly with each other. By the year 2000, only 57% of people entering the work force will be native born whites. White-Americans have to understand that their children's standard of living is inextricably bound to the future of millions of non-white children who will pour into the workforce in the next decades. To guide them toward achievement will make America a richer, more successful society. To allow them to self-destruct because of penny-pinching or timidity about straight talk will make America a second rate power. And Black Americans have to believe that acquisition of skills will serve as an entry into society not because they have acquired a veneer of whiteness but because they are able. Blackness doesn't compromise ability nor does ability compromise blackness. Both blacks and whites have to create and celebrate the common ground that binds us together as Americans and human beings.

To do that we must reach out in trust to each other. By ignoring the poverty in our cities, white Americans deny reality as much as black Americans whose sense of group identity often denies the individuality that they themselves know is God's gift to every baby. There is much to say to each other about rage and patience, about opportunity and obligation, about fear and courage, about guilt and honor. The more Americans can see beyond someone's skin to his heart and mind, the easier it will be for us to reveal our true feelings and to admit our failures as well as celebrate our strengths. The more Americans are honest about the level of distrust they hold for each other, the easier it will be to get beyond those feelings and forge a new relationship without racial overtones. Both black and white Americans need to recognize that what's important is not whether the commanding officer is black or white but how good a leader he or she is. That's true in war and it's equally true in peace.

Above all, we need to establish a social order in which individuals of all races assume personal responsibility. In a contest that's fair a chance is all someone needs. In a contest that's fair the gripes and excuses of losers don't carry much weight.

So individual responsibility is essential. And so is facing reality clearly. Crime often causes poverty. Racism exists, and so do horrible living conditions in our cities. To accept any of this as natural or necessary or unchangeable is to insure that it will continue.

The most important voice in that national dialogue is yours, Mr. President. You can set us against each other or you can bring us together. You can reason with us and help us overcome deep-rooted stereotypes or you can speak in mutually contradictory sound bites and leave us at each other's throats. You can risk being pilloried by demagogues and losing a few points in the polls, or you can simply ignore the issue, using it only for political purposes. You can push the buttons which you think give you an election or you can challenge a nation's moral conscience.

The irony here is that as a Democrat, I am urging the Republican President to do what will serve his own party's longterm political interests. Why do I do it? Because I believe that race-baiting should be banished from politics. Because I believe communicating in code words and symbols to deliver an old shameful message should cease. There should be no more Willie Horton ads. Mr. President, will you promise not to use race again as you so shamelessly did in 1988? If you will not promise your country this, why not?

DOUBT FIVE—YOUR CONVICTIONS

Mr. President, as Vice President to Ronald Reagan you were a loyal lieutenant. To my knowledge you never expressed public opposition to anything that happened in race relations in the Reagan years. You acquiesced in giving control of the civil rights agenda to elements of the Republican party whose strategy was to attract those voters who wanted to turn the clock back on race relations.

The Reagan Justice Department tried to give government tax subsidies to schools that practice racial discrimination as a matter of policy. And you went along. They were reluctant to push the Voting Rights Act renewal—and you went along. They vetoed the 1988 Civil Rights Restoration Act—and you went along. For eight years there was an assault on American civility and fair play and you went along. On what issue would you have spoken out? Was your role as Vice President more important than any conviction? Obviously, the issue of race wasn't one of them. Martin Luther King, Jr. wrote from his jail cell in Birmingham, "We will have to repent in this generation not merely for the vitriolic words and actions of bad people but for the appalling silence of good people."

Mr. President, you saw black America fall into a deeper and deeper decline during the Reagan years. From 1984 to 1988, the number of black children murdered in America increased by 50 percent. Today, 43 percent of black children are born in poverty. And since 1984 black life expectancy has declined—the first decline for any segment of America in our history. Yet in the face of these unprecedented developments, you said and did nothing. Why did you go along?

In 1989, when you took over you promised it would be different. But it hasn't been. The rhetoric has been softer at times, but the problem is the same. At Hampton College, a predominantly black school, you recently promised "adequate funding" for Head Start, but three out of four eligible children are still turned away. Do you believe what you say? What is more important than getting a generation of kids on the right education track? I'm all for the important work of the Thousand Points of Light Foundation but for it to really succeed a President and his government must be the beacon.

Maybe you have no idea what to do about kids killing kids in our cities and people sleeping on the streets. Maybe out of wedlock births are outside your experience and not of importance to you. Maybe you really have concluded that urban enterprise zones and the HOPE program are a sufficient urban poverty strategy. Maybe families to you don't include white and black families living in cities, struggling to make ends meet against the same high odds, which you refuse to reduce. Maybe you just don't understand. Maybe, maybe, maybe.

Who knows? We rarely hear your voice. At West Point, you exhorted America to be colorblind. But without doing something about inequity and poverty the call for colorblindness is denial and arrogance. Mr. President, you have to create a context in which a colorblind society might eventually evolve. Right now you are neither similar to the stern father administering bad news and discipline to his children, nor the wise father helping his children come to terms with emotions they don't understand or prejudices they can't conquer. And you are certainly not the leader laying out the plan and investing the political capital to change conditions.

So, Mr. President, my concern is not just the 1991 Civil Rights Act or the fate of Clarence Thomas. Your Civil Rights Bill, the Democrats' Civil Rights Bill, the Danforth Civil Rights Bill all say pretty much the same thing to business: Pay attention to your hiring practices; make an effort to find minorities who can do the job because it is in the national interest for pluralism to truly work. There is no reason we can't find language that 60 Senators can support.

But you, or those working for you—don't appear to want a compromise. Not yet. Businessmen wanted a compromise and your White House pressured them to back off talks. Senator Danforth wants a compromise—but he hasn't gotten much encouragement. Some Senators, Republicans, want to be responsible but they say you're not dealing in good faith. Your operatives apparently don't want to lose a political issue—not yet.

Mr. President, as you and your men dawdle in race politics consider these facts: We will never win the global economic race if we have to carry the burden of an increasingly larger unskilled population. We will never lead the world by the example of our living values if we can't eradicate the "reservation" mentality many whites hold about our cities. We will never understand the problems of our cities—the factories closed, the housing filled with rats, the hospitals losing doctors, the schools pock marked with bullet holes, the middle class moved away—until a white person can point out the epidemic of minority illegitimacy, drug addition and homicides without being charged a racist. We will never solve the problem of our cities until we intervene massively and directly to change the physical conditions of poverty and depravation. But you can still win elections by playing on the insecurities our people feel about their jobs, their homes, their children, and their future.

And so our greatest doubt about you is this: is winning elections more important to you than unifying the country to address the problems of race and poverty that beset us?

The important thing is not whether you veto a bill in the pitched battle of politics but whether you will veto or voice the desire we feel in our hearts to build a new trust in this country—trust in unity and opportunity, trust in ourselves, trust in one nation, indivisible with liberty and justice for all.

Mr. President, this is a cry from my heart, so don't charge me with playing politics. I'm asking you to take the issue of race out of partisan politics and put it on a moral plane where healing can take place.

I believe the only way it will happen is for you to look into yourself and tell all of us what you plan to do about the issues of race and poverty in this country. Tell us why our legitimate doubts about your convictions are wrong. Tell us how you propose to make us the example of a pluralist democracy whose economy and spirit takes everyone to the higher ground. Tell us what the plan of action is for us to realize our ideals.

Tell each of us what we can do. Tell us why you think we can do it.

Tell us why we must do it. Tell us, Mr. President, lead us, put yourself on the line. Now. Now.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, are we in morning business?

The ACTING PRESIDENT pro tempore. We are in morning business until 10 o'clock.

Mr. COCHRAN. I thank the Chair.

(The remarks of Mr. COCHRAN and Mr. BUMPERS pertaining to the introduction of S. 1441 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

CHANGE TAX CODE, STOP HURTING FARMERS

Mr. BURNS. Mr. President, recently, I joined as an original cosponsor of S. 1130, the Family Farm Tax Relief and Savings Act. This proposal would provide tax relief and a retirement savings program for farmers. Farmers would be permitted to defer capital gains tax on the sale of farm assets by rolling the sale profit into an individual retirement account.

The Tax Code is particularly unkind to farmers. A farmer who works his whole life on the farm and then sells part or all of it in order to retire, is subject to a 28-percent Federal capital gains tax and additional taxes at the State level. This does not leave much to retire on. Recently, my colleague, Senator KASTEN, the sponsor of S. 1130, outlined this problem and our proposed solution in an excellent article published in the Milwaukee Sentinel. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Milwaukee Sentinel]

CHANGE TAX CODE, STOP HURTING FARMERS

(By F. James Sensenbrenner, Jr., and Robert W. Kasten, Jr.)

With over 80,000 farmers, Wisconsin is one of the leading producers of agricultural products in America. But as Wisconsin farmers know, farming has become an increasingly difficult profession. And the federal government's tax policies haven't made it any easier.

If the current recession persists, it is estimated that up to 4,000 Wisconsin dairy farmers may go bankrupt. Farmers have enough problems without the added burden of a federal tax system that penalizes work, savings and investment.

A farmer who works his whole life on the farm and then sells part or all of it in order to retire, is subject to a 28% capital gains tax on his full profit. The farmer is then left to retire on what remains.

One of the major problems with the capital gains tax is that it is an unfair tax. Most of the accumulated gains on the value of the farm is due to inflation. But the federal tax system fails to take this into account. So farmers end up paying taxes on phantom gains.

In general, the capital gains tax is a tax on jobs, on upward mobility, and on entrepreneurship. In short, it's a tax on the "American Dream." And it hits farmers particularly hard because farming is one of the most capital intensive businesses. The farmer's land, the buildings, the machinery, the dairy herd and the crops are all capital assets.

The high capital gains tax is a double blow to farmers because they often depend on the sale of farm assets to finance a secure and dignified retirement. Family farmers don't have access to big corporate pension plans. Farmers are self-employed and must plan and provide for their own retirement.

In addition, farmers often receive lower Social Security benefits than workers in other kinds of businesses when they retire. This is because farmers need to re-invest much of their income into the farm to purchase and upgrade farm equipment, machinery and other assets. There is often little left to pay salaries.

Low salaries during working years translate into low Social Security benefits at retirement. Ironically, as self-employed workers, farmers actually pay *twice as much* in Social Security taxes than workers of other businesses. So farmers pay higher taxes and end up with lower benefits.

All of this adds up to an often difficult retirement for farmers who have spent their lives feeding America's families. We believe that Wisconsin farmers deserve better. That's why we have introduced the Family Farm Tax Relief and Savings Act of 1991.

Our legislation would provide tax relief and a retirement savings program for families actively engaged in the business of farming for at least five years. Farmers would be permitted to rollover the proceeds from the sale of farm assets to an Individual Retirement Account (IRA). Taxes on those assets would be deferred until the farmer or spouse begins withdrawing funds from the IRA in the years following retirement.

The farmer and his spouse each would be able to defer tax on up to $10,000 yearly and up to a maximum of $500,000 per farm couple. In addition, any gain that builds up on funds while they are kept in the IRA would compound tax free. Only when the farmer or spouse begins withdrawing IRA funds would the tax be due.

Our proposal would promote retirement security for our farmers and preserve family farming in America. That's important—because we all depend on the hard work that farmers do. Let's change the tax code so it stops being unfairly punished.

DEFENDER OF THE NATIONAL INTEREST AWARD

Mr. SYMMS. Mr. President, our distinguished colleague from North Carolina [Mr. HELMS] has often said with a chuckle that liberal media follow the axiom that if you cannot say something bad about HELMS or other conservatives, do not say anything.

I am not surprised that the media has kept secret the fact that Senator HELMS was awarded the first annual Defender of the National Interest Award from the U.S Industrial Council Educational Foundation. The award was presented at a dinner at the Marriott Hotel in downtown Washington on June 5, 1991, and the proceedings were carried nationwide by C-SPAN.

In presenting the award, the President of the U.S. Industrial Council Educational Foundation, Mr. John P. Cregan, noted how Senator HELMS "works so hard and effectively to defend and conserve our American values apart from, but uniquely related to, the traditional values of our Western heritage of which the American experience is an indispensible part. What he seeks to conserve by defending is American sovereignty in all its major manifestations—political, economic and cultural. And what he tries to advance is an American foreign policy that does not dote on global democracy rather than the national interest, or a new world order based on United Nations consensus, but an American First agenda based on American pre-eminence."

Mr. President, this Senator could not have said it better. I ask unanimous consent that the full text of Mr. Cregan's remarks be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEFENDER OF THE NATIONAL INTEREST AWARD PRESENTED TO SENATOR JESSE HELMS BY THE U.S. INDUSTRIAL COUNCIL EDUCATIONAL FOUNDATION, JUNE 5, 1991, WASHINGTON, DC

(Remarks by John P. Cregan, Foundation President)

In the 1990 off-year elections there were 435 district races for the House of Representatives and U.S. Senate campaigns in 32 states. There was only one national election. It took place in North Carolina. It was much larger than a campaign which pitted incumbent Senator Jesse Helms against Democratic challenger Harvey Gannt, because the opposition faced by Senator Helms was decidedly and undeniably national in scope. A motley but powerful coalition coalesced nationally united by a common denominator of purpose: to oust Jesse Helms from the United States Senate. This coalition included: liberal elites, self-anointed minorities, multicultural commissars, Japanese lobbyists, and purveyors of the politically correct. And this was just the Los Angeles/Hollywood part of the coalition!

We all know well, however, that the breadth and ferocity of the opposition to Jesse Helms is not really national in the sense that it can be located in equal measure in places like Midland, Texas or Perrysburg, Ohio, or Huron, South Dakota, and the dozens of other locales and regions that are represented here this evening. It is, rather, national in the sense that the dozens of New York or Washington, or Los Angeles see themselves as residing in the power centers of the nation. And we know, moreover, that the intensity of that dislike is a most accurate calibration of Jesse's effectiveness in confronting their agenda over the last twenty years.

Furthermore, the race between Gannt and Helms in North Carolina was a national race from the standpoint that Senator Helms' victory was, in turn, a victory for the nation, for the genuine national interests that he will continue to defend in the world's greatest deliberative body for at least the next six years.

Senator Jesse Helms has been called the conscience of the Senate. But I, for one, am uncertain if I subscribe to such an appellation because it presupposes that there is an agreed-to definition of that which constitutes "conscience" in today's society. After all, Howard Metzenbaum has likewise been called, "the conscience of the Senate." Jesse Helms has also been savaged as an anachronism in many ways, not the least of which is the manner in which he carries out his position. But in truth he is in the best tradition of the citizen legislator, in a republican (small "r") representative government. He cannot help it if he appears to be out of step with so many of his congressional colleagues—excepting those like Duncan Hunter—who are more concerned with filling positions and seats than in serving in the office.

Finally, Senator Helms has been called a practitioner of the politics of divisiveness. This is, perhaps, the most distorted of the aspersions. For it has been precisely his keen awareness and courageous defense of the national interest which shines a fierce light on the fragmentations and tears in the American fabric today.

To accurately describe Senator Jesse Helms is to begin by calling him a North Carolinian. As Professor Clyde Wilson, a North Carolinian, wrote recently in a book review of something called the Dictionary of North Carolina Biography:

"We North Carolinians have always made up our own minds, and always been American republicans. Not democrats, not progressives, not liberals, not conservative in your Wall Street sense, but American Republicans . . . Consider Sam Ervin or Jesse Helms. You will have a hard time fitting them into any categories devised by the newspapers or the Stanford political science department."

(Wilson goes on to regret that Senator Helms is not listed in the Dictionary of North Carolina Biography because the volume discriminates against the living, who are not listed).

Well, do not let it be said that we discriminate in the same sense in choosing recipients for this award. We're delighted to be going live with this inaugural award. However, we do take pride in the discrimination with which we have approached the inaugural presentation of the Defender of the National Interest award.

In addition to the good things about being a North Carolinian, we would also like to describe Senator Jesse Helms with the adjective, "courageous." James Burnham, a very wise conservative, wrote a book many years ago titled, "Congress and the American Tradition," in which he observed that: "Political courage is a quality very different and much rarer than physical courage. For Congress to survive politically means that it shall be prepared to say 'yes' or 'no' on its own finding and responsibility, in answer to the questions of major policy; and this it cannot do unless the individual members of Congress have the courage to say 'no' even against the tidal pressures from the Executive, the bureaucracy."

In the context Mr. Burnham so eloquently provides, when it comes to Jesse Helms, one man's "Senator No" is another man's "Captain Courageous."

But it must be remembered that political courage is a far different thing than political foolishness. A member of Congress cannot display the courage and independence of a Jesse Helms without the people's support. There must be something to Professor Wilson's characterization of North Carolinians who have defied the pundits repeatedly in the case of Senator Helms. There are few members of the Senate today who have been elected to that body four successive times. So, we must also affix the adjective, "politician" and recall its true historical meaning, in describing Senator Helms.

And we, more importantly, are happy to characterize Senator Helms accurately as an American conservative leader. What he works to hard and effectively to defend and conserve are American values apart from, but uniquely related to, the traditional values of our Western heritage of which the American experience is an indispensible part. What he seeks to conserve by defending is American sovereignty in all its major manifestations—political, economic and cultural. And what he tries to advance is an American foreign policy that does not dote on global democracy rather than the national interest, or a new world order based on United Nations consensus, but an American First agenda based on America pre-eminence.

For that reason, finally, we must also describe Senator Helms as virtuous. For as someone recently reminded, virtue used to be identified with patriotism because it required devotion to one's own country. So it is a virtuous thing that Jesse Helms questions why we go to war against one country that threatens its neighbors, incites instability, engages in nuclear proliferations and abuses its citizens, but we grant most-favored-nation trade privileges to another regime that is guilty—to an even greater degree—of those same offenses. It is virtuous to question why our government should select among artists those worthless enough to receive public funds. It is virtue which also demands that he use the constitutional powers given the legislative branch to prevent the confirmation of executive branch nominees—Republican or Democrat—who are not totally dedicated to the national interest.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The time for morning business has expired.

EXTENSION OF MORNING BUSINESS

Mr. ROTH. Mr. President, I ask unanimous consent that the morning business be extended for 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SANCTIONS ON ANGOLA AND SOUTH AFRICA

Mr. ROTH. Mr. President, I rise today to discuss this Nation's policy toward southern Africa. I suspect that all of my colleagues have noticed the headline in Tuesday's Washington Post. Apparently, the President has decided to lift the economic sanctions which the Congress placed upon the Republic of South Africa under the terms of the Comprehensive Anti-Apartheid Act.

Broadly speaking, Mr. President, I support such an initiative. Our major allies—who also happen to be our chief trading competitors—have already raised their sanctions. Some never even imposed them. But this is not, I am sure, the chief consideration in the mind of the President.

The chief consideration before him as it must be before us, is that the Government of South Africa appears to be shortly about to fulfill all of the conditions laid down in the Comprehensive Anti-Apartheid Act for the raising of sanctions.

Mr. President, the situation in South Africa today is far from perfect. The nation is still suffering from widespread violence and a depressing legacy of interracial and intertribal distrust.

However, the Comprehensive Anti-Apartheid Act is a most specific document, Mr. President. It does not visualize a perfect South Africa as its end goal.

The act is merely a means toward that end, an end which, ultimately, can be gained only by South Africans, of all colors, themselves.

The act lays down very specific conditions which must be met on the road to an overall South African settlement.

When those conditions are met and it appears they will be met shortly, then neither the executive nor the legislative branch of Government has any business trying to change the terms of the debate in order to legitimatize the continuance of sanctions.

We made very specific demands—when, and if, those demands are met, we have no choice but to raise sanctions on South Africa.

However, Mr. President, I have come to the floor today not merely to discuss South Africa but also southern Africa.

Specifically, Mr. President, I would like to lay before my colleagues the idea that if it is time to raise sanctions on South Africa, it is also time to raise sanctions on Angola.

As in South Africa, the situation in Angola is far from perfect. A democratic government has yet to come to power in Luanda. But, that said, the President of the People's Republic of Angola and his chief opponent, the President of the national union for the total independence of Angola have signed peace accords in Lisbon, Portugal on May 31, 1991.

Those accords are now being implemented and few seem to doubt that democratic elections will, in fact, be held and Angola will shortly have a government which has been democratically elected by all Angolans.

Mr. President, whoever forms the next Angolan government does not wish to preside over an economic disaster—and Angola is an economic disaster area, despite its huge oil and mineral resources. Angola needs development now.

Many U.S. businesses are eager to throw themselves into this process. U.S. oil companies, in particular, are eager to expand their drilling activities in Angola, benefiting both the people of Angola and the United States trade balance.

Once again, our competitors are pushing their way into this lucrative market while U.S. investors are burdened in the competition by U.S. legislation which places an unduly heavy tax burden on their shoulders. Let us waive these restrictions—they no longer have any political rationale—and yet our companies are back into the international competition on equal terms with their rivals.

I note with some satisfaction, Mr. President, that today's Federal Register contains a Presidential determination that progress is being made toward national reconciliation in Angola.

That determination has been sent to the Secretary of State, who is directed to inform the appropriate committees of the Congress of it.

I hope, Mr. President, that this determination heralds the lifting of all United States sanctions on Angola and, if so, that my colleagues in the Senate and the House of Representatives will support this process for the benefit both of Angola and the United States.

Mr. President, I yield the floor.

Mr. SEYMOUR addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from California.

EXTENSION OF MORNING BUSINESS

Mr. SEYMOUR. Mr. President, I ask unanimous consent that morning business be extended for 5 minutes.

Mr. JOHNSTON. Mr. President, I do not want to say no to my colleagues. But we were here late last night, and I wanted to stay to get this done. I wonder if the Senator can make do with less than 5 minutes so we can get on the bill and get going. I may have to apologize later because we may be here in a quorum call. I am not going to object. Would he try to do it in less than 5 minutes?

Mr. SEYMOUR. Mr. President, I certainly understand the request of the distinguished Senator from Louisiana. I will finish in less than 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. DASCHLE). Morning business is closed.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, FISCAL YEAR 1992

The PRESIDING OFFICER. The Senate will resume consideration of H.R. 2427, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2427) making appropriations for energy and water development for the fiscal year ending September 30, 1992, and for other purposes.

The Senate resumed consideration of the bill.

BUDGET COMMITTEE SCORING OF H.R. 2427

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 2427, the energy and water appropriations bill and has found that the bill is under its 602(b) budget authority allocation by $518,000 and under its 602(b) outlay allocation by $40 million.

I compliment the distinguished manager of the bill, Senator JOHNSTON, and the distinguished ranking member of the Energy and Water Subcommittee, Senator HATFIELD on all their hard work.

Mr. President, I have a table prepared by the Budget Committee which shows the official scoring of the energy and water appropriations bill and I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 2427—ENERGY–WATER SUBCOMMITTEE SPENDING TOTALS

[In billions of dollars]

Bill summary	Budget authority	Outlays
H.R. 2427		
New budget authority and outlays	22.0	13.1
Enacted to date	0	7.8
Adjustment to conform mandatory programs to resolution assumptions	0	0
Scorekeeping adjustments	0	0
Bill total	22.0	20.8
Senate 602(b) allocation	22.0	20.9
Total difference		
Discretionary:		
Domestic	10.0	9.2
Senate 602(b)	10.0	9.3
Difference		
International	0	0
Senate 602(b)	0	0
Difference	0	0
Defense	12.0	11.6
Senate 602(b)	12.0	11.6
Difference		
Total discretionary spending	22.0	20.8
Mandatory spending	0	0
Mandatory allocation	0	0
Difference	0	0
Discretionary total above (+) or below (−):		
President's request	.4	.2
Senate-passed bill	NA	NA
House-passed bill	.5	.3

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

AMENDMENT NOS. 631 THROUGH 634

Mr. JOHNSTON. Mr. President, as the Senators, I believe, are aware, last night we entered into a unanimous-consent agreement providing that only certain amendments would be in order. A number of those we have worked out, and I would like to submit on behalf of myself and the distinguished Senator from Oregon, en bloc, a series of amendments which I will describe as follows before I submit them to the desk:

An amendment on behalf of the distinguished Senators from Pennsylvania [Mr. SPECTER and Mr. WOFFORD] which provides that within available funds, $850,000 shall be available to the Wyoming Valley Levee raising project in Luzerne County, PA.

A Nickles-Boren amendment providing that the Secretary of Army is directed to use $450,000 of available funds to initiate a reconnaissance level study of proposed dams and related riverfront projects to be located along the northern Canadian River in Oklahoma.

An amendment on behalf of the Senators from Rhode Island [Mr. CHAFEE and Mr. PELL] providing that $500,000 of the funds appropriated to the Secretary of the Army through the Corps of Engineers is directed to initiate the definite project report for the Cranston, RI, waste water conveyance system, as authorized by section 117 of Public Law 101-640.

An amendment on behalf of Senator KENNEDY, for himself and Mr. KERRY, providing that $250,000 of funds appropriated to the Secretary of the Army shall undertake a reconnaissance level study to assist the water resource needs of the Muddy River in Massachusetts.

Mr. President, I now send those amendments to the desk and ask that they be considered en bloc.

The PRESIDING OFFICER. Is there an objection?

Hearing no objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. SPECTER (for himself and Mr. WOFFORD) proposes an amendment numbered 631, as follows:

Insert at the end of line 17, page 8, the following: "*Provided further*, That of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to provide $850,000 to undertake planning of the Wyoming Valley Levee Raising project in Luzerne County, Pennsylvania."

Mr. SPECTER. Mr. President, the amendment I am offering this evening to the energy and water appropriations bill provides $850,000 for completion of the U.S. Army Corps of Engineer's study of phase II of the Wyoming Valley flood control project in Luzerne County, PA.

The Wyoming Valley flood control project has been an ongoing flood control project by the Corps of Engineers since the Tropical Storm Agnes of 1972. Although 19 years have passed since the flood in the Wyoming Valley, victims can still remember their personal tragedies and the $3 billion in damages incurred by the communities of the region.

Currently the levee structure in the valley protects the region from a flood of 232,000 cubic feet per second. The flood of 1972 caused flooding in the valley of 318,000 cubic feet per second. The intention of phase II of the flood control project is designed to increase the region's flood protection to cover future floods at the Agnes level.

Mr. President, the administration did not include this project in its budget request due to concerns that existed during the budget's preparation by the Army Audit Agency [AAA]. Subsequently, since the budget's submission to Congress, General Brown of the Army Corps of Engineers testified before the House Subcommittee on Energy and Water Appropriations that the AAA has concluded examination of the Wyoming Valley levee project and has reported favorable findings on the project.

I want to thank Senator JOHNSTON and Senator HATFIELD for agreeing to accept this amendment to provide $850,000 for the Wyoming Valley levee raising project in fiscal year 1992. With these funds, the Corps of Engineers should be able to significantly advance efforts to complete its design and planning efforts to allow for construction of a levee that will provide adequate flood protection to the citizens of Luzerne County, PA.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. NICKLES, for himself, and Mr. BOREN, proposes an amendment numbered 632, as follows:

On page 8, line 17, add the following before the period: ": *Provided further*, That the Secretary of the Army is directed to use $450,000 of available funds to initiate a reconnaissance level study of proposed dams and related riverfront development to be located along the North Canadian River in Oklahoma".

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. CHAFEE, for himself, and Mr. PELL, proposes an amendment numbered 633, as follows:

On page 8, line 17, insert the following before the period: ": *Provided further*, That using $500,000 of funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate the Definite Project Report for the Cranston, Rhode Island, Wastewater Conveyance System as authorized by section 117 of Public Law 101–640".

CRANSTON, RI

Mr. CHAFEE. I would like to thank the chairman and ranking member for accepting the amendment sponsored by Senator PELL and myself regarding an environmental remediation project in Cranston, RI. The amendment appropriates $500,000 to initiate a project report as authorized by section 117 of the Water Resources Development Act of 1990. This report will encompass the second phase of an ongoing review by the New England Division of the Army Corps of Engineers.

Mr. HATFIELD. Yes, as I understand it, this appropriation will provide the moneys necessary to continue the project review. Senator CHAFEE has been a persistent advocate of this project, and I reviewed his original $5 million request. However, the project is not yet ready for construction. The committee is aware that construction funds are in fact authorized. Of course, I understand the Senators' concerns and interest in proceeding on a fast track. With this in mind, I assure the Senators that the committee will consider construction funding requests upon completion of the project review.

Mr. CHAFEE. I thank the ranking member, and look forward to working him to secure construction funds for this innovative project next year.

The assistant legislative clerk read as follows:

The Senators from Louisiana [Mr. JOHNSTON], for Mr. KENNEDY, for himself, and Mr. KERRY, proposes an amendment numbered 634, as follows:

AMENDMENT NO. 634

(Purpose: To fund a study of the water resource needs of the Muddy River in Massachusetts)

On page 8, line 7, before the period insert the following: ": *Provided further*, That with $250,000 of funds appropriated herein, the Secretary of the Army shall undertake a reconnaisance level study to assess the water resource needs of the Muddy River in Massachusetts".

Mr. KENNEDY. Mr. President, I would like to offer an amendment to the energy and water appropriations bill. This amendment directs the U.S. Army Corps of Engineers to undertake a study to assess cleanup needs and options for the Muddy River watershed in Massachusetts.

This 3½-mile waterway is a popular urban natural resource that flows from the Jamaica Plains area to Boston, and empties into the Charles River. Along its course through several residential neighborhoods, the river is enjoyed by many for its scenery and wildlife. It also flows through Frederick Law Olmsted's "Emerald Necklace," one of the most carefully crafted parks systems in the country. And many of Boston's finest cultural, educational, and medical institutions are located in this watershed. Just a few examples are the Children's Hospital, Harvard Medical School and School of Public Health, Brigham and Women's Hospital, Dana-Farber Cancer Institute, Northeastern University, Boston University, Boston Symphony, New England Conservatory of Music, Museum of Fine Arts, and Isabella Stewart Gardner Museum.

Unfortunately, the Muddy River has fallen prey to contamination that seriously jeopardizes the beauty and safety of this important natural resource. There has been tremendous support in the affected communities for pursuing appropriate corrective measures. Dozens of local environmental and civil organizations along with the many institutions located in the watershed, are working together in a coalition to restore the Muddy River. The Massachusetts Office of Environmental Affairs has committed scarce State resources for a preliminary study that suggests several measures to alleviate the pollution problems.

The Army Corps study I am requesting will build on the information already available and will provide answers to the questions that remain about appropriate cleanup efforts. The amendment does not require an offset because it directs the Army Corps to do this $250,000 reconnaissance study out of available funds.

I urge Chairman JOHNSTON and the rest of my colleagues to support this amendment that will mean a great deal to the thousands of people who live and work near the Muddy River, who enjoy recreational opportunities on its banks, and who hope that this resource will be there for their children and grandchildren.

Mr. KERRY. Mr. President, I rise in support of the amendment offered today by my senior colleague, Senator KENNEDY, and myself to appropriate $250,000 for the U.S. Army Corps of Engineers to undertake a feasibility study on the Muddy River improvement plan proposed by the Massachusetts Department of Environmental Protection.

Along its way from Jamaica Plain to the Charles River, the Muddy River weaves throughout many historic areas of Boston and surrounding communities. The river is the heart of the Emerald Necklace Park system designed by Frederick Law Olmsted in the late 1800's, a system that even today is seen as an exemplary model of urban park planning. The river offers invaluable scenic areas and parkland. Individuals may enjoy numerous fishing and recreation opportunities on the river's banks.

Unfortunately, the Muddy River has succumbed to the many environmental hazards associated with urban life; contamination of sediments, sewage discharge, stormwater runoff and industrial pollution have all resulted in a degraded river environment. Revitalization of this natural resource is crucial to the reemergence of the entire Emerald Necklace Park system as a national model. The funds that we are passing today will go toward the study of an improvement plan which contains provisions to dredge the river bottom to remove hazardous sediment, to improve sewer and storm drains and to prevent oil contamination. These improvements will clean up the river and allow it to flow freely through the Fens marshland and to the Charles River. Implementation of the Muddy River improvement plan will restore the luster to this jewel of Massachusetts.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the amendments offered en bloc by the Senator from Louisiana.

The amendments (Nos. 631, 632, 633 and 634) were agreed to, en bloc.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, the state of play now is that the chief amendments that we are aware of are a Stevens amendment, two Wallop amendments, a Fowler amendment, and a Bumpers amendment on the super collider.

Mr. President, as I said last night, we are open for business. As far as I am concerned, we will wait a reasonable time, and if Senators do not show, they are not protected under the unanimous consent order, and I do not believe we should stay here all morning and wait to keep Senators up late at night again just because Senators do not want to offer their amendments.

This is an invitation to Senators to come now to the floor to offer their amendments, because most of those on that list have now gone away and have been negotiated. So we are ready to do business.

Mr. HATFIELD. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. HATFIELD. The Senator has indicated the amendments that the managers are aware of. I assume that those are the amendments that we understand to be controversial amendments, because there are other amendments.

Mr. JOHNSTON. That is right. There are other amendments, and we would hope that these others would probably go away. For example, Senator D'AMATO, yesterday, proposed two amendments. We took one of his amendments, but the one on Onondaga Creek, we indicated that it is in the

House bill and that we thought we could not take that amendment.

I believe that was suitable with Senator D'AMATO, not to speak for him, but I do not expect him to offer that amendment.

Some of the other amendments may or may not be offered. They are on the list. But the principal ones were those that I described.

Mr. HATFIELD. Will the Senator further yield?

Mr. JOHNSTON. Certainly.

Mr. HATFIELD. As the Senator recalls a colloquy last night that I raised with the majority leader, and I believe also entered into by the chairman of our committee, as to the possibility of lining these amendments up and putting them in a certain order, with the additional proviso that those amendments then would be broadly published and broadcast, and personal contact made to the individual authors, and that if that amendment then is not discussed when its turn on this schedule should arise, that the Senator would forfeit his right to offer that amendment within a reasonable period of time.

This was a procedure adopted by the majority leader sometime back, which seemed to add to the expeditious handling of legislation here on the floor, and I would hope would become a commom practice. The majority leader did not feel that that was the time last night to adopt that, but provided—I believe the RECORD will show—that that would be a possible procedure that we might employ this morning.

Mr. JOHNSTON. I think the Senator makes a good point, and I would suggest that the Stevens amendment is first here on the list and that would be an appropriate one to consider, perhaps followed by the Wallop amendments, followed by the Fowler amendments. And, in effect, I believe that I am inclined to think that the order of listing of these amendments makes pretty good sense. We did not list them.

Mr. HATFIELD. It has already been published.

Mr. JOHNSTON. It has already been published and they have been listed on here not because we thought that was necessarily the best order, but it turns out to make some sense.

So, Mr. President, I would then, through this means—and we will also give him a call—ask Senator STEVENS to come to the Senate at this point.

And I might also add that the idea is to offer a unanimous-consent request to consider these amendments in the order stated, and if the Senator is not there when the time comes up, given some reasonable 3 or 4 minutes—I mean, we will not do it within seconds, but within minutes—if he does not show, then he would not be eligible to submit his amendment. We will ask for that unanimous consent later.

Mr. HATFIELD. Mr. President, I would certainly heartily applaud the suggestion made by the chairman of our committee, Mr. JOHNSTON. I think that the record ought to indicate that, starting at 20 minutes after 10, we have had no one on the floor to offer an amendment. And yet, we have a listing of all of these amendments.

I would hope that the staff and others who may be involved, in the office of Senators who have these amendments and who are listening to the proceedings at this moment, will alert their Senators that we are—I would say to the Senator from Louisiana that perhaps that ought to be adopted somewhere in the neighborhood of 11 o'clock—giving ample notice for our staffs here on the floor and in the cloakroom to personally contact each office of a Senator who hopes to offer an amendment to give them reasonable time to understand that beginning at that hour, we will be taking these amendments up in due order as published by the calendar which is already in each office, and that if those Senators are not on the floor within a reasonable period of time, that those amendments then are going to be just cast into the wastepaper basket, always with the exception of unusual circumstances.

But would the Senator from Louisiana like to put any money on how long we are going to stand here this morning and wait for a Senator, without this kind of urging and this kind of leverage?

Mr. JOHNSTON. I would say to my friend from Oregon, if there is so little interest in these amendments that no one will come to offer them, then I do not think we are duty bound to put in a quorum.

Mr. HATFIELD. In other words, go to third reading.

Mr. JOHNSTON. Go to third reading.

Mr. HATFIELD. I fully agree with the floor manager of this bill, and stand ready to assist him in any way possible to carry out our responsibilities, to get this piece of legislation completed.

Will the Senator agree that perhaps at this moment we could start alerting Senators through the cloakrooms or other methods to make them fully aware that their amendments do have limited life, as this morning business proceeds?

Mr. JOHNSTON. There is indeed a limited shelf life of amendments and as the clock ticks away, that shelf life is getting shorter and shorter.

I see Senator BURNS coming in, and I believe he has an amendment. Yes, he has an amendment on the list.

Mr. BURNS. I have to visit with the managers.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I have just had a conversation with Senator BURNS, who has an amendment on the list. It relates to the Tongue River. In the Senate bill, we provide for $2 million for this project subject to authorization because it is not now an authorized project. It is a State dam on the Tongue River. We pointed out to Senator BURNS that, while we are for the project, it would be setting a precedent to strike the requirement of having it subject to authorization.

Senator BURNS, I think, understands that and will attempt to get this matter, and believes he can get it, authorized in the RCRA bill. We will certainly support him in his efforts to get it authorized. I know Senator INOUYE is also strongly supporting that.

So Senator BURNS has authorized me to ask unanimous consent that the Burns amendment be deleted. We will make every effort to continue the $2 million subject to authorization in the conference committee and believe we can do that, and we will certainly help him later in his efforts to get this authorized.

With that understanding, Mr. President, I ask unanimous consent that the Burns amendment be stricken from the list.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, we are still waiting for Senator STEVENS.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, if the distinguished Senator from Louisiana and the distinguished floor manager will turn to page 40 of the report, I would like to engage them in a short colloquy and, for the edification of my other colleagues, point out that this is report language dealing with a subject that this committee dealt with last year on dredging, the small business setaside for dredging operations.

I would like to point out that the committee put similar language in its report last year.

I wrote General Hatch about that language, which was report language. As we know, General Hatch is head of the Corps of Engineers. He wrote back and, among other things, he said:

> I agree with you that while the language in the Senate committee report contradicts the express terms of the statute, it does not

alter the express terms of the statute. We will continue to follow the procedures specified in law and compute and report small business dredging goals as a percentage of the total annual dollar value of contracts for dredging.

In short, he was saying that the report language last year could not alter the statute which required the Corps of Engineers to go forward with a 4-year set-aside program in an effort to reach at least 40 percent; in other words, 40 percent of the dollars they spent for dredging and so on, would go to small business.

Mr. President, this has become a very controversial program with the large dredging operations in America. It became so controversial—as a matter of fact, we were getting so much mail from them—that I held a hearing recently in the Small Business Committee and allowed both the small and large dredgers to come and make their case. Staff corrects me; it is a 30-percent set-aside, not a 40 percent setaside for small business dredgers.

But to proceed with what I was about to say, the large dredging operations had a study done by a firm called A.T. Kearney. A.T. Kearney's study showed the small business setasides cost substantially more than other contracts because of allegedly less competition in small business procurement.

In that hearing, I say to the Senator from Louisiana, the small business dredgers responded by saying, yes, but we also have taken some of the more difficult contracts. They are smaller, they are out-of-the-way contracts and the costs would have been larger even if the big dredgers had been allowed to bid on it.

So I do not know who is right and who is wrong about this. But I want to make two points: No. 1, 1991 is the third year of the 4-year program. No. 2, because it is very difficult to get a handle on whether this is a beneficial program or not, I had written on June 20 to the Honorable Charles A. Bowsher, Comptroller General of the United States, and asked the GAO to do a study of this problem. I will offer this letter to make it a part of the Record in just a moment, Mr. President. But in the letter, I set out that the Corps of Engineers testified that costs of the small business procurement program are not unreasonable and, on the whole, less than their precontract estimates.

I am enclosing copies of the testimony from our hearing and will be glad to furnish a transcript as soon as it is printed. I would like for the GAO to evaluate the contention that the small business dredging program results in significantly increased Federal costs and particularly whether these costs are due to a lack of competition.

One of the allegations is that on occasion, the Corps of Engineers awards one of these small-business contracts when there is only one bidder. They do not do that unless the bid is reasonable and within what they thought it ought to cost. I might also point out that they also award contracts to big dredgers occasionally when there is only one bidder.

So, Mr. President, my point, I guess, is I hope the corps, frankly, will ignore this language next year as they have this year because the authorizing committee has not altered the statute and the law that set this up.

As I understand it, a point of order is not excluded in the unanimous-consent agreement this morning, but I do not think a point of order would lie against report language. If it were legislation in the bill, you could make a point of order that it is legislation on an appropriation bill.

Mr. President, while I appreciate the report language that says we will continue to work with the authorizing committees and especially the Small Business Administration—I appreciate that in the report language—I do take strong exception to this report language directing the corps to do something that files right in the face of the law. Obviously, I think if General Hatch is presented with this language, he would have no choice but to say, "Gentleman, this is fine language and I would not mind complying with it, but I have to comply with the law and not report language."

I will be happy to hear from the distinguished floor manager on this point.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, we did not understand our report language to be inconsistent with the law. The Senator is very correct when he points out that we mention that we intend to work closely with the authorizing committee.

Our concern is that, first, when you talk dredging and small business, you are almost talking a contradiction in terms because hopper dredges can cost up to $50 to $60 million. So we are talking about any mom and pop operation where some old country boy gets his motorboat out and is trying to dredge something. We are talking big business involving big Federal dollars and big Federal interest.

What we are concerned with is that the way this program has been run, this set-aside, this quota program, if you will, is costing the Federal Government a whole lot more than if you use the most efficient kind of equipment. And it is not only a question of it costing more, it means that we can do less because Federal funds being very limited, we cannot perform the work, or at least that is the information we have received.

So the pilot program which we request the corps to do is in order to determine what those relative costs are. We know that the Senator from Arkansas shares our same view that we want to get the biggest bang for the taxpayer buck; we want to get as much dredging work done in areas in Arkansas and Louisiana, which are two areas that require a lot of dredging; and we want to find out the answer as best we can as to how it can be most efficiently done at the lowest cost to the taxpayer.

That was the intent of our language. The set-aside program, we understand, provides for goals and objectives. I do not think—the Senator can correct me because I think the legislation came out of his committee—but I think these are goals and objectives rather than being strict quotas.

Mr. BUMPERS. The Senator is correct.

Mr. JOHNSTON. In that sense, we thought that the pilot program, as required in our report language, was not inconsistent with those goals and objectives. In general, everybody would like something smaller rather than something bigger. We like small farms rather than big farms.

We like mom and pop grocery stores better than supermarkets. That is part of the American ethic. When you are talking dredging——

Mr. BUMPERS. We do not like small science better than we like the superconducting super collider.

Mr. JOHNSTON. That will be coming up next, right. We also like bang for the taxpayers buck, and we like those waterways dredged and open for navigation. That was the sense of our language. I hope the Senator will see it in that spirit.

It is more or less experimental to find out what the facts are. If the facts turn out to be that small dredgers are taking on more difficult jobs and have special expertise and are doing a good job, I say that is great.

I will certainly support the Senator from Arkansas if those turn out to be the facts in giving further life to the set-aside program. And contrariwise, I am sure he would join me if this turns out to be an extraordinary cost to the taxpayers—simply giving some extra money to some people based on a quota—I am sure he would also join me. It is meant to be an experimental pilot project in that spirit.

Mr. BUMPERS. Mr. President, I certainly appreciate the remarks of the distinguished Senator from Louisiana on this point. It is a very perplexing problem. Our hearings revealed that there is at least the possibility we are spending quite a bit more money than necessary in order to carry out this objective of 30 percent of the dredging money going to small business.

We oftentimes will give small business a little preference, which does in fact cost a little more. That is just trying to help people get up to the first rung of the ladder, just as we often give veterans preferences, and so on. There comes a point where you do not want to go beyond a helping hand to where it becomes a real burden on the taxpayers and you are spending more money than you need to spend.

I appreciate the Senator's remarks, and I concur heartily with that. But after a 2- or 3-hour hearing in my committee on this, I could not reach a conclusion, because the corps was itself testifying that this is not a burdensome program, that it is not necessarily more expensive. On the other hand, you have a study here, which incidentally was paid for by the big dredgers—and of course you always have a little suspicion of those kinds of things—but I think I have done what needs to be done and that is to ask the GAO to study this problem and report back to me: Is this program a burden on the taxpayers and, if so, how big a burden? I hope that corps and all parties interested in this will wait until we get something from the GAO. We always sort of hang our hat on what the GAO says. Let them report back to us.

If the corps comes back and says what the big dredgers have been saying, that this is a very burdensome program which is costing the taxpayers a lot of money, then we will torpedo it. But I to want to make this point. The program automatically comes to an end in 1992 anyway, and the GAO report will probably tell us whether we want to renew it, cancel it, or possibly renew it with some alterations.

Mr. JOHNSTON. Mr. President, I thank the Senator for his comments. I think we are talking exactly the same language with the same goals. This pilot program is really not intended to supplant the set-aside program. To the contrary, it is designed to get the statistics upon which to make a further judgment about the set-aside program. I think it is designed to do that, and I hope the Senator will see that as not an attempt to throw out the set-aside program but, rather, to get the statistics for the purpose of either renewing it or expanding it, modifying it, or at least to be able to judge the effectiveness of it.

Mr. BUMPERS. I thank the Senator very much.

Mr. JOHNSTON. Mr. President, I ask the Senator from Arkansas, on the SSC amendment, I wonder if we could get a time limit for when that amendment is brought up of 2 hours equally divided?

Mr. BUMPERS. I say to the Senator if he will give me about 5 minutes, I will come back to the floor and see if we cannot agree to that. I think we can. But as I told the Senator a moment ago privately, I had a couple Senators I wanted to call. I have not had a chance to do that, but I will do that and get back to the Senator immediately.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 669

Mr. STEVENS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Alaska [Mr. STEVENS], for himself and Mr. MURKOWSKI, proposes an amendment numbered 669:
>
> Insert at the appropriate place: "*Provided further*, That with $12,225,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and continue until completion, construction of the Bethel, Alaska Bank Stabilization Project as authorized by Public Law 99-662: *Provided further*, That no fully allocated funding policy shall apply to construction of the Bethel Alaska Bank Stabilization Project.".

Mr. STEVENS. Mr. President, this is a matter I raised in the committee and indicated that I would bring the subject to the floor. It deals with the very difficult problem of Bethel, AK, which is the center, really, of the northwestern part of Alaska that is on the Kuskokwim River, which deals with an area 50 to 60 small villages and cities of primarily Native people in our State.

At this location is the regional hospital for the Indian Health Service, a series of Federal installations, but it really is the logistic center. There on the riverbank is the only main tank farm for the storage of fuel for the whole region. The difficulty is this river is, like a lot of rivers in Alaska, raging. And the investment primarily made with Federal funds is now in severe jeopardy because of the changing of the river and the threatened erosion that may really destroy the stability of the whole city.

I am hopeful that the committee will consider this problem. I know it is a difficult problem for the committee. There is another project in this bill.

My State is one-fifth the size of the United States and has half the coastline of the United States. It is just not possible for us to limit the number of requests in this bill to one. As a matter of fact, this will make it two. But I understand that. I understand the terrible constraints that the chairman and ranking member and members of the committee have worked under on this bill.

But I again appeal to my friends who are the chairman and ranking member of the committee to help us deal with this project which is authorized. It is not an unauthorized project. It is an authorized project, but it is an emergency project. It is totally emergency, probably the major emergency in this portion of our State which is an area larger than Texas.

I ask the chairman if it is possible if we might move forward with this project now.

Mr. JOHNSTON. Mr. President, we had long discussions in committee on this project and have had lengthy discussions since then. Senator HATFIELD and I are very aware of the emergency nature of this project. However, we had 14 new starts in the Senate bill and had to draw a line or felt that we had to draw a line at that arbitrary figure. We pointed out to Senator STEVENS that he had another new start, I believe at Homer, AK. We said we can take this project, put this project in, and take that one out. He said, well, the site at Homer is also an emergency and it was for him like trying to choose between his two children. We understand that. I believe this amendment calls for $12 million.

Mr. President, Senator HATFIELD and I have discussed this at some great length. What we are willing to do is to take care of the emergency parts of this project, and we will deal with other parts of it later if it becomes appropriate. But for this year, we think to go beyond dealing with the emergency would really be expanding this bill beyond where it is.

Mr. President, I am prepared to offer on behalf of Senator HATFIELD and myself a substitute for the Stevens amendment which would make available $5 million from the appropriated funds to the Corps of Engineers' money to undertake the emergency construction aspects of the Bethel stabilization project. And it describes what those emergency aspects are. Clearly, this will take care of this year's problem, and I think frankly that it is a realistic and generous solution to this considering the tremendous budget stringency that we have this year.

If the Senator is willing to accept that amendment, I am prepared to offer it at this time.

Mr. STEVENS. Mr. President, if I might inquire, as I understand, the Senator's amendment will include protection of the petroleum dock, the tank farm, and the necessary installation of pipe piles that initiate this project. Is that correct?

Mr. JOHNSTON. The Senator is correct. The language says that the Secretary is authorized to undertake emergency construction including, but not limited to, toe protection at the petroleum dock and tank farm, steel whaler installation on the pipe piles, toe protection from the west end of First Avenue to the city dock, and toe protection at Mission Road bulk head and in other areas vulnerable to collapse.

That language is without limitation. So we direct the corps to take care of those things and any other emergency aspects of this project.

Mr. STEVENS. Mr. President, understanding the constraints that I have mentioned before that this committee has, and also understanding the offer the chairman has made, I think it is a generous offer under the circumstances. I would be prepared to accept that as a substitute for the amendment that Senator MURKOWSKI and I have offered if that is the position of the chairman and ranking member of the committee.

Mr. JOHNSTON. Mr. President, that is our position, and on behalf of Senator HATFIELD and myself—does the Senator from Alaska want to be a cosponsor?

Mr. STEVENS. Yes. I would be happy to be a cosponsor.

AMENDMENT NO. 670 TO AMENDMENT NO. 669

Mr. JOHNSTON. On behalf of myself and Senator STEVENS, I send the substitute to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for himself, Mr. HATFIELD, Mr. STEVENS, and Mr. MURKOWSKI, proposes an amendment numbered 670 to amendment No. 669.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following: *Provided further*, That with $5,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake emergency construction of aspects of the Bethel, Alaska Bank Stabilization Project as authorized by Public Law 99-662 including, but not limited to, toe protection at the petroleum dock and tank farm, steel whaler installation on pipe piles, toe protection from the West end of First Avenue to the city dock, and toe protection to Mission Road bulkhead and in other areas vulnerable to collapse: *Provided further*, That no fully allocated funding policy shall apply to construction of the Bethel, Alaska Bank Stabilization Project and to the greatest extent possible the work described herein should be compatible with the authorized project.".

Mr. STEVENS. Mr. President, I ask that my colleague, Senator MURKOWSKI, join as a cosponsor. I am sure he would agree with this compromise also.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that if there is any defect in this amendment as a substitute that it be considered as a substitute to completely strike the original Stevens amendment and put this language in lieu thereof.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I think this has been fully discussed. I therefore yield the floor.

The PRESIDING OFFICER. Is there further debate?

Mr. STEVENS. Mr. President, I thank the Senator from Louisiana and the Senator from Oregon for their courtesy. I am sure they understand the basic reason for my persistence. I am grateful to them for their accommodation on this issue.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment (No. 670) of the Senator from Louisiana.

The amendment (No. 670) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. ROBB). Is there additional debate? The question is on agreeing to amendment No. 669, as amended.

The amendment (No. 669), as amended, was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, there are two Dole amendments specified. I do not know whether he intends to put in two amendments. We have one worked out, and I wonder if we can find out from him if he has two amendments. The one that we are prepared to accept relates to Wilson Lake.

AMENDMENT NO. 671

Mr. JOHNSTON. Mr. President, I send an amendment to the desk on behalf of Mr. DOLE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. DOLE, proposes an amendment numbered 671.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, line 13, insert after the ":", "*Provided further*, That using $900,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to rehabilitate recreation facilities at Wilson Lake:".

Mr. JOHNSTON. Mr. President, this amendment provides for work on Wilson Lake from available funds. We have cleared the amendment.

Mr. HATFIELD. Mr. President, it is cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment (No. 671) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, we are now ready to consider further amendments. I think that the Wallop amendment either on Shoshone or Buffalo Bill Dam would be next on the list.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, we have now worked out with Senators D'AMATO and MOYNIHAN the Onondaga Creek amendment which provides that the Secretary of the Army, acting through the Chief of Engineers, is directed to use $1 million appropriated herein to carry out the purposes of section 401 of Public Law 101-596.

AMENDMENT NO. 672

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. D'AMATO (for himself and Mr. MOYNIHAN), proposes an amendment numbered 672.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19 strike the proviso beginning on line 24 through line 3 on page 20.

On page 8, line 17, add the following before the period: ": *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers is directed to use $1,000,000 to carry out the purposes of section 401 of Public Law 101-596".

Mr. JOHNSTON. Mr. President, the amendment has been agreed to on both sides and has been explained.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment of the Senators from New York.

The amendment (No. 672) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I see Senator KASTEN on the floor. I wonder if he is ready with his amendment.

Mr. KASTEN. Mr. President, if the Senator will yield, we are trying to work out some way that this amendment will be acceptable to the committee. Essentially, what happened here is that a project was started under one set of guidelines and rules. The local office of the Corps of Engineers in Minnesota was advising the city to do one thing; the Federal office was not aware of what the local office was doing. The city of LaCrosse proceeded under the local office's directions; halfway through, the rules changed, and we have what I think is an unique situation. I am not aware of it happening anywhere else in the country. But they ended up by exceeding the cap. Because the local office told the city they could appeal the cap, because it had started before the date change. We are trying to work out some kind of a way to help the city of LaCrosse on this particular project.

The amendment simply directs the corps to make this credit. I believe it is about $1.4 million.

I know your bill is tight, but my guess is that we can find that money, if we can find out a way to rationalize an amendment. If we are unable to accept the amendment, I am hoping we can work out some kind of a way to get the appeals process back underway, so that the corps will be directed to once more review the facts of this circumstance.

Unfortunately, the local office was not in touch with the office here in Washington. The city was getting one set of instructions, and they followed the instructions, thinking that the local office spoke with authority. Unfortunately, in this case, the local office could not speak for the national office, and the city got trapped.

Mr. JOHNSTON. Mr. President, I think that the Senator outlines a problem that clearly needs to be reviewed by the Corps of Engineers. I wonder if this colloquy that we are having, together with a letter which perhaps Senator HATFIELD and I could send to the Corps of Engineers urgently asking them to review this matter, would be suitable at this time for the Senator, and then based upon what we hear back from the corps, then further action as appropriate and warranted could be taken.

Mr. KASTEN. I would be happy to work with the Senator in this regard. I think that that would be an appropriate way to deal with this particular problem at this time. The unfortunate thing here is that the city found itself following the direction of one group of Government corps employees, thinking that they spoke for the system. And the city went ahead and accelerated the project based on one set of assumptions. After they had done the work, the local office went to the national office. The national office said: No, the local office should have told you to do this.

The result was, it seems to me, that the Government has a responsibility in this case. It is not the city that caused this problem, but the local office did not communicate adequately with the national office and the national office was not following the same rules as the local office.

It is our problem. It is not a huge problem for the Federal Government. It is a huge problem for this particular city. I am hopeful we can work with and deal with the problem.

I wish to do it, at the Senator's suggestion. The Senator and Senator HATFIELD, as ranking member of the committee, could work together with a request to the corps. And if the corps cannot work this out, we look toward the next appropriate legislative vehicle to try to, in fact, attach this amendment.

Mr. JOHNSTON. Mr. President, I am very grateful to the Senator from Wisconsin for going along with that suggestion, and we will work with him in sending that letter. And we will follow up on it later on.

So, at this point, if it is agreeable, I ask unanimous consent that, in view of our agreement, the Kasten amendment, made eligible under the unanimous consent request, be stricken from the request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. I thank the Senator from Wisconsin.

Mr. KASTEN. I thank the chairman, and I thank the Republican Member.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. HATFIELD. Mr. President, I wish to note that we are approximately 1 hour from the time we last noted the clock, and in that period of time we have handled nine amendments, which I think is, with the cooperation of our colleagues, pretty fair speed.

I wish to see if my remaining amendments—could I have the chairman's attention a moment—that I have on my list are the same as my comanager's.

I have, beginning at this point, Mr. NICKLES, the Senator from Oklahoma, has an amendment relating to the Corps of Engineers fee increase; Mr. WALLOP has two amendments, the Shoshone and Buffalo Bill; and then Mr. BRADLEY has a second-degree amendment or a number of amendments; and Mr. DOLE, high-technology research; Mr. FOWLER, renewable energy, with two second-degree amendments by Mr. GARN; and Mr. BUMPERS has a super collider amendment, with Mr. GRAMM, a second-degree amendment; Mr. WIRTH, an enriched uranium amendment; and an unspecified amendment by the chairman. Is that the same list?

Mr. JOHNSTON. The Senator is correct. I understand that work is ongoing to work out the Wallop amendments.

Mr. HATFIELD. I believe that is true.

Mr. JOHNSTON. So I hope those will go away. The Nickles amendment I am not sure will be offered.

Mr. HATFIELD. I believe the Senator from Oklahoma [Mr. NICKLES] is on his way to the floor at the moment, hopefully to dispose of that amendment one way or another.

Mr. JOHNSTON. I would think that really the amendments that ought to be considered at this time—and I would invite these Senators to come to the floor—are the Fowler amendment, if he intends to offer that; or the Bumpers amendment. These others, I hope that we will be able to work them out off stage. And so we are really ready to consider, I think, a Fowler or a Bumpers amendment, if they intend to offer those amendments.

Mr. HATFIELD. If the chairman will yield for a question, I agree that his analysis is correct according to my information, as well. Can we put a time factor as to how long we will be willing to entertain a Fowler amendment or a Bumpers amendment?

Mr. JOHNSTON. I understand with respect to the Bumpers amendment that the Senator from Texas [Mr. GRAMM] objects to a time limitation.

Mr. HATFIELD. He objects to a time limitation at this time, yes, because the Senator from Texas [Mr. GRAMM] is unacquainted with precisely the wording of the amendment that the Senator from Arkansas is expecting to offer.

Perhaps if the Senators who have the amendments were here on the floor quickly, we could dispose of those amendments faster than we might think.

Mr. JOHNSTON. I say to Senators that we may be down to really the Bumpers amendment. These others may not take the time, I am advised. They may be worked out. I will say the longer the clock ticks, the less we take seriously the intention of Senators to offer their amendments.

And I remind Senators that under the rules and under our repeated statements, and under this unanimous consent agreement, we are not required to hold this matter open for Senators who are not interested in offering their amendments.

We would like to have them considered at this point.

As a matter of fact, Mr. President, I see no reason why we could not finish this bill before the 2 o'clock cloture vote, if Senators will come over with their amendments and get them worked out.

So, Mr. President, once again I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, as all of us now know from our experience last night and, of course, this morning, with the urging of the chairman of this subcommittee, we are dealing with the appropriations bill for energy and water development. There are a variety of items in that bill. One that I discussed with the chairman and the ranking member last night, for the record, is the importance of language in this legislation that deals with the very important part of nuclear medicine and the capability of developing that for this country and for our citizens.

But let me also express my sincere thanks for the cooperation this committee has provided Idaho with some interests that are not necessarily unique to Idaho but some that are very important.

As many of us in the West know, the ability of the Bureau of Reclamation to conduct environmental compliance activities as it relates to allocating water resources for some of the native Americans has been a tough issue to handle out West over the last several years. Idaho has worked hard to accomplish that in a negotiated settlement way and, as a result, we have been able to do so.

The Fort Hall water settlement agreement, that I have to believe is precedent-setting in the fact that all parties were able to come together in a water-deficient, arid Western State and agree to the division of this resource and its proper utilization, was accomplished. And in accomplishing that, this legislation today includes $200,000 that is part of the implementation necessary that speaks to the environmental compliance necessary for this agreement to come about. And I am very, very appreciative that both of these Senators, my colleague from Oregon and my colleague from Louisiana, have worked to assure that this precedent-setting agreement go forward on schedule.

Another area that I have been very, very supportive of is language within this legislation and appropriation necessary to proceed with the new production reactor for producing tritium for our nuclear deterrent stockpile. Idaho and other national laboratories around the country will be the competitors for this most important part of our nuclear arsenal and the ability to produce tritium, and also an area I have strongly supported in the new technology developed, one that has not only defense capability but commercial application.

As we as a nation strive toward new technology that is safer and much more publicly acceptable in the area of nuclear energy, I think that we are headed in that direction now. Although we may be departing from the duality concept that drove this process over the last several years, I want to applaud the committee for recognizing the importance of this technology and moving in that direction.

There is another area that plagues us. It was discussed some last night. It will be discussed more today. And that, of course, is the question of how you handle nuclear waste. Clearly, I believe nuclear energy has a strong future in this country. Safe reactors, public acceptance of the handling of waste, knowing that it is being handled properly is critical to the future we speak of. Funding for the integral fast reactor, or Actinide Recycle Program, of $10 million that is in this appropriation is critical for that future. I believe we ought not create a time when we may be, in fact, providing a greater hazard by the stockpiling and the storage of waste. But we ought to move forward with the kind of technology of the type that I have just mentioned that, in fact, burns up, if you will, the bad waste, does not leave it around for the worry of future generations but takes care of it for all time. This type of research, of course, offers that type of opportunity.

Lastly, Mr. President, let me thank the chairman of the subcommittee and the ranking Republican member for inclusion of language that directs the Army Corps of Engineers to do the maintenance dredging to assure the operations of facilities along the Columbia-Snake River system. Many people who do not know my State of Idaho find it hard to believe that right in the middle of Idaho is a seaport community connected with the Columbia-Snake River water system that has major oceangoing barge traffic.

It is the constant work of maintaining the system of the Columbia and Snake Rivers that allow this kind of unique economic link with the Pacific rim and ocean to be viable in the State of Idaho. Language and the process of this legislation are key to assuring that the Pacific Northwest continues, to be the recipient of that very important economic link or maritime traffic. Those are issues that are embodied in the legislation.

I think it is important for the record that we discuss all of these in the positive, which they are meant to be. I certainly want to again express my thanks to the chairman, my colleague from Louisiana, and also the ranking member, my colleague from Oregon, for the fine work they have done in bringing this bill to the floor. I urge the Senate to operate with dispatch to move this toward final passage.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition?

AMENDMENT NO. 673

(Purpose: To prohibit the implementation of increased dock construction and vegetation modification fees by the U.S. Army Corps of Engineers)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] proposes an amendment numbered 673.

Mr. NICKLES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following section:

SEC. . None of the funds in this Act shall be used to implement the final rule for the Army Corps of Engineers shoreline management regulation fee schedule which was published in the Federal Register, Vol. 56, No. 125, Friday, June 28, 1991.

Mr. NICKLES. Mr. President, many of my colleagues are probably aware of the fact, if they have lakes that are managed by the Corps of Engineers, that the corps has been working on increasing fees for what they call vegetation modification. Vegetation modification is a synonym for cutting the grass. And they want to increase these fees rather dramatically.

Right now, if a person has a home on a lake that is managed by the Corps of Engineers, it costs them $30 to get a new permit for the privilege of cutting the grass and $10 a year. The Corps of Engineers now proposes to increase that to $200 for the one-time fee and $15 a year for the privilege of cutting this grass. Usually it is on the 200 feet between the home and the water's edge. So that is an increase from $30 to $275 on a 5-year basis.

The Corps of Engineers is also proposing increasing the fees for people who install docks on their land. Right now the fee—and this fee has been the same since 1976—if a person has a 5-year permit to construct a dock, it costs him $30. The corps in proposing increasing that to $400, a rather dramatic increase, 13 times as much as the current fee. They also plan on having a new periodic fee of $15 per year. So the 5-year cost under the current system for docks is $30 under the current system, and under the new fee schedule, it would be $475.

Mr. President, the net result of the Corps of Engineers's efforts would be to dramatically increase costs for anyone that happens to live around a corps lake for the privilege of cutting grass or the privilege of putting in a dock. They could be pricing many people out of the ability to even have a dock.

So they would greatly reduce recreation around the lakes. These fees for vegetation modification are ridiculous. Instead of looking at more ways just to increase money for assessing people for these permits, what the corps needs to do—and I want to thank the Senator from Louisiana because we have langauge in the bill that would allow this—would be to encourage lake management associations to come up with ways of monitoring both docks and the grass areas around the lakes. This makes a lot more sense without having Federal bureaucracy charging, for example, enormous fees and pricing a lot of people out of these docks.

Mr. President, the amendment that I have, would prohibit this fee increase schedule from going into effect. Again, I wish to thank my friend and colleague from Louisiana and also my friend and colleague, the Senator from Oregon [Mr. HATFIELD] for their cooperation on this amendment.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the distinguished Senator from Oklahoma brought this matter up in committee. We are very sympathetic to it. We have not fully had a chance to analyze the budget impact, if any, of this amendment. It does not violate the budget agreement, but what effect it has on the ability of the corps to comply with this vegetation modification, that is, lawn mowing, we do not know yet, but we are willing to take this to conference and see if it will work. And if it will, we hope it will survive in conference.

So, Mr. President, for my side of the aisle, we are willing to accept this amendment.

Mr. NICKLES. If the Senator will yield, the fee increases are not a product of last year's budget agreement. They are nothing really but an effort by the Corps of Engineers to raise more money. We are going to encourage the corps through reorganization to cut back on the bureaucracy instead. I thank the Senator for his cooperation.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to amendment No. 673.

The amendment (No. 673) was agreed to.

Mr. NICKLES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, we are now advised that the two Wallop amendments, as well as the Bradley unlimited second-degree amendments to the Wallop amendments, have now disappeared. They are going to be worked out. They have reached agreement. I do not know whether Senator DOLE is going to have an additional amendment or not. So we are now ripe for the Fowler amendment or the Bumpers amendment, if they intend to offer those, or a Wirth amendment, if he intends to offer that.

So, Mr. President, the clock continues to run. I wish those Senators would give us a further indication as to whether they intend to offer the amendments. We await their advice. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I ask unanimous consent to speak as if in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, the Senator is recognized for up to 5 minutes as if in morning business.

Mr. PRESSLER. I thank the Chair.

(The remarks of Mr. PRESSLER pertaining to the introduction of S. 1442 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROBB). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quroum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, the distinguished chairman of the full committee, Senator BYRD, has brought a particular problem to our attention relating to Stonewall Jackson Lake in West Virginia regarding a recreational development there.

He proposes an amendment, and I could bring it up under my name here. It is agreeable on both sides of the aisle, because it does not involve the expenditure of any additional moneys. So I will ask unanimous consent, shortly, that it be in order to submit this amendment on behalf of Senator BYRD, which says in its entirety as follows:

At the appropriate place, insert the following: *Provided further*, That the April 1977 contract for recreational development at Stonewall Jackson Lake, West Virginia, is amended to include such element as proposed by the State on March 28, 1990, except the golf course.

All this does is expand, Mr. President, the authorized development at Stonewall Jackson Lake to include a recreational facility, which will be paid for in its entirety by the State of West Virginia, and the revenues, therefore, would be more than sufficient to pay off those bonds. That is all the amendment does; it has been cleared with Senator HATFIELD.

Mr. President, I ask unanimous consent that it be in order to present this amendment on behalf of Senator BYRD at this time.

The PRESIDING OFFICER (Mr. GORE). Is there objection? Hearing none, it is so ordered.

AMENDMENT NO. 676

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The Senator from Louisiana [Mr. JOHNSTON], for Mr. BYRD, proposes an amendment numbered 676.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 18 line 10, insert the following after "1991": "*Provided further*, That the April 1977, contract for Recreational Development at Stonewall Lake, West Virginia is amended to include such elements as proposed by the State on March 28, 1990, except a golf course".

Mr. BYRD. Mr. President, my amendment would add no additional funding to this fiscal year 1992 energy and water development appropriation bill.

The purpose of this amendment is to permit the State to include a lodge and certain other facilities within the Federal-State cost-shared recreation development program for Stonewall Jackson Lake. The State of West Virginia would finance the cost of constructing the lodge but would receive cost-sharing credit for this construction project.

To date, the Corps of Engineers has spent approximately $30 million for recreation development which the State of West Virginia has agreed to cost share on a 50-50 basis at Stonewall Jackson. The corps has agreed to total cost-shared development amounting to $49.6 million at Stonewall Jackson Lake. The cost-sharing contribution would be approximately $25 million each from the State and Federal governments.

Unfortunately, the recreational elements of the existing plan are not expected to generate net revenues for the State. Furthermore, the State is not in a position to repay its debt on the prior development which the corps has financed.

The amendment would raise the Corps of Engineers' eventual contribution to $27.5 million for the total project while the State would contribute a total of $42 million. So, the State would cost-share 60 percent of the amended project plan, and the Corps of Engineers would provide only 40 percent of its cost. This is substantially greater than the 50-50 cost-sharing normally required from cooperating States.

The advantage of the lodge amendment is that it is expected to generate net income which the State will commit to repayment of its prior debt to the Corps of Engineers. I believe this is a beneficial resolution for both the American taxpayer and the people of West Virginia as it will allow the completion of the recreation plan and a realistic opportunity for the State to repay its obligations.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 676) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 677

(Purpose: To provide funds for the rehabilitation and betterment of Shoshone Irrigation Project, Cody, WY)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk on behalf of Senators WALLOP and SIMPSON relating to the Shoshone irrigation project and ask that it be immediately considered.

The PRESIDING OFFICER. The clerk will report.

The Senator from Louisiana [Mr. JOHNSTON], for Mr. WALLOP (for himself and Mr. SIMPSON), proposes an amendment numbered 677.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 37, line 22, insert the following: ": *Provided further*, That within the funds appropriated under this head the Secretary is directed to make available $1,200,000 for the rehabilitation and betterment of the Shoshone Irrigation Project, Cody, Wyoming.".

Mr. WALLOP. Mr. President, I want to bring to the Senate's attention the need to update and repair the Shoshone irrigation project in northwest Wyoming. This project embodies some of the West's finest qualities, both in terms of the hardy spirit that refused to bow to adversity in days gone by and the current ingenuity and tenacity that will ensure the West is a major provider of this Nation's future needs. It is very deserving of financial attention.

Since its inception during the early 1900's, Shoshone irrigation project has been a stabilizing force for a large part of Wyoming, particularly for the livestock industry in the Big Horn Basin. Though it now grows an abundance of feed crops, alfalfa, corn, oats, and pastureland—in addition to beans and sugar beets—the land was not always so richly productive. Prior to water delivery, those were very inhospitable sagebrush flats and if you could see the pictures of the land on which those early irrigators staked their existence, Mr. Chairman, you would marvel at their incredible fortitude. And you would never want to reinstate the conditions that existed prior to irrigation.

It was Col. William F. "Buffalo Bill" Cody who first envisioned the possibilities in the area and it was his dream that the Bureau fulfilled by constructing Buffalo Bill Dam in a sheer walled canyon on the Shoshone River shortly after the turn of the century.

Today, irrigation water is delivered to 89,320 acres of land through a network of canals and laterals serving four irrigation districts—Deaver, Heart Mountain, Shoshone, and Willwood. Their facilities need to be updated since some of the structures, such as drops, head gates, and ditch linings, date back more than 80 years. Their worry, Mr. President, is that their project will fall down around their ears without planned attention, now.

As is typical of irrigators in the State of Wyoming, this project involves a very health share of the costs by the State and irrigators themselves. I strongly recommend that the Senate fund this very deserving project.

Mr. JOHNSTON. Mr. President, this Shoshone amendment was an eligible amendment by Senator WALLOP and Senator SIMPSON. We worked out the problem between Senators WALLOP and Senator BRADLEY, who heads up the Water Subcommittee of the Energy and Natural Resources Committee, and this amendment reflects the fruits of that agreement.

What it does is provide that, within the funds appropriated, the Secretary is directed to make available $1.2 million for the rehabilitation and betterment of the Shoshone irrigation project.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 677) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I understand Senators FOWLER and GARN are attempting, offstage, to work out their amendment. So we wait Senator BUMPERS, if he still intends to offer his amendment.

I, again, extend the invitation to Senator BUMPERS to come to the floor, if that is his intention; otherwise, to signal the intention that he has thought better of an ill-conceived amendment. With that invitation, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk (Kathleen G. Alvarez) proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quroum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ARIZONA CROSS DIVERSION CHANNEL

Mr. DECONCINI. Mr. President, I wonder if I may engage the distinguished chairman of the Energy and Water Appropriations Subcommittee in a colloquy concerning the Arizona Cross Diversion Channel [ACDC] flood control project in Arizona.

Mr. JOHNSTON. I would be happy to yield to the Senator from Arizona.

Mr. DECONCINI. Mr. President, as a result of the chairman's leadership, the committee bill includes $2 million to initiate the construction of covers for the ACDC in three areas. Two of the areas are in Phoenix, AZ. The first segment in Phoenix runs 1,760 feet west from 32d Street to the property line of the Arizona Biltmore. The second segment in Phoenix is part of the project in the vicinity of Central Avenue. The third area is the part of the ACDC in the town of Paradise Valley roughly 2,600 feet from 32d Street east to Cudia City Wash. As the distinguished chairman knows, the estimated cost of covering the ACDC in these three areas is $5.15 million. However, understanding the severe fiscal constraints the committee is operating under this year, I am grateful for the support that the chairman has given my request and his pledge to work with me next year to find the remaining amount needed to complete the covering of the ACDC in these two communities.

Mr. JOHNSTON. The Senator is to be commended for bringing this matter to our attention. However, we were at our 602(b) level and could not provide additional funds without impacting funding recommended for other activities.

Mr. DECONCINI. I understand and appreciate the difficult position the chairman is in. It is my understanding that with the funding included in the fiscal year 1992 bill, the corps and the local sponsor can proceed with preconstruction engineering and design work for the covers this fiscal year. In addition to this Senator, the chairman's efforts in this regard are certainly appreciated by many in Arizona whose lives are being affected by this flood control project.

MISSOURI RIVER LEVEE UNIT L–385

Mr. BOND. Mr. President, I would like to speak briefly concerning an important water project. The project is known as Missouri River levee unit L–385 and is located in the Riverside-Quindaro Bend levee district near Kansas City, MO. The subcommittee provided $945,000 for preconstruction engineering and design for fiscal year 1992 and I thank them for doing so. As a followup to the subcommittee's action, I thought I would be useful to provide a brief background on the project.

Levee 385 is a flood control project authorized by Congress in 1944 for the Riverside-Quindaro Bend levee district, located north of Kansas City, MO. The total cost of the project is estimated to be $42,640,000, with a Federal share of $31,900,000 and a non-Federal share of $10,660,000.

This project is deserving of funding for several reasons. First, it is necessary to prevent continued flooding of a large area of land which is undergoing a great deal of development. Second, there is strong local support for the levee and the local sponsors are willing to provide their required share of the cost. Finally, the Corps of Engineers has already spent $2.5 million on preliminary planning and design of the project.

Levee 385 is important for my State and I thank the bill managers for giving me the opportunity to describe the background of the project.

Mr. JOHNSTON. I thank my colleague from Missouri and I will be pleased to include his statement as part of the record on H.R. 2427.

Mr. HATFIELD. I concur with the comments of the chairman and I assure the Senator that we will respond to his request.

RED RIVER CHLORIDE CONTROL PROJECT

Mr. BENTSEN. Mr. President, I would like to take this time to recognize the dedicated work of the Senator from Louisiana in preparing the Energy and Water Development appropriation bill. I express my thanks to Senator JOHNSTON and his subcommittee for their help on funding of the superconducting super collider, a very important project for my State and the country. Another project was in need of help as well, the Red River chloride control project. The project has already taken a cut from the needed amount this fiscal year to $3 billion in the House report.

This project is imperative in order to realize full utilization of surface water supplies in the States of Texas, Oklahoma, Louisiana, and Arkansas. Currently, more than 1,000 miles of streams in the river basin are severely contaminated by natural brines. Consequently, water in these streams is not suitable for municipal and most industrial and agricultural purposes.

Congress authorized construction of the entire Red River chloride project to control natural brine sources as a 100-percent Federal project in the 1960's. As part of this agreement, Texas and Oklahoma agreed to eliminate any manmade sources of salt pollution in the Red River Basin, and the Federal Government agreed to deal with naturally occurring pollution. The States have so far spent $92 million to reduce the amount of manmade salts. Federal expenditures remained at a level reached 5 years ago, until last year when $5 million was funded. I have worked tirelessly to keep this project a 100-percent federally funded project and it is essential that funding continues in order to meet the needs of this region.

The Red River is a natural resource that provides for a base of economic development and well-being for Texas as well as for the State of Louisiana. I believe an important part of keeping it a secure resource is to provide for the cleanup of the natural salt pollution.

I ask Senator JOHNSTON for his help in securing funding during conference committee for this very important project.

Mr. JOHNSTON. I commend the Senator for his interest in this project and he is correct that the Red River is an important natural resource for our region of the country. His efforts to provide usable water for economic development are important. We were faced with a difficult situation of balancing the water resource needs of the Nation in light of the severe budgetary limitations. However, I can assure the Senator that I will review this matter and see if funds can be found for this project in conference.

Mr. BENTSEN. I thank my distinguished colleague for his assurances to work in conference committee for the Red River chloride control project. His comments are very helpful and I appreciate his dedicated work.

GUADALUPE RIVER, CA

Mr. CRANSTON. Mr. President, I am pleased to note that the fiscal year 1992 Energy and Water Development appropriations bill as reported by the Senate Appropriations Committee includes $9,750,000 for the Corps of Engineers Guadalupe River project in California as requested by the President and approved by the House.

However, I am disappointed to note that the Senate committee has stricken language in the House passed bill directing the corps to proceed with construction of the Guadalupe River project in accordance with the general design memorandum of January 1991.

This project plan has been cleared by both the Sacramento district office and the South Pacific division office of the corps; it has the full support of the local community, the city of San Jose, and the Santa Clara Valley Water District; and it has received full approval by Federal environmental agencies.

It is my understanding that the corps headquarters agrees with the district and division that this GDM is a technically sound, well designed plan. But the corps headquarters is indicating that the corps does not intend to fulfill its full cost-sharing burden and instead intends to shift responsibility for environmental aspects of the project to the local community.

I believe that the Federal Government should share fully in the costs necessary to ensure that the Guadalupe River flood control project meets basic Federal environmental requirements, as the January 1991 GDM provides.

Further, I am concerned that the language in the Senate committee report on H.R. 2427 clouds the issue of whether the corps will proceed with construction of the Guadalupe River project as identified in the January 1991 GDM.

Again, this is the project that the local community supports, that has received full approval by Federal environmental agencies, and that meets all relevant criteria of the 1986 Water Resources Development Act, including cost sharing.

San Jose needs flood protection. We cannot afford a substantial delay which continues to leave 100 million dollars' worth of property at risk. It is critically important that the corps be able to proceed with construction of the Guadalupe River project with the funds provided in this bill.

Mr. President, I would like to ask the manager of the bill if he would review this situation and see if the committee could accept the House bill language in conference.

Mr. SEYMOUR. Mr. President, I also rise in support of the House language, striken by the Senate Energy Committee, directing the Corps of Engineers to proceed with construction of the Guadalupe River project in accordance with the general design memorandum of January 1991.

It is my understanding that the project plan has the strong support of the city of San Jose, CA, the Santa Clara Valley Water District, and local and national environmental organizations. Further, as stated by California's senior Senator, Senator CRANSTON, this plan has been cleared by both the Army Corps of Engineers, Sacramento district office, as well as the South Pacific division office.

Mr. President, I respectfully request that the managers of this bill review this situation and see if the committee could accept the House bill language during conference.

Mr. JOHNSTON. I appreciate knowing of the interest of both California Senators in the Guadalupe River project. I would like to assure the Senators that I will revisit the issue when we go to conference with the House.

Mr. CRANSTON. I thank the manager of the bill for that assurance.

MNI WICONI PIPELINE

Mr. DASCHLE. Mr. President, I would like to enter into a colloquy with the distinguished chairman of the Energy and Water Appropriations Subcommittee for purposes of clarification.

Once again the subcommittee recognized the importance of funding the Mni Wiconi drinking water pipeline in western South Dakota, allocating $2.45 million for the project. This is $300,000 more than was appropriated by the House. It is my understanding that this additional $300,000 is for the Bureau of Reclamation to perform a needs assessment of the Rosebud Indian Reservation. Rosebud has severe water quality problems, and has officially requested to become a part of the Mni Wiconi project, which is designed to bring drinking water to the Pine Ridge Indian Reservation and other designated areas. While adding the construction of a spur pipeline to Rosebud to the project would require an amendment to the authorizing legislation, it is important that the Bureau first make a preliminary assessment to determine whether such an amendment is warranted.

Is my understanding correct that under the Senate bill, the Bureau of Reclamation is permitted to use up to $300,000 of its fiscal year 1992 appropriation for the Mni Wiconi pipeline to perform an assessment of water conditions on the Rosebud Indian Reservation to better determine the advisability of adding the reservation to the project?

Mr. JOHNSTON. The Senator from South Dakota is correct. There appears to be a need on the reservation for clean drinking water, and the Mni Wiconi pipeline may be a cost-effective means of addressing this need. The Bureau of Reclamation should use up to $300,000 of its fiscal year 1992 funds for Mni Wiconi to look into the Rosebud situation.

Mr. DASCHLE. I thank the chairman. There is a second issue that I feel also needs clarification. As the subcommittee is aware, there are many people in South Dakota who are concerned about the flooding situation in and around Watertown, SD. The Corps of Engineers is in the midst of performing a feasibility study of flood control options in the area. While the spring flooding again points out the fact that something needs to be done, many people are concerned about possible negative impacts of the proposed Mahoney Dam project.

These people are concerned that there will not be a chance to comment on the feasibility study, and that their concerns will not be heard by the corps. I appreciate the chairman's recognition of the importance of corps submissions of the feasibility study to full public scrutiny before any preconstruction or construction work can begin. I have learned that the feasibility study should be released for public review this summer.

It is my understanding that it is the intent of the chairman and the subcommittee that there should be complete and thorough public comment into the project before any funds are expended for preconstruction and construction activities. However, if, after the public comment period, it is determined that a given alternative is justified, then fiscal year 1992 funds can be used for preconstruction activities. Is this correct?

Mr. JOHNSTON. The Senator is again correct. Like all projects of this nature, public comment is essential. Before the corps uses its appropriated funds for fiscal year 1992 for preconstruction activities, there must be an opportunity for extensive public comment on the proposal, including at least one public hearing, to make sure that the project is in the public interest. Once this requirement is met, the corps may proceed with preconstruction activities with its fiscal year 1992 appropriation, and nothing in the committee report is intended to imply otherwise.

Mr. DASCHLE. I thank the distinguished chairman for this clarification.

Mr. ADAMS. Mr. President, I wonder if we could discuss a few items that are related to the bill and are of interest to me and to the State of Washington?

Mr. JOHNSTON. I yield to the Senator.

WYNOOCHEE PROJECT

Mr. ADAMS. Mr. President, I hope the Senator will accept my most sincere thanks for his assistance on the Wynoochee title transfer provisions included in this bill. Title transfer will provide important benefits to both the Federal Government and the cities of Aberdeen and Tacoma. I would also like to confirm with the Senator that the committee is in complete agreement with the House Energy and Water Subcommittee's Wynoochee bill and report language.

Mr. JOHNSTON. The committee is in complete agreement with the House on the Wynoochee bill and report language.

ABERDEEN SOUTHSIDE DIKE PROJECT

Mr. ADAMS. Mr. President, the residents of the city of Aberdeen in my home State have recently been suffering through some of the worst flooding Washington has ever seen. In an area already distressed economically because of the downturns in the fishing and timber industries, we have a serious public safety problem stemming from potential high-velocity flooding. The problem has been recognized since the 1940's and the Corps of Engineers has been working on a flood control levee system for Aberdeen. Unfortunately, money is scarce in Aberdeen, and a referendum to approve the local contribution failed to receive the super-majority required by law, so the corps stopped work on the project. The local government has now revised the referendum and is optimistic that it will receive the required vote this coming November. I worry, though, that there is no money in the corps' fiscal year 1992 budget for starting work up again, and I am very concerned about the impact of budgetary delays on the safety of my constituents.

Mr. President, I would like to thank the chairman for hearing me out on this problem, and I would like to ask him a question. If the city's financial share of the project is approved in the November referendum, would the Senator support the corps' reinstating work on the project using the funds which were programmed away from the project after the referendum?

Mr. JOHNSTON. Mr. President, the committee recognizes the need for flood control in the Senator's area, and I agree that the project should proceed when the local share is approved. I appreciate his concerns about the delays on the project and I expect that the corps will move expeditiously to renew work once the referendum is approved.

COLUMBIA RIVER STATE PARK

Mr. ADAMS. Mr. President, the Port of Camas-Washougal in my State seeks to purchase from the Corps of Engineers for recreational development, including development of a State park, approximately 45 acres of an 82-acre parcel of corps land adjacent to the port's industrial park and the Steigerwald National Wildlife Refuge. However, there has been some question about the corps' authority to convey the property for such purposes. The House of Representatives therefore included language in the House bill to clarify the corps' authority to make this conveyance.

Mr. President, is it the committee's intent that we will review this proposed language in conference to ensure that the conveyance can proceed?

Mr. JOHNSTON. I know of the Senator's interest in this matter and I can assure him that we will review this item and give it every consideration in conference.

NEW PRODUCTION REACTOR

Mr. GORTON. I rise to engage the Senator from Louisiana in a colloquy concerning the new production reactor funding in the Energy and Water Development appropriation bill. Several constituents have expressed to me the concern that the funding cut in the light water reactor tritium target program could compromise the NEPA process for selecting the best sites and technology for new production reactor capacity. Without restoration of this funding, DOE may lack sufficient authority to fund the critical technology for the light water option even if the record-of-decision chooses the light water technology or it is carried as a contingency. Given these potential concerns, can I have the chairman's assurance that he will review this issue during the conference with the House?

Mr. JOHNSTON. Yes, I can assure the Senator from Washington that the light water reactor tritium target issue will be carefully reviewed during conference. It was never the intent of the committee to compromise the integrity of the NEPA process. In fact, the committee recommendation was developed to ensure that adequate funds will be provided to complete the environmental impact statement and record of decision process. I assure the Senator that every effort will be taken in conference to avoid prejudicing the NEPA process.

THE DEEPENING OF THE ENTRANCE CHANNEL TO WILMINGTON HARBOR AND FOR A STUDY RELATING TO OREGON INLET

Mr. SANFORD. Mr. President, I would like to engage the distinguished manager of the bill, Senator JOHNSTON, in a discussion of two critical matters affecting the citizens and economy of my State.

Mr. JOHNSTON. I would be happy to discuss these matters with the Senator from North Carolina.

Mr. SANFORD. I would like to mention the need to deepen the entrance channel to the Wilmington Harbor in southeastern North Carolina. This project was authorized and begun by the Federal Government in the 1960's but never completed to design depth. Some of today's larger vessels are unable to pass through the shallow channel safely, so Wilmington Harbor now finds itself at an extreme disadvantage as it competes with other ports along the Atlantic coast.

We in North Carolina are very proud of the recent completion of U.S. Interstate 40 to the city of Wilmington. This event has given the city, and our State's largest port, great hope for a bright economic future. However, in my discussion with North Carolina State Port Authority officials, the port at Wilmington stands to lose millions of dollars in business if the channel to Wilmington Harbor at the entrance to the Cape Fear River is not deepened. I have also received scores of letters and calls assuring me of the real threat that exists of this port losing a substantial amount of its international steamship service. Many North Carolina industries such as lumber, tobacco, furniture, and others depend upon this port for international shipping; of course, we hope to attract new clients as well.

Because port access is critical to many industries in the region, this is a very time sensitive project. Since the Federal Government has previously approved and worked on this project, I previously requested funding for the completion of this project, or for the rewarding of a contract by the Corps of Engineers. I do, however, realize the tough choices made by the subcommittee this year, and wish only to achieve the modest funding level of $1 million for project planning only, rather than the $400,000 that the subcommittee has recommended. This $1 million figure was agreed to by the relevant House appropriators.

This project represents a promise by the Government to the people of North Carolina that was never kept. I am hopeful that the conferees will give favorable consideration to my request.

Mr. JOHNSTON. I thank the Senator from North Carolina for his remarks and assure him that his request will receive full attention from the conferees. Does the distinguished Senator from North Carolina wish to discuss another matter?

Mr. SANFORD. I also wish to bring to your attention the need for an appropriation to complete the engineering design of a construction project for Manteo-Shallowbag Bay—also known as Oregon Inlet—that would keep this inlet open for the safe travel of commercial, recreational, and rescue vessels. $500,000 is needed to complete this critical study. The House has included the $500,000 in its energy and water appropriations bill, but the Senate has not. It is my hope that the Senate will agree to the House amount during conference committee discussions.

Mr. JOHNSTON. Would the Senator from North Carolina please explain the nature and purpose of this appropriations request?

Mr. SANFORD. This project was first authorized by Congress in 1970. Since that year, in excess of $7 million of the taxpayers' money has been spent in the successful completion of a model study by the Corps of Engineers, Vicksburg, MS Model Study Center, and it has been updated on a periodic basis. The engineering design is near completion. Numerous cost-benefit studies have been made—all of which are favorable. The environmental impact studies have been completed, updated, and amended.

One year ago, it was determined that the project should be subject to a joint review by the Department of the Interior and the Department of the Army. During this interim period, regular work sessions have been held between these two Departments, their subordinate agencies, the State of North Carolina, personnel representing the governor of North Carolina, and Dare County officials.

The normal procedure at this time will continue to involve the Department of the Interior and the Army Corps of Engineers and their subordinate agencies meeting regularly. With this participation, all requirements will be satisfied and the necessary permits will be issued on or before the end of 1991.

The funds requested will be sufficient to complete the engineering design of this project and move it forward to the construction phase.

We have tried for a number of years to maintain the Oregon Inlet channel by dredging. However, the current dredging effort is simply not working. Since 1960, the channel has been maintained at its recommended depth less than 25 percent of the time, and the recommended width of 400 feet has never even been approached. The inlet has been frequently closed in recent years, and it presents a serious safety hazard when open. Dozens of strandings have occurred, with several incidents resulting in the loss of vessels and the loss of lives.

The latest life-threatening situations in this inlet occurred in October of last year when a dredge brought down a significant portion of the Bonner Bridge during a period of high winds.

Also, severe erosion on the south side of Oregon Inlet is threatening both the Pea Island National Wildlife Refuge and the nearby Coast Guard station. The jetty project, with its state-of-the-art sand-bypass system, should greatly reduce this erosion.

The livelihoods of many fishermen in northeastern North Carolina depend upon their being able to safety reach our rich coastal fishing waters through this pass. Some of the world's most productive fishing grounds lie offshore from our outer banks, but these waters cannot presently be efficiently utilized. Fishermen operating offshore must frequently go far out of their way to Norfolk in order to process their catch. This situation adds greatly to our fishermen's costs, decreases the quality of their catch, and prevents the usage of North Carolina's own efficient processing facilities at Wanchese.

Unless these funds are made available for fiscal year 1992, this entire project will, of course, lie dormant for 1 year. Funding the completion of the study will represent a step forward in the effort to end the needless loss of life and vessels that has occurred in this inlet over the years. Additionally, without the funds, the loss of seafood landings—in the millions of dollars annually—will continue to adversely affect Dare County and the economy of northeastern North Carolina.

You can be certain that I do not intend to support a project that would be wasteful or that would cause severe environmental damage to our coastline. I would appreciate Senator JOHNSTON'S careful attention to this matter when the House and Senate conferees meet to discuss this bill.

Mr. JOHNSTON. I realize that this is an important project for northeastern North Carolina and I will certainly give the Senator's request close review in conference deliberations.

Mr. SANFORD. I thank the distinguished Senator from Louisiana for his indulgence in these matters, and I believe that my colleague, the senior Senator from North Carolina, wishes to be recognized for additional remarks on the Oregon Inlet funding.

MANTEO-SHALLOWBAG BAY

Mr. HELMS. Mr. President, I thank my friend from Louisiana for his efforts to protect the Manteo-Shallowbag Bay project.

Senator SANFORD and I have been deeply concerned about the future of Oregon Inlet as a safe navigable channel for commercial and recreational boating as well as for law enforcement and search and rescue operations of the U.S. Coast Guard. Equally as important is the future of the people who live in and around Dare County, NC, and who depend on the local fishing industry for their livelihoods.

Mr. President, Oregon Inlet is located along the outer banks of North Carolina. It is the only navigable inlet between Cape Henry, VA, and Ocracoke Inlet, NC—a distance of more than 150 miles. This makes Oregon Inlet a potential haven for all kinds of oceangoing vessels in bad weather. In addition, this area contains the most important warm and cold water fishery on the east coast.

The problem arises because the inlet is exposed to the most severe wave climate along the U.S. Atlantic and gulf coasts. This intense wave action results in the development of massive shoals and severe land erosion along the adjacent barrier islands. Consequently, passage through Oregon Inlet can be extremely hazardous for commercial and sports fishing craft.

When the Inlet is unnavigable, captains must take their boats to other ports—many miles away. This costs them dearly in time and money, sometimes making their catch unprofitable. Often captains take great risks in attempting to navigate the inlet. Sometimes they make it—sometimes they do not. Ten people have died in Oregon Inlet since 1969. People attempting to navigate Oregon Inlet today are reminded of the tragic losses by the remains of the *Lois Joyce*, a trawler that went down in 1982.

Mr. President, some who are opposed to this project argue that they do not want to give up any of their valuable Federal lands for the project. Yet since 1974, without any stabilization project, we have lost more than 150 acres on the northern tip of Pea Island. In addition, we have lost approximately 120 acres along the shoreline south of the inlet.

Oregon Inlet claimed its most recent victim in April 1988, when a French national attempted to sail his 50-foot sailboat through the inlet to escape heavy seas. The Coast Guard had received an earlier indication that the vessel could be in trouble as it sailed south along Nags Head. From their observation tower at Oregon Inlet, Coast Guard personnel saw the boat start to enter the inlet. They immediately launched their 44-foot rescue vessel, even before the ship capsized.

Unfortunately because of the accelerated erosion that has occurred at the Coast Guard station at the inlet, they no longer keep their rescue vessels there. They have moved them to the Oregon Inlet fishing center. Consequently, the crew had to drive 10 to 15 minutes to the fishing center, then take another 45 minutes to steam back to the inlet. By that time, it was too late to save the Frenchman's life.

The accelerated rate of erosion to Pea Island has also created a severe threat to the stability of the Herbert C. Bonner Bridge. As Senator SANFORD stated, the Bonner Bridge collapsed last year. Although quickly repaired it is still in danger.

According to the North Carolina Department of Transportation, approximately 1.5 million cars crossed the Bonner Bridge in 1989. It is a vital link to Hatteras Island. How many more lives will have to be lost—how much more land will have to be lost—how much devastation will have to occur before Congress wakes up and carries through with the project authorized many years ago?

Mr. President, this situation should have been corrected long ago. On December 31, 1970, with the passage of the Rivers and Harbors Act, Congress authorized the stabilization of Oregon Inlet via a dual jetty system and also authorized the ocean bar channel to be deepened to 20 feet by 400 feet. During the 1970's, the Army Corps of Engineers undertook the necessary engineering, environmental and economic studies of the project. Also during this time, the State of North Carolina and Dare County fulfilled their part of the project as required by Congress. They expanded the harbor at Wanchese and provided an infrastructure for a seafood industrial park there. Approximately $10 million has been invested in the park from a combination of Federal, State, and private sources.

Despite congressional authorization and the efforts on the part of North Carolina State and local governments, the refusal of the Department of Interior to grant the necessary permits has stifled further progress on this project. Unfortunately, jetties have never been built, the inlet remains unstabilized, and the hard-working fishermen of Dare County continue to risk their lives in pursuit of an honest living. As I mentioned before, 10 people have died since 1969 due to what has been one of the most ridiculous and time-consuming hassles I have ever witnessed.

During this time, the corps has attempted to maintain the inlet through intensive dredging. However, dredging has been able to keep the inlet at a depth of 14 feet less than 25 percent of the time. The corps has never been able to maintain the authorized width of 400 feet or the authorized depth of 20 feet.

Mr. President, the study which Senator SANFORD mentioned earlier is a vital part of our effort to stabilize Oregon Inlet, without it the use of a significant portion of North Carolina's coastal waters will be lost.

I thank the distinguished Senator from Louisiana for his help in ensuring that this vital commercial and recreational resource is preserved for future generations.

LEWIS CREEK CHANNEL, VA

Mr. WARNER. Mr. President, I rise to request that, as the Senate considers the fiscal year 1992 energy and water development appropriations bill, to include either here on the Senate floor or in conference, a provision of the House energy and water development appropriations bill which would provide $550,000 for the Lewis Creek Channel, VA, dredging project.

The Lewis Creek Channel project is a very important project to not only the economic prosperity of the historic town of Chincoteague, VA, but also to the safety of its residents. I visited this lovely community last August and I was totally convinced of the necessity to dredge this channel as well as the adjacent Chincoteague Inlet Inner Channel.

Only recently did the Corps of Engineers obtain all of the necessary permits for the Lewis Creek Channel dredging project and, therefore, the corps is now requesting funding for the project. If funding is appropriated for fiscal year 1992, construction can begin in October 1992.

The Chincoteague Inlet Inner Channel provides a navigable waterway for the commercial fishing vessels which operate from the town of Chincoteague, VA, and also serves the U.S. Coast Guard Station at Chincoteague, VA. The Lewis Creek Channel segment of the waterway on the coast of Virginia provides access to the Chincoteague Bay for commercial fishing vessels.

Both the Chincoteague Inlet Inner Channel and the Lewis Creek Channel have severe shoaling and need maintenance dredging. The condition of the Chincoteague Inlet Inner Channel has resulted in frequent groundings and delays for the commercial fishing vessels and has caused the Coast Guard to relocate temporarily the 85-foot patrol vessel normally based at Chincoteague.

Access to Chincoteague Bay via the Lewis Creek Channel is limited to the smallest fishing vessels and even those are limited to transit at high water, thus inhibiting commercial fishing and crabbing.

The projects have not been maintained due to the lack of a suitable placement area for the dredged material. In 1991, a plan for the one-time use of an overboard placement site in Chincoteague Bay was developed and was successfully coordinated with the Virginia Marine Resources Commission in May. Because of the approval of overboard placement by the VMRC it became possible to schedule the maintenance dredging of these projects.

The construction phase of the dredging project can move forward beginning in October 1992 if Congress provides the appropriate funding.

I strongly urge my colleagues to allocate $550,000 for the Lewis Creek dredging project.

FREEPORT FLOOD PROJECT STUDY

Mr. DIXON. Mr. President, Mr. SIMON and I today state our support of the Freeport flood project study in Freeport, IL.

The Freeport project was authorized in the 1936 Flood Control Act, deauthorized in the 1986 Water Resources Development Act, and reauthorized in the 1990 Water Resources Development Act.

The studies that have been taken in the past are outdated and another study is needed before an actual flood control program can commence. The Freeport flood project study is important to this northwestern Illinois community. Recent flooding along the Pecatonica River and Yellow Creek has made this study even more imperative to reduce flood damage in this area of our State.

The local Corps of Engineers, the Rock Island District, has indicated this as a priority and has an approved study capability for fiscal year 1992 for $350,000 to initiate a general reevaluation report.

This program is well supported by the local officials in Freeport, as the flooding causes problems not only for homeowners but for the economic well-being of the community.

Our concern, Mr. President, is to provide adequate flood protection and prevention to the constituents in our State. Therefore, we ask our friend and colleague from Louisiana for his full consideration of this important program in directing the Corps of Engineers to provide within available funds for the Freeport flood project study.

Mr. JOHNSTON. I recognize the concerns of my Illinois friends and agree that the Freeport flood project study is important to an effective flood control plan in this Illinois community. I do, indeed, recommend that the Corps of Engineers provide, within available funds, for the project.

Mr. SIMON. Senator DIXON and I thank our friend from Louisiana for his recognition of this important program. As my Illinois colleague mentioned, this project, which would allow the Army Corps of Engineers to begin work on a flood control program in Freeport, IL, is vital to the economic health of the community.

Again, Mr. President, we appreciate the Senate's support.

BIOFUELS ENERGY SYSTEMS

Mr. SEYMOUR. Mr. President, I wonder if the distinguished floor manager of the bill would yield for a few questions?

Mr. JOHNSTON. I would be happy to yield to my colleague from California.

Mr. SEYMOUR. I thank the Senator. I have some questions about the Biofuels energy systems provisions detailed on pages 76 and 91 of the committee's report. I note that the committee recommends $36,800,000 for biofuels, which is the same level as the President's budget request, but $2,500,000 less than the House allowance.

Mr. JOHNSTON. The Senator's information is correct. Our committee's recommendation is the same as the budget request, but $3,673,000 above the level included for biofuels in the 1991 bill.

Mr. SEYMOUR. If the Senator would yield further, I see that the committee recommendation includes $6 million for the Short Rotation Woody Crops Program, which is $4 million more than the request; $4,500,000 for the Regional Biofuels Program, or $2,500,000 more than the request; and $1 million for the Hawaii Biofuels Program, whereas the request included no funds for this work. Is my understanding correct?

Mr. JOHNSTON. Yes; the Senator from California has correctly characterized our actions.

Mr. SEYMOUR. My final question, Mr. President, has to do with how the committee's actions will affect the Department of Energy's ability to fund promising new research and development that was neither contemplated in the President's request or mentioned in the House or Senate committee reports.

Specifically, I wonder what the effects will be on the proposal to scale-up the California biofuels process developed jointly by the University of California's Forest Products Laboratory and a private California-based company?

Mr. JOHNSTON. I would say to the Senator that the committee is very much aware of the progress which has been made to move the California system—which uses a weak nitric acid hydrolysis process—into the commercial marketplace.

We are also aware that the Department's Biofuels Program managers have tentatively concluded that the California process may dovetail very well with the enzyme process now in the early stages of development at the Solar Energy Research Institute.

I understand, further, that the proposed Federal share of the scaleup work alluded to by the Senator is estimated to cost approximately $700,000 in fiscal year 1992 and $1,500,000 in fiscal year 1993. With respect to the 1992 funding situation, I believe there should be sufficient funds available for DOE to start the scaleup work if they so desire.

The Biofuels Program has received substantial funding increases in the last 2 fiscal years, and the level contemplated in this bill should give the Energy Department a lot of latitude to fund promising new research and development needs.

Mr. SEYMOUR. I thank the distinguished floor manager for his assurances. The California biomass-to-ethanol conversion process is at an important juncture. Federal support for the scaleup work would accelerate its commercial deployment. That, in turn, will help lessen America's air pollution and solid waste disposal problems.

Mr. President, I thank the Senator for yielding.

ELECTROMAGNETIC FIELDS

Mr. COCHRAN. Mr. President, I would like to ask the manager of the bill, the chairman of the subcommittee, Senator JOHNSTON, if he would clarify a provision of the bill concerning electric and magnetic fields research, or EMF.

I understand there are funds in the bill now before us to continue research on the potential health effects of EMF. Some concerns have been brought to my attention regarding how this research will be carried out. The primary issue I have heard is that this federally funded research should draw not only on existing knowledge but should also identify new areas of sophisticated research opportunities that produce credible, reliable, and original data and results.

Scientific research surrounding electric and magnetic fields is an evolving and challenging responsibility for the scientific community and will have important environmental and economic implications over the next decade.

It is the chairman's intent that the EMF research funded in this bill be performed by credible, independent agencies—both public and private—and that it be coordinated with ongoing federally and privately funded EMF research?

Mr. JOHNSTON. The Senator is correct. It is the committee's intent that the Department of Energy will coordinate ongoing and future Federal and private programs to ensure that the maximum benefits are derived from all research efforts where duplication is minimized. Further, to ensure that any electric and magnetic field research is both reliable and credible, DOE is to seek out and support financially independent research institutions with proven records for conducting high quality research on health-related issues.

Mr. COCHRAN. I thank the Senator for that clarification.

ARTIFICIALLY IRRIGATED WETLANDS

Mr. WALLOP. I would like to ask my friend from Rhode Island a question about an issue which has great impact on western water as it deals with artificially irrigated wetlands under section 404 of the Clean Water Act.

In spite of agency rules which clarify that the term "water of the United States" does not include "artificially irrigated areas which would revert to upland if the irrigation ceased," there seems to be some questions on this when it comes to enforcement in the field.

I would like to ask the Senator, first of all, if it is his understanding that artificially irrigated wetlands which would revert to upland if the irrigation ceased are not jurisdictional wetlands. And that this is so even if the irrigation does not, in fact, cease.

Mr. CHAFEE. Yes; my understanding of the regulation is that the artificially irrigated areas described by the Senator from Wyoming are generally not considered jurisdictional wetlands.

Mr. WALLOP. It was my original intention to offer an amendment to this bill, but if the Senator will assure me that he will work on this when the Committee on Environment and Public

Works considers the Clean Water Act, then I will wait to work with him at that time.

Mr. CHAFEE. I can assure the Senator from Wyoming that we will work on this issue when we consider the Clean Water Act.

NEW PRODUCTION REACTOR PROGRAM

Mr. SYMMS. Mr. President, I rise today to bring to the Senate's attention a provision in this energy and water appropriations bill that is of critical importance to national security. I am referring to the cut proposed in the Department of Energy's New Production Reactor Program.

In this bill, H.R. 2427, the Senate Appropriations Committee not only dropped the $36 million addition placed in this program by the House of Representatives but also cut the Bush administration's request by another $17 million. The Bush budget called for $500 million for the NPR Program in 1992. Because the House of Representatives saw a need to accelerate the procurement schedule for the NPR, they increased this budget to a level of $536 million. The Senate Appropriations Committee has only provided $483 million.

The committee's level of funding will not only abandon the urgent schedule of funding for NPR but also cuts the research work for light water reactor tritium production.

These are disturbing cuts. Of all the programs and projects that we are paying for in this bill, the most important ones are the ones related to maintaining our national security and our nuclear deterrent. I would urge the members of the Senate Appropriations Committee to carefully consider the impact on our nuclear deterrent by reducing the funding for this program as this bill is considered in the conference committee.

For example, we have already invested over $80 million in light water reactor research and now is not the time to abandon this program. Congress imposed the LWR research on DOE as a contingency to the modular high-temperature gas-cooled reactor and the heavy water reactor options. In response the Pacific Northwest Laboratory and the Idaho National Engineering Laboratory are working together on this research. The goal of this research program is simply to find out if light water reactors can be modified for the production of tritium and plutonium for nuclear weapons. If they can be, the technology will be put on the shelf and would only be used in the most dire national emergency.

Because these cuts only affect a contingency program and the schedule for deployment of whichever reactor is selected, the NPR Program is by no means killed by H.R. 2427. Yet, I would urge my colleagues appointed to the conference committee on this bill to recognize the importance of this program.

It also is apparent that a much higher dollar amount will be authorized in the Department of Defense bill to be considered by the Senate later this month. This tells me that there ought to be room to negotiate on the appropriations bill. I would much prefer a final bill that is much closer to the House of Representatives or administration level of funding.

I thank the managers of the bill for consideration of my views on this matter, and I want to join my colleague from Idaho, Senator CRAIG, in praising the managers for the cooperation they have shown us on this bill. The ongoing activities of the Federal agencies funded in this bill are very important to Idaho and other Pacific Northwest States.

Mr. JOHNSTON. Mr. President, we understand Senator BUMPERS is on the way. So all interested in the superconducting super collider should report to the floor without further delay.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 686

(Purpose: To prohibit the use of funds for the superconducting super collider)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 686.
>
> On page 49, strike line 6 and insert "$998,789,000, except that none of the funds appropriated in this Act may be used for the superconducting super collider.".

Mr. BUMPERS. Mr. President, normally when I offer an amendment, I try to offer an amendment that I have very strong feelings about from an emotional standpoint, or something that I think is great public policy or bad public policy.

My presentation on this is going to be purely clinical. I am not a scientist, and I am certainly not a physicist. So I cannot make all those arguments that the scientific community could make, but very few Senators would understand anyway.

It is with considerable reluctance that I even offer this amendment, because I know so many Senators, and especially my very good and dear friends who are seated on the floor right now, Senator JOHNSTON from Louisiana and Senator BENTSEN from Texas, whose States stand to benefit very handsomely from the superconducting super collider.

I would be less than candid if I did not say if they were building this in my State of Arkansas, I would be seated where they are seated and making precisely the same argument they will make in opposition to my amendment to kill the superconducting super collider.

There are 1,200 people involved in this project already in the State of Texas, and I am not sure what Louisiana's interest is; as I understand it, the magnets are going to be made there, but I know it is a big deal for Louisiana, too.

Having said that, Mr. President, I might also point out for those who want to look at this as a parochial matter, that there are three States: Illinois, New York, and California, two of which will almost certainly lose their accelerator laboratories because we cannot finance the superconducting super collider and still finance the Fermi Lab in Illinois, the Brookhaven National Laboratory in New York, and the Stanford linear accelerator in California.

We are prepared to have a $270 billion deficit this year, and the money involved in my amendment is peanuts compared to the magnitude of the deficit. But at the same time, not only are those States going to lose their laboratories because the superconducting super collider is going to slurp up at least 76 percent of all the particle accelerator research in this country, but there are going to be an awful lot of scientists in what we call small science that are simply not going to be funded.

And as a total aside, the National Institutes of Health is one of the things that I watch very carefully. I sit as ranking member on the Appropriations subcommittee that funds NIH, and every year the National Institutes of Health comes in and tell us that they can only fund 25 to 27 percent of all the good applications for medical research that they receive. It has been less than 20 years since NIH funded 60 percent of all the good applications for grants for medical research that they received.

I might just start off by saying that 30 percent of all the scientists in this country are involved in defense-making weapons. In Japan, the figure is 2 percent. In Germany, the figure is 3 percent. When it comes to the cost of the superconducting super collider, what you are going to get out of it for the money is one argument; what you are going to lose in the way of small science projects is probably as compelling an argument as any. There just simply is going to be a very short supply of money to fund small science if we go forward with this superconducting super collider.

The distinguished floor manager of this bill is the chairman of the Energy

Committee, and I sit at his right hand as the ranking member on that committee. And I have sat with him through hearings on this since 1988. The first time I ever heard of it was in 1988, and it was President Reagan who wanted this project funded.

For the laymen in this audience who have never paid very much attention to this matter, the superconducting super collider is being designed in a 55-mile oval underground track, so to speak. And presumably, atomic particles will be fired around that track and smashed somehow or other. After we spend whatever it is going to take—Lord only knows—we possibly will discover the origin of matter, a highly desirable scientific fact that scientists have always been curious about.

I am not curious about it because I am a lawyer, a politician. And I want to make this point crystal clear. It would be nice to know the origin of matter. It would also be nice to have a balanced budget. It would be nice to know what is on Mars. It would be nice to be able to put the space station in space. All of these things would be nice. And this would be nice to know.

There is a laboratory being built in Switzerland right now that is only about 30 kilometers long, but that obviously is not long enough for our scientific community. We want ours to be, I forget how many kilometers, but it is 55 miles. It is only fitting that it go to Texas since it is going to be so much bigger than the one in Switzerland, and I do not mean that to castigate the great State of Texas.

But as I mentioned a moment ago, Mr. President, when this first came to my attention in the Energy Committee, in 1988, we were told categorically that the cost of this project would be $4 billion. Now, I had serious reservations about it when it was $4 billion. It could have been up to $5 billion, but it was somewhere between $4 and $5 billion. And now 3 short years later, even the Department of Energy says the cost will be $8.2 billion, about a 100-percent increase in 3 years. And even an internal group of auditors in the Department of Energy say that the total project cost in today's dollars is probably going to be between $11 billion and $12 billion. So what you have is almost a 300-percent increse in the cost in 3 years. I leave it to your imagination as to what the ultimate cost will be if it is, in fact, completed in the year 1999 as presently scheduled.

Now, what we have here in the making is the B-2 bomber for the scientific community.

Mr. President, we are told that we must honor our commitment, that foreigners are going to invest in this. It is now said that we are trying to entice the Soviets into participating in this. Well, the Soviets cannot buy beans to feed their own people. So they are not a very likely prospect for participating in the cost of constructing the SSC.

They say India and Korea are interested, and somebody has said Japan may make a sizable contribution toward the $1.7 billion for an investment that we are asking for. Of the $1.7 billion that we hope to get from foreigners, would you like to take a guess as to how much has been committed, or pledged, as we Methodists say? $50 million pledged from India. So far, that is the total commitment of all these foreign partners that everybody says we are going to offend if we do not go forward with this project.

Japan has never uttered one word about participating in the project. Somebody who favored the project said, well, we think Japan will help us, and everybody said, well, Japan is rich; if they say they will help, you can just put that money in the bank. Well, Japan has never said that. Japan has never showed the slightest interest in this project.

Mr. President, the State of Texas, who, to their credit, is trying to make a monumental effort to come up with the purchase of the land and an additional $875 million, the project coordinator of Texas, who was in charge of raising this money, resigned last week and said this project is not going to be funded and essentially said, I do not want to be a part of it.

So here we have a project that we know right now in today's dollars is going to cost well over $8 billion and when you add the other items that are not considered a part of the project costs but do represent a part of the total project costs, you are looking at $11.8 billion, a 300-percent increase in 3 years.

Mr. President, do you know why I know I am not going to get very many votes on my amendment? I will tell you why. Because the Energy Department has very thoughtfully contracted a piece of the superconducting super collider in 43 States: shades of the Pentagon, shades of the B-1, which I think covered all 50 States. That was about the best the Pentagon has ever been able to do. They got all 50 States involved in building the B-1 bomber. But I can tell you that lesson was not lost on the Energy Department when they contracted the superconducting super collider out to 43 States.

Mr. President, I also sit on another appropriations subcommittee. I found out this morning—— I should have known it, but when you get involved with something you know you have to go through with, you start checking on things you were mildly curious about but that you have to know, and I know if I were successful in eliminating the $500 million plus dollars for the superconducting super collider in 1992, I cannot move that money to any other subcommittee. It has to stay under the 602(b) allocation, it has to stay in the Energy and Water Subcommittee. Now, it will effectively reduce the deficit by $500 million but, good Lord, who is going to get excited about a $½ billion deficit reduction when we are looking at a $270 billion deficit?

Do you want to know something interesting, just as an aside? Do you remember when the people in this country said enough is enough, Jimmy Carter, we do not want to see you any more; we want somebody that can balance that budget? This year, 1991, the budget deficit was $175 billion for the first 8 months, headed for $270 billion. But the point I want to make is, in the 8 months of this year, which includes April, when we had a $35 billion surplus when everybody paid their income tax, $175 billion for the first 8 months, and the cumulative budget deficit total in 4 years under Jimmy Carter was $159 billion.

That is all you could hear in 1980. Why do you not cut that spending? Why do you not balance the budget? Jimmy Carter, go back to Plains, and President Reagan saying on national television, and I remember it well when he looked into the camera and said, "Jimmy Carter, if you cannot balance the budget, scoot over and let me in because I can." It sounded pretty impressive to me, too.

Today, we exceed in the first 8 months of 1991 the total cumulative budgets for all of Jimmy Carter's 4 years in office.

My people are always saying, why do you not cut a lot of spending? When I run in 1992, or when I go home next weekend to make a speech, I am going to say, I got your message. I am going to vote to cut, and I am picking out the projects that may be meritorious but they are not urgent, they are not nearly as promising on the scientific side as the devastating being wreaked on this Nation by profligate deficit spending. We can take the superconducting super collider, the space station, the B-2 bomber and SDI, and even leave $1 billion in SDI, which I have always been willing to do, and you go home and tell the folks, "Folks, I did it; I voted to cut between $12 billion and $15 billion in spending just in these four projects."

As I started to say in the beginning, I am just making the argument and people will come in here and most will vote no on my amendment—I understand that; I know how this place operates—but let me tell my colleagues, before you vote no, I want you to think about a few things. If I should happen to prevail on this, we have to go to conference with the House and there will be some kind of compromise figure worked out between the House and the Senate to possibly keep this thing alive but not quite on the accelerated pace right now until technically and scientifically we know that we can do it and that the cost is not going to be quite as staggering as it looks now.

But I have always sort of led the Senate fight, along with my good friend from Pennsylvania, who is seated here, on childhood immunization. I am absolutely convinced, as seemingly was President Bush, that we must have an $80 million increase in childhood immunization if we intend to stop the measles outbreak in the country, 27,600 cases last year, which killed 89 children. That is not very many children, unless one of them is yours. Then it is a lot.

I went over to the White House in the Rose Garden the other morning and President Bush made a beautiful speech about what we are going to do about childhood immunizations. He said I have asked for a $40 million increase. He has, and I applaud him for it. He deserves credit for it. But that will not get the job done. It is going to require $80 million. Senator HARKIN, who is chairman of the subcommittee that deals with this, says I do not know where we are going to find the money. We do not have it in my subcommittee. We simply cannot find the other $40 million.

It is always just a question of priorities, is it not? Where do you want to spend your money? Do you want to spend it to save children? Or do you want to go forward with this project, the cost of which cannot even reasonably be anticipated at this point? Even the top corporate researchers in this country, of their five preferred scientific projects in this country, the SSC comes in dead last.

Back to immunizations, move on to the WIC program to help poor, pregnant women and poor infants get a decent diet. There is one thing that scientists do know already without spending $11.8 billion to find out, and that is, if you do not give a pregnant woman enough protein while she is carrying a child, that child is going to be defective because protein and other nutrients are essential for the proper development of the brain cells of that child. And if you do not give that baby once it is born a decent protein diet, he or she is not going to develop, and then you can pick up a million buck tab or a $2 million tab to institutionalize that child forever.

We have enough money in this budget to cover about one-half of the women in this country who are eligible for the Women, Infants, and Children Program. Why? Because things like this slurp up all the money.

Where do we think the crime in this country is coming from? It is not coming from people with college degrees. Look at the statistics. Drug use is dropping precipitously among college graduates. It is not coming from people who make over $40,000 or $50,000 a year. The statistics show otherwise. Why, it is coming from those children of those pregnant women who do not get a decent diet, who are living in the inner cities, who do not have any hope of ever getting a piece of the rock.

You ask any police chief in the country where is the crime rate coming from. It is true, 80 some percent of it is drug related, but that does not take away from the fact that people are selling drugs because a 14-year-old child can come home to a mother and say, "Mother, here is $1,000 I made last night. Go to the grocery store, get the lights turned on, pay the rent."

You could not get enough interest in this body on these issues to fill a thimble. They go right to the heart, right to the fabric of the future of this Republic. But you put out contracts in 43 States and you can get all the attention you need. Even DOE says that they are not likely to get this one-third contribution from foreign interests. I will wait for the Senators from Texas to tell me about this fellow resigning down there where Texas is on coming up with its commitment.

Mr. President, DOE put out a statement on where Western Europe is on the superconducting super collider. I will tell you where they are, and I will tell you why they are not participating in our superconducting super collider because they are committed to the one in Switzerland, the CERN project. The Germans, the Italians, the British, the French, every one of them are committed to the Swiss project. They are way ahead of us.

I will tell you what very well may happen. About the time we finish our project, this consortium in Switzerland will have the answer. Now, would that not be a hoot after we spend Lord only knows how much money.

If this thing keeps going up $4 billion a year, by 1999, you can get a cost of about $50 billion out of this thing. Would it not be beautiful if we wound up spending $50 billion on this project, and the folks in Switzerland say, "Tough, we've already got the answer. We know the origin of matter." And that is not said facetiously. That is a very distinct possibility.

Mr. President, when it comes to embellishing things, I have been known to tell a story. I think Senator BENTSEN told me not to tell this story in Texas because he has already told it all over Texas. The story is about the talking horse.

This guy's car broke down, and he heard somebody say, "Could I help you?" And the only thing he could see was this horse standing by the fence.

He said, "Did you just say something to me?"

And the horse said, "Yeah, I asked you if I could help you."

He said, "My gosh, are you a talking horse?"

He said, "I am and that ain't all. I won the Kentucky Derby 5 years ago."

He says, "You did?"

He said, "Yeah, I'm quite a horse."

About that time the farmer showed up. He asked the farmer, he says, "Is this your horse?"

He said, "Yes, he's mine."

He said, "Would you sell him?"

He said, "Yeah, I will sell him."

He said, "What would you take for him?"

He said, "Well, a check for $50."

He said, "$50? Why I would be tickled to death to pay you $50 for that horse, but that horse is worth a fortune."

And the old farmer says, "Has he been giving you that junk about winning the Kentucky Derby?"

You read page 120 of this report and you will find that the superconducting super collider cures cancer, earaches, and gives you an appetite if you are not hungry.

I will read it to you. How many times have I heard this argument on the space station. You can take the language out of the space station report and put it on the super collider. As soon as my amendment is defeated, they will take this language out of this report and transfer it over to the space station argument. I do not know how we get all this science out of all these projects but I want you to listen to what is going to happen if we go forward with this superconducting super collider.

> Industry will gain in providing the magnets and it will assist in expanding the commercial use of superconducting magnets in such areas as magnetic levitation—

Whatever that is—

> efficient electrical energy generation and storage and lifesaving medical diagnostics, using magnetic resonance energy and related technology. Superconductivity has been determined by the Departments of Commerce and Defense as being critical generic technology for the Nation.

Now, is it not interesting that we are going to learn about magnetic resonance imaging when magnetic resonance imaging has been on the market since 1982 and the follow-on to it is in the process of being developed right now and will probably be marketed before the end of this year—a follow-on to the original magnetic resonance imaging that doctors use for diagnostic purposes. The follow-on will be available probably later this year, and yet here you find this old talking horse in this report boasting about winning the Kentucky Derby.

Mr. President, one of the questions that I would like for my opponents on this to answer in their rebuttal to my arguments is this. Much is made of the foreign community picking up $1.75 billion of the tab for the SSC. I have already made the argument so I will not belabor it and make it again, but that is not going to happen. As I say, so far you have a $50 million pledge. All of you who have run for office know how you count those pledges of contributions to your campaign. You count them when they are received and deposited.

But I want to ask the opponents this question. The cost of this project has gone from between $4 billion and $5 billion to roughly $11.2 billion in 3 years, yet the $1.75 billion that our foreign friends are supposed to contribute has remained at $1.75 billion.

In the first hearing we had on this they said, well, look it is only a little over $4 billion. Texas is going to put up $1 billion; a foreign counterpart is going to put up $1.75 billion, and if you ever saw a bargain, here it is. But instead of a Federal cost of $2 billion, we are now up to a Federal cost—assuming everything goes smoothly—of about $9 billion. My question is, If it goes to $40 billion between now and 1999, does the foreign contribution go up or is that just something we talk about to try to get a few votes?

A House committee held a hearing on this—and this is a little bit technical, but I am going to read it. It is a letter to TOM BEVILL. TOM is chairman of the Subcommittee on Energy and Water Development, Committee on Appropriations, this subcommittee's counterpart over in the House and the people who held the hearing on the SSC. They wrote to him and item 6 says:

> While some have doubted that foreign contributions would ever come in to offset the SSC's project cost, few have challenged DOE's promise that significant foreign contributions would come in support of the construction of the SSC's two large detectors. However, one of the two detector collaborations, that associated with the L* detector group, led by Nobel Prize winning physicist Sam Ting of MIT, has fallen apart. The Swiss and German teams withdrew from the L* in March and April in the face of detector management changes demanded by the SSC Lab.
>
> Regardless of who is right and who is wrong in the situation, the result has been a perception among the Europeans and Soviet participants in the L* that there was an effort afoot by the SSC Lab to replace the international management of L* with American physicists. The perception revealed in letters that have gone to DOE from European and Soviet physicists has cost former L* participants to be reluctant to engage in further cooperation with the SSC Lab or DOE.
>
> As a consequence and because of the length of time it takes to establish a consortium and settle on a detector design, it seems likely that the SSC will only have one large detector on line when the SSC accelerator is commissioned in 1999. This raises serious questions about whether the SSC will be able to deliver the fully range of science that has been promised to Congress and the American taxpayers.

Mr. President, I will close with this. When you ask DOE why the cost has escalated, the answer is because we changed the design. Shades of the B-2 bomber. It started out with a penetrating mission.

Then they said, no, it is not just to penetrate the Soviet Union, it is to find noble targets. And when that was shot down twice, they said that is not a good mission for the B-2 bomber. So they came up with another one. We are now on the fourth or fifth rationale for building the B-2 bomber.

When GAO says Brilliant Pebbles is a myth, we proceed headlong as though nobody ever said anything. And here you have scientific evidence from the scientific community that this thing is highly questionable and you know already that the cost is going out the window.

So I plead with my colleagues to vote for this and be able to go back home and tell your constituents you have not forgotten about the deficit, you have not forgotten that is why they sent you here to cut some spending that was not necessary and change your priorities to things which go to the fabric of this great Nation.

I yield the floor, Mr. President.

Mr. JOHNSTON. Mr. President, the Bible says that in the beginning God created the Heaven and Earth. The Bible did not say how He did it. It did not say what we were made of or what the Earth was made of.

It just said that in the beginning God created the Heaven and the Earth. Ever since that time, the history of science, the history of all the recorded inquiries of man have centered largely on trying to determine who we are, what we are made of, how we are composed, what the forces that guide the universe are. That is at the heart of what the superconducting super collider wants to do.

STAFF FLOOR PRIVILEGE

Mr. BUMPERS. Mr. President, I ask unanimous consent that Carol O'Connell of my staff be permitted on the floor during the debate on this issue.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, not long ago I was in Louisiana conducting a town meeting talking about the superconducting super collider. After I explained it, one old boy in the back of the room got up and said, "Senator, all I know is I started from dust and I will end up dust. That is all I know and all I care to know." He did not quite put it this way, but he said, in effect, you can take that superconducting super collider and cram it.

There are some people who feel that way, Mr. President. They do not know, they do not want to know, they have no curiosity about who they are, about what the universe is made up of and, moreover, they think it is valueless of mankind to have that kind of inquiry.

Mr. President, it has been basic with mankind to try to determine what we were made of and what we are. At the time of Aristotle it was thought that all matter was composed of four elements: fire, air, land, and water. It was not until the 18th century that they really discovered chemicals.

Probably, the real beginning of the age of enlightenment, Mr. President, began in 1608 when an optician from the Netherlands discovered by chance the telescope. He had two lenses and he happened to put the two together and found that they would magnify. The Government of the Netherlands at that time wanted to restrict that invention because they immediately recognized the military value of it. Nevertheless, history teaches that invention was widely distributed; that Galileo in fact came into possession of one of those telescopes; and that it opened up a whole new vista.

We originally thought the world was flat and that the stars all revolved around the Earth. Galileo, much to his argument later with the church at that time—this was still part of the Dark Ages. His teachings were greatly discouraged. But the rest is history. We know how that information about the heavens gathered through telescopes was also used to look inwards through microscopes, using the obverse of the telescope. So we began to find out that which was small and that which was large.

In 1911 a scientist called Geiger, best known for the Geiger counter, made one of the most incredible discoveries that—really by chance—that all of mankind has ever discovered. He discovered the nature of the atom. From that, bit by bit and piece by piece, we found that all the world was not composed of fire, air, land, and water or, in the next generation, that it was not just composed of chemicals or, in the next generation, that it was not just composed of atoms but that the atoms themselves, as we found out later, were composed of still smaller elements: protons, neutrons, electrons.

We thought for many years that those were the smallest elements of matter, protons, neutrons, and electrons, which in turn made up the atom and the atoms made up molecules and molecules made up chemicals, and that is what controlled all the Earth. But then, Mr. President, we began to make accelerators, and we discovered nuclear physics and high energy physics.

Ever schoolboy knows that Professor Einstein came up with the theory of relativity. We see it everywhere, $E-mc^2$ which means that in effect energy is matter and matter is energy, and the two are translated into one another by this formula which says energy equals mass times the speed of light squared.

Using the teachings of Professor Einstein and many other professors, they were able actually to take that formula and translate it into nuclear energy, into nuclear bombs, and indeed that vast energy that is locked up within the atom has been both a curse and a great boon to mankind. It came initially because of findings with accelerators. What is an accelerator and why is it important?

Mr. President, an accelerator, in technical terms—they take hydrogen atoms, take over the electron, which leaves a proton, and they accelerate those through the use of magnets and electrical energy around the 54-mile racetrack. They have collisions between those two protons going at a force of 20 trillion electron volts apiece or a total of 40 trillion electron volts, and the collision of those two bits of matter can be in effect photographed in a very technical way. They can measure both the particles that result from that collision, and the energy level of those particles.

That is technically what the superconducting super collider is. And all accelerators are a version of that.

The difference here is that this one is many orders of magnitude larger than those others. The one at CERN, which Senator BUMPERS says is 7 miles around, is not good enough for America. We need 54 miles around.

Well, it so happens that you cannot do it within the case of CERN. For a collision at 14 trillion electron volts, you need, our scientists believe, a collision with an energy level of 40 trillion electron volts.

I will get into that in a moment.

But in effect an accelerator is a microscope which looks into the smallest bits of matter.

Senator BUMPERS says that, well, it would be nice to know about this, to know about the elements of matter, about the origins of our beginning. But he suggests in using the words "nice to know" that it is simply an item of curiosity, a matter that is not central to science, a matter that is not central to our being, and a matter that is not central to the whole future of technology, and indeed the future of scientific endeavor in the world.

I submit, Mr. President, that which we seek to discover with the superconducting super collider is the most profoundly important scientific endeavor in the world today because it will tell us what the whole thing is composed of; what is the state of knowledge today; what do we hope to find out from the superconducting super collider, and why is that important? Using accelerators from the past, we found that the atom—that is all matter—is not composed just of protons, neutrons, and electrons, but in turn, those protons and neutrons are composed of smaller bits of matter called quarks, and there are, in fact, three sets of squarks that make up protons and neutrons—at least three that have been discovered so far.

In turn, there are other particles of matter called electrons and neutrinos, which are much smaller, and which apparently do not have any mass. The theory is—and they can demonstrate that theory in some cases; it is only theory in other cases—that those small particles are what makes up the universe.

The problem is, Mr. President—two problems—in what we do not know. We do not know what all of those particles are. Some of them are only theoretical particles, because we have not been able to find them yet. The so-called Higgs Boson is the scientific particle that is most sought after. It is only theoretical now, because it has never been found.

We also do not know what, but there are still smaller particles that make up quarks and leptons. More importantly, perhaps, Mr. President, the four fundamental forces of nature have never been rationalized or proved.

Mr. President, those four fundamental forces of nature are the electromagnetic force, the so-called weak force, the strong force, and gravitation. It is thought that these four forces are related and that it can be demonstrated mathematically how the four forces relate.

Electromagnetism is important to us. It simply controls everything we do: All electronics, light, radio, telecommunications, electricity, the whole thing is controlled by the electromagnetic force. It, in turn, transmits its force by the photon. Most people have heard of the photon. Sometimes it acts like a particle, sometimes like a wave. But the electromagnetic force is fairly well understood.

The strong force also reacts in the area of the atom, across much smaller distances than the electromagnetic force. But its force is transmitted by what is called a "gluon," and that in turn acts like a particle sometimes, and sometimes like a wave. They have been able to demonstrate that the strong force and the electromagnetic force are similar.

The weak force is that which is transmitted in the decay of atoms, and it is noted by gamma rays and other radioactivity. It, in turn, has its own particle, which also acts sometimes like a particle and sometimes like a wave.

The fourth is gravitation, which is thought theoretically to have a particle called a graviton, which has never been proved and never been determined. But those four forces, which are fundamental to nature, are not fully understood by science.

So, in effect, Mr. President, we have that energy equals mass, and mass equals energy. We have some unknown particles and some unknown forces that react in ways that are not completely understood.

Why do you need 20 trillion electron volts; why do you need 54 miles? You need 54 miles in order to get the 20 trillion electron volts. The 20 trillion electron volts are doubled because the two particles collide with one another at a force of 40 trillion electron volts. You need that much power, because these forces do not react as they are supposed to, except at very high energy levels.

Our scientists say that you cannot prove the strong and weak force mathematically, except with these very strong forces. You cannot discover the Higgs Boson, this unknown particle, if it exists, unless you have these very high energy forces.

So, Mr. President, it is not simply a matter of curiosity; it is not simply a matter that is nice to know. It is fundamental to science. Is it important to know. What do we find when we find the Higgs Boson. What do we do when we make a mathematical model that tells us how electromagnetism relates to the strong force—that is, the power of the atom—which in turn relates to the power of radioactivity, which in turn relates to the power of gravity?

Mr. President, we do not know fully the significance of this. We can look back at what we have discovered and what it has meant, what accelerators have brought us in the past: CAT scanning; PET scanning; MRI, magnetic resonance imaging. And yes, I say to Senator BUMPERS, we have already discovered magnetic resonance imaging. But the scientists believe that a whole new generation of MRI comes from the discoveries to be made with the new magnets.

There is also coronary angiography, x-ray imaging of the arteries of the heart. I could go on and on with medical science that has come from high-energy physics.

We have environmental applications which are incredible. We have things like radar systems for defense purposes, for air traffic control. We have a tremendous number of other applications, such as inspection of steel pipes, curing of coatings for adhesives, surveying of rock formations.

The list goes on and on. What we think we will find, the scientists believe, with superconductivity is better electric generators, low-loss electric power transmission systems, magneticly propelled ships, torpedo launchers, high-speed levitated trains.

Senator BUMPERS spoke of the high-speed levitated train as if that was not important. Mr. President, there has already been a working model of a levitated train made in Japan. In effect, what it does is it allows the train to ride not on the tracks but on a magnetic field. When I took my last train ride and tried to put my head back to go to sleep, the train was going back and forth, rocking with the tracks, and you could not sleep. On a levitated train, you ride on a magnetic field which is smoother than glass because it is on the magnetic field.

The technology of these superconducting magnets are what we need in order to be able to build the high-speed train, magnetic energy storage systems, fuel conservation. We believe that through superconducting we can put a current in a coil in the ground, superconducting, and that the electric energy will stay there without loss almost forever so that you can store the electric energy better than you could in any known battery, a highly important thing for the generation and conduct of electricity. Now we have these peaks and valleys in the generation of electricity and you cannot store energy. You have to build this peaking power for electric generation so that at 5 p.m. when the weather is hot you have to have this tremendous capacity, but you cannot use that at night and you cannot store it. It is thought that through this we will be able to do that.

I could go on and on: pulse power, computing, medical applications. Suffice it to say, Mr. President, that most of science today is directly related to the four fundamental forces of nature, to the elements that make it up, and that the frontiers of technology are in this field to be discovered by the superconducting super collider. We know much, but there is so much more to know because we cannot prove what is called the standard model that relates it all to one another.

The breakthroughs to be made from the knowledge gained from the superconducting super collider could be as fundamental to science as that which Professor Geiger made back in 1911 when he first discovered that the atom had a nucleus. Does anybody care about that? You bet they do, Mr. President. You bet they do, because it is fundamental to all science, it is fundamental to our defense systems, it is fundamental to telecommunications, to radio, to everything, and to say that we do not care or that it would simply be nice to know what the standard model is, what the four fundamental forces of nature are, is to understate the importance of this in such a profound way that, Mr. President, I submit that it is like those who thought the Earth was flat and did not care to know otherwise and it is like those medieval church people who would burn people at the stake. They almost burned Galileo at the stake because he was looking up in the heavens and saying that the stars did not twirl around the Earth, that the Earth was not the center of the universe. Mr. President, it is fundamental knowledge.

Let me answer quickly the question given by the Senator from Arkansas, which was about the foreign community and whether their money will materialize.

Mr. President, our committee has examined that on two occasions, and we put in our report as follows:

> It continues to be the consensus of the committee that construction of the SSC should not be dependent on the question of whether foreign participation will be forthcoming.

Similarly stated, if the SSC is a high-priority project and important for this Nation, which the committee believes it is, then we should be prepared to proceed.

Frankly, Mr. President, I know that Deputy Secretary Moore, for whom I have very high regard, has been talking to the Japanese and others about foreign participation. I hope we do not have foreign participation because I think the technology to be gained by this country, the manufacturing techniques, are so important to us that I do not want to share it. I would rather have the technology ourselves and learn how to do magnetic levitated trains, pulse power, improved radars, magnetic resonance imaging, and all the other things which I believe will flow from this. I think it is important to this Nation to do so. If they were willing to help us dig the 54-mile hole or pour the concrete or something, that would be different, but, really, foreign participation, I think, would be in the high technology and that would give others the cream of the crop of this technology. I think we ought to keep it for America. I think it has been the history of so much of this foreign participation that they do get the cream of the crop at a very low price. I would rather do it for Aemrica.

How about the cost? Mr. President, $8.2 billion is a lot of money. Really, the initial estimates were based not upon a final design, not upon a fixed cost, but it was sort of like the Hart Senate Office Building; they made a horseshoe estimate of what the cost would be. When they got a final design, the cost went up, and it is still a bargain. I think this is a great building. I think this is going to be a great project at $8.2 billion. I do believe it is clear it is not going to escalate beyond that, indeed, beyond the $8.2 billion. There is $1 billion on contingency funds just in case there is some unexpected delay. So with any luck we will be able to build this for less than $8.2 billion.

Mr. President, the distinguished Senator from Arkansas says, pass my amendment. We will get in conference, we will reduce the amount of money, we will keep it alive until two things, he said, first, that we know we can do it, and, second, that the cost will not be staggering.

Mr. President, we know we can build the machine now. I do not think there is any doubt in the scientific community that we can do this. We know it can be done now. The question of the cost not being staggering, we have a very firm cost estimate at $8.2 billion, which includes the $1 billion of contingency funds, and that is the best estimate we are going to get.

There is one thing that is sure. To the extent that we delay the project, that we reduce the team, that we fire some of these people, or that we keep them on the payroll and tell them not to do anything, it is clear that that delays and increases the cost of the project. So what the Senator from Arkansas says, in a vague way, is that, yes, we know this is important, but let us wait, let us delay, and therefore the cost will go down. In fact, the opposite is true; the cost would go up.

Mr. President, the importance of the superconducting super collider is so profoundly important to this country, it cannot be compared to the B-2 bomber or B-1 bomber or SDI or the space station, or anything else. I share a lot of the views of the Senator from Arkansas about everything he said about those projects. I share what he says about the WIC program, the vaccination program, the education program, and a lot of other things that he did not say which he might have said, things we need money for. But, Mr. President, this is, in fact, the age of enlightenment. This is a continuation of the age of enlightenment when man wants not only to satisfy his profound curiosity about that of which we and our universe is made, but how it works, and how in fact we might harness those forces and those tiny elements for the good of mankind and, yes, indeed, for the health of mankind, perhaps for the nutrition of mankind in the future. It is fundamental to what we know and what we need to know. I hope that the Senate will not cut this project, will not in effect eliminate this project as the Senator from Arkansas would wish to do.

Mr. BENTSEN. Mr. President, let me first congratulate my friend, the distinguished Senator from Louisiana. I think he has made an extraordinary presentation. He has gone into great depth concerning this project. When I think of the many other demands on his time as the senior Senator from that State, to spend the amount of time, to have the depth of knowledge of this highly technical, very important project is a real contribution to the Senate and to this debate. I am most appreciative of it.

Mr. President, I understand the objectives of my friend from Arkansas. I know that he wants to cut waste, unnecessary expenditures, at a time when we are having a tough time sorting out priorities in what we think is important to our country. I sit as the chairman of the Finance Committee looking at the health concerns in the country and the availability of it, the accessibility and cost containment of it, and doing what we can on prenatal, neonatal health care for children, the objectives of the Children's Commission; all of them terribly important to our country.

But we are talking about major, major scientific breakthroughs that we are seeking here; things that could well raise the standard of living of our people. And in this instance I think my friend has just chosen the wrong target at the wrong time when he talks about the superconducting super collider.

When you put a bunch of scientists together to try to develop a project, one of the most difficult things in the world is to put a limitation on the project, to say this is it, these are the parameters, stay within it. Here we have what they have done. The SSC is on target, within the time limitations and within the budget limitations. The risks are manageable and the potentials are enormous. But my friend's amendment, the Senator from Arkansas, would put all of that in jeopardy.

One of the most important things we are talking about here is the future competitiveness of our country. It is a project like this that can help us keep the leadership in sight. So I commend my friend from Louisiana for his wisdom and his foresight in getting the approval of the Appropriations Committee for this $508 million for the superconducting super collider.

That figure is 5 percent under what the President requested, but it does mark a major increase over last year's expenditures because it takes us on to the next most important phase of this project. If that amount can be sustained, then I think they will keep the project on schedule, and they will keep it within the limits of the amount of money we are talking about. But deeper cuts would inevitably delay the schedule and increase the costs.

I know that within some areas the SSC is looked on merely as a public works project, and that a good part of it happens to be located in Texas. That is utterly wrong. The SSC is science, and it is good science. It can help us find out answers to some of the fundamental questions about the nature of the atom. And in the process, it is already providing advances in technology that can help us in our everyday lives. It is a national science program to help scientists in high-energy physics unlock the secrets of the atom.

Yes, the basic facility is located in my State, but it involves people from all over America. In fact now we have companies in 43 States that have won contracts for the SSC. Forty-three States already involved. Over 90 universities and institutions in 30 States already have contracts for SSC-related research. And when that lab is completed, scientists at 77 universities in 31 States will be participating in the research.

Texas competed for the physical location of this project and won it. But how did they win it? Because they had the geological structure that was conducive to this kind of an experiment, and these kinds of tunnels, and gave the stability for it. But they did something much more.

Despite the fact that my State has been through the worst recession since the Great Depression, right in the middle of that, the Governor, the State legislature, and the people committed themselves to a billion-dollar obligation—over 10 percent of the cost of this project—to further the scientific research for our country. Texas already has spent over $197 million of its own money on the SSC. I think now it is incumbent on the Federal Government to live up to its part and its commitment.

Despite our Nation's historical tradition of scientific research and inventiveness, despite our trophy case of Nobel Prizes, despite the enormous improvements in our lives because of advances in technology, some people still question the value of basic research. They want a quick return for their buck.

Well that is not necessarily the view of some of our strongest economic competitors today.

Let us look at the case of Japan. Today in Japan they are spending twice as much percentagewise of GNP in civilian R&D than we are in this country. Last year the Department of Commerce said that we were trailing in 11 of the 12 leading technologies.

The competition we face in this country today is not so much military competition. We proved that with Desert Storm and Desert Shield. Today there is only one superpower, and we are it.

But what we are looking at in the future is not so much the role of NATO or the Warsaw Pact, but we are looking at the competition from the Pacific Rim, from Japan, from Taiwan, from South Korea, and from Europe, where 12 countries are going together in EC-92 to develop economies of size, joining together in basic research, building their version of the SSC right now in competition with us.

But what we are saying is the research on the SSC is already beginning to pay off. We are just beginning the construction, but the careful planning of the program is already giving us some breakthroughs.

Consider these examples of research conducted for the SSC at laboratories and universities around the country. They could lead to advances with applications to such industries as electronics, computing, energy, communications, and medicine. I for one just had a PET scan. It is amazing what that kind of imaging is able to show to the doctors.

The University of California at Irvine is developing a high-speed data processor to sift through the trillions of particle collisions that will occur at the SSC.

Princeton University is developing a state-of-the-art computer system for measuring the subatomic particles created by the SSC's collisions, coast to coast.

Using the experience gained from their work on SSC magnets, the Fermilab in Illinois—and I heard my friend talking about its demise. To the contrary, you are seeing an increase in appropriations for it in this bill.

The Fermilab in Illinois and the Brookhaven Lab in New York, developed improved magnets for medical diagnostic machines, such as MRI's. The University of Florida, located in the State of the distinguished Presiding Officer of the Senate at the moment, applied for a patent for a new process with widespread commercial applications for the sterilizing of plastics for SSC detectors without the use of toxic gases.

Science education will benefit from the SSC. Already, teams of scientists and graduate students throughout America are planning experiments and designing and building components for the SSC. They are excited about the challenge, they recognize the opportunity for scientific progress which the SSC provides.

Mr. President, a few weeks ago I was at the SSC Lab looking at some of the ongoing work. I saw the Nobel Prize winners collected there, excited about the prospects of this kind of research. Turn that off? Disassemble that kind of process? What a loss to the country that would be.

Let me give a brief status report on this amazing program, on what has been achieved just in the past year.

Several successful tests of five centimeter design dipole magnets have been completed; production of the prototype magnets have begun.

General Dynamics and Westinghouse are completing contract negotiations to build the initial superconducting dipole magnets for the SSC at below estimated costs, below.

Construction of conventional facilities is underway at the SSC site with a magnet development laboratory nearing completion, and I can attest to that, having just been there.

The Department of Energy has signed a memorandum of understanding with the State of Texas regarding its $1 billion commitment to the SSC, and the State's land acquisition program is well ahead of schedule.

The funds contained in this bill will permit the SSC to move ahead, to continue the innovative research already underway.

It is a big project in physical size but even more so in potential benefits to the people of our country, and ultimately to the world. The costs are significant but the payoffs are already beginning.

I believe it has earned our support, and I hope the Senate will support it in its entirety.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I join my dear colleague from Texas and my dear colleague from Louisiana in support of the SSC. I think this is a critical year. I think when you look at the level of commitment made here with our decision to move ahead with the program this year means that the largest scientific project to be built anywhere in the world in the last quarter of the 20th century is going to be built in the United States of America by Americans, keeping us at the cutting edge of science and technology.

Our dear colleague from Arkansas has raised a fundamental point about choosing, and that is exactly what we are talking about. We are talking about priorities. At 2 o'clock we are going to meet at the appropriations subcommittee level to make a decision on another major project, the space station. And, again, the choice we are making there is really a choice as to whether we want to invest in the future, whether we want to invest in developing science and technology that will create jobs, growth, and opportunity in the future, that will extend the view that mankind has of nature and his ability to use nature to enhance our productive capacity and improve the quality of our life or whether we want to continue to invest in programs that represent consumption. That does not mean those comsumption programs are not good programs. That does not mean they do not benefit. But fundamentally we are choosing between an investment for the future or consumption in the present.

Mr. President, basically, what we have come down to is a choice on the SSC and on the space station. It is a choice between investing in the next generation or spending the same money on programs that have big political constituencies and that represent investing in the next election.

I do not need to tell my colleagues it is often difficult—whether you are talking about a family or a business or whether you are talking about the greatest Government in the world—to make fundamental decisions about investing in the future. I believe we should invest in the future, and that is why I am opposed to this amendment.

I know it is easy to find people in science who say do not build SSC, build my project. We have a debate underway: Small science against big science. But that is not really the choice here. If this amendment is adopted, the money that is taken out of the SSC before the fiscal year begins will be spent on something else. It will not be spent on other science.

The choice here is not between the SSC and other scientific projects. The choice is between the SSC and spending money, basically, on programs that do not represent a fundamental investment in our future capacity to produce goods and services and to improve the quality of life of our people. This project is broad based. This project is being built in one location in terms of actual assembly and operation. That is true. But 43 States are involved, directly or indirectly, in the project.

The bottom line is not State involvement. The bottom line is not the location of the project. The bottom line is that no nation in history has ever been as blessed with high returns on investment in fundamental science and technology as the United States of America has been. If there is any nation that stands as a shining example of what primary research can do, it is the United States of America. And the bottom line is when you look at the amount of money we are spending this year and you look at how much of that represents an investment in the future that will make the American people more productive in the future and raise the quality of life in this country, that amount is too small, not too large.

We should not take this step. Cutting this country out of the SSC will deny us world leadership in the development of new technology. High-energy physics is vitally important. But the issue—while the science is complicated—is very simple. The issue is this: Do we want to invest in the future, in expanding science and technology so Americans can provide that leadership in the future and so we can benefit tangibly in terms of our ability to be competitive on the world market with new products and new technology, to expand our ability to do all these other things in the future that people talk about doing today?

It is a question of whether we want to invest the money sending our child to college or whether we want to buy the child an automobile today. I think it is an easy choice if you are looking at the future. I think it is a difficult choice if you are looking at the first Tuesday after the first Monday of November 1992.

I believe we should take the long view, and I believe we should invest in science and technology. I think we should fund the SSC. I think we should fund the space station. I think we should fully fund the National Science Foundation because that represents an investment in the future of America. We are not making enough investment. We need to make this investment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. BUMPERS. I will be happy to.

Mr. JOHNSTON. There are 10 minutes left until 2 o'clock. I wonder if we could divide that time equally and allow me to make a motion to table at 2 o'clock? Or 1 minute of?

Mr. BUMPERS. I always like to accommodate my good friend from Louisiana.

Mr. JOHNSTON. Then say, "yes."

Mr. BUMPERS. I will make this proposition. We have a cloture vote scheduled at 2 o'clock.

Mr. DOLE. Maybe.

Mr. JOHNSTON. Maybe.

Mr. BUMPERS. I suggest we divide 10 minutes equally following that vote, and then my colleague moves to table.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that when the Bumpers amendment next comes up for consideration, that there be 20 minutes of debate equally divided, after which a vote will occur, without anything intervening, either on a motion to table or on the amendment itself.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Arkansas.

Mr. BUMPERS. Mr. President, there has been a reference to what the Japanese are doing. I want to tell my colleagues something they are not doing. They are not investing in the SSC.

They are spending, as the senior Senator from Texas has correctly said, more money on civilian research as a percentage of their GNP than we are. Do you know what they are putting their money in? They are putting their money in projects that have civilian applications to make products to send to the United States and maintain their $40 billion to $50 billion trade balance against the United States.

Here is living proof in this little $11 billion jewel as to why the Japanese are eating our lunch. You take this $11 billion and put it into the kind of research the Japanese are doing or you put it directly into magnetic resonance imaging, and not in a 55-mile hole underground, and the benefits will be 10 times greater.

Just so my colleagues will at least understand this point before they vote, this $11 billion project, with the cost headed for God knows where, maybe as much as $40 billion, has no civilian application. None. This is a curiosity on the part of a lot of physicists in this country. I understand and I applaud their curiosity about the origin of matter.

But I want to point out again, Mr. President, it is a matter of priorities. What are we going to spend our money on that makes us a great Nation? You talk about putting this $11 billion under this project because we are the only superpower. I submit that if this country continues to run $270 billion annual deficits—as we are this year and will next year and as far as the eye can see—we will not be a superpower. The best way in the world to make sure of that is to continue to squander money on projects like this.

All science is not good. Do you remember the supersonic transport, the SST? It is a God's blessing that the U.S. Congress torpedoed that back in 1971. Do you remember the nuclear powered airplane in the 1960's? It is a God's blessing that we torpedoed that project. Of seven key elements that we started out with on SDI research, five have been discarded. So much for that science.

I recognize that science is, indeed, often a trial and error process. They tell me that Thomas Edison did everything in the world before he finally got the light bulb perfected. I am not suggesting that we do not have trial and error, but what I am suggesting is that the civilian benefits from this project simply do not exist.

I want to say again, I am not saying this project is not meritorious. In a perfect world, I would vote for it in a New York minute. We are facing a $750 billion deficit and we just continue to say we have to cut but not here, not here, not here, not here, anyplace but here. Let us assume the best case scenario, that this project is built and is performing according to plan. Take a guess at what the annual operating cost is going to be. As high as $600 million a year and as low as $380 million a year.

Mr. President, we have already put about $597 million into this. Not much of that has been spent. Put this $500 million-plus into it and next year the argument will be we have already spent so much money we cannot turn back.

How many times have you heard that argument on the floor of this body? Get your nose under the tent for a couple of years and then you cannot turn back.

When you talk about the Government keeping its word, let me tell you what the Government's word was to the Energy Committee on which I sit. Admiral Watkins said, and I quote, "If we cannot build this SSC for $5.9 billion, it will not be built." That is what the Secretary said. This morning, he sends a letter to every colleague and puts it on every desk saying the universe hinges on going forward with this project. As has already been said, he has now said we do not care whether we get foreign participation or not, we are going forward with it.

On those so-called civilian applications, Mr. President, the scientists from the Bell Laboratories and Cornell University say those who claim that the SSC is going to help us with imaging and transistors is hogwash. When it comes to magnetic levitation, it would not require a 55-mile track underground to develop a magnetic train.

I am just simply saying, if you want to put these moneys into these things talked about, put it into them directly. We do not have to do that particle acceleration which the Swiss consortium is already going to do. And they are going to do it for under $2 billion. Why do we not participate in that project, get the same answers for about one-fortieth the cost?

As the Senator from Louisiana has said, we know we can do it. I take strong exception to that, and there are a lot of scientists in this country who take strong exception to it, too. There are those who say it is highly questionable that we can make these magnets and produce them en mass scale while we are still testing them.

We knew that the Hubble telescope would work, and we put $2 billion in it because we knew it would work, and it did not.

I will just close with what Freeman Dyson, professor of physics at the Institute for Advanced Study at Princeton said:

> Every new machine is a gamble. If we build the SSC, it might turn out to be a glorious success or it might turn out to be a flop. In either case, we will want to build other machines to carry on from where the SSC stops. Unfortunately, the SSC is an end rather than a beginning. It does not offer much hope of further development. It does not incorporate a new idea. I am afraid that it may be a trap, tying our particle physicists to an old technology and barring the way to newer and more powerful alternatives.

That is not DALE BUMPERS, lawyer, who does not know the first thing about physics; that is the man who is one of the most distinguished scientists in the United States.

Mr. President, I ask my colleagues to think long and hard about whether they think this is an appropriate way to spend their money. Consider the cost escalation, roughly, under the best case scenario, a 60-percent increase each year since 1988 and headed north. Ask yourself. Is this what you want to do with the money when you consider the fact that we cannot even immunize our children; we cannot provide Head Start for our children. One in every five children is in poverty, and we are going to spend money on this? Is that the priority the U.S. Senate wants to send across this Nation?

I submit, Mr. President, when it comes to saving money, we can cut a lot of spending, and there is not a better place to start than right here.

I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that I may proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIOLENT CRIME CONTROL ACT

Mr. DOLE. Mr. President, I indicated last evening to the majority leader we would have a conference this morning on the crime package, a Republican conference, and I would like to state what I think the general consensus of the conference was, although there is no binding of any members who attended conference. There are still a few unresolved matters on this side that we would like to have resolved before cloture is invoked because, very frankly, once cloture is invoked, some of these matters would not be germane; amendments would not be in order.

Therefore, on this side of the aisle, it would be my suggestion that cloture not be invoked on the first cloture vote, and in the time interim between now and hopefully later today, if we could have a second cloture vote today—if not, it could occur after midnight or it could occur tomorrow morning—we could work out some of the differences.

I know that staff is already in the process of working out differences. I am talking about the staff of Senator THURMOND and the staff of Senator BIDEN and others who have been directly involved in the negotiations.

So I wanted the majority leader to understand it is not that we are opposed to the bill before us. Some are. Some will vote against this bill on final passage. But there are three or four or five areas we would like to clarify between now and the time cloture is invoked for the reasons that I have stated.

For that reason, I think the leader is going to find a number of my colleagues voting against the first cloture vote, and hopefully for cloture on the second cloture vote.

The PRESIDING OFFICER (Mr. REID). The majority leader.

Mr. MITCHELL. Mr. President, I ask unanimous consent that I be permitted to address the Senate for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I appreciate the distinguished Republican leader's remarks. I regret them.

It was over 100 days ago that the President addressed the Congress, and repeatedly since then, to stress the importance of acting on the crime bill, originally within 100 days and now as soon as possible. The Senate has now been considering the bill for over 3 weeks, and every effort to obtain an agreement to expedite consideration of the bill has been objected to by the Republican Members of the Senate.

I know there are things to be worked out, but we have been at it 3 weeks, and I suspect we could be at it 3 months and there would still be things to work out.

I hope my colleagues will vote for cloture. I think a vote on cloture is a test on whether someone is for or against the crime bill. There is no greater gulf in human affairs than the gulf between words and deeds. We have heard the words. The votes are the deeds. The only way we are going to get a crime bill is to invoke cloture, and to proceed to disposition of this bill. Otherwise, there is not going to be cloture, and there is not going to be a crime bill. There will not be a crime bill for the next couple of years although there will be a lot of talk about it.

This is the time for action. A vote on cloture is a vote on whether a Senator is for a crime bill or against a crime bill. A vote for cloture is a vote for a crime bill. A vote against cloture is a vote against the crime bill. If we do not get cloture the first time, we will proceed a second time. I hope that we can get it today, if possible. I have discussed that with the distinguished Republican leader. I hope that we will be able to get it later today and not wait until tomorrow. We may be in session for a long time and end up doing it early in the morning hours tomorrow, something I hope very much we do not have to do. I hope we can proceed.

I recognize the concerns raised by the distinguished Republican leader. The managers have worked diligently, and I think quite well, together—Senators THURMOND and BIDEN—to try to compose their differences. We are very close on that. But I hope that we can get cloture now, and then proceed to finish this bill immediately thereafter.

I thank the Chair.

Mr. DOLE. Mr. President, I have just an observation. I want to make it clear that there are some real concerns. It is not that they are opposed to the crime bill. There are some who feel it is the gun bill, and they are opposed to that portion of it. But my view is there are a number on this side of the aisle whose concerns can still be resolved in the negotiations Senator BIDEN and Senator THURMOND are having.

Mr. MITCHELL. Mr. President, I hope that will occur. I hope that we will get enough votes here for cloture. Obviously, if no Republicans vote for cloture, we are not going to get it. But we will see how it goes, and we will proceed from there.

Mr. BIDEN. Will the leader be willing to yield for 30 seconds?

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senator from Delaware be permitted to address the Senate for 1 minute.

Mr. BIDEN. Mr. President, I say to my Republican colleagues who will have amendments that will be shut out by cloture that I would be willing to vote on those amendments. The leader and the ranking Republican have been willing to vote on those amendments. But there has been an unwillingness on the part of at least one Republican—objecting to proceeding on every single amendment. So let us get it clear. Any of you who think you are being shut out and not having a chance to vote on your amendment and that is your rationale for not voting for cloture, it is not because we have been unwilling to have a vote on whatever your amendment is. It is because there has been a blanket opposition on the Republican side to any amendment beyond the ones that we have brought up being able to be even considered. The Senator from South Carolina and I have done everything but beg all of you, everyone, to bring your amendments to the floor and we will vote on them. There is a blanket objection. For those of us who are using the rationale to vote against cloture, who say that you are unwilling to vote for cloture because you did not get a shot at your amendment, understand why you did not get a shot at your amendment.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 1241, a bill to control and reduce violent crime.

Wyche Fowler, Jr., Quentin Burdick, J.R. Biden, Jr., B.A. Mikulski, Herb Kohl, Claiborne Pell, Edward Kennedy, Jeff Bingaman, Pat Leahy, Albert Gore, Jr., Joe Lieberman, Wendell Ford, Dennis DeConcini, Alan Cranston, Charles S. Robb, and Tom Daschle.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on S. 1241, a bill to control and reduce violent crime, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR], is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 56, nays 43, as follows:

[Rollcall Vote No. 120 Leg.]

YEAS—56

Adams
Akaka
Bentsen
Biden
Bingaman
Boren
Bradley
Bryan
Bumpers
Burdick
Byrd
Chafee
Cranston
Daschle
DeConcini
Dixon
Dodd
Dole
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Hollings
Inouye
Jeffords
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Thurmond
Wirth
Wofford

NAYS—43

Baucus
Bond
Breaux
Brown
Burns
Coats
Cochran
Cohen
Conrad
Craig
D'Amato
Danforth
Domenici
Garn
Gorton
Gramm
Grassley
Hatch
Heflin
Helms
Johnston
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Rudman
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Wallop
Warner
Wellstone

NOT VOTING—1

Pryor

The PRESIDING OFFICER. On this vote, the yeas are 56, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The Senator from Delaware.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, FISCAL YEAR 1992

Mr. BIDEN. Who controls the time now? What is the parliamentary situation?

AMENDMENT NO. 686

The PRESIDING OFFICER. The pending business before the Senate is the amendment by the Senator from Arkansas on which there is now 20 minutes of debate equally divided.

VIOLENT CRIME CONTROL ACT

UNANIMOUS-CONSENT AGREEMENT

Mr. BIDEN. Mr. President, I ask unanimous consent that I be able to proceed to speak on this cloture vote for just a few minutes.

The PRESIDING OFFICER. How long does the Senator wish?

Mr. BIDEN. I do not know.

Mr. JOHNSTON. Mr. President, reserving the right to object, and I do not want to object, will the Senator give us a number of minutes, and can we have assurance we do not open up a whole question of debate here for replies and rebuttal and surrebuttal?

Mr. BIDEN. Ten minutes.

The PRESIDING OFFICER. The Senator from Delaware has requested 10 minutes. Is there objection?

Mr. THURMOND. Mr. President, I do not know what the Senator is going to say. I may want to say something, also.

Mr. BIDEN. Mr. President, I ask unanimous consent that there be 7½ minutes for the Senator from Delaware and 7½ minutes for the Senator from South Carolina.

The PRESIDING OFFICER. The request of the Senator from Delaware is 15 minutes divided between the Senator from Delaware and the Senator from South Carolina. Is there objection?

Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I thank the manager of the bill for allowing that. I realize it is a bit unusual, but the way we are proceeding is a bit unusual.

Mr. President, 126 days ago, the President of the United States called on the Congress to pass a crime bill.

The Democratic leadership in the Senate has taken this challenge seriously. We have introduced a crime bill, we agreed to bring it directly to the floor, without any delay in committee—and to the majority leader's great credit, he agreed to make the crime bill the first order of business in the Senate after we disposed of the President's other 100-day challenge, the transportation bill.

After 3 weeks of debates, amendments, and votes—today, the Senate stands prepared to pass a crime bill that answers the President's challenge.

Now it is true that this crime bill more closely resembles the Democratic crime bill than the President's—it includes a version of the Brady bill in it, it includes the DeConcini assault weapon ban, it includes our exclusionary rule provision, it includes most of our death penalty procedures, and it includes the many, many important crime fighting programs we Democrats have proposed.

But to the President's credit—and I do want to give him credit for this—it is my understanding that he and the Justice Department have said, that notwithstanding these differences from the President's bill, the President supports Senate passage of this crime bill.

So here we are. The Senate has a crime bill that most Democrats are prepared to support, that the President is prepared to support—why can we not pass it?

We cannot pass this crime bill because some Senators are engaged in a filibuster of it.

Why? Why do these Senators want to block our adoption of this bill?

It cannot be because the Republicans have been denied their chance to offer anticrime amendments.

When my Republican colleagues wanted a vote on the President's crime bill, we agreed to their request.

And then, when they said, "No, actually, we want a vote on a revised crime bill"—a bill that dropped items from the President's bill and added most of our bill to it.—we agreed to that request. And the Senate voted, and rejected this hybrid proposal soundly.

The Republicans wanted a vote on exclusionary rule reform. So we said, OK let's vote on the President's package. And they said, "No thanks," and proposed a reform that was one-half of what the President proposed.

And still, we took an up-and-down vote on it. And again, we rejected it.

The Republicans said they did not want to have the first gun vote be on the Brady bill—they wanted to have a gun substitute, the Stevens bill. So we gave them a vote on the Stevens bill—and, again, we rejected it.

And on, and on, and on. Each time, we have been, in effect, dared to take up and vote on Republican amendments to this bill—and each time, we have voted on them, up-and-down, just as requested.

So we have had a full airing of the philosophical differences between the President's bill and our bill—the President has won on some, we have won on others, and whatever you want to say about the product, no one can be against cloture because there has not yet been a full airing of our respective views.

Now maybe the opponents of cloture will say that they are voting "no" because they have nongermane amendments they wish to offer to the bill.

We all have amendments we would like to put on this bill. There are dozens of Democratic Senators who have amendments—I have amendments.

But we recognize that there comes a time when each Senator's desire to have his amendments adopted must give way to the Senate's need to complete a bill. On this bill, the Senate has considered and disposed of 84 amendments—84 amendments.

So, it can hardly be said that the bill has been closed to amendment. And so I say to my Republican friends: if we Democratic Senators are prepared to forgo our amendments to pass this bill, why will you not do the same?

Now, perhaps we will hear that some people do not want cloture because they are afraid that the key provisions in the bill will be changed after cloture is invoked.

But yesterday, I stood here and proposed that we lock in the key provisions of the bill—an offer the distinguished ranking member accepted—only to have it rejected by other Republican Senators.

So much for that excuse for being against cloture.

Perhaps we will hear the opposite complaint: that cloture should not be invoked because the major provisions in the bill need to be changed.

But to this I say: many amendments that would change the major provisions in the bill would remain germane postcloture. So invoking cloture does not cut off all efforts to change the exclusionary rule or habeas corpus.

So much for that excuse.

Now I am sure that we will hear a host of other explanations as well. But let us lay the cards on the table. If cloture is not invoked today, it is for one simple reason, and it can be summarized in four letters: g-u-n-s, guns.

If cloture is not invoked, it will be because opponents of the firearms provisions in this bill vote to block further progress on the bill.

I respect the rights of any Senator to vote against cloture for any reason. If a Senator wants to oppose cloture because he does not want any crime bill if that bill includes the Brady bill or the DeConcini bill, that is his prerogative, and I respect that.

But I hope we do not hear that Senators are voting against cloture because, as one of my Republican colleagues claimed last week, this is a "gun bill, not a crime bill."

This is not a crime bill? With 60 death penalty offenses—more than even the President's bill contained? With 10,000 new local cops?

Not a crime bill? With unprecedented limits on habeas appeals? With 3,000 new Federal agents? With a rural crime plan?

Not a crime bill? With new mandatory penalties for every gun offense? With an antigang plan? With new prisons and boot camps?

Not a "crime bill?" Tell that to the police officers waiting out in the reception room—or to those walking the beat today in neighborhoods around the country.

They want this bill. And they want you to vote for cloture on it.

In closing, Mr. President, I want to make two observations.

First, I want to say to my colleagues, that we all make speeches about getting tough on crime. Boy, do we make speeches.

We make TV ads. We go to town meetings and tell our constituents how tough we are on crime. And we make more speeches.

Well today, we vote on whether we are going to have a crime bill. And it is high time to see whether our votes are going to match up to our raised voices. Are we going to just give speeches on crime, or are we going to have a crime bill—that's the question.

My second observation concerns the administration, and the politics of crime.

When this bill came to the floor, I called on the administration to take the politics out of this bill; to make it a bipartisan effort; to join us in working out a compromise crime bill.

It has not been easy, but here we are with a crime bill—not the way I wanted it, not the way the President wanted it—but basically, in a fashion that we are both prepared to accept it.

Simply put: I support this crime bill. The President supports this crime bill. That dispute is resolved.

I do want to say this: I have been reading over the past few weeks that the White House intends to make crime an issue in the upcoming elections.

And if that is true, I hope the President and the media will not forget today's vote. Because if cloture fails today, and the crime bill is blocked, it will not be because a majority of Democrats vote against cloture, it will be because a majority of the Members of the President's own party vote to block a crime bill.

So let us not hear about the Republicans being tougher on crime. I hope we will not hear any statements from the White House about congressional foot-dragging on crime—unless those statements also include an accurate report that the cause of the delay is Members of the President's own party.

Crime is not a political issue, or at least it should not be. And before anyone tries to make it one, they should stop and reflect on today's vote, and what it means.

Mr. President, as I said, it was precisely 126 days ago that the President of the United States started what I suspect most would consider to be a drumbeat to make the case that he wanted his crime bill and he wanted a tough crime bill. And it was a challenge that, Mr. President, we took very seriously on this side and in this committee.

We took it so seriously, Mr. President, that we came to the floor with a bill, and from the outset we accommodated everything that the President said he wanted. He said he wanted an up or down vote on his bill as a substitute to the Biden bill. That vote was not delayed. That vote was allowed. That vote was defeated. We then went through the process of amendments to the Biden bill. With the full cooperation of the managers and, I might add, the leaders on both sides, we tried as best we could to bring this, what is always a contentious piece of legislation, to fruition and final passage.

All along, Mr. President, I might add, from the time the President indicated that he wanted a crime bill, I asked the Attorney General whether or not he was willing to meet with me to work out a crime bill, to save us the time to get by not only the 100 days but to get it well under 100 days, and there was a deafening silence from the administration in terms of the willingness to talk about any potential compromise on a crime bill.

But as usual, the senior Senator from South Carolina, the man who we still call the chairman of the Judiciary Committee, Senator THURMOND, was fully prepared to try to produce a tough crime bill by and through negotiation. We began that process. And on a number of issues, the Senator from Delaware and others on this side won. On a number of issues, we lost.

We ended up producing to this point a crime bill which at least the administrative spokespersons in the White House are saying the President is ready and willing to sign. But here we are. We are at a point now where the same President who was beating—to use the literal term—politically beating to death the chairman of the Judiciary Committee and every one on the Democratic side on this challenge of 100 days to pass a bill, we are 126 days down the road with a bill he says he would accept, as I understand it, but an unwillingness on the part of all but seven Republicans to allow it to come to a final vote.

Forty-nine Democrats on this floor today voted to bring debate to an end, to allow only 30 hours of debate, only 30 hours of debate from this point on, after 3 weeks, and allow germane amendments to be debated on, voted on, and finally vote on this bill. And only seven Republicans were willing to do the same.

Now I understand from the distinguished leader of the Republican party in the Senate that in a second cloture vote there is a likelihood that there may be some changed minds. I sincerely hope that is the case.

We have a tough crime bill. I would like very much to be able to finally let the Senate work its will on a bill that the President, the administration, and the Attorney General, as I understand it—not directly said to me, though—are willing to accept, think is a good, tough bill.

Let me conclude my short time here by suggesting that I want to thank the Senator from South Carolina, who has been as tough and as consistent and as thorough and as relentless as anyone could possibly be trying to bring this bill to a close. And I pledge to him that between now and the next vote I am willing to meet with him and anyone else to try to work out an accommodation that could allow this bill to be ultimately voted on.

I sincerely hope, if we have a second cloture vote, that we do not have to wait another 24 hours for that cloture vote. I hope that if what people say privately here, that there are enough votes to have cloture, why wait and drag this out so that we spend another whole week on this legislation.

From the time we get cloture, we still have filed—I do not know how many—scores of amendments that are still in order under cloture and are contentious. Why not bring this to an end, move to the House, move to conference, and get a tough crime bill?

Last, and I will cease and desist with this comment, I wish the President would be as articulate and as vocal publicly with his Republican colleagues who are in the process of killing a tough crime bill as he was with his Democratic friends who were trying to negotiate a crime bill with his administration which would not speak with the Democrats who were trying to put together a crime bill.

I call on the President to call publicly upon his friends in the Republican Party to allow this bill, which I understand he thinks is a good bill, to allow it to come to a vote so we can move on to do what everyone in this body says they want to do, come down much tougher on crime and enhance the possibility that American citizens will be a little bit safer tomorrow than they are today.

I yield the floor and I thank my friend from Louisiana for the opportunity to speak.

Mr. THURMOND. Mr. President, we worked hard on this crime bill and I think we are going to get a crime bill. There are a few on this side that said they wanted to offer some amendments, and possibly we could have another cloture vote tonight. I suggest maybe we get off this bill and give them a chance to offer these amendments and get them out of the way and then vote cloture tonight, if that is agreeable with the majority leader.

The distinguished assistant Republican leader wanted to say a few words.

Mr. SIMPSON. Mr. President, I have been very intrigued by the work of Senator BIDEN and Senator THURMOND. I really do commend them. They have done a splendid job and we are going to get a bill. We really should keep our eye on the rabbit here as to what is happening.

If those on the other side of the aisle had wished to invoke cloture, they had all the horses to do it. Because we had the votes and gave them the votes to do it, seven of them. So if their 57 had held tough, they would have had cloture. So I think perhaps we can skip this exercise in, you know, slapping it back and forth and up into the net and getting the puck down the ice. There were seven Democrats who decided to drag their feet, I guess, on that side.

So let us, instead of just babbling about it and beating the President to death—and I did not hear the Attorney General or the President ever ask to stall this, not once. In fact, if all could have heard the eloquence of the Attorney General this morning in our conference they would have been quite intrigued and moved by it. So if we can now dampen down a little of the old partisan scratching and stop whacking on the President in a feckless exercise which really does not have anything to do with anything here—this is the President's bill in many respects.

This is Senator BIDEN's bill in many respects; this is Senator THURMOND's bill in many respects. That is what this is. The only purpose here is on the part of a lot of people we are calling westerners, of both parties. Look at the rollcall vote and you will find there are not many westerners, maybe one or two, who are not deeply involved in this issue called gun control. It is a burning issue, and we cannot get away from it in our part of the country.

We have important amendments. People have been very forthcoming. If we have one person over here who continued to stall amendments, I know one person on the other side of the aisle who is always trying to do that. So let us get on with the action and see if we can do some amendments.

I rely on the good faith of the Senator from Delaware and the Senator from South Carolina to see what amendments they will process. We might get unanimous consent to do the cloture vote without waiting until 12:05 tonight, but I am ready to do that. But let the RECORD disclose very simply that any time the other side wished to have their cloture, they could have achieved it, because they knew exactly what the score was on this side of the aisle.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Mr. President, I ask unanimous consent to use just a portion of my leader time to make one concluding comment on this subject, and I thank the distinguished Senator from Louisiana for his patience and courtesy.

Mr. President, under the rules of the Senate, the next cloture vote will occur, unless otherwise agreed to, 1 hour after the Senate convenes tomorrow. I am advised that that, therefore, could be any time from 1 a.m. tomorrow on.

I am extremely reluctant to pursue that course of action, but it is a course of action which I must consider under the circumstances. We have now been 3 weeks on this bill. There is no end in sight at this point. And I hope my colleagues will consider the request that I made earlier, which I have discussed with the distinguished Republican leader, to agree to permit the second cloture vote to occur today by consent at an earlier time. Because, although I am reluctant to proceed to have a vote on cloture at 1 a.m. tomorrow, that may be the only option available.

So I call upon my colleagues to consider that, and I hope they will be cooperative and that we can work this out, and that we can get cloture and proceed to complete action on this bill.

Mr. JOHNSTON. Mr. President, will the majority leader yield for a question?

Mr. MITCHELL. Yes. Sure.

Mr. JOHNSTON. May I suggest it be scheduled immediately after the vote on final passage—which I understand has been requested—on the energy and water appropriations bill, so those can be back-to-back? I hope that will be early this afternoon.

Mr. MITCHELL. We have asked that it be as early as possible. We are awaiting the response from our colleagues. As the Senator knows, this requires unanimous consent, as so many things do in the Senate, and one Senator can prevent that from occurring.

But my point is that in so doing, that is, in preventing it from occurring, that Senator would in effect, or at least possibly, cause all Senators to be inconvenienced and to have to be in and have a cloture vote at 1 o'clock in the morning, which I think none of us want.

I thank my colleague. We will try to pursue that on a back-to-back basis.

Mr. BIDEN. Mr. President, let me say, in 30 seconds, that we did hear the Attorney General in the Republican Caucus. We listened and we voted with him; and the Republican Caucus voted with the NRA.

I yield the floor.

Mr. THURMOND. Mr. President, I suggest, if the majority leader would see fit, to set a time tonight for another vote and then get off the bill. And between now and then act on a few amendments that some have, and have a second vote tonight.

Mr. MITCHELL. Mr. President, if I might respond. That is precisely my request, Mr. Chairman. I have asked exactly that of you and your colleagues.

I think Senator JOHNSTON'S suggestion is an excellent one: That we simply have the cloture vote immediately following final passage on the energy and water appropriations bill, which we hope will come sometime later today.

Mr. THURMOND. How long will that take?

Mr. JOHNSTON. I hope we can dispose of it in a couple of hours.

Mr. THURMOND. A couple of hours? They may need those hours to get off a few of these amendments. If we can get off of it now and let these amendments be disposed of, then we can go and get the cloture vote, and then go back to finish that.

Mr. MITCHELL. Mr. President, why do we not proceed? Let us now take the time to permit yourself and Senator BIDEN to meet and try to work out these matters as they occur on this bill.

Mr. THURMOND. If the Senator could allow a reasonable time to permit several amendments to be offered here, I think we can get cloture then.

Mr. MITCHELL. We will do that. I again thank the Senator from Louisiana.

The PRESIDING OFFICER. The time of the Senator from Delaware has been used. The Senator from Delaware has yielded back his time.

The Senator from Louisiana is now recognized.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, FISCAL YEAR 1992

The Senate continued with the consideration of the bill.

Mr. JOHNSTON. Mr. President, in not more than 20 minutes, and I think not less than that, we will vote on a motion to table the Bumpers amendment. The Bumpers amendment would take all the funding from the superconducting super collider and terminate the project.

Mr. President, I reviewed a little earlier, and I will do so very quickly right now, why we should have the superconducting super collider.

First, we have a very solid cost estimate at $8.2 billion which includes $1 billion of contingency funding.

We have a very solid cost estimate on this project. I reviewed earlier the incredible breakthroughs in science that can be expected from pursuing the superconducting super collider, from magnetic resonance imaging to magnetically powered ships to magnetic levitating trains to all kinds of PET scanning and CAT scanning and medical breakthroughs. And I listed those in great detail.

Suffice it to say that the scientific and technological breakthroughs that can be expected from this project are overwhelming and almost without limit. But more fundamentally, the superconducting super collider is expected to tell us the very secrets of the universe, the very secrets of matter.

I pointed out earlier we used to believe in science that the smallest part of matter was the atom. Then, in 1911, we found out that the atom itself was composed of protons, neutrons, and electrons.

And more recently, through use of accelerators, through use of machines like this, only less powerful, we have found that atoms, in turn, are composed of quarks and leptons. In turn, Mr. President, there are three pairs of quarks and three pairs of leptons.

Scientists believe that this pattern, based upon experience and based upon history, suggests that there is a basic structure to matter, the structure of which we do not yet fully understand and cannot prove mathematically. So the superconducting super collider is designed to discover that structure. It is desinged to discover the particles as yet unknown, some of which exist only theoretically, that make up all of the parts of that strucutre.

The answers to that everlasting puzzle are likely to be surprising. They may be breathtaking. They will surely be fundamental in their scope and in their profundity. They are sure to be important for the future of the world in science, probably medicine, nutrition, technology, and clearly the understanding of the world.

We are also likely, with this research, Mr. President, to unlock the secrets of the four fundamental forces that control everything: Electromagnetism, the strong force that controls the atom, the weak force that deals with radio activity, and gravity, all of which we believe are related. They are related mathematically, and the mathematical formula through the superconducitng super collider can be proved and verified. It is the grand design of the universe.

When we say the universe, we now know that in proving the smallest of things, we unlock the secrets of the whole universe. We think, for example, that the dark spots in the universe are probably composed of neutrinos, which, in turn, are one of the small leptons, the character of which we are likely to unlock in the superconducting super collider.

Why do we need a machine of such vast size, 54 miles in circumference with a collision which takes place at a force of 40 trillion electron volts? Because, the scientists tell us, it is only at those great energies that, for example, the strong force and the weak force behave in a characteristic way that allows us to determine the formula by which the four forces are connected.

Mr. President, this is the most important scientific endeavor in the world today—the most important in the world—because it tells us about the very nature of our universe and all that it is made of. I hope that the United States will continue its lead with the superconducting super collider.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I hope that I will not use the 10 minutes that has been allotted to me. I think basically everything that can be said on this subject has been said. I want to say to my colleagues, finally, that this is the last chance you will have to stop this project. If we put the $500 plus million into the 1992 budget with the $597 million that has already been appropriated over the preceding years, the nose-under-the-tent argument next year will be irresistible. The argument will be that we have already spent $1 billion and we are going to lose it if we do not go forward with it. In my opinion, and based on 16 years in the Senate, I have never seen this body resist an argument where a billion dollars has already been spent. So this is your last opportunity, I say to my colleagues, to stop a project that may have some merit as a scientific curiosity, but as an economic or scientific payback project, it is a terrible waste.

The junior Senator from Texas says if we save this $500 million here, we will just spend it somewhere else. Why is that? Has this body become so irresponsible that if you save $500 million on something because it is a waste, you take it and try to find something else to waste it on? It depends on what happens with the conferees in the House. Surely, the U.S. Senate conferees will not go in there and say we saved this $500 million, but our instructions under the budget agreement are to find some other boondoggle to put this money in so we meet our 602(b) allocation. I thought the 602(b) allocation was supposed to be a cap, not a floor.

When it comes to the cost of this project, you want the U.S. Government to keep its word. Secretary Watkins told our committee that if this could not be built for $5.9 billion, it would not be built. Now the cost is up to $11 billion, and he is the biggest cheerleader in Washington for this project. He said it would not be built unless we got $1.75 billion from other countries. So far, we have a $50 million pledge from India. We do not have a dime in hand from them. Now he is saying we are going to go forward whether our foreign counterparts contribute or not.

I can tell you one thing. If I were any of those people who were considering participating in this, that would be enough to tell me not to. The Secretary said essentially do not worry about it, we are going forward with this whether you contribute or not.

How many times have you heard on the floor of the U.S. Senate in the past 5 or 10 years about how brilliant the Japanese are. I will tell you how brilliant they are. They have enough sense not to participate in this project. The suggestion has been made that the Japanese might put up $1 billion. That was made by the Department of Energy, not the Japanese. Why would they participate in it? They are busy building electronics and doing basic research to build products to send to the United States to continue eating our economic lunch while we squander $11 plus billion on a project that has gone up roughly $4 billion a year in costs ever since it was first conceived by President Reagan in 1987, and it is not off the drawing board. Senators can hardly wait to vote for it.

Do you want me to tell you something worthwhile? The human genome project where medical science wants to map every gene in the human body, now you talk about science that we know will work and would have an unbelievable benefit for mankind, it is the human genome project. Do you know what the chances are of our funding both this and the space station and the human genome project? You guessed it. Zip. Not a prayer.

I will warn those Senators from California and Illinois and New York that Brookhaven Laboratory in New York, the Fermi Labs in Illinois, and the Stanford Linear Accelerator in Stanford, every one of those projects are almost certainly going to close when this thing is fully funded.

One of the most devastating things about this, Mr. President, is that the Western European consortium called CERN is way ahead of us doing the same thing, at a cost of a fraction of what we are proposing to spend here, and are very likely to have this exotic answer to the origin of matter before we ever get our tunnel built.

I asked somebody on the other side to answer the question this morning: Assuming under the best case scenario that our foreign counterparts put up $1.75 billion, what if the cost of this project goes to $40 billion in 1999, and it almost certainly will, their contribution will still be $1.75 billion and old Uncle Sucker would have picked up the rest of the tab.

Mr. President, the GAO says this is not a sure thing; that there are plenty of significant technical risks in developing these dipole magnets.

I will just close by quoting President Reagan, who used to write to all of his constituents and say on television, because he came to power saying, "I am going to balance the budget," and when the budget went completely out of control—as I quoted this morning, the first 8 months of this year the deficit is more than the entire 4 years of Jimmy Carter, and one of the reasons is because this body cannot screw up its courage to cut anything—anything. These four projects, the SSC, the space station, SDI, and the B-2 bomber. George Bush wants the line-item veto. A line-item veto is not a drop in the bucket compared to what the U.S. Congress can do if we want to do it.

He could not save $2 billion with a line-item veto. We have a chance to stop $15 billion of waste. We might, incidentally, take $40 million of that, about one one-hundredth of this, and vaccinate our children against measles. We are so caught up in this stuff we cannot see the forest for the trees.

President Reagan, when the deficit went completely out of control, said, "I cannot spend any money that Congress does not appropriate." Well, technically that is right. The Constitution says that. He cannot spend any money that we do not appropriate. God knows, we have been plenty cooperative around here, too.

But it was President Reagan and President Bush who wanted even more for the super collider then we would appropriate, even more for SDI than we would appropriate, 75 B-2 bombers at $1 billion each, submitting us a grandiose education program at a total cost of $200 million less than the cost of one B-2 bomber. That is not what I call a commitment to education.

There is one thread that runs through every poll I have seen, and I believe this thread; I go home every weekend and I talk to my constituents. I will tell you what that thread is. Congress is not doing anything that is relevant in their lives. They are having a tough time. There are a lot of people in my State who do not believe this recession has bottomed out because they are still hurting. I know a couple who, wanting to buy a home so badly, just yesterday could not come up with the $24,000 downpayment. How many people in America do you think can? Maybe a U.S. Senator can. But the ordinary citizen cannot.

We do not do things relevant in their life. And you ask the ordinary citizen on the streets of America, what do you think about the superconducting super collider? Well, they will dial 911. They have never heard of it. They think it is profane. But I will tell you one thing, if you go home and you tell the American people you voted to cut $12 or $15 billion of utter wasteful spending, they will consider that relevant in their lives.

So, Mr. President, if we can do one thing which would renew their faith ever so slightly, this would be a very good beginning. I yield the floor.

Mr. SYMMS. Mr. President, I rise to oppose the Bumpers amendment to eliminate funding for the superconducting super collider. I appreciate the concerns of my colleague from Arkansas about developing clearer priorities for science research and development in this country. However, in my view, the SSC ought to be a priority program.

Whole new industries could be developed by the research to be done by the SSC. Past research in physics have helped develop the following technologies—radar, x rays, television, microwaves, semiconductors, computers, and lasers. Most of these originated in the United States.

Research is probably one of the most beneficial use of taxpayer dollars. The innovation to be inspired by a better understanding of atomic particles could revolutionize the U.S. economy. Such a revolution could dramatically improve living conditions throughout our society. That is a benefit worth pursuing.

Even though research and development on the SSC has barely begun, we already have our first spin-off. The University of Florida has discovered a new treatment for plastic materials with possible widespread commercial application. This new treatment allows certain plastics to withstand repeated sterilization, which will directly impact the manufacture of medical-grade plastics.

SSC technology has also helped to improve magnet technology. For example, the current-carrying capacity of superconducting cable has increased 50 percent since the start of SSC research and development. Similar improvements in magnet technology can be expected as industry increases production capabilities.

Often in this country, and indeed on this Senate floor, we hear statements lamenting America's economic woes and our loss of high-technology markets. Solutions to the problems that industry faces and our ability to produce better and more competitive products depend upon continued technological progress.

We must invest in our technological future. That means investing in the science that yields technology. Please join me in supporting the SSC—it is an investment that is sure to pay for itself many times over in the years to come.

In closing I would urge my colleagues to vote against this amendment or for a motion to table.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. I believe this matter has been adquately debated. The superconducting super collider is not just another project. It is not just a curiosity. It is fundamental. It is the most important research project in America today, in the world today, because it tells us the basic secrets of the universe, the basic secrets of energy and matter, and it must be pursued. I urge my colleagues to vote to table the Bumpers amendment.

I yield back the remainder of my time. I move to table the Bumpers amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. BUMPERS. I suggest the absence of quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quroum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I move to table the Bumpers amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Arkansas. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 62, nays 37, as follows:

[Rollcall Vote No. 121 Leg.]

YEAS—62

Akaka
Baucus
Bentsen
Bingaman
Boren
Breaux
Brown
Burdick
Byrd
Cochran
Craig
D'Amato
Danforth
Daschle
Dixon
Dodd
Dole
Domenici
Durenberger
Ford
Garn
Glenn
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Inouye
Johnston
Kasten
Lieberman
Lott
Mack
McCain
McConnell
Mikulski
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Reid
Robb
Rockefeller
Roth
Rudman
Sarbanes
Seymour
Shelby
Simon
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wofford

NAYS—37

Adams
Biden
Bond
Bradley
Bryan
Bumpers
Burns
Chafee
Coats
Cohen
Conrad
Cranston
DeConcini
Exon
Fowler
Gore
Harkin
Hollings
Jeffords
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lugar
Metzenbaum
Mitchell
Riegle
Sanford
Sasser
Simpson
Smith
Wellstone
Wirth

NOT VOTING—1

Pryor

So the motion to lay on the table the amendment (No. 686) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, we have only two amendments remaining, because I understand that Senator DOLE will not have an amendment. So the only two amendments are the Fowler and Wirth amendments and any second-decree amendments which may be attached thereto. I hope we can work those out.

The PRESIDING OFFICER. The Senator from Louisiana retains the floor.

Mr. JOHNSTON. Mr. President, I yield to the distinguished Senator from Georgia. I believe we have the amendment worked out.

Mr. President, I would say to my colleagues that I think we have two amendments, both of which are worked out and can be quickly disposed of and we will go straight to final passage I hope within 10 minutes or so.

Mr. HATFIELD. Will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. HATFIELD. On behalf of Senators WALLOP and DOLE I ask unanimous consent to withdraw two amendments, that they not be offered: The Wallop amendment on Buffalo Bill dam and the Dole amendment on high technology research.

The PRESIDING OFFICER. The Senator has that right.

The amendments will be withdrawn.

Mr. HATFIELD. I thank the Senator.

The PRESIDING OFFICER. The Chair recognizes the Senator from Georgia [Mr. FOWLER].

AMENDMENT NO. 709

(Purpose: To improve the funding of energy systems)

Mr. FOWLER. Mr. President, on behalf of the Senator from Vermont [Mr. JEFFORDS] and myself I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia [Mr. FOWLER] for himself and Mr. JEFFORDS proposes an amendment numbered 709.

Mr. FOWLER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 47, line 11, before the period, insert "; and of which $60,400,000 shall be for photovoltaic energy systems (of which $58,900,000 shall be for operating expenses and $1,500,000 shall be for capital equipment), $29,100,000 shall be for solar thermal energy systems (of which $28,650,000 shall be for operating expenses and $450,000 shall be for capital equipment), $39,300,000 shall be for biofuels energy systems (of which $35,000,000 shall be for operating expenses and $4,300,000 shall be for capital equipment), $21,400,000 shall be for wind energy systems (of which $21,200,000 shall be for operating expenses and $200,000 shall be for capital equipment)".

Mr. FOWLER. Mr. President, I want to yield to the cosponsor and author of this amendment, the Senator from Vermont [Mr. JEFFORDS] for his statement.

But before I do that I thank the chairman of the committee, my friend from Louisiana, and the ranking member, Mr. HATFIELD, who have helped us very much in expediting this matter, and also the Senator from Utah [Mr. GARN], the Senator from New Mexico [Mr. DOMENICI], and others, who have bent over backward to make sure that we had fair and thorough consideration of this matter, for all of which I am deeply appreciative.

Mr. President, I yield the floor to my friend from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, this amendment reinforces the importance of developing a national energy strategy that places a priority on renewable energy technologies. It restores funding for renewable energy technologies to the levels passed by the House of Representatives.

I commend the Senator from Georgia [Mr. FOWLER] who, like myself, has long been a proponent of solar, wind, and biomass energy resources. I think it is clear that the American people are looking toward Congress to develop viable energy policy options, and there is a clear preference for low-polluting—or nonpollution—renewable technologies.

The amount of money effected by our amendment is $14.7 million. We propose to restore the Senate funding levels to that approved by the House of Representatives. This amounts to $2.5 million for biofuels, $3.6 million for photovoltaics, $3.5 million for solar thermal, and $3.5 million for wind energy.

Originally we had proposed that this money come from the nuclear space energy programs, but after consultation and working with the managers of the bill, we have agreed that it should come instead from the general research and development pot which is, I think, over $330 million.

Now, what does this amendment do and what areas are we talking about? There are basically four areas that we are looking at to provide just a little bit more, and what it does is essentially bring the funding levels up to the House levels.

The Fowler/Jeffords amendment reprograms a total of $14.7 million of the funds in the committee bill. It goes into four separate areas. One, which I think is a very, very important area is the biofuels research area. Last February, I had an opportunity to visit the Department of Energy's Solar Energy Research Institute in Boulder, CO. The work being done there, and in other DOE research labs across the country, is fascinating.

In the biofuels research area, great strides have been taken to move us closer to the commercial development of liquid fuels from biomass. The DOE has reduced the costs associated with biofuel conversion to the $1.20-per-gallon range, with a target of 60 cents per gallon by the year 2000. It has clearly defined the research efforts it needs to undertake to get from here to there, including the development of a commercial user facility with the flexibility to test various feedstocks and process steps. I think it is important that we fund these programs, without unnecessary strings attached, so that we can move more quickly to the commercialization of biomass resource potential of the United States.

The second general area is one which I have been watching very closely over the past decade or more, and was excited to find, in my visit to SERI this year, in which there have been substantial improvements, is photovoltaics. That is a direct conversion of Sun into electricity through various techniques.

The photovoltaics program would regain the $3.6 million as requested in the House bill. This would allow funding for important manufacturing and utility initiatives, including the photovoltaic utility scale application, the photovoltaic manufacturing technology initiative and the thin-film materials program. In other words, the additional money will assist in the commercial development of these promising technologies, moving the laboratory into the marketplace.

I must say, Mr. President, that what I learned out there is that we are fast approaching the time when these will be commercially viable and competitive and this would be an incredible step forward not only for this country but essentially for developing nations which have little or no fossil fuel sources but can utilize solar energy.

In the solar thermal program, the additional $5.1 million will be used to boost the dish/engine validation and the solar baseload powerplant joint venture. Another initiative involves the use of the newest solar concentrators to break down toxins in water using sunlight as a heat source. In Boulder this year, I saw solar units that could burn through steel. Again, we demonstrate our national commitment to the commercial development of these American technologies.

The $3.5 million restored to the wind program will be used to fund the small turbine initiative. This project is an effort to develop, in cooperation with private sector partners, a next generation wind turbine that would bring costs down to a nickle per kWh, making wind-generated electricity widely competitive with conventional technologies. Wind power is currently demonstrating its effectiveness in mountain passes in California and atop mountains in Vermont. Newer technologies will make wind power a viable option in more areas, both here and abroad.

Mr. President, the world faces an energy dilemma similar to our own. Conventional energy resources are becoming scarcer, both in terms of resource reserves and location. Additionally, there are growing environmental concerns about fossile fuel resources. Renewable energy offers benefits which overcome both of these problems. By definition, the sources are continuously available. By inference, the environmental impacts are minimal.

Now is not the time to cut back our efforts to further the commercial development of these technologies. Many of the initiative which will be funded under the Fowler-Jeffords amendment are cost-share opportunities with the private sector. In terms of absolute dollars, the benefits of this amendment are greater than the $14.7 reprogrammed under this amendment.

In terms of priorities; in terms of commercial readiness; in terms of clearly defined policy objectives; it simply makes sense to restore these renewable energy investment dollars to the levels approved by the House of Representatives.

Solar, wind, and biomass energy technologies are a fundamental part of our national energy strategy. In order to realize the widespread commercial development of these renewable energy resources, a continued Federal effort is required. This amendment provides the funds to keep us on track, and I urge its adoption.

Mr. FOWLER. Mr. President, the amendment the Senator from Vermont and I have before the Chamber would increase the appropriations level for renewable energy research and development programs for fiscal year 1992.

For the first time in recent memory, the Senate Appropriations Committee has recommended to the full Chamber figures appreciably lower than the other body. While I commend the Senator from Louisiana for his support for an increase from the current fiscal year, I believe that the environment in which we find ourselves today merits a full-blown commitment to increased research and development for renewable energy. I believe that our amendment accomplishes that.

Specifically, our amendment would increase the line-item accounts for solar thermal, photovoltaics, wind, and biofuels by a total of $14.7 million, bringing the Senate figures in line with the recommendations made by the other body. As I mentioned previously, all of these programs received an increase in the Senate version over the previous fiscal year. But it is important to keep in context these increases. For example, our amendment would increase funding for the solar thermal program by $5.1 million, for a total of $29.1 million for the coming fiscal year. The last time we went through any sort of any energy crisis, that funding, the Congress reacted, finally gave this and other renewable energy sources a serious look, and funding was increased to $119.9 million.

Similarly, photovoltaics R&D would be increased to $60.4 million. In fiscal year 1981, it was funded at $153.2 million. Even without taking into account inflation over the last decade, you can see that these programs have suffered a decade of abuse and neglect. Each time this country encounters a situation where our energy supply is threatened, our collective eyes look toward renewable energy, and the Congress increases its support for research and development, or creates a small tax credit for some of the industries.

And shortly after our crisis is resolved, we continue on our merry way.

Mr. President, the Fowler-Jeffords amendment represents a very small increase in these four programs. But, even more importantly, I believe it sends a message to the renewable energy, and to the country, that this Congress is not going to fall back to the status quo. That this Congress understands the tremendous potential clean sources of renewable energy like solar and wind, that this Congress understands the importance of nonpolluting sources of energy and energy generated within our borders, and this time—we will not forget.

Even a cursory look at these technologies shows how far they have come, even with the neglect of the Federal Government. Wind-generated electricity, for example, cost 25 to 30 cents per kilowatt-hour only a decade ago. Today, that figure has been reduced to between 5 and 9 cents. Wind alone generates 2.5 billion kilowatt-hours per year in this country, enough to provide for the residential needs of a city of nearly a million people, or even the entire State of Vermont.

Solar thermal, steam-to-electric plants produce 8 cents per kilowatt-hour electricity, down from 24 cents just 5 years ago. Nearly 400 megawatts of solar electricity provides energy for a city of nearly 350,000 people.

Mr. President, these are not laboratory successes. These examples are proof positive that these technologies can play a significant role in our energy picture. But not without at least a fraction of the support that we heap upon conventional energy sources.

As we look around, we see growing public support for these technologies. Solar thermal, photovoltaics, wind, biomass—each of these renewable sources of electricity generation has decreased cost, increased reliability, and increased its share of the electricity market over the past decade. And, I want to stress again, we can look to the gentleman from Louisiana for a large share of the credit for these advances. Despite heavy pressure from the last two administrations, the gentleman has worked to ensure that the R&D programs continued to receive a reasonable share of the R&D funds spent by the DOE.

Mr. President, changing circumstances require changing approaches.

The lengthy debate in hearings on the national energy strategy conducted by the Senate Energy and Natural Resources Committee, on which I am a member, served only to highlight the increased emphasis that is being placed on environmentally clean sources of energy generation.

And, of course, the gulf war served as an expensive reminder of this country's dangerous reliance on imported oil.

I do not think that there is a single one of my colleagues that does not believe that alternative energy sources can and should play a larger role in our energy supply mix. The Fowler-Jeffords amendment gives us all an opportunity to put in the RECORD our support. It is a message that needs to be heard, and I hope you will join me in sending it.

Mr. JOHNSTON. Mr. President, last year we had $114 million for solar applications. The administration requested an increase to $122 million. In the bill as we reported it to the floor we included $137 million, which was an increase over the budget request of some $15 million, an increase over last year of some $23 million. What this amendment does is add an additional $14 million to the Solar Program so that it would then be $152 million.

I have long supported these programs. Although they do not produce at this time a great deal of energy, it is hoped that they will fill an important niche in the energy future of the country. And they are certainly widely supported across the country.

I think it is important in any comprehensive energy strategy to have renewables and solar as part of that strategy. It is not going to solve the problem. If we put $20 billion here, it is not going to solve the problem. But it will help. And for that reason we are willing to go along with the additional increase of $14 million.

I call the attention of my colleagues to the fact that this is a sizable increase over last year, almost $40 million, well, a $38 million increase over last year, and a tremendous increase, some $30 million over the budget request. So I think we are treating with this amendment solar energy very generously.

I congratulate my distinguished colleague from Georgia and my distinguished colleague from Vermont for their long-time leadership in this area. And with thanks to them, we on this side of the aisle accept the amendment.

Mr. HATFIELD. Mr. President, I would like to put this proposal into a broader context. Back in the seventies, when we had the Arab boycott and under the Carter administration we were responding to the problem of a national energy policy, there were those of us on that committee at that time who were deeply committed and concerned about the failure to have addressed the possibilities and the potential of renewables, including solar.

Let this figure that is quoted now with the addition of this amendment seems staggering, we were considering the appropriations, considering the tax credits that were provided for renewables as incentives, we were up to almost a billion dollars in 1 year of expenditures and investments in renewables, including solar. So when we are talking about this figure, it is really an interesting contrast and comparison. Now my problem is that we cannot expect to get the results from the investments if we do not sustain our commitment over a reasonable period of time.

The billion dollars really was never given an opportunity to give us a return on our investments because it was dropped and gradually declined to the point where it was next to nothing. We have to not only get these sustained levels but we have to realize that these are long-term returns that do come back to us for the investments made initially.

I want to also make a second observation. In the Johnston-Wallop energy bill that has been tried and tested and debated and heard through many, many hours in the Energy Committee, which Senator JOHNSTON also chairs, this issue was carefully considered. And once again a commitment is found within that bill, the authorizing bill, in which the Senator from Georgia and others have been very much involved.

So lest there are those who think this is one of those floor amendments that pops up out of context of any kind of background, or testing, or discussion, or debate, I do not know of any amendment that really has more heritage of legislative involvement, legislative consideration, than this amendment.

I am very pleased that the Senator from Georgia and the Senator from Vermont have taken this initiative as far as this bill is concerned.

It has been cleared and is enthusiastically supported on this side of the aisle as well.

Mr. SIMON. Mr. President, I just want to take 2 minutes to commend my colleagues, Senator FOWLER and Senator JEFFORDS, as well as Senator JOHNSTON and Senator HATFIELD on this.

Just two little experiences. My wife and I 10 years ago built a home in deep southern Illinois. It tends to be pretty warm territory. But about 18 months ago we had an unusual period of weather, below zero weather. I did not want to build active solar because I am no tinkerer. I did not want a bunch of pipes to tinker around with. But we made a home that was a passive solar. During the daytime in below zero weather the furnace did not kick on. It works.

The second experience was back when Jimmy Carter was President. When Archbishop Makarios, President of Cyprus, died, President Carter picked a delegation to go over to Cyprus for the funeral events. One of those picked was our former colleague, Senator Mac Mathias from Maryland. We thought while we were there we would go and visit the refugee housing, built 55 percent with American taxpayers' funds.

Every refugee unit in Nicosia, Cyprus, has solar heating devices on them. Somehow, if we can use American taxpayers' funds to see that in Nicosia, Cyprus—there is solar heating units, solar heating that help the people conserve energy—we can do it here in the United States of America. And what this amendment does is nudges us a little more in the right direction.

I commend everyone who has been involved.

Mr. FOWLER. Mr. President, I ask unanimous consent that Senator DASCHLE be added as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 709) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 710

(Purpose: To transfer funds for the Department of Energy from space reactor power systems to the Reduced Enrichment in Research and Test Reactors Program)

Mr. WIRTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. CONRAD). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. WIRTH] proposes an amendment numbered 710.

Mr. WIRTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 46, line 16, strike "$2,940,916,000" and insert "$2,940,516,000".

On page 57, line 23, strike "$415,976,000" and insert "$416,476,000".

On page 58, line 15, before the period, insert the following: "*Provided further*, That of the sum herein appropriated, $1,300,000 shall be used for the Reduced Enrichment in Research and Test Reactors Program under the Office of International Affairs and Energy Emergencies".

Mr. WIRTH. Mr. President, the recent events in Iraq, and the search for the highly enriched uranium weapons grade material in Iraq, brings to all of us the issue of nuclear proliferation around the world. Over the last 40 years, the United States has been the No. 1 exporter of nuclear technology around the world, and has been the No. 1 exporter of highly enriched uranium which leads to weapons grade material, which leads to proliferation of nuclear weapons around the world.

In the mid-1970's the United States began an effort to convert reactors, university reactors, research reactors, and others around the world to convert those away from use of the highly enriched uranium, HEU, to alternative fuels, to a lower grade uranium which was not of weapons grade, and that was a program called the Reduced Enrichment for Research and Test Reactors Program.

That program is now about 95 percent complete. About 100 reactors are converting or looking at conversion; 8 have converted completely; 11 are in the process of conversion today; and about 80 others are watching very carefully what is happening to that first group.

In addition, three reactors, one in Belgium and two in France, are very dependent upon the United States export of highly enriched uranium. If we are concerned about proliferation, we want to deal with the Belgian and the French reactors, and with other reactors around the world.

Initially, I had offered an amendment to do two things: One, to continue to provide—to increase the amount of technical assistance the United States gives to the 100 reactors that are looking at conversion or are in the process of converting; and second, to develop the highly enriched uranium for the Belgian and the two French reactors.

The latter part of the amendment causes us a variety of problems. That gets into foreign policy issues and gets into the foreign aid bill. I think we have worked out report language asking the Secretary to develop a report back to the committee, working with the Secretary of State on negotiations with the French and with the Belgians on the conversion process there.

What we are doing is increasing, in this amendment, the funding to the level right up to what the Department of Energy that they can use, $1.3 million, to provide technical help to those nuclear reactors, the university research and other reactors, that are in the process of converting from highly enriched uranium, the weapons-grade material, to a lower level alternative fuel.

The purpose of this amendment, on which I appreciate the help of the distinguished chairman of the subcommittee, and which I believe the subcommittee has agreed to, is to provide the level of technical help which the Department of Energy says they can usefully provide around the world.

It would be my hope that this amendment will be accepted. This is another step forward in our attempts to lower the level of nuclear proliferation around the world.

To reiterate, Mr. President, this is an amendment to reallocate $3,500,000 in the Department of Energy budget for the purpose of restoring to full funding the so-called RERTR [Reduced Enrichment for Research and Test Reactors] Program. The additional funds would come from space reactor power systems, leaving that program with a still quite substantial $40,500,000 and permitting the RERTR appropriation to rise to $4,300,000 from the presently proposed level of only $800,000.

The purpose of this amendment is to complete a very important, yet remarkably inexpensive, piece of unfinished nuclear nonproliferation business—developing the substitute nuclear fuels that will permit the United States to end its dubious role as the world's principal exporter of bomb-grade uranium for peaceful research programs.

Since 1978, the Argonne National Laboratory has been highly successful in developing high-density, low-enriched uranium fuels that are unsuitable for use in nuclear weapons to replace most, but not all, of the highly enriched, bomb-grade fuels that have been supplied by the United States to more than 100 research reactors in 34 other countries. The problem is that the fuel-development portion of the RERTR Program was terminated by the Department of Energy in fiscal year 1990 before the job was finished, placing in jeopardy the other portion of the program—the actual conversion of foreign research reactors for which substitute, non-weapons-usable fuels have been developed. To make matters worse, proposed funding to facilitate these reactor conversions has been slashed for fiscal year 1992 from $1,300,000 to $800,000, a further sign to foreign reactor operators that the United States is no longer a strong supporter of its own program.

One result of the wrenching experience in Iraq is that we all have come to see how worrisome even a rather modest amount of bomb-grade, highly enriched uranium fuel for research reactors can be. Indeed, a key element of President Bush's ongoing Middle East arms control initiative—to seek a ban on further production or acquisition of bomb-grade nuclear materials in the region—was prompted in large measure by the realization that Saddam Hussein's known inventory of about 90 pounds of highly enriched uranium gave him enough nuclear explosives to build two Nagasaki-type atomic bombs.

Although Iraq's "peaceful" nuclear research program provides one of the few examples of non-United-States-supplied highly enriched uranium—Saddam's imported fuel was provided by France and the Soviet Union—we would be unwise to miss the object lesson for our own highly enriched uranium export program. The nuclear proliferation and terrorism risks associated with bomb-grade uranium transcend Iraq and the Middle East. The Iraqi example vividly illustrates the need to remove this dangerous material from civil nuclear research programs throughout the world.

Just how dangerous is highly enriched uranium was made clear in the recently published memoir of Luis J. Alvarez, a key figure in the Manhattan project. "With the modern weapon-grade uranium," he wrote, "terrorists, if they had such material, would have a good chance of setting off a high-yield explosion simply by dropping one-half of the material onto the other half. Most people seem unaware that if separated U-235 is at hand it is a trivial job to set off a nuclear explosion. * * * Even a high-school kid could make a bomb in short order."

Restoration of full funding for the RERTR Program—$1.3 million for reactor conversions and $3.5 million for fuel development—will make it possible to eliminate bomb-grade uranium from civil nuclear programs. We should support the President's Middle East arms control initiative by completing the RERTR Program and thereby demonstrate United States resolve to replace bomb-grade uranium in all foreign research reactors with lower-enriched fuels that cannot be used in bombs. As the Nation that has exported more than 9,000 pounds of bomb-grade uranium—compared with dozens of pounds exported by France and Britain and hundreds of pounds by the Soviet Union—the United States has a special responsibility to exercise the leadership necessary to see this program through.

Compared with the hundreds of billions of dollars spent annually on defense, the RERTR Program is a national security bargain—requiring just over $4 million in the coming fiscal year and in each of the next 4 years, according to the program managers at Argonne, to develop the substitute fuels and convert all overseas research reactors now using U.S.-supplied, bomb-grade uranium.

At this point, only 8 reactors—including 4 university reactors in the United States—of more than 100 eligible for conversion have switched to fuels that cannot be used in bombs. Another 11, including 2 in the United States, are in the process of converting, but the completion of this process and the conversion of others for which fuel has been developed may hinge on whether the RERTR Program completes its work to develop substitute fuels for 3 high-performance reactors—2 in France and 1 in Belgium—for which low-enriched fuel is not now available. Restoration of full funding for RERTR will make it possible to complete this work.

DOE has taken the position that continuation of the RERTR fuel-development effort does not make sense and is a waste of money because even assuming Argonne successfully develops the remaining high-performance fuels, the reactor operators will refuse to accept them. However, only one such operator in France has communicated to Argonne such outright opposition, and it is based primarily on the conclusion that it will prove technically impossible to develop the substitute fuel for this reactor—a conclusion with which experts at Argonne disagree.

A deeper problem for future conversion of the European high-performance reactors is DOE's apparent reluctance to convert its own reactors to low-enriched fuel—a matter that may have to be addressed in the future but should not be allowed now to interfere with development of the remaining fuels that would make possible the conversion of all foreign reactors now using United States-supplied, bomb-grade uranium. What is becoming clear is that some foreign reactor operators may refuse to accept the substitute fuels unless all other foreign operators do so. Indeed, this sentiment has been expressed at international RERTR meetings and may be the reason that a German-Dutch reactor located in the Netherlands is now seeking an additional export of some 85 pounds of highly enriched uranium, the equivalent of two bombs, even though low-enriched uranium is now available for it. This reactor, and the other three high-performance reactors for which substitute fuel must still be developed, require exports of a total of about 300 pounds of bomb-grade uranium a year.

I ask support of this amendment to make it possible to eliminate these and all other transfers of U.S. bomb-grade uranium to foreign research reactors. Iraq has taught us that the world will be far better off when commerce in such dangerous material has been eliminated.

I ask unanimous consent that a recent article from the Washington Post and two recent studies prepared for the Nuclear Control Institute on the RERTR Program and the bomb potential of highly enriched uranium be inserted at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 23, 1991]

POLITICIANS IN THE LAB * * * AND SCUTTLING AN EASY WAY TO STOP NUCLEAR PROLIFERATION

(By Paul L. Leventhal and Deborah J. Holland)

President Bush's new arms control initiative for the Middle East calls for a ban on the production and acquisition of materials for nuclear weapons—highly enriched uranium and plutonium.

Motivating this proposal is deep concern over Iraq's possession of bomb-grade, highly enriched uranium, supplied by France and the Soviet Union for "peaceful" nuclear research. But the proliferation and terrorism risks associated with such fuel transcend the region. Almost 9,000 pounds of bomb-grade uranium is used in more than 100 research reactors in 35 countries—most of it supplied by the United States. The Iraqi example vividly illustrates the need to remove weapons-usable uranium from civil nuclear research programs.

A relatively simple and cheap solution is available—but the Bush administration seems interested only in scuttling this project as a budgetary economy. Such misguided economizing could have grim consequences for international security.

A key element of the nuclear proliferation problem is the difficulty of applying effective international safeguards to ensure that bomb-grade material is not diverted from peaceful research and converted quickly into weapons. Iraq's nearly 100 lbs. of safeguarded, highly enriched uranium is enough to build two bombs, each equal in yield to the U.S. bomb that destroyed Nagasaki.

Given ample warning of the start of the Gulf War, Iraq removed the contents of its two reactors and other nuclear plants to secret locations before the bombing began. Under the terms of the United Nations ceasefire resolution, Iraq must give up its bomb-grade uranium to the International Atomic Energy Agency (IAEA) and allow IAEA inspectors to enter and destroy all nuclear-weapons plants.

Iraq at first denied having any weapons-usable materials or any weapons plants. After the IAEA rejected this, Baghdad provided a detailed inventory of nuclear materials but withheld most of the storage locations and disclosed the location of just one weapons plant. The inventory revealed that Iraq possessed twice the amount of safeguarded bomb-grade uranium that U.S. and IAEA officials had previously described in public statements—enough for two bombs rather than one. The situation has been further complicated by the recent disclosure that an Iraqi defector has told U.S. officials that Iraq on its own produced almost 90 lbs. of bomb-grade uranium in a secret enrichment plant—an allegation U.S. officials have not confirmed.

These revelations exposed two serious inadequacies of IAEA inspections in Iraq prior to the war. First, the inspections were limited to declared facilities because the IAEA does not look for clandestine plants. Second, according to its own goals, the agency should have inspected the safeguarded, highly enriched uranium fuel as frequently as once a month to ensure "timely detection" of a diversion of the material that can be converted into weapons in as little as one to three weeks. Instead, the IAEA inspected the bomb-grade fuel only once or twice a year.

PEACEFUL SECRETS

The secrecy surrounding "peaceful" nuclear programs is a big part of the safeguards problem. U.S. and IAEA officials now say they knew all along how much weapons-usable uranium was in Iraq. If the amounts of "peaceful" bomb-grade nuclear fuel and the particulars of inspecting it were a matter of public record, rather than being teated as a military secret, the French and Soviets might have been reluctant to export highly enriched uranium to Iraq in the first place.

The Iraqis agreed to cooperate with the IAEA only after being threatened with additional U.N. Security Council sanctions. According to the IAEA, its inspectors were recently shown and they accounted for all the known supplies of bomb-grade uranium in Iraq. The agency's plans for removing the bomb-grade fuel depend upon continued Iraqi cooperation.

Two sobering lessons emerge. The first makes starkly clear the limitation of the IAEA and the international nonproliferation regimen in coping with a nation that possesses bomb-grade materials and is determined to build and atomic bomb.

Iraq is a party in good standing to the Nuclear Non-Proliferation Treaty (NPT). As recently as last summer the IAEA's safeguards director called Iraq's behavior "exemplary" and said the thought of Iraq making a bomb out of its fuel did not "make sense." As an NPT member, Iraq qualified to import bomb-grade nuclear fuel and other equipment suited to manufacturing weapons even though the components were not needed for peaceful research programs.

That the international community now insists upon removing Saddam's stock of highly enriched uranium—rather than simply renewing regular IAEA inspections in Iraq—reveals the inadequacy of the safeguards regimen on bomb-grade nuclear materials. Inspections as now conducted by the IAEA cannot provide "timely warning" of a diversion to a clandestine bomb program.

The second lesson is the significant danger posed by weapons-usable, highly enriched uranium—material that is no longer essential to civil nuclear research programs. Before Iraq reported it had about 100 lbs. of highly enriched uranium, J. Carson Mark, retired head of weapons design at Los Alamos National Laboratory, concluded in a report to our institute that using the 50 lbs. of bomb-grade material then thought to be in Iraq's possess, "a fairly large and competent staff," working intensively for at least a year, could design, fabricate and assemble a single implosion device weighing about a ton and yielding up to the equivalent of 20,000 tons of TNT. The larger amount Iraq is now known to possess under safeguard is enough for two bombs, Mark reported. If Iraq has nearly 90 lbs more of bomb-grade uranium that it produced in a secret plant, as the defector claims, then Iraq would have enough for another two nuclear weapons.

The late Luis J. Alvarez, a leading figure in the Manhattan Project, wrote in his memoirs that "terrorist . . . would have a good chance of setting off a high-yield explosion simply by dropping one half of the material [highly enriched uranium] on the other half. (E)ven a high school kid could make a bomb in short order."

SAFER SUBSTITUTES

Fortunately, the technology is now at hand to replace bomb-grade, highly enriched uranium in research reactors with higher-density, lower-enriched fuel that cannot be used on nuclear weapons. Unfortunately, global commerce in bomb-grade uranium is likely to continue, despite the object lesson of Iraq, because of the refusal of the Bush administration to support completion of a U.S. technical program that is developing the replacement fuels.

This little-known program, begun in 1978, has become an orphan. It is shunted between U.S. agencies, and each year at this time gets caught in a "Perils of Pauline" struggle to survive administration attempts to slash or kill its budget. In past years, a few stalwarts in Congress managed to scrape together a million or so dollars to keep it limping along. This year, the survival of the RERTR (Reduced Enrichment for Research and Test Reactors) program is again in doubt.

Compared with the hundreds of billions of dollars spent annually on defense, this program is a national security bargain—requiring little more than $4 million a year for the next five years to develop the substitute fuels and convert all overseas research reactors now using U.S.-supplied, bomb-grade uranium. It already has developed the fuels to make it possible to convert 95 percent of these reactors. But only eight reactors of approximately 100 eligible for conversion have switched to fuels that cannot be used in bombs. The main reason is that the U.S. Government is no longer seen overseas as a strong supporter of its own program. The proof is in the administration's proposal to cut the program budget from $1.3 million to $800,000, and to leave no funds at all to finish the development of the substitute fuels.

Given the nuclear lessons of Iraq, it is time for the President and Congress to press ahead with removal of bomb-grade uranium, from all civil nuclear programs. This is a technically achievable goal, a non-proliferation approach that would work.

ELIMINATING BOMB-GRADE URANIUM FROM RESEARCH REACTORS

(By Milton M. Hoenig, Scientific Director, Nuclear Control Institute)

Over 100 nuclear research and test reactors throughout the world continue to be fueled on highly enriched uranium (HEU) supplied by the United States and other Western countries—despite the fact that this uranium is usable in nuclear bombs.[1] Most of the 4,000 kilograms of HEU in these reactors is 93-percent enriched, bomb-grade material from the United States. Thirty-six of the research reactors are in the U.S., and the remainder are in 34 other countries. Only eight research reactors that previously used HEU fuel have been converted to fuel fabricated from low-enriched uranium (LEU), which is not suitable for weapons use (see Table 1).

INTRODUCTION

The Carter Administration realized, more than a decade ago, that the HEU in research reactor fuel could be diverted and used directly by nations or terrorists in nuclear explosives. In 1978 it established the Reduced Enrichment for Research and Test Reactors (RERTR) program to develop "high-density," LEU fuels for replacing the HEU fuels and removing HEU from commerce. Argonne National Laboratory of the Department of Energy (DOE) directs the technical side of the RERTR program to oversee fuels development and ascertain that reactor conversions can be performed without significant penalties in performance, cost or safety.

Now, with only five years left to completion of the program, DOE has terminated RERTR fuels development. By prematurely ending the fuels program at its present stage, DOE is signaling a halt to the development and testing of "advanced" LEU plate fuels needed to convert some 10 percent of foreign and domestic research reactors—high-power reactors that are among the world's principal nuclear research and test facilities (see Table 3). The result of early termination of the RERTR fuels program is to perpetuate the export of over 100–150 kilograms of HEU annually from the U.S. to foreign reactor operators.[2] Prompt action by the administration and Congress to reinstate and complete the RERTR fuels program would enable the conversion of all existing and planned research reactors.

WHY TERMINATE RERTR NOW?

U.S. Government funding for the RERTR program hovered at the $4–5 million level in the mid-1980s. The money was used for development of LEU research reactor fuels, as well as assistance to foreign reactor operators preparing for conversion. By FY 1990, RERTR funding dropped to $1.2 million, which the Bush administration designated as "final year funding" for the program.

Nevertheless, efforts in Congress, by Representatives Scheuer, Wolpe and Lloyd and by Senator Glenn, restored the funding to $1.3 million in FY 1991, but for conversion assistance to foreign reactors only. Energy Secretary Watkins has stated that DOE will continue the RERTR program at the $1.2 million level for another three years, through FY 1994, but will limit it to the conversion of reactors using high-density fuels already developed.

Thus, DOE no longer plans to fund the RERTR fuels development program, and, consequently, no further work is to be done to develop advanced LEU fuels of yet higher uranium density to finish the conversion task. This decision effectively exempts DOE's own research reactors from conversion to LEU fuels—a decision that could jeopardize the completion of the reactor conversion program worldwide. A number of foreign operators are reluctant to convert their reactors if DOE and other U.S. operators refuse to convert their reactors, as well.

HEU IS BOMB MATERIAL

A "first generation" nuclear implosion bomb of the type tested by the U.S. in 1948 would require no more than 15 to 25 kilograms of 93-percent enriched HEU metal—about one critical mass of material when it is surrounded by several inches of some neutron reflector. A more sophisticated implosion design may require even less HEU. A crude gun-type (Hiroshima-type) nuclear devise would require the assembly of two or three reflected critical masses, or about 30 to 50 kilograms of 93-percent HEU, depending on the reflector, with nominal explosive yield equivalent to about fifteen thousand tons of TNT (15 kilotons).

As former Manhattan Project scientist Luis Alvarez said in his 1987 autobiography, Adventures of a Physicist, "With modern weapons-grade uranium the background neutron rate is so low that terrorists, if they had such material, would have a good chance of setting off a high-yield explosion simply by dropping one-half of the material on to the other half."[3] Even such a primitive mode of assembly likely would result in a nuclear explosive yield greater than 1 kiloton. Alvarez's statement calls attention to the unique risks associated with the civil use of HEU.

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[1] Highly enriched uranium (HEU) is uranium enriched to 20% or more in the isotope uranium-235; uranium enriched to greater than 90% uranium-235 is bomb-grade; low-enriched uranium (LEU) is enriched to less than 20%. See appendix for discussion of research reactor fuel.

[2] France and the United Kingdom are the only other Western suppliers of HEU for civil purposes, so far in limited quantities. France supplied about 5 kg 90% HEU for the first core of the 10 MW Lo Aguirre reactor in Chile in 1977 and 12.3 kg of 93% HEU for the 40 MW Osirak reactor in Iraq in late 1980 or early 1981. France also supplies an average of about 3 kg 93% HEU annually for targets irradiated in reactors in Belgium, the Netherlands and France to produce the isotope molybdenum-99. The United Kingdom supplied 5 kg of 80% HEU for the first core of the 5 MW La Reina reactor in Chile in 1974 and 10 to 20 kg of 45%-enriched HEU for the first reload of the reactor in the early 1980's.

A nation or terrorist group would have littler difficulty in recovering the HEU metal from fresh plate-type fuel that is seized in transit or from storage at the reactor site. Even if the fuel is lightly irradiated—for example, a few hours per week in a low-power (less than 100 kilowatt) university research reactor—the separation could be done despite the presence of some radioactive fission products, especially if the situation were urgent. Such an irradiated fuel assembly, whether taken from the reactor core or from storage, would not deliver a "self-protecting" external radiation dose because after a few days, or at most a few weeks, the dose would drop outside the fuel bundle below a level that would deter a dedicated group intent on acquiring bomb material.

For terrorists seeking to build a primitive nuclear weapon or rogue states preparing more sophisticated weapons, their only obstacle might be acquiring the HEU and fabricating weapon's nuclear components. Pakistan already has chosen the bomb-grade uranium route in its nuclear weapons program, and Iraq appears to be doing the same, through a concerted effort to initiate a gas centrifuge uranium enrichment program and to acquire electronic bomb components.

On hand in Iraq, but under International Atomic Energy Agency (IAEA) safeguards, are 12.3 kilograms of French-supplied 93-percent HEU, in fuel intended for the destroyed 40 MW Osirak reactor, and at least 10 kilograms of Soviet-supplied 80-percent HEU in fuel for the 5 MW IRT-5000 reactor. The French HEU fuel was lightly irradiated in the 800 kW Isis reactor as a condition of supply, but the current level of radiation likely would not be a barrier to recovering the uranium metal from the HEU-aluminum alloy fuel in the Italian-supplied hot cell.

Thus, HEU in commerce remains a tempting target for seizure, with possibly serious consequences. The same concern holds for the "lifetime" HEU cores in low-power research reactors that usually are irradiated so infrequently that removal of the fuel from the reactor core is possible without risk of serious exposure.

COSTS AND BENEFITS OF ADVANCED FUELS DEVELOPMENT

The feasibility of completing the advanced fuels design effort, given funding, is not in question. The major objections raised by opponents of the RERTR fuels program in DOE to continued work on advanced LEU fuels development go to the question of the costs involved relative to the small number of reactors overseas and in the U.S. for which the fuels are required. Also, DOE has no interest in converting its own research reactors and does not want to be placed in the uncomfortable position of developing fuels that it then might be forced to use in its own facilities.

In national security terms, the expenditure for the advanced fuels program is miniscule compared with other defense-related costs. Completing the RERTR fuels development program would take another five years at a cost of $3 million per year, according to Argonne estimates. The investment is minimal compared with the considerable payoff of completing the conversion of the world's premier, high-performance research and test reactors, ending HEU exports, and eliminating any justification for HEU fuel in future high-power, high-flux research facilities.

When available, the advanced fuels could become the standard for all research reactors. The use of advanced fuels in reactors presently convertible to high-density LEU fuels would offer several advantages to reactor operators in terms of lengthening refueling cycles and providing an opportunity for increasing power and flux. Wide use and commercial availabity of the advanced fuels also would bring down fabrication costs.

STATUS OF FOREIGN REACTOR CONVERSIONS

Currently, 39 foreign research and test reactors having a power of 1 megawatt (MW) or more use plate fuel fabricated from HEU exported principally by the United States. Of these reactors, all but three are now convertible to high density LEU fuel that the RERTR program already had developed and tested and made available through commercial suppliers, such as CERCA in France and Babcock & Wilcox in the U.S.

Four other reactors have been fully converted to LEU—the OSIRIS reactor in France, the THOR reactor in Taiwan, the PRR–1 reactor in the Philippines and the RA–3 reactor in Argentina—and 32 of the 39 HEU-fueled reactors have developed conversion plans.

Nine foreign reactors are in the process of converting (see Table 2). For example, the 35 MW French SILOE plate-fuel reactor is scheduled to convert shortly, and the 125 MW rod-fuel Canadian NRU reactor is being fully converted to Canadian-fabricated fuel. After a decade of negotiations, the Canadian NRU reactor no longer is to receive HEU shipments for fuel from the U.S. Also, Japanese officials have announced a plan to operate the 50 MW JMTR research reactor with a full core of LEU plate fuel starting in 1993, breaking with a long-standing Japanese policy of not commiting to less than 45-percent medium-enriched uranimum (MEU) fuel.

In addition, General Atomics has available low-enriched Triga fuel to convert all 5 foreign and 6 domestic General Atomics Triga reactors that now use HEU fuel. Among them is the 14 MW SSR Triga in Romania, which nevertheless is still seeking export from the U.S. of a partial core of 93-percent enriched Triga fuel elements containing 17 kilograms of HEU that has been held in storage since the late 1970s at Oak Ridge.[4]

In the next few years as HEU fuel supplies on hand at reactor site run out, conversions made with Argonne assistance may be expected to multiply, unless foreign reactor operators manage to obtain approval from U.S. government agencies for additional exports of HEU.

At this time, the U.S. is not pressuring the operator of the convertible 45 MW HFR Petten test reactor in the Netherlands to make the changes to LEU fuel. Petten, which is a European Community facility, is scheduled to receive 38 kilograms of HEU from the U.S. in FY 1991. Even though the reactor is expected soon to complete a successful test irradiation of several LEU fuel elements of the type that could be used for a full conversion, Petten's operator steadfastly refuses to agree to conversion. The grounds for the refusal are that using the available LEU high-density fuel would require Petten to accept a cut in neutron flux that would place it at a disadvantage relative to other high performance European reactors as a center for test irradiation activities. However, Argonne's analysts show the Petten reactor is convertible with no significant operational penalty.

Research reactors with power less than 1 MW generally have lifetime cores that do not have to be replaced after the initial loading. Consequently, while all of the 35 foreign reactors in this category with HEU cores could convert with available LEU fuels, few may do so unless they are provided an incentive or compelled by national law. In the U.S., the Nuclear Regulatory Commission set a precedent with its 1986 ruling requiring NRC-licensed research reactors to convert to LEU, whether or not they have lifetime cores.

LINKING FOREIGN AND U.S. REACTOR CONVERSIONS

In addition to the 38 kilograms of HEU in FY 1991 for the Petten reactor, the U.S. is scheduled to export 96 kilograms of HEU to the three European research reactors for which advanced LEU fuels needed for conversion have not yet been developed: the 57 MW RHF Grenoble test reactor in France, the 14 MW Orphee reactor also in France, and the 80 MW BR–2 test reactor in Belgium.[5] The BR–2 has offered to convert together with its 0.5 kW critical assembly, BR–02, when the appropriate fuels are available. Grenoble and Orphee like Petten, have not agreed to the conversion option, although there would be no technical justification for not converting to the advanced LEU fuels. A Congressional move in 1981 to cut off all HEU exports was deferred, pending the completion of the RERTR advanced fuels development program. Now that the program has been suspended, exports of HEU fuel for these reactors are likely to continue indefinitely unless Congress acts to halt future exports.

In expressing their reluctance to convert, European reactor operators often cite a linkage between the conversion of U.S. and foreign reactors. The four European high-performance reactors, above, are often matched against a group of U.S. counterparts that are not convertible at present (see Table 3) but would be once advanced fuels from the RERTR program were developed: two DOE-owned research reactors—the 85 MW HFIR at Oak Ridge and the 60 MW HFBR at Brookhaven—and three NRC-licensed research reactors that are exempted from the 1986 rule because needed LEU fuels are not yet available—the 20 MW NIST at the National Bureau of Standards (NBS), the 10 MW reactor at the University of Missouri, and the 5 MW reactor at the Massachusetts Institute of Technology (MIT).

Another DOE reactor, which is in a power class by itself, is the 250 MW Advanced Test Reactor (ATR) at the Idaho National Engineering Laboratory, DOE's principal materials test reactor. The ATR will be a prime conversion target if advanced LEU fuels become available. Until recently, DOE has argued that the ATR could not be converted without changing the geometry of the core, but now very-high density LEU fuel concepts that have been under development at Argonne by the RERTR program would make it possible to convert the present core.

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[3] Alvarez, Luis. Adventures of a Physicist. New York, NY: Basic Book Inc., 1987, p. 125.

[4] Triga fuel was developed for the General Atomics Triga reactor to have definite safety advantages over other research reactor fuel. Namely, the fuel has a very large negative prompt temperature coefficient of reactivity so that a very rapid rise in temperature due to the reactor going "prompt critical" stops the chain reaction immediately before the fuel can melt.

[5] In addition, the U.S. is scheduled to export 15 kg 93% HEU to Canada for molybdenum-99 production targets. A program at Argonne to develop LEU "moly" targets was terminated by DOE at the end of FY 1989.

Clearly, if the RERTR LEU fuels program were allowed to proceed to completion, foreign reactor operators would be more likely to convert voluntarily if their high-power U.S. counterparts do also. The U.S. decision to terminate the RERTR fuels program is seen in the research-reactor community as a political act to save DOE from having to convert its own research reactors to LEU and to let several NRC-licensed reactors "off the hook" of the 1986 NRC conversion rule. With the completed development of advanced LEU fuels, DOE likely would be unable to justify opposing the conversion of its research reactors.

Aside from the high-power DOE reactors already noted, DOE owns four reactors with power greater than 1 MW that are convertible now to LEU fuels. Four of the seven less-than-1 MW DOE reactors, with lifetime cores, also could convert using available fuels (see Table 4).

STATUS OF U.S. REACTOR CONVERSIONS

HEU-to-LEU reactor conversion activity is still quite limited in the U.S., taking place at university reactors, in compliance with the 1986 NRC rule that mandates conversion of NRC-licensed research reactors.[6] The NRC rule affects 18 university research reactors. The universities are required to submit conversion plans to the NRC. Funds to support the conversions are to come from the Federal government.

Only three university reactors have converted under the rule, and two more have an order to convert from the NRC (see Table 5). Two others have submitted safety analyses to the NRC, and five more have DOE funds for preparing safety reports. Four convertible university Triga reactors have received no DOE funding as yet. Two high-power, NRC-licensed reactors—the University of Missouri and the non-university National Bureau of Standards reactors—have requested a "unique purpose exemption" to the 1986 rule because the advanced fuels required for conversion from HEU to LEU fuel are not available, and the same reason for not converting at the present time applies to the compact-core MIT reactor, although the university has not applied for an exemption to the NRC rule.

Funding for university conversions comes from a separate DOE budget for fabrication of university reactor fuel that remains the property of DOE, and for support of reactor operations. Currently, about $2 million is available annually for LEU conversion activities, which consist of preparation of reactor safety analysis reviews required for relicensing, and for LEU fuel fabrication and conversion. Argonne National Laboratory provides technical support to the universities.

Additional funding from Congress would accelerate the conversion to LEU fuel cores at universities and eliminate the potential for theft of bomb-grade uranium at some of these sites. At the present pace, it is not likely that conversions will be completed until well after 1995. The safety analyses, which cost from $20,000 to $200,000, are the principal lagging factor.

U.S. HEU EXPORTS LIKELY TO GROW

If the RERTR advanced fuels development program remains unfunded and inactive, domestic use of HEU and U.S. exports of HEU are likely to increase as new research facilities come into operation. Two examples of such reactors are the 300 MW Advanced Neutron Source (ANS) under design at the Oak Ridge National Laboratory and the FRM-II in Germany. The construction of the ANS, which would use several hundred kilograms of HEU annually, and other compact-core high-flux research facilities, such as the FRM-II, will cause a dangerous rise in HEU demand and circulation in the U.S. and abroad. Congress could choose to ban HEU exports and HEU supply for domestic use and deny funding for any new DOE research reactors until the appropriate LEU fuels are developed.

CONCLUSION AND RECOMMENDATIONS

U.S. exports of bomb-grade, highly-enriched uranium will continue indefinitely at 150 kilograms per year or higher unless the Bush Administration or Congress take action to support and fund the RERTR advanced fuels development program. Completion of the fuels program will make it possible for all existing foreign and domestic research reactors to convert to low-enriched fuel. This would be a big national security dividend for a relatively small investment.

Congress should set a deadline for a complete halt in the supply of HEU for civil purposes. It should ban HEU exports and HEU supply for domestic use if appropriate LEU fuels already are available, and it should deny funding for any new DOE research reactors until the appropriate LEU fuels are developed.

To overcome the opposition of foreign reactor operators to LEU conversion and to reduce risks at DOE facilities, Congress should require DOE to submit a plan for development of advanced LEU fuels and for the conversion of its research reactors. New research facilities like the Advanced Neutron Source can be designed with cores not requiring HEU, and Argonne already has performed calculations on the feasibility of such an approach.

As the threat of nuclear war between the superpowers recedes and the nuclear arsenals are cut back, the civil use of the weapons materials—highly-enriched uranium and plutonium—should be banned universally. Meeting the objectives of the RERTR program is the means for achieving elimination of HEU.

TABLE 1.—RESEARCH REACTORS CONVERTED TO LEU

Reactor	Country	Power	Year converted
OSIRIS	France	70MW	1979
THOR	Taiwan	1MW	1987
PRR–1	Philippines	3MW	1987
RA–3	Argentina	2.8MW	1990
UMI[1]	United States	2MW	1981
RPI[1]	United States	–0	1987
WPI[1]	United States	10kW	1988
OSU[1]	United States	10kW	1988

[1] UMI: University of Michigan; RPI: Rensselaer Polytechnic Institute; WPI: Worcester Polytechnic Institute; OSU: Ohio State University.

TABLE 2.—RESEARCH REACTORS IN PROCESS OF CONVERTING

Reactor	Country	Power
ASTRA	Austria	8MW.
IAE–R1	Brazil	2MW.
NRU	Canada	125MW.
DR–3	Denmark	10MW.
SILOE	France	35MW.
FRG–1	Germany	5MW.
FRG–2	Germany	15MW.
R–2	Sweden	50MW.
SAPHIR	Switzerland	10MW.
MAN[1]	United States	–0.
IOWA[1]	United States	10kW.

[1] MAN: Manhattan College; IOWA: Iowa State University.

TABLE 3.—KEY HIGH-PERFORMANCE RESEARCH REACTORS

Non–U.S. reactors	Country	Power	Convertible to LEU now
RHF Grenoble	France	57 MW	No.
Orphee	France	14 MW	No.
BR–2	Belgium	80 MW	No.
HFR Pettin	Netherlands	45 MW	Yes.
U.S. reactors	DOE-owned/NRC-licensed	Power	Convertible now
High flux isotope reactor (HFIR).	DOE	85 MW	No.
High flux beam reactor (HFBR).	DOE	60 MW	(?).
National Institute of Standards & Technology (NIST).	NRC	20 MW	No.
Massachusetts Institute of Technology (MITR–II).	NRC	5 MW	No.
University of Missouri (MURR).	NRC	10 MW	No.
Advanced test reactor (ATR).	DOE	250 MW	No.

TABLE 4.—OTHER DOE RESEARCH REACTORS

Reactor[1]	Power	Convertible now
High-power:		
Omega west reactor (LANL)	8 MW	Yes.
Brookhaven medical research reactor (BNL).	5 MW	Yes.
Bulk shielding reactor (ORNL)	2 MW	Yes
Tower shielding reactor–2 (O/RNL)	1 MW	Yes.
Low-power:		
Biological research reactor (ANL)	200 kW	Yes.
Neutron radiography reactor (ANL–W).	250 kW	Yes.
Argonne thermal source reactor (ANL).	–0	Yes.
Pool critical facility (ORNL)	–0	Yes.
Coupled fast reactivity measurement facility (INEL).	–0	No.
Advanced reactivity measurement facility (INEL).	–0	No.
Advanced test reactor critical facility (INEL).	–0	No.

[1] Acronyms—LANL: Los Alamos National Laboratory; BNL: Brookhaven National Laboratory; ORNL: Oak Ridge National Laboratory; ANL: Argonne National Laboratory; ANL–W: Argonne National Laboratory–West; INEL: Idaho National Engineering Laboratory.

TABLE 5.—U.S. UNIVERSITY RESEARCH REACTORS

Reactor	Power
Converted:	
University of Michigan	2MW.
Rensselaer Polytechnic Institute	
Worcester Polytechnic Institute	10kW.
Ohio State University	10kW.
Issued NRC order to convert:	
Manhattan College	–0.
Iowa State University	10kW.
Safety Documentation submitted to NRC:	
University of Missouri, Rolla	200kW.
University of Virginia	2MW.
DOE funded to prepare safety report:	
University of Rhode Island	2MW.
University of Lowell	1MW.
Purdue University	1kW.
University of Florida	100kW.
Georgia Institute of Technology	5MW.
Convertible but no DOE funding:	
Washington State University	1MW.
Texas A&M University	1MW.
University of Wisconsin	1MW.
Oregon State University	1MW.
Request for unique purpose exemption:	
University of Missouri, Columbia	10MW.

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[6] In addition, the University of Michigan research reactor was full converted in 1981 as part of an early RERTR demonstration. Contracting out to Argonne would speed them up, but the universities want to keep the conversion work for graduate students, with the result that the process may take much longer and cost more.

TABLE 5.—U.S. UNIVERSITY RESEARCH REACTORS—Continued

Reactor	Power
Massachusetts Institute of Technology[1]	5MW.

[1] MIT has not applied for a unique purpose exemption to the NRC rule, arguing that the exemption is unnecessary because required LEU fuels have not yet been developed.

APPENDIX: BASICS OF LEU FUEL DEVELOPMENT

The majority of research reactors use plate-type fuel. The fuel assemblies are made up of thin metal plates, 1 to 2 millimeters thick, with an inner layer containing a compound of uranium and two outer layers of aluminum clad. Other research reactors, specifically the General Atomics Triga, use assemblies made up of fuel rods rather than plates.

The technical goal of RERTR, simply stated, is to lower research reactor fuel enrichment from as high as 93-percent enriched HEU to less than 20-percent LEU, without decreasing the total amount of chain-reacting uranium-235 in the reactor core. This can be achieved safely, without obstructing the flow of coolant in the core, by fabricating fuel plates of the same dimensions and with the same amount of uranium-235 as before but with several times the amount of uranium-238 packed in, so as to reduce uranium enrichment but increase uranium density in the plate, several-fold.

When the RERTR program began, highly-enriched plate fuels made from uranium aluminide and uranium oxide compounds had uranium densities typically of less than 1.0g/cm^3 and up to 1.7 g/cm^3. The RERTR program has developed several progressively higher-density, low-enriched plate fuels, starting with the original uranium compounds and eventually switching over to uranium silicide. Triga fuel consists of uranium dissolved in zirconium hydride.

Presently, high density, 4.8g/cm^3 uranium silicide LEU fuel, which had its first full-core test in 1987, is the standard plate fuel for reactor conversion. The NRC has issued a formal and generic approval for the use of silicide plate fuel with densities up to this value in research and test reactors. Also, in cooperation with the RERTR program, General Atomics has developed LEU Triga fuels with uranium densities up to 3.7g/cm^3 that can be used to convert all Triga reactors that are now using HEU fuel.

Work by the RERTR program on advanced LEU silicide fuels with densities as high 9.0 or 10.0g/cm^3 also has begun. Argonne has already fabricated and tested silicide fuel plates with uranium densities up to 7.1g/cm^3. A new fuel concept using a composite of uranium silicide wires embedded in aluminum has an effective uranium density of 12.9g/cm^3. Another concept uses a hot-isostatic press to fabricate silicide fuel plates with uranium density up to 10.2g/cm^3. * * * developed using one of these new concepts, the advance fuels could be used to convert all plate fuel research reactor.

EXCERPT

[Nuclear Control Institute, Washington, DC]

Some Remarks on Iraq's Possible Nuclear Weapon Capability in Light of Some of the Known Facts Concerning Nuclear Weapons, May 16, 1991

(By J. Carson Mark)

J. Carson Mark is a consultant to the Nuclear Control Institute. Dr. Mark served as the head of the Theoretical Division of Los Alamos National Laboratory and has served on the Science Advisory Board of the U.S. Air Force and on the Advisory Committee on Reactor Safeguards of the U.S. Nuclear Regulatory Commission.

SUMMARY

Before the Gulf War it was known that Iraq had a modest amount of weapon-usable, highly enriched uranium in the form of fuel elements for two research reactors. This material could have been dispersed or buried beneath rubble as a consequence of the bombing of their nuclear facilities, or it could have been moved to safe storage before the bombing; but nothing is publicly known about that. Iraq could hold additional amounts of weapon-usable material, obtained clandestinely, and undisclosed; but nothing is known about that, either.

To avoid embarking on an unduly speculative discussion the question addressed here is that of what could be done to manufacture one or more nuclear weapons with the material the Iraqis were known to have had available prior to the war. Since nothing is known—at least, nothing is known to the author—about the capabilities of indigenous Iraq technology in the various specialities required, the important question of whether the Iraqis were or are currently in a position to carry through without aid all the steps necessary to realize "what could be done" is necessarily left aside. In view of their devious efforts—recently unmasked—to import items of possible use in contravention of existing export controls, there has been some considerable speculation on this point. It can be stated generally, however, that for a new project to have a device in hand, a fairly large and competent staff, with diverse experience and capabilities, would have to work intensively for at least a year on design, fabrication and assembly of the device.

As to "what could be done" by such a group the following discussion suggests that with only 12.3 kg of highly enriched uranium on hand (this being one of the two batches known to have been available to Iraq) no damaging nuclear explosion would be possible using the (simpler) gun-type assembly method. With a commendably effective use of the implosion method it should be possible to realize a yield of the order of 10 kilotons in a device in which the nuclear components and HE weighted only a ton, or so, provided beryllium metal technology were available; or weighing several times more if the use of beryllium as a reflector were not feasible. With 22.3 kg of enriched uranium (the combined total of the two batches held by Iraq)[1] an explosion of the order of a kiloton might just be managed from a gun-type assembly with free use of beryllium; but not otherwise. By effective use of the implosion approach (and without beryllium) it should be possible to realize a yield of the general order of 20 kilotons in a total weight or a ton, or so—excepting components, such as protective packaging and electrical items, outside the HE. By dividing the total uranium supply into two units, and using implosion, it would seem marginally possible to produce two explosions having yields of the order of 100 tons.

With the possible exception of this last option there would not be enough material to allow for a proof test of the model to be used as a weapon. There are, of course, modes and aspects of what is frequently referred to as "sophistication" by which more favorable performance might be realized. However, inasmuch as a full yield proof test (or tests) would be necessary before there could be any assurance that a proper exercise of such approaches were in hand, such possibilities fall outside the range of the present discussion.

Excerpt from the appended endnote numbered 1 above:

We shall assume, then, that the total reserve is 11.6 kg at 93% plus 30.9 kg at 80%, for a total "worth" of 11.6+24.7=36.3 kg of 93% equivalent material. This most probably rather high worth estimate may be compared with the ≈ 20 kg assumed in the detailed discussion already given. It changes the conclusions, though not quite by a factor of two. In particular, the prospects for a gun-assembled weapon would be considerably improved, though not to the extent of allowing for two such devices. Similarly, with respect to metal implosion systems, of which two objects in the kiloton range would probably be possible.

SUPPORT THE AMENDMENT TO RESTORE FULL FUNDING FOR THE RERTR PROGRAM

June 25, 1991.

DEAR COLLEAGUE: As you know, President Bush recently outlined an ambitious new arms control initiative for the Middle East highlighted by a proposed ban on the production and acquisition of materials usable in nuclear weapons, including highly enriched uranium. Yet the President is undercutting his own program—Reduced Enrichment in Research and Test Reactors (RERTR)—for eliminating bomb-grade uranium worldwide.

Concern about Iraq's possession of weapons-usable, highly enriched uranium, which was supplied by France and the Soviet Union for "peaceful" nuclear research, was a key factor behind the arms control proposal. But the proliferation and terrorism risks associated with such fuel transcend the region. Bomb-grade uranium—most of it supplied by the United States—is used in more than 100 other research reactors in 35 countries. The Iraqi example vividly illustrates the need to remove weapons-usable uranium from civil nuclear research programs.

We support restoration of full funding for the RERTR program to help make this objective possible. We should support the President's initiative by completing the RERTR program and thereby facilitate the replacement of bomb-grade uranium in foreign research reactors with lower-enriched fuels that cannot be used in bombs.

We urge your support of a floor amendment to the Energy and Water Appropriations bill to provide $4.3 million for RERTR ($3 million for fuel development and $1.3 million for reactor conversion). The proposed level of funding, $800,000, is barely enough to support conversion of foreign reactors for which RERTR already has developed substitute fuels; it provides no funding whatever to complete development of the remaining fuels that would permit all foreign reactors now using U.S.-supplied, bomb-grade fuel to convert to non-weapons-usable fuels within five years.

Sincerely,

———— ————.

Mr. JOHNSTON. Mr. President, this $1.3 million figure is an increase of $500,000 over what we had in the bill. It is the amount that Betty Smedley, who is the comptroller of the Department of Energy, says can be used in this area. This is a nonproliferation proposal and there are certain obstacles to getting it, certain impediments to getting all of the research reactors in the world on the project.

I believe it would serve a useful purpose for us to write a joint letter to the

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[1] But, see appended end-note (Section III d) in which revised statements concerning the amount of enriched uranium held by Iraq are discussed.

Secretary of Energy and the Secretary of State, having them outline what those obstacles are and what steps need to be taken in order to have low-enriched uranium substituted for highly enriched uranium around the world in research reactors.

I will certainly join with the Senator from Colorado in drafting and sending that letter.

Mr. WIRTH. If the Senator will yield, particularly for dealing with the French and Belgian Governments, which are the three remaining major reactors.

Mr. JOHNSTON. That is correct, particularly with the French and Belgian reactors—and regarding what other obstacles there are in other countries around the world I think it would be useful to have that information—but especially the French, the Belgians, as far as the fuel work is concerned.

So with that statement, I will be glad to join with the Senator from Colorado in sending that letter. We are glad to accept this amendment.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I would not take a back seat to anybody, as far as my abhorrence of nuclear weaponry is concerned, and my lack of enthusiasm for anything nuclear. I consider the greatest single threat to our environment today is nuclear waste that is scattered all across the globe.

In the effort to amend this bill at this time by the Senator from Colorado, I recognize the reality that we are not going to dismantle those nuclear weapons tomorrow, or those reactors tomorrow. But I do think that this is a safety matter that we must at all times elevate the safety standards and the safety levels until we can abolish all these nuclear weapons.

I subscribe to the amendment from this side of the aisle, accepting this amendment on the basis that it is not only a nonproliferation action but it is a safety factor in the areas that it will address until the day that will come, hopefully sooner than later, that we can totally abolish globally all of this type of weaponry.

The PRESIDING OFFICER. Is there further debate? The Senator from Ohio.

SUPPORT THE RERTR PROGRAM

Mr. GLENN. Mr. President, last January 16, the President announced that the United States had commenced military action to force Iraq to withdraw from Kuwait. In his announcement, the President stated that United States forces would "knock out" Iraq's "nuclear bomb potential"—soon thereafter, the French- and Soviet-supplied research reactors were bombed along with the highly enriched uranium [HEU] fuel that was presumably present at the reactor sites.

This extraordinary action was taken to prevent Saddam Hussein from converting that research reactor fuel into components of a nuclear weapon; the presence of weapon-grade uranium in Iraq dramatically reduced the time needed to fabricate a nuclear explosive device. As Secretary of Defense Dick Cheney stated on CBS "Face the Nation" on November 25, 1990, "If he were to take that material, he could produce a crude device with it."

Yet if the French and Soviets had followed the logic of America's Reduced Enrichment for Research and Test Reactor [RERTR] Program—which until recently included both the conversion of HEU reactors to adopt low-enriched uranium [LEU] fuels and the development of new higher density fuels—we would never have had to face this particular diversion threat.

As our recent experience in Iraq indicates, it is difficult enough keeping track of clandestine production of enriched uranium around the world—it is clearly in our national interest to pursue what ever means are available to get this bomb-grade uranium out of the streams of international commerce, especially when this can be accomplished without jeopardizing legitimate scientific research.

Unfortunately, the budget process has a rationality of its own, one that does not always coincide with sound policy nor necessarily serve longer term national security interests. Last month's fiscal year 1992 budget request from the Energy Department shows a 38-percent cut in this already undernourished program—from a $1.3 million base figure to only $800,000, a level that would limit America's contribution to the international reactor conversion process to the labors of 4 full-time workers. This would leave only one person to perform each of the four program missions identified in the President's last annual report to Congress on nuclear nonproliferation, including: development of LEU fuels which can replace current HEU fuels; assistance in developing qualified LEU fuel suppliers; encouraging suppliers to design and market only LEU-fueled reactors; and encourage HEU reactor operators to use LEU fuels.

Mr. President, I ask unanimous consent to have printed in the RECORD at the end of my statement an extract on RERTR from the President's last annual report to Congress on nuclear nonproliferation.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GLENN. Last year, RERTR's work in developing advanced LEU fuels was terminated outright, virtually guaranteeing that the United States will continue to export over 100 kilograms of HEU fuel each year. The administration claims we do not have to worry, since this material is going to "safe" countries. Well, in my opinion that argument just does not fly. It hardly serves our interest to promote the use of bomb-grade research reactor fuels in some selected nations while attempting to deny them elsewhere; also, everyone recognizes that the problem of international terrorism knows no borders—if a terrorist group hijacks a shipment of fresh bomb-grade nuclear fuel, the consequences could be catastrophic. This would be doubly tragic, given that we have the solution to this problem in our hands today.

In its "Budget Highlights" for fiscal year 1990, however, the Energy Department slated RERTR for final year funding, a prospect that was avoided thanks to some last-minute support from Energy Secretary Watkins. Indeed, on Febraury 27, 1990, Secretary Watkins wrote me a letter discussing RERTR's 1990 funding. Mr. President, I ask unanimous consent to have Admiral Watkins' letter printed at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. GLENN. The letter stated that:

> The fiscal year 1990 funding of $1.2 million is focused on this technology transfer and reactor conversion assistance component of the program. We feel it would be appropriate to continue this type of assistance for the period fiscal year 1991–94, and welcome your support for this effort.

Although the letter supported cancellation of funding for advanced fuel development work—a policy that today's amendment would correct—it established a base-line funding level of $1.2 million to support our international efforts to encourage other nations to convert to the low-enriched fuels. Now the Department wants to cut the program further, to a shoestring level of $800,000.

It is noteworthy that the Department's own fiscal year 1991 budget request stated that:

> A recent evaluation of the RERTR program recommends that the program be funded at a level between $1.1 million and $1.4 million per year through fiscal year 1993.

Indeed, the President himself praised the accomplishments of RERTR in his latest annual nuclear nonproliferation report to Congress—achievements that came about "despite," in his words, "a substantial reduction in funding."

Last month, the National Academy of Sciences completed a report on export controls called Finding Common Ground. With respect to the issue of U.S. exports of bomb-grade nuclear materials, here is what the study conclued: "* * * embargo is probably the correct solution for certain specific items, such as plutonium or highly enriched uranium." I agree with this finding, but would only add that an embargo is not enough—we have got to offer the world safe and efficient substitutes for this potentially deadly bomb-grade fuel we continue to export.

Our goal must not be to halt legitimate scientific research; our goal must be to ensure that such research can take place without contributing to the global risks of nuclear terrorism and proliferation. That is precisely the job of the fuel development funds that are being sought in today's amendment proposed by Senator WIRTH.

The recent war in the Middle East has rekindled international interest in finding new ways to combat both nuclear weapon proliferation and terrorism. I urge my colleagues to support this amendment and to join us in pressing not just for a restoration of a respectable funding level for RERTR, but also in substantially raising the priority now being given to this valuable program. The world is turning once again to America for leadership in halting the global spread of nuclear weapons and terrorism.

When it comes to developing safe, bomb-proof fuels for research reactors, the RERTR Program is the only show in town. Let us ensure that RERTR has the resources it needs to complete its vital agenda.

EXHIBIT 1

To the Congress of the United States:

I have reviewed the activities of the United States Government departments and agencies during calendar year 1989 related to preventing nuclear proliferation, and I am pleased to submit my annual report pursuant to section 601(a) of the Nuclear Non-Proliferation Act of 1978 (Public Law 95-242, 22 U.S.C. 3281(a)).

As the report demonstrates, the United States continued its efforts during 1989 to prevent the spread of nuclear explosives to additional countries. This is an important element of our overall national security policy, which seeks to reduce the risk of war and increase international stability. I want to build on the positive achievements cited in this report and to work with the Congress toward our common goal: a safer and more secure future for all mankind.

GEORGE BUSH.

THE WHITE HOUSE, *July 13, 1990.*

REDUCED ENRICHMENT FOR RESEARCH AND TEST REACTORS

The Reduced Enrichment for Research and Test Reactors (RERTR) program began in 1978 as a result of concern about the possibility of diversion of highly enriched uranium (HEU) to nuclear weapons by nations or terrorists. The objective of the program is the reduction of the need for HEU in international commerce through: (1) development of low enriched uranium (LEU) fuels for research reactors which can replace existing HEU fuels; (2) assistance in developing qualified LEU fuel suppliers; (3) encouraging suppliers of research and test reactors to design and market only LEU-fueled reactors; and, (4) encouraging research and test reactor operators to convert existing reactors to LEU fuel use. The RERTR program continued to produce successful results during 1989 despite a substantial reduction in funding. Analyses have continued of the feasibility of converting the many research reactors which are the subject of joint study agreements between the reactor operators and Argonne National Laboratory (ANL). Further research was performed which could lead to development of higher density LEU fuels needed for conversion of the higher-powered research and test reactors from HEW to LEU. Experimental studies have continued on the substitution of LEU for HEU in irradiation targets for the production of medical molybdenum-99.

EXHIBIT 2

THE SECRETARY OF ENERGY,
Washington, DC, February 27, 1990.

Hon. JOHN GLENN,
U.S. Senate,
Washington, DC.

DEAR SENATOR GLENN: Thank you for the letter of November 17, 1989, signed by you and Representative Lloyd regarding funding requirements for the Reduced Enrichment for Research and Test Reactors (RERTR) program.

The RERTR program, now in its eleventh year, has been very successful. The fuels and methods developed in the program will allow conversion of almost all of the foreign research and test reactors that used to depend on the U.S. for their supplies of highly enriched uranium. Congressional support for the program has been important to its success.

Regarding future supply, there are some reactors abroad that in order to convert would require higher density low-enriched uranium fuels than those developed and demonstrated under the RERTR program. There are currently three such reactors and possibly a fourth that is being designed. While the combined annual requirements of highly enriched uranium for these reactors is significant (approximately 100 kilograms of uranium-235 per year), their number is small, and the countries in which they are located have excellent safeguards and security credentials. The low-enriched uranium fuel that has been developed by the RERTR program will allow conversion of the remaining research and test reactors, resulting in substantial reduction in the use of highly enriched uranium. The next major effort will be to see if the fuels will be widely accepted so that potential nonproliferation benefits can in fact be realized.

The fuels needed to convert the last three, or perhaps four, foreign test reactors to low-enriched uranium are highly developmental concepts. In our judgment, the funds actually required to develop and fully qualify these concepts are significantly in excess of the preliminary estimates by the Argonne National Laboratory. The task is made even more costly and difficult as a result of the permanent shutdown of the Oak Ridge Research Reactor in mid-1987 and the resultant requirement from a practical standpoint, to conduct irradiations and subsequent examinations in foreign facilities.

Further, there is no assurance these reactors would convert to the new fuels even if the concepts were successfully developed. The operators could claim that conversion could not be accomplished without unacceptable impact on test capability or safety performance of the reactor that are the key criteria built into the RERTR program conversion "ground rules."

For the above reasons, we believe that our future efforts to limit the use of high-enriched uranium do not require additional fuels development but, rather, should focus on the conversion of research reactors using low-enriched fuels technology already developed. The FY 1990 funding of $1.2 million is focused on this technology transfer and reactor conversion assistance component of the program. We feel it would be appropriate to continue this type of assistance for the period FY 1991–1994, and welcome your support for this effort.

Thank you for the opportunity to explain the Administration's position on concluding the research and development phase of the RERTR program and on future budget needs.

Sincerely,

JAMES D. WATKINS,
Admiral, U.S. Navy (Retired).

Mr. WIRTH. Mr. President, I will note we will be submitttting to the committee, report language which we hope will be included in the final report of the conference after the House and Senate conferees get together—full report language on the report coming back from the Secretary.

The PRESIDING OFFICER. Is there further debate?

If there be no further debate, the question is on agreeing to the amendment of the Senator from Colorado.

The amendment (No. 710) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

GLYNN COUNTY/GOLDEN ISLES

Mr. FOWLER. Mr. President, I would like to bring to the chairman's attention a matter of great importance to the people of coastal Georgia.

The beaches of Glynn County/Golden Isles region of my State are eroding at an alarming rate. These beaches support tourism and related industries, which are the mainstay of the local economy, and serve as a protective barrier agianst the fury of coastal storms.

Since fiscal year 1990, the U.S. Army Corps of Engineers has been studying this critical situation. The Savannah district of the corps is now engaged in a full assessment of the problem and will be developing a comprehensive plan for protecting the coastal communities from further erosion and economic harm.

Last year, in the fiscal year 1991 energy and water development appropriations bill, $4 million was provided to the corps, in addition to funding for the feasibility study, to carry out an interim beach renourishment project on St. Simons Island. These funds were provided through the corps' operations and maintenance account.

In response to this action by Congress, the Savannah district of the corps and the Glynn County Commission worked diligently to develop the necessary cost-sharing arrangement for moving ahead with the St. Simons Island project. Corps headquarters in Washington has approved the final local cooperation agreement.

However, just recently, new concerns about the project have been raised by members of the local community. According to Glynn County officials, the resolution of these issues may delay launching of the renourishment effort until fiscal year 1992.

I would like to thank the distinguished chairman of the Subcommittee on Energy and Water Development for his support in securing the necessary funds for the corps' efforts on behalf of the Glynn County/Golden Isles community. I would at this time like to pose a question about the special appropriation for the St. Simons Island project.

Mr. President, am I correct in understanding that should work on this renourishment effort not commence before the end of fiscal year 1991 that the operations and maintenance fund will be available until expended for this purpose?

Mr. JOHNSTON. Yes. If situations arise on the local level which delay the commencement of a corps project such as the one the Senator has highlighted, once matters are resolved, we expect the corps to carry out the work as originally directed by Congress.

Mr. FOWLER. Mr. President, I thank the chairman for this confirmation. I am committed to helping the people of Glynn County protect their priceless natural resources, and I greatly appreciate the chairman's assistance in ensuring the corps' proper participation in this important endeavor.

RENEWABLE ENERGY PROGRAMS

Mr. HATFIELD. Mr. President, as the Senate debates the energy and water appropriations bill, I would like to draw my colleagues' attention to fiscal year 1992 funding for the renewable energy programs of the Department of Energy. Under recently passed legislation, Public Law 101-218, the Department of Energy would be required to solicit proposals for joint ventures with the private sector to commercialize renewable energy technologies. The joint venture provisions under the aforementioned statute would have three important goals: improving the coordination of technology development among firms within the renewable energy industry; facilitating technology transfer to the private sector; and enhancing the ability of domestic renewable energy firms to compete with foreign enterprises.

Is it the Senator's intention that funding vital for the continuation of these programs would be available under the energy and water appropriations bill?

Mr. JOHNSTON. I wish to reassure the distinguished senior Senator from Oregon that it is my intention that money in the energy and water appropriations bill could indeed be used for joint ventures under Public Law 101-218.

Furthermore, the Senator is absolutely correct in his assessment of the importance of joint ventures for financing renewable energy and energy efficiency technologies. Under the leveraging provisions in the statute, even a relatively small share of Federal funds will leverage at least twice as much in investment from other sources. For example, $2 million in Federal funds will leverage $4 million in matching funds from other sources.

Mr. HATFIELD. I would like to concur with my colleagues' comments as well as point out that program and administrative support from the Department of Energy as well as changes in the regulatory structure of the utility sector have already had a profound effect on the ability of the renewable energy and energy efficiency industries to commercialize their products and technologies. I believe that joint ventures provide a unique opportunity for the Federal Government to further accelerate the commercialization of renewable energy and energy efficiency technologies in this country.

Mr. JOHNSTON. I would like to add to the remarks of my distinguished colleague by stating that joint ventures, as established under Public Law 100-218, differ markedly from previous renewable energy demonstration programs because project success is greatly enhanced when the investment is split between industry and the Federal Government. It is for this reason, that I have included an expansion of this program in S. 1220, the National Energy Security Act, currently awaiting consideration on the floor.

Mr. HATFIELD. I thank the Senator for his support and reiterate my belief that these joint venture programs continue to receive full congressional backing.

Mr. JOHNSTON. Mr. President, I believe that concludes all the amendments on this bill. I have an amendment reserved which I will not offer. I believe that is all that is in order. I think all the rest have been disposed of.

I think there is a request for a rollcall vote on the minority side.

Mr. HATFIELD. There is.

Mr. JOHNSTON. I think we are, therefore, ready for third reading.

Mr. LAUTENBERG. Mr. President, I rise in support of continued investment in the Department of Energy's Magnetic Fusion Program. I am pleased that the bill includes $337 million for this critical program. As a member of the Appropriations Committee, I worked hard in support of this important program.

These funds will include funding for critical projects at the Princeton Plasma Physics Laboratory, a world leader in fusion research and is the only national laboratory devoted exclusively to fusion development. The bill will fund three vital elements for the future of fusion energy research: continued funding for design and engineering work on the burning plasma experiment [BPX], which is planned for construction at Princeton; funding for international collaboration on the engineering design phase of the international thermonuclear experiment reactor [ITER]; and funding for the deuterium-tritium [D-T] experiments on the Tokamak fusion test reactor [TFTR] at Princeton. This funding will enable our Nation to sustain the scientific progress achieved in recent years and to move ahead with the three major program advancements.

The magnetic fusion energy program is a critical part of America's energy security strategy. Fusion energy holds the promise of safe, abundant, and environmentally benign source of energy. It is clear that we must find alternatives to the dwindling sources of fossil fuels, and to the environmentally harmful sources of energy.

The development of fusion energy, however, is not a simple task. Fusion involves complex technology. It requires a time, money, and a long-term commitment. This bill makes an important investment toward the realization of fusion power.

The National Fusion Program is on track and the $337 million in this appropriations bill will help our scientists move the program ahead. The program, however, will require further investments in the future. I am pleased that the distinguished chairman of the Energy and Water Subcommittee has provided full funding for this program and has the vision to address today the energy problems of tomorrow.

Mr. President, I also note that the report accompanying this bill also contains language that will allow the Center for Molecular Medicine and Immunology to proceed with the development of its new, state-of-the-art cancer research center. This new facility will be located in Essex County, NJ, and will house a first-class research team dedicated to research and clinical testing of cancer therapies. I appreciate the cooperation of the chairman of the subcommittee in including this language and enabling this important project to proceed.

NEW JERSEY WATER RESOURCES PROJECTS

Mr. LAUTENBERG. Mr. President, I want to note the inclusion in this bill of a number of important water resources projects of benefit to the State of New Jersey.

New Jersey's shoreline is one of its most precious resources. It plays a vital role in our economy because of tourism, and because of the tremendous business conducted at our port facilities. A number of the projects that would be funded in this bill would directly and positively impact the ability to move goods through our ports. That's good news for New Jersey's economy, its businesses, and its workers.

Among the port projects designated for funding under this bill are: $28.5 million for the Kill van Kull and Newark Bay Channel; $1.279 million for deepening of the Delaware River at the Beckett Street terminal, in Camden;

$300,000 for the Arthur Kill channel extension, in the area of Carteret; $500,000 in planning funds for improvements to the New York Harbor and adjacent channels, in the area of the Claremont terminal.

Another important area of work by the Army Corps in my State is flood control. Among the flood control projects designated for funding in this bill are: $1.1 million for the Lower Saddle River; $177,000 for the Ramapo River at Oakland; $10 million for the Great Egg Harbor Inlet and Peck Beach; and $2.6 million for the Green Brook sub-basin. The bill includes $5.4 million for the Passaic River Mainstem project, which would control flooding throughout the northeastern portion of New Jersey. This flooding, has, over the years, taken a major toll on the region. The Army Corps estimates that each year, floods cause almost $100 million in damages. In 1984, the area suffered a 25-year flood. That flood killed 3 people. It forced the evacuation of 9,400 residents. And it resulted in $390 million in damages. It is estimated that a 100-year flood, like one that occurred in 1903, would cause $1.9 billion in damages.

The $5.4 million includes $400,000 to begin work on a streambank stabilization and beautification project in the City of Newark. This will complement efforts to develop an arts center in the city along the Passaic River.

Last year, I worked to have the construction of this project authorized. Now, we are awaiting a decision by the State of New Jersey on meeting the non-Federal match requirements. This funding will allow design and engineering work, necessary to commence construction, to proceed.

There are a number of other important projects included in this bill. They include $27 million for construction of a beach erosion control project from Sandy Hook to Barnegat Inlet, $3.8 million to improve navigation in Barnegat Inlet, and $300,000 for shore protection from Townsend's Inlet to Cape May Inlet.

An item of particular concern to the northern New Jersey/New York metropolitan area is the New York Harbor collection and removal of drift project. There are an estimated 2,320 sunken vessels and 149 rotting shore structures in the harbor. According to the corps, nearly 18,000 vessels collide with these obstructions each year, resulting in economic damages of about $53 million.

Unfortunately, the administration did not request funding for this important project this year. I am pleased to note that, at my request, the bill we are considering contains $2.5 million for this important project.

Mr. President, as a member of the Appropriations Committee, I worked with the distinguished chairman of the Energy and Water Development Subcommittee, Senator JOHNSTON, to see that funding for these and other important New Jersey projects were included in the fiscal year 1992 bill. I appreciate his efforts and look forward to his continued cooperation in addressing water resources needs in my State.

THE BUMPERS AMENDMENT ON THE SUPERCONDUCTING SUPER COLLIDER

Mr. WALLOP. Mr. President, today the Senate voted on the issue of whether to continue funding the superconducting super collider, the Nation's leading high energy physics project. I agree that the collider, a high energy subatomic particle accelerator that will be used in basic research to learn more about the fundamental nature of matter and energy, is a fascinating project that has the potential for the United States to remain on the frontier of high energy physics research well into the next century. I enthusiastically support efforts to advance our scientific and economic prowess. The vote to table the Bumpers amendment was a strong endorsement of the SSC. However, there are still some dark clouds which could eventually dampen our enthusiasm for the collider.

In brief, I have identified three areas of concern over the program. First is the issue of the ever-escalating cost of building the facility. Second is the matter of a lack of foreign contributions to the SSC. Last, we must keep in mind the impact this program may have on other worthy areas of scientific endeavor.

Let me take these areas one at a time. First, there is a continuing concern in the congress that the $8.2 billion price tag for the SSC is not a final figure. This budget estimate has changed five times since 1986. It was first estimated at $4.4 billion which did not account for detectors or technical contingencies. It changed to $5.3 billion after Congress gave its original approval to proceed with the construction of the SSC. It has changed once again to $5.9 billion when President Bush moved into the White House. This price tag supposedly included detectors and technical contingencies. The next increase to $7.8 billion occurred after the redesign of the magnets and injectors. The latest figure of $8.2 billion is a composition of four separate estimates ranging from $7.8 billion to $11.8 billion. The differences in the estimates are caused by contingencies, uncertainties, and questions over the costs of digging the 54 mile tunnel and the housing for the detectors. The Department of Energy has concluded that the $8.2 billion is the correct and final cost of the SSC. But, there are many members of Congress who are concerned that this final figure may turn out to be too low—subject to change once again over the life of this massive, complex, unique project.

A second concern lies with the fact that Congress has decided that Federal money should pay for no more than two thirds of the SSC, which would amount to $5.5 billion under the latest cost figure. The State of Texas has pledged about $1 billion leaving a shortfall of about $1.7 billion to be made up by foreign investments. To date, the Energy Department has failed to obtain any guarantees of contributions from foreign countries, except for a $50.0 million in-kind contribution from India. This arouses the fear in Congress that foreign funding may not materialize, resulting in the Congress having to ultimately appropriate even further moneys for the project. Further compounding this is the fact that Mr. Fred Buch, head of the Texas commission in charge of raising funds for the SSC, recently resigned. He indicated that the project may have serious funding problems because of the lack of firm foreign commitments.

While I supported the funding request in this year's appropriations, it will be much more difficult to support this project next year if there are no firm foreign commitments. Next year is decisive, because all funding commitments must be settled according to the project's schedule. It would be prudent for the Department of Energy to present Congress with a plan on how to proceed without foreign contributions.

My last concern, Mr. President, is that this large project can dilute other scientific endeavors. It is important that the SSC not be built at the expense of other scientific programs. The Federal research budget is quite limited because of the budget situation. We must be careful not to crowd out other worthwhile projects at the expense of the SSC. Indeed, even the scientific leaders supporting the SSC do not believe it should be built unless it can be done with funding that will not wither away "small science" projects. We must be careful that high energy physics research does not overwhelm the Department of Energy's other research program.

In conclusion, I intend to closely monitor this program, to review the management and financing of the project. I will request more detailed information from the Department of Energy regarding foreign participation. I will carefully evaluate the progress of the SSC and how it fits into a balanced Federal program in support of basic science research.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. Is there any further debate?

Mr. JOHNSTON. No further debate, just to thank staff on our side, Proctor

Jones and David Gwaltney, and to thank the distinguished Senator from Oregon, Mr. HATFIELD. It is a terrific relationship and a joy to work with him. I have said it before and I will say it again, I hope many times over. But this year is especially good.

Mr. HATFIELD. I thank the Senator from Louisiana, Mr. President. I reciprocate by indicating that some of our colleagues on this side have suggested perhaps, that my colleague would like to take over some of the other controversial legislation and we might manage that out. I would defer that decision to my colleague.

Mr. President I want to thank also the staff who have so effectively expedited the handling of the amendments on this bill and once again comment on the important role that Senator BYRD, our full committee chairman, has played as well in expediting the appropriations process.

We expect to mark up four more appropriations bills tomorrow afternoon, the full committee. This is still July. We have three: one acted upon, now completed; two more ready to be acted upon, waiting on the calendar; and four more to be marked up tomorrow. I would think that would certainly establish some kind of a record.

It has been a great pleasure to work with Senator JOHNSTON and our respective staffers on this bill.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. Mr. President, I neglected to say and should not have neglected to praise Mark Walker. Also Gloria Buttland, staff member on our side, who has almost as much seniority as Proctor Jones does and is really a lot more important to this committee than he is. I certainly should have mentioned her. In any event I thank her, as well as the majority and minority staff. It has been a very good working relationship. We are ready for the vote.

The PRESIDING OFFICER. There being no further debate, the bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The result was announced, yeas 96, nays 3, as follows:

[Rollcall Vote No. 122 Leg.]

YEAS—96

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wellstone
Wirth
Wofford

NAYS—3

Brown
Helms
Smith

NOT VOTING—1

Pryor

So the bill (H.R. 2427), as amended, was passed.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I move that the Senate insist on its amendments, request a conference with the House of Representatives on the disagreeing votes thereon, and that the chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer [Mr. CONRAD] appointed Mr. JOHNSTON, Mr. BYRD, Mr. HOLLINGS, Mr. BURDICK, Mr. SASSER, Mr. DECONCINI, Mr. REID, Mr. HATFIELD, Mr. GARN, Mr. COCHRAN, Mr. DOMENICI, Mr. SPECTER, and Mr. NICKLES conferees on the part of the Senate.

MORNING BUSINESS

Mr. JOHNSTON. Mr. President, I ask unanimous consent that there now be a period for morning business not to extend beyond the hour of 5 p.m. with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

OPPOSING THE LIFTING OF SANCTIONS AGAINST SOUTH AFRICA

Mr. KENNEDY. Mr. President, the administration's premature lifting of sanctions is a setback to the cause of progress in South Africa and an unfortunate blow to the opponents of apartheid. President Bush has acted irresponsibly in moving the goalpost and disobeying the law.

In a tilt toward the apartheid regime, the administration has concocted an erroneous and self-serving interpretation of the five conditions of the Comprehensive Anti-Apartheid Act of 1986.

As Nelson Mandela pointed out only a few days ago at the conference of the African National Congress, sanctions have been indispensable in the progress that has been made toward ending apartheid in South Africa. It is wrong for the Bush administration to undermine that progress by lifting the sanctions too quickly, in violation of both the letter and the spirit of the law.

In fact, four of the five conditions have not been fairly met. Political prisoners have not been released. Political freedom has not been achieved. Basic apartheid statutes have not been fully repealed. And good faith negotiations have not begun.

According to the South African Human Rights Commission, 900 political prisoners remain in jail. The South African Government itself admits that over 200 are political prisoners.

The South African Government is also making the preposterous claim that it has no responsibility for the 164 additional political prisoners in the homelands. By accepting this claim, the Bush administration is endorsing one of the worst aspects of apartheid—the banishment of black South Africans to so-called independent homelands.

The condition calling for political freedom in South Africa will also not be met until the 40,000 exiles are permitted to return without fear of imprisonment, and the security laws are amended to deny the South African Government the legal right to detain people incommunicado and intimidate political opponents. Particularly disturbing is the South African Government's continuing refusal to accept a standard agreement with the United Nations High Commissioner for Refugees to assist in the repatriation of the exiles.

Last summer, the South African Government agreed with the African National Congress that these issues must be resolved before negotiations can begin. It is wrong for the Bush administration to maintain that the South African Government has agreed to negotiations, when these recognized obstacles have obviously not been fairly resolved. In fact, the failure of the de Klerk government to live up to the commitments it made last year on these critical issues raises serious questions on whether it will move forward on good faith negotiations—particularly now that the pressure of U.S. sanctions is gone.

While the Population Registration Act and the Group Areas Act have been repealed, other measures have been instituted in their place to perpetuate the racial barriers in South Africa and can be used to bar blacks from certain areas. In addition, the population register, which classifies South Africans by race, will remain in place until at least 1994. So much for this condition.

By jumping the gun before these issues have been resolved, the Bush administration risks undermining the delicate process of negotiations between the ANC and the South African Government. Only time will tell whether the efforts to create a new South Africa will be set back without that engine of progress.

I do welcome one small aspect of today's action by the White House—the proposal to double the current level of $40 million in United States aid being channeled directly to South African blacks for assistance of victims of apartheid in areas such as housing and education. I proposed such an increase on June 18 to be directed through private voluntary agencies, and I am pleased that the administration recognizes the merit of this current program.

Finally, although the administration has acted too quickly to terminate the economic sanctions in the 1986 act, several other important sanctions will continue in effect under other laws barring assistance to the apartheid regime. The prohibition on U.S. support for IMF loans and the ban on Export-Import Bank support to the apartheid regime are still essential parts of our policy. I urge the Bush administration to hold the line on these measures. The United States must not return to business as usual with apartheid. We also must ensure that we maintain the ban on all exports to the South African military and on all arms trade or intelligence sharing with South Africa.

We all know what is going on here. American firms are eager to resume business as usual with the apartheid regime. Once again in the councils of the administration, private business profits have collided with basic human rights, and human rights have lost.

By its actions today, the administration is bestowing an undeserved benefit on the South African regime. Tilting toward apartheid is wrong. The United States should not be so easily giving up our most potent weapon in the long battle to end that brutal system of government.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Is leader time reserved?

The PRESIDING OFFICER. The Senator's leader time was reserved.

SOUTH AFRICAN SANCTIONS

Mr. DOLE. Mr. President, several hours ago, President Bush announced that he has issued an Executive order ending economic sanctions against South Africa.

The President has made the right decision—right legally; right morally; right in concrete, practical terms.

There has never been any debate in this country about the goals of our South Africa policy—ending apartheid, once and for all; establishing a true democracy; expanding economic opportunities for all South Africans. The only debate we have had is, how best to accomplish those goals.

In my view, historians will argue for a long time about whether sanctions were really a key factor in sparking the kind of fundamental change we have seen over the past months in South Africa; whether, on balance, they were a positive, or a negative force; whether, over time, they have harmed black South Africans, more than they have helped them.

But I think a fair look at the situation today yields a clearcut conclusion that, whatever their past effectiveness or results, sanctions no longer make any sense.

The South African Government has clearly undertaken a firm commitment to fundamental reform. They have demonstrated that commitment, over time, in word and—far more important—in one concrete act after another: ending the state of emergency; the release of Mandela and other political prisoners; the dismantling of the apartheid laws; the legalization of political parties; the beginning of sincere and serious talks with the black community, including the ANC, with the specific goal of establishing a new and democratic constitutional system.

Every condition laid down in our law for the end of sanctions has been accomplished.

And it has become increasingly clear that blacks continue to bear the brunt of the impact of the sanctions; and, even more important, that—whatever their new political structure—the people of South Africa, black and white, will never achieve a stable and vibrant democracy, unless democratization is accompanied by economic development which reaches all South Africans: That requires an end to the sanctions.

The European Economic Community, and others in the international community, had already reached the conclusion that sanctions had outlived their utility. Black African nations, the rhetoric of many of them to the contrary notwithstanding, had long engaged in extensive economic relations with South Africa. They had all concluded that the time has come to engage with South Africa, not disengage. And they were all right.

Mr. President, I am pleased that President Bush has accompanied his decision to end sanctions with a doubling of aid aimed at black South Africans. It underscores what our policy does, and ought to, aim at: Helping South Africa and its people find the future of democracy, stability, and prosperity that now seems possible.

I hope the Congress will not try to undo the sensible thing that President Bush has done—and I doubly hope that we can all avoid the temptation to turn this profoundly important political and moral issue into a partisan political issue.

South Africa and its people are, at long last, on the right road. Let us tear down the road blocks we have erected, and instead begin to help them find their way.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. What is the parliamentary situation on the floor?

The PRESIDING OFFICER. The Senate is in morning business until 5 p.m., and Senators are permitted to speak therein for up to 10 minutes.

Mr. SYMMS. Mr. President, I seek recognition for 10 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DOLE. Will the Senator yield for 30 seconds?

Mr. SYMMS. Yes.

AUTHORIZING THE USE OF THE CAPITOL ROTUNDA FOR A CEREMONY HONORING POW/MIA FAMILIES

Mr. DOLE. Mr. President, I have cleared this with the majority leader. I send a concurrent resolution to the desk for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The assistant legislation clerk read as follows:

A concurrent resolution (S. Con. Res. 51) authorizing the use of the rotunda of the Capitol by the National League of POW/MIA Families for a ceremony to honor the members of the Armed Services and civilians missing and unaccounted for as a result of the Vietnam conflict.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DOLE. Mr. President, in effect, the concurrent resolution provides for the use of the rotunda Saturday morning for a special ceremony honoring POW's and MIA's.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 51) was agreed to.

The concurrent resolution reads as follows:

S. CON. RES. 51

Resolved by the Senate (The House of Representatives concurring), That the rotunda of the Capitol may be used by the National League of POW/MIA Families on July 13, 1991, from 11:00 o'clock ante meridan until 12:00 o'clock noon, for a ceremony to honor the members of the Armed Services and civilians missing and unaccounted for as a result of the Vietnam conflict. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SOUTH AFRICAN SANCTIONS

Mr. SYMMS. Mr. President, I rise to praise President Bush for his action today in lifting the sanctions from South Africa.

With President De Klerk's recent repeal of statutory apartheid laws, four out of five conditions laid down by Congress in the Comprehensive Anti-Apartheid Act of 1986 were reached. Although the President was given the authority to lift sanctions after four or five conditions were satisfied, at question in some quarters is the remaining issue of the release of political prisoners—the fifth condition.

The De Klerk government says that it has released 1,000 political prisoners, but there are said to be several hundred remaining in prison who have committed violent crimes, such as rape, arson, and murder. I would question whether anyone in this Chamber believes that rape is a political crime.

I would also ask whether any members believe that someone who has committed rape, murder or arson, for whatever motivation, should be released onto the streets to commit additional violent crimes. Any government which would release criminals likely to commit more crimes against innocent people would not be fulfilling its most solemn obligation, to maintain law and order, and to protect the lives of its citizenry.

The African National Congress, or ANC, maintains the South African Government has some 1,000 political prisoners in their jails. Chief Minister Buthelezi, who just visited the United States last week as the head of the 2 million strong Inkatha Freedom Party, states that there are common criminals now claiming to be political prisoners, trying to capitalize on the provision of the "C Triple A" to spring themselves out of jail. Is the ANC advocating the release of every offender from jail? Would that suit its professed policy of making the country ungovernable, when crime is already rampant due to massive unemployment fueled by economic sanctions?

Frankly, I am far more inclined to believe the De Klerk government and Chief Minister Buthelezi are providing the truth, than the African National Congress, which has been unable to produce the names of the 1,000 prisoners it claims are still under detention. Some proponents of sanctions cite the South African Human Rights Commission on political prisoners, but this is hardly an impartial body and, in fact, reported to be an ANC front.

I have also heard complaints the De Klerk government is not permitting the return of exiles. But in this instance, there has been the problem of exiles simply not wishing to return to an unstable environment, without job prospects, and the refusal of members of the Pan African Congress, which because it is fundamentally antiwhite, to sign the indemnity form to permit their legal return to South Africa. Apparently, signing the form constitutes a form of recognition of the government that they reject. Proponents of continued sanctions lay every problem at the feet of the South African Government, which is simply not justified.

Sanctions should never have been passed. I voted against sanctions in 1986, because I believed strongly that they would deprive black South Africans of badly needed employment opportunities, especially those with American firms that offered them management training, educational benefits and other perquisites. The sanctions did adversely impact the South African economy, and escalated the political unrest. Sanctions played a role in the black-on-black violence which is now raging in South Africa and which inhibits an atmosphere conducive to peaceful political negotiations.

We have heard much in the news about the violence in the workers hostels. I am informed that ANC members are told that migrant workers from the Zulu tribe living in the hostels have taken their jobs. They are informed by ANC members whose intentions are to incite violence, that if they drive those migrant workers from the hostels, their jobs will then be given to ANC supporters. It is easy to see how sanctions and joblessness played into the strategy of the ANC to seize power in a country overcome by internal unrest and political chaos.

I am thankful that Chief Buthelezi addressed the issue of the causes of violence. There are also some who say sanctions should not be lifted because of continuing violence. Buthelezi knows that his members have been sucked into the violence, but frequently are reacting to ANC provocations. Chief Buthelezi successfully rebutted the canard of cultural weapons being carried by Zulus, which the ANC has demanded be banned. Buthelezi responded that the South African Institute of Race Relations, an impartial body, proved that most black deaths have been by AK-47's, not by so-called cultural weapons, and that the ANC is trying to camouflage the fact that it maintains hidden arms caches in the country, has not renounced violence, and is still training its private army.

The sanctions issue will shortly be a sad, but closed chapter of American history. Sanctions will be lifted in the near future, as President Bush assured Chief Buthelezi recently. It is simply a matter of time before the proper assurances will be given on the status of political prisoners.

The most fundamental issue facing the United States on South Africa is its transition from a country where whites, Indians and coloreds can vote, but not the black majority. What can the United States do to ensure that postapartheid South Africa does not become an ANC dictatorship, where elections serve only to empower tyranny?

The ANC has succeeded to a degree in its campaign of terror and intimidation. The armed struggle is being replaced by what it calls mass action. According to a recent survey, black intimidation is rampant in South Africa. Four out of five blacks surveyed said that they had been forced into work stay-aways and boycotts. Another third said they were too terrified to vote.

The ANC now advocates a constituent assembly; they are preparing to host a large conference in Capetown in August to demand a constituent assembly.

What do they want to do?

The ANC wants to create a mechanism for the seizure of power, using the leverage of terror and intimidation to force their radical agenda on the people of South Africa.

It is interesting to me to note that nearly a year and a half since their unbanning, the ANC has only signed, by their accounts, 500,000 members, only one-quarter the claimed membership of the Inkatha Freedom Party at 2 million. The IFP has signed 100,000 whites, which indicates its support has crossed racial lines, and that its political platform—of real democracy, nonviolence, antisanctions, and profree market—has massive popular appeal, and I hope the membership continues to expand.

I am pleased with the House amendment adopted recently which shows a new realization among Members of the other body in Congress in general about the nature of the ANC. I commend my House colleagues, Congressmen BOB WALKER and DAN BURTON, for disallowing any United States funding to the South African Communist Party or any affiliated or associated organizations. Their amendment passed overwhelmingly 279-134. The South African Communist Party alliance to the ANC is well known by anyone who is interested to read about it and find out about it.

Curiously, the South African Communist Party has refused to divulge its membership, despite its unbanning. It could be that the South African Communist Party overlap with the ANC would shock those who prefer to indulge the fantasy that the ANC is not dominated by Communists. For those in the world who believe the ANC's closet moderates dominate the organization, moderates would like to rid themselves of the taint of the South African Communist Party here is their opportunity. Let them reject the South African Communist Party members of the ANC, which dominated the ANC's national executive committee, and become eligible for United States support.

That is all they have to do. I do not think that is asking too much, and I again commend my two fine colleagues in the House for their efforts that got that vote in the House and I would urge those in South Africa, those moderates in ANC, if they are in power, to do this, to purge themselves from the Communists.

I would pose this question to my colleagues: what on Earth was the Congress thinking when it authorized money to "previously banned organizations" in South Africa? Did they realize that that would include the South African Communist Party, an unrepentant, Stalinist party? This vote on the House floor, thankfully, has clarified the United States position on this matter. The House has spoken loudly against funding any party with links to the South Africa's Communists.

It would be foolish to spend a fortune trying to rebuild Eastern Europe, devastated by 40 years of communism, and then give money to the ANC or its fronts, who want to impose a Stalinist-style regime on the poor people of South Africa. Even FRELIMO in Mozambique, the Marxist elite which has been fighting rebels for 16 years, has warned the ANC not to make the mistakes it made by pursuing rigid Socialist economic ideology, which has been proven a failure.

Chris Hani, the head of the military wing of the ANC, was just in the United States, a proud guest of the Communist Party USA. Hani was questioned about what Socialist model he would aspire to. He merely dismissed the failures of every present or past Socialist State in the world suggesting that the ANC somehow would apply Socialism correctly. Romania, Poland, East Germany, Czechoslovakia, Bulgaria, the Soviet Union—all these were simply, according to Hani, examples of bad economic management, poor planning; they could do a better job, be more efficient.

To the ANC, the Socialist utopia is still alive—and they intend to create it in South Africa. Hani suggested the remedy for South Africa was redistributing the white wealth. Chief Buthelezi knows better. He is enough of a statesman and economist to know that if the wealth of South Africa's great magnates, Anton Rupert and Harry Oppenheimer, were seized, there would only be 5 rands for each black—about enough to buy one day's meals. Buthelezi knows that confiscation of wealth and nationalization, which the ANC endorses, is not the answer—that expanding the productive capacity of the economy is the only solution to South Africa's growing population needs.

Chief Buthelezi deserves American support, as does President De Klerk for having the political courage and tenacity to implement politically costly reforms. These courageous and visionary leaders offer the best hope for a future democratic government in South Africa. The Inkatha Freedom Party offers a platform for prosperity, and has broad appeal to those of moderate political persuasion. Similarly, the National Party, with its reformist image and commitment to negotiations to achieve Democracy, is drawing in new nonwhite members and finding surprising new political allies.

The ANC embraces political extremes, intolerance and the failed socialist ideology of the past. The ANC wants the maintenance of sanctions to drag the country further into decline, exploiting joblessness, hunger, and violence in its ambition to seize power. I think today all people in the world who love liberty should thank President Bush for his courageous move to lift those sanctions. It is past time that the United States bolstered those in South Africa who share our values of inclusive, not exclusive politics, and who endorse nonviolent solutions not violent solutions. Lifting sanctions as was done today will serve that purpose.

I appreciate the fact that the President has done this, and I wish those people in South Africa of a moderate persuasion who understand that the mainspring of human progress is liberty will prevail and that that country shall have a better future and a better fortune than it has endured these last 5 years.

Mr. President, I thank the Chair for his indulgence, and I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I am going to use in addition to whatever time remains in the morning hour the remainder of the leader time on this side.

The PRESIDING OFFICER. The Chair will advise the Senator that the time for morning business is set to expire at 5 p.m.

Mr. HELMS. If there is insistence that we abide by that I will of course yield the floor at that time, but I do not think the majority leader will move it.

UNITED STATES POLICY TOWARD SOUTH AFRICA

Mr. HELMS. Mr. President, President Bush today has exercised his legal authority to terminate sanctions against the people of the Republic of South Africa. Among the provisions that will vanish are the Comprehensive Anti-Apartheid Act of 1986 and provisions of the so-called Rangel amendment, which imposed double taxation on United States companies doing business in South Africa.

President Bush has exercised extraordinary caution to determine that provisions of the 1986 sanctions act have in fact been met by the South African Government. He was right to be careful, but the law is the law. Once conditions have been met, the President has no flexibility to do less than ending sanctions.

It is rather widely known, Mr. President, that I have never supported sanctions against the people of South Africa. Now is not the time to replay the debate regarding the folly of sanctions.

Most Senators now realize that sanctions have had two unintended and negative consequences: First, sanctions have helped shrink the South African economy, thereby depriving the employed of their jobs as well as preventing the creation of new opportunities; and second, sanctions have encouraged South African radical movements and revolutionaries to press their hard-line demands for a transfer of power, rather than negotiating a new, nondiscriminatory constitution.

Mr. President, as one era in United States policy toward South Africa ends, new opportunities are possible. Lifting sanctions gives the United States an opportunity to play a more positive role than it has since 1985, after Congress demanded that President Reagan impose the first in the most recent generation of sanctions on South Africans.

These new opportunities are essentially political and economic. American institutions which are not funded by taxpayer funds may be able to play a limited, proper role in South Africa. I realize, however, that most of the speculation about future United States policy in South Africa is based on the notion that Federal funds are the first, best way for Americans to assist that country to promote a growing economy and a more representative political system.

Mr. President, I oppose "foreign aid," a position widely shared by the American people, particularly the American taxpayers. Except for providing relief after natural disasters, United States foreign aid—like aid from other countries—tends to make problems worse at an excessive cost. Mr. President, some Senators favor an increased foreign aid authorization for Africa to a total of $1 billion. If approved, it appears that the administration may request a doubling of United States foreign aid efforts in South Africa from $40 to $80 million. In his statement today, President Bush verified his intention to double South Africa funding.

Moreover, I have been reliably informed that the United States Ambassador to South Africa, William Swing, along with officials of the Agency for International Development and the State Department, are planning to remold American foreign efforts in the post-sanctions era.

The logic behind these possible policy changes is that America has moved from using foreign assistance to confront the government of South Africa to force it to drop apartheid laws and engage in good faith negotiations with political opponents.

South Africans—regardless of the outcome of negotiations—inherit an economic climate poisoned by sanctions. Any new United States policy should aim to encourage economic growth—in other words, more jobs and a representative political system emphasizing individual rights and responsibilities.

Private American investment must be encouraged. The Foreign Commercial Service of the Department of Commerce and private investment-oriented organizations should make the latest information on opportunities in the South African economy available to potential investors. In this area, a very limited role for AID or the State Department may be helpful.

Mr. President, I serve on the Africa subcommittee of the Foreign Relations Committee, and I urge administration officials to begin early, frequent consultations with subcommittee members and committee staff. I want to avoid surprises regarding the size of focus of United States foreign aid in South Africa.

Regarding South Africa's political future, my position is also well-known. A richly endowed, taxpayer-funded bonanza for Washington area consultants and experts would be a serious misuse of funds, and abuse, programmed for South African democracy-building.

I also believe that direct or indirect taxpayer assistance to build political parties, or to fund party infrastructure activities at a national level in South Africa, would be a tragic mistake. South Africans do not need the United States to teach them how to build a pluralistic, free enterprise, fully representative political system.

If it becomes United States policy directly to assist political parties, the African National Congress, or ANC, absolutely does not qualify. Preliminary results from a week-long meeting of the ANC in Durban last week indicate that the ANC prefers to call itself a "liberation movement," not a political party. That designation, Mr. President, permits this group to excuse the existence of its private army and thereby claim a right to return to military action against constituted authority if the ANC does not get its way in negotiations with the government and other opponents of apartheid.

In that regard, Senators should bear in mind that, during the Durban conference, the ANC received accolades from the Chinese Communist Party, Fidel Castro, Mu'ammar Qadhafi and, of course, Saddam Hussein—who received ANC support in the recent gulf war. These allies of the organization expose the bankruptcy of the ANC's self-proclaimed "devotion to democratic principles."

As the saying goes, bosh and nausea.

For years, the unhealthy relationship between the African National Congress and the South African Communist Party [SACP] has been clear. Judged from afar, the two organizations appear to be little more than Siamese twins. The South African Communist Party is especially hardline, and its overwhelming influence on the ANC also undermines the ANC's glowing descriptions of itself.

In a recent article, "The Next South Africa" in National Interest magazine, Francis Fukuyama notes, "the SACP constitutes what one observer called the 'competent half' of the ANC, with the organizational ability and manpower to staff and control the ANC's central bureaucracy and executive."

He continued, "The main problem with the ANC as a governing party, however, is its own strong commitment to socialism," and "There is a strong current of Leninist thinking within the ANC, manifest in the desire to subordinate all aspects of civil society to ANC leadership. Much of the township violence in the past year has been due to the ANC's aggressive recruiting efforts."

Mr. President, the record of the South African Communist Party is well known to honest observers, as is its controlling directorship of the African National Congress. The House of Representatives adopted an amendment recently to restrict assistance to organizations with affiliations to the South African Communist Party. In a typical move, veteran Communist Mac Maharaj replied to this congressional action in an interview given on July 4, during the Durban conference. "He also conceded, as a possible option, that the SACP may consider its own dissolution at its December conference," the interviewer summarized.

Several administrations and a host of reporters have told of an apparent split in the ANC between militants and moderates. To this Senator's knowledge, no anti-Communist has ever been identified on the ANC's membership or leadership rolls. If it is the desire of this or future administrations to fund ANC institutions, great care should be taken to avoid funding Communist-controlled elements.

Providing United States taxpayer funds for political purposes in South Africa is, at best, a high political risk. Moderate political parties, truly committed to negotiation and power-sharing seem to this Senator to be a better investment than groups looking backward into Leninist political models and insisting on socialist schemes in economics. Many such parties exist, and as real consultations begin with Congress about the shape and size of an American presence in South Africa, members of those organizations should receive first priority.

This Senator encourages a leadership role for the United States Information Agency, following consultation with Congress, if American institutions and constitutional history are to be a future focus of United States policy in South Africa. This is in contrast to two other government agencies or government-funded organizations which presume to be expert on teaching democracy to South Africa.

Mr. President, the decision by President Bush allows the United States to resume a positive role in South Africa. These remarks are an initial effort to engage the administration in a discussion of future policy toward that vital country. South Africa can still become the economic engine and political model for Africa. America needs to do what it can, cautiously and without grand schemes, to help positive developments occur.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. BIDEN. Mr. President, I ask unanimous consent that morning business be extended under the same terms and conditions until 5:30 p.m.

The PRESIDING OFFICER (Mr. ADAMS). Is there objection? Without objection, it is so ordered.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BAUCUS). Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for morning business be extended until 6 p.m. with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for morning business be extended until 6:45 p.m. this evening with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UAE SALES LINKED TO INTERNATIONAL DRUG MONEY LAUNDERING?

Mr. CRANSTON. Mr. President, I rise once again to express my opposition to the administration's plan to sell $682 million in military hardware to the United Arab Emirates regime, a government ruled by a man who is the chief shareholder in an international drug money operation.

The New York Times this morning reported that UAE President Sheik Zayed bin Sultan al-Nahayan is the principal shareholder of the Bank of Credit and Commerce International and that BCCI "is suspected of laundering drug money and engaging in widespread fraud."

Actually, the story is overly cautious. There is a growing body of evidence, collected by investigators from the Senate Foreign Relations Committee and elsewhere, that this bank—BCCI—is one of the world's most notorious launderers of narcotics money in the world. According to one report, the BCCI has 35 branch offices in Medellin, Colombia, alone.

The trail does not end there, however. It has already been established in the courts that this bank managed the transfer of millions of dollars for Panamanian narco-dictator Manuel Noriega through its global financial network.

Earlier this year, BCCI was also tied by a Peruvian parliamentary investigative commission to millions of dollars spirited out of the country by former President Alan Garcia, a fortune rumored to come from payoffs by drug traffickers.

And in Argentina, investigators are currently looking at the role played by the bank in the laundering of drug money through that country.

According to several investigative sources, the bank is also heavily involved in international arms trafficking, some of which involved Communist countries and supporters of terrorism, like North Korea.

This makes the administration's proposed sale of highly sophisticated attack helicopters and Hellfire missiles all the more dangerous.

Last week I rose to point out that, beyond the very solid arms control grounds for opposing this sale, there were also important human rights and potential war crimes issues that need to be addressed.

Now we find that the ruler of Abu Dhabi, the principal portion of the United Arab Emirates, is sitting upon a financial empire of sleaze, violence, and death.

Mr. President, I also would like to make a few other points about the man who is about to receive—unless we stop it—some of the most sophisticated and lethal weapons of their type in our arsenal.

It is true that the United Arab Emirates closed ranks with our other Persian Gulf allies in the wake of Saddam Hussein's brutal invasion of Kuwait. It is to be assumed that anyone sitting on that much oil wealth that close to Iraq would do so out of self-defense, if nothing else.

Let us remember that when Arab oil-producing nations cut off oil to the United States in 1973—in retribution for American support for Israel—Abu Dhabi was the first country to declare an embargo.

Sheik Zayed, the President of the United Arab Emirates, was, until last year, a major contributor—to the tune of hundreds of millions of dollars—to the PLO.

He is also a business partner of Libyan leader Mu'ammar Qadhafi.

Mr. President, last week the British Government froze $20 billion in BCCI assets. Banking regulators in Britain and the United States are trying to assess the wreckage left behind by the collapse of the bank.

Before we go ahead with this lunacy, this sale, I think it is only fair to ask whether any money for this sale is coming from BCCI depositors who have been bankrupted by the bank's shady practices. Laundered drug profits may be used to pay us—pay the United States—for this $682 million arms sale to the United Arab Emirates. I want no part in such a deal. I want my country to have no part of such a deal.

Before the Bush administration presses ahead with the proposed sale, adding more muscle to still another nasty regime in the Middle East, it should demand an accounting from BCCI of whether drug profits are being used to finance this sale.

The administration also owes Congress an answer to questions about Sheik Zayed's personal culpability in this sordid tale of financial misdeed.

Shades of Noriega; shades of Saddam Hussein—and shame on us if we let this pass without a fight.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EQUAL OPPORTUNITY

Mr. KERREY. Mr. President, I have now been in the Senate a little over 2½ years. I really and sincerely felt lucky to be here. This morning, I happened to be presiding over the Senate and had the good fortune to listen to the distinguished Senator from New Jersey deliver a 30-minute speech on the issue of race relations in the United States. During that speech I found myself feeling lucky to be in the Senate. It was not just a speech, Mr. President, directed at some doubt that the Senator from New Jersey—and I must say myself—feel about President Bush's commitment trying to make this a Nation of equal opportunity for all, in particular, Mr. President, trying to open the door for black Americans. It was not just a speech expressing doubt about the President's commitment, it was a speech that described what we as a Nation must do if we are going to be a land of equal opportunity for all.

I have, as I said, a considerable amount of doubt about the President's commitment. I heard the press conference today wherein he announced he was going to stop the economic sanctions against South Africa, again words that increased my doubt. Those sanctions worked, Mr. President. I was not here when the vote occurred. I was asked my opinion when I campaigned, and I said I supported sanctions, but I never had the chance to vote. Indeed, I must confess I did not feel strongly one way or the other. But when I, as most Members of the Senate and the House did, sat and listened to Nelson Mandela say to us he was grateful for our willingness to sacrifice on behalf of his freedom, I had no doubt any longer.

Those sanctions worked, Mr. President. They moved the Government of South Africa in a direction where they are going to dismantle apartheid. But I fear the message that the President is sending to the Government of South Africa and the people of South Africa is that you have done enough. It may be that the President's timing is correct. My own internal fear is that the timing is not good, particularly since the President has made no secret of the fact that he opposed the sanctions being instituted in the first place. I find in fact the defense that, "Well, I am just doing what Congress tells me I should do," to be a bit weak and difficult to defend, Mr. President. The President has never been terribly respectful of what Congress thinks he should do in the area of foreign policy and has usually taken a strong and, I think, correct position that he is the one charged with the foreign policy of the United States, with guidance from Congress, advice of Congress, with at times, legislation directing him what to do.

We have the context of 1991 where it seems to me the President had at least the room to make a strong statement which said that the Government of South Africa and President de Klerk need to be congratulated for the progress that has been made, but they have not made a sufficient amount of progress where one can look at South Africa and say we are proud to have them as an ally. This is a nation where blacks still cannot vote; this is a nation where blacks still struggle to own property, where they have been deprived of educational opportunity. Clearly apartheid is being dismantled but it is still in effect.

I heard the Senator from New Jersey say that part of his doubt is as a consequence of the President's unwillingness to follow his words with action. As a member of the Appropriations Committee for NASA and VA and independent agencies, I am very much aware that the President is committed to the space station and watched him, I must say, with a great deal of respect, move quickly to the House of Representatives and get them to reverse a committee decision and reinstitute full funding for the space station. I have heard that he has threatened to veto that appropriations bill unless full funding for the space station is included.

That is the kind of commitment we need, Mr. President, if we are going to fully fund Head Start and the Women, Infant and Children Program and the Maternal and Health Care Block Grant Program, all of which would send a strong signal to Americans that we are willing to follow our words with action, so as to be able to provide all of our children the opportunity they deserve, if not for humanitarian reasons, as I believe they should be, for economic reasons, for good dollars and cents reasons.

So there is cause for us to doubt the President's commitment. We saw what he could do with the space station when he is committed, when he believes. He found $2 billion to make that expenditure. And this money, I must say, I believe could do the same thing for WIC and for Head Start if only the President believes strongly enough to come to us and say set aside some other things that are not quite as urgent, as the lives of young children in America.

If the President came to the American people and said I am appalled by the disparity in infant mortality and low birth weight babies of blacks and whites, I am disturbed by the dropout rates and the teenage pregnancy rates between blacks and whites, we must do something, it says we must follow our expressions of concern with action.

So I believe the concern of the distinguished Senator from New Jersey about the President's commitment is a legitimate concern.

There is another example, Mr. President. We fought a long and hard battle last year on an ABC bill, establishing a child care bill and much needed assistance to mothers and fathers as they try to find quality child care for their children while they work.

The President in the beginning was not very friendly to the notion that government should get involved in trying to assist families in taking care of their children and, in fact, he opposed it. After the bill was passed, he took credit for it and has talked about this bill as something that empowers parents and gives them choices and gives States flexibility.

Mr. President, the regulations that are being drafted by Health and Human Services do precisely the opposite. This is not a program of increasing flexibility to the States. The detail of this regulation takes away all flexibility and directs the States as to how they are to conduct the programs and leaves almost no room for States and parents to evaluate what needs to be done so as to establish good quality child care, which is a pressing issue, not just making sure that there is some place to take your child but that the child has a quality environment.

It is exceedingly difficult today; a child care center is faced with a rather difficult task of needing to pay enough to get good people to work but not being able to pay so much so as to drive up the cost of the child care for the mother and father. This child care bill is desperately needed. Mothers and fathers are hungry for it, Mr. President. My State will get no more than enough money to take care of 1,000 families and the demand is at least 50 times that.

There is an urgency to act, Mr. President. I believe the regulations being drafted by the administration in regard to child care reflect an ideological commitment, a desire to win a political argument, not a desire to say to Americans we have an urgent problem and we are going to solve it right here at home.

So I believe again the distinguished Senator from New Jersey is correct in saying that it appears the administration, the President of the United States will talk about racial justice but is not willing to follow it with action.

We recently saw a very impressive Rose Garden ceremony where the President of the United States announced a new initiative to bring immunization to more Americans since we now see an increasing number of Americans dying from common diseases like measles. But within a few days after he made the announcement, safely beyond the time the press had already called attention to it, the President announced that he was not going to do it after all, that he was going to check into it a little more and see exactly what needed to be done.

Again, Mr. President, there is no urgency there. There is no feeling that we must act. Otherwise, people are dying. They are not developing like they should.

There is something that we can collectively do other than to just talk. I call to all my colleagues' attention the words of the distinguished Senator from New Jersey.

They were eloquent not just about what the President must do but what we must do if we are going to be able to leave here and say we have done all we can for those who are least fortunate and who need health care.

I am not standing here and saying that I believe that the President's ideology and conservative approach is hostile to mine at all. Indeed, as I examine and look at the detail of aid to families with dependent children, and food stamps, and other welfare programs that we have established, I see many barriers to people getting back to work. I see many instances in fact where we tend to have institutionalized poverty by the very institutions that we create to try to help those who are poor.

There is much room for us to examine both from the left hand and from the right to try to decide what needs to be done, but there should be no disagreement. Look at the statistics and look at what is going around in our streets today. There should be no disagreement that action is needed, and that we will pay a heavy price if we do not act—a heavy economic price, Mr. President. I believe we will pay a heavy moral price as well.

The words of the distinguished Senator from New Jersey need to be heard by all of us, and we need to follow his words of action. I am grateful and fortunate that he delivered those words in my presence, and I hope that all of us have the courage to act upon them.

Mr. President, I yield the floor.

EXTENSION OF MORNING BUSINESS

Mr. KERREY. Mr. President, I ask unanimous consent that the period for morning business be extended for not beyond 7:15 p.m. under the same conditions and limitations as previously ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANTI-CORRUPTION ACT OF 1991

Mr. McCONNELL. Mr. President, I want to take a few moments here to discuss an amendment which will be approved later tonight en bloc with other amendments that has been essentially agreed to by both sides.

Mr. President, I have been interested for quite some time in the problem of public corruption, and in particular that component part of the public corruption problem typically referred to as election fraud.

Last year the amendment that I am going to discuss in a few moments which was cosponsored by the chairman of the Judiciary Committee, Senator BIDEN, was approved. It will be offered on my behalf later tonight. I would like to take a few moments of the Senate's time to explain what it is about.

This amendment, the Anti-Corruption Act of 1991, as I indicated, passed the Senate last year as a provision in S. 1970, last year's crime bill. It had the support of the Attorney General, the Criminal Division of the Justice Department, and the Senate Judiciary Committee.

I have worked to develop a comprehensive law enforcement response to the problems of election fraud and public corruption, especially in the wake of the Supreme Court decision in McNally against the United States.

Three years ago we passed an amendment to the Anti-Drug Abuse Act of 1988 sponsored by Senator BIDEN and myself which restored much of what was lost in the McNally decision in terms of the jurisdictional authority needed to go after corrupt officials. But, Mr. President, a great deal more is needed to be done, and still needs to be done through this amendment.

When I initially focused on the public corruption issue I was primarily concerned with election fraud. The only way to clean up election fraud is to bring the Federal Government in, and give it the authority to prosecute offenders under Federal law in Federal court.

That is what Congress did in 1965 in enacting the Voting Rights Act. It used the Federal Government's power to protect people's voting rights from entrenched local discrimination.

I soon found that the efforts of Federal law enforcement officials against public corruption are not limited to election fraud. Moreover, I learned that the Federal Government's entire anticorruption enforcement effort had been placed at risk by the McNally decision.

At that point I joined forces with the Justice Department to develop a comprehensive answer to the McNally problem. When we had put together such a bill, I forged a coalition with members of the Senate Judiciary Committee who shared my view that Federal prosecutors ought to have every available resource to stop public corruption. We accomplished a great deal with the passage of legislation to reverse the McNally decision. That is already law.

When Senator BIDEN and I returned after the end of the 100th Congress, we felt there still was further to go. Despite our work in Congress, there still were reports of election fraud. And those who abuse the public trust and seek to defraud the Government are getting cleverer in evading the law.

Even in this day and age, and with all our past work, it still is not clear in the law whether the Federal Government can investigate and prosecute all acts of election fraud. This legislation will make every act of election fraud—at every level of government—a Federal offense. It raises the maximum penalty for both election fraud and public corruption to 10 years in the Federal Penitentiary and a $10,000 fine. This amendment also will greatly expand the jurisdictional basis for Federal prosecutors to investigate all forms of public corruption and punish the wrongdoers.

I cannot stress enough the importance of this legislation. In some parts of the country, if you are caught buying or selling votes, you go see your friend the judge and he gives you a slap on the wrist.

This amendment assures that anyone caught in election-day shenanigans will be facing a Federal grand jury and a ticket to Federal prison.

If we are going to make this Nation a better place to live, it is imperative that we take care of the basics. Two of these basics are a clean election process and a government free of corruption. This amendment goes a long way toward realizing these goals.

I want to particularly thank the chairman of the Judiciary Committee for his work on this legislation and his years of interest in these issues. As I indicated earlier, this is an amendment that will be approved en bloc later this evening on the crime bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business has concluded.

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for morning business be extended for an additional 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

THE CRIME BILL

Mr. METZENBAUM. Mr. President, 3 weeks ago I spoke about this body's ritual of passing crime bills that have little to do with fighting crime and much to do with political gamesmanship. For the last four Congresses these crime debates have become forums for Senators to come forward and show how tough they can be on criminals. Because these debates have not focused on the causes of crime, each of these crime bills has been a failure. Crime rates have continued to rise. Murder rates have continued to rise. Our jails are filled, but crime continues unabated.

I also said 3 weeks ago that I would oppose any crime bill which was the product of such political gamesmanship. This is such a bill, and yet, I find myself in a difficult position.

My position is difficult because this bill now includes the Brady bill—a provision that will do something to stop crime in America. I have fought for over 4 years to see this Senate pass a waiting period for handgun purchases, and I am glad it was adopted overwhelmingly by the Senate as part of this crime bill.

The compromise Brady bill will make it harder for criminals to get guns. It requires a potential purchaser of a gun to wait 5 business days, in effect 1 week, before buying a handgun. It requires local police to conduct a background check during that time, to ensure that felons and other prohibited persons are not able just to walk into a gun store and walk out with a handgun. And within several years, it will require the implementation of an instant check system to replace the waiting period. Any State failing to meet the timetable for implementation must maintain the 5-business-day waiting period.

The provisions of the Brady bill—first, the waiting period, and later the instant check—will do more to fight crime than all the rest of this crime bill put together.

There are also some other useful provisions in this bill, such as assistance to police departments and other grant programs. I totally support these efforts to give added support to the law enforcement community. We in Congress need to give all the help we can to these officers who do a great job on the streets of America day in, day out.

But weighed against these useful provisions, and even weighed against the Brady bill, the rest of the bill is so misguided, or so dangerous, that I cannot in good conscience vote for it.

Unfortunately, this bill is the product of the same tough talk which has typified previous crime bills, only with far worse results. Unlike previous crime bills, I believe this crime bill virtually assures that we will execute innocent people; people whose only crime was to be caught in the crossfire of this legislative duel of who can be tougher on crime.

As a result of the scores of new death penalties and the evisceration of habeas corpus protections embodied in this bill, I predict that not long from now I or some other Senator will be standing in this well listing the names of innocent people accused and convicted of crimes they did not commit. These will be people, mostly black men, who have been sent to their death at the hands of our own Government. Years ago, I stood here and read the names of over 50 people who were erroneously convicted of crimes for which the penalty was death. We have sent 23 innocent people to their death in error, only to learn after the fact that they were innocent. I do not want this list of tragic mistakes to grow.

As much as I want to vote for the Brady bill, which I have so long fought to have enacted into law, I cannot support a bill which would wreak such harm.

Two Congresses ago, I supported the death penalty for drug kingpins who commit murder. The overwhelming evidence of involvement in extensive criminal activity in the case of drug kingpins provides greater certainty of the guilt of the defendant. For example, under the definition in the law, to be a drug kingpin, the murderer would have had to have been guilty of selling large amounts of illegal drugs and to have been the leader of a criminal enterprise of five or more individuals. Under these carefully circumscribed provisions, it is unlikely that an innocent person could be convicted of the crime.

In contrast to precautions inherent in the death penalty for drug kingpins law, this bill represents an unprecedented expansion of the death penalty and creates over 50 capital punishment offenses with little protection against executing innocent people.

We have tried so hard to appear tougher on crime that we have filled this bill with capital punishment provisions that are empty gestures and meaningless in the fight against crime.

For example, the bill provides for capital punishment for killing a poultry inspector, killing a horse inspector and killing a meat inspector. While any murder is a heinous and awful act which deserves to be dealt with severely, these crimes occur rarely and are hardly the cause of the crime epidemic we face today. The American public wants relief from crime run rampant, but they are not going to obtain that relief knowing that we have made the murder of Government inspectors a death penalty offense.

Now let me address another example that shows the absurdity of what the Senate has done in this crime bill. The Senate was so determined to look tough, it even created Federal death penalties for crimes with no relationship to a Federal interest. This bill would take over much of the State control over their own criminal laws.

What has happened to States' rights? Many Members of this body have spent their political careers on the floor, talking to constituents, and even running for President, defending the rights of States to enact their own laws free from interference from the Federal Government. Now, when faced with an unprecedented incursion of a fundamental State prerogative—the right to determine criminal penalties for crimes committed in the State—the defenders of States' rights have fallen silent.

Under this bill, all gun killings, even those involving domestic disputes or street robberies, would now be subject to a Federal death penalty. Fourteen States that have chosen not to adopt the death penalty, now face a Federal death penalty for over half of the homicides committed in their State.

In addition, this bill would impose Federal mandatory minimums on States for all crimes of violence or drug trafficking where someone involved in the crime uses or possesses a firearm. Mr. President, I do not believe that the Senate is aware of what is in this bill. If you get into a fistfight in a bar, and you have a gun in your pocket which you never even take out, you could go to jail for 10 years as a result of this new mandatory minimum. No matter what the State law, Congress is telling the States that for 60 percent of their murders; for 33 percent of their robberies; and for over 20 percent of their assaults, the Federal Government will be able to dictate what penalties will be assessed. That is what is in this bill.

This unprecedented incursion upon State sovereignty in the critical area of criminal law is all the more absurd because it is being done with the consent of ardent States' rights defenders. The Senator from South Carolina has stated in the past that the Congress needs "to reduce the intrusive interference by Federal courts in the State criminal justice system." Earlier this week, he railed against a proposal to implement literacy programs in State prisons as another example of the Federal Government "mandating that the States do things. Let the States choose," said Senator THURMOND.

> The people in the States have just as much sense down there as we have here in Congress, and sometimes I think much more. * * * They understand the situation.

But when it comes to deciding whether or not to impose the ultimate criminal punishment—death—the Senator from South Carolina does not want to let the States choose. When it comes to capital punishment, he has no trouble encroaching upon the sovereignty of those States that do not have a death penalty. And when it came to the question of imposing a Federal mandatory minimum sentence in every single State in the Union for any crime involving a gun, concerns about States' rights melted away.

The Senator from Utah, my friend, another strong defender of federalism, invoked States' rights when he opposed a provision in the Biden bill that would outlaw racial discrimination in the application of the death penalty. He stated that the Racial Justice Act "is clearly not desired by the State legislators who, in 39 different States, have adopted death penalty statutes since 1976." But when it came to deciding whether or not the death penalty should be imposed in States which forbid capital punishment, the Senator from Utah [Mr. HATCH] was silent about the desires and wishes of those States.

The Senator from Iowa, my good friend Senator GRASSLEY, is another great defender of States rights. He opposed the Biden habeas corpus proposal in part because he believed it abandoned "well-settled law regarding deference to State procedural rules." But what about the deference that should be accorded those States which oppose capital punishment? What about the deference that should be accorded those States which want to set their own penalties for crimes involving a gun?

Do we trust the States so little that we want the Federal authorities and the Federal courts to take over the function of fighting local crime? Will the American people be comforted to know that the Federal Government will be policing their streets? Or will they begin to see how absurd Congress' posturing on the crime issue has become?

This crime bill also purports to fight crime by undercutting habeas corpus protections, but I fail to see how a single criminal act will be deterred by these changes.

While I did not agree with everything in the Powell commission report, which had addressed itself to the subject of habeas corpus, I support the goal of streamlining habeas corpus in order to prevent unnecessary delay and needlessly repetitive litigation. But what we have done in this bill goes too far, far beyond the Powell recommendations and far beyond what makes good sense. We have not reformed habeas corpus; we have, for all practical purposes, eliminated habeas corpus.

In fact, these provisions only make it more likely that we will mistakenly execute innocent people: A crime we think too little about as we prepare to pass this bill.

We are so concerned with haste, that we apparently no longer care if the courts are making correct determinations.

For example, this bill would prevent Federal courts from ruling on any constitutional issues which were fully and fairly adjudicated in State court, even if the State court's resolution of the issue was wrong.

In other words, this bill allows defendants to be put to death even when constitutional errors are made at their trial. It effectively bars defendants from ever having a chance at getting a new trial, free of constitutional error. How can we claim to be a nation which respects the Constitution and reveres due process, if we deny those sentenced to death the right to a trial which comports with the Constitution?

I am mindful of the tragic consequences of murder, but throwing away the Constitution and executing innocent people will not deter murders. Heaping wrong upon wrong is not a solution.

I am frank to say that as much as I want the Brady bill signed into law, I cannot support a bill which does so little to deter violent crime and which in the name of being tough on crime puts at risk the lives of innocent people. There is too much death penalty with too few protections. I am therefore compelled to vote against this crime bill.

EXTENSIONS OF TIME FOR MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for morning business be extended for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT

Mr. PRESSLER. Mr. President, I today voted for the fiscal year 1992 energy and water development appropriations bill, H.R. 2427. While it does not contain all that I had wanted for water projects in my State, it does appropriate $33,805,000 for the development of South Dakota's water resources. Therefore, I supported passage of this bill.

Due to the construction of the Missouri River mainstem dams, South Dakota possesses an abundance of water. However, that water is concentrated in the center of the State. We lack adequate distribution facilities to get the water to where it is needed.

The Federal Government has a longstanding obligation to the State of South Dakota to help develop the State's water resources. When construction of the mainstem dams flooded vast areas, my State lost more than a half million acres of its richest farmland. South Dakota has reaped some benefits from the presence of the dams, particularly in recreational areas, but these recreational benefits pale in comparison to the benefits reaped by downstream States from the taming of the Missouri River's historic propensity for ruinous flooding. The dams that now permanently flood land in South Dakota prevent the disastrous flooding of the downstream States.

Based on this set of facts, I always have supported the funding of vital and necessary water projects in South Dakota. I never have considered these appropriations porkbarrel spending, as water projects are derisively referred to by some political pundits and ivory tower academicians. Rather, these appropriations represent only a partial repayment on an obligation the Federal Government owes the State of South Dakota—a good faith effort to compensate the State for the sacrifices it made for the benefit of downstream States.

I voted for passage of this bill today. I will continue to work on behalf of my State to obtain additional future funding for the development of South Dakota's water resources.

CORRECTION

Mr. CRANSTON. Mr. President, last year I submitted for the RECORD an important study on rising antisemitism in Eastern Europe. The study was drafted by the London-based Institute of Jewish Affairs in coordination with the Anti-Defamation League.

Since that time, it has come to my attention that a mistaken translation of an excerpt from a book by Dr. Franjo Tudjman, leader of the nationalist Croation Democratic Union and now the President of the Yugoslavian Republic of Croatia, gave a misleading and inaccurate picture.

In discussing antisemitic incidents in Yugoslavia, the report stated that a 1989 book by Dr. Tudjman entitled "Wanderings of Historical Truth" included a blatantly antisemitic reference. The report described the antisemitic reference as a "particularly worrying incident."

It seems, however, that the antisemitic comment was not made by Dr. Tudjman. The statement was a quotation by a former Serbian prisoner in one of the Nazi death camps. Dr. Tudjman was quoting the prisoner, specifically identifying his statement as antisemitic.

Dr. Howard Spier, the author of this report, has apologized for the error. He was quoting from an article which appeared in the London Jewish Chronicle by Srdjan Matic, a leading official of the Zagreb Jewish community. Mr. Matic has since indicated that he was misinterpreted.

I am pleased to correct the RECORD at this time.

SOUTH AFRICA SANCTIONS

Mr. DURENBERGER. Mr. President, I rise today to support President Bush's decision to lift United States sanctions against South Africa. The President is acting in full accordance with the law passed by the Congress in 1986, and I believe his decision will help further our shared objectives of promoting continued and positive change in South Africa.

Although South Africa still has a long way to go before it can claim a fully functioning, majority-based democracy with equal rights for all its citizens, it is quite clear to this Senator that South Africa has made major progress toward eliminating the evils of apartheid. In fact, the progress now appears to be irreversible.

It is very important that this country recognize and acknowledge this progress and adapt our policies to new circumstances.

Furthermore, the United States sanctions law does not require South Africa to achieve a perfect democracy before sanctions can be lifted. The reality of the situation is such that the conditions of the 1986 law have been met, and the President is correct in lifting the sanctions.

In 1986, this country opted for the carrot and stick approach: imposing sanctions was the stick; the promise to remove them if reforms were made was the carrot. We have used the stick now for 5 years. It is time to use the carrot.

Historians will debate for all time the question of just how much influence the sanctions—the stick—had on South Africa. But it is clear that, whatever the impetus, South Africa has already made remarkable progress in abolishing the foundations of apartheid and that they have met the conditions in the United States law.

At this time, Mr. President, I believe we can better advance our shared objectives by reengaging with South Africa. The 1986 sanctions law has served its purposes, and now it is time to move forward, to adapt to new circumstances.

Let us move forward in our policy toward South Africa to encourage continued progress. Lifting the sanctions is the first step in a different and positive direction, and I look forward to this new era in United States-South Africa relations.

Thank you, Mr. President. I yield the floor.

THE CIVIL RIGHTS LEGISLATION

Mr. DANFORTH. Mr. President, since the nomination of my good friend and longtime associate, Clarence Thomas, to the U.S. Supreme Court, some Senators have asked me my intention with respect to civil rights legislation, which of course has been the subject of intense discussion and negotiation not only for the last month or so, but for about the last 2 years.

And, therefore, I would like to take the floor briefly this evening to state for whomever happens to be listening what my views are on the course of civil rights legislation.

Obviously, a great deal of my own time is going to be spent voluntarily attempting to persuade my colleagues to support the nomination of Clarence Thomas to the U.S. Supreme Court. He is a person I have known for 17 years. I first hired him when he was a third-year law student out of Yale Law School, and he worked for me in the attorney general's office in Jefferson City, and again came to work for me here in Washington. I know him to be a first-rate person and as a person who is eminently well qualified to serve on the Supreme Court. I am going to to be spending a lot of time working on that.

But I also want to make it clear that in no way is my determination to try to help pass the civil rights bill lessened by my commitment to spend a lot of time on the Thomas nomination. I believe that it is very important, Mr. President, for our country to resolve the issues that were created by the Supreme Court's various decisions on civil rights and to reestablish what I believe is the national consensus on civil rights in this country. And, therefore, in my view, the sooner we pass the legislation, the better off we are.

Mr. President, I have continued to have a variety of discussions since we returned from the recess with a variety of parties on the question of civil rights legislation. I think that the good that has been accomplished over the last few months is that we have succeeded in narrowing the issues so that a lot of the legalistic nature of the discussions that has gone on for the past couple of years is now, in my opinion, behind us.

We have succeeded in clearing away a lot of the underbrush and exposing the one issue which now has become the paramount issue on civil rights, and that issue is a policy issue; it is not a legalism. It is a policy issue which is pretty easy to explain and which now, in my opinion, is ripe for consideration both by the President of the United States and by Members of Congress.

In a nutshell, the policy issue that remains for consideration is this: Should it be lawful for an employer to create qualifications for employment which do not have anything to do with the ability of a person to do the job, and which qualifications serve to screen out women or to screen out minorities from employment? Should the employer be able to do that?

And that precise issue is the one that I think has now been presented because of the winnowing effect of what we have been doing over the last month in working on this legislation. We have exposed that precise policy issue.

Ways in which this policy issue could crop up might include, for example, whether an employer could establish a high school diploma as a requirement for employment for, say, a janitorial job, if the high school diploma, as a matter of fact, screened out a minority group from employment; or whether an employer could say that, as a matter of job qualification, single parents would no longer be employed by that particular business, even though that would obviously screen out women and would have no relationship to the ability of the employee to do the job.

Now, that is what we are down to. That is the most significant remaining issue in all of this debate on civil rights. And I think it is a fairly easy issue for people to come to grips with. Should an employer be able to say that janitors must have a high school diploma; yes or no? If the answer is yes, then the employer could use that qualification, unrelated to ability to do the job, as a way of keeping out perhaps some minorities from being able to have access to the workplace.

It is a very direct issue, a very fundamental issue, and an issue which was resolved by the U.S. Supreme Court back in 1971 in a case called Griggs versus Duke Power Co. In that case, the U.S. Supreme Court said that the employer could not use a high school diploma as a condition of employment for a job that did not require educational ability or educational background.

So the Supreme Court decided that in 1971. It remained the law until 1989, until the Supreme Court decided the Wards Cove case. And throughout all of these discussions over the last 2 years, most people have said that we should get back to the Griggs case. The administration has said repeatedly we should get back to the Griggs case. We should get back to the exact language that was used in the Griggs case.

Well, the holding of the Griggs case was that artificial qualifications unrelated to ability to perform the job could not be used as a screening device to screen out women or to screen out minorities. That was the holding of the case. That is the issue that is now before the policymakers.

Clearly, Mr. President, it would be a much better and easier and cleaner result for our country if we could decide that issue before it comes to the floor of the Senate. If the President of the United States would decide that the Griggs case should be the law, that these qualifications that have no relationship to job performance should not be used to screen minorities or women, if the President could decide that, then I believe we are very close to coming to an agreement which would be adequate in the eyes of the administration and the President, and which could become law.

I think we are very close to that. The President is going to be leaving for Europe. He is obviously going to be preoccupied by foreign policy matters for the next week and a half or so. But it is my hope that when he returns he could address this very fundamental policy question, hopefully to decide it in a way which would allow us to pass this bill very quickly.

In the event the President does not believe that the Griggs case is the last word on job qualifications, then it is my thought that the only available way to resolve the issue is the way that policy matters are normally resolved in our system, and that is that the legislation proceeds through the Senate and we see what happens to it in the normal course of affairs.

I think, again, just to wind up, that the best interests of the country would be served by reaching an agreement on this matter. I think that an agreement is very close. I think that we are down to one policy issue, and I think that policy issue is exactly the same one that the Supreme Court decided in the Griggs case in 1971.

I yield the floor.

CLOTURE VOTE ON S. 1241

Mr. DURENBERGER. Mr. President, I rise today to briefly explain my reasons for voting to limit debate on S. 1241, the Violent Crime Control Act of 1991

On March 6, President Bush challenged the Congress to pass a highway bill and a crime bill within 100 days. The Senate missed that deadline with the highway bill by 5 days; 126 days have now passed since the President's challenge, and this body has still not completed action on a crime bill that we have been considering 3 weeks.

We have debated and settled several controversial issues on this bill. On the issue of gun control, we struggled to come up with a compromise on the Brady bill that will facilitate the development of a national criminal identification system that should make it more difficult for convicted felons and other dangerous individuals to obtain handguns through licensed gun dealers.

After days of debate, we adopted a bipartisan compromise that will create a 5-day waiting period before a handgun can be purchased. Although there was wide disagreement in this body on the usefulness of waiting periods, this Dole-Metzenbaum proposal was the best compromise we were able to reach that would move us toward the common goal of a national computerized instant background check. Further debate on this bill will not result in a better compromise on this controversial issue.

Mr. President, there will come a time when we will all be called on to cast our votes on passing this bill. I will vote no on final passage because I cannot support any measure that would allow for the imposition of the death penalty. I and many of my colleagues who also oppose the death penalty have had an opportunity on several occasions to make our views known on amendments expanding the death penalty.

We had our day on the Senate floor, and when it came to a vote, we lost. Further debate on S. 1241 will not change that outcome. Dragging out the debate on this bill will not make S. 1241 a better bill, nor will it serve our constituents.

Mr. President, we have all had an opportunity to debate the important issues related to crime. These issues have been argued and concluded. I ask now that we be able to vote on the merits of this bill. I have hopes that this bill will be improved in conference committee with the House of Representatives.

Mr. President, we owe it to President Bush and the American people not to stall on this legislation any longer. I intend to vote to invoke cloture on this bill so that this body can proceed with our Nation's pressing business, and I encourage my colleagues to do the same.

LIFTING SANCTIONS ON SOUTH AFRICA

Mr. MOYNIHAN. Mr. President, we learned today that President Bush has decided to lift economic sanctions imposed on South Africa under the Comprehensive Anti-Apartheid Act. By so doing, the President is certifying that the five conditions set forth in the act have been met, including the release of all political prisoners.

Mr. President, the developments in South Africa since President F.W. de Klerk delivered his February 2, 1990, speech have been dramatic. The legal framework of the apartheid system has been repealed. Nelson Mandela has been released and has responded to the Government's initiatives with a grace that has been simply extraordinary. At long last there is hope.

But we must remember that for all of these positive steps, little has changed in the lives of South Africa's black citizens. They still live, for the most part, in wretched poverty which is largely the product of more than three decades of obscene, legally-enforced racist policies.

I am troubled by the administration's assertion that all political prisoners have been released. The fate of political prisoners in South Africa has long been a matter of concern to me. In 1975, at the time that I had the honor to serve as the U.S. Permanent Representative to the United Nations, President Ford directed that the United States support a General Assembly resolution entitled "Solidarity with the South African Political Prisoners." This resolution condemned "the ruthless repression by the racist South African regime," expressed "solidarity with all South Africans struggling against apartheid," and called upon the South African regime to grant an unconditional amnesty to all persons imprisoned or restricted for their opposition to apartheid or acts arising from such opposition. The United States delegation strongly supported the resolution in the Special Political Committee, presenting a lawyer-like case—in the tradition of a Brandeis brief—against apartheid and documenting by name the prisoners being held in South Africa for their beliefs, including, of course, Nelson Mandela.

Mr. Mandela and the others that we mentioned during that debate more than a decade and a half ago have finally been released, but two categories of prisoners still merit close scrutiny. First, there are those who are held by the nominally independent homelands created by the South African Government for the purpose of disenfranchising South Africa's black citizens. The United States has quite rightly never accepted the fiction that these "homelands" were beyond the control of the South African Government. It is troubling, therefore, that the administration now seems to have accepted the proposition that the South African Government has no responsibility for these prisoners.

Second, there are those prisoners who are held for so-called unrest-related offenses which occurred during the recent period of emergency. Mr. President, this emergency was brought about by the struggle of the black majority in South Africa against apartheid. The means adopted by the Government to stop these protests were brutal and some 4,000 persons still languish in prison as a result. While I can well imagine that some of these persons do not meet the definition of a political prisoner, I am surprised that the administration is willing to vouch that none do. I note that the African National Congress, at its recently completed National Conference, requested that the international community maintain sanctions and argued that many political prisoners are still being held by the Government. Amnesty International has stated that "it may be too early for President Bush to contend that all political prisoners in South Africa have been freed" and notes that 1,500 people were detained incommunicado without charge or trial in South Africa as recently as last year.

Mr. President, the reality of apartheid remains and we must not permit the South African Government to believe that it has done enough, that the international community is satisfied. The truth is very different. The South African Government has only just begun to correct the injustice of apartheid and the United States Congress will be monitoring its continued progress closely.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,307th day that Terry Anderson has been held captive in Lebanon.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I suggest that absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the following amendments which are at the desk be the only amendments in order to the crime bill prior to the next cloture vote; that they be considered and agreed to en bloc; that the motions to reconsider be tabled en bloc; that no motions to recommit be in order prior to the next cloture vote. The amendments are as follows:

An amendment by Senator RUDMAN on prisons/drug czar; an amendment by Sentor D'AMATO technical; an amendment by Senator DOLE, technical on guns; an amendment by Senator SEYMOUR on alien exploitation; and amendment by Senator MCCONNELL on public corruption; an amendment by Senators THURMOND and BIDEN that is technical; an amendment by Senator BINGAMAN that is technical; an amendment by Senator RIEGLE on violent crime; an amendment by Senator DECONCINI, commission on law enforcement; and an amendment by Senator GRAMM of Texas on prisons.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendments.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] proposes amendments en bloc numbered 722, 723, 724, 725, 726, 727, 728, 729, 730, and 731.

The amendments agreed to en bloc are as follows:

AMENDMENT NO. 722

(Purpose: To provide that the Director of the Bureau of Prisons shall select locations for regional prisons and boot camps)

On page 160, line 5, strike the words "National Drug Control Policy" and insert in lieu thereof "the Bureau of Prisons".

On page 160, line 6, strike the words "the Bureau of Prisons" and insert in lieu thereof "National Drug Control Policy".

On page 162, line 20 and 21, strike the words "National Drug Control Policy" and insert in lieu thereof "the Bureau of Prisons".

On page 162, line 22, strike the words "the Bureau of Prisons" and insert in lieu thereof "National Drug Control Policy".

AMENDMENT NO. 723

(Purpose: Technical amendment to previous D'Amato amendment)

Strike amendment No. 387 and insert in lieu thereof:

"SEC. . MANDATORY PRISON TERMS FOR USE, POSSESSION, OR CARRYING OF A FIREARM OR DESTRUCTIVE DEVICE DURING A STATE CRIME OF VIOLENCE OR STATE DRUG TRAFFICKING CRIME.

Section 924(c) of title 18 of the United States Code is amended by adding the following:

"(4)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which he may be prosecuted in a court of any State,

"(i) knowingly possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release; or

"(iii) knowingly possesses a firearm that is a machinegun or destructive device, or is equipped with a firearm silencer or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

"In the case of a second conviction under this paragraph, a person shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release for possession or not less than 30 years without release for discharge of a firearm, and if the firearm is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. In the case of a third or subsequent conviction under this paragraph, a person shall be sentenced to life imprisonment without release. Notwithstanding any other law, a court shall not place on probation or suspend the sentence of any person convicted of a violation of this paragraph, nor shall the term of imprisonment imposed under this paragraph run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used. No person sentenced under this paragraph shall be eligible for parole, nor shall such person be released for any reason whatsoever, during a term of imprisonment imposed under this paragraph.

"(B) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if the person has a firearm readily available at the scene of the crime during the commission of the crime.

"(C) Except in the case of a person who engaged in or participated in criminal conduct that gave rise to the occasion for the person's use of a firearm, this paragraph has no application to a person who may be found to have committed a criminal act while acting in defense of person or property during the course of a crime being committed by another person (including the arrest or attempted arrest of the offender during or immediately after the commission of the crime).".

"(D) For purpose of this paragraph, the term "drug trafficking crime" means any crime punishable by imprisonment for more than one year involving the manufacture, distribution, possession, cultivation, sale, or transfer of a controlled substance, controlled substance analogue, immediate precursor, or listed chemical (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or an attempt or conspiracy to commit such a crime.

"(E) For purposes of this paragraph the term "crime to violence" means an offense that is punishable by imprisonment for more than one year and—

(1) has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or

(2) that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the cause of committing the offense.

"(F) In accordance with Section 927, it is the intent of Congress that this paragraph shall be used to supplement but not supplant the efforts of state and local prosecutors in prosecuting crimes of violence and drug trafficking crimes that could be prosecuted under state law. It is also the intent of Congress that the Attorney General shall give due deference to the interest that a state or local prosecutor has in prosecuting the defendant under state law. This subparagraph shall not create any rights, substantive or procedural, enforceable at law by any party in any manner, civil or criminal, nor does it place any limitations on otherwise lawful prerogatives of the Department of Justice.".

"(G) JURISDICTION.—There is federal jurisdiction over an offense under this paragraph if a firearm involved in the offense has moved at any time in interstate or foreign commerce."

AMENDMENT NO. 724

(Purpose: To make a technical change)

Section 922(u) of title 18, United States Code, as added by section 2701 of the amendment, is amended—

(1) in paragraph (1) by—

(A) redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(B) adding after subparagraph (C) the following;

"(D) the law of the State requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law, except that this subparagraph shall not apply to a State that, on the date of certification pursuant to section 2702(d) of the Violent Crime Control Act of 1991, is not in compliance with the timetable established pursuant to section 2702(c) of such Act;

(2) in paragraph (7)(B)(i) by striking "destroy and record" and inserting "destroy the statement and any record".

Section 922(v)(1)(A) of title 18, United States Code, as added by section 2701 of the amendment, is amended by striking "Felon Firearm Purchase Prevention Act of 1991" and inserting "Violent Crime Control Act of 1991" and section 922(v)(5) of such title is amended by inserting "or a political subdivision of a state of employee thereof" after the word" employe.

Section 2702(d)(1)(B) of the amendment is amended by striking "(C)" and inserting "(c)".

Section 509(b)(4) of the Omnibus Crime Control and Safe Streets Act of 1968, as added by section 2703(a)(1) of the amendment, is amended by striking "Felon Firearm Purchase Prevention Act of 1991" both places it appears and inserting "Violent Crime Control Act of 1991".

AMENDMENT NO. 725

(Purpose: To impose civil fines in cases of inducement of illegal aliens to commit aggravated felonies)

At the end of the bill, insert the following:

TITLE —EXPLOITATION OF ALIENS

SEC. 01. SHORT TITLE.

This title may be cited as the "Exploitation of Aliens Act of 1991".

SEC. 02. EXPLOITATION OF ALIENS.

(a) INDUCEMENT OF ALIENS.—A person who is 18 years of age or older who voluntarily solicits, counsels, encourages, commands, intimidates, or procures any alien with the intent that the alien commit an aggregated felony, as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than $100,000.

(b) COMMISSION OF CRIME BY ALIEN.—An alien who is induced by another person to commit and subsequently commits an aggravated felony, as defined in section 101(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than $100,000.

(c) CONSIDERATIONS.—In imposing a fine under subsection (a) or (b), the court shall consider the severity of the offense sought or committed by the offender as a circumstance in aggravation.

(d) ENFORCEMENT.—(1) A proceeding for assessment of a civil fine under subsection (a) or (b) may be brought in a civil action before a United States district court.

(2) A person affected by a final order under this subsection may, not later than 45 days after the date on which the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

(3)(A) If a person found in violation of subsection (a) or (b) fails to comply with a final order issued by a circuit court or administrative law judge, the Attorney General may bring a civil action to seek compliance with the order in any appropriate district court of the United States.

(B) In a civil action under subparagraph (A), the validity and appropriateness of the final order shall not be subject to review.

SEC. 03. CRIMINAL ALIEN IDENTIFICATION AND REMOVAL FUND.

(a) ESTABLISHMENT.—(1) There is established in the Treasury of the United States the Criminal Alien Identification and Removal Fund (referred to as the "Fund").

(2) All fines collected pursuant to section 02. shall be covered into the Fund and shall be used for the purposes of this section.

§ 03(b)(1) to read as follows:

"(b) DISTRIBUTION OF MONIES IN THE FUND.—(1) Ninety percent of the monies covered into in the fund in any fiscal year may be used by the Attorney General—

"(A) to assist the Immigration and Naturalization Service to identify, investigate, apprehend, detain, and deport aliens who have committed an aggravated felony, and

"(B) to fund any of the 20 additional immigration judge positions authorized by section 512 of the Immigration Act of 1990 which have not been funded.".

(2) Ten percent of the monies covered into the fund in any fiscal year may be distributed in the form of grants to the States by the Attorney General for the purposes of—

(A) assisting the States in implementing section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11));

(B) expanding section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11)) to identify aliens—

(i) as they are processed for admission into State prisons; and

(ii) when they enter probation programs.

(c) TECHNICAL AMENDMENT.—Section 280(b)(1) of the Immigration and Nationality Act is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

Mr. SEYMOUR. Mr. President, the amendment I offer is the latest chapter in our efforts to address the growing burden that criminal aliens place on our Federal, and State prisons, as well as local jails.

We have spent a week now on legislation that represents our commitment to stopping violent crime. Most importantly, this legislation symbolizes that we can't fight this war alone. We need the full cooperation, the best effort of the men and women who represent our State and local law enforcement agencies.

Their participation, Mr. President, is crucial, because they are the ones on the front lines in the war against violent crime.

But our participation is equally crucial, especially in those areas of the law that are clearly Federal responsibilities.

For most Californians and other citizens of the Southwest United States, the primary Federal law enforcement responsibility lies at the border: To stop the importation of illegal drugs, illegal weapons, and the illegal criminal aliens that come with them. People who cross the border to prey upon an innocent society, to become involved in gang activity, violence, and other serious crimes.

State and local law enforcement is doing the job. State prisons and local jails are overflowing with alien felons, their very crimes making them deportable, and deporting them once they've done their time in jail or prison is our—the Federal Government's—responsibility.

Now, I admit, Mr. President, this is a tough and difficult responsibility. But the degree of difficulty should not be an excuse for not fully upholding that responsibility.

As my colleagues know, just last year, Congress passed and the President signed into law the Immigration Act of 1990. Under this law, we reaffirmed our commitment that our first priority must be to deport alien felons the very minute they're released from prison.

We must not retreat from this goal. The very first step that a criminal alien takes out of prison must be into a waiting vehicle, its destination beyond the borders of the United States.

Mr. President, this important goal is not new to me. In fact, as a State senator, I introduced legislation to create a statewide program that attempts to speed up the process of identifying these alien felons. Once identified, the process of deportation can begin.

That program was based on a system instituted by Orange County Superior Court Judge David Carter. Under this system, 35 percent of the defendants brought before his court were found to be undocumented aliens, allowing the INS to begin deportation proceedings.

But despite efforts at the State level, meeting our goal depends on what we do here in Washington.

Last year's immigration act moves us a step closer: It call for the creation of 20 new immigration judges, and calls on the Attorney General to report to the Congress this December with a plan that will move us to that goal.

I look forward to reading the Attorney General's recommendations. But in the meantime, we can do more to speed up the process and get these alien felons out of our communities and our country.

That's what this amendment is about. My proposal calls for fines of up to $100,000 for those using an alien to commit an aggravated felony. Those in violation of my amendment will literally have to pay dearly for using aliens as their criminal foot soldiers.

But more importantly, my amendment proposes we use the money collected under this new penalty to meet our ultimate goal, that day when relased alien convicts will breathe their first breath of freedom—outside of America.

All fines collected will be deposited into a criminal alien identification and removal fund, where the attorney general will have the discretion to use 90 percent of these funds to assist the INS to identify and deport alien felons and fund any of the 20 additional immigration judge positions created last year.

The remaining funds can be used by the States to implement systems like the one so effectively used by Judge Carter.

Mr. President, this amendment is a modest attempt to meet the goal I've described, but it won't be my last. I intend to revisit this issue, Mr. President, because these alien thugs are the responsibility of the Federal Government, regardless of where they are being housed, whether in a State prison or a local jail. Once they crossed that border, and once they committed a crime, they have violated Federal law, and therefore, it is up to us to deal with them.

Finally, I would like to express my thanks to my good friend from Wyoming and the Senior Senator from Massachusetts for their expertise and counsel in the development of this amendment.

AMENDMENT NO. 726

(Purpose: To amend title 18 of the United States Code to add criminal offenses for public corruption and narcotics related public corruption)

At the end of the bill, add the following:

TITLE —PUBLIC CORRUPTION

SEC. 01. SHORT TITLE.

This title may be cited as the "Anti-Corruption Act of 1991".

SEC. 02. OFFENSE.

Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 226. Public corruption

"(a) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subsidivision of a State of the honest services of an official or employee of such State, or political subdivision of a State, shall be fined under this title, or imprisoned for not more than 10 years, or both.

"(b) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, runoff, special, or general election—

"(1) through the procurement, casting, or tabulator of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the State in which the election is held;

"(2) through paying or offering to pay any person for voting;

"(3) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(4) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information,

shall be fined under this title or imprisoned for not more than ten years, or both.

"(c) Whoever, being a public official or an official or employee of a State, or political subdivision of a State, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State or the right to have the affairs of the State or political subdivision conducted on the basis of complete, true, and accurate material information, shall be fined under this title or imprisoned for not more than 10 years, or both.

"(d) The circumstances referred to in subsections (a), (b), and (c) are that—

"(1) for the purpose of executing or concealing such scheme or artifice or attempting to do so, the person so doing—

"(A) places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(B) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(C) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(D) uses or causes to use of any facility of interstate or foreing commerce;

"(2) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce; or

"(3) as applied to an offense under subsection (b), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have some authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the 12-month period immediately preceding or following the election or date of the offense.

"(e) Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or person who has been selected to be a public official shall be fined under this title or imprisoned for not more than 10 years, or both.

"(f) Whoever being an official, or public official, or person who has has been selected to be a public official, directly or indirectly, discharged, demotes, suspends, threatens, harasses, or, in any manner, discrimates against any employee or official of the United States or any State or political subdivision of such State, or endeavors to do so, in order to carry out or to conceal any scheme or artifice described in this section, shall be fined under this title or subject to imprisonment of up to 5 years or both.

"(g)(1) Any employee or official of the United States or any State or political subdivision of such State who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because of lawful acts done by the employee as a result of a violation of subsection (e) or because of any actions by the employee on behalf of himself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may in a civil action, obtain all relief necessary to make such individual whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, 3 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including reasonable litigation costs and reasonable attorney's fees.

"(2) An individual is not eligible for such relief if that individual participated in the violation of this section with respect to which such relief would be awarded.

"(3) A civil action or proceeding authorized by this subsection shall be stayed by a court upon the certification of an attorney for the Government, stating that such action or proceeding may adversely affect the interests of the Government in an ongoing criminal investigation or proceeding. The attorney for the Government shall promptly notify the court when the stay may be lifted without such adverse effects.

"(h) For purposes of this section—

"(1) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States;

"(2) the terms 'public official' and 'person who has been selected to be a public official' have the meaning set forth in section 201 of this title; the terms 'public official' and 'person who has been selected to be a public official' shall also include any person acting or pretending to act under color of official authority;

"(3) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity establishing and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) includes any person who has been nominated, appointed or selected to be an official or who has been officially informed that he or she will be so nominated, appointed or selected;

"(4) the term 'under color of official authority' includes any person who represents that he or she controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official; and

"(5) the term 'uses any facility of interstate or foreign commerce' includes the intrastate use of any facility that may also be used in interstate or foreign commerce.".

SEC. 03. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF SECTIONS.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following item:

"226. Public Corruption.".

(b) RICO.—Section 1961(1) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(c) INTERRUPTION OF COMMUNICATIONS.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

SEC. 04. INTERSTATE COMMERCE.

(a) IN GENERAL.—Section 1343 of title 18, United States Code, is amended by—

"(1) striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interests or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(2) inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) CONFORMING AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended by striking "Fraud by wire, radio, or television" and inserting "Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by striking the analysis for section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate commerce.".

SEC. 05. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

"§ 220. Narcotics and public corruption

"(a) Any public official who, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or nonperformance of any official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State;

shall be guilty of a class B felony.

"(b) Any person who, directly or indirectly, corruptly gives, offers, or promises anything of value to any public official, or offers or promises any public official to give anything of value to any other person, with intent—

"(1) to influence any official act;

"(2) to influence such public official to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

"(3) to influence such public official to do or to omit to do any act in violation of such official's lawful duty;

shall be guilty of a class B felony.

"(c) There shall be Federal jurisdiction over an offense described in this section if such offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) For the purpose of this section—

"(1) the term 'public official' means—

"(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror;

"(C) an officer or employee or person acting for or on behalf of the government of any State, territory, or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, territory, possession, or political subdivision; or

"(D) any person who has been nominated or appointed to be a public official as defined in subparagraph (A), (B), or (C), or has been officially informed that he or she will be nominated or appointed;

"(2) the term 'official act' means any decision, action, or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's official capacity, or in such official's place of trust or profit; and

"(3) the terms 'controlled substance' and 'controlled substance analogue' have the meaning set forth in section 102 of the Controlled Substances Act.".

(b) Conforming Amendments.—(1) Section 1961(1) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery),".

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (bribery of public officials and witnesses),".

(c) Chapter Analysis.—The chapter analysis for chapter 11 of title 18, United States Code, is amended by inserting after the item for section 219 the following:

"220. Narcotics and public corruption.".

Amendment No. 727

(Purpose: To make minor and technical corrections)

At the appropriate place insert the following:

"Be it enacted by the Senate and House of Representatives In Congress assembled, that this Act may be cited as the "Miscellaneous Criminal Law Improvements Act of 1991".

Subtitle A—Sentencing and Magistrates Amendments

SEC. 101. CORRECTION OF RESENTENCING SANCTION FOR REVOCATION OR PROBATION FOR POSSESSION OF A CONTROLLED SUBSTANCE.

Section 3565(a) of title 18, United States Code, is amended by striking "sentence the defendant to not less than one-third of the original sentence" and inserting in lieu thereof "resentence the defendant under subchapter A to a sentence that includes a term of imprisonment".

SEC. 102. AUTHORIZATION OF PROBATION FOR PETTY OFFENSES IN CERTAIN CASES.

Section 3561(a)(3) of title 18, United States Code, is amended by adding at the end: "However, this paragraph does not preclude the imposition of a sentence to a term of probation for a petty offense if the defendant has been sentenced to a term of imprisonment at the same time for another such offense.".

SEC. 103. TRIAL BY A MAGISTRATE IN PETTY OFFENSE CASES.

Section 3401 of title 18, United States Code, is amended—

(1) in subsection (b) by adding "other than a petty offense" after misdemeanor"; and

(2) in subsection (g) by amending the first sentence to read as follows: "The magistrate judge may, in a petty offense case involving a juvenile, exercise all powers granted to the district court under chapter 403 of this title."

SEC. 104. CONFORMING AUTHORITY FOR MAGISTRATES TO REVOKE SUPERVISED RELEASE IN ADDITION TO PROBATION IN MISDEMEANOR CASES IN WHICH THE MAGISTRATE IMPOSED SENTENCE.

Section 3401(d) of title 18, United States Code, is amended by adding at the end the following: "A magistrate judge who has sentenced a person to a term of supervised release shall also have power to revoke or modify the term or conditions of such supervised release."

SEC. 105. AVAILABILITY OF SUPERVISED RELEASE FOR JUVENILE OFFENDERS.

Section 5037 of title 18, United States Code, is amended—

(1) in subsection (a) by striking "place him on probation or commit him to official detention" and inserting in lieu thereof "place the juvenile on probation, or commit the juvenile to official detention (including the possibility of a term of supervised release)" and by striking "subsection (d)" and inserting in lieu thereof "subsection (e)"; and

(2) by redesignating subsection (d) as subsection (e) and adding a new subsection (d), as follows:

(d) The term for which supervised release may be ordered for a juvenile found to be a juvenile delinquent may not be ordered—

(1) in the case of a juvenile who is less than eighteen years old, beyond the lesser of—

(A) the date when the juvenile becomes twenty-one years old; or

(B) the maximum term that would be authorized by section 3583(b) if the juvenile had been tried and convicted as an adult; or

(2) in the case of a juvenile who is between eighteen and twenty-one years old—

(A) who if convicted as an adult would be convicted of a Class A, B, or C felony, beyond five years; or

(B) if any other case beyond the lesser of—

(i) three years; or

(ii) the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult.".

Subtitle B—White Collar Crime Amendments

SEC. 201. RECEIVING THE PROCEEDS OF A POSTAL ROBBERY.

Section 2114 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsection (a); and

(2) by adding at the end the following new subsection:

"(b) Whoever receives, possesses, conceals, or disposes of any money or other property which has been obtained in violation of this section, knowing the same to have been unlawfully obtained, shall be imprisoned not more than ten years, fined under this title, or both.".

SEC. 202. RECEIVING THE PROCEEDS OF EXTORTION ON KIDNAPPING.

(a) Chapter 41 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 880. Receiving the proceeds of extortion

"Whoever receives, possesses, conceals, or disposes of any money or other property which was obtained from the commission of any offense under this chapter that is punishable by imprisonment for more than one year, knowing the same to have been unlawfully obtained, shall be imprisoned not more than three years, fined under this title, or both."; and

(2) in the table of sections, by adding at the end thereof the following item: "880. Receiving the proceeds of extortion."

(b) Section 1202 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsection "(a)"; and

(2) by adding the following new subsections:

"(b) Whoever transports, transmits, or transfers in interstate or foreign commerce any proceeds of a kidnapping punishable under State law by imprisonment for more than one year, or receives, possesses, conceals, or disposes of any such proceeds after they have crossed a state or United States boundary, knowing the proceeds to have been unlawfully obtained, shall be imprisoned not more than ten years, fined under this title, or both.".

"(c) For purposes of this section, the term 'State' has the meaning set forth in section 245(d) of this title.

SEC. 203. CONFORMING ADDITION TO OBSTRUCTION OF CIVIL INVESTIGATIVE DEMAND STATUTE.

Section 1505 of title 18, United States Code, is amended by inserting "section 1968 of this title, section 3733 of title 31, United States Code or" before "Antitrust Civil Process Act."

SEC. 205. CONFORMING ADDITION OF PREDICATE OFFENSES TO FINANCIAL INSTITUTIONS REWARDS STATUTE.

Section 3059A of title 18, United States Code is amended—

(1) by inserting "225," after "215";

(2) by inserting "or" before "1344"; and

(3) by inserting ", or 1517" after "1344".

SEC. 206. DEFINITION OF SAVINGS AND LOAN ASSOCIATION IN BANK ROBBERY STATUTE.

Section 2113 of title 18, United States Code, is amended by adding at the end the following:

"(h) As used in this section, in term 'savings and loan association' means (1) any Federal saving association or State savings association (as defined in section 3(b) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(b)) having accounts insured by the Federal Deposit Insurance Corporation, and (2) any corporation described in section 3(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)(C)) which is operating under the laws of the United States.".

SEC. 207. CONFORMING DEFINITION OF "1 YEAR PERIOD" IN 18 U.S.C. 1516.

Section 1516(b) of title 18, United States Code, is amended—

(1) by inserting "(i)" before "the term"; and

(2) by inserting before the period the following: ", and (ii) the term "in any 1 year period" has the meaning given to the term 'in any one-year period' in section 666 of this title.

Subtitle C—Miscellaneous Amendments

SEC. 301. SEXUAL ABUSE AMENDMENTS.

SEC. 302. OPTIONAL VENUE FOR ESPIONAGE AND RELATED OFFENSES.

(a) In General.—Chapter 211 of title 18, United States Code, is amended by inserting:

"§ 3239. Optional venue for espionage and related offenses

"The trial for any offense involving a violation, begun or committed upon the high seas or elsewhere out of the jurisdiction of any particular State or district, of—

"(1) section 793, 794, 798, or section 1030(a)(1) of this title;

"(2) section 601 of the National Security Act of 1947 (50 U.S.C. 421); or

"(3) section 4(b) or 4(c) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783(b) or (c)); may be in the District of Columbia or in any other district authorized by law.".

"(b) CLERICAL AMENDMENT.—The item relating to section 3239 in the table of sections at the beginning of chapter 211 of title 18, United States Code, is amended to read as follows: "3239. Optional venue for espionage and related offense.".

SEC. 308. DEFINITION OF LIVESTOCK.

Section 2311 of title 18, United States Code, is amended by inserting after the second paragraph relating to the definition of "cattle" the following:

"Livestock means any domestic animals raised for home use, consumptions, or profit, such as horses, pigs, goats, fowl, sheep, and cattle, or the carcasses thereof;".

SEC. 309. LEADERSHIP ROLE IN CRIME AS FACTOR FOR TRANSFERRING A JUVENILE TO ADULT STATUS.

Section 5032 of title 18, United States Code, is amended in the fifth undesignated paragraph by adding at the end the following: "In considering the nature of the offense, as required by this paragraph, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use and distribution of controlled substances or firearms. Such a factor, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of such factor shall not preclude such a transfer.".

Subtitle D—Technical Amendments

SEC. 401. CORRECTIONS OF ERRONEOUS CROSS-REFERENCES AND MISDESIGNATIONS.

(1) Section 1791(b) of title 18, United States Code, is amended by striking "(c)" wherever it appears and inserting in lieu thereof "(d)";

(2) Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207–51; 21 U.S.C. 857)" and inserting in lieu thereof "section 422 of the Controlled Substances Act (21 U.S.C. 863)";

(3) Section 2703(d) of title 18, United States Code, is amended by striking "section 3126(2)(A)" and inserting in lieu thereof "section 3127(2)(A)";

(4) Section 666(d) of title 18, United States Code, is amended by redesignating the fourth paragraph relating to the definition of the term "State" as paragraph (5).

(5) Section 4247(h) of title 18, United States Code, is amended by striking "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting in lieu thereof "subsection (e) of section 4241, 4244, 4245, or 4246, or subsection (f) of section 4243,";

(6) Section 408(b)(2)(A) of the Controlled Substances Act (21 U.S.C. 848(b)(2)(A)) is amended by striking "subsection (d)(1)" and insering in lieu thereof "subsection (c)(1)";

(7)(a) Section 994(h) of title 28, United States Code, is amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" each place it appears and inserting in lieu thereof "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)"; (b) section 924(e) of title 18, United States Code, is amended by striking "the first section or section 3 of Public Law 96–350 (21 U.S.C. 955a et. seq.)" and inserting in lieu thereof "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(8) Section 2596(d) of the Crime Control Act of 1990 is amended, effective retroactively to the date of enactment of such Act, by striking "951(c)(1)" and inserting in lieu thereof "951(c)(2)"; and

(9) Section 1031 of title 18, United States Code, is amended by redesignating subsection (g) as enacted by Public Law 101–123 as subsection (h).

SEC. 402. REPEAL OF OBSOLETE PROVISIONS IN TITLE 18.

Title 18, United States Code, is amended—

(1) in section 212, by striking "or of any National Agricultural Credit Corporation," and by striking "or National Agricultural Credit Corporations";

(2) in section 213, by striking "or examiner of National Agricultural Credit Corporations";

(3) in section 709, by repealing the seventh and thirteenth paragraphs;

(4) in section 711, by repealing the second paragraph;

(5) by repealing section 754 and amending the table of sections for chapter 35 accordingly;

(6) in sections 657 and 1006, by striking "Reconstruction Finance Corporation,", and by striking "Farmers' Home Corporation,";

(7) in section 658, by striking "Farmers' Home Corporation,";

(8) in section 1013, by striking ", or by any National Agricultural Credit Corporation";

(9) in section 1014, by striking "Reconstruction Finance Corporation," by striking "Farmers' Home Corporation," and by striking the second comma following the words "Federal Reserve Act";

(10) in section 1160, by striking "white person" and insering in lieu thereof "non-Indian";

(11) in section 1698, by repealing the second paragraph;

(12) by repealing sections 1904 and 1908 and amending the table of sections for chapter 93 accordingly;

(13) in section 1909, by inserting "or" before "farm credit examiner" and by striking "or an examiner of National Agricultural Credit Corporations,";

(14) by repealing sections 2157 and 2391 and amending the table of sections for chapters 105 and 115 accordingly;

(15) in section 2257 by repealing the subsections (f) and (g) that were enacted by Public Law 100–690;

(16) in section 3113, by repealing the third paragraph; and

(17) in section 3281, by striking "except for offenses barred by the provisions of law existing on August 4, 1939".

SEC. 404. ELIMINATION OF REDUNDANT PENALTY PROVISION IN 18 U.S.C. 1116.

Section 1116(a) of title 18, United States Code, is amended by striking ", and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years".

SEC. 405. ELIMINATION OF REDUNDANT PENALTY.

Section 1864(c) of title 18, United States Code, is amended by striking "(b) (3), (4), or (5)" and inserting in lieu thereof "(b)(5)".

SEC. 406. CORRECTIONS OF MISSPELLINGS AND GRAMMATICAL ERRORS.

Title 18, United States Code, is amended:

(1) in section 151, by striking "mean" and inserting in lieu thereof "means";

(2) in section 513(c)(4), by striking "association or persons" and inserting in lieu thereof "association of persons";

(3) in section 1014, by striking the comma following a comma after "Act";

(4) in section 1956(e), by striking "Environmental" and inserting in lieu thereof "Environmental";

(5) in section 3125, by striking the quotation marks in paragraph (a)(2), and by striking "provider for" and inserting in lieu thereof "provider of" in subsection (d); and

(6) in section 3731, by striking "order of a district courts" and inserting in lieu thereof "order of a district court" in the second undesignated paragraph.

SEC. 1006. EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES.

(a) Section 241 of title 18, United States Code, is amended by deleting "inhabitant of" and inserting in lieu thereof "person in".

(b) Section 242 of title 18, United States Code, is amended by deleting "inhabitant of" and inserting in lieu thereof "person in" and by deleting "such inhabitant" and inserting in lieu thereof "such person".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Sec. 1(a) KNOWLEDGE REQUIREMENT FOR STOLEN OR COUNTERFEIT PROPERTY.—Chapter 1 of title 18, United States Code, is amended by adding at the end thereof a new section, as follows:

"§21. Stolen or counterfeit nature of property for certain crimes defined

Wherever in this title it is an element of an offense that any property was embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated and that the defendant knew that the property was of such character, such element may be established by proof that the defendant, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated. For purposes of this section, the term "official representation" means any representation made by a federal law enforcement officer (as defined in section 115) or by another person at the direction or with the approval of such an officer.

(b) TABLE OF SECTIONS.—The table of sections for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following: "21. Stolen or counterfeit nature of property for certain crimes defined.".

SEC. 232. ENHANCEMENT OF PENALTIES FOR DRUG TRAFFICKING IN PRISONS.

Section 1791 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting before "Any" the following new sentence: "Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence imposed by any court for an offense involving such a controlled substance.";

(2) in subsection (d)(1)(A), by inserting after "a firearm or destructive device" the words "or a controlled substance in schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C) of this subsection";

(3) in subsection (d)(1)(B), by inserting before "ammunition," the following: "marijuana or a controlled substance in schedule III, other than a controlled substance referred to in subparagraph (c) of this subsection,";

(4) in subsection (d)(1)(C), by inserting "methamphetamine, its salts, isomers, and salts of its isomers," after "a narcotic drug,";

(5) in subsection (d)(1)(D), by inserting "(A), (B), or" before "(C)"; and

(6) in subsection (b), by striking "(c)" each place it appears and inserting in lieu thereof "(d)".

SEC. 233. SEIZURE OF VEHICLES WITH CONCEALED COMPARTMENTS.

(a) Section 3 of the Anti-Smuggling Act of 1935 (19 U.S.C. 1703) is amended:

(1) by amending the title of such section to read as follows:

"SEC. 1703. Seizure and forfeiture of vessels, vehicles and other conveyances";

(2) by amending the title of subsection (a) to read as follows:

"(a) Vessels, vehicles and other conveyances subject to seizure and forfeiture";

(3) by amending the title of subsection (b) to read as follows:

"(b) Vessels, vehicles and other conveyances; defined";

(4) by inserting ", vehicle, or other conveyance" after the word "vessel" everywhere it appears in the text of subsections (a) and (b); and

(5) by amending subsection (c) to read as follows:

"(c) Acts constituting prima facie evidence of vessel, vehicle or other conveyance engaged in smuggling

"For the purposes of this section, prima facie evidence that a vessel, vehicle, or other conveyance is being, or has been, or is attempting to be employed in smuggling or to defraud the revenue of the United States shall be—

"(1) in the case of a vessel, the fact that a vessel has become subject to pursuit as provided in section 1581 of title 17, United States Code, or is a hovering vessel, or that a vessel fails, at any place within the customs waters of the United States or within a customs-enforcement area, to display lights as required by law.

"(2) in the case of a vehicle or other conveyance, the fact that a vehicle or other conveyance has any compartment or equipment that is built or fitted out for smuggling.".

(b) The table of sections for Chapter 5 of title 19, United States Code, is amended by striking the items relating to section 1703 and inserting in lieu thereof the following:

"1703. Seizure and forfeiture of vessels, vehicles and other conveyances.
"(a) Vessels, vehicles and other conveyances subject to seizure and forfeiture.
"(b) Vessels, vehicles and other conveyances, defined.
"(c) Acts constituting prima facie evidence of vessel, vehicle or other conveyance engaged in smuggling.".

SEC. 234. CLOSE LOOPHOLE FOR ILLEGAL IMPORTATION OF SMALL DRUG QUANTITIES.

Section 497(a)(2)(A) of the Tariff act of 1930 (19 U.S.C. 1497(a)(2)(A)) is amended by adding "or $500, whichever is greater" after "value of the article".

SEC. 235. UNDERCOVER OPERATIONS—CHURNING.

Section 7601(c)(3) of the Anti-Drug Abuse Act of 1988 (relating to effective date) is amended by deleting the current language, and replacing it with the following:

"(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act and shall cease to apply after December 31, 1994.".

SEC. 236. DRUG PARAPHERNALIA AMENDMENT.

Section 422 of the Controlled Substances Act (21 U.S.C. 863) is amended by adding the following new subsection (g):

"(g) Civil Enforcement.

"The Attorney General may bring a civil action against any person who violates the provisions of this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking or has taken place. The court in which such action is brought shall determine the existence of any violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief, including injunctions, as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

SEC. 237. CORRECTION OF RESENTENCING SANCTION FOR REVOCATION OF PROBATION FOR POSSESSION OF A CONTROLLED SUBSTANCE.

Section 3565(a) of title 18, United States Code, is amended by striking "sentence the defendant to not less than one-third of the original sentence" and inserting in lieu thereof "resentence the defendant under subchapter A to a sentence that includes a term of imprisonment".

SEC. 238. CONFORMING AMENDMENTS CONCERNING MARIHUANA.

(a) Section 401(b)(1)(D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(D)) and section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) are each amended by striking out "with respect to less than 50 kilograms of marihuana" and inserting in lieu thereof "with respect to less than 50 kilograms of a mixture or substance containing a detectable amount of marihuana";

(b) Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) is amended by striking out "except in the case of 100 or more marihuana plants" and inserting in lieu thereof "except in the case of 50 or more marihuana plants".

SEC. 241. CONFORMING AMENDMENT ADDING CERTAIN DRUG OFFENSES AS REQUIRING FINGERPRINTING AND RECORDS FOR RECIDIVIST JUVENILES.

Sections 5038 (d) and (f) of title 18, United States Code, are each amended by striking "or an offense described in sections 841, 952(a), 955, or 959, of title 21," and inserting in lieu thereof "or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841) or section 1002(a), 1003, 1005, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, or 960(b) (1), (2), or (3)),".

Sec. 242. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER THE RICO STATUTE.

Section 1961(1) of title 18, United States Code, is amended by striking "narcotic or other dangerous drugs" each place those words appear and inserting in lieu thereof "a controlled substance or listed chemical, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)".

Sec. 243. CONFORMING AMENDMENTS TO RECIDIVIST PENALTY PROVISIONS OF THE CONTROLLED SUBSTANCES ACT AND THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

(1) Sections 401(b)(1) (B), (C), and (D) of the Controlled Substances Act (21 U.S.C. 841(b)(1) (B), (C), and (D) and sections 1010(b) (1), (2), and (3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b) (1), (2), and (3)) are each amended in the sentence or sentences beginning "If any person commits" by striking "one or more prior convictions" through "have become final" and inserting in lieu thereof "a prior conviction for a felony drug offense has become final";

(2) Section 1012(b) of the Controlled Substances Import and Export Act (21 U.S.C. 962(b)) is amended by striking "one or more prior convictions of him for a felony under any provision of this subchapter or subchapter I of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marijuana, or depressant or stimulant drugs, have become final" and inserting in lieu thereof "one or more prior convictions of such person for a felony for a felony drug offense have become final".

(3) Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking the sentence beginning "For purposes of this subparagraph, the term 'felony drug offense' means";

(4) Section 401 of the Controlled Substances Act (21 U.S.C. 841) and section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) are each amended by adding a new subsection (c), as follows:

"(c) For purposes of this title, the term 'felony drug offense' means an offense that is punishable by imprisonment for more than one year under any law of the United States or of a State of foreign country that prohibits or restricts conduct relating to narcotic drugs, marijuana, or depressant or stimulant substances."; and

Sec. 244. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

(a) Sections 401(b)(1) (A) and (B) of the Controlled Substances Act (21 U.S.C. 841(b)(1) (A) and (B)) are each amended by striking "No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.";

(b) Sections 1010(b) (1) and (2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b) (1) and (2)) are each amended by striking "No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.";

(c) Section 419(c) of the Controlled Substances Act (21 U.S.C. 860(c)) is amended by striking "; parole" in the heading of such section and by striking "An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.";

(d) Section 420(e) of the Controlled Substances Act (21 U.S.C. 861(a)) is amended by striking "; parole" in the heading of such section and by striking "An individual convicted under this section of an offense for which a mandatory minimum term of imprisonment is applicable shall not be eligible for parole under section 4202 of title 18 until the individual has served the mandatory term of imprisonment as enhanced by this section."

SEC. 245. CONFORMING AMENDMENT TO PROVISION PUNISHING A SECOND OFFENSE OF DISTRIBUTING DRUGS TO A MINOR.

Section 418(b) of the Controlled Substances Act (21 U.S.C. 859(b)) is amended by striking "one year" and inserting in lieu thereof "three years".

SENATE AMENDMENT NO. 728

(Purpose: To establish a discretionary grant program for life skills training in State and local prisons, jails, and detention centers)

At the appropriate place, insert the following:

(f) LIFE SKILLS TRAINING GRANTS.—(1) The Attorney General is authorized to make grants to State and local correctional agencies to assist them in establishing and operating programs designed to reduce recidivism through the development and improvement of life skills necessary for re-integration into society.

(2) To be eligible to receive a grant under this subsection, a State or local correctional agency shall—

(A) submit an application to the Attorney General or his designee at such time, in such manner, and containing such information as the Attorney General shall require; and

(B) agree to report annually to the Attorney General on the participation rate, cost, and effectiveness of the program and any other aspect of the program upon which the Attorney General may request information.

(3) In awarding grants under this section, the Attorney General shall give priority to programs that have the greatest potential for innovation, effectiveness, and replication in other systems, jails, and detention centers.

(4) Grants awarded under this subsection shall be for a period not to exceed 3 years, except that the Attorney General may establish a procedure for renewal of the grants under paragraph (1).

(5) For the purposes of this section the term "life skills" shall include, but not be limited to, self-development, communication skills, job and financial skills development, education, inter-personal and family relationships, and stress and anger management.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the following amendment, which I now send to the desk, be in order notwithstanding the Senate's adoption of the Thurmond amendment, No. 518, and that this amendment be placed in the bill at the end of the language that was added by the Bingaman amendment, No. 517.

I am pleased that the Senate has agreed to accept this amendment, which will restore to S. 1241 an important provision of an amendment I offered Tuesday on State prison literacy training programs. As my colleagues may recall, my earlier amendment was modified by a second-degree amendment offered by the Senator from South Carolina [Mr. THURMOND]. He has graciously, and wisely, I believe, agreed that this provision is worthy of reintroduction.

This amendment establishes a new discretionary grant program, to be administered by the Department of Justice in conjunction with the now-discretionary literacy training grant program. It will assist State and local prisons in their efforts to reduce crime and recidivism. Under this provision, State and local correctional agencies will be eligible to apply for Federal assistance to help them establish and operate programs aimed at developing and improving the life skills incarcerated individuals will need to successfully reintegrate into society. Important life skills include self-development, communication skills, job and financial skills development, education, interpersonal and family relationship skills, and stress and anger management.

My amendment authorizes the Attorney General to award life skill development grants to correctional agencies that show the most promise for establishing low-cost, innovative, and effective programs capable of being replicated in other systems, prisons, jails, and detention centers. In exchange for accepting the grants, the chief officer of the prison, jail, or detention center will report annually to the Attorney General on the institution's life skill training program and its cost.

I believe an excellent example of the type of program this amendment envisions is the Comienzos Program at the Bernalillo County Detention Center in Albuquerque, NM. I had the pleasure of touring this facility and sitting in on a session of Comienzos last month. This program is a novel and innovative approach to jail education, conceived and developed by Sisters Mary Jo Boland and Natalie Rossi in Albuquerque. Comienzos, which operates in conjunction with the center's nationally and internationally renown literacy program, focuses on issues important to inmates who will one day return to society. The issues—or life skills—include self-development, communication, job and financial skills development, enhancement of educational skills, interpersonal and family relationship development, behavior modification, and stress and anger management. Over an 8-week period, Comienzos helps inmates develop these skills through lectures by staff, special guest speakers, and residents; group interactions and discussions; interactive videos and tapes and written material; and artistic expression.

This program is not only a humane approach to incarceration; it is also a positive strategy for combating the rising rate of recidivism in our Nation's jails. Its goal is simple and profound: To provide individuals with the basic tools needed to cope in a complex society. This is exactly the type of program we should encourage if we are serious about our commitment to reducing crime in the United States; and this amendment is a real step toward that encouragement.

Mr. President, through this amendment, more New Mexicans and individuals across the country will benefit from the devotion and hard work of the dedicated people at the Bernalillo County Detention Center. I wish to personally acknowledge and thank Sisters Mary Jo Boland and Natalie Rossi, Mr. Ralph Ruiz, director of corrections at the Bernalillo Center, Mr. Gordon Bernell, the center's education director, and the center's many volunteers, who have given countless hours to helping people in need gain self-esteem and achieve more than they ever thought possible. I am offering this amendment on behalf of these individuals and the people they serve. I am grateful that my colleagues are willing to support it.

AMENDMENT NO. 729

(Purpose: To provide additional Federal assistance to States for the purposes of enhancing law enforcement and criminal justice systems in regions that suffer from high rates of violent crime or face particular violent crime problems that warrant Federal assistance and developing and implementing multijurisdictional strategies to respond to and prevent violent crime)

At the appropriate place in the bill, insert the following:

SEC. . REGIONAL VIOLENT CRIME ASSISTANCE.

(a) AUTHORIZATION OF GRANTS.—The Attorney General, in consultation with the Director of National Drug Control Policy, may make a grant to a State for the purposes of—

(1) implementing a plan to enhance law enforcement and criminal justice systems in a region of the State that suffers from high rates of violent crime or faces particular violent crime problems that warrant Federal assistance; and

(2) developing and implementing multijurisdictional strategies to respond to and prevent violent crime in such a region.

(b) CONSIDERATIONS IN AWARDING GRANTS.—(1) In awarding grants under subsection (a), the Attorney General may give priority to—

(A) States that develop and implement plans to assist law enforcement and criminal justice authorities in or near jurisdictions with high rates of violent crime or particular violent crime problems; and

(B) States that propose to develop a multijurisdictional or regional approach to respond to or prevent violent crime.

(2) The Attorney General shall not limit grants under subsection (a) to highly populated centers of violent crime, but shall give due consideration to applications from less populated regions where the magnitude and severity of violent crime warrants Federal assistance.

(3) The Attorney General shall not limit grants under subsection (a) to the enhancement of law enforcement capabilities, but shall give due consideration to applications that propose to use funds for the improvement of the criminal justice system in general.

(c) AMOUNT OF GRANTS.—(1) The amount of a grant that may be made with respect to an application relating to any region of a State described in subsection (a) shall not exceed $10,000,000.

(2) The Federal share of assistance under subsection (a) shall not be greater than 75 percent of the costs necessary to implement a plan or develop and implement a strategy relating to a region described in subsection (a).

(d) NONMONETARY ASSISTANCE.—In order to assist a State in dealing with crime problems in a region described in subsection (a), the Attorney General may—

(1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local law enforcement efforts; and

(2) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

(e) ISSUANCE OF IMPLEMENTING REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall issue regulations to implement this section, including such regulations as are necessary relating to applications for

Federal assistance and the provision of Federal monetary and nonmonetary assistance.

(f) AUDIT BY COMPTROLLER GENERAL.—The Comptroller General shall conduct an audit of any Federal assistance (both monetary and nonmonetary) of an amount greater than $100,000 provided to a State under this subsection relating to a region described in subsection (a), including an evaluation of the effectiveness of the assistance in achieving the goals stated in the application for assistance.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

AMENDMENT NO. 730

(Purpose: To establish the National Commission to Support Law Enforcement, and for other purposes)

On page 245, add after line 15 the following:

TITLE XXVIII—NATIONAL COMMISSION TO SUPPORT LAW ENFORCEMENT

SEC. 2801. SHORT TITLE.

This title may be cited as the "National Commission to Support Law Enforcement Act".

SEC. 2802. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) law enforcement officers risk their lives daily to protect citizens, for modest rewards and too little recognition;

(2) a significant shift has occurred in the problems that law enforcement officers face without a corresponding change in the support from the Federal Government;

(3) law enforcement officers are on the front line in the war against drugs and crime;

(4) the rate of violent crime continues to increase along with the increase in drug use;

(5) a large percentage of individuals arrested test positive for drug usage;

(6) the Presidential Commission on Law Enforcement and the Administration of Justice of 1965 focused attention on many issues affecting law enforcement, and a review twenty-five years later would help to evaluate current problems, including drug-related crime, violence, racial conflict, and decreased funding; and

(7) a comprehensive study of law enforcement issues, including the role of the Federal Government in supporting law enforcement officers, working conditions, and responsibility for crime control would assist in redefining the relationships between the Federal Government, the public, and law enforcement officials.

SEC. 2803. ESTABLISHMENT

There is established a national commission to be known as the "National Commission to Support Law Enforcement" (referred to in this title as the "Commission").

SEC. 2804. DUTIES.

(a) IN GENERAL.—The Commission shall study and recommend changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the following:

(1) FUNDING.—The sufficiency of funding, including a review of grant programs at the Federal level.

(2) EMPLOYMENT.—The conditions of law enforcement employment.

(3) INFORMATION.—The effectiveness of information-sharing systems, intelligence, infrastructure, and procedures among law enforcement agencies of Federal, State, and local governments.

(4) RESEARCH AND TRAINING.—The status of law enforcement research and education and training.

(5) EQUIPMENT AND RESOURCES.—The adequacy of equipment, physical resources, and human resources.

(6) COOPERATION.—The cooperation among Federal, State, and local law enforcement agencies.

(7) RESPONSIBILITY.—The responsibility of governments and law enforcement agencies in solving the crime problem.

(8) IMPACT.—The impact of the criminal justice system, including court schedules and prison overcrowding, on law enforcement.

(b) CONSULTATION.—The Commission shall conduct surveys and consult with focus groups of law enforcement officers, local officials, and community leaders across the Nation to obtain information and seek advice on important law enforcement issues.

SEC. 2805. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 23 members as follows:

(1) Seven individuals from national law enforcement organizations representing law enforcement officers, of whom—

(A) 2 shall be appointed by the Speaker of the House of Representatives;

(B) 2 shall be appointed by the Majority Leader of the Senate;

(C) 1 shall be appointed by the Minority Leader of the House;

(D) 1 shall be appointed by the Minority Leader of the Senate; and

(E) 1 shall be appointed by the President.

(2) Seven individuals from national law enforcement organizations representing law enforcement management, of whom—

(A) 2 shall be appointed by the Speaker of the House of Representatives;

(B) 2 shall be appointed by the Majority Leader of the Senate;

(C) 1 shall be appointed by the Minority Leader of the House;

(D) 1 shall be appointed by the Minority Leader of the Senate; and

(E) 1 shall be appointed by the President.

(3) Two individuals with academic expertise regarding law enforcement issues, of whom—

(A) 1 shall be appointed by the Speaker of the House of Representatives and the Senate Majority Leader; and;

(B) 1 shall be appointed by the Minority Leader of the Senate and the Minority Leader of the House.

(4) Two Members of the House of Representatives, appointed by the Speaker and the Minority Leader of the House of Representatives.

(5) Two Members of the Senate, appointed by the Majority Leader and the Minority Leader of the Senate.

(6) One individual involved in Federal law enforcement from the Department of the Treasury, appointed by the President.

(7) One individual from the Department of Justice, appointed by the President.

(8) The Comptroller General of the United States, who shall serve as the chairperson of the Commission.

(b) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission shall receive no additional pay, allowance, or benefit by reason of service on the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(c) APPOINTMENT DATES.—Members of the Commission shall be appointed no later than 90 days after the enactment of this title.

SEC. 2806. EXPERTS AND CONSULTANTS.

(a) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(b) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this title.

(c) ADMINISTRATIVE SUPPORT.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, administrative support services as the Commission may request.

SEC. 2807. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for purposes of this title, hold hearings, sit and act at the times and places, take testimony, and receive evidence, as the Commission considers appropriate.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the chairperson of the Commission, the head of an agency shall furnish the information to the Commission to the extent permitted by law.

(d) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 2808. REPORT.

Not later than the expiration of the eighteen-month period beginning on the date of the appointment of the members of the Commission, a report containing the findings of the Commission and specific proposals for legislation and administrative actions that the Commission has determined to be appropriate shall be submitted to Congress.

SEC. 2809. TERMINATION.

The Commission shall cease to exist upon the expiration of the sixty-day period beginning on the date on which the Commission submits its report under section 2808.

SEC. 2810. REPEALS.

Title XXXIV of the Crime Control Act of 1990 (Public Law 101-647; 104 Stat. 4918) and Title II, Section 211B of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (Public Law 101-515; 104 Stat. 2122) is repealed.

AMENDMENT NO. 731

(Purpose: To reduce the distribution and use of illegal drugs in Federal prisons by imposing minimum, mandatory sentences for offenses and to withhold prisoners' Federal benefits to offset costs of incarceration)

On page 226, between lines 11 and 12, insert the following:

SEC. 2402. MANDATORY PENALTIES FOR ILLEGAL DRUG USE IN FEDERAL PRISONS.

(a) DECLARATION OF POLICY.—It is the policy of the Federal Government that the use or distribution of illegal drugs in the Nation's Federal prisons will not be tolerated and that such crimes shall be prosecuted to the fullest extent of the law.

(b) AMENDMENT.—Section 401(b) of the Controlled Substances Act 21 (21 U.S.C. 841(b)) is amended by adding the following new paragraph at the end thereof:

"(7)(A) In a case under section 404 involving simple possession of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less that 1 year without release, to be served consecutively to any other sentence imposed for the simple possession itself.

"(B) In a case under under this section involving the smuggling of a controlled substance into a Federal prison or other Federal detention facility or the distribution or intended distribution of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 10 years without release, to be served consecutively to any other sentence imposed for the possession with intent to distribute or the distribution itself.

"(C) Notwithstanding any other law, the court shall not place on probation or suspend the sentence of a person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed under this paragraph.".

Mr. MITCHELL. I further ask unanimous consent that the cloture vote now scheduled to occur tomorrow instead occur tonight at 8:30 p.m., with the mandatory live quorum being waived, and that in the 30 minutes between now and the cloture vote Senator HELMS be recognized to address the Senate for 20 minutes, and then Senator BIDEN be recognized to address the Senate for 5 minutes, and Senator THURMOND be recognized to address the Senate for 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 20 minutes.

Mr. HELMS. I thank the Chair.

Let me review quickly. There are certain amendments on which certain Members of the Senate do not want to vote. We experienced that the other day when I offered an amendment relating to quotas. The press said that Helms tied up the Senate. Helms did not tie up the Senate. Helms was ready to vote after he offered the amendment. But they put in a quorum call and 10 hours elapsed and the Senate did not do another thing.

So let us have an understanding of one thing, that there are certain amendments on which certain Senators do not want to have a vote.

Now, I have two amendments which I offered to the negotiators that I would accept a 30-minute time limitation on each of them equally divided so that we could have a vote. Oh, no. Helms is not going to have a chance on that. Well, Helms is going to have a chance to get a vote one way or another. It will be a vote to indicate how Senators feel.

Now, let me read you the first amendment and see if anybody who may be watching on C–SPAN could possibly disagree with it, let alone Senators.

At the end of the amendment, add the following: "Title 18, United States Code, is amended by adding at the appropriate place the following new section:

"SEC. . DELIBERATE TRANSMISSION OF THE AIDS VIRUS

"(a) Whoever, being a registered physician, dentist, nurse, or other health care provider, knowing that he is infected with the Human Immunodeficiency Virus, intentionally provides medical or dental treatment to another person, without prior notification to such person of such infection, shall be fined not more than $10,000, or imprisoned not less than ten years, or both.

"(b) The provisions of this section shall not be applicable in the case of a medical emergency in which alternative medical treatment is not reasonably available."

(c) DEFINITIONS.—As used in this section—

(1) the term "treatment" means the performance of any medical diagnosis or procedure that involves an invasive physical contact between the patient being treated and the physician or health professional administering the procedure.".

Mr. HELMS. Mr. President, I have in my hand a series of articles taken from the Raleigh News and Observer, the Washington Times, and Newsweek. Each article describes, sometimes in graphic detail, the physical and emotional suffering of hundreds of Americans who have been unknowingly exposed to AIDS by doctors, dentists, and health care workers, who are carriers of this deadly virus.

I have become aware of the case of Kimberly Bergalis a 23-year-old Florida woman who is now in the last stages of AIDS-related tuberculosis, a condition which is slowly destroying her brain and body. As the July 1 edition of Newsweek states, "sometime in the next few days, Bergalis will probably become the first American to die of AIDS, after being infected by her dentist * * *."

For the last few months, Kimberly has taken her struggle to the American people, demanding that HIV-infected doctors, dentists, and health care workers be required to disclose their condition to their patients. You see, Kimberly's dentist had AIDS. He knew he had AIDS, but he refused to notify his patients of his condition. Now Kimberly Bergalis is about to die, and four others who were treated by this man have tested positive for the virus.

On Tuesday, our former colleague and the current Governor of Florida, Lawton Chiles, visited Kimberly. Governor Chiles put it very plainly:

> It's a lot like being in the presence of a saint. I told her how much I admired her. I told her I thought she'd already protected many lives that wouldn't have been protected before.

Mr. President, a June 20, 1991 Gallup poll found that 95 percent of the American people believe that surgeons who know that they have AIDS should be required to tell patients if they are infected with the AIDS virus. The same poll found that 94 percent of Americans believe that all physicians and dentists should be required to tell their patients that they have AIDS if they know they are infected.

The American people, as always, are ahead of the politicians and professional activists in this country who have, for too long, treated AIDS as a civil rights issue rather than the public health threat it really is.

The story of the brave woman in Florida is not isolated. In the State of Minnesota, a pediatric surgeon continued to perform deliveries, and rectal, and vaginal examinations months after he found out he had AIDS. In the most shocking part of this story, a Minnesota television station broadcast pictures of this doctor delivering a baby while his bare arm was covered with sores.

When asked about the sores by the mother of the child he was about to deliver, the doctor said that the sores were just an allergic reaction. This man knew he had the AIDS virus well before he delivered that baby. As one of his patients told Newsweek, "he takes an oath to save lives not give a death sentence."

In my own State of North Carolina, a health care trainee at a major hospital in eastern North Carolina worked with patients for more than a year after finding out he had the AIDS virus. Residents of the Fayetteville and Raleigh areas have begun receiving letters from military and county health officials saying that they might have been exposed to AIDS because their dentists had the disease.

Mr. President I have read the newspapers recently and discovered that the AMA and the American Dental Association have rejected calls for mandatory AIDS testing. The AMA says it is up to the doctors to determine if they should be tested. Responding to the position of the professional medical establishment, former Surgeon General C. Everett Koop told doctors that they face a loss of credibility if they refuse to be tested. He warned, "be certain that the public knows that you are just as concerned about them as you are about yourselves."

As usual the medical establishment and the AIDS lobby have been silent.

The Helms amendment does not require that health care professionals undergo mandatory AIDS testing. We will visit that issue at another time.

The Helms amendment does say that if the doctor, dentist, nurse, or health care worker, performs or is involved with invasive medical techniques—that is a surgeon, obstetrician, or surgical nurse—and knows he has AIDS and fails to notify his patients of that fact he is subject to a fine and jail term of not less than 10 years. This Senator feels that is an adequate response to the rogues in the medical community who have knowingly and callously exposed hundreds of innocent people to the AIDS virus.

Let me say it again, for the record. The Helms amendment does not require mandatory testing. It does not require that the psychiatrist or the podiatrist undergo any testing nor does it compel them to disclose to their patients that they have AIDS. Using language provided by the distinguished Republican leader, the Helms amendment says that if you perform invasive medical procedures you must notify your patients if you know you have AIDS.

We are not talking about hundreds of medical professionals with this amendment. The vast majority have honorably abided by the opening sentence of the Hippocratic Oath: "I shall first do no harm." However, there are a few people in the medical establishment who have thrown away their oath and duty to others. The doctor in Minnesota, and the dentist in Florida should be treated no better than the criminal who guns down a helpless victim on the street, the effect is the same.

Before I conclude, Mr. President, I want to read to the Senate, a letter Kimberly Bergalis wrote to the Florida Board of Health. Let me warn those listening that parts of this letter are graphic. But remember that this is the cry of a young woman whose life was ruined by a so-called healer who did not have the decency to tell this beautiful young lady that he was putting her life at risk.

I ask unanimous consent that Kimberly's letter published in the July 1 edition of Newsweek and an article from the July 13 edition of Human Events be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Newsweek, July 1, 1991]

I BLAME EVERY ONE OF YOU BASTARDS

Kimberly Bergalis, the first patient to contract AIDS from her dentist, wrote this letter to Florida health officials April 6. Last week, as she neared death, her family released it for publication.

When I was diagnosed with AIDS in December of '89, I was only 21 years old. It was the shock of my life and my family's as well. I have lived to see my hair fall out, my body lose over 40 pounds, blisters on my sides. I've lived to go through nausea and vomiting, continual night sweats, chronic fevers of 103–104 that don't go away anymore. I have cramping and diarrhea. I now have confusion and forgetfulness. I have lived through the torturous acne that infested my face and neck—brought on by AZT. I have endured trips twice a week to Miami for 3 months only to receive painful IV injections. I've had blood transfusions. I've had a bone marrow biopsy. I cried my heart out from the pain of the biopsy.

I lived through the fear of whether or not my liver has been completely destroyed by DDI and other drugs. It may very well be. I lived to see white fungus grow all over the inside of my mouth, the back of my throat, my gums, and now my lips. It looks like white fur and it gives you atrocious breath. Isn't that nice? I have tiny blisters on my lips. It may be the first stages of herpes.

I was infected by Dr. Acer in 1987. My life has been sheer hell except for the good times and closeness with my family and my enjoyment for life and nature. AIDS has slowly destroyed me. Unless a cure is found, I will be another one of your statistics soon.

"Who do I blame? Do I blame myself? I sure don't. I never used IV drugs, never slept with anyone and never had a blood transfusion. I blame Dr. Acer and every single one of you bastards. Anyone that *knew* Dr. Acer was infected and had full-blown AIDS and stood by not doing a damn thing about it. You are all just as guilty as he was. You've ruined my lfe and my family's. I forgive Dr. Acer because I believe the disease affected his mind. He wasn't able to think properly and he continued to practice.

"Do you know my family will be emotionally scarred by this forever? Do you know my mother lost her mother, father, grandfather and dog in a car accident when she was a teenager—and now she's going to lose her first born child?

"Have you ever awakened in the middle of the night soaking wet from a night sweat—only to have it happen again an hour later. Can you imagine what it's like to realize you're losing weight in your *fingers* and that your body may be using its muscles to try to survive. Or do you know what it's like to look at yourself in a full-length mirror before you shower—and you only see a skeleton? Do you know what I did? I slid to the floor and I cried. Now I shower with a blanket over the mirror.

"Well—I think I've said enough. Like I said—all is forgiven by me—there's no hard feelings anymore. But I will never forget.

"P.S. If laws are not formed to provide protection, then my suffering and death was in vain.

"I'm dying guys. Goodbye."

[From Human Events, July 13, 1991]

INNOCENT GIRL'S BLOOD ON POLITICIANS' HANDS

(By Ray Kerrison)

In what may have been her last public communication before she dies. Kimberly Bergalis indicted the American public health service in terms that haunt her soul. Her blood, she said, was on their hands.

You bet it is, Kimberly Bergalis was a beautiful, healthy University of Florida student, as innocent as the sun in the sky, when she contracted AIDS from her dentist, Dr. David Acer. Now at 23, she's a 70-pound skeleton, bedridden, wracked by pain, burning with fever, begging God to release her from her agony.

She is dying because the political and public-health systems are more interested in protecting the wayward, the deviant and the promiscuous than the upright.

She understands it so clearly that she wrote a letter to a health investigator that should sear the conscience of every politician, doctor and health worker in the country.

"Whom do I blame?" Kimberly wrote. "Do I blame myself?" I sure don't. I never used drugs, never slept with anyone and never had a blood transfusion.

"I blame Dr. Acer and every single one of you bastards. Anyone who knew Dr. Acer was infected and had full-blown AIDS and stood by not doing a damn thing about it. You're all just as guilty as he was. You've ruined my life and my family's."

The unforgivable fact of Kimberly's impending death is that it is so unnecessary. She was infected when she had two teeth extracted in December 1987—three months after Dr. Acer, a bisexual, was diagnosed as having AIDS.

She was like a lamb led to the slaughter. The whole political, medical and public-health system of Florida, as they do in so many states, including New York, joined in a conspiracy of silence to shield Dr. Acer's deadly disease and allow hundreds of patients to be exposed to his infection. If this is not cold-blooded, deliberate dereliction of duty on a massive scale, I don't know what is.

After contracting AIDS, Dr. Acer treated 1,700 unsuspecting patients before he died last September. He is believed to have infected four others in addition to Kimberly.

Kimberly concluded her letter, "If laws are not formed to provide protection, then my suffering and death was in vain. I'm dying, guys. Goodbye."

You'd think Kimberly's plight would trigger universal dismay and anguish. Not in New York. Our state officials studied her tragedy and shrugged it off.

A hundred Kimberly Bergalises could be sacrificed and New York's so-called public-health officials would not be moved. Why? Because they are political and medical cowards.

The nation's leading health groups—the American Medical Association and the American Dental Association—have both taken the unequivocal position that doctors and dentists infected with the AIDS virus should warn their patients or give up surgery.

That's just common sense, but the New York State Health Department trashes it. Its policy is that health-care workers infected with the AIDS virus need not tell patients and certainly they may continue to operate or perform other invasive procedures. The department holds that patients don't have a legal right to know the health status of doctors or dentists giving them care.

Dr. David Axelrod, as the state commissioner of health, made this policy in the winter, shortly before he was stricken with a stroke. He claimed the chance of being infected by a doctor or dentists was one in 100,000 or one in a million. He apparently liked those odds. They are so great if your name is Kimberly Bergalis.

Dr. Axelrod was not alone. Gov. Cuomo, Mayor Dinkins, the city's health commissioners and most politicians have consistently opposed mandatory reporting of the AIDS virus, even though it is the law for all other sexually transmitted diseases such as herpes and syphillis.

Why is AIDS, the deadliest of all such disease, the lone exception? Because New York's politicians, especially Cuomo and Dinkins and their government departments, are prisoners of the radical homosexual lobby. They place the public's health at risk rather than offend the militants in ACT-UP.

The day may come when New York will have its own Kimberly Bergalis. If it does, watch out. That's when the politicians and health authorities will be held accountable.

Mr. HELMS. Mr. President, I tell you one thing. If they could vote, they would vote unanimously with JESSE HELMS on this.

That is the first amendment that some Senators did not want HELMS to present.

Let me go to the second amendment.

How much time do I have remaining, Mr. President?

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator has 13 minutes 30 seconds.

Mr. HELMS. Let me read you the second amendment which I tried to offer on numerous occasions. And again some Senators said, "No, HELMS can't offer his amendment. We will not do this amendment, we will do that amendment, but Helms is not going to get a vote." We will see about that.

I do not want to appear to be belligerant about this thing but I am sick and tired of reasonable amendments being foreclosed.

Let me read you the second amendment.

At the appropriate place in the bill, add the following new section:

SEC. .

(1) Pursuant to its authority under section 994 of title 28, United States code, the Sentencing Commission shall promulgate guidelines, or amend existing or proposed guidelines as follows:

(a) guideline 2G2.2 to provide a base offense level of not less than 15 and to provide at least a 5 level increase for offenders who have engaged in a pattern of activity involving the sexual abuse or exploitation of a minor.

(b) guideline 2G2.4 to provide that such guideline shall apply only to offense conduct that involves the simple possession of materials proscribed by chapter 110 of title 18, United States Code and guideline 2G2.2 to provide that such guideline shall apply to offense conduct that involves receipt or trafficking (including, but not limit to transportation, distribution, or shipping);

(c) guideline 2G2.4 to provide a base offense level of not less than 13, and to provide at least a 2 level increase for possessing 10 or more books, magazines, periodicals, films, video tapes or other items containing a visual depiction involving the sexual exploitation of a minor;

(d) section 2G3.1 to provide a base offense level of not less than 10;

(2)(a) Notwithstanding any other provision of law, the Sentencing Commission shall promulgate the amendments mandated in subsection (1) by November 1, 1991, or within 30 days after enactment, whichever is later. The amendments to the guidelines promulgated under subsection (1) shall take effect November 1, 1991, or 30 days after enactment, and shall supercede any amendment to the contrary contained in the amendments to the sentencing guidelines submitted to the Congress by the Sentencing Commission on or about May 1, 1991.

(b) The provisions of section 944(x) of title 28, United States Code, shall not apply to the promulgation or amendment of guidelines under this section.

Mr. President, here is why this amendment is necessary. It involves a crime. If this is not a crime, please tell me what is a crime. If we are not going to do something to protect the children from the bums who distribute pornography, what has this Senate come to? I tried in every way I knew how to say just let me have a vote. Some Senators said, "No. HELMS won't get a vote."

For some absurd reason the Sentencing Commission has decided to reduce the sentences for the receipt and transportation of child pornography. Can you believe that? That is why Senator THURMOND and I prepared this amendment.

Oh, they want to get cloture so it will not be germane, and they may succeed. But we are going to have a vote on this amendment: I will show you how in just a little while.

The sentences have been reduced so low that most convicted smut peddlers and pedophiles will receive at most probation. Is this what this Senate wants to tolerate? I do not think so. This was not the intent of Congress when it passed child pornography bills in 1988 and 1990.

So, in effect, Mr. President, the Sentencing Commission has emasculated Congress' attempt to assure severe punishment for dealing in child pornography. The Helms-Thurmond amendment ensures that criminals will receive serious punishment for child pornography offenses, not a mere slap on the wrist.

What does this amendment do? It instructs the Sentencing Commission to increase the penalty for child pornography offenses so that offenders will serve some time in jail.

How can the Senate be against this amendment? How can the Senate say we will not even vote on it? Well, we are going to vote on it.

Mr. President, this amendment has the support of all manner of antipornography groups, including the National Coalition Against Pornography, the National Women's Leadership Task Force, the Religious Alliance Against Pornography, the Children's Legal Foundation, and Morality in Media, among others.

I can already hear the outcry from liberals at the ACLU. They will say, "What is the big deal with pornography? It does not hurt anybody." The hell it does not. It hurts the children, and it strikes at the fundamental base of the family in this country, Mr. President. That is the reason I am on this floor.

I wanted to get this amendment voted on. We could have already gone into cloture and finished this up. "No," they said. "HELMS is not going to get a vote on his amendments"

I am here at 8:12 p.m. on this Senate floor, because pornography—and especially child pornography—causes enormous damage. It destroys young lives and eats away at the very moral foundation of this country. But, no, the Senate does not want to vote.

Mr. President, in 1986, the Senate Subcommittee on Investigations found that child pornography was directly connected to child molestation. The experts testified that users of child pornography are very often pedophiles. For example, a Los Angeles police detective estimated that among the 700 child molesters he helped arrest, more than half of them possessed child pornography.

Is this the kind of thing the Senate wants to tolerate? Is this not a crime? Do we want to let the Sentencing Commission get by with reducing the penalty? This Senator says "no."

Child molestors testified, Mr. President, that they used child pornography to convince children to engage in sexual acts, or to pose for photographs; and the Senate report—this is a report of our own Senate—concluded that:

> Child pornography plays a central role in child molestations by pedophiles, serving to justify their conduct and assist them in seducing their victims.

Not only that, there have been dozens of studies by respected experts that have come to the same conclusion: Child pornography is indeed a cause of child molestation.

Mr. President, I ask unanimous consent that a compilation of the research on child pornography, a 1986 Senate report, along with a number of letters, be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. Mr. President, the question is this: Why would the Sentencing Commission lower the penalty for child pornography? Why? To be honest, I am at a loss to explain their reasoning, but here is what happened.

The 1990 crime bill created a new offense for possession of child pornography. There is an existing offense for receipt, transportation, or trafficking in child porn, which has a base level of 13. Well, the Commission decided to put receipt down with possession and give it a base level of 10, which means these criminals can get off with a sentence of mere probation. My amendment ensures that these criminals will at least do some time in jail.

Here is what I am going to do. When I can get the floor after cloture is voted on, I am going to offer each of these amendments. Over on the other side, they can get up and say: "We have been trying to get the President's crime bill through, and the Republicans will not do it."

Well, they are the ones who have held up this crime bill. They held it up for 10 hours because of one amendment I offered that they did not want to vote on. They went in a huddle and said, "We have to beat HELMS somehow. Do not give him a vote."

I got one Democrat—FRITZ HOLLINGS of South Carolina—to vote with me. But do you know something, I have had six or eight Democrats come to me privately and say, "They twisted my arm, and I just could not support you. You are going to lose anyhow." Et cetera, et cetera, et cetera.

What are we doing here, Mr. President, when we engage in antics like this? This is not only with my amendment; it has happened to others as well.

What I am going to do is offer the amendments. Then the point of order is going to be raised that it is not germane. Of course, it will not be germane under the technical rules of germaneness, postcloture. And then, Mr. President, I am going to appeal the ruling of the Chair. We will have an automatic vote on it. No debate. That is the reason I am talking now. We will have a vote on my appeal of the ruling of the Chair, and people who vote to uphold the Chair will be voting against my amendment. And I am going to do my best to make certain that the American people know how each Senator voted on each of these amendments. This is the only way I can get a vote. But I am going to get a vote.

It will not be like an up-or-down vote, but Senators will demonstrate how they feel about the amendment when they vote on the question of upholding the Chair.

I do not like to appeal a ruling of the Chair, particularly when I know the Chair is correct. But this is the only alternative I have, because the old game of PMF has been played in this Senate for several weeks now. PMF means "protect my fanny." They do not want to vote on this amendment, so I am following the only alternative available to me.

I am saying to you that if you have any sympathy for Kimberly Bergalis, or for the children who are molested every day in this country, by the worst bums imaginable, then think about it when the roll is called up yonder.

The Chair is going to be ruling correctly, no question about that. But I say again that I tried and tried and tried to persuade some Senators to let me have a vote on these two amendments. They said, "No, we cannot do that. We do not want to vote on it."

Mr. President, that is about the size of it.

EXHIBIT 1

RESEARCH ON PORNOGRAPHY: THE EVIDENCE OF HARM

(From the National Coalition Against Pornography, M. Douglas Reed, Vice President)

THE PROBLEM

The National Coalition for Children's Justice (Ken Wooden).—

Between 1981 and 1985, child sexual abuse (including having pictures taken pornographically) rose by 175%.

The National Obscenity Enforcement Unit (Testimony before the Senate Judiciary Committee, June 1988).—

Review of recent law enforcement statistics and studies, as well as scientific research, reveals the devastating effect obscenity and child pornography are having on our nation.

Ann Burgess, Professor at the University of Pennsylvania (Federal grant to study child pornography).—

Pornography depicting children is used by child molesters to convince children that deviant sex acts (which all child sex abuse is) are normal—thereby breaking down their resistance. Her later study (1987) found that victims of child sexual abuse have symptoms of chronic or delayed posttraumatic stress. It causes multiple psychological problems which may take years to resolve.

Pierce (1984).—

Sexually exploited children involved in the pornography industry are usually recruited among runaways, although some may use neighborhood children or their own children.

THE NATURE AND THE EXTENT OF THE PROBLEM

Report of the U.S. Congress Permanent Subcommittee on Investigations on Child Pornography and Pedophilia (1986).—

"No single characteristic of pedophilia is more pervasive than the obsession with child pornography. The fascination of pedophiles with child pornography and child abuse has been documented in many studies and has been established by hundreds of sexually explicit materials involving children.

"Detective William Dworin of the Los Angeles Police Department estimates that of the 700 child molesters in whose arrest he has participated during the last ten years, more than half had child pornography in their possession. About 80% owned either child or adult pornography.

"Each convicted child molester interviewed by the Subcommittee either collected or produced child pornography, or both. Most said they had used the material to lower the inhibitions of children or to coach them into posing for photographs.

"It is not unusual for pedophiles to possess collections containing several thousand photographs, slides, films, videotapes and magazines depicting nude children and children engaged in a variety of sexual activities.

"'The maintenance and growth of [the pedophile's] collection [of items related to children] becomes one of the most important things in their life. Child pornography exists primarily for the consumption of pedophiles—adults whose sexual preference and attraction is to prepubescent children. If there were no pedophiles, there would be little child pornography other than that involving adolescent children.' (Special Agent Kenneth Lanning, FBI)"

"Based on the information obtained during its investigation, the Subcommittee has reached the following general conclusions:

Child pornography plays a central role in child molestations by pedophiles, serving to justify their conduct, assist them in seducing their victims, and provide a means to blackmail the children they have molested in order to prevent exposure.

The vast majority of child pornography in the United States constitutes a small portion of the overall pornography market and is deeply underground. Unlike the adult pornography industry, it is not significantly influenced by organized crime.

It is extremely difficult, if not impossible in some cities, to purchase true child pornography at adult bookstores. The overwhelming majority of child pornography seized in arrests made in the U.S. has not been produced or distributed for profit.

The seizure by the U.S. Customs Service of imported child pornography, especially from Denmark and the Netherlands, has declined dramatically since late 1984 due to increased diplomatic and law enforcement pressure, American news media reports and increased caution shown by American child pornography customers.

The membership of known pedophile-support groups in the United States is probably less than 2,000. While many of the groups' members have been convicted for child sex crimes, the groups themselves are not involved actively in large-scale criminal conspiracies, such as commercial child pornography rings.

The Child Protection Act of 1984, which made illegal all distribution of sexually explicit material involving children, has been highly successful, leading to a substantial increase in federal prosecutions and the placing of higher priorities on such investigations. Since passage of the law two years ago, the Department of Justice has won 164 convictions on child pornography violations; in the previous six and one-half years, there were only 64.

While the awareness of many police agencies about child sexual exploitation has improved greatly, many still do not have the training, staff or inclination to recognize promptly and investigate potential leads to crimes involving child pornography or child sexual abuse."

Southern California Child Exploitation Task Force.—

It is "dangerously inaccurate" to presume that "because there is not widespread commercial distribution of child pornography in the U.S.," that therefore "significant law-enforcement effort in the area of child exploitation is not warranted. The threat imposed on our children has little to do with [that] aspect of the child pornography business."

Burgess (1984) (A study in Jefferson County, Kentucky).—

"37% of the prostitute group admitted to having been involved in pornography; only 18% of the non prostitute group reported involvement in pornography. 38% of the runaways were involved in prostitution, and 15% of the runaways were involved in pornography.

"Identifying and tracking missing children is vital to curbing the victimization of children. Over 86% of Jefferson County children involved in child prostitution and pornography were, at the time of those activities, runaways or missing.

John Rabun, Exploited and Missing Children Unit, Louisville, Kentucky.—

"The Police/Social work team of the Exploited and Missing Child Unit (EMCU) of Louisville, KY investigated 1,400 cases of children suspected of being victims of sexual exploitation. Over 40 major cases involved the successful prosecution of adults involved with over 12 children each. One case involved 320 children. At the time of the arrest and/or service of search warrants, all 40 of these adult predators were found with various forms of adult pornography, and in most cases child nudes and/or child pornography were also found.

The National Obscenity Enforcement Unit.—

"It has been most successful in its efforts. Prosecutions for child pornography are up by 80% in the last fiscal year (1987) and obscenity prosecutions are up by 800%."

David Duncan (1988) Southern Illinois University.—

"He did a content analysis of twenty-five years of homosexual pornographic magazines sold in adult bookstores of two major US cities. Dr. Duncan found the frequency with which clearly underage models appeared in such legally available magazines has declined to zero, due to the recent legislation prohibiting child pornography. Suggestions of child pornography remained, however, in the frequent use in porno magazine titles of such words as 'boy,' 'young' and 'teen' although the models were no longer adolescents. Youthful appearing models achieved star billing in what the Attorney General's

Commission on Pornography has named 'pseudo-child pornography.'

"The final decline (of child pornography) in the late seventies may have been in response to the pressures building against child pornography which led eventually to that legislation. To a large extent it probably reflects the impact of child abuse programs emerging in the seventies, since most of the child models appearing in such pornography are likely to be incest victims being exploited by their parents or other adults."

But the fact that there is a demand for such material is clearly indicated by the continued presence of the new pseudo-child pornography.

PSEUDO-CHILD PORNOGRAPHY

Judith Reisman (1987).—

"A content analysis of Playboy, Penthouse, and Hustler magazines, December 1953 to December 1984, yielded 6,004 child images. Newsstand available child imagery in the context of erotica/pornography increased nearly 2,600% from 1954–1984. 80% of the children were actively involved in all scenes; and each magazine portrayed children as unharmed and/or benefited by adult-child sex."

David A. Scott (In Pornography; A Human Tragedy, 1987).—

"Judith Reisman (1985) found that from the first issue of Playboy in 1954, children in cartoons (or photographs of adults dressed to suggest children) have appeared in sexual contact with adults, and the frequency and intensity of these contacts has increased through the years. The dominant impression was that child/adult sex is glamorous, thereby enhancing the impression that these activities are harmless. Magazines can escape the letter of child pornography laws while still implying that sex with children is desirable and readily available. And these magazines, of course, are sold in the open."

Don Feder (Boston Herald, 10/27/88).—

"The October issue of Playboy contains a five-page rebuttal to the so-called Reisman report. Odd that a publication with a circulation of 3.5 million would devote so much space to answering what it assures us is preposterous stuff. Some experts believe [pseudo-child pornography] encourages sexual abuse, both by exciting perverted passions and fostering the belief that the child actually is an eager participant in the act."

"Pornographers protest their innocence, while facilitating the victimization of our children."

DOES PORNOGRAPHY PROMOTE ABUSE?

The National Obscenity Enforcement Unit.—

They now teach their investigators at all of their seminars "to look for pornography at the scene of sexual crimes involving children."

"It is beyond debate that molestation of children is, in part, caused by consumption of pornography."

John Rabun, Exploited and Missing Children Unit.—

"Over 4 years, the EMCU team learned to expect to always find adult pornography since it was used for

the offender's own arousal;

self-validation of their own sex deviations;

extortion of child victims or other adults; and

deliberate and planned lowering of inhibitions of child victims."

The Badgley Report (1984).—

The report found that almost 60% of both male and female juvenile prostitutes had been asked to be the subject of sexually explicit films or photographs; 12% of the girls and 20% of the boys had actually been used in making pornography; juvenile prostitutes are a high-risk group in regard to being exploited by pornographers.

Two smaller American studies emphatically confirm this finding (Burgess: 75% of youth hustlers had participated in pornography; John Rabun: 37% had participated).

The 1982 URSA Study: concluded that there exists a "slight" relationship between juvenile prostitution and pornography. There, 27% of the young male prostitutes had been photographed by a "john"; of the 54 young male hustlers for whom information was available, 9 had been photographed for commerical pornographic magazines. In the face of that evidence it seems impossible to deny the existence of a significant link between the exploitation of minors in prostitution and in pornography.

Extant studies of juvenile prostitutes showed less incidence of participation in pornography than is the real case because by its very nature one item of pornography can be viewed contemporaneously by many patrons and for repeated sittings. The demand for pornographic performers will always be a tiny fraction of the demand for prostitutes.

Surgeon General's Workshop on Pornography (June 24, 1986).—

Nineteen nationally and internationally recognized clinicians and researchers achieved consensus on the statement that "children and adolescents who participate in the production of pornography experience adverse enduring effects."

Southern California Child Exploitation Task Force (1988).—

It is the longest existing task force in the U.S. and has prosecuted all the child pornography and Federal child abuse cases in the Central District of California during the past 10 years.

"According to the U.S. Customs Service, a conservative estimate of the number of pedophiles in the U.S. is 15,000. It is impossible to determine accurately the number, because pedophiles do everything possible to avoid detection."

"We have frequently gone into homes with search warrants for child pornography and discovered children living in the home who have been molested by the person who is the target of our child-pornography investigation."

"We have discovered photographs of the pedophiles molesting children."

"We have found convicted child molesters as well as individuals who were providing children to molesters."

"One of the men we prosecuted had 50,000 photographs of noncommercial child pornography in a storage locker. He admitted molesting several hundred children following his release from a state hospital for a child molestation conviction. He even maintained a ledger listing those molestations. He taught swimming and tennis to youngsters, some of whom became his victims."

"A convicted child molester who was the subject of one of our investigations was found, after he had ordered materials, to have homemade child pornography in his house—including a video tape depicting him molesting a child who was clearly under the influence of drugs or alcohol."

Some articles written in pornographic magazines call attention to a few cases in which individuals (who claimed neither to be sexually active with children nor to possess child pornography) were the subjects of search warrants after they ordered child pornography from undercover Government agents. While Government operations occasionally identify individuals who are not suitable for prosecution, those cases are the exception, not the rule.

SENATE REPORT 99-537 ON CHILD PORNOGRAPHY AND PEDOPHILIA, OCTOBER 9, 1986

I. INTRODUCTION

A decade ago, the sexual abuse of children was a subject that came to the attention of most Americans infrequently, if at all. Assault cases often were quietly kept out of the courts, and many police departments viewed such cases as little more than time-consuming social work. Child molesters were more often the target of jokes than investigations. For millions of Americans, child sexual abuse was a problem that was out of sight and out of mind.

During the late 1970s, however, reports of child sexual abuse slowly began to increase, and so did public awareness of the problem. The American Association for Protecting Children, a subsidiary of the American Humane Association, noted a ten-fold increase in the number of children reported to be sexual abuse victims from 1976 to 1983,[1] but it was not until the following year that the problem was presented to the general public as a "crisis." Beginning in 1984 and throughout 1985, child sexual abuse was almost constantly in the national focus. Networks and local TV stations devoted scores of prime-time hours to its exposure; hundreds of newspapers and magazines ran lengthy accounts of child sexual assaults and pornography rings; grocery bags and milk cartons began to carry the faces of missing children; citizen awareness groups sprang up around the country; police agencies that once paid scant attention to the problem began establishing special training programs for their officers and setting up child sex crime units; the National Center for Missing and Exploited Children was established in Washington, D.C.; in Congress, from 1983 to mid-1986 a total of 194 bills and 13 hearings focused specifically on some aspect of child abuse or child sexual exploition.[2]

With this unprecedented attention came an exponential increase in the reporting of child sexual abuse, believed by some to be the most underreported major crime in America.

Reports increased dramatically throughout the United States—in Farm Belt states and in the nation's largest cities, in West Coast beach towns and East Coast industrial centers, in the neighborhoods of the affluent, the middle class and the poor. "A 1985 report by the New York-based Child Welfare League of America said child sexual abuse reports rose 59 percent from 1983 to 1984.[3] In Delaware and Idaho reports nearly doubled from 1983 to 1984; in Oregon they rose 129 percent; and in Wisconsin, they went up by 132 percent.[4] In Houston, police received 1,600 reports of child sexual assaults in 1985, more than double the total in 1983.[5] In virtually all cases the extraordinary rise in sexual abuse statistics reflected a state's or city's increased efforts to discover and investigate such crimes, rather than a sudden increase in molested children over years past. And yet there is wide agreement that even these are conservative figures.[6]"

The following are just a few of the many cases that attracted national attention during 1984 and 1985:

In Manhattan Beach, California, in the Spring of 1984, seven employees of a day care center were charged with 207 counts of rape, sodomy and other abuses, involving at least 41 children over a six-year period. Doctors confirmed that 37 of the children showed physical signs of molestation. After a grueling pre-trial hearing lasting several months, many parents withdrew their children as witnesses after watching other children undergo lengthy cross-examination by defense attorneys. Later the Los Angeles County District Attorney dropped all charges against five of the seven defendants, citing a lack of evidence.[7]

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[1] Footnotes at end of article.

In 1985 a Roman Catholic priest was convicted of molesting over a period of years at least 37 boys, among them altar boys and members of the parish Boy Scout troop in Henry, Louisiana. Depositions in the case disclosed that the priest's supervisors had confronted him with such allegations as far back as 1974 and had received similar complaints from parents in 1977. Yet the supervisors did not alert police and still allowed the priest to work with children. More than a dozen civil suits were filed against the diocese by the families and $4.2 million in damages already has been awarded.[8]

In Tampa, Florida, Eric Cross, who had been convicted of molesting young girls in four counties, was indicted for allegedly distributing child pornography while in prison on a molestation charge. He was convicted on 19 counts of distributing child pornography and other charges and sentenced to a 95-year prison term.[9]

As a large number of cases illustrate, child molesters come from virtually every type of background in society. In the past two years those convicted on such charges have included police officers, politicians, judges, physicians, lawyers, journalists, grandmothers, teachers and military officers, among others. To their neighbors and coworkers they were often respected, responsible members of the community, remembered by some acquaintances as being "great with kids." Many were active in church, school and sports organizations. The stereotype of the child molester as a menacing deviate lurking in public places obviously does not apply to many of them.

With these events as a backdrop, the Senate Permanent Subcommittee on Investigations in early 1984 began an investigation of child pornography and pedophilia— the abnormal sexual desire of an adult for pre-pubescent children. Subcommittee investigators interviewed more than 200 people in more than 30 states, including convicted child molesters, pornographers, pro-pedophilia activists, molestation victims, investigators, judges, prosecutors, psychiatrists and child protection workers. The Subcommittee also reviewed thousands of documents, including arrest reports, victim statements, pedophile correspondence, newsletters, child pornography catalogs, films, videotapes and magazines. Finally, the Subcommittee held three days of public hearings—on Nov. 29 and 30, 1984 and Feb. 21, 1985—for further exploration of the issues and questions raised during the investigation.[10]

The investigation's primary focus was on child pornography and pedophile activities in the United States, but because of the importance of The Netherlands, Denmark and Sweden in the international distribution of child pornography, the Subcommittee also examined efforts to combat child pornography in those countries.[11]

The Subcommittee found that while the growth in the number of reports of abuse and sexual exploitation of children is cause for continuing concern, recent Federal laws—notably the Child Protection Act of 1984—are beginning to show significant results in the battle against these evils. The public perception of an "epidemic" of child abuse and child pornography reports and arrests, which has led to demands for even tougher laws, may actually be testimony to the effectiveness of the existing laws in providing authorities with the tools to arrest and convict child abusers and pornographers. In addition, the economic impact of the child pornography industry often tends to be overstated. The most significant impact to society from this practice cannot be measured in economic terms; instead, it must be measured in terms of the extent of physical and phychic damage to innocent children brought about by the production and use of child pornography.

II. ORGANIZED CRIME

Because of the Subcommittee's historic interest in the activities of organized crime, an effort was made to obtain any information that might show a direct link between organized crime and the distribution of child pornography in the United States. The Subcommittee interviewed former child pornography distributors, federal informants, pedophiles, prosecutors and law enforcement officials from the United States, Canada and Europe. No one produced definitive evidence that traditional organized crime groups, such as La Cosa Nostra, have any appreciable influence on the production or distribution of true pedophile-oriented child pornography. Nor was evidence found of any widespread involvement, much less control, of child pornography distribution by other ethnic crime organizations or criminal groups, such as motorcycle gangs.

There is evidence that La Cosa Nostra crime families are involved in the production and distribution of commercial adult pornography.[12] A small portion of this market may include underaged models, usually 16 or 17, and some material appears to show legal-aged models who are dressed and made up to look like minors. While any sexually explicit material involving persons of this age is usually harmful, if not illegal, for purposes of this report child pornography refers to material involving children under 13.

After extensive inquiries, the Subcommittee has concluded that the distribution of child pornography in the United States is largely carried out by individual pedophiles, who produce this material and trade it among themselves or order it through the mail from other countries. In the few instances when police have uncovered commercial child pornography operations, they paled in comparison to the sophistication and profits of adult pornography distributors, and were not controlled by traditional organized crime. One such organization was run by Cathy Wilson, who at the time of her arrest in California in 1983 was believed to control about 80 percent of the commercial child pornography trade in the United States.[13] Wilson told Subcommittee investigators in August 1984 that "the Mafia" had not been involved in her operation or that of any other child pornographer with whom she dealt during the 1970s and early 1980s.[14] Richard Trolio, once a business partner of Wilson's who later became a federal informant against her, told the Subcommittee he agreed with Wilson's assessment.[15]

Economics probably plays a major part in organized crime's lack of interest in child pornography. The adult sex industry (magazines, videotapes, X-rated movie theaters, nightclubs, massage parlors, "dial-a-porn" and "escort" services, etc.) operates legally in much of the country and grosses several billion dollars annually.[16] Conversely, the commercial child pornography industry has declined substantially in recent years.[17]

Perhaps equally discouraging to organized crime is the aggressive enforcement of the 1984 federal child pornography statutes,[18] which carry 10-year prison terms for production, importation or distribution of the material. In comparison, violations involving adult pornography are often treated as misdemeanor obscenity cases, when they are prosecuted at all.

III. PROSECUTIONS BY THE DEPARTMENT OF JUSTICE

On February 6, 1978, Congress enacted Public Law 95-225, the Protection of Children Against Sexual Exploitation Act of 1977. This legislation added sections 2251 through 2253 to Title 18 of the United States Code to deal specifically for the first time with the problem of child pornography. Efforts by prosecutors to obtain convictions under these statutes, however, were hampered by a provision in the law that the pornographic material in question had to be produced or distributed for "commercial" purposes in order to warrant prosecution. Since most child pornographers in the United States tend to trade child pornography among themselves rather than sell it, the Department of Justice was forced to rely primarily upon sections 1461-1465, Title 18 of the U.S. Code, the federal obscenity statutes, to prosecute child pornographers.

Congress moved to close this loophole on May 21, 1984, by amending the child pornography statutes to delete the "commerciality" requirement and a requirement that the disseminated material be legally obscene.[19] The amendments, which also added civil and criminal forfeiture provisions to the statutes, now appear as sections 2251-2255, Title 18, U.S. Code. The effect of these amendments on the Department of Justice's ability to prosecute child pornography cases has been dramatic: from 1978 to April 1984, the Department obtained 64 convictions; between May 1984, and June 1986, at least 164 convictions were obtained.[20]

	Indictments	Convictions
Year:		
1978	13	13
1979	1	1
1980	11	10
1981	14	15
1982	19	7
1983	6	15
1984 (pre-Act)	5	3
1984 (post-Act)	55	35
1985	123	102
1986 (May)	24	27

IV. PEDOPHILIA

The terms pedophile and pedophilia have been so widely used in the news media in recent years that their clinical definitions sometimes are overlooked. Many references to "pedophiles" seem to indicate the term is applied to any adult who is sexually attracted to a legal minor. That is not the case, and the distinction is worth noting.

Pedophilia, literally "love of a child," as used in this report refers to the condition in which an adult's primary sexual attraction is to prepubescent children—roughly between six and twelve years of age.[21] While many cases exist in which true pedophiles have been involved with children below and above those age boundaries, the vast majority fall between them. (A less-commonly used term, hebephilia, describes an adult's sexual attraction to adolescents. This more accurately defines the offenders involved in teenage prostitution, for example, than does the often-misued label, pedophile.) Pedophiles normally have little interest in adolescents who are beginning to reach sexual maturity; it is, in fact, the very lack of sexual development, the childish innocence, that arouses most true pedophiles. The term pedophile is often misused when applied to all child sex crime offenders. Experts agree that many children are assaulted simply because they are available and, of course, more easily overpowered than an adult. The true pedophile, as a rule, does not commit violent acts against his victim.

Pedophiles often are attracted to children within a specific age range—boys from 8 to 10, girls under 9, etc.—and there is some evidence to show this preference may develop because it was the same age at which the molester was also first molested as a child.[22] Many studies have shown a large percentage of convicted child molesters were themselves molested as children.[23]

While pedophiles come from virtually all social, racial, ethnic and age groups, therapists and investigators have been able to arrive at some common characteristics many of them seem to share. Pedophiles normally are divided into two categories—regressed and fixated. An authoritative psychiatric profile described them in this way:[24]

"The [fixated] often has never developed emotionally or intellectually. He feels comfortable around children and uncomfortable around adults. He sees the child as an adequate sexual partner who will enjoy the experience. He shows no guilt of shame afterwards. This offender will be passive, dependent, immature, lonely, inadequate, with low self-esteem. He knows right from wrong and will be law abiding apart from child molestation. He will have dated little and rarely be married. His immaturity will mean that his work, social and personal adjustment will be poor. He will often be employed in menial jobs and prefer to work around children. He seeks children out as companions and in his jobs, so he may be found working with children in his job or as a recreation.

"The [regressed offender] is reasonably well adjusted. He will have no criminal record (apart from child molestation) and will have a good job, social and personal adjustment. He will have dated and typically be married. However, under stress, especially threats to his masculinity, he regresses to immature behavior. So if he is fired, or criticized at work, or if his wife has an affair or criticizes him, he may begin to drink alcohol and impulsively choose a non-threatening female sexual partner (a child). After the experience, he will realize what he has done and feel guilt and shame. He deals with this guilt by attributing his behavior to alcohol."

V. MEETING AND SEDUCING CHILDREN

"I used all the normal techniques used by pedophiles. I bribed my victims, I pleaded with them, but I also showed them affection and attention they thought they were not getting anywhere else. Almost without exception every child I molested was lonely and longing for attention".—Joseph Henry[25]

A determined pedophile quickly masters the art of meeting and engaging the trust of children. Pedophiles are constantly seeking out new ways of drawing children into their confidence without raising suspicions.

Those who seek frequent contact with children, and either have no criminal record or believe it would not be discovered, may find employment as day care center workers, recreation directors, video arcade managers, Little League coaches, scout leaders, Big Brothers, schoolteachers or in a host of other occupations where children are present. In a study of 40 pedophile cases by FBI Special Agent Kenneth Lanning and Dr. Ann Burgess, almost half of the offenders used their occupations to encounter children.[26]

Other pedophiles have located children through babysitting, neighborhood contacts and volunteer organizations. Many have met their eventual victims through adult relationships with parents, as friends, co-workers, counselors, etc.

A number of cases have involved people in positions of authority—people to whom even careful parents often entrust their children, such as priests, teachers and police officers. These cases are cited not to undermine faith in these professions, but to emphasize that a pedophile's all-consuming desire for children will often outweigh his position of trust in the community.

Some pedophiles expose themselves to children or attempt to lure them into their cars or homes with presents, promises and deception, but these cases represent a small minority of the molestation incidents investigated by police officials in the United States. Fortunately, the stereotype of the child molester as a dirty, leering stranger on a park bench is disappearing as awareness of the true nature of pedophilia grows.

The words of a pedophile provide the best description of the thought process involved in attempting to meet and seduce children. Following is an anonymously-written excerpt from How To Have Sex With Kids, a booklet published by David Sonenschein, an Austin, Texas, author who has written extensively about pedophilia:

"The important thing about meeting kids is that it happens best when you meet in places or in doing things that interest both of you. Like in video game arcades, kids can tell if you're just in their cruising for sex, or are there because you like playing the games. The same with sports and sporting events. You can meet kids anywhere you go that you're interested in going, and what's important about this is you've got a right to be where you are. Like your own neighborhood. We have a right to walk around, talk to people there, and get to know who's who. . . .

"It's also a good idea to get to know parents. Sometimes you can get babysitting tasks or you can just take the kids places when they know you and know that the kids like being with you. Sometimes parents can introduce you to other kids too.[27]

Once the pedophile has gained private access to the child, he then must convince the child to cooperate. According to Nicholas Groth, a psychiatrist who has worked with many pedophiles in the Connecticut prison system, "The most commonly used technique of luring the child into . . . sexual activity is by capitalizing on the child's need for attention, approval, and human contact."[28]

Convicted child molester Joseph Henry, who molested 22 girls aged six to fourteen over a period of nearly 30 years, testified before the Subcommittee about the techniques he used to manipulate children:

". . . I would take my victims to movies and to amusement parks. When I babysat them, I would let them stay up past their bedtime if they let me fondle them. One little 8-year-old girl I was babysitting came over to my house one day soaking wet from a rainstorm. I told her I'd pay her $1 if she would stay undressed for an hour. This incident opened the door for three years of molestation."[29]"

VI. USE OF CHILD PORNOGRAPHY

No single characteristic of pedophilia is more pervasive than the obsession with child pornography. The fascination of pedophiles with child pornography and child erotica has been documented in many studies and has been established by hundreds of arrests of pedophiles who are found to possess a large amount of sexually explicit material involving children.

Detective William Dworin of the Los Angeles Police Department estimates that of the 700 child molesters in whose arrest he has participated during the last ten years, more than half had child pornography in their possession. About 80 percent owned either child or adult pornography.[30]

Each convicted child molester interviewed by the Subcommittee either collected or produced child pornography, or both. Most said they had used the material to lower the inhibitions of children or to coach them into posing for photographs.

It is not unusual for pedophiles to possess collections containing several thousand photographs, slides, films, videotapes and magazines depicting nude children and children engaged in a variety of sexual activities—alone, with other children, with adults, and even with animals. In some child pornography, the children depicted are infants and toddlers, some as young as 18 months.[31] Rainer Hernandez, a California college student who testified before the Subcommittee about his experience as a molestation victim, reported that when Los Angeles Police officers searched the home of his uncle, who has molested Mr. Hernandez for four years when he was a teenager, they found thousands of sexually explicit photos of children.[32] In many other cases police have discovered extensive collections carefully indexed, often on home computers, by age of the children, origin of the material and type of sexual activities performed. A man in Austin, Texas analyzed an entire collection of child pornography magazines by the emotions shown on the children's faces—boredom, pleasure, pain, etc.[33]

In testimony before the U.S. Senate Subcommittee on Juvenile Justice on August 8, 1984, Special Agent Kenneth Lanning of the FBI's Behavioral Science Unit, a recognized expert on pedophilia, elaborated on the pedophile's fascination with child pornography:

"They (pedophiles) typically collect books, magazines, articles, newspapers, photographs, negatives, slides, movies, albums, drawings, audio tapes, videotapes, personal letters, diaries, sexual aids, souvenirs, toys, games, lists, paintings, ledgers, etc., all relating to children in either a sexual, scientific or social way. Not all pedophiles collect all these items. Their collections vary in size and scope. However, the maintenance and growth of their collections becomes one of the most important things in their life. . . . They may hide their collections, move them, or even give them to another pedophile, but they almost never destroy them.[34]

Experts cite seven primary reasons that pedophiles collect child pornography:

1. Justification.—A pedophile needs to know or to convince himself that his obsession is not "abnormal" and dirty, but is shared by thousands of other intelligent, sensitive people. The collection and trading of child pornography, along with scientific and academic articles justifying pedophilia, accomplishes this goal. Pornography also provides pedophiles with a common currency, a mutually desired possession which

can be bought, sold and traded in order to develop trust and camaraderie with fellow pedophiles.[35]

The pedophile's collection includes lists of names, addresses and phone numbers of other pedophiles, and correspondence received from such persons. These lists are guarded like gold, often kept in safe deposit boxes or secretly hidden in the pedophile's residence. They not only provide contacts for the pedophile, but they further reinforce the belief that because so many others engage in the same activity, it must not be as "wrong" as society believes. This constant need for validation and support from other pedophiles, however, often overcomes the instinct for caution. Enticed by fantasy letters about child sex or promises of exchanging child pornography, many pedophiles have been trapped by police through the simple exchange of letters.

2. *Arousal.*—In the same way others use adult pornography, pedophiles use child pornography to stimulate their sexual drive and to aid in masturbation. While some pedophiles may only fantasize about the material, Lanning suggests that "the arousal and fantasy fueled by the pornography is only a prelude to actual sexual activity with children."[36]

3. *To lower a child's inhibitions.*—Many pedophiles firmly believe children enjoy sex with adults and that pictures of this activity will convince reluctant children to more freely participate. "Peer pressure has a tremendous effect on children," Lanning testified. "If other children are involved, maybe it is all right, the child thinks. In the pornography used to lower inhibitions, the child portrayed will appear to be having a good time."[37]

In two cases examined extensively by Subcommittee investigators, convicted molesters Joseph Henry and Donald Woodward acknowledged that they showed their victims child pornography in an effort to lower their inhibitions and even to suggest specific sex acts. In letters written by Woodward to other pedophiles, he explained specifically what he had in mind for the child pornography he was sending or receiving:

"I've just mailed you, in a separate envelope, a bunch of material on (the two children he was convicted of molesting). I need this material back before 7/23 for use as "bait" in a plan I'll tell you all about if it comes off. Maybe bait is the wrong word; they (the photos) are intended to be emulated by prospective participants . . .[38]

". . . The photos of [his 10-year-old victim], of course, are to be samples of poses that I want them [other children] in, from mild and sweet, to hot and lewd . . ."[39]

Woodward and his friends also found that a Polaroid camera came in handy during photo sessions with children. "I may just pick up a Polaroid . . . since kids always enjoy seeing how they look in pictures right away," Woodward wrote to another pedophile, "and I think it helps persuade them to go 'just a little farther' in the next shot . . ."[40]

4. *Preservation of the child's youth.*—Another principal reason for the collection of child pornography by pedophiles is to insure there will always be an image of the child at the age of sexual preference. "No matter how attractive any one child sexual partner is," Lanning testified, "there can be no long-term sexual relationship. All child victims will grow up and become sexually unattractive to the pedophile. However, in a photograph, a 9-year-old boy stays young forever."[41] Nor are the photographs always sexually explicit. Many pedophiles avidly collect photos of clothed children. Pederasts, or "boy-lovers" as they call themselves, quite often collect photos of young boys in sports outfits. William Thorne, a detective in the Bergen County, New Jersey, prosecutor's office, testified before the Subcommittee that in the arrest of James Cooper on molestation charges, officers found several hundred 35mm photographs of teenage boys at parks, swimming pools, ice rinks, video arcades, baseball games, even newspaper boys on their routes—all clothed, but usually wearing shorts (see pp. 20, 21).[42] Other pedophiles have collected department store catalog photos of young children in underwear.

5. *Blackmail.*—A child molester is consumed with the prospect of being caught. When he has taken sexually explicit photos of his victims, he not only has preserved the object of his desire for posterity, but he also has created an effective tool for keeping the child from revealing his abuse. If a child should threaten to tell his parents or authorities, the molester will remind him of the photos and tell him he will be punished or lose the affection of parents and siblings if the photos are revealed.[43]

6. *A medium of exchange.*—Agent Lanning testified that some pedophiles exchange photographs in order to gain access to other children. The quality and theme of the material (boy-boy, boy-girl, adult-child, etc.) determines its value. Because of this system of exchange, copying machines, slide enlargers and photo duplicating equipment are often used to produce duplicate copies of material which can be offered to other pedophiles.[44]

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[1] American Humane Association/American Association for Protecting Children, *Highlights of Official Child Neglect and Abuse Reporting;* Denver, CO, 1984, p. 17.

[2] Report to Subcommittee by Congressional Research Service, Washington, June 1986.

[3] Child Welfare League of America, *Too Young to Run: The Status of Child Abuse in America;* New York, February 1985, p. 5.

[4] *Ibid.*, p. 10.

[5] Subcommittee staff interview with Sgt. William D. Brown, Vice Division, Houston, TX, Police Department, February 1986.

[6] National Committee for the Prevention of Child Abuse, "The Size of the Child Abuse Problem"; Chicago, February 1985, p. 2; Sally Squires, "Who Would Sexually Abuse a Child?"; *The Washington Post* "Health" Magazine, June 19, 1986, p. 7.

[7] Ted Rohrlich and Lois Timnick, "McMartin Flaw: Gaps in Evidence"; *The Los Angeles Times*, Jan. 27, 1986, p. 4.

[8] Jon Northeimer, "Sex Charges Against Priest Embroil Louisiana Parents"; *The New York Times*, June 20, 1985, p. A–24.

[9] John Dorschner, "The Child Seducer"; *The Miami Herald* "Tropic" Magazine, Oct. 9. 1983, pp. 14–21; Subcommittee staff interview with Special Agent Barry Carmody, Federal Bureau of Investigation, Tampa, FL, March 1986. (Also see pp. 39–41.)

[10] Permanent Subcommittee on Investigations, United States Senate, *Child Pornography and Pedophilia;* S. Hrg. 98–1277, Part 1, Nov. 29–30, 1984; S. Hrg. 99–18, Part 2, Feb. 21, 1985 (*Hearings*).

[11] The U.S. Customs Service estimated in 1985 that 85 percent of the child pornography seized as it was entering the United States came from Denmark and the Netherlands; see pp. 29–34.

[12] California Department of Justice, *Organized Crime in California, 1982–83;* Sacramento, 1984, pp. 14–15.

[13] "Case Synopsis," Administrative Vice Division, Los Angeles Police Department, May 7, 1982 (copy retained in Subcommittee files).

[14] Subcommittee staff interview, August 1984.

[15] Subcommittee staff interview, August 1984.

[16] Gregory Stricharchuk, "'Porn King' Expands His Empire With Aid of Businessman's Skills"; *The Wall Street Journal*, May 8, 1985, p. 1.

[17] U.S. Customs Service seizure reports, February 1986; Subcommittee staff interview with Cathy Wilson, *op. cit.;* Subcommittee staff interview with Joyce Karlin, Assistant U.S. Attorney, Los Angeles, August, 1984.

[18] See following section.

[19] Child Protection Act of 1984, P.L. 98–292.

[20] Report to Subcommittee by Criminal Division, U.S. Department of Justice, June 1986.

[21] Kenneth V. Lanning, *Child Molesters: A Behavioral Analysis;* National Center for Missing and Exploited Children, Washington, February 1986, pp. 1–2.

[22] Sharon Araji and David Finkelhor, "Abusers: A Review of the Research," in Finkelhor, *A Source Book on Child Sexual Abuse* (Beverly Hills: Sage, 1986), p. 103.

[23] Lanning, *op. cit.*, p. 11.

[24] Op. cit.

[25] *Hearings*, Part 2, p. 8.

[26] Kenneth V. Lanning and Ann Wolbert Burgess, "Child Pornography and Sex Rings," *FBI Law Enforcement Bulletin*, Washington, January 1984, p. 11.

[27] David Sonenschien, ed., *How to Have Sex With Kids;* Austin, TX, 1983, pp. 6–7 (copy retained in Subcommittee files).

[28] A. Nicholas Groth with H. Jean Birnbaum, *Men Who Rape: The Psychology of the Offender* (New York: Plenum, 1979), p. 142.

[29] *Hearings*, Part 2, p. 8.

[30] Subcommittee staff interview, September 1985.

[31] *Hearings*, Part 1, p. 33.

[32] *Hearings*, Part 2, p. 18.

[33] Austin, TX Police Department, evidence seized in search of the home of David Sonenschein, August 1984.

[34] Subcommittee on Juvenile Justice, United States Senate, *Effect of Pornography on Women and Children*, S. Hrg. 98–1267, Aug. 8, 1984, p. 38.

[35] *Ibid.*, pp. 40–41.

[36] *Ibid.*, p. 43.

[37] *Ibid.*

[38] Donald Woodward, personal correspondence seized as evidence by Los Angeles Police Department.

[39] *Ibid.*

[40] *Ibid.*

[41] Subcommittee on Juvenile Justice, *op. cit.*, p. 42.

[42] *Hearings*, Part 1, p. 54.

[43] Subcommittee on Juvenile Justice, *op. cit.*, pp. 43–44. Also see *Hearings*, Part 2, p. 18.

[44] Subcommittee on Juvenile Justice, *op. cit.*, p. 44.

DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, June 26, 1991.

Hon. JESSE HELMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR HELMS: This letter is in response to your request for the views of the Department of Justice on your proposed amendment relating to various sentencing guidelines for child pornography offenses. My comments are directed to section (1)(b) of your amendment which would modify the Sentencing Commission's proposed changes to the penalties for the receipt of child pornography (sections 2G2.2 and 2G2.4 of the guidelines).

Your proposed legislation is consistent with the position the Department recently advocated to the Sentencing Commission. The Department strongly believes that receipt of child pornography should be grouped with trafficking violations and not with the new possession offense. Reducing sanctions for receiving child pornography would send the wrong message to those who may consider violating the law.

Therefore, the Department supports your effort to reinstate previously established penalties for receiving child pornography which has travelled in interstate or foreign commerce, or through the mail.

The Office of Management and Budget has advised that there is no objection to the submission of this position from the standpoint of the Administration's program.

Sincerely,

W. LEE RAWLS,
Assistant Attorney General.

RELIGIOUS ALLIANCE
AGAINST PORNOGRAPHY,
Cincinnati, OH, June 24, 1991.

Hon. JESSE HELMS,
U.S. Senator,
Washington, DC.

DEAR SENATOR HELMS: We are writing you on behalf of the National Coalition Against Pornography, Religious Alliance Against Pornography (RAAP) and the National Women's Leadership Task Force (NWLTF) to express our strong support for your introducing legislation that would strengthen the sentencing requirements for child pornography offenses.

Our concern that new legislation be introduced stems from the proposed guidelines that will take effect on November 1, 1991 unless both houses of Congress take affirmative action before that date. We were profoundly disappointed to discover that the proposed guidelines recommended reduced sentencing levels for transporting, receiving and possessing child pornography.

The reduction in sentencing requirements will have a devastating effect on law enforcement efforts in this area. We have made progress over these last few years because federal law enforcement authorities have been able to convict child molesters on child pornography charges. Those men could then count on spending some substantial time in jail. Sadly, every picture of child pornography displays a child molestation taking place.

With the new guidelines, receipt or possession of child pornography is only a base level 10 offense. For a defendant receiving child pornography (who accepts responsibility), the recommended sentence has dropped from 8–14 months to 2–4 months, with probation now being a distinct possibility! Having worked on behalf of thousands of victims of this material, it is our strong belief that the sentencing requirements for these offenses need to be strengthened significantly, rather than lessened.

It also seems inconceivable that these proposed guidelines reflect the seriousness with which we know you and the Congress view this heinous offense. It would be tragic if the guidelines proposed for last session's child pornography legislation (which was meant to strengthen the offense) were to result in a decrease in child victimization prosecutions.

We believe the pending Crime Bill offers an appropriate and opportune time to make some vital adjustments consistent with the seriousness of the crime.

Each of our united networks is a mainstream alliance of concerned leaders and citizens. The Religious Alliance Against Pornography membership includes the top leaders of nearly 50 denominations, faith groups and interfaith organizations, serving over 100 million citizens. The National Women's Leadership Task Force was formed with the same objective as RAAP: reducing sexual victimization by eliminating illegal and child pornography. We would be strongly supportive of any action taken in this area.

We look forward to the opportunity to continue working with you and your staff on making this vital correction in the immediate future. Thank you for your continued leadership and concern. We are deeply grateful.

Sincerely yours,

DR. JERRY R. KIRK,
Chairman, Religious Alliance Against Pornography; President, National Coalition Against Pornography.

DEEN KAPLAN,
Vice President, Public Policy.

RELIGIOUS ALLIANCE AGAINST PORNOGRAPHY

As religious leaders, we believe in the inherent dignity of each human being. Created in God's image and likeness, the human person is the clearest reflection of God's presence among us. Because human life is sacred, we all have a duty to develop the kind of societal environment that protects and fosters its development. This is why we address a broad range of life threatening and life diminishing issues. These assaults on human life and dignity are all distinct, each requiring its own moral analysis and solution. But they must be confronted as elements of a larger picture.

The purpose of RAAP is to bring into clear focus a major factor in the assault on human dignity and the consequent dehumanization that it promotes: hardcore and child pornography. This concern brought us together following the release of the Report of the Attorney General's Commission on Pornography. We are in unanimous agreement that hard-core and child pornography, which are not protected by the Constitution, are evils which must be eliminated.

As religious leaders, our primary responsibility is to teach and to motivate. We can and must help people understand the moral dimensions of the problem of hard-core and child pornography and what their responsibility is in this regard, while fully respecting freedom of expression guaranteed by the First Amendment. In particular, we wish to make it clear that we do not and will not advocate 'censorship'. Our understanding of censorship implies actions being taken against materials which are protected by the First Amendment.

As teachers, we will do all in our power to proclaim the truth of human dignity and freedom, and to promote the God-given human values neded for the moral health of our society. Given the information and motivation, people will do what is necessary to affect public policy.

The membership of RAAP, representing a broad spectrum of America's religious community, is an indication of the seriousness of the problem and our commitment to addressing it. This represents the beginning of an ongoing process which will facilitate greater cooperation on this vital issue among religious bodies.

MEMBERSHIP

Cooperative

Mrs. Jacqueline G. Wexler, President, National Conference of Christians and Jews.

Greek Orthodox

His Eminence Archbishop Iakovos, Primate, Archdiocese of North and South America.

Bishop Philip of Daphnousia, Archdiocese of North and South America.

Reverend Milton B. Efthimiou, Archdiocese of North and South America.

Jewish

Rabbi March, Tanenbaum.

Rabbi Mordecai Waxman.

Rabbi Walter S. Worzburger.

Protestant

Rev. James E. Andrews, Stated Clerk, Presbyterian Church (USA).

Bishop George W. Bashore, Bishop of Western Pennsylvania, United Methodist Church.

Dr. Harold C. Bennett, President & Treasurer, Executive Committee, Southern Baptist Convention.

Mrs. Sarah Blanken, Vice President, Women's Leadership, National Coalition Against Pornography.

Dr. Ralph A. Bohlmann, President, The Lutheran Church-Missouri Synod.

Bishop Voy M. Bullen, General Overseer, The Church of God.

Dr. G. Raymond Carlson, General Superintendent, Assemblies of God.

Rev. Clifford R. Christensen, Conference Minister, Conservative Congregational, Christian Conference.

Dr. Raymond E. Crowley, General Overseer, Church of God (Cleveland, TN).

Rev. L. Edward Davis, Stated Clerk, Evangelical Presbyterian Church.

Dr. James Dobson, President, Focus on the Family.

Bishop Paul A. Duffey, Secretary, Council of Bishops, United Methodist Church.

Dr. Steve F. Flatt, Minister, Madison Church of Christ.

Bishop William Frey, The Episcopal Church.

Dr. Archie R. Goldie, Secretary, N. Amer. Baptist Fellowship, Baptist World Alliance.

Dr. Ray H. Hughes, First Assistant/General Overseer, Church of God (Cleveland, TN).

Dr. B. Edgar Johnson, General Secretary, Church of the Nazarene.

Dr. William A. Jones, President, National Conference of Black Pastors.

Rev. Dean M. Kelley, Director of Religious & Civil Liberties, National Council of Churches.

Dr. Jerry R. Kirk, President, National Coalition Against Pornography.

Dr. Richard Land, Executive Director, Christian Life Commission, Southern Baptist Convention.

Mr. James M. Lapp, Executive Secretary, General Board, The Mennonite Church.

Dr. Eileen W. Lindner, Associate General Secretary, National Council of Churches.

Chief John Maracle, Chief of North American Native Christian Council.

Bishop George Dallas McKinney, Bishop of Southern California, Church of God in Christ.

Dr. Thomas A. McDill, President, Evangelical Free Church of America.

Dr. Billy Melvin, Executive Director, National Association of Evangelicals.

Commissioner Andrew S. Miller, The Salvation Army, Retired.

Dr. Edwin G. Mulder, General Secretary, Reformed Church in America.

Mr. David H. Northup, Executive Vice President, Advent Christian General Conference.

Commissioner James Osborne, National Commander, The Salvation Army.

Mr. Matt Parker, President, Institute for Black Family Development.

Mr. Vern Preheim, General Secretary, The General Conference Mennonite Church.

Dr. Adrian Rogers, Former President, Southern Baptist Convention.

Dr. Oscar Romo, Director, Div. of Language Missions, Southern Baptist Convention.

Dr. Mary O. Ross, President, Women's Conv. Auxiliary, National Baptist Convention, U.S.A., Inc.

Rev. Don Sauls, General Superintendent, Penecostal Free Will Baptist Church.

Dr. R. Donald Shafer, General Secretary, Brethren in Christ Church.

Rev. Ray E. Smith, General Superintendent, Open Bible Standard Churches, Inc.

Dr. Glen O. Spence, Executive Director, General Association of General Baptists.

Dr. Everett Stenhouse, Assistant General Superintendent, Assemblies of God.

Dr. Mary Ruthstone, Secretary, Women's Commission, National Association of Evangelicals.

Dr. Paul Tanner, Executive Secretary, Retired, Church of God (Anderson, IN).

Bishop Clyde E. Van Valin, Free Methodist Church of North America.

Rev. Vilis Varsbergs, President, Latvian Evangelical Lutheran Church in America.

Dr. Daniel E. Weiss, General Secretary, American Baptist Churches, U.S.A.

Dr. John H. White, President, National Association of Evangelicals.

Dr. Melvin L. Worthington, Executive Secretary, National Association of Free Will Baptists.

Rev. Donald E. Wrigley, President, Advent Christian General Conference.

Roman Catholic

His Eminence Joseph Cardinal Bernardin, Archbishop of Chicago.

His Eminence John Cardinal Krol, Archbishop of Philadelphia, Retired.

His Eminence Bernard Cardinal Law, Archbishop of Boston.

His Eminence John Cardinal O'Connor, Archbishop of New York.

Most Rev. Roger Mahony, Archbishop of Los Angeles.

Most Rev. James W. Malone, Former President, National Conference of Catholic Bishops.

Most Rev. Daniel E. Pilarczyk, President, National Conference of Catholic Bishops.

Bishop Robert J. Banks, Auxiliary Bishop of Boston.

Bishop Francis J. Mugavero, D.D., Bishop of Brooklyn and Queens.

The Church of Jesus Christ of Latter Day Saints

Elder John K. Carmack, First Quorum of the Seventy.

Dr. Richard P. Lindsay, Second Quorum of the Seventy.

Mr. Bruce Olsen, Managing Director, Public Affairs.

NATIONAL WOMEN'S LEADERSHIP TASK FORCE

The National Women's Leadership Task Force, in partnership with the National Coalition Against Pornography and the Religious Alliance Against Pornography, mobilizes and equips women to eliminate child pornography and to remove illegal pornography from the open market.

SUPPORTIVE CONCEPTS

We are women of faith who have prayerfully come together to commit ourselves to the preservation and enhancement of human dignity.

We are women united in commitment to the task of eradicating child pornography and illegal pornography from our nation and our world.

We are concerned citizens who serve as business executives, church leaders, community leaders, educators, and government officials living in a society where illegal pornography degrades and dehumanizes women, destroys children, and corrupts men, those caught up in addiction and those exploited.

We are women focused on the goals of protecting ourselves, our families, our neighborhoods, and our communities by raising awareness that child pornography and other illegal pornography promotes sexual violence and victimization of children, women, men and families; developing regional and community task forces across America called WIN groups; and working with the Religious Alliance Against Pornography and National Coalition Against Pornography to influence local, state and federal governments. We encourage networking and/or joining with other decency organizations wherever feasible.

We are women who care and will encourage other women of diverse religious persuasions and philosophical motivations to join us in the challenge of freeing our nation from sexual abuse and degrading sexual attitudes.

MEMBERSHIP

Mrs. Sarah Blanken, Chairperson, Vice President, Women's Leadership, Natl. Coalition Against Pornography, Cincinnati, OH.

Mrs. Jan Augenstein-Miller, Development Officer, Miami University, Camden, OH.

Mrs. Susan A. Baker, Parents' Music Resource Center, Arlington, VA.

Mrs. Mariam Bell, Deputy Assistant Secretary for Public Affairs, Dept. of Health & Human Services, Washington, DC.

Mrs. Susan Bell, Board Member, Citizen's For Community Values, Cincinnati, OH.

Mrs. Ulyses Brinkley, Housing Program Specialist, Burke, VA.

Dr. Jane Nady Burnley, Director, Office for Victims of Crime, U.S. Department of Justice, Washington, DC.

Mrs. Sandra Clopine, Secretary, Women's Ministry Dept., Assemblies of God, Springfield, MO.

Sister Joy Clough, Director, Office of Public Information, Archdiocese of Chicago, Chicago, IL.

Ambassador Holland Coors, Washington, DC.

Mrs. Martha Davis, Women's Crisis Center, Covington, KY.

Mrs. Shirley Dobson, Focus on the Family, Pomona, CA.

Mrs. Becky Dunlop, Management Consultant, Arlington, VA.

Mrs. Tish Fainelli, Businesswoman, Video Biz, Longwood, FL.

Mrs. Rebekah Gibson, Businesswoman, Los Angeles, CA.

Mrs. Sandy Grear, Communications Management Consultant, Chicago, IL.

Mrs. Olive Hodson, Vice President, Women's Ministers International, Free Methodist Church, Lebanon, OR.

Mrs. Colonel Barbara Hood, Assistant to National President For Women's Organizations, Salvation Army, Verona, NJ.

Mrs. Laura Hudson, Executive Director, Citizens for Advocating Decency & Revival of Ethics, Lexington, SC.

Mrs. Susan Hunt, Consultant, Women in the Church, Presbyterian Church of America, Atlanta, GA.

Mrs. Joanne Jankowski, Lawyer, Maple Grove, MN.

Mrs. Dee Jepsen, Chairman of the Board, Regent University, Fairfax, VA.

Mrs. Ardeth Kapp, International President, Young Women of the Church of Jesus Christ of Latter-day Saints, Salt Lake City, UT.

Mrs. Patty Kirk, Natl. Coalition Against Pornography, Cincinnati, OH.

Dr. Eileen Lindner, Associate General Secretary, National Council of Churches, New York, NY.

Miss Patricia McEntee, Public Relations, Morality in Media, New York, NY.

Mrs. Beverly Medved, President, Natl. Council of Catholic Women, Kalispell, MT.

Mrs. Monique Nelson, California Care Coalition, Irvine, CA.

Mrs. Dellanna O'Brien, Executive Director, Women's Missionary Union, Southern Baptist Convention, Birmingham, AL.

Ms. Peggy Owens, Staff Associate, Washington Office, Presbyterian Church USA, Washington, DC.

Dr. Georgiana Rodiger, Clinical Psychologist, Altadena, CA.

Dr. Mary O. Ross, President, Women's Convention Auxiliary, National Baptist Convention, Detroit, MI.

Mrs. Cleo Seremetis, Representative of the Greek Orthodox Archdiocese of N. & S. America, Church and the Ladies National Philopthocos Society, Cincinnati, OH.

Dr. Mary Ruth Stone, Secretary, Women's Commission, National Association of Evangelicals, Cleveland, TN.

Rev. Leslie Taylor, Associate Director for Advocacy, United Church of Christ, Cleveland, OH.

CHILDREN'S LEGAL FOUNDATION,
Phoenix, AZ, June 20, 1991.

Hon. JESSE HELMS,
U.S. Senate, Washington, DC.

DEAR SENATOR HELMS: As you well know, Children's Legal Foundation, funded in 1957, is dedicated to ridding the Nation of illegal child pornography and obscenity.

Child abuse and sexual assaults on children are occurring in epidemic numbers in the United States today. The Attorney General's Commission on Pornography in 1986 found that the primary vehicle for the production and distribution of child pornography involved trade in materials created by child abusers and distributed informally to other child abusers. If we, as a Nation, are to ever slow down this ever escalating exploitation of children, then we must treat the marketing—distributing, receipt, and possession—of child pornography as the serious crime that it is.

For the above reasons, and many more that are too numerous to list in this short letter, Children's Legal Foundation strongly endorses the legislation you are proposing which would strengthen the child pornography penalties as reflected in the Federal Sentencing Guidelines.

I know I speak not only for my organization, but also the more than 100,000 members of CLF when I thank you for your leadership in this area.

Sincerely,

JAMES P. MUELLER,
General Counsel.

MORALITY IN MEDIA, INC.,
New York, NY, June 19, 1991.

Hon. JESSE HELMS,
United States Senate,
Washington, DC.

DEAR SENATOR HELMS: Morality in Media was greatly distressed to learn of new sentencing guidelines which will result in reduced sentences for those convicted of violating the Federal Laws pertaining to child pornography.

Child pornography is among the most heinous of crimes, and if anything, the penalties should be made stricter, not weaker. We are therefore strongly in favor of legislation which will "put teeth" back into the sentencing guidelines for those who violate the child pornography laws.

The best and only way to close the distribution network for child pornography is to severely punish those who create, distribute, procure, and possess this vile material.

Sincerely,

JOSEPHY J. REILLY, Jr.,
President.

GAMMON & GRANGE,
Washington, DC, June 26, 1991.

Hon. JESSE HELMS,
U.S. Senator, Washington, DC.

DEAR SENATOR HELMS: I am writing you to express the strongest possible support for your introducing legislation that would strengthen the sentencing requirements for child pornography offenses. I have spent the last 9 years combatting child exploitation and child pornography, as the Chief Assistant U.S. Attorney in North Carolina, then as the first Executive Director of the U.S. Department of Justice Child Exploitation and

Obscenity Section during the Reagan Administration, and now as the President of the National Law Center for Children and Families.

Corrective legislation is essential if we are to prevent hundreds of pedophiles from receiving token sentences which put them back on the streets to victimize children.

The clinical and law enforcement evidence in this area is overwhelming. Child pornography is produced, distributed, and consumed almost exclusively by pedophiles (adults expressing a sexual preference for children) or molesters. In hundreds of cases we have found it used to reduce the child's resistance to molestation, to blackmail the child against describing to authorities what has happened, to teach the child exactly what the molester wants done, and finally, as a form of stimulation for the molester. There is no such thing as a minor child pornography offense. The possession of one child pornography picture has directly contributed to the molestation of at least one young child.

The vast majority of these offenders are men. Their clandestine networks have proven extremely difficult for law enforcement agents to penetrate. We have used "reverse-stings" and a number of other innovative approaches to attempt to get beyond the veil of secrecy, to rescue these children. Two examples are particularly illustrative of the role of child pornography prosecutions in helping destroy molester networks.

In Los Angeles, The LAPD Sexually Exploited Child Unit has found pornography used in the commission of extrafamilial sex crimes against children in almost two-thirds of their cases over the past 10 years. In an enormous investigation (involving 40 major cases with 12 or more child victims per offender) by the Louisville Exploited and Missing Children Unit, they found all 40 of the adult predators with various forms of adult pornography. The vast majority also possessed child pornography. One can begin to understand the scope of this problem when you consider that one of the Louisville cases involved 320 children.

Without the strictest sentencing guidelines, pedophile networks will continue to grow and flourish, free from the fear of prison, where molesters can find no children to satisfy their urges. Law enforcement efforts in this area will be emasculated, as few U.S. Attorneys will devote either time or resources to an offense that in all likelihood, will produce probation as the final outcome. The tremendous progress we have made over the past five years through inter-agency cooperation, reverse-stings and new stricter laws, which have closed gaping loopholes, will be significantly eroded if the new sentencing guidelines mandate a level 10 offense for receiving child pornography. It seems almost inconceivable—hundreds of children will pay the price.

In almost every instance where we have investigated a child pornography offense, we have found some evidence of child molestation. I urge you to strengthen the old child pornography guidelines by at least two levels. A reduction in the sentencing requirements will tell the law enforcement community that these offenses are no longer considered serious by our policymakers. The strongest laws on the books are meaningless if an offender who is convicted of such a horrendous crime goes home an hour later.

Lastly, having worked both within the federal government and as an attorney in the private sector to help Congress draft effective laws dealing with child exploitation, I am confident that there is no possibility that these proposed guidelines reflect the seriousness with which the Congress views this life destroying offense. It would be tragic if the guidelines proposed for last session's child pornography legislation (which was meant to significantly strengthen the offense) were to result in a decrease in child victimization prosecutions. I urge you to prevent that from happening.

Sincerely,

H. ROBERT SHOWERS, Esq.,
President, National Law Center for Children and Families, Partner, Gammon & Grange.

Mr. HELMS. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from North Carolina has 14 seconds.

Mr. HELMS. I will use those 14 seconds to thank the Chair for his courtesy to me, and to thank the Senate for listening to me to the extent that the Senate has listened to me.

I yield back the last 6 seconds of my time.

Mr. SYMMS. Mr. President, I will vote against cloture and urge my colleagues to do the same.

One hundred thirty days ago, the President asked Congress to send him a crime bill. The problem is that what the President had in mind was an anticrime bill, not a procrime bill.

The bill we have in front of us has the word "crime" in the title. But that is about the only sense in which it is a "crime" bill. This bill is, in most respects, a travesty which seeks to promote the liberal agenda, but would do little to stop crime on our Nation's streets.

As originally introduced, this bill would have outlawed the death penalty and expanded the rights of prisoners and criminal defendants. Some, but not all, of these aspects have been eliminated from the bill.

In its current form, this bill would override Federal and State Hatch Acts for the purpose of politicizing our Nation's law enforcement officers. Neither the police chiefs nor the law enforcement officers themselves can conceivably view this as a salutary development.

At the same time as it takes this country within one step of national firearms registration, this bill would do nothing to impose mandatory minimum sentences for nongun related offenses such as rape, kidnapping, or first degree murder.

Mr. President, the Senate can do better—and it should do better. This bill is not the final step in crime reform legislation during the 102d Congress. We will have plenty of opportunities to revisit the crime issue, ranging from the motor voter bill to the title X bill to the Kennedy quota bill, all of which are slated for Senate consideration this month.

So, Mr. President, let us have a crime bill. But let it be an anticrime bill, rather than the gun control bill which is before us today.

I ask unanimous consent that a letter sent to every Senator from the National Rifle Association that sets out that it is not a crime bill but a gun control bill, along with a letter sent to me from Neal Knox Associates, The Firearms Coalition, explaining the weak parts of this bill be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL RIFLE ASSOCIATION OF AMERICA,
Washington, DC, July 9, 1991.

DEAR SENATOR: The NRA strongly opposes any attempt to limit debate on S. 1241 and asks you to oppose cloture when it is offered. Despite the addition of several positive anti-crime elements to this legislation long with the modification and deletion of several of the more onerous antigun sections, it contains provisions amounting to nothing less than an unmitigated attack on the rights of law-abiding gun owners. The continued inclusion of the unwarranted federal waiting period, the extension of criminal background checks for all firearms including long guns, and the ban and registration of semi-automatic firearms place this bill in diametric opposition to the protections guaranteed by the second amendment.

If the above listed provisions remain, S. 1241 will stand as a watershed for anti-gun forces. By tacitly accepting the flawed logic that controlling the rights of the law-abiding offers a check on the activities of the lawless, you make citizens less secure and criminals more so. This is antithetical to the spirit and the letter of the protections guaranteed by the U.S. Constitution, but more importantly, if opens the door to further diminishment.

Any law which diminishes the ability of citizens to secure the firearms necessary for self-protection is not only wrong, it is counter productive. Rape, robbery, assault, homicides, and other crimes of violence against individuals are at an all time high. However, an average of more than 600,000 of potential crimes such as these are thwarted by armed citizens each year. The vote you cast for S. 1241 may serve to deny present or future constituents the means to acquire the firearms they need to protect themselves or their family. Before you vote to diminish this right you should demand proof that it will serve a purpose other than that of political expediency. S. 1241 does not meet this burden of proof. That such actions are being justified in the name of crime control is a travesty.

S. 1241 is not a crime bill, it is a gun control bill. It does not deserve your support, and we urge you to vote against final passage.

Sincerely,

PATRICK J. RAFFANIELLE,
Director

THE FIREARMS COALITION,
Silver Spring, MD, July 8, 1991.

Senator STEVE SYMMS,
Hart Senate Building,
Washington, DC.

DEAR STEVE: I truly appreciate your statement that S. 1241 is no longer an anti-crime bill; it is now an anti-gun bill. Amen. And it must be voted upon accordingly. We will not eat a rotten steak no matter how much ketchup is on it.

The present language changes the "Brady Bill" section from a 7 day waiting period on handgun purchases to "five business days"—which is a distinction without a difference.

Further, after 30 to 60 months, probably, the "waiting period" will give way to an unwritten "instant check" on all firearms buyers—which few owners and buyers of rifles and shotguns, even few Senators, presently realize.

Finally, S. 1241 contains an outright ban on—initially—14 mainly semi-automatic firearms, with stringent and unrealistic requirements on present owners. Owners would have to register each gun with a licensed dealer, obtain a Federal form from anyone to whom they sold the gun, then keep that records forever. Considering that 70 percent wouldn't tell the Census Bureau how many bathrooms they have, and considering that even IRS requires tax records be kept only for 3 years, this is a prescription for turning countless law-abiding citizens into criminals.

Our friends in the Senate are now faced with the prospect of casting a single vote "for guns and against the death penalty" or "against guns and for the death penalty." Politically, they must not cast a vote on S. 1241, for it is a "Lose-Lose" situation.

To the five million readers of my columns in Guns & Ammo, Handloader, Rifle, and Shotgun News, S. 1241 will be the key vote of the 102d Congress. Frankly, most of my readers regard the "death penalty" as a farce and "habeas corpus" as a variety of mosquito. But they understand "gun control"—they recognize it in S. 1241—and they don't want it.

Please do your best to block S. 1241.

Yours for the Second Amendment,

NEAL KNOX.

The PRESIDING OFFICER. The Senator from Delaware and the Senator from South Carolina each have 5 minutes.

The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I will try to do this as quickly and succinctly as I can. No. 1, the reason there is not a vote on the Helms amendment, notwithstanding its merit or lack thereof, is because there is a refusal to allow votes on other amendments like the Wirth amendment on the other side. And it is clear that if we get into some of these incredibly contentious votes, the bill that my friend from Idaho calls not a crime bill will come down.

Mr. President, 126 days ago, the President of the United States called on the Congress to pass a crime bill.

The Democratic leadership in the Senate has taken this challenge seriously. We have introduced a crime bill, we agreed to bring it directly to the floor, without any delay in committee—and to the majority leader's great credit, he agreed to make the crime bill the first order of business in the Senate after we disposed of the President's other 100-day challenge, the transportation bill.

After 3 weeks of debates, amendments, and votes—today, the Senate stands prepared to pass a crime bill that answers the President's challenge.

Now it is true that this crime bill more closely resembles the Democratic crime bill than the President's—it includes a version of the Brady bill in it; it includes the DeConcini assault weapons ban; it includes our exclusionary rule provision; it includes most of our death penalty procedures, and it includes the many, many important crime fighting programs we Democrats have proposed.

But to the President's credit—and I do want to give him credit for this—it is my understanding that he and the Justice Department have said, that notwithstanding these differences from the President's bill, the President supports Senate passage of this crime bill.

So here we are. The Senate has a crime bill that most Democrats are prepared to support, that the President is prepared to support. Why can we not pass it?

We cannot pass this crime bill because some Senators are engaged in a filibuster of it.

Why? Why do these Senators want to block our adoption of this bill?

It cannot be because the Republicans have been denied their chance to offer anticrime amendments.

When my Republican colleagues wanted a vote on the President's crime bill, we agreed to their request.

And then, when they said, "No, actually, we want to vote on a revised crime bill"—a bill that dropped items from the President's bill and added most of our bill to it—we agreed to that request. And the Senate voted, and rejected this hybrid proposal soundly.

The Republicans wanted a vote on exclusionary rule reform. So we said, OK let's vote on the President's package. And they said, "No thanks," and proposed a reform that was one-half of what the President proposed.

And still, we took an up-and-down vote on it. And again, we rejected it.

The Republicans said they did not want to have the first gun vote be on the Brady bill—they wanted to have a gun substitute, the Stevens bill. So we gave them a vote on the Stevens bill—and, again, we rejected it.

And on, and on, and on. Each time, we have been, in effect, dared to take up and vote on Republican amendments to this bill—and each time, we have voted on them, up and down, just as requested.

So we have had a full airing of the philosophical differences between the President's bill and our bill—the President has won on some, we have won on others—and whatever you want to say about the product, no one can be against cloture because there has not yet been a full airing of our respective views.

Now maybe the opponents of cloture will say that they are voting "no" because they have nongermane amendments they wish to offer to the bill.

We all have amendments we would like to put on this bill. There are dozens of Democratic Senators who have amendments. I have amendments.

But we recognize that there comes a time when each Senator's desire to have his amendments adopted must give way to the Senate's need to complete a bill. On this bill, the Senate has considered and disposed of 84 amendments—84 amendments.

So, it can hardly be said that the bill has been closed to amendment. And so I say to my Republican friends: If we Democratic Senators are prepared to forgo our amendments to pass this bill, why will you not do the same?

Now, perhaps we will hear that some people don't want cloture because they are afraid that the key provisions in the bill will be changed after cloture is invoked. But yesterday, I stood here and proposed that we lock in the key provisions of the bill—an offer the distinguished ranking Member accepted—only to have it rejected by other Republican Senators.

So much for that excuse for being against cloture.

Perhaps we will hear the opposite complaint: That cloture should not be invoked because the major provisions in the bill need to be changed. But to this I say: Many amendments that would change the major provisions in the bill would remain germane postcloture. So invoking cloture does not cut off all efforts to change the exclusionary rule or habeas corpus.

So much for that excuse.

Now I am sure that we will hear a host of other explanations as well. But let's lay the cards on the table. If cloture is not invoked today, it is for one simple reason, and it can be summarized in four letters: g-u-n-s, guns. If cloture is not invoked, it will be because opponents of the firearms provisions in this bill vote to block further progress on the bill.

I respect the rights of any Senator to vote against cloture for any reason. If a Senator wants to oppose cloture because he does not want any crime bill if that bill includes the Brady bill or the DeConcini bill, that is his prerogative, and I respect that.

But I hope we do not hear that Senators are voting against cloture because, as one of my Republican colleagues claimed last week, this is a gun bill, not a crime bill.

This isn't a crime bill? With 60 death penalty offenses—more than even the President's bill contained? With 10,000 new local cops?

Not a crime bill? With unprecedented limits on habeas appeals? With 3,000 new Federal agents? With a rural crime plan?

Not a crime bill? With new mandatory penalties for every gun offense? With an antigang plan? With new prisons and boot camps?

Not a crime bill? Tell that to the police officers waiting out in the reception room—or to those walking the beat today in neighborhoods around the country.

They want this bill. And they want you to vote for cloture on it.

In closing, Mr. President, I want to make two observations.

First, I want to say to my colleagues, that we all make speeches about getting tough on crime. Boy, do we make speeches. We make TV ads. We go to town meetings and tell our constituents how tough we are on crime. And we make more speeches.

Well today, we vote on whether we are going to have a crime bill. And it is high time to see whether our votes are going to match up to our raised voices. Are we going to just give speeches on crime, or are we going to have a crime bill—that's the question.

My second observation concerns the administration, and the politics of crime.

When this bill came to the floor, I called on the administration to take the politics out of this bill; to make it a bipartisan effort; to join us in working out a compromise crime bill.

It has not been easy, but here we are with a crime bill—not the way I wanted it, not the way the President wanted it—but basically, in a fashion that we are both prepared to accept it. Simply put: I support this crime bill. The President supports this crime bill. That dispute is resolved.

I do want to say this: I have been reading over the past few weeks that the White House intends to make crime an issue in the upcoming elections.

And if that is true, I hope the President and the media will not forget today's vote. Because if cloture fails today, and the crime bill is blocked, it won't be because a majority of Democrats vote against cloture—it will be because a majority of the members of the President's own party vote to block a crime bill.

So let's not hear about the Republicans being tougher on crime. I hope we won't hear any statements from the White House about congressional foot-dragging on crime unless those statements also include an accurate report that the cause of the delay is members of the President's own party.

Crime is not a political issue, or at least it should not be. And before anyone tries to make it one, they should stop and reflect on today's vote, and what it means.

With regard to what we had agreed to in terms of the amendments that we had agreed to by unanimous consent, if all my papers are here—here they are. I want to make clear what they are. They have been out there for a long time. We have been on this for 3 weeks.

This is Rudman amendment, which we accepted, which changes the Biden bill in the following way: It says instead of the drug czar deciding where we place these boot camps, the Director of the Bureau of Prisons will make that decision. I accepted that amendment.

Mr. President, there is a D'Amato amendment that is a purely technical amendment relating to a previous amendment the Senate had passed, having to do with whereas and wherefores, and it does not change the substance of what was passed.

There is a Dole technical amendment on guns; there is a Seymour amendment on alien exploitation, where if someone has an alien, or has control of an alien, and says, "Unless you commit the following crime, I will report you and you will be deported," it calls for a penalty for that.

There is a McConnell amendment changing the McNally ruling so that wire fraud statutes can be used more easily against public officials who are engaged in wrongdoing.

There is a Thurmond-Biden technical amendment which is purely technical.

There is a Bingaman technical amendment relating to the Bingaman amendment which we passed relating to literacy training and teaching in prisons.

There is a Riegle amendment on violent crime by minorities, where some of these new grants will go into the cities with the highest crime rates.

There is a DeConcini amendment setting up a Commission on Law Enforcement to help the law enforcement agencies to determine what new initiatives they can take, and how they can better organize to deal with violent crime.

And there is a Graham prison amendment which says that if you use dope, if you use narcotics, if you use controlled substances while you are in prison, it increases the penalty for those. That is what we just did, Mr. President.

And this brings us to a total of 94 amendments that have been disposed of relative to this bill, and cloture is the only way, the only way to get a crime bill the President wants and all America wants.

So we can play games all we want, all night. We can be petulant; we can insist that every one of our amendments or only our amendments get accepted. It will be totally appropriate in light of what we just heard for Senator WIRTH to come over here and suggest that he is going to insist on a vote on his amendment, and so on.

But I hope we do not do that. I hope we get a crime bill. There are a number of other vehicles that are available to pursue amendments that in fact have not been accepted and will be out of order because they are not germane if we vote cloture.

I thank my colleagues for listening, and I hope we invoke cloture.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise to say that I am in favor of invoking cloture on this bill. This bill contains the key points of the President's bill. They have been incorporated into the bill offered by the distinguished Senator from Delaware, the chairman of the committee: The comprehensive Federal death penalty, which is virtually identical to the death penalty contained in the President's crime bill—and this will give Federal prosecutors their first comprehensive death penalty since 1972.

This bill contains a habeas corpus reform which is extremely important. The Senate passed President Bush's habeas corpus reform proposal, which is the toughest habeas reform ever to pass this Senate.

And this bill contains a provision on antiterrorism that is important. Senator BIDEN essentially accepted the President's language on aviation and maritime terrorism.

This bill contains a provision on victims. The bill lifts the cap on the crime victim fund which helps crime victims recover financially. In addition, the bill contains language on mandatory restitution for crime victims.

So, Mr. President, this bill contains some things that I do not approve of. But on account of containing the main provisions of the President's crime bill, which we have incorporated into this bill, I feel that they outweigh the detrimental portions of the bill and we should pass this crime bill.

The people of this country are demanding action on this crime bill. I do not know of anybody anywhere that does not favor taking action on crime. There is too much crime all over this country; not just here, in Washington, DC, but in all the States of the Nation. And the people are looking to us to pass a bill that will take care of this crime situation.

Therefore, I am going to vote for cloture, and I hope every Member of this Senate will vote for cloture. I certainly hope we get enough to apply cloture. Anyway, the provisions that my distinguished chairman of the committee just mentioned—he has listed those—I will not go over them again. We have reached a consensus on those. I want some others there, but we could not reach a consensus on them. I wanted a vote on some others, in addition to that, but the chairman of the committee decided we could not do that.

So at any rate, these are provisions that I think are helpful, and I am willing to go along with them and adopt them at this time prior to the voting on cloture.

So, Mr. President, I am hoping that we can adopt these provisions that have been agreed upon en bloc, and then vote for cloture on this crime bill.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 8:30 p.m. having arrived, under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 1241, a bill to control and reduce violent crime.

Wyche Fowler, Jr., Quentin Burdick, J.R. Biden, Jr., B.A. Mikulski, Herb Kohl, Claiborne Pell, Edward Kennedy, Jeff Bingaman, Pat Leahy, Albert Gore, Jr., Joe Lieberman, Wendell Ford, Dennis DeConcini, Alan Cranston, Charles S. Robb, and Tom Daschle.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that the debate on S. 1241, a bill to control and reduce violent crime, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND] is necessarily absent.

The yeas and nays resulted—yeas 71, nays 27, as follows:

[Rollcall Vote No. 123 Leg.]

YEAS—71

Adams
Akaka
Bentsen
Biden
Bingaman
Boren
Bradley
Brown
Bryan
Bumpers
Burdick
Byrd
Chafee
Cochran
Cohen
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Gorton
Graham
Harkin
Hatfield
Hollings
Inouye
Jeffords
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Simon
Simpson
Specter
Thurmond
Wirth
Wofford

NAYS—27

Baucus
Breaux
Burns
Coats
Craig
Danforth
Garn
Gramm
Grassley
Hatch
Heflin
Helms
Johnston
Lott
Lugar
Mack
McCain
Murkowski
Nickles
Pressler
Shelby
Smith
Stevens
Symms
Wallop
Warner
Wellstone

NOT VOTING—2

Bond
Pryor

The PRESIDING OFFICER (Mr. FORD). On this vote, there are 71 yeas, 27 nays. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION—MESSAGE FROM THE PRESIDENT—PM 60

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Armed Services:

To the Congress of the United States:

I transmit herewith the report of the Defense Base Closure and Realignment Commission pursuant to section 2903 of Public Law 101-510; 104 Stat. 1810, accompanied by the Commission's errata sheet submitted to me on July 9, 1991.

I also hereby certify that I approve all the recommendations contained in the Commission's report.

GEORGE BUSH.

THE WHITE HOUSE, *July 10, 1991.*

MESSAGES FROM THE HOUSE

At 12:17 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 1455) to authorize appropriations for fiscal year 1991 for intelligence activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Permanent Select Committee on Intelligence: Mr. MCCURDY, Mr. WILSON, Mrs. KENNELLY, Mr. GLICKMAN, Mr. MAVROULES, Mr. RICHARDSON, Mr. SOLARZ, Mr. DICKS, Mr. DELLUMS, Mr. BONIOR, Mr. SABO, Mr. OWENS of Utah, Mr. SHUSTER, Mr. COMBEST, Mr. BEREUTER, Mr. DORNAN of California, Mr. YOUNG of Florida, Mr. MARTIN, and Mr. GEKAS.

From the Committee on Armed Services, for the consideration of the Department of Defense Tactical Intelligence and related activities and section 505 of both the House bill and Senate amendment: Mr. ASPIN, Mr. SKELTON, and Mr. DICKINSON.

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 531. An act to establish procedures to improve the allocation and assignment to the electromagnetic spectrum, and for other purposes.

H.R. 2387. An act to authorize appropriations for certain programs for the conservation of striped bass, and for other purposes;

H.R. 2720. An act to extend for 1 year the authorization of appropriations for the programs under the Child Abuse Prevention and Treatment Act, and the Family Violence Prevention and Services Act, and for certain programs relating to adoption opportunities, and for other purposes; and

H.J. Res. 279. Joint resolution to declare it to be the policy of the United States that there should be a renewed and sustained commitment by the Federal Government and the American people to the importance of adult education.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 113. Concurrent resolution to express the sense of the Congress that the President should seek an international moratorium on the use of large-scale driftnets called for in United Nations Resolution 44-225, while working to achieve the United States policy of a permanent ban on large-scale driftnets.

The message also announced that pursuant to the provisions of section 3(a) of Public Law 86-380, and the order of the House of June 26, 1991, empowering the Speaker to make appointments authorized by law or by the House, the

Speaker, on June 28, 1991, did appoint Mr. Payne of New Jersey to the Advisory Commission on Intergovernmental Relations on the part of the House.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2387. An act to authorize appropriations for certain programs for the conservation of striped bass, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 2720. An act to extend for 1 year the authorizations of appropriations for the programs under the Child Abuse Prevention and Treatment Act, and the Family Violence Prevention and Services Act, and for certain programs relating to adoption opportunities, and for other purposes; to the Committee on Labor and Human Resources.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 531. An act to establish procedures to improve the allocation and assignment to the electromagentic spectrum, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs:

Raoul Lord Carroll, of the District of Columbia, to be President, Government National Mortgage Association;

Constance Tastine Harriman, of California, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 1995;

Eugene Peters, of Pennsylvania, to be a Member of the Board of Directors of the National Corporation for Housing Partnerships for the term expiring October 27, 1992; and

David W. Mullins, Jr., of Arkansas, to be Vice Chairman of the Board of Governors of the Federal Reserve System for a term of 4 years.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COCHRAN (for himself, Mr. Bumpers, Mr. Lott, Mr. Pryor, Mr. Grassley, Mr. Heflin, Mr. McConnell, Mr. Shelby, Mr. Seymour, Mr. Boren, Mr. Thurmond, Mr. Breaux, Mr. Fowler, Mr. Johnston, Mr. Bentsen, Mr. Adams, Mr. Burdick, Mr. Gore, Mr. Nunn, Mr. Gramm, Mr. Sanford, Mr. Sasser, Mr. Daschle, Mr. Hollings, Mr. Cranston, and Mr. Craig):

S. 1441. A bill to provide disaster assistance to agricultural producers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PRESSLER:

S. 1442. A bill relating to the rights of consumers in connection with telephone advertising; to the Committee on Commerce, Science, and Transportation.

By Mr. GARN (for himself and Mr. Hatch):

S. 1443. A bill to clarify the treatment of mineral materials on public lands; to the Committee on Energy and Natural Resources.

By Mr. SIMON:

S. 1444. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for 25 percent of the purchase price of new electric-powered automobiles; to the Committee on Finance.

By Mr. LAUTENBERG (for himself, Mr. Durenberger, and Mr. Lieberman):

S. 1445. A bill to amend the Safe Drinking Water Act to reduce human exposure to lead in drinking water; to the Committee on Environment and Public Works.

By Mr. SPECTER (for himself and Mr. Wofford):

S.J. Res. 175. Joint resolution disapproving the recommendations of the Defense Base Closure and Realignment Commission; to the Committee on Armed Services.

By Mr. DIXON (for himself and Mr. Burns):

S.J. Res. 176. Joint resolution to designate March 19, 1992, as "National Women in Agriculture Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself, Mr. Mitchell, Mr. Specter, Mr. Cranston, and Mr. Kerry):

S. Con. Res. 51. Concurrent resolution authorizing the use of the rotunda of the Capitol by the National League of POW/MIA Families for a ceremony to honor the members of the Armed Services and civilians missing and unaccounted for as a result of the Vietnam conflict; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COCHRAN (for himself, Mr. Bumpers, Mr. Lott, Mr. Pryor, Mr. Grassley, Mr. Heflin, Mr. McConnell, Mr. Shelby, Mr. Seymour, Mr. Boren, Mr. Thurmond, Mr. Breaux, Mr. Fowler, Mr. Johnston, Mr. Bentsen, Mr. Adams, Mr. Burdick, Mr. Gore, Mr. Nunn, Mr. Gramm, Mr. Sanford, Mr. Sasser, Mr. Daschle, and Mr. Hollings):

S. 1441. A bill to provide disaster assistance to agricultural producers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURE DISASTER ASSISTANCE ACT

Mr. COCHRAN. Mr. President, there have been some very serious weather problems throughout the country this year and last year which have caused some serious problems for American agriculture. The 1990 farm bill has several provisions such as the Emergency Loan Program and other programs that are designed to respond to some of the needs that farmers have as a result of natural disasters such as severe weather problems. But we have found that in the administration of the programs, particularly the Emergency Loan Program, the requirements for eligibility and the exact steps that were required of farmers to qualify for loans were such that very few were being approved.

In testimony before the Agriculture Appropriations Subcommittee this came out in the early part of this year when we were having our usual hearings which included witnesses from the Farmers Home Administration. As a result of the information obtained from these hearings and in visiting with farmers throughout my State of Mississippi and across the country, it became obvious that we needed additional assistance from the administration or possibly additional legislation. We worked with the Secretary of Agriculture and other administration officials to try to identify things that could be done administratively to respond to these problems.

I must say, Mr. President, that the Secretary and his staff have worked very hard to help meet some of these needs, but it seems to me that in spite of some very sensitive changes that have already been made we do need additional assistance.

Today, I am introducing an agriculture disaster assistance act which will provide what we hope will be adequate assistance to farmers in the form of direct payments for eligible producers of 1990 or 1991 crops that were prevented from planting or that have experienced reduced yields due to damaging weather conditions.

I am happy to report, Mr. President, that over 20 Senators are joining in cosponsoring this legislation.

Thousands of farm families throughout the country have been adversely affected by devastating crop losses due to drought, flood, and freeze damage during 1990 and the current growing season. This bill will provide disaster assistance in the form of direct payments to eligible producers of all 1990 or 1991 crops that were prevented from planting or that have experienced reduced yields due to damaging weather conditions.

It is imperative that we assist these farmers who have suffered great losses due to conditions beyond their control.

I have received many letters from across the Nation requesting disaster assistance for 1990 crop losses due to adverse weather conditions. In fact, in my State, it is estimated that farmers lost nearly $100 million due to natural disasters during the 1990 growing season.

Agricultural production in the Midsouth region of the country is currently suffering from a deluge of record flooding that has caused severe damage. During this spring nearly 2 million acres of crop land was flooded in Mississippi alone. These heavy rains resulted in the delayed planting of thousands of acres of cotton, rice, and soybeans which will cause a significant reduction in normal production yields. It is estimated that over 100,000 acres of crop land in Mississippi will not be planted this year due to flooding. In addition to the row crop losses, there were several thousand acres of commercial catfish ponds which were flooded. Many of the farmers affected by this year's floods, also suffered devastating crop losses during last year's growing season.

Mr. President, this bill satisfies the provision in the Omnibus Budget Reconciliation Act of 1990, pertaining to the designation of an emergency by Congress. If enacted, the Secretary of Agriculture would have the authority to utilize funds from the Commodity Credit Corporation to provide disaster assistance only if the President designates that an emergency exists. Therefore, this bill is designed to provide needed disaster assistance without triggering a sequester under the Budget Act, as amended.

The principal provisions of this legislation are as follows:

For 1990 crop losses: Producers who have had losses to their 1990 crops may elect to obtain benefits under the emergency crop loss assistance provisions of the Food, Agriculture, Conservation, and Trade Act of 1990, but may not obtain benefits for crop losses in both 1990 and 1991.

For 1991 crop losses: Program crop participants will retain their advance deficiency payment on up to 35 percent of normal production on maximum payment acres. For losses of 36 to 75 percent of normal production, they will receive 65 percent of the target price and for losses of more than 75 percent of normal production, they will receive 90 percent of the target price.

Nonprogram participants with losses of 36 to 75 percent of normal production will receive 65 percent of the loan value and for losses of more than 75 percent, producers will receive 90 percent.

Provides prevented planting and reduced yield benefits for crops planted, or intended to be planted, on all flex acres on the same basis as nonparticipants or nonprogram crops, whichever is applicable.

Provides payments to producers of peanuts, sugar beets, sugarcane, and tobacco at a rate of 65 percent of price support level for losses in excess of 35 percent and 90 percent for losses in excess of 75 percent. Losses are measured by county average yield, payment yield, or farm marketing quota as applicable.

Provides payments to producers of oilseeds and other nonprogram crops at a rate of 65 percent of the 5-year average market price received by producers, excluding the high and low years, for losses in excess of 35 percent of the 3-year average yield and 90 percent for losses in excess of 75 percent.

Provides payments to operators of commercial aquaculture ventures for financial losses as a result of damaging weather on the same basis as for other nonprogram crops. It also authorizes an emergency cost-share program to provide for repair of damaged levees used for commercial aquaculture.

Reauthorizes the Emergency Livestock Feed Assistance Program.

Authorizes additional payments to producers of crops that suffer losses from the reduced quality of such crops due to damaging weather or related conditions.

Authorizes payments for reduced yields to be calculated on the basis of crop production by a producer on the farm if there are multiple producers on the same farm who collectively do not qualify.

Authorizes the Secretary to make a reasonable adjustment to disaster payments to reflect the income generated by any replacement crop produced on the same acreage, provided the adjustment does not exceed 5 percent of the value of the replacement crop.

Authorizes loan guarantees to rural businesses impacted directly or indirectly by the adverse weather.

I ask unanimous consent that the bill and the bill summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Agricultural Disaster Assistance Act of 1991".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—EMERGENCY LIVESTOCK ASSISTANCE

Sec. 101. Emergency feed and related assistance.
Sec. 102. Emergency forage program.
Sec. 103. Emergency aquaculture program.

TITLE II—EMERGENCY CROP LOSS ASSISTANCE

Subtitle A—Annual Crops

Sec. 201. Payments to program participants for target price commodities.
Sec. 202. Payments to program nonparticipants for target price commodities.
Sec. 203. Peanuts, sugar, and tobacco.
Sec. 204. Oilseeds and nonprogram crops.
Sec. 205. Crop quality reduction disaster payments.
Sec. 206. Effect of Federal crop insurance payments.
Sec. 207. Crop insurance coverage for the 1992 crops.
Sec. 208. Transfer of funds.
Sec. 209. Crops harvested for forage uses.
Sec. 210. Payment limitations.
Sec. 211. De minimis yields.
Sec. 212. Producer eligibility.
Sec. 213. No double payments on replanted acreage.
Sec. 214. Substitution of crop insurance program yields.

Subtitle B—Administrative Provisions

Sec. 221. Timing and manner of assistance.
Sec. 222. Use of Commodity Credit Corporation.
Sec. 223. Emergency crop loss assistance for the 1990 crops.
Sec. 224. Emergency designation of outlays.
Sec. 225. Regulations.

Subtitle C—Sense of Congress

Sec. 231. Purposes of disaster payments.

TITLE III—OTHER EMERGENCY PROVISIONS

Sec. 301. Disaster assistance for rural business enterprises.
Sec. 302. Shifting of crop acreage bases.

SEC. 2. DEFINITIONS.

As used in this Act:

(1) DAMAGING WEATHER.—The term "damaging weather" includes but is not limited to drought, hail, excessive moisture, freeze, tornado, hurricane, earthquake, excessive wind, or any combination thereof.

(2) RELATED CONDITION.—The term "related condition" includes but is not limited to insect infestations, plant diseases, or other deterioration of a crop of a commodity, including aflatoxin, that is accelerated or exacerbated naturally as a result of damaging weather occurring prior to or during harvest.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

TITLE I—EMERGENCY LIVESTOCK ASSISTANCE

SEC. 101. EMERGENCY FEED AND RELATED ASSISTANCE.

Section 609 of the Agricultural Act of 1949 (7 U.S.C. 1471g) is amended by adding at the end the following new subsections:

"(e) No person may receive benefits under this title attributable to lost production of a feed commodity due to damaging weather in 1991 to the extent that the person receives a disaster payment under the Disaster Assistance Act of 1991 on that lost production.

"(f) A person otherwise eligible for a livestock emergency benefit under this title in 1991 shall be subject to the combined payment and benefits limitation established under section 210(c) of the Disaster Assistance Act of 1991.".

SEC. 102. EMERGENCY FORAGE PROGRAM.

(a) IN GENERAL.—The Secretary shall implement an emergency forage program for established pasture damaged by damaging weather or related condition in 1991, under which the Secretary shall enter into cost-share agreements with owners or operators of the damaged land to provide for reseeding of forage crops on the land in order to facilitate late fall 1991 and early spring 1992 grazing and haying. Assistance may be provided to the owners and operators only when—

(1) the forage crop will not regenerate naturally;

(2) reseeding is the most cost-effective method for reestablishing the forage crop; and

(3) reseeding is not undertaken simply to improve the forage crop damaged by the drought.

(b) COST-SHARE.—The Secretary shall share half the costs incurred under each agreement entered into under subsection (a), including the costs of seed, fertilizer, and other inputs on reseeded pasture.

(c) LIMITATIONS ON ASSISTANCE.—

(1) TOTAL ASSISTANCE.—The total amount of payments an owner or operator of pasture land shall be entitled to receive under this section shall be $3,500.

(2) RESEEDING.—The Secretary may cost-share for reseeding under this section only if the reseeding is to be used for nonannual crops planted for pasture purposes.

(d) FUNDING.—

(1) IN GENERAL.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section as provided under section 224.

(2) LIMITATION.—Not more than $50,000,000 of the funds of the Commodity Credit Corporation may be expended under paragraph (1).

(3) PRORATION.—To ensure the equitable award of agreements under this section, as limited under paragraph (2), the Secretary may prorate, and adopt procedures to facilitate the proration of, funds made available under this section.

SEC. 103. EMERGENCY AQUACULTURE PROGRAM.

(a) IN GENERAL.—The Secretary shall implement an emergency aquaculture program to assist owners and operators of established commercial fresh water aquaculture operations in restoring the retention levees and other structural improvements that have been damaged by damaging weather or related condition in 1991.

(b) COST-SHARE.—Assistance under this section shall be provided through cost-share agreements entered into by the Secretary with the owners and operators for the restoration of the damaged levees and other structural improvements. The Secretary shall share half the costs incurred under each agreement based on damage surveys made pursuant to regulations issued by the Secretary.

(c) FUNDING.—

(1) IN GENERAL.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section as provided in section 224.

(2) LIMITATION.—Not more than $5,000,000 of the funds of the Commodity Credit Corporation may be expended under paragraph (1).

(3) PRORATION.—To ensure the equitable award of funds for agreements under this section as a result of the limitations in paragraphs (1) and (2), the Secretary may prorate, and adopt procedures to facilitate the proration of, funds made available under this section.

TITLE II—EMERGENCY CROP LOSS ASSISTANCE

Subtitle A—Annual Crops

SEC. 201. PAYMENTS TO PROGRAM PARTICIPANTS FOR TARGET PRICE COMMODITIES.

(a) DISASTER PAYMENTS.—

(1) IN GENERAL.—Effective only for producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for the 1991 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, except as otherwise provided in this subsection, if the Secretary determines that, because of damaging weather or related condition in 1991, the total quantity of the 1991 crop of the commodity that the producers are able to harvest on the farm is less than the result of multiplying 65 percent of the farm program payment yield established by the Secretary for the crop by the sum of the acreage planted for harvest and the acreage prevented from being planted (because of damaging weather or related condition in 1991) within the payment acres as determined by the Secretary for the crop, the Secretary shall make a disaster payment available to the producers at a rate equal to—

(A) 65 percent of the established price for the crop for any deficiency in production greater than 35 percent, but not greater than 75 percent, for the crop; and

(B) 90 percent of the established price for the crop for any deficiency in production greater than 75 percent for the crop.

(2) LIMITATIONS.—

(A) PAYMENT ACRES.—Payments provided under paragraph (1) for a crop of a commodity may not be made available to producers on a farm with respect to any acreage in excess of the payment acres for the farm for the commodity.

(B) PLANTING FLEXIBILITY.—

(i) IN GENERAL.—Payments shall be made available as provided in section 202, 203, or 204 of this Act, as applicable, to the extent the Secretary determines that because of damaging weather or other related condition in 1991 there is a reduction in the quantity of the crop of a commodity that producers are able to harvest, in accordance with section 504 of the Agricultural Act of 1949 (7 U.S.C. 1464).

(ii) AMOUNT OF PAYMENTS.—The payments shall be based on losses to the commodity on the nonpaid flexible acreage. The acreage for which prevented planting credit shall be provided shall not exceed an amount determined by the Secretary that will provide fair and equitable treatment to producers.

(C) CROP INSURANCE.—Payments provided under paragraph (1) for a crop of a commodity may not be made available to producers on a farm unless the producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 207.

(3) DEFICIENCY PAYMENTS.—The total quantity of a crop of a commodity on which deficiency payments otherwise would be payable to producers on a farm under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) shall be reduced by the quantity on which a payment is made to the producers for the crop under paragraph (1).

(4) ELECTION OF PAYMENTS.—Effective only for the 1991 crops of wheat, feed grains, cotton, and rice, in the case of producers on a farm who elected after March 11, 1991, to devote all or a portion of the permitted acreage of the farm for the commodity to conservation or other uses in accordance with section 107B(c)(1)(E), 105B(c)(1)(E), 103B(c)(1)(D), or 101B(c)(1)(D) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3a(c)(1)(C), 1444f(c)(1)(E), 1444-2(c)(1)(D), or 1441-2(c)(1)(D)), the Secretary shall allow the producers (within 30 days after the date of the enactment of this Act) to elect whether to receive disaster payments in accordance with this subsection in lieu of payments under such section.

(b) ADVANCE DEFICIENCY PAYMENTS.—

(1) APPLICABILITY.—This subsection shall apply only to producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for the 1991 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice.

(2) PAYMENTS.—

(A) IN GENERAL.—Subject to subparagraph (B), if because of damaging weather or related condition in 1991 the total quantity of the 1991 crop of the commodity that the producers are able to harvest on the farm is less than the result of multiplying the farm program payment yield established by the Secretary for the crop by the sum of the payment acreage planted for harvest and the payment acreage prevented from being planted (because of the damaging weather, as determined by the Secretary) for the crop (hereafter referred to as the "qualifying amount"), the producers shall not be required to refund any advance deficiency payment made to the producers for the crop under section 114 of the Agricultural Act of 1949 (7 U.S.C. 1445j) with respect to that portion of the deficiency in production that does not exceed 35 percent of the qualifying amount.

(B) CROP INSURANCE.—Producers on a farm shall not be eligible for the forgiveness provided for under subparagraph (A), unless the producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 207.

(3) ELECTION.—The Secretary shall allow producers on a farm that elected, prior to the date of enactment of this Act, not to receive advance deficiency payments made available for the 1991 crop under section 114 of the Agricultural Act of 1949 (7 U.S.C. 1445j) to elect (within 30 days after the date of the enactment of this Act) whether to receive the advance deficiency payments.

(4) REFUND.—Effective only for the 1991 crops of wheat, feed grains, upland cotton, extra long staple cotton, and rice, if the Secretary determines that any portion of the advance deficiency payment made to producers for the crop under section 114 of the Agricultural Act of 1949 (7 U.S.C. 1445j) must be refunded, the refund shall not be required prior to July 31, 1992, for that portion of the crop for which a disaster payment is made under subsection (a).

SEC. 202. PAYMENTS TO PROGRAM NONPARTICIPANTS FOR TARGET PRICE COMMODITIES.

(a) DISASTER PAYMENTS.—

(1) APPLICABILITY.—Except as provided in section 201(a)(2)(B), this section is effective only for producers on a farm who elected not to participate in the production adjustment program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for the 1991 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice.

(2) PAYMENT.—If the Secretary determines that because of damaging weather or related condition in 1991, the total quantity of the 1991 crop of the commodity that the producers are able to harvest on the farm or on the nonpaid flexible acreage is less than the result of multiplying 65 percent of the county average yield established by the Secretary for the crop by the sum of acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for the crop under subsection (b), the Secretary shall make a disaster payment available to the producers. The payment shall be made to the producers at a rate equal to—

(1) 65 percent of the basic county loan rates (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary, for any deficiency in production greater than 35 percent, but not greater than 75 percent, for the crop; and

(2) 90 percent of the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as deter-

mined by the Secretary, for any deficiency in production greater than 75 percent for the crop.

(b) Prevented Planting Credit.—

(1) In general.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting to the 1991 crop of the commodity for harvest on the farm because of damaging weather or related condition in 1991, as determined by the Secretary.

(2) Acreage limitations.—The acreage may not exceed the greater of—

(A) a quantity equal to the acreage on the farm planted (or prevented from being planted due to damaging weather or other condition beyond the control of the producers) to the commodity for harvest in 1990 minus acreage actually planted to the commodity for harvest in 1991; or

(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to damaging weather or other condition beyond the control of the producers) to the commodity for harvest in 1988, 1989, and 1990, minus acreage actually planted to the commodity for harvest in 1991.

(3) Adjustments.—The Secretary shall make appropriate adjustments in applying the limitations contained in this subsection to take into account crop rotation practices of the producers.

(c) Limitations.—

(1) Acreage limitation program percentage.—The amount of payments made available to producers on a farm for a crop of a commodity under subsection (a) shall be reduced by a factor equivalent to the acreage limitation program percentage established for the crop under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

(2) Crop insurance.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless the producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 207.

SEC. 203. PEANUTS, SUGAR, AND TOBACCO.

(a) Disaster Payments.—

(1) In general.—Effective only for the 1991 crops of peanuts, sugar beets, sugarcane, and tobacco, if the Secretary determines that, because of damaging weather or related condition in 1991, the total quantity of the 1991 crop of the commodity that the producers on a farm are able to harvest is less than the result of multiplying 65 percent of the county average yield (or program yield, in the case of peanuts) established by the Secretary for the crop by the sum of the acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for the crop under subsection (b), the Secretary shall make a disaster payment available to the producers.

(2) Payment rate.—The payment shall be made to the producers at a rate equal to—

(A) 65 percent of the applicable payment level under paragraph (2), as determined by the Secretary, for any deficiency in production greater than 35 percent, but not greater than 75 percent, for the crop (or in the case of a crop of burley tobacco or flue-cured tobacco, for any deficiency in production greater than 35 percent, but not greater than 75 percent, of the farm's effective marketing quota for 1991); and

(B) 90 percent of the applicable payment level under paragraph (2), as determined by the Secretary, for any deficiency in production greater than 75 percent for the crop (or, in the case of burley tobacco or flue-cured tobacco, for any deficiency in production greater than 75 percent of the farm's effective marketing quota for 1991).

(3) Payment level.—For purposes of paragraph (1), the payment level for a commodity shall be equal to—

(A) for peanuts, the price support level for quota peanuts or the price support level for additional peanuts, as applicable;

(B) for tobacco, the national average loan rate for the type of tobacco involved, or (if there is none) the market price, as determined under section 204(a)(2); or

(C) for sugar beets and sugarcane, a level determined by the Secretary to be fair and reasonable in relation to the level of price support established for the 1991 crops of sugar beets and sugarcane, and that, insofar as is practicable, shall reflect no less return to the producer than under the 1991 price support levels.

(b) Prevented Planting Credit.—

(1) In general.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting to the 1991 crop of the commodity for harvest because of damaging weather or related condition in 1991, as determined by the Secretary.

(2) Acreage limitations.—The acreage may not exceed the greater of—

(A) a quantity equal to the acreage on the farm planted (or prevented from being planted due to damaging weather or other condition beyond the control of the producers) to the commodity for harvest in 1990 minus acreage actually planted for harvest in 1991; or

(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to damaging weather or other condition beyond the control of the producers) to the commodity for harvest in 1988, 1989, and 1990, minus acreage actually planted to the commodity for harvest in 1991.

(3) Adjustments.—The Secretary shall make appropriate adjustments in applying the limitations contained in paragraph (2) to take into account crop rotation practices of the producers and increased quotas for the 1991 crops of tobacco.

(c) Crop Insurance.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless the producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 207.

(d) Special Rules for Peanuts.—Notwithstanding any other provision of law—

(1) a deficiency in production of quota peanuts from a farm, as otherwise determined under this section, shall be reduced by the quantity of peanut poundage quota that was the basis of the anticipated production that has been transferred from the farm;

(2) payments shall be made under this section whether the deficiency in production was a deficiency in production of quota or additional peanuts and the payment rate shall be established accordingly; and

(3) the quantity of undermarketings of quota peanuts from a farm for the 1991 crop that may otherwise be claimed under section 358 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358) for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of the peanuts for which payment has been received under this section.

(e) Special Rules for Tobacco.—Notwithstanding any other provision of law—

(1) the quantity of undermarketings of quota tobacco from a farm for the 1991 crop that may otherwise be claimed under section 317 or 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c or 1314e) for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of the tobacco for which payment has been received under this section; and

(2) disaster payments made to producers under this section may not be considered by the Secretary in determining the net losses of the Commodity Credit Corporation under section 106A(d) of the Agricultural Act of 1949 (7 U.S.C. 1445-1(d)).

(f) Special Rule for Sugar.—

(1) Inability to process.—A producer of the 1991 crop of sugarcane or sugar beets that is unable to process the commodity into sugar because of the inability of local processing plants to process sugar as a result of damaging weather or related condition in 1991 shall be eligible for disaster payments in accordance with subsection (a) for any loss in sugar production attributable to the inability. Disaster payments made available under this subsection for the loss of production shall be reduced by an amount equal to any proceeds received by the producer from the disposition of that portion of the crop on which disaster payments are made.

(2) Sugarcane.—For purposes of determining the total quantity of the 1991 crop of sugarcane that the producers on a farm are able to harvest, the Secretary shall make the determination based on the quantity of recoverable sugar.

SEC. 204. OILSEEDS AND NONPROGRAM CROPS.

(a) Disaster Payments.—

(1) In general.—

(A) In general.—Effective only for the 1991 crops of oilseeds and nonprogram crops, if the Secretary determines that, because of damaging weather or related condition in 1991, the total quantity of the 1991 crop of the commodity that the producers on a farm are able to harvest is less than the result of multiplying 65 percent of—

(i) with respect to oilseeds, the State, area, or county yield, adjusted for adverse weather conditions during the 3 previous crop years, as determined by the Secretary; or

(ii) with respect to nonprogram crops, the yield established by the Commodity Credit Corporation under subsection (d)(2),

for the crop by the sum of the acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for the crop under subsection (b), the Secretary shall make a disaster payment available to the producers.

(B) Rates.—The payment shall be made to the producers at a rate equal to—

(i) 65 percent of the applicable payment level under paragraph (2), as determined by the Secretary, for any deficiency in production greater than 35 percent, but not greater than 75 percent, for the crop; and

(ii) 90 percent of the applicable payment level under paragraph (2), as determined by the Secretary, for any deficiency in production greater than 75 percent for the crop.

(2) Payment level.—For purposes of paragraph (1), the payment level for a commodity shall equal the simple average price received by producers of the commodity, as determined by the Secretary subject to paragraph (3), during the marketing years for the immediately preceding 5 crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period.

(3) Method of determining payments.—

(A) Crop-by-crop basis.—The Secretary shall make disaster payments under subsection (a) on a crop-by-crop basis, with consideration given to markets and uses of the crops, under regulations issued by the Secretary.

(B) Separate crops.—For the purposes of determining the payment levels on a crop-by-crop basis, the Secretary shall consider as separate crops, and develop separate payment levels insofar as is practicable for, different varieties of the same commodity for which there is a significant difference in the economic value in the market.

(b) Prevented Planting Credit.—

(1) In general.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting to the 1991 crop of the commodity for harvest because of damaging weather or related condition in 1991, as determined by the Secretary.

(2) Acreage limitation.—The acreage may not exceed the greater of—

(A) a quantity equal to the acreage on the farm planted (or prevented from being planted because of damaging weather or other condition beyond the control of the producers) to the commodity for harvest in 1990 minus acreage actually planted for harvest in 1991; or

(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to damaging weather or other condition beyond the control of the producers) to the commodity for harvest in 1988, 1989, and 1990, minus acreage actually planted to the commodity for harvest in 1991.

(3) Adjustments.—The Secretary shall make appropriate adjustments in applying the limitations contained in paragraph (2) to take into account crop rotation practices of the producers.

(c) Crop Insurance.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless the producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 207.

(d) Special Rules for Nonprogram Crops.—

(1) Farm yields.—

(A) In general.—The Commodity Credit Corporation shall establish disaster program farm yields for nonprogram crops.

(B) Basis.—The yield for a farm shall be based on proven yields, if the producers on the farm can provide satisfactory evidence to the Commodity Credit Corporation of actual crop yields on the farm for at least one of the immediately preceding 3 crop years. If the data do not exist for any of the 3 preceding crop years, the Commodity Credit Corporation shall establish a yield for the farm by using a county average yield for the commodity or by using other data available to it.

(3) Demonstration of losses.—It shall be the responsibility of the producers of nonprogram crops to provide satisfactory evidence of crop losses resulting from damaging weather or related condition in 1991 in order for the producers to obtain disaster payments under this section.

(4) Nonprogram crops.—

(A) In general.—As used in this section, the term "nonprogram crops" means all crops for which crop insurance through the Federal Crop Insurance Corporation was available for crop year 1991, and other commercial crops (including sweet potatoes) for which the insurance was not available for crop year 1991, except that the term shall not include a crop covered under section 201, 202, or 203, or oilseeds.

(B) Fish or seafood.—As used in the nonprogram crop provisions of this section—

(i) a reference to the acreage on the farm planted for harvest, or prevented from being planted, shall be considered to refer to the acreage of the pond or other aquatic areas in which the fish or seafood are produced or prevented from being produced; and

(ii) the term "nonprogram crop" includes fish or seafood produced or prevented from being produced in established freshwater commercial aquaculture operations.

SEC. 205. CROP QUALITY REDUCTION DISASTER PAYMENTS.

(a) In General.—To ensure that all producers of 1991 crops covered under the sections 201 through 203, and producers of oilseeds, are treated equitably, the Secretary may make additional disaster payments to producers of the crops that suffer losses resulting from the reduced quality of the crops caused by damaging weather or related condition in 1991, as determined by the Secretary.

(b) Eligible Producers.—If the Secretary determines to make crop quality disaster payments available to producers under subsection (a), producers on a farm of a crop described in subsection (a) shall be eligible to receive reduced quality disaster payments only if the producers incur a deficiency in production of not less than 35 percent and not more than 75 percent for the crop (as determined under section 201, 202, 203, or 204, as appropriate).

(c) Maximum Payment Rate.—The Secretary shall establish the reduced quality disaster payment rate, but the rate shall not exceed 10 percent, as determined by the Secretary, of—

(1) the established price for the crop, for commodities covered under section 201;

(2) the basic county loan rate for the crop (or a comparable price if there is no current basic county loan rate), for commodities covered under section 202;

(3) the payment level under section 203(a)(2), for commodities covered under section 203; and

(4) the payment level under section 204(a)(2), for commodities covered under section 204.

(d) Determination of Payment.—The amount of payment to a producer under this section shall be determined by multiplying the payment rate established under subsection (c) by the portion of the actual harvested crop on the producer's farm that is reduced in quality by the damaging weather or related condition in 1991, as determined by the Secretary.

SEC. 206. EFFECT OF FEDERAL CROP INSURANCE PAYMENTS.

In the case of producers on a farm who obtained crop insurance for the 1991 crop of a commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), the Secretary shall reduce the amount of payments made available under this subtitle for the crop to the extent that the amount determined by adding the net amount of crop insurance indemnity payment (gross indemnity less premium paid) received by the producers for the deficiency in the production of the crop and the disaster payment determined in accordance with this subtitle for the crop exceeds the amount determined by multiplying—

(1) 100 percent of the yield used for the calculation of disaster payments made under this subtitle for the crop; by

(2) the sum of the acreage of the crop planted to harvest and the acreage for which prevented planting credit is approved by the Secretary (or, in the case of disaster payments under section 201, the eligible acreage established under sections 201(a)(1) and 201(a)(2)(A)); by

(3)(A) in the case of producers who participated in a production adjustment program for the 1991 crop or wheat, feed grains, upland cotton, extra long staple cotton, or rice, the established price for the 1991 crop of the commodity, except that for the non-paid flexible acreage for the producers, there shall be used a price determined under subparagraph (B), (C), or (D), as applicable to the commodity;

(B) in the case of producers who did not participate in a production adjustment program for the 1991 crop or wheat, feed grains, upland cotton, extra long staple cotton, or rice, the basic county loan rate (or a comparable price, as determined by the Secretary, if there is no current basic county loan rate) for the 1991 crop of the commodity;

(C) in the case of producers of sugar beets, sugarcane, peanuts, or tobacco, the payment level for the commodity established under section 203(a)(2); or

(D) in the case of producers of oilseeds or a nonprogram crop (as defined in section 204(d)(4)), the simple average price received by producers of the commodity, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest.

SEC. 207. CROP INSURANCE COVERAGE FOR 1992 CROPS.

(a) Requirement.—Subject to subsection (b), producers on a farm, to be eligible to receive a disaster payment under this subtitle, an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) for crop losses due to damaging weather or related condition in 1991, or forgiveness of the repayment of advance deficiency payments under section 201(b), must agree to obtain multiperil crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for the 1992 crop of the commodity for which the payments, loans, or forgiveness are sought.

(b) Crop Insurance.—Producers on a farm shall not be required to agree to obtain crop insurance under subsection (a) for a commodity—

(1) unless the producers' deficiency in production, with respect to the crop for which a disaster payment under this subtitle otherwise may be made, exceeds 75 percent;

(2) crop insurance coverage is not available to the producers for the commodity for which the payment, loan, or forgiveness is sought;

(3) if the producers' annual premium rate for the crop insurance is an amount greater than 125 percent of the average premium rate for insurance on that commodity for the 1991 crop in the county in which the producers are located;

(4) in any case in which the producers' annual premium for the crop insurance is an amount greater than 25 percent of the amount of the payment, loan, or forgiveness sought; or

(5) if the producers can establish by appeal to the county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590(b)), or to the county committee established under section 332 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1982), as appropriate, that the purchase of crop insurance would impose an undue financial hardship on

the producers and that a waiver of the requirement to obtain crop insurance should, in the discretion of the county committee, be granted.

(c) Implementation.—

(1) In general.—The Secretary shall ensure (acting through the county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act and located in the counties in which the assistance programs provided for under sections 201 through 205 are implemented and through the county committees established under section 332 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1982) in counties in which emergency loans, as described in subsection (a), are made available, that producers who apply for assistance, as described in subsection (a), obtain multiperil crop insurance as required under this section.

(2) Demonstration of compliance.—Each producer who is subject to the requirements of this section may comply with the requirements by providing evidence of multiperil crop insurance coverage from sources other than through the county committee office, as approved by the Secretary.

(3) Reduction of commissions.—The Secretary shall provide by regulation for a reduction in the commissions paid to private insurance agents, brokers, or companies on crop insurance contracts entered into under this section sufficient to reflect that the insurance contracts principally involve only a servicing function to be performed by the agent, broker, or company.

(d) Repayment of Benefits.—Notwithstanding any other provision of law, if (prior to the end of the 1992 crop year for the commodity involved) the crop insurance coverage required of the producer under this section is canceled by the producer, the producer—

(1) shall make immediate repayment to the Secretary of any disaster payment or forgiven advance deficiency payment that the producer otherwise is required to repay; and

(2) shall become immediately liable for full repayment of all principal and interest outstanding on any emergency loan described in subsection (a) made subject to this section.

SEC. 208. TRANSFER OF FUNDS.

The Secretary may transfer funds made available to the Commodity Credit Corporation during fiscal year 1991 to the Agricultural Stabilization and Conservation Service in such amounts as are necessary for salaries and other expenses incurred in carrying out title I and this title, except that this authorization shall be available only if funding for this purpose is not provided under an appropriations Act.

SEC. 209. CROPS HARVESTED FOR FORAGE USES.

Not later than 15 days after the date of enactment of this Act, the Secretary shall announce the terms and conditions by which producers on a farm may establish 1991 yields, for purposes of this Act, with respect to crops that will be harvested for silage and other forage uses.

SEC. 210. PAYMENT LIMITATIONS.

(a) Limitation.—Subject to subsections (b) and (c), the total amount of payments that a person shall be entitled to receive under one or more of the programs established under this subtitle may not exceed $100,000.

(b) Duplicative Payments.—No person may receive disaster payments under this subtitle to the extent that the person receives a livestock emergency benefit for lost feed production in 1991 under section 606 of the Agricultural Act of 1949 (7 U.S.C. 1471d).

(c) Combined Limitation.—

(1) Total benefits.—No person may receive any payment under this subtitle or benefit under title VI of the Agricultural Act of 1949 (7 U.S.C. 1471 et seq.) for livestock emergency losses suffered in 1991 if the payment or benefit will cause the combined total amount of the payments and benefits received by the person to exceed $100,000.

(2) Advance deficiency payments.—The advance deficiency payments referred to in section 201(b) shall continue to be subject to the payment limitation in section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) in lieu of the foregoing limitation.

(3) Election of benefits.—If a producer is subject to paragraph (1), the producer may elect (subject to the benefits limitations under section 609 of the Agricultural Act of 1949 (7 U.S.C. 1471g)) whether to receive the $100,000 in the payments, or the livestock emergency benefits (not to exceed $50,000), or a combination of payments and benefits specified by the person.

(d) Regulations.—The Secretary shall issue regulations—

(1) defining the term "person" for the purposes of this section, which shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308); and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations established under this section.

SEC. 211. DE MINIMIS YIELDS.

(a) In General.—Any producer whose actual yield for a crop is equal to or less than the de minimis yield for the crop shall be considered as having an actual yield of zero for the purpose of calculating any reduced yield disaster payments for the crop under this subtitle.

(b) Determination by Secretary.—

(1) In general.—The Secretary may determine a de minimis yield for each crop eligible for reduced yield disaster payments under this subtitle.

(2) Level.—The de minimis yield shall be set at a level that will minimize any incentive provided by the prospect of disaster payments to abandon crops that have a value that exceeds the cost of harvesting.

(3) Minimum.—In no case may the de minimis yield be less than the amount of production that, when valued at current market prices, equals the average cost of harvesting the crop, as determined by the Secretary.

SEC. 212. PRODUCER ELIGIBILITY.

A producer on a farm who produces any crop of a commodity for which disaster payments are made available under this subtitle shall qualify for a disaster payment if the total quantity of the commodity that the producer is able to harvest on that farm is reduced as a result of damaging weather or related condition in an amount that meets the criteria of section 201, 202, 203, or 204, even though the producers on the farm, collectively, may not meet the criteria.

SEC. 213. NO DOUBLE PAYMENTS ON REPLANTED ACREAGE.

(a) Reduction of Disaster Payment.—Effective only for the producers on a farm who receive disaster payments under this subtitle for a crop of a commodity, the Secretary shall reduce the payments by an amount that reflects 5 percent of the value of any crop that the producers plant for harvest in 1991 to replace the crop for which disaster payments are received.

(b) Replacement Crops.—For purposes of subsection (a), a crop shall be considered to be planted to replace the crop for which disaster payments are received if (because of loss or damage to the first crop due to damaging weather or related condition in 1991) the second crop is planted on acreage on which the producers planted, or were prevented from planting, the first crop.

(c) Administration.—In carrying out this section, the Secretary shall—

(1) determine the value of the second crop based on the actual yield of the producers and average market prices for the second crop during a representative period; and

(2) take into account the historical cropping patterns of producers.

SEC. 214. SUBSTITUTION OF CROP INSURANCE PROGRAM YIELDS.

(a) In General.—Notwithstanding any other provision of this Act, the Secretary may permit each eligible producer (as defined in subsection (d)) of a 1991 crop of a commodity who has obtained multiperil crop insurance for the crop (or, as provided in subsection (c), who obtained multiperil crop insurance for the producer's 1990 crop of the commodity) under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) to substitute, at the discretion of the producer, the crop insurance yield for the crop, as established under such Act, for the farm yield otherwise assigned to the producer under this Act, for the purposes of determining the producer's eligibility for a disaster payment on the 1991 crop under this Act and the amount of the payment.

(b) Adjustment of Advanced Deficiency Payments.—

(1) In general.—Notwithstanding any other provision of this Act, if an eligible producer of wheat, feed grains, cotton, or rice elects to substitute yields for the producer's 1991 crop under subsection (a), the producer's eligibility for a waiver or repayment of an advance deficiency payment on the crop under this Act shall be adjusted as provided in paragraph (2).

(2) Amount.—The amount of production of the crop on which a producer otherwise would be eligible for waiver of repayment of advance deficiency payments under this Act shall be reduced by an amount of production equal to the difference between—

(A) the amount of production eligible for disaster payments under this Act using a substituted yield under this section; and

(B) the amount of production that would have been eligible for disaster payments using the farm program payment yield otherwise assigned to the producer under this Act.

(c) Multiperil Crop Insurance Not Available.—A producer may use the crop insurance yield for the producer's 1990 crop of a commodity for purposes of substituting yields under subsection (a) if the producer demonstrates to the Secretary that, through no fault of the producer, multiperil crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) was not made available to the producer for the producer's 1991 crop of the commodity.

(d) Definition of Eligible Producer.—For purposes of this section, the term "eligible producer" means a producer of the 1991 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice.

Subtitle B—Administrative Provisions

SEC. 221. TIMING AND MANNER OF ASSISTANCE.

(a) Timing of Assistance.—

(1) In general.—

(A) Assistance made available as soon as practicable.—Subject to subparagraph (B), the Secretary shall make full disaster assistance available under this title as soon as practicable after the date of the enactment of this Act.

(B) COMPLETED APPLICATION.—Notwithstanding any other provision of law or of this Act, no payment or benefit provided under this title shall be payable or due until such time as a completed application for a crop of a commodity therefor has been approved.

(2) DEADLINE FOR APPLICATION.—A person eligible to receive payments under subtitle A shall make application for the payments not later than March 31, 1992, or such later date as the Secretary, by regulation, may prescribe.

(b) MANNER.—The Secretary may make payments available under subtitle A in the form of cash, commodities, or commodity certificates, as determined by the Secretary.

SEC. 222. USE OF COMMODITY CREDIT CORPORATION.

(a) USE.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation in carrying out this title, as provided in section 224.

(b) EXISTING AUTHORITY.—The authority provided by this title shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

SEC. 223. EMERGENCY CROP LOSS ASSISTANCE FOR THE 1990 CROPS.

(a) FUNDING.—Notwithstanding sections 2270 and 2271 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note), funds of the Commodity Credit Corporation, as provided in section 224, shall be available to carry out chapter 3 of title XXII of such Act (7 U.S.C. 1421 note).

(b) DUPLICATIVE BENEFITS.—A producer eligible for assistance under such chapter who is also eligible for assistance under titles I and II may elect to receive benefits under such chapter or under this Act, but may not receive benefits under both.

SEC. 224. EMERGENCY DESIGNATION OF OUTLAYS.

(a) FINDINGS.—Congress finds that in fiscal years 1990 and 1991 there have been excessive rains, often of unprecedented scope, in many sections of the United States, and serious drought conditions and other unusual weather conditions in many other sections of the United States that have caused major economic losses to producers of agricultural commodities.

(b) FUNDING.—The funds of the Commodity Credit Corporation shall be available subject to the limitations set forth in subparagraph (c) to carry out chapter 3 of title XIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) and titles I and II of this Act.

(c) EMERGENCY DESIGNATION.—

(1) IN GENERAL.—Subject to paragraph (2), the funds provided for in this Act are designated as an emergency requirement as provided for in section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(e)).

(2) BUDGET REQUEST.—The funds provided for in this Act shall be made available only after submission to Congress of a formal budget request by the President that includes designation of the entire amount of the request as an emergency requirement as provided for in section 252(e) of such Act.

(d) All actions authorized by this Act which result in cost shall be subject to the limitations set forth in subparagraph (c).

SEC. 225. REGULATIONS.

The Secretary or the Commodity Credit Corporation, as appropriate, shall issue regulations to implement this title as soon as practicable after the date of enactment of this Act, without regard to the requirement for notice and public participation in rulemaking prescribed in section 553 of title 5, United States Code, or in any directive of the Secretary.

Subtitle C—Sense of Congress

SEC. 231. PURPOSES OF DISASTER PAYMENTS.

It is the sense of Congress that disaster payments made to producers under subtitle A are intended to—

(1) preserve each producer's livelihood and farming operation;

(2) enable the producer to meet preexisting commitments and obligations;

(3) protect the infrastructure of the United States agricultural production input, supply, marketing, and distribution systems; and

(4) preserve the vitality and financial health of rural communities.

TITLE III—OTHER EMERGENCY PROVISIONS

SEC. 301. DISASTER ASSISTANCE FOR RURAL BUSINESS ENTERPRISES.

(a) LOAN GUARANTEES.—The Secretary shall guarantee loans made in rural areas—

(1) to public, private, or cooperative organizations, to Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups, or to any other business entities, to assist them in alleviating distress caused to the entities, directly or indirectly, by the damaging weather or related condition in 1991; and

(2) to the entities that refinance or restructure debt as a result of losses incurred, directly or indirectly, because of the damaging weather or related condition in 1991.

(b) ELIGIBLE LOANS.—Loans that may be guaranteed under this section are loans made by any—

(1) Federal or State chartered—

(A) bank;

(B) savings and loan association;

(C) cooperative lending agency; or

(D) insurance company; or

(2) other legally organized lending agency.

(c) LENDING LIMITS.—

(1) INDIVIDUAL GUARANTEES.—No guarantee under this section may exceed 90 percent of the principal amount of the loan. Guarantees made on loans to any eligible borrower may not exceed $500,000.

(2) TOTAL AMOUNT OF GUARANTEES.—The total amount of loan guarantees that may be made under this section shall not exceed $200,000,000.

(d) USE OF THE RURAL DEVELOPMENT INSURANCE FUND.—The Secretary shall use the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a) for the purposes of carrying out this section.

SEC. 302. SHIFTING OF CROP ACREAGE BASES.

Section 503 of the Agricultural Act of 1949 (7 U.S.C. 1463) is amended by adding at the end the following new subsection:

"(i) SHIFTING OF BASES.—Notwithstanding any other provision of this section, in order to help alleviate economic distress caused by a natural disaster or other similar condition beyond the control of producers, the Secretary may provide for the temporary shifting of some or all of the crop acreage bases between farms owned or operated by the same producers, under such terms and conditions as are determined appropriate by the Secretary. Such a shift may be allowed only on a crop-year-by-crop-year basis."

AGRICULTURE DISASTER ASSISTANCE ACT OF 1991

SUMMARY OF MAJOR PROVISIONS

Provides disaster assistance to eligible producers of all 1990 or 1991 crops (at the producer's option) prevented from planting or experiencing reduced yields due to damaging weather conditions.

For 1990 crop losses:

Producers who have had losses to their 1990 crops may elect to obtain benefits under the Emergency Crop Loss Assistance Provisons under the Food, Agriculture, Conservation and Trade Act of 1990, but may not obtain benefits for crop losses in both 1990 and 1991.

For 1991 crop losses:

Provides payments for producers of program crops as follows:

Program Participants:

Losses of up to 35 percent of normal production on maximum payment acres—retain advanced deficiency payment;

Losses of 36 to 75 percent of normal production on maximum payment acres—65 percent of target price; and

Losses of more than 75 percent of normal production on maximum payment acres—pcent of target price.

Non-participants:

Losses of 36 to 75 percent of normal production—65 percent of loan; and

Losses of more than 75 percent of normal production—90 percent of loan.

Provides prevented planting and reduced yield benefits for crops planted or intended to be planted on flex acres (NFA and OFA) on same basis as non-participants or non-program crops, whichever is applicable.

Provides payments to producers of peanuts, sugar beets, sugar cane, and tobacco at a rate of 65 percent of price support level for losses in excess of 35 percent and 90 percent for losses in excess of 75 percent. Losses are measured by county average yield, payment yield or farm marketing quota as applicable.

Provides payments to producers of oilseeds and other non-program crops at a rate of 65 percent of the five-year average market price received by producers, excluding the high and low years, for losses in excess of 35 percent of the three-year average yield and 90 percent for losses in excess of 75 percent.

Provides payments to operators of commercial aquaculture ventures for financial losses as a result of damaging weather on the same basis as for other non-program crops.

Reauthorizes emergency livestock feed assistance program.

Authorizes emergency forage program for established pasture under which the Secretary may utilize cost-share agreement, limited to $3,500 per operator, for reseeding.

Authorizes emergency cost-share program to provide for repair of damaged levees used for commercial aquaculture.

Authorizes additional payments to producers of crops that suffer losses from the reduced quality of such crops due to damaging weather or related conditions.

Limits the total of disaster payments and crop insurance benefits to a level not to exceed 100 percent of the price used to calculate disaster benefits multiplied by the payment yield.

Requires producers who accept disaster payments for losses of production in excess of 75 percent to purchase crop insurance for 1992 unless it is determined to be an economic hardship.

Establishes a separate limitation of $100,000 per person for combined crop losses and livestock emergency losses provided livestock benefits may not exceed $50,000 in a calendar year.

Authorizes establishment of de minimis yields, for each crop eligible for reduced yield disaster payments, that shall be considered as having an actual yield of zero.

Authorizes payments for reduced yields to be calculated on basis of crop production by a producer on the farm if there are multiple producers on the same farm who collectively do not qualify.

Authorizes Secretary to make a reasonable adjustment to disaster payments to reflect the income generated by any replacement crop produced on the same acreage—provided the adjustment does not exceed 5 percent of the value of the replacement crop.

Authorizes Secretary to allow producers who purchased crop insurance to substitute the insurance yield for the farm program payment yield.

Authorizes Secretary to utilize CCC funds to carry out provisions of legislation and designates the outlays as an emergency requirement as provided in the Omnibus Budget Reconciliation Act of 1990.

Authorizes loan guarantees to rural businesses impacted directly or indirectly by adverse weather.

Mr. BUMPERS. Mr. President, I rise to say that my staff and Senator COCHRAN'S staff have worked long and hard on this legislation that is being introduced. We now have 26 Senators sponsoring this bill upon introduction.

But the point I make is that in my State—and I speak only for my State—I believe that my farmers are in about as bad shape as they have ever been. Those who did not get wiped out in 1990 got wiped out in 1991.

Incidentally, under this bill, these farmers will have to choose between 1990 and 1991. Some of them suffered damages in both years. But the bill gives them the option. It will provide 65 percent of all the losses they sustained above 35 percent. So if a farmer had 100 acres of soybeans and he lost the whole 100 acres, he will be entitled to 65 percent of the loss on 65 acres.

Now, Mr. President, last year the Red River Valley in southwest Arkansas and in northeast Texas and southeast Oklahoma, northwest Louisiana, that whole four-State region had the most unbelievable flood in the history of my State, I believe. It was not just a loss of crops. Oftentimes an entire farm had 2 and 3 feet of sand on it when the waters receded, so that much of the land was lost permanently. That is the kind of damage that occurred. This year farmers have had to plant their crops two, sometimes three times. I have talked to the most successful farmers in my State who tell me they are hanging by their thumbs. If we do get some relief, they are going under.

Finally, Mr. President, I believe very strongly that we simply have to cut some spending or things that do not amount to a priority. For example, I am going to offer an amendment this morning on the superconducting super collider to cut it, maybe eliminate it.

And I am going to make a clinical case. I do not have a dog in the fight, but I can tell you that is a project—no matter how meritorious it is—which is not urgent just like a lot of other things around here which are not urgent.

We sent disaster relief to Bangladesh because of cyclones; we sent disaster relief to Ethiopia because of famine; to Sudan because of famine; to Angola; we sent aid to Kuwait to help them put out their oil well fires. We send money on an emergency basis to every nation on Earth almost.

We have farmers that are the most endangered species in America. They are people. They are human beings. And they are suffering and they are hurting. It has gotten to where nobody goes into farming except an occasional son of a farmer.

Mr. President, the cost of this is $1 billion. Two or three people who were asked to cosponsor said they did not know about the cost. I do not know about the cost either. It is staggering. But I can tell you this: people vote for the most unbelievable things around here that cost billions, and when it comes to helping our own and doing something for our own people oftentimes we cannot find it in our hearts to do it.

So I am not only the chief coauthor and the cosponsor of this bill, but I strongly urge all of my colleagues to cosponsor this, and help us come up with the funds to not only pass the bill but to fund it.

Mr. SEYMOUR. Mr. President, I am proud to join Senator COCHRAN and Senator BUMPERS as an original cosponsor of this important legislation to provide relief to America's farm communities devastated by natural disasters. As many Senators know, there have been substantial natural disasters throughout the United States during 1990, and in 1991. Producers in the Southeast, Southwest, Midwest, as well as in California have suffered significant crop loss.

In California, a catastrophic freeze struck in December 1990, destroying much of California's navel and valencia orange crop, as well as many other crops. The freeze damage further compounded losses suffered within the agricultural sector by the drought, which is now in its fifth year. While USDA and various agencies within the administration have attempted to develop regulatory fixes to these disasters, much more needs to be done. At this point, I am convinced that disaster assistance is the only solution to assist rural communities that are in desperate need of assistance.

Mr. President, in many rural communities throughout California, as well as across the Nation, agriculture is the economic industry which holds these communities together. For people in these communities, agriculture is more than fresh produce in a grocery store. The orange crop, the avocado crop, strawberries, these crops provide a way of life, and ultimately, livelihood. From local business to school lunch programs, the fiscal consequences of this freeze has reached all corners of California.

In terms of crop damage, this cold wave was the most devastating on record in California. From December 19 to January 3, numerous all time low temperatures were broken, breaking records set as far back as 1932. Conservative estimates of crop damage have been as high as $1 billion. Some of the hardest hit agricultural communities were in the counties of Tulare, Fresno, Ventura, and Kern. The freeze coupled with the last 5 years of drought has been devastating to California's rural communities.

In Tulare County, crop damage has been estimated to be in excess of $341 million, while unemployment reached upward of 23 percent in March 1991. Tulare County, located in the heart of California's Central Valley, lost 90 percent of its citrus crops to the freeze, and additionally incurred substantial losses of avocadoes, olives, pistachios, nursery stock, and broccoli crops. In the small town of Lindsay, in Tulare County, unemployment due to the freeze reached 50 percent. In Fresno County, citrus producers had production losses totaling over 227,000 tons, resulting in a crop loss of over $70 million.

This winter's freeze is the third worst disaster in the history of California, third only to the 1906 San Francisco earthquake and the 1989 Loma Prieta earthquake. For farmers, farmworkers, and farm families, the devastation they suffered is no less catastrophic than a tornado or hurricane.

Though the cold weather has given way to the warm months of summer, the crippling effects of the freeze are still being felt today. Orange groves that would normally be bustling with farmworkers harvesting ripe Valencia oranges, now stand quiet. Once green, healthy trees stand brown and withered, their fruit decaying on the ground below. Packing plants normally working around the clock have been turned into distribution centers, where proud farmworkers stand in line to receive food supplies to feed their families.

Small business continue to suffer as unemployment has slowed even necessary consumer spending.

We need disaster assistance so that farmers will be able to get back to farming, and farmworkers will be able to go back to work. This is why I am cosponsoring a disaster relief bill that will provide the essential assistance to farmers whose crops were severely devastated in 1990 and 1991 by natural disaster. I urge my colleagues to support this bill.

By Mr. PRESSLER:

S. 1442. A bill relating to the rights of consumers in connection with telephone advertising; to the Committee on Commerce, Science, and Transportation.

TELEPHONE ADVERTISING CONSUMER RIGHTS ACT

Mr. PRESSLER. Mr. President, today I am introducing the Telephone Advertising Consumer Rights Act, a bill that responds to the national outcry over the explosion of unsolicited telephone advertising. I am pleased to join this effort which was begun by Representative EDWARD J. MARKEY, the chairman of the House Telecommunications and Finance Subcommittee, who has shown real vision and leadership in this erea.

The telemarketing industry has witnessed unprecedented success over the past 10 years. In fact, telemarketing sales skyrocketed to over $435 million in 1990. This is a fourfold increase since 1984. This marketing success has created an industry in which over 300,000 telemarketing solicitors call more than 18 million Americans every day. Many consumers and business owners, however, complain that these calls are not only an annoyance, but also can pose dangerous consequences.

The cost and the interference of unsolicited advertising calls has sparked the introduction of over 1,000 bills in State legislatures around the country seeking to limit this abuse. I am proud to say that my home State of South Dakota is at the forefront of this effort and has just passed one of the most comprehensive pieces of legislation dealing with telemarketing abuse. Congress needs to act now to provide uniform ground rules to protect consumers while ensuring that the telemarketing industry continues to be a vigorously active player in the U.S. economy.

The Telephone Advertising Consumer Rights Act directs the FCC to prescribe regulations to protect the privacy rights of consumers from the intrusion of unsolicited telephone marketing calls. One such proposal the FCC would consider, if this bill becomes law, is the use of a telephone electronic data base that would allow consumers to have their phone numbers protected from unsolicited advertising. Another proposal the FCC would examine is the placement of all telemarketers on a single exchange, thus allowing consumers to block calls from that exchange. This bill would not end unsolicited calls, but it would allow consumers to choose how their phone is used and requires vendors to respect that consumer decision.

Due to advances in auto-dialer technology, machines can be programmed to deliver a prerecorded message to thousands of sequential phone numbers. This results in calls to hospitals, emergency care providers, unlisted numbers, and paging and cellular equipment. There are many examples of auto-dial machines hitting hospital switchboards and sequentially delivering a recorded message to all phone lines. In some instances, the calling machine does not release the called party's line until the recorded message has ended. This renders the called party's phone inoperable. In an emergency situation, this can create a real hazard.

To remedy this situation, my bill requires auto-dialer machines to release the phone line after the called party hangs up. In addition, it requires allprerecorded messages to clearly identify the name, phone number, or address of the person or business initiating the call. This bill also allows hospitals, police stations, fire stations, and owners of paging and cellular equipment to eliminate all unsolicited calls.

The growth of facsimile machines in the workplace has brought another form of unsolicited advertising: the junk fax. Unsolicited facsimile advertising ties up fax machines and uses the called party's fax paper. This costs the recipient both time and money. My bill requires that auto-dial fax machines clearly mark on all transmissions the date and time of transmission, the identity of the sender, and the telephone number of the sending machine.

My legislation provides uniform Federal guidelines to ensure that the telemarketing industry will continue to experience unprecedented growth. Responsible telemarketers welcome a single set of clear rules. This bill will not preempt any State law addressing this topic. Rather, it would assist States in their attempts to regulate intrastate telemarketing abuse.

I urge my colleagues to support and cosponsor this legislation. It can ensure a robust telemarketing industry while giving consumers the ability to choose how their telephones are used.

By Mr. SIMON:

S. 1444. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for 25 percent of the purchase price of new electric-powered automobiles; to the Committee on Finance.

DEDUCTION OF PERCENTAGE OF PURCHASE PRICE OF NEW ELECTRIC AUTOMOBILES

Mr. SIMON. Mr. President, today I am introducing a bill to amend the Internal Revenue Code of 1986 to allow a deduction of 25 percent of the purchase price of new electric-powered automobiles.

The widespread use of electric vehicles [EV's] would go a long way toward resolving some of our Nation's environmental and energy problems.

Ninety-six cities and urban areas in the United States have air pollution levels that exceed national standards for ozone. While, as we all know, gasoline-fueled vehicles produce emissions of various pollutants, including volatile organic compounds, carbon monoxide and nitrogen oxide, electric vehicles produce no tailpipe emissions whatsoever, and they generate only minute emissions resulting from the operation of the vehicle. When compared to gasoline-powered vehicles, electric vehicles show a 97-percent reduction of major pollutant emissions. Electric vehicles would be the single most effective means of reducing transportation sector emissions in urban areas. The benefits of the use of EV's to air pollution control would be enormous.

The use of electric vehicles would also bring about greater energy efficiency. Sixty-three percent of the total U.S. oil consumption is used in the transportation sector. This is true even though significant advancements have been made in vehicle fuel efficiency in the last 15 years. Use of petroleum in the United States was approximately the same in 1989 as it was in 1974 because there are more vehicles on the road traveling more miles annually. But it has been estimated that a 1-percent replacement of gasoline-powered vehicles by electric-powered vehicles would reduce oil consumption by 60,000 barrels a day.

We would cut down on the use of imported oil by the use of electric vehicles, and we must cut down on foreign oil. Nearly one-half of the oil used in the United States today is imported, and this has a significant adverse impact on the U.S. balance of trade.

While their extensive use will not be the total solution to our air pollution problems, there is no doubt about the great benefit to society of converting to electric vehicles. We cannot do this right away, Mr. President. But we can do it in the near future. U.S. automakers are interested in the development of electric vehicle batteries and the major domestic automobile manufacturers have all announced plans to produce electric vehicles in the months ahead. This year General Motors unveiled an electric sports car, the Impact. And they have designated a facility in East Lansing, MI, as a potential site for future production of electric vehicles.

Although they will become less expensive over time, initially, electric vehicles will be costly. The deduction my bill provides would be an incentive to taxpayers to purchase electric-powered vehicles—an incentive that will help the development of electric vehicles succeed in its crucial first step. I urge my colleagues to support this measure.

Mr. President, I ask unanimous consent that an article from the Washington Post on this subject, titled "Gasoline-Fueled Cars May Be Running Out of Time," be printed in full in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 6, 1991]

GASOLINE-FUELED CARS MAY BE RUNNING OUT OF TIME

(By Thomas W. Lippman)

Within a few years, millions, of Americans will be driving cars, light trucks and buses that do not run on gasoline.

Federal and state air quality laws, and in particular rigorous new antipollution rules adopted by California and Texas, are compelling manufacturers and purchasers of vehicles to switch to natural gas, propane, alcohol fuels and electricity.

Major corporations, including the "Big Three" U.S. auto makers and giant utilities such as Southern California Edison, are pouring money into research to develop and test the vehicles. Each week brings some new announcement: Phillips Petroleum has installed a natural-gas pump at a filling station in Oklahoma; Nissan has developed a quick-recharge battery; a Sunoco station in the District is selling methanol; Chrysler Corp. is making an electric version of its popular minivan.

Nobody knows for certain how many alternative-fuel vehicles will be on the road a decade from now, but the California and Texas rules alone ensure that the number will be in the millions. The American Gas Association has projected a figure as high as 10 million. The U.S. car and truck fleet now totals 172 million vehicles.

The picture will become clearer in the next year or two as additional states formulate plans for compliance with the 1990 Clean Air Act, new alternative-fuel measures work their way through Congress and test results on new engines and batteries become available.

Gasoline—cheap, ubiquitous and technologically familiar—will remain the fuel that powers most privately owned vehicles for many years to come, according to industry experts and independent analysts. But with the switch to alternative sources by vehicles such as taxis and delivery vans could come the public acceptance that would make alternative fuels adaptable to the family car as well.

After years in which the U.S. demand for alternative-fuel vehicles was so light that manufacturers and energy companies could ignore it, companies are racing to secure a share of what suddenly looms as a booming market. Du Pont Co.'s Conoco division, for example, has set up a separate unit to promote propane as an alternative to the natural gas that otherwise might corner the market in Texas and other states.

"It's a marketing horse race," said Robert E. Meyers, president of the LP Gas Clean Fuels Coalition, a propane advocacy group in Irvine, Calif.

The 1990 amendments to the Clean Air Act require many fleets that are fueled at a central site, such as school buses and Federal Express vans, to be converted to cleaner-burning fuels beginning in 1998. President Bush's proposed national energy strategy and a wide-ranging energy bill under consideration in the Senate would greatly expand the number of fleets covered by this requirement and put it into effect sooner.

Bush also has issued an executive order requiring that federal fleets acquire "the maximum number practicable" of non-gasoline vehicles. The Energy Department and the General Services Administration are scheduled to take delivery next March of 50 vans built by Chrysler that will be powered by compressed natural gas, a fuel now available commercially at an Amoco station on Capitol Hill.

Industry officials and regulators expect that mandatory sales to fleets will induce car makers to produce more vehicles and fuel suppliers to provide more fueling sites. The "chicken and egg problem" has long inhibited the development of alternative-fuel vehicles; consumers will not buy them because the fuel is not available, and auto manufacturers will not make them because consumers won't buy them. As more alternative-fuel cars are made, more sources of the fuel become available and more drivers become familiar with the vehicles, costs should decline and consumer demand is expected to rise.

"Car companies know a lot about how to build cars that run on alternative fuels," said Thomas H. Hanna, president of the Motor Vehicle Manufacturers Association. "The question is whether people want to buy them."

California and Texas have ensured that some people will buy them whether they want to or not.

A new Texas law requires most school districts, public transit authorities and state agencies to buy only vehicles powered by natural gas or other cleaner burning alternative fuels beginning this year, and to convert at least half their vehicles by 1996.

California, the most populous state, has gone much further. Regulations adopted by the Air Resources Board require progressive reductions in hydrocarbon emissions beginning in 1994. By 2003, all cars must emit 85 percent less hydrocarbons than currently permitted, 50 percent less carbon monoxide and 75 percent less nitrogen oxide. State officials said the regulations do not specify which technology or fuel auto makers must adopt to meet the standards, but they said that cars fueled by methanol, natural gas and propane will be a large part of the mix.

The state recently certified a natural gas school bus engine built by a Massachusetts firm. Tecogen Inc., as acceptable under the new antipollution standards. The state financed development of the engine as part of a $100 million program to replace 463 school buses built before 1977 with new, cleaner burning models.

In addition, 2 percent of the 2 million vehicles sold in California each year must be "emission free" beginning in 1998. By 2003, the figure will rise to 10 percent.

"Emission free" means "powered by electricity," said Air Resources Board spokesman Jerry Martin.

Because the California market is so large that manufacturers cannot abandon it, these rules have spurred auto and fuel industries into a burst of research and experimentation. In April, for example, Mobil Corp. opened the first for 10 planned methanol filing stations in Pasadena. Chrysler, Ford and General Motors have begun producing cars that can run on a mixture of 15 percent gasoline and 85 percent methanol, or wood alcohol.

As Hanna said, there is essentially nothing new about making cars and light trucks that run on methanol, compressed natural gas or propane.

The Energy Department and other federal agencies here have methanol powered cars in their fleets that are indistinguishable in appearance and performance from conventional autos. School buses in Hudson, Ohio, run on natural gas. The truck fleet of the Los Angeles Times runs on propane. Overall, more than 30,000 natural gas vehicles and more than 400,000 propane-powered cars and trucks are in use in the United States.

The vast majority are owned by governments and corporations, not individual motorists. Almost any new car can run on gasohol, a mixture of gasoline and ethanol, but vehicles powered by natural gas, propane and methanol are generally not available in retail showrooms. Standard cars can be converted to "dual fuel" operation—capable of running on gasoline and either natural gas or propane—at a cost of $1,000 or more.

The real technological innovation is in electricity, long spurned as a power source for motor vehicles because electric cars require large banks of heavy, expensive batteries that run down in an hour or so of use. Facing a requirement to produce electric cars that California motorists will buy, the electric utility industry and all major auto makers are seeking ways to increase the cars' range and cut the batteries' size and weight.

Industry officials say electric vehicles probably will never replace the family station wagon, but should be adequate to serve commuters and other motorists who drive short distances. Daniel Sperling, an alternative-fuel expert at the University of California-Davis, has predicted that most households will have several vehicles, "each serving a different specialized need. For instance, commuter cars could be electric, while vehicles used on longer drives could run on natural gas."

"An electric vehicle won't take you as far as a tank of gas, but who drives 350 miles a day anyway?" said Paul Brown, executive director of the Electric Vehicle Association of the Americas, an industry-sponsored group.

The three major U.S. auto makers have formed an Advanced Battery Consortium that is working with Southern California Edison, the utility-funded Electric Power Research Institute, and the Energy Department on a $10 million battery research program. Under this program, Chrysler built four prototypes of an electric minivan.

"They do perform," said Lawrence O'Connell, transportation program manager of the Electric Power Research Institute. "The next step is to undertake production engineering, which essentially means to keep vehicle performance as good as it is in the prototypes, while cutting weight and cost. The next step [after that] would be federal safety certification."

Separately, General Motors Corp. has announced plans to build an electric-powered sports car, the Impact. GM already is selling an electric-powered van known as the G-Van with a 60-mile range. Ford is testing an electric version of its European Escort model, Nissan Motor Co. of Japan reported in May that it had found a way to cut battery recharging time from several hours to 12 minutes.

A bill introduced by Rep. George E. Brown Jr. (D-Calif.) to provide $100 million in federal aid over 10 years to promote the use of electric vehicles is considered to have a good chance of passage this year, congressional aides said. But aside from electricity, which is required in California, it is not clear which alternative fuel will gain the widest use as manufacturers, consumers and regulators evaluate test results.

Each of the major contenders—natural gas, methanol, propane and ethanol, or grain alcohol—has strong supporters on Capitol Hill and among state legislators, but each has drawbacks as a fuel. None provides as much energy as the equivalent amount of gasoline, and all are more difficult to store and transport. Methanol is poisonous and corrosive, propane is potentially explosive, ethanol is difficult to transport or store because it absorbs water, and natural gas requires large onboard storage tanks that use up trunk space.

"None of the alternative-fuel options emerges as clearly superior to all the others," Sperling said.

By Mr. LAUTENBERG (for himself, Mr. DURENBERGER, and Mr. LIEBERMAN):

S. 1445. A bill to amend the Safe Drinking Water Act to reduce human exposure to lead in drinking water; to the Committee on Environment and Public Works.

LEAD IN DRINKING WATER REDUCTION ACT

Mr. LAUTENBERG. Mr. President, I am joined by Senator DURENBERGER and Senator LIEBERMAN in introducing legislation, which will be the Senate companion on drinking water to the bill Congressman WAXMAN is introducing today in the House. Our bill, the Lead in Drinking Water Reduction Act, will significantly reduce the health threats of lead in our Nation's drinking water.

The threat is serious. Lead in drinking water contributes 10 to 20 percent of total lead exposure in young children.

Lead is highly toxic. The Centers for Disease Control tells us that lead is our No. 1 preventable pediatric health problem. Lead can interfere with the formation of red blood cells. It can reduce birth weight and cause premature birth. It can impair physical and mental development in babies and children.

In adults, lead can increase blood pressure and interfere with hearing. At high levels of exposure, lead can cause anemia, kidney damage, and mental retardation.

The 1986 amendments to the Safe Drinking Water Act told EPA to develop a drinking water standard for lead. On May 7, 1991, EPA gave us a regulation that falls far short of protecting the public health. It falls short by making the public wait too long—over 20 years in some cases—for water systems to reduce lead in drinking water.

It falls short by creating loopholes that would let water systems ignore the lead problems of 10 percent of their households.

It falls short by allowing too much lead for too long. It is ironic that recent tests showed high lead levels in the Vice President's house.

It is time for the administration to wake up and realize that the lead problem goes well beyond the pristine walls of the Vice President's mansion.

On May 17, 1991, the Subcommittee on Superfund, Ocean and Water Protection, which I chair held a hearing on EPA's implementation of the Safe Drinking Water Act and the mandate to protect the public from the threats of lead. That hearing underscored the many problems with EPA's approach and the need for congressional action.

For this reason, we are introducing this legislation to assure that we protect the public from lead in drinking water.

The legislation will set a tough limit for regulating lead in our water. It is important to point out, however, that the bill's lead contamination limit for tapwater is not a maximum contaminant level [MCL]. In drafting the legislation, we were aware of significant concerns raised by many water systems of potential liability for violations of a tapwater MCL, even if they did everything they could to comply but could not achieve that MCL. The tapwater limit provision, however, has been drafted so that not meeting it does not constitute a violation of the national primary drinking water regulations for lead. Instead, a violation would occur if a water system failed to comply with the actual requirements in the bill, such as corrosion control, public education, and service line replacement. So the bill forces water systems to take aggressive steps to reduce lead, but does so in a way that will not penalize them for results over which they have no control.

And the bill will force the Nation's drinking water systems promptly to get lead out of our drinking water. EPA's regulation gives water companies exceeding the Agency's action level 7 years to install corrosion control and 15 more years to replace lead lines. My bill would require corrosion control in 2 years and lead line replacement in 5 years after that, for an accelerated timeframe of 7 years. Communities with especially large numbers of lead lines will be able to seek extensions, however. A system with over 50,000 lines to be replaced would get a 3-year extension; one exceeding 100,000 lines would get a 5-year extension; one exceeding 300,000 lines would get a 10-year extension; and one exceeding 450,000 lines would get a 13-year extension.

Mr. President, the bill also addresses issues not covered by EPA's regulation, including lead in school drinking water. It strengthens existing programs to reduce lead in school drinking water, as well as the programs designed to eliminate the use of lead components in plumbing.

Mr. President, this legislation will allow the Nation to make major strides in the battle to get the lead out of the Nation's water supply. I look forward to working with Senator DURENBERGER, Senator LIEBERMAN, and my other colleagues in moving this legislation through the Senate Environment and Public Works Committee, and on to passage in the Senate.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1445

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lead in Drinking Water Reduction Act of 1991".

SEC. 2. LEAD CONTAMINATION IN DRINKING WATER.

(a) NATIONAL PUBLIC DRINKING WATER REGULATIONS FOR LEAD.—Title XIV of the Public Health Service Act (Safe Drinking Water Act; 42 U.S.C. 300f and following) is amended by inserting "Subpart 1—In General" immediately before the section heading for section 1411 and by adding the following at the end thereof:

"SUBPART 2—SPECIAL PROVISIONS RELATING TO NATIONAL PRIMARY DRINKING WATER REGULATIONS FOR LEAD

"Subpart 2—Special Provisions Relating to National Primary Drinking Water Regulations for Lead

"Sec. 1418. Definitions.
"Sec. 1418A. General requirements.
"Sec. 1418B. Applicability of corrosion control treatment steps to small, medium-size and large water systems.
"Sec. 1418C. Description of corrosion control treatment requirements.
"Sec. 1418D. Source water maximum contaminant level.
"Sec. 1418E. Lead service line replacement requirements.
"Sec. 1418F. Public education and supplemental monitoring requirements.
"Sec. 1418G. Monitoring requirements for lead in tap water.
"Sec. 1418H. Monitoring requirements for water quality parameters.
"Sec. 1418I. Monitoring requirements for lead in source water.
"Sec. 1418J. Analytical methods.
"Sec. 1418K. Reporting requirements.
"Sec. 1418L. Recordkeeping requirements.
"Sec. 1418M. Implementation requirements.
"Sec. 1418N. EPA review of implementation of NPDWR for lead.
"Sec. 1418O. Variances and exemptions".

"SEC. 1418. DEFINITIONS.

"For purposes of this subpart—

"(1) The term 'corrosion inhibitor' means a substance capable of reducing the corrosivity of water toward metal plumbing materials, especially lead, by forming a protective film on the interior surface of those materials.

"(2) The term 'effective corrosion inhibitor residual' means a concentration sufficient to form a passivating film on the interior walls of a pipe.

"(3) The term 'first draw sample' means a one-liter sample of tap water, collected in accordance with section 1418G(b)(2), that has been standing in plumbing pipes at least 6 hours and is collected without flushing the tap.

"(4) The term 'large water system' means a water system that serves more than 50,000 persons.

"(5) The term 'lead service line' means a service line made of lead which connects the water main to the building inlet and any lead pigtail, gooseneck, or other fitting which is connected to such lead line.

"(6) The term 'medium-size water system' means a water system that serves greater than 3,300 and less than or equal to 50,000 persons.

"(7) The term 'optimal corrosion control treatment' means the corrosion control treatment that minimizes the lead concentrations at users' taps while insuring that the treatment does not cause (A) the water system to violate any national primary drinking water regulations or (B) significant adverse impacts on the environment, including treatment works and the water receiving the effluent of treatment works.

"(8) The term 'service line sample means a one-liter sample of water, collected in accordance with section 1418G(b)(3) that has been standing for at least 6 hours in a service line.

"(9) The term 'single family structure' means a building constructed as a single-family residence that is currently used as either a residence or a place of business.

"(10) The term 'small water system' means a water system that serves 3,300 persons or fewer.

"SEC. 1418A. GENERAL REQUIREMENTS.

"(a) APPLICABILITY AND EFFECTIVE DATES.—(1) The requirements set forth in this subpart constitute the national primary drinking water regulation for lead for purposes of this part. Unless otherwise indicated, each of the provisions of this subpart applies to community water systems and noncommunity water systems (hereinafter in this subpart referred to as 'water systems' or 'systems').

"(2) Except as otherwise expressly provided in this subpart, the requirements set forth in this subpart shall take effect 30 days after the enactment of this subpart.

"(b) LEAD CONTAMINATION LIMIT FOR TAP WATER.—The Congress hereby establishing a limit for lead in tap water (hereinafter in this subpart referred to as the 'tap water lead limit'). The tapwater lead limit is exceeded if the concentration of lead in any tap water sample collected during any monitoring conducted in accordance with section 1418G is greater than 10 parts per billion (ppb).

"(c) MAXIMUM CONTAMINANT LEVEL GOAL.—The maximum contaminant level goal (in mg/L) for lead in drinking water is zero.

"(d) VIOLATION OF NATIONAL PRIMARY DRINKING WATER REGULATIONS.—Failure to comply with the applicable requirements of this subpart, including requirements established by the State pursuant to this subpart, shall constitute a violation of the national primary drinking water regulations for lead.

"(e) RELATIONSHIP TO PRIOR REGULATIONS.—

"(1) EPA LEAD REGULATIONS REPLACED.—The requirements set forth in this subpart shall apply in lieu of the requirements with regard to lead in drinking water contained in regulations of the Administrator promulgated on May 6, 1991, except as otherwise provided in the first sentence of section 1418J (relating to analytical methods). After the enactment of this section, the Administrator may promulgate, under this subpart and under subpart 1, regulations with regard to lead in drinking water but only to the extent that such regulations are more protective of human health than any corresponding requirements of this subpart.

"(2) PRIOR MCL FOR LEAD.—The maximum contaminant level for lead in effect for lead before May 6, 1991, shall be in effect immediately upon enactment of this subpart.

"SEC. 1418B. APPLICABILITY OF CORROSION CONTROL TREATMENT STEPS TO SMALL, MEDIUM-SIZE AND LARGE WATER SYSTEMS.

"(a) COMPLETION OF CORROSION CONTROL TREATMENT.—Systems shall complete the applicable corrosion control treatment requirements described in section 1418C by the deadlines established in this section.

"(1) A large system (serving greater than 50,000 persons) shall complete the corrosion control treatment steps specified in subsection (d) of this section, unless it is deemed to have optimized corrosion control under paragraphs (2) or (3) of subsection (b).

"(2) A small system (serving greater than or equal to 3,300 persons) and a medium-sized system (serving greater than 3,300 persons and less than or equal to 50,000 persons) shall complete the corrosion control treatment steps specified in subsection (e) of this section, unless it is deemed to have optimized corrosion control under paragraphs (1), (2) or (3) of subsection (b)

"(b) SYSTEMS DEEMED TO HAVE OPTIMIZED CORROSION CONTROL.—A system is deemed to have optimized corrosion control and is not required to complete the applicable corrosion control treatment steps identified in this section if the system satisfies 1 of the following criteria:

"(1) A small or medium-sized water system is deemed to have optimized corrosion control if the system meets the tap water lead limit lead during each of 2 consecutive 6-month monitoring periods conducted in accordance with section 1418G.

"(2) Any water system may be deemed by the State, after notice and opportunity for comment, to have optimized corrosion control treatment if the system demonstrates to the satisfaction of the State that it has conducted activities equivalent to the corrosion control steps applicable to such system under this section. If the State makes this determination, it shall provide the system with written notice explaining the basis for its decision and shall specify the water quality control parameters representing optimal corrosion control in accordance with section 1418C. A system shall provide the State with the following information in order to support a determination under this paragraph—

"(A) the results of all test samples collected for each of the water quality parameters in section 1418C(c)(3);

"(B) a report explaining the test methods used by the water system to evaluate the corrosion control treatments listed in section 1418C(c)(1), the results of all tests conducted, and the basis for the system's selection of optimal corrosion control treatment;

"(C) a report explaining how corrosion control has been installed and how it is being maintained to insure minimal lead and copper concentrations at consumers' taps; and

"(D) the results of tap water samples collected in accordance with section 1418G at least once every 6 months for 1 year after corrosion control has been installed.

"(3) Any water system is deemed to have optimized corrosion control if it submits results of tap water monitoring conducted in accordance with section 1418G and source water monitoring conducted in accordance with section 1418I that demonstrates for 2 consecutive 6-month monitoring periods that the difference between the highest tap water lead concentration and the highest source water lead concentration is not detectable.

"(c) CESSATION OF CORROSION CONTROL.—Any small or medium-sized water system that is required to complete the corrosion control steps due to its exceedance of the tap water lead limit may cease completing the treatment steps whenever the system meets such tap water lead limit during each of 2 consecutive monitoring periods conducted pursuant to section 1418G and submits the results to the State. If any such water system thereafter exceeds the tap water lead limit during any monitoring period, the system (or the State, as the case may be) shall recommence completion of the applicable treatment steps, beginning with the first treatment step which was not previously completed in its entirety. The State may require a system to repeat treatment steps previously completed by the system where the State determines that this is necessary to implement properly the treatment requirements of this section. The State shall notify the system in writing of such a determination and explain the basis for its decision.

"(d) TREATMENT STEPS AND DEADLINES FOR LARGE SYSTEMS.—Except as provided in paragraphs (2) and (3) of subsection (b) of this section, large systems shall complete the following corrosion control treatment steps by the indicated dates.

"(1) STEP 1: The system shall conduct initial monitoring (sections 1418G(d)(1) and 1418H(b)) within 6 months after enactment of this subpart.

"(2) STEP 2: The system shall complete corrosion control studies (section 1418C(c)) within 12 months after enactment of this subpart.

"(3) STEP 3: The State shall designate optimal corrosion control treatment (section 1418C(d)) within 18 months after enactment of this subpart.

"(4) STEP 4: The system shall install optimal corrosion control treatment (section 1418C(e)) within 24 months after enactment of this subpart.

"(5) STEP 5: The system shall complete follow-up sampling (section 1418H(c)) within 30 months after enactment of this subpart.

"(6) STEP 6: The State shall review installation of treatment and designate optimal water quality control parameters (section 1418C(f)) within 36 months after enactment of this subpart.

"(7) STEP 7: The system shall operate in compliance with the State specified optimal water quality control parameters (section 1418C(g)) and continue to conduct tap sampling (section 1418H(d)).

"(e) TREATMENT STEPS AND DEADLINES FOR SMALL AND MEDIUM-SIZE SYSTEMS.—Except as provided in subsection (b) of this section, small and medium-size systems shall complete the following corrosion control treatment steps (described in the referenced portions of sections 1418C, 1418G, and 1418H) by the indicated time periods.

"(1) STEP 1: The system shall conduct initial tap sampling (section 1418G(d)(1)) within 6 months after enactment of this subpart. A system exceeding the tap water lead limit shall recommend optimal corrosion control treatment (section 1418C(a)) within 6 months after it exceeds the tap water lead limit.

"(2) STEP 2: Within 12 months after a system exceeds tap water lead limit the State may require the system to perform corrosion control studies (section 1418C(b)). If the State does not require the system to perform such studies, the State shall specify optimal corrosion control treatment (section 1418C(d)) within 12 months after such system exceeds the tap water lead limit.

"(3) STEP 3: If the State requires a system to perform corrosion control studies under step 2, the system shall complete the studies (section 1418C(c)) within 12 months after the State requires that such studies be conducted.

"(4) STEP 4: If the system has performed corrosion control studies under step 2, the State shall designate optimal corrosion control treatment (section 1418C(d)) within 6 months after completion of step 3.

"(5) STEP 5: The system shall install optimal corrosion control treatment (section 1418C(e)) within 12 months after the State designates such treatment.

"(6) STEP 6: The system shall complete follow-up sampling (section 1418H(c)) within 24 months after the State designates optimal corrosion control treatment.

"(7) STEP 7: The State shall review the system's installation of treatment and designate optimal water quality control parameters (section 1418C(f)) within 6 months after completion of step 6.

"(8) STEP 8: The system shall operate in compliance with the State designated optimal water quality control parameters (section 1418C(g)) and continue to conduct tap sampling (section 1418H(d)).

"SEC. 1418C. DESCRIPTION OF CORROSION CONTROL TREATMENT REQUIREMENTS.

"Each system shall complete the corrosion control treatment requirements described below which are applicable to such system under section 1418B.

"(a) SYSTEM RECOMMENDATION REGARDING CORROSION CONTROL TREATMENT.—Based upon the results of lead tap monitoring and water quality parameter monitoring, small and medium-size water systems exceeding the tap water lead limit shall recommend installation of 1 or more of the corrosion control treatments listed in subsection (c)(1) of this section which the system believes constitutes optimal corrosion control for that system. The State may require the system to conduct additional water quality parameter monitoring in accordance with section 1418H(b) to assist the State in reviewing the system's recommendation.

"(b) STATE DECISION TO REQUIRE STUDIES OF CORROSION CONTROL TREATMENT (APPLICABLE TO SMALL AND MEDIUM-SIZE SYSTEMS).—The State may require any small or medium-size system that exceeds the tap water lead limit to perform corrosion control studies under subsection (c) of this section to identify optimal corrosion control treatment for the system.

"(c) PERFORMANCE OF CORROSION CONTROL STUDIES.—

"(1) Any public water system performing corrosion control studies shall evaluate the effectiveness of each of the following treatments, and, if appropriate, combinations of the following treatments to identify the optimal corrosion control treatment for that system—

"(A) alkalinity and pH adjustment;

"(B) calcium hardness adjustment; and

"(C) the addition of a phosphate or silicate based corrosion inhibitor at a concentration sufficient to maintain an effective residual concentration in all test tap samples.

"(2) The water system shall evaluate each of the corrosion control treatments using either pipe rig/loop tests, metal coupon tests, partial-system tests, or analyses based on documented analogous treatments with other systems of similar size, water chemistry, and distribution system configuration.

"(3) The water system shall measure the following water quality parameters in any tests conducted under this paragraph before and after evaluating the corrosion control treatments listed above—

"(A) lead;

"(B) copper;

"(C) pH;

"(D) alkalinity;

"(E) calcium;

"(F) conductivity;

"(G) orthophosphate (when an inhibitor containing a phosphate compound is used);

"(H) silicate (when an inhibitor containing a silicate compound is used); and

"(I) water temperature.

"(4) The water system shall identify all chemical or physical constraints that limit or prohibit the use of a particular corrosion control treatment and document such constraints with at least 1 of the following:

"(A) data and documentation showing that a particular corrosion control treatment has adversely affected other water treatment processes when used by another water system with comparable water quality characteristics; and/or

"(B) data and documentation demonstrating that the water system has previously attempted to evaluate a particular corrosion control treatment and has found that the treatment is ineffective or adversely affects other water quality treatment processes.

"(5) The water system shall evaluate the effect of the chemicals used for corrosion control treatment on other water quality treatment processes.

"(6) On the basis of an analysis of the data generated during each evaluation, the water system shall recommend to the State in writing the treatment option that the corrosion control studies indicate constitutes optimal corrosion control treatment for that system. The water system shall provide a rationale for its recommendation along with all supporting documentation specified in subsections (c)(1) through (5) of this section.

"(d) STATE DESIGNATION OF OPTIMAL CORROSION CONTROL TREATMENT.—(1) Based upon consideration of available information including, where applicable, studies performed under subsection (c) of this section and a system's recommended treatment alternative, the State shall, after notice and opportunity for comment, either approve the corrosion control treatment option recommended by the system, or designate alternative corrosion control treatment(s) from among those listed in subsection (c)(1) of this section. When designating optimal treatment the State shall consider the effects that additional corrosion control treatment will have on water quality parameters and on other water quality treatment processes.

"(2) The State shall notify the system of its decision on optimal corrosion control treatment in writing and explain the basis for this determination. If the State requests additional information to aid its review, the water system shall provide the information.

"(e) INSTALLATION OF OPTIMAL CORROSION CONTROL.—Each system shall properly install and operate throughout its distribution system the optimal corrosion control treatment designated by the State under subsection (d) of this section.

"(f) STATE REVIEW OF TREATMENT AND SPECIFICATION OF OPTIMAL WATER QUALITY CONTROL PARAMETERS.—The State shall evaluate the results of all lead tap samples and water quality parameter samples submitted by the water system and determine whether the system has properly installed and operated the optimal corrosion control treatment designated by the State in subsection (d) of this section. Upon reviewing the results of tap water and water quality parameter monitoring by the system, both before and after the system installs optimal corrosion control treatment, the State shall, after notice and opportunity for comment, designate—

"(1) a minimum value or a range of values for pH measured at each entry point to the distribution system;

"(2) a minimum pH value, measured in all tap samples. Such value shall be equal to or greater than 7.0, unless the State determines that meeting a pH level of 7.0 is not technologically feasible or is not necessary for the system to optimize corrosion control;

"(3) if a corrosion inhibitor is used, a minimum concentration or a range of concentrations for the inhibitor, measured at each entry point to the distribution system and in all tap samples, that the State determines is necessary to form a passivating film on the interior walls of the pipes of the distribution system;

"(4) if alkalinity is adjusted as part of optimal corrosion control treatment, a minimum concentration or a range of concentrations for alkalinity, measured at each entry point to the distribution system and in all tap samples;

"(5) if calcium carbonate stabilization is used as part of corrosion control, a minimum concentration or a range of concentrations for calcium, measured in all tap samples.

The values for the applicable water quality control parameters listed above shall be those that the State determines to reflect optimal corrosion control treatment for the system. The State may designate values for additional water quality control parameters determined by the State to reflect optimal corrosion control for the system. The State shall notify the system in writing of these determinations and explain the basis for its decisions.

"(g) CONTINUED OPERATION AND MONITORING.—All systems shall maintain water quality parameter values at or above minimum values or within ranges designated by the State under subsection (f) of this section in each sample collected under section 1418H(d). If the water quality parameter value of any sample is below the minimum value or outside the range designated by the State, then the system is out of compliance with this subsection. As specified in section 1418H(d), the system may take a confirmation sample for any water quality parameter value no later than 3 days after the first sample. If a confirmation sample is taken, the result must be averaged with the first sampling result and the average must be used for any compliance determinations under this subsection. States have discretion to delete results of obvious sampling errors from this calculation.

"(h) MODIFICATION OF STATE TREATMENT DECISIONS.—Upon its own initiative or in response to a request by a water system or other interested party, a State may, after notice and opportunity for comment, modify its determination of the optimal corrosion control treatment under subsection (d) of this section or optimal water quality control parameters under subsection (f) of this section. A request for modification by a system or other interested party shall be in writing, explain why the modification is appropriate, and provide supporting documentation. The State may modify its determination where it concludes that such change is necessary to ensure that the system continues to optimize corrosion control treatment. A revised determination shall be made in writing, set forth the new treatment requirements, explain the basis for the State's decision, and provide an implementation schedule for completing the treatment modifications.

"(i) EPA Regulations or Guidelines.—Within 6 months after the enactment of this subpart the Administrator shall issue regulations or guidelines to facilitate compliance with the requirements of this section.

"SEC. 1418D. SOURCE WATER MCL.

"The Congress hereby establishes, by operation of law, to be effective 18 months after the enactment of this subpart, a maximum contaminant level (MCL) for lead in source water which shall be considered exceeded whenever the concentration of lead in source water is greater than 5 parts per billion (ppb).

"SEC. 1418E. LEAD SERVICE LINE REPLACEMENT REQUIREMENTS.

"(a) Basic Requirement.—Public water systems that fail to meet the tap water lead limit in samples taken pursuant to section 1418G(d) after installing corrosion control shall replace lead service lines in accordance with the requirements of this section.

"(b) Replacement Schedule.—

"(1) In general.—A system shall replace lead services lines in its distribution system at an annual rate which will replace each year either 20 percent of the lead service lines or 10 percent of the total service lines, whichever results in replacement of a greater number of lead service lines. The initial number of lead service lines is the number of lead lines in place at the time the replacement program begins. The system shall identify the initial number of lead and nonlead service lines in its distribution system based upon a materials evaluation, including the evaluation required under section 1418G(a). The first year of lead service line replacement shall begin on the date the tap water lead limit was exceeded in tap water sampling referenced in subsection (a) of this section. If the State fails to designate optimal corrosion control by the date required under section 1418B or if a system fails to install corrosion control treatment by the date required under section 1418B, the first year of lead service line replacement shall begin 6 months after the such date.

"(2) Extension of schedule for certain systems.—Upon the application of a public water system with an especially large number of lead service lines in its distribution system, the State may, after notice and opportunity for comment, extend the schedule for lead service line replacement established under paragraph (1). Such extension shall provide for the replacement by the system of all lead service lines in its distribution system at the earliest feasible date. Such extension shall provide for replacement of an equal percentage of such lines in each year during the extension and shall terminate no later than the date specified in the following table:

Total number of lead service lines to be replaced by system

	Maximum extension period (years)
More than 50,000	3
More than 100,000	5
More than 300,000	10
More than 450,000	13

"(c) Service Lines Not Contributing to Violation.—A system is not required to replace an individual lead service line if the State determines, after notice and opportunity for comment, that the service line does not contribute to tap water lead concentrations in excess of 10 parts per billion (ppb). In such a case, the service line shall be treated by the system as a nonlead line.

"(d) Portion of Service Line Replaced.—A water system shall replace the entire service line (up to the building inlet) unless it demonstrates to the satisfaction of the State under subsection (e) of this section that it controls less than the entire service line. In such cases, the system shall replace the portion of the line which the State determines is under the system's control. The system shall notify the user served by the line that the system will replace the portion of the service line under its control and shall offer to replace the building owner's portion of the line, but is not required to bear the cost of replacing the building owner's portion of the line. For buildings where only a portion of the lead service line is replaced, the water system shall inform each resident that the system will collect a first flush tap water sample after partial replacement of the service line is completed if the resident so desires. In cases where the resident accepts the offer, the system shall collect the sample and report the results to the resident within 14 days following partial lead service replacement.

"(e) Control.—A water system is presumed to control the entire lead service line (up to the building inlet) unless the State determines, after notice and opportunity for comment, that it does not have any of following forms of control over the entire line (as defined by State statutes, municipal ordinances, public service contracts or other applicable legal authority): authority to set standards for construction, repair, or maintenance of the line, authority to replace, repair, or maintain the service line, or ownership of the service line. The State shall review the information supplied by the system and determine whether the system controls less than the entire service line and, in such cases, shall determine the extent of the system's control. The State's determination shall be in writing and explain the basis for its decision.

"(f) Shorter Schedule.—The State shall require a system to replace lead service lines on a shorter schedule than that required by this section, taking into account the number of lead service lines in the system, where such a shorter replacement schedule is feasible. The State shall, after notice and opportunity for comment, make this determination in writing and notify the system of its finding within 6 months after the system is triggered into lead service line replacement based on monitoring referenced in subsection (a) of this section.

"(g) Cessation of Service Line Replacement.—Any system may cease replacing lead service lines whenever the tap water samples collected pursuant to section 1418G(d)(1) meet the tap water lead limit during each of 2 consecutive monitoring periods and the system submits the results to the State. If the tap water samples in any such water system thereafter exceed the tap water lead limit, the system shall recommence replacing lead service lines within 6 months of such exceedance.

"(h) Reporting by System.—To demonstrate compliance with subsections (a) through (d) of this section, a system shall report to the State the information specified in section 1418K(e).

"(i) Voluntary Lead Pipe Removal.—Each State shall, within 18 months of the date of enactment of this subpart, establish a program to encourage all public water systems in the State to provide a voluntary service of referring building owners in the system's service area to approved contractors to remove lead plumbing, fixtures, or solder from their buildings. Such programs shall also encourage public water systems to offer to fund such removal and to bill their water customers on their water bills, amortized over a significant period of time, to allow easy payment for such removal. The Administrator shall, within 6 months of the date of enactment of this Act, develop and distribute to each State and the public a model State program designed to achieve these goals.

"SEC. 1418F. PUBLIC EDUCATION AND SUPPLEMENTAL MONITORING REQUIREMENTS.

"A water system that exceeds the tap water lead limit shall deliver the public education materials contained in subsections (a) and (b) of this section in accordance with the requirements in subsection (c) of this section.

"(a) Content of Written Materials.—A water system shall include the following text in all of the printed materials it distributes through its lead public education program. Any additional information presented by a system shall be consistent with the information below and be in plain English that can be understood by laypersons:

"INTRODUCTION

"The drinking water supplied by [insert name of water supplier] has been tested at several locations in your community and found to be contaminated with the toxic chemical lead. Some homes in the community have lead levels above the Federal tap water lead limit of 10 parts per billion (ppb), or 0.010 milligrams of lead per liter of water (mg/L). Other homes may have lead levels above the maximum contaminant level goal for lead established by the United States Environmental Protection Agency, which is no lead in drinking water.

Under Federal law we are required to have a program in place to minimize lead in your drinking water. This program includes corrosion control treatment (to decrease the level of lead drawn into water from lead in distribution pipes and from lead in home plumbing) and public education. We are also required to replace each lead service line that we control if the line contributes to lead concentrations of 10 parts per billion or more after we have completed the corrosion control treatment program. If you have any questions about how we are carrying out the requirements of Federal law please give us a call at [insert water system's phone number].

Although our lead control program will reduce lead in drinking water, because of contamination from home plumbing, it may not succeed in completely eliminating lead from drinking water or even in lowering lead contamination to the tap water lead limit. This brochure explains the simple additional steps you can take to protect you and your family by reducing your exposure to lead in drinking water.

"HEALTH EFFECTS OF LEAD

"Lead is

"Lead is an extremely dangerous and pervasive poison found in lead-based paint, air, soil, household dust, food, certain types of pottery, porcelain, pewter, and water. Lead can pose a significant risk to your health and especially to the health of your children.

Lead builds up in the body over many years and can cause damage to the brain, red blood cells, and kidneys. Lead probably causes cancer in humans. Lead appears to cause elevated blood pressure in adult men.

The greatest risk is to young children and pregnant women. Small amounts of lead can impair normal mental and physical development of young children and fetuses. This damage can reduce intelligence and cause behavioral disturbances. These effects appear to be irreversible.

There is no known safe level of lead exposure.

"LEAD IN DRINKING WATER

"Lead in drinking water can significantly increase a person's total lead exposure, particularly the exposure of infants who drink baby formulas and concentrated juices that are mixed with water. The EPA estimates that, on average, drinking water makes up about 20 percent of a person's total exposure to lead. In some cases the percentage can be much higher. Infants who drink baby formulas made from lead contaminated tap water have in some instances suffered acute lead poisoning.

"Lead is unusual among drinking water contaminants in that it seldom occurs naturally in water supplies like rivers and lakes. Lead enters drinking water primarily as a result of the corrosion, or wearing away, of materials containing lead in the water distribution system and household plumbing. These materials include lead-based solder used to join copper pipe, brass, and chrome plated brass faucets, and in some cases, pipes made of lead that connect your house to the water main (service lines). In 1986, Congress banned the use of lead solder containing greater than 0.2 percent lead, and restricted the lead content of faucets, pipes and other plumbing materials to 8.0 percent. In 1991 Congress further tightened controls on lead content in faucets, pipes and other plumbing materials.

"When water stands in lead pipes or plumbing systems containing lead for several hours or more, the lead may dissolve into your drinking water. This means the first water drawn from the tap in the morning, or later in the afternoon after returning from work or school, can contain fairly high levels of lead.

"Federal law has set a tap water lead limited which is being exceeded in homes in your community. As a result of this exceedance, we are undertaking a program of corrosion control, public education, and [if necessary] lead service line replacement as required by Federal law to reduce lead levels in tap water. Installation of corrosion control [is required to occur/occurred] by [insert date]. Replacement of lead service lines [if necessary] [is required to occur/occurred] by [insert date]. Despite these measures lead levels [may] still exceed the tap water lead limit in homes in your community due to lead contamination in home plumbing.

"To find out whether you need to take action in your own home, have your drinking water tested to determine if it contains excessive concentrations of lead. Testing the water is essential because you cannot see, taste, or smell lead in drinking water. Some local laboratories that can provide this service are listed at the end of this booklet. For more information on having your water tested, please call [insert phone number of water system]. "If a water test indicates that the drinking water drawn from a tap in your home contains lead above 10 ppb, then you should take the following precautions. The EPA has set a goal of zero for lead contamination in drinking water so you should consider taking these steps even if the lead concentration in your drinking water is below 10 ppb.

"(1) Let the water run from the tap before using it for drinking or cooking any time the water in a faucet has gone unused for more than 6 hours. The longer water resides in your home's plumbing the more lead it may contain. Flushing the tap means running the cold water faucet until the water gets noticeably colder, usually about 15-30 seconds. If your house has a lead service line to the water main, you may have to flush the water for a longer time, perhaps one minute, before drinking. Although toilet flushing or showering flushes water through a portion of your home's plumbing system, you still need to flush the water in each faucet before using it for drinking or cooking. Flushing tap water is a simple and inexpensive measure you can take to protect your family's health. It usually uses less than 1 or 2 gallons of water and costs less than [insert a cost estimate based on flushing 2 times a day for 30 days] per month. To conserve water, fill a couple of bottles for drinking water after flushing the tap, and whenever possible use the first flush water to wash the dishes or water the plants.

"If you live in a high-rise building, letting the water flow before using it may not work to lessen your risk from lead. The plumbing systems have more, and sometimes larger pipes than smaller buildings. Ask your landlord for help in locating the source of the lead and for advice on reducing the lead level.

"(2) Try not to cook with, or drink water from the hot water tap. Hot water can dissolve more lead more quickly than cold water. If you need hot water, draw water from the cold tap and heat it on the stove.

"(3) Remove loose lead solder and debris from the plumbing materials installed in newly constructed homes, or homes in which the plumbing has recently been replaced, by removing the faucet strainers from all taps and running the water from 3 to 5 minutes. Thereafter, periodically remove the strainers and flush out any debris that has accumulated over time.

"(4) If your copper pipes are joined with lead solder that has been installed illegally since it was banned in 1986, notify the plumber who did the work and request that he or she replace the lead solder with lead-free solder. Lead solder looks dull gray, and when scratched with a key looks shiny. In addition, notify your State [insert name of department responsible for enforcing the Safe Drinking Water Act in your State] about the violation.

"(5) Determine whether or not the service line that connects your home or apartment to the water main is made of lead. The best way to determine if your service line is made of lead is by contacting us at [insert phone number of water system] hiring a licensed plumber to inspect the line or contacting the plumbing contractor who installed the line. You can identify the plumbing contractor by checking the city's record of building permits which should be maintained in the files of the [insert name of department that issues building permits]. A licensed plumber can at the same time check to see if your home's plumbing contains lead solder, lead pipes, or pipe fittings that contain lead.

The public water system that delivers water to your home should also maintain records of the materials located in the distribution system. If the service line that connects your dwelling to the water main contributes to an exceedance of the Federal tap water lead limit after our corrosion control treatment program is in place, we are required to replace the line. If the line is only partially controlled by the [insert name of the city, county, or water system that controls the line], we are required to provide you with information on how to replace your portion of the service line, and offer to replace that portion of the line at your expense and take a follow-up tap water sample within 14 days of the replacement. Acceptable replacement alternatives include copper, steel, iron, and plastic pipes.

"(6) Have an electrician check your wiring. If grounding wires from the electrical system are attached to your pipes, corrosion may be greater. Check with a licensed electrician or your local electrical code to determine if your wiring can be grounded elsewhere. DO NOT attempt to change the wiring yourself because improper grounding can cause electrical shock and fire hazards.

"The steps described above will reduce the lead concentrations in your drinking water. However, if a water test indicates that the drinking water coming from your tap contains lead concentrations in excess of 10 ppb after flushing, or after we have completed our actions to minimize lead levels, then you may want to take the following additional measures.

"(1) Purchase or lease a home treatment device. Home treatment devices are limited in that each unit treats only the water that flows from the faucet to which it is connected, and all of the devices require periodic maintenance and replacement. Devices such as reverse osmosis systems or distillers can effectively remove lead from your drinking water. Some activated carbon filters may reduce lead levels at the tap, however all lead reduction claims should be investigated. Be sure to check the actual performance of a specific home treatment device before and after installing the unit.

"(2) Purchase bottled water for drinking and cooking.

"In addition to exposure through drinking water, a child at play often comes into contact with sources of lead contamination—like dirt and dust—that rarely affect an adult. It is important to wash children's hands and toys often to reduce these sources of lead exposure.

"You can consult a variety of sources for additional information. Your family doctor or pediatrician can perform a blood test for lead and provide you with more information about the health effects of lead. State and local government agencies that can be contacted include:

"[insert the name of city or county department of public utilities] at [insert phone number] can provide you with information about your community's water supply, and a list of local laboratories that have been certified by EPA for testing water quality;

"[insert the name of city or county department that issues building permits] at [insert phone number] can provide you with information about building permit records that should contain the names of plumbing contractors that plumbed your home; and

"[insert the name of the State Department of Public Health] at [insert phone number] or the [insert the name of the city or county health department] at [insert phone number] can provide you with information about the health effects of lead and how you can have your child's blood tested.

"The following is a list of some State approved laboratories in your area that you can call to have your water tested for lead. [Insert names and phone numbers of at least 2 laboratories].

"(b) CONTENT OF BROADCAST MATERIALS.—A water system shall include the following information in all public service announcements submitted under its lead public education program to television and radio stations for broadcasting:

"Why should everyone want to know the facts about lead and drinking water? Because lead is an extremely dangerous poison that can enter drinking water and pose a significant risk to your health and the health of your children. Lead contamination can impair the intellectual development of young children. That's why I urge you to do what I did. I had my water tested for [insert free or $ per sample]. You can contact the [insert the name of the city or water system] for information on testing and on simple ways to reduce your exposure to lead in drinking water.

"To have your water tested for lead, or to get more information about this public health concern, please call [insert the phone number of the city or water system].

"(c) DELIVERY OF PUBLIC EDUCATION PROGRAM.—(1) In communities where a significant proportion of the population speaks a language other than English, public education materials shall be communicated in the appropriate language(s).

"(2) A community water system that fails to meet the tap water lead limit shall, within 60 days:

"(A) insert notices in each customer's water utility bill containing the information in subsection (a), along with the following alert on the water bill itself in large print: **'SOME HOMES IN THIS COMMUNITY HAVE ELEVATED LEAD LEVELS IN THEIR DRINKING WATER. LEAD CAN POSE A SIGNIFICANT RISK TO YOUR HEALTH AND TO THE HEALTH OF YOUR CHILDREN. PLEASE READ THE ENCLOSED NOTICE FOR FURTHER INFORMATION.',**

"(B) submit the information in subsection (a) to the editorial departments of the major daily and weekly newspapers circulated throughout the community,

"(C) deliver pamphlets and/or brochures that contain the public education materials in subsection (a) of this section relating to the health effects of lead and steps to be taken in the home to reduce exposure to lead in drinking water of this section to facilities and organizations, including the following: public and private schools and/or local school boards; city or county health department; women, infants, and children and/or Head Start Program(s) whenever available; public and private hospitals and/or clinics; pediatricians; family planning clinics; public libraries; and local welfare agencies, and

"(D) submit the public service announcement in subsection (b) to at least 5 of the radio and television stations with the largest audiences that broadcast to the community served by the water system.

"(3) A community water system shall repeat the tasks contained in subsection (c)(2) (A), (B), and (C) every 12 months, and the tasks contained in subsection (c)(2)(D) every 6 months for as long as the system exceeds the tap water lead limit.

"(4) Within 60 days after it exceeds the tap water lead limit, a noncommunity water system shall deliver the public education materials contained in subsection (a) of this section as follows:

"(A) Post informational posters on lead in drinking water in a public place or common area in each of the buildings served by the system.

"(B) Distribute informational pamphlets and/or brochures on lead in drinking water to each person served by the noncommunity water system.

"(5) A noncommunity water system shall repeat the tasks contained in subsection (c)(4) of this section at least once during each calendar year in which the system exceeds the tap water lead limit.

"(6) A water system may discontinue delivery of public education materials if the system has met the tap water lead limit during the most recent 6-month monitoring period conducted pursuant to section 1418G. Such a system shall recommence public education in accordance with this section if it subsequently exceeds the tap water lead limit during any monitoring period.

"(d) SUPPLEMENTAL MONITORING AND NOTIFICATION OF RESULTS.—A water system that fails to meet the tap water lead limit shall offer to sample the tap water of any customer who requests it. The system is not required to pay for collecting or analyzing the sample, nor is the system required to collect and analyze the sample itself.

"(e) NOTIFICATION OF VIOLATIONS.—

"(1) IN GENERAL.—A water system which fails to comply with a water maximum contaminant level for lead or any other requirement under this subpart shall notify persons served by such system of such violation in the manner provided for public notification of violations of maximum contaminant levels and treatment techniques in regulations of the Administrator under this part.

"(2) MANDATORY HEALTH EFFECTS LANGUAGE.—When providing the information on potential adverse health effects in notices of violation, the water system shall include the language in subsection (a) relating to the health effects of lead.

"SEC. 1418G. MONITORING REQUIREMENTS FOR LEAD IN TAP WATER.

"(a) SAMPLE SITE LOCATION.—(1) By the applicable date for commencement of monitoring under subsection (d)(1) of this section, each water system shall complete a materials evaluation of its distribution system in order to identify a pool of targeted sampling sites that meets the requirements of this section, and which is sufficiently large to ensure that the water system can collect the number of lead tap samples required in subsection (c). All sites from which first draw samples are collected shall be selected from this pool of targeted sampling sites. Sampling sites may not include faucets that have point-of-use or point-of-entry treatment devices designed to remove inorganic contaminants.

"(2) A water system shall use the information that it is required to collect under regulations promulgated by the Administrator under this part relating to special monitoring for corrosivity characteristics when conducting a materials evaluation. When an evaluation of the information collected pursuant to such regulations is insufficient to locate the requisite number of lead sampling sites that meet the targeting criteria in this subsection, the water system shall review each source of information listed below in order to identify a sufficient number of sampling sites and in addition, the system shall seek to collect such information where possible in the course of its normal operations (e.g. checking service line materials when reading water meters or performing maintenance activities):

"(A) All plumbing codes, permits, and records in the files of the building department which indicate the plumbing materials that are installed within publicly and privately owned structures connected to the distribution system.

"(B) All inspections and records of the distribution system that indicate the material composition of the service connections that connect a structure to the distribution system.

"(C) All existing water quality information, which includes the results of all prior analyses of the system or individual structures connected to the system, indicating locations that may be particularly susceptible to high lead concentrations.

"(3) The sampling sites selected for a community water system's sampling pool ('tier 1 sampling sites') shall consist of single family structures that (A) contain copper pipes with lead solder installed after 1982 or contain lead pipes; and/or (B) are served by a lead service line. When multiple-family residences comprise at least 20 percent of the structures served by a water system, the system may include these types of structures in its sampling pool.

"(4) Any community water system with insufficient tier 1 sampling sites shall complete its sampling pool with 'tier 2 sampling sites', consisting of buildings, including multiple-family residences that: (A) contain copper pipes with lead solder installed after 1982 or contain lead pipes; and/or (B) are served by a lead service line.

"(5) Any community water system with insufficient tier 1 and tier 2 sampling sites shall complete its sampling pool with 'tier 3 sampling sites', consisting of single family structures that contain copper pipes with lead solder installed before 1983.

"(6) The sampling sites selected for a noncommunity water system ('tier 1 sampling sites') shall consist of buildings that: (A) contain copper pipes with lead solder installed after 1982 or contain lead pipes; and/ or (B) are served by a lead service line.

"(7) A noncommunity water system with insufficient tier 1 sites that meet the targeting criteria in paragraph (6) of subsection (a) shall complete its sampling pool with sampling sites that contain copper pipes with lead solder installed before 1983.

"(8) Any water system whose sampling pool does not consist exclusively of tier 1 sites shall demonstrate in a letter submitted to the State under section 1418K(a)(2) why a review of the information listed in subsection (a)(2) was inadequate to locate a sufficient number of tier 1 sites. Any community water system which includes tier 3 sampling sites in its sampling pool shall demonstrate in such a letter why it was unable to locate a sufficient number of tier 1 and tier 2 sampling sites.

"(9) Any water system whose distribution system contains lead service lines shall draw 50 percent of the samples it collects during each monitoring period from sites that contain lead pipes, or copper pipes with lead solder, and 50 percent of those samples from sites served by a lead service line. A water system that cannot identify a sufficient number of sampling sites served by a lead service line shall demonstrate in a letter submitted to the State why the system was unable to locate a sufficient number of such sites. Such a water system shall collect lead service line samples from all of the sites identified as being served by such lines.

"(b) SAMPLE COLLECTION METHODS.—(1) All tap samples for lead collected in accordance with this subpart (but not lead service line samples collected under section 1418E) shall be first draw samples.

"(2) Each first-draw tap sample for lead shall be one liter in volume and have stood motionless in the plumbing system of each sampling site for at least 6 hours. First draw samples from residential housing shall be collected from the cold-water kitchen tap or bathroom sink tap. First-draw samples from a nonresidential building shall be collected at an interior tap from which water is typically drawn for consumption. First draw samples may be collected by the system or the system may allow residents to collect first draw samples after instructing the residents of the sampling procedures specified in this paragraph. If a system allows residents to perform sampling, the system may not challenge, based on alleged errors in sampling collection, the accuracy of sampling results.

"(3) Each service line sample shall be 1 liter in volume and have stood motionless in the lead service line for at least 6 hours. Lead service line samples shall be collected in 1 of the following 3 ways:

"(A) At the tap after flushing the volume of water between the tap and the lead service line. The volume of water shall be calculated based on the interior diameter and length of the pipe between the tap and the lead service line.

"(B) Tapping directly into the lead service line.

"(C) If the sampling site is a building constructed as a single-family residence, allowing the water to run until there is a significant change in temperature which would be indicative of water that has been standing in the lead service line.

"(4) A water system shall collect each first draw tap sample from the same sampling site from which it collected a previous sample. If, for any reason, the water system cannot gain entry to a sampling site in order to collect a follow-up tap sample, the system may collect the follow-up tap sample from another sampling site in its sampling pool as long as the new site meets the same targeting criteria, and is within reasonable proximity of the original site.

"(c) NUMBER OF SAMPLES.—Water systems shall collect at least one sample during each monitoring period specified in subsection (d) from the number of sites listed in the first column below ('standard monitoring'). A system conducting reduced monitoring under subsection (d)(2) may collect one sample from the number of sites specified in the second column below during each monitoring period specified in subsection (d)(2).

System size (No. people served)	No. of sites (standard monitoring)	No. of sites (reduced monitoring)
100,000	100	50
10,001 to 100,000	60	30
3,301 to 10,000	40	20
501 to 3,300	20	10
101 to 500	10	5
100	5	5

"(d) TIMING OF MONITORING.—

"(1) STANDARD MONITORING.—Monitoring required under this section for lead concentrations in tap water shall commence 6 months after the enactment of this subpart and shall occur at 6-month intervals thereafter, except as provided in paragraph (2).

"(2) REDUCED MONITORING.—(A) Any water system that meets the tap water lead limit during each of 2 consecutive 6-month monitoring periods may reduce the number of samples in accordance with subsection (c) of this subsection, and reduce the frequency of sampling to once per year.

"(B) Any water system that meets the tap water lead limit during 3 consecutive years of monitoring may reduce the frequency of monitoring for lead from annually to once every 3 years.

"(C) A water system that reduces the number and frequency of sampling shall collect these samples from sites included in the pool of targeted sampling sites identified in subsection (a). Systems sampling annually or less frequently shall conduct the lead tap sampling during the month of June, July, August, or September.

"(D) Any water system subject to reduced monitoring that exceeds the tap water lead limit shall immediately resume sampling in accordance with subsection (d)(1) and collect the number of samples specified for standard monitoring under subsection (c).

"(e) ADDITIONAL MONITORING BY SYSTEMS.—The results of any monitoring conducted in addition to the minimum requirements of this section shall be considered by the system and the State in making any determinations under this subpart.

"SEC. 1418H. MONITORING REQUIREMENTS FOR WATER QUALITY PARAMETERS.

"All large water systems and all small and medium-size systems that exceed the tap water lead limit shall monitor water quality parameters in addition to lead in accordance with this section.

"(a) GENERAL REQUIREMENTS.—

"(1) SAMPLE COLLECTION METHODS.—(A) Tap samples shall be representative of water quality throughout the distribution system taking into account the number of persons served, the different sources of water, the different treatment methods employed by the system, and seasonal variability. Tap sampling under this section is not required to be conducted at taps targeted for lead sampling under section 1418G(a).

"(B) Samples collected at the entry point(s) to the distribution system shall be from locations representative of each source after treatment. If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions (i.e., when water is representative of all sources being used).

"(2) NUMBER OF SAMPLES.—(A) Systems shall collect 2 tap samples for applicable water quality parameters during each monitoring period specified under subsections (b) through (e) of this section from the following number of sites:

Water quality parameters

System size Number of people served:	*Number of sites*
100,000	25
10,001 to 100,000	10
3,301 to 10,000	3
501 to 3,300	2
101 to 500	1
100	1

"(B) Systems shall collect two samples for each applicable water quality parameter at each entry point to the distribution system during each monitoring period specified in subsection (b). During each monitoring period specified in subsections (c) through (e) of this section, systems shall collect one sample for each applicable water quality parameter at each entry point to the distribution system.

"(b) INITIAL SAMPLING.—All large water systems shall measure the applicable water quality parameters as specified below at taps and at each entry point to the distribution system during each 6-month monitoring period specified in section 1418G(d)(1). All small- and medium-size systems shall measure the applicable water quality parameters at the locations specified below during each 6-month monitoring period specified in section 1418G(d)(1) during which the system exceeds the tap water lead limit.

"(1) At taps: pH; alkalinity; orthophosphate, when an inhibitor containing a phosphate compound is used; silica, when an inhibitor containing a silicate compound is used; calcium; conductivity; and water temperature.

"(2) At each entry point to the distribution system: all of the applicable parameters listed in paragraph (1) above.

"(c) MONITORING AFTER INSTALLATION OF CORROSION CONTROL.—Any system which installs optimal corrosion control treatment pursuant to section 1418B(d)(4) or section 1418B(e)(5) shall measure the water quality parameters at the locations and frequencies specified below during each 6-month monitoring period following such installation.

"(1) At taps, two samples for: pH; alkalinity; orthophosphate, when an inhibitor containing a phosphate compound is used; silica, when an inhibitor containing a silicate compound is used; calcium, when calcium carbonate stabilization is used as part of corrosion control.

"(2) At each entry point to the distribution system, one sample every two weeks for: pH; when alkalinity is adjusted as part of optimal corrosion control, a reading of the dosage rate of the chemical used to adjust alkalinity, and the alkalinity concentration; and when a corrosion inhibitor is used as part of optimal corrosion control, a reading of the dosage rate of the inhibitor used, and the concentration of orthophosphate or silica (whichever is applicable).

"(d) MONITORING AFTER STATE SPECIFIES WATER QUALITY PARAMETER VALUES FOR OPTIMAL CORROSION CONTROL.—After the State specifies the values for applicable water quality control parameters reflecting optimal corrosion control treatment under section 1418C(f), all systems shall measure the applicable water quality parameters in accordance with subsection (c) of this section during each 6-month monitoring period after such specification. The system may take a confirmation sample for any water quality parameter value no later than 3 days after the first sample. If a confirmation sample is taken, the result must be averaged with the first sampling result and the average must be used for any compliance determinations under section 1418C(g). States have discretion to delete results of obvious sampling errors from this calculation.

"(e) REDUCED MONITORING.—(1) Any water system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment during each of two consecutive 6-month monitoring periods under subsection (d) of this section shall continue monitoring at the entry point(s) to the distribution system as specified in subsection (c)(2) of this section. Such system may collect two tap samples for applicable water quality parameters from the following reduced number of sites during each 6-month monitoring period.

Water quality parameters

System size Number of people served:	*Reduced number of sites*
More than 100,000	10
10,001 to 100,000	7
3,301 to 10,000	3
501 to 3,300	2
101 to 500	1
Less than 100	1

"(2) Any water system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the State under section 1418C(f) during 3 consecutive years of monitoring may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters specified in paragraph (1) from every 6 months to annually.

"(3) A water system that conducts sampling annually shall collect these samples evenly throughout the year so as to reflect seasonal variability.

"(4) Any water system subject to reduced monitoring frequency that fails to operate within the range of values for the water quality parameters specified by the State under section 1418C(f) shall resume tap water sampling in accordance with the number and frequency requirements in subsection (c) of this section.

"(f) ADDITIONAL MONITORING BY SYSTEMS.—The results of any monitoring conducted in addition to the minimum requirements of this section shall be considered by the system and the State in making any determinations (i.e., determining concentrations of water quality parameters) under this section or section 1418C.

"SEC. 1418I. MONITORING REQUIREMENTS FOR LEAD IN SOURCE WATER.

"(a) SAMPLE LOCATION, COLLECTION METHODS, AND NUMBER OF SAMPLES.—(1) Each water system shall collect lead source water samples in accordance with the requirements regarding sample location, number of samples, and collection methods specified in regulations of the Administrator under subpart 1 relating to inorganic chemical sampling.

"(2) Where the results of sampling indicate an exceedance of the source water maximum contaminant level for lead, the State may require that 1 additional sample be collected as soon as possible after the initial sample was taken (but not to exceed 2 weeks) at the same sampling point. If a State-required confirmation sample is taken for lead, then the results of the initial and confirmation sample shall be averaged in determining compliance with the source water maximum contaminant level for lead. Any sample value below the detection limit shall be considered to be zero. Any value above the detection limit but below the PQL shall either be considered as the measured value or be considered one-half the PQL.

"(b) Monitoring Frequency.—Each system shall collect one source water sample from each entry point to the distribution system within 6 months after the enactment of this subpart and at 6 month intervals thereafter.

"(c) Reduced Monitoring Frequency.—(1) A water system using only ground water which demonstrates that finished drinking water entering the distribution system has been maintained below the source water maximum contaminant level for lead during at least 3 consecutive compliance periods under subsection (b) of this section may reduce the monitoring frequency for lead to once every 2 years.

"(2) A water system using surface water (or a combination of surface and ground waters) which demonstrates that finished drinking water entering the distribution system has been maintained below the source water maximum contaminant level for lead for at least 3 consecutive years may reduce the monitoring frequency in subsection (b) of this section to once every 2 years.

"(3) A water system that uses a new source of water is not eligible for reduced monitoring for lead until concentrations in samples collected from the new source during 3 consecutive monitoring periods are below the source water maximum contaminant level for lead.

"SEC. 1418J. ANALYTICAL METHODS.

"Analyses for lead, copper, pH, conductivity, calcium, alkalinity, orthophosphate, silica, and temperature shall be conducted using the methods specified in 40 C.F.R. 141.89, as may be modified by the Administrator from time to time. For purposes of this title and regulations thereunder, where it is not economically or technologically feasible to ascertain the level of a contaminant in drinking water which is as close to the maximum contaminant level goal as feasible, the Administrator shall establish a treatment technique for such contaminant in accordance with section 1412(b)(7). The Administrator shall have no authority in such cases to promulgate national primary drinking water regulations under this title based upon the level of a contaminant which is economically or technologically feasible to ascertain. Any such regulations in effect on the date of enactment of this subpart which are inconsistent with the provisions of the preceding sentence (including any regulations based on a Practical Quantification Level) shall be revised by the Administrator within 6 months after the enactment of this subpart to conform to such requirements. Such existing inconsistent regulations shall cease to apply on the date on which the revised regulations take effect.

"SEC. 1418K. REPORTING REQUIREMENTS.

"All water systems shall report all of the following information to the State in accordance with this section.

"(a) Reporting Requirements for Tap Water Monitoring for Lead and for Water Quality Parameters Monitoring.—(1) A water system shall report the information specified below for all tap water samples within the first 10 days following the end of each applicable monitoring period specified in section 1418G and 1418H (i.e. every 6 months, annually, or every 3 years).

"(A) The results of all tap samples for lead, including the location of each site and the criteria under paragraph (3), (4), (5), (6) and/or (7) of section 1418G(a) under which the site was selected for the system's sampling pool.

"(B) A certification that each first draw sample collected by the water system is one-liter in volume and, to the best of its knowledge, has stood motionless in the service line, or in the interior plumbing of a sampling site, for at least 6 hours.

"(C) Where residents collected samples, a certification that each tap sample collected by the residents was taken after the water system informed them of proper sampling procedures.

"(D) The results of all tap water samples for lead.

"(E) With the exception of initial tap sampling conducted pursuant to this section, the system shall designate any site which was not sampled during previous monitoring periods, and include an explanation of why sampling sites have changed.

"(F) The results of all tap samples for pH, and where applicable, alkalinity, calcium, conductivity, temperature, and orthophosphate or silica collected under subsections (b) through (e) of section 1418H.

"(G) The results of all samples collected at the entry point to the distribution system for applicable water quality parameters under subsections (b) through (e) of section 1418H.

"(2) By the applicable date specified in section 1418G(d)(1) for commencement of monitoring, each community water system which does not complete its targeted sampling pool with tier 1 sampling sites meeting the criteria in section 1418G(a)(3) shall send a letter to the State justifying its selection of tier 2 and/or tier 3 sampling sites under section 1418G(a)(4) and/or (a)(5).

"(3) By the applicable date specified in section 1418G(d)(1) for commencement of monitoring, each noncommunity water system which does not complete its sampling pool with tier 1 sampling sites meeting the criteria in section 1418G(a)(6) shall send a letter to the State justifying its selection of sampling sites under section 1418G(a)(7).

"(4) By the applicable date specified in section 1418G(d)(1) for commencement of monitoring, each water system with lead service lines that is not able to locate the number of sites served by such lines required under section 1418G(a)(9) shall send a letter to the State demonstrating why it was unable to locate a sufficient number of such sites based upon the information listed in section 1418G(a)(2).

"(b) SOURCE WATER MONITORING REPORTING REQUIREMENTS.—(1) A water system shall report the sampling results for all source water samples collected in accordance with section 1418I within the first 10 days following the end of each source water monitoring period (i.e., annually, per compliance period, per compliance cycle) specified in section 1418I.

"(2) With the exception of the first round of source water sampling conducted pursuant to section 1418I, the system shall specify any site which was not sampled during previous monitoring periods, and include an explanation of why the sampling point has changed.

"(c) CORROSION CONTROL TREATMENT REPORTING REQUIREMENTS.—By the applicable dates under section 1418B systems shall report the following information:

"(1) For systems demonstrating that they have already optimized corrosion control, information required in section 1418B(b)(2) or (3).

"(2) For systems required to optimize corrosion control, their recommendation regarding optimal corrosion control treatment under section 1418C(a).

"(3) For systems required to evaluate the effectiveness of corrosion control treatments under section 1418C(c), the information required by that paragraph.

"(4) For systems required to install optimal corrosion control designated by the State under section 1418C(d), a letter certifying that the system has completed installing that treatment.

"(d) LEAD SERVICE LINE REPLACEMENT REPORTING REQUIREMENTS.—Systems shall report the following information to the State to demonstrate compliance with the requirements of section 1418E:

"(1) Within 12 months after a system exceeds the tap water lead limit in sampling referred to in section 1418E(a), the system shall demonstrate in writing to the State that it has conducted a materials evaluation, including the evaluation in section 1418G(a), to identify the initial number of lead service lines in its distribution system, and shall provide the State with the system's schedule for replacing lead service lines.

"(2) Within 12 months after a system exceeds the tap water lead limit in sampling referred to in section 1418E(a), and every 12 months thereafter, the system shall demonstrate to the State in writing that the system has replaced in the previous 12 months the number of lead service lines in its distribution system required by section 1418E.

"(3) The annual letter submitted to the State under subsection (d)(2) shall contain the following information:

"(A) The number of lead service lines scheduled to be replaced during the previous year of the system's replacement schedule.

"(B) The number and location of each lead service line replaced during the previous year of the system's replacement schedule.

"(C) If measured, the water lead concentration and location of each lead service line sampled, the sampling method, and the date of sampling.

"(4) As soon as practicable, but in no case later than 3 months after a system has completed the installation of optimal corrosion control treatment and subsequently been found to exceed the tap water lead limit in any sampling referred to in section 1413(a), any system seeking to rebut the presumption that it has control over the entire lead service line pursuant to section 1418E(d) shall submit a letter to the State describing the legal authority (e.g., State statutes, municipal ordinances, public service contracts, or other applicable legal authority) which limits the system's control over the service lines and the extent of the system's control.

"(e) PUBLIC EDUCATION PROGRAM REPORTING REQUIREMENTS.—(1) By December 31 of each year, any water system that is subject to the public education requirements in section 1418F shall submit a letter to the State demonstrating that the system has delivered the public education materials that meet the content requirements in section 1418F(a) through (d) and the delivery requirements in section 1418F(c). This information shall include a list of all the newspapers, radio stations, television stations, facilities, and organizations to which the system delivered public education materials during the previous year. The water system shall submit the letter required by this paragraph annually for as long as it exceeds the tap water lead limit.

"(2) By December 31 of each year any water system subject to the public notification requirements of section 1418F(e) shall submit a letter to the State demonstrating compliance with the requirements of section 1418F(e).

"(f) Reporting of Additional Monitoring Data.—Any system which collects sampling data in addition to that required by this subpart shall report the results to the State by the end of the applicable monitoring period under sections 1418G, 1418H, and 1418I during which the samples are collected.

"(g) Annual Compliance Certification.—All public water systems shall submit a letter to the State by March 1 of each year certifying the extent to which the system was in compliance with each applicable provision of this subpart during the preceding calendar year.

"SEC. 1418L. RECORDKEEPING REQUIREMENTS.

"Any system subject to the requirements of this subpart shall retain on its premises original records of all sampling data and analyses, reports, surveys, letters, evaluations, schedules, State determinations, and any other information required by this subpart. Each water system shall retain the records required by this section for no fewer than 12 years.

"SEC. 1418M. IMPLEMENTATION REQUIREMENTS.

"(a) Records Kept by States.—Each State shall maintain for not less than 10 years files for each public water system which contain records of currently applicable or most recent State determinations, including all supporting information and an explanation of the technical basis for each of the following decisions, made under the preceding provisions of this subpart:

"(1) Decisions to require a water system to conduct corrosion control treatment studies.

"(2) Designations of optimal corrosion control treatment.

"(3) Designations of optimal water quality parameters.

"(4) Decisions to modify a public water system's optimal corrosion control treatment or water quality parameters.

"(5) Determinations that a system does not control entire lead service lines.

"(6) Determinations establishing or failing to establish a shorter lead service line replacement schedule than required by section 1418E.

"(7) Records of reports and any other information submitted by water systems under section 1418K.

"(8) Records of State activities, and the results thereof, to verify compliance with State determinations issued under section 1418C(f) and 1418C(h) and compliance with lead service line replacement schedules under section 1418E.

"(9) Records of each system's currently applicable or most recently designated monitoring requirements.

If, for the records identified in paragraphs (1) through (6) of this subsection, no change is made to a State decision during a 12 year retention period, the State shall maintain the record until a new decision, determination, or designation has been issued.

"(b) Special Reports.—Each State shall submit to the Administrator by May 15, August 15, November 15, and February 15 of each year the following information relating to each system's compliance with the requirements for lead under this subpart during the preceding calendar quarter. Specifically, States shall report the name and Public Water System identification number of—

"(1) each public water system which exceeded any maximum contaminant level for lead or tap water lead limit and the date upon which the exceedance occurred;

"(2) each public water system required to complete the corrosion control evaluations specified in section 1418C(c) and the date the State received the results of the evaluations from each system;

"(3) each public water system for which the State has designated optimal corrosion control treatment under section 1418C(d), the date of the determination, and each system that completed installation of treatment as certified under section 1418K(c)(4);

"(4) each public water system for which the State has designated optimal water quality parameters under section 1418C(f) and the date of the determination; and

"(5) each public water system required to begin replacing lead service lines as specified in section 1418E, each public water system for which the State has established a replacement schedule under section 1418E(f), and each system reporting compliance with its replacement schedule under section 1418K(d)(2).

"(c) Special Primacy Requirements.—An application for approval of a State program revision which adopts the requirements specified in this section must contain (in addition to the general primacy requirements enumerated elsewhere in this part, including the requirement that State regulations be at least as stringent as the Federal requirements) a description of how the State will accomplish the following program requirements:

"(1) Section 1418C(d), (f), and (h).—Designating optimal corrosion control treatment methods, optimal water quality parameters and modifications thereto.

"(2) Section 1418K(d).—Verifying compliance with lead service line replacement schedules and of Public Water System demonstrations of limited control over lead service lines.

"(d) Availability of Records.—All records, data, and reports collected, maintained, received, or otherwise developed by States pursuant to the requirements of this subpart shall be made available by the State to the public upon request, unless making such records, data, or reports available would divulge trade secrets or secret processes.

"SEC. 1418N. EPA REVIEW OF IMPLEMENTATION OF NPDWR FOR LEAD.

"(a) EPA Review.—Pursuant to the procedures in this section, the Administrator shall review State determinations required to be made after notice and opportunity for comment under this subpart and shall issue an order establishing a Federal determination where—

"(1) a State has failed to issue a determination by the applicable deadline; or

"(2) a State has issued a determination that does not comply with the requirements of this subpart.

"(b) Information Used by State.—The State shall forward to the Administrator each State determination referred to in subsection (a) and all information that was considered by the State in making its determination, including public comments, if any, within 60 days of the State determination.

"(c) Proposed Review of State Determinations.—(1) Where the conditions in subsection (a)(1) or (a)(2) are met, the Administrator shall issue a proposed review order within 90 days of the State action or failure to act which shall—

"(A) identify the public water system(s) affected, the State determination being reviewed and the provisions of State and/or Federal law at issue;

"(B) identify the determination that the State failed to carry out by the applicable deadline, or identify the particular provisions of the State determination which, in the Administrator's judgment, fail to carry out applicable requirements of this subpart and explain the basis for the Administrator's conclusion;

"(C) identify the treatment requirements which the Administrator proposes to apply to the affected system(s), and explain the basis for the proposed requirements; and

"(D) request public comment on the proposed order and the supporting record.

"(2) The Administrator shall provide notice of the proposed review order by:

"(A) mailing the proposed order to the affected public water system(s), the State agency whose order is being reviewed, and any other parties of interest known to the Administrator; and

"(B) publishing a copy of the proposed order in a newspaper of general circulation in the affected communities.

"(3) The Administrator shall make available for public inspection during the comment period the record supporting the proposed order, which shall include all of the information submitted by the State to the Administrator under subsection (b) of this section, all other studies, monitoring data and other information considered by the Administrator in developing the proposed order.

"(d) Final Review Order.—(1) Based upon review of all information obtained regarding the proposed review order, including public comments, the Administrator shall issue a final review order within 120 days after issuance of the proposed order which affirms, modifies, or withdraws the proposed order. If the final order modifies or withdraws the proposed order, the final order shall explain the reasons supporting the change.

"(2) The record of the final order shall consist of the record supporting the proposed order, all public comments, all other information considered by the Administrator in issuing the final order and a document responding to all significant public comments submitted on the proposed order. If new points are raised or new material supplied during the public comment period, the Administrator may support the responses on those matters by adding new materials to the record. The record shall be complete when the final order is issued.

"(3) Notice of the final order shall be provided by mailing the final order to the affected system(s), the State, and all parties who commented on the proposed order.

"(4) Upon issuance of the final order, its terms constitute requirements of the national primary drinking water regulation for lead until such time as the Administrator issues a new order (which may include recision of the previous order) pursuant to the procedures in this section. Such requirements shall supersede any inconsistent treatment requirements established by the State pursuant to the national primary drinking water regulations for lead.

"(5) The Administrator may not issue a final order to impose conditions less stringent than those imposed by the State.

"(e) FINALITY.—Action of the State with respect to which review by the Administrator is required under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

"(f) PRIMACY STATES.—All references in this subpart to the 'State' refer to the State which has primary enforcement responsibility under this title for the public water system concerned. If a State does not have primary enforcement responsibility under this title for public water systems in that State, the authorities and responsibilities vested in the State under this section shall be vested in the Administrator and all references in this section to the 'State' shall be treated as references to the 'Administrator'. The Administrator shall promptly withdraw primary enforcement responsibility under this title in the case of any State which is not fully implementing the requirements of this title.

"SEC. 1418O. VARIANCES AND EXEMPTIONS.

"(a) USE OF BOTTLED WATER, ETC.—The State may require a public water system to use bottled water, point-of-use devices, point-of entry devices, or other means as a condition of granting a variance or exemption from the requirements of national primary drinking water regulations under this part to avoid an unreasonable risk to health. The State may require a public water system to use bottled water and point-of-use devices or other means, but not point-of-entry devices, as a condition for granting an exemption from corrosion control treatment requirements for lead in sections 1418B and 1418C to avoid an unreasonable risk to health. The State may require a public water system to use point-of-entry devices as a condition for granting an exemption from the source water and lead service line replacement requirements for lead under section 1418D or 1418E to avoid an unreasonable risk to health.

"(b) PUBLIC WATER SYSTEMS USING BOTTLED WATER.—Public water systems that use bottled water as a condition for receiving a variance or an exemption from the national primary drinking water regulations under this part or an exemption from the requirements of sections 1418B through 1418E must meet the requirements specified in either paragraph (1) or (2) and paragraph (3) of this subsection:

"(1) The State must require and approve a monitoring program for bottled water. The public water system must develop and put in place a monitoring program that provides reasonable assurances that the bottled water meets all maximum contaminant levels and does not contain lead content in excess of 10 parts per billion. The public water system must monitor a representative sample of the bottled water for all contaminants regulated under this part during the first 3-month period that it supplies the bottled water to the public, and annually thereafter. Results of the monitoring program shall be provided to the State annually.

"(2) The public water system must receive a certification from the bottled water company that the bottled water supplied has been taken from an 'approved source' as defined by rule by the Administrator of the Food and Drug Administration; the bottled water company has conducted monitoring in accordance with such rules; and the bottled water does not exceed any maximum contaminant levels or quality limits as set out in such rules. The public water system shall provide the certification to the State the first quarter after it supplies bottled water and annually thereafter. At the State's option a public water system may satisfy the requirements of this subsection if an approved monitoring program is already in place in another State.

"(3) The public water system is fully responsible for the provision of sufficient quantities of bottled water to every person supplied by the public water system via door-to-door bottled water delivery.

"(c) POINT OF ENTRY DEVICES.—In requiring the use of a point-of-entry device as a condition for granting an exemption from the national public drinking water regulation for lead under section 1418D or 1418F, the State must be assured that use of the device will not cause increased corrosion of lead bearing materials located between the device and the tap that could increase contaminant levels at the tap.".

(b) EPA ACTION LEVEL REGULATIONS.—The Congress hereby finds and declares that the establishment by the Environmental Protection Agency of action levels in regulations regarding lead and copper in drinking water is inconsistent with title XIV of the Public Health Service Act because it does not provide the protection for public health mandated by section 1412 of that title. The Administrator may not hereafter promulgate any national primary drinking water regulations under such title based on an action level in lieu of a maximum contaminant level or a treatment technique as prescribed by section 1412 of that title, and any such regulations promulgated before the enactment of this Act, including regulations relating to lead and copper in drinking water, are hereby declared to be null and void on the date 30 days after the enactment of this Act (except as otherwise provided in the first sentence of section 1418J of that title, relating to analytical methods). In the case of any contaminant, other than lead, for which regulations are declared null and void under this subsection, the Administrator shall promulgate national primary drinking water regulations under subpart 1 of title XIV of the Public Health Service Act which are consistent with the requirements of section 1412 of that title within 6 months after the enactment of this Act.

(c) CLASSES OF PUBLIC WATER SYSTEMS.—Except as specifically provided in sections 1415 and 1416 and subpart B of title XIV of the Public Health Service Act (the Safe Drinking Water Act), nothing in such title shall be construed to authorize the Administrator of the Environmental Protection Agency or a State with primary enforcement responsibility under that title to regulate any class of public water systems in a manner that may be less protective of public health than is required for all other public water systems.

(d) SCHOOL DRINKING WATER CONTAINING LEAD.—

(1) TESTING.—(A) Section 1464(d)(1) of the Public Health Service Act (the Safe Drinking Water Act; 42 U.S.C. 300j-23) is amended by adding the following at the end thereof: "Within 18 months after the enactment of the Lead Contamination Control Act Amendments of 1991 each local education agency shall complete testing, in accordance with the protocol under subsection (b), for lead contamination in drinking water from coolers and in other drinking water outlets (including outlets used in food preparation) at schools under the jurisdiction of such agency.".

"(B) Section 1464(b) of such Act is amended by adding the following at the end: "The Administrator shall revise the guidance document and the protocol published under this subsection within 6 months after the enactment of the Lead Contamination Control Act Amendments of 1991. Such revision shall, at a minimum, provide for follow-up sampling and recommend remedial steps whenever the lead concentration in any drinking water outlet exceeds 10 parts per billion."

(2) PUBLIC AVAILABILITY.—Section 1464(d)(2) of the Public Health Service Act (the Safe Drinking Water Act; 42 U.S.C. 300j-24(d)(2)) is amended by inserting the following before the period at the end thereof: "and, if the testing results show a tap water lead concentrations in excess of 10 parts per billion, the local education agency shall, within 90 days after completion of such testing, provide to all teachers and other school personnel at the school and to parents (and guardians) of children enrolled in the school a summary of the testing results, a lead disclosure statement, and a description of the actions the agency has taken, or will take, in response to such test results, together with a schedule for such actions. The local education agency shall simultaneously provide a copy of such materials to the agency with primary enforcement responsibility for the public water system which serves the school. Such agency with primary enforcement responsibility shall promptly (but not later than 3 months after receipt of such materials) transmit to the Administrator a summary of such test results, the response actions taken, and proposed response actions. The Administrator, in consultation with the Centers for Disease Control, shall, within 1 year after the enactment of the Lead Contamination Control Act Amendments of 1991, publish a lead disclosure statement to be used for purposes of this subsection. Such statement shall explain the risks to children from exposure to lead in school drinking water and describe potential remedial actions.".

(3) FEDERAL ASSISTANCE.—(A) Section 1465(a) of the Public Health Service Act (the Safe Drinking Water Act; 42 U.S.C. 300j-25(a)) is amended by striking "may" in the last sentence and inserting "shall only " and by adding the following before the period at the end thereof: ", except that not more than 5 percent of the grants made to any State for purposes of this section in any fiscal year may be retained by the State for purposes of administering the grant program under this section. Reimbursement shall be made to local education agencies on the basis of financial need and the severity of the drinking water contamination at the schools concerned".

(B) Section 1465(c) of such Act is amended by striking "and" and by inserting the following before the period at the end thereof: "and $30,000,000 for each of the 5 fiscal years thereafter.".

(4) CIVIL PENALTIES.—Section 1464 of the Public Health Service Act (the Safe Drinking Water Act; 42 U.S.C. 300j-24(d)(2)) is amended by adding the following new subsection at the end thereof:

"(e) ENFORCEMENT.—Any local education agency which fails or refuses to comply with the requirements of this section shall be subject to a civil penalty in the amount of $10,000 for each such violation. The Administrator may bring an action in the appropriate United States district court to assess and collect such penalty or to enjoin any such violation. The court in any action against a local education agency under this section or section 1449 shall have discretion to order that all civil penalties collected be used to reimburse the local education agency for the costs of testing and remedying lead contamination in drinking water.".

(5) COOLERS CONTAINING LEAD.—

(A) List.—Section 1463(a) of the Public Health Service Act (the Safe Drinking Water Act; 42 U.S.C. 300j-23(a)) is amended by adding the following at the end thereof: "At a minimum, the Administrator shall revise and republish the list within 1 year after the date of the enactment of the Lead Contamination Control Act Amendments of 1991 to ensure that all drinking water coolers in use or being manufactured as of that date which are not lead free are included on the list."

(B) RECALL ORDER.—Section 1462 of such Act is amended by striking "such order" in the last sentence thereof and inserting "each such order" and by adding the following before such last sentence: "The Commission shall issue a new order within 1 year after the list is revised under section 1463 to require manufacturers and importers of all coolers on such list to repair, replace, or recall and provide a refund for such coolers."

(C) CLARIFYING AMENDMENT.—Section 1461(3)(B) of such Act is amended to read as follows:

"(B) the owner of any building used as a school.".

(e) LEAD PIPES, SOLDER, AND FLUX.—

(1) IN GENERAL.—Section 1417 of the Public Health Service Act (the Safe Drinking Water Act; 42 U.S.C. 300g–6) is amended as follows:

(A) Subsection (a) is amended—

(i) by inserting "pipe fitting, fixture," after "pipe,";

(ii) by striking out so much of subparagraph (B) as follows "consumption" and inserting in lieu thereof a comma; and

(iii) by adding the following at the end thereof "Effective 1 year after the enactment of the Lead Contamination Control Act Amendments of 1991, it shall be unlawful (i) for any person to introduce into commerce any pipe, pipe fitting or fixture that is not lead free, (ii) for persons engaged in the business of selling plumbing supplies to sell solder or flux which is not lead free, or (iii) for any person to introduce into commerce any solder or flux which is not lead free unless such solder or flux bears a prominent label stating that it is illegal to use such solder or flux in the installation or repair of any plumbing providing water for human consumption.

(B) Subsection (d) is amended by adding the following at the end thereof: "Effective 4 years after the enactment of the Lead Contamination Control Act Amendments of 1991, when used with respect to pipes, pipe fittings, fixtures, solder, and flux, such term refers to pipes, pipe fittings, fixtures, solder, and flux that either have no lead content or that have been certified as lead free by the Administrator. The Administrator may certify a pipe, pipe fitting, fixture, solder, or flux as lead free only if the Administrator determines that (A) such pipe, pipe fitting, fixture, solder, or flux cannot feasibly be manufactured without lead or with a lower lead content, (B) such product meets the definition of lead free under paragraph (1) or (2), as applicable, and (C) use of such pipe, pipe fitting, fixture, solder, or flux, when new and after 30 days of usage, will not cause tap water lead concentrations to exceed 10 parts per billion (ppb), as demonstrated pursuant to leach tests using corrosive water and dwell periods of at least 10 hours.".

(2) ENFORCEMENT.—Title XIV of the Public Health Service Act (the Safe Drinking Water Act; 42 U.S.C. 300g–6) is amended as follows:

(A) Subsection (c) of section 1417 is amended by inserting "(1)" after "Penalties.—" and by adding the following at the end thereof:

"(2) Any person who violates any requirement of this section, including any requirement of any regulation, order, or certification issued under this section, shall be in violation of this section and shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each such violation. The $10,000 amount specified in the preceding sentence shall be adjusted annually for each calendar year after the calendar year 1991 to account for inflation or deflation.

"(3) The Administrator may commence a civil action to enjoin any violation of this section or to assess and recover any civil penalty under paragraph (2). Any action under this paragraph may be brought in the district court of the United States for the district in which the violation is alleged to have occurred or in which the defendant resides or has its principal place of business, and the court shall have jurisdiction to issue injunctive relief and to assess a civil penalty.

"(4) The Administrator may issue an order to any person requiring such person to comply with any requirement of this section and the Administrator may, after notice and opportunity for hearing on the record in accordance with section 554 and 556 of title 5 of the United States Code, issue an order assessing a civil penalty for violation of this section.".

(B) In subsection (a)(1) of section 1449 after "alleged" insert "to have violated or".

(C) The last sentence of subsection (a) of section 1449 is amended by inserting the following before the period at the end ", and to apply any appropriate civil penalties (except for actions under paragraph (2)".

(D) Insert in section 1449 "or a State with primary enforcement responsibility" after "the Administrator" in each place such term appears.

(E) In section 1445(a)(1), strike all of the first sentence before "shall establish" and insert "Every person who is subject to any requirement of this title" and strike "by regulation".

(F) In section 1445(b)(1), strike "any supplier of water" and all that follows down to "is authorized to" and insert "any person who is subject to any requirement of this title or any person who is in charge of any property of such person,".

Mr. LIEBERMAN. Mr. President, I am delighted to join with my colleagues Senator LAUTENBERG and Senator DURENBERGER in introducing the Lead in Drinking Water Reduction Act. The more we learn about lead, the more we understand how dangerous it is to our children, and how important it is that we remove it from the environment. Lead in drinking water is responsible for 10 to 20 percent of the total lead exposure in young children. We know how to test for lead in water and we could be protecting our children from being exposed to lead in the water they drink at home and at school, yet we have failed to do so. Instead, we have waited for the Environmental Protection Agency to regulate lead in drinking water and it has failed to do so. Today, we are introducing legislation that will finally ensure that our children do not risk lead poisoning by drinking water.

The Lead in Drinking Water Reduction Act does what EPA has failed to do over the past 5 years, it protects the public health by strictly regulating lead in our drinking water and mandating prompt action to reduce the lead throughout our Nation's drinking water systems. The bill establishes a limit for lead in tapwater. Water systems will be required to monitor lead levels at the tap; however, under this legislation water systems which comply with the corrosion control and lead service line replacement provisions will not be held liable if the tapwater monitorings show levels above the established lead limit. I believe these provisions provide workable, effective protections for our children.

Today, the National Resources Defense Council released a report on the failure of the States to test schools and day care facilities for lead in drinking water. In 1988, Congress enacted legislation requiring States to identify and eliminate lead hazards in school and day care drinking water. In very few States have these requirements been met and every day in schools and day care centers across the country children are drinking water which may contain hazardous amounts of lead. This bill will require that the testing of lead in schools and day care centers be completed within 18 months after enactment and that parents be notified of the results.

I look forward to working with my colleagues to ensure that this legislation and the Lead Exposure Reduction Act previously introduced by Senator REID and myself become law this year. As the cover story in this week's Newsweek graphically illustrates children all across America are being irrevocably harmed by lead and we must take action now.

By Mr. SPECTER (for himself and Mr. WOFFORD):

S.J. Res. 175. Joint resolution disapproving the recommendations of the Defense Base Closure and Realignment Commission; to the Committee on Armed Services.

DISAPPROVAL OF RECOMMENDATIONS OF THE BASE CLOSURE AND REALIGNMENT COMMISSION

Mr. SPECTER. Mr. President, today I propose a joint resolution of disapproval of the recommendations of the Defense Base Closure and Realignment Commission as submitted by the President on July 10, 1991. I urge my colleagues to join me in approving this resolution so that we may send a strong signal to the Department of Defense, and the Navy in particular, that Congress will no longer tolerate the blatant disregard of congressional intent as exhibited by the Navy's noncompliance with the base closure statute.

I am confident that almost all of us in this body support the objectives of the base closure process—to reduce our defense infrastructure to levels sufficient to support the present and future composition of our Armed Forces. More importantly, we realize that these reductions must be made in accordance with a defense outlook and force structure plan which will prepare us to meet the security challenges of the 1990's and beyond.

For this reason, and to avoid the appearance of bias as exhibited often by the 1988 Base Closure Commission, the Congress enacted a base closure law in the fiscal year 1991 Defense Authorization Act which would ensure a fair and objective process. While undoubtedly few of us are completely content with all the recommendations to close specific facilities, I am not here to discuss my displeasure with the closing of facility X or Y. This resolution deals with much more fundamental issues, issues of due process and procedural fairness. The Commission, and the Navy in particular, in many instances appeared to blatantly disregard the procedures and requirements set forth in the base closure statute. As a result, both the Commission and the Navy engaged in activities contrary to both the letter and the spirit of the base closure law.

The Commission based its decisions on a significant amount of information supplied by the Navy which, in violation of the Base Closure Act, was not evaluated or even made available to the General Accounting Office or to Congress. Key documents were withheld—some continue to be withheld—by the Navy and were not provided in some cases until several weeks after the last opportunity for public testimony. In many instances these documents were revealed only hours before the Commission cast its final votes on these facilities.

One memo prepared by the Naval Sea Systems Command and signed by Adm. Claman—the memo which constituted the principal input by the Navy command responsible for planning and oversight of Navy shipyards—was deliberately concealed because it contained information which contradicted the Navy's recommendations.

The Commission decided to adopt key portions of the Navy's list even though the GAO had found that the Navy: First, had not treated all bases equally, as required by the Base Closure Act; second, had not complied with the Secretary of Defense's first four selection criteria, as required by the Base Closure Act; and third, had not complied with the Secretary of Defense's "recordkeeping" and "internal control" requirements. GAO could not determine the basis for the Committee's military value ratings for Navy installations. GAO also identified inconsistencies within the Committee's internal rating process. Explanations of these inconsistencies were never provided by the Navy nor explained by the Base Closure Commission. These inconsistencies obviously prejudiced the results of the Navy's analyses and in the case of shipyards led to the exclusion from further review all naval shipards except for Philadelphia. The Navy's response to the GAO concerns about their rating system was a glib "not all yellows are equal" and "not all greens are equal" on the Navy's own rating system which used those colors.

In addition, both the Navy and the Commission failed to consider all naval installations inside the United States equally, without regard to whether installations had been previously considered or proposed for closure or realignment. In the case of the Philadelphia Naval Yard we learned from a memo prepared by Adm. Peter Hekman dated December 19, 1990, that the Navy had decided to close Philadelphia even prior to the convening of the Base Structure Committee, the Navy's review panel. The Navy's failure to consider such facilities without prejudice represents yet another violation of the Base Closure Act.

As indicated by the Commission's own findings presented in its final report, the Commission exceeded its statutory authority to make base closure recommendations by considering the "availability" of privately owned shipyards to fulfill requirements for capacity to meet emergency repair needs. The memo signed by Admiral Claman states that:

> "This dock is privately owned and its docking schedule is not controlled by the Navy. The cost to have Newport News provide a dedicated dock under contract is considered prohibitive.

The Commission also clearly exceeded its authority in voting to accept the Army Corps of Engineers proposal for reorganization. The Commission didn't decide to review the corps' proposal until May 25, 1991. A brief interlude was provided for members to prepare public testimony on June 5, 1991. However, members didn't have the benefit of a GAO evaluation of the corps' proposal. Moreover, although corps' analyses seemed fairly comprehensive, they provided no justification for their closure recommendations. It was also learned that the Oversight Committee—the group responsible for actually deciding which offices to close—kept no record of its deliberations on which facilities should be realigned.

Further, the Commission acted inappropriately in accepting recommendations made by the Navy for the consolidation of its research and development facilities. The comprehensive lab consolidation plan was presented to the Commission on Friday, June 28, 1991, prior to the final votes that were taken on Sunday, June 30, 1991. The report included no detail about cost assumptions relating to individual facilities, much of which is known to be flawed. This late presentation violated due process in that Members of Congress were not provided an opportunity to respond to the erroneous conclusions presented by the Commission staff.

Therefore, I maintain that if I—and other Members from affected districts in which naval facilities and Army Corps of Engineers offices were recommended for closure—can honestly go before the thousands of men and women who will be losing their jobs as a result of our actions and say the system was fair but unfortunately your facility must close; then I could say with confidence that the system worked. This, however, is not the case. The process was not fair, the Navy's analyses was fatally flawed, and it appears there may have been deliberate attempts on the part of Navy officials to deceive the Base Closure Commission and the Congress. Beyond the issue of unfair and illegal process, DOD and the Navy Department excluded evidence which would have demonstrated, for example, the importance of a facility like the Philadelphia Naval Yard for national security. For these reasons, I urge my colleagues to support this resolution of disapproval.

By Mr. DIXON (for himself and Mr. BURNS):

S.J. Res. 176. Joint resolution to designate March 19, 1992, as "National Women in Agriculture Day"; to the Committee on the Judiciary.

NATIONAL WOMEN IN AGRICULTURE DAY

• Mr. DIXON. Mr. President, I rise today to introduce a joint resolution designating March 19, 1992, as "National Women in Agriculture Day."

America's economic health and well-being rests upon the agricultural sector's ability to effectively produce and distribute our abundant food supply. Time and time again, the American farmer has proven to be the most productive farmer in the world. Our farmers have succeeded in providing our Nation, and the rest of the world, with an abundance of high quality, low cost, and safe food.

The most basic unit of our agricultural system—the family farm—offers insurance that the Nation's natural resources are protected. In addition, the family farm guarantees continued American success and advances in the agriculture field.

Women, as full working partners on the family farm and in agribusinesses, play a vital role in the agricultural community. The leadership that women provide in all aspects of farming has elevated the American agricultural system to leader status in the world and has set the standard of agricultural production for future generations throughout the world.

Mr. President, it is indeed my pleasure today to pay tribute to the contributions and successes of women in the field of agriculture. Their hard work and dedication ensure health and prosperity for each and every American.

"National Women in Agriculture Day" brings to the forefront these women and their achievements, and asks that each one of us take time on May 19, 1992, to salute them.●

ADDITIONAL COSPONSORS

S. 250

At the request of Mr. FORD, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 250, a bill to establish national voter registration procedures for Federal elections, and for other purposes.

S. 267

At the request of Mr. REID, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 267, a bill to prohibit a State from imposing an income tax on the pension or retirement income of individuals who are not residents or domiciliaries of that State.

S. 280

At the request of Mr. DOLE, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 280, a bill to provide for the inclusion of foreign deposits in the deposit insurance assessment base, to permit inclusion of nondeposit liabilities in the deposit insurance assessment base, to require the FDIC to implement a risk-based deposit insurance premium structure, to establish guidelines for early regulatory intervention in the financial decline of banks, and to permit regulatory restrictions on brokered deposits.

S. 316

At the request of Mr. CRAIG, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 316, a bill to provide for treatment of Federal pay in the same manner as non-Federal pay with respect to garnishment and similar legal process.

S. 349

At the request of Mr. BUMPERS, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 349, a bill to amend the Fair Labor Standards Act of 1938 to clarify the application of such act, and for other purposes.

S. 401

At the request of Mr. DOMENICI, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 401, a bill to amend the Internal Revenue Code of 1986 to exempt from the luxury excise tax parts or accessories installed for the use of passenger vehicles by disabled individuals.

S. 474

At the request of Mr. LUGAR, his name was added as a cosponsor of S. 474, a bill to prohibit sports gambling under State law.

S. 481

At the request of Mr. SIMON, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 481, a bill to authorize research into the desalting of water and water reuse.

S. 544

At the request of Mr. HEFLIN, the names of the Senator from Mississippi [Mr. LOTT] and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of S. 544, a bill to amend the Food, Agriculture, Conservation and Trade Act of 1990 to provide protection to animal research facilities from illegal acts, and for other purposes.

S. 567

At the request of Mr. SANFORD, the names of the Senator from North Dakota [Mr. BURDICK] and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 567, a bill to amend title II of the Social Security Act to provide for a gradual period of transition (under a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in years after 1916 and before 1927 (and related beneficiaries) and to provide for increases in such workers' benefits accordingly, and for other purposes.

S. 614

At the request of Mr. DASCHLE, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 614, a bill to amend title XVIII of the Social Security Act to provide coverage under such title for certain chiropractic services authorized to be performed under State law, and for other purposes.

S. 775

At the request of Mr. CRANSTON, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 775, a bill to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

S. 843

At the request of Mr. BREAUX, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 843, a bill to amend title 46, United States Code, to repeal the requirement that the Secretary of Transportation collect a fee or charge for recreational vessels.

S. 860

At the request of Mr. HATCH, his name was added as a cosponsor of S. 860, a bill to support democracy and self-determination in the Baltic States and the republics within the Soviet Union.

S. 878

At the request of Mr. DODD, the names of the Senator from South Dakota [Mr. DASCHLE] and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 878, a bill to assist in implementing the plan of action adopted by the World Summit for Children, and for other purposes.

S. 972

At the request of Mr. BRADLEY, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 972, a bill to amend the Social Security Act to add a new title under such act to provide assistance to States in providing services to support informal caregivers of individuals with functional limitations.

S. 974

At the request of Mr. BUMPERS, his name was added as a cosponsor of S. 974, a bill to improve the Older Americans act of 1965, and for other purposes.

S. 985

At the request of Mr. SIMON, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 985, a bill to assure the people of the Horn of Africa the right to food and the other basic necessities of life and to promote peace and development in the region.

S. 1087

At the request of Mr. HARKIN, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 1087, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the Pledge of Allegiance to the Flag.

S. 1102

At the request of Mr. MOYNIHAN, the names of the Senator from Kansas [Mr. DOLE] and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 1102, a bill to amend title XVIII of the Social Security Act to provide coverage of qualified mental health professionals services furnished in community mental health centers.

S. 1104

At the request of Mr. DURENBERGER, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1104, a bill to amend title II of the Social Security Act to provide for a waiver of the 5-month waiting period for disability insurance benefits for certain terminally ill individuals.

S. 1156

At the request of Mr. PACKWOOD, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 1156, a bill to provide for the protection and management of certain areas on public domain lands managed by the Bureau of Land Management and lands withdrawn from the public domain managed by the Forest Service in the States of California, Oregon, and Washington; to ensure proper conservation of the natural resources of such lands, including enhancement of habitat; to provide assistance to communities and individuals affected by management decisions on such lands; to facilitate the implementation of land management plans for such public domain lands and federal lands elsewhere; and for other purposes.

S. 1185

At the request of Mr. GARN, the names of the Senator from Oregon [Mr. HATFIELD], the Senator from Arizona [Mr. DECONCINI], and the Senator from California [Mr. CRANSTON] were added as cosponsors of S. 1185, a bill to disclaim or relinquish all right, title, and interest of the United States in and to certain lands conditionally relinquished to the United States under the Act of June 4, 1897 (30 Stat. 11, 36), and for other purposes.

S. 1232

At the request of Mr. DOMENICI, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1232, a bill to provide for medical injury compensation reform for health care provided under the Social Security Act and other Federal health programs, to amend the Internal Revenue Code of 1986 to implement like reforms in employer-provided health plans, and for other purposes.

S. 1269

At the request of Mr. HARKIN, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 1269, a bill to require the Secretary of Energy to expedite the development of hydrogen derived from renewable energy sources as an alternative energy system for residential, industrial, utility, and motor vehicle use, and for other purposes.

S. 1335

At the request of Mr. KASTEN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1335, a bill to establish a rural crime prevention strategy, to address the problem of crime against the elderly, to combat child abuse, sexual violence, and violence against women, to enhance the rights of law enforcement officers, to enhance the rights of crime victims, to address the problem of gangs and serious juvenile offenders, to restore an enforceable Federal death penalty, to impose minimum mandatory sentences without release, to establish mandatory judicial reforms, to reform the lives of prisoners and the prison system, and for other purposes.

S. 1351

At the request of Mr. DOMENICI, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 1351, a bill to encourage partnerships between Department of Energy Laboratories and educational institutions, industry, and other Federal laboratories in support of critical national objectives in energy, national security, and environment, and scientific and technological competitiveness.

S. 1381

At the request of Mr. GRAHAM, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 1381, a bill to amend chapter 71 of title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay concurrently with disability compensation.

S. 1402

At the request of Mr. ADAMS, the names of the Senator from Michigan [Mr. LEVIN], the Senator from Georgia [Mr. FOWLER], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of S. 1402, a bill to provide for improved nuclear waste management at defense Federal nuclear facilities, and for other purposes.

S. 1426

At the request of Mr. BUMPERS, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Illinois [Mr. DIXON] were added as cosponsors of S. 1426, a bill to authorize the Small Business Administration to conduct a demonstration program to enhance the economic opportunities of startup, newly established, and growing small business concerns by providing loans and technical assistance through intermediaries.

SENATE JOINT RESOLUTION 8

At the request of Mr. BURDICK, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of Senate Joint Resolution 8, a joint resolution to authorize the President to issue a proclamation designating each of the weeks beginning on November 24, 1991, and November 22, 1992, as "National Family Week."

SENATE JOINT RESOLUTION 145

At the request of Mr. CRANSTON, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Joint Resolution 145, a joint resolution designating the week beginning November 10, 1991, as "National Women Veterans Recognition Week."

SENATE JOINT RESOLUTION 156

At the request of Mr. SIMON, the names of the Senator from Missouri [Mr. DANFORTH], the Senator from South Dakota [Mr. DASCHLE], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of Senate Joint Resolution 156, a joint resolution to designate the week of October 6, 1991 through October 12, 1991, as "Mental Illness Awareness Week."

SENATE JOINT RESOLUTION 174

At the request of Mr. GRAHAM, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of Senate Joint Resolution 174, a joint resolution designating the month of May 1992, as "National Amyotrophic Lateral Sclerosis Awareness Month."

SENATE RESOLUTION 82

At the request of Mr. SMITH, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of Senate Resolution 82, a resolution to establish a Select Committee on POW/MIA Affairs.

AMENDMENT NO. 383

At the request of Mr. BAUCUS, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from New Mexico [Mr. BINGAMAN], and the Senator from Colorado [Mr. BROWN] were added as cosponsors of amendment No. 383 intended to be proposed to H.R. 2686, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes.

SENATE CONCURRENT RESOLUTION 51—AUTHORIZING USE OF THE CAPITOL ROTUNDA

Mr. DOLE (for himself, Mr. MITCHELL, Mr. SPECTER, Mr. CRANSTON, and Mr. KERRY) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 51

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the Capitol may be used by the National League of POW/MIA Families on July 13, 1991, from 11:00 o'clock ante meridian until 12:00 o'clock noon, for a ceremony to honor the members of the Armed Services and civilians missing and unaccounted for as a result of the Vietnam conflict. Physical preparations for the ceremony shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

AMENDMENTS SUBMITTED

VIOLENT CRIME CONTROL ACT

BIDEN AMENDMENT NOS. 579 THROUGH 581

(Ordered to lie on the table.)

Mr. BIDEN submitted three amendments intended to be proposed by him to amendments to the bill (S. 1241) to control and reduce violent crime; as follows:

Strike everything after the word "Sec." and replace with the following:

AMENDMENT NO. 579

SEC. . PREVENTION OF JUVENILE GANG ACTIVITY IN PUBLIC HOUSING.

(a) ASSISTANCE FOR THE ESTABLISHMENT OF BOYS' AND GIRLS' CLUBS.—Section 281 of the Juvenile Justice and Juvenile Delinquency Prevention Act of 1974 (42 U.S.C. 5667) is amended by adding at the end thereof the following new paragraph:

"(11) To prevent juvenile gang-related activity in public housing by establishing boys' and girls' clubs, under the auspices of the Boys and Girls Club of America, in public housing projects.".

(b) AUTHORIZATION OF APPOPRIATIONS.—Section 291(a)(2)(A) of the Juvenile Justice and Juvenile Delinquency Prevention Act of 1974 (42 U.S.C. 5671(a)(2)(A)) is amended by striking the period at the end thereof and inserting ", and to carry out section 281(11), $4,000,000 for each of fiscal years 1992, 1993, and 1994.".

Amendment No. 580

Strike everything after the term "Sec." and insert the following:

SEC. . PREVENTION OF JUVENILE GANG ACTIVITY IN PUBLIC HOUSING.

(a) Assistance for the Establishment of Boys' and Girls' Clubs.—Section 281 of the Juvenile Justice and Juvenile Delinquency Prevention Act of 1974 (42 U.S.C. 5667) is amended by adding at the end thereof the following new paragraph:

"(11) To prevent juvenile gang-related activity in public housing by establishing youth activities under the auspices of the Boys and Girls Club of America and similar organizations, in public housing projects.".

(b) Authorization of Appropriations.—Section 291(a)(2)(A) of the Juvenile Justice and Juvenile Delinquency Prevention Act of 1974 (42 U.S.C. 5671(a)(2)(A)) is amended by striking the period at the end thereof and inserting ", and to carry out section 281(11), $12,000,000 for each of fiscal years 1992, 1993, and 1994.".

Amendment No. 581

Strike everything after the term "Sec." and insert the following:

SEC. . PREVENTION OF JUVENILE GANG ACTIVITY IN PUBLIC HOUSING.

(a) Assistance for the Establishment of Boys' and Girls' Clubs.—Section 281 of the Juvenile Justice and Juvenile Delinquency Prevention Act of 1974 (42 U.S.C. 5667) is amended by adding at the end thereof the following new paragraph:

"(11) To prevent juvenile gang-related activity in public housing by establishing youth activities under the auspices of the Boys and Girls Club of America and similar organizations, in public housing projects.".

(b) Authorization of Appropriations.—Section 291(a)(2)(A) of the Juvenile Justice and Juvenile Delinquency Prevention Act of 1974 (42 U.S.C. 5671(a)(2)(A)) is amended by striking the period at the end thereof and inserting ", and to carry out section 281(11), $12,000,000 for each of fiscal years 1992, 1993, and 1994.".

BIDEN AMENDMENT NO. 582

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to amendment No. 556 proposed by Mr. Symms to the bill S. 1241, supra; as follows:

At the end of the amendment, add the following:

SEC. 1227. INCREASED PENALTY FOR KNOWINGLY FALSE, MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (a)(1)(B), by striking out "(a)(6),"; and

(2) in subsection (a)(2), by inserting "(a)(6)," after "subsections".

BIDEN AMENDMENT NO. 583

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to amendment No. 552 proposed by Mr. Symms to the bill S. 1241, supra; as follows:

Strike everything after the term "Sec."

BIDEN AMENDMENT NO. 584

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to amendment No. 553 proposed by Mr. Symms to the bill S. 1241, supra; as follows:

Strike everything after the term "Sec."

BIDEN AMENDMENT NO. 585

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to amendment No. 548 proposed by Mr. Dole to the bill S. 1241, supra; as follows:

Strike everything after the term "(e)(1)(F)".

BIDEN AMENDMENT NO. 586

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to amendment No. 548 proposed by Mr. Dole to the bill S. 1241, supra, as follows:

Strike everything after the term "(u)(1)(F)".

BIDEN AMENDMENT NO. 587

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to amendment No. 527 proposed by Mr. Dole to the bill S. 1241, supra, as follows:

Strike everything after the term "Section".

BIDEN AMENDMENT NO. 588

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to amendment No. 527 proposed by Mr. Dole to the bill S. 1241, supra, as follows:

Strike everything after the term "Sec.".

BIDEN AMENDMENT NO. 589

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him an amendment proposed by Mr. Gramm to the bill S. 1241, supra, as follows:

Strike everything after the term "Sec. 2404."

BIDEN AMENDMENT NO. 590

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to amendment No. 429 proposed by Mr. Stevens to the bill S. 1241, supra, as follows:

Strike everything after the word "Sec." and replace with the following:

TITLE XXVII—FELON FIREARM PURCHASE PREVENTION

SEC. 2701. FEDERAL FIREARMS LICENSEE REQUIRED TO CONDUCT CRIMINAL BACKGROUND CHECK BEFORE TRANSFER OF FIREARM TO NONLICENSEE.

(a) Interim Provision.—Section 922 of title 18, United States Code, as amended by section 702 of this Act, is amended by adding at the end the following new subsection:

"(u)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending on the date that the Attorney General certifies that the national instant criminal background check system is in compliance with section 2702(d)(1) of the Violent Crime Control Act of 1991 (except as provided as paragraphs (2) and (3) of section 2702(d) of such Act); it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

"(A) after the most recent proposal of such transfer by the transferee—

"(i) the transferor has—

"(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

"(II) verified the identification of the transferee by examining the identification document presented; and

"(III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(ii)(I) 5 business days (as defined by days in which State offices are open) have elapsed from the date the transferee furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt for possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

"(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

"(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

"(C)(i) the transferee has presented to the transferor a permit that—

"(I) allows the transferee to possess a handgun; and

"(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

"(D) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(E) on application of the transferor, the Attorney General has certified that compliance with subparagraph (A)(i)(III) is impracticable because of the inability of the transferor to communicate with the chief law enforcement officer because of the remote location and absence of telecommunication facilities in the remote location of the licensed premises.

"(2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 business days whether the transferee has a criminal record or whether there is any other legal impediment to the transferee's receiving a handgun, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.

"(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

"(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

"(B) a statement that transferee—

"(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(ii) is not a fugitive from justice;

"(iii) is not an unlawful use of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

"(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

"(v) is not an alien who is illegally or unlawfully in the United States;

"(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

"(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

"(C) the date the statement is made; and

"(D) notice that the transferee intends to obtain a handgun from the transferor.

"(4) The chief law enforcement officer of the place of residence of a prospective transferee of a handgun, at the request of a person who alleges the person requires access to a handgun because of a threat to the life of the person or a member of the household of the person, shall immediately meet with the person and forthwith sign a written statement described in paragraph (1)(B) unless the officer has clear and convincing evidence that no threat was made to the life of the person or any member of the household of the person.

"(5) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall immediately communicate all information the transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of the place of business of the transferor; and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(6) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

"(7)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction.

"(B)(1) Unless the chief law enforcement officer to whom notice is provided under paragraph (1)(A)(i)(III) determines that a transaction shall, within 5 days after the date the transferee made such statement, destroy and record containing information derived from such statement.

"(ii) Information conveyed to a chief law enforcement officer under paragraph (1)(A)(i)(III)—

"(I) shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and

"(II) shall not be used for any purpose other than to carry out this subsection.

"(8) A chief law enforcement officer shall not be liable in an action at law for damages for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section.

"(9) For purposes of this subsection, the term 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

"(10) The Secretary shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to licensed dealers and to the public.".

(b) PERMANENT PROVISION.—Section 922 of title 18, United States Code, as amended by subsection (a), is amended by adding at the end the following new subsection:

"(v)(1) Beginning on the date that the Attorney General certifies that the national instant criminal background check system is in compliance with section 2702(d)(1) of the Violent Crime Control Act of 1991 (except as provided in paragraphs (2) and (3) of section 2702(d) of such Act), a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm from the business inventory of the licensee to any other person who is not such a licensee, unless—

"(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section 2703 of the Felon Firearm Purchase Prevention Act of 1991; and

"(B) the system notifies the licensee that the system has not located any record that demonstrates that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section.

"(2) Paragraph (1) shall not apply to a firearm transfer between a licensee and another person if—

"(A) such other person presents to the licensee a valid permit or license, issued by the State or political subdivision thereof in which the transfer is to occur, that authorizes such other person to purchase, possess, or carry a firearm;

"(B) The Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(C) on application of the transferor, the Secretary has certified that compliance with paragraph (1)(A) is impracticable because of the inability of the transferor to communicate with the national instant criminal background check system because of the remote location and absence of telecommunication facilities in the remote location of the licenses premises.

"(3) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a firearm by such other person would violate subsection (g) or (n), and the licensee transfers a firearm to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

"(4) If the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that receipt of a firearm by such other person would violate subsection (g) or (n), the Secretary may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under this section, and may impose on the licensee a civil fine of not more than $5,000.

"(5) A State employee responsible for providing information to the national instant criminal background check system shall not be liable in an action at law for damages for failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful under this section.".

(c) PENALTY.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "(2) or (3)"; and

(2) by adding at the end the following:

"(5) Whoever knowingly violates section 922 (u) or (v) shall be fined not more than $1,000, imprisoned for not more than 1 year, or both.".

SEC. 2702. NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

(a) ESTABLISHMENT OF SYSTEM.—The Attorney General of the United States shall establish a national instant criminal background check system that any licensee may contact for information on whether receipt of a firearm by a prospective transferee thereof would violate section 922 (g) or (n) of title 18, United States Code.

(b) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—The Attorney General shall expedite—

(1) the incorporation of State criminal history records into the Federal criminal records system maintained by the Federal Bureau of Investigation;

(2) the development of hardware and software systems to link State criminal history check systems into the national instant criminal background check system established by the Attorney General pursuant to this section; and

(3) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

(c) PROVISION OF STATE CRIMINAL RECORDS TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.—(1) Not later than 6 months after the date of enactment of this Act, the Attorney General shall—

(A) determine the type of computer hardware and software that will be used to operate the national instant criminal background check system and the means by which State criminal records systems will communicate with the national system;

(B) investigate the criminal records system of each State and determine for each State a timetable by which the State should be able to provide criminal records on an on line capacity basis to the national system;

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(2) The Attorney General shall require as a part of the State timetable that the State achieve, by the end of 5 years after the date

of enactment of this Act, at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an entry of activity within the last 5 years and continue to maintain such a system.

(d) National System Certification.—(1) On or after the date that is 30 months after the date of enactment of this Act, the Attorney General shall certify that—

(A) the national system has achieved at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an entry of activity within the last 5 years on a national average basis; and

(B) the States are in compliance with the timetable established pursuant to subsection (C).

(2) If on the date of certification in paragraph (1), a State that is not in compliance with the timetable established pursuant to subsection (c), the provision of section 922(u) of title 18, United States Code, as added by section 2701, shall remain in effect in such State. The Attorney General shall certify if a State subject to the provisions of section 922(u) under the preceding sentence achieves compliance with its timetable after the date of certification in paragraph (1) and section 922(u) of title 18, United States Code, as added by section 2701, shall not apply to such State.

(3) Six years after the date of enactment of this Act, the Attorney General shall certify whether or not a State is in compliance with subsection (c)(2) and if the State is not in compliance, the provisions of section 922(u) of title 18, United States Code, shall be in effect. The Attorney General shall certify if a State subject to the provisions of section 922(u) under the preceding sentence achieves compliance with the standards in subsection (c)(2) and section 922(u) of title 18, United States Code, as added by section 2701, shall not apply to such State.

(e) Notification of Licensees.—On establishment of the system under this section, the Attorney General shall notify each licensee of the existence and purpose of the system and the means to be used to contact the system.

(f) Administrative Provisions.—

(1) Authority to obtain official information.—Notwithstanding any other law, the Attorney General may secure directly from any department or agency of the United States such information on persons for whom receipt of a firearm would violate section 922(g) or (n) of title 18, United States Code as is necessary to enable the system to operate in accordance with this section. On request of the Attorney General, the head of such department or agency shall furnish such information to the system.

(2) Other authority.—The Attorney General shall develop such computer software, design and obtain such telecommunications and computer hardware, and employ such personnel, as are necessary to establish and operate the system in accordance with this section.

(g) Correction of Erroneous System Information.—If the system established under this section informs an individual contacting the system that receipt of a firearm by a prospective transferee would violate section 922 (g) or (n) of title 18, United States Code, the transferee may request the Attorney General to provide such other person with the reasons therefor. Upon receipt of such a request, the Attorney General shall immediately comply with the request. The transferee may submit to the Attorney General information that to correct, clarify, or supplement records of the system with respect to the transferee. After receipt of such information, the Attorney General shall immediately consider the information, investigate the matter further, and correct all erroneous Federal records relating to such the transferee and give notice of the error to any Federal department or agency or any State that was the source of such erroneous records.

(h) Regulations.—After 90 days notice to the public and an opportunity for hearing by interested parties, the Attorney General shall prescribe regulations to ensure the privacy and security of the information of the system established under this section.

(i) Prohibitions Relating to Establishment of Registration Systems with Respect to Firearms.—No department, agency, officer, or employee of the United States may—

(1) require that any record or portion thereof maintained by the system established under this section be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(2) use the system established under this section to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions, except with respect to persons prohibited by section 922(g) or (n) of title 18, United States Code, from receiving a firearm.

(j) Definitions.—As used in this section:

(1) Licensee.—The term "licensee" means a licensed importer, licensed manufacturer, or licensed dealer under section 923 of title 18, United States Code.

(2) Other terms.—The terms "firearm", "licensed importer", "licensed manufacturer", and "licensed dealer" have the meanings stated in section 921(a) (3), (9), (10), and (11), respectively, of title 18, United States Code.

SEC. 2703. FUNDING FOR IMPROVEMENT OF CRIMINAL RECORDS.

(a) Improvements in State Records.—

(1) Use of formula grants.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the records required by the Attorney General under section 3 of the Felon Firearm Purchase Prevention Act of 1991 with the Attorney General for the purpose of implementing the Felon Firearm Purchase Prevention Act of 1991.".

(2) Additional funding.—

(A) Grants for the improvement of criminal records.—The Attorney General shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(i) for the creation of a computerized criminal history record system or improvement of an existing system;

(ii) to improve accessibility to the national instant criminal background system; and

(iii) upon establishment of the national system, to assist the State in the transmittal of criminal records to the national system.

(B) Authorization of appropriations.—There are authorized to be appropriated for grants under subparagraph (A) a total of $100,000,000 for fiscal year 1992 and all fiscal years thereafter.

(b) Withholding State Funds.—Effective on the date of enactment of this Act the Attorney General may reduce by up to 50 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that is not in compliance with the timetable established for such State under section 2702(c).

(c) Withholding of Department of Justice Funds.—If the Attorney General does not certify the national instant criminal background check system pursuant to section 2702(d)(1) by—

(1) 30 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal year beginning in the calendar year that is 30 months after the date of enactment of this Act shall be reduced by 5 percent on a monthly basis; and

(2) 42 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal beginning in the calendar year that is 42 months after the date of enactment of this Act shall be reduced by 10 percent on a monthly basis.

BIDEN AMENDMENTS NOS. 591 THROUGH 630

(Ordered to lie on the table.)

Mr. BIDEN submitted 40 amendments intended to be proposed by him to amendments to the bill S. 1241, supra, as follows:

Amendment No. 591

Strike everything after the word "Sec." and replace with the following:

TITLE I—SAFER STREETS AND NEIGHBORHOODS

SEC. 101. SHORT TITLE.

This title may be cited as the "Safer Streets and Neighborhoods Act of 1991".

SEC. 102. GRANTS TO STATE AND LOCAL AGENCIES.

Paragraph (5) of section 1001(a) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(5) There are authorized to be appropriated $1,000,000,000 for fiscal year 1992 and such sums as may be necessary in fiscal years 1993 and 1994 to carry out the programs under parts D and E of this title.".

SEC. 103. CONTINUATION OF FEDERAL-STATE FUNDING FORMULA.

Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 211 of the Department of Justice Appropriations Act, 1990 (Public Law 101-162) and section 601 of the Crime Control Act of 1990 (Public Law 101-647), is amended by striking "1991" and inserting "1992".

Strike everything after the word "Sec." and replace with the following:

TITLE II—DEATH PENALTY

SEC. 201. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1991".

SEC. 202. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) In General.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.

"3591. Sentence of death.

"3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified.

"3593. Special hearing to determine whether a sentence of death is justified.

"3594. Imposition of a sentence of death.

"3595. Review of a sentence of death.

"3596. Implementation of a sentence of death.

"3597. Use of State facilities.

"3598. Special provisions for Indian country.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381 of this title;

"(2) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(3) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(C) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(D) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense.

"§ 3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider any mitigating factor, including the following:

"(1) IMPAIRED CAPACITY.—The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) MINOR PARTICIPATION.—The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) FORSEEABILITY.—The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) YOUTH.—The defendant was youthful, even though not under the age of 18.

"(6) NO PRIOR CRIMINAL RECORD.—The defendant did not have a significant prior criminal record.

"(7) DISTURBANCE.—The defendant committed the offense under severe mental or emotional disturbance.

"(8) OTHER DEFENDANTS.—Another defendant or defendants, equally culpable in the crime, will not be punished by death.

"(9) VICTIM'S CONSENT.—The victim consented to the criminal conduct that resulted in the victim's death.

"(10) OTHER FACTORS.—Other factors in the defendant's background or character that mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) PRIOR ESPIONAGE OR TREASON OFFENSE.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of either life imprisonment or death was authorized by law.

"(2) GRAVE RISK TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security.

"(3) GRAVE RISK OF DEATH.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (2) or (3), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) DEATH DURING COMMISSION OF ANOTHER CRIME.—The death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958 (49 U.S.C. 1472 (i) or (n)) (aircraft piracy).

"(2) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(3) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(4) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(5) HEINOUS, CRUEL, OR DEPRAVED MANNER OF COMMITTING OFFENSE.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(6) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(7) PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(8) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism.

"(9) CONVICTION FOR TWO FELONY DRUG OFFENSES.—The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(10) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(11) CONVICTION FOR SERIOUS FEDERAL DRUG OFFENSES.—The defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise.

"(12) CONTINUING CRIMINAL ENTERPRISE INVOLVING DRUG SALES TO MINORS.—The defendant committed the offense in the course of engaging in a continuing criminal enterprise in violation of section 408(c) of the Controlled Substances Act and that violation involved the distribution of drugs to persons under the age of 21 in violation of section 418 of such Act.

"(13) HIGH PUBLIC OFFICIALS.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if the official is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution or adjudication of an offense, and includes those engaged in corrections, parole, or probation functions.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, the attorney shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. The defendant may present any information relevant to a mitigating factor. The government may present any information relevant to an aggravating factor, subject to the Federal Rules of Evidence and Federal Rules of Criminal Procedure. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(1), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (2) or (3), an aggravating factor required to be considered under section 3592(c) is found to exist,

the jury, or if there is no jury, the court, shall consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than a lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence, and the jury shall be so instructed.

"(f) SPECIAL PRECAUTION TO ENSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Otherwise, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) The court of appeals shall address all substantive and procedural issues raised on the appeal of a sentence of death, and shall consider whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor and whether the evidence supports the special finding of the existence of an aggravating factor required to be considered under section 3592.

"(2) Whenever the court of appeals finds that—

"(A) the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the admissible evidence adduced does not support the special finding of the existence of the required aggravating factor; or

"(C) other legal error requires reversal of the sentence of death,

the court shall remand the case for reconsideration under section 3593 or imposition of a sentence other than death.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§3596. Implementation of a sentence of death

"(a) IN GENERAL.—A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does provide for the implementation of a sentence of death, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) PREGNANT WOMAN.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) MENTAL CAPACITY.—A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

"(1) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

"(2) lacks the capacity to recognize or understand facts which would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

"§3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.

"§ 3598. Special provisions for Indian country

"Notwithstanding sections 1152 and 1153 of this title, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the Federal jurisdiction for which is predicated solely on Indian country as defined in section 1151 of this title, and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has elected that this chapter have effect over land and persons subject to its criminal jurisdiction.".

(b) AMENDMENT OF CHAPTER ANALYSIS.—The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence .... 3591".

SEC. 203. SPECIFIC OFFENSES FOR WHICH DEATH PENALTY IS AUTHORIZED.

(a) CONFORMING CHANGES IN TITLE 18.—Title 18, United States Code, is amended as follows:

(1) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(2) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(3) EXPLOSIVE MATERIALS.—(A) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(B) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(C) Section 844(i) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(6) MURDER.—(A) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(B) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(7) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(8) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(9) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President, shall be punished—

"(1) by imprisonment for any term of years or for life; or

"(2) by death or imprisonment for any term of years or for life.".

(10) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(11) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(12) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(13) RACKETEERING.—(A) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(B) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(14) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, a fine of not more than $1,000,000, or imprisonment for life or a sentence of death,".

(b) CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.—Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473) is amended by striking subsection (c).

SEC. 204. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this title, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 205. DEATH PENALTY FOR MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§1118. Murder by a Federal prisoner

"(a) OFFENSE.—Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, commits the murder of another shall be punished by death or by life imprisonment.

"(b) DEFINITIONS.—For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murder' means a first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT OF CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

SEC. 206. DEATH PENALTY FOR CIVIL RIGHTS MURDERS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5) by inserting ", or may be sentenced to death" after "or for life".

(d) DAMAGE TO RELIGIOUS PROPERTY; OBSTRUCTION OF THE FREE EXERCISE OF RELIGIOUS RIGHTS.—Section 247(c)(1) of title 18, United States Code, is amended by inserting ", or may be sentenced to death" after "or both".

AMENDMENT NO. 593

Strike everything after the word "Sec." and replace with the following:

TITLE III—DEATH PENALTY FOR MURDER OF LAW ENFORCEMENT OFFICER ACT

SEC. 301. DEATH PENALTY FOR THE MURDER OF FEDERAL LAW ENFORCEMENT OFFICIALS.

Section 1114(a) of title 18, United States Code, is amended by striking "punished as provided under sections 1111 and 1112 of this title," and inserting "punished, in the case of murder, by a sentence of death or life imprisonment as provided under section 1111 of this title, or, in the case of manslaughter, a sentence as provided under section 1112 of this title,".

SEC. 302. DEATH PENALTY FOR THE MURDER OF STATE OFFICIALS ASSISTING FEDERAL LAW ENFORCEMENT OFFICIALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, as amended by section 205 of this Act, is amended by adding at the end the following:

"§ 1119. Killing persons aiding Federal investigations

"Whoever intentionally kills—

"(1) a State or local official, law enforcement officer, or other officer or employee while working with Federal law enforcement officials in furtherance of a Federal criminal investigation—

"(A) while the victim is engaged in the performance of official duties;

"(B) because of the performance of the victim's official duties; or

"(C) because of the victim's status as a public servant; or

"(2) any civilian or witness assisting a Federal criminal investigation, while that assistance is being rendered and because of it, shall be sentenced according to the terms of section 1111 of title 18, United States Code, including by sentence of death or by imprisonment for life.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"1119. Killing persons aiding Federal investigations.".

AMENDMENT NO. 594

Strike everything after the word "Sec." and replace with the following:

TITLE IV—DEATH PENALTY FOR DRUG CRIMINALS ACT

SEC. 401. SHORT TITLE.

This title may be cited as the "Death Penalty for Drug Criminals Act of 1991".

SEC. 402. DEATH PENALTY FOR CERTAIN DRUG CRIMINALS.

The Controlled Substances Act (21 U.S.C. sec. 401 et seq.) is amended by adding after section 408 the following:

"SEC. 409. DEATH PENALTY AUTHORIZED FOR CERTAIN DRUG CRIMINALS."

SEC. 403. DRUG DISTRIBUTION CONSPIRACIES.

Section 409 of the Controlled Substances Act is amended by adding subsection (a) as follows:

"(a) DRUG DISTRIBUTION CONSPIRACIES.—Whoever, during the course of a conspiracy prohibited by section 406, commits a murder in the first degree, shall be punished as provided in section 1111 of title 18, including by sentence of death or by imprisonment for life.".

SEC. 404. DRUG IMPORT AND EXPORT CONSPIRACIES.

Section 409 of the Controlled Substances Act is amended by adding subsection (b) as follows:

"(b) DRUG IMPORT AND EXPORT CONSPIRACIES.—Whoever, during the course of a conspiracy prohibited by section 1013 of the Controlled Substances Import and Export Act, commits a murder in the first degree, shall be punished as provided in section 1111 of title 18, including by sentence of death or by imprisonment for life.".

SEC. 405. DRUG DISTRIBUTION TO MINORS, NEAR SCHOOLS, OR BY EMPLOYING MINORS.

Section 409 of the Controlled Substances Act is amended by adding subsection (c) as follows:

"(c) DRUG DISTRIBUTION TO MINORS, NEAR SCHOOLS, OR WHILE EMPLOYING PERSONS UNDER 18 YEARS OF AGE.—Whoever, during the course of an offense punishable under section 418, 419, and 420, commits a murder in the first degree, shall be punished as provided in section 1111 of title 18, including by sentence of death or imprisonment for life.".

SEC. 406. EXPORT AND IMPORT OF MAJOR DRUG QUANTITIES.

Section 409 of the Controlled Substances Act is amended by adding subsection (d) as follows:

"(d) DRUG IMPORT AND EXPORT.—Whoever, during an offense prohibited by section 1010(b)(1) of the Controlled Substances Import and Export Act, commits a murder in the first degree, shall be punished as provided in section 1111 of title 18, including by sentence of death or by imprisonment for life.".

SEC. 407. DISTRIBUTION OF MAJOR DRUG QUANTITIES.

Section 409 of the Controlled Substances Act (21 U.S.C.) is amended by adding subsection (e) as follows:

"(e) DRUG DISTRIBUTION.—Whoever, during the course of an offense punishable under section 401(b)(1)(A), commits a murder in the first degree, shall be punished as provided in section 1111 of title 18, including by sentence of death or by imprisonment for life.".

AMENDMENT NO. 595

Strike everything after the word "Sec." and replace with the following:

TITLE V—PREVENTION AND PUNISHMENT OF TERRORIST ACTS

Subtitle A—Aviation Terrorism

SEC. 501. IMPLEMENTATION OF THE 1988 PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS OF VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION.

(a) OFFENSE.—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 36. Violence at international airports

"(a) Whoever unlawfully and intentionally, using any device, substance or weapon,—

"(1) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death; or

"(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport,

if such an act endangers or is likely to endanger safety at that airport, or attempts to do such an act, shall be fined under this title or imprisoned not more than twenty years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the prohibited activity in subsection (a) if (1) the prohibited activity takes place in the United States, or (2) the prohibited activity takes place outside of the United States and the offender is later found in the United States.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following:

"36. Violence at international airports.".

(c) EFFECTIVE DATE.—This section shall take effect on the later of—

(1) the date of the enactment of this subtitle; or

(2) the date the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971, has come into force and the United States has become a party to the Protocol.

SEC. 502. AMENDMENT TO FEDERAL AVIATION ACT.

Section 902(n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(n)) is amended by—

(1) striking out paragraph (3); and

(2) redesignating paragraph (4) as paragraph (3).

SEC. 503. PREVENTING ACTS OF TERRORISM AGAINST CIVILIAN AVIATION.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 37. Violations of Federal aviation security regulations

"Whoever willfully violates a security regulation under part 107 or 108 of title 14, Code of Federal Regulations (relating to airport and airline security) shall be fined under this title or imprisoned for not more than one year, or both.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following:

"37. Violation of Federal aviation security regulations.

Subtitle B—Maritime Terrorism

SEC. 511. SHORT TITLE FOR SUBTITLE B.

This subtitle may be cited as the "Act for the Prevention and Punishment of Violence Against Maritime Navigation and Fixed Platforms".

SEC. 512. FINDINGS.

The Congress finds that—

(1) the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation requires each contracting State to establish its jurisdiction over certain offenses affecting the safety of maritime navigation;

(2) the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, which accompanies the aforementioned Convention, requires that each contracting State to the Protocol establish its jurisdiction over certain offenses affecting the safety of fixed platforms;

(3) such offenses place innocent lives and property in jeopardy, endanger national security, affect domestic tranquility, gravely affect interstate and foreign commerce, and are offenses against the law of nations;

(4) on December 27, 1988, the President of the United States issued Proclamation 5928 proclaiming that the territorial sea of the United States henceforth extended to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

(5) on November 5, 1989, the Senate gave its advice and consent to ratification of the Convention and its Protocol.

SEC. 513. STATEMENT OF PURPOSE.

The purpose of this subtitle is to—

(1) implement fully the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf;

(2) clarify Federal criminal jurisdiction over the territorial sea of the United States; and

(3) establish Federal criminal jurisdiction over certain acts committed by or against a national of the United States while upon a foreign vessel during a voyage having a scheduled departure from or arrival in the United States.

SEC. 514. OFFENSES OF VIOLENCE AGAINST MARITIME NAVIGATION OR FIXED PLATFORMS.

Chapter 111 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 2280. Violence against maritime navigation

"(a) Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

"(3) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

"(4) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;

"(5) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

"(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

"(7) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) to (6); or

"(8) attempts to do any act prohibited under paragraphs (1)-(7);

shall be fined under this title or imprisoned not more than twenty years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) Whoever threatens to do any act prohibited under paragraphs (2), (3) or (5) of subsection (a), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safe navigation of the ship in question, shall be fined under this title or imprisoned not more than five years, or both.

"(c) There is jurisdiction over the prohibited activity in subsections (a) and (b)—

"(1) in the case of a covered ship, if—

"(A) such activity is committed—

"(i) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

"(ii) in the United States; or

"(iii) by a national of the United States or by a stateless person whose habitual residence is in the United States;

"(B) during the commission of such activity, a national of the United States is seized, threatened, injured or killed; or

"(C) the offender is later found in the United States after such activity is committed;

"(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

"(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

"(d) The master of a covered ship flying the flag of the United States who has reasonable grounds to believe that he has on board his ship any person who has committed an offense under Article 3 of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation may deliver such person to the authorities of a State Party to that Convention. Before delivering such person to the authorities of another country, the master shall notify in an appropriate manner the Attorney General of the United States of the alleged offense and await instructions from the Attorney General as to what action he should take. When delivering the person to a country which is a State Party to the Convention, the master shall, whenever practicable, and if possible before entering the territorial sea of such country, notify the authorities of such country of his intention to deliver such person and the reason therefor. If the master delivers such person, he shall furnish the authorities of such country with the evidence in the master's possession that pertains to the alleged offense.

"(e) As used in this section, the term—

"(1) 'ship' means a vessel of any type whatsoever not permanently attached to the seabed, including dynamically supported craft, submersibles or any other floating craft: *Provided*, That the term does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship which has been withdrawn from navigation or laid up;

"(2) 'covered ship' means a ship that is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country;

"(3) 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands and all territories and possessions of the United States.

"§ 2281. Violence against maritime fixed platforms

"(a) Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

"(3) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

"(4) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety;

"(5) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) to (4); or

"(6) attempts to do anything prohibited under paragraphs (1)-(5),

shall be fined under this title or imprisoned not more than twenty years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) Whoever threatens to do anything prohibited under paragraphs (2) or (3) of subsection (a), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title or imprisoned not more than five years, or both.

"(c) There is jurisdiction over the prohibited activity in subsections (a) and (b) if—

"(1) such activity is committed against or on board a fixed platform—

"(A) that is located on the continental shelf of the United States;

"(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

"(C) in an attempt to compel the United States to do or abstain from doing any act;

"(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

"(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

"(d) As used in this section, the term—

"(1) 'continental shelf' means the sea-bed and subsoil of the submarine areas that extend beyond a country's territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea;

"(2) 'fixed platform' means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes;

"(3) 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands and all territories and possessions of the United States.".

SEC. 515. CLERICAL AMENDMENTS.

The analysis for chapter 111 of title 18, United States Code, is amended by adding at the end thereof the following:

"2280. Violence against maritime navigation.
"2281. Violence against maritime fixed platforms.".

SEC. 516. EFFECTIVE DATES.

Section 514 of this subtitle shall take effect on the later of—

(1) the date of the enactment of this subtitle; or

(2)(A) in the case of section 2280 of title 18, United States Code, the date the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation has come into force and the United States has become a party to that Convention; and

(B) in the case of section 2281 of title 18, United States Code, the date the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf has come into force and the United States has become a party to that Protocol.

SEC. 517. TERRITORIAL SEA EXTENDING TO TWELVE MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.

The Congress hereby declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988, is part of the United States, subject to its sovereignty, and, for purposes of Federal criminal jurisdiction, is within the special maritime and territorial jurisdiction of the United States wherever that term is used in title 18, United States Code.

SEC. 518. ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.

Section 13 of title 18, United States Code (relating to the adoption of State laws for areas within Federal jurisdiction), is amended by—

(1) inserting after "title" in subsection (a) the following: "or on, above, or below any portion of the territorial sea of the United States not within the territory of any State, Territory, Possession, or District"; and

(2) inserting at the end thereof the following new subsection:

"(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, Territory, Possession, or District, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed for purposes of subsection (a) to lie within the area of that State, Territory, Possession, or District it would lie within if the boundaries of such State, Territory, Possession, or District were extended seaward to the outer limit of the territorial sea of the United States.".

SEC. 519. JURISDICTION OVER CRIMES AGAINST UNITED STATES NATIONALS ON CERTAIN FOREIGN SHIPS.

Section 7 of title 18, United States Code (relating to the special maritime and territorial jurisdiction of the United States), is amended by inserting at the end thereof the following new paragraph:

"(8) Any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.".

Subtitle C—Terrorism Offenses and Sanctions

SEC. 521. TORTURE.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 113A the following new chapter:

"CHAPTER 113B—TORTURE

"Sec.
"2340. Definitions.
"2340A. Torture.
"2340B. Exclusive remedies.

"§ 2340. Definitions

"As used in this chapter—

"(1) 'torture' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control.

"(2) 'severe mental pain or suffering' means the prolonged mental harm caused by or resulting from: (a) the intentional infliction or threatened infliction of severe physical pain or suffering; (b) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality; (c) the threat of imminent death; or (d) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality.

"(3) 'United States' includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1301(38)).

"§ 2340A. Torture

"(a) Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than twenty years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the prohibited activity in subsection (a) if: (1) the alleged offender is a national of the United States; or (2) the alleged offender is present in the United States, irrespective of the nationality of the victim or the alleged offender.

"§ 2340B. Exclusive remedies

"Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item for chapter 113B the following new item:

"113B. Torture .... 2340.".

SEC. 522. WEAPONS OF MASS DESTRUCTION.

(a) FINDINGS.—The Congress finds that the use and threatened use of weapons of mass destruction, as defined in the statute enacted by subsection (b) of this section, gravely harm the national security and foreign relations interests of the United States, seriously affect interstate and foreign commerce, and disturb the domestic tranquility of the United States.

(b) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by adding the following new section:

"§ 2339. Use of weapons of mass destruction

"(a) Whoever uses, or attempts or conspires to use, a weapon of mass destruction—

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States;

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

"(b) For purposes of this section—

"(1) 'national of the United States' has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) 'weapon of mass destruction' means—

"(a) any destructive device as defined in section 921 of this title;

"(b) poison gas;

"(c) any weapon involving a disease organism; or

"(d) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.".

(c) CLERICAL AMENDMENT.—The analysis for chapter 113A of title 18, United States Code, is amended by adding the following:

"2339. Use of weapons of mass destruction.".

SEC. 523. HOMICIDES AND ATTEMPTED HOMICIDES INVOLVING FIREARMS IN FEDERAL FACILITIES.

Section 930 of title 18, United States Code, is amended by—

(a) redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g) respectively;

(b) in subsection (a), striking "(c)" and inserting "(d)"; and

(c) inserting after subsection (b) the following:

"(c) Whoever kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, shall—

"(1) in the case of a killing constituting murder as defined in section 1111(a) of this title, be punished by death or imprisoned for any term of years or for life; and

"(2) in the case of any other killing or an attempted killing, be subject to the penalties provided for engaging in such conduct within the special maritime and territorial jurisdiction of the United States under sections 1112 and 1113 of this title.".

SEC. 524. PENALTIES FOR INTERNATIONAL TERRORIST ACTS.

Section 2331 of title 18, United States Code, as amended by subtitle A of this title, is further amended—

(1) in subsection (a)—

(A) in paragraph (2) by striking "ten" and inserting "twenty"; and

(B) in paragraph (3) by striking "three" and inserting "ten".

(2) in subsection (c) by striking "five" and inserting "ten".

SEC. 525. TERRORIST DEATH PENALTY ACT.

Section 2332(a)(1) of title 18 of the United States Code is amended to read as follows:

"(1)(A) if the killing is murder as defined in section 1111(a) of this title, be fined under this title, punished by death or imprisonment for any term of years or for life, or both;".

Subtitle D—Preventing Domestic and International Terrorist Acts

PART I—ATTACKING THE INFRASTRUCTURE OF TERRORIST ORGANIZATIONS

SEC. 531. PROVIDING MATERIAL SUPPORT TO TERRORISTS.

(a) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by adding the following new section:

"§ 2339A. Providing material support to terrorists

"Whoever, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used to facilitate a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2339 of this title, or section 902(i) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1472(i)), or to facilitate the concealment or an escape from the commission of any of the foregoing, shall be fined under this title, imprisoned not more than ten years, or both. For purposes of this section, material support or resources shall include, but not be limited to, currency or other financial securities, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 113A of title 18, United States Code, is amended by adding the following:

"2339A. Providing material support to terrorists.".

SEC. 532. FORFEITURE OF ASSETS USED TO SUPPORT TERRORISTS.

Chapter 46 of title 18, United States Code, is amended—

(1) in section 981(a)(1) by inserting at the end thereof the following:

"(F) Any property, real or personal—

"(i) used or intended for use for; or

"(ii) constituting or derived from,

the gross profits or other proceeds obtained from a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2339 of this title, or section 902(i) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472(i)), or to facilitate the concealment or an escape from the commission of any of the foregoing offenses."; and

(2) in section 982(a) by inserting at the end thereof the following:

"(5) Any property, real or personal—

"(A) used or intended for use for; or

"(B) constituting or derived from,

the gross profits or other proceeds obtained from a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2339 of this title, or section 902(i) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472(i)), or to facilitate the concealment or an escape from the commission of any of the foregoing offenses.".

PART II—COOPERATION OF WITNESSES IN TERRORIST INVESTIGATIONS

SEC. 541. SHORT TITLE.

This part may be cited as the "Alien Witness Cooperation Act of 1991".

SEC. 542. ALIEN WITNESS COOPERATION.

Chapter 224 of title 18, United States Code, is amended by—

(1) redesignating section 3528 as 3529;

(2) adding at the end of section 3529, as redesignated, the following new paragraph:

"As used in section 3528, the terms 'alien' and 'United States' shall have the same meanings given to them in the Immigration and Nationality Act (8 U.S.C. 1101 et seq.)."; and

(3) inserting after section 3527 the following new section:

"§ 3528. Aliens; waiver of admission requirements

"(a) IN GENERAL.—Upon authorizing protection to any alien under this chapter, the United States shall provide such alien with appropriate immigration visas and allow such alien to remain in the United States so long as that alien abides by all laws of the United States and guidelines, rules and regulations for protection. The Attorney General may determine that the granting of permanent resident status to such alien is in the public interest and necessary for the safety and protection of such alien without regard to the alien's admissibility under immigration or any other laws and regulations or the failure to comply with such laws and regulations pertaining to admissibility.

"(b) ALIEN WITH FELONY CONVICTIONS.—Notwithstanding any other provisions of this chapter, an alien who would not be excluded because of felony convictions shall be considered for permanent residence on a conditional basis for a period of two years. Upon a showing that the alien is still being provided protection, or such protection remains available to the alien in accordance with provisions of this chapter, or such alien is still cooperating with the government, and has maintained good moral character, the Attorney General shall remove the conditional basis of the status effective as of the second anniversary of the alien's obtaining the status of admission for permanent residence. Permanent resident status shall not be granted to an alien who would be excluded because of felony convictions, unless the Attorney General determines, pursuant to regulations which shall be prescribed by him, that granting permanent residence status to such alien is necessary in the interests of justice, and comports with safety of the community.

"(c) LIMIT ON NUMBER OF ALIENS.—The number of aliens and members of their immediate families entering the United States under the authority of this section shall in no case exceed 200 persons in any one fiscal year. The decision to grant or deny permanent resident status under this section is at the discretion of the Attorney General and shall not be subject to judicial review.".

SEC. 543. CONFORMING AMENDMENT.

The analysis for chapter 224 of title 18, United States Code, is amended by—

(1) redesignating the item for section 3528 as section 3529; and

(2) adding after the item for section 3527 the following:

"3528. Aliens; waiver of admission requirements.".

Subtitle E—Preventing Economic Terrorism

SEC. 551. COUNTERFEITING U.S. CURRENCY ABROAD.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding before section 471 the following new section:

"§ 470. Counterfeit acts committed outside the United States

"Whoever, outside the United States, engages in the act of—

"(1) making, dealing, or possessing any counterfeit obligation or other security of the United States; or

"(2) making, dealing, or possessing any plate, stone, or other thing, or any part thereof, used to counterfeit such obligation or security,

if such act would constitute a violation of section 471, 473, or 474 of this title if committed within the United States, shall be fined under this title, imprisoned for not more than 15 years, or both.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 25 of title 18, United States Code, is amended by adding before section 471 the following:

"471. Counterfeit acts committed outside the United States.".

(c) TABLE OF CHAPTERS.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item for chapter 25 and inserting the following:

"25. Counterfeiting and forgery .... 470".

SEC. 552. ECONOMIC TERRORISM TASK FORCE.

(a) ESTABLISHMENT AND PURPOSE.—There is established an Economic Terrorism Task Force to—

(1) assess the threat of terrorist actions directed against the United States economy, including actions directed against the United States government and actions against United States business interests;

(2) assess the adequacy of existing policies and procedures designed to prevent terrorist actions directed against the United States economy; and

(3) recommend administrative and legislative actions to prevent terrorist actions directed against the United States economy.

(b) MEMBERSHIP.—The Economic Terrorism Task Force shall be chaired by the Secretary of State, or his designee, and consist of the following members:

(1) the Director of Central Intelligence;

(2) the Director of the Federal Bureau of Investigation;

(3) the Director of the United States Secret Service;

(4) the Administrator of the Federal Aviation Administration;

(5) the Chairman of the Board of Governors of the Federal Reserve;

(6) the Under Secretary of the Treasury for Finance; and

(7) such other members of the Departments of Defense, Justice, State, Treasury, or any other agency of the United States government, as the Secretary of State may designate.

(c) ADMINISTRATIVE PROVISIONS.—The provisions of the Federal Advisory Committee Act shall not apply with respect to the Economic Terrorism Task Force.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the chairman of the Economic Terrorism Task Force shall submit a report to the President and the Congress detailing the findings and recommendations of the task force. If the report of the task force is classified, an unclassified version shall be prepared for public distribution.

Subtitle F—Authorizations To Expand Counterterrorist Operations by Federal Agencies

SEC. 561. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated in each of the fiscal years 1992, 1993 and 1994, in addition to any other amounts specified in appropriations Acts, for counterterrorist operations and programs:

(1) for the Federal Bureau of Investigation, $25,000,000;

(2) for the Department of State, $10,000,000;

(3) for the United States Customs Service, $7,500,000;

(4) for the United States Secret Service, $2,500,000;

(5) for the Bureau of Alcohol, Tobacco, and Firearms, $2,500,000;

(6) for the Federal Aviation Administration, $2,500,000; and

(7) for grants to State and local law enforcement agencies, to be administered by the Office of Justice Programs in the Department of Justice, in consultation with the Federal Bureau of Investigation, $25,000,000.

AMENDMENT No. 596

Strike everything after the word "Sec." and replace with the following:

TITLE VI—DRIVE-BY SHOOTING ACT

SEC. 601. SHORT TITLE.

This title may be cited as the "Drive-By Shooting Prevention Act of 1991".

SEC. 602. NEW OFFENSE FOR THE INDISCRIMINATE USE OF WEAPONS TO FURTHER DRUG CONSPIRACIES.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 36. Drive-by shooting

"(a) OFFENSE AND PENALTIES.—

"(1) Whoever, in furtherance or to escape detection of a major drug offense listed in subsection (b) and, with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of two or more persons and who, in the course of such conduct, causes grave risk to any human life shall be punished by a term of no more than 25 years, or by fine as provided under this title, or both.

"(2) Whoever, in furtherance or to escape detection of a major drug offense listed in subsection (b) and, with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of two or more persons and who, in the course of such conduct, kills any person shall, if the killing—

"(A) is a first degree murder as defined in section 1111(a) of this title, be punished by death or imprisonment for any term of years or for life, fined under this title, or both: or

"(B) is a murder other than a first degree murder as defined in section 1111(a) of this title, be fined under this title, imprisoned for any term of years or for life, or both.

"(b) MAJOR DRUG OFFENSE DEFINED.—A major drug offense within the meaning of subsection (a) is one of the following:

"(1) a continuing criminal enterprise, punishable under section 403(c) of the Controlled Substances Act (21 U.S.C. 848(c));

"(2) a conspiracy to distribute controlled substances punishable under section 406 of the Controlled Substances Act (21 U.S.C. 846) or punishable under section 1013 of the Controlled Substances Import and Export Control Act (21 U.S.C. 963); or

"(3) an offense involving major quantities of drugs and punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) or section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)).".

(b) TABLE OF SECTIONS.—The table of sections for chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following:

"36. Drive-by shooting.".

AMENDMENT No. 597

Strike everything after the word "Sec." and replace with the following:

TITLE VII—ASSAULT WEAPONS

SEC. 701. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1991".

SEC. 702. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(s)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(t)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this subsection, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 703. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(29) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 10 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 704. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 705. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 706. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 707. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 30 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 708. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARMS, OR SMUGGLING AN ASSAULT WEAPON IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined not more than $1,000 (in accordance with section 3571(e) of this title), imprisoned for not more than 6 months, or both.".

SEC. 709. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 30 days after the date of enactment of this title. This title, except for section 707, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for section 707, shall be repealed.

AMENDMENT No. 598

Strike everything after the word "Sec." and replace with the following:

TITLE VIII—POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT

SEC. 801. SHORT TITLE.

This title may be cited as the "Police Corps and Law Enforcement Training and Education Act".

SEC. 802. PURPOSES.

The purposes of this title are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol;

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement; and

(3) assist State and local law enforcement efforts to enhance the educational status of law enforcement personnel both through increasing the educational level of existing officers and by recruiting more highly educated officers.

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SEC. 803. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps and Law Enforcement Education shall be headed by a Director (referred to in this title as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program established in subtitle A and the Law Enforcement Scholarship program established in subtitle B and shall have authority to promulgate regulations to implement this title.

SEC. 804. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program under subtitle A or the Law Enforcement Scholarship program under subtitle B shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this title;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program;

(4) if the State desires to participate in the Police Corps program under subtitle A, meet the requirements of section 816; and

(5) if the State desires to participate in the Law Enforcement Scholarship program under subtitle B, meet the requirements of section 826.

Subtitle A—Police Corps Program

SEC. 811. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "academic year" means a traditional academic year beginning in August or September and ending in the following May or June;

(2) the term "dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director;

(3) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree; or

(B) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses;

(4) the term "participant" means a participant in the Police Corps program selected pursuant to section 813;

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and

(6) the term "State Police Corps program" means a State police corps program approved under section 816.

SEC. 812. SCHOLARSHIP ASSISTANCE.

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director is authorized to award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B) each scholarship payment made under this section for each academic year shall not exceed—

(i) $10,000; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The total amount of scholarship assistance received by any one student under this section shall not exceed $40,000.

(4) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(5)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution.

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director is authorized to make payments to a participant to reimburse such participant for the costs of educational expenses if such student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $10,000; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The total amount of payments made pursuant to subparagraph (A) to any one student shall not exceed $40,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to attend a 4-year institution of higher education.

(d) AGREEMENT.—(1) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director. Each such agreement shall contain assurances that the participant shall—

(A) after successful completion of a baccalaureate program and training as prescribed in section 814, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(B) complete satisfactorily—

(i) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the case of graduate study);

(ii) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 814; and

(C) repay all of the scholarship or payment received plus interest at the rate of 10 percent in the event that the conditions of subparagraphs (A) and (B) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) In the event that a scholarship recipient is unable to comply with the repayment provision set forth in subparagraph (B) of paragraph (1) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from participants who violate the agreement described in paragraph (1).

(e) DEPENDENT CHILD.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties,

shall be entitled to the scholarship assistance authorized in this section. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) GROSS INCOME.—For purposes of section 61 of the Internal Revenue Code of 1986, a participant's or dependent child's gross income shall not include any amount paid as scholarship assistance under this section or as a stipend under section 814.

(g) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

(h) DEFINITION.—For the purposes of this section the term "institution of higher education" has the meaning given that term in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

SEC. 813. SELECTION OF PARTICIPANTS.

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participant must—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to section 815(c)(5), including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this title, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section 815, and such a participant shall be subject to the same benefits and obligations under this subtitle as other participants, including those stated in section (b)(1) (E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 815, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this Act that there shall be no more than 20,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 20,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of racial and ethnic groups whose representation on the police forces within the State is substantially less than in the population of the State as a whole. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, a 4-year institution of higher education (as described in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)))—

(A) as a full-time student in an undergraduate program; or

(B) for purposes of taking a graduate course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) A participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(f) ADMISSION OF APPLICANTS.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

SEC. 814. POLICE CORPS TRAINING.

(a) IN GENERAL.—(1) The Director shall establish programs of training for Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing State training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subtitle.

(2) The Director is authorized to enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces), to obtain the services of persons qualified to participate in and contribute to the training process.

(3) The Director is authorized to enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, one during the summer following completion of sophomore year and one during the summer following completion of junior year. If a participant enters the program after sophomore year, the participant shall complete 16 weeks of training at times determined by the Director.

(c) FURTHER TRAINING.—The 16 weeks of Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section 816 shall include assurances that following completion of a participant's course of education each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Police Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) COURSE OF TRAINING.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) EVALUATION OF PARTICIPANTS.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Director at the conclusion of each training session in order to remain in the Police Corps program.

(f) STIPEND.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

SEC. 815. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon satisfactory completion of the participant's course of education and training program established in section 814 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 812, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 812(d)(1)(C) shall not apply.

SEC. 816. STATE PLAN REQUIREMENTS.

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 813;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants

assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since June 21, 1989; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) assure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

SEC. 817. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $400,000,000 for fiscal year 1992 and such sums as are necessary to carry out the subtitle for fiscal years 1993, 1994, 1995, and 1996.

Subtitle B—Law Enforcement Scholarship Program

SEC. 821. DEFINITIONS.

As used in this subtitle—

(1) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies and related expenses;

(2) the term "institution of higher education" has the meaning given that term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(3) the term "law enforcement position" means employment as an officer in a State or local police force, or correctional institution; and

(4) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 822. ALLOTMENT.

From amounts appropriated under the authority of section 829, the Director shall allocate—

(1) 80 percent of such funds to States on the basis of the number of law enforcement officers in each State; and

(2) 20 percent of such funds to States on the basis of the State's shortage of law enforcement personnel and the need for assistance under this subtitle.

SEC. 823. PROGRAM ESTABLISHED.

(a) IN GENERAL.—From amounts available pursuant to section 822 each State shall pay the Federal share of the cost of awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education.

(b) FEDERAL SHARE.—(1) The Federal share of the cost of scholarships under this subtitle shall not exceed 60 percent.

(2) The non-Federal share of the cost of scholarships under this subtitle shall be supplied from sources other than the Federal Government.

(c) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall be responsible for the administration of the program conducted pursuant to this subtitle and shall, in consultation with the Assistant Secretary for Postsecondary Education, promulgate regulations to implement this subtitle.

(d) SPECIAL RULE.—Each State receiving an allotment under section 823 shall ensure that each scholarship recipient under this subtitle be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(e) SUPPLEMENTATION OF FUNDING.—Funds received under this subtitle shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. 824. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—Scholarships awarded under this subtitle shall be for a period of one academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this subtitle may use such scholarship for educational expenses at any accredited institution of higher education.

SEC. 825. ELIGIBILITY.

An individual shall be eligible to receive a scholarship under this subtitle if such individual has been employed in law enforcement for 2 years immediately preceding the date for which assistance is sought.

SEC. 826. STATE PLAN REQUIREMENTS.

A State law enforcement scholarship plan shall—

(1) contain assurances that the State shall make scholarship payments to institutions of higher education on behalf of individuals receiving financial assistance under this subtitle;

(2) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel;

(3) contain assurances that the State shall promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in high schools and community colleges; and

(4) contain assurances that the State shall not expend for administrative expenses more than 8 percent of Federal funds received under section 823.

SEC. 827. LOCAL APPLICATION.

(a) IN GENERAL.—Each individual desiring a scholarship under this subtitle shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require. Each such application shall describe the academic courses for which financial assistance is sought.

(b) PRIORITY.—In awarding scholarships under this subtitle, each State shall give priority to applications from individuals who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State; and

(2) pursuing an undergraduate degree.

SEC. 828. SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—Each individual receiving a scholarship under this subtitle shall enter into an agreement with the Director.

(b) CONTENTS.—Each agreement described in subsection (a) shall—

(1) provide assurances that the individual shall work in a law enforcement position in the State which awarded such individual the scholarship in accordance with the service obligation described in subsection (c) after completion of such individual's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the individual will repay all of the scholarship assistance awarded under this title in accordance with such terms and conditions as the Director shall prescribe, in the event that the requirements of the agreement under paragraph (1) are not complied with except where the individual—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which an individual receiving a scholarship under this subtitle may seek employment in the field of law enforcement in a State other than the State which awarded such individual the scholarship under this subtitle.

(c) SERVICE OBLIGATION.—(1) Each individual awarded a scholarship under this subtitle shall work in a law enforcement position in the State which awarded such individual the scholarship for a period of one month for each credit hour for which financial assistance is received under this subtitle.

(2) For purposes of satisfying the requirement specified in paragraph (1) each individual awarded a scholarship under this Act shall work in a law enforcement position in the State which awarded such individual the scholarship for not less than 6 months nor more than 2 years.

SEC. 829. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $30,000,000 for fiscal year 1992 and such sums as are necessary to carry out the subtitle for fiscal years 1993, 1994, 1995, and 1996.

Subtitle C—Reports

SEC. 831. REPORTS TO CONGRESS.

(a) ANNUAL REPORTS.—No later than April 1 of each fiscal year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate. Such report shall—

(1) state the number of current and past participants in the Police Corps program authorized by subtitle A, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic dispersion of participants in the Police Corps program;

(3) state the number of present and past scholarship recipients under subtitle B, categorized according to the levels of educational study in which such recipients are engaged and the years of service such recipients have served in law enforcement;

(4) describe the geographic, racial, and gender dispersion of scholarship recipients under subtitle B; and

(5) describe the progress of the programs authorized by this title and make recommendations for changes in the programs.

(b) SPECIAL REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall submit a report to Congress containing a plan to expand the assistance provided under subtitle B to Federal law enforcement officers. Such plan shall contain information of the number and type of Federal law enforcement officers eligible for such assistance.

AMENDMENT NO. 599

Strike everything after the word "Sec." and replace with the following:

TITLE IX—POLICE OFFICERS' BILL OF RIGHTS ACT OF 1991

SEC. 901. SHORT TITLE.

This title may be cited as the "Police Officers' Bill of Rights Act of 1991".

SEC. 902. RIGHTS OF LAW ENFORCEMENT OFFICERS.

Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781 et seq.) is amended by adding at the end thereof the following new section:

"RIGHTS OF LAW ENFORCEMENT OFFICERS

"SEC. 819. (a) POLITICAL ACTIVITY.—Except when on duty or acting in an official capacity, no law enforcement officer shall be prohibited from engaging in political activity or be denied the right to refrain from engaging in such activity.

"(b) RIGHTS OF LAW ENFORCEMENT OFFICERS WHILE UNDER INVESTIGATION.—When a law enforcement officer is under investigation or is subjected to questioning for any reason, other than in connection with an investigation or action described in subsection (h), under circumstances that could lead to disciplinary action, the following minimum standards shall apply:

"(1) Questioning of the law enforcement officer shall be conducted at a reasonable hour, preferably when the law enforcement officer is on duty, unless exigent circumstances otherwise require.

"(2) Questioning of the law enforcement officer shall take place at the offices of those conducting the investigation or the place where such law enforcement officer reports for duty unless the officer consents in writing to being questioned elsewhere.

"(3) The law enforcement officer under investigation shall be informed, at the commencement of any questioning, of the name, rank, and command of the officer conducting the questioning.

"(4) During any single period of questioning of the law enforcement officer, all questions shall be asked by or through a single investigator.

"(5) The law enforcement officer under investigation shall be informed in writing of the nature of the investigation prior to any questioning.

"(6) Any questioning of a law enforcement officer in connection with an investigation shall be for a reasonable period of time and shall allow for reasonable periods for the rest and personal necessities of the law enforcement officer.

"(7) No threat against, harassment of, or promise or reward (except an officer of immunity from prosecution) to any law enforcement officer shall be made in connection with an investigation to induce the answering of any question.

"(8) All questioning of any law enforcement officer in connection with the investigation shall be recorded in full in writing or by electronic device, and a copy of the transcript shall be made available to the officer under investigation.

"(9) The law enforcement officer under investigation shall be entitled to the presence of counsel (or any other one person of the officer's choice) at any questioning of the officer, unless the officer consents in writing to being questioned outside the presence of counsel.

"(10) At the conclusion of the investigation, the person in charge of the investigation shall inform the law enforcement officer under investigation, in writing, of the investigative findings and any recommendation for disciplinary action that the person intends to make.

"(11) A law enforcement officer who brought before a disciplinary hearing shall be provided access to all transcripts, records, written statements, written reports and analyses and video tapes pertinent to the case that—

"(A) contain exculpatory information;

"(B) are intended to support any disciplinary action; or

"(C) are to be introduced in the disciplinary hearing.

"(c) OPPORTUNITY FOR A HEARING.—(1) Except in a case of summary punishment or emergency suspension described in subsection (d), if an investigation of a law enforcement officer results in a recommendation of disciplinary action, the law enforcement agency shall notify the law enforcement officer that the officer is entitled to a hearing on the issues by a hearing officer or board.

"(2)(A) Subject to subparagraph (B), a State shall determine the composition of a disciplinary hearing board and the procedures for a disciplinary hearing.

"(B) A disciplinary hearing board that includes employees of the law enforcement agency of which the officer who is the subject of the hearing is a member shall include at least one law enforcement officer of equal or lesser rank to the officer who is the subject of the hearing.

"(3) A penalty greater than that which was recommended by the trial board cannot be imposed upon the officer.

"(d) SUMMARY PUNISHMENT AND EMERGENCY SUSPENSION.—(1) This section does not preclude a State from providing for summary punishment or emergency suspension for misconduct by a law enforcement officer.

"(2) An emergency suspension shall not affect or infringe on the health benefits of a law enforcement officer.

"(e) NOTICE OF DISCIPLINARY ACTION.—When disciplinary action is to be taken against a law enforcement officer, the officer shall be notified of the action and the reasons therefor a reasonable time before the action takes effect.

"(f) RETALIATION FOR EXERCISING RIGHTS.—There shall be no penalty or threat of penalty against a law enforcement officer for the exercise of the officer's rights under this section.

"(g) OTHER REMEDIES NOT IMPAIRED.—(1) Nothing in this section shall be construed to impair any other legal remedy that a law enforcement officer has with respect to any rights under this section.

"(2) A law enforcement officer may waive any of the rights guaranteed by this section.

"(h) APPLICATION OF SECTION.—This section does not apply in the case of—

"(1) an investigation of criminal conduct by a law enforcement officer; or

"(2) a nondisciplinary action taken in good faith on the basis of a law enforcement officer's employment-related performance.

"(i) DEFINITIONS.—For the purposes of this section—

"(1) the term 'disciplinary action' means the suspension, demotion, reduction in pay or other employment benefit, dismissal, transfer, or similar action taken against a law enforcement officer as punishment for misconduct;

"(2) the term 'emergency suspension' means temporary action imposed by the head of the law enforcement agency when that official determines that the action is in the best interests of the public;

"(3) the term 'summary punishment' means punishment imposed for a minor violation of a law enforcement agency's rules and regulations that does not result in disciplinary action;

"(4) the term 'law enforcement agency' means a public agency charged by law with the duty to investigate crimes or apprehend or hold in custody persons charged with or convicted of crimes; and

"(5) the term 'law enforcement officer' means a full-time police officer, sheriff, or correctional officer of a law enforcement agency.

"(j) PROHIBITION OF ADVERSE MATERIAL IN OFFICER'S FILE.—A law enforcement agency shall not insert any adverse material into the file of any law enforcement officer unless the officer has had an opportunity to review and comment in writing on the adverse material.

"(k) DISCLOSURE OF PERSONAL ASSETS.—A law enforcement officer shall not be required or requested to disclose any item of the officer's personal property, income, assets, sources of income, debts, personal or domestic expenditures (including those of any member of the officer's household), unless

"(1) the information is necessary in investigating a violation of any Federal, State, or local law, rule, or regulation with respect to the performance of official duties; or

"(2) such disclosure is required by Federal, State, or local law.

"(l) ENFORCEMENT OF PROTECTIONS FOR LAW ENFORCEMENT OFFICERS.—(1) A State shall have not more than 2 legislative sessions to enact a Law Enforcement Officers' Bill of Rights that provides rights for law enforcement officers that are substantially similar to the rights afforded under this section.

"(2) After the expiration of the time limit described in paragraph (1), a law enforcement officer shall have a cause of action in State court for the recovery of pecuniary and other damages and full reinstatement against a law enforcement agency that materially violates the rights afforded by this section.

"(3) The sovereign immunity of a State shall not apply in the case of a violation of the rights afforded by this section.

"(m) STATES' RIGHTS.—This section does not preempt State law or collective bargaining agreements or discussions during the collective bargaining process that provide rights for law enforcement officers that are substantially similar to the rights afforded by this section.".

AMENDMENT No. 600

Strike everything after the word "Sec." and replace with the following:

TITLE X—FEDERAL LAW ENFORCEMENT AGENCIES

SEC. 1001. SHORT TITLE.

This title may be cited as the "Federal Law Enforcement Act of 1991".

SEC. 1002. AUTHORIZATION FOR FEDERAL LAW ENFORCEMENT AGENCIES.

There is authorized to be appropriated for fiscal year 1992, $345,500,000 (which shall be in addition to any other appropriations) to be allocated as follows:

(1) For the Drug Enforcement Administration, $100,500,000, which shall include:

(A) not to exceed $45,000,000 to hire, equip and train not less than 350 agents and necessary support personnel to expand DEA investigations and operations against drug trafficking organizations in rural areas;

(B) not to exceed $25,000,000 to expand DEA State and Local Task Forces, including payment of state and local overtime, equipment and personnel costs; and

(C) not to exceed $5,000,000 to hire, equip and train not less than 50 special agents and necessary support personnel to investigate violations of the Controlled Substances Act relating to anabolic steroids.

(2) For the Federal Bureau of Investigation, $98,000,000, for the hiring of additional agents and support personnel to be dedicated to the investigation of drug trafficking organizations;

(3) For the Immigration and Naturalization Service, $45,000,000, to be further allocated as follows:

(A) $25,000,000 to hire, train and equip no fewer than 500 full-time equivalent Border Patrol officer positions;

(B) $20,000,000 to hire, train and equip no fewer than 400 full-time equivalent INS criminal investigators dedicated to drug trafficking by illegal aliens and to deportations of criminal aliens.

(4) For the United States attorneys, $45,000,000 to hire and train not less than 350 additional prosecutors and support personnel dedicated to the prosecution of drug trafficking and related offenses;

(5) For the United States Marshals Service, $10,000,000;

(6) For the Bureau of Alcohol, Tobacco, and Firearms, $15,000,000 to hire, equip and train not less than 100 special agents and support personnel to investigate firearms violations committed by drug trafficking organizations, particularly violent gangs;

(7) For the United States courts, $20,000,000 for additional magistrates, probation officers, other personnel and equipment to address the case-load generated by the additional investigative and prosecutorial resources provided in this title; and

(8) For Federal defender services, $12,000,000 for the defense of persons prosecuted for drug trafficking and related crimes.

AMENDMENT No. 601

Strike everything after the word "Sec." and replace with the following:

TITLE XI—HABEAS CORPUS REFORM ACT

SEC. 1101. SHORT TITLE.

This title may be cited as the "Habeas Corpus Reform Act of 1991".

SEC. 1102. SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES.

Part VI of title 28 of the United States Code is amended by inserting following chapter 153 the following new chapter:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.

"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.

"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.

"2258. Filing of habeas corpus petition; time requirements; tolling rules.

"2259. Evidentiary hearings; scope of Federal review; district court adjudication.

"2260. Certificate of probable cause inapplicable.

"2261. Counsel in capital cases; trial and post-conviction; standards.

"2262. Law controlling in Federal habeas corpus proceedings; retroactivity.

"§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply to cases arising under section 2254 of this title brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable fees and litigation expenses of competent counsel consistent with section 2261 of this title.

"(c)(1) Upon receipt of notice that counsel has been appointed to represent a prisoner under sentence of death after the prisoner's conviction and sentence have been upheld on direct review in a State court of last resort or in the Supreme Court of the United States if application is made to that court, the State court of last resort shall enter an order confirming the appointment and shall direct its clerk to forward the record of the case to the attorney appointed.

"(2) Upon receipt of notice that counsel has been offered to, but declined by, a prisoner described in paragraph (1), the State court of last resort shall direct an appropriate court or judge to hold a hearing, at which the prisoner and the attorney offered to the prisoner shall be present, to determine whether the prisoner is competent to decide whether to accept or reject the appointment of counsel and whether, if competent, the prisoner knowingly and intelligently waives the appointment of counsel. The court or judge shall report its determinations to the State court of last resort, which shall review the determinations for error. If the State court of last resort concludes that the prisoner is incompetent and does not waive counsel, the court shall enter an order confirming the appointment of the attorney assigned to the prisoner by the appointing authority and shall direct the clerk to forward the record to the attorney appointed. If the court concludes that the prisoner is competent and waives counsel, the court shall enter an order that counsel need not be appointed and shall direct the clerk to forward the record to the prisoner.

"(3) Nothing in this section requires the appointment of counsel to a prisoner who is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner in State collateral proceedings shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel appointed under this chapter during State or Federal collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under this chapter or section 2254 of this title. This limitation shall not preclude the appointment of different counsel at any phase of State or Federal post-conviction proceedings.

"§ 2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the State court of last resort of an order pursuant to section 2256(c) of this title, a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed pursuant to section 2254 of this title. The application must recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 of this title within the time required in section 2258 of this title;

"(2) upon completion of district court and court of appeals review under section 2254 of this title the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254 of this title.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented by the prisoner in the State or Federal courts, and the failure to raise the claim is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence;

"(2) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the jury's determination of guilt on the offense or offenses for which the death penalty was imposed; or

"(3) a stay and consideration of the requested relief are necessary to prevent a miscarriage of justice.

"§2258. Filing of habeas corpus petition; time requirements; tolling rules

"Any petition for habeas corpus relief under section 2254 of this title must be filed in the appropriate district court not later than 365 days after the date of filing in the State court of last resort of an order issued in compliance with section 2256(c) of this title. The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner seeks review of a capital sentence that has been affirmed on direct appeal by the court of last resort of the State or has otherwise become final for State law purposes;

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for post-conviction review pending before a State court of competent jurisdiction and if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for post-conviction review until final disposition of the case by the State court of last resort, and further until final disposition of the matter by the Supreme Court of the United States, if a timely petition for review is filed; and

"(3) during an additional period not to exceed 90 days, if counsel for the State prisoner—

"(A) moves for an extension of time in the United States district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254 of this title; and

"(B) makes a showing of good cause for counsel's inability to file the habeas corpus petition within the 365-day period established by this section.

"§2259. Evidentiary hearings; scope of Federal review; district court adjudication

"(a) Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall—

"(1) determine the sufficiency of the evidentiary record for habeas corpus review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

Upon the development of a complete evidentiary record under this subsection, the district court shall rule on the merits of the claims properly before it.

"(b)(1) Except as provided in paragraph (2), a district court may refuse to consider a claim under this section if—

"(A) the prisoner previously failed to raise the claim in State court at the time and in the manner prescribed by State law;

"(B) the State courts, for that reason, refused or would refuse to entertain the claim; and

"(C) such refusal would constitute an adequate and independent State law ground that would foreclose direct review of the State court judgment in the United States Supreme Court.

"(2) A district court shall consider a claim under this section if the prisoner shows that the failure to raise the claim in a State court was due to the ignorance or neglect of the prisoner or counsel or if the failure to consider such a claim would result in a miscarriage of justice.

"§2260. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter except when a second or successive petition is filed.

"§2261. Counsel in capital cases; trial and post-conviction; standards

"(a) A mechanism for the provision of counsel services to indigents sufficient to invoke the provisions of this chapter under section 2256(b) of this title shall provide for counsel to—

"(1) indigents charged with offenses for which capital punishment is sought;

"(2) indigents who have been sentenced to death and who seek appellate or collateral review in State court; and

"(3) indigents who have been sentenced to death and who seek certiorari review in the United States Supreme Court.

"(b)(1) In the case of an appointment made before trial, at least one attorney appointed under this chapter must have been admitted to practice in the court in which the prosecution is to be tried for not less than 5 years, and must have had not less than 3 years' experience in the trial of felony prosecutions in that court.

"(2) In the case of an appointment made after trial, at least one attorney appointed under this chapter must have been admitted to practice in the court of last resort of the State for not less than 5 years, and must have had not less than 3 years' experience in the handling of appeals in that State courts in felony cases.

"(3) Notwithstanding paragraphs (1) and (2) of this subsection, a court, for good cause and upon the defendant's request, may appoint another attorney whose background, knowledge, or experience would otherwise enable the attorney to properly represent the defendant, with due consideration of the seriousness of the possible penalty and the unique and complex nature of the litigation.

"(c) Upon a finding in ex parte proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or issues relating to sentence, the court shall authorize the defendant's attorney to obtain such services on behalf of the defendant and shall order the payment of fees and expenses therefor, under subsection (d). Upon finding that timely procurement of such services could not practicably await prior authorization, the court may authorize the provision of and payment of such services nunc pro tunc.

"(d) Notwithstanding the rates and maximum limits generally applicable to criminal cases and any other provision of law to the contrary, the court shall fix the compensation to be paid to an attorney appointed under this subsection and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under subsection (c), at such rates or amounts as the court determines to be reasonably necessary to carry out the requirements of this subsection.".

SEC. 1103. LAW APPLICABLE IN CHAPTER 153 PROCEEDINGS.

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"§2255A. Law applicable

"(a) Except as provided in subsection (b) of this section, each claim under this chapter shall be governed by the law existing on the date the court determines the claim.

"(b) In determining whether to apply a new rule, the court shall consider—

"(1) the purpose to be served by the new rule;

"(2) the extent of the reliance by law enforcement authorities on a different rule; and

"(3) the effect on the administration of justice of the application of the new rule.

"(c) For purposes of this section, the term 'new rule' means a sharp break from precedent announced by the Supreme court of the United States that explicitly and substantially changes the law from that governing at the time the claimant's sentence became final. A rule is not new merely because, based on precedent existing before the rule's announcement, it was susceptible to debate among reasonable minds.".

(b) CHAPTER ANALYSIS.—The chapter analysis of chapter 153 of title 28, United States Code, is amended by adding at the end thereof the following:

"2255A. Law applicable.".

AMENDMENT NO. 602

Strike everything after the word "Sec." and replace with the following:

TITLE XII—PUNISHMENT OF GUN CRIMINALS

SEC. 1201. SHORT TITLE.

This title may be cited as the "Gun Criminals Punishment Act of 1991".

Subtitle A—Increased Penalties for Gun Offenses

SEC. 1211. DEATH PENALTY FOR GUN MURDERS.

Section 924(c) of title 18, United States Code, is amended by—

(1) inserting "(A)" after "(1)";

(2) designating the second sentence as subparagraph (B);

(3) designating the third and fourth sentences as subparagraph (D); and

(4) inserting before subparagraph (D) the following:

"(C) Whoever violates the terms of subparagraph (A) and discharges a firearm that kills another person, shall, if the killing—

"(A) is a first degree murder as defined in section 1111(a) of this title, be punished by death or imprisonment for any term of years or for life, fined under this title, or both; or

"(B) is a murder other than a first degree murder as defined in section 1111(a) of this title, be fined under this title, imprisoned for any term of years or for life, or both.".

SEC. 1212. INCREASED PENALTIES FOR VIOLENT GUN CRIMES.

(a) IN GENERAL.—Section 924(c)(1) of title 18, United States Code, is amended by—

(1) striking subparagraph (A) and inserting the following:

"(A) Whoever, during and in relation to any crime of violence or drug trafficking erime (including a crime of violence or drug trafficking crime which provides an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) discharges, uses, carries, or otherwise possesses a firearm shall, in addition to the penalties already provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for a term from 5 to 10 years;

"(ii) discharges, uses, carries, or otherwise possesses a firearm that is an assault weapon, short-barreled rifle, or short-barreled shotgun, shall, in addition to the penalties already provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for a term from 10 to 15 years; or

"(iii) discharges, uses, carries, or otherwise possesses a firearm that is a machinegun, a destructive device, or is equipped with a firearm silencer or firearm muffler, shall be sentenced to imprisonment for 30 years."; and

(2) striking subparagraph (B), as designated by section 1211 of this Act, and inserting the following:

"(B) In the case of a second conviction under this subsection, such person shall be sentenced to imprisonment for 20 years and, if the firearm is an assault weapon, a short-barreled rifle, a short-barreled shotgun, a machinegun, a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment.".

(b) SENTENCING GUIDELINES FOR NEW PENALTIES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission, shall promulgate guidelines or amend existing guidelines to provide for a sentencing enhancement in accord with the provisions of subsection (c)(1) of section 924 of title 18, United States Code.

Subtitle B—Firearms and Related Amendments

SEC. 1221. POSSESSION OF AN EXPLOSIVE DURING THE COMMISSION OF A FELONY.

(a) POSSESSION OF EXPLOSIVES.—Section 844(h) of title 18, United States Code, is amended by—

(1) striking "carries an explosive during" and inserting "uses, carries, or otherwise possesses an explosive during"; and

(2) striking "used or carried" and inserting "used, carried, or possessed".

(b) PENALTY.—Section 844(h) of title 18, United States Code, is amended by striking "ten years" and inserting "twenty years".

SEC. 1222. CLARIFICATION OF DEFINITION OF CONVICTION.

Section 921(a)(20) of title 18, United States Code, is amended by adding at the end the following: "Notwithstanding the previous sentence, if the conviction was for a violent felony involving the threatened or actual use of a firearm or explosive or was for a serious drug offense, as defined in section 924(e) of this title, the person shall be considered convicted for purposes of this chapter irrespective of any pardon, setting aside, expunction or restoration of civil rights.".

SEC. 1224. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING.

Section 924 of title 18, United States Code, is amended by adding at the end thereof the following:

"(m) Whoever, with the intent to engage in or to promote conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3); smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than ten years, fined under this title, or both.".

SEC. 1225. THEFT OF FIREARMS AND EXPLOSIVES.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding at the end thereof:

"(j) whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(k) Whoever steals any explosives materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, or fined under this title, or both.".

SEC. 1226. CONFORMING AMENDMENT PROVIDING MANDATORY REVOCATION OF SUPERVISED RELEASE FOR POSSESSION OF A FIREARM.

Section 3583 of title 18, United States Code is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 1228. STATUTE OF LIMITATIONS FOR CERTAIN GANGSTER WEAPON OFFENSES.

Section 6531 of the Internal Revenue Code of 1986 (26 U.S.C. 6531, relating to periods of limitation of criminal prosecutions) is amended by striking "except that the period of limitation shall be six years" and inserting in lieu thereof "except that the period of limitation shall be five years for offenses described in section 5861 (relating to firearms) and the period of limitation shall be six years".

SEC. 1229. POSSESSION OF EXPLOSIVES BY FELONS AND OTHERS.

Section 842(i) of title 18, United States Code, is amended by inserting "or possess" after "to receive".

SEC. 1230. SUMMARY DESTRUCTION OF EXPLOSIVES SUBJECT TO FORFEITURE.

Section 844(c) of title 18, United States Code, is amended by redesignating subsection (c) as subsection (c)(1) and by adding paragraphs (2) and (3) as follows:

"(2) Notwithstanding the provisions of paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture where it is impracticable or unsafe to remove the materials to a place of storage, or where it is unsafe to store them, the seizing officer is authorized to destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least one credible witness. The seizing officer shall make a report of the seizure and take samples as the Secretary may by regulation prescribe.

"(3) Within sixty days after any destruction made pursuant to paragraph (2), the owner of, including any person having an interest in, the property so destroyed may make application to the Secretary for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Secretary that—

SEC. 1253. DEFINITION OF AMMUNITION FEEDING DEVICE.

Section 921(a) of title 18, United States Code, is amended by adding a new paragraph at the end thereof as follows:

"(30) The term 'ammunition feeding device' means a detachable magazine, belt, drum, feed strip, or similar device which has a capacity of, or which can be readily restored or converted to accept, more than 15 rounds of ammunition. The term also includes any combination of parts from which such device can be assembled. Notwithstanding the foregoing, such term shall not include any attached tubular device designed to accept and capable of operating with only .22 rim-fire caliber ammunition.".

SEC. 1254. PROHIBITIONS APPLICABLE TO AMMUNITION FEEDING DEVICES.

Section 922 of title 18, United States Code, is amended by adding new subsections (v), (w), and (x), as follows:

"(v) It shall be unlawful for any person to import, manufacture, transport, ship, transfer, receive, or possess an ammunition feeding device, except that this subsection shall not apply to—

"(1) any importation or manufacture of such a device for sale or distribution by a licensed importer or licensed manufacturer to the United States or any department or agency thereof or to any State or any department, agency, or political subdivision thereof;

"(2) any possession, shipment, transportation of or transfer (in accordance with the provisions of subsections (w) and (x)) of such a device that was lawfully possessed before this subsection takes effect; or

"(3) any manufacture of such a device for the purpose of exportation.

"(w) The Secretary shall maintain a central registry of all ammunition feeding devices transferred after the effective date of this subsection which, after such transfer, are not in the possession or under the control of the United States, or any department or agency thereof or any department, agency, or political subdivision thereof. This registry shall be known as the National Ammunition Feeding Device Registry. The registry shall include—

"(1) identification of the device;

"(2) date of registration;

"(3) identification and address of the person entitled to possess the device; and

"(4) such other information as may be required by regulations promulgated by the Secretary.

"(x) Each transferor of an ammunition feeding device that was lawfully possessed before the effective date of subsection (v) shall (except in the case of a transfer to the United States, or any department or agency thereof or any State or any department, agency, or political subvision thereof) register the device to the transferee in accordance with regulations promulgated by the Secretary. Any information or evidence required to be provided in the course of such registration by a natural person shall be subject to the use-restriction provisions of section 5848 of title 26, United States Code. The transferor shall, contemporaneously with the registration of the device, pay a fee of $25 to the Secretary. A transferee of an ammunition feeding device required to be registered as required by this subsection shall retain proof of such registration which shall be made available to the Secretary upon request.".

SEC. 1255. IDENTIFICATION MARKINGS FOR AMMUNITION FEEDING DEVICES.

Section 923(i) of title 18, United States Code, is amended by adding at the end thereof a new sentence as follows: "An ammunition feeding device shall be identified by a serial number and such other identification as the Secretary may by regulations prescribe.".

SEC. 1256. CRIMINAL PENALTIES.

Subsection 924(a)(2) of title 18, United States Code, is amended by striking out "or (o)" and inserting in lieu thereof "(o), or (v)".

SEC. 1257. NONINTERRUPTION OF BUSINESS FOR PERSONS IN THE BUSINESS OF IMPORTING OR MANUFACTURING AMMUNITION FEEDING DEVICES.

Any person engaging in the business of manufacturing or importing ammunition feeding devices requiring a license under the provisions of chapter 44 of title 18, United States Code, who was engaged in such business on the date of enactment of this Act, and who files an application for a license under the provisions of section 923 of title 18, United States Code, within 30 days after the date of enactment, may continue such business pending final action on the application. All provisions of chapter 44 of title 18, United Stated Code, shall apply to such applicant in the same manner and to the same extent as if the applicant were a holder of a license under chapter 44.

AMENDMENT No. 603

Strike everything after the word "Sec." and replace with the following:

TITLE XIII—PRISON FOR VIOLENT DRUG OFFENDERS

SEC. 1301. REGIONAL PRISONS.

(a) FINDINGS.—The Congress makes the following findings:

(1) The total population of Federal, State, and local prisons and jails increased by 84 percent between 1980 and 1988 and currently numbers more than 900,000 people.

(2) More than 60 percent of all prisoners have a history of drug abuse or are regularly using drugs while in prison, but only 11 percent of State prison inmates and 7 percent of Federal prisoners are enrolled in drug treatment programs. Hundreds of thousands of prisoners are not receiving needed drug treatment while incarcerated, and the number of such persons is increasing rapidly.

(3) Drug-abusing prisoners are highly likely to return to crime upon release, but the recidivism rate is much lower for those who successfully complete treatment programs. Providing drug treatment to prisoners during incarceration therefore provides an opportunity to break the cycle of recidivism, reducing the crime rate and future prison overcrowding.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the fiscal year ending September 30, 1992, the following amounts:

(1) $600,000,000 for the construction of 10 regional prisons; and

(2) $100,000,000 for the operation of such regional prisons for one year.

Such amounts shall be in addition to any other amounts authorized to be appropriated to the Bureau of Prisons.

(c) LOCATION AND POPULATION.—The regional prisons authorized by this section shall be located in places chosen by the Director of National Drug Control Policy, after consulting with the Director of the Bureau of Prisons, not less than 6 months after the effective date of this section. Each such facility shall be used to accommodate a population consisting of State and Federal prisoners in proportions of 20 percent Federal and 80 percent State.

(d) ELIGIBILITY OF PRISONERS.—The regional prisons authorized by this section shall be used to incarcerate State and Federal prisoners who have release dates of not more than 2 years from the date of assignment to the prison and who have been found to have substance abuse problems requiring long-term treatment.

(e) STATE RESPONSIBILITIES.—(1) The States shall select prisoners for assignment to the regional prisons who, in addition to satisfying eligibility criteria otherwise specified in this section, have long-term drug abuse problems and serious criminal histories. Selection of such persons is necessary for the regional prison program to have the maximum impact on the crime rate and future prison overcrowding, since such persons are the ones most likely to commit new crimes following release. Prisoners selected for assignment to a regional prison must agree to the assignment.

(2) Any State seeking to refer a State prisoner to a regional prison shall submit to the Director of the Bureau of Prisons (referred to as the "Director") an aftercare plan setting forth the provisions that the State will make for the continued treatment of the prisoner in a therapeutic community following release. The aftercare plan shall also contain provisions for vocational job training where appropriate.

(3) The State referring the prisoner to the regional prison (referred to as the "sending State") shall reimburse the Bureau of Prisons for the full cost of the incarceration and treatment of the prisoner, except that if the prisoner successfully completes the treatment program, the Director shall return to the sending State 25 percent of the amount paid for that prisoner. The total amount returned to each State under this paragraph in each fiscal year shall be used by that State to provide the aftercare treatment required by paragraph (2).

(f) POWERS OF THE DIRECTOR.—(1) The Director shall have the exclusive right to determine whether or not a State or Federal prisoner satisfies the eligibility requirements of this section, and whether the prisoner is to be accepted into the regional prison program. The Director shall have the right to make this determination after the staff of the regional prison has had an opportunity to interview the prisoner in person.

(2) The Director shall have the exclusive right to determine if a prisoner in the regional treatment program is complying with all of the conditions and requirements of the program. The Director shall have the authority to return any prisoner not complying with the conditions and requirements of the program to the sending State at any time. The Director shall notify the sending State whenever such prisoner is returned that the prisoner has not successfully completed the treatment program.

AMENDMENT No. 604

Strike everything after the word "Sec." and replace with the following:

TITLE XIV—BOOT CAMPS

SEC. 1401. BOOT CAMPS.

(a) IN GENERAL.—Not later than 1 year after the effective date of this section, the Attorney General shall establish within the Bureau of Prisons 10 military-style boot camp prisons (referred to in this title as "boot camps"). The boot camps will be located on closed military installations on sites to be chosen by the Director of National Drug Control Policy, after consultation with the Director of the Bureau of Prisons, and will provide a highly regimented schedule of strict discipline, physical training, work, drill, and ceremony characteristic of military basic training as well as remedial education and treatment for substance abuse.

(b) CAPACITY.—Each boot camp shall be designed to accommodate between 200 and 300 inmates for periods of not less than 90 days and not greater than 120 days. Not more than 20 percent of the inmates shall be Federal prisoners. The remaining inmates shall be State prisoners who are accepted for participation in the boot camp program pursuant to subsection (d).

(c) FEDERAL PRISONERS.—Section 3582 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(e) BOOT CAMP PRISON AS A SENTENCING ALTERNATIVE.—(1) The court, in imposing sentence in the circumstances described in paragraph (2), may designate the defendant as eligible for placement in a boot camp prison. The Bureau of Prisons shall determine whether a defendant so designated will be assigned to a boot camp prison.

"(2) A defendant may be designated as eligible for placement in boot camp prison if—

"(A) the defendant—

"(i) is under 25 years of age;

"(ii) has no prior conviction for which he or she has served more than 10 days incarceration; and

"(iii) has been convicted of an offense involving a controlled substance punishable under the Controlled Substances Act or the Controlled Substances Export and Import Act, or any other offense if the defendant, at the time of arrest or at any time thereafter, tested positive for the presence of a controlled substance in his or her blood or urine; and

"(B) the sentencing court finds that the defendant's total offense level under the Federal sentencing guidelines is level 9 or less.

"(3) If the Director of the Bureau of Prisons finds that an inmate placed in a boot camp prison pursuant to this subsection has willfully refused to comply with the conditions of confinement in the boot camp, the Director may transfer the inmate to any other correctional facility in the Federal prison system.

"(4) Successful completion of assignment to a boot camp shall constitute satisfaction of any period of active incarceration, but shall not affect any aspect of a sentence relating to a fine, restitution, or supervised release.".

(d) STATE PRISONERS.—(1) Any person who has been convicted of a criminal offense in any State, or who anticipates entering a plea of guilty of such offense, but who has not yet been sentenced, may apply to be assigned to a boot camp. Such application shall be made to the Bureau of Prisons and shall be in the form designated by the Director of the Bureau of Prisons and shall contain a statement certified by counsel for the applicant that at the time of sentencing the applicant is likely to be eligible for assignment to a boot camp pursuant to paragraph (2). The Bureau of Prisons shall respond to such applications within 14 days so that the sentencing court is aware of the result of the application at the time of sentencing. In responding to such applications, the Bureau of Prisons shall determine, on the basis of the availability of space, whether a defendant who becomes eligible for assignment to a boot camp prison at the time of sentencing will be so assigned.

(2) A person convicted of a State criminal offense shall be eligible for assignment to a boot camp if he or she—

(A) is under 25 years of age;

(B) has no prior conviction for which he or she has served more than 10 days incarceration;

(C) has been sentenced to a term of imprisonment that will be satisfied under the law of the sentencing State if the defendant successfully completes a term of not less than 90 days nor more than 120 days in a boot camp;

(D) has been designated by the sentencing court as eligible for assignment to a boot camp; and

(E) has been convicted of an offense involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or any other offense if the defendant, at the time of arrest or at any time thereafter, tested positive for the presence of a controlled substance in his or her blood or urine.

(3) If the Director of the Bureau of Prisons finds that an inmate placed in a boot camp prison pursuant to this subsection has willfully refused to comply with the conditions of confinement in the boot camp, the Director may transfer the inmate back to the jurisdiction of the State sentencing court.

(4) Each State that refers a prisoner to a boot camp shall reimburse the Bureau of Prisons for—

(A) 80 percent of the cost incurred by the Bureau of Prisons for incarceration and treatment and other services to such prisoner that successfully completes the program; and

(B) 100 percent of such costs for each prisoner that enters a boot camp but does not successfully complete the program.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $150,000,000 for fiscal year 1992 of which not more than $12,500,000 shall be used to convert each closed military base to a boot camp prison and not more than $2,500,000 shall be used to operate each boot camp for one fiscal year. Such amounts shall be in addition to any other amounts authorized to be appropriated to the Bureau of Prisons.

AMENDMENT NO. 605

Strike everything after the word "Sec." and replace with the following:

TITLE XV—YOUTH VIOLENCE ACT

Subtitle A—Increasing Penalties for Employing Children to Distribute Drugs Near Schools and Playgrounds

SEC. 1501. STRENGTHENING FEDERAL PENALTIES.

Section 419 of the Controlled Substances Act (21 U.S.C. 859) is amended as follows:

(1) at the end of subsection (b) by adding the following:

"(c) Notwithstanding any other provision of law, any person at least 18 years of age who knowingly and intentionally—

"(1) employs, hires, uses, persuades, induces, entices, or coerces, a person under 18 years of age to violate any provision of this section; or

"(2) employs, hires, uses, persuades, induces, entices, or coerces, a person under 18 years of age to assist in avoiding detection or apprehension for any offense of this section by any Federal, State, or local law enforcement official,

is punishable by a term of imprisonment, or fine, or both, up to triple that authorized by section 841(b) of this title.";

(2) in subsection (c) by—

(A) striking "(c)" and inserting in lieu thereof "(d)";

(B) inserting "or (c)" after "imposed under subsection (b)"; and

(C) inserting "or (c)" after "convicted under subsection (b)";

(3) in subsection (d) by striking "(d)" and inserting in lieu thereof "(e)".

Subtitle B—Antigang Grants

SEC. 1511. GRANT PROGRAM.

The Juvenile Justice and Delinquency Prevention Act of 1974 is amended in part B by—

(1) inserting after the heading for such part the following:

"Subpart I—General Grant Programs";

and

(2) adding at the end thereof a new subpart II, as follows:

"Subpart II—Juvenile Drug Trafficking and Gang Prevention Grants

"FORMULA GRANTS

"SEC. 231. (a) The Administrator is authorized to make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective programs including education, prevention, treatment and enforcement programs to reduce—

"(1) the formation or continuation of juvenile gangs; and

"(2) the use and sale of illegal drugs by juveniles.

"(b) The grants made under this section can be used for any of the following specific purposes:

"(1) To reduce the participation of juveniles in drug related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary schools;

"(2) To reduce juvenile involvement in organized crime, drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles;

"(3) To develop within the juvenile justice system, including the juvenile corrections system, new and innovative means to address the problems of juveniles convicted of serious, drug-related and gang-related offenses;

"(4) To reduce juvenile drug and gang-related activity in public housing projects;

"(5) To provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to identify drug-dependent or gang-involved juvenile offenders and to provide appropriate counseling and treatment to such offenders;

"(6) To promote the involvement of all juveniles in lawful activities, including in-school and after-school programs for academic, athletic or artistic enrichment that also teach that drug and gang involvement are wrong;

"(7) To facilitate Federal and State cooperation with local school officials to develop education, prevention and treatment programs for juveniles who are likely to participate in the drug trafficking, drug use or gang-related activities;

"(8) To prevent juvenile drug and gang involvement in public housing projects through programs establishing youth sports and other activities, including girls and boys clubs, scout troops, and little leagues;

"(9) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system; with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers; and

"(10) To provide education and treatment programs for youth exposed to severe violence in their homes, schools or neighborhoods.

"(c) Of the funds made available to each State under this section (Formula Grants) 50 per centum of the funds made available to each State in any fiscal year shall be used for juvenile drug supply reduction programs and 50 per centum shall be used for juvenile drug demand reduction programs.

"SPECIAL EMPHASIS DRUG DEMAND REDUCTION AND ENFORCEMENT GRANTS

"SEC. 232. (a) The purpose of this section is to provide additional Federal assistance and support to identify promising new juvenile drug demand reduction and enforcement programs, to replicate and demonstrate these programs to serve as national, regional or local models that could be used, in whole or in part, by other public and private juvenile justice programs, and to provide technical assistance and training to public or private organizations to implement similar programs. In making grants under this section, the Administrator shall give priority to programs aimed at juvenile involvement in organized gang- and drug-related activities, including supply and demand reduction programs.

"(b) The Administrator is authorized to make grants to, or enter into contracts with, public or private non-profit agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231. The Administrator shall have final authority over all funds awarded under this subchapter.

"(c) Of the total amount appropriated for this subchapter, 20 per centum shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231 as described in section 232(a). Grants made under this section may be made for amounts up to 100 per centum of the costs of the programs or projects.

"AUTHORIZATION

"SEC. 233. There is authorized to be appropriated $100,000,000 in fiscal year 1992 and such sums as may be necessary in fiscal year 1993 to carry out the purposes of this subpart.

"ALLOCATION OF FUND

"SEC. 234. Of the total amounts appropriated under this subpart in any fiscal year the amount remaining after setting aside the amounts required to be reserved to carry out section 232 (Discretionary Grants) shall be allocated as follows:

"(1) $400,000 shall be allocated to each of the participating States;

"(2) Of the total funds remaining after the allocation under paragraph (a), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of juveniles of such State bears to the population of juveniles of all the States.

"APPLICATION

"SEC. 235. (a) Each State applying for grants under section 231 (Formula Grants) and each public or private entity applying for grants under section 232 (Discretionary Grants) shall submit an application to the Administrator in such form and containing such information as the Administrator shall prescribe.

"(b) To the extent practical, the Administrator shall prescribe regulations governing applications for this subpart that are substantially similar to the applications required under part I (general juvenile justice formula grant) and part C (special emphasis prevention and treatment grants), including the procedures relating to competition.

"(c) In addition to the requirements prescribed in subsection (b), each State application submitted under section 231 shall include a detailed description of how the funds made available shall be coordinated with Federal assistance provided in parts B and C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 and by the Bureau of Justice Assistance under the Drug Control and System Improvement Grant program.

"REVIEW AND APPROVAL OF APPLICATIONS

"SEC. 236. The procedures and time limits imposed on the Federal and State Governments under sections 505 and 508, respectively, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 relating to the review of applications and distribution of Federal funds shall apply to the review of applications and distribution of funds under this subpart.".

SEC. 1512. CONFORMING AMENDMENTS.

(a) TITLE II.—Section 291 of title II of the Juvenile Justice Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(other than part D)";

(B) and by striking paragraph (2) in its entirety; and

(2) in subsection (b) by striking "(other than part D)".

(b) PART D.—Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 is hereby repealed.

(c) PART E.—Part E of title II of such Act is redesignated as part D.

Subtitle C—Juvenile Penalties

SEC. 1521. TREATMENT OF VIOLENT JUVENILES AS ADULTS.

(a) DESIGNATION OF UNDESIGNATED PARAGRAPHS.—Section 5032 of title 18, United States Code, is amended by designating undesignated paragraphs one through eleven as subsections (a) through (k), respectively.

(b) JURISDICTION OVER CERTAIN FIREARMS OFFENSES.—Section 5032(a) of title 18, United States Code, as so designated by this section, is amended by striking "922(p)" and inserting "924 (b), (g), or (h)".

(c) ADULT STATUS OF JUVENILES WHO COMMIT FIREARMS OFFENSES.—Section 5032(d) of title 18, United States Code, is amended—

(1) by striking "A juvenile" and inserting "(1) Except as provided in paragraphs (2) and (3), a juvenile";

(2) by striking ", except that," and designating the following matter up to the semicolon as paragraph (2);

(3) by striking "however" after the semicolon and designating the remaining matter as paragraph (3); and

(4) by inserting in paragraph (2) "or section 924 (b), (g), or (h) of this title," after "959),".

(d) FACTORS FOR TRANSFERRING A JUVENILE TO ADULT STATUS.—Section 5032(e) of title 18, United States Code, is amended—

(1) by inserting "(1)" before "Evidence";

(2) by striking "intellectual development and psychological maturity;" and inserting "level of intellectual development and maturity; and";

(3) by inserting ", such as rehabilitation and substance abuse treatment," after "past treatment efforts";

(4) by striking "; the availability of programs designed to treat the juvenile's behavioral problems"; and

(5) by adding at the end the following:

"(2) In considering the nature of the offense, as required by this subsection, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use and distribution of controlled substances or firearms. Such factors, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of such factors shall not preclude a transfer to adult status.".

SEC. 1522. SERIOUS DRUG OFFENSES BY JUVENILES AS ARMED CAREER CRIMINAL ACT PREDICATES.

(a) ACT OF JUVENILE DELINQUENCY.—Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking out "or" at the end of clause (i);

(2) by striking out "and" at the end of clause (ii) and inserting in lieu thereof "or"; and

(3) by adding a new clause (iii), as follows:

"(iii) any act of juvenile delinquency that if committed by an adult would be punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)); and".

(b) SERIOUS DRUG OFFENSE.—Section 924(e)(2)(C) of title 18, United States Code, is amended by adding "or serious drug offense" after "violent felony".

AMENDMENT NO. 606

Strike everything after the word "Sec." and replace with the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Crime and Drug Control Act of 1991".

TITLE I—FIGHTING DRUG TRAFFICKING IN RURAL AREAS

SEC. 101. AUTHORIZATIONS FOR RURAL LAW ENFORCEMENT AGENCIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end thereof the following new paragraph:

"(7) There are authorized to be appropriated $50,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994 to carry out part O of this title.".

(b) AMENDMENT TO BASE ALLOCATION.—Section 1501(a)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "$100,000" and inserting in lieu thereof "$250,000".

SEC. 102. RURAL DRUG ENFORCEMENT TASK FORCES.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Governors, mayors, and chief executive officers of State and local law enforcement agencies, shall establish a Rural Drug Enforcement Task Force in each of the Federal judicial districts which encompass significant rural lands.

(b) TASK FORCE MEMBERSHIP.—The task forces established under subsection (a) shall be chaired by the United States Attorney for the respective Federal judicial district. The task forces shall include representatives from—

(1) State and local law enforcement agencies;

(2) the Drug Enforcement Administration;

(3) the Federal Bureau of Investigation;

(4) the Immigration and Naturalization Service; and

(5) law enforcement officers from the United States Park Police, United States Forest Service and Bureau of Land Management, and such other Federal law enforcement agencies as the Attorney General may direct.

SEC. 103. CROSS-DESIGNATION OF FEDERAL OFFICERS.

The Attorney General shall cross-designate up to 100 law enforcement officers from each of the agencies specified under section 102(b)(5) with jurisdiction to enforce the provisions of the Controlled Substances Act on non-Federal lands to the extent necessary to effect the purposes of this title.

SEC. 104. RURAL DRUG ENFORCEMENT TRAINING.

(a) SPECIALIZED TRAINING FOR RURAL OFFICERS.—The Director of the Federal Law Enforcement Training Center shall develop a specialized course of instruction devoted to training law enforcement officers from rural agencies in the investigation of drug trafficking and related crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 in each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of subsection (a).

TITLE II—FEDERAL LAW ENFORCEMENT AGENCIES

SEC. 201. AUTHORIZATION FOR FEDERAL LAW ENFORCEMENT AGENCIES.

There is authorized to be appropriated for fiscal year 1992, in addition to any other appropriations for the Drug Enforcement Administration, $45,000,000 to hire, equip and train not less than 350 agents and necessary support personnel to expand DEA investigations and operations against drug trafficking organizations in rural areas.

TITLE III—INCREASING PENALTIES FOR CERTAIN DRUG TRAFFICKING OFFENSES

SEC. 301. SHORT TITLE.

This subtitle may be cited as the "Ice Enforcement Act of 1991".

SEC. 302. STRENGTHENING FEDERAL PENALTIES.

(a) LARGE AMOUNT.—Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended—

(1) in clause (vii) by striking "or" at the end thereof;

(2) by inserting "or" at the end of clause (viii); and

(3) by adding at the end thereof the following new clause:

"(ix) 25 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is 80 percent pure and crystalline in form.".

(b) SMALLER AMOUNT.—Section 401(b)(1)(B) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)) is amended as follows:

(1) at the end of clause (vii) by striking "or";

(2) by inserting at the end of clause (viii) the word "or"; and

(3) by adding at the end thereof the following new clause:

"(ix) 5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is 80 percent pure and crystalline in form.".

TITLE IV—RURAL DRUG TREATMENT

SEC. 401. RURAL SUBSTANCE ABUSE TREATMENT.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end thereof the following new section:

"SEC. 509H. RURAL SUBSTANCE ABUSE TREATMENT.

"(a) IN GENERAL.—The Secretary, acting through the Administrator, shall establish a program to provide grants to hospitals, community health centers, migrant health centers, health entities of Indian tribes and tribal organizations (as defined in section 1913(b)(5)), and other appropriate entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse treatment services.

"(b) REQUIREMENTS.—To receive a grant under this section a hospital, community health center, or treatment facility shall—

"(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

"(2) operate, or have a plan to operate, an approved substance abuse treatment program;

"(3) agree to coordinate the project assisted under this section with substance abuse treatment activities within the State and local agencies responsible for substance abuse treatment; and

"(4) prepare and submit an application in accordance with subsection (c).

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section an entity shall submit an application to the Administrator at such time, in such manner, and containing such information as the Administrator shall require.

"(2) COORDINATED APPLICATIONS.—State agencies that are responsible for substance abuse treatment may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

"(d) SPECIAL CONSIDERATION.—In awarding grants under this section the Administrator shall give priority to—

"(1) projects sponsored by rural hospitals that are qualified to receive rural health care transition grants as provided for in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987;

"(2) projects serving nonmetropolitan areas that establish links and coordinate activities between hospitals, community health centers, community mental health centers, and substance abuse treatment centers; and

"(3) projects that are designed to serve areas that have no available existing treatment facilities.

"(e) DURATION.—Grants awarded under subsection (a) shall be for a period not to exceed 3 years, except that the Administrator may establish a procedure for renewal of grants under subsection (a).

"(f) GEOGRAPHIC DISTRIBUTION.—To the extent practicable, the Administrator shall provide grants to fund at least one project in each State.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there are authorized to be appropriated $25,000,000 for each of the fiscal years 1992, 1993, and 1994.".

TITLE V—RURAL DRUG PREVENTION

SEC. 501. RURAL SUBSTANCE ABUSE PREVENTION.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.), as amended by section 401, is amended by adding at the end thereof the following new section:

"SEC. 509I. RURAL SUBSTANCE ABUSE PREVENTION.

"(a) IN GENERAL.—The Secretary, acting through the Administrator, shall make grants to public and nonprofit private entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse prevention services.

"(b) REQUIREMENTS.—To receive a grant under this section an entity shall—

"(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

"(2) agree to coordinate the project assisted under this section with substance abuse prevention activities within the State and local agencies responsible for substance abuse prevention; and

"(3) prepare and submit an application in accordance with subsection (c).

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section an entity shall submit an application to the Administrator as such time, in such manner, and containing such information as the Administrator shall require.

"(2) COORDINATED APPLICATIONS.—State or local agencies that are responsible for substance abuse prevention may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

"(d) SPECIAL CONSIDERATION.—In awarding grants under this section the Administrator shall give priority to—

"(1) applications from community based organizations with experience serving nonmetropolitan areas;

"(2) projects that are designed to serve areas that have no available existing treatment facilities.

"(e) DURATION.—Grants awarded under this section shall be for a period not to exceed 3 years, except that the Administrator may establish a procedure for renewal of grants under subsection (a).

"(f) GEOGRAPHIC DISTRIBUTION.—To the extent practicable, the Administrator shall provide grants to fund at least 1 project in each State.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $25,000,000 for each of the fiscal years 1992, 1993, and 1994.".

SEC. 502. CLEARINGHOUSE PROGRAM.

Section 509 of the Public Health Service Act (42 U.S.C. 290aa-7) is amended—

(1) in paragraph (3), by striking "and" at the end thereof;

(2) in paragraph (4), by striking the period at the end thereof and inserting a semicolon; and

(3) by adding at the end thereof the following new paragraphs—

"(5) gather information pertaining to rural drug abuse treatment and education projects funded by the Administrator and other such projects throughout the United States; and

"(6) disseminate such information to rural hospitals, community health centers, community mental health centers, treatment facilities, community organizations, and other interested persons.".

TITLE VI—RURAL LAND RECOVERY ACT

SEC. 601. DIRECTOR OF RURAL LAND RECOVERY.

Each of the task forces established under section 102(a) shall include one Director of Rural Land Recovery whose duties shall include the coordination of all activities described in section 102.

SEC. 602. PROSECUTION OF CLANDESTINE LABORATORY OPERATORS.

(a) INCLUSION OF INDICTMENTS OF ADDITIONAL COUNTS FOR VIOLATION OF ENVIRONMENTAL LAW.—State and Federal prosecutors, when bringing charges against the operators of clandestine methamphetamine and other dangerous drug laboratories shall, to the fullest extent possible, include, in addition to drug-related counts, counts involving infringements of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.) or any other environmental protection Act, including—

(1) illegal disposal of hazardous waste; and

(2) knowing endangerment of the environment.

(b) SUITS FOR ENVIRONMENTAL AND HEALTH-RELATED DAMAGES.—State and Federal prosecutors and private citizens may bring suit against the operators of clandestine methamphetamine and other dangerous drug laboratories for environmental and health-related damages caused by the operators in their manufacture of illicit substances.

AMENDMENT NO. 607

Strike everything after the word "Sec." and replace with the following:

TITLE XVII—DRUG EMERGENCY AREAS ACT OF 1991

SEC. 1701. SHORT TITLE.

This title may be cited as the "Drug Emergency Areas Act of 1991".

SEC. 1702. DRUG EMERGENCY AREAS.

Subsection (c) of section 1005 of the National Narcotics Leadership Act of 1988 is amended to read as follows:

"(c) DECLARATION OF DRUG EMERGENCY AREAS.—

"(1) PRESIDENTIAL DECLARATION.—(A) In the event that a major drug-related emergency exists throughout a State or a part of a State, the President may, in consultation with the Director and other appropriate officials, declare such State or part of a State to be a drug emergency area and may take any and all necessary actions authorized by this subsection or otherwise authorized by law.

"(B) For the purposes of this subsection, the term 'major drug-related emergency' means any occasion or instance in which drug trafficking, drug abuse, or drug-related violence reaches such levels, as determined by the President, that Federal assistance is needed to supplement State and local efforts and capabilities to save lives, and to protect property and public health and safety.

"(2) PROCEDURE FOR DECLARATION.—(A) All requests for a declaration by the President designating an area to be a drug emergency area shall be made, in writing, by the Governor or chief executive officer of any affected State or local government, respectively, and shall be forwarded to the President through the Director in such form as the Director may by regulation require. One or more cities, counties, or States may submit a joint request for designation as a drug emergency area under this subsection.

"(B) Any request made under clause (A) of this paragraph shall be based on a written finding that the major drug-related emergency is of such severity and magnitude that effective response to save lives, and to protect property and public health and safety, that Federal assistance is necessary.

"(C) The President shall not limit declarations made under this subsection to highly-populated centers of drug trafficking, drug use or drug-related violence, but shall also consider applications from governments of less populated areas where the magnitude and severity of such activities is beyond the capability of the State or local government to respond.

"(D) As part of a request for a declaration by the President under this subsection, and as a prerequisite to Federal drug emergency assistance under this subsection, the Governor(s) or chief executive officer(s) shall—

"(i) take appropriate response action under State or local law and furnish such information on the nature and amount of State and local resources which have been or will be committed to alleviating the major drug-related emergency;

"(ii) certify that State and local government obligations and expenditures will comply with all applicable cost-sharing requirements of this subsection; and

"(iii) submit a detailed plan outlining the State and/or local government's short- and long-term plans to respond to the major drug-related emergency, specifying the types and levels of Federal assistance requested, and including explicit goals (where possible quantitative goals) and timetables and shall specify how Federal assistance provided under this subsection is intended to achieve such goals.

"(E) The Director shall review any request submitted pursuant to this subsection and forward the application, along with a recommendation to the President on whether to approve or disapprove the application, within 30 days after receiving such application. Based on the application and the recommendation of the Director, the President may declare an area to be a drug emergency area under this subsection.

"(3) FEDERAL MONETARY ASSISTANCE.—(A) The President is authorized to make grants to State or local governments of up to, in the aggregate for any single major drug-related emergency, $50,000,000.

"(B) The Federal share of assistance under this section shall not be greater than 75 percent of the costs necessary to implement the short- and long-term plan outlined in paragraph (2)(D)(iii).

"(C) Federal assistance under this subsection shall not be provided to a drug disaster area for more than 1 year. In any case where Federal assistance is provided under this Act, the Governor(s) or chief executive officer(s) may apply to the President, through the Director, for an extension of assistance beyond 1 year. The President, based on the recommendation of the Director, may extend the provision of Federal assistance for not more than an additional 180 days.

"(D) Any State or local government receiving Federal assistance under this subsection shall balance the allocation of such assistance evenly between drug supply reduction and drug demand reduction efforts, unless State or local conditions dictate otherwise.

"(4) NONMONETARY ASSISTANCE.—In addition to the assistance provided under paragraph (3), the President may—

"(A) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts; and

"(B) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

"(5) ISSUANCE OF IMPLEMENTING REGULATIONS.—Not later than 90 days after the enactment of this subsection, the Director shall issue regulations to implement this subsection, including such regulations as may be necessary relating to applications for Federal assistance and the provision of Federal monetary and nonmonetary assistance.

"(6) AUDIT BY COMPTROLLER GENERAL.—The Comptroller General shall conduct an audit of any Federal assistance (both monetary and nonmonetary) of an amount greater than $100,000 provided to a State or local government under this subsection, including an evaluation of the effectiveness of such assistance based on the goals contained in the application for assistance.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year 1992, 1993, 1994, 1995, and 1996, $300,000,000 to carry out the purposes of this subsection.".

AMENDMENT No. 608

Strike everything after the word "Sec." and replace with the following:

TITLE XVIII—DRUNK DRIVING CHILD PROTECTION ACT

SEC. 1801. SHORT TITLE.

This title may be cited as the "Drunk Driving Child Protection Act of 1991".

SEC. 1802. STATE LAWS APPLIED IN AREAS OF FEDERAL JURISDICTION.

Section 13(b) of title 18, United States Code, is amended by—

(1) striking "For purposes" and inserting "(1) Subject to paragraph (2) and for purposes"; and

(2) adding at the end thereof the following new paragraph:

"(2)(A) In addition to any term of imprisonment provided for operating a motor vehicle under the influence of a drug or alcohol imposed under the law of a State, territory, possession, or district, the punishment for such an offense under this section shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, 5 years, or if death of a minor is caused, 10 years, and an additional fine of not more than $1,000, or both, if—

"(i) a minor (other than the offender) was present in the motor vehicle when the offense was committed; and

"(ii) the law of the State, territory, possession, or district in which the offense occurred does not provide an additional term of imprisonment under the circumstances described in clause (i).

"(B) For the purposes of subparagraph (A), the term 'minor' means a person less than 18 years of age.".

SEC. 1803. COMMON CARRIERS.

Section 342 of title 18, United States Code, is amended by—

(1) inserting "(a)" before "Whoever"; and

(2) adding at the end thereof the following new subsection:

"(b)(1) In addition to any term of imprisonment imposed for an offense under subsection (a), the punishment for such an offense shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, 5 years, or if death of a minor is caused, 10 years, and an additional fine of not more than $1,000, or both, if a minor (other than the offender) was present in the common carrier when the offense was committed.

"(2) For the purposes of paragraph (1), the term 'minor' means a person less than 18 years of age.".

SEC. 1804. SENSE OF CONGRESS CONCERNING CHILD CUSTODY AND VISITATION RIGHTS.

It is the sense of the Congress that in determining child custody and visitation rights, the courts should take into consideration the history of drunk driving that any person involved in the determination may have.

AMENDMENT No. 609

Strike everything after the word "Sec." and replace with the following:

TITLE XIX—COMMISSION ON CRIME AND VIOLENCE

SEC. 1901. ESTABLISHMENT OF COMMISSION.

There is established a commission to be known as the "National Commission on Crime and Violence in America". The Commission shall be composed of 22 members, appointed as follows:

(1) 6 persons by the President;

(2) 8 persons by the Speaker of the House of Representatives, two of whom shall be appointed on the recommendation of the minority leader; and

(3) 8 persons by the President pro tempore of the Senate, six of whom shall be appointed on the recommendation of the Majority Leader of the Senate and two of whom shall be appointed on the recommendation of the Minority Leader of the Senate.

SEC. 1902. PURPOSE.

The purposes of the Commission are as follows:

(1) To develop a comprehensive and effective crime control plan which will serve as a "blueprint" for action in the 1990s. The report shall include an estimated cost for implementing any recommendations made by the commission.

(2) To bring attention to successful models and programs in crime prevention and crime control.

(3) To reach out beyond the traditional criminal justice community for ideas when developing the comprehensive crime control plan.

(4) To recommend improvements in the coordination of local, State and Federal crime control efforts.

SEC. 1903. RESPONSIBILITIES OF THE COMMISSION.

The commission shall be responsible for the following:

(1) Reviewing the effectiveness of traditional criminal justice approaches in preventing and controlling crime and violence.

(2) Examining the impact that changes to state and Federal law have had in controlling crime and violence.

(3) Examining the problem of youth gangs and provide recommendations as to how to reduce youth involvement in violent crime.

(4) Examining the extent to which assault weapons and high power firearms have contributed to violence and murder in America.

(5) Convening field hearings in various regions of the country to receive testimony from a cross section of criminal justice professionals, business leaders, elected officials, medical doctors, and other citizens that wish to participate.

(6) Review all segments of our criminal justice system, including the law enforcement, prosecution, defense, judicial, corrections components in developing the crime control plan.

SEC. 1904. COMMISSION MEMBERS.

(a) CHAIRPERSON.—The President shall designate a chairperson from among the members of the Commission.

(b) COMPOSITION OF MEMBERSHIP.—The Commission members will represent a cross-section of professions that include law enforcement, prosecution, judges, corrections, education, medicine, business, religion, military, welfare and social services, sports, entertainment, victims of crime, and elected officials from State, local and Federal Government that equally represent both political parties.

SEC. 1905. ADMINISTRATIVE PROVISIONS.

(a) FEDERAL AGENCY SUPPORT.—All Federal agencies shall provide such support and assistance as may be necessary for the Commission to carry out its functions.

(b) EXECUTIVE DIRECTOR AND STAFF.—The President is authorized to appoint and compensate an executive director. Subject to such regulations as the Commission may prescribe, staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive services and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(c) DETAILED FEDERAL EMPLOYEES.—Upon the request of the chairperson, the heads of executive and military departments are authorized to detail employees to work with the executive director without regard to the provisions of section 3341 of title 5, United States Code.

(d) TEMPORARY AND INTERMITTENT EMPLOYEES.—Subject to rules prescribed by the commission, the chairperson may procure temporary and intermittent services under section 3108(b) of title 5, United States Code, but at a rate of base pay not to exceed the annual rate of base pay for GS–18 of the General Schedule.

SEC. 1906. REPORT.

The Commission shall submit a final report to the President and the Congress not later than one year after the appointment of the Chairperson. The report shall include the findings and recommendations of the Commission as well as proposals for any legislative action necessary to implement such recommendations.

SEC. 1907. TERMINATION.

The Commission shall terminate 30 days after submitting the report required under section 1806.

AMENDMENT NO. 610

Strike everything after the word "Sec." and replace with the following:

TITLE XX—PROTECTION OF CRIME VICTIMS

SEC. 2001. SHORT TITLE.

This title may be cited as the "Victims' Rights and Restitution Act of 1991".

SEC. 2002. AVAILABILITY OF FUNDS.

Section 1402 of the Victims of Crime Act of 1984, as amended, is amended—

(a) by striking subsection (c) and redesignating (d), (e), (f) and (g) as subsections (c), (d), (e), and (f), respective; and

(b) by adding a new subsection (c) to read as follows:

"(c) Availability of funds for expenditure; grant program percentages

"(1) Sums deposited in the Fund shall remain in the Fund and be available for expenditure under this subsection for grants under this chapter without fiscal year limitation.

"(2) The Fund shall be available as follows:

"(A) Of the first $100,000,000 deposited in the Fund in a particular fiscal year—

"(i) 49.5 percent shall be available for grants under section 10602 of this title;

"(ii) 45 percent shall be available for grants under section 10603(a) of this title;

"(iii) 1 percent shall be available for grants under section 10603(c) of this title; and

"(iv) 4.5 percent shall be available for grants as provided in section 10603a of this title.

"(B) The next $5,500,000 deposited in the Fund in a particular fiscal year shall be available for grants as provided in section 10603a of this title.

"(D) The next $4,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under section 10603(a) of this title.

"(E) The next $2,200,000 deposited in the Fund in a particular fiscal year shall be available to the judicial branch for administrative costs to carry out the functions of the judicial branch under sections 3611 and 3612 of title 18, United States Code.

(F) Any deposits in the Fund in a particular fiscal year that remain after the funds are distributed under subparagraphs (A) through (E) shall be available as follows:

"(i) 47.5 percent shall be available for grants under section 10602 of this title;

"(ii) 47.5 percent shall be available for grants under section 10603(a) of this title; and

"(iii) 5 percent shall be available for grants under section 10603(c)(1)(B) of this title.

SEC. 2003. AMENDMENT OF RESTITUTION PROVISIONS.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a) by—

(A) striking "(a) The court" and inserting "(a)(1) The court";

(B) striking "may order" and inserting "shall order"; and

(C) adding at the end thereof the following new paragraph:

"(2) In addition to ordering restitution of the victim of the offense of which a defendant is convicted, a court may order restitution of any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(A) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (c) by striking "If the Court decides to order restitution under this section, the" and inserting "The";

(5) by striking subsections (d), (e), (f), (g), and (h); and

(6) by adding at the end thereof the following new subsections:

"(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restoration order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to the clerk of the court for accounting and payment by the clerk in accordance with this subsection;

"(2) the clerk of the court shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful;

"(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

"(C) disburse money received from an offender so that each of the following obligations is paid in full in the following sequence:

"(i) a penalty assessment under section 3013 of title 18, United States Code;

"(ii) restitution of all victims; and

"(iii) all other fines, penalties, costs, and other payments required under the sentence; and

"(3) the offender shall advise the clerk of the court of any change in the offender's address during the term of the restitution order.

"(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(k) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter (B) of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

"(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end thereof the following new subsection:

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

AMENDMENT NO. 611

Strike everything after the word "Sec." and replace with the following:

TITLE XXI—CRACK HOUSE EVICTION ACT

SEC. 2101. EVICTION FROM PLACES MAINTAINED FOR MANUFACTURING, DISTRIBUTING, OR USING CONTROLLED SUBSTANCES.

Section 416 of the Controlled Substances Act (21 U.S.C. 856) is amended by adding at the end thereof the following:

"(c) The Attorney General may bring a civil action against any person who violates the provisions of this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking place. The court in which such action is brought shall determine the existence of a violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief including injunctions and evictions as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

SEC. 2102. USE OF CIVIL INJUNCTIVE REMEDIES, FORFEITURE SANCTIONS, AND OTHER REMEDIES AGAINST DRUG OFFENDERS.

The Attorney General shall—

(1) aggressively pursue the use of criminal penalties authorized by section 1963 of title 18, United States Code, civil remedies authorized by section 1964 of title 18, United States Code, and other equitable remedies against drug offenders, including injunctions, stay-away orders, and forfeiture sanctions; and

(2) submit a report to Congress annually on the manner and extent to which such remedies are being used and the effect of such use in curtailing drug trafficking.

AMENDMENT NO. 612

Strike everything after the word "Sec." and replace with the following:

TITLE XXII—ORGANIZED CRIME AND DANGEROUS DRUGS DIVISION

Subtitle A—Establishment of an Organized Crime and Dangerous Drugs Division in the Department of Justice

SEC. 2201. SHORT TITLE.

This title may be cited as the "Justice Department Organized Crime and Drug Enforcement Enhancement Act of 1991".

SEC. 2202. FINDINGS.

The Congress finds that—

(1) organized criminal activity contributes significantly to the importation, distribution, and sale of illegal and dangerous drugs;

(2) trends in drug trafficking patterns necessitate a response that gives significant weight to—

(A) the prosecution of drug related crimes; and

(B) the forfeiture and seizure of assets and other civil remedies used to strike at the inherent strength of the drug networks and groups;

(3) the structure of the Department of Justice Criminal Division is inadequate to address such drug-related problems; and

(4) the prosecutorial resources devoted to such problems have been inadequately organized.

SEC. 2203. PURPOSES.

The purposes of this title are to—

(1) establish a new division in the Department of Justice by combining the resources of the Criminal Division and the United States Attorneys offices used for the eradication of organized crime, narcotics, and dangerous drugs with additional resources needed to pursue civil sanctions;

(2) enhance the ability of the Department of Justice to deal with international criminal activity;

(3) enhance the ability of the Department of Justice to maintain a vigorous criminal and equally important civil assault upon organized criminal groups and narcotics traffickers both domestic and international;

(4) enhance the ability of the Department of Justice to attack money laundering activities, both domestic and international; and

(5) maintain the level of effort of the Department of Justice against traditional organized crime activity through the maintenance of independent strike forces.

SEC. 2204. ESTABLISHMENT OF ORGANIZED CRIME AND DANGEROUS DRUGS DIVISION.

(a) ESTABLISHMENT.—There is established within the Department of Justice, the Organized Crime and Dangerous Drugs Division, which shall consist initially of the following units and programs of the Department of Justice as they were organized and were functioning on September 30, 1989:

(1) the Organized Crime and Racketeering Section of the Criminal Division and all subordinate strike forces therein;

(2) the Narcotic and Dangerous Drug Section of the Criminal Division;

(3) the Asset Forfeiture Office of the Criminal Division; and

(4) the Organized Crime Drug Enforcement Task Force Program.

(b) TRANSFER.—(1) There are transferred to the Organized Crime and Dangerous Drugs Division—

(A) all functions of each office and program described under subsection (a) (1), (2), (3), and (4) exercised on September 30, 1989; and

(B) all personnel and available funds of each such office and program.

(2) For the purposes of paragraph (1)(A) the term "functions" means all duties, obligations, powers, authorities, responsibilities, rights, privileges, activities, and programs.

SEC. 2205. ASSISTANT ATTORNEY GENERAL FOR ORGANIZED CRIME AND DANGEROUS DRUGS.

(a) ASSISTANT ATTORNEY GENERAL.—There shall be at the head of the Organized Crime and Dangerous Drugs Division established by this title, an Assistant Attorney General of the Department of Justice for the Organized Crime and Dangerous Drugs Division, who shall—

(1) be appointed by the President, by and with the advice and consent of the Senate;

(2) report directly to the Attorney General of the United States;

(3) coordinate all activities and policies of the Division with the Director of National Drug Control Policy; and

(4) ensure that all investigations and prosecutions are coordinated within the Department of Justice to provide the greatest use of civil proceedings and forfeitures to attack the financial resources of organized criminal and narcotics enterprises.

(b) COMPENSATION.—(1) Section 5315 of title 5, United States Code, is amended by striking out:

"Assistant Attorneys General (10)."

and inserting in lieu thereof:

"Assistant Attorneys General (11).".

(2) The Assistant Attorney General of the Organized Crime and Dangerous Drugs Division shall be paid at the rate of basic pay payable for level IV of the Executive Schedule.

SEC. 2206. DEPUTY ASSISTANT ATTORNEY GENERAL.

(a) ESTABLISHMENT.—There is established the position of Deputy Assistant Attorney General of the Organized Crime and Dangerous Drugs Division, who shall report directly and be responsible to the Assistant Attorney General of the Organized Crime and Dangerous Drugs Division.

(b) COMPENSATION.—The Deputy Assistant Attorney General of the Organized Crime and Dangerous Drugs Division shall be paid the rate of basic pay payable for level V of the Executive Schedule.

SEC. 2207. ADMINISTRATIVE ORGANIZATION OF THE DIVISION.

There shall be established within the Organized Crime and Dangerous Drugs Division such sections and offices as the Attorney General shall deem appropriate to maintain or increase the level of enforcement activities in the following areas:

(1) Criminal Racketeering (including of all activities and personnel transferred from the Organized Crime and Racketeering Section dealing with criminal investigation and prosecution of traditional organized crime, other than civil proceedings or forfeiture);

(2) Criminal Narcotics Trafficking (including all activities and personnel transferred from the Criminal Division and the Organized Crime Drug Enforcement Task Force Program dealing with large scale drug trafficking);

(3) Money laundering (including all activities transferred from the Criminal Division and Organized Crime Drug Enforcement Task Force Program dealing with money laundering investigations and the negotiation of international agreements on financial crimes);

(4) Asset Forfeiture (including all activities and personnel transferred from the Criminal Division dealing with asset forfeiture);

(5) International Crime (indicating the activities and functions set forth in Subtitle B of this title); and

(6) Civil Enforcement (including activities and personnel currently engaged in civil enforcement of the drug and racketeering laws and such additional personnel as may be added pursuant to this Act).

SEC. 2208. COORDINATION AND ENHANCEMENT OF FIELD ACTIVITIES.

(a) ORGANIZED CRIME AND DANGEROUS DRUGS DIVISION.—The Attorney General shall establish no fewer than 20 field offices of the Organized Crime and Dangerous Drug Division. All such field offices of the Division shall be known as Organized Crime and Dangerous Drug Strike Forces.

(b) OFFICES IN SAME AREA.—If two or more sections of the Division establish field offices in the same metropolitan area, such offices shall—

(A) be in the same location;

(B) coordinate activities; and

(C) be organized as separate sections of a strike force.

(c) TRANSITION.—(1) Consistent with the provisions of this title—

(A) the Organized Crime and Racketeering Section of the Criminal Division is redesignated as the Criminal Racketeering Section of the Organized Crime and Dangerous Drug Division; and

(B) the Organized Crime Strike Forces are redesignated as the field offices of the Division.

(2) Not later than 180 days after the date of the enactment of this subtitle, the Attorney General shall transfer all attorneys and support staff assigned to the Organized Crime Drug Enforcement Task Forces before such date to the Organized Crime and Dangerous Drug Division and designated the Criminal Narcotics Section. The Assistant Attorney General for such Division shall assign such personnel to the field offices of the Division, with the initial assignments being made to the cities where units of such Task Forces were located before the date of enactment of this subtitle.

(3)(A) Consistent with the provisions of this title, the Asset Forfeiture Office of the Criminal Division is redesignated as the Asset Forfeiture and Civil Enforcement Section of the Organized Crime and Dangerous Drug Division.

(B) Not later than 180 days after the date of the enactment of this subtitle, the Assistant Attorney General shall establish field offices of the Asset Forfeiture and Civil Enforcement Section of the Organized Crime and Dangerous Drug Division which shall include—

(i) agents from the United States Drug Enforcement Administration, the Federal Bureau of Investigation, the Internal Revenue Service, and United States Marshals Office; and

(ii) other individuals experienced, trained and expert in complex financial transactions involving cash, notes, securities, and similar negotiable instruments, with a special expertise in banking matters and business dealings.

(d) DIFFERENT ORGANIZATIONAL STRUCTURE.—Nothing in subsection (c) shall prevent the Attorney General, consistent with the purposes of this title and the provisions of section 2107, from instituting a different organizational structure within the Organized Crime and Dangerous Drug Division as the Attorney General shall deem appropriate following a period of transition.

(e) STRIKE FORCES PLANS.—(1) The agents assigned to the Organized Crime and Dangerous Drug Strike Forces (including all agents assigned to the Organized Crime Drug Enforcement Task Forces program before the date of enactment of this title) shall be dedicated exclusively to and located with the Strike Forces so that the Strike Forces personnel may develop expertise and function as a working unit.

(2) The agents assigned to the Strike Forces from the various participating agencies shall be given credit for the work of the Strike Forces, regardless of the statutory authority used to prosecute Strike Forces cases.

(f) REPORT.—Not later than 1 year after the date of the enactment of this title, the Assistant Attorney General for Organized Crime and Dangerous Drugs in consultation with the Director of National Drug Control Policy, shall report to the Congress on the areas of the United States (especially the southwest border of the United States) that may require increased assistance from the Department of Justice through the establishment of additional strike forces.

(g) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $45,000,000 for salaries and expenses of the Organized Crime and Dangerous Drug Division of the Department of Justice for fiscal year 1992.

(2) Any appropriation of funds authorized under paragraph (1) shall be in addition to any appropriations requested by the President in the 1992 fiscal year budget submitted by the President to the Congress for fiscal year 1992, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1992.

Subtitle B—International Prosecution Teams

SEC. 2211. INTERNATIONAL PROSECUTION TEAMS.

(a) FINDINGS.—The Congress finds that—

(1) Drug trafficking, organized crime, and money laundering are problems that are international in scope.

(2) The traditional focus of United States law enforcement agencies on domestic criminal activity has restricted the development of the necessary expertise and coordination to address the international aspects of these problems adequately.

(3) The Justice Department must expand its resources and reorganize its component to engage in new responsibilities and activities involving international crime.

(b) INTERNATIONAL DRUG ENFORCEMENT TEAMS.—In addition to the components and functions otherwise specified in this chapter, the Organized Crime and Dangerous Drug Division shall include no fewer than 10 International Drug Enforcement Teams devoted exclusively to investigating, prosecuting and supporting the investigation and prosecution of international drug cases. Such teams shall be responsible for developing expertise in handling civil and criminal cases involving extradition, money laundering, drug-related corruption, and other complex cases relating to international drug trafficking.

(c) RELATIONSHIP OF TEAM MEMBERS.—Organized Crime and Dangerous Drug Division personnel assigned to the International Drug Enforcement Teams shall work closely with, and where practical be co-located with, agents and liaison personnel of the various law enforcement, diplomatic, intelligence, and military agencies who shall be assigned as necessary to the enforcement teams.

(d) GOALS.—The teams shall be organized to—

(1) increase the expertise of the Department of Justice in matters relating to international law enforcement and foreign policy;

(2) improve coordination among United States and foreign agencies responsible for law enforcement, foreign policy, and international banking;

(3) target resources toward cases with maximum impact on international narcotics trafficking;

(4) gain the cooperation of private entities in the United States and foreign countries whose cooperation in cases involving money laundering and other drug-related financial crimes is essential; and

(5) assist other countries to enact laws and negotiate treaties to assist in the suppression of international money laundering and narcotics trafficking.

AMENDMENT NO. 613

Strike everything after the word "Sec." and replace with the following:

TITLE XXIII—EXCLUSIONARY RULE

SEC. 2301. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2237. Evidence obtained by invalid warrant

"Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in reasonable reliance on a warrant issued by a detached and neutral magistrate ultimately found to be invalid, unless—

"(1) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

"(2) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(3) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(4) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following.

"2237. Evidence obtained by invalid warrant.".

AMENDMENT NO. 614

Strike everything after the word "Sec." and replace with the following:

TITLE—FEDERAL PRISONER DRUG TESTING

SEC. 01. FEDERAL PRISONER DRUG TESTING.

(a) SHORT TITLE.—This title may be cited as the "Federal Prisoner Drug Testing Act of 1991".

(b) CONDITIONS OF PROBATION.—Section 3563(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking "and" after the semicolon;

(2) in paragraph (3), by striking the period and inserting "; and";

(3) by adding a new paragraph (4), as follows:

"(4) for a felony, a misdemeanor, or an infraction, that the defendant refrain from any unlawful use of controlled substance and submit to one drug test within 15 days of release on probation and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance."; and

(4) by adding at the end thereof the following: "The results of a drug test administered in accordance with paragraph (4) shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test administered in accordance with paragraph (4).".

(c) CONDITIONS ON SUPERVISED RELEASE.—Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "The court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to a drug test within 15 days of release on supervised release and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance. The results of a drug test administered in accordance with the provisions of the preceding sentence shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test.".

(d) CONDITIONS OF PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to release and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance. The results of a drug test administered in accordance with the provisions of the preceding sentence shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The Commission shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test.".

AMENDMENT NO. 615

Strike everything after the word "Sec." and replace with the following:

TITLE XXV—MAXIMUM PENALTY INCREASES FOR VIOLENT CRIMES

SEC. 2501. INCREASE IN MAXIMUM PENALTY FOR ASSAULT.

(a) CERTAIN OFFICERS AND EMPLOYEES.—Section 111 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting ", where the acts in violation of this section constitute only simple assault, be fined under this title or imprisoned not more than one year, or both, and in all other cases," after "shall";

(2) in subsection (b) by inserting "or inflicts bodily injury" after "weapon".

(b) FOREIGN OFFICIALS, OFFICIAL GUESTS, AND INTERNATIONALLY PROTECTED PERSONS.—Section 112(a) of title 18, United States Code, is amended by—

(1) striking "not more than $5,000" and inserting "under this title";

(2) inserting ", or inflicts bodily injury," after "weapon"; and

(3) striking "not more than $10,000" and inserting "under this title".

(c) MARITIME AND TERRITORIAL JURISDICTION.—Section 113 of title 18, United States Code, is amended—

(1) in subsection (c) by—

(A) striking "of not more than $1,000" and inserting "under this title"; and

(B) striking "five" and inserting "ten"; and

(2) in subsection (e) by—

(A) striking "of not more than $300" and inserting "under this title"; and

(B) striking "three" and inserting "six".

(d) CONGRESS, CABINET, OR SUPREME COURT.—Section 351(e) of title 18, United States Code, is amended by—

(1) striking "not more than $5,000," and inserting "under this title,";

(2) inserting "the assault involved in the use of a dangerous weapon, or" after "if";

(3) striking "not more than $10,000" and inserting "under this title"; and

(4) striking "for".

(e) PRESIDENT AND PRESIDENT'S STAFF.—Section 1751(e) of title 18, United States Code, is amended by—

(1) striking "not more than $10,000," both places it appears and inserting "under this title,";

(2) striking "not more than $5,000," and inserting "under this title,"; and

(3) inserting "the assault involved the use of a dangerous weapon, or" after "if".

SEC. 2502. INCREASED MAXIMUM PENALTY FOR MANSLAUGHTER.

Section 1112 of title 18, United States Code, is amended—

(1) in subsection (b) by—

(A) inserting "fined under this title or" after "shall be" in the second undesignated paragraph; and

(B) by inserting ", or both" after "years"
;

(2) by striking "not more than $1,000" and inserting "under this title"; and

(3) by striking "three" and inserting "six".

SEC. 2503. INCREASED MAXIMUM PENALTIES FOR CIVIL RIGHTS VIOLATIONS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended—

(1) by striking "not more than $10,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "results";

(3) by striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(4) by inserting ", or both" after "life".

(b) DEPRIVATION OF RIGHTS.—Section 242 of title 18, United States Code, is amended by—

(1) striking "more more than $1,000" an inserting "under this title" ;

(2) inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire," after "bodily injury results";

(3) inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or" after "death results"; and

(4) striking "shall be subject to imprisonment" and inserting "imprisoned"; and

(5) inserting ", or both" after "life".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5) by—

(1) striking "not more than $1,000" and inserting "under this title";

(2) inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results;

(3) striking "not more than $10,000" and inserting "under this title";

(4) inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results";

(5) striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(6) inserting ", or both" after "life".

(d) DAMAGE TO RELIGIOUS PROPERTY.—Section 247 of title 18, United States Code, is amended—

(1) in subsection (c)(1), by inserting "from acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "death results";

(2) in subsection (c)(2), by—

(A) striking "serious"; and

(B) inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results"; and

(3) by amending subsection (e) to read as follows:

"(e) As used in this section, the term 'religious property' means any church, synagogue, mosque, religious cemetery, or other religious property.".

(e) FAIR HOUSING ACT.—Section 901 of the Fair Housing Act (42 U.S.C. 3631) is amended—

(1) in the caption by striking "bodily injury; death;";

(2) by striking "not more than $1,000," and inserting "under this title";

(3) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results";

(4) by striking "not more than $10,000," and inserting "under this title";

(5) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results";

(6) by striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(7) by inserting ", or both" after "life".

SEC. 2504. INCREASED PENALTY FOR TRAVEL ACT VIOLATIONS.

Section 1952(a) of title 18, United States Code, is amended by striking "and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than five years, or both" and inserting "and thereafter performs or attempts to perform (A) any of the acts specified in subparagraphs (1) and (3) shall be fined under this title or imprisoned for not more than five years, or both, or (B) any of the acts specified in subparagraph (2) shall be fined under this title or imprisoned for not more than twenty years, or both, and if death results shall be imprisoned for any term of years or for life".

SEC. 2505. INCREASED PENALTY FOR CONSPIRACY TO COMMIT MURDER FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

SEC. 2506. REPEALING SURCHARGE ON EQUITABLE SHARING CASES.

Section 511(e)(1) of the Controlled Substances Act (21 U.S.C. 881(e)(1)) is amended by adding at the end thereof the following: "In determining the equitable share of proceeds for a State or local law enforcement agency from a drug-related asset seizure under subparagraph (A), the Attorney General shall not retain more than 10 percent of the total proceeds to cover the costs of administrative expenses.".

AMENDMENT NO. 616

Strike everything after the word "Sec." and replace with the following:

TITLE XXVI—OBSTRUCTION OF JUSTICE

SEC. 2601. PROTECTION OF COURT OFFICERS AND JURORS.

Section 1503 of title 18, United States Code, is amended—

(1) by designating the current text as subsection (a);

(2) by striking the words "fined not more than $5,000 or imprisoned not more than five years, or both." and inserting in lieu thereof "punished as provided in subsection (b).";

(3) by adding at the end thereof a new subsection (b) as follows:

"(b) The punishment for an offense under this section is—

"(1) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title;

"(2) in the case of an attempted killing, or a case in which the offense was committed against a petit juror and in which a class A or B felony was charged, imprisonment for not more than twenty years; and

"(3) in any other case, imprisonment for not more than ten years."; and

"(4) in subsection (a), as designated by this section, by striking "commissioner" each place it appears and inserting in lieu thereof "magistrate judge".

SEC. 2602. PROHIBITION OF RETALIATORY KILLINGS OF WITNESSES, VICTIMS AND INFORMANTS.

Section 1513 of title 18, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting a new subsection (a) as follows:

"(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(B) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole or release pending judicial proceedings given by a person to a law enforcement officer; shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title; and

"(B) in the case of an attempt, imprisonment for not more than twenty years.".

AMENDMENT NO. 617

Strike everything after the word "Sec." and replace with the following:

TITLE XXVII—FELON FIREARM PURCHASE PREVENTION

SEC. 2701. FEDERAL FIREARMS LICENSEE REQUIRED TO CONDUCT CRIMINAL BACKGROUND CHECK BEFORE TRANSFER OF FIREARM TO NONLICENSEE.

(a) INTERIM PROVISION.—Section 922 of title 18, United States Code, as amended by section 702 of this Act, is amended by adding at the end the following new subsection:

"(u)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending on the date that the Attorney General certifies that the national instant criminal background check system is in compliance with section 2702(d)(1) of the Violent Crime Control Act of 1991 (except as provided as paragraphs (2) and (3) of section 2702(d) of such Act); it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

"(A) after the most recent proposal of such transfer by the transferee—

"(i) the transferor has—

"(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

"(II) verified the identification of the transferee by examining the identification document presented; and

"(III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(ii)(I) 5 business days (as defined by days in which State offices are open) have elapsed from the date the transferee furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt for possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

"(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

"(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day peroid ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

"(C)(i) the transferee has presented to the transferor a permit that—

"(I) allows the transferee to possess a handgun; and

"(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

"(D) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(E) on application of the transferor, the Attorney General has certified that compliance with subparagraph (A)(i)(III) is impracticable because of the inability of the transferor to communicate with the chief law enforcement officer because of the remote location and absence of telecommunication facilities in the remote location of the licensed premises.

"(2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 business days whether the transferee has a criminal record or whether there is any other legal impediment to the transferee's receiving a handgun, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.

"(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

"(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

"(B) a statement that transferee—

"(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(ii) is not a fugitive from justice;

"(iii) is not an unlawful use of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

"(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

"(v) is not an alien who is illegally or unlawfully in the United States;

"(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

"(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

"(C) the date the statement is made; and

"(D) notice that the transferee intends to obtain a handgun from the transferor.

"(4) The chief law enforcement officer of the place of residence of a prospective transferee of a handgun, at the request of a person who alleges the person requires access to a handgun because of a threat to the life of the person or a member of the household of the person, shall immediately meet with the person and forthwith sign a written statement described in paragraph (1)(B) unless the officer has clear and convincing evidence that no threat was made to the life of the person or any member of the household of the person.

"(5) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall immediately communicate all information the transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of the place of business of the transferor; and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(6) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

"(7)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction.

"(B)(1) Unless the chief law enforcement officer to whom notice is provided under paragraph (1)(A)(i)(III) determines that a transaction shall, within 5 days after the date the transferee made such statement, destroy and record containing information derived from such statement.

"(ii) Information conveyed to a chief law enforcement officer under paragraph (1)(A)(i)(III)—

"(I) shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and

"(II) shall not be used for any purpose other than to carry out this subsection.

"(8) A chief law enforcement officer shall not be liable in an action at law for damages for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section.

"(9) For purposes of this subsection, the term 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

"(10) The Secretary shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to licensed dealers and to the public.".

(b) PERMANENT PROVISION.—Section 922 of title 18, United States Code, as amended by subsection (a), is amended by adding at the end the following new subsection:

"(v)(1) Beginning on the date that the Attorney General certifies that the national instant criminal background check system is in compliance with section 2702(d)(1) of the Violent Crime Control Act of 1991 (except as provided in paragraphs (2) and (3) of section 2702(d) of such Act), a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm from the business inventory of the licensee to any other person who is not such a licensee, unless—

"(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section 2703 of the Felon Firearm Purchase Prevention Act of 1991; and

"(B) the system notifies the licensee that the system has not located any record that demonstrates that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section.

"(2) Paragraph (1) shall not apply to a firearm transfer between a licensee and another person if—

"(A) such other person presents to the licensee a valid permit or license, issued by the State or political subdivision thereof in which the transfer is to occur, that authorizes such other person to purchase, possess, or carry a firearm;

"(B) The Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(C) on application of the transferor, the Secretary has certified that compliance with paragraph (1)(A) is impracticable because of the inability of the transferor to communicate with the national instant criminal background check system because of the remote location and absence of telecommunication facilities in the remote location of the licenses premises.

"(3) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a firearm by such other person would violate subsection (g) or (n), and the licensee transfers a firearm to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

"(4) If the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that receipt of a firearm by such other person would violate subsection (g) or (n), the Secretary may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under this section, and may impose on the licensee a civil fine of not more than $5,000.

"(5) A State employee responsible for providing information to the national instant criminal background check system shall not be liable in an action at law for damages for failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful under this section.".

(c) PENALTY.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "(2) or (3)"; and

(2) by adding at the end the following:

"(5) Whoever knowingly violates section 922 (u) or (v) shall be fined not more than $1,000, imprisoned for not more than 1 year, or both.".

SEC. 2702. NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

(a) ESTABLISHMENT OF SYSTEM.—The Attorney General of the United States shall establish a national instant criminal background check system that any licensee may contact for information on whether receipt of a firearm by a prospective transferee thereof would violate section 922 (g) or (n) of title 18, United States Code.

(b) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—The Attorney General shall expedite—

(1) the incorporation of State criminal history records into the Federal criminal records system maintained by the Federal Bureau of Investigation;

(2) the development of hardware and software systems to link State criminal history check systems into the national instant criminal background check system established by the Attorney General pursuant to this section; and

(3) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

(c) PROVISION OF STATE CRIMINAL RECORDS TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.—(1) Not later than 6 months after the date of enactment of this Act, the Attorney General shall—

(A) determine the type of computer hardware and software that will be used to operate the national instant criminal background check system and the means by which State criminal records systems will communicate with the national system;

(B) investigate the criminal records system of each State and determine for each State a timetable by which the State should be able to provide criminal records on an on line capacity basis to the national system;

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(2) The Attorney General shall require as a part of the State timetable that the State achieve, by the end of 5 years after the date of enactment of this Act, at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an entry of activity within the last 5 years and continue to maintain such a system.

(d) NATIONAL SYSTEM CERTIFICATION.—(1) On or after the date that is 30 months after the date of enactment of this Act, the Attorney General shall certify that—

(A) the national system has achieved at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an entry of activity within the last 5 years on a national average basis; and

(B) the States are in compliance with the timetable established pursuant to subsection (C).

(2) If on the date of certification in paragraph (1), a State that is not in compliance with the timetable established pursuant to subsection (c), the provision of section 922(u) of title 18, United States Code, as added by section 2701, shall remain in effect in such State. The Attorney General shall certify if a State subject to the provisions of section 922(u) under the preceding sentence achieves compliance with its timetable after the date of certification in paragraph (1) and section 922(u) of title 18, United States Code, as added by section 2701, shall not apply to such State.

(3) Six years after the date of enactment of this Act, the Attorney General shall certify whether or not a State is in compliance with subsection (c)(2) and if the State is not in compliance, the provisions of section 922(u) of title 18, United States Code, shall be in effect. The Attorney General shall certify if a State subject to the provisions of section 922(u) under the preceding sentence achieves compliance with the standards in subsection (c)(2) and section 922(u) of title 18, United States Code, as added by section 2701, shall not apply to such State.

(e) NOTIFICATION OF LICENSEES.—On establishment of the system under this section, the Attorney General shall notify each licensee of the existence and purpose of the system and the means to be used to contact the system.

(f) ADMINISTRATIVE PROVISIONS.—

(1) AUTHORITY TO OBTAIN OFFICIAL INFORMATION.—Notwithstanding any other law, the Attorney General may secure directly from any department or agency of the United States such information on persons for whom receipt of a firearm would violate section 922 (g) or (n) of title 18, United States Code as is necessary to enable the system to operate in accordance with this section. On request of the Attorney General, the head of such department or agency shall furnish such information to the system.

(2) OTHER AUTHORITY.—The Attorney General shall develop such computer software, design and obtain such telecommunications and computer hardware, and employ such personnel, as are necessary to establish and operate the system in accordance with this section.

(g) CORRECTION OF ERRONEOUS SYSTEM INFORMATION.—If the system established under this section informs an individual contacting the system that receipt of a firearm by a prospective transferee would violate section 922 (g) or (n) of title 18, United States Code, the transferee may request the Attorney General to provide such other person with the reasons therefor. Upon receipt of such a request, the Attorney General shall immediately comply with the request. The transferee may submit to the Attorney General information that to correct, clarify, or supplement records of the system with respect to the transferee. After receipt of such information, the Attorney General shall immediately consider the information, investigate the matter further, and correct all erroneous Federal records relating to such transferee and give notice of the error to any Federal department or agency or any State that was the source of such erroneous records.

(h) REGULATIONS.—After 90 days notice to the public and an opportunity for hearing by interested parties, the Attorney General shall prescribe regulations to ensure the privacy and security of the information of the system established under this section.

(i) PROHIBITIONS RELATING TO ESTABLISHMENT OF REGISTRATION SYSTEMS WITH RESPECT TO FIREARMS.—No department, agency, officer, or employee of the United States may—

(1) require that any record or portion thereof maintained by the system established under this section be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(2) use the system established under this section to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions, except with respect to persons prohibited by section 922(g) or (n) of title 18, United States Code, from receiving a firearm.

(j) DEFINITIONS.—As used in this section:

(1) LICENSEE.—The term "licensee" means a licensed importer, licensed manufacturer, or licensed dealer under section 923 of title 18, United States Code.

(2) OTHER TERMS.—The terms "firearm", "licensed importer", "licensed manufacturer", and "licensed dealer" have the meanings stated in section 921(a) (3), (9), (10), and (11), respectively, of title 18, United States Code.

SEC. 2703. FUNDING FOR IMPROVEMENT OF CRIMINAL RECORDS.

(a) IMPROVEMENTS IN STATE RECORDS.—

(1) USE OF FORMULA GRANTS.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the records required by the Attorney General under section 3 of the Felon Firearm Purchase Prevention Act of 1991 with the Attorney General for the purpose of implementing the Felon Firearm Purchase Prevention Act of 1991.".

(2) ADDITIONAL FUNDING.—

(A) GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS.—The Attorney General shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(i) for the creation of a computerized criminal history record system or improvement of an existing system;

(ii) to improve accessibility to the national instant criminal background system; and

(iii) upon establishment of the national system, to assist the State in the transmittal of criminal records to the national system.

(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under subparagraph (A) a total of $100,000,000 for fiscal year 1992 and all fiscal years thereafter.

(b) WITHHOLDING STATE FUNDS.—Effective on the date of enactment of this Act the Attorney General may reduce by up to 50 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that is not in compliance with the timetable established for such State under section 2702(c).

(c) WITHHOLDING OF DEPARTMENT OF JUSTICE FUNDS.—If the Attorney General does not certify the national instant criminal background check system pursuant to section 2702(d)(1) by—

(1) 30 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal beginning in the calendar year that is 30 months after the date of enactment of this Act shall be reduced by 5 percent on a monthly basis; and

(2) 42 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal beginning in the calendar year that is 42 months after the date of enactment of this Act shall be reduced by 10 percent on a monthly basis.

AMENDMENT NO. 618

Strike everything after the term "Sec."

AMENDMENT NO. 619

Strike everything after the word "Sec."

AMENDMENT NO. 620

Strike the words "This section shall not be construed to require or authorize the exclusion of evidence in any proceeding."

AMENDMENT NO. 621

Strike everything from the word "Strike" in the 1st degree amendment.

AMENDMENT NO. 622

Strike everything from the word "Strike" and add the following:

"Notwithstanding any other provision of law, a prisoner's claim is not fully and fairly adjudicated within the meaning of sections 2254 or 2259 of title 28, United States Code (as amended by this Act), when it has been decided incorrectly or erroneously as a matter of constitutional law."

AMENDMENT NO. 623

Strike everything after the term "Sec." and insert the following:

"Notwithstanding any other provision of law, a prisoner's claim is not fully and fairly adjudicated within the meaning of sections 2254 or 2259 of title 28, United States Code (as amended by this Act), when it has been decided incorrectly or erroneously as a matter of constitutional law."

AMENDMENT NO. 624

Strike the following from the amendment: "Nothing in this section shall be construed to alter or change current law or to inhibit the courts of the United States from expanding exceptions to the exclusion of evidence from criminal trials."

AMENDMENT NO. 625

Strike the following from the amendment: "Nothing in this section shall be construed to alter or change current law or to inhibit the courts of the United States from expanding exceptions to the exclusion of evidence from criminal trials."

And replace with:

"Notwithstanding any other provision of law, a prisoner's claim is not fully and fairly adjudicated within the meaning of sections 2254 or 2259 of title 28, United States Code (as amended by this Act), when it has been decided incorrectly or erroneously as a matter of constitutional law."

AMENDMENT No. 626

Add at the end of the amendment and at the appropriate place in the bill:

"Notwithstanding any other provision of law, a prisoner's claim is not fully and fairly adjudicated within the meaning of sections 2254 or 2259 of title 28, United States Code (as amended by this Act), when it has been decided incorrectly or erroneously as a matter of constitutional law."

AMENDMENT No. 627

Add at the end of the amendment and at the appropriate place in the bill:

"Notwithstanding any other provision of law, a prisoner's claim is not fully and fairly adjudicated within the meaning of sections 2254 or 2259 of title 28, United States Code (as amended by this Act), when it has been decided incorrectly or erroneously as a matter of constitutional law."

AMENDMENT No. 628

Add at the end of the amendment and at the appropriate place in the bill:

"Notwithstanding any other provision of law, a prisoner's claim is not fully and fairly adjudicated within the meaning of sections 2254 or 2259 of title 28, United States Code (as amended by this Act), when it has been decided incorrectly or erroneously as a matter of constitutional law."

AMENDMENT No. 629

Strike everything after the term "Sec." and insert the following:

"Notwithstanding any other provision of law, a prisoner's claim is not fully and fairly adjudicated within the meaning of sections 2254 or 2259 of title 28, United States Code (as amended by this Act), when it has been decided incorrectly or erroneously as a matter of constitutional law."

AMENDMENT No. 630

Strike everything after the term "Sec." and insert the following:

"Notwithstanding any other provision of law, a prisoner's claim is not fully and fairly adjudicated within the meaning of sections 2254 or 2259 of title 28, United States Code (as amended by this Act), when it has been decided incorrectly or erroneously as a matter of constitutional law."

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, FISCAL YEAR 1992

SPECTER (AND WOFFORD) AMENDMENT NO. 631

Mr. JOHNSTON (for Mr. SPECTER, for himself and Mr. WOFFORD) proposed an amendment to the bill (H.R. 2427) making appropriations for energy and water development for the fiscal year ending September 30, 1992, and for other purposes, as follows:

Insert at the end of line 17, page 8, the following: "*Provided further*, That of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to provide $850,000 to undertake planning of the Wyoming Valley Levee Raising project in Luzerne County, Pennsylvania.".

NICKLES (AND BOREN) AMENDMENT NO. 632

Mr. JOHNSTON (for Mr. NICKLES, for himself and Mr. BOREN) proposed an amendment to the bill H.R. 2427, supra, as follows:

On page 8, line 17, add the following before the period: ": *Provided further*, That the Secretary of the Army is directed to use $450,000 of available funds to initiate a reconnaissance level study of proposed dams and related riverfront development to be located along the North Canadian River in Oklahoma.".

CHAFEE (AND PELL) AMENDMENT NO. 633

Mr. JOHNSTON (for Mr. CHAFEE, for himself and Mr. PELL) proposed an amendment to the bill H.R. 2427, supra, as follows:

On page 8, line 17, insert the following before the period: ": *Provided further*, That using $500,000 of funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate the Definite Project Report for the Cranston, Rhode Island Wastewater Conveyance System as authorized by section 117 of Public Law 101-640.".

KENNEDY (AND KERRY) AMENDMENT NO. 634

Mr. JOHNSTON (for Mr. KENNEDY, for himself and Mr. KERRY) proposed an amendment to the bill H.R. 2427, supra, as follows:

On page 8, line 17, before the period insert the following: ": *Provided further*, That with $250,000 of funds appropriated herein, the Secretary of the Army shall undertake a reconnaisance level study to assess the water resource needs of the Muddy River in Massachusetts.".

BIDEN AMENDMENTS NOS. 635 THROUGH 668

(Ordered to lie on the table.)

Mr. BIDEN submitted 34 amendments intended to be proposed by him to amendments to the bill S. 1241, supra, as follows:

AMENDMENT No. 635

Add at the end of the amendment and at the appropriate place in the bill the following:

SEC. 1200. LAW APPLICABLE IN CHAPTER 153 PROCEEDINGS.

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by adding at the end the following:

§ 2255A. Law applicable

"(a) Except as provided in subsection (b) of this section, each claim under this chapter shall be governed by the law existing on the date the court determines the claim.

"(b) In determining whether to apply a new rule, the court shall consider—

"(1) the purpose to be served by the new rule;

"(2) the extent of the reliance by law enforcement authorities on a different rule; and

"(3) the effect on the administration of justice of the application of the new rule.

"(c) For purposes of this section, the term 'new rule' means a sharp break from precedent announced by the Supreme court of the United States that explicitly and substantially changes the law from that governing at the time the claimant's sentence became final. A rule is not new merely because, based on precedent existing before the rule's announcement, it was susceptible to debate among reasonable minds.".

(b) CHAPTER ANALYSIS.—The chapter analysis of chapter 153 of title 28, United States Code, is amended by adding at the end thereof the following:

"2255A. Law applicable."

TITLE XII—PUNISHMENT OF GUN CRIMINALS

SEC. 1201. SHORT TITLE.

This title may be cited as the "Gun Criminals Punishment Act of 1991.".

Subtitle A—Increased Penalties for Gun Offenses

SEC. 1211. DEATH PENALTY FOR GUN MURDERS.

Section 924(c) of title 18, United States Code, is amended by—

(1) inserting "(A)" after "(1)";

(2) designating the second sentence as subparagraph (B);

AMENDMENT No. 636

Add at the end of the amendment and at the appropriate place in the bill:

"A right that is 'retroactively applicable' within the meaning of Title XI, as amended, is any right provided by the law existing on the date the court determines the claim except in cases involving a new rule as provided in subsection (b).

(b) In determining whether to apply a new rule, the court shall consider—

(1) the purpose to be served by the new rule:

(2) the extent of the reliance by law enforcement authorities on a different rule; and

(3) the effect on the administration of justice of the application of the new rule.

(c) For purposes of this section, the term 'new rule' means a sharp break from precedent announced by the Supreme Court of the United States that explicitly and substantially changes the law from that governing at the time the claimant's sentence became final. A rule is not new merely because, based on precedent existing before the rule's announcement, it was susceptible to debate among reasonable minds.".

AMENDMENT No. 637

Strike everything after the word "Sec." and insert the following:

SEC. 1200. LAW APPLICABLE IN CHAPTER 153 PROCEEDINGS.

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"§ 2255A. Law applicable

"(a) Except as provided in subsection (b) of this section, each claim under this chapter shall be governed by the law existing on the date the court determines the claim.

"(b) In determining whether to apply a new rule, the court shall consider—

"(1) the purpose to be served by the new rule;

"(2) the extent of the reliance by law enforcement authorities on a different rule; and

"(3) the effect on the administration of justice of the application of the new rule.

"(c) For purposes of this section, the term 'new rule' means a sharp break from precedent announced by the Supreme Court of the United States that explicitly and substantially changes the law from that governing at the time the claimant's sentence became final. A rule is not new merely because, based on precedent existing before the rule's announcement, it was susceptible to debate among reasonable minds.".

(b) CHAPTER ANALYSIS.—The chapter analysis of chapter 153 of title 28, United States Code, is amended by adding at the end thereof the following:

"2255A. Law applicable.".

TITLE XII—PUNISHMENT OF GUN CRIMINALS

SEC. 1201. SHORT TITLE.

This title may be cited as the "Gun Criminals Punishment Act of 1991".

Subtitle A—Increased Penalties for Gun Offenses

SEC. 1211. DEATH PENALTY FOR GUN MURDERS.

Section 924(c) of title 18, United States Code, is amended by—

(1) inserting "(A)" after "(1)";

(2) designating the second sentence as subparagraph (B);

AMENDMENT NO. 638

Add at the end of the amendment, the following:

"For the purpose of title XI, the term 'counsel' means:

"(b)(1) In the case of an appointment made before trial, at least one attorney appointed under this chapter must have been admitted to practice in the court in which the prosecution is to be tried for not less than 5 years, and must have had not less than 3 years' experience in the trial of felony prosecutions in that court.

"(2) In the case of an appointment made after trial, at least one attorney appointed under this chapter must have been admitted to practice in the court of last resort of the State for not less than 5 years, and must have had not less than 3 years' experience in the handling of appeals in that State courts in felony cases.

"(3) Notwithstanding paragraphs (1) and (2) of this subsection, a court, for good cause and upon the defendant's request, may appoint another attorney whose background, knowledge, or experience would otherwise enable the attorney to properly represent the defendant, with due consideration of the seriousness of the possible penalty and the unique and complex nature of the litigation."

AMENDMENT NO. 639

Strike everything after the word "Sec." and insert the following:

"(b)(1) In the case of an appointment made before trial, at least one attorney appointed under this chapter must have been admitted to practice in the court in which the prosecution is to be tried for not less than 5 years, and must have had not less than 3 years' experience in the trial of felony prosecutions in that court.

"(2) In the case of an appointment made after trial, at least one attorney appointed under this chapter must have been admitted to practice in the court of last resort of the State for not less than 5 years, and must have had not less than 3 years' experience in the handling of appeals in that State courts in felony cases.

"(3) Notwithstanding paragraphs (1) and (2) of this subsection, a court, for good cause and upon the defendant's request, may appoint another attorney whose background, knowledge, or experience would otherwise enable the attorney to properly represent the defendant, with due consideration of the seriousness of the possible penalty and the unique and complex nature of the litigation."

AMENDMENT NO. 640

Add at the end of the amendment and at the appropriate place in the bill:

"Notwithstanding any other provision of law, a prisoner's claim is not fully and fairly adjudicated within the meaning of sections 2254 or 2259 of title 28, United States Code (as amended by this Act), when it has been decided incorrectly or erroneously as a matter of constitutional law."

AMENDMENT NO. 641

Add at the end of the amendment the following:

A right that is retroactively applicable within the meaning of subsection 3599(c) is any right provided by the law existing on the date the court determines the claim, except a new rule, as provided in subsection (b) below.

(b) In determining whether to apply a new rule, the court shall consider—

(1) the purpose to be served by the new rule;

(2) the extent of the reliance by law enforcement authorities on a different rule; and

(3) the effect on the administration of justice of the application of the new rule.

(c) For purposes of this section, the term "new rule" means a sharp break from precedent announced by the Supreme Court of the United States that explicitly and substantially changes the law from that governing at the time the claimant's sentence became final. A rule is not new merely because, based on precedent existing before the rule's announcement, it was susceptible to debate among reasonable minds.

AMENDMENT NO. 642

Strike everything after the word "Sec."

AMENDMENT NO. 643

Strike everything beginning with the terms "section 2254" and insert the following at the appropriate place in the bill: "Notwithstanding any other provision of law, a prisoner's claim is not fully and fairly adjudicated within the meaning of sections 2254 or 2259 of title 28, United States Code (as amended by this Act), when it has been decided incorrectly or erroneously as a matter of constitutional law."

AMENDMENT NO. 644

Strike everything after the term "Sec."

AMENDMENT NO. 645

Strike everything after the term "Sec." and insert the following:

For purposes of title XI, as amended, the term "full and fair" should be construed as follows:

"(i) An adjudication of a claim in state proceedings is full and fair in the sense of this section, unless the adjudication was conducted in a manner inconsistent with the procedural requirements of Federal law that are applicable to state proceedings, was contrary to or involved an arbitrary or unreasonable interpretation or application of Federal law, or involved an arbitrary or unreasonable determination of the facts in light of the evidence presented."

AMENDMENT NO. 646

Add at the end of the amendment the following:

For purposes of title XI, as amended, the term "full and fair" should be construed as follows:

"(i) An adjudication of a claim in state proceedings is full and fair in the sense of this section, unless the adjudication was conducted in a manner inconsistent with the procedural requirements of Federal law that are applicable to state proceedings, was contrary to or involved an arbitrary or unreasonable interpretation or application of Federal law, or involved an arbitrary or unreasonable determination of the facts in light of the evidence presented.".

AMENDMENT NO. 647

Strike everything after the term "Sec." and insert the following:

TITLE III—CIVIL RIGHTS

SEC. 301. CIVIL RIGHTS.

(a) FINDINGS.—The Congress finds that—

(1) crimes motivated by the victim's gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for gender crimes committed on the street or in the home; and

(3) State and Federal criminal laws do not adequately protect against the bias element of gender-motivated crimes, which separates these crimes from acts of random violence, nor do those laws adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests;

(4) existing bias and discrimination in the criminal justice system often deprives victims of gender-motivated crimes of equal protection of the laws and the redress to which they are entitled;

(5) gender-motivated violence has a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business, and in places involved, in interstate commerce;

(6) gender-motivated violence has a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products;

(7) a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse effects of gender-motivated violence on interstate commerce; and

(8) victims of gender-motivated violence have a right to equal protection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

(b) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any person, including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State, who commits a crime of violence motivated by gender and thus deprives another of the rights, privileges or immunities secured by the Constitution or laws as enumerated in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in paragraph (2), committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

SEC. 302. CONFORMING AMENDMENT.

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: ", or title III of the Violence Against Women Act of 1991,".

AMENDMENT No. 648

Add at the end of the amendment the following:

TITLE III—CIVIL RIGHTS

SEC. 301. CIVIL RIGHTS.

(a) FINDINGS.—The Congress finds that—

(1) crimes motivated by the victim's gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for gender crimes committed on the street or in the home; and

(3) State and Federal criminal laws do not adequately protect against the bias element of gender-motivated crimes, which separates these crimes from acts of random violence, nor do those laws adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests;

(4) existing bias and discrimination in the criminal justice system often deprives victims of gender-motivated crimes of equal protection of the laws and the redress to which they are entitled;

(5) gender-motivated violence has a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business, and in places involved in interstate commerce;

(6) gender-motivated violence has a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products;

(7) a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse effects of gender-motivated violence on interstate commerce; and

(8) victims of gender-motivated violence have a right to equal protection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

(b) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any person, including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State, who commits a crime of violence motivated by gender and thus deprives another of the rights, privileges or immunities secured by the Constitution or laws as enumerated in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in paragraph (2), committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

SEC. 302. CONFORMING AMENDMENT.

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: ", or title III of the Violence Against Women Act of 1991,".

AMENDMENT No. 649

At the appropriate place, add the following:

SECS. . TESTING OF CERTAIN INDIVIDUALS CHARGED WITH CERTAIN SEXUAL OFFENSE FOR THE PRESENCE OF THE ETIOLOGIC AGENT FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(a) HIV RELATED SERVICES FOR VICTIMS.—Victims of any offense of the type described in chapter 109A of title 18, United States Code, shall, on request, be provided with

(1) anonymous and confidential testing for the presence of the etiologic agent for acquired immune deficiency syndrome, and counseling concerning such, at no cost by appropriately trained staff operating through appropriate service providers, including rape crisis centers, community health centers, public health clinics, physicians, or other appropriate service providers; follow-up tests and counseling will be available at no cost on dates that occur three, six months and twelve months following the date of the initial test; and

(2) necessary and appropriate medical care.

(b) LIMITED TESTING OF DEFENDANTS.—

(1) COURT ORDER.—The victim of an offense of the type referred to in subsection (a) may obtain an order in the district court of the United States for the district in which charges are brought against the defendant charged with the offense, after notice to the defendant and an opportunity to be heard, requiring that the defendant be tested for the presence of the etiologic agent for acquired immune deficiency syndrome, and that the results of the test be communicated to the victim and the defendant. Any test result of the defendant given to the victim must be accompanied by appropriate counseling.

(2) SHOWING REQUIRED.—To obtain an order under paragraph (1), the victim must demonstrate that—

(A) The defendant has been charged with the offense in a state or federal court, and, if the defendant has been arrested without a warrant, a probable cause determination has been made.

(B) The test for the etiologic agent for acquired immune deficiency syndrome is requested by the victim after counseling; and

(C) The court determines that the alleged conduct of the defendant created a risk of transmission of the etiologic agent for acquired immune deficiency syndrome to the victim.

(3) FOLLOW-UP TESTING.—The court shall order follow-up tests and counseling under paragraph (b) (1) if the initial test was negative. Such follow-up tests and counseling shall be performed at the request of the victim on dates that occur six months and twelve months following the date of the initial test.

(4) TERMINATION OF TESTING REQUIREMENTS.—An order for follow-up testing under paragraph (3) shall be terminated if the individual to be tested obtains an acquittal on, or dismissal of, all charged against such individual.

(c) CONFIDENTIALITY OF TEST.—The results of any test ordered under this section shall be disclosed only to the victim, or, where the court deems appropriate, to the parent or legal guardian of the victim, and to the person tested.

(d) DISCLOSURE OF TEST RESULTS.—The court shall issue an order to prohibit the disclosure of the results of any test performed under this section to anyone other than those mentioned in subsection (c). The contents of the court order shall be sealed. The results of such test performed on the defendant under this section shall not be used as evidence in any criminal trial, except that testing ordered under this section shall not be a bar to testing permitted under any other law.

(e) CONTEMPT FOR DISCLOSURE.—A victim who disclosed the results of a test in violation of this section may be held in contempt of court.

(f) EFFECT ON PENALTY.—The United States Sentencing Commission shall amend existing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender knew that he was infected with the human immunodeficiency virus, except where the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.

AMENDMENT NO. 650

Strike everything after the word "Sec." and insert the following:

SEC. . TESTING OF INDIVIDUALS CHARGED WITH CERTAIN SEXUAL OFFENSES FOR THE PRESENCE OF THE ETIOLOGIC AGENT FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(a) HIV RELATED SERVICES FOR VICTIMS.—Victims of any offense of the type described in chapter 109A of title 18, United States Code, shall, on request, be provided with

(1) anonymous and confidential testing for the presence of the etiologic agent for acquired immune deficiency syndrome, and counseling concerning such, at no cost by appropriately trained staff operating through appropriate service providers, including rape crisis centers, community health centers, public health clinics, physicians, or other appropriate service providers; follow-up tests and counseling will be available at no cost on dates that occur three, six months and twelve months following the date of the initial test; and

(2) necessary and appropriate medical care.

(b) LIMITED TESTING OF DEFENDANTS—

(1) COURT ORDER.—The victim of an offense of the type referred to in subsection (a) may obtain an order in the district court of the United States for the district in which charges are brought against the defendant charged with the offense, after notice to the defendant and an opportunity to be heard, requiring that the defendant be tested for the presence of the etiologic agent for acquired immune deficiency syndrome, and that the results of the test be communicated to the victim and the defendant. Any test result of the defendant given to the victim must be accompanied by appropriate counseling.

(2) SHOWING REQUIRED.—To obtain an order under paragraph (1), the victim must demonstrate that—

(A) The defendant has been charged with the offense in a state or federal court, and, if the defendant has been arrested without a warrant, a probable cause determination has been made.

(B) The test for the etiologic agent for acquired immune deficiency syndrome is requested by the victim after counseling; and

(C) The court determines that the alleged conduct of the defendant created a risk of transmission of the etiologic agent for acquired immune deficiency syndrome to the victim.

(3) FOLLOW-UP TESTING.—The court shall order follow-up tests and counseling under paragraph (b)(1) if the initial test was negative. Such follow-up tests and counseling shall be performed at the request of the victim on dates that occur six months and twelve months following the date of the initial test.

(4) TERMINATION OF TESTING REQUIREMENTS.—An order for follow-up testing under paragraph (3) shall be terminated if the individual to be tested obtains an acquittal on, or dismissal of, all charged against such individual.

(c) CONFIDENTIALITY OF TEST.—The results of any test ordered under this section shall be disclosed only to the victim, or, where the court deems appropriate, to the parent or legal guardian of the victim, and to the person tested.

(d) DISCLOSURE OF TEST RESULTS.—The court shall issue an order to prohibit the disclosure of the results of any test performed under this section to anyone other than those mentioned in subsection (c). The contents of the court order shall be sealed. The results of such test performed on the defendant under this section shall not be used as evidence in any criminal trial, except that testing ordered under this section shall not be a bar to testing permitted under any other law.

(e) CONTEMPT FOR DISCLOSURE.—A victim who disclosed the results of a test in violation of this section may be held in contempt of court.

(f) EFFECT ON PENALTY.—The United States Sentencing Commission shall amend existing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender knew that he was infected with the human immunodeficiency virus, except where the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.

AMENDMENT NO. 651

Strike everything after the term "Section."

AMENDMENT NO. 652

Strike everything after the term "Sec." and insert the following:

TITLE III—CIVIL RIGHTS

SEC. 301. CIVIL RIGHTS.

(a) FINDINGS.—The Congress finds that—

(1) crimes motivated by the victim's gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for gender crimes committed on the street or in the home; and

(3) State and Federal criminal laws do not adequately protect against the bias element of gender-motivated crimes, which separates these crimes from acts of random violence, nor do those laws adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests;

(4) existing bias and discrimination in the criminal justice system often deprives victims of gender-motivated crimes of equal protection of the laws and the redress to which they are entitled;

(5) gender-motivated violence has a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business, and in places involved, in interstate commerce;

(6) gender-motivated violence has a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products;

(7) a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse effects of gender-motivated violence on interstate commerce; and

(8) victims of gender-motivated violence have a right to equal protection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

(b) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any person, including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State, who commits a crime of violence motivated by gender and thus deprives another of the rights, privileges or immunities secured by the Constitution or laws as enumerated in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in paragraph (2), committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

SEC. 302. CONFORMING AMENDMENT.

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: ", or title III of the Violence Against Women Act of 1991,".

AMENDMENT NO. 653

Strike everything after the term "Sec."

AMENDMENT NO. 654

Strike everything after the term "Sec." and insert the following:

TITLE III—CIVIL RIGHTS

SEC. 301. CIVIL RIGHTS.

(a) FINDINGS.—The Congress finds that—

(1) crimes motivated by the victim's gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for gender crimes committed on the street or in the home; and

(3) State and Federal criminal laws do not adequately protect against the bias element of gender-motivated crimes, which separates these crimes from acts of random violence, nor do those laws adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests;

(4) existing bias and discrimination in the criminal justice system often deprives victims of gender-motivated crimes of equal protection of the laws and the redress to which they are entitled;

(5) gender-motivated violence has a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business, and in places involved, in interstate commerce;

(6) gender-motivated violence has a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products;

(7) a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse-effects of gender-motivated violence on interstate commerce; and

(8) victims of gender-motivated violence have a right to equal protection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

(b) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any person, including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State, who commits a crime of violence motivated by gender and thus deprives another of the rights, privileges or immunities secured by the Constitution or laws as enumerated in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in paragraph (2), committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

SEC. 302. CONFORMING AMENDMENT.

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: ", or title III of the Violence Against Women Act of 1991,".

AMENDMENT NO. 655

Strike everything after the term "Sec."

AMENDMENT NO. 656

Strike everything after the term "Sec."

AMENDMENT NO. 657

Strike section 2(a) and (b) of the underlying amendment.

AMENDMENT NO. 658

Strike everything after the term "Sec."

AMENDMENT NO. 659

Strike everything after the term "Section."

AMENDMENT NO. 660

Strike everything after the term "Sec."

AMENDMENT NO. 661

Add a new section at the end of the amendment as follows:

"(b) DEFINITION OF "EVIDENCE OF THE DEFENDANT'S COMMISSION OF ANOTHER OFFENSE OR OFFENSES."—For the purposes of Rules 413, 414, and 415, the term "evidence of the defendant's commission of another offense or offenses" means any evidence that is not otherwise inadmissible under any other Federal Rule of Evidence.

AMENDMENT NO. 662

Strike everything after the term "Sec."

Strike everything after the term "Sec." and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violence Against Women Act of 1991".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—SAFE STREETS FOR WOMEN

Sec. 101. Short title.

Subtitle A—Federal Penalties for Sex Crimes

Sec. 111. Repeat offenders.
Sec. 112. Federal penalties.
Sec. 113. Mandatory restitution for sex crimes.

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

Sec. 121. Grants to combat violent crimes against women.

Subtitle C—Safety for Women in Public Transit and Public Parks

Sec. 131. Grants for capital improvements to prevent crime in public transportation.
Sec. 132. Grants for capital improvements to prevent crime in national parks.
Sec. 133. Grants for capital improvements to prevent crime in public parks.

Subtitle D—National Commission on Violent Crime Against Women

Sec. 141. Establishment.
Sec. 142. Duties of commission.
Sec. 143. Membership.
Sec. 144. Reports.
Sec. 145. Executive Director and staff.
Sec. 146. Powers of commission.
Sec. 147. Authorization of appropriations.
Sec. 148. Termination.

Subtitle E—New Evidentiary Rules

Sec. 151. Sexual history in all criminal cases.
Sec. 152. Sexual history in civil cases.
Sec. 153. Amendments to rape shield law.
Sec. 154. Evidence of clothing.

Subtitle F—Assistance to Victims of Sexual Assault

Sec. 161. Education and prevention grants to reduce sexual assaults against women.
Sec. 162. Rape exam payments.

TITLE II—SAFE HOMES FOR WOMEN

Sec. 201. Short title.

Subtitle A—Interstate Enforcement

Sec. 211. Interstate enforcement.

Subtitle B—Arrest in Spousal Abuse Cases

Sec. 221. Encouraging arrest policies.

Subtitle C—Funding for Shelters

Sec. 231. Authorization.

Subtitle D—Family Violence Prevention and Services Act Amendments

Sec. 241. Expansion of purpose.
Sec. 242. Expansion of State demonstration grant program.
Sec. 243. Grants for public information campaigns.
Sec. 244. State commissions on domestic violence.
Sec. 245. Indian tribes.
Sec. 246. Funding limitations.
Sec. 247. Grants to entities other than States; local share.
Sec. 248. Shelter and related assistance.
Sec. 249. Law enforcement training and technical assistance grants.
Sec. 250. Report on recordkeeping.
Sec. 251. Model State leadership incentive grants for domestic violence intervention.
Sec. 252. Funding for technical assistance centers.

Subtitle E—Youth Education and Domestic Violence

Sec. 261. Educating youth about domestic violence.

Subtitle F—Confidentiality for Abused Persons

Sec. 271. Confidentiality for abused persons.

TITLE III—CIVIL RIGHTS

Sec. 301. Civil rights.

TITLE IV—SAFE CAMPUSES FOR WOMEN

Sec. 401. Short title.
Sec. 402. Findings.
Sec. 403. Grants for campus rape education.
Sec. 404. Disclosure of disciplinary proceedings in sex assault cases on campus.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

Sec. 501. Short title.

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

Sec. 511. Grants authorized.
Sec. 512. Training provided by grants.
Sec. 513. Cooperation in developing programs in making grants under this title.
Sec. 514. Authorization of appropriations.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

Sec. 521. Education and training grants.
Sec. 522. Cooperation in developing programs.
Sec. 523. Authorization of appropriations.

TITLE I—SAFE STREETS FOR WOMEN

SEC. 101. SHORT TITLE.

This title may be cited as the "Safe Streets for Women Act of 1991."

Subtitle A—Federal Penalties for Sex Crimes

SEC. 111. REPEAT OFFENDERS.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2247. Repeat offenders

"Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2247. Repeat offenders.".

SEC. 112. FEDERAL PENALTIES.

(a) RAPE AND AGGRAVATED RAPE.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide that a defendant convicted of aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, shall be assigned a base offense level under chapter 2 of the sentencing guidelines that is at least 4 levels greater than the base offense level applicable to criminal sexual abuse under the guidelines in effect on November 1, 1990, or otherwise shall amend the guidelines applicable to such offenses so as to achieve a comparable minimum guideline sentence. In amending such guidelines, the Sentencing Commission shall review the appropriateness of existing specific offense characteristics or other adjustments applicable to such offenses, and make such changes as it deems appropriate, taking into account the severity of rape offenses, with or without aggravating factors; the unique nature and duration of the mental injuries inflicted on the victims of such offenses; and any other relevant factors.

(b) EFFECT OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instructions set forth in subsection (a) so as to achieve a comparable result.

(c) STATUTORY RAPE.—

(1) Section 2243(b) of title 18, United States Code, is amended by striking "one year," and inserting "two years,".

(2) Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to incorporate the increase in maximum penalties provided by this section for section 2243(b) of title 18, United States Code.

SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be on camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or matters related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or his delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2248. Mandatory restitution.".

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) redesignating part N as part O;

(2) redesignating section 1401 as section 1501; and

(3) adding after part M the following:

"PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"SEC. 1401. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribes, cities, and other localities to develop effective law enforcement and prosecution strategies to combat violent crimes against women and, in particular, to focus efforts on those areas with the highest rates of violent crime against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide additional personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing police and prosecution policies, protocols, or orders specifically devoted to identifying and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, prosecutions, and convictions for the crimes of sexual assault and domestic violence; and

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, to increase reporting and reduce attrition rates for cases involving violent crimes against women, including the crimes of sexual assault and domestic violence.

"SUBPART 1—HIGH INTENSITY CRIME AREA GRANTS

"SEC. 1411. HIGH INTENSITY GRANTS.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the 'Director') shall make grants to areas of 'high intensity crime' against women.

"(b) DEFINITION.—For purposes of this part, a 'high intensity crime area' means an area with one of the 40 highest rates of violent crime against women, as determined by the Bureau of Justice Statistics pursuant to section 1412.

"SEC. 1412. HIGH INTENSITY GRANT APPLICATION.

"(a) COMPUTATION.—Within 45 days after the date of enactment of this part, the Bureau of Justice Statistics shall compile a list of the 40 areas with the highest rates of violent crime against women based on the combined female victimization rate per population for assault, sexual assault (including, but not limited to, rape), murder, robbery, and kidnapping.

"(b) USE OF DATA.—In calculating the combined female victimization rate required by subsection (a), the Bureau of Justice Statistics may rely on—

"(1) existing data collected by States, municipalities, Indian reservations or statistical metropolitan areas showing the number of police reports of the crimes listed in subsection (a); and

"(2) existing data collected by the Federal Bureau of Investigation, including data from those governmental entities already complying with the National Incident Based Reporting System, showing the number of police reports of crimes listed in subsection (a).

"(c) PUBLICATION.—After compiling the list set forth in subsection (a), the Bureau of Justice Statistics shall convey it to the Director who shall publish it in the Federal Register.

"(d) QUALIFICATION.—Upon satisfying the terms of subsection (e), any high intensity crime area shall be qualified for a grant under this subpart upon application by the chief executive officer of the governmental entities responsible for law enforcement and prosecution of criminal offenses within the area and certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate program grants, with nongovernmental nonprofit victim services programs; and

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(e) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application must provide the certifications required by subsection (d) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (d)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall ensure, to the extent practicable, that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served; and

"(C) give priority to areas with the greatest showing of need.

"(g) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this part. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"Subpart 2—Other Grants to States to Combat Violent Crimes Against Women

"SEC. 1421. GENERAL GRANTS TO STATES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to States, for use by States, units of local government in the States, and nonprofit nongovernmental victim services programs in the States, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be—

"(1) $500,000 to each State; and

"(2) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application shall include the certifications of qualification required by subsection (c) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (c)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(e) DISBURSEMENT.—(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that States will—

"(A) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000;

"(B) determine the amount of subgrants based on the population and geographic area to be served; and

"(C) give priority to areas with the greatest showing of need, as demonstrated by comparing population and geographic areas to be served to the availability of existing sexual assault and domestic violence services.

"(f) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"SEC. 1422. GENERAL GRANTS TO TRIBES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of $35,000 and maximum grants of $300,000.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b); and

"(2) at least 25 percent of the grant funds shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—(1) Applications shall be made directly to the Director and shall contain a description of the tribes' law enforcement responsibilities for the Indian country described in the application and a description of the tribes' system of courts, including whether the tribal government operates courts of Indian offenses as defined in 25 U.S.C. 1301 or CFR courts under 25 CFR 11 et seq.

"(2) Applications shall be in such form as the Director may prescribe and shall specify the nature of the program proposed by the applicant tribe, the data and information on which the program is based, and the extent to which the program plans to use or incorporate existing services available in the Indian country where the grant will be used.

"(3) The term of any grant shall be for a minimum of 3 years.

"(e) GRANTEE REPORTING.—At the end of the first 12 months of the grant period and at the end of each year thereafter, the Indian tribal granted shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

"(2) The term 'Indian country' has the meaning given to such term by section 1151 of title 18, United States Code.

"SUBPART 3—GENERAL TERMS AND CONDITIONS

"SEC. 1431. GENERAL DEFINITIONS.

"As used in this part—

"(1) the term 'victim services program' means any public or private nonprofit program that assists victims, including (A) nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process and (B) victim/witness programs within governmental entities;

"(2) the term 'sexual assault' includes not only assaults committed by offenders who are strangers to the victim but also assaults committed by offenders who are known or related by blood or marriage to the victim; and

"(3) the term 'domestic violence' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse, or any other person similarly situated to a spouse who is protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"SEC. 1432. GENERAL TERMS AND CONDITIONS.

"(a) NONMONETARY ASSISTANCE.—In addition to the assistance provided under subparts 1 or 2, the Director may direct any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts.

"(b) BUREAU REPORTING.—No later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Judiciary Committees of the House and the Senate a report that includes, for each high intensity crime area (as provided in subpart 1) and for each State and for each grantee Indian tribe (as provided in subpart 2)—

"(1) the amount of grants made under this part;

"(2) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(3) a copy of each grantee report filed pursuant to sections 1412(g) and 1421(f).

"(c) REGULATIONS.—No later than 45 days after the date of enactment of this part, the Director shall publish proposed regulations implementing this part. No later than 120 days after such date, the Director shall publish final regulations implementing this part.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year 1992, 1993, and 1994, $100,000,000 to carry out the purposes of subpart 1, and $190,000,000 to carry out the purposes of subpart 2, and $10,000,000 to carry out the purposes of section 1422 of subpart 2.".

Subtitle C—Safety for Women in Public Transit and Public Parks

SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

Section 24 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION

"SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, and not to exceed $10,000,000, the Secretary shall make capital grants for the prevention of crime and to increase security in existing and future public transportation systems. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

"(b) GRANTS FOR LIGHTING, CAMERA SURVEILLANCE, AND SECURITY PHONES.—

"(1) From the sums authorized for expenditure under this section for crime prevention, the Secretary is authorized to make grants and loans to States and local public bodies or agencies for the purpose of increasing the safety of public transportation by—

"(A) increasing lighting within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(B) increasing camera surveillance of areas within and adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(C) providing emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages; or

"(D) any other project intended to increase the security and safety of existing or planned public transportation systems.

"(2) From the sums authorized under this section, at least 75 percent shall be expended on projects of the type described in subsection (b)(1) (A) and (B).

"(c) REPORTING.—All grants under this section are contingent upon the filing of a report with the Secretary and the Department of Justice, Office of Victims of Crime, showing crime rates in or adjacent to public transportation before, and for a 1-year period after, the capital improvement. Statistics shall be broken down by type of crime, sex, race, and relationship of victim to the offender.

"(d) INCREASED FEDERAL SHARE.—Notwithstanding any other provision of this Act, the Federal share under this section for each capital improvement project which enhances the safety and security of public transportation systems and which is not required by law (including any other provision of this chapter) shall be 90 percent of the net project cost of such project.

"(e) SPECIAL GRANTS FOR PROJECTS TO STUDY INCREASING SECURITY FOR WOMEN.—From the sums authorized under this section, the Secretary shall provide grants and loans for the purpose of studying ways to reduce violent crimes against women in public transit through better design or operation of public transit systems.

"(f) GENERAL REQUIREMENTS.—All grants or loans provided under this section shall be subject to all the terms, conditions, requirements, and provisions applicable to grants and loans made under section 2(a).".

SEC. 132. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN NATIONAL PARKS.

The Act of August 18, 1970, the National Park System Improvements in Administration Act (90 Stat. 1931; 16 U.S.C. 1a–1 et seq.) is amended by adding at the end thereof the following:

"SEC. 13. NATIONAL PARK SYSTEM CRIME PREVENTION ASSISTANCE.

"(a) From the sums authorized pursuant to section 7 of the Land and Water Conservation Act of 1965, and not to exceed $10,000,000, the Secretary of the Interior is authorized to provide Federal assistance to reduce the incidence of violent crime in the National Park System.

"(b) The Secretary shall direct the chief official responsible for law enforcement within the National Park Services to—

"(1) compile a list of areas within the National Park System with the highest rates of violent crime;

"(2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and

"(3) publish the information required by paragraphs (1) and (2) in the Federal Register.

"(c) No later than 120 days after the date of enactment of this section, and based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute funds throughout the National Park Service. Priority shall be given to those areas with the highest rates of sexual assault.

"(d) Funds provided under this section may be used for the following purposes—

"(1) to increase lighting within or adjacent to public parks and recreation areas;

"(2) to provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(3) to increase security or law enforcement personnel within or adjacent to public parks and recreation areas; and

"(4) any other project intended to increase the security and safety of public parks and recreation areas.".

SEC. 133. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC PARKS.

Section 6 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 4601–8) is amended by adding at the end thereof the following new subsection:

"(h) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed $15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding the terms of subsection (c), the Secretary is authorized to provide 70 percent improvement grants for projects undertaken by any State for the purposes outlined in this subsection. The remaining share of the cost shall be borne by the State.".

Subtitle D—National Commission on Violent Crime Against Women

SEC. 141. ESTABLISHMENT.

There is established a commission to be known as the National Commission on Violent Crime Against Women (hereinafter referred to as "the Commission").

SEC. 142. DUTIES OF COMMISSION.

(a) GENERAL PURPOSE OF THE COMMISSION.—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crime against women.

(b) FUNCTIONS.—The Commission shall perform the following functions—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence; and

(9) evaluate and make recommendations regarding the feasibility of maintaining the confidentiality of addresses of domestic violence victims in voting, welfare, and public records.

SEC. 143. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) three of whom shall be—

(I) the Attorney General;

(II) the Secretary of Health and Human Services; and

(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of sexual assault or domestic violence.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) CONGRESSIONAL COMMITTEE RECOMMENDATIONS.—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) REQUIREMENTS OF APPOINTMENTS.—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their experience in State or national efforts to fight violence against women and demonstrate experience in State or national advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of law enforcement, prosecution, judicial administration, legal expertise, public health, social work, victim compensation boards, and victim advocacy.

(4) TERM OF MEMBERS.—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) VACANCY.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) CHAIRMAN.—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) MEETINGS.—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least six times.

(e) PAY.—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) PER DIEM.—Except as provided in subsection (e), members of the Commission shall be allowed travel and other expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) DEADLINE FOR APPOINTMENT.—Not later than 45 days after the date of the enactment of this Act, the members of the Commission shall be appointed.

SEC. 144. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

SEC. 145. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable under GS–18 of the General Schedule as contained in title 5, United States Code.

(b) STAFF.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 146. POWERS OF COMMISSION.

(a) HEARINGS.—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) DELEGATION.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) ACCESS TO INFORMATION.—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chairman of the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 147. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $500,000 to carry out the purposes of this subtitle.

SEC. 148. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed one year.

Subtitle E—New Evidentiary Rules

SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

The Federal Rules of Evidence are amended by inserting after rule 412 the following:

"Rule 412A. Evidence of victim's past behavior in other criminal cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, reputation or opinion evidence of the past sexual behavior of an alleged victim is not admissible.

"(b) ADMISSIBILITY.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, evidence of an alleged victim's past sexual behavior (other than reputation and opinion evidence) may be admissible if—

"(1) the evidence is admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of the evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the alleged victim's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the alleged victim.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

The Federal Rules of Evidence, as amended by section 151 of this Act, are amended by adding after rule 412A the following:

"Rule 412B. Evidence of past sexual behavior in civil cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

"(b) ADMISSIBLE EVIDENCE.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

"(1) admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of such evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the plaintiff's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the plaintiff.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the plaintiff and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies evidence which may be offered and areas with respect to which the plaintiff may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

"(d) DEFINITIONS.—For purposes of this rule, a case involving a claim of actionable sexual misconduct, includes, but is not limited to, sex harassment or discrimination claims brought pursuant to title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)) and gender bias claims brought pursuant to title III of the Violence Against Women Act of 1991.".

SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end thereof the following:

"(e) INTERLOCUTORY APPEAL.—Notwithstanding any other provision of law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

"(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim."; and

(2) by adding at the end of subdivision (c)(3) the following: "In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 154. EVIDENCE OF CLOTHING.

The Federal Rules of Evidence are amended by adding after rule 412 the following:

"Rule 413. Evidence of victim's clothing as inciting violence

"Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged.".

Subtitle F—Assistance to Victims of Sexual Assault

SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended as follows:

(1) by adding at the end thereof the following new section:

"§ 1910A. Use of allotments for rape prevention education

"(a) Notwithstanding the terms of section 1904(a)(1) of this title, amounts transferred by the State for use under this part may be used for rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities, which programs may include—

"(1) educational seminars;

"(2) the operation of hotlines;

"(3) training programs for professionals;

"(4) the preparation of informational materials; and

"(5) other efforts to increase awareness of the facts about, or to help prevent, sexual assault.

"(b) States providing grant monies must assure that at least 15 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) There are authorized to be appropriated under this section for each fiscal year 1992, 1993, and 1994, $65,000,000 to carry out the purposes of this section.

"(d) Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) For purposes of this section, the term 'rape prevention and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim.

"(f) States shall be allotted funds under this section pursuant to the terms of sections 1902 and 1903, and subject to the conditions provided in this section and sections 1904 through 1909.";

(2) striking section 1901(b); and

(3) striking section 1904(a)(1)(G).

SEC. 162. RAPE EXAM PAYMENTS.

No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 unless the State or other grantee incurs the full cost of forensic medical exams for victims of sexual assault. A State or other grantee does not incur the full medical cost of forensic medical exams if it chooses to reimburse the victim after the fact unless the reimbursement program waives any minimum loss or deductible requirement, provides victim reimbursement within a reasonable time (90 days), permits applications for reimbursement within one year from the date of the exam, and provides information to all subjects of forensic medical exams about how to obtain reimbursement.

TITLE II—SAFE HOMES FOR WOMEN

SEC. 201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1990".

Subtitle A—Interstate Enforcement

SEC. 211. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

"Chapter 110A—Violence Against Spouses

"Sec. 2261. Traveling to commit spousal abuse.
"Sec. 2262. Interstate violation of protection orders.
"Sec. 2263. Restitution.
"Sec. 2264. Full faith and credit given to protection orders.
"Sec. 2265. Definitions for chapter.

"§ 2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner; or

"(2) for the purpose of harassing, intimidating, or injuring a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner,

shall be fined not more than $1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner, shall be fined not more than $1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(c) NO STATE LAW.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, a person violating this section shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

"(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§ 2262. Interstate violation of protection orders

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

"(2) for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c) of this section.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c) of this section.

"(c) PENALTIES.—

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than six months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§ 2263. Interim protections

"In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the protection of an abused spouse or intimate partner pending final adjudication of the case, upon a showing of a likelihood of danger to the abused spouse or intimate partner.

"§ 2264. Restitution

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to subsection (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation; and

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the offender, including obligations to dependents.

"(B) An order under this section may direct the defendant to make a single lump-sum payment, or partial payments at specified intervals. The order shall provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(C) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or his delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) RESTITUTION AND CRIMINAL PENALTIES.—An award of restitution to the victim of an offense under this chapter shall not be a substitute for imposition of punishment under sections 2261 and 2262.

"(e) DEFINITIONS.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.

"§ 2265. Full faith and credit given to protection orders

"(a) FULL FAITH AND CREDIT.—Any protection order issued consistent with the terms of subsection (b) by the court of one State (the issuing State) shall be accorded full faith and credit by the court of another State (the enforcing State) and enforced as if it were the order of the enforcing State.

"(b) PROTECTION ORDER.—A protection order issued by a State court is consistent with the provisions of this section if—

"(1) such court has jurisdiction over the parties and matter under the law of such State; and

"(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

"(c) CROSS OR COUNTER PETITION.—A protection order issued by a State court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

"(1) no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or

"(2) if a cross or counter petition has been filed, if the court did not make specific findings that each party was entitled to such an order.

"§ 2266. Definitions for chapter

"As used in this chapter—

"(1) the term 'spouse or intimate partner' includes—

"(A) a present or former spouse, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

"(B) any other person similarly situated to a spouse, other than a child, who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

"(2) the term 'protection order' includes any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except those done in self-defense, that results in physical injury or sexual abuse;

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

"(5) the term 'travel across State lines' includes any such travel except travel across State lines by an Indian tribal member when that member remained at all times on tribal lands.".

(b) TABLE OF CHAPTERS.—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

"110A. Violence against spouses .... 2261.".

Subtitle B—Arrest in Spousal Abuse Cases

SEC. 221. ENCOURAGING ARREST POLICIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10400) is amended by adding after section 311 the following:

"SEC. 312. ENCOURAGING ARREST POLICIES.

"(a) PURPOSE.—To encourage States, Indian tribes and localities to treat spousal violence as a serious violation of criminal law, the Secretary is authorized to make grants to eligible States, Indian tribes, municipalities, or local government entities for the following purposes:

"(1) to implement pro-arrest programs and policies in police departments and to improve tracking of cases involving spousal abuse;

"(2) to centralize and coordinate police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges;

"(3) to educate judges in criminal and other courts about spousal abuse and to improve judicial handling of such cases.

"(b) ELIGIBILITY.—(1) Eligible grantees are those States, Indian tribes, municipalities or other local government entities that—

"(A) demonstrate, through arrest and conviction statistics, that their laws or policies have been effective in significantly increasing the number of arrests made of spouse abusers; and

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed or mandate arrest of spouses violating the terms of a valid and outstanding protection order; or

"(ii) permit warrantless misdemeanor arrests of spouse abusers and encourage the use of that authority;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser and the increase in arrest rates demonstrated pursuant to paragraph (1)(A) is not the result of increased dual arrests; and

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protective order, and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim.

"(2) For purposes of this section, the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

"(3) For purposes of this section, the term 'spousal or spouse abuse' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabited with the victim as a spouse, or any other person protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(4) The eligibility requirements provided in this section shall take effect one year after the date of enactment of this section.

"(c) DELEGATION AND AUTHORIZATION.—The Secretary shall delegate to the Attorney General of the United States the Secretary's responsibilities for carrying out this section to the Attorney General. There are authorized to be appropriated not in excess of $25,000,000 for each fiscal year to be used for the purpose of making grants under this section.

"(d) APPLICATION.—An eligible grantee shall submit an application to the Secretary. Such application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribes, municipality, or local government entity that the conditions of subsection (b) are met;

"(2) describe the entity's plans to further the purposes listed in subsection (a);

"(3) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(4) identify and include documentation showing the nonprofit nongovernmental victim services programs that will be consulted in developing, and implementing, the program.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a grantee that—

"(1) does not currently provide for centralized handling of cases involving spousal or family violence in any one of the areas listed in this subsection—police, prosecutors, and courts; and

"(2) demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving spousal or family violence.

"(f) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described in subsection (d)(2) and containing such additional information as the Secretary may prescribe.

"(g) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.".

Subtitle C—Funding for Shelters

SEC. 231. AUTHORIZATION.

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

"SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out the provisions of this title, $85,000,000 for fiscal year 1992, $100,000,000, for fiscal year 1993, and $125,000,000 for fiscal year 1994.

"(b) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 80 percent shall be used by the Secretary for making grants under section 303.

"(c) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not more than 5 percent shall be used by the Secretary for making grants under section 314.

"(d) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 5 percent shall be used by the Secretary for making grants under section 308A.".

Subtitle D—Family Violence Prevention and Services Act Amendments

SEC. 241. EXPANSION OF PURPOSE.

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent" and by striking "demonstrate the effectiveness of assisting" and inserting "assist".

SEC. 242. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.

(a) INCREASING PUBLIC AWARENESS.—Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

(b) EXPANSION OF PROGRAM.—Section 303(a)(2)(B)(ii) is amended by striking "alcohol and drug abuse treatment".

SEC. 243. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

"GRANTS FOR PUBLIC INFORMATION CAMPAIGNS

"SEC. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) An application submitted under subsection (b) shall—

"(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk.".

SEC. 244. FUND DISTRIBUTION TO STATES.

Section 304(a)(1) of the Family Violence Prevention and Services Act is amended by striking "$50,000" and inserting "$500,000".

SEC. 245. INDIAN TRIBES.

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "from sums appropriated shall make no less than 10 percent available for".

SEC. 246. FUNDING LIMITATIONS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by—

(1) striking ", and" and all that follows through "fiscal years"; and

(2) striking "$50,000" and inserting "$75,000".

SEC. 247. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: "No grant may be made under this section to an entity other than a State or Indian tribe unless the entity provides 35 percent of the funding of the program or project funded by the grant.".

SEC. 248. SHELTER AND RELATED ASSISTANCE.

(a) Change of Percentages.—Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended by striking "not less than 60 percent" and inserting "not less than 75 percent".

(b) Definition of Related Assistance.—Section 309(5) of the Family Violence Prevention and Services Act is amended to read as follows:

"(5) The term 'related assistance' includes any, but does not require all, of the following—

"(A) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(B) transportation, legal assistance, referrals for appropriate health-care services (including alcohol and drug abuse treatment), and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(C) comprehensive counseling and self-help services to abusers, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services and employment training; and

"(D) child care services for children who are victims of family violence or the dependents of such victims.".

SEC. 249. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.

Section 311 of the Family Violence Protection and Services Act (42 U.S.C. 10410(b)) is repealed.

SEC. 250. REPORT ON RECORDKEEPING.

Not later than 120 days after the date of enactment of this Act, the Government Accounting Office shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine efforts to date of the FBI and Justice Department to collect statistics on domestic violence and the feasibility of, including a suggested timetable for, requiring that the relationship between an offender and victim be reported in Federal and State records of crimes of assault, aggravated assault, rape, and other violent crimes.

SEC. 251. MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.

The Family Violence Prevention Services Act, as amended by section 103 of this Act, is amended by adding at the end thereof the following new section:

"MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION

"Sec. 315. (a) The Secretary, in cooperation with the Attorney General, shall award grants to not less than 10 States to assist in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

"(1) increase the number of prosecutions for domestic violent crimes;

"(2) encourage the reporting of incidences of domestic violence;

"(3) facilitate 'arrests and aggressive' prosecution policies; and

"(4) provides court advocacy for victims of domestic violence.

"(b) To be designated as a model State under subsection (a), a State shall have in effect—

"(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

"(2) a law or policy that discourages * * *

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judiciaes 'dual' arrests;

"(3) statewide prosecution policies that—

"(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

"(4) statewide laws, policies, or guidelines for judges that—

"(A) prohibit the issuance of mutual protective orders in cases where only one spouse has sought a protective order and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim;

"(B) require that any history of child abuse be considered detrimental to the child and discourage custody or joint custody orders by spouse abusers; and

"(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute;

"(5) develop and disseminate methods to improve the criminal justice system's response to domestic violence to make existing remedies as easily available as possible to victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

"(c)(1) In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section $25,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) Funds shall be distributed under this section so that no State shall receive more than $2,500,000 in each fiscal year under this section.

"(3) The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section.".

SEC. 252. FUNDING FOR TECHNICAL ASSISTANCE CENTERS.

The Family Violence Prevention and Services Act is amended by inserting after section 308 the following:

"SEC. 308A. TECHNICAL ASSISTANCE CENTERS.

"(a) Purpose.—The purpose of this section is to provide training and technical assistance to State, Indian tribal, and local domestic violence programs and to other professionals who provide services to victims of domestic violence. From the sums authorized under this title, the Secretary shall provide grants to or contract with, private nonprofit organizations, for the establishment and maintenance of one national and six special-issue resource centers serving defined geographic areas. One national resource center shall offer resource, policy, and/or training assistance to Federal, State, Indian tribal, and local government agencies on issues pertaining to domestic violence and serve a coordinating and resource-sharing function among domestic violence service providers, and maintain a central resource library. The other national resource centers shall provide information, training and technical assistance to State, tribal and local domestic violence service providers. In addition, each national center shall specialize in one of the following areas of domestic violence service, prevention or law:

"(1) criminal justice response to domestic violence, including court-mandated abuser treatment;

"(2) child custody issues in domestic violence cases;

"(3) use of the self-defense plea by domestic violence victims;

"(4) health care response and access to health care resources for domestic violence victims;

"(5) victims' access to, and quality of, effective legal assistance, including civil litigation; and

"(6) the response of child protective service agencies to battered mothers of abused children.

"(b) Eligibility.—Eligible grantees are private non-profit organizations that—

"(1) focus primarily on domestic violence;

"(2) provide documentation to the Secretary demonstrating a minimum of three years experience with issues of domestic violence, particularly in the specific area for which it is applying;

"(3) include on its advisory boards representatives from domestic violence programs who are geographically and culturally diverse; and

"(4) demonstrate strong support from domestic violence advocates for their designation as the special-issue resource center.

"(c) Reporting.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described and containing such additional information as the Secretary may prescribe.

"(d) Regulations.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section.".

Subtitle E—Youth Education and Domestic Violence

SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

(a) General Purpose.—For purposes of this section, the Secretary shall delegate his powers to the Secretary of Education, hereinafter referred to as the "Secretary". The Secretary shall select, implement and evaluate four model programs for education of young people about domestic violence and violence among intimate partners.

(b) Nature of Program.—The Secretary shall select, implement and evaluate separate model programs for four different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. These model programs shall be selected, implemented, and evaluated with the input of educational experts, legal and psychological experts on battering, and victim advocate organizations such as battered women's shelters, State coalitions and resource centers. The participation of each of these groups or individual consultants from such groups is essential to the selection, implementation, and evaluation of programs that meet both the needs of educational institutions and the needs of the domestic violence problem.

(c) Review and Dissemination.—Not later than 24 months after the date of enactment of this Act, the Secretary shall transmit the design and evaluation of the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.

(d) AUTHORIZATION.—There are authorized to be appropriated under this section for fiscal year 1992, $400,000 to carry out the purposes of this section.

Subtitle F—Confidentiality for Abused Persons

SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.

No later than 90 days after the enactment of this Act, the Postmaster General shall promulgate regulations to secure the confidentiality of abused persons' addresses or otherwise prohibit the disclosure of an abused person's address consistent with the following guidelines:

(1) confidentiality shall be provided upon the presentation to an appropriate postal official of an existing and valid court order for the protection of an abused spouse;

(2) disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited; and

(3) compilations of addresses existing at the time the order is presented to an appropriate postal official shall be excluded from the scope of the proposed regulations.

TITLE III—CIVIL RIGHTS

SEC. 301. CIVIL RIGHTS.

(a) FINDINGS.—The Congress finds that—

(1) crimes motivated by the victim's gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for gender crimes committed on the street or in the home; and

(3) State and Federal criminal laws do not adequately protect against the bias element of gender-motivated crimes, which separates these crimes from acts of random violence, nor do those laws adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests;

(4) existing bias and discrimination in the criminal justice system often deprives victims of gender-motivated crimes of equal protection of the laws and the redress to which they are entitled;

(5) gender-motivated violence has a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business, and in places involved, in interstate commerce;

(6) gender-motivated violence has a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products;

(7) a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse effects of gender-motivated violence on interstate commerce; and

(8) victims of gender-motivated violence have a right to equal potection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

(b) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any person, including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State, who commits a crime of violence motivated by gender and thus deprives another of the rights, privileges or immunities secured by the Constitution or laws as enumerated in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in this section, including rape, sexual assault, sexual abuse, abusive sexual contact, or any other crime of violence committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

SEC. 302. CONFORMING AMENDMENT.

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: ", or title III of the Violence Against Women Act of 1991,".

TITLE IV—SAFE CAMPUSES FOR WOMEN

SEC. 401. SHORT TITLE.

This title may be cited as the "Safe Campuses for Women Act of 1990".

SEC. 402. FINDINGS.

The Congress finds that—

(1) rape prevention and education programs are essential to an educational environment free of fear for students' personal safety;

(2) sexual assault on campus, whether by fellow students or not, is widespread among the Nation's higher education institutions: experts estimate that 1 in 7 of the women now in college have been raped and over half of college rape victims know their attackers;

(3) sexual assault poses a grave threat to the physical and mental well-being of students and may significantly impair the learning process; and

(4) action by schools to educate students may make substantial inroads on the incidence of rape, including the incidence of acquaintance rape on campus.

SEC. 403. GRANTS FOR CAMPUS RAPE EDUCATION.

Title X of the Higher Education Act of 1965 is amended to add at the end thereof the following:

"PART D—GRANTS FOR CAMPUS RAPE EDUCATION."

SEC. 1071. GRANTS FOR CAMPUS RAPE EDUCATION.

"(a) IN GENERAL.—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for rape education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

"(b) GENERAL RAPE PREVENTION AND EDUCATION GRANTS.—Grants under this section shall be used to educate and provide support services to student victims of rape or sexual assault. Grants may be used for the following purposes:

"(1) to provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of rape, sexual assault, and other gender-motivated crimes;

"(2) to develop, disseminate, or implement campus security and student disciplinary policies to prevent and discipline rape, sexual assault and other gender-motivated crimes;

"(3) to develop, enlarge or strengthen support services programs including medical or psychological counseling to assist victims' recovery from rape, sexual assault, or other gender-motivated crimes;

"(4) to create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action; and

"(5) to implement, operate, or improve rape education and prevention programs, including programs making use of peer-to-peer education.

"(c) MODEL GRANTS.—Not less than 25 percent of the funds authorized under this section shall be available for grants for model demonstration programs to be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student rape victims.

"(d) ELIGIBILITY.—No institution of higher education or consortium of such institutions shall be eligible for a grant under this section unless—

"(1) its student code of conduct, or other written policy governing student behavior, explicitly prohibits not only rape but all forms of sexual assault; and

"(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual assault the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual assault: *Provided*, That nothing in this section shall be interpreted to authorize disclosure to any person other than the victim.

"(e) APPLICATIONS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—

"(A) set forth the activities and programs to be carried out with funds granted under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) explain how the program intends to address the issue of acquaintance rape;

"(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

"(e) GRANTEE REPORTING.—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) Except as otherwise provided, the terms used in this part shall have the meaning provided under section 2981 of this title.

"(2) For purposes of this subchapter, the following terms have the following meanings:

"(A) The term 'rape education and prevention' includes programs that provide educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual assault.

"(B) The term 'Secretary' means the Secretary of Education.

"(g) GENERAL TERMS AND CONDITIONS.—(1) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.

"(2) No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

"(A) the amount of grants made under this section;

"(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(C) a copy of each grantee report filed pursuant to subsection (e) of this section.

"(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated $20,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995.".

SEC. 404. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.

Section 204(f) of the Crime Awareness and Campus Security Act of 1990 is amended to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

"(i) murder;

"(ii) rape or sexual assault;

"(iii) robbery;

"(iv) aggravated assault;

"(v) burglary; and

"(vi) motor vehicle theft.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

SECTION 501. SHORT TITLE.

This title may be cited as the "Equal Justice for Women in the Courts Act of 1991".

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

SEC. 511. GRANTS AUTHORIZED.

The State Justice Institute is authorized to award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SEC. 512. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the batterer, to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel, and the legitimate reasons why victims of domestic violence may refuse to testify against a defendant;

(18) the need for orders of protection, and the implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence cases;

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims; and

(20) current information on the impact of pornography on crimes against women, or data on other activities that tend to degrade women.

SEC. 513. COOPERATION IN DEVELOPING PROGRAMS IN MAKING GRANTS UNDER THIS TITLE.

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this subtitle are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 514. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $600,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

SEC. 521. EDUCATION AND TRAINING GRANTS.

(a) STUDY.—The Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use of data collection techniques such as reviews of trial and appellate opinions and transcripts, public hearings, and inquiries to attorneys practicing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) MODEL PROGRAMS.—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 512 of subtitle A; and

(B) all procedural and substantive aspects of the legal rights and remedies for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

SEC. 522. COOPERATION IN DEVELOPING PROGRAMS.

In implementing this subtitle, the Federal Judicial Center shall ensure that the study and model programs are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 523. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $400,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 521(a) of this subtitle.

AMENDMENT NO. 664

Strike everything after the term "Sec." and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violence Against Women Act of 1991".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—SAFE STREETS FOR WOMEN

Sec. 101. Short title.

Subtitle A—Federal Penalties for Sex Crimes

Sec. 111. Repeat offenders.
Sec. 112. Federal penalties.
Sec. 113. Mandatory restitution for sex crimes.

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

Sec. 121. Grants to combat violent crimes against women.

Subtitle C—Safety for Women in Public Transit and Public Parks

Sec. 131. Grants for capital improvements to prevent crime in public transportation.
Sec. 132. Grants for capital improvements to prevent crime in national parks.
Sec. 133. Grants for capital improvements to prevent crime in public parks.

Subtitle D—National Commission on Violent Crime Against Women

Sec. 141. Establishment.
Sec. 142. Duties of commission.
Sec. 143. Membership.
Sec. 144. Reports.
Sec. 145. Executive Director and staff.
Sec. 146. Powers of commission.
Sec. 147. Authorization of appropriations.
Sec. 148. Termination.

Subtitle E—New Evidentiary Rules

Sec. 151. Sexual history in all criminal cases.
Sec. 152. Sexual history in civil cases.
Sec. 153. Amendments to rape shield law.
Sec. 154. Evidence of clothing.

Subtitle F—Assistance to Victims of Sexual Assault

Sec. 161. Education and prevention grants to reduce sexual assaults against women.
Sec. 162. Rape exam payments.

TITLE II—SAFE HOMES FOR WOMEN

Sec. 201. Short title.

Subtitle A—Interstate Enforcement

Sec. 211. Interstate enforcement.

Subtitle B—Arrest in Spousal Abuse Cases

Sec. 221. Encouraging arrest policies.

Subtitle C—Funding for Shelters

Sec. 231. Authorization.

Subtitle D—Family Violence Prevention and Services Act Amendments

Sec. 241. Expansion of purpose.
Sec. 242. Expansion of State demonstration grant program.
Sec. 243. Grants for public information campaigns.
Sec. 244. State commissions on domestic violence.
Sec. 245. Indian tribes.
Sec. 246. Funding limitations.
Sec. 247. Grants to entities other than States; local share.
Sec. 248. Shelter and related assistance.
Sec. 249. Law enforcement training and technical assistance grants.
Sec. 250. Report on recordkeeping.
Sec. 251. Model State leadership incentive grants for domestic violence intervention.
Sec. 252. Funding for technical assistance centers.

Subtitle E—Youth Education and Domestic Violence

Sec. 261. Educating youth about domestic violence.

Subtitle F—Confidentiality for Abused Persons

Sec. 271. Confidentiality for abused persons.

TITLE III—CIVIL RIGHTS

Sec. 301. Civil rights.

TITLE IV—SAFE CAMPUSES FOR WOMEN

Sec. 401. Short title.
Sec. 402. Findings.
Sec. 403. Grants for campus rape education.
Sec. 404. Disclosure of disciplinary proceedings in sex assault cases on campus.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

Sec. 501. Short title.

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

Sec. 511. Grants authorized.
Sec. 512. Training provided by grants.
Sec. 513. Cooperation in developing programs in making grants under this title.
Sec. 514. Authorization of appropriations.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

Sec. 521. Education and training grants.
Sec. 522. Cooperation in developing programs.
Sec. 523. Authorization of appropriations.

TITLE I—SAFE STREETS FOR WOMEN

SEC. 101. SHORT TITLE.

This title may be cited as the "Safe Streets for Women Act of 1991".

Subtitle A—Federal Penalties for Sex Crimes

SEC. 111. REPEAT OFFENDERS.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2247. Repeat offenders

"Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2247. Repeat offenders.".

SEC. 112. FEDERAL PENALTIES.

(a) RAPE AND AGGRAVATED RAPE.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide that a defendant convicted of aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, shall be assigned a base offense level under chapter 2 of the sentencing guidelines that is at least 4 levels greater than the base offense level applicable to criminal sexual abuse under the guidelines in effect on November 1, 1990, or otherwise shall amend the guidelines applicable to such offenses so as to achieve a comparable minimum guideline sentence. In amending such guidelines, the Sentencing Commission shall review the appropriateness of existing specific offense characteristics or other adjustments applicable to such offenses, and make such changes as it deems appropriate, taking into account the severity of rape offenses, with or without aggravating factors; the unique nature and duration of the mental injuries inflicted on the victims of such offenses; and any other relevant factors.

(b) EFFECT OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instructions set forth in subsection (a) so as to achieve a comparable result.

(c) STATUTORY RAPE.—

(1) Section 2243(b) of title 18, United States Code, is amended by striking "one year," and inserting "two years,".

(2) Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to incorporate the increase in maximum penalties provided by this section for section 2243(b) of title 18, United States Code.

SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or matters related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or his delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2248. Mandatory restitution.".

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) redesignating part N as part O;

(2) redesignating section 1401 as section 1501; and

(3) adding after part M the following:

"PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"SEC. 1401. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribes, cities, and other localities to develop effective law enforcement and prosecution strategies to combat violent crimes against women and, in particular, to focus efforts on those areas with the highest rates of violent crime against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide additional personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing police and prosecution policies, protocols, or orders specifically devoted to identifying and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, prosecutions, and convictions for the crimes of sexual assault and domestic violence; and

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, to increase reporting and reduce attrition rates for cases involving violent crimes against women, including the crimes of sexual assault and domestic violence.

"SUBPART 1—HIGH INTENSITY CRIME AREA GRANTS

"SEC. 1411. HIGH INTENSITY GRANTS.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the 'Director') shall make grants to areas of 'high intensity crime' against women.

"(b) DEFINITION.—For purposes of this part, a 'high intensity crime area' means an area with one of the 40 highest rates of violent crime against women, as determined by the Bureau of Justice Statistics pursuant to section 1412.

"SEC. 1412. HIGH INTENSITY GRANT APPLICATION.

"(a) COMPUTATION.—Within 45 days after the date of enactment of this part, the Bureau of Justice Statistics shall compile a list of the 40 areas with the highest rates of violent crime against women based on the combined female victimization rate per population for assault, sexual assault (including, but not limited to, rape), murder, robbery, and kidnapping.

"(b) USE OF DATA.—In calculating the combined female victimization rate required by subsection (a), the Bureau of Justice Statistics may rely on—

"(1) existing data collected by States, municipalities, Indian reservations or statistical metropolitan areas showing the number of police reports of the crimes listed in subsection (a); and

"(2) existing data collected by the Federal Bureau of Investigation, including data from those governmental entities already complying with the National Incident Based Reporting System, showing the number of police reports of crimes listed in subsection (a).

"(c) PUBLICATION.—After compiling the list set forth in subsection (a), the Bureau of Justice Statistics shall convey it to the Director who shall publish it in the Federal Register.

"(d) QUALIFICATION.—Upon satisfying the terms of subsection (e), any high intensity crime area shall be qualified for a grant under this subpart upon application by the chief executive officer of the governmental entities responsible for law enforcement and prosecution of criminal offenses within the area and certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate program grants, with nongovernmental nonprofit victim services programs; and

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(e) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application must provide the certifications required by subsection (d) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (d)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall ensure, to the extent practicable, that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served; and

"(C) give priority to areas with the greatest showing of need.

"(g) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this part. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"Subpart 2—Other Grants to States to Combat Violent Crimes Against Women

"SEC. 1421. GENERAL GRANTS TO STATES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to States, for use by States, units of local government in the States, and nonprofit nongovernmental victim services programs in the States, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be—

"(1) $500,000 to each State; and

"(2) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application shall include the certifications of qualification required by subsection (c) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (c)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(e) DISBURSEMENT.—(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that States will—

"(A) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000;

"(B) determine the amount of subgrants based on the population and geographic area to be served; and

"(C) give priority to areas with the greatest showing of need, as demonstrated by comparing population and geographic areas to be served to the availability of existing sexual assault and domestic violence services.

"(f) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"SEC. 1422. GENERAL GRANTS TO TRIBES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of $35,000 and maximum grants of $300,000.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b); and

"(2) at least 25 percent of the grant funds shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—(1) Applications shall be made directly to the Director and shall contain a description of the tribes' law enforcement responsibilities for the Indian country described in the application and a description of the tribes' system of courts, including whether the tribal government operates courts of Indian offenses as defined in 25 U.S.C. 1301 or CFR courts under 25 CFR 11 et seq.

"(2) Applications shall be in such form as the Director may prescribe and shall specify the nature of the program proposed by the applicant tribe, the data and information on which the program is based, and the extent to which the program plans to use or incorporate existing services available in the Indian country where the grant will be used.

"(3) The term of any grant shall be for a minimum of 3 years.

"(e) GRANTEE REPORTING.—At the end of the first 12 months of the grant period and at the end of each year thereafter, the Indian tribal granted shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

"(2) The term 'Indian country' has the meaning given to such term by section 1151 of title 18, United States Code.

"SUBPART 3—GENERAL TERMS AND CONDITIONS

"SEC. 1431. GENERAL DEFINITIONS.

"As used in this part—

"(1) the term 'victim services program' means any public or private nonprofit program that assists victims, including (A) nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process and (B) victim/witness programs within governmental entities;

"(2) the term 'sexual assault' includes not only assaults committed by offenders who are strangers to the victim but also assaults committed by offenders who are known or related by blood or marriage to the victim; and

"(3) the term 'domestic violence' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse, or any other person similarly situated to a spouse who is protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"SEC. 1432. GENERAL TERMS AND CONDITIONS.

"(a) Nonmonetary Assistance.—In addition to the assistance provided under subparts 1 or 2, the Director may direct any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts.

"(b) Bureau Reporting.—No later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Judiciary Committees of the House and the Senate a report that includes, for each high intensity crime area (as provided in subpart 1) and for each State and for each grantee Indian tribe (as provided in subpart 2)—

"(1) the amount of grants made under this part;

"(2) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(3) a copy of each grantee report filed pursuant to sections 1412(g) and 1421(f).

"(c) Regulations.—No later than 45 days after the date of enactment of this part, the Director shall publish proposed regulations implementing this part. No later than 120 days after such date, the Director shall publish final regulations implementing this part.

"(d) Authorization of Appropriations.—There are authorized to be appropriated for each fiscal year 1992, 1993, and 1994, $100,000,000 to carry out the purposes of subpart 1, and $190,000,000 to carry out the purposes of subpart 2, and $10,000,000 to carry out the purposes of section 1422 of subpart 2.".

Subtitle C—Safety for Women in Public Transit and Public Parks

SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

Section 24 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION

"Sec. 24. (a) General Purpose.—From funds authorized under section 21, and not to exceed $10,000,000, the Secretary shall make capital grants for the prevention of crime and to increase security in existing and future public transportation systems. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

"(b) Grants for Lighting, Camera Surveillance, and Security Phones.—

"(1) From the sums authorized for expenditure under this section for crime prevention, the Secretary is authorized to make grants and loans to States and local public bodies or agencies for the purpose of increasing the safety of public transportation by—

"(A) increasing lighting within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(B) increasing camera surveillance of areas within and adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(C) providing emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages; or

"(D) any other project intended to increase the security and safety of existing or planned public transportation systems.

"(2) From the sums authorized under this section, at least 75 percent shall be expended on projects of the type described in subsection (b)(1) (A) and (B).

"(c) Reporting.—All grants under this section are contingent upon the filing of a report with the Secretary and the Department of Justice, Office of Victims of Crime, showing crime rates in or adjacent to public transportation before, and for a 1-year period after, the capital improvement. Statistics shall be broken down by type of crime, sex, race, and relationship of victim to the offender.

"(d) Increased Federal Share.—Notwithstanding any other provision of this Act, the Federal share under this section for each capital improvement project which enhances the safety and security of public transportation systems and which is not required by law (including any other provision of this chapter) shall be 90 percent of the net project cost of such project.

"(e) Special Grants for Projects To Study Increasing Security for Women.—From the sums authorized under this section, the Secretary shall provide grants and loans for the purpose of studying ways to reduce violent crimes against women in public transit through better design or operation of public transit systems.

"(f) General Requirements.—All grants or loans provided under this section shall be subject to all the terms, conditions, requirements, and provisions applicable to grants and loans made under section 2(a).".

SEC. 132. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN NATIONAL PARKS.

The Act of August 18, 1970, the National Park System Improvements in Administration Act (90 Stat. 1931; 16 U.S.C. 1a-1 et seq.) is amended by adding at the end thereof the following:

"SEC. 13. NATIONAL PARK SYSTEM CRIME PREVENTION ASSISTANCE.

"(a) From the sums authorized pursuant to section 7 of the Land and Water Conservation Act of 1965, and not to exceed $10,000,000, the Secretary of the Interior is authorized to provide Federal assistance to reduce the incidence of violent crime in the National Park System.

"(b) The Secretary shall direct the chief official responsible for law enforcement within the National Park Services to—

"(1) compile a list of areas within the National Park System with the highest rates of violent crime;

"(2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and

"(3) publish the information required by paragraphs (1) and (2) in the Federal Register.

"(c) No later than 120 days after the date of enactment of this section, and based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute funds throughout the National Park Service. Priority shall be given to those areas with the highest rates of sexual assault.

"(d) Funds provided under this section may be used for the following purposes—

"(1) to increase lighting within or adjacent to public parks and recreation areas;

"(2) to provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(3) to increase security or law enforcement personnel within or adjacent to public parks and recreation areas; and

"(4) any other project intended to increase the security and safety of public parks and recreation areas.".

SEC. 133. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC PARKS.

Section 6 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 460l-8) is amended by adding at the end thereof the following new subsection:

"(h) Capital Improvement and Other Projects To Reduce Crime.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed $15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding the terms of subsection (c), the Secretary is authorized to provide 70 percent improvement grants for projects undertaken by any State for the purposes outlined in this subsection. The remaining share of the cost shall be borne by the State.".

Subtitle D—National Commission on Violent Crime Against Women

SEC. 141. ESTABLISHMENT.

There is established a commission to be known as the National Commission on Violent Crime Against Women (hereinafter referred to as "the Commission").

SEC. 142. DUTIES OF COMMISSION.

(a) General Purpose of the Commission.—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crime against women.

(b) Functions.—The Commission shall perform the following functions—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protec-

tion services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence; and

(9) evaluate and make recommendations regarding the feasibility of maintaining the confidentiality of addresses of domestic violence victims in voting, welfare, and public records.

SEC. 143. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) three of whom shall be—

(I) the Attorney General;

(II) the Secretary of Health and Human Services; and

(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of sexual assault or domestic violence.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) CONGRESSIONAL COMMITTEE RECOMMENDATIONS.—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) REQUIREMENTS OF APPOINTMENTS.—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their experience in State or national efforts to fight violence against women and demonstrate experience in State or national advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of law enforcement, prosecution, judicial administration, legal expertise, public health, social work, victim compensation boards, and victim advocacy.

(4) TERM OF MEMBERS.—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) VACANCY.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) CHAIRMAN.—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) MEETINGS.—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least six times.

(e) PAY.—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) PER DIEM.—Except as provided in subsection (e), members of the Commission shall be allowed travel and other expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) DEADLINE FOR APPOINTMENT.—Not later than 45 days after the date of the enactment of this Act, the members of the Commission shall be appointed.

SEC. 144. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

SEC. 145. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable under GS-18 of the General Schedule as contained in title 5, United States Code.

(b) STAFF.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 146. POWERS OF COMMISSION.

(a) HEARINGS.—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) DELEGATION.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) ACCESS TO INFORMATION.—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chairman of the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 147. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $500,000 to carry out the purposes of this subtitle.

SEC. 148. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed one year.

Subtitle E—New Evidentiary Rules

SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

The Federal Rules of Evidence are amended by inserting after rule 412 the following:

"Rule 412A. Evidence of victim's past behavior in other criminal cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, reputation or opinion evidence of the past sexual behavior of an alleged victim is not admissible.

"(b) ADMISSIBILITY.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, evidence of an alleged victim's past sexual behavior (other than reputation and opinion evidence) may be admissible if—

"(1) the evidence is admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of the evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the alleged victim's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the alleged victim.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

The Federal Rules of Evidence, as amended by section 151 of this Act, are amended by adding after rule 412A the following:

"Rule 412B. Evidence of past sexual behavior in civil cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

"(b) ADMISSIBLE EVIDENCE.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

"(1) admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of such evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the plaintiff's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the plaintiff.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the plaintiff and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies evidence which may be offered and areas with respect to which the plaintiff may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

"(d) DEFINITIONS.—For purposes of this rule, a case involving a claim of actionable sexual misconduct, includes, but is not limited to, sex harassment or discrimination claims brought pursuant to title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)) and gender bias claims brought pursuant to title III of the Violence Against Women Act of 1991.".

SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end thereof the following:

"(e) INTERLOCUTORY APPEAL.—Notwithstanding any other provision of law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

"(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim."; and

(2) by adding at the end of subdivision (c)(3) the following: "In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 154. EVIDENCE OF CLOTHING.

The Federal Rules of Evidence are amended by adding after rule 412 the following:

"Rule 413. Evidence of victim's clothing as inciting violence

"Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged.".

Subtitle F—Assistance to Victims of Sexual Assault

SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended as follows:

(1) by adding at the end thereof the following new section:

"§ 1910A. Use of allotments for rape prevention education

"(a) Notwithstanding the terms of section 1904(a)(1) of this title, amounts transferred by the State for use under this part may be used for rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities, which programs may include—

"(1) educational seminars;

"(2) the operation of hotlines;

"(3) training programs for professionals;

"(4) the preparation of informational materials; and

"(5) other efforts to increase awareness of the facts about, or to help prevent, sexual assault.

"(b) States providing grant monies must assure that at least 15 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) There are authorized to be appropriated under this section for each fiscal year 1992, 1993, and 1994, $65,000,000 to carry out the purposes of this section.

"(d) Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) For purposes of this section, the term 'rape prevention and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim.

"(f) States shall be allotted funds under this section pursuant to the terms of sections 1902 and 1903, and subject to the conditions provided in this section and sections 1904 through 1909.";

(2) striking section 1901(b); and

(3) striking section 1904(a)(1)(G).

SEC. 162. RAPE EXAM PAYMENTS.

No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 unless the State or other grantee incurs the full cost of forensic medical exams for victims of sexual assault. A State or other grantee does not incur the full medical cost of forensic medical exams if it chooses to reimburse the victim after the fact unless the reimbursement program waives any minimum loss or deductible requirement, provides victim reimbursement within a reasonable time (90 days), permits applications for reimbursement within one year from the date of the exam, and provides information to all subjects of forensic medical exams about how to obtain reimbursement.

TITLE II—SAFE HOMES FOR WOMEN

SEC. 201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1990".

Subtitle A—Interstate Enforcement

SEC. 211. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

"Chapter 110A—Violence Against Spouses
"Sec. 2261. Traveling to commit spousal abuse.
"Sec. 2262. Interstate violation of protection orders.
"Sec. 2263. Restitution.
"Sec. 2264. Full faith and credit given to protection orders.
"Sec. 2265. Definitions for chapter.

"§ 2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner; or

"(2) for the purpose of harassing, intimidating, or injuring a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner,

shall be fined not more than $1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner, shall be fined not more than $1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(c) NO STATE LAW.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, a person violating this section shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

"(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§ 2262. Interstate violation of protection orders

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

"(2) for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c) of this section.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c) of this section.

"(c) PENALTIES.—

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than six months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§ 2263. Interim protections

"In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the protection of an abused spouse or intimate partner pending final adjudication of the case, upon a showing of a likelihood of danger to the abused spouse or intimate partner.

"§ 2264. Restitution

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to subsection (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation; and

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the offender, including obligations to dependents.

"(B) An order under this section may direct the defendant to make a single lump-sum payment, or partial payments at specified intervals. The order shall provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(C) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or his delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) RESTITUTION AND CRIMINAL PENALTIES.—An award of restitution to the victim of an offense under this chapter shall not be a substitute for imposition of punishment under sections 2261 and 2262.

"(e) DEFINITIONS.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.

"§ 2265. Full faith and credit given to protection orders

"(a) FULL FAITH AND CREDIT.—Any protection order issued consistent with the terms of subsection (b) by the court of one State (the issuing State) shall be accorded full faith and credit by the court of another State (the enforcing State) and enforced as if it were the order of the enforcing State.

"(b) PROTECTION ORDER.—A protection order issued by a State court is consistent with the provisions of this section if—

"(1) such court has jurisdiction over the parties and matter under the law of such State; and

"(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

"(c) CROSS OR COUNTER PETITION.—A protection order issued by a State court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

"(1) no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or

"(2) if a cross or counter petition has been filed, if the court did not make specific findings that each party was entitled to such an order.

"§ 2266. Definitions for chapter

"As used in this chapter—

"(1) the term 'spouse or intimate partner' includes—

"(A) a present or former spouse, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

"(B) any other person similarly situated to a spouse, other than a child, who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

"(2) the term 'protection order' includes any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except those done in self-defense, that results in physical injury or sexual abuse;

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

"(5) the term 'travel across State lines' includes any such travel except travel across State lines by an Indian tribal member when that member remained at all times on tribal lands.".

(b) TABLE OF CHAPTERS.—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

"110A. Violence against spouses .... 2261.".

Subtitle B—Arrest in Spousal Abuse Cases

SEC. 221. ENCOURAGING ARREST POLICIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10400) is amended by adding after section 311 the following:

"SEC. 312. ENCOURAGING ARREST POLICIES.

"(a) PURPOSE.—To encourage States, Indian tribes and localities to treat spousal violence as a serious violation of criminal law, the Secretary is authorized to make grants to eligible States, Indian tribes, municipalities, or local government entities for the following purposes:

"(1) to implement pro-arrest programs and policies in police departments and to improve tracking of cases involving spousal abuse;

"(2) to centralize and coordinate police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges;

"(3) to educate judges in criminal and other courts about spousal abuse and to improve judicial handling of such cases.

"(b) ELIGIBILITY.—(1) Eligible grantees are those States, Indian tribes, municipalities or other local government entities that—

"(A) demonstrate, through arrest and conviction statistics, that their laws or policies have been effective in significantly increasing the number of arrests made of spouse abusers; and

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed or mandate arrest of spouses violating the terms of a valid and outstanding protection order; or

"(ii) permit warrantless misdemeanor arrests of spouse abusers and encourage the use of that authority;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser and the increase in arrest rates demonstrated pursuant to paragraph (1)(A) is not the result of increased dual arrests; and

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protective order, and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim.

"(2) For purposes of this section, the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

"(3) For purposes of this section, the term 'spousal or spouse abuse' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabited with the victim as a spouse, or any other person protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(4) The eligibility requirements provided in this section shall take effect one year after the date of enactment of this section.

"(c) DELEGATION AND AUTHORIZATION.—The Secretary shall delegate to the Attorney General of the United States the Secretary's responsibilities for carrying out this section to the Attorney General. There are authorized to be appropriated not in excess of $25,000,000 for each fiscal year to be used for the purpose of making grants under this section.

"(d) APPLICATION.—An eligible grantee shall submit an application to the Secretary. Such application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribes, municipality, or local government entity that the conditions of subsection (b) are met;

"(2) describe the entity's plans to further the purposes listed in subsection (a);

"(3) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(4) identify and include documentation showing the nonprofit nongovernmental victim services programs that will be consulted in developing, and implementing, the program.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a grantee that—

"(1) does not currently provide for centralized handling of cases involving spousal or family violence in any one of the areas listed in this subsection—police, prosecutors, and courts; and

"(2) demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving spousal or family violence.

"(f) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described in subsection (d)(2) and containing such additional information as the Secretary may prescribe.

"(g) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.".

Subtitle C—Funding for Shelters

SEC. 231. AUTHORIZATION.

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

"SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out the provisions of this title, $85,000,000 for fiscal year 1992, $100,000,000, for fiscal year 1993, and $125,000,000 for fiscal year 1994.

"(b) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 80 percent shall be used by the Secretary for making grants under section 303.

"(c) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not more than 5 percent shall be used by the Secretary for making grants under section 314.

"(d) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 5 percent shall be used by the Secretary for making grants under section 308A.".

Subtitle D—Family Violence Prevention and Services Act Amendments

SEC. 241. EXPANSION OF PURPOSE.

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent" and by striking "demonstrate the effectiveness of assisting" and inserting "assist".

SEC. 242. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.

(a) INCREASING PUBLIC AWARENESS.—Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

(b) EXPANSION OF PROGRAM.—Section 303(a)(2)(B)(ii) is amended by striking "alcohol and drug abuse treatment".

SEC. 243. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

"GRANTS FOR PUBLIC INFORMATION CAMPAIGNS

"SEC. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) An application submitted under subsection (b) shall—

"(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk.".

SEC. 244. FUND DISTRIBUTION TO STATES.

Section 304(a)(1) of the Family Violence Prevention and Services Act is amended by striking "$50,000" and inserting "$500,000".

SEC. 245. INDIAN TRIBES.

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "from sums appropriated shall make no less than 10 percent available for".

SEC. 246. FUNDING LIMITATIONS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by—

(1) striking ", and" and all that follows through "fiscal years"; and

(2) striking "$50,000" and inserting "$75,000".

SEC. 247. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: "No grant may be made under this section to an entity other than a State or Indian tribe unless the entity provides 35 percent of the funding of the program or project funded by the grant.".

SEC. 248. SHELTER AND RELATED ASSISTANCE.

(a) CHANGE OF PERCENTAGES.—Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended by striking "not less than 60 percent" and inserting "not less than 75 percent".

(b) DEFINITION OF RELATED ASSISTANCE.—Section 309(5) of the Family Violence Prevention and Services Act is amended to read as follows:

"(5) The term 'related assistance' includes any, but does not require all, of the following—

"(A) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(B) transportation, legal assistance, referrals for appropriate health-care services (including alcohol and drug abuse treatment), and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(C) comprehensive counseling and self-help services to abusers, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services and employment training; and

"(D) child care services for children who are victims of family violence or the dependents of such victims.".

SEC. 249. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.

Section 311 of the Family Violence Protection and Services Act (42 U.S.C. 10410(b)) is repealed.

SEC. 250. REPORT ON RECORDKEEPING.

Not later than 120 days after the date of enactment of this Act, the Government Accounting Office shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine efforts to date of the FBI and Justice Department to collect statistics on domestic violence and the feasibility of, including a suggested timetable for, requiring that the relationship between an offender and victim be reported in Federal and State records of crimes of assault, aggravated assault, rape, and other violent crimes.

SEC. 251. MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.

The Family Violence Prevention Services Act, as amended by section 103 of this Act, is amended by adding at the end thereof the following new section:

"MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION

"SEC. 315. (a) The Secretary, in cooperation with the Attorney General, shall award grants to not less than 10 States to assist in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

"(1) increase the number of prosecutions for domestic violence crimes;

"(2) encourage the reporting of incidences of domestic violence;

"(3) facilitate 'arrests and aggressive' prosecution policies; and

"(4) provides court advocacy for victims of domestic violence.

"(b) To be designated as a model State under subsection (a), a State shall have in effect—

"(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

"(2) a law or policy that discourages * * *

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judiciaes 'dual' arrests;

"(3) statewide prosecution policies that—

"(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

"(4) statewide laws, policies, or guidelines for judges that—

"(A) prohibit the issuance of mutual protective orders in cases where only one spouse has sought a protective order and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim;

"(B) require that any history of child abuse be considered detrimental to the child and discourage custody or joint custody orders by spouse abusers; and

"(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute;

"(5) develop and disseminate methods to improve the criminal justice system's response to domestic violence to make existing remedies as easily available as possible to victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

"(c)(1) In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section $25,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) Funds shall be distributed under this section so that no State shall receive more than $2,500,000 in each fiscal year under this section.

"(3) The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section.".

SEC. 252. FUNDING FOR TECHNICAL ASSISTANCE CENTERS.

The Family Violence Prevention and Services Act is amended by inserting after section 308 the following:

"SEC. 308A. TECHNICAL ASSISTANCE CENTERS.

"(a) PURPOSE.—The purpose of this section is to provide training and technical assistance to State, Indian tribal, and local domestic violence programs and to other professionals who provide services to victims of domestic violence. From the sums authorized under this title, the Secretary shall provide grants to or contract with, private nonprofit organizations, for the establishment and maintenance of one national and six special-issue resource centers serving defined geographic areas. One national resource center shall offer resource, policy, and/or training assistance to Federal, State, Indian tribal, and local government agencies on issues pertaining to domestic violence and serve a coordinating and resource-sharing function among domestic violence service providers, and maintain a central resource library. The other national resource centers shall provide information, training and technical assistance to State, tribal and local domestic violence service providers. In addition, each national center shall specialize in one of the following areas of domestic violence service, prevention or law:

"(1) criminal justice response to domestic violence, including court-mandated abuser treatment;

"(2) child custody issues in domestic violence cases;

"(3) use of the self-defense plea by domestic violence victims;

"(4) health care response and access to health care resources for domestic violence victims;

"(5) victims' access to, and quality of, effective legal assistance, including civil litigation; and

"(6) the response of child protective service agencies to battered mothers of abused children.

"(b) ELIGIBILITY.—Eligible grantees are private non-profit organizations that—

"(1) focus primarily on domestic violence;

"(2) provide documentation to the Secretary demonstrating a minimum of three years experience with issues of domestic violence, particularly in the specific area for which it is applying;

"(3) include on its advisory boards representatives from domestic violence programs who are geographically and culturally diverse; and

"(4) demonstrate strong support from domestic violence advocates for their designation as the special-issue resource center.

"(c) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described and containing such additional information as the Secretary may prescribe.

"(d) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section.".

Subtitle E—Youth Education and Domestic Violence

SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate his powers to the Secretary of Education, hereinafter referred to as the "Secretary". The Secretary shall select, implement and evaluate four model programs for education of young people about domestic violence and violence among intimate partners.

(b) NATURE OF PROGRAM.—The Secretary shall select, implement and evaluate separate model programs for four different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. These model programs shall be selected, implemented, and evaluated with the input of educational experts, legal and psychological experts on battering, and victim advocate organizations such as battered women's shelters, State coalitions and resource centers. The participation of each of these groups or individual consultants from such groups is essential to the selection, implementation, and evaluation of programs that meet both the needs of educational institutions and the needs of the domestic violence problem.

(c) REVIEW AND DISSEMINATION.—Not later than 24 months after the date of enactment of this Act, the Secretary shall transmit the design and evaluation of the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.

(d) AUTHORIZATION.—There are authorized to be appropriated under this section for fiscal year 1992, $400,000 to carry out the purposes of this section.

Subtitle F—Confidentiality for Abused Persons

SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.

No later than 90 days after the enactment of this Act, the Postmaster General shall promulgate regulations to secure the confidentiality of abused persons' addresses or otherwise prohibit the disclosure of an abused person's address consistent with the following guidelines:

(1) confidentiality shall be provided upon the presentation to an appropriate postal official of an existing and valid court order for the protection of an abused spouse;

(2) disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited; and

(3) compilations of addresses existing at the time the order is presented to an appropriate postal official shall be excluded from the scope of the proposed regulations.

TITLE III—CIVIL RIGHTS

SEC. 301. CIVIL RIGHTS.

(a) FINDINGS.—The Congress finds that—

(1) crimes motivated by the victim's gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for gender crimes committed on the street or in the home; and

(3) State and Federal criminal laws do not adequately protect against the bias element of gender-motivated crimes, which separates these crimes from acts of random violence, nor do those laws adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests;

(4) existing bias and discrimination in the criminal justice system often deprives victims of gender-motivated crimes of equal protection of the laws and the redress to which they are entitled;

(5) gender-motivated violence has a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business, and in places involved, in interstate commerce;

(6) gender-motivated violence has a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products;

(7) a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse effects of gender-motivated violence on interstate commerce; and

(8) victims of gender-motivated violence have a right to equal potection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

(b) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any person, including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State, who commits a crime of violence motivated by gender and thus deprives another of the rights, privileges or immunities secured by the Constitution or laws as enumerated in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in this section, including rape, sexual assault, sexual abuse, abusive sexual contact, or any other crime of violence committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

SEC. 302. CONFORMING AMENDMENT.

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92–318,"; and

(2) by adding after "1964," the following: ", or title III of the Violence Against Women Act of 1991,".

TITLE IV—SAFE CAMPUSES FOR WOMEN

SEC. 401. SHORT TITLE.

This title may be cited as the "Safe Campuses for Women Act of 1990".

SEC. 402. FINDINGS.

The Congress finds that—

(1) rape prevention and education programs are essential to an educational environment free of fear for students' personal safety;

(2) sexual assault on campus, whether by fellow students or not, is widespread among the Nation's higher education institutions: experts estimate that 1 in 7 of the women now in college have been raped and over half of college rape victims know their attackers;

(3) sexual assault poses a grave threat to the physical and mental well-being of students and may significantly impair the learning process; and

(4) action by schools to educate students may make substantial inroads on the incidence of rape, including the incidence of acquaintance rape on campus.

SEC. 403. GRANTS FOR CAMPUS RAPE EDUCATION.

Title X of the Higher Education Act of 1965 is amended to add at the end thereof the following:

"PART D—GRANTS FOR CAMPUS RAPE EDUCATION."

SEC. 1071. GRANTS FOR CAMPUS RAPE EDUCATION.

"(a) IN GENERAL.—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for rape education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

"(b) GENERAL RAPE PREVENTION AND EDUCATION GRANTS.—Grants under this section shall be used to educate and provide support services to student victims of rape or sexual assault. Grants may be used for the following purposes:

"(1) to provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of rape, sexual assault, and other gender-motivated crimes;

"(2) to develop, disseminate, or implement campus security and student disciplinary policies to prevent and discipline rape, sexual assault and other gender-motivated crimes;

"(3) to develop, enlarge or strengthen support services programs including medical or psychological counseling to assist victims' recovery from rape, sexual assault, or other gender-motivated crimes;

"(4) to create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action; and

"(5) to implement, operate, or improve rape education and prevention programs, including programs making use of peer-to-peer education.

"(c) MODEL GRANTS.—Not less than 25 percent of the funds authorized under this section shall be available for grants for model demonstration programs to be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student rape victims.

"(d) ELIGIBILITY.—No institution of higher education or consortium of such institutions shall be eligible for a grant under this section unless—

"(1) its student code of conduct, or other written policy governing student behavior, explicitly prohibits not only rape but all forms of sexual assault; and

"(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual assault the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual assault: *Provided*, That nothing in this section shall be interpreted to authorize disclosure to any person other than the victim.

"(e) APPLICATIONS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—

"(A) set forth the activities and programs to be carried out with funds granted under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) explain how the program intends to address the issue of acquaintance rape;

"(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

"(e) GRANTEE REPORTING.—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) Except as otherwise provided, the terms used in this part shall have the meaning provided under section 2981 of this title.

"(2) For purposes of this subchapter, the following terms have the following meanings:

"(A) The term 'rape education and prevention' includes programs that provide educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual assault.

"(B) The term 'Secretary' means the Secretary of Education.

"(g) GENERAL TERMS AND CONDITIONS.—(1) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.

"(2) No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

"(A) the amount of grants made under this section;

"(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(C) a copy of each grantee report filed pursuant to subsection (e) of this section.

"(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated $20,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995.".

SEC. 404. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.

Section 204(f) of the Crime Awareness and Campus Security Act of 1990 is amended to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

"(i) murder;

"(ii) rape or sexual assault;

"(iii) robbery;

"(iv) aggravated assault;

"(v) burglary; and

"(vi) motor vehicle theft.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

SECTION 501. SHORT TITLE.

This title may be cited as the "Equal Justice for Women in the Courts Act of 1991".

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

SEC. 511. GRANTS AUTHORIZED.

The State Justice Institute is authorized to award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SEC. 512. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the batterer, to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel, and the legitimate reasons why victims of domestic violence may refuse to testify against a defendant;

(18) the need for orders of protection, and the implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence cases;

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims; and

(20) current information on the impact of pornography on crimes against women, or data on other activities that tend to degrade women.

SEC. 513. COOPERATION IN DEVELOPING PROGRAMS IN MAKING GRANTS UNDER THIS TITLE.

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this subtitle are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 514. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $600,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

SEC. 521. EDUCATION AND TRAINING GRANTS.

(a) STUDY.—The Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use of data collection techniques such as reviews of trial and appellate opinions and transcripts, public hearings, and inquiries to attorneys practicing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) MODEL PROGRAMS.—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 512 of subtitle A; and

(B) all procedural and substantive aspects of the legal rights and remedies for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

SEC. 522. COOPERATION IN DEVELOPING PROGRAMS.

In implementing this subtitle, the Federal Judicial Center shall ensure that the study and model programs are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 523. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $400,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 521(a) of this subtitle.

AMENDMENT NO. 665

Add at the end of the amendment the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violence Against Women Act of 1991".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—SAFE STREETS FOR WOMEN

Sec. 101. Short title.

Subtitle A—Federal Penalties for Sex Crimes

Sec. 111. Repeat offenders.
Sec. 112. Federal penalties.
Sec. 113. Mandatory restitution for sex crimes.

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

Sec. 121. Grants to combat violent crimes against women.

Subtitle C—Safety for Women in Public Transit and Public Parks

Sec. 131. Grants for capital improvements to prevent crime in public transportation.
Sec. 132. Grants for capital improvements to prevent crime in national parks.
Sec. 133. Grants for capital improvements to prevent crime in public parks.

Subtitle D—National Commission on Violent Crime Against Women

Sec. 141. Establishment.
Sec. 142. Duties of commission.
Sec. 143. Membership.
Sec. 144. Reports.
Sec. 145. Executive Director and staff.
Sec. 146. Powers of commission.
Sec. 147. Authorization of appropriations.
Sec. 148. Termination.

Subtitle E—New Evidentiary Rules

Sec. 151. Sexual history in all criminal cases.
Sec. 152. Sexual history in civil cases.
Sec. 153. Amendments to rape shield law.
Sec. 154. Evidence of clothing.

Subtitle F—Assistance to Victims of Sexual Assault
Sec. 161. Education and prevention grants to reduce sexual assaults against women.
Sec. 162. Rape exam payments.

TITLE II—SAFE HOMES FOR WOMEN
Sec. 201. Short title.

Subtitle A—Interstate Enforcement
Sec. 211. Interstate enforcement.

Subtitle B—Arrest in Spousal Abuse Cases
Sec. 221. Encouraging arrest policies.

Subtitle C—Funding for Shelters
Sec. 231. Authorization.

Subtitle D—Family Violence Prevention and Services Act Amendments
Sec. 241. Expansion of purpose.
Sec. 242. Expansion of State demonstration grant program.
Sec. 243. Grants for public information campaigns.
Sec. 244. State commissions on domestic violence.
Sec. 245. Indian tribes.
Sec. 246. Funding limitations.
Sec. 247. Grants to entities other than States; local share.
Sec. 248. Shelter and related assistance.
Sec. 249. Law enforcement training and technical assistance grants.
Sec. 250. Report on recordkeeping.
Sec. 251. Model State leadership incentive grants for domestic violence intervention.
Sec. 252. Funding for technical assistance centers.

Subtitle E—Youth Education and Domestic Violence
Sec. 261. Educating youth about domestic violence.

Subtitle F—Confidentiality for Abused Persons
Sec. 271. Confidentiality for abused persons.

TITLE III—CIVIL RIGHTS
Sec. 301. Civil rights.

TITLE IV—SAFE CAMPUSES FOR WOMEN
Sec. 401. Short title.
Sec. 402. Findings.
Sec. 403. Grants for campus rape education.
Sec. 404. Disclosure of disciplinary proceedings in sex assault cases on campus.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990
Sec. 501. Short title.

Subtitle A—Education and Training for Judges and Court Personnel in State Courts
Sec. 511. Grants authorized.
Sec. 512. Training provided by grants.
Sec. 513. Cooperation in developing programs in making grants under this title.
Sec. 514. Authorization of appropriations.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts
Sec. 521. Education and training grants.
Sec. 522. Cooperation in developing programs.
Sec. 523. Authorization of appropriations.

TITLE I—SAFE STREETS FOR WOMEN

SEC. 101. SHORT TITLE.

This title may be cited as the "Safe Streets for Women Act of 1991".

Subtitle A—Federal Penalties for Sex Crimes

SEC. 111. REPEAT OFFENDERS.

(a) In General.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2247. Repeat offenders

"Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) Table of Sections.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2247. Repeat offenders.".

SEC. 112. FEDERAL PENALTIES.

(a) Rape and Aggravated Rape.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide that a defendant convicted of aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, shall be assigned a base offense level under chapter 2 of the sentencing guidelines that is at least 4 levels greater than the base offense level applicable to criminal sexual abuse under the guidelines in effect on November 1, 1990, or otherwise shall amend the guidelines applicable to such offenses so as to achieve a comparable minimum guideline sentence. In amending such guidelines, the Sentencing Commission shall review the appropriateness of existing specific offense characteristics or other adjustments applicable to such offenses, and make such changes as it deems appropriate, taking into account the severity of rape offenses, with or without aggravating factors; the unique nature and duration of the mental injuries inflicted on the victims of such offenses; and any other relevant factors.

(b) Effect of Amendment.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instructions set forth in subsection (a) so as to achieve a comparable result.

(c) Statutory Rape.—

(1) Section 2243(b) of title 18, United States Code, is amended by striking "one year," and inserting "two years,".

(2) Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to incorporate the increase in maximum penalties provided by this section for section 2243(b) of title 18, United States Code.

SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) In General.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2248. Mandatory restitution

"(a) In General.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) Scope and Nature of Order.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) Proof of Claim.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or matters related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or his delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2248. Mandatory restitution.".

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) redesignating part N as part O;

(2) redesignating section 1401 as section 1501; and

(3) adding after part M the following:

"PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"SEC. 1401. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribes, cities, and other localities to develop effective law enforcement and prosecution strategies to combat violent crimes against women and, in particular, to focus efforts on those areas with the highest rates of violent crime against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide additional personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing police and prosecution policies, protocols, or orders specifically devoted to identifying and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, prosecutions, and convictions for the crimes of sexual assault and domestic violence; and

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, to increase reporting and reduce attrition rates for cases involving violent crimes against women, including the crimes of sexual assault and domestic violence.

"SUBPART 1—HIGH INTENSITY CRIME AREA GRANTS

"SEC. 1411. HIGH INTENSITY GRANTS.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the 'Director') shall make grants to areas of 'high intensity crime' against women.

"(b) DEFINITION.—For purposes of this part, a 'high intensity crime area' means an area with one of the 40 highest rates of violent crime against women, as determined by the Bureau of Justice Statistics pursuant to section 1412.

"SEC. 1412. HIGH INTENSITY GRANT APPLICATION.

"(a) COMPUTATION.—Within 45 days after the date of enactment of this part, the Bureau of Justice Statistics shall compile a list of the 40 areas with the highest rates of violent crime against women based on the combined female victimization rate per population for assault, sexual assault (including, but not limited to, rape), murder, robbery, and kidnapping.

"(b) USE OF DATA.—In calculating the combined female victimization rate required by subsection (a), the Bureau of Justice Statistics may rely on—

"(1) existing data collected by States, municipalities, Indian reservations or statistical metropolitan areas showing the number of police reports of the crimes listed in subsection (a); and

"(2) existing data collected by the Federal Bureau of Investigation, including data from those governmental entities already complying with the National Incident Based Reporting System, showing the number of police reports of crimes listed in subsection (a).

"(c) PUBLICATION.—After compiling the list set forth in subsection (a), the Bureau of Justice Statistics shall convey it to the Director who shall publish it in the Federal Register.

"(d) QUALIFICATION.—Upon satisfying the terms of subsection (e), any high intensity crime area shall be qualified for a grant under this subpart upon application by the chief executive officer of the governmental entities responsible for law enforcement and prosecution of criminal offenses within the area and certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate program grants, with nongovernmental nonprofit victim services programs; and

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(e) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application must provide the certifications required by subsection (d) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (d)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall ensure, to the extent practicable, that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served; and

"(C) give priority to areas with the greatest showing of need.

"(g) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this part. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"Subpart 2—Other Grants to States to Combat Violent Crimes Against Women

"SEC. 1421. GENERAL GRANTS TO STATES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to States, for use by States, units of local government in the States, and nonprofit nongovernmental victim services programs in the States, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be—

"(1) $500,000 to each State; and

"(2) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application shall include the certifications of qualification required by subsection (c) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (c)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(e) DISBURSEMENT.—(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that States will—

"(A) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000;

"(B) determine the amount of subgrants based on the population and geographic area to be served; and

"(C) give priority to areas with the greatest showing of need, as demonstrated by comparing population and geographic areas to be served to the availability of existing sexual assault and domestic violence services.

"(f) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"SEC. 1422. GENERAL GRANTS TO TRIBES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of $35,000 and maximum grants of $300,000.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b); and

"(2) at least 25 percent of the grant funds shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—(1) Applications shall be made directly to the Director and shall contain a description of the tribes' law enforcement responsibilities for the Indian country described in the application and a description of the tribes' system of courts, including whether the tribal government operates courts of Indian offenses as defined in 25 U.S.C. 1301 or CFR courts under 25 CFR 11 et seq.

"(2) Applications shall be in such form as the Director may prescribe and shall specify the nature of the program proposed by the applicant tribe, the data and information on which the program is based, and the extent to which the program plans to use or incorporate existing services available in the Indian country where the grant will be used.

"(3) The term of any grant shall be for a minimum of 3 years.

"(e) GRANTEE REPORTING.—At the end of the first 12 months of the grant period and at the end of each year thereafter, the Indian tribal granted shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

"(2) The term 'Indian country' has the meaning given to such term by section 1151 of title 18, United States Code.

"SUBPART 3—GENERAL TERMS AND CONDITIONS

"SEC. 1431. GENERAL DEFINITIONS.

"As used in this part—

"(1) the term 'victim services program' means any public or private nonprofit program that assists victims, including (A) nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process and (B) victim/witness programs within governmental entities;

"(2) the term 'sexual assault' includes not only assaults committed by offenders who are strangers to the victim but also assaults committed by offenders who are known or related by blood or marriage to the victim; and

"(3) the term 'domestic violence' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse, or any other person similarly situated to a spouse who is protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"SEC. 1432. GENERAL TERMS AND CONDITIONS.

"(a) NONMONETARY ASSISTANCE.—In addition to the assistance provided under subparts 1 or 2, the Director may direct any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts.

"(b) BUREAU REPORTING.—No later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Judiciary Committees of the House and the Senate a report that includes, for each high intensity crime area (as provided in subpart 1) and for each State and for each grantee Indian tribe (as provided in subpart 2)—

"(1) the amount of grants made under this part;

"(2) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(3) a copy of each grantee report filed pursuant to sections 1412(g) and 1421(f).

"(c) REGULATIONS.—No later than 45 days after the date of enactment of this part, the Director shall publish proposed regulations implementing this part. No later than 120 days after such date, the Director shall publish final regulations implementing this part.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year 1992, 1993, and 1994, $100,000,000 to carry out the purposes of subpart 1, and $190,000,000 to carry out the purposes of subpart 2, and $10,000,000 to carry out the purposes of section 1422 of subpart 2.".

Subtitle C—Safety for Women in Public Transit and Public Parks

SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

Section 24 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION

"SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, and not to exceed $10,000,000, the Secretary shall make capital grants for the prevention of crime and to increase security in existing and future public transportation systems. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

"(b) GRANTS FOR LIGHTING, CAMERA SURVEILLANCE, AND SECURITY PHONES.—

"(1) From the sums authorized for expenditure under this section for crime prevention, the Secretary is authorized to make grants and loans to States and local public bodies or agencies for the purpose of increasing the safety of public transportation by—

"(A) increasing lighting within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(B) increasing camera surveillance of areas within and adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(C) providing emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages; or

"(D) any other project intended to increase the security and safety of existing or planned public transportation systems.

"(2) From the sums authorized under this section, at least 75 percent shall be expended on projects of the type described in subsection (b)(1) (A) and (B).

"(c) REPORTING.—All grants under this section are contingent upon the filing of a report with the Secretary and the Department of Justice, Office of Victims of Crime, showing crime rates in or adjacent to public transportation before, and for a 1-year period after, the capital improvement. Statistics shall be broken down by type of crime, sex, race, and relationship of victim to the offender.

"(d) INCREASED FEDERAL SHARE.—Notwithstanding any other provision of this Act, the Federal share under this section for each capital improvement project which enhances the safety and security of public transportation systems and which is not required by law (including any other provision of this chapter) shall be 90 percent of the net project cost of such project.

"(e) SPECIAL GRANTS FOR PROJECTS TO STUDY INCREASING SECURITY FOR WOMEN.—From the sums authorized under this section, the Secretary shall provide grants and loans for the purpose of studying ways to reduce violent crimes against women in public transit through better design or operation of public transit systems.

"(f) GENERAL REQUIREMENTS.—All grants or loans provided under this section shall be subject to all the terms, conditions, requirements, and provisions applicable to grants and loans made under section 2(a).".

SEC. 132. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN NATIONAL PARKS.

The Act of August 18, 1970, the National Park System Improvements in Administration Act (90 Stat. 1931; 16 U.S.C. 1a-1 et seq.) is amended by adding at the end thereof the following:

"SEC. 13. NATIONAL PARK SYSTEM CRIME PREVENTION ASSISTANCE.

"(a) From the sums authorized pursuant to section 7 of the Land and Water Conservation Act of 1965, and not to exceed $10,000,000, the Secretary of the Interior is authorized to provide Federal assistance to reduce the incidence of violent crime in the National Park System.

"(b) The Secretary shall direct the chief official responsible for law enforcement within the National Park Services to—

"(1) compile a list of areas within the National Park System with the highest rates of violent crime;

"(2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and

"(3) publish the information required by paragraphs (1) and (2) in the Federal Register.

"(c) No later than 120 days after the date of enactment of this section, and based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute funds throughout the National Park Service. Priority shall be given to those areas with the highest rates of sexual assault.

"(d) Funds provided under this section may be used for the following purposes—

"(1) to increase lighting within or adjacent to public parks and recreation areas;

"(2) to provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(3) to increase security or law enforcement personnel within or adjacent to public parks and recreation areas; and

"(4) any other project intended to increase the security and safety of public parks and recreation areas.".

SEC. 133. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC PARKS.

Section 6 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 4601-8) is amended by adding at the end thereof the following new subsection:

"(h) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed $15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding the terms of subsection (c), the Secretary is authorized to provide 70 percent improvement grants for projects undertaken by any State for the purposes outlined in this subsection. The remaining share of the cost shall be borne by the State.".

Subtitle D—National Commission on Violent Crime Against Women

SEC. 141. ESTABLISHMENT.

There is established a commission to be known as the National Commission on Violent Crime Against Women (hereinafter referred to as "the Commission").

SEC. 142. DUTIES OF COMMISSION.

(a) GENERAL PURPOSE OF THE COMMISSION.—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crime against women.

(b) FUNCTIONS.—The Commission shall perform the following functions—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence; and

(9) evaluate and make recommendations regarding the feasibility of maintaining the confidentiality of addresses of domestic violence victims in voting, welfare, and public records.

SEC. 143. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) three of whom shall be—

(I) the Attorney General;

(II) the Secretary of Health and Human Services; and

(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of sexual assault or domestic violence.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) CONGRESSIONAL COMMITTEE RECOMMENDATIONS.—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) REQUIREMENTS OF APPOINTMENTS.—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their experience in State or national efforts to fight violence against women and demonstrate experience in State or national advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of law enforcement, prosecution, judicial administration, legal expertise, public health, social work, victim compensation boards, and victim advocacy.

(4) Term of Members.—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) Vacancy.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) Chairman.—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) Quorum.—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) Meetings.—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least six times.

(e) Pay.—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) Per Diem.—Except as provided in subsection (e), members of the Commission shall be allowed travel and other expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) Deadline for Appointment.—Not later than 45 days after the date of the enactment of this Act, the members of the Commission shall be appointed.

SEC. 144. REPORTS.

(a) In General.—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) Contents.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

SEC. 145. EXECUTIVE DIRECTOR AND STAFF.

(a) Executive Director.—

(1) Appointment.—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) Compensation.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable under GS-18 of the General Schedule as contained in title 5, United States Code.

(b) Staff.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) Applicability of Civil Service Laws.—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) Consultants.—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 146. POWERS OF COMMISSION.

(a) Hearings.—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) Delegation.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) Access to Information.—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chairman of the Commission.

(d) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 147. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $500,000 to carry out the purposes of this subtitle.

SEC. 148. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed one year.

Subtitle E—New Evidentiary Rules

SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

The Federal Rules of Evidence are amended by inserting after rule 412 the following:

"Rule 412A. Evidence of victim's past behavior in other criminal cases

"(a) Reputation and Opinion Evidence Excluded.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, reputation or opinion evidence of the past sexual behavior of an alleged victim is not admissible.

"(b) Admissibility.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, evidence of an alleged victim's past sexual behavior (other than reputation and opinion evidence) may be admissible if—

"(1) the evidence is admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of the evidence outweighs the danger of unfair prejudice.

"(c) Procedures.—(1) If the defendant intends to offer evidence of specific instances of the alleged victim's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the alleged victim.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

The Federal Rules of Evidence, as amended by section 151 of this Act, are amended by adding after rule 412A the following:

"Rule 412B. Evidence of past sexual behavior in civil cases

"(a) Reputation and Opinion Evidence Excluded.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

"(b) Admissible Evidence.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

"(1) admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of such evidence outweighs the danger of unfair prejudice.

"(c) Procedures.—(1) If the defendant intends to offer evidence of specific instances of the plaintiff's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the plaintiff.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the plaintiff and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies evidence which may be offered and areas with respect to which the plaintiff may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

"(d) DEFINITIONS.—For purposes of this rule, a case involving a claim of actionable sexual misconduct, includes, but is not limited to, sex harassment or discrimination claims brought pursuant to title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)) and gender bias claims brought pursuant to title III of the Violence Against Women Act of 1991.".

SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end thereof the following:

"(e) INTERLOCUTORY APPEAL.—Notwithstanding any other provision of law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

"(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim."; and

(2) by adding at the end of subdivision (c)(3) the following: "In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 154. EVIDENCE OF CLOTHING.

The Federal Rules of Evidence are amended by adding after rule 412 the following:

"Rule 413. Evidence of victim's clothing as inciting violence

"Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged.".

Subtitle F—Assistance to Victims of Sexual Assault

SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended as follows:

(1) by adding at the end thereof the following new section:

"§ 1910A. Use of allotments for rape prevention education

"(a) Notwithstanding the terms of section 1904(a)(1) of this title, amounts transferred by the State for use under this part may be used for rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities, which programs may include—

"(1) educational seminars;

"(2) the operation of hotlines;

"(3) training programs for professionals;

"(4) the preparation of informational materials; and

"(5) other efforts to increase awareness of the facts about, or to help prevent, sexual assault.

"(b) States providing grant monies must assure that at least 15 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) There are authorized to be appropriated under this section for each fiscal year 1992, 1993, and 1994, $65,000,000 to carry out the purposes of this section.

"(d) Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) For purposes of this section, the term 'rape prevention and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim.

"(f) States shall be allotted funds under this section pursuant to the terms of sections 1902 and 1903, and subject to the conditions provided in this section and sections 1904 through 1909.";

(2) striking section 1901(b); and

(3) striking section 1904(a)(1)(G).

SEC. 162. RAPE EXAM PAYMENTS.

No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 unless the State or other grantee incurs the full cost of forensic medical exams for victims of sexual assault. A State or other grantee does not incur the full medical cost of forensic medical exams if it chooses to reimburse the victim after the fact unless the reimbursement program waives any minimum loss or deductible requirement, provides victim reimbursement within a reasonable time (90 days), permits applications for reimbursement within one year from the date of the exam, and provides information to all subjects of forensic medical exams about how to obtain reimbursement.

TITLE II—SAFE HOMES FOR WOMEN

SEC. 201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1990".

Subtitle A—Interstate Enforcement

SEC. 211. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

"Chapter 110A—Violence Against Spouses

"Sec. 2261. Traveling to commit spousal abuse.
"Sec. 2262. Interstate violation of protection orders.
"Sec. 2263. Restitution.
"Sec. 2264. Full faith and credit given to protection orders.
"Sec. 2265. Definitions for chapter.

"§ 2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner; or

"(2) for the purpose of harassing, intimidating, or injuring a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner,

shall be fined not more than $1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner, shall be fined not more than $1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(c) NO STATE LAW.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, a person violating this section shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

"(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§ 2262. Interstate violation of protection orders

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

"(2) for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c) of this section.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c) of this section.

"(c) PENALTIES.—

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than six months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§ 2263. Interim protections

"In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the protection of an abused spouse or intimate partner pending final adjudication of the case, upon a showing of a likelihood of danger to the abused spouse or intimate partner.

"§ 2264. Restitution

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to subsection (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation; and

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the offender, including obligations to dependents.

"(B) An order under this section may direct the defendant to make a single lump-sum payment, or partial payments at specified intervals. The order shall provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(C) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or his delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) RESTITUTION AND CRIMINAL PENALTIES.—An award of restitution to the victim of an offense under this chapter shall not be a substitute for imposition of punishment under sections 2261 and 2262.

"(e) DEFINITIONS.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.

"§ 2265. Full faith and credit given to protection orders

"(a) FULL FAITH AND CREDIT.—Any protection order issued consistent with the terms of subsection (b) by the court of one State (the issuing State) shall be accorded full faith and credit by the court of another State (the enforcing State) and enforced as if it were the order of the enforcing State.

"(b) PROTECTION ORDER.—A protection order issued by a State court is consistent with the provisions of this section if—

"(1) such court has jurisdiction over the parties and matter under the law of such State; and

"(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

"(c) CROSS OR COUNTER PETITION.—A protection order issued by a State court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

"(1) no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or

"(2) if a cross or counter petition has been filed, if the court did not make specific findings that each party was entitled to such an order.

"§ 2266. Definitions for chapter

"As used in this chapter—

"(1) the term 'spouse or intimate partner' includes—

"(A) a present or former spouse, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

"(B) any other person similarly situated to a spouse, other than a child, who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

"(2) the term 'protection order' includes any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except those done in self-defense, that results in physical injury or sexual abuse;

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

"(5) the term 'travel across State lines' includes any such travel except travel across State lines by an Indian tribal member when that member remained at all times on tribal lands.".

(b) TABLE OF CHAPTERS.—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

"110A. Violence against spouses .... 2261.".

Subtitle B—Arrest in Spousal Abuse Cases

SEC. 221. ENCOURAGING ARREST POLICIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10400) is amended by adding after section 311 the following:

"SEC. 312. ENCOURAGING ARREST POLICIES.

"(a) PURPOSE.—To encourage States, Indian tribes and localities to treat spousal violence as a serious violation of criminal law, the Secretary is authorized to make grants to eligible States, Indian tribes, municipalities, or local government entities for the following purposes:

"(1) to implement pro-arrest programs and policies in police departments and to improve tracking of cases involving spousal abuse;

"(2) to centralize and coordinate police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges;

"(3) to educate judges in criminal and other courts about spousal abuse and to improve judicial handling of such cases.

"(b) ELIGIBILITY.—(1) Eligible grantees are those States, Indian tribes, municipalities or other local government entities that—

"(A) demonstrate, through arrest and conviction statistics, that their laws or policies have been effective in significantly increasing the number of arrests made of spouse abusers; and

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed or mandate arrest of spouses violating the terms of a valid and outstanding protection order; or

"(ii) permit warrantless misdemeanor arrests of spouse abusers and encourage the use of that authority;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser and the increase in arrest rates demonstrated pursuant to paragraph (1)(A) is not the result of increased dual arrests; and

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protective order, and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim.

"(2) For purposes of this section, the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

"(3) For purposes of this section, the term 'spousal or spouse abuse' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabited with the victim as a spouse, or any other person protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(4) The eligibility requirements provided in this section shall take effect one year after the date of enactment of this section.

"(c) DELEGATION AND AUTHORIZATION.—The Secretary shall delegate to the Attorney General of the United States the Secretary's responsibilities for carrying out this section to the Attorney General. There are authorized to be appropriated not in excess of $25,000,000 for each fiscal year to be used for the purpose of making grants under this section.

"(d) APPLICATION.—An eligible grantee shall submit an application to the Secretary. Such application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribes, municipality, or local government entity that the conditions of subsection (b) are met;

"(2) describe the entity's plans to further the purposes listed in subsection (a);

"(3) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(4) identify and include documentation showing the nonprofit nongovernmental victim services programs that will be consulted in developing, and implementing, the program.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a grantee that—

"(1) does not currently provide for centralized handling of cases involving spousal or family violence in any one of the areas listed in this subsection—police, prosecutors, and courts; and

"(2) demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving spousal or family violence.

"(f) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described in subsection (d)(2) and containing such additional information as the Secretary may prescribe.

"(g) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.".

Subtitle C—Funding for Shelters

SEC. 231. AUTHORIZATION.

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

"SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out the provisions of this title, $85,000,000 for fiscal year 1992, $100,000,000, for fiscal year 1993, and $125,000,000 for fiscal year 1994.

"(b) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 80 percent shall be used by the Secretary for making grants under section 303.

"(c) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not more than 5 percent shall be used by the Secretary for making grants under section 314.

"(d) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 5 percent shall be used by the Secretary for making grants under section 308A.".

Subtitle D—Family Violence Prevention and Services Act Amendments

SEC. 241. EXPANSION OF PURPOSE.

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent" and by striking "demonstrate the effectiveness of assisting" and inserting "assist".

SEC. 242. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.

(a) INCREASING PUBLIC AWARENESS.—Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

(b) EXPANSION OF PROGRAM.—Section 303(a)(2)(B)(ii) is amended by striking "alcohol and drug abuse treatment".

SEC. 243. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

"GRANTS FOR PUBLIC INFORMATION CAMPAIGNS

"SEC. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) An application submitted under subsection (b) shall—

"(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk.".

SEC. 244. FUND DISTRIBUTION TO STATES.

Section 304(a)(1) of the Family Violence Prevention and Services Act is amended by striking "$50,000" and inserting "$500,000".

SEC. 245. INDIAN TRIBES.

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "from sums appropriated shall make no less than 10 percent available for".

SEC. 246. FUNDING LIMITATIONS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by—

(1) striking ", and" and all that follows through "fiscal years"; and

(2) striking "$50,000" and inserting "$75,000".

SEC. 247. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: "No grant may be made under this section to an entity other than a State or Indian tribe unless the entity provides 35 percent of the funding of the program or project funded by the grant.".

SEC. 248. SHELTER AND RELATED ASSISTANCE.

(a) CHANGE OF PERCENTAGES.—Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended by striking "not less than 60 percent" and inserting "not less than 75 percent".

(b) DEFINITION OF RELATED ASSISTANCE.—Section 309(5) of the Family Violence Prevention and Services Act is amended to read as follows:

"(5) The term 'related assistance' includes any, but does not require all, of the following—

"(A) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(B) transportation, legal assistance, referrals for appropriate health-care services (including alcohol and drug abuse treatment), and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(C) comprehensive counseling and self-help services to abusers, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services and employment training; and

"(D) child care services for children who are victims of family violence or the dependents of such victims.".

SEC. 249. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.

Section 311 of the Family Violence Protection and Services Act (42 U.S.C. 10410(b)) is repealed.

SEC. 250. REPORT ON RECORDKEEPING.

Not later than 120 days after the date of enactment of this Act, the Government Accounting Office shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine efforts to date of the FBI and Justice Department to collect statistics on domestic violence and the feasibility of, including a suggested timetable for, requiring that the relationship between an offender and victim be reported in Federal and State records of crimes of assault, aggravated assault, rape, and other violent crimes.

SEC. 251. MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.

The Family Violence Prevention Services Act, as amended by section 103 of this Act, is amended by adding at the end thereof the following new section:

"MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION

"SEC. 315. (a) The Secretary, in cooperation with the Attorney General, shall award grants to not less than 10 States to assist in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

"(1) increase the number of prosecutions for domestic violence crimes;

"(2) encourage the reporting of incidences of domestic violence;

"(3) facilitate 'arrests and aggressive' prosecution policies; and

"(4) provides court advocacy for victims of domestic violence.

"(b) To be designated as a model State under subsection (a), a State shall have in effect—

"(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

"(2) a law or policy that discourages * * *I24 "(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judiciaes 'dual' arrests;

"(3) statewide prosecution policies that—

"(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

"(4) statewide laws, policies, or guidelines for judges that—

"(A) prohibit the issuance of mutual protective orders in cases where only one spouse has sought a protective order and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim;

"(B) require that any history of child abuse be considered detrimental to the child and discourage custody or joint custody orders by spouse abusers; and

"(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute;

"(5) develop and disseminate methods to improve the criminal justice system's response to domestic violence to make existing remedies as easily available as possible to victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

"(c)(1) In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section $25,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) Funds shall be distributed under this section so that no State shall receive more than $2,500,000 in each fiscal year under this section.

"(3) The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section.".

SEC. 252. FUNDING FOR TECHNICAL ASSISTANCE CENTERS.

The Family Violence Prevention and Services Act is amended by inserting after section 308 the following:

"SEC. 308A. TECHNICAL ASSISTANCE CENTERS.

"(a) PURPOSE.—The purpose of this section is to provide training and technical assistance to State, Indian tribal, and local domestic violence programs and to other professionals who provide services to victims of domestic violence. From the sums authorized under this title, the Secretary shall provide grants to or contract with, private nonprofit organizations, for the establishment and maintenance of one national and six special-issue resource centers serving defined geographic areas. One national resource center shall offer resource, policy, and/or training assistance to Federal, State, Indian tribal, and local government agencies on issues pertaining to domestic violence and serve a coordinating and resource-sharing function among domestic violence service providers, and maintain a central resource library. The other national resource centers shall provide information, training and technical assistance to State, tribal and local domestic violence service providers. In addition, each national center shall specialize in one of the following areas of domestic violence service, prevention or law:

"(1) criminal justice response to domestic violence, including court-mandated abuser treatment;

"(2) child custody issues in domestic violence cases;

"(3) use of the self-defense plea by domestic violence victims;

"(4) health care response and access to health care resources for domestic violence victims;

"(5) victims' access to, and quality of, effective legal assistance, including civil litigation; and

"(6) the response of child protective service agencies to battered mothers of abused children.

"(b) ELIGIBILITY.—Eligible grantees are private non-profit organizations that—

"(1) focus primarily on domestic violence;

"(2) provide documentation to the Secretary demonstrating a minimum of three years experience with issues of domestic violence, particularly in the specific area for which it is applying;

"(3) include on its advisory boards representatives from domestic violence programs who are geographically and culturally diverse; and

"(4) demonstrate strong support from domestic violence advocates for their designation as the special-issue resource center.

"(c) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described and containing such additional information as the Secretary may prescribe.

"(d) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section.".

Subtitle E—Youth Education and Domestic Violence

SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate his powers to the Secretary of Education, hereinafter referred to as the "Secretary". The Secretary shall select, implement and evaluate four model programs for education of young people about domestic violence and violence among intimate partners.

(b) NATURE OF PROGRAM.—The Secretary shall select, implement and evaluate separate model programs for four different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. These model programs shall be selected, implemented, and evaluated with the input of educational experts, legal and psychological experts on battering, and victim advocate organizations such as battered women's shelters, State coalitions and resource centers. The participation of each of these groups or individual consultants from such groups is essential to the selection, implementation, and evaluation of programs that meet both the needs of educational institutions and the needs of the domestic violence problem.

(c) REVIEW AND DISSEMINATION.—Not later than 24 months after the date of enactment of this Act, the Secretary shall transmit the design and evaluation of the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.

(d) AUTHORIZATION.—There are authorized to be appropriated under this section for fiscal year 1992, $400,000 to carry out the purposes of this section.

Subtitle F—Confidentiality for Abused Persons

SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.

No later than 90 days after the enactment of this Act, the Postmaster General shall promulgate regulations to secure the confidentiality of abused persons' addresses or otherwise prohibit the disclosure of an abused person's address consistent with the following guidelines:

(1) confidentiality shall be provided upon the presentation to an appropriate postal official of an existing and valid court order for the protection of an abused spouse;

(2) disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited; and

(3) compilations of addresses existing at the time the order is presented to an appropriate postal official shall be excluded from the scope of the proposed regulations.

TITLE III—CIVIL RIGHTS

SEC. 301. CIVIL RIGHTS.

(a) FINDINGS.—The Congress finds that—

(1) crimes motivated by the victim's gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for gender crimes committed on the street or in the home; and

(3) State and Federal criminal laws do not adequately protect against the bias element of gender-motivated crimes, which separates these crimes from acts of random violence, nor do those laws adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests;

(4) existing bias and discrimination in the criminal justice system often deprives victims of gender-motivated crimes of equal protection of the laws and the redress to which they are entitled;

(5) gender-motivated violence has a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business, and in places involved, in interstate commerce;

(6) gender-motivated violence has a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products;

(7) a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse effects of gender-motivated violence on interstate commerce; and

(8) victims of gender-motivated violence have a right to equal potection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

(b) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any person, including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State, who commits a crime of violence motivated by gender and thus deprives another of the rights, privileges or immunities secured by the Constitution or laws as enumerated in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in this section, including rape, sexual assault, sexual abuse, abusive sexual contact, or any other crime of violence committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

SEC. 302. CONFORMING AMENDMENT.

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: ", or title III of the Violence Against Women Act of 1991,".

TITLE IV—SAFE CAMPUSES FOR WOMEN

SEC. 401. SHORT TITLE.

This title may be cited as the "Safe Campuses for Women Act of 1990".

SEC. 402. FINDINGS.

The Congress finds that—

(1) rape prevention and education programs are essential to an educational environment free of fear for students' personal safety;

(2) sexual assault on campus, whether by fellow students or not, is widespread among the Nation's higher education institutions: experts estimate that 1 in 7 of the women now in college have been raped and over half of college rape victims know their attackers;

(3) sexual assault poses a grave threat to the physical and mental well-being of students and may significantly impair the learning process; and

(4) action by schools to educate students may make substantial inroads on the incidence of rape, including the incidence of acquaintance rape on campus.

SEC. 403. GRANTS FOR CAMPUS RAPE EDUCATION.

Title X of the Higher Education Act of 1965 is amended to add at the end thereof the following:

"PART D—GRANTS FOR CAMPUS RAPE EDUCATION."

SEC. 1071. GRANTS FOR CAMPUS RAPE EDUCATION.

"(a) IN GENERAL.—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for rape education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

"(b) GENERAL RAPE PREVENTION AND EDUCATION GRANTS.—Grants under this section shall be used to educate and provide support services to student victims of rape or sexual assault. Grants may be used for the following purposes:

"(1) to provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of rape, sexual assault, and other gender-motivated crimes;

"(2) to develop, disseminate, or implement campus security and student disciplinary policies to prevent and discipline rape, sexual assault and other gender-motivated crimes;

"(3) to develop, enlarge or strengthen support services programs including medical or psychological counseling to assist victims' recovery from rape, sexual assault, or other gender-motivated crimes;

"(4) to create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action; and

"(5) to implement, operate, or improve rape education and prevention programs, including programs making use of peer-to-peer education.

"(c) MODEL GRANTS.—Not less than 25 percent of the funds authorized under this section shall be available for grants for model demonstration programs to be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student rape victims.

"(d) ELIGIBILITY.—No institution of higher education or consortium of such institutions shall be eligible for a grant under this section unless—

"(1) its student code of conduct, or other written policy governing student behavior, explicitly prohibits not only rape but all forms of sexual assault; and

"(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual assault the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual assault: *Provided*, That nothing in this section shall be interpreted to authorize disclosure to any person other than the victim.

"(e) APPLICATIONS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—

"(A) set forth the activities and programs to be carried out with funds granted under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) explain how the program intends to address the issue of acquaintance rape;

"(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

"(e) GRANTEE REPORTING.—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) Except as otherwise provided, the terms used in this part shall have the meaning provided under section 2981 of this title.

"(2) For purposes of this subchapter, the following terms have the following meanings:

"(A) The term 'rape education and prevention' includes programs that provide educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual assault.

"(B) The term 'Secretary' means the Secretary of Education.

"(g) GENERAL TERMS AND CONDITIONS.—(1) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.

"(2) No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

"(A) the amount of grants made under this section;

"(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(C) a copy of each grantee report filed pursuant to subsection (e) of this section.

"(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated $20,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995.".

SEC. 404. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.

Section 204(f) of the Crime Awareness and Campus Security Act of 1990 is amended to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

"(i) murder;

"(ii) rape or sexual assault;

"(iii) robbery;

"(iv) aggravated assault;

"(v) burglary; and

"(vi) motor vehicle theft.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

SECTION 501. SHORT TITLE.

This title may be cited as the "Equal Justice for Women in the Courts Act of 1991".

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

SEC. 511. GRANTS AUTHORIZED.

The State Justice Institute is authorized to award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SEC. 512. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about

presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the batterer, to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel, and the legitimate reasons why victims of domestic violence may refuse to testify against a defendant;

(18) the need for orders of protection, and the implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence cases;

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims; and

(20) current information on the impact of pornography on crimes against women, or data on other activities that tend to degrade women.

SEC. 513. COOPERATION IN DEVELOPING PROGRAMS IN MAKING GRANTS UNDER THIS TITLE.

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this subtitle are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 514. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $600,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

SEC. 521. EDUCATION AND TRAINING GRANTS.

(a) STUDY.—The Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use of data collection techniques such as reviews of trial and appellate opinions and transcripts, public hearings, and inquiries to attorneys practicing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) MODEL PROGRAMS.—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 512 of subtitle A; and

(B) all procedural and substantive aspects of the legal rights and remedies for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

SEC. 522. COOPERATION IN DEVELOPING PROGRAMS.

In implementing this subtitle, the Federal Judicial Center shall ensure that the study and model programs are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 523. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $400,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 521(a) of this subtitle.

AMENDMENT NO. 666

Add at the end of the amendment the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violence Against Women Act of 1991".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—SAFE STREETS FOR WOMEN

Sec. 101. Short title.

Subtitle A—Federal Penalties for Sex Crimes

Sec. 111. Repeat offenders.
Sec. 112. Federal penalties.
Sec. 113. Mandatory restitution for sex crimes.

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

Sec. 121. Grants to combat violent crimes against women.

Subtitle C—Safety for Women in Public Transit and Public Parks

Sec. 131. Grants for capital improvements to prevent crime in public transportation.
Sec. 132. Grants for capital improvements to prevent crime in national parks.
Sec. 133. Grants for capital improvements to prevent crime in public parks.

Subtitle D—National Commission on Violent Crime Against Women

Sec. 141. Establishment.
Sec. 142. Duties of commission.
Sec. 143. Membership.
Sec. 144. Reports.
Sec. 145. Executive Director and staff.
Sec. 146. Powers of commission.
Sec. 147. Authorization of appropriations.
Sec. 148. Termination.

Subtitle E—New Evidentiary Rules

Sec. 151. Sexual history in all criminal cases.
Sec. 152. Sexual history in civil cases.
Sec. 153. Amendments to rape shield law.
Sec. 154. Evidence of clothing.

Subtitle F—Assistance to Victims of Sexual Assault

Sec. 161. Education and prevention grants to reduce sexual assaults against women.
Sec. 162. Rape exam payments.

TITLE II—SAFE HOMES FOR WOMEN

Sec. 201. Short title.

Subtitle A—Interstate Enforcement

Sec. 211. Interstate enforcement.

Subtitle B—Arrest in Spousal Abuse Cases

Sec. 221. Encouraging arrest policies.

Subtitle C—Funding for Shelters

Sec. 231. Authorization.

Subtitle D—Family Violence Prevention and Services Act Amendments

Sec. 241. Expansion of purpose.
Sec. 242. Expansion of State demonstration grant program.
Sec. 243. Grants for public information campaigns.
Sec. 244. State commissions on domestic violence.
Sec. 245. Indian tribes.
Sec. 246. Funding limitations.
Sec. 247. Grants to entities other than States; local share.
Sec. 248. Shelter and related assistance.
Sec. 249. Law enforcement training and technical assistance grants.
Sec. 250. Report on recordkeeping.
Sec. 251. Model State leadership incentive grants for domestic violence intervention.
Sec. 252. Funding for technical assistance centers.

Subtitle E—Youth Education and Domestic Violence

Sec. 261. Educating youth about domestic violence.

Subtitle F—Confidentiality for Abused Persons

Sec. 271. Confidentiality for abused persons.

TITLE III—CIVIL RIGHTS

Sec. 301. Civil rights.

TITLE IV—SAFE CAMPUSES FOR WOMEN

Sec. 401. Short title.
Sec. 402. Findings.
Sec. 403. Grants for campus rape education.
Sec. 404. Disclosure of disciplinary proceedings in sex assault cases on campus.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

Sec. 501. Short title.

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

Sec. 511. Grants authorized.
Sec. 512. Training provided by grants.
Sec. 513. Cooperation in developing programs in making grants under this title.
Sec. 514. Authorization of appropriations.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

Sec. 521. Education and training grants.
Sec. 522. Cooperation in developing programs.
Sec. 523. Authorization of appropriations.

TITLE I—SAFE STREETS FOR WOMEN

SEC. 101. SHORT TITLE.

This title may be cited as the "Safe Streets for Women Act of 1991".

Subtitle A—Federal Penalties for Sex Crimes

SEC. 111. REPEAT OFFENDERS.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2247. Repeat offenders

"Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2247. Repeat offenders.".

SEC. 112. FEDERAL PENALTIES.

(a) RAPE AND AGGRAVATED RAPE.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide that a defendant convicted of aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, shall be assigned a base offense level under chapter 2 of the sentencing guidelines that is at least 4 levels greater than the base offense level applicable to criminal sexual abuse under the guidelines in effect on November 1, 1990, or otherwise shall amend the guidelines applicable to such offenses so as to achieve a comparable minimum guideline sentence. In amending such guidelines, the Sentencing Commission shall review the appropriateness of existing specific offense characteristics or other adjustments applicable to such offenses, and make such changes as it deems appropriate, taking into account the severity of rape offenses, with or without aggravating factors; the unique nature and duration of the mental injuries inflicted on the victims of such offenses; and any other relevant factors.

(b) EFFECT OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instructions set forth in subsection (a) so as to achieve a comparable result.

(c) STATUTORY RAPE.—

(1) Section 2243(b) of title 18, United States Code, is amended by striking "one year," and inserting "two years,".

(2) Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to incorporate the increase in maximum penalties provided by this section for section 2243(b) of title 18, United States Code.

SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or matters related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or his delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2248. Mandatory restitution.".

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) redesignating part N as part O;

(2) redesignating section 1401 as section 1501; and

(3) adding after part M the following:

"PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"SEC. 1401. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribes, cities, and other localities to develop effective law enforcement and prosecution strategies to combat violent crimes against women and, in particular, to focus efforts on those areas with the highest rates of violent crime against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide additional personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing police and prosecution policies, protocols, or orders specifically devoted to identifying and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, prosecutions, and convictions for the crimes of sexual assault and domestic violence; and

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, to increase reporting and reduce attrition rates for cases involving violent crimes against women, including the crimes of sexual assault and domestic violence.

"SUBPART 1—HIGH INTENSITY CRIME AREA GRANTS

"SEC. 1411. HIGH INTENSITY GRANTS.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the 'Director') shall make grants to areas of 'high intensity crime' against women.

"(b) DEFINITION.—For purposes of this part, a 'high intensity crime area' means an area with one of the 40 highest rates of violent crime against women, as determined by the Bureau of Justice Statistics pursuant to section 1412.

"SEC. 1412. HIGH INTENSITY GRANT APPLICATION.

"(a) COMPUTATION.—Within 45 days after the date of enactment of this part, the Bureau of Justice Statistics shall compile a list of the 40 areas with the highest rates of violent crime against women based on the combined female victimization rate per population for assault, sexual assault (including, but not limited to, rape), murder, robbery, and kidnapping.

"(b) USE OF DATA.—In calculating the combined female victimization rate required by subsection (a), the Bureau of Justice Statistics may rely on—

"(1) existing data collected by States, municipalities, Indian reservations or statistical metropolitan areas showing the number of police reports of the crimes listed in subsection (a); and

"(2) existing data collected by the Federal Bureau of Investigation, including data from those governmental entities already complying with the National Incident Based Reporting System, showing the number of police reports of crimes listed in subsection (a).

"(c) PUBLICATION.—After compiling the list set forth in subsection (a), the Bureau of Justice Statistics shall convey it to the Director who shall publish it in the Federal Register.

"(d) QUALIFICATION.—Upon satisfying the terms of subsection (e), any high intensity crime area shall be qualified for a grant under this subpart upon application by the chief executive officer of the governmental entities responsible for law enforcement and prosecution of criminal offenses within the area and certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate program grants, with nongovernmental nonprofit victim services programs; and

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(e) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application must provide the certifications required by subsection (d) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (d)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall ensure, to the extent practicable, that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served; and

"(C) give priority to areas with the greatest showing of need.

"(g) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this part. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"Subpart 2—Other Grants to States to Combat Violent Crimes Against Women

"SEC. 1421. GENERAL GRANTS TO STATES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to States, for use by States, units of local government in the States, and nonprofit nongovernmental victim services programs in the States, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be—

"(1) $500,000 to each State; and

"(2) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application shall include the certifications of qualification required by subsection (c) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (c)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(e) DISBURSEMENT.—(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that States will—

"(A) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000;

"(B) determine the amount of subgrants based on the population and geographic area to be served; and

"(C) give priority to areas with the greatest showing of need, as demonstrated by comparing population and geographic areas to be served to the availability of existing sexual assault and domestic violence services.

"(f) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"SEC. 1422. GENERAL GRANTS TO TRIBES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of $35,000 and maximum grants of $300,000.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b); and

"(2) at least 25 percent of the grant funds shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) Application Requirements.—(1) Applications shall be made directly to the Director and shall contain a description of the tribes' law enforcement responsibilities for the Indian country described in the application and a description of the tribes' system of courts, including whether the tribal government operates courts of Indian offenses as defined in 25 U.S.C. 1301 or CFR courts under 25 CFR 11 et seq.

"(2) Applications shall be in such form as the Director may prescribe and shall specify the nature of the program proposed by the applicant tribe, the data and information on which the program is based, and the extent to which the program plans to use or incorporate existing services available in the Indian country where the grant will be used.

"(3) The term of any grant shall be for a minimum of 3 years.

"(e) Grantee Reporting.—At the end of the first 12 months of the grant period and at the end of each year thereafter, the Indian tribal granted shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) Definitions.—(1) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

"(2) The term 'Indian country' has the meaning given to such term by section 1151 of title 18, United States Code.

"Subpart 3—General Terms and Conditions

"SEC. 1431. GENERAL DEFINITIONS.

"As used in this part—

"(1) the term 'victim services program' means any public or private nonprofit program that assists victims, including (A) nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process and (B) victim/witness programs within governmental entities;

"(2) the term 'sexual assault' includes not only assaults committed by offenders who are strangers to the victim but also assaults committed by offenders who are known or related by blood or marriage to the victim; and

"(3) the term 'domestic violence' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse, or any other person similarly situated to a spouse who is protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"SEC. 1432. GENERAL TERMS AND CONDITIONS.

"(a) Nonmonetary Assistance.—In addition to the assistance provided under subparts 1 or 2, the Director may direct any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts.

"(b) Bureau Reporting.—No later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Judiciary Committees of the House and the Senate a report that includes, for each high intensity crime area (as provided in subpart 1) and for each State and for each grantee Indian tribe (as provided in subpart 2)—

"(1) the amount of grants made under this part;

"(2) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(3) a copy of each grantee report filed pursuant to sections 1412(g) and 1421(f).

"(c) Regulations.—No later than 45 days after the date of enactment of this part, the Director shall publish proposed regulations implementing this part. No later than 120 days after such date, the Director shall publish final regulations implementing this part.

"(d) Authorization of Appropriations.—There are authorized to be appropriated for each fiscal year 1992, 1993, and 1994, $100,000,000 to carry out the purposes of subpart 1, and $190,000,000 to carry out the purposes of subpart 2, and $10,000,000 to carry out the purposes of section 1422 of subpart 2.".

Subtitle C—Safety for Women in Public Transit and Public Parks

SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

Section 24 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION

"Sec. 24. (a) General Purpose.—From funds authorized under section 21, and not to exceed $10,000,000, the Secretary shall make capital grants for the prevention of crime and to increase security in existing and future public transportation systems. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

"(b) Grants for Lighting, Camera Surveillance, and Security Phones.—

"(1) From the sums authorized for expenditure under this section for crime prevention, the Secretary is authorized to make grants and loans to States and local public bodies or agencies for the purpose of increasing the safety of public transportation by—

"(A) increasing lighting within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(B) increasing camera surveillance of areas within and adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(C) providing emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages; or

"(D) any other project intended to increase the security and safety of existing or planned public transportation systems.

"(2) From the sums authorized under this section, at least 75 percent shall be expended on projects of the type described in subsection (b)(1) (A) and (B).

"(c) Reporting.—All grants under this section are contingent upon the filing of a report with the Secretary and the Department of Justice, Office of Victims of Crime, showing crime rates in or adjacent to public transportation before, and for a 1-year period after, the capital improvement. Statistics shall be broken down by type of crime, sex, race, and relationship of victim to the offender.

"(d) Increased Federal Share.—Notwithstanding any other provision of this Act, the Federal share under this section for each capital improvement project which enhances the safety and security of public transportation systems and which is not required by law (including any other provision of this chapter) shall be 90 percent of the net project cost of such project.

"(e) Special Grants for Projects To Study Increasing Security for Women.—From the sums authorized under this section, the Secretary shall provide grants and loans for the purpose of studying ways to reduce violent crimes against women in public transit through better design or operation of public transit systems.

"(f) General Requirements.—All grants or loans provided under this section shall be subject to all the terms, conditions, requirements, and provisions applicable to grants and loans made under section 2(a).".

SEC. 132. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN NATIONAL PARKS.

The Act of August 18, 1970, the National Park System Improvements in Administration Act (90 Stat. 1931; 16 U.S.C. 1a–1 et seq.) is amended by adding at the end thereof the following:

"SEC. 13. NATIONAL PARK SYSTEM CRIME PREVENTION ASSISTANCE.

"(a) From the sums authorized pursuant to section 7 of the Land and Water Conservation Act of 1965, and not to exceed $10,000,000, the Secretary of the Interior is authorized to provide Federal assistance to reduce the incidence of violent crime in the National Park System.

"(b) The Secretary shall direct the chief official responsible for law enforcement within the National Park Services to—

"(1) compile a list of areas within the National Park System with the highest rates of violent crime;

"(2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and

"(3) publish the information required by paragraphs (1) and (2) in the Federal Register.

"(c) No later than 120 days after the date of enactment of this section, and based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute funds throughout the National Park Service. Priority shall be given to those areas with the highest rates of sexual assault.

"(d) Funds provided under this section may be used for the following purposes—

"(1) to increase lighting within or adjacent to public parks and recreation areas;

"(2) to provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(3) to increase security or law enforcement personnel within or adjacent to public parks and recreation areas; and

"(4) any other project intended to increase the security and safety of public parks and recreation areas.".

SEC. 133. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC PARKS.

Section 6 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 4601–8) is amended by adding at the end thereof the following new subsection:

"(h) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed $15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding the terms of subsection (c), the Secretary is authorized to provide 70 percent improvement grants for projects undertaken by any State for the purposes outlined in this subsection. The remaining share of the cost shall be borne by the State.".

Subtitle D—National Commission on Violent Crime Against Women

SEC. 141. ESTABLISHMENT.

There is established a commission to be known as the National Commission on Violent Crime Against Women (hereinafter referred to as "the Commission").

SEC. 142. DUTIES OF COMMISSION.

(a) GENERAL PURPOSE OF THE COMMISSION.—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crime against women.

(b) FUNCTIONS.—The Commission shall perform the following functions—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence; and

(9) evaluate and make recommendations regarding the feasibility of maintaining the confidentiality of addresses of domestic violence victims in voting, welfare, and public records.

SEC. 143. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) three of whom shall be—

(I) the Attorney General;

(II) the Secretary of Health and Human Services; and

(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of sexual assault or domestic violence.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) CONGRESSIONAL COMMITTEE RECOMMENDATIONS.—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) REQUIREMENTS OF APPOINTMENTS.—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their experience in State or national efforts to fight violence against women and demonstrate experience in State or national advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of law enforcement, prosecution, judicial administration, legal expertise, public health, social work, victim compensation boards, and victim advocacy.

(4) TERM OF MEMBERS.—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) VACANCY.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) CHAIRMAN.—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) MEETINGS.—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least six times.

(e) PAY.—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) PER DIEM.—Except as provided in subsection (e), members of the Commission shall be allowed travel and other expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) DEADLINE FOR APPOINTMENT.—Not later than 45 days after the date of the enactment of this Act, the members of the Commission shall be appointed.

SEC. 144. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

SEC. 145. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable

under GS-18 of the General Schedule as contained in title 5, United States Code.

(b) STAFF.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 146. POWERS OF COMMISSION.

(a) HEARINGS.—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) DELEGATION.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) ACCESS TO INFORMATION.—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chairman of the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 147. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $500,000 to carry out the purposes of this subtitle.

SEC. 148. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed one year.

Subtitle E—New Evidentiary Rules

SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

The Federal Rules of Evidence are amended by inserting after rule 412 the following:

"Rule 412A. Evidence of victim's past behavior in other criminal cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, reputation or opinion evidence of the past sexual behavior of an alleged victim is not admissible.

"(b) ADMISSIBILITY.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, evidence of an alleged victim's past sexual behavior (other than reputation and opinion evidence) may be admissible if—

"(1) the evidence is admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of the evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the alleged victim's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the alleged victim.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

The Federal Rules of Evidence, as amended by section 151 of this Act, are amended by adding after rule 412A the following:

"Rule 412B. Evidence of past sexual behavior in civil cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

"(b) ADMISSIBLE EVIDENCE.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

"(1) admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of such evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the plaintiff's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the plaintiff.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the plaintiff and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies evidence which may be offered and areas with respect to which the plaintiff may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

"(d) DEFINITIONS.—For purposes of this rule, a case involving a claim of actionable sexual misconduct, includes, but is not limited to, sex harassment or discrimination claims brought pursuant to title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)) and gender bias claims brought pursuant to title III of the Violence Against Women Act of 1991.".

SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end thereof the following:

"(e) INTERLOCUTORY APPEAL.—Notwithstanding any other provision of law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

"(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim."; and

(2) by adding at the end of subdivision (c)(3) the following: "In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 154. EVIDENCE OF CLOTHING.

The Federal Rules of Evidence are amended by adding after rule 412 the following:

"Rule 413. Evidence of victim's clothing as inciting violence

"Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged.".

Subtitle F—Assistance to Victims of Sexual Assault

SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended as follows:

(1) by adding at the end thereof the following new section:

"§ 1910A. Use of allotments for rape prevention education

"(a) Notwithstanding the terms of section 1904(a)(1) of this title, amounts transferred by the State for use under this part may be used for rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities, which programs may include—

"(1) educational seminars;

"(2) the operation of hotlines;

"(3) training programs for professionals;

"(4) the preparation of informational materials; and

"(5) other efforts to increase awareness of the facts about, or to help prevent, sexual assault.

"(b) States providing grant monies must assure that at least 15 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) There are authorized to be appropriated under this section for each fiscal year 1992, 1993, and 1994, $65,000,000 to carry out the purposes of this section.

"(d) Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) For purposes of this section, the term 'rape prevention and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim.

"(f) States shall be allotted funds under this section pursuant to the terms of sections 1902 and 1903, and subject to the conditions provided in this section and sections 1904 through 1909.";

(2) striking section 1901(b); and

(3) striking section 1904(a)(1)(G).

SEC. 162. RAPE EXAM PAYMENTS.

No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 unless the State or other grantee incurs the full cost of forensic medical exams for victims of sexual assault. A State or other grantee does not incur the full medical cost of forensic medical exams if it chooses to reimburse the victim after the fact unless the reimbursement program waives any minimum loss or deductible requirement, provides victim reimbursement within a reasonable time (90 days), permits applications for reimbursement within one year from the date of the exam, and provides information to all subjects of forensic medical exams about how to obtain reimbursement.

TITLE II—SAFE HOMES FOR WOMEN

SEC. 201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1990".

Subtitle A—Interstate Enforcement

SEC. 211. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

"Chapter 110A—Violence Against Spouses

"Sec. 2261. Traveling to commit spousal abuse.

"Sec. 2262. Interstate violation of protection orders.

"Sec. 2263. Restitution.

"Sec. 2264. Full faith and credit given to protection orders.

"Sec. 2265. Definitions for chapter.

"§ 2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner; or

"(2) for the purpose of harassing, intimidating, or injuring a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner,

shall be fined not more than $1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner, shall be fined not more than $1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(c) NO STATE LAW.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, a person violating this section shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

"(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§ 2262. Interstate violation of protection orders

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

"(2) for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c) of this section.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c) of this section.

"(c) PENALTIES.—

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than six months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§ 2263. Interim protections

"In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the protection of an abused spouse or intimate partner pending final adjudication of the case, upon a showing of a likelihood of danger to the abused spouse or intimate partner.

"§ 2264. Restitution

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an offense under this chapter.

"(b) Scope and Nature of Order.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to subsection (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation; and

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the offender, including obligations to dependents.

"(B) An order under this section may direct the defendant to make a single lump-sum payment, or partial payments at specified intervals. The order shall provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(C) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) Proof of Claim.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or his delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) Restitution and Criminal Penalties.—An award of restitution to the victim of an offense under this chapter shall not be a substitute for imposition of punishment under sections 2261 and 2262.

"(e) Definitions.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.

"§ 2265. Full faith and credit given to protection orders

"(a) Full Faith and Credit.—Any protection order issued consistent with the terms of subsection (b) by the court of one State (the issuing State) shall be accorded full faith and credit by the court of another State (the enforcing State) and enforced as if it were the order of the enforcing State.

"(b) Protection Order.—A protection order issued by a State court is consistent with the provisions of this section if—

"(1) such court has jurisdiction over the parties and matter under the law of such State; and

"(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

"(c) Cross or Counter Petition.—A protection order issued by a State court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

"(1) no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or

"(2) if a cross or counter petition has been filed, if the court did not make specific findings that each party was entitled to such an order.

"§ 2266. Definitions for chapter

"As used in this chapter—

"(1) the term 'spouse or intimate partner' includes—

"(A) a present or former spouse, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

"(B) any other person similarly situated to a spouse, other than a child, who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

"(2) the term 'protection order' includes any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except those done in self-defense, that results in physical injury or sexual abuse;

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

"(5) the term 'travel across State lines' includes any such travel except travel across State lines by an Indian tribal member when that member remained at all times on tribal lands.".

(b) Table of Chapters.—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

"110A. Violence against spouses .... 2261.".

Subtitle B—Arrest in Spousal Abuse Cases

SEC. 221. ENCOURAGING ARREST POLICIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10400) is amended by adding after section 311 the following:

"SEC. 312. ENCOURAGING ARREST POLICIES.

"(a) Purpose.—To encourage States, Indian tribes and localities to treat spousal violence as a serious violation of criminal law, the Secretary is authorized to make grants to eligible States, Indian tribes, municipalities, or local government entities for the following purposes:

"(1) to implement pro-arrest programs and policies in police departments and to improve tracking of cases involving spousal abuse;

"(2) to centralize and coordinate police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges;

"(3) to educate judges in criminal and other courts about spousal abuse and to improve judicial handling of such cases.

"(b) Eligibility.—(1) Eligible grantees are those States, Indian tribes, municipalities or other local government entities that—

"(A) demonstrate, through arrest and conviction statistics, that their laws or policies have been effective in significantly increasing the number of arrests made of spouse abusers; and

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed or mandate arrest of spouses violating the terms of a valid and outstanding protection order; or

"(ii) permit warrantless misdemeanor arrests of spouse abusers and encourage the use of that authority;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser and the increase in arrest rates demonstrated pursuant to paragraph (1)(A) is not the result of increased dual arrests; and

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protective order, and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim.

"(2) For purposes of this section, the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

"(3) For purposes of this section, the term 'spousal or spouse abuse' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabited with the victim as a spouse, or any other person protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(4) The eligibility requirements provided in this section shall take effect one year after the date of enactment of this section.

"(c) DELEGATION AND AUTHORIZATION.—The Secretary shall delegate to the Attorney General of the United States the Secretary's responsibilities for carrying out this section to the Attorney General. There are authorized to be appropriated not in excess of $25,000,000 for each fiscal year to be used for the purpose of making grants under this section.

"(d) APPLICATION.—An eligible grantee shall submit an application to the Secretary. Such application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribes, municipality, or local government entity that the conditions of subsection (b) are met;

"(2) describe the entity's plans to further the purposes listed in subsection (a);

"(3) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(4) identify and include documentation showing the nonprofit nongovernmental victim services programs that will be consulted in developing, and implementing, the program.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a grantee that—

"(1) does not currently provide for centralized handling of cases involving spousal or family violence in any one of the areas listed in this subsection—police, prosecutors, and courts; and

"(2) demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving spousal or family violence.

"(f) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described in subsection (d)(2) and containing such additional information as the Secretary may prescribe.

"(g) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.".

Subtitle C—Funding for Shelters

SEC. 231. AUTHORIZATION.

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

"SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out the provisions of this title, $85,000,000 for fiscal year 1992, $100,000,000, for fiscal year 1993, and $125,000,000 for fiscal year 1994.

"(b) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 80 percent shall be used by the Secretary for making grants under section 303.

"(c) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not more than 5 percent shall be used by the Secretary for making grants under section 314.

"(d) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 5 percent shall be used by the Secretary for making grants under section 308A.".

Subtitle D—Family Violence Prevention and Services Act Amendments

SEC. 241. EXPANSION OF PURPOSE.

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent" and by striking "demonstrate the effectiveness of assisting" and inserting "assist".

SEC. 242. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.

(a) INCREASING PUBLIC AWARENESS.—Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

(b) EXPANSION OF PROGRAM.—Section 303(a)(2)(B)(ii) is amended by striking "alcohol and drug abuse treatment".

SEC. 243. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

"GRANTS FOR PUBLIC INFORMATION CAMPAIGNS

"SEC. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) An application submitted under subsection (b) shall—

"(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk.".

SEC. 244. FUND DISTRIBUTION TO STATES.

Section 304(a)(1) of the Family Violence Prevention and Services Act is amended by striking "$50,000" and inserting "$500,000".

SEC. 245. INDIAN TRIBES.

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "from sums appropriated shall make no less than 10 percent available for".

SEC. 246. FUNDING LIMITATIONS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by—

(1) striking ", and" and all that follows through "fiscal years"; and

(2) striking "$50,000" and inserting "$75,000".

SEC. 247. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: "No grant may be made under this section to an entity other than a State or Indian tribe unless the entity provides 35 percent of the funding of the program or project funded by the grant.".

SEC. 248. SHELTER AND RELATED ASSISTANCE.

(a) Change of Percentages.—Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended by striking "not less than 60 percent" and inserting "not less than 75 percent".

(b) Definition of Related Assistance.—Section 309(5) of the Family Violence Prevention and Services Act is amended to read as follows:

"(5) The term 'related assistance' includes any, but does not require all, of the following—

"(A) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(B) transportation, legal assistance, referrals for appropriate health-care services (including alcohol and drug abuse treatment), and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(C) comprehensive counseling and self-help services to abusers, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services and employment training; and

"(D) child care services for children who are victims of family violence or the dependents of such victims.".

SEC. 249. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.

Section 311 of the Family Violence Protection and Services Act (42 U.S.C. 10410(b)) is repealed.

SEC. 250. REPORT ON RECORDKEEPING.

Not later than 120 days after the date of enactment of this Act, the Government Accounting Office shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine efforts to date of the FBI and Justice Department to collect statistics on domestic violence and the feasibility of, including a suggested timetable for, requiring that the relationship between an offender and victim be reported in Federal and State records of crimes of assault, aggravated assault, rape, and other violent crimes.

SEC. 251. MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.

The Family Violence Prevention Services Act, as amended by section 103 of this Act, is amended by adding at the end thereof the following new section:

"MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION

"Sec. 315. (a) The Secretary, in cooperation with the Attorney General, shall award grants to not less than 10 States to assist in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

"(1) increase the number of prosecutions for domestic violence crimes;

"(2) encourage the reporting of incidences of domestic violence;

"(3) facilitate 'arrests and aggressive' prosecution policies; and

"(4) provides court advocacy for victims of domestic violence.

"(b) To be designated as a model State under subsection (a), a State shall have in effect—

"(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

"(2) a law or policy that discourages * * *

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judiciaes 'dual' arrests;

"(3) statewide prosecution policies that—

"(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

"(4) statewide laws, policies, or guidelines for judges that—

"(A) prohibit the issuance of mutual protective orders in cases where only one spouse has sought a protective order and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim;

"(B) require that any history of child abuse be considered detrimental to the child and discourage custody or joint custody orders by spouse abusers; and

"(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute;

"(5) develop and disseminate methods to improve the criminal justice system's response to domestic violence to make existing remedies as easily available as possible to victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

"(c)(1) In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section $25,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) Funds shall be distributed under this section so that no State shall receive more than $2,500,000 in each fiscal year under this section.

"(3) The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section.".

SEC. 252. FUNDING FOR TECHNICAL ASSISTANCE CENTERS.

The Family Violence Prevention and Services Act is amended by inserting after section 308 the following:

"SEC. 308A. TECHNICAL ASSISTANCE CENTERS.

"(a) Purpose.—The purpose of this section is to provide training and technical assistance to State, Indian tribal, and local domestic violence programs and to other professionals who provide services to victims of domestic violence. From the sums authorized under this title, the Secretary shall provide grants to or contract with, private nonprofit organizations, for the establishment and maintenance of one national and six special-issue resource centers serving defined geographic areas. One national resource center shall offer resource, policy, and/or training assistance to Federal, State, Indian tribal, and local government agencies on issues pertaining to domestic violence and serve a coordinating and resource-sharing function among domestic violence service providers, and maintain a central resource library. The other national resource centers shall provide information, training and technical assistance to State, tribal and local domestic violence service providers. In addition, each national center shall specialize in one of the following areas of domestic violence service, prevention or law:

"(1) criminal justice response to domestic violence, including court-mandated abuser treatment;

"(2) child custody issues in domestic violence cases;

"(3) use of the self-defense plea by domestic violence victims;

"(4) health care response and access to health care resources for domestic violence victims;

"(5) victims' access to, and quality of, effective legal assistance, including civil litigation; and

"(6) the response of child protective service agencies to battered mothers of abused children.

"(b) Eligibility.—Eligible grantees are private non-profit organizations that—

"(1) focus primarily on domestic violence;

"(2) provide documentation to the Secretary demonstrating a minimum of three years experience with issues of domestic violence, particularly in the specific area for which it is applying;

"(3) include on its advisory boards representatives from domestic violence programs who are geographically and culturally diverse; and

"(4) demonstrate strong support from domestic violence advocates for their designation as the special-issue resource center.

"(c) Reporting.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described and containing such additional information as the Secretary may prescribe.

"(d) Regulations.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section.".

Subtitle E—Youth Education and Domestic Violence

SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

(a) General Purpose.—For purposes of this section, the Secretary shall delegate his powers to the Secretary of Education, hereinafter referred to as the "Secretary". The Secretary shall select, implement and evaluate four model programs for education of young people about domestic violence and violence among intimate partners.

(b) Nature of Program.—The Secretary shall select, implement and evaluate separate model programs for four different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. These model programs shall be selected, implemented, and evaluated with the input of educational experts, legal and psychological experts on battering, and victim advocate organizations such as battered women's shelters, State coalitions and resource centers. The participation of each of these groups or individual consultants from such groups is essential to the selection, implementation, and evaluation of programs that meet both the needs of educational institutions and the needs of the domestic violence problem.

(c) Review and Dissemination.—Not later than 24 months after the date of enactment of this Act, the Secretary shall transmit the design and evaluation of the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.

(d) AUTHORIZATION.—There are authorized to be appropriated under this section for fiscal year 1992, $400,000 to carry out the purposes of this section.

Subtitle F—Confidentiality for Abused Persons

SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.

No later than 90 days after the enactment of this Act, the Postmaster General shall promulgate regulations to secure the confidentiality of abused persons' addresses or otherwise prohibit the disclosure of an abused person's address consistent with the following guidelines:

(1) confidentiality shall be provided upon the presentation to an appropriate postal official of an existing and valid court order for the protection of an abused spouse;

(2) disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited; and

(3) compilations of addresses existing at the time the order is presented to an appropriate postal official shall be excluded from the scope of the proposed regulations.

TITLE III—CIVIL RIGHTS

SEC. 301. CIVIL RIGHTS.

(a) FINDINGS.—The Congress finds that—

(1) crimes motivated by the victim's gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for gender crimes committed on the street or in the home; and

(3) State and Federal criminal laws do not adequately protect against the bias element of gender-motivated crimes, which separates these crimes from acts of random violence, nor do those laws adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests;

(4) existing bias and discrimination in the criminal justice system often deprives victims of gender-motivated crimes of equal protection of the laws and the redress to which they are entitled;

(5) gender-motivated violence has a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business, and in places involved, in interstate commerce;

(6) gender-motivated violence has a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products;

(7) a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse effects of gender-motivated violence on interstate commerce; and

(8) victims of gender-motivated violence have a right to equal protection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

(b) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any person, including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State, who commits a crime of violence motivated by gender and thus deprives another of the rights, privileges or immunities secured by the Constitution or laws as enumerated in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in this section, including rape, sexual assault, sexual abuse, abusive sexual contact, or any other crime of violence committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

SEC. 302. CONFORMING AMENDMENT.

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: ", or title III of the Violence Against Women Act of 1991,".

TITLE IV—SAFE CAMPUSES FOR WOMEN

SEC. 401. SHORT TITLE.

This title may be cited as the "Safe Campuses for Women Act of 1990".

SEC. 402. FINDINGS.

The Congress finds that—

(1) rape prevention and education programs are essential to an educational environment free of fear for students' personal safety;

(2) sexual assault on campus, whether by fellow students or not, is widespread among the Nation's higher education institutions: experts estimate that 1 in 7 of the women now in college have been raped and over half of college rape victims know their attackers;

(3) sexual assault poses a grave threat to the physical and mental well-being of students and may significantly impair the learning process; and

(4) action by schools to educate students may make substantial inroads on the incidence of rape, including the incidence of acquaintance rape on campus.

SEC. 403. GRANTS FOR CAMPUS RAPE EDUCATION.

Title X of the Higher Education Act of 1965 is amended to add at the end thereof the following:

"PART D—GRANTS FOR CAMPUS RAPE EDUCATION."

SEC. 1071. GRANTS FOR CAMPUS RAPE EDUCATION.

"(a) IN GENERAL.—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for rape education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

"(b) GENERAL RAPE PREVENTION AND EDUCATION GRANTS.—Grants under this section shall be used to educate and provide support services to student victims of rape or sexual assault. Grants may be used for the following purposes:

"(1) to provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of rape, sexual assault, and other gender-motivated crimes;

"(2) to develop, disseminate, or implement campus security and student disciplinary policies to prevent and discipline rape, sexual assault and other gender-motivated crimes;

"(3) to develop, enlarge or strengthen support services programs including medical or psychological counseling to assist victims' recovery from rape, sexual assault, or other gender-motivated crimes;

"(4) to create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action; and

"(5) to implement, operate, or improve rape education and prevention programs, including programs making use of peer-to-peer education.

"(c) MODEL GRANTS.—Not less than 25 percent of the funds authorized under this section shall be available for grants for model demonstration programs to be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student rape victims.

"(d) ELIGIBILITY.—No institution of higher education or consortium of such institutions shall be eligible for a grant under this section unless—

"(1) its student code of conduct, or other written policy governing student behavior, explicitly prohibits not only rape but all forms of sexual assault; and

"(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual assault the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual assault: *Provided*, That nothing in this section shall be interpreted to authorize disclosure to any person other than the victim.

"(e) APPLICATIONS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—

"(A) set forth the activities and programs to be carried out with funds granted under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) explain how the program intends to address the issue of acquaintance rape;

"(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

"(e) GRANTEE REPORTING.—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) Except as otherwise provided, the terms used in this part shall have the meaning provided under section 2981 of this title.

"(2) For purposes of this subchapter, the following terms have the following meanings:

"(A) The term 'rape education and prevention' includes programs that provide educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual assault.

"(B) The term 'Secretary' means the Secretary of Education.

"(g) GENERAL TERMS AND CONDITIONS.—(1) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.

"(2) No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

"(A) the amount of grants made under this section;

"(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(C) a copy of each grantee report filed pursuant to subsection (e) of this section.

"(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated $20,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995.".

SEC. 404. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.

Section 204(f) of the Crime Awareness and Campus Security Act of 1990 is amended to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

"(i) murder;

"(ii) rape or sexual assault;

"(iii) robbery;

"(iv) aggravated assault;

"(v) burglary; and

"(vi) motor vehicle theft.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

SECTION 501. SHORT TITLE.

This title may be cited as the "Equal Justice for Women in the Courts Act of 1991".

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

SEC. 511. GRANTS AUTHORIZED.

The State Justice Institute is authorized to award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SEC. 512. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the batterer, to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel, and the legitimate reasons why victims of domestic violence may refuse to testify against a defendant;

(18) the need for orders of protection, and the implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence cases;

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims; and

(20) current information on the impact of pornography on crimes against women, or data on other activities that tend to degrade women.

SEC. 513. COOPERATION IN DEVELOPING PROGRAMS IN MAKING GRANTS UNDER THIS TITLE.

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this subtitle are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 514. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $600,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

SEC. 521. EDUCATION AND TRAINING GRANTS.

(a) STUDY.—The Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use of data collection techniques such as reviews of trial and appellate opinions and transcripts, public hearings, and inquiries to attorneys practicing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) MODEL PROGRAMS.—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 512 of subtitle A; and

(B) all procedural and substantive aspects of the legal rights and remedies for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

SEC. 522. COOPERATION IN DEVELOPING PROGRAMS.

In implementing this subtitle, the Federal Judicial Center shall ensure that the study and model programs are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 523. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $400,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 521(a) of this subtitle.

AMENDMENT NO. 667

Strike everything after the term "Sec." and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violence Against Women Act of 1991".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—SAFE STREETS FOR WOMEN

Sec. 101. Short title.

Subtitle A—Federal Penalties for Sex Crimes

Sec. 111. Repeat offenders.
Sec. 112. Federal penalties.
Sec. 113. Mandatory restitution for sex crimes.

Subtitle B—Law Enforcement and Prosecution Grants To Reduce Violent Crimes Against Women

Sec. 121. Grants to combat violent crimes against women.

Subtitle C—Safety for Women in Public Transit and Public Parks

Sec. 131. Grants for capital improvements to prevent crime in public transportation.
Sec. 132. Grants for capital improvements to prevent crime in national parks.
Sec. 133. Grants for capital improvements to prevent crime in public parks.

Subtitle D—National Commission on Violent Crime Against Women

Sec. 141. Establishment.
Sec. 142. Duties of commission.
Sec. 143. Membership.
Sec. 144. Reports.
Sec. 145. Executive Director and staff.
Sec. 146. Powers of commission.
Sec. 147. Authorization of appropriations.
Sec. 148. Termination.

Subtitle E—New Evidentiary Rules

Sec. 151. Sexual history in all criminal cases.
Sec. 152. Sexual history in civil cases.
Sec. 153. Amendments to rape shield law.
Sec. 154. Evidence of clothing.

Subtitle F—Assistance to Victims of Sexual Assault

Sec. 161. Education and prevention grants to reduce sexual assaults against women.
Sec. 162. Rape exam payments.

TITLE II—SAFE HOMES FOR WOMEN

Sec. 201. Short title.

Subtitle A—Interstate Enforcement

Sec. 211. Interstate enforcement.

Subtitle B—Arrest in Spousal Abuse Cases

Sec. 221. Encouraging arrest policies.

Subtitle C—Funding for Shelters

Sec. 231. Authorization.

Subtitle D—Family Violence Prevention and Services Act Amendments

Sec. 241. Expansion of purpose.
Sec. 242. Expansion of State demonstration grant program.
Sec. 243. Grants for public information campaigns.
Sec. 244. State commissions on domestic violence.
Sec. 245. Indian tribes.
Sec. 246. Funding limitations.
Sec. 247. Grants to entities other than States; local share.
Sec. 248. Shelter and related assistance.
Sec. 249. Law enforcement training and technical assistance grants.
Sec. 250. Report on recordkeeping.
Sec. 251. Model State leadership incentive grants for domestic violence intervention.
Sec. 252. Funding for technical assistance centers.

Subtitle E—Youth Education and Domestic Violence

Sec. 261. Educating youth about domestic violence.

Subtitle F—Confidentiality for Abused Persons

Sec. 271. Confidentiality for abused persons.

TITLE III—CIVIL RIGHTS

Sec. 301. Civil rights.

TITLE IV—SAFE CAMPUSES FOR WOMEN

Sec. 401. Short title.
Sec. 402. Findings.
Sec. 403. Grants for campus rape education.
Sec. 404. Disclosure of disciplinary proceedings in sex assault cases on campus.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

Sec. 501. Short title.

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

Sec. 511. Grants authorized.
Sec. 512. Training provided by grants.
Sec. 513. Cooperation in developing programs in making grants under this title.
Sec. 514. Authorization of appropriations.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

Sec. 521. Education and training grants.
Sec. 522. Cooperation in developing programs.
Sec. 523. Authorization of appropriations.

TITLE I—SAFE STREETS FOR WOMEN

SEC. 101. SHORT TITLE.

This title may be cited as the "Safe Streets for Women Act of 1991".

Subtitle A—Federal Penalties for Sex Crimes

SEC. 111. REPEAT OFFENDERS.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2247. Repeat offenders

"Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2247. Repeat offenders.".

SEC. 112. FEDERAL PENALTIES.

(a) RAPE AND AGGRAVATED RAPE.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide that a defendant convicted of aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, shall be assigned a base offense level under chapter 2 of the sentencing guidelines that is at least 4 levels greater than the base offense level applicable to criminal sexual abuse under the guidelines in effect on November 1, 1990, or otherwise shall amend the guidelines applicable to such offenses so as to achieve a comparable minimum guideline sentence. In amending such guidelines, the Sentencing Commission shall review the appropriateness of existing specific offense characteristics or other adjustments applicable to such offenses, and make such changes as it deems appropriate, taking into account the severity of rape offenses, with or without aggravating factors; the unique nature and duration of the mental injuries inflicted on the victims of such offenses; and any other relevant factors.

(b) EFFECT OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instructions set forth in subsection (a) so as to achieve a comparable result.

(c) STATUTORY RAPE.—

(1) Section 2243(b) of title 18, United States Code, is amended by striking "one year," and inserting "two years,".

(2) Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to incorporate the increase in maximum penalties provided by this section for section 2243(b) of title 18, United States Code.

SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegatee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegatee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegatee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegatee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or matters related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or his delegatee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2248. Mandatory restitution.".

Subtitle B—Law Enforcement and Prosecution Grants To Reduce Violent Crimes Against Women

SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) redesignating part N as part O;

(2) redesignating section 1401 as section 1501; and

(3) adding after part M the following:

"PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"SEC. 1401. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribes, cities, and other localities to develop effective law enforcement and prosecution strategies to combat violent crimes against women and, in particular, to focus efforts on those areas with the highest rates of violent crime against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide additional personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing police and prosecution policies, protocols, or orders specifically devoted to identifying and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, prosecutions, and convictions for the crimes of sexual assault and domestic violence; and

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, to increase reporting and reduce attrition rates for cases involving violent crimes against women, including the crimes of sexual assault and domestic violence.

"SUBPART 1—HIGH INTENSITY CRIME AREA GRANTS

"SEC. 1411. HIGH INTENSITY GRANTS.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the 'Director') shall make grants to areas of 'high intensity crime' against women.

"(b) DEFINITION.—For purposes of this part, a 'high intensity crime area' means an area with one of the 40 highest rates of violent crime against women, as determined by the Bureau of Justice Statistics pursuant to section 1412.

"SEC. 1412. HIGH INTENSITY GRANT APPLICATION.

"(a) COMPUTATION.—Within 45 days after the date of enactment of this part, the Bureau of Justice Statistics shall compile a list of the 40 areas with the highest rates of violent crime against women based on the combined female victimization rate per population for assault, sexual assault (including, but not limited to, rape), murder, robbery, and kidnapping.

"(b) USE OF DATA.—In calculating the combined female victimization rate required by subsection (a), the Bureau of Justice Statistics may rely on—

"(1) existing data collected by States, municipalities, Indian reservations or statistical metropolitan areas showing the number of police reports of the crimes listed in subsection (a); and

"(2) existing data collected by the Federal Bureau of Investigation, including data from those governmental entities already complying with the National Incident Based Reporting System, showing the number of police reports of crimes listed in subsection (a).

"(c) PUBLICATION.—After compiling the list set forth in subsection (a), the Bureau of Justice Statistics shall convey it to the Director who shall publish it in the Federal Register.

"(d) QUALIFICATION.—Upon satisfying the terms of subsection (e), any high intensity crime area shall be qualified for a grant under this subpart upon application by the chief executive officer of the governmental entities responsible for law enforcement and prosecution of criminal offenses within the area and certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate program grants, with nongovernmental nonprofit victim services programs; and

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(e) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application must provide the certifications required by subsection (d) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (d)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall ensure, to the extent practicable, that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served; and

"(C) give priority to areas with the greatest showing of need.

"(g) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this part. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"Subpart 2—Other Grants to States to Combat Violent Crimes Against Women

"SEC. 1421. GENERAL GRANTS TO STATES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to States, for use by States, units of local government in the States, and nonprofit nongovernmental victim services programs in the States, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be—

"(1) $500,000 to each State; and

"(2) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application shall include the certifications of qualification required by subsection (c) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (c)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(e) DISBURSEMENT.—(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that States will—

"(A) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000;

"(B) determine the amount of subgrants based on the population and geographic area to be served; and

"(C) give priority to areas with the greatest showing of need, as demonstrated by comparing population and geographic areas to be served to the availability of existing sexual assault and domestic violence services.

"(f) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"SEC. 1422. GENERAL GRANTS TO TRIBES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of $35,000 and maximum grants of $300,000.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b); and

"(2) at least 25 percent of the grant funds shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—(1) Applications shall be made directly to the Director and shall contain a description of the tribes' law enforcement responsibilities for the Indian country described in the application and a description of the tribes' system of courts, including whether the tribal government operates courts of Indian offenses as defined in 25 U.S.C. 1301 or CFR courts under 25 CFR 11 et seq.

"(2) Applications shall be in such form as the Director may prescribe and shall specify the nature of the program proposed by the applicant tribe, the data and information on which the program is based, and the extent to which the program plans to use or incorporate existing services available in the Indian country where the grant will be used.

"(3) The term of any grant shall be for a minimum of 3 years.

"(e) GRANTEE REPORTING.—At the end of the first 12 months of the grant period and at the end of each year thereafter, the Indian tribal granted shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

"(2) The term 'Indian country' has the meaning given to such term by section 1151 of title 18, United States Code.

"SUBPART 3—GENERAL TERMS AND CONDITIONS

"SEC. 1431. GENERAL DEFINITIONS.

"As used in this part—

"(1) the term 'victim services program' means any public or private nonprofit program that assists victims, including (A) nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process and (B) victim/witness programs within governmental entities;

"(2) the term 'sexual assault' includes not only assaults committed by offenders who are strangers to the victim but also assaults committed by offenders who are known or related by blood or marriage to the victim; and

"(3) the term 'domestic violence' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse, or any other person similarly situated to a spouse who is protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"SEC. 1432. GENERAL TERMS AND CONDITIONS.

"(a) NONMONETARY ASSISTANCE.—In addition to the assistance provided under subparts 1 or 2, the Director may direct any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts.

"(b) BUREAU REPORTING.—No later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Judiciary Committees of the House and the Senate a report that includes, for each high intensity crime area (as provided in subpart 1) and for each State and for each grantee Indian tribe (as provided in subpart 2)—

"(1) the amount of grants made under this part;

"(2) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(3) a copy of each grantee report filed pursuant to sections 1412(g) and 1421(f).

"(c) REGULATIONS.—No later than 45 days after the date of enactment of this part, the Director shall publish proposed regulations implementing this part. No later than 120 days after such date, the Director shall publish final regulations implementing this part.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year 1992, 1993, and 1994, $100,000,000 to carry out the purposes of subpart 1, and $190,000,000 to carry out the purposes of subpart 2, and $10,000,000 to carry out the purposes of section 1422 of subpart 2.".

Subtitle C—Safety for Women in Public Transit and Public Parks

SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

Section 24 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION

"SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, and not to exceed $10,000,000, the Secretary shall make capital grants for the prevention of crime and to increase security in existing and future public transportation systems. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

"(b) GRANTS FOR LIGHTING, CAMERA SURVEILLANCE, AND SECURITY PHONES.—

"(1) From the sums authorized for expenditure under this section for crime prevention, the Secretary is authorized to make grants and loans to States and local public bodies or agencies for the purpose of increasing the safety of public transportation by—

"(A) increasing lighting within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(B) increasing camera surveillance of areas within and adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(C) providing emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages; or

"(D) any other project intended to increase the security and safety of existing or planned public transportation systems.

"(2) From the sums authorized under this section, at least 75 percent shall be expended on projects of the type described in subsection (b)(1) (A) and (B).

"(c) REPORTING.—All grants under this section are contingent upon the filing of a report with the Secretary and the Department of Justice, Office of Victims of Crime, showing crime rates in or adjacent to public transportation before, and for a 1-year period after, the capital improvement. Statistics shall be broken down by type of crime, sex, race, and relationship of victim to the offender.

"(d) INCREASED FEDERAL SHARE.—Notwithstanding any other provision of this Act, the Federal share under this section for each capital improvement project which enhances the safety and security of public transportation systems and which is not required by law (including any other provision of this chapter) shall be 90 percent of the net project cost of such project.

"(e) SPECIAL GRANTS FOR PROJECTS TO STUDY INCREASING SECURITY FOR WOMEN.—From the sums authorized under this section, the Secretary shall provide grants and loans for the purpose of studying ways to reduce violent crimes against women in public transit through better design or operation of public transit systems.

"(f) GENERAL REQUIREMENTS.—All grants or loans provided under this section shall be subject to all the terms, conditions, requirements, and provisions applicable to grants and loans made under section 2(a).".

SEC. 132. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN NATIONAL PARKS.

The Act of August 18, 1970, the National Park System Improvements in Administration Act (90 Stat. 1931; 16 U.S.C. 1a-1 et seq.) is amended by adding at the end thereof the following:

"SEC. 13. NATIONAL PARK SYSTEM CRIME PREVENTION ASSISTANCE.

"(a) From the sums authorized pursuant to section 7 of the Land and Water Conservation Act of 1965, and not to exceed $10,000,000, the Secretary of the Interior is authorized to provide Federal assistance to reduce the incidence of violent crime in the National Park System.

"(b) The Secretary shall direct the chief official responsible for law enforcement within the National Park Services to—

"(1) compile a list of areas within the National Park System with the highest rates of violent crime;

"(2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and

"(3) publish the information required by paragraphs (1) and (2) in the Federal Register.

"(c) No later than 120 days after the date of enactment of this section, and based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute funds throughout the National Park Service. Priority shall be given to those areas with the highest rates of sexual assault.

"(d) Funds provided under this section may be used for the following purposes—

"(1) to increase lighting within or adjacent to public parks and recreation areas;

"(2) to provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(3) to increase security or law enforcement personnel within or adjacent to public parks and recreation areas; and

"(4) any other project intended to increase the security and safety of public parks and recreation areas.".

SEC. 133. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC PARKS.

Section 6 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 4601-8) is amended by adding at the end thereof the following new subsection:

"(h) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed $15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding the terms of subsection (c), the Secretary is authorized to provide 70 percent improvement grants for projects undertaken by any State for the purposes outlined in this subsection. The remaining share of the cost shall be borne by the State.".

Subtitle D—National Commission on Violent Crime Against Women

SEC. 141. ESTABLISHMENT.

There is established a commission to be known as the National Commission on Violent Crime Against Women (hereinafter referred to as "the Commission").

SEC. 142. DUTIES OF COMMISSION.

(a) GENERAL PURPOSE OF THE COMMISSION.—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crime against women.

(b) FUNCTIONS.—The Commission shall perform the following functions—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protec-

tion services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence; and

(9) evaluate and make recommendations regarding the feasibility of maintaining the confidentiality of addresses of domestic violence victims in voting, welfare, and public records.

SEC. 143. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) three of whom shall be—

(I) the Attorney General;

(II) the Secretary of Health and Human Services; and

(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of sexual assault or domestic violence.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) CONGRESSIONAL COMMITTEE RECOMMENDATIONS.—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) REQUIREMENTS OF APPOINTMENTS.—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their experience in State or national efforts to fight violence against women and demonstrate experience in State or national advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of law enforcement, prosecution, judicial administration, legal expertise, public health, social work, victim compensation boards, and victim advocacy.

(4) TERM OF MEMBERS.—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) VACANCY.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) CHAIRMAN.—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) MEETINGS.—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least six times.

(e) PAY.—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) PER DIEM.—Except as provided in subsection (e), members of the Commission shall be allowed travel and other expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) DEADLINE FOR APPOINTMENT.—Not later than 45 days after the date of the enactment of this Act, the members of the Commission shall be appointed.

SEC. 144. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

SEC. 145. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable under GS–18 of the General Schedule as contained in title 5, United States Code.

(b) STAFF.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 146. POWERS OF COMMISSION.

(a) HEARINGS.—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) DELEGATION.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) ACCESS TO INFORMATION.—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chairman of the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 147. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $500,000 to carry out the purposes of this subtitle.

SEC. 148. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed one year.

Subtitle E—New Evidentiary Rules

SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

The Federal Rules of Evidence are amended by inserting after rule 412 the following:

"Rule 412A. Evidence of victim's past behavior in other criminal cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, reputation or opinion evidence of the past sexual behavior of an alleged victim is not admissible.

"(b) ADMISSIBILITY.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, evidence of an alleged victim's past sexual behavior (other than reputation and opinion evidence) may be admissible if—

"(1) the evidence is admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of the evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the alleged victim's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the alleged victim.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

The Federal Rules of Evidence, as amended by section 151 of this Act, are amended by adding after rule 412A the following:

"Rule 412B. Evidence of past sexual behavior in civil cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

"(b) ADMISSIBLE EVIDENCE.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

"(1) admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of such evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the plaintiff's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the plaintiff.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the plaintiff and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies evidence which may be offered and areas with respect to which the plaintiff may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

"(d) DEFINITIONS.—For purposes of this rule, a case involving a claim of actionable sexual misconduct, includes, but is not limited to, sex harassment or discrimination claims brought pursuant to title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)) and gender bias claims brought pursuant to title III of the Violence Against Women Act of 1991.".

SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end thereof the following:

"(e) INTERLOCUTORY APPEAL.—Notwithstanding any other provision of law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

"(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim."; and

(2) by adding at the end of subdivision (c)(3) the following: "In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 154. EVIDENCE OF CLOTHING.

The Federal Rules of Evidence are amended by adding after rule 412 the following:

"Rule 413. Evidence of victim's clothing as inciting violence

"Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged.".

Subtitle F—Assistance to Victims of Sexual Assault

SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended as follows:

(1) by adding at the end thereof the following new section:

"§ 1910A. Use of allotments for rape prevention education

"(a) Notwithstanding the terms of section 1904(a)(1) of this title, amounts transferred by the State for use under this part may be used for rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities, which programs may include—

"(1) educational seminars;

"(2) the operation of hotlines;

"(3) training programs for professionals;

"(4) the preparation of informational materials; and

"(5) other efforts to increase awareness of the facts about, or to help prevent, sexual assault.

"(b) States providing grant monies must assure that at least 15 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) There are authorized to be appropriated under this section for each fiscal year 1992, 1993, and 1994, $65,000,000 to carry out the purposes of this section.

"(d) Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) For purposes of this section, the term 'rape prevention and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim.

"(f) States shall be allotted funds under this section pursuant to the terms of sections 1902 and 1903, and subject to the conditions provided in this section and sections 1904 through 1909.";

(2) striking section 1901(b); and

(3) striking section 1904(a)(1)(G).

SEC. 162. RAPE EXAM PAYMENTS.

No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 unless the State or other grantee incurs the full cost of forensic medical exams for victims of sexual assault. A State or other grantee does not incur the full medical cost of forensic medical exams if it chooses to reimburse the victim after the fact unless the reimbursement program waives any minimum loss or deductible requirement, provides victim reimbursement within a reasonable time (90 days), permits applications for reimbursement within one year from the date of the exam, and provides information to all subjects of forensic medical exams about how to obtain reimbursement.

TITLE II—SAFE HOMES FOR WOMEN

SEC. 201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1990".

Subtitle A—Interstate Enforcement

SEC. 211. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

"Chapter 110A—Violence Against Spouses

"Sec. 2261. Traveling to commit spousal abuse.
"Sec. 2262. Interstate violation of protection orders.
"Sec. 2263. Restitution.
"Sec. 2264. Full faith and credit given to protection orders.
"Sec. 2265. Definitions for chapter.

"§ 2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner; or

"(2) for the purpose of harassing, intimidating, or injuring a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner,

shall be fined not more than $1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner, shall be fined not more than $1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(c) NO STATE LAW.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, a person violating this section shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

"(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§ 2262. Interstate violation of protection orders

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

"(2) for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c) of this section.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c) of this section.

"(c) PENALTIES.—

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than six months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§ 2263. Interim protections

"In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the protection of an abused spouse or intimate partner pending final adjudication of the case, upon a showing of a likelihood of danger to the abused spouse or intimate partner.

"§ 2264. Restitution

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to subsection (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation; and

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the offender, including obligations to dependents.

"(B) An order under this section may direct the defendant to make a single lump-sum payment, or partial payments at specified intervals. The order shall provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(C) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or his delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) RESTITUTION AND CRIMINAL PENALTIES.—An award of restitution to the victim of an offense under this chapter shall not be a substitute for imposition of punishment under sections 2261 and 2262.

"(e) DEFINITIONS.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.

"§ 2265. Full faith and credit given to protection orders

"(a) FULL FAITH AND CREDIT.—Any protection order issued consistent with the terms of subsection (b) by the court of one State (the issuing State) shall be accorded full faith and credit by the court of another State (the enforcing State) and enforced as if it were the order of the enforcing State.

"(b) PROTECTION ORDER.—A protection order issued by a State court is consistent with the provisions of this section if—

"(1) such court has jurisdiction over the parties and matter under the law of such State; and

"(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

"(c) CROSS OR COUNTER PETITION.—A protection order issued by a State court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

"(1) no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or

"(2) if a cross or counter petition has been filed, if the court did not make specific findings that each party was entitled to such an order.

"§ 2266. Definitions for chapter

"As used in this chapter—

"(1) the term 'spouse or intimate partner' includes—

"(A) a present or former spouse, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

"(B) any other person similarly situated to a spouse, other than a child, who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

"(2) the term 'protection order' includes any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except those done in self-defense, that results in physical injury or sexual abuse;

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

"(5) the term 'travel across State lines' includes any such travel except travel across State lines by an Indian tribal member when that member remained at all times on tribal lands.".

(b) TABLE OF CHAPTERS.—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

"110A. Violence against spouses .... 2261.".

Subtitle B—Arrest in Spousal Abuse Cases

SEC. 221. ENCOURAGING ARREST POLICIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10400) is amended by adding after section 311 the following:

"SEC. 312. ENCOURAGING ARREST POLICIES.

"(a) PURPOSE.—To encourage States, Indian tribes and localities to treat spousal violence as a serious violation of criminal law, the Secretary is authorized to make grants to eligible States, Indian tribes, municipalities, or local government entities for the following purposes:

"(1) to implement pro-arrest programs and policies in police departments and to improve tracking of cases involving spousal abuse;

"(2) to centralize and coordinate police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges;

"(3) to educate judges in criminal and other courts about spousal abuse and to improve judicial handling of such cases.

"(b) ELIGIBILITY.—(1) Eligible grantees are those States, Indian tribes, municipalities or other local government entities that—

"(A) demonstrate, through arrest and conviction statistics, that their laws or policies have been effective in significantly increasing the number of arrests made of spouse abusers; and

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed or mandate arrest of spouses violating the terms of a valid and outstanding protection order; or

"(ii) permit warrantless misdemeanor arrests of spouse abusers and encourage the use of that authority;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser and the increase in arrest rates demonstrated pursuant to paragraph (1)(A) is not the result of increased dual arrests; and

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protective order, and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim.

"(2) For purposes of this section, the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

"(3) For purposes of this section, the term 'spousal or spouse abuse' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabited with the victim as a spouse, or any other person protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(4) The eligibility requirements provided in this section shall take effect one year after the date of enactment of this section.

"(c) DELEGATION AND AUTHORIZATION.—The Secretary shall delegate to the Attorney General of the United States the Secretary's responsibilities for carrying out this section to the Attorney General. There are authorized to be appropriated not in excess of $25,000,000 for each fiscal year to be used for the purpose of making grants under this section.

"(d) APPLICATION.—An eligible grantee shall submit an application to the Secretary. Such application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribes, municipality, or local government entity that the conditions of subsection (b) are met;

"(2) describe the entity's plans to further the purposes listed in subsection (a);

"(3) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(4) identify and include documentation showing the nonprofit nongovernmental victim services programs that will be consulted in developing, and implementing, the program.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a grantee that—

"(1) does not currently provide for centralized handling of cases involving spousal or family violence in any one of the areas listed in this subsection—police, prosecutors, and courts; and

"(2) demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving spousal or family violence.

"(f) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described in subsection (d)(2) and containing such additional information as the Secretary may prescribe.

"(g) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.".

Subtitle C—Funding for Shelters

SEC. 231. AUTHORIZATION.

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

"SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out the provisions of this title, $85,000,000 for fiscal year 1992, $100,000,000, for fiscal year 1993, and $125,000,000 for fiscal year 1994.

"(b) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 80 percent shall be used by the Secretary for making grants under section 303.

"(c) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not more than 5 percent shall be used by the Secretary for making grants under section 314.

"(d) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 5 percent shall be used by the Secretary for making grants under section 308A.".

Subtitle D—Family Violence Prevention and Services Act Amendments

SEC. 241. EXPANSION OF PURPOSE.

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent" and by striking "demonstrate the effectiveness of assisting" and inserting "assist".

SEC. 242. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.

(a) INCREASING PUBLIC AWARENESS.—Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

(b) EXPANSION OF PROGRAM.—Section 303(a)(2)(B)(ii) is amended by striking "alcohol and drug abuse treatment".

SEC. 243. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

"GRANTS FOR PUBLIC INFORMATION CAMPAIGNS

"SEC. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) An application submitted under subsection (b) shall—

"(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk.".

SEC. 244. FUND DISTRIBUTION TO STATES.

Section 304(a)(1) of the Family Violence Prevention and Services Act is amended by striking "$50,000" and inserting "$500,000".

SEC. 245. INDIAN TRIBES.

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "from sums appropriated shall make no less than 10 percent available for".

SEC. 246. FUNDING LIMITATIONS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by—

(1) striking ", and" and all that follows through "fiscal years"; and

(2) striking "$50,000" and inserting "$75,000".

SEC. 247. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: "No grant may be made under this section to an entity other than a State or Indian tribe unless the entity provides 35 percent of the funding of the program or project funded by the grant.".

SEC. 248. SHELTER AND RELATED ASSISTANCE.

(a) CHANGE OF PERCENTAGES.—Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended by striking "not less than 60 percent" and inserting "not less than 75 percent".

(b) DEFINITION OF RELATED ASSISTANCE.—Section 309(5) of the Family Violence Prevention and Services Act is amended to read as follows:

"(5) The term 'related assistance' includes any, but does not require all, of the following—

"(A) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(B) transportation, legal assistance, referrals for appropriate health-care services (including alcohol and drug abuse treatment), and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(C) comprehensive counseling and self-help services to abusers, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services and employment training; and

"(D) child care services for children who are victims of family violence or the dependents of such victims.".

SEC. 249. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.

Section 311 of the Family Violence Protection and Services Act (42 U.S.C. 10410(b)) is repealed.

SEC. 250. REPORT ON RECORDKEEPING.

Not later than 120 days after the date of enactment of this Act, the Government Accounting Office shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine efforts to date of the FBI and Justice Department to collect statistics on domestic violence and the feasibility of, including a suggested timetable for, requiring that the relationship between an offender and victim be reported in Federal and State records of crimes of assault, aggravated assault, rape, and other violent crimes.

SEC. 251. MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.

The Family Violence Prevention Services Act, as amended by section 103 of this Act, is amended by adding at the end thereof the following new section:

"MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION

"SEC. 315. (a) The Secretary, in cooperation with the Attorney General, shall award grants to not less than 10 States to assist in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

"(1) increase the number of prosecutions for domestic violence crimes;

"(2) encourage the reporting of incidences of domestic violence;

"(3) facilitate 'arrests and aggressive' prosecution policies; and

"(4) provides court advocacy for victims of domestic violence.

"(b) To be designated as a model State under subsection (a), a State shall have in effect—

"(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

"(2) a law or policy that discourages * * *

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judiciaes 'dual' arrests;

"(3) statewide prosecution policies that—

"(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

"(4) statewide laws, policies, or guidelines for judges that—

"(A) prohibit the issuance of mutual protective orders in cases where only one spouse has sought a protective order and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim;

"(B) require that any history of child abuse be considered detrimental to the child and discourage custody or joint custody orders by spouse abusers; and

"(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute;

"(5) develop and disseminate methods to improve the criminal justice system's response to domestic violence to make existing remedies as easily available as possible to victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

"(c)(1) In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section $25,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) Funds shall be distributed under this section so that no State shall receive more than $2,500,000 in each fiscal year under this section.

"(3) The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section.".

SEC. 252. FUNDING FOR TECHNICAL ASSISTANCE CENTERS.

The Family Violence Prevention and Services Act is amended by inserting after section 308 the following:

"SEC. 308A. TECHNICAL ASSISTANCE CENTERS.

"(a) PURPOSE.—The purpose of this section is to provide training and technical assistance to State, Indian tribal, and local domestic violence programs and to other professionals who provide services to victims of domestic violence. From the sums authorized under this title, the Secretary shall provide grants to or contract with, private nonprofit organizations, for the establishment and maintenance of one national and six special-issue resource centers serving defined geographic areas. One national resource center shall offer resource, policy, and/or training assistance to Federal, State, Indian tribal, and local government agencies on issues pertaining to domestic violence and serve a coordinating and resource-sharing function among domestic violence service providers, and maintain a central resource library. The other national resource centers shall provide information, training and technical assistance to State, tribal and local domestic violence service providers. In addition, each national center shall specialize in one of the following areas of domestic violence service, prevention or law:

"(1) criminal justice response to domestic violence, including court-mandated abuser treatment;

"(2) child custody issues in domestic violence cases;

"(3) use of the self-defense plea by domestic violence victims;

"(4) health care response and access to health care resources for domestic violence victims;

"(5) victims' access to, and quality of, effective legal assistance, including civil litigation; and

"(6) the response of child protective service agencies to battered mothers of abused children.

"(b) ELIGIBILITY.—Eligible grantees are private non-profit organizations that—

"(1) focus primarily on domestic violence;

"(2) provide documentation to the Secretary demonstrating a minimum of three years experience with issues of domestic violence, particularly in the specific area for which it is applying;

"(3) include on its advisory boards representatives from domestic violence programs who are geographically and culturally diverse; and

"(4) demonstrate strong support from domestic violence advocates for their designation as the special-issue resource center.

"(c) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described and containing such additional information as the Secretary may prescribe.

"(d) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section.".

Subtitle E—Youth Education and Domestic Violence

SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate his powers to the Secretary of Education, hereinafter referred to as the "Secretary". The Secretary shall select, implement and evaluate four model programs for education of young people about domestic violence and violence among intimate partners.

(b) NATURE OF PROGRAM.—The Secretary shall select, implement and evaluate separate model programs for four different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. These model programs shall be selected, implemented, and evaluated with the input of educational experts, legal and psychological experts on battering, and victim advocate organizations such as battered women's shelters, State coalitions and resource centers. The participation of each of these groups or individual consultants from such groups is essential to the selection, implementation, and evaluation of programs that meet both the needs of educational institutions and the needs of the domestic violence problem.

(c) REVIEW AND DISSEMINATION.—Not later than 24 months after the date of enactment of this Act, the Secretary shall transmit the design and evaluation of the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.

(d) AUTHORIZATION.—There are authorized to be appropriated under this section for fiscal year 1992, $400,000 to carry out the purposes of this section.

Subtitle F—Confidentiality for Abused Persons

SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.

No later than 90 days after the enactment of this Act, the Postmaster General shall promulgate regulations to secure the confidentiality of abused persons' addresses or otherwise prohibit the disclosure of an abused person's address consistent with the following guidelines:

(1) confidentiality shall be provided upon the presentation to an appropriate postal official of an existing and valid court order for the protection of an abused spouse;

(2) disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited; and

(3) compilations of addresses existing at the time the order is presented to an appropriate postal official shall be excluded from the scope of the proposed regulations.

TITLE III—CIVIL RIGHTS

SEC. 301. CIVIL RIGHTS.

(a) FINDINGS.—The Congress finds that—

(1) crimes motivated by the victim's gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for gender crimes committed on the street or in the home; and

(3) State and Federal criminal laws do not adequately protect against the bias element of gender-motivated crimes, which separates these crimes from acts of random violence, nor do those laws adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests;

(4) existing bias and discrimination in the criminal justice system often deprives victims of gender-motivated crimes of equal protection of the laws and the redress to which they are entitled;

(5) gender-motivated violence has a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business, and in places involved, in interstate commerce;

(6) gender-motivated violence has a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products;

(7) a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse effects of gender-motivated violence on interstate commerce; and

(8) victims of gender-motivated violence have a right to equal potection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

(b) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any person, including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State, who commits a crime of violence motivated by gender and thus deprives another of the rights, privileges or immunities secured by the Constitution or laws as enumerated in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as the court may deem appropriate.

(d) Definitions.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in this section, including rape, sexual assault, sexual abuse, abusive sexual contact, or any other crime of violence committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) Limitation and Procedures.—

(1) Limitation.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) No prior criminal action.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

SEC. 302. CONFORMING AMENDMENT.

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: ", or title III of the Violence Against Women Act of 1991,".

TITLE IV—SAFE CAMPUSES FOR WOMEN

SEC. 401. SHORT TITLE.

This title may be cited as the "Safe Campuses for Women Act of 1990".

SEC. 402. FINDINGS.

The Congress finds that—

(1) rape prevention and education programs are essential to an educational environment free of fear for students' personal safety;

(2) sexual assault on campus, whether by fellow students or not, is widespread among the Nation's higher education institutions: experts estimate that 1 in 7 of the women now in college have been raped and over half of college rape victims know their attackers;

(3) sexual assault poses a grave threat to the physical and mental well-being of students and may significantly impair the learning process; and

(4) action by schools to educate students may make substantial inroads on the incidence of rape, including the incidence of acquaintance rape on campus.

SEC. 403. GRANTS FOR CAMPUS RAPE EDUCATION.

Title X of the Higher Education Act of 1965 is amended to add at the end thereof the following:

"PART D—GRANTS FOR CAMPUS RAPE EDUCATION."

SEC. 1071. GRANTS FOR CAMPUS RAPE EDUCATION.

"(a) In General.—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for rape education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

"(b) General Rape Prevention and Education Grants.—Grants under this section shall be used to educate and provide support services to student victims of rape or sexual assault. Grants may be used for the following purposes:

"(1) to provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of rape, sexual assault, and other gender-motivated crimes;

"(2) to develop, disseminate, or implement campus security and student disciplinary policies to prevent and discipline rape, sexual assault and other gender-motivated crimes;

"(3) to develop, enlarge or strengthen support services programs including medical or psychological counseling to assist victims' recovery from rape, sexual assault, or other gender-motivated crimes;

"(4) to create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action; and

"(5) to implement, operate, or improve rape education and prevention programs, including programs making use of peer-to-peer education.

"(c) Model Grants.—Not less than 25 percent of the funds authorized under this section shall be available for grants for model demonstration programs to be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student rape victims.

"(d) Eligibility.—No institution of higher education or consortium of such institutions shall be eligible for a grant under this section unless—

"(1) its student code of conduct, or other written policy governing student behavior, explicitly prohibits not only rape but all forms of sexual assault; and

"(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual assault the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual assault: *Provided*, That nothing in this section shall be interpreted to authorize disclosure to any person other than the victim.

"(e) Applications.—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—

"(A) set forth the activities and programs to be carried out with funds granted under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) explain how the program intends to address the issue of acquaintance rape;

"(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

"(e) Grantee Reporting.—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) Definitions.—(1) Except as otherwise provided, the terms used in this part shall have the meaning provided under section 2981 of this title.

"(2) For purposes of this subchapter, the following terms have the following meanings:

"(A) The term 'rape education and prevention' includes programs that provide educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual assault.

"(B) The term 'Secretary' means the Secretary of Education.

"(g) General Terms and Conditions.—(1) Regulations.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.

"(2) No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

"(A) the amount of grants made under this section;

"(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(C) a copy of each grantee report filed pursuant to subsection (e) of this section.

"(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated $20,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995.".

SEC. 404. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.

Section 204(f) of the Crime Awareness and Campus Security Act of 1990 is amended to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

"(i) murder;

"(ii) rape or sexual assault;

"(iii) robbery;

"(iv) aggravated assault;

"(v) burglary; and

"(vi) motor vehicle theft.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

SECTION 501. SHORT TITLE.

This title may be cited as the "Equal Justice for Women in the Courts Act of 1991".

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

SEC. 511. GRANTS AUTHORIZED.

The State Justice Institute is authorized to award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SEC. 512. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the batterer, to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel, and the legitimate reasons why victims of domestic violence may refuse to testify against a defendant;

(18) the need for orders of protection, and the implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence cases;

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims; and

(20) current information on the impact of pornography on crimes against women, or data on other activities that tend to degrade women.

SEC. 513. COOPERATION IN DEVELOPING PROGRAMS IN MAKING GRANTS UNDER THIS TITLE.

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this subtitle are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 514. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $600,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

SEC. 521. EDUCATION AND TRAINING GRANTS.

(a) STUDY.—The Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use of data collection techniques such as reviews of trial and appellate opinions and transcripts, public hearings, and inquiries to attorneys practicing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) MODEL PROGRAMS.—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 512 of subtitle A; and

(B) all procedural and substantive aspects of the legal rights and remedies for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

SEC. 522. COOPERATION IN DEVELOPING PROGRAMS.

In implementing this subtitle, the Federal Judicial Center shall ensure that the study and model programs are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 523. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $400,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 521(a) of this subtitle.

AMENDMENT NO. 668

Strike everything after the term "Sec." and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violence Against Women Act of 1991".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—SAFE STREETS FOR WOMEN

Sec. 101. Short title.

Subtitle A—Federal Penalties for Sex Crimes

Sec. 111. Repeat offenders.
Sec. 112. Federal penalties.
Sec. 113. Mandatory restitution for sex crimes.

Subtitle B—Law Enforcement and Prosecution Grants To Reduce Violent Crimes Against Women

Sec. 121. Grants To combat violent crimes against women.

Subtitle C—Safety for Women in Public Transit and Public Parks

Sec. 131. Grants for capital improvements to prevent crime in public transportation.
Sec. 132. Grants for capital improvements to prevent crime in national parks.
Sec. 133. Grants for capital improvements to prevent crime in public parks.

Subtitle D—National Commission on Violent Crime Against Women

Sec. 141. Establishment.
Sec. 142. Duties of commission.
Sec. 143. Membership.
Sec. 144. Reports.
Sec. 145. Executive Director and staff.
Sec. 146. Powers of commission.
Sec. 147. Authorization of appropriations.
Sec. 148. Termination.

Subtitle E—New Evidentiary Rules

Sec. 151. Sexual history in all criminal cases.
Sec. 152. Sexual history in civil cases.
Sec. 153. Amendments to rape shield law.
Sec. 154. Evidence of clothing.

Subtitle F—Assistance to Victims of Sexual Assault

Sec. 161. Education and prevention grants to reduce sexual assaults against women.

Sec. 162. Rape exam payments.

TITLE II—SAFE HOMES FOR WOMEN

Sec. 201. Short title.

Subtitle A—Interstate Enforcement

Sec. 211. Interstate enforcement.

Subtitle B—Arrest in Spousal Abuse Cases

Sec. 221. Encouraging arrest policies.

Subtitle C—Funding for Shelters

Sec. 231. Authorization.

Subtitle D—Family Violence Prevention and Services Act Amendments

Sec. 241. Expansion of purpose.

Sec. 242. Expansion of State demonstration grant program.

Sec. 243. Grants for public information campaigns.

Sec. 244. State commissions on domestic violence.

Sec. 245. Indian tribes.

Sec. 246. Funding limitations.

Sec. 247. Grants to entities other than States; local share.

Sec. 248. Shelter and related assistance.

Sec. 249. Law enforcement training and technical assistance grants.

Sec. 250. Report on recordkeeping.

Sec. 251. Model State leadership incentive grants for domestic violence intervention.

Sec. 252. Funding for technical assistance centers.

Subtitle E—Youth Education and Domestic Violence

Sec. 261. Educating youth about domestic violence.

Subtitle F—Confidentiality for Abused Persons

Sec. 271. Confidentiality for abused persons.

TITLE III—CIVIL RIGHTS

Sec. 301. Civil rights.

TITLE IV—SAFE CAMPUSES FOR WOMEN

Sec. 401. Short title.

Sec. 402. Findings.

Sec. 403. Grants for campus rape education.

Sec. 404. Disclosure of disciplinary proceedings in sex assault cases on campus.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

Sec. 501. Short title.

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

Sec. 511. Grants authorized.

Sec. 512. Training provided by grants.

Sec. 513. Cooperation in developing programs in making grants under this title.

Sec. 514. Authorization of appropriations.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

Sec. 521. Education and training grants.

Sec. 522. Cooperation in developing programs.

Sec. 523. Authorization of appropriations.

TITLE I—SAFE STREETS FOR WOMEN

SEC. 101. SHORT TITLE.

This title may be cited as the "Safe Streets for Women Act of 1991".

Subtitle A—Federal Penalties for Sex Crimes

SEC. 111. REPEAT OFFENDERS.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2247. Repeat offenders

"Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2247. Repeat offenders.".

SEC. 112. FEDERAL PENALTIES.

(a) RAPE AND AGGRAVATED RAPE.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide that a defendant convicted of aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, shall be assigned a base offense level under chapter 2 of the sentencing guidelines that is at least 4 levels greater than the base offense level applicable to criminal sexual abuse under the guidelines in effect on November 1, 1990, or otherwise shall amend the guidelines applicable to such offenses so as to achieve a comparable minimum guideline sentence. In amending such guidelines, the Sentencing Commission shall review the appropriateness of existing specific offense characteristics or other adjustments applicable to such offenses, and make such changes as it deems appropriate, taking into account the severity of rape offenses, with or without aggravating factors; the unique nature and duration of the mental injuries inflicted on the victims of such offenses; and any other relevant factors.

(b) EFFECT OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instructions set forth in subsection (a) so as to achieve a comparable result.

(c) STATUTORY RAPE.—

(1) Section 2243(b) of title 18, United States Code, is amended by striking "one year," and inserting "two years,".

(2) Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to incorporate the increase in maximum penalties provided by this section for section 2243(b) of title 18, United States Code.

SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegatee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegatee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegatee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegatee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or matters related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or his delegatee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2248. Mandatory restitution.".

Subtitle B—Law Enforcement and Prosecution Grants To Reduce Violent Crimes Against Women

SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) redesignating part N as part O;

(2) redesignating section 1401 as section 1501; and

(3) adding after part M the following:

"PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"SEC. 1401. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribes, cities, and other localities to develop effective law enforcement and prosecution strategies to combat violent crimes against women and, in particular, to focus efforts on those areas with the highest rates of violent crime against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide additional personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing police and prosecution policies, protocols, or orders specifically devoted to identifying and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, prosecutions, and convictions for the crimes of sexual assault and domestic violence; and

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, to increase reporting and reduce attrition rates for cases involving violent crimes against women, including the crimes of sexual assault and domestic violence.

"SUBPART 1—HIGH INTENSITY CRIME AREA GRANTS

"SEC. 1411. HIGH INTENSITY GRANTS.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the 'Director') shall make grants to areas of 'high intensity crime' against women.

"(b) DEFINITION.—For purposes of this part, a 'high intensity crime area' means an area with one of the 40 highest rates of violent crime against women, as determined by the Bureau of Justice Statistics pursuant to section 1412.

"SEC. 1412. HIGH INTENSITY GRANT APPLICATION.

"(a) COMPUTATION.—Within 45 days after the date of enactment of this part, the Bureau of Justice Statistics shall compile a list of the 40 areas with the highest rates of violent crime against women based on the combined female victimization rate per population for assault, sexual assault (including, but not limited to, rape), murder, robbery, and kidnapping.

"(b) USE OF DATA.—In calculating the combined female victimization rate required by subsection (a), the Bureau of Justice Statistics may rely on—

"(1) existing data collected by States, municipalities, Indian reservations or statistical metropolitan areas showing the number of police reports of the crimes listed in subsection (a); and

"(2) existing data collected by the Federal Bureau of Investigation, including data from those governmental entities already complying with the National Incident Based Reporting System, showing the number of police reports of crimes listed in subsection (a).

"(c) PUBLICATION.—After compiling the list set forth in subsection (a), the Bureau of Justice Statistics shall convey it to the Director who shall publish it in the Federal Register.

"(d) QUALIFICATION.—Upon satisfying the terms of subsection (e), any high intensity crime area shall be qualified for a grant under this subpart upon application by the chief executive officer of the governmental entities responsible for law enforcement and prosecution of criminal offenses within the area and certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate program grants, with nongovernmental nonprofit victim services programs; and

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(e) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application must provide the certifications required by subsection (d) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (d)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall ensure, to the extent practicable, that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served; and

"(C) give priority to areas with the greatest showing of need.

"(g) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this part. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"Subpart 2—Other Grants to States to Combat Violent Crimes Against Women

"SEC. 1421. GENERAL GRANTS TO STATES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to States, for use by States, units of local government in the States, and nonprofit nongovernmental victim services programs in the States, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be—

"(1) $500,000 to each State; and

"(2) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) Application Requirements.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application shall include the certifications of qualification required by subsection (c) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (c)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(e) Disbursement.—(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that States will—

"(A) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000;

"(B) determine the amount of subgrants based on the population and geographic area to be served; and

"(C) give priority to areas with the greatest showing of need, as demonstrated by comparing population and geographic areas to be served to the availability of existing sexual assault and domestic violence services.

"(f) Grantee Reporting.—Upon completion of the grant period under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"SEC. 1422. GENERAL GRANTS TO TRIBES.

"(a) General Grants.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) Amounts.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of $35,000 and maximum grants of $300,000.

"(c) Qualification.—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b); and

"(2) at least 25 percent of the grant funds shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) Application Requirements.—(1) Applications shall be made directly to the Director and shall contain a description of the tribes' law enforcement responsibilities for the Indian country described in the application and a description of the tribes' system of courts, including whether the tribal government operates courts of Indian offenses as defined in 25 U.S.C. 1301 or CFR courts under 25 CFR 11 et seq.

"(2) Applications shall be in such form as the Director may prescribe and shall specify the nature of the program proposed by the applicant tribe, the data and information on which the program is based, and the extent to which the program plans to use or incorporate existing services available in the Indian country where the grant will be used.

"(3) The term of any grant shall be for a minimum of 3 years.

"(e) Grantee Reporting.—At the end of the first 12 months of the grant period and at the end of each year thereafter, the Indian tribal granted shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) Definitions.—(1) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

"(2) The term 'Indian country' has the meaning given to such term by section 1151 of title 18, United States Code.

"Subpart 3—General Terms and Conditions

"SEC. 1431. GENERAL DEFINITIONS.

"As used in this part—

"(1) the term 'victim services program' means any public or private nonprofit program that assists victims, including (A) nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process and (B) victim/witness programs within governmental entities;

"(2) the term 'sexual assault' includes not only assaults committed by offenders who are strangers to the victim but also assaults committed by offenders who are known or related by blood or marriage to the victim; and

"(3) the term 'domestic violence' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse, or any other person similarly situated to a spouse who is protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"SEC. 1432. GENERAL TERMS AND CONDITIONS.

"(a) Nonmonetary Assistance.—In addition to the assistance provided under subparts 1 or 2, the Director may direct any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts.

"(b) Bureau Reporting.—No later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Judiciary Committees of the House and the Senate a report that includes, for each high intensity crime area (as provided in subpart 1) and for each State and for each grantee Indian tribe (as provided in subpart 2)—

"(1) the amount of grants made under this part;

"(2) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(3) a copy of each grantee report filed pursuant to sections 1412(g) and 1421(f).

"(c) Regulations.—No later than 45 days after the date of enactment of this part, the Director shall publish proposed regulations implementing this part. No later than 120 days after such date, the Director shall publish final regulations implementing this part.

"(d) Authorization of Appropriations.—There are authorized to be appropriated for each fiscal year 1992, 1993, and 1994, $100,000,000 to carry out the purposes of subpart 1, and $190,000,000 to carry out the purposes of subpart 2, and $10,000,000 to carry out the purposes of section 1422 of subpart 2.".

Subtitle C—Safety for Women in Public Transit and Public Parks

SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

Section 24 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION

"Sec. 24. (a) General Purpose.—From funds authorized under section 21, and not to exceed $10,000,000, the Secretary shall make capital grants for the prevention of crime and to increase security in existing and future public transportation systems. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

"(b) Grants for Lighting, Camera Surveillance, and Security Phones.—

"(1) From the sums authorized for expenditure under this section for crime prevention, the Secretary is authorized to make grants and loans to States and local public bodies or agencies for the purpose of increasing the safety of public transportation by—

"(A) increasing lighting within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(B) increasing camera surveillance of areas within and adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(C) providing emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages; or

"(D) any other project intended to increase the security and safety of existing or planned public transportation systems.

"(2) From the sums authorized under this section, at least 75 percent shall be expended on projects of the type described in subsection (b)(1) (A) and (B).

"(c) REPORTING.—All grants under this section are contingent upon the filing of a report with the Secretary and the Department of Justice, Office of Victims of Crime, showing crime rates in or adjacent to public transportation before, and for a 1-year period after, the capital improvement. Statistics shall be broken down by type of crime, sex, race, and relationship of victim to the offender.

"(d) INCREASED FEDERAL SHARE.—Notwithstanding any other provision of this Act, the Federal share under this section for each capital improvement project which enhances the safety and security of public transportation systems and which is not required by law (including any other provision of this chapter) shall be 90 percent of the net project cost of such project.

"(e) SPECIAL GRANTS FOR PROJECTS TO STUDY INCREASING SECURITY FOR WOMEN.—From the sums authorized under this section, the Secretary shall provide grants and loans for the purpose of studying ways to reduce violent crimes against women in public transit through better design or operation of public transit systems.

"(f) GENERAL REQUIREMENTS.—All grants or loans provided under this section shall be subject to all the terms, conditions, requirements, and provisions applicable to grants and loans made under section 2(a).".

SEC. 132. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN NATIONAL PARKS.

The Act of August 18, 1970, the National Park System Improvements in Administration Act (90 Stat. 1931; 16 U.S.C. 1a-1 et seq.) is amended by adding at the end thereof the following:

"SEC. 13. NATIONAL PARK SYSTEM CRIME PREVENTION ASSISTANCE.

"(a) From the sums authorized pursuant to section 7 of the Land and Water Conservation Act of 1965, and not to exceed $10,000,000, the Secretary of the Interior is authorized to provide Federal assistance to reduce the incidence of violent crime in the National Park System.

"(b) The Secretary shall direct the chief official responsible for law enforcement within the National Park Services to—

"(1) compile a list of areas within the National Park System with the highest rates of violent crime;

"(2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and

"(3) publish the information required by paragraphs (1) and (2) in the Federal Register.

"(c) No later than 120 days after the date of enactment of this section, and based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute funds throughout the National Park Service. Priority shall be given to those areas with the highest rates of sexual assault.

"(d) Funds provided under this section may be used for the following purposes—

"(1) to increase lighting within or adjacent to public parks and recreation areas;

"(2) to provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(3) to increase security or law enforcement personnel within or adjacent to public parks and recreation areas; and

"(4) any other project intended to increase the security and safety of public parks and recreation areas.".

SEC. 133. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC PARKS.

Section 6 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 4601-8) is amended by adding at the end thereof the following new subsection:

"(h) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed $15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding the terms of subsection (c), the Secretary is authorized to provide 70 percent improvement grants for projects undertaken by any State for the purposes outlined in this subsection. The remaining share of the cost shall be borne by the State."

Subtitle D—National Commission on Violent Crime Against Women

SEC. 141. ESTABLISHMENT.

There is established a commission to be known as the National Commission on Violent Crime Against Women (hereinafter referred to as "the Commission").

SEC. 142. DUTIES OF COMMISSION.

(a) GENERAL PURPOSE OF THE COMMISSION.—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crime against women.

(b) FUNCTIONS.—The Commission shall perform the following functions—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence; and

(9) evaluate and make recommendations regarding the feasibility of maintaining the confidentiality of addresses of domestic violence victims in voting, welfare, and public records.

SEC. 143. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) three of whom shall be—

(I) the Attorney General;

(II) the Secretary of Health and Human Services; and

(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of sexual assault or domestic violence.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) CONGRESSIONAL COMMITTEE RECOMMENDATIONS.—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) REQUIREMENTS OF APPOINTMENTS.—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their experience in State or national efforts to fight violence against women and demonstrate experience in State or national advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of law enforcement, prosecution, judicial administration, legal expertise, public health, social work, victim compensation boards, and victim advocacy.

(4) Term of Members.—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) Vacancy.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) Chairman.—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) Quorum.—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) Meetings.—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least six times.

(e) Pay.—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) Per Diem.—Except as provided in subsection (e), members of the Commission shall be allowed travel and other expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) Deadline for Appointment.—Not later than 45 days after the date of the enactment of this Act, the members of the Commission shall be appointed.

SEC. 144. REPORTS.

(a) In General.—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) Contents.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

SEC. 145. EXECUTIVE DIRECTOR AND STAFF.

(a) Executive Director.—

(1) Appointment.—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) Compensation.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable under GS-18 of the General Schedule as contained in title 5, United States Code.

(b) Staff.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) Applicability of Civil Service Laws.—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) Consultants.—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 146. POWERS OF COMMISSION.

(a) Hearings.—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) Delegation.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) Access to Information.—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chairman of the Commission.

(d) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 147. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $500,000 to carry out the purposes of this subtitle.

SEC. 148. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed one year.

Subtitle E—New Evidentiary Rules

SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

The Federal Rules of Evidence are amended by inserting after rule 412 the following:

"Rule 412A. Evidence of victim's past behavior in other criminal cases

"(a) Reputation and Opinion Evidence Excluded.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, reputation or opinion evidence of the past sexual behavior of an alleged victim is not admissible.

"(b) Admissibility.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, evidence of an alleged victim's past sexual behavior (other than reputation and opinion evidence) may be admissible if—

"(1) the evidence is admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of the evidence outweighs the danger of unfair prejudice.

"(c) Procedures.—(1) If the defendant intends to offer evidence of specific instances of the alleged victim's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the alleged victim.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

The Federal Rules of Evidence, as amended by section 151 of this Act, are amended by adding after rule 412A the following:

"Rule 412B. Evidence of past sexual behavior in civil cases

"(a) Reputation and Opinion Evidence Excluded.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

"(b) Admissible Evidence.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

"(1) admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of such evidence outweighs the danger of unfair prejudice.

"(c) Procedures.—(1) If the defendant intends to offer evidence of specific instances of the plaintiff's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the plaintiff.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the plaintiff and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies evidence which may be offered and areas with respect to which the plaintiff may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

"(d) DEFINITIONS.—For purposes of this rule, a case involving a claim of actionable sexual misconduct, includes, but is not limited to, sex harassment or discrimination claims brought pursuant to title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)) and gender bias claims brought pursuant to title III of the Violence Against Women Act of 1991.".

SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end thereof the following:

"(e) INTERLOCUTORY APPEAL.—Notwithstanding any other provision of law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

"(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim."; and

(2) by adding at the end of subdivision (c)(3) the following: "In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 154. EVIDENCE OF CLOTHING.

The Federal Rules of Evidence are amended by adding after rule 412 the following:

"Rule 413. Evidence of victim's clothing as inciting violence

"Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged.".

Subtitle F—Assistance to Victims of Sexual Assault

SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended as follows:

(1) by adding at the end thereof the following new section:

"§ 1910A. Use of allotments for rape prevention education

"(a) Notwithstanding the terms of section 1904(a)(1) of this title, amounts transferred by the State for use under this part may be used for rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities, which programs may include—

"(1) educational seminars;

"(2) the operation of hotlines;

"(3) training programs for professionals;

"(4) the preparation of informational materials; and

"(5) other efforts to increase awareness of the facts about, or to help prevent, sexual assault.

"(b) States providing grant monies must assure that at least 15 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) There are authorized to be appropriated under this section for each fiscal year 1992, 1993, and 1994, $65,000,000 to carry out the purposes of this section.

"(d) Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) For purposes of this section, the term 'rape prevention and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim.

"(f) States shall be allotted funds under this section pursuant to the terms of sections 1902 and 1903, and subject to the conditions provided in this section and sections 1904 through 1909.";

(2) striking section 1901(b); and

(3) striking section 1904(a)(1)(G).

SEC. 162. RAPE EXAM PAYMENTS.

No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 unless the State or other grantee incurs the full cost of forensic medical exams for victims of sexual assault. A State or other grantee does not incur the full medical cost of forensic medical exams if it chooses to reimburse the victim after the fact unless the reimbursement program waives any minimum loss or deductible requirement, provides victim reimbursement within a reasonable time (90 days), permits applications for reimbursement within one year from the date of the exam, and provides information to all subjects of forensic medical exams about how to obtain reimbursement.

TITLE II—SAFE HOMES FOR WOMEN

SEC. 201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1990".

Subtitle A—Interstate Enforcement

SEC. 211. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

"Chapter 110A—Violence Against Spouses

"Sec. 2261. Traveling to commit spousal abuse.
"Sec. 2262. Interstate violation of protection orders.
"Sec. 2263. Restitution.
"Sec. 2264. Full faith and credit given to protection orders.
"Sec. 2265. Definitions for chapter.

"§ 2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner; or

"(2) for the purpose of harassing, intimidating, or injuring a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner,

shall be fined not more than $1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner, shall be fined not more than $1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(c) NO STATE LAW.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, a person violating this section shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

"(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§ 2262. Interstate violation of protection orders

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

"(2) for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c) of this section.

"(b) Causing the Crossing of State Lines.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c) of this section.

"(c) Penalties.—

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than six months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(d) Criminal Intent.—The criminal intent required to establish the offense provided in subsection (a) is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

(e) No Prior State Criminal Action Necessary.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§ 2263. Interim protections

"In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the protection of an abused spouse or intimate partner pending final adjudication of the case, upon a showing of a likelihood of danger to the abused spouse or intimate partner.

"§ 2264. Restitution

"(a) In General.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an offense under this chapter.

"(b) Scope and Nature of Order.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to subsection (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation; and

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the offender, including obligations to dependents.

"(B) An order under this section may direct the defendant to make a single lump-sum payment, or partial payments at specified intervals. The order shall provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(C) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) Proof of Claim.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or his delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) Restitution and Criminal Penalties.—An award of restitution to the victim of an offense under this chapter shall not be a substitute for imposition of punishment under sections 2261 and 2262.

"(e) Definitions.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.

"§ 2265. Full faith and credit given to protection orders

"(a) Full Faith and Credit.—Any protection order issued consistent with the terms of subsection (b) by the court of one State (the issuing State) shall be accorded full faith and credit by the court of another State (the enforcing State) and enforced as if it were the order of the enforcing State.

"(b) Protection Order.—A protection order issued by a State court is consistent with the provisions of this section if—

"(1) such court has jurisdiction over the parties and matter under the law of such State; and

"(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

"(c) Cross or Counter Petition.—A protection order issued by a State court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

"(1) no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or

"(2) if a cross or counter petition has been filed, if the court did not make specific findings that each party was entitled to such an order.

"§ 2266. Definitions for chapter

"As used in this chapter—

"(1) the term 'spouse or intimate partner' includes—

"(A) a present or former spouse, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

"(B) any other person similarly situated to a spouse, other than a child, who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

"(2) the term 'protection order' includes any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except those done in self-defense, that results in physical injury or sexual abuse;

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

"(5) the term 'travel across State lines' includes any such travel except travel across State lines by an Indian tribal member when that member remained at all times on tribal lands.".

(b) TABLE OF CHAPTERS.—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

"110A. Violence against spouses .... 2261.".

Subtitle B—Arrest in Spousal Abuse Cases

SEC. 221. ENCOURAGING ARREST POLICIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10400) is amended by adding after section 311 the following:

"SEC. 312. ENCOURAGING ARREST POLICIES.

"(a) PURPOSE.—To encourage States, Indian tribes and localities to treat spousal violence as a serious violation of criminal law, the Secretary is authorized to make grants to eligible States, Indian tribes, municipalities, or local government entities for the following purposes:

"(1) to implement pro-arrest programs and policies in police departments and to improve tracking of cases involving spousal abuse;

"(2) to centralize and coordinate police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges;

"(3) to educate judges in criminal and other courts about spousal abuse and to improve judicial handling of such cases.

"(b) ELIGIBILITY.—(1) Eligible grantees are those States, Indian tribes, municipalities or other local government entities that—

"(A) demonstrate, through arrest and conviction statistics, that their laws or policies have been effective in significantly increasing the number of arrests made of spouse abusers; and

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed or mandate arrest of spouses violating the terms of a valid and outstanding protection order; or

"(ii) permit warrantless misdemeanor arrests of spouse abusers and encourage the use of that authority;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser and the increase in arrest rates demonstrated pursuant to paragraph (1)(A) is not the result of increased dual arrests; and

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protective order, and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim.

"(2) For purposes of this section, the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

"(3) For purposes of this section, the term 'spousal or spouse abuse' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabited with the victim as a spouse, or any other person protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(4) The eligibility requirements provided in this section shall take effect one year after the date of enactment of this section.

"(c) DELEGATION AND AUTHORIZATION.—The Secretary shall delegate to the Attorney General of the United States the Secretary's responsibilities for carrying out this section to the Attorney General. There are authorized to be appropriated not in excess of $25,000,000 for each fiscal year to be used for the purpose of making grants under this section.

"(d) APPLICATION.—An eligible grantee shall submit an application to the Secretary. Such application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribes, municipality, or local government entity that the conditions of subsection (b) are met;

"(2) describe the entity's plans to further the purposes listed in subsection (a);

"(3) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(4) identify and include documentation showing the nonprofit nongovernmental victim services programs that will be consulted in developing, and implementing, the program.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a grantee that—

"(1) does not currently provide for centralized handling of cases involving spousal or family violence in any one of the areas listed in this subsection—police, prosecutors, and courts; and

"(2) demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving spousal or family violence.

"(f) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described in subsection (d)(2) and containing such additional information as the Secretary may prescribe.

"(g) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.".

Subtitle C—Funding for Shelters

SEC. 231. AUTHORIZATION.

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

"SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out the provisions of this title, $85,000,000 for fiscal year 1992, $100,000,000, for fiscal year 1993, and $125,000,000 for fiscal year 1994.

"(b) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 80 percent shall be used by the Secretary for making grants under section 303.

"(c) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not more than 5 percent shall be used by the Secretary for making grants under section 314.

"(d) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 5 percent shall be used by the Secretary for making grants under section 308A.".

Subtitle D—Family Violence Prevention and Services Act Amendments

SEC. 241. EXPANSION OF PURPOSE.

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent" and by striking "demonstrate the effectiveness of assisting" and inserting "assist".

SEC. 242. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.

(a) INCREASING PUBLIC AWARENESS.—Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

(b) EXPANSION OF PROGRAM.—Section 303(a)(2)(B)(ii) is amended by striking "alcohol and drug abuse treatment".

SEC. 243. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

"GRANTS FOR PUBLIC INFORMATION CAMPAIGNS

"SEC. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) An application submitted under subsection (b) shall—

"(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk.".

SEC. 244. FUND DISTRIBUTION TO STATES.

Section 304(a)(1) of the Family Violence Prevention and Services Act is amended by striking "$50,000" and inserting "$500,000".

SEC. 245. INDIAN TRIBES.

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "from sums appropriated shall make no less than 10 percent available for".

SEC. 246. FUNDING LIMITATIONS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by—

(1) striking ", and" and all that follows through "fiscal years"; and

(2) striking "$50,000" and inserting "$75,000".

SEC. 247. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: "No grant may be made under this section to an entity other than a State or Indian tribe unless the entity provides 35 percent of the funding of the program or project funded by the grant.".

SEC. 248. SHELTER AND RELATED ASSISTANCE.

(a) Change of Percentages.—Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended by striking "not less than 60 percent" and inserting "not less than 75 percent".

(b) Definition of Related Assistance.—Section 309(5) of the Family Violence Prevention and Services Act is amended to read as follows:

"(5) The term 'related assistance' includes any, but does not require all, of the following—

"(A) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(B) transportation, legal assistance, referrals for appropriate health-care services (including alcohol and drug abuse treatment), and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(C) comprehensive counseling and self-help services to abusers, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services and employment training; and

"(D) child care services for children who are victims of family violence or the dependents of such victims.".

SEC. 249. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.

Section 311 of the Family Violence Protection and Services Act (42 U.S.C. 10410(b)) is repealed.

SEC. 250. REPORT ON RECORDKEEPING.

Not later than 120 days after the date of enactment of this Act, the Government Accounting Office shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine efforts to date of the FBI and Justice Department to collect statistics on domestic violence and the feasibility of, including a suggested timetable for, requiring that the relationship between an offender and victim be reported in Federal and State records of crimes of assault, aggravated assault, rape, and other violent crimes.

SEC. 251. MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.

The Family Violence Prevention Services Act, as amended by section 103 of this Act, is amended by adding at the end thereof the following new section:

"MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION

"Sec. 315. (a) The Secretary, in cooperation with the Attorney General, shall award grants to not less than 10 States to assist in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

"(1) increase the number of prosecutions for domestic violence crimes;

"(2) encourage the reporting of incidences of domestic violence;

"(3) facilitate 'arrests and aggressive' prosecution policies; and

"(4) provides court advocacy for victims of domestic violence.

"(b) To be designated as a model State under subsection (a), a State shall have in effect—

"(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

"(2) a law or policy that discourages * * *

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judiciaes 'dual' arrests;

"(3) statewide prosecution policies that—

"(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

"(4) statewide laws, policies, or guidelines for judges that—

"(A) prohibit the issuance of mutual protective orders in cases where only one spouse has sought a protective order and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim;

"(B) require that any history of child abuse be considered detrimental to the child and discourage custody or joint custody orders by spouse abusers; and

"(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute;

"(5) develop and disseminate methods to improve the criminal justice system's response to domestic violence to make existing remedies as easily available as possible to victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

"(c)(1) In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section $25,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) Funds shall be distributed under this section so that no State shall receive more than $2,500,000 in each fiscal year under this section.

"(3) The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section.".

SEC. 252. FUNDING FOR TECHNICAL ASSISTANCE CENTERS.

The Family Violence Prevention and Services Act is amended by inserting after section 308 the following:

"SEC. 308A. TECHNICAL ASSISTANCE CENTERS.

"(a) Purpose.—The purpose of this section is to provide training and technical assistance to State, Indian tribal, and local domestic violence programs and to other professionals who provide services to victims of domestic violence. From the sums authorized under this title, the Secretary shall provide grants to or contract with, private nonprofit organizations, for the establishment and maintenance of one national and six special-issue resource centers serving defined geographic areas. One national resource center shall offer resource, policy, and/or training assistance to Federal, State, Indian tribal, and local government agencies on issues pertaining to domestic violence and serve a coordinating and resource-sharing function among domestic violence service providers, and maintain a central resource library. The other national resource centers shall provide information, training and technical assistance to State, tribal and local domestic violence service providers. In addition, each national center shall specialize in one of the following areas of domestic violence service, prevention or law:

"(1) criminal justice response to domestic violence, including court-mandated abuser treatment;

"(2) child custody issues in domestic violence cases;

"(3) use of the self-defense plea by domestic violence victims;

"(4) health care response and access to health care resources for domestic violence victims;

"(5) victims' access to, and quality of, effective legal assistance, including civil litigation; and

"(6) the response of child protective service agencies to battered mothers of abused children.

"(b) ELIGIBILITY.—Eligible grantees are private non-profit organizations that—

"(1) focus primarily on domestic violence;

"(2) provide documentation to the Secretary demonstrating a minimum of three years experience with issues of domestic violence, particularly in the specific area for which it is applying;

"(3) include on its advisory boards representatives from domestic violence programs who are geographically and culturally diverse; and

"(4) demonstrate strong support from domestic violence advocates for their designation as the special-issue resource center.

"(c) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described and containing such additional information as the Secretary may prescribe.

"(d) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section.".

Subtitle E—Youth Education and Domestic Violence

SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate his powers to the Secretary of Education, hereinafter referred to as the "Secretary". The Secretary shall select, implement and evaluate four model programs for education of young people about domestic violence and violence among intimate partners.

(b) NATURE OF PROGRAM.—The Secretary shall select, implement and evaluate separate model programs for four different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. These model programs shall be selected, implemented, and evaluated with the input of educational experts, legal and psychological experts on battering, and victim advocate organizations such as battered women's shelters, State coalitions and resource centers. The participation of each of these groups or individual consultants from such groups is essential to the selection, implementation, and evaluation of programs that meet both the needs of educational institutions and the needs of the domestic violence problem.

(c) REVIEW AND DISSEMINATION.—Not later than 24 months after the date of enactment of this Act, the Secretary shall transmit the design and evaluation of the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.

(d) AUTHORIZATION.—There are authorized to be appropriated under this section for fiscal year 1992, $400,000 to carry out the purposes of this section.

Subtitle F—Confidentiality for Abused Persons

SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.

No later than 90 days after the enactment of this Act, the Postmaster General shall promulgate regulations to secure the confidentiality of abused persons' addresses or otherwise prohibit the disclosure of an abused person's address consistent with the following guidelines:

(1) confidentiality shall be provided upon the presentation to an appropriate postal official of an existing and valid court order for the protection of an abused spouse;

(2) disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited; and

(3) compilations of addresses existing at the time the order is presented to an appropriate postal official shall be excluded from the scope of the proposed regulations.

TITLE III—CIVIL RIGHTS

SEC. 301. CIVIL RIGHTS.

(a) FINDINGS.—The Congress finds that—

(1) crimes motivated by the victim's gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for gender crimes committed on the street or in the home; and

(3) State and Federal criminal laws do not adequately protect against the bias element of gender-motivated crimes, which separates these crimes from acts of random violence, nor do those laws adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests;

(4) existing bias and discrimination in the criminal justice system often deprives victims of gender-motivated crimes of equal protection of the laws and the redress to which they are entitled;

(5) gender-motivated violence has a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business, and in places involved, in interstate commerce;

(6) gender-motivated violence has a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products;

(7) a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse effects of gender-motivated violence on interstate commerce; and

(8) victims of gender-motivated violence have a right to equal protection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

(b) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any person, including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State, who commits a crime of violence motivated by gender and thus deprives another of the rights, privileges or immunities secured by the Constitution or laws as enumerated in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in this section, including rape, sexual assault, sexual abuse, abusive sexual contact, or any other crime of violence committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

SEC. 302. CONFORMING AMENDMENT.

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: ", or title III of the Violence Against Women Act of 1991,".

TITLE IV—SAFE CAMPUSES FOR WOMEN

SEC. 401. SHORT TITLE.

This title may be cited as the "Safe Campuses for Women Act of 1990".

SEC. 402. FINDINGS.

The Congress finds that—

(1) rape prevention and education programs are essential to an educational environment free of fear for students' personal safety;

(2) sexual assault on campus, whether by fellow students or not, is widespread among the Nation's higher education institutions: experts estimate that 1 in 7 of the women now in college have been raped and over half of college rape victims know their attackers;

(3) sexual assault poses a grave threat to the physical and mental well-being of students and may significantly impair the learning process; and

(4) action by schools to educate students may make substantial inroads on the incidence of rape, including the incidence of acquaintance rape on campus.

SEC. 403. GRANTS FOR CAMPUS RAPE EDUCATION.

Title X of the Higher Education Act of 1965 is amended to add at the end thereof the following:

"PART D—GRANTS FOR CAMPUS RAPE EDUCATION."

SEC. 1071. GRANTS FOR CAMPUS RAPE EDUCATION.

"(a) IN GENERAL.—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for rape education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

"(b) GENERAL RAPE PREVENTION AND EDUCATION GRANTS.—Grants under this section shall be used to educate and provide support services to student victims of rape or sexual assault. Grants may be used for the following purposes:

"(1) to provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of rape, sexual assault, and other gender-motivated crimes;

"(2) to develop, disseminate, or implement campus security and student disciplinary policies to prevent and discipline rape, sexual assault and other gender-motivated crimes;

"(3) to develop, enlarge or strengthen support services programs including medical or psychological counseling to assist victims' recovery from rape, sexual assault, or other gender-motivated crimes;

"(4) to create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action; and

"(5) to implement, operate, or improve rape education and prevention programs, including programs making use of peer-to-peer education.

"(c) MODEL GRANTS.—Not less than 25 percent of the funds authorized under this section shall be available for grants for model demonstration programs to be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student rape victims.

"(d) ELIGIBILITY.—No institution of higher education or consortium of such institutions shall be eligible for a grant under this section unless—

"(1) its student code of conduct, or other written policy governing student behavior, explicitly prohibits not only rape but all forms of sexual assault; and

"(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual assault the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual assault: *Provided*, That nothing in this section shall be interpreted to authorize disclosure to any person other than the victim.

"(e) APPLICATIONS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—

"(A) set forth the activities and programs to be carried out with funds granted under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) explain how the program intends to address the issue of acquaintance rape;

"(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

"(e) GRANTEE REPORTING.—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) Except as otherwise provided, the terms used in this part shall have the meaning provided under section 2981 of this title.

"(2) For purposes of this subchapter, the following terms have the following meanings:

"(A) The term 'rape education and prevention' includes programs that provide educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual assault.

"(B) The term 'Secretary' means the Secretary of Education.

"(g) GENERAL TERMS AND CONDITIONS.—(1) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.

"(2) No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

"(A) the amount of grants made under this section;

"(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(C) a copy of each grantee report filed pursuant to subsection (e) of this section.

"(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated $20,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995.".

SEC. 404. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.

Section 204(f) of the Crime Awareness and Campus Security Act of 1990 is amended to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

"(i) murder;

"(ii) rape or sexual assault;

"(iii) robbery;

"(iv) aggravated assault;

"(v) burglary; and

"(vi) motor vehicle theft.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

SECTION 501. SHORT TITLE.

This title may be cited as the "Equal Justice for Women in the Courts Act of 1991".

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

SEC. 511. GRANTS AUTHORIZED.

The State Justice Institute is authorized to award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SEC. 512. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about

presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the batterer, to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel, and the legitimate reasons why victims of domestic violence may refuse to testify against a defendant;

(18) the need for orders of protection, and the implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence cases;

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims; and

(20) current information on the impact of pornography on crimes against women, or data on other activities that tend to degrade women.

SEC. 513. COOPERATION IN DEVELOPING PROGRAMS IN MAKING GRANTS UNDER THIS TITLE.

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this subtitle are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 514. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $600,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

SEC. 521. EDUCATION AND TRAINING GRANTS.

(a) STUDY.—The Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use of data collection techniques such as reviews of trial and appellate opinions and transcripts, public hearings, and inquiries to attorneys practicing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) MODEL PROGRAMS.—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 512 of subtitle A; and

(B) all procedural and substantive aspects of the legal rights and remedies for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

SEC. 522. COOPERATION IN DEVELOPING PROGRAMS.

In implementing this subtitle, the Federal Judicial Center shall ensure that the study and model programs are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 523. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $400,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 521(a) of this subtitle.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, FISCAL YEAR 1992

STEVENS (AND MURKOWSKI) AMENDMENT NO. 669

Mr. STEVENS (for himself and Mr. MURKOWSKI) proposed an amendment to the bill H.R. 2427, supra, as follows:

Insert at the appropriate place: "*Provided further*, That with $12,225,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and continue until completion, construction of the Bethel, Alaska Bank Stabilization Project as authorized by Public Law 99-662: *Provided further*, That no fully allocated funding policy shall apply to construction of the Bethel Alaska Bank Stabilization Project."

JOHNSTON AMENDMENT NO. 670

Mr. JOHNSTON proposed an amendment to amendment No. 669 proposed by Mr. STEVENS (and Mr. MURKOWSKI) to the bill H.R. 2427, supra, as follows:

In lieu of the language proposed to be inserted, insert the following: "*Provided further*, That with $5,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake emergency construction of aspects of the Bethel, Alaska Bank Stabilization Project as authorized by Public Law 99-662 including, but not limited to, toe protection at the petroleum dock and tank farm, steel whaler installation on pipe piles, toe protection from the West end of First Avenue to the city dock, and toe protection to Mission Road bulkhead and in other areas vulnerable to collapse. *Provided further*, That no fully allocated funding policy shall apply to construction of the Bethel, Alaska Bank Stabilization Project and to the greatest extent possible the work described herein should be compatible with the authorized project."

DOLE AMENDMENT NO. 671

Mr. JOHNSTON (for Mr. DOLE) proposed an amendment to the bill H.R. 2427, supra, as follows:

On page 25, line 13, insert after the ":", "*Provided further*, That using $900,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to rehabilitate recreation facilities at Wilson Lake:"

D'AMATO (AND MOYNIHAN) AMENDMENT NO. 672

Mr. JOHNSTON (for Mr. D'AMATO, for himself and Mr. MOYNIHAN) proposed an amendment to the bill H.R. 2427, supra, as follows:

On page 19 strike the proviso beginning on line 24 through line 3 on page 20.

On page 8, line 17, add the following before the period: *: Provided further*, That the Secretary of the Army, acting through the Chief of Engineers is directed to use $1,000,000 appropriated herein to carry out the purposes of section 401 of Public Law 101-596

NICKLES AMENDMENT NO. 673

Mr. NICKLES proposed an amendment to the bill H.R. 2427, supra, as follows:

At the appropriate place in the bill, insert the following section:

Sec. . None of the funds in this Act shall be used to implement the final rule for the Army Corps of Engineers shoreline management regulation fee schedule which was published in the Federal Register, Vol. 56, No. 125, Friday, June 28, 1991.

VIOLENT CRIME CONTROL ACT

DOLE AMENDMENT NOS. 674 AND 675

(Ordered to lie on the table.)

Mr. DOLE submitted two amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

AMENDMENT NO. 674

On page 2, line 2, strike through page 5, line 14, and insert in lieu the following:

SEC. . SUITS IN FEDERAL COURT

Chapter 85 of title 28, United States Code, is amended—

(a) by inserting at the end the following:

"§1367. Sexual Violence and Gender-Based Violence

"(a) The district courts shall have original jurisdiction of all civil actions where—

"(1) a claim for damages or other relief is premised on the commission of a Federal or State crime involving conduct proscribed by chapter 109A of title 18, United States Code, or a Federal or State crime of violence that was committed because of animosity or bias based on gender; and

"(2) in case the crime on which the claim is premised was not a Federal crime, the defendant traveled in interstate or foreign commerce or caused or induced another to move in interstate or foreign commerce in committing the crime or in furtherance of the crime.

"(b) For purposes of this section, 'State' has the meaning given in section 513 of title 18, United States Code, and 'crime of violence' has the meaning given in section 16 of title 18, United States Code."; and

(b) by inserting at the end of the chapter analysis the following:

"1367. Sexual Violence and Gender-Based Violence.".

AMENDMENT No. 675

On page 2, line 2, strike through page 5, line 14, and insert in lieu the following:

SECTION 301. DAMAGE REMEDY FOR SEX OFFENSES.

(a) CAUSE OF ACTION.—Any person who violates a provision of chapter 109A of title 18, United States Code, and any person who violates the law of a State (as defined in section 513 of that title) through conduct proscribed by chapter 109A if one of the circumstances described in subsection (b) exists, shall be liable to the victim in an action for compensatory and punitive damages, whether or not the violation has been charged or prosecuted and whether or not a trial of the person for such violation results in conviction.

(b) CIRCUMSTANCES RELATING TO VIOLATIONS OF STATE LAW.—The circumstances referred to in subsection (a) are:

(1) that the violation was committed under color of any statute, ordinance, regulation, custom, or usage of any State; or

(2) that the defendant traveled in interstate or foreign commerce or caused or induced another to move in interstate or foreign commerce in committing the violation or in furtherance of the violation.

(c) LIMITATIONS.—Any action brought under subsection (a) shall be commenced within three years of the date of the offense, the date on which the victim attains the age of 18 years, or the date on which a judgment of conviction for the offense is entered, whichever is the latest.

(d) JURISDICTION.—An action under subsection (a) may be brought in any appropriate United States District Court without regard to the amount in controversy.

SECTION 302. SPECIAL DIVERSITY JURISDICTION FOR STATE TORT CLAIMS AGAINST SEX OFFENDERS.

The district courts shall have original jurisdiction, concurrent with the courts of the States, of all civil actions arising out of violations of the law of a State (as defined in section 513 of title 18, United States Code) through conduct proscribed by chapter 109A of that title, if the victim and the defendant or defendants have diversity of citizenship as set forth in section 1332(a) of title 28, United States Code. Jurisdiction under this section shall be without regard to the amount in controversy.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, FISCAL YEAR 1992

BYRD AMENDMENT NO. 676

Mr. JOHNSTON (for Mr. BYRD) proposed an amendment to the bill H.R. 2427, supra, as follows:

On page 18, line 10, insert the following after "1991": ": *Provided further:* That the April 1977, contract for Recreational Development at Stonewall Jackson Lake, West Virginia is amended to include such elements as proposed by the State on March 28, 1990, except a golf course.".

WALLOP (AND SIMPSON) AMENDMENT NO. 677

Mr. JOHNSTON (for Mr. WALLOP, for himself and Mr. SIMPSON) proposed an amendment to the bill H.R. 2427, supra, as follows:

On page 37, line 22, insert the following: ": *Provided further*, That within the funds appropriated under this head the Secretary is directed to make available $1,200,000 for the rehabilitation and betterment of the Shoshone Irrigation Project, Cody, Wyoming.".

VIOLENT CRIME CONTROL ACT

BIDEN AMENDMENT NOS. 678 THROUGH 681

(Ordered to lie on the table.)

Mr. BIDEN submitted four amendments intended to be proposed by him to amendments to the bill S. 1241, supra, as follows:

AMENDMENT No. 678

Add at the appropriate place in the bill the following:

SEC. . TESTING OF CERTAIN INDIVIDUALS CHARGED WITH CERTAIN SEXUAL OFFENSES FOR THE PRESENCE OF THE ETIOLOGIC AGENT FOR AIDS.

Victims of any offense of the type described in Chapter 109A of title 18, United States Code, shall after appropriate counseling, on request, be provided with

(1) anonymous and confidential testing for the presence of the etiologic agent for acquired immune deficiency syndrome, and counseling concerning such, at no cost by appropriately trained staff operating through appropriate service providers, including rape crisis centers, community health centers, public health clinics, physicians, or other appropriate service providers; follow-up tests and counseling will be available at no cost on dates that occur three, six and twelve months following the initial test; and

(2) necessary and appropriate medical care.

(b) LIMITED TESTING OF DEFENDANTS.—

(1) COURT ORDER.—The victim of an offense of the type referred to in subsection (a) may obtain and order in the district court of the United States for the district in which charges are brought against the defendant charged with the offense, after notice to the defendant and an opportunity to be heard, requiring that the defendant be tested for the presence of the etiologic agent for acquired immune deficiency syndrome, and that the results of the test be communicated to the victim and the defendant. Any test result of the defendant given to the victim or the defendant must be accompanied by appropriate counseling.

(2) SHOWING REQUIRED.—To obtain an order under paragraph (1), the victim must demonstrate that—

(A) the defendant has been charged with the offense in a state or federal court, and if the defendant has been arrested without a warrant, a probable cause determination has been made;

(B) the test for the etiologic agent for acquired immune deficiency syndrome is requested by the victim after appropriate counseling; and

(C) the test would provide information necessary for the health of the victim of the alleged offense and the court determines that the alleged conduct of the defendant created a risk of transmission, as determined by the Centers for Disease Control, of the etiologic agent for acquired immune deficiency syndrome to the victim.

(3) FOLLOW-UP TESTING.—The court may order follow-up tests and counseling under paragraphs (b)(1) if the initial test was negative. Such follow-up tests and counseling shall be performed at the request of the victim on dates that occur six months and twelve months following the initial test.

(4) TERMINATION OF TESTING REQUIREMENTS.—An order for follow-up testing under paragraph (3) shall be terminated if the person obtains an acquittal on, or dismissal of, all charges of the type referred to in subsection (a).

(c) CONFIDENTIALITY OF TEST.—The results of any test ordered under this section shall be disclosed only to the victim or, where the court deems appropriate, to the parent or legal guardian of the victim, and to the person tested.

(d) DISCLOSURE OF TEST RESULTS.—The court shall issue an order to prohibit the disclosure of the results of any test performed under this section to anyone other than those mentioned in subsection (c). The contents of the court proceedings and test results pursuant to this section shall be sealed. The results of such test performed on the defendant under this section shall not be used as evidence in any criminal trial.

(e) CONTEMPT FOR DISCLOSURE.—Any person who discloses the results of a test in violation of this section may be held in contempt of court.

(f) PENALTIES FOR INTENTIONAL TRANSMISSION OF HIV.—Not later than 6 months after the date of enactment of this section, the United States Sentencing Commission shall conduct a study and prepare and submit to the appropriate Committees of Congress a report concerning recommendations for the revision of sentencing guidelines that relate to offenses in which an HIV infected individual engages in sexual activity if the individual knows that he or she is infected with HIV and intends, through such sexual activity, to expose another to HIV.

SEC. 237. PAYMENT OF COST OF HIV TESTING FOR VICTIM.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 is amended by inserting before the period at the end thereof the following: ", the cost of up to two tests of the victim for the human immunodeficiency virus during the twelve months following the assault, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of the human immunodeficiency virus to the victim as the result of the assault".

AMENDMENT No. 679

Strike everything after the word "Sec." and insert the following:

SEC. . TESTING OF CERTAIN INDIVIDUALS CHARGED WITH CERTAIN SEXUAL OFFENSES FOR THE PRESENCE OF THE ETIOLOGIC AGENT FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(a) HIV RELATED SERVICES FOR VICTIMS.—Victims of any State or Federal offense of the type described in chapter 109A of title 18, United States Code, shall, on request, be provided with

(1) anonymous and confidential testing for the presence of the etiologic agent for acquired immune deficiency syndrome, and counseling concerning such, as no cost by appropriately trained staff operating through appropriate service providers, including rape crisis centers, community health centers, public health clinics, physicians, or other appropriate service providers; follow-up tests and counseling will be available at no cost on dates that occur 3, 6, and 12 months following the date of the initial test; and

(2) necessary and appropriate medical care.

(b) TESTING OF DEFENDANTS.—

(1) COURT ORDER.—The victim of an offense of the type referred to in subsection (a) may obtain an order in the district court of the United States for the district in which charges are brought against the defendant charged with the offense, after notice to the defendant and an opportunity to be heard, requiring that the defendant be tested for the presence of the etiologic agent for acquired immune deficiency syndrome, and that the results of the test be communicated to the victim and the defendant. Any test result of the defendant given to the victim must be accompanied by appropriate counseling to the vitim on the risk of transmission and accuracy of the test.

(2) SHOWING REQUIRED.—To obtain an order under paragraph (1), the victim must demonstrate that—

(A) the defendant has been charged with the offense in a state or federal court, and, if the defendant has been arrested without a warrant, a probable cause determination has been made.

(B) The test for the etiologic agent for acquired immune deficiency syndrome is requested by the victim; and

(C) The court determines that the alleged conduct of the defendant created a risk of transmission of the etiologic agent for acquired immune deficiency syndrome to the victim.

(3) FOLLOW-UP TESTING.—The court shall order follow-up tests and counseling under paragraph (b)(1) if the initial test was negative. Such follow-up tests and counseling shall be performed at the request of the victim on dates that occur 3, 6, and 12 months following the date of the initial test.

(4) TERMINATION OF TESTING REQUIREMENTS.—An order for follow-up testing under paragraph (3) shall be terminated if the individual to be tested obtains an acquittal on, or dismissal of, all charges against such individual.

(c) CONFIDENTIALITY OF TEST.—The results of any test ordered under this section shall be disclosed only to the victim, or, where the court deems appropriate, to the parent or legal guardian of the victim, and to the person tested.

(d) DISCLOSURE OF TEST RESULTS.—The court shall issue an order to prohibit the disclosure of the results of any test performed under this section to anyone other than those mentioned in subsection (c). The contents of the court order shall be sealed. The results of such test performed on the defendant under this section shall not be used as evidence in any criminal trial, except that testing ordered under this section shall not be a bar to testing permitted under any other law.

(e) CONTEMPT FOR DISCLOSURE.—A victim who discloses the results of a test in violation of this section may be held in contempt of court.

(f) EFFECT ON PENALTY.—The United States Sentencing Commission shall amend existing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender knew or had reason to know that he was infected with the human immunodeficiency virus, except where the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.

SEC. . PAYMENT OF COST OF HIV TESTING FOR VICTIM.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 is amended by inserting before the period at the end thereof the following: ", the cost of up to three tests of the victim for the human immunodeficiency virus during the twelve months following the assault, and the cost of counseling sessions by a medically trained professional on the accuracy of such tests and the risk of transmission of the human immunodeficiency virus to the victim as the result of the assault".

Subtitle E—National Task Force on Violence Against Women

SEC. 241. ESTABLISHMENT.

Not later than 30 days after the date of enactment of this subtitle, the Attorney General shall establish a task force to be known as the "National Task Force on Violence against Women" (referred to in this subtitle as the "task force").

AMENDMENT No. 680

Strike Section 239.

AMENDMENT No. 681

Add at the appropriate place in the bill the following:

SEC. . TESTING OF CERTAIN INDIVIDUALS CHARGED WITH CERTAIN SEXUAL OFFENSES FOR THE PRESENCE OF THE ETIOLOGIC AGENT FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME

(a) HIV RELATED SERVICES FOR VICTIMS.—Victims of any offense of the type described in Chapter 109A of title 18, United States Code, shall after appropriate counseling, on request, be provided with

(1) anonymous and confidential testing for the presence of the etiologic agent for acquired immune deficiency syndrome, and counseling concerning such, at no cost by appropriately trained staff operating through appropriate service providers, including rape crisis centers, community health centers, public health clinics, physicians, or other appropriate service providers; follow-up tests and counseling will be available at no cost on dates that occur three, six and twelve months following the initial test; and

(2) necessary and appropriate medical care.

(b) LIMITED TESTING OF DEFENDANTS.—

(1) COURT ORDER.—The victim of an offense of the type referred to in subsection (a) may obtain and order in the district court of the United States for the district in which charges are brought against the defendant charged with the offense, after notice to the defendant and an opportunity to be heard, requiring that the defendant be tested for the presence of the etiologic agent for acquired immune deficiency syndrome, and that the results of the test be communicated to the victim and the defendant. Any test result of the defendant given to the victim or the defendant must be accompanied by appropriate counseling.

(2) SHOWING REQUIRED.—To obtain an order under paragraph (1), the victim must demonstrate that—

(A) the defendant has been charged with the offense in a state or federal court, and if the defendant has been arrested without a warrant, a probable cause determination has been made;

(B) the test for the itiologic agent for acquired immune deficiency syndrome is requested by the victim after appropriate counseling; and

(C) the test would provide information necessary for the health of the victim of the alleged offense and the court determines that the alleged conduct of the defendant created a risk of transmission, as determined by the Centers for Disease Control, of the etiologic agent for acquired immune deficiency syndrome to the victim.

(3) FOLLOW-UP TESTING.—The court may order follow-up tests and counseling under paragraphs (b) (1) if the initial test was negative. Such follow-up tests and counseling shall be performed at the request of the victim on dates that occur six months and twelve months following the initial test.

(4) TERMINATION OF TESTING REQUIREMENTS.—An order for follow-up testing under paragraph (3) shall be terminated if the person obtains an acquittal on, or dismissal of, all charges of the type referred to in subsection (a).

(c) CONFIDENTIALITY OF TEST.—The results of any test ordered under this section shall be disclosed only to the victims or, where the court deems appropriate, to the parent or legal guardian of the victim, and to the person tested.

(d) DISCLOSURE OF TEST RESULTS.—The court shall issue an order to prohibit the disclosure of the results of any test performed under this section to anyone other than those mentioned in subsection (c). The contents of the court proceedings and test results pursuant to this section shall be sealed. The results of such test performed on the defendant under this section shall not be used as evidence in any criminal trial.

(e) CONTEMPT FOR DISCLOSURE.—Any person who discloses the results of a test in violation of this section may be held in contempt of court.

(f) PENALTIES FOR INTENTIONAL TRANSMISSION OF HIV.—Not later than 6 months after the date of enactment of this section, the United States Sentencing Commission shall conduct a study and prepare and submit to the appropriate Committees of Congress a report concerning recommendations for the revision of sentencing guidelines that relate to offenses in which an HIV infected individual engages in sexual activity if the individual knows that he or she is infected with HIV and intends, through such sexual activity, to expose another to HIV.

SEC. 237. PAYMENT OF COST OF HIV TESTING FOR VICTIM.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 is amended by inserting before the period at the end thereof the following: ", the cost of up to two tests of the victim for the human immunodeficiency virus during the twelve months following the assault, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of the human immunodeficiency virus to the victim as the result of the assault".

BIDEN AMENDMENT NO. 682

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

Strike subtitle C from Title XVI and replace with the following:

SUBTITLE C—RURAL DRUG TREATMENT

SEC. . RURAL SUBSTANCE ABUSE TREATMENT.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end thereof the following new section:

"SEC. 509H. RURAL SUBSTANCE ABUSE TREATMENT.

"(a) IN GENERAL.—The Secretary, acting through the Administrator, shall establish a program to provide grants to hospitals, community health centers, migrant health centers, health entities of Indian tribes and tribal organizations (as defined in section

1913(b)(5)), and other appropriate entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse treatment services.

"(b) REQUIREMENTS.—To receive a grant under this section a hospital, community health center, or treatment facility shall—

"(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

"(2) operate, or have a plan to operate, an approved substance abuse treatment program;

"(3) agree to coordinate the project assisted under this section with substance abuse treatment activities within the State and local agencies responsible for substance abuse treatment; and

"(4) prepare and submit an application in accordance with subsection (c).

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section an entity shall submit an application to the Administrator at such time, in such manner, and containing such information as the Administrator shall require.

"(2) COORDINATED APPLICATIONS.—State agencies that are responsible for substance abuse treatment may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

"(d) SPECIAL CONSIDERATION.—In awarding grants under this section the Administrator shall give priority to—

"(1) projects sponsored by rural hospitals that are qualified to receive rural health care transition grants as provided for in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987;

"(2) projects serving nonmetropolitan areas that establish links and coordinate activities between hospitals, community health centers, community mental health centers, and substance abuse treatment centers; and

"(3) projects that are designed to serve areas that have no available existing treatment facilities.

"(e) DURATION.—Grants awarded under subsection (a) shall be for a period not to exceed 3 years, except that the Administrator may establish a procedure for renewal of grants under subsection (a).

"(f) GEOGRAPHIC DISTRIBUTION.—To the extent practicable, the Administrator shall provide grants to fund at least one project in each State.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there are authorized to be appropriated $25,000,000 for each of the fiscal years 1992, 1993, and 1994.".

Subtitle D—Rural Drug Prevention

SEC. . RURAL SUBSTANCE ABUSE PREVENTION.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.), as amended by section 401, is amended by adding at the end thereof the following new section:

"SEC. 509I. RURAL SUBSTANCE ABUSE PREVENTION.

"(a) IN GENERAL.—The Secretary, acting through the Administrator, shall make grants to public and nonprofit private entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse prevention services.

"(b) REQUIREMENTS.—To receive a grant under this section an entity shall—

"(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

"(2) agree to coordinate the project assisted under this section with substance abuse prevention activities within the State and local agencies responsible for substance abuse prevention; and

"(3) prepare and submit an application in accordance with subsection (c).

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section an entity shall submit an application to the Administrator as such time, in such manner, and containing such information as the Administrator shall require.

"(2) COORDINATED APPLICATIONS.—State or local agencies that are responsible for substance abuse prevention may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

"(d) SPECIAL CONSIDERATION.—In awarding grants under this section the Administrator shall give priority to—

"(1) applications from community based organizations with experience serving nonmetropolitan areas;

"(2) projects that are designed to serve areas that have no available existing treatment facilities.

"(e) DURATION.—Grants awarded under this section shall be for a period not to exceed 3 years, except that the Administrator may establish a procedure for renewal of grants under subsection (a).

"(f) GEOGRAPHIC DISTRIBUTION.—To the extent practicable, the Administrator shall provide grants to fund at least 1 project in each State.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $25,000,000 for each of the fiscal years 1992, 1993, and 1994.".

SEC. 502. CLEARINGHOUSE PROGRAM.

Section 509 of the Public Health Service Act (42 U.S.C. 290aa-7) is amended—

(1) in paragraph (3), by striking "and" at the end thereof;

(2) in paragraph (4), by striking the period at the end thereof and inserting a semicolon; and

(3) by adding at the end thereof the following new paragraphs—

"(5) gather information pertaining to rural drug abuse treatment and education projects funded by the Administrator and other such projects throughout the United States; and

"(6) disseminate such information to rural hospitals, community health centers, community mental health centers, treatment facilities, community organizations, and other interested persons.".

VIOLENT CRIME CONTROL ACT

BIDEN AMENDMENT NOS. 683 AND 684

(Ordered to lie on the table.)

Mr. BIDEN submitted two amendments intended to be proposed by him to amendments to the bill S. 1241, Supra, as follows:

AMENDMENT No. 683

Add at the appropriate place in the bill the following:

Victims of any offense of the type described in chapter 109A of title 18, United States Code, shall after appropriate counseling, on request, be provided with

(1) anonymous and confidential testing for the presence of the etiologic agent for acquired immune deficiency syndrome, and counseling concerning such, at no cost by appropriately trained staff operating through appropriate service providers, including rape crisis centers, community health centers, public health clinics, physicians, or other appropriate service providers; follow-up tests and counseling will be available at no cost on dates that occur three, six and twelve months following the initial test; and

(2) necessary and appropriate medical care.

(b) LIMITED TESTING OF DEFENDANTS.—

(1) COURT ORDER.—The victim of an offense of the type referred to in subsection (a) may obtain and order in the district court of the United States for the district in which charges are brought against the defendant charged with the offense, after notice to the defendant and an opportunity to be heard, requiring that the defendant be tested for the presence of the etiologic agent for acquired immune deficiency syndrome, and that the results of the test be communicated to the victim and the defendant. Any test result of the defendant given to the victim or the defendant must be accompanied by appropriate counseling.

(2) SHOWING REQUIRED.—To obtain an order under paragraph (1), the victim must demonstrate that—

(A) the defendant has been charged with the offense in a State or Federal court, and if the defendant has been arrested without a warrant, a probable cause determination has been made;

(B) the test for the etiologic agent for acquired immune deficiency syndrome is requested by the victim after appropriate counseling; and

(C) the test would provide information necessary for the health of the victim of the alleged offense and the court determines that the alleged conduct of the defendant created a risk of transmission, as determined by the Centers for Disease Control, of the etiologic agent for acquired immune deficiency syndrome to the victim.

(3) FOLLOW-UP TESTING.—The court may order follow-up tests and counseling under paragraphs (b)(1) if the initial test was negative. Such follow-up tests and counseling shall be performed at the request of the victim on dates that occur six months and twelve months following the initial test.

(4) TERMINATION OF TESTING REQUIREMENTS.—An order for follow-up testing under paragraph (3) shall be terminated if the person obtains an acquittal on, or dismissal of, all charges of the type referred to in subsection (a).

(c) CONFIDENTIALITY OF TEST.—The results of any test ordered under this section shall be disclosed only to the victim or, where the court deems appropriate, to the parent or legal guardian of the victim, and to the person tested.

(d) DISCLOSURE OF TEST RESULTS.—The court shall issue an order to prohibit the disclosure of the results of any test performed under this section to anyone other than those mentioned in subsection (c). The contents of the court proceedings and test results pursuant to this section shall be sealed. The results of such test performed on the defendant under this section shall not be used as evidence in any criminal trial.

(e) CONTEMPT FOR DISCLOSURE.—Any person who discloses the results of a test in violation of this section may be held in contempt of court.

(f) PENALTIES FOR INTENTIONAL TRANSMISSION OF HIV.—Not later than 6 months after the date of enactment of this section, the United States Sentencing Commission shall conduct a study and prepare and submit to the appropriate Committees of Congress a report concerning recommendations for the revision of sentencing guidelines that relate to offenses in which an HIV infected individual engages in sexual activity if the individual knows that he or she is infected with HIV and intends, through such sexual activity, to expose another to HIV.

SEC. 237. PAYMENT OF COST OF HIV TESTING FOR VICTIM

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 is amended by inserting before the period at the end thereof the following: ", the cost of up to two tests of the victim for the human immunodeficiency virus during the twelve months following the assault, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of the human immunodeficiency virus to the victim as the result of the assault.".

AMENDMENT NO. 684

Add at the appropriate place in the bill the following:

SEC. . TESTING OF CERTAIN INDIVIDUALS CHARGED WITH CERTAIN SEXUAL OFFENSES FOR THE PRESENCE OF THE ETIOLOGIC AGENT FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(a) HIV RELATED SERVICES FOR VICTIMS.—Victims of any offense of the type described in chapter 109A of title 18, United States Code, shall after appropriate counseling, on request, be provided with

(1) anonymous and confidential testing for the presence of the etiologic agent for acquired immune deficiency syndrome, and counseling concerning such, at no cost by appropriately trained staff operating through appropriate service providers, including rape crisis centers, community health centers, public health clinics, physicians, or other appropriate service providers; follow-up tests and counseling will be available at no cost on dates that occur three, six and twelve months following the initial test; and

(2) necessary and appropriate medical care.

(b) LIMITED TESTING OF DEFENDANTS.—

(1) COURT ORDER.—The victim of an offense of the type referred to in subsection (a) may obtain and order in the district court of the United States for the district in which charges are brought against the defendant charged with the offense, after notice to the defendant and an opportunity to be heard, requiring that the defendant be tested for the presence of the etiologic agent for acquired immune deficiency syndrome, and that the results of the test be communicated to the victim and the defendant. Any test result of the defendant given to the victim or the defendant must be accompanied by appropriate counseling.

(2) SHOWING REQUIRED.—To obtain an order under paragraph (1), the victim must demonstrate that—

(A) the defendant has been charged with the offense in a state or federal court, and if the defendant has been arrested without a warrant, a probable cause determination has been made;

(B) the test for the etiologic agent for acquired immune deficiency syndrome is requested by the victim after appropriate counseling; and

(C) the test would provide information necessary for the health of the victim of the alleged offense and the court determines that the alleged conduct of the defendant created a risk of transmission, as determined by the Centers for Disease Control, of the etiologic agent for acquired immune deficiency syndrome to the victim.

(3) FOLLOW-UP TESTING.—The court may order follow-up tests and counseling under paragraphs (b)(1) if the initial test was negative. Such follow-up tests and counseling shall be performed at the request of the victim on dates that occur six months and twelve months following the initial test.

(4) TERMINATION OF TESTING REQUIREMENTS.—An order for follow-up testing under paragraph (3) shall be terminated if the person obtains an acquittal on, or dismissal of, all charges of the type referred to in subsection (a).

(c) CONFIDENTIALITY OF TEST.—The results of any test ordered under this section shall be disclosed only to the victim or, where the court deems appropriate, to the parent or legal guardian of the victim, and to the person tested.

(d) DISCLOSURE OF TEST RESULTS.—The court shall issue an order to prohibit the disclosure of the results of any test performed under this section to anyone other than those mentioned in subsection (c). The contents of the court proceedings and test results pursuant to this section shall be sealed. The results of such test performed on the defendant under this section shall not be used as evidence in any criminal trial.

(e) CONTEMPT FOR DISCLOSURE.—Any person who discloses the results of a test in violation of this section may be held in contempt of court.

(f) PENALTIES FOR INTENTIONAL TRANSMISSION OF HIV.—Not later than 6 months after the date of enactment of this section, the United States Sentencing Commission shall conduct a study and prepare and submit to the appropriate Committees of Congress a report concerning recommendations for the revision of sentencing guidelines that relate to offenses in which an HIV infected individual engages in sexual activity if the individual knows that he or she is infected with HIV and intends, through such sexual activity, to expose another to HIV.

SEC. 237. PAYMENT OF COST OF HIV TESTING FOR VICTIM.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 is amended by inserting before the period at the end thereof the following: ", the cost of up to two tests of the victim for the human immunodeficiency virus during the twelve months following the assault, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of the human immunodeficiency virus to the victim as the result of the assault".

BIDEN AMENDMENT NO. 685

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

Add at the appropriate place in the bill:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violence Against Women Act of 1991".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—SAFE STREETS FOR WOMEN
Sec. 101. Short title.
Subtitle A—Federal Penalties for Sex Crimes
Sec. 111. Repeat offenders.
Sec. 112. Federal penalties.
Sec. 113. Mandatory restitution for sex crimes.
Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women
Sec. 121. Grants to combat violent crimes against women.
Subtitle C—Safety for Women in Public Transit and Public Parks
Sec. 131. Grants for capital improvements to prevent crime in public transportation.
Sec. 132. Grants for capital improvements to prevent crime in national parks.
Sec. 133. Grants for capital improvements to prevent crime in public parks.
Subtitle D—National Commission on Violent Crime Against Women
Sec. 141. Establishment.
Sec. 142. Duties of commission.
Sec. 143. Membership.
Sec. 144. Reports.
Sec. 145. Executive Director and staff.
Sec. 146. Powers of commission.
Sec. 147. Authorization of appropriations.
Sec. 148. Termination.
Subtitle E—New Evidentiary Rules
Sec. 151. Sexual history in all criminal cases.
Sec. 152. Sexual history in civil cases.
Sec. 153. Amendments to rape shield law.
Sec. 154. Evidence of clothing.
Subtitle F—Assistance to Victims of Sexual Assault
Sec. 161. Education and prevention grants to reduce sexual assaults against women.
Sec. 162. Rape exam payments.

TITLE II—SAFE HOMES FOR WOMEN
Sec. 201. Short title.
Subtitle A—Interstate Enforcement
Sec. 211. Interstate enforcement.
Subtitle B—Arrest in Spousal Abuse Cases
Sec. 221. Encouraging arrest policies.
Subtitle C—Funding for Shelters
Sec. 231. Authorization.
Subtitle D—Family Violence Prevention and Services Act Amendments
Sec. 241. Expansion of purpose.
Sec. 242. Expansion of State demonstration grant program.
Sec. 243. Grants for public information campaigns.
Sec. 244. State commissions on domestic violence.
Sec. 245. Indian tribes.
Sec. 246. Funding limitations.
Sec. 247. Grants to entities other than States; local share.
Sec. 248. Shelter and related assistance.
Sec. 249. Law enforcement training and technical assistance grants.
Sec. 250. Report on recordkeeping.
Sec. 251. Model State leadership incentive grants for domestic violence intervention.
Sec. 252. Funding for technical assistance centers.
Subtitle E—Youth Education and Domestic Violence
Sec. 261. Educating youth about domestic violence.
Subtitle F—Confidentiality for Abused Persons
Sec. 271. Confidentiality for abused persons.

TITLE III—CIVIL RIGHTS

Sec. 301. Civil rights.

TITLE IV—SAFE CAMPUSES FOR WOMEN

Sec. 401. Short title.
Sec. 402. Findings.
Sec. 403. Grants for campus rape education.
Sec. 404. Disclosure of disciplinary proceedings in sex assault cases on campus.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

Sec. 501. Short title.

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

Sec. 511. Grants authorized.
Sec. 512. Training provided by grants.
Sec. 513. Cooperation in developing programs in making grants under this title.
Sec. 514. Authorization of appropriations.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

Sec. 521. Education and training grants.
Sec. 522. Cooperation in developing programs.
Sec. 523. Authorization of appropriations.

TITLE I—SAFE STREETS FOR WOMEN

SEC. 101. SHORT TITLE.

This title may be cited as the "Safe Streets for Women Act of 1991".

Subtitle A—Federal Penalties for Sex Crimes

SEC. 111. REPEAT OFFENDERS.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2247. Repeat offenders

"Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2247. Repeat offenders.".

SEC. 112. FEDERAL PENALTIES.

(a) RAPE AND AGGRAVATED RAPE.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide that a defendant convicted of aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, shall be assigned a base offense level under chapter 2 of the sentencing guidelines that is at least 4 levels greater than the base offense level applicable to criminal sexual abuse under the guidelines in effect on November 1, 1990, or otherwise shall amend the guidelines applicable to such offenses so as to achieve a comparable minimum guideline sentence. In amending such guidelines, the Sentencing Commission shall review the appropriateness of existing specific offense characteristics or other adjustments applicable to such offenses, and make such changes as it deems appropriate, taking into account the severity of rape offenses, with or without aggravating factors; the unique nature and duration of the mental injuries inflicted on the victims of such offenses; and any other relevant factors.

(b) EFFECT OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instructions set forth in subsection (a) so as to achieve a comparable result.

(c) STATUTORY RAPE.—

(1) Section 2243(b) of title 18, United States Code, is amended by striking "one year," and inserting "two years,".

(2) Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to incorporate the increase in maximum penalties provided by this section for section 2243(b) of title 18, United States Code.

SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or matters related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or his delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2248. Mandatory restitution.".

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) redesignating part N as part O;

(2) redesignating section 1401 as section 1501; and

(3) adding after part M the following:

"PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"SEC. 1401. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribes, cities, and other localities to develop effective law enforcement and prosecution strategies to combat violent crimes against women and, in particular, to focus efforts on those areas with the highest rates of violent crime against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide additional personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing police and prosecution policies, protocols, or orders specifically devoted to identifying and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, prosecutions, and convictions for the crimes of sexual assault and domestic violence; and

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, to increase reporting and reduce attrition rates for cases involving violent crimes against women, including the crimes of sexual assault and domestic violence.

"SUBPART 1—HIGH INTENSITY CRIME AREA GRANTS

"SEC. 1411. HIGH INTENSITY GRANTS.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the 'Director') shall make grants to areas of 'high intensity crime' against women.

"(b) DEFINITION.—For purposes of this part, a 'high intensity crime area' means an area with one of the 40 highest rates of violent crime against women, as determined by the Bureau of Justice Statistics pursuant to section 1412.

"SEC. 1412. HIGH INTENSITY GRANT APPLICATION.

"(a) COMPUTATION.—Within 45 days after the date of enactment of this part, the Bureau of Justice Statistics shall compile a list of the 40 areas with the highest rates of violent crime against women based on the combined female victimization rate per population for assault, sexual assault (including, but not limited to, rape), murder, robbery, and kidnapping.

"(b) USE OF DATA.—In calculating the combined female victimization rate required by subsection (a), the Bureau of Justice Statistics may rely on—

"(1) existing data collected by States, municipalities, Indian reservations or statistical metropolitan areas showing the number of police reports of the crimes listed in subsection (a); and

"(2) existing data collected by the Federal Bureau of Investigation, including data from those governmental entities already complying with the National Incident Based Reporting System, showing the number of police reports of crimes listed in subsection (a).

"(c) PUBLICATION.—After compiling the list set forth in subsection (a), the Bureau of Justice Statistics shall convey it to the Director who shall publish it in the Federal Register.

"(d) QUALIFICATION.—Upon satisfying the terms of subsection (e), any high intensity crime area shall be qualified for a grant under this subpart upon application by the chief executive officer of the governmental entities responsible for law enforcement and prosecution of criminal offenses within the area and certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate program grants, with nongovernmental nonprofit victim services programs; and

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(e) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application must provide the certifications required by subsection (d) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (d)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall ensure, to the extent practicable, that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served; and

"(C) give priority to areas with the greatest showing of need.

"(g) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this part. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"Subpart 2—Other Grants to States to Combat Violent Crimes Against Women

"SEC. 1421. GENERAL GRANTS TO STATES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to States, for use by States, units of local government in the States, and nonprofit nongovernmental victim services programs in the States, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be—

"(1) $500,000 to each State; and

"(2) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application shall include the certifications of qualification required by subsection (c) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (c)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(e) DISBURSEMENT.—(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that States will—

"(A) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000;

"(B) determine the amount of subgrants based on the population and geographic area to be served; and

"(C) give priority to areas with the greatest showing of need, as demonstrated by comparing population and geographic areas to be served to the availability of existing sexual assault and domestic violence services.

"(f) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"SEC. 1422. GENERAL GRANTS TO TRIBES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of $35,000 and maximum grants of $300,000.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b); and

"(2) at least 25 percent of the grant funds shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—(1) Applications shall be made directly to the Director and shall contain a description of the tribes' law enforcement responsibilities for the Indian country described in the application and a description of the tribes' system of courts, including whether the tribal government operates courts of Indian offenses as defined in 25 U.S.C. 1301 or CFR courts under 25 CFR 11 et seq.

"(2) Applications shall be in such form as the Director may prescribe and shall specify the nature of the program proposed by the applicant tribe, the data and information on which the program is based, and the extent to which the program plans to use or incorporate existing services available in the Indian country where the grant will be used.

"(3) The term of any grant shall be for a minimum of 3 years.

"(e) GRANTEE REPORTING.—At the end of the first 12 months of the grant period and at the end of each year thereafter, the Indian tribal granted shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

"(2) The term 'Indian country' has the meaning given to such term by section 1151 of title 18, United States Code.

"SUBPART 3—GENERAL TERMS AND CONDITIONS

"SEC. 1431. GENERAL DEFINITIONS.

"As used in this part—

"(1) the term 'victim services program' means any public or private nonprofit program that assists victims, including (A) nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process and (B) victim/witness programs within governmental entities;

"(2) the term 'sexual assault' includes not only assaults committed by offenders who are strangers to the victim but also assaults committed by offenders who are known or related by blood or marriage to the victim; and

"(3) the term 'domestic violence' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse, or any other person similarly situated to a spouse who is protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"SEC. 1432. GENERAL TERMS AND CONDITIONS.

"(a) NONMONETARY ASSISTANCE.—In addition to the assistance provided under subparts 1 or 2, the Director may direct any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts.

"(b) BUREAU REPORTING.—No later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Judiciary Committees of the House and the Senate a report that includes, for each high intensity crime area (as provided in subpart 1) and for each State and for each grantee Indian tribe (as provided in subpart 2)—

"(1) the amount of grants made under this part;

"(2) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(3) a copy of each grantee report filed pursuant to sections 1412(g) and 1421(f).

"(c) REGULATIONS.—No later than 45 days after the date of enactment of this part, the Director shall publish proposed regulations implementing this part. No later than 120 days after such date, the Director shall publish final regulations implementing this part.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year 1992, 1993, and 1994, $100,000,000 to carry out the purposes of subpart 1, and $190,000,000 to carry out the purposes of subpart 2, and $10,000,000 to carry out the purposes of section 1422 of subpart 2.".

Subtitle C—Safety for Women in Public Transit and Public Parks

SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

Section 24 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION

"SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, and not to exceed $10,000,000, the Secretary shall make capital grants for the prevention of crime and to increase security in existing and future public transportation systems. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

"(b) GRANTS FOR LIGHTING, CAMERA SURVEILLANCE, AND SECURITY PHONES.—

"(1) From the sums authorized for expenditure under this section for crime prevention, the Secretary is authorized to make grants and loans to States and local public bodies or agencies for the purpose of increasing the safety of public transportation by—

"(A) increasing lighting within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(B) increasing camera surveillance of areas within and adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(C) providing emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages; or

"(D) any other project intended to increase the security and safety of existing or planned public transportation systems.

"(2) From the sums authorized under this section, at least 75 percent shall be expended on projects of the type described in subsection (b)(1) (A) and (B).

"(c) REPORTING.—All grants under this section are contingent upon the filing of a report with the Secretary and the Department of Justice, Office of Victims of Crime, showing crime rates in or adjacent to public transportation before, and for a 1-year period after, the capital improvement. Statistics shall be broken down by type of crime, sex, race, and relationship of victim to the offender.

"(d) INCREASED FEDERAL SHARE.—Notwithstanding any other provision of this Act, the Federal share under this section for each capital improvement project which enhances the safety and security of public transportation systems and which is not required by law (including any other provision of this chapter) shall be 90 percent of the net project cost of such project.

"(e) SPECIAL GRANTS FOR PROJECTS TO STUDY INCREASING SECURITY FOR WOMEN.—From the sums authorized under this section, the Secretary shall provide grants and loans for the purpose of studying ways to reduce violent crimes against women in public transit through better design or operation of public transit systems.

"(f) GENERAL REQUIREMENTS.—All grants or loans provided under this section shall be subject to all the terms, conditions, requirements, and provisions applicable to grants and loans made under section 2(a).".

SEC. 132. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN NATIONAL PARKS.

The Act of August 18, 1970, the National Park System Improvements in Administration Act (90 Stat. 1931; 16 U.S.C. 1a-1 et seq.) is amended by adding at the end thereof the following:

"SEC. 13. NATIONAL PARK SYSTEM CRIME PREVENTION ASSISTANCE.

"(a) From the sums authorized pursuant to section 7 of the Land and Water Conservation Act of 1965, and not to exceed $10,000,000, the Secretary of the Interior is authorized to provide Federal assistance to reduce the incidence of violent crime in the National Park System.

"(b) The Secretary shall direct the chief official responsible for law enforcement within the National Park Services to—

"(1) compile a list of areas within the National Park System with the highest rates of violent crime;

"(2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and

"(3) publish the information required by paragraphs (1) and (2) in the Federal Register.

"(c) No later than 120 days after the date of enactment of this section, and based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute funds throughout the National Park Service. Priority shall be given to those areas with the highest rates of sexual assault.

"(d) Funds provided under this section may be used for the following purposes—

"(1) to increase lighting within or adjacent to public parks and recreation areas;

"(2) to provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(3) to increase security or law enforcement personnel within or adjacent to public parks and recreation areas; and

"(4) any other project intended to increase the security and safety of public parks and recreation areas.".

SEC. 133. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC PARKS.

Section 6 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 460l-8) is amended by adding at the end thereof the following new subsection:

"(h) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed $15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding the terms of subsection (c), the Secretary is authorized to provide 70 percent improvement grants for projects undertaken by any State for the purposes outlined in this subsection. The remaining share of the cost shall be borne by the State.".

Subtitle D—National Commission on Violent Crime Against Women

SEC. 141. ESTABLISHMENT.

There is established a commission to be known as the National Commission on Violent Crime Against Women (hereinafter referred to as "the Commission").

SEC. 142. DUTIES OF COMMISSION.

(a) GENERAL PURPOSE OF THE COMMISSION.—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crime against women.

(b) FUNCTIONS.—The Commission shall perform the following functions—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence; and

(9) evaluate and make recommendations regarding the feasibility of maintaining the confidentiality of addresses of domestic violence victims in voting, welfare, and public records.

SEC. 143. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) three of whom shall be—

(I) the Attorney General;

(II) the Secretary of Health and Human Services; and

(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of sexual assault or domestic violence.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) CONGRESSIONAL COMMITTEE RECOMMENDATIONS.—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) REQUIREMENTS OF APPOINTMENTS.—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their experience in State or national efforts to fight violence against women and demonstrate experience in State or national advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of law enforcement, prosecution, judicial administration, legal expertise, public health, social work, victim compensation boards, and victim advocacy.

(4) TERM OF MEMBERS.—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) VACANCY.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) CHAIRMAN.—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) MEETINGS.—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the

Chairman or a majority of its members, but shall meet at least six times.

(e) Pay.—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) Per Diem.—Except as provided in subsection (e), members of the Commission shall be allowed travel and other expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) Deadline for Appointment.—Not later than 45 days after the date of the enactment of this Act, the members of the Commission shall be appointed.

SEC. 144. REPORTS.

(a) In General.—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) Contents.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

SEC. 145. EXECUTIVE DIRECTOR AND STAFF.

(a) Executive Director.—

(1) Appointment.—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) Compensation.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable under GS–18 of the General Schedule as contained in title 5, United States Code.

(b) Staff.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) Applicability of Civil Service Laws.—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) Consultants.—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 146. POWERS OF COMMISSION.

(a) Hearings.—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) Delegation.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) Access to Information.—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chairman of the Commission.

(d) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 147. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $500,000 to carry out the purposes of this subtitle.

SEC. 148. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed one year.

Subtitle E—New Evidentiary Rules

SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

The Federal Rules of Evidence are amended by inserting after rule 412 the following:

"Rule 412A. Evidence of victim's past behavior in other criminal cases

"(a) Reputation and Opinion Evidence Excluded.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, reputation or opinion evidence of the past sexual behavior of an alleged victim is not admissible.

"(b) Admissibility.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, evidence of an alleged victim's past sexual behavior (other than reputation and opinion evidence) may be admissible if—

"(1) the evidence is admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of the evidence outweighs the danger of unfair prejudice.

"(c) Procedures.—(1) If the defendant intends to offer evidence of specific instances of the alleged victim's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the alleged victim.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

The Federal Rules of Evidence, as amended by section 151 of this Act, are amended by adding after rule 412A the following:

"Rule 412B. Evidence of past sexual behavior in civil cases

"(a) Reputation and Opinion Evidence Excluded.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

"(b) Admissible Evidence.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

"(1) admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of such evidence outweighs the danger of unfair prejudice.

"(c) Procedures.—(1) If the defendant intends to offer evidence of specific instances of the plaintiff's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the plaintiff.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the plaintiff and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies evidence which may be offered and areas with respect to which the plaintiff may be examined or cross-examined. In its order, the court should consider

(A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

"(d) DEFINITIONS.—For purposes of this rule, a case involving a claim of actionable sexual misconduct, includes, but is not limited to, sex harassment or discrimination claims brought pursuant to title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)) and gender bias claims brought pursuant to title III of the Violence Against Women Act of 1991.".

SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end thereof the following:

"(e) INTERLOCUTORY APPEAL.—Notwithstanding any other provision of law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

"(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim."; and

(2) by adding at the end of subdivision (c)(3) the following: "In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 154. EVIDENCE OF CLOTHING.

The Federal Rules of Evidence are amended by adding after rule 412 the following:

"Rule 413. Evidence of victim's clothing as inciting violence

"Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged.".

Subtitle F—Assistance to Victims of Sexual Assault

SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended as follows:

(1) by adding at the end thereof the following new section:

"§ 1910A. Use of allotments for rape prevention education

"(a) Notwithstanding the terms of section 1904(a)(1) of this title, amounts transferred by the State for use under this part may be used for rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities, which programs may include—

"(1) educational seminars;

"(2) the operation of hotlines;

"(3) training programs for professionals;

"(4) the preparation of informational materials; and

"(5) other efforts to increase awareness of the facts about, or to help prevent, sexual assault.

"(b) States providing grant monies must assure that at least 15 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) There are authorized to be appropriated under this section for each fiscal year 1992, 1993, and 1994, $65,000,000 to carry out the purposes of this section.

"(d) Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) For purposes of this section, the term 'rape prevention and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim.

"(f) States shall be allotted funds under this section pursuant to the terms of sections 1902 and 1903, and subject to the conditions provided in this section and sections 1904 through 1909.";

(2) striking section 1901(b); and

(3) striking section 1904(a)(1)(G).

SEC. 162. RAPE EXAM PAYMENTS.

No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 unless the State or other grantee incurs the full cost of forensic medical exams for victims of sexual assault. A State or other grantee does not incur the full medical cost of forensic medical exams if it chooses to reimburse the victim after the fact unless the reimbursement program waives any minimum loss or deductible requirement, provides victim reimbursement within a reasonable time (90 days), permits applications for reimbursement within one year from the date of the exam, and provides information to all subjects of forensic medical exams about how to obtain reimbursement.

TITLE II—SAFE HOMES FOR WOMEN

SEC. 201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1990".

Subtitle A—Interstate Enforcement

SEC. 211. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

"Chapter 110A—Violence Against Spouses

"Sec. 2261. Traveling to commit spousal abuse.

"Sec. 2262. Interstate violation of protection orders.

"Sec. 2263. Restitution.

"Sec. 2264. Full faith and credit given to protection orders.

"Sec. 2265. Definitions for chapter.

"§ 2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner; or

"(2) for the purpose of harassing, intimidating, or injuring a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner,

shall be fined not more than $1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner, shall be fined not more than $1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(c) NO STATE LAW.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, a person violating this section shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

"(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§ 2262. Interstate violation of protection orders

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

"(2) for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c) of this section.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c) of this section.

"(c) PENALTIES.—

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than six months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§ 2263. Interim protections

"In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the protection of an abused spouse or intimate partner pending final adjudication of the case, upon a showing of a likelihood of danger to the abused spouse or intimate partner.

"§ 2264. Restitution

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to subsection (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation; and

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the offender, including obligations to dependents.

"(B) An order under this section may direct the defendant to make a single lump-sum payment, or partial payments at specified intervals. The order shall provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(C) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or his delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) RESTITUTION AND CRIMINAL PENALTIES.—An award of restitution to the victim of an offense under this chapter shall not be a substitute for imposition of punishment under sections 2261 and 2262.

"(e) DEFINITIONS.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.

"§ 2265. Full faith and credit given to protection orders

"(a) FULL FAITH AND CREDIT.—Any protection order issued consistent with the terms of subsection (b) by the court of one State (the issuing State) shall be accorded full faith and credit by the court of another State (the enforcing State) and enforced as if it were the order of the enforcing State.

"(b) PROTECTION ORDER.—A protection order issued by a State court is consistent with the provisions of this section if—

"(1) such court has jurisdiction over the parties and matter under the law of such State; and

"(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

"(c) CROSS OR COUNTER PETITION.—A protection order issued by a State court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

"(1) no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or

"(2) if a cross or counter petition has been filed, if the court did not make specific findings that each party was entitled to such an order.

"§ 2266. Definitions for chapter

"As used in this chapter—

"(1) the term 'spouse or intimate partner' includes—

"(A) a present or former spouse, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

"(B) any other person similarly situated to a spouse, other than a child, who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

"(2) the term 'protection order' includes any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except those done in self-defense, that results in physical injury or sexual abuse;

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

"(5) the term 'travel across State lines' includes any such travel except travel across State lines by an Indian tribal member when that member remained at all times on tribal lands.".

(b) TABLE OF CHAPTERS.—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

"110A. Violence against spouses .... 2261.".

Subtitle B—Arrest in Spousal Abuse Cases

SEC. 221. ENCOURAGING ARREST POLICIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10400) is amended by adding after section 311 the following:

"SEC. 312. ENCOURAGING ARREST POLICIES.

"(a) PURPOSE.—To encourage States, Indian tribes and localities to treat spousal violence as a serious violation of criminal law, the Secretary is authorized to make grants to eligible States, Indian tribes, municipalities, or local government entities for the following purposes:

"(1) to implement pro-arrest programs and policies in police departments and to improve tracking of cases involving spousal abuse;

"(2) to centralize and coordinate police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges;

"(3) to educate judges in criminal and other courts about spousal abuse and to improve judicial handling of such cases.

"(b) ELIGIBILITY.—(1) Eligible grantees are those States, Indian tribes, municipalities or other local government entities that—

"(A) demonstrate, through arrest and conviction statistics, that their laws or policies have been effective in significantly increasing the number of arrests made of spouse abusers; and

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed or mandate arrest of spouses violating the terms of a valid and outstanding protection order; or

"(ii) permit warrantless misdemeanor arrests of spouse abusers and encourage the use of that authority;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser and the increase in arrest rates demonstrated pursuant to paragraph (1)(A) is not the result of increased dual arrests; and

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protective order, and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim.

"(2) For purposes of this section, the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

"(3) For purposes of this section, the term 'spousal or spouse abuse' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabited with the victim as a spouse, or any other person protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(4) The eligibility requirements provided in this section shall take effect one year after the date of enactment of this section.

"(c) DELEGATION AND AUTHORIZATION.—The Secretary shall delegate to the Attorney General of the United States the Secretary's responsibilities for carrying out this section to the Attorney General. There are authorized to be appropriated not in excess of $25,000,000 for each fiscal year to be used for the purpose of making grants under this section.

"(d) APPLICATION.—An eligible grantee shall submit an application to the Secretary. Such application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribes, municipality, or local government entity that the conditions of subsection (b) are met;

"(2) describe the entity's plans to further the purposes listed in subsection (a);

"(3) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(4) identify and include documentation showing the nonprofit nongovernmental victim services programs that will be consulted in developing, and implementing, the program.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a grantee that—

"(1) does not currently provide for centralized handling of cases involving spousal or family violence in any one of the areas listed in this subsection—police, prosecutors, and courts; and

"(2) demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving spousal or family violence.

"(f) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described in subsection (d)(2) and containing such additional information as the Secretary may prescribe.

"(g) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.".

Subtitle C—Funding for Shelters

SEC. 231. AUTHORIZATION.

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

"SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out the provisions of this title, $85,000,000 for fiscal year 1992, $100,000,000, for fiscal year 1993, and $125,000,000 for fiscal year 1994.

"(b) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 80 percent shall be used by the Secretary for making grants under section 303.

"(c) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not more than 5 percent shall be used by the Secretary for making grants under section 314.

"(d) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 5 percent shall be used by the Secretary for making grants under section 308A.".

Subtitle D—Family Violence Prevention and Services Act Amendments

SEC. 241. EXPANSION OF PURPOSE.

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent" and by striking "demonstrate the effectiveness of assisting" and inserting "assist".

SEC. 242. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.

(a) INCREASING PUBLIC AWARENESS.—Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

(b) EXPANSION OF PROGRAM.—Section 303(a)(2)(B)(ii) is amended by striking "alcohol and drug abuse treatment".

SEC. 243. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

"GRANTS FOR PUBLIC INFORMATION CAMPAIGNS

"SEC. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) An application submitted under subsection (b) shall—

"(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk.".

SEC. 244. FUND DISTRIBUTION TO STATES.

Section 304(a)(1) of the Family Violence Prevention and Services Act is amended by striking "$50,000" and inserting "$500,000".

SEC. 245. INDIAN TRIBES.

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "from sums appropriated shall make no less than 10 percent available for".

SEC. 246. FUNDING LIMITATIONS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by—

(1) striking ", and" and all that follows through "fiscal years"; and

(2) striking "$50,000" and inserting "$75,000".

SEC. 247. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: "No grant may be made under this section to an entity other than a State or Indian tribe unless the entity provides 35 percent of the funding of the program or project funded by the grant.".

SEC. 248. SHELTER AND RELATED ASSISTANCE.

(a) CHANGE OF PERCENTAGES.—Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended by striking "not less than 60 percent" and inserting "not less than 75 percent".

(b) DEFINITION OF RELATED ASSISTANCE.—Section 309(5) of the Family Violence Prevention and Services Act is amended to read as follows:

"(5) The term 'related assistance' includes any, but does not require all, of the following—

"(A) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(B) transportation, legal assistance, referrals for appropriate health-care services (including alcohol and drug abuse treatment), and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(C) comprehensive counseling and self-help services to abusers, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services and employment training; and

"(D) child care services for children who are victims of family violence or the dependents of such victims.".

SEC. 249. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.

Section 311 of the Family Violence Protection and Services Act (42 U.S.C. 10410(b)) is repealed.

SEC. 250. REPORT ON RECORDKEEPING.

Not later than 120 days after the date of enactment of this Act, the Government Accounting Office shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine efforts to date of the FBI and Justice Department to collect statistics on domestic violence and the feasibility of, including a suggested timetable for, requiring that the relationship between an offender and victim be reported in Federal and State records of crimes of assault, aggravated assault, rape, and other violent crimes.

SEC. 251. MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.

The Family Violence Prevention Services Act, as amended by section 103 of this Act, is amended by adding at the end thereof the following new section:

"MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION

"SEC. 315. (a) The Secretary, in cooperation with the Attorney General, shall award grants to not less than 10 States to assist in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

"(1) increase the number of prosecutions for domestic violence crimes;

"(2) encourage the reporting of incidences of domestic violence;

"(3) facilitate 'arrests and aggressive' prosecution policies; and

"(4) provides court advocacy for victims of domestic violence.

"(b) To be designated as a model State under subsection (a), a State shall have in effect—

"(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

"(2) a law or policy that discourages * * *

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judiciaes 'dual' arrests;

"(3) statewide prosecution policies that—

"(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

"(4) statewide laws, policies, or guidelines for judges that—

"(A) prohibit the issuance of mutual protective orders in cases where only one spouse has sought a protective order and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim;

"(B) require that any history of child abuse be considered detrimental to the child and discourage custody or joint custody orders by spouse abusers; and

"(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute;

"(5) develop and disseminate methods to improve the criminal justice system's response to domestic violence to make existing remedies as easily available as possible to victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

"(c)(1) In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section $25,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) Funds shall be distributed under this section so that no State shall receive more than $2,500,000 in each fiscal year under this section.

"(3) The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section.".

SEC. 252. FUNDING FOR TECHNICAL ASSISTANCE CENTERS.

The Family Violence Prevention and Services Act is amended by inserting after section 308 the following:

"SEC. 308A. TECHNICAL ASSISTANCE CENTERS.

"(a) PURPOSE.—The purpose of this section is to provide training and technical assistance to State, Indian tribal, and local domestic violence programs and to other professionals who provide services to victims of domestic violence. From the sums authorized under this title, the Secretary shall provide grants to or contract with, private nonprofit organizations, for the establishment and maintenance of one national and six special-issue resource centers serving defined geographic areas. One national resource center shall offer resource, policy, and/or training assistance to Federal, State, Indian tribal, and local government agencies on issues pertaining to domestic violence and serve a coordinating and resource-sharing function among domestic violence service providers, and maintain a central resource library. The other national resource centers shall provide information, training and technical assistance to State, tribal and local domestic violence service providers. In addition, each national center shall specialize in one of the following areas of domestic violence service, prevention or law:

"(1) criminal justice response to domestic violence, including court-mandated abuser treatment;

"(2) child custody issues in domestic violence cases;

"(3) use of the self-defense plea by domestic violence victims;

"(4) health care response and access to health care resources for domestic violence victims;

"(5) victims' access to, and quality of, effective legal assistance, including civil litigation; and

"(6) the response of child protective service agencies to battered mothers of abused children.

"(b) ELIGIBILITY.—Eligible grantees are private non-profit organizations that—

"(1) focus primarily on domestic violence;

"(2) provide documentation to the Secretary demonstrating a minimum of three years experience with issues of domestic violence, particularly in the specific area for which it is applying;

"(3) include on its advisory boards representatives from domestic violence programs who are geographically and culturally diverse; and

"(4) demonstrate strong support from domestic violence advocates for their designation as the special-issue resource center.

"(c) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described and containing such additional information as the Secretary may prescribe.

"(d) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section.".

Subtitle E—Youth Education and Domestic Violence

SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate his powers to the Secretary of Education, hereinafter referred to as the "Secretary". The Secretary shall select, implement and evaluate four model programs for education of young people about domestic violence and violence among intimate partners.

(b) NATURE OF PROGRAM.—The Secretary shall select, implement and evaluate separate model programs for four different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. These model programs shall be selected, implemented, and evaluated with the input of educational experts, legal and psychological experts on battering, and victim advocate organizations such as battered women's shelters, State coalitions and resource centers. The participation of each of these groups or individual consultants from such groups is essential to the selection, implementation, and evaluation of programs that meet both the needs of educational institutions and the needs of the domestic violence problem.

(c) REVIEW AND DISSEMINATION.—Not later than 24 months after the date of enactment of this Act, the Secretary shall transmit the design and evaluation of the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.

(d) AUTHORIZATION.—There are authorized to be appropriated under this section for fiscal year 1992, $400,000 to carry out the purposes of this section.

Subtitle F—Confidentiality for Abused Persons

SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.

No later than 90 days after the enactment of this Act, the Postmaster General shall promulgate regulations to secure the confidentiality of abused persons' addresses or otherwise prohibit the disclosure of an abused person's address consistent with the following guidelines:

(1) confidentiality shall be provided upon the presentation to an appropriate postal official of an existing and valid court order for the protection of an abused spouse;

(2) disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited; and

(3) compilations of addresses existing at the time the order is presented to an appropriate postal official shall be excluded from the scope of the proposed regulations.

TITLE III—CIVIL RIGHTS

SEC. 301. CIVIL RIGHTS.

(a) FINDINGS.—The Congress finds that—

(1) crimes motivated by the victim's gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for gender crimes committed on the street or in the home; and

(3) State and Federal criminal laws do not adequately protect against the bias element of gender-motivated crimes, which separates these crimes from acts of random violence, nor do those laws adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests;

(4) existing bias and discrimination in the criminal justice system often deprives victims of gender-motivated crimes of equal protection of the laws and the redress to which they are entitled;

(5) gender-motivated violence has a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business, and in places involved, in interstate commerce;

(6) gender-motivated violence has a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products;

(7) a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse effects of gender-motivated violence on interstate commerce; and

(8) victims of gender-motivated violence have a right to equal potection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

(b) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any person, including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State, who commits a crime of violence motivated by gender and thus deprives another of the rights, privileges or immunities secured by the Constitution or laws as enumerated in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in this section, including rape, sexual assault, sexual abuse, abusive sexual contact, or any other crime of violence committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

SEC. 302. CONFORMING AMENDMENT.

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: ", or title III of the Violence Against Women Act of 1991,".

TITLE IV—SAFE CAMPUSES FOR WOMEN

SEC. 401. SHORT TITLE.

This title may be cited as the "Safe Campuses for Women Act of 1990".

SEC. 402. FINDINGS.

The Congress finds that—

(1) rape prevention and education programs are essential to an educational environment free of fear for students' personal safety;

(2) sexual assault on campus, whether by fellow students or not, is widespread among the Nation's higher education institutions: experts estimate that 1 in 7 of the women now in college have been raped and over half of college rape victims know their attackers;

(3) sexual assault poses a grave threat to the physical and mental well-being of students and may significantly impair the learning process; and

(4) action by schools to educate students may make substantial inroads on the incidence of rape, including the incidence of acquaintance rape on campus.

SEC. 403. GRANTS FOR CAMPUS RAPE EDUCATION.

Title X of the Higher Education Act of 1965 is amended to add at the end thereof the following:

"PART D—GRANTS FOR CAMPUS RAPE EDUCATION."

SEC. 1071. GRANTS FOR CAMPUS RAPE EDUCATION.

"(a) IN GENERAL.—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for rape education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

"(b) GENERAL RAPE PREVENTION AND EDUCATION GRANTS.—Grants under this section shall be used to educate and provide support services to student victims of rape or sexual assault. Grants may be used for the following purposes:

"(1) to provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of rape, sexual assault, and other gender-motivated crimes;

"(2) to develop, disseminate, or implement campus security and student disciplinary policies to prevent and discipline rape, sexual assault and other gender-motivated crimes;

"(3) to develop, enlarge or strengthen support services programs including medical or psychological counseling to assist victims' recovery from rape, sexual assault, or other gender-motivated crimes;

"(4) to create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action; and

"(5) to implement, operate, or improve rape education and prevention programs, including programs making use of peer-to-peer education.

"(c) MODEL GRANTS.—Not less than 25 percent of the funds authorized under this section shall be available for grants for model demonstration programs to be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student rape victims.

"(d) ELIGIBILITY.—No institution of higher education or consortium of such institutions shall be eligible for a grant under this section unless—

"(1) its student code of conduct, or other written policy governing student behavior, explicitly prohibits not only rape but all forms of sexual assault; and

"(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual assault the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual assault: *Provided*, That nothing in this section shall be interpreted to authorize disclosure to any person other than the victim.

"(e) APPLICATIONS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—

"(A) set forth the activities and programs to be carried out with funds granted under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) explain how the program intends to address the issue of acquaintance rape;

"(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

"(e) GRANTEE REPORTING.—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) Except as otherwise provided, the terms used in this part shall have the meaning provided under section 2981 of this title.

"(2) For purposes of this subchapter, the following terms have the following meanings:

"(A) The term 'rape education and prevention' includes programs that provide educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual assault.

"(B) The term 'Secretary' means the Secretary of Education.

"(g) GENERAL TERMS AND CONDITIONS.—(1) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.

"(2) No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

"(A) the amount of grants made under this section;

"(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(C) a copy of each grantee report filed pursuant to subsection (e) of this section.

"(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated $20,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995.".

SEC. 404. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.

Section 204(f) of the Crime Awareness and Campus Security Act of 1990 is amended to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

"(i) murder;

"(ii) rape or sexual assault;

"(iii) robbery;

"(iv) aggravated assault;

"(v) burglary; and

"(vi) motor vehicle theft.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

SECTION 501. SHORT TITLE.

This title may be cited as the "Equal Justice for Women in the Courts Act of 1991".

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

SEC. 511. GRANTS AUTHORIZED.

The State Justice Institute is authorized to award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SEC. 512. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the batterer, to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel, and the legitimate reasons why victims of domestic violence may refuse to testify against a defendant;

(18) the need for orders of protection, and the implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence cases;

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims; and

(20) current information on the impact of pornography on crimes against women, or data on other activities that tend to degrade women.

SEC. 513. COOPERATION IN DEVELOPING PROGRAMS IN MAKING GRANTS UNDER THIS TITLE.

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this subtitle are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 514. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $600,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

SEC. 521. EDUCATION AND TRAINING GRANTS.

(a) Study.—The Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use of data collection techniques such as reviews of trial and appellate opinions and transcripts, public hearings, and inquiries to attorneys practicing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) Model Programs.—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 512 of subtitle A; and

(B) all procedural and substantive aspects of the legal rights and remedies for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

SEC. 522. COOPERATION IN DEVELOPING PROGRAMS.

In implementing this subtitle, the Federal Judicial Center shall ensure that the study and model programs are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 523. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $400,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 521(a) of this subtitle.

SEC. 237. PAYMENT OF COST OF HIV TESTING FOR VICTIM.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 is amended by inserting before the period at the end thereof the following: ", the cost of up to two tests of the victim for the human immunodeficiency virus during the twelve months following the assault, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of the human immunodeficiency virus to the victim as the result of the assault".

(a) HIV Related Services for Victims.—Victims of any State or Federal offense of the type described in Chapter 109A of title 18, United States Code, shall after appropriate counseling, on request, be provided with

(1) anonymous and confidential testing for the presence of the etiologic agent for acquired immune deficiency syndrome, and counseling concerning such, at no cost by appropriately trained staff operating through appropriate service providers, including rape crisis centers, community health centers, public health clinics, physicians, or other appropriate service providers; follow-up tests and counseling will be available at no cost on dates that occur three, six and twelve months following the initial test; and

(2) necessary and appropriate medical care.

(b) Limited Testing of Defendants.—

(1) Court order.—The victim of an offense of the type referred to in subsection (a) may obtain and order in the district court of the United States for the District in which charges are brought against the defendant charged with the offense, after notice to the defendant and an opportunity to be heard, requiring that the defendant be tested for the presence of the etiologic agent for acquired immune deficiency syndrome, and that results of the test be communicated to the victim and the defendant. Any test result of the defendant given to the victim or the defendant must be accompanied by appropiate counseling.

(2) Showing required.—To obtain an order under paragraph (1), the victim must demonstrate that—

(A) the defendant has been charged with the offense in a state or federal court, and if the defendant has been arrested without a warrant, a probable cause determination has been made;

(B) the test for the etiologic agent for acquired immune deficiency syndrome is requested by the victim after appropriate counseling; and

(C) the test would provide information necessary for the health of the victim of the alleged offense and the court determines that the alleged conduct of the defendant created a risk of transmission, as determined by the Centers for Disease Control, of the etiologic agent for acquired immune deficiency syndrome to the victim.

(3) Follow-uptesting.—The court may order follow-up tests and counseling under paragraphs (b) (1) if the initial test was negative. Such follow-up tests and counseling shall be performed at the request of the victims on dates that occur six months and twelve months following the initial test.

(4) Termination of Testing Requirements.—An order for follow-up testing under paragraph (3) shall be terminated if the person obtains an acquittal on, or dismissal of, all charges of the type referred to in subsection (a).

(c) Confidentiality of Test.—The results of any test ordered under this section shall be disclosed only to the victim or, where the court deems appropriate, to the parent or legal guardian of the victim, and to the person tested.

(d) Disclosure of Test Results.—The court shall issue an order to prohibit the disclosure of the results of any test performed under this section to anyone other than those mentioned in subsection (c). The contents of the court proceedings and test results pursuant to this section shall be sealed. The results of such test performed on the defendant under this section shall not be used as evidence in any criminal trial.

(e) Contempt for Disclosure.—Any person who discloses the results of a test in violation of this section may be held in contempt of court.

(f) Penalties for Intentional Transmission of HIV.—Not later than 6 months after the date of enactment of this section, the United States Sentencing Commission shall conduct a study and prepare and submit to the appropriate Committees of Congress a report concerning recommendations for the revision of sentencing guidelines that relate to offenses in which an HIV infected individual engages in sexual activity if the individual knows that he or she is infected with HIV and intends, through such sexual activity, to expose another to HIV.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, FISCAL YEAR 1992

BUMPERS (AND CONRAD) AMENDMENT NO. 686

Mr. BUMPERS (for himself and Mr. Conrad) proposed an amendment to the bill H.R. 2427, supra, as follows:

On page 49, strike line 6 and insert "$998,789,000, except that none of the funds appropriated in this Act may be used for the superconducting super collider.".

VIOLENT CRIME CONTROL ACT

BIDEN AMENDMENT NOS. 687 THROUGH 699

(Ordered to lie on the table.)

Mr. BIDEN submitted 13 amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

Amendment No. 687

At the appropriate place in the bill add the following: "Notwithstanding any other provision of law, a prisoner's claim is not fully and fairly adjudicated within the meaning of sections 2254 or 2259 of title 28, United States Code (as amended by this Act), when it has been decided incorrectly or erroneously as a matter of constitutional law."

Amendment No. 688

At the appropriate place in the bill add the following: "Notwithstanding any other provision of law, a prisoner's claim is not fully and fairly adjudicated within the meaning of sections 2254 or 2259 of title 28, United States Code (as amended by this Act), when it has been decided incorrectly or erroneously as a matter of constitutional law."

Amendment No. 689

At the appropriate place in the bill add the following:

SEC. 1200. LAW APPLICABLE IN CHAPTER 153 PROCEEDINGS.

(a) In General.—Chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"§ 2255A. Law applicable

"(a) Except as provided in subsection (b) of this section, each claim under this chapter shall be governed by the law existing on the date the court determines the claim.

"(b) In determining whether to apply a new rule, the court shall consider—

"(1) the purpose to be served by the new rule;

"(2) the extent of the reliance by law enforcement authorities on a different rule; and

"(3) the effect on the administration of justice of the application of the new rule.

"(c) For purposes of this section, the term 'new rule' means a sharp break from precedent announced by the Supreme Court of the United States that explicitly and substantially changes the law from that governing at the time the claimant's sentence became final. A rule is not new merely because, based on precedent existing before the rule's announcement, it was susceptible to debate among reasonable minds.".

(b) CHAPTER ANALYSIS.—The chapter analysis of chapter 153 of title 38, United States Code, is amended by adding at the end thereof the following:

"2255A. Law applicable.".

TITLE XII—PUNISHMENT OF GUN CRIMINALS

SEC. 1201. SHORT TITLE.

This title may be cited as the "Gun Criminals Punishment Act of 1991".

Subtitle A—Increased Penalties for Gun Offenses

SEC. 1211. DEATH PENALTY FOR GUN MURDERS.

Section 924(c) of title 18, United States Code, is amended by—

(1) inserting "(A)" after "(1)";

(2) designating the second sentence as subparagraph (B);

AMENDMENT NO. 690

At the appropriate place in the bill add the following:

"A right that is 'retroactively applicable' within the meaning of title XI, as amended, is any right provided by the law existing on the date the court determines the claim except in cases involving a new rule as provided in subsection (b).

"(b) In determining whether to apply a new rule, the court shall consider—

"(1) the purpose to be served by the new rule;

"(2) the extent of the reliance by law enforcement authorities on a different rule; and

"(3) the effect on the administration of justice of the application of the new rule.

"(c) For purposes of this section, the term 'new rule' means a sharp break from precedent announced by the Supreme Court of the United States that explicitly and substantially changes the law from that governing at the time the claimant's sentence became final. A rule is not new merely because, based on precedent existing before the rule's announcement, it was susceptible to debate among reasonable minds."

AMENDMENT NO. 691

Add at the appropriate place in the bill add the following:

A right that is retroactively applicable within the meaning of subsection 3599(c) is any right provided by the law existing on the date the court determines the claim, except a new rule as provided in subsection (b) below.

"(b) In determining whether to apply a new rule, the court shall consider—

"(1) the purpose to be served by the new rule;

"(2) the extent of the reliance by law enforcement authorities on a different rule; and

"(3) the effect on the administration of justice of the application of the new rule.

"(c) For purposes of this section, the term 'new rule' means a sharp break from precedent announced by the Supreme Court of the United States that explicitly and substantially changes the law from that governing at the time the claimant's sentence became final. A rule is not new merely because, based on precedent existing before the rule's announcement, it was susceptible to debate among reasonable minds."

AMENDMENT NO. 692

Add at the appropriate place in the bill add the following:

For the purpose of title XII, the term "counsel" means:

"(b)(1) In the case of an appointment made before trial, at least one attorney appointed under this chapter must have been admitted to practice in the court in which the prosecution is to be tried for not less than 5 years, and must have had not less than 3 years' experience in the trial of felony prosecutions in that court.

"(2) In the case of an appointment made after trial, at least one attorney appointed under this chapter must have been admitted to practice in the court of last resort of the State for not less than 5 years, and must have had not less than 3 years' experience in the handling of appeals in that State courts in felony cases.

"(3) Notwithstanding paragraphs (1) and (2) of this subsection, a court, for good cause and upon the defendant's request, may appoint another attorney whose background, knowledge, or experience would otherwise enable the attorney to properly represent the defendant, with due consideration of the seriousness of the possible penalty and the unique and complex nature of the litigation.

AMENDMENT NO. 693

Add at the appropriate place in the bill the following:

"(b)(1) In the case of an appointment made before trial, at least one attorney appointed under this chapter must have been admitted to practice in the court in which the prosecution is to be tried for not less than 5 years, and must have had not less than 3 years' experience in the trial of felony prosecutions in that court.

"(2) In the case of an appointment made after trial, at least one attorney appointed under this chapter must have been admitted to practice in the court of last resort of the State for not less than 5 years, and must have had not less than 3 years' experience in the handling of appeals in that State courts in felony cases.

"(3) Notwithstanding paragraphs (1) and (2) of this subsection, a court, for good cause and upon the defendant's request, may appoint another attorney whose back-ground knowledge, or experience would otherwise enable the attorney to properly represent the defendant, with due consideration of the seriousness of the possible penalty and the unique and complex nature of the litigation."

AMENDMENT NO. 694

Add at the appropriate place in the bill the following:

TITLE III—CIVIL RIGHTS

SEC. 301. CIVIL RIGHTS.

(a) FINDINGS.—The Congress finds that—

(1) crimes motivated by the victim's gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for gender crimes committed on the street or in the home; and

(3) State and Federal criminal laws do not adequately protect against the bias element of gender-motivated crimes, which separates these crimes from acts of random violence, nor do those laws adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests:

(4) existing bias and discrimination in the criminal justice system often deprives victims of gender-motivated crimes of equal protection of the laws and the redress to which they are entitled;

(5) gender-motivated violence has a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business, and in places involved in interstate commerce;

(6) gender-motivated violence has a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products;

(7) a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse effects of gender-motivated violence on interstate commerce; and

(8) victims of gender-motivated violence have a right to equal protection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

(b) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any person, including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State, who commits a crime of violence motivated by gender and thus deprives another of the rights, privileges or immunities secured by the Constitution or laws as enumerated in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in paragraph (2), committed because of gender or on the basis of gender, and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under

subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (c).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

SEC. 302. CONFORMING AMENDMENT.

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: ", or title III of the Violence Against Women Act of 1991,".

AMENDMENT NO. 695

Add at the appropriate place in the bill add the following:

SEC. 237. PAYMENT OF COST OF HIV TESTING FOR VICTIM.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 is amended by inserting before the period at the end thereof the following: ", the cost of up to three tests of the victim for the human immunodeficiency virus during the twelve months following the assault, and the cost of counseling sessions by a medically trained professional on the accuracy of such tests and the risk of transmission of the human immunodeficiency virus to the victim as the result of the assault".

SEC. . TESTING OF CERTAIN INDIVIDUALS CHARGED WITH CERTAIN SEXUAL OFFENSES FOR THE PRESENCE OF THE ETIOLOGIC AGENT FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(a) HIV RELATED SERVICES FOR VICTIMS.—Victims of any offense of the type described in chapter 109A of title 18, United States Code, shall, on request, be provided with

(1) anonymous and confidential testing for the presence of the etiologic agent for acquired immune deficiency syndrome, and counseling concerning such, at no cost by appropriately trained staff operating through appropriate service providers, including rape crisis centers, community health centers, public health clinics, physicians, or other appropriate service providers; follow-up tests and counseling will be available at no cost on dates that occur three, six months and twelve months following the date of the initial test; and

(2) necessary and appropriate medical care.

(b) LIMITED TESTING OF DEFENDANTS.—

(1) COURT ORDER.—The victim of an offense of the type referred to in subsection (a) may obtain an order in the district court of the United States for the district in which charges are brought against the defendant charged with the offense, after notice to the defendant and an opportunity to be heard, requiring that the defendant be tested for the presence of the etiologic agent for acquired immune deficiency syndrome, and that the results of the test be communicated to the victim and the defendant. Any test result of the defendant given to the victim must be accompanied by appropriate counseling.

(2) SHOWING REQUIRED.—To obtain an order under paragraph (1), the victim must demonstrate that—

(A) The defendant has been charged with the offense in a state or federal court, and, if the defendant has been arrested without a warrant, a probable cause determination has been made.

(B) The test for the etiologic agent for acquired immune deficiency syndrome is requested by the victim after counseling; and

(C) The court determines that the alleged conduct of the defendant created a risk of transmission of the etiologic agent for acquired immune deficiency syndrome to the victim.

(3) FOLLOW-UP TESTING.—The court shall order follow-up tests and counseling under paragraph (b)(1) if the initial test was negative. Such follow-up tests and counseling shall be performed at the request of the victim on dates that occur six months and twelve months following the date of the initial test.

(4) TERMINATION OF TESTING REQUIREMENTS.—An order for follow-up testing under paragraph (3) shall be terminated if the individual to be tested obtains an acquittal on, or dismissal of, all charged against such individual.

(c) CONFIDENTIALITY OF TEST.—The results of any test ordered under this section shall be disclosed only to the victim, or, where the court deems appropriate, to the parent or legal guardian of the victim, and to the person tested.

(d) DISCLOSURE OF TEST RESULTS.—The court shall issue an order to prohibit the disclosure of the results of any test performed under this section to anyone other than those mentioned in subsection (c). The contents of the court order shall be sealed. The results of such test performed on the defendant under this section shall not be used as evidence in any criminal trial, except that testing ordered under this section shall not be a bar to testing permitted under any other law.

(e) CONTEMPT FOR DISCLOSURE.—A victim who disclosed the results of a test in violation of this section may be held in contempt of court.

(f) EFFECT ON PENALTY.—The United States Sentencing Commission shall amend existing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender knew that he was infected with the human immunodeficiency virus, except where the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.

AMENDMENT NO. 696

At the appropriate place in the bill add the following:

SEC. . TESTING OF CERTAIN INDIVIDUALS CHARGED WITH CERTAIN SEXUAL OFFENSES FOR THE PRESENCE OF THE ETIOLOGIC AGENT FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(a) HIV RELATED SERVICES FOR VICTIMS.—Victims of any State or Federal offense of the type described in chapter 109A of title 18, United States Code, shall, on request, be provided with

(1) anonymous and confidential testing for the presence of the etiologic agent for acquired immune deficiency syndrome, and counseling concerning such, at no cost by appropriately trained staff operating through appropriate service providers, including rape crisis centers, community health centers, public health clinics, physicians, or other appropriate service providers; follow-up tests and counseling will be available at no cost on dates that occur six months, six months and twelve months following the date of the initial test; and

(2) necessary and appropriate medical care.

(b) TESTING OF DEFENDANTS.—

(1) COURT ORDER.—The victim of an offense of the type referred to in subsection (a) may obtain an order in the district court of the United States for the district in which charges are brought against the defendant charged with the offense, after notice to the defendant and an opportunity to be heard, requiring that the defendant be tested for the presence of the etiologic agent for acquired immune deficiency syndrome, and that the results of the test be communicated to the victim and the defendant. Any test result of the defendant given to the victim must be accompanied by appropriate counseling to the victim on the risk of transmission and accuracy of the test.

(2) SHOWING REQUIRED.—To obtain an order under paragraph (1), the victim must demonstrate that—

(A) The defendant has been charged with the offense in a state or federal court, and, if the defendant has been arrested without a warrant, a probable cause determination has been made.

(B) The test for the etiolic agent for acquired immune deficiency syndrome is requested by the victim; and

(C) The court determines that the alleged conduct of the defendant created a risk of transmission of the etiologic agent for acquired immune deficiency syndrome to the victim.

(3) FOLLOW-UP TESTING.—The court shall order follow-up tests and counseling under paragraph (b)(1) if the initial test was negative. Such follow-up tests and counseling shall be performed at the request of the victim on dates that occur three, six months and twelve months following the date of the initial test.

(4) TERMINATION OF TESTING REQUIREMENTS.—An order for follow-up testing under paragraph (3) shall be terminated if the individual to be tested obtains an acquittal on, or dismissal of, all charges against such individual.

(c) CONFIDENTIALITY OF TEST.—The results of any test ordered under this section shall be disclosed only to the vicitm, or, where the court seems appropriate, to the parent or legal guardian of the victim, and to the person tested.

(d) DISCLOSURE OF TEST RESULTS.—The court shall issue an order to prohibit the disclosure of the results of any test performed under this section to anyone other than those mentioned in subsection (c). The contents of the court order shall be sealed. The results of such test performed on the defendant under this section shall not be used as evidence in any criminal trial, except that testing ordered under this section shall not be a bar to testing permitted under any other law.

(e) CONTEMPT FOR DISCLOSURE.—A victim who discloses the results of a test in violation of this section may be held in contempt of court.

(f) EFFECT ON PENALTY.—The United States Sentencing Commission shall amend existing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender knew or had reason to know that he was infected with the human immunodeficiency virus, except where the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.

SEC. . PAYMENT OF COST OF HIV TESTING FOR VICTIM.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 is amended by inserting before the period at the end thereof the following: ", the cost of up to three tests of the victim for the human immunodeficiency virus during the twelve months following the assault, and the cost of counseling sessions by a medically trained professional on the accuracy of such tests and the risk of transmission of the human immunodeficiency virus to the victim as the result of the assault.".

AMENDMENT NO. 697

At the appropriate place in the bill add the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violence Against Women Act of 1991".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—SAFE STREETS FOR WOMEN

Sec. 101. Short title.

Subtitle A—Federal Penalties for Sex Crimes

Sec. 111. Repeat offenders.
Sec. 112. Federal penalties.
Sec. 113. Mandatory restitution for sex crimes.

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

Sec. 121. Grants to combat violent crimes against women.

Subtitle C—Safety for Women in Public Transit and Public Parks

Sec. 131. Grants for capital improvements to prevent crime in public transportation.
Sec. 132. Grants for capital improvements to prevent crime in national parks.
Sec. 133. Grants for capital improvements to prevent crime in public parks.

Subtitle D—National Commission on Violent Crime Against Women

Sec. 141. Establishment.
Sec. 142. Duties of commission.
Sec. 143. Membership.
Sec. 144. Reports.
Sec. 145. Executive Director and staff.
Sec. 146. Powers of commission.
Sec. 147. Authorization of appropriations.
Sec. 148. Termination.

Subtitle E—New Evidentiary Rules

Sec. 151. Sexual history in all criminal cases.
Sec. 152. Sexual history in civil cases.
Sec. 153. Amendments to rape shield law.
Sec. 154. Evidence of clothing.

Subtitle F—Assistance to Victims of Sexual Assault

Sec. 161. Education and prevention grants to reduce sexual assaults against women.
Sec. 162. Rape exam payments.

TITLE II—SAFE HOMES FOR WOMEN

Sec. 201. Short title.

Subtitle A—Interstate Enforcement

Sec. 211. Interstate enforcement.

Subtitle B—Arrest in Spousal Abuse Cases

Sec. 221. Encouraging arrest policies.

Subtitle C—Funding for Shelters

Sec. 231. Authorization.

Subtitle D—Family Violence Prevention and Services Act Amendments

Sec. 241. Expansion of purpose.
Sec. 242. Expansion of State demonstration grant program.
Sec. 243. Grants for public information campaigns.
Sec. 244. State commissions on domestic violence.
Sec. 245. Indian tribes.
Sec. 246. Funding limitations.
Sec. 247. Grants to entities other than States; local share.
Sec. 248. Shelter and related assistance.
Sec. 249. Law enforcement training and technical assistance grants.
Sec. 250. Report on recordkeeping.
Sec. 251. Model State leadership incentive grants for domestic violence intervention.
Sec. 252. Funding for technical assistance centers.

Subtitle E—Youth Education and Domestic Violence

Sec. 261. Educating youth about domestic violence.

Subtitle F—Confidentiality for Abused Persons

Sec. 271. Confidentiality for abused persons.

TITLE III—CIVIL RIGHTS

Sec. 301. Civil rights.

TITLE IV—SAFE CAMPUSES FOR WOMEN

Sec. 401. Short title.
Sec. 402. Findings.
Sec. 403. Grants for campus rape education.
Sec. 404. Disclosure of disciplinary proceedings in sex assault cases on campus.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

Sec. 501. Short title.

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

Sec. 511. Grants authorized.
Sec. 512. Training provided by grants.
Sec. 513. Cooperation in developing programs in making grants under this title.
Sec. 514. Authorization of appropriations.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

Sec. 521. Education and training grants.
Sec. 522. Cooperation in developing programs.
Sec. 523. Authorization of appropriations.

TITLE I—SAFE STREETS FOR WOMEN

SEC. 101. SHORT TITLE.

This title may be cited as the "Safe Streets for Women Act of 1991".

Subtitle A—Federal Penalties for Sex Crimes

SEC. 111. REPEAT OFFENDERS.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2247. Repeat offenders

"Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2247. Repeat offenders.".

SEC. 112. FEDERAL PENALTIES.

(a) RAPE AND AGGRAVATED RAPE.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide that a defendant convicted of aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, shall be assigned a base offense level under chapter 2 of the sentencing guidelines that is at least 4 levels greater than the base offense level applicable to criminal sexual abuse under the guidelines in effect on November 1, 1990, or otherwise shall amend the guidelines applicable to such offenses so as to achieve a comparable minimum guideline sentence. In amending such guidelines, the Sentencing Commission shall review the appropriateness of existing specific offense characteristics or other adjustments applicable to such offenses, and make such changes as it deems appropriate, taking into account the severity of rape offenses, with or without aggravating factors; the unique nature and duration of the mental injuries inflicted on the victims of such offenses; and any other relevant factors.

(b) EFFECT OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instructions set forth in subsection (a) so as to achieve a comparable result.

(c) STATUTORY RAPE.—

(1) Section 2243(b) of title 18, United States Code, is amended by striking "one year," and inserting "two years,".

(2) Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to incorporate the increase in maximum penalties provided by this section for section 2243(b) of title 18, United States Code.

SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or matters related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or his delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2248. Mandatory restitution.".

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) redesignating part N as part O;

(2) redesignating section 1401 as section 1501; and

(3) adding after part M the following:

"PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"SEC. 1401. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribes, cities, and other localities to develop effective law enforcement and prosecution strategies to combat violent crimes against women and, in particular, to focus efforts on those areas with the highest rates of violent crime against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide additional personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing police and prosecution policies, protocols, or orders specifically devoted to identifying and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, prosecutions, and convictions for the crimes of sexual assault and domestic violence; and

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, to increase reporting and reduce attrition rates for cases involving violent crimes against women, including the crimes of sexual assault and domestic violence.

"SUBPART 1—HIGH INTENSITY CRIME AREA GRANTS

"SEC. 1411. HIGH INTENSITY GRANTS.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the 'Director') shall make grants to areas of 'high intensity crime' against women.

"(b) DEFINITION.—For purposes of this part, a 'high intensity crime area' means an area with one of the 40 highest rates of violent crime against women, as determined by the Bureau of Justice Statistics pursuant to section 1412.

"SEC. 1412. HIGH INTENSITY GRANT APPLICATION.

"(a) COMPUTATION.—Within 45 days after the date of enactment of this part, the Bureau of Justice Statistics shall compile a list of the 40 areas with the highest rates of violent crime against women based on the combined female victimization rate per population for assault, sexual assault (including, but not limited to, rape), murder, robbery, and kidnapping.

"(b) USE OF DATA.—In calculating the combined female victimization rate required by subsection (a), the Bureau of Justice Statistics may rely on—

"(1) existing data collected by States, municipalities, Indian reservations or statistical metropolitan areas showing the number of police reports of the crimes listed in subsection (a); and

"(2) existing data collected by the Federal Bureau of Investigation, including data from those governmental entities already complying with the National Incident Based Reporting System, showing the number of police reports of crimes listed in subsection (a).

"(c) PUBLICATION.—After compiling the list set forth in subsection (a), the Bureau of Justice Statistics shall convey it to the Director who shall publish it in the Federal Register.

"(d) QUALIFICATION.—Upon satisfying the terms of subsection (e), any high intensity crime area shall be qualified for a grant under this subpart upon application by the chief executive officer of the governmental entities responsible for law enforcement and prosecution of criminal offenses within the area and certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate program grants, with nongovernmental nonprofit victim services programs; and

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(e) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application must provide the certifications required by subsection (d) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (d)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall ensure, to the extent practicable, that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served; and

"(C) give priority to areas with the greatest showing of need.

"(g) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this part. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"Subpart 2—Other Grants to States to Combat Violent Crimes Against Women

"SEC. 1421. GENERAL GRANTS TO STATES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to States, for use by States, units of local government in the States, and nonprofit nongovernmental victim services programs in the States, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be—

"(1) $500,000 to each State; and

"(2) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application shall include the certifications of qualification required by subsection (c) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (c)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(e) DISBURSEMENT.—(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that States will—

"(A) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000;

"(B) determine the amount of subgrants based on the population and geographic area to be served; and

"(C) give priority to areas with the greatest showing of need, as demonstrated by comparing population and geographic areas to be served to the availability of existing sexual assault and domestic violence services.

"(f) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"SEC. 1422. GENERAL GRANTS TO TRIBES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of $35,000 and maximum grants of $300,000.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b); and

"(2) at least 25 percent of the grant funds shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—(1) Applications shall be made directly to the Director and shall contain a description of the tribes' law enforcement responsibilities for the Indian country described in the application and a description of the tribes' system of courts, including whether the tribal government operates courts of Indian offenses as defined in 25 U.S.C. 1301 or CFR courts under 25 CFR 11 et seq.

"(2) Applications shall be in such form as the Director may prescribe and shall specify the nature of the program proposed by the applicant tribe, the data and information on which the program is based, and the extent to which the program plans to use or incorporate existing services available in the Indian country where the grant will be used.

"(3) The term of any grant shall be for a minimum of 3 years.

"(e) GRANTEE REPORTING.—At the end of the first 12 months of the grant period and at the end of each year thereafter, the Indian tribal granted shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

"(2) The term 'Indian country' has the meaning given to such term by section 1151 of title 18, United States Code.

"SUBPART 3—GENERAL TERMS AND CONDITIONS

"SEC. 1431. GENERAL DEFINITIONS.

"As used in this part—

"(1) the term 'victim services program' means any public or private nonprofit program that assists victims, including (A) nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process and (B) victim/witness programs within governmental entities;

"(2) the term 'sexual assault' includes not only assaults committed by offenders who are strangers to the victim but also assaults committed by offenders who are known or related by blood or marriage to the victim; and

"(3) the term 'domestic violence' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse, or any other person similarly situated to a spouse who is protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"SEC. 1432. GENERAL TERMS AND CONDITIONS.

"(a) NONMONETARY ASSISTANCE.—In addition to the assistance provided under subparts 1 or 2, the Director may direct any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts.

"(b) BUREAU REPORTING.—No later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Judiciary Committees of the House and the Senate a report that includes, for each high intensity crime area (as provided in subpart 1) and for each State and for each grantee Indian tribe (as provided in subpart 2)—

"(1) the amount of grants made under this part;

"(2) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(3) a copy of each grantee report filed pursuant to sections 1412(g) and 1421(f).

"(c) REGULATIONS.—No later than 45 days after the date of enactment of this part, the Director shall publish proposed regulations implementing this part. No later than 120 days after such date, the Director shall publish final regulations implementing this part.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year 1992, 1993, and 1994, $100,000,000 to carry out the purposes of subpart 1, and $190,000,000 to carry out the purposes of subpart 2, and $10,000,000 to carry out the purposes of section 1422 of subpart 2.".

Subtitle C—Safety for Women in Public Transit and Public Parks

SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

Section 24 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION

"SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, and not to exceed $10,000,000, the Secretary shall make capital grants for the prevention of crime and to increase security in existing and future public transportation systems. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

"(b) GRANTS FOR LIGHTING, CAMERA SURVEILLANCE, AND SECURITY PHONES.—

"(1) From the sums authorized for expenditure under this section for crime prevention, the Secretary is authorized to make grants and loans to States and local public bodies or agencies for the purpose of increasing the safety of public transportation by—

"(A) increasing lighting within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(B) increasing camera surveillance of areas within and adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(C) providing emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages; or

"(D) any other project intended to increase the security and safety of existing or planned public transportation systems.

"(2) From the sums authorized under this section, at least 75 percent shall be expended on projects of the type described in subsection (b)(1) (A) and (B).

"(c) REPORTING.—All grants under this section are contingent upon the filing of a report with the Secretary and the Department of Justice, Office of Victims of Crime, showing crime rates in or adjacent to public transportation before, and for a 1-year period after, the capital improvement. Statistics shall be broken down by type of crime, sex, race, and relationship of victim to the offender.

"(d) INCREASED FEDERAL SHARE.—Notwithstanding any other provision of this Act, the Federal share under this section for each capital improvement project which enhances the safety and security of public transportation systems and which is not required by law (including any other provision of this chapter) shall be 90 percent of the net project cost of such project.

"(e) SPECIAL GRANTS FOR PROJECTS TO STUDY INCREASING SECURITY FOR WOMEN.—From the sums authorized under this section, the Secretary shall provide grants and loans for the purpose of studying ways to reduce violent crimes against women in public transit through better design or operation of public transit systems.

"(f) GENERAL REQUIREMENTS.—All grants or loans provided under this section shall be subject to all the terms, conditions, requirements, and provisions applicable to grants and loans made under section 2(a).".

SEC. 132. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN NATIONAL PARKS.

The Act of August 18, 1970, the National Park System Improvements in Administration Act (90 Stat. 1931; 16 U.S.C. 1a-1 et seq.) is amended by adding at the end thereof the following:

"SEC. 13. NATIONAL PARK SYSTEM CRIME PREVENTION ASSISTANCE.

"(a) From the sums authorized pursuant to section 7 of the Land and Water Conservation Act of 1965, and not to exceed $10,000,000, the Secretary of the Interior is authorized to provide Federal assistance to reduce the incidence of violent crime in the National Park System.

"(b) The Secretary shall direct the chief official responsible for law enforcement within the National Park Services to—

"(1) compile a list of areas within the National Park System with the highest rates of violent crime;

"(2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and

"(3) publish the information required by paragraphs (1) and (2) in the Federal Register.

"(c) No later than 120 days after the date of enactment of this section, and based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute funds throughout the National Park Service. Priority shall be given to those areas with the highest rates of sexual assault.

"(d) Funds provided under this section may be used for the following purposes—

"(1) to increase lighting within or adjacent to public parks and recreation areas;

"(2) to provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(3) to increase security or law enforcement personnel within or adjacent to public parks and recreation areas; and

"(4) any other project intended to increase the security and safety of public parks and recreation areas.".

SEC. 133. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC PARKS.

Section 6 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 4601-8) is amended by adding at the end thereof the following new subsection:

"(h) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed $15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding the terms of subsection (c), the Secretary is authorized to provide 70 percent improvement grants for projects undertaken by any State for the purposes outlined in this subsection. The remaining share of the cost shall be borne by the State.".

Subtitle D—National Commission on Violent Crime Against Women

SEC. 141. ESTABLISHMENT.

There is established a commission to be known as the National Commission on Violent Crime Against Women (hereinafter referred to as "the Commission").

SEC. 142. DUTIES OF COMMISSION.

(a) GENERAL PURPOSE OF THE COMMISSION.—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crime against women.

(b) FUNCTIONS.—The Commission shall perform the following functions—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence

and the need for a more uniform statutory response to domestic violence; and

(9) evaluate and make recommendations regarding the feasibility of maintaining the confidentiality of addresses of domestic violence victims in voting, welfare, and public records.

SEC. 143. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) three of whom shall be—

(I) the Attorney General;

(II) the Secretary of Health and Human Services; and

(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of sexual assault or domestic violence.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) CONGRESSIONAL COMMITTEE RECOMMENDATIONS.—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) REQUIREMENTS OF APPOINTMENTS.—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their experience in State or national efforts to fight violence against women and demonstrate experience in State or national advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of law enforcement, prosecution, judicial administration, legal expertise, public health, social work, victim compensation boards, and victim advocacy.

(4) TERM OF MEMBERS.—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) VACANCY.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) CHAIRMAN.—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) MEETINGS.—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least six times.

(e) PAY.—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) PER DIEM.—Except as provided in subsection (e), members of the Commission shall be allowed travel and other expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) DEADLINE FOR APPOINTMENT.—Not later than 45 days after the date of the enactment of this Act, the members of the Commission shall be appointed.

SEC. 144. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

SEC. 145. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable under GS–18 of the General Schedule as contained in title 5, United States Code.

(b) STAFF.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 146. POWERS OF COMMISSION.

(a) HEARINGS.—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) DELEGATION.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) ACCESS TO INFORMATION.—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chairman of the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 147. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $500,000 to carry out the purposes of this subtitle.

SEC. 148. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed one year.

Subtitle E—New Evidentiary Rules

SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

The Federal Rules of Evidence are amended by inserting after rule 412 the following:

"Rule 412A. Evidence of victim's past behavior in other criminal cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, reputation or opinion evidence of the past sexual behavior of an alleged victim is not admissible.

"(b) ADMISSIBILITY.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, evidence of an alleged victim's past sexual behavior (other than reputation and opinion evidence) may be admissible if—

"(1) the evidence is admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of the evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the alleged victim's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the alleged victim.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence.

Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

The Federal Rules of Evidence, as amended by section 151 of this Act, are amended by adding after rule 412A the following:

"Rule 412B. Evidence of past sexual behavior in civil cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

"(b) ADMISSIBLE EVIDENCE.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

"(1) admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of such evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the plaintiff's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the plaintiff.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the plaintiff and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies evidence which may be offered and areas with respect to which the plaintiff may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

"(d) DEFINITIONS.—For purposes of this rule, a case involving a claim of actionable sexual misconduct, includes, but is not limited to, sex harassment or discrimination claims brought pursuant to title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)) and gender bias claims brought pursuant to title III of the Violence Against Women Act of 1991.".

SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end thereof the following:

"(e) INTERLOCUTORY APPEAL.—Notwithstanding any other provision of law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

"(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim."; and

(2) by adding at the end of subdivision (c)(3) the following: "In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 154. EVIDENCE OF CLOTHING.

The Federal Rules of Evidence are amended by adding after rule 412 the following:

"Rule 413. Evidence of victim's clothing as inciting violence

"Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged.".

Subtitle F—Assistance to Victims of Sexual Assault

SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended as follows:

(1) by adding at the end thereof the following new section:

"§ 1910A. Use of allotments for rape prevention education

"(a) Notwithstanding the terms of section 1904(a)(1) of this title, amounts transferred by the State for use under this part may be used for rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities, which programs may include—

"(1) educational seminars;

"(2) the operation of hotlines;

"(3) training programs for professionals;

"(4) the preparation of informational materials; and

"(5) other efforts to increase awareness of the facts about, or to help prevent, sexual assault.

"(b) States providing grant monies must assure that at least 15 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) There are authorized to be appropriated under this section for each fiscal year 1992, 1993, and 1994, $65,000,000 to carry out the purposes of this section.

"(d) Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) For purposes of this section, the term 'rape prevention and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim.

"(f) States shall be allotted funds under this section pursuant to the terms of sections 1902 and 1903, and subject to the conditions provided in this section and sections 1904 through 1909.";

(2) striking section 1901(b); and

(3) striking section 1904(a)(1)(G).

SEC. 162. RAPE EXAM PAYMENTS.

No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 unless the State or other grantee incurs the full cost of forensic medical exams for victims of sexual assault. A State or other grantee does not incur the full medical cost of forensic medical exams if it chooses to reimburse the victim after the fact unless the reimbursement program waives any minimum loss or deductible requirement, provides victim reimbursement within a reasonable time (90 days), permits applications for reimbursement within one year from the date of the exam, and provides information to all subjects of forensic medical exams about how to obtain reimbursement.

TITLE II—SAFE HOMES FOR WOMEN

SEC. 201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1990".

Subtitle A—Interstate Enforcement

SEC. 211. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

"Chapter 110A—Violence Against Spouses

"Sec. 2261. Traveling to commit spousal abuse.
"Sec. 2262. Interstate violation of protection orders.
"Sec. 2263. Restitution.
"Sec. 2264. Full faith and credit given to protection orders.
"Sec. 2265. Definitions for chapter.

"§ 2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner; or

"(2) for the purpose of harassing, intimidating, or injuring a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner,

shall be fined not more than $1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(b) Causing the Crossing of State Lines.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner, shall be fined not more than $1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(c) No State Law.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, a person violating this section shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(d) Criminal Intent.—The criminal intent of the offender required to establish an offense under subsection (b) is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

"(e) No Prior State Criminal Action Necessary.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§ 2262. Interstate violation of protection orders

"(a) In General.—Any person against whom a valid protection order has been entered who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

"(2) for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c) of this section.

"(b) Causing the Crossing of State Lines.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c) of this section.

"(c) Penalties.—

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than six months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(d) Criminal Intent.—The criminal intent required to establish the offense provided in subsection (a) is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

(e) No Prior State Criminal Action Necessary.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§ 2263. Interim protections

"In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the protection of an abused spouse or intimate partner pending final adjudication of the case, upon a showing of a likelihood of danger to the abused spouse or intimate partner.

"§ 2264. Restitution

"(a) In General.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an offense under this chapter.

"(b) Scope and Nature of Order.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to subsection (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation; and

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the offender, including obligations to dependents.

"(B) An order under this section may direct the defendant to make a single lump-sum payment, or partial payments at specified intervals. The order shall provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(C) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) Proof of Claim.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or his delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) RESTITUTION AND CRIMINAL PENALTIES.—An award of restitution to the victim of an offense under this chapter shall not be a substitute for imposition of punishment under sections 2261 and 2262.

"(e) DEFINITIONS.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.

"§ 2265. Full faith and credit given to protection orders

"(a) FULL FAITH AND CREDIT.—Any protection order issued consistent with the terms of subsection (b) by the court of one State (the issuing State) shall be accorded full faith and credit by the court of another State (the enforcing State) and enforced as if it were the order of the enforcing State.

"(b) PROTECTION ORDER.—A protection order issued by a State court is consistent with the provisions of this section if—

"(1) such court has jurisdiction over the parties and matter under the law of such State; and

"(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

"(c) CROSS OR COUNTER PETITION.—A protection order issued by a State court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

"(1) no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or

"(2) if a cross or counter petition has been filed, if the court did not make specific findings that each party was entitled to such an order.

"§ 2266. Definitions for chapter

"As used in this chapter—

"(1) the term 'spouse or intimate partner' includes—

"(A) a present or former spouse, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

"(B) any other person similarly situated to a spouse, other than a child, who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

"(2) the term 'protection order' includes any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except those done in self-defense, that results in physical injury or sexual abuse;

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

"(5) the term 'travel across State lines' includes any such travel except travel across State lines by an Indian tribal member when that member remained at all times on tribal lands.".

(b) TABLE OF CHAPTERS.—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

"110A. Violence against spouses .... 2261.".

Subtitle B—Arrest in Spousal Abuse Cases

SEC. 221. ENCOURAGING ARREST POLICIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10400) is amended by adding after section 311 the following:

"SEC. 312. ENCOURAGING ARREST POLICIES.

"(a) PURPOSE.—To encourage States, Indian tribes and localities to treat spousal violence as a serious violation of criminal law, the Secretary is authorized to make grants to eligible States, Indian tribes, municipalities, or local government entities for the following purposes:

"(1) to implement pro-arrest programs and policies in police departments and to improve tracking of cases involving spousal abuse;

"(2) to centralize and coordinate police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges;

"(3) to educate judges in criminal and other courts about spousal abuse and to improve judicial handling of such cases.

"(b) ELIGIBILITY.—(1) Eligible grantees are those States, Indian tribes, municipalities or other local government entities that—

"(A) demonstrate, through arrest and conviction statistics, that their laws or policies have been effective in significantly increasing the number of arrests made of spouse abusers; and

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed or mandate arrest of spouses violating the terms of a valid and outstanding protection order; or

"(ii) permit warrantless misdemeanor arrests of spouse abusers and encourage the use of that authority;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser and the increase in arrest rates demonstrated pursuant to paragraph (1)(A) is not the result of increased dual arrests; and

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protective order, and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim.

"(2) For purposes of this section, the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

"(3) For purposes of this section, the term 'spousal or spouse abuse' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabited with the victim as a spouse, or any other person protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(4) The eligibility requirements provided in this section shall take effect one year after the date of enactment of this section.

"(c) DELEGATION AND AUTHORIZATION.—The Secretary shall delegate to the Attorney General of the United States the Secretary's responsibilities for carrying out this section to the Attorney General. There are authorized to be appropriated not in excess of $25,000,000 for each fiscal year to be used for the purpose of making grants under this section.

"(d) APPLICATION.—An eligible grantee shall submit an application to the Secretary. Such application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribes, municipality, or local government entity that the conditions of subsection (b) are met;

"(2) describe the entity's plans to further the purposes listed in subsection (a);

"(3) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(4) identify and include documentation showing the nonprofit nongovernmental victim services programs that will be consulted in developing, and implementing, the program.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a grantee that—

"(1) does not currently provide for centralized handling of cases involving spousal or family violence in any one of the areas listed in this subsection—police, prosecutors, and courts; and

"(2) demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving spousal or family violence.

"(f) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described in subsection (d)(2) and containing such additional information as the Secretary may prescribe.

"(g) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.".

Subtitle C—Funding for Shelters

SEC. 231. AUTHORIZATION.

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

"SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out the provisions of this title, $85,000,000 for fiscal year 1992, $100,000,000, for fiscal year 1993, and $125,000,000 for fiscal year 1994.

"(b) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 80 percent shall be used by the Secretary for making grants under section 303.

"(c) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not more than 5 percent shall be used by the Secretary for making grants under section 314.

"(d) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 5 percent shall be used by the Secretary for making grants under section 308A.".

Subtitle D—Family Violence Prevention and Services Act Amendments

SEC. 241. EXPANSION OF PURPOSE.

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent" and by striking "demonstrate the effectiveness of assisting" and inserting "assist".

SEC. 242. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.

(a) INCREASING PUBLIC AWARENESS.—Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

(b) EXPANSION OF PROGRAM.—Section 303(a)(2)(B)(ii) is amended by striking "alcohol and drug abuse treatment".

SEC. 243. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

"GRANTS FOR PUBLIC INFORMATION CAMPAIGNS

"SEC. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) An application submitted under subsection (b) shall—

"(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk.".

SEC. 244. FUND DISTRIBUTION TO STATES.

Section 304(a)(1) of the Family Violence Prevention and Services Act is amended by striking "$50,000" and inserting "$500,000".

SEC. 245. INDIAN TRIBES.

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "from sums appropriated shall make no less than 10 percent available for".

SEC. 246. FUNDING LIMITATIONS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by—

(1) striking ", and" and all that follows through "fiscal years"; and

(2) striking "$50,000" and inserting "$75,000".

SEC. 247. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: "No grant may be made under this section to an entity other than a State or Indian tribe unless the entity provides 35 percent of the funding of the program or project funded by the grant.".

SEC. 248. SHELTER AND RELATED ASSISTANCE.

(a) CHANGE OF PERCENTAGES.—Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended by striking "not less than 60 percent" and inserting "not less than 75 percent".

(b) DEFINITION OF RELATED ASSISTANCE.—Section 309(5) of the Family Violence Prevention and Services Act is amended to read as follows:

"(5) The term 'related assistance' includes any, but does not require all, of the following—

"(A) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(B) transportation, legal assistance, referrals for appropriate health-care services (including alcohol and drug abuse treatment), and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(C) comprehensive counseling and self-help services to abusers, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services and employment training; and

"(D) child care services for children who are victims of family violence or the dependents of such victims.".

SEC. 249. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.

Section 311 of the Family Violence Protection and Services Act (42 U.S.C. 10410(b)) is repealed.

SEC. 250. REPORT ON RECORDKEEPING.

Not later than 120 days after the date of enactment of this Act, the Government Accounting Office shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine efforts to date of the FBI and Justice Department to collect statistics on domestic violence and the feasibility of, including a suggested timetable for, requiring that the relationship between an offender and victim be reported in Federal and State records of crimes of assault, aggravated assault, rape, and other violent crimes.

SEC. 251. MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.

The Family Violence Prevention Services Act, as amended by section 103 of this Act, is amended by adding at the end thereof the following new section:

"MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION

"SEC. 315. (a) The Secretary, in cooperation with the Attorney General, shall award grants to not less than 10 States to assist in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

"(1) increase the number of prosecutions for domestic violence crimes;

"(2) encourage the reporting of incidences of domestic violence;

"(3) facilitate 'arrests and aggressive' prosecution policies; and

"(4) provides court advocacy for victims of domestic violence.

"(b) To be designated as a model State under subsection (a), a State shall have in effect—

"(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

"(2) a law or policy that discourages * * *

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judiciaes 'dual' arrests;

"(3) statewide prosecution policies that—

"(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

"(4) statewide laws, policies, or guidelines for judges that—

"(A) prohibit the issuance of mutual protective orders in cases where only one spouse has sought a protective order and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim;

"(B) require that any history of child abuse be considered detrimental to the child and discourage custody or joint custody orders by spouse abusers; and

"(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute;

"(5) develop and disseminate methods to improve the criminal justice system's response to domestic violence to make existing remedies as easily available as possible to victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

"(c)(1) In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section $25,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) Funds shall be distributed under this section so that no State shall receive more than $2,500,000 in each fiscal year under this section.

"(3) The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section.".

SEC. 252. FUNDING FOR TECHNICAL ASSISTANCE CENTERS.

The Family Violence Prevention and Services Act is amended by inserting after section 308 the following:

"SEC. 308A. TECHNICAL ASSISTANCE CENTERS.

"(a) PURPOSE.—The purpose of this section is to provide training and technical assistance to State, Indian tribal, and local domestic violence programs and to other professionals who provide services to victims of domestic violence. From the sums authorized under this title, the Secretary shall provide grants to or contract with, private nonprofit organizations, for the establishment and maintenance of one national and six special-issue resource centers serving defined geographic areas. One national resource center shall offer resource, policy, and/or training assistance to Federal, State, Indian tribal, and local government agencies on issues pertaining to domestic violence and serve a coordinating and resource-sharing function among domestic violence service providers, and maintain a central resource library. The other national resource centers shall provide information, training and technical assistance to State, tribal and local domestic violence service providers. In addition, each national center shall specialize in one of the following areas of domestic violence service, prevention or law:

"(1) criminal justice response to domestic violence, including court-mandated abuser treatment;

"(2) child custody issues in domestic violence cases;

"(3) use of the self-defense plea by domestic violence victims;

"(4) health care response and access to health care resources for domestic violence victims;

"(5) victims' access to, and quality of, effective legal assistance, including civil litigation; and

"(6) the response of child protective service agencies to battered mothers of abused children.

"(b) ELIGIBILITY.—Eligible grantees are private non-profit organizations that—

"(1) focus primarily on domestic violence;

"(2) provide documentation to the Secretary demonstrating a minimum of three years experience with issues of domestic violence, particularly in the specific area for which it is applying;

"(3) include on its advisory boards representatives from domestic violence programs who are geographically and culturally diverse; and

"(4) demonstrate strong support from domestic violence advocates for their designation as the special-issue resource center.

"(c) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described and containing such additional information as the Secretary may prescribe.

"(d) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section.".

Subtitle E—Youth Education and Domestic Violence

SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate his powers to the Secretary of Education, hereinafter referred to as the "Secretary". The Secretary shall select, implement and evaluate four model programs for education of young people about domestic violence and violence among intimate partners.

(b) NATURE OF PROGRAM.—The Secretary shall select, implement and evaluate separate model programs for four different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. These model programs shall be selected, implemented, and evaluated with the input of educational experts, legal and psychological experts on battering, and victim advocate organizations such as battered women's shelters, State coalitions and resource centers. The participation of each of these groups or individual consultants from such groups is essential to the selection, implementation, and evaluation of programs that meet both the needs of educational institutions and the needs of the domestic violence problem.

(c) REVIEW AND DISSEMINATION.—Not later than 24 months after the date of enactment of this Act, the Secretary shall transmit the design and evaluation of the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.

(d) AUTHORIZATION.—There are authorized to be appropriated under this section for fiscal year 1992, $400,000 to carry out the purposes of this section.

Subtitle F—Confidentiality for Abused Persons

SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.

No later than 90 days after the enactment of this Act, the Postmaster General shall promulgate regulations to secure the confidentiality of abused persons' addresses or otherwise prohibit the disclosure of an abused person's address consistent with the following guidelines:

(1) confidentiality shall be provided upon the presentation to an appropriate postal official of an existing and valid court order for the protection of an abused spouse;

(2) disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited; and

(3) compilations of addresses existing at the time the order is presented to an appropriate postal official shall be excluded from the scope of the proposed regulations.

TITLE III—CIVIL RIGHTS

SEC. 301. CIVIL RIGHTS.

(a) FINDINGS.—The Congress finds that—

(1) crimes motivated by the victim's gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for gender crimes committed on the street or in the home; and

(3) State and Federal criminal laws do not adequately protect against the bias element of gender-motivated crimes, which separates these crimes from acts of random violence, nor do those laws adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests;

(4) existing bias and discrimination in the criminal justice system often deprives victims of gender-motivated crimes of equal protection of the laws and the redress to which they are entitled;

(5) gender-motivated violence has a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business, and in places involved, in interstate commerce;

(6) gender-motivated violence has a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products;

(7) a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse effects of gender-motivated violence on interstate commerce; and

(8) victims of gender-motivated violence have a right to equal protection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

(b) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any person, including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State, who commits a crime of violence motivated by gender and thus deprives another of the rights, privileges or immunities secured by the Constitution or laws as enumerated in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in this section, including rape, sexual assault, sexual abuse, abusive sexual contact, or any other crime of violence committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

SEC. 302. CONFORMING AMENDMENT.

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: ", or title III of the Violence Against Women Act of 1991,".

TITLE IV—SAFE CAMPUSES FOR WOMEN

SEC. 401. SHORT TITLE.

This title may be cited as the "Safe Campuses for Women Act of 1990".

SEC. 402. FINDINGS.

The Congress finds that—

(1) rape prevention and education programs are essential to an educational environment free of fear for students' personal safety;

(2) sexual assault on campus, whether by fellow students or not, is widespread among the Nation's higher education institutions: experts estimate that 1 in 7 of the women now in college have been raped and over half of college rape victims know their attackers;

(3) sexual assault poses a grave threat to the physical and mental well-being of students and may significantly impair the learning process; and

(4) action by schools to educate students may make substantial inroads on the incidence of rape, including the incidence of acquaintance rape on campus.

SEC. 403. GRANTS FOR CAMPUS RAPE EDUCATION.

Title X of the Higher Education Act of 1965 is amended to add at the end thereof the following:

"PART D—GRANTS FOR CAMPUS RAPE EDUCATION."

SEC. 1071. GRANTS FOR CAMPUS RAPE EDUCATION.

"(a) IN GENERAL.—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for rape education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

"(b) GENERAL RAPE PREVENTION AND EDUCATION GRANTS.—Grants under this section shall be used to educate and provide support services to student victims of rape or sexual assault. Grants may be used for the following purposes:

"(1) to provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of rape, sexual assault, and other gender-motivated crimes;

"(2) to develop, disseminate, or implement campus security and student disciplinary policies to prevent and discipline rape, sexual assault and other gender-motivated crimes;

"(3) to develop, enlarge or strengthen support services programs including medical or psychological counseling to assist victims' recovery from rape, sexual assault, or other gender-motivated crimes;

"(4) to create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action; and

"(5) to implement, operate, or improve rape education and prevention programs, including programs making use of peer-to-peer education.

"(c) MODEL GRANTS.—Not less than 25 percent of the funds authorized under this section shall be available for grants for model demonstration programs to be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student rape victims.

"(d) ELIGIBILITY.—No institution of higher education or consortium of such institutions shall be eligible for a grant under this section unless—

"(1) its student code of conduct, or other written policy governing student behavior, explicitly prohibits not only rape but all forms of sexual assault; and

"(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual assault the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual assault: *Provided*, That nothing in this section shall be interpreted to authorize disclosure to any person other than the victim.

"(e) APPLICATIONS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—

"(A) set forth the activities and programs to be carried out with funds granted under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) explain how the program intends to address the issue of acquaintance rape;

"(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

"(e) GRANTEE REPORTING.—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) Except as otherwise provided, the terms used in this part shall have the meaning provided under section 2981 of this title.

"(2) For purposes of this subchapter, the following terms have the following meanings:

"(A) The term 'rape education and prevention' includes programs that provide educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual assault.

"(B) The term 'Secretary' means the Secretary of Education.

"(g) GENERAL TERMS AND CONDITIONS.—(1) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.

"(2) No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

"(A) the amount of grants made under this section;

"(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(C) a copy of each grantee report filed pursuant to subsection (e) of this section.

"(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated $20,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995.".

SEC. 404. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.

Section 204(f) of the Crime Awareness and Campus Security Act of 1990 is amended to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

"(i) murder;

"(ii) rape or sexual assault;

"(iii) robbery;

"(iv) aggravated assault;

"(v) burglary; and

"(vi) motor vehicle theft.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

SECTION 501. SHORT TITLE.

This title may be cited as the "Equal Justice for Women in the Courts Act of 1991".

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

SEC. 511. GRANTS AUTHORIZED.

The State Justice Institute is authorized to award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SEC. 512. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the batterer, to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel, and the legitimate reasons why victims of domestic violence may refuse to testify against a defendant;

(18) the need for orders of protection, and the implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence cases;

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims; and

(20) current information on the impact of pornography on crimes against women, or data on other activities that tend to degrade women.

SEC. 513. COOPERATION IN DEVELOPING PROGRAMS IN MAKING GRANTS UNDER THIS TITLE.

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this subtitle are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 514. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $600,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

SEC. 521. EDUCATION AND TRAINING GRANTS.

(a) STUDY.—The Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use of data collection techniques such as reviews of trial and appellate opinions and transcripts, public hearings, and inquiries to attorneys practicing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) MODEL PROGRAMS.—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 512 of subtitle A; and

(B) all procedural and substantive aspects of the legal rights and remedies for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

SEC. 522. COOPERATION IN DEVELOPING PROGRAMS.

In implementing this subtitle, the Federal Judicial Center shall ensure that the study and model programs are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 523. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $400,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 521(a) of this subtitle.

AMENDMENT NO. 698

At the appropriate place in the bill add the following:

"For the purposes of title XI, as amended, an adjudication of a claim in state proceedings is "full and fair," unless the adjudication was conducted in a manner inconsistent with the procedural requirements of federal law that are applicable to state proceedings, was contrary to or involved an arbitrary or unreasonable interpretation or application of established federal law, or involved an arbitrary or unreasonable determination of the facts in light of the evidence presented.".

AMENDMENT NO. 699

At the appropriate place in the bill add the following:

"For the purposes of title XI, as amended an adjudication of a claim in state proceedings is "full and fair," unless the adjudication was conducted in a manner inconsistent with the procedural requirements of federal law that are applicable to state proceedings, was contrary to or involved an arbitrary or unreasonable interpretation or application of federal law, or involved an arbitrary or unreasonable determination of the facts in light of the evidence presented.".

HELMS AMENDMENT NOS. 700 AND 701

(Ordered to lie on the table.)

Mr. HELMS submitted two amendments intended to be proposed by him to amendments to the bill S. 1241, supra, as follows:

AMENDMENT NO. 700

At the end of the amendment add the following:

"SEC. . Section 703(j) of title VII of the Civil Rights Act of 1964 is to be amended by adding the following at the end thereof:

It shall be an unlawful employment practice for any local, state, or federal law enforcement agency or law enforcement labor organization, or joint labor-management committee subject to this subchapter to grant preferential treatment with respect to selection, compensation, terms, conditions, discharge, or privileges of employment or union membership to any individual or to any group on account of the race, color, religion, sex, or national origin of such individual or group, for any purpose, except as provided in subsection (e) of this section, nothing in this section prohibits any local, state, or federal law enforcement agency, or law enforcement labor organization or joint labor-management committee subject to this title, from establishing affirmative action programs designed to recruit qualified minorities and women to expand its applicant pool.".

AMENDMENT NO. 701

At the end of the amendment, add the following:

"Title 18, United States Code, is amended by adding at the appropriate place the following new section: "Section . Deliberate Transmission of the AIDS Virus

"(a) Whoever, being a registered physician, dentist, nurse, or other health care provider, knowing that he is infected with the Human Immunodeficiency Virus, intentionally provides medical or dental treatment to another person, without prior notification to such person of such infection, shall be fined not more than $10,000, or imprisoned not less than ten years, or both.

"(b) The provisions of this section shall not be applicable in the case of a medical emergency in which alternative medical treatment is not reasonably available."

(c) DEFINITIONS.—As used in this section—

(1) the term "treatment" means the performance of any medical diagnosis or procedure that involves an invasive physical contact between the patient being treated and the physician or health professional administering the procedure.".

HATCH AMENDMENT NOS. 702 AND 703

(Ordered to lie on the table.)

Mr. HATCH submitted two amendments intended to be proposed by him to amendments to the bill S. 1241, supra, as follows:

AMENDMENT NO. 702

On page 2, line 9, of the amendment insert after the word "prosecution" the following language: "and (C) there exists an independent source for the witness's personal knowledge apart from the immunized testimony.".

AMENDMENT NO. 703

At the appropriate place in the amendment, insert the following:

TITLE —SEXUAL VIOLENCE AND CHILD ABUSE

SEC. . ADMISSIBILITY OF EVIDENCE OF SIMILAR CRIMES IN SEXUAL ASSAULT AND CHILD MOLESTATION CASES.

The Federal Rules of Evidence are amended by adding after rule 412 the following new rules:

"Rule 413. Evidence of Similar Crimes in Sexual Assault Cases

"(a) In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and rule 415, 'offense of sexual assault' means a crime under Federal law or the law of a State that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code;

"(2) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

"(3) contact, without consent, between the genitals or anus of the defendant and any part of another person's body;

"(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(5) an attempt or conspiracy to engage in conduct described in paragraphs (1)-(4).

"Rule 414. Evidence of Similar Crimes in Child Molestation Cases

"(a) In a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of another offense or offenses of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and rule 415, 'child' means a person below the age of fourteen, and 'offense of child molestation' means a crime under Federal law or the law of a State that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code, that was committed in relation to a child;

"(2) any conduct proscribed by chapter 110 of title 18, United States Code;

"(3) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(4) contact between the genitals or anus of the defendant and any part of the body of a child;

"(5) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

"(6) an attempt or conspiracy to engage in conduct described in paragraphs (1)-(5)

"Rule 415. Evidence of Similar Acts in Civil Cases Concerning Sexual Assault or Child Molestation

"(a) In a civil case in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual assault or child molestation, evidence of that party's commission of another offense or offenses of sexual assault or child molestation is admissible and may be considered as provided in rule 413 and rule 414 of these rules.

"(b) A party who intends to offer evidence under this rule shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.".

SPECTER AMENDMENT NOS. 704 THROUGH 707

(Ordered to lie on the table.)

Mr. SPECTER submitted four amendments intended to be proposed by him to amendments to the bill S. 1241, supra, as follows:

AMENDMENT NO. 704

At the end of the amendment inserting the following:

SEC. . FUNDING FOR DEATH PENALTY PROSECUTIONS.

Part E of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. §3711 et seq.) is amended by adding the following new section:

"SEC. 515. Notwithstanding any other provision of this subpart, the Director shall provide grants to the States, from the funding allocated pursuant to section 511, for the purpose of supporting litigation pertaining to federal heabeas corpus petitions in capital cases. The total funding available for such grants within any fiscal year shall be equal to the funding provided to capital resource centers, pursuant to federal appropriation, in the same fiscal year."

AMENDMENT NO. 705

(1) On Page 6, line 12, replace "$10,000" with "$8,000"; on line 18, replace "$13,333" with "$10,666"; on line 21, replace "$40,000" with "$32,000".

(2) On Page 7, line 19, replace "$10,000" with "$8,000"; on line 25, replace "$13,333" with "$10,666"; on Page 8, line 3, replace "$40,000" with "$32,000".

(3) On Page 8, line 6, strike the period at the end of the sentence and insert the following: , except that—

(1) scholarships may be used for graduate and professional study, and

(2) where a participant has enrolled in the program upon or after transfer to a four-year institution of higher education, the Director may reimburse the participant for the participant's prior educational expenses.

(4) On Page 10, line 16, strike "in this section." and insert in lieu thereof "for any course of study in any accredited institution of higher education."

(5) On Page 14, strike lines 17-20 and insert the following in lieu thereof: efforts to seek and recruit applicant from among members of all racial, ethnic or gender groups. This subsection

(6) On Page 15, line 24, insert the following new subparagraph (3):

(3) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence

(7) On Page 31, strike lines 4 through 8 and insert the following in lieu thereof:

(1) members of all racial, ethnic and gender groups;

AMENDMENT NO. 706

(1) On Page 6, line 12, replace "$10,000" with "$7,500"; on line 18, replace "$13,333" with "$10,000"; on line 21, replace "$40,000" with "$30,000"

(2) On Page 7, line 19, replace "$10,000" with "$7,500"; on line 25, replace "$13,333" with "$10,000"; on Page 8, line 3, replace "$40,000" with "$30,000".

(3) On Page 8, line 6, strike the period at the end of the sentence and insert the following: , except that—

(1) scholarships may be used for graduate and professional study, and

(2) where a participant has enrolled in the program upon or after transfer to a four-year institution of higher education, the Director may reimburse the participant for the participant's prior educational expenses.

(4) On Page 10, line 16, strike "in this section." and insert in lieu thereof "for any course of study in any accredited institution of higher education"

(5) On Page 14, strike lines 17-20 and insert the following in lieu thereof: efforts to seek and recruit applicants from among members

of all racial, ethnic or gender groups. This subsection

(6) On Page 15, line 24, insert the following new subparagraph (3):

(3) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence.

(7) On Page 31, strike lines 4 through 8 and insert the following in lieu thereof:

(1) members of all racial, ethnic and gender groups;

AMENDMENT NO. 707

(1) On Page 6, line 12, replace "$10,000" with "$7,000"; on line 18, replace "$13,333" with "$9,333"; on line 21, replace "$40,000" with "$28,000".

(2) On Page 7, line 19, replace "$10,000" with "$7,000"; on line 25, replace "$13,333" with "$9,333"; on Page 8, line 3, replace "$40,000" with "$28,000".

(3) On Page 8, line 6, strike the period at the end of the sentence and insert the following: , except that—

(1) scholarships may be used for graduate and professional study, and

(2) where a participant has enrolled in the program upon or after transfer to a four-year institution of higher education, the Director may reimburse the participant for the participant's prior educational expenses.

(4) On Page 10, line 16, strike "in this section." and insert in lieu thereof "for any course of study in any accredited institution of higher education."

(5) On Page 14, strike lines 17-20 and insert the following in lieu thereof: efforts to seek and recruit applicants form among members of all racial, ethnic or gender groups. This subsection

(6) On Page 15, line 24, insert the following new subparagraph (3):

(3) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence.

(7) On Page 31, strike lines 4 through 8 and insert the following in lieu thereof:

(1) members of all racial, ethnic and gender groups;

DECONCINI AMENDMENT NO. 708

(Ordered to lie on the table.)

Mr. DECONCINI submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place add the following:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Outlaw Gang Control Act of 1991".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) outlaw gangs pose an ever-increasing threat of violent crime;

(2) such gangs are a force that can be contained only through law enforcement efforts coordinated at the Federal level; and

(3) such gangs are a national epidemic, and they must be the subject of a national strategy for interdiction and control.

(b) PURPOSE.—It is the purpose of this Act to—

(1) expand seizure and forfeiture authority of the Bureau of Alcohol, Tobacco and Firearms; and

(2) authorize the establishment of a National Center for Outlaw Gang Analysis.

SEC. 3. DEFINITION.

For the purposes of this Act, the term "outlaw gang" or "gang" means a criminal syndicate composed of 5 or more persons that is commonly known by a certain name or identifier that engages in or has as one of its purposes engaging in Federal felony offenses involving firearms, physical injury, or threats of physical injury.

TITLE I—SEIZURE AND FORFEITURE

SEC. 101. EXPANDED AUTHORITY OF THE SECRETARY OF THE TREASURY.

(a) FIREARMS AND AMMUNITION.—Section 924(d) of title 18, United States Code, is amended by adding at the end the following new paragraphs:

"(4)(A) Any property (other than real property) subject to forfeiture under section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)), may be seized and forfeited in connection with an investigation of a violation of subsection (c) of this section, and all provisions of section 551 of the Controlled Substances Act shall apply to seizures and forfeitures under this paragraph.

"(B) For the purposes of subparagraph (A), the functions of the Attorney General under section 551 of the Controlled Substances Act with respect to the seizure, forfeiture, and disposition of property shall be carried out by the Secretary of the Treasury.".

(b) EXPLOSIVE MATERIALS.—Section 844(c) of title 18, United States Code, is amended to read as follows:

"(c)(1) The following shall be subject to forfeiture to the United States and their former owner shall have no property right in them:

"(A) Any explosive material that is involved, used, or intended to be used in connection with a violation of the provisions of this chapter or any rule or regulation promulgated thereunder or a violation of any criminal law of the United States.

"(B) Any real or personal property that is involved, used, or intended to be used in any manner or part in connection with a violation of subsection (d), (e), (f), (g), (h), or (i) of this section or of section 842(h).

"(C) Any real or personal property that constitutes or is derived from proceeds traceable to a violation of subsection (d), (e), (f), (g), (h), or (i) of this section or of section 842(h).

"(2) No property shall be forfeited under this subsection to the extent of the interest of an owner or lienholder by reason of a violation committed without the knowledge of that owner or lienholder.

"(3)(A) The Secretary may seize any property subject to civil forfeiture under this subsection—

"(i) upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over such property; or

"(ii) without such process when—

"(I) the seizure is pursuant to a lawful arrest or search;

"(II) the Secretary has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

"(III) the Secretary has probable cause to believe that the property is subject to civil forfeiture under this section.

"(B) Proceedings under paragraph (4) shall be instituted promptly in the case of a seizure pursuant to subparagraph (A)(ii)(II) or (III).

"(C) The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this subsection in the same manner as is provided for the issuance of a search warrant under the Federal Rules of Criminal Procedure.

"(4)(A) Subject to subparagraph (B), the law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition and transfer of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims shall apply to seizures and forfeitures incurred or alleged to have been incurred under this subsection, insofar as that law is applicable and is not inconsistent with this subsection.

"(B) In carrying out the law described in subparagraph (A) for the purposes of this subsection, such duties as are imposed on the customs officer or any other person with respect to the seizure and forfeiture of property under that law shall be performed with respect to seizures and forfeitures of property under this subsection by such officers, agents, or other persons as the Secretary designates for that purpose.

"(5) All right, title, and interest in property described in paragraph (1) shall vest in the United States upon commission of the violation that gives rise to forfeiture under this subsection.

"(6) The filing of an indictment alleging a violation of subsection (d), (e), (f), (g), (h), or (i) of section 842(h), or of the State or local law that could have been charged under such Federal laws which is also related to a civil forfeiture proceeding under this subsection shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding.".

TITLE II—FUNDS FOR UNDERCOVER PURCHASES

SEC. 201. RECOVERY AND REDEPOSIT OF UNDERCOVER FUNDS.

Section 3302 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Moneys expended from appropriations for the Bureau of Alcohol, Tobacco and Firearms for the purchase of alcohol, tobacco, firearms, and explosives for evidentiary purposes and subsequently recovered shall be reimbursed to the appropriation current at the time of deposit.".

TITLE III—NATIONAL CENTER FOR OUTLAW GANG ANALYSIS

SEC. 301. ESTABLISHMENT OF CENTER.

(a) GENERAL.—There shall be established in the Bureau of Alcohol, Tobacco and Firearms a National Center for Outlaw Gang Analysis.

(b) PURPOSES.—The purposes of the Center shall be—

(1) to identify the outlaw gangs that engage in drug-related and other violent crime by—

(A) types of illegal activity;

(B) methods of operation; and

(C) geographic distribution;

(2) to gather intelligence on illegal activities undertaken by violent outlaw gangs from law enforcement sources;

(3) to increase public awareness of outlaw gang identification and threat to the public and to solicit information and evidence, under the assurance of confidentiality, from persons who possess information that may assist law enforcement investigations;

(4) to establish a national hotline for the public to report unlawful gang activity;

(5) to share intelligence information pertaining to illegal gang activity with the appropriate Federal, State, and local law enforcement and correction agencies;

(6) to conduct seminars and conferences for Federal, State, and local law enforcement

and correction agencies and community leaders, to assist in identification of gang activities and methods to curtail and control such activities; and

(7) to publish an annual report that includes significant findings pertaining to—

(A) gang identification;

(B) incidence of gang use of explosive devices and firearms; and

(C) the results of Federal outlaw gang eradication efforts.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 402. AUTHORITY OF THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS.

The Director of the Bureau of Alcohol, Tobacco and Firearms shall be responsible for providing—

(1) national oversight in the accumulation and dissemination of gang-related information; and

(2) coordination of gang-related investigations by Federal law enforcement agencies.

ENERGY AND WATER DEVELOPMENT APPROPRIATION ACT, FISCAL YEAR 1992

FOWLER (AND OTHERS) AMENDMENT NO. 709

Mr. FOWLER (for himself, Mr. DASCHLE, and Mr. JEFFORDS) proposed an amendment to the bill H.R. 2427, supra, as follows:

On page 47, line 11, before the period, insert "; and of which $60,400,000 shall be for photovoltaic energy systems (of which $58,900,000 shall be for operating expenses and $1,500,000 shall be for capital equipment), $29,100,000 shall be for solar thermal energy systems (of which $28,650,000 shall be for operating expenses and $450,000 shall be for capital equipment), $39,300,000 shall be for biofuels energy systems (of which $35,000,000 shall be for operating expenses and $4,300,000 shall be for capital equipment), $21,400,000 shall be for wind energy systems (of which $21,200,000 shall be for operating expenses and $200,000 shall be for capital equipment)".

WIRTH AMENDMENT NO. 710

Mr. WIRTH proposed an amendment to the bill H.R. 2427, supra, as follows:

On page 46, line 16, strike "$2,940,916,000" and insert "$2,940,516,000.".

On page 57, line 23, strike "$415,976,000" and insert "$416,476,000.".

On page 58, line 15, before the period, insert the following: "*Provided further*, That of the sum herein appropriated, $1,300,000 shall be used for the Reduced Enrichment in Research and Test Reactors Program under the Office of International Affairs and Energy Emergencies.".

VIOLENT CRIME CONTROL ACT

BIDEN AMENDMENT NO. 711

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to an amendment to the bill S. 1241, supra, as follows:

Add at the appropriate place in the amendment:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violence Against Women Act of 1991".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—SAFE STREETS FOR WOMEN

Sec. 101. Short title.

Subtitle A—Federal Penalties for Sex Crimes

Sec. 111. Repeat offenders.
Sec. 112. Federal penalties.
Sec. 113. Mandatory restitution for sex crimes.

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

Sec. 121. Grants to combat violent crimes against women.

Subtitle C—Safety for Women in Public Transit and Public Parks

Sec. 131. Grants for capital improvements to prevent crime in public transportation.
Sec. 132. Grants for capital improvements to prevent crime in national parks.
Sec. 133. Grants for capital improvements to prevent crime in public parks.

Subtitle D—National Commission on Violent Crime Against Women

Sec. 141. Establishment.
Sec. 142. Duties of commission.
Sec. 143. Membership.
Sec. 144. Reports.
Sec. 145. Executive Director and staff.
Sec. 146. Powers of commission.
Sec. 147. Authorization of appropriations.
Sec. 148. Termination.

Subtitle E—New Evidentiary Rules

Sec. 151. Sexual history in all criminal cases.
Sec. 152. Sexual history in civil cases.
Sec. 153. Amendments to rape shield law.
Sec. 154. Evidence of clothing.

Subtitle F—Assistance to Victims of Sexual Assault

Sec. 161. Education and prevention grants to reduce sexual assaults against women.
Sec. 162. Rape exam payments.

TITLE II—SAFE HOMES FOR WOMEN

Sec. 201. Short title.

Subtitle A—Interstate Enforcement

Sec. 211. Interstate enforcement.

Subtitle B—Arrest in Spousal Abuse Cases

Sec. 221. Encouraging arrest policies.

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Sec. 261. Educating youth about domestic violence.

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TITLE III—CIVIL RIGHTS

Sec. 301. Civil rights.

TITLE IV—SAFE CAMPUSES FOR WOMEN

Sec. 401. Short title.
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Subtitle A—Education and Training for Judges and Court Personnel in State Courts

Sec. 511. Grants authorized.
Sec. 512. Training provided by grants.
Sec. 513. Cooperation in developing programs in making grants under this title.
Sec. 514. Authorization of appropriations.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

Sec. 521. Education and training grants.
Sec. 522. Cooperation in developing programs.
Sec. 523. Authorization of appropriations.

TITLE I—SAFE STREETS FOR WOMEN

SEC. 101. SHORT TITLE.

This title may be cited as the "Safe Streets for Women Act of 1991".

Subtitle A—Federal Penalties for Sex Crimes

SEC. 111. REPEAT OFFENDERS.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2247. Repeat offenders

"Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2247. Repeat offenders.".

SEC. 112. FEDERAL PENALTIES.

(a) RAPE AND AGGRAVATED RAPE.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide that a defendant convicted of aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, shall be assigned a base offense level under chapter 2 of the sentencing guidelines that is at least 4 levels greater than the base offense level applicable to criminal sexual abuse under the guidelines in effect on November 1, 1990, or otherwise shall amend the guidelines applicable to such offenses so as to achieve a comparable minimum guideline sentence. In amending such guidelines, the Sentencing Commission shall review the appropriateness of existing specific offense characteristics or other adjustments applicable to such offenses, and make such changes as it deems appropriate, taking into account the severity of rape offenses, with or without aggravating factors; the unique nature and duration of the mental injuries inflicted on the victims of such offenses; and any other relevant factors.

(b) EFFECT OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instructions set forth in subsection (a) so as to achieve a comparable result.

(c) STATUTORY RAPE.—

(1) Section 2243(b) of title 18, United States Code, is amended by striking "one year," and inserting "two years,".

(2) Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to incorporate the increase in maximum penalties provided by this section for section 2243(b) of title 18, United States Code.

SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or matters related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or his delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2248. Mandatory restitution.".

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) redesignating part N as part O;

(2) redesignating section 1401 as section 1501; and

(3) adding after part M the following:

"PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"SEC. 1401. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribes, cities, and other localities to develop effective law enforcement and prosecution strategies to combat violent crimes against women and, in particular, to focus efforts on those areas with the highest rates of violent crime against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide additional personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing police and prosecution policies, protocols, or orders specifically devoted to identifying and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, prosecutions, and convictions for the crimes of sexual assault and domestic violence; and

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, to increase reporting and reduce attrition rates for cases involving violent crimes against women, including the crimes of sexual assault and domestic violence.

"Subpart 1—High Intensity Crime Area Grants

"SEC. 1411. HIGH INTENSITY GRANTS.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the 'Director') shall make grants to areas of 'high intensity crime' against women.

"(b) Definition.—For purposes of this part, a 'high intensity crime area' means an area with one of the 40 highest rates of violent crime against women, as determined by the Bureau of Justice Statistics pursuant to section 1412.

"SEC. 1412. HIGH INTENSITY GRANT APPLICATION.

"(a) Computation.—Within 45 days after the date of enactment of this part, the Bureau of Justice Statistics shall compile a list of the 40 areas with the highest rates of violent crime against women based on the combined female victimization rate per population for assault, sexual assault (including, but not limited to, rape), murder, robbery, and kidnapping.

"(b) Use of Data.—In calculating the combined female victimization rate required by subsection (a), the Bureau of Justice Statistics may rely on—

"(1) existing data collected by States, municipalities, Indian reservations or statistical metropolitan areas showing the number of police reports of the crimes listed in subsection (a); and

"(2) existing data collected by the Federal Bureau of Investigation, including data from those governmental entities already complying with the National Incident Based Reporting System, showing the number of police reports of crimes listed in subsection (a).

"(c) Publication.—After compiling the list set forth in subsection (a), the Bureau of Justice Statistics shall convey it to the Director who shall publish it in the Federal Register.

"(d) Qualification.—Upon satisfying the terms of subsection (e), any high intensity crime area shall be qualified for a grant under this subpart upon application by the chief executive officer of the governmental entities responsible for law enforcement and prosecution of criminal offenses within the area and certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate program grants, with nongovernmental nonprofit victim services programs; and

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(e) Application Requirements.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application must provide the certifications required by subsection (d) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (d)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) Disbursement.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall ensure, to the extent practicable, that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served; and

"(C) give priority to areas with the greatest showing of need.

"(g) Grantee Reporting.—Upon completion of the grant period under this subpart, the grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this part. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"Subpart 2—Other Grants to States to Combat Violent Crimes Against Women

"SEC. 1421. GENERAL GRANTS TO STATES.

"(a) General Grants.—The Director is authorized to make grants to States, for use by States, units of local government in the States, and nonprofit nongovernmental victim services programs in the States, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women.

"(b) Amounts.—From amounts appropriated, the amount of grants under subsection (a) shall be—

"(1) $500,000 to each State; and

"(2) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

"(c) Qualification.—Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) Application Requirements.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application shall include the certifications of qualification required by subsection (c) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (c)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(e) Disbursement.—(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that States will—

"(A) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000;

"(B) determine the amount of subgrants based on the population and geographic area to be served; and

"(C) give priority to areas with the greatest showing of need, as demonstrated by comparing population and geographic areas to be served to the availability of existing sexual assault and domestic violence services.

"(f) Grantee Reporting.—Upon completion of the grant period under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"SEC. 1422. GENERAL GRANTS TO TRIBES.

"(a) General Grants.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) Amounts.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of $35,000 and maximum grants of $300,000.

"(c) Qualification.—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b); and

"(2) at least 25 percent of the grant funds shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) Application Requirements.—(1) Applications shall be made directly to the Director and shall contain a description of the tribes' law enforcement responsibilities for the Indian country described in the application and a description of the tribes' system of courts, including whether the tribal government operates courts of Indian offenses as defined in 25 U.S.C. 1301 or CFR courts under 25 CFR 11 et seq.

"(2) Applications shall be in such form as the Director may prescribe and shall specify the nature of the program proposed by the applicant tribe, the data and information on which the program is based, and the extent to which the program plans to use or incorporate existing services available in the Indian country where the grant will be used.

"(3) The term of any grant shall be for a minimum of 3 years.

"(e) Grantee Reporting.—At the end of the first 12 months of the grant period and at the end of each year thereafter, the Indian tribal granted shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

“(f) DEFINITIONS.—(1) The term ‘Indian tribe’ means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

“(2) The term ‘Indian country’ has the meaning given to such term by section 1151 of title 18, United States Code.

“Subpart 3—General Terms and Conditions

“SEC. 1431. GENERAL DEFINITIONS.

“As used in this part—

“(1) the term ‘victim services program’ means any public or private nonprofit program that assists victims, including (A) nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process and (B) victim/witness programs within governmental entities;

“(2) the term ‘sexual assault’ includes not only assaults committed by offenders who are strangers to the victim but also assaults committed by offenders who are known or related by blood or marriage to the victim; and

“(3) the term ‘domestic violence’ includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse, or any other person similarly situated to a spouse who is protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

“SEC. 1432. GENERAL TERMS AND CONDITIONS.

“(a) NONMONETARY ASSISTANCE.—In addition to the assistance provided under subparts 1 or 2, the Director may direct any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts.

“(b) BUREAU REPORTING.—No later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Judiciary Committees of the House and the Senate a report that includes, for each high intensity crime area (as provided in subpart 1) and for each State and for each grantee Indian tribe (as provided in subpart 2)—

“(1) the amount of grants made under this part;

“(2) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

“(3) a copy of each grantee report filed pursuant to sections 1412(g) and 1421(f).

“(c) REGULATIONS.—No later than 45 days after the date of enactment of this part, the Director shall publish proposed regulations implementing this part. No later than 120 days after such date, the Director shall publish final regulations implementing this part.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year 1992, 1993, and 1994, $100,000,000 to carry out the purposes of subpart 1, and $190,000,000 to carry out the purposes of subpart 2, and $10,000,000 to carry out the purposes of section 1422 of subpart 2.”.

Subtitle C—Safety for Women in Public Transit and Public Parks

SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

Section 24 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

“GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION

“SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, and not to exceed $10,000,000, the Secretary shall make capital grants for the prevention of crime and to increase security in existing and future public transportation systems. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

“(b) GRANTS FOR LIGHTING, CAMERA SURVEILLANCE, AND SECURITY PHONES.—

“(1) From the sums authorized for expenditure under this section for crime prevention, the Secretary is authorized to make grants and loans to States and local public bodies or agencies for the purpose of increasing the safety of public transportation by—

“(A) increasing lighting within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

“(B) increasing camera surveillance of areas within and adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

“(C) providing emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages; or

“(D) any other project intended to increase the security and safety of existing or planned public transportation systems.

“(2) From the sums authorized under this section, at least 75 percent shall be expended on projects of the type described in subsection (b)(1) (A) and (B).

“(c) REPORTING.—All grants under this section are contingent upon the filing of a report with the Secretary and the Department of Justice, Office of Victims of Crime, showing crime rates in or adjacent to public transportation before, and for a 1-year period after, the capital improvement. Statistics shall be broken down by type of crime, sex, race, and relationship of victim to the offender.

“(d) INCREASED FEDERAL SHARE.—Notwithstanding any other provision of this Act, the Federal share under this section for each capital improvement project which enhances the safety and security of public transportation systems and which is not required by law (including any other provision of this chapter) shall be 90 percent of the net project cost of such project.

“(e) SPECIAL GRANTS FOR PROJECTS TO STUDY INCREASING SECURITY FOR WOMEN.—From the sums authorized under this section, the Secretary shall provide grants and loans for the purpose of studying ways to reduce violent crimes against women in public transit through better design or operation of public transit systems.

“(f) GENERAL REQUIREMENTS.—All grants or loans provided under this section shall be subject to all the terms, conditions, requirements, and provisions applicable to grants and loans made under section 2(a).”.

SEC. 132. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN NATIONAL PARKS.

The Act of August 18, 1970, the National Park System Improvements in Administration Act (90 Stat. 1931; 16 U.S.C. 1a-1 et seq.) is amended by adding at the end thereof the following:

“SEC. 13. NATIONAL PARK SYSTEM CRIME PREVENTION ASSISTANCE.

“(a) From the sums authorized pursuant to section 7 of the Land and Water Conservation Act of 1965, and not to exceed $10,000,000, the Secretary of the Interior is authorized to provide Federal assistance to reduce the incidence of violent crime in the National Park System.

“(b) The Secretary shall direct the chief official responsible for law enforcement within the National Park Services to—

“(1) compile a list of areas within the National Park System with the highest rates of violent crime;

“(2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and

“(3) publish the information required by paragraphs (1) and (2) in the Federal Register.

“(c) No later than 120 days after the date of enactment of this section, and based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute funds throughout the National Park Service. Priority shall be given to those areas with the highest rates of sexual assault.

“(d) Funds provided under this section may be used for the following purposes—

“(1) to increase lighting within or adjacent to public parks and recreation areas;

“(2) to provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

“(3) to increase security or law enforcement personnel within or adjacent to public parks and recreation areas; and

“(4) any other project intended to increase the security and safety of public parks and recreation areas.”.

SEC. 133. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC PARKS.

Section 6 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 4601–8) is amended by adding at the end thereof the following new subsection:

“(h) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed $15,000,000 in total, for the following types of projects or combinations thereof:

“(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

“(A) increase lighting within or adjacent to public parks and recreation areas;

“(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

“(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding the terms of subsection (c), the Secretary is authorized to provide 70 percent improvement grants for projects undertaken by any State for the purposes outlined in this subsection. The remaining share of the cost shall be borne by the State.".

Subtitle D—National Commission on Violent Crime Against Women

SEC. 141. ESTABLISHMENT.

There is established a commission to be known as the National Commission on Violent Crime Against Women (hereinafter referred to as "the Commission").

SEC. 142. DUTIES OF COMMISSION.

(a) GENERAL PURPOSE OF THE COMMISSION.—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crime against women.

(b) FUNCTIONS.—The Commission shall perform the following functions—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence; and

(9) evaluate and make recommendations regarding the feasibility of maintaining the confidentiality of addresses of domestic violence victims in voting, welfare, and public records.

SEC. 143. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) three of whom shall be—

(I) the Attorney General;

(II) the Secretary of Health and Human Services; and

(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of sexual assault or domestic violence.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) CONGRESSIONAL COMMITTEE RECOMMENDATIONS.—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) REQUIREMENTS OF APPOINTMENTS.—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their experience in State or national efforts to fight violence against women and demonstrate experience in State or national advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of law enforcement, prosecution, judicial administration, legal expertise, public health, social work, victim compensation boards, and victim advocacy.

(4) TERM OF MEMBERS.—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) VACANCY.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) CHAIRMAN.—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) MEETINGS.—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least six times.

(e) PAY.—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) PER DIEM.—Except as provided in subsection (e), members of the Commission shall be allowed travel and other expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) DEADLINE FOR APPOINTMENT.—Not later than 45 days after the date of the enactment of this Act, the members of the Commission shall be appointed.

SEC. 144. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

SEC. 145. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable under GS–18 of the General Schedule as contained in title 5, United States Code.

(b) STAFF.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 146. POWERS OF COMMISSION.

(a) HEARINGS.—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) DELEGATION.—Any member or employee of the Commission may, if authorized by the

Commission, take any action that the Commission is authorized to take under this subtitle.

(c) ACCESS TO INFORMATION.—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chairman of the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 147. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $500,000 to carry out the purposes of this subtitle.

SEC. 148. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed one year.

Subtitle E—New Evidentiary Rules

SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

The Federal Rules of Evidence are amended by inserting after rule 412 the following:

"Rule 412A. Evidence of victim's past behavior in other criminal cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, reputation or opinion evidence of the past sexual behavior of an alleged victim is not admissible.

"(b) ADMISSIBILITY.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, evidence of an alleged victim's past sexual behavior (other than reputation and opinion evidence) may be admissible if—

"(1) the evidence is admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of the evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the alleged victim's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the alleged victim.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

The Federal Rules of Evidence, as amended by section 151 of this Act, are amended by adding after rule 412A the following:

"Rule 412B. Evidence of past sexual behavior in civil cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

"(b) ADMISSIBLE EVIDENCE.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

"(1) admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of such evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the plaintiff's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the plaintiff.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the plaintiff and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies evidence which may be offered and areas with respect to which the plaintiff may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

"(d) DEFINITIONS.—For purposes of this rule, a case involving a claim of actionable sexual misconduct, includes, but is not limited to, sex harassment or discrimination claims brought pursuant to title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)) and gender bias claims brought pursuant to title III of the Violence Against Women Act of 1991.".

SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end thereof the following:

"(e) INTERLOCUTORY APPEAL.—Notwithstanding any other provision of law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

"(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim."; and

(2) by adding at the end of subdivision (c)(3) the following: "In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 154. EVIDENCE OF CLOTHING.

The Federal Rules of Evidence are amended by adding after rule 412 the following:

"Rule 413. Evidence of victim's clothing as inciting violence

"Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged.".

Subtitle F—Assistance to Victims of Sexual Assault

SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended as follows:

(1) by adding at the end thereof the following new section:

"§ 1910A. Use of allotments for rape prevention education

"(a) Notwithstanding the terms of section 1904(a)(1) of this title, amounts transferred by the State for use under this part may be used for rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities, which programs may include—

"(1) educational seminars;

"(2) the operation of hotlines;

"(3) training programs for professionals;

"(4) the preparation of informational materials; and

"(5) other efforts to increase awareness of the facts about, or to help prevent, sexual assault.

"(b) States providing grant monies must assure that at least 15 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) There are authorized to be appropriated under this section for each fiscal year 1992, 1993, and 1994, $65,000,000 to carry out the purposes of this section.

"(d) Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) For purposes of this section, the term 'rape prevention and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim.

"(f) States shall be allotted funds under this section pursuant to the terms of sections 1902 and 1903, and subject to the conditions provided in this section and sections 1904 through 1909.";

(2) striking section 1901(b); and

(3) striking section 1904(a)(1)(G).

SEC. 162. RAPE EXAM PAYMENTS.

No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 unless the State or other grantee incurs the full cost of forensic medical exams for victims of sexual assault. A State or other grantee does not incur the full medical cost of forensic medical exams if it chooses to reimburse the victim after the fact unless the reimbursement program waives any minimum loss or deductible requirement, provides victim reimbursement within a reasonable time (90 days), permits applications for reimbursement within one year from the date of the exam, and provides information to all subjects of forensic medical exams about how to obtain reimbursement.

TITLE II—SAFE HOMES FOR WOMEN

SEC. 201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1990".

Subtitle A—Interstate Enforcement

SEC. 211. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

"Chapter 110A—Violence Against Spouses

"Sec. 2261. Traveling to commit spousal abuse.
"Sec. 2262. Interstate violation of protection orders.
"Sec. 2263. Restitution.
"Sec. 2264. Full faith and credit given to protection orders.
"Sec. 2265. Definitions for chapter.

"§ 2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner; or

"(2) for the purpose of harassing, intimidating, or injuring a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner,

shall be fined not more than $1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner, shall be fined not more than $1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(c) NO STATE LAW.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, a person violating this section shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

"(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§ 2262. Interstate violation of protection orders

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

"(2) for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c) of this section.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c) of this section.

"(c) PENALTIES.—

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than six months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§ 2263. Interim protections

"In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the protection of an abused spouse or intimate partner pending final adjudication of the case, upon a showing of a likelihood of danger to the abused spouse or intimate partner.

"§ 2264. Restitution

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to subsection (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation; and

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the offender, including obligations to dependents.

"(B) An order under this section may direct the defendant to make a single lump-sum payment, or partial payments at specified intervals. The order shall provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(C) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) Proof of Claim.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or his delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) Restitution and Criminal Penalties.—An award of restitution to the victim of an offense under this chapter shall not be a substitute for imposition of punishment under sections 2261 and 2262.

"(e) Definitions.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.

"§ 2265. Full faith and credit given to protection orders

"(a) Full Faith and Credit.—Any protection order issued consistent with the terms of subsection (b) by the court of one State (the issuing State) shall be accorded full faith and credit by the court of another State (the enforcing State) and enforced as if it were the order of the enforcing State.

"(b) Protection Order.—A protection order issued by a State court is consistent with the provisions of this section if—

"(1) such court has jurisdiction over the parties and matter under the law of such State; and

"(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

"(c) Cross or Counter Petition.—A protection order issued by a State court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

"(1) no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or

"(2) if a cross or counter petition has been filed, if the court did not make specific findings that each party was entitled to such an order.

"§ 2266. Definitions for chapter

"As used in this chapter—

"(1) the term 'spouse or intimate partner' includes—

"(A) a present or former spouse, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

"(B) any other person similarly situated to a spouse, other than a child, who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

"(2) the term 'protection order' includes any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except those done in self-defense, that results in physical injury or sexual abuse;

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

"(5) the term 'travel across State lines' includes any such travel except travel across State lines by an Indian tribal member when that member remained at all times on tribal lands.".

(b) Table of Chapters.—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

"110A. Violence against spouses .... 2261.".

Subtitle B—Arrest in Spousal Abuse Cases

SEC. 221. ENCOURAGING ARREST POLICIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10400) is amended by adding after section 311 the following:

"SEC. 312. ENCOURAGING ARREST POLICIES.

"(a) Purpose.—To encourage States, Indian tribes and localities to treat spousal violence as a serious violation of criminal law, the Secretary is authorized to make grants to eligible States, Indian tribes, municipalities, or local government entities for the following purposes:

"(1) to implement pro-arrest programs and policies in police departments and to improve tracking of cases involving spousal abuse;

"(2) to centralize and coordinate police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges;

"(3) to educate judges in criminal and other courts about spousal abuse and to improve judicial handling of such cases.

"(b) Eligibility.—(1) Eligible grantees are those States, Indian tribes, municipalities or other local government entities that—

"(A) demonstrate, through arrest and conviction statistics, that their laws or policies have been effective in significantly increasing the number of arrests made of spouse abusers; and

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed or mandate arrest of spouses violating the terms of a valid and outstanding protection order; or

"(ii) permit warrantless misdemeanor arrests of spouse abusers and encourage the use of that authority;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser and the increase in arrest rates demonstrated pursuant to paragraph (1)(A) is not the result of increased dual arrests; and

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protective order, and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim.

"(2) For purposes of this section, the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

"(3) For purposes of this section, the term 'spousal or spouse abuse' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabited with the victim as a spouse, or any other person protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(4) The eligibility requirements provided in this section shall take effect one year after the date of enactment of this section.

"(c) DELEGATION AND AUTHORIZATION.—The Secretary shall delegate to the Attorney General of the United States the Secretary's responsibilities for carrying out this section to the Attorney General. There are authorized to be appropriated not in excess of $25,000,000 for each fiscal year to be used for the purpose of making grants under this section.

"(d) APPLICATION.—An eligible grantee shall submit an application to the Secretary. Such application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribes, municipality, or local government entity that the conditions of subsection (b) are met;

"(2) describe the entity's plans to further the purposes listed in subsection (a);

"(3) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(4) identify and include documentation showing the nonprofit nongovernmental victim services programs that will be consulted in developing, and implementing, the program.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a grantee that—

"(1) does not currently provide for centralized handling of cases involving spousal or family violence in any one of the areas listed in this subsection—police, prosecutors, and courts; and

"(2) demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving spousal or family violence.

"(f) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described in subsection (d)(2) and containing such additional information as the Secretary may prescribe.

"(g) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.".

Subtitle C—Funding for Shelters

SEC. 231. AUTHORIZATION.

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

"SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out the provisions of this title, $85,000,000 for fiscal year 1992, $100,000,000, for fiscal year 1993, and $125,000,000 for fiscal year 1994.

"(b) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 80 percent shall be used by the Secretary for making grants under section 303.

"(c) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not more than 5 percent shall be used by the Secretary for making grants under section 314.

"(d) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 5 percent shall be used by the Secretary for making grants under section 308A.".

Subtitle D—Family Violence Prevention and Services Act Amendments

SEC. 241. EXPANSION OF PURPOSE.

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent" and by striking "demonstrate the effectiveness of assisting" and inserting "assist".

SEC. 242. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.

(a) INCREASING PUBLIC AWARENESS.—Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

(b) EXPANSION OF PROGRAM.—Section 303(a)(2)(B)(ii) is amended by striking "alcohol and drug abuse treatment".

SEC. 243. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

"GRANTS FOR PUBLIC INFORMATION CAMPAIGNS

"SEC. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) An application submitted under subsection (b) shall—

"(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk.".

SEC. 244. FUND DISTRIBUTION TO STATES.

Section 304(a)(1) of the Family Violence Prevention and Services Act is amended by striking "$50,000" and inserting "$500,000".

SEC. 245. INDIAN TRIBES.

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "from sums appropriated shall make no less than 10 percent available for".

SEC. 246. FUNDING LIMITATIONS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by—

(1) striking ", and" and all that follows through "fiscal years"; and

(2) striking "$50,000" and inserting "$75,000".

SEC. 247. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: "No grant may be made under this section to an entity other than a State or Indian tribe unless the entity provides 35 percent of the funding of the program or project funded by the grant.".

SEC. 248. SHELTER AND RELATED ASSISTANCE.

(a) CHANGE OF PERCENTAGES.—Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended by striking "not less than 60 percent" and inserting "not less than 75 percent".

(b) DEFINITION OF RELATED ASSISTANCE.—Section 309(5) of the Family Violence Prevention and Services Act is amended to read as follows:

"(5) The term 'related assistance' includes any, but does not require all, of the following—

"(A) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(B) transportation, legal assistance, referrals for appropriate health-care services (including alcohol and drug abuse treatment), and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(C) comprehensive counseling and self-help services to abusers, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services and employment training; and

"(D) child care services for children who are victims of family violence or the dependents of such victims.".

SEC. 249. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.

Section 311 of the Family Violence Protection and Services Act (42 U.S.C. 10410(b)) is repealed.

SEC. 250. REPORT ON RECORDKEEPING.

Not later than 120 days after the date of enactment of this Act, the Government Accounting Office shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine efforts to date of the FBI and Justice Department to collect statistics on domestic violence and the feasibility of, including a suggested timetable for, requiring that the relationship between an offender and victim be reported in Federal and State records of crimes of assault, aggravated assault, rape, and other violent crimes.

SEC. 251. MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.

The Family Violence Prevention Services Act, as amended by section 103 of this Act, is amended by adding at the end thereof the following new section:

"MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION

"SEC. 315. (a) The Secretary, in cooperation with the Attorney General, shall award grants to not less than 10 States to assist in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

"(1) increase the number of prosecutions for domestic violence crimes;

"(2) encourage the reporting of incidences of domestic violence;

"(3) facilitate 'arrests and aggressive' prosecution policies; and

"(4) provides court advocacy for victims of domestic violence.

"(b) To be designated as a model State under subsection (a), a State shall have in effect—

"(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

"(2) a law or policy that discourages * * *

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judiciaes 'dual' arrests;

"(3) statewide prosecution policies that—

"(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

"(4) statewide laws, policies, or guidelines for judges that—

"(A) prohibit the issuance of mutual protective orders in cases where only one spouse has sought a protective order and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim;

"(B) require that any history of child abuse be considered detrimental to the child and discourage custody or joint custody orders by spouse abusers; and

"(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute;

"(5) develop and disseminate methods to improve the criminal justice system's response to domestic violence to make existing remedies as easily available as possible to victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

"(c)(1) In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section $25,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) Funds shall be distributed under this section so that no State shall receive more than $2,500,000 in each fiscal year under this section.

"(3) The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section.".

SEC. 252. FUNDING FOR TECHNICAL ASSISTANCE CENTERS.

The Family Violence Prevention and Services Act is amended by inserting after section 308 the following:

"SEC. 308A. TECHNICAL ASSISTANCE CENTERS.

"(a) PURPOSE.—The purpose of this section is to provide training and technical assistance to State, Indian tribal, and local domestic violence programs and to other professionals who provide services to victims of domestic violence. From the sums authorized under this title, the Secretary shall provide grants to or contract with, private nonprofit organizations, for the establishment and maintenance of one national and six special-issue resource centers serving defined geographic areas. One national resource center shall offer resource, policy, and/or training assistance to Federal, State, Indian tribal, and local government agencies on issues pertaining to domestic violence and serve a coordinating and resource-sharing function among domestic violence service providers, and maintain a central resource library. The other national resource centers shall provide information, training and technical assistance to State, tribal and local domestic violence service providers. In addition, each national center shall specialize in one of the following areas of domestic violence service, prevention or law:

"(1) criminal justice response to domestic violence, including court-mandated abuser treatment;

"(2) child custody issues in domestic violence cases;

"(3) use of the self-defense plea by domestic violence victims;

"(4) health care response and access to health care resources for domestic violence victims;

"(5) victims' access to, and quality of, effective legal assistance, including civil litigation; and

"(6) the response of child protective service agencies to battered mothers of abused children.

"(b) ELIGIBILITY.—Eligible grantees are private non-profit organizations that—

"(1) focus primarily on domestic violence;

"(2) provide documentation to the Secretary demonstrating a minimum of three years experience with issues of domestic violence, particularly in the specific area for which it is applying;

"(3) include on its advisory boards representatives from domestic violence programs who are geographically and culturally diverse; and

"(4) demonstrate strong support from domestic violence advocates for their designation as the special-issue resource center.

"(c) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described and containing such additional information as the Secretary may prescribe.

"(d) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section.".

Subtitle E—Youth Education and Domestic Violence

SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate his powers to the Secretary of Education, hereinafter referred to as the "Secretary". The Secretary shall select, implement and evaluate four model programs for education of young people about domestic violence and violence among intimate partners.

(b) NATURE OF PROGRAM.—The Secretary shall select, implement and evaluate separate model programs for four different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. These model programs shall be selected, implemented, and evaluated with the input of educational experts, legal and psychological experts on battering, and victim advocate organizations such as battered women's shelters, State coalitions and resource centers. The participation of each of these groups or individual consultants from such groups is essential to the selection, implementation, and evaluation of programs that meet both the needs of educational institutions and the needs of the domestic violence problem.

(c) REVIEW AND DISSEMINATION.—Not later than 24 months after the date of enactment of this Act, the Secretary shall transmit the design and evaluation of the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.

(d) AUTHORIZATION.—There are authorized to be appropriated under this section for fiscal year 1992, $400,000 to carry out the purposes of this section.

Subtitle F—Confidentiality for Abused Persons

SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.

No later than 90 days after the enactment of this Act, the Postmaster General shall promulgate regulations to secure the confidentiality of abused persons' addresses or otherwise prohibit the disclosure of an abused person's address consistent with the following guidelines:

(1) confidentiality shall be provided upon the presentation to an appropriate postal official of an existing and valid court order for the protection of an abused spouse;

(2) disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited; and

(3) compilations of addresses existing at the time the order is presented to an appropriate postal official shall be excluded from the scope of the proposed regulations.

TITLE III—CIVIL RIGHTS

SEC. 301. CIVIL RIGHTS.

(a) FINDINGS.—The Congress finds that—

(1) crimes motivated by the victim's gender constitute bias crimes in violation of the

victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for gender crimes committed on the street or in the home; and

(3) State and Federal criminal laws do not adequately protect against the bias element of gender-motivated crimes, which separates these crimes from acts of random violence, nor do those laws adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests;

(4) existing bias and discrimination in the criminal justice system often deprives victims of gender-motivated crimes of equal protection of the laws and the redress to which they are entitled;

(5) gender-motivated violence has a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business, and in places involved, in interstate commerce;

(6) gender-motivated violence has a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products;

(7) a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse effects of gender-motivated violence on interstate commerce; and

(8) victims of gender-motivated violence have a right to equal potection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

(b) Rights, Privileges and Immunities.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) Cause of Action.—Any person, including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State, who commits a crime of violence motivated by gender and thus deprives another of the rights, privileges or immunities secured by the Constitution or laws as enumerated in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as the court may deem appropriate.

(d) Definitions.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in this section, including rape, sexual assault, sexual abuse, abusive sexual contact, or any other crime of violence committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) Limitation and Procedures.—

(1) Limitation.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) No prior criminal action.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

SEC. 302. CONFORMING AMENDMENT.

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: ", or title III of the Violence Against Women Act of 1991,".

TITLE IV—SAFE CAMPUSES FOR WOMEN

SEC. 401. SHORT TITLE.

This title may be cited as the "Safe Campuses for Women Act of 1990".

SEC. 402. FINDINGS.

The Congress finds that—

(1) rape prevention and education programs are essential to an educational environment free of fear for students' personal safety;

(2) sexual assault on campus, whether by fellow students or not, is widespread among the Nation's higher education institutions: experts estimate that 1 in 7 of the women now in college have been raped and over half of college rape victims know their attackers;

(3) sexual assault poses a grave threat to the physical and mental well-being of students and may significantly impair the learning process; and

(4) action by schools to educate students may make substantial inroads on the incidence of rape, including the incidence of acquaintance rape on campus.

SEC. 403. GRANTS FOR CAMPUS RAPE EDUCATION.

Title X of the Higher Education Act of 1965 is amended to add at the end thereof the following:

"PART D—GRANTS FOR CAMPUS RAPE EDUCATION."

SEC. 1071. GRANTS FOR CAMPUS RAPE EDUCATION.

"(a) In General.—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for rape education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

"(b) General Rape Prevention and Education Grants.—Grants under this section shall be used to educate and provide support services to student victims of rape or sexual assault. Grants may be used for the following purposes:

"(1) to provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of rape, sexual assault, and other gender-motivated crimes;

"(2) to develop, disseminate, or implement campus security and student disciplinary policies to prevent and discipline rape, sexual assault and other gender-motivated crimes;

"(3) to develop, enlarge or strengthen support services programs including medical or psychological counseling to assist victims' recovery from rape, sexual assault, or other gender-motivated crimes;

"(4) to create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action; and

"(5) to implement, operate, or improve rape education and prevention programs, including programs making use of peer-to-peer education.

"(c) Model Grants.—Not less than 25 percent of the funds authorized under this section shall be available for grants for model demonstration programs to be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student rape victims.

"(d) Eligibility.—No institution of higher education or consortium of such institutions shall be eligible for a grant under this section unless—

"(1) its student code of conduct, or other written policy governing student behavior, explicitly prohibits not only rape but all forms of sexual assault; and

"(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual assault the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual assault: *Provided*, That nothing in this section shall be interpreted to authorize disclosure to any person other than the victim.

"(e) Applications.—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—

"(A) set forth the activities and programs to be carried out with funds granted under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) explain how the program intends to address the issue of acquaintance rape;

"(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

"(e) Grantee Reporting.—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) Except as otherwise provided, the terms used in this part shall have the meaning provided under section 2981 of this title.

"(2) For purposes of this subchapter, the following terms have the following meanings:

"(A) The term 'rape education and prevention' includes programs that provide educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual assault.

"(B) The term 'Secretary' means the Secretary of Education.

"(g) GENERAL TERMS AND CONDITIONS.—(1) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.

"(2) No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

"(A) the amount of grants made under this section;

"(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(C) a copy of each grantee report filed pursuant to subsection (e) of this section.

"(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated $20,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995.".

SEC. 404. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.

Section 204(f) of the Crime Awareness and Campus Security Act of 1990 is amended to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

"(i) murder;

"(ii) rape or sexual assault;

"(iii) robbery;

"(iv) aggravated assault;

"(v) burglary; and

"(vi) motor vehicle theft.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

SECTION 501. SHORT TITLE.

This title may be cited as the "Equal Justice for Women in the Courts Act of 1991".

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

SEC. 511. GRANTS AUTHORIZED.

The State Justice Institute is authorized to award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SEC. 512. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the batterer, to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel, and the legitimate reasons why victims of domestic violence may refuse to testify against a defendant;

(18) the need for orders of protection, and the implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence cases;

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims; and

(20) current information on the impact of pornography on crimes against women, or data on other activities that tend to degrade women.

SEC. 513. COOPERATION IN DEVELOPING PROGRAMS IN MAKING GRANTS UNDER THIS TITLE.

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this subtitle are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 514. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $600,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

SEC. 521. EDUCATION AND TRAINING GRANTS.

(a) STUDY.—The Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use of data collection techniques such as reviews of trial and appellate opinions and transcripts, public hearings, and inquiries to attorneys practicing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) MODEL PROGRAMS.—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 512 of subtitle A; and

(B) all procedural and substantive aspects of the legal rights and remedies for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

SEC. 522. COOPERATION IN DEVELOPING PROGRAMS.

In implementing this subtitle, the Federal Judicial Center shall ensure that the study and model programs are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 523. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $400,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 521(a) of this subtitle.

SPECTER AMENDMENT NOS. 712 THROUGH 714

(Ordered to lie on the table.)

Mr. SPECTER submitted three amendments intended to be proposed by him to amendment No. 514 to the bill S. 1241, supra; as follows:

AMENDMENT NO. 712

(1) On Page 6, line 12; replace "$10,000" with "$8,000"; on line 18, replace "$13,333" with "$10,666"; on line 21, replace "$40,000" with "$32,000".

(2) On Page 7, line 19, replace "$10,000" with "$8,000"; on line 25, replace "$13,333" with "$10,666"; on Page 8, line 3, replace "$40,000" with "$32,000".

(3) On Page 8, line 6, strike the period at the end of the sentence and insert the following: ", except that

"(1) scholarships may be used for graduate and professional study, and

"(2) where a participant has enrolled in the program upon or after transfer to a four-year institution of higher education, the Director may reimburse the participant for the participant's prior educational expenses.".

(4) On Page 10, line 16, strike "in this section." and insert in lieu thereof "in this section for any course of study in any accredited institution of higher education."

(5) On Page 14, strike lines 17-20 and insert the following in lieu thereof: "efforts to seek and recruit applicants from among members of all racial, ethnic or gender groups. This subsection—".

(6) On Page 15, line 24, insert the following new subparagraph (3):

"(3) A participant who requests a leave of absence from educational study or training for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence.

(7) On Page 31, strike Lines 4 through 8 and insert the following in lieu thereof:

"(1) members of all racial, ethnic and gender groups;

AMENDMENT NO. 713

(1) On Page 6, line 12; replace "$10,000" with "$7,000"; on line 18, replace "$13,333" with "$9,333"; on line 21, replace "$40,000" with "$28,000".

(2) On Page 7, line 19, replace "$10,000" with "$7,000"; on line 25, replace "$13,333" with "$9,333"; on Page 8, line 3, replace "$40,000" with "$28,000".

(3) On Page 8, line 6, strike the period at the end of the sentence and insert the following: ", except that

"(1) scholarships may be used for graduate and professional study, and

"(2) where a participant has enrolled in the program upon or after transfer to a four-year institution of higher education, the Director may reimburse the participant for the participant's prior educational expenses.".

(4) On Page 10, line 16, strike "in this section." and insert in lieu thereof "in this section for any course of study in any accredited institution of higher education."

(5) On Page 14, strike lines 17-20 and insert the following in lieu thereof: "efforts to seek and recruit applicants from among members of all racial, ethnic or gender groups. This subsection—".

(6) On Page 15, line 24, insert the following new subparagraph (3):

"(3) A participant who requests a leave of absence from educational study or training for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence."

(7) On Page 31, strike lines 4 through 8 and insert the following in lieu thereof:

"(1) members of all racial, ethnic and gender groups;

AMENDMENT NO. 714

(1) On Page 6, line 12, replace "$10,000" with "$7,500"; on line 18, replace "$13,333" with "$10,000"; on line 21, replace "$40,000" with "$30,000".

(2) On Page 7, line 19, replace "$10,000" with "$7,500"; on line 25, replace "$13,333" with "$10,000"; on Page 8, line 3, replace "$40,000" with "$30,000".

(3) On Page 8, line 6, strike the period at the end of the sentence and insert the following: ", except that

"(1) scholarships may be used for graduate and professional study, and

"(2) where a participant has enrolled in the program upon or after transfer to a four-year institution of higher education, the Director may reimburse the participant for the participant's prior educational expenses.".

(4) On Page 10, line 16, strike "in this section." and insert in lieu thereof "in this section for any course of study in any accredited institution of higher education."

(5) On Page 14, strike lines 17 through 20 and insert the following in lieu thereof: "efforts to seek and recruit applicants from among members of all racial, ethnic or gender groups. This subsection—".

(6) On Page 15, line 24, insert the following new subparagraph "(3):

"(3) A participant who requests a leave of absence from educational study or training for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence.".

(7) On Page 31, strike lines 4 through 8 and insert the following in lieu thereof:

"(1) members of all racial, ethnic and gender groups;

BIDEN AMENDMENT NO. 715

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to amendment No. 549 submitted by Mr. DOLE to the bill S. 1241, supra, as follows:

Strike everything after the term "Sec." and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violence Against Women Act of 1991".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—SAFE STREETS FOR WOMEN

Sec. 101. Short title.

Subtitle A—Federal Penalties for Sex Crimes

Sec. 111. Repeat offenders.
Sec. 112. Federal penalties.
Sec. 113. Mandatory restitution for sex crimes.

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

Sec. 121. Grants to combat violent crimes against women.

Subtitle C—Safety for Women in Public Transit and Public Parks

Sec. 131. Grants for capital improvements to prevent crime in public transportation.
Sec. 132. Grants for capital improvements to prevent crime in national parks.
Sec. 133. Grants for capital improvements to prevent crime in public parks.

Subtitle D—National Commission on Violent Crime Against Women

Sec. 141. Establishment.
Sec. 142. Duties of commission.
Sec. 143. Membership.
Sec. 144. Reports.
Sec. 145. Executive Director and staff.
Sec. 146. Powers of commission.
Sec. 147. Authorization of appropriations.
Sec. 148. Termination.

Subtitle E—New Evidentiary Rules

Sec. 151. Sexual history in all criminal cases.
Sec. 152. Sexual history in civil cases.
Sec. 153. Amendments to rape shield law.
Sec. 154. Evidence of clothing.

Subtitle F—Assistance to Victims of Sexual Assault

Sec. 161. Education and prevention grants to reduce sexual assaults against women.
Sec. 162. Rape exam payments.

TITLE II—SAFE HOMES FOR WOMEN

Sec. 201. Short title.

Subtitle A—Interstate Enforcement

Sec. 211. Interstate enforcement.

Subtitle B—Arrest in Spousal Abuse Cases

Sec. 221. Encouraging arrest policies.

Subtitle C—Funding for Shelters

Sec. 231. Authorization.

Subtitle D—Family Violence Prevention and Services Act Amendments

Sec. 241. Expansion of purpose.
Sec. 242. Expansion of State demonstration grant program.
Sec. 243. Grants for public information campaigns.
Sec. 244. State commissions on domestic violence.
Sec. 245. Indian tribes.
Sec. 246. Funding limitations.
Sec. 247. Grants to entities other than States; local share.
Sec. 248. Shelter and related assistance.
Sec. 249. Law enforcement training and technical assistance grants.
Sec. 250. Report on recordkeeping.
Sec. 251. Model State leadership incentive grants for domestic violence intervention.
Sec. 252. Funding for technical assistance centers.

Subtitle E—Youth Education and Domestic Violence

Sec. 261. Educating youth about domestic violence.

Subtitle F—Confidentiality for Abused Persons

Sec. 271. Confidentiality for abused persons.

TITLE III—CIVIL RIGHTS

Sec. 301. Civil rights.

TITLE IV—SAFE CAMPUSES FOR WOMEN

Sec. 401. Short title.
Sec. 402. Findings.
Sec. 403. Grants for campus rape education.
Sec. 404. Disclosure of disciplinary proceedings in sex assault cases on campus.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

Sec. 501. Short title.

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

Sec. 511. Grants authorized.
Sec. 512. Training provided by grants.
Sec. 513. Cooperation in developing programs in making grants under this title.

Sec. 514. Authorization of appropriations.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

Sec. 521. Education and training grants.
Sec. 522. Cooperation in developing programs.
Sec. 523. Authorization of appropriations.

TITLE I—SAFE STREETS FOR WOMEN

SEC. 101. SHORT TITLE.

This title may be cited as the "Safe Streets for Women Act of 1991".

Subtitle A—Federal Penalties for Sex Crimes

SEC. 111. REPEAT OFFENDERS.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2247. Repeat offenders

"Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2247. Repeat offenders.".

SEC. 112. FEDERAL PENALTIES.

(a) RAPE AND AGGRAVATED RAPE.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide that a defendant convicted of aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, shall be assigned a base offense level under chapter 2 of the sentencing guidelines that is at least 4 levels greater than the base offense level applicable to criminal sexual abuse under the guidelines in effect on November 1, 1990, or otherwise shall amend the guidelines applicable to such offenses so as to achieve a comparable minimum guideline sentence. In amending such guidelines, the Sentencing Commission shall review the appropriateness of existing specific offense characteristics or other adjustments applicable to such offenses, and make such changes as it deems appropriate, taking into account the severity of rape offenses, with or without aggravating factors; the unique nature and duration of the mental injuries inflicted on the victims of such offenses; and any other relevant factors.

(b) EFFECT OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instructions set forth in subsection (a) so as to achieve a comparable result.

(c) STATUTORY RAPE.—

(1) Section 2243(b) of title 18, United States Code, is amended by striking "one year," and inserting "two years,".

(2) Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to incorporate the increase in maximum penalties provided by this section for section 2243(b) of title 18, United States Code.

SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or matters related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or his delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2248. Mandatory restitution.".

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) redesignating part N as part O;

(2) redesignating section 1401 as section 1501; and

(3) adding after part M the following:

"PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"SEC. 1401. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribes, cities, and other localities to develop effective law enforcement and prosecution strategies to combat violent crimes against women and, in particular, to focus efforts on those areas with the highest rates of violent crime against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide additional personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing police and prosecution policies, protocols, or orders specifically devoted to identifying and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, prosecutions, and convictions for the crimes of sexual assault and domestic violence; and

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, to increase reporting and reduce attrition rates for cases involving violent crimes against women, including the crimes of sexual assault and domestic violence.

"Subpart 1—High Intensity Crime Area Grants

"SEC. 1411. HIGH INTENSITY GRANTS.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the 'Director') shall make grants to areas of 'high intensity crime' against women.

"(b) DEFINITION.—For purposes of this part, a 'high intensity crime area' means an area with one of the 40 highest rates of violent crime against women, as determined by the Bureau of Justice Statistics pursuant to section 1412.

"SEC. 1412. HIGH INTENSITY GRANT APPLICATION.

"(a) COMPUTATION.—Within 45 days after the date of enactment of this part, the Bureau of Justice Statistics shall compile a list of the 40 areas with the highest rates of violent crime against women based on the combined female victimization rate per population for assault, sexual assault (including, but not limited to, rape), murder, robbery, and kidnapping.

"(b) USE OF DATA.—In calculating the combined female victimization rate required by subsection (a), the Bureau of Justice Statistics may rely on—

"(1) existing data collected by States, municipalities, Indian reservations or statistical metropolitan areas showing the number of police reports of the crimes listed in subsection (a); and

"(2) existing data collected by the Federal Bureau of Investigation, including data from those governmental entities already complying with the National Incident Based Reporting System, showing the number of police reports of crimes listed in subsection (a).

"(c) PUBLICATION.—After compiling the list set forth in subsection (a), the Bureau of Justice Statistics shall convey it to the Director who shall publish it in the Federal Register.

"(d) QUALIFICATION.—Upon satisfying the terms of subsection (e), any high intensity crime area shall be qualified for a grant under this subpart upon application by the chief executive officer of the governmental entities responsible for law enforcement and prosecution of criminal offenses within the area and certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate program grants, with nongovernmental nonprofit victim services programs; and

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(e) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application must provide the certifications required by subsection (d) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (d)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall ensure, to the extent practicable, that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served; and

"(C) give priority to areas with the greatest showing of need.

"(g) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this part. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"Subpart 2—Other Grants to States to Combat Violent Crimes Against Women

"SEC. 1421. GENERAL GRANTS TO STATES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to States, for use by States, units of local government in the States, and nonprofit nongovernmental victim services programs in the States, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be—

"(1) $500,000 to each State; and

"(2) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application shall include the certifications of qualification required by subsection (c) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (c)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(e) DISBURSEMENT.—(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that States will—

"(A) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000;

"(B) determine the amount of subgrants based on the population and geographic area to be served; and

"(C) give priority to areas with the greatest showing of need, as demonstrated by comparing population and geographic areas to be served to the availability of existing sexual assault and domestic violence services.

"(f) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"SEC. 1422. GENERAL GRANTS TO TRIBES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) Amounts.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of $35,000 and maximum grants of $300,000.

"(c) Qualification.—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b); and

"(2) at least 25 percent of the grant funds shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) Application Requirements.—(1) Applications shall be made directly to the Director and shall contain a description of the tribes' law enforcement responsibilities for the Indian country described in the application and a description of the tribes' system of courts, including whether the tribal government operates courts of Indian offenses as defined in 25 U.S.C. 1301 or CFR courts under 25 CFR 11 et seq.

"(2) Applications shall be in such form as the Director may prescribe and shall specify the nature of the program proposed by the applicant tribe, the data and information on which the program is based, and the extent to which the program plans to use or incorporate existing services available in the Indian country where the grant will be used.

"(3) The term of any grant shall be for a minimum of 3 years.

"(e) Grantee Reporting.—At the end of the first 12 months of the grant period and at the end of each year thereafter, the Indian tribal granted shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) Definitions.—(1) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

"(2) The term 'Indian country' has the meaning given to such term by section 1151 of title 18, United States Code.

"Subpart 3—General Terms and Conditions

"SEC. 1431. GENERAL DEFINITIONS.

"As used in this part—

"(1) the term 'victim services program' means any public or private nonprofit program that assists victims, including (A) nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process and (B) victim/witness programs within governmental entities;

"(2) the term 'sexual assault' includes not only assaults committed by offenders who are strangers to the victim but also assaults committed by offenders who are known or related by blood or marriage to the victim; and

"(3) the term 'domestic violence' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse, or any other person similarly situated to a spouse who is protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"SEC. 1432. GENERAL TERMS AND CONDITIONS.

"(a) Nonmonetary Assistance.—In addition to the assistance provided under subparts 1 or 2, the Director may direct any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts.

"(b) Bureau Reporting.—No later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Judiciary Committees of the House and the Senate a report that includes, for each high intensity crime area (as provided in subpart 1) and for each State and for each grantee Indian tribe (as provided in subpart 2)—

"(1) the amount of grants made under this part;

"(2) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(3) a copy of each grantee report filed pursuant to sections 1412(g) and 1421(f).

"(c) Regulations.—No later than 45 days after the date of enactment of this part, the Director shall publish proposed regulations implementing this part. No later than 120 days after such date, the Director shall publish final regulations implementing this part.

"(d) Authorization of Appropriations.—There are authorized to be appropriated for each fiscal year 1992, 1993, and 1994, $100,000,000 to carry out the purposes of subpart 1, and $190,000,000 to carry out the purposes of subpart 2, and $10,000,000 to carry out the purposes of section 1422 of subpart 2.".

Subtitle C—Safety for Women in Public Transit and Public Parks

SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

Section 24 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION

"Sec. 24. (a) General Purpose.—From funds authorized under section 21, and not to exceed $10,000,000, the Secretary shall make capital grants for the prevention of crime and to increase security in existing and future public transportation systems. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

"(b) Grants for Lighting, Camera Surveillance, and Security Phones.—

"(1) From the sums authorized for expenditure under this section for crime prevention, the Secretary is authorized to make grants and loans to States and local public bodies or agencies for the purpose of increasing the safety of public transportation by—

"(A) increasing lighting within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(B) increasing camera surveillance of areas within and adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(C) providing emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages; or

"(D) any other project intended to increase the security and safety of existing or planned public transportation systems.

"(2) From the sums authorized under this section, at least 75 percent shall be expended on projects of the type described in subsection (b)(1) (A) and (B).

"(c) Reporting.—All grants under this section are contingent upon the filing of a report with the Secretary and the Department of Justice, Office of Victims of Crime, showing crime rates in or adjacent to public transportation before, and for a 1-year period after, the capital improvement. Statistics shall be broken down by type of crime, sex, race, and relationship of victim to the offender.

"(d) Increased Federal Share.—Notwithstanding any other provision of this Act, the Federal share under this section for each capital improvement project which enhances the safety and security of public transportation systems and which is not required by law (including any other provision of this chapter) shall be 90 percent of the net project cost of such project.

"(e) Special Grants for Projects To Study Increasing Security for Women.—From the sums authorized under this section, the Secretary shall provide grants and loans for the purpose of studying ways to reduce violent crimes against women in public transit through better design or operation of public transit systems.

"(f) General Requirements.—All grants or loans provided under this section shall be subject to all the terms, conditions, requirements, and provisions applicable to grants and loans made under section 2(a).".

SEC. 132. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN NATIONAL PARKS.

The Act of August 18, 1970, the National Park System Improvements in Administration Act (90 Stat. 1931; 16 U.S.C. 1a-1 et seq.) is amended by adding at the end thereof the following:

"SEC. 13. NATIONAL PARK SYSTEM CRIME PREVENTION ASSISTANCE.

"(a) From the sums authorized pursuant to section 7 of the Land and Water Conservation Act of 1965, and not to exceed $10,000,000, the Secretary of the Interior is authorized to provide Federal assistance to reduce the incidence of violent crime in the National Park System.

"(b) The Secretary shall direct the chief official responsible for law enforcement within the National Park Services to—

"(1) compile a list of areas within the National Park System with the highest rates of violent crime;

"(2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and

"(3) publish the information required by paragraphs (1) and (2) in the Federal Register.

"(c) No later than 120 days after the date of enactment of this section, and based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute funds throughout the National Park Service. Priority shall be given to those areas with the highest rates of sexual assault.

"(d) Funds provided under this section may be used for the following purposes—

"(1) to increase lighting within or adjacent to public parks and recreation areas;

"(2) to provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(3) to increase security or law enforcement personnel within or adjacent to public parks and recreation areas; and

"(4) any other project intended to increase the security and safety of public parks and recreation areas.".

SEC. 133. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC PARKS.

Section 6 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 4601-8) is amended by adding at the end thereof the following new subsection:

"(h) Capital Improvement and Other Projects To Reduce Crime.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed $15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding the terms of subsection (c), the Secretary is authorized to provide 70 percent improvement grants for projects undertaken by any State for the purposes outlined in this subsection. The remaining share of the cost shall be borne by the State.".

Subtitle D—National Commission on Violent Crime Against Women

SEC. 141. ESTABLISHMENT.

There is established a commission to be known as the National Commission on Violent Crime Against Women (hereinafter referred to as "the Commission").

SEC. 142. DUTIES OF COMMISSION.

(a) General Purpose of the Commission.—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crime against women.

(b) Functions.—The Commission shall perform the following functions—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence; and

(9) evaluate and make recommendations regarding the feasibility of maintaining the confidentiality of addresses of domestic violence victims in voting, welfare, and public records.

SEC. 143. MEMBERSHIP.

(a) Number and Appointment.—

(1) Appointment.—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) three of whom shall be—

(I) the Attorney General;

(II) the Secretary of Health and Human Services; and

(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of sexual assault or domestic violence.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) Congressional Committee Recommendations.—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) Requirements of Appointments.—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their experience in State or national efforts to fight violence against women and demonstrate experience in State or national advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of law enforcement, prosecution, judicial administration, legal expertise, public health, social work, victim compensation boards, and victim advocacy.

(4) Term of Members.—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) Vacancy.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) Chairman.—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) Quorum.—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) Meetings.—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least six times.

(e) Pay.—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) Per Diem.—Except as provided in subsection (e), members of the Commission shall be allowed travel and other expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) Deadline for Appointment.—Not later than 45 days after the date of the enactment of this Act, the members of the Commission shall be appointed.

SEC. 144. REPORTS.

(a) In General.—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) Contents.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

SEC. 145. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable under GS–18 of the General Schedule as contained in title 5, United States Code.

(b) STAFF.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 146. POWERS OF COMMISSION.

(a) HEARINGS.—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) DELEGATION.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) ACCESS TO INFORMATION.—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chairman of the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 147. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $500,000 to carry out the purposes of this subtitle.

SEC. 148. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed one year.

Subtitle E—New Evidentiary Rules

SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

The Federal Rules of Evidence are amended by inserting after rule 412 the following:

"Rule 412A. Evidence of victim's past behavior in other criminal cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, reputation or opinion evidence of the past sexual behavior of an alleged victim is not admissible.

"(b) ADMISSIBILITY.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, evidence of an alleged victim's past sexual behavior (other than reputation and opinion evidence) may be admissible if—

"(1) the evidence is admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of the evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the alleged victim's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the alleged victim.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

The Federal Rules of Evidence, as amended by section 151 of this Act, are amended by adding after rule 412A the following:

"Rule 412B. Evidence of past sexual behavior in civil cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

"(b) ADMISSIBLE EVIDENCE.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

"(1) admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of such evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the plaintiff's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the plaintiff.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the plaintiff and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies evidence which may be offered and areas with respect to which the plaintiff may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

"(d) DEFINITIONS.—For purposes of this rule, a case involving a claim of actionable sexual misconduct, includes, but is not limited to, sex harassment or discrimination claims brought pursuant to title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)) and gender bias claims brought pursuant to title III of the Violence Against Women Act of 1991.".

SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end thereof the following:

"(e) INTERLOCUTORY APPEAL.—Notwithstanding any other provision of law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

"(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim."; and

(2) by adding at the end of subdivision (c)(3) the following: "In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B)

why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 154. EVIDENCE OF CLOTHING.

The Federal Rules of Evidence are amended by adding after rule 412 the following:

"Rule 413. Evidence of victim's clothing as inciting violence

"Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged.".

Subtitle F—Assistance to Victims of Sexual Assault

SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended as follows:

(1) by adding at the end thereof the following new section:

"§1910A. Use of allotments for rape prevention education

"(a) Notwithstanding the terms of section 1904(a)(1) of this title, amounts transferred by the State for use under this part may be used for rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities, which programs may include—

"(1) educational seminars;

"(2) the operation of hotlines;

"(3) training programs for professionals;

"(4) the preparation of informational materials; and

"(5) other efforts to increase awareness of the facts about, or to help prevent, sexual assault.

"(b) States providing grant monies must assure that at least 15 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) There are authorized to be appropriated under this section for each fiscal year 1992, 1993, and 1994, $65,000,000 to carry out the purposes of this section.

"(d) Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) For purposes of this section, the term 'rape prevention and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim.

"(f) States shall be allotted funds under this section pursuant to the terms of sections 1902 and 1903, and subject to the conditions provided in this section and sections 1904 through 1909.";

(2) striking section 1901(b); and

(3) striking section 1904(a)(1)(G).

SEC. 162. RAPE EXAM PAYMENTS.

No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 unless the State or other grantee incurs the full cost of forensic medical exams for victims of sexual assault. A State or other grantee does not incur the full medical cost of forensic medical exams if it chooses to reimburse the victim after the fact unless the reimbursement program waives any minimum loss or deductible requirement, provides victim reimbursement within a reasonable time (90 days), permits applications for reimbursement within one year from the date of the exam, and provides information to all subjects of forensic medical exams about how to obtain reimbursement.

TITLE II—SAFE HOMES FOR WOMEN

SEC. 201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1990".

Subtitle A—Interstate Enforcement

SEC. 211. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

"Chapter 110A—Violence Against Spouses

"Sec. 2261. Traveling to commit spousal abuse.
"Sec. 2262. Interstate violation of protection orders.
"Sec. 2263. Restitution.
"Sec. 2264. Full faith and credit given to protection orders.
"Sec. 2265. Definitions for chapter.

"§2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner; or

"(2) for the purpose of harassing, intimidating, or injuring a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner,

shall be fined not more than $1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner, shall be fined not more than $1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(c) NO STATE LAW.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, a person violating this section shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

"(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§2262. Interstate violation of protection orders

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

"(2) for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c) of this section.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c) of this section.

"(c) PENALTIES.—

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than six months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§2263. Interim protections

"In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the protection of an abused spouse or intimate partner pending final adjudication of the case, upon a showing of a likelihood of danger to the abused spouse or intimate partner.

"§ 2264. Restitution

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to subsection (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation; and

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the offender, including obligations to dependents.

"(B) An order under this section may direct the defendant to make a single lump-sum payment, or partial payments at specified intervals. The order shall provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(C) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or his delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) RESTITUTION AND CRIMINAL PENALTIES.—An award of restitution to the victim of an offense under this chapter shall not be a substitute for imposition of punishment under sections 2261 and 2262.

"(e) DEFINITIONS.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.

"§ 2265. Full faith and credit given to protection orders

"(a) FULL FAITH AND CREDIT.—Any protection order issued consistent with the terms of subsection (b) by the court of one State (the issuing State) shall be accorded full faith and credit by the court of another State (the enforcing State) and enforced as if it were the order of the enforcing State.

"(b) PROTECTION ORDER.—A protection order issued by a State court is consistent with the provisions of this section if—

"(1) such court has jurisdiction over the parties and matter under the law of such State; and

"(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

"(c) CROSS OR COUNTER PETITION.—A protection order issued by a State court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

"(1) no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or

"(2) if a cross or counter petition has been filed, if the court did not make specific findings that each party was entitled to such an order.

"§ 2266. Definitions for chapter

"As used in this chapter—

"(1) the term 'spouse or intimate partner' includes—

"(A) a present or former spouse, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

"(B) any other person similarly situated to a spouse, other than a child, who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

"(2) the term 'protection order' includes any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except those done in self-defense, that results in physical injury or sexual abuse;

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

"(5) the term 'travel across State lines' includes any such travel except travel across State lines by an Indian tribal member when that member remained at all times on tribal lands.".

(b) TABLE OF CHAPTERS.—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

"110A. Violence against spouses .... 2261.".

Subtitle B—Arrest in Spousal Abuse Cases

SEC. 221. ENCOURAGING ARREST POLICIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10400) is amended by adding after section 311 the following:

"SEC. 312. ENCOURAGING ARREST POLICIES.

"(a) PURPOSE.—To encourage States, Indian tribes and localities to treat spousal violence as a serious violation of criminal law, the Secretary is authorized to make grants to eligible States, Indian tribes, municipalities, or local government entities for the following purposes:

"(1) to implement pro-arrest programs and policies in police departments and to improve tracking of cases involving spousal abuse;

"(2) to centralize and coordinate police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges;

"(3) to educate judges in criminal and other courts about spousal abuse and to improve judicial handling of such cases.

"(b) ELIGIBILITY.—(1) Eligible grantees are those States, Indian tribes, municipalities or other local government entities that—

"(A) demonstrate, through arrest and conviction statistics, that their laws or policies have been effective in significantly increasing the number of arrests made of spouse abusers; and

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed or mandate arrest of spouses violating the terms of a valid and outstanding protection order; or

"(ii) permit warrantless misdemeanor arrests of spouse abusers and encourage the use of that authority;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser and the increase in arrest rates demonstrated pursuant to paragraph (1)(A) is not the result of increased dual arrests; and

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protective order, and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim.

"(2) For purposes of this section, the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

"(3) For purposes of this section, the term 'spousal or spouse abuse' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabited with the victim as a spouse, or any other person protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(4) The eligibility requirements provided in this section shall take effect one year after the date of enactment of this section.

"(c) DELEGATION AND AUTHORIZATION.—The Secretary shall delegate to the Attorney General of the United States the Secretary's responsibilities for carrying out this section to the Attorney General. There are authorized to be appropriated not in excess of $25,000,000 for each fiscal year to be used for the purpose of making grants under this section.

"(d) APPLICATION.—An eligible grantee shall submit an application to the Secretary. Such application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribes, municipality, or local government entity that the conditions of subsection (b) are met;

"(2) describe the entity's plans to further the purposes listed in subsection (a);

"(3) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(4) identify and include documentation showing the nonprofit nongovernmental victim services programs that will be consulted in developing, and implementing, the program.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a grantee that—

"(1) does not currently provide for centralized handling of cases involving spousal or family violence in any one of the areas listed in this subsection—police, prosecutors, and courts; and

"(2) demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving spousal or family violence.

"(f) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described in subsection (d)(2) and containing such additional information as the Secretary may prescribe.

"(g) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.".

Subtitle C—Funding for Shelters

SEC. 231. AUTHORIZATION.

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

"SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out the provisions of this title, $85,000,000 for fiscal year 1992, $100,000,000, for fiscal year 1993, and $125,000,000 for fiscal year 1994.

"(b) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 80 percent shall be used by the Secretary for making grants under section 303.

"(c) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not more than 5 percent shall be used by the Secretary for making grants under section 314.

"(d) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 5 percent shall be used by the Secretary for making grants under section 308A.".

Subtitle D—Family Violence Prevention and Services Act Amendments

SEC. 241. EXPANSION OF PURPOSE.

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent" and by striking "demonstrate the effectiveness of assisting" and inserting "assist".

SEC. 242. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.

(a) INCREASING PUBLIC AWARENESS.—Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

(b) EXPANSION OF PROGRAM.—Section 303(a)(2)(B)(ii) is amended by striking "alcohol and drug abuse treatment".

SEC. 243. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

"GRANTS FOR PUBLIC INFORMATION CAMPAIGNS

"SEC. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) An application submitted under subsection (b) shall—

"(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk.".

SEC. 244. FUND DISTRIBUTION TO STATES.

Section 304(a)(1) of the Family Violence Prevention and Services Act is amended by striking "$50,000" and inserting "$500,000".

SEC. 245. INDIAN TRIBES.

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "from sums appropriated shall make no less than 10 percent available for".

SEC. 246. FUNDING LIMITATIONS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by—

(1) striking ", and" and all that follows through "fiscal years"; and

(2) striking "$50,000" and inserting "$75,000".

SEC. 247. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: "No grant may be made under this section to an entity other than a State or Indian tribe unless the entity provides 35 percent of the funding of the program or project funded by the grant.".

SEC. 248. SHELTER AND RELATED ASSISTANCE.

(a) CHANGE OF PERCENTAGES.—Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended by striking "not less than 60 percent" and inserting "not less than 75 percent".

(b) DEFINITION OF RELATED ASSISTANCE.—Section 309(5) of the Family Violence Prevention and Services Act is amended to read as follows:

"(5) The term 'related assistance' includes any, but does not require all, of the following—

"(A) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(B) transportation, legal assistance, referrals for appropriate health-care services (including alcohol and drug abuse treatment), and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(C) comprehensive counseling and self-help services to abusers, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services and employment training; and

"(D) child care services for children who are victims of family violence or the dependents of such victims.".

SEC. 249. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.

Section 311 of the Family Violence Protection and Services Act (42 U.S.C. 10410(b)) is repealed.

SEC. 250. REPORT ON RECORDKEEPING.

Not later than 120 days after the date of enactment of this Act, the Government Accounting Office shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine efforts to date of the FBI and Justice Department to collect statistics on domestic violence and the feasibility of, including a suggested timetable for, requiring that the relationship between an offender and victim be reported in Federal and State records of crimes of assault, aggravated assault, rape, and other violent crimes.

SEC. 251. MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.

The Family Violence Prevention Services Act, as amended by section 103 of this Act, is amended by adding at the end thereof the following new section:

"MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION

"SEC. 315. (a) The Secretary, in cooperation with the Attorney General, shall award grants to not less than 10 States to assist in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

"(1) increase the number of prosecutions for domestic violence crimes;

"(2) encourage the reporting of incidences of domestic violence;

"(3) facilitate 'arrests and aggressive' prosecution policies; and

"(4) provides court advocacy for victims of domestic violence.

"(b) To be designated as a model State under subsection (a), a State shall have in effect—

"(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

"(2) a law or policy that discourages * * *

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judiciaes 'dual' arrests;

"(3) statewide prosecution policies that—

"(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

"(4) statewide laws, policies, or guidelines for judges that—

"(A) prohibit the issuance of mutual protective orders in cases where only one spouse has sought a protective order and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim;

"(B) require that any history of child abuse be considered detrimental to the child and discourage custody or joint custody orders by spouse abusers; and

"(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute;

"(5) develop and disseminate methods to improve the criminal justice system's response to domestic violence to make existing remedies as easily available as possible to victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

"(c)(1) In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section $25,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) Funds shall be distributed under this section so that no State shall receive more than $2,500,000 in each fiscal year under this section.

"(3) The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section.".

SEC. 252. FUNDING FOR TECHNICAL ASSISTANCE CENTERS.

The Family Violence Prevention and Services Act is amended by inserting after section 308 the following:

"SEC. 308A. TECHNICAL ASSISTANCE CENTERS.

"(a) PURPOSE.—The purpose of this section is to provide training and technical assistance to State, Indian tribal, and local domestic violence programs and to other professionals who provide services to victims of domestic violence. From the sums authorized under this title, the Secretary shall provide grants to or contract with, private nonprofit organizations, for the establishment and maintenance of one national and six special-issue resource centers serving defined geographic areas. One national resource center shall offer resource, policy, and/or training assistance to Federal, State, Indian tribal, and local government agencies on issues pertaining to domestic violence and serve a coordinating and resource-sharing function among domestic violence service providers, and maintain a central resource library. The other national resource centers shall provide information, training and technical assistance to State, tribal and local domestic violence service providers. In addition, each national center shall specialize in one of the following areas of domestic violence service, prevention or law:

"(1) criminal justice response to domestic violence, including court-mandated abuser treatment;

"(2) child custody issues in domestic violence cases;

"(3) use of the self-defense plea by domestic violence victims;

"(4) health care response and access to health care resources for domestic violence victims;

"(5) victims' access to, and quality of, effective legal assistance, including civil litigation; and

"(6) the response of child protective service agencies to battered mothers of abused children.

"(b) ELIGIBILITY.—Eligible grantees are private non-profit organizations that—

"(1) focus primarily on domestic violence;

"(2) provide documentation to the Secretary demonstrating a minimum of three years experience with issues of domestic violence, particularly in the specific area for which it is applying;

"(3) include on its advisory boards representatives from domestic violence programs who are geographically and culturally diverse; and

"(4) demonstrate strong support from domestic violence advocates for their designation as the special-issue resource center.

"(c) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described and containing such additional information as the Secretary may prescribe.

"(d) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section.".

Subtitle E—Youth Education and Domestic Violence

SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate his powers to the Secretary of Education, hereinafter referred to as the "Secretary". The Secretary shall select, implement and evaluate four model programs for education of young people about domestic violence and violence among intimate partners.

(b) NATURE OF PROGRAM.—The Secretary shall select, implement and evaluate separate model programs for four different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. These model programs shall be selected, implemented, and evaluated with the input of educational experts, legal and psychological experts on battering, and victim advocate organizations such as battered women's shelters, State coalitions and resource centers. The participation of each of these groups or individual consultants from such groups is essential to the selection, implementation, and evaluation of programs that meet both the needs of educational institutions and the needs of the domestic violence problem.

(c) REVIEW AND DISSEMINATION.—Not later than 24 months after the date of enactment of this Act, the Secretary shall transmit the design and evaluation of the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.

(d) AUTHORIZATION.—There are authorized to be appropriated under this section for fiscal year 1992, $400,000 to carry out the purposes of this section.

Subtitle F—Confidentiality for Abused Persons

SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.

No later than 90 days after the enactment of this Act, the Postmaster General shall promulgate regulations to secure the confidentiality of abused persons' addresses or otherwise prohibit the disclosure of an abused person's address consistent with the following guidelines:

(1) confidentiality shall be provided upon the presentation to an appropriate postal official of an existing and valid court order for the protection of an abused spouse;

(2) disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited; and

(3) compilations of addresses existing at the time the order is presented to an appropriate postal official shall be excluded from the scope of the proposed regulations.

TITLE III—CIVIL RIGHTS

SEC. 301. CIVIL RIGHTS.

(a) FINDINGS.—The Congress finds that—

(1) crimes motivated by the victim's gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for gender crimes committed on the street or in the home; and

(3) State and Federal criminal laws do not adequately protect against the bias element of gender-motivated crimes, which separates these crimes from acts of random violence, nor do those laws adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests;

(4) existing bias and discrimination in the criminal justice system often deprives victims of gender-motivated crimes of equal protection of the laws and the redress to which they are entitled;

(5) gender-motivated violence has a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business, and in places involved, in interstate commerce;

(6) gender-motivated violence has a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products;

(7) a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse effects of gender-motivated violence on interstate commerce; and

(8) victims of gender-motivated violence have a right to equal potection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

(b) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any person, including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State, who commits a crime of violence motivated by gender and thus deprives another of the rights, privileges or immunities secured by the Constitution or laws as enumerated in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in this section, including rape, sexual assault, sexual abuse, abusive sexual contact, or any other crime of violence committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

SEC. 302. CONFORMING AMENDMENT.

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: ", or title III of the Violence Against Women Act of 1991,".

TITLE IV—SAFE CAMPUSES FOR WOMEN

SEC. 401. SHORT TITLE.

This title may be cited as the "Safe Campuses for Women Act of 1990".

SEC. 402. FINDINGS.

The Congress finds that—

(1) rape prevention and education programs are essential to an educational environment free of fear for students' personal safety;

(2) sexual assault on campus, whether by fellow students or not, is widespread among the Nation's higher education institutions: experts estimate that 1 in 7 of the women now in college have been raped and over half of college rape victims know their attackers;

(3) sexual assault poses a grave threat to the physical and mental well-being of students and may significantly impair the learning process; and

(4) action by schools to educate students may make substantial inroads on the incidence of rape, including the incidence of acquaintance rape on campus.

SEC. 403. GRANTS FOR CAMPUS RAPE EDUCATION.

Title X of the Higher Education Act of 1965 is amended to add at the end thereof the following:

"PART D—GRANTS FOR CAMPUS RAPE EDUCATION."

SEC. 1071. GRANTS FOR CAMPUS RAPE EDUCATION.

"(a) IN GENERAL.—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for rape education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

"(b) GENERAL RAPE PREVENTION AND EDUCATION GRANTS.—Grants under this section shall be used to educate and provide support services to student victims of rape or sexual assault. Grants may be used for the following purposes:

"(1) to provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of rape, sexual assault, and other gender-motivated crimes;

"(2) to develop, disseminate, or implement campus security and student disciplinary policies to prevent and discipline rape, sexual assault and other gender-motivated crimes;

"(3) to develop, enlarge or strengthen support services programs including medical or psychological counseling to assist victims' recovery from rape, sexual assault, or other gender-motivated crimes;

"(4) to create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action; and

"(5) to implement, operate, or improve rape education and prevention programs, including programs making use of peer-to-peer education.

"(c) MODEL GRANTS.—Not less than 25 percent of the funds authorized under this section shall be available for grants for model demonstration programs to be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student rape victims.

"(d) ELIGIBILITY.—No institution of higher education or consortium of such institutions shall be eligible for a grant under this section unless—

"(1) its student code of conduct, or other written policy governing student behavior, explicitly prohibits not only rape but all forms of sexual assault; and

"(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual assault the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual assault: *Provided*, That nothing in this section shall be interpreted to authorize disclosure to any person other than the victim.

"(e) APPLICATIONS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—

"(A) set forth the activities and programs to be carried out with funds granted under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) explain how the program intends to address the issue of acquaintance rape;

"(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

"(e) GRANTEE REPORTING.—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) Except as otherwise provided, the terms used in this part shall have the meaning provided under section 2981 of this title.

"(2) For purposes of this subchapter, the following terms have the following meanings:

"(A) The term 'rape education and prevention' includes programs that provide educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual assault.

"(B) The term 'Secretary' means the Secretary of Education.

"(g) GENERAL TERMS AND CONDITIONS.—(1) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.

"(2) No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

"(A) the amount of grants made under this section;

"(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(C) a copy of each grantee report filed pursuant to subsection (e) of this section.

"(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated $20,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995.".

SEC. 404. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.

Section 204(f) of the Crime Awareness and Campus Security Act of 1990 is amended to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

"(i) murder;

"(ii) rape or sexual assault;

"(iii) robbery;

"(iv) aggravated assault;

"(v) burglary; and

"(vi) motor vehicle theft.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

SECTION 501. SHORT TITLE.

This title may be cited as the "Equal Justice for Women in the Courts Act of 1991".

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

SEC. 511. GRANTS AUTHORIZED.

The State Justice Institute is authorized to award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SEC. 512. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the batterer, to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel, and the legitimate reasons why victims of domestic violence may refuse to testify against a defendant;

(18) the need for orders of protection, and the implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence cases;

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims; and

(20) current information on the impact of pornography on crimes against women, or data on other activities that tend to degrade women.

SEC. 513. COOPERATION IN DEVELOPING PROGRAMS IN MAKING GRANTS UNDER THIS TITLE.

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this subtitle are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 514. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $600,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

SEC. 521. EDUCATION AND TRAINING GRANTS.

(a) STUDY.—The Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use of data collection techniques such as reviews of trial and appellate opinions and transcripts, public hearings, and inquiries to attorneys practicing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) MODEL PROGRAMS.—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 512 of subtitle A; and

(B) all procedural and substantive aspects of the legal rights and remedies for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

SEC. 522. COOPERATION IN DEVELOPING PROGRAMS.

In implementing this subtitle, the Federal Judicial Center shall ensure that the study and model programs are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 523. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $400,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 521(a) of this subtitle.

BIDEN AMENDMENT NO. 716

(Ordered to lie on the table.)

Mr. BIDEN submitted an amendment intended to be proposed by him to amendment No. 550 submitted by Mr. DOLE to the bill S. 1241, supra, as follows:

Strike everything after the term "Sec." and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violence Against Women Act of 1991".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—SAFE STREETS FOR WOMEN

Sec. 101. Short title.

Subtitle A—Federal Penalties for Sex Crimes

Sec. 111. Repeat offenders.
Sec. 112. Federal penalties.
Sec. 113. Mandatory restitution for sex crimes.

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

Sec. 121. Grants to combat violent crimes against women.

Subtitle C—Safety for Women in Public Transit and Public Parks

Sec. 131. Grants for capital improvements to prevent crime in public transportation.
Sec. 132. Grants for capital improvements to prevent crime in national parks.
Sec. 133. Grants for capital improvements to prevent crime in public parks.

Subtitle D—National Commission on Violent Crime Against Women

Sec. 141. Establishment.
Sec. 142. Duties of commission.
Sec. 143. Membership.
Sec. 144. Reports.
Sec. 145. Executive Director and staff.
Sec. 146. Powers of commission.
Sec. 147. Authorization of appropriations.
Sec. 148. Termination.

Subtitle E—New Evidentiary Rules

Sec. 151. Sexual history in all criminal cases.
Sec. 152. Sexual history in civil cases.
Sec. 153. Amendments to rape shield law.
Sec. 154. Evidence of clothing.

Subtitle F—Assistance to Victims of Sexual Assault

Sec. 161. Education and prevention grants to reduce sexual assaults against women.
Sec. 162. Rape exam payments.

TITLE II—SAFE HOMES FOR WOMEN

Sec. 201. Short title.

Subtitle A—Interstate Enforcement

Sec. 211. Interstate enforcement.

Subtitle B—Arrest in Spousal Abuse Cases

Sec. 221. Encouraging arrest policies.

Subtitle C—Funding for Shelters

Sec. 231. Authorization.

Subtitle D—Family Violence Prevention and Services Act Amendments

Sec. 241. Expansion of purpose.
Sec. 242. Expansion of State demonstration grant program.
Sec. 243. Grants for public information campaigns.
Sec. 244. State commissions on domestic violence.
Sec. 245. Indian tribes.
Sec. 246. Funding limitations.
Sec. 247. Grants to entities other than States; local share.
Sec. 248. Shelter and related assistance.
Sec. 249. Law enforcement training and technical assistance grants.
Sec. 250. Report on recordkeeping.
Sec. 251. Model State leadership incentive grants for domestic violence intervention.
Sec. 252. Funding for technical assistance centers.

Subtitle E—Youth Education and Domestic Violence

Sec. 261. Educating youth about domestic violence.

Subtitle F—Confidentiality for Abused Persons

Sec. 271. Confidentiality for abused persons.

TITLE III—CIVIL RIGHTS

Sec. 301. Civil rights.

TITLE IV—SAFE CAMPUSES FOR WOMEN

Sec. 401. Short title.
Sec. 402. Findings.
Sec. 403. Grants for campus rape education.
Sec. 404. Disclosure of disciplinary proceedings in sex assault cases on campus.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

Sec. 501. Short title.

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

Sec. 511. Grants authorized.
Sec. 512. Training provided by grants.
Sec. 513. Cooperation in developing programs in making grants under this title.
Sec. 514. Authorization of appropriations.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

Sec. 521. Education and training grants.
Sec. 522. Cooperation in developing programs.
Sec. 523. Authorization of appropriations.

TITLE I—SAFE STREETS FOR WOMEN

SEC. 101. SHORT TITLE.

This title may be cited as the "Safe Streets for Women Act of 1991".

Subtitle A—Federal Penalties for Sex Crimes

SEC. 111. REPEAT OFFENDERS.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2247. Repeat offenders

"Any person who a violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2247. Repeat offenders.".

SEC. 112. FEDERAL PENALTIES.

(a) RAPE AND AGGRAVATED RAPE.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide that a defendant convicted of aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, shall be assigned a base offense level under chapter 2 of the sentencing guidelines that is at least 4 levels greater than the base offense level applicable to criminal sexual abuse under the guidelines in effect on November 1, 1990, or otherwise shall amend the guidelines applicable to such offenses so as to achieve a comparable minimum guideline sentence. In amending such guidelines, the Sentencing Commission shall review the appropriateness of existing specific offense characteristics or other adjustments applicable to such offenses, and make such changes as it deems appropriate, taking into account the severity of rape offenses, with or without aggravating factors; the unique nature and duration of the mental injuries inflicted on the victims of such offenses; and any other relevant factors.

(b) EFFECT OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instructions set forth in subsection (a) so as to achieve a comparable result.

(c) STATUTORY RAPE.—

(1) Section 2243(b) of title 18, United States Code, is amended by striking "one year," and inserting "two years,".

(2) Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to incorporate the increase in maximum penalties provided by this section

for section 2243(b) of title 18, United States Code.

SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or matters related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or his delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2248. Mandatory restitution.".

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) redesignating part N as part O;

(2) redesignating section 1401 as section 1501; and

(3) adding after part M the following:

"PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"SEC. 1401. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribes, cities, and other localities to develop effective law enforcement and prosecution strategies to combat violent crimes against women and, in particular, to focus efforts on those areas with the highest rates of violent crime against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide additional personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing police and prosecution policies, protocols, or orders specifically devoted to identifying and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, prosecutions, and convictions for the crimes of sexual assault and domestic violence; and

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, to increase reporting and reduce attrition rates for cases involving violent crimes against women, including the crimes of sexual assault and domestic violence.

"Subpart 1—High Intensity Crime Area Grants

"SEC. 1411. HIGH INTENSITY GRANTS.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the 'Director') shall make grants to areas of 'high intensity crime' against women.

"(b) DEFINITION.—For purposes of this part, a 'high intensity crime area' means an area with one of the 40 highest rates of violent crime against women, as determined by the Bureau of Justice Statistics pursuant to section 1412.

"SEC. 1412. HIGH INTENSITY GRANT APPLICATION.

"(a) COMPUTATION.—Within 45 days after the date of enactment of this part, the Bureau of Justice Statistics shall compile a list of the 40 areas with the highest rates of violent crime against women based on the combined female victimization rate per population for assault, sexual assault (including, but not limited to, rape), murder, robbery, and kidnapping.

"(b) USE OF DATA.—In calculating the combined female victimization rate required by subsection (a), the Bureau of Justice Statistics may rely on—

"(1) existing data collected by States, municipalities, Indian reservations or statistical metropolitan areas showing the number of police reports of the crimes listed in subsection (a); and

"(2) existing data collected by the Federal Bureau of Investigation, including data from those governmental entities already complying with the National Incident Based Reporting System, showing the number of police reports of crimes listed in subsection (a).

"(c) PUBLICATION.—After compiling the list set forth in subsection (a), the Bureau of Justice Statistics shall convey it to the Director who shall publish it in the Federal Register.

"(d) QUALIFICATION.—Upon satisfying the terms of subsection (e), any high intensity crime area shall be qualified for a grant under this subpart upon application by the chief executive officer of the governmental entities responsible for law enforcement and prosecution of criminal offenses within the area and certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate program grants, with nongovernmental nonprofit victim services programs; and

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(e) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application must provide the certifications required by subsection (d) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (d)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall ensure, to the extent practicable, that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served; and

"(C) give priority to areas with the greatest showing of need.

"(g) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this part. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"Subpart 2—Other Grants to States to Combat Violent Crimes Against Women

"SEC. 1421. GENERAL GRANTS TO STATES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to States, for use by States, units of local government in the States, and nonprofit nongovernmental victim services programs in the States, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be—

"(1) $500,000 to each State; and

"(2) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application shall include the certifications of qualification required by subsection (c) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (c)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(e) DISBURSEMENT.—(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that States will—

"(A) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000;

"(B) determine the amount of subgrants based on the population and geographic area to be served; and

"(C) give priority to areas with the greatest showing of need, as demonstrated by comparing population and geographic areas to be served to the availability of existing sexual assault and domestic violence services.

"(f) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"SEC. 1422. GENERAL GRANTS TO TRIBES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of $35,000 and maximum grants of $300,000.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b); and

"(2) at least 25 percent of the grant funds shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—(1) Applications shall be made directly to the Director and shall contain a description of the tribes' law enforcement responsibilities for the Indian country described in the application and a description of the tribes' system of courts, including whether the tribal government operates courts of Indian offenses as defined in 25 U.S.C. 1301 or CFR courts under 25 CFR 11 et seq.

"(2) Applications shall be in such form as the Director may prescribe and shall specify the nature of the program proposed by the applicant tribe, the data and information on which the program is based, and the extent to which the program plans to use or incorporate existing services available in the Indian country where the grant will be used.

"(3) The term of any grant shall be for a minimum of 3 years.

"(e) GRANTEE REPORTING.—At the end of the first 12 months of the grant period and at the end of each year thereafter, the Indian tribal granted shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

"(2) The term 'Indian country' has the meaning given to such term by section 1151 of title 18, United States Code.

"SUBPART 3—GENERAL TERMS AND CONDITIONS

"SEC. 1431. GENERAL DEFINITIONS.

"As used in this part—

"(1) the term 'victim services program' means any public or private nonprofit program that assists victims, including (A) nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process and (B) victim/witness programs within governmental entities;

"(2) the term 'sexual assault' includes not only assaults committed by offenders who are strangers to the victim but also assaults committed by offenders who are known or related by blood or marriage to the victim; and

"(3) the term 'domestic violence' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse, or any other person similarly situated to a spouse who is protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"SEC. 1432. GENERAL TERMS AND CONDITIONS.

"(a) NONMONETARY ASSISTANCE.—In addition to the assistance provided under subparts 1 or 2, the Director may direct any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts.

"(b) BUREAU REPORTING.—No later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Judiciary Committees of the House and the Senate a report that includes, for each high intensity crime area (as provided in subpart 1) and for each State and for each grantee Indian tribe (as provided in subpart 2)—

"(1) the amount of grants made under this part;

"(2) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(3) a copy of each grantee report filed pursuant to sections 1412(g) and 1421(f).

"(c) REGULATIONS.—No later than 45 days after the date of enactment of this part, the Director shall publish proposed regulations implementing this part. No later than 120 days after such date, the Director shall publish final regulations implementing this part.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year 1992, 1993, and 1994, $100,000,000 to carry out the purposes of subpart 1, and $190,000,000 to carry out the purposes of subpart 2, and $10,000,000 to carry out the purposes of section 1422 of subpart 2.".

Subtitle C—Safety for Women in Public Transit and Public Parks

SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

Section 24 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION

"SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, and not to exceed $10,000,000, the Secretary shall make capital grants for the prevention of crime and to increase security in existing and future public transportation systems. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

"(b) GRANTS FOR LIGHTING, CAMERA SURVEILLANCE, AND SECURITY PHONES.—

"(1) From the sums authorized for expenditure under this section for crime prevention, the Secretary is authorized to make grants and loans to States and local public bodies or agencies for the purpose of increasing the safety of public transportation by—

"(A) increasing lighting within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(B) increasing camera surveillance of areas within and adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(C) providing emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages; or

"(D) any other project intended to increase the security and safety of existing or planned public transportation systems.

"(2) From the sums authorized under this section, at least 75 percent shall be expended on projects of the type described in subsections (b)(1) (A) and (B).

"(c) REPORTING.—All grants under this section are contingent upon the filing of a report with the Secretary and the Department of Justice, Office of Victims of Crime, showing crime rates in or adjacent to public transportation before, and for a 1-year period after, the capital improvement. Statistics shall be broken down by type of crime, sex, race, and relationship of victim to the offender.

"(d) INCREASED FEDERAL SHARE.—Notwithstanding any other provision of this Act, the Federal share under this section for each capital improvement project which enhances the safety and security of public transportation systems and which is not required by law (including any other provision of this chapter) shall be 90 percent of the net project cost of such project.

"(e) SPECIAL GRANTS FOR PROJECTS TO STUDY INCREASING SECURITY FOR WOMEN.—From the sums authorized under this section, the Secretary shall provide grants and loans for the purpose of studying ways to reduce violent crimes against women in public transit through better design or operation of public transit systems.

"(f) GENERAL REQUIREMENTS.—All grants or loans provided under this section shall be subject to all the terms, conditions, requirements, and provisions applicable to grants and loans made under section 2(a).".

SEC. 132. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN NATIONAL PARKS.

The Act of August 18, 1970, the National Park System Improvements in Administration Act (90 Stat. 1931; 16 U.S.C. 1a-1 et seq.) is amended by adding at the end thereof the following:

"SEC. 13. NATIONAL PARK SYSTEM CRIME PREVENTION ASSISTANCE.

"(a) From the sums authorized pursuant to section 7 of the Land and Water Conservation Act of 1965, and not to exceed $10,000,000, the Secretary of the Interior is authorized to provide Federal assistance to reduce the incidence of violent crime in the National Park System.

"(b) The Secretary shall direct the chief official responsible for law enforcement within the National Park Services to—

"(1) compile a list of areas within the National Park System with the highest rates of violent crime;

"(2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and

"(3) publish the information required by paragraphs (1) and (2) in the Federal Register.

"(c) No later than 120 days after the date of enactment of this section, and based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute funds throughout the National Park Service. Priority shall be given to those areas with the highest rates of sexual assault.

"(d) Funds provided under this section may be used for the following purposes—

"(1) to increase lighting within or adjacent to public parks and recreation areas;

"(2) to provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(3) to increase security or law enforcement personnel within or adjacent to public parks and recreation areas; and

"(4) any other project intended to increase the security and safety of public parks and recreation areas.".

SEC. 133. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC PARKS.

Section 6 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 4601-8) is amended by adding at the end thereof the following new subsection:

"(h) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed $15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding the terms of subsection (c), the Secretary is authorized to provide 70 percent improvement grants for projects undertaken by any State for the purposes outlined in this subsection. The remaining share of the cost shall be borne by the State.".

Subtitle D—National Commission on Violent Crime Against Women

SEC. 141. ESTABLISHMENT.

There is established a commission to be known as the National Commission on Violent Crime Against Women (hereinafter referred to as "the Commission").

SEC. 142. DUTIES OF COMMISSION.

(a) GENERAL PURPOSE OF THE COMMISSION.—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crime against women.

(b) FUNCTIONS.—The Commission shall perform the following functions—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence; and

(9) evaluate and make recommendations regarding the feasibility of maintaining the confidentiality of addresses of domestic violence victims in voting, welfare, and public records.

SEC. 143. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) three of whom shall be—

(I) the Attorney General;

(II) the Secretary of Health and Human Services; and

(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of sexual assault or domestic violence.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) CONGRESSIONAL COMMITTEE RECOMMENDATIONS.—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) REQUIREMENTS OF APPOINTMENTS.—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their experience in State or national efforts to fight violence against women and demonstrate experience in State or national advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of law enforcement, prosecution, judicial administration, legal expertise, public health, social work, victim compensation boards, and victim advocacy.

(4) TERM OF MEMBERS.—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) VACANCY.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) CHAIRMAN.—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) MEETINGS.—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least six times.

(e) PAY.—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) PER DIEM.—Except as provided in subsection (e), members of the Commission shall be allowed travel and other expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) DEADLINE FOR APPOINTMENT.—Not later than 45 days after the date of the enactment of this Act, the members of the Commission shall be appointed.

SEC. 144. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

SEC. 145. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable under GS-18 of the General Schedule as contained in title 5, United States Code.

(b) STAFF.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 146. POWERS OF COMMISSION.

(a) HEARINGS.—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) DELEGATION.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) ACCESS TO INFORMATION.—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chairman of the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 147. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $500,000 to carry out the purposes of this subtitle.

SEC. 148. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed one year.

Subtitle E—New Evidentiary Rules

SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

The Federal Rules of Evidence are amended by inserting after rule 412 the following:

"Rule 412A. Evidence of victim's past behavior in other criminal cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, reputation or opinion evidence of the past sexual behavior of an alleged victim is not admissible.

"(b) ADMISSIBILITY.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, evidence of an alleged victim's past sexual behavior (other than reputation and opinion evidence) may be admissible if—

"(1) the evidence is admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of the evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the alleged victim's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the alleged victim.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

The Federal Rules of Evidence, as amended by section 151 of this Act, are amended by adding after rule 412A the following:

"Rule 412B. Evidence of past sexual behavior in civil cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

"(b) ADMISSIBLE EVIDENCE.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

"(1) admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of such evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the plaintiff's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the plaintiff.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the plaintiff and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies evidence which may be offered and areas with respect to which the plaintiff may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

"(d) DEFINITIONS.—For purposes of this rule, a case involving a claim of actionable sexual misconduct, includes, but is not limited to, sex harassment or discrimination claims brought pursuant to title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)) and gender bias claims brought pursuant to title III of the Violence Against Women Act of 1991.".

SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end thereof the following:

"(e) INTERLOCUTORY APPEAL.—Notwithstanding any other provision of law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

"(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim."; and

(2) by adding at the end of subdivision (c)(3) the following: "In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 154. EVIDENCE OF CLOTHING.

The Federal Rules of Evidence are amended by adding after rule 412 the following:

"Rule 413. Evidence of victim's clothing as inciting violence

"Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged.".

Subtitle F—Assistance to Victims of Sexual Assault

SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended as follows:

(1) by adding at the end thereof the following new section:

"§ 1910A. Use of allotments for rape prevention education

"(a) Notwithstanding the terms of section 1904(a)(1) of this title, amounts transferred by the State for use under this part may be used for rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities, which programs may include—

"(1) educational seminars;

"(2) the operation of hotlines;

"(3) training programs for professionals;

"(4) the preparation of informational materials; and

"(5) other efforts to increase awareness of the facts about, or to help prevent, sexual assault.

"(b) States providing grant monies must assure that at least 15 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) There are authorized to be appropriated under this section for each fiscal year 1992, 1993, and 1994, $65,000,000 to carry out the purposes of this section.

"(d) Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) For purposes of this section, the term 'rape prevention and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim.

"(f) States shall be allotted funds under this section pursuant to the terms of sections 1902 and 1903, and subject to the conditions provided in this section and sections 1904 through 1909.";

(2) striking section 1901(b); and

(3) striking section 1904(a)(1)(G).

SEC. 162. RAPE EXAM PAYMENTS.

No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 unless the State or other grantee incurs the full cost of forensic medical exams for victims of sexual assault. A State or other grantee does not incur the full medical cost of forensic medical exams if it chooses to reimburse the victim after the fact unless the reimbursement program waives any minimum loss or deductible requirement, provides victim reimbursement within a reasonable time (90 days), permits applications for reimbursement within one year from the date of the exam, and provides information to all subjects of forensic medical exams about how to obtain reimbursement.

TITLE II—SAFE HOMES FOR WOMEN

SEC. 201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1990".

Subtitle A—Interstate Enforcement

SEC. 211. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

"Chapter 110A—Violence Against Spouses

"Sec. 2261. Traveling to commit spousal abuse.
"Sec. 2262. Interstate violation of protection orders.
"Sec. 2263. Restitution.
"Sec. 2264. Full faith and credit given to protection orders.
"Sec. 2265. Definitions for chapter.

"§ 2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner; or

"(2) for the purpose of harassing, intimidating, or injuring a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner,

shall be fined not more than $1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner, shall be fined not more than $1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(c) NO STATE LAW.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, a person violating this section shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

"(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§ 2262. Interstate violation of protection orders

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

"(2) for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c) of this section.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c) of this section.

"(c) PENALTIES.—

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than six months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§ 2263. Interim protections

"In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the protection of an abused spouse or intimate partner pending final adjudication of the case, upon a showing of a likelihood of danger to the abused spouse or intimate partner.

"§ 2264. Restitution

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to subsection (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation; and

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the offender, including obligations to dependents.

"(B) An order under this section may direct the defendant to make a single lump-sum payment, or partial payments at specified intervals. The order shall provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(C) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or his delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) RESTITUTION AND CRIMINAL PENALTIES.—An award of restitution to the victim of an offense under this chapter shall not be a substitute for imposition of punishment under sections 2261 and 2262.

"(e) DEFINITIONS.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.

"§ 2265. Full faith and credit given to protection orders

"(a) FULL FAITH AND CREDIT.—Any protection order issued consistent with the terms of subsection (b) by the court of one State (the issuing State) shall be accorded full faith and credit by the court of another State (the enforcing State) and enforced as if it were the order of the enforcing State.

"(b) PROTECTION ORDER.—A protection order issued by a State court is consistent with the provisions of this section if—

"(1) such court has jurisdiction over the parties and matter under the law of such State; and

"(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

"(c) CROSS OR COUNTER PETITION.—A protection order issued by a State court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

"(1) no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or

"(2) if a cross or counter petition has been filed, if the court did not make specific findings that each party was entitled to such an order.

"§ 2266. Definitions for chapter

"As used in this chapter—

"(1) the term 'spouse or intimate partner' includes—

"(A) a present or former spouse, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

"(B) any other person similarly situated to a spouse, other than a child, who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

"(2) the term 'protection order' includes any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except those done in self-defense, that results in physical injury or sexual abuse;

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

"(5) the term 'travel across State lines' includes any such travel except travel across State lines by an Indian tribal member when that member remained at all times on tribal lands.".

(b) TABLE OF CHAPTERS.—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

"110A. Violence against spouses .... 2261.".

Subtitle B—Arrest in Spousal Abuse Cases

SEC. 221. ENCOURAGING ARREST POLICIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10400) is amended by adding after section 311 the following:

"SEC. 312. ENCOURAGING ARREST POLICIES.

"(a) PURPOSE.—To encourage States, Indian tribes and localities to treat spousal violence as a serious violation of criminal law, the Secretary is authorized to make grants to eligible States, Indian tribes, municipalities, or local government entities for the following purposes:

"(1) to implement pro-arrest programs and policies in police departments and to improve tracking of cases involving spousal abuse;

"(2) to centralize and coordinate police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges;

"(3) to educate judges in criminal and other courts about spousal abuse and to improve judicial handling of such cases.

"(b) ELIGIBILITY.—(1) Eligible grantees are those States, Indian tribes, municipalities or other local government entities that—

"(A) demonstrate, through arrest and conviction statistics, that their laws or policies have been effective in significantly increasing the number of arrests made of spouse abusers; and

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed or mandate arrest of spouses violating the terms of a valid and outstanding protection order; or

"(ii) permit warrantless misdemeanor arrests of spouse abusers and encourage the use of that authority;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser and the increase in arrest rates demonstrated pursuant to paragraph (1)(A) is not the result of increased dual arrests; and

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protective order, and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim.

"(2) For purposes of this section, the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

"(3) For purposes of this section, the term 'spousal or spouse abuse' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabited with the victim as a spouse, or any other person protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(4) The eligibility requirements provided in this section shall take effect one year after the date of enactment of this section.

"(c) DELEGATION AND AUTHORIZATION.—The Secretary shall delegate to the Attorney General of the United States the Secretary's responsibilities for carrying out this section to the Attorney General. There are authorized to be appropriated not in excess of

$25,000,000 for each fiscal year to be used for the purpose of making grants under this section.

"(d) APPLICATION.—An eligible grantee shall submit an application to the Secretary. Such application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribes, municipality, or local government entity that the conditions of subsection (b) are met;

"(2) describe the entity's plans to further the purposes listed in subsection (a);

"(3) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(4) identify and include documentation showing the nonprofit nongovernmental victim services programs that will be consulted in developing, and implementing, the program.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a grantee that—

"(1) does not currently provide for centralized handling of cases involving spousal or family violence in any one of the areas listed in this subsection—police, prosecutors, and courts; and

"(2) demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving spousal or family violence.

"(f) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described in subsection (d)(2) and containing such additional information as the Secretary may prescribe.

"(g) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.".

Subtitle C—Funding for Shelters

SEC. 231. AUTHORIZATION.

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

"SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out the provisions of this title, $85,000,000 for fiscal year 1992, $100,000,000, for fiscal year 1993, and $125,000,000 for fiscal year 1994.

"(b) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 80 percent shall be used by the Secretary for making grants under section 303.

"(c) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not more than 5 percent shall be used by the Secretary for making grants under section 314.

"(d) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 5 percent shall be used by the Secretary for making grants under section 308A.".

Subtitle D—Family Violence Prevention and Services Act Amendments

SEC. 241. EXPANSION OF PURPOSE.

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent" and by striking "demonstrate the effectiveness of assisting" and inserting "assist".

SEC. 242. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.

(a) INCREASING PUBLIC AWARENESS.—Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

(b) EXPANSION OF PROGRAM.—Section 303(a)(2)(B)(ii) is amended by striking "alcohol and drug abuse treatment".

SEC. 243. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

"GRANTS FOR PUBLIC INFORMATION CAMPAIGNS

"SEC. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) An application submitted under subsection (b) shall—

"(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk.".

SEC. 244. FUND DISTRIBUTION TO STATES.

Section 304(a)(1) of the Family Violence Prevention and Services Act is amended by striking "$50,000" and inserting "$500,000".

SEC. 245. INDIAN TRIBES.

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "from sums appropriated shall make no less than 10 percent available for".

SEC. 246. FUNDING LIMITATIONS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by—

(1) striking ", and" and all that follows through "fiscal years"; and

(2) striking "$50,000" and inserting "$75,000".

SEC. 247. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: "No grant may be made under this section to an entity other than a State or Indian tribe unless the entity provides 35 percent of the funding of the program or project funded by the grant.".

SEC. 248. SHELTER AND RELATED ASSISTANCE.

(a) CHANGE OF PERCENTAGES.—Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended by striking "not less than 60 percent" and inserting "not less than 75 percent".

(b) DEFINITION OF RELATED ASSISTANCE.—Section 309(5) of the Family Violence Prevention and Services Act is amended to read as follows:

"(5) The term 'related assistance' includes any, but does not require all, of the following—

"(A) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(B) transportation, legal assistance, referrals for appropriate health-care services (including alcohol and drug abuse treatment), and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(C) comprehensive counseling and self-help services to abusers, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services and employment training; and

"(D) child care services for children who are victims of family violence or the dependents of such victims.".

SEC. 249. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.

Section 311 of the Family Violence Protection and Services Act (42 U.S.C. 10410(b)) is repealed.

SEC. 250. REPORT ON RECORDKEEPING.

Not later than 120 days after the date of enactment of this Act, the Government Accounting Office shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine efforts to date of the FBI and Justice Department to collect statistics on domestic violence and the feasibility of, including a suggested timetable for, requiring that the relationship between an offender and victim be reported in Federal and State records of crimes of assault, aggravated assault, rape, and other violent crimes.

SEC. 251. MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.

The Family Violence Prevention Services Act, as amended by section 103 of this Act, is amended by adding at the end thereof the following new section:

"MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION

"SEC. 315. (a) The Secretary, in cooperation with the Attorney General, shall award grants to not less than 10 States to assist in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

"(1) increase the number of prosecutions for domestic violence crimes;

"(2) encourage the reporting of incidences of domestic violence;

"(3) facilitate 'arrests and aggressive' prosecution policies; and

"(4) provides court advocacy for victims of domestic violence.

"(b) To be designated as a model State under subsection (a), a State shall have in effect—

"(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

"(2) a law or policy that discourages * * *

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judiciaes 'dual' arrests;

"(3) statewide prosecution policies that—

"(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

"(4) statewide laws, policies, or guidelines for judges that—

"(A) prohibit the issuance of mutual protective orders in cases where only one spouse has sought a protective order and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim;

"(B) require that any history of child abuse be considered detrimental to the child and discourage custody or joint custody orders by spouse abusers; and

"(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute;

"(5) develop and disseminate methods to improve the criminal justice system's response to domestic violence to make existing remedies as easily available as possible to victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

"(c)(1) In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section $25,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) Funds shall be distributed under this section so that no State shall receive more than $2,500,000 in each fiscal year under this section.

"(3) The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section.".

SEC. 252. FUNDING FOR TECHNICAL ASSISTANCE CENTERS.

The Family Violence Prevention and Services Act is amended by inserting after section 308 the following:

"SEC. 308A. TECHNICAL ASSISTANCE CENTERS.

"(a) PURPOSE.—The purpose of this section is to provide training and technical assistance to State, Indian tribal, and local domestic violence programs and to other professionals who provide services to victims of domestic violence. From the sums authorized under this title, the Secretary shall provide grants to or contract with, private nonprofit organizations, for the establishment and maintenance of one national and six special-issue resource centers serving defined geographic areas. One national resource center shall offer resource, policy, and/or training assistance to Federal, State, Indian tribal, and local government agencies on issues pertaining to domestic violence and serve a coordinating and resource-sharing function among domestic violence service providers, and maintain a central resource library. The other national resource centers shall provide information, training and technical assistance to State, tribal and local domestic violence service providers. In addition, each national center shall specialize in one of the following areas of domestic violence service, prevention or law:

"(1) criminal justice response to domestic violence, including court-mandated abuser treatment;

"(2) child custody issues in domestic violence cases;

"(3) use of the self-defense plea by domestic violence victims;

"(4) health care response and access to health care resources for domestic violence victims;

"(5) victims' access to, and quality of, effective legal assistance, including civil litigation; and

"(6) the response of child protective service agencies to battered mothers of abused children.

"(b) ELIGIBILITY.—Eligible grantees are private non-profit organizations that—

"(1) focus primarily on domestic violence;

"(2) provide documentation to the Secretary demonstrating a minimum of three years experience with issues of domestic violence, particularly in the specific area for which it is applying;

"(3) include on its advisory boards representatives from domestic violence programs who are geographically and culturally diverse; and

"(4) demonstrate strong support from domestic violence advocates for their designation as the special-issue resource center.

"(c) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described and containing such additional information as the Secretary may prescribe.

"(d) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section.".

Subtitle E—Youth Education and Domestic Violence

SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate his powers to the Secretary of Education, hereinafter referred to as the "Secretary". The Secretary shall select, implement and evaluate four model programs for education of young people about domestic violence and violence among intimate partners.

(b) NATURE OF PROGRAM.—The Secretary shall select, implement and evaluate separate model programs for four different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. These model programs shall be selected, implemented, and evaluated with the input of educational experts, legal and psychological experts on battering, and victim advocate organizations such as battered women's shelters, State coalitions and resource centers. The participation of each of these groups or individual consultants from such groups is essential to the selection, implementation, and evaluation of programs that meet both the needs of educational institutions and the needs of the domestic violence problem.

(c) REVIEW AND DISSEMINATION.—Not later than 24 months after the date of enactment of this Act, the Secretary shall transmit the design and evaluation of the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.

(d) AUTHORIZATION.—There are authorized to be appropriated under this section for fiscal year 1992, $400,000 to carry out the purposes of this section.

Subtitle F—Confidentiality for Abused Persons

SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.

No later than 90 days after the enactment of this Act, the Postmaster General shall promulgate regulations to secure the confidentiality of abused persons' addresses or otherwise prohibit the disclosure of an abused person's address consistent with the following guidelines:

(1) confidentiality shall be provided upon the presentation to an appropriate postal official of an existing and valid court order for the protection of an abused spouse;

(2) disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited; and

(3) compilations of addresses existing at the time the order is presented to an appropriate postal official shall be excluded from the scope of the proposed regulations.

TITLE III—CIVIL RIGHTS

SEC. 301. CIVIL RIGHTS.

(a) FINDINGS.—The Congress finds that—

(1) crimes motivated by the victim's gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for gender crimes committed on the street or in the home; and

(3) State and Federal criminal laws do not adequately protect against the bias element of gender-motivated crimes, which separates these crimes from acts of random violence, nor do those laws adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests;

(4) existing bias and discrimination in the criminal justice system often deprives vic-

tims of gender-motivated crimes of equal protection of the laws and the redress to which they are entitled;

(5) gender-motivated violence has a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business, and in places involved, in interstate commerce;

(6) gender-motivated violence has a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products;

(7) a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse effects of gender-motivated violence on interstate commerce; and

(8) victims of gender-motivated violence have a right to equal protection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

(b) Rights, Privileges and Immunities.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) Cause of Action.—Any person, including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State, who commits a crime of violence motivated by gender and thus deprives another of the rights, privileges or immunities secured by the Constitution or laws as enumerated in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as the court may deem appropriate.

(d) Definitions.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in this section, including rape, sexual assault, sexual abuse, abusive sexual contact, or any other crime of violence committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) Limitation and Procedures.—

(1) Limitation.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) No prior criminal action.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

SEC. 302. CONFORMING AMENDMENT.

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: ", or title III of the Violence Against Women Act of 1991,".

TITLE IV—SAFE CAMPUSES FOR WOMEN

SEC. 401. SHORT TITLE.

This title may be cited as the "Safe Campuses for Women Act of 1990".

SEC. 402. FINDINGS.

The Congress finds that—

(1) rape prevention and education programs are essential to an educational environment free of fear for students' personal safety;

(2) sexual assault on campus, whether by fellow students or not, is widespread among the Nation's higher education institutions: experts estimate that 1 in 7 of the women now in college have been raped and over half of college rape victims know their attackers;

(3) sexual assault poses a grave threat to the physical and mental well-being of students and may significantly impair the learning process; and

(4) action by schools to educate students may make substantial inroads on the incidence of rape, including the incidence of acquaintance rape on campus.

SEC. 403. GRANTS FOR CAMPUS RAPE EDUCATION.

Title X of the Higher Education Act of 1965 is amended to add at the end thereof the following:

"PART D—GRANTS FOR CAMPUS RAPE EDUCATION."

SEC. 1071. GRANTS FOR CAMPUS RAPE EDUCATION.

"(a) In General.—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for rape education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

"(b) General Rape Prevention and Education Grants.—Grants under this section shall be used to educate and provide support services to student victims of rape or sexual assault. Grants may be used for the following purposes:

"(1) to provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of rape, sexual assault, and other gender-motivated crimes;

"(2) to develop, disseminate, or implement campus security and student disciplinary policies to prevent and discipline rape, sexual assault and other gender-motivated crimes;

"(3) to develop, enlarge or strengthen support services programs including medical or psychological counseling to assist victims' recovery from rape, sexual assault, or other gender-motivated crimes;

"(4) to create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action; and

"(5) to implement, operate, or improve rape education and prevention programs, including programs making use of peer-to-peer education.

"(c) Model Grants.—Not less than 25 percent of the funds authorized under this section shall be available for grants for model demonstration programs to be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student rape victims.

"(d) Eligibility.—No institution of higher education or consortium of such institutions shall be eligible for a grant under this section unless—

"(1) its student code of conduct, or other written policy governing student behavior, explicitly prohibits not only rape but all forms of sexual assault; and

"(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual assault the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual assault: *Provided*, That nothing in this section shall be interpreted to authorize disclosure to any person other than the victim.

"(e) Applications.—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—

"(A) set forth the activities and programs to be carried out with funds granted under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) explain how the program intends to address the issue of acquaintance rape;

"(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

"(e) Grantee Reporting.—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) Definitions.—(1) Except as otherwise provided, the terms used in this part shall have the meaning provided under section 2981 of this title.

"(2) For purposes of this subchapter, the following terms have the following meanings:

"(A) The term 'rape education and prevention' includes programs that provide educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual assault.

"(B) The term 'Secretary' means the Secretary of Education.

"(g) GENERAL TERMS AND CONDITIONS.—(1) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.

"(2) No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

"(A) the amount of grants made under this section;

"(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(C) a copy of each grantee report filed pursuant to subsection (e) of this section.

"(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated $20,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995.".

SEC. 404. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.

Section 204(f) of the Crime Awareness and Campus Security Act of 1990 is amended to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

"(i) murder;

"(ii) rape or sexual assault;

"(iii) robbery;

"(iv) aggravated assault;

"(v) burglary; and

"(vi) motor vehicle theft.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

SECTION 501. SHORT TITLE.

This title may be cited as the "Equal Justice for Women in the Courts Act of 1991".

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

SEC. 511. GRANTS AUTHORIZED.

The State Justice Institute is authorized to award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SEC. 512. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the batterer, to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel, and the legitimate reasons why victims of domestic violence may refuse to testify against a defendant;

(18) the need for orders of protection, and the implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence cases;

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims; and

(20) current information on the impact of pornography on crimes against women, or data on other activities that tend to degrade women.

SEC. 513. COOPERATION IN DEVELOPING PROGRAMS IN MAKING GRANTS UNDER THIS TITLE.

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this subtitle are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 514. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $600,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

SEC. 521. EDUCATION AND TRAINING GRANTS.

(a) STUDY.—The Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use of data collection techniques such as reviews of trial and appellate opinions and transcripts, public hearings, and inquiries to attorneys practicing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) MODEL PROGRAMS.—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 512 of subtitle A; and

(B) all procedural and substantive aspects of the legal rights and remedies for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

SEC. 522. COOPERATION IN DEVELOPING PROGRAMS.

In implementing this subtitle, the Federal Judicial Center shall ensure that the study and model programs are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 523. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $400,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 521(a) of this subtitle.

BIDEN AMENDMENT NOS. 717 AND 718

(Ordered to lie on the table.)

Mr. BIDEN submitted two amendments intended to be proposed by him to amendments to the bill S. 1241, supra, as follows:

AMENDMENT NO. 717

Add at the end of the amendment, the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violence Against Women Act of 1991".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—SAFE STREETS FOR WOMEN
Sec. 101. Short title.
Subtitle A—Federal Penalties for Sex Crimes
Sec. 111. Repeat offenders.
Sec. 112. Federal penalties.
Sec. 113. Mandatory restitution for sex crimes.
Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women
Sec. 121. Grants to combat violent crimes against women.
Subtitle C—Safety for Women in Public Transit and Public Parks
Sec. 131. Grants for capital improvements to prevent crime in public transportation.
Sec. 132. Grants for capital improvements to prevent crime in national parks.
Sec. 133. Grants for capital improvements to prevent crime in public parks.
Subtitle D—National Commission on Violent Crime Against Women
Sec. 141. Establishment.
Sec. 142. Duties of commission.
Sec. 143. Membership.
Sec. 144. Reports.
Sec. 145. Executive Director and staff.
Sec. 146. Powers of commission.
Sec. 147. Authorization of appropriations.
Sec. 148. Termination.
Subtitle E—New Evidentiary Rules
Sec. 151. Sexual history in all criminal cases.
Sec. 152. Sexual history in civil cases.
Sec. 153. Amendments to rape shield law.
Sec. 154. Evidence of clothing.
Subtitle F—Assistance to Victims of Sexual Assault
Sec. 161. Education and prevention grants to reduce sexual assaults against women.
Sec. 162. Rape exam payments.
TITLE II—SAFE HOMES FOR WOMEN
Sec. 201. Short title.
Subtitle A—Interstate Enforcement
Sec. 211. Interstate enforcement.
Subtitle B—Arrest in Spousal Abuse Cases
Sec. 221. Encouraging arrest policies.
Subtitle C—Funding for Shelters
Sec. 231. Authorization.
Subtitle D—Family Violence Prevention and Services Act Amendments
Sec. 241. Expansion of purpose.
Sec. 242. Expansion of State demonstration grant program.
Sec. 243. Grants for public information campaigns.
Sec. 244. State commissions on domestic violence.
Sec. 245. Indian tribes.
Sec. 246. Funding limitations.
Sec. 247. Grants to entities other than States; local share.
Sec. 248. Shelter and related assistance.
Sec. 249. Law enforcement training and technical assistance grants.
Sec. 250. Report on recordkeeping.
Sec. 251. Model State leadership incentive grants for domestic violence intervention.
Sec. 252. Funding for technical assistance centers.
Subtitle E—Youth Education and Domestic Violence
Sec. 261. Educating youth about domestic violence.
Subtitle F—Confidentiality for Abused Persons
Sec. 271. Confidentiality for abused persons.
TITLE III—CIVIL RIGHTS
Sec. 301. Civil rights.
TITLE IV—SAFE CAMPUSES FOR WOMEN
Sec. 401. Short title.
Sec. 402. Findings.
Sec. 403. Grants for campus rape education.
Sec. 404. Disclosure of disciplinary proceedings in sex assault cases on campus.
TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990
Sec. 501. Short title.
Subtitle A—Education and Training for Judges and Court Personnel in State Courts
Sec. 511. Grants authorized.
Sec. 512. Training provided by grants.
Sec. 513. Cooperation in developing programs in making grants under this title.
Sec. 514. Authorization of appropriations.
Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts
Sec. 521. Education and training grants.
Sec. 522. Cooperation in developing programs.
Sec. 523. Authorization of appropriations.

TITLE I—SAFE STREETS FOR WOMEN

SEC. 101. SHORT TITLE.

This title may be cited as the "Safe Streets for Women Act of 1991".

Subtitle A—Federal Penalties for Sex Crimes

SEC. 111. REPEAT OFFENDERS.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2247. Repeat offenders

"Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2247. Repeat offenders.".

SEC. 112. FEDERAL PENALTIES.

(a) RAPE AND AGGRAVATED RAPE.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide that a defendant convicted of aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, shall be assigned a base offense level under chapter 2 of the sentencing guidelines that is at least 4 levels greater than the base offense level applicable to criminal sexual abuse under the guidelines in effect on November 1, 1990, or otherwise shall amend the guidelines applicable to such offenses so as to achieve a comparable minimum guideline sentence. In amending such guidelines, the Sentencing Commission shall review the appropriateness of existing specific offense characteristics or other adjustments applicable to such offenses, and make such changes as it deems appropriate, taking into account the severity of rape offenses, with or without aggravating factors; the unique nature and duration of the mental injuries inflicted on the victims of such offenses; and any other relevant factors.

(b) EFFECT OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instructions set forth in subsection (a) so as to achieve a comparable result.

(c) STATUTORY RAPE.—

(1) Section 2243(b) of title 18, United States Code, is amended by striking "one year," and inserting "two years,".

(2) Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to incorporate the increase in maximum penalties provided by this section for section 2243(b) of title 18, United States Code.

SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or matters related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or his delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2248. Mandatory restitution.".

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) redesignating part N as part O;

(2) redesignating section 1401 as section 1501; and

(3) adding after part M the following:

"PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"SEC. 1401. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribes, cities, and other localities to develop effective law enforcement and prosecution strategies to combat violent crimes against women and, in particular, to focus efforts on those areas with the highest rates of violent crime against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide additional personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing police and prosecution policies, protocols, or orders specifically devoted to identifying and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, prosecutions, and convictions for the crimes of sexual assault and domestic violence; and

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, to increase reporting and reduce attrition rates for cases involving violent crimes against women, including the crimes of sexual assault and domestic violence.

"SUBPART 1—HIGH INTENSITY CRIME AREA GRANTS

"SEC. 1411. HIGH INTENSITY GRANTS.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the 'Director') shall make grants to areas of 'high intensity crime' against women.

"(b) DEFINITION.—For purposes of this part, a 'high intensity crime area' means an area with one of the 40 highest rates of violent crime against women, as determined by the Bureau of Justice Statistics pursuant to section 1412.

"SEC. 1412. HIGH INTENSITY GRANT APPLICATION.

"(a) COMPUTATION.—Within 45 days after the date of enactment of this part, the Bureau of Justice Statistics shall compile a list of the 40 areas with the highest rates of violent crime against women based on the combined female victimization rate per population for assault, sexual assault (including, but not limited to, rape), murder, robbery, and kidnapping.

"(b) USE OF DATA.—In calculating the combined female victimization rate required by subsection (a), the Bureau of Justice Statistics may rely on—

"(1) existing data collected by States, municipalities, Indian reservations or statistical metropolitan areas showing the number of police reports of the crimes listed in subsection (a); and

"(2) existing data collected by the Federal Bureau of Investigation, including data from those governmental entities already complying with the National Incident Based Reporting System, showing the number of police reports of crimes listed in subsection (a).

"(c) PUBLICATION.—After compiling the list set forth in subsection (a), the Bureau of Justice Statistics shall convey it to the Director who shall publish it in the Federal Register.

"(d) QUALIFICATION.—Upon satisfying the terms of subsection (e), any high intensity crime area shall be qualified for a grant under this subpart upon application by the chief executive officer of the governmental entities responsible for law enforcement and prosecution of criminal offenses within the area and certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate program grants, with nongovernmental nonprofit victim services programs; and

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(e) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application must provide the certifications required by subsection (d) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (d)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall ensure, to the extent practicable, that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served; and

"(C) give priority to areas with the greatest showing of need.

"(g) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this part. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"Subpart 2—Other Grants to States to Combat Violent Crimes Against Women

"SEC. 1421. GENERAL GRANTS TO STATES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to States, for use by States, units of local government in the States, and nonprofit nongovernmental victim services programs in the States, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be—

"(1) $500,000 to each State; and

"(2) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application shall include the certifications of qualification required by subsection (c) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (c)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(e) DISBURSEMENT.—(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that States will—

"(A) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000;

"(B) determine the amount of subgrants based on the population and geographic area to be served; and

"(C) give priority to areas with the greatest showing of need, as demonstrated by comparing population and geographic areas to be served to the availability of existing sexual assault and domestic violence services.

"(f) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"SEC. 1422. GENERAL GRANTS TO TRIBES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of $35,000 and maximum grants of $300,000.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b); and

"(2) at least 25 percent of the grant funds shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—(1) Applications shall be made directly to the Director and shall contain a description of the tribes' law enforcement responsibilities for the Indian country described in the application and a description of the tribes' system of courts, including whether the tribal government operates courts of Indian offenses as defined in 25 U.S.C. 1301 or CFR courts under 25 CFR 11 et seq.

"(2) Applications shall be in such form as the Director may prescribe and shall specify the nature of the program proposed by the applicant tribe, the data and information on which the program is based, and the extent to which the program plans to use or incorporate existing services available in the Indian country where the grant will be used.

"(3) The term of any grant shall be for a minimum of 3 years.

"(e) GRANTEE REPORTING.—At the end of the first 12 months of the grant period and at the end of each year thereafter, the Indian tribal granted shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

"(2) The term 'Indian country' has the meaning given to such term by section 1151 of title 18, United States Code.

"SUBPART 3—GENERAL TERMS AND CONDITIONS

"SEC. 1431. GENERAL DEFINITIONS.

"As used in this part—

"(1) the term 'victim services program' means any public or private nonprofit program that assists victims, including (A) nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process and (B) victim/witness programs within governmental entities;

"(2) the term 'sexual assault' includes not only assaults committed by offenders who are strangers to the victim but also assaults committed by offenders who are known or related by blood or marriage to the victim; and

"(3) the term 'domestic violence' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse, or any other person similarly situated to a spouse who is protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"SEC. 1432. GENERAL TERMS AND CONDITIONS.

"(a) NONMONETARY ASSISTANCE.—In addition to the assistance provided under subparts 1 or 2, the Director may direct any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts.

"(b) BUREAU REPORTING.—No later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Judiciary Committees of the House and the Senate a report that includes, for each high intensity crime area (as provided in subpart 1) and for each State and for each grantee Indian tribe (as provided in subpart 2)—

"(1) the amount of grants made under this part;

"(2) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(3) a copy of each grantee report filed pursuant to sections 1412(g) and 1421(f).

"(c) REGULATIONS.—No later than 45 days after the date of enactment of this part, the Director shall publish proposed regulations implementing this part. No later than 120 days after such date, the Director shall publish final regulations implementing this part.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year 1992, 1993, and 1994, $100,000,000 to carry out the purposes of subpart 1, and $190,000,000 to carry out the purposes of subpart 2, and $10,000,000 to carry out the purposes of section 1422 of subpart 2.".

Subtitle C—Safety for Women in Public Transit and Public Parks

SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

Section 24 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION

"SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, and not to exceed $10,000,000, the Secretary shall make capital grants for the prevention of crime and to increase security in existing and future public transportation systems. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

"(b) GRANTS FOR LIGHTING, CAMERA SURVEILLANCE, AND SECURITY PHONES.—

"(1) From the sums authorized for expenditure under this section for crime prevention, the Secretary is authorized to make grants and loans to States and local public bodies or agencies for the purpose of increasing the safety of public transportation by—

"(A) increasing lighting within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(B) increasing camera surveillance of areas within and adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(C) providing emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages; or

"(D) any other project intended to increase the security and safety of existing or planned public transportation systems.

"(2) From the sums authorized under this section, at least 75 percent shall be expended on projects of the type described in subsection (b)(1) (A) and (B).

"(c) REPORTING.—All grants under this section are contingent upon the filing of a report with the Secretary and the Department of Justice, Office of Victims of Crime, showing crime rates in or adjacent to public transportation before, and for a 1-year period after, the capital improvement. Statistics shall be broken down by type of crime, sex, race, and relationship of victim to the offender.

"(d) INCREASED FEDERAL SHARE.—Notwithstanding any other provision of this Act, the Federal share under this section for each capital improvement project which enhances the safety and security of public transportation systems and which is not required by law (including any other provision of this chapter) shall be 90 percent of the net project cost of such project.

"(e) SPECIAL GRANTS FOR PROJECTS TO STUDY INCREASING SECURITY FOR WOMEN.—From the sums authorized under this section, the Secretary shall provide grants and loans for the purpose of studying ways to reduce violent crimes against women in public transit through better design or operation of public transit systems.

"(f) GENERAL REQUIREMENTS.—All grants or loans provided under this section shall be subject to all the terms, conditions, requirements, and provisions applicable to grants and loans made under section 2(a).".

SEC. 132. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN NATIONAL PARKS.

The Act of August 18, 1970, the National Park System Improvements in Administration Act (90 Stat. 1931; 16 U.S.C. 1a-1 et seq.) is amended by adding at the end thereof the following:

"SEC. 13. NATIONAL PARK SYSTEM CRIME PREVENTION ASSISTANCE.

"(a) From the sums authorized pursuant to section 7 of the Land and Water Conservation Act of 1965, and not to exceed $10,000,000, the Secretary of the Interior is authorized to provide Federal assistance to reduce the incidence of violent crime in the National Park System.

"(b) The Secretary shall direct the chief official responsible for law enforcement within the National Park Services to—

"(1) compile a list of areas within the National Park System with the highest rates of violent crime;

"(2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and

"(3) publish the information required by paragraphs (1) and (2) in the Federal Register.

"(c) No later than 120 days after the date of enactment of this section, and based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute funds throughout the National Park Service. Priority shall be given to those areas with the highest rates of sexual assault.

"(d) Funds provided under this section may be used for the following purposes—

"(1) to increase lighting within or adjacent to public parks and recreation areas;

"(2) to provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(3) to increase security or law enforcement personnel within or adjacent to public parks and recreation areas; and

"(4) any other project intended to increase the security and safety of public parks and recreation areas.".

SEC. 133. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC PARKS.

Section 6 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 4601-8) is amended by adding at the end thereof the following new subsection:

"(h) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed $15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding the terms of subsection (c), the Secretary is authorized to provide 70 percent improvement grants for projects undertaken by any State for the purposes outlined in this subsection. The remaining share of the cost shall be borne by the State.".

Subtitle D—National Commission on Violent Crime Against Women

SEC. 141. ESTABLISHMENT.

There is established a commission to be known as the National Commission on Violent Crime Against Women (hereinafter referred to as "the Commission").

SEC. 142. DUTIES OF COMMISSION.

(a) GENERAL PURPOSE OF THE COMMISSION.—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crime against women.

(b) FUNCTIONS.—The Commission shall perform the following functions—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence; and

(9) evaluate and make recommendations regarding the feasibility of maintaining the confidentiality of addresses of domestic violence victims in voting, welfare, and public records.

SEC. 143. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) three of whom shall be—

(I) the Attorney General;

(II) the Secretary of Health and Human Services; and

(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of sexual assault or domestic violence.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) CONGRESSIONAL COMMITTEE RECOMMENDATIONS.—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) REQUIREMENTS OF APPOINTMENTS.—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their experience in State or national efforts to fight violence against women and demonstrate experience in State or national advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of law enforcement, prosecution, judicial administration, legal expertise, public health, social work, victim compensation boards, and victim advocacy.

(4) TERM OF MEMBERS.—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) VACANCY.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) CHAIRMAN.—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) MEETINGS.—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least six times.

(e) PAY.—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) PER DIEM.—Except as provided in subsection (e), members of the Commission shall be allowed travel and other expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) DEADLINE FOR APPOINTMENT.—Not later than 45 days after the date of the enactment of this Act, the members of the Commission shall be appointed.

SEC. 144. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

SEC. 145. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable under GS-18 of the General Schedule as contained in title 5, United States Code.

(b) STAFF.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 146. POWERS OF COMMISSION.

(a) HEARINGS.—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) DELEGATION.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) ACCESS TO INFORMATION.—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chairman of the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 147. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $500,000 to carry out the purposes of this subtitle.

SEC. 148. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed one year.

Subtitle E—New Evidentiary Rules

SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

The Federal Rules of Evidence are amended by inserting after rule 412 the following:

"Rule 412A. Evidence of victim's past behavior in other criminal cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, reputation or opinion evidence of the past sexual behavior of an alleged victim is not admissible.

"(b) ADMISSIBILITY.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, evidence of an alleged victim's past sexual behavior (other than reputation and opinion evidence) may be admissible if—

"(1) the evidence is admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of the evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the alleged victim's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the alleged victim.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

The Federal Rules of Evidence, as amended by section 151 of this Act, are amended by adding after rule 412A the following:

"Rule 412B. Evidence of past sexual behavior in civil cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

"(b) ADMISSIBLE EVIDENCE.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

"(1) admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of such evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the plaintiff's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the plaintiff.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the plaintiff and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies evidence which may be offered and areas with respect to which the plaintiff may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

"(d) DEFINITIONS.—For purposes of this rule, a case involving a claim of actionable sexual misconduct, includes, but is not limited to, sex harassment or discrimination claims brought pursuant to title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)) and gender bias claims brought pursuant to title III of the Violence Against Women Act of 1991.".

SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end thereof the following:

"(e) INTERLOCUTORY APPEAL.—Notwithstanding any other provision of law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

"(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim."; and

(2) by adding at the end of subdivision (c)(3) the following: "In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 154. EVIDENCE OF CLOTHING.

The Federal Rules of Evidence are amended by adding after rule 412 the following:

"Rule 413. Evidence of victim's clothing as inciting violence

"Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged.".

Subtitle F—Assistance to Victims of Sexual Assault

SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended as follows:

(1) by adding at the end thereof the following new section:

"§ 1910A. Use of allotments for rape prevention education

"(a) Notwithstanding the terms of section 1904(a)(1) of this title, amounts transferred by the State for use under this part may be used for rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities, which programs may include—

"(1) educational seminars;

"(2) the operation of hotlines;

"(3) training programs for professionals;

"(4) the preparation of informational materials; and

"(5) other efforts to increase awareness of the facts about, or to help prevent, sexual assault.

"(b) States providing grant monies must assure that at least 15 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) There are authorized to be appropriated under this section for each fiscal year 1992, 1993, and 1994, $65,000,000 to carry out the purposes of this section.

"(d) Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) For purposes of this section, the term 'rape prevention and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim.

"(f) States shall be allotted funds under this section pursuant to the terms of sections 1902 and 1903, and subject to the conditions provided in this section and sections 1904 through 1909.";

(2) striking section 1901(b); and

(3) striking section 1904(a)(1)(G).

SEC. 162. RAPE EXAM PAYMENTS.

No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 unless the State or other grantee incurs the full cost of forensic medical exams for victims of sexual assault. A State or other grantee does not incur the full medical cost of forensic medical exams if it chooses to reimburse the victim after the fact unless the reimbursement program waives any minimum loss or deductible requirement, provides victim reimbursement within a reasonable time (90 days), permits applications for reimbursement within one year from the date of the exam, and provides information to all subjects of forensic medical exams about how to obtain reimbursement.

TITLE II—SAFE HOMES FOR WOMEN

SEC. 201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1990".

Subtitle A—Interstate Enforcement

SEC. 211. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

"Chapter 110A—Violence Against Spouses

"Sec. 2261. Traveling to commit spousal abuse.

"Sec. 2262. Interstate violation of protection orders.

"Sec. 2263. Restitution.

"Sec. 2264. Full faith and credit given to protection orders.

"Sec. 2265. Definitions for chapter.

"§ 2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner; or

"(2) for the purpose of harassing, intimidating, or injuring a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner,

shall be fined not more than $1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner, shall be fined not more than $1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(c) NO STATE LAW.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, a person violating this section shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

"(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§ 2262. Interstate violation of protection orders

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

"(2) for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c) of this section.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c) of this section.

"(c) PENALTIES.—

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than six months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§ 2263. Interim protections

"In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the protection of an abused spouse or intimate partner pending final adjudication of the case, upon a showing of a likelihood of danger to the abused spouse or intimate partner.

"§ 2264. Restitution

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to subsection (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation; and

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the offender, including obligations to dependents.

"(B) An order under this section may direct the defendant to make a single lump-sum payment, or partial payments at specified intervals. The order shall provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(C) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or his delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) RESTITUTION AND CRIMINAL PENALTIES.—An award of restitution to the victim of an offense under this chapter shall not be a substitute for imposition of punishment under sections 2261 and 2262.

"(e) DEFINITIONS.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.

"§ 2265. Full faith and credit given to protection orders

"(a) FULL FAITH AND CREDIT.—Any protection order issued consistent with the terms of subsection (b) by the court of one State (the issuing State) shall be accorded full faith and credit by the court of another State (the enforcing State) and enforced as if it were the order of the enforcing State.

"(b) PROTECTION ORDER.—A protection order issued by a State court is consistent with the provisions of this section if—

"(1) such court has jurisdiction over the parties and matter under the law of such State; and

"(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

"(c) CROSS OR COUNTER PETITION.—A protection order issued by a State court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

"(1) no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or

"(2) if a cross or counter petition has been filed, if the court did not make specific findings that each party was entitled to such an order.

"§ 2266. Definitions for chapter

"As used in this chapter—

"(1) the term 'spouse or intimate partner' includes—

"(A) a present or former spouse, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

"(B) any other person similarly situated to a spouse, other than a child, who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

"(2) the term 'protection order' includes any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except those done in self-defense, that results in physical injury or sexual abuse;

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

"(5) the term 'travel across State lines' includes any such travel except travel across State lines by an Indian tribal member when that member remained at all times on tribal lands.".

(b) TABLE OF CHAPTERS.—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

"110A. Violence against spouses .... 2261.".

Subtitle B—Arrest in Spousal Abuse Cases

SEC. 221. ENCOURAGING ARREST POLICIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10400) is amended by adding after section 311 the following:

"SEC. 312. ENCOURAGING ARREST POLICIES.

"(a) PURPOSE.—To encourage States, Indian tribes and localities to treat spousal violence as a serious violation of criminal law, the Secretary is authorized to make grants to eligible States, Indian tribes, municipalities, or local government entities for the following purposes:

"(1) to implement pro-arrest programs and policies in police departments and to improve tracking of cases involving spousal abuse;

"(2) to centralize and coordinate police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges;

"(3) to educate judges in criminal and other courts about spousal abuse and to improve judicial handling of such cases.

"(b) ELIGIBILITY.—(1) Eligible grantees are those States, Indian tribes, municipalities or other local government entities that—

"(A) demonstrate, through arrest and conviction statistics, that their laws or policies have been effective in significantly increasing the number of arrests made of spouse abusers; and

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed or mandate arrest of spouses violating the terms of a valid and outstanding protection order; or

"(ii) permit warrantless misdemeanor arrests of spouse abusers and encourage the use of that authority;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser and the increase in arrest rates demonstrated pursuant to paragraph (1)(A) is not the result of increased dual arrests; and

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protective order, and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim.

"(2) For purposes of this section, the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

"(3) For purposes of this section, the term 'spousal or spouse abuse' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabited with the victim as a spouse, or any other person protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(4) The eligibility requirements provided in this section shall take effect one year after the date of enactment of this section.

"(c) DELEGATION AND AUTHORIZATION.—The Secretary shall delegate to the Attorney General of the United States the Secretary's responsibilities for carrying out this section to the Attorney General. There are authorized to be appropriated not in excess of $25,000,000 for each fiscal year to be used for the purpose of making grants under this section.

"(d) APPLICATION.—An eligible grantee shall submit an application to the Secretary. Such application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribes, municipality, or local government entity that the conditions of subsection (b) are met;

"(2) describe the entity's plans to further the purposes listed in subsection (a);

"(3) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(4) identify and include documentation showing the nonprofit nongovernmental victim services programs that will be consulted in developing, and implementing, the program.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a grantee that—

"(1) does not currently provide for centralized handling of cases involving spousal or family violence in any one of the areas listed in this subsection—police, prosecutors, and courts; and

"(2) demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving spousal or family violence.

"(f) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described in subsection (d)(2) and containing such additional information as the Secretary may prescribe.

"(g) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.".

Subtitle C—Funding for Shelters

SEC. 231. AUTHORIZATION.

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

"SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out the provisions of this title, $85,000,000 for fiscal year 1992, $100,000,000, for fiscal year 1993, and $125,000,000 for fiscal year 1994.

"(b) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 80 percent shall be used by the Secretary for making grants under section 303.

"(c) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not more than 5 percent shall be used by the Secretary for making grants under section 314.

"(d) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 5 percent shall be used by the Secretary for making grants under section 308A.".

Subtitle D—Family Violence Prevention and Services Act Amendments

SEC. 241. EXPANSION OF PURPOSE.

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent" and by striking "demonstrate the effectiveness of assisting" and inserting "assist".

SEC. 242. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.

(a) INCREASING PUBLIC AWARENESS.—Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

(b) EXPANSION OF PROGRAM.—Section 303(a)(2)(B)(ii) is amended by striking "alcohol and drug abuse treatment".

SEC. 243. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

"GRANTS FOR PUBLIC INFORMATION CAMPAIGNS

"SEC. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) An application submitted under subsection (b) shall—

"(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk.".

SEC. 244. FUND DISTRIBUTION TO STATES.

Section 304(a)(1) of the Family Violence Prevention and Services Act is amended by striking "$50,000" and inserting "$500,000".

SEC. 245. INDIAN TRIBES.

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "from sums appropriated shall make no less than 10 percent available for".

SEC. 246. FUNDING LIMITATIONS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by—

(1) striking ", and" and all that follows through "fiscal years"; and

(2) striking "$50,000" and inserting "$75,000".

SEC. 247. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: "No grant may be made under this section to an entity other than a State or Indian tribe unless the entity provides 35 percent of the funding of the program or project funded by the grant.".

SEC. 248. SHELTER AND RELATED ASSISTANCE.

(a) CHANGE OF PERCENTAGES.—Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended by striking "not less than 60 percent" and inserting "not less than 75 percent".

(b) DEFINITION OF RELATED ASSISTANCE.—Section 309(5) of the Family Violence Prevention and Services Act is amended to read as follows:

"(5) The term 'related assistance' includes any, but does not require all, of the following—

"(A) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(B) transportation, legal assistance, referrals for appropriate health-care services (including alcohol and drug abuse treatment), and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(C) comprehensive counseling and self-help services to abusers, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services and employment training; and

"(D) child care services for children who are victims of family violence or the dependents of such victims.".

SEC. 249. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.

Section 311 of the Family Violence Protection and Services Act (42 U.S.C. 10410(b)) is repealed.

SEC. 250. REPORT ON RECORDKEEPING.

Not later than 120 days after the date of enactment of this Act, the Government Accounting Office shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine efforts to date of the FBI and Justice Department to collect statistics on domestic violence and the feasibility of, including a suggested timetable for, requiring that the relationship between an offender and victim be reported in Federal and State records of crimes of assault, aggravated assault, rape, and other violent crimes.

SEC. 251. MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.

The Family Violence Prevention Services Act, as amended by section 103 of this Act, is amended by adding at the end thereof the following new section:

"MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION

"SEC. 315. (a) The Secretary, in cooperation with the Attorney General, shall award grants to not less than 10 States to assist in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

"(1) increase the number of prosecutions for domestic violence crimes;

"(2) encourage the reporting of incidences of domestic violence;

"(3) facilitate 'arrests and aggressive' prosecution policies; and

"(4) provides court advocacy for victims of domestic violence.

"(b) To be designated as a model State under subsection (a), a State shall have in effect—

"(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

"(2) a law or policy that discourages * * *

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judiciaes 'dual' arrests;

"(3) statewide prosecution policies that—

"(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

"(4) statewide laws, policies, or guidelines for judges that—

"(A) prohibit the issuance of mutual protective orders in cases where only one spouse has sought a protective order and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim;

"(B) require that any history of child abuse be considered detrimental to the child and discourage custody or joint custody orders by spouse abusers; and

"(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute;

"(5) develop and disseminate methods to improve the criminal justice system's response to domestic violence to make existing remedies as easily available as possible to victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

"(c)(1) In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section $25,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) Funds shall be distributed under this section so that no State shall receive more than $2,500,000 in each fiscal year under this section.

"(3) The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section.".

SEC. 252. FUNDING FOR TECHNICAL ASSISTANCE CENTERS.

The Family Violence Prevention and Services Act is amended by inserting after section 308 the following:

"SEC. 308A. TECHNICAL ASSISTANCE CENTERS.

"(a) Purpose.—The purpose of this section is to provide training and technical assistance to State, Indian tribal, and local domestic violence programs and to other professionals who provide services to victims of domestic violence. From the sums authorized under this title, the Secretary shall provide grants to or contract with, private nonprofit organizations, for the establishment and maintenance of one national and six special-issue resource centers serving defined geographic areas. One national resource center shall offer resource, policy, and/or training assistance to Federal, State, Indian tribal, and local government agencies on issues pertaining to domestic violence and serve a coordinating and resource-sharing function among domestic violence service providers, and maintain a central resource library. The other national resource centers shall provide information, training and technical assistance to State, tribal and local domestic violence service providers. In addition, each national center shall specialize in one of the following areas of domestic violence service, prevention or law:

"(1) criminal justice response to domestic violence, including court-mandated abuser treatment;

"(2) child custody issues in domestic violence cases;

"(3) use of the self-defense plea by domestic violence victims;

"(4) health care response and access to health care resources for domestic violence victims;

"(5) victims' access to, and quality of, effective legal assistance, including civil litigation; and

"(6) the response of child protective service agencies to battered mothers of abused children.

"(b) Eligibility.—Eligible grantees are private non-profit organizations that—

"(1) focus primarily on domestic violence;

"(2) provide documentation to the Secretary demonstrating a minimum of three years experience with issues of domestic violence, particularly in the specific area for which it is applying;

"(3) include on its advisory boards representatives from domestic violence programs who are geographically and culturally diverse; and

"(4) demonstrate strong support from domestic violence advocates for their designation as the special-issue resource center.

"(c) Reporting.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described and containing such additional information as the Secretary may prescribe.

"(d) Regulations.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section.".

Subtitle E—Youth Education and Domestic Violence

SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

(a) General Purpose.—For purposes of this section, the Secretary shall delegate his powers to the Secretary of Education, hereinafter referred to as the "Secretary". The Secretary shall select, implement and evaluate four model programs for education of young people about domestic violence and violence among intimate partners.

(b) Nature of Program.—The Secretary shall select, implement and evaluate separate model programs for four different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. These model programs shall be selected, implemented, and evaluated with the input of educational experts, legal and psychological experts on battering, and victim advocate organizations such as battered women's shelters, State coalitions and resource centers. The participation of each of these groups or individual consultants from such groups is essential to the selection, implementation, and evaluation of programs that meet both the needs of educational institutions and the needs of the domestic violence problem.

(c) Review and Dissemination.—Not later than 24 months after the date of enactment of this Act, the Secretary shall transmit the design and evaluation of the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.

(d) Authorization.—There are authorized to be appropriated under this section for fiscal year 1992, $400,000 to carry out the purposes of this section.

Subtitle F—Confidentiality for Abused Persons

SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.

No later than 90 days after the enactment of this Act, the Postmaster General shall promulgate regulations to secure the confidentiality of abused persons' addresses or otherwise prohibit the disclosure of an abused person's address consistent with the following guidelines:

(1) confidentiality shall be provided upon the presentation to an appropriate postal official of an existing and valid court order for the protection of an abused spouse;

(2) disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited; and

(3) compilations of addresses existing at the time the order is presented to an appropriate postal official shall be excluded from the scope of the proposed regulations.

TITLE III—CIVIL RIGHTS

SEC. 301. CIVIL RIGHTS.

(a) Findings.—The Congress finds that—

(1) crimes motivated by the victim's gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for gender crimes committed on the street or in the home; and

(3) State and Federal criminal laws do not adequately protect against the bias element of gender-motivated crimes, which separates these crimes from acts of random violence, nor do those laws adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests;

(4) existing bias and discrimination in the criminal justice system often deprives victims of gender-motivated crimes of equal protection of the laws and the redress to which they are entitled;

(5) gender-motivated violence has a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business, and in places involved, in interstate commerce;

(6) gender-motivated violence has a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products;

(7) a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse effects of gender-motivated violence on interstate commerce; and

(8) victims of gender-motivated violence have a right to equal potection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

(b) Rights, Privileges and Immunities.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) Cause of Action.—Any person, including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State, who commits a crime of violence motivated by gender and thus deprives another of the rights, privileges or immunities secured by the Constitution or laws as enumerated in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as the court may deem appropriate.

(d) Definitions.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in this section, including rape, sexual assault, sexual abuse, abusive sexual contact, or any other crime of violence committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) Limitation and Procedures.—

(1) Limitation.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

SEC. 302. CONFORMING AMENDMENT.

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: ", or title III of the Violence Against Women Act of 1991,".

TITLE IV—SAFE CAMPUSES FOR WOMEN

SEC. 401. SHORT TITLE.

This title may be cited as the "Safe Campuses for Women Act of 1990".

SEC. 402. FINDINGS.

The Congress finds that—

(1) rape prevention and education programs are essential to an educational environment free of fear for students' personal safety;

(2) sexual assault on campus, whether by fellow students or not, is widespread among the Nation's higher education institutions: experts estimate that 1 in 7 of the women now in college have been raped and over half of college rape victims know their attackers;

(3) sexual assault poses a grave threat to the physical and mental well-being of students and may significantly impair the learning process; and

(4) action by schools to educate students may make substantial inroads on the incidence of rape, including the incidence of acquaintance rape on campus.

SEC. 403. GRANTS FOR CAMPUS RAPE EDUCATION.

Title X of the Higher Education Act of 1965 is amended to add at the end thereof the following:

"PART D—GRANTS FOR CAMPUS RAPE EDUCATION."

SEC. 1071. GRANTS FOR CAMPUS RAPE EDUCATION.

"(a) IN GENERAL.—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for rape education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

"(b) GENERAL RAPE PREVENTION AND EDUCATION GRANTS.—Grants under this section shall be used to educate and provide support services to student victims of rape or sexual assault. Grants may be used for the following purposes:

"(1) to provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of rape, sexual assault, and other gender-motivated crimes;

"(2) to develop, disseminate, or implement campus security and student disciplinary policies to prevent and discipline rape, sexual assault and other gender-motivated crimes;

"(3) to develop, enlarge or strengthen support services programs including medical or psychological counseling to assist victims' recovery from rape, sexual assault, or other gender-motivated crimes;

"(4) to create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action; and

"(5) to implement, operate, or improve rape education and prevention programs, including programs making use of peer-to-peer education.

"(c) MODEL GRANTS.—Not less than 25 percent of the funds authorized under this section shall be available for grants for model demonstration programs to be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student rape victims.

"(d) ELIGIBILITY.—No institution of higher education or consortium of such institutions shall be eligible for a grant under this section unless—

"(1) its student code of conduct, or other written policy governing student behavior, explicitly prohibits not only rape but all forms of sexual assault; and

"(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual assault the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual assault: *Provided*, That nothing in this section shall be interpreted to authorize disclosure to any person other than the victim.

"(e) APPLICATIONS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—

"(A) set forth the activities and programs to be carried out with funds granted under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) explain how the program intends to address the issue of acquaintance rape;

"(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

"(e) GRANTEE REPORTING.—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) Except as otherwise provided, the terms used in this part shall have the meaning provided under section 2981 of this title.

"(2) For purposes of this subchapter, the following terms have the following meanings:

"(A) The term 'rape education and prevention' includes programs that provide educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual assault.

"(B) The term 'Secretary' means the Secretary of Education.

"(g) GENERAL TERMS AND CONDITIONS.—(1) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.

"(2) No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

"(A) the amount of grants made under this section;

"(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(C) a copy of each grantee report filed pursuant to subsection (e) of this section.

"(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated $20,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995.".

SEC. 404. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.

Section 204(f) of the Crime Awareness and Campus Security Act of 1990 is amended to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

"(i) murder;

"(ii) rape or sexual assault;

"(iii) robbery;

"(iv) aggravated assault;

"(v) burglary; and

"(vi) motor vehicle theft.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

SECTION 501. SHORT TITLE.

This title may be cited as the "Equal Justice for Women in the Courts Act of 1991".

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

SEC. 511. GRANTS AUTHORIZED.

The State Justice Institute is authorized to award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SEC. 512. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the batterer, to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel, and the legitimate reasons why victims of domestic violence may refuse to testify against a defendant;

(18) the need for orders of protection, and the implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence cases;

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims; and

(20) current information on the impact of pornography on crimes against women, or data on other activities that tend to degrade women.

SEC. 513. COOPERATION IN DEVELOPING PROGRAMS IN MAKING GRANTS UNDER THIS TITLE.

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this subtitle are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 514. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $600,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

SEC. 521. EDUCATION AND TRAINING GRANTS.

(a) STUDY.—The Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use of data collection techniques such as reviews of trial and appellate opinions and transcripts, public hearings, and inquiries to attorneys practicing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) MODEL PROGRAMS.—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 512 of subtitle A; and

(B) all procedural and substantive aspects of the legal rights and remedies for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

SEC. 522. COOPERATION IN DEVELOPING PROGRAMS.

In implementing this subtitle, the Federal Judicial Center shall ensure that the study and model programs are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 523. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $400,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 521(a) of this subtitle.

AMENDMENT NO. 718

Strike everything after the term "Sec." and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violence Against Women Act of 1991".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—SAFE STREETS FOR WOMEN

Sec. 101. Short title.

Subtitle A—Federal Penalties for Sex Crimes

Sec. 111. Repeat offenders.
Sec. 112. Federal penalties.
Sec. 113. Mandatory restitution for sex crimes.

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

Sec. 121. Grants to combat violent crimes against women.

Subtitle C—Safety for Women in Public Transit and Public Parks

Sec. 131. Grants for capital improvements to prevent crime in public transportation.
Sec. 132. Grants for capital improvements to prevent crime in national parks.
Sec. 133. Grants for capital improvements to prevent crime in public parks.

Subtitle D—National Commission on Violent Crime Against Women

Sec. 141. Establishment.
Sec. 142. Duties of commission.
Sec. 143. Membership.
Sec. 144. Reports.
Sec. 145. Executive Director and staff.
Sec. 146. Powers of commission.
Sec. 147. Authorization of appropriations.
Sec. 148. Termination.

Subtitle E—New Evidentiary Rules

Sec. 151. Sexual history in all criminal cases.
Sec. 152. Sexual history in civil cases.
Sec. 153. Amendments to rape shield law.
Sec. 154. Evidence of clothing.

Subtitle F—Assistance to Victims of Sexual Assault

Sec. 161. Education and prevention grants to reduce sexual assaults against women.
Sec. 162. Rape exam payments.

TITLE II—SAFE HOMES FOR WOMEN

Sec. 201. Short title.

Subtitle A—Interstate Enforcement

Sec. 211. Interstate enforcement.

Subtitle B—Arrest in Spousal Abuse Cases

Sec. 221. Encouraging arrest policies.

Subtitle C—Funding for Shelters

Sec. 231. Authorization.

Subtitle D—Family Violence Prevention and Services Act Amendments

Sec. 241. Expansion of purpose.
Sec. 242. Expansion of State demonstration grant program.
Sec. 243. Grants for public information campaigns.
Sec. 244. State commissions on domestic violence.
Sec. 245. Indian tribes.
Sec. 246. Funding limitations.
Sec. 247. Grants to entities other than States; local share.
Sec. 248. Shelter and related assistance.
Sec. 249. Law enforcement training and technical assistance grants.
Sec. 250. Report on recordkeeping.
Sec. 251. Model State leadership incentive grants for domestic violence intervention.
Sec. 252. Funding for technical assistance centers.

Subtitle E—Youth Education and Domestic Violence

Sec. 261. Educating youth about domestic violence.

Subtitle F—Confidentiality for Abused Persons
Sec. 271. Confidentiality for abused persons.
TITLE III—CIVIL RIGHTS
Sec. 301. Civil rights.
TITLE IV—SAFE CAMPUSES FOR WOMEN
Sec. 401. Short title.
Sec. 402. Findings.
Sec. 403. Grants for campus rape education.
Sec. 404. Disclosure of disciplinary proceedings in sex assault cases on campus.
TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990
Sec. 501. Short title.
Subtitle A—Education and Training for Judges and Court Personnel in State Courts
Sec. 511. Grants authorized.
Sec. 512. Training provided by grants.
Sec. 513. Cooperation in developing programs in making grants under this title.
Sec. 514. Authorization of appropriations.
Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts
Sec. 521. Education and training grants.
Sec. 522. Cooperation in developing programs.
Sec. 523. Authorization of appropriations.

TITLE I—SAFE STREETS FOR WOMEN

SEC. 101. SHORT TITLE.

This title may be cited as the "Safe Streets for Women Act of 1991".

Subtitle A—Federal Penalties for Sex Crimes

SEC. 111. REPEAT OFFENDERS.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2247. Repeat offenders

"Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2247. Repeat offenders.".

SEC. 112. FEDERAL PENALTIES.

(a) RAPE AND AGGRAVATED RAPE.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide that a defendant convicted of aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, shall be assigned a base offense level under chapter 2 of the sentencing guidelines that is at least 4 levels greater than the base offense level applicable to criminal sexual abuse under the guidelines in effect on November 1, 1990, or otherwise shall amend the guidelines applicable to such offenses so as to achieve a comparable minimum guideline sentence. In amending such guidelines, the Sentencing Commission shall review the appropriateness of existing specific offense characteristics or other adjustments applicable to such offenses, and make such changes as it deems appropriate, taking into account the severity of rape offenses, with or without aggravating factors; the unique nature and duration of the mental injuries inflicted on the victims of such offenses; and any other relevant factors.

(b) EFFECT OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instructions set forth in subsection (a) so as to achieve a comparable result.

(c) STATUTORY RAPE.—

(1) Section 2243(b) of title 18, United States Code, is amended by striking "one year," and inserting "two years,".

(2) Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to incorporate the increase in maximum penalties provided by this section for section 2243(b) of title 18, United States Code.

SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lump-sum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or matters related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or his delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2248. Mandatory restitution.".

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by—

(1) redesignating part N as part O;

(2) redesignating section 1401 as section 1501; and

(3) adding after part M the following:

"PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"SEC. 1401. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribes, cities, and other localities to develop effective law enforcement and prosecution strategies to combat violent crimes against women and, in particular, to focus efforts on those areas with the highest rates of violent crime against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide additional personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing police and prosecution policies, protocols, or orders specifically devoted to identifying and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, prosecutions, and convictions for the crimes of sexual assault and domestic violence; and

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, to increase reporting and reduce attrition rates for cases involving violent crimes against women, including the crimes of sexual assault and domestic violence.

"SUBPART 1—HIGH INTENSITY CRIME AREA GRANTS

"SEC. 1411. HIGH INTENSITY GRANTS.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the ('Director') shall make grants to areas of 'high intensity crime' against women.

"(b) DEFINITION.—For purposes of this part, a 'high intensity crime area' means an area with one of the 40 highest rates of violent crime against women, as determined by the Bureau of Justice Statistics pursuant to section 1412.

"SEC. 1412. HIGH INTENSITY GRANT APPLICATION.

"(a) COMPUTATION.—Within 45 days after the date of enactment of this part, the Bureau of Justice Statistics shall compile a list of the 40 areas with the highest rates of violent crime against women based on the combined female victimization rate per population for assault, sexual assault (including, but not limited to, rape), murder, robbery, and kidnapping.

"(b) USE OF DATA.—In calculating the combined female victimization rate required by subsection (a), the Bureau of Justice Statistics may rely on—

"(1) existing data collected by States, municipalities, Indian reservations or statistical metropolitan areas showing the number of police reports of the crimes listed in subsection (a); and

"(2) existing data collected by the Federal Bureau of Investigation, including data from those governmental entities already complying with the National Incident Based Reporting System, showing the number of police reports of crimes listed in subsection (a).

"(c) PUBLICATION.—After compiling the list set forth in subsection (a), the Bureau of Justice Statistics shall convey it to the Director who shall publish it in the Federal Register.

"(d) QUALIFICATION.—Upon satisfying the terms of subsection (e), any high intensity crime area shall be qualified for a grant under this subpart upon application by the chief executive officer of the governmental entities responsible for law enforcement and prosecution of criminal offenses within the area and certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate program grants, with nongovernmental nonprofit victim services programs; and

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(e) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application must provide the certifications required by subsection (d) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (d)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall ensure, to the extent practicable, that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served; and

"(C) give priority to areas with the greatest showing of need.

"(g) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this part. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"Subpart 2—Other Grants to States to Combat Violent Crimes Against Women

"SEC. 1421. GENERAL GRANTS TO STATES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to States, for use by States, units of local government in the States, and nonprofit nongovernmental victim services programs in the States, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be—

"(1) $500,000 to each State; and

"(2) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application shall include the certifications of qualification required by subsection (c) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (c)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds; and

"(C) expected results from the use of grant funds; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(e) DISBURSEMENT.—(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that States will—

"(A) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000;

"(B) determine the amount of subgrants based on the population and geographic area to be served; and

"(C) give priority to areas with the greatest showing of need, as demonstrated by comparing population and geographic areas to be served to the availability of existing sexual assault and domestic violence services.

"(f) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"SEC. 1422. GENERAL GRANTS TO TRIBES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of $35,000 and maximum grants of $300,000.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b); and

"(2) at least 25 percent of the grant funds shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—(1) Applications shall be made directly to the Director and shall contain a description of the tribes' law enforcement responsibilities for the Indian country described in the application and a description of the tribes' system of courts, including whether the tribal government operates courts of Indian offenses as defined in 25 U.S.C. 1301 or CFR courts under 25 CFR 11 et seq.

"(2) Applications shall be in such form as the Director may prescribe and shall specify the nature of the program proposed by the applicant tribe, the data and information on which the program is based, and the extent to which the program plans to use or incorporate existing services available in the Indian country where the grant will be used.

"(3) The term of any grant shall be for a minimum of 3 years.

"(e) GRANTEE REPORTING.—At the end of the first 12 months of the grant period and at the end of each year thereafter, the Indian tribal grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

"(2) The term 'Indian country' has the meaning given to such term by section 1151 of title 18, United States Code.

"SUBPART 3—GENERAL TERMS AND CONDITIONS

"SEC. 1431. GENERAL DEFINITIONS.

"As used in this part—

"(1) the term 'victim services program' means any public or private nonprofit program that assists victims, including (A) nongovernmental nonprofit organizations such as rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process and (B) victim/witness programs within governmental entities;

"(2) the term 'sexual assault' includes not only assaults committed by offenders who are strangers to the victim but also assaults committed by offenders who are known or related by blood or marriage to the victim; and

"(3) the term 'domestic violence' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse, or any other person similarly situated to a spouse who is protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"SEC. 1432. GENERAL TERMS AND CONDITIONS.

"(a) NONMONETARY ASSISTANCE.—In addition to the assistance provided under subparts 1 or 2, the Director may direct any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts.

"(b) BUREAU REPORTING.—No later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Judiciary Committees of the House and the Senate a report that includes, for each high intensity crime area (as provided in subpart 1) and for each State and for each grantee Indian tribe (as provided in subpart 2)—

"(1) the amount of grants made under this part;

"(2) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(3) a copy of each grantee report filed pursuant to sections 1412(g) and 1421(f).

"(c) REGULATIONS.—No later than 45 days after the date of enactment of this part, the Director shall publish proposed regulations implementing this part. No later than 120 days after such date, the Director shall publish final regulations implementing this part.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year 1992, 1993, and 1994, $100,000,000 to carry out the purposes of subpart 1, and $190,000,000 to carry out the purposes of subpart 2, and $10,000,000 to carry out the purposes of section 1422 of subpart 2.".

Subtitle C—Safety for Women in Public Transit and Public Parks

SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

Section 24 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION

"SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, and not to exceed $10,000,000, the Secretary shall make capital grants for the prevention of crime and to increase security in existing and future public transportation systems. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

"(b) GRANTS FOR LIGHTING, CAMERA SURVEILLANCE, AND SECURITY PHONES.—

"(1) From the sums authorized for expenditure under this section for crime prevention, the Secretary is authorized to make grants and loans to States and local public bodies or agencies for the purpose of increasing the safety of public transportation by—

"(A) increasing lighting within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(B) increasing camera surveillance of areas within and adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(C) providing emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages; or

"(D) any other project intended to increase the security and safety of existing or planned public transportation systems.

"(2) From the sums authorized under this section, at least 75 percent shall be expended on projects of the type described in subsection (b)(1) (A) and (B).

"(c) REPORTING.—All grants under this section are contingent upon the filing of a report with the Secretary and the Department of Justice, Office of Victims of Crime, showing crime rates in or adjacent to public transportation before, and for a 1-year period after, the capital improvement. Statistics shall be broken down by type of crime, sex, race, and relationship of victim to the offender.

"(d) INCREASED FEDERAL SHARE.—Notwithstanding any other provision of this Act, the Federal share under this section for each capital improvement project which enhances the safety and security of public transportation systems and which is not required by law (including any other provision of this chapter) shall be 90 percent of the net project cost of such project.

"(e) SPECIAL GRANTS FOR PROJECTS TO STUDY INCREASING SECURITY FOR WOMEN.—From the sums authorized under this section, the Secretary shall provide grants and loans for the purpose of studying ways to reduce violent crimes against women in public transit through better design or operation of public transit systems.

"(f) GENERAL REQUIREMENTS.—All grants or loans provided under this section shall be subject to all the terms, conditions, requirements, and provisions applicable to grants and loans made under section 2(a).".

SEC. 132. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN NATIONAL PARKS.

The Act of August 18, 1970, the National Park System Improvements in Administration Act (90 Stat. 1931; 16 U.S.C. 1a-1 et seq.) is amended by adding at the end thereof the following:

"SEC. 13. NATIONAL PARK SYSTEM CRIME PREVENTION ASSISTANCE.

"(a) From the sums authorized pursuant to section 7 of the Land and Water Conservation Act of 1965, and not to exceed $10,000,000, the Secretary of the Interior is authorized to provide Federal assistance to reduce the incidence of violent crime in the National Park System.

"(b) The Secretary shall direct the chief official responsible for law enforcement within the National Park Services to—

"(1) compile a list of areas within the National Park System with the highest rates of violent crime;

"(2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and

"(3) publish the information required by paragraphs (1) and (2) in the Federal Register.

"(c) No later than 120 days after the date of enactment of this section, and based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute funds throughout the National Park Service. Priority shall be given to those areas with the highest rates of sexual assault.

"(d) Funds provided under this section may be used for the following purposes—

"(1) to increase lighting within or adjacent to public parks and recreation areas;

"(2) to provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(3) to increase security or law enforcement personnel within or adjacent to public parks and recreation areas; and

"(4) any other project intended to increase the security and safety of public parks and recreation areas.".

SEC. 133. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC PARKS.

Section 6 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 4601-8) is amended by adding at the end thereof the following new subsection:

"(h) Capital Improvement and Other Projects To Reduce Crime.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed $15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding the terms of subsection (c), the Secretary is authorized to provide 70 percent improvement grants for projects undertaken by any State for the purposes outlined in this subsection. The remaining share of the cost shall be borne by the State.".

Subtitle D—National Commission on Violent Crime Against Women

SEC. 141. ESTABLISHMENT.

There is established a commission to be known as the National Commission on Violent Crime Against Women (hereinafter referred to as "the Commission").

SEC. 142. DUTIES OF COMMISSION.

(a) General Purpose of the Commission.—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crime against women.

(b) Functions.—The Commission shall perform the following functions—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence; and

(9) evaluate and make recommendations regarding the feasibility of maintaining the confidentiality of addresses of domestic violence victims in voting, welfare, and public records.

SEC. 143. MEMBERSHIP.

(a) Number and Appointment.—

(1) Appointment.—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) three of whom shall be—

(I) the Attorney General;

(II) the Secretary of Health and Human Services; and

(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of sexual assault or domestic violence.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) Congressional Committee Recommendations.—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) Requirements of Appointments.—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their experience in State or national efforts to fight violence against women and demonstrate experience in State or national advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of law enforcement, prosecution, judicial administration, legal expertise, public health, social work, victim compensation boards, and victim advocacy.

(4) Term of Members.—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) Vacancy.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) Chairman.—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) Quorum.—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) Meetings.—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the

Chairman or a majority of its members, but shall meet at least six times.

(e) PAY.—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) PER DIEM.—Except as provided in subsection (e), members of the Commission shall be allowed travel and other expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) DEADLINE FOR APPOINTMENT.—Not later than 45 days after the date of the enactment of this Act, the members of the Commission shall be appointed.

SEC. 144. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

SEC. 145. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable under GS-18 of the General Schedule as contained in title 5, United States Code.

(b) STAFF.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 146. POWERS OF COMMISSION.

(a) HEARINGS.—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) DELEGATION.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) ACCESS TO INFORMATION.—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chairman of the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 147. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $500,000 to carry out the purposes of this subtitle.

SEC. 148. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed one year.

Subtitle E—New Evidentiary Rules

SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

The Federal Rules of Evidence are amended by inserting after rule 412 the following:

"Rule 412A. Evidence of victim's past behavior in other criminal cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, reputation or opinion evidence of the past sexual behavior of an alleged victim is not admissible.

"(b) ADMISSIBILITY.—Notwithstanding any other provision of law, in a criminal case, other than a sex offense case governed by rule 412, evidence of an alleged victim's past sexual behavior (other than reputation and opinion evidence) may be admissible if—

"(1) the evidence is admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of the evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the alleged victim's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the alleged victim.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

The Federal Rules of Evidence, as amended by section 151 of this Act, are amended by adding after rule 412A the following:

"Rule 412B. Evidence of past sexual behavior in civil cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

"(b) ADMISSIBLE EVIDENCE.—Notwithstanding any other provision of law, in a civil case in which a defendant is accused of actionable sexual misconduct, as defined in subdivision (d), evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

"(1) admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of such evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the plaintiff's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the plaintiff.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing, the parties may call witnesses, including the plaintiff and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies evidence which may be offered and areas with respect to which the plaintiff may be examined or cross-examined. In its order, the court should consider

(A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

"(d) DEFINITIONS.—For purposes of this rule, a case involving a claim of actionable sexual misconduct, includes, but is not limited to, sex harassment or discrimination claims brought pursuant to title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)) and gender bias claims brought pursuant to title III of the Violence Against Women Act of 1991.".

SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end thereof the following:

"(e) INTERLOCUTORY APPEAL.—Notwithstanding any other provision of law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

"(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim."; and

(2) by adding at the end of subdivision (c)(3) the following: "In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 154. EVIDENCE OF CLOTHING.

The Federal Rules of Evidence are amended by adding after rule 412 the following:

"Rule 413. Evidence of victim's clothing as inciting violence

"Notwithstanding any other provision of law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged.".

Subtitle F—Assistance to Victims of Sexual Assault

SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended as follows:

(1) by adding at the end thereof the following new section:

"§ 1910A. Use of allotments for rape prevention education

"(a) Notwithstanding the terms of section 1904(a)(1) of this title, amounts transferred by the State for use under this part may be used for rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities, which programs may include—

"(1) educational seminars;

"(2) the operation of hotlines;

"(3) training programs for professionals;

"(4) the preparation of informational materials; and

"(5) other efforts to increase awareness of the facts about, or to help prevent, sexual assault.

"(b) States providing grant monies must assure that at least 15 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) There are authorized to be appropriated under this section for each fiscal year 1992, 1993, and 1994, $65,000,000 to carry out the purposes of this section.

"(d) Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) For purposes of this section, the term 'rape prevention and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim.

"(f) States shall be allotted funds under this section pursuant to the terms of sections 1902 and 1903, and subject to the conditions provided in this section and sections 1904 through 1909.";

(2) striking section 1901(b); and

(3) striking section 1904(a)(1)(G).

SEC. 162. RAPE EXAM PAYMENTS.

No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1990 unless the State or other grantee incurs the full cost of forensic medical exams for victims of sexual assault. A State or other grantee does not incur the full medical cost of forensic medical exams if it chooses to reimburse the victim after the fact unless the reimbursement program waives any minimum loss or deductible requirement, provides victim reimbursement within a reasonable time (90 days), permits applications for reimbursement within one year from the date of the exam, and provides information to all subjects of forensic medical exams about how to obtain reimbursement.

TITLE II—SAFE HOMES FOR WOMEN

SEC. 201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1990".

Subtitle A—Interstate Enforcement

SEC. 211. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

"Chapter 110A—Violence Against Spouses

"Sec. 2261. Traveling to commit spousal abuse.

"Sec. 2262. Interstate violation of protection orders.

"Sec. 2263. Restitution.

"Sec. 2264. Full faith and credit given to protection orders.

"Sec. 2265. Definitions for chapter.

"§ 2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner; or

"(2) for the purpose of harassing, intimidating, or injuring a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner,

shall be fined not more than $1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner, shall be fined not more than $1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(c) NO STATE LAW.—If no fine or term of imprisonment is provided for under the law of the State where the injury occurs, a person violating this section shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

"(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§ 2262. Interstate violation of protection orders

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

"(2) for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c) of this section.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c) of this section.

"(c) PENALTIES.—

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; where serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; where bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than six months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

(e) NO PRIOR STATE CRIMINAL ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to justify Federal prosecution.

"§ 2263. Interim protections

"In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the protection of an abused spouse or intimate partner pending final adjudication of the case, upon a showing of a likelihood of danger to the abused spouse or intimate partner.

"§ 2264. Restitution

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding the terms of section 3663 of this title, the court shall order restitution to the victim of an offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim the full amount of the victim's losses as determined by the court, pursuant to subsection (3); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation; and

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the offender, including obligations to dependents.

"(B) An order under this section may direct the defendant to make a single lump-sum payment, or partial payments at specified intervals. The order shall provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(C) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or his delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or his delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or his delegee) shall advise the victim that the victim may file a separate affidavit.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or his delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers. Notwithstanding any other provision of law, this section does not entitle the defendant to discovery of the contents of, or related to, any supporting documentation, including medical, psychological, or psychiatric records.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or his delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) RESTITUTION AND CRIMINAL PENALTIES.—An award of restitution to the victim of an offense under this chapter shall not be a substitute for imposition of punishment under sections 2261 and 2262.

"(e) DEFINITIONS.—For purposes of this section, the term 'victim' includes any person who has suffered direct physical, emotional, or pecuniary harm as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.

"§ 2265. Full faith and credit given to protection orders

"(a) FULL FAITH AND CREDIT.—Any protection order issued consistent with the terms of subsection (b) by the court of one State (the issuing State) shall be accorded full faith and credit by the court of another State (the enforcing State) and enforced as if it were the order of the enforcing State.

"(b) PROTECTION ORDER.—A protection order issued by a State court is consistent with the provisions of this section if—

"(1) such court has jurisdiction over the parties and matter under the law of such State; and

"(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

"(c) CROSS OR COUNTER PETITION.—A protection order issued by a State court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

"(1) no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or

"(2) if a cross or counter petition has been filed, if the court did not make specific findings that each party was entitled to such an order.

"§ 2266. Definitions for chapter

"As used in this chapter—

"(1) the term 'spouse or intimate partner' includes—

"(A) a present or former spouse, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited with the abuser as a spouse; and

"(B) any other person similarly situated to a spouse, other than a child, who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

"(2) the term 'protection order' includes any injunction or other order issued for the purpose of preventing violent or threatening acts by one spouse against his or her spouse or intimate partner, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition or motion of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except those done in self-defense, that results in physical injury or sexual abuse;

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

"(5) the term 'travel across State lines' includes any such travel except travel across State lines by an Indian tribal member when that member remained at all times on tribal lands.".

(b) TABLE OF CHAPTERS.—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

"110A. Violence against spouses .... 2261.".

Subtitle B—Arrest in Spousal Abuse Cases

SEC. 221. ENCOURAGING ARREST POLICIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10400) is amended by adding after section 311 the following:

"SEC. 312. ENCOURAGING ARREST POLICIES.

"(a) PURPOSE.—To encourage States, Indian tribes and localities to treat spousal violence as a serious violation of criminal law, the Secretary is authorized to make grants to eligible States, Indian tribes, municipalities, or local government entities for the following purposes:

"(1) to implement pro-arrest programs and policies in police departments and to improve tracking of cases involving spousal abuse;

"(2) to centralize and coordinate police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges;

"(3) to educate judges in criminal and other courts about spousal abuse and to improve judicial handling of such cases.

"(b) ELIGIBILITY.—(1) Eligible grantees are those States, Indian tribes, municipalities or other local government entities that—

"(A) demonstrate, through arrest and conviction statistics, that their laws or policies have been effective in significantly increasing the number of arrests made of spouse abusers; and

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed or mandate arrest of spouses violating the terms of a valid and outstanding protection order; or

"(ii) permit warrantless misdemeanor arrests of spouse abusers and encourage the use of that authority;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser and the increase in arrest rates demonstrated pursuant to paragraph (1)(A) is not the result of increased dual arrests; and

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protective order, and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim.

"(2) For purposes of this section, the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

"(3) For purposes of this section, the term 'spousal or spouse abuse' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabited with the victim as a spouse, or any other person protected under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(4) The eligibility requirements provided in this section shall take effect one year after the date of enactment of this section.

"(c) DELEGATION AND AUTHORIZATION.—The Secretary shall delegate to the Attorney General of the United States the Secretary's responsibilities for carrying out this section to the Attorney General. There are authorized to be appropriated not in excess of $25,000,000 for each fiscal year to be used for the purpose of making grants under this section.

"(d) APPLICATION.—An eligible grantee shall submit an application to the Secretary. Such application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribes, municipality, or local government entity that the conditions of subsection (b) are met;

"(2) describe the entity's plans to further the purposes listed in subsection (a);

"(3) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(4) identify and include documentation showing the nonprofit nongovernmental victim services programs that will be consulted in developing, and implementing, the program.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a grantee that—

"(1) does not currently provide for centralized handling of cases involving spousal or family violence in any one of the areas listed in this subsection—police, prosecutors, and courts; and

"(2) demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving spousal or family violence.

"(f) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described in subsection (d)(2) and containing such additional information as the Secretary may prescribe.

"(g) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.".

Subtitle C—Funding for Shelters

SEC. 231. AUTHORIZATION.

Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

"SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out the provisions of this title, $85,000,000 for fiscal year 1992, $100,000,000, for fiscal year 1993, and $125,000,000 for fiscal year 1994.

"(b) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 80 percent shall be used by the Secretary for making grants under section 303.

"(c) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not more than 5 percent shall be used by the Secretary for making grants under section 314.

"(d) Of the sums authorized to be appropriated under subsection (a) of this section for any fiscal year, not less than 5 percent shall be used by the Secretary for making grants under section 308A.".

Subtitle D—Family Violence Prevention and Services Act Amendments

SEC. 241. EXPANSION OF PURPOSE.

Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent" and by striking "demonstrate the effectiveness of assisting" and inserting "assist".

SEC. 242. EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.

(a) INCREASING PUBLIC AWARENESS.—Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

(b) EXPANSION OF PROGRAM.—Section 303(a)(2)(B)(ii) is amended by striking "alcohol and drug abuse treatment".

SEC. 243. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.

The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

"GRANTS FOR PUBLIC INFORMATION CAMPAIGNS

"SEC. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) An application submitted under subsection (b) shall—

"(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk.".

SEC. 244. FUND DISTRIBUTION TO STATES.

Section 304(a)(1) of the Family Violence Prevention and Services Act is amended by striking "$50,000" and inserting "$500,000".

SEC. 245. INDIAN TRIBES.

Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "from sums appropriated shall make no less than 10 percent available for".

SEC. 246. FUNDING LIMITATIONS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by—

(1) striking ", and" and all that follows through "fiscal years"; and

(2) striking "$50,000" and inserting "$75,000".

SEC. 247. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.

The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: "No grant may be made under this section to an entity other than a State or Indian tribe unless the entity provides 35 percent of the funding of the program or project funded by the grant.".

SEC. 248. SHELTER AND RELATED ASSISTANCE.

(a) CHANGE OF PERCENTAGES.—Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended by striking "not less than 60 percent" and inserting "not less than 75 percent".

(b) DEFINITION OF RELATED ASSISTANCE.—Section 309(5) of the Family Violence Prevention and Services Act is amended to read as follows:

"(5) The term 'related assistance' includes any, but does not require all, of the following—

"(A) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(B) transportation, legal assistance, referrals for appropriate health-care services (including alcohol and drug abuse treatment), and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(C) comprehensive counseling and self-help services to abusers, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services and employment training; and

"(D) child care services for children who are victims of family violence or the dependents of such victims.".

SEC. 249. LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.

Section 311 of the Family Violence Protection and Services Act (42 U.S.C. 10410(b)) is repealed.

SEC. 250. REPORT ON RECORDKEEPING.

Not later than 120 days after the date of enactment of this Act, the Government Accounting Office shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine efforts to date of the FBI and Justice Department to collect statistics on domestic violence and the feasibility of, including a suggested timetable for, requiring that the relationship between an offender and victim be reported in Federal and State records of crimes of assault, aggravated assault, rape, and other violent crimes.

SEC. 251. MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.

The Family Violence Prevention Services Act, as amended by section 103 of this Act, is amended by adding at the end thereof the following new section:

"MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION

"SEC. 315. (a) The Secretary, in cooperation with the Attorney General, shall award grants to not less than 10 States to assist in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

"(1) increase the number of prosecutions for domestic violence crimes;

"(2) encourage the reporting of incidences of domestic violence;

"(3) facilitate 'arrests and aggressive' prosecution policies; and

"(4) provides court advocacy for victims of domestic violence.

"(b) To be designated as a model State under subsection (a), a State shall have in effect—

"(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

"(2) a law or policy that discourages * * *

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judiciaes 'dual' arrests;

"(3) statewide prosecution policies that—

"(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

"(4) statewide laws, policies, or guidelines for judges that—

"(A) prohibit the issuance of mutual protective orders in cases where only one spouse has sought a protective order and require findings of mutual aggression to issue mutual protective orders in cases where both parties file a claim;

"(B) require that any history of child abuse be considered detrimental to the child and discourage custody or joint custody orders by spouse abusers; and

"(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute;

"(5) develop and disseminate methods to improve the criminal justice system's response to domestic violence to make existing remedies as easily available as possible to victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

"(c)(1) In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section $25,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) Funds shall be distributed under this section so that no State shall receive more than $2,500,000 in each fiscal year under this section.

"(3) The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section.".

SEC. 252. FUNDING FOR TECHNICAL ASSISTANCE CENTERS.

The Family Violence Prevention and Services Act is amended by inserting after section 308 the following:

"SEC. 308A. TECHNICAL ASSISTANCE CENTERS.

"(a) PURPOSE.—The purpose of this section is to provide training and technical assistance to State, Indian tribal, and local domestic violence programs and to other professionals who provide services to victims of domestic violence. From the sums authorized under this title, the Secretary shall provide grants to or contract with, private nonprofit organizations, for the establishment and maintenance of one national and six special-issue resource centers serving defined geographic areas. One national resource center shall offer resource, policy, and/or training assistance to Federal, State, Indian tribal, and local government agencies on issues pertaining to domestic violence and serve a coordinating and resource-sharing function among domestic violence service providers, and maintain a central resource library. The other national resource centers shall provide information, training and technical assistance to State, tribal and local domestic violence service providers. In addition, each national center shall specialize in one of the following areas of domestic violence service, prevention or law:

"(1) criminal justice response to domestic violence, including court-mandated abuser treatment;

"(2) child custody issues in domestic violence cases;

"(3) use of the self-defense plea by domestic violence victims;

"(4) health care response and access to health care resources for domestic violence victims;

"(5) victims' access to, and quality of, effective legal assistance, including civil litigation; and

"(6) the response of child protective service agencies to battered mothers of abused children.

"(b) ELIGIBILITY.—Eligible grantees are private non-profit organizations that—

"(1) focus primarily on domestic violence;

"(2) provide documentation to the Secretary demonstrating a minimum of three years experience with issues of domestic violence, particularly in the specific area for which it is applying;

"(3) include on its advisory boards representatives from domestic violence programs who are geographically and culturally diverse; and

"(4) demonstrate strong support from domestic violence advocates for their designation as the special-issue resource center.

"(c) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described and containing such additional information as the Secretary may prescribe.

"(d) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section.".

Subtitle E—Youth Education and Domestic Violence

SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate his powers to the Secretary of Education, hereinafter referred to as the "Secretary". The Secretary shall select, implement and evaluate four model programs for education of young people about domestic violence and violence among intimate partners.

(b) NATURE OF PROGRAM.—The Secretary shall select, implement and evaluate separate model programs for four different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. These model programs shall be selected, implemented, and evaluated with the input of educational experts, legal and psychological experts on battering, and victim advocate organizations such as battered women's shelters, State coalitions and resource centers. The participation of each of these groups or individual consultants from such groups is essential to the selection, implementation, and evaluation of programs that meet both the needs of educational institutions and the needs of the domestic violence problem.

(c) REVIEW AND DISSEMINATION.—Not later than 24 months after the date of enactment of this Act, the Secretary shall transmit the design and evaluation of the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.

(d) AUTHORIZATION.—There are authorized to be appropriated under this section for fiscal year 1992, $400,000 to carry out the purposes of this section.

Subtitle F—Confidentiality for Abused Persons

SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.

No later than 90 days after the enactment of this Act, the Postmaster General shall promulgate regulations to secure the confidentiality of abused persons' addresses or otherwise prohibit the disclosure of an abused person's address consistent with the following guidelines:

(1) confidentiality shall be provided upon the presentation to an appropriate postal official of an existing and valid court order for the protection of an abused spouse;

(2) disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited; and

(3) compilations of addresses existing at the time the order is presented to an appropriate postal official shall be excluded from the scope of the proposed regulations.

TITLE III—CIVIL RIGHTS

SEC. 301. CIVIL RIGHTS.

(a) FINDINGS.—The Congress finds that—

(1) crimes motivated by the victim's gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for gender crimes committed on the street or in the home; and

(3) State and Federal criminal laws do not adequately protect against the bias element of gender-motivated crimes, which separates these crimes from acts of random violence, nor do those laws adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests;

(4) existing bias and discrimination in the criminal justice system often deprives victims of gender-motivated crimes of equal protection of the laws and the redress to which they are entitled;

(5) gender-motivated violence has a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business, and in places involved, in interstate commerce;

(6) gender-motivated violence has a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products;

(7) a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse effects of gender-motivated violence on interstate commerce; and

(8) victims of gender-motivated violence have a right to equal potection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

(b) RIGHTS, PRIVILEGES AND IMMUNITIES.—All persons within the United States shall have the same rights, privileges and immunities in every State as is enjoyed by all other persons to be free from crimes of violence motivated by the victim's gender, as defined in subsection (d).

(c) CAUSE OF ACTION.—Any person, including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State, who commits a crime of violence motivated by gender and thus deprives another of the rights, privileges or immunities secured by the Constitution or laws as enumerated in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as the court may deem appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "crime of violence motivated by gender" means any crime of violence, as defined in this section, including rape, sexual assault, sexual abuse, abusive sexual contact, or any other crime of violence committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be "motivated by gender" as defined in subsection (d).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the necessary elements of a cause of action under subsection (c).

SEC. 302. CONFORMING AMENDMENT.

The Civil Rights Attorney's Fees Awards Act of 1976 (42 U.S.C. 1988) is amended—

(1) in the last sentence, by striking "or" after "Public Law 92-318,"; and

(2) by adding after "1964," the following: ", or title III of the Violence Against Women Act of 1991,".

TITLE IV—SAFE CAMPUSES FOR WOMEN

SEC. 401. SHORT TITLE.

This title may be cited as the "Safe Campuses for Women Act of 1990".

SEC. 402. FINDINGS.

The Congress finds that—

(1) rape prevention and education programs are essential to an educational environment free of fear for students' personal safety;

(2) sexual assault on campus, whether by fellow students or not, is widespread among the Nation's higher education institutions: experts estimate that 1 in 7 of the women now in college have been raped and over half of college rape victims know their attackers;

(3) sexual assault poses a grave threat to the physical and mental well-being of students and may significantly impair the learning process; and

(4) action by schools to educate students may make substantial inroads on the incidence of rape, including the incidence of acquaintance rape on campus.

SEC. 403. GRANTS FOR CAMPUS RAPE EDUCATION.

Title X of the Higher Education Act of 1965 is amended to add at the end thereofthe following:

"PART D—GRANTS FOR CAMPUS RAPE EDUCATION."

SEC. 1071. GRANTS FOR CAMPUS RAPE EDUCATION.

"(a) IN GENERAL.—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for rape education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

"(b) GENERAL RAPE PREVENTION AND EDUCATION GRANTS.—Grants under this section shall be used to educate and provide support services to student victims of rape or sexual assault. Grants may be used for the following purposes:

"(1) to provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of rape, sexual assault, and other gender-motivated crimes;

"(2) to develop, disseminate, or implement campus security and student disciplinary policies to prevent and discipline rape, sexual assault and other gender-motivated crimes;

"(3) to develop, enlarge or strengthen support services programs including medical or psychological counseling to assist victims' recovery from rape, sexual assault, or other gender-motivated crimes;

"(4) to create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action; and

"(5) to implement, operate, or improve rape education and prevention programs, including programs making use of peer-to-peer education.

"(c) MODEL GRANTS.—Not less than 25 percent of the funds authorized under this section shall be available for grants for model demonstration programs to be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student rape victims.

"(d) ELIGIBILITY.—No institution of higher education or consortium of such institutions shall be eligible for a grant under this section unless—

"(1) its student code of conduct, or other written policy governing student behavior, explicitly prohibits not only rape but all forms of sexual assault; and

"(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual assault the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual assault: *Provided*, That nothing in this section shall be interpreted to authorize disclosure to any person other than the victim.

"(e) APPLICATIONS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—

"(A) set forth the activities and programs to be carried out with funds granted under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) explain how the program intends to address the issue of acquaintance rape;

"(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

"(e) GRANTEE REPORTING.—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(f) DEFINITIONS.—(1) Except as otherwise provided, the terms used in this part shall have the meaning provided under section 2981 of this title.

"(2) For purposes of this subchapter, the following terms have the following meanings:

"(A) The term 'rape education and prevention' includes programs that provide educational seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual assault.

"(B) The term 'Secretary' means the Secretary of Education.

"(g) GENERAL TERMS AND CONDITIONS.—(1) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.

"(2) No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

"(A) the amount of grants made under this section;

"(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(C) a copy of each grantee report filed pursuant to subsection (e) of this section.

"(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated $20,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995.".

SEC. 404. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.

Section 204(f) of the Crime Awareness and Campus Security Act of 1990 is amended to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

"(i) murder;

"(ii) rape or sexual assault;

"(iii) robbery;

"(iv) aggravated assault;

"(v) burglary; and

"(vi) motor vehicle theft.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT OF 1990

SECTION 501. SHORT TITLE.

This title may be cited as the "Equal Justice for Women in the Courts Act of 1991".

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

SEC. 511. GRANTS AUTHORIZED.

The State Justice Institute is authorized to award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SEC. 512. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the batterer, to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel, and the legitimate reasons why victims of domestic violence may refuse to testify against a defendant;

(18) the need for orders of protection, and the implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence cases;

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims; and

(20) current information on the impact of pornography on crimes against women, or data on other activities that tend to degrade women.

SEC. 513. COOPERATION IN DEVELOPING PROGRAMS IN MAKING GRANTS UNDER THIS TITLE.

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this subtitle are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 514. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $600,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

SEC. 521. EDUCATION AND TRAINING GRANTS.

(a) Study.—The Federal Judicial Center shall conduct a study of the nature and extent of gender bias in the Federal courts, including in proceedings involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender. The study shall be conducted by the use of data collection techniques such as reviews of trial and appellate opinions and transcripts, public hearings, and inquiries to attorneys practicing in the Federal courts. The Federal Judicial Center shall publicly issue a final report containing a detailed description of the findings and conclusions of the study, including such recommendations for legislative, administrative, and judicial action as it considers appropriate.

(b) Model Programs.—(1) The Federal Judicial Center shall develop, test, present, and disseminate model programs to be used in training Federal judges and court personnel in the laws on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

(2) The training programs developed under this subsection shall include—

(A) all of the topics listed in section 512 of subtitle A; and

(B) all procedural and substantive aspects of the legal rights and remedies for violent crime motivated by gender including such areas as the Federal penalties for sex crimes, interstate enforcement of laws against domestic violence and civil rights remedies for violent crimes motivated by gender.

SEC. 522. COOPERATION IN DEVELOPING PROGRAMS.

In implementing this subtitle, the Federal Judicial Center shall ensure that the study and model programs are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 523. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1992, $400,000 to carry out the purposes of this subtitle. Of amounts appropriated under this section, no less than 25 percent and no more than 40 percent shall be expended by the Federal Judicial Center on the study required by section 521(a) of this subtitle.

EXTENSION OF MOST-FAVORED-NATION TREATMENT TO THE PEOPLE'S REPUBLIC OF CHINA

KERREY AMENDMENT NO. 719

(Ordered to lie on the table.)

Mr. KERREY submitted an amendment intended to be proposed by him to the bill (S. 1367) to extend to the People's Republic of China renewal of nondiscriminatory (most-favored-nation) treatment until 1992 provided certain conditions are met, as follows:

At the appropriate place, insert the following new section:

SEC. . SANCTIONS BY OTHER COUNTRIES.

If, pursuant to this Act, the People's Republic of China is denied nondiscriminatory (most-favored-nation) treatment, or such treatment is terminated, the President shall immediately undertake efforts to ensure that members of the General Agreement on Tariffs and Trade take similar action with respect to the People's Republic of China.

VIOLENT CRIME CONTROL ACT

RIEGLE AMENDMENT NOS. 720 AND 721

(Ordered to lie on the table).

Mr. RIEGLE submitted two amendments intended to be proposed by him to the bill S. 1241, supra, as follows:

Amendment No. 720

At the appropriate place in the bill, insert the following:

SEC. . REGIONAL VIOLENT CRIME ASSISTANCE.

(a) Authorization of Grants.—The Attorney General, in consultation with the Director of National Drug Control Policy, may make a grant to a State for the purposes of—

(1) implementing a plan to enhance law enforcement and criminal justice systems in a region of the State that suffers from high rates of violent crime or faces particular violent crime problems that warrant Federal assistance; and

(2) developing and implementing multijurisdictional strategies to respond to and prevent violent crime in such a region.

(b) Considerations in Awarding Grants.—(1) In awarding grants under subsection (a), the Attorney General may give priority to—

(A) States that develop and implement plans to assist law enforcement and criminal justice authorities in or near jurisdictions with high rates of violent crime or particular violent crime problems; and

(B) States that propose to develop a multijurisdictional or regional approach to respond to or prevent violent crime.

(2) The Attorney General shall not limit grants under subsection (a) to highly populated centers of violent crime, but shall give due consideration to applications from less populated regions where the magnitude and severity of violent crime warrants Federal assistance.

(3) The Attorney General shall not limit grants under subsection (a) to the enhancement of law enforcement capabilities, but shall give due consideration to applications that propose to use funds for the improvement of the criminal justice system in general.

(c) Amount of Grants.—(1) The amount of a grant that may be made with respect to an application relating to any region of a State described in subsection (a) shall not exceed $10,000,000.

(2) The Federal share of assistance under subsection (a) shall not be greater than 75 percent of the costs necessary to implement a plan or develop and implement a strategy relating to a region described in subsection (a).

(d) Nonmonetary Assistance.—In order to assist a State in dealing with crime problems in a region described in subsection (a), the Attorney General may—

(1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local law enforcement efforts; and

(2) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

(e) Issuance of Implementing Regulations.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall issue regulations to implement this section, including such regulations as are necessary relating to applications for Federal assistance and the provision of Federal monetary and nonmonetary assistance.

(f) Audit by Comptroller General.—The Comptroller General shall conduct an audit of any Federal assistance (both monetary and nonmonetary) of an amount greater than $100,000 provided to a State under this subsection relating to a region described in subsection (a), including an evaluation of the effectiveness of the assistance in achieving the goals stated in the application for assistance.

(g) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

Amendment No. 721

At the appropriate place in the bill, insert the following:

SEC. . REGIONAL VIOLENT CRIME ASSISTANCE.

(a) Authorization of Grants.—The Attorney General, in consultation with the Director of National Drug Control Policy, may make a grant to a State for the purposes of—

(1) implementing a plan to enhance law enforcement and criminal justice systems in a region of the State that suffers from high rates of violent crime or faces particular violent crime problems that warrant Federal assistance; and

(2) developing and implementing multijurisdictional strategies to respond to and prevent violent crime in such a region.

(b) Consideration in Awarding Grants.—(1) In awarding grants under subsection (a), the Attorney General may give priority to—

(A) States that develop and implement plans to assist law enforcement and criminal justice authorities in or near jurisdictions with high rates of violent crime or particular violent crime problems; and

(B) States that propose to develop a multijurisdictional or regional approach to respond to or prevent violent crime.

(2) The Attorney General shall not limit grants under subsection (a) to highly populated centers of violent crime, but shall give due consideration to applications from less populated regions where the magnitude and severity of violent crime warrants Federal assistance.

(3) The Attorney General shall not limit grants under subsection (a) to the enhancement of law enforcement capabilities, but shall give due consideration to applications that propose to use funds for the improvement of the criminal justice system in general.

(c) Amount of Grants.—(1) The amount of a grant that may be made with respect to an application relating to any region of a State described in subsection (a) shall not exceed $10,000,000.

(2) The Federal share of assistance under subsection (a) shall not be greater than 75 percent of the costs necessary to implement a plan or develop and implement a strategy relating to a region described in subsection (a).

(d) NONMONETARY ASSISTANCE.—In order to assist a State in dealing with crime problems in a region described in subsection (a), the Attorney General may—

(1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local law enforcement efforts; and

(2) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

(e) ISSUANCE OF IMPLEMENTING REGULATIONS.—Not later than days after the date of enactment of this Act, the Attorney General shall issue regulations to implement this section, including such regulations as are necessary relating to applications for Federal assistance and the provision of Federal monetary and nonmonetary assistance.

(f) AUDIT BY COMPTROLLER GENERAL.—The Comptroller General shall conduct an audit of any Federal assistance (both monetary and nonmonetary) of an amount greater than $100,000 provided to a State under this subsection relating to a region described in subsection (a), including an evaluation of the effectiveness of the assistance in achieving the goals stated in the application for assistance.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

RUDMAN AMENDMENT NO. 722

Mr. MITCHELL (for Mr. RUDMAN) proposed an amendment to the bill S. 1241, supra, as follows:

On page 160, line 5, strike the words "National Drug Control Policy" and insert in lieu thereof "the Bureau of Prisons".

On page 160, line 6, strike the words "the Bureau of Prisons" and insert in lieu thereof "National Drug Control Policy".

On page 162, lines 20 and 21, strike the words "National Drug Control Policy" and insert in lieu thereof "the Bureau of Prisons".

On page 162, line 22, strike the words "the Bureau of Prisons" and insert in lieu thereof "National Drug Control Policy".

D'AMATO AMENDMENT NO. 723

Mr. MITCHELL (for Mr. D'AMATO) proposed an amendment to the bill S. 1241, supra, as follows:

Strike amendment No. 387 and insert in lieu thereof:

"SEC. . MANDATORY PRISON TERMS FOR USE, POSSESSION, OR CARRYING OF A FIREARM OR DESTRUCTIVE DEVICE DURING A STATE CRIME OF VIOLENCE OR STATE DRUG TRAFFICKING CRIME.

Section 924(c) of title 18 of the United States Code is amended by adding the following:

"(4)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which he may be prosecuted in a court of any State,

"(i) knowingly possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release; or

"(iii) knowingly possesses a firearm that is a machinegun or destructive device, or is equipped with a firearm silencer or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

"In the case of a second conviction under this paragraph, a person shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release for possession or not less than 30 years without release for discharge of a firearm, and if the firearm is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. In the case of a third or subsequent conviction under this paragraph, a person shall be sentenced to life imprisonment without release. Notwithstanding any other law, a court shall not place on probation or suspend the sentence of any person convicted of a violation of this paragraph, nor shall the term of imprisonment imposed under this paragraph run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used. No person sentenced under this paragraph shall be eligible for parole, nor shall such person be released for any reason whatsoever, during a term of imprisonment imposed under this paragraph.

"(B) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if the person has a firearm readily available at the scene of the crime during the commission of the crime.

"(C) Except in the case of a person who engaged in or participated in criminal conduct that gave rise to the occasion for the person's use of a firearm, this paragraph has no application to a person who may be found to have committed a criminal act while acting in defense of person or property during the course of a crime being committed by another person (including the arrest or attempted arrest of the offender during or immediately after the commission of the crime).".

"(D) For purpose of this paragraph, the term "drug trafficking crime" means any crime punishable by imprisonment for more than one year involving the manufacture, distribution, possession, cultivation, sale, or transfer of a controlled substance, controlled substance analogue, immediate precursor, or listed chemical (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or an attempt or conspiracy to commit such a crime.

"(E) For purposes of this paragraph the term "crime to violence" means an offense that is punishable by imprisonment for more than one year and—

(1) has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or

(2) that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the cause of committing the offense.

"(F) In accordance with Section 927, it is the intent of Congress that this paragraph shall be used to supplement but not supplant the efforts of state and local prosecutors in prosecuting crimes of violence and drug trafficking crimes that could be prosecuted under state law. It is also the intent of Congress that the Attorney General shall give due deference to the interest that a state or local prosecutor has in prosecuting the defendant under state law. This subparagraph shall not create any rights, substantive or procedural, enforceable at law by any party in any manner, civil or criminal, nor does it place any limitations on otherwise lawful prerogatives of the Department of Justice.".

"(G) JURISDICTION.—There is federal jurisdiction over an offense under this paragraph if a firearm involved in the offense has moved at any time in interstate or foreign commerce."

DOLE AMENDMENT NO. 724

Mr. MITCHELL (for Mr. DOLE) proposed an amendment to the bill S. 1241, supra, as follows:

Section 922(u) of title 18, United States Code, as added by section 2701 of the amendment, is amended—

(1) in paragraph (1) by—

(A) redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(B) adding after subparagraph (C) the following:

"(D) the law of the State requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law, except that this subparagraph shall not apply to a State that, on the date of certification pursuant to section 2702(d) of the Violent Crime Control Act of 1991, is not in compliance with the timetable established pursuant to section 2702(c) of such Act;

(2) in paragraph (7)(B)(i) by striking "destroy and record" and inserting "destroy the statement and any record".

Section 922(v)(1)(A) of title 18, United States Code, as added by section 2701 of the amendment, is amended by striking "Felon Firearm Purchase Prevention Act of 1991" and inserting "Violent Crime Control Act of 1991" and section 922(v)(5) of such title 15 is amended by inserting "or a political subdivision of a state or employee thereof" after the world "employee".

Section 2702(d)(1)(B) of the amendment is amended by striking "(C)" and inserting "(c)".

Section 509(b)(4) of the Omnibus Crime Control and Safe Streets Act of 1968, as added by section 2703(a)(1) of the amendment, is amended by striking "Felon Firearm Purchase Prevention Act of 1991" both places it appears and inserting "Violent Crime Control Act of 1991".

SEYMOUR AMENDMENT NO. 725

Mr. MITCHELL (for Mr. SEYMOUR) proposed an amendment to the bill S. 1241, supra, as follows:

At the end of the bill, insert the following:

TITLE —EXPLOITATION OF ALIENS

SEC. 01. SHORT TITLE.

This title may be cited as the "Exploitation of Aliens Act of 1991".

SEC. 02. EXPLOITATION OF ALIENS.

(a) INDUCEMENT OF ALIENS.—A person who is 18 years of age or older who voluntarily solicits, counsels, encourages, commands, intimidates, or procures any alien with the intent that the alien commit an aggregated felony, as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than $100,000.

(b) COMMISSION OF CRIME BY ALIEN.—An alien who is induced by another person to commit and subsequently commits an aggravated felony, as defined in section 101(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than $100,000.

(c) CONSIDERATIONS.—In imposing a fine under subsection (a) or (b), the court shall consider the severity of the offense sought or committed by the offender as a circumstance in aggravation.

(d) ENFORCEMENT.—(1) A proceeding for assessment of a civil fine under subsection (a) or (b) may be brought in a civil action before a United States district court.

(2) A person affected by a final order under this subsection may, not later than 45 days after the date on which the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

(3)(A) If a person found in violation of subsection (a) or (b) fails to comply with a final order issued by a circuit court or administrative law judge, the Attorney General may bring a civil action to seek compliance with the order in any appropriate district court of the United States.

(B) In a civil action under subparagraph (A), the validity and appropriateness of the final order shall not be suject to review.

SEC. 03. CRIMINAL ALIEN IDENTIFICATION AND REMOVAL FUND.

(a) ESTABLISHMENT.—(1) There is established in the Treasury of the United States the Criminal Alien Identification and Removal Fund (referred to as the "Fund").

(2) All fines collected pursuant to section 02 shall be covered into the Fund and shall be used for the purposes of this section.

§ 03(b)(1) to read as follows:

"(b) DISTRIBUTION OF MONIES IN THE FUND.—(1) Ninety percent of the monies covered into in the fund in any fiscal year may be used by the Attorney General—

"(A) to assist the Immigration and Naturalizatiohn Service to identify, investigate, apprehend, detain, and deport aliens who have committed an aggravated felony, and

"(B) to fund any of the 20 additional immigration judge positions authorized by section 512 of the Immigration Act of 1990 which have not been funded.".

(2) Ten percent of the monies covered into the fund in any fiscal year may be distributed in the form of grants to the States by the Attorney General for the purposes of—

(A) assisting the States in implementing section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11);

(B) expanding section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11)) to identify aliens—

(i) as they are processed for admission into State prisons; and

(ii) when they enter probation programs.

(c) TECHNICAL AMENDMENT.—Section 280(b)(1) of the Immigration and Nationality Act is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

McCONNELL AMENDMENT NO. 726

Mr. MITCHELL (for Mr. MCCONNELL) proposed an amendment to the bill S. 1241, supra, as follows:

At the end of the bill, add the following:

TITLE —PUBLIC CORRUPTION

SEC. 01. SHORT TITLE.

This title may be cited as the "Anti-Corruption Act of 1991".

SEC. 02. OFFENSE.

Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 226. Public corruption

"(a) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of such State, or political subdivision of a State, shall be fined under this title, or imprisoned for not more than 10 years, or both.

"(b) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, runoff, special, or general election—

"(1) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the State in which the election is held;

"(2) through paying or offering to pay any person for voting;

"(3) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(4) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information,

shall be fined under this title or imprisoned for not more than ten years, or both.

"(c) Whoever, being a public official or an official or employee of a State, or political subdivision of a State, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State or the right to have the affairs of the State or political subdivision conducted on the basis of complete, true, and accurate material information, shall be fined under this title or imprisoned for not more than 10 years, or both.

"(d) The circumstances referred to in subsections (a), (b), and (c) are that—

"(1) for the purpose of executing or concealing such scheme or artifice or attempting to do so, the person so doing—

"(A) places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(B) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(C) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(D) uses or causes to use of any facility of interstate or foreign commerce;

"(2) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce; or

"(3) as applied to an offense under subsection (b), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have some authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the 12-month period immediately preceding or following the election or date of the offense.

"(e) Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or person who has been selected to be a public official shall be fined under this title or imprisoned for not more than 10 years, or both.

"(f) Whoever being an official, or public official, or person who has has been selected to be a public official, directly or indirectly, discharged, demotes, suspends, threatens, harasses, or, in any manner, discrimates against any employee or official of the United States or any State or political subdivision of such State, or endeavors to do so, in order to carry out or to conceal any scheme or artifice described in this section, shall be fined under this title or subject to imprisonment of up to 5 years or both.

"(g)(1) Any employee or official of the United States or any State or political subdivision of such State who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because of lawful acts done by the employee as a result of a violation of subsection (e) or because of actions by the employee on behalf of himself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may in a civil action, obtain all relief necessary to make such individual whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, 3 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including reasonable litigation costs and reasonable attorney's fees.

"(2) An individual is not eligible for such relief if that individual participated in the violation of this section with respect to which such relief would be awarded.

"(3) A civil action or proceeding authorized by this subsection shall be stayed by a court upon the certification of an attorney for the Government, stating that such action or proceeding may adversely affect the interests of the Government in an ongoing criminal investigation or proceeding. The attorney for the Government shall promptly notify the court when the stay may be lifted without such adverse effects.

"(h) For purposes of this section—

"(1) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States;

"(2) the terms 'public official' and 'person who has been selected to be a public official' have the meaning set forth in section 201 of this title; the terms 'public official' and 'person who has been selected to be a public official' shall also include any person acting or pretending to act under color of official authority;

"(3) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity establishing and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) includes any person who has been nominated, appointed or selected to be an official or who has been officially informed that he or she will be so nominated, appointed or selected;

"(4) the term 'under color of official authority' includes any person who represents that he or she controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official; and

"(5) the term 'uses any facility of interstate or foreign commerce' includes the intrastate use of any facility that may also be used in interstate or foreign commerce.".

SEC. 03. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF SECTIONS.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following item:

"226. Public Corruption.".

(b) RICO.—Section 1961(1) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(c) INTERRUPTION OF COMMUNICATIONS.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

SEC. 04. INTERSTATE COMMERCE.

(a) IN GENERAL.—Section 1343 of title 18, United States Code, is amended by—

"(1) striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(2) inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) CONFORMING AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended by striking "Fraud by wire, radio, or television" and inserting "Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by striking the analysis for section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate commerce.".

SEC. 05. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

"§ 220. Narcotics and public corruption

"(a) Any public official who, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or nonperformance of any official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State;

shall be guilty of a class B felony.

"(b) Any person who, directly or indirectly, corruptly gives, offers, or promises anything of value to any public official, or offers or promises any public official to give anything of value to any other person, with intent—

"(1) to influence any official act;

"(2) to influence such public official to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

"(3) to influence such public official to do or to omit to do any act in violation of such official's lawful duty;

shall be guilty of a class B felony.

"(c) There shall be Federal jurisdiction over an offense described in this section if such offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) For the purpose of this section—

"(1) the term 'public official' means—

"(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror;

"(C) an officer or employee or person acting for or on behalf of the government of any State, territory, or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, territory, possession, or political subdivision; or

"(D) any person who has been nominated or appointed to be a public official as defined in subparagraph (A), (B), or (C), or has been officially informed that he or she will be nominated or appointed;

"(2) the term 'official act' means any decision, action, or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's official capacity, or in such official's place of trust or profit; and

"(3) the terms 'controlled substance' and 'controlled substance analogue' have the meaning set forth in section 102 of the Controlled Substances Act.".

(b) CONFORMING AMENDMENTS.—(1) Section 1961(1) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery),".

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (bribery of public officials and witnesses),".

(c) CHAPTER ANALYSIS.—The chapter analysis for chapter 11 of title 18, United States Code, is amended by inserting after the item for section 219 the following:

"220. Narcotics and public corruption.".

THURMOND AMENDMENT NO. 727

Mr. MITCHELL (for Mr. THURMOND) proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place insert the following:

"Be it enacted by the Senate and House of Representatives In Congress assembled, that this Act may be cited as the "Miscellaneous Criminal Law Improvements Act of 1991".

Subtitle A—Sentencing and Magistrates Amendments

SEC. 101. CORRECTION OF RESENTENCING SANCTION FOR REVOCATION OR PROBATION FOR POSSESSION OF A CONTROLLED SUBSTANCE.

Section 3565(a) of title 18, United States Code, is amended by striking "sentence the defendant to not less than one-third of the original sentence" and inserting in lieu thereof "resentence the defendant under subchapter A to a sentence that includes a term of imprisonment".

SEC. 102. AUTHORIZATION OF PROBATION FOR PETTY OFFENSES IN CERTAIN CASES.

Section 3561(a)(3) of title 18, United States Code, is amended by adding at the end: "However, this paragraph does not preclude the imposition of a sentence to a term of probation for a petty offense if the defendant has been sentenced to a term of imprisonment at the same time for another such offense.".

SEC. 103. TRIAL BY A MAGISTRATE IN PETTY OFFENSE CASES.

Section 3401 of title 18, United States Code, is amended—

(1) in subsection (b) by adding "other than a petty offense" after misdemeanor"; and

(2) in subsection (g) by amending the first sentence to read as follows: "The magistrate judge may, in a petty offense case involving a juvenile, exercise all powers granted to the district court under chapter 403 of this title."

SEC. 104. CONFORMING AUTHORITY FOR MAGISTRATES TO REVOKE SUPERVISED RELEASE IN ADDITION TO PROBATION IN MISDEMEANOR CASES IN WHICH THE MAGISTRATE IMPOSED SENTENCE.

Section 3401(d) of title 18, United States Code, is amended by adding at the end the following: "A magistrate judge who has sentenced a person to a term of supervised release shall also have power to revoke or modify the term or conditions of such supervised release."

SEC. 105. AVAILABILITY OF SUPERVISED RELEASE FOR JUVENILE OFFENDERS.

Section 5037 of title 18, United States Code, is amended—

(1) in subsection (a) by striking "place him on probation or commit him to official detention" and inserting in lieu thereof "place the juvenile on probation, or commit the juvenile to official detention (including the possibility of a term of supervised release)"

and by striking "subsection (d)" and inserting in lieu thereof "subsection (e)"; and

(2) by redesignating subsection (d) as subsection (e) and adding a new subsection (d), as follows:

(d) The term for which supervised release may be ordered for a juvenile found to be a juvenile delinquent may not extend—

(1) in the case of a juvenile who is less than eighteen years old, beyond the lesser of—

(A) the date when the juvenile becomes twenty-one years old; or

(B) the maximum term that would be authorized by section 3583(b) if the juvenile had been tried and convicted as an adult; or

(2) in the case of a juvenile who is between eighteen and twenty-one years old—

(A) who if convicted as an adult would be convicted of a Class A, B, or C felony, beyond five years; or

(B) if any other case beyond the lesser of—

(i) three years; or

(ii) the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult.".

Subtitle B—White Collar Crime Amendments

SEC. 201. RECEIVING THE PROCEEDS OF A POSTAL ROBBERY.

Section 2114 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsectionu (a); and

(2) by adding at the end the following new subsection:

"(b) Whoever receives, possesses, conceals, or disposes of any moeny or other property which has been obtained in violation of this section, knowing the same to have been unlawfully obtained, shall be imprisoned not more than ten years, fined under this title, or both.".

SEC. 202. RECEIVING THE PROCEEDS OF EXTORTION ON KIDNAPPING.

(a) Chapter 41 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 880. Receiving the proceeds of extortion

"Whoever receives, possesses, conceals, or disposes of any money or other property which was obtained from the commission of any offense under this chapter that is punishable by imprisonment for more than one year, knowing the same to have been unlawfully obtained, shall be imprisoned not more than three years, fined under this title, or both."; and

(2) in the table of sections, by adding at the end thereof the following item: "880. Receiving the proceeds of extortion."

(b) Section 1202 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsection "(a)"; and

(2) by adding the following new subsections:

"(b) Whoever transports, transmits, or transfers in interstate or foreign commerce any proceeds of a kidnapping punishable under State law by imprisonment for more than one year, or receives, possesses, conceals, or disposes of any such proceeds after they have crossed a state or United States boundary, knowing the proceeds to have been unlawfully obtained, shall be imprisoned not more than ten years, fined under this title, or both.".

"(c) For purposes of this section, the term 'State' has the meaning set forth in section 245(d) of this title.

SEC. 203. CONFORMING ADDITION TO OBSTRUCTION OF CIVIL INVESTIGATIVE DEMAND STATUTE.

Section 1505 of title 18, United States Code, is amended by inserting "section 1968 of this title, section 3733 of title 31, United States Code or" before "Antitrust Civil Process Act."

SEC. 205. CONFORMING ADDITION OF PREDICATE OFFENSES TO FINANCIAL INSTITUTIONS REWARDS STATUTE.

Section 3059A of title 18, United States Code is amended—

(1) by inserting "225," after "215";

(2) by inserting "or" before "1344"; and

(3) by inserting ", or 1517" after "1344".

SEC. 206. DEFINITION OF SAVINGS AND LOAN ASSOCIATION IN BANK ROBBERY STATUTE.

Section 2113 of title 18, United States Code, is amended by adding at the end the following:

"(h) As used in this section, in term 'savings and loan association' means (1) any Federal saving association or State savings association (as defined in section 3(b) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(b)) having accounts insured by the Federal Deposit Insurance Corporation, and (2) any corporation described in section 3(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)(C)) which is operating under the laws of the United States.".

SEC. 207. CONFORMING DEFINITION OF "1 YEAR PERIOD" IN 18 U.S.C. 1516.

Section 1516(b) of title 18, United States Code, is amended—

(1) by inserting "(i)" before "the term"; and

(2) by inserting before the period the following: ", and (ii) the term "in any 1 year period" has the meaning given to the term 'in any one-year period' in section 666 of this title.

Subtitle C—Miscellaneous Amendments

SEC. 301. SEXUAL ABUSE AMENDMENTS.

SEC. 302. OPTIONAL VENUE FOR ESPIONAGE AND RELATED OFFENSES.

(a) IN GENERAL.—Chapter 211 of title 18, United States Code, is amended by inserting:

"§ 3239. Optional venue for espionage and related offenses

"The trial for any offense involving a violation, begun or committed upon the high seas or elsewhere out of the jurisdiction of any particular State or district, of—

"(1) section 793, 794, 798, or section 1030(a)(1) of this title;

"(2) section 601 of the National Security Act of 1947 (50 U.S.C. 421); or

"(3) section 4(b) or 4(c) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783(b) or (c));

may be in the District of Columbia or in any other district authorized by law.".

"(b) CLERICAL AMENDMENT.—The item relating to section 3239 in the table of sections at the beginning of chapter 211 of title 18, United States Code, is amended to read as follows: "3239. Optional venue for espionage and related offense.".

SEC. 308. DEFINITION OF LIVESTOCK.

Section 2311 of title 18, United States Code, is amended by inserting after the second paragraph relating to the definition of "cattle" the following:

"Livestock means any domestic animals raised for home use, consumptions, or profit, such as horses, pigs, goats, fowl, sheep, and cattle, or the carcasses thereof;".

SEC. 309. LEADERSHIP ROLE IN CRIME AS FACTOR FOR TRANSFERRING A JUVENILE TO ADULT STATUS.

Section 5032 of title 18, United States Code, is amended in the fifth undesignated paragraph by adding at the end the following: "In considering the nature of the offense, as required by this paragraph, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use and distribution of controlled substances or firearms. Such a factor, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of such factor shall not preclude such a transfer.".

Subtitle D—Technical Amendments

SEC. 401. CORRECTIONS OF ERRONEOUS CROSS-REFERENCES AND MISDESIGNATIONS.

(1) Section 1791(b) of title 18, United States Code, is amended by striking "(c)" wherever it appears and inserting in lieu thereof "(d)";

(2) Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207-51; 21 U.S.C. 857)" and inserting in lieu thereof "section 422 of the Controlled Substances Act (21 U.S.C. 863)";

(3) Section 2703(d) of title 18, United States Code, is amended by striking "section 3126(2)(A)" and inserting in lieu thereof "section 3127(2)(A)";

(4) Section 666(d) of title 18, United States Code, is amended by redesignating the fourth paragraph relating to the definition of the term "State" as paragraph (5).

(5) Section 4247(h) of title 18, United States Code, is amended by striking "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting in lieu thereof "subsection (e) of section 4241, 4244, 4245, or 4246, or subsection (f) of section 4243,";

(6) Section 408(b)(2)(A) of the Controlled Substances Act (21 U.S.C. 848(b)(2)(A)) is amended by striking "subsection (d)(1)" and inserting in lieu thereof "subsection (c)(1)";

(7)(a) Section 994(h) of title 28, United States Code, is amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" each place it appears and inserting in lieu thereof "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)"; (b) section 924(e) of title 18, United States Code, is amended by striking "the first section or section 3 of Public Law 96-350 (21 U.S.C. 955a seq.)" and inserting in lieu thereof "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(8) Section 2596(d) of the Crime Control Act of 1990 is amended, effective retroactively to the date of enactment of such Act, by striking "951(c)(1)" and inserting in lieu thereof "951(c)(2)"; and

(9) Section 1031 of title 18, United States Code, is amended by redesignating subsection (g) as enacted by Public Law 101-123 as subsection (h).

SEC. 402. REPEAL OF OBSOLETE PROVISIONS IN TITLE 18.

Title 18, United States Code, is amended—

(1) in section 212, by striking "or of any National Agricultural Credit Corporation," and by striking "or National Agricultural Credit Corporations";

(2) in section 213, by striking "or examiner of National Agricultural Credit Corporations";

(3) in section 709, by repealing the seventh and thirteenth paragraphs;

(4) in section 711, by repealing the second paragraph;

(5) by repealing section 754 and amending the table of sections for chapter 35 accordingly;

(6) in sections 657 and 1006, by striking "Reconstruction Finance Corporation,", and by striking "Farmers' Home Corporation,";

(7) in section 658, by striking "Farmers' Home Corporation,";

(8) in section 1013, by striking ", or by any National Agricultural Credit Corporation";

(9) in section 1014, by striking "Reconstruction Finance Corporation," by striking "Farmers' Home Corporation," and by striking the second comma following the words "Federal Reserve Act";

(10) in section 1160, by striking "white person" and inserting in lieu thereof "non-Indian";

(11) in section 1698, by repealing the second paragraph;

(12) by repealing sections 1904 and 1908 and amending the table of sections for chapter 93 accordingly;

(13) in section 1909, by inserting "or" before "farm credit examiner" and by striking "or an examiner of National Agricultural Credit Corporations,";

(14) by repealing sections 2157 and 2391 and amending the table of sections for chapters 105 and 115 accordingly;

(15) in section 2257 by repealing the subsections (f) and (g) that were enacted by Public Law 100-690;

(16) in section 3113, by repealing the third paragraph; and

(17) in section 3281, by striking "except for offenses barred by the provisions of law existing on August 4, 1939".

SEC. 404. ELIMINATION OF REDUNDANT PENALTY PROVISION IN 18 U.S.C. 1116.

Section 1116(a) of title 18, United States Code, is amended by striking ", and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years".

SEC. 405. ELIMINATION OF REDUNDANT PENALTY.

Section 1864(c) of title 18, United States Code, is amended by striking "(b) (3), (4), or (5)" and inserting in lieu thereof "(b)(5)".

SEC. 406. CORRECTIONS OF MISSPELLINGS AND GRAMMATICAL ERRORS.

Title 18, United States Code, is amended:

(1) in section 151, by striking "mean" and inserting in lieu thereof "means";

(2) in section 513(c)(4), by striking "association or persons" and inserting in lieu thereof "association of persons";

(3) in section 1014, by striking the comma following a comma after "Act";

(4) in section 1956(e), by striking "Environmental" and inserting in lieu thereof "Environmental";

(5) in section 3125, by striking the quotation marks in paragraph (a)(2), and by striking "provider for" and inserting in lieu thereof "provider of" in subsection (d); and

(6) in section 3731, by striking "order of a district courts" and inserting in lieu thereof "order of a district court" in the second undesignated paragraph.

SEC. 1006. EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES.

(a) Section 241 of title 18, United States Code, is amended by deleting "inhabitant of" and inserting in lieu thereof "person in".

(b) Section 242 of title 18, United States Code, is amended by deleting "inhabitant of" and inserting in lieu thereof "person in" and by deleting "such inhabitant" and inserting in lieu thereof "such person".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1(a) KNOWLEDGE REQUIREMENT FOR STOLEN OR COUNTERFEIT PROPERTY.—Chapter 1 of title 18, United States Code, is amended by adding at the end thereof a new section, as follows:

"§21. Stolen or counterfeit nature of property for certain crimes defined

Wherever in this title it is an element of an offense that any property was embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated and that the defendant knew that the property was of such character, such element may be established by proof that the defendent, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated. For purposes of this section, the term "official representation" means any representation made by a federal law enforcement officer (as defined in section 115) or by another person at the direction or with the approval of such an officer.

(b) TABLE OF SECTIONS.—The table of sections for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following: "21. Stolen or counterfeit nature of property for certain crimes defined.".

SEC. 232. ENHANCEMENT OF PENALTIES FOR DRUG TRAFFICKING IN PRISONS.

Section 1791 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting before "Any" the following new sentence: "Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence imposed by any court for an offense involving such a controlled substance.";

(2) in subsection (d)(1)(A), by inserting after "a firearm or destructive device" the words "or a controlled substance in schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C) of this subsection";

(3) in subsection (d)(1)(B), by inserting before "ammunition," the following: "marijuana or a controlled substance in schedule III, other than a controlled substance referred to in subparagraph (c) of this subsection,";

(4) in subsection (d)(1)(C), by inserting "methamphetamine, its salts, isomers, and salts of its isomers," after "a narcotic drug,";

(5) in subsection (d)(1)(D), by inserting "(A), (B), or" before "(C)"; and

(6) in subsection (b), by striking "(c)" each place it appears and inserting in lieu thereof "(d)".

SEC. 233. SEIZURE OF VEHICLES WITH CONCEALED COMPARTMENTS.

(a) Section 3 of the Anti-Smuggling Act of 1935 (19 U.S.C. 1703) is amended:

(1) by amending the title of such section to read as follows:

"SEC. 1703. Seizure and forfeiture of vessels, vehicles and other conveyances";

(2) by amending the title of subsection (a) to read as follows:

"(a) Vessels, vehicles and other conveyances subject to seizure and forfeiture";

(3) by amending the title of subsection (b) to read as follows:

"(b) Vessels, vehicles and other conveyances; defined";

(4) by inserting ", vehicle, or other conveyance" after the word "vessel" everywhere it appears in the text of subsections (a) and (b); and

(5) by amending subsection (c) to read as follows:

"(c) Acts constituting prima facie evidence of vessel, vehicle or other conveyance engaged in smuggling

"For the purposes of this section, prima facie evidence that a vessel, vehicle, or other conveyance is being, or has been, or is attempting to be employed in smuggling or to defraud the revenue of the United States shall be—

"(1) in the case of a vessel, the fact that a vessel has become subject to pursuit as provided in section 1581 of title 17, United States Code, or is a hovering vessel, or that a vessel fails, at any place within the customs waters of the United States or within a customs-enforcement area, to display lights as required by law.

"(2) in the case of a vehicle or other conveyance, the fact that a vehicle or other conveyance has any compartment or equipment that is built or fitted out for smuggling.".

(b) The table of sections for Chapter 5 of title 19, United States Code, is amended by striking the items relating to section 1703 and inserting in lieu thereof the following:

"1703. Seizure and forfeiture of vessels, vehicles and other conveyances.
  "(a) Vessels, vehicles and other conveyances subject to seizure and forfeiture.
  "(b) Vessels, vehicles and other conveyances, defined.
  "(c) Acts constituting prima facie evidence of vessel, vehicle or other conveyance engaged in smuggling.".

SEC. 234. CLOSE LOOPHOLE FOR ILLEGAL IMPORTATION OF SMALL DRUG QUANTITIES.

Section 497(a)(2)(A) of the Tariff act of 1930 (19 U.S.C. 1497(a)(2)(A)) is amended by adding "or $500, whichever is greater" after "value of the article".

SEC. 235. UNDERCOVER OPERATIONS—CHURNING.

Section 7601(c)(3) of the Anti-Drug Abuse Act of 1988 (relating to effective date) is amended by deleting the current language, and replacing it with the following:

"(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act and shall cease to apply after December 31, 1994.".

SEC. 236. DRUG PARAPHERNALIA AMENDMENT.

Section 422 of the Controlled Substances Act (21 U.S.C. 863) is amended by adding the following new subsection (g):

"(g) Civil Enforcement.

"The Attorney General may bring a civil action against any person who violates the provisions of this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking or has taken place. The court in which such action is brought shall determine the existence of any violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief, including injunctions, as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

SEC. 237. CORRECTION OF RESENTENCING SANCTION FOR REVOCATION OF PROBATION FOR POSSESSION OF A CONTROLLED SUBSTANCE.

Section 3565(a) of title 18, United States Code, is amended by striking "sentence the defendant to not less than one-third of the original sentence" and inserting in lieu thereof "resentence the defendant under subchapter A to a sentence that includes a term of imprisonment".

SEC. 238. CONFORMING AMENDMENTS CONCERNING MARIHUANA.

(a) Section 401(b)(1)(D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(D)) and section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C.

960(b)(4)) are each amended by striking out "with respect to less than 50 kilograms of marihuana" and inserting in lieu thereof "with respect to less than 50 kilograms of a mixture or substance containing a detectable amount of marihuana";

(b) Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) is amended by striking out "except in the case of 100 or more marihuana plants" and inserting in lieu thereof "except in the case of 50 or more marihuana plants".

SEC. 241. CONFORMING AMENDMENT ADDING CERTAIN DRUG OFFENSES AS REQUIRING FINGERPRINTING AND RECORDS FOR RECIDIVIST JUVENILES.

Sections 5038 (d) and (f) of title 18, United States Code, are each amended by striking "or an offense described in sections 841, 952(a), 955, or 959, of title 21," and inserting in lieu thereof "or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841) or section 1002(a), 1003, 1005, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, or 960(b) (1), (2), or (3)),".

SEC. 242. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER THE RICO STATUTE.

Section 1961(1) of title 18, United States Code, is amended by striking "narcotic or other dangerous drugs" each place those words appear and inserting in lieu thereof "a controlled substance or listed chemical, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)".

SEC. 243. CONFORMING AMENDMENTS TO RECIDIVIST PENALTY PROVISIONS OF THE CONTROLLED SUBSTANCES ACT AND THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

(1) Sections 401(b)(1)(B), (C), and (D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B), (C), and (D) and sections 1010(b)(1), (2), and (3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1), (2), and (3)) are each amended in the sentence or sentences beginning "If any person commits" by striking "one or more prior convictions" through "have become final" and inserting in lieu thereof "a prior conviction for a felony drug offense has become final";

(2) Section 1012(b) of the Controlled Substances Import and Export Act (21 U.S.C. 962(b)) is amended by striking "one or more prior convictions of him for a felony under any provision of this subchapter or subchapter I of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marijuana, or depressant or stimulant drugs, have become final" and inserting in lieu thereof "one or more prior convictions of such person for a felony for a felony drug offense have become final".

(3) Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking the sentence beginning "For purposes of this subparagraph, the term 'felony drug offense' means";

(4) Section 401 of the Controlled Substances Act (21 U.S.C. 841) and section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) are each amended by adding a new subsection (c), as follows:

"(c) For purposes of this title, the term 'felony drug offense' means an offense that is punishable by imprisonment for more than one year under any law of the United States or of a State of foreign country that prohibits or restricts conduct relating to narcotic drugs, marijuana, or depressant or stimulant substances."; and

SEC. 244. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

(a) Sections 401(b)(1)(A) and (B) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A) and (B)) are each amended by striking "No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.";

(b) Sections 1010(b)(1) and (2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1) and (2)) are each amended by striking "No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.";

(c) Section 419(c) of the Controlled Substances Act (21 U.S.C. 860(c)) is amended by striking "; parole" in the heading of such section and by striking "An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.";

(d) Section 420(e) of the Controlled Substances Act (21 U.S.C. 861(a)) is amended by striking "; parole" in the heading of such section and by striking "An individual convicted under this section of an offense for which a mandatory minimum term of imprisonment is applicable shall not be eligible for parole under section 4202 of title 18 until the individual has served the mandatory term of imprisonment as enhanced by this section."

SEC. 245. CONFORMING AMENDMENT TO PROVISION PUNISHING A SECOND OFFENSE OF DISTRIBUTING DRUGS TO A MINOR.

Section 418(b) of the Controlled Substances Act (21 U.S.C. 859(b)) is amended by striking "one year" and inserting in lieu thereof "three years".

BINGAMAN AMENDMENT NO. 728

Mr. MITCHELL (for Mr. BINGAMAN) proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place, insert the following:

(f) LIFE SKILLS TRAINING GRANTS.—(1) The Attorney General is authorized to make grants to State and local correctional agencies to assist them in establishing and operating programs designed to reduce recidivism through the development and improvement of life skills necessary for re-integration into society.

(2) To be eligible to receive a grant under this subsection, a State or local correctional agency shall—

(A) submit an application to the Attorney General or his designee at such time, in such manner, and containing such information as the Attorney General shall require; and

(B) agree to report annually to the Attorney General on the participation rate, cost, and effectiveness of the program and any other aspect of the program upon which the Attorney General may request information.

(3) In awarding grants under this section, the Attorney General shall give priority to programs that have the greatest potential for innovation, effectiveness, and replication in other systems, jails, and detention centers.

(4) Grants awarded under this subsection shall be for a period not to exceed 3 years, except that the Attorney General may establish a procedure for renewal of the grants under paragraph (1).

(5) For the purposes of this section the term "life skills" shall include, but not be limited to, self-development, communication skills, job and financial skills development, education, inter-personal and family relationships, and stress and anger management.

RIEGLE (AND LEVIN) AMENDMENT NO. 729

Mr. MITCHELL (for Mr. RIEGLE) (for himself and Mr. LEVIN) proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . REGIONAL VIOLENT CRIME ASSISTANCE.

(a) AUTHORIZATION OF GRANTS.—The Attorney General, in consultation with the Director of National Drug Control Policy, may make a grant to a State for the purposes of—

(1) implementing a plan to enhance law enforcement and criminal justice systems in a region of the State that suffers from high rates of violent crime or faces particular violent crime problems that warrant Federal assistance; and

(2) developing and implementing multijurisdictional strategies to respond to and prevent violent crime in such a region.

(b) CONSIDERATIONS IN AWARDING GRANTS.—(1) In awarding grants under subsection (a), the Attorney General may give priority to—

(A) States that develop and implement plans to assist law enforcement and criminal justice authorities in or near jurisdictions with high rates of violent crime or particular violent crime problems; and

(B) States that propose to develop a multijurisdictional or regional approach to respond to or prevent violent crime.

(2) The Attorney General shall not limit grants under subsection (a) to highly populated centers of violent crime, but shall give due consideration to applications from less populated regions where the magnitude and severity of violent crime warrants Federal assistance.

(3) The Attorney General shall not limit grants under subsection (a) to the enhancement of law enforcement capabilities, but shall give due consideration to applications that propose to use funds for the improvement of the criminal justice system in general.

(c) AMOUNT OF GRANTS.—(1) The amount of a grant that may be made with respect to an application relating to any region of a State described in subsection (a) shall not exceed $10,000,000.

(2) The Federal share of assistance under subsection (a) shall not be greater than 75 percent of the costs necessary to implement a plan or develop and implement a strategy relating to a region described in subsection (a).

(d) NONMONETARY ASSISTANCE.—In order to assist a State in dealing with crime problems in a region described in subsection (a), the Attorney General may—

(1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local law enforcement efforts; and

(2) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

(e) ISSUANCE OF IMPLEMENTING REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall issue regulations to implement this section, including such regulations as are necessary relating to applications for Federal assistance and the provision of Federal monetary and nonmonetary assistance.

(f) AUDIT BY COMPTROLLER GENERAL.—The Comptroller General shall conduct an audit of any Federal assistance (both monetary and nomonetary) of an amount greater than $100,000 provided to a State under this subsection relating to a region described in subsection (a), including an evaluation of the effectiveness of the assistance in achieving the goals stated in the application for assistance.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.0

DECONCINI AMENDMENT NO. 730

Mr. MITCHELL (for Mr. DECONCINI) proposed an amendment to the bill S. 1241, supra, as follows:

On page 245, add after line 15 the following:

TITLE XXVIII—NATIONAL COMMISSION TO SUPPORT LAW ENFORCEMENT

SEC. 2801. SHORT TITLE.

This title may be cited as the "National Commission to Support Law Enforcement Act".

SEC. 2802. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) law enforcement officers risk their lives daily to protect citizens, for modest and too little recognition;

(2) a significant shift has occurred in the problems that law enforcement officers face without a corresponding change in the support from the Federal Government;

(3) law enforcement officers are on the front line in the war against drugs and crime;

(4) the rate of violent crime continues to increase along with the increase in drug use;

(5) a large percentage of individuals arrested test positive for drug usage;

(6) the Presidential Commission on Law Enforcement and the Administration of Justice of 1965 focused attention on many issues affecting law enforcement, and a review twenty-five years later would help to evaluate current problems, including drug-related crime, violence, racial conflict, and decreased funding; and

(7) a comprehensive study of law enforcement issues, including the role of the Federal Government in supporting law enforcement officers, working conditions, and responsibility for crime control would assist in redefining the relationships between the Federal Government, the public, and law enforcement officials.

SEC. 2803. ESTABLISHMENT.

There is established a national commission to be known as the "National Commission to Support Law Enforcement" (referred to in this title as the "Commission").

SEC. 2804. DUTIES.

(a) IN GENERAL.—The Commission shall study and recommend changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the following:

(1) FUNDING.—The Sufficiency of funding, including a review of grant programs at the Federal level.

(2) EMPLOYMENT.—The conditions of law enforcement employment.

(3) INFORMATION.—The effectiveness of information-sharing systems, intelligence, infrastructure, and procedures among law enforcement agencies of Federal, State, and local governments.

(4) RESEARCH AND TRAINING.—The status of law enforcement research and education and training.

(5) EQUIPMENT AND RESOURCES.—The adequacy of equipment, physical resources, and human resources.

(6) COOPERATION.—The cooperation among Federal, State, and local law enforcement agencies.

(7) RESPONSIBILITY.—The responsibility of governments and law enforcement agencies in solving the crime problem.

(8) IMPACT.—The impact of the criminal justice system, including court schedules and prison overcrowding, on law enforcement.

(b) CONSULTATION.—The Commission shall conduct surveys and consult with focus groups of law enforcement officers, local officials, and community leaders across the Nation to obtain information and seek advice on important law enforcement issues.

SEC. 2805. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 23 members as follows:

(1) Seven individuals from national law enforcement organizations representing law enforcement officers, of whom—

(A) 2 shall be appointed by the Speaker of the House of Representatives;

(B) 2 shall be appointed by the Majority Leader of the Senate;

(C) 1 shall be appointed by the Minority Leader of the House; and

(D) 1 shall be appointed by the Minority Leader of the Senate.

(E) 1 shall be appointed by the President.

(2) Seven individuals from national law enforcement organizations representing law enforcement management, of whom—

(A) 2 shall be appointed by the Speaker of the House of Representatives;

(B) 2 shall be appointed by the Majority Leader of the Senate;

(C) 1 shall be appointed by the Minority Leader of the House; and

(D) 1 shall be appointed by the Minority Leader of the Senate.

(E) 1 shall be appointed by the President.

(3) Two individuals with academic expertise regarding law enforcement issues, of whom—

(A) 1 shall be appointed by the Speaker of the House of Representatives and the Senate Majority Leader.

(B) 1 shall be appointed by the Minority leader of the Senate and the Minority Leader of the House.

(4) Two Members of the House of Representatives, appointed by the Speaker and the Minority Leader of the House of Representatives.

(5) Two Members of the Senate, appointed by the Majority Leader and the Minority Leader of the Senate.

(6) One individual involved in Federal law enforcement from the Department of the Treasury, appointed by the President.

(7) One individual from the Department of Justice, appointed by the President.

(8) The Comptroller General of the United States, who shall serve as the chairperson of the Commission.

(b) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission shall receive no additional pay, allowance, or benefit by reason of service on the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(c) APPOINTMENT DATES.—Members of the Commission shall be appointed no later than 90 days after the enactment of this title.

SEC. 2806. EXPERTS AND CONSULTANTS.

(a) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(b) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this title.

(c) ADMINISTRATIVE SUPPORT.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, administrative support services as the Commission may request.

SEC. 2807. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for purposes of this title, hold hearings, sit and act at the times and places, take testimony, and receive evidence, as the Commission considers appropriate.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the chairperson of the Commission, the head of an agency shall furnish the information to the Commission to the extent permitted by law.

(d) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 2808. REPORT.

Not later than the expiration of the eighteen-month period beginning on the date of the appointment of the members of the Commission, a report containing the findings of the Commission and specific proposals for legislation and administrative actions that the Commission has determined to be appropriate shall be submitted to Congress.

SEC. 2809. TERMINATION.

The Commission shall cease to exist upon the expiration of the sixty-day period beginning on the date on which the Commission submits its report under section 2808.

SEC. 2810. REPEALS.

Title XXXIV of the Crime Control Act of 1990 (Public Law 101–647; 104 Stat. 4918) and Title II, Section 211 B of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (Public Law 101–515; 104 Stat. 2122) is repealed.

GRAMM AMENDMENT NO. 731

Mr. MITCHELL (for Mr. GRAMM) proposed an amendment to the bill S. 1241, supra, as follows:

On page 226, between lines 11 and 12, insert the following:

SEC. 2402. MANDATORY PENALTIES FOR ILLEGAL DRUG USE IN FEDERAL PRISONS.

(a) DECLARATION OF POLICY.—It is the policy of the Federal Government that the use of distribution of illegal drugs in the Nation's Federal prisons will not be tolerated and that such crimes shall be prosecuted to the fullest extent of the law.

(b) AMENDMENT.—Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by adding the following new paragraph at the end thereof:

"(7)(A) In a case under section 404 involving simple possession of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 1 year without release, to be served consecutively to any other sentence imposed for the simple possession itself.

"(B) In a case under this section involving the smuggling of a controlled substance into a Federal prison or other Federal detention facility or the distribution or intended distribution of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 10 years without release, to be served consecutively to any other sentence imposed for the possession with intent to distribute or the distribution itself.

"(C) Notwithstanding any other law, the court shall not place on probation or suspend the sentence of a person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed under this paragraph.".

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources.

The hearing will take place Thursday, July 18, 1991, at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony from William Happer, nominee for Director of Energy Research, U.S. Department of Energy.

For further information, please contact Rebecca Murphy at (202) 224-7562.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON FOREIGN COMMERCE AND TOURISM

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on Foreign Commerce and Tourism, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on July 10, 1991, at 2 p.m. on U.S. national tourism policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, July 10, 1991, beginning at 9:30 a.m., to conduct a hearing on implementation of section 404 of the Clean Water Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Wednesday, July 10, 1991, at 10 a.m. to conduct a markup of S. 1247, the Government Securities Act Amendments of 1991 and pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, July 10, 1991, at 2 p.m. to hold a closed markup on the fiscal year 1992 intelligence authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 10, 1991, at 2 p.m. to hold an ambassadorial nominations hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, July 10, 1991 at 10 a.m. for a hearing on S. 1074, the Safety of Pesticides in Food Act of 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, July 10, 1991, at 9 a.m., in executive session, for markup of the Department of Defense authorization bill for fiscal years 1992-93.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO CONNIE STRICKLAND

• Mr. ROCKEFELLER. Mr. President, improvements in education provide America with the brightest prospects for the future. The ability of our Nation to compete in the future and the ability of our citizens to provide a comfortable life for their families rely upon our education system.

That is why I take this opportunity to express admiration and appreciation for an outstanding West Virginia teacher. Connie Strickland recently received the 1991 Reader's Digest American Hero in Education Award. She was one of the only 10 teachers selected nationally.

Connie, a teacher at Herbert Hoover High School, in Clendenin, WV, has gone above and beyond the call of duty in motivating and encouraging her students. Working with students labeled as gifted, and others who simply want to challenge themselves, she has been the key component in raising the students's aspirations at this relatively rural high school.

By introducing satellite courses in Japanese, Russian, American government, physics, and chemistry, she has helped to give her students an invaluable opportunity to participate in classes with people from all over the United States. These courses not only enhance the school's curriculum but also help to instill in the students the self-confidence and motivation so necessary to succeed in today's society.

In addition to carrying out her everyday responsibilities of the classroom, Connie also started an Academic Boosters Club, which raises money so that her successful academic teams may travel to competitions. Her students have won every local and State academic competition they have entered this year, going on to represent West Virginia at the national level. It is the students who receive, and deserve, most of the praise for their success in the competitions. I am glad to say that now, justly, Connie is receiving the kind of national recognition she deserves.

I am very proud that one of the Nation's finest educators is dedicated to helping the students of West Virginia acquire the tools they need to succeed later in life. Knowing that the education of our children is in the capable hands of teachers like Connie Strickland, I have added confidence that the future of our State and our Nation will get brighter and brighter.•

MORGANTOWN, KY

• Mr. McCONNELL. Mr. President, today I rise to share with my colleagues a story about a small Kentucky town. I would like to insert into the RECORD the story of Morgantown, told in the June 24, 1991, issue of the Louisville Courier-Journal.

This small town located on the Green River was thriving in the 1800's. In an attempt to continue the prevailing prosperity and avoid an increase in taxes in 1889, Butler County rejected the proposed building of L&N Railroad in Morgantown. Because the L&N Railroad was going elsewhere, so did new industries. Steady work was dried up, and droves of people moved away to big cities.

Industry leaving the city meant further decline. Since 1963, when an industrial prospect insulted the town—referring to it as "just another dirty little town"—Mayor Charles Black has been working to improve Morgantown. Black won a city council seat in that year, and helped establish a formal community improvement program, supported a campaign for a new courthouse, and helped recruit the Kellwood Co., a women's clothing factory.

Additional Black initiatives included the Green River Parkway, built when Black was elected mayor of Morgantown in 1972. In 1978, Morgantown opened a city park, and the State's first industrial park was built there with help from the Tennessee Valley Authority in 1982. The industrial park was then sold to Morgantown Plastics, a plumbing accessories manufacturer, in 1985.

With the money from the sale, the town was able to finance the construction of a second industrial building twice the size of the first. It was sold within a year.

Currently, the mayor is developing plans for a new industrial park on the site of Morgantown's old airport. By abandoning the airport, Morgantown will get its third interchange on the Green River Parkway at KY 70, close to its two industrial parks. The mayor hopes that the city will concentrate on getting some new businesses for the town—restaurants, a bowling alley, a theater, and private housing—"to help build a more stable community."

Mr. President, I rise to insert this article into the RECORD to commend Morgantown for their great economic and industrial efforts and advancements.

The article follows:

AFTER AN IDLE CENTURY, BLUFF ON GREEN RIVER IS WAKING UP

(By Cynthia Crossley)

Packet steamers and showboats came and went every day; brawny men unloaded whiskey barrels and crates of goods for the thriving town. It was late in the 1800s, Morgantown's glory days, and everyone's attention was on the Green River.

So much so that Butler County rejected the L&N Railroad. Voters didn't like the railroad's proposal that a county tax help pay to build the line.

"Warren and Grayson counties are not as well off as we, and they have the railroad," observed an 1889 editorial in the Green River Republican. "Our river transportation is enough. The railroad tax is too much of a burden on the county."

The railroad went elsewhere. But so did new industries. Butler County's strip mines played out. And the Green River shipping trade sank—literally, in the case of three steamboats that rest, still today, on the bottom of the Green River near the dam at Woodbury. Steady work dried up. Periodically, a downtown fire would destroy five or six buildings.

By 1960, there were only 182 more people in Butler County than there were in 1870. Morgantown, by several historical accounts, was well into its "discouraging period."

Mayor Charles Black tells of showing an industrial prospect around town in 1963, and getting this sneering reaction: "This is just another dirty little town."

Droves of people moved away, to jobs in Louisville, Evansville, Cincinnati, Indianapolis, Detroit, Gary, Ind. Word would trickle back about additional jobs, and friends and relatives would follow:

They became what former Green River Republican editor Larry Craig described as "whole colonies of Butler Countians," living in other states.

"My family's one that migrated out," said Deborah Givens, editor of the Butler County Banner. "My grandfather went to Gary, Ind., to find work. And my grandmother ran a boarding house up there where everyone was from Butler County. When I was growing up in Gary I hardly knew anyone who wasn't from Butler County."

The "Population 2,000" sign on the road into town is based on the 1980 census. By 1988, experts assumed Morgantown's vital signs were growing over faint, and they decreased the town's population estimate, to 1,960. But they were wrong. Last year's census found 2,284 people, including Deborah Givens, "back" from Gary, Ind. Morgantown is coming back, too.

A lot of people credit Black with "pushing the starter button," as civic leader Nyla Morgan put it. And Black, who may be Morgantown's "Mayor for Life," accepts credit.

The retired Butler County High School band director says he's been working to improve Morgantown ever since that industrial prospect insulted the town in 1963.

Black, who won a city council seat in 1963, helped start a formal community improvement program, supported a campaign for a new courthouse, and helped recruit the Kellwood Co., a women's clothing factory. In the 1970s, he supported a city occupational tax, and got the city streets resurfaced. He became mayor in 1972, the same year the Green River Parkway was built.

In 1978, Morgantown opened a city park. Today it has a swimming pool, tennis and volleyball courts, picnic pavilions, playground equipment, and regulation Little League baseball fields. Morgantown spends some money improving the park each year. Last year a third picnic pavilion was added; this year it acquired 29 more acres, including some woods.

The volleyball courts are so popular that the city keeps the gates open and the lights on for second-shift workers from other counties, who play until 2 or 3 in the morning.

In 1981, the town turned an old drug store into a new city hall, with a roughly 1,000-square-foot city council chamber featuring locally carved oak trim and prints by Butler County artists.

In 1982, Morgantown built the state's first speculative industrial building, with help from the Tennessee Valley Authority. The 20,000-square foot building was sold to Morgantown Plastics, a plumbing accessories manufacturer, in 1985.

With money from that sale, the town built a second industrial building, this time with 40,000 square feet. Within a year, Sumitomo Electric Wiring Systems, which makes wiring harnesses for cars, bought it and moved in. Sumitomo boomed, and now fills three buildings, including a warehouse Morgantown built for it with borrowed money.

While Sumitomo grew, Morgantown turned the remains of an old farm and strip mine into its first industrial park. And by 1984 folks were joking that Morgantown had more industrial jobs (2,200) than people (2,000).

Today, current economic conditions may put the job figure under 2,000, but the mayor, who is also the city's full-time, $31,000-a-year economic development coordinator, is charging ahead with plans for a new industrial park on the site of Morgantown's old airport, which consists of a concrete landing strip and a wind sock.

Black says airports in Bowling Green and Ohio County are close enough for Butler-bound private pilots. What's more, by abandoning the airport, Morgantown will get its third interchange on the Green River Parkway, at KY 70, right by its two industrial parks.

To be sure, some people fret that these jobs don't pay enough, that Morgantown's new housing is mostly for low-income families. And they wonder what happened to the commercial development that was supposed to come on the heels of new industry.

"Our 'Wal-Mart, issue' here is whether we go to the one in Bowling Green or the one in Beaver Dam," said Craig, the former newspaper editor.

Black acknowledged that more work needs to be done.

"I'd like to see the Chamber concentrate on getting some new businesses for the community," he said. "The city has concentrated on industrial development. Now we need mercantile businesses, restaurants, a bowling alley, a movie theater, some private housing—a subdivision—to help build a stable community."

Meanwhile, Morgantown's economic renaissance has spawned a cultural renaissance too—a lot of which looks again to the Green River. The Green River Catfish Festival, created in the early 1980s, is every Fourth of July.

Before the festival starts, state Fish and Wildlife workers release several tagged catfish into the Green. Some of the tags represent cash prizes, including a top prize of $10,000.

People who pull in a tagged catfish must wait until the end of the festival to find out what they won. While they're waiting, they can join a tug-of-war or a square dance, play tennis or watch beauty contests, race on foot, in canoes or with terrapins—and eat enough to sink a packet boat.

Every August, residents put on a production of "The Magic Belle," a musical by former Actors Theatre of Louisville star Ken Jenkins, about the life of George Dabbs, a Morgantown painter and photographer who died in 1967.

In other, less noticable ways, folks in Morgantown are looking anew at the people who populated its past.

Regina Hood, for example, is an expert on Granville Allen, one of the first Union soldiers to die in Kentucky during the Civil War. She's interested because he was shot and killed on her property—and because people used to ask if she'd seen his ghost, in the form of a fireball, rolling down her property.

"Nooo," Hood said. She figures people were seeing flashes of gas from the hand-dug coal pits on the other side of her ridge.

In 1861, Allen was hiding in a big chestnut tree with three other Union soldiers, watching for an advance party of Confederate soldiers moving west from Woodbury. He stepped out of the tree to get a better look—and was found by a Confederate sharpshooter. Allen now stands atop the Civil War Monument, which honors soldiers from both sides of the conflict, outside the Courthouse.

Then there's the mystery of Arnold Shultz, which recently sparked Nyla Morgan's interest. No one knows exactly where he's buried, other than in the old "colored cemetery" in Mogantown. But folks know who he was.

According to an essay by William Lighfoot in the book "A Sense of Place," Shultz created the style of guitar-playing known as "thumb-pickin' . . . in which a single musician performs simultaneously four major musical elements; melody, harmony, rhythm and bass." Shultz's "preternaturally talented" playing influenced Ike Everly, father of the Everly Brothers, and, indirectly, Merle Travis, Chet Atkins, and a host of others.

Shultz, the son of Ohio County slaves, spent the last 10 years of his wandering life in Morgantown. He died in 1931, at the age of 45. The official cause was recorded as heart disease, but a legend persists that he was poisoned by jealous white musicians.

Recently some people asked Morgan—who oversaw a project to catalog every cemetery in Butler County—to help find Shultz's grave.

"I took them out to the old Bell Street cemetery, but it was all overgrown, just a mess," Morgan said. They couldn't find it.

Now she's wondering if people might dedicate a monument in his honor.●

"GROCERS CARE" PROGRAM

● Mr. DECONCINI. Mr. President, I am proud to rise today to recognize the invaluable efforts of the National Grocers Association's Grocers Care Program and participants such as Mr. Thomas Shope, chairman of the Retail Grocers Association of Arizona and member of the Independent Grocers Association. Mr. Shope is an outstanding representative of the hundreds of grocery store owner/operators, that are extraordinary community servants who have joined the Grocers Care Program. Grocers Care is a unique initiative that promotes the use of healthy foods, encourages recycling, and without question the most important in this Senator's heart; assisting the elderly and impoverished. As a model for Grocers Care, Mr. Shope's IGA stores in Coolidge and Florence sponsors Little League teams, provide donations to local high schools for critical equipment needs and helps fund educational scholarships, in addition to sponsoring employee participation in numerous civic organizations. I submit to you that individuals such as Mr. Shope and the numerous other Arizona citizens involved with the Grocers Care Program are the cornerstones on which communities are built. These individuals challenge each of us, through their actions, that there is a way we can and should help to make a difference. Mr. Shope and the participants in the Grocers Care Program have gone beyond simply recognizing a problem, they are producers of innovative solutions. Congress should take notice of these types of grassroots efforts that serve to carve an encouraging future for a strong and free nation.●

ENTERPRISE ZONES AS A SOLUTION FOR URBAN DECLINE

● Mr. LIEBERMAN. Mr. President, on Thursday, June 6, the city of Bridgeport, CT, filed for bankruptcy under chapter 9 of the U.S. Bankruptcy Code—earning it the distinction of being the largest city in the country ever to take such an action. Mr. President, will bankruptcy protection is really nothing more than a technical legal term, the action taken by the city of Bridgeport is symptomatic of a much larger problem that has been brewing within many of our inner cities all over the country for the past 30 years. Today, Mr. President, I do not want to address the legal ramifications of chapter 9, but I do want to address the problems facing many of our inner cities, and what I believe to be one possible solution—enterprise zones.

The history of Federal urban policy and declining urban economies is relatively brief dating only from the early 1960's. In 1961, John F. Kennedy said:

> Economic Growth has come to resemble the Washington weather—everyone talks about it, no one says precisely what to do about it, and our only satisfaction is that it can't get any worse.

President Kennedy was correct about the first two parts of his statement—everyone does talk about it, and no one knows precisely what to do about it, but, Mr. President, the plight of many of this Nation's inner cities is, indeed, getting much worse. Whether it was the Model Cities Program in the sixties or revenue sharing in the seventies, urban development has been a challenge facing the administration and the Congress for the last 30 years.

The causes of urban decline are really no great mystery. Manufacturing and industrial enterprises, which used to be the centerpiece of economic activity and employment, have either disappeared overseas, or have moved to more congenial surroundings outside our cities. With this outward migration or outright disappearance of manufacturing facilities went well-paying jobs and local tax rvenues. At the same time, Mr. President, drug use, homelessness, and poverty were on the rise, and with shrinking tax bases, cities faced ever higher social service costs. Infrastructure continued to decline, and crime rates rose, making cities even less attractive to businesses.

In many regards, the Federal Government has ignored this decay for most of the decade of the 1980's. What happened in Bridgeport is symptomic of that inaction. The 1980's marked a dramatic change in Federal urban policy. The administration made deep cuts in virtually every category of social services, and passed many of those costs on to State and local governments. In terms of urban development, general revenue sharing was placed on the shelf. Community development block grants were cut from over $4 billion in 1981 to under $3 billion in 1988. And, in 1988, there was no new appropriation for urban development block grants.

Mr. President, last month Senator DANFORTH and I introduced the Enterprise Zone Jobs Creation Act of 1991—legislation that puts forth a program for economic and urban growth which, I believe, begins to facilitate the redevelopment of some of America's most distressed urban communities and is one very promising solution to the plight of decaying urban economies.

An enterprise zone is an economically depressed area, much like many parts of the city of Bridgeport, that is designated to receive special treatment by the local, State, and Federal governments in order to attract business investment that might otherwise not occur. This is accomplished through a series of incentives including tax and regulatory relief.

In short, enterprise zones will help convince businesses to build and grow in poor neighborhoods. They will give people incentives to invest in such businesses and to hire and train both unemployed and economically disadvantaged individuals. They will create jobs and stimulate entrepreneurship. Perhaps most importantly, Mr. President, they will help restore the tax base to communities that have been forced to provide increasing social services with decreasing sources of revenue.

Surprisingly enough, Mr. President, the idea for using enterprise zones as a means for urban development is not a new one, but it is one whose adoption is long overdue. Two Englishmen of diverse political philosophies, Peter Hall and Sir Geoffrey Howe, first began working on this idea in the 1970's. It came to fruition in 1980, when an enterprise zone program was enacted by former Prime Minister Margaret Thatcher.

The first national enterprise zone legislation in this country was introduced by two former Members of Congress, also of diverse background, Representative Jack Kemp, a Republican from Buffalo, and Representative Bob Garcia, a Democrat from the South Bronx. What brought these two men together was a desire to find a long-term solution for poverty and urban decay while stimulating economic development across our Nation.

Ultimately, in 1987, enterprise zone legislation was passed into law as part of an omnibus housing bill. In essence, this bill directed the Secretary of Housing and Urban Development to designate 100 enterprise zones across the country, but it did not provide for any corresponding Federal tax benefits. That is precisely what the bill I introduced would do—put into place the tax and regulatory incentives which are pivotal to the success of enterprise zones and the redevelopment of urban and rural America.

Mr. President, the bill I introduced incorporates the best ideas from many proposals. It takes into account our present budgetary constraints and is strongly supported by President Bush and Secretary Kemp. Funding for this proposal was included in the President's budget, and companion legislation, sponsored by Congressman RANGEL, is presently moving in the House of Representatives.

This legislation attempts to bring benefits to impoverished areas with a minimal loss of revenue to the Treasury. But, it is important to look beyond cost and consider the positive social impact that the enterprise zone program can have on a community by giving its residents jobs and a new sense of hope about their future. It is also important to consider the positive economic impact enterprise zones can have by giving local treasuries desperately needed new sources of revenue.

The Enterprise Zone Program, in its very essence, assumes that it is better for society to direct investment and employment to areas that have had a history of low levels of economic activity rather than to direct investment and employment to areas that have experienced economic prosperity.

This legislation recognizes that the economic problems affecting many of our cities cannot be solved by Federal handouts alone. It is clear that we must form a partnership between governments, business, and communities to develop a strategy that will attack chronic poverty and urban decay over the long term.

Currently, 37 States have begun to do precisely this by establishing their local versions of enterprise zones. I am proud to say that Connecticut led the Nation in establishing zones in 1982, offering a wide range of State and local incentives, as well as administrative support, to help develop distressed urban areas.

According to statistics from the Connecticut Department of Economic Development, Connecticut's 12 zones have attracted nearly $400 million in new investment, and created or retained more than 13,000 jobs, without the benefit of accompanying Federal incentives. By providing such Federal incentives, we can expect to see ever greater investment and job creation in these regions.

Specifically, the bill I introduced calls for the designation of 50 Federal enterprise zones by the Secretary of the Department of Housing and Urban Development. Tax incentives allow:

Zone businesses to take advantage of a zero capital gains rate for the sale of any enterprise zone tangible property that has been held for at least 2 years;

Those who invest in zone businesses to deduct up to $50,000 for any taxable year, a $250,000 maximum, on the purchase of qualified enterprise zone common stock; and

A 5 percent refundable tax credit to qualified enterprise zone employees for the first $10,500 in wages, up to $525 per worker.

I am convinced that, if adopted, this program will bring hope to areas with little hope; offer jobs to those stricken by incessant unemployment; and promote economic growth in areas that have for too long experienced only economic decline.

Mr. President, what happened in Bridgeport on June 6 should be taken as a signal that things are not well in our cities. Bridgeport's filing for bankruptcy was clearly a desperate cry for help. Enterprise zones are not the whole cure for the social and economic ills plaguing our inner cities, but they are clearly a big step in the right direction.

Winston Churchill once said:

> Some see private enterprise as a predatory target to be shot, others as a cow to be milked, but few are those who see it as a sturdy horse pulling the wagon.

The most appealing feature of enterprise zones is their attempt to involve and utilize private enterprise in doing something substantial on a national scale about urban decay and chronic poverty. Poverty and decay that not only encompasses whole sections of every one of our inner cities but also, in too many cases, spans generations. It is a cloud over our Nation's future. The unemployed and the poverty stricken, whether they are in the South Bronx, East St. Louis, New Orleans, Minneapolis, Liberty City, or Bridgeport are in need of our help. I believe enterprise zones can offer help to many inner cities in a long-term, meaningful way. Their adoption is long overdue.●

TRIBUTE TO MUSIC UNDER THE STARS

● Mr. KOHL. Mr. President, I rise today to pay tribute to one of the finest free music programs in existence—Music Under the Stars. This annual outdoor summer series has been one of the most productive artistic ventures in Milwaukee County, and has become a cultural pillar of the community. Under the excellent sponsorship of the Milwaukee County Board of Supervisors, Music Under the Stars has been available free of charge since 1968.

Much of the credit for the success of the Music Under the Stars program and other county-sponsored cultural events must be given to Music Director John-David Anello and his son, John D. Anello, Jr., as producer/artistic director. The Anello name has become synonymous with superb musical evenings in the park.

This year, to commemorate the Declaration of the Rights of Man and to celebrate the country of France, a very special evening has been planned. For the eighth time, the Voice of America has agreed to record a Music Under the Stars program for foreign broadcast. Thanks are due to the Voice of America's directors, and to the Music Performance Trust Funds of New York, which has been generous in cooperating with the Music Under the Stars program and in granting permission for this broadcast.

Mr. President, there are ties of basic humanity that bind people all over the globe—ties that recognize no borders and go beyond the scope of any government. Two hundred years ago, following the spirit of our own American Revolution, France recognized, in the Declaration of the Rights of Man, that "all men are born free and equal in rights." Its 17 articles, adopted by France's National Assembly, served as the preamble to the Constitution of 1791. It came to be, according to 19th-century historian Jules Michelet, "the credo of the new age." What the Bill of Rights has been to our country, the Declaration of the Rights of Man is to France. Together, these documents mark an epoch in history.

Performances such as this one, where Milwaukee gives its voice to the world, do more than bring international recognition to the city. In a very real way, these performances express our solidarity with the citizens of other countries. The people of France gave our country a Statue of Liberty. This concert may not be on so grand a scale, but it truly is a tribute—and an expression of friendship and good will—to our fellow travelers on the historic road to freedom.

Mr. President, the concert is scheduled for Saturday July 20 at the Washington Park Temple of Music. The performers and concertgoers, as well as all the people who have worked so hard to put this program together, have my best wishes and my thanks. This night should be one to remember.●

TRIBUTE TO DR. HENRY BLACKBURN

● Mr. DURENBERGER. Mr. President, heart disease hits nearly every family in America. I am proud to say that in the State of Minnesota there is an outstanding physician who is a leader in public education and prevention of heart disease. Dr. Henry Blackburn is a fine example to us all in his effort to research and heighten awareness about health issues which can sometimes be devastating.

The March-April edition of the University of Minnesota Alumni Association magazine recognizes six University of Minnesota scientists who are the principal investigators responsible for very large research projects. One of the articles was about the research of Dr. Henry Blackburn, and I would like to share with you his story:

> Henry Blackburn is a Mayo professor of public health in the School of Public Health, and for many years was director of the Division of Epidemiology. He also has a joint appointment as professor in the Medical School's Department of Medicine. For the past ten years, Blackburn has directed the Minnesota Heart Health Program, a statewide effort to educate the public about heart

disease risk factors, to engage whole communities in changing behaviors to reduce risk factors, and to measure the effects of education and behavorial changes. Since 1980, the Minnesota Heart Health Program has received more than $41 million in support from the National Institutes of Health (NIH).

Blackburn also is the principal investigator for two related NIH-supported research projects, titled Community Surveillance of Cardiovascular Disease (more than $12 million) and Prevention of Cardiovascular Disease (more than $250,000). And since 1988, he has received more than $300,000 for the School of Public Health's Midwest AIDS Training and Education Center.

Dr. Blackburn is a fine representative of the Minnesota medical community. His work in the area of lifestyle guidance is driven by compassion and concern for the individual. I commend and thank Henry Blackburn for his efforts and support him in his future endeavors in the health field.●

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:30 a.m., on Thursday, July 11; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 10:30 a.m. with Senators permitted to speak therein; and that from 8:30 a.m. to 9:30 a.m. Senator KERREY of Nebraska be recognized to address the Senate; that the time from 9:30 a.m. to 10:30 a.m. be under the control of the Republican leader or his designee; and that when the Senate resumes consideration of S. 1241 at 10:30 a.m. tomorrow, there be 10 hours remaining on S. 1241 postcloture.

The PRESIDING OFFICER. Is there an objection?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. MITCHELL. Mr. President, I will withhold.

Mr. DOLE. Will the majority leader yield for an inquiry?

Mr. MITCHELL. I will be pleased to yield to the Republican leader.

Mr. DOLE. As I understand it, cloture is now being invoked so there would be what, 30 hours postcloture? As I understand, there are some germane amendments, maybe on each side. I do not know what the amendments are. But I am wondering if we could ascertain from anybody on this side, if they have a germane amendment, if they intend to offer it. That might help the leader decide whether we are going to stay here later tonight or come back tomorrow morning and take some time off the clock.

So if anybody on this side has an amendment which is germane, if they intend to offer it, I think the managers would like to know.

Mr. THURMOND. That is correct. We would like to know now if possible.

Mr. DOLE. I guess we can put out a hotline.

I know there are some nongermane amendments.

Mr. THURMOND. I do not hear from anyone who has a germane amendment, so I presume there are none on this side. The Senator can test his side, and then we can get unanimous consent and close it out.

Mr. BIDEN. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The majority leader has the floor.

Mr. MITCHELL. I am pleased to yield.

Mr. BIDEN. I think the wisest thing said tonight is what was just said by the Senator from South Carolina. I know of no amendments on the Democratic side.

I respectfully suggest we give everybody 15 minutes to acknowledge whether they have an amendment. If they do not seek unanimous consent then the only thing to be in order tomorrow morning would be the pending business of the Senator from North Carolina.

Mr. MITCHELL. Mr. President, I would ask the Senator to withhold on that request.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 8:30 A.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate stand in recess, as under the previous order, until 8:30 a.m. tomorrow, Thursday, July 11.

There being no objection, the Senate, at 9:19 p.m., recessed until Thursday, July 11, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 10, 1991:

DEPARTMENT OF STATE

ROBERT S. STRAUSS, OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE UNION OF SOVIET SOCIALIST REPUBLICS.

DAVID A. COLSON, OF MARYLAND, A CAREER MEMBER OF THE SENIOR EXECUTIVE SERVICE, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS DEPUTY ASSISTANT SECRETARY OF STATE FOR OCEANS AND FISHERIES AFFAIRS.

IN THE ARMY

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. LEONARD P. WISHART, III [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. WILSON A. SHOFFNER [redacted] U.S. ARMY.

IN THE NAVY

THE FOLLOWING-NAMED LIEUTENANTS IN THE LINE OF THE UNITED STATES NAVY FOR PROMOTION TO THE PERMANENT GRADE OF LIEUTENANT COMMANDER, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICERS

To be lieutenant commander

EUGENE MICHAEL ABLER
DAVID DOUGLAS ABRAHAMSON
HOLLY ANN ADAMS
ROBERT JOHN ADRION
CARA DALE AKERLEY
RALPH NORMAN ALDERSON, JR
JOHN DAVID ALEXANDER
RICHARD KERTELL J. ALEXANDER
BURT S. ALLAIRE
EDWARD TODD ALLEN
GRACE ELIZABETH ALLINDER
JOHN MICHAEL ALLISON
SCOTT DOUGLAS ALTMAN
JOSE LUIS ALVAREZ, JR
JEFFREY CHARLES AMICK
ROY LOUIS ANDERSEN
GERALD RANDOLPH ANDERSON
GUSTAV ANDREW ANDERSON
PAUL FRANCIS ANDERSON
ROBERT ERIC ANDERSON
ROBERT SCOTT ANDERSON
THOMAS XAVIER ANDERSON
MELISSA SUE ANDREWS
PHILLIP THOMAS ANGELINI
RONALD PAUL ANGERER
DAVID STUART ANGRISANI
CHRISTOPHER P. ARENDT
THOMAS JOHN ARUFFO
LESLIE HANSEN ASHENFELTER
CLIFFORD CLARK ATMORE
WAYNE D. ATWOOD
WILLIAM RICHARD AULT
PAUL EDWIN AXELSON
MATTHEW JAMES BABLITZ
DALE ALAN BAKER
MARK EDWARD BAKOTIC
KELLY BRUCE BARAGAR
MICHAEL RAY BARCLIFT
DAVID LYNN BARKER
STEVEN LESLIE BARNABY
THOMAS HAROLD BARNARD
TIMOTHY ROSSO BARON
STEVE MICHAEL BARRATT
MICHAEL GERALD BARRINGTON
KEITH RAY BARTON
ROLAND WESLEY BATTEN, JR
WAYNE ROY BAUERS, JR
KEVIN ALLEN BAUGH
JAMES JOSEPH BAUSER
FRED CHARLES BEACH
VERNON DALE BEACH
PHILLIP LINCOLN BEACHY
WILLIAM WORTHAM BEAUMONT
RICHARD ROBERT BECK, JR
FRED THOMAS BECKHAM, JR
MICHAEL JOSEPH BECKNELL
SYDNEY JOYCE BEEM
KATHLEEN ANN BEERNINK
DAVID FRANK BEERS
MARGUERITE ELIZABETH BELEC
DAVID DOUGLAS BELT
DEBORAH EILEEN BENEDICT
IVARS RAFAELS BERGS
RICHARD OLIVER BERNARD
TIMOTHY CRESTON BERTCH
RONALD CLINTON BETHMANN
MINDY SUE BABROVE BILODEAU
DEBRA KAY BISHOP
CHARLES SAMUEL BLACKADAR
PATRICIA ANN BLAKELEY
WAYNE RICHARD BLANDING
MARY SUE BLANKENSHIP
CLAIRE VIRGINIA BLOOM
ROBERT FRASER BLYTHE
MATTHEW EDWARD BOBOLA
MARTIN JOHN BODROG
RICHARD HUGH BOHNER, JR
TIMOTHY EDWARD BOOTHE
STEVEN CHARLES BOS
DAVID VINCENT BOSE
KELLY SUE BOSE
EDMOND LAWRENCE BOULLIANNE
RANDALL GREGORY BOWDISH
MARK DAVID BOWERS
TODD ALLEN BOYERS
KENT DOUGLAS BRADSHAW
JOHN FREDERICK BRANDEAU
ERIC HUGH BRANDENBURG
RICHARD LEE BRASEL
BARRY CRAIG BRATTON
RICHARD PAUL BRECKENRIDGE
ROBERT JOHN BRENNAN
WILLIAM DENNIS BRENNAN
TIMOTHY BLAKE BREWER
KRISTINE AGNES BRIDGES
WILLIAM LLOYD BRIDGEWATER
WILLIAM SCOTT BRINKMAN
BRUCE WILLIAM BRISSON
ELLEN SUE BRISTOW
JENNIFER ELLYN BROOKS
MICHAEL GEORGE BROOKS
JOHN BURTON BROOMFIELD
GARY DEAN BROWN
KAREN VELOIS BROWN
KEVIN FRANCIS BROWN
ROBERT WALTER BROWN
JILL BROWNE
WILLIAM R. BRUNET
FREDERICK BUELL BUONI, II
STEPHEN THOMAS BURFIELD
DONALD JOSEPH BURGER, JR
WILLIE BURKE, JR
STEPHEN ALLEN BURRIS
RICHARD THOMAS BURTON
JERILYN BEGLEY BUSCH
BLAKE THOMAS BUSH
LANNY RAY BUSHER
ALAN QUENTIN BUSHORE
STEPHEN LLOYD BUSS
THOMAS ARTHUR BUTERBAUGH
ALBERT GEORGE BUTLER
BRUCE KEITH BUTLER
ROBERT DEAN BUXTON
JOHN P. BUZIAK
ALFRED DOUGLAS BYRNE
JAMES JOSEPH BYRNE, JR
MARK DAVID CAHILL
MAUREEN MARIE CAHILL
ROBERT PAUL CAIN
PATRICIA ANN CALER
STEVEN VERDELL CALL
GENE KEVIN CAMPBELL
MICHAEL CARLOS CAMPBELL
STEPHEN SCOTT CAMPBELL
THOMAS ALOYSIUS CAMPION, III
ARTHUR DANIEL CAPRON, JR

JOSEPH GERARD CAPSTAFF
CHRISTOPHER ALBERT CARBOTT
KENNETH ALFRED CARKHUFF, III
TIMOTHY MICHAEL CARR
JOSEPH STEPHEN CARTER
TED WILLIAM CARTER
JUDITH ADAMS CASEY
DAVID ALLAN CATE
CHARLES FRANKLIN CAUDILL, JR
JANICE IRENE CAVANAUGH
JOSEPH CEREOLA
CHRISTOPHER JOH CHAMBERLAIN
GEORGE ARTHUR J. CHAMBERLAIN
THOMAS ARNOLD CHAMP
ROBERT ANTHONY CHAMPION
GERALD R. CHANDLER
DONALDA CHARLOTTE CHANG
ERIC WAYDE CHAPMAN
JAMES L. CHAPPELL
GERARD ARMAND CHAREST
JEFFREY ROBERT DARR CHARRON
HENRI LEON CHASE
MICHAEL BERTRAM CHASE
JOSEPH FRANCIS CHERRA, JR
JAY WICKER CHESKY
LEO ERNEST CHIASSON, JR
FLORENCE MARIE CHICHESTER
EDWARD MARK CHICOINE
JEAN MAY CHLASTAWA
CAROL LEE CHRISTMAN
ROBERT GEORGE CIVILIKAS
JAMES BRETT CLARK
JOSEPH MICHAEL CLARKSON
THOMAS MARVIN CLEMONS, III
TERENCE LEE CLEVELAND
JAMES MICHAEL CLIFTON
HUBERT DAVID CLOPP
DAVID CHAPPELL CLUTCH
MICHAEL MARK COCHRANE
WILLIAM HELMUT COGAN
JAMES GLEN COLASITO
JAMES ARNETT COLE, JR
JOHN EDMUNDS COLE
PATRICIA COLE
DEAN A. COLLINS
JOHN FRANCIS CONLON, III
CHARLES BRADFORD CONNERS
MARK ELLIOTT CONVERSE
JAMES MICHAEL COOK
RANDLE COLLINGWOOD COOK
LOUIS ISAAC COOPER
LOWELL SCOTT COOPER
VINCENT JOSEPH CORONA
HECTOR LUIS CORREA
MICHAEL JOHN CORTESE
LOURDES MARIA CORTESMAYORAL
BRADLEY ALAN COSGROVE
BRUCE ANTHONY COSTA
RICHARD JOSEPH COSTON
WALTER BRUCE COUMBE
RAYMOND LEE COUTLEY
JOHN WALTER COVELL
VALERIE ANN COVINGTON
GEORGE ALLEN COX
MICHAL ANN COX
LAWRENCE SHANNON COY
FRANCES KAREN BARRETT COYLE
JAMES ANDREW CRABBE
TERRY DONALD CRAIG
KYLE MARTIN CRAIGIE
DANIEL ERGEN CRAUN
WILLIAM LLOYD CRAVER, JR
RICHARD TERRENCE CREANGE
DEANNE LAREE CRIDER
KEVIN JAMES CRONIN
THOMAS PAUL CROOK
MICHAEL EARL CROSS
DALE ALAN CROTHERS
PATRICK KEARNEY CROTZER
MICHAEL PAUL CROWLEY
WILLIAM PATRICK CUILIK
DAVID CULBERTSON
RALPH MICHAEL CUMMINGS
FRANCIS LINWOOD DAGGETT
JOHN ALEXANDER DALEY
WILLIAM FRANCIS DANELLA
GLENN ALAN DARLING
BRIAN WILLIAM DAUGHERTY
KENNETH EDWARD DAVEY
JOHN CARL DAVIDSON
PHILIP SCOT DAVIDSON
ALBERT HAMILTON DAVIS, JR
GEORGE WILLIAM DAVIS
MARSDEN SHERWOOD DAVIS, JR
MCKINLEY JUNIOR DAVIS
STEPHANIE KATHRYN DAVIS
MARC SANTUCCIO DEANGELIS
REBECCA DELL DEARBORN
EUGENE STEVEN DEGENNARO
THOMAS JOHN DEKORNFELD
RAYMOND JOHN DEPTULA
WILLIAM OGDEN DERR, JR
GEORGE EUGENE DESMARAIS
ANITA DIANE DEVRIES
ALAN KEITH DEWITT
WILLIAM JAMES DICKSON
STEPHEN BERNARD DIETZ, III
CORRINNE THERESE DILLON
STEVEN JOSEPH DINOBILE
MICHAEL FRANCIS DIONIAN
DOMINIC STREAT DIXON
PATRICK JOSEPH DOUGHERTY
PHILIP KENNEDY DOUGHERTY
DUANE HARWOOD DOUGLAS
MICHAEL WAYNE DOUGLASS
HAMPTON HOWARD DOWLING
CHRISTINE SUE DOWNING
DANIEL THOMAS DOYLE
DARREL WAYNE DRAPER
PETER JAMES DREHER
VINCENT DROUILLARD
JAMES WALTER DRYER
CARL MICHAEL DUBAC
RICHARD WILLIAM DUBOIS
JEFFREY ROSS DUERRWAECHTER
DAVID ALAN DUNAWAY
GARY PATRICK DUNCAN
MICHAEL LAWRENCE DUNN
HOSONG DUPONT
MICHAEL JOHN DUPREY
ALICE JEANNE DYKES
JOHN WILLIAM DZIMINOWICZ
GREGORY WILLIAM EATON
SUSAN LYN EATON
ELLEN MITCHELL EDDOWES
STEPHEN REUBEN EDSON, III
WILLIAM R. EDWARDS
RANDOLPH EUGENE ELLIOTT
COLLEEN LAVERNA ELLIS
GREGG RICHARD ELMENDORF
DAVID BRIAN EMICH
ANTONIA C. EMMERT
MICHAEL PATRICK ENRIGHT
SAMUEL EPSTEIN
DOUGLAS JAMES EVANS
JOSEPH ANTHONY FAIRCLOTH
DAVID CLYDE FAITH
TIM PAUL FALEY
GARY CONRAD FALLER
JOSEPH MICHAEL FARBO
MARK CAMPBELL FARLEY
IAN BRUCE FARQUHARSON
MARK CONRAD FEALLOCK
KARLA PATRICE FEARS
BRUCE WILLIAM FECHT
FRANK WESLEY FENNO, IV
JOHN CHARLES FERNANDES
JOHN ALLEN FERRER
ROBERT AGNEW FFIELD
SUSAN EVANN FICKLIN
JOHN EDWARD FIELD, II
MICHAEL REDFIELD FIERRO
DAVID MICHAEL FILLION
JOHN THOMAS FINCH
ROBERT KINCAID FINLAYSON, II
JAMES ALAN FIRANZI
DEBRA ANN FIREHAMMER
JOANNE MARIE FISH
PAUL DOUGLAS FISHER
OSA EDWARD FITCH
BERNADETTE MARY FITZGERALD
DAVID KARL FLESNER
JOSEPH ARTHUR FLETCHER
WILLIAM JAMES FLYNN, IV
DAVID LYNN FOGLE
JOHN VINCENT FOLEY
CHARLES RAYMOND FOREHAND
JUDITH L. FRAINIER
PETER SANDE FRANO
DAVID L. FREGOE
GREGORY PHILIP FRENCH
PAUL DAVID FRIEDRICHS
GARY RUSSELL FROGNER
ANDREW B. FULLER
CHARLES EDWARD FULLER
JOALAN VICTOR FULLER
WILLIAM DAVID FUSON
WILLIAM PETER GALLAGHER
JAY SCOTT GALLAMORE
TIMOTHY JOHN GALPIN
DAVID GRAHAM GAMBLE
CHARLES MCALISTER GAOUETTE
MARGUERITE ELIZABETH GARCIA
CURTIS DOYLE GARLAND
THOMAS PAUL GARRISON, III
STEVEN J. GASPAROVICH
CLYDE SHERIDAN GATTON
BRIAN GANNON GAWNE
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SHAUN GILLILLAND
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UDO LUDWIG GOFF
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THERESE AIMEE GONZALEZ
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EARL FRANKLIN GOODSON
ROBERT LEDONNE GOODSON
THOMAS DAVID GOODWIN
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ROBERT EUGENE GREEN
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JAMES GREGORY GRIFFITH
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ROBERT BOLIN GRIMM
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PAUL ALAN GROSKLAGS
WAYNE NELSON GRUMNEY
THEODORE NMN GUILLORY
HANS GULICK
STEPHEN LEE GUSE
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RICHARD PETER HAJEK
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GERALD LEE HEHE
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DENNIS PAUL HEIDENTHAL
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EUGENE WESTON JONES
EVAN SCOTT JONES
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SPOTRIZANO DESCANZO LUGTU
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SCOTT ALAN WHITE
DOUGLAS LEE WHITENER
STEVEN TOBIAS WHITLEY
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CAROL ANN WILDER
KEVIN THOMAS WILHELM
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DONOVAN JAMES WILLIAMS
DUDLEY CARROLL WILLIAMS
LANCE RICHARD WILLIAMS
MARK FOSTER WILLIAMS
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KURT WILLSTATTER
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DAVID MICHAEL WISNIEWSKI
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HERBERT YEE
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GUY WILLIAM ZANTI
DAVID KELLY ZATT
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JOAN EICHTEN BAUMSTARCK
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RICHARD JOHN BONCAL
JOHN LEONARD BRAUN
ROOSEVELT BRAXTON, JR
KATHLEEN COOPER BRYANT
GREGG STANLEY BUCZKOWSKI
III ALDEN P. CHESTER
JAMES LAWRENCE CHILDS, JR
MICHAEL JOHN CLOUTIER
PERCY DEAN CODY, III
THOMAS VICTOR COLE
ROBERT EDWARD CONNOLLY
REID STERLING DAVIS
DANIEL LEWIS DEVANY
STEPHANIE ANNE DOUGLAS
DANA JAY ELLIS
TERRENCE LEE EWALD
DAVID EDWARD FALKNER
NANCY COOPER FENNELL
JAMIE ANN FLAYHARTY
MICHAEL JAMES GALLET
JAMES GEOFFREY GREEN
LEWIS RANDALL GRIGG
JOSEPH DANIEL GUIDO
LARRY OLAF HAUKENES
NATALIE FRENCH HEFFERNAN
DONALD J. HODUN
JAMES ROWLAND HUSS
ERIC F. KEAMY
MICHAEL KIRKLAND
DENNIS CHARLES LOGAN
DANA STEPHEN MAJORS
WAYNE JOSEPH MATHE
BRIAN DENNIS MCKINLEY
TIMOTHY DENNIS MERRILL
STEPHEN DOUGLAS METZ
PAUL ANTHONY MUFFLER
DANIEL JOSEPH PETERS
GLENN ALVAH PIPER, III
GARY PETER POTKAY
HENRY KEVIN PURVIS
JANET KAY NISULA RAYCRAFT
CARLOS FRANCISCO REXACH
JOHN DAVID ROBINSON
WILLIAM J. ROZWOD
AMY RUTH SMITH
TIMOTHY LEE SMITH
VINCENT ANTHONY STAMMETTI
CHRISTOPHER BRYAN VAGTS
ROBERT MARK VERBOS
MARK STEVEN WELSH
TIMOTHY L. WESTFALL
EDWARD DOUGLAS WHITE, III
LAWRENCE E. WICKLIFFE
DAVID ALLEN YORK

AEROSPACE ENGINEERING DUTY OFFICERS (ENGINEERING)

To be lieutenant commander

DORTHY J. FREER
JEFFREY B. MAURO
DAVID C. STUART

AEROSPACE ENGINEERING DUTY OFFICERS (MAINTENANCE)

To be lieutenant commander

II TELFORD GENE BOYER
CARL M. CALDERSON
MICHAEL DAVID DISANO
RANDALL EVERETT DORNAN
FRANK MARTIN DRAKE, II
DONALD D. FATHKE
PATRICK JOSEPH FELTS
THOMAS FRANKLIN GLASS
ANTHONY SHAWN HANKINS
PRESTON KEITH HARPE
DENNIS ROBERT HEEREN
DANIEL LEE HILL
GEORGE KLESSINGER
CHARLES WILLIAM MALCOLM
DANIEL EARL MATHIS
FRANCIS NORMAN MOULDS
THOMAS MARTIN MURPHY
DENZIL EDWARD OVERFELT
WILLIAM THOMAS PETERSON
PAUL EUGENE RIDENOUR
WILLIAM PETER SAVINO
THOMAS PATRICK SHEMA
FREDERICK DOYLE THOMPSON
JAMES MING TUNG
ROBERT LYNN WESSINGER
JAMES W. WIRWILLE, JR

AVIATION DUTY OFFICERS

To be lieutenant commander

LARRY DAVID CLINE
ANDREW VERNON COLE
GORDON KENIMER CONE
ROBERT FRANCIS CURRY, JR
PAUL ERNEST EDMONDSON
EDWARD WALTER EVERETT
ROBERT MARSHALL FIELD
MARK FRANEY
MARTIN MICHAEL MELTON
DAVID MARTIN REICHENBERG
MICHAEL JOHN SCHIFFER
FREEMAN ALLEN TABER, JR
DAANE LEE TROYER

SPECIAL DUTY OFFICERS (CRYPTOLOGY)

To be lieutenant commander

JAMES WARREN BLOW
STEVEN LEWIS BRANDT
MICHAEL DON BRIMBERRY
JAMES DOUGLAS BURNS
NANCY JOANN CARTER
FRANK JOSEPH CARUSO, JR
EDWARD GREYSON DANIELS
STEPHEN ALEXANDER FEDORISKA
SEAN RAYMOND FILIPOWSKI
WILLIAM DON FLEET
ROBERT JAMES FORD
DAVID ROBERT HAARBERG
SCOTT RUSSELL HENDREN
ALAN LUIS HENSLEY
GARY MICHAEL HUMES
NANCY VIRGINIA COLLI KNEIPP
DOUGLAS KEITH KNOWLES
REINER WOLFGANG LAMBERT
WILLIAM EVERETT LEIGHER
BOB RAY NICHOLSON
JOANNE TRUPIA OHERN
ORVILLE SIDNEY OHERN
ZACK WILLIAM OLNEY
ROY MATTHEW RADCLIFFE
TIMOTHY L. REYNOLDS
JOHN NORBERT ROGERS
JAMES ALLAN SEERDEN
DARYL ALLEN SHADLE
SCOTT ALAN STEPHENSON
GREGORY ALLAN THOMAS
RENEE CHRISTINA TIMME
EUGENE RAYMOND VALENDO
ROGER DEAN WILLIAMS
EDWIN FEREBEE WILLIAMSON
MELANIE SUZANNE WINTERS

SPECIAL DUTY OFFICERS (INTELLIGENCE)

To be lieutenant commander

THOMAS CALHOUN ADAMS, JR
SHARRILL DIANE BAKER
CHRISTOPHER ALLEN BARNES
KEVIN ALLEN BOREEN
DIANE HIGHFILL BOUZIANE
WELDON JACKSON CAMPBELL, JR
JOHN HOWARD CHILTON, JR
RICHARD HOLMES COOK
STEPHEN JOSEPH CURRAN
MAUREEN ANNE DOMBROWSKI
ROBERT STEVEN EWIGLEBEN
DANIEL JOSEPH GALLAGHER
ROBERT DAVID GOURLEY
JAMES VINCENT HARDY
NORMAN ROBERT HAYES
JEFFREY JOHN JONES
PAUL RAYMOND KERSTANSKI
SARAH BETH KOVEL
SCOTT LEON LARKIN
STEVEN GREGORY LAUREN
RONALD ARTHUR LITTLE
MARK STEVEN LITTLETON
DOLORES RUTH MANLEY
THOMAS PAUL MEEK
FREDERICK MICHAEL MERTL
KATHERINE ANNA PIERCE
DANIEL WILLIAM PROCTOR
CRAIG W. PRUDEN
DAVID ANDREW RADI
DOUGLAS STEPHENS RANDLETT
LAURENT CHARLES G. REINHARDT
RONALD GLEN RICE
PATRICK WILLIAM RYAN
JOHN JACOB SCHOCH, II
GERALD SHERRILL
DANIEL JAY SMITH
FRED CARTER SMITH
PETER FRANCIS SMITH
MATTHEW DEANE TITTLE
DELBURN MICHAEL WALTER
WARREN CURRIER WHEELER
EMMETT ROYCE WHITE, JR
STEVEN ALLEN WHITE
CHRISTOPHER PAUL WOODRUFF
HELEN ANN ZEPPENFELD

SPECIAL DUTY OFFICERS (PUBLIC AFFAIRS)

To be lieutenant commander

EDWARD WILLIAM BARKER
JEFFERY DAVID GRADECK
FREDERIC ALLISON HENNEY, JR
JOHN JOSEPH PAPP
JOHN HAZLEHURST SINGLEY
FRANK THORP, IV

SPECIAL DUTY OFFICERS (OCEANOGRAPHY)

To be lieutenant commander

JEFFREY WILLIAM CAMPBELL
CHARLES HAROLD DAILEY
DIANNE K. EDSON
GREG ALAN EISMAN
DAMACENE VILLAFLOR FERANDEZ
MICHAEL DAN FOSTER
LISA EDNA FRAILEY
TERESA MARIE GOBEL
DOUGLAS J. GROTERS
MARCIA LYNN JONES
ROBERT EUGENE KISER
RICHARD JOHN KREN
ERIC JOHN MILLER
SYLVIA ANN BREY MILLER
JAMES MICHAEL OLSON
RAYMOND MARK ROBICHAUD, JR
WILLIAM ARCHER WRIGHT, III

LIMITED DUTY OFFICERS (LINE)

To be lieutenant commander

GEORGE CRUZ ACFALLE
THOMAS ALLEN ADAIR
JIMMIE S. ALLEN
EUGENE V. BABICH
GREGORY J. BALDWIN
MICHAEL KILBURY BALLINGER
DAVID MICHAEL BARBATO
RALPH JOSEPH BERTHIAUME
DENNIS NORMAN BLACKMORE
JAMES M. BLOCK
BOBBY L. BOBBITT
STEPHEN M. BOYD
DAVID LEE BRITTIAN
EDWIN JOSEPH BURDICK
PATRICK J. BYRNE
PATRICK CARROLL
LONNIE THEODORE CHIDESTER
STEPHEN LAWRENCE CIPPERLY
ERNEST LEON COLLINS
JOSEPH EDWARD CONERY
ROBERT F. COONEY
JAMES ROBERT CRANDALL
ANTHONY ROSS CUNNINGHAM
DICKIE C. DAVIDSON
RAYMOND E. DAVIS
GLENN ARTHUR DAY
ERVIN C. DECK
RICHARD STEPHEN DEHART
DENNIS MICHAEL DIXON
PAUL RODNEY DOTLICH
TONY LISK DREW
JAMES EDWARD DUNCAN
RONALD LEE ERWIN
LEO O. FALARDEAU
DONALD B. FAUST
RANDALL W. FRANK
KENNETH WAYNE FREEMAN
FRANK B. FULLER, JR
ANTHONY M. GALANIDES
MICHAEL STEVEN GENTRY
DAVID DARWIN GITCHELL
VERNON LARRY GODWIN
DONALD LEE GRANT
FRANK NMN GREEN, JR
LLOYD LEON GUFFEY
MICHAEL WARREN GURATH
THOMAS M. HAGAN
JAMES QUINTON HENDERSON
WILLIAM L. HENDY
ARLIE NATHAN HENRY
WILLIAM MICHAEL HERRON
JOHN ARTHUR HIGGINS
GARY G. HOGUE
MICHAEL ARTHUR HOMSCHEK
JACK EDWARD HOWELL
DANIEL EARL HURD
MICHAEL LEE HUTCHISON
DONALD CHARLES JOHNSON, JR
LEE REAMES JOHNSON, JR
MICHAEL A. KANTOR, JR
MICHAEL A. KENNERSON
TIMOTHY EDWARD KETCHAM
EDWARD KIGHTLINGER
ADRON D. KREKELER
MICHAEL AARON LACEY
PAUL M. LACHANCE
MARVIN CHESTER LANDIS
JOHN DEAN LARRIBEAU
JAMES PATRICK LAVELLE
LARRY WAYNE LEIST
MICHAEL C. LOEBER
ARTHUR PAUL MAJERUS, II
NORMAN L. MASSENGILL
PETER A. MATTERN
JAMES DALE MAURER
RICHARD S. MCELROY
ALONZO MCMORRIS, JR
JAMES MICHAEL MICHAELIS
JOHN H. MILLER
TOMMY J. MOLLITT
GREGORY NMN MOORE
WILLIAM RICHARD MORGAN
DENNIS WAYNE MOYER, SR
STEVEN WADE MULLEN
ERNEST MERLE NIEMELA
DAVID NMN PERRY
ROBERT JOSEPH PETRY
EDWARD W. PITCAVAGE
HENRY ALAN PITTS
THOMAS ALBERT PREVOST
FREDDIE E. QUIROS
RANDELL LEE RATHMAN
BRUCE R. REESE
CHRISTOPHER MARCUS RHONE
JIM ODIAN ROMANO
THOMAS WILLIAM SCHAMBERGER
MICHAEL PATRICK SCHMIDT
WILLIAM FELIX SHAY
EDWARD ANTHONY SKUBE, JR
GARY D. SMITH
RICKIE EUGENE SNOOK
WILHELM HEINRICH SPICKER
EDWIN L. SPRATT
JOSEPH JAMES SPRY
WILBUR LEE STEBBINS
ROBERT BARTON STERETT
STEVEN LAMONT STEVENS
NELSON CERVANCIA TABINGA
DANNY R. TACKETT
CHARLES ALEXANDER J. TALLENT
DELMAIN RAY TAYLOR
MICHAEL J. TAYLOR
STEPHEN K. TIBBITTS
ANDREW RICHARD UHRICH
JAMES IVON UPSHAW
ALAN THOMAS VETTER
MANUEL FRANCIS VITAL
TONY MICHAEL WEEKS
JOHN ALLEN WEIBLEY
BRENT REED WERKMAN
RONALD KEITH WILLIAMS
DONALD WILLIAM WILSON
RICHARD ALLEN WILSON

HOUSE OF REPRESENTATIVES—*Wednesday, July 10, 1991*

The House met at 12 noon.

The Reverend Timothy J. O'Brien, professor of political science, Marquette University, Milwaukee, WI, offered the following prayer:

Heavenly Father, we petition You today to bless the work of this legislative body, the members' staffs, and interns. We acknowledge You as the Lord of all that is and all that will be. Give us the courage to labor vigorously in the building of Your Kingdom—a Kingdom that grants justice to all and a serenity that alone comes from knowing, loving, and serving You.

Forgive our sins—both those in our personal lives as well as those we are communally responsible for as a nation and as a society.

Help us heal the wounds caused by injustice and selfishness, and help us create a society that is fair and compassionate to all.

We thank You for Your many blessings and ask that You continue to lift up leaders that inspire by word and deed so that Your will may be realized. We ask this in Your name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. DOOLITTLE. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. FRANK of Massachusetts. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 292, nays 103, not voting 37, as follows:

[Roll No. 202]

YEAS—292

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Bacchus
Barnard
Bateman
Beilenson
Bennett
Berman
Bevill
Bilbray
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clement
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Costello
Cox (CA)
Cox (IL)
Cramer
Darden
Davis
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Dreier
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Gradison
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Livingston
Long
Lowey (NY)
Luken
Manton
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McDermott
McEwen
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (UT)
Packard
Pallone
Panetta
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Rangel
Ravenel
Ray
Reed
Richardson
Rinaldo
Ritter
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Sawyer
Scheuer
Schiff
Schulze
Schumer
Serrano
Sharp
Shaw
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Towns
Traficant
Traxler
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Yatron

NAYS—103

Allard
Armey
Baker
Ballenger
Barrett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bunning
Burton
Camp
Campbell (CA)
Chandler
Coble
Coleman (MO)
Coughlin
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Duncan
Edwards (OK)
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gingrich
Goodling
Goss
Grandy
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hunter
Hyde
Ireland
James
Kyl
Lagomarsino
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
Machtley
Marlenee
Martin
McCandless
McCollum
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Murphy
Oxley
Quillen
Ramstad
Regula
Rhodes
Ridge
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schroeder
Sensenbrenner
Shays
Sikorski
Smith (OR)
Smith (TX)
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Weber
Wolf
Young (AK)
Zeliff
Zimmer

NOT VOTING—37

Andrews (NJ)
Atkins
Barton
Clay
Cooper
Coyne
de la Garza
Dornan (CA)
Gaydos
Gray
Hayes (IL)
Hopkins
Inhofe
Jacobs
LaFalce
Lehman (FL)
Lipinski
Lloyd
Lowery (CA)
Martinez
McCurdy
McDade
Mink
Molinari
Nichols
Nowak
Owens (NY)
Parker
Paxon
Sanders
Savage
Solomon
Stearns
Torricelli
Waxman
Weldon
Young (FL)

☐ 1223

Mr. KOLTER changed his vote from "present" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentleman from Wisconsin [Mr. KLECZKA] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. KLECZKA led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 276. An act to designate the Federal building located at 1520 Market Street in St. Louis, Missouri as the "L. Douglas Abram Federal Building";

S. 591. An act to require airbags for certian newly manufactured vehicles; and

S. 1012. An act to authorize appropriations for the activities and programs of the National Highway Traffic Safety Administration, and for other purposes.

The message also announced that, pursuant to section 1295(b) of title 46, United States Code, as amended by Public Law 101-595, the Chair, on behalf of the Vice President, appoints Mr. HOLLINGS, ex officio; Mr. BREAUX, from the Committee on Commerce, Science, and Transportation; Mr. LOTT, from the Committee on Commerce, Science, and Transportation; and Mr. MACK, at large; to the Board of Visitors of the U.S. Merchant Marine Academy.

The message also announced that, pursuant to section 194(a), of title 14, United States Code, as amended by Public Law 101-595, the Chair, on behalf of the Vice President, appoints Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation; Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation; and Mr. SEYMOUR, at large; to the Board of Visitors of the U.S. Coast Guard Academy.

WELCOME TO FATHER TIMOTHY O'BRIEN

(Mr. KLECZKA asked and was given permission to address the House for 1 minute.)

Mr. KLECZKA. Mr. Speaker, it is with great pride that I again welcome Fr. Timothy O'Brien to the House Chamber as our guest chaplain.

This marks the fourth summer that Father O'Brien has directed the Marquette University Congressional Intern Program. This program provides the valuable experience of working on Capitol Hill, as well as a vigorous academic overview of the Congress, to more than 30 undergraduate and graduate students from throughout the country.

The Marquette Intern Program has motivated numerous young men and women—including two members of my own staff—to enter the field of public service as legislative aides.

Mr. Speaker, I have known Father O'Brien for over 20 years, and have the highest respect for him, not only as a dedicated member of the clergy, but also as a gifted scholar, teacher, and friend.

In his 22 years as a priest in the Archdiocese of Milwaukee, and 14 years as a professor of political science at Marquette University, Father O'Brien had gained a reputation as an authority on the subject of religion in politics, interest group politics, and congressional procedure.

I ask the House to join me in extending a warm welcome to our distinguished guest, Father O'Brien.

Mr. ROTH. Mr. Speaker, will the gentleman yield?

Mr. KLECZKA. I am happy to yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Speaker, I thank the gentleman for yielding.

I wish to associate myself with the remarks of the gentleman and to add that Father O'Brien has rendered an excellent service to the U.S. Congress and to the Marquette interns. The best interns on Capitol Hill come from Marquette University; and the Jesuits can be proud of all of them. We in Congress salute, the interns, Tim O'Brien, S.J. and Marquette University.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain 1-minute requests at a later time with the exception of the request of the gentleman from Texas [Mr. BROOKS].

INVITATION TO UNVEILING OF PORTRAIT OF FORMER SPEAKER JIM WRIGHT

(Mr. BROOKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOKS. Mr. Speaker, I would take this opportunity to invite the Members to the unveiling of the portrait of former Speaker Jim Wright. It will be done this afternoon at 5 o'clock in Statuary Hall.

We will be honored by the presence of our current Speaker, the illustrious gentleman from Washington [Mr. FOLEY], and by our current minority leader, the distinguished gentleman from Illinois [Mr. MICHEL], and others.

It will not be a long program. We look forward to seeing you there. We will have a reception immediately after that in the Rayburn Room, and we look forward to seeing you.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
July 9, 1991.

Hon. THOMAS S. FOLEY,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I have the honor to transmit herewith a copy of the Certificate of Election received from the Honorable Jim Edgar, Governor, State of Illinois certifying that, according to the official returns of the Special Election held on July 2, 1991 the Honorable Thomas W. Ewing was elected a Member of the House of Representatives from the Fifteenth Congressional District, State of Illinois.

With great respect I am,
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

CERTIFICATE OF ELECTION

Know Ye That I, Jim Edgar, Governor of the State of Illinois do hereby certify that the Official Abstracts of the votes cast in the 15th Congressional District of the State of Illinois for member of the 102d Congress on Tuesday the 2d day of July, 1991 were duly canvassed by the State Board of Elections as is provided by law and from the canvass of said abstracts it appears.

And I do hereby Certify, That Thomas W. Ewing of the County of Livingston was duly elected a member of the House of Representatives of the 102d Congress of the United States from the 15th Congressional District of the State of Illinois and is entitled to a seat in said 102d Congress to fill the vacancy caused by the resignation of the Honorable Edward R. Madigan.

SWEARING IN OF THE HONORABLE THOMAS W. EWING, OF ILLINOIS, AS A MEMBER OF THE HOUSE

The SPEAKER. Will the Member-elect from Illinois, Mr. EWING, come forward and take the oath of office.

The Chair will invite the members of the Illinois delegation to accompany the Member-elect to the well.

Mr. EWING appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations, you are a Member of the House of Representatives.

□ 1230

INTRODUCTION OF THOMAS EWING

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, we are very fortunate, obviously, on our side of the aisle today, to present a new Member to the House of Representatives, TOM EWING, from Pontiac, IL, a neighboring district of mine.

Members will all recall our good friend, Ed Madigan, has moved on to other pursuits, and the seat was vacated as a result of Ed having moved on. TOM EWING is a veteran member of the Illinois Legislature for some 17 years, having served as the assistant minority leader in that body out in our home State of Illinois. He served with distinction on the agriculture committee, the rules committee, and has been cited any number of times for his outstanding leadership and capability as a legislator.

I would like for Members to again welcome warmly for whatever few brief remarks he may choose to make at this time, our newest colleague, TOM EWING.

THE FUTURE BELONGS TO THOSE WITH IDEAS

(Mr. EWING asked and was given permission to address the House for 1 minute.)

Mr. EWING. Mr. Speaker, it is with a sense of pride and humility that I take my oath of office for the U.S. Congress. I am here fresh off of a campaign with an election on July 2.

The people were telling me certain things during that campaign. They said that government should help people and should not do everything for the people. It should not do what they can do for themselves, and that we cannot solve every problem and pay every bill.

I would like to say, as we look ahead, we should remember that the future belongs to those who are committed to turning ideas into action. The hopes and dreams of our children and grandchildren will depend upon our ability to make a difference.

I look forward to working very closely with the Speaker of the House of Representatives, the gentleman from Washington [Mr. FOLEY] and the minority leader, the gentleman from Illinois [Mr. MICHEL]. I thank them for the courtesies which they have extended to me.

As a new Member of Congress, I realize there will be limits to what I can accomplish. However, I intend to work hard. I promised the people in my district that I would be the very best Congressman I could and attempt to be as good as my predecessor, Ed Madigan.

On behalf of the people of the 15th Congressional District in Illinois, my family, myself, I thank all very much. God bless each person, and God bless America.

ECONOMIC ACTION PLAN NEEDED NOW

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, I finally understand how the Bush administration plans to get us out of the recession: They plan to wait it out.

Well, that is not good enough for those who are facing the threat of unemployment, those who have already lost their jobs, or those young people who are coming out of college to find that there is no place for them in an already choked job market. This past week, we learned that the unemployment rate hit 7 percent for the first time since 1986. Last month, there were 8.7 million Americans out of work. And what is the administration telling us? Is this still just a temporary interruption—as the President calls it?

This is what we have been hearing for the past 2 years—in fact, it took the President almost that long just to admit that we were in a recession at all. Well, Mr. Speaker, we have all just spent 2 weeks at home talking with our constituents. I held office hours at shopping centers and had lunch with workers. My constituents know there is a recession, and they want us to take action.

There are few signs of recovery in Connecticut. Week after week, month after month, my constituents are losing their jobs, businesses are consolidating their operations, or closing their doors for good. Hardworking middle income people who are struggling to make ends meet in the face of skyrocketing costs for basics like health care, education, and food, are now facing the growing prospect of unemployment.

We cannot continue to sit around and wait for the recession to end; 8.7 million unemployed Americans represent more than a statistic. They are real people, paying the price every day.

Mr. Speaker, we need an administration that will wake up to the needs of average families and a Congress that will enact an economic action plan; 8.7 million Americans need our help.

COSPONSORS URGED FOR INCOME-DEPENDENT EDUCATION ASSISTANCE ACT [IDEA]

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, recently I proposed the Income-Dependent Education Assistance Act—known in short as IDEA.

Under IDEA, subsidies would be precisely targeted to all those who need them, only to those who need them, and to the extent of their need.

Thus IDEA would solve the middle-income access problem we've all been hearing about.

As you know, it would cost a ton of money to open up eligibility for Stafford loans to all students regardless of family income.

But when you turn the picture around and look at it from the IDEA perspective, the whole picture changes.

The IDEA program would want students from middle and upper income families to participate because these students stand the best chance of achieving high earnings themselves—which means that rapid repayment of their IDEA loans would provide a cross subsidy for other borrowers who are less successful.

I should emphasize that under IDEA those anticipating high incomes after school would still want to participate because they would still get a better deal than they could from alternative financing sources.

Mr. Speaker, I am seeking cosponsorships, and those interested can find more information on IDEA on page E1792 of the May 16 CONGRESSIONAL RECORD.

USE LEVERAGE WITH CHINA TO FREE PRISONERS

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, today, as Members consider most-favored-nation status for the People's Republic of China, I rise to call their attention to Amnesty International's 1991 report on human rights abuses, which was released yesterday. This report is a terrible indictment of China in its treatment of those who spoke out for democratic reform there.

Hundreds of people have been arrested in connection with the 1989 protests, and they remain in prison. While the fate of thousands are unknown, we do know that thousands are in the Beijing prisons now. In North China, over 30 Roman Catholic bishops, priests, and church members have been arrested. Members of Protestant groups are also detained and harassed. Beatings and harsh treatment of detainment were commonplace at Tiananmen Square.

Because of China's trade surplus with the United States, we have an opportunity to use our leverage, to free the prisoners of conscience. Members, we can do that today by voting for conditional renewal of most-favored-nation status.

REJECT STRIKE INCENTIVE ACT

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, there is no way to fix the Strike Incentive Act, H.R. 5; though some of my colleagues are trying desperately.

There is an amendment to try to restrict the bill to unions only—though it is doubtful that the language of this amendment provides this limitation since the terms "collective bargaining representative," "bargaining unit" and "labor organization" do not translate into "union only" under the National Labor Relations Act. And there are amendments to provide a moratorium on hiring strike replacements for a period of time after the start of a strike.

Even if H.R. 5 is amended to include only unions it discriminates against those American workers who choose to be nonunion—it is further clarified to be special interest legislation that not only holds management hostage but it treats those workers that choose to bargain for themselves as second class citizens while giving unions a government mandated special privilege.

The other solution, to provide a moratorium, is also tremendously flawed. Seasonal industries such as beach resorts could have their business destroyed for an entire year if a strike is called at the wrong time and then they could not hire permanent replacements or even advertise for them until after the moratorium. Union officials could also abuse this system by calling a strike for the moratorium time frame, return to work before it expires, resume bargaining and then call another strike.

There is no way to fix H.R. 5. Let us reject it.

U.S. STANDARD OF LIVING DECLINES

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, when we go home for a break, as we have been, people tend to shake their heads as we talk about Washington, DC. Today I think is going to be one of those days where they shake their heads again, because today, as we see the very prestigious Council on Competitiveness releasing their report showing that the standard of living in the United States declined in 1990, and that of the seven industrial nations, ours has the slowest, we are taking up most-favored-nation status for the People's Republic of China.

□ 1240

The United States already owes more money to China than any other country except Japan. They have a terrible human rights record. They have been selling weapons to Iraq. They have even been turning their tanks on their own children.

I find it amazing when there are so many things that we should be doing at home for our own people that the administration's No. 1 cause is "We must continue to reward the People's Republic of China with all of our money and by giving them most favored nation status."

H.R. 5: STRIKER REPLACEMENT NOT SIGNIFICANT

(Mr. BARRETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT. Mr. Speaker, a General Accounting Office [GAO] report released this year has several findings that contradict the claims made by the advocates of H.R. 5, the striker replacement bill.

Proponents argue that many employers use prestrike threats of replacement to scare workers into staying on the job. The report shows that employers announced they would hire replacements before a strike began, in only 5 percent of the cases studied.

H.R. 5 supporters claim it is necessary because of the numerous workers who lose their jobs due to employers quickly using striker replacement, without allowing time for good faith negotiations.

The GAO study proves otherwise. It found that in a majority of the instances where replacements were hired, it was not done until at least 1 month after the workers had walked away from their jobs.

Mr. Speaker, H.R. 5 will give union workers an unfair leverage in labor negotiations, and will encourage the disruption of fair and legitimate businesses—all of this to cure a problem that was shown, in the GAO report, not to be significant in the American workplace. I urge my colleagues to oppose H.R. 5.

UNEMPLOYMENT IN THE UNITED STATES

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, last week the Department of Labor announced the unemployment rate is up to 7 percent. There is little encouragement in that to those who have been laid off and are desperately looking for work. Add to that the 1.2 million long-term unemployed workers who have exhausted their benefits and must turn to public assistance programs to survive.

My hometown of Toledo, OH, with an unemployment rate of 10.7 percent, proves that once these individuals exhaust their benefits and their hopes for finding employment, they have no choice but to turn to public assistance. Welfare rolls are at an all-time high in America—4.4 million families—with the fastest rising category being those who have fallen off the unemployment rolls. To make matters worse, States are slashing benefits at a time when they are most needed.

Mr. Speaker, my family is historically democratic. And one of the important reasons is that everytime a Republican President occupied the White House, somehow my grandfather and others were put out of a blue-collar job. Though that was years ago, times really have not changed.

SAVE THE TIMBER INDUSTRY

(Mr. DOOLITTLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLITTLE. Mr. Speaker, it is extremely ironic that on the day that one arm of the Federal Government is putting out a report called "Removing Barriers to Affordable Housing," another arm, the U.S. Forest Service, should be declaring a ban on harvesting live trees in the Sierra Nevada, pending a study of the California spotted owl.

Mr. Speaker, I think we have got to protect our environment and all the species therein, but this report calls for a thorough review and reform of the Endangered Species Act.

The California spotted owl is not even federally protected. This decision by the Forest Service will devastate our already burdened economies in this part of California by making unemployment worse and suffering even more grievous than it is.

I urge the Forest Service to reverse this policy, pending the thorough reform and review of the Endangered Species Act called for by this report.

THE PRESIDENT'S WISE DECISION TO END SANCTIONS AGAINST SOUTH AFRICA

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, I am here with some good news.

Mr. Speaker, the President announced a few minutes ago that he is ending sanctions against South Africa. I applaud the President's decision.

South Africa has embarked on a new era of racial harmony and peace, and it is time for America to help the new South African leadership restore its economy and once again become a strong ally.

Ending the sanctions will help all South Africans, especially the black population, which suffered so greatly under the sanctions. For millions of South Africans, of all races, this is the dawning of a new era of peace and prosperity, and we Americans welcome this new era. This action fulfills the purpose of my bill, H.R. 1895, which I introduced on April 17 and is beginning the process of ending sanctions.

MOST-FAVORED-NATION STATUS TO CHINA A GRAVE MISTAKE

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, we are going to take a very, very important vote today on the floor of this House relating to most favored nation status for China.

All I can say is quite simply that voting for most-favored-nation status would bring us to the point where we are now with a country like Japan. China has the same inclinations, take technology from the United States, take jobs from the United States, then flood the United States with imports from your country, flood them and then when they build up, like the Japanese have a huge trade surplus, try to get more. Do not turn around and give it back.

Japan forced China, forced China by telling them they were going to cut off what they had to reverse a trade surplus. We are not doing that.

On top of that, China has been known to sell technology, like Japan has just been revealed selling our technology. China, we know, has already sold our technology and is selling missiles, weapons, et cetera, in places where we do not believe it ought to be done.

Selling and giving most favored nation status to China is a huge mistake for the United States and it is another shipment of jobs overseas.

STRIKER REPLACEMENT BILL IS ANTISMALL BUSINESS

(Mr. ALLARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLARD. Mr. Speaker, proponents of H.R. 5, the striker replacement bill, claim that it would not affect most small businesses because the vast majority of them are not unionized.

In fact, this bill would have Congress grant unions both the incentive and the power to launch a huge organizing campaign aimed at small, nonunion businesses.

"Join the union and your job will be permanently protected. Don't join and you can be permanently replaced." This is the message that proponents of H.R. 5 want the U.S. Congress to send to American workers.

Small business owners cannot simply go out and hire temporaries, or get management to take the place of striking workers. If H.R. 5 becomes law, unions only need to entice a few employees onto a picket line in order to force a small business owner into an economically precarious position.

I urge my colleagues to vote against H.R. 5. It is easy to say that you are for small business. But it is how you vote that really counts.

□ 1250

LIFTING SANCTIONS AGAINST SOUTH AFRICA IS PREMATURE

(Mr. KENNEDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY. Mr. Speaker, a few minutes ago the President lifted economic sanctions against South Africa. His timing could not be worse. Just when sanctions are reaping their maximum benefits, he wants to remove the only modest leverage we have to bring democratic change to this troubled Nation.

The President is bending over backward to accommodate South Africa's Government. But he is not doing the same for South Africa's people. The conditions to lift sanctions have simply not been met, in letter or spirit.

The law states that sanctions cannot be lifted until all political prisoners are released. Yet hundreds continue to languish and suffer in South African jails, only because of their opposition to the most brutal form of racism the world has yet to know. And the law states that the cornerstones of apartheid must be removed. Sure, the Group Areas Act and the Population Registration Act have been repealed. Yet new laws will accomplish the same purposes: continued segregation and classification based on race.

Mr. Speaker, if America is to abandon its moral authority throughout the world, then we will pursue the Bush policies; if we are to continue to lead the world in its moral authority, then we should continue to keep sanctions on South Africa.

H.R. 5 WOULD DESTROY WORKING RELATIONSHIPS WITH SMALL EMPLOYERS

(Mr. IRELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. IRELAND. Mr. Speaker, soon we will be asked to consider H.R. 5, striker replacement legislation. If this bill becomes law, the positive employer-employee relationships we find in most small businesses today could become a thing of the past.

H.R. 5's dual standard of protection under the law for union and nonunion employees encourages union organizing even in healthy, happy working environments.

It should not be the function of this body to provide Government-sponsored incentives for nonunion workers to join a union. But that is what H.R. 5 would do.

This bill would foster labor unrest in the small business community. It would allow unions working with just two employees to dictate to an employer the workplace policies of his or her business.

My colleagues, our Nation's 20 million small business owners and their employees deserve better than this. And they deserve more than lipservice from the U.S. Congress. I urge you to join me in taking a stand against H.R. 5, and for our Nation's entrepreneurs.

Remember, it is easy to say you are for small business. But it is how you vote that really counts.

IRS AGENTS ARE TAUGHT HOW TO USE SAUNAS, HOT BATHS; AMERICAN TAXPAYERS GET THE SHAFT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, for 2 years now legislation has been introduced which would require the IRS to provide a training program for their agents to minimize the abuse of the American taxpayers. For 2 years the IRS has stone-cold killed it.

I will quote why: They said:

> We in the IRS do not need an official law mandating that program, because we already do it.

Listen to how they do it: They just spent $150,000, $2,000 per agent, at a luxury resort in West Virginia. They taught IRS agents how to take saunas, hot baths, how to use hot tubs, how to swim real well, and to tone their bodies.

What a joke, folks.

But the truth is the laugh is on the American taxpayer. While the IRS is enjoying hot tub saunas and facials, the American taxpayers keep getting the shaft.

The tragedy of it all is Congress keeps turning the screw. What is the next program going to be? How about Disneyland, folks? Or give them some money so they can go to Hawaii. Maybe they will stop ripping off the American taxpayer.

H.R. 5 WILL HURT SMALL-BUSINESS WORKERS

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, the striker replacement bill is designed to stop business owners from permanently replacing workers who walk off the job for more money, or better benefits, or other economic reasons.

Supporters of H.R. 5 want to cast this as a David and Goliath type issue, with poor union workers as David and huge corporations as Goliath.

They are simply ignoring the very real, very damaging impact the bill would have on our Nation's smaller firms—and on those firms' nonunion employees.

This bill is bad for small business. What's at stake is not simply who has the upper hand in labor negotiations between the AFL-CIO and corporate America.

What's at stake is American jobs generated by the 20 million small businesses in every district in the country.

My colleagues, let us not sell out small-business interests to big-labor bosses. Vote against H.R. 5.

It is time to support small business with your vote.

SUPPORT EXTENSION OF FUNDING FOR CHILD ABUSE PREVENTION AND TREATMENT PROGRAMS

(Mr. MORAN asked and was given permission to address the House for 1 minute.)

Mr. MORAN. Mr. Speaker, I rise today to support the extension of funding for child abuse prevention and treatment programs. Too often these days children are relegated to a far corner of our country's conscience. Each year there are over 2 million cases of child abuse reported. The actual number is much higher. It is one of the most heartbreaking crimes in our Nation.

Child abusers are likely to be a member of the child's immediate family or a family acquaintance. This often makes it too hard for abused children to be identified, too hard for a child to admit to abuse and too hard to prove the case in a court of law.

We must do all we can to help State and local officials identify and treat abused children and prosecute child abusers. The program is being reauthorized in this bill to instruct teachers, doctors, and social workers how to identify and treat abused children and support the law enforcement community in finding new methods to accurately and effectively prosecute child abusers.

Mr. Speaker, the next frontier in fighting child abuse is the challenge of its prevention. Identifying the many causes of child abuse will help communities reach out to families and parents under pressure situations where the chances of child abuse are great and reach out to children to give them the courage to report abuse and to find help.

Mr. Speaker, fighting child abuse now may help these victims avoid mental illness, failure in school, unemployment, and even the cycle of abuse passed down from generation to generation. The seriousness of this problem is evident and the need for these programs is great.

Mr. Speaker, I encourage all of my colleagues to join me in support of H.R. 2720.

MOST-FAVORED-NATION STATUS FOR CHINA

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, this is an important day for the people of China. We will have the opportunity this afternoon to tie China's most-favored-nation trade status with the United States to progress on human rights. I believe that it is absolutely essential that the United States Congress support the Pelosi bill to place conditions on the renewal of MFN status for the People's Republic of China and require China to make significant progress in the area of human rights before receiving MFN status next year.

The People's Republic of China continues to imprison people for expressing democratic ideals, for exercising their religious beliefs and for advocating human rights. Two more human rights advocates were arrested in April and another Catholic bishop in June.

I have a picture with me of another Catholic bishop, Joseph Fan Xueyin. Bishop Fan is 83 years old. He was imprisoned for 21 years between 1958 and 1979 for refusing to renounce his ties with the Roman Catholic Church. Since then he was arrested again in 1981 and sentenced to reform through labor, despite the fact that he was 73 years old at the time. In 1987, he was transferred to house arrest, thanks to the intervention of Catholic Bishop Sin of Manilla, not to the kindness of Chinese authorities.

Since being placed under house arrest, Bishop Fan has been shipped against his will from place to place to prevent him for exerting positive influence over local Catholic churches. He is in poor health, and unless pressure is applied to persuade the Chinese Government to release him, he will almost certainly die under detention.

The Pelosi bill which will be considered today would require that the Chinese Government make significant progress in ending religious persecution if China is to receive MFN status next year. I urge my colleagues in the House to support this bill for the sake of Bishop Fan and thousands of others who are suffering unjustly in the People's Republic of China.

WOMEN HOLD IMPORTANT ROLES IN AGRICULTURE

(Ms. LONG asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LONG. Mr. Speaker, one of the biggest misconceptions about agriculture is that it is a field where only men are involved. In reality, women hold important roles in agriculture in ever increasing numbers.

Over the years, more women have entered farming on their own and farm women spouses have more frequently been considered cooperators with their husbands.

In fact, the 1987 Census of Agriculture identified 132,000 farms whose operators or senior partners were women. This represented over 6 percent of all farms and was an increase of 10,000 in 5 years, at a time when the overall number of farms was falling.

In addition to farming, women have been involved in agriculture in much broader ways such as research and development, food exporting, lobbying, and holding top positions in the U.S. Department of Agriculture.

Mr. Speaker, because these women deserve recognition, several Members and I are today introducing legislation to designate March 19, 1992, as "National Women in Agriculture Day." This day will focus the public's attention on the significant and too often overlooked role women play in our Nation's agricultural system.

LABOR LAW HISTORY LESSON

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, the proponents of the striker replacement bill want to overturn a key principle that has been in our labor law for 50 years. History suggests this might not be a very bright idea.

Right now, there is a balance in labor-management relations: Employees have the right to strike, but employers have the right to try to continue operations by hiring permanent replacements.

If we ban even the possibility of hiring permanent replacements, we will destroy this delicate balance. The result will be a wave of strikes and economic disruptions on a large scale.

Now, the last time we had such an imbalance in labor-management relations was during the 1940's. There were bitter and violent strikes across the country.

The public responded to that situation by throwing out the Democrat majority in Congress and electing a Republican Congress for the first time since the New Deal. This Republican Conference then passed the Taft-Hartley Act restoring the balance.

The historical lesson is clear: If we pass H.R. 5, we will soon have an outraged public on our hands and we will have to pass another bill to correct our mistake.

Mr. Speaker, let us save ourselves the trouble and reject H.R. 5.

NRA BEGINS DRIVE TO STALL CRIME BILL WHILE CARNAGE CONTINUES

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, how ironic it is that our morning headlines carry these two headlines:

"Stray Bullet and Gun Fight Kills Mother With Three in Car," and a few pages over, "NRA Begins Drive To Stall Crime Bill."

Mr. Speaker, we see once again the unlimited zeal of the NRA. The gun lobby has now decided to work for the defeat of the entire crime bill. The NRA lost the Brady bill votes in the House and the Senate fair and square, so now they seek to kill the whole bill by filibuster.

How can the NRA say with a straight face that they are interested in stopping the violent crime that plagues our Nation when they are seeking to kill a bill that both the President and the Congress, Democrats and Republicans, say is essential to curbing crime?

Mr. Speaker, the senseless killing of the young mother, possibly with a semiautomatic weapon, within the sight of the Capitol dome, is another glaring example of why we must persevere against this opposition. How many more mothers must die? How many more children must be left motherless before we resist the NRA?

My colleagues, we must enact a sensible waiting period on handguns and do something to curb the use of weapons of mass destruction. It is my hope, Mr. Speaker, that the Senate will outflank the NRA's Maginot Line and pass legislation to prevent crime and stop the carnage.

WORLD GRATEFUL AS COOLER HEADS PREVENT BALKANIZATION IN THE BALKANS

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, we have been informed that the last phase of the temporary peace sought in Yugoslavia by the European Community occurred today when the parliament of Slovenia overwhelmingly voted to accept the European Community's proposal. Slovenia's decision was most vital. Prior to the vote President Kucan is reported to have pointed out to his parliament that their vote would mean either peace or war, and President Kucan recommended peace. The world is grateful.

Mr. Speaker, these last 3 weeks have been very difficult throughout all of the republics in Yugoslavia. Let us pray that every effort now will be made over these next 3 months to establish a federal government that will allow all six republics to live and work together, that will prevent further loss of life, that will create improvement for the rights of all of their citizens for a national, free, fair, and multiparty election and will provide the means for a thriving economy. Hopefully cooler heads will continue to prevail and the return of the balkanization in the Balkans will not occur.

AMERICA'S LIBRARIES NEED HELP

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I cannot conceive of anything more barren, more desolate, more sterile, more empty, and more unhappy than an America without books, an America without libraries, and an America without information. That is a possibility unless we move quickly to strengthen America's libraries, both the free public libraries as well as school-related libraries.

Right here in Washington the White House Conference on Library and Information Services is meeting and it will chart, in its week of activity, the blueprint for libraries for the next decade, which takes us into the next century. I am very proud that two persons from my district are delegates to that White House Conference: Harriet Henderson, who is the director of the Louisville Free Public Library system, and Linda Hall Perkins, who is a 24-year librarian in the Jefferson County school system.

I wish these delegates, the full Kentucky delegation, and the White House Conference every success in their important task of helping America's libraries.

H.R. 5 WOULD TURN LABOR NEGOTIATIONS INTO RUSSIAN ROULETTE

(Mr. HANCOCK asked and was given permission to address the House for 1 minute.)

Mr. HANCOCK. Mr. Speaker, after 50 years of labor law precedent, labor unions recently decided that allowing management to offer permanent employment to replace workers who strike for purely economic reasons is somehow inherently wrong.

Their proposed solution—titled H.R. 5—would aim a loaded gun squarely between the the eyes of our Nation's small business owners.

Labor unions apparently think that workers deserve the right to strike without consequence, while employers should have no rights at all to keep their businesses running during employee work actions, no matter why these workers decide to strike.

It is easy for Members of Congress to demagogue and say that they are for small business, economic opportunity, and the creation of new jobs. But it is how they vote that really counts. Do not vote to turn labor negotiations into a form of Russian roulette for our Nation's businesses. Vote against H.R. 5.

MFN FOR CHINA MAKES NO SENSE

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous material.)

Mr. RICHARDSON. Mr. Speaker, President Bush has a blind spot on China. His policy is: See no evil, hear no evil.

Mr. Speaker, I do not understand his grand China bargain. In exchange for China repressing its own people, working against our policy in Cambodia, and selling $758 million in weapons to countries like Syria, we give them trade advantages, most-favored-nation status. Mr. Speaker, that is some bargain.

The President's policy on China makes no sense. It is wrong, wrong, wrong. Mr. Speaker, how can we look at democratic forces in Europe with a straight face when we reward the butchers of Beijing?

Mr. Speaker, today we are debating most-favored-nation status for the People's Republic of China. Two years ago, the renewal of this privilege was thought of as an imperative measure to strengthen the ties between our country and China. Since this time, however, the People's Republic of China has demonstrated a wanton disregard for human rights and have sold arms to potentially dangerous countries.

We can't possibly ignore the memorable scenes of the prodemocracy demonstrators in Tiananmen Square. We can't ignore the fact that China sold approximately $780 million of arms throughout the world in 1989; a large percentage of these arms were sold to countries such as Syria and Pakistan. Because we have granted them the MFN status, we are encouraging human rights abuses and the threat of terrorism worldwide.

Mr. Speaker, if we are to renew MFN status to China we must grant such status with certain conditions. If we allow China the MFN privilege without conditions, we will be voting against the Judeo-Christian belief of the dignity of man as espoused by our Founding Fathers. If we fail to place these conditions on China we will see numerous human rights violations persisting in the future, and those images of Tiananmen Square, indelibly printed in our memories, will be a part of reality once again. We cannot allow this to happen. The citizens of China have suffered enough.

PROTECT SMALL BUSINESSES AND AMERICAN JOBS—VOTE AGAINST H.R. 5

(Mr. RAMSTAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAMSTAD. Mr. Speaker, proponents of H.R. 5, the striker replacement bill, argue that it would not adversely affect small businesses or jobs. This claim needs scrutiny.

Small businesses generate more than 67 percent of all new jobs in the United States. American small businesses set the standard for the rest of the world in terms of creativity, innovation, and entrepreneurial spirit. The striker replacement bill is a direct threat to this vital sector of our economy.

The workers of this country rightfully deserve the powerful economic tool of organized strikes. This is necessary to guarantee that workers possess ample bargaining power in disputes with their employers.

But the delicate balance of bargaining strength now existing between labor and management should be maintained.

H.R. 5 would upset this balance and force employers to go out of business and jobs to be lost.

To protect small businesses, American jobs, and the economy, vote "no" on H.R. 5 when it comes to the House floor.

CONDITIONAL RENEWAL OF MFN FOR CHINA

(Mr. ABERCROMBIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ABERCROMBIE. Mr. Speaker, since renewal of most-favored-nation status last year, we have seen no significant improvement in China's human rights record. It is a record which remains far short of internationally recognized standards. Arrests, trials, and incarceration of dissidents continue, as does official restriction on religious freedom. The Government of China has refused to issue a list of those detained, arrested, tried, or released. China's policy of repression instituted in 1988 continues in 1991.

More recently, another form of repression has surfaced. Official Government documents revealed by Asia Watch confirm the use of prison labor under China's gulag system to produce goods for export. These documents clearly indicate that hard currency is being earned in export trade through prison manufactures.

Mr. Speaker, unconditional extension of most-favored-nation status would send the wrong message to the Chinese rulers—that they are allowed to continue their systematic repression and brutality at no cost. Those Members of Congress who, like myself, support the Pelosi bill—H.R. 2212—are not advocating for a complete withdrawal of this privilege. My support for this bill is based on the belief that political liberalization and economic liberalization are not independent of each other.

Political reform, hence improved human rights, is the key to economic reform as it provides the internal stability required to encourage international trade and investment.

□ 1310

PROHIBIT POSTAL BONUSES WHILE SERVICE OPERATES IN THE RED

(Mr. DUNCAN asked and was given permission to address the House for 1 minute.)

Mr. DUNCAN. Mr. Speaker, once again we have received shocking news about the wasteful way the Federal Government is spending money. Yesterday it was reported in newspapers around the Nation that the Postal Service has given bonuses to nearly all its executives, at a time the Service has been losing huge amounts of money. These losses have had to be made up by the taxpayers. Yet Postmaster General Frank, instead of being embarrassed about this, has tried to defend it.

Mr. Speaker, only our Federal Government would give bonuses totaling $20 million to executives of an agency that lost $1.4 billion over the 3 years these bonuses were being given.

This could not happen in the private sector. In the real world, businesses cannot spend money that they do not have if they want to stay in business, and yet we always do that in Washington.

We need to demand that the Postal Service operate more like a private business. If we do not, the people will continue to lose faith in the entire Federal Government. I am sure that the Congress is too liberal to do this, but also we should pass a law prohibiting bonuses to any Postal Service executives unless and until the Postal Service begins to operate in the black.

Mr. Speaker, most of the problems of this Nation could be solved if we could give our people much less government and much more freedom and free enterprise.

THE IMPORTATION OF PEANUTS IS A BLOW TO OUR FARMERS

(Mr. RAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAY. Mr. Speaker, I am very disappointed and concerned with the administration's decision to allow the importation of 100 million pounds of peanuts into this country by the end of this month, in the next 21 days.

Mr. Speaker, this packet of Georgia peanuts is grown under safe conditions, having been inspected by State and Federal agencies, and is not contaminated. But I am very skeptical about the quality of the 100 million pounds of peanuts that will be packaged in the next few weeks and sold to American consumers.

It is crucial that we do the utmost to protect the health of the American consumer and the reputation of the American grower by carefully monitoring the quality of every peanut brought into this country. We do not know what condition those peanuts were grown under. Perhaps they will have aflatoxin and stripe and clump viruses, which affect peanuts grown in many foreign countries and are not cared about in those countries by the producers nor the consumers.

Mr. Speaker, we do not have a shortage of peanuts in the United States, and I am very disappointed in the President's action.

MOST-FAVORED-NATION STATUS TO COMMUNIST CHINA? NO WAY

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, today this Congress will vote on most-favored-nation status for the communist regime in Beijing. We are asked to vote on "business as usual" with a regime that murders its people, that commits genocide in Tibet, and that sells missiles and nuclear technology to Third World despots; to a regime with one of the worst human rights records on the planet. We are asked to vote for "business as usual" with this gang of Communist thugs. No way.

Mr. Speaker, we are going to offer it, if we offer most-favored-nation status, not to the people of China but to this murderous regime. No way.

WITH FRIENDS LIKE THIS, WHO NEEDS ENEMIES

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, today we are going to vote on whether or not to give most-favored-nation status to Communist China. Well, folks, how about the United States of America getting consideration for having most-favored-nation status, particularly from countries like Kuwait? They should be extending most-favored-nation status to the United States.

Mr. Speaker, America spent over 300 American lives, our young people, freeing Kuwait, and we spent over $50 to $60 billion of American taxpayer money to free Kuwait. Then they are giving their contracts to rebuild Kuwait to other countries of the world.

Why do we not get most-favored-nation status? The first contract they sold, they got 25,000 tons of raw steel from Japan and Venezuela. What the hell did Japan and Venezuela do in that war? They did nothing.

Now Kuwait is going to give a $2 billion contract to buy planes, but not to Boeing or any other United States firm. They are going to give it to France Airbus.

Mr. Speaker, where is the loyalty? At least where is the debt that they owe us? With friends like that, the United States sure as hell does not need any more enemies.

CONGRESS DEMANDS INFORMATION ABOUT COSTS OF AIR FORCE ONE

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, 7 months ago I sent a request to the General Accounting Office, the GAO, to conduct a review of the expenses of flying Air Force One around the country. I was interested especially in where they flew, between public and political events, and how the costs were allocated. I was interested especially, because we now have this flying Taj Mahal, the big 747, to fly the President and the White House across America. And fly it does, all the time.

Who is paying the cost? How do they allocate the cost between public events and political events?

Mr. Speaker, 7 months later I am told by the GAO that the White House will not provide the information. "This information is not available to us. The White House is stonewalling."

Mr. Speaker, what an arrogant bunch of people. They do not have the right to withhold that information. That information ought to be available to those of us in Congress, and we are going to make sure it is available, following every possible approach, insisting they disclose the information about the cost of Air Force One.

A message to the White House is, we are not going to quit. We want that information, we demand that information, we have a right to it, and you are going to provide it.

MEMBERS WHO FLY IN GLASS PLANES SHOULD NOT THROW STONES

(Mr. HUNTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, let me respond briefly to my friend, the gentleman from North Dakota [Mr. DORGAN], who just spoke about the travel of the White House and the attendant costs of the aircraft that are assigned to the White House.

Let me just say if we are going to continue to have this partisan attack on the President, on the Republican side, we are going to start categorizing and listing expenses by Members of Congress and travel, not only in this country, but around the world, on Government aircraft.

I would simply say to my friend, that this President has just come off a war in which he won a ground war against a very heavily armed enemy in 100 hours. And he flies a big plane.

If you gave aircraft to Congress based on their achievements over the last 10 or 12 months, we would all be flying in Piper Cubs, with about 15 Members assigned to each one.

Mr. Speaker, I think that the other side of the aisle is going to have to realize if they are going to continue to talk about costs of administration aircraft, it is only right that we begin to categorize and list the expenses of aircraft used by House Members.

□ 1320

UNITED STATES SHOULD CONTINUE SANCTIONS AGAINST SOUTH AFRICA

(Mr. MRAZEK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MRAZEK. Mr. Speaker, now is not the time to lift our sanctions against South Africa. Our national interests and certainly those of the vast majority of people of South Africa are best served by the continuation of those sanctions. We should be encouraged by the positive changes that have taken place in recent years, but there is still a long uphill battle to try to help bring justice to that troubled nation.

On the same day that headlines proclaimed President Bush's intent to lift sanctions against South Africa, Amnesty International released its annual human rights report. It notes that in 1990, more than 1,500 critics and opponents of the government were detained without charge or trial for up to 6 months at a time.

Although the administration is apparently satisfied on the issue of political prisoners, Amnesty International estimates that many political prisoners remain incarcerated in South Africa. The African National Congress estimates that number at nearly 1,000 individuals.

After decades of frustration, the African National Congress is set to begin negotiations with the white minority government in the next few months. We should not prejudice those negotiations. We should not strengthen the hand of the minority government. We should not give the minority government reason to believe that the United States commitment to the abolition of apartheid is wavering in any way. We should not lift the sanctions at this time.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1782

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of H.R. 1782.

The SPEAKER pro tempore (Mr. TORRES). Is there objection to the request of the gentleman from Ohio?

There was no objection.

RELATING TO MOST-FAVORED-NATION TREATMENT FOR THE PEOPLE'S REPUBLIC OF CHINA

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 189 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 189

Resolved, That upon adoption of this resolution, general debate in the House on the subject of most-favored-nation treatment for the People's Republic of China shall be in order for a period for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. All points of order against consideration are waived with respect to each of the three measures specified in sections 2, 4, and 5.

SEC. 2. After general debate it shall be in order to consider in the House the joint resolution (H.J. Res. 263) disapproving the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China. The joint resolution shall be debatable for one hour equally divided and controlled by Representative Solomon of New York and Representative Rostenkowski of Illinois or their designees. Pursuant to sections 152 and 153 of the Trade Act of 1974 the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion.

SEC. 3. The provisions of section 152 and 153 of the Trade Act of 1974 shall not apply to any other joint resolution disapproving the extension of most-favored-nation treatment of the People's Republic of China for the remainder of the first session of the One Hundred Second Congress.

SEC. 4. After disposition of the joint resolution (H.J. Res. 263) it shall be in order to consider in the House the bill (H.R. 2212) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes. The bill shall be debatable for two hours equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The previous question shall be considered as ordered on the amendments recommended by the Committee on Ways and Means now printed in the bill, which shall be considered en bloc and which shall not be subject to a demand for division of the question, and on the bill to final passage without intervening motion except one motion to recommit.

SEC. 5. After disposition of the bill (H.R. 2212) it shall be in order to consider in the House the concurrent resolution (H. Con. Res. 174) concerning relations between the United States and the People's Republic of China. The concurrent resolution shall be debatable for one hour, with thirty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means and thirty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs. The previous question shall be considered as ordered on the amendments recommended by the Committee on Foreign Affairs now printed in the concurrent resolution, which shall be considered en bloc and which shall not be subject to a demand for division of the question, and on the concurrent resolution to final adoption without intervening motion.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 189 provides for the consideration of three matters relating to extension of most-favored-nation trade status with the People's Republic of China. Mr. Speaker, the rule providing for the consideration of these three measures provides the House ample opportunity to express its will on the current and future trading status of the United States with the PRC and I rise in strong support of the resolution recommended to the House by the Committee on Rules.

House Resolution 189 provides for 1 hour of general debate on the general topic of most-favored-nation treatment for the People's Republic of China, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. Further debate time, which will specifically address the three measures made in order for consideration in the rule, is provided and all points of order against the consideration of those measures are waived by the rule.

Mr. Speaker, a brief history of most-favored-nation trade, prior to my explanation of the rule, is in order. Beginning in 1951, with the exception of Yugoslavia, MFN status was withdrawn from all Communist nonmarket countries. In 1960, Poland's MFN status was restored by Presidential directive. In 1974, the Congress adopted the Jackson-Vanik amendment as title IV of the Trade Act of 1974 and which authorized the President to waive the freedom of emigration requirements of the act and grant MFN status to a nonmarket economy country if he determines that such action would substantially promote the objectives of freedom of emigration. The President's waiver authority under title IV expires on July 3 of each year, but may be extended on an annual basis upon Presidential determination unless disapproved by Congress within 60 calendar days after July 3.

Most-favored-nation was first granted to the People's Republic of China on February 1, 1980 and has been renewed annually on the basis of a Presidential waiver. Since then, these annual waivers had been noncontroversial; however, on June 3, 1989, the events in Tiananmen Square changed the view of the American people toward those leaders in China who were responsible for the massacre of the peaceful students and workers who were gathered there to call for democracy in China.

The three measures made in order in House Resolution 189 all relate to the status of trade between the United States and the People's Republic of China. The first, House Joint Resolution 263, is a resolution disapproving extension of MFN status to China as recommended by the President on May 29, 1991, and takes the form set out in the Trade Act of 1974. Under the 1974 Trade Act, House Joint Resolution 263 is a privileged resolution, but the Committee on Rules has recommended that it be considered under a rule in order to allow the House the opportunity to consider other related matters.

The second matter made in order in the rule, H.R. 2212, seeks to establish a number of preconditions which must be met by the Government of the People's Republic of China before the President may recommend continuation of MFN status in 1992. The final matter, House Concurrent Resolution 174, expresses the sense of the Congress that some foreign policy actions on the part of the Government of China will have serious negative consequences for United States-China relations, in particular placing in jeopardy the access of Chinese products to the United States market through MFN status.

Section 2 of House Resolution 189 provides for the consideration of House Joint Resolution 263, the resolution of disapproval, under procedures similar to those provided for in sections 152 and 153 of the Trade Act of 1974. Therefore, the rule precludes any amendment to the resolution, allowing only for an up-or-down vote and no motion to recommit. The rule, however, provides only 1 hour of debate on the joint resolution rather than the 20 hours provided for in the statute. The debate time is to be equally divided and controlled by Mr. SOLOMON, of New York, the author of the resolution, and Mr. ROSTENKOWSKI, of Illinois, the chairman of the Committee on Ways and Means. House Joint Resolution 263 was referred to the Committee on Ways and Means and while there was no clear majority to report the resolution favorably, the committee reported the resolution on June 26 without recommendation in order to offer the entire House the opportunity to vote on the resolution of disapproval.

Under the Trade Act of 1974, privilege is extended to only one resolution of disapproval per session of Congress. Consequently, section 3 of House Resolution 189 provides that the expedited consideration procedures found in sections 152 and 153 shall not apply to any other joint resolution of disapproval relating to the People's Republic of China during the remainder of this session of the 102d Congress.

Section 4 of House Resolution 189 provides that after the House has disposed of the Solomon resolution, it shall be in order to consider in the House H.R. 2212. H.R. 2212 was reported, with amendments, favorably from the Committee on Ways and Means on June 26. The rule provides that H.R. 2212 shall be debatable for 2 hours equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means and provides that the previous question shall be considered as ordered on the committee amendments. Those amendments shall be considered en bloc and are not, under the rule, subject to a demand for a division of the question. Finally, section 4 provides that the previous question shall be considered as ordered on the bill to final passage without intervening motion except one motion to recommit.

Section 5 provides that after the disposition of H.R. 2212, it shall be in order to consider in the House the House Concurrent Resolution 174 which was reported favorably on June 26 from the Committee on Ways and Means and from the Committee on Foreign Affairs, with amendments. The rule provides that House Concurrent Resolution 174 shall be debatable for 1 hour, with 30 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means and 30 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs. The rule provides that the previous question shall be considered as ordered on the Foreign Affairs Committee amendments, that they shall be considered en bloc and shall not be subject to a demand for a division of the question. Finally, section 5 provides that the previous question shall be considered as ordered on the concurrent resolution to final adoption without intervening motion.

Mr. Speaker, given the level of controversy associated with the President's decision to extend most-favored-nation trading status to the People's Republic of China for another year, the Committee on Rules has fashioned a rule which will allow all sides of this issue an opportunity to fully express their views on the subject. For those who favor an immediate end to MFN for China, or for those who favor leveraged pressure on the Government of China to improve conditions in that country, the rule provides an option. In addition, the rule allows the House the opportunity to further make its view known regarding the issue of China's action relating to proliferation of nuclear and missile technology. Mr. Speaker, given the enormous complexity of our Nation's relationship to the People's Republic of China, I believe this rule will offer the House ample opportunity to express its will regarding such a relationship in the coming months and years. I urge my colleagues to support the rule so that the House may proceed to the consideration of these most important matters.

☐ 1330

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in reluctant opposition, perhaps I should say nonsupport, of the rule.

I am troubled by the fact that a request by the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL], that an open rule be granted on H.R. 2212, the Pelosi bill, was not granted by the Committee on Rules. The practical effect of this rule is to deny an opportunity for our colleague, the gentleman from Washington [Mr. MILLER], to offer his amendment that would establish a code of conduct for U.S. businesses operating in China similar to the Sullivan principles that are in effect in South Africa today. I would like to have had the opportunity to discuss and vote on that amendment.

Having said all of that though, Mr. Speaker, let me just say that the business of the House has to go on. I would have preferred an open rule, but I shall not ask for a recorded vote on this one since we are about to go into a protracted 5-hour debate.

This rule will permit the House to work its will on the important question of whether or not to renew most-favored-nation trade status for the People's Republic of China. As the gentleman from Texas [Mr. FROST] has indicated, this is a modified closed rule that provides for the consideration of three legislative initiatives on this important issue.

After 1 hour of general debate, it shall be in order to consider for 1 hour Joint Resolution 263, that I and 16 other Members have introduced. House Joint Resolution 263 would deny, and I repeat, deny, the administration's request for a 1-year extension of China's MFN status. China's present status would thus be terminated upon the enactment of this joint resolution.

Following a vote on the Solomon resolution, it shall then be in order to consider for 2 hours H.R. 2212, a bill that was introduced by our colleague, the gentlewoman from California [Ms. PELOSI]. Under the terms of her bill, China's present MFN status would be renewed for 1991, but it will be terminated in 1992 if several conditions primarily concerned with human rights issues are not met by next June.

Following the 2-hour debate on that bill, there will be a vote on the several amendments to the bill that were adopted by the Committee on Ways and Means. These amendments will be considered en bloc, and they will not be subject to amendment or division. In other words, we have to cast one vote on all four of those amendments. Then, depending on how the recommittal motion goes, there will be a vote on final passage on H.R. 2212.

Finally, I should advise my colleagues that the rule also makes in order consideration of House Concurrent Resolution 174, a sense-of-Congress resolution offered by our friend, the gentleman from New York [Mr. SOLARZ]. His resolution concerns Chinese participation in the various nonproliferation regimes regulating international transfers of nuclear technology, guided missiles, and the like. I am not sure if the gentleman from New York [Mr. SOLARZ] is going to offer his resolution. But, nevertheless, the rule does provide for it.

Just to reiterate, Mr. Speaker, I would have preferred an open amendment process on the Pelosi bill, but I do believe that this rule provides for an adequate and orderly process in dealing with this very important issue.

Mr. Speaker, for my part, I obviously plan to support my own resolution of disapproval, and I also plan on voting for the Pelosi bill, which I was pleased to cosponsor with more than 100 other Members from all points on the political spectrum, conservative, liberal, and everywhere else in the middle.

Indeed, the resolution of disapproval and H.R. 2212, the Pelosi bill, can be seen as being complementary to each other. The resolution of disapproval applies to China's MFN status this year and would terminate that status as of right now. The Pelosi bill applies to China's MFN status next year, and it sets the conditions that would have to be met before MFN could be renewed or restarted next year.

Members can, in good conscience, support both the resolution of disapproval and the Pelosi bill. I hope many Members will, as I will. We need as large a vote as possible on both of these bills in order to send the proper message to Beijing. And, believe me, passage of both of these bills will do just that.

Mr. Speaker, there was a time when China seemed to be leading the way toward reform in the Communist bloc. There was a time when the Chinese leadership seemed to recognize the nature of the economic and social problems that that country was facing. But what seemed to be fact has, in truth, been exposed as an illusion.

The events in Europe and elsewhere have left China completely in the dust. The true reforms and the sweeping changes that have happened in the rest of the Communist world have exposed the Chinese policies and reform efforts as being pathetic, half hearted, and meaningless by comparison.

It is now China that is bringing up the rear. It is in China that a discredited Communist dictatorship insists on clinging to power by sole virtue of having all the guns. It is in China where this regime is fundamentally illegitimate. And it is China that we help pro up with MFN, and that is wrong.

□ 1440

That is wrong. The gentlewoman from California [Ms. PELOSI] said it well in testimony before the Committee on Rules yesterday. She said that The Chinese leadership hates our democracy; it hates our capitalism; and it hates our ideas about freedom; but it loves our money. I repeat: It loves our money.

I say, Mr. Speaker, that the MFN gravy train for China should stop, and it should stop now. If MFN is to be renewed at all, it should be with conditions and requirements that speak to the needs of the Chinese people, human rights.

I hope that both the resolution of disapproval and the bill of the gentlewoman from California [Ms. PELOSI] will pass overwhelmingly in this House. I urge every Member to vote for both of these pieces of legislation.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Mr. Speaker, I rise to support the rule. However, I do want to make a statement with regard to the situation which is facing Members.

To give most-favored-nation status to China, which is a Communist country, is a most foolish notion. Therefore, I say to President Bush in his consideration of this, "No, no, a thousand times no."

It is an insult to the American veterans to say to them, now that they have fought and sacrificed for the very principles that are being denied other people in the world, we have had 1¼ million people who have died since the beginning of this country, defending freedoms, we have had millions who have been maimed and have been disabled, and now we are going to turn around and say that it is OK if we recognize a country that denies free speech, that denies freedom of the press, that denies freedom of religion, denies all human rights. That we as a nation, we are going to recognize another nation that strips its people of everything as we know it in this country.

The President of the United States says that it is just, and it is moral. I do not know what book he is reading, but I think he better go back to the library.

When Nicaragua abused those very same principles that we are talking about now, these very same principles that Americans have fought for, we cut them off. We stopped trade with Nicaragua. We took care of them completely, and now all of a sudden we are saying to China that it is all right, this godless society, it is OK if they abuse their people.

American veterans and American workers are going to lose their jobs. Listen, they are going to lose their jobs to slave labor-made products. People who are paid 50 cents a day, and that may be high, I do not know. They do not even have a minimum wage over there. If Members do not think this is true, just ask the American veterans, and the American workers what we think about most-favored-nation status.

If it is going to be China now, who is it going to be next? Are we going to give it to Hussein in Iraq? Are we going to give it to Quadhafi in Libya? How about Fidel Castro down in Cuba? Why do we not just give him most-favored-nation status and recognize the same things they are doing in Communist China? Why do we not just free Noreiga and send him back to Panama? Then we can give it to them. What is the difference?

China, of course, is not all Communist, apparently. They are employing some of the free enterprise tactics that they use in the United States. They are hiring a public relations firm. They have hired Hill & Knowlton, one of the biggest PR firms in the United States and in the world, as a matter of fact, and paying them $150,000 a month. What for? To lobby Congress. They are paying an American PR firm to lobby Congress and, in fact, have threatened Congressmen by saying that if they do not vote for them, China is not going to maybe do business in their district anymore.

I say that we better take another look at this. I think it is foolish, and I think that we better get our priorities straightened around in a hurry and give our loyalty to where it belongs.

Mr. SOLOMON. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, I rise to support the two amendments that we will be voting on in the House today. We are discussing today most-favored-nation status, not for the Chinese people. We are discussing most-favored-nation status for the Chinese regime. We are going to decide today whether this House will put itself on record as to whether we are on the side of the Chinese people, the people who long for a decent life and long for democracy, or whether we will be on the side of their oppressors. Are we on the side of the reformers or the oppressors? Are we on the side of the democratic activists or on the side of the hardened Communists?

In the past, we had to play China off against the Soviet Union. It is what we call realpolitik. That is what we had to do in the past in order to preserve the peace. There was a legitimate concern that the Soviet Union might threaten our national interest, and indeed, violate the peace and drag the world into a new Armageddon. Those days have passed. The Soviet Union is in total disarray. There is no longer an excuse for the United States to be siding with a dictatorship at a time when we no longer have to play that dictatorship off against the Soviet Union.

Also during that time period, there was a supposed evolution going on in China. Today, we see that evolution, that so-called evolution, unmasked, and we see the tyranny that remains in the blood-stained streets of Tiananmen Square.

The situation is wholly different. We no longer have the Soviet Union for an excuse, and we can no longer use the evolution toward democracy as an excuse for dealing with the Communist regime that controls the mainland of China. The current Communist regime murders its own people. It commits genocide in Tibet. It tortures and jails and executes democratic student reformers. It sells missiles and nuclear technology to Third World despots. What message are we going to send that regime today? Are we going to send it the message that those things do not make any difference? Are we going to send a message to the people of China that we are on the side of their oppressors?

I think that it is time for the United States to stand for what this country's principles are all about. That is, we side with the people, and we side with freedom over despotism. There is another China. There is a freer China. There is nothing that we can do today that would send a better signal to the people of China and to the Communist regime in China than to recognize what is going on in the freer China at the same time that we recognize what is going on in the totalitarian China in the mainland. Not only should we look at the freer China and say that these are the people we identify with, and deny most-favored-nation status to Communist China, but we should recognize that progress in the democratic reform in Taiwan.

We could take steps, for example, to ensure that the Republic of China is part of GATT, part of the International Monetary Fund and World Bank. In fact, we could even suggest that China regain its seat at the United Nations, or have a full embassy in Washington, DC. These are steps that we could take that would gain the attention of the Communist thugs in Beijing immediately. However, for those who say we must give most-favored-nation status to China, we do not hear this as an alternative. The Communist dictators in Beijing must be sent a message.

☐ 1350

The people in mainland China must be sent a message as well that we are on their side and that those tyrants in Beijing will pay for their crimes. In the long run, the regime in Beijing will pass, just as every other despotic regime in history has passed.

The surge of freedom that is sweeping through other Communist States will not be reversed on Communist China's doorsteps. When that day comes, when freedom does, indeed, win the day in China, we will be left to explain why we were doing business as usual with their tyrants at a time when it counted.

Business as usual with Communist thugs? No way.

Business as usual with a regime that murders its own people, commits unspeakable genocide in Tibet, that sells missiles and nuclear technology to the Third World? No way. No most-favored-nation status for China.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, today may be most-favored-nation trade time for China, but in my opinion it is once again most-foolish-nation trade time for America.

Everybody in this body knows that China gunned down their own students seeking freedom in Tiananmen Square, but how many here realiize that just 2 weeks ago China threatened unless they get most-favored-nation trade status, they threatened to stop buying jet planes from the Boeing Co. Think about it. They made a demand.

Now, that demand did not hit hard enough. So guess what? They wised up. China bought the best Washington lobby they could find at $175,000 a month. Because why not, folks? Everybody does it. If you want something from Congress, you buy a top lobbyist and they get the votes. Stone cold simple. You know it and I know it.

What is even worse than that, Mr. Speaker, is that many of the top political names that we have known over the past and many of the top staffers of these powerful committees, as soon as they are out of Government life they go on the payroll of these foreign countries. They are the same lobbyists who once had to write those laws. They are so powerful, in my opinion, it is an underground government that runs our own Congress.

But do you know what? What really bothers me is while we are in here today debating egg rolls, China keeps steamrolling over the American worker. Their trade surplus last year was $10 billion, Mr. Speaker, second only to Japan.

Now, I want to ask you a question. How many Chinese workers at 17 cents an hour are going to buy a Chevrolet made in my district?

How many American companies are going to move overseas and hire people at 25 cents an hour with no OSHA, no EPA, no workmen's compensation?

I say we should start exporting some of these staffers, some of these powerful committee people, some of our politicians to China and let them keep their trade status to themselves.

I think today it is appropriate to quote a most famous Chinese citizen, Confucius. Confucius says that when those who fail to look after their own marbles, they put in danger and in fact lose their own.

I am wondering today if Congress has any marbles left. Maybe Confucius might work on this Congress. I think what really works on this Congress is lobbyists. I think there should be a law that there should be no foreign lobbies allowed in the United States of America, and the only lobbies allowed are those which represent absolutely the interests of the American people. That is not a tough law.

Finally, on these free traders, let me say one last thing, Mr. Speaker. While we have all this free trade, let me tell you what we have. We have free bankruptcy, free economic collapse, and in about 5 years, try to buy a meal with your Toyota, and try to eat your Suzuki.

Think about it, Mr. Speaker.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Speaker, I rise today in opposition to the rule because it again waives the 3-day layover rule to the detriment of the legislative process.

While I am concerned about the specifics of this rule, I will support the resolution disapproving the extension of most-favored-nation [MFN] status for China.

Today, partisan politics and party loyalty take a back seat to moral convictions.

On this issue, I repeatedly come to the following conclusion: We can either continue sticking our head in the sand, or we can be strong defenders of freedom and fairness.

I prefer to come out swinging.

Last week, America celebrated her 215th birthday. Between the barbecues and the parades, I was asked to express my thoughts about this Nation's accomplishments and our goals for the future.

I chose to quote Abraham Lincoln who said our—

> Declaration of Independence * * * gave liberty not alone to the people of this country, but hope to the world, for all future time. It gave promise to that in due time the weights would be lifted from the shoulders of all men, and that all would have an equal chance.

Sadly it appears to me that extending MFN status to China is a sign that instead of working for hope, we're turning our back on those ideals and beliefs that we hold dear—all in the name of expanding our economic interests.

That is not why I came to Congress.

Each year, China promises to do better when it comes to human rights abuses. But each year, the promises get shallower and more unbelievable.

China is still a nation where peaceful, freedom-seeking demonstrators either disappear, or face judges and juries that are stacked against them.

China also promises to promote fair trade with our Nation.

But in the last year, China has made it tougher for American products to reach Chinese markets.

While imports from China have increased 27 percent, exports to China have decreased by 17 percent. Last year, our trade imbalance with China increased to $10.4 billion.

And, finally, China promises to stop promoting pain and terror in other nations. But in the last year, nuclear missile launchers have been sent to Pakistan and negotiations are underway for the delivery of missiles to this unstable nation.

China has also sent chemicals to Iraq which have been used to make nerve gas, missile fuel, and nuclear weapons.

No more promises, Mr. Speaker. I urge my colleagues to vote against MFN status for China.

Mr. SOLOMON. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Speaker, first things first. No one here today will argue that in terms of domestic policy and basic human rights within the People's Republic of China do not meet our standards that we too often take for granted in the United States.

And, I agree that we must keep working to implement a common sense and practical policy and strategy that will help urge and even force the Chinese Government to pursue and adopt meaningful reforms. In this regard, I appreciate what the gentleman from New York, my colleague and friend, Mr. SOLOMON, and what my colleague from California, Ms. PELOSI, are trying to accomplish. But, with all due respect, denying most favored nation status is not the answer and their approach in regard to conditions is not the answer.

Once again, we are proposing to use food as a foreign policy weapon. Once again, perception becomes reality—we somehow feel better if we take action, any action, that is perceived a strong stand against individual oppression and human rights. And, once again, once the laws of unintended effects takes place, once we fully appreciate the practical effect of denying MFN status or placing conditions we know will not be met, supporters of this policy will shrug their shoulders and say, "Well, we didn't mean for this to happen," or perhaps, "tough luck", we should not be trading with the Chinese to begin with.

I know some of my colleagues are tired of hearing this speech but we need to keep repeating it so that we do not repeat making the same mistakes over and over again.

It will not be the Chinese Government who suffers if we revoke or put conditions on MFN so as to render it useless. It will be those who carry forward the memory of the students who were brutally killed in Tiananman Square, the poor citizens throughout China struggling to get enough to eat, those who suffer from malnutrition and hunger. And, it will punish those in China who now work for reform in progressive regions and in Hong Kong.

And, if this policy is adopted, it will hurt Americans, namely my Kansas farmers who see another 25 to 30 cents coming off wheat prices because of retaliation and deceased exports—prices that have already fallen 35 percent in the last year.

Once again, under the banner of perception we are spilling the blood of American agriculture. Once again, we are contemplating using our farmers and their grain as a foreign policy weapon. And, once again, we are passing up the opportunity to use this Nation's bountiful food supply as an instrument of peace.

Oh yes, its easy to mount the parapits in the fight against man's inhumanity to man. But, after the rhetoric stops, will you accept responsibility for what actually takes place in the real world? Without MFN, the Chinese will take their business elsewhere, to the 100 and more nations, who will not join us in this thinly disguised embargo. The People's Republic is the largest customer for United States wheat in the world. They are projected to purchase over 200 million bushels this marketing year. That is $500 million that farmers will pay as an obligatory tithing at the alter of perception.

Now, if that is what we are going to do, lets everyone tithe, including Members of Congress. Let us take a 30-percent cut in our salaries to be placed in a human rights fund. Or, at the very least, support a supplemental appropriation to assist farmers as a result of this action.

And, just as the Republic of China is a key market for our farmers, we represent a key market for many Chinese products. That trade is and can be an instrument for peace. The hard line Government in China will respond to that and the Chinese citizen will benefit from the nearly $5 billion in investment stemming from over 1,300 joint ventures with United States companies.

If we pass either of these amendments today, the practical result will be for China to tighten its belt, suppress all dissent, and unite the country around the idea that throughout the history of China they have been humiliated at the hands of foreigners. Oh, if we want to express outrage, we can send that message but is that really worth the damage?

When the dust clears, China will still be doing business, only with our competitors. They will remain even more firmly opposed to reforms and we will have lost markets that will take years to recover, if they can be recovered. Where is the sense in that?

We could oppose multilateral loans, we can address unfair trade barriers, stop imports produced by prison labor and insist upon Chinese adherence to nonproliferation, there are many policy avenues to be explored. But, let us not repeat the mistakes of the past and sacrifice the farmer at the alter of perceived human rights.

□ 1400

Mr. SOLOMON. Mr. Speaker, the reason I reluctantly opposed this rule in the beginning was because the gentleman from Washington [Mr. MILLER] was denied his amendment under this rule.

Mr. Speaker, I yield 3 minutes to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Speaker, I thank my distinguished colleague from New York [Mr. SOLOMON]. I join him in opposition to the rule.

Mr. Speaker, I think we both know how the vote is going to come out on this. We are going to get into a discussion of a very important subject later today, and at that point I hope to be speaking at greater length on why I believe a conditioned extension of most-favored-nation trade status is the right way to go.

But at this point I do want to make some comments on the rule, which I think is unnecessarily restrictive.

Last year, my colleagues, you will remember when this issue came to the floor it was then called the Pease bill. Several of us, Congresswoman PELOSI, Congressman WOLF, Congressman PORTER, and I had amendments that were offered and adopted by the full House. I think they improved the bill.

The amendment I offered at that time was an amendment establishing a set of human rights principles for United States companies operating in China, along the lines of the Sullivan principles in South Africa. That amendment which I offered passed this House by a vote of 407 to 9. I was allowed to offer that amendment last year.

This year, the Committee on Rules did not make that amendment or any other amendments, such as were offered last year by myself and my distinguished colleagues, in order.

I think that is a mistake. I think particularly at this stage of the process, when we will problably be sending over a bill to the Senate, a bill cosponsored by Congresswoman PELOSI and myself and several others, one amended in the Committee on Ways and Means, it was certainly appropriate and reasonable to allow the consideration of other amendments that might have further improved the bill and particularly considering that the bill then would probably end up in conference with the Senate.

That was not done by the Committee on Rules. I think that was a mistake. For that reason I must oppose this rule.

Mr. SOLOMON. Mr. Speaker, I yield 4 minutes to the very distinguished member of the Committee on Foreign Affairs, the gentleman from New York [Mr. GILMAN], with whom I served on that committee for 10 years.

Mr. GILMAN. Mr. Speaker, I rise in support of House Resolution 189 the rule providing for the consideration of House Joint Resolution 263, disapproving the extension of most-favored-nation [MFN] treatment to the products of the People's Republic of China. I commend my colleague, Mr. SOLOMON, the gentleman from New York, for his longstanding leadership on this issue. For many years he has spoken out against the ruthless dictatorship in Beijing, unfortunately, only recently has the world begun to listen.

Mr. Speaker, there is a common myth in this town that in order to bring about positive political change in the People's Republic of China we should continue to grant it MFN and simply wait for the old men who rule from Beijing to fade from the scene. If we deny MFN, it is argued by those favoring MFN, that China will withdraw into its cocoon, and we will undercut the moderates in the Government.

The truth, however, is that by kowtowing to China's oppressive leaders, whether they be young or old, hardline or moderate, we continue to isolate them from universally held ethical and moral standards. Years of external moral and ethical isolation has emboldened China's Communist leaders. According to Amnesty International prodemocracy forces in the People's Republic of China have been hunted down, rounded up, and routinely executed. Asia Watch calls China's rule over occupied Tibet merciless repression. And Freedom House informs us that Tibet is the No. 1 worst area in the world in regards to political freedom. The reauthorization of MFN over the years, has not put a stop to any of the violations of human rights.

Another myth being argued is that MFN will lead to economic liberalization which itself will lead to political pluralism. However, the authorities in Beijing have recentralized banking, credit, production planning, material allocation, foreign trade, and other important elements in the economy. Approximately 3 million private and semiprivate Chinese enterprises have been shutdown and in the majority of the cases only state-run enterprises will benefit from MFN. All of this has happened since reauthorization of MFN after the Tiananmen Square massacre.

Permit me to also point out to my colleagues that MFN did not prevent the People's Republic of China from selling lithium hydride, a chemical precursor to hydrogen bombs, atomic bombs, fuel for ballistic missiles, and poison gas to Iraq while the allied sanctions were in place. Nor did MFN prevent the People's Republic of China from negotiating a sale of M-9 nuclear-capable missiles to Syria and past offers of missiles to Iran, Libya, and Pakistan. The People's Republic of China is also cooperating with North Korea to improve the range of Scud missiles.

Mr. Speaker, our Nation lost over 80,000 soldiers in North Korea and Vietnam fighting Chinese communism. I perceive no overriding reason to let Communist state-run industries and prodemocracy political prisoners in forced labor camps unfairly compete with American labor. it is an insult to American families who lost sons or daughters in those two wars.

For the sake of our deepest values and most hard-nosed national interests, the United States should not renew MFN for China. Constructive engagement amounts to appeasement in the eyes of the leadership in Beijing. It is time for a new policy toward China and occupied Tibet. The United States Government should stand for freedom by supporting democracy in China and insisting the People's Republic of China negotiate a comprehensive settlement on Tibet before it gets MFN.

Mr. Speaker, the trouble with the People's Republic of China is not the old Communists in Beijing—there are plenty of young, hardline Communists willing to take their place—the trouble with China is the Communist system itself and the world's industrialized nations willingness to continue to bankroll it. Accordingly, I urge my colleagues to support the rule and House Joint Resolution 263 disapproving the extension of most-favored-nation treatment.

□ 1410

Mr. FROST. Mr. Speaker, for the purposes of debate only, I yield 5 minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Speaker, I rise in support of the rule and the amendments attached by the Ways and Means Committee to H.R. 2212. As a cosponsor of the bill, I believe that the amendments approved by the committee strengthen and improve the bill.

I want to focus on an amendment that I offered, along with Representative NANCY JOHNSON, under which the President could not request an extension of MFN for China if he finds that the Government of China supports or administers a policy of coercive abortion or involuntary sterilization. This condition is added to other human rights conditions in the bill, which is included as one of the Ways and Means en-bloc amendments.

In 1989, President Bush vetoed the foreign operations bill because it contained funding for the U.N. Family Planning Fund [UNFAP] which funds family planning programs in over 140 countries including China. Bush vetoed the foreign operations bill because some of the funding for UNFPA might go to China. The President said it "would clearly place the United States in the position of supporting a program that in turn supports coercive abortions, a program that is inconsistent with American values. Such support * * * would contradict the human rights character of our foreign policy around the world."

If coercive population policies do in fact exist in China, conditioning MFN on ending these policies is a much more powerful and appropriate way to express our concern than cutting off the U.S. contribution to the 140 countries that depend on UNFPA funds for voluntary family planning. Cutting off U.S. aid to UNFPA would not really affect China because the UNFPA funds less than 1 percent of China's population program and because UNFPA's contribution is a fixed sum.

Conditioning MFN, however, would definitely have a direct impact on the Government of China. Chinese exports to the U.S. totaled $15.2 billion in 1990—a 27-percent increase over the previous year. Contrary to practices in private market economies, a large segment of the profits from expanded exports flow directly into Chinese Government coffers. If, in fact, China does have coercive policies, we must take this opportunity to express our deep concern about it.

This amendment will also help to resolve the confusion that exists around this policy. There is some legitimate confusion over whether such policies do in fact exist in China, and whether they have the blessing of the Chinese Government. The State Department's Country Reports on Human Rights Practices for 1990 does little to clear up the confusion. It states, on the one hand, that "China's population control policy relies on education, propaganda, and economic incentives, as well as more coercive measures, including psychological pressure and severe economic penalities." On the other hand, it concludes that "[p]hysical compulsion to submit to abortion or sterilization is not authorized, but continues to occur as officials strive to meet population targets."

We need to establish the facts here. Does China have or not support or administer a coercive abortion or involuntary sterilization? This amendment will help us clear up that question, and end the confusion which characterizes the debate on UNFPA.

I am pleased to say that this amendment was approved with overwhelming bipartisan support from my colleagues on the Ways and Means Committee. By enlarging the Pelosi conditions to include abortion coercion, we will reaffirm that support here today.

Mr. SOLOMON. Mr. Speaker, I believe we have 3 minutes remaining, and I yield the balance of our time to the distinguished gentleman from California [Mr. DREIER], a member of the Committee on Rules.

Mr. FROST. Mr. Speaker, I also yield 2 minutes to my colleague from the Committee on Rules, the gentleman from California [Mr. DREIER].

The SPEAKER pro tempore. The gentleman from California [Mr. DREIER] is recognized for 5 minutes.

Mr. DREIER of California. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] my friend, the distinguished ranking member, for yielding, and I thank the very magnanimous gentleman from Texas [Mr. FROST] for yielding his time.

Thomas Jefferson said that two thinking men can be given the exact same set of facts and draw completely different conclusions. This is certainly the case on this issue. Everyone in the House wants to see us address the human rights crisis taking place in China; the problems of arms transfers to Third World countries; as well as the various trade concerns that we all share. We differ only in deciding what the most effective methods would be to accomplish these goals.

Mr. Speaker, I will take a back seat to no one in Congress when it comes to expressing outrage over the human rights violations taking place in China. I have marched with Members from both sides of the aisle to the Chinese Embassy, first to meet with Ambassador Ham Xu, and then again last month, when several Members of Congress were rebuffed by the deputy press attache when we tried to deliver a message expressing our outrage over the continued rights violations. I have stood on the steps of the Capitol to argue against the actions of the repressive despots in China. And I believe that President Bush shares these same concerns and strongly opposes the horrendous human rights policies of the Chinese Government.

During all of this time, I have asked myself: What is the best way to assist our reformist friends in China? Will revoking most-favored-nation trade status do anything at all to release a single political prisoner? Will it prompt a great outpouring of openness and freedom from the Communist Chinese Government? Will it speed the inevitable march toward democracy and a free market?

I have come to the conclusion that it will not. In fact, I am concerned that either revoking or conditioning MFN will complicate the path to reform. I am not alone in holding these views. An excellent article appeared last month in the New York Times which outlined the growing concern among Chinese dissidents about the negative impact that the loss of MFN could have on their efforts.

One leader, Zhang Weiguo, a Shanghai dissident who spent more then 20 months in prison for his activities during the Tiananmen Square demonstrations, pointed out that "the U.S. should support China's economic development and social exchanges."

Why? Because the budding private sector will be hurt far more than the Communist government, and without an economic base, political reform will be even more difficult. Unemployed men and women have to focus their efforts on trying to scratch out a living for their families. They would have little time for petition drives, marches, letter writing campaigns, and so forth. As the China Information Center, established by Chinese students in the United States during the Tiananmen crackdown, said:

> If the path of political transformation is treacherous without the presence of a sizable private economy, it is downright impossible when living standards are falling.

Also, it has been the Chinese private sector which has supported the Chinese student activities. In spite of the political crackdown, economic activity has continued. Economic growth in 1990 totaled 56 percent in the foreign investment enterprise sector. Without these funding sources, resistance to the current regime will be difficult.

A year ago this month, I visited London and had the opportunity to be the first Member of Congress, to meet with famous Chinese dissident Fang Lixhi. As we were discussing the question of most-favored-nation status, and he said to me:

> David, you've got to understand that, Deng Xiaoping, Li Peng, who are not young men, will be out of the picture in only a few years. They will be dying, and there are reformers in the forefront. There are reformers like Jiang Zemin, who is a younger man who has not in any way gotten involved in the crackdown against the democracy activists. In fact, the government left him alone, and he is one of those who will conceivably be on the forefront when these older despots are out of the picture.

And Fang said:

> David, you've got to understand that when these older men are gone, we need to have a strong economy.

□ 1420

Mr. Speaker, I fear a devastated economy in China if we see the revocation of most-favored-nation status. There are many people within China who have been active members of the reform movement. One dissident who for months was held in prison following the Tiananmen Square massacre has said, "The United States should have a vigorous debate on most-favored-nation status," which we are having, "but in the end it is important that most-favored-nation status be granted."

This is from a man who was held in prison in China for a long period of time. Why? Because he believed that revocation of most-favored-nation status would hurt the reform movement in China, that it would hurt the standard of living in China, and that it would really send a signal to the despots in China that they can in fact establish an even greater wall to the United States.

Mr. Speaker, the Berlin Wall came down because of one major reason: exposure to Western values. We in the United States have successfully gotten our message through by satellite technology and fax machines into parts of the world that have not up until now enjoyed the kind of freedom that we hope very much the Chinese people will be able to enjoy. It is obvious that President Bush's policy of engagement has had a great deal of success. We can look to the release of 1,000 detainees following the Tiananmen Square massacre. We can look at the release of Fang Lixhi. We can look at the partial accounting of the whereabout of dissidents who were detained after Tiananmen Square; the resumption of access for journalists to Tibet, and a number of other positive steps that have been taken.

Indeed, the changes that have taken place since Richard Nixon's famous visit to Peking are remarkable. As President Nixon's policies have since proven, economic cooperation brings political stability both internally and internationally. Certainly we have much, much more to accomplish. We must keep the pressure on the Chinese Government. But we must also be careful not to pull the rug out from under those fighting for freedom in their homeland.

I am angered over the arrest of the Catholic Bishop and laypeople. I am angered by the incarceration of students who were simply expressing their hopes for a more just society. I am angered by China's continued sale of weapons to the Third World. And I am not in any way whitewashing those problems; they are very serious, but I am convinced that we are not continuing with business as usual. The President, through his policy, Mr. Speaker, has continued to stand up on weapons transfers, on OPIC loans, and a litany of other actions which the Chinese have pursued since the Tiananmen Square massacre. American sanctions against high-technology transfers, against high-speed computer sales and preventing weapons sales, are still in place. President Bush is vigorously pursuing a section 301 complaint against China for intellectual property rights violations. So when people stand up and try to claim that business as usual is continuing, they are wrong.

Mr. Speaker, we will bury the despots of China with Western values and Western ways through our free enterprise system. I believe that there is a Lech Walesa out there for the Chinese people. There is a yearning for freedom. It is in the interest of the American consumer, the American worker, and the Chinese people, a billion of them, and the future of the free world for us to adopt a policy that will be effective in promoting change in the People's Republic of China. This may not be the policy that quenches our thirst for punishing the Chinese Government, but it will offer the best hope for empowering the Chinese people. In my opinion, preserving our economic influence is the best way to accomplish these goals.

Thank you.

Mr. FROST. Mr. Speaker, we have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL DEBATE ON THE SUBJECT OF MOST-FAVORED-NATION TREATMENT FOR THE PEOPLE'S REPUBLIC OF CHINA

The SPEAKER pro tempore (Mr. TORRES). Pursuant to House Resolution 189, it is now in order to debate the subject of most-favored-nation treatment for the People's Republic of China.

The gentleman from Florida [Mr. GIBBONS], will be recognized for 30 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the first resolution or the first matter we have to take up is disapproval of most-favored-nation treatment or normal trade treatment for China. Obviously it is a motion that should be defeated. None of us in this Chamber condone or in any way like the actions that took place in China known as Tiananmen Square, nor the repressive activities that China has shrunk back to in the last 2 years. We want to change all that.

The best way to change it, the most humane way to change it is for the United States to stay involved in the process in China, and unless we continue to trade with them, we have no way of being involved and we will send China back into isolation as it previously existed for about 40 years and we will do a great deal of damage to many fine people in China and also in this country.

So, while I realize that the gentleman from New York [Mr. SOLOMON] is perfectly sincere in his desire to improve relations in China, he has picked the wrong tool to deal with it. We should defeat his resolution and we should go then to the consideration of the Pelosi recommendation that has been favorably reported by the Committee on Ways and Means.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. Does the gentleman from Illinois [Mr. ROSTENKOWSKI] care to allocate time?

Mr. ROSTENKOWSKI. Yes, I do, Mr. Speaker. I yield myself such time as I may consume.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the resolutions and the bill considered pursuant to House Resolution 189.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, for the second consecutive year, we are debating the future of United States trade relations with China. The reasons for returning to this issue are clear to everyone in this chamber. In June 1989, the hard-line leaders of China engaged in an unprovoked massacre of students and workers demonstrating peacefully for greater freedom of speech and political reforms. Since that time, those leaders have maintained many of the repressive policies put in place since the 1989 crackdown in Tiananmen Square. They have sentenced many of the nonviolent demonstrators to months, even years, in prison. Many prisoners remain unaccounted for. China has been engaged in the sale of missiles and nuclear technology to countries of the Middle East and southern Asia. Other human rights and foreign policy actions of China are also cause for great concern.

Mr. Speaker, Members of this body will be given the opportunity to vote today on three measures relating to China's most-favored-nation [MFN] trading status.

The first measure is House Joint Resolution 263, which would cut off China's MFN status 60 days after enactment. The resolution was reported without recommendation by the Committee on Ways and Means, in order to provide Members of the House an opportunity to vote on the measure. I believe Members should resist the inclination to strike blindly at China by cutting off China's MFN status. We all want to see an improvement in the human rights situation in China. We all want to see an end to the proliferation of weapons of mass destruction. The question is, What is the best way to achieve that goal? Mr. Speaker, I believe we stand a far greater chance of influencing events in China by remaining engaged there. I will, therefore, oppose House Joint Resolution 263.

The second measure we will consider today is H.R. 2212, introduced by our colleague, NANCY PELOSI, with many other cosponsors. H.R. 2212 was reported favorably by the Committee on Ways and Means. The bill imposes a number of conditions which China must meet before the President may recommend that China's MFN status be continued in 1992.

I must admit, Mr. Speaker, that I have reservations about certain aspects of H.R. 2212 as reported by the committee. I worked with Congresswoman PELOSI and other interested Members of the House to craft an amendment, which clarified certain provisions of the introduced bill. However, the committee adopted other amendments, which considerably expanded the list of conditions which China must meet by next year. Those amendments will be offered as an en bloc amendment later.

I am concerned that H.R. 2212 as approved by the committee may set such high standards that the Chinese may decide that they either cannot, or will not, meet the bill's conditions. In that case, the President will have no choice but to terminate China's MFN status in 1992. Nonetheless, I am prepared to support the bill as amended, with the hope that we can improve the bill in conference with the other body.

The final measure on which the House is scheduled to vote today is House Concurrent Resolution 174, introduced by Congressman SOLARZ. The resolution—which was referred jointly to the Committee on Ways and Means and the Committee on Foreign Affairs—was reported favorably by the Committee on Ways and Means, without amendment. It expresses the sense of the Congress on Chinese actions relating to the proliferation of nuclear and missile technology. I believe this resolution is an appropriate response to a very serious problem, and I intend to support it.

□ 1430

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we debate once again the important issue of United States policy toward China in the wake of the violent crackdown on peaceful demonstrators in Tiananmen Square. Actually, and appropriately, the debate has never stopped during the 2 years since that appalling act of aggression against Chinese people seeking freedom.

The time that has passed, and the two bills that are before us now, indicate how difficult it is to legislate sanctions and conditions against China which would successfully pressure the current government to change its human rights practices.

The first bill, House Joint Resolution 263, would end normal tariff treatment, so-called most-favored-nation [MFN] status for China.

The time that has passed, and the two bills that are before us now, indicate how difficult it is to legislate sanctions and conditions against China which would successfully pressure the current government to change its human rights practices.

This is an extremely harsh response to the problem of China's recent behavior.

More importantly, the effect of this bill woud be to end United States influence in China, isolate that country further, and ruin the United States businesses and investments that have grown in China since President Nixon's historic visit in 1972.

Such unilateral action would hurt the very people in China who have struggled against the harsh leadership and have dared to pursue democratic ideals and free market principles.

The second bill, H.R. 2212, would establish inflexible and difficult to ascertain conditions for renewal of MFN tariff treatment in 1992.

Although a well-meaning attempt to construct a carrot-and-stick-policy toward China, the effect of this measure will likely be the same as House Joint Resolution 263.

The bill requires China to meet unattainable and arbitrary conditions that will certainly result in withdrawal of MFN.

Both bills represent legislation that is dangerous as well as ineffective in achieving United States goals with respect to China and throughout the region.

A backlash in China will only serve to reinforce the hardliners in Beijing at the expense of those who continue to resist repression and work for continued economic and political reform.

However strongly we oppose the actions of the current leadership, the United States must consider the impact on the Chinese people themselves and on Hong Kong, as well as on ourselves, of any action or policy we pursue.

House Joint Resolution 263 and H.R. 2212 offer the wrong approach—a defeatist approach. We must work with the President to develop constructive and effective sanctions that will be successful in molding the actions of the Chinese Government without undermining our own interests or those of the Chinese people. As chairman GIBBONS stated, we must stay involved and engaged to have any influence on what happens in China.

I urge my colleagues to vote "no" on both bills.

Mr. Speaker, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Speaker, today we are considering essentially two options with respect to the extension of most-favored-nation [MFN] status for the People's Republic of China [PRC]. Congressman SOLOMON's bill—House Joint Resolution 263—represents one option, that is, to revoke MFN or to disapprove the President's extension of this preferential trade status. The second is outlined in Ms. PELOSI's bill—H.R. 2212—which I amended along with other members on the Ways and Means Committee including Congressmen MOODY, CRANE, STARK, DOWNEY, and indirectly, Mr. SOLARZ as well. This bill establishes conditions that the Government in Beijing must meet before China will be granted MFN status beyond June 1992. The conditions span a number of areas including human rights, trade, and foreign policy.

I strongly support the conditional approach to the extension of MFN for China and will therefore cast my vote today in favor of H.R. 2212.

In my view, the human rights abuses that the Government in Beijing has committed over the past few years—the most heinous of which came to light during and after the prodemocracy demonstrations in Tiananmen Square—have been egregious enough to warrant linkage to China's status as a trading partner to the United States.

It is also my belief that the People's Republic of China will not improve its human rights record unless the United States Government uses the leverage it has over this Asian nation in the form of MFN. For China, MFN status means billions of dollars annually. This is revenue that the Government of China, no matter how hardline, cannot afford to lose. I view the threat of revocation of MFN as a bigger, more effective stick than actual revocation.

Additionally, history has shown that the use of conditional MFN extension has achieved the desired effect, in terms of pushing the Chinese Government in the direction of human rights reform. The conditionality bill that I sponsored last year provides a case in point. The mere introduction of this legislation resulted in the release of a number of political prisoners in China.

In contrast, I believe that revocation of MFN would prove counterproductive by weakening those entrepreneurial entities in South China and Hong Kong that have been largely responsible for the People's Republic of China's movement toward commercial reform. These same entities have been active in pressuring the central government in China into political and social liberalization.

Some argue that attaching conditions to the extension of MFN will ultimately bring about revocation. Let me make clear that those of us involved in developing the original conditionality proposal of this year—Congresswoman PELOSI, Congressman SOLARZ, and myself—had no intention of "painting President Bush into a corner," so to speak. In crafting H.R. 2212, we sought to fashion conditions that would prove effective and meaningful in the struggle for better human rights policy in China without being so stringent that the Government of the People's Republic of China would not be able to fully comply within the allotted time period and our President would be forced to cut off MFN.

Ms. PELOSI, Mr. SOLARZ, and I were also striving to write a bill that had the chance to become law either through the President's approval or through the veto override process. It was our feeling that limiting the conditions to the human rights area would make the bill more palatable to the administration.

The conditions added during the Ways and Means Committee markup obviously go beyond the realm of human rights. While these extra amendments might increase the possibility of a Presidential veto, I personally feel that they are all appropriate and logical additions to the original bill and serve only to strengthen it. Furthermore, I believe that we have the votes in the House to override a veto from the White House. I wholeheartedly support H.R. 2212 as amended by Chairman ROSTENKOWSKI's en bloc amendment and I urge you to vote for it as well.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING. Mr. Speaker, the father of modern day democracy, Thomas Jefferson, once said that he swore upon the alter of God eternal hostility against every form of tyranny over mankind. That is why we are here today.

Tiananmen Square was real—tyranny at its worst. The Chinese Government may deny that it ever happened. But we saw it.

We all watched as young men and women were mowed down by the military. We all watched as their symbol for hope, the goddess of democracy, was toppled. We saw it happen.

And because as a democracy we pledge eternal hostility against every form of tryanny against mankind, we must take a stand against what happened in Tiananmen Square.

That is the reason that today I will support the Solomon bill that would disapprove the extension of most-favored-nation status to the People's Republic of China.

We need to send a message to the Communist leaders of China that we don't believe their history books and we don't intend to give preferential trade treatment to governments that kill their own people.

However, because I question whether or not the Solomon bill will ever be enacted into law, I will also vote for the Pelosi bill which conditions MFN status on improvements in human rights practices and nuclear nonproliferation.

The opponents of this bill will state that the conditions set forth in the Pelosi bill are too rigid and that it will be hard for them to be lived up to.

First, most of the conditions require for the People's Republic of China to make significant progress in human rights practices. From a nation that kills its own people I find it inconceivable that this is too tough a standard to meet.

We ask for significant progress in areas like freedom from torture, free press, fair trials, and humane prison conditions. Rights that we hold dear in America, but are only a vision in a young Chinese student's mind.

Second, opponents of the Pelosi bill claim that we cannot afford the economic consequences of an isolated China. I think that Jefferson would say that there are some values upon which an economic price cannot be placed. Basic human rights is one of them.

It seems that the arguments against the Pelosi bill come from the fact that the practices of the Chinese Government are so abysmal that asking for improvements is just asking too much. That is a tough premise to swallow.

We need to make a stand. Jefferson swore hostility against tyranny. We should do no less today.

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Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. MATSUI].

Mr. MATSUI. Mr. Speaker, I would like to commend the gentlewoman from California [Ms. PELOSI], for doing a very, very excellent job. She has, in fact, been a leader in the area of human rights with respect to China, and I have to give her a great deal of credit for bringing this policy to the floor, and certainly the gentleman from Ohio [Mr. PEASE], and the gentleman from New York [Mr. SOLARZ], as well.

At the same time I would have to say that I am going to have to oppose not only the Solomon amendment but the Pelosi proposal as well. I think the direction that the House will be going and also the Senate will be going, in adding conditions to the MFN agreement with China, is the exact opposite of the direction we should go if in fact we want to open up China.

If Members will recall, when Mikhail Gorbachev first talked about glasnost, he talked about political freedom. And then he began to realize that unless one has economic freedom, political freedom will not occur. And we have to compare not 1989 in China and today, but 1980 in China and today, when President Carter opened up China and the United States, where we had bilateral trade relations.

Think of how much progress has been made because literally thousands of students have come to the United States. We now have businessmen coming from China to the United States and vice versa. And as a result of that, democracy will occur in China only when we begin to open up China with more and more trade relations.

The direction of threatening China with respect to cutting off trade, in my opinion, is the exact opposite direction of where we should go if in fact we want China to open up and have democracy and many of those freedoms that were discussed in the conditions in the Pelosi bill.

Let me say this, some will say, why not have conditions anyway? It does not make any difference.

The fact of the matter is, it does make a great deal of difference, because if in fact the Chinese Government does not comply with those conditions, and they will not, I can tell my colleagues they will not, a year from now we are going to be here saying, how are we going to continue trade and save face. And we are going to eventually back down, and that would be the worst thing for the Congress from an international perspective with respect to the Chinese. They will then not work with the United States in the United Nations. They will not work with the United States on international issues because we will be, at that time, the paper tiger.

I am hopeful that this House will try and understand whether it is in conference, or whether it is here on the floor, or the Senate, that we need trade with China if we want to open China up, and both the Solomon and Pelosi amendments are the opposite direction of that. It is the wrong way to go.

Mr. Speaker, the specific topic at issue on the floor today is China's trade status with the United States. Unfortunately, however, recent Chinese behavior has broadened what should have been the focus of the debate, and we now find ourselves addressing Chinese social atrocities, and overall United States policy toward China, in the framework of international trade.

There should be no doubt that the events of Tiananmen Square were abhorrent to the United States. There should be no doubt that China's human rights record is deplorable. Proliferation of nuclear, chemical, and missile technology is clearly antithetical to U.S. policy, as well as to internationally accepted guidelines, and incidents of abusive implementation of birth control regulations and coerced prison labor can be considered no less than despicable.

There is not a Member of this Congress who would deny that the promotion of fundamental human rights is anything less than a premiere cornerstone of our foreign policy. In addition, most, if not all, Members agree that we need to seek a stronger commitment from the Chinese on nonproliferation and on fair trade. However, the real question is whether we should use the tools of trade to achieve our social policy objectives. While all agree that social atrocities have occurred in China and that there has been a lack of progress in human rights conditions since then, I do not believe that terminating MFN status for China is the right cure for the ill.

Part of the problem is that today's issue is poorly named. Most-favored-nation status is a misnomer because the status it affords is neither special nor preferential. In fact, it is currently extended by the United States to over 160 countries, many with whom we have significant policy disagreements. MFN status is currently denied to only 11 countries. Extending this status merely means maintaining what has become the status quo trading posture with our trade partners.

While extending MFN status gives China nothing preferential, terminating that status for China would hurt American business. Chinese retaliation is sure to affect United States investment in China. Importation of Chinese goods would become prohibitively expensive. Replacement markets are not always available, due for example to quota restrictions, to fill the void in textiles, electrical appliances, toys, footwear, and apparel, to name a few currently low-cost Chinese export items that are popular here. The impact would then eventually be felt by the American consumer.

Export trade with China would be severely diminished, if not eliminated, due to Chinese retaliation that would threaten $5 billion in exports and over 100,000 United States jobs.

Most importantly, however, is the fact that termination of MFN status would hurt the very people we purport to wish to help. For over a decade, we have worked to build United States-Sino relations. We have established business links with a country encompassing one-fourth of the world's population. Through business contacts, we have exposed the Chinese to our democratic ways and encouraged political and economic reform. Terminating MFN would seriously damage the Hong Kong economy and threaten the most progressive and market-oriented coastal provinces, such as Guangdong, which support reform. United States leverage regarding trade, weapons proliferation, and human rights would be sharply reduced, and channels of education and communication would be reduced, thereby seriously weakening the more progressive forces in contemporary China.

Many of my colleagues have determined that the extension of MFN status this year for China must be accompanied by conditionality. As I have already stated, I do not believe that the tools of trade policy should be used to impose social objectives on another trading partner, and particularly through the use of stringent, unrealistic conditions. The conditionality contained in this legislation is neither reasonable nor flexible. I cannot support an approach that forces the hands of both the Chinese and United States Governments in a unproductive fashion. Creating a chain of events whereby we remove MFN status for China is as unproductive as not granting it in the first place. By legislating these conditions, we are setting ourselves up to ultimately terminate an important United States-Sino liaison and the important progressive opportunities that it carries with it for China. That result does not serve U.S. foreign policy or economic interests and, therefore, this approach should be rejected.

Mr. CRANE. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise in oppostion to the resolution disapproving the President's waiver recommendation. The issue of China's trade status is a deeply troubling one because the repressive policies of the dictators in Peking continually disrupt an already difficult bilateral relationship. On balance, however, I am persuaded that the United States must continue to be engaged in the Chinese market in order to protect our long-term strategic and economic interests in the Pacific region.

We cannot divorce the question of MFN status from the question of Hong Kong's security or the question of United States support for Taiwan's application to join the General Agreement on Tariffs and Trade [GATT]. These two issues are vitally important to the evolution of the world economy.

Fully 70 percent of China's exports to the United States flow through the territory of Hong Kong. Denying renewal of MFN will threaten business confidence in Hong Kong, further undermining the future viability of this region and its economic prosperity. Many Hong Kong citizens are fleeing their homes because they fear their heritage of political freedom will be lost when the Chinese take control in 1997.

These Hong Kong citizens saw themselves in the faces of the students demonstrating peacefully in Tiananmen Square. I believe we should work diligently to preserve the Hong Kong miracle after 1997 so that it remains an irresistible inspiration for change in China. The President must have the opportunity to weigh this consideration carefully when he makes his MFN recommendation.

If Congress ultimately votes to continue MFN for China for another year, we must also urge the administration to endorse and promote Taiwan's application for GATT membership. I support our Trade Representative in sending the message to China that dramatic political and economic liberalizations will be rewarded by a seat among the contracting parties to the GATT. In this regard, China will do well to follow Taiwan's lead.

The political issues surrounding Taiwan's relationship to China do not have to be addressed directly, as Taiwan has applied for GATT membership as a customs union. Furthermore, Taiwan is prepared to enter the GATT assuming the full responsibilities of a developed country and thereby furthering a basis U.S. trade policy objective: that of lesser developed country graduation to full GATT participation.

I wish to remind my colleagues that while China may succeed again in preserving column one tariff treatment, the position of being subject to the annual renewal process is not a favorable one. Growing more difficult each year, the renewal fight clouds bilateral trade relations with great uncertainty and subjects the Chinese to tough scrutiny and condemnation by Americans.

To my mind, expressing United States principles with respect to repressive policies in China can take a more constructive form than turning off the MFN light switch on our trade relationship. I urge my colleagues to vote "no" on the resolution of disapproval and no later today on H.R. 2212, which while well-intentioned, would impose impossible conditions on MFN renewal; and, finally, on the Archer motion to recommit.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Speaker, I rise in support of the Pelosi language on this bill and opposed to the more extreme form of the Solomon amendment. I also specifically want to endorse the en bloc amendments by the committee which I think were a wise addition.

Of course, I want to highlight the fact that one of those amendments in the en bloc amendments focuses on the issue which has torn this body apart on several occasions; namely, the question of whether or not there was coercive abortion and involuntary sterilization in China.

This body has never received a definitive finding from the administration on that question, and I think all Members on the question of abortion can agree that we could not contemplate involuntary abortions or involuntary sterilizations. No matter how one feels about family planning, I do not know anyone who supports that—at least in this body or this country.

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Yet it has been a debate which has torn us apart here in this body when we discussed money for U.N. family planning activities. So this amendment has a double virtue. This particular amendment has a double virtue both clarifying that by requiring the administration to make a finding and, at the same time, including that human rights violation in the list of violations which would disqualify China for MFN treatment.

I can think of no more horrendous human rights violation than involuntary sterilization or forced abortion; therefore, I strongly commend the gentlewoman from California [Ms. PELOSI] for leading us to the point of conditioning MFN on human rights, and among those human rights, I certainly appreciate the fact that my committee and my chairman have allowed us to enter that issue, and include that, as one of the human rights conditions in this bill.

I hope my colleagues on both sides of the aisle will support that as well.

Mr. CRANE. Mr. Speaker, I yield 3 minutes to our distinguished colleague, the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Speaker, we cannot ignore the fact that China is a major power in Asia and has a growing influence in the world at large. We have pursued mutual goals in the Persian Gulf crisis and in seeking a political settlement in Cambodia.

However, because of our concerns over the policies of the Chinese Government, there can be little doubt that our relationship with the People's Republic of China has seriously deteriorated since the tragic massacre at Tiananmen Square 2 years ago.

Since Tiananmen, the Chinese Government has conducted sham trials of student demonstrators and suppressed dissidents in total disregard of world opinion and universal standards of decency.

It tortures and mistreates those accused of crimes, persecutes Catholic and Protestant churches that refuse to affiliate with government-sponsored religious organizations, and force Chinese women to undergo abortions and sterilization.

It has snubbed its nose at accepted standards of honest dealing in international trade that has led to a $10 billion trade deficit with the People's Republic of China. Intellectual property rights violations, continued patent infringements, widespread textile quota violations, continued barriers to our imports, and excessive state intervention plague our economic relationship with China.

There are a number of other concerns that infect our bilateral relationship. There are ominous signs that China will soon sell its newest missile systems to sensitive countries like Pakistan and Syria, and there is concern that China has been less than forthcoming in the transfer of nuclear technology to other nations.

Mr. Speaker, most-favored-nation status is basically a trade matter. However, because of our many concerns with regard to China, the continuation of MFN has taken on a political aspect reserved for no other country that now receives MFN.

As we consider the MFN issue today, our objective is the same regardless of whether we support ending MFN, conditioning it, or as the administration has requested, extending MFN without conditions.

We seek to support the forces of change in China that will bring about political and economic reform, a decent respect for human rights and individual freedoms, a level playing field in our trading relationship, and a responsible approach to the export of weapons and nuclear technology.

Because the People's Republic of China is an important power, the actions we take today and in the coming weeks should encourage China to participate and not isolate itself from the international community.

The crucial question to be considered during this debate is what are the appropriate means to bring about the desired changes, and whether there is a reasonable expectation that using MFN will bring about these changes.

I would like to think there is a more structured, more subtle way to developing our policy toward China than the Congress-administration shootouts of the past few years.

Next week, I plan to introduce a resolution that would lead us to this goal. It would establish a Commission on United States relations with China that could lay the basis for a national consensus on our relations with this important country. Its members would be appointed by the President, with appointees to be drawn from the upper ranks of the government, the Congress, and the private sector.

Regardless of how the votes turn out today, we must continue to focus on the key objectives of our long-range policy toward China—namely encouraging that country to continue the reform process and to become a full participant in the international community of nations. The creation of a United States-China Commission could, I believe, lead us toward this objective by developing a United States policy that speaks with a clear, single voice.

Mr. Speaker, I will include as a part of my statement a copy of the letter I wrote to President Bush outlining the rationale and the goals of a United States-China Commission.

CONGRESS OF THE UNITED STATES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, June 27, 1991.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: Many in Congress and the public continue to have serious concerns about the situation in China. The severe human rights abuses highlighted by the Tiananmen Square massacre of 1989 have not been resolved. Other aspects of Chinese policy—particularly its grudging response to international initiatives to address global and regional security concerns—also raise doubts whether the Chinese government is prepared to be a responsible actor in the community of nations.

There is no denying that China is an extremely important country with which the United States should if possible maintain a working relationship. You have emphasized this point in announcing your decision to renew most-favored-nation (MFN) trade status. You have also eloquently stated your belief that continued economic and political ties between the United States and China are in the long run benefit of the Chinese people.

Once again this year, however, Congress may take actions that could threaten relations between the United States and China. This would occur if Congress attempts to impose conditions that would be difficult or impossible to meet on the renewal of most-favored-nation (MFN) trade status. Withdrawal of MFN would undoubtedly lead to the exclusion of U.S. products from the Chinese market and to virtual elimination of U.S. influence in China.

Various demands have been made in both houses of Congress to impose conditions on continuation of MFN. I understand your position that it would be desirable to avoid such conditions. In my view, reasonable conditions could send an important signal to the Chinese leadership that it cannot continue to expect business as usual with the United States unless our concerns about China's internal situation and external behavior are resolved. At the same time, I feel that the major issues in U.S.-China relaltions should be pursued separately from MFN.

Congressional action imposing conditions on renewal of MFN is more likely this year than previously. For example, it is probable that the House of Representatives will adopt certain conditions, including one concerning accountability for the Tiananmen Square massacre, that would not easily be met by the Chinese. The Senate is also likely to propose conditions on MFN as well as insist on other steps to address the main issues in U.S.-China relations.

The yearly battle between the Administration and Congress on renewal of MFN has not been constructive for U.S. interests in China. It has resulted in mixed signals to the Chinese government combined with the chance of a rupture in normal relations in the event Congress imposes conditions that would be difficult or impossible to meet. While it may be good politics for some in Congress, this situation should not be permitted to continue.

During your meeting with several Members of the House June 7, I described a proposal that I believe could offer a way out of this impasse. This would be to establish a special commission on U.S. relations with China composed of senior U.S. officials, leading members of Congress and distinguished persons from the private sector (including experts on China). It would be the mandate of the commission to review U.S.-China relations and publish recommendations prior to the time for the next renewal of MFN.

This year's Congressioanl debate on MFN has largely taken shape, and there will be little chance to move this proposal forward in Congress at the current time. I will, however, continue to develop this idea for use later, perhaps in connection with a move to override your veto if that stage is reached. Meanwhile, I would encourage you to consider it seriously as a way to broaden the circle of decision-making and deepen public understanding on U.S.-China relations.

Mr. President, I am convinced that an independent examination of our relations with China would conclude that the Administration's policy is generally correct. Such an examination could however, take up the issues in disagreement between the Executive and Legislative branches and make recommendations for resolving them so that we can avoid counterproductive political debate on this matter in the future.

I hope you will seriously consider the idea of forming a special commission on relations with China. Please be assured that this concept is offered in a positive way by one of your strongest supporters in Congress on this as well as other foreign policy issues.

With every best wish for the continued success of your policies.

Sincerely,
WILLIAM S. BROOMFIELD,
Ranking Republican Member.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to our distinguished colleague, the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I rise in opposition to H.R. 2212.

I had an opportunity to visit China with some other Members in November, and it was, indeed, an interesting experience. We had an opportunity to talk with Premier Li Peng and to discuss face to face on some very tough terms that had gone on in Tiananmen Square and in China.

But, really, having come back from that trip, my estimate is that isolating China is not in our best interest, and I would suggest to the Members here that ultimately it is whether we want to sacrifice American jobs, American trade, on the altar of somehow punishing the Chinese or whether we want to keep them somehow engaged through our trade process.

Make no mistake about it, Mr. Speaker, we are talking about potentially 100,000 American jobs that are directly tied to China and to trade with China; wheat, cotton, timber, chemicals, computers, and aircraft and many more are involved in this process. Trade relations that amount to $20 billion a year will cease because of this kind of unwarranted legislation.

There has got to be a better way that we can influence what goes on within China than to shoot ourselves in the foot. Look some of the workers in the eye in your districts and tell them that they are going to lose a job because we are trying to punish China; 100,000 potential American jobs.

How about those companies that have invested over $40 billion in capital invested in China? What happens to Hong Kong, that pure form of capitalism that has developed over there? What happens with the future of Hong Kong if we deny them that kind of business?

If we eliminate China's MFN status, Hong Kong will lose 43,000 jobs as well as $1.2 billion in income in the first year alone.

Let us not make that mistake. Let us work with China, trade with China, influence their policy through a constructive effort.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SCHEUER].

Mr. CRANE. Mr. Speaker, I yield 4 minutes to our distinguished colleague on the Committee on Ways and Means, the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Mr. Speaker, some will contend today that revoking China's MFN status would terminate United States-China trade, or cause drastic price increases on Chinese products. This is hardly the case.

I looked at the top Chinese imports, and determined what the worst case per-unit price increase would be to the U.S. importer, if these items were to lose MFN tariff treatment and be subjected to column 2—or non-MFN—duties.

In unstuffed fashion dolls, the average per-unit cost to the U.S. importer would increase from $4.48 to $6.80. In footwear with uppers of over 90 percent rubber or plastic, the average per-unit cost would increase from $4.27 to $5.44. In footwear with leather uppers and rubber soles, the average per-unit cost would increase from $8.43 to $9.19. In footwear with 100 percent rubber or plastic outer soles, the average per-unit cost would increase from $1.48 to $1.63.

Even if all of the costs of the additional column 2 duties are passed on to the retail level, Chinese products would continue to enjoy a price advantage over higher cost competing products. Further, they would still represent a bargain to American consumers.

Also, as a nonmarket economy country, China will use its ability to absorb additional costs in order to expand its $10 to $15 billion trade surplus with the United States. Continued access to United States markets means continued access to the hard currency China desperately needs. MFN or no MFN, China is too shrewd to forgo trade with the United States.

If you do not believe me, however, consider an analysis by the established Hong Kong firm, Baring Securities, on the effects of revoking China's MFN status. I quote:

> There is reason to believe that mainland-based manufacturers enjoy considerable room for maneuver in terms of their ability to control labor costs and profit margins, and that they would not boost prices in direct proportion to tariff increases.
>
> Reluctance to sacrifice market share is prevalent among Asian industrialists. The Chinese Government can also be expected to devalue the renminbi—possibly even sharply—in order to facilitate the adjustment to the shock of losing MFN treatment.

Even if MFN status for China ceases, United States-China trade will not.

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Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, I rise in strong support of the Resolution of Disapproval, House Joint Resolution 263, and of H.R. 2212, legislation to condition future most-favored-nation [MFN] trade status on respect for basic freedoms in China and Tibet.

Mr. Speaker, we have had too much vagueness and too much ambiguity in the messages that we have been sending to the Chinese Government. That vagueness and that ambiguity must come to an end.

I am sure all of us in this body remember sitting glued in front of our television sets that June watching the struggle for freedom in China. We marveled at the stirring sight of millions of people taking to the streets in peaceful protest. They were not throwing rocks. They were not throwing Molotov cocktails. They carried no weapons. They were armed with the most powerful message of all: that the yearning for freedom is universal and ultimately irresistible.

We were all witnesses to that event. We saw the tanks and troops. We saw the courage of one simple man who resolutely stood before a column of advancing tanks and refused to let them pass. We saw the bloody square.

Today, many months after this stunning event, over 270 prodemocracy protesters remain in detention without trial. Execution and torture is still not uncommon.

Asia Watch recently reported that China is systematically exploiting the labor of prisoners to produce cheap goods for export.

China continues to be intransigent in loosening restrictions on foreign travel, and its already repressive emigration policies have become worse. In fact, the Department of State reports that China has tightened existing restrictions on foreign travel.

And, despite a pledge from the Chinese Government not to engage in nuclear proliferation, there is evidence that the Government continues to actively promote the transfer of nuclear weapons technology.

Mr. Speaker, today we must send a clear and unambiguous message.

A message of sympathy to the families of those who died in Tiananmen Square.

A message of solidarity to those who were courageous enough to risk their lives on behalf of freedom and democracy in China.

And a message to the Chinese Government that if it does not improve its human rights record, improve its treatment of dissidents, and cooperate in the establishment of an international nuclear nonproliferation regime, that most-favored-nation status for China will be gone.

The legislation before us sends precisely that message. Let us remain steadfast in our support of the Chinese people in their struggle for freedom.

Mr. Speaker, I strongly urge passage of this legislation.

Mr. CRANE. Mr. Speaker, I yield 3 minutes to our distinguished colleague from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Speaker, just about 1 year ago the United States continued the policy of unconditional extension of most-favored-nation trade status with China. That is the policy which the President proposes again.

The question we must ask is, How has it worked the past year? Has it produced change in China? Positive change? The answer, unfortunately, is "no". The prisoners are still unaccounted for. Prisoners are still in jail. Harassment of Chinese students still goes on in the United States, conducted by representatives of the Chinese mainland government. Jamming of the Voice of America still goes on, and as the unfavorable trade balance grows, China continues to dump products on the American market, manufactured by slave labor.

If a policy does not produce positive change, it is time to change a policy. That is what we should do. I think the preferable way to change it is to adopt the Pelosi proposal, of which I and others are cosponsors, calling for an extension of most-favored-nation trade status, but with some very clear strong conditions, that put China on notice as to what we expect during the coming year, if they are going to get an extension a year from now.

This is the best way to use incentives. This is the best way to use our leverage, to bring about change. It leaves open the other options, if this fails, for later. We can always move to revocation or even back to unconditional extension.

I believe that this conditioned extension of most-favored-nation trade status will best align the United States with the future leaders of China. It will send a message to them that, yes, we care about trade, but we also care about democracy, and China, we are on your side.

This proposal will also send the best message to the whole world, that the

United States is a leader, both in promoting trade and in the economics sphere, but we are a leader in standing up for freedom around the world. Trade and human rights do not have to be opposites. They can go together. We have to look at our relationship with China. A nation that respects human rights will respect economic rights, and vice versa. In the long term, a democratic China will be better for American trade and investment.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Speaker, these are matters of judgment, and reasonable people can differ, but I think there is a good reason to question the President's approach in this whole area.

Today he lifts sanctions on South Africa. Today he urges no conditions on MFN for China. The President is at least being consistent. He will fight military might with might, but he shies away from the use of sustained pressure when it comes to human oppression by other governments.

As he said today, "I have never been enthusiastic about sanctions in the first place, and when I end them," he says, "I will do it cheerfully."

However, I am afraid that rhetoric alone is not going to suffice. The history of humankind shows the opposite. At the very least here, there should be conditionality. Read the Amnesty International report on China. Hundreds of prisoners remain imprisoned; many new arrests of political and religious activists; government opponents sentenced to prison terms after unfair trials. Torture is rampant. I am afraid the jawboning is not likely to bring freedom to the people of China.

I suggest, as I said, at the least, there should be conditionality and firm conditionality on any MFN for China.

Mr. MCMILLEN of Maryland. Mr. Speaker, I rise today in support of House Joint Resolution 2212, conditions on most-favored-nation [MFN] trade status for China in 1991.

My support for this resolution is based upon the fact that China needs to change its behavior if it is to retain the benefits of being a member of the family of nations. China's human rights record is deplorable. It continues to sell ballistic missiles to the Middle East, including Iraq and Iran. The government policy of coercive abortion, the brutal repression of dissent, and the continued occupation and destruction of Tibet makes it impossible to continue business as usual with China.

We keep hearing the promises of reform, but these promises are contradicted by actions. We can no longer follow a policy of appeasement, hoping that if we give a carrot up front then we will somehow gain influence over China's behavior. This policy has not worked, and I don't think continuing the policy gains us much. If we truly want to attain the ends which we all seek, we need to also have a credible threat.

There is no reason to be vindictive and cut off MFN status for fiscal year 1991. We are not out to punish China, but, rather, to provide incentives for a modification of future behavior. House Joint Resolution 2212 does just this: Conditioning further MFN status on a reformation of Chinese policies on human rights, arms sales, abortion, and trade policy.

I understand the problems American exporters face with this situation. We do export $5 billion in goods annually. But the $15 billion worth of goods which we import—some of which is produced by prison labor—is far more important to China than our exports are to our total balance of trade. Furthermore, if the administration was truly concerned with United States business interests in China, more effort would be spent opening markets to United States products, and reducing China's unfair trade practices.

It is not my intent to shut the door on relations with China. This is a country rich in history and tradition, and could give much to the future. Nontheless, the recent actions and policies of China make it morally intolerable to provide unconditional MFN status to China without some incentive to discontinue its deplorable behavior.

Mr. LAROCCO. Mr. Speaker, on May 29, President Bush formally requested the renewal of most-favored-nation [MFN] trading status for the Peoples Republic of China. This is the same China which in June 1989 directed a massacre at Tiananmen Square where over 1,000 prodemocracy advocates were brutally murdered.

China was originally granted preferential trade treatment in 1980. The continuation of MFN status is conditional on an annual Presidential review. Revocation of this trade privilege would subject some 90 percent of Chinese imports to higher tariffs which, in turn, would require its exporters to pay nearly $6 billion in additional duties. The bottom line is simple. A drastic reduction in annual foreign revenues would send a strong message a China's Government. The oppression of freedom can no longer be tolerated.

The reasons to suspend China's MFN status are obvious: widespread political oppression, the violent injustices done to its people, and the continued production and sale of nuclear-related weapons technology.

President Bush argues that using trade as a political weapon is unfair, and would punish the entire Chinese population instead of a handful of leaders in Beijing. The truth is that a handful of leaders has been punishing the Chinese population for decades. Restricting MFN status is our greatest chance to correct this injustice, and the best way to show the world that American assistance should not be taken for granted.

Last year, as in years past, the President urged the renewal of MFN trade status based on the economic importance of the relationship. He cited mutual benefits to both nations involved and a belief that, given time, the human rights record would improve.

Yet President Bush managed to ignore China's ongoing exploitation of prison labor. China produces large quantities of goods at a cheap rate because it forces its prisoners, many of whom were jailed for their prodemocratic beliefs, to work unpaid in factories under near slave-like conditions. With this type of unfair and inhumane competition, it is no wonder American workers are finding it difficult to compete with less expensive Chinese-made products.

China also poses a threat to global safety. As the only major nuclear power which has refused to sign the Nuclear Non-Proliferation Treaty, it continues to promote the nuclear capabilities of several volatile nations. China has provided tritium to Pakistan, sent plutonium ingredients to India, aided in the construction of a bomb-producing nuclear reactor in Algeria, and shipped uranium to Brazil, Argentina, and South Africa.

Congress can be certain that the threatened removal of MFN would provide a much needed wakeup call. The time has come to make it known that China's lucrative trade relationship with America cannot be taken for granted.

In a commencement address at Yale University last month President Bush said that American foreign policy has always been "more than simply an expression of American interests. It's an extension of American ideals." I could not agree with him more—which is why I oppose his request for further support of an oppressive, antidemocratic regime.

Mr. Speaker, the unconditioned extension of MFN status clearly contradicts American interests abroad. It is time to admit that the President's policy toward China has not worked, and time to adopt a policy which will.

Mr. RAMSTAD. Mr. Speaker, I rise in support of H.R. 2212, the Pelosi bill, which would condition the renewal of most-favored-nation [MFN] status for China.

Two years ago the world witnessed the horror of events that occurred in Tiananmen Square—tanks and troops advancing on unarmed students. China's human rights record remains deplorable. Since Tiananmen Square, the human rights situation has gotten worse and many of those intellectuals, students and workers that America's hearts went out to that day, are now languishing in the Chinese gulag.

Also, the administration's policy has not succeeded in stopping China's transfer of nuclear and missile technology to Third World countries, such as Syria and Pakistan, in violation of international law.

In addition, China's hardline restrictions on emigration violate the Jackson-Vanik statute which states that MFN trade status be reserved for countries with free and open emigration policies.

Turning a blind eye to China's flagrant violations of human rights and international agreements has obviously failed to bring reform. It's time for the administration to reexamine its China policy of engagement in terms of human rights, nonproliferation, global cooperation, and free trade.

The United States should use the leverage of MFN trading status to induce China to adopt free trade and legal arms shipment policies, as well as humane policies toward its own people.

H.R. 2212 is a reasonable and realistic approach to condition MFN to China. It renews MFN for China in 1991 and sets out achievable conditions for renewal in 1992.

Enactment of this bill will impose reasonable human rights conditions, lead to more releases of political prisoners, help reformers by enabling them to argue internally that brutal repression has its external costs and make China think twice about failing to comply with international nonproliferation agreements.

Our Nation needs to send a clear message to the Chinese Government that its cruel policy of repression is unacceptable to civilized nations.

Mr. Speaker, we can send this message by passing H.R. 2212.

Mr. SKAGGS. Mr. Speaker, I urge the House to adopt Ms. PELOSI's resolution tying the continuation of MFN treatment for China next year to several well-considered conditions dealing with its human rights, trade, and arms sales policies.

It is tempting in this debate to see China as a cohesive national entity that is subject to the conventions of Western diplomacy and influence. As much as I would like to believe it, I have over time been persuaded that such is not the case. It follows that we must deal with China in some ways which recognize that it's different; that it's not always susceptible to our logic; and, that we've got to be smart, or we won't be very effective in accomplishing our objectives.

Likewise, we have to appreciate the fact that China's economy has to a significant extent become differentiated regionally. We need to deal with the reality that the forces for political reform have tended to be coincident with the forces for economic reform and liberalization, which in turn have been concentrated in those areas where trade with the West has been concentrated.

Thus, to a degree, I buy the argument that hitting China with denial or conditioning of MFN will hurt the emerging reform elements while exerting less effective influence than we might imagine on the reactionary old guard in charge in Beijing. And so I decided, after reflection, not to vote for Mr. SOLOMON's resolution to end MFN status immediately this year, as appealing as it was to me to seek vindication for the moral outrage we all feel about the despicable way the Chinese regime has treated its people.

On the other hand, it's wise—as today's analysis by the Democratic Study Group suggests—to remind ourselves of the origins of MFN in the context of the international trading rules of market-based economies, as most clearly codified in the GATT. That is, it is in a very real sense inherently contradictory to apply the underlying premises of MFN to trade with a country that has a centralized economy where there's only the most expedient relationship between cost and price. The application of normal free-market notions of tariffs, or dumping, or the like, to trade with such an economy is awkward, at best. The DSG study rightly asks whether the unilateral granting of MFN status strengthens or weakens the world trading system.

Nonetheless, we are now constrained by recent history to proceed as if applying the concept of MFN to an economy like China's represents a legitimate policy. We can't recapture our intellectual innocence or our trade practices purity at this point.

But neither can we afford to sell our souls. First, I believe that a great deal of the credibility and influence of this Nation around the world still depends upon our remaining true to our principles. And second, I believe that ultimately even the Chinese Government, if not the current regime, then the next, will find it necessary to respond to our legitimate diplomacy, reinforced by well-crafted economic and trade policies that seek to move it to become a more responsible member of the community of nations, and to show a greater regard for the aspirations of its own people. The Chinese Government will simply see it as in its own enlightened self-interest to do so.

I am willing, then, to take the risk of some unwanted consequences to the economic-political reformer "good guys" in order to deliver a pointed message to the economic-political reactionary "bad guys."

The Pelosi resolution does the job of performing the requisite balancing act. It can and will be refined in conference. It is the best choice we have.

Mrs. MINK. Mr. Speaker, I rise to day to oppose the renewal of most favored nation trade status to the People's Republic of China. The Congress has played an active role in trade and tariff matters since the founding of the Republic. In these matters, we must maintain the right of the Congress to consider the human rights record of the countries we trade with. Our Nation stands for fundamental principles of hope, freedom, and democracy which we should actively promote in our diplomacy with other nations.

When the Chinese students in Tiananmen Square erected their own version of the Statue of Liberty, they were invoking a symbol which personifies—to the entire world—the highest ideals of our Nation. The Chinese students knew, as did Abraham Lincoln, that America's "reliance is in the love of liberty which God has planted in us. Our defense is in the spirit which prizes liberty as the heritage of all men, in all lands everywhere."

Mr. Speaker, most favored nation trade status for China must be evaluated against the human rights record of the government since the crackdown on Tiananmen Square. Unfortunately, the violations against human rights by Beijing have continued without even a brief pause. the rewarding of MFN 1 year ago has not moderated the behavior of the Chinese leadership.

The Government still prohibits free speech. Thousands have been arrested, and shot or sent to labor camps. The State Department has documented the use of cattle prods, electrodes, and beatings against prisoners. Some of the goods exported to the United States which received preferential trade treatment, were made by inmates in labor camps, which is a violation of U.S. law.

Most-favored-nation-trade status allows goods from an exporting country to be subject to the lowest U.S. tariffs. We should unconditionally extend this privileged treatment only to those nations who are making a significant effort to establish democratic freedoms within their borders.

Such is not the case with the Beijing leadership. They have not yet absorbed the wisdom of Thomas Jefferson when he said that "the care of human life and happiness, and not their destruction, is the first and only legitimate object of good government."

Mr. Speaker, I am cosponsoring H.R. 2212, which bars MFN status for China in 1992 unless the President certifies that China has accounted for and released all citizens arrested, held without charges, or sentenced because of the peaceful protests surrounding the 1989 Tiananmen Square demonstrations. H.R. 2212 also requires that the President certify that China is making significant overall progress in several other human rights areas.

H.R. 2212 gives the Chinese Government an opportunity to demonstrate its commitment to basic human rights. It uses a carrot-and-stick approach to provide positive incentives for the Beijing leadership to begin the necessary reforms.

Mr. Speaker, I recognize the importance of trade with China, but we cannot have trade at any cost. Respecting our most important principles is of greater importance than economic gain. H.R. 2212 encourages the Beijing Govermnnent to respect human rights. More importantly, it sends a clear message to the freedom movement in China that we support their goals and aspirations. America, the land of hope and freedom, stands by the struggling protestors for democracy in China.

Mr. GRADISON. Mr. Speaker, I believe revoking China's most-favored-nation status is not in our national interest, nor is placing new conditions on next year's extension in our national interest. I urge my colleagues to defeat both the Solomon disapproval resolution and the Pelosi conditionality bill.

Most favored nation is the term used to designate countries which are eligible for normal U.S. tariff rates. It is not a privileged status accorded to special friends. Imports from countries without most-favored-nation [MFN] status are subject to much higher duty rates. Rates often so high they effectively prohibit trade. All countries, except a declining number of Communist countries, have MFN status, including South Africa, Libya, Iraq, and Iran. All Western democracies currently extend MFN treatment to China.

Last year, many Members attempted to end China's MFN status in response to the tragic events in Tiananmen Square and China's restrictions on human rights. Unfortunately conditions have not improved significantly since then, and we are again faced with the same dilemma.

The debate over China's MFN status should revolve around two issues: what is in the United States interest, and what is most likely to promote positive change in China.

Continuing our trade relationship with China is in our national interest. MFN was originally extended to China in 1980 to demonstrate the benefits of trade and a more open society. Since then, China has begun to dismantle its state-controlled economy and has significantly improved its human rights conditions compared to the conditions which existed prior to 1980.

Trade has acted as a stimulus for these changes and has been the primary channel for contact with America and for the transmittal of our democratic value system. The result has been the creation of a new generation of Chinese with expectations that the current authoritarian regime cannot hope to meet.

The United States currently imposes the most stringent sanctions on China of all Western democracies. Weapons deliveries and military cooperation remain suspended; the United States remains opposed to World Bank loans to China; high-level exchanges have been canceled; and the President has designated China as a Special 301 country for violation of United States intellectual property rights which could lead to further trade sanctions unless China improves its copyright laws.

The Chinese Government is unlikely to change its ways to meet most of the conditions Congress will probably place on extension of MFN—conditions others in the West are unwilling to require. China would, then, effectively lose its ability to export to the United States, and would most assuredly retaliate against our trade interests. The United States currently exports 5 billion dollars' worth of goods and services such as wheat, aerospace products, computers, electronic machinery, cotton, and fertilizer. Many United States companies stand to lose a substantial amount of their investment in the Chinese market. It could also adversely affect over $4 billion of United States direct investment in China.

Some opponents of MFN for China argue that denying China MFN will improve our trade deficit. However, eliminating our bilateral trade deficit with China by cutting off trade with China is unlikely to have any beneficial effect on our total trade deficit. The cheap, low-value products that we import from China would likely be imported from some other cheap labor country and our high-value exports are likely to be replaced by exports from other Western industrialized countries. The result would be that American businesses would lose valuable export markets and American consumers would suffer.

We were all outraged by the massacre at Tiananmen Square, and continue to oppose the notable human rights abuses in China, but denying China MFN status is not the correct response. There are other more selective, and I think more effective, measures the United States can take to put pressure on China to improve its human rights conditions and to address concerns over arms proliferation and other issues that would damage United States interests less. Moreover, it is critical to the future development of China that America continue to influence the next generation of Chinese leaders, and the best way to transmit our values of democracy and the free enterprise is through exposure to trade. For all these reasons, China's MFN status should be allowed to continue. This isn't the most popular position or a politically expedient position to take, but I believe it's the right one.

Mr. FAZIO. Mr. Speaker, I rise in support of H.R. 2212. It is time that we send a clear message that the United States will not ignore China's abhorrent human rights record, avanced weapons sales to countries around the world, and unfair trading practices with the United States.

The Chinese Government's brutal suppression of political dissidents is undisputed. We all recall the graphic violence and blatant disrespect for human life that took place during the government's massacre in Tiananmen Square. China has also refused to become a responsible member of the world community with regard to trade and arms control. Granting China unconditional most-favored-nation [MFN] status will only continue to reward China for its refusal to address these issues.

To those who say that cutting off MFN benefits to China will hurt United States economic interests, I ask: Are we really hurting ourselves by conditioning special trade benefits to a country that uses prison labor to produce products for international markets, and which has virtually no respect for United States copyrights and patents? China has exploited these factors to accumulate a massive trade surplus with the United States and amass huge foreign currency reserves which effectively protect it from outside pressures.

One analysis suggests that if the United States were to demand fair and balanced trade with China, our economy would have grown by as much as $25 billion in 1990 and created an additional 400,000 jobs. Yet, despite the unfair trade practices and human rights abuses that have been documented in China over the last several years, the President is only too willing to grant to China the same trade status that we give our best trading partners. Not only is unconditional MFN status for China a slap in the face to the American principle of respect for human rights, it is a slap in the face to American workers and businesses as well.

In adopting H.R. 2212, we are putting China on notice that its MFN status is in jeopardy. At the same time, though, we give them an opportunity to take corrective action before MFN is revoked. The conditions outlined in this bill place China's MFN status in its own hands. If China makes progress on human rights, trade, and weapons proliferation, then it will be able to retain MFN status. If not, then MFN is automatically revoked.

Using MFN as leverage only works if the Chinese Government knows we are serious about taking this privilege away. Mr. Speaker, I strongly urge my colleagues to support H.R. 2212, and put some teeth into our relations with China by conditioning MFN status on real improvements in China's trade policies and abusive human rights practices.

Mr. GUARINI. Mr. Speaker, I have grave reservations regarding the wisdom of imposing conditions on the President's request to extend most-favored-nation [MFN] status to the People's Republic of China [PRC]. While reasonable men and women may differ, I believe that MFN is not an appropriate vehicle for achieving our political, social and foreign policy objectives in China. Moreover, I just don't believe that conditionality will work in this case. In fact, it is likely to be counter-productive, both in terms of improving China's internal situation and promoting America's self-interest.

Every Member of Congress has been revulsed by the repression of human rights in China, beginning with the Tiananmen Square massacre and continuing to this day. The PRC's use of prison labor is most disturbing, and the repression in Tibet is a tragedy.

All our problems with China are not confined to human rights. Proliferation of nuclear and nonnuclear arms is also a major concern. The sale of ballistic missiles to Pakistan and Syria and nuclear technology to Algeria cannot be overlooked.

Finally, our bilateral trading relationship is replete with difficulties. China's trade surplus with the United States is now second only to Japan's. China completely disregards intellectual property rights, and market access for United States exports is becoming more and more difficult.

With all these problems, it is only natural that we should think of revoking or imposing conditions on most-favored-nation status for China. However, the issue that we must confront is whether such action would be productive. China is sui generis, and what might work with other countries could backfire with China.

An historical perspective will help us assess our options. We are not dealing with a typical country, but the Middle Kingdom. How such a country, steeped in thousands of years of tradition, will respond to outside pressure, is by no means clear.

In evaluating China's susceptibility to economic pressure, we must remember that historically, China has resisted the allure of foreign trade, especially with the West. Efforts by the British, French and the Americans to open the China trade during the first half of the nineteenth century were stoutly opposed by Peking. Only by going to war were the Western Powers able to open up China for trade.

The Chinese did not willingly accept their defeat in the Anglo-Chinese War of 1839–42, which resulted in trade, albeit circumscribed, with the West. The ruling Manchu dynasty was begrudging in granting concessions to the Western trading powers. In part, this stemmed from strong domestic opposition to the Western incursions. Indeed, so great was the domestic dissatisfaction with Manchus' inability to effectively oppose foreign incursions that a revolt against the regime ensued on a scale unknown in the West, claiming millions of lives.

The dynasty survived these challenges, but embarked on a self-strengthening movement, designed to make it possible to sever all ties with the West. For many Chinese, this movement did not go far enough. The Boxer Rebellion of the late 19th century was xenophobic in character, motivated in part by the goal of modernizing the country so that China would be strong enough to break the foreign powers' domination of the country.

In 1911, China overthrew the monarchy and became a republic, but in name only. Traditions proved too powerful, and Western style democracy just did not take hold. What little support there was for democracy came from Western-educated students, many of whom had gone to school in the United States supported by remission of the Boxer Indemnity. Following the suppression of the Boxer Rebellion, the United States and the other powers imposed a huge financial indemnity on China. Some years later, the United States remitted the indemnity to educate Chinese students in the United States in order to gain the goodwill of the future leaders of China.

The Chinese Nationalists, or Kuomintang, came to power in 1927, led by Chiang K'ai-shek. To many Americans, Chiang, married to a Methodist, represented the accession of Western values in China. Nothing could be further from the truth. He was an old fashioned warlord, who proved incapable of overcoming the nationalistic appeal of the Communists, and eventually was deposed.

The year 1949 brought Mao and the Communists to power, and relations with the United States could not have been worse, nor China more isolated, until Richard Nixon made his dramatic visit to China over 20 years later. And, during this period of isolation, human rights abuses were perpetrated on a far greater scale than we see today.

There are some ironies here when we look back at our relations with China during the fifties and sixties. The Republican Party, led by Senator Joe McCarthy, pused for a moralistic, hard-line China policy. Even minimal contact with China was discouraged; you broke the law just visiting China. Many Republicans argued that the largest country in the world should be completely isolated. Conversely, many Democrats recommended a more pragmatic approach, arguing that the United States should recognize reality, deal with the Chinese Communists, and hope that this contact would eventually improve their conduct. I note that we have somewhat of a role reversal today between our two great political parties.

If we condition or revoke MFN, it will lead to reduced foreign trade and contact with China. I have concluded that this will strengthen the hands of the octogenarian leadership in Beijing by playing to the strong isolationist and anti-foreign sentiment in China and will prevent the emerging mercantile class from developing into a force that can challenge the current leadership.

The entrepreneurs of southern China will find it more difficult to mount a political challenge to the hard-line Communist leadership if United States trade benefits are withdrawn. The entrepreneurs need more time to gain in strength. Only by strengthening the mercantile class and promoting further contact with the West will we achieve democracy in China.

In addition to undermining the emerging mercantile class in China, cutting off or revoking MFN will place the United States at a severe disadvantage with our trading partners. No other industrialized country is now using or contemplating the use of trade as political leverage against China. If we act to cut off MFN, we will be acting alone. History has shown that economic pressure does not work when pursued unilaterally instead of on a multilateral basis, as was done with respect to South Africa or Iraq.

There are other, more targeted options than removing most-favored-nation status available to the United States that will enable us to press our grievances without undermining the very forces of change in China that we seek to assist.

Some people believe that when faced with the loss of huge trade revenues, the Chinese will ameliorate their behavior. But Chinese history suggests that this is not likely to happen, especially if our action forces China into isolationism. Throughout its modern history, contact with the West has produced positive changes. Isolation from the West has led to greater repression and human rights abuses. Just look at the Western-educated students that formed the core of the May 4th movement in 1919 or the Democracy movement, which was crushed some 70 years later, in Tiananmen Square.

Mr. Speaker, we must be very careful in deciding our course of action. Cracking down on China might make us feel good, but will it produce the kinds of changes that are needed in that country? We all share the same goals for China, but how do we achieve them? Not, in my judgment, by driving China into isolationism. Depriving China of trade revenues will force it to rely even more on weapons sales to generate needed revenue.

Almost a century ago, the Christian missionaries sent to China reported that the Chinese were proud, resistant to the Christian message of damnation and guilt. How resistant to conditions, sanctions really, will the Chinese be today? And, if conditions are called for, will we impose ones that can be realistically achieved? Many of the conditions contained in H.R. 2212 cannot realistically be achieved. More important, imposing any conditions at all on China will likely have just the opposite effect of what we are trying to achieve.

The preferable course of action is to continue to foster our trading relationship with China and to maintain and increase our contacts with that country. The octogenarians that lead China cannot last forever. We must be patient and not sacrifice our most promising opportunity to promote democracy in China, as well as a very significant trading relationship that supports thousands of jobs in the United States. To do otherwise would not only be short-sighted but would ignore the lessons of history, most especially Chinese history.

Finally, Mr. Speaker, when this debate is over, Congress should reexamine the entire nature of MFN status. Is MFN an appropriate vehicle for achieving political, social, and diplomatic objectives? Has conditionality been an effective tool in the past for achieving our goals or has it been counterproductive? Can we reconcile giving MFN status to countries like Burma, Syria, and Iraq while denying this status to China and the Soviet Union. This debate has made it abundantly evident why the United States should develop a coherent policy regarding MFN and the use and limitations of trade as a political and diplomatic tool.

Mr. JONES of North Carolina. Mr. Speaker, during this debate Members should know of a serious difficulty in trade relations between the United States and China.

Two U.S.-flag shipping companies provide service between our two nations. They compete with two Chinese-flag companies. This occurs pursuant to a bilateral maritime agreement signed several years ago.

Unfortunately, we continue to hear disturbing reports that China imposes severe and unfair doing-business restrictions on United States shipping lines. There are bars to United States carriers opening branch offices in China. There are impediments to our carriers collecting their lawfully filed tariffs or rates. Our carriers are prevented from conducting intermodal operations by running their own feeder vessels between Hong Kong and China.

We don't put similar restrictions on Chinese carriers doing business here. United States-flag carriers should receive fair and equal treatment while doing business in China, and our Government and this Congress should insist that they get it.

Currently, the Federal Maritime Commission has opened a formal investigation of these allegations. If the regulatory agency substantiates the charges, it can impose sanctions on Chinese shipping lines doing business in the United States.

As chairman of the House Merchant Marine and Fisheries Committee, I commend the Federal Maritime Commission for its aggressive use of the Foreign Shipping Practices Act, a 1988 statute that I sponsored.

China wants to keep most-favored-nation status. President Bush wants China to have it. In return, the United States must insist that China not discriminate against our companies doing business there. China must promptly eliminate the unfair burdens it places on United States-flag shipping.

Mr. LIGHTFOOT. Mr. Speaker, I rise today in support of unconditionally extending most-favored-nation treatment to the People's Republic of China.

My support for unconditional extension of MFN to the People's Republic of China in no way means I agree with or support all of that Government's policies. I do have deep concerns with China's human rights conditions, detainment of political prisoners, and family-planning practices. My past votes demonstrate these concerns. However, after carefully studying this situation, I have come to the conclusion that revoking MFN at this time is not in the best interests of the Chinese people or the American people. It has been the renewal of MFN that has granted the people of China the right to emmigrate more freely. MFN has also prompted the Chinese Government to adopt more liberal foreign travel policies for its citizens. Students are now able to study and travel abroad. Other Chinese citizens have been allowed to return to China to visit friends and family and depart again without restrictions.

Furthermore, by denying MFN to the People's Republic of China, not only will the Chinese people suffer through restrictive emmigration and travel policies, but they will endure economic hardships as well. The most market-oriented segments of the Chinese economy—the area the United States has worked the hardest to bolster—could be devastated. Southern China and Hong Kong, which currently enjoy strong economies based on free enterprise, could be stifled in their efforts to push for a market-driven economy. Eliminating MFN could mean these regions would fall prey to the hard-line centralist government that wants to exercise more control over enterprises in Southern China.

In addition, if MFN is not extended, American business, consumers, and agriculture will suffer. Without MFN, China would most likely retaliate against United States products and turn to other countries to meet their needs. Companies like McDonnell Douglas and Boeing would lose billions of dollars in aircraft sales; computer and electronic companies could suffer; and the U.S. agricultural industry would be set back hundreds of millions of dollars. Currently, China is one of the largest markets for United States agricultural products. We should be looking for ways to boost our farmers' incomes instead of taking away from them.

I believe the best way to approach China and achieve favorable results is to remain engaged, through MFN, with the PRC. Since 1980, when most-favored-nation treatment was first granted to China, international trade and investment have served as the catalyst for promoting reform in China. Through MFN, the

United States will have an active presence which offers an avenue to promote the American values of freedom and democracy, and the ideals which accompany them.

The United States currently has an agenda to address human rights, arms control, and other issues of concern. The Bush administration has achieved favorable results through their program. I believe Congress should allow the President to continue pushing for change along these lines, and grant unconditional MFN to China in order to promote the best interests of Chinese and American citizens alike.

Mr. STARK. Mr. Speaker, I stand in strong support of H.R. 2212, the Pelosi bill on MFN for China. Conditional MFN is our best leverage to get China to improve its record on human rights and nuclear and missile proliferation.

I am especially concerned about proliferation. China has sold nuclear weapons technology to countries all over the world. During the 1980's, the People's Republic of China sold: uranium-enrichment technology to Pakistan and Iraq, nuclear-weapons design to Pakistan, beginning in 1983, a nuclear reactor to Algeria too big for research and too small to generate power reliably, important nuclear equipment, materials, and technology to Iran, North Korea, India, South Africa, Argentina, and Brazil.

China also supplied many of these countries with missile technology as well. They are currently delivering M–11 missiles to Pakistan and are negotiating to sell M–9 missiles to Syria. Both of these are nuclear-capable missiles with ranges that exceed MTCR limits.

Under the Pelosi bill, the President can only renew MFN if he certifies that China is not contributing to nuclear and missile proliferation and is adhering to the MTCR export control guidelines on nuclear capable missiles.

The existing sanctions address foreign companies which sell missile technology—they are less effective when a Communist government is selling missiles. And, there are no sanctions for foreign companies or governments that sell nuclear-weapons technology.

These conditions can be met. China sells nuclear and missile technology to raise hard currency. Losing MFN will cost China billions of dollars in hard currency. This is a calculus China's leaders can understand.

Mr. YATRON. Mr. Speaker, I support the passage of H.R. 2212. I commend the gentlelady from California, Congresswoman PELOSI, for introducing this legislation and the other sponsors for their leadership on this initiative.

Given the events of the past year, such as the continuing human rights violations in China, the sale of ballistic missile technology to Pakistan, the skyrocketing United States trade deficit with China, and China's export of prison-made goods to the United States, China appears to no longer warrant MFN.

President Bush has decided to extend China's most-favored-nation trade status for another year. The human rights situation in China has not improved, if anything, the situation has gotten demonstrably worse—labor camps continue to grow, Chinese citizens continue to languish in prisons without charge or trial, and security police continue to occupy press offices.

The President has stated that conditions in China are better than they were in 1975. However, the administration failed to mention that they are worse than they were in 1978, when, for a short time, Chinese citizens enjoyed greater freedom than they do today. To harken back to the end of the Cultural Revolution, one of the worst periods in China's recent history, is to set the lowest possible point of reference by which to measure human right gains in China.

Mr. Speaker, in truth, what is taking place in China today has been going on for decades—forced labor is nothing new, China sold billions of dollars worth of nuclear and missile technology around the world during the 1980's, and China never respected intellectual property rights or basic human rights.

Anything less than strong economic pressure will result in more meaningless gestures from the repressive regime in Beijing. China will not change its policies unless it is induced by the strongest possible means, which in this case is the repeal of MFN. Therefore, Mr. Speaker, I urge my colleagues to vote for H.R. 2212.

Mr. GREEN of New York. Mr. Speaker, the Congress has been united in expressing horror over the events which took place in Tiananmen Square 2 years ago, and the wave of repression that has since followed in China. Where we have not all agreed, however, is on the best approach to take in order to improve the human-rights climate in China. I rise today in strong support of Representative PELOSI's bill, because I think her approach of applying strong conditions to the renewal of most-favored-nation [MFN] trading status provides the best way for this country to continue to press the leadership in China for reform, especially in the area of human rights.

China has enjoyed unconditioned and uninterrupted MFN status since 1980; yet China's egregious record on human rights, arms proliferation, and unfair trading practices has not improved, even after the international outcry over Tiananmen Square 2 years ago. So I do not see how it can be argued that taking a business-as-usual approach and renewing MFN status unconditionally is going to get us anywhere.

In the area of human rights, the Chinese record remains dismal. In the aftermath of the massacre in Tiananmen Square, an estimated 1,000 democracy and reform advocates were killed, and thousands, perhaps tens of thousands, were imprisoned. Most recently, Amnesty International's 1991 report notes:

> Hundreds of prisoners of conscience remained in prison throughout 1990, including many detained without charge or trial. There were many new arrests of political and religious activists, advocates of Tibetan independence and others. Torture of detainees by police and harsh conditions of detention continued to be reported. A dramatic increase in the number of death sentences and executions was recorded * * *.

Further, China remains the only major nuclear power which refuses to sign the Nuclear Non-Proliferation Treaty, and continues to assist nations such as Pakistan, India, Algeria, and others in developing nuclear-weapons capabilities. This reckless disregard for the international regime to contain nuclear proliferation must be condemned in the strongest possible terms by the United States. China is still not a party to the Missile Control Technology Regime. Clearly MFN status, which provides the Chinese with $3 to $6 billion in foreign currency earnings, provides our Nation with substantial leverage over Chinese proliferation policies. Chinese exports to the United States are reported to bring to China three times as much hard currency as arms sales since 1983.

In yet another area, United States-China trade involved $20 billion in exchange in 1990—$15.2 billion in imports from China, and only $4.8 billion in exports to China. This $10.4 billion trade deficit is the third largest for the United States. Our trade deficit with China has grown for 6 consecutive years. Reportedly, a good share of this deficit is fueled by the use of prison labor for export production, trade barriers, and a lack of respect for U.S. intellectual property rights.

Finally, on the longstanding problem of freedom for the people of Tibet, our country must insist that Beijing recognize the rights of all Tibetans to express themselves politically and religiously. When Congress received the Dalai Lama a few months ago, he maintained that during the 40 years of Chinese rule in Tibet, an estimated 1.2 million Tibetans have died at the hands of the Chinese, and over 6,000 monasteries and temples have been destroyed.

In summary, by conditioning MFN we provide the Chinese leadership with clear incentives to pursue reform in the areas which deeply concern us. At the same time, by conditioning rather than revoking MFN, we have not isolated those whom we seek to support within China. If we are simply going to cut off trade at this point, we are not likely to achieve improvement in China. Those elements in China who are likely to be the most reformist are in fact those elements that through trade have the most exposure to the world at large. If we totally cut ourselves off from those forces by revoking MFN, it seems to me we do a disservice rather than a service to the cause of reform within Communist China.

In closing, while this is a complicated issue, we must make a choice, and I strongly urge my colleagues to support the Pelosi legislation conditioning MFN. I appeal to the President to review his opposition to this thoughful and measured approach.

Mrs. LLOYD. Mr. Speaker, I rise today in strong support of the bill crafted by Ms. PELOSI and others, H.R. 2212, the disapproval of most-favored-nation status for China for 1992. As a cosponsor of this important legislation I am particularly interested in seeing its immediate passage and if necessary, a successful veto override.

Successful and profitable trade relationships between the United States and other countries are an intrinsic part of the U.S. economy and require special attention and nurturing. I believe trade preferences, like MFN, should not be awarded carelessly and should reflect the U.S. commitment to democratic ideals.

Our foreign policy stance has traditionally been to foster democratic growth abroad and when democratic ideas have been threatened or subverted in any way, we have always been extremely critical. In the interest of maintaining a consistent and successful foreign policy, we cannot grant most-favored-nation status to China. Tiananmen Square, coercive abortion practices, the jailing of political dissidents, forced prison labor and a host of other reasons clearly demonstrate that China is not tolerating democratic change and is in fact squashing any resistance to the status quo.

The conditions for MFN for China set forth in the Pelosi bill are not outrageous by any means. They are logical, humane, and democracy fostering ideas that, if adopted, could do a great deal to encourage China to rethink its current practices. Further they are aimed at closing the $10 billion trade deficit we have with the People's Republic of China.

This body has already approved one questionable trade bill in passing the fast track legislation earlier this year. I hope we will be more careful when considering approval of MFN for China for 1992.

Mr. HUGHES. Mr. Speaker, President Bush and the Chinese Government have told us that continued trade between our two countries is essential if we are to work together in other areas. Supporters of most-favored-nation status have told us that we will be more successful in our relations with China by encouraging democracy through continued trade.

We have tried that approach, it has failed, and the time has come to stand up for American principles and American jobs. The time has come to disapprove most-favored-nation status for China by passing House Joint Resolution 263. This bill does not end trade altogether, it merely takes away preferred trading status.

It is true that some of the people in China who trade with us favor democracy and capitalism more than the Communist leadership. However, their influence has not made any significant change in the human rights conditions in China in the 2 years since the bloody massacre at Tiananmen Square.

It puzzles me that President Bush asks us to cut off family planning funds for the entire world that are administered by the U.N. Population Fund because China forces many women to have abortions, yet when the Chinese killed and imprisoned democracy activists he rewards them by extending trade preferences. What is to stop the Chinese from funding the abortion program out of the profits from their $10 billion trade surplus with the United States?

Similarly, I am sure that there are plenty of capitalist minded people in Cuba who would love to do business with us and show their fellow Cubans the advantages of free enterprise, but we have an embargo against trade with Cuba. What principle justifies such favorable treatment for China?

A few United States companies are making a nice profit on their business in China, but many more companies are being wiped out by unfair competition from Chinese imports. Chinese products are sometimes built by prison labor, sometimes labeled as being produced elsewhere, and never produced in a situation where free market competition for raw materials, labor rates, and other business costs is reflected in the final price.

When American textile workers and other workers lose their jobs to Chinese sweatshops, it is not because they can not compete, its is because our leaders and our trade officials are not standing up for American principles and American jobs.

Our trade deficit with China was over $10 billion last year, and it will be significantly higher this year. Meanwhile, the Chinese seem to be punishing us for Tiananmen Square, as United States exports to China have actually dropped over the past 2 years.

Our colleague from New York, Mr. SOLOMON, has wisely recognized that the time has come to back up our words with actions. I believe that his bill, House Joint Resolution 263, is the best approach.

I would also like to recognize the dedication of Congresswoman PELOSI and her work on this issue as well as that of Mr. SOLARZ and Mr. PEASE. Their bill, H.R. 2212, makes an important contribution to the debate by proposing to extend MFN status for a year and then linking further extensions to human rights standards.

However, I do not believe that the basic assumptions of H.R. 2212 are realistic. If that is the case, the only difference between the Pelosi bill and the Solomon bill is that under H.R. 2212, China has another year to profit from yet another huge trade surplus, and American workers must face another year of unfair competition from China.

Mr. Speaker, we have given economic cooperation a chance. The time has come to take up the cause of those who held up a model of our Statue of Liberty as their emblem and to part company with those who smashed it to pieces.

Mr. KENNEDY. Mr. Speaker, today, President Bush removed economic sanctions against South Africa and announced his firm support for unconditional trade with China. At a time when human rights and democratic reform should be the backbone of U.S. foreign policy, the President has moved to undermine every moral principle that U.S. policy is built upon for short run political gain.

Despite Beijing's willingness to punish peaceful dissent, the President continues to support China's MFN status. Despite its spread of nuclear technology, the administration has not swayed from sponsoring China's access to United States markets. And despite China's use of prison labor to manufacture exports, the administration is willing to make it easier for China to sell those products to American consumers.

From Ethiopia to Eastern Europe, the United States has conditioned continued relations on human rights, free elections and democratic rule. But for China, this administration has allowed tyranny to go unchecked. Despite the death of the Warsaw Pact and the disarray of the Soviet Union, the administration continues to hold tightly to the China card.

Today we have the opportunity to reverse that policy. By supporting the Pelosi bill, we can condition MFN on ending Chinese nuclear proliferation, torture, and religious persecution. By supporting the Pelosi bill, we can require Beijing to open secret trials, allow freedom of speech and improve prison conditions. And by accepting the Pelosi language, we can condition future trade on China's adherence to the Joint Hong Kong Declaration.

Condition MFN and we renew U.S. moral authority to the world. Condition MFN and we can add new value to the China card. Condition MFN and we renew our commitment to the Chinese people.

Last year we were assured that China would take steps to improve its policies. But today we stand here to recognize that those policies have only worsened. Clearly, the Chinese Government can no longer be trusted to keep its word.

If we are serious about our commitment to human rights, freedom and democracy, then we should be serious about holding China responsible for its actions. If we are serious about promoting responsible trade relations that actually make a difference, then support the Pelosi bill. If we are serious about the new world order, then conditioning trade is a fundamental part of any future policy.

Mr. KLECZKA. Mr. Speaker, today the House again considers most-favored-nation [MFN] trade status with the People's Republic of China. Trade under MFN represents a longstanding principle of cooperation in commerce to benefit both trading partners. It is an outreach of international relations among nations.

This nondiscriminatory trade treatment is a privilege the U.S. grants to nations which practice internationally accepted standards of conduct. MFN status is afforded to nations which respect human rights and basic freedoms, adhere to international agreements and conduct nonrestrictive trade.

China has flagrantly violated these norms. Its history of human rights abuses, the reported proliferation of nuclear weapons and technology, and unauthorized occupation of the nation of Tibet have breached accepted international standards and provoked outcry from the world community. By granting unconditional MFN status, the United States would indirectly condone China's unacceptable practices. MFN status should not be renewed until and unless China's abuses are corrected.

The brutal and bloody suppression of prodemocracy advocates in Tiananmen Square two summers ago has not been forgotten. Despite international pressure, the Chinese Government has not acted to improve its human rights record. We continue to receive reports of torture, religious persecution, imprisonment without charge or trial, and harassment of Chinese citizens presently in the United States.

The U.S. must respond, and can do so effectively through trade policy. However, under the administration's trade policy since the Tiananmen massacre, the only success we have seen is China's success at increasing the United States trade deficit. The United States trade deficit with China was over $10 billion in 1990, and it continues to increase this year. We must not appease China.

For these reasons, I urge you to deny MFN trade status to China in 1991, and support the legislation introduced by the gentlewoman from California, [Ms. PELOSI], which makes MFN for China in 1992 conditional on improvements in numerous human rights matters discussed here today. H.R. 2212, as amended, addresses the human rights, arms control, and trade concerns which demand improvements. It is worthy of our support.

Mr. Speaker, it is time this Nation sends a message to China by using its trade leverage. It is the best way to summon a response from them on these important international concerns.

Mr. ROEMER. Mr. Speaker, I rise in opposition to both resolutions today which would deny or place conditions on most-favored-nation status for China. I do so not because I believe that China's human rights, trade, and arms proliferation records are admirable, but because I believe these resolutions will not achieve their desired results.

Everyone in this body agrees that China has committed atrocities in the area of human rights, and our reaction today is understandable. We are all outraged by what happened to students and citizens in Beijing during the Tiananmen crackdown in 1989. We also should not and cannot tolerate forced labor in concentration camps. Congress wants to do something and should do something. The question is what we do; the means by which we achieve it; and what is the result of our action. I believe that we already have the necessary and required means to begin to address each one of our concerns in China, whether it be utilizing "Super 301" enforcement provisions for unfair trade practices, or insisting that China join the missile technology control regime to address arms proliferation.

China remains today one of the most dogmatic and rigidly Communist societies in the world. The Chinese Government is still ruled by an informal confederation of elders that practice an old school style of communism. This point was brought dramatically to light when the first open expressions of democratic rebellion appeared in the streets of Beijing. When it appeared that the central government was threatened, the reaction of the Chinese leadership was swift and brutal.

Some would argue that this is the very reason that we must deny MFN status to the Chinese. They must be taught a lesson. However, I believe that an outright denial of MFN, or the placing of unrealistic conditions upon that status, might have precisely the opposite effect.

It is true that Congress has a rich tradition in safeguarding human rights for people everywhere by promoting democracy and defending liberty abroad. However, we will best preserve the rights of China's millions of people by voting to extend MFN status for another year. The democratic spirit is alive and continuing to percolate in China, albeit below the surface. Particularly in China's southern provinces, the progress of entrepreneurial efforts and industrialization is critical to the ability of the United States to influence events through our cooperative industrial efforts. Southern China has been indelibly infected with a thirst for free market business endeavors. In addition, many political freedoms have been extended to a growing number of Chinese citizens. Having visited this region in 1988, I have witnessed some of this metamorphosis.

These developments are the real harbingers of democracy in China, and they need our help to continue. Their proponents do not deserve to be deserted when the central government in Beijing is, by many accounts, in a period of serious retrenchment. The resolutions before us today may well only punish those who hope to encourage China's growth and increasing democratization through capitalism. We must proceed slowly so as not to hurt the very people we hope to help—those within the government who are pushing for free market reform and a more open democratic society.

These resolutions could have precisely the opposite effect claimed by their sponsors—they could strengthen hard-liners in China who want to distance that country from the United States, they might further isolate China in the world community, and cause China to move backwards on human rights. Without trade and economic links to the United States, including very important exchanges between the two countries which encourage exposure of an increasing number of Chinese to American democracy, the aging Chinese leadership could continue to become isolated and less inclined to address human rights and other concerns. Alternatively, we can extend MFN for 1 year and continue to press for our concerns. If the situation does not improve in China, we can always re-visit this issue after applying the "carrots and sticks" that we currently have in our diplomatic and economic arsenals. It also should be noted that we currently extend MFN status to over 100 nations. We should not apply unfair and unrealistic standards to MFN with China selectively.

Finally, we must consider carefully the implications of this action on United States businesses, our overall trade balance, and our future trade relationships in the Pacific rim area. United States exports to China create jobs in the United States aircraft, machinery, and other industries, as well as provide markets for United States agricultural products such as fertilizer, cotton, and wheat. Our farmers should not be forced to bear continued hardships because of the use of food and commerce as leverage points with China. Furthermore, if the United States cuts off MFN to China, these exports—and the United States jobs they create—will go to United States competitors in Japan, West Germany, and other Western nations—nations which continue to provide MFN status to China.

In summary, Mr. Speaker, I strongly believe that the measures before us today are unrealistic in their expectations, and that they will only encourage China to slip further back from reform into the abyss of communism. I urge my colleagues to renew MFN for China for an additional year, and give the President's program of very specifically targeted sanctions and rigorous trade enforcement measures time to work.

I ask unanimous consent that a Wall Street Journal article be entered into the RECORD:

China's Entrepreneurs Are Thriving In Spite of Political Crackdown

(By James McGregor)

GUANGZHOU, CHINA.—Listen to the divergent sounds of the new China, the one born in the aftermath of the Tiananmen Square massacre two years ago.

At the New Brightness Flower Garden Night Club in this southern city, a young man in jeans and a black leather jacket mockingly sings Maoist revolutionary ballads to a disco beat. He brushes his waistlength hair back as he launches into the old Mao tune "I Love Beijing's Tiananmen." The audience laughs, relishing the irony. Nearby, people gather in noisy restaurants to discuss business, celebrate a family milestone or talk openly with foreigners. The city is alive with enterprise and ideas.

Switch now to Beijing, 1,200 miles to the north, the seat of government and wellspring of Communist ideology. Here, Communist Party leaders intone well-worn political slogans and jail anyone who speaks his mind. The People's Daily newspaper, the party's mouthpiece, publishes ponderous essays on topics like whether to address women as "Miss" or "Comrade." Nightlife is virtually absent, talk with foreign journalists is fearfully avoided and the only Chinese patronizing the better restaurants are the government elite, dining at government expense.

SHIFTING POWER

This is the split personality that has emerged in China since government troops gunned down the nation's democracy movement on June 4, 1989. The elderly Marxist ideologues who rose to lead the country after Tiananmen failed to turn back the clock in the southern city of Guangzhou and other free-wheeling coastal areas as they had hoped. Instead, by dithering over political ideology and failing to devise clear economic policies, they have unwittingly handed much of the initiative for the nation's development to pragmatic leaders in China's provinces and larger cities. By focusing on political repression and propaganda campaigns. Beijing's top leaders are in some ways making themselves irrelevant.

"The agenda is being set by the provinces," says David Shambaugh, a professor of Chinese politics at the University of London, who is now in Beijing conducting research. "The center is trying to keep up with the political and economic realities of what is going on outside of Beijing and then turning around and trying to seize the reform mantle as their own."

A senior Communist Party official in central China puts it more bluntly: "Beijing, Beijing, who has time to listen to Beijing? I've got lots of problems, and Beijing doesn't offer me solutions."

LOST MOMENTUM

Before Tiananmen Square, Beijing bubbled with ideas. Zhao Ziyang, the former party chief who was deposed by conservatives during the demonstrations, had formed think tanks and let many others do the same. Researchers studied Europe, Japan and America looking for ways to make China's government more stable and effective. Beijing's universities churned out a blizzard of reports on free markets, foreign management techniques, modern banking and Western social-welfare systems—all in the hope of transforming China and pulling it from its toubled past.

In contrast, the new party chief, Jiang Zemin, is busy these days visiting police stations and military posts to enlist help in "building an ideological Great Wall to resist peaceful evolution." "Peaceful evolution" is the leadership's term for what it sees as a Western plot to subvert communism by infecting it with capitalist and democratic ideas.

At the same time, Premier Li Peng, representing the old-guard hard-liners, is trying to revive state-owned factories, two-thirds of which are losing money. His latest endeavor is investing $105 billion in new equipment over the next five years while training "socialist entrepreneurs" who will "rely on the leadership of the party to bring out the enthusiasm and creativity of workers and staff members."

To be sure, the government is allowing some Beijing thinkers who were generating pre-Tiananmen reforms to tinker at the edges of economic policy. The government has enacted some price reforms and devalued the Chinese yuan. And there are renewed plans to allow some people in urban centers to buy their homes.

But the changes are tentative and incremental. Many of Beijing's most capable researchers either have left the country or are keeping their heads down. "They still waste our time at political-study sessions, but nobody pays attention," says a middle-aged writer who is trying to get a visa to the U.S. for his daughter. "Everybody just goes through the motions, even the party people who are in charge."

Instead, people looking for innovative discussion generally look outside the capitol. This apparently includes even the aging leader Deng Xiaoping. After he visited Shanghai recently, the city's Liberation Daily published articles, believed ordered by Mr. Deng, that constituted the first public call for bold economic change since Tiananmen.

GOING LOCAL

Two months later, a conference to study Mr. Deng's philosophy of economic pragmatism was convened not in Beijing, but in Chengdu, the remote capitol of Sichuan Province. A group of European and Hong Kong financiers have launched a new $39 million China venture capital fund that has bylaws limiting its investments to China's coast, where the financiers can deal with local governments.

"It's not that we want to bypass the central government, but if we work with local governments we can get things done," says Frank Tsui, director of the venture, China Assets Management Ltd.

Just about anywhere one travels in China—from the northeastern province of Laoning, where the smokestacks of aged state factories have gone cold, to the rural southwestern province of Sichuan, where tiny farm plots can't keep the huge population employed—local government leaders have adopted a common survival technique. For their own protection, they keep an ear cocked toward Beijing to pick up the latest political gossip. But their attention is focused on China's coast, where foreign investors and export-oriented factories are giving Chinese workers a better standard of living.

"Local government and party leaders listen to Beijing as much as they have to and then they do the practical things necessary to improve the lives of people they are responsible for," says a Guangdong Province businessman, who is close to local officials. "The leadership, no matter how much they want to turn things back, is pulled along by the momentum of reform.

LOOKING SOUTH

Over the past two years, Guangdong and its capital Guangzhou, or Canton, have risen ever-higher as a symbol of China's future, just as Bejing has come to represent its past. It is difficult to find a local government leader in China who isn't trying to emulate this prosperous province, which abuts Hong Kong.

The numbers tell why. Guangdong is the site of 13,320 projects involving foreign investment, about half of all such projects in China. With this $13 billion in foreign captial, Guangdong has built a manufacturing machine that exported $10.5 billion worth of goods last year, about 17% of China's total.

Per-capita income here is almost double the national average, and bank deposits in the province are swelling. Building walls are covered with ads for consumer products, not communist slogans. And companies here motivate workers with profits and material incentives, not dogma about selfless socialist enthusiasm.

Beijing is leaving Guangdong and other coastal areas alone largely because it is hooked on the export revenue these islands of enterprise bring in. Exports from China reached 19% of the gross national product in 1990, up from 12% in 1988, the year before Tiananmen. When Mr. Deng first launched reforms in 1978, exports accounted for only 4% of GNP. China's economy has become so dependent on exports that the debate under way in Washington this week over whether to continue the most-favored-nation trade status for China is looming large here. If the favorable tariff arrangement should be withdrawn, as many in Congress want, China's already-fragil economy could be sent into a tailspin.

BUDGET DRAIN

Economists say China's non-state factories, which are its export engine, last year accounted for 70% of the nation's industrial growth. While the coastal provinces where these factories are situated are flush with cash, Beijing is projecting a $10 billion budget deficit for the central government this year. Almost one-third of the government's budget goes to providing price subsidies for urban consumers and propping up money-losing state industries. Production from those state-run factories grew by only 2.9% last year. At the same time, the output of enterprises involving foreign investment jumped 56%.

Two years after the Tiananmen bloodshed, China has become so dependent on exports and foreign investment that Beijing has little choice but to continue courting foreign investors and private entrepreneurs—the very forces it worries may ultimately destroy the party's grip on power.

"Even during the turmoil I was not scared; I figured it was impossible for the country to turn back." says Huang Quan, a Guangzhou entrepreneur who employs 38 people in a private factory producing jade pendants. "I believe the government had to think, 'If we change the policy, where will all of these people work?'"

Mr. STOKES. Mr. Speaker, I rise in strong support of H.R. 2212, which establishes conditions on the granting of most-favored-nation status to the People's Republic of China in 1992. I want to take this opportunity to commend my colleague, the gentlewoman from California [Ms. PELOSI], who in conjunction with Mr. SOLARZ and Mr. PEASE introduced this intelligent and thoughtful legislation. H.R. 2212 crafts a reasonable compromise between those who would want to extend MFN status to China unconditionally, and those who argue for denial of MFN status immediately.

Mr. Speaker, we must not forget the Tiananmen Square massacre or the Chinese government's brutal suppression of student protestors. Rather, we must answer the Chinese peoples cry for freedom and democracy by continuing to press for adherence to international human rights standards. H.R. 2212 permits most-favored-nation trade status for China in 1991, but establishes a number of conditions for the granting of MFN trade status in 1992.

Under H.R. 2212, the President must certify that China has accounted for and released those citizens who were arrested, held without being charged, or sentenced because of the peaceful protests in Tiananmen Square in support of democratic reforms. Also, the President must certify that China is making significant overall progress toward the lifting of press restrictions; the prevention of torture and inhumane prison conditions; an end to intimidation and harassment of Chinese citizens in the United States; and curbing gross human rights violations, especially in Tibet.

In addition to these human rights conditions, H.R. 2212 includes additional conditions which the President must certify before MFN status can be granted for 1992. These additional conditions include: the cessation of the export of goods produced by forced prison labor; assurances that China is not assisting non-nuclear nations in acquiring or developing nuclear weapons; and ending the practice of coercive abortion and involuntary sterilization.

All of the conditions embodied in H.R. 2212 are reasonable standards which we should expect any nation wishing to acquire most-favored-nation trading status to satisfy. H.R. 2212 also provides China with a full year to make progress toward the satisfaction of these conditions before jeopardizing their trade status with the United States. Certainly no one could argue that the language of H.R. 2212 would impose too heavy a burden on the Chinese Government, or that the conditions are unduly harsh.

Mr. Speaker, H.R. 2212 is a fair and just bill which allows China the opportunity to reform their conduct, and make progress toward internationally recognized standards of human rights, without being punished. If there is no progress toward the goals established in this bill in China after a full year, then the denial of further favorable trade status will convey the message to the Chinese Government that their conduct will not be tolerated by the international community. I strongly urge all my colleagues to take a stand for human rights, and vote for passage of H.R. 2212.

Mr. VENTO. Mr. Speaker, I rise in support of H.R. 2212, which would permit the extension of most-favored-nation [MFN] trade status for the remainder of 1991, but which would bar MFN status in 1992 unless the President certifies to Congress that China has met certain important conditions.

Specifically, the President would be required to certify that China has accounted for and released all persons who were arrested, held without being charged, or sentenced to prison because of their participation in the peaceful protests surrounding the 1989 demonstrations in Tiananmen Square. The President would also have to certify that China is making significant overall progress to prevent gross violations of human rights, including against Tibetans removing press restrictions; ending intimidation and harassment of Chinese citizens in the United States; granting access by humanitarian and human rights groups to prisoners, their trials, and places of detention; and ending bans on peaceful demonstrations.

An additional en bloc amendment offered by the chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI, would also establish a few additional important conditions. The President would have to further certify that China has taken steps to prevent the export of goods to the United States made with prison labor; that China is not assisting nonnuclear countries in acquiring or developing nuclear weapons directly or indirectly; and that China has ended its programs of coerced abortions or involuntary sterilization.

Mr. Speaker, millions of Americans and millions more around the world will recall the unforgettable image on our television screens after the weeks of vigil when finally the peaceful demonstrators who stood were met with tanks and guns which crushed the democracy movement in 1989. These individuals came to symbolize the courage of thousands of Chinese who protested peacefully for a more open and just society. The response of the Chinese Government was not to engage the demonstrators in meaningful dialog about compromise or democratization. Instead, the Chinese leadership after some artful dodging opted to commit force and the resulting deaths occurred on the streets of Beijing. Hundreds were killed as the world watched in horror. Thousands more fled for their lives. A few of the fortunate ones escaped from China and are living in exile around the world continuing to work for the day when China will be free from such tyranny.

The response of the Bush administration since 1989 has been to pursue a failed policy of accommodation with the Chinese leadership. For the past 2 years, President Bush has maintained and now seeks to renew China's MFN trade status while working to waive or weaken every significant military or economic sanction which Congress has sought to impose on China to modify its policies.

What has the Bush administration's policy of accommodation with the Chinese leadership gained? Instead of promoting moderation, it has emboldened the Chinese Government to become more repressive than ever.

China's record on human rights is one of the most deplorable in the world today. Major international human rights groups, such as Asia Watch and Amnesty International, have documented literally hundreds of cases of gross violations of human rights. Thousands of prodemocracy demonstrators have been shot, forced into labor camps, or have simply disappeared with no further trace. Even the State Department itself has documented the use of cattle prods, electrodes, and beatings against Chinese prisoners. China's policy of coerced abortions and forced sterilizations is contrary to any minimal standards of decency and respect for human rights and life.

There is no free emigration in China today. Emigration is strictly controlled and those most desperate to leave have no realistic opportunity of doing so.

China's export of nuclear technology and missiles continues unabated. Despite promises made to National Security Advisor Brent Scowcroft during his secret visit to Beijing only weeks after the Tiananmen Square massacre, China has not stopped or reduced its missile sales to the Middle East, including Iraq. China continues to refuse to permit international inspection of its nuclear weapons facilities.

Finally, the record shows that China has enjoyed a trade windfall from having MFN status while the United States has been denied the access to the Chinese market that it deserves. Meanwhile, U.S. jobs have disappeared in clothing, textiles, and other industries.

Since 1982, China has had consistent trade surpluses with the United States. During the past decade, China's trade surplus with the United States increased from $2.1 billion in 1980 to $10.4 billion last year. Since 1989, Chinese exports to the United States have nearly doubled, while United States exports to China have actually fallen. China's trade surplus with the United States is now second only to our adverse balance with Japan. Indeed, China appears to have targeted the United States market as Chinese exports to the United States have increased more than 700 percent since 1980, while their exports to the rest of the world have only increased by 56 percent.

This consistent and growing trade surplus has allowed China to amass huge United States currency reserves which, along with continuing limitations on United States entry into the Chinese market, have cost American jobs. By one estimate, if United States trade with China were on an equal footing, a half a million new United States jobs would be created.

Mr. Speaker, the conditions in H.R. 2212 are very reasonable, are in the U.S. national interest, and most importantly, such conditions are totally achievable if China makes the commitment to do so. Indeed, the bill gives China another full year to comply with such conditions. China's leadership has it within its own power to determine now whether MFN status will continue to be extended beyond next year. I urge my colleagues to join me in voting for H.R. 2212.

□ 1510

Mr. CRANE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

DISAPPROVING THE EXTENSION OF MFN TREATMENT TO THE PEOPLE'S REPUBLIC OF CHINA

The SPEAKER pro tempore (Mr. TORRES). Pursuant to section 2 of H.R. 189, it is now in order to consider House Joint Resolution 263.

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to H.R. 189, I call up the joint resolution (H.J. Res. 263) disapproving the extenstion of nondiscriminatory treatment—most-favored-nation treatment—to the products of the People's Republic of China.

The Clerk read the joint resolution, as follows:

H.J. RES. 263

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to the Congress on May 29, 1991, with respect to the People's Republic of China.

The SPEAKER pro tempore. Pursuant to House Resolution 189, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes, and the gentleman from New York [Mr. SOLOMON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Joint Resolution 263 would rescind China's most-favored-nation [MFN] status, effective 60 days after enactment. I strongly urge my colleagues to oppose the resolution.

Mr. Speaker, Members who support House Joint Resolution 263 will argue today that the United States must send a clear and unmistakable signal to the Chinese leadership—that civilized people find China's behavior in the area of human rights, and many of its foreign policy actions, to be unacceptable. I fully agree. But voting for House Joint Resolution 263 is not the proper way to send that signal.

A vote to cut off China's MFN status is a vote to cut off all potential influence by the United States over Chinese behavior. I will be the first to admit that we have not been as successful as any of us would like in bringing about improvements in China's behavior in recent years. However, I believe that our best hope for influencing Chinese behavior in the future is to remain engaged in trade with China now. We have been able to gain the release of some prisoners. We have been able, for the first time, to draw China into discussions about limiting arms transfers to the Middle East. What would have been the situation if the United States had severed its most important trade ties with China? Would China have cooperated in the United Nations' efforts to mount a coalition force against Iraqi aggression? The answer is clearly "no."

Mr. Speaker, I urge my colleagues not to vote to return China to its isolationist past. Such an action would only play into the hands of China's hard-line leaders, who would love nothingmore than to see their western-oriented provinces and their people brought back under central control.

Later today, Members will have the opportunity to vote on the Pelosi bill which establishes tough new conditions that China must meet in order to qualify for a continuation of most-favored-nation status in 1992. That bill sends a strong message to China's leaders, but keeps the door open to important contacts and improved relations with the Chinese people.

I urge my colleagues to oppose House Joint Resolution 263.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me also thank the committee chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI] and the Ways and Means Committee for reporting my bill to the floor.

I speak today with a conscious sense of how improbable this moment might be.

Mr. Speaker, no Member of this House has carried more water for the Reagan administration and the Bush administration than I have over the last 11 years, but I must rise today in opposition to the proposal to renew most-favored-nation treatment for the Communist People's Republic of China.

The resolution before us, House Joint Resolution 263, which I introduced with a bipartisan group of 16 cosponsors, would overturn President Bush's recommendation of May 29 that most-favored-nation trade status for China be renewed for another year. China's MFN status would be terminated the day this joint resolution is enacted.

Mr. Speaker, I do not offer this joint resolution lightly, but I do offer it as a way of making an essential point. Our country does not owe most-favored-nation status to any country, much less to a country with a nonmarket economy.

Our first concern should always be to demonstrate that there are tangible rewards for those countries that embrace freedom around this world. At a time when China is not moving toward reform in either its politics or its economy, and at a time when China is taking no substantive steps to open its own markets to American products, why should China be enjoying a $10 billion trade surplus against the United States? That annual trade surplus in China's favor is now moving toward $15 billion, the second largest such deficit in the world, the first being our trade deficit with—who do you think? Japan.

What has China done in return for the benefits that MFN brings? Here is what they have done, Mr. Speaker:

Certainly we all know that hundreds, probably thousands, of Chinese citizens remain in detention throughout the country and they have no prospect of ever receiving a free, a fair, or an open trial. Now we learn that prisons and labor camps are the source of exports that are coming into this country.

Read the New York Times and the Los Angeles Times. Goods produced by slave labor are coming into this country right now today, this very moment.

We know that political indoctrination has been reintroduced as standard fare in Chinese schools. We know the rights of college students, particularly, and all citizens generally to leave the country have been curtailed, almost eliminated altogether.

Jackson-Vanik, Mr. Speaker, the law of the land here in America is regularly violated in China. We know the subjugation of Tibet continues without a letup.

What an irony it is that our country has just fought a war over the very same principle that is at stake in Tibet right now: the right of a small country to live in peace and be free from the intimidation of a larger neighbor that covets its resources.

Just last week, Mr. Speaker, a prominent Catholic bishop in China was arrested, evidently in retaliation for the Pope having appointed a new cardinal to serve the needs of Catholic believers in China.

Another article that appeared in the Los Angeles Times and the New York Times says that executed prisoners in China now have their kidneys being sold in other parts of the world. What kind of human rights are these, particularly in a Chinese culture where the entire body is reverenced and means so much at burial time?

Then we consider China's continued flaunting of international norms, its ongoing sales of missiles and nuclear technology to other countries without any regard for international safeguards and inspection procedures. Chinese sales of ballistic missiles to just about every belligerent state in the Middle East have been well known for years, played up on the papers every day in recent weeks. On top of all this we have learned in recent days of Chinese sales of nuclear technology to Algeria, and possibly Iran. Where in the world is that going to lead to down the road?

Mr. Speaker, and my colleagues, this picture is as clear as it is ugly. The Chinese leadership functions as a law unto itself. The Chinese leadership functions as if it enjoys immunity against the tidal wave of freedom that began sweeping across the globe in the 1980's.

Mr. Speaker, an unconditional renewal of MFN, as the administration has recommended, can only serve to reinforce the illusions under which the Chinese leadership operates today. It can only serve to reinforce their attitude that they can write their own rules and do whatever they want to.

Mr. Speaker, MFN status was first extended to China 11 years ago, over my no vote. At the same time, this Congress made a conscious decision to withhold such status from another Communist nation called the Soviet Union. A policy of firmness and the persistent application of pressure against the Soviet Union have resulted in the collapse of communism in that country, and the Warsaw Pact nations, and all over the world, except in China.

Mr. Speaker, we should do no less when it comes to China. Let us not forget that the Chinese Government is a vicious Communist dictatorship, and we have no business being a partner in keeping these thugs propped up in power, which is what we are doing.

I will conclude, Mr Speaker, by citing an editorial from the New York Times dated April 26, 1991. The editorial takes note of the compelling evidence that China has an active policy of using labor camps for the manufacture of export items destined for markets in the United States, Germany, and Japan.

> Extending trade privileges to a gulag economy offends the most basic American values.

And the editorial concludes by saying:

> For the past decade, China has been granted waivers on the reasoning that growing trade relations will bring the Chinese people human rights gains as well as economic benefits.
>
> This year, such reasoning will be hard to sustain without gagging on the idea of Gulag work gangs.

□ 1520

Mr. Speaker, the time has come to stand up for what is right. The time has come to call the bluff of these Chinese leaders. The time has come to say that our Nation's preeminent role in upholding human rights around the world does not stop at the Chinese border.

Mr. Speaker, vote yes on this joint resolution. Take away MFN status now, and the old men in the Great Hall of the people will get the word. If we begin seeing reforms in China we can reinstate this MFN tomorrow.

We can reinstate it 3 months from now. If the Chinese leaders are sincere, we will see some reforms there; but if they are not, we will see the same thing that has taken place since all of us stood on this floor 1 year ago and some on both sides of the aisle said, "Let's give them another year."

Well, ladies and gentlemen, we gave them another year, and things got worse. People are dying, human rights are being denied to human beings, and that is wrong.

That is why I say pass the Solomon resolution today, and we will see in 3 months whether they are sincere or not. If they do make some reforms, I will be the first to introduce the resolution and to push Members on all sides of the aisle to reinstate MFN for China.

Let us see if it works.

Mr. Speaker, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I urge the adoption of the resolution pending, ending most-favored-nation treatment for China.

This is not a debate about how best to move China in the direction of human rights.

This is a debate about whether or not that is relevant.

The position of the Bush administration is very clear: Human rights, schmuman rights; the Bush administration regards our introduction of human rights into this debate as an eccentricity.

The President thinks that foreign policy is about big issues, the balance of power, stability in the world. Free speech for dissidents does not really come on to his radar screen. Nor, when he is talking about these kinds of issues, do side issues like jobs in America or our domestic economy. No one thinks the Chinese have any intention to buy very much from the United States. They have a mercantilist society. Talking about free trade with

China is like talking about trade in pork products with Israel. It is not something in which they have a great deal of interest.

The Chinese have, as my friend from New York has pointed out, a large surplus with the United States, and it is growing. They will very soon have, if they do not already have, the largest ratio in their favor because they believe in selling to us goods that are, by and large, not made in anything remotely resembling a market economy, and not buying anything from us in return.

And to George Bush, for whom domestic policy is really an interference in his workday, for George Bush the key is for us to make the leaders of China happy. It is to curry favor with the people who run the People's Republic of China so they will vote more with us in the United Nations, so they will agree with us on the solution in Kampuchea, so they will defer more to America's role in the world.

The President is not interested in pursuing human rights. And the notion that we will get more from the Chinese by engaging with them obviously is not something that people believe. If that was the case, we would be trading with Cuba. If that was the case, he would not have supported some of the sanctions he supported in the past in Central America.

The President thinks it is in the interest of the United States as a world power to deal with China, and the insistence on most-favored-nation status with China looks more like the insistence on continuing the trade with Iraq, more than anything else.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

RELATING TO MOST-FAVORED-NATION TREATMENT FOR THE PEOPLE'S REPUBLIC OF CHINA

DISAPPROVING THE EXTENSION OF MFN TREATMENT TO THE PEOPLE'S REPUBLIC OF CHINA

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the distinguished ranking member of the Committee on Ways and Means, the gentleman from Texas [Mr. ARCHER].

Mr. ARCHER. Mr. Speaker, House Joint Resolution 263, while well meaning, represents an extreme and counterproductive response by the United States against the immoral practices committed by the Communist government of China against its own people.

Yes, we all want to take action against Chinese soldiers beating, torturing, and crushing peacefully protesting students with tanks in Tiananmen Square. But we must ask ourselves, "How do we do it to gain the most?"

In my opinion, denying MFN would lose far more than we could hope to gain for the Chinese people, about whom we are all deeply concerned.

Congress must seriously consider the consequences of withdrawing normal tariff treatment for China and this ending, for all practical purposes, any significant United States trade with that country.

It would seriously erode American influence there and would play into the hands of the hard liners in the Chinese Government at the expense of citizens and leaders seeking economic and political reform.

Under current law, MFN for China is conditioned only on emigration policies. The annual renewal procedures were designed to promote free emigration and to remove MFN only if China, or any other nonmarket country abandoned free emigration policies or made no effort to improve and reform their practices.

Although China's record is not perfect in this regard, they have continued to apply a relatively free emigration policy.

The principal restraint on emigration is not Chinese policy, but the capacity and willingness of other nations to absorb Chinese immigrants.

In addition, China continues to pursue a relatively open foreign travel policy; 255,000 people were issued passports for private travel in 1990, more than a threefold increase since 1986.

Emigration policies should not become the mask to punish China for other human rights violations. Such deplorable human rights abuses must be addessed directly, preferably with a unified U.S. policy that Congress and the President have formulated together.

Can returning China to isolationism, undermining United States business and investment in that country, tossing aside jobs generated by $5 billion in United States exports, and abandoning reformist elements in China be justified by the United States in trying to achieve its human rights and foreign policy goals?

I think not.

The United States shoulders a great responsibility not only for ourselves but also for the interests of the Chinese people and of China's neighbors, such as Hong Kong, Korea, and Taiwan, who could be seriously harmed by United States actions which could destabilize the region.

The stakes are high and Congress should pursue a wise, objective, and effective course.

I urge my colleagues to vote "no" on House Joint Resolution 263.

The SPEAKER pro tempore (Mr. TORRES). The Chair would advise that the gentleman from Illinois [Mr. ROSTENKOWSKI] has 26 minutes remaining, and the gentleman from New York [Mr. SOLOMON] has 18 minutes remaining.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. I thank the gentleman for yielding.

Mr. Speaker, let me say I rise in support of the Solomon amendment. My general position on trade, I guess, is clear in this Chamber: It is for free trade, that we should not have many trade barriers. I am one who is reluctant in general to use trade as a lever, as a policy, as a 2 by 4.

But, Mr. Speaker, enough is enough already. China has violated every norm in every place we look. The human rights issue is well told. There has not been any liberation, there has not been any change, and there are times, as we all would agree, that the trade weapon, the trade lever should be used to help human rights.

We stand today, just as everyone agrees that the sanctions have had a real effect on South Africa, sanctions can have an effect on human rights in China.

But it goes beyond that. Mr. Speaker, in the economic area China has not been a good neighbor. China has been a country that has taken advantage every step of the way.

□ 1530

Mr. Speaker, they have imposed tariff and nontariff administrative controls to restrict foreign firms' access to its domestic markets. No protection of copyrights or trademarks. That one gets under my skin.

Mr. Speaker, I say, "If you want to be part of the international community, if you want to have huge balance-of-trade surpluses with our country and others, then at the very least join the community of nations and protect copyrights and trademarks. The allocation of foreign exchange is a means to control imports and the export of products made by prison labor to the United States and elsewhere. You add it up, and everywhere you look on the economic area, China doesn't deserve MFN status."

Then, Mr. Speaker, their weapons sales. Who do the scoundrels of the world look to to buy the most evil of weapons, the missiles that can deliver the chemical and even, possibly, atomic warheads? They look to China.

It is rare that the gentleman from New York [Mr. SOLOMON] and myself are on the same side. On this we are. We have to say to the Chinese people and to the Government of China, "Enough is enough. No MFN until you reform up and down the line."

Mr. SOLOMON. Mr. Speaker, I yield myself 1 minute.

Let me respond to the previous speaker, the gentleman from New York [Mr. SCHUMER], because Mr. SCHUMER is right on target. If you look back to 1980, when most-favored-nation treatment was first given to the People's

Republic of China, we set up bilateral trade arrangements pursuant to House Concurrent Resolution 204. As approved by Congress, that resolution committed the United States and China to develop bilateral trade, provided that the United States and China would not discriminate against each other in their imports and exports; and, second we committed each nation to protect the patents, the trademarks, the copyrights, and industrial rights of the other nation.

How much in violation can they be of their bilateral obligations; never mind most favored nation?

Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. SCHULZE], a distinguished member of the Committee on Ways and Means.

Mr. SCHULZE. Mr. Speaker, I rise in strong support of House Joint Resolution 263.

According to section 402 of title IV of the Trade Act of 1974, the true factor in determining whether a Communist country should receive MFN treatment is whether it maintains an emigration policy that is free and open, or is becoming free and open.

China's emigration policy, never free and open, has only become more restrictive since the Tiananmen Square massacre.

Since Tiananmen, the Chinese Government has required exit permit and passport applicants to file two new reports describing their performance during Tiananmen Square.

Regrettably, these reports, which are expected to be confessional in nature, are being used to restrict free emigration.

Also instituted after Tiananmen is the so-called cultivation fee that must be paid to the Chinese Government by students wishing to go abroad for self-financed graduate studies.

Given that this fee amounts to what the average Chinese college graduate earns over an 8-year period of time, this clearly precludes free movement and open emigration.

Existence of the cultivation fee also undermines a primary objective of the 1974 Trade Act: To deny MFN treatment to countries which impose more than a nominal fee, tax or fine on those citizens wishing to emigrate.

During 1984 debate on the Romania MFN issue, many of us opposed renewing that country's MFN status because it had instituted a similar fee. This fee, known as the education tax, had to be paid to the Government by those wishing to leave Romania, and amounted to what the average Romanian citizen earned over 3 to 5 years. Back then, our colleague PHIL CRANE justifibly referred to this onerous tax as a form of ransom. China's cultivation fee is no different.

Consider an excerpt from a May 1991 Library of Congress report on China's emigration policy. I quote:

> Since the Tiananmen Square Massacre, the central authorities have made it more difficult for people to leave the country.
>
> These additional controls very much seem to be aimed at discouraging people who disagree with the policies of the hardliners from leaving the country, either for shorter stays abroad or for emigration.

Even the State Department concedes that—and I quote

> Existing restrictions on foreign travel were tightened in 1989.

Regrettably, though it admits that China's policy has worsened since Tiananmen, the State Department contends that China's emigration policy is open because it fills the annual U.S. permanent immigrant visa quota of 17,000 people.

While State has its own interpretation of the law, the 1974 Trade Act does not specify or imply that the degree of openness of a country's emigration policy should be based solely on whether it fills the U.S. quota.

According to the portion of the 1974 Ways and Means Committee report devoted to section 402, Congress sought—and I quote—"to assure the continued dedication of the United States to fundamental human rights." Congress is just as concerned about the fate of those seeking to leave Communist nations on a temporary basis, as it is for those struggling to become permanent immigrants elsewhere.

The fact remains that the People's Republic of China does not meet the 1974 Trade Act's freedom of emigration requirements, and that its MFN status should be revoked immediately.

I strongly urge my colleagues to vote "aye" on House Joint Resolution 263.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Speaker, colleagues of the House. We are all trying to accomplish the goal of improved human rights, greater openness in the society of China and perhaps even one day a democratic government there. The question of course is: How do we go about that?

Mr. Speaker, I think we need to remind ourselves what was the condition in China before 1972, when we began trade, travel, cultural exchanges, and other initiatives with that country under President Nixon. There is no question but that the human rights situation in China at that time was far, far worse that it is today even with the tragedy of Tiananmen Square. Since we began trading with China, since we opened diplomatic relations, and since we have had cultural exchanges and other visits with China, the situation has changed dramatically for the better. Now, it seems to me that what we are seeing today is an attempt to turn back the clock.

Earlier today one of my colleagues said on the floor of this House that this was just a Boeing initiative. Mr. Speaker, I represent a lot of people who work for Boeing. Those planes, my colleagues, do not assemble themselves. Working men and women build those planes and their jobs should count for something. Yes, we sell Boeing airplanes to China, and let me tell my colleagues what would happen if this initiative goes through. The Europeans will sell airplanes to China. We will have literally shot ourselves in the foot in the hopes that it will make us feel good. That does not make sense.

Mr. Speaker, what we need to do is adopt some, realistic conditions on MFN with China, but not turn our backs on President Nixon's initiatives at opening this country. With trade relations we can sit down with our Chinese friends and say to them, "We want better human rights in your country," as many of us who have traveled there have had the opportunities to do. If we turn back this clock, we completely squelch the opportunity to have that kind of exchange, and it makes no sense whatsoever.

□ 1540

Mr. SOLOMON. Mr. Speaker, I yield 2½ minutes to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, first of all I want to compliment the gentlewoman from California [Ms. PELOSI] on her efforts in the area of human rights. The reason I am up here, however, has to do with another area, and that is the area of the proliferation of weapons of mass destruction and the proliferation of weapons, period.

The gentleman from Florida [Mr. GIBBONS] was in the chair during the hearings on MFN, and I pointed out that one of the lessons we got out of the war against Iraq and one of the reasons why we went to war against Saddam Hussein was because the man had potentially weapons of mass destruction. Now we are sending our people over there and threatening a second war if we cannot get our hands on the enriched uranium that he can use to create a nuclear device, and I do not think anyone has any doubt that he would use that if he had the opportunity. We went to war because we did not want aggression and we did not want a number of things, but one of the key elements was that we wanted to stop the spread of weapons of mass destruction.

Mr. Speaker, let me tell the Members what the Chinese have done. By the way, the administration put pressure on the Chinese not to become a giant proliferator of weapons of mass destruction. Last year they made the argument, "Trust us. Most-favored-nation status supports the reform process. Give us a year to work out our differences with the Chinese Government without denying MFN."

That is what they said last year. What have we gotten? Well, let me tell the Members this. China has sold Algeria a nuclear reactor that is too large for research and too small for commerical power generation, but ideal for nuclear weapons production. Algeria has not signed the nuclear nonproliferation treaty.

In the 1980's China has given Pakistan the complete design of a tested nuclear weapon, plus enough weapons-grade uranium to fuel two nuclear weapons. China has also sold nuclear technology to India.

Can we imagine the fact that the Chinese Government has armed both the Pakistanis and the Indians with nuclear material and given them the ability to have a nuclear weapon. The Indians and Pakistanis have marched against one another a number of times in recent years, and do not be surprised if one morning we wake up, if this trend continues, to find a report on the network news that the Indians and the Pakistanis have exchanged nuclear weapons.

Mr. Speaker, let me tell the Members that the Chinese have also sold nuclear technology to South Africa, Argentina, and Brazil. This is a terrible thing.

Mr. Speaker, if we want to stand up for a new world order, a world in which we are not going to see the proliferation of sophisticated weapons and weapons of mass destruction, we have got to stand up right now against the Chinese and deny them the opportunity for MFN.

I am going to vote for Solomon, and I may have to end up voiting for Rostenkowski because it puts a number of reservations in there. But the bottom line is that we had better learn a lesson from what happened over there, and we had better stand up against countries that want to take us down the path toward greater sophisticated weaponry and the possibility of nuclear war.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I thank the chairman of the committee very much for yielding time to me.

Mr. Speaker, for many years our country was engaged in the game of playing the China card. The China card was a diplomatic strategy whereby cozying up to the nation of China would help us in isolating the Soviet Union, Poland, Czechoslovakia, Hungary, and East Germany. That China card, as part of this great geopolitical strategy, was very important to us.

But with the fall of the Berlin Wall and with democracy breaking out all over Eastern Europe, as we turn over the China card in 1991, it is a deuce; it does not get us anything.

Although for many years we turned a blind eye to the nuclear export policy of China, to its human rights abuses, and to its prison labor policies, all of those things which may have made some sense in a larger geopolitical sense over a 20-year period, in 1991 it is ancestor worship. We are taking a policy which over 20 years may have made some sense, but no longer, because over the next couple of years, in fact, we may be using the Soviet Union, Czechoslovakia, Hungary, Poland, and East Germany to isolate the Chinese. It will be just the flip of what it has been since the early 1970's.

So let us at least reform our policies to reflect the reality of the world in which we live. Here is a criminal nation, a nation which over the last several years has sold nuclear-related materials to both Pakistan and India, to both Brazil and Argentina, to both Iran and Iraq, and to Algeria. It goes on. The list is endless. It is a criminal nation, and if we want to look at the world through Kissingerian eyes, perhaps we had to turn a blind eye to some of these practices, but no longer, not in 1991.

Mr. Speaker, this legislation which is being proposed today is critically important for us to change the direction of our foreign policies to reflect the world as it exists today. We owe the people of China and the world no less.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. LANTOS].

Mr. SOLOMON. Mr. Speaker, let me at the same time yield 3 minutes to the gentleman from California [Mr. LANTOS].

The SPEAKER pro tempore (Mr. TORRES). The gentleman from California [Mr. LANTOS] is recognized for 5 minutes.

Mr. LANTOS. Mr. Speaker, I want to thank my distinguished colleagues for yielding time to me.

Mr. Speaker, I rise in the strongest possible support for the resolution of the gentleman from New York [Mr. SOLOMON] to terminate most-favored-nation treatment for China. My distinguished colleagues have given all their reasons for my support: An abominable human rights record, a persecution of the entire population of Tibet, an irresponsible export of weapons of mass destruction, and the use of prison labor indiscriminately. But I would like to approach the issue from a somewhat different vantage point.

This is not a vote on isolation. What the administration is doing, it is expressing its preference for the central Communist regime in every place on this planet where there are new and democratic forces trying to grope for a pluralistic and freer society. In China this administration is on the side of the central Communist government, the octogenarians who are too old to learn that there are new winds sweeping across this globe, winds of democracy and pluralism, the views that the young men and women of Tiananmen Square expressed.

This policy is made of the same cloth that is opposing Slovenia and Croatia in Yugoslavia. This administration is siding with the central Communist government in Serbia against the forces which are striving for pluralism and freedom and democracy in Croatia and Slovenia, in the Republic of Kosovo and elsewhere. This administration is expressing its preference for the Central Government in the Soviet Union, not for the democratically elected governments of the Republics of Latvia, Lithuania, and Estonia and now Russia.

We just greeted in this House the first democratically elected leader of Russia in 1,000 years of Russian history, but in China we are rejecting the forces of pluralism and freedom and democracy, and we are about to kowtow to the regime that used tanks to destroy those Chinese young people just 2 years ago.

□ 1550

On July 4, 215 years ago, King George wrote in his diary, "Nothing extraordinary happened today." Little did he realize what an extraordinary thing happened on the 4th of July, 1776.

Extraordinary things are happening in China. People are putting their lives on the line. Remarkable things are happening in Tibet, where peace loving monks and nuns are striking out for freedom, and the Chinese Communist regime is torturing them, persecuting them, and killing them.

Remarkable things are happening in what we used to call Yugoslavia. Men and women are striking out for freedom. Two dozen young Slovenes were mowed down by the Central Government's tanks. And that is the side that this administration is supporting when it is supporting most-favored-nation treatment to China.

We have got to tell the whole world, the people who just brought down the Berlin Wall, yesterday, we have got to tell the people in Tibet that we stand with the wave of the future, that the wave of the future is not the Chinese Communist regime in Beijing. Those people will be thrown on the dust bin of history, when we will honor and cherish the young men and women whose lives were destroyed with the tanks of the Chinese Communist regime. We must take away most-favored-nation treatment from China, and we must do it now.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. LANTOS. I am pleased to yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, I just want to underscore the centrality of the point the gentleman from California [Mr. LANTOS] is making. He is a deep student of foreign affairs, a devoted human rights advocate, and his point about this worldwide passion for order over liberty that is becoming central in this administration is a terribly important point. I want to thank the gentleman for making the point, and hope that people will pay serious attention to its implications.

Mr. LANTOS. Mr. Speaker, reclaiming my time, I thank my friend for his comment. Let me just say, I deeply appreciate stability, but not stability at any cost. Stability at the price of human lives, of freedom, of dignity, of pluralism, is stability at too high a price, and we should not buy it.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, I thank the chairman for yielding the time.

Mr. Speaker, it pains me greatly to have to disagree with my very good friend, the gentleman from California [Mr. LANTOS], and the distinguished gentleman from New York [Mr. SOLOMON]. But I do rise in reluctant, but strong, opposition to this resolution.

Mr. Speaker, if I thought for a moment that by adopting the Solomon resolution taking away MFN status from China we could facilitate the release of political prisoners, or an accounting of those who have been incarcerated, or contribute to greater freedom of religion and of the press, or bring to an end the export of goods produced by prison labor, or induce a more responsible Chinese foreign policy with respect to the transfer of nuclear technology and intermediate range ballistic missiles, I would strongly support this resolution. But the fact of the matter is that the adoption of this resolution will in no way whatsoever advance all of those eminently worthwhile objectives.

Mr. Speaker, thinking that we can bring the Chinese leadership to its knees by taking away MFN status from China is a complete and total illusion. For over two decades we had a comprehensive economic embargo against China, and we did not bring about any improvement in the human rights situation in that country by virtue of the economic isolation we imposed upon it.

For reasons of face alone, it is inconceivable that the Chinese leaders, once we take away MFN status, will come crawling on their knees to America saying, "Mea culpa. We have been wrong. We will make all of the changes you would like us to make."

The truth of the matter is, not only won't the adoption of this resolution not produce any progress on human rights, it is likely to have all sorts of counterproductive consequences. It will hurt American consumers who benefit from the importation of lower priced Chinese goods. We will deal a crippling blow to the economy of Hong Kong, which benefits greatly from the transhipment of Chinese goods to the United States, which benefits from MFN.

Mr. Speaker, by taking away MFN we will undermine the economic viability of the coastal provinces in China, which are the engines of economic reform in that country. There is considerable anecdotal evidence that many of the intellectuals who are in the forefront of the subterranean struggle for political and economic reform in China do not want MFN status taken away from them, because they fear that if MFN is taken away, there will be an overall and further crackdown in China, which will make the human rights situation even worse than it is today.

So I would suggest that if we are really concerned about human rights in China, the way to go is not to take away MFN completely, but to establish reasonable and responsible conditions on MFN, which we will have an opportunity to do a little bit later this afternoon.

I urge the House to reject the Solomon resolution.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Speaker, I rise today to support the resolution (H.J. Res. 263) disapproving the extension of most-favored-nation trade status for the People's Republic of China [PRC]. After the speech of the gentleman from California [Mr. LANTOS] it may sound parochial, but I am opposing MFN for China because I do not care to trade away 50,000 textile and apparel jobs in my district so that the Communist Chinese Government can receive the perks associated with preferential trade status. With U.S. textile and apparel jobs already hit hard by unfair trade practices of foreign nations, I cannot stand idly by and see more jobs exported—many of them in my congressional district.

China is the single largest supplier of textiles and apparel to the United States, accounting for almost 14 percent of all United States textile and apparel imports. Yet, China continues to violate United States law by mislabeling textile products and shipping them through third countries. In 1990 alone, it is estimated that more than 2 billion dollars' worth of textiles and apparel entered the United States fraudulently. Furthermore, China has been exposed for use of prison labor to assemble apparel with the specific purpose of exporting to the United States. The textile industry faces enough of a challenge competing against a Chinese hourly wage rate of 37 cents compared to the United States hourly wage of almost $10.

I have been told that denying MFN to China would jeopardize some $5 billion the United States exports to China and hurt those industries that have substantial direct investment in China. This may be true in the short term, but in the long run, the Communist Chinese Government will realize that the United States is not going to ignore its unlawful and immoral behavior. China must reform if it wants MFN status. At that time, the United States will reap the benefits of a stable, more democratic China, willing to play fair in today's competitive marketplace.

We all have to vote our conscience, and my conscience says "no" to MFN for China.

Let us aid Mexico instead.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. SMITH].

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Florida.

The SPEAKER pro tempore (Mr. TORRES). The gentleman from Florida [Mr. SMITH] is recognized for 2 minutes.

Mr. SMITH of Florida. Mr. Speaker, I thank both gentlemen for yielding.

Mr. Speaker, we are looking at something that is interesting. We have the historical basis on which to support the Solomon resolution. Many times we take this floor and we are dealing in the dark. It is a matter of conjecture. Oh, it may happen; it may not happen. We do not know for sure. We ought to do it this way; we ought to do it that way.

But history is here for us to read. The reality is, it is a myth. Those Members who stand in this well or at the tables and tell us that by voting against this we will ensure that the coming year will be better than the previous year as far as China and its human rights record and its treatment of its citizens, are in fact flying in the face of history.

Mr. Speaker, we gave them last year MFN after giving them all of our concerns in public debate. What did they do? Not only did they not make better their human rights record, but they went further. They sold technology in the form of missiles, technology that we had provided, to other countries around the world. They clamped down and executed prisoners that had been in prison previously. Once they got what they wanted, they were content to stick it up our nose, if one wants to be graphic about it.

We sent an envoy. The President of the United States sent an envoy to China to try to talk and deal with them.

□ 1600

He was sent home with a scold like he was a little child by the old men in Peking who do not think we ought to meddle in their internal affairs but we ought to give them the benefit of MFN so that they can then send more imports to the United States than we send to them and, therefore, build up a trade surplus of almost $11 billion, estimated to be $16 billion next year, per capita by virtue of imports, the largest trade surplus in the world.

Let us not lose jobs to the Chinese and at the same time subsidize the lack of human rights in that country, the intolerable treatment of their citizens. History now beseeches Members to vote for the Solomon resolution to deny them MFN. It is the only thing an American should do.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding time to me.

What is the motivation of the President of the United States for wishing to extend this trade status to the Chinese for another year? What is his motivation? Does he want to become an honorary King of Siam? Does he want to be enriched personally, or is it because he believes strongly, does our President, that it is in the best interests of our country, of the future of our society that we maintain the relationship with the emerging China that he seeks with this continuation of the trade status?

Even the critics of the President over here say it is not that he is not interested in human rights. He is not interested in this or that. He is only interested in doing what is best for the country. Of course. And that is why we must accord him, as the chief executive of our country, the privilege of supporting him in this foreign policy matter. It is easier and better for our country to follow the leadership of the elected President of the United States in the enunciation, the execution of foreign policy than to adhere to 535 Members of Congress who have 535 different ways of executing foreign policy.

Mr. SOLOMON. Mr. Speaker, if the gentleman from Illinois [Mr. ROSTENKOWSKI] has no further speakers other than his summation, I yield myself the balance of the time.

The SPEAKER pro tempore (Mr. TORRES). The gentleman from New York [Mr. SOLOMON] is recognized for 3½ minutes.

Mr. SOLOMON. Mr. Speaker, for the past 11 years, we have denied the Soviet Union most-favored-nation status. And what has happened over that 11-year period? After we spent billions and billions of dollars building up our own military at the expense of the American taxpayers, the end result is that democracy has broken out all over Eastern and Central Europe. And we can be very proud of that because of the sacrifices the American people made.

During that same 11-year period, we have given most-favored-nation status to the People's Republic of China. And what has happened? Violations of human rights have become worse and worse and worse. And in the last 2 years, they have just become absolutely intolerable.

I would just ask the Members to consider one thing: If China's MFN is taken away today, that does not mean China can never get it back. If China's MFN is revoked, there is nothing to stop the President from coming back to Congress in a few months if conditions so warrant and asking us to restore it. And I wish that would happen.

If the Government of China shapes up, we could give MFN back to them, and China would respect the United States for it.

The problem we face today is simply the fact that China does not take us seriously. China does not believe our commitment to human rights and democracy. They do not believe it because we continue to wink at their abuses.

The time for excusing China's behavior, Mr. Speaker, is over. Let us pass this resolution today and show the regime in China that we mean what we say. I am going to vote for the Solomon resolution. I am also going to vote for the Pelosi resolution and the accompanying amendments that were passed overwhelmingly in the Committee on Ways and Means.

This entire body should do that and send these two bills to the Senate, and do my colleagues know what? China would wake up in a hurry. What happens to all the trade with China? Chinese goods are coming via Hong Kong, where they change the label and say, "Made in Hong Kong" and then send them to this country. They send them over to Macao, and they change the label and say "Made in Macao" and send them here. More and more of my people are unemployed. I say to hell with the $15 billion deficit in trade with China. Let us send a message they will not forget.

I urge support of the Solomon resolution.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 4 minutes to the gentleman from Florida [Mr. GIBBONS], chairman of the Subcommittee on Trade of the Committee on Ways and Means.

Mr. GIBBONS. Mr. Speaker, when I got up this morning to wash my face I said, "This is going to be a miserable day." And it is for me a miserable day because I knew I was going to face some of my finest friends and their best oratory orating about what we should do about China. It is not a simple proposition. If things are bad in China today, and they are bad, they were horrible when we started on this negotiation of trade with them about 15 years ago. They had just completed or almost completed the Cultural Revolution in which hundreds of thousands, perhaps millions of Chinese lost their lives.

China is a poor, pitiful country, and horribly led. But history teaches that if we are going to do anything about China, and we should do something about China, because they are all human beings like we are and one out of every five people on Earth is Chinese. They are poor. They are ill-housed, ill-fed, ill-clothed, and ill-led. But it is our human responsibility to do something about it.

And what should we do? Should we isolate China again as we did for 35 years, 35 disastrous years, or should we continue to work with the Chinese?

Now, I would bow to no person in this House about my support of human rights. I think my record proves it. I probably have listened to more people talk about China than anybody in this House, and I have probably lectured the Chinese more than anybody in this House.

It occurs to me that the wise and most sensible thing to do is to reject the Solomon proposal, which in effect could lead to the isolation of China again, and then to proceed to the debate on the Pelosi proposal which puts some stringent conditions upon most-favored-nation treatment for China. For if we withdraw from China, there is no one else on Earth who is going there like we do and demanding conditions for their trade and talking and working with the Chinese people to try to improve the human conditions within China.

The last time China opened itself up to Western influence, it was pillaged by the Europeans, and they fought the Japanese for 25 years to keep them from overrunning and subjugating their country. The Chinese trust the Americans. They look to America, and it is no mere accident that the great demonstrations at Tiananmen Square that ended so tragically, that it was the American symbol of freedom that had to be torn down by the Chinese Army.

If we continue to construct this policy that we have had toward China for the last 15 years, then I think there is hope for those one-fifth of all the people on Earth, poor people, pitiful people, ill-clothed, ill-housed, ill-fed, and ill-led. But there is hope if we will continue our contact with them to continue to work for them and to set a good example for them and to try to educate them so that they can have a more prosperous economy, a greater opportunity for personal freedom and liberty, and that should be the role of America.

□ 1610

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I rise in support of the Solomon amendment.

Mr. Speaker, I rise on behalf of the resolution. The Chinese Government repeatedly has violated every standard of international conduct. They have demonstrated they are a government apart from their people, over their people, and against their people. As Americans, we cannot stand idly by while the values and ideals we cherish are crushed by communism's tanks.

The Chinese Communists believe that the world outside, especially Americans, do not care what they do to their citizens. They believe we forget easily and care only about shallow values and self-interest. Because they do not understand us, they do not realize that we will not forget the young man standing in front of a line of tanks pleading for his people. We will not forget the toppling of the Goddess of Democracy, built in the image of our beloved Statue of Liberty. These are memories for a lifetime.

Revoking MFN status is the proper response for the Congress to take. The Chinese Government is exploiting their trade relationship with the United States.

In the first year after Tiananmen, the Chinese trade surplus with the United States grew by almost 50 percent. According to the USTR's 1991 report on foreign trade barriers, "tariff rates range from 120 to 170 percent" on consumer goods. Compared to this, even standard tariff rates in the United States are generous. We should also notice that tariffs and barriers are highest on consumer goods, products which might provide a better life for the Chinese people. The Chinese Communists are acquiring our hard currency, denying their people the benefits of their work, and propping-up their corrupt system on the back of American trade.

In our opposition to the Communist Government however, we should take care not to harm the innocent people of that country. President Bush raises some valid points about potential harm to those we are seeking to help. In the next year, I believe that Congress should study ways to limit the damage done to the people of China by changes in our trade relationship. We should look at making adjustments to help the budding private enterprise, the Western-looking regions of the country. This would be the approach the Communist leaders in Beijing would fear the most—turning our back to them, extending our hand to their people.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, if the Chinese are going to take the hard line with their citizens, we have to take the hard line with China. The Solomon amendmenty is the only route.

Mr. SOLOMON. Mr. Speaker, the gentleman is a major cosponsor of that resolution, and I appreciate his remarks.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TORRES). Pursuant to House Resolution 189, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read a third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROSTENKOWSKI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 223, nays 204, not voting 6, as follows:

[Roll No. 203]

YEAS—223

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Annunzio
Anthony
Applegate
Atkins
Ballenger
Barnard
Barton
Bennett
Berman
Bevill
Bilbray
Bonior
Borski
Boxer
Browder
Bruce
Bryant
Bunning
Burton
Bustamante
Campbell (CO)
Cardin
Carper
Clay
Coble
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Cox (CA)
Cramer
Dannemeyer
DeFazio
Dellums
Derrick
Dickinson
Dixon
Donnelly
Doolittle
Dornan (CA)
Downey
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Engel
Erdreich
Espy
Evans
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Gilman
Gonzalez
Gordon
Hall (OH)
Hancock
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Herger
Hertel
Hochbrueckner
Horn
Hoyer
Hubbard
Hughes
Hunter
Hutto
James
Jefferson
Jenkins
Jones (GA)
Jones (NC)
Kanjorski
Kasich
Kennedy
Kildee
Kleczka
Kolter
Kostmayer
Kyl
LaFalce
Lantos
Lehman (CA)
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Lowey (NY)
Manton
Markey
Martinez
Mavroules
McCandless
McCurdy
McEwen
McGrath
McHugh
McMillan (NC)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Moorhead
Moran
Morella
Mrazek
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Pelosi
Perkins
Porter
Poshard
Price
Quillen
Rahall
Rangel
Ravenel
Ray
Richardson
Ridge
Riggs
Ritter
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roybal
Russo
Sabo
Sanders
Sawyer
Scheuer
Schroeder
Schulze
Schumer
Sensenbrenner
Shuster
Sikorski
Sisisky
Slaughter (NY)
Smith (FL)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spratt
Staggers
Stark
Stearns
Stokes
Studds
Synar
Tallon
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Walker
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Wilson
Wise
Wolf
Wolpe
Wylie
Yates
Yatron

NAYS—204

Alexander
Allard
Anderson
Andrews (TX)
Archer
Armey
Aspin
AuCoin
Bacchus
Baker
Barrett
Bateman
Beilenson
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Boucher
Brewster
Brooks
Broomfield
Brown
Byron
Callahan
Camp
Campbell (CA)
Carr
Chandler
Chapman
Clement
Clinger
Coleman (MO)
Combest
Cooper
Coughlin
Cox (IL)
Coyne
Crane
Cunningham
Darden
Davis
de la Garza
DeLauro
Dicks
Dingell
Dooley
Dorgan (ND)
Dreier
Dymally
Emerson
English
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gingrich
Glickman
Goodling
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Hastert
Henry
Hoagland
Hobson
Holloway
Horton
Houghton
Huckaby
Hyde
Ireland
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jontz
Kaptur
Kennelly
Klug
Kolbe
Kopetski
Lagomarsino
Lancaster
LaRocco
Laughlin
Leach
Lehman (FL)
Lent
Lewis (CA)
Lightfoot
Livingston
Long
Lowery (CA)
Luken
Machtley
Marlenee
Martin
Matsui
Mazzoli
McCloskey
McCollum
McCrery
McDade
McDermott
McMillen (MD)
Meyers
Michel
Miller (OH)
Miller (WA)
Montgomery
Moody
Morrison
Murphy
Murtha
Myers
Nagle
Nichols
Nussle
Ortiz
Orton
Oxley
Packard
Payne (VA)
Pease
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pursell
Ramstad
Reed
Regula
Rhodes
Rinaldo
Roberts
Roe
Roemer
Rostenkowski
Roth
Roukema
Rowland
Sangmeister
Santorum
Sarpalius
Savage
Saxton
Schaefer
Schiff
Sharp
Shaw
Shays
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (IA)
Smith (OR)
Solarz
Spence
Stallings
Stenholm
Stump
Sundquist
Swett
Swift
Tanner
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torres
Upton
Vander Jagt
Volkmer
Vucanovich
Walsh
Weber
Williams
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—6

DeLay
Gray
Hopkins
Inhofe
Jacobs
Serrano

☐ 1633

Messrs. HAMMERSCHMIDT, DOOLEY, GUNDERSON, ROTH, CARR, NAGLE, SMITH of Oregon, HALL of Texas, and GEREN of Texas changed their vote from "yea" to "nay."

Mr. WISE of West Virginia, WILSON, MCCURDY, HAYES of Illinois, and MRAZEK changed their vote from "nay" to "yea."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

REGARDING EXTENSION OF MOST-FAVORED-NATION TREATMENT TO PRODUCTS OF THE PEOPLE'S REPUBLIC OF CHINA

The SPEAKER pro tempore (Mr. TORRES). Pursuant to section 4 of House Resolution 189, it is now in order to consider the bill, H.R. 2212.

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to House Resolution 189, I call up the bill, H.R. 2212, regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes.

The Clerk read the bill, as follows:

H.R. 2212

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—PRECONDITIONS FOR THE RECEIPT BY CHINA OF NONDISCRIMINATORY TREATMENT

SEC. 101. ADDITIONAL OBJECTIVES WHICH THE GOVERNMENT OF CHINA MUST MEET IN ORDER TO RECEIVE NONDISCRIMINATORY TREATMENT.

(a) IN GENERAL.—The President may not recommend the continuation of a waiver in 1992 for a 12-month period under subsection (d) of section 402 of the Trade Act of 1974 for the People's Republic of China unless the President reports in the document required to be submitted by such subsection, that the government of that country—

(1) has, in regard to the events that led up to, and occurred during and after, the violent repression of dissent in Tiananmen Square on June 3, 1989—

(A) accounted for those citizens who were detained, accused, or sentenced as a result of the nonviolent expression of their political beliefs during those events; and

(B) released citizens who were imprisoned after such detention, accusation, or sentencing;

(2) has made significant progress in—

(A) taking appropriate action to prevent gross violations of internationally recognized human rights in the People's Republic of China and Tibet;

(B) ending religious persecution in the People's Republic of China and Tibet, and releasing leaders and members of all religious groups detained, incarcerated, or under house arrest as a result of the expression of their religious beliefs;

(C) removing restrictions in the People's Republic of China and Tibet, on freedom of the press and on broadcasts by the Voice of America;

(D) terminating the acts of intimidation and harassement of Chinese citizens in the United States, including the return and renewal of passports confiscated by authorities as retribution for prodemocracy activities;

(E) ensuring access of international human rights monitoring groups to prisoners, trials, and places of detention;

(F) ensuring freedom from torture and from inhumane prison conditions; and

(G) terminating prohibitions on peaceful assembly and demonstration imposed after June 3, 1989,

(3) is adhering to the Joint Declaration on Hong Kong that was entered into between the United Kingdom and the People's Republic of China.

(b) DEFINITIONS.—For the purposes of subsection (a)—

(1) The term "acts of intimidation and harassment" in paragraph (2)(D) means actions taken by the Government of the People's Republic of China that are intended to deter or interfere with, or to be in retaliation for, the nonviolent expression of political beliefs by Chinese citizens within the United States.

(2) The terms "detained" and "imprisoned" include, but are not limited to, incarceration in prisons, jails, labor reform camps, labor reeducation camps, and local police detention centers.

(3) The term "gross violations of internationally recognized human rights" in paragraph (2)(A) includes, but is not limited to, torture, cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by the abduction and clandestine detention of those persons, secret judicial proceedings, and other flagrant denial of the right to life, liberty, or the security of any person.

(4) The term "significant process" in paragraph (2) means the implementation and faithful execution of measures that will lead to the termination of the repressive practices identified in subparagraphs (A) through (G) of that paragraph.

SEC. 102. REPORT BY THE PRESIDENT.

If the President recommends in 1992 that the waiver authority referred to in section 101 be extended to the People's Republic of China, the President shall include in the document required to be submitted to the Congress by section 402(d) of the Trade Act of 1974 a report on the extent to which the Government of the People's Republic of China has, during the period covered by the report, implemented the measures listed in section 101(a).

The SPEAKER pro tempore. Pursuant to House Resolution 189, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 1 hour, and the gentleman from Texas [Mr. ARCHER] will be recognized for 1 hour.

COMMITTEE AMENDMENTS

The SPEAKER pro tempore. The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments:

Page 3, strike out lines 1 through 4.

Page 3, line 5, strike out "SEC. 101." and insert "SECTION 1.".

Page 3, strike lines 13 through 15 and insert the following: President—

(1) reports in the document required to be submitted by such subsection, that the government of that country—

Page 3, line 20, redesignate paragraph (1) as subparagraph (A).

Page 3, line 24, redesignate subparagraph (A) as clause (i).

Page 3, line 24, in clause (i), as redesignated, strike out "accounted for those" and insert "provided an accounting of".

Page 4, line 4, redesignate subparagraph (B) as clause (ii).

Page 4, line 7, redesignate paragraph (2) as subparagraph (B).

Page 4, line 7, in subparagraph (B), as redesignated, insert "overall" before "significant progress".

Page 4, line 9, redesignate subparagraph (A) as clause (i).

Page 4, line 2, clause (i), as redesignated, strike out "China and" and insert "China, including".

Page 4, line 14, redesignate subparagraph (B) as clause (ii).

Page 4, lines 15 and 16, in clause (ii), as redesignated, strike out "and Tibet" and insert ", including Tibet".

Page 4, line 21, redesignate subparagraph (C) as clause (iii).

Page 4, line 22, in clause (iii), as redesignated, strike out "and Tibet" and insert ", including Tibet,".

Page 5, line 1, redesignate subparagraph (D) as clause (iv).

Page 5, line 6, redesignate subparagraph (E) as clause (v).

Page 5, line 2, in clause (v), as redesignated, insert "or humanitarian" after "monitoring".

Page 5, line 11, redesignate subparagraph (F) as clause (vi).

Page 5, line 14, redesignate subparagraph (G) as clause (vii).

Page 5, line 16, in clause (vii), as redesignated, strike "; and" and insert a comma.

Page 5, line 17, redesignate subparagraph (3) as subparagraph (C).

Page 5, line 20, in subparagraph (C), as redesignated, strike the period and insert a comma.

Page 5, after line 20, insert the following:

(D) does not support or administer any program of coercive abortion or involuntary sterilization.

(E) has provided clear and unequivocal assurances to the United States that it is not assisting and will not assist any nonnuclear weapons state, either directly or indirectly, in acquiring nuclear explosive, devices or the materials and components for such devices.

(F) has provided clear and unequivocal assurances that it will not contribute to the proliferation of missiles and is a Missile Technology Control Regime adherent wth respect, at least, to countries, in the Middle East and South Asia.

(G) has taken appropriate steps to prevent the exportation of products made by prisoners and detainees assigned to labor camps, prisons, detention centers and other facilities holding detainees and has allowed United States officials and international humanitarian and intergovernmental organizations to inspect the places of detention suspected of producing export goods to ensure that appropriate steps have been taken and are in effect, and

(H) has moderated its position regarding the access of the Republic of China (Taiwan) to the General Agreement on Tariffs and Trade; and

(2) based on the assurances referred to in paragraph (1)(E) and all other information available to the United States Government, has made the certifications and submitted the report required by the Joint Resolution relating to the approval and implementation of the proposed agreement for nuclear cooperation between the United States and the People's Republic of China (Public Law 99-183, 99 Stat. 1174).

Page 7, line 10, strike out "(2)(D)" and insert "(1)(B)(iv)".

Page 7, line 21, strike out "(2)(A)" and insert "(1)(B)(i)".

Page 8, line 5, strike out "process" and insert "progress".

Page 8, line 6, strike out "(2)" and insert "(1)(B)".

Page 8, line 6 and 7, strike out "and faithful execution".

Page 8, line 7, insert "meaningfully reduce or" before "lead to".

Page 8, lines 9 and 10, strike "subparagraphs (A) through (G) of".

Page 8, insert after line 10, the following:

(5) The terms "missile" and "Missile Technology Control Regime adherent" in paragraph (1)(F) have the respective meanings given them in section 74 of the Arms Export Control Act (22 U.S.C. 2797c) and the phrase "countries in the Middle East and South Asia" in such paragraph means Morocco. Algeria, Tunisis, Libya, Sudan, Egypt, Israel, Lebanon, Jordon, Syria, Iraq, Iran, Kuwait, Saudi Arabia, Bahrain, Qatar, the United Arab Emirates, Oman, Yemen, India, and Pakistan.

Page 8, line 21, strike out "102." and insert "2.".

Page 8, line 23, strike out "authority".

Page 8, line 23, strike out "101 be extended" and insert "1 be continued with respect".

Page 9, line 4, strike out "implementated" and insert "implemented".

Page 9, line 5, strike out "101" and insert "1".

Mr. ROSTENKOWSKI (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

□ 1640

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2212 establishes a number of new conditions—in addition to those contained in current law—which China must meet in order for the President to recommend a continuation of China's most-favored-nation [MFN] status in 1992. I urge adoption of the bill.

But first, I want to commend our colleague, NANCY PELOSI for her tireless efforts in keeping the issue of China's human rights behavior so squarely before the eyes of Congress and the American people. Any improvements in this area will be in large part because of her dedicated legislative efforts.

Mr. Speaker, the conditions contained in H.R. 2212 as reported from the Committee on Ways and Means relate to the overall human rights situation in China and various trade and foreign policy concerns. The bill requires that China account for citizens detained, accused, or sentenced as a result of the nonviolent expression of their political beliefs during the 1989 demonstrations in Tiananmen Square; and that China release such citizens. It requires that China end the proliferation of missiles and nuclear technology; end forced abortion and sterilization; take steps to end exports of goods made by prison labor; and take action in a number of other areas. Finally, the bill contains seven objectives relating to human rights, in which overall significant progress must be made before the President may recommend extension of China's MFN status in 1992.

I would have preferred to see the conditions of H.R. 2212 limited to human rights concerns. After all, the genesis of the bill was the unprovoked and bloody crackdown on nonviolent demonstrators in Tiananmen Square in 1989—the worst possible kind of human rights violation.

Despite my reservations about H.R. 2212 and the committee amendments that have been offered en bloc, I will not stand in the way of their adoption by the House. I am prepared to support the bill, as amended by the committee, with the hope that we can improve the bill in conference with the other body. Our collective objective should be to produce a bill that the President can sign, rather than a bill we know he will veto. Passing a bill that provokes such a veto—a veto that will probably be sustained—will only give us a hollow victory, and will frustrate our common goal of significant change in Chinese policy and behavior.

Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to H.R. 2212. It is a bill which is elaborate in its scope and good intentions. In effect, however, it's a bill which would result in an end to normal tariff treatment, MFN, for China after 1 year and the removal of the United States as a major influence for economic and political change in that country.

Congress should not be lured into a web of theoretical leverage and false punishments. It should instead maintain a clear focus on the likely consequences of this legislation.

If we care about influencing improved Human Rights, a country of the stature of the United States cannot afford to walk away from its relationship with a country of such indisputable importance, however strained that relationship has become and despite the harsh leadership that is currently in power.

The question should be, "What is the most effective policy to promote and achieve our human rights and foreign policy objectives?" H.R. 2212 is emphatically not the answer.

If anything, it could cause a dangerous reaction by the Chinese Government that will further harm the Chinese people and destabilize the entire region. Hong Kong is particularly vulnerable.

H.R. 2212 establishes strict new inflexible conditions for renewal of MFN for China in 1992. The distinguished chairman of the Ways and Means Committee has already explained the bill's provisions.

However, I want to emphasize that the result of this legislation will be to end MFN and, consequently, all meaningful trade with that country.

Would we successfully influence Chinese actions by this tactic? Can we successfully impose the United States Constitution, our human rights standards, and our way of life on a country with its own traditions and culture? Because China now falters under a repressive regime, should the Chinese people, the citizens of Hong Kong, our own businesses and investments in the region, and United States exporters pay the price for our actions today?

China has not responded, and likely will not respond, while the Congress and the President are locked in battle over United States-China policy.

A more productive approach would be for the Congress and the President to work together to develop targeted sanctions and incentives designed to achieve results rather than to undermine U.S. influence.

The President has already announced a long list of sanctions ranging from an end to trade and development programs to restrictions on textile imports to rejection of licenses for satellite projects and other high technology exports.

H.R. 2212, though a tempting ultimatum, is the wrong approach at the wrong time. The hard-liners would be happy with this bill, but the Chinese people will suffer further repression and isolation. I urge my colleagues to vote "no" on H.R. 2212.

Mr. Speaker, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 5 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. I thank the gentleman for yielding me this time.

Mr. Speaker, it is with great pride that I come to the well today to present to the House of Representatives H.R. 2212, a bill which renews most-favored-nation for China this year, but its renewal for next year is conditioned on improvements in human rights in China.

Mr. Speaker, I bring with me to the well a familiar picture to many of us here. This House of Representatives, Mr. Speaker, has been a bastion of democracy. You, the Members of the House of Representatives, voted to support and protect the Chinese students in America. You also voted last year overwhelmingly to condition renewal of most-favored-nation status to China.

□ 1650

Mr. Speaker, we see before us this familiar picture of a man before the tanks and can recall our impressions of seeing the live shots of this brave, courageous, young man there in Tiananmen Square. We have an opportunity today in this Chamber to stand with that man in support of democracy. That day the shot heard around the world 200 years ago was heard in Tiananmen Square. Hopefully today it will reverberate in the Capitol and over into the Senate.

Mr. Speaker, I am pleased to thank the chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI] for his patience, assistance, and his support in this legislation; the gentleman from Florida [Mr. GIBBONS] whom I can always count on for his good advice; the gentleman from New York [Mr. SOLARZ] for his advice and counsel as well. Special thanks to the gentleman from Ohio [Mr. PEASE] for using his good offices to work on the Committee on Ways and Means to bring a consensus around this legislation.

I say to the gentleman from Texas [Mr. ARCHER] that this bill is optimistic. It is an optimistic bill. It is a bill that says we renew most-favored-nation status with China with conditions because we believe these conditions are reasonable, and they are conditions that the Chinese Government should and can easily meet.

The gentleman from Illinois [Mr. ROSTENKOWSKI] has briefly touched on what the bill does. I will only say that it calls for the release of those prisoners who were arrested in events leading up to and surrounding Tiananmen Square, prisoners of conscience who demonstrated nonviolently for democracy in China.

First, at the outset may I say, Mr. Speaker, that my colleagues can vote for both bills. They can vote "yes" on Solomon, as many of them have already done, and they can vote "yes" on Pelosi. Solomon addresses renewal of most-favored-nation for 1991. My bill addresses it for 1992.

I would also like to thank over 150 Members of the House who cosponsored this legislation, enabling me to bring it to the floor with such great support and especially those colleagues from trade areas like mine where it is not all up-side to vote for conditioning most-favored-nation renewal. We have walked this ground before, as I said, in promoting and supporting those who promote democracy in China.

Now I would like to just talk about the bill for a moment, if I may. Mr. Speaker, I am glad that the debate today has generated so much conversation among our colleagues, and I would like to address three issues.

First, Mr. Speaker, is the human rights issue, and to those who say that things have gotten better since 1990, I say they have not gotten better since 1989. The trend which was going in a positive direction has now turned the corner and is coming down. The human rights report that was given by Amnesty International yesterday documents the imprisonments, the beatings, the torture, the repression that continues in China and that has worsened since 1989. The gentleman from Virginia [Mr. WOLF], our colleague who has a special interest in religious freedom in China, has talked about Bishop Fan of Shanghai who was arrested a few weeks ago in China in response to the Pope naming a Chinese cardinal.

On trade, the Chinese Government has erected barriers to our products. We know that. I would just like to comment on that a little more specifically—$6 million in 1989, $10 billion in 1990, a projected $15 billion in 1991. That, Mr. Speaker, is the increase in the trade surplus the Chinese Government has with us.

No less an authority than the CIA issued a report on protectionism and trade with China, and in it they say that there is little appetite for economic reform in China.

Mr. Speaker, I would also like to quote from Senator JEFF BINGAMAN, who was quoted in the same article when at a hearing on China's trade policy at the Joint Economic Committee. He said that, "It looks like the United States is one of the biggest chumps in the Western world." We look hopeless.

Mr. Speaker, we are not hopeless. We have opportunity, and we have opportunity today.

I pointed out the trade deficit in relationship to human rights, because that is what equals leverage for us. I do not believe that China will give up.

We have a unique opportunity to use our leverage to release those people who risked their lives for democratic reform. Given China's $10, $12, $15 billion trade advantage with the United States, the Chinese Government has a strong incentive to make changes that would qualify it for 1992.

Because I do not have much time, I would just like to share with Members of the body this watch. Some have said that Tiananmen Square is something we should put behind us, and I wish we can, and maybe we can today by passing this bill. This was a watch given to the soldiers who crushed the rebellion. Each soldier was given a watch engraved with the words: "For suppressing the turmoil, June 1989." I think that this watch, instead of an award or reward for crushing the demonstrations, should be a reminder to the Chinese authorities that their time is running out, that they are yesterday and the young people who demonstrated for democracy are tomorrow. And it is ironic that this watch that they gave as a reward to their soldiers who crushed the unarmed students would be used here today to help us keep the time on this debate to condition most-favored-nation status on China's renewal on improving human rights there.

Mr. Speaker, I thank my colleagues and urge them to support H.R. 2212.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. CRANE], a respected member of the Committee on Ways and Means and the ranking member on the Subcommittee on Trade.

Mr. CRANE. Mr. Speaker, I rise today in opposition to H.R. 2212. I share my colleagues' abhorrence of Beijing's blatant disregard for human rights, its refusal to fully open its market to American goods, and its defiance of multilateral efforts to ban totally the sale of weapons technology to all third world countries. However, I believe that the steps we are attempting to take today will do little, if anything, to encourage the People's Republic of China to improve its behavior. It is foolhardy to believe that the Chinese will accept a list of conditions spelling out how their Government should conduct its internal affairs in order to engage in normal trade, since no other country imposes such conditions. MFN would therefore be withdrawn. Perhaps not this year, but certainly next year. Make no mistake about it, H.R. 2212 translates into a 1-year plant closing notice for many companies operating in China.

In my mind, there is no better way to show Beijing that we disapprove of its actions than by rewarding Taiwan for its advances in freedom and democracy. As every good parent knows, rewarding change is the most effective means of improving behavior. The administration has it within its power to drive this message home to Beijing by supporting Taiwan's application to the GATT.

Short of taking this action, I support the measure which will be offered later today in the form of a motion to recommit with instructions, which gives the President the flexibility to determine whether progress in a number of areas has been made in China. This approach makes sense because it allows us to maintain a relationship with China and offers Beijing a blueprint for change. More contact with China—not less—is the best way to bring about greater freedom and respect for human dignity.

Nobody understands the need for continued United States presence in China better than the people of Hong Kong. Sir David Wilson, Governor of Hong Kong, sums it up best:

> We must do everything possible to ensure that, in 1997, Hong Kong's capitalist system, and the rights and freedoms enjoyed by its people, are still flourishing and have the strength to survive the inevitable shock of the change of sovereignty. United States withdrawal of China's MFN status could bring about an economic recession that would jeopardize all our efforts.
>
> The people of Hong Kong have as great an interest as anyone in an enlightened and outward-looking China. We believe that continued trade, contact, and communication with China will encourage openness, and that the withdrawal of MFN status would bring about a more isolationist mentality. This would be in the interest of neither Hong Kong nor the United States.

We also must not forget the effect removal of MFN would have here at home. Because China is a major supplier of low-cost shoes, apparel, toys, and electronics, raising tariffs and prices on these inexpensive products would disproportionately hurt lower income consumers. In addition, it has been estimated by the toy manufacturers of America that loss of MFN would result in approximately 25,000 United States jobs, and at least 300,000 jobs in China being placed in jeopardy in the toy industry alone.

Last month, on my way to the White House to meet with the President on the very issue which is before us today, I drove past the Commerce Department building. From my car, I noticed the inscription above the west entrance, which reads: "Commerce Defies Every Wind Outrides Every Tempest and Invades Every Zone."

I believe there is a great deal of wisdom in this poetic phrase, and I hope that my colleagues will consider its message as we deliberate today over whether to allow commerce and all that it encompasses to prevail.

I urge my colleagues to vote no on H.R. 2212 and to support the motion to recommit with instructions.

□ 1700

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 5 minutes to the majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, we begin this debate by declaring with the President, we have no desire to isolate China.

But we ask him to see what is obvious: Embracing China without conditions or reservations has failed to modify her behavior. And her behavior must be changed.

We granted MFN status to China as the stirrings of the democracy movement started just 2 years ago, when the rulers and the ruled looked to America for a sign.

Within weeks after MFN status was granted, the tanks rolled over students, thousands were imprisoned, reforms were reversed, freedom was denied, and tyranny prevailed.

When we granted MFN we provided moral encouragement to the Government and to the people who held the guns, and we left the students, the protestors, and the captives in their thrall.

Then the President did in private what he promised not to do in public. While in the open he scorned China's hardened regime, in secret his emissaries drank their champagne.

While in public he renewed China's privileged trading status, in private he watched them terrorize their people, prepare missile sales to Syria and Pakistan, spread nuclear weapons technology to Algeria, and rack up a $10 billion trade surplus in this country.

Unbalanced and unfair trade with the United States builds China economically, increases its reserves of foreign capital, and makes China more self-sufficient and less prone to our appeals for human rights and restraint.

And American workers are the ones who get hurt by unconditioned trade: By some estimates, we've lost 400,000 American jobs.

Tragically and ironically, the President's policy is isolating China and insulating her regime from our influence.

This policy does not work. When we help China, they scorn us.

We should no longer reward this failure with more help for China—especially when that help comes without conditions and at the cost of American jobs and American values.

We should be using trade with strings to pull them toward reform.

Today, we say to China: You've got one year of open trade with America to clean up your act.

One year to respect the rights of your people.

One year to remove restrictions on your press.

One year to stop shopping goods produced by prison labor in American markets.

One year to end the trafficking and profiteering in nuclear weapons.

One year to stop this disgusting and coercive policy placing limits on family size.

One year, China; 1 year.

Mr. Speaker, no other nation has greater moral authority or economic capacity to enforce these demands on China.

Throughout our 214-year history, our Nation has actively and aggressively roiled the waters, so that a wave of freedom spreading from our shores would touch every continent in the world.

When it comes to furthering freedom and liberty, America makes waves, and always will.

Franklin Roosevelt, probably our greatest President, and one of our finest orators, said it best: "We defend and we build a way of life, not for America alone but for all mankind."

Through a determined process of engagement and leadership for democracy, we have said to the downtrodden, the oppressed, the enslaved, and the tyrannized, your cause is our fight too. And not by military means alone.

Granting and withdrawing the privilege of trading in America's marketplace is an effective means for prying open the locked jaws of liberty or to confront the behavior of tryants.

I deeply disagree with the administration's decision to dismantle sanctions against South Africa before South Africa has finally dismantled apartheid.

But even the administration must acknowledge that the sanctions then-President Reagan and then-Vice-President Bush opposed 5 years ago brought us closer today to a truly democratic system of majority rule in that country.

Sanctions succeed.

Even now, the Bush administration relies on economic sanctions against Iraq. We have used trade sanctions to win majority rule in Zimbabwe, to free Soviet Jews, and to speed the overdue departure of dictators in Africa, and Central and South America.

And there is now perhaps unique agreement in the Congress that this special American commitment and strength should be used, in a measured and effective way, to bring about needed change and reform in China—change that would immeasurably improve the lives of the Chinese people, change that would ultimately enhance the security of the world.

So let us make waves that will touch the tides of the South China Sea.

In this great era of renaissance for the rights of man, we know from the words of Walesa and Havel and Mandela and countless others that these actions are not just idealistic, they work.

And now they must be permitted to work in China.

We congratulate the gentlewoman from California for her courage, we thank the distinguished Chairman of the Ways and Means Committee for his leadership, and we urge our colleagues to support this important legislation.

Finally, Mr. Speaker, I urge my colleagues to support this important legislation for the human rights of people in China and across the world.

Mr. ARCHER. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. SCHULZE], a member of the Committee on Ways and Means.

Mr. SCHULZE. Mr. Speaker, I thank the gentleman for yielding time to me.

I would like to take a few minutes to talk about most-favored-nation status, what it means when we say the words "most-favored-nation." That seems to give the connotation that we are going to give these people the finest deal in the world.

Actually, it is somewhat of a misnomer. There are two columns in the tariff schedule, column one and column two. It is very simple. We have laid out certain rules and regulations and laws to determine whether one's products come in under column one or column two.

Column two treatment is for Communists or nonmarket economy countries. Why? Why do we have a higher rate or a greater charge for nonmarket economy or Communist countries? Let us think about that for a minute.

Suppose you are a businessman and you are selling widgets that you manufacture in the United States of America, and you pay your employees Social Security and you pay the local school taxes and you pay your county taxes and your water taxes and your State taxes and your Federal taxes and you are part of the community. You pay to have the roads done. If you need a railroad siding, you pay to run the railroad siding. If you need more electricity, you pay the local utility to get more electricity. If you add more equipment that uses more electricity or gas, you pay to get that. So all of these costs are involved in the product, this widget, that is being produced.

You are in direct competition with this same product being produced in a nonmarket economy country. Is it fair? Is it a level playing field? Let us look.

Does the manufacturer in a nonmarket economy country pay for the electricity? No, not usually. Does he pay his employees? The money may come through him but the amount of pay is dictated by the state. Does he pay for the railroad that takes the product to market? No. Does he pay for the overhead? No.

If he wants to expand his production, how does he do it? He does not do it. A central planner somewhere in the capital city makes a decision that he is going to expand his production, and they tell him to do it.

The point being, we are not comparing apples and oranges. This widget made in a nonmarket economy country, it is virtually impossible to determine an honest, fair cost on it. So how is the cost determined? How is the price of this product determined on the world market?

Well, those same central planners sit up there and they say, how much hard currency do we need?

□ 1710

Where are we going to sell this product? How much are we going to get for it? What do we have to sell it for, to penetrate certain markets?

That is how the price is determined. The price is not determined by the cost of his employees and the cost of the electricity, his school taxes, and other things that he has.

So why do we have two columns? Does it make sense? Of course it makes sense. It was, you might say, in a way to either protect or insulate the domestic producer from totally unfair competition, from someone who did not care about market economy.

Mr. Speaker, let me tell Members, Adam Smith never envisioned a world in which nations would develop product lines to secure hard currency. So we need two columns, column 1 and column 2.

In this instance we have a law in the United States of America, and that law says you get most-favored-nation status even if you are a nonmarket economy country, if you are leaning toward freer immigration. That is our little way of saying we want the world to be a wonderful, rosy place, where everybody can try to be as free and open as we are. We know it is not going to happen, but it is our little wedge, to say we are asking this one little thing. Just make your immigration freer, let your people travel and see what the rest of the world is like, have a taste of freedom, if you are not afraid to open that door just a little crack.

That is why we have MFN. That is why we have column 1 and column 2. That is what this debate is all about.

Mr. Speaker, if we follow the rules and regulations and laws, we will send this message. We will vote for Pelosi, and send a very strong message, that we will no longer stand for that type of abuse around the world.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the gentlewoman from California [Ms. PELOSI] showed us a picture today that is forever etched in our memory. It is of a young man stopping a column of tanks in Tiananmen Square. When it happened, and even now, I wonder as I look at that young man, what kind of inner courage must it have taken to walk in front of that line of tanks, and I wonder what kind of nerve we will have today as policymakers in trying to deal with China.

Mr. Speaker, I represent farmers who sell a great deal of grain to China. That trade is important to us. I do not want to do anything today that jeopardizes that trade. We have had experience with the Soviet grain embargo a decade ago that suggests that that approach shoots ourselves in the foot.

But the question today is not about a grain embargo or a trade embargo. The question is should we extend most-favored-nation status to China.

I think we should extend MFN to China, but I believe, as the gentlewoman from California [Ms. PELOSI] does, that we ought to extend MFN with conditions.

The barbarian behavior of the Chinese cannot be ignored, and it cannot be excused. We cannot pretend that Tiananmen Square did not happen. It did. The issues of human rights, prison labor, nuclear proliferation, and more are not insignificant. They are issues that we have the responsibility to raise.

China now has a $10 billion surplus with us. To my constituents who want continued trade with China, I would say instead of wringing our hands, worrying, and being nervous that if we impose conditions on MFN, China will buy less from us, we should expect, yes, demand, that China buy more from us to reduce that trade deficit.

We should also expect and demand that China begin to behave like responsible citizens of the world, respectful of the rights of other human beings. So let's extend MFN to China, but let's do it with the conditions in the Pelosi bill. It is the right thing to do.

Mr. SCHULZE. Mr. Speaker, I yield 4½ minutes to the gentleman from Iowa [Mr. GRANDY], a member of the Committee on Ways and Means.

Mr. GRANDY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise today in opposition to the Pelosi amendment and in support of a condition-free MFN status, because I believe we may ultimately convince the Beijing government to alter its oppressive human rights policies, but I do not believe we will ever coerce them. Mr. Speaker, I would relate a personal anecdote here. I was one of the first American television actors to actually work in the People's Republic of China back in 1983. I can recall one day in Shanghai, we finished our shooting early, got back on the bus, and went to the Chinese location manager. We said, "Okay, we are ready to go to the next location. Let's go."

He paused and said, "Yes, but the next location is not ready for you."

Mr. Speaker, what I think he was giving us an important clue to that Chinese frame of mind that we are attempting to change today by conditioning MFN status. Because what that Chinese location manager was saying to our film company in 1983 is the same thing President Yang Shangkun is saying to us, today when he says, "If you get tough with China, China will not be pushed." He says, "The more pressure you apply, the less China will give in."

So when we beat our breasts and decry Chinese arms sales to the Middle East, he points out, correctly, that the United States deals in arms to the same region, in many cases to the same country.

When we sanctimoniously proclaim MFN should not be extended to nations that destroy their own people, he points out, correctly, that our Nation currently extends MFN status to Syria, one of the cardinal suppressors of human rights on the planet, and our recent ally in the gulf war.

Rightly or wrongly, Mr. Speaker, when we preach to the Chinese, we find ourselves guilty of the same things we accuse them of; namely, operating in their own self-interest.

Then we argue that sanctions do have a positive effect, as in the case of South Africa.

Mr. Speaker, South Africa is a country of 65 million people, and even then we needed a coalition of nations united against apartheid. China is a nation of well over 1 billion people, and we stand alone.

If we really seek to isolate them, let us at least admit to ourselves that the first people to suffer if we withdraw MFN status will not be the Chinese people, it will be the American people.

The gentleman from Kansas [Mr. ROBERTS] has talked about the effects of another grain embargo on American wheat farmers. But he is not just speaking for wheat farmers, he is speaking for all cash grain and oil seed farmers who are seeing prices reduced systematically every year, who know that their only recourse to profit is export, and if grain sits in bins, it will not be sold. The price will be depressed, and farmers all over this country will lose money. We either sell it, or we smell it.

Mr. Speaker, there are others who are caught in this crossfire of our good intentions. I have a letter from the Tyco Toy Co., based in New Jersey. They say:

> Tyco relies heavily upon imports of toys manufactured in the People's Republic of China because it enables us to be competitive in the United States market, providing toys children want at prices their parents can afford.
>
> In addition, at least 1,400 United States jobs in our company, as well as countless additional jobs in other firms with whom we do business, are dependent upon Chinese production.
>
> Were the United States to discontinue extending MFN duty treatment to Chinese

products, we would be severely affected. Duty rates would skyrocket from an average of 6 percent to 70 percent, effectively destroying our ability to provide low-cost quality products to consumers and very likely requiring us to cut back on related U.S. employment.

Mr. Speaker, finally, if we truly wish to subvert communism, then let us continue to use the one weapon the leaders of Beijing truly fear. They call it evolutionism. It is their term for our supposed U.S. policy of attempting to undermine totalitarianism with trade and investment.

Mr. Speaker, evolutionism is alive and well in southern China. Streets there are devoid of the socialist slogans we see in Beijing. Factories there presently operate outside of China's centrally planned economy.

Unfortunately, the Pelosi amendment, although well intentioned, is, as the gentleman from Illinois [Mr. CRANE] said, a plant closing notice for the forces of evolutionism, which are the only influence we will ever have to get China to move to the next location.

Mr. Speaker, let me just say in speaking about southern China, the dominant influence there is Hong Kong right now. If we strip away MFN, the chance that Hong Kong may ultimately reform China will be lost, and the assurance that China will reform Hong Kong will be guaranteed.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma [Mr. McCURDY].

Mr. McCURDY. Mr. Speaker, I rise in support of the Pelosi amendment.

Mr. Speaker, I rise today in support of H.R. 2212, which has been offered by our distinguished colleague, the gentlewoman from California, NANCY PELOSI. She has done a remarkable job pursuing this legislation, and she should be commended for her perseverence.

My support for placing conditions on most-favored-nation to China stems not from any desire to isolate that important country or see our bilateral relations ruined. Indeed, I am sympathetic to some of the President's arguments that greater economic contacts between the United States and China is one way to encourage political reforms. For the last 2 years since the Chinese Government ordered the massacre at Tiananmen Square, we pursued just such a policy. I think it is fair to say that President Bush has gone the extra mile in attempting to persuade the Chinese Government, through high level contacts and economic ties, to change its foreign and domestic policies.

But there comes a point, Mr. Speaker, when we must make a candid assessment of our relations with China and take appropriate steps to enact a policy which is consistent with our values and our interests. The fact is that the Chinese Government has treated the United States and President Bush's policy of accommodation with utter contempt. Despite the President's best efforts, China remains one of the world's most oppressive societies. The aging dictators in the Communist Party continue to deny the Chinese people even the most basic human rights. People are routinely persecuted for their political and religious beliefs. The destruction of what is left of Tibet's culture continues unabated. Hundreds of those arrested in the aftermath of Tiananmen Square have been tortured, sent to kangaroo courts and political re-education camps, or simply disappeared. At a time when democratic change is taking hold in much of the world, China remains a glaring exception.

But if its internal policies are not enough to warrant placing conditions on China's MFN status, surely its foreign policies do. Mr. Speaker, in recent years we have seen China unleash an arms proliferation policy in the Third World that is dangerous, irresponsible, and presents a direct threat to our interests and allies. China has sold nuclear weapons technology to Iran, Iraq, North Korea, Algeria, India, and Pakistan. It has sold nuclear-capable ballistic missiles to Syria, Pakistan, and Saudi Arabia. And in the effort to gain U.N. approval to take military action against Saddam Hussein in the Persian Gulf war, the best President Bush could get from the Chinese Government was an abstention in the Security Council.

Furthermore, China has taken advantage of its current MFN status by enacting unfair trade and labor policies, including more than $400 million in annual thefts of United States intellectual property rights and protected trademarks, that have caused our trade deficit to reach $10 billion. China also continues to bar Tiawan, which has the 13th largest economy in the world and is our 6th largest trading partner, from gaining entry into the General Agreement on Tariffs and Trade.

Given these factors, Mr. Speaker, I believe that the Pelosi bill, which gives the Government of China 1 year to address these concerns, is a reasonable approach to this complicated issue. I understand that some industries in America will be negatively impacted if China fails to meet the conditions in this bill and is denied MFN status next year. But American businesses and workers are already being hurt by China's unfair trade practices.

Moreover, we are not placing unreasonable demands on China. By insisting that the Government of China improve its human rights record, stop selling dangerous, sophisticated military technology to radical Third World regimes, and change its unfair trade practices, we are merely asking China to act like a responsible world power and abide by civilized rules of behavior. The President's policy of the last 2 years, unfortunately, has failed to accomplish this minimum objective. The Pelosi bill will give strength and purpose to our policy toward China, and I urge my colleagues to support it.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I rise in strong support of H.R. 2212 which conditions the renewal of MFN for China on improvements in basic human rights. I want to commend my colleagues in their bipartisan effort to bring this resolution to the House floor; particularly I want to note the strong leadership and relentless commitment shown by Congresswoman PELOSI on this issue of critical importance to the United States and to the people of China.

In May 1989, when Soviet President Gorbachev made his historic visit to Beijing, hundreds of thousands of students staged a sit-in at Tiananmen Square, demanding that the Chinese Government recognize and respond to their pro-democracy movement and calling for a direct dialog between the demonstrators and the leaders. Thousands of them went on a hunger strike to underscore their appeal. In Beijing, Shanghai, and other cities, hundreds of thousands of citizens staged demonstrations and marches in support of the students' actions. On May 17, an estimated 2 million people took to the streets in Beijing in a show of solidarity for the students on strike. Those people included the rank and file of China: office workers, drivers, journalists, factory workers and civil servants.

On May 30, students and teachers created a 3-meter tall white statue of the Goddess of Liberty and erected it at the center of Tiananmen Square, facing Mao's portrait.

This short-lived counter-revolution ended tragically and brutally. In the early morning hours of June 4, the People's Liberation Army broke the uneasy stand-off in the square, opening fire on all those who dared stand up for freedom. Thousands of unarmed people were killed and untold numbers were injured. After the massacre a massive witch-hunt ensued; hundreds were summarily detained and later dozens were executed.

Mr. Speaker, it is important to remember these facts because this is not ancient history. The people responsible for the Tiananmen Square massacre are still the leaders of China today. We need to be clear as to the type of signal we are sending and to whom. I have no doubt that President Bush is genuinely committed to achieving democratic reform in China. But the administration's policy will not lead to that result.

Two years after the brutal massacre and 1 year after this administration successfully recommended a 12-month extension of the Jackson-Vanik amendment waiver authority—China has no freedom of the press, no freedom of assembly, no freedom of speech, no freedom of conscience, no right to emigrate, no representative government, and no self-determination. What there is in China—according to the Department of State's own report—are thousands of political prisoners, repression spanning the breadth of the country at every level, fear, forced labor, and torture.

In short, within the walls of China there is no realistic alternative to political and spiritual bondage. It is a society that remains tense, ruled by a government that has been successful in quashing virtually all open expression of dissent. Systematically depriving its citizens of any possibility to exercise the most fundamental human rights and robbing them of the social and economic rights it claims to champion, China is a nation engaged in a dangerous waiting game, each citizen seeking to outlive a regime almost universally viewed as illegitimate.

Respect for human rights and fundamental liberties cannot be brought about solely by external pressure from the West in general or the United States in particular, crucial though this is. Ultimately, fulfillment of China's human rights obligations will only occur when its leaders recognizes the inevitable futility of trying to rule by force. The more vicious and cruel the leadership becomes, the more profound will be the people's reaction to it.

The administration is right that withholding MFN trading status may not be enough to pressure the Chinese regime to change its behavior in specific and critical areas. But while withholding MFN alone may not be enough, it is a start. Moral rhethoric alone may not force powerful regimes to respect the basic human rights of their citizens, but backing up our words with deeds may.

Over the past few years we have witnessed signs the world over indicating an increasing acceptance of a more open and constructive discussion of human rights problems and more promising action toward the realization of stated human rights goals. A collective consensus recognizing the dignity of the individual has emerged as a political issue with immense moral force in every region. Broad, widely-shared concepts of human rights, fundamental freedoms and social justice have surfaced. These compelling political issues have moved from the periphery to the center stage of world politics—certainly nowhere more so than at Tiananmen Square.

But if we are to prevent respect for human rights from being no more than the transitory hallmark of one short-lived era in international relations, if we are to ensure that they are an enduring principle upon which nations act, then we must here today apply those principles in our relations with the Chinese leadership. There should be no mistaking our message: The United States will not help underwrite the totalitarian regime in China or anywhere else.

Eleven years ago as a Presidential candidate, President Bush criticized the Carter administration for sacrificing strategic interests for human rights. At that time, candidate Bush stated:

> We should not impose our standard of human rights on every country around the world. China is a good example. We must improve relations, but if we start dictating to them or cutting them off because of human rights, we will diminish our strategic interests.

This is not only flawed reasoning but short-term thinking. First, the United States is not trying to dictate human rights standards to China. These are standards which the Chinese Government has itself endorsed in the universal declaration of human rights. And they are the standards to which the Chinese people—the people of Tiananmen Square—clearly want their government held.

Second, United States strategic interests are better served by a China controlled by prodemocracy forces rather than dictators. As we have learned in country after country in Europe, the United States develops its strongest alliances, engenders its greatest respect, and ensures its lasting security when we stand firmly and unequivocally for the principles upon which our own Nation was founded. To the degree that our actions must affect the Chinese nation, let it not be at the expense of individual freedoms and human dignity.

On behalf of those seeking individual rights and democracy in China and throughout the world—I urge my colleagues to support this resolution and insist that certain basic human rights be respected before renewal of MFN is granted again.

□ 1720

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend for yielding time to me.

Mr. Speaker, I rise in support of the bill, H.R. 2212, a measure designed to establish conditions for extension of MFN to the People's Republic of China. As an original cosponsor of this measure, I appreciate that it now includes a number of provisions that I believe strengthen the bill and bring balance and consistency to an array of human rights issues which mar United States-Republic of China relations.

Included in the bill from the last Congress is the provisions requiring that significant progress be made in ending religious persecution in China and Tibet, and releasing leaders and members of religious groups who have been detained, incarcerated, or under house arrest because of their religious activities. Mr. Speaker, religious freedom, in my view, is the most rudimentary of human rights. Perhaps troubled by the uprooting of communism throughout Eastern Europe, and particularly in Romania, and the role played by the church in these countries, Beijing has now initiated a nationwide crackdown on religion that is unprecedented.

Ever since my return from the PRC in late March, which I would point out parenthetically, along with my good friend, the gentleman from Virginia, Mr. FRANK WOLF, and others, we met with Li Peng and a number of other high leaders, we have been receiving firsthand reports that the house church movement and a number of other religious leaders, including bishops, have been under increased repression and there have been more arrests, more detentions, and more incarcerations for a number of years.

Mr. Speaker, I am also very pleased that the bill reflects one of my deepest concerns, a concern with regard to the one-child-per-couple policy and the use of coercive abortion and coercive sterilization against the Chinese women and children. One of the most succinct analyses I have seen of the Chinese population control program is found in Dr. Aird's book in which he points out that "the Chinese program remains highly coercive, not because of local deviations from central policies but as a direct, inevitable and intentional consequence of those policies."

Dr. Aird points out that foreign organizations and individuals that laud the Chinese program or provide financial or technical assistance for any aspect of it place themselves in the position of supporting the program as a whole.

Mr. Speaker, I believe we have an obligation to be consistent in decrying these human rights abuses at every juncture, whether it be in MFN or in such things as the Kemp-Kasten language.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Speaker, there was a time when the realities of the cold war caused compromises of some of our most basic principles. From Marcos in the Philippines to the Shah himself, the cold, hard realities of the cold war required some compromises.

But is is a new time. The cold war has ended. America is secure and the need to compromise our basic principles has ended.

America can now return to her most noble and highest of traditions as the defender of basic human rights. The Pelosi resolution embodies this reality. Only the fact that we are divided today can surprise anyone, for demonstrators are jailed, trade laws are trampled, arms are sold to those who threaten our forces. Nuclear technology is used against our interests. Indeed, one wonders in this administration what must someone do to be the least favored nation if someone could commit all of these acts and be the most favored?

Mr. Speaker, there are those who will bring freedom one day to China. But today they have no allies, no weapons, no tanks but us. Our voices are their only weapon, this institution their only potential ally. Someday they will prevail, because freedom always prevails, and on that day it will be remembered by 1 billion Chinese either the

United States stood with a few ailing leaders intent on stopping the forces of freedom or America stood with those who would be free, who wage this fight today.

Let it be remembered in this hour of need America stood firm, America stood with freedom and it will never be forgotten.

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT. Mr. Speaker, I voted against the resolution to disapprove most-favored-nation status for China, and I will also vote no on the Pelosi resolution, H.R. 2212, to extend MFN status but with unworkable and unrealistic conditions.

China has a deplorable record on human rights. There is no one in this House that condones the way the Chinese have treated prodemocracy supporters. And, in fact, Congress has gone on record to send this message to the Chinese Government.

This debate today, however, is about more than just sending signals about human rights or messages condemning the hardliners in the Chinese Government. The MFN debate is about taking action to foster the move to democracy in China and, so importantly, it is about our trade relationship with 1½ billion people and the impact that trade has on American business and industry.

Both our Government and the private sector, and our allies and trading partners, have invested more than just money. We've helped sow the seeds of democracy and free enterprise in China.

As any farmer will tell you, once you plant a crop, you have to nurture it and then prepare for the elements. If the weather is good you can expect a bountiful harvest.

In China, the seeds of democracy that were planted with the help of our Government have survived through some bad weather and now need our patience and support in order to be harvested.

American business and agriculture have invested heavily in the development of democracy in China. The contacts made by American business people in China, and business exchange programs, have helped the Chinese better understand our Government and the free market system.

It is this knowledge—it is the exposure to the "Sun" that shines on the free and open system—that can keep the seeds of democracy growing and developing.

Disapproving MFN for China, or extending it with such realistic conditions, denies that flow of information and experience to those we want to help and encourage.

Disapproving MFN also slaps American business, especially American agriculture in the face.

Except for Hong Kong and Macau, we have invested more than any country in China, more than $4.11 billion since 1979. We had more than $5 billion in exports to China last year, and we imported more than $15 billion in 1990.

Regarding our wheat exports, which totaled $511 million last year, the Congressional Research Service [CRS] recently completed a report on the impact that the loss of MFN, and subsequent retaliation by the Chinese, could have on United States wheat prices.

Wheat prices are expected to drop by 27 cents, or 10 percent, from levels we could expect to earn if we continued MFN. The report continues to state "psychological effects of losing one of our biggest foreign wheat markets might push prices down even further in future time periods."

The most alarming aspect of this report, which I encourage my colleagues to review, pointed out that if one used 1990 wheat production data, rejecting MFN to China could result in a total Government and private wheat sector loss of more than $740 million.

What are we going to tell our constituents who will lose their jobs because of the loss of Chinese exports and imports?

And may I remind this body that it was our strong export markets that softened the blow of the recent economic recession on our economy. Had we not had such a strong export capability, the layoffs and unemployment rates could have been much worse.

While I have no doubt of the sincerity of my colleagues who oppose unconditional renewal of MFN status, I cannot agree with their alternative, the Pelosi bill now before use.

I urge my colleagues to support the President's proposal for MFN renewal and, in doing so, I'm urging you to support both the forces of democracy in China and American business and agriculture.

Do not vote to again isolate China, leaving it only to the repressive regime that existed prior to the opening of their society to Western ideas. And do not vote to take away a valuable market for American trade.

Mr. BARRETT. Mr. Speaker, I thank the gentleman for yielding time to me. I did not support House Joint Resolution 263, and I cannot support H.R. 2212 and would ask my colleagues to do likewise.

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. NUSSLE].

Mr. NUSSLE. Mr. Speaker, I thank the gentleman for yielding time to me, and I rise in opposition to the Pelosi resolution.

Mr. Speaker, I rise today in support of extending the most-favored-nation status to the People's Republic of China and in opposition to House Joint Resolution 263 and H.R. 2212 for three basic reasons.

First, my primary concern is for the American farmer. Denial or conditioning of MFN will result in the closing of the market for United States grain in China. Our agricultural exports to China were valued at over $800 million in 1990 and China is the largest market for United States wheat.

Moreover, I am afraid that, through the denial or conditioning of MFN status, the United States will be entirely shut out of the China grain market. Competitors in Europe will quickly move in and fill the void in the Chinese market. Other agricultural products will be hurt by this as well. Corn, for example, is the preferred feed grain and will lose United States market share to cheap feed wheat if Chinese wheat markets are lost. This is the last thing the Iowa agricultural economy needs as it begins to recover from severe spring flooding.

Second, the Chinese people will be punished for the actions of their repressive Government. It is estimated that failure to extend MFN status to China will cost South China's export industries up to 2 million jobs. Through American investment and contact, Chinese workers have benefited from jobs and an enhanced well-being. Losing this contact will hurt the workers the most and not the Government heads in Beijing.

Finally, I, too, am appalled by China's poor record with respect to human rights, sales of weapons to our enemies, and religious persecution. But I do not believe that we should use denial of MFN status to solve political problems. Our country should pursue other avenues to punish the Government of China for its action rather than using the American farmers, workers, and industries as pawns in an international game of strategy.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. CHANDLER], a member of the Committee on Ways and Means.

□ 1730

Mr. CHANDLER. Mr. Speaker, I rise in opposition to H.R. 2212.

Mr. Speaker, not one of us thinks that Tiananmen Square was anything but a horrible tragedy. Not one of us will stand here and defend China and its human rights record, because it is indefensible.

However, how do we accomplish the goal of improving this record, a goal we all share? Will it work to literally cut off trade with China? My belief is that it will not.

Let me point out something else. Is there anything wrong with standing up for American workers? There is a two-way trade with China in the State of Washington that in 1990 amounted to over $3 billion. China bought planes, wheat, forest products, electronics, and cattle from Washington State. Those products, Mr. Speaker, were produced by Washington workers, men and women whose jobs depend upon trade, trade, yes, with the People's Republic of China.

We will have later today a motion to recommit and a substitute, essentially the Archer amendment, which we considered in the Committee on Ways and Means that embodies recognition of the goals we all share. It calls for the President, in extending MFN for China, to consider human rights, political prisoners, religious persecution, free press, access for human rights groups to prisons and trials in China, the kind of conditions which I think are not only realistic but will be useful in attempting to achieve our goals. But these sanctions will not impose penalties on the totally innocent American worker.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Speaker, I rise in support of H.R. 2212, the Pelosi bill which would establish conditions for the renewal of China's most-favored-nation status for China in 1992.

I am frankly mystified by the President's continued reluctance to apply any significant pressure on the Chinese Government when there has been no meaningful improvement in that Government's behavior since the Tiananmen Square massacre.

The administration seems to believe that it can buy internal reforms in China through trade preferences and economic assistance.

This approach is reminiscent of the administration's efforts to buy improved relations with Saddam Hussein. We all know the tragic consequences of the administration's failure to impose sanctions on Iraq. Apparently the President and his advisors have learned nothing from past mistakes.

Today, the administration wishes us to turn our backs on China's abuse of human rights in Tibet, its brutal repression of its own people, and its crucial role in the proliferation of nuclear and missile technology and extend most-favored-nation status without question or condition.

Such a policy is shameful and doomed to fail.

China remains the world's most egregious outlaw state on nuclear and missile proliferation. China has in recent years supplied sensitive nuclear and/or missle technology to Pakistan, India, Argentina, Brazil, South Africa, Iran, Iraq, Saudi Arabia, Syria, and Algeria. Despite repeated assurances to the contrary, the Chinese still provide the one-stop shopping center for any nation that wants to get into the nuclear club.

The human rights situation has not improved one iota. Prodemocracy demonstrators are still in prison; untold scores have been executed. Torture is rampant. And many have simply disappeared.

The repression in Tibet continues unabated. A de facto state of martial law was in place as China celebrated the 40th anniversary of what China calls Tibet's liberation in May. I assure you, no Tibetans were celebrating that anniversary.

And now, new reports have surfaced that China is using forced prison labor to produce exports. Are these the Chinese labor practices we want to endorse by giving preferential trade treatment to Chinese products? Mr. Speaker, we are allowing China to reap a projected $15 billion trade surplus with the United States this year largely at the expense of American textile workers, not to mention the abuse of jailed Chinese.

If we unconditionally extend MFN this year, we will be saying to the Beijing leadership that executing prodemocracy activists is OK, that giving Algeria the bomb is acceptable, that selling missiles to the Middle East is fine with us. I do not believe this is the message that we want to send to the People's Republic of China.

Mr. Speaker, I urge my colleagues to support H.R. 2212. It tells the Chinese Government in no uncertain terms what improvements must be made if it is to receive most-favored-nation status in 1992.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, I rise in support of the resolution.

I oppose granting most-favored-nation [MFN] status to China. MFN status should be a privilege and a reward for upholding values of freedom and democracy. These standards do not apply to the Communist-controlled regime in Beijing which does not observe basic freedoms of assembly, speech, or religion or provide for free and fair elections. I am particularly concerned with China's policies in the following areas:

First, China has demonstrated time and time again its flagrant disregard for nonproliferation regimes. In fact, China is significantly responsible for the proliferation of ballistic missiles in the Third World and to nations with interests inimical to ours. These ballistic missiles could 1 day carry weapons of mass destruction aimed at American troops, our allies, or even, potentially, the continental United States. The Chinese have sold the Algerians and the Pakistanis nuclear reactors; sold the Saudi Arabians billions of dollars worth of intermediate-range ballistic missiles; and have offered nuclear-capable missiles to Syria, Libya, Iran and Pakistan.

Despite recent indications to the contrary, there does not appear to be any unanimity in the Chinese Government that this practice will stop. In late March Chinese Foreign Minister Qian Qichen announced that China was not a founding member of the 15-member Missile Technology Control Regime [MTCR] and "should not be called upon to assume corresponding responsibilities." Will we have to wait until the Chinese sell their CSS-4, which has a range of 16,300 km, to take seriously the threat posed by the proliferation of Chinese ballistic missiles?

Advocates of MFN for China will argue that diplomacy will stem the tide of proliferation. I disagree. It is what the Senate Committee on Governmental Affairs called the China Syndrome.

> A pattern of events and activities—driven by bureaucracies and fostered by distorted and unadjusted notions of economic and strategic interests—that has for decades frustrated the achievement of * * * nonproliferation objectives.

Chinese proliferation policies are an affront to American efforts to enhance world stability and provide for the protection of her citizens and should not be rewarded with unconditional MFN status.

Second, the Chinese carry out a policy of forced sterilization and abortion if a woman has already given birth to a child. This practice is an egregious violation of the human rights of the family. In 1988 I helped a Chinese couple from my district stay in the United States after the Chinese Government ordered them home to abort the child she was carrying. Their offense was that she did not have a birth coupon from the government which would have allowed her to exceed the "one-couple, one-child" policy.

Third, under the Jackson-Vanik statute, the decision on whether to extend MFN to Communist countries hinges largely on whether they permit free and open emigration, and on their human rights practices. The present constitution of the People's Republic of China does not accord Chinese citizens the right of free emigration. Since the Tiananmen Square massacre of June 4, 1989, the central authorities have made it more difficult for people to leave the country. Human rights abuses against the citizens of Tibet amount to nothing less than genocide.

Finally, the Chinese are illegally dumping products on the American market made by prisoners in concentration camps. And, they continue to support some of the most ruthless mass murders of this century—the Khmer Rouge in Cambodia. It is unacceptable for the United States to help the Chinese Government continue to coerce its own people and the people of other countries. For all of these reasons, I oppose MFN status for China.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I strongly support this resolution. I commend the gentlewoman from California for her perseverance and leadership in this matter.

Mr. Speaker, I rise in support of H.R. 2212 to condition next year's renewal of most-favored-nation status for the People's Republic of China on progress on human rights. I commend the author of the legislation, Ms. PELOSI, for her determination and dedication to this important issue and of the chairmen of the Committee on Ways and Means, Mr. ROSTENKOWSKI, and its Subcommittee on Trade, Mr. GIBBONS, for their leadership in bringing this measure before the House.

Mr. Speaker, like most of our colleagues, I shared the outrage and dismay of the American people—indeed, of freedom lovers everywhere—as we witnessed the brutal massacre of unarmed Chinese students and peaceful democracy activists in Tiananmen Square 2 years ago. I supported the imposition of tough sanctions against the Government of the PRC to express our displeasure with this deplorable and tragic event and with the ongoing human rights violations in China and Tibet. Through those actions, the Congress made clear to the Chinese Government that there is no excuse for their inexcusable treatment of the Chinese and Tibetan people.

At the same time, I realize that efforts to support democratic reform and respect for human rights in China cannot take place in a vacuum. We must find a way to reconcile our abhorrence of Chinese human rights abuses with the need to strengthen whatever reform tendencies may exist inside the PRC. I believe the approach offered in H.R. 2212, which establishes progress in the human rights field, including an accounting and release of political prisoners, as a precondition for China's MFN renewal next year, is both reasonable and necessary.

Mr. Speaker, according to the independent and respected human rights organization Asia Watch, Chinese prisons and labor camps hold more political prisoners today than at any time since the bloody and repressive period of the Cultural Revolution. The estimates of those arrested in the aftermath of the June 1989 crackdown on the democracy movement range from several thousand to as high as 30,000. This is in addition to thousands more who have been imprisoned for the nonviolent expression of their political or religious views over the last 10 years. Among those long-term political prisoners being held in solitary confinement is Wei Jingsheng, the renowned Democracy Wall activist, who has been imprisoned for over 12 years, much of that time in solitary confinement.

Until the Government of the People's Republic of China demonstrates its willingness to abide by international standards of human rights and the rule of law, it should not expect to reap the benefits of membership in the community of civilized nations. I hope that the Chinese leadership will take seriously the action of the Congress today and will soon improve significantly its record of respect for internationally recognized human rights. By passage of this measure today, the Government of the PRC is put on notice that, without such steps, the relationship between the United States and China will be seriously, and perhaps irreparably, harmed.

Mr. Speaker, I urge immediate adoption of this measure.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, I have a question to ask of those who are still arguing that we should renew most-favored-nation status for China without conditions. How brutal does the Chinese Government have to be before we decide that it is no longer acceptable to carry on business as usual with Beijing's aging and autocratic tyrants?

They have rolled tanks over the bodies of students who had the courage to risk their lives for freedom. They have left thousands of others to languish in Chinese prisons, facing torture and conditions any of us would consider inhumane. They have sold weapons and nuclear technology without regard for the devastation they may have wrought. They continue to brutalize the people of Tibet—and they even had the gall to celebrate the 40th anniversary of that country's occupation. Finally, they turn their backs on the very notion of civilized free trade by closing their market to most American-made imports. The real question is: How can the President—or anyone else for that matter—justify this behavior by smiling benevolently at Beijing's tyrants?

Some argue that cutting off MFN will weaken any leverage we may have to press Beijing to improve its human rights record. Then it would follow that they would be enthusiastic supporters of H.R. 2212, the Pelosi, Pease, Solarz bill, which would grant MFN this year while conditioning renewal of MFN next year. That would give the ruling clique in Beijing plenty of time to take steps that all of us would agree are essential if the Government has any intention of returning to the path of civilized conduct.

We must decide whether we will stand with Fang Lizhi and the Chinese students and democracy activists who have spoken out in support of H.R. 2212, or whether we follow the President in conducting business as usual.

We must decide whether we will stand with those who represent China's future as a nation of free people, or with a group of frightened old despots who represent China's past. I urge my colleagues to support H.R. 2212.

Mr. Speaker, I urge my colleagues to vote for the future and to support H.R. 2212.

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from South Dakota [Mr. JOHNSON].

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise in opposition to the resolution.

Mr. Speaker, I rise in support of renewing China's most-favored-nation [MFN] status for another year.

MFN status simply allows goods from a country to receive the lowest U.S. tariffs available to the exports of any other nation—virtually every nation on the globe already has MFN status, however, current law requires that Communist nations can have such status only if the President annually requests that they be accorded MFN status and Congress does not disapprove the request.

No one defends China's human rights abuses, but to me, there are two fundamental questions at hand: First, will cutting off MFN status improve China's internal situation, or will it actually have a detrimental effect—strengthening its hard-liners, isolating China in the world community and causing China to move backward on human rights? Second, so long as our allies continue to grant MFN status to China, and stand ready and willing to take our existing agricultural markets in China, will cutting off MFN amount to a political and moral gesture that largely has the effect of punishing American farmers?

I believe that terminating the trade links to the United States will cause the aging Chinese leadership to become even more isolated and less inclined to meet United States and international human rights concerns. A reduction in trade reduces the interaction of people and ideas between the two nations—exposure to the ideas and the prosperity of the west that gave rise to the prodemocracy movement in the first place. MFN status encourages the Chinese government to remain engaged in the family of nations.

There are, of course, and will continue to be, a number of sanctions against the Chinese that are imposed even while MFN status is in place. Secretary Baker has pointed out in his letter to Congress that the administration will continue to impose targeted sanctions against the Chinese, such as termination of military exchanges and the denial of certain export licenses. The export of U.S. supercomputers, communications satellites and high technology equipment that may have military applications will remain in place. These sanctions are correctly aimed at halting Chinese proliferation of missile and nuclear weapons technology, and future actions can be taken by the Administration if improvements in Chinese policy are not forthcoming.

The second matter is whether ending MFN for China will cause American farmers to be the only real losers. It is almost certain that the termination of United States MFN status for China will result in retaliation against American exporters. The $5 billion in United States exports to China will almost certainly go to American competitors in Japan, West Germany and other western nations which have always provided MFN to China. The Australians and Canadians as well as Europeans are especially anxious to take American grain markets from the United States.

According to a recent Congressional Research Service study, the termination of Chinese grain purchases would cause already depressed wheat prices to plunge by another 27 cents per bushel, or about 10 percent. This is a double-barreled loser, since this price decline would cost the Federal Government $500 million in higher grain deficiency payments while farmers would still lose $125 million on next year's crop.

China went from the 60th largest customer of American farm products in 1986 to the 8th largest in 1989. Wheat accounted for 80 percent of the $1.4 billion sales in 1989, and 60 percent of the $800 million in ag sales last year.

In sum, I believe that MFN status to China should be extended for 1 more year, after which this issue will necessarily be revisited by both the President and Congress. Failure to do so will be counter-productive from both a human rights and an economic perspective.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in opposition to House Joint Resolution 263 and to H.R. 2212 regarding most-favored-nation [MFN] treatment for the People's Republic of China. While some have urged revoking MFN status as a means of forcing China to respond to our concerns over human rights violations, arms proliferation, and trade disputes, I am convinced that withdrawing MFN, or attaching unattainable conditions, would actually destroy our Nation's dialog with the Chinese Government on these very issues and adversely impact our ability to affect any positive social, political, and economic change in China.

Despite ongoing United States sanctions against China, I understand the desire of many of my colleagues to send a strong message to the leadership of China—that the United States and its people condemn the actions taken by those leaders against their own citizens in Tiananmen Square in June 1989. Like all freedom-loving Americans, I watched the violence in Tiananmen Square. It repulsed me, the same as I am sure it appalled all Americans. That kind of brutality brings forth an emotional response—the complete rejection of China's authoritarian regime. However, the issue remains: Is revoking MFN status the proper vehicle to affect change? Visceral reactions aside, I believe it is not.

Despite rhetoric to the contrary, the administration and Congress share the same long-term United States foreign policy goals in China. Both want to see greater respect for human rights, a stronger Chinese commitment to global nonproliferation objectives, an end to unfair trade practices, as well as political and economic reforms in China. At question is how best to achieve these goals. I believe strongly that renewal of MFN promotes these objectives.

While some would have the public believe that the People's Republic of China does not deserve to be treated in a most-favored manner, the fact of the matter is that the granting of MFN status to a country is not a special favor and does not mean that country receives the most favorable tariff treatment in the United States. The term most-favored-nation is itself a misnomer; MFN treatment simply refers to a policy of nondiscrimination in trade. Despite its name, MFN status is actually the standard means of conducting international trade and does not signify approval of a government or its policies.

Although it is the standard basis of trade worldwide, MFN tariff treatment is, in fact, not the lowest tariff treatment possible on exports to the U.S. The U.S. has MFN treatment agreements with 160 countries. Such treatment provides that nations will not use tariff rates to discriminate against other nations. However, over 100 developing countries also receive additional, lower tariff benefits under the generalized system of preferences [GSP], in order to promote trade-based economic development. Only 11 countries do not enjoy the benefits of GSP or an MFN relationship with the U.S. Therefore, contrary to opponents' assertions, terminating MFN for China, a developing country, would deny tariff treatment that is not only routine for most developed countries, but also already less favorable than that accorded many other developing countries.

Critics of extending MFN status also argue that the United States should punish the hardline Chinese leadership for its actions in Tiananmen Square. However, I believe that the removal of MFN would punish not so much the leadership of China as it would penalize those Chinese who United States foreign policy ostensibly seeks to help.

China's MFN status over the past decade is widely recognized to have helped bring about greater political and economic liberalization in China. Foreign trade and investment continue to keep China open to the outside world and support the economic forces that have been driving political and social change. In turn, this phenomenon has encouraged a loosening of state control and has promoted better conditions for human rights and personal freedom.

As we debate this matter, we must not overlook the harsh economic consequences the withdrawal of MFN status would have on the commercial regions of China, Hong Kong, and the many United States businesses operating throughout these countries. Loss of MFN status would result in tariff increases at least tenfold greater on the majority of China's exports to the United States. Most of these exports come from special economic zones in China's southern coastal areas. These areas have operated for years in a greatly liberalized, free-market-type of atmosphere, and are widely thought to be at odds with the leadership in Beijing over many policy issues. The loss of MFN would do far more economic damage to these entrepreneurs and reform advocates, the very people the United States wishes to cultivate, than to China's leadership or to central government revenues.

The loss of MFN status would also create enormous new problems for Hong Kong, one of America's best trading partners, at a time when the colony can least afford anything that undermines confidence in its future. The health of Hong Kong's economy is increasingly tied to the growth of south China's export industry. China is Hong Kong's largest trading partner, accounting for 39 percent of total 1990 trade. Reexports from mainland China, which grew by 20 percent in 1990, underpin Hong Kong's peformance. According to the Hong Kong Government, therefore, loss of MFN status could cut Chinese reexports via Hong Kong by up to 44 percent, or $4.6 billion.

Chinese trade retaliation, resulting from the withdrawal of MFN, which would seriously damage United States business interests in Hong Kong, and China. According to the United States State Department, the United States has the largest number of regional headquarters in Hong Kong, with over 40 percent of the 252 offices. Almost half are engaged in trading activities with China, a principal market and source of supply. United States investment of over $6 billion accounts for almost one-quarter of foreign direct investment in Hong Kong. A 1990 U.S. Chamber of Commerce survey indicated that 70 percent of the approximately 900 U.S. member firms would be adversely affected.

If MFN is withdrawn, Chinese trade retaliation is certain, including reciprocal loss of MFN status for United States exports to China. Since no other countries are considering withdrawing China's MFN status, United States companies would be put at a competitive disadvantage. According to the U.S. Commerce Department, major U.S. exports at stake and their sales in 1990 include: aircraft and aerospace equipment, $749 million; wheat, $511 million; computers and electric products, $860 million; fertilizer, $544 million; chemicals, $273 million; cotton, $259 million; and timber and paper products, $281 million. Closer to home, Virginia exports to the People's Republic of China exceeded $83 million in 1990 while exports to Hong Kong were approximately $281 million. Thus, withdrawing MFN status would threaten over $5 billion in annual United States exports, undermine $4 billion in U.S. investments and threaten thousands of United States jobs which depend on trade with China. The United States should be promoting the removal of barriers to trade, not the erection of constraints which cost jobs in our factories and ports.

The President's renewal decision has provoked an intense debate in the Congress not only about the appropriateness of extending MFN to China, but also about United States foreign policy toward China generally. However, the debate's focus should remain, as President Bush stated recently at Yale University, on selecting a policy that has the best chance of changing Chinese behavior.

I believe that MFN is not only good trade policy, it also facilitates the development of a broad range of relations with a foreign country. This enables us to engage that country on a wide array of issues of interest to us and, if appropriate, selectively to impose sanctions in those particular areas where we have fundamental policy problems. Our relations with China have followed this pattern.

Prior to our opening of relations with Beijing in 1971, the United States sought for 2 decades to isolate China economically and politically. The United States had virtually no trade with China, few social or political contacts, and almost no ability to influence its policies. President Nixon's historic opening to China enabled us to begin to discuss with the Chinese issues of mutual concern. However, it was not until MFN status was granted to China in 1980 that our relationship accelerated and we truly began to engage the Chinese on a wide range of issues. The granting of MFN also profoundly increased our access to Chinese society and our impact on economic and political reform within the country. Withdrawing or conditioning MFN status for China threatens all that we have accomplished over the past 2 decades.

Revoking MFN status for China, or placing impossible conditions on it, will effectively terminate United States-Chinese relations, once again leaving the United States without influence and abandoning reformers within China. Moreover, no other country is planning to revoke or to introduce conditionality in extending MFN to China. On the contrary, the European Community dropped its economic sanctions last October, and British, French, Japanese, and other foreign ministers recently have gone to China to normalize their trade and political relationships. Since the United States is the only country contemplating withdrawing or conditioning MFN to China, such actions would have little prospect of producing the intended results and would likely hinder, rather than stimulate, desirable reforms in China. Revoking or conditioning MFN thus would have the effect of handing the China market to our competitors.

While all Americans are deeply concerned about the Chinese Government's abysmal record on human rights, arms proliferation, and trade matters, terminating MFN will not help to improve that record. On the contrary, denial of MFN will likely worsen these problems by providing the Chinese leadership and its xenophobic hardliners with an excuse to retaliate against United States interests, further cement their authoritarian rule, encourage a return to self-imposed international isolation, and once again exclude United States political influence from that country. Such an outcome would hurt most the very reform-minded people we are interested in helping. These will be the effects of MFN withdrawal.

The bottom line is that withdrawing MFN would seriously damage United States foreign policy interests, limit our contacts with China, weaken the economic forces for reform inside China, and hurt United States businesses and consumers. Our influence over Chinese behavior would be weakened, not strengthened. We should continue MFN because it is in our national interest. It enables the United States to stay engaged with China and pursue the issues which are of vital concern to the all of us. For these reasons, I oppose withdrawing or conditioning MFN status for China and agree with the President that it is wrong to isolate China if we hope to influence it.

□ 1740

Mr. DOWNEY. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, I rise in support of the Pelosi bill. I think it would be a mistake for Members to take away MFN status from China, and the adoption of the Solomon resolution notwithstanding, I trust that the Congress will not override the veto of that legislation which we can expect the President to hand down.

By taking away MFN from China we would accomplish very little, but it would cost the United States a good deal. I think it would also be a mistake, however, to unconditionally renew MFN for China, because if we were to do so, it would send an unfortunate signal both to the Chinese Government and to the Chinese people, that we were indifferent to the cause of human rights in that country.

The most desirable way to deal with this problem, it seems to me, is to conditionally renew MFN for China, in order to make it clear to the Chinese leaders that if they want the continued benefits of MFN, they need to make progress in the area of human rights. Unfortunately, the very sound, sensible, and sophisticated legislation originally crafted by the gentlewoman from Calfornia, for which she deserves great credit, was amended in a variety of different ways by the Committee on Ways and Means, and in a fashion which may make it objectively impossible for the Chinese Government to meet the conditions, thereby resulting in the ultimate rejection of MFN.

Consequently, I vote for the amended Pelosi bill in order to keep this process alive, and in the hope that the conferees will come to their senses and clean up the legislation so that we end up with a bill we can send to the President, which has reasonable conditions, responsible conditions, conditions which the Chinese Government can meet, and which if it does meet will result in a significant improvement in the human rights situation in China. However, it would make no sense with a whole series of conditions which cannot and will not be met because that will not advance the cause of human rights in China, but will result in all sorts of disadvantages for the United States.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, I guess in some respects I sound like a broken record on this subject. I hope and pray that the message I keep delivering will be determined to be wrong. However, I cannot help but think back to January 12 and the incredible gut-wrenching vote we cast in this House to go to war against Saddam Hussein.

Now, as we debate this today, there are U.N. teams scouring Iraq, as officials accusing Saddam of lying to the United States and to the United Nations about its weapons of mass destruction, and we are today giving a most-favored-nation status to the world's greatest proliferator of weapons of mass destruction. It is hard for me to believe, and it is very depressing.

How many more wars is it going to take for the United States to understand the path that we are on? How many more lives are going to have to be lost before we get serious about ending the proliferation of weapons? We should prosecute the New World order that President Bush so eloquently defined. We should prosecute that New World order as diligently as we prosecuted that war.

To my friends on the side issue who say if we do not sell weapons, somebody else will, as a result of our victory in Kuwait, we are the preeminent superpower of the world. What that means is that we, as the preeminent superpower, can use our authority, our clout, our prestige, to tell the world and to pressure the world into stopping the spiral of sophisticated weapons being delivered into Third World countries, and to anybody else who wants to buy them.

We should accept this bill that the gentlewoman from California [Ms. PELOSI] has amended. I would prefer not to do this. I voted for Solomon. If this is the best we can get, this is what we ought to go with. The bottom line is, though, remember what we did on January 12. Let Members learn the lesson from it, and let Members wake up before the world spirals into a pattern of destruction caused by the sale of sophisticated strategic and nonnuclear weaponry.

Mr. DOWNEY. Mr. Speaker, I yield myself 4 minutes. It is prophetic that I have the opportunity to follow my distinguished colleague from Ohio [Mr. KASICH] who has eloquently discussed one of the pressing issues in this legislation; namely, the reprehensible activity of the Chinese with respect to the spread of nuclear information material and advice.

I want to address myself to that question in a moment, but I want to pay tribute to the gentlewoman from California for her extraordinary leadership on this issue. Rarely do we have someone who has been in the Chamber as briefly as the gentlewoman from California [Ms. PELOSI] who has had such an extraordinary impact on the direction of this particular issue. We are all in her debt for the work she has done.

The gentleman from Ohio [Mr. KASICH] made the point about the proliferation of nuclear materials. Let me just read for Members a number of things that are public information.

One, the continued aid to Pakistan's covert nuclear weapons program, including nuclear materials, nuclear weapons design information, and critical information about nuclear reactor technology. They have secretly supplied a nuclear reactor to Algeria and denied having done so. They supplied low enriched uranium reprocessing technology to Iraq, and have supplied unsafeguarded nuclear materials to Argentina. They have sold enriched uranium to Brazil. Now, what our conditions require in the amended Pelosi language is nothing more than already exists in law. Today, the President, under 99-183, the Agreement for Nuclear Cooperation between the United States and China, passed in 1985, specifies that the President submit to the Speaker and the chairman of the Committee on Foreign Relations of the Senate, a report detailing the history and current developments in nonproliferation policies and practices of the People's Republic of China.

□ 1750

No such report has ever been submitted.

In the last session of the Congress, Public Law 101-246, the China sanctions bill which passed the House less than a month after Tiananmen Square, contained additional language concerning nuclear cooperation between the two countries, and it specifies the clear and unequivocal assurance to the United States that it is not assisting any other country in developing nuclear weapons devices or materials for such devices, and such certification has not been able to be given by the President.

So Pelosi, as amended by Rostenkowski, is the way to go if you want to express your concern about the proliferation of nuclear weapons materials and information and devices to the Chinese. There is no other way to do it, because the existing laws have not worked. This is the only opportunity we have to get the attention of the Chinese to stop what my colleague, the gentleman from Ohio [Mr. KASICH] has talked about, this willful disregard for global opinion about the spread of nuclear weapons technology.

The Chinese have to be stopped, Pelosi, as amended by Rostenkowski, does that.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I want to congratulate my colleague, the gentlewoman from California [Ms. PELOSI] for her hard work on this legislation. I think she has done a tremendous service to the Congress with all this effort.

Am I my broker's keeper? Yet bet I am. I think we all are. We all believe in human rights. We all believe in our fellow man, and yet I hear some of my colleagues on the floor today say in essence, "Let's close our eyes to what is going on the Communist China." I cannot do that, and I do not think anybody who really thinks about it should.

There are 10 million people in Communist gulags in Communist China today, many of whom are participating in a slave labor program to export goods to the rest of the world, including the United States. It is estimated that last year we got $100 million in products from Communist China that were made by slave labor in these 3,000 Communist gulags that have 10 million people in them. Those people stay in those prisons until they die. About 30 percent get out. The other 70 percent stay there.

Nuclear proliferation is a major issue, I grant you that.

The economic considerations we are talking about here today that affect Americans, that is important as well. But what about the 10 million people who are suffering in those gulags today and are literally slaves, making products that we consume in this country? Do we not care about them?

I say we should. For God's sake, we should, and then we think about those young men and women who wanted freedom in Tiananmen Square. Have we forgotten about them? Have we forgotten the Statue of Liberty replica that they erected in Tinanamen Square telling the world that they wanted the things that we hold dear, freedom, democracy, and liberty?

And yet what happened? We watched horrified on television as tanks came in and they literally ground those young patriots into dog meat, and we stand here today saying, "Let's close our eyes to that and give this Communist regime, this tyrannical regime, most-favored-nation status." I say no.

We need to send a signal not only to the Communist Chinese, but to the rest of the world that we stand for human rights, that we know there is a cost to be paid and we are willing to pay it, because we believe in our fellow man. To do less, in my opinion, is criminal.

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of H.R. 2212, the Pelosi bill, conditioning the extension of most-favored-nation trading status for the People's Republic of China on genuine human rights reforms and arms control activities. Congress has threatened to do this ever since the brutal crackdowns symbolized by the massacre in Tiananmen Square. China has repeatedly ignored our concerns and our warnings.

However, I must say I am concerned about attaching too many conditions with too many or unrealistic aims. Our objective is to persuade the Chinese Government to change directions and return to the process of economic and political reform which was moving slowly, but at least moving positively, prior to June 1989. Realistically, we cannot expect a total transformation from Communist dictatorship to free democracy overnight. Setting conditions that basically require such a transformation will not yield the positive results we want. Rather, I believe they will push the hard-line Chinese Government in the opposite direction ruining our already strained relations. We just don't know how far we can push China. I believe we should set realistic goals, require China to meet them and move on from there. In other words, we should attach conditions, but reasonable and responsible ones.

I believe that the Communist Chinese Government must be held accountable for the murder and continued imprisonment of thousands of peaceful prodemocracy supporters whose only crime was to publicly ask for greater freedom and democracy. Sadly, this is not the first time the Communist regime in China has used violence and bloodshed to enforce its will. Since seizing power in 1949, hundreds of thousands—some claim scores of millions—of Chinese as well as countless Tibetans have been murdered by the Communist Government. The overwhelmingly brutal force used by the Chinese Army to destroy the prodemocracy movement is abhorrent. The false charges and sham tribunals used to convict student leaders and sentence them to death by firing squad are outrageous, but should not have surprised anyone. Arrests and political harassment continue today throughout China and Tibet. Like many of my colleagues, I have already cosponsored and voted for resolutions that strongly denounce the brutal Chinese Government and protest all of its repressive measures. China cannot claim it has not been warned.

We have not stood idly by. Immediately following the Chinese Army's bloody attack on the student demonstrators in Beijing, the United States, through the White House, Congress and the State Department, strongly condemned the Chinese Government's action and President Bush invoked a set of punitive sanctions in response to this cruelty. These sanctions include suspension of all military cooperation and military sales, including commercial military deals; suspension of high-technology transfers and sales; suspension of any further meetings between senior United States officials and their Chinese counterparts; and postponing any consideration of supporting Chinese applications for loans from international lending institutions. I encouraged and strongly support these sanctions.

In addition, the mayhem created by the Chinese Government has resulted in the imposition of other informal economic sanctions. The evacuation of the vast majority of western businessmen and technical consultants has crippled many of China's industries, especially those involved in modernization and generation of much needed export earnings.

Events in China do affect our national security and global stability. For example, China could have, but it didn't, oppose our actions in the United Nations and in the Persian Gulf. A Chinese veto of any of the U.N. resolutions could have had tremendously negative implications for Operation Desert Shield/Storm.

As a nuclear power and major arms dealer, I am also concerned that a negative reaction by China to our MFN actions could result in China ignoring our efforts to halt the arms race in the Middle East, South Asia and elsewhere. That could be very detrimental to our national security interests.

While I recognize the importance of our relations with China and hope these ties will not be further damaged, the lack of real improvement in the situation in China and the continued repression warrants tougher economic as well as political pressures. However, as I said, we must be very discriminating with any new sanctions to ensure that we are targetting the Chinese government, not the Chinese people we are trying to help. That is a difficult challenge.

During consideration of the fiscal year 1990 and fiscal year 1991 foreign assistance authorization bill I strongly supported an amendment instituting a more expansive set of sanctions against the Chinese Government. Among the new sanctions contained in the legislation are suspensions of Overseas Private Investment Corporation [OPIC] activities, nuclear cooperation with China, trade and development agency programs, and munitions export licenses. I voted for these measures as well as for the bill, which passed the House. I also cosponsored, supported and voted for H.R. 2712, the legislation that protected Chinese students here in the United States from retribution from the Communist government.

I do not support the continuation of most-favored-nation [MFN] status for China unless it is conditioned by strict, certified Chinese adherence to human rights conditions. In other words, if China wants to retain MFN status—which due to the high volume of exports to the United States I believe the Chinese very much do—then real progress must be made on human rights. While almost every country in the world has MFN trading status and while I do not like to link trade issues with political ones, I feel this is one of the only ways left for us to influence China. Prior to the bloody massacre in Tiananmen Square in June 1989, I was encouraged by both the economic and political reforms being made by China. Sadly, the Chinese Government continues to move in the opposite direction today. While there is a real chance that the Chinese Government could react negatively to conditioning MFN status, punishing Chinese prodemocracy supporters and our global initiatives for actions by the United States, I also believe that there is a chance that it could provide the Chinese Government with an incentive to reverse current abuses and, once again, follow the path of real reform.

Denying MFN status to China will cost American consumers, particularly those in lower income brackets. Many inexpensive items, like everyday shoes and clothing as well as children's toys and inexpensive household items are manufactured in China. Due to international trade quotas and comparative advantages, replacing these items at the same low cost will be difficult at best. Because some of the goods imported from China require final manufacturing here in the United States, some American jobs could be at risk if MFN trading status is denied. Further, since we will be alone in these economic sanctions against China, I am concerned about the loss of American business to Japanese, Europeans, and others. In addition, we should be aware that Chinese trade with these other countries will mitigate the effects of our MFN denial on the Chinese.

The future of MFN trading status for China will also affect the transition of Hong Kong from its protected status of a British crown colony to an integral part of China as scheduled to take place in 1997. Further, concerns have been raised that those who benefit most from economic exchanges with the United States and working with American businesses in China—students, reform-minded business leaders, workers and so on, will be hurt most denying MFN trade status.

However, despite the possible political and economic costs, I continue to believe that the morally right course of action is to apply realistic human rights conditions to MFN trade status for China. I hope, at the end of the day, we have a package of conditions that are acceptable to Congress and the Administration and will positively influence the Chinese to change their brutal ways. While a better package of conditions might be devised and I hope will be, I believe the best way to proceed at this time is with the Pelosi bill. I urge my colleagues to join me in voting for it.

Mr. GIBBONS. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. BACCHUS].

Mr. BACCHUS. Mr. Speaker, more than a decade ago, I helped negotiate trade agreements for this country as special assistant to the United States Trade Representative. I helped implement our first trade agreement with the People's Republic of China, the one that gave them most-favored-nation status in 1980. That was a time of great hope.

Today those hopes are threatened. More than 2 years have passed since the tanks rolled in Tiananmen Square, and it is past time to stop kowtowing to the Communist leadership in China. If we vote to extend MFN without conditions, we will be telling the Chinese Government that whatever they do to their own people and whatever crimes they commit against all humanity, we Americans nevertheless will continue to conduct business as usual.

However, if we vote for conditional renewal, we will be true to our principles as well as our interests.

We must prove, Mr. Speaker, that as much as we believe in the undeniable benefits of freer expanding trade, we believe even more in the fundamental human rights of all people.

Numerous American businesses have urged me to support extending MFN for China without conditions. Many are in my own district. They have come to me one at a time and I have asked each one of them in turn, "What, if anything, could the Chinese Government ever do that would be so wrong, so terrible that you would want to withhold or condition MFN?" Not one of them has given me an answer.

As the first former trade negotiator for this country to serve in this House, I know that trade is important; but I know, too, that America must stand for something more than merely the almighty dollar.

A few weeks ago, I had dinner in Florida with Zheng Hongye, the Chairman of the Chinese Trade Ministry. For more than 3 hours, we debated intensely the issues that entangle our two nations. Again and again, I pressed him hard on the urgent need for reforms in China now. Finally, he held up his hand to call a halt, and he told me firmly that China and the United States are simply two different cultures, with two different histories and two entirely different kinds of values and that they should not be judged by the values that we hold dear.

I reminded him then of that most basic of human values that not only permeates all American thought, but also was voiced long ago by that greatest of all Chinese philosophers, Confucius: "All men are brothers."

Mr. Speaker, all men are brothers, and all men and all women in China and everywhere on this planet are entitled to basic human rights. The need for freedom, the longing for freedom, is universal, indivisible, and undeniable. The Chinese people deserve a real chance for freedom. By voting today for H.R. 2212, by imposing realistic conditions on the extension of MFN beyond this year, we can give them that chance, and we can remind the world anew that we Americans believe, as Confucius believes, that all men truly are brothers.

Mr. ARCHER. Mr. Speaker, I yield 7 minutes to the gentleman from Illinois [Mr. MICHEL], the highly respected Republican leader of the House of Representatives.

Mr. MICHEL. Mr. Speaker, and my colleagues, this is an issue on which men and women of identical ideology, I guess, and philosophies, can differ on the issue that is before us today.

I rise to oppose the proposal of the gentlewoman from California. The conditions embodied in her bill make it tantamount to a total rejection of most-favored-nation status, and that is why I oppose it.

□ 1800

I think it is generally understood that foreign policy questions should be decided on the basis of our national interest, yes, and of our values. So let me first turn to the question of our interests.

United States exports to China this year are expected to total about $5.5 billion. Concerning major exports, their sales as of 1990 are: in the area of aircraft, $749 million; fertilizer, $544 million; cereals, $512 million; cotton yarn and fabric, $281 million; electric machinery, $264 million; wood products, $238 million; and chemicals, $273 million.

In my home State of Illinois, in 1990, they had exports worth $337 million to Hong Kong and China. Other States around the country can show similar gains.

Hong Kong, in which the United States has long been the largest foreign investor, will be devastated by the loss of most-favored-nation status for China.

I am reminded of the comments of the President this morning as members of the joint leadership sat around the conference table in the Cabinet room discussing this particular issue. The President discussed a number of other issues, particulary G–7, the meeting that was upcoming, and all the other issues that will come before that group.

But the President, as a matter of fact, in answer to a question that I posed concerning this measure this afternoon, offered his view. What would be the reaction of those who would be gathering next week in the G–7 group and all the other countries, if we, for example, were to deny MFN status to China? And he pointed out particularly our British friends and allies and their feelings with respect to Hong Kong and what happens a few years down the pike with Hong Kong and all the rest of it, affects us very, very directly in more ways than one.

Yes, it is true we have a large trade imbalance with China, but the Chinese are responding to that concern with new trade initiatives.

Moreover, not one country in the world is going to restrict their trade with China even if we do, and that means that we will be giving up our current and future share of the Chinese market to other nations.

Some say, "Well, this is only an economic question. What about our values?" I will get to that. But for the time being, on this issue of economics and being a competitor worldwide: I hear colleagues on the floor of this House bashing Japan, bashing West Germany, whomever, for unfair competition or whatever. Yet here we are with a billion people in the country of China, all of whom are striving for a better way of life, hopefully. Yes, it has been set back a great deal by what happened in Tiananmen Square. But we opened the door at one time and everybody's hearts were lifted by the fact that here was going to be a billion people who were going to have a better way of life and were going to enjoy the fruits of free trade among nations. And it seems rather ridiculous, ludicrous, that we should give our competitors an edge. People are down here on the floor of the House every day talking about how we are getting outfoxed, outmaneuvered, how can we be competitive again? And we are giving our opposition the advantage not only for today but in future years by doing to ourselves what we ought not to be doing.

And finally, American consumers will be paying substantially higher prices for goods made by the Chinese. There are those protectionists who say, "Block the doors, don't let anything in. We can make it all better." Well, yes, maybe we can on some of those items. But there is a difference, a cost differential. That is not the only item. But the whole community of nations eventually, with that potential market out there, cannot be denied. We are a country that, frankly, can produce so much more than we can consume industrially and agriculturally. That is three strikes, as I pointed out here, and guess who is going to be struck out? Not the Chinese Communist leaders, not our global competitors, only American workers and their families.

Economic facts strongly support retaining MFN. Issues such as arms sales by the Chinese and nuclear proliferation are not going to be helped if we turn our backs on China. We do much better keeping the lines of communication open.

But even the best economic or foreign policy arguments do not matter if our national values are ignored.

So let us turn to MFN status in light of our values.

We are told we should not reward China for the atrocities of its leaders. That is true; cannot argue with that.

Our national values dictate that evil should never be rewarded. But did the United States reward Mao Tse-Tung in the 1970's by establishing diplomatic and economic ties with his regime after they had killed millions? No.

To the contrary, we established contacts with Mao's cruel regime in order to help as many of the Chinese people as possible. Not their leaders, but the people.

Playing the Chinese card was a pragmatic move, but it also reflected our basic values. As for human rights questions in Communist China, the issue has never been whether its rulers would be the beneficiaries of our trade, but the much broader one of whether the Chinese people would be the beneficiaries of American trade. And they have and will be all the more so as we move to expand our trade with China in future years.

Let me turn for a moment to our colleagues, especially those on my side of the aisle, who have long been engaged in the fight against communism. Many of us opposed Chinese communism in the days when it was not fashionable to do so, when we were told by some experts that the Chinese Communists were only agrarian reformers. Boy, how I remember that argument back in the late 1940's and 1950's when I first came to Washington.

So I know how you feel about Chinese communism. But principled anticommunism has always involved supporting policies that help the victims of communism. In the special case of China, and China has always got to be considered a special case, continuing engagement helps the Chinese people and serves our interests and our values.

Taking away most-favored-nation status is the diplomatic equivalent of carpet bombing the very people we are trying to help, in order to hit their leaders.

We need only turn to the words of Gao Xin, the journalist who was one of the last four hunger strikers on Tiananmen Square on June 14, 1989, to get it straight, and he says,

> Cancelling MFN would help hard-liners. If MFN is withdrawn, the United States will lose the critical leverage needed to help the Chinese people.

The students of Tiananmen Square said, "Reach out your hand, reach out my hand, reach out our hands."

Will we continue to reach out our hands to the Chinese people through trade? Or will we withdraw the hand of comfort and hope and freedom from the Chinese people?

You know, there is no American interest and no American value served by abandoning the Chinese people, the whole of the Chinese people, because of their rulers' crimes. I would strongly urge that we support the President, support our national interests and our values and support the suffering Chinese people by upholding most-favored-nation status.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. PORTER.]

Mr. PORTER. Mr. Speaker, I begin by commending the gentlewoman from California for her leadership and for her commitment to human rights for all the people of China.

We would not be here today if China had not machinegunned and crushed hundreds of innocent students in Tiananmen Square in 1989. We would not be discussing this legislation if Chinese troops had not killed hundreds of Buddhist monks and Tibetans in Lhasa earlier that year. We would not be considering conditioning MFN if they had not hunted down and executed without trial thousands of innocent Chinese intellectuals and students whose only crime was to long for and work for democracy and pluralism within their country and had not put on show trials for others while United States attention was riveted in the Persian Gulf. We would not be concerned about MFN and China, if the leaders in Beijing had not authorized sales of sophisticated arms to renegade states likes Iraq and Libya or helped Algeria build a nuclear reactor capable of producing weapons grade materials.

Despite all that, Mr. Speaker, we would not be here considering this measure if there has been any substantial recognition by the Beijing regime of standards of human rights and individual freedom.

But, Mr. Speaker, there has been none. Oh, yes, they hired Hill and Knowlton recently to polish up their image on the Hill. And they have done a few other public relations measures of a cosmetic nature to attempt to look good. But the bottom line, Mr. Speaker, is that there has been no progress since Tiananmen Square, no realization of how far out of step China is under this regime with civilized standards and the direction of almost all other nations on the planet, no regret, no change in the direction they have taken down the road of repression, torture, and denial of the rights of the Chinese people.

The gentlelady from California has provided the Chinese leaders with clear guidance of what we expect of our relationship. We are not saying that we wish to cut off diplomatic relations, or to eliminate communication or cooperation with China. All we are saying is that we have markets valuable to the Chinese; that the trade balance is greatly in their favor; and that where there is no sharing of values, no coalescence of principles; we can think of no reason why they should have access to our markets with the same privileges as are enjoyed by nations who believe as we do.

I would also like to mention one provision of the Pelosi bill that I think is very important but that often gets overlooked next to all the other provisions. That is the condition that the President may not recommend MFN unless the President certifies that China is adhering to the spirit of the Sino-British joint declaration.

In 1984, Great Britain and the People's Republic of China signed the Sino-British joint declaration. This document sets the conditions under which Hong Kong will revert to Chinese control in 1997. The joint declaration guarantees that the people of Hong Kong will be allowed to maintain their governmental, judicial, and economic institutions for at least 50 years after the Chinese take control of Hong Kong.

In contrast to China, Hong Kong has a long history of economic freedom and prosperity. In addition, democratic institutions are developing at a rapid rate in Hong Kong. This September, the people of Hong Kong will go to the polls to elect members of the Legislative Council, Hong Kong' s parliament, for the first time.

The Joint Declaration is the people of Hong Kong's only guarantee that China will not trample on their rights and impose a strict totalitarian regime as soon as it takes control in 1997. But the only incentive that China has to adhere to this agreement is international insistence that China meet its obligations. Conditioning MFN on China standing by its agreements relating to Hong Kong is exactly the type of pressure we must keep on China to preserve Hong Kong's freedom.

I thank the gentlewoman for including this important provision and for all of her hard work to bring this important bill to the floor. I urge Members to support the people of China and the people of Hong Kong and vote for the Pelosi bill.

□ 1810

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Speaker, I rise in support of H.R. 2212, legislation conditioning the extension of most-favored-nation status to the People's Republic of China. This legislation will retore balance to the United States-Sino relationship by reinvigorating American credibility on human rights issues in China.

Conditional extension of MFN will afford us valuable leverage over the behavior of the Chinese Government. However, we should remember that this leverage is not unlimited. With over 4 billion dollars in American investment in China, America has much to lose if revocation of MFN results in virtual collapse in Chinese trade relations. Our allies will not similarly revoke trade relations with China. They will surely rush to fill markets we abandon. While a stable trade relationship with low tariffs may be more valuable to the Chinese economy than to the American economy, we must be careful not to overplay our hand. If we do so, and load so many conditions onto the extension of MFN that the Chinese have little incentive to comply, then we will only have shown that once again the Americans have failed to grasp the essence of the Sino-American relationship. In an attempt to gain leverage over the Chinese Government, we will have lost any influence we might have had.

As a result, I opposed House Joint Resolution 263, the Solomon resolution, much as I sympathize with the frustrations of the sponsors. I will also oppose the en bloc amendments to the Pelosi bill which attach so many conditions, however worthwhile, to the extension of MFN that the concept of leverage is lost.

The en bloc amendment seeks to achieve several objectives which I wholly support. The U.S. Government must move aggressively to prevent the import of goods manufactured with prison labor, imports which already violate other statutes. I am fully in support of measures to press the Chinese to halt missile sales to Pakistan and Syria, and to place nuclear technology sold to Algeria under strict international control. Last, I want to reiterate my strenuous opposition to Chinese Government policies involving coercive abortion and involuntary sterilization. But on procedural grounds alone, I must oppose this en bloc amendment. I simply do not believe that attaching this list of provisions to the extension of MFN will change Chinese Government policy one bit. Instead, I believe the Chinese will walk away from the table and American policy will have achieved nothing, least of all progress on the human rights provisions included in the Pelosi bill as it stands now.

The administration opposes the conditioning of MFN status to China. They argue that the United States Government now has the diplomatic tools available to improve the human rights situation in China and Tibet, to stop missile sales to the Mideast and Asia, to press successfully for wider market access for American Goods in China and better protections for American intellectual property. The administration is right—the tools are there, and if the President had used them aggressively earlier, I believe Congress would not be debating the issue of MFN today.

The administration also claims that MFN is a blunderbuss, and an awkward tool to try to influence Chinese policy. Again the administration is right. Once MFN were cut off, the United States would have to renegotiate another trade treaty with the Chinese in order to restore it in the future. American business, which has relied on a stable trading relationship with China since the completion of the last trade treaty with China in 1980, would take large losses as it struggled to adjust over $4 billion in American investment in China to a drastically worsened bilateral trade relationship. American software manufacturers would lose any protections they might have hoped to gain through current negotiations on intellectual property now ongoing between the American and Chinese Governments.

Perhaps worst of all, cutting off MFN would most hurt the strongest force for social and economic change left in China—the entrepreneurs and businessmen. These capitalists, located primarily in the southern coastal provinces of Guangdong and Fujian, have gamely struggled on in spite of the political crackdown emanating from Beijing to their north. These dynamic economic forces, so important for the survival of the Hong Kong economy as well as the future of reform in China, rely heavily on the export trade for a living. Disapproving MFN would strike at the heart of the Chinese entrepreneur by virtually denying him access to the American market.

Issues demanding immediate attention in the United States-Sino relationship are numerous; but so too are the tools available to the President to press the American case. I would like to see the President move much more vigorously to use these other tools at his command, particularly in the human rights and international political arenas. Congress has resorted to MFN as a last resort—it is indeed a clumsy weapon. I believe we would be much more effective as a nation in advancing all of these causes if we focused the extension of MFN status on the resolution of the thorny trade problems we now have with the Chinese

Government. Our trade deficit with China last year was over $10 billion and is likely to increase over 20 percent this year. In spite of a commitment in the 1980 trade treaty to implement intellectual property protections, the Chinese refuse to respect foreign copyrights. The American software industry loses over $400 million a year in pirated software. Chinese investment barriers and obstacles to market access are the subject of ongoing talks but little progress is being made. In sum, MFN is a trade tool, and is likely to be most effective in resolving bilateral trade issues.

Mr. Speaker, the hardline elements who yet run the Chinese Government may still believe, as did the emperors of old, that they are the center of the universe. Their intransigence on matters of human rights, proliferation, market access, and intellectual property reflects an arrogance that only an emperor could dare adopt. H.R. 2212, the Pelosi bill, shows the Chinese Government that the torture of even one Chinese is a matter of worldwide concern, not an issue of domestic politics which they can refuse to discuss with impunity. While I would have preferred to use tools other than MFN to press this point, China must now realize that America will stand behind its principles—and that the arrogance of the past is unacceptable when principles of human rights are at stake.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, granting MFN status to the People's Republic of China is in many peoples eyes tantamount to an endorsement of human rights abuses, the sale of nuclear technology to Third World despots, and totalitarian dictatorship.

This body can grant Red China's regime preferential trading status, but it can not play Pontius Pilate. We can not wash away responsibility while we condone a regime which would have every Member of this House exiled, jailed, tortured, or executed.

Those who favor MFN for this Communist regime, claim it will result in a loosening of tyranny, an impetus to democratization. It is now 2 years after the Tiananmen Square massacre, and the hoped-for improvements in human rights and political freedom are nowhere to be seen. In fact, the situation is getting worse.

The idea that MFN will bring liberalization is just that, an idea—not a reality. It is an illusion which permits us to treat a ghoulish regime with the dignity and respect afforded to decent and honorable governments. Face the reality: Our colleague, Mr. WOLF, has been in China and he tells us the Chinese are using slave labor to manufacture products for export. According to a Nanking City yearbook, engines produced by prisoners working at the Yinshau diesel engine plant "have sold well in Hong Kong, Australia, and Southeast Asia." Similarly, the Fuzhou City yearbook reported that "reform-through-labor camps of Fujian Province and their counterparts in 12 other provinces and cities are used to earn foreign exchange revenue and to promote an export-oriented economy."

Many of the Tiananmen Square demonstrators are still in prison, and if we allow the continuation of the status quo, the only message that Beijing will receive will be that its savage repression of the prodemocracy demonstrators was OK with us. The arrest and execution of democratic leaders is of little concern—profitting from slave labor is no big deal. Our actions today will speak much louder than our words.

On June 21, 1989, the PRC began executing individuals accused of committing "crimes" during the prodemocracy demonstrations on Tiananmen Square. In response, Secretary Baker expressed deep regret.

Instead of new sanctions, on July 7, 1989 the State Department allowed a waiver on military sales to China. In December Mr. Eagleburger and General Scowcroft met with high-level Chinese officials despite the prohibition on such meetings. What kind of message are we sending to the criminal regime in Beijing? What message are we sending to the democratic reformers and students who languish in prison or who risk death or imprisonment to keep the hope for freedom alive.

Ask our colleague CHRIS SMITH about religious persecution in China. This regime is murdering Christians, closing Mosques, and doing its best to stamp out any belief in God. Ask our collegue TOM LANTOS about the massacres going on in Tibet. This is genocide, there is no other definition. You can use other words to try to paint another picture, if it is an illusion. The problem is not the aging leadership in Beijing, but their morality, their unrepentant belief in the Communist system itself. This gang not only represses its own people, but sells advanced weapons to Burma, Iran, Iraq, Syria, and others. They transfer nuclear weapons technology to Iran, Algeria and perhaps other nut-ball regimes. They are rapidly becoming an outlaw nation—and should be treated like a pariah, not a business partner.

During this debate let us acknowledge that the People's Republic of China is not the only China. Instead of ignoring the abuse of power on the mainland, we should be lauding the progress towards democracy being made on Taiwan, the other China. The Chinese on Taiwan and mainland share the same culture and history. Taiwan is a showcase, the mainland is a basket case. The reason is found in the political philosophy that dominates these two Chinas. Taiwan's 22 million people outproduce China's 1.1 billion. They have more freedom, enjoy greater political and social freedom, and they can worship God as they see fit and they don't pose a military threat to anyone.

Not only should we not be granting special privileges for the regime on the mainland, we should be taking positive steps toward free China. The freer China would like our recognition of the economic and political role it plays. Lets reward the China that is doing whats right, and quit making excuses for the bad guys.

I hope that those who are willing to support MFN for China are also willing to support Radio Free Asia, to acknowledge democracy on Taiwan, and to condemn the Chinese involvement with tyrants in Burma and Cambodia.

Mr. Speaker, I have a stake in this decision. In my district is the largest harbor on the west coast. Many of the large aerospace firms which do business in China are my constituents. But short-term profits are an illusion. A longer view, calls for steps that secure a deep friendship with those Chinese who believe in democracy in China. They are our allies in spirit and soul, they will prevail over the evil that has engulfed their homeland and when they do, they should know we were on their side, and the side of freedom and democracy, all along.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, the picture of China sketched before us in today's debate is not one that any of us can view favorably, but rather with despair. International organizations tell us that the human rights situation there has worsened, not improved. Prison labor is used to build products to export to the United States. China thumbs its nose at the Nuclear Nonproliferation Treaty and ships destabilizing arms to countries like Iraq, Iran, and, apparently, to Syria. Since Tiananmen Square, Chinese exports to the United States have doubled, while United States exports to China have shrunk. Today only one country—Japan—enjoys a greater trade surplus with the United States than does China.

Mr. Speaker, I realize the primary focus of today's debate is how the Chinese Government treats its own citizens, its own workers. However, I would like to raise the issue of how China has treated a number of workers in our own country.

Four years ago, a steel plant in Claymont, DE, closed its doors, idling over 600 workers. A year later, the plant was bought amidst great hope by Citisteel, a subsidiary of the China International Trust and Investment Corperation, which is an agency of the Chinese Government.

The plant's unemployed steelworkers and their union helped Citisteel obtain special State clearances so that the plant's start up could be expedited. In return, the former Phoenix employees believed they would have a fair opportunity to fill the new positons at Citisteel. Instead, the new Chinese owners have consistently demonstrated a lack of respect for those American workers and their representatives.

Today 300 people work at Citisteel. Two hundred former Phoenix employees applied for positions, only 35 were hired.

This past May, the National Labor Relations Board ruled that Citisteel was violating the rights of its American workers and was guilty of discriminatory employment hirings practices.

To add insult to injury, Citisteel has refused to acknowledge the existence of the union which represented the former steelworkers and to date has not responded to a hand-delivered letter to the Chinese Embassy.

As we consider most-favored-nation status for China, I hope my colleagues will keep in mind not only how China has treated its own citizens, but in this one particular case, how they have treated a group of American workers here in our country.

There is something to be said for consistency. The Chinese have been consistent both at home and abroad. Should the reward for that nation's consistency be to give them most-favored-nation trading status without conditions? I hope not and urge support of the Pelosi bill.

Mr. ARCHER. Mr. Speaker, I yield 5 minutes to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Mr. Speaker, as the premier democratic legislative body in the world, we have an obligation to reflect American values to the world. In this regard, there is no serious dissent that the sentiments reflected in the Pelosi bill are expressive of consensus American politics and social philosophy.

What does exist, however, is a division of opinion on how best to advance within China a freer and more solidly founded ethic of democracy and human rights. Here the question advocates of the Pelosi approach must examine is the question of means, not ends, whether self-righteous congressional indignation advances or undercuts a just cause.

What is at issue is less a question of indignation than judgment—how Americans can play a role in moderating Chinese policies and liberalizing Chinese institutions. If history is a guide, it would appear that almost every effort to coerce China through economic isolation has not only failed but accentuated unpredictable xenophobic nationalism. On the other hand, almost every U.S. step toward constructive dialog has been met with a liberalized response.

Relations between states are always evolving. At issue is external as well as internal politics.

Generally speaking, government-to-government policies have the least effect on how countries structure their internal affairs, but often have substantial effect on how they structure their foreign policy. Here, this Congress must understand that in terms of the profoundest issue in international politics today—war and peace—China has generally been moving in a progressive direction.

To be particularly poignant, in terms of the gulf war, China was more consistently supportive of the President of the United States in voting in the United Nations Security Council than the majority American political party was in voting in the United States Congress.

With regard to the current situation in the Middle East, supporters of the Pelosi approach are correct in pointing out the destabilizing implications of past Chinese missile and nuclear sales to the region. Yet, if there is to be any hope of establishing, within the framework of a new world order, agreements on arms restraint, whether it be on international approaches symbolized by the NPT, to which I hope China will accede in the very near future, or regional arms control in the Middle East, China's cooperation—such as that evidenced yesterday in Paris with the tentative agreement by the permanent five members of the Security Council—will be vital.

No one in this Chamber should doubt that playing games with normal trade—daring to isolate China—jeopardizes the security of the State of Israel and any hope of reasonable arms restraint in the Middle East.

The irony that undergirds this frustration-laden legislative lodestone is that American foreign policy is on a roll.

Free enterprise, free trade, free politics, are gathering momentum in virtually every corner of the globe. The American Presidency in 1991 has never been more vindicated nor more generally acknowledged as the pinnacle of world leadership than at any time in the history of this country, save perhaps 1918 and 1945.

I recognize that in areas of foreign commerce the Constitution gives plenary authority to the Congress. Yet in a world in transition, a world in which a half-century hallmarked by geopolitics is giving way to one driven by geoeconomics, this Congress would be well advised to give the benefit of the doubt to a nondivisive, bi-institutional, bipartisan, approach to Sino-American relations. After all, what is at stake is the future of our relations with one-fifth of the world's population.

In this context, termination of MFN for China would have the perverse effect of most severely impacting on those elements of Chinese society we most want to support: The reformist provincial officials and entrepreneurial business people and traders in south China, especially those along the Pearl River Delta.

Revocation of MFN would strengthen the hand of hardliners in Beijing who seek the reimposition of bureaucratic controls over the flourishing nonstate sector of the economy and who advocate reinstigation of Marxist orthodoxy in politics, philosophy, the arts, and science.

Revocation of MFN would seriously joepardize the future of Hong Kong as well as Taiwan, and from an American agricultural perspective, revocation of MFN would be the equivalent of placing yet another embargo on soybean sales. Our action would be entirely unilateral and wholly out of step with the rest of the world. Two years after Tiananmen, no American ally is prepared to follow our lead.

Most importantly, revocation of MFN would reverse our historic "open door" policy to China in favor of a counterproductive "bolted door" approach, unilaterally ceding our progressive influence to the influence of others or possibly moving the world's largest country in a chaotic autarkic direction.

At issue from the perspective of the Chinese people is whether their country is economically going to be brought into the 21st century a la Taiwan or a la Ethiopia. Here let me remind this body that just 30 years ago, just prior to the cultural revolution, 2 million people starved to death in a single Chinese prefecture. Does this Congress dare suggest that it is a humanitarian policy to slam shut America's traditional open door policy and shut down the free enterprise movement that has allowed China to feed its population, to plant the seeds of a free political movement?

At a time in history when the nexus between commerce, diplomacy, and the roots of national power is becoming ever more manifest, a quixotic policy of economic self-abnegation toward the world's most populous country would represent the apogee of congressional folly.

Defeat this self-defeating legislation.

☐ 1820

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, let me express my sincere appreciation to the gentleman from Illinois [Mr. ROSTENKOWSKI], the distinguished chairman, for yielding time to me. I also want to commend the distinguished gentlewoman from California [Ms. PELOSI] for the magnificent leadership that she has provided on this issue from the very moment that the tanks murdered the Chinese students in Tiananmen Square.

Mr. SPEAKER, I rise in strong support of H.R. 2212, a bill to place stringent human rights conditions on the renewal of most-favored-nation [MFN] trade benefits for the People's Republic of China.

More than 2 years have passed since the brutal massacre at Tiananmen Square, when hundreds of prodemocracy demonstrators were killed by Chinese troops. Thousands of demonstrators were arrested; many were executed; others remain in prison even today. In the meantime, the Chinese leadership has continued to arrest political dissidents, extract forced labor from prisoners, and suppress free speech and assembly.

In addition to these clear violations of internationally recognized human rights, the Chinese Government has contributed to the proliferation of ballistic missiles and nuclear technology; and run up a huge trade surplus with the United States based, at least partially, on forced labor.

This continuing pattern of gross violations of international law proves one thing beyond any doubt: that President Bush's policy of accommodating and defending the Chinese hardline government has completely and dramatically failed.

Indeed, not only has the policy been unsuccessful, it may actually have contributed to the obstinacy of the Chinese Government, which continues to ignore its international obligations.

Yet even though the President's hands-off policy has manifestly failed, he has again asked Congress to give China unconditional trade benefits. The House of Representatives overwhelmingly rejected this view last year—and we should do so again today.

The legislation before the House, H.R. 2212, includes a very simple and sensible approach to United States trade policy in China. The bill does not suspend MFN—in fact, it explicitly allows for the continuation of MFN benefits for 1991. But the bill stipulates that the President cannot extend trade benefits in 1992 unless he certifies that China has met certain human rights conditions.

I urge my colleagues to give their strong support to this legislation. Given the President's threat to veto any conditions on the renewal of MFN, this body will be sending two signals with this vote: first to the Chinese Government, whose policies have made them the object of worldwide condemnation; and second, to President Bush, who apparently needs to be reminded that his China policy has no support in Congress or among the American people.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of H.R. 2212. While I commend my close friend and colleague the gentlewoman from California, Ms. PELOSI, for her leadership on this issue, I do not feel the legislation goes far enough. In order to immediately address U.S. national security, economic and human rights concerns we should not hesitate to send the clearest message we possibly can to the Communist leadership in Beijing: That we will no longer tolerate missile and nuclear sales; that we will no longer tolerate a $15 billion trade deficit earned on the back of American labor and political prisoners; and, we will no longer tolerate the occupation of Tibet and the ruthless repression of prodemocracy forces in China. I believe that the best way to send such a message is by cutting off MFN.

However, my good friend, the gentlewoman from California, has high hopes and noble intentions and if her legislation becomes law we must see that its every word and thought is followed through by specific deeds and action. If what we want is the end to the Communist hardliners regime in Beijing, and not just the regime's loosening its hold on a few key dissidents, we cannot continue to prop it up by paying its bills year after year.

Despite my reservations, I believe that Ms. PELOSI's bill is well thought out and I believe if it becomes law it may very well lead to the cutoff of MFN in 1 year. Hopefully, China will listen. Accordingly, I support H.R. 2212 and commend Ms. PELOSI for her outstanding leadership for human rights in the People's Republic of China.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I rise in support of the Pelosi bill and in favor of renewing China's most-favored-nation status. While I am in disagreement with the administration's position that this privilege should be granted unconditionally, this is not an easy side to take. The gruesome memories of the events that occurred in Tiananmen Square just 2 years ago are still vivid in my mind, and the knowledge of the continued repression of human rights is equally disturbing. Several other factors must be considered, before following a path that would only serve to isolate the Chinese rather than draw them closer to the international norms of trade and democratic political ideals.

During the years in which China has had MFN status, the volume of trade between China and the United States has been substantial. Some of the most important markets in China for United States exporters include grain, machine tools, aeronautics, and high technology products. More than 1,000 American companies have committed over $4 billion to long term, United States-Chinese joint ventures. Revoking MFN status would jeopardize this investment.

Trade is crucial to the development of China as well. It not only provides China with an important source of hard currency, but, more importantly, it provides a vehicle for the influx of Western ideas and values, as well as a medium by which our Government can continue to be an impetus for reform. If we revoke most-favored-nation status, we significantly weaken our bargaining position with the central government. While present conditions in China indicate that our influence has been somewhat ineffective, one must also consider the type of society with which our Government must negotiate. Ideology and trading practices in China are characteristic of a society completely foreign to our own. Change must be instituted with care. Revoking MFN status is not the most effective means of doing so.

Our goal should be to help to reform China so that it evolves into a society that shares our respect for human rights, democratic principles, and market-oriented economics. Revoking MFN would not severely wound the repressive central authority, but rather those attempting to push for reform. Southeast China is home to the most progressive political thinkers in the country. It is also the most entrepreneurial area in China. This is not just a coincidence.

We can be successful in achieving our goal by renewing MFN status but attaching to it certain tough, but fair, conditions. For this reason, I support H.R. 2212, introduced by my friend and colleague Congresswoman PELOSI. This bill allows the United States to maintain its trading status with China while at the same time it acts as a force for change. If the conditions of the Pelosi bill are not met by the Chinese Government, MFN status will not be renewed next year.

I believe that this is the best decision that can be made given the complex nature of this controversy. MFN status can be an effective tool if used correctly. Revoking MFN outright in this situation is cleary inappropriate.

□ 1830

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2½ minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I extend my congratulations and appreciation to the gentlewoman from California [Ms. PELOSI] and the gentleman from Illinois [Mr. ROSTENKOWSKI] for their outstanding leadership on this issue.

Mr. Speaker, I rise today in support of H.R. 2212, legislation that would make MFN status for China in 1992 conditional upon significant progress toward human rights goals, and would bring our country closer to the goal of one standard for human rights in the world.

China might finally get it, if we denied MFN status altogether. However, given the low human rights standards of the Bush administration, the Congress now needs super majorities to ensure passage of human rights legislation. Facing this reality, I believe that making MFN status conditional upon human rights improvements is the most viable option.

Mr. Speaker, many countries, such as the Sudan, Romania, and Chile, have been denied trading preferences for violating precisely those workers' rights that MFN status would give China.

Why should China be rewarded? Is it like the megabanks, too big to fail? Where is the elusive single standard for human rights?

Mr. Speaker, I was privileged to be the only Member of Congress to participate in a press conference yesterday at the release by Amnesty International of the Amnesty International Report, 1991. This very highly respected annual report indicates that thousands of pro-democracy protesters arrested last year are still detained, without ever being tried or charged.

Amnesty International also recorded 750 firing squad executions, which represented the highest number since 1983. In China, those who did not conform to the politically correct religion are subject to detainment, harassment, and arrest.

The Bush Administration perpetuated these problems by renewing China's MFN status only 14 days after the Chinese Government implemented martial law in 1989. We were told at the time that MFN trade status was the 'key to our eventual hopes for a more democratic China.' Today, the evidence is that MFN has encouraged the oppressive human rights status quo. In fact, the policy has been another failure in a long line of attempts to promote democracy by granting MFN status in advance of reforms. Granting of MFN status to Romania, Poland, and the Soviet Union resulted in increased government repression which retarded the reform process. Poland finally reformed when we withdrew MFN status and the Communist Government had no choice but to negotiate with Solidarity. Let this experience finally be our guide. Unrestricted MFN status for China is undeserved, unwarranted, and unwise.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Speaker, I rise in opposition to the Pelosi bill. Last year I supported the legislation of the gentlewoman from California [Ms. PELOSI], which would have imposed conditions on the extension of China's most-favored-nation trade status for 1991. I felt that some conditions should be applied, so that the Chinese Government might attempt to reform its policies toward human rights in order to keep its MFN status with the United States.

Although I strongly support many of the goals included in H.R. 2212, I intend to vote against this bill because I am concerned about what I consider a backdoor approach to actually revoking MFN status with China.

Mr. Speaker, I share the concerns of many Members that H.R. 2212 imposes much more stringent restrictions than last year's legislation would have enacted. I am concerned that H.R. 2212 would seriously harm United States businesses that have invested in China, and put at risk over $5 billion in United States exports to China, a gap that Europe and Japan will surely fill.

Mr. Speaker, our greatest industry, our other manufacturers which now export to China or in some way benefit from imports from there, our American workers, would indeed lose through the elimination of MFN for China. Japan and Europe will be the gainers.

Even more importantly, I fear that H.R. 2212 will hurt the Chinese people more than the current leadership, because it will sever all links that enhance their well-being through jobs and support for human rights.

However, while I will vote against this bill today, I intend to closely watch China's progress on human rights reform. If I am not satisfied that the Chinese Government has made significant improvements in its policies, then I will not support the extension of MFN next year.

Leaders of China, heed the vote today on Solomon, heed the concern of the American people regarding your human rights and other policies addressed by this legislation. Change your thinking, or in the final analysis, you and your people, particularly your people, shall be ultimately the losers.

However, today, let us not yet sever our relationship, which affords us the opportunity, and hopefully, influence, to help our American workers, along with the little people of the People's Republic of China.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama [Mr. ERDREICH].

Mr. ERDREICH. Mr. Speaker, last November I had the opportunity to make a private trip top mainland China, and I would like to share my perspective as we debate whether to extend China's most-favored-nation status. During my visit, I had the chance to meet with people from all walks of life, from farmers to teachers to individual storekeepers to government officials to students. One cannot visit China without being amazed by its size, its immense population, and, unfortunately, an overwhelming government rigidity that is a dark contrast to the freedoms we enjoy under the banner of democracy.

There is no question that many in China are striving for and working toward economic reform. I saw many examples of individual entrepreneurship, and there is no question that the future China will be a major trading nation, with worldwide exports. But today China is basically a controlled economy with an authoritarian political system. Why should we extend favorable trade status to a Communist nation that puts many businesses and industries in my home county of Jefferson in direct competition with a country that pays its workers 37 cents an hour?

Current law forbids Communist countries from receiving trading benefits, and allows it only if the President annually requests this benefit. There are numerous reasons not to waive the clear mandate of current law . . . from China's brutal crackdown on peaceful pro-democracy demonstrators in Tiananmen Square to its apparent abandonment of its program of democratic reform to its refusal to sign the Nuclear Nonproliferation Treaty (the only major nuclear power to refuse) to its shipment of sophisticated weapons around the world and to Iraq.

China has rapidly developed a favorite trade balance with the United States; today it is over $10 billion and climbing. Certainly we should not provide favored nation status to this Communist nation at this time and should not support any presidential waiver of current law until conditions are dramatically improved for the people of China.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1½ minutes tot he gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, today I rise to join my colleagues in support of H.R. 2212.

Most-favored-nation status is a means for the United States to express its support for another nation and to encourage that nation to continue the policies of the past.

When we opened the door to China in 1980, we expected the People's Republic to move toward democracy and to move toward improving the lives of its citizens. For a while this policy worked and China opened its arms to the West. But since the Tiananmen Square massacre in 1989, the Chinese have used MFN and our accommodation to manipulate our markets and hurt our economy.

Our trade deficit with China last year was more than $10.4 billion. Our trade deficit for the first quarter of this year is over $2.2 billion. Our trade deficit with China since the Tiananmen Square massacre has totaled over $18.6 billion. It is obvious that the Chinese Government is attempting to bankroll its repressive regime and compile huge reserves of foreign currency. To maintain a favorable trade surplus, the Chinese Government has used compulsory prison labor to produce goods for export and has manipulated the market to keep their prices unrealistically low. In many cases, Chinese goods are being sold at prices less than the raw materials it took to make them.

By offering MFN to China in 1980, the United States graciously extended a hand to China and offered to help them move into the democratic world. The People's Republic of China have twisted this hand and are using our goodwill to bolster their repressive regime and as a tacit endorsement of their status quo. We must send a message today that we will no longer turn our backs to the cries of those oppressed and will no longer be manipulated by our trading partners.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. Mr. Speaker, I rise in strong support of the Pelosi bill and urge Members to do likewise.

Mr. Speaker, Members know of my longstanding friendship and affection for the Dalai Lama of Tibet and the people of Tibet and what they have been through under the occupation and the oppression of the Chinese.

The Dalai Lama himself told me in one of his visits to this country several years ago that he had talked to people who had been beaten in Lhasa, the former capital of Tibet, with boards that had nails driven through them. They were pounded and pounded until they confessed to whatever it was the Chinese had in mind. Those stories are legion and I do not need to recount them.

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But one thing one of my colleagues said earlier this evening was that the Pelosi bill is the wrong way to deal with the Chinese, that they will do exactly the opposite of what we tell them to do. That reminded me of a story.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Speaker, I rise in strong support of the Pelosi proposal. I do so despite the regret I expressed earlier that the Rules Committee did not make in order my amendment that would have called on American business to follow a code of conduct in China similar to the Sullivan principles. It prevents political harassment on the premises of American businesses and stops buying of forced labor goods. I think such a code of conduct would have been very helpful in making American business a partner in the struggle for human rights in China. I hope at a future time the House will get to vote on that measure, as it did last term.

Nonetheless, on the issue before us I think the gentlewoman from California has come up with a principled, balanced approach. My distinguished colleague from Iowa said look at the history of China. I look at the history and I come up with a different answer than he does. I look at the history of the last year or two with unconditioned most-favored-nation trade status. Has it produced any change in the condition of prisoners in China? Has it produced any change in the jamming of the Voice of America? Has it produced any change in the harassment of Chinese students on American soil? The answer is no.

That calls for a different approach, which is what we have before us. It is an approach that uses incentives, uses leverage. If it does not work, we can go to revocation, we can even go back to unconditional extension.

Some of my colleagues have said let us be realistic, let us show realism about our economic interests. I am for being realistic. But there is nothing wrong with having a moral element in our foreign policy. Taking a principled stand here will not only help enhance our status as a leader in the free world, it will help our realistic economic interests in the long run.

Believe me, a China that is repressive and totalitarian 5 or 10 years down the road is not going to be a good partner for American business. A China that we help move toward better treatment of human rights will be a far better business partner.

I urge support of the Pelosi bill.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1½ minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Speaker, as a cosponsor of H.R. 2212 and a strong supporter of forceful action on our part to bring an end to human rights abuses in the People's Republic of China, I rise to urge my colleagues to approve this legislation.

We simply cannot ignore the atrocious human rights record of the Chinese Government; it would be totally inappropriate to grant China preferential trading benefits with the United States. Since President Bush extended MFN for China last year, the human rights situation has not improved. By the Chinese regime's own estimates, over 270 prodemocracy demonstrators remain imprisoned without trial. It is perfectly clear that the administration's favorable policy toward China has not been successful, and that we must hold the Chinese Government accountable for its actions, in a very direct and forceful way.

While democracy and freedom are sweeping the world, the Chinese dictatorship keeps the Chinese and Tibetan people under Communist rule without any pretense of justice or basic freedoms. The status of the United States as the world's preeminent leader of democracy must not be compromised through appeasement or acquiescence to the Chinese regime. From the bloody massacre of the pro-democracy demonstrators in Tiananmen Square to the current barbarous treatment of political prisoners and dissidents, the brutal Chinese regime has distinguished itself as a human rights abuser on a monumental scale.

China has also sold highly advanced weaponry to unstable governments such as those in Iran, Iraq, and Algeria. Many of these nations have a declared intention of building nuclear weapons. If we are to control the spread of weapons of mass destruction in a meaningful way, we must show China that we will not tolerate its unwise, wide-open pursuit of arms sales.

As a cosponsor of this legislation, I believe that the conditions it imposes on granting MFN for China next year are totally appropriate. These conditions have to do with basic human rights that all governments should respect. There is no reason to allow China the benefits of MFN without a dramatic improvement in their despicable human rights record. I urge my colleagues to support this bill.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I rise in support of the Pelosi bill, H.R. 2212, which places conditions on the renewal of most-favored-nation [MFN] status for the People's Republic of China [PRC]. The bill would require that China make "significant progress" in the area of human rights before receiving MFN status next year.

In March, CHRIS SMITH and I travelled to the PRC. We went to discuss a variety of human rights issues with Chinese leaders, including religious freedom. We presented Chinese Premier Li Peng with a letter signed by over 100 of our colleagues along with a list of 77 Catholic and Protestant bishops, ministers, and lay people who were in prison or under house arrest.

We have since learned that several of these prisoners were released before we left for China. However, only one has been freed since then. Unfortunately, the Chinese Government has demonstrated that it is continuing its policy of religious persecution by arresting Bishop Joseph Fan Zhongliang of Shanghai in June. Just when we are looking for China to take one step forward, they take one step backward.

In addition, Chinese authorities continue to hold democracy activists such as Wei Jingsheng and Wang Juntao in prison. As late as April of this year, two human rights activists were arrested for advocating further reform. The Chinese Government is choosing to rebuff international pressure regarding human rights reform and continuing to imprison people because of their political beliefs.

The Chinese Government is also refusing to allow thousands of its citizens to join relatives in other countries, including the spouses of several dissidents in the United States.

Regarding trade, the picture is no better. The CIA recently reported that China is continuing to put up import barriers. At the same time China is trying to avoid United States import quotas by trans-shipping goods through places such as Hong Kong and Macao. On top of that, we know that throughout much of the 1980's, the Chinese Government approved the use of prison labor to make goods for export.

During our trip to the PRC, CHRIS SMITH and I visited Beijing Prison No. 1 and saw prisoners making socks and plastic shoes. Since that trip we have obtained evidence from Asia Watch which indicates that as late as October 1988, the Beijing municipal prisons, including the prison we visited, were making socks for export despite Chinese statements to the contrary.

In addition to human rights abuses and unfair trade practices, China is continuing to sell nuclear technology and nuclear-capable missiles to states such as Pakistan, Syria, Algeria, and now Iran, and all this despite American diplomatic pressure and technology sanctions.

Mr. Speaker, I keep looking for the Chinese Government to make positive changes in these areas, but instead of seeing progress, it almost seems as though China's leaders are intent on pushing America's patience to the limit. It is almost as though someone has written the Chinese Government a plan to ruin their chances of getting MFN, and they are following that plan carefully.

The Congress of the United States has an opportunity today to help the Chinese people. We must take a strong stand in support of attaching conditions to China's MFN status. The Chinese people want American trade, but they also want the freedom to enjoy basic human rights. I believe that the Pelosi bill is the best way to help the Chinese people have both.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Speaker, first let me commend the gentlewoman from California for the vigor and the effort that she has put into this very important issue that is before us.

Mr. Speaker, the renewal of China's most-favored-nation [MFN] status is a serious question in light of China's poor human rights record.

Also in question is the confusing signal the administration is putting out on their own human rights efforts around the world. While human rights and democratization programs are a high priority for emerging African nations, we close our eyes to the aspirations of the young people in China and erected the Statue of Liberty in Tiananmen Square.

The President opposes the $20 million we voted for the U.N. Population Fund to continue their family planning programs around the world because of reports of forced abortions in China. Yet, the human rights of thousands of women in other countries will suffer.

And what about workers rights? While the administration proposes a free-market economy around the world, Chinese workers are denied basic freedoms and the right to join unions of their choosing. Many of these workers are in prison where they are making garment sand other wearing apparel under slave-labor conditions. These very garments along with other low-wage apparel imports are wiping out thousands of U.S. jobs.

At the same time many of these same garments are transhipped through other countries such as Macao, thereby violating the terms of our bilateral textile trade agreement with China.

Our country's failure to continue MFN status without conditions would send a signal to other freedom-loving countries that the United States condones trade agreement violations, and just does not care how China treats its citizens.

My 10th District of New Jersey, including Newark, has many working people, with high unemployment. Inexpensive Chinese shoes are flooding our market.

But no worker would stand proud in those same shoes knowing the cost in human sacrifice and human rights violations that makes their production possible.

That is why the only right thing to do is to put conditions on extending MFN status to help our people, and help the people of China.

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Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Speaker, this amendment and the accompanying bill give us the opportunity to have an ideal marriage between practicality and principle.

All of the arguments have been made. This debate is drawing to a close. What is not drawing to a close is the agony of the Chinese people.

Anybody who has gone through it with the students who have had to come to the United States, the students who were here at the time of Tiananmen Square, will never forget it.

This is our opportunity to make sure that the Chinese understand in the political world and that we in the United States understand in our political world that it is decisions in the political realm that drive the social and economic forces in China and not vice versa, and in order to accomplish that, human rights is fundamental. It is basic to seeing that the political decision is made. It is imperative that we pass this bill. It is imperative that we send this message to China.

In the process, we will find, as Americans, that we are standing up for principle, that we are standing up for human rights, that we are standing up for the people of China and for the workers in the United States.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. LIGHTFOOT].

Mr. LIGHTFOOT. Mr. Speaker, as someone who spent a lot of years dealing with foreign trade particularly in the Pacific rim countries before coming to Congress, I would like to offer maybe a little different perspective, one that is not politically motivated, but I hope is anchored in reason and common sense.

I think what we are after is the correct goal, but unfortunately we are using the wrong tools to get where we want to be. What did Richard Nixon and what did Jimmy Carter teach the Soviet Union by putting trade and economic sanctions against them? What did we teach Saddam Hussein by putting economic sanctions against him? We lost markets for American products, American factory workers, and American farmers.

The old hardliners in China are in their eighties, and the good Lord is going to take care of them in a very short time. The new movement that is coming on in China, the Mayor of Shanghai, the Governor of Kwangtung Province, and so on realize that for communism in China to survive they have got to infuse a bit of capitalism to make it work.

For those in this body who are upset with what the Japanese have done to us, watch out what happens when China takes hold in the world of trade. I am concerned about human rights for the Chinese people, but I put more concern over the human rights of American farmers and American factory workers who will be put out of business and put out of jobs as we lose another trading partner and give it to the other nations of the world.

I do not think that $5 billion worth of trade each year is something we should slough off because we disagree with what someone does. Let us do things that affect the Chinese Government, not the Chinese people. Take the help that we give them in their family-planning programs and some of those kinds of things which foster and promote their Communist form of government, but do not take food out of the mouths of the Chinese people and out of the American farmers' and the American factory workers' hands.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Speaker, I oppose most-favored-nation (MFN) status for China. It is neither in the best interests of China—and by that, I mean its people, not its rulers—nor in the best interests of the United States.

Only Congress has the power to stop the President from extending MFN status to China, and I hope we will do so.

I oppose MFN status for China for three reasons.

First, human rights. I think we should apply sanctions to let the People's Republic of China (PRC) know they must pay dearly for treating their people so oppressively.

Two years ago, the Governors of China ordered no less than a massacre of students demonstrating for democracy. Since Tiananmen Square, the Chinese Government has continued to punish Chinese citizens who express anything short of wholehearted support for their Government. Thousands of Chinese have been jailed; numerous dissidents have been executed. Last year, when MFN for China was being debated, President Bush argued that through trade, we could persuade. According to this argument, MFN gives the United States leverage and influence with the Chinese Government. I have not seen the results. While bilateral trade has increased, China's human rights record has not improved.

I also oppose MFN because in trade as in human rights the Chinese have not reciprocated. China accounts for the second-largest share of the United States trade deficit; it is the largest exporter of textiles and apparel to the United States. Our country now runs a $10 billion trade deficit with the PRC, and that deficit is projected to increase. Of the $10 billion total deficit, $3.68 billion comes from the deficit in textiles and apparel trade. Almost 14 percent of our total textile and apparel imports, or 1.7 billion square meters equivalent, come from the PRC. This deficit represents thousands of American jobs lost. What can I tell the unemployed textile worker in South Carolina that we have gained in return for his loss? Certainly not an ally or friend we respect in light of the way the Chinese treat their people; and certainly not a fair trading partner in light of growing trade deficit.

In fact, the U.S. Customs Service estimates that more than $2 billion worth of Chinese textiles and apparel came to the United States by fraudulent means in 1990. Why should we reward such a trading partner with MFN status?

Finally, I oppose MFN also because of China's persistent policy of selling nuclear materials and nuclear technology to non-nuclear nations. China is the only major nuclear power in the world that is not a party to the Nuclear Non-Proliferation Treaty; and not only have they not signed it, they have willfully ignored its purposes. There is ample evidence that the PRC has helped nations such as South Africa, India, Pakistan, and Brazil develop nuclear weapons.

I know so many countries enjoy MFN status that it means a lot less than the name implies. But I take the name literally; I am opposed to saying that a nation like China, guilty of abuses we all acknowledge, should be called a "most-favored" nation. So, I urge support for both House Joint Res. 263, which would withdraw China's MFN status, and for H.R. 2212, imposing conditions on extension of MFN status to China. I would prefer to see enactment of House Joint Res. 263, a flat MFN withdrawal over H.R. 2212, a conditioned withdrawal. However, the President has pledged to veto both bills when they reach his desk, and I believe Congress has a better chance of overriding a veto of H.R. 2212. Therefore, I urge strong support for H.R. 2212.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, the administration's policy is the modern-day equivalent of appeasement.

The Chinese continue to imprison their own citizens. They continue to sell dangerous weaponry around the world, and the United States steps forward to choose this nation at this time to continue MFN. If we have ever seen a case where a nation has slid back in the direction it chose it is China. China does not deserve MFN.

The policy of appeasement failed with Saddam Hussein. This administration maintained the policy until August 2 of protecting Saddam Hussein and assisting his Government. Appeasement has not worked in the past, and it is not going to work, not with the octogenarians in control of China today, nor with those who will follow them with the same policies unless America stands up for the men and women who suffered in Tiananmen Square.

Mr. GRANDY. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Mr. Speaker, my Wisconsin congressional district is home to one of the largest Chinese student populations in America. During the crackdown on peaceful protestors in Tiananmen Square those Chinese students at the University of Wisconsin watched the Government terrorize their family and friends who had gathered to promote change and progress. When the Chinese students marched in this country they always feared Chinese Government spies would report the students' support for democracy back home putting their academic careers and their families in jeopardy. In the months that followed that crackdown they agonized over the fate of the protestors at Tiananmen Square and the uncertainty of their own future.

Today, Congress has its chance to promote change and progress in China and I support H.R. 2212 as the best way to do that. H.R. 2212 extends to the Government of China the benefits of most-favored-nation trade status as well as sending the unmistakable message that the United States expects reform in return.

This legislation calls for an accounting of the political prisoners being held because of their activity associated with the protest at Tiananmen Square and ultimately their release. This and other human rights provisions of the bill should have been demanded of the Chinese Government 2 years ago and we should do so today if China expects to do business with the United States.

It is obvious that very serious problems exist in China and we must attempt to find solutions. The Chinese students and their friends and colleagues in my district are calling on us to help them change their country. A conditional renewal of MFN provides the means and the incentives for progress in the policies of the Chinese Government.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1½ minutes to the gentleman from Oklahoma [Mr. EDWARDS].

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Mr. EDWARDS of Oklahoma. Mr. Speaker, I want to compliment the gentlewoman from California [Ms. PELOSI] for this excellent piece of legislation.

I heard a colleague of mine say a few minutes ago that while there were good people on both sides of this debate, and there are good arguments on both sides of this debate, while I agree there are good people on both sides of the debate, I do not agree that there are good arguments on both sides of the debate.

A short time ago, some brave young men and women in China stood up for the things that this country has always stood for, for freedom, for democracy, and they put up a statue of the Statue of Liberty in Tiananmen Square. Now we are being asked to turn our backs on what they fought for, in order to be able to sell a few more products.

Let me tell Members, there is nothing in the Pelosi language that will stop trade with Communist China. It does not stop imports. It does not stop exports. It merely says that we will not give China the extra lower tariff, special treatment, that we reserve for our best friends. How any Member in this Chamber can argue that they are our best friend is beyond me.

I compliment again the gentlewoman from California [Ms. PELOSI]. I hope all of my colleagues will vote for this bill. I think they should have voted for the Solomon bill, as I did, but I certainly hope that the House will give a resounding vote to the Pelosi language.

Mr. ARCHER. Mr. Speaker, I yield myself the remaining 2½ minutes.

This has been an excellent debate. I think good arguments have been made on both sides. There is no way for any one Member here today to predict with a certainty, with an absolute certainty, which approach is the best. We all want the same goals.

I would clarify one point. Speakers have said MFN is the lowest tariff, it is the best treatment we give only to our best friends. That is not true. Mr. Speaker, we have much lower tariffs for others, below MFN. Some of them are called GSP. Some of them are called free-trade agreements with no tariffs such as we have between Canada, and with Israel. To say that MFN is the best tariff treatment we give to any one country is not accurate.

Let me say that in my judgment, and I have a great deal of confidence in our

President who has as strong a desire for human rights as any Member in this body, but who has more expertise and knowledge on China than anyone in this body, who believes that the best approach is to leave some flexibility of negotiation, not to have rigid conditions that actually cannot even be determined whether they have been fully met or not, that will slam the door automatically in the face of an opportunity to continue to have dialog and engagement with the Chinese. I happen to believe that is the best approach.

I will be offering a motion to recommit which will incorporate many of the desired goals that we have talked about today in the debate. However, it will do it on a basis of giving the President the responsibility of reporting back, so that we will have that information for our decision next year, but it will not automatically slam the door on dialog engagement, an opportunity for leverage with the Chinese.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield the remaining time, to close debate on this side, to the gentlewoman from California [Ms. PELOSI], who has done a very good job of orchestrating not only the debate, but getting accolades from both sides of the aisle, a gentle person who has worked very hard on this.

Ms. PELOSI. Mr. Speaker, again, I thank the chairman for his support and assistance on this important legislation.

Mr. Speaker, today, the House spent a day debating how we can use our leverage to improve on trade, to improve human rights in China. We took this time because this issue is not only important to the people of China, but more importantly, because it is important to the people of the United States.

It is important for at least three reasons: For strategic reasons, because of China's participation in the proliferation of nuclear weapons; for economic reasons, because of the impediment to our trade into China, and the implications that that has on American jobs and on American workers; and on another reason of principle, because we, in passing this bill, will be living up to the principles of our democracy and the promise we extend to other countries when we broadcast on Voice of America a message of democracy.

I thank my colleagues for the excellent level of debate and their attention to this issue. I believe that this is a bill that the House wants, that is an optimistic bill. I am hopeful that the bill will pass and become law. I am hopeful that the prisoners will be freed. I am hopeful that democratic reform, which is inconceivable to the authorities in Beijing now, will be inevitable to the young people who demonstrated there. I am hopeful that most-favored-nation status for China can be renewed next year with pride instead of with shame.

Mr. Speaker, I want to in closing thank the staff of the Committee on Ways and Means for their assistance in this matter, and recognize Craig Middleton of my staff for his assistance, and again thank all our colleagues.

I would like to take half a moment to thank my constituents in my district because many of them depend very heavily on trade from China. Many of them are from China. They would like to see most-favored-nation status continued. However, they are Americans now, and they know that their economic success that they have gained in this country cannot be gained on the backs of prison laborers and on the backs of those who deprive people of the right of freedom of speech, religion, or press. They are Americans now. This is an American response. I think it is sensitive to Chinese concerns.

I urge my colleagues to vote yes on H.R. 2212.

The SPEAKER pro tempore (Mr. TORRES). Under the rule, the previous question is considered as ordered on the committee amendment and on the bill.

The question is on the committee amendments.

The committee amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ARCHER

Mr. ARCHER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman from Texas opposed to the bill?

Mr. ARCHER. Mr. Speaker, I am opposed to the bill in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ARCHER moves to recommit the bill, H.R. 2212, to the Committee on Ways and Means with instructions to report the same to the House forthwith with the following amendment: strike all after the enacting clause and insert in lieu thereof—

SECTION 1. ACTIONS BY THE GOVERNMENT OF CHINA WITH RESPECT TO HUMAN RIGHTS.

If the President proposes that the waiver authority granted by subsection (c) of section 402 of the Trade Act of 1974 be extended in 1992 for a 12-month period with respect to the People's Republic of China, then the President shall include as a part of the document required to be submitted under subsection (d) of such section—

(1) a detailed statement regarding whether the government of that country has made significant progress in—

(A) reversing the pattern, dating from June 3, 1989, within the People's Republic of China of gross violations of internationally recognized human rights,

(B) providing an accounting for those citizens who were detained, accused, sentenced or imprisoned as a result of the nonviolent expression of their political beliefs during the violent repression of dissent in Tiananmen Square on June 3, 1989, including whether such individual has been, or will soon be, released from custody,

(C) terminating religious persecution in the People's Republic of China, including intimidation or imprisonment of individuals for expression of their religious beliefs,

(D) removing the restrictions in the People's Republic of China on freedom of the press and on broadcasts by the Voice of America,

(E) terminating the acts of intimidation and harassment of Chinese citizens in the United States,

(F) ensuring freedom from torture and from inhumane prison conditions,

(G) terminating the prohibitions, imposed after June 3, 1989, on peaceful assembly and demonstration,

(H) ensuring the access of international human rights monitoring groups to prisoners, trials, and places of detention,

(I) prohibiting the use of forced labor, especially in the production of exports, and

(J) taking other appropriate action to promote substantial improvement in the observance of internationally recognized human rights in the People's Republic of China and greater opportunities for freedom and democracy in that country; and

(2) a statement on that government's population control policies, including any program of coercive abortion or involuntary sterilization.

SEC. 2. ADDITIONAL FACTORS REGARDING THE EXTENSION OF NONDISCRIMINATORY TREATMENT OF CHINA IN 1992.

(a) IN GENERAL.—In deciding whether or not to recommend in 1992 the extension of the waiver authority referred to in section 1 with respect to the People's Republic of China, the President shall also take into account—

(1) the potential economic and political effects that such an extension, or the absence of such an extension, may have on Hong Kong;

(2) whether the government of the People's Republic of China is adhering to the Joint Declaration on Hong Kong that was entered into between the United Kingdom and the People's Republic of China; and

(3) the extent to which the government of the People's Republic of China has moderated its position regarding the accession of Taiwan to the General Agreement on Tariffs and Trade.

(b) REPORT.—Within 6 months after the date of the enactment of this Act, the President shall submit to Congress a report describing the status of Taiwan's application for accession to the General Agreement on Tariffs and Trade. The President shall thereafter regularly consult with Congress regarding the support which the United States is extending to such application.

SEC. 3. ADDITIONAL INTERIM MEASURES IF NONDISCRIMINATORY TREATMENT EXTENDED TO CHINA IN 1991.

If nondiscriminatory treatment is extended in 1991 to the People's Republic of China under section 402(c) of the Trade Act of 1974, the President shall consider whether the taking of additional measures is necessary or appropriate during the effective period of the extension to address bilateral trade disputes or to ensure continued progress within that country toward human rights. Such measures may include—

(1) in response to unfair trade practices, action by the United States Trade Representative—

(A) in initiating additional cases under section 301 of the Trade Act of 1974 in response to practices such as licensing procedures that serve as trade barriers, quotas or other import restrictions, and discriminatory testing and certification practices; and

(B) promptly seeking remedies provided under the trade laws if the People's Republic of China fails to correct unjustifiable, unreasonable, or discriminatory trade practices;

(2) aggressive and prompt action under the appropriate trade laws to ensure that the People's Republic of China provide adequate protection to intellectual property rights; and

(3) in response to violations of human rights, the strict conditioning of United States support for international loans to the People's Republic of China on improvement by the government of that country in protecting and guaranteeing such rights.

SEC. 4. RELATED UNITED STATES-CHINA TRADE MATTERS.

The following actions shall be taken during each 12-month period in which nondiscriminatory treatment is extended to the People's Republic of China under section 402(c) of the Trade Act of 1974:

(1) TEXTILE AND APPAREL ARTICLE QUOTA VIOLATIONS.—The Commission of Customs, in consultation with the United States Trade Representative, shall—

(A) determine whether any textile or apparel article that is—

(i) a product of the People's Republic of China, and

(ii) subject to quantitative restrictions under a bilateral agreement between that country and the United States, is being transhipped through a third country for purposes of avoiding such restrictions;

(B) if any transshipment described in subparagraph (A) is found, charge against the quota of People's Republic of China for such kind of textile or apparel article twice the volume of the goods involved in such transshipment; and

(C) within 6 months after the date of the enactment of this Act, but no later than July 3, 1992, report to the Congress regarding all determinations and charges against quotas made under subparagraphs (A) and (B).

(2) FORCED LABOR PRODUCTS.—The Commissioner of Customs, in consultation with the United States Trade Representative, shall establish a system for investigating allegations that a product or component was produced by forced labor in the People's Republic of China and is being imported into the United States. Such system shall provide for—

(A) an office to which information about such imports can be submitted or requested by interested parties; and

(B) procedures for the initiation of investigations upon petition by interested parties, the timely conclusion of such investigations, and determining what action should be taken to stop the importation of such products or components.

The Commissioner of Customs shall submit an annual report to Congress regarding the efforts by the government of the People's Republic of China to terminate exports of products made by forced labor to the United States and the status and nature of investigations undertaken pursuant to this paragraph.

SEC. 5. REPORT BY THE PRESIDENT ON EFFECTS OF ACTIONS ON UNITED STATES EXPORTS.

In deciding whether or not to recommend the extension of nondiscriminatory treatment to the People's Republic of China in 1992, the President shall evaluate the effects of such action on major United States exports, including agricultural exports. The results of such evaluation shall be included in the report required under section 402(d) of the Trade Act of 1974.

SEC. 6. SENSE OF CONGRESS REGARDING RELATIONS BETWEEN THE UNITED STATES AND THE PEOPLE'S REPUBLIC OF CHINA.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) cooperation between the governments of the United States and the People's Republic of China on international issues of common concern is one basis, among several, for the positive development of United States-China relations;

(2) the United States and China have cooperated productively to bring about the withdrawal of Soviet forces from Afghanistan;

(3) Chinese initiatives vis-a-vis North Korea have contributed to enhanced stability on the Korean peninsula and the security of South Korea;

(4) China and the United States, along with Great Britain, France, and the Soviet Union have developed a formula for a comprehensive political settlement of the Cambodian conflict which holds out the promise of freedom, independence, and self-determination for the Cambodian people;

(5) China supported, or did not obstruct, the efforts of the United States to forge an international coalition to oppose Iraq's invasion and occupation of Kuwait;

(6) the Government of China has accepted President Bush's invitation to take part in a conference of major arms suppliers to discuss future weapons transfers to Middle East nations;

(7) on the other hand, China's continued support for the Khmer Rouge has the potential of undermining the prospects for a peaceful resolution of the Cambodian conflict;

(8) China's reported intention to sell to Syria intermediate range ballistic missiles which fall within the limits of the Missile Technology Control Regime threatens to destabilize the military balance in the Middle East and to threaten the security of Israel;

(9) China's reported intention to sell to Pakistan intermediate range ballistic missiles which fall within the limits of the Missile Technology Control Regime threatens to destabilize the military balance in the South Asian region and to increase the prospects of unconventional military conflict on the subcontinent; and

(10) China's reported 1983 sale of an unsafeguarded nuclear power reactor to Algeria calls into question China's subsequent commitments to act in accordance with the nuclear nonproliferation regime.

(b) SENSE OF CONGRESS.—In view of the findings set forth in subsection (a)—

(1) it is the sense of Congress that foreign policy actions by the Government of the People's Republic of China which undermine United States global interests and which are inconsistent with past cooperation between the United States and China (such as the transfer of missile covered by the Missile Technology Control Regime and transfers of unsafeguarded nuclear equipment, materials, and technology) will have serious negative consequences for the development of United States-China relations, in particular placing in jeopardy the access of Chinese products to the United States market through nondiscriminatory tariff status; and

(2) the Congress urges the Government of China to take constructive steps on a unilateral, bilateral, and multilateral basis to reduce tensions in regional military conflicts, particularly by—

(A) restricting the transfer of conventional weapons,

(B) working constructively toward the creation of a multilateral conventional arms transfer and control regime,

(C) agreeing not to transfer weapons of mass destruction, and

(D) agreeing to multilateral controls on the transfer of ballistic missiles and the technology associated with the development of such weapons and delivery systems.

Mr. ARCHER (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. ARCHER] will be recognized for 5 minutes and the gentlewoman from California [Ms. PELOSI] will be recognized for 5 minutes.

Mr. ARCHER. Mr. Speaker, my motion to recommit takes the form of a substitute for the bill. I believe my approach, which drew strong bipartisan support in the committee, provides a more realistic course of action for the United States.

The substitute formulates a new basis for Congress to determine whether China's behavior on human rights and trade matters justifies support for the President's decision on MFN in 1992.

It says we will not conduct "business as usual" with China—we will not "close our eyes" to Tiananmen Square—but, I believe it is a more responsible approach that will allow the President and Congress together to apply pressure on the hardline leadership in China. Unlike H.R. 2212 as reported, the substitute addresses China's behavior not just with respect to human rights but also in the areas of unfair trade practices.

Under my substitute, if the President proposes to extend MFN for China beginning June 3, 1992, he must provide a detailed description of whether China has made significant progress on a list of human rights measures.

They include providing an accounting of those citizens detained and imprisoned, ending religious persecution, ensuring freedom of the press and allowing access to trials. The President must include in this detailed report a statement on China's population control policies, including any program of coercive abortion or involuntary sterilization.

This approach makes Congress and the President partners in assessing China's human rights and economic behavior, treating all human rights issues as having equal priority. It does not establish impossible certifications or rigid conditionality. It becomes part of the statutorily mandated report, just as under H.R. 2212.

The substitute further requires that the President consider the potential impact on Hong Kong of MFN removal, and states that the U.S. is to press for Taiwan's entry into the GATT as a separate customs union with developed country status.

One of the most important aspects of my substitute is that it deals with economic issues as well as human rights. China's trade practices have been very unsatisfactory over the last 2 years, and it is important that we increase the pressure for improvement in this area.

The substitute directs the President to consider further economic sanctions, including self-initiating additional 301 or other trade law cases and conditioning U.S. support for international loans.

The substsitute also addresses the problem of Chinese transshipments of improperly identified textile and apparel products through Hong Kong. It requires Customs to charge double volume against China's quota for any violations. Customs must also establish procedures for investigating and stopping forced labor imports from China.

The substitute also recognizes the vulnerability of U.S. exports, particularly wheat, corn and other agriculture products. Before recommending any interim sanctions or further extensions of MFN, the President must evaluate and take into account the effects of any action on major U.S. exports.

Finally, the substitute incorporates the language of House Joint Resolution 174, introduced by Congressman SOLARZ, urging China to take constructive steps to ensure that weapons of mass destruction, conventional weapons, and missile technology are not transferred to third countries.

Mr. Speaker, I believe my substitute is a superior approach to dealing with the current hard-line leadership in China. It attempts to maximize the pressure without hurting the Chinese people who have proven a love for freedom and democracy. My substitute allows the President and the Congress to work together toward a unified U.S. policy.

Mr. Speaker, I urge my colleagues to vote "yes" on the motion to recommit with instructions.

Ms. PELOSI. Mr. Speaker, I rise in opposition to the gentleman's motion to recommit. The motion seeks to weaken an already very well-balanced bill. When this bill was put together with its 150 cosponsors, it was crafted with the full participation of the Congressional Working Group on China. We did this bill with an eye to renewing most-favored-nation status in 1992, crafting reasonable conditions that could be met.

The gentleman's motion abdicates the right of this body to exercise its will on taxation issues, which trades and tariffs are, abdicates that to the President of the United States.

I am certain, I say to the gentleman from Texas [Mr. ARCHER], that the President of the United States does take these issues into consideration when he considers renewal of most-favored-nation status for China. I do not expect that the President of the United States makes that decision in a vacuum; at least, I hope he has considered these issues, but this is simply not enough.

The present policy has not worked. The human rights conditions have worsened. The repression continues. The trade deficit grows. The nuclear proliferation continues. The export of prison labor goods continues and increases. The present policy, as I said, has not worked.

That is why I am so glad that in crafting this legislation, we have the support of so many of those who have a really vested interest in the continuation of most-favored-nation status for China next year.

The Independent Federation of Chinese Students and Scholars, the Democracy for China, the Chinese Alliance for Democracy, Dr. Fang Lizhi, and the list goes on and on of dissendents and those who care about democracy in China, but who very much want most-favored-nation status to continue. They support this conditional approach.

What is important here today, Mr. Speaker, is to remember that when we put this bill together it was with the intention of getting the broadest base of support. We made concessions in the legislation in order to be able to have as united a front as possible, to send the clearest message possible to the authorities in Beijing that their trade relationship with us was one we wanted to continue, but we could not continue unless there was a change in their treatment of their people, and that the prisoners be released.

So I appeal to my colleagues to defeat the Archer motion to recommit and let us give one big vote today for H.R. 2212. Let the message be very clear and let us then proceed through the process with the best bill, with the broadest amount of support.

I think it is clear from the debate that this is legislation that the House wants. I am very proud of the bipartisan support that it has received.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in opposition to the motion to recommit H.R. 2212. Although I believe that the substitute amendment set forth in the motion is a reasonable one, and one that I am philosophically inclined to support, I believe it is imperative that the House send a strong, united message to the Chinese Government that the status quo is no longer acceptable. We must see dramatic improvement in China's record on human rights if China is going to maintain its MFN status in the future. I will therefore vote against the motion to recommit and for H.R. 2212, as amended by the Committee on Ways and Means. I will however, work in conference to improve the bill so that, hopefully, it can be signed by the President.

Mr. DONNELLY. Mr. Speaker, I rise in strong support of House Joint Resolution 263, a resolution to disprove most-favored-nation [MFN] trade status for the People's Republic of China.

Mr. Speaker, I am an original cosponsor of this resolution, and I had intended to contribute to the debate on this important issue. However, I was unavoidably detained at a Ways and Means Committee hearing during House consideration of this resolution.

The People's Republic of China is a renegade nation and refuses to recognize the basic human rights of its citizens. It has been 2 years since the brutal massacre in Tiananmen Square, and the situation in China has remained the same.

The Chinese Government still suppresses political opposition, restricts the press, detains and incarcerates its citizens and uses prisoners for slave labor. Its brutal annexation and occupation of the sovereign nation of Tibet is a violation of that country's inalienable rights of self-determination and religious freedom.

Internationally, China is considered a major nuclear power and yet has repeatedly refused to sign the Nuclear Non-Proliferation Treaty. Recent evidence indicates that the Chinese Government has helped in the development of several nuclear weapons programs in Pakistan, India, Algeria, Brazil, Argentina, and South Africa.

Far from improving, China's treatment of its citizens and actions in the world community have deteriorated. The administration's desire to continue its policy of constructive engagement with the Chinese Government is appeasement in its worst form.

Extending the MFN status for China is not an economic issue, it is a matter of principle. We must immediately suspend MFN status. To extend MFN with conditions does not go far enough.

I am pleased that a majority of my colleagues agree with me about the need for the United States to send a clear and unequivocal message to the Chinese Government that its disregard for the rights of its citizens and its responsibilities as a member of the international community can no longer be tolerated. I would also like to take this opportunity to commend my colleague, Representative GERALD SOLOMON, for his leadership on this issue.

Mr. DARDEN. Mr. Speaker, "the cause of America is the cause of all mankind." Although penned over 200 years ago, Common Sense remains the most eloquent and inspiring defense of freedom ever written. People throughout the world continue to follow the standard set by Thomas Paine and his fellow American revolutionaries when seeking to shake the oppressive yoke of totalitarianism and establish democratic nations and representative governments.

Many examples can be given, but the most powerful in recent memory must be that of the Chinese students in Tiananmen Square defiantly hoisting a statue of Lady Liberty in protest of a violently oppressive Chinese Government. In a moment of singular clarity, the stance of an unarmed dissident challenging a menacing line of armored tanks came to represent the struggle of all oppressed individuals seeking freedom and affirmation of their belief that all men are created equal and endowed with the right to life, liberty, and the pursuit of happiness.

It is at times like these that we must renew our commitment to the principles embodied in our Government and way of life. Our policies must reflect an abhorrence of totalitarianism and an unyielding defense of freedom. Whether political, economic, or moral, our force must be equal to the challenge. We cannot continue to act as if nothing has happened, as if the students' courageous demonstration was without merit and without effect. To do so is to mock these individuals and their cause, and by inference to besmirch the victory over tyranny of our forebears.

The President believes that extending most-favored-nation trade status to China will enable us to influence their policies. We have maintained this status since the events in Beijing in 1989, and the effect has been negligible. I have visited China, and while I was impressed by the importance the Chinese ascribed to the United States view of their economy, political system and culture, I was disappointed by the official disregard for the events in Tiananmen Square. The Government's brutal repression of the protest was shocking, and its characterization of the demonstration and subsequent retaliation as insignificant at the very least indicates a lack of understanding about human rights and the value Americans place on democratic ideals.

I cannot in good conscience support the status quo. It is true that, with one-fifth of the world's population, China cannot be isolated without serious consequences. It is for that reason that I oppose a total U.S. withdrawal. However, without specific conditions for a continued relationship, China will be free to continue massive oppression, unrestricted trade and nuclear proliferation. Only through the establishment of basic standards for a trade relationship will appropriate pressure be brought to bear upon the perpetrators of these abuses.

I am proud to join my colleagues in sending a clear message that our ideals and beliefs are timeless and powerful. By approving H.R. 2212, we will assure the Chinese people of our continued involvement in their struggle to obtain the fundamental freedoms of speech, action, and belief.

The SPEAKER pro tempore (Mr. TORRES). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. ARCHER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of final passage.

The vote was taken by electronic device, and there were—yeas 118, nays 308, not voting 7, as follows:

[Roll No. 204]

YEAS—118

Alexander
Allard
Archer
Armey
Baker
Ballenger
Barrett
Bereuter
Bilirakis
Boehner
Brooks
Broomfield
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Crane
Dannemeyer
Davis
DeLay
Dornan (CA)
Dreier
English
Ewing
Fawell
Fields
Fish
Franks (CT)
Gekas
Geren
Gilchrest
Gillmor
Gradison
Grandy
Guarini
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Hastert
Hobson
Holloway
Houghton
Hyde
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Kolbe
Kopetski
Laughlin
Leach
Lent
Lewis (CA)
Lightfoot
Livingston
Lowery (CA)
Luken
Machtley
Marlenee
Martin
Matsui
McCandless
McCrery
McDade
McMillan (NC)
Meyers
Michel
Miller (OH)
Montgomery
Morrison
Myers
Nichols
Nussle
Oxley
Packard
Paxon
Petri
Pickle
Pursell
Quillen
Regula
Rhodes
Rinaldo
Roberts
Roe
Roemer
Roth
Sarpalius
Schaefer
Scheuer
Shaw
Shays
Skeen
Skelton
Slaughter (VA)
Smith (OR)
Solarz
Stenholm
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Vander Jagt
Volkmer
Vucanovich
Weber
Williams
Wylie
Young (AK)
Young (FL)
Zimmer

NAYS—308

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Barton
Bateman
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Darden
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gray
Green
Gunderson
Hall (OH)
Hancock
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Ireland
James
Jefferson
Jenkins
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Manton
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDermott
McEwen
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Moody
Moorhead
Moran
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Porter
Poshard
Price
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Richardson
Ridge
Riggs
Ritter
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Savage
Sawyer
Saxton
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shuster
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Walker
Walsh
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Zeliff

NOT VOTING—7

de la Garza
Hopkins
Hunter
Inhofe
Jacobs
Smith (IA)
Whitten

□ 1936

Messrs. BLILEY, COOPER, WELDON, and DINGELL changed their vote from "yea" to "nay."

Messrs. GEREN of Texas, DANNEMEYER, and ALEXANDER changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. TORRES). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROSTENKOWSKI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. The Chair will remind the Members this is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 313, nays 112, not voting 8, as follows:

[Roll No. 205]

YEAS—313

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Aspin
Atkins
Bacchus
Ballenger
Barnard
Barton
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coble
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Dannemeyer
Darden
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gingrich
Goodling
Gordon
Gray
Green
Gunderson
Hall (OH)
Hancock
Harris
Hatcher
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hobson
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
James
Jefferson
Jenkins
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Machtley
Manton
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
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Moorhead
Moran
Morella
Mrazek
Murphy
Nagle
Neal (MA)
Neal (NC)
Nowak
Oakar
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Obey
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Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Pickle
Porter
Poshard
Price
Pursell
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ridge
Riggs
Ritter
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shuster
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
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Swift
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Tallon
Tanner
Taylor (NC)
Thomas (GA)
Thornton
Torricelli
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Unsoeld
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Visclosky
Volkmer
Walker
Walsh
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Wilson
Wise
Wolf
Wolpe
Yates
Yatron
Zeliff

NAYS—112

Alexander
Allard
Anderson
Applegate
Archer
Armey
Baker
Barrett
Bateman
Bereuter
Bilirakis
Bliley
Boehner
Brown
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coleman (MO)
Combest
Crane
Davis
Dreier
Ewing
Fawell
Fields
Franks (CT)
Gekas
Geren
Gillmor
Glickman
Gonzalez
Goss
Gradison
Grandy
Guarini
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Hastert
Hayes (LA)
Hoagland
Holloway
Houghton
Ireland
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Kolbe
Kopetski
Laughlin
Leach
Lent
Lewis (CA)
Lightfoot
Livingston
Lowery (CA)
Luken
Marlenee
Martin
Matsui
McCandless
McCrery
McDade
Meyers
Michel
Miller (OH)
Montgomery
Morrison
Murtha
Myers
Natcher
Nichols
Nussle
Oxley
Packard
Paxon
Peterson (MN)
Petri
Pickett
Quillen
Rhodes
Rinaldo
Roberts
Roemer
Roth
Sarpalius
Shaw
Shays
Skeen
Slaughter (VA)
Smith (OR)
Stenholm
Stump
Sundquist
Tauzin
Taylor (MS)
Thomas (CA)
Thomas (WY)
Torres
Vander Jagt
Vucanovich
Weber
Williams
Wyden
Wylie
Young (AK)
Young (FL)
Zimmer

NOT VOTING—8

AuCoin
de la Garza
Hopkins
Hunter
Inhofe
Jacobs
Smith (IA)
Whitten

☐ 1946

The Clerk announced the following pairs:

On this vote:

Mr. Hunter for, with Mr. Jacobs against.

Mr. GLICKMAN changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. ROSTENKOWSKI. Mr. Speaker, since the contents of House Concurrent Resolution 174 are embodied in the Pelosi amendment, I ask unanimous consent to lay House Concurrent Resolution 174 on the table.

The SPEAKER pro tempore (Mr. TORRES). Is there objection to the request of the gentleman from Illinois?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2282, NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT AMENDMENTS

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–147) on the resolution (H. Res. 190) providing for the consideration of the bill (H.R. 2282) to amend the National Science Foundation Authorization Act of 1988, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 656, PROVIDING FOR A PROGRAM TO ENSURE U.S. LEADERSHIP IN HIGH-PERFORMANCE COMPUTING

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–148) on the resolution (H. RES 191) providing for the consideration of the bill (H.R. 656) to provide for a coordinated Federal research program to ensure continued U.S. leadership in high-performance computing, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERING OF H.R. 1989, AMERICAN TECHNOLOGY PREEMINENCE AUTHORIZATION ACT

Mr. MOAKLEY, from the committee on Rules, submitted a privileged report (Rept. No. 102–149) on the resolution (H. Res. 192) providing for the consideration of the bill (H.R. 1989) to authorize appropriations for the National Institute of Standards and Technology and the Technology Administration of the Department of Commerce, and for other purposes, which was referred to the House Calendar and ordered to be printed.

NATIONAL FAMILY WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 23) to authorize the President to issue a proclamation designating each of the weeks beginning on November 24, 1991 and November 22, 1992, as National Family Week, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

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The SPEAKER pro tempore (Mr. TORRES). Is there objection to the request of the gentleman from Ohio?

Mr. MYERS of Indiana. Mr. Speaker, reserving the right to object, today I urge my colleagues to approve House Joint Resolution 23, which would authorize the President to designate the week beginning November 24, 1991, and November 22, 1992, as National Family Week.

This resolution encourages the States and local communities to observe the week and celebrate the family with appropriate ceremonies and activities.

The purpose of National Family Week is to promote recognition of and appreciation for the American family as the foundation of our free society, and to lay before the American family the challenge to continue to perpetuate and preserve freedom, honor and trust among all people.

Honoring the family in the United States is a practice everyone can be proud of. I am pleased to state it was 20 years ago in 1971, when I first introduced this legislation and I have reintroduced it each Congress.

A family is more than a group of individuals—a family is a community of persons united by their commitment and love for one another.

I hope all my colleagues feel as strongly about the family as I do and will join me in support of this resolution.

Mr. Speaker, I yield to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I thank my friend from Indiana for yielding, and I pause at this point merely to commend him for this very special effort to recognize the importance of the American family. I only hope that whatever ails the arm of the gentleman from Indiana [Mr. MYERS] at this point is not the product of having twisted arms to get Members to sign on in time in order to have this recognition today.

Mr. MYERS of Indiana. Mr. Speaker, I thank the gentleman from Ohio [Mr. SAWYER] for his remarks, as well as his help in bringing this to the floor today, and I appreciate the efforts of all members of the committee who went out of their way to make sure it is brought up each year. This is the earliest in recent years this bill has been brought up. I know it will get to the President for his signature very early, and it is important to do that.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 23

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating each of the weeks beginning on November 24, 1991, and November 22, 1992, as "National Family Week".

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL ELLIS ISLAND DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 130) to designate January 1 as National Ellis Island Day, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. MYERS of Indiana. Mr. Speaker, reserving the right to object, I certainly do not object, and do so to yield to the prime sponsor of this legislation, the gentleman from New Jersey [Mr. GUARINI].

Mr. GUARINI. Mr. Speaker, January 1 of 1992 will mark the 100th anniversary of the opening of Ellis Island—a major gateway of immigration into this country. Since that first day in 1892, 12 million people from all over the world have passed through the doors of Ellis Island. The great American poet, Emma Lazarus described them as "tired, poor, huddled masses yearning to breathe free." During the heavy immigration of the early 1900's, their first view of America was the shining spires of New York city and the noble figure of the Statute of Liberty, however, their first steps on American soil were taken on Ellis Island.

Today, over 40 percent of Americans can trace their roots to an individual who passed through Ellis Island. Today, we know them as our grandfathers and grandmothers, our aunts and uncles, members of our families, who struggled and sacrificed to realize their dreams in this country. Some of them came to escape persecution, others came to escape poverty, but all came to forge a new life in a land of freedom and prospertiy—the United States of America.

It is fitting, therefore, that Ellis Island now serves as a museum to tell the story of American immigration. The Ellis Island Immigration Museum was built through the efforts and private donations of over 20 million Americans. Since its opening last September, over half a million visitors have already toured through the facility, walking through the same halls in which their ancestors were processed years ago. Today on Ellis Island, present and future generations can learn about the history of their families an their Nation.

Today, we consider a resolution which I have introduced to commemorate January 1, 1992 as National Ellis Island Day—January 1 being the day the first immigrants set foot on Ellis Island almost 100 years ago. I urge my colleagues to support this legislation and in doing so recognize the anniversary of this important national landmark. Ellis Island is a symbol of the hope for freedom and prospertiy which America offered to the world in the past and continues to offer today.

Mr. MYERS of Indiana. Mr. Speaker, I thank the gentleman for his comments and the legislation he has presented here.

Mr. Speaker, I yield to my good friend, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, as an original cosponsor of this resolution, I rise in support of House Joint Resolution 130, which designates January 1, as National Ellis Island Day, and commend my good friend and colleague from the state of New Jersey, Mr. GUARINI, for introducing this legislation for focusing attention on America's gateway.

Ellis Island symbolizes the hopes and dreams of over 12 millions of our Nation's immigrants. The island was the first contact they had with a land of new freedom, hope, and promise. This resolution serves as an appropriate tribute to a magnificent place in American history.

Mr. Speaker, accordingly, I urge our colleague to join in supporting this important resolution.

Mr. MYERS of Indiana. Mr. Speaker, I thank the gentleman from New York [Mr. GILMAN], and I yield to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I thank my friend, the gentleman from Indiana, and offer special gratitude to the gentleman from New Jersey [Mr. GUARINI], for this important and timely resolution.

For those of us on our committee who have been struggling over the last year to bring the fullest possible count to the enumeration of our Nation, we can appreciate the recognition that the gentleman from New Jersey brings to Ellis Island today. It is a recognition of an age of transcontinental migration, a period in which the great waves of European migration a century ago surpassed 1 million a year, as this Nation grew and achieved the diversity that it benefits from today.

Mr. Speaker, we are today in another age of global migration, as populations in unprecedented numbers move around the globe and into this Nation in numbers unexperienced since that age of great immigration a century ago.

Mr. Speaker, as we struggle to cope with the challenge and the benefits of the diversity that comes to this Nation today, it is important to recognize and remember those lessons from the past that have made this Nation all that it is in the twentieth century. For that, I thank the gentleman from New Jersey [Mr. GUARINI], and all of those who joined in this special recognition today.

Mr. MYERS of Indiana. Mr. Speaker, I thank the gentleman from Ohio [Mr. SAWYER] for his comments, and thank the gentleman from New Jersey [Mr. GUARINI] and the gentleman from New York [Mr. GILMAN], and all who took part in introducing this legislation.

Ellis Island has touched just about everyone in this country. We had ancestors who came through there. Their first revelation, their first opportunity to see the New World, was Ellis Island. It is most appropriate that it has now been restored, and, more appropriately, we recognize the importance that Ellis Island has been to bring this great melting pot of the United States into reality.

Mr. Speaker, it is most appropriate, and we thank these Members for the introduction of this legislation.

Mr. GUARINI. Mr. Speaker, I think I can say it certainly speaks to the great sense of what America is about, and expresses in its totality the American spirit. I thank the gentleman from Indiana [Mr. MYERS], the gentleman from Ohio [Mr. SAWYER], and the gentleman from New York [Mr. GILMAN].

Mr. MYERS of Indiana. Mr. Speaker, if we go to Ellis Island and look at the coldness of the big halls, you would say, "My gosh, our ancestors came in here. What a reception, to come into this cold building."

Mr. Speaker, many of these people did not speak English. They came into a new country, and were put into these cold halls. But how soon after that, I hope that they got out into what America really is, into the free world.

Mr. Speaker, this is a great opportunity that we have to recognize our ancestors for what they brought to make America what it is today. It is most appropriate what the gentleman from New Jersey [Mr. GUARINI] has done here today, again restoring Ellis Island as a national memorial.

Mr. GUARINI. Mr. Speaker, I think it would be fitting for every American to make a commitment to themselves, that some day they will visit Ellis Island with their family.

Mr. MYERS of Indiana. Mr. Speaker, it should be mandatory, to have everyone go visit there.

□ 2000

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. TORRES). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 130

Whereas the immigrant station at Ellis Island, New York, opened on January 1, 1892, admitting 700 immigrants to the United States on its 1st day of operation;

Whereas approximately 17,000,000 immigrants were admitted through Ellis Island between and 1892 and 1954;

Whereas Ellis Island was reopened in the fall of 1990 as a historic site of interest to tourists;

Whereas January 1, 1992, will mark the centennial of the opening of Ellis Island;

Whereas approximately 40 percent of all people of the United States today can trace their heritage to an immigrant ancestor who was admitted through Ellis Island;

Whereas Ellis Island is a reminder of the hope for freedom and prosperity that the United States offered to the poor, tired, hungry, and downtrodden of the world;

Whereas the people of the United States should recognize the time, commitment, and great efforts of the many dedicated citizens who made the refurbishing of Ellis Island the largest historic renovation project in the history of the United States; and

Whereas the people of the United States have a responsibility to maintain awareness of, and respect for, Ellis Island: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 1 is designated as "National Ellis Island Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SAWYER: Page 2, line 3, insert ", 1992," after "January 1".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Ohio [Mr. SAWYER].

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. SAWYER: Amend the title so as to read: "Joint Resolution designating January 1, 1992, as 'National Ellis Island Day'.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the several joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, July 9, 1991

Hon. THOMAS S. FOLEY,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit two sealed envelopes received from the White House at 3:14 p.m. on Tuesday July 9, 1991 as follows:

(1) Said to contain a six month periodic report on the Libyan Emergency and

(2) Said to contain the Powerplant and Industrial Fuel Act of 1978 Annual Report for Calendar Year 1990.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, U.S. House of Representatives

REPORT ON CONSERVATION AND USE OF PETROLEUM AND NATURAL GAS IN FEDERAL FACILITIES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The Speaker pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce:

(For message, see proceedings of the Senate of Tuesday, July 9, 1991, at page 17420.)

REPORT ON NATIONAL EMERGENCY WITH RESPECT TO LIBYA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The Speaker pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed:

(For message, see proceedings of the Senate of Tuesday, July 9, 1991, at page 17419.)

REPORT OF DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Armed Services and ordered to be printed.

(For message, see proceedings of the Senate of today, Wednesday, July 10, 1991.)

BRITAIN TO CUT DEFENSE FORCE

(Mr. FRANK of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRANK of Massachusetts. Mr. Speaker, I have been arguing along with others that with the collapse of the Russian military threat to wage a ground war in Europe, we could have some substantial troop reductions. I have good news and bad news. The good news is that I read in today's Washington Post of even deeper troop reductions for Europe in the NATO forces.

The bad news is that they are not ours, Mr. Speaker. They are England's.

In today's Washington Post it says, "Britain to cut defense force by 20 percent over 3 years."

Now, these are the same people who tell us that we have to keep 200,000 troops over there so they can feel comfortable.

The cuts envisioned an annual 6 percent reduction in defense spending.

This recognizes the quantum change that has occurred in the European scene with the collapse of the Soviet-led Warsaw Pact," said the British Defense Secretary.

Pretty soon, Mr. Speaker, there will be more American troops in England than there are English troops.

Now, I think America ought to cooperate with the rest of the world, but 45 years after World War II ended, with these European nations in Western Europe reaching a high level of economic activity, the only reason we continue to subsidize their defense to this extent is our own stupidity.

Mr. Speaker, I include the article referred to above:

[From the Washington Post July 10, 1991]

BRITAIN TO CUT DEFENSE FORCE BY 20 PERCENT OVER 3 YEARS—QUEEN'S CAVALRY COULD BE PUT TO PASTURE

LONDON, July 9—Citing the collapse of the Soviet-led Warsaw Pact, Britain announced today a 20 percent cut in its defense forces over three years.

The cuts envisaged an annual 6 percent reduction in defense spending, and are deeper than those proposed before the Persian Gulf War. Defense spending this year will total $38.88 billion.

"This recognizes the quantum change that has occurred in the European scene with the collapse of the Soviet-led Warsaw Pact," Defense Secretary Tom King told a new conference. "Smaller but better has been our objective."

The most drastic cut proposed was for the army to be reduced from 147,000 personnel to 116,000 instead of the 120,000 proposed shortly before Iraq invaded Kuwait on Aug. 2.

That will mean disbanding or merging some of Britain's elite regiments including, according to published reports, the Household Cavalry that provides escorts for Queen Elizabeth II on state occasions.

King, who is allowing military commanders to wrangle over which regiments will go, said the final decision will be announced soon.

The number of Royal Air Force personnel will shrink from 89,000 to about 75,000 and the Royal Navy from 63,000 to about 55,000.

Also cut will be three of the air force's 11 squadrons of tornado fighter-bombers, which played a major role in bombing Iraqi airfields.

British forces deployed in Germany are to fall sharply from 55,000 to a 23,000-strong mobile force. King said the British cuts were in line with a NATO decision last spring to slim down forces from 830,000 to 625,000, including a planned Rapid Reaction Corps to be commanded by Britain and based in Germany.

Britain, which spends 4 percent of its gross domestic product on defense, has ranked among the top spenders in the 16-nation North Atantic Treaty Organization, after the United States.

King, facing protests from the military said the overall 20 percent reduction in personnel was less than a 25-percent cut announced by the United States and a 30 percent reduction by Germany.

The announcement stipulated that Britain will make no cuts in its nuclear arsenal, now being updated with submarine-launched U.S. Trident missiles that will cost a total of $14.4 billion.

VIRGIN ISLAND JUDGES

(Mr. DE LUGO asked and was given permission to address the House for one minute and to revise and extend his remarks and include extraneous matter.)

Mr. DE LUGO. Mr. Speaker, I have spoken before in this House of the dire problems the people of my district continue to face because of the failure of the administration to appoint judges to the bench of the Federal Courts.

We in the Virgin Islands have seen visiting judges come and go, we have seen our court system become suspect because of the absence of locally appointed judges, we have seen in some instances justice miscarried, and we have seen frustration in the legal community and in the community at large because of this problem.

I have written many, many letters to the White House. I have exhorted the President to pay attention to this terrible situation. Judges have even written the Attorney General decrying the situation.

The problem has again been highlighted, this time in an article that appeared in the Monday, July 1, 1991 edition of the Washington Post's magazine, Washington Business, titled "For Some Federal Judges, Long Days in Paradise." In it, Post Staff Writer Saundra Torry brings into good perspective the problems the people of the Virgin Islands have faced without permanent, sitting judges in our Federal Courts.

Mr. Speaker, today I place this article into the record as further evidence of this embarrassing situation. But I also want to commend Acting Chief Judge Stanley Brotman and the other judges who have worked so hard to maintain the Federal Courts in the Virgin Islands under extremely trying circumstances. I would hope that the President and the Attorney General will take note of this intolerable problem, and move quickly to remedy it, and bring justice to the people I represent.

FOR SOME FEDERAL JUDGES, LONG DAYS IN PARADISE

(By Saundra Torry)

The federal judges shuttle in and out from Richmond and Baltimore, from Los Angeles and Camden, NJ. They start early. They work late. The criminal caseload is crushing. Sometimes they even hold court on Saturdays.

Is this purgatory? No, it's the U.S. Virgin Islands.

The two judgeships in this U.S. territory have been vacant for 18 months, forcing the Virgin Islands to make do with a stream of visiting judges who fly in and out with the tourists.

Sound like a cushy assignment? Not to hear the judges tell it.

Federal judge Stanely Brotman, a senior judge from Camden who took over as acting chief when the Islands' chief judge died in 1989, said you do what you've got to do.

"These courts had to be maintained," said Brotman. "These people are entitled to have matters tried and heard. And I am satisfied that everyone coming down . . . worked very hard."

Brotman does allow that the view over the Caribbean beats the Delaware River most days. And Judge Robert Merhige Jr., a senior judge who came from Richmond last year, said he got in a little beach time, but, of course, only on Sundays.

"Certainly it is not the hardest thing in the world to go to that kind of climate at that time of year," said senior judge Frank Kaufman of Baltimore, who answered the call for volunteers last spring. "On the other hand, I went to work at 8 or 8:30 [a.m.] and it was usually 6 or 7 [p.m.] before I got out."

Many of the Islands' lawyers assert that judges work long and hard as they rotate in and out, juggling caseloads at home and handling the huge court dockets on St. Croix and St. Thomas. Federal judges in the U.S. Virgin Islands hear major felonies, and last year had the highest criminal caseload per judge among all the federal courts.

The problem began in 1986, when Almeric Christian, then the chief judge in the Virgin Islands, wrote to President Reagan, saying he planned to retire but would wait until a successor was named. Frustrated when the White House did nothing. Christian retired in 1988. Then, in 1989, the Islands' only remaining federal judge, David O'Brien, died.

Now 18 months later, their seats remain vacant and as the time passes, there is growing discord in America's island paradise.

"We Need a Judge," read a 1989 headline in the local Daily News. "Civil trials have virtually come to a halt," The editorial stated. "Meanwhile the backlog is mounting . . ."

Del. Ron de Lugo (D), the Island's nonvoting member of Congress, said" there is absolutely no excuse," for the indifference of the Reagan and Bush administrations. "It's an embarrassment to the United States."

An administration official said President Bush nominated a top-notch local lawyer, only to have the Senate Judiciary Committee toss the nomination back after it languished there for months. Senate sources sniff at that account and hint at unspecified problems with the candidate.

It has been difficult to find other nominees, what with concerns about race, politics, geography and whether the nominee is an Island native, said one administration official. Two new candidates are now under scrutiny.

The official said that some candidates "look good on paper and look good in person," but when the FBI starts checking, "they do not always turn out to be without flaws."

But one nominee since 1988? That's not exactly scouring the Islands' 400-member bar association.

Territorial senator Holland Redfield, one of the Islands' few Republicans, figures there's blame enough for everyone. "Backstabbing on a bipartisan basis," said Redfield of local politics. "If they nominated Jesus Christ, someone down here would recrucify him."

Meanwhile, the airports are busy with judicial comings and goings.

At last count, said court clerk Orinn Arnold, 22 judges had served from cities around the nation. "You name it, we've had it," joked Arnold. Many, like Brotman, have come from the 3rd Circuit, which includes Pennsylvania, New Jersey, Delaware and the Virgin Islands.

The makeshift arrangement certainly has its downside.

There is no continuity, and scheduling is a nightmare.

One attorney had four judges for one criminal case. In a civil case, lawyers and witnesses flew to New Jersey for a trial, after a visiting judge was forced by his schedule to head back home. At times, a defendant gets one judge at trial, another at sentencing.

Then the judge "is looking at a cold record," said public defender Thurston McKelvin, "He will not have the same flavor or feel for it."

And try as they might, according to local lawyers, visiting judges can't be expected to grasp the culture and fabric of the island. Even the judges do not dispute that.

In a letter to former 3rd Circuit Chief Judge A. Leon Higginbotham Jr., two visiting judges asserted that there is a "sense that justice is being imposed from the outside" in a territory that is predominantly black.

And then there is the cost of the president's failure to name new judges.

"It's got to be enormous," said former Virgin Islands Lt. Gov. Julio Brady, once mentioned as a possible nominee. "The typical judge comes with a law clerk, sometimes a secretary, sometimes a court reporter."

The maximum a judge can spend daily for hotel and meals in the Virgin Islands is $291 in high season; $237 in low—the highest per diems in the nation. In the New York City, it's $227, and in Washington, $197. The allowance for staff is 50 percent less.

Brotman said he's certain that judges are spending "far less" than the daily allowance.

But no one seems to know just how much this whole venture is costing American taxpayers.

"There is no question it's cheaper to have resident judges appointed, no question about it," said Brotman. "But that's not what has happened."

And the cost may actually be highest in ways impossible to count.

"With each passing week that the district continues without a single resident judge Virgin Islanders become more convinced that they have third-class status in our federal judicial system." Higginbotham wrote last year to Attorney General Dick Thornburgh. "The long-term consequences . . . are tragic to contemplate."

NO MORE ONEK, KLEIN

Onek, Klein & Farr, once called the little law firm that could, is no more. The boutique that was bursting with Supreme Court law clerks and the pick of law school graduates dissolved today.

Joseph Onek and partners JoAnn Macbeth and Laurel Pyke Malson are on their way to Crowell & Moring. Partner Christopher Cerf departed in April for Wiley, Rein & Fielding.

The breakup was spurred by disagreement over growth, lawyers said. Joel Klein and H. Bartow Farr III wanted to stick to their Supreme Court and appellate practice. Onek, with his burgeoning health-care practice, and others, who do trial work, said they needed more resources. For a while, there was merger talk. But none of the firms's suiters made it to the alter.

Everyone assures that the divorce is "harmonious."

Klein, Farr and partners Paul M. Smith and Richard Taranto will stick together. "I feel thankful for the 10 years of remarkable success and fun we've had," Klein said last week, "and sadness that it won't continue."

THE 10TH ANNIVERSARY OF THE KOOTENAI COUNTY, ID, TASK FORCE ON HUMAN RELATIONS.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho [Mr. LAROCCO] is recognized for 5 minutes.

Mr. LAROCCO. Mr. Speaker, often it takes a challenge before us to bring out the best within us.

Such has been the case in my great district, the first district of Idaho, where the Kootenai County Task Force on Human Relations is celebrating its 10th anniversary this weekend.

The task force was founded in 1981 as a counterpoint to a local hate group, the Aryan nations, that had chosen Kootenai County as a home for its bigoted work

The task force has found during the past decade that battling hate can build a community's sense of pride, accomplishment and commitment.

By coming together and working together, the city of Coeur D'Alene and the people of Kootenai County have shown the State and the Nation that bigotry is not tolerated in Idaho. More than that, they have proven to themselves that the truly American virtues of tolerance and respect for others burn brightly in north Idaho.

Allow me to present a brief history of the Kootenai County Task Force on Human Relations:

Begun in 1981, the task force was a response to the activities of the Church of Jesus Christ Christian—the Aryan nations—a violent group of white supremacists which had chosen Hayden Lake, ID, as a base from which to care a whites-only nation in the Pacific Northwest.

The task force helped pass Idaho's anti-harassment law in 1983 that still stands as model legislation for the Nation. In 1984 and 1985, the Aryan nation's ties to violent activities throughout the Nation became clear. Then, in 1986, the home of the task force chairman, Rev. Bill Wassmuth, was bombed. A week later, three more bombs exploded in Coeur D'Alene. Four people were arrested; all were linked to the Aryan nations. The evil that the task force was fighting became very real.

The task force was honored nationally when it became the first recipient of the Raoul Wallenberg Civic Award on January 14, 1987.

The task force also was instrumental in Idaho's celebration of the first national Martin Luther King, Jr., holiday in 1986, and in pushing for a State holiday, a goal realized in 1990.

The Kootenai County task force on human relations has much to be proud of on this, its 10th anniversary. It has shown the world that Kootenai County, Coeur D'Alene—an all America city—and the State of Idaho will not tolerate racism and will work actively to promote racial understanding and tolerance.

As Father Wassmuth has said: "The best way to say 'no' to racism and intolerance is to say 'yes' to the equality and dignity of all people without regard to race, color, national origin or creed."

I would especially like to acknowledge the four chairmen of the task force: Rick Morris, Rev. Bill Wassmuth, Norm Gissel, and Tony Stewart. Each has given so much time and leadership to make the task force so successful.

I am proud to support the Kootenai County Task Force on Human Relations, to wish them a very happy birthday, and to wish them the best of success for the future.

And, I am truly proud to represent in Congress the goals and the people associated with the Kootenai County Task Force on Human Relations.

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INTRODUCTION OF THE SOCIAL SECURITY TRUST FUND INTEGRITY AND BENEFITS IMPROVEMENT ACT OF 1991

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, I am today introducing, together with Social Security Subcommittee Chairman ANDY JACOBS, H.R. 2838, a comprehensive Social Security package to improve Social Security benefits and protect the integrity of the Social Security trust fund. This package is intended to address many of the concerns that senior citizens have shared with us—their need to supplement their benefits by working; their concern about the adequacy of their benefits when they are widowed and living alone; their desire to assure that the tax dollars which they have paid into Social Security are spent for the purpose for which they were intended.

The legislation we are introducing today would address these issues in the following ways: it would improve benefits for the working elderly and for widows; it would establish the Social Security Administration as an independent agency; it would remove Social Security administrative costs from the budget; and it would require a study of means of improving the efficiency of the Social Security disability determination process. In addition, to correct an unintended result of the Omnibus Budget Reconciliation Act of 1990, it would raise the FICA exemption for election workers. Finally, it would comply with the pay-as-you-go financing requirements enacted last year by reversing the decline in the Social Security wage base as proportion of covered wages.

Social Security benefits for the working elderly would be improved by increasing the Social Security retirement test. Under present law, senior citizens age 65 to 69 may earn up to $9,720 a year and still retain their full Social Security benefits. Above that threshold, they lose $1 in benefits for every $3 they earn. H.R. 2838 would permit seniors to earn a higher wage and continue to receive their full Social Security benefits. Specifically, the threshold for 1992 would be increased $1,200—from a projected $10,200 to a projected $11,400. The threshold for 1993 would be increased $3,000 above current law to a projected $13,680. In 1993, this would increase the annual Social Security benefit of a senior working at the average wage by $1,000.

At the same time, the bill would improve widows' benefits in two ways. First, it would increase benefits for those widows whose spouses die before they reach the age of 65. These widows are likely to spend many years living on a reduced Social Security benefit. As they age, their resources are depleted and they often find themselves among the poorest of the elderly. A hearing of the Subcommittee on Social Security found that women living alone are among the most likely senior citizens to live in poverty. H.R. 2838 would improve benefits for these widows by decreasing the reduction factor for early widowhood.

Second, the legislation would eliminate the 7-year rule for disabled widows. The 7-year rule provides that a widow must become disabled within 7 years of her husband's death—or within 7 years of the end of her eligibility for benefits as the widowed mother of a young child—in order to be eligible for a disabled widow's benefit. The 7-year rule is an unnecessary and arbitrary limitation on eligibility for otherwise needy widows. H.R. 2838 would eliminate this limitation.

H.R. 2838 would also increase the Social Security payroll tax exemption for election workers. The present exemption is $100 annually. The bill would increase the exemption to $600 and would index the exempt amount beginning in 1993. This change would correct an unintended result of the Omnibus Budget Reconciliation Act of 1990 and thereby preserve the traditional exemption for election workers.

Three provisions in the legislation would protect the integrity of the Social Security trust fund, stabilize the administration of the program, and improve service to beneficiaries. First, the bill would establish the Social Security Administration as an independent agency. The agency would be governed by a three-member, bipartisan board which would establish policy for the agency. The day-to-day operations of the agency would be run by a Commissioner appointed by the President for a 4-year term. In our view, this measure would provide the Social Security Administration with much-needed independence from short-term political pressures. Moreover, it would enhance the stability of the agency and would increase its capacity to attract and retain capable management personnel.

This bill would also remove Social Security administrative costs from the budget, thus assuring that the Social Security trust fund is used for the purpose for which it was intended. Last year, as part of the budget agreement, Social Security receipts and expenditures were taken out of the Gramm-Rudman budget calculations. However, a question has arisen about whether or not administrative costs were intended to be taken offbudget as well. H.R. 2838 addresses this uncertainty by providing that Social Security administrative costs are to be offbudget and removed from the Gramm-Rudman calculations.

This provision is central to the confidence of senior citizens and workers alike in the integrity of the Social Security Program. Today's workers have a right to expect that the Social Security trust funds will be there to pay benefits when they retire, or if they die or become disabled. Similarly, they have a right to expect that those benefits will be both timely and accurate. The 20-percent cut in staff and resources at the Social Security Administration over the last 6 years has dramatically reduced the ability of the agency to provide such benefits, and has reduced the confidence of the American people in the integrity of the Social Security system.

The severity of SSA's service delivery problems was illustrated in a report card on the Social Security Administration that Subcommittee Chairman JACOBS and I issued earlier this spring. In that report, we gave the Social Security Disability Program a failing grade. We issued a failing grade because we found that the average disabled applicant who appeals his disability determination must wait a full year before he receives his benefits. Moreover, nearly two-thirds of the denials that were appealed by applicants were subsequently reversed by an administrative law judge. In our view, Social Security beneficiaries and applicants—individuals who have paid into the Social Security Program during their working years—have the right to expect that the taxes collected for the Social Security Program will be used to insure payment of benefits and services to which they are entitled—and to receive them promptly. Thus, H.R. 2838 would assure that Social Security administrative expenses, like Social Security benefit payments, are offbudget—removed from the Gramm-Rudman budget calculations. I also want to emphasize that I intend to work cooperatively with the Budget Committee to ensure that the administrative expenses of the Social Security Administration are appropriately reviewed.

In addition, we are very concerned with the high reversal rates in the disability program, and feel that it is vital to identify why SSA's initial decisions are so frequently reversed on appeal. Thus, H.R. 2838 would require the General Accounting Office [GAO] to conduct an investigation that would cast light on the causes of these frequent reversals. With this information in hand, both the Congress and SSA will be equipped to address this severe and pressing problem.

Finally, the bill would phase in a $3,000 increase in the Social Security wage base by the year 1996—from a projected $69,600 to a projected $72,600 in that year. Over the last several years, the proportion of wages covered by the Social Security payroll tax has declined as the wages of upper income individuals have risen faster than the wages of the middle class. This modest increase in the wage base would help move covered wages back toward the levels that prevailed in the early 1980's.

Mr. Speaker, H.R. 2838 is budget neutral with respect to onbudget spending, meets both the House and Senate requirements protecting the Social Security trust fund reserves, and fully complies with the pay-as-you-go financing requirements enacted last year. It contains several important provisions which will both improve the lives of our senior citizens and their confidence in the integrity of the Social Security system, while assuring that the services they receive from the Social Security Administration are of the highest quality.

A TRIBUTE TO REV. CYRIL K. RICHARD AND THE SPIRIT OF SAUGANASH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, nearly 13 years have passed since the community of Sauganash on the northwest side of Chicago lost one of its most beloved community leaders, the Reverend Cyril K. Richard. I remain saddened by the death of this man who was revered by hundreds of people who knew him during his 47-year tenure as pastor of the Sauganash Community Church. Prior to his death in 1978, this pillar of our community was known by the simple term "Rev."

Despite this loss, it gives me great pleasure today to say that the congregation of the Sauganash Community Church has gained a very able successor to Reverend Richard. This man, whose name is Rev. Raymond Nyquist, has embraced the same tradition of neighborhood unity advocated by Reverend Richard, who was always a stalwart booster of Sauganash.

Mr. Speaker, Reverend Nyquist has now served as the pastor of the Sauganash Community Church since 1983. His roots in the church and the community go back to at least 1963–64, when he taught Sunday school during his senior year as a seminary student.

As part of his ongoing commitment, Reverend Nyquist recently announced plans to begin writing a regular newspaper column for the Sauganash Sounds, a neighborhood newspaper founded by Reverend Richard in 1931. For several decades, Reverend Richard wrote a similar column for this newspaper, but it was dropped after his retirement. The newspaper, which was originally known as the Sauganash Echoes, also ceased publication after Reverend Richard stepped down, but it was revived in 1978 by church and community members under the name it bears today. During the many years that Reverend Richard published his newspaper columns, they provided him with an ideal forum for promoting Christian values and community dialog. By reintroducing the column, Reverend Nyquist has pledged to renew this tradition of bolstering the community spirit of Sauganash. I look forward to reading his columns, and I am confident Reverend Nyquist will do justice to the legacy of his predecessor.

In closing, Mr. Speaker, I would like to include in today's proceedings an article from the Sauganash Sounds written by Reverend Nyquist. The article, which follows, details Reverend Richard's contributions to Sauganash during his many years as a pastor:

[From the Sauganash Sounds, June 29, 1991]

THEY CALLED HIM REV

(By Raymond W. Nyquist)

His name was Cyril K. Richard, but everyone called him Rev. For 47 years—from 1930–1977 he was the beloved pastor of Sauganash Community Church. The neighborhood was young and vibrant and growing then, and so was he. He was only 30 years old when he began his ministry in Sauganash and he literally grew up and grew older with those who were moving into the area at the time. Were he alive today, he would be 91 years old. Some of you—perhaps many of you—reading these words were his contemporaries. Or you grew up under his ministry. Your children were baptized, confirmed, married by him. And some of your loved ones were buried by him. Indeed, some of you "younger people" were married by him.

He was "Mr. Sauganash." As such he was a Christian gentleman of the first order, with class, integrity, character, and pride—in the best sense of those words. The fact that people called him Rev did not take away from his dignity, but added a quality of affection. Not only did he care for the members of his church, but he was genuinely concerned about all the people of the rapidly growing community. That was why, in 1931, only a year after coming here, he used his journalistic talents to found and publish the Sauganash Echoes, the predecessor of what is now called the Sauganash Sounds. As I write these words I have before me copies of the Echoes that date back to 1957, 1958, and 1959. On the page one masthead, in the upper right hand corner, are the words: "Published Continuously Since 1931." and in the upper left hand corner: "Promoting the best interests of community life."

Significantly, Rev wrote a lead editorial on page one of every issue. He titled it "Column Rite," by C.K.R. In those columns Rev gave his personal and pastoral opinions about anything and everything, from religion to politics, holidays and holy days, family life and community issues, patriotism and personal faith, and everything else that concerned peoples' lives, faith, values, interests, enjoyments, etc. He was out to improve peoples' thinking, broaden their concerns, widen their horizons, and deepen their faith.

Strange as it may seem, I knew Rev personally and worked under him professionally. During my senior year at North Park Theological Seminary, 1963–1964, I was called to be the part-time Youth Director at Sauganash Community Church. I taught Sunday School, assisted in the worship service, but my main duty was to lead the Sunday night Christian Youth Fellowship—a group of about 20 to 40 teenagers, mainly freshmen, sophomores, and juniors. It was during that year that I came to realize that although Rev was a pastor and preacher, his first real love was journalism. He worked long hours with his personal secretary, Betty Olson, putting the paper together. Almost every Sunday night he would be working late in his study when I would lock the doors of the church and take some young people home. Volume I, number 1, came out in February, 1931, Part of the masthead is printed in the issue of February 21, 1959, celebrating the paper's 28th year.

I personally never called him Rev. I grew up in a church tradition where the minister of the church was called Pastor. And so I addressed him always as "Pastor Richard." Which brings me to the main point of this article.

Bud Hodgkinson, a longtime resident of Sauganish and personal friend, knew me in those days, and when I came to be the pastor of Sauganish Community Church just eight years ago, he reminded me that I had said, during my year of youth ministry here in 1963–1964, that I would someday be the pastor of this church. I did not realize then how prophetic those words were!

Rev retired from the church in 1977, and he died the following year. From 1977–1982, two men served the church as pastor: John Jewell, and Jere Stone. I was called to its pastorate in July, 1983. When Rev retired and died, his "baby", the Sauganash Echoes, died with him. But it was reborn, resurrected, in 1977–1978, as the Sauganash Sounds, when a small group of church and community members formed a Board of Directors to keep the spirit of the Echoes alive in the neighborhood.

With this issue, through a special arrangement between the Sauganash Community Church and the Board of Directors, Rev's column will now be resurrected, and as pastor of Sauganash Community Church, I will offer you a regular column, just as Rev did.

Whenever a pastor comes to a new church, people ask him what he chooses to be called. A few people here call me Rev, just as they did Cyril K. Richard. but most people call me simply Pastor. The word means "shepherd." As Jesus was the "Good Shepherd" who gave his life for his sheep, so Rev was a shepherd, a pastor, in the finest sense of the word. And I trust that I follow in his train.

But for this column, just call me Barnabas. The name means "son of encouragement." Barnabas was a character in the New Testament, a leader in the early church, a friend of Paul, and an "encourager" of people. As I write these columns for you, I hope to encourage you, inspire you, and give you hope—that you might be the person God intends you to be. In time, you may call me other names, but for now, just call me Barnabas. And let me leave you with this encouraging word: God knows, and God cares.

TAX FAIRNESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH], is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I am going to take my time this evening with the help of some of my colleagues to talk about tax fairness. Tax fairness has gotten to be a very interesting political issue over the last couple of years, and it raises a number of questions.

Which were fairer, the last Democractic Presidency or the Reagan and Bush years? Which had a greater impact on jobs and economic growth? Who really pays the taxes?

I think that it is important to look at this from the standpoint that there has been a lot of loose talk without factual backup about tax fairness, that a number of our friends have said, "Oh, all we have to do is raise taxes selectively on the rich," and as we are all learning, for example from the boat builders, if you raise taxes on people who buy a product, then you lay off people who are making the product, and it is not very fair to the thousands of boat workers who are not working today. They think it is sort of downright unfair that the Democractic Party policies would raise taxes and kill their jobs.

There has been a lot of talk about exactly what happened with what was called Reaganomics. President Reagan once said that he knew when his programs were really succeeding; when they quit calling them Reaganomics, and they just sort of happened to have this prosperity.

We have seen what happened in the last 2 years as the Democratic leadership stopped the capital gains tax cut, and the economy went into the first recession since 1982, and despite all of our best efforts, we were not able to convince the Democrats to pass the kind of tax cuts that would improve things.

President Carter invented the concept he called the misery index. He said that the misery index was a combination of inflation and unemployment. In 1976 when he was running for President, he talked about 13.5, and that was the combination of unemployment and inflation, and that was the misery index. After 4 years of Democratic tax increases and Democratic inflation, the misery index had reached 20.6, in fact, its highest point in modern times.

We went through two very difficult years of forcing the economy into a recession, stopping inflation, and we had tremendously high interest rates under President Carter. Inflation was going out of sight.

Then with the help of the Kemp-Roth tax cuts, we began to revitalize the American economy. We began to recreate a new opportunity for jobs, a new opportunity for take-home pay.

It was fascinating back then, because the economy was growing so slowly that there was an estimate that we would not have enough money, and we would not be able to meet our requirements as an economy, but the fact was revenues went up. The tax cuts stimulated growth, and the problems of the deficit turned out to be not a function of revenue but of too much spending on the part of the Congress, and no matter how fast the economy grew, Congress was prepared to spend even faster.

So we now come to 1991. Where are we? We are in an economy which is not growing very fast. We are in an economy where State after State is raising taxes. Why? Because when they went into the recession, they were not getting enough revenue. In a lot of States—what are those tax increases doing? They are driving the economy even deeper into recession.

In every tax increase that kills a job, it reduces revenue. The fact is if you raise taxes enough for people to close down their business, to lay off their workers so they quit paying income tax, so they start drawing unemployment, the effect of that is to lower government income and to raise government spending, so the deficit gets wider.

In the early 1980's, we had to talk about this all the time. It was a very new idea. Then it turned out to work, and we cut taxes, and we created millions of jobs, 18 million new jobs. We had a lot more take-home pay. Things were beginning to work again. America was on the move.

Then somehow our friends in the Democratic Party began to forget all about the notion that if you cut taxes you encourage investment, you encourage work, you encourage small business, you create jobs, you have more people at work earning more incomes, they pay more income tax, they are not on food stamps, they are not on unemployment, they do not need public housing. So government spending goes down.

We are now back at the same old stand. We are saying exactly the same things we said in the late 1970's and the early 1980's.

I will pose it in a very simple basis. There is nothing fair about losing your job, because government raises taxes too much. There is nothing fair if you are 80 years old and you lose your house because your property taxes went up too much. There is nothing fair about saving for years and hoping finally that you are going to be able, as happens right now, to take a family heirloom in to the jeweler; and discover that when you get that heirloom set, and let us say it is and old cameo that you have put in a piece of jewelry, you do not pay on the new jewelry. You pay a tax, 10 percent, on the entire piece including the cameo which belonged to you. What used to be a simple, inexpensive, easy thing to do that your local jeweler made a little money out of, and your family heirloom looked a little better, is not so expensive that most Americans cannot even afford to do it. That is ridiculous.

We have, in fact, I believe, with the boat tax and with the auto tax, taxes that are so prohibitive that if we had any reasonable computer system in the Congress that measured reality rather than theory, we would find that both tax increases cost money, that we literally tonight are getting less money because we have raised taxes so much that people, for example, quit buying boats, so boat builders quit hiring people to build boats, so the State did not collect any sales tax, nobody collected any income tax, and the result has been that we have actually lost income to the Government.

Yet the Government computer models are so old fashioned, so obsolete, so out of touch with the real world, that they actually cannot measure what happens in the real world. If you lay off 100 workers and they quit paying income tax, that does not show up when you are measuring the boat tax. If you quit paying sales taxes because you did not sell any boats, that does not show up as a loss of revenue. The only thing they measure is what, in theory, would have happened if, in theory, you had bought the boat.

The funny thing is, and I have to say this for the gentleman from Texas [Mr. ARMEY], who is an economist just walking by, that there is an old story about the economist who was shown the difference between theory and reality and promptly said, "All right, there is a difference between theory and reality. My question is: How do we change reality?" And yet that is exactly what we have here today.

The joint tax committee model is the equivalent of having a computer model at the Department of Defense that said you cannot have an airplane because nothing flies, or of having a computer at the Department of the Navy that said you cannot build any ships because none will float, yet we in Congress continue to follow a fix that we can talk about taxes without regard to the real world.

What is the result then? We did not pass the capital gains tax cut. "Oh, it will help the rich," people said. Who did it really hurt? It hurt every small business person who sold their business. It hurt every retired American who sold some stock they dept. It hurt every small family farmer. It hurt every person who owned a few trees, and in the South we have a lot of timber growers, small family growers, often widowers, often folks who are in their seventies or eighties, who have kept a little piece of 20 or 30 acres who are going to sell off the trees, and they are hurt.

Who else did it hurt? It hurt the 500,000 to 1 million workers who do not have a job today, because we did not encourage building new factories, and so we have an economy with a million more unemployed. We have an economy in which that million people are not paying income tax, and they are taking welfare, food stamps, unemployment, so the government cost in the last year has gone up, and the government revenue has gone down.

We are weaker, because we tax capital gains where Germany and Japan do not. Guess who gets the new factory? Guess who has the new investments? Guess who is more competitive in the world market?

There is nothing fair about saddling American workers with an old piece of equipment, with an old factory, with inefficient opportunities. That is not fair. There is nothing fair with raising taxes on the American workers so that they are not in a position to be able to buy a car, get a job, buy a house.

I want to start with this notion that I would challenge my friends in the Democratic Party who believe so much in yelling fairness and raising taxes, to explain how they could possibly defend the tax on boats which has just crippled the boat-building industry in America. I do not have any boat builders in my district, and I am not here as a special-interest plea. I am here just as a commonsense plea.

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Or to explain, if they were to go to Kansas and talk to the people at Beechcraft, how stopping them from selling airplanes is good for America. It does not make any sense.

Yet, I have heard Democratic leaders come to the floor and say that they will keep the tax on rich, and it is almost as if they were saying it does not matter how many lose jobs, or how many families do not have income. It cannot possibly be fair to have working families laid off and without an ability to earn an income.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thought it was interesting the other day when we had a report come out of a commission, that the Democrats were enthusiastic about, actually increasing the boat tax and the airplane tax. They said that was a tax we could increase in order to get more revenue for all the new programs they wanted to pay for.

The fact is, as the gentleman points out, the tax is losing revenue. They are not dealing in a real world, by suggesting new taxes which are in the real world, losing money; but they are suggesting they will gain money out of it.

Let me also suggest to the gentleman that the thing that the American people, I think, judge fairness by, is what happens to the income of the family during the period of time that policies developed in Washington are working. If we go back to what the gentleman said originally, when the gentleman talked to the fact that we have two records to look at, it is very, very interesting what happens to family in those two periods of time. We have the 4 years of the Carter administration. If we take a look at a chart that the pages are bringing forward here, we find on that chart that median family income, in fact, showed remarkable trends during that period of time.

From 1977 to 1979 there was an increase. That was largely the holdover from the Ford administration policies when Gerald Ford had the guts as President to stand up and veto a bunch of spending bills, and brought down the costs of operations in Washington, and the Nation did experience some increase.

Then beginning in fiscal year 1979, the first real year of the Carter administration policies, we see a remarkable downward trend begin that culminates in 1980, with the worst year in postwar history for American family income. American families lost a remarkable amount of money, almost $1,200 in a one-year span from fiscal year 1979 to fiscal 1980. The trends continued downward in the fiscal year 1982, and that was largely, again, the holdover of Carter policies. The Carter policies put the United States into a recession, and the recession was a very, very dramatic downturn in the economy by 1980.

Beginning in 1982 when we had the first kick-in of the tax cut policies brought on by the tax cut that the gentleman mentioned earlier, we had a dramatic increase in family income, and that trend is shown again on the chart. We had family income rising nearly $4,000 during the period of time from 1982 to 1987. That is what real American families regard as fair, when American policies are such that their family income is rising and they are able to pay their bills. That is precisely what happened during the 1980's. It is precisely the kind of policies that the American people would like to see enacted now.

Instead, what they are getting is policies that have changed, once again, and are moving the United States toward higher taxes, which will result in American families having a decline in their income. They will regard that as unfair.

Now, what has been taking place in the Congress, we have people saying, "Well, the whole thing is unfair because we have had a substantial increase by the very richest Americans and not as much of an increase by poorer Americans." The fact is, though, that all Americans did go up, and one of the reasons we have a substantial amount of increase of income of people who are in the highest fifth of the country is because we have so many more of them.

There has been talk on this floor about declining middle class. The middle class has, in fact, been reduced to some extent, measured by income categories, only because they have been moving up, not down. When they moved up, it, in fact, increased the amount of family income available in the upper fifth of income earners in the country. Once again, something that most Americans regard as fair. What they want is to become richer not poorer. They think those policies are what work.

Beginning in 1986 when we changed the tax law that undermined the whole real estate industry, and extending to last year's budget deal when we dramatically increased taxes and thereby plunged the Nation into a recession, it seems to me that we have gone back to the Carter policies that drove the United States into a recession, and drove down family income.

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, I would like to expand for a moment on the comments made by the gentleman from Pennsylvania. It is true that as we see in 1982 when we turned the economy around, and we see the median family income increase, it is true that as we see our official data reported, that people in the higher income brackets, the income reporting is broken down into quintiles: First, second, third, fourth, and fifth. That people in the higher fifths have a higher percentage gain than people in the lower fifths.

It is also true, of course, as the rich got richer by 24.5 percent, the poor got richer, relatively poor, got richer, by 5.9 percent. This is often cited as an inequity in this growth pattern. However, one of the things we have to understand is there is a statistical aberration that affects the higher income quintile, the top fifth. That is why the tax laws caused changes in the behavior of the top fifth, so more of their income, more of their wealth, was held in forms that generated current income flows as opposed to deferred future income flows, and that caused that growth, their wealth was substantially convered then to immediae returns as opposed to future returns.

The other being that the manner in which we collect on capital gains income causes a larger share of the capital gains held by typically more well-off people to be more immediately reported. Capital gains income, of course, is reported only in nominal terms. I will have more to say about that later.

So that even though we see what appears to be a dramatically higher rate of income increase with the higher income American, relative to the lower income American, what has to be recognized is statistical aberrations in that fifth quintile figure that exaggerate by making proper adjustments for behavioral changes, statistical inaccuracies, there would be a greater relationship between the top quintile which nominally is reported at 24 percent gain, and the next quintile of 34 gain.

The base point the gentleman makes is that when we generate prosperity over a 10-year period, all Americans in every income category gain. One of the things that we find in the nature of the American people is that they are thankful for their own gains, and they are also perfectly willing and happy to see their neighbors gain, even if their neighbors gain more. Americans are not envious, greedy people, but people that are perfectly willing to wish the best for everyone, themselves, and their neighbors.

Mr. GINGRICH. Mr. Speaker, let me follow up on that. I think this chart, we need to look at this chart from a different angle.

It tells Members a lot about the biases in the liberal Democratic wing of American politics, and the biases in this building.

If I were to go up to almost any American and say, "Look, there was a Democratic President, and while he was President, the poorest one-fifth of Americans lost income." That is what it says. The family income for the poorest fifth of Americans dropped under the Democratic President.

Now, there was a Republican Presidency, and during the Republican Presidency, that family income went up by almost 6 percent for the poorest families in America. Which do Members think was better for poor people? Which was fairer? Was it fairer to be poor and have your income going down under the Democrats, or was it fairer to be poor and have their income going up under Reagan and Bush?

Yet in this building, and that reminds me of a story President Reagan used to tell. The difference between America and Britain was that in Britain if a man who was in the working class out wearing a cap and worked in an industrial plant, and his son or daughter was standing there and somebody came by in a Rolls Royce, he would point to it and say, "Someday you and I will be able to take him out of that car and destroy that car." In America, if somebody drives by in a Lincoln or Cadillac, exactly the same income, they look at it and say, "Someday you will be able to buy that car."

□ 2030

The difference is very simple. Our dear friends who talk about fairness drove the poor deeper into poverty, but it was fairer. After all, they only allowed the wealthy to grow by 1 percent and they dropped the poor by about 1 percent, so they were statistically close. Both were miserable. This is why President Carter gave a speech on the whole idea that you really cannot expect anything but malaise. If you look at those numbers, you know why they were for malaise.

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am glad to yield to the gentleman from Texas.

Mr. ARMEY. It is very striking, Mr. Speaker, when you see the graphics here, especially with the color tones. The fact is, if in fact you are concerned about conditions under which the rich would get richer and the poor would get poorer, you have the only recent incidents of this occurring in the period of time from 1977 to 1980. After 1980, the rich got richer and the poor got richer.

Mr. GINGRICH. Exactly.

Mr. ARMEY. Now, which is the better set of circumstances and which is the truly deplorable set of circumstances?

Mr. GINGRICH. And before I yield to my good friend, let me make one more point about this. I went recently and saw the most popular movie, Terminator II, with Arnold Schwarzenegger. Arnold Schwarzenegger was paid $15 million.

Now if you had a chart and you would have said, how much do we pay Schwarzenegger to play in Terminator II and how much do we pay NEWT GINGRICH or BOB WALKER or DICK ARMEY not to play in anything?

All right, Schwarzenegger makes rather more money, but it also happens to be true that the first weekend it was out a lot more people went to see it and not a single person who bought their ticket resented Arnold Schwarzenegger making some money out of them having a terrific time.

Now, we come back to this whole theory of fairness as described by the left, and I think the gentleman put his finger on it. The only time recently where poor people got poorer under liberal Democrats.

Now, it is true that in order to build new factories, in order to hire more people, in order to create more jobs, in order to increase income, you did have a situation where people tended to do better and were better off than when they started; but everybody was doing better.

I would state that the absolute average American, absolute statistical average right there in that middle group as described by the green color here, would you rather have your growth go up by 0.6 percent or would you rather have your family income go up by almost 11 percent?

Mr. WALKER. Mr. Speaker, if the gentleman will yield, let us be clear, though, one is a 4-year period and one is an 8-year period, so it would be 1.2 percent as compared to 10.6 percent. We want to be fair. So it is only 10 times as much, not 20 times as much.

Mr. GINGRICH. I thank the gentleman for his report.

Mr. CRANE. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am glad to yield to the gentleman from Illinois.

Mr. CRANE. Mr. Speaker, I thank my colleague for yielding to me.

When you get to conversations about what is the rich and we had that debate on an amendment introduced by the distinguished majority leader a week or so ago. He could not define the rich. Maybe, he said, it was $100,000, maybe it was more, maybe it was less.

The rich by definition, and I am giving you now admittedly 1988 figures which are the most recent updates that we have, but the highest 5 percent of wage earners in this country, the highest 5 percent, the rich, if you will, kicked in at $73,700 a year.

You take the highest 10 percent that year, and these are figures from the IRS and the Treasury Department, the highest 10 percent of all the rich people in this country kicked in at $58,300 a year.

The highest 25 percent, you know, that is rich, too, by definition, those people kicked in at $35,600 a year.

The highest 50 percent, because if you are going to break the population down, half is rich and half is poor, right? The highest 50 percent kicked in at roughly $18,000 a year.

Now, I think more importantly is the percentage of total taxes that the rich pay, because if you get to the highest 50 percent, they are only today paying roughly 95 percent of all the taxes paid to our National Government.

You get to the highest 25 percent, they are paying roughly 78 percent of all the taxes.

Let us go back and review those figures. That is $35,600 a year and above. You get to the highest 10 percent and they are paying 57 percent, well over 50 percent of the total, 57 percent of all the revenues paid here are from that highest 10 percent, and that kicks in at $58,300.

You get to the highest 5 percent, those really rich people at $73,000 and above, and they are paying roughly 46 percent of the total.

If you look at the changes in the Tax Code between 1979 and 1988, and this includes the Reagan tax cut of 1981, his Tax Reform Act of 1986, and you will find that the lowest 50 percent in their percentage of the total paid has dropped 1.3 percent and the top 50 percent has increased 1.3 percent; but if you look at the total paid by all those people in the lowest income brackets, the 50 percent number, that is only 5½ percent of total revenues paid, 5½ percent.

To listen to some of the demagoguery in the debate on this subject suggesting that somehow the Reagan-Bush tax changes have skewed this whole process so now the poor are really taking a hit on the chin is defied by all the statistical evidence.

I think it is clear, the point that the gentleman in the well has made, that when you provide incentives in a code, to be sure the rich can get richer, but the poor can get richer, and the poor can get richer at a faster rate, and that is demonstrable by the evidence, and I commend the gentleman in the well for calling attention to this fact, because as I say, there has been a great deal of misinformation disseminated on this point.

Mr. GINGRICH. I might comment, Mr. Speaker, if you look at this chart you could argue that the Democrats believe in taxing the rich into poverty. The problem is that they drive the poor into poverty deeper. By the process of taxing the rich into poverty, they drive the whole country into poverty, and I do not think that most of us do not believe our policy goal for America is to maximize the opportunity to be poor. Most of us think that our goal ought to be to maximize, to raise incomes and to raise family take-home pay and to raise the quality of life.

I think if you look at these two charts, the No. 1 conclusion you have to reach, even as my good friend, the gentleman from Pennsylvania said, if you double the numbers from 1977, I would by the way contest that, if you were to extend this out 2 more years to the full consequence of the Carter policy, it would look worse.

The true fact is the first 4 years are bad. If he had got another 4 years, it would be worse, not better.

Mr. CRANE. Disaster, if the gentleman will yield further.

Mr. WALKER. If the gentleman will yield further, Mr. Speaker, these figures are the good quarters.

Mr. GINGRICH. That is right. He had a slight advantage taking over from President Ford, and then the collapse was coming.

I will never forget how bad it got when we were at 13 percent inflation and 22 percent interest rates and the whole system was just beginning to disintegrate.

Mr. CRANE. Mr. Speaker, if the gentleman will yield, though, you know the perception of our leadership at that time was that we were in a state of national malaise and this country had reached its peak and it had nowhere to go but downhill. With that kind of mentality and the kinds of policies they implemented, they were on the right track to guarantee the fulfillment of that analysis.

Mr. BALLENGER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am glad to yield to my friend, the gentleman from North Carolina.

Mr. BALLENGER. Mr. Speaker, the gentleman earlier mentioned the fact that he did not have any boat manufacturers in his district. In the State of North Carolina, we have an awful lot of boat manufacturers. Somewhere along the line, the geniuses in Washington, DC came up with the idea of how to generate money was to put a tax on soaking the rich, but that same genius if you applied it across the board would probably say the best thing we could do to raise money in this country today would be to raise the price of everything.

I was thinking, what would happen if we could just raise the price of Kellogg's corn flakes to $15 a box and tax them at 10 percent like we are doing on yachts. Think of the money we could generate. Of course, I do not know anybody who would eat Kellogg's corn flakes at that price.

Let me just give you some statistics from the State of North Carolina which happened with this 10 percent tax on yachts.

The Hatteras Yacht Company was a very successful yacht builder in High Point, NC. They had at one time over 2,000 employees. Since the tax went into effect, they had to lay off 900 employees. They have given me the statistics to prove this.

You know, this whole tax on boats was supposed to generate $3 million a year. The payroll, the actual payroll taxes that would have been paid by these 900 workers and the actual profit that Hatteras would have paid on the taxes is actually substantially more than the $3 million that the whole industry would have generated had they done that.

But let me just add a few more. Hatteras is a big boat builder, but a lot of people do not recognize other people are involved. The Pittsburgh Plate Glass Company in Shelby, NC, makes fiberglass. It takes a ton of fiberglass to build a yacht. With that ton of fiberglass, a lot of people work, but since they were not buying, they laid off 275 people. Those people would have paid $1,300,000 in taxes had they been working. Now they are drawing unemployment.

The Carver Boat Company of Pender, NC, a little outfit, not so little really once upon a time until this tax thing. They actually had 600 employees and they closed in May. They shut their doors and went out of business.

□ 2040

Outboard Marine Corporation, which is a big outfit, but they also were involved in yacht manufacturing and so forth, and they laid off 250 people.

Buddy Davis Boat Company in Wancheese, NC, laid off 200 people.

Covington Diesel in Greensboro, NC, laid off 54 people.

Just in the State of North Carolina in this year since the 1st of January, 2,279 people have lost their jobs. According to the National Marine Manufacturing Association, close to 19,000 people have lost their jobs.

These would have been taxpayers if our brilliant minds up here in Washington had not put them out of business.

I just would like to say that somebody needs to open their eyes to see what is going on.

Mr. GINGRICH. Let me make two points here, one about fairness and the other about just plain intellectual honesty.

First of all, I would argue, despite our Democratic friends, that it is not fair to have 2,279 families in North Carolina that do not have a job, it is not fair to have 19,000 families around the country that do not have a job.

When they yell fairness, they ought to go and visit the families that are now unemployed because you raised taxes, exactly the way the Democrats like us to.

Second, I would argue that the intellectual lack of accuracy by the Joint Tax Committee and by the Congressional Budget Office and the fact that if you want to walk down there tomorrow—and this is something we ought to maybe consider doing—we ought to take the numbers that the gentleman has, send them down and say "We want you to measure this against your computer and change the computer until you can get to a formula that fits reality. Here we have a real case."

What they would say to you is, "Gee, either these 2,300 people cannot be unemployed because they do not show up on our computer as unemployed or we are not going to count the income tax loss." I mean, imagine a family that said to you—it almost sounds like a teenager—imagine a family that comes in and says—and this is sort of a slur on teenagers, they are actually smarter than most bureaucracts in this setting—imagine a teenager who said to you, "You know, I did not charge a dime on the Mastercard and I do not know why you are talking to me about the Visa card bill because I thought we were only going to measure the Mastercard bill this month. You mean that when I charged on Visa, that was not appropriate?" And that is what you have here. We actually cost ourselves money as a Government and we cost families their livelihood, and it is called fair and they will not even score it, they will not even count it in the congressional Tax Committee.

Mr. BALLENGER. Let me say one more thing: The sad part about it is these jobs are lost now. But you can go to the Bahamas right now and buy used yachts, new yachts, any kind you want to buy, and they are not made in this country anymore.

So, basically, what we have done is we actually have destroyed and if we do not change this tax, we are going to completely destroy an industry that used to be a very successful industry in this country.

These were actually exports.

Mr. GINGRICH. I would be glad to yield to my good friend from Kansas, who I might say has been a real leader on this issue and has introduced a key bill on repealing this tax which is killing jobs.

Mr. NICHOLS. I thank the gentleman for yielding.

Mr. Speaker, I would like to talk about this tax. It puts American men and women on the unemployment line, it cripples U.S. industry like we have been talking, and it loses more revenue than it generates. Now, common sense would tell us this is not a good idea. But that is exactly what the effect of the so-called luxury tax is, that was agreed on by Congress in last year's Budget Reconciliation Act.

A few weeks ago I introduced legislation to repeal the luxury tax to restore and preserve the jobs of working men and women. These are the people in this country who, after all, produce the goods, revitalize the industries which have been severly impacted.

These items may be a luxury to the purchaser, but to the men and women who are producing these goods, their jobs and salaries are a necessity.

Now, the luxury tax does not hit the pocketbook of wealthy Americans. What it is doing is it shortchanges U.S. workers. These poople, considering purchasing items Congress has labeled as luxuries, can simply forego the purchase of these products or they buy used ones, which are not subject to the tax.

It is simple economics: When prices get too high, people stop buying the product. And they have.

The matter of fact is the tax missed its wealthy targets and has hit the working class. In my home State of Kansas, we were talking about the boatbuilders a minute ago, in this instance Beech Aircraft in the first 3 months of this year has lost more than $77 million in new orders for 39 new aircraft, and these have been traceable directly due to the luxury tax.

That equals the loss of more than 250 jobs in 1 year. And now the luxury tax not only leads to higher unemployment and higher unemployment payments, it also costs the Federal Government in lost revenue.

The effect of the aircraft luxury tax on Beech Aircraft alone has cost the Government $1.6 million in lost income taxes and FICA taxes. How much did the luxury tax from aircraft sales at this same company generate? Only $16,000. That does not even cover the cost of collecting the tax.

So, it is ridiculous to impose this while the economy is ailing. It is like the medieval physicians bleeding their patients to cure their sickness. It is time the Democrats' prescription for economic recovery to move out of the Dark Ages.

In their haste, the Democrats in controlling Congress, pointed the tax gun at wealthy Americans. They instead shot the working men and women of this Nation right in the back. I firmly believe that every American must pay their fair share of taxes. However, I do not think that the vendetta held by the Democratic Party against wealthy Americans is healthy for our economy.

Before Congress continues to soak the rich, let us look at the facts. The top 10 percent of American wage earners pay 57 percent of all income tax revenues and the top one-half contribute 95 percent of all income taxes.

The Democrats continue to devise new and creative tax schemes to pickpocket Americans to feed their spending frenzy so they may continue to create their new Federal bureaucratic programs to further their agenda.

To have the Federal Government intervene to solve every problem is a bankrupt idea. It seems to be such a simple concept, but instead of continuing to raise taxes, why not reduce Federal spending?

This Congress should rise to the challenge to redefine the meaning of tax fairness. Tax fairness should mean that all Americans are allowed to keep more of their hard-earned paychecks and require each person to pay their equitable share.

It is always best if we take on this challenge by keeping in mind that Government is at its best when it governs least. The role of the Federal Government should be to help the citizens of this country, but we must realize that the Government cannot accept responsibility to pay everyone's bills.

Mr. Speaker, what would you say about a tax that puts working American men and women in the unemployment line, cripples U.S. industry, and loses more revenue than it generates?

Common sense should tell us that this isn't a good idea, but that is exactly the effect of the so-called luxury tax agreed upon by Congress in last years' budget reconciliation act.

I have introduced legislation to repeal the luxury tax to restore and preserve the jobs of working men and women in this country who produce these good and revitalize industries which have been severely impacted.

These items may be a luxury to the purchaser, but to the men and women producing these goods, their jobs and salaries are a necessity.

The luxury tax does not hit the pocketbook of wealthy Americans. Instead it short changes U.S. workers. Those people considering purchasing items Congress has labeled as luxuries can simply forgo the purchase of these products, or buy used ones which are not subject to the tax.

It's simple economics. When prices get too high people stop buying the product, and they have. The fact of the matter is, the tax missed its wealthy targets and has hit the working class.

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It is best if we take on this challenge by keeping in mind that government is at its best when it governs least. The role of the Federal Government should be to help the cittizens of this country; but we must also realize that the Government cannot accept responsibility to pay everyone's bills.

Those are some comments I wanted to make in connection with the same discussion that we were having.

Mr. GINGRICH. I would like to for a second, if the gentleman does not mind, if I may say to my friend from Kansas I want to go back because I think the information the gentleman brought us is so amazing and so specific.

Am I correct in understanding that in order to get $16,000 from Beech Aircraft the Government killed 250 jobs and lost $1.6 million? Are those numbers accurate?

Mr. NICHOLS. Those have been traced directly by the officials of Beech Aircraft, yes. And they talked to the people who were going to buy the planes, who committed that they were, and traced it back. These are not hypothetical examples.

Mr. GINGRICH. And these are not people who were called and actually said that, these were actually people who were right on the verge of buying?

Mr. NICHOLS. Yes, they were.

Mr. GINGRICH. They saw that extra 10 percent and said, "Whoops," and they backed away.

Mr. NICHOLS. Yes. They would not pay it. They could pay it, perhaps, but they would not because of that luxury tax.

Mr. GINGRICH. Maybe people in Kansas have more sense than folks on the Joint Tax Committee. Let me just ask you—in fact, I am certain they do because—well, let me ask you: Does it not seem to the gentleman a bit steep that in order to pick up $1 you have to give back $100?

Mr. NICHOLS. Incredible.

Mr. GINGRICH. I mean does it not strike the gentleman in terms of Beech Aircraft this may be one of the least effective, most destructive exchanges in American history? That in order to gain $16,000 you have to give up $1,600,000? Can you imagine if you went to the people in Kansas and said to them, "I have this great deal. You write me a check for $16,000; I will write you a check for $1,600,000?"

Mr. Speaker, I yield to the gentleman from Texas. I knew I would get his attention.

Mr. ARMEY. I thank the gentleman for yielding.

Mr. Speaker, this is fascinating. Let me see if I can add to it.

Mr. GINGRICH. I think our friend from Kansas has brought us an actual case study that is unbelievable.

Mr. ARMEY. We have a situation where the Government, the Congress, the Democratic majority in Congress, decided it was only fair if we soak the rich with a luxury tax which they applied on airplanes, in this instance. Having imposed this tax, they closed the major manufacturing concern, major employer in the gentleman's district in Kansas to lose how much in sales?

□ 2050

Mr. NICHOLS. Seventy-seven million dollars in 3 months.

Mr. ARMEY. $77 million in sales lost to a private concern in the country, and how many jobs lost?

Mr. NICHOLS. That equals the loss of more than 250 jobs in a year's time.

Mr. ARMEY. 250 jobs lost.

Now what they did then was to receive revenues over this period of time to the Treasury of how much?

Mr. NICHOLS. They received revenues from the luxury tax?

Mr. ARMEY. Yes.

Mr. NICHOLS. $16,000.

Mr. ARMEY. So what they do, and I want to talk about how they reckon things up in this town. The first standard of success that they will apply to any public policy is: What does it do for us? That is to say: What does it do by way of bringing money into the Treasury?

So, they would look at this, and they would say, "Well, we brought in $16,000. That's a good deal."

In other words, what they do not reckon, they do not count, they do not consider important, is what is it doing to the American people. The $77 million in lost sales, that is a matter of no consequence to the decisionmaking process here; 250 jobs lost.

Now, if my colleagues will imagine 250 people lost their jobs, families without income, and what is also hidden in that is lost income tax revenue to the Treasury from the incomes that are not going to be generated from the $77 million worth of sales that will not be made in the 250 jobs that went up. So, the Government may actually have had a net loss of revenue even onto itself because they refused to take into account in their calculations these very real economic effects of their ill-advised policy.

Mr. GINGRICH. I just realized because I did a little bit of math work because the gentleman suddenly got me intrigued with this that we have been in this room when our liberal, Democratic friends jumped up and said, "We need to create jobs. Let's have a government jobs program. Let's create 70,000 jobs out of the Government," and they literally pay $70,000 through the bureaucracy to hire somebody at $23,000. This tax at Beech Aircraft was killing a job, if I got my numbers right, for every $64 in taxes. In order for the Government to get $64, it was literally killing a job. That is the average.

Now this has got to be one of the most destructive policies ever adopted on a job-per-dollar-of-taxation basis.

Mr. ARMEY. The question then of fairness is: "At what point is it fair for me to take your right to a job away from you? If I make $64, and you lost your job, that's fair."

Mr. GINGRICH. And that does not count the fact that now that I have killed the gentleman's job, I am now going to have to tax everybody else or borrow the money in order to pay for food stamps, and public housing and welfare because I have now knocked the gentleman out of work.

So, my colleagues have this poor person in Kansas in this case who wants to go to work. They are ready to go to work. Beech Aircraft, I gather, would be quite happy to have them go to work. Everything would work out fine except that the Government under the leadership of the congressional Democrats has once again raised a tax, killed a job and weakened the family.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Texas.

Mr. DELAY. Just very briefly, I just noticed that, if each one of these jobs averaged an income of $30,000, the average tax that they would be paying is $2,800, around $2,800 a year. So, if my colleagues extrapolate that out, 250 jobs lost at $2,800 in taxes, then the liberals here in the House cost the Government $700,000 in lost income taxes.

Mr. MCEWEN. Mr. Speaker, we lost that much money in lost income axes, and yet theoretically we raised $16,000. Now the Democrats can see the absurdity of that. They see the number of people that are losing their jobs all along the East Coast and elsewhere, and so even now they are frightened and wish to do something to correct it.

The reason we are here is because we have a bill to correct it, but, my colleagues, the Democrats under this operation are now unwilling to pass the bill because under their thought process, never mind the loss of jobs, never mind the collapse of the industry, never mind the hundreds of millions lost in revenue, the $16,000 that they collected is their concern, and so they want to get $16,000 from some source, and the reason the bill will not move out of committee is because they need somewhere to make up the $16,000 they are going to lose because they have the incapacity to understand that, if they repeal the tax, millions of dollars will come in from the example that we just used.

Now we have a textbook example. We do not have to talk about trickle-down. We do not have to use an educated, sophisticated economic model. We have to just put two plus two equals four. All we have to do is to get people to see that when we take away their job, they no longer contribute to the economy, and that is exactly what this tax does.

The main reason that I wanted to take just 30 seconds though for our benefit of our colleagues that are trying to watch this on the floor is for everyone to understand the Democrats control everything that happens in the House of Representatives. A person cannot call a vote without the approval of the Speaker. A person cannot make an amendment on the floor without the approval of the rule. No bill comes to the floor, and, lo and behold, a Member cannot even speak unless a Democrat chairman gives him permission to rise.

The only exception to that is what is called special orders at the end of the day, and this is the only time that we as Republicans can have our own time in which to speak to the House that is followed by electronic means. Because we are trying to communicate our message, the Democrats, who control the electronic means, choose to roam the cameras around so that one cannot follow what we are saying directly, and neither can they follow the charts when they are pointed out by Members using them on the floor. That is obviously an effort to subvert and thwart even our discussion, even our free speech of the cause to which we have been elected, and the reason I wish to take this moment is to emphasize for those like myself who are trying to follow this debate in our offices, are unable to do so because we cannot see the charts because the Democrats, who control the House of Representatives, who control everything that happens here, who control even the cameras and the microphones, have denied us access to that vehicle, and I resent it. I think it is unnecessary. I think it is power run amuck.

Mr. GINGRICH. Can I ask, because I did not realize? In other words, they were not picking up this particular chart when we talked about it?

Mr. DELAY. Not when it was referred to.

Mr. MCEWEN. Mr. Speaker, I would say to my colleagues that I was trying to follow it. Instead this camera up here is roaming the Chamber controlled by the Speaker of the House who is the Democrat who controls those microphones.

Mr. GINGRICH. It is sort of childish because the objective reality is there are at least as many Members on the floor right now as there are for about 60 percent of the legislative debates during the course of the legislative day. That is the way the House operates, and the objective reality is, if it is a good topic and it is a good discussion, the country ought to be able to follow it at their will, and it ought to be handled in a neutral manner so that everybody, whether you are a liberal or a conservative, whether you are a Democrat or a Republican, everybody has a reasonable chance to be heard by the country.

It seems to me that is the essential point we ought to make is we are not asking for special rights for ourselves. We think this ought to be a serious place and should not have childlike games being played during the special orders. Special orders ought to be real opportunities as we are having tonight.

I would love to have one of the Democrats who believes in raising taxes come to the floor and explain to our friend from Kansas why the employees at Beech Aircraft ought to be laid out of work. I think it would be fine to have them come over and have a real debate about the cost of tax increases and whether or not it is worthwhile to make Americans unemployed.

I yield to my friend from Kansas.

Mr. NICHOLS. I might just say one comment, if I could, editorial comment. Among papers in my district it has been unusually favorable to this idea. They know what has happened. They want a change to be made. They do not like this soak-the-rich plan and shoot the working man in the back. They found out what happens, and they are very favorable toward the whole idea.

Mr. GINGRICH. That is great, and I wish you luck, and we are certainly going to be supporting you in your bill to repeal this tax which is killing jobs.

Mr. ZELIFF. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from New Hampshire.

Mr. ZELIFF. Mr. Speaker, I would like to talk a little bit about tax fairness in New Hampshire, and truly New Hampshire is hurting. Fifty thousand people are out of work. During the early and the mid-1980's New Hampshire had the lowest unemployment rate east of the Mississippi. Every sector of the economy was doing well. Tourism, which is the State's largest industry, the service industry, housing, manufacturing, high tech, name it, we had it. But then in 1986, in the wisdom of the liberal tax planners, tax reform changed all of this. Now we have a different economy, high unemployment. Five out of seven banks are going down the tubes. Our Public Service of New Hampshire and electric co-op are both going bankrupt. We have been selected way back about a year ago to be the first base to be closed, the Pease Air Force Base.

Now, Mr. Speaker, I look at this past year so-called tax reform, the budget bill which raised taxes to balance the budget 5 years out, which certainly has been eluding us and appears to be eluding us even in year No. 1.

□ 2100

We raised the gas tax by 5 cents a gallon instead of putting it in the trust fund. We took 2 and a half cents to reduce the deficit. We raised taxes by initiating the sales tax which has been so eloquently discussed here. The luxury tax, we destroyed the luxury car market and the boat market. We seem to feel that once we make a done decision, we cannot change it.

We are losing jobs. We are shutting down industries. We cannot collect taxes on products that do not sell. We have created disincentives, and we, the Government actually, are in the process of destroying these industries.

We have no need for an offset. Let us step back for a minute and take a look at why our economy has slowed down, our tax revenues are down. We have a lot of people out of work. Why do we sit back and do nothing? Let us repeal the luxury tax. It was a dumb idea. It did not work. Let us make it right. Let us send it down the road like we did section 89.

Eighty-five percent of the jobs in America are created by small business. I am a small businessman, and with this in mind, on October 15, I introduced my Jobs for America Act which reinstates the 5 percent investment tax credit for business and industry and reduces the tax on capital gains to 15 percent for all Americans.

Let us talk about what an investment tax credit would do for business. First of all, it would go right to the bottom line. If a businessman decided to invest in his business, he obviously would plan for success. As he planned for suceess and that got enacted, he invested in the future of his business. He would hire more people. And as he hired more people, his business would improve and ultimately pay more taxes. The people he hired would pay more taxes. So in total, the investment tax credit is merely a pump primer for more taxes to come.

I think it is a basic concept, two and two equals four. I do not think that it is going to be a cost to the economy. I think it is going to be an expansion of the economy.

Take a look at a lower capital gains rate. If we drop the capital gains rate to 15 percent, it would create much-needed capital. It would reward entrepreneurs who are willing to put capital at risk. It would create jobs and, again, people who work pay taxes.

In spite of this, we as a country, even at a 15-percent rate, would be one of the highest captial gains rates in the world. Japan is bascially around zero. Germany is zero, long term. Canada is zero. Other countries are far below. It we take a proactive role, we can expand our economy back to approximately $80 to $85 billion a year instead of the less than $40 billion that we are now seeing this year.

Both of these measures will create more revenue than they will cost. They will create jobs. They will improve our ability to compete worldwide and an ability to compete internationally and allow us to regain our manufacturing industries.

Tax fairness, whether it is in New Hampshire or any State in this great country, we now need to take our heads out of the sand. We need to start doing something positive to get Americans back to work. That is what tax fairness is all about.

Thank you very much.

Mr. GINGRICH. Mr. Speaker, let me say, when one talks about fairness, and we have been talking about jobs, some things people need to remember. The bottom point for the middle American family was 1980. That was the lowest, worst single year for family income.

In that year, a middle American family between inflation and taxes lost $1,800 in buying power. Literally $1,800 less at the end of the year than at the beginning. If that trend, if the Democratic economic policies of the late 1970's had continued, American families would have lost $12,600 in real income by 1990. Imagine. If the American family in this country today, instead of having growth in the 1980's had lost $12,600 in real spendable income, imagine those who are watching tonight and those in our offices, figuring out how much worse off your life would be if you had $12,600 less.

Instead we saw something very different. The fact is we saw a dramatic increase in the number of jobs. Economic growth in the 1980's meant more jobs. Twenty-one million more jobs, and those jobs were everywhere.

Between 1982 and 1989, employment grew by more than 5 percent in nearly every State and by more than 15 percent in 27 States. We have been talking today about people being laid off in North Carolina, people being laid off in Kansas. Just consider the difference. When we were cutting taxes and encouraging investment, encouraging people to work harder, in 27 States we had a 15 percent increase in the number of jobs in the 1980's.

In fact, in 1989, the share of working-age population with jobs stood at a record high of 63 percent, up from the 58 percent back in 1983. So if someone wanted to find a job before this recession began, that person had a very good chance. And then we started raising taxes.

We went into a recession, and we did exactly the wrong thing. Furthermore, everybody was improving. The fact was that in 1977, the percentage of families with a middle income between $15,000 and $50,000 was 60 percent. In 1989 that dropped to 53 percent. But what happened was not people dropping out, despite all of the Democratic rhetoric.

The fact was, the number of those with a low income under $15,000 fell from 19 percent in 1977 to 18 percent in 1989.

What happened was, those with a higher income above $50,000 rose from 21 percent in 1977 to 29 percent in 1989.

Let me repeat that. In the 1980's, more people earned more money.

I ask my colleagues, if I told them about a country in which more than one out of every four families earned over $50,000 or a country in which only one out of five, which is better off? The country with one out of five earning over $50,000 or the country with one out of four? Common sense would tell you it is better off for more families. Eight percentage points, almost one out of every 10 American families made it into the $50,000-plus bracket.

That does not mean we ought to forget people who are below $50,000. It means we ought to say to them,

> You are darn right, we care about you. We want to raise the opportunity to have investment. We want to raise the opportunity to have a small business. We want to raise the chance for you to work full-time and have good take-home pay, and we do that by lowering the tax on investment, lowering the tax on small business, lowering the tax on savings, so that you have a chance that you, too, can someday live a very good life.

What do we discover? Despite the facts, the facts that I think even our friends the Democrats recognize about unemployment, about lost taxes, about lost jobs, I think it is fair to say that the Democrats would rather save face than save jobs.

They have adopted this policy of raising taxes and are not going to back off just because the facts prove that families are being lost in terms of jobs, families are being lost in terms of their homes. After all, you have been working at an aircraft company, you have been working at a boat building company, you have been working at Pittsburgh Plate Glass Company, working pretty hard, making the mortgage payment, trying to save a little bit so your child can go to college.

We raise taxes. Your job collapses. That family faces a very real, very human problem. I think it is up to us to drive home the message again and again, and to urge the American people to contact their Congressmen and insist on the passage of a repeal of this tax on jobs because that is what it is.

I think it is also incumbent upon us to insist that the Joint Committee on Taxation change the way in which it calculates taxes. I think it is outrageous. I thought the gentleman from Kansas was exactly right when he said that we have economic policies in Washington that are just like medieval medicine, that bleed the patient when the patient is weak.

Raising taxes in a recession is wrong. It made me realize that what we are looking at on the Joint Tax Committee is medieval economics. We are looing at people who are cooking the books in absolute violation. One of the challenges I am going to make tonight, and I hope my friends will join me in sending a letter, is I want to take the actual numbers from real companies, about real people, and real jobs and real lost income and real lost taxes, send it to the Joint Tax Committee and ask them to reconcile their computer model with reality and report back to us so we can get a real number, because my guess is if we would repeal the tax on boats and the tax on cars and the tax on airplanes, we would increase government revenue by putting people back to work.

Mr. WALKER. Mr. Speaker, if the gentleman would yield, the point the gentleman is making is important in another way. All over the country at the present time there are States and localities that are in major economic difficulty. Those difficulties are being translated into higher taxes at the local level, and most of those difficulties have come about because the jobs have been lost in the economy and thereby are lost to the localities and to the States as well as to the Federal Government. And so we have created a problem not only for the Federal Government. We have created a problem for States and local governments as well, and it is a tragedy which is then going to have the reverse impact of feeding on itself when taxes have to go up in States and localities in order to pay for all of this economic devastation.

It just makes no sense at all. The American people understand that there is something out there that is not making sense, but they also understand that there is a bill being passed on to them that is being called fairness. That is not fair at all. It is the ultimate example of unfairness, to have taxes going up at all levels, and have those taxes then further dragging down the economy and putting people out of work, which is exactly the trickle down economics, where Washington creates taxes that destroy the economy for middle America.

□ 2110

Mr. GINGRICH. The gentleman raised a very good point, which is if we had continued the economic growth the tax cuts had led to, New York City would not be in much of a crisis, California would not be in as much of a crisis, teachers could be paid more, there could be better health care. The money would be there, because Americans would be working at better jobs with higher incomes paying more taxes, and not feeling the burden, because they would be better off.

So in a very real sense, as taxes crush the economy, it is also now coming home to roost by crushing city hall and crushing State government and causing the crisis we see in State after State. Because in the absence of economic growth, it is impossible to sustain the government we now have, and the result is you are seeing all over the country an enormous crisis in local governments brought on because the national economy is not growing the way it was.

Mr. WALKER. If the gentleman would yield, the problem in States like Pennsylvania, what is going to happen is they are going to raise taxes in Pennsylvania to make up for deficits created by a lack of economic growth, which is going to further retard economic growth. So the whole cycle feeds upon itself, and it feeds in a way that brings about a downward trend.

TAXES AND ECONOMIC GROWTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DELAY] is recognized for 60 minutes.

GENERAL LEAVE

MR. DELAY. Mr. Speaker, I ask unanimous consent that all Members participating in my special order can revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DELAY. Mr. Speaker, I want to start off by congratulating our distinguished whip in starting out these special orders on tax fairness. I have never quite witnessed such a presentation, to lay out the real problem about tax fairness. Tax fairness is a term that was coined by the Democrats about a year ago in trying to destroy the reputation and the wonderful results that we have witnessed from the Reagan-Bush administration, and now going into the Bush administration, the wonderful things that have happened, the economic growth that we have experienced in the eighties, and especially pulling it out of the doldrums of the seventies and the Carter years.

We have experienced this head bashing, I guess one would call it, by the liberal Democrats, in trying to destroy what the Americans are starting to realize, that the economics, the Reaganomics, as it was once called, does bring opportunities for middle income, all income families, of this country. They are trying to destroy that reputation and the wonderful results of the Reagan era.

Mr. McEWEN. If the gentleman would yield, I wish to follow up on something that the distinguished whip said moments ago and about the conditions. I need to use the chart. The median family income would best communicate it.

Mr. DELAY. This chart here, that I hope is being showed by television?

Mr. McEWEN. No, the one that is green, that is probably not being shown.

Mr. DELAY. I will be glad to put it up, so the television can pick it up.

Mr. McEWEN. The point is, in 1976, the inflation rate was 4.6 percent, the prime interest rate was 6¼, and the economy was growing.

We chose a high tax, high spend liberal to occupy the White House, who began to use his policies to turn that around, because the economy was growing and prospering.

He said, "We can put a stop to that; if we increase tax on production, savings, and investment, than we can slow down the economy. Of course, we will have to cover the deficit with increased moneys."

So their policies were successful in what they had sought to accomplish, so that by 1980, inflation had jumped to 18 percent the last quarter of 1980. Interest rates are always higher than inflation. Interest rates then were 21 percent, and the economy was in the doldrums.

Now, when you are a liberal, it means never having to say you are sorry. You never turn and look in the mirror and say, "I did what was wrong for the economy. I did what was wrong for families. I destroyed the growth and opportunity of our Nation. Therefore, I need to reverse position."

No, no, no, no, no. What they say is, you remember Mr. Carter got up on his tippy toes, looked at America, and said, "It is your fault. You are not saving enough. You are not producing enough. In fact, the whole country has entered a malaise."

Then all of the experts ran to the cameras to explain that the reason that America was not competing internationally, the reason we were losing jobs at the rate of 50,000 a week, was because America basically was ill and sick, and that the solution to that is we just had to lower our expectations.

The head of the Council of Economic Advisors, Alfred Kahn, said this. It is 1980, the fellow running the Nation, the Chief Advisor to the President on how to have as strong economy, said this.

"The question for the 1980s is not whether or not America will have a declining standard of living. The question is whether or not Americans will learn to adapt to their declining standard of living."

That is the head of the Council of Economic Advisors. That is the spokesman for the President. That is their view for the future.

Jerry Brown, the Governor of California, said, "We have entered an era of limits."

The leading candidates, speaking surrogates for the President, Mr. Carter, said that we had entered an era of limits, in which we need to learn to live with less. Wear your sweater, ride your bicycle, turn your thermostat. America is coming to an end next Tuesday a week. There is not anything anybody can do about it.

So this 70-year-old man, raised in the 1920's, came in and said very simply, "There is nothing wrong with America. There is just some severe problems with what the leadership in America has given us."

I remember the day the vote was taken here. Do you remember the Speaker came down off of the microphone. He grabbed that microphone right there, and he pleaded with us. He pleaded with us.

He said, "The greatness of America has been the capacity of the Congress to deliver more and more government every year." He said, "If we reduce the resources of government," that is taxes, he said, "you will destroy the greatness that is America."

Indeed, the spokesman for our side was GUY VANDER JAGT, who stood right where you stood, and who said, "The greatness of America has never been what Congress did. The greatness of America has been what a free society has been able to do for themselves."

Indeed, this one-sixth of the population of the world has created as much wealth as the rest of the world combined. In our 200-year history, we have produced as much wealth as the rest of the world combined.

He said, "The surprising thing is, they have been able to accomplish so much so rapidly and carry so much government along with them."

He said, "If we reduce some of the constraints of government," now picture the scene, this is 1981. Every economic journal for the last 2 years has explained that America has entered an era of limits, America needed to learn to live with less, we could not compete. Everyone conceded that point. We were losing jobs at the rate of 50,000 a week. America was in a decline.

GUY VANDER JAGT stood there and said, "If we reduce the constraints of government, we have yet to see the greatness that is America."

Indeed, we took the vote, and do you know what the margin was? The margin was one vote, one single vote, in which we were able to overturn the rule to allow the President of the United States, Ronald Reagan, to have his tax policy heard here on the floor.

What did we do? We lowered the cost, the tax, on production. We lowered the tax on capital formation, which is needed. About $140,000 for every job. If you want to hire two people, you have got to get $280,000 together to hire two people.

So we reduced the tax, which is the penalty on forming that money.

Out of the 17 major industrial nations in the world, from 1982 to 1985, we were the cheapest. If you wanted to invest someplace, America was the cheapest place in which to invest.

So what happened? In the 1970s, nobody wanted to invest here. Americans did not want to invest here. If you built a plant, you built it in Brazil, you built it in Taiwan, you built it in Mexico.

During the 1980's, if you were a businessman any place on the planet, you built a plant one place. If you were a German businessman, if you were a British businessman, if you were a German business person, if you were an American business person, if you were an Argentine business person, you built a plant in one place—the United States of America.

Indeed, from 1982 until 1990, two out of every three jobs created on this planet was created in one country—the United States of America.

Now, let me explain this. If you take all of the jobs created in Japan, all of the jobs created in the Pacific Basin, all of the jobs created in Europe, all of the jobs created in Germany, all of the jobs created in Africa and South America, and you put them all in a pot, and you double them, you still do not have as many jobs as were created in the United States of America from 1982 to 1990.

Now, at the rate of 230,000 jobs a month, every month, for 8 years, and people are now no longer living in a decline, in fact they are buying bigger and better cars and building larger homes than they built in 50 years, and America is growing and prospering, what do you do with facts?

When confronted with a fact which is absolutely unalterable and truth, what do you do with that? And you are Jesse Jackson?

Well, you say, "Never mind the fact you are making your mortgage payment and you now have a job, and you are not dependent, and you are not declining, and you are not riding your bicycle, and you are producing. You have got a rotten little job. Your jobs are not any good. You have got a mick job. You have got a hamburger flipping job. It used to be you had a good job, and when we came in you did not have any job at all, and the future was you were supposed to use those. But, all right, we have got to concede under Reaganomics you have got jobs, but they are rotten little jobs."

Let us look at the facts. During any period of expansion in this century, and the jobs increase, a fourth of the jobs, a fourth of them were in the top paying category.

Under this expansion, since 1982, 47 percent, or half of all the jobs created since 1982, are in the top paying category of highly skilled managerial level.

□ 2120

That means education is very important. Nevertheless, that is where they were created.

What about the bottom category, what about the hamburger-flipping jobs, what about the jobs we hear so much about that everyone got? Seven percent of all jobs created after 1982 are in the bottom category of the one-fourth division. What does that mean? That means that 93 percent of all jobs created were in the middle or upper income categories since the expansion.

So what do we do when faced with those truths? A man convinced against his will is of the same opinion still. So they say never mind to the fact that Ronald Reagan went on nationwide television and seduced a cut in taxes on productive people, we can pay who are strong little by little, and we can undermine this. We can do away with the depreciation schedule and we can increase the taxes, we can increase the luxury tax on people who are riding in yachts, and we can take a shot at anybody who owns a yacht if they happen to have the audacity to be successful, or to purchase an airplane, and then we can take the supplies and tax them too, because most people do not have airplanes and so, therefore, we will be able to do all of these things to the economy, and we will get back to our own political goal which is to help create poor people, help create dependency on Government, because that is where our strength comes from. Our capacity to maintain political power is dependent upon as many people as possible being dependent upon our largess, and if they are able to function under their own power and produce under their own will, then they are no longer dependent upon us, and they are contributing to the economy and we will lose our political power base.

That is what this is all about, not about truth, not about fact, or upon a general conclusion as to what has been official for America, but upon who wants political power in 1992.

Anyone who looks at these facts has to conclude that it is better for the employees, better for the Nation, better for the national debt if this luxury tax were to be repealed, and yet we are here to say tonight look who is holding this up. It is the Democrat majority here in the Congress.

Mr. DELAY. I really thank the gentleman from Ohio for making such an eloquent statement. I want to add to what he said and expound on it, because the American people have to understand that we have not stopped with the outline that the gentleman from Ohio has laid out here. It continues on.

I was just informed by the gentleman from Pennsylvania that the majority leader was down here last week or 2 weeks ago in a 1-minute defending, defending the luxury tax that we have been discussing here today. Not only that, but a few weeks ago a Senator from Tennessee, Senator GORE, and the gentleman from New York [Mr. DOWNEY] introduced a bill, the Downey-Gore bill, that started class warfare. They are not happy with using this myth of taxing the rich and we will help the poor. In actuality what they are doing is taxing the rich and putting the poor out of jobs. They are not happy with that. They want to create class warfare by introducing a bill that appeals to the most basic desire of every husband and wife in this country, every mother and father in this country, and that is the desire to give their children a better life than what they had. They appeal by saying we are going to cut the burden of child dependency by giving you a tax credit for every child that you have, and the way we pay for that is to tax the rich. We are going to add an extra surcharge, or an extra tax rate in the income taxes on the rich to pay for this. We all know what the results would be.

Mr. WALKER. If the gentleman will yield. I mentioned this earlier, but it bears repeating maybe at this point, because the Rockefeller Commission the other day reported on children and it was suggesting the tax credit, which I happen to think is a good idea too.

Mr. DELAY. I think it is a great idea.

Mr. WALKER. We ought to cut the taxes, period. But the way they were going to pay for it was to do what? To raise the luxury tax. One of the things that they were going to use to get the revenue that they thought they needed for this whole program was to raise the luxury tax, a tax, as we have pointed out tonight, that is an abject failure.

Mr. DELAY. Yes, that is a tax failure, and according to them, that is tax fairness.

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I am happy to yield to the great and distinguished economics professor from Texas and one of the members of the Texas Six-Pack that came in 1985.

Mr. ARMEY. I thank the gentleman for yielding.

I cannot resist talking about this business of tax fairness as it relates to the excise tax we have talked about, and the boat tax and the blue collar workers who have lost their jobs, and we have talked about the tax on airplanes and the number of blue collar workers there who have lost their jobs.

The thrust of this whole business was, "We have got to get the rich. It ain't fair," the Democrats said. "They got more money than the poor folks and that is not fair."

They forgot that America's great promise is equality of opportunity, and they retranslated that into the Democratic objective of equality of outcome and, consequently, the fact that some folks had done better than others was unacceptable. Then they applied the tax.

I understand that it is very easy to stand up there like a demagogue and say on jewels that Zsa Zsa Gabor, if she wants to buy more jewelry, should pay this extra tax. I guarantee you that Zsa Zsa Gabor has all of the jewelry that she needs, and she will not get hurt. Elizabeth Taylor has all the jewelry she needs, and she is not going to be hurt by this tax. She sells her jewelry so that she can contribute to Democrat campaigns.

But I want to talk about two rings, because this is a rather interesting case. My mother and father got married in the early 1930's. They were children of the Depression. They had no money. They bought a very simple wedding band for my mother, minimum requirement for a marriage ceremony, very inexpensive, but it did the job. It got them hitched and they stayed hitched until they died.

They went through the war, they went through difficult times, and they did in fact build a business together. In the late 1960's they were able, through that business, to generate enough of an income so that they go back and do for themselves what they had not done at the time that they were married, and they bought for each other on their anniversary a diamond ring. Each ring had five diamond stones, and the stones were nearly, as close as possible, identical.

Had this special punitive tax on the rich been in effect, they would have paid a special tax on those rings, and perhaps might not have been able to afford them, but they did.

Then subsequently when my father passed away he willed his ring with his five diamond stones to my brother. My brother had the ring reset for his wife. Had this tax been in effect at that time, he would have had to pay a special excise tax over the entire assessed value of the newly reset ring, not just the cost of the new resetting, but the entire cost of the diamonds as well that had been in the family at that time for several years.

This is a family that is not replete with diamonds, where diamonds do not run amok in my family. I have three little tiny things called diamond chips in my wedding band, and I am very proud to have them.

When my mother died she left her five diamonds in her ring for me. I had them reset in a ring for myself. Had this tax been in effect, I would have paid a special luxury tax on the entire value of the new ring with her five diamonds reset in that ring, not a tax on what was newly acquired in this process, but the new assessed value of a new ring.

This is a little thing, but it is a thing that will never affect Zsa Zsa Gabor, it will never affect Elizabeth Taylor. It will affect that working family where somebody in the family in some generation or another acquired, through a lifetime of savings, that very special piece of jewelry that they want to pass on to somebody in a subsequent generation.

Mr. DELAY. I want to make this very clear. Is the gentleman telling me that that tax could actually reach someone that would not be considered rich?

Mr. ARMEY. Absolutely.

Mr. DELAY. It was told right down here on the floor of this House that this luxury tax would not touch anybody but the very rich.

Mr. ARMEY. No, but again let me remind the gentleman if in fact you have a family heirloom, let us say you have a stone that is worth $5,000 that has been in the family for two generations.

□ 2130

And you have that reset at a cost of $300 into a new ring; now, you do not pay a luxury tax on the $300 for the new setting. You are required under this law to have the entire value, assessed value, of the ring, $5,300 assessed, and you apply the tax against the $5,300.

Most families have that one special item, maybe Grandma's wedding ring, right, that they want to pass on to the youngest daughter, perhaps, and get it reset.

Mr. DELAY. Yet under all the discussion of tax fairness on this floor, very little was said that someone of middle income or even low income would end up one day possibly paying this tax that was intended to be put on the rich. Tax fairness, to the liberal Democrats, I mean, they are saying one thing and doing another, and that boggles my mind.

Mr. ARMEY. That is absolutely right. They did not say the 250 working people in Wichita, KS, were going to lose their job either, and now when we discover that they lost their job and we go to the joint tax committee and we say what has been the real impact, they say, "Well, our rules by which we evaluate the impact of this tax policy do not allow us to take into consideration these 250 lost jobs," and we say, "Well, we know the people are there that have lost their jobs." "Well, that may be true, but we do not count that."

Mr. WALKER. Well, what about the $77 million in lost sales?

Mr. ARMEY. We do not count that.

Mr. WALKER. What about the $1.5 million in lost revenues to the Government?

Mr. ARMEY. We do not count that.

Mr. DELAY. What about the $700,000 in lost income tax to the Government?

Mr. ARMEY. We do not count that.

Mr. MCEWEN. Who establishes what we count and do not count?

Mr. ARMEY. The determination of what is counted and what is not counted is, of course, by the Democrat leadership of the Congress.

Mr. MCEWEN. So they write the rules so they win, and so any common sense would dictate to us that you are losing the jobs, that you are losing the revenues, you are losing the income, and yet in order to accomplish their goal of taxing the American people more, you are not allowed to count what you are losing, you are only allowed to count the little minuscule that might come in, and before you repeal that, in order to save these millions of dollars that are being lost and putting people back to work, because the Democrats write the rules.

I serve on the Committee on Rules. There are 13 members. The ratio is two to one plus one. There are four Republicans, two to one is eight, plus one is nine, nine to four. Those are the ones who write the rules of the House, and so they write the rules, so that under no circumstances can we bring in the fact that people are losing their jobs, and the Government is losing revenue, and that it would be advantageous to America and the national deficit and the American people if we were to lower the taxes on this luxury tax and people could go back and buy the little boat or keep the rings, and in order to accomplish their task, we are excluded because Democrats who control the Congress and have throughout your lifetime and mine and have for 56 of the last 60 years, they write the rules so that they win and their goal is to have more taxes and more spending.

When we were able to override them only twice since 1952, and once was in the 1981 example that I used when we were able to accomplish that, and we were able to bring all the new revenues, because we were not able to have that head-to-head confrontation and win by one vote in 1981 to get the country going, year after year after year, they said that those tax cuts obviously created a deficit.

The truth is that from 1981 to 1990, the revenues were coming in at an increase of 7 percent more than the year before, every year bringing 7 percent more, 7 percent more, 7 percent more. But the Democrats that chair every committee, every committee, every committee, and a Republican is not permitted to chair a committee. A Republican is not allowed to chair a committee in the Congress of the United States of America.

Mr. ARMEY. Not only the Democrats control all the committees and they control the rules and they vote in their rules, the first vote that we take in the convening of a new Congress, but they hire the research staff for the Joint Tax Committee.

Mr. MCEWEN. To write the reports the way they want them written. They hire who testifies before committees so they will say what they want to have said, and subsequently, when they write the spending bills and give them to the President, instead of passing them on a regular basis so he could deal with them one by one and either veto or sign, they put them all in a big stack at the end of the year and they shove it over at either Ronald Reagan or whoever and say, "Sign it or we shut down the Government. Social Security recipients do not get their check. The Government does not man the defense of the coasts and all the rest," and so they have to sign the whole thing, and they have a 9-percent increase in spending.

When you have a 7-percent increase in revenues and a 9-percent increase in spending, it does not take a rocket scientist to figure out what the problem is. Yet, they turn around and blame the President, Ronald Reagan or George Bush, for the spending that the Congress does when it is not all that difficult. Spending is up 9 percent, and anybody on a city council, anybody in their own checkbook, anybody in State government all know what the problem is when revenues are up 7, then you cannot increase spending any more than 7, but the Democrat Congress increases spending by 9 percent. Then who do they turn around and point to? They say that it obviously has to be Ronald Reagan's fault that we were spending more money than came in so that the deficit has to be his fault.

The President cannot spend a dime. The Congress can spend a dime only. The President cannot turn a key to the White House or turn on the lights unless Congress appropriates the money. Congress decides how much is spent, and they have created the deficit, because they write the rules the way they want.

Mr. ARMEY. Let me give two concrete examples.

If we went in any university in America today in any finance department or any economics department, indeed, I should guess even in any political science department and we had a youngster who said, "I want to do a master's thesis and consider the economic impact of the excise taxes, the luxury taxes in the 1990 budget summit agreement; 6 months later, I want to see what has been the economic impact," and that student brought that study back and he had excluded from his study any information about the number of people who lose their jobs, the decrease in sales of the items against which the taxes were applied, the decrease in the tax revenues from the decreased sales and the decreased jobs and had included only the direct revenue receipts from the application of that tax alone, his thesis committee, even in a political science department, let alone a finance or economics department, would have rejected his thesis.

If, in fact, the Congressional Budget Office were to bring such a study to the Congress and present it to the majority in Congress, the Democrat majority in Congress, if they included the job loss, the income tax loss from the job loss, the sales loss and the taxes lost from the sales loss, if they included these things, the Democrat leadership would say, "Take that back. We will not accept that study. You must confine it only to the direct revenue receipts."

They have written, what I am saying, a methodological requirement that only allows the methodological gun to shoot to the left in the favor of more spending and more taxes.

One other point, a real live point: several years ago, 2 or 3 years ago, this Congress was considering the increase in the minimum wage. Under a piece of legislation called the Humphrey-Hawkins bill, passed by Senator Humphrey when he was here, and former Congressman Gus Hawkins from California, it is required by the law when considering such legislation that the Congressional Budget Office produce a study that reports the economic impact of the law.

When the Congressional Budget Office brought back a study fairly comprehensive using the best of their skills that examined the economic impact of an increase in the minimum wage, and they reported that the projected increase in the minimum wage would result in the loss of 250,000 jobs, Chairman Hawkins, who had written the law that mandated the study be done, refused to accept the study until they took it back and deleted the section about the job loss, so that, in effect, he said, "I will only accept a study of the economic impact of legislation that precludes any discussion of the impact on employment for working men and women in this country."

□ 2140

Now, how do we do a job of a study of economic impact when we refuse to accept any consideration of what happens to people's real opportunity to work?

Mr. DELAY. Mr. Speaker, reclaiming my time, all this boils down to what the gentleman from Ohio was referring to, and I think the gentleman from Texas who understands this probably as well or better than any Member in this House, or even in the Senate. What this boils down to is that the American people will have to start asking themselves, rather than listening to less than the truth that is expounded on this floor by the liberal Democrats of this House, about the facts of what our economy has done over the 1980's in Ronald Reagan, and George Bush's contribution to those accomplishments, they have to ask themselves, what would the economy be today if there weren't a Democrat Congress fighting President Reagan every step of the way, pulling things like Chairman Hawkins pulled, about taking a study that he mandated be done, that did not come out the way that he wanted it to come out, and refusing to accept that study. These kinds of things go on in this House and in committee rooms of this House every day, all day long.

It is amazing to me why in America, that has freedom of the press, how the press cannot pick up on the corruption of this Congress, of corrupting ideals, corrupting the truth that is conveyed back to the American people. The American people are swallowing this. It is amazing, that just recently we are going to have a tremendous debate that points out what we are talking about here, having to do with the recent Supreme Court decision on title 10 family planning funds. It has nothing to do with the first amendment.

What the U.S. Supreme Court basically has said is we cannot use Federal funds to counsel people on abortion. It had nothing to do with gagging the physicians in their ability to counsel with their patient. It had nothing to do with that, yet that is the debate that is being perpetrated by the liberal Democrats on the floor. It is called the gag rule. The debate is around the first amendment, not around Federal funds being used in title 10 family planning funds. It has nothing to do with the truth of the matter, and the truth of the issue.

The same is happening under the guise of tax fairness, happening day in and day out in this body. For those that may have just tuned in, I have to remind them that we are down here talking about real tax fairness. Tax fairness that adheres to real economic theory. That economic theory of practice and reality that responds to certain activities taken on by this Government.

If I may take a short minute of the gentleman's time to reiterate some of the things, and the gentleman will be proud of this. I will be referring to a study from a group that if I remember correctly is a group that the gentleman put together, the Center for Tax Policies at the National Center for Policy Analysis in Dallas, TX. I think the gentleman from Texas formed this group.

Mr. ARMEY. If the gentleman will yield, I did not form that group. It is a very good group formed by a man named John Goodman.

Mr. DELAY. I knew the gentleman was very involved in this group, and especially with a husband-and-wife team by the name of Aldona and Gary Robbins who have done some excellent studies that reflect realism in economics, and the real results of actions taken by this House, not the myths that are perpetrated by this House.

I refer to a study they did dated March of 1991, called Tax Fairness Myths and Reality. If the gentleman will bear with me, I want to reiterate why we are here tonight, so we understand what we are talking about.

I would like to take this myth by myth. This will not take long. Myth by myth perpetrated by the liberal Democrats and have been doing so, almost daily, on the floor of this House for over a year. That is why we came down to the floor of this House to try to dispel some of these myths. We are bombarded with a myth, for instance, that we talked about earlier, but during a myth that was perpetrated during the 1980's, that the rich got richer and the poor got poorer, when in fact, over the past decade, the real per capita income of Americans grew by 21.2 percent, and every income class posted a substantial increase in real after-tax income as reflected by the charts in the discussion here tonight.

There are other myths we have not touched on including the myth that is perpetrated by the liberal Democrats on the floor of this House for a year that the top 10 percent of income earners gained from the tax cut of the Reagan era while the bottom 90 percent lost, when in fact the facts are that total taxes as a percent of gross national product today are slightly higher than they were in 1980. The Nation's total tax burden, therefore, did not go down, in large part because of Social Security payroll tax increases that took effect in the 1980's, passed in 1977 by the Carter administration, but were legislated. The Reagan income tax cuts, however, lowered the personal income tax burden for every income tax class.

Another myth perpetrated on the floor of this House by the liberal Democrats of this House, the Reagan tax cuts were a give away to the rich, when in fact the tax rate on the highest income earners was reduced sharply during the 1980's in order to encourage wealthy taxpayers to earn more income and pay more taxes.

Mr. ARMEY. If the gentleman will yield on that point, this is a very interesting point, and the one great myth that we have as a result of the Reagan tax cuts of the 1980's, the argument is that the wealthy do not pay their fair share.

I would just like to point out one fascinating statistic that we turned up here, that from the time of 1981 to 1988, the average tax paid by the top 1 percent incomer, we are talking about the people in the top 1 percent of the income category in America, the average tax that they paid was $118 for I guess the average dollar of taxes paid by people in the bottom half of the income category in 1981.

Now, in 1988, that ratio went from $118 to $240 to every $1. That is to say in 1988, if a person was in the top income category, their average tax was $240 for every dollar paid by any person, by the average taxpayer in the bottom half of the Tax Code. That is over a 50 percent increase, so that in fact, the share of taxes paid by the rich increased.

Not only did they pay their fair share, but more so in 1988 than they did in 1981.

Now, couple that with the fact that the average family got an annual tax savings of $1,500 a year from the tax cuts that are known as the Reagan tax cuts, so the gentleman and I got our benefits, got our savings. My daughter, who is a bottom-level managerial position, entry-level person, got her tax break. My brother, who lives out in the Dakotas, who has an average family income, got his tax break. But the wealthy folks had their share of the tax, relative to the average person in the bottom half of the income spectrum, increased by 50 percent, just the opposite of this myth that the gentleman was saying.

Mr. DELAY. Another myth dispelled.

There is another myth perpetrated on the floor of this House that the Reagan tax reform was unfair to low-income families, when in fact, as pointed out by the Robbinses, for the vast majority of Americans, the greatest benefit from the Reagan tax reform is not that tax payments are lower, but that taxes are lower than they would otherwise have been.

They show on the chart, and I think this is so telling, the only way we can determine who is right in this argument is to look at taxes today relative to taxes that would be today if we had not had the Reagan tax reform and the Reagan tax cuts.

Now, if we took 1980 tax law, I want to point out a couple of glaring examples. The 1980 tax law, if we take that and apply it to today's income and compare it to taxes today, a family earning $10,000 under the 1980 tax law would be paying taxes of $863, where today in actuality they are paying $369, a difference of 134 percent.

□ 2150

I go further to say that an average income for a family, let us just pick out $45,000 a year, if the 1980 tax law were to apply today, that family making $45,000 a year would pay $9,596, as compared to today's taxes of $5,186, or they would be paying 88 percent more in taxes today if we were still living under the 1980 law, where if you go down to someone who is "the rich" you have the rich paying, let us say a family that makes $1,700,000 a year, under the 1980 law they would be paying $635,000, yet under today's law they pay $391,900 a difference of only 62 percent. So you can see that the lower income under the 1980 law would be paying a higher percent taxes than they are paying today than the wealthier families today. The wealthier families today, indeed total tax payments are higher and their share of tax payments are certainly higher, another myth dispelled.

A couple more myths. Myth perpetrated on the floor of this House: The income tax system became less progressive during 1980's.

The fact is, the U.S. tax system became more progressive, not less so. Between 1979 and 1988 the share of income taxes paid by the top 5 percent of income earners rose from about 38 percent to 46 percent. Between 1981 and 1988, the share of Social Security payroll taxes paid by the top percent of income earners rose from 11 percent to 12 percent. By contrast, the bottom half of income earners now pay only 5.5 percent of Federal income taxes and only 17 percent of Social Security payroll taxes.

Myth perpetrated on the floor of this House: During the 1980's, income of the wealthy grew faster than that of any other group. No one really knows if that statement is true. It is certainly true of income subject to taxes, but there is no hard evidence that the total income of the wealthy grew faster than that of any other taxpayers. We do not know how much of the growth in taxable income was due to a shift from nontaxable to taxable income and how much to the fact that the wealthy worked harder or invested more to produce more income.

Myth perpetrated on the floor of this House by the liberal Democrats: The rich pay a smaller percentage of their income in taxes today than they did in 1980, although most taxpayers pay a higher percent. No one knows exactly what the income of the rich was in 1980. Official records show only income subject to the income tax. Taxpayers were not required to report income from tax-exempt securities, for instance, or other forms of tax-sheltered income. Because of Reagan tax reform, though, much more of the income of the wealthy today is taxable and much less is sheltered; but by any reasonable estimate of total income in 1980 and 1990, taxes as a percent of income have gone up, not down, for the wealthiest taxpayers.

The last myth perpetrated on the floor of this House by the liberal Democrats of this House: The tax system can be made more progressive by raising taxes paid by the rich. We have talked extensively here for over an hour about this particular myth. For most of the history of the income tax, the opposite has been true. That is, whenever the highest tax rate has been increased, the total tax payments and share of tax payments made by the rich has gone down. Whenever the highest tax rate has been lowered, the share of taxes paid by the rich has gone up. That is the experience of the 1980's, replicated by this historical relationship. That is history. That is history documented by the IRS and many other economists.

I just say that we deal with these myths all the time and they are very difficult to deal with under the present rules of the House. I hope the American people will see the difficulty under which we operate in this House in trying to bring the truth to the American people. One day the American people are going to wake up and understand that government is not their friend, that government indeed is necessary to keep order in this country and defend the weak, but government is not their friend. Government services usually hurt more than they help, and certainly taxes are that way.

Mr. Speaker, I see our distinguished Whip of the Republican Conference, the gentleman from Georgia [Mr. GINGRICH], has returned, and I am sure the gentleman has some words of wisdom for us, and I yield to the gentleman.

Mr. GINGRICH. Well, Mr. Speaker, I do not know about wisdom, but first of all, I want to thank the gentleman from Texas for having developed this idea and having organized this, because without the gentleman's leadership we would not be here tonight. I want to thank both my friends from Texas.

I think the gentleman is putting his finger on what is in some ways the most frustrating thing about serving in Congress. The gentleman was a businessman and he knows the hard way that if you did not actually close a sale and get in the check and clear it at the bank and pay your employees, you would go out of business. In business you have sort of a real driving force to face reality.

We are in a building dominated by lawyers, who understand that reality is when you convince the jury to believe, and if they can get away with the next final appeal, then they get on to file the next case. The difference in the whole structure is just very radical and it takes a while to get used to. Then, of course, our good friend, the gentleman from Texas [Mr. ARMEY], the ranking Republican on the Joint Economic Committee, is faced with the whole challenge of the fact that the entire bureaucratic structure of the Congress is geared to an intellectual idea that is at least 30 years out of date and which literally rejects reality, so if you walk in and you say, "Here is what is really happening, you know, we are in a recession," they say, "Well, we are not sure, because our computer does not show that."

You say, "You are going to lose money and put people out of work." They say, "Well, that is not in our computer."

It is like going to a doctor who says, "I don't care how much pain you are in, you are not allowed to have a heart attack because my particular piece of equipment does not show it," and you are laying on the table and you say, "Wait a second. I am in real trouble." You would change doctors.

Instead, we find ourselves recently, and I do not mean this in any sense as a personal comment about an individual, but more as a comment about reality, the Joint Tax Committee has now brought in a new leader who is a Jimmy Carter Treasury executive. Well, if you look at the history as we have been talking about it tonight of 4 years under Carter and you say, "You know, what would that kind of person tend to do intellectually?"

They happen to believe, I think with great sincerity, they happen to believe in ideas which are simply wrong. They do not work.

It is ironic to me, and I started to say this at other times, so I do appreciate the gentleman yielding to me, all across Easten Europe we are saying to Poland, to Hungary, to Russia, to Lithuania, to Latvia, to Estonia, "Go to private property. Get rid of your bureaucracies. Shrink your government. Decentralize. Have a market system. Use incentives. Encourage people to work. Encourage people to save."

And then what are we doing in Washington? Creating more bueaucracy, creating more redtape, raising taxes, everything the opposite of what we are telling people in Eastern Europe.

I find it fascinating that our good friends in the Deomcractic Party belong to the Ligachov wing of the world, that at a time when we belong to the Yeltsin wing and we are part of that broad movement toward human freedom, many of our dear friends on the left are wedded to an idea of higher taxes, more bureaucracy, centralized government, less private property, less incentives, and in fact it is a true story, a friend of mine was at a dinner party with a Russian who was in fact traveling at the time with Shevardnadze. The Russian asked one of the hosts, "What is the real difference between your two parties?"

And the host said, "Well, the Democrats believe in taxing people who are productive and prosperous and successful at a higher rate, and the Republicans believe in encouraging people to create jobs, encouraging people to create more prosperity."

The man looked at him and he said, "Ah, you mean your Democrats are like our Communists. They believe in taking away from those who have, giving to those who do not. They believe in stifling free enterprise, stifling initiative."

I do not mean this in any sense in the old-fashioned Red baiting, but in the genuinely intellectually honest argument that if you watch Mayor Dinkins wrestle with New York City's problems and you watch the reform leader of Lenigrad, now to become St. Petersburg, and the reform leader of Moscow, the reform leaders of Moscow and Leningard would be on the floor with the three of us talking about how you shrink government and you open up the private sector and encourage small business, and our friend, David Dinkins, nice man, wedded to the process of 50 years ago, would be saying, "Oh, you couldn't do that to my city, bring free enterprise to New York, privatize the social services, cut down the bureaucracy, offend the municipal unions. We couldn't do that. What we have to do is raise taxes."

And so I just hope people as they watch this with us will understand, we are in a very real debate in this city between people who understand reality and people who are wedded to a theory which is dead.

□ 2200

And I think these two gentlemen are playing a very, very important role in making that debate possible on behalf of the American people and on behalf of the country's future.

Mr. Speaker, I just wanted to come back for a minute and say "thank you" to these two gentlemen.

Mr. DELAY. Mr. Speaker, I want to thank the whip because the whip is struggling under the system, to try to make some sense out of it. Not only that, he is trying to hold the Republicans together and to elect even more Republicans so that this House will be controlled by the Republicans and we can institute those real ideas that come from real experiences from the real world that have real effects on creating equal opportunity.

The whip is one of the most distinguished leaders of this Congress who works, obviously, very, very, very hard. Here it is 10 in Washington tonight, and here is the leader, the No. 2 man in the Republican Conference, down here on the floor telling the truth about tax fairness and what it really means to our country. As I said earlier, one day the American people are going to wake up and understand that realism and private property and all the things the gentleman listed are important and the more we go towards the Soviet Union the worse off everyone is.

Unless this whip has something else to say, I would just love to give the opportunity to my distinguished colleague, the gentleman from Texas [Mr. ARMEY], the opportunity to close these special orders because he is an economics professor who understands real economics, free market economics and how they affect this country and what Government's effect on this country is, and especially the effects of what the liberal Democrats call tax fairness will have on the American people's ability to accomplish their dreams, raise their families and turn over a world to their children better than they found it for themselves.

Mr. Speaker, I yield to the gentleman from Texas.

Mr. ARMEY. I thank the gentleman for yielding.

Mr. Speaker, this has been a very good debate. There have been so many facts and figures put out today, and one of the things that worries me is that facts simply, so often, do not turn the debate in Congress. Let me talk in more general terms.

This whole taxpayer fairness debate that we see raging in Washington is really, I think, a reflection of two different visions by two different political parties, the great Republican Party that believes in the great promise of the United States of America throughout all its founding documents and throughout all the best dreams and hopes of its founding fathers, that we would have a Nation that would both have the commitment and the capacity to guarantee equality of opportunity to all its citizens and that the policies of the Federal Government should be directed toward assuring that equality of opportunity.

Now, the way that plays out in the ordinary life of the average person is for an economy that is robust, vibrant, that has vitality and the ability to change and adjust to changing technologies, changing times and to grow so that each new person who enters the work force or leaves college, leaves high school or emigrates to this country from another nation where their lives are more forsaken, would see that opportunity "for me to build for myself and my family a place in the sun in a period of time when things are going higher for all people."

Now, on the other hand the once great and proud Democratic Party has slid into a misperception, one, of the ability, the capability of the democratic free enterprise system as we have seen it work in the United States. I remember seeing this play out in what we now call the days of national malaise, when even the President of the United States became so discouraged with the futility of their policy efforts to turn around the terrible circumstances of both unemployment and inflation, that the new book that came out for the left wing of American politics, that became the book around which they attached their perception of America and what the Government must do in America, was a book entitled "The Zero-Sum Game," by a man named Lester Thurow, from the Massachusetts Institute of Technology. The thesis of the book was that growth was no longer possible for the American economy, and since growth was no longer possible for the American economy, we have come to the end of history, God had died, and there was no chance for any of us to see economic growth ever again in this Nation.

And since growth was no longer possible, then the only thing left for the Government to do, and the Government must do something, within the context of the zero-sum game, is to redistribute income. And it is that point at which that political party most lacking in understanding of the capability and abilities of the American people, most lacking in faith in the institutions and the mores and the cultural patterns that brought us so far at least, in the words of Darryl Royal, "willing to dance with them that brung 'em," and most willing to throw up their hands in despair and most willing to grab the moment for them to increase their power over the lives of the citizens.

Then they hit on the idea that we must use the tax policies of America to redistribute income. And of course as you see in the years of the Carter administration, all these redistributional policies made things worse and worse and worse and worse. And then came Ronald Reagan, who said, "No, America can grow. What we used to know in the old days as a practical American genius is really there, really alive, and it really will work again if we can just get the Government out of the way of the American people so that it can work."

Well, we saw it work. What happened was that Ronald Reagan proved in 10 years that freedom works and it works for everybody. The economy can grow, we can generate and create jobs. We have had a discussion about that. Increased opportunities can be more available for all people, and we can fulfill our historic promise of increased equal opportunity for all Americans.

Now, this has been a very discouraging lesson to the left wing of American politics, because if in fact the vision of the right works and people are made made better off by being made more free with less Government, lower taxes, some efforts to restrain Government spending, then their political message is dead.

So what we see now is sort of a death struggle of a failed vision trying to reassert through every feeble effort which was necessary even to rigging the numbers, denying the facts, putting together mathematical and statistical and econometric and methodologic apparatus that are intellectually defunct so as to be an embarrassment to anybody that would be intellectually honest about it, trying to recaputure their one great moment when growth could not happen. Therefore, their redistribution was necessary.

It reminds me of an observation or two by an old professor, Prof. Paul N. Rosenthein-Rodan when he said, "Beware of politicians who manufacture data for the sake of testimony." And then when he later admonished me to understand that there was nothing more arrogant and abusive than a self-righteous income redistributor.

And it is that tension for that self-righteous redistribution of income, in fact in the real interest of maintaining "my power," "my control," "my position in the process," that is governing this fairness doctrine. We ought not to be talking about what are fair taxation methods: we ought to be talking about what taxation methods can we use to fund that minimum necessary activity of the Federal Government on behalf of the American people in such a way as to generate the least disincentive to growth, prosperity and freedom for all Americans through all times in the future.

We ought to be talking about what kind of a tax system can we put into place that will give our children more freedom, more dignity, more opportunity and more prosperity than we had; not that which will redistribute less freedom, less prosperity and less opportunity among more contentious, unhappy citizens.

So the question is: Is America a Nation that redistributes or is it a Nation that prospers? That is the choice we have. I would be very wary of anybody who wanted to enter a serious policy discussion by focusing on what is fair rather than what is productive for the American people.

I thank the gentleman for yielding.

☐ 2210

Mr. DELAY. Mr. Speaker, I thank the gentleman from Texas [Mr. ARMEY] for such an eloquent presentation, and, as always, the gentleman understands what drives this economy and understands that government does not drive this economy. It drags it down. And I thank the gentleman from Mississippi [Mr. ESPY] in the chair who has been putting up with this 2 hours of special orders, and all I can say to this House and to the American people is: Stay tuned. There is more to come.

GENERAL LEAVE

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that all Members be permitted 5 legislative days in which to extend their remarks and to include therein extraneous material on the special order of the gentleman from Minnesota [Mr. OBERSTAR].

The SPEAKER pro tempore [Mr. ESPY]. Is there objection to the request of the gentleman from Texas?

There was no objection.

REMEMBERING HUBERT H. HUMPHREY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota. [Mr. OBERSTAR] is recognized for 60 minutes.

Mr. OBERSTAR. Mr. Speaker, had Hubert Horatio Humphrey not left us 13 years ago, he would be 80 years old this year, and, health permitting, still working, on behalf of the poor, the worker, the underrepresented people of this country. Still working, still smiling, and still enthusiastic.

No elected official from Minnesota can help but be touched by Senator Humphrey's life and legacy. People of every political stripe across this country can agree or disagree with his views, as they see fit, but they cannot ignore them.

Senator Humphrey believed in America, and all that is good in Americans. He was an optimist, an idealist, a visionary. He was a fighter for the betterment of the human condition, and he kept right on fighting to the end.

Even in the twilight of his life, as the curtain of death drew closer and closer, he retained his optimism, his idealism . . . and that eternal smile. At his farewell address, in this very Chamber, he said:

> I have been known in my life to be an optimist, some people say a foolish optimist, and I suppose at times I have ignored reality and had more than the usual degree of optimism. But I said to the critics that I am optimistic about America, and that I rebuke their cynicism.
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> The reason I do is because history is on my side. We have come a long way in this country. More people today are enjoying more of what we call, at least in the material sense, the good things of life in every form. We have made fantastic strides in science, technology, and engineering. Our agriculture is a wonderful world, but most significantly, we are a heterogeneous population, and we are trying to demonstrate to the world what is the great moral message of the Old and New Testament: namely, that people can live together in peace and in understanding, because really that is the challenge, that is what peace is all about.
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> It is not a question of whether we pile up more wealth; it is a question of whether or not we can live together, different races, different creeds, different cultures, different areas, not as a homogeneous people but rather in the pluralistic society where we respect each other, hopefully try to understand each other, and then have a common bond of devotion to the Republic.
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> Come, let us reason together. There are no problems between the different points of view . . . that cannot be reconciled, if we are willing to give a little and to share a little and not expect it all to be our way. Who is there who has such wisdom that he knows what he says is right? I think we have to give some credence to the fact that majority rule, which requires the building of an understanding, and the sharing, at times the compromising, is the best of all forms of rule.
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> We are all children of one God. We live on a very small planet, but so far as we know, it is the only planet that sustains life. Therefore, apparently we have been selected for an unusual and a special purpose. I believe that purpose is to try to demonstrate that the power of understanding and reason and love can prevail.
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> It is not easy, and there are many times we want to give up, but you have to have spirit. You have to have faith. There are times when we lose faith in the institutions of our government as we almost did. We all do; but, dear friends, it was restored.
>
> Individually, we must be strong. We must be strong in our commitment to human freedom and justice. We must be strong in our commitment to opportunity and equal opportunity. We must be strong in our commitment to the care of the needy and the sick and the handicapped and in the maintenance of an economic system and a political system that will make it possible for us to care for those who are less fortunate. It all goes together.

Mr. Speaker, as we in Congress go about the business of government, we should occasionally pause and remember the legacy of Hubert Humphrey, but most of all, we should pause, remember and reflect upon these words: "We must be strong in our commitment to the care of the needy and the sick and the handicapped and in the maintenance of an economic system and a political system that will make it possible for us to care for those who are less fortunate. It all goes together."

It does, indeed, my colleagues. Come, let us reason together . . . and honor Hubert Humphrey, who called us all to a life of reasoned service to humanity.

Mr. HOYER. Mr. Speaker, I rise today to commemorate the anniversary of the birth of one of our greatest Americans and leaders in the Congress and this Nation, Hubert Horatio Humphrey.

Hubert Humphrey, Mr. Speaker, was one of a kind, and America and the world still misses him greatly.

A leader with vision and enthusiasm, energy, and conviction, Hubert Humphrey's life stood for all that is great about America; caring for our neighbors at home and our fellow humans wherever they are; compassion for the less fortunate among us, and the belief that government and people can work together to make life better for all.

Hubert Humphrey gave his life to public service, serving for a total of 33 years in public office as mayor of Minneapolis, MN, U.S. Senator from Minnesota for a total of 19 years, Vice President of the United States for 4 years, and Democratic candidate for President of the United States. He continued in public office until his death in 1978.

HHH, as he was often known, stood foursquare for what he believed in, when it was popular and when it was unpopular, and fought for justice for all. He had the courage to speak for equal rights for all Americans, regardless of race, as early as 1948, and stood as a beacon for American justice and freedom at home and around the world.

Hubert Humphrey was known to all as "the Happy Warrior," and no better nickname has described such a beloved public figure, for Hubert Humphrey loved people, loved politics, and loved doing good. Nothing got him down, and he remained a devoted and loving fighter for the good causes from the day he entered politics to his last breath.

I clearly remember, Mr. Speaker, when Hubert Humphrey was being treated for cancer in the year before his death, the stories of how even then he worked to cheer up the lives of his fellow patients in the hospital, plying the corridors with gusto and refusing to let these ill people feel bad—despite the fact that he was dying himself.

Mr. Speaker, as a young Democrat in the 1960's, I was honored to have the opportunity to meet Vice President Humphrey on a number of occasions. He was an inspiration to all those who had that opportunity, a model and guide for all of us who are and wish to be involved in government and public service.

Mr. Speaker, Hubert Humphrey was a leader like no other, and his loss is felt every day in this city and around the world. I am honored to join my colleagues in marking the life and the accomplishments of Hubert Horatio Humphrey.

Mr. VENTO. Mr. Speaker, I want to join with my colleagues in remembering the great American and Minnesotan, Hubert H. Humphrey.

What stands out in my own memories of Hubert Humphrey is the vitality of the man. I was privileged to hear him speak and to be with him on numerous occasions. He would literally radiate hope and joy, love and compassion, strength and energy.

For nearly all of my life, Hubert Humphrey represented me in his capacity as mayor, Senator, and Vice President. He did his job so well that I do not recall having to write, to phone, or to remind him of my views and the special concerns of Minnesota. In fact, Hubert H. Humphrey was so attentive to people, he was so much in tune that he was able to anticipate and to articulate, to inspire and to lead for the individual citizen and for the Nation.

Of course, Hubert represented more than just me but the qualities that I have noted were felt by Minnesotans and most Americans as his work and efforts touched the issues of the day and our lives. That surely is why even today the affection and respect for Hubert H. Humphrey persists among the working men and women of our Nation, the people that experience discrimination or face special challenges. Hubert H. Humphrey was on their side, committed heart and soul to their cause.

It is indeed the nature of the Humphrey service to people that inspired hope yesterday, today and tomorrow in the ability of our government and public servants to help people and to make a difference then and now.

After I was first elected to Congress in 1976, I had the opportunity to work first hand with Senator Humphrey. Those 13 months were his last in Congress and for much of the time he was ill. However, the physical pain that he endured did not distract from his work nor from his commitment to the poor, the elderly and the children.

During his last term, Hubert Humphrey used his position as a senior statesman to counsel Congress and the Carter administration on behalf of the poor and downtrodden.

In preparing for this special order, I reviewed the tributes that were paid to Senator Humphrey in January 1978, following his death. The comments contained in the CONGRESSIONAL RECORD during that month and the editorials commemorating his life and accomplishments were bipartisan, admiring, and warm in affection. Hubert's life and the politics of joy were reciprocated by the love and affection of Democrats and Republicans alike, by the rich and poor and by whites, blacks, and Hispanics.

It is appropriate for us to consider the work and philosophy of Hubert Humphrey in this day and age.

At a time when the threat of quotas and Willie Horton are used to undermine 20 years of civil rights policies, it is important to remember Humphrey's challenge to the 1948 Democratic Convention and to the Nation to step "out of the shadow of States rights and into the bright sunshine of human rights."

At a time when campaigns are run on smears and innuendo, it is important to remember the Happy Warrior's philosophy of the politics of joy.

At a time when an administration encourages big business mergers and takeover mania regardless of the cost, it is important to remember Humphrey's families, farmers, workers, and small businesses.

At a time when we hear that the National Government cannot do anything for the people and that a budget agreement ties our hands, it is important to remember a man who thought that the government could and morally must act.

It is incumbent upon us all to remember Hubert Humphrey's words:

> The moral test of government is how it treats those who are in the dawn of life, the children; those who are in the twilight of life, the aged; and those who are in the shadows of life, the sick, the needy and the handicapped.

Mr. Speaker, I am proud to have known and worked with Hubert H. Humphrey. His life and his death are a commemoration of how great man can be and how we can serve the common good. His life, philosophy, and accomplishments cannot be summed up in a few words. That is just too much there. However, I believe that the late Adlai Stevenson came close when he said:

> He rejoices in what we are; he is keenly aware of what we are not; and is deeply committed to what we must become.

Mr. FORD of Michigan. Mr. Speaker, I am honored to join my distinguished colleagues in commemorating Hubert H. Humphrey and his 33 years of service to this great country.

I had the privilege to know and serve with Hubert Humphrey. When I arrived in Washington in 1965, Hubert had already served 16 years in the Senate and was beginning his term as Vice President in the Johnson administration.

Hubert was my kind of Democrat. He described himself as "an active, working, progressive, liberal Democrat" and a "Roosevelt Democrat." The first bill he introduced was for a compulsory national health-insurance system under Social Security. His entire career was spent fighting for programs to end poverty, to provide housing and jobs, and improve the quality of life for all Americans.

As a member of the House Education and Labor Committee, I was most familiar with Hubert's contribution to the education of our children and his support for the rights of working Americans.

Hubert believed that every American child had a right to a quality education and voted for Federal aid to colleges, universities, and local school systems. Hubert's recommendation for early childhood education for those needing it was incorporated into the successful Head Start Program.

Hubert was also a friend to American workers. Among other things, he supported broadening the coverage and increasing the minimum pay under the Federal Wage-Hour Act, and extending the payment period for unemployment benefits. In 1960, Hubert stated:

> It is clear that the greatest hope for eliminating poverty is regular employment at decent wages for America's wage earners * * * It means making it easier—not harder—for unions to organize the unorganized, and bring them the economic benefits of collective bargaining.

I campaigned for Hubert in his 1968 bid for the Presidency. Campaigning for Hubert was one of the most rewarding political experiences of my life. Words cannot describe my disappointment over his narrow defeat in the election. My only consolation was that Hubert won big in my home State of Michigan.

I know that Hubert would not approve of my brooding over what might have been had he won the election. He never allowed friends or family to dwell on the past. He always encouraged us to look to the future, to live life to the fullest. It is hard to not long for the day when we had leaders like Hubert Humphrey at the helm.

Mr. Speaker, Hubert and I worked well together in both our political and legislative duties and I was proud to be his friend. He was in my opinion one of the most decent and humane people that I have had the privilege of knowing.

Mr. SABO. Mr. Speaker, Hubert Humphrey entered the Minnesota scene in the 1930's. It's safe to say that Minnesota and the rest of the country have not been the same since.

From his days as a college instructor, radio commentator, and mayor of Minneapolis, to his years as a U.S. Senator and Vice President of the United States, the thoughts, words, and deeds of Hubert Humphrey have left an indelible impression on the people and the public servants of this country. He'll be leaving an impression for generations to come.

We called him the Happy Warrior. I like to think it was because while he fought long and hard for the things he believed in, he never forgot that ultimately, we are all in this together. For Hubert, it was never "us" against "them." Rather, it was always a matter of working together to do what was best for all Americans. And, while he could disagree ferociously and fight passionately, his ability to put aside differences and pitch in to do the right thing meant that even in defeat, Hubert was victorious.

His lifetime of public service has left Minnesota and the rest of the country a legacy characterized by courage, integrity, and commitment. Courage because he fought for many things, civil rights among them, long before most were willing to take up the battle. Integrity and commitment because he continued to fight for the things he believed in throughout his career and his life, regardless of where the political winds of the day may have been blowing.

The world has been without Hubert Humphrey for 13 years now. But even in death, Hubert has been victorious. For public servants and concerned citizens across the country, Hubert Humphrey lives on as a shining example of what one person with dedication and commitment can do to improve the world.

Mr. HORTON. Mr. Speaker, I greatly appreciate the opportunity to join my colleagues in commemorating the 80th anniversary of Hubert H. Humphrey's birth. The "Happy Warrior" dedicated his life to pubic service and our Nation will remain eternally grateful for this decision.

I first met Hubert Humphrey as a student at Louisiana State University. The great Minnesotan was my instructor of American political science during my senior year of college. Not only did I have the good fortune of studying under Hubert Humphrey, I was able to meet with him many times during my later political career.

Hubert Humphrey served as Vice President of the United States under President Lyndon Johnson from January 20, 1965, until January 20, 1969. On a few occasions during this period I enjoyed Hubert's humor and insights as we traveled to events on Air Force Two.

Hubert Humphrey, of course, is best known as one of the greatest political minds in American history. What is not as well known, however, is that he also excelled in other professions including pharmacist and educator. Hubert graduated from Denver College of Pharmacy in 1933 and the University of Minnesota in 1939. After earning a graduate degree from the University of Louisiana in 1939, he began his long, varied, and distinguished career.

The pinnacle of that career, of course, brought Hubert to the Vice Presidency of the United States. Although this was an extremely trying period in American history, he brought to the office a background and knowledge which was invaluable to President Johnson in making difficult determinations. Even after leaving the office of Vice President, Hubert continued to provide input to our Nation's leaders until his death in 1978.

The United States is undoubtedly a better place due to the efforts of Vice President Hubert Humphrey. His humanity and compassion brought a new level of dignity to the American political world. I call upon my colleagues in Congress to use this anniversary of his birth to rededicate ourselves to Hubert's values and commitment.

Mr. SIKORSKI. Mr. Speaker, Hubert Humphrey loved to tell about the time, after he'd delivered a particularly long, stem-winding speech, that his wife, Muriel, put her arm around him and whispered, "You know, dear, you don't have to be eternal to be immortal."

Hubert had trouble summarizing things—mainly because he knew so much—about so much. But in the spirit of Muriel's advice, let me suggest that two of the greatest lessons Humphrey taught us can each be boiled down to three words.

"Don't look back," and "Never give up."

After losing the 1972 Democratic Presidential nomination, he told a friend:

> You know—you can spend your whole life worrying about all the things you should have done. But that's a waste of time. Instead, worry about all the things you're going to do.

Humphrey's first term in the U.S. Senate was pretty discouraging. He spoke on over 450 topics, introduced scores of bills, amendments, and resolutions, and didn't pass one of them.

His own Democratic majority leader called him a pipsqueak.

But Hubert never looked back. Never gave up. And that's a good thing.

Good thing for the Nuclear Test Ban Treaty.

Good thing for the Peace Corps.

Good thing for the Civil Rights bill, for the Job Corps, for Food for Peace, for National Defense Student Loans, and for the Space Program.

Good thing for every health-giving, kid-loving, tree-growing, peace-promoting, family-saving, forward-looking piece of legislation to come down the pike in America for a quarter of a century.

Because Hubert Humphrey never gave up.

Shortly before he died, hollowed by cancer, Humphrey arrived for the last time at Twin Cities International Airport. He was stopped by a news reporter who asked if, in light of his illness, he was considering resigning from the Senate.

Hubert stood up a little straighter, looked the reporter in the eye, and said, "Resign? I'm not resigning from anything! In fact, my friend, I'm thinking about joining a few things!"

If he were here today, 80 years old and still looking ahead, Hubert Humphrey wouldn't be joining anything.

Humphrey would be leading the drive for a new Civil Rights bill—demanding that we join—challenging us again to "walk forthrightly into the sunlight of human rights"—not only in this country—but in terms of our actions around the world.

Humphrey would be leading the fight for the environment. And leading the battle to get the lead out of the air our kids breathe, the water they drink, and the ground they play on.

Humphrey would be leading every effort to afford the homeless, the helpless, the handicapped—women, minorities, kids, and seniors—the dignity and the opportunity they deserve—as Americans and children God.

He had a way of bringing us together. A way of reminding us that no matter what the issues that drive us apart in America, the great causes of humankind that bring us together—as a people and as a Nation—are so much more important.

The great legislators, Humphrey once said, are either mechanics or artists of public policy. The greatest legislators are both. Humphrey was both. The legislative mechanic who could remember every point and detail of every bill he ever passed. And the artist who made us lift our eyes off the sidewalks and look to the heavens and the stars above.

The Humphrey Forum at his living memorial is dedicated to his belief "that each of us can make a difference. That what is wrong can be made right. That people possess the basic wisdom and goodness to govern themselves without conflict."

So should we.

Mr. HUGHES. Mr. Speaker, I am honored to join with my colleagues today in paying tribute to a great American, Hubert H. Humphrey.

His career in the public sector spanned more than 33 years from his election as mayor of Minneapolis in 1945 to his death in 1978 while serving in the U.S. Senate. Hubert Humphrey was first elected to the Senate in 1948 and was reelected two successive times. During this period, he served as Democratic whip from 1961 through 1964.

In 1964, he left the Senate to become President Johnson's running-mate and was elected as Vice President—a post which he served well and with distinction. After his unsuccessful campaign for President in 1968, he returned to teaching political science at Macalester College and the University of Minnesota.

Fortunately for us, the people of Minnesota, and the rest of the Nation, Hubert Humphrey's retirement from public life was short and in 1971 he returned to the Senate where he served until his death in 1978.

Hubert Humphrey served this country well. He left a legacy of which we can all be proud and we can all strive to achieve. He was also a wonderfully warm, compassionate, and caring human being. I remember well his visit to Atlantic City on my behalf in 1976 when he attended one of my fundraisers. I will always remember the advice that he gave me on the flight there. He said, you know, Bill, we get caught up in politics and government and think that these are the most important things in our lives. I did and did not spend as much time with my family as I would have liked. Make sure your family always comes first and don't let this demanding job sap all your time and energy because you can never recapture those precious moments and milestones in the lives of your children.

I am very pleased that I am able to participate in this Special Order to honor such a great American who made immeasurable contributions to our Nation in this year of the 80th anniversary of his birth.

Mr. ANNUNZIO. Mr. Speaker, this year marks the 80th anniversary of the birth of Hubert Humphrey, the former Senator and Vice President from Minnesota who died in January 1978. As we pause today to reflect on his many accomplishments, I pray that Congress will continue to carry on the legacy of this great leader.

During his long career of public service, Hubert waged numerous political battles on bahalf of his country. However, few if any aroused greater opposition than his struggle to make health insurance available to all of our senior citizens. As a freshman Senator in 1949, the first piece of legislation Hubert introduced was a bill authorizing health insurance for all of America's seniors, regardless of their income. The fight to make this dream a reality required another 16 years of effort before Congress established the Medicare program in 1965. The Medicare bill passed with the support of myself and other members of Congress who shared Hubert's commitment to seniors.

Hubert's support for Medicare and similar legislation was nurtured by the suffering he witnessed during the Great Depression. The Senator's personal experiences, including his father's struggle to keep a family pharmacy from going bankrupt, helped shape Hubert's political philosophy. In the early 1930's, Hubert interrupted his studies at the University of Minnesota to help his father cope with a desperate economic situation in South Dakota. While there, Hubert saw hundreds of unemployed workers whose hopes for a better life had scattered like dust over a wind-swept prairie.

By the time Hubert reached the Senate, he was determined to help working Americans cope with the kind of hardships he had seen during the Depression. He did this by pushing for workers' rights through legislative initiatives rooted in the tradition of President Franklin D. Roosevelt.

Hubert broadened his efforts to help workers across the goble by resisting the spread of communisum in Europe, Asia, and elsewhere. At the same time, however, he worked just as hard at trying to achieve a just peace with the Soviet Union. As a champion of arms-control efforts in the Senate, Hubert was a prime mover in the establishment of the Federal

Arms Control and Disarmament Agency and the signing of the Limited Nuclear Test Ban Treaty by President John F. Kennedy.

Hubert's legislative proficiency earned him many political victories, including a term as Vice President in 1964 under President Lyndon B. Johnson. Nonetheless, Hubert's heartbreakingly narrow loss in the 1968 Presidential election didn't dampen his zeal for public service. Hubert returned to the Senate in 1971, where he held a leadership role for another 7 years.

In conclusion, Hubert's wit, knowledge and dedication to public service earned him the respect and admiration of both Democrats and Republicans. His bubbling enthusiasm and his genuine desire to help working Americans are sadly missed by those who knew him.

Ms. PELOSI. Mr. Speaker, I rise today to join my colleagues in commemorating the life of an American who, through his years of public service, inspired so many. Hubert H. Humphrey stood and still stands as a shining example of what public life can and should be.

I am pleased to join with my colleagues in observing the 80th anniversary of Senator Humphrey's birth. The public life of this great man, spanning 33 years, made an indelible positive mark on the spirit of this nation.

When I think of Hubert Humphrey, I think of a man who was an unfailingly honest politician who did the very best he could to improve the world. He was a man of integrity, of compassion and of courage who fought hard for those who are least able to fight for themselves. And even when he lost, Hubert Humphrey kept on fighting.

One of my favorite quotes, used in a speech by Hubert Humphrey, epitomizes everything for which this man stood:

> It was once said that the moral test of Government is how that Government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life—the sick, the needy and the handicapped.

Humphrey continued,

> Let America judge itself on those standards, not on the stock market alone; not only on our gross national product, important as that is: not only on our material wealth, but rather on those great idealistic and spiritual values which sustain a nation and which brought this nation into being.

Hubert Humphrey, coming out of a proud and strong tradition of Minnesota populism, passed this moral test with flying colors. His concern and his work for the children, the elderly, the sick, the needy and the developmentally disabled, made a significant difference in the lives of countless people across this Nation.

As we search today as a nation for leadership and for solutions to our many pressing domestic problems, we can learn much from studying Hubert Humphrey's life. We can take inspiration from his commitment, his dedication, his perseverance, his true concern for the needs of the less-fortunate and his unceasing work in public service.

In whatever he did, he pursued excellence. We are fortunate as a people that what Hubert Humphrey chose to do was public service. In reaching for the stars, he improved the lives of many who lived in the shadows and set an example for all of us to emulate.

Mr. RAMSTAD. Mr. Speaker, I rise to express my respect for a great American and great Minnesotan, the late Vice President Hubert H. Humphrey.

All Minnesotans and all Americans owe Vice President Humphrey a large debt of gratitude for his 33 years of public service to our State and Nation.

Most Minnesotans who are old enough to have known Hubert Humphrey have their favorite "Humphrey story." Mine involves a joint recruiting effort on behalf of the University of Minnesota football team following Humphrey's return to the United States Senate.

I accompanied a young 17-year-old high school senior and his family from the Washington, DC area to Senator Humphrey's Capitol office. Never will I forget the recruiting pitch from the Senator:

> Young man, the two greatest institutions in this world are the United States Senate and the University of Minnesota. I've been part of both of these great institutions, and so can you!

The young football prospect signed with the University of Minnesota.

Hubert Humphrey's charm, wit, humanity and compassion are a great legacy for all of us—Democrat or Republican, liberal or conservative. He truly cared about people. It's highly appropriate that we honor Hubert H. Humphrey on this 80th anniversary of his birth.

Mr. PENNY. Mr. Speaker, in political terms, I was born and raised on Hubert Humphrey. As an elementary school student in 1960, I had reached an age when I began to understand about politics, and I was amazed that a Senator from my own State was running for the Presidency of the United States. Four years later in junior high I stayed up late watching our small screen black and white television set as Hubert Humphrey was nominated for the Vice-Presidency of our country. Even now I can remember how his speech energized the audience.

Hubert Humphrey was my Presidential choice as I attended my first DFL county convention in 1972.

I had the honor of meeting Hubert for the first time in 1976 when he and his wife Muriel invited all of the candidates running for the State senate to their lakeside home in Waverly. He and Muriel took great delight in teasing me about looking too young to be a candidate.

Later he returned to Minnesota to address those of us who had been elected. I was surprised that someone of his stature would take the time to become involved in a local issue concerning whether to build a first-class sports stadium in Minnesota. He placed great emphasis on the importance of building a first-class stadium, insisting that it would "put Minnesota on the map" and would be a sound investment in Minnesota's economic future. There was no need for Hubert to take a stand on such a controversial issue, but few people sitting in the Hubert H. Humphrey Metrodome today would disagree with his vision.

I continue to be proud that through the leadership of Hubert Humphrey, millions of Americans became involved in human rights and civil rights, and responded to the disabled and the elderly. I watched with admiration during his last years in the U.S. Senate as he took the lead on arms control and world hunger.

Although Hubert H. Humphrey was a leader during some of America's most challenging years, he never lost faith in our people or our system of government. He was a tremendous inspiration to me and other Minnesota Democrats, and all of us can only hope that in some small way we follow his example of leadership and public service.

Mr. MINETA. Mr. Speaker, it is a genuine pleasure for me to join with my colleagues here in the House in tribute to one of the finest Americans ever to serve in the U.S. Congress.

Hubert Humphrey was more than "the Happy Warrior," as he was known to his colleagues in The Other Body for his witty, tireless and determined speeches ranging from promoting civil rights to protecting the elderly. To me, Senator and Vice President Hubert Humphrey was a great conscience of the Nation, and a personal role model.

Mr. Speaker, the Hubert Humphrey Building stands a short walk down Independence Avenue from this Chamber. When that building was dedicated in 1977 as what is now home to the Department of Health and Human Services, Vice President Humphrey said, and I quote, "It was once said that the moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life—the sick, the needy and the handicapped."

That was his philosophy of government: to make government work, to do its job as representatives of the people. Here in Washington, Hubert Humphrey fought that fight in the 1940's, 1950's, 1960's, and the 1970's.

Mr. Speaker, in the last years of public service, even as he fought a battle with cancer that would ultimately claim his life, the spark of his ideals and his hope for the future of our Nation never waned. He remained not only an inspiration but a voice of reason and vision.

Those of us who grew up with his ideals can only hope that his same spirit of public service remains in our hearts and minds into the next century. It is our loss that we can no longer call upon his wisdom to confront the new challenges facing our Nation and our world. But I know that I have been all the more fortunate for having had the opportunity to know and work with Hubert Humphrey, and I know that a grateful Nation will always remember him as one of the finest public servants of the people of the United States.

Mr. MONTGOMERY. Mr. Speaker, I want to thank my colleagues in the Minnesota delegation for taking this time to pay tribute to one of this country's most distinguished public servants, Hon. Hubert H. Humphrey.

On the occasion of our late colleague's 80th birthday, I am proud to join in this special order to honor one Minnesota's most beloved favorite sons and a great American.

I was privileged to call him a friend and I know how much public service meant to him. He dedicated the great majority of his life to serving the people of Minnesota as U.S. Senator and then as Vice President under President Lyndon Johnson.

On June 3 another fine tribute was announced when the U.S. Postal Service issued a stamp commemorating his years of service as part of its Great Americans series.

I will always remember what a fine public speaker Hubert was and those speeches were always sprinkled with his great wit. The name "Happy Warrior" fit him very well and I am glad we are taking time to reflect on the life and times of our friend. I appreciate the Minnesota delegation giving me the chance to take part in this tribute today.

Mr. MORAN. Mr. Speaker, Hubert Horatio Humphrey, scholar, statesman, Senator, Vice President—husband, father.

Grounded in the beliefs of FDR's "New Deal" that every American matters—Humphrey developed a commitment to all Americans, particularly those in need.

As one of the architects of JFK's "New Frontier," Humphrey became its eloquent advocate.

And what Humphrey believed in, Hubert Humphrey acted upon.

A champion of the less fortunate in our society, Humphrey proved—throughout his life—that government's role is to protect the people—not to take advantage of them.

He proved that public service was not a stepping stone—but rather a life-long pursuit.

And at no time did he make this clearer—than at a speech he made less than 3 months before his death.

"It was once said that the moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life—the sick, the needy and the handicapped."

Hubert Humphrey was a Happy Warrior.

Happy to fight for those who could not fight for themselves—the sick, the elderly, the forgotten people in our society.

A warrior because he truly believed that this "moral test" for government was a crusade—a crusade against greed, poverty, and sickness.

This was Hubert Humphrey's war: a war we must continue to fight daily in this chamber—a war we must never lose.

A test that we as Members of this body must go through every day—to help those who cannot help themselves.

This is Hubert Humphrey's legacy to us.

Mr. YATES. Mr. Speaker, I am pleased that we are taking a few minutes today to remember Hubert Humphrey. He was a 20th century giant in American politics and no one was his equal as an eloquent and effective advocate for human and civil rights. His contribution to progessive policies and programs are a remarkable legacy for all Americans, and I am proud to have served with him in the Congress for many years.

I must tell you that I can not think about Hubert Humphrey without wondering what he would be doing about the current state of our Nation and the sad condition of our political affairs. I know he would be outraged by the flag-waving, race-baiting Presidential campaigns of recent years and he would be appealing to our better natures. He would be working for a comprehensive health program for all Americans and I am sure he would be developing programs to remedy a troubled economy that is crushing the dreams and aspirations of millions of our citizens. Hubert Humphrey would be telling us we must do more and we must do better than we are doing.

Mr. FAZIO. Mr. Speaker, I would like to thank my colleague from Minnesota [Mr. OBERSTAR], for the opportunity to pay tribute to the late Senator Hubert H. Humphrey on the 80th anniversary of his birth. It is with great pleasure that I take part in honoring Senator Humphrey. During 33 years of public service, Senator Humphrey dedicated himself to civil rights issues and the social welfare of the American people. While serving two terms as mayor of Minneapolis, 19 years in the U.S. Senate, and 4 years as vice president, he proved himself to be one of the greatest humanitarians of modern times.

The son of a South Dakota pharmacist, Senator Humphrey began his career as manager of the family store. After earning his B.A. and M.A. in political science from Louisiana State University, he was elected mayor of Minneapolis in 1945. As mayor, Senator Humphrey waged an anti-vice war, created the first municipal fair employment practices commission in the United States, and expanded the city's housing program. At the 1948 Democratic National Convention, he gave a stirring and courageous oration in favor of a strong civil rights plank. It was in this same year that Hubert Humphrey was elected Senator of his State of Minnesota.

Senator Humphrey focused his efforts in the Senate on promoting social welfare and civil rights legislation. In his earlier years in office, Senator Humphrey was the first to introduce a bill that would establish medical care for the aged, financed through the Social Security system. The program was enacted years later as medicare. In the 1950's, Senator Humphrey was a leading advocate of disarmament which led to the creation of the Arms Control and Disarmament Agency in 1961. Also enacted in 1961 were Senator Humphrey's proposals of the Peace Corps and the Food for Peace programs. Ultimately, Senator Humphrey's crowning achievement was the passage of the Nuclear Test Ban Treaty, evidence of Senator Humphrey's longtime commitment to peace. And the climax of Senator Humphrey's long advocacy of the cause of equal rights was his involvement as floor manager in the passage of the historic Civil Rights Act of 1964.

Elected as Vice President under President Lyndon B. Johnson in 1964, Senator Humphrey continued his advocacy for social welfare and civil rights causes in his newly elected position, during the years he spent in the Senate afterward, and until his death in 1978.

Through the many years that he spent in public office, Senator Humphrey was not merely an advocate of various causes. More importantly, Hubert Humphrey was an advocate for the people. Senator Humphrey believed that all people are entitled to the same basic human rights and needs, and he fought to bring this dream of his closer to reality. It is with great gratitude and respect that I join my colleagues in recognizing the goals and achievements of Hubert H. Humphrey on this day, the 80th anniversary of his birth.

Mr. PRICE. Mr. Speaker, I am pleased today to join with our Minnesota colleagues and others to honor a great American, a great U.S. Senator, a great Vice President—Hubert H. Humphrey.

This year marks the 80th anniversary of Hubert Humphrey's birth, and on June 3 the U.S. Postal Service, fittingly, issued a stamp commemorating his service to the Nation as part of its "Great American" series.

I've long been an admirer of Senator Humphrey and the model he provided for public service. He was a man of strong humanitarian convictions in the Midwestern, progressive mold. But he was a practical man as well—not doctrinaire—willing and able to work with diverse people to reach a consensus and move ahead.

Some years ago, I saw a quotation from Senator Humphrey, and clipped it and have had it on my desk ever since. Here's what he said:

> If I believe in something, I will fight for it with all I have, but I do not demand all or nothing. I would rather get something than nothing. Professional liberals want the fiery debate. They glory in defeat. The hardest job for a politician today is to have the courage to be a moderate.

My own personal exposure to Senator Humphrey and his work came when I was a young, admiring Senate aide back in the 1960's. I was fortunate enough to secure an internship in 1963 with Senator E.L. "Bob" Bartlett from Alaska, and I returned to Washington for four summers after that to work in various legislative positions in Senator Bartlett's office. I thus was in a position to observe Senator Humphrey both as a leader in the Senate and then as Vice President.

During those years, I was also writing a doctoral dissertation on the Senate based on my work and my observations there. It was my sense that the institution was changing significantly and that the changes marked a decisive shift—from what some termed the Senate of "the inner club," the Senate of the old established "folkways"—into a more open, more progressive, more activist institution.

Nelson Polsby, a well-respected political scientist from the University of California at Berkeley, has written about those years and about the transition that occurred in the Senate. And he has characterized, appropriately I think, Hubert Humphrey as the prototype of the "new Senator." Humphrey was a Senator who knew very well the folkways of the institution, who knew very well how to work effectively in the institution, but who was testing the limits and was establishing a new model for a U.S. Senator. He was then followed by many others who opened up that institution—who used it as a forum for policy debate, for policy innovation—and indeed, made of the Senate, a critical nerve end of the American polity. That was the Senate that I was observing in the 1960's; that was the Senate that I wrote about in my dissertation which was later published as "Who Makes The Laws?" Polsby described the new style of service—the Humphrey prototype—in the following way:

> Much earlier than most members of his generation, Humphrey sensed the possibilities in the Senate for long-range political education. He spent the Eisenhower era incubating ideas that in a better climate could hatch into programs. In the late 1940's and early 1950's a flood of Humphrey bills (many of them co-sponsored by other liberal sen-

ators) on all aspects of civil rights, medicare, housing, aid to farm workers, food stamps, job corps, area redevelopment, disarmament, and so on died in the Senate. A little over a decade later most of them were law, and Humphrey had in the meantime become a political leader of national consequence. The force of his example was not lost on younger senators.

Indeed it was not. In fact, the Humphrey model was emulated by Members like Philip Hart and Edmund Muskie and Joseph Clark and many others in the Senate of the middle and late 1960's, even as Humphrey himself went on to serve as Vice President. And it is important to note that even as he knew how and when to compromise, to moderate his objectives, he also knew how to persevere, to press on in the sure knowledge that a new political day would dawn.

I confess I have a special reason for wanting to pay tribute to Hubert Humphrey today. Last year, my professional association, the American Political Science Association, paid me the signal tribute of awarding the Hubert H. Humphrey Public Service Award, an award that I cherish and feel very honored to receive, but an award that has a very special meaning to me because of the great Senator and public servant after whom it is named.

So because of my early experiences as a Senate aide and as an academic studying Congress, and now as a Member of Congress myself, I have a special sense of the role Hubert Humphrey played in transforming this institution, and serving as a role model to which all of us can aspire. It's because of all this that I was especially eager to participate in this special order today and to join my colleagues in paying tribute to this remarkable man.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. JACOBS (at the request of Mr. GEPHARDT), for today, on account of constituent business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following member (at the request of Mr. RIGGS) to revise and extend his remarks and include extraneous material:)

Mr. GINGRICH for 60 minutes on July 15, 16, 17, 18, 19, 22, 23, 24, 25, and 26.

(The following Members (at the request of Mr. ABERCROMBIE) to revise and extend their remarks and include extraneous material:)

Mr. LAROCCO, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. HALL of Ohio, for 60 minutes, on July 26.

Mr. MINETA, for 60 minutes, on July 25.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. RIGGS) and to include extraneous matter:)

Mr. KOLBE.

Mr. CAMPBELL of California in two instances.

Mr. DUNCAN.

Mr. GEKAS.

Mr. BROOMFIELD.

Mr. COBLE.

Mr. GOODLING.

Mr. RHODES in four instances.

Mr. SHAW.

Ms. ROS-LEHTINEN in three instances.

Mr. MICHEL.

Mr. HORTON.

Mr. GINGRICH.

Mr. MACHTLEY.

Mr. LIGHTFOOT.

Mr. MILLER of Ohio in three instances.

Mr. GILMAN.

(The following Members (at the request of Mr. ABERCROMBIE) and to include extraneous matter:)

Mr. TRAXLER.

Mr. GAYDOS.

Mr. OWENS of New York.

Mr. HAMILTON.

Ms. SLAUGHTER of New York.

Mrs. BOXER.

Mr. HUBBARD.

Mr. HOYER.

Mr. TORRES.

Ms. NORTON.

Mr. VENTO.

Mr. KOSTMAYER.

Mr. MRAZEK.

Mr. STARK in three instances.

Mrs. COLLINS of Michigan.

Mr. LUKEN.

Mr. GUARINI.

Mr. CLEMENT.

Mr. HOCHBRUECKNER.

Mr. SLATTERY.

Mr. FOGLIETTA.

Mr. WEISS.

Mr. MURTHA.

Mr. VISCLOSKY.

Mr. CLAY.

Mr. ABERCROMBIE.

Mr. KANJORSKI.

Mrs. COLLINS of Illinois.

Mr. HARRIS.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 276. An act to designate the Federal building located at 1520 Market Street in St. Louis, Missouri as the "L. Douglas Abram Federal Building"; to the Committee on Public Works and Transportion.

ADJOURNMENT

Mr. ARMEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 12 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, July 11, 1991, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1657. A communication from the President of the United States, transmitting a request for fiscal year 1991 and fiscal year 1992 appropriations for the Department of Defense in support of Operation Desert Shield/Desert Storm, pursuant to 31 U.S.C. 1107 (Doc. No. 102–109); to the Committee on Appropriations and ordered to be printed.

1658. A letter from the Comptroller of the Department of Defense, transmitting notification that the Department plans to transfer the final $47.548 million to the operation and maintenance appropriations for the modernization and expansion of automated data processing systems; to the Committee on Appropriations.

1659. A letter from the Chief, Legislative Liaison of the Department of the Army, transmitting an initial decision to retain the commissary storage and warehousing function at the Army Research and Development Center, Picatinny Arsenal, NJ, as an inhouse operation, pursuant to 10 U.S.C. 2304 note; to the Committee on Armed Services.

1660. A letter from the Secretary of Defense, transmitting notification that major defense acquisition programs have breached the unit cost by more than 15 percent, pursuant to 10 U.S.C. 2431(b)(3)(A); to the Committee on Armed Services.

1661. A letter from the Under Secretary of Defense, transmitting a request for T45TS Defense Enterprise Program baseline approval, pursuant to 10 U.S.C. 2437; to the Committee on Armed Services.

1662. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend section 2352 of title 10, United States Code, to allow research and development contracts to be for a term of not more than 10 years, and to authorize the Secretary of Defense to approve up to two additional performance periods, each for not more than 5 years, when found to be in the best interests of the Government; to the Committee on Armed Services.

1663. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend sections 151(a), 154, and 155(a) of title 10, United States Code, to provide for designation of the Vice Chairman of the Joint Chiefs of Staff as a full member of the Joint Chiefs of Staff, and to make conforming amendments; to the Committee on Armed Services.

1664. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to establish a Department of Defense Laboratory Revitalization Demonstration Program for the purpose of improving management, efficiency, and overall effectiveness of DOD laboratories and centers; to the Committee on Armed Services.

1665. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 91–32, reporting that it is in the national interest for the Export-Import Bank to extend credit to Mongolia, pursuant to 12 U.S.C. 635(b)(2); to the Committee on Banking, Finance and Urban Affairs.

1666. A letter from the Secretary, Department of Housing and Urban Development, transmitting the second annual report describing the status of multifamily housing subject to subsection (a) of section 203(k) of the Housing and Community Development Amendments of 1978, as amended, pursuant to 42 U.S.C. 1701z-11; to the Committee on Banking, Finance and Urban Affairs.

1667. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to the Kingdom of Thailand, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking, Finance and Urban Affairs.

1668. A letter from the President, Oversight Board of the Resolution Trust Corporation, transmitting the annual report of the Oversight Board for the calendar year 1990, pursuant to Public Law 101-73, section 501(a) (103 Stat. 387); to the Committee on Banking, Finance and Urban Affairs.

1669. A letter from the President, Oversight Board of the Resolution Trust Corporation, transmitting the annual report of the Oversight Board of the Resolution Funding Corporation for the calendar year 1990, pursuant to Public Law 101-73, section 511(a) (103 Stat. 404); to the Committee on Banking, Finance and Urban Affairs.

1670. A letter from the President, Resolution Trust Corporation, transmitting notification that the Corporation is unable to forward GAO's audit of the financial statements of the RTC; to the Committee on Banking, Finance and Urban Affairs.

1671. A letter from the Secretary of Education, transmitting the condition of bilingual education in the Nation, pursuant to Public Law 100-297, section 6213 (102 Stat. 429); to the Committee on Education and Labor.

1672. A letter from the Department of Energy, transmitting the Annual Energy Review 1990, pursuant to 15 U.S.C. 790f(a)(2); to the Committee on Energy and Commerce.

1673. A letter from the Corporation for Public Broadcasting, transmitting a report to public broadcasting and telecommunications entities service to minority and diverse audiences, pursuant to Public Law 100-626, section 9(a) (102 Stat. 3211); to the Committee on Energy and Commerce.

1674. A letter from the Inspector General, Department of the Interior, transmitting a copy of a final audit report entitled "Accounting for Reimbursement Expenditures of Environmental Protection Agency Superfund Money, Bureau of Reclamation," to the Committee on Energy and Commerce.

1675. A letter from the Inspector General, Department of the Treasury, transmitting a copy of an Internal Revenue Service internal audit report entitled, "Review of Reimburable Superfund Costs—Fiscal Year 1988," pursuant to 31 U.S.C. 7501 note; to the Committee on Energy and Commerce.

1676. A letter from the Chairman, Physician Payment Review Commission, transmitting the Commission's report on physican payment under Medicaid, pursuant to section 6102(f)(1)(B) of the Omnibus Budget Reconciliation Act of 1989; to the Committee on Energy and Commerce.

1677. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Greece for defense articles and services estimated to cost $176 million (Transmittal No. 91-30), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1678. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Korea for defense articles and services (Transmittal No. 91-37), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1679. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed lease of defense articles to Australia (Transmittal No. 10-91), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

1680. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Army's proposed lease of defense articles to Bolivia (Transmittal No. 9-91), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

1681. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report of enhancement or upgrade of sensitivity of technology or capability to Kuwait, pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1682. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment sold commercially to the Republic of Korea (Transmittal No. MC-42-91), pursuant to 22 U.S.C. 2776(c), (d); to the Committee on Foreign Affairs.

1683. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment sold commercially under a contract in the amount of $50 million or more to the United Kingdom (Transmittal No. MC-28-91), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

1684. A letter from the Assistant Secretary for Legislative Affairs, transmitting copies of the original reports of political contributions by Robert Michael Kimmitt, of Virginia, Ambassador-designate to the Federal Republic of Germany, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1685. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report regarding a proposed sale and coproduction relating to the Korean Fighter Program; to the Committee on Foreign Affairs.

1686. A letter from the Department of State, transmitting notification that the Department has decided to offer senior level crisis management training to selected Bulgarian officials; to the Committee on Foreign Affairs.

1687. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on recent activities of the International Fund for Ireland; to the Committee on Foreign Affairs.

1688. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on assistance related to international terrorism provided by the U.S. Government to foreign countries; to the Committee on Foreign Affairs.

1689. A letter from the Director, Office of Management and Budget, transmitting the final pay-as-you-go estimates of legislation enacted as of June 14, 1991, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-582); to the Committee on Government Operations.

1690. A letter from the Comptroller General, General Accounting Office, transmitting a list of all reports issued by GAO in May 1991, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

1691. A letter from the Fourth District Farm Credit Institutions, transmitting the Farm Credit Institutions in the Fourth District amended retirement plan, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

1692. A letter from the Secretary of Health and Human Services, transmitting the 24th in a series of reports on refugee resettlement in the United States covering the period October 1, 1989, through September 30, 1990, pursuant to 8 U.S.C. 1523(a); to the Committee on the Judiciary.

1693. A letter from the National Council on Radiation Protection and Measurements, transmitting the 1990 annual report of independent auditors who have audited the records of the National Council on Radiation Protection and Measurements, a federally chartered corporation, pursuant to Public Law 88-376, section 14(b) (78 Stat. 323); to the Committee on the Judiciary.

1694. A letter from the Counsel, Pacific Tropical Botanical Garden, transmitting the annual audit report of the Pacific Tropical Botanical Garden, calendar year 1990, pursuant to Public Law 88-449, section 10(b) (78 Stat. 498); to the Committee on the Judiciary.

1695. A letter from the U.S. Olympic Committee, transmitting the annual audit and activities report for calendar year 1990, pursuant to 36 U.S.C. 382a(a); to the Committee on the Judiciary.

1696. A letter from the Administrator, General Services Administration, transmitting an informational copy of a prospectus for the Environmental Protection Agency, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

1697. A letter from the Secretary, Department of Commerce, transmitting a copy of the National Implementation Plan for Modernization and Associated Restructuring of the National Weather Service, Fiscal Year 1991 Annual Update, pursuant to 15 U.S.C. 313 note; to the Committee on Science, Space, and Technology.

1698. A letter from the Executive Director, Resolution Trust Corporation, transmitting the Corporation's status report for the month of May 1991 (Review of 1988-89 FSLIC Assistance Agreements; jointly, to the Committees on Appropriations and Banking, Finance and Urban Affairs.

1699. A letter from the Comptroller General of the United States, transmitting a report entitled, "Toxic Chemicals: EPA's Toxic Release Inventory Is Useful But Can Be Improved"; jointly, to the Committees on Government Operations and Energy and Commerce.

1700. A letter from the Department of Justice, transmitting notification that the Department of Justice will contest, or will refrain from defending, any provision of law enacted by the Congress in any proceeding before any court of the United States with respect to 31 U.S.C. 3554(c), a provision of the Competition in Contracting Act of 1984, pursuant to Public Law 96-132, section 21(a)(2) (93 Stat. 1050); jointly, to the Committees on the Judiciary and Government Operations.

1701. A letter from the Secretary of State, transmitting a copy of his certification and determination that it is in the national interest to waive the transfer of foreign assistance funds under the Fishermen's Protective Act, pursuant to 22 U.S.C. 1975; jointly, to the Committees on Merchant Marine and Fisheries and Foreign Affairs.

1702. A letter from the Director, National Ocean Pollution Program Office, Department of Commerce, transmitting a copy of a report entitled, "Review of Fiscal Year 1992 Agency Requests for Appropriations to Support Ocean Pollution Research, Development, and Monitoring Programs"; jointly, to the Committees on Merchant Marine and Fisheries and Science, Space, and Technology.

1703. A letter from the Railroad Retirement Board, transmitting a copy of the 18th actuarial valuation of the railroad retirement system, pursuant to 45 U.S.C. 321f-1; jointly, to the Committees on Ways and Means and Energy and Commerce.

1704. A letter from the Railroad Retirement Board, transmitting the 1991 annual report on the financial status of the railroad unemployment insurance system, pursuant to 45 U.S.C. 369; jointly, to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CONYERS: Committee on Government Operations. A citizen's guide on using the Freedom of Information Act and the Privacy Act of 1974 to request Government records (Rept. 102-146). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHEAT: Committee on Rules. House Resolution 190. A resolution providing for the consideration of H.R. 2282, a bill to amend the National Science Foundation Authorization Act of 1988, and for other purposes (Rept. 102-147). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 191. A resolution providng for the consideration of H.R. 656, a bill to provide for a coordinated Federal research program to ensure continued U.S. leadership in high-performance computing (Rept. 102-148). Referred to the House Calendar.

Ms. SLAUGHTER of New York: Committee on Rules. House Resolution 192. A resolution providing for the consideration of H.R. 1989, a bill to authorize appropriations for the National Institute of Standards and Technology and the Technology Administration of the Department of Commerce, and for other purposes (Rept. No. 102-149). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROSTENKOWSKI (for himself and Mr. Jacobs):

H.R. 2838. A bill to improve benefits under title II of the Social Security Act, to establish the Social Security Administration as an independent agency, to remove Social Security administrative costs from the budget, to increase the Social Security benefit and contribution base, and to provide for a study of factors impeding the efficiency of the Social Security disability determination process; to the Committee on Ways and Means.

By Mr. DOWNEY (for himself, Mr. Ford of Tennessee, Mr. Levin of Michigan, Mr. Pease, Mr. Matsui, Mr. Borski, Mr. Stokes, Mr. Staggers, Mr. Murtha, Mr. Ford of Michigan, Mrs. Lowey of New York, Mr. Kildee, Mr. Weiss, Mr. Dymally, Mr. Foglietta, Mr. Taylor of Mississippi, Mr. Kostmayer, and Mr. Sabo):

H.R. 2839. A bill to provide a program of Federal supplemental compensation, and for other purposes; to the Committee on Ways and Means.

By Mr. WAXMAN (for himself, Mr. Sikorski, Mr. Stokes, Mr. Scheuer, and Mr. Cardin):

H.R. 2840. A bill to amend the Public Health Service Act to reduce human exposure to lead in residences, schools for young children, and day care centers, including exposure to lead in drinking water, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ABERCROMBIE (for himself and Mrs. Mink):

H.R. 2841. A bill to amend title 10, United States Code, to authorize veterans who are totally disabled as the result of a service-connected disability to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft; to the Committee on Armed Services.

H.R. 2842. A bill to amend title 10, United States Code, to authorize disabled former prisoners of war to use Department of Defense commissary stores and exchanges; to the Committee on Armed Services.

H.R. 2843. A bill to amend title 38, United States Code, to provide for the payment of incentive special pay to Department of Veterans Affairs psychologists who obtain board certification in a professional specialty; to the Committee on Veterans' Affairs.

H.R. 2844. A bill to direct the Secretary of the Army to determine the validity of the claims of certain Filipinos that they performed military service on behalf of the United States during World War II; jointly, to the Committees on Armed Services and Veterans' Affairs.

H.R. 2845. A bill to provide for the establishment in Hawaii of a Department of Veterans Affairs posttraumatic stress disorder treatment program; jointly, to the Committees on Armed Services and Veterans' Affairs.

By Mr. BENNETT (by request):

H.R. 2846. A bill to repeal the requirement that the President acquire depleted uranium for the National Defense Stockpile; to the Committee on Armed Services.

By Mr. BUNNING (by request):

H.R. 2847. A bill to amend the Harmonized Tariff Schedule of the United States to restore the rate of duty applicable to man-made fiber felt fabric for technical uses that was in effect under the Tariff Schedules of the United States; to the Committee on Ways and Means.

By Mr. CAMPBELL of California:

H.R. 2848. A bill to require the Secretary of Defense to provide child care services to all members of the Armed Forces on active duty desiring such services; to the Committee on Armed Services.

By Mr. CARR:

H.R. 2849. A bill to require employers to provide certain information concerning family leave policies and for other purposes; jointly, to the Committees on Post Office and Civil Service and Education and Labor.

By Mr. CLAY (for himself (by request), Mr. Ackerman, Mr. Gilman, and Mr. Myers of Indiana):

H.R. 2850. A bill to make technical and conforming changes in title 5, United States Code, and the Federal Employees Pay Comparability Act of 1990, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. EDWARDS of California (for himself, Mr. Conyers, Mr. Fish, Mr. Washington, Mr. Kopetski, Mr. Frank of Massachusetts, Mr. Bryant, and Mr. Wolpe):

H.R. 2851. A bill to amend title 28, United States Code, to prevent racially discriminatory capital sentencing; to the Committee on the Judiciary.

By Mr. GOODLING:

H.R. 2852. A bill to amend title I of the Higher Education Act of 1965 to promote articulation agreements between 2-year and 4-year institutions of higher education, and for other purposes; to the Committee on Education and Labor.

By Mr. HENRY (for himself and Mr. Upton):

H.R. 2853. A bill to amend the Internal Revenue Code of 1986 to provide that the percentage of completion method of accounting shall not be required to be used with respect to contracts for the manufacture of property if no payments are required to be made before the completion of the manufacture of such property; to the Committee on Ways and Means.

By Mr. KOSTMAYER:

H.R. 2854. A bill to provide for the labeling or marking of tropical wood and tropical wood products sold in the United States; to the Committee on Energy and Commerce.

By Mr. McCLOSKEY:

H.R. 2855. A bill to amend title XVIII of the Social Security Act to direct the Secretary of Health and Human Services to determine whether individuals entitled to benefits under the Medicare Program meet the requirements for status as qualified Medicare beneficiaries under the Medicaid Program, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. McDERMOTT (for himself, Mr. Donnelly, Mr. Cardin, Mr. Chandler, Mr. Dicks, Mr. Moakley, Mr. Miller of Washington, Mr. Mavroules, and Mr. Swift):

H.R. 2856. A bill to prohibit the Secretary of Health and Human Services from collecting alleged overpayments made to certain Uniformed Services Treatment Facilities under title XVIII of the Social Security Act; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. MANTON (for himself and Ms. Molinari):

H.R. 2857. A bill to provide for the death penalty for homicides involving firearms; to the Committee on the Judiciary.

H.R. 2858. A bill to amend title 18, United States Code, to impose mandatory prison terms for possession or use of a firearm or a destructive device during conduct constituting a crime of violence or a drug trafficking crime under State law; to the Committee on the Judiciary.

By Mr. MAVROULES:

H.R. 2859. A bill to direct the Secretary of the Interior to conduct a study of the historical and cultural resources in the vicinity of the city of Lynn, MA, and make recommendations on the appropriate role of the Federal Government in preserving and interpreting such historical and cultural resources; to the Committee on Interior and Insular Affairs.

By Ms. MOLINARI:

H.R. 2860. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to include death benefits for retired officers; to the Committee on the Judiciary.

By Mr. PALLONE (for himself and Mr. DWYER of New Jersey):

H.R. 2861. A bill directing the U.S. Postal Service to promulgate regulations to protect postal employees and the U.S. mail from exposure to medical waste; to the Committee on Post Office and Civil Service.

By Mr. RAMSTAD:

H.R. 2862. A bill to require any person who is convicted of a State criminal offense against a victim who is a minor to register a current address with law enforcement officials of the State for 10 years after release from prison, parole, or supervision; to the Committee on the Judiciary.

By Mr. RHODES:

H.R. 2863. A bill to amend the Internal Revenue Code of 1986 to provide for the indexing of the basis of certain assets; to the Committee on Ways and Means.

By Mr. ROYBAL (for himself, Ms. OAKAR, Mr. WYDEN, and Mr. DOWNEY):

H.R. 2864. A bill to amend the Older Americans Act of 1965 to establish an elder rights program, and for other purposes; to the Committee on Education and Labor.

By Mr. SCHAEFER:

H.R. 2865. A bill to amend the Public Health Service Act to reauthorize certain programs with respect to health care areas, to provide for the establishment of model programs in behavioral health, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SCHEUER:

H.R. 2866. A bill to encourage the use of alternative fuels across the transportation sector and facilitate research on the design of motor vehicles powered by these fuels, and for other purposes; jointly, to the Committees on Energy and Commerce, Public Works and Transportation, Science, Space, and Technology, and Education and Labor.

By Mr. SCHIFF:

H.R. 2867. A bill to amend title 11 of the United States Code with respect to certain income-producing real property of the debtor; to the Committee on the Judiciary.

By Ms. LONG (for herself, Mr. MORRISON, Mr. SLATTERY, Mr. ROBERTS, Mr. ESPY, Mr. EMERSON, Ms. NORTON, Mr. HATCHER, Mrs. BENTLEY, Mr. SARPALIUS, and Ms. KAPTUR):

H.J. Res. 293. Joint resolution designating March 19, 1992, as "National Women in Agriculture Day"; to the Committee on Post Office and Civil Service.

By Mr. MONTGOMERY:

H.J. Res. 294. Joint resolution to designate the week beginning August 11, 1991, as "National Convenience Store Appreciation Week"; to the Committee on Post Office and Civil Service.

By Mr. ROHRABACHER:

H.J. Res. 295. Joint resolution amending the joint resolution entitled "a joint resolution providing for the designation of the third week of July as 'Captive Nations Week'"; to the Committee on Post Office and Civil Service.

By Mr. RHODES:

H. Con. Res. 178. Concurrent resolution congratulating the Russian people and Boris Yeltsin on his election as the first democratically elected President in the history of the Russian Republic; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were pesented and referred as follows:

214. By the SPEAKER: Memorial of the Senate of the State of Alaska, relative to the existing Federal mining law system; to the Committee on Interior and Insular Affairs.

213. Also, memorial of the General Assembly of the State of Delaware, relative to the dual banking system; to the Committee on Banking, Finance and Urban Affairs.

215. Also, memorial of the General Assembly of the State of Nevada, relative to giving Indian tribes jurisdiction over Indians who are not on the official tribal rolls; to the Committee on Interior and Insular Affairs.

216. Also, memorial of the Senate of the State of Nevada, relative to the recovery of Lahontan cutthroat trout in Nevada; to the Committee on Merchant Marine and Fisheries.

217. Also, memorial of the Senate of the State of Illinois, relative to rehabilitation programs for veterans with service-connected brain injuries; to the Committee on Veterans' Affairs.

218. Also, memorial of the Legislature of the State of Alaska, relative to Federal oil leases in the North Aleutian Basin section of Bristol Bay; jointly, to the Committee on Interior and Insular Affairs and Merchant Marine and Fisheries.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. BUSTAMANTE introduced a bill (H.R. 2868) relating to the reliquidation of certain entries; which was referred to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 23: Mr. JEFFERSON, Mr. MCNULTY, Mr. CUNNINGHAM, Mr. HORTON, Mr. DANNEMEYER, Ms. MOLINARI, Mrs. JOHNSON of Connecticut, Mr. SHAYS, Mr. ZIMMER, Mr. IRELAND, and Mr. ROE.

H.R. 44: Mr. SWIFT and Mr. GILMAN.

H.R. 123: Mr. ASPIN, Mr. BAKER, Mr. SHUSTER, and Mr. CRAMER.

H.R. 199: Mr. JOHNSON of South Dakota.

H.R. 213: Mr. FROST, Mr. DAVIS, Mr. LIVINGSTON, Mr. GILLMOR, Mr. VANDER JAGT, Mr. SMITH of New Jersey, and Mr. VOLKMER.

H.R. 258: Mr. JOHNSON of South Dakota.

H.R. 303: Mr. GILCHREST, Mr. JOHNSON of South Dakota, and Mr. BLAZ.

H.R. 304: Mr. BACCHUS, Mr. SARPALIUS, and Mr. GINGRICH.

H.R. 318: Mr. BACCHUS, Mr. FAZIO, and Mr. SMITH of Florida.

H.R. 330: Mr. OWENS of New York, Mr. JACOBS, and Mrs. PATTERSON.

H.R. 392: Mr. MCCLOSKEY, Mrs. PATTERSON, and Mr. SAWYER.

H.R. 413: Mr. MILLER of Ohio, Mr. MILLER of Washington, Mr. HAYES of Louisiana, Mr. EARLY, Mr. ROGERS, Mr. LAROCCO, and Mr. WOLPE.

H.R. 416: Mr. SAXTON.

H.R. 441: Mr. WHEAT.

H.R. 544: Mrs. LLOYD, Mr. SOLARZ, Mr. SLAUGHTER of New York, Mr. WASHINGTON, Mrs. LOWEY of New York, and Mrs. MINK.

H.R. 565: Mr. LIPINSKI, Mrs. BOXER, Mr. EDWARDS of California, Ms. SLAUGHTER of New York, Mr. BOUCHER, Mrs. BENTLEY, Mr. BORSKI, Mr. LEHMAN of California, Mr. CRAMER, Mr. HALL of Ohio, Mr. MCMILLEN of Maryland, Mr. VALENTINE, Mr. GEJDENSON, and Mr. MURPHY.

H.R. 585: Mr. DIXON.

H.R. 592: Mr. TRAFICANT, Mr. VOLKMER, and Mr. GILLMOR.

H.R. 606: Mr. SANTORUM, Mr. RIGGS, Mr. SCHIFF, and Mr. ZIMMER.

H.R. 784: Mr. MCCANDLESS, Mr. ESPY, Mr. BREWSTER, and Mr. LUKEN.

H.R. 815: Mr. ENGLISH, Mr. BARNARD, Mr. GEJDENSON, Mr. SWETT, and Mr. SMITH of Florida.

H.R. 828: Ms. DELAURO.

H.R. 916: Mr. JOHNSON of South Dakota.

H.R. 945: Mr. GALLO, Mr. ZELIFF, Mr. WHEAT, Mr. JOHNSON of South Dakota, Mr. SUNDQUIST, Mr. PENNY, and Mr. MARLENEE.

H.R. 967: Mr. MAVROULES.

H.R. 1069: Mr. FROST and Mr. ROE.

H.R. 1092: Mr. TAYLOR of North Carolina, Mrs. BOXER, Mr. ESPY, and Mr. ENGEL.

H.R. 1111: Ms. SLAUGHTER of New York.

H.R. 1120: Mr. HUTTO, Mr. PETERSON of Florida, Mr. SLATTERY, Mr. TRAFICANT, Mr. WHEAT, and Mr. BILBRAY.

H.R. 1130: Mrs. LOWEY of New York and Mr. SHAYS.

H.R. 1145: Mr. MINETA.

H.R. 1146: Mr. HOAGLAND.

H.R. 1147: Mr. LEHMAN of Florida, Mr. JOHNSTON of Florida, and Mr. LEWIS of Florida.

H.R. 1156: Mr. FROST and Mrs. UNSOELD.

H.R. 1184: Mr. SKEEN.

H.R. 1201: Mr. ESPY and Mr. FAWELL.

H.R. 1287: Mr. CHANDLER and Mr. DOOLITTLE.

H.R. 1298: Mr. MACHTLEY.

H.R. 1346: Mr. SYNAR and Mr. JOHNSON of South Dakota.

H.R. 1348: Mr. BACCHUS, Mr. MCMILLAN of North Carolina, Mr. SCHAEFER, and Mrs. PATTERSON.

H.R. 1360: Mr. DIXON.

H.R. 1389: Mrs. BOXER.

H.R. 1400: Mr. PAXON.

H.R. 1406: Mr. GILMAN, Mr. SAWYER, Mr. EVANS, Mr. OBERSTAR, Mr. YATES, Mr. SENSENBRENNER, and Mr. SCHEUER.

H.R. 1417: Mr. KOPETSKI and Mr. PICKLE.

H.R. 1422: Mr. FOGLIETTA, Mr. RAVENEL, and Mr. BILBRAY.

H.R. 1445: Mrs. KENNELLY.

H.R. 1450: Mr. TOWNS, Mr. BROWDER, Mr. TAYLOR of North Carolina, Mr. NAGLE, Mr. SPENCE, Mr. KLECZKA, Mr. MILLER of Ohio, Mr. BLAZ, and Mr. SANTORUM.

H.R. 1456: Mr. ROSE, Mr. LIGHTFOOT, Mr. MARLENEE, Mr. AUCOIN, Mr. TORRICELLI, Mr. SPRATT, Mr. NICHOLS, and Mr. SCHEUER.

H.R. 1472: Mr. MILLER of Ohio, Mr. SCHIFF, Mr. ROE, Mr. DEFAZIO, Mr. WOLPE, and Mr. ENGLISH.

H.R. 1473: Mr. MCDERMOTT and Mr. MILLER of Washington.

H.R. 1483: Mr. RICHARDSON.

H.R. 1503: Mr. JONES of North Carolina, Mr. PERKINS, Mr. SPENCE, Mr. STUDDS, Mr. FRANK of Massachusetts, Mr. KILDEE, Ms. COLLINS of Michigan, Mr. MILLER of California, Mr. LEWIS of Georgia, Mr. DICKINSON, Mr. HOLLOWAY, Mr. SKELTON, and Mr. STOKES.

H.R. 1515: Mr. BEREUTER, Mr. MARKEY, and Mr. HASTERT.

H.R. 1516: Mr. CALLAHAN, Mr. NICHOLS, Mr. MCMILLAN of North Carolina, Mr. DICKINSON, and Mr. DUNCAN.

H.R. 1527: Mr. KOPETSKI, Mr. COYNE, Mr. DOOLEY, Mr. GAYDOS, Mr. DORNAN of California, Mr. ANTHONY, and Mr. PETERSON of Florida.

H.R. 1556: Mr. GOODLING.

H.R. 1570: Mr. BURTON of Indiana, Mr. DARDEN, Mr. MCMILLAN of North Carolina, and Mr. STOKES.

H.R. 1599: Mr. GILLMOR.

H.R. 1601: Mr. MCMILLAN of North Carolina.

H.R. 1652: Mr. CHANDLER and Mr. ZELIFF.

H.R. 1662: Mr. PRICE.

H.R. 1684: Mr. PAYNE of New Jersey.

H.R. 1737: Mr. HAYES of Illinois, Mr. DE LUGO, and Mr. ESPY.

H.R. 1750: Ms. DELAURO.

H.R. 1752: Mr. MILLER of Washington, Mr. RHODES, Mrs. JOHNSON of Connecticut, Mr. ERDREICH, Mr. FORD of Tennessee, Mr. PAXON, and Mr. SANDERS.

H.R. 1753: Mr. RIGGS, Mr. OXLEY, and Mr. HOCHBRUECKNER.

H.R. 1809: Mr. MCEWEN, Mr. RINALDO, Ms. NORTON, and Mr. CAMP.

H.R. 1816: Mr. GILLMOR, Mr. FORD of Michigan, and Mr. MCMILLAN of North Carolina.

H.R. 1821: Mrs. COLLINS of Illinois, Mr. TOWNS, Ms. KAPTUR, Mr. KOSTMAYER, Mr. MARTINEZ, Mr. JEFFERSON, Mr. KOPETSKI, Mr. ESPY, and Mr. STOKES.

H.R. 1860: Mr. BUSTAMANTE and Mr. WEBER.

H.R. 1914: Mr. STOKES.

H.R. 1916: Ms. DELAURO and Ms. SLAUGHTER of New York.

H.R. 1992: Mr. LEWIS of Georgia, Mrs. BYRON, and Mr. SCHEUER.

H.R. 2008: Mr. SMITH of Oregon, Mr. SLATTERY, Mr. RHODES, Mr. LEACH, and Mr. HASTERT.

H.R. 2012: Mr. Roe, Mr. LIGHTFOOT, Mr. NICHOLS, and Mr. VALENTINE.

H.R. 2015: Mr. MARTIN.

H.R. 2059: Mr. BUSTAMANTE and Mr. INHOFE.

H.R. 2063: Mr. RINALDO.

H.R. 2086: Ms. NORTON.

H.R. 2109: Mr. OLVER.

H.R. 2115: Mr. MFUME.

H.R. 2137: Mr. LANCASTER, Mr. PAYNE of Virginia, Mr. JEFFERSON, Mr. COSTELLO, Mrs. LLOYD, and Mrs. BOXER.

H.R. 2149: Mr. COYNE and Mr. VANDER JAGT.

H.R. 2235: Mr. HERGER.

H.R. 2248: Mr. PICKETT and Mr. JONES of Georgia.

H.R. 2262: Ms. LONG, Ms. WATERS, and Mrs. PATTERSON.

H.R. 2273: Mrs. SCHROEDER.

H.R. 2286: Mr. DOOLITTLE, Mr. INHOFE, Mr. RIGGS, Mr. SCHIFF, and Mr. ZIMMER.

H.R. 2298: Mr. OWENS of New York.

H.R. 2334: Mr. FOGLIETTA, Mr. BILBRAY, Mr. CRAMER, Mr. BUSTAMANTE, Mr. WOLPE, Mr. KILDEE, Mr. SANDERS, Mr. DYMALLY, Mr. DIXON, Mrs. COLLINS of Michigan, Mr. LAFALCE, Mr. WILSON, and Mr. LIPINSKI.

H.R. 2352: Mr. HARRIS, Mrs. BENTLEY, Mr. SCHEUER, and Mr. CARDIN.

H.R. 2363: Mr. ESPY and Mr. OWENS of New York.

H.R. 2365: Mr. ESPY and Mr. INHOFE.

H.R. 2374: Mr. KILDEE and Mr. FORD of Michigan.

H.R. 2393: Mr. BLAZ and Mr. SERRANO.

H.R. 2394: Mr. BLAZ and Mr. SERRANO.

H.R. 2405: Mr. OXLEY, Mr. CONDIT, Mr. BREWSTER, Mr. HANCOCK, Mrs. MINK, Mr. JONES of North Carolina, Mr. STUDDS, and Mr. DICKINSON.

H.R. 2406: Mr. BREWSTER and Mr. HERGER.

H.R. 2452: Mr. PAYNE of Virginia, Mr. PEASE, Mr. JONTZ, and Mr. KOPETSKI.

H.R. 2470: Mr. ROGERS, Mr. VANDER JAGT, and Mr. PETRI.

H.R. 2488: Mr. EVANS.

H.R. 2515: Mr. PAYNE of New Jersey, Mr. RINALDO, Mr. PAYNE of Virginia, Mr. MARKEY, Mr. STUDDS, Mr. EVANS, Mrs. ROUKEMA, Mr. SMITH of New Jersey, Mr. RANGEL, and Mr. SKELTON.

H.R. 2553: Mr. ZIMMER, Mr. MCEWEN, Mr. CHAPMAN, Mr. ROE, Mr. BOEHNER, Mr. OXLEY, and Mr. CAMPBELL of California.

H.R. 2566: Mr. JACOBS, Mr. HALL of Ohio, Mr. BOUCHER, Mr. ALEXANDER, Mr. BROWDER, Mr. CALLAHAN, Mr. DICKINSON, Mr. GEREN of Texas, Mr. RIGGS, Mr. KYL, and Mr. KLUG.

H.R. 2590: Mr. RANGEL, Mr. COLEMAN of Texas, and Mr. WALSH.

H.R. 2598: Mr. GALLO, Mr. HORTON, Mr. SMITH of Texas, Mr. DUNCAN, Mr. THOMAS of Wyoming, Mr. RIGGS, Mr. BALLENGER, Mr. INHOFE, and Mr. DOOLITTLE.

H.R. 2600: Mr. EVANS and Mr. WOLPE.

H.R. 2603: Mr. FALEOMAVAEGA and Mr. HORTON.

H.R. 2611: Ms. WATERS and Mr. MCCLOSKEY.

H.R. 2625: Mr. ROBERTS, Mr. GORDON, Mr. STENHOLM, Mr. NICHOLS, Mr. GEREN of Texas, Mr. LEWIS of Florida, Mr. ROEMER, Mr. ESPY, Mr. ALLARD, Mr. ZIMMER, Mr. INHOFE, Mr. ROE, and Mr. BOEHNER.

H.R. 2628: Mr. EVANS and Mr. PERKINS.

H.R. 2629: Mr. RIGGS, Mr. FORD of Tennessee, Mr. OWENS of Utah, Mr. JONTZ, Mr. STUDDS, Mr. EVANS, Mr. BUSTAMANTE, Mr. ROE, Mr. LANCASTER, and Mr. BERMAN.

H.R. 2651: Mrs. UNSOELD, Mrs. BOXER, Ms. PELOSI, Mr. BEILENSON, Mr. BERMAN, Mr. YATES, Mr. FRANK of Massachusetts, Mr. LEACH, Mr. HORTON, Mr. MCDERMOTT, Mr. TOWNS, Mr. HAYES of Illinois, Mr. SHAYS, Mr. RANGEL, Mr. WYDEN, Mr. DYMALLY, Mr. LEHMAN of Florida, and Mr. BOUCHER.

H.R. 2666: Mr. PICKLE.

H.R. 2672: Mr. BURTON of Indiana, Mr. HORTON, Mr. DE LUGO, Mr. GALLO, Mr. MCGRATH, Mr. WEBER, Mr. SPENCE, Mr. OXLEY, Mr. LIPINSKI, Mr. QUILLEN, Mr. GILMAN, Mr. PACKARD, Mr. HOBSON, Mr. MILLER of Washington, Mr. KOLTER, Ms. MOLINARI, Mr. THOMAS of Wyoming, Mr. LAGOMARSINO, Mr. PETRI, Mr. BLAZ, Mr. RAMSTAD, and Mr. GILCHREST.

H.R. 2751: Mr. INHOFE, Mr. PENNY, and Mr. RIGGS.

H.R. 2755: Mr. HORTON, Mr. PENNY, Mr. ABERCROMBIE, Mr. DIXON, Mr. FALEOMAVAEGA, Mr. MOODY, Mr. YATES, and Mrs. MORELLA.

H.R. 2768: Mr. BREWSTER.

H.R. 2778: Mr. OWENS of New York, Mrs. JOHNSON of Connecticut, and Mr. WILSON.

H.R. 2788: Mr. ROHRABACHER, Mr. LEWIS of Florida, Mr. DOOLITTLE, Mr. TAYLOR of North Carolina, Mr. MYERS of Indiana, Mr. RIGGS, Mr. HANCOCK, and Mr. HYDE.

H.R. 2812: Mr. CARDIN, Mr. EVANS, Mr. JONTZ, Mr. KOPETSKI, Mr. LEVIN of Michigan, Mr. OBERSTAR, and Mr. PRICE.

H.R. 2815: Mr. LEWIS of Florida.

H.J. Res. 23: Mr. GONZALEZ.

H.J. Res. 67: Mr. BROWDER and Mr. JONTZ.

H.J. Res. 69: Mr. ASPIN, Mr. GUNDERSON, Mr. WHEAT, and Mr. THOMAS of Georgia.

H.J. Res. 123: Mr. CRAMER, Mr. PURSELL, Mr. DELLUMS, Mr. HALL of Ohio, Mr. VALENTINE, Mr. EVANS, Mr. CONDIT, and Mr. ASPIN.

H.J. Res. 140: Mr. MCGRATH, Mr. ZELIFF, Mr. CLAY, Ms. HORN, Mr. SMITH of Oregon, Mr. FAZIO, Mr. LIVINGSTON, Mr. YOUNG of Alaska, Mr. TRAXLER, and Mr. ALEXANDER.

H.J. Res. 156: Mr. BAKER, Mr. KLUG, Mr. WILSON, and Mr. JONES of North Carolina.

H.J. Res. 175: Mr. LAGOMARSINO, Ms. PELOSI, Mr. MOLLOHAN, Mr. MCEWEN, Mr. KILDEE, Mr. DIXON, Mr. FISH, Mr. ROBERTS, Mr. MORAN, Mr. HAMILTON, Mr. HANSEN, Mr. NATCHER, Mr. CALLAHAN, Mr. VENTO, Mr. HUBBARD, Mr. KANJORSKI, Mrs. KENNELLY, Mr. JONES of Georgia, Mr. ZELIFF, Mr. MCCLOSKEY, Mr. ERDREICH, Mr. SHAYS, Mr. HAMMERSCHMIDT, Mr. ANTHONY, Mr. ORTON, Mr. RUSSO, Mr. CLINGER, Mr. DYMALLY, Mr. BEVILL, Mr. FAWELL, Mr. CONDIT, Mr. DARDEN, Mr. EVANS, Mr. JONES of North Carolina, Mr. GALLO, Mr. MARKEY, Mr. HEFNER, Mr. COBLE, and Mr. FRANKS of Connecticut.

H.J. Res. 177: Mr. GUARINI, Mr. MCMILLEN of Maryland, Mr. CARPER, Mr. MATSUI, Mr. DARDEN, Mr. DELLUMS, Mr. BUSTAMANTE, Mr. LIPINSKI, Mr. JOHNSON of South Dakota, Ms. KAPTUR, Mr. ESPY, Mr. FROST, and Mr. MICHEL.

H.J. Res. 178: Mr. BURTON of Indiana and Mr. MCCRERY.

H.J. Res. 181: Mr. BALLENGER, Mr. BLAZ, Mr. BREWSTER, Mr. BROOKS, Mr. DELLUMS, Mr. EVANS, Mr. FROST, Mr. GONZALEZ, Mr. LOWERY of California, Mr. MINETA, and Mr. WOLF.

H.J. Res. 191: Mr. MAVROULES, Mr. OBERSTAR, Mr. LEVINE of California, Mr. ESPY, Ms. OAKAR, Mr. JONTZ, Mr. TRAXLER, Mr. SLATTERY, Mr. SOLOMON, Mr. STALLINGS, Mr. STOKES, Mr. TAUZIN, Mr. TRAFICANT, Mr. SWETT, Mr. VANDER JAGT, Mr. MILLER of California, Mr. VALENTINE, Mr. WYDEN, Mr. YATRON, Mr. ZELIFF, Mr. WYLIE, Mr. SPENCE, Mr. SERRANO, and Mrs. BOXER.

H.J. Res. 227: Mr. ROE, Mr. DINGELL, Mr. NEAL of Massachusetts, Mr. RANGEL, Mr. SIKORSKI, Mr. EMERSON, Mr. MOLLOHAN, Mr. FISH, Mr. HALL of Ohio, Mr. RINALDO, Mr. BUSTAMANTE, Mr. CARDIN, Mr. DARDEN, Mr. DORNAN of California, Mr. ENGEL, Mr. FEIGHAN, Mr. FORD of Tennessee, Mr. HAYES of Illinois, Mr. HEFNER, Mr. KASICH, Mr. LANCASTER, Mr. MCDADE, Mr. MURTHA, Mr. KOLTER, Mr. YOUNG of Alaska, Mr. TRAXLER, Mr. WYLIE, Mr. SOLARZ, Mr. ORTIZ, Mr. OWENS of Utah, Mr. PALLONE, Mr. PAXON, Mr. PORTER, Mr. ROBERTS, Mr. OLVER, Mr. MCCLOSKEY, Mr. MAVROULES, Mr. BENNETT, Mr. JACOBS, and Mr. YATES.

H.J. Res. 233: Mr. BURTON of Indiana, Mr. HAMILTON, Mr. LIVINGSTON, Mr. JACOBS, Mr. REGULA, Mr. CRAMER, and Mr. MCHUGH.

H.J. Res. 237: Mr. ROYBAL, Mr. JACOBS, Mr. TOWNS, Mr. BRYANT, Mr. DIXON, Mr. ROE, Mr. MANTON, Mr. MFUME, Mr. TRAXLER, and Mr. TALLON.

H.J. Res. 241: Mr. MCMILLEN of Maryland, Mr. BILIRAKIS, Mr. SPRATT, Mr. STOKES, Mr. FASCELL, Mr. BENNETT, Mr. FROST, Mr. MCGRATH, and Mrs. JOHNSON of Connecticut.

H.J. Res. 242: Mr. COOPER, Mr. ECKART, Mr. HAMILTON, Ms. NORTON, and Mr. SWETT.

H.J. Res. 243: Mr. PERKINS, Mrs. BOXER, Mr. LAGOMARSINO, and Mr. DIXON.

H.J. Res. 255: Mr. MRAZEK, Mr. CAMP, Mr. VANDER JAGT, Mr. KOSTMAYER, Mr. ROYBAL, Mr. SOLOMON, Mr. ANNUNZIO, Mr. HATCHER, Mr. HUBBARD, Mr. FAZIO, Mr. FASCELL, Mr. INHOFE, Mr. BERMAN, Mr. BURTON of Indiana, Mr. DYMALLY, Mr. FEIGHAN, Mr. FORD of Tennessee, Mr. BROWDER, Mr. HOCHBRUECKNER, Mr. HOYER, Mr. JOHNSON of South Dakota, Mr. ASPIN, Mr. JONTZ, Mr. KOLTER, Mr. ALEXANDER, Mr. JENKINS, Ms. MOLINARI, Ms. OAKAR, Mr. MCCLOSKEY, Mr. PAYNE of Virginia, Mr. MOODY, Mr. MICHEL, Mr. HYDE, Mr. FROST, Mr. PRICE, Mr. GONZALEZ, Mr. PAYNE of New Jersey, Mr. WYLIE, Mrs. UNSOELD, Mr. YATRON, Mr. BONIOR, Mr. ANDERSON, Mr. BUSTAMANTE, Mr. SAVAGE, Mr. SAXTON, Mr. SMITH of New Jersey, Mr. SPRATT, Mr. MILLER of Washington, Mr. MCEWEN, Ms. SLAUGHTER of New York, Ms. PELOSI, Mr. POSHARD, Ms. NORTON, Mr. TALLON, Mr. ROWLAND, Mr. TORRICELLI, Mr. PERKINS, Mr. THOMAS of Wyoming, Mr. SHUSTER, Mr. RAMSTAD, Mr. PANETTA, Mr. VOLKMER, Mr. RAHALL, Mr. DURBIN, Mr. SISISKY, Mr. STALLINGS, Mr. TOWNS, Mr. COSTELLO, Mr. DEFAZIO, Mr. HALL of Ohio, Mr. SKELTON, Mr. THOMAS of Georgia, Mr. TAUZIN, Mr.

WALSH, Mr. WOLPE, Mr. SMITH of Texas, Mr. TAYLOR of Mississippi, Mr. MINETA, Mr. TRAXLER, and Mr. HENRY.

H.J. Res. 273: Mr. MCMILLEN of Maryland, Mr. CLEMENT, Mr. STOKES, Mr. FALEOMAVAEGA, Mr. FRANKS of Connecticut, and Ms. KAPTUR.

H.J. Res. 274: Mr. ABERCROMBIE, Mr. ASPIN, Mr. BROOMFIELD, Mr. COX of California, Mr. DELLUMS, Mr. FROST, Mr. HUNTER, Ms. KAPTUR, Mr. LAGOMARSINO, and Mr. MCDADE.

H. Con. Res. 11: Mr. RAHALL.

H. Con. Res. 24: Mr. RANGEL and Mr. SERRANO.

H. Con. Res. 101: Mr. GUARINI, Mr. FROST, and Mr. OWENS of New York.

H. Con. Res. 166: Mrs. UNSOELD, Mrs. BOXER, Ms. PELOSI, Mr. BEILENSON, Mr. YATES, Mr. FRANK of Massachusetts, Mr. HORTON, Mr. MCDERMOTT, Mr. HAYES of Illinois, Mr. RANGEL, Mr. WYDEN, Mr. DYMALLY, Mr. LEHMAN of Florida, and Mr. BOUCHER.

H. Con. Res. 171: Mr. LEVINE of California, Mr. KENNEDY, Mr. WAXMAN, Mr. FOGLIETTA, Mr. LENT, Mrs. MORELLA, Ms. MOLINARI, Mr. SCHEUER, Mr. LAGOMARSINO, Mr. FEIGHAN, and Mr. FROST.

H. Res. 173: Mr. TAYLOR of North Carolina, Mr. BURTON of Indiana, Mr. COX of California, Mr. DANNEMEYER, Mr. ROHRABACHER, Mr. ARMEY, Mr. MACHTLEY, Mr. SOLOMON, Mr. STEARNS, Mr. DUNCAN, Mr. ERDREICH, Mr. ZIMMER, Mr. COMBEST, and Mr. INHOFE.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1782: Mr. TRAFICANT.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

98. By the SPEAKER: Petition of the Legislature of Rockland County, NY, relative to congratulating the Government of Israel on its Ethiopian Rescue Mission; to the Committee on Foreign Affairs.

99. Also, petition of the Office of the District Attorney, Richmond County, NY, relative to the oilspill into the Arthur Kill Waterway and operations of interstate pipelines under waterways; to the Committee on Public Works and Transportation.

100. Also, petition of the Legislative Research Commission, Frankfort, KY, relative to missing servicemen; to the Committee on Veterans' Affairs.

101. Also, petition of the County Council, County of Kauai, HI, relative to the exclusion from Social Security withholding, any earnings by election officials on election day; to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

MONDALE POLICY/FORUM

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. VENTO. Mr. Speaker, on Friday, June 7, 1991, our colleague, the Honorable STEPHEN SOLARZ, delivered an address at the Mondale Policy Forum at the Hubert H. Humphrey Institute of Public Policy in Minnesota. This speech was a significant statement on the New World order and the events that have led us there. As the ranking Democrat and outspoken member on the House Foreign Affairs Committee, Congressman SOLARZ gave an outstanding speech that I recommend highly to my colleagues.

A POX ON A PAX AMERICANA: COLLECTIVE SECURITY AND THE NEW WORLD ORDER

(Address by Representative Stephen J. Solarz)

Over the course of the last two years, we have witnessed a series of events that have literally reshaped the history of the world.

From Stettin in the Baltic to Trieste in the Adriatic, the iron curtain has ascended all across Europe.

The Warsaw Pact has collapsed.

The Soviet Union is in turmoil.

And we have waged and won a war in the Gulf that demonstrated the international community is prepared to act collectively to uphold the sanctity of existing national borders.

In the wake of these developments there has been considerable talk about the creation of a new world order.

But the phrase remains vague, the idea indistinct.

The White House initially announced that the President would deliver a series of major speeches fleshing out the concept.

But Mr. Bush, perhaps daunted by the difficulty of the task, subsequently canceled these engagements.

Yet we need to chart a course for the future, even if the captain of the ship of state has declined to do so.

A course based upon the realities of the post-cold war world.

A course that will serve the vital interests of the United States as effectively as we move into the 21st century as the policy of containment did for the latter part of the 20th century.

And that's why I want to share with you tonight some thoughts on the new world order.

In seeking to define a "new world order," we must, first of all, be guided by the advice of the great American philosopher George Santayana, who wrote that those who do not remember the past are condemned to repeat it.

The beginning of wisdom lies in a recognition of the fact that most of our efforts in this century to establish a just and lasting peace have ended in failure.

The Versailles Treaty failed because it punished the vanquished rather than rehabilitating them.

The League of Nations failed because the United States believed it could isolate itself from the troubles and turmoil of an unsettled world and chose not to join.

The 1928 Kellogg-Briand treaty, proscribing the use of force as an instrument of national policy, failed because the permanent preservation of peace requires more than the rhetorical renunciation of war.

And the United Nations failed, at least for much of its existence, because it became the cockpit for competing cold war antagonisms rather than a mechanism for the resolution of national disputes.

The lessons of this sad if familiar history are several.

First, a peace grounded in venegeance and hatred, as was Versailles, is not likely to give birth to a world characterized by justice and stability.

Second, isolationism of the sort practiced by the United States, when it held itself aloof from the League of Nations, is more likely to contribute to the exacerbation of international tensions than to their solution.

Third, pious pronouncements unrelated to strategic realities, such as those contained in the Kellogg-Briand treaty, are unlikely either to protect U.S. interests or to promote American values.

And fourth, intense political and military rivalry combined with ideological competition among the great powers, which was the predominant characteristic of the cold war, is a surefire prescription for the emasculation of the United Nations.

Now that the cold war has ended, and the Gulf War is over, the challenge we confront is how, taking these lessons into account, we should shape our foreign policy in such a way as to preserve the peace in the post-cold war era into which we have entered.

There are, it seems to me, three fundamentally different courses we can follow.

We can retreat into a kind of neo-isolationism, where we seek safety not from an involvement in, but by a withdrawal from, international efforts to preserve the peace abroad.

We can attempt to enforce a Pax Americana.

Or we can pursue a policy of collective security in which, together with the other countries of the world, we attempt to uphold the sanctity of existing borders and to deny international brigands the fruits of their aggression.

The first possibility—retreating behind an illusory shield of neo-isolationsim—is no more a serious policy option today than it was in the 1930s.

While it may be a great temptation to assume that we no longer have to worry about getting dragged into overseas conflicts because the cold war is over, it would be a grave and grievous mistake to do so.

We must not forget that hundreds of thousands of American lives were lost, and hundreds of billions of dollars were spent, because events in faraway places required us to pay an enormous price in blood and treasure.

This is what happened as a result of a shot in Sarajevo in 1914.

This is what happened as a result of a dispute over Danzig in 1939.

This is what happened as a result of a thrust toward Pusan in 1950.

This is what happened as a result of an incident at Pleiku in 1965.

And this is what happened as a result of the battle for Bubiyan in 1990.

What these remote and obscure place names suggest is that events thousands of miles from our shores, remote from the concerns of most Americans, have a way of introducing into American lives and even causing American deaths.

A policy of neo-isolationism, which simply denies this geopolitical reality, will ultimately make it more likely that we will once again find ourselves drawn into foreign conflicts we might otherwise have avoided.

Nor is the second option—creating and maintaining a Pax Americana—whatever its theoretical attractions, a real possibility.

Notwithstanding our victory in the cold war, we have neither the economic resources nor the political will to sustain a policy of unilateralism over the long haul.

The role of global policeman is one the American people do not seek and will not accept.

Yet, if being the solitary sheriff for the whole world is not a role the American people are likely to embrace with enthusiasm, they are perfectly prepared, as we saw in the Gulf, to have our country serve as the head of an international posse attempting to bring regional bandits to justice.

Half a century ago, Franklin Roosevelt and the other leaders of the wartime alliance dreamed of a world in which the international community enforced the peace through collective action.

Building on that dream, they founded the United Nations.

It was a dream that foundered on the rocks of the cold war.

But now we have the opportunity to fulfill that dream.

Desert Shield and Desert Storm demonstrated that it is now possible to get the Soviet Union and the other members of the Security Council to work with us instead of against us.

The United Nations wasn't paralyzed.

And the principle of collective international action against regional aggressors was dramatically strengthened.

Throughout this process, American leadership was absolutely essential.

If, in the future, we simply walk away from our responsibilities, as we did after World War I, the very idea of collective security and international action will fall apart.

And we will pay the price.

But if we are prepared to take up the burden of leadership which our military and economic power imposes upon us, it should be possible to mobilize international coalitions capable of resisting those who would wantonly invade their neighbors, thereby deterring aggression in the first place.

With the cold war at an end, the time has come to recognize that the Security Council is the most appropriate vehicle for the implementation of such a policy.

Some of the developing countries, and their ideological acolytes in the developed countries, will say that what we really seek

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

is to use the Security Council as a big power consortium, where the United States and the other permanent members attempt to preserve a status quo highly favorable to the world's most powerful countries.

One way of assuaging those concerns would be to bring in other important regional powers—such as Japan in Asia, Germany in Europe, Brazil in Latin America, India in the Subcontinent, Egypt in the Middle East, and Nigeria in Africa—as permanent members, albeit without a veto, of the Security Council.

By making these new and emerging regional powers permanent members of the Security Council, we would simply be acknowledging the reality that, if we want other countries to join us in building a new world order based on the concept of collective security, we have to give them a voice in giving shape and substance to it.

The crisis in the Gulf underscored the continuing importance of a cooperative relationship between Washington and Moscow if collective security is going to work.

Without a Soviet willingness to cooperate with us in the early stages of the crisis, it would not have been possible to obtain the support of the Security Council, and our efforts in the Gulf would not have benefitted from the international legitimacy they received.

If our relationship with Moscow deteriorates, collective action to preserve the peace will be much more difficult in the future, and we may have lost the opportunity to create a more just and stable international system.

The Soviet Union, after all, in spite of the plethora of problems that confront it, remains the only nation in the world other than ourselves with the massive human and natural resources necessary to play a central role on virtually all global issues.

It continues to possess the world's second most powerful military machine and an arsenal of more than 25,000 nuclear weapons.

It remains an important political and diplomatic player on the world scene.

And it has the capacity to veto the resolutions and actions of the Security Council.

Our hopes for developing the kind of relationship with Moscow that would enable us to preserve the peace by making the principle of collective security a working reality depend to a large extent on developments within the Soviet Union itself.

In particular, they will depend on how Soviet authorities respond to the widespread unrest which is likely to be generated by the impending collapse of their economy and to the ethnic and nationalistic turmoil that threatens to splinter the union.

It should be clear in both Washington and Moscow that a constructive relationship between our two countries will be impossible if the Soviet leadership resorts to massive political repression in an effort to deal with these crises.

At this critical juncture in the history of the Soviet Union, more than 70 years after the Bolshevik Revolution led the USSR on a detour to disaster, and several years after the initiation of perestroika and glasnost, there are indications that Mr. Gorbachev has finally concluded that the only real solution for his country lies not in making socialism more efficient but in a fundamental transformation of the socialist system itself.

Whether or not Mr. Gorbachev has yet reached such a conclusion, it is very much in our own interests to promote a transition in the Soviet Union from a command to a market economy, and from a centralized state system into a decentralized commonwealth or confederation of largely autonomous or fully independent republics.

And given the enormity of the stakes, it would be inconceivable for us simply to stand aside, watching passively from the sidelines, while a great country disintegrates into chaos and possibly even civil war, with profoundly negative consequences not only for the Soviet Union but for the entire world.

Last week a high level Soviet mission headed by Yevgeny Primakov visited Washington to solicit support for a package of western assistance.

And in several addresses over the past few weeks, notably in his Nobel Prize acceptance speech last Wednesday, Mr. Gorbachev has indicated that the Soviet Union is prepared to become an integral part of the global economy.

The United States should now respond positively to these suggestions—but only under certain precisely defined and clearly stated economic and political conditions.

In order to receive western aid, we should insist that the Soviet Union enact comprehensive economic reform which would, by definition, include the privatization and demonopolization of industry and agriculture, the establishment of a convertible currency, and the use of market mechanisms as the means of determining prices.

We should insist that it establish a multiparty parliamentary democracy and elect a new government which, by virtue of its popular mandate, will have the credibility to enact what will necessarily be some very painful reforms.

We should insist that it cut back its defense spending from roughly 25 percent of its GDP to a level commensurate with the emerging strategic realities of the post-cold war era and begin the process of converting its military-industrial complex into consumer-oriented industries.

We should insist that it terminate its subsidies to Soviet satrapies in Cuba, Vietnam, and Afghanistan, on the sound theory that there can be no justification for a multilateral aid package from the West while the Soviet Union continues to provide more than $10 billion a year to neo-Stalinist regimes in the Caribbean, Southeast Asia, and the Subcontinent.

And we should insist that it establish a new relationship between the center and the constituent components of the USSR, compatible with the aspirations of the people of the individual republics—even this entails outright secession from the Soviet Union by those republics like Latvia, Lithuania, Estonia, Georgia, and Moldavia, which were incorporated into the Soviet Union by the force of arms rather than by their own free will.

If the Soviet Union were to adopt a program of radical economic and political reform along these lines, then it would be very much in our own interests to assist this process by providing the necessary capital for the establishment of a currency stabilization fund, the importation of essential goods and services, and the conversion of military plants into consumer factories.

For the West to provide substantial amounts of aid without fundamental reform would be economically imprudent and politically impossible.

But for the Soviets to move ahead with fundamental reforms without substantial amounts of aid from the West would certainly be economically excruciating and would probably be politically impossible.

Rather than waiting for the Soviet leadership to implement a full program of reform, before we even begin to consider whether and what kind of aid to provide, we should work now with the other industrial democracies, as well as the World Bank and the IMF, to develop a package of investment incentives, trade benefits, standby credit guarantees, and direct forms of development and humanitarian assistance, that would be made available to the Soviet Union, in conjunction with a clear commitment by the Soviet leadership to the necessary political and economic reforms.

By indicating a willingness to make the necessary resources available, we would give the Soviet leadership the incentive and confidence to move forward.

But by making the assistance available only after the necessary reforms are made, we would avoid the risks associated with a "blank check" policy in which our aid was given not in conjunction with, but in anticipation of, the necessary reforms.

At the end of the day, it may be that the Soviets will not be prepared to embrace the concept of a "grand bargain," in which they move forward on reform, while the West moves ahead on assistance.

Last fall, Mr. Gorbachev nearly accepted, but then rejected, a set of economic reforms similar in many respects to the ones now being developed, and threw in his lot with the hardliners.

It appears that he backed off because of pressure from the military-industrial complex, the KGB, and party apparatchiks who apparently feared that reform would threaten their power and prerogatives.

Gorbachev's own ambivalence may have been a factor as well, given the extent to which he has seemed politically and even psychologically reluctant to completely repudiate the structures and ideology of socialism.

Even now there is no certainty that he is finally ready to cross the Rubicon of fundamental political and economic reform.

But a western proposal along these lines might just give Gorbachev the incentive and the encouragement he needs to throw his influence behind a full-fledged program of liberalization.

And it would also strengthen the position of those reformers within the existing system who are already calling for these kinds of comprehensive measures.

If the Soviet Union decides not to embrace our offer, we would have lost nothing by making it.

But if Moscow accepted and then implemented such a plan, it would not only eliminate whatever residual military threat the Soviet Union still poses to our country, but also create conditions in the USSR that would facilitate the kind of cooperative relationship between Moscow and Washington that will be necessary, if we are going to constructively collaborate in the preservation of peace.

Indeed, if we could help bring about the creation of a market economy, and a parliamentary democracy in the Soviet Union, a dramatic reduction in the level of their defense spending, a termination of subsidies to their satellite states, and a peaceful transition of the USSR into a commonwealth or confederation of independent nations, it would constitute the most significant triumph for American diplomacy since the establishment of the Marshall Plan and the creation of NATO saved western Europe from the threat of communist subversion and Soviet expansionism more than forty years ago.

With the end of the superpower conflict that characterized the cold war, the resolution of regional disputes will also assume a new importance in the effort to preserve global peace.

We have recently negotiated an end to the long-standing conflicts in Namibia and Angola.

The civil war in Nicaragua has been concluded, and free elections have brought to power a government committed to political pluralism and a market economy.

A settlement for El Salvador is finally within sight.

And there is new hope for a peaceful transition from minority to majority rule in South Africa.

Building on these achievements, we now need to intensify our efforts to begin a peace process that could lead to a just and lasting peace between Israel and the Arabs in the Middle East, to halt the civil war in Afghanistan, and to resolve the bloody struggle in Cambodia in a way that will prevent Pol Pot from returning to power in Phnom Penh, while giving the Cambodian people an opportunity to determine their own destiny.

Finally, in order to build a more peaceful world, we must continue and even accelerate our pursuit of verifiable and mutually beneficial arms control and reduction agreements.

A new world order should be characterized by minimal nuclear deterrence and dramatically reduced conventional forces.

We must complete the START I negotiations and push on to START II.

We must work for the negotiation of a comprehensive test ban treaty.

And we must seek to strengthen the nonproliferation treaty, and to expand its coverage to include all the world's potential nuclear weapons states.

We should also explore the possibility of creating nuclear free zones in sensitive areas such as South Asia and the Korean peninsula, where continued tensions between longtime rivals, combined with ongoing but surreptitious nuclear weapons programs, could easily lead to a military confrontation and even nuclear war.

Finally, we must fashion new and more stringent mechanisms for the control of chemical and biological weapons, combined with a vigorous effort to get all the countries of the world to subscribe to them.

Only by moving forward on all these fronts will we have a real chance of creating a new world order in which peace is much more likely than war to characterize the relations among nations.

One of the best means of achieving a more peaceful world is to seek a more democratic world.

Of the more than 50 major interstate conflicts that have disrupted the world's tranquility since Waterloo and the Napoleonic Wars 175 years ago, not a single one has pitted established liberal democracies against each other.

This is an extraordinary, and highly suggestive, record.

Stated bluntly, democratic countries are far less likely to go to war than authoritarian states.

Thus, one of the most encouraging developments of the '80s was the spread of democracy around the globe—commencing in Latin America, spreading to Asia, and culminating last year in Eastern Europe.

And now, even in Africa, where democracy has been a rare and fragile implant, political pluralism is being established in one nation after another all across the continent.

Yet there are still countries and peoples who labor under the heavy hand of authoritarianism.

In China, where an isolated gerontocracy wedded to the past resorts to brute force to deny the Chinese people their most basic freedoms.

In South Africa, where the white minority continues to hold the black majority in subjugation and servitude.

In Burma, where the State Law and Order Restoration Council brutalizes its citizenry.

And in Zaire, where Mobutu maintains his corrupt and repressive regime.

So it is entirely natural and appropriate that the effort to preserve peace should have as one of its central tenets the promotion of political pluralism.

This means that where democracy already exists, we should work to sustain it.

And where it does not exist, we should strive to establish it.

In those countries which are not already democratic, we ought to condition the offer of U.S. assistance, other than that needed to meet pressing humanitarian concerns, on specific democratic reforms and a real respect for fundamental human rights.

In instances where assistance is not available as a lever, economic sanctions can be imposed, although we must remember that sanctions work best when they are multilateral rather than unilateral.

And in extreme cases, when a regime is engaged in the systematic slaughter of its own people, it may even be necessary to mount some sort of international rescue mission—providing there exists an international consensus on the need for such an undertaking.

Finally, we should significantly expand the National Endowment for Democracy, which provides essential help in strengthening democratic organizations and institutions in fledgling democracies around the world.

Ultimately, the survival of democracy, let alone its spread, will depend on the extent to which democratic governments can translate the promise of democracy into a better life for their people.

It would be a serious mistake to take the survival of democracy for granted.

Unless the leaders of the newly emerging democracies can demonstrate that political pluralism and economic security are compatible concepts, the masses may look to demagogues and would-be dictators for a solution to the underlying social and economic problems that confront them.

In this contest between democracy and deprivation, between pluralism and poverty, the United States can provide three types of assistance: trade, aid, and debt relief.

The war in the Gulf has demonstrated that the United States is capable of acting decisively and wisely around the world.

It is now time to ask ourselves what we have learned from this experience, how the crucible of war can guide us in creating a generation of peace.

When Woodrow Wilson sought to define America's war aims during the First World War, he enunciated 14 Points, prompting French Prime Minister Georges Clemenceau, who bore Wilson little love, to remark that the good Lord Himself has required only ten.

Being of a somewhat more humble nature, I offer only seven conclusions that we might profitably extract from the Gulf conflict.

Number 1: even after the end of the cold war, we live in an unsafe and uncertain world where ethnic conflicts, religious rivalries, irredentist ambitions, and acts of terrorism can still threaten fundamental American interests.

Number 2: a strong defense will remain a necessary condition for the protection of our most vital interests.

Number 3: collective security rather than neo-isolationism or a Pax Americana offers the best hope of preserving the peace.

But for collective security to work, American leadership, as we learned in the Gulf, is absolutely essential.

Number 4: even as we attempt to preserve the peace, we must recognize that there are times when the use of force is not only justified but necessary.

Number 5: if force does not have to be used, it should be employed not only on a multilateral basis, and preferably with the endorsement of the Security Council, but whenever possible with the prior approval of Congress.

Number 6: if part of the new world order includes the sanctity of existing national boundaries, part of it should also be a recognition that governments do not have an international entitlement to transform the area within their borders into the equivalent of a free fire zone.

And finally, number 7: in the last decade of the 20th century, after the failure of fascism and the collapse of communism, it is the aspiration of men and women to be free, and to freely determine their own destiny, which constitutes the most powerful idea of our time.

It follows, then, that the promotion of pluralism, rather than the containment of communism, should become the primary objective, and the new foundation, of American foreign policy.

Now that the cold war is over, now that American values are in the ascendancy around the globe, we have an opportunity to fashion a new world order where considerations of justice and morality prevail over the realities of brute force and naked aggression.

Where potential lawbreakers know that the international community will act collectively to punish those who plunder their neighbors.

And where peace rather than war is the normal state of affairs among mankind.

Such a world will serve vital American interests.

This is one of the reasons why we dispatched half a million fighting men and women to the Gulf.

This is what those courageous Americans were prepared to shed their blood for.

And this is what some of them made the ultimate sacrifice for.

They gave their all in defense of the principle that aggression must not be allowed to pay.

They fought, and died, not only to liberate a country that was the victim of as bald and brutal an act of aggression as any we've witnessed in the past 50 years, but also on behalf of a vision and a dream of a better world.

We, those they left behind to finish the job, owe it to them to keep alive that vision and to give substance to that dream, so that their sacrifice shall not have been in vain.

If we shirk our responsibilities, if we fail to seize this historic but fleeting opportunity, we will have frittered away what is undoubtedly the best chance in a generation to turn that dream into a reality.

But if we act with boldness and creativity to fashion a new world order out of the chaos of the old, we just may have a chance of giving new meaning to the words of George Bernard Shaw, who reminded us that some men see things as they are and ask why, while other men dream things that never were, and ask why not.

Surely this is a moment for us to reject the counsels of cynicism and despair and, instead, to dream things that never were and ask "why not?"

TRIBUTE TO DR. WALTER LEE SMITH

HON. PETE PETERSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. PETERSON of Florida. Mr. Speaker, I rise today to pay tribute to Dr. Walter Lee Smith. Throughout the years, Dr. Smith's tireless dedication to the development of post secondary minority education programs has earned him widespread acclaim and respect.

As a Fulbright and African-American Institute scholar, a former president of Roxberry Community College in Massachusetts and the immediate past president of Florida A&M, Dr. Walter Smith took the lead in furthering educational opportunities for blacks and minorities around the country and in many Third World nations.

This Monday, Dr. Smith will depart for the Republic of South Africa. As the director of the Tertiary Education Program support project, Dr. Smith will be responsible for developing a variety of post-secondary education programs for blacks and other previously segregated groups in South Africa utilizing public and private universities and education organizations in an effort to improve the quality of life and opportunities for minority communities in South Africa. Emphasis will be placed on government leadership, community development, and higher education.

This unique venture represents the first time the U.S. Government has taken the lead role in developing an extensive cooperative education program with the Republic of South Africa. Today, I would like to commend Dr. Smith for his outstanding achievements and offer my complete support in his upcoming project and his ongoing pursuit to achieve educational equality.

VOTES DURING OFFICIAL LEAVE OF ABSENCE, JUNE 25, 1991 THROUGH JUNE 26, 1991

HON. JOHN J. RHODES III

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. RHODES. Mr. Speaker, during the leave of absence granted me by the House on June 25, 1991, I was not present for 12 recorded votes (rollcalls 190 through 201) on June 25, 1991 and June 26, 1991. Had a family emergency not prevented me from being present and voting, I would have voted as follows:

Rollcall 190—"Aye" (H.R. 2686, Interior Appropriations bill fiscal year 1992, Burton amendment to delete $2 million for restoring the Chicago Public Library. Rejected, 104–318.)

Rollcall 191—"Aye" (H.R. 2686, Interior Appropriations bill fiscal year 1992, Burton amendment to delete $3.65 million for the construction of the Gateway Park associated with the Illinois and Michigan Canal National Heritage Corridor. Rejected, 92–323.)

Rollcall 192—"No" (H.R. 2686, Interior Appropriations bill fiscal year 1992, Crane amendment to eliminate $178 million, or all of the funding for the National Endowment for the Arts. Rejected, 66–361.)

Rollcall 193—"Aye" (H.R. 2686, Interior Appropriations bill fiscal year 1992, Stearns amendment to reduce funding for the National Endowment for the Arts by about 5 percent or $7.4 million. Rejected, 196–228.)

Rollcall 194—"No" (H.R. 2686, Interior Appropriations bill fiscal year 1992, Synar amendment to phase in an increase in grazing fees for livestock on public lands from $1.97/AUM to $8.70/AUM or to fair market value, whichever is higher, by fiscal 1995. Adopted, 232–192.)

Rollcall 195—"Aye" (H.R. 2686, Interior Appropriations bill fiscal year 1992, Upton amendment for across-the-board reduction in discretionary accounts by 1.67 percent, reducing spending by $213 million—the amount projected for the firefighting accounts of the Interior and Agriculture Departments funded through an "emergency" provision in the bill, thus breaking the spending caps from the Budget Enforcement Act. Rejected, 169–249.)

Rollcall 196—"Aye" (H.R. 2686, Interior Appropriations bill fiscal year 1992, final passage. Passed, 345–76.)

Rollcall 197—"Aye" (H.R. 2699, District of Columbia Appropriations fiscal year 1992, Rohrabacher amendment to reduce the Federal payment to the District of Columbia from $630.5 million to $611.3 million to limit overall growth to 2.4 percent over the fiscal 1991 spending level. Rejected, 153–270.)

Rollcall 198—"No" (H.R. 2699, District of Columbia Appropriations fiscal year 1992, final passage. Prohibits use of Federal funds for abortions, but allows the use of District funds for abortions. Passed, 300–123.)

Rollcall 199—"Aye" (H.R. 2707, Labor, HHS, Education Appropriations fiscal year 1992, Walker amendment for across-the-board spending reduction of 5.9 percent to limit growth to 2.4 percent of fiscal 1991 spending level. Rejected, 55–366.)

Rollcall 200—"No" (H.R. 2707, Labor, HHS, Education Appropriations fiscal year 1992, final passage. Includes language which prohibits HHS from using any funds to enforce abortion counseling regulations. Parental notification provision was stricken from the bill. Passed, 353–74.)

Rollcall 201—"No" (H.R. 2698, Agriculture Appropriations fiscal year 1992, final passage. Passed, 368–48.)

A TRIBUTE TO GARY SIPLIN, AN ASSET TO SOUTH FLORIDA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to take this opportunity to give recognition to an outstanding citizen, Mr. Gary Siplin. I am honored to have him living in south Florida and pleased to have this occasion to present his achievements to you. In the April 29, 1991 issue of south Florida Business Journal, there was an article featuring Mr. Siplin and his accomplishments. I would like to take the time to share this article with you:

> He didn't go to Harvard or come from some aristocratic family steeped in the law. And even after seven years with the county attorney's office, where he had won 95 percent of his cases for the county, his name wasn't common among the movers and shakers.
>
> Few knew the name of Gary Siplin in 1989, except the folks over at Greenberg, Traurig, et al, one of the biggest, slickest, most white-bread law firms in South Florida. But they didn't get to be on top by missing a chance at talent.
>
> "I had observed him and he was a gregarious and popular person," says Bob Traurig, a partner with the legal powerhouse. "With this and his background, we felt he would be a great asset to us."
>
> Today, Siplin sits on the 20th floor of the Capital Bank Building on Brickell Avenue and looks across the city from a center of power. His name is still perhaps not so well known on the streets of Miami, but in the inner circles of power, it sparks recognition.
>
> "He's a tireless worker for the economic enhancement of the black community," says Stan Tate, president of Tate Enterprises, a real estate management firm. Tate is also actively involved in a multitude of community service organizations, including the Public Health Trust. "He's very well respected as an attorney and he's a successful businessman. When it comes to this community, he's dedicated."
>
> Siplin was the first black to be elected president of the Dade County Bar Association Young Lawyers Division. He produces and hosts his own weekly talk show on WMBM-AM and is a trustee of the Jackson Public Health Trust. A member of the board of directors of the Dade County Bar Association, he is also on the long range planning committee of the Florida Bar.
>
> Last November, he founded The New Miami Group Inc., an organization of some of the area's young, aggressive black professionals intent on impacting political and economic change in the area.
>
> "We have a moral, economic, political and legal obligation as taxpayers, citizens and voters to start making an effort to include blacks in the mainstream," he says. "And the truth is, it'll pay off for everyone. Give someone a job and before long, they'll be looking to buy a house, and their kids will go to a better school and in the long run, they'll be contributing to the community, rather than taxing it with high unemployment, crime and so forth.
>
> "Money in the black community means jobs in the black community. Kids will work rather than be drug pushers or the next Michael Jordan, because let's face it, he's quite exceptional. But give them the option, give them a viable alternative and they'll take it."
>
> Intent on providing those same kinds of opportunities for others, in 1989 Siplin persuaded Miami's most powerful law firms to contribute $5,000 a year each for four years to his program to give local black law students a chance to intern with a federal judge. The innovative program is designed to help black law students become more marketable for employment in law firms, corporations and government once they graduate. * * *
>
> Growing up in Orlando, the second of four children. Siplin began at an early age to make opportunities for himself. In high school, he maintained decent grades, worked

as a busboy and dishwasher, and played on the football team. Playing ball got him a scholarship, good grades got him into the University of Pittsburgh and working taught him a lesson.

"It taught me the value of responsibility and that if you work hard, you can achieve a lot of things, it doesn't matter what kind of job you have, as long as it pays you. It's just a stepping stone to the future."

Fresh out of Duquesne University's School of Law in 1981, Siplin became a law clerk for Miami federal court Judge Edward B. Davis, a prime spot for an aspiring attorney, to learn about the trial system and the workings of a judge. Davis remembers Siplin well.

"I picked him out of a number of other candidates with the same academic ability because of his charm and personality," says Davis. "And I've followed his career since. He's worked hard."

Hard work and knowing the value of the dollar paid off for Siplin four years ago when he opened his own businesses on the side. With financing from a commercial bank loan, Siplin opened a hat shop. Hats in the Belfry, and later on, started a rickshaw business in Coconut Grove.

"I've always wanted to be my own boss," he says. "I like the independence of being a businessman. I've always liked hats and I thought it would be a profitable venture.

This is a good market for young, aggressive black professionals," Siplin adds.

In 1989, entrepreneur Siplin was ready to start his own law practice. But Greenberg, Traurig, convinced him to join their elite force.

Siplin says he feels no added pressure from being only one of two black lawyers at the 135-attorney firm. Rather, he sees his position as an incentive to other aspiring black professionals. The firm, he maintains, has been very supportive of his outside activities, including his role as one of the organizers of the boycott against Miami as a convention site following the snub of Nelson Mandela last year.

"I disagree with the boycott's position," says Traurig. "But I respect his right to be vocal about any issue he has a strong feeling about."

"It helps the community to know a politically active person like myself can be a part of a firm like this," Siplin explains, which is a predominantly white organization that is very powerful. I came here because I consider Greenberg one of the best firms in the country. They're good lawyers, and they offered me a good deal in addition to the support I've gotten as far as my political activities, like with the boycott, the Public Health Trust and now the New Miami Group. It'd be very difficult for me to do these things if I had to run my own office.

"The pressure doesn't come from being black; if comes from having to do my work in addition to all my community activities," adds Siplin.

Siplin says one of the things that attracted him to being an attorney was the impetus of being involved in politics.

"I always wanted to use my mind. I thought attorneys had a lot of power. And I also think attorneys are in the political arena. Politics have always interested me.

"If I couldn't be an attorney, I'd probably be an actor," he continued. "I've always liked acting. In fact, that's one of the reasons I became a trial lawyer, because I get a chance to act in front of people, convincing them to vote my way. And of course an offshoot of that is being involved in government."

This is where a smile crosses Siplin's face. Politics. It's the force that drives the man. Although he admits he still would like to have his own law firm, perhaps the first large black law firm, being involved in the decision-making and shaping of South Florida tops his list of priorities.

"I'm always going to be involved in politics whether it's elective, appointed or supportive. Run for office?" he quips. "Maybe one day, but not in the very near future. When there's the opportunity and the right time and the right support. But right now I'm satisfied leading the New Miami Group to a better community for us all."

Mr. Siplin is an asset to the community of south Florida. His life should be a model to all young business men and women across the Nation.

MILITARY CHILD CARE ACT OF 1991

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. CAMPBELL. Mr. Speaker, today I am introducing the Military Child Care Act of 1991. This is an important piece of legislation which requires the Secretary of Defense to ensure that child care services are available for all members of the Armed Forces on active duty. These services are to be provided with funds appropriated to the Department of Defense. Military personnel serving our country deserve access to child care for their children. These personnel, who may be called away at any time, deserve to know that their children will have a place to go on a daily basis and that the other parent will not suddenly have to leave a job in order to supervise the children. The source of stability in knowing that his or her children will be supervised should be provided for our Armed Forces.

This bill can be seen as an extension of the Military Child Care Act of 1989. That bill focused on quality of facilities and staff. However, still close to half of all children in military families remain on waiting lists for child care services. My bill would provide care for those children. It maintains the standards from the former bill and provides better access for the children. This is an important, deserved piece of legislation for our military personnel. I hope this legislation receives serious consideration.

PROTECT THE WORLD'S TROPICAL FORESTS

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. KOSTMAYER. Mr. Speaker, most of us have heard about the crisis of tropical forest destruction and the permanent loss of wildlife, both plant and animal, that this devastation entails. The World Bank has estimated that 4,000 to 6,000 species are lost each year as a result of deforestation, and that perhaps 25 percent of the world's species could become extinct by the year 2050. Fifty million acres were destroyed in 1989; at this rate, tropical rain forests will all but disappear in 60 years.

To help stop the eradication of the world's tropical forests, I have introduced the Tropical Forest Consumer Protection and Information Act of 1991. This legislation, endorsed by the Sierra Club, requires all imported tropical wood and wood products to bear labels stating the country of origin and species name of the wood at the point of sale.

The swift passage of this bill is essential to give the U.S. consumer the power to influence the quality of tropical forest management through consumer purchasing decisions, and to help save rain forests throughout the world that are threatened by uncontrolled logging. My legislation will give consumers the power of choice when they buy wood products.

The United States consumes about one-third of the tropical wood products traded globally. Consumers, who are increasingly aware of environmental issues, may not wish to perpetuate the unsound use of fragile forest resources. This bill would give tropical forest harvesters the economic incentive to use sustainable timber production methods.

Requiring country-of-origin labeling is the most important step Congress can take right now to address tropical deforestation. We can give our constituents the ability to effectively and positively influence the fate of the world's remaining tropical rain forests.

IT IS TIME TO ELIMINATE THE NOTCH

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. MRAZEK. Mr. Speaker, I rise today in support of H.R. 917, Representative ROYBAL's notch legislation, and to respectfully urge the leadership to take action on this issue now. As most know, Congress enacted legislation in 1977 to correct a flaw in the Social Security benefit formula. The disastrous result, however, was a substantial difference in benefit levels for people with similar work histories but who slightly in age—the notch gap.

It is intolerable that our Social Security system is discriminatory. As a consistent supporter of legislation to correct the notch inequity. I have made the commitment to the elderly in my district to relieve their anguish and end this inequity. I have had many constituents write to me and suggest that Congress is simply waiting for notch babies to die rather than address issue. I am mortified that Americans believe we in Congress are too cowardly to make the right choice. Excuses are stale.

The notch issue is about fairness, and it is our responsibility to elimate the notch inequity immediately. Notch babies worked and paid into the Social Security system and were promised that, like everyone else who paid into the trust funds, they would be treated equally. Further, the loss of benefits may mean the difference between purchasing nutritious foods or providing medicine to ensure good health care. The impact of this notch inequity is nothing less than astounding.

Let us stand together and show our courage to pass H.R. 917. To allow the inquity to continue for another year would be unjust.

HONORING ROBERT BERRY

HON. BARBARA-ROSE COLLINS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mrs. COLLINS of Michigan. Mr. Speaker, I rise today to recognize and honor the outstanding work of 7-year-old Robert Berry of Detroit. Little Robert took charge of a tense and emotional situation when his mother went into labor at their home. Hoping that his grandmother, who lives two doors away, would assist, he called for her to come quickly. When the grandmother arrived, she promptly called 911 for assistance. However, she panicked, handed the phone to Robert and ran outside for air.

Robert intently followed the directions of a 911 operator; he coached his mother and calmed her down by instructing her to take deep breaths. This young man even retrieved a blanket for the baby. The 911 operator stayed on the line with Robert until the ambulance arrived, about 7 or 8 minutes after a 7-pound, 1-ounce baby girl made her way screaming into the world.

Young Robert is earnest, caring, and responsible. He took charge of a situation without missing a beat. He is a hero and a big brother at the same time. I'm sure his loved ones will admire, respect, and cherish his love for years to come.

During a time of much concern over our black youth, young Robert Berry reminds us that our children are decisive, kind, helpful, and loving.

Mr. Speaker, I ask you and my fellow colleagues to join me in saluting brave young Robert Berry. Robert does not ask for recognition nor does he look for it. He's helped his mother in the past; when she fell ill with epilepsy he telephoned 911. His bravery serves as a model for the Detroit community and for America, a model of caring and responsibility.

CONGRATULATIONS, HEATHER WALLING

HON. CHARLES LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. LUKEN. Mr. Speaker, I rise today to congratulate Heather Walling, a graduate of Cincinnati's Colerain Vocational Center on being awarded first place in the national Project InVEST essay contest.

This contest was sponsored by the Independent Insurance Agents of America and is a joint program of both insurance companies and agents' associations to promote insurance training through a vocational education simulation. The program is active in over 140 schools nationwide. All students participating in this program had to submit an essay, and Heather's essay was chosen as the best by a committee consisting of insurance agency, association, and company personnel.

Success has never been out of Heather's reach. As a senior she was a member of the Executive Committee for Business Professionals of America and was elected secretary of that same group at the regional level. After graduating in June, she achieved the goal of securing a full-time job with Nationwide Insurance Company and feels that the Project InVEST program has prepared her for what lies ahead in the future.

I am proud to have a person like Heather Walling in my district. I can only hope that other students will follow her lead and emulate her sense of pride and dedication. I wish her continued success in all of her future endeavors.

THE ELECTION OF BORIS YELTSIN TO THE PRESIDENCY OF THE REPUBLIC OF RUSSIA

HON. JOHN J. RHODES III

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. RHODES. Mr. Speaker, today, Boris Yeltsin was formerly sworn in as President of the Russian Republic of the Union of Soviet Socialist Republics [U.S.S.R.]. In light of this election, I am introducing a sense of the Congress resolution congratulating both President Boris Yeltsin and the people of the Republic of Russia on the first democratic election in a millennium of Russian history.

Over 70 years ago, Russia was on the verge of a grave experiment, one that would bring only death and destitution to the people of that great nation. Inaugurated by the likes of Vladimir Lenin and Joseph Stalin, but with other players such as Leon Trotsky, a panorama of fear and hatred was laid before the nation for years to come.

With democratic elections having now taken place in the Russian Republic, this generation-long tragedy has hopefully come to an end. While the democratic election of Boris Yeltsin represents the affirmation of the rights of the individual to determine his or her future, it also represents the triumph of the ideals of democracy in a nation that previously had little experience with such an ideal.

If political democracy has emerged in the Russian Republic, hopefully economic liberty will quickly follow. In his inaugural speech, President Yeltsin noted that one of his most important priorities will be radical economic reform. Truly, this would represent another great victory for the Russian people, who have the richest of resources but the poorest of systems to bring what they have to their tables.

Soviet President Mikhail Gorbachev's handshake and speech congratulating the newly inaugurated President of the Russian Republic at his swearing in ceremony is a sign that Boris Yeltsin's program of reforms may face more cooperation in the future than it has in the past. It also serves as a footnote to the extent to which Soviet President Gorbachev has acknowledged the significance of President Yeltsin's election.

Clearly, all the ramifications of this election cannot be discussed within the confines of a legislative vehicle commemorating the election. Nevertheless, this concurrent resolution, commemorating the election and congratulating all the people of Russia, serves to express the sincere hopes of the Members of Congress that this is but the first step in a march toward integration into the Western World and the brotherhood of nations that make economic liberty, political democracy, and human rights the foundation of their government.

TEACHING AND REHABILITATING OUR YOUTH [TROY]

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize the Teaching and Rehabilitating Our Youth Program [TROY] for their efforts to organize and create a system to aid troubled youths in my district.

The TROY program was formed as a supplement to public juvenile delinquency programs, reaching out to those youth who were slipping through cracks in the system. Rather than producing a study or a series of abstract recommendations, they are working to initiate rapid and fundamental change with demonstrable concrete results. The TROY program complements the efforts of the juvenile justice system by localizing the process of restoring Miami's troubled youths.

On October 1, 1991, the group will implement a five-part plan which consists of: One, public awareness; two, residential programs; three, non-residential programs and diversion; four, mental health; and five, advocacy and mentoring. This course of action will coincide with active support and involvement from various segments of the community, including schools, colleges and universities, community-based organizations, and the private sector.

The TROY program makes an important investment in Miami's youth. I commend the leadership of the TROY founders for supporting this important work. These include the program's initial coordinators: Judge Tom Peterson, Jennifer Schuster, and Odalys Acosta. Those involved with the HRS include: Hon. Janet McAliley, Margaret Hebson, Roger Cuevas, Joseph Mathos, Russ Wheately, John Stepherson, Walter Odon, and Ellis Berger.

Those members involved with the State Attorney's Office include: Leon Botkin, Kim Daise, Steven Spencer, and Lynn Episcope. Those affiliated with the Public Defender Office are: Steve Harper, Samira Ghazel, Odalys Acosta, and Sandy Schwartz. Those involved in the JASS. Diversion are Shirley Almeida and Jeanette Garcia. In addition those involved from the community include: Dr. Harry Henshaw, Marc Schusheim, Barbara Hibson, and Michelle Puldy-Berger. Other founding members not mentioned also include: Judge C. Edelstein, Dorothy Taylor, Paul Sweeney, Seymour Gelber, Paul Cromwell, Judge Robbie Barr, Steve Leifman, Bertha Pitts, Dagmar Peizer, Steve Applebaum, Charle Jones, and Liz Perkins.

H.R. 2786

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. CAMPBELL of California. Mr. Speaker, I rise today to bring the House's attention to H.R. 2786, a bill I introduced on June 26, 1991. In light of the recent Supreme Court decision, Rust versus Sullivan, it has become absolutely vital to ensure that women continue to receive complete, honest, and thorough information on all their options during pregnancy. The Supreme Court decision severely restricts the patient-doctor relationship. The Federal Government should not tamper with this relationship. My bill reiterates that the Federal Government shall not create laws which in turn restrict a medical professional from advising a patient on all her safe, legal options, including the option of abortion.

All the cosponsors of this bill are Republicans. This should emphasize that the effort to preserve the doctor-patient relationship is bipartisan. Mr. Speaker, H.R. 2786 is essential for appropriate doctor-patient relationships in which complete medical information can be provided. I hope this legislation will be given fair consideration by the House of Representatives.

TRIBUTE TO MARK A. WALKER OF COVINGTON, TN

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. TANNER. Mr. Speaker, I rise today to honor the memory of a distinguished Tennessee jurist, the late Mark A. Walker of Covington, TN. Judge Walker died unexpectedly June 7, 1991, at Tipton County's Baptist Memorial Hospital. He was 82.

Mr. Speaker, it should be pointed out that Judge Walker was the grandson of the late U.S. Rep. Charles B. Simonton. Congressman Simonton so ably represented our congressional district from 1879 to 1883.

Judge Walker's career is filled with public service. He served two terms in the Tennessee House of Representatives. After serving his country in World War II, he was elected circuit court judge. He was reelected without opposition until his appointment in 1967 to the court of criminal appeals, where he was presiding judge. He retired from the bench in 1987.

My wife, Betty Ann, joins me in extending our sympathy to Judge Walkers' two sons, Mark A. Walker, Jr., and Lawrence E. Walker, both of Memphis, and his daughter, Eileen W. Hatfield of Collierville.

As a tribute to Judge Walker, I would respectfully ask that an article about his life, which appeared in the June 12, 1991, edition of the Covington Leader be made part of my remarks for this day.

[From the Covington Leader, June 12, 1991]

NOTED JURIST DIED FRIDAY

Mark A. Walker of Covington died unexpectedly Friday morning in Baptist Memorial Hospital-Tipton. Walker was the presiding judge of the Tennessee Court of Criminal Appeals from 1967 until his retirement on Oct. 1, 1987.

Services were held Tuesday at 2 p.m. in the Covington First Presbyterian Church, where he was a member, with Dr. David Shepperson, Jr. officiating. Interment was in Munford Cemetery in Covington with Maley-Yarbrough Funeral Home Inc. in charge of arrangements.

Born in Covington Sept. 8, 1908, his parents were Mark A. and Ella Simonton Walker. A graduate of Byars-Hall High School, he received a bachelor of science degree in 1931 from the University of Tennessee. He attended law school at the University of Tennessee, Knoxville, and the University of Wisconsin.

Admitted to the Tennessee bar in 1935, he practiced law in Covington. He was elected to represent Tipton County for two terms in the Tennessee Legislature from 1939-42 in the House of Representatives.

In 1942, Walker enlisted in the U.S. Navy and served for four years with tours of duty in the Western Pacific and the Battle of Okinawa. Following his discharge from the Navy in 1946 with the rank of commander in the U.S. Naval Reserve (retired), he campaigned for and was elected circuit judge of the 16th Judicial Circuit, which included Lauderdale, Tipton, Fayette, Hardeman, McNairy and Madison counties. He was re-elected as circuit judge, without opposition, in 1950, 1958 and 1966. The 16th Judicial Circuit later became the 25th Judicial Circuit, comprised of Lauderdale, Tipton, Fayette, Hardeman and MacNairy counties.

The Court of Criminal Appeals was created in 1967 and Judge Walker was appointed one of the three members of that court and selected as presiding judge. This court, comprised of nine members, three from each grand division, meets at Jackson, Nashville and Knoxville. Elected to that court in 1968, he was re-elected in 1974 and 1982.

Judge Walker was a member of the American, Tennessee and Tipton County bar associations, American Judicature Society, Institute of Judicial Administration and Kappa Sigma fraternity. He was a Scottish Rite Mason, a Shriner, and a member and past president of the Covington Lions Club.

The West Tennessee Area Council, Boy Scouts of America, Eagle Scout Class of 1989 was named in honor of Judge Walker. A boy Scout in his youth, he was a member of Troop No. 2, sponsored by the Covington First Presbyterian Church. From 1921-24 he served as scoutmaster of Boy Scout Troop 1, chartered by the Covington Lions Club.

Walker, the widower of Lulie Eddins Walker, is survived by two sons, Mark A. Walker Jr. and Lawrence E. Walker of Memphis; a daughter, Eileen W. Hatfield of Collierville, and two grandchildren.

AMBASSADOR MAX KAMPELMAN ADDRESSES OPENING PLENARY OF CSCE NATIONAL MINORITIES MEETING

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. HOYER. Mr. Speaker, July 1 marked the opening of the CSCE Experts Meeting on National Minorities in Geneva, Switzerland. The meeting comes at a critical time as national minority issues confront many of the CSCE Signatory States.

Ambassador Max Kampelman, the very able head of the U.S. delegation addressed in his opening statement the issues confronting the experts meeting in Geneva. "The growing ethnic and national minority tensions in Europe disturb us all because they symbolize direct threats to European security and stability," stated Kampelman. "The great challenge for us in this meeting is to explore whether the CSCE process is equipped with sufficient will and energy to deal constructively with those new threats."

Mr. Speaker, I am pleased to submit Ambassador Kampelman's statement for the RECORD and commend his eloquent remarks to my colleagues.

PLENARY REMARKS BY MAX M. KAMPELMAN, HEAD OF THE U.S. DELEGATION TO THE GENEVA MEETING OF THE CONFERENCE ON NATIONAL MINORITIES, JULY 1, 1991

Mr. Chairman: One year ago, almost to the day, we adopted the Copenhagen Document, the first human rights document of the post-Cold War era. Since Copenhagen, CSCE has taken further strides at the Paris Summit, in meetings at Valletta and Krakow, and most recently at the Berlin Ministerial. Last fall, we welcomed a united Germany into our midst and only two weeks ago, Albania joined us, and by so doing, re-joined the family of Europe. We welcome Albania to our process.

These steps forward were possible because member states of the CSCE were willing to confront, overcome, and even eliminate formidable barriers to freedom and security on this continent—barriers that had kept Europe divided by force and by fear for more than forty years—barriers that the CSCE has worked to bridge and eradicate since the very inception of the Helsinki process which began in 1975.

We have made significant progress dismantling the most onerous and obvious obstacles to a Europe whole and free. But some remain, and they can only be removed through genuine, peaceful, political processes. We know that one such irritating obstacle relates to the understandable and historically justifiable aspiration of the Baltic States and their peoples for independence. The United States delegation joins the many others here in the conviction that our efforts to create a Europe whole and free call for the realization of those aspirations so that in the not-too-distant future, the circle of states around this table includes within it representatives from Estonia, Latvia and Lithuania.

The achievement of a Europe whole and free means much more than simply having all the states sitting at a table together, important as that is. Governments and citizens alike must work together to address and overcome deep-seeded problems that increasingly plague us and this continent. Many are legacies of the Cold War. Many reflect unresolved antagonisms that preceded it: authoritarian habits, entrenched old structures, and insular and intolerant attitudes. These can breed new divisions among us and frustrate the process of democracy-building and reform. The challenge is serious because it comes at a time when we have never been closer to a Europe whole and free.

The delegation of the United States is as persuaded as any delegation in this hall that the subject matter of the conference we begin today is vitally important. The growing ethnic and national minority tensions in

Europe disturb all of us because they symbolize direct threats to European security and stability. The great challenge for us in this meeting is to explore whether the CSCE process is equipped with sufficient will and energy to deal constructively with those new threats.

Europe has emerged from grievous spiritual and physical devastation. The Nazi brutalities, the devastation of war, the havoc of communism—all of these have taken their toll. Much of Europe is an environmental mess. Life expectancy in some parts of Europe is six to ten years below that of other parts of Europe. These and other symbols of chaos represent a backwardness which must be eliminated. It is time to proceed with a rebuilding of the continent.

The peoples of Europe have every reason now to look forward to a new dawn for democracy. They expect respect for human dignity and freedom for those who were held captive in the dungeons of history. The emerging democracies have desperately been organizing themselves to fulfill those responsibilities and to pull themselves out of state-controlled economic rigidity into expansive competitive market performance.

Most of Europe has come to appreciate that its task is to harmonize its political and economic energies so that they are consistent with the dramatic changes in science, technology and communication which are expanding the horizons of the human race in ways that bring our ideals and aspirations into near reality.

The group of twelve European states is rapidly moving in the direction of coordination, cooperation and unity in order to maximize that opportunity. We now have the Council of Europe, the European Parliament, the Court on Human Rights, the Western European Union—all based on the need to move toward integration—if we are to help our people realize their rightful expectations.

The emerging democracies of this continent understand the need to emulate that development and to be a part of it. Discussions have been underway to bring the whole continent closer together economically and politically. It is true that the economic problems are severe and frequently appear crippling, but the will and the means for dealing with those problems have been strong and increasingly self-evident. Just as a divided Germany belongs to yesterday and not to tomorrow, so must Europe leave its sharp divisions of yesterday behind as it joins tomorrow.

The continent of Europe is an old one. The human race is a relatively new one, still growing, still maturing, still evolving, still reaching to prove itself. Bigotry and discrimination and hate have so far been an integral part of our emerging species, but we know that, to the extent that it exists, such bigotry, discrimination and hate are inconsistent with our religious teachings and create barriers toward realizing our human aspirations. In my country, manifestations of it can still be seen in racial intolerance. In Europe, that manifestation takes the form of anti-semitism, in discrimination against the Gypsies, and in myriad other ethnic rivalries and hatreds.

The threatened disintegration of Yugoslavia is particularly dangerous. The traditional estrangements in that troubled country are exacerbated by the fact that boundary lines of the republics do not necessarily mark the boundaries between the various ethnic groups. We also know that violence does not respect boundary lines. That is why our ministers in Berlin issued a collective statement of concern. That is why Secretary of State Baker travelled to Yugoslavia a few days ago. That is why we support the efforts underway by the Foreign Ministers of Italy, Luxembourg and The Netherlands to end violence and renew meaningful dialogue. That is why we support the recent call by members of the European Community to engage the CSCE emergency mechanism.

A new basis for unity in Yugoslavia is obviously called for. It will include greater autonomy for the republics. But these foundations for a united country can only be fundamentally achieved through peaceful means, by negotiations. Any political authority in that country that seeks to restore the authoritarianism of the past, that puts obstacles in the way of peaceful resolution of differences, that violates human and minority rights, that strives to impose a solution by force, distances itself from the CSCE family of nations and from our common achievement of a Europe whole and free. In that connection, we must here note our deep concern over the continued Serbian repression of the ethnic Albanian majority in the Province of Kosovo.

We note with interest the intention reported to us this afternoon by the distinguished representative of Yugoslavia. Yugosalvia is on our minds because it erupted int violence, but we know there are other similar problems. In Romania, Ceausescu, with dictatorial power, decided to turn his country's ethnic Hungarian minority into Romanians. Ethnic Hungarian cultural institutions were undermined and ethnic Hungarian villages were threatened with depopulation and replaced by new multi-ethnic towns. This is a continuing source of tension.

In Bulgaria, the twelve percent Turkish minority were by fiat suddenly turned into instant Bulgarians. In 1984, the Bulgarian army was used to compel persons bearing Turkish names to change to Bulgarian names. Turkish language newspapers and magazines were banned. Turkish ethnic dress and the use of the Turkish language were prohibited. This is a continuing source of tension.

We all hope that these and other illustrations of barbarism are ending with Europe's turn toward democracy and liberty. But the disputes are real and threaten European stability.

The United States does not believe that there is any single "magic pill" to national minority questions and concerns. We come to this table cognizant of the need to keep an open mind and to work with others toward solutions, particularly at this time when many CSCE countries are still in the early stages of forming new constitutions, revamping their systems, and building civil societies.

We come ready to listen and discuss, and to share our own perspectives as one of the world's largest and longest continual democracy and multi-ethnic societies. We know what has, through trial and error, worked for us. We will participate fully aware of our own inadequacies and of the fact that one cannot just transplant our own solutions, just as some solutions found by others may not prove workable in our country.

The United States is fully convinced that democracy and the principles of human liberty and freedom and the rule of law are fundamental if we are to act constructively in the face of these challenges. We know that, as Switzerland has matured and strengthened its democratic institutions, its German-speaking, French-speaking, Italian-speaking and Romansch-speaking citizens live together in harmony. We know that, as Belgium has strengthened its democatic institutions, the Flemish and Walloons relate peacefully with one another. We know that ethnic Swedes live comfortably in Finland. We know that the once-frightening words "Alsace-Lorraine" no longer mean violence between France and Germany. It is today one of Europe's more pacific, prosperous, democratic and cooperative regions in Europe.

The more a democracy matures, the more each individual's rights are protected, and the more we find that the rights of persons belonging to minorities are respected. The fundamentals of democracy are the basic rights of the individual citizen. Indeed, it all CSCE states were firmly established as democracies, ethnic and related concerns would be lessened considerably if not essentially eliminated. Democracy as it matures brings with it public confidence in the legitimacy of state authority and the integrity of its legal systems.

The rule of law is an integral part of a democratic society. Diversity and difference within our countries will continue. The challenge is to keep those differences within the bounds of law. With a society based on the rule of law, with a genuinely independent judiciary, that society can effectively channel differences of all kinds so that they generally remain within peaceful limits. An effective and justly-administered legal system produces public confidence and encourages a commitment toward stability.

The free and peaceful exercise of human rights requires a respect for the least of us and keeping the range of alternatives as wide as possible for the exercise of liberties by members of minorities. To this end, it is imperative that private citizens have the ability to take initiative and establish schools, churches, clubs, and media so that they may freely express, preserve and develop their ethnic, cultural, linguistic or religious identity, alone or in community with others.

These democratic structures and formalities must be accompanied by responsible democratic leadership. Intolerance and discrimination and hatred must be condemned and anti-discrimination laws must be enacted and enforced. Bigotry cannot be changed by law. Tolerance cannot be imposed. But acts of discrimination can be made unlawful. If pluralistic societies are to function well, governments must actively promote, encourage and reward attitudes of tolerance.

There is also the demand of national minorities for local autonomy. Differences arise as to which powers are to be delegated to the individual republics and which are to be retained at the center of government. This is intimately related to the status of minority groups within the republic. And here, again, many of these tensions could be dealt with if important aspects of governmental authority were vested in elected local officials rather than in officials of local governments who are appointed to their posts by the central government. Democratization and decentralization of power are important principles of responsible government.

I do not mean to oversimplify the problem. It's a serious one, primarily because it is usually accompanied by utter mistrust and frequently by disdain and even hatred of one group for another. And this is where leadership must play a vital role and CSCE must help provide that leadership.

The United States is convinced that the CSCE process can help our entire family of nations meet the requirements and realize the promise of Europe in the 21st century. We urge a continued spirit of cooperation and understanding, restraint and dialogue. That is the CSCE way. We wish to do our share as we proceed along that way.

CONGRESSIONAL CALL TO CONSCIENCE VIGIL FOR SOVIET JEWS

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mrs. BOXER. Mr. Speaker, it is once again a great honor to join my colleagues in this very important effort to draw attention to the plight of Soviet Jews.

In recent months, we have rejoiced at the large number of Soviet Jews who have been allowed to leave the Soviet Union for Israel. But, for every person who is given permission to leave, there is another who is denied. One of those cases is that of Dmitri Berman.

On January 4, just days before his scheduled departure for Israel, Dmitri Berman's emigration and internal documents were seized by Soviet officials. Threatened with imprisonment and a retrial on a previously dismissed murder charge, Dmitri sought refuge at the Canadian Embassy in Moscow. There he has remained for 6 months awaiting an end to this ordeal, an ordeal which began 3 years ago.

At that time, Dmitri Berman was arrested for the murder of a serviceman in his hometown of Nikolaev, Ukraine. In the absence of any evidence linking him to the murder, Dmitri was tortured and humiliated in prison and forced into making a false confession. At trial, he was sentenced to 13 years of hard labor.

Through international pressure, however, all charges against Dmitri were finally dropped in August 1990, and the chief procurator of the Ukraine confirmed it in writing. Now the Soviet authorities want to reopen the murder case even through they have no new evidence.

In the words of David Waksberg, executive director of the Bay Area Council for Soviet Jews, "The renewed harassment of Dmitri Berman is a blatant violation of human rights. Berman was the innocent victim of an anti-Semitic scapegoating conspiracy, and now on the eve of his departure for Israel, he is again being persecuted * * * ."

Please join with me in calling upon the Soviet Government to allow Dmitri Berman to emigrate to Israel, and to provide for his safe passage out of the Canadian Embassy. We cannot let this injustice stand.

A LETTER FROM THE HEART—ALABAMA'S SALUTE TO THE TROOPS

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. CLEMENT. Mr. Speaker, I want to share with my colleagues today a letter, a very special letter, that touched my heart and will touch the heart of everyone who reads it.

The letter was written by 1st Lt. Robert Craig, a member of the 82d Airborne Division of the U.S. Army who attended an annual benefit concert staged by the country music group Alabama in their hometown, Fort Payne, AL.

This year an estimated 75,000 people attended the June Jam benefit concert on June 15, a concert the group dedicated to all of the men and women who had ever served in the U.S. military. Two of the attendees were Lieutenant Craig and another veteran, a soldier who had served in Vietnam nearly 20 years earlier.

I want to share with my colleagues the poignant letter written by Lieutenant Craig about his experience with the veteran from the Vietnam era which followed a salute to the troops during Alabama's June Jam concert.

JUNE 18, 1991.

Dear Alabama, I would like to thank you for the unforgettable experience my wife and I had at our first June Jam (June Jam X), and commend you for the outstanding service you give and example you set for our great nation. Undoubtedly, it was the most thrilling and exciting event I've had (save the reunion with my wife) since returning from Operation Desert Storm.

I would like to share with you an experience I had during the "Salute to the Armed Forces" portion of the Jam. I was fortunate enough to sit next to a Vietnam veteran, an Alabama native. Because of the enormous difference in the conduct of our wars and the conduct of the nation back home, I was, to say the least, nervous and extremely cautious. Later, I found out, much to my surprise, that he was even more nervous than I. After stumbling over ourselves for about an hour or so, the foundation was finally laid for a strong and emotional relationship, which I'm sure will last for years to come. Well, as the soldiers from past conflicts slowly moved across stage and took their place of honor, the crowd silently and reverently watched. However, when the jungle camouflaged, boonie capped-ranger tab wearing Vietnam vet came across the stage, the crowd wildly cheered and clapped, and gave him the welcome home he should have had 20 years ago. I looked at the old staff sergeant, my friend, and saw the tears of sadness, frustration, anguish, and exhaustion roll down his cheek. I have never seen a man stand so tall or look so proud. I will never forget what you did for that soldier. Thank you!

This fast paced and crazy world we live in seems to get harder and harder to live in. Ultimately, our Heavenly Father's plan will prevail and there will be no more pain and suffering. But until then we as a human race must work with what we have to make this world the best it can be. It is refreshing and inspiring to see people in a position of great influence do the nobel and worthwhile work you do. The money you raise, the causes you support, and the influence you spread is truly beautiful. I would go back to Panama, Saudi Arabia, or anywhere else to fight and die for people like you. I am a great fan of your music, but a greater fan of your compassion, morals, and ethics.

A Forever Fan,
ROBERT R. CRAIG,
1Lt IN, 82nd Airborne Division, U.S. Army.

Mr. Speaker, in my opinion this letter personifies a spirit of renewed patriotism and pride in America that is sweeping our great Nation.

I want to acknowledge the true from-the-heart emotions Lieutenant Craig conveyed in his letter. I'd like to also commend the group Alabama.

TRIBUTE TO BAY PORT, MI, FISH SANDWICH FESTIVAL

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. TRAXLER. Mr. Speaker, the Great Lakes have, over the years, provided Michigan, as well as many other States, with an abundant and delicious source of fresh water fish. This resource has proven invaluable, not only from a recreational standpoint, but also as a boost to our State's economy.

In light of this, I wish to take the opportunity to give special recognition to the town of Bay Port, MI—often referred to as one of the world's largest fresh water fishing ports—upon the commencement of the 14th annual Bay Port Fish Sandwich Festival, being held on August 3 and 4, 1991. For the past 13 years, this friendly town of 550 located in Huron County on the "thumb" of Michigan's "mitten" has offered its famous, distinctive culinary delight, the Bay Port fish sandwich, to friends, neighbors and tourists alike.

Fresh water fishing has the distinction of being the biggest industry and largest employer in Bay Port, and this magnificent festival annually attracts thousands of visitors from Michigan and surrounding areas. Again this year, Bay Port townspeople will donate their time and energies to serve 10,000 Bay Port fish sandwiches to guests visiting their quaint fishing community. The dedicated efforts and steadfast commitment of these fine individuals do not go unnoticed or unappreciated.

Therefore, it is with great enthusiasm and pride that I salute all associated with the 14th annual Bay Port Fish Sandwich Festival. I encourage all citizens to join me in commemorating this gala event.

DISTRIBUTION OF NEA FUNDS AMONG THE STATES MUST BE MADE FAIRER

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. SHAW. Mr. Speaker, when the House recently considered the Interior and Related Agencies Appropriations bill for fiscal year 1992, I rose in reluctant opposition to the amendment offered by the distinguished gentleman from Illinois [Mr. CRANE], to that bill. Congressman CRANE'S amendment would strike funding for the National Endowment for the Arts [NEA] for fiscal year 1992.

Although I generally support funding for the NEA, my support for the NEA is growing tepid because of the regional funding inequities seemingly inherent in the way the NEA distributes funds to the States. I refer specifically to the gross discrepancy between the amount of NEA funds distributed to the State of New

York as compared to the amount given to the 17 States which comprise the Sunbelt region.

For example, according to NEA fiscal year 1989 statistics, New York State alone received a whopping $11.1 million more in NEA grant money than all of the Sunbelt States combined. New York garnered an incredible $39.9 million in NEA funds, while the 17 Sunbelt States (Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Mississippi, Alabama, Louisiana, Texas, New Mexico, Arizona, Missouri, Oklahoma, Tennessee, Kentucky, and Arkansas) received only $28.8 million.

Overall, New York easily led the Nation in NEA grant money in 1989. California ranked a distant second with $16.2 million, getting less than half of New York's share. Texas, the third largest State in the Nation, led the Sunbelt region, ranking 8th nationally and receiving $4.7 million. My home State of Florida, the fourth largest State in the Nation, received a paltry $1.9 million and ranked 17th. Arkansas was ranked dead last among the 50 States, receiving only $451,950 from the NEA in 1989.

New York's take from the NEA is so large, that not even the Sunbelt, combined with the NEA funds given to Idaho, Alaska, Delaware, Kansas, Maine, Montana, North Dakota, New Hampshire, Nevada, Rhode Island, South Dakota, Vermont, Wyoming, Iowa, and Nebraska can equal New York's share. I find it incredible that one State can receive more funds than 32 States from a Government agency that ostensibly is interested in all regions of the country.

As cochairman of the Congressional Sunbelt caucus, I wrote an article for the caucus' newsletter, hoping to alert the 154 members of the Sunbelt caucus to this disturbing fact. I was hoping that by bringing this fact to light, the NEA would correct this inequity for fiscal year 1990. Unfortunately for artists in the Sunbelt, this was not to be the case.

For fiscal year 1990, I found that the funding discrepancy still existed between New York and the 17 Sunbelt States, although the difference was not as dramatic as fiscal year 1989's figure. According to NEA statistics, New York garnered $33.65 million in NEA funds, compared to the Sunbelt's share of $28.9 million for a difference of $4.75 million, last year. New York easily led the Nation again in NEA funding, receiving more than double the amount of funding received by California, which at $15.96 million was a distant second. New York's share from the NEA funds given to Delaware, Idaho, North Dakota, New Hampshire, Nevada, South Dakota, Wyoming, and Hawaii can equal New York's huge share.

This regional funding inequity is obscene, a word with which I am sure the NEA is familiar. I voted against the Crane amendment this time; I did however, support the Stearns amendment, which would have cut $7.4 million from the NEA. I voted for the Stearns amendment mainly to register my displeasure over the meager funds the Sunbelt receives from the NEA.

Mr. Speaker, I realize that New York is considered by many to be the cultural center of the Nation. However, I wonder how many aspiring artists in the rest of the country simply lack the resources to develop their artistic potential. The National Endowment for the Arts is a national program—not a New York program. I will continue to follow this issue closely, and I plan to become more active on this issue in my role as cochairman of the Congressional Sunbelt caucus, especially when the NEA is due for reauthorization. This funding inequity is unfair and must be changed, either internally by the NEA, or if the NEA is unwilling, by the Congress.

DANCYVILLE UNITED METHODIST CHURCH ADDED TO PRESTIGIOUS NATIONAL REGISTER

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. TANNER. Mr. Speaker, I rise today to recognize the dedicated work of members of the Dancyville United Methodist Church. Led by Ms. Dorothy Moore, their hard work and diligent effort was rewarded recently when their church and its adjacent cemetery were listed on the National Register of Historic Places.

That listing secured the church's place in Dancyville's history, righfully protecting it from future building projects that might adversely affect the building's historic character and longtime role in the community. The church has a history in Dancyville and Haywood County dating back some 150 years. The Dancyville United Methodist Church is easily worthy of this coveted recognition.

The work of church members toward achieving this goal is to be commended. I've been going to Dancyville all my life and the community is filled with wonderful people. It remains a community wrapped in strong moral fiber and sound American values.

I want to join my friends in Dancyville and Haywood County in expressing my congratulations to Ms. Moore, the church, and its members on this historic achievement.

Clearly, it is a treasure worth preserving in Dancyville, TN.

I respectfully request that the attached article be included with these remarks.

DANCYVILLE UNITED METHODIST CHURCH ADDED TO PRESTIGIOUS NATIONAL REGISTER

Haywood County's contribution to the list of history-making places swelled by two March 13 when the Dancyville United Methodist Church and its adjacent cemetery on the southern edge of Haywood County were added to the National Register of Historic Places.

The church and cemetery, dating to the mid-19th century, were considered for nomination and examined by the 13-member State Review Board in January. Though Steve Rogers of the Tennessee Historical Commission said Monday that the church made the list in March, notification to the state came only last week.

The listing in the National Register of Historic Places of the Department of the Interior provides recognition of places worthy of preservation but does not encumber property with federal regulations.

The Dancyville church's inclusion reinforces its historic importance and assures protective review of federal projects that might adversely affect the character of the property. By virtue of its listing, the property could qualify for certain federal investment tax credits for rehabilitation.

One of the Dancyville church members who has been instrumental in moving the church's nomination through the recognition process, Dorothy Moore, said that the community is overjoyed by the acceptance of the church and cemetery to the national register. Members of the community plan to purchase markers for the property as soon as possible.

TRIBUTE TO ALAN "ACE" COHN

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Ms. KAPTUR. Mr. Speaker, recently Toledoans lost a very valuable member of our community with the passing of Alan "Ace" Cohn. A World War II Navy veteran, Ace was actively involved in a number of Toledo organizations. He was a member of the Temple Shomer Emunim, the Toledo Museum of Art, and the Toledo Botanical Gardens. For over 30 years, he was a respected steel executive, and most recently was the president and treasurer for Globe Trucking Co. and managing partner with John Savage at SAVCO.

For over two decades, Alan was an active member of the Democratic Party. In 1968, was elected as a delegate to the Democratic National Convention. From 1968 to 1980 he served as a committeeman to the Democratic State Central Committee; and from 1966 to 1980 he served ably for 5 years as the Democratic State Finance Chairman, and was treasurer of the State Democratic Party. His knowledge and love of politics were evident in his commitment and tireless efforts on behalf of the Democratic Party.

He was also an avid sports fan. In 1968 he was appointed to the advisory board of the Toledo Mud Hens Baseball Club. He was also a driving force behind the formation of the Jamie Farr Golf Classic which has brought the LPGA to Toledo and is a source of great pride in our community.

I speak for all of those who knew Alan "Ace" Cohn in expressing our most heartfelt sympathy to his wife, Suzanne; their sons, Robert and Carlton; daughters, Julia and Rion Kweller; his sister, Elaine Wolson; and grandsons, Benjamin and Matthew Kweller.

Mr. Speaker, Alan Cohn was a valuable source of inspiration and guidance to all who knew him. We all, and I for one, will deeply miss him.

INTRODUCTION OF THE LEAD CONTAMINATION CONTROL ACT AMENDMENTS OF 1991

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. WAXMAN. Mr. Speaker, I am pleased to announce today the introduction of the Lead Contamination Control Act Amendments of 1991, a comprehensive strategy to fight the most serious environmental threat to our children—childhood lead poisoning.

The statistics on childhood lead poisoning are truly shocking. Nationwide, 3 million young children—nearly one out of every six—have been exposed to enough lead to impair mental development. In some cities, half the young children may have suffered brain damage due to lead exposure.

Lead poisoning is pervasive. It is incurable. It reduces IQ's and diminishes thinking abilities permanently. The only good news is that it is also entirely preventable.

The legislation being presented today has precisely this aim—prevention. It provides an effective program to address the two most important causes of childhood lead poisoning: Deteriorated lead paint and lead in drinking water.

The legislation strengthens the program to reduce lead levels in drinking water, because drinking water is the most widespread source of lead exposure.

The legislation requires that families be warned about hidden hazards from old lead paint before they move into a home or an apartment, because families need this information to protect themselves from the most dangerous source of lead exposure.

The legislation strengthens the program to inspect schools and day care centers for lead contamination, because many children spend most of their time in schools or centers.

The legislation expands programs to test children for lead poisoning, because early detection is essential to protecting children from permanent brain damage.

And the legislation requires that lead in food, ceramics, and crystal pitchers be reduced, because there is no known safe level of lead exposure.

Taken together, these measures add up to an effective prevention program—a prevention program that this Nation cannot afford to overlook anymore.

A new report released today by the Natural Resources Defense Council underscores the seriousness of the lead problem and the urgent need for new legislation. Three years ago, Congress passed a law that required schools and day care facilities to test their drinking water for lead. Yet compliance has been abysmal. According to the report, my own State of California cannot even say how many schools or day care facilities have tested their water for lead. The same is true in other States.

I am particularly worried about what the report says about day care centers. Babies at day care centers are fed baby formula. Often this formula is made with boiled water. The process of boiling concentrates the lead. In several reported instances, young infants have become severely lead poisoned from drinking milk made from such lead-laden water.

Despite the substantial risks, the NRDC report says that fewer than 1 percent of the day care facilities in the country have tested their water to see if it is safe for making baby formula. This is an intolerable situation. The new legislation would make the testing requirement federally enforceable for the first time.

I expect Congress to move fast to pass comprehensive lead legislation. The House Health and the Environment Subcommittee will hold hearings on the legislation this month.

THE PARTNERSHIPS FOR EDUCATIONAL ADVANCEMENT ACT

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. GOODLING. Mr. Speaker, today I am introducing the Partnerships for Educational Advancement Act. This bill will amend the Higher Education Act to provide incentives for 2-year postsecondary institutions of higher education and 4-year baccalaureate degree granting institutions to create articulation partnerships between the 2-year schools and the 4-year schools. The bill also creates a scholarship program for students at 2-year institutions to continue with their education toward a baccalaureate degree.

Since we know that more than one-half of all first-time, first-year students attending postsecondary institutions attend community or junior colleges, and because almost one-half of minority students enrolled in higher education attend 2-year institutions, these institutions represent a substantial and an important educational resource. The bill is designed to help assist students in bridging the gap between 2-year to 4-year institutions, enabling them to reach their individual potential, as well as contribute to the larger society.

This act, which amends title I of the Higher Education Act, will ensure that academic credits earned at a 2-year institution will be transferable to a 4-year baccalaureate institution. Below is a section-by-section description of the bill.

SECTION-BY-SECTION DESCRIPTION

Section 1. SHORT TITLE.—This section names the bill "Partnershps for Educational Advancement Act of 1991."

Section 2. ARTICULATION AGREEMENTS.—This section amends the Higher Education Act of 1965 by creating a $50 million program for articulation agreements between partnerships of 2-year and 4-year institutions of higher education. The section includes the findings and purpose of the programs.

The bill requires the Secretary of Education to make grants, from amounts appropriated, to States to enable States to make awards to articulation partnerships between 2-year postsecondary institutions and 4-year postsecondary institutions.

The Secretary is required to allocate the funds to the States according to a formula when amounts appropriated equal or exceed $50 million. The Secretary is required to make grants on a competitive basis when the amount appropriated is less than $50 million.

Each State desiring to receive a grant under the program submits an application to the Secretary. The application requires (1) the designation of a a sole State agency as the State agency responsible for administering the program, (2) a description of how funds will be allocated, (3) certain assurances, and (4) provision for an annual submission of data concerning uses of funds and students served.

Each local partnership that desires to receive a grant from a State is required to submit an application that includes certain information including assurances that academic credit earned at the institutions in the partnership are transferable to the other institutions in the partnership, inservice training for teachers, and counseling services for students. Grants are for six years.

The State is authorized to use up to three percent of the State money for administration.

The State is required to give priority to grants which (1) encourage teacher education, (2) are participating in "Tech-Prep" education programs, (3) contribute their own institutional resources, (4) are not subject to a default reduction agreement, and (5) encourage articulation in subject areas of national importance as determined by the Secretary.

States are required to submit annual reports to the Secretary on the operation of the program. The Secretary is required to evaluate the programs and disseminate information about the most successful programs and the causes for success.

Section 3. ARTICULATION SCHOLARSHIPS.—This section creates a $30 million scholarship program for students enrolled at a 2-year institution in order to enable students to continue their postsecondary education by pursuing a bachelor's degree at a 4-year institution.

The Secretary is required to conduct a national competition for selecting scholarship recipients. Scholars are selected on the basis of superior academic ability and leadership potential and priority is give to students demonstrating superior academic ability and financial need. The institution at which the student is enrolled must contribute a twenty percent match of the federal funds. The awards are for the second through fourth year of college and may not exceed $10,000.

LADY PANTHERS OF LEDFORD HIGH SCHOOL SOFTBALL CHAMPIONS

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. COBLE. Mr. Speaker, there are some championship teams which start fast out of the gate and never look back. Then there are those championship squads which start out slowly but still come out on top in the end. The latter case is true of North Carolina's new 2–A high school softball champions—the Lady Panthers of Ledford High School in Thomasville, NC.

On June 6, Ledford captured the State softball title with an 8–6 victory over South Granville High School. The win capped a remarkable season for the Lady Panthers. At one point it did not appear that the Lady Panthers would be playing in any post-season tournaments. As Coach John Ralls told the Lexington, NC Dispatch, "At one time we were 12–6, and I think the turn-around came about when we beat East Davidson and Central Davidson on consecutive nights. Right then, I started to tell people that we had a chance to make the playoffs."

The Lady Panthers did more than make the playoffs; they won the entire tournament. From a record of 12–6, Ledford went on to win its last 13 games to claim the State 2–A softball title, finishing the season with a record of 25–6. The Lady Panthers proved the point that it doesn't matter how you start, rather it's how you finish. The Lady Panthers finished extremely well.

Of course, much of the credit for the great finish to a remarkable season would have to go to Head Coach John Ralls, who has guided the Ledford softball team for the past 12 years. Helping Coach Ralls direct the Lady Panthers to the championship were assistant coaches Tom Videtich and Paula Smith. Of course, Coach Ralls would be the first to tell you that a coach can do only so much. It is up to the players to get the job done. The Lady Panthers got the job done.

Congratulations to each and every member of the team: Julie Baughn, Lesli Chastain, Michelle Compton, Christy Craven, Janet Fields, Alicia Halker, Jennifer Halker, Wendy Huie, Tricia Hunt, Karen Little, Misty Petty, Joanna Russell, Arlithia Stewart, Gretchen Uselman, Angie Vaughn, Stephanie Wood, Sherri Young, and scorekeeper Sherri Brown. Also congratulations go to Principal Max Cole, the faculty and staff, the students and their families, and the entire Ledford community for their support of an outstanding athletic program at Ledford High School.

The Lady Panthers may not have started out as No. 1, but that is where they finished—No. 1. Congratulations from all the citizens of the Sixth District of North Carolina.

HOW MUCH LIBERTY?

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. DUNCAN. Mr. Speaker, to me, Warren Brookes is one of the most intelligent and most consistently accurate columnists on the American scene today.

I wish every newspaper in the United States carried his columns, because many people do not have access to the kind of information he provides.

His column which ran in the July 4 issue of the Washington Times does not have many of the specific details contained in most of his columns, but it is a thoughtful and interesting article that I would like to call to the attention of my colleagues and other readers of the CONGRESSIONAL RECORD.

HOW MUCH LIBERTY?

(By Warren Brookes)

Today America officially celebrates the restoration of national self-confidence through the Gulf victory. It is not a time for raising unpatriotic doubts.

Yet as significant as the achievements of U.S. military might in the Persian Gulf were, President Bush surely understands they do not erase the picture of a country whose domestic agenda is in such intellectual as well as policy disarray.

It is easy to blame this on an administration too preoccupied with polls and process to think coherently about principles. It is even easier to scapegoat a Congress that, among other things, swept a sleazy scandal behind the victory banners.

But the fact is, on this 216th Independence Day, the Americans who elected these folks are extremely ambivalent about how much "independence" they really want. With a government that now takes almost 39 percent of our personal income in taxes, and spends more than 42 percent, it is clear we tolerate a great deal less than Thomas Jefferson would ever have imagined when he wrote the Declaration of Independence.

While Americans complain bitterly about taxes, they do not take kindly to most efforts to restrain government spending, and despite a record of relentless regulatory failure, they continue to demand more, not fewer, rules to protect them from every exigency, and especially against failure.

They have apparently never pondered Jefferson's questions in his first Inaugural address in 1801, when he said, "Sometimes it is said that man cannot be trusted with the government of himself. Can he then be trusted with the government of others? Or have we found angels in the forms of kings to govern him?"

Jefferson was willing to "let history answer this question," and it certainly has. But that has not diminished the basic appetite to put our security in the hands of others. It's as old as the Bible. Despite all his warnings of the dangers, the prophetic Samuel found the people still said, "Give us a king."

Today, as we celebrate our willingness to fight for freedom and independence, we have gladly ceded much of it to the politicians and bureaucrats who celebrate with us, even as their own careers depend on making us more dependent on them than ever.

The irony is that the worldwide revolution in information technology is geometrically increasing the sheer knowledge power of the individual. That is decreasing the power of governments to control the marketplace for both ideas and capital.

How Jefferson, the perpetual inventor and all-around Renaissance man, would have loved the laptop computer that enables an individual at home or anywhere to access the information resources of the world and "vote" with his savings for or against the policies of governments. Not only would he have rejoiced in its remarkable technology, he would immediately have understood its liberating potential.

After all, he said he knew "of no safe repository of the ultimate powers of society, but the people themselves," an idea that is anathema to a Washington now totally committed to seizing more of that power for the benefit of special interests.

Even so, there are some highly positive signs of a countertrend, and on the Fourth we are entitled to celebrate civilian victories as well as military ones.

First and foremost, President Bush's courageous decision to name Judge Clarence Thomas to the Supreme Court is more than matched by the almost unimaginable fortitude with which Judge Thomas has surmounted life's challenges. From the poverty and racism of a Deep South boyhood to his honors career at Holy Cross and Yale Law School, his is truly an affirmation of Jefferson's dream and a rebuke of the culture of victimization. That rebuke will unleash a backlash.

Second, a bipartisan commission headed by Sen. Jay Rockefeller, West Virginia Democrat, proposed a $52 billion program to help families with children, $40 billion of which would be in the form of tax cuts and credits, not for new government spending or bureaucracy. Fire a shot for the "safe repositories." Worry about the unenthusiastic Washington establishment reception.

Last month, the Senate voted 55-45 to make it a law that anytime the government imposes a sanction, enviromental or otherwise, that devalues your property, it should pay for that "taking" under the Fifth Amendment. Say a cheer for economic freedom. Say a prayer because the vote was so close.

Aside from these tender straws, the wind blows hard in the statist direction. Even as technology is decentralizing power, Americans now seem eager to let the government make more of their decisions. They want vibrant economic growth but no environmental risks; they want strong, dynamic banks, where their money will be 100 percent guaranteed; they want affirmative action, but not quotas; they want to be competitive, but they don't want any losers; they want unlimited health care for more limited costs.

In short, they want to celebrate their "independence" but not endure its pain. Jefferson warned that political parties would divide along this fault line, and they have. What he didn't predict was our relentless tendency to straddle it.

SPECIAL TRIBUTE TO MR. ED MURPHY

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Ms. NORTON. Mr. Speaker, I am pleased to pay special tribute today to Mr. Ed Murphy, founder of the Harambee House Hotel—now the Howard Inn—in the District of Columbia, the Nation's first black-owned and operated, full-service, luxury hotel. Mr. Murphy will be honored for that unique distinction during a 6 p.m. ceremony tonight at the Howard Inn. During tonight's celebration, a commemorative plaque recognizing Ed Murphy's historic accomplishment will be unveiled and installed in the lobby of the hotel he founded.

This evening's historic plaque ceremony dedication will be the culmination of a yearlong effort initiated by Robert DeForrest, president of the Afro-American Institute for Historic Preservation and Community Development; Cathy Hughes, chief executive officer of ALMIC Broadcasting and popular WOL radio personality; and Robert Hooks, well-known actor, writer, activist, and master of ceremonies for tonight's ceremony. This threesome led a spirited campaign to have Ed Murphy acknowledged as founder of the Harambee House Hotel, and to award him his rightful place in African-American history. Said Robert Hooks in a letter to Howard University officials during the yearlong campaign urging them to recognize Murphy's rightful place in that history: "Ed Murphy is the product of the American dream, to own and operate a business in the heart of his community * * * and to represent a positive image to inspire our young business men and women * * * that they can succeed."

Having spent his childhood years in the inner city, Ed Murphy opened his first food service business in that area at 11th and O Streets NW. From that first small carryout shop, he expanded into other restaurants and clubs and, in 1964, opened the first Ed Murphy's Supper Club on Georgia Avenue NW., near Howard University.

"Murph's" soon became the favorite relaxation spot for community leaders, educators, politicians, attorneys, government officials, entertainers, and a cross section of Washington's grassroots citizens; it was unusual for one business to attract such a wide range of patrons. Business connections, lasting friendships, and even marriages began there and, of course, Ed Murphy was always on hand as the founder, owner, and genial host, making everyone feel welcome and at home away from home.

In 1972, Ed Murphy moved across Georgia Avenue to open the new Ed Murphy's Supper Club, and eventually opened a similar club in the lobby of the Frank D. Reeves Municipal Center, the first operation of this type in a DC Government office building. But it was at the original club site on Georgia Avenue near Howard University where the development plans for his ultimate dream, the Harambee House Hotel, were born and nourished. In 1978 that dream became a reality; Ed Murphy opened the multi-million-dollar, 150-room building, the first such black-owned luxury hotel in the United States. It later changed both its name and ownership, but no one would want the spirit of Harambee—Unity—that marked the creation of what is now known as the Howard Inn to be either altered or undone.

Washington, DC, and the Nation can take pride in the exceptional accomplishments of Ed Murphy, a man who had the heart to dream and the intestinal fortitude to make that dream come true.

LIBRARIES IN AMERICA 2000

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. OWENS of New York. Mr. Speaker, I would like to submit the following speech for publication in today's CONGRESSIONAL RECORD. I delivered the speech today during the White House Conference on Libraries, which is being held this week at the Washington Convention Center, and it concerns the role of libraries in American education:

LIBRARIES IN AMERICA 2000

Fellow delegates, observers, and all who care about education and libraries, welcome to this very brief but vital White House summit of our citizens. This assembly which meets only once each decade is indeed a very serious gathering. We who care about democracy, education and libraries have a vital mission for America. All who want to see more education take place in a "learning society" and a "nation of students" must go forth with a vital message for America.

There are some self-evident truths about the process of learning that are being overlooked as our leaders prepare to transform the education effort in our nation. Our mission is to go forward with the vital message that libraries still make a great contribution to our democracy by providing the most education for the least amount of money. Libraries are worth it!

Literacy and productivity are very necessary for the strengthening of our democracy. Basic literacy, information literacy, computer literacy; literacy of all kinds enhances productivity. And productivity guarantees that our enterprises will be retained here at home to provide jobs for American workers who are also the consumers who keep our economy healthy. And nothing bolsters democracy like a healthy economy. Citizens who have a stake in society, citizens who don't have to struggle daily for survival, citizens with some time to breathe free; these are the people, the volunteers, the voters who make our democratic institutions work. Literacy, productivity, democracy; it's all connected.

Undergirding all three of these components, cementing literacy, productivity, and democracy together is education. The President has launched a great crusade to improve education in America. Improving literacy, improving productivity, and increasing the capacity of all citizens to participate in our democracy are parts of the President's master plan. It is all connected.

Education is presently on center stage in Washington. In the months ahead the debates will escalate and spread rapidly. Our mission, indeed, it is the sacred duty of all who care about libraries; at this conference we must develop ways to add our voices to this critical dialogue. As some of the most enlightened among our nation's citizens we must insist that all discussions of the future of education in America are deficient, defective, and distorted if they do not include a significant role for libraries.

An America in the year 2000 without upgraded, modernized and accessible libraries and public information systems will be comparable to a human body without a backbone and skeleton. Without libraries our expanding educational reform efforts, no matter how well-intentioned, will collapse in a monstrous swollen mass.

Not only must we remember that libraries provide the most education for the least amount of money, we must also remind all of the education decision makers of America that the habit of reading, and the habit of using the library, and the habit of learning are inextricably interwoven.

Students who do not read can not learn. Students who enjoy reading learn faster and more consistently. Children who are in close proximity with books in their home libraries or their school libraries or their public libraries learn to read faster and they read more as they grow older. These are undisputed facts. These are simple but self-evident truths.

The facts and the truth are on our side but nevertheless our mission is a difficult one. Giant contradictions stand blocking our common sense message to America. Led by the President and the Governors there is a great crusade to transform education in America. We applaud this highly desirable undertaking. But even while the momentum for educational change is mounting they are cutting the budgets of libraries all over America. They are firing librarians; they are wrecking library schedules; they are smothering book acquisition funds; they are closing libraries; this is happening all over America.

These developments represent a malignant and ugly contradiction. If the habit of reading and the habit of using libraries and the habit of learning are inextricably interwoven, then how can we destory the effectiveness of libraries while at the same time we are striving to create "a learning society," "a nation of students"? How can we declare our libraries a non-essential service while we are striving to strengthen our democracy?

America 2000 is the label they have placed on the President's master plan for the transformation of education in America. At the heart of his national blueprint is the set of six national education goals. All of these goals involve the reading and information searching skills which are encouraged and sustained by libraries.

AMERICA'S EDUCATION GOALS

By the year 2000—

1. All children in America will start school ready to learn.
2. The high school graduation rate will increase to at least 90 percent.
3. American students will leave grade four, eight, and twelve having demonstrated competency in challenging subject matter including English, mathematics, science, history, and geography; and every school in America will ensure that all students learn to use their minds well, so they may be prepared for responsible citizenship, further learning, and productive employment in our modern economy.
4. U.S. students will be first in the world in science and mathematics achievement.
5. Every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.
6. Every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning.

GOAL 1. BY THE YEAR 2000, ALL CHILDREN IN AMERICA WILL START SCHOOL READY TO LEARN

Libraries are essential to the achievement of this goal. Education research indicates that the single most important activity in preparing pre-school children to read is reading aloud to them. Studies by Durkin (1966), Chomsky (1972), Goldfield and Snow (1984) and others have found that both the sheer quantity of the material read to a young child and the continued use of progressively more advanced reading material are directly related to the extent of that child's "reading readiness" skills when he or she enters school. A study by William Teale, however, found that too many young children are missing out on this essential element of literacy preparation.

Libraries work to fill this gap by exposing young children and their parents and other caregivers to the wide variety of children's literature they need to develop their "reading readiness" skills. Many also provide training to parents and caregivers on how to select appropriate reading materials and how best to use them with children. They are shown not just how to read to their children, but how to read with them.

The Howard County (MD) Public Library's BABYWISE program, for example, has developed a series of teaching kits which they regularly deliver along with books, toys, and educational games to family day care providers in the community.

The Hennepin County (MN) Public Library conducts workshops for family day care providers on the selection and use of children's literature which the county social services agency has made a part of its in-service training requirement for providers.

The Brooklyn Public Library's Children's place program serves 45,000 preschool children and their caregivers every year. The staff teaches parents, day care providers and others how to prepare their children to read and learn.

The Jacksonville (FL) Public Library conducts regular reading workshops for functionally illiterate parents and their children. While their children attend a story hour program, their parents are taught how to read, using the same books their children are listening to. Later, the paren's then read the story to their children.

The Rogue River (OR) Public Library has an outreach program in which volunteers visit the families of newborns to give them a library card, deliver a presentation on the services of the library for parents of young children, and instruct them on how to read to children.

GOAL 2. BY THE YEAR 2000, THE HIGH SCHOOL GRADUATION RATE WILL INCREASE TO AT LEAST 90 PERCENT

An estimated 14 to 25 percent of students entering high school nationwide will drop out before they finish. Research indicates that youth who are the most likely to drop out are those who are the least prepared academically and the least involved in school activities. Libraries have been playing an active role in targeting special services to these students to help improve their academic performance and prevent them from dropping out of school.

In Shawnee Mission, Kansas, the public and school district libraries have joined forces to sponsor an 8-week summer reading program for elementary and middle-school students. Every year about 2,500 students participate in the program, each averaging five visits to the library during the summer.

In South Carolina, public libraries sponsor 2,007 summer reading programs for low-income children attending summer food program sites. Over 46,000 children participated last summer.

In Illinois, public libraries sponsor summer literacy programs for 1st through 5th graders who have met minimum requirements for promotion but are behind in their reading skills.

In Baltimore, the Enoch Pratt Public Library operates three homework centers in which volunteers provide assistance to students in completing their assignments and offer a wide selection of books and materials which supplement the regular curriculum.

In Decatur, Georgia, the DeKalb Public Library operates a Homework and Study Center for students during after-school hours and on weekends. Library staff, which includes experienced teachers, provide homework help to students. Typewriters, computers, calculators and other equipment is available for students to do their work with. Books and other materials, including educational software and videos, are provided which are designed to complement the instruction students receive in the classroom.

The Cambridge (MA) Public Library operates a Books for Homeless Children program which provides books, cassette tapes, and story hours in Boston homeless shelters.

GOAL 3. BY THE YEAR 2000, AMERICAN STUDENTS WILL LEAVE GRADES 4, 8, AND 12 HAVING DEMONSTRATED COMPETENCY OVER CHALLENGING SUBJECT MATTER, INCLUDING ENGLISH, MATHEMATICS, SCIENCE, HISTORY, AND GEOGRAPHY

Report after report on educational reform in recent years has proclaimed the importance of re-orienting our current curricula and methods of instruction to better develop "information literacy", the new set of skills which are required in a knowledge-based economy.

Inevitably, libraries must be central to developing these new information access skills and facilitating the lifelong learning that has become an economic imperative. As one library educator put it: "If the challenge is to learn how to learn and how to place one's learning within a broader societal and information environment, then libraries and their resources become the logical center for such learning."

Mainstream educators are, to some extent, only just now discovering what library professionals have known all along. Over the last thirty years, the library science community has produced a solid body of research which has established the link between access to and regular use of a library with academic achievement at the elementary, secondary, and postsecondary level. These studies have established that students who have access to a library staffed by a full-time professional and who are given instruction in its use read more often, score better on standardized tests, and have superior reading, spelling, vocabulary, and comprehension skills to those of other students.

GOAL 4. BY THE YEAR 2000, U.S. STUDENTS WILL BE FIRST IN THE WORLD IN MATHEMATICS AND SCIENCE ACHIEVEMENT

All of the recent reports concerning the crisis in math and science education have focused on the need to reconfigure our current authoritarian instructional approach in which "teachers prescribe and students transcribe"—to one in which there is greater participation and hands-on learning by students. Libraries and their resources are essential partners in this new, more interactive method of instruction. They provide multimedia materials to supplement classroom instruction and offer a non-competitive environment in which independent, self-directed learning is facilitated. The Whitehall (MT) High School library worked with the school's science department to develop a Videotaping through Microscopes program to enhance student participation in difficult microbiology experiments and in learning how to use the microscope. The exemplary Discover Rochester program effectively teaches math, science, and other concepts to at-risk 8th graders by exploring various facets of the Rochester environment through group and individual research projects that rely heavily on the resources of local libraries and archives. Libraries contribute to math and science instruction in other, more unexpected ways as well as by introducing math and science teachers to literature outside their disciplines which may be useful in the classroom. Some of the most promising new curricula in elementary math instruction, for example, draws on such disparate sources as Gulliver's Travels and Haitian and African folk tales for math problems.

Public and school libraries also promote math and science education by using new technologies to give teachers, students, and parents greater access to science and math information and resources. The Radnor High School library in Pennsylvania, for example, instructs science students in the use of electronic databases like DIALOG for performing science research. Automated bibliographic networks allow users to identify, locate, and obtain highly specialized information from libraries throughout the nation.

A number of libraries also sponsor instructional television networks which provide instructional programming to the classroom and to the community at large. In Leon County, Florida, for example, the library-sponsored instructional television network offered a series of after-school programs designed to help students with their homework and to familiarize and involve parents with what their children are learning in the classroom.

Libraries also provide students and their families with free access to microcomputers and other expensive information technologies which they may not be able to purchase on their own. Last year 44,000 people used the free Apple microcomputers offered by the New York Public Library at 54 locations, many of them students working on classroom assignments. The library is the only place in all of New York City where microcomputers can be used for free.

GOAL 5. BY THE YEAR 2000, EVERY ADULT AMERICAN WILL BE LITERATE AND WILL POSSESS THE KNOWLEDGE AND SKILLS NECESSARY TO COMPETE IN A GLOBAL ECONOMY AND EXERCISE THE RIGHTS AND RESPONSIBILITIES OF CITIZENSHIP.

Because they do not have the same stigma as schools and other public institutions, libraries are an important way to reach people who are functionally illiterate. The Onondaga County (NY) Public Library conducts outreach for its literacy program at the waiting rooms of social service agencies; libraries in South Carolina target outreach to persons at substance abuse treatment centers; the Missoula Public Library in Montana offers a literacy program at a local mall; and the Lane County Library in Oregon uses a bookmobile to deliver literacy materials and instruction to rural residents.

Libraries have also been effective in delivering literacy instruction to members of special populations who are often overlooked by other providers. In Colorado, a library-sponsored bookmobile provides low-literacy reading materials and literacy and English-As-A-Second-Language instruction to migrant farmworkers throughout the state. The Chicago Public Library offers library services and peer tutoring to inmates at the Cook County Jail. The New York Public Library has provided English as a Second Language instruction to 11,000 adults and literacy instruction to another 3,500 since 1984.

In addition to attacking illiteracy, libraries also provide critical resources to respond to the growing basic skills deficit in the American workforce. There are few jobs that do not require sound basic skills. One study of a broad cross-section of occupations from professional to low and non-skilled found that fully 98% of them required reading and writing skills on the job. Yet an estimated 20% of the workforce today has deficient basic skills, reading at or below the 8th grade level. Most job-related reading materials, however, require at least a 10th or 12th grade reading ability.

As the "peoples' university", the public library is also an essential resource for the pursuit of lifelong learning by adults. Lifelong learning has now become an economic imperative as skills levels rise and the economy changes. As it is, Americans change employers and occupations more frequently than workers in all other advanced industrial economies. Every year 20 million Americans take new jobs. Only 25% have previous experience in the same occupation—the rest need additional training.

Libraries are working to fill the gap. Last year in New York State alone, over 428,000 people obtained job, career, and education information and counseling services through their local library. These users received career counseling and advice on developing a resume, information on job and educational opportunities, and participated in programs on how to start small- and home-based businesses.

For many years now, libraries have been engaged in all of these laudable activities which are in harmony with Goal Five of the national goals enumerated in America 2000. Public libraries have been steadfastly and routinely promoting adult literacy, the ability to compete in the workplace, and citizenship.

What is being proposed in section III of the booklet entitled America 2000 is not really new. They propose "skill clinics" where "people can readily find out how their present skills compare with those they'd like to have—or that they need for a particular job—and where they can acquire the skills and knowledge they still need." Such a clinic would be very much like a combined Education Information Center and Job Information Center, two innovations which have already been pioneered by the Brooklyn Public Library and other libraries throughout the nation.

America 2000 also proposes a "recommitment to literacy" and a "National Conference on Education for Adult Americans" which "will be called to develop a nationwide effort to improve the quality of accessibility of the many education and training programs, services, and institutions that serve adults." Libraries are the experts on accessibility for programs that serve adults. Librarians should be assigned a leadership role in the development of such a national conference. At this White House Conference on Libraries, we should all resolve to initiate certain concrete steps toward participation in such a conference on the education of adult Americans which would greatly strengthen our democracy.

GOAL 6. BY THE YEAR 2000, ALL SCHOOLS WILL BE FREE OF DRUGS AND VIOLENCE.

Violence in schools is usually perpetrated by students who have learning difficulties. Students who can not succeed in school are usually the students who can not read. Students who turn to drugs are usually the students who can not cope with the instructional regimen. These correlations are well established. Studies have also shown that most students are reading more books at the fourth grade level than at the seventh grade level. The absence of good libraries, the absence of aggressive nurturing encouragement for reading takes its toll on American students. Drugs, violence and other negative influences are usually found only where this kind of vacuum exists. Libraries and reading promote self-worth and self-esteem. Libraries fill up such youthful vacuums with positive substance.

All of the people who care about libraries should become familiar with all of the six goals. Librarians and libraries can contribute a great deal toward the realization of these goals. And as we facilitate the implementation of these goals we will again have the opportunity to demonstrate to the budget-makers of America how essential libraries have become in the process of promoting literacy, productivity, and strengthening our democracy.

It is a tragic fact, but in 1991, with the age of information being fully recognized, our solemn mission in this great democracy continues to be one of lifting the veil of ignorance from the eyes of our leaders. With respect to the utility of libraries we must continue an uphill fight against distorted visions, and warped priorities, irrational administrative prejudices, a casual but devasting contempt for an institution and a process that is taken for granted. Those of us attending this conference clearly understand that libraries strengthen our democracy by providing the most education for the least amount of money. But there is some neanderthal force at work all over America which blinds the budget-making officials and they can not see this self-evident truth.

How can so many educated men and women who have all used libraries to gain their credentials and their decision-making positions decide repeatedly to cripple or destroy libraries? How can so many lawyers in the legislative and executive branches of government who subscribe to one of the most efficient and effective information systems in the world, how can these masters of information literacy continue to dismiss libraries as non-essential? Libraries are not an emergency service like the fire and police departments. But libraries are essential for education. Libraries are essential for democracy. A nation that sincerely strives to become "a learning society", "a nation of students", must have leaders who clearly understand that libraries provide the most education for the least amount of money. Libraries are the cheapest conveyors of the fuel which generates the enlightenment that keeps our democracy strong.

In order to succeed America 2000 needs the assistance of libraries and librarians of all kinds—school librarians, college librarians, public librarians, special librarians. Obviously we can not wait to be invited to make our contribution. It is our duty to voluntarily and enthusiastically join the effort to strengthen our democracy by improving education.

One of the most fertile ideas in this far-reaching proposal is the call for "Bringing America On-Line". The following paragraph appears in the America 2000 exposition without any follow-up explanation. We must all resolve that this conference should be the beginning of a process to render the most meaningful possible interpretation of this paragraph:

"Bringing America On-Line: The Secretary, in consultation with the President's Science advisor and the Director of the National Science Foundation will convene a group of experts to help determine how one or more electronic networks might be designed to provide the New American Schools with ready access to the best information, research, instructional materials and educational expertise. The New American School R & D teams will be asked for their recommendations on the same question. These networks may eventually serve all American schools as well as homes, libraries, colleges and other sites where learning occurs."

No other component of America 2000 speaks more directly to the mission of this conference than this proposal for "Bringing America On-Line". It would be useful to have the President's Science Advisor and the Director of the National Science Foundation involved in this monumental project. But the librarians of America represent the group which truly has the expertise to bring America On-Line. The dream of a national information highway is a familiar dream for librarians. Librarians can readily understand how all six of the education goals could be better implemented nationally through such an information network. Librarians know that all of the citizens of the "learning society" that we hope to create; that every member of this "nation of students" projected by the President; librarians can clearly understand how all Americans from pre-kindergarten to post-doctoral would be greatly benefitted by America On-Line.

In the end "Bringing America On-Line" may prove to be the most creative element of America 2000 while at the same time it may be the least costly. But the key component, the chips that will make America On-Line work are the libraries already scattered across America. School libraries, public libraries, special libraries, law libraries, etc; all libraries will be necessary. We can not make America On-Line work if we cripple and destroy our libraries. What could be the world's most comprehensive and most accessible information system will never be constructed if we continue to cut budgets and close libraries.

A national system that places valuable information at the fingertips of all Americans is a system which greatly strengthens democracy. For the majority of our citizens local libraries will serve as their point of access to such a system. If the libraries are not there the system will not work. It's all connected.

The practical and immediate challenge of this White House Conference is to establish an agenda which facilitates the binding of the work of libraries to America 2000 and any other similar efforts to greatly improve education in America. Information and education provide the backbone of our American democracy.

And beyond the immediate practical work of this conference is the ongoing mission for every delegate and all others who care about libraries. We must strive harder to lift the veil of ignorance from the eyes of our budget-making leaders. Go tell the President and the Governors, the Mayors, the legislators and all others who make budget decisions that the habit of reading and the habit of using libraries and the habit of learning are all inextricably interwoven. Go tell these same leaders that libraries provide the most education for the least amount of money.

These are self-evident truths. They are obvious to librarians. In order for us to save the libraries which are vital for the strengthening of our democracy, these self-evident truths must become a fixed and permanent revelation in the minds of all of our leaders. Only this kind of public insight and wisdom can guarantee that our American democracy will long endure.

TRIBUTE TO THE HONORABLE JAMES R. DOOLEY

HON. ESTEBAN E. TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. TORRES. Mr. Speaker, I rise today to recognize an extraordinary individual, the Honorable Judge James R. Dooley. Judge Dooley is retiring after 15 years of service to the U.S. Bankruptcy Court.

Judge Dooley was born in Anderson, SC. He is married to the former La Curtis Ruth Walls. Judge Dooley has one son, Jerold Richard Dooley. As valedictorian of both his high school and college graduating classes, Judge Dooley graduated magna cum laude from Benedict College, SC.

Upon graduation from the John Marshall Law School in Chicago, Judge Dooley was awarded numerous honors and prizes. Elected to the Order of John Marshall, Judge Dooley received the Bobbs-Merrill Co. Prize, the Illinois Constitutional Law Prize, and the Post-Graduate Scholarship, as well as many others, signifying his attainment of the highest rank each year of his graduate studies.

Judge Dooley served actively both the World War II and the Korean war. Rising from the rank of sergeant to 1st lieutenant in 1942, he was on active duty from 1942 to 1946 and again from 1951 to 1952 during the Korean war. Mr. Dooley served as 1st lieutenant in the U.S. Army Reserve from 1945 to 1953 as well.

Judge Dooley was admitted to the Illinois Bar in November, 1950 and to the California Bar 3 years later. He practiced privately for a short time in late 1953 and then served as assistant U.S. attorney for the U.S. Department of Justice in Los Angeles from 1953 until 1976.

During the years of his service, Judge Dooley continued to earn high praise from his colleagues, as he served in many positions of leadership. From 1962 until 1976 Judge Dooley served as first assistant chief of the Civil Division in the U.S. Attorney's Office. As a well liked and well respected member of the Bar, Judge Dooley chaired the Disciplinary Board of the State Bar of California as well as the Federal Courts and Practice Commiteee of the Los Angeles County Bar Association in the early 1970's. Judge Dooley has served in many executive positions, including president, of the Los Angeles Chapter of the Federal Bar Association as well. Appointed as bankruptcy judge in November 1976 Judge Dooley continued to uphold his high standards of dedication and service for which he has earned his honorable name.

Mr. Speaker, on February 2, 1991, civic leaders and members of the legal community will be gathered to praise the Honorable Judge James R. Dooley and bid farewell to this outstanding individual. I ask my colleagues to join with me in a salute to a dynamic leader and respected individual, James R. Dooley, for his distinguished record of achievement and public service both to the people of Los Angeles and to people of the United States as a whole. Let us all wish him a long, peaceful, and joyful retirement.

TILEM, BUXBAUM & ASKENAIZER,
Los Angeles, CA, June 13, 1991.

Re: Testimonial Certificate for Hon. James R. Dooley

Congressman ESTEBAN TORRES,
Washington, D.C.
Attention: Robert Alcock

DEAR CONGRESSMAN TORRES: This letter is written on behalf of the Judge Dooley Testimonial Dinner Committee, on which I serve. Judge James R. Dooley has indicated his desire to retire from the bench of the U.S. Bankruptcy Court, effective at the end of this year, after 15 years of service.

Judge Dooley is well liked and respected by members of the bar who have appeared before him, and other members of the bench who serve and have served with him. Accordingly this committee was formed to honor Judge Dooley upon his retirement.

On behalf of the committee, I would like to know if you would sponsor a House Resolution recognizing and honoring Judge Dooley for his years of service. Although the formal dinner will not take place until February 2, 1992, I would like to obtain the formal resolution prior to the end of November, 1991. It is presently our intention to print copies of the resolution in the program, and we need ample time to accomplish this.

To assist you, a copy of Judge Dooley's resume is enclosed herewith. Please call if you require additional information.

Very truly yours,
DAVID A. TILEM.

RESUME

1. Name: James R. Dooley.

2. Home address: 4046 Mantova Drive, Los Angeles, CA 90008.

3. Business address: 312 N. Spring St., Rm. 901, Los Angeles, CA 90012.

4. Home telephone: (213) 298-1092, business telephone: (213) 894-4070.

5. Date of birth: August 9, 1920, place of birth: Anderson, South Carolina.

6. Education:

High School: Reed St. High School, Anderson, South Carolina, Graduated during May or June, 1937.

College: Benedict College, Columbia, South Carolina, Graduated May 27, 1941 with a B.S. degree.

Law School: The John Marshall Law School, Chicago, Illinois, Graduated on June 24, 1950 with a juris doctor degree.

7. Military service:

I was on active duty in the United States Army during the following periods:

Date of entry	Date of discharge	Serial No.	Rank at discharge
June 5, 1941	July 2, 1942	14048141	Sergeant.
July 3, 1942	Feb. 9, 1946	01574226	1st Lieutenant.
Mar. 27, 1951	July 12, 1952	01574226	1st Lieutenant.

I was also a First Lieutenant in the United States Army Reserve from October 20, 1945 to April 1, 1953.

8. Court admissions:

Admitted to Illinois Bar on November 29, 1950.

Admitted to California Bar on July 22, 1953.

Admitted to U.S. District Court for the Southern (now Central), District of California in 1953.

Admitted to U.S. Court of Appeals for Ninth Circuit on April 5, 1954.

9. Practice of law:

Engaged in private practice of law in Los Angeles, California from September 1953 to about December 13, 1953.

Served as Assistant United States Attorney, U.S. Department of Justice at Los Angeles, California from December 14, 1953 to October 31, 1976. Served as First Assistant Chief of the Civil Division in the United States Attorney's Office from May 1962 to October 31, 1976.

10. Community or professional honors and other public recognition that I have received:

(1) I was graduated from college magna cum laude, and I was valedictorian of both my high school and college graduating classes, by virtue of having the highest scholastic standing.

(2) Upon graduation from The John Marshall Law School, the following honors were conferred upon me:

(a) Election to the Order of John Marshall, an honorary scholarship society.

(b) The Bobbs-Merrill Company Prize, for highest standing in Senior year, including both afternoon and evening divisions.

(c) The Illinois Constitutional Law Prize, for best examination in the subject of Illinois Constitutional Law, Evening Division.

(d) The John N. Jewett Scholarship Prize, for highest rank in First Year, Evening Division.

(e) The Arba N. Waterman Scholarship Prize, for highest rank in the subjects of the Second Year, Evening Division.

(f) The Edward T. Lee Scholarship Prize, for highest rank in the subjects of the Third Year, Evening Division.

(g) Post-Graduate Scholarship, for highest rank for entire course, Evening Division.

(3) On June 25, 1965 I received an award from the Attorney General of the United States for meritorious services.

(4) I served as a member of the Disciplinary Board of the State Bar of California from May, 1970 to December 31, 1973 and was Chairman of said Disciplinary Board during the year 1973.

(5) I served as Chairman of the Federal Courts and Practice Committee of the Los Angeles County Bar Association for the years 1970–71 and 1971–72 and as Vice Chairman for the years 1968–69 and 1969–70.

(6) I served as a Delegate of the Los Angeles County Bar Association to the State Bar Conference of Delegates for the years 1972, 1973, 1974, and 1975, and as an Alternate Delegate for the years 1970 and 1971.

(7) I was President of the Los Angeles Chapter of the Federal Bar Association for the year 1972–73; First Vice President for the year 1971–72; Second Vice President for the year 1970–71 and Treasurer for the year 1969–70.

(8) During the year 1973–74 I was a Chapter Liaison member of the National Membership Committee of the Federal Bar Association.

(9) During 1975 I was a Delegate of the Los Angeles Chapter to the National Convention of the Federal Bar Association held at Atlanta, Georgia from September 9, 1975 to September 13, 1975.

11. Date of appointment as Bankruptcy Judge: November 1, 1976. Reappointed on: August 27, 1986.

12. Published opinions:

Set forth below are published opinions I have written.

(1) In Re Gertz, 1 B.R. 183 (Bkrtcy. C.D. Calif. 1979).

(2) In Re Bonant, 1 B.R. 335 (Bkrtcy. C.D. Calif. 1979).

(3) In Re Supergrate Open Steel Flooring Co., 1 B.R. 660 (Bkrtcy. C.D. Calif. 1979).

(4) In Re Casselli, 4 B.R. 531 (Bkrtcy. C.D. Calif. 1980).

(5) In Re Co Petro Marketing Group, Inc., 6 B.R. 119 (Bkrtcy. C.D. Calif. 1980); reversed, In Re Co Petro Marketing Group, Inc., 11 B.R. 546 (Bkrtcy. App. 9th Cir. 1981), reversed in part, 680 F.2d 566 (9th Cir. 1982).

(6) In Re Oak Glen R-Vee, 8 B.R. 213 (Bkrtcy. C.D. Calif. 1981).

(7) In Re Polivnick, 8 B.R. 621 (Bkrtcy. C.D. Calif. 1981).

(8) In Re Pritchard, 8 B.R. 688 (Bkrtcy. C.D. Calif. 1981).

(9) In Re Stewart, 10 B.R. 214 (Bkrtcy. C.D. Calif. 1981).

(10) In Re Trotter, 12 B.R. 72 (Bkrtcy. C.D. Calif. 1981).

(11) In Re Falck, 12 B.R. 835 (Bkrtcy. C.D. Calif. 1981).

(12) In Re Jordan, 13 B.R. 401 (Bkrtcy. C.D. Calif. 1981).

(13) In Re Tropicana Graphics, Inc., 24 B.R. 381 (Bkrtcy. C.D. Calif. 1982).

(14) In Re Halub, 25 B.R. 617 (Bkrtcy. C.D. Calif. 1982).

(15) In Re Ericson, 26 B.R. 973 (Bkrtcy. C.D. Calif. 1983).

13. Current membership in bar associations, fraternities, & civic organizations:

Los Angeles County Bar Association.

John M. Langston Bar Association.

Federal Bar Association.

American Judicature Society.

Judicial Councial of the National Bar Association.

Judicial Section of the California Association of Black Lawyers.

National Conference of Bankruptcy Judges (former Treasurer).

Bankruptcy Study Group (member Board of Directors) (Now L.A. Bankruptcy Forum).

NAACP.

American Legion.

Alpha Phi Alpha Fraternity.

Town Hall.

14. Marital status: Married.

15. Maiden Name of spouse: La Curtis Ruth Walls.

16. Name of son: Jerold Richard Dooley.

17. Hobbies: Music, photography, horticulture.

CHINESE CHAGRIN

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Ms. SLAUGHTER of New York. Mr. Speaker, the United States of America last week celebrated more than 2 centuries of liberty. On the other side of the globe, imprisonment, torture, and executions continue in China unabated. There is no liberty to celebrate in China; and, while the solutions to China's political problems ultimately lie with the Chinese people, the responsibility for human rights is universal.

The Dalai Lama of Tibet has said, "We are living in a very interdependent world. One nation's problems can no longer be solved by itself. Without a sense of universal responsibility, our very survival is in danger." Today, as the House of Representatives considers legislation regarding China's MFN trade status, I urge my colleagues to accept this universal responsibility to champion human rights on every front by supporting House Joint Resolution 263 and H.R. 2212.

I am proud to be a cosponsor of both of these bills, which, together, send an important and necessary message to Beijing that the civilized world condemns their persecution of political prisoners; that the civilized world abhors their persecution of religious orders; that the civilized world rejects China's occupation of Tibet and the oppression of Tibetan people; and, finally, that the civilized world remembers the terror and bloodshed at Tiananmen Square 2 years ago.

More than 1,000 prodemocracy civilians were killed by government troops in the early days of June, 1989. Some were shot in the back. Others were crushed beneath military tanks. Several hundred were secretly executed later for their participation in the June demonstrations. Since the massacre at Tiananmen Square, President Bush's diplomatic overtures toward China have done nothing to ease Beijing's repressive hand. More than 200 people have been sentenced to death for prodemocracy demonstrations, and during the first 2 months of this year alone, Amnesty International has documented at least 120 executions in China. The political and religious prisoners on China's death row can wait no longer for Bush's diplomatic overtures to chip away at China's oppressive, hardline policies.

The legislation on the floor today makes clear that basic human rights preempt trade interests. Another bill which I am proud to cosponsor, H.R. 2743, further asserts the prevailing importance of human rights by penalizing importers of goods made in a foreign country with the use of forced labor. Forced labor is a central feature of China's judicial system—a feature I find abhorrent.

Opponents of H.R. 2743 and of the legislation on the floor today claim that a trade relationship with China is important to American business and to our economy. The numbers speak otherwise: in 1990, the United States spent $15.2 billion on goods made in China, while the Chinese bought only $4.8 billion in American products.

So, the question today is not fundamentally about economics, but about vital, universal principles of liberty and human rights. I ask each of my colleagues in the House to join me in this call for democratic reform and respect for human rights in China, by overwhelmingly approving the legislation before us.

ARIZONA'S TRUE NATURE

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. KOLBE. I would like to bring to the attention of Members two of the world's best private nature sanctuaries: The Ramsey Canyon Preserve and the Muleshoe Ranch Preserve.

Located in southern Arizona, and managed by the Nature Conservancy, these preserves embody nature in its purest form. The Preserves are home to hundreds of birds of all stripes and colors, rare and endangered wildlife, and offer ecosystems of unmatched quality. Characterized by contrasts of rugged Sonoran desert juxtaposed with green riparian corridors, these preserves truly are spectacular.

Visitation is controlled, but if you are fortunate enough to secure reservations, you will find a wonderland of hiking, star-gazing and birdwatching. Cabins come equipped with modern conveniences and are inexpensive and free from the disruption often found at some of the more burdened parks and forests.

Thanks to the great work and vision of The Nature Conservancy, nature is protected here in its most pristine condition for future generations of flora, fauna, and man. These preserves serve as an example of how to preserve the natural world for the benefit of all, most importantly for those whose existence depends on it.

I commend to my colleagues an article detailing the virtues and spectacle of the Ramsey Canyon Preserve and the Muleshoe Ranch Preserve. The article appeared in the New York Times on May 19, 1991, and is titled: "Arizona's True Nature."

[From the New York Times, May 19, 1991]

ARIZONA'S TRUE NATURE

(By Bruce Selcraig)

On vacations I'm usually a decent fellow. But when I go car camping with my wife at state and national parks, I find myself tempted to pummel the I.Q.-less campers who think all Mother Nature lacks is a good cow-sized stereo boom box. So this spring, to avert an ugly scene of vigilantism—"Camper Strangled With Own Cassette Tape!"—we sought refuge at two Arizona preserves managed by the Nature Conservancy.

Peace at last. We spent a restful, enlightening week watching rare hummingbirds, hiking in deep green box canyons and gorgeous desert highlands and learning about habitat protection, sometimes within 10 minutes of suburban fast-food sprawl, yet not once did we hear a television, radio, phone, car alarm or whining tourist. We didn't see any litter, not one stray aluminum can at either site. There were no rude guests, no rude waiters (your cabin has a kitchen), smoking is virtually banned, the staff is friendly and intelligent and it all cost slightly more than staying at a chain motel. If this is ecotourism, sign me up.

The Nature Conservancy, now 40 years old with 550,000 members, has protected more than 5.3 million acres of land and manages some 1,600 preserves in the United States, the largest private nature sanctuary in the world. Its mission has been "to find, protect and maintain the best examples of communities, ecosystems and endangered species in the natural world," which often means keeping out people. But with little fanfare the Conservancy allows day visits at many of its preserves and overnight camping or lodging at a select few in Montana, California and Arizona. Two of the best for extended stays, and bird watching, are in southeast Arizona, where green "mountain islands" jutting out of the rugged Sonoran desert create a wildlife habitat that has drawn naturalists for decades.

The Ramsey Canyon Preserve, 87 miles southeast of Tucson and 10 miles south of Sierra Vista, is a cool 300-acre sanctuary in the Huachuca Mountains bounded on three sides by the Coronado National Forest. The moist environment provided by swift year-round Ramsey Creek and an elevation of 5,500 to 6,300 feet at its lowest and highest points attracts a renowned collection of about 200 bird species, including some 14 species of hummingbirds that come to Ramsey Canyon from Mexico between April and October. (Hummers sighted this spring include the Blue-throated, Magnificent Black-chinned, Broad-tailed, Rufous, Anna's, White-eared and Broad-billed.) Thirty thousand people visit Ramsey annually—they came from all 50 states and 24 foreign countries in the first half of 1989—yet there are only 6 overnight cabins and 13 parking spots for day visitors, so it never seems crowded, even on the hiking trails. The downside, of course, is that you have to make overnight reservations about a year in advance for peak birder months (April, May, August) and popular weekends (fall, holidays, etc.), but other months and weekdays are much easier. Also, if you can't stay at the preserve, there is a bed and breakfast next door, the Ramsey Canyon Inn (602) 378-3010, and many motels in Sierra Vista.

It is that need to manage people and nature that makes the job of the husband-and-wife preserve managers Tom Wood and Sheri Williamson so, uhm—Mr. Wood searches for a neutral word—"challenging," he says smiling. "When someone's hot water heater goes out in their cabin at 2 in the morning," says Mr. Wood, who has lived at Ramsey for over two years, "I don't feel much like a biologist. Our mandate is clear—to protect species. When we can accommodate the public that's just icing on the cake. But our mandate is not to try and please everyone." That means no playing in the creek, hiking off the trails or picnicking—nothing to disrupt the plant and animal life—yet Conservancy guests welcome such rules. "They are our best policemen," Mr. Wood says.

"I get a particular satisfaction out of seeing older adults who don't know a thing about this place leave with a sense of enlightenment," says Ms. Williamson a biologist who, like her husband, is a Texan. "One day a woman came from Houston with high heels, pedal pushers and large hair," she recalls. "She didn't care much for birds, but she looked through the telescope we have set up in the parking lot and saw a baby golden eagle take its first flight. Well, I thought we were gonna have to bury her right there she was so ecstatic. That's what makes this job worthwhile."

That and, of course, the hummers. Consider this: Hummingbirds, of which there are 338 species, weigh only 2½ to 8 grams (a penny weighs three grams), yet some can thrive at 15,000 feet in the Andes or migrate from central Mexico to southern Alaska. At rest their hearts beat 500 times a minute. Humming like distant Volkswagens they zoom through Ramsey Canyon in bursts of blues and reds and greens, hovering above the sugar-and-water feeders in the parking lot, where birders sit throughout the day in quiet fascination (Nonbirders, take binoculars.) Experienced birders like Mr. Wood and Ms. Williamson, without binoculars, can identify some by their distinctive humming and mannerisms.

If hummers don't flutter your wings, maybe the box canyon will. Throughout the week Mr. Wood or Ms. Williamson will take a few hikers leisurely crisscrossing Ramsey Creek until the base of the canyon walls, which rise 100 feet, converge within inches of your outstretched fingertips. Along the way you'll see an abandoned cabin where Sanborn long-nosed and Mexican long-tongued bats bivouac, and learn that without their agave-pollinating skills we would not have tequila. (Ask Wood to do his pygmy owl calls.) There is an old mossy pond where frog specialists have identified a croaker as yet unknown to the rest of the world. Along the banks are dozens of apple trees planted by settlers in the 1800's, grand 250-year-old sycamores, Douglas firs towering over desert yuccas, manzanita, willows, big-tooth maples, eight varieties of oaks, walnut, a half dozen kinds of orchids and the endangered native lemon lily. Only a lucky few spot the coatimundi, mountain lion, javelina and ridge-nosed rattlesnake that also reside nearby.

"A lot of the lure here," Mr. Wood explains, "is due to artificial political boundaries. This abundance of animal life occurs frequently in Mexico"—less than 10 miles south—"but rarely in the United States." This is where Mr. Wood echoes the Conservancy theme of preserving diversity. He explains that we simply do not know how everything works in the natural world, who depends on what for survival, how all the intricate and outwardly insignificant pieces fit. "So we observe the first rule of the tinkerer," her says, paraphrasing the pioneering conservationist Aldo Leopold, "which is to save all the pieces."

There are two easy, self-guided hiking trails a short distance from the cabins, and almost 70 miles of tougher hikes nearby that run the ridge of the Huachucas. Ramsey Preserve also has a fine bookstore, which helps the place turn a profit.

About the cabins: They were built in the 1940's and 1950's as part of the 20-acre Mile Hi Ranch resort, which the Conservancy later bought. They're charmers at $60 a night, double occupancy. Ours had a king-size bed, an old Coldspot refrigerator, an organic composting toilet, a book-shelf with "The Unpublished Journals of John Muir" and a kitchen furnished with everything from a coffee maker to cookie sheets (some have microwaves). All six cabins are steps away from rushing Ramsey Creek, and each has its own hummingbird feeder. The cabins evoke such loyalty that many of the guests return to the same place year after year, leaving behind homemade artwork, utensils or frilly curtains.

About 110 miles north of Ramsey Canyon and east of Tucson, 28 miles down gravel ranch roads cut through high desert, is the Muleshoe Ranch Preserve, an historic and fabulous spread that contrasts greatly with Ramsey. Ramsey has 300 acres, 30,000 visitors a year, a cool moist climate and is jogging distance from town; Muleshoe has 55,000 acres of mostly desert grassland, 500 visitors a year and is so remote there are no known words here for pizza delivery.

Muleshoe feels like a Mexican afternoon. When the air is so still and so dry and the sky like turquoise it makes you forget where you work. You can hike for miles through wondrous land, maybe even see a luscious pink-and-black Gila monster, as we did on our first hike, but you might find yourself just reading, gazing, napping. I spent much of one night in the small courtyard outside our casita soaking up stars that could pass for overhead track lighting. The night was so silent the thought of television felt like nails down a chalkboard. You are reminded here of the restorative powers of genuine peace and quiet.

Once part of the enormous holdings of the cattle baron Henry Clay Hooker and a frontier version of a European health spa that attracted hundreds of Easterners to its hot springs in the 1890's, the Muleshoe Ranch is now jointly managed by the Nature Conservancy, the Forest Service and the Bureau of Land Management. (The Conservancy actually owns only 6,600 acres.) In 1982 the Conservancy spent $1.6 million for the land which features most of the watershed area for seven perennial or permanently flowing streams that contain five endangered native fish species. There are also some 200 varieties of birds, mountain lions, black hawks, javelinas, bear, deer, salamanders and frogs. The hawks perch in the cottonwoods along the streams, while golden eagles and peregrine falcons eye the bighorn sheep grazing on the rimrock 2,500 feet above. The Muleshoe's 90 square miles take in parts of four lovely canyons, some of which had pre-Columbian Indian activity, and contain plant communities as diverse as desert scrub and Ponderosa pines. The elevation is 3,300 to 7,660 feet, so, as with Ramsey, warm clothing is needed for early mornings and late evenings, even in summer months.

For hikers, there are three developed trails, including an interesting nature loop, and six longer underdeveloped ones. You may be by yourself. Know where you're going, take water and tell the staff which trail you've taken. In October and April they offer four-daylong pack trips by horse that the staff says are geared to both the novis and experienced rider; included in the $595 price are all meals, horses tents and guides. When you're done, and walking funny, take advantage of the Muleshoe's hot tub, a metal stock tank filled by the 115-degree hot springs that lured so many tourists here a century ago.

STATUS REPORT ON THE INTERNATIONAL FUND FOR IRELAND

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. HAMILTON. Mr. Speaker, I would like to draw to the attention of my colleagues the attached report by the Department of State on the activities of the International Fund for Northern Ireland and Ireland [IFI]. The United States continues to be a major contributor to IFI. The Foreign Assistance authorization bill passed by the House on June 20, 1991, authorizes another $20 million in U.S. Economic Support Fund assistance for the IFI in each fiscal year 1992 and 1993. The IFI continues to be an important tangible demonstration of the support of the American people for the political and economic objectives of the 1985 Anglo-Irish agreement and its goals of reconciliation and economic integration in Northern Ireland.

The report follows:

U.S. DEPARTMENT OF STATE,
Washington, DC, July 2, 1991.

Hon. LEE A. HAMILTON,
House of Representatives.

DEAR MR. HAMILTON: Knowing of your interest in the International Fund for Ireland, I thought you might be interested in some recent activities of the Fund. These comments are largely based on reports from officers of our Consulate General in Belfast, who have devoted a great deal of attention to the Fund.

They report that the Fund has been getting good press in Northern Ireland lately, with a number of project openings and announcements enhancing its image. In the past months several new projects in all six counties of Northern Ireland and in everything from rural development to urban regeneration have been announced. Consulate officers participated in inaugural ceremonies for various projects and visited others. They received repeated strong public thanks from officials and participants for the U.S. contribution.

URBAN DEVELOPMENT

The Fund has recently announced that 41 new projects in Northern Ireland will be offered grants totaling 1.7 million pounds sterling under its Urban Development Plan. These grants are expected to attract additional private investment of 5.5 million pounds, and will create 450 new permanent jobs, as well as temporary construction jobs. Competition for the grants was stiff, with over 400 applications received. The program is designed to aid economic and social regeneration of urban areas with a focus on stimulating private investment. Many of the approved projects, which are spread evenly throughout the Province, will bring vacant buildings into productive use, renewing the physical fabric of run-down areas, and bolstering civic pride.

RURAL DEVELOPMENT

On April 4, the IFI announced that it would be spending 572,000 pounds in addition to funds already spent on a rural action project which will encourage diversification by small or part-time farmers in the most deprived areas of South Armagh and West Fermanagh. Under the project, 60 farmers are engaging in a diverse range of enterprises with commercial potential, such as strawberry and mushroom culture. The project will also fund R&D work on crops and markets.

The Consul General has visited the mushroom project, which struck him as an excellent method of supplementing incomes of marginal farmers. The project appears innovative and has a connection with a producer of mushroom spore in the Pittsburg area. Managers of similar projects tell us that by introducing new crops and new technology to small farmers, they hope to keep more young people on the farms and stop the waves of emigration from Rural areas.

CARRICKMORE

The International Fund, in partnership with the Department of Environment (DOE), launched a 1.9 million pound program for the County Tyrone town of Carrickmore, April

10th. The money will be spent over the next two years on the economic regeneration of the town center. The package will include a multi-purpose Community Resource Center with 18,000 square feet of workspace. Speakers at the opening ceremony for the project thanked the U.S. for its contribution.

Carrickmore is typical the Province's smaller disadvantaged towns. It has very high unemployment levels and is a Provo stronghold, as the graffiti on its walls testify. The commercial premises are run-down and, as a divided community, it has had rather more than its share of inter-communal violence. Indeed, the Carrickmore ceremony had been scheduled for an earlier date but was postponed because of the sectarian murder of a man in a village nearby.

Consulate officers have had a good bit of contact with Carrickmore, although it won't appear on anyone's tourism map for some time, and the Consul General participated in the opening ceremony. On an earlier visit, he had been struck by the high quality of the board of the Development Group, most of whom are local businessmen. The Board also drew much praise at the ceremony. Given the community rifts brought on by the "troubles," just bringing a cross-community group together is a difficult feat. Several residents told the Consul General that the IFI-backed project has helped engender a new spirit of optimism in Carrickmore. We share with Fund Chairman John B. McGuckian the sense that the Carrickmores are just where the Fund should be operating.

KEADY AND DARKLEY

The Consul General participated with the Northern Ireland Minister for the Environment, Richard Needham, Mr. McGuckian, and Seamus Mallon, the Member of Parliament for the area, in the opening ceremonies for two IFI Projects in the particularly disadvantaged towns of Keady and Darkley, South Armagh. This major regeneration project, costing 1.5 million pounds, is the first project of IFI's Community Regeneration and Improvement Special Program (CRISP) to be announced for the troubled South Armagh area. The money will go toward construction of a business center and the refurbishment of a derelict mill in Keady Town Center. The local District Council is adding 30,000 pounds to open a Heritage Center based on the town's historic linen industry. All of the speakers went out of their way to stress the importance of the U.S. contribution to the Fund, and to offer their sincere thanks for the U.S. interest in Northern Ireland affairs.

DUNGANNON

The Consul General and Vice Consul visited a newly opened enterprise center in Dungannon on May 13. Local politicians joined them for a tour of the premises, which contains 34 small businesses. The project, which cost one million pounds, was co-funded by the IFI, the Dungannon District Council, and the Local Enterprise Development Unit (LEDU). Local Councillors made frequent reference to the importance of the center for the town, which has been hard hit by violence, and all thanked the U.S. for its contribution.

WEST AND NORTH BELFAST

The Vice Consul also paid repeat visits to two West and North Belfast enterprise centers to check on progress. The Ashton Development Center, located in the troubled New Lodge area, will open its new IFI-Funded Enterprise and Retail Center in July. This center is notable for the level of community support it received. Most of the 5,000 residents of the area, which suffers from 70 to 80 percent male head-of-household unemployment, chipped in 10 pounds for the construction. Managers tell us that since the construction there have been no incidents of vandalism or paramilitary grafitti although the center is only twenty yards from the spot where teenager Seamus Duffy was killed by a plastic bullet during the disturbance two years ago. The manager added that this year there was decidedly less violence, which he attributed in part to the center's existence. Again, the U.S. dimension was noted, and the management has requested that an American official formally open the center in August.

Farset Enterprise Center, located directly on the "Peace Line," which divides the Protestent Shankill from the Catholic Falls areas, was officially opened by Ambassador Catto in June last year. Since then, the center has increased its occupancy and maintained its 50-50 split between entrepreneurs from each community. Managers have encouraged cross-community groups to visit the center and note that they have experienced almost no crime or vandalism since the center has been in operation.

Our contracts with International Fund activities have led us to conclude that the Fund has succeeded in changing its image from the early days when it was accused of making the rich richer. By showing that it will go where some fear to tread, and by making a commitment to troubled areas with high unemployment, the Fund has attracted praise from all corners of Northern Ireland. So popular is the Fund that even some stronghold Unionists, once adamantly against the IFI for its links to the Anglo-Irish Agreement, have been aggressively pursuing grants for projects in their areas.

I hope that these observations and conclusions have proved useful to you. If you have further questions, we will do our best to reply.

Sincerely,

JANET G. MULLINS,
Assistant Secretary,
Legislative Affairs.

TRIBUTE TO BYRON PRESLEY BOYD, SR.

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. HUBBARD. Mr. Speaker, I take this opportunity to pay tribute to a longtime, dear friend of mine, Byron Presley Boyd, Sr., of Sedalia, KY, who died March 3, 1991, at Community Hospital in Mayfield, KY, at age 92.

For 33½ years Byron Boyd was the efficient, successful and friendly postmaster at Sedalia, KY. He retired from that position in 1968.

Byron Boyd's service to his community extended well beyond his work with the U.S. Postal Service. He was an active member of the Sedalia Baptist Church where he served on the church's board of deacons. He also was a member of the board of trustees of the Mid-Continent Baptist Bible College, which is located in my hometown of Mayfield, KY.

He is survived by his lovely wife, Orma Lassiter Boyd of Mayfield; his son, Byron Boyd, Jr., of Cadiz, KY; a daughter, Carolyn Herndon of Greenville, AL; seven grandchildren; and seven great-grandchildren.

I was very fond of and admired Byron Boyd, Sr., and I miss him.

My wife, Carol, joins me in extending our sincere sympathy to the family of Byron Boyd, Sr.

RESTORING FUNDING FOR RURAL ELECTRIFICATION

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. GEKAS. Mr. Speaker, I rise today to praise the continued work of the Rural Electrification Administration. The REA has historically played a prominent role in assisting rural electric cooperatives throughout Pennsylvania in providing affordable electric services to rural families and businesses.

I am gratified that the Appropriations Committee recently decided to restore funding for REA loans in the fiscal year 1992 Agriculture appropriations bill. During last year's budget maneuvers REA loans were cut by 25 percent. Many rural areas of my district in Pennsylvania rely both directly and indirectly upon insured loans to the REA for reliable and competitively priced electricity. The restoration of the 25-percent cut in funding for REA loans will help to alleviate an almost 2-year backlog in loan applications.

I am pleased by such policy developments which aid my rural constituents. However, I felt that the fiscal year 1992 Agriculture appropriations bill, H.R. 2698, included far too many frivolous expenditures. As our Nation struggles to solve our present budget shortfalls Congress must make fiscally responsible legislation its top priority. With this consideration as my guide I voted against final passage of H.R. 2698. Though I support many of the provisions contained within the Agriculture appropriations bill, such as REA, I though the overall bill lacked the degree of fiscal responsibility our present budget situation demands. I look forward to supporting a conference report for the fiscal year 1992 Agriculture appropriations bill that more accurately reflects the budget realities we now face.

H.R. 917

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. GAYDOS. Mr. Speaker, H.R. 917, the Social Security Notch Adjustment Act of 1991 would end the monthly payment inequity created by the Social Security Amendments of 1977.

H.R. 917 targets relief to those retirees most adversely affected—namely those born between 1917 and 1921 who work after the age of 61 and those born between 1919 and 1923 whose benefits are lowest—the so-called notch babies.

Some people may tell you that eliminating the payment injustice which affects the more than 12 million notch babies would be too costly. Don't believe them.

H.R. 917 preserves the financial health of the Soical Secuirty System by limiting additional benefit costs to a maximum of 4.7 billion dollars during the mid-1990's and declining after that. In fact, even with passage of this bill, the total trust fund reserves will grow by almost one trillion dollars during the decade of the 1990's

We have fought unsuccessfully for more than 10 years to reduce this inequity, and we will succeed eventually.

Let's give this issue the attention it deserves and provide the relief these retirees desperately need.

I urge all of my colleagues to support bringing this issue to the floor and, once on the floor, I urge all of my colleagues to support H.R. 917.

REV. MAX SALVADOR IS DESIGNATED AN HONORARY CANON OF TRINITY CATHEDRAL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to bring the good works of Rev. Max Salvador of South Florida to the attention of my colleagues. Reverend Salvador has been designated an honorary canon of Trinity Cathedral by Bishop Schofield of the Episcopal Diocese of Southeast Florida.

Reverend Salvador received the designation of honorary canon on June 9 along with three other outstanding priests. These new dignitaries of the Episcopal Church reflect the ethnic diversity of South Florida because they come from differing cultural backgrounds.

Reverend Salvador fled Cuba in July of 1961 and founded the "Iglesia Episcopal de Todos Los Santos," where he continues today as its rector. The founding of this church was the beginning of the Hispanic ministry which today serves a very diverse community.

The "Iglesia Episcopal de Todos Los Santos" is celebrating Reverend Salvador's designation as an honorary canon at a banquet in his honor on Sunday, July 14.

Reverend Salvador received the designation of honorary canon for his commitment to our Miami community. He is committed to helping not only the members of his church but the entire South Florida community. Bishop Schofield commended Reverend Salvador for being "able to be in places where the Episcopal Church needs to be."

Bishop Schofield also said that Reverend Salvador is an example of what good can be done when we use the gifts we are given. I concur in that sentiment and feel we need to encourage all those to give of themselves for the betterment of our community.

INTRODUCING THE NATIONAL ALTERNATIVE FUELS AND MOTOR VEHICLES ACT OF 1991

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. SCHEUER. Mr. Speaker, today, I am introducing the National Alternative Fuels and Motor Vehicles Act of 1991, a bill to encourage the use of alternative fuels including natural gas in the Nation's motor vehicles.

The need for this bill is clear. The Nation's energy security and air quality are seriously affected by the use of petroleum in the transportation sector.

To highlight the importance of addressing this problem we need only remember that our transportation sector is almost completely dependent on petroleum. Further, by 1989 petroleum consumption in the transportation sector alone exceeded domestic production of oil by 33 percent. The recent war with Iraq underscores our vulnerability and the tremendous cost to the Nation for its sole reliance on petroleum.

From an environmental standpoint, our reliance on petroleum has resulted in severe urban pollution. The Congressional Office of Technology Assessment estimates that about 100 cities, housing half of the American population, do not meet the national standards for ozone—a pollutant that damages lungs and respiratory function.

Even though great progress has been made in reducing individual engine and motor vehicle emissions—up to 60–80 percent depending on the pollutant—compared to emissions from vehicles built in the 1960's, cars and trucks still account for almost half of the emissions that are instrumental in forming ozone. The expected future growth in the number of vehicles and vehicle miles driven forge our resolve to act.

The bill I am introducing today offers the potential of addressing energy security and mitigating urban air pollution. The bill encompasses a comprehensive program. It provides Federal funding for cost-shared research and development, demonstration, and commercialization initiatives, education and training, and infrastructure development at the State and local level. It also sets forth requirements for acquisition of alternative fuel vehicles by fleets on an annual basis for the years 1995–2000.

This bill is broad-reaching in its coverage and will augment many of the commendable initiatives already underway by States, localities and the private sector. The bill forms a Federal partnership and focused framework of leadership for collaboration with innovative entities to expedite adoption of alternative fuels. This broad interaction is the only way to continue the momentum needed to assure a responsible national energy strategy.

A summary of the bill follows. I urge my colleagues to support the bill.

SUMMARY OF THE NATIONAL ALTERNATIVE FUELS AND MOTOR VEHICLES ACT OF 1991

TITLE I—ALTERNATIVE TRANSPORTATION FUELS

Sec. 101.—Establishes a Mass Transit Program that authorizes the Secretary of Energy in consultation with the Administrator of the Urban Mass Trasnportation Administration to enter into cost-sharing cooperative agreements and jont ventures with municipal, county or regional transit authorities to demonstrate the feasibility of using natural gas or other alternative fuels for mass transit.

Sec. 102.—Directs the Secretary of Energy in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Transportation to provide financial assistance to encourage use of natural gas and other alternative fuels for public and private fleets. Priority is given to fleets where the use of alternative fuels will have a significant effect on the ability of an air quality region to comply with ambient air quality regulations.

Sec. 103.—Directs the Secretary of Labor to establish a training and certification program for technicians conducting conversion of vehicles to alternative fuel vehicles.

Sec. 104.—Directs the Secretary of Energy to carry out a cost-sharing program of research, development, and demonstration with public and private entities to improve natural gas and other alternative fuel vehicle technology.

Sec. 105.—Establishes Federal programs to promote vehicular natural gas use and directs the Secretary of Energy to institute an educational program on alternative fuels, identify and report to Congress on barriers to Federal Government purchase of alternative fuel vehicles, and report to Congress on how to promote the use of alternative fuel vehicles within the context of Federal, State, and local traffic control measures.

Sec. 106.—Addresses the regulation of the sale of alternative fuels including a provision that clarifies that the owning or operating of facilities used for the retail distribution of vehicular natural gas does not in and of itself result in a company being regulated under the Public Utility Holding Company Act of 1935.

Sec. 107.—Clarifies State regulation of the sale of alternative fuels by sellers of transportation fuels.

Sec. 108.—Provides that the Secretary of Energy may assist State governments in establishing an office of alternative fuels and alternative fuel programs on the condition that States cost-share at least 50 percent of the cost.

TITLE II—ALTERNATIVE FUEL FLEET REQUIREMENTS

This title sets requirements for acquisition of alternative fuel vehicles by covered fleets on an annual basis for the year 1995–2000. The percentage of alternative fuel vehicles to be acquired are 10 percent in 1995, 15 percent in 1996, 25 percent in 1997, 50 percent in 1998, 75 percent in 1999, and 90 percent in the year 2000 and after. Certain large truck and bus fleets are exempted from meeting these requirements. Title II also provides exceptions based on availability of vehicles and fuel.

TRIBUTE TO WIN CURRIER

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. STARK. Mr. Speaker, I rise today to pay tribute to Mr. Winston Currier of Alameda Country in recognition of his long and distinguished career as a journalist, as well as his many other contributions to his community.

Win Currier was born in the city of Alameda in 1927. He graduated from Alameda High in 1943 and received his M.A. degree from the University of California in 1948. His journalistic career began while he was a sophomore in high school where he covered local events and became interim sports editor during World War II.

In 1950, Mr. Currier moved to San Leandro to rejoin his former publisher, Abe Kaufman, who had sold the Alameda Times-Star and purchased the San Leandro Morning News. In 1965, Mr. Currier was named as managing editor of that paper and also served as sports editor until the paper closed in 1972. At that time he returned to the Alameda Times-Star.

During his lengthy sportswriting career, Mr. Currier has covered three Superbowls, three World Series, one All Star game, and one Heavy Weight Championship. He has written for national sports magazines and contributed an article for a book on the history of the Oakland Raiders.

In 1943 Mr. Currier served as a public address announcer for the Oakland Oaks, a minor league baseball team in the Pacific Coast League. He was also an announcer for many years at Washington, Lincoln, and Thrasher Park in San Leandro.

Currently, Mr. Currier writes a column every Monday and covers softball, basketball, Alameda City tennis, swimming, and the Elks Hoop Shoot 6 or 7 days a week. A recipient of many awards, he was named San Leandro's Outstanding Young Man of the Year in 1952. More recently, he has been honored by the San Leandro Chamber of Commerce, the San Leandro Lions, the San Leandro Boys Club, and has been given the key to the city of San Leandro.

Married to his wife Martha for 43 years, he is the father of two daughters Debra and Candice. He has contributed a great deal to his community over the years, and they are the better off for it.

ROSENWALD SCHOOL REUNION

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. ALEXANDER. Mr. Speaker, during the July 4th holiday period, I was honored to be a speaker at the Rosenwald School Reunion in my hometown of Osceola, AR.

The school, which was founded in 1925, is one of those built around the country through the philanthropy of Julius Rosenwald.

Julius Rosenwald was a Chicago businessman who contributed about $66 million to improve living conditions and opportunities for Blacks in America.

The fund, which was established in 1917, built about 5,000 schools in rural areas of this country—including Rosenwald in Osceola.

Julius Rosenwald knew—and those who attended Rosenwald School knew—that education is the key to success and to improving ones standard of living.

Because of the abject poverty of the students, it wasn't always easy for the students of Rosenwald to get to class or to stay in school.

But, they did it because they knew that an education was their only way out of that poverty, and now have gone into all parts of the country to make their lives.

Those returning to Rosenwald show all the signs of success. They are living proof of the "American Dream"—that opportunity awaits our citizens who have the education and desire to succeed.

They came together over the 4th of July holiday to remember and to celebrate—not only to visit together and renew old acquaintances, but to recall what Rosenwald School stood for and what it gave to them.

They remembered their teachers as well as those who volunteered their time, effort and money to make the school better for its students.

They also remembered community leaders who served not only to imporve Rosenwald School, but worked to ensure that job opportunities existed for them when they graduated.

One of those was the late William Albert Milton Graves Sr., who was a teacher, minister, and tireless worker in the effort to make life better by expanding economic opportunities.

The reunion was dedicated to Reverend Graves. His widow, Magdeline Smith Graves, taught at Rosenwald School.

Mr. Speaker, the event celebrated Rosenwald School, but it also celebrated the better life that education makes possible.

The history of Rosenwald School mirrors one of the greatest social changes in the history of our Nation.

It was born because of the lack of opportunity for Blacks to obtain a decent education and came to its end almost 20 years ago with the full integration of the public schools.

From 1925 to 1971, Rosenwald School stood as a beacon to those who wanted a better life, and it was so remembered by those attending the recent reunion.

I was certainly honored to take part in the celebration and congratulate those who organized it—including Linzell Miller, Albert Veasley, Jr., Mable Parker and Alfred McFarland.

Schools are more than brick and mortar. Schools are people, each with his own hopes and dreams of a brighter future.

Rosenwald was certainly such a school.

HONORING NIKOLA TESLA

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. HOCHBRUECKNER. Mr. Speaker, I would like to recognize Nikola Tesla, who contributed a great deal toward scientific development in the United States. Today members of the Tesla Memorial Society, Inc., celebrate the 135th anniversary of the birth of this outstanding scientist and inventor.

Nikola Tesla was born in 1856 in what is now known as Yugoslavia. He was educated at the University of Prague as an electrical engineer. His first job was in the Austrian Government Telegraph Engineering Department. He then moved on to Budapest and Paris where he engaged in electrical engineering. In 1884, Tesla came to the United States, and for a short time worked for Thomas Edison. Eventually he was able to start his own business.

Tesla poineered the use of alternating current, which now serves as every household's main source of electricity. His inventions include the induction motor, which has been incorporated into thousands of machines, arc and incandescent lamps, induction coils, transformers, condensers, and many other electrical devices.

Mr. Speaker, I am greatly honored to recognize, along with the Tesla Memorial Society, the birthday of this distinguished scientist. The great contributions of Nikola Tesla to our society must be recognized.

PAYING TRIBUTE TO DR. ROBERT LORD CURRY

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. FOGLIETTA. Mr. Speaker, I rise today to pay tribute to Dr. Robert Lord Curry, who retired on June 30 after serving for 19 years as the 140th pastor of Old St. George's United Methodist Church.

Dr. Curry has served as the steward of this historical shrine church, America's first church and the world's oldest Methodist church. He has become one of this Nation's leaders in landmark church preservation.

Dr. Curry has been instrumental in preserving many of Philadelphia's 13 historical churches and other significant religious sites. He has been involved in preserving many landmarks including the first religious publishing society to print the hymnal, the church with the first African-American pastor, and St. George's Church, where Mother's Day originated.

Dr. Curry has been an active leader of the community as well as a leader in church preservation. He has served as a member of the World Methodist Council, the historical groups of the United Methodist Church and of various other community groups. He has also become an expert on Francis Asbury, the founder of the Methodist Church and has lectured extensively on the subject.

I would like to thank Dr. Curry for all that he has done for Old St. George's Church, the city of Philadelphia, and our Nation's historical churches. I wish he and his wife, Jane, a healthy and happy retirement.

END THE NOTCH INJUSTICE

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. KANJORSKI. Mr. Speaker, ending, once and for all, the injustice of the Social Security notch which wrongly reduces the benefits of those born between 1917 and 1921 is long overdue. Our seniors should not be forced to choose between eating, paying the electric bill or having their prescriptions filled.

Since my election to Congress in 1985, I have pledged to fight for a solution to the notch problem. Not only am I convinced of the basic fairness of our cause, but there is no question that it is my duty as the representative of the people of Pennsylvania's 11th Congressional District.

I have received more than 11,000 letters from the senior citizens in my district on this issue alone. In my conversations with my constituents, and at every town meeting, I am asked why honest, hard working men and women, who happen to be born during the notch years, are being penalized by the system.

The Social Security notch is an inequality that calls into question the fairness of our Social Security system.

Correcting that inequity is necessary, affordable, and long overdue.

We have been waiting for a solution for far too long. However, we have now crossed a crucial threshold with more than a majority of Members of the House of Representatives having cosponsored H.R. 917, legislation which I am an original cosponsor, to eliminate the notch.

We must now build on the momentum of this key milestone to move us forward so that by the end of this Congress, we will have passed H.R. 917 and corrected this grave injustice.

We have an obligation to ease this terrible burden that was placed upon the shoulders of our seniors. We must end the notch to restore the full benefits for which these senior citizens have worked so very hard and to which they are so justly entitled.

THE COST OF SSC IS TOO HIGH

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. SLATTERY. Mr. Speaker, today the Senate is considering the Energy and Water appropriations bill.

The Senate bill contains $534 million to fund the superconducting super collider project in Texas.

Put simply, the costs of the SSC are too high, and its benefits too uncertain, for the SSC to be a responsible recipient of America's limited research dollars.

Senator BUMPERS of Arkansas agrees and has offered an amendment to cut SSC funding.

I urge his colleagues in the Senate to approve his amendment.

Arguments against the SSC are made even stronger by the recent resignation of J. Fred Bucy, Chairman of the Texas National Research Laboratory Commission.

In his resignation statement, Bucy complained that no foreign contributions from Japan or other nations are likely.

It is no surprise that foreign governments are reluctant to support the project.

They can see that the SSC is a boondoggle, even if some here at home cannot.

Again, I urge my colleagues in the Senate to support the Bumpers amendment.

MS. LIREN MO

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. SCHEUER. Mr. Speaker, I wish to bring to my colleagues' attention a disturbing experience of a fellow New Yorker, a freelance journalist, on a recent visit to Chinese-occupied Tibet.

As she was about to return to Beijing from the city of Xian, Ms. Liren Mo was seized by Chinese authorities and accused of "interfering with China's internal affairs." Chinese officis detained and interrogated Ms. Mo for 24 hours, while her belongings were seized, damaged, and in some cases destroyed.

The next day, the Chinese expelled her from China. She is prohibited from returning for 3 years.

Mr. Speaker, this is an outrage. An American tourist, possessing all the proper visas, was discourteously harassed and unceremoniously expelled by a country that enjoys full diplomatic relations and most-favored trading status with the United States.

It appears the sum of Ms. Mo's unpardonable offenses were the regular tourist activities of meeting local people and taking photos. To the paranoid Chinese occupiers of Tibet, such behavior is considered incompatible with tourist status.

I ask: What do these martial autocrats have to hide? Ms. Mo was accompanied at all times by a tour guide, local guide, and driver.

Despite the constant presence of Ms. Mo's companions, authorities saw it fit to expose nine rolls of her film, confiscate 167 travel photographs, and retain audio tapes, a notebook, and personal articles such as an address book and souvenirs.

And according to recent reports in the Washington Post, Ms. Mo's experience is not unique.

Some of Ms. Mo's photographs were of the military parade celebrating the "40th anniversary of the peaceful liberation" of Tibet. Others were of Tibetans in the capital, Llasa, hungry and poor, begging for food.

Obviously, the Chinese administrators of the "autonomous region of Tibet" are not as proud of their record as they would have the world believe. I urge us all to take note.

"IT'S TIME TO BRING JUSTICE TO CYPRUS"

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. STARK. Mr. Speaker, for 17 years, the island nation of Cyprus has lived under Turkish occupation. Kuwait was liberated in a matter of months, but hundreds of thousands of Cypriots continue to suffer under Ankara's yoke. Turkey is an important American ally and has played a critical role in NATO over the years. Nevertheless, their human rights violations cannot be ignored.

I would like to include in the CONGRESSIONAL RECORD a statement of Anastastos Simonidis, the consul general of the consulate general of the Republic of Cyprus in San Francisco. It's time to implement the 24 resolutions passed by the United Nations on this matter. Justice has been delayed for far too long.

THE CYPRUS PROBLEM: BACKGROUND AND UPDATE

Cyprus, an island in the Eastern Mediterranean, gained its independence from Britain in 1960. Its population of 650,000 is composed of 82 percent Greeks and 18 percent Turks. Turkey invaded tiny Cyprus in 1974, using as a pretext the coup by the Greek junta against President Makarios, to implement its long-held military designs and occupied 40 percent of the republic.

Today, 200,000 Cypriots, that is more than 30 percent of all the population of Cyprus, are refugees in their own land; 1619 persons are missing and their whereabouts are still unknown. In order to change the demographics, 85,000 settlers were brought in from Turkey causing the indigenous Turkish Cypriot population in occupied Cyprus to become a minority. Turkey has been held accountable for many violations by the European Convention on Human Rights.

Unlike Kuwait, the Cyprus problem in its basic dimensions of aggression, invasion, continuing occupation, human rights violations and attempted secession, remains unresolved 17 years after the invasion and in spite of 24 United Nations resolutions. Resolution 3212, of 1974, was unanimously endorsed by the U.N. Security Council; it has therefore a legally binding force, yet it has never been implemented. The U.N. resolutions call for the respect of the independence, sovereignty and territorial integrity of the Republic of Cyprus, the withdrawal of the Turkish troops, the return of the refugees to their ancestral homes and the ascertainment of the fate of all the missing Cypriots, among whom some American citizens.

The use of American-supplied arms by Turkey in its invasion of Cyprus, was a violation of the 1961 Military Sales and Foreign Assistance Act. When Secretary Henry Kissinger refused to invoke the relevant law provisions, the U.S. Congress reacted and imposed a partial arms embargo; it was never effectively imposed and was lifted in 1978 following assurances that its lifting would result in Ankara's flexibility toward a just solution.

These assurances were never honored and in fact at Ankara's instigation, the Turkish Cypriot leader, Mr. Rauf Denktash, declared in 1983 the area of Cyprus under Turkish occupation "an independent state" recognized only by Turkey, of all countries of the World. The declaration was in violation of the 1960 Treaties signed by Turkey recognizing and guaranteeing the independence and territorial integrity of Cyprus; it was denounced by the U.S. Administration and both Houses of Congress. The U.N. Security Council called the attempted secession legally invalid and asked for its reversal (Resolution 441 and 550) in 1983 and 1984. Ankara defied the action by taking further aggressive steps including the declaration of the Turkish Lira as legal currency and the importation of more Turkish settlers in the occupied part of Cyprus.

The Cyprus government and the Greek Cypriot side have made serious concessions, in the many rounds of negotiations, in their effort to bring about a solution; they have accepted Federation, similar to that of the USA government, as the form of their own government, with total demilitarization of the Republic. The basic prerequisites, as President Vassiliou has proposed, are the withdrawal of the Turkish occupation troops, the freedom of movement, settlement and property ownership anywhere in the republic with international guarantees for all its citizens. The reason for the lack of progress is the systematic effort of Ankara and the Turkish Cypriot leadership to legitimize the results of the invasion and the partition of the island.

The government of Cyprus and its people have shown the good will to solve the problem for the welfare of all Cypriots and the aim at the re-unification of the island. They fully support the efforts of the U.N. Secretary General and hope that the newly found respect for the U.N. resolutions will contribute to a settlement.

As has often been stated by Administration officials, finding a solution to the Cyprus problem would be in the best interests of the United States and would contribute to regional stability and international legal order. It would further strengthen NATO by improving the relations between Greece and Turkey.

Cyprus lent all of its support to Operation Desert Storm. Considering the similarities of the violations involved in the Kuwait and Cyprus invasions, Cyprus and its people look upon the United States to similarly bear the weight of its diplomacy upon Turkey and the Turkish Cypriot leadership for a solution based on the U.N. resolutions. In his address to Congress after the Gulf victory, President Bush spoke of the Rule of Law and "a new world order in which the principles of Justice and fair play protect the weak against the strong".

Cyprus demands the same standard!

The U.S. Congress which over the years has demonstrated its sympathy and support for the just cause of Cyprus, has an important role to play. It should exercise its leverage on Turkey to withdraw its occupation forces from Cyprus, thereby assisting towards a just settlement within the framework of the United Nations resolutions.

The time for an intensified effort to achieve this goal is now!

SACRED HEART CHURCH'S 75TH ANNIVERSARY

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. MURTHA. Mr. Speaker, I'd like to take a moment to recognize the Sacred Heart Church of Central City, PA, which will celebrate its 75th anniversary on July 14.

In so many of our small towns all across the Nation, churches serve as cornerstones of the community. Central City is no exception, and the Sacred Heart Church serves more than 200 families as a place to worship and a place for friends and relatives to gather.

The history of Central City's Sacred Heart Church goes back to 1914, when Father Ignatius Pilz established the parish. For 2 years, services were held in private homes, but in 1916, the church building itself was constructed. Today, Msgr. Ignatius Wadas, only the second Pastor in the Church's history, leads Sacred Heart's congregation.

I'd like to offer my congratulations to the congregation at Sacred Heart Church on the 75th anniversary of the church. The strength of our small towns is in the character and values of the residents of these communities, and Sacred Heart serves Central City to promote and broaden these traditional values. I am certain that Sacred Heart will continue to prosper and grow, and I know we all wish the congregation well as they embark on their next 75 years.

ACTRESS ELISABETH SHUE ADDRESSES STUDENT WINNERS OF "AN ARTISTIC DISCOVERY"

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. WEISS. Mr. Speaker, the opening ceremonies of "An Artistic Discovery"—the Congressional High School art competition and exhibition—were particularly memorable this year. Certainly, the celebration of the competition's 10th anniversary contributed to the excitement. Also, nearly 250 Members of Congress participated this year by holding local high school art competitions in order to encourage the artistic talent of young people in their Districts.

One participant in the ceremonies, actress Elisabeth Shue, beautifully expressed the very essence of the exhibition—the impressiveness of the works and the passion and vision which they contain. She offered her encouragement for these young artists, praising the students' abilities and urging them to hold on to their artistic identity and their self-confidence.

Elisabeth herself embodies the idea that success within an artistic discipline can come even at a young age, provided that one has the talent and dedication. Elisabeth has both of these traits. She has starred in some of America's favorite movies, such as the current comedy hit "Soapdish" and films such as "The Karate Kid," "Back to the Future," "Adventures in Babysitting," and "Cocktail." She also has an impressive career on stage and is currently a senior at Harvard University.

Mr. Speaker, I am pleased to share Elisabeth's comments on the opening of "An Artistic Discovery" with my colleagues and ask that they be printed in the RECORD.

REMARKS BY ELISABETH SHUE AT OPENING OF CONGRESSIONAL HIGH SCHOOL ARTS EXHIBITION—JUNE 27, 1991

Thank you. It's an honor to be here today as your guest. I'd like to thank the Arts Caucus for having this wonderful event. I'm a little overwhelmed. I'm not used to speaking in front of so many people without a script.

Yesterday I spent a long time with all of your beautiful artwork. What an incredible achievement it is for you to have your work hanging here in our Nation's Capitol. It made me think about what I was doing when I was your age. In high school my greatest achievement was getting to class on time. So I have great respect for each one of you.

There was so much beauty and magic in your work. I was also struck by the obvious love and passion behind your paintings. You each had something important to say.

If there is one word of advice I could leave you with, it would be to keep your individual passion and voice alive no matter what you end up doing in your life.

It is fragile and needs to be nutured and protected. You may come up against barriers of intense criticism or self-doubt. I hope you will keep the faith in your heart that what you have to say is important.

Our country needs you and people like you to inspire us with your vision and passion. Thank you for the inspiration you've given me.

TRIBUTE TO BOY SCOUT TROOP 82

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. MACHTLEY. Mr. Speaker, it is with great pleasure that I rise today and join Boy Scout Troop 82, from Portsmouth, RI, in celebrating their 25th anniversary of Scouting on July 13, 1991.

Troop 82 was chartered to St. Mary's Episcopal Church in 1966, and it has been dedicated to shaping the future of its Scouts ever since. From the outset Troop 82 has maintained a strong emphasis on outdoor activities. Troop 82 has participated in numerous national jamborees, high adventure camps, and many other camping experiences.

The troop and its members have earned many awards and honors for excellence, including 63 Scouts that earned the highest honor of Eagle Scout. Troop 82 has taken part in service projects that have benefitted the wild rivers and parks of Rhode Island and its communities. In addition Troop 82 has done volunteer work for senior centers, health centers, schools, libraries, and churches.

Troop 82's accomplishments represent a dedicated effort from its Scouts and adult Scout leaders. Please join me in congratulating Troop 82 for 25 years of accomplishments. I extend my best wishes to Troop 82 for the future.

CLARENCE THOMAS

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. MICHEL. Mr. Speaker, in the weeks to come there will be much written and said about the nomination of Judge Clarence Thomas to be a Supreme Court Justice. But I doubt anyone will get to the heart of the matter better—or quicker—than writer Peggy Noonan in a recent Wall Street Journal article.

Miss Noonan captures the political and social aspects of the battle over Judge Thomas's nomination and analyzes the personal side of Judge Thomas's rise from poverty to his current status.

As the battle over the Thomas nomination grows, the air will be filled with slogans and slander. It is good to know someone has cut through all the rhetoric and set the issue before us as it should be.

At this point I wish to insert in the RECORD, "Clarence Thomas: To be Young, Gifted and

Black" by Peggy Noonan, in the Wall Street Journal, July 9, 1991:

CLARENCE THOMAS: TO BE YOUNG, GIFTED AND BLACK

(By Peggy Noonan)

Judge Clarence Thomas is about to become a lesson. This is rather a burden to put on any man or woman but it is inevitable in his case because he is young, gifted and black and now the center of one great row. His life's story is a moving one, with its beginnings not in the black bourgeoisie, as Thurgood Marshall's were, but in the hardluck South, his mother a maid, the grandparents who scrimped and saved to put him in school.

A question in which lesson his life best demonstrates. Some say that he is living proof that in America anything is possible, and that's true, and some note his rise to eminence demonstrates again the progress we have made as a nation in terms of race, and that's true too.

But the lesson that should not be lost is the transcendent one: Clarence Thomas made it in America because he was loved. His mother loved him. And when she could no longer care for him she gave him to her parents to bring up, and they loved him too. And they cared enough to scrape together the money every year to put him in a Catholic school where they hoped the nuns would teach and guide him and they did. He got love and love gave him pride and pride gave him confidence that he had a place at the table.

This is something we in the age of the-family-that-is-not-a-family forget: the raw power of love and how it is the one essential element in the creation of functioning and successful people, and how its absence twists the psyche and the heart. (The children of the mother on crack are not consigned to lives of uselessness and pain because AFDC payments are low; they are so consigned because crack has broken the maternal bond that brings with it caring and succor.) Lives like Judge Thomas's remind us of this simple truth.

It was once thought that to choose a conservative black for a high appointment put liberals in an uncomfortable position, but we will learn in the Thomas hearings that this is no longer so. Not that the hearings will be color blind, it's just that senators are going to use Mr. Thomas's race to prove things about themselves with it.

Senators of the left will use him to prove they are not minority-whipped. They will demonstrate through measured abuse that they are able to treat a black man as their equal. Their ferocity, they will think, is proof of their sophistication, a compliment: "Our party doesn't patronize minorities." This will be cloud cover for their real intention, which is to serve the interests of the interest groups—the pro-abortion lobby, the civil rights lobby, labor—that control their careers.

Some on the right will use Mr. Thomas's race to demonstrate again that ours is the party of true racial progress, that not a trace of racism clogs the conservative heart. Expect an especially spirited defense from Jesse Helms.

The left will be tough not only because Mr. Thomas represents ideological insult. Those on the left are unmoved by Mr. Thomas's climb from nothing to something because he didn't do it the right way—through them and with their programs. His triumph refutes their assumptions; his life declares that a good man of whatever color can rise in this country without the active assistance of the state. This is a dangerous thing to assert in a highly politicized age.

And to make it worse, Judge Thomas didn't "make it on his own." He has been helped all his life by affirmative action, but the kind liberals do not see and cannot accept: the uncoerced, unforced affirmative action that Americans tend to take when someone at a disadvantage—race, physical disability—needs help.

When Mr. Thomas made his moving statement at Kennebunkport last week he thanked the people who had helped him along the way, including the nuns who taught him. (What a touching and old-fashioned thing to do. If Sandra Day O'Connor had thanked the nuns it would have been a skit on "Saturday Night Live" and an issue in her confirmation.) The nuns' affirmative action for Clarence Thomas was the only effective, meaningful kind: the kind we perform for individuals, not because it is state-mandated but because it is right, not because we love a race but because we care for people and love our country.

One strategy to be expected from Mr. Thomas's opponents: deference and respect. Expect phrases of rolling sympathy as senators of the left bring up for him his humble origins and congratulate him on his grit and determination. Already I can see Joe Biden's telegenic tick of a smile, the one he uses to show how civil he is in spite of his growing moral exasperation. He will celebrate Mr. Thomas's gifts and use them against him. "But what, Judge Thomas, about those who were not born with your advantages, and by that I mean not wealth and comfort but brilliance and determination and a family. What about those poor blacks not greatly gifted or guided—what about them?"

For Judge Thomas's proponents, two great hopes: One is that the administration will hit America where it lives and go over the heads of the talking suits and straight to the people, presenting as witnesses on television the affirmative action crew that lifted a young boy with nothing to great heights—the mother who was a maid, the grandmother who saved up the tuition and the nuns who helped open his eyes. The force of their presence will remind us that real change in a democracy comes from the people up, not from the government down.

The second hope: that the administration will demonstrate moral confidence in its choice and not go into a defensive crouch. In 1980, '84 and '88, the American people voted overwhelmingly for presidents who promised to appoint conservative jurists. The left calls the Thomas appointment a hijacking, a right-wing coup for the court, but this is the opposite of the truth. Mr. Thomas's appointment is not a traducing of the people's will but a fulfillment of their directive.

OFF BUDGET STATUS OF THE SOCIAL SECURITY ADMINISTRATIVE EXPENSES

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. HORTON. Mr. Speaker, today I am pleased to join Government Operations Committee Chairman JOHN CONYERS in introducing legislation to exclude from the Federal budget expenses for the administration of the Social Security Old Age, Survivors and Disability Insurance [OASDI] Program.

Congress voted to remove the benefits and trust funds of the Social Security OASDI Program from the budget; however, the language in the conference report on the legislation created a loophole allowing the administrative expenses on the program to remain under the domestic spending appropriation caps and be counted in the budget deficit reduction process.

Past Social Security Administration [SSA] budget cuts have left the SSA with scarce resources to perform its mission. Budget constraints have forced this agency to cut its personnel and reduce the level of its services to beneficiaries. Backlogs have arisen in every area. In the local offices, phone calls are not being answered, disability claims are not being processed, even the neediest clientele do not receive the assistance they are entitled to by law. The downsize Social Security agencies and cut their staff at a time when the rate of new disability claims is growing alarmingly, can lead to the deterioration of our Social Security system.

The American people deserve better. Social Security, a program for and financed by the public, should respond to the public's needs promptly. Administrative expenses are an essential part of the program. The work of the Social Security agencies are funded out of Social Security trust funds and this should guarantee that senior citizens and disabled persons receive the service they are entitled to in a timely manner.

Due to its self financed nature, our Social Security Program and its administrative functions lie beyond the budget deficit problem and therefore should be kept out of deficit reduction procedure.

The need for this legislation is clear. With its administrative funds remaining on the Federal budget and facing possible sequester or impossible budgetary limitations, the Social Security Administration will not be able to fulfill its operational responsibilities. This bill clearly states that the expenses for administering Social Security programs should not be part of the Federal budget. It would close the loophole for using the program's surplus in budget deficit calculations. This would ensure that the administration of the Social Security Program will be fully funded. I believe this was the intention when Congress voted in favor of last year's Budget Reconciliation Act amendments, and I urge my colleagues to join Chairman CONYERS and myself in getting this legislation enacted.

MEDICAL COVERAGE VERSUS COST

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. ANDERSON. Mr. Speaker, America's health care system is facing conflicting goals that threaten to tear it apart. On one hand, there is the desire to provide universal health care for the 37 million uninsured in our country. On the other, both Federal and State Governments, faced with limited resources, must emphasize controlling skyrocketing health care costs. Can these two goals be met so that we can provide health care to all Americans without bankrupting local and State governments? The current health care debate has too often focused on an ideal system rather than confronting these conflicting demands. To this point, only the State of Oregon has made the tough choices necessary to solve their health care problems. Oregon's proposal would overhaul the Medicaid program and provide all its citizens with health care coverage. This proposal is sure to make Oregon a testing ground for future health care reform.

Medicaid is a State and federally financed health care program whose eligibility is linked to federally assisted welfare programs, such as Aid to Families with Dependent Children [AFDC] and Supplemental Secuirty Income [SSI]. Furthermore, all pregnant women with incomes up to 133 percent of poverty, and all children up to the age of 6 whose family's income is up to 133 percent of poverty, are also covered by Medicaid. Even with these provisions, only 50 percent of those who live below poverty are covered by the Medicaid program.

Oregon's health care system had left 450,000 people in the State uninsured, and there was a growing consensus that their system needed reform. A State commission was formed to recommend improvements in the Medicaid system. The commission realized that, although basic health care coverage for those below poverty was the goal, the State's budget would not allow universal care to be obtained through increased spending. Their conclusion was that for everyone in the State to have health care coverage, care would have to be rationed.

The tough choices came when determining which procedures would or would not be covered in the new system. A list of 709 procedures, ranked in order of importance, was established. In preparing this list, preventive care and treatment for curable diseases took precedence over expensive medical procedures. For this reason, mammograms will be covered by the new state-wide insurance plan, although they were not covered by Medicaid. Of the 709 procedures, the State could provide coverage for 587.

Rationing care in this manner has been criticized as being both inadequate and inhumane. The commission also recognized that their proposal is not ideal. However, they felt it was preferable to allowing 450,000 people remain uninsured. There will certainly be difficult moments on the individual level when people are denied treatment. On the other hand, denying one person expensive treatment for a terminal illness may allow 10 women to receive mammograms, or 10 babies to be fully immunized. Choosing between these cases is difficult, but necessary in order to reform our health care system and maximize the value of health care spending.

Critics of this proposal point out that Oregon is providing universal access at the expense of those who already have little to give, namely poor women and children. This could be a reflection of the small political power base that these groups have rather than the best method to improve the Medicaid system. The proposal, though, comes to grips with the fact that health care resources are limited. Our Nation's health care debate must be centered on this principle if we are to accomplish real reform of the current system. If nothing else, Oregon's health care proposal reminds us that tough choices lie ahead.

HOPE FOR THE POOR

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. GINGRICH. Mr. Speaker, I want to make sure all my colleagues saw the following article by HUD Secretary Jack Kemp that appeared in Roll Call on Monday, July 8. HOPE is a bold and innovative program that will help low-income families join the American mainstream by becoming homeowners.

KEMP'S HOPE PLAN GIVES POOR A WAY TO ACQUIRE ASSETS

Last year, Congress passed the National Affordable Housing Act, authorizing a bold new program to permit public housing residents to manage and ultimately own their own homes. President Bush asked for $885 million to fully fund Homeownership and Opportunity for People Everywhere (HOPE) at the authorized level in fiscal 1992. In a landmark vote, the House recently passed the Kolbe-Espy Amendment providing $360 million for HOPE, including $151 million for homeownership in public housing.

This marks a radical break with the past. As the Senate Appropriations Committee begins its deliberations over the HUD budget, we will press for full funding of HOPE and an unhesitating assault on poverty.

The day of the House vote, I was in Chicago visiting the Henry Horner Homes, whose tragic story is told in Alex Kotlowitz's moving book, There Are No Children Here (Doubleday).

Like Alex Kotlowitz, I saw both the dismal conditions and the resilient spirit of the place. Hours later, Rep. Mike Espy (D-Miss), during the House debate, defined the problem. He said, "Without acquiring assets, the poor are destined to remain poor."

More than a quarter century ago, Lyndon Johnson declared "unconditional war on poverty" and predicted a "Golden Age of urban living." But we have little to show for the $2.6 trillion we spend trying to build a Great Society. The evidence suggests that any new and successful war on poverty requires a dramatically different approach based on expanding access to assets and private property.

After two years at the Department of Housing and Urban Development, I've discovered that America doesn't have one economy—we have two economies, separate and unequal.

Our mainstream economy is based on entrepreneurial capitalism. It links individual effort with reward and is based on incentives for work, saving, investment, education, and family.

But our second economy—the welfare economy—is more akin to Third World socialist economies than to the capitalist West.

Human effort and productivity are punished. Those welfare recipients and unemployed fathers who take jobs and get married end up as net losers because of lost benefits and new taxes. In effect, they pay a marginal tax rate in excess of 100 percent. It is a grim world in which the rules of the market are reversed by government fiat.

The good news is that government policies can change; the forces that cause poverty can be reversed. As Michael Sherraden of Washington University in St. Louis, author of Assets and the Poor (M.E. Sharpe, Inc.), has written: "America has needed a different welfare idea, an idea more suited to capitalism, oriented toward accumulation and economic independence."

He's right. Acquiring assets powerfully affects the way people think, promoting achievement, inspiring confidence, and encouraging planning for the future. As President Bush recently observed while visiting the resident-managed Cochran Gardens public housing community in St. Louis, assets become a catalyst for entrepreneurship and upward mobility.

Today, through HOPE, we in the Bush Administration are attempting to bring the power of private property to distressed communities, empowering public housing residents to own their own homes. Full funding of HOPE in fiscal 1992 would help create over 30,000 new homeowners in public and assisted housing and start an additional 60,000 families on their way toward homeownership.

Unlike existing programs, HOPE funds will stretch much further because HOPE requires that three to four federal dollars be matched by one dollar in local support.

The match can be "hard" or "soft" and may include tax abatement, economic development, child care, sweat equity, locally funded mortgage buy-down programs, and administrative costs. Moreover, federal funding needed for operating assistance and further rehabilitation will end after the housing is sold to residents.

Our HOPE regulations do not permit rehab and operating costs to exceed those allowable under current public housing programs. And the short-term costs of empowering public housing residents to own their own homes will be far less than the ultimate costs of providing open-ended operating subsidies and modernization funds.

From Moscow to Managua, socialism is on the run and governments are privatizing their housing stock. Yet in the United States, some still support expanding one of the world's last socialist schemes—that 50-year old relic known as public housing. With more than 100,000 boarded-up vacant units and funding for new construction still in the pipeline (some of it dating back to the Ford Administration), the last thing the poor need is more conventional public housing construction.

Isn't it time to stop treating low-income people as "sharecroppers"? (in the words of Bertha Gilkey of Cochran Gardens). Poor people don't need more subsistence-level government subsidies. Rather, they need an asset and private property base on which to build their futures.

Some people still cling to the short-sighted and dispiriting notion that for public housing residents poverty is a permanent condition. These cynics suggest static incomes will prevent poor families from ever affording homeownership. But HOPE is not just a housing program; it is an empowerment program. It provides incentives for low-income families to escape poverty and helps give them the resources and opportunities to do it—from job training to entrepreneurship.

Congress has already provided funding in fiscal years 1990 and 1991 for the development of more than 15,000 new public housing units. In addition, there are almost 18,900 units reserved but not yet under construction, and an additional 8,860 units on the way.

As the appropriations process unfolds for fiscal 1992, Congress faces what may be its last chance to live up to the bold and hopeful aims of the National Affordable Housing Act it passed and praised with such fulsome rhetoric.

A TRIBUTE TO H. ROBERT CATHCART

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. FOGLIETTA. Mr. Speaker, I rise today to pay tribute to Mr. H. Robert Cathcart, the president and chief executive of Pennsylvania Hospital in Philadelphia. Mr. Cathcart will retire on August 31, after 42 years of service at our Nation's first hospital.

Mr. Cathcart, in his tenure, has built upon a tradition of excellence to establish the Pennsylvania Hospital as one of America's premier health care facilities. Further, he advanced the Hospital's most important mission, established by its founder, Benjamin Franklin: to provide the finest medical care for all people—rich and poor.

Through his superb leadership, Mr. Cathcart has become a model administrator to his colleagues in the medical profession. His influence reaches throughout the country and the international health care community as well.

For more than 20 years, he has served the American Hospital Association in various leadership posts. He served as chairman of their Board of Trustees in 1976, Speaker of the House of Delegates in 1977 and he was awarded with their Distinguished Service Award in 1983. Mr. Cathcart is also a recipient of the American College of Healthcare Executives Gold Medal for outstanding service, not to mention several other honorary degrees as well.

He has also taken his expertise abroad. Mr. Cathcart served as a consultant to many foreign governments, including Thailand and Saudi Arabia.

I would like to thank Mr. Cathcart for all that he has done for Pennsylvania Hospital, for the people of Philadelphia, and for the United States of America. I wish he and his wife, Tressa, much happiness in their retirement.

AND THE CHILDREN SHALL NEED

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. RANGEL. Mr. Speaker, the Washington Post recently ran a three-part, front-page series about problems faced by children whose mothers abused drugs during pregnancy. One of those articles focused on the large number of drug-exposed children entering schools and the strain this will place on our educational system. I wish to include that article in the RECORD and remind my colleagues that the Select Committee on Narcotics Abuse and Control will hold a hearing on this topic July 30.

We all remember the advent of crack babies a few years ago when the crack epidemic exploded on our Nation's streets. Today, those babies are growing into school-age children. Many babies who were not diagnosed as drug-exposed at birth are now showing signs of disability due to their mothers' drug abuse. This phenomenon is, without a doubt, one of the most devastating effects of America's drug crisis and will be a critical issue facing urban schools in the next 5 years. Some researchers predict that, by the end of the decade, up to 60 percent of all students in urban schools will have been exposed to drugs before birth.

On July 30, the select committee will examine ways the Federal Government can help teachers and schools cope with this new challenge. We will hear from superintendents, teachers, children's advocates, and the Assistant Secretary of Education for Special Education and Rehabilitation.

There is not much time. We must act soon. A failure to address drug-exposed children's needs now will lead to a host of social welfare and law enforcement costs in the future. It will also mean a deficient education for other students in the classroom as drug-exposed children detract teachers' attention. I look forward to presenting the House with our committee's findings:

CRACK'S CHILDREN: AND THE CHILDREN SHALL NEED DRUG-INDUCED DISABILITIES WILL TAX SCHOOL RESOURCES

(BY MICHELE L. NORRIS)

The kindergartners spill into their East Harlem elementary school each morning bubbling with enthusiasm, but for some enthusiasm is not enough.

There is the little girl who is almost 6 but has the language skills of a child half her age. She repeats what sounds like "Kiyeh da boo" over and over until a baffled aide discovers that the child is trying to say, "Can I have the book?"

Then there is the little boy who is unable to sit still for more than a few minutes. He fidgets in his seat so feverishly that his desk is out of position with his row. Another child has such problems controlling his hands that he sometimes drops his face into his plate to eat lunch; picking up a spoon or a fork is too taxing.

Their problems seem disparate, but these students all have something in common: Their bodies and brains developed in wombs contaminated by crack.

As the smokable form of cocaine known as crack marked its fifth year as a popular street drug last year, so too did the first generation of children born to women who smoked crack while they were pregnant.

Those 5-year-olds entered kindergarten last fall in New York, Los Angeles and Miami, cities where the crack epidemic first took root. Schools in those cities have been hit with a crush of troubled students who frazzle teachers who often are untrained or simply too burdened to meet their extraordinary needs.

"It is not like there are one or two special cases where the children exhibit bizarre behavior," said Hattye Brown, a kindergarten teacher at PS 146 in the East Harlem section of New York. "I am talking about a whole lot of children who are not functioning where they should be. We all better put our seat belts on, because in five years it is going to be real bad."

The crack market in Washington and its suburbs began to flourish about a year behind New York's. So this fall the first sizable number of local children exposed to crack in the womb will enter city and suburban schools. And crack's soaring popularity since the mid-1980s indicates that the pool of crack-affected youngsters will grow dramatically each year until at least 1995.

Compounding the problem for local schools is that the vast majority of these children will not be in special programs geared to their needs. They will share desks, textbooks and lunchrooms with other students. And all the children who were not exposed to crack in the womb will suffer as their teachers become preoccupied with the crack-affected youngsters' overwhelming problems.

"We are going to have to do something to save these other children," Brown said. "Because the crack kids are going to take up all their teachers' energy."

Concerned about the future expenses facing the state, New York State Comptroller Edward Regan estimated that in nine years there will be about 72,000 children in New York City who were exposed to crack in the womb.

Officials in the District and its suburbs have declined to offer such an estimate. But local hospitals, using sporadic drug testing, found that more than 2,000 drug-affected babies were born in 1990, enough to fill about 80 kindergarten classes. The total number is certainly much larger.

Exactly how many children have been exposed to crack in the womb is unknown because maternal drug testing by hospitals is sporadic. Studies in Florida, Tennessee and Philadelphia show little disparity in the rate of prenatal drug use between poor women seeking care at public health clinics and more affluent women who see private doctors.

"Don't be fooled into thinking that these children only reside in the ghetto," said Ira Chasnoff, president and founder of the National Association for Perinatal Research and Education, the preeminent research facility on maternal substance abuse. "They are everywhere. They are in rural America. They are in the suburbs. They come in all colors and creeds."

THE PROBLEM EXPLODES

Drug-affected children are not new to school systems. Brown, who has taught in New York's most blighted neighborhoods, has worked with children exposed in the womb to heroin, alcohol, powdered cocaine and other drugs since she began teaching in 1969. But before this school year, Brown said, she had never witnessed so many children with such short attention spans, children who seem to have no control over their actions and who are so inconsistent in their behavior and abilities.

At an age when most youngsters are losing their teeth and learning the alphabet, many crack-affected children show Alzheimer's-like symptoms, beginning a task only to stop moments later, unable to recall what they were working on. Poor coordination also is common. Preschoolers have trouble picking up everyday objects such as building blocks, crayons and eating utensils. They bump into walls, trip over nothing and fall to the floor when they try to sit down.

There is no typical profile for a crack-affected child. Their problems can include extreme hyperactivity, uncontrollable mood swings, language delays, disorganized thinking, lapses in short-term memory, poor coordination and difficulty with fine motor skills.

"Teachers are out there on their own because the collective education community has been so slow in responding to this problem," said Valerie Wallace, a school psychologist who works with the Los Angeles school system's program for drug-affected children. "They are on the front lines and they often don't know how to even identify the children, let alone deal with their special needs."

Trying to identify crack-affected children through behavior alone is tricky. Their problems are easily confused with or compounded by other factors common to children of poverty, including lead poisoning, a lack of prenatal care, abuse, neglect or poor diet and rest habits.

Studies in Los Angeles, Chicago, Philadelphia and Miami have shown that a majority of crack-affected children suffer from problems that will make it difficult for them to flourish in a traditional classroom setting.

Most schools subscribe to a code of behavior that is difficult, even impossible, for some crack-affected children to follow. Sitting at a desk for hours on end is an onerous task for an extremely hyperactive child. And quietly reading a book can seem impossible for students with attention deficit disorder—a condition in which children cannot screen out unimportant sights and sounds.

The sounds that serve as background noise in most school buildings—slamming doors, screeching chairs, coughing and playground noise—present constant interruptions that can't be disregarded by crack-affected children.

* * * * *

INCREASING DEMANDS

So far, efforts to develop teaching strategies for crack-affected youngsters have taken place in specialized classrooms and pilot programs restricted to a small number of students. The vast majority of crack-affected children will begin school in normal classes where overwhelmed teachers will have no special assistance to cope with their needs.

As the children get older and as the demands of school are increasingly beyond their reach, schools are likely to move many of them into special education, where instruction and therapy can drive the annual cost of educating a student to $10,000 or more than in a regular classroom. Los Angeles, for example, spends $15,000 a student each year in its special program for drug-affected children, compared with just more than $3,000 a year in a regular classroom, said Carol Cole, a special education specialist who helped design the Los Angeles pilot program.

"As kindergarten and first-grade and other teachers see that the problems are more than just immaturity, that is when we are probably going to see these children go to special placement," Cole said.

Already, the influx of crack-exposed children is swelling the demand for special education services in New York and Los Angeles. More than 1,600 students were referred for special education evaluations in New York City during the school year just ended, compared with 1,071 referrals last year. New York State Comptroller Regan said the annual cost of providing special care for crack-affected infants will peak in the late 1990s at more than $176 million. Officials have not estimated the cost in the Washington area.

Maurice Sykes, director of early childhood education in the District, said the city will try to keep drug-affected children out of special education by providing teachers with training and written materials to help them deal with troublesome students in a normal classroom setting, regardless of the cause of their problems.

Such an approach assumes that crack-affected children can function in a normal classroom setting despite their problems, an assertion that is still being tested.

"In spite of all their problems, the children are coping because children, as we know, are incredibly resilient," said Johnson, principal of PS 146. "Somehow I have to have the hope that given the proper nurturing, the proper care, the proper love, that the children will become productive."

SPACE STATION BOONDOGGLE

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. DUNCAN. Mr. Speaker, I have spoken out and have voted against the space station project because of its unbelievably expensive price.

Some have predicted that the space station will become the single biggest boondoggle in the history of the Federal Government, and that is really saying something.

I would like to call to the attention of my colleagues and other readers of the RECORD the following articles about this project:

"LET'S GO BACK TO THE MOON"

(By James J. Kilpatrick)

WASHINGTON.—By one of those nice coincidences that come along now and then, two publications dealing with the exploration of space recently turned up in the same mail.

One was the report of a study group headed by Thomas P. Stafford; a retired Air Force general. The other was an article by Gregg Easterbrook in the New Republic for July 8.

The two pieces should be required reading for all members of Congress before they appropriate funds for the National Aeronautics and Space Administration. On June 6 the House agreed to throw another $2 billion into Space Station Freedom. This would amount to an irrevocable commitment to keep this indefensible project alive.

Of particular interest is this remarkable fact: The Stafford commission ignores Space Station Freedom almost altogether. The report mentions the space station in one paragraph on page 102, and recommends its program in a single sentence on page 113. That is it. If ever a costly project were damned with faint praise, the space station surely qualifies.

NASA's people say their space station is a must. The Stafford people say their lunar base is a must. There is not money enough in the federal treasury to finance both undertakings. Writing from a low orbit of ignorance, I am bound to say that the Stafford approach makes more sense to me. For Congress to put more money into Freedom is to support a job-saving boondoggle. It is pure folly.

Gregg Easterbrook writes with what someone once described as the bell-like ring of authority. His criticism of Space Station Freedom is cogent, concise and devastating.

When NASA proposed the space station in 1984, the project was to cost $8 billion (about $11 billion in 1990 dollars). It was to serve as a kind of garage for satellite repair. It would refuel outbound spacecraft and undertake environmental studies. There would be new opportunities for astronomy. The station would house eight astronauts for months at a time. Under the heading of "life sciences," the project would accumulate data on the long-term effects of zero gravity. The crew also would study manufacturing under conditions of microgravity.

The grand plans of 1984 have shrunk. The pending design would house only four persons. All missions except microgravity and life sciences have been eliminated, and microgravity is about to go.

Largely because of design changes mandated by Congress, the cost has soared into orbit. Now NASA itself concedes a basic construction cost of $30 billion. The General Accounting Office says $40 billion. When the necessary expense of shuttle missions is figured into the calculus, realistic estimates of this venture rise to more than $100 billion.

Easterbrook identifies problems that are almost bound to result in disaster. The space station would have to revolve in a low orbit, a condition that will require periodic reboosting. The complex components must be assembled in space. This will require 23 to 26 shuttle flights for delivery.

"Suppose another shuttle fails during the construction period, and launches undergo the kind of lengthy suspension that followed Challenger. The Freedom design can withstand one to two years of flight suspensions without falling back into the atmosphere. Downtime after Challenger was three years."

Merely to keep the station in orbit will require "an unprecedented degree of maintenance." By one informed estimate, Freedom will need 3,700 man-hours a year.

"So far American astronauts have accumulated about 400 total hours walking in space, and they found the experience profoundly exhausting. Under the current estimate, each member of Freedom's four-person crew would spend two hours per day space-walking with wrench and hammer. In other words, the main purpose of being on the space station will be to maintain the space station."

It needs to be said that the Stafford group offers no cost estimates whatever for its series of lunar missions, but over the next 20 years—the anticipated life span of the space station—the Stafford program clearly offers us a better bargain.

NASA's defenders place great reliance upon the "inspiration" that a space station would provide for youngsters who will be the space engineers of the next century. This strikes me as so much hooey. If youngsters are to be inspired and earthly jobs are to be preserved, let's go back to the moon.

SAY NO TO THIS "ORBITING PORK BARREL"

(By Robert L. Park)

Even as Congress prepares to close dozens of military installations, rendered excess by the end of the Cold War, it seems determined to spend $30 billion for Space Station Freedom. Yet, the troubled space station program is as much a relic of the Cold War as a B–52 bomber base. Worse, the space station is a hideously expensive science project that is scorned by the scientists.

Yesterday frustrated representatives of many of the nation's leading scientific societies delivered a letter to members of the Senate urging them not to fund the space station at the expense of scientific programs. Already, however, 50 senators have signed a letter endorsing the bloated boondoggle. The House has already voted its approval. Ironically, it is Congress that insisted that scientists state their priorities. The lawmakers warned that the customary practice of claiming that every science project deserves funding will not wash under the new spending caps agreed to by Congress and the White

House. Congress, they said, must be told which programs should not be funded.

The scientists obliged, and their message could not have been clearer. There is no scientific justification for a permanently manned space station. That message was carried by Nobel laureates in congressional testimony, major scientific societies in uncharacteristically blunt public statements, and by individual scientists in articles and letters and visits to congressional offices. The consensus was overwhelming. Even NASA scientists privately applauded the efforts of their colleagues.

NASA struck back by explaining what is really at stake. A map of the Untied States was sent to congressional offices with the number of businesses with space-station contracts marked on each state. The map was labeled: "Businesses Getting Buck$." Science is just science, but a space station is an orbiting pork barrel.

Indeed, $30 billion is only the beginning. That just buys an empty garage. The full cost to build and equip Freedom is estimated at $118 billion. If you include operating costs over what NASA claims will be a 30-year life, it comes to an S&L bailout-sized $180 billion.

What, you may be wondering, would the astronauts do up there for 30 years? Count tomato seeds? On a recent shuttle flight that lasted only six days, the crew was reduced to videotaping 2,438 jelly fish swimming in zero gravity. The scientific discovery of the mission was that the jelly fish seemed confused. Who wasn't? I once asked the former head of the Soviet space science program what the cosmonauts do all day on board Space Station Mir. They try to stay alive, he replied.

That's not easy on a space station. Space is a harsh environment. Muscles atrophy, bones that no longer resist gravity lose calcium, nerves degenerate, debilitating bouts of space sickness are a persistent problem, and the body is exposed to severe levels of cosmic and solar radiation.

Ronald Reagan, who started all this in 1984, saw the space station as a sort of microgravity research and development laboratory, turning out wondrous new alloys and medical advances and collecting important scientific data. Space, they were fond of saying in the Reagan White House, is just another place to do business. As a commercial environment, however, microgravity turned out to be microimportance.

The redesigned Freedom will be limited to studying the deleterious effects of exposure to a space environment. But why expose humans to such conditions? In the exploration and uses of space, human beings have become an expensive and unnecessary burden. Robot satellites relay communications, track weather systems, peer into the backyards of our adversaries, scan space and Earth for the telltale flashes of forbidden nuclear tests and serve as precise navigational beacons. Robot spacecraft have penetrated the noxious clouds of Venus with radar eyes and analyzed the soil of Mars for signs of life.

While exploring the outer planets of the solar system, our robots passed through radiation belts no human could survive; they are the logical extension of our frail bodies. It is widely believed in Congress, however, that a public weaned on Star Trek would not support a space program that did not involve a human presence in space. I think they underestimate the public and shirk their responsibility to lead. The new technologies and advances in science produced by the space program have more than justified our past investment. But the market for space suits is limited; the future is in robots.

COALITION OF SCIENTISTS DECRIES SPACE STATION: LETTER TO SENATORS QUESTIONS POTENTIAL COST

(By Curt Suplee)

An extraordinary coalition including many of America's most illustrious scientific and mathematical societies yesterday made a last-ditch attempt to protest proposed spending for the Bush administration's program to build a space station.

The consortium of 14 professional groups warned that the "excessive cost" of the planned $30 billion manned space station will drain so much funding from the support of science that it "threatens the vitality" of essential research programs and imperils U.S. leadership in world technology.

In a joint letter sent to each member of the Senate, the presidents of the American Physical Society, the American Chemical Society, the American Geophysical Union, the American Mathematical Society and Sigma Xi, among others, also sharply questioned the "scientific, technological and educational merit of the currently planned station."

Not since the widespread opposition to the Reagan administration's "Star Wars" project has a federally sponsored program met with such extensive criticism from such a wide range of scientific organizations.

"It is quite unusual for organizations representing such a broad spectrum of sciences to join together," said Robert L. Park, executive director of the physical society's Washington office. "It has happened in the past only when there is a threat to the future of American science."

That threat, Park said, arose on June 6 when the House voted 240–173 to approve $1.9 billion in next year's budget for the space station while cutting funding for numerous programs within the National Aeronautics and Space Administration (NASA) and other agencies. The Bush administration lobbied strenuously in the House for the space station, which already has been named Freedom, and is expected to exert equally heavy pressure in the Senate, where NASA funding is under consideration today as part of a multi-agency appropriations bill.

The scientists' diplomatically worded statement, announced at a news conference here, stopped short of calling for the project to be killed, as a House appropriations subcommittee voted to do earlier this year. "It's a compromise," said Annette Rosenblum, senior science policy adviser at the chemical society. "We are not in favor of stopping any one project cold."

Instead, the societies' letter affirms the concept of a "balanced" space program but notes that the scientists are "especially disturbed" by the possibility that current outlays for the space station—and "escalating costs in subsequent years"—would drain scarce funding from the National Science Foundation, Environmental Protection Agency and other research projects.

The primary goal of the space station—which the General Accounting Office recently said may eventually cost $10 billion more than current estimates—is to study how human beings fare in space in preparation for a long voyage to Mars. But in March the National Research Council's Space Sciences Board reported that the space station "cannot be supported on scientific grounds."

More recently, a number of scientific groups—including several that were not signatories to yesterday's letter—have issued separate statements criticizing the program. In May, the Council of Scientific Society Presidents concluded that "scientific justification is lacking for a permanently manned space station."

Last month the Institute of Electrical and Electronic Engineers—many of whose members derive their livelihoods from space and defense contracts—cautioned that spending more than $10 billion on the station would "seriously detract from other important civilian space programs such as satellite communications and remote sensing."

Nonetheless, about half of the members of the Senate already have expressed support for the space station program.

Last month, Office of Management and Budget Director Richard G. Darman derided protests from scientific groups as "factional cannibalism" and said that space-station opponents were "politically naive" in believing that money saved from the project would be transferred to other research programs.

"We are not sanguine about the prospects for success," Park said. "But we do have an obligation to speak out."

THOUGHTS OF ROC'S FREDRICK CHIEN ON LIFE AND WORK

HON. CLAUDE HARRIS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. HARRIS. Mr. Speaker, I have been made aware of an inspirational article in Taipei's Central Daily News (June 12, 1991) authored by Dr. Fredrick Chien, Foreign Minister of the Republic of China. As many of my colleagues know, Minister Chien served as the Representative of the Republic of China in Washington from 1983 through 1988. During his Washington tenure, Ambassador Chien frequently impressed his friends with his keen intelligence, wit and humor, leading many of us to believe that he was a born diplomat. Yet interestingly enough, in this article Minister Chien reminisces about his bashfulness as a child and his conscientious efforts to be productive in both his studies and his work. To help my colleagues better understand Fredrick Chien and anyone else interested in the thoughts of a great Chinese diplomat, Professor Nathan Mao of Shippensburg University has translated Dr. Chien's article as follows:

"IN THE UNIVERSE THERE IS ABSOLUTELY NO EASY SITUATION; IN THE HUMAN WORLD WHERE WOULD YOU FIND TIME TO WASTE"

(By Fredrick Chien)

At my home a couplet of two lines calligraphed on two vertical scrolls hang on the wall. It says: "In The Universe There Is Absolutely No Easy Situation; In the Human World Where Would You Find Time to Waste." Every day before I leave my house, I would always glance at the couplet—for self enlightenment and inspiration. After more than ten years, I have truly realized the importance of giving every situation some second thoughts and treasuring the time I have. I have benefitted greatly from the wisdom embedded in the couplet.

I have served a long period of time in the foreign service and on many occasions I have been required to speak extemporaneously with wit and skill. Consequently many people think I am a born diplomat. But, in truth, when I was a young child I was very bashful and even somewhat unsociable. I remember the year when I was four attending kindergarten. Due to my inward nature I was unable to adjust to other children and I cried all the time. Teachers did not know how to handle me, so within a week the principal sent me home to my parents.

To help me overcome my shyness, my parents deliberately sent me to grade school even earlier than usual. Still I kept to myself and I very seldom had anything to do with classmates.

When I was in eighth grade my family moved from Shanghai to P'eiping. For a year and a half I attended a Christian school which emphasized the intellectual, moral, physical and social development of children. And this progressive curriculum was the key which unlocked my inner self. From then on my loner personality changed as I opened myself.

At Chienkuo Senior High School and later at the National Taiwan University I participated in a number of activities, through which I became not only more open but also more experienced. But I did not dare to ignore my school work. In fact, I became even better at it. During my four years at college, I usually earned the highest or the second highest grade point average. I always feel that maintaining a high academic average is a student's first responsibility and extra-curricular activities are just that—extra things to do after school work has been completed. One's priorities must not be reversed.

After graduating from college I had two years of reserve officer training. The training benefitted me tremendously. It sharpened my sight and auditory abilities, allowing me to concentrate when I studied and to be in control of my surroundings. For many years now, if proper arrangements have been made, I am able to preserve my energy either working or studying. This ability is the end result of my reserve officer training.

At Yale University I made special efforts to avoid wasting time. I acknowledged for a fact that my academic preparation and mental abilities were behind those of my American classmates. Therefore I did not dare to lose any possible moment when I could be studying. Every time professors went to the library to secretly check on students' progress, they would always find me in the library. It did not matter when they would visit the library.

I am too stingy to part with one second, one minute. Even when I am extremely busy I must find time to read a few books. In today's world if a person can't enrich himself he will be ignorant of new knowledge and new information. I have always felt that I don't have enough time at my disposal and I therefore truly realize how important it is to "treasure time." This applies not only to studying but also to working as well.

In nearly twenty years of public service I have a new assignment every five years. Every time I take on a new job I have to start from the beginning. When I was little, elders would always say: "Eat what you have in your bowl, but what is in the pot." I have always kept this maxim in mind. Before an assignment becomes a reality, I always concentrate on my post at hand, trying my best to do it right.

I am a public servant and I try my best in every thing I do. If one day I discover that I can't contribute any more to my country, I will consider giving my post to someone else. Otherwise I will steadfastly keep to my post, any time and any where.

STATEMENT ON UNSUNG HEROES

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mrs. COLLINS of Illinois. Mr. Speaker, I would like to call the attention of my colleagues to an event that took place in my district recently. Too often, we in the Congress are so riveted to the high profile events within the beltway that the momentous community level events tend to not be recognized for their significance in the day-to-day lives of our constituents. A few weeks ago, a neighborhood newspaper within the 7th Congressional District, The Austin Voice, celebrated the accomplishments of community members whose dedication and commitment have enriched the lives of fellow residents.

In so recognizing the accomplishments of these individuals, the paper is reaffirming the standard measurement to inspire our younger population and manifesting the community's honor in its citizens.

The following are the recipients of the recognition awards:

Mr. and Mrs. Dwayne and Cata Truss for coaching boys and girls baseball and softball teams in the Nelson Mandela Baseball/Softball league.

Ms. Mary Munoz for her unfledgling work with teens in drug prevention and alternative lifestyle modeling.

Ms. Mary Henley for founding the Comprehensive Community Organization to provide adult literacy instruction.

Ms. Cynthia Richardson for instituting cultural and entrepreneurial changes in the Austin community.

Mr. Albert Sharp for this tireless work with young offenders and the forgotten and invisible youths of Austin.

Ms. Susie Haynes and Ms. Amy Conley for their unselfish commitment to rescuing homeless women and children.

I join The Austin Voice in celebrating the accomplishments of these individuals and I thank each of the honorees for the valuable contributions they have made to the 7th Congressional District.

HAWAII TEAM BILLS

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. ABERCROMBIE. Mr. Speaker, today I am introducing several important bills to extend and improve benefits received by our veterans. These legislative proposals are companion bills to similar proposals introduced in the U.S. Senate by Hawaii Senators Inouye and Akaka. I take great pleasure in joining with my fellow House Member the Honorable PATSY MINK, and my distinguished counterparts in the other body by introducing these bills. This is yet another example of the Hawaii delegation working as a team for the citizens of Hawaii.

The first of these bills provides for the establishment of a post-traumatic stress disorder treatment center in Hawaii. This facility will be designed to provide war related mental health disorder services to veterans and active members of the armed services.

The second bill authorizes veterans who are rated totally disabled as a result of a service-connected disability to travel on military aircraft in the same manner and to the same extent as retired members of the armed services.

Mr. Speaker, I am also introducing a bill which will allow former pow's who, are rated with a 30 percent services-connected disability, who were honorably discharged to have the use of the post exchange and commissary privileges.

Finally, Mr. Speaker, I am introducing proposals which would help determine claims by Filipinos who performed military services on behalf of the United States during WWII, and to provide for incentive pay for the Department of Veteran Affairs psychologists.

Mr. Speaker, I want to thank my fellow colleagues from the State of Hawaii for their cooperation, and urge my fellow Members in the House to support these bills. The veterans of this country have made great sacrifices for this Nation. As American citizens we owe them a great debt that may never be fully repaid, and it is our duty to ensure that their needs are satisfied.

Mr. Speaker, I insert the texts of these bills to be printed in the RECORD:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF A POST-TRAUMATIC STRESS DISORDER TREATMENT PROGRAM IN HAWAII.

(a) ESTABLISHMENT.—Chapter 73 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"Subchapter V—Miscellaneous Programs

"§7381. Post-traumatic stress disorder treatment facility in Hawaii

"(a) The Secretary shall establish in Hawaii a post-traumatic stress disorder diagnosis and treatment facility to be known as the "Pacific Center for Post-Traumatic Stress Disorder and War-Related Disorders". Activities shall be conducted at the facility in accordance with this section.

"(b)(1) The Secretary shall ensure, to the maximum extent practicable, that activities relating to post-traumatic stress disorder shall be carried out at the facility as follows:

"(A) The provision of inpatient care services and comprehensive outpatient care services relating to the disorder to the following individuals suffering from post-traumatic stress disorder who live in the Pacific jurisdiction of the Department:

"(i) Veterans.

"(ii) Members of the Armed Forces on active duty, pursuant to a memorandum of understanding which the Secretary shall enter into with the Secretary of Defense.

"(B) The provision of education and training programs relating to the disorder for health care and human service professionals located in Hawaii and the Pacific basin, with an emphasis in the coverage of such programs on the manifestations of the disorder among individuals who are members of ethnic minorities.

"(C) The conduct of scientific research relating to the disorder and other war-related mental health disorders, including research relating to (i) the access of individuals who are members of ethnic minorities to diagnosis and treatment of such disorders in facilities of the Department, and (ii) the effectiveness of such diagnosis and treatment for such individuals.

"(D) The coordination of activities in Hawaii relating to research and treatment of the disorder that are conducted pursuant to programs affiliated with the Department of Defense, the Department of Veterans Affairs, institutions of higher education, State or local entities, or community entities and organizations.

"(E) The collection and dissemination of information relating to the diagnosis and treatment of (i) post-traumatic stress disorder, (ii) war-related mental health disorders, and (iii) mental health problems related to natural or man-made disasters.

"(2) The Secretary of Defense shall reimburse the Secretary of Veterans Affairs for the cost of providing care services to the members referred to in paragraph (1)(A)(ii).

"(3) For the purposes of this subsection, the term 'facility of the Department' has the meaning given such term in section 601(4) of this title.

"(c) In providing for the conduct of the activities of the facility under subsection (b), the Secretary shall ensure that special emphasis is given to investigating the relationship between post-traumatic stress disorder and the various cultural, ethnic, gender, and other psychological and social characteristics of persons who suffer from the disorder.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7368 the following new items:

"Subchapter V—Miscellaneous Programs

"7381. Post-traumatic stress disorder treatment facility in Hawaii.".

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DETERMINATIONS BY THE SECRETARY OF THE ARMY.

(a) In General.—Upon the written application of any person who is a national of the Philippine Islands, the Secretary of the Army shall determine whether such person performed any military service in the Philippine Islands in aid of the Armed Forces of the United States during World War II which qualifies such person to receive any military, veterans', or other benefits under the laws of the United States.

(b) Information To Be Considered.—In making a determination for the purpose of subsection (a), the Secretary shall consider all information and evidence (relating to service referred to in subsection (a)) available to the Secretary, including information and evidence submitted by the applicant, if any.

SEC. 2. CERTIFICATE OF SERVICE.

(a) Issuance of Certificate of Service.—The Secretary shall issue a certificate of service to each person determined by the Secretary to have performed service described in section 1(a).

(b) Effect of Certificate of Service.—A certificate of service issued to any person under subsection (a) shall, for the purpose of any law of the United States, conclusively establish the period, nature, and character of the military service described in the certificate.

SEC. 3. APPLICATIONS BY SURVIVORS.

An application submitted by a surviving spouse, child, or parent of a deceased person described in section 1(a) shall be treated as an application submitted by such person.

SEC. 4. LIMITATION PERIOD.

The Secretary may not consider for the purpose of this Act any application received by the Secretary more than two years after the date of the enactment of this Act.

SEC. 5. PROSPECTIVE APPLICATION OF DETERMINATIONS BY THE SECRETARY OF THE ARMY.

No benefits shall accrue to any person for any period prior to the date of the enactment of this Act as a result of the enactment of this Act.

SEC. 6. REGULATIONS.

The Secretary shall issue regulations to carry out sections 1, 3, and 4.

SEC. 7. RESPONSIBILITIES OF THE SECRETARY OF VETERANS AFFAIRS.

Any entitlement of a person to receive veterans' benefits by reason of this Act shall be administered by the Department of Veterans Affairs pursuant to regulations issued by the Secretary of Veterans Affairs.

SEC. 8. DEFINITIONS.

As used in this Act:

(1) The term "World War II" means the period beginning on December 7, 1941, and ending on December 31, 1946.

(2) The term "Secretary" means the Secretary of the Army.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(b) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1066. Disabled former prisoners of war.".

50TH ANNIVERSARY OF EXECUTIVE ORDER 8802

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. CLAY. Mr. Speaker, I would like to take this opportunity to note that June 25, 1991, marked the 50th anniversary of the signing of Executive Order 8802 by President Franklin Delano Roosevelt that banned employment discrimination by the Federal Government or defense industries.

To enforce the Order, Roosevelt also set up a Fair Employment Practices Committee to "receive and investigate complaints of discrimination" and to take "appropriate steps to redress grievances."

The Order was the first significant breakthrough against legalized Jim Crow segregation since the days of Reconstruction. It laid the groundwork for the creation of a black middle class by opening up public sector and industrial employment to blacks.

Black union leader A. Philip Randolph played an instrumental role in securing the signing of the Order. Randolph had threatened a march of 100,000 blacks down Pennsylvania Avenue. The march was called off in exchange for FDR's signature of the Order.

Commemorating the 50th anniversary of the Order's signing at this time has added meaning as we struggle to pass into law civil rights protections that will restore and strengthen fairness and equity in employment opportunities for women and minorities.

Randolph's civil rights strategies remind us that we must continue to organize and agitate because the struggle cannot stop until full racial equality and economic justice have been achieved.

TRIBUTE TO REV. MSGR. A.H. VAN NEVEL

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. VISCLOSKY. Mr. Speaker, it is with great honor that I rise today along with the parish of Our Lady of Grace Church in Highland, IN, to acknowledge the achievements of Rev. Msgr. A.H. Van Nevel, who is retiring after 49 years of great servitude and dedication to the priesthood. "Father Van", which he is referred to out of love and affection, has truly been an inspiration and guiding light for the many lives that his spiritual leadership has touched and changed.

Education and dedication to young people have always been Monsignor Van Nevel's top priorities. His first appointment was at Holy Angels Church in Gary, IN, where he immediately identified himself with the youth, and organized several sports leagues and served as moderator of the Catholic Youth Organization and the Diocessan Catholic Youth Association.

After 15 years at Holy Angels Church, Father Van became the pastor of his first parish at Notre Dame Church in Michigan City, IN. Here he organized their First Family Bar-B-Q festival and became the moderator of the National Council of Catholic Men, the Sierra Club, and Fourth Degree Knights.

In 1963, after 5 successful years at Notre Dame Church, Father Van was appointed pastor of Our Lady of Grace Church in Highland, IN. In 1967, the steadily increasing congregation of Our Lady of Grace moved into a beautiful new church. The old church was turned into classrooms and a library in an effort to emphasize the importance of education. Also under the guidance of Father Van, Our Lady of Grace expanded to include a home for the Sisters and a new rectory. Twenty-eight years later, it is evident that his support and assistance have been eminently instrumental in making Our Lady of Grace the successful parish that it is today.

Since his ordination in 1942, Fater Van has consistently exemplified the moral, spiritual and educational eminence that is associated with the priesthood. Therefore, 49 years later, it is with great pleasure that I stand today and ask my colleagues to join me in paying tribute to Rev. Msgr. A.H. Van Nevel for his outstanding dedication and service to the commuity.

NATIONAL ASSOCIATION OF HEALTH UNIT COORDINATORS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. GILMAN. Mr. Speaker, it is a distinct pleasure for me to once again commend and congratulate Ms. Dorothy Barnum for her dedication and diligent work in promoting the ideals and goals of the Mid-Hudson Valley Chapter of National Association of Health Unit Coordinators in the 22d Congressional District of New York.

The National Association of Health Unit Coordinators, which will be celebrating their 11th anniversary in August of this year, continues to strive for excellence by continuing education programs that assist health unit coordinators in keeping abreast with the ever advancing technology in the health care field.

In the past 10 years, the association had developed a number of national certification programs as well as instituting standards of practice and accreditation. Mr. Speaker, it is important for the public to know of the commitment to excellence and professionalism that the National Association of Health Unit Coordinators are striving to achieve.

Accordingly, I invite my colleagues to join today in congratulating Ms. Barnum and the Mid-Hudson Valley Chapter on their second anniversary as well as the National Association of Health Unit Coordinators as they celebrate their founding on August 23, 1991.

COMMEMORATING THE 25TH ANNIVERSARY OF MEDICARE

HON. CLARENCE E. MILLER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 10, 1991

Mr. MILLER of Ohio. Mr. Speaker, in July 1966, through legislative action by Congress, the Health Care Financing Administration implemented the Medicare Program throughout the United States. Medicare now provides health insurance protection for over 33 million aged and disabled individuals. The program covers hospital services, physician services, and other medical services for those eligible, regardless of income. Medicare includes two parts: Hospital Insurance—part A—and Supplemental Medical Insurance—part B.

In the State of Ohio, Medicare Part B, the physician billing part of the Medicare system, is handled by Nationwide Mutual Insurance Co., located in Columbus, OH. Since Medicare began over 25 years ago, Nationwide has provided a wide range of administrative services to Medicare's beneficiaries and their health care providers. This arrangement works well and is extremely efficient.

I believe that ensuring the availability of quality health care should be a prime objective of Congress. Health care provided through Medicare is an extremely important component of our country's overall medical coverage. Given the current health care revolution and its spiraling costs, a comprehensive Medicare Program for our senior citizens becomes all the more essential.

New forms of treatment and new drugs have arrived to prolong and maintain healthy lives for our citizens. However, these benefits have been coupled with exorbitant health care inflation. In an attempt to hold down costs and plan for future public health benefits, Medicare has been changed and will continue to be changed to meet the challenges that arise.

The health care needs of America's senior citizens are a critical concern of the Congress and we need to continue to do all that we can to ensure that our Government gives them their proper priority. We must adapt Medicare to meet present and future challenges so that we can continue to provide these health care services.

In this 25th anniversary celebration of the Medicare Program, I would like to take this opportunity to commend Nationwide Mutual Insurance Co. for their contribution in striving to provide the best services possible to the Medicare beneficiaries in the State of Ohio.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, July 11, 1991, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 16

9:30 a.m.

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on proposed legislation authorizing funds for rail safety programs.
SR-253

Foreign Relations
To resume hearings on the proposed Conventional Forces in Europe (CFE) Treaty.
SD-419

Governmental Affairs
Oversight of Government Management Subcommittee
To resume oversight hearings on the administration and enforcement of the Federal lobbying disclosure laws.
SD-342

Labor and Human Resources
To hold hearings on access to higher education, focusing on increasing Pell grants and widening opportunities for access.
SD-430

Small Business
To hold hearings on the independent contractors' review (The Holloway Report) of the Small Business Administration's small business investment companies program.
SR-428A

Special on Aging
To hold hearings to examine the treatment of low-income medicare beneficiaries.
SD-562

10:00 a.m.

Budget
To hold hearings to examine the future of the budget summit.
SD-608

Finance
Energy and Agricultural Taxation Subcommittee
To hold hearings on S. 1393, to impose an excise tax on certain amounts received in connection with certain combinations or acquisitions of partnerships where there are not certain dissenter's rights.
SD-215

Veterans' Affairs
To hold hearings to examine psychological and readjustment problems of Persian Gulf War veterans and their families.
SD-G50

11:00 a.m.

Governmental Affairs
Government Information and Regulation Subcommittee
To hold hearings to review the census adjustment decision by the Department of Commerce.
SD-366

2:30 p.m.

Environment and Public Works
Toxic Substances, Environmental Oversight, Research and Development Subcommittee
To hold hearings on proposed legislation authorizing funds for the Environmental Protection Agency's research and development program.
SD-406

JULY 17

9:00 a.m.

Select on Indian Affairs
To hold hearings on S. 754, to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program.
SR-485

9:30 a.m.

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Environmental Protection Subcommittee
To resume hearings on S. 1081, to revise and authorize funds for programs of the Federal Water Pollution Control Act, focusing on non-point sources of pollution.
SD-406

10:00 a.m.
Budget
To hold hearings on the Office of Management and Budget's mid-session review.
SD-608

JULY 18

9:30 a.m.
Environment and Public Works
Environmental Protection Subcommittee
To continue hearings on S. 1081, to revise and authorize funds for programs of the Federal Water Pollution Control Act, focusing on coastal protection, clean lakes, and the Great Lakes and Mexico border areas.
SD-406

Governmental Affairs
Government Information and Regulation Subcommittee
To hold hearings on government-sponsored enterprises.
SD-342

10:00 a.m.
Select on Indian Affairs
Business meeting, to mark up S. 291, San Carlos Apache Water Rights Act, S. 668, Consolidated Environmental Grants, S. 362, Mowa Band of Choctaw Indians Recognition Act, S. 45, Jena Band of Choctaw Indians Recognition Act, and S. 374, Aroostook Band of Micmacs Settlement Act; to be followed a hearings on S. 1287, Tribal Self-Governance Demonstration Project Act.
SR-485

2:00 p.m.
Environment and Public Works
Environmental Protection Subcommittee
To continue hearings on S. 1081, to revise and authorize funds for programs of the Federal Water Pollution Control Act, focusing on compliance and enforcement, and State certification of Federal projects.
SD-406

Foreign Relations
To hold hearings on the Protocol amending the Extradition Treaty between the U.S. and Canada (Treaty Doc. 101-17), Amendments to the 1928 Convention concerning International Expositions (Treaty Doc. 101-15), the Protocol amending the Convention on International Civil Aviation (Treaty Doc. 101-14), and the Convention providing a Uniform Law on the Form of an International Will (Treaty Doc. 99-29).
SD-419

3:00 p.m.
Energy and Natural Resources
To hold hearings on S. 1018, to establish and measure the Nation's progress toward greater energy security.
SD-366

JULY 19

9:30 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine efforts to combat fraud and abuse in the insurance industry.
SD-342

JULY 23

9:30 a.m.
Rules and Administration
To hear and consider a report from the Architect of the Capitol on current projects, and to consider other pending legislative and administrative business.
SR-301

2:00 p.m.
Energy and Natural Resources
To hold hearings on Senate Joint Resolutions 23 through 34, to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act of 1920.
SD-366

JULY 24

9:30 a.m.
Joint Printing
To resume hearings to examine the technological future of the Government Printing Office.
B-318 Rayburn Building

10:00 a.m.
Foreign Relations
To hold hearings on the Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer (Treaty Doc. 102-4), and the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific (Treaty Doc. 102-7).
SD-419

JULY 25

9:30 a.m.
Rules and Administration
To hold hearings on S. 165, to direct the Secretary of the Senate or the Clerk of the House of Representatives, when any appropriations bill or joint resolution passes both Houses in the same form, to cause the enrolling clerk of the appropriate House to enroll each item of the bill or resolution as a separate bill or resolution.
SR-301

10:30 a.m.
Rules and Administration
To hold hearings on S. Res. 82, to establish the Senate Select Committee on POW/MIA Affairs.
SR-301

2:00 p.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To hold joint hearings with the Select Committee on Indian Affairs on employment on Indian reservations.
SR-485

Select on Indian Affairs
To hold joint hearings with the Committee on Labor and Human Resources' Subcommittee on Employment and Productivity on employment on Indian reservations.
SR-485

JULY 29

10:00 a.m.
Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To hold hearings on oversight of the Government Services Administration's (GSA's) planning and management procedures and the condition of the Federal Building Fund.
SD-406

JULY 30

9:30 a.m.
Energy and Natural Resources
To hold oversight hearings on the resettlement of the Rongelap, Marshall Islands.
SD-366

CANCELLATIONS

JULY 11

2:00 p.m.
Foreign Relations
European Affairs Subcommittee
Closed briefing to receive an update on the Cyprus negotiations.
S-116, Capitol

JULY 15

2:00 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings to review the Department of Energy's role in math and science education.
SD-366